

# STAFF REPORT

**DATE:** October 24, 2018

**TO:** Board of Adjustment

**FROM:** Zoning Administration  
Planning and Development  
Services Department

**ACTIVITY NO. T18SA00412**

**C10-18-19 STAHLKOEPPF NEW SINGLE-FAMILY RESIDENCE / CARLOS &  
VERONICA STAHLKOEPPF / 115 SOUTH SILVERBELL AVENUE, R-2**

The appellant, Naveen Sydney, is appealing the Planning and Development Services Director's (PDSD) decision to approve Design Development Option (DDO) Case DDO-18-62. Case DDO-18-62 is a request by property owners, Carlos and Veronica Stahlkoepff to construct a new two-story single-family dwelling with a reduced front street perimeter yard setback. The property owners filed a Design Development Option (DDO) application with the Planning and Development Services Department requesting the zoning approval necessary to allow the new single-family residence to be constructed with a reduced building setback, as measured from the west property line. The DDO application was approved by the PSDS Director, finding the project in compliance with all required DDO General and Specific Findings of Tucson *Unified Development Code (UDC)* Section 3.11.1.D.1&2.

## **THE APPELLANT'S REQUEST TO THE BOARD**

The appellant is requesting reversal of the Planning and Development Services Director's decision to approve Case DDO-18-62 which is a Design Development Option request by the property owners to allow the following modification:

- 1) Allow the front street perimeter yard setback to be reduced from (32'-3") to (20'), as measured from the new residence to the west lot line of the property, all as shown on the submitted plans.

## **APPLICABLE TUCSON ZONING CODE SECTIONS**

Tucson *Unified Development (UDC)* sections applicable to this project include, in part, the following:

Section 3.11.1.D *Design Development Option (DDO) Findings for Approval*;

Section 4.7.9 *Residence Zone (R-2)* and Table 4.8-2 *Permitted Uses: Urban Residential Zones*, which provides the use criteria in the R-2 zone;

Sections 6.3.4 *Dimensional Standards and Exceptions Tables*, 6.4.5 *Perimeter Yards*, 6.6.3 *Specifically Within Residential Zones* and Table 6.3-2.A *Dimensional Standards for the R-2 Zone*, which provide the development standards applicable to all principal and accessory structures

Section 3.10.2 which provides for the Board of Adjustment to hear and decide on appeals made to the PDSB Director's decision on DDO applications; and,

Section 2.2.6.C.3 which states that the DRB reviews, for recommendation to the Board of Adjustment, appeals of PDSB Director's decisions on DDO applications and shall in formulation of its recommendation utilize the same criteria, as provided in Section 3.11.1.D.1&2 (DDO General and Specific Findings) required of the PDSB Director in making the decision.

## **GENERAL DEVELOPMENT INFORMATION**

### **Zoning and Land Use**

#### **SITE: ZONED R-2; (undeveloped)**

North: Zoned R-2; (single-family residential)

South: Zoned R-2; multi-family residential)

East: Zoned R-2; (multi-family residential)

West: Zoned R-2; (undeveloped)

## **RELATED PLAN REVIEWS**

### **Design Review Board (DRB)**

Zoning regulations require DDO appeals to be reviewed by the DRB for recommendation to the Board of Adjustment. This appeal request is scheduled to be heard by the DRB (Case DRB-18-19) on October 19, 2018. The DRB recommendation will be provided at the public hearing

## **RELATED CASE**

DDO-18-62 is a request by the property owner, to construct a new two-story single-family residence with a reduced front street perimeter yard setback. The DDO application was approved by PDSB Director, finding the project in compliance with Tucson *Unified Development Code (UDC)* Section 3.11.1.D.1 and 2. The appellant is appealing the PDSB Director's decision to approve DDO-18-62.

## **DESIGN DEVELOPMENT OPTION FINDINGS**

*UDC* Section 3.11.1.D: The PDSB Director may approve a DDO request as provided by this Section, only if all the following findings are made.

### **1. General Findings for All Modification Requests**

For all modification requests, the PDSB Director may approve a DDO request only if the request meets all of the following findings:

- a. Is not a request previously denied as a variance;
- b. Does not modify a conditional requirement or finding to determine whether the use should be allowed in the zone;
- c. Is not to a condition of approval for a rezoning or Special Exception Land Use application;

- d. Does not modify a requirement of an overlay zone, such as, but not limited to, Scenic Corridor, Environmental Resource, Major Streets and Routes Setback, or Airport Environs;
- e. Does not result in deletion or waiver of a *UDC* requirement;
- f. The modification applies to property that cannot be developed in conformity with the provisions of this Chapter due to physical circumstances or conditions of the property, such as irregular shape, narrowness of lot, exceptional topographic conditions, or location.
- g. Does not create a situation where proposed development substantially reduces the amount of privacy that would be enjoyed by nearby residents any more than would be available if the development was built without the modification;
- h. Does not create a situation where proposed development will block visibility within the required visibility triangle on adjoining streets for either vehicular or pedestrian traffic;
- i. Does not create a situation where the proposed development will cause objectionable noise, odors, trespass lighting, or similar adverse impacts adjacent properties or development; and
- j. Does not create a situation where the development will result in an increase in the number of residential dwelling units or the square footage of nonresidential buildings greater than would occur if the development was built without the modification.

**2. Specific Findings for Setback and Wall Height Modification Requests**

In addition to the findings in Section 3.11.1.D.1, the PDSO Director shall find, in the case of setback and wall height only, that the modification:

- a. Does not create a situation where proposed development will obstruct significant views of dramatic land forms, unusual stands of vegetation, or parks from nearby properties substantially more than would occur if the development were built without the modification;
- b. Provides design alternatives to better integrate the development into the design character of the immediate neighborhood;
- c. Does not apply to a setback requirement of a Flexible Lot Development (FLD);

- d. Does not create a situation where the proposed development will interfere with the optimum air temperature or solar radiation orientation of buildings on adjoining properties substantially more than would occur if the building or structures were built without the modification; and
- e. Does not create a situation where the proposed use of the property will impose objectionable noise levels on adjoining properties greater than would occur if the buildings or structures were built without the modifications.

### **ZONING ADMINISTRATION CONSIDERATIONS**

The DDO process consists of an administrative review process. *UDC* Section 3.10.2 provides for the Board of Adjustment to hear and decide on appeals made to the PDSB Director's decision on DDO applications. The DDO is intended for minor modifications of the Code when all required DDO findings for approval are met by the applicant.

### **Perimeter Yard Setbacks**

Per *UDC* Sections 6.3.4 and 6.4.5, based on a proposed wall height of 21'-6", the required building setback is 32'-3" as measured to the west lot line. The DDO request proposes to reduce the setback to 20'-0".

### **Discussion**

The subject property is located in Menlo Park near the base of Sentinel Peak and is undeveloped. The 5,200 square foot vacant parcel is the smallest of the three parcels that were split in 2016. The north adjacent parcel is developed with a single-family residence and the east adjacent parcel is developed with six dwelling units.

The owners of the subject property purchased the lot with the intentions of developing a two-story residence. The proposed building could not meet the required front street setback so a DDO application was filed with PDSB for the modification. The north adjacent property owner (appellant) expressed his concerns regarding the project and objected to the construction of a two-story residence. Staff conducted a site visit to further evaluate the project and the concerns made by the appellant.

The appellant argues that the DDO request is not in compliance with *UDC* Sections 3.11.1.D.1(g), 2(a) and (b). These sections address privacy, views of dramatic land forms, and compatibility with the immediate neighborhood. The buildable area of the property is further restricted by an overhead powerline that is approximately twenty-five feet away from the north lot line and runs parallel to it. In order to maximize the use of the property, the owners decided to build vertical. Privacy is not impacted as the building is setback approximately thirty-six feet from the north lot line. The development does not create a situation where the privacy would be further reduced than if the building was built without the modification as the side and rear perimeter yard setbacks are in compliance with standards. The views from the appellant's property will be impacted, but not eliminated. The appellant still has views from a rooftop deck. As a result of the physical constraints of the property and its location, it would be difficult to avoid any impacts to the viewsheds unless the

property remained vacant and undeveloped. During the site visit, the owner offered to shift the building in order to provide more of a viewshed for the appellant, but an agreement was never reached. This area of Menlo Park consists of historic and modern development. There are several two-story homes in the area, and one newly constructed just south of this property. The building the owner is proposing to construct is compatible with what is existing in the immediate neighborhood.

**Conclusion**

Given that the proposed project does not significantly reduce privacy any more than would be available if the development was built without the modification; and that the views of significant land forms from the north adjacent property will not be eliminated; and that the project is compatible with the character of the neighborhood, staff recommends upholding the decision by the PDSD Director to approve the design modification requested in case DDO-18-62. It is the opinion of staff that the project is in compliance with the *UDC* Section 3.11.1.D *Design Development Option (DDO) Findings for Approval*.

**RECOMMENDATION**

Staff recommends upholding the PDSD Director's decision to approve the design modification requested in case DDO-18-62.

Mark Castro, Lead Planner  
for  
Russlyn Wells, Acting Zoning Administrator

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