



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: June 11, 2012
Board Meeting Date: June 26, 2012
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Community Development Director

Subject: Public hearing to consider an appeal of the Zoning Hearing Officer's decision to approve a Use Permit, Coastal Development Permit, Design Review and Certificate of Compliance (Type B), pursuant to Sections 6133.3b, 6328.4 and 6565.7 of the San Mateo County Zoning Regulations, and Section 7134.2 of the San Mateo County Subdivision Regulations, respectively, to construct a new 1,559 sq. ft. single-family residence with a 195 sq. ft. one-car attached garage on a 3,650 sq. ft. non-conforming parcel, including a proposed combined side setback of 8 feet, where 15 feet is the minimum required and one covered parking space where two covered spaces are the minimum required, located on Main Street in the unincorporated Montara area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2006-00155 (Peterson)

RECOMMENDATION:

Deny the appeal and uphold the decision of the Zoning Hearing Officer to approve the project, based on and subject to the required findings and conditions of approval listed in Attachment A.

BACKGROUND:

Proposal: The applicant is requesting approval for the necessary permits to construct a new 1,559 sq. ft. single-family residence with a 195 sq. ft. attached one-car garage on a 3,650 sq. ft. undeveloped non-conforming parcel where 5,000 sq. ft. is the minimum required, including a proposed combined side setback of 8 feet, where 15 feet is the minimum required and one covered parking space where two covered spaces are required. Also, the lot is 25 feet wide, where the minimum required width is 50 feet. The first floor of the proposed home consists of a covered entryway that provides immediate access to an elevator. Two bedrooms complete the living areas on this floor while the second floor accommodates the kitchen, living room and half bathroom. Rear

decks are proposed on both floors as a means to access ocean views. The landscaping plan proposes the planting of drought tolerant, indigenous vegetation.

Planning Commission Action: The Planning Commission considered the revised project at its March 28, 2012 meeting, at which three Commissioners were present. A motion to approve the project was made and seconded, but carried only two votes. At least three votes are required to take action. Because no action was taken on the appeal, the effect of the Planning Commission meeting was to uphold the Zoning Hearing Officer's August 27, 2010 approval of the project as submitted and conditioned by the Zoning Hearing Officer (ZHO). In keeping with the practice of the Planning Department, the staff report recommends that your Board uphold the last effective action on the project, which is to **approve** the project as submitted and conditioned by the ZHO.

Report Prepared By: Dennis P. Aguirre, Project Planner, Telephone 650/363-1867

Report Reviewed By: Lisa Aozasa, Senior Planner, Telephone 650/363-4852

Applicant/Owner: Kendall Peterson

Appellants: J. and B. Oehlert, S. Smith, K. Slater-Carter, D. Andreasen, L. Tichy, J. Salvador, and C. Mitchell

Location: Main Street, Montara

APN: 036-047-020

Parcel Size: 3,650 sq. ft.

Parcel Legality: Certificate of Compliance (Type B)

Existing Zoning: R-1/S-17/DR/CD (Single-Family Residential District/S-17 Combining District with 5,000 sq. ft. minimum parcel size/Design Review/Coastal Development)

General Plan Designation: Medium Density Residential (6.1-8.0 dwelling units per acre)

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Undeveloped

Water Supply: Coastal Development Permit approved on November 9, 2005, for a domestic well.

Sewage Disposal: Montara Water and Sanitary District

Flood Zone: Zone C (areas of minimal flooding), based on the FEMA Flood Zone Map, Community Panel Number 0603 0092 B, effective July 5, 1984.

Environmental Evaluation: This project is categorically exempt pursuant to Section 15303, Class 3, of the California Environmental Quality Act, related to new construction of small structures, including a single-family residence in a residential zone.

Setting: The parcel is located east of Cabrillo Highway in an area of predominantly single-family structures of various architectural styles. The general vicinity is sloping in topography, including a 5% slope for the subject site. The parcel is located within the County Scenic Corridor and is bounded by Cabrillo Highway/Pacific Ocean westward and Main Street eastward. The adjacent parcels south of the subject site are undeveloped while a single-story residence is located immediately adjacent north of the project site.

Chronology: See Attachment I.

DISCUSSION:

A. PROJECT HISTORY

The applicant submitted Design Review applications for a new house on April 11, 2006 that required additional resubmittals to address issues from the Geotechnical Section. The project was eventually deemed complete on December 20, 2007.

The Coastside Design Review Committee (CDRC) initially reviewed the project on January 10, 2008. Based on the CDRC's recommendations for redesign, five subsequent meetings were held on August 14, September 11, October 9, November 13, 2008 and culminating with a recommendation for denial on March 23, 2009. The project was then considered at the December 17, 2009 Zoning Hearing Officer (ZHO) meeting where it was remanded back to the CDRC. On April 8, 2010, the redesigned project was considered by the CDRC and recommended for approval. On August 19, 2010, the ZHO considered the project, and subsequently it was approved on August 27, 2010.

The appellants submitted an appeal on September 9, 2011, requesting reversal of the Zoning Hearing Officer's approval of the project. The Planning Commission initially considered the appeal on October 26, 2011, where design issues were left unresolved, so the Planning Commission continued the public hearing. The applicant redesigned the project for consideration at the March 28, 2012 Planning Commission hearing, where no action was effectively taken resulting from the absence of at least three votes on any motion for decision. The ZHO decision to approve the project was therefore upheld (see Attachment E).

B. APPELLANTS' POINTS OF APPEAL

The applicant proposed revisions for the Planning Commission hearing on March 28, 2012, in order to address objections to the project. However, no decision on any redesign was reached as a result of the lack of votes required to take action

on the appeal. The matter on appeal is the ZHO's approval of the project as submitted to the ZHO. Proposed revisions to the project are not part of any prior approval or denial by a County decision-maker. The proposed revisions to the Planning Commission are discussed in Section D (Alternative).

On April 9, 2012, appellants challenging the Zoning Hearing Officer's project approval of August 27, 2010, filed an appeal (see Attachment D). The following discussion includes staff's response to their major points of appeal, which are as follows:

1. The appellants contend that the construction of a two-story structure, governed by 3-foot and 5-foot side setbacks, represents overbuilding on a 25-foot wide lot.

Staff's Response: Pursuant to Section 6133.3.b, the project is subject to a use permit approval since it involves development on a non-conforming parcel less than 35 feet wide that does not meet all zoning standards. In this case, due to the narrowness of the lot, the proposed side setbacks are 3 feet and 5 feet for a combined setback of 8 feet, where 5 feet and 10 feet for a combined setback of 15 feet is required. Given the lot width of 25 feet, a combined 15-foot setback would result in a house only 10 feet wide, which would be unreasonable, impractical, and unattractive. While Section 6133.3.b specifically prohibits exceptions to maximum floor area, height, and parcel coverage for parcels in the Midcoast, exceptions to setback requirements are possible, provided the required findings can be made. The ZHO was able to make those findings as detailed in the letter of decision (see Attachment G) including the finding that the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.

2. The appellants content that the project does not comply with policies related to the preservation of the views in the County Scenic Corridor.

Staff's Response: Visual Resources Policy 8.5 (*Location of Development*) requires that new development be located on a portion of a parcel where the development: (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall.

Design Standards Section 6565.20(C)2.b (Views) states, when designing a new home, an effort should be made to minimize the effect of views from neighboring houses.

The project's location, which is approximately 60 feet from Cabrillo Highway, is substantially buffered visually from the highway since the site is significantly higher in elevation and screened by mature vegetation. The proposed design blends with the neighborhood context, which further mitigates any potential negative scenic impact from the highway.

As is the case with the above LCP policy, the Design Standards also emphasize the protection of public views as opposed to views from private property. However, the standards do require that an effort be made to minimize the effects on views by increasing the setback of second stories, lowering roof plate heights and choosing roof forms that minimize mass. As stated above, the proposed home employs all of these methods to mitigate view impacts to the extent feasible.

3. The appellants contend that a separate Coastal Development Permit (CDP) for lot legalization should be required.

Staff's Response: The appellants contend that the project needs a separate CDP for lot legalization, and that the CDP must be conditioned to maximize consistency with all applicable policies of the Local Coastal Program (LCP).

A Coastal Development Permit is required as part of the project approval for: (1) legalization of the parcel per LCP Policy 1.29; and (2) construction of the home on a non-conforming parcel, consistent with the limitations of the Single-Family Categorical Exclusion Area (Zoning Regulations Sections 6328.4 and 6328.5(e)). Both of these CDPs are included and being processed simultaneously for this project. Staff's complete analysis of the project's compliance with applicable LCP policies, zoning development and design review standards is included in Section C of this report. It should be noted that a discussion of compliance with the Planning Commission's Policy on 25-foot wide lots is included in addition to the discussion of compliance with zoning development standards. Staff acknowledges that this is a policy or guideline only that has not been certified by the Coastal Commission, and as such is supplemental only to those zoning development and design standards that have been certified as part of the LCP.

The ZHO's decision to legalize the parcel is based on staff's analysis concluding that development on this non-conforming parcel does not have adverse impacts on coastal resources and that standard conditions for urban development are sufficient in this case to maximize public health and safety and compliance with the LCP. To further support that development on non-conforming parcels in general does not impact coastal resources, please refer to Attachment F, a study of "Development of Substandard Residential Parcels in the Urban Midcoast." This study concludes that the development of substandard lots is not compromising LCP buildout projections, since the average parcel size of new single-family residential development is greater

than the 5,000 sq. ft. standard on which the LCP is based. The study found that from 1995 to 1997 there were only five (5) homes approved on substantially substandard lots (less than 3,500 sq. ft.). Since then, the County adopted new development standards for single-family development and a case-by-case merger policy in 2000. These regulations further control development on substandard lots, and since 1997 there has been only one additional home approved on an undeveloped lot less than 3,500 sq. ft. Clearly, the occasional development of substandard lots was anticipated by the LCP, vis-a-vis the Zoning Nonconformities Chapter, does not undermine the projections on which the LCP is based, and will not adversely impact coastal resources.

C. COMPLETE ANALYSIS OF PROJECT COMPLIANCE WITH ALL APPLICABLE POLICIES AND REGULATIONS

The following is a complete analysis of the project's compliance with all applicable regulations, policies and standards as included in the report to the ZHO dated August 19, 2010:

1. Conformance with the County General Plan

Upon review of the applicable provisions of the General Plan, staff has determined that the project complies with all General Plan policies, including the following:

Visual Quality Policy 4.14(a) (*Appearance of New Development*) specifically addresses the requirement to regulate development to promote and enhance good design, site relationships and other aesthetic considerations. The removal of the highest roof/dormer element, including the height reduction of the structure to 22 feet and its lowering further into the topography, establishes a streetscape in keeping with the other two-story structures in the vicinity. The space for light and air is also increased for this site and adjacent structures.

Visual Quality Policy 4.35 (*Urban Area Design Concepts*) calls for new development to maintain and, where possible, improve upon the appearance and visual character of development in urban areas, and to ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality. The structure's height reduction to 22 feet, including improvement on the proposed exterior wall articulation, and the use of earth-tone colors for the project color scheme contribute to the project's compatibility with the neighborhood character.

Urban Land Use Policy 8.38 (*Height, Bulk and Setbacks*) regulates the height, bulk and setback requirements in zoning districts in order to: (1) ensure that the size and scale of development is compatible with parcel size, (2) provide sufficient light and air in and around the structures, (3) ensure that develop-

ment of permitted densities is feasible, and (4) ensure public health and safety. As previously discussed, the proposed project is brought into scale with surrounding development via the reduction of the structure's height to 22 feet, including removal of the highest roof/dormer. Additionally, the overall lot coverage of 30% (1,100 sq. ft.) is less than the maximum allowed of 35% (1,279 sq. ft.), while the total floor area proposed of 48% (1,754 sq. ft.), although at the maximum allowable, mitigates potential mass and bulk for the proposed structure based on the improved articulation of the exterior walls.

Water Supply Policy 10.1 (*Coordinate Planning*) requires the coordination of water supply planning with land use and wastewater management planning to assure that the supply and quality of water is commensurate with the level of development planned in the area. A Coastal Development Permit was approved on November 9, 2005, for a domestic well. Prior to the building permit final sign off, the applicant will be required to obtain a permit from the Environmental Health Division, including re-sampling of the water for iron, manganese and bacteria, to operate the well as a domestic water source, as conditioned (see Condition Number 26). However, consistent with Policy 10.10, conditions have been added requiring connection to the public water system at such time that connections become available from the Montara Water and Sanitary District (MWSD), and a deed restriction requiring connection and abandonment of the well at that time.

Wastewater Policies 11.1 and 11.2 (*Adequate Wastewater Management and Coordinate Planning*) plan for the provision of adequate wastewater management facilities to serve development in order to protect public health and water quality. To assure that the capacity of sewerage facilities is commensurate with the level of development planned for an area, coordination of wastewater management planning with land use and water supply planning is required. The Montara Water and Sanitary District has provided staff with a project review comment indicating that the applicant is required to apply for a sewer permit.

2. Conformance with the Local Coastal Program

Staff has determined that the project, as conditioned, is in compliance with applicable Local Coastal Program (LCP) policies, including the relevant components elaborated as follows:

a. Locating and Planning New Development Component

Locating and Planning New Development Component Policies 1.28 and 1.29(d) (*Legalizing Parcels and Coastal Development Permit Standards of Review for Legalizing Parcels*) state that when issuing a Certificate of Compliance to legalize parcels pursuant to Section 66499.35 of the California Government Code wherein parcels were illegally created

without government review and approval, a Coastal Development Permit is required. On undeveloped parcels created before the Coastal Act of 1976, a Coastal Development Permit shall be issued to legalize the parcel if the parcel configuration will not have any substantial adverse impacts on coastal resources, in conformance with the standards of review of the Coastal Development District regulations. The subsequent discussions further elaborate conformance to these regulations.

b. Visual Resources Component

Visual Resources Policy 8.12(a) (*General Regulations*) requires that the Design Review Zoning District be applied to areas of the Coastal Zone, which applies in this case based on the site's location in the R-1/S-17/DR/CD Zoning District. The project is, therefore, subject to Section 6565.7 of the Zoning Regulations. For further discussion of the revised project's compliance with Design Review standards, see Section 4.

Visual Resources Policy 8.13(a)(4) (*Special Design Guidelines for Coastal Communities*) requires that the design of structures be in scale with the character of their setting and blend rather than dominate or distract from the overall view of the urbanscape. The structure is articulated with exterior walls that are broken up to avoid flat wall planes. The potential mass and bulk are mitigated by the central placement of the second floor, compliant with the requirements of the Coastsides Design Review Guidelines. The proposed colors are earth tones that complement the other neighborhood structures. The front and rear setbacks of 22 feet and 42 feet, respectively, provide adequate open spaces for the narrow lot. The gable roofs are sloped to provide light and air to the parcel and adjacent structures. The materials used, such as lap siding and composite roof shingles, are similar to the other single-family structures in the neighborhood. The driveway and covered garage accommodate off-street parking for two cars. The shadow cast on the adjacent structure's rear yard area is partially mitigated by the height reduction of the second story. The total lot coverage of the proposed development of 30% (1,100 sq. ft.) is below the maximum allowable of 35% (1,279 sq. ft.), while the total floor area proposed of 48% (1,754 sq. ft.), although at the maximum allowable, is adequately proportioned to accommodate a larger first floor area of 1,100 sq. ft. and a 654 sq. ft. second floor area.

Although the CDRC found that the structure required additional lowering into the ground, the height reduction to 22 feet adequately addresses the issues related to the excessive height of the structure, and any additional grading would be inconsistent with one of the 25-foot wide lot policy guidelines and design review guidelines that call for minimizing alteration of the natural topography. In addition, the slope of the parcel is fairly

gentle (5%), so the applicant has few practical options for “stepping” the house with the topography.

3. Conformance with Zoning Regulations

a. Development Standards

The following table summarizes the project’s compliance/non-compliance with the development standards of the R-1/S-17 Zoning District.

DEVELOPMENT REGULATIONS	REQUIRED	PROPOSED
Building Site Area	5,000 sq. ft.	3,656 sq. ft.
Building Site Width	50 ft.	25 ft.* (see Section 6 “Use Permit” discussion below)
Lot Coverage	35% max. (1,279 sq. ft.)	30% (1,100 sq. ft.)
Floor Area	48% max. (1,754 sq. ft.)	48% (1,754 sq. ft.)
Maximum Height of Structure	28 ft.	22 ft.
Minimum Front Yard Setback	20 ft.	22 ft.
Minimum Side Yard Setback	Min. 5 ft., Combined 15 ft.	Min. 3 ft., Combined 8 ft.
Minimum Rear Yard Setback	20 ft.	42 ft.
Parking	2 spaces covered	1 covered/1 uncovered (see section below for compliance clarification)
*Development on an unimproved non-conforming parcel that is less than 35 feet wide where 50 feet is the required minimum lot width that requires a use permit per Section 6133.3.b(1)(a) of the County Zoning Regulations.		

- b. The San Mateo County Planning Commission adopted a policy containing guidelines for construction on 25-foot wide residential lots within R-1/S-17 Zoning Districts, in order to curtail overbuilding and to ensure that proposed structures are in scale with their subject parcels.

The proposed two-story structure complies with all applicable guidelines for 25-foot wide lots as indicated in the subsequent table:

ZONING REGULATIONS	REQUIREMENT	PROPOSAL
Minimum Front Setback (First Story)	20 ft.*	22 ft.
Minimum Front Setback (Second Story)	35 ft.	35 ft.
Minimum Rear Setback	20 ft.*	42 ft.

ZONING REGULATIONS	REQUIREMENT	PROPOSAL
Minimum Side Setbacks (First Story)	3 ft. on left side 5 ft. on right side	3 ft. on left side 5 ft. on right side
Minimum Side Setbacks (Second Story)	Combined total of 10 ft.	5 ft. on left side 5 ft. on right side 10 ft. total
Maximum Height	28 ft.*	22 ft.
Parking	1 covered/1 uncovered	1 covered/1 uncovered
*S-17 Development Standards.		

4. Conformance with Design Review District Standards

The Coastside Design Review Committee (CDRC) considered the project at a regularly scheduled CDRC meeting on April 8, 2010, and adopted the findings to recommend approval of the project as elaborated below:

- a. The proposed two-story structure is designed and situated to retain and blend with the natural vegetation and landforms of the site and ensures adequate space for light and air to itself and adjacent properties because of the adequate setbacks proposed and additional lowering of the structure into the existing topography (Sections 6565.20(C)1.a and b, 2.a, (D)1.a).
- b. Only minimal grading is necessary for the construction of the project (Section 6565.20(C)1.b, 2.a).
- c. No streams and other natural drainage systems are located on the project site (Section 6565.20(C)1.c).
- d. The project site is located in Flood Zone C which is designated as an area of minimal flooding (Section 6565.20(C)1.c).
- e. No trees are proposed for removal (Section 6565.20(C)1.a).
- f. A smooth transition is maintained between development and adjacent open areas because of the adequate landscaping proposed, including replacement of the Fremontodendron (flannel bush) to a more suitable coastal species, as conditioned (Section 6565.20(C)1.e).
- g. No views are negatively impacted by the proposed two-story structure because of the structure's height reduction (Section 6565.20(C)2.b).
- h. The project site is not located on a ridgeline (Section 6565.20(C)1.d).
- i. The project site is not located on a bluff or cliff (Section 6565.20(C)1.d).

- j. The project site is not located on a shoreline (Section 6565.20(C)1.d).
- k. The proposed earth-tone colors for the composite shingles for the roof, cedar siding for the exterior walls and cedar trims for all fenestration make the project compatible with various architectural styles of the neighborhood (Section 6565.20(D)2, 3, 4).
- l. The reduction in height and proper articulation of exterior walls that reduce mass and bulk harmonize the structure with the existing neighborhood design context (Section 6565.20(D)1.b, 1.c, 2.a).
- m. Installation of utility lines underground reduces the visual impact in open and scenic areas (Section 6565.20(G)).
- n. Installation of pervious materials for all on-site hardscape areas reduces visual impacts (Section 6565.20(F)2).

The project is also subject to additional policy guidelines for 25-foot wide lots, including the following:

- a. As much as possible, site new buildings on a parcel in locations that: (a) minimize tree removal, (b) minimize alteration of the natural topography, and (c) minimize alteration of streams and natural drainage channels. No trees are proposed for removal. Neither streams nor drainage channels exist on-site. As previously indicated, the natural topography is maintained based on the minimal grading proposed.
- b. Design buildings with shapes that respect and conform to the natural topography of the site by requiring them to step up or down hillsides in the same direction as the natural grade. The site is gently sloping (5%), so minimal grading is required for the structure to conform to the contour of the land.
- c. Design well-articulated and proportioned facades by: (a) creating aesthetic and proportioned patterns of windows and shadows, (b) relating the size, location, and scale of windows and doors to adjacent buildings to avoid intrusion into the privacy of adjacent structures, and (c) using trees and shrubs to soften the abrupt wall and rooflines of the residence. Dimensions of proposed fenestrations are well proportioned to the overall structure, including mitigation of potential privacy impacts via their proper placement and well-articulated facades.
- d. Design buildings using pitched roofs with architectural styles that blend with the immediate area. The gable roof design is compatible with the existing neighborhood context.

- e. Make varying architectural styles compatible by using similar materials and colors compatible with the natural setting and the immediate area. The use of wood siding, composite roof shingles and earth-tone colors is consistent with other structures in the neighborhood.

5. Conformance with Subdivision Regulations

A Conditional Certificate of Compliance (CoC) is required to legalize parcels in compliance with provisions of the County and State subdivision laws in effect at the time of creation. This process is required before new development can proceed which in this case is the construction of the new single-family residence.

As a result of recent court case decisions, the subject parcel's legality must be confirmed because it is an undeveloped parcel of an antiquated subdivision, in this case, Lot 3, Block 11 of the "Farralone City Resubdivision" recorded in 1907. The County Subdivision Regulations, Section 7134, allow for either a CoC (Type A) or CoC (Type B) to resolve and confirm a parcel's legality. To qualify for a CoC (Type A) (pursuant to Section 7134.1), relative to the cited court cases, it must be confirmed that the subject parcel was conveyed separately from any surrounding parcels prior to the County's adoption of its first Subdivision Ordinance in July 1945. Otherwise, if such conveyance is determined to have occurred after that date, a CoC (Type B) (pursuant to Section 7134.2) shall be required, as is the case with this application.

While subject Lot 3 was initially part of the cited "Farralone City Resubdivision" recorded in 1907, it continued to be conveyed together with adjacent parcel(s) until November 25, 1946. Only at that time was there a separate conveyance from surrounding adjacent lots, thus triggering the need for the CoC (Type B). Section 7134.2.c allows for the approval and recordation of a CoC subject to a public hearing, and as conditioned to ensure that development on the parcel complies with public health and safety standards.

Regarding conditions of approval, Section 7134.2.c(a) of the County Subdivision Regulations states that the Community Development Director may impose "any conditions which would have been applicable [to the division] at the time the applicant acquired his or her interest in the property, and which had been established at the time of the Map Act or the County Subdivision Regulations." The zoning of this parcel and surrounding Montara area was R-1 in 1946 (having first been zoned in 1941).

At that time, minimum parcel size was 5,000 sq. ft. Parcels of a lesser size were acceptable if they were "shown on a lot on any subdivision map which was recorded in the office of the County Recorder ... of San Mateo County." Aside from the need to confirm the subject parcel's legality pursuant to the previously cited court case, this parcel was shown as Lot 3 of Block 11 of the

Farralone City Resubdivision, recorded in San Mateo County Records on May 20, 1907. Additionally, the roadway, sanitary and energy infrastructure exists within the road right-of-way in this predominantly developed and improved subdivision in Montara. Given these facts, along with the nature and intent of the previously-cited court cases mandating that this parcel's legality be confirmed, there are no additional improvements (typical of an urban subdivision) that must be required via conditions. The only additional and applicable improvements (i.e., building permits, sewer connection and energy line laterals from the street to a future house) will be triggered and required at the time of the submittal and issuance of those respective permits. Thus, the Community Development Director, pursuant to subsection (c) of the above-cited section, stipulates that "compliance with the conditions of the Conditional Certificate of Compliance is not required until the time which a permit or other grant of approval for development of the property is issued by the County."

6. Conformance with Use Permit Findings

Staff's recommendation to approve the project is based on findings pursuant to Section 6133.3.b(3) of the San Mateo County Zoning Regulations elaborated as follows:

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

The lot coverage and floor areas remain compliant with the S-17 development standards. The total lot coverage of the proposed development of 30% (1,100 sq. ft.) is below the maximum allowable of 35% (1,279 sq. ft.), while the total floor area proposed of 48% (1,754 sq. ft.) although at the maximum allowable, mitigates potential mass and bulk for the proposed structure based on the improved articulation of the exterior walls. The structure is also adequately proportioned to accommodate a larger first floor area of 1,100 sq. ft. and a 654 sq. ft. second floor area.

- 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.

Upon investigation of potential properties available for purchase, the applicant determined that there were none available and, therefore, was unable to further mitigate the parcel size non-conformity via parcel mergers.

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

The proposed development conforms with the existing zoning regulations in as many ways as possible for the development of a small parcel and all zoning non-conformance comply with the County's Policy for Construction on Non-Conforming (25-foot wide) Residential Parcels.

- 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 said neighborhood.

The proposed height reduction to 22 feet, the improved wall articulation and proposed adequate setbacks bring the structure into scale with the established neighborhood design context and the above finding can now be made.

- e. Use permit approval does not constitute a granting of special privileges.

The use permit would allow the use of this parcel for residential development in keeping with the rest of the parcels in this residential neighborhood.

D. ALTERNATIVE

As previously discussed in Section A, at the October 26, 2011, Planning Commission meeting, the Commission considered the appeal to reverse the Zoning Hearing Officer's approval of the project. Based on their underlying concerns related to mass and bulk of the proposed home that were left unresolved at this meeting, the public hearing was continued to March 28, 2012. The Planning Commission also made the following recommendations to be incorporated into the project redesign to address their concerns:

- Lower the structure by at least 1 foot into the grade.
- Step the proposed home down with the topography.
- Improve articulation on all first floor elevations.
- Reduce the second story's mass and bulk.
- Increase conformity with homes on the west side of Main Street, and with two-story homes across the street.
- Reduce floor area and lot coverage below maximum limits.
- Improve design flow.
- Change the rear gable roof to a hip roof to further soften the rear façade.

Based on these recommendations, the applicant submitted revised plans on February 28, 2012, that included the following changes:

1. Lowered the structure into the topography by an average of 2 feet.

2. Stepped roof lowered by an average of 1.9 feet.
3. Changed primary roof design from gable to hip.
4. Interior step down for the first floor areas.
5. Ten percent (10%) sloped ramp for pedestrian access to front entry.
6. Removed the second floor deck above the garage to reduce the total floor area and lot coverage.
7. Provided additional articulation on the elevations that include larger windows and a side entry that are more in scale.
8. Reduced rear profile of the second floor area.
9. Reduced lot coverage and floor area.

The reduction of the second story mass and bulk was achieved as a result of the stepped down roof configuration, including the lowering of the structure further into the topography by an average of 2 feet. The maximum roof height was also lowered from 22 feet to 20 feet based on this revised stepped roof design.

The roof redesign from gable to hip also contributed in softening the bulk of the second story. The interior floors were lowered in order to adjust to the step down into the topography. A sloped ramp remains as the accessway to the front entry of the house. The removal of the second floor deck above the garage reduced the floor area and lot coverage while at the same time improved the front elevation's visual impact. The first floor window sizes were adjusted to introduce better scale and proportion to the entire structure. The new side entry at the left side elevation also added to the breakup of this wall plane. The rear second story's visual impact was also reduced by the use of a hip roof.

In short, the placement of the two-story residence further down into the topography, reductions in lot coverage and floor area, stepped down roof configuration, enhanced side façade articulations, and the rear hip roof redesign, taken together as a whole, adequately addressed the issues of mass and bulk.

To illustrate the changes in design, staff prepared drawings showing the previous version superimposed against the redesigned two-story structure shown in Attachment J. The illustrations clearly indicate the reduction of the previously proposed two-story structure's mass and bulk in keeping with the Commissioners' recommended directives.

In addition, based on one of the Commissioner's recommendation, staff also prepared a street cross-section showing the two-story residence directly across from the subject site (see Attachment K).

Based on these revisions, staff had determined that the project, as redesigned and presented to the Planning Commission at the March 28, 2012 meeting, complies with all applicable regulations, policies and standards.

E. ENVIRONMENTAL REVIEW

This project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15303, Class 3, related to new construction of small structures, including single-family residences in a residential zone.

F. REVIEW BY THE MIDCOAST COMMUNITY COUNCIL

The Midcoast Community Council did not forward a response to staff's referral for this project.

G. REVIEW BY THE CALIFORNIA COASTAL COMMISSION

The California Coastal Commission did not forward a response to staff's referral for this project.

H. OTHER REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Environmental Health Division
Coastside Fire Protection District
Montara Water and Sanitary District

County Counsel has reviewed and approved the materials as to form.

The approval of the Use Permit, Coastal Development Permit, Design Review and Certificate of Compliance (Type B) for a new single-family residence contributes to the 2025 Shared Vision outcome of a Livable Community through compliance with General Plan Visual Quality Policies requiring new development to maintain and, where possible, improve upon the appearance and visual character of development in urban areas, and to ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality.

FISCAL IMPACT:

No fiscal impact.

ATTACHMENTS:

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Project Plans
- D. Appeal Submittal
- E. Planning Commission Decision Letter, dated March 29, 2012
- F. "Development of Substandard Residential Parcels in the Urban Midcoast," 1998
- G. ZHO Decision Letter, dated August 27, 2010
- H. Site Photos

- I. Project Chronology
- J. Design Submittal Comparisons
- K. Street Section View of Main Street

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit File Number: PLN 2006-00155

Board Meeting Date: June 26, 2012

Prepared By: Dennis P. Aguirre, Project
Planner

For Adoption By: Board of Supervisors

RECOMMENDED FINDINGS:

Regarding the Environmental Review, Find:

1. That the proposed project is categorically exempt pursuant to Section 15303, Class 3, of the California Environmental Quality Act related to new construction of small structures, including single-family residences in a residential zone.

Regarding the Coastal Development Permit, Find:

2. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.4 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program (LCP) based on compliance with parcel legalization policies, visual resources policies, Coastside Design Review Standards, maintenance of site topography based on minimal grading, and the structure's height reduction to 22 feet.
3. That the project conforms to specific findings required by policies of the San Mateo County Local Coastal Program since it complies with the Locating and Planning New Development and Visual Resources Policies. The parcel configuration will not have any substantial adverse impacts on coastal resources. Also, the project will not be visually obtrusive when viewed within the neighborhood vicinity and scenic highway.

Regarding the Design Review, Find:

4. That with the conditions of approval recommended by the Coastside Design Review Committee at its meeting of April 8, 2010, the project is in compliance with the Design Review Standards for the Coastside including:
 - a. The installation of recessed downward exterior lighting fixtures.
 - b. Submittal of manufacturer's lighting cut sheets for said fixtures.

- c. Replacement of originally proposed “Fremontodendron” plant to a more suitable coastal species.

Regarding the Certificate of Compliance (Type B), Find:

5. That the processing of the Certificate of Compliance (CoC) (Type B) is in full conformance with the County Subdivision Regulations Section 7134 (*Legalization of Parcels; Certificate of Compliance*) particularly Section 7134.2(a), (b), and (c).
6. That the processing of the Conditional CoC (Type B) is in full conformance with Government Code Section 66499 et seq.

Regarding the Use Permit, Find:

7. Pursuant to Section 6133.3.b(3) of the San Mateo County Zoning Regulations:
 - a. That the proposed development is proportioned to the size of the parcel on which it is being built. The total lot coverage of the proposed development of 30% (1,100 sq. ft.) is below the maximum allowable of 35% (1,279 sq. ft.), while the total floor area proposed of 48% (1,754 sq. ft.) although at the maximum allowable, mitigates potential mass and bulk for the proposed structure based on the improved articulation of the exterior walls. The structure is also adequately proportioned to accommodate a larger first floor area of 1,100 sq. ft. and a 654 sq. ft. second floor area.
 - 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. Upon investigation of potential properties available for purchase, the applicant determined that there were none available and, therefore, was unable to further mitigate the parcel size non-conformity via parcel mergers.
 - c. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible. The proposed development conforms with the existing zoning regulations in as many ways as possible for the development of such a small parcel and all non-conformance is addressed in the County’s Policy on Use Permits for Construction on Non-Conforming (25-foot wide) Residential Parcels.

- 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 said neighborhood. The proposed height reduction to 22 feet, the improved wall articulation and proposed adequate setbacks bring the structure into scale with the established neighborhood design context and the above finding can now be made.
- e. That the use permit approval does not constitute a granting of special privileges. The use permit would allow the use of this parcel for residential development in keeping with the rest of the parcels in this residential neighborhood.

RECOMMENDED CONDITIONS OF APPROVAL:

Current Planning Section

1. The project shall be constructed in compliance with the plans approved by the Zoning Hearing Officer on August 19, 2010 and upheld by the Board of Supervisors on June 26, 2012. Any changes or revisions to the approved plans shall be submitted to the Design Review Officer for review and approval prior to implementation. Minor adjustments to the project may be approved by the Design Review Officer if they are consistent with intent of and are in substantial conformance with this approval. Alternatively, the Design Review Officer may refer consideration of the revisions to the Coastside Design Review Committee, with applicable fees to be paid.
2. Prior to Planning approval and issuance of a building permit, the Certificate of Compliance (Type B) shall have been recorded.
3. A County-improved roadway providing access to the parcel already exists, as does a main sanitary sewer trunk line within the roadway, as does a County-approved well for the provision of a domestic water source. The applicant shall be responsible for a sanitary sewerage lateral connection and power connection at the time of a building permit submittal for the residence, with all cited services and improvements confirmed prior to the Building Inspection Section's final inspection approval of the building permit.
4. The applicant shall include the approval letter on the top pages of the building plans. This would provide the Planning approval date and its contents on the on-site plans.
5. The applicant shall submit the following items and/or indicate the following on plans submitted for a building permit, as stipulated by the Coastside Design Review Committee.
 - a. Recessed downward exterior lighting fixtures.

- b. Manufacturer's lighting cut sheets for said fixtures.
 - c. Replacement of originally proposed "Fremontodendron" plant to a more suitable coastal species.
6. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site.
- a. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.
 - b. This datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).
 - c. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades.
 - d. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof, and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).
 - e. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height--as constructed--is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
 - f. If the actual floor height, garage slab, or roof height--as constructed--is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Building Official and Community Development Director.

7. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
 - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
 - c. Removing spoils promptly and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
 - f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.
8. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. This plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
9. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.
10. 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 respective Fire Authority.
11. No site disturbance shall occur, including any grading or tree removal, until a building permit has been issued, and then only those trees approved for removal shall be removed.
12. To reduce the impact of construction 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 right-of-way on Main Street. All construction vehicles shall be parked on-site outside the public right-of-way or in locations which do not impede safe access on Main Street. There shall be no storage of construction vehicles in the public right-of-way.
13. The exterior color samples submitted to the Design Review Committee are approved. Color verification shall occur in the field after the applicant has applied the approved materials and colors but before a final inspection has been scheduled.
14. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
15. Installation of the revised landscape plan is required prior to final building permit inspection.
16. Installation of pervious pavers for driveway and parking areas is required prior to final building permit inspection.
17. Prior to Planning approval of the building permit, the applicant shall record a Deed Restriction, to the satisfaction of County Counsel and the Planning and Building Department, that requires the applicant and any successor in interest to abandon all on-site existing wells, in a manner consistent with Environmental Health requirements and connect to the public water system (Montara Water and Sanitary District (MWSD)) within 90 days of date on which a connection becomes available.
18. Prior to the issuance of a building permit, water connection plans and a description of the availability of a water connection shall be included as part of a building permit application. In the event that a water connection from MWSD is available, the following requirements apply:

- a. If a domestic well has been approved for this project, but not yet installed, the applicant and any successor in interest shall discontinue all applicable Building and Environmental Health well permit/certification applications, and forgo construction of the well.
- b. Alternatively, if a domestic well already exists on-site, the applicant and any successor in interest shall be required to abandon the well, consistent with Environmental Health requirements and connect to the MWSD's water system.

Building Inspection Section

19. Prior to pouring any concrete for foundations, written verification from a licensed surveyor will be required confirming that the setbacks, as shown on the approved plans, have been maintained.
20. An automatic fire sprinkler system will be required. This permit must be issued prior to, or in conjunction with the building permit.
21. If a water main extension, upgrade or hydrant is required, this work must be completed prior to the issuance of the building permit or the applicant must submit a copy of an agreement and contract with the water purveyor that will ensure the work will be completed prior to finalizing the permit.
22. A site drainage plan will be required that will demonstrate how roof drainage and site runoff will be directed to an approved location.
23. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
24. This project shall comply with the Building Inspection Section's most current version of its Green Building Regulations.

Department of Public Works

25. 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.
26. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.

27. The applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed development and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off the property being subdivided shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the street improvement plans and submitted to the Department of Public Works for review and approval.

The analysis shall also address mitigation measures to avoid potential flooding to nearby properties which may be caused by failure of pump and/or storage systems.

Environmental Health Division

28. Prior to the building final, the applicant shall obtain a permit to operate the well as a domestic water source.

Coastside Fire Protection District

29. The applicant shall comply with all conditions required by the Coastside Fire Protection District.

Montara Water and Sanitary District

30. Prior to the building final, the applicant shall obtain a sewer permit from Montara Water and Sanitary District.