



3330 S 1300 E
Millcreek, Utah
84106
8801-214-2700
Millcreek.us

File # LUHO-19-011

Land Use Hearing Officer Summary and Recommendation

Request Type: Enlarge Non-Complying Structure Request RCOZ B Application **Meeting Date:**

Parcel ID: 16-34-153-018

Current Zone: R-1-21/zc

Property Address: 4288 S Lares Cir

Community Council: Mt Olympus

Planner: Erin O'Kelley

Planning Staff Recommendation: Approval, subject to existing setbacks and RCOZ compliance

Applicant Name: Bryce Dallimore

PROJECT DESCRIPTION

The applicant is proposing to enlarge a non-complying structure. They would like to remodel and add an additional floor to the existing structure. The current structure on the property is non-complying with its front yard setback and minimum lot size. Under chapter 19.14 the applicant's lot should have a minimum front yard setback of 30 Feet and be 21,780 SF in area. The current lot size of the property is 16,552.8 SF, the current front yard setback, shown in Exhibit 1, is 24 feet. ~~Applicant under chapter 19.92 is requesting a special exception to add to a non-complying structure and reduce the front yard setback to 20 feet.~~ **UPDATE: Applicant under chapter 19.92 is requesting a special exception to add to a non-complying structure and receive approval to apply for an RCOZ Option B application that may reduce their front yard setback. RCOZ Option B Chapter 19.71.040.**

SITE AND VICINITY DESCRIPTION (see attached map)

The subject property is in a residential neighborhood located in Mt Olympus. The property is LOT 26 of the Mount Olympus Subdivision.



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Property at 4297 Lares Cir



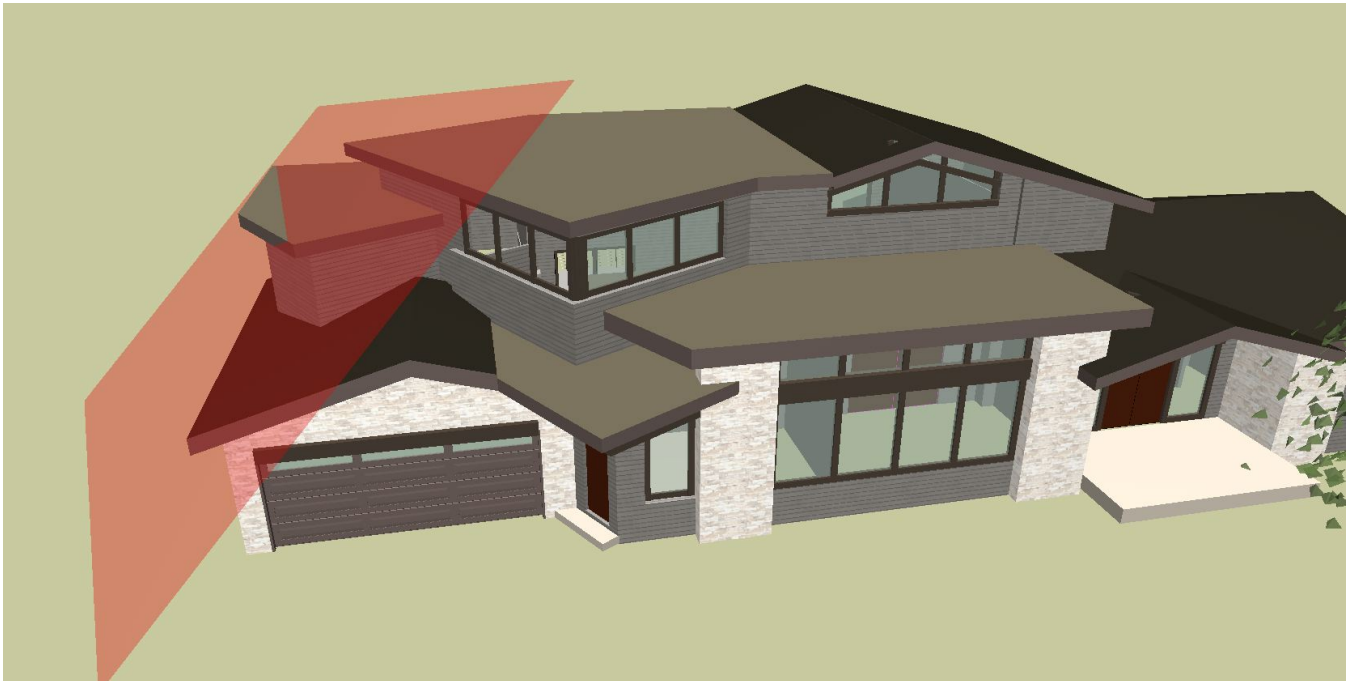
Property at 4291 Lares Cir



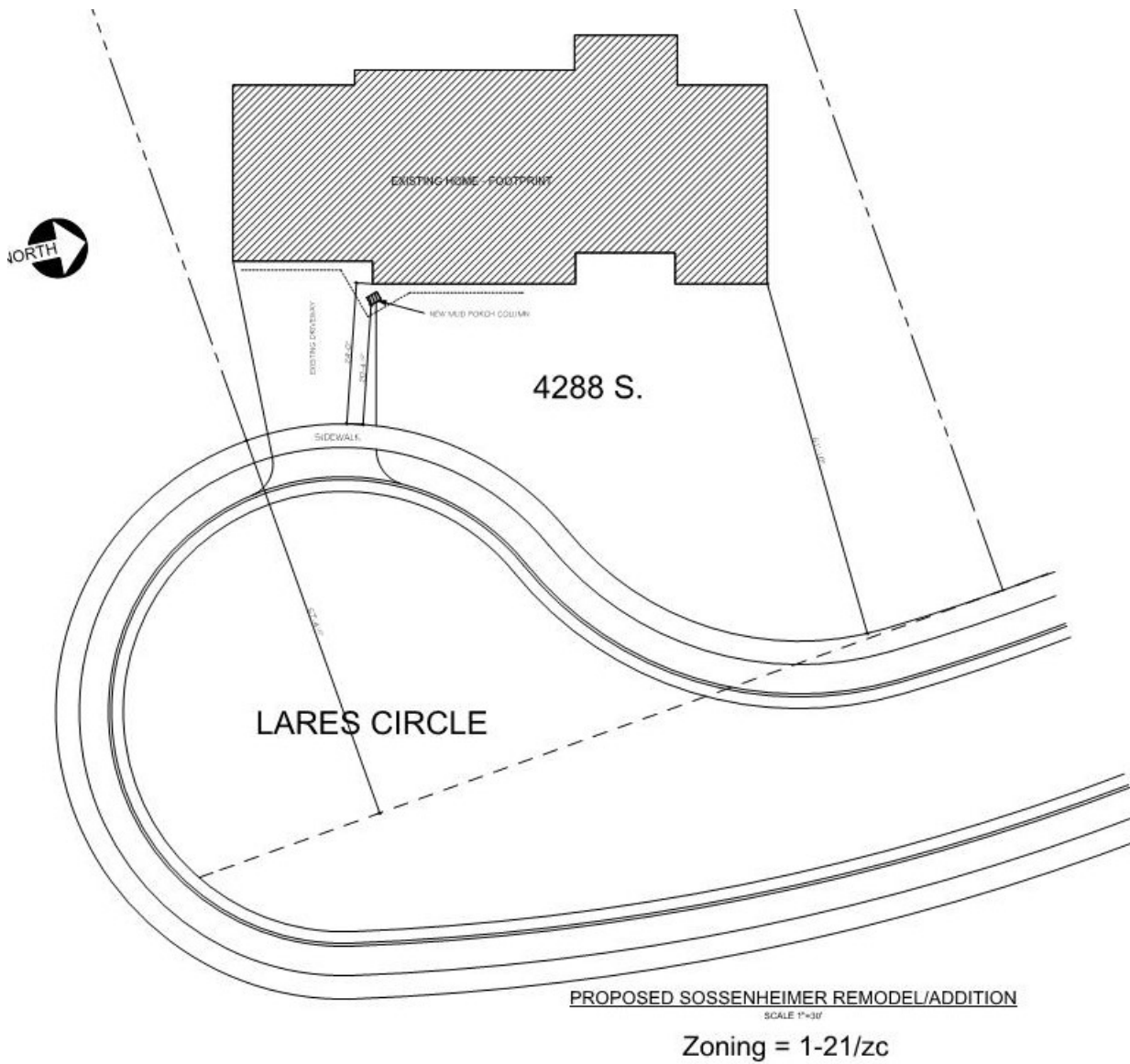
PROJECT PROPOSAL



The applicant is proposing a remodel and addition to the existing home. The proposal includes upgrading the roof and the roof line as well as some exterior walls. The current proposal involves bringing one of the walls into the front yard setback 4 feet (the wall and roof to the right of the garage). The standard front yard setback for the R-1-21 zone is 30 feet. The applicant is proposing a 20 foot front yard setback in their current proposal.



The applicant's current proposal does meet our Residential Compatibility Overlay Zone standard. Overhangs may encroach into a setback or height envelope of 3 feet per 19.04.560. Dormer's and Gables may also exceed a building envelope per 19.71.030.



LAND USE CONSIDERATIONS

Requirement	Existing	Zone requirement	Proposed	Compliance Verified
Height	unknown	32 Feet	Under 32 Feet	Yes
Front Yard Setback	24 Feet	30 Feet	20 Feet	No
Side Yard Setback	10 feet	10 feet on each side	unchanged	
Rear Yard Setback	17 feet	15 feet	unchanged	
Lot Width	119 Feet	100 feet	unchanged	
Lot Area	16,522 square feet	21,780 square feet	unchanged	
Lot Coverage	34% - 3,145 square feet	31% (RCOZ)	unchanged	

Compatibility with existing buildings in terms of size, scale and height.	Yes
Compliance with Landscaping Requirements.	N/A
Compliance with the General Plan.	Yes
Compliance with RCOZ	Yes

ISSUES OF CONCERN/PROPOSED MITIGATION

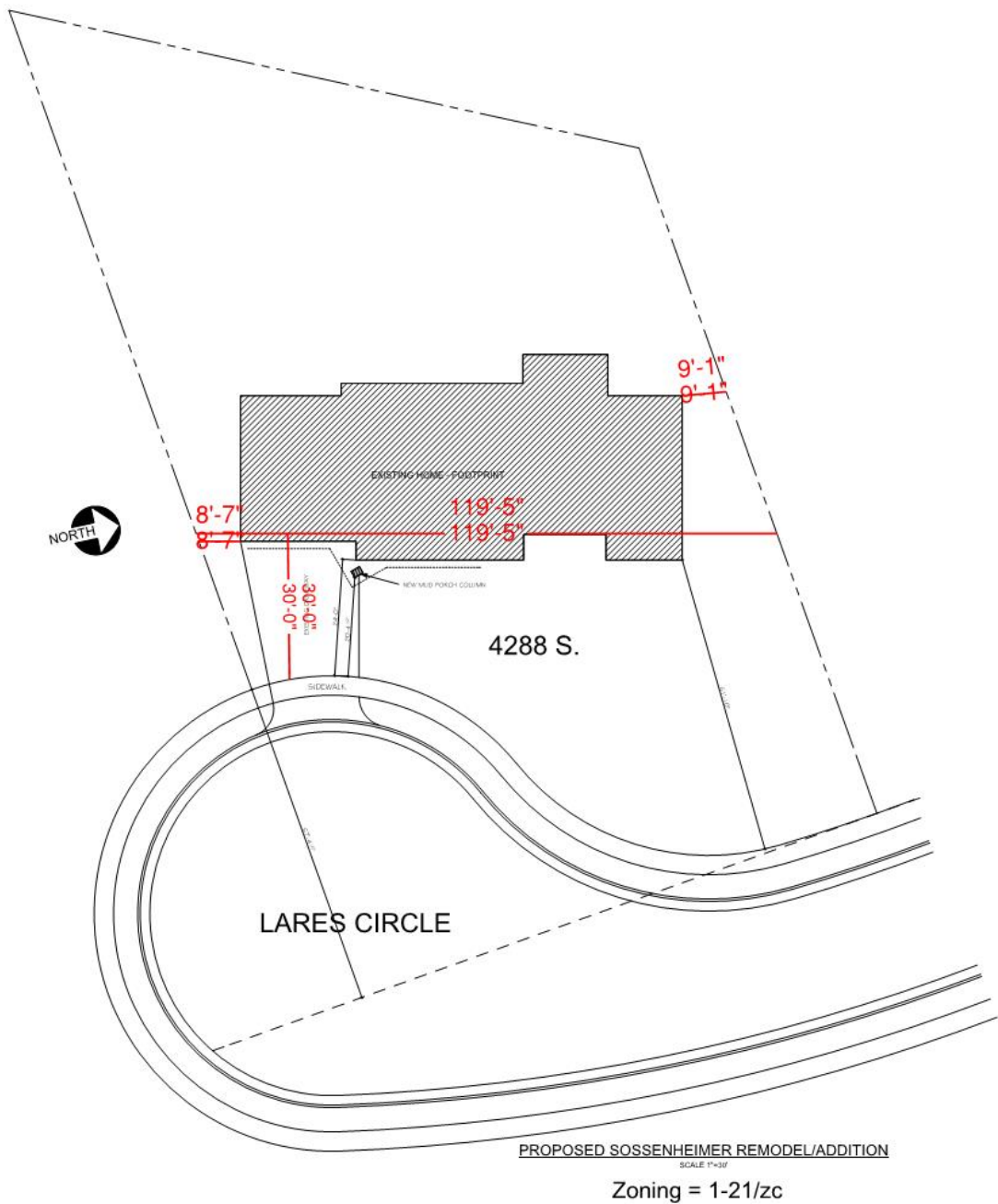
Staff is concerned about allowing further reduction in a front yard setback requirement on a large lot. The R-1-21, R-1-15, & R-1-10 zones all require a minimum front yard setback of 30 Feet per 19.14 of the Millcreek Code. Allowing noncomplying structures to become more noncomplying to current City Zoning ordinances not based on geographical hardships can be concerning for Staff, therefore staff has to support a proposal that complies most with City Ordinances. Our adopted Residential Compatibility Overlay Zone (RCOZ) encourages enhanced design ideas to help unconventional lots conform to ordinances in keeping with the purpose of the zoning ordinance. Staff would recommend alternative design proposals that can comply with the existing conditions of the lot. Staff has not proposed mitigation if an additional decrease in setback would be granted to the applicant.



Area with
reduced front
yard setback of
24 Feet

Subject Property.

EXHIBIT 1



PLANNING STAFF ANALYSIS

19.04.380 Noncomplying Structure

“Noncomplying structure” means a building or other structure or portion thereof lawfully constructed in compliance with the zoning ordinance existing at the time of construction, that no longer conforms to the height, area and/or yard regulations in the zone in which it is located due to changes to the zoning ordinance or to subsequent public acquisition of land for public improvements.

19.88.070 Additions, Enlargements, Moving And Reconstruction Of A Structure

1. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.
2. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:
 1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in MKZ 19.02.020, and is in keeping with the intent of this title;
 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

19.92.060 Special Exceptions

The land use hearing officer may approve any of the following special exceptions to the zoning ordinance where he or she determines the exception is consistent with the purposes of the zoning ordinance and will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity:

1. Where a zone boundary line divides a lot in single ownership at the time of the passage of the ordinance codified in this title, the land use hearing officer may permit a use authorized on either portion of such lot to extend not more than fifty feet into the other portion of the lot.
2. The land use hearing officer may permit the enlargement of or addition to a noncomplying structure or a building or structure occupied by a nonconforming use.
3. The land use hearing officer may permit the relocation on a lot of a noncomplying structure or a building or structure occupied by a nonconforming use; or the hearing officer may permit the reconstruction on a lot of a noncomplying structure or a building occupied by a nonconforming use

19.14.010 Purpose Of Provisions

The purpose of the R-1 zones is to establish single-family neighborhoods which provide persons who reside therein a comfortable, health, safe and pleasant environment

ZONE	FRONT YARD	SIDE YARD (Interior)	SIDE YARD (Facing a public street)	REAR YARD WITHOUT GARAGE	REAR YARD WITH GARAGE
R-1-3, R-1-4, R-1-5	20 feet	5 feet unless attached to a dwelling on an adjacent lot	20 feet	20 feet	15 feet
R-1-6, R-1-7, R-1-8	25 feet	5 feet one side and 11 feet on the garage or driveway side or 8 feet on each side	20 feet	30 feet	15 feet
R-1-10, R-1-15, R-1-21	30 feet	10 feet on each side	20 feet	Same as above	Same as above
R-1-43	30 feet	15 feet on each side	20 feet	Same as above	Same as above

RCOZ Chapter Purpose:

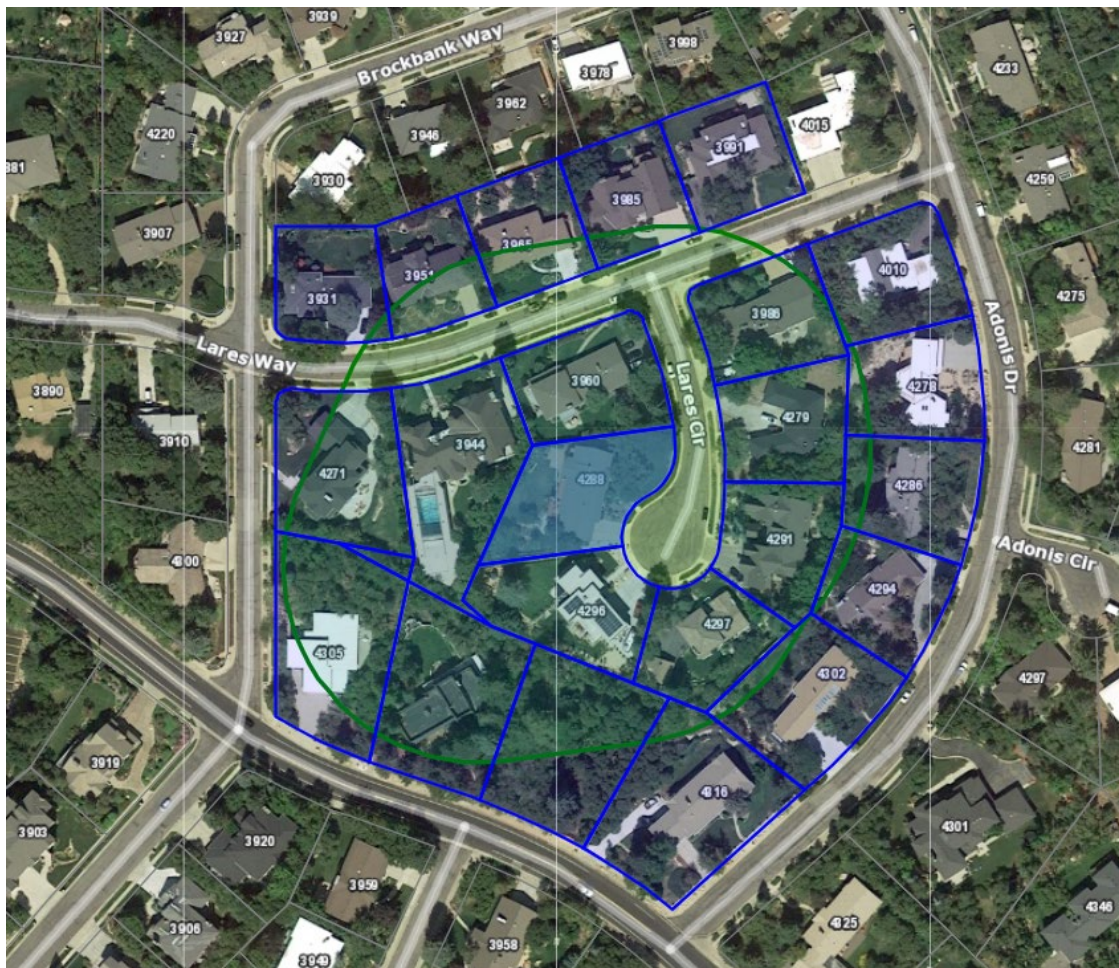
19.71.010 Purpose Of Provisions

1. The general purpose of the residential compatibility overlay zone (“RCOZ”) is to promote public welfare and to balance neighborhood compatibility with the private property interests of those who wish to expand, develop, improve or otherwise make exterior modification to their residential property.
2. Recognizing the wide variation of circumstances incident to a residential application and the need for architectural freedom, the City is adopting a three-tiered approach:
 1. Option A provides for strict standards of height, area, and setback with permits issued by the Salt Lake County planning and development services division when acting on behalf of the City (the “division”).
 2. Option B allows the division on behalf of the City to consider deviations from one or more of the standards provided in Option A based upon the compatibility of the proposed residential application with other houses in the immediate neighborhood.
 3. Option C allows a planning commission to consider at a public hearing a special exception for unusual or extraordinary circumstances that justify deviations from one or more of the limitations under Options A and B.

19.71.040 Option B Deviations From General Standards Based On Neighborhood Compatibility

1. Application. To obtain division approval of deviations from one or more of the requirements of MKZ 19.71.030.B.1, B.2, B.3 or B.4, an applicant must file a separate application in compliance with the corresponding conditions of Subsections D.1, D.2, D.3 or D.4. An applicant may seek a pre-determination of the allowable deviations for proposed construction under Option B from the division prior to submitting building plans.
2. Evidence. Compliance with the corresponding conditions of Option B must be established by reliable photographic, engineering, architectural or other evidence from the proximate neighborhood.
3. Deviations from Other Option A Requirements. No deviations from the Option A requirements of MKZ 19.71.030.B.5 through B.8 may be approved by the division.
4. Permissible deviations from maximum building height, maximum lot coverage and minimum front and side setbacks under Option B are:
 1. Maximum Building Height. The maximum building height that may be approved by the division under Option B is the lesser of:

1. Three feet plus the average maximum ridge height of residential structures that are on six lots of applicant's choice that:
 1. Are within the proximate neighborhood of the subject property, as defined in MKZ 19.71.060.B; and
 2. For which the applicant provides adequate evidence of the maximum building height, as defined in this chapter; or
2. The heights specified in column recommendation of Table I for the applicable zone.
2. Maximum Lot Coverage. The maximum lot coverage is 1.15 times the average of the lot coverage percentages of residential structures that are on six lots of applicant's choice that are within the proximate neighborhood of the subject property, such coverage not to exceed the percentages specified in Table I, column recommendation for the applicable zone.
3. Minimum Front Setback. The minimum front setback is the average of the front setbacks of residential structures that are on six lots of applicant's choice that are within the proximate neighborhood of the subject property



Of the 21 properties within 200 feet of the subject property all seem to comply with a front yard setback between 25-30 feet. Under our RCOZ ordinance the City allows property owners to use standards or examples on nearby properties and apply an average of those standards to their property. Under this ordinance the applicant could take the average of 6 of the front yard setbacks within 200 feet and use that as their standard. However, based on general aerial measurement, it appears there are no six lots that would allow the applicant to ask for a reduced front yard setback to 20 feet.

PLANNING STAFF RECOMMENDATION

Staff recommends a finding that the project is in harmony with the purposes of the City's zoning ordinance, namely to promote quality single-family neighborhoods that provide residents a comfortable, healthy, safe, and pleasant environment without harming surround urban or non-urban development.

Staff recommends a finding that this property does not impose any unreasonable burden upon the lands located in the vicinity of the noncomplying structure. The proposed addition maintains the form and style of the existing structure and is consistent with the historic pattern of development and housing type in the neighborhood.

For the above reasons, staff recommends approval of the addition to a non-complying structure.

~~**For the above reasons, staff does not recommend approval of reducing a non-complying front yard setback**~~

UPDATE: For the above reasons, staff recommends approval of allowing applicant to apply for an RCOZ Option B application that may reduce the front yard setback to the average setback of 6 lots within 200 Feet.