

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

**DATE:** February 6, 2014

**TO:** Zoning Hearing Officer

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Non-Conforming Use Permit, pursuant to Section 6137 of the County Zoning Regulations, to allow the major repair of a detached two-car garage with non-conforming right side and rear setbacks and non-conforming automobile access in the unincorporated Sequoia Tract area of San Mateo County.

County File Number: PLN 2013-00460 (Lutz)

**PROPOSAL**

The applicant proposes to perform a major repair to an existing legal, non-conforming detached garage. The garage provides the single-family dwelling two-covered parking spaces. The garage has a right side setback of 0 feet where 3 feet is required. It has a rear setback of 1.2 feet where 3 feet is required. Its automobile access has a 17-foot radius clear area where a 30-foot radius clear area is required. No changes to the detached garage are proposed.

**RECOMMENDATION**

That the Zoning Hearing Officer approve the Non-Conforming Use Permit, County File Number PLN 2013-00460, by making the required findings and adopting the conditions of approval listed in Attachment A.

**BACKGROUND**

Report Prepared By: Steven Rosen, Project Planner, Telephone 650/363-1814

Owner/Applicant: Travis Lutz

Location: 385 Sequoia Avenue, Sequoia Tract

APN: 069-325-110

Parcel Size: 5,024 sq. ft.

Existing Zoning: R-1/S-74 (Single-Family Residential/5,000 sq. ft. minimum parcel size)

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

Existing Land Use: Single-Family Residential

Water Supply: California Water Service Company

Sewage Disposal: Fair Oaks Sewer District

Parcel Legality: Lots 16 and 17, Block 13, Sequoia Tract Map No. 4 RSM 8/48 (Map Book 8, page 48; recorded May 13, 1913) and developed with a permitted building of the principally permitted use.

Flood Zone: Zone X (areas of minimal flooding), FEMA Panel No. 06081-C0303E, effective date October 16, 2012.

Environmental Evaluation: Exempt under the California Environmental Quality Act (CEQA), Section 15301, Class 1 (repair of an existing structure).

Setting: There is an existing one-story, 1,226.14 sq. ft. residence with a detached 393.75 sq. ft. garage. The property is relatively flat and is bordered by single-family residential development on all sides.

History: The Planning and Building Department issued a Stop Work Notice (SWN 2012-00165) for unpermitted repair work to the garage on December 13, 2012. The applicant applied for a building permit (BLD 2012-01904) to legalize the work on December 17, 2012. The applicant applied for this Non-Conforming Use Permit to allow the work on November 4, 2013.

## **DISCUSSION**

### **A. KEY ISSUES**

#### **1. Conformance with General Plan**

Staff has reviewed the project for conformance with the visual quality and urban residential subdivision policies contained in the General Plan and has determined that the project is in conformance. The policies applicable to this project include the following:

Policy 4.35 (*Urban Area Design Concept*) calls for the maintenance and improvement of the appearance and visual character of development in urban areas and that the proposed development contributes to the orderly and harmonious nature of the locality. The neighborhood in which the site is located is developed with similar houses and detached garages. The proposed repairs will not alter the appearance of the detached garage or the configuration of the lot. Therefore, there is no impact to the appearance and/or visual character of the property.

2. Conformance with Zoning Regulations

a. R-1/S-74 Zoning District Regulations

As shown in the table below, the proposed garage repair does not comply with the S-74 Zoning Regulations and Accessory Building Regulations with regard to this project.

Compliance with Sections 6410 and 6411 (Detached Accessory Buildings)		
	Required	Proposed
Front Yard Setback (Section 6411(b))	Rear Half	Rear Half
Rear Yard Setback (Section 6410)	3 ft.	1.2 ft.
Right Side Yard Setback (Section 6410)	3 ft.	0 ft.
Left Side Yard Setback (Section 6410)	3 ft.	30.31 ft.
Separation	5 ft.	8 ft.
Maximum Height (Section 6410)	19 ft.	11.25 ft.
Number of Stories (Section 6410)	1	1
Floor Area (Section 6410)	1,000 sq. ft.	393.75 sq. ft.
Rear Yard Coverage (Section 6410)	30% max.	27%

b. Parking and Access Regulations

The garage being repaired is a two-car garage that provides the single-family residence with its required two-covered parking spaces. The garage is served by a driveway that does not have the required clear area with a 30-foot radius from the right front corner of the garage to allow convenient access. The garage was legally built this way and may be repaired only upon approval of this use permit as discussed below.

c. Zoning Non-Conformities Regulations

A major repair, remodel, or upgrade is defined as a project in which the value of the work exceeds 50% of the value of the structure. Section 6135(5.b) requires that residential non-conforming structures undergoing major repair be made to conform to the zoning regulations currently in effect when the non-conformity exceeds 50%. The value of the work proposed for this project exceeds 50% of the value of the structure. The non-conformity exceeds 50% in that the required setbacks on the right side and rear are 3 feet and the setbacks provided on the right side and rear are 0 feet and 1.2 feet.

Section 6137 of the County Zoning Regulations allows, upon issuance of a use permit, exceptions to the provisions of the Non-Conformities Chapter which would restrict the repair of a non-conforming structure. See table above for details on the non-conforming aspects of the proposed project and the use permit findings below.

3. Conformance with Use Permit Findings

As previously stated, Section 6137 of the County Zoning Regulations allows the major repair, remodel, or upgrade of a legal structure which does not conform with the zoning regulations currently in effect upon the issuance of a use permit. Records show that the garage was built legally in 1937, but does not conform to the current standards for detached accessory buildings. Therefore, the structure is a legal, non-conforming structure.

The following findings, as required by Section 6137, must be made in order to approve a use permit for the proposed project:

- a. **That the establishment, maintenance, and/or conducting of the 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 project parcel is not located within the Coastal Zone and, therefore, poses no risk to coastal resources. The project will not change the neighborhood in any way, in that the project is the repair of an existing structure. There is no evidence to suggest that the impact of the repair will be adverse. Aerial photography reveals that many lots in the neighborhood have accessory buildings with similar setbacks.

- b. **That the proposed development is proportioned to the size of the parcel on which it is built.**

The conforming 5,024 sq. ft. parcel is zoned R-1/S-74 (Single-Family Residential/5,000 sq. ft. minimum parcel size). The S-74 Zoning District allows a maximum lot coverage of 50%. The lot coverage will remain 32.2%. Compliance with the parcel's lot coverage requirement helps to maintain an appropriate proportion between the parcel's development and the size of the parcel.

- c. **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.**

Surrounding properties are currently developed and used for single-family residences and are under separate ownership. A lot line adjustment would create new non-conformities. Acquisition would not be feasible.

- d. **That the proposed development is as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible.**

Building the detached garage with conforming setbacks would exacerbate its non-conformity with the access regulation requiring a 30-foot radius clear area. The result of this non-conformity would be a second non-conformity with the minimum parking requirement because one of the covered parking spaces in the garage would be impossible to use. Therefore, this existing structure is as nearly in conformance as is reasonably possible.

- e. **That the use permit approval does not constitute a granting of a special privilege.**

Approval of a non-conforming use permit does not constitute the granting of a special privilege as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions (i.e., zoning, general plan, and existing development).

## B. ENVIRONMENTAL REVIEW

This project is exempt under Section 15301, Class 1 (repair of existing structures) of the California Environmental Quality Act (CEQA).

## C. REVIEWING AGENCIES

Building Inspection Section  
Department of Public Works  
Geotechnical Section  
Selby Lane Homeowners Association

## ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Site Plan
- D. Photographs

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2013-00460      Hearing Date: February 6, 2014

Prepared By: Steven Rosen  
Project Planner

For Adoption By: Zoning Hearing Officer

**RECOMMENDED FINDINGS**

For the Environmental Review, Find:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15301, Class 1, relating to the repair of existing structures.

For the Use Permit, Find:

2. That the establishment, maintenance, and/or conducting of the use will not, under the circumstances of the particular case, 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 in that the project parcel is not located within the Coastal Zone, in that the project will not change the neighborhood in any way because it is the repair of an existing structure in an area with many similar structures in similar locations on lots.
3. That the proposed development is proportioned to the size of the parcel on which it is built in that the development on the parcel conforms to the lot coverage requirement for the S-74 Zoning District by covering 32.2% of the lot where 50% is the maximum coverage allowed.
4. 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 in that surrounding properties are currently developed and used for single-family residences and are under separate ownership, a lot line adjustment would create new non-conformities, and acquisition is not feasible.
5. That the proposed development is as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible in that rebuilding the detached garage with conforming setbacks would exacerbate its non-conformity

with the access regulation requiring a 30-foot radius clear area, resulting in non-conformity with the minimum parking requirement because one of the covered parking spaces in the garage would be impossible to use.

6. That the use permit approval does not constitute a granting of a special privilege in that the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions (i.e., zoning, general plan, and existing development).

## **RECOMMENDED CONDITIONS OF APPROVAL**

### **Current Planning Section**

1. The approval applies only to the proposal as described in this report and materials submitted for review and approval by the Zoning Hearing Officer on February 6, 2014. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are consistent with the intent of and in substantial conformance with this approval.
2. This use permit is valid for one (1) year in which time a building permit shall be issued. An extension may be granted upon written request at least sixty (60) days prior to expiration and payment of applicable extension fees.
3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section, the Department of Public Works and the respective Fire Authority.
4. No site disturbance shall occur, including any grading until the building permit has been issued.
5. No trees are permitted for removal as part of this permit. If any trees are required to be removed, a separate tree removal permit and process are required and then only those trees approved for removal shall be removed.
6. 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 in the public right-of-way. All construction vehicles shall be parked out of the public right-of-way or in locations which do not impede safe access along the public right-of-way. There shall be no storage of construction vehicles in the public right-of-way.
7. 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 are prohibited on Sunday and any national holiday.
  8. During construction, the project, where applicable, shall adhere to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines," including:
    - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30. Stabilizing shall include both proactive measures, such as the placement of hay bales or coir netting, and passive measures, such as revegetating disturbed areas with plants propagated from seed collected in the immediate area.
    - b. Storing, handling, and disposing of construction materials and wastes properly, so as to prevent their contact with stormwater.
    - c. Controlling and preventing the discharge of all potential pollutants, including pavement cutting wastes, paints, concrete, petroleum products, chemicals, wash water or sediments, and non-stormwater discharges to storm drains and watercourses.
    - d. Using sediment controls or filtration to remove sediment when dewatering the site and obtaining all necessary permits.
    - e. Avoiding cleaning, fueling, or maintaining vehicles on-site, except in a designated area where wash water is contained and treated.
    - f. Delineating with field markers clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees, and drainage courses.
    - g. Protecting adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching, or other measures as appropriate.
    - h. Performing clearing and earth-moving activities only during dry weather.
    - i. Limiting and timing applications of pesticides and fertilizers to prevent polluted runoff.

- j. Limiting construction access routes and stabilizing designated access points.
- k. Avoiding tracking dirt or other materials off-site; cleaning off-site paved areas and sidewalks using dry sweeping methods.
- l. The contractor shall train and provide instructions to all employees and subcontractors regarding the construction best management practices.
- m. The approved erosion and sediment control plan shall be implemented prior to the beginning of construction.

### Building Inspection Section

- 9. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
- 10. 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 which will confirm that the work will be completed prior to finalization of the building permit.
- 11. A site drainage plan will be required. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
- 12. 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.
- 13. All drawings must be drawn to scale and clearly define the whole project.
- 14. Please call out the right codes on the code summary: The design and/or drawings shall be done according to the 2013 Editions of the California Building Standards Code, the 2013 California Plumbing Code, the 2013 California Mechanical Code, the 2013 California Electrical Code, and the 2013 California Green Building Standards Code.
- 15. The walls and roof overhang of the garage that have a setback of less than 3 feet shall be of one-hour construction.

### Department of Public Works

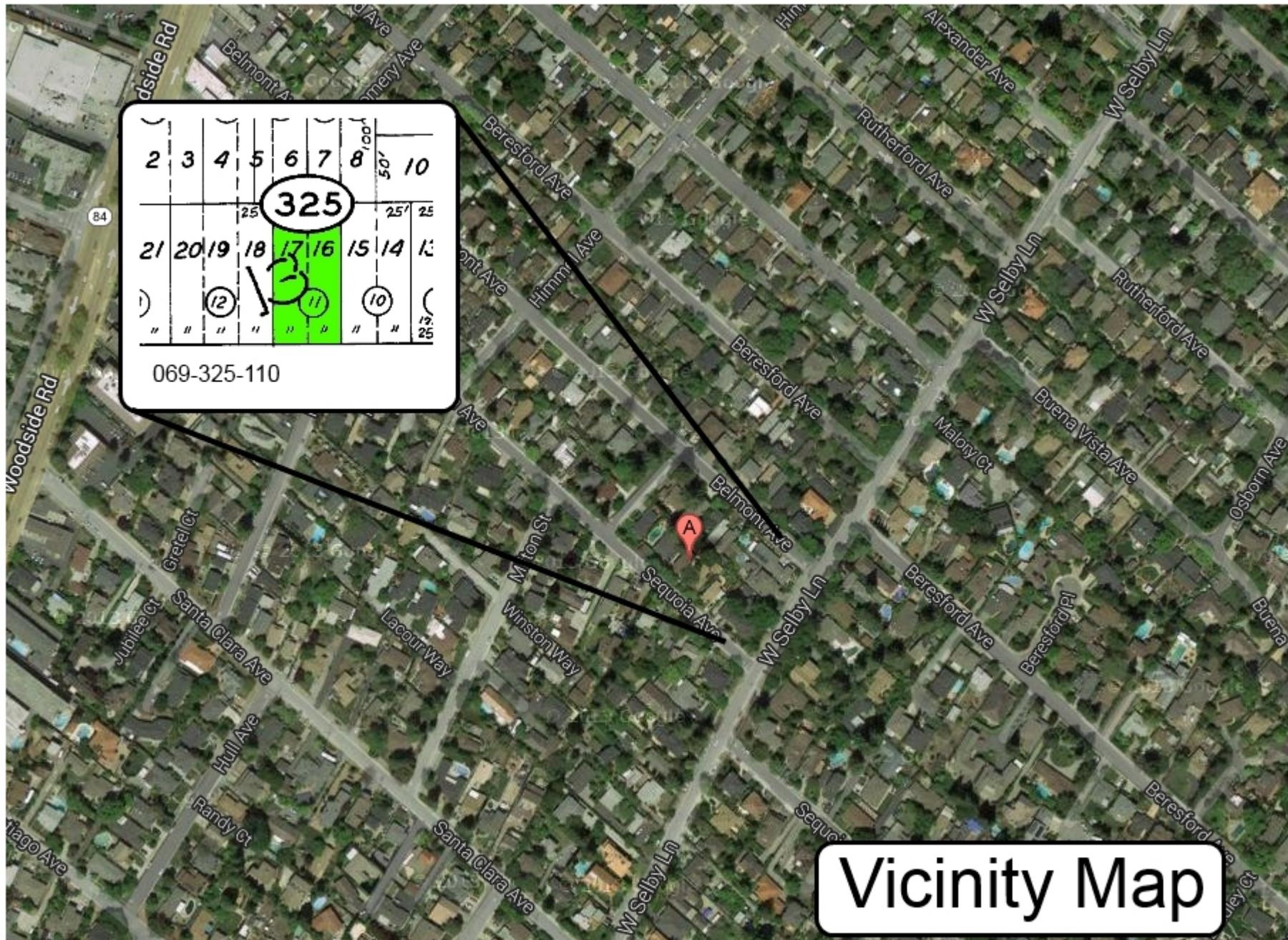
- 16. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance #3277.

17. The applicant shall submit a permanent stormwater management plan in compliance with the County's Drainage Policy and NPDES requirements for review and approval by the Department of Public Works.

Menlo Park Fire Protection District

18. The applicant shall submit plans/fees to the Menlo Park Fire Protection District (MPFPD) for review and approval.

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Vicinity Map

**San Mateo County Zoning Hearing Officer Meeting**

Owner/Applicant: \_\_\_\_\_

Attachment: \_\_\_\_\_

File Numbers: \_\_\_\_\_





Lot Directly Across The Street

***San Mateo County Zoning Hearing Officer Meeting***

Owner/Applicant:

Attachment:

File Numbers:



***San Mateo County Zoning Hearing Officer Meeting***

Owner/Applicant:

Attachment:

File Numbers:



Lot Adjacent to the Right

***San Mateo County Zoning Hearing Officer Meeting***

Owner/Applicant:

Attachment:

File Numbers: