MEETING AGENDA

9:00 a.m. Special Meeting December 12, 2023

1. CALL TO ORDER

2. INTRODUCTIONS
   Tom Liao, Zoning Enforcement Official
   Wayland Li, AICP, Planning Manager
   Lourdes Juarez, Assistant Planner

3. CORRESPONDENCE

4. PUBLIC HEARING
   A. PLN23-0015; Major Site Plan Review to convert a portion of an existing basement in an existing single-family dwelling to a bedroom and a bathroom (approx. 250 square feet) at 2889 Darius Way. APN: 079-0020-045-01. Zoning District: RS-VP. Applicant: Tom Santos, Jr. Property Owner: Sokz Souk. [L. Juarez]

   Environmental Status: This project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301.

5. MISCELLANEOUS

6. ADJOURN

The action of the Zoning Enforcement Official is final unless appealed within 15 calendar days from the date of the action. For details on filing an appeal contact the Community Development Department at (510) 577-3325. Upon recognition by the Zoning Enforcement Official, the public is invited to speak on any item on the agenda.
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A. SUMMARY AND RECOMMENDATION

The applicant, Tom Santos, Jr., on behalf of the property owner, is requesting approval of a Major Site Plan Review to convert a portion of an existing basement in an existing single-family home to a bedroom and a bathroom (approx. 250 square feet), as detailed in the attached plan set. Per Zoning Code Section 2.04.404(3)(a)(ii), “Any addition containing 250 square feet or more” requires a Major Site Plan Review. Additionally, per Zoning Code Section 2.04.332, Major Site Plan Review is required for livable area greater than 4,000 sf for any single structure.

Staff recommends that the ZEO approve the proposed Major Site Plan Review (PLN23-0015) based on the recommended Findings of Fact and subject to the Recommended Conditions of Approval contained in this staff report.

B. SETTING, EXISTING SITE CONDITIONS, AND BACKGROUND

The subject property is an 11,739 square foot lot located at the terminus of Darius Way, on the east edge of City limits, in the hills of the Bay-o-Vista residential neighborhood. The property is Lot 7 of Tract 6309 (subdivided in 1989). It is surrounded by multi-level houses on hilly terrains, which were built as part of the same subdivision.
The subject property contains a four-level house, built into the hill, which slopes downward from the cul-de-sac of Darius Way to the rear of the lot. At the time it was designed and entitled, the Board of Zoning Adjustments approved a Height Exception and a Variance, to allow the proposed house to exceed the maximum 18-foot height requirement in the RS-VP district (PLN2001-00072). Two years later, the house was entitled to allow the conversion of the attic into a 500 square-foot office (PLN2003-0040). The existing house is approximately 4,220 square feet, comprising four levels and a basement with a crawl space.

C. PROJECT PROPOSAL

The applicant, Tom Santos, Jr., on behalf of the property owner, is requesting approval of a Major Site Plan Review to convert a portion of an existing basement in an existing single-family home to a bedroom and a bathroom (approx. 250 square feet), as detailed in the table below. The proposal would not increase the footprint or massing of the house. The only proposed exterior change would be the installation of new windows visible only from the rear yard of the subject property.

<table>
<thead>
<tr>
<th>House Floor Areas</th>
<th>Existing (approx. size)</th>
<th>Proposed (approx. size)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd Floor (office)</td>
<td>500 sf</td>
<td>No change</td>
</tr>
<tr>
<td>2nd Floor (bedrooms)</td>
<td>1,325 sf</td>
<td>No change</td>
</tr>
<tr>
<td>1st Floor (common rooms)</td>
<td>1,670 sf</td>
<td>No change</td>
</tr>
<tr>
<td>with front porch entrance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Level (bedrooms)</td>
<td>725 sf</td>
<td>No change</td>
</tr>
<tr>
<td>Existing garage not counted towards floor area, per Z.C. 2.04.332</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Bedroom Level</td>
<td>--</td>
<td>250 sf</td>
</tr>
<tr>
<td>Total House Floor Area:</td>
<td>4,220 sf</td>
<td>4,470 sf</td>
</tr>
</tbody>
</table>

The applicant also intends to convert a separate portion of the basement into an ADU, accessible by a new exterior staircase and elevated walkway. Per State ADU law, the ADU and its access are not subject to discretionary review and are therefore not part of this Major Site Plan Review application. The proposed ADU and exterior staircase would be reviewed under separate permit.
Photos of Existing Site Conditions

VIEWS OF THE FRONT OF 2889 DARIUS WAY

VIEW OF THE REAR OF 2889 DARIUS WAY
D. ANALYSIS

Development Regulations
The proposed project would comply with the RS-VP district development regulations. The proposed project only involves the conversion of existing basement into living area, and therefore would have no effect on setback, height, daylight plane or lot coverage requirements.

Required Findings
In order to approve or conditionally approve a Major Site Plan Review proposal for an addition to a single-family home in the RS-VP zoning district, the ZEO must find that the proposal is in substantial compliance with Zoning Code Section 5.12.124(E), the Site Plan Review Standards, listed below.

1. The residence’s architecture is appropriate and consistently applied. The structure has adequate articulation, with appropriate window placement, architectural detailing, roof forms and/or changes in wall planes to provide visual interest. Additions shall not have a “tacked on” appearance, and either the addition should be consistent with the existing residence in terms of design and use of materials, or the existing residence should be remodeled concurrently with construction of the proposed addition in order to achieve the desired consistency.

The proposed bedroom and bathroom would be built within the existing building envelope of the house, inside an already enclosed basement and crawlspace. Two new bedroom windows and one bedroom window would be installed on the southeast and southwest walls of one of
the southern corners of the existing house. The conditions of approval include a requirement that new windows have the same window trim as the window trim on the rest of the house. Therefore, the structure would continue to have architecture that is consistently applied.

2. **The visual mass of the home is de-emphasized.** The home appears in scale with the surrounding homes. The building’s surfaces should be articulated in a manner that reduces the appearance of blocky or massive features, and architectural features, detailing and/or landscaping should subdue, rather than accentuate the prominence of larger homes.

   *The proposed bedroom and bathroom would be built within the existing building envelope of the house and would not increase the footprint of the house or to its visual mass. It is effectively an internal addition within existing walls. The existence of the new bedroom and bathroom would only be noticeable through the new windows visible only from the rear yard of the subject property. In fact, this corner of the house is not visible to the street, or any neighbors because it is behind surrounding vegetation and perimeter fences. Therefore, the visual mass of the addition, which is none, would be de-emphasized through the continued use of existing exterior walls.*

3. **The neighborhood’s existing visual character is valued.** The proposal “fits in” to the neighborhood’s existing architectural and landscape context, utilizing a compatible architectural vocabulary and retaining existing trees to the degree feasible and where conducive to achieving the purposes of this chapter. The landscaping to be retained and/or provided around the new and/or remodeled residence should include an appropriate balance of trees, shrubs and living ground covers, and should be designed to blend the project into its larger setting.

   *The neighborhood’s existing visual character is valued because the proposed internal addition would not be perceivable from outside the rear yard of the subject property. No new massing or structures would be added to the existing building envelope that would cause any impacts to the design of the front of the house, which is visible from the street and sidewalk.*

4. **The physical impacts to neighbors are minimized.** The proposed home or addition does not substantially impair the privacy and access to light and air of adjacent residences, while balancing the applicant’s ability to improve the subject property in accordance with all applicable restrictions.

   *The proposed floor area addition would be built within the existing envelope of the existing house. No new mass would be created that would affect or increase the impacts of the resulting house upon the privacy and access to light and air of adjacent residences. The design of the house will continue to meet the daylight plane regulation, which generally addresses these elements. Furthermore, the proposal would allow the house to continue to meet Zoning Code*
regulations for height, setbacks, daylight plane, and lot coverage, as previously approved through prior entitlements PLN2001-00072 and PLN2003-00040.

5. **View Preservation Standard, RS-VP District**. To approve or conditionally approve a Site Plan in the RS-VP District, the decision-maker or the decision-making body shall also find that the proposed construction does not unreasonably block or diminish neighbors’ views of distant and scenic features, such as the San Francisco Bay and surrounding open spaces and skylines, while balancing the applicant’s ability to improve the subject property in accordance with the applicable restrictions.

*In this neighborhood, the San Francisco Bay is the main scenic feature visible to nearby properties. The proposed project is an internal addition and therefore would not block or diminish neighbors’ views of scenic features, specifically the San Francisco Bay.*

**Public Comments**

A hearing notice was sent to property owners adjoining and across the street from the subject site. No public comments were received as of the publishing of this report.

**Environmental Review**

This project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Section 15301, Existing Facilities.

**Staff Recommendation**

Staff recommends approval of PLN23-0015, Major Site Plan Review to convert a portion of an existing basement in an existing single-family home to a bedroom and a bathroom (approx. 250 square feet), subject to the Recommended Conditions of Approval in Section E.

The ZEO also has the option to approve the project with modifications, or to deny the proposal if the findings listed above cannot be made. The action to approve or deny the application by the ZEO is final unless the decision is appealed to the Board of Zoning Adjustments. Any appeal must be received within 15 calendar days of the decision through the City Clerk’s Office and must include a reason for the appeal and the appeal fee, according to the current fee schedule.
E. RECOMMENDED CONDITIONS OF APPROVAL

Planning Division

1. **Permitted Use.** This Major Site Plan Review approval allows the conversion of a portion of an existing basement to a bedroom and a bathroom (approx. 250 square feet) at 2889 Darius Way. This Major Site Plan Review approval does not include the proposed Accessory Dwelling Unit and related exterior access. Assessor’s Parcel Number: 079-0020-045-01. Zoning District: RS-VP (Single-Family Residential, View Preservation).

2. **Clarifications and Revisions.** Prior to issuance of building permits, and as part of the building permit plan set for this project, the Applicant/Property Owner shall submit detailed drawings, including updated elevations, for review and approval by the Planning Division that include:
   a. All new windows shall have the same window trim as the window trim on the rest of the house and all damaged exterior walls shall be patched and painted to match surrounding walls.

3. **Appeals.** This approval shall become effective on the 15th day after the date the Zoning Enforcement Official approves the project, unless appealed, as provided in Zoning Code Chapter 5.20 Appeals.

4. **Expiration.** This approval shall lapse on **Monday, December 15, 2025,** unless a) a grading permit or building permit has been issued, coupled with diligent progress evidencing a good faith intent to commence the intended use, or b) an occupancy permit has been issued, or c) a written request for a one-year extension is approved by the Zoning Enforcement Official prior to permit expiration.

5. **Substantial Compliance** The construction of the project shall remain in substantial compliance with the approved project plans (Exhibit A), except as herein modified. The plans are on file in the City of San Leandro Community Development Department, 835 East 14th Street, San Leandro, California, 94577. Proposed changes to the project shall be made in writing to the Zoning Enforcement Official. The Zoning Enforcement Official may approve changes to approved exhibits or Conditions of Approval without a public hearing upon determining that the changes are minor and are consistent with the intent of the original approval. Revisions involving substantial changes to approved exhibits or Conditions of Approval shall be treated as new applications, to be reviewed as a new project.

6. **Succession.** The Applicant/Property Owner shall be responsible for assuring that any successor in interest who assumes responsibility for this zoning approval is informed of its terms and conditions.

7. **Permits Required.** The Applicant/Property Owner shall obtain any and all permits required, including but not limited to grading permits, building permits, fire permits, and encroachment permits for any work in the right-of-way.
8. **Permit Fees.** Any outstanding Planning, Engineering or Building deposit fees or balances shall be paid prior to issuance of a building permit.

9. **Construction Hours.** Construction on the Project site shall not begin prior to 7:00 am Monday through Friday, and prior to 8:00 am on Saturday and Sunday, and shall cease by 7:00 pm each evening, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. Interior construction shall be permitted outside the above hours provided that construction noise shall not be detectable outside of the structures being built.

10. **Construction Activity.** Construction activity shall not create dust, noise or safety hazards for adjacent residents and properties. Dirt and mud shall not be tracked onto surrounding streets from the Project site during construction.

11. **Construction Site Maintenance.** During the construction phase, the site shall be well maintained in a neat manner, free of weeds, litter and debris.

12. All structures shall be structurally sound and well maintained at all times; any damage to the structures shall be promptly repaired.

13. Any graffiti on the property shall be promptly removed.

14. The Applicant/Property Owner hereby agrees to defend, indemnify, and hold harmless the City of San Leandro, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys’ fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of San Leandro, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.

15. In the event that any person should bring an action to attack, set aside, void or annul the City’s approval of this Project, the Applicant/Property Owner shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the Applicant/Property Owner (which shall be the same counsel used by Applicant/Property Owner) and reasonably approved by the City. Applicant/Property Owner’s obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City’s compliance with Government Code Section 66474.9.

16. Prior to permit issuance, the Applicant/Property Owner shall demonstrate that the Project complies with all minimum requirements of the San Leandro Zoning Code.

17. Prior to permit issuance, the Applicant/Property Owner shall provide notations to the conditions of approval and clearly indicate how all conditions of approval will be or have been complied with. A reference shall be provided to specific plan sheets that demonstrate compliance. Construction plans shall not be accepted without the annotated final conditions of approval document.
**Building Division**

18. **Building Permits Required.** The Applicant/Property Owner shall obtain all necessary building permits prior to construction of the project. The proposed project shall comply with all applicable codes and City ordinances, policies and regulations.

19. **Building Permit Submittal.** The Applicant/Property Owner shall demonstrate the following on plans submitted for permit issuance. All building permit plan submittals shall include required mechanical, electrical, and plumbing (MEP) plans. Design-build for MEP is not allowed.

   a. Include the following requirements in the design of the project:
      
      i. Property is located in high fire area; project shall be designed per 2022 California Building Code Chapter 7A.
      
      ii. Foundation design shall reference soils report from January 1989.
      
      iii. Egress windows for all bedrooms are required.
      
      iv. Fire rating for walls, roof, and roof eaves within 5 feet of property line is required.
      
      v. Fire separation for garage ceiling and new floors is required.

   b. Include the following required drawings, exhibits, calculations, and/or documentation:
      
      i. A “J” number issued by the Bay Area Air Quality Management District (BAAQMD) is required for the structural wall demolition in the main house.
      
      ii. Construction and Demolition per CalGreen is required.
      
      iii. The CalGreen Residential Mandatory Measures Checklist is required.
      
      iv. Structural Plans and Calculations are required.
      
      v. A Structural Engineer is required to wet stamp all structural sheets and structural calculations.
      
      vi. A gasline diagram is required for all new gas appliances
      
      vii. Title 24 is required.

   c. All revision clouds and deltas added during this Planning Division review must be removed prior to submitting to the Building Division for permit.

**Alameda County Fire Department**

20. The applicant shall obtain all necessary building permits prior to construction of the project. Submit a building permit application for Fire Code plan check. For instructions on how to submit, visit the Building Division website at: https://www.sanleandro.org/208/Building-Fees-Forms-Submittal-Facts and https://www.sanleandro.org/1219/Applying-For-a-Permit.

21. Modifications to the fire sprinklers system shall require a separate permit and approval from the fire department.
Engineering Land Use

22. **Protest Within a 90-day Period.** Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the Applicant/Property Owner for this Project that the 90-day approval period (in which the Applicant/Property Owner may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If the Applicant/Property Owner fails to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, the Applicant/Property Owner will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

23. **Compliance.** The proposed development shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City’s Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.

24. **Traffic Impact Fee.** The City’s traffic impact fee program is called “Development Fee for Street Improvements” (DFSI). According to the adopted 2022-23 Fee Schedule, the rate for “Senior Housing/Accessory Dwelling Unit” land use is $854.07 per Dwelling Unit (du) and the total DFSI fee assessed on this project will be $854.07.

*Please note that this is an estimated amount. These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of building permit.*

25. **Park Impact Fee.** A Park Facilities Development Impact Fee according to the adopted 2022-23 Fee Schedule shall be assessed on this project assuming 1 dwelling unit (du) and will be added to the property as follows:

- Park Land Acquisition Fee: $6,693.00/du, or $6,693.00
- Park Improvement Fee: $1,140.00/du, or $1,140.00
- Total Park Impact Fee: $7,833.00/du, or $7,833.00

*Please note that this is an estimated amount. These fees are subject to change at the start of each fiscal year on July 1 and will not be vested until issuance of building permit.*

**Attachment**

Exhibit A: Project Plans
Remodel and ADU Addition to Existing Two Story House
Remodel and ADU Addition to Existing Two Story House
Remodel and ADU Addition to Existing Two Story House