



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 11/13/2019

ITEM NO: 4

DATE: November 7, 2019

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Minor Residential Development Application MR-19-011. Project Location: **15960 Rose Avenue**. Appellant: Manoochehr Kadkhodayan. Applicant: De Mattei Construction. Property Owner: David Doctorow and Sarah Munson. Consider an appeal of a Community Development Director decision approving a request for construction of a detached garage exceeding 450 square feet on property zoned R-1:8. APN 410-19-018.

**RECOMMENDATION:**

Deny the appeal and uphold the decision of the Community Development Director to approve the application, subject to the recommended conditions of approval.

**PROJECT DATA:**

General Plan Designation: Low Density Residential

Zoning Designation: Single-Family Residential, R-1:8

Applicable Plans & Standards: General Plan; Residential Design Guidelines

Parcel Size: 25,469 square feet

Surrounding Area:

	Existing Land Use	General Plan Land Use Designation	Zoning
North	Residential	Low Density Residential	R-1:8
South	Residential	Low Density Residential	R-1:8
East	Residential	Low Density Residential	R-1:8 & R-1:8:PD
West	Residential	Low Density Residential	R-1:8

**PREPARED BY:** Ryan Safty  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

FINDINGS:

- As required, pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, this project is Categorically Exempt, Section 15303: New Construction or Conversion of Small Structures.
- As required by the Residential Design Guidelines that the project complies with the Residential Design Guidelines.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located approximately 150 feet north-east from the Rose Avenue and Griffith Place intersection (Exhibit 1). The topographic survey, dated October 1, 2015, found the lot to be 25,469 square feet in size with an average slope of 11.4 percent. There is an existing 4,310-square foot two-story residence on the subject property with no garage. The property previously had an attached two-car garage which was converted to habitable floor area with building permits in 2015. The immediate neighborhood contains a mix of one- and two-story residences, and each property in the immediate neighborhood has a garage.

On May 23, 2019, a Minor Residential Development application was submitted for the subject site. The applicant proposes to construct a 616-square foot detached garage in the side yard (Exhibit 10).

The proposed project meets all technical requirements of the Town Code including setbacks, height, floor area, and building coverage.

The Town sent out a Notice of Pending Approval letter on August 16, 2019 to neighboring residents and property owners (Exhibit 6). The Notice of Pending Approval letter informed neighbors that the Town intended to approve the application on August 26, 2019, and that any interested person may appeal the Community Development Director's decision by September 5, 2019. The application is being reviewed by the Planning Commission because the decision of the Community Development Director has been appealed (Exhibit 7).

PROJECT DESCRIPTION:

A. Project Summary

The applicant is proposing to construct a new 616-square foot detached garage. The two-car garage would be 15 feet tall and would comply with the minimum five-foot side yard setback requirement for detached structures (Exhibit 10).

B. Location and Surrounding Neighborhood

The subject property is located approximately 150 feet north-east from the Rose Avenue and Griffith Place intersection (Exhibit 1). The surrounding properties are one- and two-story single-family residences, with a mix of architectural styles.

C. Minor Residential Development Application

Approval of a Minor Residential Development Application is required to construct a detached accessory building exceeding a combined square footage of 450 square feet. The applicant is proposing to construct a 616-square foot detached garage.

D. Zoning Compliance

The property is zoned R-1:8, which permits a garage in association with a single-family residence. The proposed detached garage is in compliance with setbacks, height, floor area, and building coverage requirements.

DISCUSSION:

A. Minor Residential Development Analysis

The applicant is proposing to construct a new 616-square foot detached garage with an eight and one-half-foot plate height and a four-foot tall attic space above. The garage would be built at the end of the existing circular driveway, roughly 30 feet east of the main residence. The garage would maintain a five-foot setback from the adjacent side property line and would be setback roughly 125 feet from the front property line.

The development plans show a future accessory dwelling unit (ADU) connected to the proposed detached garage, located between the detached garage and main house (Exhibit 10). The ADU is not a part of the Minor Residential Development review and a separate ministerial permit for the ADU has been reviewed by the Community Development Director.

The applicant's project description is attached as Exhibit 4. Pictures of the existing residence are included as Exhibit 5 to assist in the review of the detached garage.

DISCUSSION (continued):**B. Building Design**

Pursuant to the Town's Residential Design Guidelines, "additions, accessory buildings, and secondary units should match the form, architectural style, and details of the original house" and, "new outbuildings, such as garages, should be clearly subordinate to the main structure in massing, and should utilize forms, materials, and details which are similar to the main structure."

The proposed detached garage would 15 feet tall, have similar roof forms as the main residence with identical class "A" composition shingled roof, and have a mix of vertical board and batten and horizontal wood siding to match the main residence. The applicant is also proposing attic dormers with windows along the roof on both the front and rear elevations to provide light to an enclosed attic storage space.

**C. Neighborhood Compatibility**

The immediate neighborhood is made up of single-family residences with attached and detached garages. Based on Town and County records, garages in the immediate neighborhood range from 360 square feet to 620 square feet. The subject property is the only property in the immediate neighborhood without a garage. The proposed garage would be 616 square feet. Pursuant to Town Code, the maximum allowable garage floor area for the 25,469-square foot lot with an average slope of 11.4 percent is 1,151 square feet. The table below reflects the current conditions of the immediate neighborhood:

Address	Zoning	Lot Size	Existing Garage	Max Garage Allowed	Existing Garage FAR	Garage FAR Allowed
<b>15960 Rose Ave (Ex.)</b>	<b>R-1:8</b>	<b>25,469</b>	<b>0</b>	<b>1,151</b>	<b>0</b>	<b>0.045</b>
<b>15960 Rose Ave (Prop.)</b>	<b>R-1:8</b>	<b>25,469</b>	<b>616</b>	<b>1,151</b>	<b>0.024</b>	<b>0.045</b>
15990 Rose Ave	R-1:8	29,630	360	920	0.012	0.031
15980 Rose Ave	R-1:8	18,295	570	1,148	0.031	0.063
15983 Rose Ave	R-1:8	10,749	484	902	0.045	0.084
15981 Rose Ave	R-1:8	9,000	620	799	0.069	0.089
16017 Rose Ave	R-1:8	9,173	484	810	0.053	0.088
100 Griffith Place	R-1:8	8,034	380	735	0.047	0.091
101 Griffith Place	R-1:8	8,778	448	785	0.051	0.089
104 Griffith Place	R-1:8	7,931	400	728	0.050	0.092
105 Griffith Place	R-1:8	8,840	550	789	0.062	0.089

DISCUSSION (continued):

The proposed garage complies with the maximum size allowed per Code and would not be the largest garage in the immediate neighborhood in terms of square footage or FAR. The Town Code limits the lot coverage of detached accessory buildings to 15 percent of the lot area, calculated exclusive of required building setbacks. 15 percent of the subject property, excluding required building setbacks, is 2,414 square feet. The proposed 616-square foot building covers approximately four percent of the area.

D. Tree Impacts

There are existing trees on the site between the proposed detached garage and east property line that are proposed to remain. If the project is approved, tree protection measures would be implemented prior to and during construction.

E. Community Development Director Review

In accordance with Town Code for the administrative procedure for minor residential projects (29.20.480), the Town mailed out a Notice of Pending Approval and draft conditions of approval to neighboring residents and property owners on August 16, 2019. The Notice of Pending Approval informed neighbors that the Town intended to approve the application on August 26, 2019, and that any interested person may appeal the Community Development Director's decision by September 5, 2019 (Exhibit 6).

The adjacent neighbor to the south at 15980 Rose Avenue (APN 410-19-017), Manoochehr Kadkhodayan, visited Town Hall on September 3, 2019 to discuss the proposed project and review the plans. Mr. Kadkhodayan expressed concern regarding privacy with the proposed attic dormer facing his property, as he has an accessory dwelling unit on the other side of their shared property line. Additionally, Mr. Kadkhodayan was concerned that work was proposed on his property because the survey showed the existing driveway pavement encroaching onto his property.

The applicant was contacted to provide them the opportunity to address the concerns. The topographic survey (Exhibit 10, Sheet C.0) illustrates that the existing driveway pavement encroaches onto the neighbor's property. The applicant verified that no new work is proposed on the neighboring property. Regarding the privacy concern, the applicant offered to either remove the windows or obscure the glass; however, the appellant asked that the dormer be removed entirely from the rear elevation facing his property. No compromise was reached regarding the neighbor's privacy concerns.

DISCUSSION (continued):

F. Appeal

On September 5, 2019, the decision of the Community Development Director was appealed to the Planning Commission by Mr. Kadkhodayan (Exhibit 7). The applicant submitted a written response to the appeal, included as Exhibit 8.

The appellant's specific reasons for the appeal are provided below, followed by analysis in *italic font*.

The gross lot size on the drawing is stated as 25,469 sq. ft. (See Exhibit C of Exhibit 7), however the recorded lot square feet always has been 21,000 sq. ft. in county records and also in previous advertisements for the sale (Exhibit D of Exhibit 7, page 1 and 2). I am wondering where the additional square footage has come up. I would like to request the surveyor to set the corners especially on my property sides to be checked by me.

*County records indicate the lot is 26,683 square feet in size. The topographic survey found the lot to be 25,469 square feet in size with an average slope of 11.4 percent. A foundation certification will be required during construction. This is a standard requirement for most building permits.*

The attached Exhibit C (of Exhibit 7) indicated the existing garage as ZERO footage which is not correct. There is an existing garage and workshop about the same square footage as the maximum allowable. (See Exhibit E of Exhibit 7, page 1 and 2).

*There is an existing 4,310-square foot two-story residence on the subject property with no garage. The property previously had an attached two-car garage which was converted to habitable floor area with building permits in 2015.*

The drawing contradicts with the fact for the existing site and the existing building. The allowable square footage for any addition or garage need to be revisited.

*The topographic survey found the lot to be 25,469 square feet in size with an average slope of 11.4 percent. Pursuant to Town Code, the maximum allowable garage floor area for a 25,469-square foot lot with an average slope of 11.4 percent is 1,151 square feet. The applicant is proposing to construct a new 616-square foot two-car detached garage. Town Code limits the lot coverage of detached accessory buildings to 15 percent of the lot area, calculated exclusive of required building setbacks. 15 percent of the subject property, excluding required building setbacks, is 2,414 square feet. The proposed 616-square foot building covers approximately four percent of the area.*

DISCUSSION (continued):

Even though I don't see a detached garage drawing, the proposed structure is not acceptable due to the fact that the dormers on the second floor are very close to my property and looking directly into my property and back yard and creates a privacy issue.

*The applicant is proposing to construct a new 616-square foot detached garage with an eight and one-half foot plate height and a four-foot tall attic space above. The proposed detached garage would be 15 feet tall. The applicant is also proposing attic dormers with windows along the roof on both the front and rear elevations to provide light to an enclosed attic storage space.*

*Regarding the privacy concern, the applicant offered to either remove the windows or obscure the glass; however, the appellant asked that the dormer be removed entirely from the rear elevation facing his property.*

Show means of drainage from the proposed structure away from 15980 Rose Avenue.

*A drainage plan will be required at building permit submittal. This is a standard requirement for building permits.*

I would like the architect and the surveyor to validate the provided information, and change design and drawings to reflect the existing situation. Please move the driveway out of my property and toward the left and also include the elevation datum set for the existing grade at the proposed location to see how high the building is.

*The topographic survey illustrates that the existing driveway pavement encroaches onto the neighbor's property. The applicant has verified that no new work is proposed on the neighboring property.*

G. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

The Town mailed out a Notice of Pending Approval and draft conditions of approval to neighboring residents and property owners on August 16, 2019. Following the appeal, the applicant installed a project identification sign including the Planning Commission hearing date, contact information, and a project description. Additionally, written notice of the Planning Commission hearing was sent to neighboring property owners and occupants within 300 feet of the subject property.

Correspondence between the applicant and appellant following the filing of the appeal are included as Exhibit 9. Public comments received by 11:00 a.m., Friday, November 8, 2019 are included as Exhibit 11.

CONCLUSION:

A. Summary

The applicant's request for approval of a Minor Residential Development application to construct a new detached garage in excess of 450 square feet has been appealed to the Planning Commission. The proposed project is in compliance with the Residential Design Guidelines and Town Code.

B. Recommendation

Staff recommends that the Planning Commission take the following actions to deny the appeal, uphold the decision of the Community Development Director, and approve the Minor Residential Development application:

1. Find that the proposed project is categorically exempt pursuant to the adopted Guidelines for the implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures (Exhibit 2);
2. Make the finding required by the Town's Residential Design Guidelines that the project complies with the Residential Design Guidelines (Exhibit 2);
3. Approve Minor Residential Development application MR-19-011 with the conditions contained in Exhibit 3 and development plans attached as Exhibit 10.



CONCLUSION (continued):

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Deny the appeal and approve the application with additional and/or modified conditions;
3. Grant the appeal and remand the application to the Community Development Director with direction for revisions; or
4. Grant the appeal and deny the Minor Residential Development application.

EXHIBITS:

1. Location map
2. Required Findings and Considerations (two pages)
3. Recommended Conditions of Approval (two pages)
4. Project Description dated July 31, 2019 (one page)
5. Pictures of existing residence dated August 1, 2019 (3 pages)
6. Notice of Pending Approval and draft conditions, mailed August 16, 2019 (2 pages)
7. Appeal of Community Development Director decision received September 5, 2019 (9 pages)
8. Applicant's response letter to appeal received October 30, 2019 (one page)
9. Correspondence between applicant and appellant following appeal (14 pages)
10. Development plans, received October 23, 2019 (11 sheets)
11. Public comment received by 11:00 a.m., Friday, November 8, 2019