

PUBLIC HEARINGS

**CITY COUNCIL
FEBRUARY 24, 2004**

To: Mayor and City Council

From: George J. Rodericks, City Manager **GR**

**SUBJECT: Consideration of Conditional Use Permit No. 0575; Outdoor Fireplace
– Location: 19062 San Ramon (Ray Thagard)**

BACKGROUND

The applicant is requesting permission to construct an outdoor fireplace.

AUTHORITY

Conditional Use Permits

In order to give the City's current zoning regulations the flexibility necessary to achieve the objectives of the Zoning Code, the City Council has the authority to permit conditional uses subject to the approval of a Conditional Use Permit. Because of their unusual characteristics, Conditional Use Permits require special review and consideration so that they may be located properly with respect to the objectives of the City's zoning regulations and with respect to their effects on surrounding properties. To achieve these objectives, the City Council is empowered to grant and to deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permits. The City Council shall make the following findings before granting a Conditional Use Permit:

- 1) The project is in accord with the objectives of the Villa Park Zoning Code and the purpose of the Zone in which it is located.
- 2) The project is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- 3) The project complies with all applicable provisions of the Zoning Code.

Article 23-6.6 of the Villa Park Municipal Code requires a Conditional Use Permit for all accessory structures exceeding seven (7) feet in height.

FINDINGS

The subject property is located at 19092 San Ramon Circle and is in the E-4 zoning district. Lot areas within this district are a minimum of 20,000 square feet. The subject property is approximately 21,460 square feet. Surrounding uses are residential.

The applicant is proposing to construct an outdoor fireplace. The proposed structure is 15 feet in height. The chimney of the fireplace extends to the maximum 15 foot height

requirement. The applicant contends that the height of the chimney stack is important to provide adequate ventilation and to ensure smoke control.

Features, such as spark arrestors and other items required to conform to the Uniform Building Code are not typically included in the calculation of height – and in this case, will be an additional requirement from the Building Department on top of the proposed height as shown in the plans. The spark arrestor added after the approval process will bring the total height of the structure to 16 to 17 feet. The City Council may condition the approval such that the total height of the structure, to include the spark arrestor, is limited to 15 feet.

Portions of the structure are proposed within an existing sanitary sewer and drainage easement. If approved, an Encroachment Agreement will be required.

Detached structures require a Conditional Use Permit; are limited to a height of 15 feet; and must abide by the ten (10) foot setback requirement. Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback and height requirements.

CEQA COMPLIANCE

This project is exempt from requirements of the California Environmental Quality Act by Section 15303 – New Construction or Conversion of Small Structures – Class 3. Class 3 includes the construction of new structures; the installation of new equipment and facilities in small structures; and the construction of a single-family residence or a second dwelling unit in a residential zone.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of this application, with conditions and the addition of condition No. 11 for the Encroachment Agreement.

11. An Encroachment Agreement is required to be approved prior to Building Permit final.

APPROVAL MOTION

Adopt Resolution No. 2004-2736, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0575, for an outdoor fireplace, with conditions; Location: 19092 San Ramon Circle.

RECOMMENDED ACTION

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

CONDITIONS OF APPROVAL

1. The structure(s) shall be in accordance with approved plans on file with the City Clerk. Any significant deviation from the approved plans will require subsequent approval by the City Council through a separate Public Hearing. All work will be suspended on the project until such approvals are obtained.
2. Building permits and approvals must be obtained prior to commencement of construction. If the approval is after-the-fact, building permits and approvals are still required. Pursuant to section 9-2.20 of the Villa Park Municipal Code, every permit issued by the City's Building Official shall expire by limitation and become null and void if the building or work authorized by such permit is not completed through final inspection within the allowed time from the date of issuance of such permit, which time shall be as follows: up to 5,000 square feet, 12 months; 5,000 to 10,000 square feet, 18 months; over 10,000 square feet, 24 months. Failure to complete the project within such time shall be grounds for revocation of the discretionary approval. Such revocation will place the property owner in violation of the City's Zoning Ordinance and subject the property owner to possible civil or criminal legal action by the City.
3. Separate review and approval by the City Engineer is required for all grading, driveway approaches, street improvements, sewer connections, and work within the right-of-way or City easement prior to issuance of any building permit for the project. Additional conditions may apply.
4. If deemed necessary by the City Engineer, a street dedication and improvement bond shall be required for all work exceeding three hundred (300) square feet of floor area prior to issuance of any building permit.
5. If deemed necessary by the Building Inspector or City Engineer, a cash bond in the amount of \$575 shall be posted to protect the City from any damages to any public improvements impacted directly or indirectly by the proposed improvements.
6. Temporary toilet facilities are not permitted in the front setback areas.
7. This Conditional Use Permit shall lapse and become void one year following the date of approval unless prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site.
8. This Conditional Use Permit may be renewed for an additional period of one year, provided that prior to the expiration of one year from the date when it or the renewal of same became effective, an application for renewal is filed.
9. Construction activities must comply with all applicable NPDES Best Management Practices (BMP's), as determined by the City Building Inspector and City Engineer, to include, but not limited to: Erosion Control Measures, Perimeter

Protection, Sediment Capturing, Waste Management, and Materials Management.

10. A landscape plan shall be submitted and approved by the City's Community Development Committee prior to completion of plan check through the City's Building Department. Landscaping shall be implemented pursuant to the approved plan within six months of issuance of any applicable Certificate of Occupancy. Failure to implement the plan shall be grounds for revocation of the discretionary approval. Such revocation will place the property owner in violation of the City's Zoning Ordinance and subject the property owner to possible civil or criminal legal action by the City.