



17575 Peak Avenue Morgan Hill CA 95037

APPROVAL CERTIFICATE NO. 22-007

APPLICATION NUMBER: Minor Exception VAR2022-0002: East Main – De Ornelas

LOCATION: 462 East Main Avenue (APN 726-16-089)

SITE AREA: 4,356 square ft (.10 acre)

GENERAL PLAN: Residential Detached Medium (RDM)

ZONING: Residential Detached Medium 7,000 (RDM-7,000)

DESCRIPTION: Request for a Minor Exception to reduce the required rear yard setback for a garage addition and reduction in driveway length.

RECITALS

1. On March 7, 2022, the Community Development Department received an application requesting a Minor Exception to reduce the required rear yard setback for a garage addition and reduction in driveway length. The subject property is 4,356 square feet (.10 acre) in size, located at 462 East Main Avenue (APN 726-16-089) and within the Residential Detached Medium (RDM 7,000) zoning district.
2. Said application was deemed complete for processing and was considered by the Development Review Committee (DRC) at its regular meeting of March 9, 2022 at which time the committee provided comments and recommended approval.
3. The variance was publicly noticed by a mailing to property owners within 300 feet of the project, published in the newspaper, and posted on the City's website under Public Notice of Pending Action.
4. Comments received from the public and from the applicant, along with exhibits and drawings and other materials have been considered in the review process.
5. On April 26, 2022 the Community Development Department considered said application at the close of a duly-noticed 10-day public comment period;
6. Pursuant to the authority set forth under Section 18.108.070 Minor Exception and 18.56.030 Setback Exceptions of the Morgan Hill Municipal Code, the Community Development Director hereby approves the project application subject to the conditions contained within this approval

certificate.

FINDINGS

SECTION 1. The proposed project, together with its provisions for its design and improvements, is consistent with the Zoning Ordinance and the General Plan.

The minor exception to encroach into the rear yard setback for a home addition of 342 square feet is within the allowable 25% deduction of setback area allowed by the Municipal Code. The property has a curved shaped driveway, and the request to reduce the length of that driveway will not conflict with the driveway being able to place two parking spaces on-site. Therefore, the request is consistent with the intent of the General Plan and Zoning Ordinance for the Residential Detached Medium land use and zoning designations.

SECTION 2. The proposed project will not result in a violation of the requirements established by the Regional Water Quality Control Board.

The new construction will comply with applicable building code requirements and therefore will not violate requirements established by the Regional Water Quality Control Board.

SECTION 3. Projects approved pursuant hereto are exempt from the California Environmental Quality Act (CEQA) under Section 15301 Existing Facilities of Guidelines for CEQA.

The proposed addition falls within Section 15031. Existing Facilities (e) for Additions, in that it is an addition to existing structures that will not exceed 50% of the floor area or 2,500 square feet.

SECTION 4. The Community Development Director pursuant to Section 18.56.030 Setback Exceptions of the Morgan Hill Municipal Code may decrease the required rear setback up to 25 percent if the following findings per Section 18.108.070 Minor Exception of the Morgan Hill Municipal Code are made:

- The exception is compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

The new construction for the home is harmonious with the attached unit and the new look is consistent with the character of the neighborhood.

- The exception will not adversely impact neighboring properties of the community at large.

The new addition will not impact the neighboring properties in that the new garage and driveway will still be able to accommodate four parking spaces, two in the garage and two in the driveway

- The exception is necessary due to unique characteristics of the subject property, structure, or use.

The project site is unique in shape and essentially has two fronts, one off of Main Avenue with the garage facing Bel Air Way. Without the exception, there is no other way to accommodate the minor addition to the home.

- The exception will not establish an undesirable precedent.

This is a unique area within the neighborhood and will not create an undesirable precedent for future minor exceptions.

SECTION 5. The approved project shall be subject to the following conditions:

1. **Defense and indemnity.** Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of applicant's project. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorneys' fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted.
2. Submit two (2) signed copies of Approval Certificate No. 22-007 to the Planning Division prior to issuance of building permits.
3. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.
4. This Minor Exception approval is limited to the plan set titled De Ornelas Residence and dated February, 23, 2022 which are on file with the Community Development Department.
5. The existing garage return walls will not provide the required 20' wide clear

parking. These return walls are structural shear walls. If it is proposed as a part of the building permit to remove these walls to obtain a clear space, a structural building analysis will be required from a Professional Engineer.

APPROVED THIS 2ND DAY OF MAY, 2022



Jennifer Carman
Development Services Director

A F F I D A V I T

I, Sergio de Ornelas hereby agree to accept and abide by the terms and conditions specified in this approval certificate.



Name-Sergio De Ornelas

5/18/22

Date