



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: August 20, 2012
Board Meeting Date: September 11, 2012
Special Notice / Hearing: Newspaper 10-Day
Notice/Property Owners
Vote Required: 4/5ths

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Community Development Director

Subject: Public hearing to consider (1) an Urgency Ordinance extending the Interim Ordinance amending, on an interim basis, the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 20, "S" (Combining Districts) to add the "S-75" Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District, for a period of one year or until such time that the revised S-75 Combining District (Weekend Acres) provisions in the San Mateo County Ordinance Code (Zoning Annex) becomes effective, whichever comes first; and (2) an Ordinance amending the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 1, General Provisions, to add the definitions of Top of Side Slope and Ordinary High Water Level and renumber the definition of Top Soil; and Chapter 20, "S" (Combining Districts) to add the "S-75" Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District.

County File Number: PLN 2011-00305 (Weekend Acres)

RECOMMENDATIONS:

Public hearing to consider:

1. Adoption of an Urgency Ordinance extending the Interim Ordinance amending, on an interim basis, the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 20, "S" (Combining Districts), to add the S-75 Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District, for a period of one year or until such time that the revised S-75 Combining District (Weekend Acres) provisions in the San Mateo County Ordinance Code (Zoning Annex) becomes effective, whichever comes first (4/5ths vote required).

2. Adoption of the required Findings in Attachment A.
3. Adoption of an ordinance amending the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 1, General Provisions, to add the definitions of Top of Side Slope and Ordinary High Water Level and renumber the definition of Top Soil; and Chapter 20, "S" (Combining Districts) to add the "S-75" Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District.

BACKGROUND:

Planning Commission Action: On July 25, 2012, the Planning Commission (the Commission) recommended that the Board of Supervisors adopt the proposed amendments to the San Mateo County Ordinance Code, by a vote of 3-0-0-1 (Commissioner Hansson recused himself). The Commission also asked for a report back on Design Review and garage/front setback issues in the area within six to twelve months, and referred the matter of the official name for the area to the County staff committee on naming conventions for unincorporated areas. Prior Planning Commission and Board of Supervisors activities on this issue are further discussed in the History/Timeline section later in this report.

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Existing Zoning: R-1/S-75 (prior zoning was R-1/S-7)

General Plan Designation: Medium Density Residential (Urban)

Land Use: Predominantly single-family homes, and a golf course

APNs: Various

Location: Unincorporated Weekend Acres area, also referred to as Stanford Weekend Acres, vicinity of Alpine Road and Junipero Serra Boulevard

Setting: Weekend Acres is bounded to the west by Alpine Road, unincorporated lands that are home to the Stanford Linear Accelerator Center (SLAC), and the City of Menlo Park. The eastern boundary of Weekend Acres is San Francisquito Creek, which also forms a boundary between the County of San Mateo and Santa Clara County. On the Santa Clara County side of the creek lie unincorporated lands that are part of Stanford University holdings, including a portion of the Stanford University Golf Course.

Environmental Review: Planning staff concludes that the proposal for amending the S-75 regulations as presented herein will have no significant effect on the environment, and that the General Rule would apply. See Section D for further discussion of environmental issues.

HISTORY AND TIMELINE (Partial)

Over a period of time, members of the public and County staff identified shortcomings in the provisions of the San Mateo County Zoning Regulations addressing the R-1/S-7 Zoning District provisions for the Weekend Acres area. Specifically, the S 7 combining district regulations that historically governed development in Weekend Acres imposed minimal building height and bulk limitations. Height was limited to three stories/36 ft. and bulk was limited only by maximum lot coverage and setbacks. There were no regulations for daylight plane or for maximum floor area. These regulations allowed a type and intensity of development in the area that was inconsistent with the single-family residential character of the Weekend Acres neighborhood and that could adversely affect the privacy and available sunlight of neighboring residences. Planning staff concluded that these possible outcomes were contrary to the General Plan requirements that development in urban areas be designed to contribute to the orderly and harmonious community growth of the locality (Policy 4.35.b); and that the County should regulate height and bulk in zoning districts in order to ensure that the size and scale of development is compatible with parcel size (Policy 8.38). In response to these concerns, the Board of Supervisors (the Board) directed the Planning Department to develop interim regulations to temporarily restrict development in Weekend Acres, and to study and propose regulations that address the issues identified above.

- On October 4, 2011, the Board adopted an Urgency Ordinance under California Government Code to prohibit the issuance of building permits for the construction of new or major remodel single-family residences in the Weekend Acres area. The Board also directed staff to consider interim regulations modifying the R-1/S-7 Zoning District in the Weekend Acres area, and to report back within 45 days.
- On October 20, 2011, Planning and Building Department staff met with approximately 35 residents to discuss the interim regulations. Neighborhood leaders had also circulated an informal survey, independent of County Planning Department staff, asking about support for updating the zoning regulations in the area. Public comment at this meeting is discussed further under the Public Comment Section of this report.
- On November 15, 2011, the Board lifted the moratorium on building permits and adopted the interim S-75 combining district regulations. These regulations reduced the maximum allowable building height from three stories/36 ft. to two stories/28 ft. and introduced Floor Area Ratio (FAR) and daylight plane requirements in Weekend Acres.

This combining district is relatively simple in its requirements and is similar to other relatively recently adopted “S” combining district regulations for other parts of the unincorporated County, including West Menlo Park and the Sequoia Tract/ Selby Neighborhood. Other than the standards explained above, these S-75 District requirements are the same as those that previously existed under the S-7 district regulations. The S-75 Regulations established maximum bulk and size

limits on homes in this area, so that future development would be more in character with the context of the surrounding residential neighborhood and proportionate to the size of the parcel, as required in the General Plan.

The S-75 Regulations were adopted as an Urgency Interim Ordinance under California Government Code. The Ordinance setting forth the S-75 Regulations is effective for 10 months and 15 days, that is, until the end of September 2012. It may be extended for an additional 12 months. This issue is discussed further under Section A of this report. The Board also directed staff to develop non-interim zoning regulations for the Weekend Acres area, preferably within the period allowed by the Urgency Interim Ordinance.

- On January 11, 2012, the Planning Commission held a public workshop on Weekend Acres zoning. Public comment at this meeting is discussed further under the Public Comment section of this report.

At this hearing, the Commission directed Planning staff to conduct additional research and provide additional information to address the following: (1) provide more information about flood risk on San Francisquito Creek, (2) provide more information on where existing buildings stand in relation to a possible creek setback, (3) provide more information on the creek setback ordinances of neighboring jurisdictions, (4) explore the issue of having two (or more) zoning districts for the area, including the potential development standards for these districts, and the options for boundaries of the two districts, (5) explore the pros and cons of a two-story height limit, as established by the interim regulations, compared to a three-story limit, or no limit and (6) explore other development standards to limit the bulk of houses in addition to FAR (for example, additional daylight plane or front setback restrictions). One Commissioner also asked for information on the possibility of design review for the area. Furthermore, one Commissioner stated opposition to pursuing the net lot area tool, while another expressed interest in it. Finally, the Commission stated a preference for simplicity in the amended zoning regulations, and a dislike for overly complicated proposals.

- On February 8, 2012, the Planning Commission had a field trip to Weekend Acres. At least 10 members of the public attended, in addition to three Planning Commissioners, several Board of Supervisors' aides, and Planning staff. Several property owners gave the Commissioners a tour of their lots along the creek, and the Commissioners were able to observe the creek in relation to the existing homes at several locations. It was observed that there are a number of properties where existing structures (homes, but more often decks or patios) are within approximately 5 ft. or less of the top of creek bank. It was also observed that there are several homes in the area that are three stories in height, although the vast majority is one or two-story homes.

- On July 25, 2012, the Planning Commission recommended that the Board of Supervisors adopt the proposed amendments to the San Mateo County Ordinance Code, by a vote of 3-0-0-1 (Commissioner Hansson recused himself).

DISCUSSION:

A. EXTENDING THE URGENCY INTERIM ORDINANCE

On November 15, 2011, the Board adopted the interim S-75 combining district regulations. The S-75 Regulations were adopted as an Urgency Interim Ordinance under the provisions of Section 65858 of the California Government Code, which authorizes the County to adopt as an urgency measure an Interim Ordinance prohibiting uses that may be in conflict with a contemplated zoning proposal that the County is considering or studying or intends to study within a reasonable period of time. The Ordinance setting forth the S-75 Regulations is effective for 10 months and 15 days, that is, until the end of September 2012. It may be extended for an additional 12 months.

The Board also directed staff to develop non-interim zoning regulations for the Weekend Acres area, preferably within the period allowed by the Urgency Ordinance. Staff, upon recommendation of the Planning Commission, is able to present the requested amendments to the Board for consideration. However, even if acted upon by the Board on September 11, 2012, they will not go into effect until after the Urgency Ordinance expires on September 30, 2012. California Government Code Section 25123 states that an ordinance shall become effective 30 days from the date of final passage, excepting urgency ordinances. If the Board adopts the recommended ordinance today, it will not go into effect for 30 days, that is, October 11, 2012. As the Urgency Ordinance expires September 30, 2012, there would be a period during which neither the Urgency Ordinance nor the new regulations would apply.

For this reason, staff is recommending that the Board extend the Urgency Interim Ordinance for one year, as allowed by state law, to cover this gap. Once the non-interim regulations go into effect on October 11, 2012, the Urgency Interim regulations would no longer have the force and effect of law.

B. KEY ISSUES IN AMENDING THE ZONING REGULATIONS

1. Background: Existing Development Pattern and Potential

- a. Parcel Size: There are approximately 135 parcels in Weekend Acres. Of these, approximately 15 are less than 5,000 sq. ft. in area (i.e., are substandard). Approximately 45 lots (about 1/3 of the total) exceed 10,000 sq. ft. in area, and could theoretically be subdivided and subsequently developed, depending on the particulars of the parcel, among other considerations. Of these 45 larger lots, approximately 15 lots exceed 20,000 sq. ft., which could theoretically be subdivided

into four (or more) lots, but of these, only about 10 of these are individually owned, the remainder being owned by Stanford University or by public entities.

- b. House Size: Approximately 100 of the parcels in Weekend Acres are developed with homes. Of these, only four exceed 4,100 sq. ft. of floor area, and all of these have Sneckner Court addresses. Many lots, especially on Bishop and Homer Lanes, but also on Alpine Road, are quite large (over 7,000 sq. ft.), and often contain a relatively small home (less than 1,000 sq. ft.). These lots could be attractive for redevelopment with larger homes, even with FAR limits imposed. In addition, there are many homes on both Stowe Lane and on Sneckner Court, as well as elsewhere in Weekend Acres, which have existing one-story homes that might be attractive for development with a second story addition.

2. Development Standards – Recommended Changes

A number of development standards have been discussed at public hearings and workshops over the past months. The recommendation to the Board uses the existing interim S-75 ordinance as a base, and also takes into account the particulars of the Weekend Acres area, consistent with the General Plan and other policies and legal requirements, professional best practice, input from the public, and direction from the Planning Commission. The recommended zoning changes relate to creek setback definitions and regulations, Floor Area Ratio (FAR), and maximum number of building stories.

- a. Creek Setback: Definitions: In developing a setback regulation for San Francisquito Creek, one necessary consideration is the point from which the setback is measured. This is typically referred to as ‘top of side slope’ or ‘top of bank.’ A number of model definitions in different localities were examined by staff, including the California Public Resources Code, the neighboring community of Portola Valley, and localities which have conducted extensive research on the topic, such as Portland, Oregon. Planning staff developed definitions based in part on the definitions used in these other regulations, while also taking into account the unique aspects of San Mateo County’s zoning and development standards and process. The results are two new definitions to the Zoning Code as recommended by the Planning Commission.

“Top of Side Slope: The first major transitional change in the slope of the incline from the ordinary high water level of a water body to the surrounding terrain. In a case where there is a step-like feature at the top of side slope,

the landward edge of the topmost riser shall be taken to be the top of side slope. The top of side slope must be delineated by a licensed surveyor (or engineer, architect, or landscape architect) and approved by the Community Development Director or his/her designee. In cases where the top of side slope is difficult to determine or does not exist, then a distance of 5 ft. from the ordinary high water level shall be considered the top of slope. This definition does not apply within the Coastal Zone, until and unless adopted as part of a Local Coastal Program Amendment.”

“Ordinary High Water Level: A line on a creek or river bank that reflects the normal high water mark experienced over time. The Ordinary High Water Level is usually about 3-4 ft. above the normal base water flow. The ordinary high water mark must be identified by a licensed surveyor (or engineer, geologist, or landscape architect), consistent with the Army Corps of Engineers standards, and approved by the Community Development Director or his/her designee.”

The Planning Commission, at its July 25, 2012 hearing, recommended amending the zoning code to include these new definitions.

b. Creek Setback Requirements

Background: There are approximately 45 parcels (out of 135, total) in Weekend Acres with frontage along San Francisquito Creek, not including parcels from an antiquated subdivision that underlie the Stanford University Golf Course. Parcels with creek frontage range in depth from approximately 50 ft. to more than 330 ft. A typical lot depth is in the range of 120 to 300 ft. On any given parcel, some portion of this lot depth – often a fairly large portion – may lie below the top of bank, as the property lines generally run to the creek centerline.

At the October 2011 community meeting, only 2 of 32 (6%) of those polled wanted requirements for setbacks from San Francisquito Creek to be included in the interim regulations. However, there was discussion and broad agreement that the issue should be examined as part of the revised regulations for the Weekend Acres area, which is the current topic under consideration.

In the surveys that were completed and returned to the Planning Department at the October 2011 meeting, 25 of 37 respondents (about 2/3) were in favor of creekside impact regulations, and the remaining 1/3 were opposed. This survey did not ask respondents to specify

what the setback should be. However, at least two respondents volunteered a response, specifically favoring a 15-ft. from top of bank setback requirement.

At the January 11, 2012 Planning Commission public workshop, another set of 26 petitions/surveys was submitted to the Commission by a different group of residents. Twelve respondents (slightly less than half) stated that they were opposed to any creek setbacks, while 14 (slightly more than half) stated that they were in favor of a creek setback not to exceed 15 ft. The question of a deeper creek setback was not asked on these surveys. At the workshop, many speakers also addressed the Commission regarding the creek setback issue. At least five speakers specifically favored a 15-ft. creek setback requirement, while at least three speakers specifically mentioned a 25-ft. setback.

Board of Supervisors Resolution 26249 states that “no construction ... of any structure ... shall be allowed within the channel of San Francisquito Creek or within **15 ft.** of the top of the side slopes of said creek without a permit for such work having been issued by the San Mateo County Flood Control District.” The resolution further states that such a permit may be issued subject to certain criteria, including that the proposed construction will not reduce the channel width, flood hazard, and the potential for damage to neighboring properties. This regulation provides clear authority requiring a 15-ft. setback from the top of bank of the San Francisquito Creek. This regulation is included as Attachment E.

The County General Plan also provides some policy direction regarding creek setback requirements. San Francisquito Creek, in the Weekend Acres area, is not mapped in the General Plan as a sensitive habitat nor as a riparian corridor. However, the Plan has identified this perennial stream as a corridor for salmon and trout, albeit one that is currently blocked in a number of locations, preventing passage of these fish. In addition, much of Weekend Acres is mapped as a dam failure inundation zone below the Searsville Lake on the General Plan Natural Hazards Map, as shown on Attachment F. General Plan Policy 15.12 directs the County to determine where precautions should be undertaken during review of development proposals due to the presence of such natural hazards, and requires design of appropriate mitigation when development is proposed in these areas. These policies give sufficient health and safety related General Plan policy guidance to justify a creek setback requirement for San Francisquito Creek. Creek setback regulations can mitigate the risk of hazards from flooding and from potential creekbank failure.

Creation of a creek setback should be balanced by consideration of other development consequences of such action. The larger the required setback from the creek, the more new development will be pushed toward the front of the lot. This would tend to increase the mass of homes closer to the front setback line that might otherwise have been set further back on the lot. In addition, locating homes closer to the front setback will require the removal of more existing mature trees and vegetation in the front part of lots that would otherwise help to screen new development from public view.

Based on input provided at public hearings and in written surveys and petitions, there appears to be significant support for a creekside setback regulation among existing Weekend Acres residents. Depending on the date and survey method, neighborhood support for a creek setback has varied from roughly 1/2 to about 2/3 of those responding. Of those favoring a creek setback requirement, there have consistently been more individuals expressing support for a 15-ft. setback requirement than for a 25-ft. or greater setback requirement.

A 15-ft. setback requirement has the virtue of consistency with existing County policy, specifically Board of Supervisors Resolution 26249. In addition, a 15-ft. setback would create fewer non-conforming structures than a 25-ft. setback, and would do less to push future development towards the front of lots. A 15-ft. setback requirement would also be consistent with General Plan policies relating to natural hazards.

In addition, staff recommends that in the interest of clarity and consistency, the following existing policy be restated as part of the S-75 regulations:

“Construction within the channel and on the banks of San Francisquito Creek, including the construction or creation of any structure, not including a building, including the placing of rubble, dirt or other such materials, is regulated by Board of Supervisors Resolution 26249, adopted April 15, 1969.”

Staff, thus, proposes cross-referencing the existing resolution, whose approval authority is the Flood Control District, rather than readopting the entire resolution as part of the Zoning Regulations. (See Attachment E for full original Resolution.)

At the July 25, 2012 Planning Commission hearing, of the eight people who spoke at the hearing on the topic of the creek setback, half supported a creek setback and half opposed it. After some

discussion, the Commission recommended strengthening the existing regulation imposing a 15-ft. creek setback.

In light of the above, staff, upon the recommendation of the Planning Commission, recommends requiring a 15-ft. building setback from top of bank, with definitions of top of bank and ordinary high water level as discussed in the previous section of this report.

c. Floor Area Ratio (FAR)

Floor Area Ratio (FAR) regulates the total allowed floor area of a home relative to the total size of a lot (as a ratio). FAR is intended to address the impact of the bulk of a home, by scaling the allowed total home size to the total size of the lot, rather than by directly restricting square footage.

At the October 2011 community meeting, there was support from 88% of those in attendance for a Floor Area Ratio requirement. In addition, of the 37 surveys that were presented to Planning staff at that hearing, support for a FAR requirement was unanimous. For these reasons, the S-75 interim regulations included a Floor Area Ratio requirement based on similar ratios used elsewhere in the County.

At the January 11, 2012 Planning Commission meeting, a set of 26 surveys was also presented to the Commission. Of the 26 surveys, 24 (over 90%) of the respondents stated that they were in favor of permanently implementing the FAR included in the interim S-75 regulations. However, Commissioner Ranken questioned whether the FAR tool in the interim regulations was adequate for regulating bulk of homes, and the Commission asked planning staff to examine the FAR tool further.

For reference, the current requirement under the interim S-75 regulations is as follows:

2,800 sq. ft. for lot \leq 5,000 sq. ft.

.26* (lot area-5,000) + 2,800 sq. ft. for lot $>$ 5,000 sq. ft.

The application of this requirement for examples of a 5,000 sq. ft. lot and a 9,750 sq. ft. lot is illustrated graphically on Attachments C2 and C4, respectively.

At the July 25, 2012 hearing, after some discussion, the Planning Commission recommended adopting a graduated FAR requirement for larger parcels over 10,000 square feet in lot area. This graduated

maximum FAR limit would have the virtue of scaling down home size on very large lots, while still allowing larger homes to be built on larger lots, without imposing a maximum floor area cap.

This graduated FAR would be calculated as follows:

2,800 sq. ft. maximum floor area for lots <5,000 sq. ft.

.26* (lot area-5,000) + 2,800 sq. ft. for lots between 5,000 and 10,000 sq. ft. (Maximum floor area of 4,100 for 10,000 sq. ft. parcel)

.13* (lot area-10,000) + 4,100 sq. ft. for lots >10,000 sq. ft.

In other words, for parcels under 10,000 sq. ft., the maximum FAR calculation would be the same as the existing interim regulation. For lots over 10,000 sq. ft., the portion of the lot over 10,000 sq. ft. would be subject to a smaller multiplier, which would result in a graduated maximum FAR, without imposing an absolute numerical cap. This would somewhat restrict the maximum size of a home that could be built on a large lot, in a graduated manner proportional to the size of the lot.

d. Building Height

The S-75 interim regulation lowered the height limit from 36 to 28 ft. and from three stories to two stories. This was consistent with the wishes of those who attended public meetings and submitted surveys. However, at the January 2012 Planning Commission hearing, the Commissioners asked why there was a need to limit the number of stories if there was already a 28-ft. height limit. Several speakers at this hearing echoed this question as well. The Commission directed staff to explore the pros and cons of having a limit on the number of stories, currently set at two, compared to having no stated story limit.

If height is limited to 28 ft., then allowing two and a half or three stories would not necessarily result in homes that are more massive in appearance than those that are two stories. If the third story is partially below grade, or a basement, then the stories above grade would be the only visible contribution to the mass of the structure. This provides the property owner with the potential benefit of a larger home while minimizing the mass above ground. The Building Code governs the minimum height of a story, so there is no danger of substandard 'stories' being constructed in an effort to 'squeeze in' a third story if Building Code requirements could not be met. Generally, the minimum clear ceiling height is 7 ft., and additional space is

required to accommodate structural elements, such that a typical floor height minimum is usually about 10 ft., in part, depending on how the joists, floors, and roof are constructed.

There is precedent in the unincorporated County for this type of distinction. In the RH zone in Emerald Lake Hills, for example, the height of buildings is limited to 28 ft., but there is no stated limit on the number of stories.

Staff also recommended the addition of clarifying language regarding the measurement of building height in relation to existing or finished grade. This proposed language will not count sub-grade basements as part of the overall height limit calculation. It would, however, count a 'walk-out' basement as part of the overall allowed maximum height if the natural grade was altered to accommodate such a basement. The principle is to allow additional sub-grade floor area as long as it does not contribute to the overall impression of mass or height/elevation of the building. It is similar to the definitions and language used in the Ladera regulations (please see Attachment C.6 for illustrations).

At the July 25, 2012 Planning Commission hearing, after some discussion, the Commission recommended keeping the height limit at 28 ft. as in the interim regulations, while deleting the reference to the specified maximum number of stories, and adding the suggested clarifying language regarding height limit measurements.

3. Development Standards – Minor Clarification Recommended

a. Daylight Plane

A daylight plane requirement is a restriction on the building envelope, typically based on the height of the structure from grade and some required roof slope and profile standards, which is intended to minimize apparent bulk and reduce the shadow cast by the structure on adjacent properties and to enhance privacy.

At the October 2011 community meeting, there was support from 21 of 32 attendees (about 2/3) for imposing a daylight plane requirement. In addition, of the 37 surveys returned, all but one favored a daylight plane requirement

The S-75 interim regulation imposed a daylight plane requirement, as shown on the diagram attached at the end of this report (Attachment B.2). The daylight plane requirement in the S-75 district is based on the requirements existing in the Sequoia Tract area (S-74) and the North Fair Oaks S-73 district and is relatively straightforward. The

existing S-75 requirement has the virtue of relative simplicity, achieving the goal of daylight preservation for side yard areas, and creating a consistent regulation that still allows for some architectural variety. For example, the daylight plane does not dictate a certain style of roof design. Gable, hip, saltbox, gambrel, and flat roofs, among others, would all be allowed if they could fit within the confines of the daylight plane. Attachment G shows photos of examples of roof types that have been recently built, which are not in Weekend Acres but in a nearby area with similar daylight plane restrictions, that could be built with the S-75 daylight plane restrictions.

Imposition of a daylight plane requirement already does and will cause an unknown number of existing buildings to become legal, non-conforming in status. The Assessor's office does not keep records on the number of stories a home has, and the Planning and Building Department does not generally keep records of 'as built' drawings for existing homes, so the exact number of such situations is difficult to know, as discussed below in the section labeled 'Non-Conformities.' Nonetheless, it is possible to make some general anecdotal statements with the requisite qualifiers. As daylight plane generally applies to the second story, single-story homes should be relatively unaffected. Some two story homes would be affected, including, for example, the homes on Wildwood which are built on sloping land often with high sidewalls. Certainly, most, if not all, three-story homes would become 'legal, non-conforming' in status. See the 'Non-conformities' section of this report for more discussion of this issue.

Planning staff has also suggested that the following language be added to the daylight plane regulation in order to clarify it and make it consistent with the intent of allowing dormers and other intrusions into the plane:

“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 ft. in continuous or cumulative length on each side, (2) they measure no more than 24 ft. in height from the existing grade, (3) the horizontal distance between such features is a minimum of 5 ft., and (4) such features are set back at least 5 ft. from both the front and rear building setback lines.”

At the July 25, 2012 Planning Commission hearing, several speakers mentioned concern with a daylight plane requirement, especially in regard to causing some existing homes to become legal, non-conforming in status. However, other speakers favored the daylight

plane requirement. The Planning Commission recommended keeping the existing S-75 daylight plane requirement, with the additional clarifying language as above.

4. Other Regulatory Standards – No Changes Recommended

a. Multiple Zone Districts

At the January 11, 2012 hearing, the Planning Commission asked staff to examine the possibility of multiple (two or more) zone districts for Weekend Acres. The Commissioners asked staff to determine the potential basis of multiple districts, and to determine where an appropriate boundary between multiple districts might be.

Weekend Acres is an eclectic area, both in terms of architectural style and home size, as well as lot size and dimensions. Over time, many of the original deep parcels were re-subdivided and/or merged and re-subdivided, sometimes more than once. The result is an eclectic mix of parcel sizes and shapes. Although some of the original parcels on the southern part of Alpine Road and on Stowe Lane remain more or less as originally platted, the remainder are quite different. This can be seen by comparing the original subdivision maps (Attachments D.1.a and b) with the existing Assessor's Parcel Map (Attachment D.2).

One relative constant over time has been the ability to legally subdivide lots into parcels with a minimum lot size of 5,000 sq. ft. Although other parts of the unincorporated County that have a rural/suburban character may have a minimum lot size of 10,000 or even 20,000 sq. ft., this has not historically been the case in Weekend Acres.

The basis for multiple zone districts in other parts of the County has typically been to set different minimum lot size requirements, rather than to specify different development standards. For example, in West Menlo Park, the S-72, S-82, and S-92 districts correspond to 5,000, 7,500, and 10,000 sq. ft. minimum parcel size, respectively. This pattern of multiple districts based on different minimum lot sizes is similar in North Fair Oaks, Menlo Oaks, Devonshire, Palomar Park, and Los Trancos Woods.

Staff has not been informed of any public interest in changing the minimum lot size requirements in Weekend Acres (e.g., to increase to a minimum 10,000 sq. ft. parcel size in certain subareas). To do so would likely affect the value of existing parcels that are larger than 10,000 sq. ft., which could generate opposition from property owners

who bought, for example, parcels of greater than 10,000 sq. ft. in size with creek frontage with the expectation that the property could potentially be subdivided into two lots (or more).

Another question is whether creating two zone districts would resolve the issue/problem that has previously been identified. Increasing the minimum parcel size requirement in part of Weekend Acres would reduce the number of potential subdivisions, but might engender strong opposition from property owners, and would not necessarily directly address the issue of home size.

Given that the stated concern seems to be home size, rather than lot size, staff recommends that the appropriate tool is not to establish a new zone district with an increased minimum lot size requirement. Rather, the most appropriate tool is Floor Area Ratio (FAR), in conjunction with other tools such as lot coverage ratio, setbacks, height limits, and daylight plane to regulate the bulk and mass of homes. Based on this information presented at the July 25, 2012 public hearing, the Planning Commission did not recommend dividing Weekend Acres into multiple zone districts.

b. Net Lot Area/Lot Coverage

At the October 2011 community meeting, there was discussion of a possible 'net' lot coverage requirement. For example, such a provision for maximum 'net lot coverage' might 'net out' the lot area below the top of the creek bank from calculations of maximum lot coverage, floor area ratio, and rear setback. This concept has not been applied to other districts within the County. However, it has been applied in other jurisdictions, including in Santa Cruz County, where certain topography must be 'netted out' in order to calculate allowed density based on what is considered 'developable land.'

Issues to consider for potential application of this development standard to Weekend Acres and/or to San Mateo County include: Whether the imposition of house size measurement methodologies such as net lot coverage that only apply on the creekside would undermine the principles of uniformity and neighborhood consistency, which are fundamental underpinnings of zoning. For example, if a zoning text amendment was adopted that treats 10,000 sq. ft. parcels on one side of the street as 10,000 sq. ft. parcels, while across the street a 10,000 sq. ft. parcel is treated as a 6,000 sq. ft. parcel because 4,000 sq. ft. of the back yard is defined as creek bed or buffer, then house sizes will be noticeably smaller on one side of the street compared to the other.

At the January 2012 Planning Commission hearing, this topic was discussed by the public and the Planning Commission. There appeared to be little support for this concept from the Commission, with one Commissioner explicitly stating opposition to it. As a result, Planning staff did not pursue further analysis of this zoning tool. At the July 25, 2012 Planning Commission hearing, the Commission did not recommend making use of this zoning tool in the Weekend Acres area.

c. Design Review

Design review was discussed briefly at the October 2011 community meeting. Although support for design review was not specifically polled, there was general agreement that the attendees did not want to pursue design review designation for Weekend Acres. Whenever this issue has come up at the various public hearings, there has been little public support for design review in Weekend Acres.

Weekend Acres is an established neighborhood with an eclectic architectural style. Residences range from quite small to very large in size. Architectural styles include cottages from the early days of development, ranch style homes from the postwar period, and more recent Spanish/Mediterranean revival and other styles, among others. On the field trip to the area, several residents volunteered that they appreciate the architectural variety and eclectic character of the area.

County design review staff has found that design review is more appropriately applied to a neighborhood or area that is still in its process of 'buildout' (for example, unincorporated Colma), or one that has a more established and consistent architectural style where design standards are more easily established and applied, as opposed to a mostly built out area like Weekend Acres with an eclectic architectural style.

Formulating design review regulations would require a significant outlay of staff and community resources. Design review does entail additional costs to applicants in terms of time and expense, and does place an additional burden on planning staff resources. Future modifications to existing homes, even relatively minor ones, would need to comply with design review regulations. Some owners of existing homes might not be in favor of design review for this reason.

At the July 25, 2012 public hearing, the Planning Commission did not recommend the establishment of design review in Weekend Acres. They were, however, interested in how to mitigate the impact of garage doors on the front façade of homes. They instructed staff to

investigate possible regulatory approaches to this issue and report back to the Commission in six to twelve months.

5. Non-Conformities

At nearly every public hearing in or about the Weekend Acres zoning issue, a number of speakers have raised questions and concerns about the issue of non-conformities. In general, their concern is that a change to zoning regulations will change the status of their home into a legal, non-conforming structure, and concern about what impacts this status may have should their home be destroyed by an act of nature, or alternatively, if they decide to make future improvements to their home.

Any area-wide rezoning which changes development standards will cause an unknown number of buildings to become 'legal, non-conforming' in status. At the various public hearings on zoning the Weekend Acres area, property owners have raised a concern with: (1) issues related to existing legal non-conforming structures, and (2) regulations which might make their homes non-conforming.

In general, the non-conformities chapter of the zoning regulations, although complicated, does allow the re-construction of homes, with certain limitations, that have been destroyed by acts of nature. Homes can be rebuilt either as they previously existed or in accordance with the existing regulations. New construction, such as additions or remodels, must usually comply with the current regulations. However, the County does have a Use Permit and Variance process to allow exceptions to these rules in certain situations.

In terms of assessing the compliance of existing buildings with both current and potential regulations, it is difficult to determine the conforming status of a structure without detailed 'as built' plans. In general, the County does not keep such records. The Assessor's Office does have some information on floor and lot area which has been considered and studied in the preparation of this report, but determining if a structure complies with setback, height, or daylight plane regulations often cannot be accurately determined by examining Assessor's or Planning and Building Department records. Tools like Google Street View can provide a general impression of how existing buildings might comply with daylight plane regulations, for example, but again are not definitive. The Planning Commission field trip and anecdotal evidence can provide a somewhat general impression of the non-conforming issue in Weekend Acres.

The existing S-75 regulations, as well as the amendments proposed in this report, attempt to minimize the change in status of existing structures into legal non-conforming status. For example, based on Assessor's records,

the imposition of FAR requirements would not create a large number of legal non-conforming buildings, with the exception of a very few large homes on Sneckner Court. However, there are a few exceptions: the daylight plane requirement already does and will create a number of non-conforming structures that were built without a daylight plane requirement. Nonetheless, this requirement has received broad support from residents and applies to new construction – it does not make existing homes ‘illegal.’ Second, the creek setback requirement will cause a number of structures, such as decks, patios, outbuildings, and even perhaps some homes to become legal non-conforming in status. Again, this is a regulation that has broad support, and applies to new construction. Third, the 28-ft. height limit has already and will create an unknown number of legal non-conforming homes that exceed this height. The creation of non-conforming status for some buildings should be balanced with the overall goals of the rezoning effort to reduce bulk and mass of large homes and protect the creek. Again, these amended regulations apply to new construction, and do not make someone’s home ‘illegal’, nor would they preclude someone from rebuilding their legal non-conforming home were it destroyed by an act of nature.

Summary

The table below presents the S-7 development standards that previously applied to the Weekend Acres area, the currently adopted but interim S-75 standards, and proposed amendments to these standards presented in this report. These standards, in staff’s judgment and based upon the recommendation of the Planning Commission, best balance the goals of reducing potential health and safety hazards related to development near the creek, regulating house size and bulk in order to maintain the character of the Weekend Acres area and minimize the impact of new development on adjacent properties, with the goals of minimizing the creation of legal non-conforming homes, avoiding excessive restrictions on property owners’ expected ability to develop their properties, and avoiding creation of regulations that require unnecessary and excessive interpretation and staff resources to apply.

Table 2			
Standard	S-7 Previous	S-75 Current Interim	S-75 Proposed Amended (Proposed Changes in BOLD)
Lot Width	50 ft.	50 ft.	50 ft.
Lot Area (min.)	5,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
Density	8.7 units/net acre	8.7 units/net acre	8.7 units/net acre

Table 2			
Standard	S-7 Previous	S-75 Current Interim	S-75 Proposed Amended (Proposed Changes in BOLD)
Setbacks			
Front	20 ft.	20 ft.	20 ft.
Rear	20 ft.	20 ft.	20 ft.
Side	5 ft. (10 ft. if abutting a street)	5 ft. (10 ft. if abutting a street)	5 ft. (10 ft. if abutting a street)
Creek	None	None	15 ft. from top of bank
Lot Coverage	50%	50%	50%
FAR	None	2,800 sq. ft. for lot ≤5,000 sq. ft., .26* (lot area-5,000) + 2,800 sq. ft. for lot >5,000 sq. ft.	2,800 sq. ft. for lot ≤5,000 sq. ft., .26* (lot area-5,000) + 2,800 sq. ft. for lot 5,000-10,000 sq. ft. .13* (lot area-10,000) + 4,100 sq. ft. for lot >10,000 sq. ft.
Building Height	36 ft.	28 ft.	28 ft.
Stories	3	2	No stated limit
Daylight Plane	No	Yes	Yes
Design Review	No	No	No

C. COMPLIANCE WITH THE GENERAL PLAN

The proposed amendment to the S-75 district complies with all policies of the General Plan, in particular, the following:

Policy 4.35.b requires that development in urban areas be designed to contribute to the orderly and harmonious community growth of the locality.

Policy 8.38 instructs the County to regulate height and bulk in zoning districts in order to ensure that the size and scale of development is compatible with parcel size.

The proposed amendments are consistent with these policies in that they allow the continued growth and change of the Weekend Acres community in a manner that is orderly and harmonious. In particular, the imposition of daylight plane and maximum Floor Area Ratio (FAR) will limit the ability to build large homes on relatively modest size lots, which could intrude on a neighbor's privacy.

D. ENVIRONMENTAL REVIEW

Adoption of the interim S-75 regulations was determined to be exempt from review under the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of Title 14 of the California Code of Regulations (the so called 'General Rule') because there is no possibility that these regulations, which impose further restrictions on development, will have the potential to cause a significant effect on the environment. Planning staff believes, and the Planning Commission recommended, that the General Rule would apply to the proposal for amending the S-75 regulations, using the same reasoning applied to the adoption of the interim regulations. This is consistent with past precedent. This same exemption was used for the Sequoia Tract (S-74), and the West Menlo Park rezonings (S-72 etc.)

E. PUBLIC COMMENT

- At a public hearing on July 12, 2011, the Board of Supervisors (the Board) considered the adoption of an Urgency Ordinance prohibiting the issuance of building permits for the construction of new or major remodel single-family residences in the Weekend Acres area. At the hearing, 11 people spoke, with most in support of the Urgency Ordinance. Those speaking in favor of the Ordinance cited perceived over-development in the area, including threats to public safety from possible flooding of San Francisquito Creek, threats to neighborhood character, intrusion of rental units into a single-family residential neighborhood, and lack of parking.
- On October 20, 2011, Planning and Building Department staff met with approximately 35 residents to discuss the interim regulations. At the meeting, staff presented several zoning 'tools' for limiting building height and bulk, including: adoption of a Floor Area Ratio (FAR), building height (ft.) or building stories, limits, and daylight plane. Additional potential tools discussed included setbacks, lot coverage, design review, and regulations relating to San Francisquito Creek. Meeting attendees asked a variety of questions about the possible impacts of these proposals, discussed options for limiting height and bulk of new homes in the area, and also presented the results of an informal neighborhood survey. A large majority of those in attendance expressed a preference for limiting new homes to two stories, limiting the maximum floor areas of homes, and adopting a daylight plane requirement.

Although the majority of those in attendance also wanted regulations to establish building setback requirements related to San Francisquito Creek, there was a consensus that this was an issue that would require further study and time, and that the Urgency Interim Ordinance was not the venue to accomplish this goal. There was no consensus at the neighborhood meeting in favor of design review. Also, there was no strong desire among most in attendance to change other building setback or lot coverage requirements, apart from potentially addressing those related to San Francisquito Creek. A zoning tool referred to as 'net lot area' was also advocated by some at this meeting. The Planning Commission ultimately did not recommend to utilize the net lot area zoning tool.

Neighborhood leaders had also circulated an informal survey, independent of County Planning Department staff, asking about support for updating the zoning regulations in the area. According to the report presented to the County Planning Department, approximately 37 surveys were returned, and the surveys indicated unanimous support for updating the zoning regulations for the Weekend Acres area. According to the report, there was also unanimous support for establishing a floor area ratio limit and for further regulating building height. All respondents except one expressed support for establishing daylight plane requirements. There was less agreement, although still substantial support, for establishing requirements for creekside impacts, with 32 respondents in favor and five opposed.

- On January 11, 2012, the Planning Commission held a public workshop on Weekend Acres zoning. Approximately 20 people spoke. Many people spoke in support of the daylight plane requirement. However, some attendees expressed concern that adoption of daylight plane requirements, creek setback requirements, or other regulations might convert many existing structures into "legal non-conforming" homes (i.e., homes that were legally built under prior regulations, but would not be allowed to be built in their current form under present regulations). Many speakers also addressed the creek setback issue; at least five stated support for a 15-ft. creek setback requirement, while at least three speakers specifically mentioned a 25-ft. setback.

A set of 26 surveys was also presented to the Planning Commission by a neighborhood representative. Of the 26 surveys, 24 (over 90%) stated that they favored the existing S-75 regulations for FAR, and a maximum building height of two stories and 28 ft. Twelve surveys (slightly less than half) stated that they opposed any creek setbacks, while 14 (slightly more than half) stated that they favored a creek setback not to exceed 15 ft. The question of a deeper creek setback (e.g., 25 ft. or more) was not asked on these surveys. Nineteen signatories (73%) stated that they were opposed to the daylight plane regulation as proposed unless existing properties with unique topographical or development characteristics could be exempted. In

addition, two signatories specifically mentioned that they were opposed to regulations that would cause existing structures to become legal non-conforming.

- On July 25, 2012, the Planning Commission recommended that the Board of Supervisors adopt the proposed amendments to the San Mateo County zoning regulations. Of the eight people who spoke at the hearing on the topic of the creek setback, half supported a creek setback and half opposed it. Other subjects mentioned included the importance of preserving private property rights, questions and objections related to the existing and proposed daylight plane requirement, and concern with regulations making existing homes non-conforming in status. Several speakers also spoke in favor of the proposed changes to the S-75 zoning regulations.
- In addition to comments made at the various public hearings and the surveys mentioned above, there have been numerous and lengthy written comments received on a variety of zoning and regulatory topics from a variety of residents of the area. These were presented to and considered by the Planning Commission in formulating their recommendation to the Board.
- Notices for this hearing have been sent to all addresses in the Weekend Acres area, as well as to those who have spoken at previous Board of Supervisors and Planning Commission public hearings on the topic.

F. REVIEWING AGENCIES

Department of Public Works
County Counsel

ALTERNATIVES

As an alternative to the staff recommendation, the Board could:

Continue the item to allow additional public comment and/or direct staff to conduct additional research and formulate different recommended amendments, which would then need to be reconsidered by the Planning Commission prior to final action by the Board. Should the Board choose this course of action, staff would recommend that the Board still take the first recommended action to extend the existing urgency ordinance. Extending the Interim Urgency Ordinance would require a four-fifths vote. The current Interim Urgency Ordinance will expire September 30, 2012 if the Board does not take action before that date.

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

This action will contribute to the 2025 Shared Vision outcome of a Livable Community by ensuring that land is used more efficiently and community character is preserved and enhanced.

FISCAL IMPACT:

There is no net County cost. There is a possible, though likely negligible impact in reduced property tax assessments as a result of a cap on size of structures through Floor Area Ratio limitations.

ATTACHMENTS:

- A. Recommended Actions and Findings
- B.
 - 1. Existing Interim S-75 Combining District Regulations, Adopted November 15, 2011
 - 2. Existing Interim S-75 Daylight Plane Graphic
- C. Graphics of Zoning Requirements
 - 1. S-7 District (5,000 Sq. Ft. Lot)
 - 2. S-75 District (Existing) (5,000 Sq. Ft. Lot)
 - 3. S-7 District (9,750 Sq. Ft. Lot)
 - 4. S-75 District Existing (9,750 Sq. Ft. Lot)
 - 5. S-75 District Proposed (9,750 Sq. Ft. Lot)
 - 6. Maximum Building Height Graphics
 - a. S-7
 - b. S-75 (Existing)
 - c. S-75 (Proposed)
 - 7. Proposed Daylight Plane
- D. Maps of Weekend Acres Subdivisions
 - 1.
 - a. Stanford Weekend Acres
 - b. North Stanford Week End Acres
 - 2. Existing Assessor's Parcel Map
- E. Board of Supervisors Resolution 26249 from 1969
- F. Map of Searsville Dam Inundation Area
- G. Photos of Roof Types
 - 1. Second-Story Front Setback/Daylight Plane with Prominent Garage
 - 2. Second-Story with Flat Roof
 - 3. Saltbox Roof

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

RECOMMENDED ACTIONS AND FINDINGS

Permit File No.: PLN 2011-00305 Board Meeting Date: September 11, 2012

Prepared By: Matt Seubert
Project Planner

For Adoption By: Board of Supervisors

RECOMMENDED ACTION #1:

1. Adopt an Urgency Ordinance extending the Interim Ordinance amending, on an interim basis, the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 20, "S" (Combining Districts), to add the S-75 Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District, for a period of one year or until such time that the revised S-75 Combining District (Weekend Acres) provisions in the San Mateo County Ordinance Code (Zoning Annex) becomes effective, whichever comes first.

RECOMMENDED ACTION #2:

2. Adopt the required Findings.

RECOMMENDED FINDINGS:

That the Board of Supervisors amend the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 1, General Provisions, to add the definitions of Top of Side Slope and Ordinary High Water Level and renumber the definition of Top Soil, and Chapter 20, "S" (Combining Districts) to add the "S-75" Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District, by making the following findings

Regarding the Categorical Exemption, Find:

- a. That adoption of these amendments are categorically exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) because there is no possibility that these regulations, which impose further restrictions on development, will have the potential to cause a significant effect on the environment.

Regarding the amendments to the San Mateo County Ordinance Code (Zoning Annex), Find:

- b. That the amendments are consistent with and adequate to carry out the General Plan, in particular, Policies 4.35 and 8.38, as discussed in the report of San Mateo County Planning and Building Department staff.

RECOMMENDED ACTION #3:

3. Adopt an Ordinance amending the San Mateo County Ordinance Code (Zoning Annex), Division VI, Part One, Chapter 1, General Provisions, to add the definitions of Top of Side Slope and Ordinary High Water Level and renumber the definition of Top Soil; and Chapter 20, "S" (Combining Districts) to add the "S-75" Combining District (Weekend Acres), and Chapter 2, Section 6111, Combining Districts, to add the "S-75" Combining District.