



County of San Mateo

Inter-Departmental Correspondence

Department: PLANNING AND BUILDING

File #: 20-306

Board Meeting Date: 5/19/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Public hearing to consider an appeal of the San Mateo County Planning Commission's decision to approve a Non-Conforming Use Permit, Coastal Development Permit, and Design Review Permit, to allow construction of a new 1,732 sq. ft., two-story single-family residence, plus a 380 sq. ft. two-car attached garage, located on an existing 4,400 sq. ft. legal non-conforming parcel where the S-94 Combining District requires a minimum parcel size of 10,000 square feet. The project includes extension of Cortez Avenue by approximately 60 feet for project access and a new firetruck turnaround.

County File Number: PLN 2018-00397 (Irfan)

RECOMMENDATION:

Public hearing to consider an appeal of the San Mateo County Planning Commission's decision to approve a Non-Conforming Use Permit, Coastal Development Permit, and Design Review Permit, pursuant to Sections 6133.3b, 6328.4 and 6565.3 of the San Mateo County Zoning Regulations, respectively, to allow construction of a new 1,732 sq. ft., two story single-family residence, plus a 380 sq. ft. two-car attached garage, located on an existing 4,400 sq. ft. legal non-conforming parcel where the S-94 Combining District requires a minimum parcel size of 10,000 square feet:

- A) Open Public Hearing
- B) Close Public Hearing
- C) Deny the appeal and uphold the decision of the Planning Commission to approve the project, based on the required findings and conditions listed in Attachment A.

PROPOSAL

A Certificate of Compliance (COC) Type A (PLN 2014-00116) which confirmed parcel legality was recorded on June 4, 2014. The applicant submitted a Coastside Design Review application for the project on October 9, 2018. The Coastside Design Review Committee (CDRC) considered the project at meetings on April 11, May 9 and June 13, 2019. The CDRC recommended approval of the project at the final meeting based on compliance with Coastside Design Review Standards.

The Planning Commission (PC) considered and approved the project with conditions at its October 23, 2019 meeting on the basis that granting an exception to side yard setback requirements is appropriate in this case, and consistent with the policies and regulations governing such exceptions.

On November 6, 2019, Linda Scholpp (Appellant) submitted an appeal of the Planning Commission decision, stating that the project should be required to conform to the minimum setbacks of the S-94 Zoning District and that the project, as approved, impacts privacy of the Appellant's home at 241 Cortez Avenue (adjoining parcel to the southwest of the subject parcel).

BACKGROUND

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

Owner/Applicant: Zafar Irfan

Location: Cortez Avenue, Miramar

APN: 048-032-070

Parcel Size: 4,400 sq. ft.

Parcel Legality: Certificate of Compliance Type A (PLN 2014-00116), recorded on June 4, 2014

Existing Zoning: R-1/S-94/DR/CD (Single-Family Residential District/S-94 Combining District with 10,000 sq. ft. minimum parcel size/Design Review/Coastal Development)

General Plan Designation: Medium-Low Density Residential (2.4-6.0 dwelling units per acre)

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Undeveloped

Water Supply: Coastside County Water District

Sewage Disposal: Granada Community Services District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Areas of Minimal Flooding, Community Panel No. 06081C0252F, dated August 2, 2017.

Environmental Evaluation: Categorically exempt pursuant to Section 15303, Class 3 of the California Environmental Quality Act (CEQA) Guidelines, related to new construction of small structures, including single-family residences in a residential zone, and utility extensions, including street improvements, necessary to serve such construction.

Setting: The parcel is located west of Highway 1 in an area of primarily two-story single-family structures. Within the immediate neighborhood are developed residential parcels which are also non-conforming in size relative to the minimum required 10,000 sq. ft. parcel size in the S-94 Zoning District. The project area is generally flat in topography. The parcel is within the Highway 1 County Scenic Corridor and is bounded by the Pacific Ocean westward and Cabrillo Highway eastward. West of this residential area is the CCR (Coastside Commercial Recreation) Zoning District along

Mirada Road that spans along the Coastsides. Several business establishments that cater to the local community are also located here.

Chronology:

<u>Date</u>	<u>Action</u>
June 4, 2014	-Certificate of Compliance Type A (PLN 2014-00116) recorded.
October 9, 2018	-Application submitted.
April 11, 2019 and May 9, 2019	-Coastsides Design Review Committee (CDRC) reviews the proposal, recommending redesign of the residence to bring the design into conformance with applicable design standards and to address neighbors' concerns.
June 13, 2019	-Coastsides Design Review Committee recommends approval of the revised design.
October 23, 2019	-Planning Commission considers and approves the project.
November 5, 2019	-Appeal filed by the appellant.
May 19, 2020	-Board of Supervisors public hearing.

DISCUSSION

A. PLANNING COMMISSION ACTION AND SUBSEQUENT APPEAL

The Planning Commission considered the project at its October 23, 2019 meeting, and by a vote of 5-0, unanimously approved the project. On November 5, 2019, Linda Scholpp (Appellant) filed an appeal of the Planning Commission's decision (see Attachment D) based on the reasons outlined in Section B of this report.

B. APPELLANT'S POINTS OF APPEAL

The following discussion includes staff's response to the Appellant main points of appeal, which are summarized below:

1. The Appellant asserts that the project should provide conforming side setbacks of 10 feet each meeting the minimum requirement of the S-94 Zoning District, which the owners were aware of upon purchasing their property.

Staff's response: Zoning exceptions, such as the proposal for reduced setbacks with a combined total of 15 feet, are granted via the Use Permit process available for non-conforming parcels. Granting of the use permit is subject to the decision-making body's ability to make the required findings, including 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 Planning Commission found that the project, as proposed and conditioned, met this

standard. The Planning Commission also agreed with the CDRC's determination that the scale of the house is proportional and complimentary to other homes in the neighborhood.

Regarding the side setbacks, the proposed side setbacks vary along the length of the house, providing larger setbacks of up to 13 feet on the right and left sides and at the front and rear portions of the house. The proposed height of 25 feet - 3 inches for the two-story residence, the well-articulated facades, and well-proportioned roof mass bring the structure into scale with the established neighborhood context. As proposed and conditioned, the project would not result in significant impacts to visual resources or coastal access. Existing sewer and water services are already available to the neighborhood that would serve the new residence.

To address the Appellant's concern regarding side setbacks and privacy impacts discussed in Section B.5, below, staff recommends adjusting language to Condition No. 4, which requires side setbacks of 7-1/2 feet each for a combined setback of 15 feet, to specifically require the applicant to provide a minimum left side setback of 10 feet.

2. The Appellant asserts that the project does not meet the required Use Permit finding that "the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible." The applicant could have proposed a project that would fit the property without the reduced side setbacks, as there is ample space on the parcel to accommodate the project.

Staff's response: The proposed rear setback of the project is 36 feet - 8 inches where the minimum allowed is 20 feet. The rear of the property would provide a larger open space area for landscaping. As discussed previously, the project is in reasonable conformance with side setback requirements due to the varying width of the side yards. Also, as the project is in compliance with maximum allowed floor area, lot coverage, height, and parking requirements, the proposed development is as nearly in conformance with the Zoning Regulations as is reasonably possible.

3. The Appellant asserts that the approval of the project would set a precedent for future development of similar non-conforming parcels in the area that would change the feel of the neighborhood and reduce the privacy of existing residences that are compliant with the Zoning Regulations.

Staff's response: Exceptions from the Zoning Regulations, such as those requested here, require a site-specific analysis and vary on a parcel-by-parcel basis. The granting of an exception on a given parcel does not set binding precedence as to any other parcel. Every project is reviewed individually by the Coastside Design Review Committee and the Planning Commission, and each project must demonstrate compliance with design review standards as well as the required exception findings.

4. The Appellant asserts that the design and colors of the project are inconsistent with the neighborhood character.

Staff's response: The CDRC considered the project at three CDRC meetings where the project design evolved from a level of non-compliance relative to the design and color standards to compliance as evidenced by the CDRC's recommendation of

approval. A condition of approval was added that requires the applicant to use a lighter shade of stain on all wood surfaces. The proposed colors such as flannel gray and weathered white are in keeping with the earth-tone palette of the neighborhood.

5. The Appellant asserts that the upper deck creates a privacy impact to the Appellant's home at 241 Cortez Avenue (adjoining parcel to the southwest of the subject parcel).

Staff's response: The CDRC recommended a redesign of the roof deck in order to address potential privacy issues raised by the appellant's legal counsel at the meetings. The applicant was successful in presenting to the CDRC a redesign that was supported and found to be compliant with the Coastside Design Review Standards (*Standards for Design for One-Family and Two-Family Residential Development in the Midcoast*). The location of the deck is in the front area of the residence farthest from the appellant's backyard. Further, the applicant proposes a wall that surrounds the deck and visually integrates with the established shed roof form. The entirety of the Appellant's exterior building wall facing the Appellant's property is absent of openings except for one small window. Therefore, there would be no direct views into the Appellant's residence from within the proposed residence. The CDRC determined that the applicant has sufficiently addressed the privacy concerns expressed by the Appellant.

To further address the Appellant's concern regarding side setbacks and privacy impacts, staff recommends adjusting language to Condition No. 4, which requires side setbacks of 7-1/2 feet each for a combined setback of 15 feet, to specifically require the applicant to provide a minimum left side setback of 10 feet.

C. PROJECT COMPLIANCE WITH ALL APPLICABLE POLICIES AND REGULATIONS

The following is an analysis of the project's compliance with all applicable regulations, policies and standards as included in the report to the Planning Commission dated October 23, 2019:

1. Conformance with the County General Plan

The subject parcel is designated by the General Plan for Medium-Low Density Residential use, at a density of 2.4 to 6.0 dwelling units per acre. Upon review of the provisions of the General Plan, staff has determined that the project complies with all applicable General Plan policies, including the following:

Water Supply Policy 10.10 (*Water Suppliers in Urban Areas*) requires consideration of water systems as the preferred method of water supply in urban areas. The Coastside County Water District (CCWD), as the service provider for this urban area, has approved the applicant's request for a transfer of one (1) 5/8-inch non-priority water service connection from APN 115-520-170, and in a letter dated November 8, 2007, confirmed that a 5/8-inch (20 gallons per minute) water service connection is available from the Crystal Springs Water Supply Project for the project site (Attachment E).

Wastewater Policy 11.5 (*Wastewater Management in Urban Areas*) requires consideration of sewerage systems as the appropriate method of wastewater management in urban areas. The Granada Community Services District (GCSD), as the service provider for this urban area, has confirmed that a sewer permit variance was approved for this project, subject to the issuance of a sewer permit in order to connect to

the GCSD wastewater facilities.

General Plan policies regarding scenic corridors (Policy 4.46) also apply to this project, and are similar to Local Coastal Program policy relevant to this issue area. The project's compliance with this policy is discussed in Section 2, below.

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 discussed below:

a. Locating and Planning New Development Component

Policy 1.18 (*Location of New Development*) directs new development to existing urban areas in order to discourage urban sprawl and maximize the efficiency of public facilities, services and utilities. Also, the policy requires new development to be concentrated in urban areas by requiring the "infilling" of existing residential subdivisions. Policy 1.20 (*Definition of Infill*) defines infill as the development of vacant land in urban areas that is subdivided and zoned for development at densities greater than one dwelling unit per 5 acres, and/or served by sewer and water. The subject parcel is designated by the General Plan for Medium-Low Density Residential use, at a density of 2.4 to 6.0 dwelling units per acre. Therefore, the project is considered an infill project.

Policy 1.23 (*Timing of New Housing Development in the Midcoast*) limits the maximum number of new dwelling units built in the urban Midcoast to 40 units per calendar year so that roads, public services and facilities and community infrastructure are not overburdened resulting from new residential development. As of the print date of this report, building permits issued for new dwelling units are well under the maximum in the current 2019 calendar year.

b. Sensitive Habitats Component

Policy 7.3(a) (*Protection of Sensitive Habitats*) prohibits any land use or development which would have significant adverse impact on sensitive habitat areas and (b) development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

The project site does not contain and is not located adjacent to sensitive habitats. The extension of Cortez Avenue by approximately 60 feet for project access and a new firetruck turnaround will also not disturb or impact any sensitive habitat area.

c. Visual Resources Component

Policy 8.12(a) (*General Regulations*) applies the Design Review Zoning District to urbanized areas of the Coastal Zone, which includes Miramar. The project is, therefore, subject to Section 6565.20 of the Zoning Regulations. The Coastside

Design Review Committee (CDRC) considered this project at the regularly scheduled CDRC meetings of April 11, May 9, and June 13, 2019 and determined it is in compliance with applicable Design Review Standards, and recommended project approval.

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 and best preserves the visual and open space qualities of the parcel overall. The project site is located approximately 200 feet southwest of Cabrillo Highway and is buffered visually from view based on its substantial distance from this scenic road and proposed landscaping. The proposed design, style and character of the residence complement the neighborhood and would help the structure to blend with existing views from the highway. The project site is located within a neighborhood area comprised of two-story residences of similar height. The residential area is also minimally visible from public viewing locations along the western shoreline due to intervening development including existing residences and structures located in the Coastside Commercial Recreation Zoning District. The proposed landscaping provides adequate visual screening of the project from neighbor viewpoints and from along Highway 1. Also, the mass and bulk of the proposed structure are mitigated by adequate articulation of all exterior facades.

Policy 8.13 (*Special Design Guidelines for Coastal Communities*) establishes design guidelines for Montara, Moss Beach, El Granada, and Miramar. The proposed residence complies with these guidelines in the following ways:

- (1) On-site grading is not extensive and only limited to earth movement associated with standard construction activity.
- (2) The proposed residence uses materials with a natural appearance such as vinyl siding, stucco and composition roof shingles.
- (3) The proposed residence uses shed roofs for the project, utilizing non-reflective metal as the primary roof material.
- (4) The well-proportioned roof mass and enhanced facade articulation help to make the proposed structure complementary with the scale of the homes in the neighborhood.
- (5) The landscape plan uses drought resistant, non-invasive species.

d. Shoreline Access Component

Policy 10.1 (*Permit Conditions for Shoreline Access*) requires some shoreline access provision as a condition of granting development permits for any public or private development between the sea and the nearest road. The subject site is not located within this specific area and therefore is not subject to this policy. However, the shoreline is available via Cortez Avenue westward to provide unobstructed

scenic vistas to the Pacific Ocean.

3. Conformance with the Half Moon Bay Airport (HAF) Airport Land Use Compatibility Plan (ALUCP)

Upon review of the provisions of the HAF ALUCP for the environs of Half Moon Bay Airport, as adopted by the City/County Association of Governments (C/CAG) on October 9, 2014, staff has determined that the project site is located outside Zone 7 - Airport Influence Area (AIA) where the airport accident risk level is considered low, and also outside of the aircraft noise exposure contours.

4. Conformance with Zoning Regulation Development Standards

The following table summarizes the project's compliance/non-compliance with the development standards of the R-1/S-94 Zoning District.

S-94 Development Standards	Required	Proposed	As approved by Planning Commission
Building Site Area	5,000 sq. ft. min.	4,400 sq. ft.	Same as proposed
Building Site Width	50 ft. min.	(See Section 6, Use Permit discussion below)	Same as proposed
Lot Coverage	30% max. (1,320 sq. ft.)	28% (1,242 sq. ft.)	Same as proposed
Floor Area	48% max. (2,112 sq. ft.)	(See Section 6, Use Permit discussion below)	Same as proposed
Maximum Height of Structure	28 ft. max.	28% (1,242 sq. ft.)	Same as proposed
Minimum Front-Yard Setback	20 ft. min.	48% (2,112 sq. ft.)	Same as proposed
Minimum Right-Side Setback	10 ft. min.	25 ft. - 3 in.	5-10 feet with a combined side setback of 15 feet.
Minimum Left-Side Setback	10 ft. min.	20 ft.	5-10 feet with a combined side setback of 15 feet. Staff recommends an adjustment of the Planning Commission's condition from a minimum of 7 1/2 feet to 10 feet.
Minimum Rear-Yard Setback	20 ft. min.	7 ft.	Same as proposed
Parking	Two covered spaces	7 ft.	Same as proposed
Facade Articulation	Finding by CDRC	36 ft. - 8 in.	Same as proposed

The proposed total lot coverage is 28% (1,242 sq. ft.), where the maximum allowed is 30% (1,320 sq. ft.). The total floor area proposed complies with the maximum allowed 48% (2,112 sq. ft.). Potential impacts related to the appearance of mass and bulk are mitigated by adequate articulation of exterior facades. The design of the new structure is complementary to the existing neighborhood context, as supported by the Coastsides Design Review Committee's recommendation of approval (see Section 5). The proposed project meets the zoning district height standards, and includes a design, scale, and size complementary to other houses located in the vicinity.

To further address the Appellant's concern regarding side setbacks and privacy impacts, staff recommends adjusting language to Condition No. 4 which requires side setbacks of 7-1/2 feet each for a combined setback of 15 feet to specifically require the applicant to provide a minimum 10-foot left side setback.

5. Conformance with Design Review District Guidelines

The Coastsides Design Review Committee (CDRC) considered the project at regularly scheduled CDRC meetings on April 11, May 9, and June 13, 2019 and adopted the findings to recommend project approval, pursuant to the Design Review Standards for One-Family and Two-Family Residential Development in the Midcoast, Section 6565.20 of the San Mateo County Zoning Regulations, specifically elaborated as follows:

- a. Section 6565.20 (D) ELEMENTS OF DESIGN; 1. Building Mass, Shape and Scale; b. Neighborhood Scale: The house's scale is proportional and complimentary to other homes in the neighborhood; 4. Exterior Materials and Colors: Exterior materials and colors complement the style of the house and that of the neighborhood.
- b. Section 6565.20 (F) LANDSCAPING, PAVED AREAS, FENCES, LIGHTING AND NOISE: The landscaping has been sensitively designed, using drought-tolerant plants.

6. Conformance with Use Permit Findings

The project requires a Non-Conforming Use Permit due to the subject site being 40 feet in width where 50 feet is the minimum width, less than 5,000 sq. ft. where 10,000 sq. ft. is the minimum size, and the proposed 7-foot right and left side setbacks in the R-1/S-94 Zoning District.

Staff's recommendation to approve the project is based on its determination that the findings required pursuant to Sections 6133.3.b and 6503 of the San Mateo County Zoning Regulations can be made, 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 are compliant with the S 94 Zoning District development standards. The total lot coverage of 28% (1,242 sq. ft.) is below the maximum allowed. The total floor area proposed complies with the maximum allowed of 48% (2,112 sq. ft.). The potential mass and bulk of the proposed

structure are mitigated by adequate articulation of all exterior facades. The design of the project is proportional and complimentary to other homes in the neighborhood.

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.

An effort was undertaken by the owner to explore the possibility of a merger with adjacent properties but the owner received no responses to the offer letters dated October 5, 2017 (Attachment F). As a result, mitigation of the parcel size non-conformity via a parcel merger strategy has been found to be infeasible.

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 the substandard parcel, as discussed in Section 4 above. Specifically, the project complies with all maximum allowed floor area, lot coverage, height, and parking requirements.

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 of 25 feet - 3 inches for the two-story residence, the well-articulated facades, and well-proportioned roof mass bring the structure into scale with the established neighborhood context. The project would not result in significant impacts to visual resources or coastal access. Adequate infrastructure is available to serve the project.

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

While the applicant is required to obtain a use permit for development of the substantially undersized parcel, the parcel is legal and the project conforms with the existing zoning regulations.

D. REVIEW BY THE MIDCOAST COMMUNITY COUNCIL

The Midcoast Community Council (MCC) did not provide comments to staff's referral for this project. The MCC has been notified of the Planning Commission's review of this project.

E. REVIEW BY THE CALIFORNIA COASTAL COMMISSION

The California Coastal Commission (CCC) did not forward a response to staff's referral for this project. The CCC has been notified of the Planning Commission's review of this project.

F. REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Coastside Fire Protection District
Coastside County Water District
Granada Community Services District
Midcoast Community Council
California Coastal Commission

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Staff Report to the Planning Commission dated October 23, 2019.
- C. Planning Commission Letter of Decision
- D. Appeal Submitted on November 5, 2019.