



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 6, 2021

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: Study Session: Two Unit Replacement, 1270 64th Street

RECOMMENDATION

Staff requests that the City Council consider this staff report and attachments and provide direction to the applicant and staff.

PROJECT DESCRIPTION

The applicant proposes demolishing two existing uninhabitable residential structures and replacing them with two new residential structures. Both new structures would be 3-bedroom, 2-story units, approximately 26 feet tall; the front unit would have a one-car garage and the rear unit would have no garage. Both units would have private back yards.

This project requires a Planning Commission recommendation and City Council approval because it involves the demolition of residential units.

BACKGROUND

The project site is a 3,553 square foot lot with two vacant dilapidated structures, one in the front and one in the rear, each containing one uninhabitable dwelling unit. Due to the odd shape of the lot and previous construction without regard to lot lines, a significant portion of the rear structure is actually on the neighboring property.

The property has been the subject of code enforcement action by the City for many years due to overgrown vegetation, accumulations of garbage and trash, an abandoned vehicle, dilapidated structures, peeling lead-based paint, and lack of maintenance by the absentee property owner. Numerous Notices of Violation were issued, and, on September 12, 2018, the Chief Building Official issued a Notice and Order to Repair or Abate the property. Subsequently, on June 15, 2019, the Alameda County Superior Court granted the City's motion to appoint a receiver for the property. The receiver cleaned up the property and then sold it to the current owners, who intend to clear the two condemned buildings and replace them with two newly constructed single family homes to be sold for profit. The new buyers closed on the property in July 2020, and this Planning application was submitted on December 16, 2020.

The Planning Commission held a study session on the proposed project on May 27, 2021. The Commission was generally supportive of the project and recommended replacing the proposed fence at the front of the property with plantings. Other suggestions included reconsidering the parking/garage area and revisiting the design of the front windows. The majority of Commissioners were supportive of waiving the replacement value fee for removal of the existing street tree, particularly if larger trees were planted on the private property, as planting a replacement street tree will be required as part of this project. (See the Tree Removal Permit section below for more information).

The plans before the City Council are the same plans that were reviewed by the Planning Commission, except that sheets A100 and A103 have been updated to show where discards bins (trash, recycling, and compost) will be stored on site. Discards enclosures are only required for residential projects with 10 or more units, so the plans only need to demonstrate that appropriately sized bins can be located properly on the property. The discards size and location have been reviewed and approved by the Public Works Department.

DISCUSSION

General Plan and Zoning Analysis

Use: The proposed development of two residential units is classified as a Two Unit Residential use. This use is permitted in the RM zone.

Land Use Classification: The General Plan Land Use Diagram (Figure 2-2) classifies the project site as Medium Density Residential. The General Plan describes Medium Density Residential as “residential development at FARs less than 0.8.”

General Plan Figure 2-1, “Areas of Change and Stability – 2009”, designates the project site as an area of stability, which is described as “those parts of the city that are not anticipated to change significantly in character, land use or development intensity over the next 20 years. These include the older residential neighborhoods on the east side of town as well as the Watergate residential neighborhood on the peninsula, the Watergate office complex, Pacific Park Plaza, and more recent developments such as residential projects in the North Hollis and North Bayfront areas, the Emery Station complex and the Woodfin and Marriott hotels.” It should be noted that this designation does not preclude demolition of existing structures or the construction of new structures. This proposed project is consistent with the character, land use, and development intensity of the area, and therefore conforms to the General Plan designation of this neighborhood as an “area of stability”.

Zoning District: This property is located in the Medium Density Residential (RM) Zone and the North Hollis Overlay (NH) Zone. Two Unit Residential uses are permitted in the RM Zone.

Floor Area Ratio (FAR): The base FAR permitted is 0.5, with a maximum 1.0 FAR available with a bonus. The parcel is approximately 3,553 square feet which provides a maximum of 1,777 square feet of total floor area under the base FAR of 0.5, and up to 3,553 square feet of total floor area with a maximum bonus FAR of 1.0. The applicant proposes the front unit to be 1,447 square feet, and the rear unit to be 1,514 square feet, for a total of 2,961 square feet. This results in a FAR of 0.83. This requires a conditional use permit for bonus FAR pursuant to Planning Regulations Section 9-4.204(b)¹ (see “Development Bonuses” below).

Building Height: The proposed units are 26 feet tall, which is below the 30 foot maximum permitted height permitted (no bonus is available).

Residential Density: The base residential density is 20 dwelling units per acre; with a bonus the maximum residential density is 35 dwelling units per acre. At 0.082 acres, 2 dwelling units (rounded from 1.64) are permitted at 20 dwelling units per acre, and up to 3 dwelling units (rounded from 2.87) may be built at the maximum residential density of 35 dwelling units per acre. The proposed density of 2 units is therefore permitted and does not require a development bonus.

Development Bonuses: Section 9-4.204(b) states that community benefits are not required for projects with fewer than 10 residential units in the RM zone. In order to grant a conditional use permit for bonus FAR in the RM zone, the findings required in Section 9-4.204(f)(1) must be made:

- a. that the proposed project is compatible with the surrounding neighborhood with regard to building scale, form, materials, and street orientation; and
- b. that the proposed project has been designed to minimize the appearance from the street of driveways, parking spaces, maneuvering aisles, and garage doors as much as possible given the size and shape of the lot, and that at least 70% of the street frontage is devoted to active non-parking related uses, except that a driveway of up to ten feet in width shall be allowed.

In addition, the regular findings for a conditional use permit in Section 9-7.505 must be made. These include:

- (a) The proposed use is consistent with the General Plan.
- (b) The location, size, coverage, density, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.
- (c) The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately and cost effectively.

1. All references to Sections are to the Planning Regulations in Title 9 of the Emeryville Municipal Code.

- (d) The proposed use at its proposed location will provide a service or facility that will contribute to the general well-being of the surrounding neighborhood or community.
- (e) The proposed use complies with all applicable standards and requirements of these Planning Regulations.

Demolition of Residential Units: The demolition of residential units requires City Council approval, upon recommendation of the Planning Commission (Sections 9-5.1203(b) and 9-5.1205). In order to approve demolition, the following findings must be made (Section 9-5.1206(b)(2)):

- a. The applicant will provide at least the same number of dwelling units as the demolished structure, either on-site or elsewhere within the City of Emeryville²; and
- b. The replacement structure would feature design quality that is as high as or higher than the structure to be demolished and that it is compatible with the character of the neighborhood; and
- c. The elimination of the residential structure would not be materially detrimental to the housing needs or the public interest of the affected neighborhood or the City.

In staff's view, these findings can be made for this project. The applicant proposes replacing the two existing uninhabitable units with two new habitable units. The new structures are required to meet current Planning Regulations and Building Code requirements, and will resolve existing issues, such as the rear unit extending over the property line. As the existing structures are uninhabitable due to neglect, their demolition will not be materially detrimental to the housing needs or the public interest of the affected neighborhood.

Off-Street Parking: The estimated parking demand for residential units is one parking space per unit, or two parking spaces in this case. There is no parking minimum, and the maximum is 10% more than the estimated demand, or 2.2, which rounds to two spaces. Guest parking is not required for fewer than five dwelling units. The applicant is proposing one covered parking space for the front unit. This complies with the allowable range of parking, which is 0 to 2 spaces. It is also compatible with the Design Guidelines which state that parking "should be located where it has the least visual and physical impact on the street," and that "the lot frontage should provide a minimum of 70% active non-parking related uses, provided that a maximum ten-foot width driveway is attainable" (Guideline I-13).

Per Section 9-4.408(c), no bicycle parking is required for Two Unit uses. The applicant is proposing two long-term bicycle spaces. The front unit has a space in the garage, while the

2. California Government Code section 66300(d)(1), a provision of the recently-adopted Housing Crisis Act, also prohibits the City from approving a project that proposes demolition of residential units unless the same number of units are created.

rear unit has one by the front door. Bicycle rack details do not include an element for locking the bicycle.

Setbacks: The proposed project meets all setback requirements listed under Section 9-4.301(a): the front setback equaling an average of the front setbacks on the adjacent lots, 3 foot interior side setbacks, and 15 foot rear setback.

Open Space: Two Unit uses are exempt from open space standards per 9-4.303(a)(5)a. The applicant is proposing back yards at the rear of each unit consisting primarily of decomposed granite, surrounded by planting strips.

Landscaping: Landscaping requirements are set forth in Article 5 of Chapter 4 of the Planning Regulations. Section 9-4.504 stipulates that development projects in any zone other than industrial zones must include landscaped areas consisting of at least ten percent of the project site.

Section 9-8.212(a) defines “landscaping” as “living vegetation, planted in the ground, including some combination of trees, ground cover, shrubs, vines, flowers, or lawns. In addition, the combination or design may include natural features such as rock and stone; and structural features, including but not limited to, fountains, reflecting pools, artworks, screen walls, fences and benches, but not including swimming pools or spas.”

The parcel is approximately 3,553 square feet, requiring a minimum of 355 square feet of landscaping. Sheet A103 demonstrates that the proposed plans exceed the minimum landscaping requirement.

North Hollis District Overlay: The North Hollis Area Urban Design Program states that building massing and treatment should be scaled and treated in a way that is compatible with adjacent existing structures, and that for projects east of Doyle Street/South of Ocean Avenue “the predominant fabric of single family homes and duplexes should be respected; new development should provide for horizontal and vertical articulation with changes in roof and wall planes at intervals of no more than 25 feet. Sloping gabled and/or hip roofs, and projecting bays and porches, are encouraged to reinforce the historic residential character of the neighborhood. Complementary and traditional building materials including wood and masonry are encouraged (pages 26 – 27).”

Design Review: All new building construction, except Single Unit or Two Unit residential uses, require Major Design Review from the Planning Commission. However, because this project requires Major Conditional Use Permits for going over base FAR and for the demolition of residential units, this project also requires Major Design Review. In making a decision on the project, it will need to be determined whether the project conforms to the Emeryville Design Guidelines and the North Hollis Area Urban Design Program. To approve a Design Review application, all of the findings under Section 9-7.407 must be made:

- a. The design of the project is consistent with the General Plan, including but not limited to its Urban Design goals and policies.

- b. The design of the project conforms to the Emeryville Design Guidelines and any other applicable design guidelines or criteria. If strict compliance with the provisions of such design guidelines or criteria is not achieved, the applicant must convincingly demonstrate that the intent of the guidelines or criteria is met.
- c. The project is of a high design quality that is compatible with, and will not adversely affect, the surrounding area.

Tree Removal Permit: As this project includes significant work, staff requested a report from the City Consulting Arborist to assess the existing street tree for a tree protection plan during construction. The Arborist found that a “tree protection plan is not applicable in this situation due to problems associated with the species and the poor structural condition. Removal and replacement with a more appropriate species in a soil volume commensurate with its mature size is recommended.” The Arborist’s report is attached.

Section 7-10.05(f) of the Urban Forestry Ordinance (UFO) (Chapter 10 of Title 7 of the Emeryville Municipal Code) requires that any tree removal application be considered by the Planning Commission and states that in order to approve a tree removal permit:

“... the Planning Commission shall require the planting of replacement trees of equal or cumulative diameter to the trees approved for removal and payment of the replacement value fee of the street tree(s) to be removed. When replacement of a tree of equal diameter is not feasible, for reasons related to site-specific conditions, replacement at the largest practicable diameter, as determined by the Planning Commission, shall be required. When the replacement tree cannot match the diameter of the tree to be removed, due to site-specific conditions, the Planning Commission shall require replacement planting of several trees of equal cumulative diameter to the tree being removed. In cases where the need for street tree removal is without fault of the property owner and the property owner is not otherwise responsible for maintenance of the street tree, or for other good cause shown, the Planning Commission may waive the requirement to plant a replacement tree of equal or cumulative value or payment of a replacement value fee.”

An arborist report, provided by the applicant and peer reviewed by the City Consulting Arborist, will be required to determine the condition and value of the street tree.

Staff Comments

The Building Division and Fire Department have reviewed the plans and worked with the applicant to provide preliminary feedback regarding code compliance. Staff has informed the applicant that elevations need to be revised to clearly demonstrate that the applicant is proposing sliding doors for each unit connecting the first-floor common spaces with the outdoor areas. Discards (trash, recycling and compost) storage details were not included in

the plans provided to the Planning Commission; however, the applicant has worked with Public Works to size and locate discards in an appropriate place, and this information is now demonstrated on the attached revised plans.

FISCAL IMPACT

This report is for informational purposes only and has no fiscal impact on the City's operations.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public on this City Council item. As noted above, the Planning Commission held a study session on this project at a properly noticed public meeting on May 27, 2021.

ACTION REQUESTED

After hearing a presentation from the applicant and receiving public testimony, staff requests that the City Council provide comment and direction regarding this project, addressing the following issues, and any other issues, as appropriate:

1. Does the Council have any feedback regarding the overall design of the project?
2. Does the Council feel that all required findings can be made?
3. Does the Council feel that the requirement to pay a replacement value fee for the street tree should be waived, considering that the applicant will need to plant a new street tree as part of this project?

PREPARED BY: Navarre Oaks, Associate Planner

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS:

1. Project Plans dated June 7, 2021
2. Bike Rack Details
3. Arborist Report dated May 20, 2021