

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

**DATE:** January 16, 2025

**TO:** Zoning Hearing Officer

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Non-Conforming Use Permit pursuant to Section 6135.5(b) of the San Mateo County Zoning Regulations, to enlarge and reorient an existing detached legal non-conforming two-car garage associated with an existing legal non-conforming single-family dwelling located at 124 Fey Drive in the unincorporated Burlingame Hills area of San Mateo County.

County File Number: PLN2024-00197 (Schoichet/ Ivester)

**PROPOSAL**

The applicant is seeking to enlarge and reorient an existing legal non-conforming detached two-car garage, measuring 376 sq. ft., associated with a legal non-conforming single-family dwelling.

The structures on-site consist of a legal non-conforming three-bedroom single-family dwelling and a legal non-conforming detached two-car garage. The 376-sq. ft. garage is located within the left side yard setback against the property line and 7 feet-6 inches into the front yard setback, additionally encroaching into the public right-of-way by 4 inches. The applicant seeks to rebuild the detached garage in its current location while shifting the garage entrance to face Fey Drive, adding an additional 2 feet-8 inches (53 sq. ft.) to the rear of the building (towards the house), resulting in a final square footage of 429 sq. ft. The current garage orientation requires vehicles to enter and exit it at an angle with subsequent reduced site lines.

A use permit is required pursuant to Section 6135.5(b) and 6137 of the Zoning Regulations to allow for the expansion and encroachment of a non-conforming structure into the front and side yard setbacks.

**RECOMMENDATION**

That the Zoning Hearing Officer approve the Non-Conforming Use Permit, County File Number PLN 2024-00197, by making the required findings and adopting the Conditions of Approval in Attachment A.

**BACKGROUND**

Report Prepared By: Randall Cohen, Project Planner, 650/383-4658

Applicant: Ellis A. Schoichet

Owner: David and Szonja Ivester

Location: 124 Fey Drive, Burlingame, CA

APN: 027-073-080

Land Size: 19,256 square feet

Existing Zoning: (Single-Family Residential/Minimum 20,000-sq. ft. parcel)

General Plan Designation: Single-Family Residential

Existing Land Use: Legal non-conforming single-family residence with legal non-conforming detached garage.

Water Supply: City of Burlingame Municipal Water Department

Sewage Disposal: Burlingame Hills Sewer District

Fire Protection: County Fire Protection District

Flood Zone: Zone X, Area of Minimal Flooding, FEMA Panel No. 06081C0134E, effective October 16, 2012.

Environmental Evaluation: Categorically exempt pursuant to Section 15301 (*Existing Facilities*) of the California Environmental Quality Act (CEQA), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

Setting: The project site is relatively flat, located near the end of Fey Drive. The property is situated within a mature single-family residential area and surrounded by single-family dwellings built in the 1930s and 1940s. The left side yard property line shares the boundary with a utility easement connecting Fey Drive to Los Robles Drive. The right-side property line, located approximately 65 feet from the existing, legal-nonconforming detached garage, shares a boundary with 120 Fey Drive.

Chronology:

Date	Action
July 8, 2024	- Application submitted.

- July 10, 2024 - Application deemed complete.
- July 20, 2024 - Project referred out to reviewing agencies.
- October 4, 2024 - Referrals completed.

## **DISCUSSION**

### A. KEY ISSUES

#### 1. Compliance with the General Plan

Policy 4.36 (*Urban Area Design Concept*) seeks to maintain the visual character of development in urban areas and ensure that new development is designed and constructed to contribute to the orderly and harmonious development of the locality.

The subject property is located within the urban residential community of unincorporated Burlingame Hills. The exterior of the detached garage will be constructed of materials and colors that match the existing residence. The detached garage is consistent with other detached garages found within the neighborhood.

Policy 8.15 (*Land Use Compatibility*) seeks to protect and enhance the character of existing single-family areas. The General Plan designates the subject property as Low Density Residential Urban. The detached garage is consistent with that use.

Policy 8.35 (*Zoning Regulations*) ensures that the development is consistent with the zoning district regulations. This development is consistent with the principles of the R-1/S-10 (Single-family Residential/Minimum 20,000 sq. ft. parcel) zone. See the staff discussion below for details of zoning nonconformities.

Policy 8.36 (*Uses*) ensures that the uses of the zoning district are consistent with the overall land use designation. The single-family residential uses are consistent with the Low Density Residential Urban land use designation.

Policy 8.39 (*Height, Bulk, and Setbacks*) regulates height, bulk, and setback requirements in zoning districts in order to: (1) ensure that the size and scale of development is compatible with the parcel size, (2) provide sufficient light and air in and around the structure, and (3) ensure public health and safety. The size and scale of this development (garage remodel/enlargement) is compatible with the parcel size and is consistent with the development of the neighboring parcels. While the development encroaches into the left side yard and front yard setbacks, (as discussed below), the building maintains sufficient light and air circulation to ensure public health and safety.

Policy 8.40 (*Parking Requirements*) regulates on-site parking requirements in order to: (1) accommodate the parking needs of the development, (2) provide convenient and safe access, (3) prevent congestion of public streets, and (4) establish orderly development patterns. Re-orientation and enlargement of the garage will allow for safe access into the structure and provide adequate space for two cars, as required by the County parking regulations.

## 2. Compliance with the Zoning Regulations

### a. Development Standards - R-1/S-10 Zoning District

The project parcel is zoned R-1/S-10. The single-family dwelling with detached garage complies with the use regulations of this zone. The applicant is requesting a non-conforming use permit to rebuild and reorient the non-conforming detached garage which will encroach into the left side yard setback, front yard setback, and into the public right-of-way. The project (as proposed) complies with all other R-1/S-10 Zoning Regulations.

	Development Standard	Existing (As Built)	Proposed
Minimum Parcel Size	20,000 sq. ft.	19,256 sq. ft.	19,256 sq. ft.
Maximum Lot Coverage	25% (5,000 sq. ft.)	14.2% (2,727 sq. ft.)	14.4% (2,780 sq. ft.)
Minimum Front Setback	20 feet	12 feet-5 inches	12 feet-5 inches
Minimum Right Side Setback	10 feet	65 feet from garage	65 feet from garage
Minimum Left Side Setback	10 feet	3 feet into right of way	2 feet- 4 inches into right of way
Maximum Height	36 feet	16 feet	16 feet

The project complies with the maximum height and maximum lot coverage of the S-10 development standards with exception to the front yard setback and left side yard setback encroachments which will be remedied by approval of the non-conforming use permit.

b. Parking Regulations

The property has two covered parking spaces where two spaces are required for the main unit per Section 6199 (*Parking Requirements*). Due to the current configuration of the garage, the existing garage doors face in a direction where they are difficult to access and are often blocked unknowingly. Existing conditions require the property owner to drive across a neighbor's private property, where there is no easement protecting the applicant's right of access. Reorienting the garage to face the street will increase the depth of the garage by approximately 1 foot-6 inches, achieving code compliance.

3. Compliance with Non-Conforming Use Permit Regulations

Section 6137 (*Exceptions*) and Section 6503 (*Procedure*) of the Zoning Regulations allows the granting of a non-conforming use permit to allow enlargement of a non-conforming structure provided the following finding is made:

**That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.**

The enlargement and reorientation of the non-conforming detached garage is compliant with the R-1/S-10 Zoning District with the exception to the minimum setback requirements, which this use permit will remedy. Approximately 196 sq. ft. of the existing garage encroaches into the left side yard setback, which is an existing condition, and has not been detrimental to the public welfare in the neighborhood. This Use Permit will increase the encroachment into the side yard setback by an additional 27 sq. ft. and will be required to comply with the San Mateo County Building Code, County of San Mateo Department of Public Works, and County Fire Protection Districts conditions of approval.

As conditioned, there is no evidence to suggest that the project will be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

B. ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 (*Existing Facilities*) of the California Environmental Quality Act (CEQA), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

C. REVIEWING AGENCIES

Building Inspection Section  
County Fire Protection District  
Department of Public Works  
Planning Department

**ATTACHMENTS**

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Proposed Plans
- D.1 Site Photo
- D.2 Site Photo

County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN2024-00197

Hearing Date: January 16, 2025

Prepared By: Randall Cohen, Project Planner

For Adoption By: Zoning Hearing

**RECOMMENDED FINDINGS**

Regarding the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301 (*Existing Facilities*), relating to additions to existing structures provided that the addition will not result in an increase of more than 10,000 sq. ft. if the project is located in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area is not environmentally sensitive. The project site is not located in a sensitive habitat area and public services are available to serve the development.

Regarding the Non-Conforming Use Permit, Find:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

**RECOMMENDED CONDITIONS OF APPROVAL**

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on January 16, 2024. Minor modifications to the project may be approved by the Director of Planning and Building if they are consistent with the intent of, and in substantial conformance with, this approval.

2. This permit is valid for one year from the date of final approval, in which time a valid building permit shall be issued, and a completed inspection (to the satisfaction of the Building Inspector) shall have occurred. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees 60 days prior to expiration.
3. The site plan submitted with the building permit shall show setbacks that match the setbacks on the survey.
4. No tree cutting is allowed by this permit. Removal of any tree over 12 inches in diameter shall require a separate Tree Removal Permit.
5. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 5:00 p.m., Saturdays. Said activities are prohibited on Sundays, Thanksgiving, and Christmas (San Mateo County Ordinance Code Section 4.88.360).

#### Building Inspection Section

6. This project requires a building permit and shall be designed and constructed according to the 2024 Building Standards Code.

#### Civil/Drainage Section

7. Project will comply with County drainage policy to prevent stormwater from flowing across property lines. For projects that trigger size and/or slope thresholds, prior to the issuance of the building permit, the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed project and submit it to the Planning and Building Department for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state.

#### County Fire Protection District

8. Conditional Approval: Subject to field inspection as stamped within the conditional approval.



## Department of Public Works

9. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued. Applicant shall contact a Department of Public Works Inspector 48 hours prior to commencing work in the right-of-way.
10. Prior to the issuance of the building permit, the applicant will be required to provide payment of “roadway mitigation fees” based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.