



Community Development Department

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

7:30 p.m.
Wednesday, January 21, 2015
El Cerrito City Hall
Council Chambers
10890 San Pablo Avenue, El Cerrito

This Meeting Place Is Wheelchair Accessible

Roll Call - Chair: Andrea Lucas; Commissioners: Carla Hansen, Michael Iswalt, Bill Kuhlman, Lisa Motoyama and Tim Pine.

1. Council/Staff Liaison Announcements and Reports

Staff and/or Councilmember Friedman may report on matters of general interest to the Planning Commission, Council policies, priorities and significant actions taken by the City Council.

2. Comments from the Public

(Each speaker is limited to a maximum of 3 minutes.)

3. Approval of Minutes

Approval of the December 17, 2014 meeting minutes.

4. Commissioner Communication/Conflict of Interest Disclosure

This time on the agenda is reserved for Commissioners to disclose communications from individuals regarding specific agenda items or to state a potential conflict of interest in relation to a specific agenda item.

5. Public Hearing - 1 Carmel – Mahaney Deck

Application: PL14-0155
Applicant: Mark and Jessica Mahaney
Location: 1 Carmel Avenue
Zoning: RS-5 (Single Family Residential)
General Plan: Low Density Residential
APN: 504-273-015
Request: Planning Commission consideration of a Conditional Use Permit (Chapter 19.34, ECMC) to extend a legal nonconforming structure. The applicant is

COMMUNICATION ACCESS INFORMATION

To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call Sean Moss, Staff Liaison at (510) 215-4330 (voice) at least FIVE (5) WORKING DAYS NOTICE PRIOR TO THE MEETING to ensure availability.

10890 San Pablo Avenue, El Cerrito, CA 94530 Tel: (510) 215-4330
E-mail: smoss@ci.el-cerrito.ca.us

proposing to expand an existing deck built over a creek an additional 21 square feet.

CEQA: Exempt, Section 15301 – Class 1 Existing Facilities

6. Staff Communications

7. Adjournment

Appeals:

A decision of the Planning Commission may be appealed to the City Council, by the applicant or any El Cerrito resident or property owner, through the filing of a written statement and the payment of an appeal fee of \$339 with the City Clerk within ten calendar days after the decision date. (The applicant may file an appeal for the cost of half the original permit fee.)

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Planning Division office located at 10890 San Pablo Avenue during normal business hours.



Community Development Department

MINUTES
REGULAR MEETING
OF THE
PLANNING COMMISSION

7:30 p.m.
Wednesday, December 17, 2014
El Cerrito City Hall
Council Chambers
10890 San Pablo Avenue, El Cerrito

This Meeting Place Is Wheelchair Accessible

Roll Call - Chair: Andrea Lucas; Commissioners: Michael Iswalt, Bill Kuhlman, and Tim Pine. Lisa Motoyama arrived at 7:40 pm; Carla Hansen had an excused absence.

1. Comments from the Public

No comments were received.

2. Approval of Minutes

Motion to approve the November 19, 2014 meeting minutes: Kuhlman, 2nd: Pine.

Vote:

Ayes: Iswalt, Kuhlman, Lucas, Pine

Noes: None

Abstain: None

Absent: Hansen, Motoyama

Motion to approve the December 4, 2014 special meeting minutes: Pine, 2nd: Iswalt.

Vote:

Ayes: Iswalt, Kuhlman, Lucas, Pine

Noes: None

Abstain: None

Absent: Hansen, Motoyama

3. Commissioner Communication/Conflict of Interest Disclosure

Nothing was reported.

4. Public Hearing - 3217 Yosemite Daycare Parking Exception

Application: PL14-0162

Applicant: Tsering Yangchen

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City of El Cerrito
Planning Commission Meeting Minutes

Location: 3217 Yosemite
Zoning: RM (Multi Family Residential)
General Plan: High Density Residential
APN: 510-022-007
Request: Planning Commission consideration of a Conditional Use Permit to allow an exception to the required off-street parking for a Large Family Daycare (19.20.110.M, ECMC)
CEQA: Section 15301 – Class 1 Existing Facilities.

Senior Planner, Sean Moss presented the staff report and answered questions from the Commission.

The public hearing was opened.

Henry Chan of 1230 Liberty Street addressed the Commission.

The public hearing was closed.

Motion to approve a Conditional Use Permit to allow an exception to the required off-street parking for a Large Family Daycare: Pine, 2nd: Motoyama.

Vote:

Ayes: Iswalt, Kuhlman, Lucas, Motoyama, Pine

Noes: None

Abstain: None

Absent: Hansen

5. Public Hearing - Tobacco Retail License Program

Applicant: City of El Cerrito
Location: Citywide
APN: Citywide
Request: Planning Commission consideration of a recommendation to the City Council regarding an ordinance and appropriate amendments to various Sections of Title 19 (Zoning Ordinance) to further the goals of curbing underage smoking in the City of El Cerrito.

Development Services Manager, Margaret Kavanaugh-Lynch presented the project and answered questions from the Commission.

The public hearing was opened.

The following members of the public addressed the Commission:

Tom Panas, 7345 Fairmount Ave

Bhupinder Dhindsa

Nick Arzio, 10026 San Pablo Avenue

The public hearing was closed.

The item was continued to the January 21 meeting of the Planning Commission.

6. Staff Communications

Staff updated the Commission regarding the Housing Element update, the new City Council Liaison to the Commission and the annual work plan.

7. Adjournment

8:36 p.m.

DRAFT



Community Development Department - Planning Division
10890 San Pablo Avenue, El Cerrito, CA 94530
(510) 215-4330 - FAX: (510) 233-5401
planning@ci.el-cerrito.ca.us

PLANNING COMMISSION STAFF REPORT
Meeting Date: January 21, 2015

I. SUBJECT

Application: PL14-0155
Applicant: Mark and Jessica Mahaney
Location: 1 Carmel Avenue
Zoning: RS-5 (Single Family Residential)
General Plan: Low Density Residential
APN: 504-273-015
Request: Planning Commission consideration of a conditional use permit (Chapter 19.34, ECMC) to extend a legal nonconforming structure. The applicant is proposing to expand an existing deck built over a Cerrito Creek by approximately 26 square feet.
CEQA: Categorical Exemption, Class 1 – Existing Facilities

II. BACKGROUND

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The subject lot is located at the southern border, adjacent to the City of Albany city limit line. The lot is rombus in shape, is oriented in an east/west direction and is 4,797 square feet in size. The lot has a cross slope with the high side along the northern property line, sloping down to Cerrito Creek along the southern property line.

City records show that a building permit was issued in 1963 for a six room dwelling and a carport on the subject lot. The dwelling was built directly over Cerrito Creek. A foundation system comprised of piers and slab on grade support the dwelling above the creek. Permits were subsequently issued for minor improvements to the structure, but no major renovations were ever made to the dwelling.

On October 29, 2014, the City of El Cerrito issued a building permit to repair the deck.

On November 3, 2014, an application was submitted for a Conditional Use Permit to enlarge a legal non-conforming structure. The proposal is to extend the existing deck an additional 26 square feet.



III. DISCUSSION

The original deck was designed to be an integral part of the floor plan and serves as the usable open space for the property. The applicant is proposing to remove the existing 416 sq. ft. of decking and replace it with 442 sq ft of new decking. Guardrails will also be replaced. The existing deck has staggered widths ranging from 15' to 17'. The proposed 26 foot expansion would provide an additional convenient and functional living environment to the property owners, but would not require any additional piers or other work in the creek bed or bank area.



As noted in the plan set in Attachment 2, the proposed deck complies with the required side yard setback for the RS-5 zone. However, Chapter 19.12 Creek Protection Overlay District stipulates additional regulations for properties that contain or are adjacent to creeks. Generally, all new structures, additions to existing structures, and new impervious surfaces shall be a minimum of 30 feet from the top of a creek bank or the upland edge of riparian vegetation, whichever is greater.

Section 19.12.060.D further notes that minor unroofed structures such as fences, walls, decks, or benches may be allowed within the creek setback subject to approval by the City Engineer and the Zoning Administrator as long as a project meets the following findings:

1. The structure does not add any new impervious surface except for vertical structural elements such as posts or columns.
2. There is no grading required, and no alterations to drainage that will intensify or channelize water drainage into the creek.
3. Construction of the structure will not remove or alter riparian vegetation.
4. Best management practices are used to prevent erosion during construction.
5. No structural elements are located closer than 15 feet from the top of the creek bank.

As noted in the background section, the dwelling was constructed directly over the Cerrito Creek and therefore cannot meet condition #5. Section 19.12.060 notes that exceptions to those five requirements may be granted with a conditional use permit.

Staff believes that the use permit findings can be made to support the project. While the proposed project extends the existing deck closer to the property line, it maintains a 5 foot side yard setback. The site is located in the Single Family Residential zoning district (RS-5). Five foot setbacks from side property lines are the prevailing development pattern in the neighborhood. Further, this addition will be visually screened from the public right of way and the adjacent residential use by vegetation. Therefore, the project is found to be harmonious and compatible with the existing house and with the surrounding development pattern in the neighborhood.

While this construction would not likely be permitted today, the dwelling was permitted to be built over Cerrito Creek in 1963. This proposed project is a modest addition to the existing dwelling that

does not make the existing non-conformity worse or have a negative impact on the creek or adjacent riparian habitat. No construction or grading work in the creek bed and/or adjacent bank is proposed. And, staff has recommended that the project include conditions of approval that require a debris catchment system to be in place during construction to ensure that no debris accidentally falls into the creek during construction.

Consistency with the General Plan

The proposed project is consistent with the intent of the Low Density Residential designation as described in the General Plan.

Environmental Review

The project is Categorically Exempt under Class 1 (Section 15301) of the California Environmental Quality Act as an existing facility.

IV. FINDINGS

The Planning Commission must make the following findings as outlined in Section 19.34.040 of the El Cerrito Zoning Ordinance:

- 1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.*

The proposed project is located in the Single Family Residential zoning district and maintains a five foot side setback. This distance is harmonious and compatible with the prevailing development pattern in the surrounding neighborhood and will not adversely affect the livability of abutting properties.

- 2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City.*

The project will expand an existing deck by 26 feet thereby enhancing the convenient and functional living environment for the homeowners. It is not visible to the public right-of-way.

- 3. The proposal is consistent with the purpose of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council.*

The project is consistent with the purpose of the Single Family Residential zoning district and the Residential Low designation of the General Plan in that it is consistent with the residential use of the property. It is consistent with the purposes of the Creek Protection Overlay District in that it will not exacerbate the non-conforming status of the primary structure. There will be no work done in the creek bed and/or adjacent bank; and as conditioned a debris catchment system shall be required to be in place during construction to ensure that no debris accidentally falls into the creek during construction and best practices for working near creeks shall be followed.

V. RECOMMENDATION

Staff recommends approval of Planning Application PL14-0155 as conditioned by the draft resolution in Attachment 1 to allow a conditional use permit to enlarge an existing non-conforming deck by 26 square feet.

Proposed Motion: Move adoption of Planning Commission Resolution ____ approving a conditional use permit to enlarge an existing non-conforming deck by 26 square feet.

Appeal Period: Within ten (10) calendar days after the date of the decision, the Planning Commission action may be appealed to the City Council.

Attachments:

- 1) Draft Resolution
- 2) Plans dated December 18, 2014.

Planning Commission Resolution PC15-01

APPLICATION NO. PL14-0155

A RESOLUTION OF THE CITY OF EL CERRITO PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT TO EXTEND A DECK, A LEGAL NON-CONFORMING STRUCTURE, OVER A CREEK FOR AN AREA OF 26 SQUARE FEET (SECTION 19.27.050 ECMC) ON A SITE LOCATED AT 1 CARMEL AVENUE

WHEREAS, on, November 3, 2014 the applicant submitted an application requesting for approval of a conditional use permit to extend a legal non-conforming deck spanning over a creek an additional area of 26 square feet;

WHEREAS, the site is located along the southern quadrant of El Cerrito adjacent to the City of Albany border, and is in a single family residential neighborhood;

WHEREAS, City records show that a building permit was issued in 1963 for a six room dwelling and a carport that spanned a creek on the subject lot:

WHEREAS, the proposed project extends the deck closer to the property line, but is still outside the required 5' side setback line;

WHEREAS, the General Plan land use classification of the site is low density residential;

WHEREAS, the zoning district of the site is RS 5 (Single Family Residential 5,000 sq. ft.);

WHEREAS, this project is Categorically Exempt from the provisions of CEQA – Section 15301 Class 1 – Existing Facilities; and

WHEREAS, on January 21, 2015 the Planning Commission of El Cerrito, after due consideration of all evidence and reports offered for review, does find and determine the following:

Section 19.34.040.A.

- 1. The location, size, design, and operating characteristics of the proposed development will be harmonious and compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.*

The proposed project is located in the Single Family Residential zoning district and maintains a five foot side setback. This distance is harmonious and compatible with the prevailing development pattern in the surrounding neighborhood and will not adversely affect the livability of abutting properties.

- 2. The location and design of the proposal will provide a convenient and functional living, working, shopping, or civic environment that will be an attractive amenity for the City.*

The project will expand an existing deck by 26 feet thereby enhancing the convenient and functional living environment for the homeowners. It is not visible to the public right-of-way.

3. *The proposal is consistent with the purpose of the district where it is located and conforms in all significant respects with the El Cerrito General Plan and with any other applicable plan adopted by the City Council.*

The project is consistent with the purpose of the Single Family Residential zoning district and the Residential Low designation of the General Plan in that it is consistent with the residential use of the property. It is consistent with the purposes of the Creek Protection Overlay District in that it will not exacerbate the non- conforming status of the primary structure. There will be no work done in the creek bed and/or adjacent bank; and as conditioned a debris catchment system shall be required to be in place during construction to ensure that no debris accidentally falls into the creek during construction and best practices for working near creeks shall be followed.

Planning Division:

1. The project shall be developed and maintained substantially in compliance with the plans dated December 18, 2014, except as amended by subsequent conditions of this Resolution.
2. Approval of this Conditional Use Permit shall be limited to a 21 square feet extension of an existing deck over a Cerrito Creek.
3. If not used, this use permit shall expire two years from the date of this action.
4. Comply with all requirements prior to construction and issuance of final certificate of occupancy from the City's Building Division.

Public Works

5. Prior to issuance of a building permit the applicant must obtain authorization from the Regional Water Quality Control Board, Army Cop of Engineers, and the California Department of Fish and Games for the proposed project.

CERTIFICATION

I CERTIFY that this resolution was adopted by the El Cerrito Planning Commission at a regular meeting held on January 21, 2015 upon motion of Commissioner , second by Commissioner :

AYES:
NOES:
ABSTAIN:
ABSENT:

Margaret Kavanaugh-Lynch;
Development Services Manager

