



Legislation Details (With Text)

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**Title:** PLN18-0030; Consideration of a Conditional Use Permit to convert two existing single-family homes on one lot into a condominium to allow for individual ownership of the two units at 2101 and 2109 West Avenue 136; Assessor's Parcel Number 79A-508-7; J.E. Gutierrez (applicant); and S. Samreuang (property owner).

**Indexes:**

**Code sections:**

**Attachments:** 1. Vicinity Map 8-2-2018.pdf, 2. PLN18-0030 FINDINGS.pdf, 3. PLN18-0030 COA 8-2-2018.pdf, 4. Exhibit A.pdf, 5. Exhibits B-D.pdf, 6. Exhibits E-F.pdf, 7. For Information Only 2007 Building Permit No BLD2007-01780.pdf, 8. Existing Conditions.pdf

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8/2/2018	1	Board of Zoning Adjustments	Received and Filed	

**PLN18-0030;** Consideration of a Conditional Use Permit to convert two existing single-family homes on one lot into a condominium to allow for individual ownership of the two units at 2101 and 2109 West Avenue 136; Assessor's Parcel Number 79A-508-7; J.E. Gutierrez (applicant); and S. Samreuang (property owner).

**SUMMARY AND RECOMMENDATION**

The property is zoned RO Residential Outer District and is developed with a two-story single-family home in the front of the property and a one-story single-family home at the rear. The lot size is 14,800 square feet. RO zoning permits an additional single-family residence on lots exceeding 12,000 square feet, thus the two existing units are permitted (Zoning Code Section 2-554 A.1.) and comply with the RO District development standards. The applicant is requesting a conditional use permit to convert the two existing single-family homes into a condominium for ownership or for sale as two individual units. With recommended conditions of approval requiring that the project will be in good repair on the interior and the exterior when offered for sale without hidden needs for maintenance and repair, building code compliance, property maintenance, and the creation of CC&R's, the proposal will be compatible with the immediate neighborhood and should have no effect on persons or property nearby.

By allowing this property to be converted to condominiums for individual ownership, additional opportunities for home ownership in Mulford Gardens will be created, without creating additional adverse impacts on traffic. Staff recommends that the Board of Zoning Adjustments make the necessary Findings and approve PLN18-0030 subject to the attached Recommended Conditions of Approval.

**RELATIONSHIP TO SURROUNDING AREA**

The property is located on the north side of West Avenue 136, between Doolittle Drive and Menlo Street. The surrounding properties are zoned RO Residential Outer District. The surrounding properties are primarily developed with single-family dwellings, with some additional single-family dwellings or duplexes in the rear of the parcels, as is permitted in the RO District.

## **BACKGROUND**

The proposal is a single-lot subdivision with two condominium units on it since the property (80- by 185-foot) cannot be divided into two lots meeting the minimum lot requirements in the RO Residential Outer District, which is a minimum area of 8,000 square feet and a minimum lot width of 60 feet (Zoning Code Sections 2-530 and 2-532, respectively). Pursuant to Zoning Code Section 5-2424, Condominium Conversions involving four residential units or less shall be subject to a conditional use permit. There are a number of other two-unit residential properties in the Mulford Gardens neighborhood which have similarly been subdivided in the past.

## **DETAILS OF THE PROPOSAL**

The subject property has a total area of 14,800 square feet and is developed with a two-story single-family home in front of the front of the property built in 1950s, and a one-story single-family dwelling in the rear built in 2009. In the RO District, an additional single- or two-family home may be built on a lot in excess of 14,000 square feet in area (Zoning Code Section 2-554 A.). The single-family home at the front of the property, known as 2101 West Avenue 136 (2101), on the attached exhibits, consists of four bedrooms, two bathrooms, a kitchen, dining area, living room, family room and an attached one-car garage. The exterior is horizontal siding with composition shingle roofing. The single-family dwelling at the rear of the property known as 2109 West Avenue 136 (2109), on the attached exhibits, consists of four bedrooms, four and one-half bathrooms, a kitchen, dining area, living room, family room and an attached three-car garage. The exterior is stucco exterior with red concrete tile roofing.

The property owner lives in the rear unit. The applicant and property owner provided notification by certified mail in August 2017 to the tenants in the front home about the proposal to convert the units into condominiums to provide opportunity for individual home ownership.

### Site Plan

The footprint of the single-family home (2101) at the front of the property will remain unchanged. A driveway on the eastern side of the frontage accesses the one-car garage. The parking requirement for a single-family dwelling in the RO District requires two covered spaces and located outside of the front setback. The northeastern area behind the home serves as the private yard.

The footprint for the existing single family dwelling at the rear (2109) will also be unchanged. A long driveway on the western side of the parcel leads to a three-car garage at the single-family home at the rear of the property. The garage for this home exceeds the minimum required of two covered spaces for the single-family dwelling in the RO District. Private yard is provided in the 25 feet rear yard setback.

## **STAFF ANALYSIS**

## Compliance with Zoning Code and Conditional Use Permit Review

The existing single-family homes conform to the 1987 and 2007 Building Permit plans. All structures conform to the RO District zoning requirements such as minimum setbacks, maximum height, and maximum lot coverage, with the exception of the single-car garage for 2101. City building permits show that the use was permitted and legally constructed with just one garage space. The Zoning Code allows that a use that does not conform with the parking, loading, planting area, landscaping, screening, or sign regulations of the zoning district in which it is located shall not be deemed a nonconforming use solely because of one or more of these nonconformities. (Zoning Code Section 4-2002 C.). The situation is allowed to continue and be maintained. Although 2101 has only one covered space, the driveway, approximately 20 feet wide, provides parking for two side-by-side spaces in front of the garage door. The single-family home in the rear will maintain the attached three-car garage. Private open space is provided behind 2101 and to the rear of 2109.

The use permit for a condominium conversion will permit the two units to be owned or sold separately. Conditions, Covenants and Restrictions (CC&R's) will be required to govern the responsibilities and the continued maintenance of the property.

### Notification

An objective of the Conditional Use Permit review is to protect the rights and reduce the impact of the conversion on the tenants, who may be required to relocate due to the conversion of the rental unit to condominium. The written notification was provided last August 2017 to the tenants for appropriate notification.

### Conditions of Approval

This CUP review is intended to assure that purchasers of converted housing have been properly informed as to the physical condition of the structure that is offered for purchase and to ensure that the converted housing is in good condition without hidden needs for maintenance and repair. Thus recommended conditions of approval are included, which requires submittal of information documenting that the project as a whole will be in good repair on the interior and the exterior when offered for sale. Various physical elements report are listed in the recommended Conditions that includes appliances, foundations and soil, electricity, plumbing, utilities, walls, ceilings, windows, frames, private outdoor area(s), mechanical equipment, parking facilities, fire protection, drainage facilities, parking conditions and roofing. The reports will also address the condition of refuse disposal facilities; fireplaces; exterior lighting, painting throughout the project, including building interior and exterior surfaces. A structural termite and pest control report addresses many of the items listed above.

### Inclusionary Requirement

Zoning Code Article 30, Affordable Housing-Inclusionary Zoning Requirement is applicable to the application. It requires 15 percent inclusionary units or payment of an in-lieu fee to the Affordable Housing Trust Fund for conversion of rental projects to projects that are for-sale or for ownership. Pursuant to the Article any residential project including a minimum of two units for-sale is subject to the inclusionary requirement.

For residential developments of for-sale projects of six or fewer units, the Inclusionary Housing

Ordinance requirements may be satisfied by paying an in-lieu fee, instead of providing an actual unit. The fee is the median sales price of a three-bedroom condominium dwelling unit in San Leandro, minus the Affordable Ownership Cost (calculated monthly by the Bay East Association of Realtors), multiplied by the fractional inclusionary units required. The fractional inclusionary unit required (15%) for the two units would be 0.30. The fee shall be based on the price and cost figures established by the City at the time of the Final Map. At the time of this report, the estimated Inclusionary in-lieu fee amount is \$44,569.00.

## **GENERAL PLAN CONFORMANCE**

The proposal will attain the following General Plan policies, related to the supply and upkeep of the City's housing stock.

### **Policy 3.01 - Mix of Unit Types**

Encourage a mix of residential development types in the city, including single family homes on a variety of lot sizes, as well as townhomes, row houses, live-work units, planned unit developments, and multi-family housing.

### **Policy 53.03 - Funding**

Actively pursue and leverage private, non-profit, and public funds to facilitate the development of housing affordable to lower and moderate income households in San Leandro. Provide administrative and technical assistance to affordable housing developers and support the applications of these developers for loans, grants, tax credits, and other financing sources that facilitate affordable housing production in the City.

### **Policy 53.04 - Inclusionary Housing**

To the extent permitted by law, require the inclusion of housing affordable to moderate, low, and/or very low income households in new housing developments or the payment of an in-lieu fee which creates a funding source for affordable housing. Modify ordinances as needed to make these requirements clearer and more effective.

### **Policy 53.08 - Condominium and Co-Op Development**

Promote the development of new condominiums and cooperatives as more affordable alternatives to single family detached housing for those seeking home ownership. Work with local developers to address the financial, legal, and market conditions which have impeded such development in the recent past.

The proposal will provide an opportunity for ownership of two individual units. Few legal non-conforming elements exist, such as the single car garage, and the existing buildings generally conform to the present zoning requirements. The existing buildings appear to be in good condition. Moreover, with the necessary conditions requiring that the project will be in good repair on the interior and the exterior when offered for sale by requiring various physical elements report to ensure the converted housing is in good condition without hidden needs for maintenance and repair, building code compliance, property maintenance, and the creation of CC&R's (Conditions, Covenants and Restrictions), the well maintained appearance of the property will be retained. The required in-lieu fee for affordable housing would benefit the City's Affordable Housing Trust Fund in providing and/or assisting in future inclusionary housing projects in the City.

## **ENVIRONMENTAL REVIEW**

This matter is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15315. Minor Land Divisions, which consists of the division of property in urbanized areas zoned for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The established use of two residential units will remain unchanged.

## **PUBLIC OUTREACH**

This item received standard noticing for the August 2, 2018 Board of Zoning Adjustments hearing, including a legal advertisement in the East Bay Times newspaper, the posting of notices at City Hall and on the subject property and mailing notification to business and property owners within 500 feet of the exterior boundary of the subject property. No public comments were received regarding this proposal at the time of the filing of this staff report.

## **RECOMMENDATION**

By allowing this property to be converted to condominiums for individual ownership, additional opportunities for home ownership in Mulford Gardens will be created, without creating additional adverse impacts on traffic. The proposal will be compatible with existing adjacent development in the immediate neighborhood; the condominium approval will not affect its appearance.

Staff recommends that the Board of Zoning Adjustments make the attached Findings and approve PLN18-0030 subject to the attached Recommended Conditions of Approval.

## **ATTACHMENTS**

Vicinity Map  
Recommended Findings of Fact for Approval  
Recommended Conditions of Approval  
Exhibit A-Site Plan, Parcel Map  
Exhibit B-As Built Unit 2101 First Floor Plan (Front Dwelling)  
Exhibit C-As Built Unit 2101 Second Floor Plan (Front Dwelling)  
Exhibit D-As Built Unit 2101 Elevations (Front Dwelling)  
Exhibit E-As Built Unit 2109 Ground Floor Plan and Roof Plan (Rear Dwelling)  
Exhibit F-As Built Unit 2109 Elevations (Rear Dwelling)  
For Information Only-Building Permit Site Plan, BLD2007-01780  
Google Street View (Existing Site Conditions)

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