

City of Burlingame

Conditional Use Permit

Item No. 8c
Regular Action Item

Address: 935 Paloma Avenue

Meeting Date: August 8, 2022

Request: Application for a Conditional Use Permit for a bathroom (sink, toilet, and shower) in a detached garage.

Applicant and Property Owner: Scovill Family Trust, Will Scovill

APN: 026-222-070

Designer: Jesse Geurse, Geurse Conceptual Designs, Inc.

Lot Area: 4,483 SF

General Plan: Medium Density Residential

Zoning: R-2

Environmental Review Status: The project is Categorically Exempt from review pursuant to the California Environmental Quality Act (CEQA), per Section 15301 (a) which states that interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveniences are exempt from environmental review.

Note: This project was initiated prior to January 5, 2022, the effective date of the new Zoning Ordinance, and therefore was reviewed under the previous Zoning Code.

Background: In November 2018, a building permit was issued for construction of a new one-car detached garage (with storage area) at the rear corner of the subject property. During the final inspection in December 2019, the building inspector noted that a full bathroom and kitchenette had been installed within the detached garage without the benefit of a revision to the building permit, revised plans, or proper inspections. At that time, the property owner was directed to 1) remove the bathroom and kitchenette or 2) seek the required approvals to allow the bathroom and kitchenette in the accessory structure.

In August 2020, the property owner submitted an application for an Accessory Dwelling Unit (ADU) Permit to change the use of the accessory structure from a detached garage to an ADU (ADU Permit was approved by the Planning Division in September 2020). In their review of the building permit for the ADU, the Department of Public Works (DPW) denied the plan check, noting that the property is located in a Special Flood Zone and that the finished floor of the new habitable accessory structure is required to be at or above the base flood elevation (BFE) in order to protect occupants in case of flooding (requires the finished floor to be raised). At that stage, the accessory structure had not been built at or above BFE (finished floor was built at grade).

In response to this plan check comment, the project designer noted that the comment was not applicable since the accessory structure was existing. This was not an accurate representation of the conditions, as the accessory structure was new construction with a proposed change in use/occupancy (a final inspection had not been issued yet). DPW maintained its position but allowed the permit to move forward with the following condition of approval:

- *Please be aware that the property is located in the Special Flood Zone. Please confirm that the property has either (a) been removed from the flood zone with a letter of Map Amendment (LOMA) provided by FEMA, or (b) show project compliance with municipal code section 18.22.513 "Elevation and Floodproofing" or (c) provide a FEMA approved Elevation Certificate certifying that the habitable structure is at or above the base flood elevation (BFE).*

The property owner requested a final inspection, but indicated that it would not be practical to meet the requirements of the DPW condition of approval. It would not be possible for the finished floor to be at or above the BFE without raising the structure, and documentation/certification would not be able to be obtained that shows the structure complies with the BFE requirements. City staff considered whether an exception could be allowed, but determined that such an exception would be in violation of the California Residential Code and FEMA requirements for habitable structures located in Special Flood Zones. The City then informed the property

owner of this determination, which included requiring that the structure be built as a detached garage. However, one available option includes having a bathroom in an accessory structure with approval of a Conditional Use Permit. Therefore, the property owner is now applying for a Conditional Use Permit to retain the bathroom (sink, toilet, and shower) in the detached garage.

Staff would note that the bathroom and kitchenette have not yet been removed. Prior to the final inspection, the kitchenette and bathroom (if Conditional Use Permit is not approved) will be required to be removed and the use changed to a garage with storage area.

Project Description: The site contains an existing one-story single-unit dwelling and a detached garage (see explanation in 'Background' section above). With this application, the applicant is requesting approval of a Conditional Use Permit to allow a full bathroom (sink, toilet, and shower) in the detached garage (see sheet A.2). Since the bathroom would be located within the existing detached garage, there is no increase in lot coverage or floor area ratio.

Two off-street parking spaces, one of which must be covered, are required and provided for the existing three-bedroom house. With this application, there is no increase in the number of bedrooms in the main dwelling. All other Zoning Code requirements have been met. The applicant is requesting the following application:

- Conditional Use Permit for a bathroom (sink, toilet, and shower) in a detached garage (C.S. 25.60.010 (j)).

935 Paloma Avenue

Lot Area: 4,483 SF

Plans date stamped: July 25, 2022

	EXISTING	PROPOSED	ALLOWED/REQUIRED
Lot Coverage:	1,794 SF 40%	no change	1,794 SF 40%
Floor Area Ratio:	1,794 SF 0.40 FAR	no change	2,897 SF ¹ 0.65 FAR
Use in Accessory Structure:	one-car garage and storage area	one-car garage with storage area and a bathroom (sink, toilet and shower) ²	Conditional Use Permit required for a toilet and shower in an accessory structure
# of bedrooms:	3	no change	---
Off-Street Parking:	1 covered (10'-8" x 20'-0" clear interior dimensions) 1 uncovered (9' x 20')	no change	1 covered (10' x 20' clear interior dimensions) 1 uncovered (9' x 20')

¹ (0.32 x 4,483 SF) + 1,100 SF + 362 SF = 2,897 SF (0.48 FAR)

² Conditional Use Permit for a bathroom (sink, toilet, and shower) in an accessory structure.

Staff Comments: Planning staff would note that since this request for Conditional Use Permit is limited to adding a bathroom (sink, toilet, and shower) in a detached garage, the application was placed directly on the action calendar. If the Commission feels there is a need for more discussion, this item may be placed on a future action calendar for a second review and/or public hearing with direction to the applicant.

Required Findings for Conditional Use Permit: Any decision to approve a Conditional Use Permit application shall be supported by written findings addressing the criteria set forth in Chapter 25.66. In making such determination, the following findings shall be made:

- A. The proposed use is consistent with the General Plan and any applicable specific plan.
- B. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
- C. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity.
- D. The site is physically suitable in terms of:
 - 1. Its design, location, shape, size, and operating characteristics of the proposed use to accommodate the use, and all fences, landscaping, loading, parking, spaces, walls, yards, and other features required to adjust the use with the land and uses in the neighborhood;
 - 2. Streets and highways adequate in width and pavement type to accommodate public and emergency vehicle (e.g., fire and medical) access;
 - 3. Public protection services (e.g., fire protection, police protection, etc.); and
 - 4. The provision of utilities (e.g., potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.).
- E. The measure of site suitability shall be required to ensure that the type, density, and intensity of use being proposed will not adversely affect the public convenience, health, interest, safety, or general welfare, constitute a nuisance, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located.

Suggested Findings for a Conditional Use Permit:

- A. The proposed use (bathroom in a detached garage) is consistent with the General Plan designation of Medium Density Residential in that there is no increase in density (existing use on the property is a single-unit dwelling).
- B. The proposed use is allowed within the zoning district with a Conditional Use Permit and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
- C. The design, location, size, and operating characteristics of the proposed activity will be compatible with the existing and future land uses in the vicinity in that the bathroom is located within an existing accessory structure.
- D. The site is physically suitable for the proposed use in that there is no change to the site or accessory structure required; that there is no change to the existing street, which has been adequate to accommodate public and emergency vehicles; that the proposed use does not impact public protection services or provision of utilities to the site.
- E. The proposed use, which includes a bathroom within an accessory structure serving the occupants of the subject property, will not adversely affect the public convenience, health, interest, safety, or general welfare, constitute a nuisance, or be materially injurious to the improvements, persons, property, or uses in the vicinity and zoning district in which the property is located in that the use.

Planning Commission Action: The Planning Commission should conduct a public hearing on the application, and consider public testimony and the analysis contained within the staff report. Action should include specific findings supporting the Planning Commission’s decision, and should be affirmed by resolution of the Planning Commission. The reasons for any action should be stated clearly for the record. At the public hearing the following conditions should be considered:

1. that the project shall be built as shown on the plans submitted to the Planning Division date stamped July 25, 2022, sheets T.0, BMP.1, SP.1, A.1 through A.3, S.0, and HFX2;
2. that prior to the final inspection, the kitchenette shall be removed and the space in the accessory structure shall be converted to a covered parking space, storage area, and bathroom as shown on the plans submitted to the Planning Division date stamped July 25, 2022;
3. that if the accessory structure is demolished or the envelope changed at a later date the Conditional Use Permit, as well as any other exceptions to the code granted here, will become void;
4. that any grading or earth moving on the site shall not occur until a building permit has been issued and such site work shall be required to comply with all the regulations of the Bay Area Air Quality Management District;
5. that the project shall comply with the Construction and Demolition Debris Recycling Ordinance which requires affected demolition, new construction and alteration projects to submit a Waste Reduction plan and meet recycling requirements; any partial or full demolition of a structure, interior or exterior, shall require a demolition permit; and
6. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, in effect at time of building permit submittal, as amended by the City of Burlingame.

Ruben Hurin
Planning Manager

- c. Will Scovill, applicant and property owner
Jesse Geurse, Geurse Conceptual Designs, Inc., designer

Attachments:

Application to the Planning Commission
Conditional Use Permit Application
Planning Commission Resolution (Proposed)
Notice of Public Hearing – Mailed July 29, 2022
Area Map