

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: November 17, 2022

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Use Permit, pursuant to Section 6431 and 6137 of the County of San Mateo Zoning Regulations, to construct a 585 sq. ft., ADU with 256 sq. ft. roof deck located at 2035 Queens Drive in the unincorporated San Mateo Highlands area of San Mateo County.

County File Number: PLN 2022-00030 (DeVore)

PROPOSAL

The applicant is requesting a Use Permit to allow the construction of a two-story 585 sq. ft. accessory dwelling unit (ADU) with 256 sq. ft. rooftop deck. The Use Permit is required because the ADU does not provide the required 10-foot stepback for those portions of the ADU above 16 feet, includes a roof deck that exceeds the maximum allowable height, while located within the primary rear setback area, and has a rear facing balcony which encroaches into the minimum rear yard setback. The ADU encroachments would result in a rear yard stepback of 4.6 feet where 10 feet is required for structures over 16 feet in height. The railing of the roof deck results in a total height of 28 feet 6 inches where 26 feet is the maximum allowable height. The ADU regulations do not allow roof top decks or exterior facing balconies for structures that do not meet the setbacks required for the main residence. The rear yard balcony exceeds 10-feet in height and does not conform to the 20-foot rear yard setback that is required for the primary residence.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-Conforming Use Permit (County File Number PLN 2022-00030), by making the required findings and adopting the conditions of approval included in Attachment A.

BACKGROUND

Report Prepared By: Bryan Albini, Project Planner; balbini@smcgov.org

Applicant: Tom DeVore, Arkin Tilt Architects

Owner: Catherine and Alan Palter

Public Notification: Ten (10) day advanced notification for the hearing was mailed to property owners within 300 feet of the project parcel and a notice for the hearing posted in a newspaper (San Mateo Times) of general public circulation

Location: 2035 Queens Lane, San Mateo Highlands

APN: 041-191-020

Size: 12,611 sq. ft., 0.29 acres

Existing Zoning: R-1/S-8 (Single-Family Residential District/ S-8 Combining District with 7,500 sq. ft. minimum parcel size)

General Plan Designation: Medium Low Density Residential

Sphere-of-Influence: City of San Mateo

Existing Land Use: Single-Family Residence

Water Supply: California Water Service Company - San Mateo

Sewage Disposal: Crystal Springs Co. Sanitation District

Flood Zone: Zone X (Area of Minimal Flooding), Map page 06081C0165E; effective date October 16, 2012.

Environmental Evaluation: Categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15303, Class 3, related to the construction of accessory (appurtenant) structures.

Setting: The project site lies west of State Highway 92 approximately 1,000 feet from the De Anza Boulevard exit. The subject parcel is currently improved with a one-story single-family residence in a single-family residential zoned neighborhood. The rear of the parcel is at the jurisdictional boundary line between the City of San Mateo and an Unincorporated portion of San Mateo County. The parcel is bounded to the north and south by single-family residential, and to the east by an undeveloped parcel owned by the City of San Mateo. The property slopes from high to low from the street and supports a number of significant trees.

Chronology:

<u>Date</u>	<u>Action</u>
February 2, 2022	- Application Submitted
August 2, 2022	- Application Deemed Complete
November 17, 2022	- Zoning Hearing Officer Meeting

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

Staff has reviewed the project for conformance with the policies contained in the General Plan and has determined that the project is in conformance with the Visual Quality and Urban Land Use chapters. The policies applicable to this project include the following:

Visual Quality Policies

Policy 4.15 (*Appearance of New Development*) calls for the regulation of development to promote and enhance good design, site relationships and other aesthetic considerations. The applicant has proposed a design that seeks to minimize grading and tree removal. Given the slope of the parcel running the utilities to serve the ADU under the walkway to the deck minimizes the grading, tree removal, and overall site disturbance if those amenities were installed in-ground. In addition, the proposed location of the ADU also utilizes the existing stairs and walkways that run down the left side of the existing residence to serve as access to the unit. Thereby, minimizing new site work/disturbance to provide access to the ADU. The project location considers the difficult topographic and vegetative constraints on the site by setting the ADU at a lower elevation than surrounding residences and avoiding the removal of mature trees necessary for screening and privacy. The roof top deck serves as an amenity to the primary residence with no access for the ADU below. The ADU incorporates natural materials and colors to further blend into the surrounding hillside and vegetation.

Policy 4.36 (*Urban Area Design Concept*) seeks to maintain and improve upon the appearance and visual character of development in urban areas and ensure that proposed development contributes to the orderly and harmonious nature of the locality. As discussed, the proposed ADU has been designed to minimize grading and tree removal. The ADU employs a design aesthetic which is complementary to the adjacent mid-century

development. The location and design of the proposed modifications to the second dwelling unit minimize impacts to surrounding neighbors and continue the orderly development of the parcel and neighborhood.

Urban Land Use Policies

Policy 8.15 (*Land Use Compatibility*) calls for the protection and enhancement of the character of existing single-family areas. As mentioned previously, the project employs a design which is complementary to the surrounding development and minimizes grading and tree removal. While the project includes the request to exceed the allowable height and encroach into the required rear yard setback/stepback the property to the rear is an undeveloped parcel owned by the City of San Mateo. There are no privacy or visual impacts to this parcel. The development on parcels on either side of the project site are developed at similar elevations as the main house so that the ADU will sit below them in elevation. In addition, to the topography the existing significant tree cover provides a visual buffer between the project parcel and neighboring development.

2. Conformance with the Zoning Regulations

a. Development Standards

As shown in the table below the project parcel is of conforming size. The project as proposed provides the required setback between structures, complies with the allowable lot coverage, and floor area standards. Specific discussion of the Accessory Dwelling Unit (Chapter 11.5) of the Zoning Regulations is discussed in section 2.b, below.

	Development Standards	Existing	Proposed
Minimum Lot Size	7,500 sq. ft.	12,611 sq. ft.	No Change
Maximum Building Site Coverage	40% (5,044 sq. ft.)	20% (2,530 sq. ft.)	24% or 2,994 sq. ft.
Minimum (ADU) Rear Setback	4 ft	–	4 ft. -7 inches*
Minimum (ADU) Stepback**	5 ft (Side) 10 ft (Rear)	–	4 ft. (Rear)*
Minimum (ADU) Side Setback	4 ft	–	29 ft.-11 inches (left) 54 ft.-8 inches (right)

	Development Standards	Existing	Proposed
Minimum Distance from Residence	5 ft.	–	26 ft. (rear)
Maximum Height	26 feet	–	28 ft - 6 inches*
*Indicates a Non-Conformity to the required standard **Stepback is applicable to those portions of the building which exceed 16 feet in height			

b. Accessory Dwelling Unit Regulations

The proposed ADU complies with development standards as they pertain to floor area, lot coverage, and parking. However, due to the constraints on the parcel, the project does not comply with setback/stepback, height, and balcony/rooftop deck requirements identified in Section 6429.1.

Section 6429.1.4(c) requires that any Accessory dwelling units, whether attached or detached, exceeding 16 feet in height shall have 10-foot rear/ 5-foot side setbacks, located at a point no higher than 16 feet on the structure. The proposed structure, while compliant with side setback requirements, proposes a setback that encroaches 5 feet 5 inches into the required 10-foot rear setback.

Section 6429.1.7 limits the maximum height of the accessory dwelling unit to 26 feet. Due to the steep grade of the project site, and intention to limit site disturbance and grading, the applicant is utilizing a post and pier foundation system. The height of the structure from the natural grade to the ADU's roof deck is approximately 24 feet. However, the addition of the roof top deck railing above the ADU extends the overall height to approximately 28 feet 6 inches.

Section 6429.1.9 prohibits balconies or decks for ADUs. ADUs that do not meet the setback requirements that would apply to a primary residence in the same district, except on the side of the accessory dwelling unit facing the primary residence. The proposed ADU includes two design elements that require the issuance of a use permit to comply with this provision: (1) a rooftop deck; (2) an outward facing balcony that exceeds 10 feet in height. The rooftop deck in this case is accessible only to the primary residence by a walkway off the existing rear patio. The walkway will serve as a utility chase for the water, electric, and plumbing services to the ADU. The outward facing rear balcony overlooks open space owned by the City of San Mateo and poses no impacts to privacy or visual intrusion on the adjacent developed parcels.

The project is not located within a 1/4 mile of a transit station, but the primary residence has sufficient parking on-site with three covered parking spaces and two uncovered spaces in the driveway to accommodate the ADU and guests.

Section 6431 of the Zoning Regulations provides relief from the provisions of the ADU regulations with the issuance of a conditional use permit pursuant to Section 6503 of the Zoning Regulations.

3. Conformance with Use Permit Regulations

Section 6431 (Requirements for Conditionally Permitted Second Dwelling Units) of the Zoning Regulations allows the granting of a use permit for second units not meeting all applicable standards of the Second Dwelling Unit Ordinance.

The following finding, as required by Section 6503, must be made in order to approve a use permit for the proposed project:

That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The accessory dwelling unit was proposed at the current location to utilize the steep topography of the rear of the site. As indicated previously, the steep rear yard and mature vegetation limit the buildability of an ADU that can be built to the required setback standard. The applicant's unique design, as response, while encroaching approximately 6 feet into the designated stepback area for the portions of the structure that exceed 16 feet in height, limits the removal of any trees and otherwise complies with all other development standards.

ADUs are an allowable use in this zoning district and while the project does not comply with all of the applicable development standards the use remains compliant. The project has been reviewed by the San Mateo County Building Inspection Section, County Fire Authority, and Geotechnical Section, and has received conditional approval. The project will be required to comply with requirements of each of the responsible agencies at the building permit stage. As proposed and conditioned, the project will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

B. ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15303, Class 3, related to the construction of accessory (appurtenant) structures on a site in an urbanized area, zoned for residential use.

C. REVIEWING AGENCIES

Building Inspection Section
Drainage Inspection Section
Geotechnical Section
Cal Fire

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Project Plans

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2022-00030 Hearing Date: November 17, 2022

Prepared By: Bryan Albini,
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15303, Class 3, related to the construction of accessory (appurtenant) structures on a site in an urbanized area, zoned for residential use.

For the Use Permit, Find:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood. The accessory dwelling unit will provide additional affordable housing to residents in San Mateo County, one parking space is provided on-site and the proposed second unit dwelling will comply with the San Mateo County Building Inspection Section regulations ensuring the public safety and welfare.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on November 17, 2022. The Community Development Director may approve minor revisions or modifications to the project if they are consistent with the intent of and in substantial conformance with this approval.

2. This Use Permit is valid for one (1) year from the date of final approval in which time a valid building permit shall be issued. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees 60 days prior to expiration.
3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section. Additionally, construction shall not commence until a valid building permit is issued.
4. To reduce the impact of any construction-related activities on neighboring properties, comply with the following:
 - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
 - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
 - c. The applicant shall ensure that no construction-related vehicles shall impede through traffic along Alameda De Las Pulgas and Sterling Avenue right-of-ways. All construction vehicles shall be parked on-site outside public right-of-ways or in public locations which do not impede safe access on Alameda De Las Pulgas and Sterling Avenue. There shall be no storage of construction vehicles in the public right-of-way.
5. During project construction, the applicant shall, pursuant to Chapter 4.100 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site by:
 - a. Protecting areas not to be disturbed using a vegetative buffer strip or fence/barrier.
 - b. Covering construction materials stored on-site with a tarp or other waterproof material when not in use.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - d. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

6. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 5:00 p.m. Saturdays. Said activities are prohibited on Sundays, Thanksgiving, and Christmas (San Mateo County Ordinance Code Section 4.88.360.)
7. This permit does not allow for the removal of any trees. Removal of any tree with a diameter equal to, or greater than, 12 inches as measured 4.5 feet above the ground shall require a separate tree removal permit.
8. You need EC conditions
9. We didn't talk about it but we should in the UP section that the balcony be revised to provide at least a 3-foot setback and add a condition here.

Building Inspection Section

10. A valid building permit shall be issued prior to the commencement of any work.

Drainage Inspection Section

11. At the time of building permit submittal, project will be required to comply with the County's "basic" drainage review requirements, including adding a swale between the new structure and property line, making new decks permeable with a 1/4-inch spacing between boards where feasible, showing all roof gutter downspout locations, and either removing impervious patio space elsewhere on the property or adding rain barrel(s) to help compensate for the new impervious surface given the steep/limited landscaping.

Geotechnical Section

12. The applicant's Geotechnical Consultant should clarify the depth of "lower soils" in reference to their pier design (i.e., skin friction) recommendations.
13. A Geotechnical Report shall be submitted at Building Stage; the report shall be updated to the current codes. Significant grading profiles, grading proposals, foundation design recommendations, retaining wall design recommendations, and basement design recommendations, if any, shall be provided in the geotechnical report at Building Stage. For a vacant site, the Geotechnical Report shall provide sufficient soil investigation data to evaluate the potential hazards, for example, expansive soils, soil corrosivity, weak soil strength, and liquefaction. If any hazards are found, mitigation shall be provided in foundation design and grading proposal.

Cal-Fire

14. Add Note to plans: Smoke Alarm which are hard wired: As per the California Building Code, and State Fire Marshal regulations, the applicant is required to install State Fire Marshal approved and listed smoke detectors which are hard wired, interconnected, and have battery backup. These detectors are required to be placed in each new and recondition sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. In existing sleeping rooms, areas may have battery powered smoke alarms. A minimum of one detector shall be placed on each floor. Smoke detectors shall be tested and approved prior to the building final. Date of installation must be added to exterior of the smoke alarm and will be checked at final.
15. Add Note to plans: Escape or rescue windows shall have a minimum net clear openable area of 5.7 sq. ft., 5.0 sq. ft. allowed at grade. The minimum net clear openable height dimension shall be 24 inches. The net clear openable width dimension shall be 20 inches. Finished sill height shall be not more than 44 inches above the finished floor. (2019 CFC 1030.2).
16. Identify rescue windows in each bedroom and verify that they meet all requirements. Add this to plans.
17. Add Note to plans: As per San Mateo County Fire Department, building identification shall be conspicuously posted and visible from the street. (TEMPORARY ADDRESS NUMBERS SHALL BE POSTED PRIOR TO COMBUSTIBLES BEING PLACED ON SITE). The letters/numerals for permanent address signs shall be 4 inches in height with a minimum 1/2-inch stroke. Such letters/numerals shall be internally illuminated and facing the direction of access. Residential address numbers shall be at least 6 feet above the finished surface of the driveway. Where buildings are located remotely to the public roadway, additional signage at the driveway/roadway entrance leading to the building and/or on each individual building shall be required by the San Mateo County Fire Department. This remote signage shall consist of a 6 inch by 18-inch green reflective metal sign with 3-inch reflective Numbers/ Letters similar to Hy-Ko 911 or equivalent shall be placed at the entrance from the nearest public roadway.
18. ADU using the same street address numbers, shall have suite or unit identification posted as required by the San Mateo County Fire Department.
19. ADU for rear addressing – When required by the Chief, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of the property. Number stroke and size will comply with Section 505.1 for residential buildings.

20. Required unobstructed Fire Department Access walkway minimum 36-inch width and to remain unobstructed at all times. (CFC 504.1)
21. Add Note to plans: The building is in a Very High Fire Hazard Severity Zone and will require a Class A roof.
22. Code 304.1.2 A fuel break of defensible space is required around the perimeter of all structures to a distance of not less than 30 feet and may be required to a distance of 100 feet or to the property line. This is neither a requirement nor an authorization for the removal of living trees.

Trees located within the defensible space shall be pruned to remove dead and dying portions, and limbed up 6 feet above the ground.

New trees planted in the defensible space shall be located no closer than 10 feet to adjacent trees when fully grown or at maturity.

Remove that portion of any existing trees, which extends within 10 feet of the outlet of a chimney or stovepipe or is within 5 feet of any structure. Maintain any tree adjacent to or overhanging a building free of dead or dying wood.

23. A Knox padlock or key switch will be required if there is limited access to property. CFC 506.1. For application and instructions please email smcfdfiremarshal@fire.ca.gov if you need further assistance, please contact the San Mateo County Fire Marshal's Office at 650/573-3846.
24. IF ADU MEETS ALL THE REQUIREMENTS FOR ADU THEN FIRE SPRINKLERS ARE NOT REQUIREED, see ADU standard to see if it qualifies. Automatic Fire Sprinkler System: (Fire Sprinkler plans will require a separate permit). As per San Mateo County Building Standards the applicant is required to install an automatic fire sprinkler system throughout the proposed or improved dwelling and garage. All attic access locations will be provided with a pilot head on a metal upright. Sprinkler coverage shall be provided throughout the residence to include all bathrooms, garages, and any area used for storage. The only exception is small linen closets less than 24 sq. ft. with full depth shelving. The plans for this system must be submitted to the San Mateo County Planning and Building Division. A building permit will not be issued until plans are received, reviewed, and approved. Upon submission of plans, the County or City will forward a complete set to the San Mateo County Fire Department for review.

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