



## Legislation Details (With Text)

**File #:** ID18-1174    **Version:** 1    **Name:**  
**Type:** Action Item    **Status:** Agenda Ready  
**File created:** 9/28/2018    **In control:** Planning Commission  
**On agenda:** 10/17/2018    **Final action:** 10/17/2018  
**Title:** Consideration of Variance Application No. P18-00435, Conditional Use Permit Application No. P18-00433 and related Environmental Assessment No. P18-00433/P18-00435, filed by Charles Garabedian of Charles Engineering Group, on behalf of America Villa. These applications pertain to approximately 0.21 acres of property located on the east side of North West Avenue between West McKinley and West University Avenues.

1. ADOPT Environmental Assessment No. P18-00433/P18-00435 dated August 20, 2018, a determination that the proposed project is exempt from the California Environmental Quality Act (CEQA) through a Class 1, Class 3, Class 5 and Class 32 Categorical Exemption.
2. APPROVE Variance Application No. P18-00435 requesting authorization to modify property development standards to allow reduced rear yard setbacks and permit an accessory structure for covered parking located in the front of the house.
3. APPROVE Conditional Use Permit Application No. P18-00433 requesting authorization to repair fire damage to an existing structure and establish a duplex in the RS-5 (Single Family Residential, Medium Density) zone district.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vicinity Map, 2. Exhibit B - Aerial Photograph, 3. Exhibit C - Zoning Map, 4. Exhibit D - Noticing Map, 5. Exhibit E - Project Information Tables, 6. Exhibit F - Operational Statement, 7. Exhibit G - Site Plan, 8. Exhibit H - Floor Plan, 9. Exhibit I - Elevations, 10. Exhibit J - Landscape Plan, 11. Exhibit K - Conditions of Approval dated October 17, 2018, 12. Exhibit L - Fresno Municipal Code Findings, 13. Exhibit M - Environmental Assessment, 14. Exhibit N - Master Application

Date	Ver.	Action By	Action	Result
10/17/2018	1	Planning Commission		

## REPORT TO THE PLANNING COMMISSION

**October 17, 2018**

**FROM:** MIKE SANCHEZ, Assistant Director  
Development Services Division

**THROUGH:** RALPH KACHADOURIAN, Supervising Planner  
Development Services Division

**BY:** CHRIS LANG, Planner

Development Services Division

**SUBJECT**

Consideration of Variance Application No. P18-00435, Conditional Use Permit Application No. P18-00433 and related Environmental Assessment No. P18-00433/P18-00435, filed by Charles Garabedian of Charles Engineering Group, on behalf of America Villa. These applications pertain to approximately 0.21 acres of property located on the east side of North West Avenue between West McKinley and West University Avenues.

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**EXECUTIVE SUMMARY**

Charles Garabedian of Charles Engineering Group, on behalf of America Villa, has filed Conditional Use Permit Application No. P18-00433 and Variance Application No. P18-00433 pertaining to approximately 0.21 acres of property located on the east side of North West Avenue between West McKinley and West University Avenues. The applicant requests authorization to repair an existing single story structure and establish a duplex. The structure was previously a duplex, however suffered fire damage in 2015. The property has been vacant since then, and has subsequently lost legal non-conforming status due to abandonment of the use for a six-month period or greater. A duplex is a permitted use in the RS-5 (*Single Family Residential, Medium Density*) zone district subject to approval of a Conditional Use Permit.

The existing structure was constructed prior to annexation to the City of Fresno and is oriented to the rear of the property. Meeting setback requirements for the RS-5 zone district would require the demolition of a large portion of the existing structure. The applicant has filed Variance Application No. P18-00435 to utilize the current building footprint, which is located within the required rear yard setback, approximately one foot from the property line. Additionally, covered off-street parking is a requirement for all new development, however there is not enough space on either side of the existing structure to provide covered parking. The variance will also permit covered parking to be located within an accessory structure in the front yard of the duplex.

Pursuant to Section 15-906-B of the Fresno Municipal Code, when a Duplex or Multi-Unit Residential use is proposed in the RS-5 zone district, the Planning Commission shall approve, conditionally approve, or deny applications for Conditional Use Permits following a public hearing.

**BACKGROUND/ANALYSIS**

The project site was previously developed with a duplex, but the structure suffered fire damage in 2015 and has been vacant since. The existing fire damaged building was constructed in 1940 in the County of Fresno, and annexed into the City of Fresno in 1946. The surrounding properties were later subdivided, with the ultimate configuration of the subject site containing the duplex within required rear and side yard setbacks. The subject property is legal non-conforming, however sustained fire damage several years ago. After one year, the subject property lost its legal non-conforming status and in order to repair the fire damage, a new conditional use permit and variance is required.

**Variance Application No. P18-00435** is requesting authorization to modify property development standards to facilitate the approval of Conditional Use Permit Application No. P18-00433, which requests authorization to repair an existing, 1,967 square foot, fire-damaged structure. The existing building was constructed prior to annexation to the City of Fresno, and a parcel map was created on surrounding properties, leaving interior side yard setbacks at three feet on the south and eight feet on the north, as well as a one foot rear yard setback. Due to the location of the building to the extreme rear of the property, parking is also impacted, as required parking must be provided in front of the existing duplex.

#### Variance Request 1: Reduced Building Setbacks

The Fresno Municipal Code requires that the minimum setback for a multi-unit development in a single family residential district is a total of 10' combined side yard (minimum 4'/side) and 20' rear yard setbacks. A rear setback reduction, if processed, would only allow a reduction of up to four feet from the property line. Therefore, a variance is required to permit the location of the existing structure.

Surrounding properties are substantially developed, and houses on nearby properties are also located within required setbacks, so it can be assumed many nearby structures are legal non-conforming. Should any of the surrounding structures be faced with the same circumstances as the subject project, a variance would also be considered, as the area was developed outside of City limits and applies to the area. The variance does not constitute a granting of special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications.

The structure was constructed prior to annexation to the City, and the physical hardship created by the location of the structure to the rear of the property is not of the applicant's own actions or the actions of a predecessor in interest. Reducing the required setbacks will not be detrimental to property or improvements within the vicinity, as other structures have also been constructed near or on property lines, and there is no predominant architectural or design style in the area.

#### Variance Request 2: Remove Location Restrictions for Garage

The site as currently developed does not provide covered off-street parking. The applicant is proposing a carport with two covered spaces, however the carport is located in the front yard. Accessory structures are not permitted to the front of any building, and the minimum parking setback from the back of sidewalk or curb is 30'. The proposed covered parking is located approximately 10' from the property line and approximately 13' from a proposed sidewalk. Also to note, a carport is not a permitted type of covered parking for a duplex, and the project shall be conditioned to provide a garage instead of a carport.

Due to the location of the existing house, it would be impossible to locate any covered parking to the side or rear of the existing structure, therefore the front yard is the only acceptable location for the carport. Additionally, uncovered parking must be located within 30' of the required parking setback. The project will be conditioned to provide a minimum three foot berm, hedge, or wall to screen the parking. The front yard will also be required to provide complementary landscaping.

The prevailing setback along North West Avenue is approximately 8-10'. The location of the garage will come close to aligning with the houses to both the north and south of the subject property and will not be located any closer to the street than the prevailing block setback. Granting of the variance does not create a special privilege and does not have a negative effect on surrounding properties. Further, the variance application is consistent with the goals and policies of the Fresno General Plan.

**Conditional Use Permit Application No. P18-00433** requests authorization to establish the use of a duplex in an RS-5 zone district. When duplex uses are permitted in single family residential zone districts with a Conditional Use Permit, the standards of Section 15-906 of the FMC apply. These requirements include a neighborhood meeting, approval from the Planning Commission, a notice of public hearing, and modified property development standards.

A neighborhood meeting was held pursuant to §15-5006 of the FMC, and no members of the public attended the meeting. A public notice was provided per Section 15-5007 of the FMC, notifying surrounding property owners of the hearing. At the time of the preparation of the staff report, no comments have been received from the public.

The residential density of the duplex must be consistent with the Medium Density Residential planned land use of 5-12 dwelling units per acre. The project site is 0.21 acres and with two units the approximate density would be 9.5 dwelling units per acre. The façade must also match adjacent single family homes, and the project has been conditioned to ensure the single family residential character of the neighborhood is met.

## Land Use Plans and Policies

As proposed, the project would be consistent with the Fresno General Plan goals and objectives related to residential land use and the urban form:

Policy LU-2-a promotes development of vacant, underdeveloped, and re-developable land within the City Limits where urban services are available by considering the establishment and implementation of supportive regulations and programs.

Policy LU-5-d promotes medium density residential uses to maximize efficient use of residential property through a wide range of densities.

Policy LU-5-g recommends to allow new development in or adjacent to established neighborhoods that is compatible in scale and character with the surrounding area by promoting a transition in scale and architectural character between new buildings and established neighborhoods, as well as integrating pedestrian circulation and vehicular routes.

Therefore it is staff's opinion that the proposed project is consistent with respective general and community plan objectives and policies and will not conflict with any applicable land use plan, policy or regulation of the City of Fresno. Furthermore, the proposed project, including the design and improvement of the subject property, is found; (1) to be consistent with the goals, objectives and

policies of the applicable Fresno General Plan and Fresno High-Roeding Community Plan; (2) to be suitable for the type and density of development; (3) to be safe from potential cause or introduction of serious public health problems; and, (4) to not conflict with any public interests in the subject property or adjacent lands.

## **ENVIRONMENTAL FINDINGS**

The California Environmental Quality Act (Public Resource Code Section 21000 et seq.) permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption from Sections 15301/Class 1, 15303/Class 3, 15305/Class 5 and 15332/Class 32 were made and Environmental Assessment No. P18-00433/P18-00435 was completed for this project on August 20, 2018.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Sections 15-5306 and 15-5506 of the Fresno Municipal Code can be made. These findings are attached as Exhibit L.

## **CONCLUSION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and the Fresno High-Roeding Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Variance Application No. P18-00435 and Conditional Use Permit Application No. P18-00433 are appropriate for the subject property.

### **Attachments:**

- Exhibit A - Vicinity Map
- Exhibit B - Aerial Photograph
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