



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning and  
Development  
**Department No.:** 053  
**For Agenda Of:** Set hearing on October  
3, 2023, for October 17,  
2023  
**Placement:** Administrative  
**Estimated Time:** 40 minutes on October  
17, 2023  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

**TO:** Board of Supervisors  
**FROM:** Department Lisa Plowman, Director, (805)568-2086  
Contact Info: Travis Seawards, Deputy Director, Development Review Division  
(805) 568-2518  
**SUBJECT:** Applicant Appeal, Case No. 23APL-00000-00032, of the County Planning  
Commission Denial of the Gerrity Garage Conversions Project, Case No. 22CDP-  
00000-00009, Second Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: N/A

**Other Concurrence:** N/A

As to form: Select\_Concurrence

**Recommended Actions:**

On October 3, 2023, set a hearing for October 17, 2023, to consider the Applicant's appeal of the County Planning Commission's denial of the Gerrity Garage Conversions project, Case No. 22CDP-00000-00009.

On October 17, 2023, staff recommends that your Board take the following actions to deny the appeal and the Project:

- a) Deny the appeal, Case Number 23APL-00000-00032.
- b) Make the required findings for denial of the project, Case No. 22CDP-00000-00009, included in Attachment 1 of this Board Agenda Letter, including California Environmental Quality Act (CEQA) findings;
- c) Determine that denial of the appeal and denial of the Coastal Development Permit is exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15270(b) [Projects Which are Disapproved] as specified in Attachment 2 of this Board Agenda Letter; and
- d) Deny *de novo* the Coastal Development Permit, Case No. 22CDP-00000-00009.

**Summary Text:**

This Board Letter sets a Hearing for October 17, 2023 to review the Planning Commission’s denial of the Gerrity Garage Conversion Project (Project). On January 14, 2022, David Gerrity, owner of the subject parcel, applied for a Coastal Development Permit (CDP) to convert two existing single-car garages attached to a duplex located at 6794 Trigo Road and 6793 Pasado Road into dining rooms.

The Planning and Development (P&D) Director was unable to make the required findings for the CDP in accordance with Section 35-169.2 of the Article II Coastal Zoning Ordinance (Article II), and therefore denied the CDP on June 29, 2022. The Director found that the proposed project was inconsistent with the certified provisions of the County’s Local Coastal Program (LCP), including the California Coastal Act, the County of Santa Barbara Coastal Land Use Plan, and Article II. In particular, the Director determined the change of use from an accessory structure (garage) into habitable space triggers the requirement to bring the property into compliance with current parking standards under Article II. Because the Project did not propose sufficient parking spaces to satisfy current parking standards, the requested CDP was denied.

On July 7, 2022, the Applicant filed a timely appeal of the Director’s decision to deny the requested CDP. The appeal was presented at the County Planning Commission hearing of January 11, 2023, and was denied by a vote of 5 to 0, consistent with staff’s recommendation.

On January 16, 2023, the Applicant filed a timely appeal of the County Planning Commission’s decision. The Applicant asserts that the project does not actually constitute a change of use, that the number of parking spaces should be calculated for the new use only and dining rooms do not require parking, that the parking ordinance is confiscatory and unconstitutional, and that the Commissioners displayed a clear bias throughout the appeal hearing. The Appellants’ appeal issues and staff’s responses are discussed in Section B of this Board Agenda Letter. Staff reviewed the appeal and finds the issues raised are without merit. The information included in the administrative record, including this Board Agenda Letter, supports denial of the requested CDP.

**A. Proposed Project**

The project is a request for a Coastal Development Permit to allow for the conversion of two single-car garages into dining room additions for an existing duplex. The project will result in two dwelling units of 1,196 square feet (SF) and the removal of two covered parking spaces. Two uncovered parking spaces are proposed to replace the lost garage spaces. The site is currently developed with a 1,944 SF duplex and two 224 SF attached garages. No grading or tree removal is proposed. The parcel is served by the Goleta Water District, the Goleta West Sanitary District, and the Santa Barbara County Fire Department. Access is provided by two existing driveways, one off Trigo Road and the other off of Pasado Road. The property is a 0.17-acre parcel zoned SR-M-18, located at 6794 Trigo Road and 6793 Pasado Road in the Isla Vista area, 2<sup>nd</sup> Supervisorial District.

**B. Appeal Issue and Staff Response**

The appeal application (Attachment 5) contains a letter, dated January 16, 2023, that outlines the appeal issues. The appeal issues and staff responses are provided below.

**Appeal Issue No. 1: Change of Use**

In the first appeal issue, the Appellant asserts that the project does not constitute a change of use as residences and garages are both residential and within the same residential use category.

**Staff Response:**

The proposed project does constitute a change in use and converting existing parking spaces into habitable space triggers the requirement to bring the property into compliance with current parking standards.

The Applicant proposes the conversion of two attached garages into habitable space within an existing duplex. Garages are a permitted use in the SR-M-18 Zone pursuant to Article II Section 35-76.4, and listed as “accessory structures incidental and subordinate to a permitted use”. Duplexes are a permitted use in the SR-M-18 Zone pursuant to Article II Section 35-76.4, and listed as a “two-family dwelling”, a distinct and different use than accessory structures. Article II Section 35-51B.B.2(c) requires approval of a CDP anytime the change in occupancy or use of a structure does not meet the following standards:

- ...
- 2. The change of occupancy is from a land use listed as a permitted use in the applicable zone in Division 4 (Zoning Districts) to the same land use (e.g., from restaurant, café or shop to a restaurant, café or coffee shop) and does not result in a change in density or intensity of land use.
- 3. The new occupancy does not result in an increase in the number of parking spaces required to be provided on-site.
- ...

Pursuant to Article II Section 35-106 (Recalculation of Parking Spaces Upon Change of Use), upon the change of any use, the number of parking spaces to be provided must be calculated for the new use. The existing duplex is already legal nonconforming in regards to parking since each unit contains three bedrooms, and the parking calculation for the SR-M Zone District requires six spaces per unit (for a total of 12 spaces) and only 4 spaces are currently provided. As discussed further in Appeal Issue No. 2 below, the purpose of Article II Section 35-106 is to address parking shortages within the Isla Vista community and specifically identifies the requirement to recalculate parking requirements for a property when any change in use occurs. Additionally, pursuant to Article II Sections 35-179.2.3.f and 35-173.2.2.c, Modifications or Variances to reduce the number of parking spaces are not allowed in the SR-M Zone because of the long-standing issue in Isla Vista of parking demands that exceed parking availability. Therefore, the loss of parking spaces would cause the parcel to no longer provide adequate parking for residents of the dwellings and the proposed project is inconsistent with Article II, Section 35-106.

Finally, pursuant to Article II Section 35-162 (Nonconforming Buildings and Structures), a nonconforming structure shall not be enlarged, extended, moved, or structurally altered unless the enlargement or extension complies with all requirements of Article II. As the two-family dwellings are nonconforming as to parking, the two-family dwellings cannot be extended into the garages unless the structures conform to the parking requirements of Article II.

**Appeal Issue No. 2: Parking Calculation for New Use Only**

The Appellant asserts that the zoning ordinance (Section 35-106) specifies that with a change in use, the number of parking spaces shall be calculated for the new use only and that dining rooms do not require parking.

**Staff Response:**

Article II requires a re-calculation of parking spaces upon the change of “any” use, not just for “new uses only” as asserted by the Appellant. As discussed above in Appeal Issue No. 1, pursuant to Article II Section 35-106, upon the change of any use, the number of parking spaces to be provided shall be calculated according to the requirements of the Parking Division for the new use. The section of Article II

goes on to state that any previous parking modifications granted by the Planning Commission, Zoning Administrator, or the Director shall be null and void. Since the development constitutes a change of use as described in Appeal Issue No. 1, parking for the two-family dwellings must be re-calculated according to current Article II, Division 6 parking standards.

In addition, the existing duplex is already legal nonconforming and deficient in parking since each unit contains three bedrooms, and the parking calculation for the SR-M Zone District requires six spaces per unit (for a total of 12 spaces) and only 4 spaces are currently provided. As discussed in the staff report (Attachment 7), Isla Vista already suffers from parking demands that exceed parking availability and this has been a recognized issue for the past several decades. Thus, elimination of the garage spaces not only exacerbates the subject lot's nonconformity to current Article II parking standards, but would also have the practical effect of exacerbating already overburdened parking supply issues in Isla Vista.

The Appellant also asserts that dining rooms do not require parking; however, dining rooms are not a use within Article II and are instead considered part of a dwelling. As described in Appeal Issue No. 1, the two-family dwellings are nonconforming to parking and pursuant to Article II Section 35-162, cannot be enlarged or extended unless the structure is brought into conformance with current parking requirements.

### **Appeal Issue No. 3: Unreasonable Parking Ordinance Requirements**

The Appellant argues that the parking ordinance is confiscatory and unconstitutional as it is an unreasonable and oppressive interference with existing non-conforming uses. The Appellant contends that the only way to bring existing buildings in the zone into compliance is to remove bedrooms and to do so would be unreasonable.

### **Staff Response:**

The regulation of residential parking is consistent with the jurisdiction's police powers and ability to regulate land use in the County. The SR-M Zone District parking requirements have been in place since the original adoption of Article II in 1982, and the time to challenge the constitutionality of the ordinance as it relates to the SR-M Zone District has passed. Article II requires two parking spaces per bedroom in the SR-M Zone. Therefore, 12 parking spaces are required to serve the parking needs of the duplex under current ordinance standards, as each unit contains three bedrooms. Although many of the properties in Isla Vista are legal non-conforming with respect to parking, the requirement to recalculate the required parking and comply with current ordinance standards is specifically triggered by the change of use pursuant to Article II Sections 35-106 and 35-162. As proposed, the project would further exacerbate the non-conformity by removing the existing garage parking.

Finally, throughout the processing of this CDP application, staff provided the Applicant with alternative project options, such as converting the garages into Accessory Dwelling Units (ADUs), which would only require replacement parking for the two parking spaces lost through the garage conversions. The Applicant elected not to pursue other options.

### **Appeal Issue No. 4: Planning Commission Hearing was Biased**

The Appellant claims that the Planning Commission hearing was biased. Specifically, the Appellant claims that one of the Commissioners implied that the Applicant was dishonest. Additionally, the Appellant states he was unable to rebut statements made by the Commissioners.

### **Staff Response:**

The hearing before the Board is *de novo* and therefore any claims related to an unfair/biased hearing at the Planning Commission is not relevant to the Board's decision. The Planning Commission complied with the Brown Act and the Procedures Manual. The Applicant was given a total of 25 minutes to present.

Following the Applicant's presentation and public comment, the public hearing was closed and the Commission deliberated. Planning Commissioners are permitted to explain the basis for their decision during deliberation and the Commission is not required to allow time for an applicant to rebut statements made by the Commission.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

Total costs for processing the appeal are approximately 40 hours, which equates to \$11,280.00. The costs for processing appeals are partially offset by a General Fund subsidy in Planning and Development's adopted budget. Funding for processing these appeals is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on Page 313 of the County of Santa Barbara Fiscal Year (FY) 2023-24 adopted budget.

**Special Instructions:**

Noticing shall be completed by Planning and Development. The Clerk of the Board shall forward the minute order of the hearing to the Planning and Development Department, Attention: Veronica King.

**Attachments:**

1. Findings for Denial
2. CEQA Notice of Exemption
3. Project Plans
4. Director Denial Letter
5. Appeal Application and Letter, dated January 16, 2023
6. Planning Commission Action Letter, dated January 13, 2023
7. Planning Commission Staff Report, dated November 1, 2023

**Authored by:**

Veronica King, Planner (805) 568-2513  
Development Review Division, Planning and Development Department