



# CITY OF SAN MATEO

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## Agenda Report

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**TO:** City Council  
**FROM:** Alex Khojikian, City Manager  
**PREPARED BY:** Community Development Department  
**MEETING DATE:** July 15, 2024

**SUBJECT:**  
619 W. 39th Avenue - Appeal of a Third Story Addition to an Existing Two-story Single-Family Residence (PA-2023-017).

### **RECOMMENDATION:**

Adopt a Resolution to deny the appeal of the Zoning Administrator and Planning Commission decisions to approve a Single-Family Dwelling Design Review (SFDDR) for a 438 square-foot third story addition to an existing two-story single-family residence at 619 W. 39th Avenue, based on the Findings for Approval and subject to the Conditions of Approval.

### **BACKGROUND:**

On March 20, 2023, Steve Lesley (Applicant), submitted Planning Application (PA) PA-2023-017 for a third story addition to an existing two-story, single-family residence, and worked with the City's Development Review Board to address code requirements and consistency with design guidelines for the proposed project. Following a duly noticed public review period in which one comment letter was received, the Zoning Administrator approved the project on January 3, 2024. On January 12, 2024, Katherine Doughty (Appellant), a neighboring property owner, filed an appeal of the Zoning Administrator decision, citing concerns related to views, privacy impacts, and consistency with the surrounding neighborhood. The Planning Commission held a public hearing on April 23, 2024 in which the Commission voted unanimously to deny the appeal and upheld the Zoning Administrator's approval of the project. The appellant filed an appeal of the Planning Commission decision on May 2, 2024 ([Attachment 2](#)).

### Project Description

The project site is located at 619 W. 39<sup>th</sup> Avenue, southwest of Alameda de las Pulgas, on an upsloping lot. The site is zoned R1-B (One Family Dwellings) and has a parcel area of 6,165 square feet. A location map showing the project site and its vicinity is included as [Attachment 6](#).

The existing single-family house is a two-story structure with 1,891 square feet on the upper level and a 693 square-foot two-car garage on the lower level. The proposed project is a 438 square-foot third story addition above the rear portion of the house. Given the slope of the lot and the placement of the addition, it functions like a second story addition in relation to the rest of the house. The project also includes a 101 square-foot remodel of the upper level (second story) and the legalization of an existing 29 square-foot bathroom. Project plans showing the proposed site plan, floor plans, elevations and privacy diagrams are included in [Attachment 7](#).

### Zoning Code and Design Review

The project is subject to the requirements of SMMC Chapter 27.18 for (R1 Districts – One-Family Dwellings), which includes development standards for floor area ratio (FAR), building height, daylight plane, and setbacks. The overall proposed floor area of 3,022 square feet is within the maximum allowable floor area of 3,033 square feet (0.5 FAR) for the property. The project proposes an overall building height of 27 feet, six inches measured to roof peak, and 24 feet measured to the highest plate-line, both of which are measured from existing grade. These measurements are within the

District's height limits of 32 feet to roof peak and 24 feet to building plate line. The R1-B District does not have a story limit, so a third story is allowed if it is within the specified height limits. The project's compliance with all applicable Zoning Code requirements is summarized in the Project Data Sheet ([Attachment 8](#)).

The proposed construction of an upper story addition requires a Single-Family Dwelling Design Review (SFDDR) in accordance with SMMC 27.08.032. This review includes evaluating the project for compliance with the Zoning Code and consistency with the Single-Family Design Guidelines (Design Guidelines). Staff found the project to be in substantial conformance with the Design Guidelines because it is well integrated into the existing architectural character of the neighborhood and does not change the current configuration of the site, it is compatible with the existing residence and the surrounding neighborhood design character, and the addition is designed to minimize impacts to neighboring views and privacy.

## **DISCUSSION:**

### Planning Commission Decision

The appeal of the Zoning Administrator decision focused on two areas of concern with respect to the City's Single-Family Dwelling Design Guidelines: conformance with the existing neighborhood, and impacts caused to neighboring views and privacy. The Appellant also raised concerns not regulated by the Design Guidelines or Zoning Code, including fire safety concerns with vegetation along the rear of the property, concerns over a wind tunnel effect from the new addition, and that the notice of the neighborhood meeting was not received until after the meeting took place.

During the Planning Commission meeting, staff provided clarification and confirmation that the initial neighborhood notification from the Applicant and the notice for the Zoning Administrator decision were sent to the Appellant's property at 3909 Marshall Avenue as well as the Appellant's listed mailing address in the Town of Woodside. The Appellant also presented design alternatives, including a flat roof design to reduce view impacts. The Planning Commission reviewed these concerns and found the project to meet all applicable Zoning Code requirements and to be in substantial conformance with the Single-Family Design Guidelines. The Planning Commission voted unanimously to deny the appeal and to uphold the Zoning Administrator's decision to approve the project.

### Appeal to the City Council

On May 2, 2024, the Appellant filed an appeal of the Planning Commission's decision ([Attachment 2](#)). Below is a summary of the grounds for appeal by the Appellant and staff's responses.

1. Public Notice: The Appellant states that the required notice for the neighborhood informational meeting was not received at 3909 Marshall Avenue. Staff confirmed, however, that Applicant mailed notices to both 3909 Marshall Avenue and the Appellant's primary residence in Woodside. The ten-day requirement for mailing of the notice was met by the applicant, and the notice states that neighbors can arrange an alternative time to meet with the applicant if they are unable to attend the neighborhood meeting.
2. Due Process Concern: At the April 23, 2024, Planning Commission meeting, a Planning Commissioner voluntarily disclosed a prior professional relationship from ten years ago with the Applicant's architect. The Appellant contends that the Commissioner should not have participated in the decision-making process. Staff determined that the Commissioner did not have a conflict of interest requiring recusal.
3. Consideration of Alternatives: In the appeal form, the Appellant conveys various alternatives, including the suggestion to utilize a flat roof for the area of addition, and states that the alternatives were not seriously considered by the Planning Commission. The Planning Commission discussion centered around the proposed design's conformance with the Zoning Code and Design Guidelines, and the project as proposed was found to be in compliance with all related requirements.
4. Contractor Concerns: The Appellant notes concerns with the business and license history of the selected contractor. Prior to Building Permit issuance, the Applicant will be required to confirm the selected contractor has an active contractor's license and City business license.

As discussed, the project meets all applicable Zoning Code requirements and is in substantial conformance with the Single-Family Design Guidelines. Therefore, staff recommends that the City Council deny the appeal and approve the project.

**ENVIRONMENTAL DETERMINATION:**

Staff has determined that the project is categorically exempt from further review under the California Environmental Quality Act (CEQA) under Class 1 Section 15301(e) *Additions to Existing Structures* in that the project will not result in an increase of more than 10,000 square-feet, is in an area where all public services and facilities are available to allow for maximum development permissible in the General plan, and is not located in an environmentally sensitive area.

**NOTICE PROVIDED:**

In accordance with Government Code Section 65091 and the City's Municipal Code noticing requirements, this Public Hearing was noticed to the following parties at least ten days in advance of this City Council meeting:

- Property owners, residential tenants and business tenants within 500 feet of the project site.
- The City's "900 List" which contains nearly 100 Homeowner Associations, Neighborhood Associations, local utilities, media, and other organizations interested in citywide planning projects;
- The City's Planning "Notify Me" email list; and,
- The interested parties list, which includes interested individuals who contacted the City and requested to be added to the project notification list.

**PUBLIC COMMENTS:**

As part of the Zoning Administrator's decision process, a public notice was mailed on December 8, 2023. On December 15, 2023, staff received a preliminary comment from the Appellant ([Attachment 6](#)), which included concerns related to neighborhood compatibility and privacy and view impacts. The Applicant provided a supplemental list of neighbors who signed in support of the project ([Attachment 7](#)).

As of the date of publication of this report, no additional public comments have been submitted to staff. Additional public comments received following the publishing of this agenda report will be forwarded to the City Council for review and consideration at the Public Hearing and posted to this item on the City's Public Meeting Portal as "Post Packet Public Comments."

**ATTACHMENTS**

Att 1 – Proposed Resolution

Att 2 – Appeal Form to the City Council

Att 3 – Location Map

Att 4 – Project Plans

Att 5 – Project Data Sheet

Att 6 – Public Comment

Att 7 – Applicant Provided Signatures of Support

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