



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: MARCH 16, 2021

DEPARTMENT: COMMUNITY DEVELOPMENT DEPARTMENT

FROM: MEGAN HUNTER, COMMUNITY DEVELOPMENT DIRECTOR

THROUGH: COURTNEY GROSSMAN, PLANNING MANAGER

BY: BOBBY LATINO, ASSOCIATE PLANNER

TITLE: APPEAL OF PLANNING COMMISSION DENIAL OF
CONDITIONAL USE PERMIT 2020-001; REQUEST FOR
RESIDENTIAL DESIGN REVIEW TO CONVERT 965 SQUARE
FEET OF AN EXISTING 1,099 ATTIC INTO A SECOND STORY
ADDITION WITHIN AN EXISTING SINGLE-FAMILY
DWELLING UNIT LOCATED AT 1054 UNIVERSITY AVENUE IN
THE R-L-5.5 (RESIDENTIAL LOW DENSITY) ZONING DISTRICT

RECOMMENDED MOTION:

A motion to uphold the Planning Commission's denial, finding the project exempt pursuant to Section 15270 of the CEQA Guidelines, affirming the findings, and denying Conditional Use Permit 2020-001.

RECOMMENDATION:

Approve a Resolution upholding the Planning Commission's denial, finding the project exempt pursuant to Section 15270 of the CEQA Guidelines, affirming the findings, and denying Conditional Use Permit 2020-001.

EXECUTIVE SUMMARY:

The Property Owners, Eduardo, Helia, and Nefte Couttolenc, are requesting approval of a Conditional Use Permit 2020-001 for Residential Design Review to convert 965 square feet of an existing 1,099 attic into a second story addition located at 1054 University Avenue. The existing attic was converted into habitable space without permits resulting in code enforcement action. The item was continued three times at the Planning Commission to allow the applicant time to revise the plans to address the development requirements in the Zoning Code around design, height, scale, and massing.

On November 4, 2021, the Planning Commission provided the guidance to the applicant on ways to reduce the scale and massing of the front façade. The applicant submitted revised plans and staff recommended approval of the revised plans ahead of the November 18, 2021 Planning

Commission meeting. On November 18th, the applicant stated that the proposed plans would be cost prohibitive to implement and the Planning Commission continued the item to allow for another proposal to address the Zoning Code development standards in a more cost-effective manner. On December 16, 2020, the applicant proposed adding ivy to the façade in order to break up the scale and massing. The Planning Commission could not make the findings that this would meet the Zoning Code requirements and again asked the applicant to propose improvements to address scale and massing through better articulation of the front elevation. When the applicant returned on February 3, 2021, the only proposed modification to the existing condition was the addition of two copper posts to support an existing metal seamed copper roof. Despite being provided multiple opportunities to modify the project to address the Planning Commission direction, the applicant did not propose an improvement that achieved the development standards in the Zoning Code.

BACKGROUND:

The existing attic space was constructed with Building Permit B14-0203 (see attached). The scope of B14-0203 was to construct a 1,944 square foot addition and remodel an existing detached single-family dwelling unit. The proposed floor plan and roof attic plan did not show a second floor nor a formal staircase providing access to the attic, which were ultimately constructed without permits. Access to the attic was shown through a ceiling hatch with a retractable ladder. The property owners converted the attic space into a second story addition without City of Salinas reviews or approvals and were cited under Code Violation CE1901-0101. If the Conditional Use Permit is approved, the applicant will be required to undergo a subsequent building permit review process to evaluate the structural and occupant loads of the second story.

The project was initially considered by the Planning Commission at the November 4, 2020 hearing, then continued to November 18, 2020, December 16, 2020, and finally February 3, 2021. Additional information is contained in the attached November 4, 2020, November 18, 2020, December 16, 2020, and February 3, 2021 staff reports.

Planning Commission Hearing Date	Planning Commission Action	Planning Commission Direction
November 4, 2020	Continue	Staff work with the Applicant to revise the plans to minimize the scale and bulk of the second story addition.
November 18, 2020	Continue	Allow the applicant to further study options for articulation opportunities on the front building elevation.
December 16, 2020	Continue	Allow the applicant to further study options for articulation opportunities on the front building elevation.
February 3, 2021	Deny; 6:0 vote	

City received an appeal to the Planning Commission's denial decision on February 16, 2021.

DISCUSSION:

Analysis of the Project

The following analysis applies to the revised plans received on January 21, 2021, which were the subject of the February 3, 2021 denial. Revised plans include the following:

1. Demolishing 134 square feet of extraneous second floor area by removal of interior attic partition walls;
2. Frosting of dormer windows; and
3. Adding the following: stone veneer around main entry door, copper seam metal roof porch with copper posts extended into front yard setback over main entry door, and decorative steel grill and wood corbels under attic window facing the street. *(These improvements except for the copper posts are existing and were added without permit.)*

Analysis: Adding stone veneer around main entry door, a copper seam metal roof porch with copper columns over main entry door, and decorative steel grill and wood corbels under attic window facing the street does not to address the Planning Commission's direction to minimize the scale and bulk of the second story addition and/or address articulation opportunities.

Below is the January 21, 2021 rendering with copper seam metal roof porch with copper columns extended into front yard setback.



Below is Google Street View of the existing dwelling unit and the adjacent dwelling units.



Per Section 37-50.110(a), the purpose of Infill Residential Development is to preserve existing residential patterns and development, and reinforce the character and functional relationships of established neighborhoods; development is compatible in scale and height with the neighboring single-family detached residential dwelling units through the use of similar proportions, level of details, and scale; and development reflects some of the best characteristics of adjacent dwelling units in the choice of materials and colors, windows, height, and roofline. Height and scale design requirements are contained in Zoning Code Section 37-50.110(g)(1)(A-E) as discussed below:

- A) The height and scale of new dwelling units and additions shall follow the context of the neighboring residential block face and not overwhelm existing dwelling units with disproportionate size.

***Analysis:** The height and scale is disproportionate in size and overwhelms the existing neighboring residential block face (see Google Street View).*

- B) New dwelling units and additions shall preserve and reinforce the character of established streetscapes by maintaining similar horizontal and vertical proportions with adjacent facades. First and second floor plate heights shall generally be consistent with those of existing dwelling units in the neighborhood.

***Analysis:** The proposed roofline, mass, and lack of architectural projections along street façade does not maintain similar horizontal and vertical proportions with adjacent facades (see Google Street View).*

- C) The dominant existing scale of an established neighborhood should be maintained. Special attention shall be given to the design of a new two-story dwelling units or an addition constructed in a predominately one-story neighborhood to ensure that it is similar in scale and mass with surrounding structures and contributes to a harmonious transition between the new development and the existing development. In neighborhoods with both one-story and two-story dwelling units, second story additions shall generally reflect the scale, bulk, and height of other two-story dwelling units located in the neighborhood.

Analysis: *The height and scale is disproportionate in size and dominates the existing scale of the neighborhood. The proposed roofline, mass, and lack of architectural projections along street façade does not reflect a design that has a harmonious transition between new development and existing development (see Google Street View).*

- D) The perceived scale of new dwelling units and additions should be minimized. To achieve this, two-story buildings should be stepped back from streets and adjacent smaller residential dwellings units, broken up into smaller architectural components, or include a substantial single-story element.

Analysis: *The scale is disproportionate in size and dominates the existing scale of the neighborhood. The proposed roofline, mass, and lack of architectural projections along street façade does not reflect a design that is stepped back from streets, broken up into smaller architectural components, or include a substantial single-story element (see Google Street View).*

- E) New dwelling units and additions should maintain a proportional relationship with buildings on adjacent properties including roof ridge height and eave height.

Analysis: *The scale is disproportionate in size and dominates the existing scale of the neighborhood. The proposed roofline and mass does not maintain a proportional relationship with buildings on adjacent properties (see Google Street View).*

- F) Accent materials or varied wall planes are encouraged to break up the vertical mass of two-story units and additions.

Analysis: *Although the January 20, 2021 revised plans show an accent on the front façade of a front porch, the revised project does not achieve compliance with the provision of varied wall planes that break up the vertical mass of the second-story addition. (see January 20, 2021 rendering).*

Staff notes that the existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. Even at the time of review, staff was concerned that the true intention of the attic project was to develop habitable space, which would have been subject to a Conditional Use Permit. However, after requesting additional information from the applicant regarding the floor plan, the attic project was determined to meet the development regulations for one-story projects at the time of approval.

Ultimately, it was discovered as part of code enforcement action that the space in question was converted to habitable space. The attic in its existing condition is considered a second-story conversion project, which is discretionary (subject to a Conditional Use Permit). Second story additions or conversions are subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy as discussed above. It is unknown whether the applicant used this loophole in the Zoning Code to

build the attic as habitable space or converted it later. Regardless, this loophole in the Zoning Code should be addressed immediately to ensure large and or tall one-story additions are compatible with the character of established neighborhoods.

Analysis of the Appeal

Stated below are the Appellant's reasons for appealing the Planning Commission denial of with staff responses:

1. Finding 2 of PC Resolution 2021-05 is not supported by the evidence. The project is in accordance with the General Plan, Zoning and the Low-Density Residential District. The existing structure, with the high pitched roof, existing front façade, and dormers was previously approved by the City and found to be compatible with the Low Residential Density guidelines when the building permit for the home remodel was issue in 2014 for the high pitched roof. There is no change to the footprint, roof height, or setbacks, of the existing structure, nor change in neighborhood compatibility, light, air, privacy open space, as the conversion is occurring within the existing approved structure.

Staff Responses: The existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. The proposed attic to second-story conversion project is discretionary (subject to a Conditional Use Permit) and is subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy. The proposed project does not meet the Infill Development regulations contained in Section 37-50.110 as specified above in the "Analysis of the Project." The proposed project does not conform to the General Plan, specifically, Community Design Element Policy CD-2.3, which requires infill development to be consistent with the scale and character of existing neighborhood.

2. Finding 3 of PC Resolution 2021-05 is not supported by the evidence. The project is consistent with the General Plan and will not be detrimental to the neighborhood, or the public health, safety, or welfare of the persons residing or working adjacent to the neighborhood, as the conversion is occurring within an existing approved structure. The existing structure with the high pitched roof, existing front façade, and dormers was previously approved by the City and found to be compatible under the Low Residential Density guidelines when the building permit for the home remodel was issue in 2014 for the high pitched roof. There is no change to the footprint, roof height, or setbacks of the existing structure, nor change in neighborhood compatibility, or detriment to the neighborhood as the conversion is occurring within an existing structure. The project is not traditional infill development as the attic space already exists and there is no increase in square footage or height with the attic conversion, as the conversion is occurring within an already approved City approved structure.

Staff Responses: *The existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. The proposed attic to second-story conversion project is discretionary (subject to a Conditional Use Permit) and is subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy. The proposed project does not meet the Infill Development regulations contained in Section 37-50.110 as specified above in the “Analysis of the Project.” The proposed project does not conform to the General Plan, specifically, Community Design Element Policy CD-2.3, which requires infill development to be consistent with the scale and character of existing neighborhood. The attic conversion does constitute an increase in square footage of habitable space and a second story to the dwelling, as the Zoning Code definition of attic is not considered a story or habitable space per Section 37-110.250.*

3. Finding 4 of PC Resolution 2021-05 is not supported by the evidence. The project complies with the City Zoning Code. There is no change to the footprint, roof height, or setbacks of the existing structure, nor change in neighborhood character or neighborhood compatibility, as the conversion is occurring with an existing approved structure. The existing structure, with the high pitched roof, existing front façade, and dormers was previously approved by the City and found to be compatible with the Low Residential Density guidelines when the building permit for the home remodel was issue in 2014 for the high pitched roof. The project is not traditional infill development as the attic space already exists and there is no increase in square footage or height with the attic conversion, as the conversion is occurring within an already approved City approved structure.

Staff Responses: *The existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. The proposed attic to second-story conversion project is discretionary (subject to a Conditional Use Permit) and is subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy. The proposed project does not meet the Infill Development regulations contained in Section 37-50.110 as specified above in the “Analysis of the Project.” The attic conversion does constitute an increase in square footage of habitable space and a second story to the dwelling, as the Zoning Code definition of attic is not considered a story or habitable space per Section 37-110.250.*

4. Finding 5 of PC Resolution 2021-05 is not supported by the evidence. The project will not adversely impact the character of the existing neighborhood. There is no change to the existing footprint, roof height, setbacks, neighborhood character or neighborhood compatibility, as the conversion is occurring with an existing approved structure. The existing structure, with the high pitched roof, existing front façade, and dormers was

previously approved by the City and found to be compatible with the Low Residential Density guidelines when the building permit for the home remodel was issued in 2014 for the high pitched roof. The project is not traditional infill development as the attic space already exists and there is no increase in square footage or height with the attic conversion, as the conversion is occurring within an already approved City approved structure.

Staff Responses: The existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. The proposed attic to second-story conversion project is discretionary (subject to a Conditional Use Permit) and is subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy. The proposed project does not meet the Infill Development regulations contained in Section 37-50.110 as specified above in the “Analysis of the Project.” The attic conversion does constitute an increase in square footage of habitable space and a second story to the dwelling, as the Zoning Code definition of attic is not considered a story or habitable space per Section 37-110.250.

5. Finding 6 of PC Resolution 2021-05 is not supported by the evidence. The project is compatible with the existing homes in the neighborhood. The existing structure, with the high pitched roof, existing front façade, and dormers was previously approved by the City and found to be compatible with the Low Residential Density guidelines when the building permit for the home remodel was issued in 2014 for the high pitched roof. There is no change to the existing footprint, roof height, or setbacks and no impact to the neighborhood as the attic conversion is occurring within an existing structure. The project is not traditional infill development as the attic space already exists and there is no increase in square footage or height with the attic conversion, as the conversion is occurring within an already approved City approved structure.

Staff Responses: The existing attic one-story project was subject to a 2014 ministerial building permit process and was approved per the R-L-5.5 (Residential Low Density) development regulations contained in Section 37-30.080, which regulate architectural details, human scale structures, façade/roof articulation, and color/materials. The proposed attic to second-story conversion project is discretionary (subject to a Conditional Use Permit) and is subject to the Infill Development regulations contained in Section 37-50.110, which regulate in more particular the considerations of size, mass, scale, and privacy. The proposed project does not meet the Infill Development regulations contained in Section 37-50.110 as specified above in the “Analysis of the Project.” The attic conversion does constitute an increase in square footage of habitable space and a second story to the dwelling, as the Zoning Code definition of attic is not considered a story or habitable space per Section 37-110.250.

CEQA CONSIDERATION:

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). Since the Conditional Use Permit 2020-001 (CUP 2020-001) was denied by the Planning Commission, no finding is required per Section 15270 of the CEQA Guidelines. However, if the City Council desires to overturn the Planning Commission denial of CUP 2020-001 and approve the CUP, the project has been determined to be exempt from the California Environmental Quality Act (CEQA) under Section 15301 (Existing Facilities) of the CEQA Guidelines because the addition is less than 50 percent of the floor area of the existing dwelling unit before the addition.

STRATEGIC PLAN INITIATIVE:

This item does not specifically relate to one of the Council's Strategic Plan or Goal.

DEPARTMENTAL COORDINATION:

The Current Planning Division of the Community Development Department was the lead project manager for the proposed Conditional Use Permit. The Legal Department was instrumental in the review of the proposed Resolution and provided support to the Planning Commission. Legal has assisted in the preparation of this Council report as well.

FISCAL AND SUSTAINABILITY IMPACT:

Fiscal impacts to the City are not expected to be significant if the denial of the Conditional Use Permit is either upheld or if it is subsequently overturned by the City Council.

TIME CONSIDERATIONS:

The appeal of the Planning Commission decision on Conditional Use Permit 2020-001 was received by City staff on February 16, 2021. Per Zoning Code Section 37-60.1300(a), the City Council is required to schedule the appeal hearing within 60 days of receipt (February 16, 2021). Accordingly, the deadline for consideration of the appeal is April 17, 2021, unless both applicant and appellant consent to a later date.

ALTERNATIVES/IMPLICATIONS:

The City Council has the following alternatives:

- 1) Continue the item to March 30, 2021 and provide direction to the applicant to address Zoning Code development standards; or
- 2) Find the use Categorically Exempt from the California Environmental Quality Act (CEQA) and overturn the Planning Commission's denial and approve Conditional Use Permit 2020-001. Staff notes that findings for approval of the Conditional Use Permit for Residential Design Review would need to be established by the City Council.

ATTACHMENTS:

Proposed City Council Resolution

January 20, 2021 Revised Plans (CUP 2020-001), including the following exhibits:

- Exhibit "A" Vicinity Map
- Exhibit "B" Project Details (Sheet A0.1)
- Exhibit "C" Existing Site Plan (Sheet A1.0)
- Exhibit "D" Proposed Site Plan (Sheet A1.1)
- Exhibit "E" Existing First Floor Plan (Sheet A2.0)
- Exhibit "F" Proposed First Floor Plan (Sheet A2.1)
- Exhibit "G" Existing Attic Floor Plan (Sheet A2.0A)
- Exhibit "H" Proposed Second Floor Plan (Sheet A2.1A)
- Exhibit "I" Existing Exterior Elevations (Sheet A2.0B and A2.0C)
- Exhibit "J" Proposed Exterior Elevations (Sheet A2.1B and A2.1C)
- Exhibit "K" Proposed Building Sections (Sheet A2.1D)
- Exhibit "L" Porch Elevation and Section Detail (Sheet A2.2A)
- Exhibit "M" Color and Materials Board

Google Street View Image of Dwelling Unit, October 2007 (before attic addition)

Google Street View Image of Dwelling Unit, May 2019 (after attic addition)

Protest Email from Mr. Chuck Eads, dated October 14, 2020

Public Comment Letter from Barbara Chagnon, dated November 4, 2020

Public Comment Letter from Applicant, Dave Elliott, dated November 18, 2020

Public Comment Letter from Applicant, Dave Elliott, dated December 1, 2020

Permit Streamlining Act Extension Letter dated December 17, 2020

Public Comment Letter from Applicant, Dave Elliott, dated January 20, 2021

November 4, 2020 Planning Commission Staff Report

November 4, 2020 Planning Commission CUP Exhibits

November 4, 2020 Planning Commission Official Minutes

November 18, 2020 Planning Commission Staff Report

November 18, 2020 Planning Commission CUP Exhibits

November 18, 2020 Planning Commission Unofficial Minutes

December 16, 2020 Planning Commission Staff Report

December 16, 2020 Planning Commission CUP Exhibits

December 16, 2020 Planning Commission Unofficial Minutes

February 3, 2021 Planning Commission Staff Report

February 3, 2021 Planning Commission Unofficial Minutes

Planning Commission Resolution 2021-05

February 16, 2021 Appeal Letter from Applicant's Legal Representation

B14-0203 Approved Plans