

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

DATE: July 25, 2018

TO: Planning Commission

FROM: Planning Staff

SUBJECT: EXECUTIVE SUMMARY: Consideration of an appeal of the Zoning Hearing Officer's approval of a Non-Conforming Use Permit to enlarge an existing non-conforming single-family residence on a non-conforming sized parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2' (right side) and 3' (left side) where 5' is the minimum required side yard setback; a new 698 sq. ft. second-story which will encroach into the 16'/45 degree daylight plane; and to allow the second required covered parking space to be uncovered and tandem to an existing one-car garage; on a nonconforming 2,549 sq. ft. parcel located at 338 Rutherford Avenue in the unincorporated Redwood City (Sequoia Tract) area of San Mateo County.

County File Number: PLN2017-00517 (Kameli)

PROPOSAL

The appeal of the Zoning Hearing Officer's decision to approve a Non-Conforming Use Permit for the enlargement of an existing non-conforming single-family residence on a non-conforming sized parcel asserts that the applicant made no attempt to comply with the zoning requirements; is requesting too many exceptions; proposes an addition that is not appropriately sized and massed to the project parcel or neighborhood; proposes a daylight plane protrusion that will have a detrimental impact on adjacent homes, including the appellant's home and constitutes a taking; and proposes a project that is not in compliance with the intent of the S-74 zoning regulations. The appellant is also concerned that approval of the subject project would set a precedent for the neighboring substandard sized parcel (located between the project parcel and the appellant's property) to seek similar exceptions that would directly impact the appellant's property.

RECOMMENDATION

That the Planning Commission deny the appeal and uphold the Zoning Hearing Officer's decision to approve the Non-Conforming Use Permit, County File Number PLN 2017-00517, by making the required findings and adopting the conditions of approval listed in Attachment A.

SUMMARY

On March 15, 2018, the Zoning Hearing Officer (ZHO) continued the consideration of the subject application to the April 5, 2018 ZHO hearing to allow time for the applicant and a nearby project opponent to discuss the proposed project in more detail before a decision was rendered by the Zoning Hearing Officer. On April, 5 2018, the ZHO approved the subject Non-Conforming Use Permit based on the findings and subject to the conditions of approval listed in Attachment A of this staff report. An appeal was filed on April 19, 2018 by the project opponent on the grounds stated above.

In response to growing neighborhood concerns about the demolition and replacement of modest sized homes with substantially larger houses, ranging in size from 3,000 sq. ft. to 6,000 sq. ft. in size, the S-74 zoning regulations were developed to control house size, height, and bulk and shape that the prior S-7 zoning standards lacked. The S-74 zoning regulations were not focused on development on substandard sized parcels.

The applicant has reasonably attempted to comply with the S-74 zoning development standards given the existing non-conforming conditions of the site. The project complies with the maximum building floor area of 2,600 sq. ft. (for substandard sized parcels), as the project will result in a maximum floor area of 1,647 square feet. The surrounding neighborhood consists of one- and two-story residences on a range of parcel sizes, including a few two-story residences on similarly sized 2,550 sq. ft. parcels. Section 6137 of the Zoning Non-Conformities Chapter of the Zoning Regulations allows an applicant to seek a non-conforming use permit for any exceptions from the otherwise restrictive non-conforming development standards, including the applicable S-74 development standards, which is being sought under the current application.

The applicant has obtained letters of support from the immediate adjacent properties on both sides of the project parcel and approval of this project does not set precedence for approval of similar development on the adjacent substandard parcel, as that property owner would be required to obtain their own non-conforming use permit for any exceptions from the zoning standards. Any such application would be subject to an independent evaluation of that project's potential impacts on neighboring properties. The appellant has not submitted evidence in support of the claim that approval of the project would constitute a taking.

As proposed and conditioned, staff finds that the project complies with the General Plan and Zoning Regulations, including the findings necessary to grant a non-conforming use permit for the enlargement of a non-conforming residence on a non-conforming sized parcel.

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

DATE: July 25, 2018

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of an appeal of the Zoning Hearing Officer's approval of a Non-Conforming Use Permit, pursuant to Sections 6133 and 6173 of the San Mateo County Zoning Regulations, to enlarge an existing non-conforming single-family residence on a non-conforming sized parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2' (right side) and 3' (left side) where 5' is the minimum required side yard setback; a new 698 sq. ft. second-story which will encroach into the 16'45 degree daylight plane; and to allow the second required covered parking space to be uncovered and tandem to an existing one-car garage; on a non-conforming 2,549 sq. ft. parcel located at 338 Rutherford Avenue in the unincorporated Redwood City (Sequoia Tract) area of San Mateo County.

County File Number: PLN 2017-00517 (Kameli)

PROPOSAL

The appeal of the Zoning Hearing Officer's decision to approve a Non-Conforming Use Permit for the enlargement of an existing non-conforming single-family residence on a non-conforming sized parcel asserts that the applicant made no attempt to comply with the zoning requirements; is requesting too many exceptions; proposes an addition that is not appropriately sized and massed to the project parcel or neighborhood; proposes a daylight plane protrusion that will have a detrimental impact on adjacent homes, including the appellant's home and constitutes a taking; and proposes a project that is not in compliance with the intent of the S-74 zoning regulations. The appellant is also concerned that approval of the subject project would set a precedent for the neighboring substandard sized parcel (located between the project parcel and the appellant's property) to seek similar exceptions that would directly impact the appellant's property.

RECOMMENDATION

That the Planning Commission deny the appeal and uphold the Zoning Hearing Officer's decision to approve the Non-Conforming Use Permit, County File Number PLN 2017-00517, by making the required findings and adopting the conditions of approval listed in Attachment A.

BACKGROUND

Report Prepared By: Summer Burlison, Project Planner; 650/363-1815

Appellant: William Hertlein

Owner/Applicant: Ehsan Kameli

Location: 338 Rutherford Avenue, Redwood City (Sequoia Tract)

APN: 069-321-260

Size: 2,549 sq. ft.

Parcel Legality: The project parcel is legal per permitted construction of the existing single-family residence in 1959, a principally permitted use.

Existing Zoning: R-1/S-74 (Single-family residential/5,000 sq. ft. lot minimum)

General Plan Designation: Medium Density Residential

Sphere-of-Influence: Redwood City

Existing Land Use: Single-Family Residence

Water Supply: California Water Service Company – Bear Gulch District

Sewage Disposal: Fair Oaks Sewer Maintenance District

Flood Zone: Zone X (area of minimal flood hazard); Community Panel No. 06081C0303E, effective October 16, 2012.

Environmental Evaluation: Categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Guidelines Section 15301, Class 1, for a residential addition of less than 10,000 sq. ft. of floor area on a site in an urbanized area, zoned for residential use, where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

Setting: The subject property is a flat, 2,549 sq. ft. parcel fronting Rutherford Avenue in the established single-family residential Sequoia Tract area of San Mateo County. Existing surrounding development includes a mix of one- and two- story single-family residences on conforming and non-conforming sized parcels.

Chronology

- December 11, 2017 - Non-Conforming Use Permit application, PLN 2017-00517, submitted.
- January 26, 2018 - Application deemed complete.
- March 15, 2018 - Zoning Hearing Officer hearing; item continued to allow the applicant an opportunity to meet with a nearby property owner opposing the project.
- April 5, 2018 - Zoning Hearing Officer hearing; project approved.
- April 19, 2018 - Appeal filed by project opponent.

DISCUSSION

A. KEY ISSUES OF THE APPEAL

The appeal letter submitted on April 19, 2018, Attachment D, opposes the Zoning Hearing Officer's decision to approve the subject Non-Conforming Use Permit, based on the following concerns (in bold type):

1. **The appellant states that the applicant made no attempt to comply with existing zoning regulations and that the applicant verbally stated to the appellant in a meeting between the two parties that the proposed plans are "what (Fast Cad Drafting) came up with based on the proposal I had given to (them)" and that the applicant further stated at their meeting that he does not know things like "if there was any possibility for the roof to meet the envelope requirement so it does not have any encroachment."**

Staff's Response: The applicant has made a reasonable attempt to comply with the zoning regulations given the existing non-conforming site conditions and S-74 zoning development standards. Testimony was made at the Zoning Hearing Officer's hearing on April 5, 2018, on behalf of the applicant, that the proposed plans were prepared in consideration of the zoning regulations and that the applicant in fact did not get everything that was originally desired or requested for the project due to the designer's consideration of the limits of the zoning regulations. The exceptions requested under the Non-Conforming Use Permit were determined to be reasonable based on existing conditions and the integrity of the proposed design.

The applicant indicates that he did not know whether it was possible to meet the daylight plane ("envelope") requirements at the meeting between the

applicant and appellant; since then, the applicant's designer has explained to him that the only way to eliminate encroachment into the daylight plane is to narrow the second story, currently proposed at 13'-7" wide (maximum), which otherwise meets the minimum required 5' side yard setbacks. The applicant does not feel that a reduced second-story width, from that already proposed, would provide decent utilization of a second floor to justify the cost of building a second floor, and therefore, would prohibit him from achieving his objective of providing additional space to accommodate his growing family.

2. **The proposed project does not satisfy two of the five findings required to approve the Non-Conforming Use Permit under Section 6133 and the applicant was granted too many variances, including intrusion into the daylight plane (Section 6300.4.30), side yard setbacks (Section 6300.4.26), enlargement of a non-conforming structure (Section 6135.4), a major remodel of a non-conforming structure (Section 6135.5.b), and parking regulations (Section 6119).**

Specifically, in violation of Section 6133.b.3.a. (finding), the proposed development is not proportioned to the size of the parcel on which it is being built. Additionally, in violation of Section 6133.b.3.c. (finding), the proposed development is not as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.

Staff's Response: See staff's discussion in Section C.2.a. and c. regarding the Zoning Hearing Officer's findings for support of the project which resulted in a decision of approval by the Zoning Hearing Officer on April 5, 2018.

The zoning regulations provide no limit on the number of exceptions that can be requested under a non-conforming use permit. Additionally, Section 6137 of the Zoning Nonconformities Chapter of the Zoning Regulations allows an applicant to seek a non-conforming use permit for any exceptions from the otherwise restrictive non-conforming development standards contained within the Chapter, as being sought under the current application.

Based on an initial survey of 246 properties on, and immediately surrounding, the 300 block of Rutherford Avenue, the average Floor Area Ratio (FAR) is 27.1%, with non-conforming lots in the area averaging 29.7%. Only six properties surveyed exceed a 52% maximum floor area ratio. These six properties were constructed or remodeled prior to 2004 and the passage of the S-74 ordinance. In 14 years since the passing of the S-74 zoning regulations, not a single variance to the maximum floor area ratio has occurred in the surveyed area, even on non-conforming lots of which there are many.

The project proposal is not consistent with the neighborhood as it would be two-times larger in floor area than the neighborhood average and would be the largest home per floor area square-footage percentage in all of the Sequoia Tract neighborhood.

Staff's Response: The proposed project will not violate the maximum allowed FAR under the S-74 zoning regulations as the proposed building floor area is 1,642 sq. ft. where 2,600 sq. ft. is allowed. Staff nevertheless reviewed 241 parcels in the immediate vicinity of the project parcel, generally covering the parcels that the appellant surveyed. Of the 241 parcels studied, shown on the map provided in Attachment G, staff found that 67 of the parcels are substandard in size (i.e., less than 5,000 sq. ft. in parcel size), with 23 of those 67 parcels being approximately the same substandard size (2,550 sq. ft.) as the project parcel. The average floor area of these 23 substandard sized parcels is 760 sq. ft. (or 30.75% if expressed as a percentage) and it does not appear any of these (substandard sized) parcels have undergone substantial modifications since the S-74 zoning regulations were enacted in 2004. The Sequoia Tract is an older neighborhood with most of the houses built around the 1950s. Permit records indicate nine Home Improvement Exceptions (HIE's) have been granted throughout the community between 1999 to 2010, with six of the ten granted prior to the enactment of the S-74 regulations. The HIE approvals have primarily been granted for reduced setbacks, as identified in Attachment H. Additionally, two Non-Conforming Use Permits have been granted, not including the current application, for reduced setbacks in the Sequoia Tract neighborhood. When expressed as a percentage, the project proposes a 64.4% floor area ratio; however, the S-74 zoning regulations does not set a percentage ratio for maximum floor area on substandard sized parcels. Instead, the S-74 zoning regulations established a fixed floor area value of 2,600 sq. ft. for any parcel less than or equal to 5,000 sq. ft. in size.

With regard to the appellant's concern about the proportionality of the project to the parcel and neighborhood, the project design consists of a first floor width of 19' from sidewall to sidewall, and a second floor that will be inset 2'-6" from the first floor left sidewall and 4'-6" from the first floor right sidewall to help reduce the building's volume on the site. The proposed second story maintains the minimum 20' setbacks from the front and rear property lines. As the proposed new second story complies with setback standards, and the project is below the maximum allowed square footage, its design is appropriately proportioned to the size of the parcel and compatible with other homes in the neighborhood.

The 300 block of Rutherford Avenue is primarily comprised of older single-story homes with four two-story homes along the project parcel side of Rutherford Avenue, one of which is on a substandard 4,080 sq. ft. parcel.

Additionally, there are several two-story homes in the greater Sequoia Tract neighborhood that are situated on substandard sized parcels of similar size to the project parcel, see Attachment J. The size and design of the proposed project is consistent with the mix of residential development in the Sequoia Tract area.

The proposed FAR ignores the original intent of the S-74 ordinance, as well as Section 6300.4.22, which states that “In the case where a requirement, standard, or provision conflicts with another requirement, standard, or provision...the most limiting provision shall take precedence and govern.” The maximum allowed FAR of 2,600 sq. ft. for the project parcel equates to a 52% FAR based on a conforming 5,000 sq. ft. (or greater) parcel. Therefore, is a 52% ratio not the more limiting standard?

Staff's Response: The S-74 standards for Maximum Floor Area clearly specify that for parcels *less than or equal to* 5,000 sq. ft. in size, the allowed maximum floor area is 2,600 square feet. The FAR limit for substandard sized parcels under the S-74 zoning standards is a fixed value, and is not further limited by the actual size of the parcel. See staff's response to appeal Comment No. 5 below for discussion regarding the original intent of establishing maximum floor area as part of the S-74 zoning regulations.

- 3. The appellant is concerned that while approval of the subject project does not set legal precedence, it would establish precedence for approval of the adjacent substandard sized parcel to propose similar development, with encroachment into the daylight plane, which *would* impact the appellant's property.**

Staff's Response: Approval of the subject project would not set precedent for the approval of similar development on the adjacent substandard sized parcel. If exceptions from the zoning standards are necessary for a proposed development on the adjacent parcel, that property owner would be requiring to obtain their own non-conforming use permit, which would include an independent evaluation of the project's potential impacts on neighboring properties.

- 4. The intrusion into the daylight plane is significant and unnecessary and will have a detrimental impact on the adjacent homes, including the appellant's property, and constitutes as taking. The daylight plane encroachment is more than “slight,” as stated by County staff, as the entire length of the house, 55', on both sides, will encroach into the daylight plane. The north side of the second story would encroach just short of 3' of livable space into the daylight plane, or almost 20% greater than the ordinance allows, which is a significant encroachment. The daylight plane encroachment was a primary contribution of**

the S-74 zoning ordinance as previously none had existed for the neighborhood. Section 6300.4.30 of the S-74 zoning regulations allows encroachment of architectural features, such as dormers or gables, to extend into the daylight plane no more than 20' in continuous or cumulative length on each side, where the proposed encroachment exceeds this allowance by more than double the allowance.

Staff's Response: The new second-story addition has been recessed from the existing first floor non-conforming sidewalls in order to comply with the minimum required 5' side yard setbacks (from property lines). Based on the project plans, the maximum width of the second story will be 13'-7" with a maximum height of 21'-7(1/4)" (grade to roof peak) where 28' is the maximum height allowed. As previously mentioned, the applicant's designer has conveyed that the only way to eliminate encroachment into the daylight plane is to narrow the second story; however, this is not a reasonable option for the applicant from a cost to utilization perspective and would discourage the applicant from pursuing a second-story addition and thus prevent them from being able to meet their objective of gaining additional floor space for their growing family. The maximum building code height for a habitable floor is 7', where the project proposes 8', which is considered by the Building Inspection Section to be a typical height clearance for a habitable floor. The daylight plane encroachment will be just less than 3' of vertical wall along 34' of the right side of the second story, and just less than 2' of vertical wall along 53' of the left side of the second story; Attachment L illustrates that these encroachments are rather minimal in light of the entire project proposal. The project applicant has provided a shadow study, Attachment M, which illustrates that the project will cast the most shade on the neighboring property at 334 Rutherford Avenue during the morning, and by noon there would be minimal shade impacts to the adjacent property. Given the minimal extent of daylight plane encroachment, the amount of shade cast onto the neighboring property that could be eliminated if the project were able to comply with the daylight plane standard is negligible.

The upper walls of the second story are not "architectural features" that are regulated under Section 6300.4.30 of the S-74 zoning standards, which allows architectural feature encroachments under specified criteria (i.e., no more than 20' of continuous or cumulative length and no more than 24' in height); therefore, this allowance does not apply to the project. Instead, the daylight plane encroachment requires an exception from the daylight plan standard, which the applicant is seeking under the subject application.

According to the 2004 Staff Report presented to the Board of Supervisors' for adoption of the S-74 zoning regulations, included as Attachment K, the daylight plane was established to reduce the impact of tall walls looming over neighboring houses and yards, to help protect privacy and prevent the blockage of sunlight onto the neighboring properties. The adjacent

neighboring properties include a similarly developed one-story single-family residence at 334 Rutherford Avenue on a substandard sized parcel (right side of project site), with the appellant's one-story single-family residence at 330 Rutherford Avenue adjacent to this (neighboring) parcel, and a one-story single-family residence at 342 Rutherford Avenue on a conforming sized parcel on the left side of the project site, see Attachment G for reference. Any direct impacts from the project proposal would be on these two adjacent neighboring properties and would not extend to the appellants property at 330 Rutherford Avenue. Additionally, letters of support for the project from the adjacent neighboring properties at 342 and 334 Rutherford Avenue, 358 Rutherford Avenue, and directly across the street at 341 Rutherford Avenue, have been provided in Attachment T.

The proposed second floor has been inset to comply with 5' side yard setbacks. Additionally, the second floor does not contain extensive windows that would present a concern for privacy, and a shadow study provided in Attachment M demonstrates that there will be minimal shadow cast on neighboring properties for a majority of the day as a result of the second-story addition. The appellant has not provided any evidence in support of the claim that approval of the project would constitute a taking.

5. **The proposed project is not in compliance with the intent of the S-74 Zoning District ordinances, which were specifically passed at the request of the neighborhood in 2004 after numerous community meetings and unanimous approvals by both the Planning Commission and Board of Supervisors.**

Staff's Response: Prior to adoption of the S-74 zoning regulations in 2004, the Sequoia Tract neighborhood was zoned R-1/S-7 (Single-family residential/5,000 sq. ft. lot minimum). The S-7 zoning regulations are relatively liberal with regard to development standards as they provide minimum setbacks, maximum building height, and maximum lot coverage; there is no Maximum Floor Area or daylight plane standards in the S-7 zoning regulations.

Former S-7 Zoning Development Standards	
Lot minimum	5,000 sq. ft.
Front yard setback	20 ft.
Side yard setbacks	5 ft.
Rear yard setback	20 ft.
Maximum building height	3 stories / 36 ft.
Maximum lot coverage	50%

The Sequoia Tract neighborhood is comprised of modest single-family homes on predominantly 5,000 sq. ft. parcels with some larger parcels ranging in size from 10,000 sq. ft. to 20,000 sq. ft. Over the preceding few years leading up to the adoption of the S-74 zoning regulations, the neighborhood had started to see several modest single-family homes being torn down and replaced with substantially larger houses ranging in size from 3,000 sq. ft. to 6,000 sq. ft., including some large parcels being subdivided and developed with large houses, all in compliance with the liberal S-7 zoning development standards. Residents grew concerned over the change from an otherwise modestly developed neighborhood to larger and larger homes being built. In response to this growing concern, the S-74 regulations were developed to control house size, height, and bulk and shape that the S-7 zoning development standards lacked.

House Size/Floor Area

The S-74 zoning regulations introduced a Maximum Floor Area restriction where previously none existed (under the S-7 regulations). The intent of establishing a Maximum Floor Area was to address the growing concern over larger and larger homes being built on standard sized 5,000 sq. ft., or larger sized, parcels in order to preserve the existing character of a modestly developed single-family residential neighborhood. Residents felt the larger 3,000 sq. ft. to 6,000 sq. ft. homes that were starting to be introduced into the neighborhood would obtrusively stand out from the smaller homes and would visually and aesthetically destroy the harmonious scale of buildings in the neighborhood. The proposed project does not present a similar situation to that which motivated the establishment of Maximum Floor Area restriction in the S-74 zoning regulations, for the reasons set forth below.

Height

The S-74 zoning regulations modified the maximum building height from three stories/36' to a reduced two stories/28' to address residents' concerns that three-story homes overwhelm neighboring one- and two-story homes and can cast long, dark shadows and invade privacy. The proposed project is in compliance with the maximum allowed building height of the S-74 zoning regulations as it will be two stories, and less than 22' in height.

Bulk and Shape/Daylight Plane

The S-74 zoning regulations introduced a daylight plane standard where previously none existed (under the S-7 regulations) in order to reduce the impact of tall walls looming over neighboring houses and yards, to help protect privacy and prevent the blockage of sunlight. While the impetus of establishing a daylight plane was to control larger homes that were starting

to be developed in the neighborhood in the preceding few years prior to 2004, which were cited to be in the realm of 3,000 sq. ft. to 6,000 sq. ft. homes, the proposed project includes a second-story addition that modestly protrudes into the daylight plane. See appeal Comment No. 4 above for further staff discussion on this concern.

6. **The project qualifies as a major remodel pursuant to Section 6132.9 of the zoning regulations as it would add for more than 100% to the current structure's value (i.e., 878 sq. ft. addition to an existing 764 sq. ft. house); however, is not being treated as such by the County. As a major remodel, pursuant to Section 6135.5 of the non-conforming regulations, where any non-conformity violates the required zoning standard by 50% or more, the entire structure shall conform with the zoning regulations currently in effect. The existing north side setback violates the require zoning standard by 56%, therefore, shouldn't the project be required to conform to all zoning regulations currently in effect, including side yard setbacks?**

Staff's Response: The addition of a second story is considered an "enlargement" (i.e., the state of a land use or structure after it has been expanded to cover more land area, consume more air space, or increase its intensity on the site) of a non-conforming structure, pursuant to Section 6132.4 of the Zoning Nonconformities regulations. As such, enlargements are required to comply with the zoning regulations currently in effect; this provision does not require existing nonconformities to be brought up to current zoning regulations. Additionally, the non-conforming regulations provide an option to seek a non-conforming use permit to be excepted from any provision of the Zoning Nonconformities regulations which restricts the continuation, enlargement, reestablishment or replacement of a non-conforming use, structure, or situation (Section 6137), for which the applicant is seeking under the subject application to extend non-conforming side yard setbacks (on the first floor), continue the existing non-conforming parking situation (of one covered parking space and one tandem uncovered parking space), and encroach into the daylight plane for a second-story addition.

B. CONFORMANCE WITH THE GENERAL PLAN

1. Policy 4.36 (*Urban Area Design Concept*) encourages the maintenance and improvement of the appearance and visual character of development in urban areas and that proposed development contributes to the orderly and harmonious nature of the locality.

The project involves a remodel and addition to the existing one-story single-family residence to include a new second story, stucco siding, and a hip-style roof. While there is no distinct design theme for the Sequoia Tract

area, surrounding development along Rutherford Avenue includes one and two-story residences with a mix of stucco and wood siding, hip-style and gable-style roofs, and one- and two-car garages. Thus the proposed improvements are consistent with surrounding homes and will blend in to the immediate surrounding developed area.

C. CONFORMANCE WITH THE ZONING REGULATIONS

1. Development Standards

The project parcel is zoned R-1/S-74 (Single-family residential/5,000 sq. ft. lot minimum). The project parcel is a non-conforming sized 25' wide by 101.97' long parcel (2,549 sq. ft.). Furthermore, the existing one-story single-family residence is non-conforming for side yard setbacks. A summary of the project's zoning compliance is provided in the table below:

R-1/S-74 Zoning Development Standards			
Standard	Required	Existing	Proposed Additions
Minimum Lot Width	50 ft.	25 ft.*	No change**
Minimum Lot Area	5,000 sq. ft.	2,549 sq. ft.*	No change**
Minimum Front Yard Setback	20 ft.	24.3 ft.	20.04 ft.
Minimum Right Side Yard Setback	5 ft.	2 ft.*	2.5 ft.**
Minimum Left Side Yard Setback	5 ft.	3.4 ft.*	3.4**
Minimum Rear Yard Setback	20 ft.	20.4 ft.	20.4 ft.
Maximum Lot Coverage	50%	39%	46%
Maximum Building Floor Area	2,600 sq. ft.	764 sq. ft.	1,642 sq. ft.
Maximum Building Height	28 ft. / 2 stories	14 ft. / 1 story	21' – 7 (1/4)" / 2 stories
Maximum Daylight Plane	16' / 45° at side setback lines	Complies	Encroachment**
Minimum Covered Parking	2	1*	1**
Minimum Lot Width	50 ft.	25 ft.*	No change**
* Non-conforming.			
** Proposal requiring a Non-Conforming Use Permit.			

Non-Conforming Sized Parcel:

Based on the above table and pursuant to Section 6133.3.b(2) of the County's zoning regulations, the proposed project entails enlarging an existing non-conforming residence (i.e., side yard setbacks) on an improved non-conforming sized parcel where the proposed enlargements will not conform with the R-1/S-74 development standards; thus requiring a non-conforming use permit. The minimum required parcel size in the

“S-74” Combining District is 5,000 sq. ft. where the existing legal, developed parcel is only 2,549 sq. ft. in size.

Non-Conforming Setbacks:

The project proposes non-conforming side yard setbacks on the first floor to accommodate the addition of 180 sq. ft. for a garage extension and new front entry, where the minimum side yard setbacks required are 5’ pursuant to Section 6300.4.26 of the zoning regulations. The first-floor additions will result in an extension of the existing non-conforming 3’ left side yard setback and 2’ right side yard setback.

Non-Conforming Daylight Plane:

The project proposes a new 698 sq. ft. second story on an existing one-story residence. The proposed second story will encroach into the daylight plane maximum required under Section 6300.4.30 of the zoning regulations, see Attachment L which illustrates the proposed daylight plane encroachments. Otherwise, the new second story will comply with all setback and height limit requirements of the zoning district, as well as the maximum building floor area for the parcel.

Non-Conforming Covered Parking:

Additionally, the project proposes to maintain a non-conforming one (1) car garage with one (1) tandem uncovered parking space (i.e., driveway) where two (2) covered side-by-side parking spaces are required pursuant to Section 6119 of the zoning regulations, as the project proposes the addition of one (1) bedroom on the new second floor for a new total of three bedrooms.

2. Non-Conforming Use Permit Regulations

The existing residence was constructed in 1959 and is non-conforming as identified in Section A.2 above. Section 6133.3.b(2) of the zoning regulations requires the issuance of a use permit when proposed development on an improved non-conforming parcel will not conform with the zoning regulations currently in effect. Furthermore, Sections 6135.4 and 6136.4 of the zoning regulations allow a non-conforming structure (i.e., setbacks) and a non-conforming situation (i.e., covered parking) to be enlarged provided the enlargement conforms with the zoning regulations currently in effect. Alternatively, Section 6137 (*Exceptions*) allows an applicant to request a non-conforming use permit to enlarge an existing non-conforming structure or non-conforming situation when the enlargement does not conform with the zoning regulations, as is being proposed under

the subject application. Therefore, the following findings, as required by Sections 6133.3.b(3) and 6137 (*Exceptions*), must be made:

a. That the proposed development is proportioned to the size of the parcel on which it is being built.

The project parcel is substandard in size. The R-1/S-74 Zoning District standards allow a maximum lot coverage of 50%, where the proposed project will result in a lot coverage ratio of 46%. Additionally, the zoning standards allow a maximum floor area square footage of 2,600 sq. ft. (for parcels less than or equal to 5,000 sq. ft. in size). The project proposes a floor area of 1,642 sq. ft.; thereby complying with the maximum floor area requirement of the zoning district. Furthermore, the new second floor will be recessed from the first floor to comply with the setbacks of the zoning district to help comply with the daylight plane requirement of the S-74 Zoning District, to the degree possible. Therefore, the proposed project is adequately proportioned to the size of the project parcel.

NOTE: The maximum allowed floor area square footage of 2,600 sq. ft. happens to exceed the maximum substandard-sized parcel of 2,549 sq. ft. Therefore, the following is provided as a percentage comparison based on a standard-sized parcel to aid in determining whether the proposed project is adequately proportioned to the size of the project parcel. When expressing the floor area as a percentage, on a conforming sized 5,000 sq. ft. parcel, the maximum floor area allowed of 2,600 sq. ft. is 52%; this percentage increases as the parcel size decreases from 5,000 sq. ft. as the zoning standard accounts for by stipulating that parcels *less than or equal to* 5,000 sq. ft. are allowed a maximum of 2,600 square feet. The proposed floor area expressed as a percentage is 64.4%, which is a reasonable exceedance from what a conforming-sized 5,000 sq. ft. parcel would be allowed.

b. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.

The subject Sequoia Tract subdivision was established in 1912 with existing residential development dating back to 1959. Rutherford Avenue consists of a mix of conforming and non-conforming-sized parcels with the project parcel being adjacent to two conforming-sized developed parcels (left side and rear) and one non-conforming-sized developed parcel (right side). None of the adjacent conforming-sized parcels significantly exceed the minimum lot size for the applicable zoning district or have additional net land to offer the project parcel

(once the development standards are applied for those adjacent parcels). Additionally, the adjacent parcels are under separate private ownership and not available for purchase based on the applicant's inquiry to adjacent property owners. Furthermore, given the housing shortage in the County, staff would not encourage the consolidation of adjacent individually developed parcels with the project parcel as it would result in the reduction of housing supply.

c. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.

Given the existing nonconformities on the project site and one-story single-family residence; i.e., parcel size, (first floor) side yard setbacks, and covered parking; the proposed project will allow a substantial addition to an existing residence without a significant exacerbation in nonconformities as the project will maintain nonconformities in parcel size, side yard setbacks (for the first floor), and covered parking. The proposed second floor will slightly encroach into the "16'/45°" side setback daylight planes of the "S-74" zoning regulations; however, the new second floor addition is proposed to be recessed from the first floor (thereby narrowing this floor down to 13'-7" wide) in order to comply with the minimum 5' side yard setbacks, maximum allowed floor area (see Section 2.a. above for further discussion), and height allowance of the "S-74" development standards.

Off-street parking will be provided by a one-car garage and a tandem uncovered parking space in the driveway. Given the narrow width of the parcel and residence, the proposed parking configuration is as reasonably in compliance with the parking standards as possible since providing a second covered parking space would eliminate a front entrance to the residence and access to the new second story. The square footage and long, narrow configuration of the residence limits the applicant's options in a functional floor plan layout that would allow the addition of a second covered parking space. Therefore, the project is as nearly in compliance with the current zoning regulations as possible.

d. That the establishment, maintenance and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.

Surrounding development in the Sequoia Tract neighborhood, a non-coastal area, consists of a mix of conforming and non-conforming sized parcels that support one- and two-story single-family residences. The proposed project will continue to utilize the parcel for single-family residential purpose and will maintain existing nonconformities (i.e., parcel size, first floor side yard setbacks, and covered parking) while adding a new second story to accommodate a third bedroom and living space.

The nearest adjacent neighbor (at the right side property line) to the project site is a similar non-conforming one-story single-family residential development with non-conforming side yard setbacks. The proposed second floor of the subject project has been recessed on both sides to comply with the minimum 5' side yard setbacks of the "S-74" development standards and proposes minimal windows along the right side property line to minimize privacy impacts onto the adjacent neighbor. The proposed second story will slightly encroach into the daylight plane; however, such encroachment area is minimal and will not generate a significant adverse impact to the neighbor or area.

Out of the 12 developed parcels fronting Rutherford Avenue, along the subject block of the project parcel, only three (3) maintain two-car garages and are all located on conforming-sized parcels. The remaining developments consist of zero to one-car garages with at least one (1) tandem uncovered parking space in the driveway. Furthermore, six of the parcels are non-conforming in size with this parcel and the adjacent parcel to the right being the most non-conforming in lot size with only 25' lot widths. Nonetheless, the project does propose to continue the use of a one-car garage with one uncovered tandem parking space in the driveway to minimize street parking impacts along Rutherford Avenue.

Therefore, as proposed, the project will not generate any significant adverse impacts to or be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

e. That the use permit approval does not constitute a granting of special privileges.

Approval of a non-conforming use permit for the proposed project does not constitute the granting of a special privilege as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions. Additionally, the proposed project will allow a single-family residence of reasonable size compared to other residences in the neighborhood.

D. ENVIRONMENTAL REVIEW

This project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, for a residential addition of less than 10,000 sq. ft. of floor area on a site in an urbanized area, zoned for residential use, where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

E. REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Menlo Park Fire Protection District

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Zoning Hearing Officer Approval Letter, dated April 6, 2018
- D. Appeal Application and Supporting Documentation
- E. S-74 Zoning District Regulations
- F. Zoning Nonconformities Regulations
- G. Map of Reviewed Properties
- H. Exceptions Table
- I. Street Views of Project Site
- J. Developed Substandard Parcels
- K. Board of Supervisors Staff Report, dated November 17, 2004, regarding the consideration of an amendment to the County Zoning Regulations to create the "S 74" Zoning District regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height
- L. Daylight Plane Rendering
- M. Shadow Study Plan
- N. Existing/Proposed Site Plans
- O. Existing Roof and Floor Plans
- P. Proposed Floor Plans (First and Second Floor)
- Q. Proposed Elevation and Roof Plans
- R. Boundary and Topographic Survey
- S. Owner's Statement
- T. Letters of Support

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00517

Hearing Date: July 25, 2018

Prepared By: Summer Burlison
Project Planner

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Guidelines Section 15301, Class 1, as the residential addition is less than 10,000 sq. ft. of floor area in an urbanized area that is zoned for residential use where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

For the Non-Conforming Use Permit, Find:

2. That the proposed development is proportioned to the size of the parcel on which it is being built, as the proposed project will comply with the maximum allowed lot coverage and floor area of the applicable "S-74" development standards and the new second floor will be recessed from the existing first floor to comply with the minimum required side yard setbacks of the zoning development standards.
3. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible as none of the adjacent conforming-sized parcels significantly exceed the minimum lot size for the applicable zoning district or have additional net land to offer the project parcel (once the development standards are applied for those adjacent parcels), and are under separate private ownership.
4. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible as the first floor additions are minor extensions of existing non-conforming side yard setbacks and the newly proposed second floor will only slightly encroach into the "16'/45°" side setback line daylight planes of the "S-74" development standards. However, the second floor addition is proposed to be recessed from the first floor in order to comply with the minimum 5' side yard setbacks, maximum allowed floor area, and height allowance of the "S-74" development standards. Furthermore, the size and

configuration of the existing parcel and residential development limits the options available to create a functional floor plan that provides a reasonable front entrance and internal stairway access to the new second floor if a second covered parking space were provided. Therefore, the applicant's proposal to continue providing off-street parking by a one-car garage and one tandem uncovered parking space in the driveway is as nearly in compliance with the zoning standards as reasonably possible.

5. That the establishment, maintenance and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood as the project site is not located in the coastal zone and the proposed second floor of the subject project has been recessed on both sides to comply with the minimum 5' side yard setbacks of the "S-74" development standards and proposes minimal windows along the right side property line to minimize privacy impacts onto the nearest adjacent neighboring residence (also situated on a non-conforming 25' wide parcel). While the proposed second story will slightly encroach into the daylight plane, such encroachment area is minimal and will not generate a significant adverse impact to the neighbor or area.

Furthermore, the project will continue use of a one-car garage with one uncovered tandem parking space in the driveway to minimize street parking impacts along Rutherford Avenue, which is the consistent pattern of a majority of the residential development along this block of the roadway. Therefore, the project will not generate any significant adverse impacts to or be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

6. That the use permit approval does not constitute a granting of special privileges as the Zoning Regulations Nonconformities Chapter provides the same exception process for similar parcels under the same conditions.

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 Planning Commission on July 25, 2018. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.
2. This Non-Conforming Use Permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued and a completed inspection (to the satisfaction of the building inspector) shall have occurred within 180 days of its issuance. Any extension of this permit shall require submittal of an

application for permit extension and payment of applicable fees sixty (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, the Department of Public Works, and the Menlo Park Fire Protection District. 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 the Rutherford Avenue right-of-way. All construction vehicles shall be parked on-site outside the public right-of-way, or in locations which do not impede safe access on Rutherford Avenue. There shall be no storage of construction vehicles in the public right-of-way.
5. 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 Ordinance Code Section 4.88.360).
6. The project parcel is limited to single-family residential uses permissible under the "R-1" zoning regulations.

Building Inspection Section

7. The project shall be designed and constructed according to the currently amended and adopted California Building Standards Code, which at the time of this review is the 2016 version.
8. The project requires fire sprinklers to be installed throughout the existing and proposed structure.

Department of Public Works

9. Prior to the issuance of the Building Permit, the applicant will be required to provide payment of “roadway mitigation fees” based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.

Menlo Park Fire Protection District

10. The project requires the installation of a NFPA 13-D fire sprinkler system to be submitted under a separate fire permit. The fire sprinkler system shall be a two (2) head calculation.
11. Residential fire sprinklers shall have an interior alarm activated by the flow switch that is audible in all sleeping areas.
12. Fire flow data shall be provided at the time of deferred submittal for the fire sprinkler system.
13. Smoke detectors shall be installed in each sleeping area, the area outside of sleeping areas and on each level of the house (2016 CBC 907.2.11.2). Furthermore, carbon monoxide detectors shall be installed outside of sleeping areas and on each level of the house (2016 CBD Sec. 420). Smoke and carbon monoxide detectors shall be inter-connected for alarm.
14. Window and door schedules are required to be submitted with the building permit submittal. Emergency escape and rescue openings shall meet the following conditions and be verified by the Building Inspection Section who is the authority having jurisdiction:
 - a. Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 sq. ft. (0.53m²); 2016 CFC/CBC 1029.2.

Exception: The minimum net clear opening for grade-floor emergency escape and rescue openings shall be 5 sq. ft. (0.46m²)
 - b. The minimum net clear opening height dimension shall be 24” (610 mm). The minimum net clear opening width dimension shall be 20” (508 mm). The net clear opening dimensions shall be the result of normal operation of the opening; 2016 CFC/CBC 109.2.1.
 - c. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44” (1118 mm) measured from the floor; 2016 CFC/CBC 1029.3.

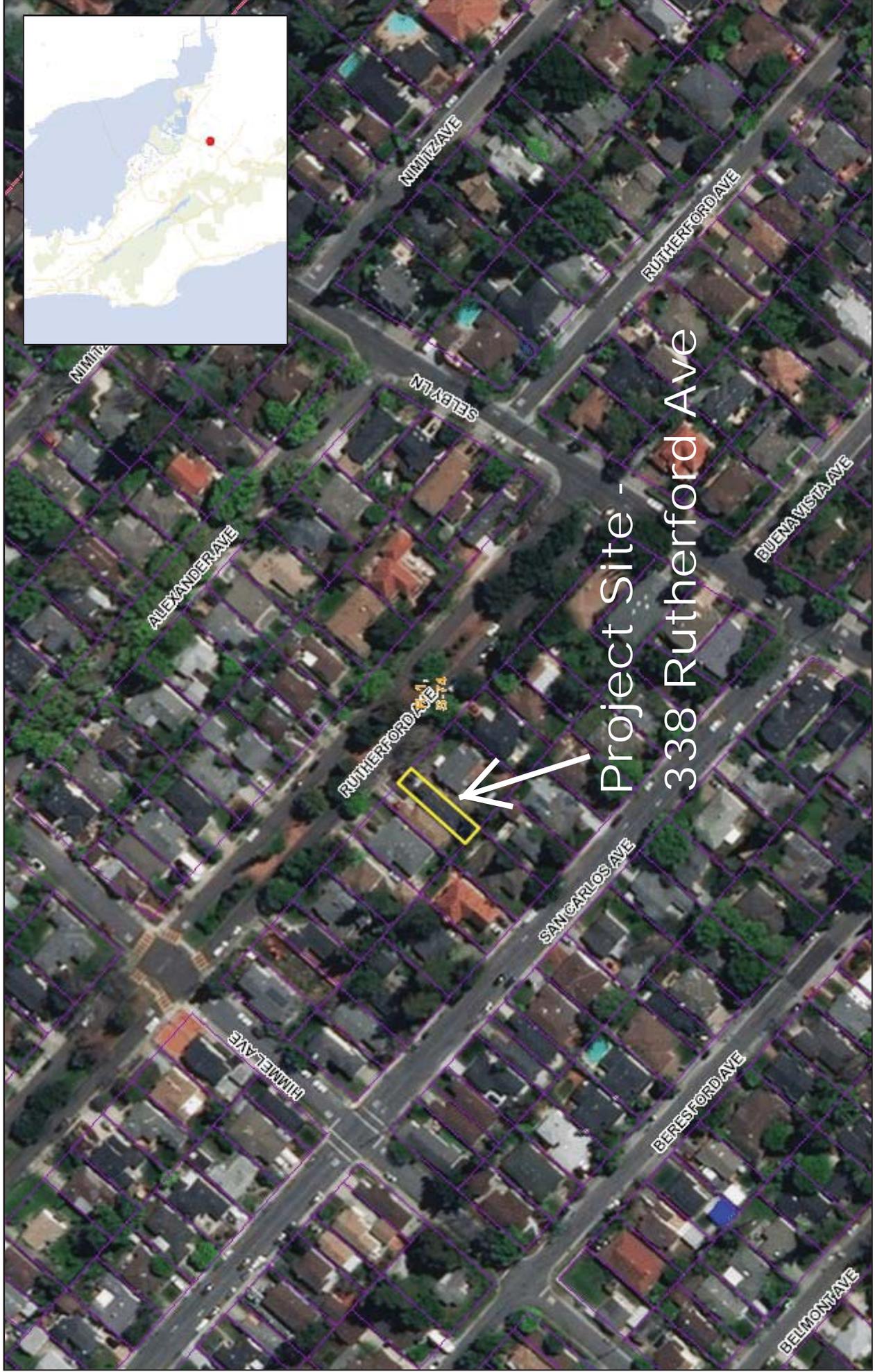
15. The applicant shall provide and maintain at least 4" tall with 1/2" stroke illuminated address numbers; solar is not an allowed illumination source. The address shall be visible from the street and contrasting to its background.
16. Fire Department approved plans and letter must be on-site at the time of all inspections by the Menlo Park Fire Protection District.
17. Upon completion of the work and prior to closing the ceiling, the Menlo Park Fire Protection District's Deputy Fire Marshal, Bob Blach, shall be contacted for a final inspection at 650/688-8430. A 48-hours' notice is required for all inspections.

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County of San Mateo - Planning and Building Department

ATTACHMENT B



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 2,256



0.07 Miles





County of San Mateo - Planning and Building Department

ATTACHMENT C

April 6, 2018

Ehsan Kameli
P. O. Box 1352
Palo Alto, CA 94302

Dear Mr. Kameli:

Subject: **LETTER OF DECISION**
Location: 338 Rutherford Avenue, Sequoia Tract
APN: 069-321-260
File Number: PLN2017-00517

On April 5, 2018 the Zoning Hearing Officer considered your request for a Non-Conforming Use Permit, pursuant to Section 6133 and 6173 of the County Zoning Regulations, to enlarge an existing non-conforming single family residence on a non-conforming parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2 ft. (right side) and 3 ft. (left side) where 5 ft. is the minimum required side yard setbacks; a new 698 sq. ft. second story which will encroach into the 16'/45° daylight plane; and to allow the second required parking space to be uncovered and tandem to an existing one-car garage; on a non-conforming 2,549 sq. ft. parcel. This item was continued from the March 15, 2018 Zoning Hearing.

The Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) business days from such date of determination.
The appeal period for this project will end on **April 19, 2018, at 5:00 p.m.**

Please direct any questions to Planner Summer Burlison at 650-363-1815 or sburlison@smcgov.org.

Also, please take a few minutes and complete the online version of our Customer Survey which will help us to enhance our customer service. Thank you in advance for your time in providing valuable feedback. The survey is available at: <http://planning.smcgov.org>.

Very truly yours,


Lisa Grote
Zoning Hearing Officer
zhodl0405cc.3.dr

cc: Assessor's Office
Building Inspection Section
Carol Milstein
Frank Shanahan
Menlo Park Fire District

Public Works Department
Redwood City Community Development
Joseph Hertlein
William Hertlein
Shawn Misialek



County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00517

Hearing Date: April 5, 2018

Prepared By: Project Planner, Summer Burlison

Adopted By: Zoning Hearing Officer

FINDINGS

For the Environmental Review, Found:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, as the residential addition is less than 10,000 sq. ft. of floor area in an urbanized area that is zoned for residential use where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

For the Non-Conforming Use Permit, Found:

2. That the proposed development is proportioned to the size of the parcel on which it is being built, as the proposed project will comply with the maximum allowed lot coverage and floor area of the applicable "S-74" development standards and the new second floor will be recessed from the existing first floor to comply with the minimum required side yard setbacks of the zoning development standards.
3. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible as none of the adjacent conforming-sized parcels significantly exceed the minimum lot size for the applicable zoning district or have additional net land to offer the project parcel (once the development standards are applied for those adjacent parcels), and are under separate private ownership.
4. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible as the first floor additions are minor extensions of existing non-conforming side yard setbacks and the newly proposed second floor will only slightly encroach into the "16'/45°" side setback line daylight planes of the "S-74" development standards. However, the second floor addition is proposed to be recessed from the first floor in order to comply with the minimum 5-foot side yard setbacks, maximum allowed floor area, and height allowance of the "S-74" development standards. Furthermore, the size and configuration of the existing parcel and residential development limits the options available to create a functional floor plan that provides a reasonable front entrance and internal stairway access to the new second floor if a second covered parking space were provided. Therefore, the applicant's proposal to continue providing off-street parking by a one-car garage and one tandem uncovered parking space in the driveway is as nearly in compliance with the zoning standards as reasonably possible.
5. That the establishment, maintenance and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood as the project site is not located in the coastal zone and the proposed second floor of the subject project has been recessed on both sides to comply with the minimum 5-foot side yard setbacks of the "S-74" development standards and proposes minimal windows along the right side property line to minimize privacy impacts onto the nearest adjacent neighboring residence (also situated on a non-conforming 25-foot wide parcel). While the proposed second story will slightly encroach into the daylight plane, such encroachment area is minimal and will not generate a significant adverse impact to the neighbor or area.

Furthermore, the project will continue use of a one-car garage with one uncovered tandem parking space in the driveway to minimize street parking impacts along Rutherford Avenue, which is the consistent pattern of a majority of the residential development along this block of the roadway.

Therefore, as proposed, staff believes the project will not generate any significant adverse impacts to or be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

6. That the use permit approval does not constitute a granting of special privileges as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions.

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 April 5, 2018. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.
2. This Non-Conforming Use Permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued and a completed inspection (to the satisfaction of the building inspector) shall have occurred within 180 days of its issuance. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (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, the Department of Public Works, and the Menlo Park Fire Protection District. 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 the Rutherford Avenue right-of-way. All construction vehicles shall be parked on-site outside the public right-of-way, or in locations which do not impede safe access on Rutherford Avenue. There shall be no storage of construction vehicles in the public right-of-way.
5. 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 Ordinance Code Section 4.88.360).
6. The project parcel is limited to single-family residential uses permissible under the "R-1" zoning regulations.

Building Inspection Section

7. The project shall be designed and constructed according to the currently amended and adopted California Building Standards Code, which at the time of this review is the 2016 version.
8. The project requires fire sprinklers to be installed throughout the existing and proposed structure.

Department of Public Works

9. Prior to the issuance of the Building Permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.

Menlo Park Fire Protection District

10. The project requires the installation of a NFPA 13-D fire sprinkler system to be submitted under a separate fire permit. The fire sprinkler system shall be a two (2) head calculation.
11. Residential fire sprinklers shall have an interior alarm activated by the flow switch that is audible in all sleeping areas.
12. Fire flow data shall be provided at the time of deferred submittal for the fire sprinkler system.
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 - a. Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.53m²); 2016 CFC/CBC 1029.2.
Exception: The minimum net clear opening for grade-floor emergency escape and rescue openings shall be 5 square feet (0.46m²)
 - b. The minimum net clear opening height dimension shall be 24 inches (610 mm). The minimum net clear opening width dimension shall be 20 inches (508 mm). The net clear opening dimensions shall be the result of normal operation of the opening; 2016 CFC/CBC 109.2.1.
 - c. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches (1118 mm) measured from the floor; 2016 CFC/CBC 1029.3.
15. The applicant shall provide and maintain at least 4-inch tall with 1/2-inch stroke illuminated address numbers; solar is not an allowed illumination source. The address shall be visible from the street and contrasting to its background.
16. Fire Department approved plans and letter must be on-site at the time of all inspections by the Menlo Park Fire Protection District.
17. Upon completion of the work and prior to closing the ceiling, the Menlo Park Fire Protection District's Deputy Fire Marshal, Bob Blach, shall be contacted for a final inspection at 650/688-8430. A 48 hours' notice is required for all inspections.



County of San Mateo - Planning and Building Department

ATTACHMENT D

Application for Appeal

To the Planning Commission

To the Board of Supervisors

County Government Center • 455 County Center, 2nd Floor
Redwood City • CA • 94063 • Mail Drop PLN 122
Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849

Name: WILLIAM HERTLEIN

Address: 330 RUTHERFORD AVE

REDWOOD CITY CA

Phone, W: _____ H: 831-236-1909

Zip: 94061

Permit Numbers involved:

PLN 2017-00517 (KAMELI)

I have read and understood the attached information regarding appeal process and alternatives.

yes

no

I hereby appeal the decision of the:

Staff or Planning Director

Zoning Hearing Officer

Design Review Committee

Planning Commission

Appellant's Signature:



Date: APRIL 17, 2018

made on APRIL 5 2018, to approve/deny the above-listed permit applications.

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

PLEASE SEE ATTACHED LETTER

RECEIVED
2018 APR 19 P 12:25
SAN MATEO COUNTY
PLANNING AND BUILDING
DEPARTMENT

WILLIAM HERTLEIN
330 Rutherford Avenue
Redwood City, CA 94061

April 17, 2018

SUBJECT: Application for Appeal to San Mateo County Planning Commission
REGARDING: PLN2017-00517

Planning Commission, San Mateo County
Planning and Building Department
455 County Center, 2nd floor
Redwood City, CA 94063

RECEIVED
2018 APR 19 P 12:25
SAN MATEO COUNTY
PLANNING AND BUILDING
DEPARTMENT

Dear Planning Commissioners:

We are requesting the decision of the zoning hearing officer, issued the 5th of April, 2018, to be reversed for the following reasons:

1. The applicant made no attempt to comply with existing zoning regulations. The proposed project is not "as nearly in conformance with the zoning regulations currently in effect as is reasonably possible" (Section 6133.b.3.c) and the applicant was granted too many variances, including:
 - a. Intrusion into the daylight plane (Section 6300.4.30)
 - b. Side yard setbacks (Section 6300.4.26) and enlargement of a non-conforming structure (Section 6135.4)
 - c. Major remodel of a non-conforming structure (6135.5.b)
 - d. Parking regulations (Section Section 6119)
2. The size and mass of the proposed project (FAR¹ of 67%) is not proportional to any other home on the block (27%), let alone in the neighborhood (28%), and is not "proportioned to the size on the parcel on which it is being built" (Section 6133.b.3.a)
3. The intrusion into the daylight plane will have a detrimental impact on the adjacent homes, including the appellant's property, and constitutes as taking
4. The proposed project is not in compliance with the intent of the S-74 Zoning District ordinances, which were specifically passed at the request of the neighborhood in 2004 after numerous community meetings and unanimous approvals by both the planning commission and the Board of Supervisors

Initial supporting documentation was presented, and entered into record, at the Zoning Officer meeting on the 5th of April, 2018. Additional supporting documentation is forthcoming.

Sincerely,



William Hertlein

1. FAR = Floor Area Ratio. Floor area square footage divided by lot square footage.

Item #3

April 4, 2018

RE: Consideration of Non-Conforming Use Permit (PLN2017-00517)

Dear Madam Zoning Officer:

The following are prepared remarks that I plan to give at the April 5, 2018 Zoning Officer Hearing. I hereby submit them for the record with regards to the proposed development at 338 Rutherford Ave, Sequoia Track Neighborhood, Redwood City, CA 94061.

****START****

Good morning madam Zoning Chair. Thank you for allowing me the opportunity to speak again on this matter. I would like to start with a little historical context on zoning in the Sequoia Track neighborhood.

In 2004, prior to the applicant purchasing 338 Rutherford (Sep 2007), a community-wide effort was undertaken to rezone the Sequoia Track neighborhood to the current S-74 regulations. "Residents, [many of whom have lived in the area for decades], wanted to preserve the existing character of the neighborhood".¹

This was a democratic process. It began at the community level, progressed through numerous town hall meetings, had the support of county staff, was approved by the Planning Commission in a unanimous vote, and ultimately approved by the Board of Supervisors². Again, by a unanimous vote. A copy of the proposal and Ordinance 4241 can be found in Exhibits A and B of the materials I have provided.

¹ Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height. (Exhibit A)

² ORDINANCE NO. 04241 (Exhibit B)

As outlined in the letter to the Board of Supervisors dated November 17th, 2004, there were three primary aspects of the S-74 rezoning that together would help maintain the existing character and integrity of the neighborhood.

This proposal, as currently put forth by the applicant, is in non-compliance with two of the three primary aspects. Proportionality and daylight plane encroachment. Two of three. That is a significant variance request and I would like to address each in turn.

To the matter of the size of a permitted house, the maximum ratio of floor area square footage to lot size is 52% per zoning standards³. Staff states that since the "project proposes a floor area of [less than the maximum total square feet it complies] with the floor area requirement of the zoning district."⁴ But this finding ignores both the original intent of the S-74 ordinance, as well as Section 6300.4.22⁵, which states that "In the case where a requirement, standard, or provision of this Chapter conflicts with another requirement, standard, or provision... the most limiting provision shall take precedence and govern." In this case, is a 52% ratio not the more limiting standard? The data would indicate that is in fact the case.

Based on an initial survey of 246 properties on, and immediately surrounding, the 300 Rutherford block, only six properties exceed the 52% maximum ratio (Exhibit C). And all of those were constructed or remodeled prior to 2004 and the passage of the S-74 ordinance. So in 14 years since the passing of S-74, not a single variance to that maximum ratio has occurred in the surveyed area. Even on non-conforming lots, of which there are many.

³ Zoning standards allow for a maximum floor area square footage of 2,600 sq ft, but those same standards consider a conforming lot size to be 5,000 sq ft or greater. This equates to 52%.

⁴ County File Number: PLN 2017-00517. Page 5-6.

⁵ San Mateo County - Zoning Regulations

Furthermore, “staff believes [the proposed 64% floor area percentage] is a reasonable exceedance”, that “the proposed project is adequately proportioned” and “consistent with surrounding homes and will blend in to the immediate surrounding area”. That’s simply untrue. Per Exhibit D, of the 246 properties surveyed, the average floor area percentage is 28.0%. On the 300 block of Rutherford, the average ratio is 27.1%. And if only other non-conforming lots in the area are examined, the average ratio is 29.7%. So to say that this proposal, which has a floor area square footage greater than 2X the neighborhood average, and would be the largest home per floor area square footage percentages in all of the Sequoia Track neighborhood (Exhibit D.1), is consistent with the surrounding homes is not true. Nor is it in keeping with the intent of Zoning Regulations and the notion of ‘proportionality’ as outlined by the first finding that needs to be met under Use Permit Findings⁶.

Second, to the matter of the daylight plane, the proposal does not “slightly encroach into the 16’/45° daylight plane” as staff states. The proposal encroaches on the daylight plane for the entire length of the house, all 55 feet, on both sides. That is a significant encroachment. More specifically, according to the plans submitted, the encroachment to the north side of the 2nd story would be just shy of 3’ of livable space, or almost 20% greater than the ordinance based on the 16’ mark (Exhibit E). Again, that is not “slight”, that’s a significant encroachment.

The daylight plane encroachment is particularly concerning as this was a primary contribution of the S-74 zoning ordinance as previously none had existed. Section 6300.4.30 specifically calls out that while “architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the side setbacks” that they can only do so “provided that they measure perpendicularly to the daylight plane no more than 20 feet in continuous or cumulative length on each side.” (Exhibit F)

⁶ Section 6133.3.b.(3)

So not only is the daylight plane, a key component of the S-74 zoning ordinance, being significantly encroached upon, but the proposal and staff have failed to address the issue of continuous or cumulative length exceeding 20 feet by again more than 2X the current ordinance.

These two issues, a disproportionate building for the size of the lot and significant encroachment of the daylight plane, brings me to a third and new point of concern. This is a major remodel, but it is not being treated that way.

In its report, staff repeatedly describes the proposal and the non-conforming variance requests as "minor", "minimal", or "slight". However, given the definition in Section 6132.9⁷, this is clearly a major remodel as it would add far more than 100% to the current structure's value (878 sq ft to 764 sq ft currently).

So if that definition applies, and this is a major remodel, then according to Section 6135.5, which again staff failed to mention, a "major remodel...of a non-conforming structure, where any nonconformity violates the required zoning standard by 50% or more, shall result in the entire structure conforming with zoning regulations currently in effect." Given that the current north side setback violates the required zoning standard by 56%, shouldn't the project then be required to conform to all zoning regulations currently in effect? Including the side yard setbacks?

The point I am trying to make is that this entire proposal feels a bit like putting the cart in front of the horse. That instead of asking for a single variance request or two, the applicant is asking for variance requests to just about every ordinance applicable. That rather than attempt to design a residence with the ordinances in mind, and put forth a proposal that makes every attempt to conform with zoning regulations where possible, the

⁷ Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure tha amounts to 50%

applicant has submitted plans that are, I quote “what [Fast Cad Drafting] came up with - based on the proposal I had given to [them]” and that he doesn’t know things like, and again I quote, “if there was any possibility for the roof to meet the envelope requirement so it doesn’t have any encroachment⁸”. Well, not only does it appear possible to design a functional second floor that abides by the daylight plane requirements, but that it’s also possible to design an expansion to 338 Rutherford that actually requires fewer variance requests, is more in keeping with the neighborhood on a proportionality basis, and would still allow the applicant to expand the living space of his current residence in a far more family-oriented layout.

To summarize, and state for the record, we recognize the applicant’s position, we understand his desire to provide for his growing household, and we do want to see an eventual outcome where he is able to pursue a *reasonable* expansion. But in its current state, the proposal put forth has too many variance requests (Exhibit G). It is a major remodel, not a minor one, and should be treated as such during staff review. It is significantly disproportionate in size and scope to the rest of the neighborhood. And it has significant and unnecessary encroachments into the daylight plane. For these reasons, and others stated previously, we remain categorically opposed to this project as it stands and request that a use permit is not issued given this proposal does not satisfy 2 of the 5 required findings under Section 6133.

Thank you.

****END TESTIMONY****

William Hertlein
Resident, 330 Rutherford Ave

⁸ Recording of Zoning Officer Hearing, date March 15, 2018. Timestamp - 38:55.



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
ENVIRONMENTAL SERVICES AGENCY

DATE: November 17, 2004

SET TIME: 9:30 a.m.

BOARD MEETING DATE: December 7, 2004

TO: Honorable Board of Supervisors

FROM: Marcia Raines, Director of Environmental Services

SUBJECT: Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height.

County File Number: PLN 2004-00545

RECOMMENDATION

1. Adopt, by ordinance, the "S-74" zoning district regulations as an amendment to the County Zoning Regulations.
2. Rezone, by ordinance, lands in the R-1/S-7 zoning district in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 as shown on Exhibit A.

PROPOSAL

Residents in the Selby Neighborhood (Sequoia Tract), which lies between Redwood City and Atherton, have requested that the County adopt new zoning regulations to: (1) reduce the permitted size of houses by establishing maximum building floor areas, (2) reduce the

permitted building height, and (3) establish daylight planes to control the bulk and shape of houses.

BACKGROUND

The Selby Neighborhood in the Sequoia Tract is comprised of modest single-family homes on predominately 5,000 sq. ft. parcels. There are some larger parcels that are 10,000 to 20,000 sq. ft. in size. The area is semi-rural in character with mature landscaping. Many residents have lived in the neighborhood for a long time. Households are mostly comprised of families and retired couples.

Over the past three years, several modest homes have been torn down and replaced with substantially larger houses. Some large parcels have been subdivided and developed with large houses. These new houses range in size from 3,000 to 6,000 sq. ft. They now sporadically appear from block to block. Residents are concerned that the character of the neighborhood will be significantly altered if larger and larger houses continue to be built.

Several meetings have been held in the neighborhood to discuss this issue. Residents have agreed that new zoning regulations are needed to control house size, height, and bulk. County planning staff was asked to bring the new regulations and the proposed rezoning to the Planning Commission for a recommendation to the Board of Supervisors.

DISCUSSION

A. PREVIOUS ACTION

On November 10, 2004, the Planning Commission voted 5-0 recommending approval of the proposed rezoning.

B. KEY ISSUES

1. Maximum Building Floor Area

The current R-1/S-7 zoning regulations allow a 7,200 sq. ft. house on a 5,000 sq. ft. parcel. The proposed new regulations would allow a maximum house size of 2,600 sq. ft. on a 5,000 sq. ft. parcel which is much more in scale with the majority of existing houses in the neighborhood.

Residents want to preserve the existing character of the neighborhood. If larger and larger houses continue to be built, the appearance of the neighborhood will become more urban, dense, and crowded. Larger homes will obtrusively stand out in sharp contrast to smaller ones. The varying volumes of houses will visually and aesthetically destroy the harmonious scale of buildings in the neighborhood.

2. Maximum Building Height

The current zoning allows a building height of 36 feet or three stories. The proposed new regulations would reduce allowable building height to 28 feet or two

stories.

Three-story houses can overwhelm neighboring one- and two-story houses. They can cast long, dark shadows and invade privacy. A lot of tall houses in the neighborhood would contribute to destroying the harmonious scale of buildings in the neighborhood.

3. Daylight Plane

The current zoning regulations do not require daylight planes. The proposed new regulations would set the maximum height of a house along the side setbacks at 16 feet at which point the house would inwardly slant at 45 degrees until the maximum height of 28 feet was reached.

Daylight planes reduce the impact of tall walls looming over neighboring houses and yards. They help protect privacy and prevent the blockage of sunlight.

C. ENVIRONMENTAL REVIEW

Adoption of these regulations is exempt from review under the California Environmental Quality Act under 14 California Code of Regulations Section 15061(b)(3) because there is no possibility that the regulations, which impose further restrictions on development of property, will have the potential for causing a significant effect on the environment, in that they are more protective of the environment than prior regulations.

D. REVIEWING AGENCIES

County Counsel

VISION ALIGNMENT

The rezoning keeps the commitment of offering a full range of housing choices and goal number 9, housing exists for people at all income levels and for all generations of families. The rezoning contributes to this commitment and goal by providing limitations on house size that prevents overly sized and very high cost housing.

FISCAL IMPACT

There would be no cost to the County to implement these regulations.

ATTACHMENTS

- A. Ordinance to establish R-1/S-74 zoning district regulations
- B. Ordinance to rezone land in Selby Neighborhood from R-1/S-7 to R-1/S-74

ORDINANCE NO. 04241
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

AN ORDINANCE AMENDING THE SAN MATEO COUNTY ORDINANCE CODE (ZONING ANNEX), DIVISION VI, PART ONE, CHAPTER 20, "S" (COMBINING DISTRICTS) TO ADD THE "S-74" COMBINING DISTRICT (SELBY NEIGHBORHOOD, SEQUOIA TRACT) AND CHAPTER 2, SECTION 6111, COMBINING DISTRICTS TO ADD THE S-74 COMBINING DISTRICT

The Board of Supervisors of the County of San Mateo, State of California, ordains as follows:

SECTION 1. The San Mateo County Ordinance Code, Division VI, Part One, Chapter 20, be amended to add the "S-74" Combining District (Selby Neighborhood, Sequoia Tract), Sections 6300.4.22 through 6300.4.30 as follows:

CHAPTER 20. "S-74" DISTRICT
(COMBINING DISTRICT – SELBY NEIGHBORHOOD, SEQUOIA TRACT)

SECTION 6300.4.22. REGULATIONS FOR "S-74" COMBINING DISTRICT (SELBY NEIGHBORHOOD, SEQUOIA TRACT). The following regulations shall apply in the single-family (R-1) residential zoning district with which the "S-74" District is combined.

In the case where a requirement, standard, or provision of this Chapter conflicts with another requirement, standard, or provision in the Zoning Regulations, including this Chapter, the most limiting provision shall take precedence and govern.

SECTION 6300.4.23. BUILDING SITE WIDTH. The minimum building site width shall be an average of 50 feet.

SECTION 6300.4.24. BUILDING SITE AREA. The minimum building site area shall be 5,000 sq. ft.

SECTION 6300.4.25. DEVELOPMENT DENSITY. The maximum density of development shall be 8.7 dwelling units/net acre.

SECTION 6300.4.26. BUILDING SETBACKS. The minimum building setbacks shall be:

- Front: 20 feet
- Sides: 10 feet - When the side property line fronts a public or private street
- 5 feet - All other cases
- Rear: 20 feet

SECTION 6300.4.27. BUILDING SITE COVERAGE AREA RATIO. The maximum building site coverage area ratio shall be .50 (50%) and shall include all: (1) buildings, (2) accessory buildings, and (3) structures such as patios, decks, balconies, porches and other similar uses which are 18 inches or more above the ground, except fences/walls.

SECTION 6300.4.28. BUILDING FLOOR AREA. The maximum building floor area shall be established according to the following table:

<u>Building Site Area</u>	<u>Maximum Floor Area</u>
≤5,000 sq. ft.	2,600 sq. ft.
>5,000 sq. ft.	.26 (building site area - 5,000) + 2,600 sq. ft.

Floor area specifically includes: (1) the area of all stories of all main and accessory buildings on a building site as measured from the outside face of all exterior perimeter walls, (2) the area of all decks, porches, balconies, or other areas covered by a waterproof roof which extends four or more feet from exterior walls, and (3) the area of all garages and carports that exceed 400 sq. ft., but excludes uninhabitable attics and sub-grade basements.

SECTION 6300.4.29. BUILDING HEIGHT. The maximum building height shall be **28 feet, not to exceed two habitable stories.** Building height shall be measured as the vertical distance from any point on the **existing grade** to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend beyond the respective maximum height to a maximum of 36 feet as required for safety or efficient operation.

SECTION 6300.4.30. DAYLIGHT PLANES. The daylight planes shall be established by measuring along the **side setback lines** a vertical distance of **16 feet** from the existing grade and then inward at an **angle of 45 degrees** until a **maximum height of 28 feet** is reached.

Daylight planes shall not be applicable to the side setback line of the street-facing side of a corner parcel.

Certain architectural features shall be allowed to extend into all yard setback areas according to the provisions of Zoning Regulations Section 6406.

Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend into the daylight plane up to a maximum of **36 feet** as required for safety or efficient operation.

Additionally, architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the **side setbacks** provided that: (1) they measure perpendicularly to the daylight plane no more than **20 feet** in continuous or cumulative

length on each side, and (2) they measure no more than **24 feet in height** from the **existing** grade.

SECTION 2. The San Mateo County Ordinance Code, Division VI, Part One, Chapter 2, Section 6111, be amended to add the S-74 Combining District.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after adoption by the San Mateo County Board of Supervisors.

MD:fc – MLDO1239_WFQ.DOC
(11/17/04)

Regularly passed and adopted this 7th day of December, 2004

AYES and in favor of said ordinance:

Supervisors:

MARK CHURCH

JERRY HILL

RICHARD S. GORDON

ROSE JACOBS GIBSON

MICHAEL D. NEVIN

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE

Mark Church

President, Board of Supervisors
County of San Mateo
State of California

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Barbara Heinaman

Barbara Heinaman, Deputy
Clerk of the Board of Supervisors

04241

EXHIBIT C

Montgomery Ave	Montgomery Ave	Montgomery Ave	Montgomery Ave
1.1%	18.8%	25.3%	23.7%
1.7%	17.6%	★ 27.6%	30.9%
3.1%	20.8%	★ 27.5%	34.2%
1.0%	23.5%	26.1%	51.4%
1.3%	24.9%	21.4%	25.4%
5.3%	21.0%	28.6%	41.6%
5.9%	★ 29.8%	19.8%	31.4%
4%	31.4%	22.0%	25.7%
8.9%	21.0%	24.9%	28.4%
2.4%	★ 17.3%	17.5%	23.7%
	24.7%	36.0%	20.2%
	★ 36.5%		
2.1%	23.9%	42.5%	
1.7%	★ 31.8%	25.4%	34.7%
1.7%	★ 31.8%	14.1%	17.6%
1.2%	29.2%		720
18.4%	★ 30.6%		1,840
8.4%	★ 30.6%		371%
8.4%	30.8%	17.9%	16.1%
31.0%	29.4%	55.7%	23.8%
20.8%	★ 15.9%	30.6%	★ 31%
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33.3%	21.6%	★ 28.2%	24.7%
N.C.	18.0%	★ 28.2%	18.0%
52.4%	31.5%	18.0%	31.8%
36.7%	50.0%	20.0%	20.0%
16.1%	22.9%	20.1%	20.1%
18.0%	★ 22.0%	30.0%	30.0%
26.1%	18.0%	21.6%	19.6%
20.4%	22.9%	39.2%	18.8%
		30.4%	★ 58.8%
			★ 47.1%
35.3%	33.9%	22.2%	21.8%
32.7%	24.4%	17.8%	32.2%
28.3%	24.4%	23.7%	23.8%
24.4%	22.5%	26.4%	35.1%
21.4%	18.2%	22.8%	23.7%
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	48.4%	30.6%
	31.0%	30.8%
	29.8%	29.4%
	51.6%	15.9%
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	40.2%	43.4%
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	28.6%	41.6%	
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	24.4%	22.5%
	21.4%	18.2%
	20.2%	26.0%
	17.6%	23.0%
	28.2%	34.2%
	22.9%	22.8%
	21.4%	34.4%
	18.1%	

Spontaneous Combustion

31%

EXHIBIT D

House Sq Ft & Lot Size Analysis of the Sequoia Track Neighborhood

Neighborhood Averages

Count	246
House - Sq Ft	1,385
% ratio	28.0%

300 Block - Rutherford

Count	24
House - Sq Ft	1,284
% ratio	27.1%

Non-conforming lots (<5,000 sq ft)

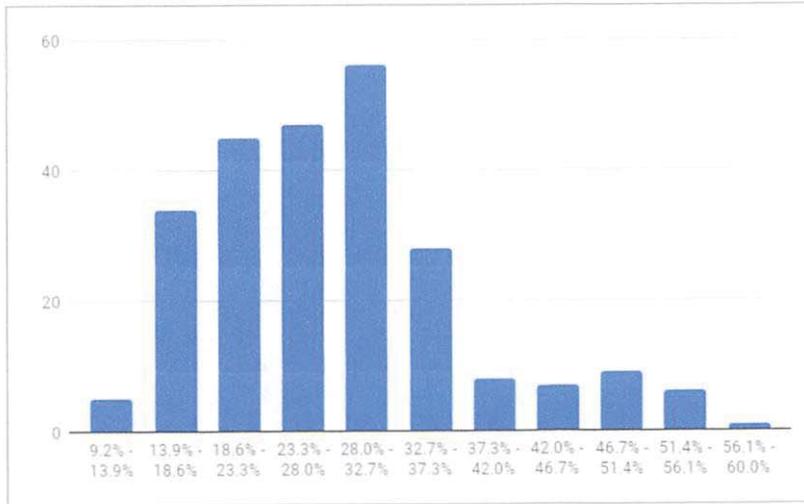
Count	71
House - Sq Ft	1,070
% ratio	29.7%

Proposed project - 338 Rutherford

Count	1
House - Sq Ft	1,642
% ratio	64.4%

EXHIBIT D.1

Distribution of homes by "% ratio" in the Sequoia Track Neighborhood



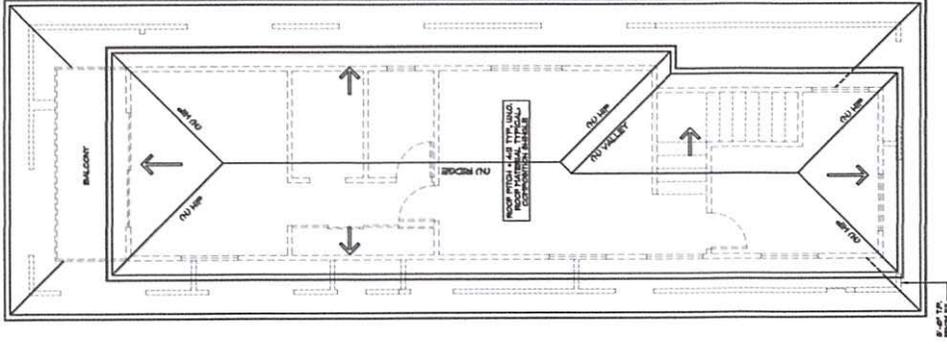
****338 Rutherford proposal would not even fit on the current distribution chart for the 246 properties surveyed****

Key

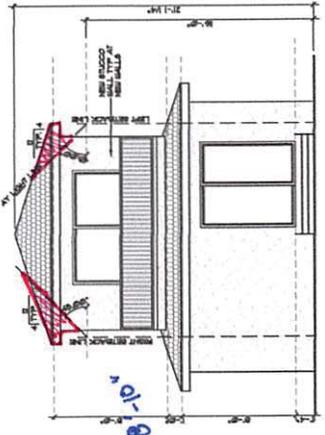
Count Number of homes include in analysis
 % ratio House Sq Ft / Lot Sq Ft

Date Taken from Redfin & Zillow records, as of April 4th, 2018.

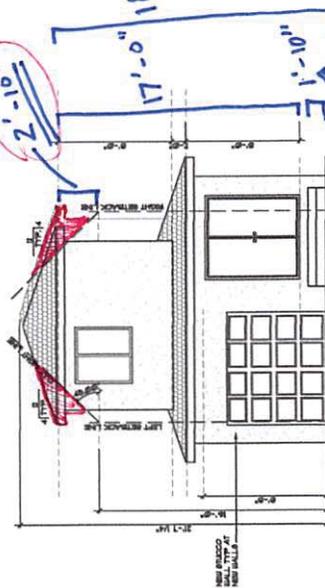
EXHIBIT F



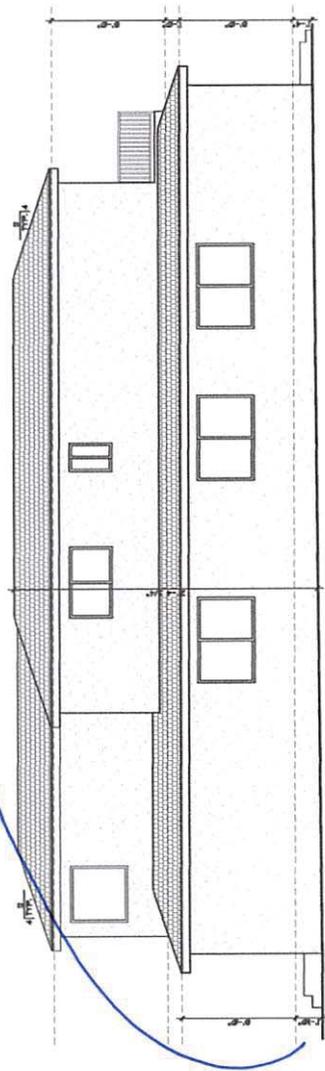
PROPOSED ROOF PLAN
SC: 1/4"=1'-0"



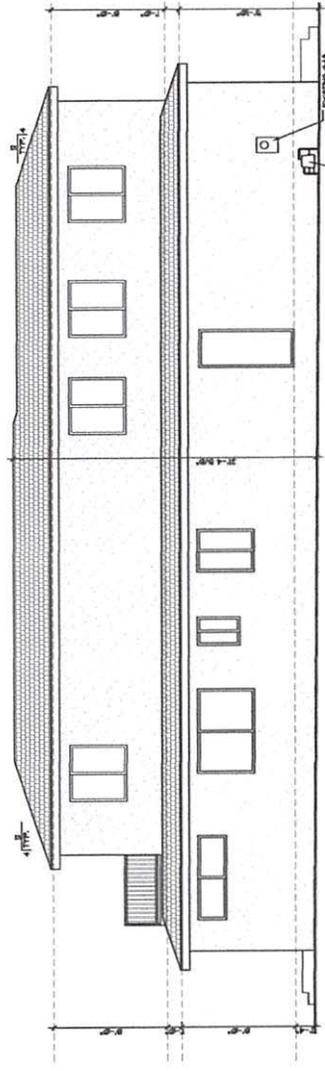
PROPOSE FRONT ELEVATION
SC: 1/4"=1'-0"



PROPOSE REAR ELEVATION
SC: 1/4"=1'-0"



PROPOSE RIGHT ELEVATION
SC: 1/4"=1'-0"



PROPOSE LEFT ELEVATION
SC: 1/4"=1'-0"

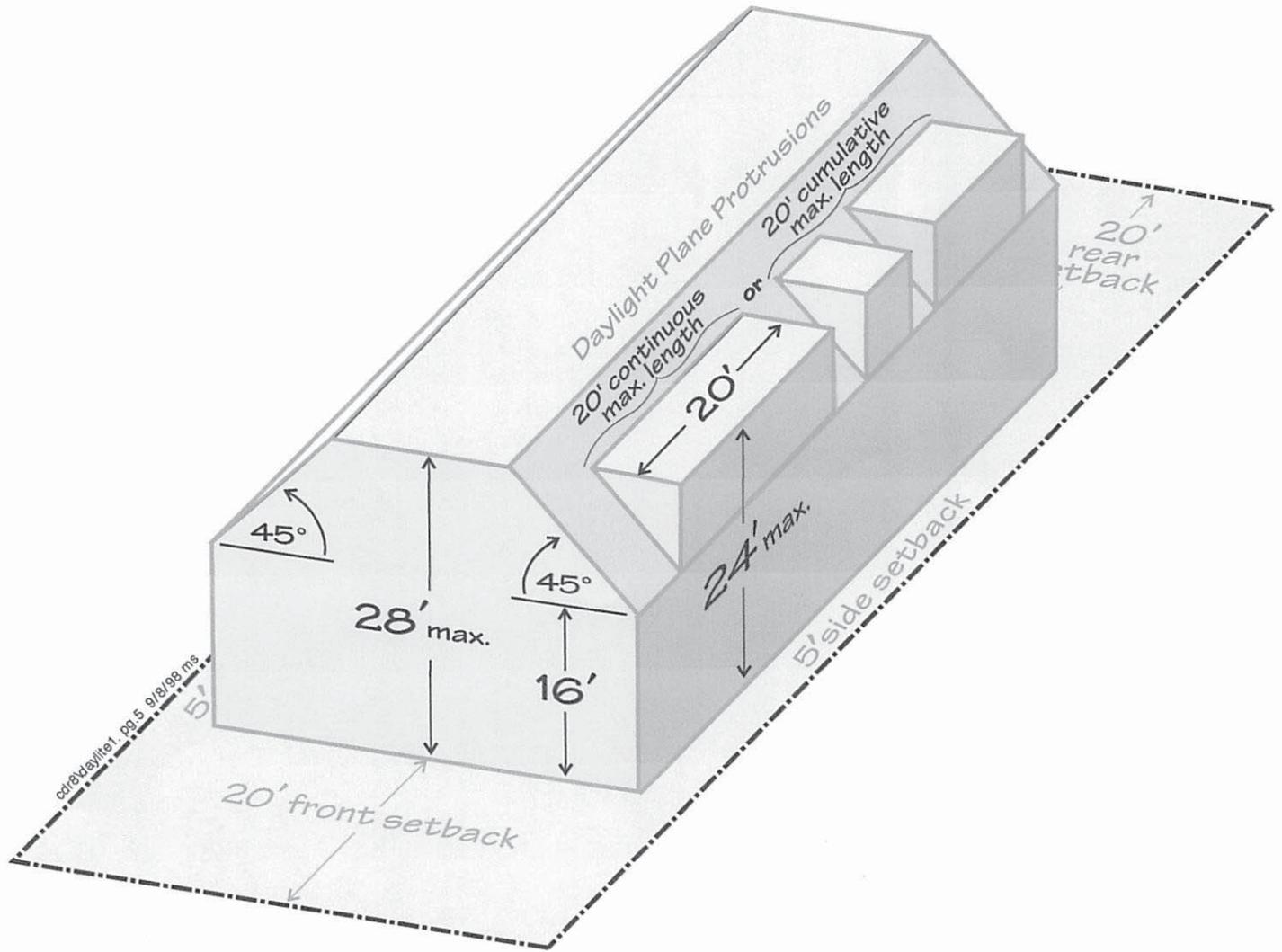
San Mateo County Zoning Hearing Officer Meeting

Applicant: **Kameli**
File Numbers: **PLN2017-00517**

Attachment: **F**

R-1/S-74 Daylight Plane Requirement (16'/45°)

EXHIBIT F



R-1 / S-74 Zoning Development Standards					
Standard	Required	Existing	Proposed Additions	Addressed by Staff?	Existing Non-Conformity?
Minimum Lot Width	50 ft.	25 ft. *	No change **		
Minimum Lot Area	5,000 sq. ft.	2,549 sq ft*	No change **		
Minimum Front Yard Setback	20 ft.	24.3 ft	20.04 ft.		
Minimum Right Yard Setback	5 ft.	2 ft. *	2.5 ft. **		
Minimum Left Yard Setback	5ft	3.4 ft. *	3.4 ft. **		
Minimum Rear Yard Setback	20 ft	20.4 ft	20.4 ft		
Maximum Lot Coverage	50%	39%	46%		
Maximum Building Floor Area	2,600 sq ft	764 sq ft	1,642 sq ft		
Maximum Building Floor Area %	52%	30.0%	64.4% **	No	No
Maximum Building Height	28 ft / 2 stories	14 ft / 1 story	21'-7 (1/4)" / 2 stories		
Maximum Daylight Plane	16' / 45° at side setback lines	Complies	Encroachment **		No
Daylight Plane Protusions	20' ft cumulative each side	Complies	53'-2" ft each side **	No	No
Minimum Covered Parking	2	1*	1**		
Major Remodel	+50% of structure's value	Complies	Exceedes (114% increase) **	No	No
*Non-conforming					
** Proposal requiring a non-conforming use permit					



County of San Mateo - Planning and Building Department

ATTACHMENT E

CHAPTER 20. “S-74” DISTRICT
(COMBINING DISTRICT – SELBY NEIGHBORHOOD,
SEQUOIA TRACT)

SECTION 6300.4.22. REGULATIONS FOR “S-74” COMBINING DISTRICT (SELBY NEIGHBORHOOD, SEQUOIA TRACT). The following regulations shall apply in the single-family (R-1) residential zoning district with which the “S-74” District is combined.

In the case where a requirement, standard, or provision of this Chapter conflicts with another requirement, standard, or provision in the Zoning Regulations, including this Chapter, the most limiting provision shall take precedence and govern.

SECTION 6300.4.23. BUILDING SITE WIDTH. The minimum building site width shall be an average of **50 feet**.

SECTION 6300.4.24. BUILDING SITE AREA. The minimum building site area shall be **5,000 sq. ft.**

SECTION 6300.4.25. DEVELOPMENT DENSITY. The maximum density of development shall be 8.7 dwelling units/net acre.

SECTION 6300.4.26. BUILDING SETBACKS. The minimum building setbacks shall be:

Front:	20 feet	
Sides:	10 feet	- When the side property line fronts a public or private street
	5 feet	- All other cases
Rear:	20 feet	

SECTION 6300.4.27. BUILDING SITE COVERAGE AREA RATIO. The maximum building site coverage area ratio shall be **.50 (50%)** and shall include all: (1) buildings, (2) accessory buildings, and (3) structures such as patios, decks, balconies, porches and other similar uses which are 18 inches or more above the ground, except fences/walls.

SECTION 6300.4.28. BUILDING FLOOR AREA. The maximum building floor area shall be established according to the following table:

<u>Building Site Area</u>	<u>Maximum Floor Area</u>
≤5,000 sq. ft.	2,600 sq. ft.
>5,000 sq. ft.	.26 (building site area - 5,000) + 2,600 sq. ft.

Floor area specifically includes: (1) the area of all stories of all main and accessory buildings on a building site as measured from the outside face of all exterior perimeter walls, (2) the area of all decks, porches, balconies, or other areas covered by a waterproof roof which extends four or more feet from exterior walls, and (3) the area of all garages and carports that exceed 400 sq. ft., but excludes uninhabitable attics and sub-grade basements.

SECTION 6300.4.29. BUILDING HEIGHT. The maximum building height shall be **28 feet, not to exceed two habitable stories.** Building height shall be measured as the vertical distance from any point on the **existing grade** to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend beyond the respective maximum height to a maximum of 36 feet as required for safety or efficient operation.

SECTION 6300.4.30. DAYLIGHT PLANES. The daylight planes shall be established by measuring along the **side setback lines** a vertical distance of **16 feet** from the existing grade and then inward at an **angle of 45 degrees** until a **maximum height of 28 feet** is reached.

Daylight planes shall not be applicable to the side setback line of the street-facing side of a corner parcel.

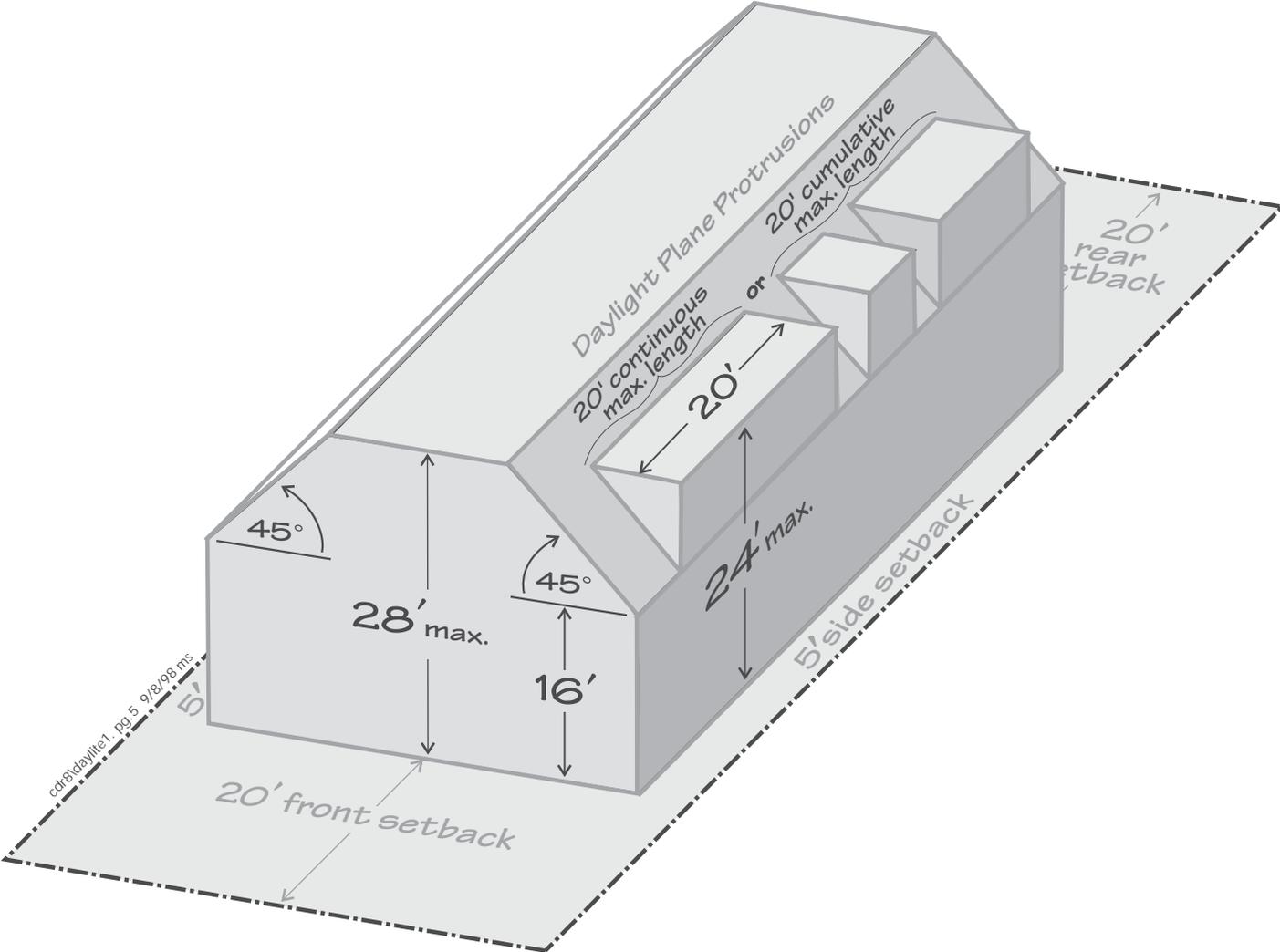
Certain architectural features shall be allowed to extend into all yard setback areas according to the provisions of Zoning Regulations Section 6406.

Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend into the daylight plane up to a maximum of **36 feet** as required for safety or efficient operation.

Additionally, architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the **side setbacks** provided that: (1) they measure perpendicularly to the daylight plane no more than **20 feet** in continuous or cumulative length on each side, and (2) they measure no more than **24 feet in height** from the **existing grade**.

(Sections 6300.4.22 through 6300.4.30 - Added by Ordinance No. 4241 - December 7, 2004)

R-1/S-74 Daylight Plane Requirement (16'/45°)





County of San Mateo - Planning and Building Department

ATTACHMENT F

CHAPTER 4. ZONING NONCONFORMITIES

SECTIONS:

- 6130. PURPOSE
- 6131. APPLICATION
- 6132. DEFINITIONS
- 6133. NON-CONFORMING PARCELS
- 6134. NON-CONFORMING USES
- 6135. NON-CONFORMING STRUCTURES
- 6136. NON-CONFORMING SITUATIONS

SECTION 6130. PURPOSE. The purpose of this Chapter is to regulate zoning nonconformities, which are defined as any legal parcel, use, building, structure or other situation that does not conform with the current zoning regulations. The general intent of this Chapter is to (1) allow residential zoning nonconformities to continue, and (2) phase out non-residential zoning nonconformities. This approach implements General Plan policy to maintain and preserve the existing housing stock and existing residential areas.

SECTION 6131. APPLICATION.

1. The provisions of this Chapter shall apply to all zoning nonconformities.
2. When multiple zoning nonconformities occur, all provisions related to each nonconformity shall apply.
3. Where provisions of this Chapter conflict with each other, the most limiting provision shall take precedence.

SECTION 6132. DEFINITIONS.

1. **Abandoned.** The voluntary termination of a land use or use of a building or structure for a period of at least 18 months. The inability to operate through no fault or intent of the owner, e.g., unsuccessful attempts to sell/lease property or litigation constraints, shall not be considered voluntary termination or constitute abandonment.
2. **Demolished.** The state of a structure after it has been voluntarily torn down, razed or otherwise completely eliminated. Demolition of a building or structure that has been destroyed shall not be considered “demolished.”
3. **Destroyed.** The state when reconstruction, repair or replacement of a building or structure, required because of an act of nature or other event unintended by the property owner, e.g., fire or earthquake, amounts to 50% or more of its value, as

determined by the most current Building Valuation Data published by the International Conference of Building Officials.

4. Enlarged. The state of a land use or structure after it has been expanded to cover more land area, consume more air space, or increase its intensity on the site.
5. Improved Parcel. Any parcel developed with a building or structure to serve the principal use of the parcel, e.g., a parcel in a residential district developed with a dwelling.
6. Legal Building or Structure. A building or structure either (1) constructed in accordance with a building permit issued by the County, (2) constructed prior to the date that the County began issuing building permits, or (3) legalized through an official County action.
7. Legal Land Use. A land use either (1) established in accordance with the applicable County zoning requirements at the time the use was established, (2) established prior to the date of the County's zoning authority, or (3) legalized through an official County action.
8. Legal Parcel. A parcel created by (1) a subdivision approved by the County, (2) a land division which was exempt from subdivision regulations, (3) a land division predating the County's authority over subdivision, July 20, 1945, provided the parcel in question has subsequently remained intact, (4) recording of a Certificate of Compliance or a Conditional Certificate of Compliance, or (5) other means but subsequently developed with a building or structure to serve the principal use of the parcel, for which a valid building permit was issued.
9. Major Repair, Remodel or Upgrade. Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure that amounts to 50% or more of the structure's value, as determined by the most current Building Valuation Data published by the International Conference of Building Officials.
10. Minor Repair, Remodel or Upgrade. Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure that does not exceed 50% of the structure's value, as determined by the most current Building Valuation Data published by the International Conference of Building Officials.
11. Non-Conforming Parcel. Any legal parcel with an area, width and/or frontage that does not conform with the minimum building site area, width or frontage required by the zoning regulations currently in effect, i.e., a substandard parcel.

12. Non-Conforming Structure. Any legal building or structure that does not conform with the development standards required by the zoning regulations currently in effect including, but not limited to, density (number of dwelling units per parcel area), setback, height, floor area, daylight plane, and lot coverage requirements.
13. Non-Conforming Use. Any legal land use that does not conform with the uses permitted by the zoning regulations currently in effect. A non-conforming use includes the area devoted to the use, the structure(s) housing the use, and all use related activities.
14. Non-Conforming Situation. Any zoning nonconformity that is not a non-conforming parcel, non-conforming use or non-conforming structure. Examples include non-conforming parking, landscaping, or signs.
15. Principal Use. The primary or predominant use of any parcel.
16. Residential Use. One-family dwellings, two-family dwellings, multiple-family dwellings, second dwelling units, and residential accessory uses, buildings or structures.
17. Unimproved Parcel. Any parcel that is not developed with a building or structure to serve the principal use of the parcel, e.g., a parcel in a residential district not developed with a dwelling unit.
18. Zoning Nonconformity. Any legal parcel, use, building, structure, or other situation that does not conform with the zoning regulations currently in effect.
19. Zoning or Building Code Regulations Currently in Effect. Those regulations in effect at the time when final approval is given to an entitlement under this Chapter. Final approval does not occur until all administrative appeals are exhausted.

SECTION 6133. NON-CONFORMING PARCELS.

1. Continuation of Non-Conforming Parcels. A non-conforming parcel may continue as a separate legal parcel, subject to the merger provisions of the County Subdivision Regulations, and compliance with all other provisions of this Chapter.
2. Enlargement of Non-Conforming Parcels. A non-conforming parcel may be enlarged through the addition of contiguous land by lot line adjustment, lot consolidation, merger, or resubdivision, provided that the enlargement does not create nonconformities on adjoining property.

3. Development of Non-Conforming Parcels

a. Development Not Requiring Use Permit

- (1) Unimproved Non-Conforming Parcel. Development of an unimproved non-conforming parcel may occur without the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d) below) exist:

Required Minimum Parcel Size	Actual Non-Conforming Parcel Size
(a) 5,000 sq. ft. (area)	≥3,500 sq. ft. (area)
(b) 50 ft. (width)	≥35 ft. (width)
(c) >5,000 sq. ft. (area)	≥5,000 sq. ft. (area)
(d) ≥50 ft. (width)	≥50 ft. (width)

Proposed development on the unimproved non-conforming parcel shall conform with the zoning and building code regulations currently in effect.

- (2) Improved Non-Conforming Parcel. Development of an improved non-conforming parcel may occur without requiring the issuance of a use permit provided that the proposed development conforms with the zoning and building code regulations currently in effect.

b. Development Requiring a Use Permit

Notwithstanding the provisions of this subsection b, no use permit may be granted to exceed maximum floor area, height, and parcel coverage for parcels located in the Midcoast.

(1) Unimproved Non-Conforming Parcel

- (a) Development of an unimproved non-conforming parcel shall require the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d)) exist:

Required Minimum Parcel Size	Actual Non-Conforming Parcel Size
(a) 5,000 sq. ft. (area)	<3,500 sq. ft. (area)
(b) 50 ft. (width)	<35 ft. (width)
(c) >5,000 sq. ft. (area)	<5,000 sq. ft. (area)
(d) ≥50 ft. (width)	<50 ft. (width)

- (b) Proposed development on any unimproved non-conforming parcel that does not conform with the zoning regulations in effect shall require the issuance of a use permit.
- (2) Improved Non-Conforming Parcel. Proposed development on an improved non-conforming parcel, that does not conform with the zoning regulations currently in effect, shall require the issuance of a use permit.
- (3) Use Permit Findings. As required by Section 6503, a use permit for development of a non-conforming parcel may only be issued upon making the following findings:
 - (a) The proposed development is proportioned to the size of the parcel on which it is being built,
 - (b) All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible,
 - (c) The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible,
 - (d) The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood, and
 - (e) Use permit approval does not constitute a granting of special privileges.

SECTION 6134. NON-CONFORMING USES.

1. Continuation of Non-Conforming Uses. A non-conforming use may continue to exist providing all other provisions of this Chapter are met, and the use is not a confined animal use shown to degrade water quality or sensitive habitats. A non-conforming confined animal use shown to degrade water quality and sensitive habitats shall be abated in accordance with the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).

The Board of Supervisors, upon recommendation by the Planning Commission at a public hearing, can require that any non-conforming use (except residential) be removed or converted to a permitted use within a prescribed period of time, as allowed by law, and upon findings that (1) the non-conforming use is detrimental

to the health, safety or public welfare of the surrounding area, and (2) it degrades the neighborhood character.

2. Minor Repair, Remodel or Upgrade of Non-Conforming Uses. Minor repair, remodel or upgrade of a non-conforming use is permitted. Any portion of the use may be replaced as it previously existed on the property.
3. Abandonment of Non-Conforming Uses (Except Residential). If a non-conforming use is abandoned, all subsequent use of the property shall conform with the zoning and building code regulations currently in effect. This provision does not apply to residential uses.
4. Abandonment of Residential Non-Conforming Uses. If a residential non-conforming use is abandoned, it may be reestablished provided that all other provisions of this Chapter are met.
5. Enlargement of Non-Conforming Uses (Except Residential). A non-conforming use may not be enlarged. This provision does not apply to residential uses.
6. Enlargement of Non-Conforming Residential Uses. A non-conforming residential use in a non-residential zoning district, e.g., a residence in an industrial zone, may be enlarged subject to the issuance of a use permit, and provided that the enlargement conforms with the following combining zoning district regulations:

Residential Use	Combining Zoning District Regulations
One Family Residential Inside Coastal Zone Outside	S-17 S-7
Two Family Residential	S-5
Multiple Family Residential	S-3

A non-conforming residential use in a lower density residential zoning district, e.g., a duplex or apartment building in a single-family residential zone, may not be enlarged.

7. Major Repair, Remodel or Upgrade of Non-Conforming Uses (Except Residential). Major repair, remodel or upgrade of a non-conforming use is permitted, providing that the resultant use conforms with the zoning and building code regulations currently in effect. This provision does not apply to residential uses.

8. Major Repair, Remodel or Upgrade of Residential Non-Conforming Uses. Major repair, remodel or upgrade of a residential non-conforming use is permitted. Any portion of the use may be replaced as it previously existed on the property.
9. Destruction, Demolition and Removal of Non-Conforming Uses (Except Residential). If a non-conforming use is destroyed, demolished or removed from the site, it may only be replaced by a use that conforms with the zoning and building code regulations currently in effect. This provision does not apply to non-conforming residential uses.
10. Destruction, Demolition and Removal of Non-Conforming Residential Uses.
 - a. If a non-conforming residential use in a non-residential zoning district, e.g., a residence in an industrial zone, is destroyed, it may be replaced or rebuilt, subject to the issuance of a use permit. Replacement structures shall be located either as they previously existed on the property or in conformance with the following combining zoning district regulations:

Residential Use	Combining Zoning District Regulations
One Family Residential Inside Coastal Zone Outside	S-17 S-7
Two Family Residential	S-5
Multiple Family Residential	S-3

If a non-conforming residential use in a lower density residential zoning district, e.g., a duplex or apartment building in a single-family residential zone, is destroyed, it may only be replaced by a use that conforms with the zoning and building code regulations currently in effect.

- b. If a non-conforming residential use is demolished or removed from the site, it shall only be rebuilt or replaced by a use that conforms with the zoning and building code regulations currently in effect.

SECTION 6135. NON-CONFORMING STRUCTURES.

1. Continuation of Non-Conforming Structures. A non-conforming structure may continue to exist providing all other provisions of this Chapter are met, and the structure is not a confined animal structure shown to degrade water quality or sensitive habitats. A non-conforming confined animal structure shown to degrade water quality and sensitive habitats shall be abated in accordance with

the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).

2. Minor Repair, Remodel or Upgrade of Non-Conforming Structures. Minor repair, remodel or upgrade of a non-conforming structure is permitted. Any portion of the structure may be replaced as it previously existed on the property.
3. Abandonment of Non-Conforming Structures. If a non-conforming structure is abandoned, its use may be reestablished provided all other provisions in this Chapter are met.
4. Enlargement of Non-Conforming Structures. A non-conforming structure may be enlarged provided the enlargement conforms with the zoning regulations currently in effect, i.e., the non-conforming portion of the structure may not be enlarged. A residential structure built to a non-conforming density may be enlarged provided there is no increase the number of housing units.
5. Major Repair, Remodel or Upgrade of Non-Conforming Structures.
 - a. Major repair, remodel or upgrade of a non-conforming structure, where each nonconformity violates the required zoning standard by less than 50%, is permitted. If any non-conforming portion of the structure is proposed to be removed, replacement shall conform with the zoning regulations currently in effect.
 - b. Major repair, remodel or upgrade of a non-conforming structure, where any nonconformity violates the required zoning standard by 50% or more, shall result in the entire structure conforming with the zoning regulations currently in effect.
6. Destruction, Demolition and Removal of Non-Conforming Structures (Except Residential). If a non-conforming structure is destroyed, demolished or removed from the site, it may only be rebuilt to conform with the zoning and building code regulations currently in effect. This provision does not apply to residential non-conforming structures.
7. Destruction, Demolition and Removal of Residential Non-Conforming Structures.
 - a. If a residential non-conforming structure is destroyed, i.e., as a result of an act of nature or other event unintended by the property owner, it may be rebuilt or replaced. Replacement structures shall be limited to the number of housing units that previously existed on the property. Replacement structures shall be located either as they previously existed on the property or in conformance with the zoning regulations currently in effect.

- b. If a residential non-conforming structure is demolished or removed from the site, it shall only be rebuilt or replaced by a structure that conforms with the zoning and building code regulations currently in effect.

SECTION 6136. NON-CONFORMING SITUATIONS.

1. Continuation of Non-Conforming Situations. A non-conforming situation may continue to exist providing all other provisions of this Chapter are met, and the situation is not a confined animal situation shown to degrade water quality or sensitive habitats. A non-conforming confined animal situation shown to degrade water quality and sensitive habitats shall be abated in accordance with the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).
2. Minor Repair, Remodel or Upgrade of Non-Conforming Situations. Minor repair, remodel or upgrade of a non-conforming situation is permitted.
3. Abandonment of Non-Conforming Situations. If a non-conforming situation is abandoned, it may be reestablished provided all other provisions in this Chapter are met.
4. Enlargement of Non-Conforming Situations. A non-conforming situation may be enlarged provided that the enlargement conforms with the zoning regulations currently in effect, e.g., parking and sign regulations.
5. Major Repair, Remodel or Upgrade of Non-Conforming Situations. Major repairs, remodel or upgrade of a non-conforming situation is permitted, providing that the resultant situation conforms with the zoning and building code regulations currently in effect.
6. Destruction, Demolition and Removal of Non-Conforming Situations. If a non-conforming situation is destroyed, demolished or removed from the site, it shall only be replaced by a situation that conforms with the zoning and building code regulations currently in effect.

SECTION 6137. EXCEPTIONS.

1. The Planning Commission, at a public hearing, may grant a use permit to except any provision in this Chapter which restricts the continuation, enlargement, re-establishment or replacement of a non-conforming use, structure or situation. The use permit shall be processed in accordance with the procedures and requirements of Section 6503.

Notwithstanding the provisions of this subsection 1, no use permit may be granted to exceed maximum floor area, height, and parcel coverage for parcels located in the Midcoast.

2. The Planning Director may grant an administrative exception to any provision of this Chapter when it conflicts with another government mandated requirement.

(Section 6133.3.b - Amended by Ordinance No. 4062 - August 21, 2001)
(Section 6134.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6135.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6136.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6136.5 - Added by Ordinance No. 2813 - December 7, 1982)
(Sections 6137 and 6138 - Amended by Ordinance No. 3002 - July 3, 1984)
(Section 6137 - Amended by Ordinance No. 3299 - March 12, 1991)
(Section 6137 - Amended by Ordinance No. 4062 - August 21, 2001)
(Section 6138.1 - Added by Ordinance No. 3322 - April 29, 1991)
(Section 6142 - Added by Ordinance No. 2549 - December 5, 1978)
(Chapter 4 - Repealed by Ordinance No. 3592 - September 20, 1994)
(Chapter 4 - Added by Ordinance No. 3593 - September 20, 1994 - Non-Coastal Areas)
(Chapter 4 - Enacted by Ordinance No. 3672 - September 12, 1995 - Countywide)

Chapter 4 (Non-Conformities).doc
(9/18/12)



County of San Mateo - Planning and Building Department

ATTACHMENT G



Map showing surveyed parcels (sq. ft.) color-coded by size: Similar Substandard Sized Parcels (≤ 2550 sq. ft.), Substandard Sized Parcels (2551 - 4999 sq. ft.), and Standard Sized Parcels (≥ 5000 sq. ft.).



County of San Mateo - Planning and Building Department

ATTACHMENT H



Parcels that Received Exceptions
338 Rutherford, APN 069-321-260

Zoning

- Unknown
- C-1/S-1
- C-1/S-3
- C-1/S-7
- O
- O/S-7
- P
- R-1/S-74
- R-1/S-9
- R-3/S-1
- R-3/S-2
- R-3/S-3
- R-3/S-4
- R-E/S-11

#	Case No.	APN	Address	Project Description	Approval Date	Parcel Size	Zoning
1	PLN 2000-00012	059254120	1202 HIMMEL AVE	Non-conforming Use Permit to allow expansion of a non-conforming structure on a non-conforming lot. addition includes a front porch and 2 rooms.	8/27/2001	2550	R-1/S-7
2	PLN 2000-00470	059254130	1279 HIMMEL AVE	Home improvement Exception to allow a 160 sq/ft addition to the existing house with a 4.18-ft. side yard setback where 10 ft. is required.	1/19/2001	5100	R-1/S-7
3	PLN 2002-00474	059262050	354 NIMITZ AVE	Home improvement Exception to allow a master bath and closet to encroach 5 ft. into the required 20-ft. rear yard setback, whereby a total of 80 sq/ft encroaches into the rear setback area.	3/13/2003	7140	R-1/S-7
4	PLN 2006-00348	059272040	422 NIMITZ AVE	Home improvement Exception to allow an addition to existing 2nd story to exceed the maximum allowable FAR by 36 sq/ft; the addition would enclose an existing patio, located at the rear of the existing 2-story residence.	4/3/2007	4600	R-1/S-74
5	PLN 2010-00262	069280190	150 DOHERTY WY	Home improvement Exception to allow an encroachment into the front yard setback to accommodate a new single-story attached 2-car garage addition.	11/23/2010	8319	R-1/S-74
6	PLN 2002-00412	069301520	2016 STOCKBRIDGE AVE	Home improvement Exception to allow a 16'-2" setback where 20 ft. is required.	6/30/2003	13680	R-1/S-74
7	PLN 1999-00497	069301680	2010 ABRVAN WY	Home improvement Exception to allow approximately 45 sq/ft of a proposed addition to encroach into the required 20-ft. rear yard setback.	9/1/1999	10080	R-1/S-7
8	PLN 1999-00885	069315090	262 RUTHERFORD AVE	Home improvement Exception to allow a 10.5-ft. encroachment into the 20-ft. rear yard setback.	3/16/2000	5100	R-1/S-7
9	PLN 2001-00039	069321170	365 SAN CARLOS AVE	Home improvement Exception to allow a 4'-7" side yard setback where 5 ft. is required for a bedroom addition to house.	4/16/2001	5100	R-1/S-7
10	PLN 2003-00695	069323190	389 BELMONT AVE	Home improvement Exception to allow a garage addition to encroach 8 ft. into side yard setback.	6/11/2004	2550	R-1/S-7
11	PLN 2013-00460	069325110	385 SEQUOIA AVE	Non-conforming Use Permit to replace a legal non-conforming detached 2-car garage (in rear right corner of parcel) & allow its existing rear & right side setbacks of 18-inches and 0-inches, respectively.	2/21/2014	5000	R-1/S-74



County of San Mateo - Planning and Building Department

ATTACHMENT I



330

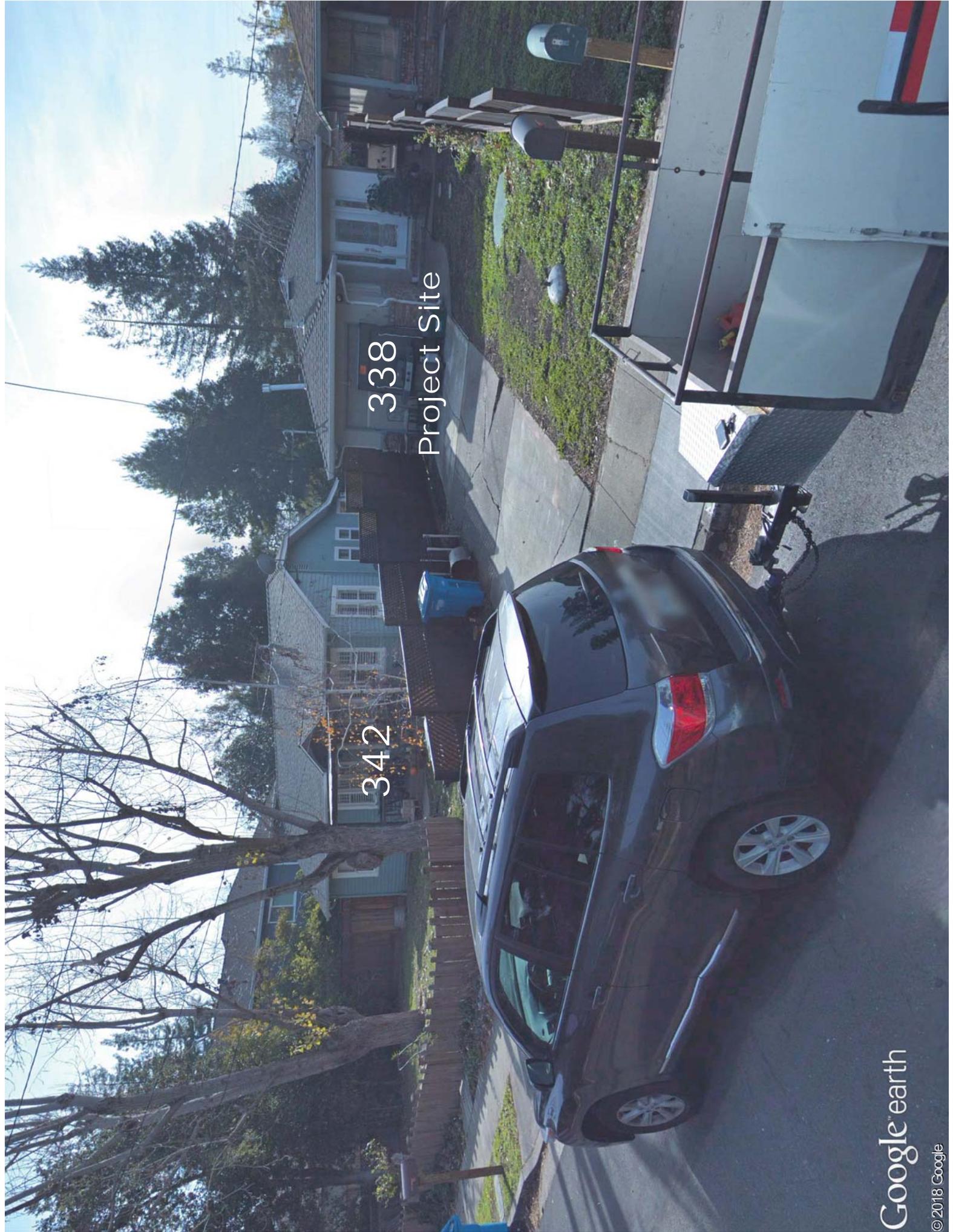
334

338

Project Site

Google earth

© 2018 Google



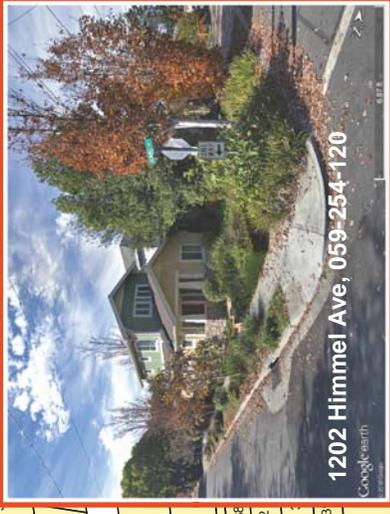
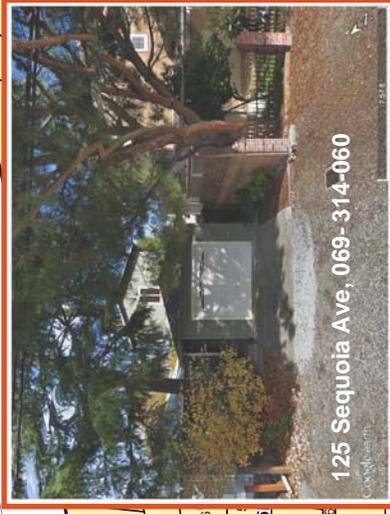
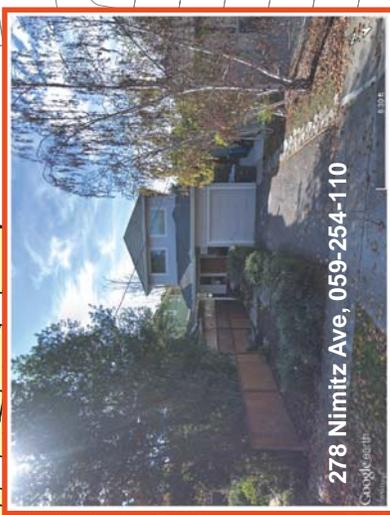
342

338
Project Site



County of San Mateo - Planning and Building Department

ATTACHMENT J





County of San Mateo - Planning and Building Department

ATTACHMENT K



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

ENVIRONMENTAL SERVICES AGENCY

DATE: November 17, 2004

SET TIME: 9:30 a.m.

BOARD MEETING DATE: December 7, 2004

TO: Honorable Board of Supervisors

FROM: Marcia Raines, Director of Environmental Services

SUBJECT: Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height.

County File Number: PLN 2004-00545

RECOMMENDATION

1. Adopt, by ordinance, the "S-74" zoning district regulations as an amendment to the County Zoning Regulations.
2. Rezone, by ordinance, lands in the R-1/S-7 zoning district in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 as shown on Exhibit A.

PROPOSAL

Residents in the Selby Neighborhood (Sequoia Tract), which lies between Redwood City and Atherton, have requested that the County adopt new zoning regulations to: (1) reduce the permitted size of houses by establishing maximum building floor areas, (2) reduce the permitted building height, and (3) establish daylight planes to control the bulk and shape of houses.

BACKGROUND

The Selby Neighborhood in the Sequoia Tract is comprised of modest single-family homes on predominately 5,000 sq. ft. parcels. There are some larger parcels that are 10,000 to 20,000 sq. ft. in size. The area is semi-rural in character with mature landscaping. Many residents have lived in the neighborhood for a long time. Households are mostly comprised of families and retired couples.

Over the past three years, several modest homes have been torn down and replaced with substantially larger houses. Some large parcels have been subdivided and developed with large houses. These new houses range in size from 3,000 to 6,000 sq. ft. They now sporadically appear from block to block. Residents are concerned that the character of the neighborhood will be significantly altered if larger and larger houses continue to be built.

Several meetings have been held in the neighborhood to discuss this issue. Residents have agreed that new zoning regulations are needed to control house size, height, and bulk. County planning staff was asked to bring the new regulations and the proposed rezoning to the Planning Commission for a recommendation to the Board of Supervisors.

DISCUSSION

A. PREVIOUS ACTION

On November 10, 2004, the Planning Commission voted 5-0 recommending approval of the proposed rezoning.

B. KEY ISSUES

1. Maximum Building Floor Area

The current R-1/S-7 zoning regulations allow a 7,200 sq. ft. house on a 5,000 sq. ft. parcel. The proposed new regulations would allow a maximum house size of 2,600 sq. ft. on a 5,000 sq. ft. parcel which is much more in scale with the majority of existing houses in the neighborhood.

Residents want to preserve the existing character of the neighborhood. If larger and larger houses continue to be built, the appearance of the neighborhood will become more urban, dense, and crowded. Larger homes will obtrusively stand out in sharp contrast to smaller ones. The varying volumes of houses will visually and aesthetically destroy the harmonious scale of buildings in the neighborhood.

2. Maximum Building Height

The current zoning allows a building height of 36 feet or three stories. The proposed new regulations would reduce allowable building height to 28 feet or two stories.

Three-story houses can overwhelm neighboring one- and two-story houses. They can cast long, dark shadows and invade privacy. A lot of tall houses in the neighborhood would contribute to destroying the harmonious scale of buildings in the neighborhood.

3. Daylight Plane

The current zoning regulations do not require daylight planes. The proposed new regulations would set the maximum height of a house along the side setbacks at 16 feet at which point the house would inwardly slant at 45 degrees until the maximum height of 28 feet was reached.

Daylight planes reduce the impact of tall walls looming over neighboring houses and yards. They help protect privacy and prevent the blockage of sunlight.

C. ENVIRONMENTAL REVIEW

Adoption of these regulations is exempt from review under the California Environmental Quality Act under 14 California Code of Regulations Section 15061(b)(3) because there is no possibility that the regulations, which impose further restrictions on development of property, will have the potential for causing a significant effect on the environment, in that they are more protective of the environment than prior regulations.

D. REVIEWING AGENCIES

County Counsel

VISION ALIGNMENT

The rezoning keeps the commitment of offering a full range of housing choices and goal number 9, housing exists for people at all income levels and for all generations of families. The rezoning contributes to this commitment and goal by providing limitations on house size that prevents overly sized and very high cost housing.

FISCAL IMPACT

There would be no cost to the County to implement these regulations.

ATTACHMENTS

- A. Ordinance to establish R-1/S-74 zoning district regulations
- B. Ordinance to rezone land in Selby Neighborhood from R-1/S-7 to R-1/S-74

MR:MD:fc – MLDO1341_WFU.DOC



County of San Mateo - Planning and Building Department

ATTACHMENT L

NO.	Description	Date

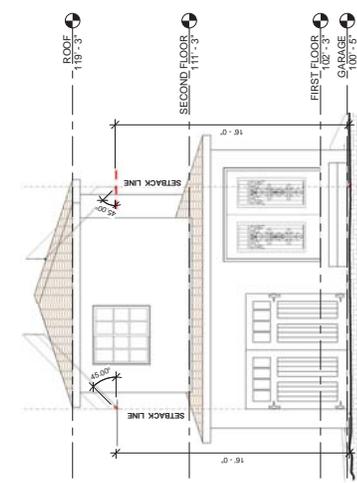
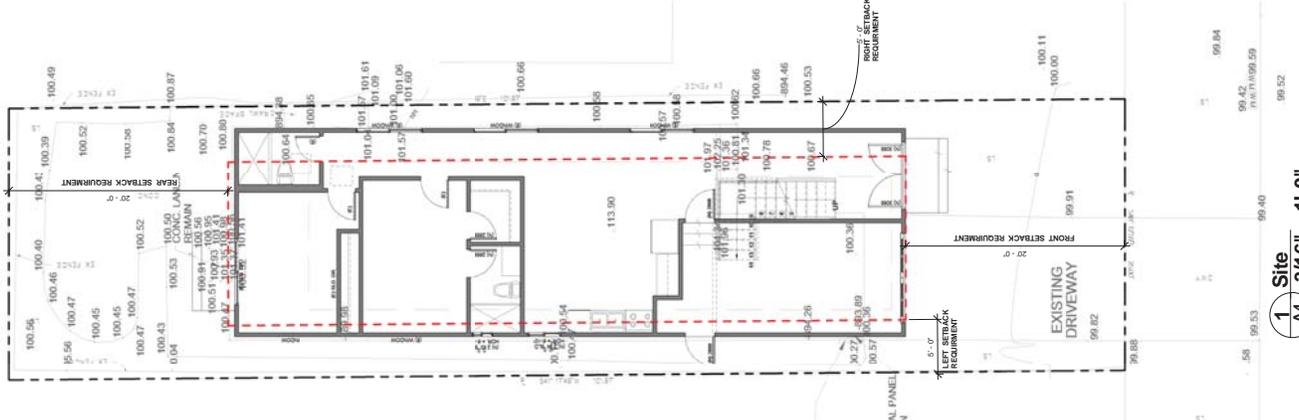
DESIGNER: FAST CAD DRAFTING
 1610 BLOSSOM HILL ROAD SUITE 7D
 SAN JOSE, CA 95124
 PH: 408-806-7912
 EMAIL: BKDRAFTING@COMCAST.NET

DAYLIGHT PLAN

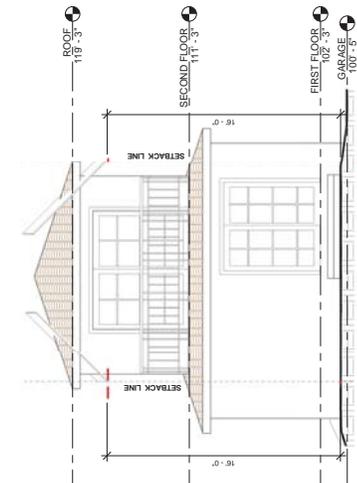
ADDITION REMODELING FOR:
 338 RUTHERFORD
 REDWOOD CITY, CA 94061
 APN: 069-321-260

Project Number	06752702
Date	08/20/20
Drawn by	B.L.
Checked by	B.L.
Scale	As indicated

A4



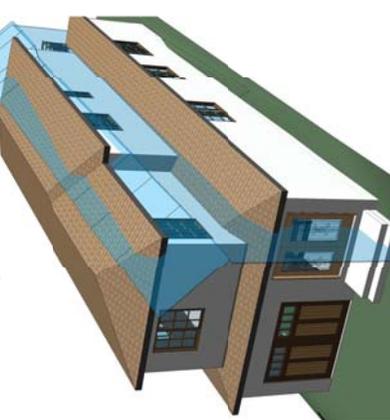
2 FRONT ELEVATION
 1/4" = 1'-0"



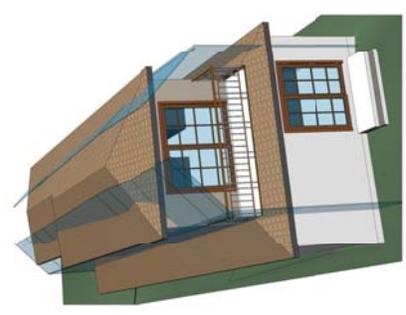
3 REAR ELEVATION
 1/4" = 1'-0"



4 LEFT SIDE DAYLIGHT PLANE
 A4



5 RIGHT SIDE DAYLIGHT PLANE
 A4



7 RIGHT & LEFT DAYLIGHT PLANE (REAR VIEW)
 A4



6 RIGHT & LEFT DAYLIGHT PLANE (FRONT VIEW)
 A4

1 Site
 A4
 3/16" = 1'-0"



County of San Mateo - Planning and Building Department

ATTACHMENT M



County of San Mateo - Planning and Building Department

ATTACHMENT N

ADDITION FOR: 338 RUTHERFORD, REDWOOD CITY, CA APN: 069-321-260

PROJECT DATA

OWNER NAME: 254935 SQ. FT.
 ADDRESS:
 NUMBER OF FLOORS:
 CONSTRUCTION TYPE:
 OCCUPANCY CLASSIFICATION:
 APPLICABLE CODES:
 - ALL CONSTRUCTION WORK SHALL COMPLY WITH THE 2016 CALIFORNIA BUILDING CODE (BASE CODE 2016 IBC), 2016 CALIFORNIA ELECTRICAL CODE (BASE CODE 2016 CEC), 2016 CALIFORNIA MECHANICAL CODE (BASE CODE 2016 CMC), 2016 CALIFORNIA FIRE CODE (BASE CODE 2016 CFC), 2016 CALIFORNIA PLUMBING CODE (BASE CODE 2016 CPC), 2016 CALIFORNIA SOFTWOOD LUMBER CODE (BASE CODE 2016 SCLC), AND THE CURRENT MUNICIPAL CODE.
 ABBREVIATIONS:
 ALL REFERENCES ARE TO BE "CBC" UNLESS NOTED OTHERWISE

AREAS	EXISTING SQ. FT.	ADDITION SQ. FT.	CONVERTED SQ. FT.	PROPOSED SQ. FT.
GARAGE	272.06	+33.31	-34.52	270.85
LIVING AREA (1ST FLOOR)	163.68	+146.21	-134.52	944.41
LIVING AREA (2ND FLOOR)	0	+691.94	0	691.94
TOTAL	598.74	+971.57	-169.04	1865.26

ALLOWABLE FAR = 2.600 SQ. FT.
 PROVIDED FLOOR AREA RATIO = 6.0 FT.
 PROPOSED FIRST FLOOR AREA = 491.34 SQ. FT.
 PROPOSED SECOND FLOOR AREA = 195.19 SQ. FT.
 TOTAL = 686.53 SQ. FT.

DRAWING INDEX

ARCHITECTURAL:
 SHEET 1 JOB COVER SHEET, EXISTING AND PROPOSED SITE PLANS
 SHEET 2 1ST EXISTING FLOOR AND ROOF PLANS
 SHEET 3 2ND PROPOSED FLOOR PLANS
 SHEET 4 3D EXTERIOR ELEVATIONS
 SHEET 5 C1 BOUNDARY SURVEY AND TOPOGRAPHIC MAP

SCOPE OF WORK

1. ADD 687.14 SQ. FT. SECOND FLOOR.
2. ADD ABOUT 33.31 SQ. FT. TO EXTEND THE EXISTING GARAGE.
3. ADD 146.21 SQ. FT. TO THE FIRST FLOOR TO RELOCATE THE ENTRANCE, ADD A BATHROOM AND W.C. TO BEDROOM, AND CONVERT IT TO MASTER BEDROOM. THE KITCHEN, LIVING AND DINING AREAS, AND THE REST OF FIRST FLOOR REMAIN AS IT IS.
4. ADD A BATHROOM AND W.C. TO BEDROOM AND CONVERT IT TO MASTER BEDROOM.
5. ADD A BATHROOM AND W.C. TO BEDROOM AND CONVERT IT TO MASTER BEDROOM.
6. THE REST OF FIRST FLOOR REMAIN AS IT IS.

THIS PROJECT IS BEING SUBMITTED AS A VARIANCE EXTENSION AT FIRST FOR NON CONFORMING BUILDING.

CONSULTANTS

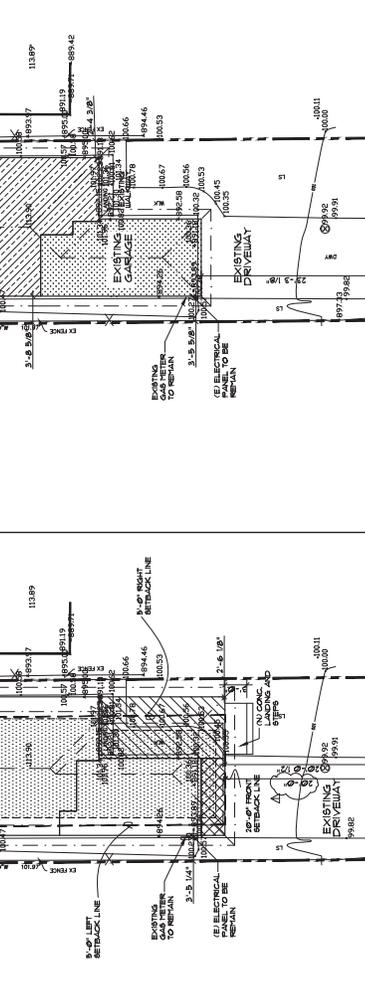
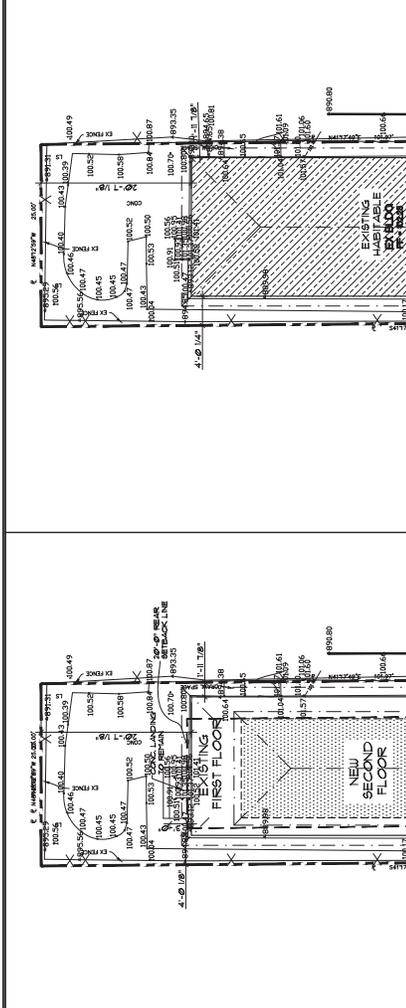
DESIGNER:
 FAST CAD DRAFTING
 810 BLOSSOM HILL ROAD, SUITE 110
 SAN JOSE, CA 95124
 (408) 806-7182

CIVIL:
 LE ENGINEERING
 508 E SANTA CLARA SUITE NO. 210
 SAN JOSE, CA 95124
 (408) 806-1181

VICINITY MAP



PARCEL MAP



RUTHERFORD AVENUE (105' R/W) E(OH)

LEGENDS:
 EXISTING STRUCTURE AT FIRST FLOOR TO REMAIN
 ADDITION AT FIRST FLOOR
 ADDITION AT THE GARAGE
 NEW SECOND FLOOR ADDITION

LEGENDS:
 EXISTING FIRST FLOOR
 EXISTING GARAGE

GRAPHIC SCALE
 1" = 8' FT.
 0 4 8 16 32

EXISTING SITE PLAN
 SC: 1/4" = 1'-0"

RUTHERFORD AVENUE (105' R/W) E(OH)

LEGENDS:
 EXISTING FIRST FLOOR
 EXISTING GARAGE

GRAPHIC SCALE
 1" = 8' FT.
 0 4 8 16 32

EXISTING SITE PLAN
 SC: 1/4" = 1'-0"

REVISIONS	BY
01-10-18	BK

DESIGNER:
 FAST CAD DRAFTING
 810 BLOSSOM HILL ROAD, SUITE 110
 SAN JOSE, CA 95124
 (408) 806-7182

COVER SHEET,
 EXISTING AND PROPOSED
 SITE PLANS

ADDITION, REMODELING FOR
 338 RUTHERFORD,
 REDWOOD CITY, CA 94061
 APN: 069-321-260

DATE: 10/10/18
 SCALE: 1/4" = 1'-0"
 DRAWN BY: BK
 SHEET: A-0
 OF SHEETS: 0



County of San Mateo - Planning and Building Department

ATTACHMENT O



County of San Mateo - Planning and Building Department

ATTACHMENT P



County of San Mateo - Planning and Building Department

ATTACHMENT Q



County of San Mateo - Planning and Building Department

ATTACHMENT R



County of San Mateo - Planning and Building Department

ATTACHMENTS

December 8, 2017

RE: Use Permit for 338 Rutherford Ave. Redwood City, CA 94061

Dear County Planner and Planning Committee;

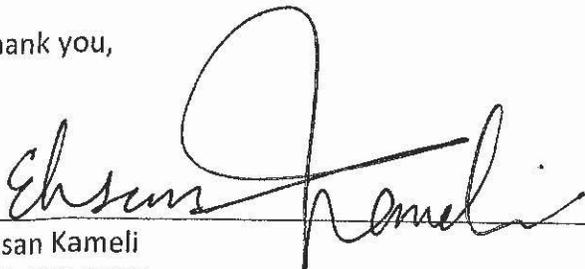
With this statement I'd like to explain to you the reasons that have led me to no option but to apply for a Use Permit.

Current living space of my residence is only 790 Square Feet, consisting of two tiny bedrooms and a bathroom, and it doesn't allow for more than one person to live in it comfortably. However, the size of my household is growing and my fiancé and I would like to move into one residence in the near future. But as you're probably aware, the current housing inventory in our area is very low and the demand is extremely high. This has made it exceptionally difficult for us to find and purchase a property within our affordability limits and has left us with no option but to pursue expanding the living space of my current residence. However, the subject property is a legal nonconforming structure on a substandard parcel (2,500 Sq-Ft) and unfortunately it'd be nearly impossible to make any expansions to it, unless if we're allowed to maintain the existing sides' setbacks (3 Feet) on the first floor. I have also explored the possibility of purchasing additional land from my adjacent neighbors, but unfortunately one of them has a similar sized parcel as I do and the other one won't be able and willing to sell me any part of their parcel.

We would very much appreciate your kind consideration in giving us the opportunity to stretch the structure of my property within the required front and rear setbacks (20 Feet), while maintaining the existing sides' setbacks (3 Feet) for the first floor. We will be able to comply with all the required setbacks on the 2nd floor that we're looking to build.

I hope this explanation has sufficiently addressed all your concerns; but please contact me with any further question or concerns regarding this request.

Thank you,



Ehsan Kameli
650-646-8820



County of San Mateo - Planning and Building Department

ATTACHMENT T

June 20, 2018

Re: County File # PLN 2017-00517 (Kameli)

Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)

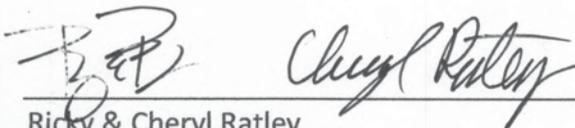
APN: 069-321-260

To Whom It May Concern,

We are aware of the proposed construction plan for 338 Rutherford Ave. and the pending use permit application for it. We're not concerned about any effect of the proposed building on our property or the neighborhood, and are in full support of the approval of this permit and the *planned construction.*

Should you have any question or concerns, please don't hesitate to contact us.

Sincerely,

Handwritten signature of Ricky & Cheryl Ratley in black ink.

Ricky & Cheryl Ratley

Property Owner of 358 Rutherford Ave. Redwood City, CA 94061

(919)600-9255

cheryl_ratley@yahoo.com

Date: 3/14/2018

Ref: County File Number: PLN 2017-00517 (Kameli)

Location: 338 Rutherford Avenue, Redwood City (Sequoia Tract)

APN: 069-321-260

To Whom it May Concern:

I am aware of the proposed construction plans at 338 Rutherford Ave. and the pending use permit review this month and am in full support of the approval of this permit and planned construction activities. I am not concerned about any effect of the proposed building on my adjacent property. If you have any questions or concerns, please do not hesitate to reach me at the below contact information.

Regards,

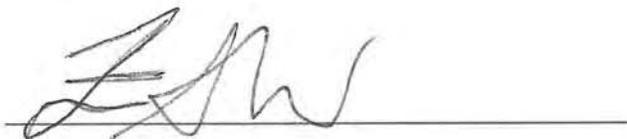
Frank Shanahan

Phone: 650-868-9074

Fts7185@yahoo.com

Property Owner of 342 Rutherford Ave. Redwood City, CA 94061

Signature:

A handwritten signature in black ink, appearing to read 'F. Shanahan', is written over a horizontal line.

Date: 03/22/2018

Ref: County File Number: PLN 2017-00517 (Kameli)

Location: 338 Rutherford Ave, Redwood City

APN: 069-321-260

Zoning Hearing Officer,

I am aware of proposed construction plans for 338 Rutherford Ave. I know there was a public hearing earlier this month, to review non-conforming use permit. I support the planned construction and permit.

Shawn Misialek

334 Rutherford Ave., Redwood City, CA 94061

650-867-0286

myxl@yahoo.com



A handwritten signature in cursive script that reads "Shawn Misialek". The signature is written in black ink and is positioned above a horizontal line.

May 30, 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)
APN: 069-321-260

To Whom It May Concern,

I am aware of the proposed construction plans for 338 Rutherford Ave. and the pending use permit application for it. I'm not concerned about any effect of the proposed building on my property or the neighborhood.

Should you have any question or concerns, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Charles Edward Schrader". The signature is written in a cursive style with a large initial "C".

Charles Edward Schrader
Property Owner of 341 Rutherford Ave. Redwood City, CA 94061
650-814-1756
eschrade68@yahoo.com