



## City Council Staff Report

**From: City Manager**

**Report Type: CONSENT CALENDAR**

**Lead Department: Planning and Development Services**

**Meeting Date: January 22, 2024**

Report #:2312-2455

### **TITLE**

QUASI-JUDICIAL. 949 Scott Street [22PLN-00410]: Request for City Council Hearing on the Director's Decision to Approve a Variance application to Allow a New Single-Story, Single-Family Home with a Basement to Encroach into the Front, Side, and Rear Setbacks and Deviate from Standards for Below Grade Patio Side and Rear Setbacks, and Number of Parking Spaces. Zoning District: R-2. Environmental Assessment: Exempt from the California Environmental Quality Act per Section 15303.

### **RECOMMENDATION**

Staff recommends that Council take the following action(s):

1. Find the proposed project exempt from the California Environmental Quality Act per Section 15303 (New Construction)
2. Adopt the attached Record of Land Use Action, thereby denying the appeal, upholding the Director's approval and the Planning and Transportation Commission's recommendation of approval of the Variance and finding the proposed project exempt from review under the California Environmental Quality Act.

### **BACKGROUND/DISCUSSION**

The subject property owner requests approval of a Variance application to demolish an existing and build a new one-story single-family home with a basement on a substandard lot in the R-2 zoning district. The parcel is only 1,500 square feet in area with a developable potential of about 180 square feet when taking into consideration required setbacks. The existing residence is about 834 square feet and currently encroaches into the required front, side and rear yard setbacks. The owner seeks to essentially replace the existing residence with a modest increase in parcel coverage and a new basement. In accordance with the municipal code, the resulting floor area for the new home is 673 square feet (not counting the 670 square foot basement). The proposed Variance application would allow building (including basement) encroachments into the required front, side and rear yard setback. Additionally, the Variance authorizes increases to lot coverage, parking, and below grade patio encroachments. The proposed setback encroachments are generally consistent with the existing residence's footprint.

The Planning and Development Services director issued a tentative approval of the applicant's request on October 26, 2023. In accordance with the municipal code, a request for hearing before the Planning and Transportation Commission (PTC) was received and the hearing scheduled for December 13, 2023. The PTC considered the request, including public testimony, and unanimously supported the director's decision.

The municipal code requires that the PTC's recommendation be forwarded to the City Council within 45 days. This item has been placed on the consent calendar and if accepted, the recommendation to approve the Variance application stands. However, if three or more City Councilmembers want to hold a public hearing to consider the application, action is needed to pull the item from the consent calendar. If pulled, staff would return at a future date for hearing on the application and expanded analysis.

Additional background information is provided in the PTC staff report and video discussion posted online.<sup>1</sup>

Variance applications are subject findings set forth in Section 18.76.030 of the zoning code. A Variance is intended to provide a way for a site with special physical constraints, resulting from natural or built features, to be used in ways similar to other sites in the same vicinity and zoning district; and provide a way to grant relief when strict application of the zoning regulations would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the same vicinity and zoning district. The parcel's small size generally supports the need for the variance request and staff's and the PTC's supporting evidence is provided in the attached record of land use action (Attachment D).

Two neighbors have expressed concern with the proposal. The written comments have been provided as Attachment E to this staff report. One neighbor spoke at the public hearing, reiterating their shared concerns which were:

1. The number of variances requested by the application;
2. The aesthetic/visual design of the building;
3. Whether the structure will be used as a home or an extension of the neighbor's house;
4. Impacts to existing street trees
5. Impacts to parking/quality of life during construction
6. Consistency with General Plan/SB 330

Briefly, in response, the number of requested variances reflects the development constraints imposed by the size of the subject property. Visual and aesthetic design concerns are understood, but the City does not require design review for single family homes. The use of the house is designed as a single family home; the City does not regulate who occupies the residence. One

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<sup>1</sup> December 13, 2023 PTC Staff Report: <https://www.cityofpaloalto.org/files/assets/public/v/1/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2023/ptc-12.13-949-scott.pdf> and video: <https://midpenmedia.org/planning-and-transportation-commission-2-12132023/>

existing street tree will be removed requiring a replacement with two trees; this request has been reviewed and is supported by the City's Urban Forestry program. Construction impacts are part of development activity and staff acknowledges the disruption this will have on neighbors. The City imposes construction-related constraints in terms of noise and hours that are intended to mitigate this short term impact. With respect to SB 330, staff is not able to substantiate any violation with state law or the intent purposes of the comprehensive plan.

Accordingly, staff recommends the City Council uphold the director and PTC's recommendation to approve the Variance application on consent.

### **FISCAL/RESOURCE IMPACT**

This project is an application affecting a private property where all the costs associated with it will be borne out by the applicant. While an existing City street tree will be removed to accommodate the proposed driveway, the applicant will be responsible for planting one tree in the public right of way immediately adjacent to the site, and another within a half-mile of the property to increase the City's tree canopy and achieve the No-Net-Loss Canopy replacement requirements noted in the City's Tree Technical Manual.

### **POLICY IMPLICATIONS**

To minimize the potential precedent set by any variance application, staff analyzed comparable properties within the city limits. For this particular project, staff utilized the City's GIS mapping software to identify suitable comparisons based on factors like size and existing use. Initially, staff found 60 parcels measuring 2,000 square feet or less, excluding condominium projects. Further investigation revealed that only 14 of these parcels currently house single-family dwellings. Notably, among these 14 single-family homes, just three parcels – including the subject property – occupy an area of 1,500 square feet or less. Therefore, based on this analysis, staff believes the scope of potential precedent arising from this application is effectively limited to a maximum of three properties within the city. This approach allows the City to strike a balance between addressing individual needs and maintaining responsible urban planning principles that minimize unintended consequences.

### **STAKEHOLDER ENGAGEMENT**

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on January 5, 2024, which is 10 days in advance of the meeting. Postcard mailing occurred on January 2, 2024, which is 13 days in advance of the meeting.

### **ENVIRONMENTAL REVIEW**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City's consultant, Page & Turnbull evaluated the existing building and found it ineligible for the California Register of Historic Resources

(Attachment F). Specifically, the project is Exempt from the California Environmental Quality Act per Section 15303.

**ATTACHMENTS**

Attachment A – Location Map

Attachment B – Applicant’s Project Description

Attachment C – Zoning Comparison Table

Attachment D – Draft Record of Land Use Action

Attachment E – Appeal & Public Comments

Attachment F – Historic Evaluation

Attachment G – Project Plans

**APPROVED BY:**

Jonathan Lait, Planning and Development Services Director