



**CITY OF SALINAS
COUNCIL STAFF REPORT**

DATE: FEBRUARY 21, 2023

DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT

FROM: MEGAN HUNTER, COMMUNITY DEVELOPMENT DIRECTOR

THROUGH: COURTNEY GROSSMAN, PLANNING MANAGER

BY: MARISOL RUVALCABA, ASSISTANT PLANNER

TITLE: **CONDITIONAL USE PERMIT 2022-057; MINOR EXCEPTION TO EXTEND A LEGAL NONCONFORMING TWO-FOOT SIDE YARD SETBACK IN CONNECTION WITH A 220 SQUARE FOOT GARAGE ADDITION LOCATED AT 106 SAN JUAN DRIVE IN THE R-L-5.5 (RESIDENTIAL LOW DENSITY) ZONING DISTRICT**

RECOMMENDED MOTION:

A motion to approve a resolution finding the project exempt pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines, affirming the findings, and approving Conditional Use Permit 2022-057.

EXECUTIVE SUMMARY:

Mark Edwin Norris, on behalf of Jerry Lee Jr. and Dorothy Blakeman, property owners, is requesting approval of a Conditional Use Permit (CUP) for a Minor Exception to extend a legal nonconforming two-foot side yard setback in connection with a 220 square foot garage addition to an existing 480 square foot, two-car garage. The garage is accessory to an existing single family detached dwelling unit. Extending a non-conforming setback is subject to a CUP for Minor Exception per Section 37-50.160(g)(1)(B). The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines. This item was continued from the January 4, 2023 and January 18, 2023 Planning Commission hearing dates. On February 1, 2023, the Planning Commission was unable to act on the Conditional Use Permit due to a lack of quorum as a result of two Commissioners recusing themselves due to their potential conflicts of interest. Therefore, the Conditional Use Permit has been forwarded to the Council for final action.

BACKGROUND:

Mark Edwin Norris, on behalf of Jerry Lee Jr. and Dorothy Blakeman, property owners, is requesting approval of a Conditional Use Permit (CUP) for a Minor Exception to extend a legal nonconforming two-foot side yard setback in connection with a 220 square foot garage addition to an existing 480 square foot, two-car garage. The garage is accessory to an existing single family detached dwelling unit. Extending a non-conforming setback is subject to a CUP for Minor Exception per Section 37-50.160(g)(1)(B). The existing two-car garage is 480 square feet in size, which conforms to the minimum size of 20 feet by 20 feet (interior dimensions) required by the current Zoning Code. The project does not include changes to the existing single-family detached dwelling unit.

The proposed walls, building colors, roof material, roof pitch, and windows of the garage addition would match the existing garage. The height of the garage addition would be 14'-3", which is under the maximum 15 feet in height allowed for a detached accessory structure per Section 37-50.010(e)(2). The garage addition conforms to the maximum size allowed for a detached accessory structure per Section 37-50.010(f)(3)(A), which is under the maximum 10 percent of lot area. The lot is approximately 8,400 square feet in area, which could allow up to an 840 square foot garage.

The design of the existing principal dwelling unit and detached accessory garage includes wood siding walls, open gable roof with architectural-grade composition shingles. The position of the existing detached garage is substantially setback from the street and the front façade of the principal unit. The garage addition is positioned behind the existing garage and the roof pitch would match the existing garage.

On December 16, 2022, a Notice of Intent to Approve a Conditional Use Permit 2022-057 was mailed to all property owners located within 300-feet of the subject property. Correspondence was received by the Community Development Department as follows:

1. On December 21, 2022, staff received the attached letter from Ms. Rose Clark in protest of the project.

Pursuant to Zoning Code Section 37-60.500, the project could not be administratively approved and the project was scheduled for Planning Commission consideration at the earliest available hearing date.

The property is located in the R-L-5.5 (Residential – Low Density) Zoning District. The following provides an overview of the land uses and zoning districts adjacent to the project site:

North: Single-family detached dwelling/R-L-5.5 (Residential Low Density)
South: Single-family detached dwelling/R-L-5.5 (Residential Low Density)
East: Single-family detached dwelling/R-L-5.5 (Residential Low Density)
West: Single-family detached dwelling/R-L-5.5 (Residential Low Density)

Planning Commission:

The project was originally scheduled for the January 4, 2023 Planning Commission hearing, but was continued to the January 18, 2023 due to a flaw in the public notice. On January 5, 2023, the Applicant requested a one-time 90-day time extension pursuant to Government Code Section 15107. The project was subsequently continued to the February 1, 2023 Planning Commission hearing, because the applicant stated they would not be able to attend the hearing on January 5th. At the February 1, 2023 hearing, the Planning Commission was unable to act on the Conditional Use Permit due to a lack of quorum. One of the four Planning Commissioners in attendance recused themselves due to potential conflicts of interest. Therefore, the Conditional Use Permit was forwarded to the Council for final action.

DISCUSSION:

Analysis:

The attached protest letter received on December 21, 2022 from Ms. Rose Clark focuses on concerns about being affected by this proposal. Subsequently, staff received the attached e-mail protest on January 26, 2023 from Ms. Clark raising concerns with the extending the two (2) foot side yard setback as well as concerns with her backyard view.

Staff Response: The proposed project consists of a 220 square foot addition in the back of an existing residential accessory garage structure that already has a two-foot nonconforming setback. It is not unusual for additions to maintain an existing setback even if non-conforming. Several Conditional Use Permits of this type are submitted and processed year after year. There are occasions when concerns by adjacent neighbors are raised, as such in this case, regarding views. If the City Council decided not to approve the CUP, the proposal could be modified to conform with the minimum 5-foot setback and only a building permit would be necessary.

General Plan Consistency:

The site is designated Low Density Residential by the 2002 Salinas General Plan. Per Page LU-31 of the General Plan, Low Density Residential provides for the development of single-family detached and attached homes. The proposed project is consistent with General Plan Goals and Policies. Located on an infill site, the project would help maintain a compact City form, consistent with Land Use Policy LU-2.4. The proposed extension of a legal nonconforming two-foot side yard setback in connection with a 220 square foot garage addition conforms to Community Design Element Policy CD-2.3, which requires infill development to be consistent with the scale and character of existing neighborhoods. Other garages in the established neighborhood have been constructed with side yard setbacks less than the currently required minimum five (5) feet.

Zoning Consistency:

The proposed walls, building colors, roof material, roof pitch, and windows of the garage addition will match the existing garage. The height of the addition would be 14'-3", which is nine inches (9") under the maximum 15' feet in height allowed for a detached accessory structure per Section 37-50.010(e)(2). The existing two-car garage is 480 square feet in size, which conforms to the minimum size of 20 feet by 20 feet (interior dimensions) required by the current Zoning Code. The

garage addition conforms to the maximum size allowed for a detached accessory structure per Section 37-50.010(f)(3)(A), which is under the maximum 10 percent of lot area. The lot is approximately 8,400 square feet in area, which could allow up to an 840 square foot garage.

Conclusion:

The project is consistent with the Zoning Code and the General Plan. The proposed garage walls, building colors, roof material, roof pitch, and windows of the addition will match the existing garage. The height of the addition would be 14'-3", which is nine inches 9" under the maximum 15' feet in height allowed for a detached accessory structure per Section 37-50.010(e)(2). Use of the property will be required to conform with the Zoning Code.

Findings:

The City Council may approve an application for Conditional Use Permit for a Minor Exception to extend a legal nonconforming two-foot side yard setback if all of the findings set forth in the proposed City Council Resolution are established.

Time Consideration:

The project was deemed complete on November 23, 2022. Originally, final action was required by January 22, 2023, pursuant to CEQA Section 15107. However, on January 5, 2023, the applicant requested a one-time 90-day time extension pursuant to Government Code Section 65957. Per Government Code Section 65957, the final deadline is April 22, 2023.

Alternatives Available to the Council:

The City Council has the following alternatives:

1. Affirm the findings set forth in the attached Resolution, find the application exempt from the California Environmental Quality Act (CEQA), and approve Conditional Use Permit 2022-057 with modifications; or
2. Find that the proposal is not appropriate and establish findings at the public hearing stating the reasons for not approving Conditional Use Permit 2022-057.

CEQA CONSIDERATION:

The project has been determined to be exempt from the California Environmental Quality Act under Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guideline.

STRATEGIC PLAN INITIATIVE:

This staff report and recommendations align with the following City Council strategic planning goal of Effective and Culturally Responsive Government by efficiently processing a CUP application to allow the owners to improve their property if it does not strictly adhere to setbacks when consistency findings can be made.

DEPARTMENTAL COORDINATION:

The proposed amendment has been discussed among the Current Planning and Permit Services Divisions of the Community Development Department, the Public Works Department, and the Fire Department. Legal reviews the Planning Commission and City Council Staff Reports and Conditional Use Permit, which is recorded on the property.

FISCAL ANAD SUTABILITY IMPACT:

No significant impacts to the City's General Fund are anticipated with this application.

ATTACHMENTS:

Proposed City Council Resolution

Draft Conditional Use Permit 2022-057 with the following exhibits:

Exhibit "A" Vicinity Map

Exhibit "B" Site Plan/Floor Plan/Elevations Elevation (Sheet 1)

Exhibit "C" Engineer's Report, dated October 31, 2022

December 21, 2022 protest letter from Ms. Rose Clark

February 1, 2023 Planning Commission Staff Report without exhibits

Time extension request from Application dated January 5, 2023

E-mailed protest from Ms. Rose Clark received on January 26, 2023

Cc: Jerry Lee Jr and Dorothy Blakeman, Property Owners
Mark Edwin Norris, Applicant
Ms. Rose Clark