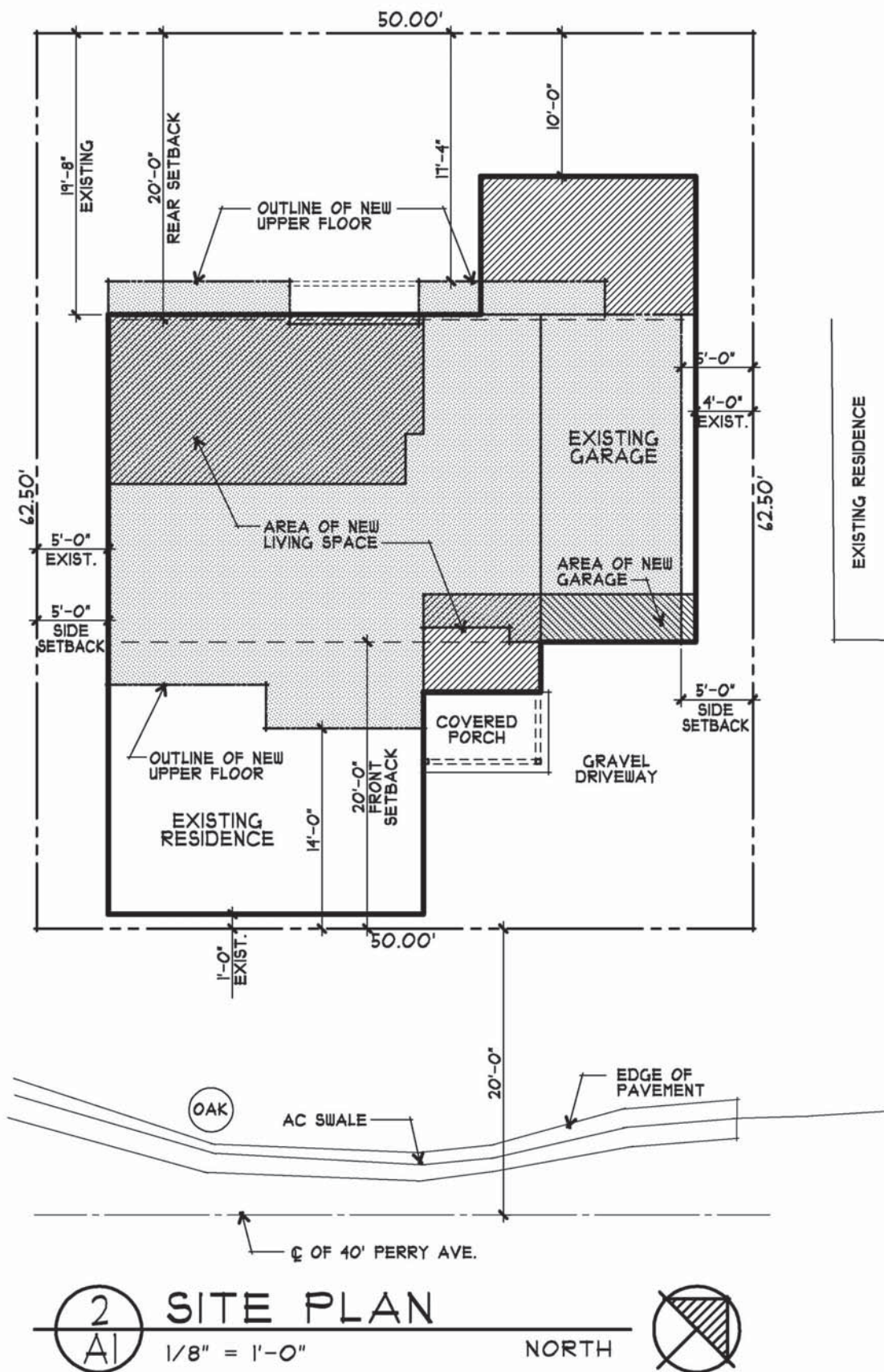




County of San Mateo - Planning and Building Department

ATTACHMENT B

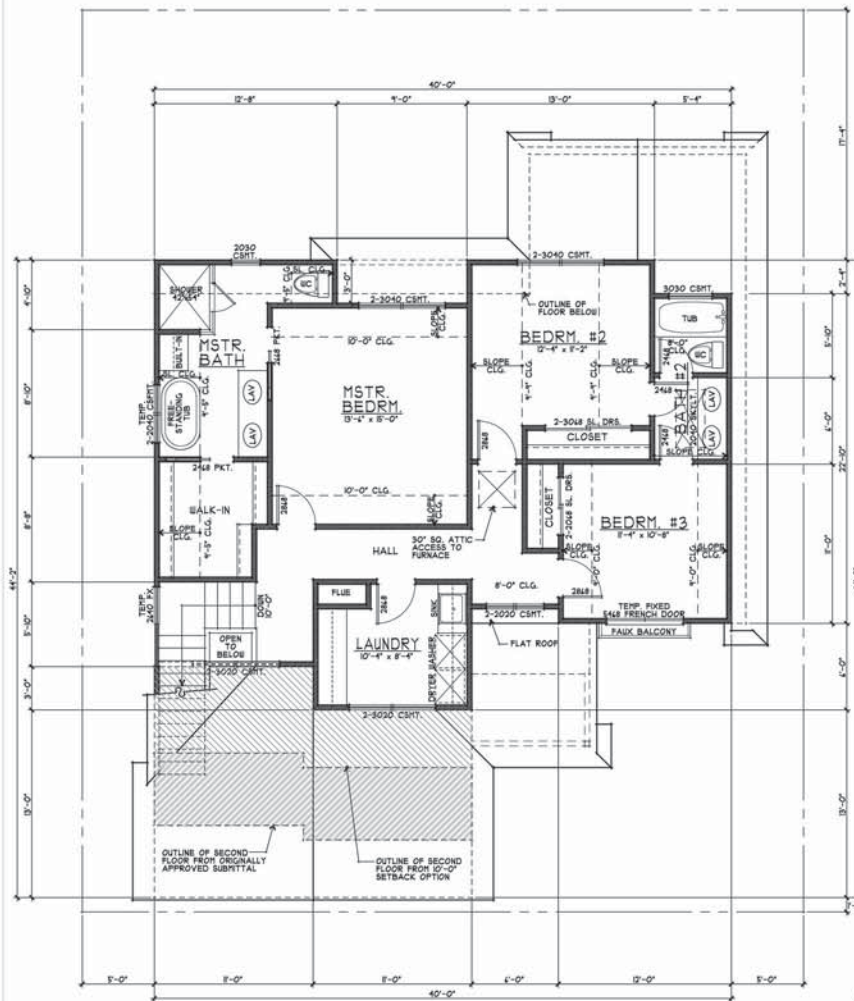


San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

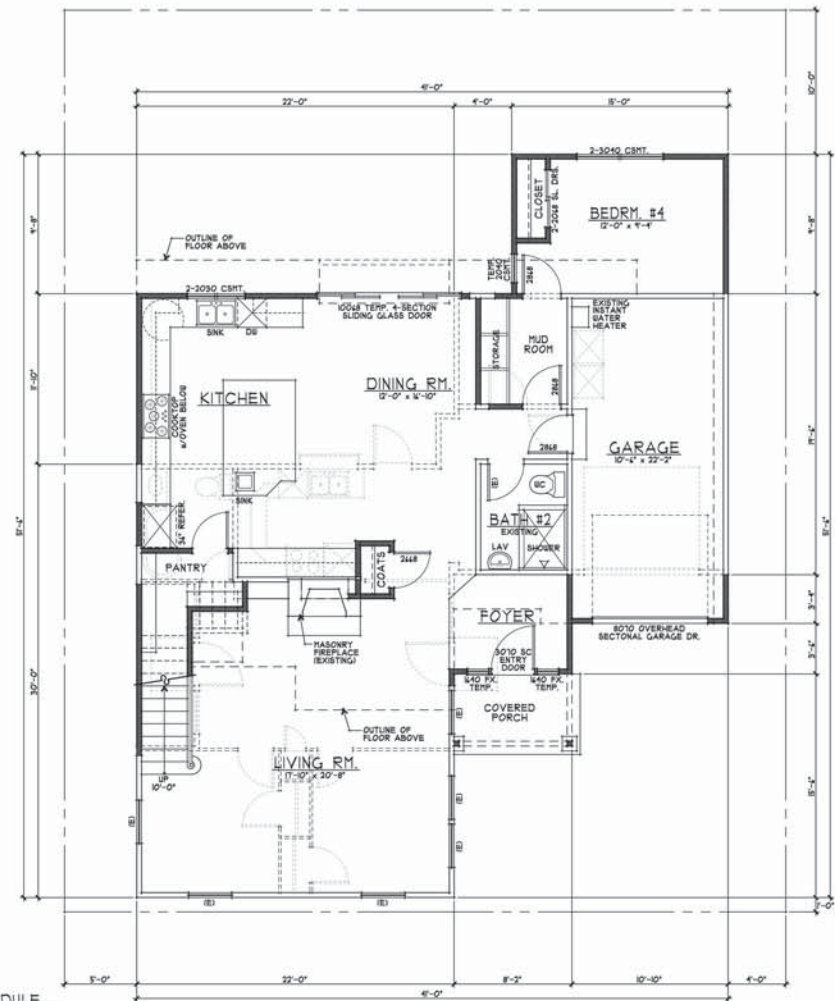
Attachment: B

File Numbers: PLN2012-00056



2 NEW UPPER FLOOR PLAN
1/4" = 1'-0"

WALL SCHEDULE
 ——— EXISTING WALL
 ——— NEW WALL
 - - - - - EXISTING WALL (TO BE REMOVED)



1 NEW MAIN FLOOR PLAN
1/4" = 1'-0"

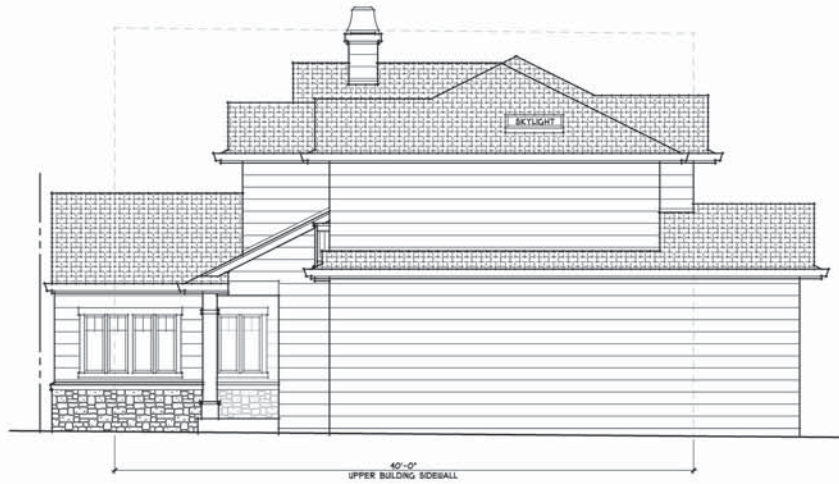
MAIN FLOOR 1280 S.F.
 UPPER FLOOR 1040 S.F.
 TOTAL 2340 S.F.
 GARAGE 241 S.F.
 TOTAL 2581 S.F.

San Mateo County Board of Supervisors Meeting

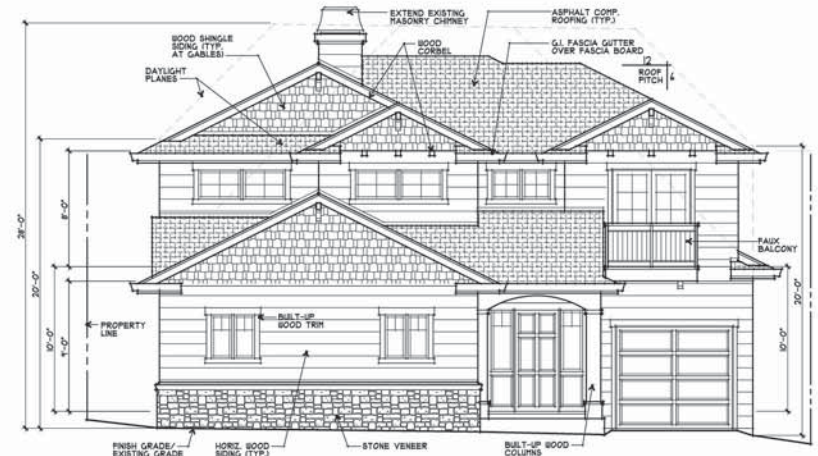
Owner/Applicant: VALENTINE

Attachment: B

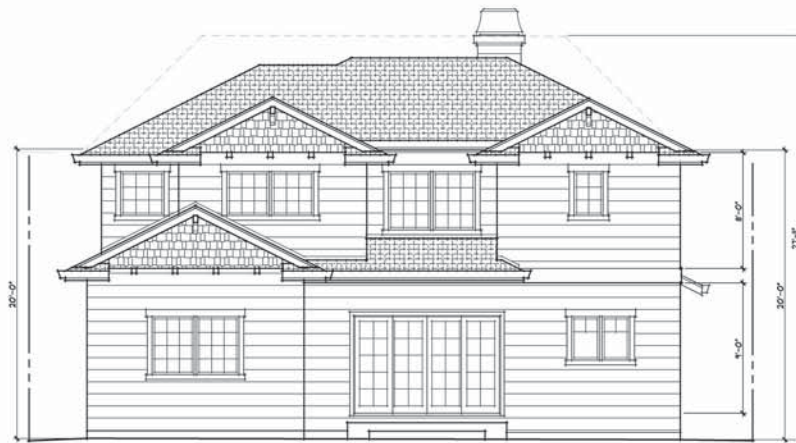
File Numbers: PLN2012-00056



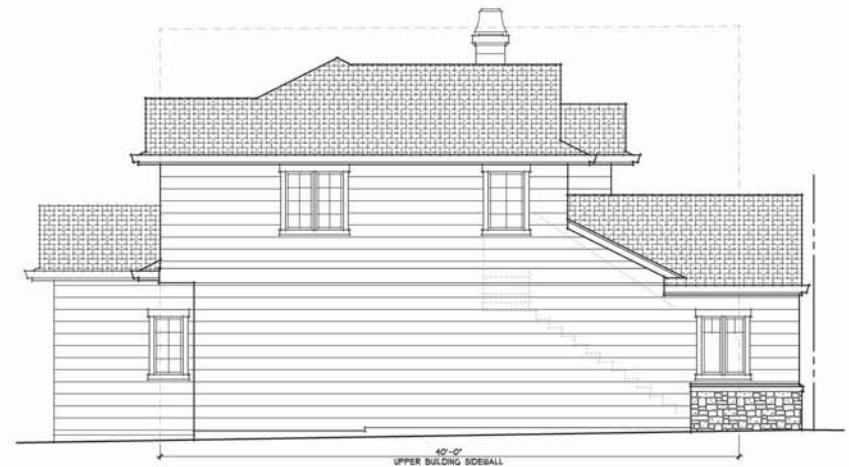
2
A3 RIGHT ELEVATION
1/4" = 1'-0"



1
A3 FRONT ELEVATION
1/4" = 1'-0"



4
A3 REAR ELEVATION
1/4" = 1'-0"



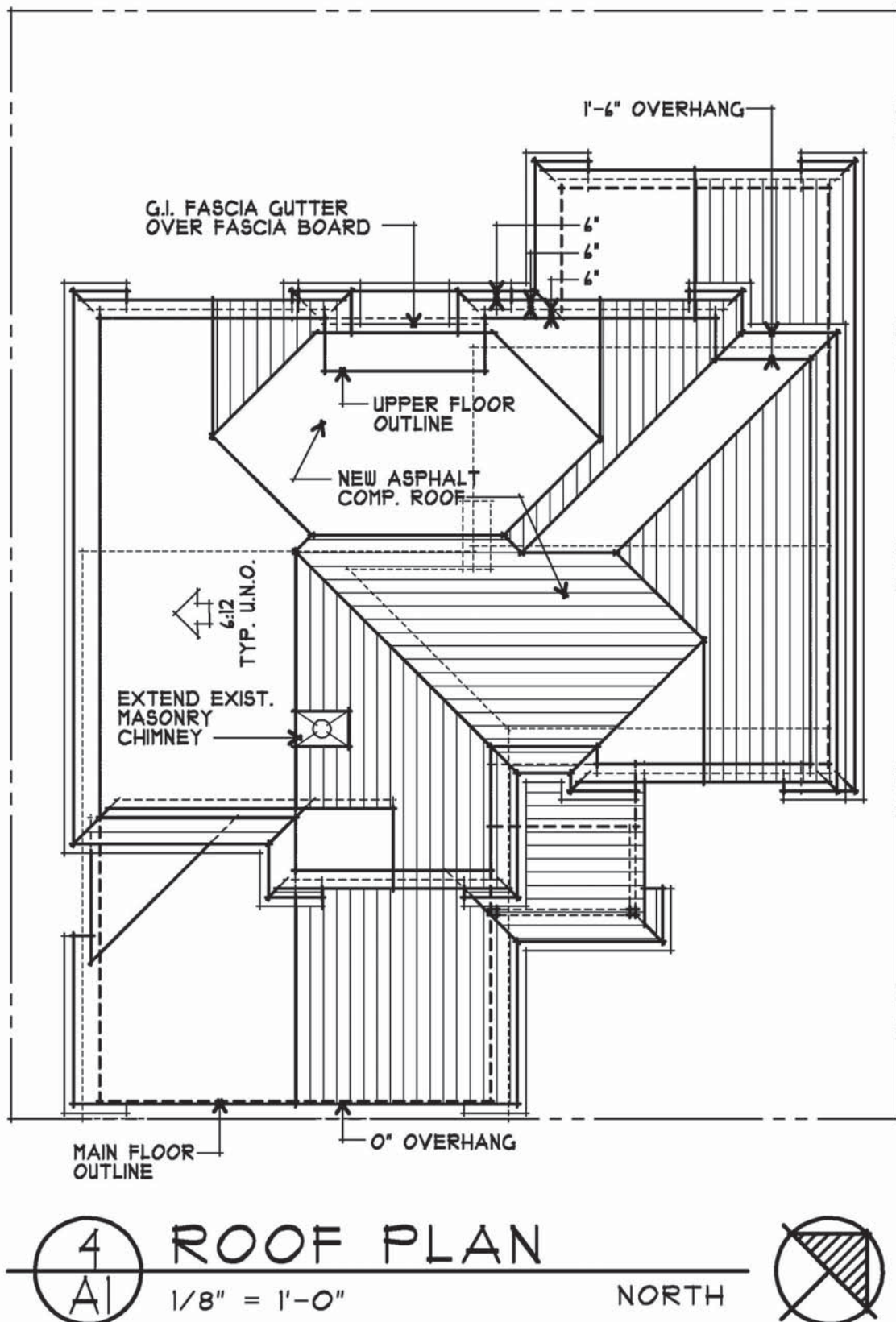
3
A3 LEFT ELEVATION
1/4" = 1'-0"

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: B

File Numbers: PLN2012-00056



San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: B

File Numbers: PLN2012-00056



County of San Mateo - Planning and Building Department

ATTACHMENT C



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: March 18, 2013
Board Meeting Date: April 9, 2013
Special Notice / Hearing: 300 Feet
Vote Required: Majority

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Community Development Director

Subject: EXECUTIVE SUMMARY: Public hearing to consider an appeal of the Planning Commission's approval of a Non-Conforming Use Permit and Off-Street Parking Exception to allow the expansion of a non-conforming house on a non-conforming parcel that will result in encroachments into required setbacks and daylight planes and allow one covered parking space where two are required, at 4 Perry Avenue, in the unincorporated West Menlo Park area of San Mateo County.

RECOMMENDATION:

Public hearing to consider denying the appeal and upholding the Planning Commission's decision to approve the Non-Conforming Use Permit and Off-Street Parking Exception, County File Number PLN 2012-00056, by making the required findings and subject to the conditions of approval listed in Attachment A.

BACKGROUND:

The applicant has applied for a Non-Conforming Use Permit and Off-Street Parking Exception to allow a 1,737 sq. ft. addition to a legal non-conforming house on a legal, non-conforming parcel. The existing single story house is 990 sq. ft. in size with a one-car garage. The subject parcel is substandard in size at 3,125 sq. ft. where 5,000 sq. ft. is the minimum square footage required by the zoning district.

The applicant is proposing to expand the first floor of the house by:

- Enclosing an existing at-grade deck (approximately 256 sq. ft.) at the rear of the house. This portion of the addition would conform to the required setbacks.
- Constructing an addition to the front of the garage and house (approximately 92 sq. ft.) that would also create a new foyer and covered porch. A portion of this proposed addition would encroach into the required front and side yard setbacks.

- Constructing a 41 sq. ft. covered porch that is entirely in the front setback. Because this covered porch extends more than 4 feet from the exterior walls, it counts towards the maximum floor area allowed on this parcel, as well as lot coverage.
- Enclosing an alcove area on the left side of the existing living room (approximately 45 sq. ft.). Approximately 34 sq. ft. of this addition encroaches into the front yard setback.
- The applicant is also proposing a new second story addition of approximately 1,303 sq. ft. A portion of the second story addition will encroach approximately 15 feet into the required front yard setback, 1 foot into the required right side yard setback, and 2 feet, 8 inches into the rear yard setback. A portion of the second story addition encroaches into the required daylight plane on the right side and front.
- The applicant has also applied for an Off-Street Parking Exception to allow one parking space (existing attached garage) where two are required.

DISCUSSION:

The Planning Commission considered an appeal of the Zoning Hearing Officer's (ZHO) approval at its November 14, 2012 meeting. After hearing testimony by the applicant and appellants, as well as staff's presentation, the Commission voted 3-1 to deny the appeal and uphold the ZHO's decision. An appeal of this decision was filed on November 29, 2012, with subsequent additional points of appeal submitted on February 15, 2013 and March 4, 2013. The appeal argues that three of the required findings for this Non-Conforming Use Permit cannot be reasonably justified. Specifically:

1. The proposed development is proportioned to the parcel on which it is being built,
2. The proposed development is as nearly in conformance with the zoning regulations as is reasonably possible, and
3. Use permit approval does not constitute a granting of special privileges.

In summary, the Planning Commission considered the information contained in the staff report, the project plans, statements from the applicant, the appellants, and members of the public, and based upon the evidence before them, made the required findings.

The appellants have also proposed an alternative to the project that they believe is more consistent with the neighborhood character. Staff has also proposed an alternative that would be consistent with both the required findings for a non-conforming use permit and the methodology used for the adjoining legal non-conforming parcel in determining floor area that also required a use permit. In addition, the applicants have also submitted an alternative that further reduces the second story encroachments as

compared to their original proposed project. All three alternatives are discussed in the Board memo in greater detail.

County Counsel has reviewed and approved this report as to form.

The approval of this Non-Conforming Use Permit for the major remodel of a single-family residence contributes to the 2025 Shared Vision outcome of a Livable Community through compliance with General Plan Visual Quality Policies requiring new development to maintain and, where possible, improve upon the appearance and visual character of development in urban areas, and to ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality.

FISCAL IMPACT:

No fiscal impact.



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: March 18, 2013
Board Meeting Date: April 9, 2013
Special Notice / Hearing: 300 Feet
Vote Required: Majority

To: Honorable Board of Supervisors

From: Jim Eggemeyer, Community Development Director

Subject: Public hearing to consider an appeal of the Planning Commission's approval of a Non-Conforming Use Permit and Off-Street Parking Exception to allow the expansion of a non-conforming house on a non-conforming parcel that will result in encroachments into required setbacks and daylight planes and allow one covered parking space where two are required, at 4 Perry Avenue, in the unincorporated West Menlo Park area of San Mateo County.

County File Number: PLN 2012-00056 (Valentine)

RECOMMENDATION:

Public hearing to consider denying the appeal and upholding the Planning Commission's decision to approve the Non-Conforming Use Permit and Off-Street Parking Exception, County File Number PLN 2012-00056, by making the required findings and subject to the conditions of approval listed in Attachment A.

BACKGROUND:

Proposal: The applicant has applied for a Non-Conforming Use Permit and Off-Street Parking Exception to allow a 1,737 sq. ft. addition to a legal non-conforming house on a legal, non-conforming parcel. The existing single story house is 990 sq. ft. in size with a one-car garage. The existing dwelling has a front yard setback of 1 foot (from the front property line) where 20 feet is the minimum required, a right (as viewed from the street) side yard setback of 4 feet where 5 feet is required, and a rear yard setback of 19 feet, 8 inches where 20 feet is required. The house's left side yard setback is conforming at 5 feet. The subject parcel is substandard in size at 3,125 sq. ft. where 5,000 sq. ft. is the minimum square footage required by the zoning district.

The applicant is proposing to expand the first floor of the house by:

- Enclosing an existing at-grade deck (approximately 256 sq. ft.) at the rear of the house. This portion of the addition would conform to the required setbacks.

- Constructing an addition to the front of the garage and house (approximately 92 sq. ft.) that would also create a new foyer and covered porch. A portion of this proposed addition would encroach into the required front and side yard setbacks.
- Constructing a 41 sq. ft. covered porch that is entirely in the front setback. Because this covered porch extends more than 4 feet from the exterior walls, it counts towards the maximum floor area allowed on this parcel, as well as lot coverage.
- Enclosing an alcove area on the left side of the existing living room (approximately 45 sq. ft.). Approximately 34 sq. ft. of this addition encroaches into the front yard setback.
- The applicant is also proposing a new second story addition of approximately 1,303 sq. ft. A portion of the second story addition will encroach approximately 15 feet into the required front yard setback, 1 foot into the required right side yard setback, and 2 feet, 8 inches into the rear yard setback. A portion of the second story addition encroaches into the required daylight plane on the right side and front.
- The applicant has also applied for an Off-Street Parking Exception to allow one parking space (existing attached garage) where two are required.

Planning Commission Action: The Planning Commission considered an appeal of the Zoning Hearing Officer's (ZHO) approval at its November 14, 2012 meeting. After hearing testimony by the applicant and appellants, as well as staff's presentation, the Commission voted 3-1 to deny the appeal and uphold the ZHO's decision to approve the project.

Report Prepared By: James Castañeda, Project Planner, Telephone 650/363-1853

Appellant: James Camarillo, et al.

Applicant/Owner: Michael Valentine

Location: 4 Perry Avenue, Menlo Park

APN: 074-102-050

Size: 3,125 sq. ft.

Existing Zoning: R-1/S-72 (Single-Family Residential/5,000 sq. ft. minimum parcel size)

General Plan Designation: Medium Density Residential (6.1-8.0 dwelling units per acre)

Sphere-of-Influence: Menlo Park

Existing Land Use: Single-Family Residential

Water Supply: CalWater, Status of connection: existing

Sewage Disposal: Westbay Sewer Maintenance District, Status of connection: existing

Flood Zone: Zone X (areas of minimal flooding), based on the FEMA Flood Zone Map, Community Panel No. 06081C 0312 E, effective October 16, 2012.

Environmental Evaluation: This project is categorically exempt pursuant to Section 15301(e) of the California Environmental Quality Act, related to the minor alteration of existing private structures where the addition will not result in an increase of more than 50% of the floor area of the structure before the addition OR 10,000 sq. ft. if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

Setting: The subject property is a 3,125 sq. ft. parcel fronting Perry Avenue. Currently, a 990 sq. ft. single-family dwelling with an attached single-car garage exists on this site. The site is located in an established residential area on a relatively flat lot. Perry Avenue is a relatively narrow street with a traffic-calming island near the frontage of the subject parcel. The existing single-family dwellings in the area range from single- to two-story homes. The subject site is landscaped with mature trees and other vegetation along the side and rear yards, including a coast live oak in the front right-of-way along Perry Avenue.

Chronology:

<u>Date</u>	<u>Action</u>
February 28, 2012	- Application received.
August 2, 2012	- Zoning Hearing Officer hearing. Project approved.
August 16, 2012	- Appeal to the Planning Commission filed.
November 14, 2012	- Planning Commission hearing. Appeal denied, ZHO approval upheld.
November 29, 2012	- Appeal to the Board of Supervisors filed.
April 9, 2013	- Board of Supervisors hearing.

DISCUSSION:

A. APPELLANTS' POINTS OF APPEAL

On November 29, 2012, eight neighbors of the project filed an appeal of the Planning Commission's decision to approve this project. The appellants' initial submittal was augmented by additional information on February 15, 2013 and March 4, 2013. These later submittals form the basis of the neighbors' appeal and will be the focus of staff's analysis. The appellants have three main points of appeal:

1. **"Two of the findings required to grant a use permit cannot be reasonably justified:**

Section 6133.3.b(3) Finding (a) that must be made is "The proposed development must be proportioned to the parcel on which it is being built."

In addressing this finding, staff discusses maximum square footage, and compares the proposed square footage of the proposed development to that of other houses recently constructed in the neighborhood. But, this approach addresses house size only and does not address proportionality of house size to parcel size.

The proposed development is for a non-conforming, substandard parcel. All other parcels in the vicinity but one are conforming parcels and are substantially larger, by almost double, than that of the subject parcel. Putting a similar size house on a half size lot is not proportional. The proposed development is proportionally 47%-61% larger than the recent developments on either side."

Staff Response: The finding cited is for a Non-Conforming Use Permit for development on a non-conforming parcel. This required finding seeks to avoid the construction of an oversized house on an undersized parcel. The appellants are correct in stating that a comparison of the project against other houses (total square footage) in the vicinity does not address proportionality of the proposed house to the project parcel.

The project parcel, at 3,125 sq. ft., is 62.5% of the required minimum parcel size (5,000 sq. ft.) for this zoning district. Applying this reduced parcel size percentage to the minimum floor area of 2,800 sq. ft. for conforming parcels in the district would result in a house size of 1,750 sq. ft. This approach is similar to the approach taken with the next-door parcel at 2 Perry Avenue, which is also non-conforming in size and which required a non-conforming use permit for its expansion in 2000.

However, another finding required for a non-conforming use permit is:

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

As currently proposed, the project would have an 87% FAR, which exceeds the floor area ratio of other houses around it, in particular, the house at 2 Perry Lane, which was reduced in scope at the behest of the Zoning Hearing Officer in 2000 in order to meet these required findings.

In summary, the Planning Commission carefully considered the proportionality and no special privilege findings, along with the information contained in the staff report, the project plans, statements from the applicant, the appellants, and members of the public, and based upon the evidence before them, made the required findings.

2. **“Section 6133.3.b(3) Finding (c) that must be made is “The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.”**

Staff assumes that the existing non-conforming structure establishes setbacks for the new construction. However, Section 6135.4 clearly states that “A non-conforming structure may be enlarged provided the enlargement conforms with the zoning regulations currently in effect, i.e., the non-conforming portion of the structure may not be enlarged.” It is the second story front yard setback that is most offensive.

Staff Response: The appellants are correct regarding the language contained in Section 6135.4 of the County Zoning Regulations regarding non-conforming structures. However, because the subject parcel is also non-conforming in size, and is improved, if the applicant seeks to propose new development that does not conform with the zoning regulations, a use permit is required. It is through this provision of the zoning code that the applicant seeks to request the encroachments into the setbacks and daylight planes. Staff has not assumed the existing non-conforming structure establishes setbacks for new construction.

Staff also states that daylight plane is only a side yard issue and that minimum required setbacks are unrelated to the daylight plane. However, Section 6300.4.106 clearly states “A daylight plane defines a three dimensional volume of space in which a building may be constructed.” Further, Section 6300.4.100.1.b notes “The regulatory limits of Option 1 requirements are illustrated on the diagram...” and the diagram clearly shows the daylight plane volume limited by the minimum required setbacks on all sides of a structure.

Staff Response: It is acknowledged in the Planning Commission staff report that “the proposed development does require exceptions from setbacks and, as a result, protrudes into the front daylight plane.” That staff report does not elaborate any further upon this point. The project as proposed will place a second story massing (primarily bedroom No. 4, bathroom No. 3 and the study) within that area regulated by the front yard setback and by extension the daylight plane. The proposal would place this portion of the second story mass approximately 15 feet closer to the street than for the existing houses on either side of the project site.

In addition to these points of appeal, the appellants also discuss a preferred alternative to the proposed project. This preferred alternative will be discussed later in this report under the “Alternatives” section.

3. On March 4, 2013, the appellants submitted an additional letter regarding another finding required for the use permit:

Section 6133.3.b(3) Finding (e) that must be made is “Use permit approval does not constitute a granting of special privileges.”

In addressing this finding, staff indicates that the approval would not involve the granting of a special privilege to the property owner because other exceptions have been granted in the neighborhood, including the adjacent parcel which is also substandard.

However, while a use permit was approved for the development on the substandard parcel at 2 Perry Avenue, the use permit approval came at the end of a public process during which the Planning Department directed negotiation. The house that was ultimately approved was much smaller than originally proposed, to be in proportion to its parcel with small setback exceptions. The development at 2 Perry Avenue (the only other substandard parcel on the block) sets the standard for the development at 4 Perry Avenue. To do otherwise, to allow greater bulk or more exceptions, would constitute the granting of a special privilege.

Also, 2 Perry Avenue respects the front setback on the street, as do all other new houses. To allow the 4 Perry Avenue development to add a second story in exception of the front setback would result in this new house looming in front of all other houses on Perry Avenue. Approving such an exception would be granting a special privilege.

Staff Response: Staff has discussed this finding above under Appellants’ Points of Appeal No. 1. This issue was also discussed in the November 14, 2012 Planning Commission staff report. Based upon the information presented to them at that time, the Planning Commission made the

determination that the project, as proposed, did not constitute the granting of a special privilege.

B. COMPLETE ANALYSIS OF PROJECT COMPLIANCE WITH ALL APPLICABLE POLICIES AND REGULATIONS

1. Compliance with the General Plan

The project parcel has a Medium Density Residential land use designation within the County General Plan. The proposal, i.e., a single-family home, is consistent with the surrounding residential land uses, per Policy 8.14 (*Land Use Compatibility*).

2. Compliance with Zoning Regulations

The subject site is a substandard sized parcel located within the R-1/S-72 (Single-Family Residential) Zoning District with a parcel size of 3,125 sq. ft., where the minimum required is 5,000 sq. ft. As discussed in the project description section, the existing dwelling currently encroaches into the front, right side, and rear setbacks. As proposed, the project will not exceed the maximum building floor area allowed for 5,000 sq. ft. and smaller parcels in this district. This standard is separate from the question of proportionality as discussed earlier in the appellants' points of appeal. The project, as proposed, will not exceed the maximum lot coverage ratio established for this district.

The applicant is requesting a Non-Conforming Use Permit, pursuant to Section 6133 (Non-Conforming Parcels) of the Zoning Regulations, in order to expand and modify the existing legal non-conforming structure. Portions of the proposed ground floor addition will encroach into the front and right side yard setbacks. Portions of the new second story will encroach into the front, rear, and right side setbacks. This zoning district also requires that all new development conform to one of three options that regulate building height, daylight plane and upper building side wall length. In this case, the applicant has chosen Option 1. By extension, the new first and second story encroachments also violate the required daylight planes for this parcel. The table below compares the existing conditions and proposed additions against the applicable zoning standards:

	Zoning Standard	Current Condition	Proposed
Minimum Lot Size (sq. ft.)	5,000	3,125†	3,125
Minimum Lot Width (ft.)	50	50	50

	Zoning Standard	Current Condition	Proposed
Minimum Setbacks (ft.)			
Front	20	1*	1 (1st Floor) 5 (Proposed 2nd Floor)
Rear	20	19.66*	19.66 (Proposed 1st Floor) 17.33 (Proposed 2nd Floor)
Left	5	5	5
Right	5	4*	4 (Both 1st and 2nd Floors)
Lot Coverage	50%	32%	45.5%
Max. Floor Area (sq. ft.)	2,800	990	2,727
* Existing legal non-conforming setbacks and coverage. † Existing legal non-conforming parcel size.			

The non-conforming setbacks and daylight plane protrusions may be granted under a use permit in accordance with procedures outlined in Section 6503 of the San Mateo County Zoning Regulations, as discussed in the next section.

3. Conformance with Zoning Nonconformities Regulations

As a non-conforming parcel, the project is subject to Section 6133(3)(b)(2) of the Zoning Regulations (Non-Conforming Parcels) which regulates development on improved non-conforming parcels. Specifically, proposed development on an improved non-conforming parcel that does not conform with the zoning regulations currently in effect shall require the issuance of a use permit. The Planning Commission voted 3-1 at the public hearing on November 14, 2012 and made the following findings with the accompanying supporting statements:

- a. **Find 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 Planning Commission determined that the additions as proposed will not negatively impact the neighborhood. The parcel is one of two substandard lots in the area, where their length would not provide an opportunity to construct a house further into the lot without encroaching into the required rear yard. The increased rear encroachment of 17.3 feet from the existing 19.8 feet as a result of the proposed second story accounts for a minor impact. The addition of the second floor, which would further protrude into the required vertical daylight plane, would not be out of character with the

surrounding area and existing dwellings. In particular, the adjacent lot, which is also substandard, is developed with a similar two-story dwelling. As proposed, the Planning Commission determined that the proposed additions would have negligible impact to adjacent parcels and surrounding residential areas.

b. Find that the proposed development is proportioned to the size of the parcel on which it is built.

The parcel is substandard in size. The S-72 Zoning Regulations stipulate a maximum of 2,800 sq. ft. of floor area for parcels of 5,000 sq. ft. or less. The proposed building will be 2,727 sq. ft. in size and, thus, in conformance with the floor area standard. As proposed, the Planning Commission determined that the resulting house will be appropriately proportioned when compared to other residential parcels in the project area.

c. Find 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 as single-family residences, and are under separate ownership. Further, adjacent parcels are either at the minimum required size or also considered substandard in size. Acquisition of less than the entirety of the adjacent parcels (through lot line adjustment) would not be feasible.

d. Find that the proposed development is as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible.

Due to the non-conforming size of the parcel, the existing dwelling and proposed additions would be considered most in conformance as possible. The development on the subject parcel is comparable and proportional to other larger parcels in the vicinity. With the existing non-conforming setbacks, it is not possible to add a second story, common with other dwellings in the area, without encroaching into the vertical daylight plane.

e. Find that the use permit approval does not constitute a granting of a special privilege.

Since the project is being judged on its own merits (with respect to compatibility and impact to the neighborhood), the approval of the

proposed additions, as conditioned, would not involve the granting of a special privilege to the property owner. Other exceptions have been granted in the neighborhood (including the adjacent parcel which is also substandard) and would not be considered a special privilege.

4. Conformance with Off-Street Parking Exception Regulations

The applicant is also requesting an Off-Street Parking Exception to allow one covered parking space where two are required. The applicant is proposing to continue to use the existing single-car garage as the primary covered parking for the modified dwelling. As required by Section 6120 of the Zoning Regulations, an off-street parking exception may be issued upon making of the following findings:

- a. **That the establishment, maintenance and/or conducting of the off-street parking facilities, as proposed, is as nearly in compliance with the requirements as is reasonably possible.**

The applicant intends to continue using the existing driveway to provide secondary, off-street parking. Given the constraints of the substandard parcel's shallow depth and minimal front and side yard allowance, adding a second covered space is not possible. In addition, the width does not allow for additional opportunities for a second garage space.

- b. **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 proposed project will still provide one covered parking space within the single-car garage. The project will also provide one uncovered space on the driveway. Approval of the proposed project will not alter existing parking demand on the site, nor reduce parking availability. There is no evidence to suggest that approving the requested exception will create new parking impacts to the neighborhood.

C. ALTERNATIVES

1. Alternative One

As an alternative to the approved project, the appellants have proposed the following:

“The second alternative proposed by staff (in the Planning Commission staff report) would allow a more reasonable degree of relief from the regulations by allowing the existing non-conforming structure with its one-car garage to remain and be enlarged. We understand that this alternative would contain the second floor development behind the front yard setback. The proposed new floor area on both the first and second floors would be reduced by eliminating Bedroom No. 4, Bath No. 3 and the Study, reorienting the stair, and reducing, eliminating, and/or reorienting the Foyer and Covered Porch to fully fit within the front and right side yard setbacks, and extend no further into the rear and right side yard setbacks than the existing walls. This would greatly reduce the encroachments into the setbacks and reduce the overall size of the proposed bulk.”

Staff Response: Staff did suggest two alternatives in the Planning Commission staff report, this was the second suggested alternative. The appellants are essentially proposing no new encroachments into any of the required setbacks, except for along the right side yard. The resulting square footage would be approximately 2,277 sq. ft.

2. Alternative Two

Staff's proposed alternative does not attempt to design the proposed addition, but rather, sets parameters that are consistent with the limits that were established for the adjoining parcel at 2 Perry Avenue during its permitting process. The parcel size at 2 Perry Avenue is 3,625 sq. ft. (72.5% of the required minimum 5,000 sq. ft. parcel size) and the total approved floor area is 2,045 sq. ft. (73% of the minimum floor area of 2,800 sq. ft.). The project parcel, at 3,125 sq. ft., is 62.5% of the required minimum parcel size (5,000 sq. ft.) for this zoning district. Applying this reduced parcel size percentage to the minimum floor area of 2,800 sq. ft. for conforming parcels in the district would result in a house size of 1,750 sq. ft. To that end, staff's proposed alternative would establish this number as the maximum floor area for this parcel. Staff's alternative would allow for the proposed right side encroachment of both the first and second floors. This would allow for a more harmonious building profile along that building line.

3. Alternative Three

The applicants have also provided an alternative as a proposed compromise. They believe this alternative addresses the neighbor's concerns, particularly with regard to the second story encroachment into the front yard setback. This alternative would include the existing and proposed first floor plan encroachments approved by the Planning Commission, but would reduce the floor area on the second floor previously occupied by the study and bedroom No. 4. The net result of this change would be to reduce the

proposed front yard setback (for the second floor) to 10 feet where 20 feet is the required setback. (The Planning Commission approved a five (5) foot front yard setback for the second story.) In addition, this alternative proposes a second story right side setback of five (5) feet. This proposed setback conforms to the required side yard setbacks for this zoning district. This alternative also proposes to maintain the Planning Commission's approved second story rear yard setback of 17'-4" (2'-8" encroachment) where 20 feet is the required setback. This alternative would result in a total floor area of approximately 2,509 sq. ft. Floor plans and elevations are included as Attachment J.

4. Requested Additional Conditions of Approval

In addition to their preferred alternative, the appellants have also requested that additional conditions be placed on the project that address the following issues:

- a. ***Provisions should be put in place to maintain the health and viability of the heritage oak in the public right-of-way, including tree protection during construction, limitations on irrigation, directive on appropriate planting under oaks, etc.***

Staff Response: Staff believes requiring a tree protection plan is a reasonable request, consistent with other discretionary permits that have been issued in the County, including the non-conforming use permit that was approved for 2 Perry Avenue. A condition of approval has been included in Attachment A (Condition No. 7) that requires the implementation of a tree protection plan.

- b. ***Provisions should be put in place to address safety concerns of parking at the "choke-point" of the narrow street including a site plan showing uncovered parking for two standard size vehicles within the property lines, and the addition of "No Parking" signs on the portion of the street constricted by the heritage oaks in the public right-of-way.***

Staff Response: The plans as approved by the Planning Commission show a driveway that can only accommodate one uncovered parking space. This space combined with the one covered space within the garage would provide two off-street parking spaces for this parcel. The County parking regulations only require two off-street parking spaces for a single-family dwelling. Requiring more than two would be imposing a burden upon the applicant that is not placed upon other homeowners in San Mateo County. As is standard with off-street parking exceptions, staff has included a condition in Attachment A (Condition No. 8) that requires the applicant to maintain the parking

space within the garage free and clear and available for vehicle parking at all times.

Regarding the placement of “No Parking” signs within the public right-of-way, such decisions are within the jurisdiction of the Public Works Department, which have criteria for determining the need for such restrictions. If a member of the public wishes to have a portion of a street designated as “No Parking,” they start by applying to the Department of Public Works (DPW), which would undertake the necessary analysis and submit their findings and recommendation to the Board of Supervisors. The Board would then decide whether to direct to place the signs on the street.

D. ENVIRONMENTAL REVIEW

This project is categorically exempt pursuant to Section 15301(e) of the California Environmental Quality Act, related to the minor alteration of existing private structures where the addition will not result in an increase of more than 50% of the floor area of the structure before the addition OR 10,000 sq. ft. if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

E. REVIEWING AGENCIES

Building Inspection Section
Department of Public Works
Menlo Park Fire Protection District

County Counsel has reviewed and approved the report as to form.

The approval of this Non-Conforming Use Permit for the major remodel of a single-family residence contributes to the 2025 Shared Vision outcome of a Livable Community through compliance with General Plan Visual Quality Policies requiring new development to maintain and, where possible, improve upon the appearance and visual character of development in urban areas, and to ensure that new development in urban areas is designed and constructed to contribute to the orderly and harmonious development of the locality.

FISCAL IMPACT:

No fiscal impact.

ATTACHMENTS:

- A. Recommended Findings and Conditions of Approval (attached below)
- B. Vicinity Map
- C. Site Plan

- D. Existing Floor Plan
- E. Proposed Main Floor Plan
- F. Proposed Upper Floor Plan
- G. Proposed Elevations
- H. Setback Protrusions
- I. Daylight Plane Protrusions
- J. Applicant's Proposed Alternative (Floor Plans and Elevations)
- K. Appeal Submittal

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit File Number: PLN 2012-00056

Board Meeting Date: April 9, 2013

Prepared By: James Castañeda
Project Planner

For Adoption By: Board of Supervisors

RECOMMENDED FINDINGS:

Regarding the Environmental Review, Find:

1. That this project is categorically exempt pursuant to Section 15301(e) of the California Environmental Quality Act, related to the minor alteration of existing private structures where the addition will not result in an increase of more than 50% of the floor area of the structure before the addition OR 10,000 sq. ft. if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

Regarding the Use Permit, Find:

2. 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, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood. Given the constraints of the substandard parcel and existing non-conforming dwelling, the proposed additions would be congruent with dwellings in the surrounding area and will have a negligible impact on the neighborhood.
3. That the proposed development is proportioned to the size of the parcel on which it is built. The existing dwelling, with the proposed additions, is proportioned appropriately when compared to other residences in the neighborhood.
4. That all opportunities to acquire additional contiguous land in order to achieve conformity with the Zoning Regulations currently in effect were investigated and proven to be infeasible. Acquisition of adjacent private property is not possible.
5. That the proposed development is as nearly in conformance with the Zoning Regulations currently in effect as reasonably possible. Due to the non-conforming size of the parcel and the existing dwelling's non-conforming setbacks, the proposed additions conform to the regulations to the extent possible. The

development on the subject parcel is comparable and proportional to development on other larger parcels in the vicinity.

6. That the use permit approval does not constitute a granting of special privileges to the property owner. The adjacent parcel is also substandard and developed with a two-story dwelling, similar to what is proposed by the applicant.

Regarding the Off-Street Parking Exception, Find:

7. That the establishment, maintenance and/or conducting of the off-street parking facilities, as proposed, is as nearly in compliance with the requirements as is reasonably possible. Given the constraints of the substandard parcel's shallow depth and minimal front and side yard allowance, adding a second covered space is not possible. In addition, the width does not allow for additional opportunities for a second garage space.
8. 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 the property or improvements in said neighborhood. The proposed project will still provide one covered parking space within the single-car garage. The project will also provide one uncovered space on the driveway. Approval of the proposed project will not alter existing parking demand on the site, nor reduce parking availability. There is no evidence to suggest that approving the requested exception will create new parking impacts to the 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 Board of Supervisors on April 9, 2013. Modifications beyond that which were approved by the Board of Supervisors will be subject to review and approval by the Community Development Director and may require review at a public hearing. Minor modifications that are largely consistent with this approval may be approved at the discretion of the Community Development Director.
2. At the time of application for a building permit, the applicant shall provide an erosion and sediment control plan, which demonstrates how erosion will be mitigated during construction of the house. This mitigation shall be in place for the life of the project. The approved plan shall be implemented prior to issuance of a building permit.
3. The applicant is required to submit a stormwater management plan, which delineates permanent stormwater controls that shall be in place throughout the grading, construction and life of the project.

4. All construction activity shall be in accordance with the noise standards established under the County Noise Ordinance.
5. Prior to the issuance of a building permit, the applicant shall submit paint samples to the Planning and Building Department for review and approval. A Building Inspector will check the approved colors in the field prior to finalization of the building permit. The proposed paint color shall be compatible with surrounding residences.
6. The proposed addition shall incorporate permanent stormwater control measures in conformance with the Bay Area Stormwater Management Agencies Association (BASMAA) Guidelines.
7. All existing significant and heritage trees shall be protected prior to and during all demolition and construction activities. The applicant shall establish and maintain tree protection zones which shall be delineated using 4-foot tall orange plastic fencing supported by poles, located as close to the tree dripline as possible while still allowing room for construction to safely continue. The applicant shall maintain tree protection zones free of equipment and material storage and shall not clean any equipment within these areas. Should any large roots or large masses of roots need to be cut, the roots shall be inspected by a certified arborist prior to cutting. Any root cutting shall be monitored by an arborist and documented.
8. The required covered and uncovered parking spaces shall be kept clear and available for the parking of operating vehicles at all times.
9. Consistent with Section 6135(7)(b) of the San Mateo County Zoning Regulations, if a residential non-conforming structure is demolished or removed from the site, it shall only be rebuilt or replaced by a structure that conforms with the zoning and building code regulations currently in effect, and Section 6135(5)(a) of the San Mateo County Regulations, if any non-conforming portion of the structure is proposed to be removed, replacement shall conform with the zoning regulations currently in effect (e.g., any non-conforming building foundation removed shall be replaced in a conforming location).

Building Inspection Section

10. 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.
11. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.
12. 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.

13. 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.
14. 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.
15. This project must comply with the Green Building Ordinance.
16. All drawings must be drawn to scale and clearly define the whole project and its scope.
17. Please call out the right codes on the code summary: "The design and/or drawings shall be done according to the 2010 Editions of the California Building Standards Code, 2010 California Plumbing Code, 2010 California Mechanical Code, and the 2010 California Electrical Code."

Department of Public Works

18. 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.
19. The applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed project and submit it to the Department of Public Works 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 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. Recommended measures shall be designed and included in the improvement plans and submitted to the Department of Public Works for review and approval.

Menlo Park Fire Protection District

20. Install a NFPA 13-D fire sprinkler system under a separate fire permit since the addition/remodel exceeds 50% of the existing floor area. Fire sprinkler system to comply with Menlo Park Fire Protection District Standards.
21. Install smoke detectors in each sleeping area, the area outside sleeping areas and at each floor stair landing. Install carbon monoxide detectors outside the

sleeping areas and on each level of the house. Smoke and carbon monoxide detectors to be interconnected for alarm.

22. The applicant shall provide at least 4-inch tall with 1/2-inch stroke illuminated address numbers. The address shall be visible from the street and contrasting to its background.
23. Approved plans and approval letter must be on site at time of inspection.
24. Final acceptance of this project is subject to field inspection.

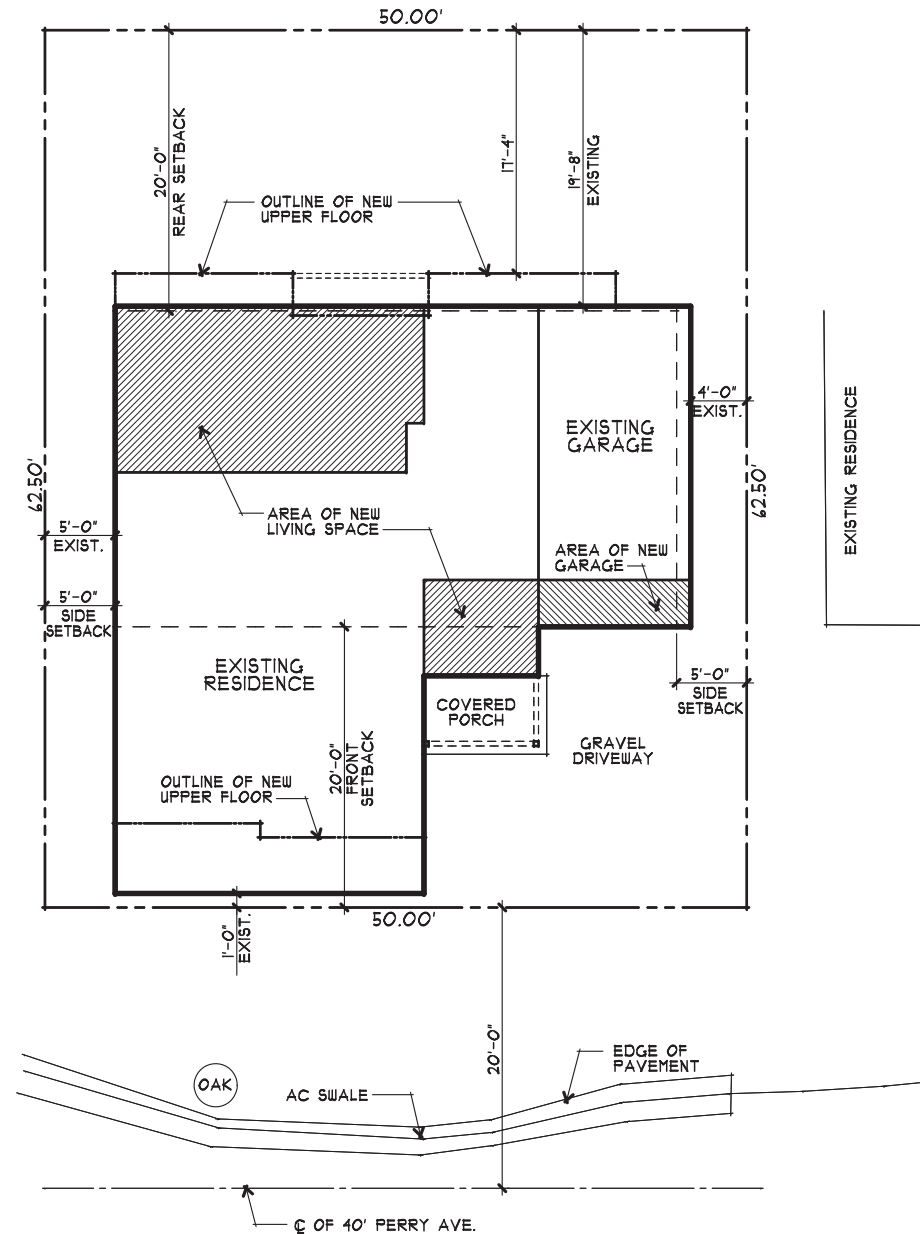


San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: B

File Numbers: PLN2012-00056



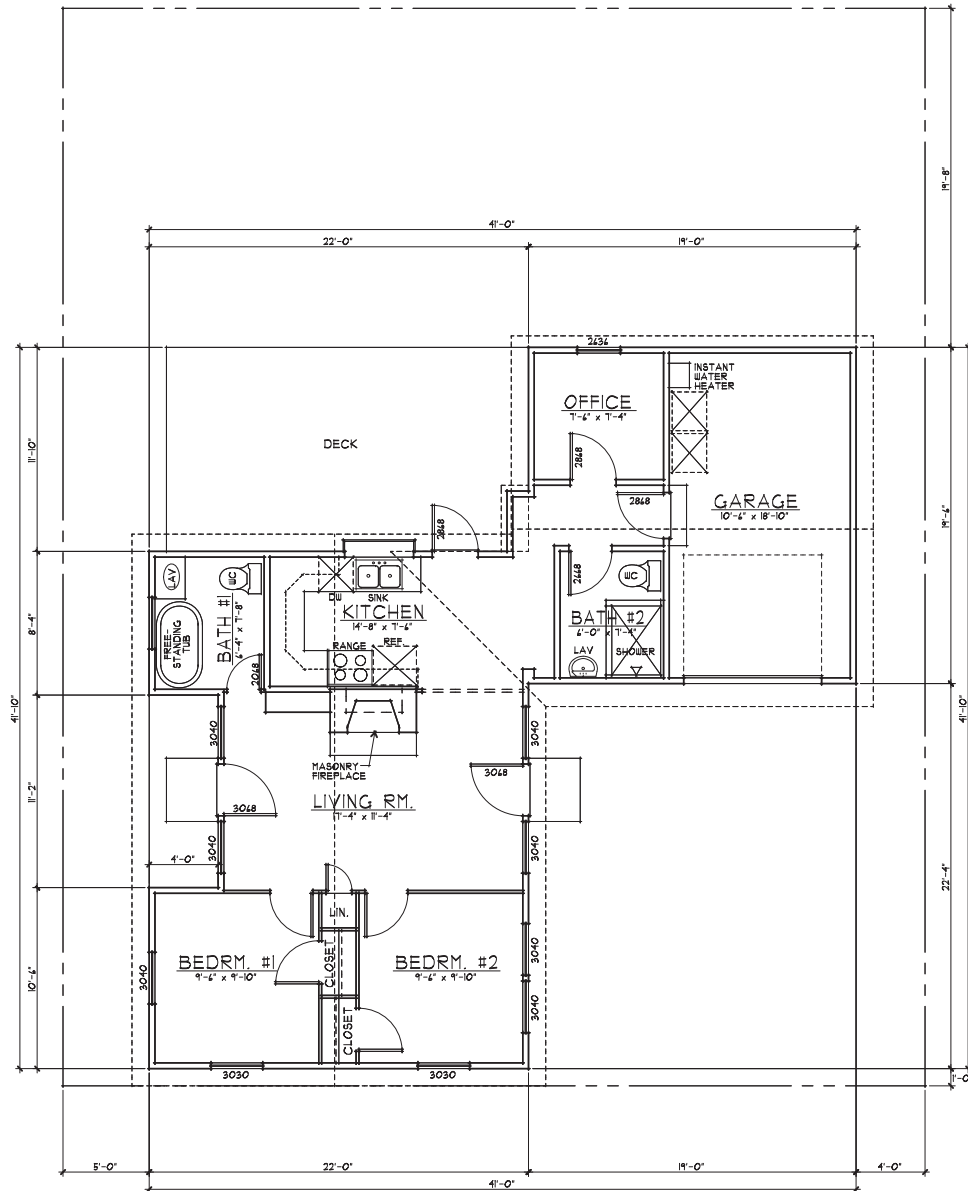
Site Plan

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: C

File Numbers: PLN2012-00056



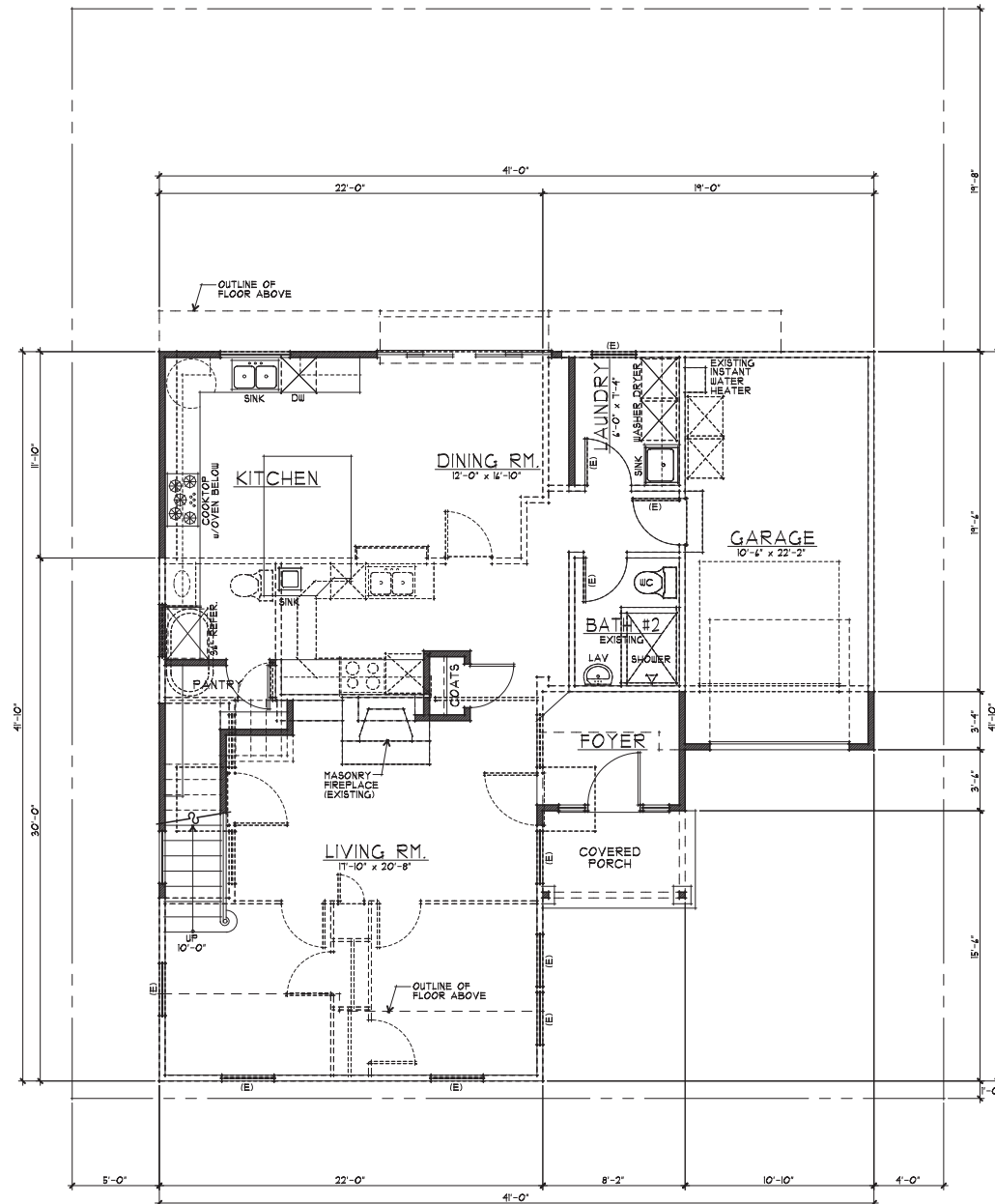
Existing Floor Plan

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: D

File Numbers: PLN2012-00056



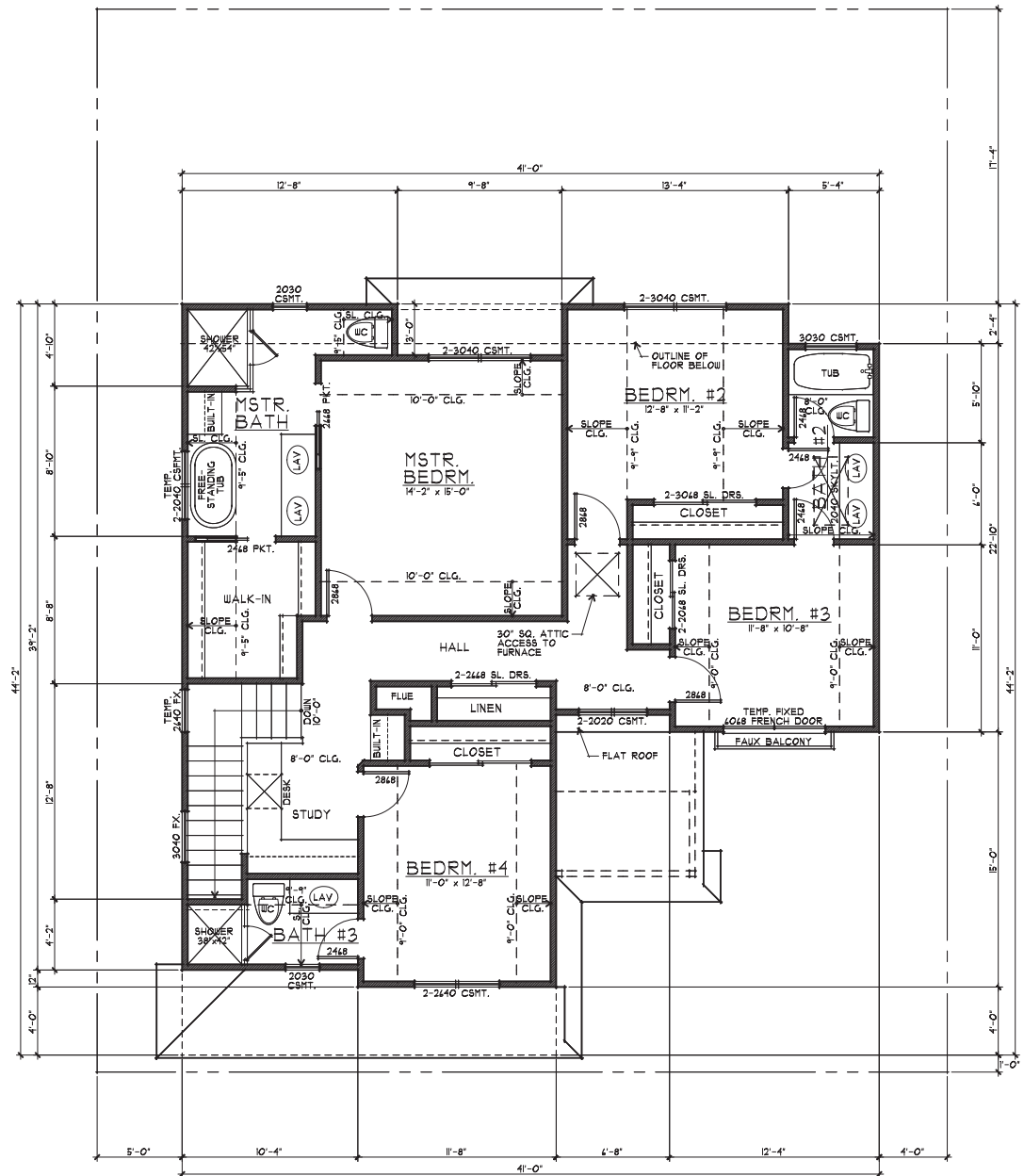
Proposed Main Floor Plan

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: E

File Numbers: PLN2012-00056



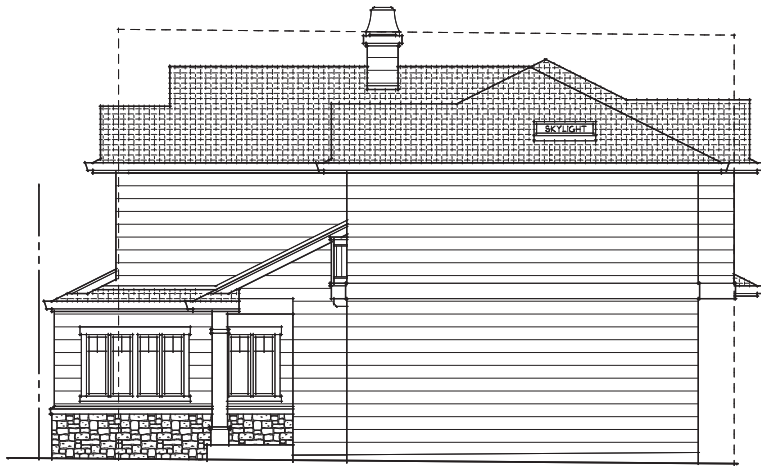
Proposed Upper Floor Plan

San Mateo County Board of Supervisors Meeting

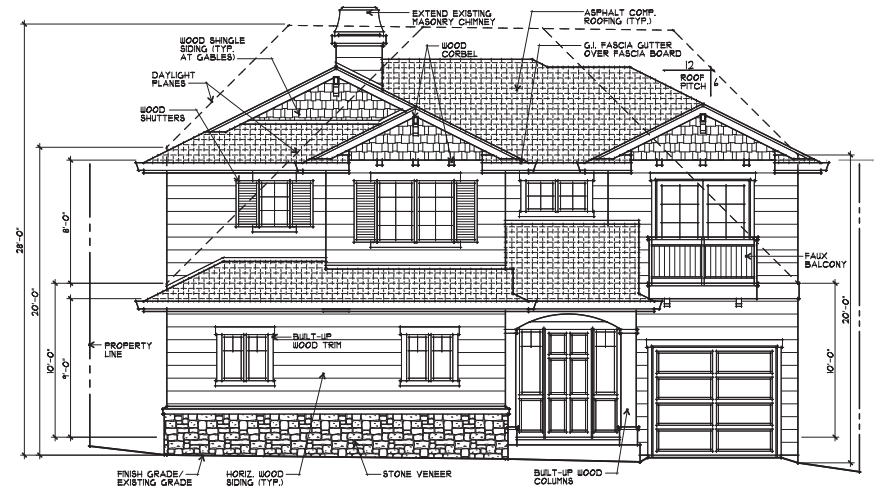
Owner/Applicant: VALENTINE

Attachment: F

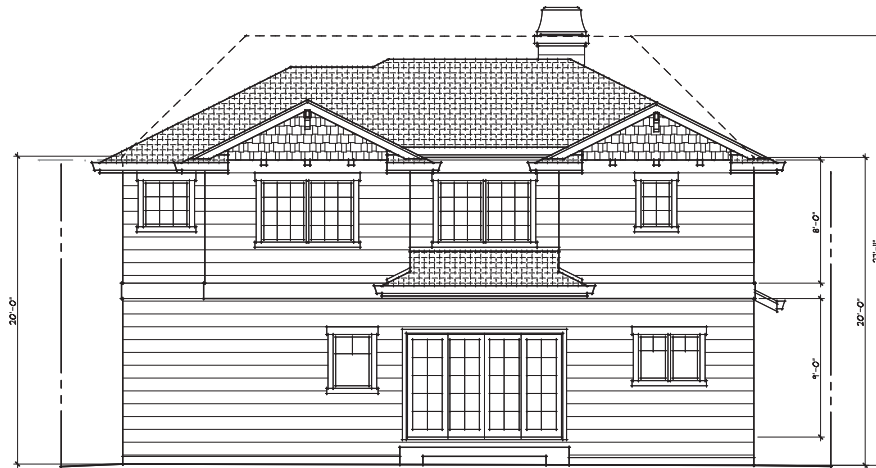
File Numbers: PLN2012-00056



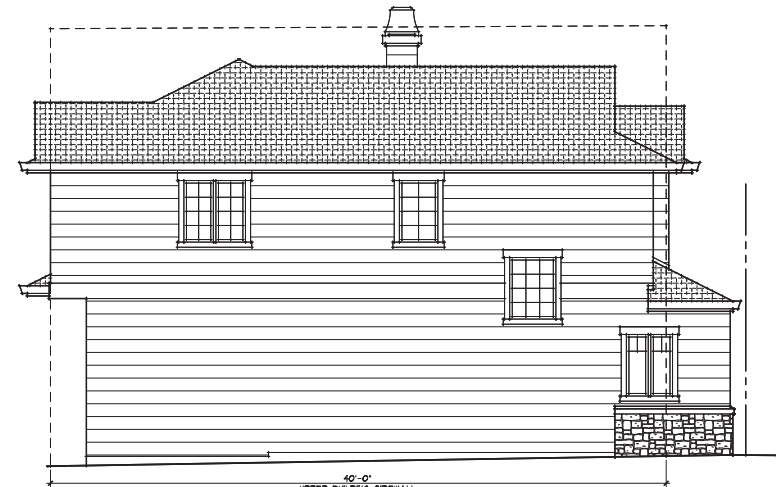
RIGHT ELEVATION



FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION

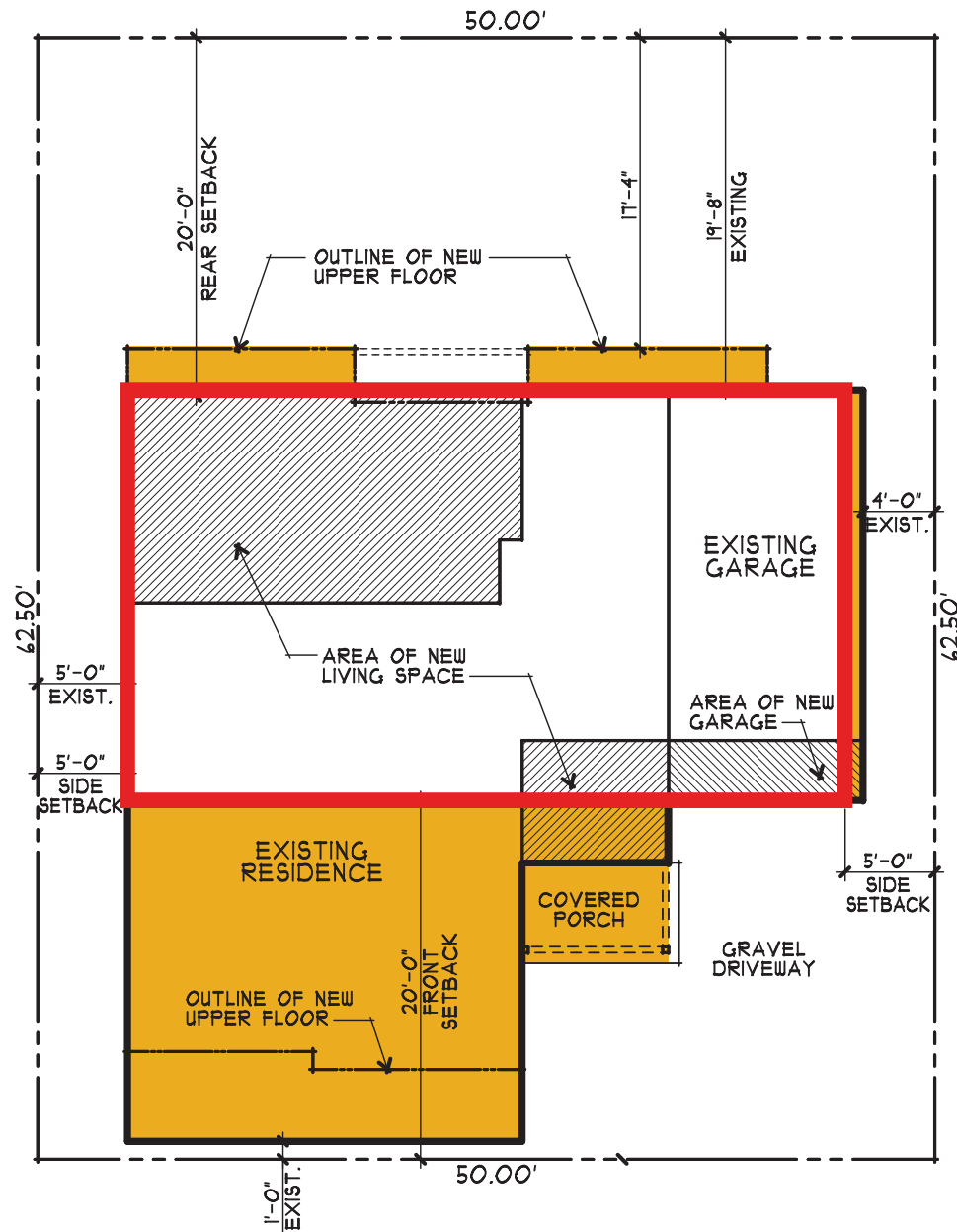
Proposed Elevations

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: G

File Numbers: PLN2012-00056



Setback Protrusions

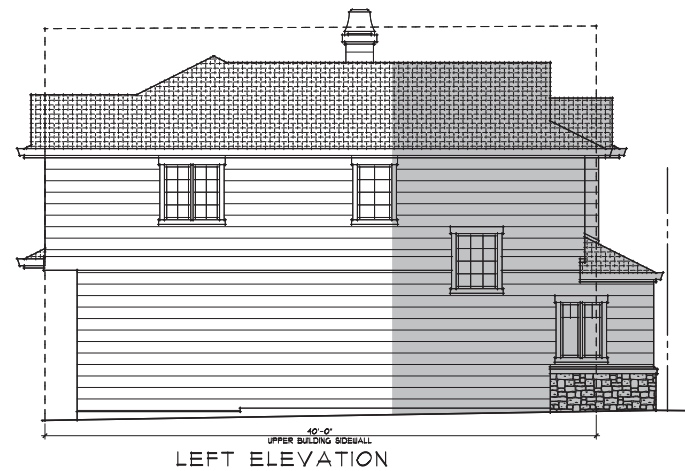
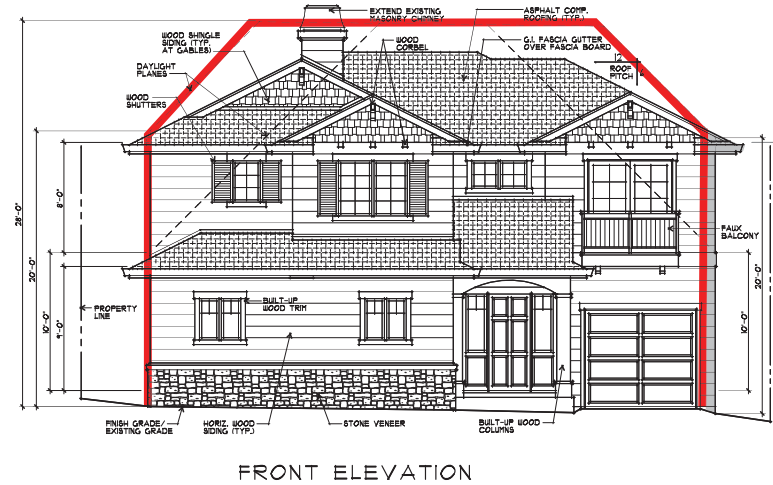
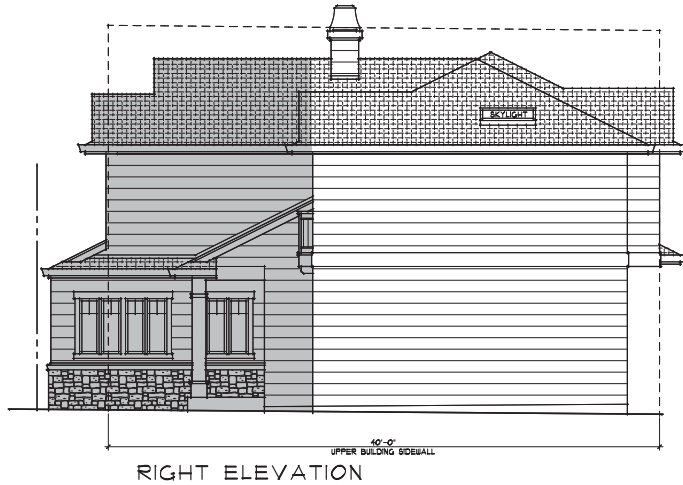
San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: H

File Numbers: PLN2012-00056

— DAYLIGHT PLANE (OPTION 1)



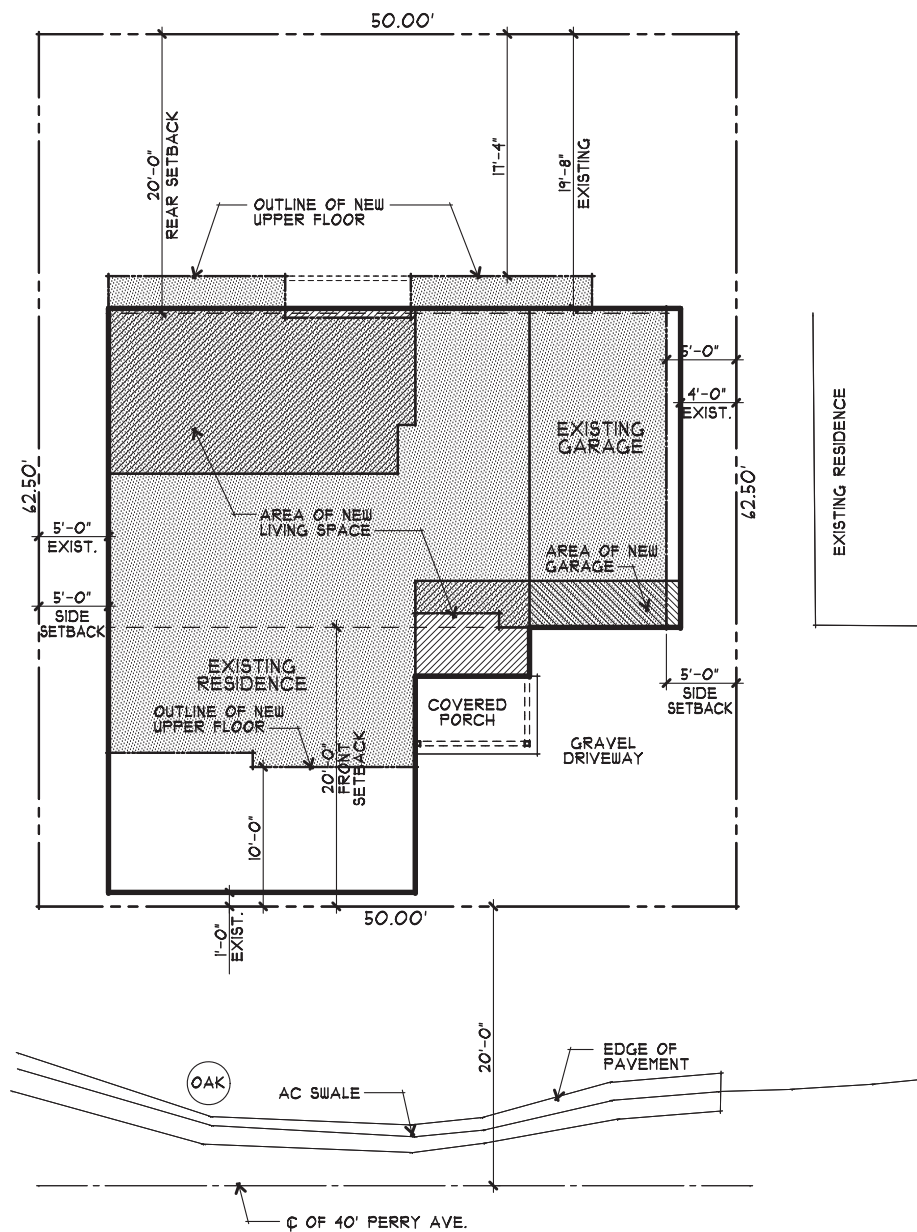
Daylight Plane Protrusions

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: I

File Numbers: PLN2012-00056



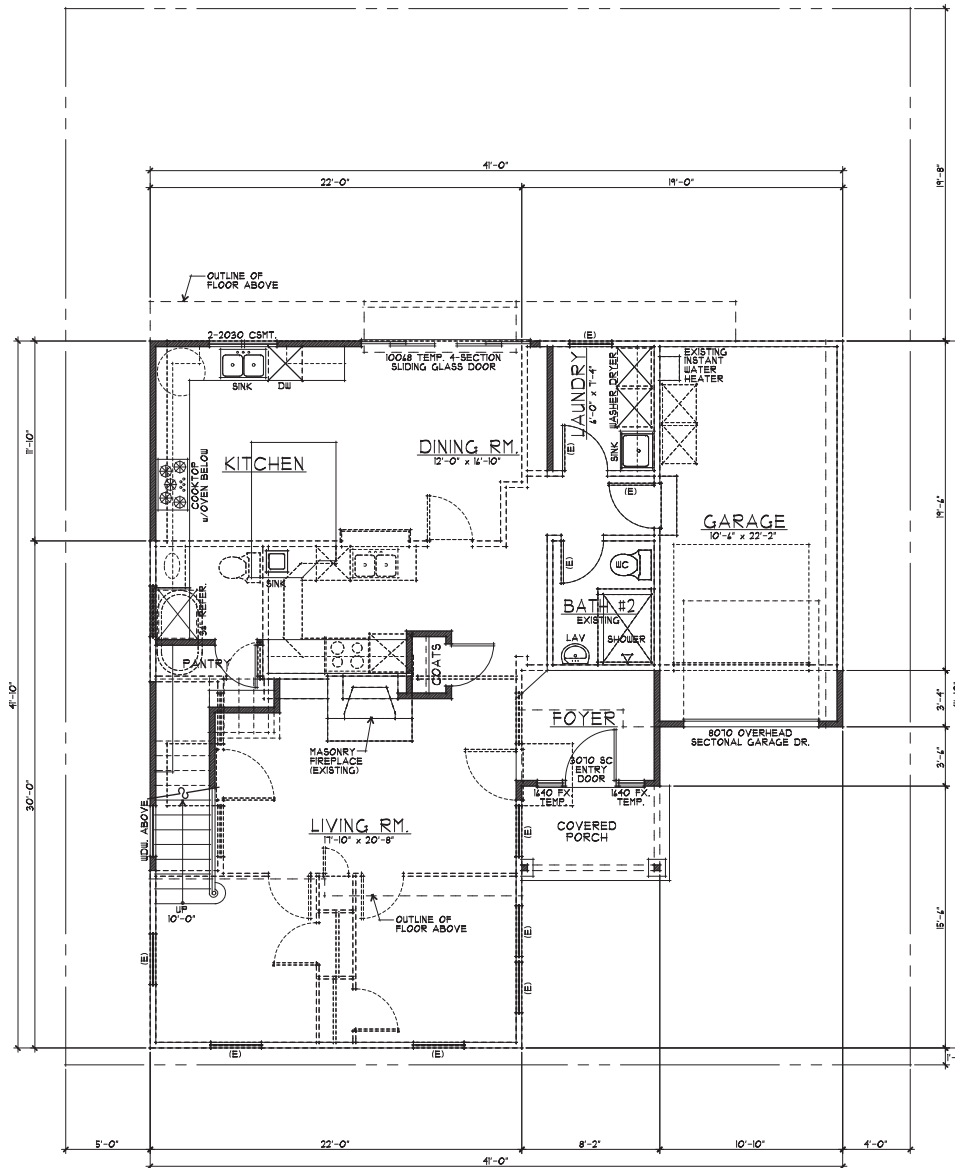
Applicant's Proposed Alternative Site Plan

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: J

File Numbers: PLN2012-00056



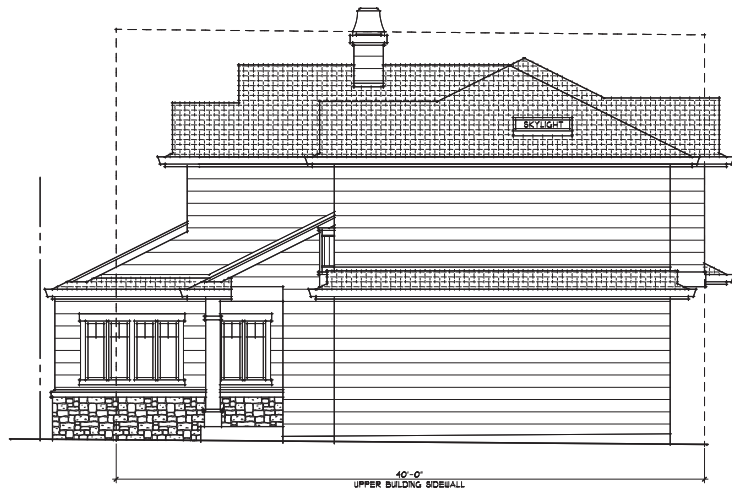
Applicant's Proposed Alternative Main Floor Plan

San Mateo County Board of Supervisors Meeting

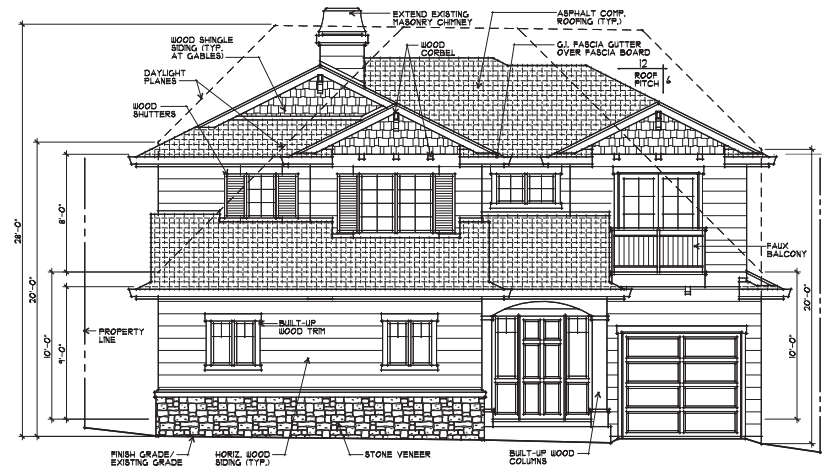
Owner/Applicant: VALENTINE

Attachment: J

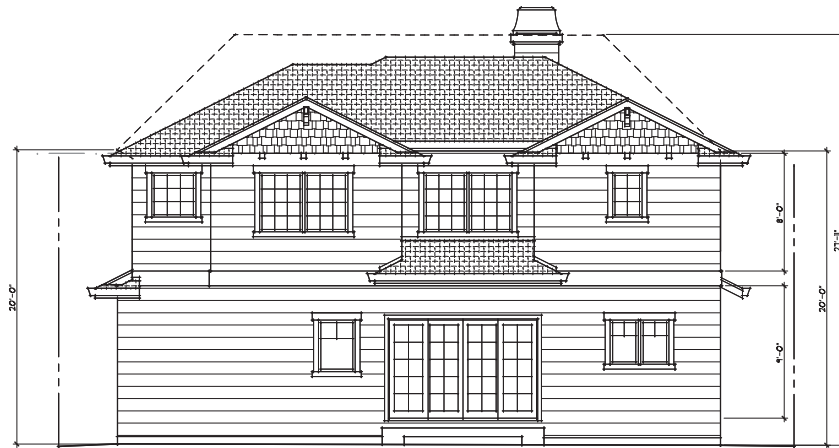
File Numbers: PLN2012-00056



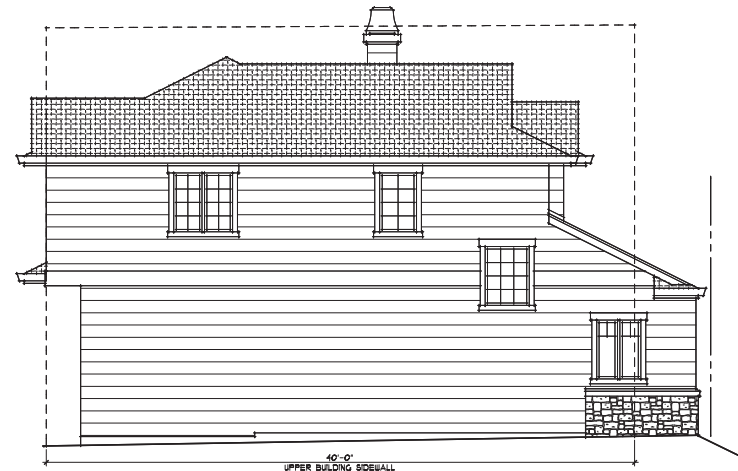
RIGHT ELEVATION



FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION

Applicant's Proposed Alternative Elevations

San Mateo County Board of Supervisors Meeting

Owner/Applicant: VALENTINE

Attachment: J

File Numbers: PLN2012-00056



County of San Mateo - Planning and Building Department

ATTACHMENT K

Application for Appeal**RECEIVED**☐ To the Planning Commission

NOV 29 2012

San Mateo County
Planning and Building Department☒ To the Board of SupervisorsPlanning and Building Department
County Government Center • 455 County Center, 2nd Floor
Redwood City • CA • 94063 • Mail Drop PLN 122
Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849**1. Appellant Information**Name: James CamarilloAddress: 1921 Perry Ave.Phone, W: ⁶⁵⁰ 269-1380 H: ⁶⁵⁰ 854-7894Menlo Park, Ca
Zip: 94025**2. Appeal Information**

Permit Numbers involved:

PLN 2012-00056

I hereby appeal the decision of the:

- ☐ Staff or Planning Director
☐ Zoning Hearing Officer
☐ Design Review Committee
☒ Planning Commission

made on Nov. 14 2012, to approve/deny
the above-listed permit applications.I have read and understood the attached information
regarding appeal process and alternatives.☒ yes☐ no

Appellant's Signature:

* James CamarilloDate: 11/29/12* see attached list of
additional appellants**3. Basis for Appeal**

Planning staff will prepare a report based on your appeal. In order to facilitate this, your precise objections are needed. For example: Do you wish the decision reversed? If so, why? Do you object to certain conditions of approval? If so, then which conditions and why?

see attached -

November 29, 2012

**San Mateo County Board of Supervisors
Hall of Justice
400 County Center
Redwood City, CA 94063**

Attn: Supervisor Dave Pine, District 1
Supervisor Carole Groom, District 2
Supervisor Don Horsley, District 3
Supervisor Rose Jacobs Gibson, District 4
Supervisor Adrienne Tissier, District 5

RE: PLN2012-00056 (Valentine) [4 Perry Ave., Menlo Park, CA]

Dear Supervisors:

We are writing to you on behalf of more than 46 residents of the University Park neighborhood, located within the "S-72" Combining District, the neighborhood in which the above referenced project is located. We, your voting constituents, are looking to you for balanced, fair, and open leadership in helping to negotiate a deep conflict in our otherwise healthy and growing neighborhood.

In appealing the decision the Planning Commission rendered on November 14, 2012, we ask that you carefully and thoroughly consider the concerns of all sides of this conflict and direct meaningful negotiation in a manner that results in a better neighborhood for us, as well as a reasonable family house for the applicants.

OPPOSITION SUMMARY

- A. We strongly OPPOSE the Planning Commissioners' upholding of the Zoning Hearing Officer's approval of Planning Permit Application and related Application for a Zoning Nonconformity Use Permit for the following reasons:
1. The proposed project clearly disregards the zoning standards, particularly the standards of zoning non-conformities and our neighborhood's combining district. The degree to which the proposed project violates the standards is well beyond reasonable relief from a strict interpretation of them. The granting of a Use Permit to circumvent zoning standards and effectively render our neighborhood standards irrelevant is wrong. We

have three primary concerns: 1. the disproportionate bulk of the proposed project on its lot compared to other developed parcels in the neighborhood, 2. the safety concerns of street parking at the choke point of a narrow residential street, and 3. the preservation of a heritage tree in the public right-of-way.

2. Despite two public hearings, there has not been meaningful investigation of alternatives and balanced negotiation with potential to result in a compromise solution acceptable to both the applicants and the appellant neighbors. A number of aspects of this process are deeply concerning and disturbing to us, particularly: 1. the staff reports upon which the Zoning Hearing Officer's and Planning Commission's approvals were based contain errors, inconsistencies, and selective application of the ordinance, 2. a modification to the proposed design suggested by the Zoning Hearing Officer was minor and did not address our primary concerns, and 3. the alternatives contained in the staff report to the Planning Commission were raised and summarily dismissed without meaningfully consideration.

B. We SUPPORT the growth of our neighborhood through appropriate development that follows the intent of the San Mateo County Zoning Ordinance. During our time living on Perry Avenue over 50% of the lots on Perry Avenue have been developed or are currently under construction. These projects conform to the Zoning Ordinance, and maintain the neighborhood street scale and character through appropriate setbacks and homes scaled to the size of their lots. This is the first project we have opposed. We oppose it for the reasons indicated above.

We would welcome an opportunity to show each of you our neighborhood prior to the scheduled hearing date, so that you can see it for yourselves and have first hand understanding of the neighborhood and particularities of the subject parcel, such that we may engage in more meaningful discussion at the public hearing. We look forward to presenting details supporting our opposition to you at the public hearing.

We urge you to listen equally to all voices of your constituency in directing the negotiation of an alternative solution that provides a reasonable family home for the applicants and maintains the quality of our neighborhood. We urge you to provide leadership in turning a win-lose decision that fractures our neighborhood and erodes the quality of our neighborhood, indeed erodes the very standards that were put in place twenty or so years ago to maintain the quality of our neighborhood, into a win-win solution that strengthens our neighborhood.

In the absence of a redesigned project that meets the spirit and intent of the Zoning Ordinance, particularly the standards of our neighborhood's combining district and of zoning non-conformities, we respectfully request that you uphold the appeal of, and thereby reverse, the decision to approve the Planning Permit Application and related Application for a Zoning Nonconformity Use Permit rendered by the Zoning Hearing Officer on August 2, 2012 and upheld by the Planning Commission on November 14, 2012.

Thank you for your consideration.

Respectfully Submitted,

James Camarillo and Daryl Ann Camarillo
University Park
1921 Perry Avenue
Menlo Park, CA

Home: 650-854-7894

Jim cell: 6650-269-1380; Daryl cell: 650-269-1493

Signature: 

Signature: 


cc: Supervisor Elect, Warren Slocum

ADDITIONAL APPELLANTS

PLN 2012-00056

Scott Kamran
Linda Kamran
University Park
6 Perry Avenue Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: 

Signature: 

Michael Eldredge
University Park
231 Vine Street Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: 

Gari Merendino
Ellen Williams
University Park
261 Vine Street Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: 

Signature:  Ellen Williams

Gretchen and Mike Flanagan
University Park
1901 Palo Alto Way Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: 

Signature: 

ADDITIONAL APPELLANTS
PLN 2012-00056

JoAnne Stenger
University Park
421 Vine Street Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: X JoAnne Stenger MD

Tim and Rene Unger
University Park
431 Vine Street Menlo Park, CA

I have read and understood the attached information regarding appeal process and alternatives.

Signature: Tim Unger

Signature: Rene Unger



15 February 2013

**San Mateo County Board of Supervisors
Hall of Justice
400 County Center
Redwood City, CA 94063**

Attn: Supervisor Dave Pine, District 1
Supervisor Carole Groom, District 2
Supervisor Don Horsley, District 3
Supervisor Warren Slocum, District 4
Supervisor Adrienne Tissier, District 5

RE: PLN 2012-00056(Valentine) [4 Perry Ave., Menlo Park, CA]

Dear Supervisors;

I am writing to you as both a 12+ year resident of the University Park neighborhood in which the proposed development referenced above is located, and on behalf of the eight appellants and 46+ neighbors who have expressed opposition to the proposed development. I am an architect licensed to practice in California for almost 20 years and have focused my practice on housing of all types.

We are not opposed to an expansion of the house in general; rather, we are opposed to the development as specifically proposed. I am asking that you provide leadership in directing an alternative to the proposed development for 4 Perry Avenue, an alternative outlined by the Planning Department that would both provide the applicant with a reasonable family house and is consistent with the proportionality and character of our neighborhood.

SUMMARY

1. We strongly OPPOSE the Planning Commission's approval of the Use Permit application. We believe the Planning Commission made this decision in error based partially on a staff report riddled with fundamental errors, and without meaningful consideration of a viable alternative.
2. We ENDORSE the second alternative outlined in the staff report to the Planning Commission which allows the existing non-conforming structure to remain, while reducing the bulk of the proposed new construction to be proportional to the lot and more nearly compliant with the zoning regulations.

SUMMARY POINT 1: Oppose Approval of Use Permit

The staff report dated November 14, 2012, is riddled with fundamental errors.

The zoning ordinance outlines a use permit process for addressing the challenges of non-conforming situations. **However, a use permit does not grant a blank slate for development.** Rather, the proposed development must be fully evaluated with respect to all current zoning standards, to ensure that the degree of relief from the standards which the development seeks is reasonable and justifiable.

Nowhere does the staff report outline all eight standards from which the proposed development seeks an exceptional degree of relief. Furthermore, the staff report contains fundamental misunderstandings and misapplication of basic planning terms and concepts. **Two of the findings required to grant a use permit cannot be reasonably justified.**

Section 6133.3.b.(3) Finding (a) that must be made is “The proposed development must be proportioned to the parcel on which it is being built.”

In addressing this finding, staff discusses maximum square footage, and compares the proposed square footage of the proposed development to that of other houses recently constructed in the neighborhood. But this approach addresses house size only and does not address proportionality of house size to parcel size.

The proposed development is for a non-conforming, sub-standard parcel. All other parcels in the vicinity but one are conforming parcels and are substantially larger, by almost double, than that of the subject parcel. Putting a similar size house on a half size lot is not proportional. **The proposed development is proportionally 47% - 61% larger than the recent developments on either side.**

Please see Attachment A.

Section 6133.3.b.(3) Finding (c) that must be made is “The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.”

In addressing this finding, staff selectively discusses only two exceptions: ground floor setbacks and side yard daylight plane, and the justification for those exceptions is based on an erroneous application of setbacks in non-conforming situations, and a fundamental misunderstanding of the term “daylight plane”. **There are actually eight regulations to which the applicant seeks an extraordinary degree of relief.**

Staff assumes that the existing non-conforming structure establishes setbacks for the new construction. However, Section 6135.4. clearly states that “A non-conforming structure may be enlarged provided the enlargement conforms with the zoning regulations currently in effect, e.e., the non-conforming portion of the structure may not be enlarged.” It is the second story front yard setback that is most offensive.

Staff also states that daylight plane is only a side yard issue and that minimum required setbacks are unrelated to the daylight plane. However, Section 6300.4.106. clearly states “A daylight plane defines a three dimensional volume of space in which a building may be constructed.” Further, Section 6300.4.100.1.b notes “The regulatory limits of Option 1 requirements are illustrated on the diagram...” and the diagram clearly shows the daylight plane volume limited by the minimum required setbacks on all sides of a structure.

Please see Attachment B.

SUMMARY POINT 2: Endorsement of Alternative 2

Fortunately, the staff report included alternatives to the proposed development, one of which has potential to result in a house much more in keeping with the spirit and intent of the Zoning Ordinance as a whole and our neighborhood's "S-72" Combining District in particular.

The second alternative proposed by staff would allow a more reasonable degree of relief from the regulations by allowing the existing non-conforming structure with its one-car garage to remain and be enlarged. We understand that this alternative would contain the second floor development behind the front yard setback. The proposed new floor area on both the first and second floor would be reduced by eliminating Bedroom #4, Bath #3 and the Study, reorienting the stair, and reducing, eliminating, and/or reorienting the Foyer and Covered Porch to fully fit within the front and right side yard setbacks, and extend no further into the rear and right side yard setback than the existing walls. This would greatly reduce the encroachments into the setbacks and reduce the overall size of the proposed bulk.

We add to this endorsement two requests:

1. provisions be put in place to maintain the health and viability of the heritage oak in the public right-of-way, including tree protection during construction, limitations on irrigation, directive on appropriate planting under oaks, etc.
2. provisions be put in place to address safety concerns of parking at the "choke-point" of the narrow street including a site plan showing uncovered parking for two standard size vehicles within the property lines, and the addition of "No Parking" signs on the portion of the street constricted by the heritage oaks in the public right-of-way.

CONCLUSION

It is my sincere hope that you, our elected Supervisors, show leadership in addressing a situation where fundamental errors have gone unchecked too long, and guide a resolution that is balanced, just, and fair to parties on both sides of this disagreement.

Respectfully,



Patricia McBrayer
Architect and Neighbor

cc: Jim Eggemeyer, Planning Director
Mike Schaller, Senior Planner



Proportion of Home to Parcel

Note: Parcel and Floor Areas for 2 & 6 Perry are from Building Permit Records, and for 4 Perry from Staff Report re: Use Permit

DEVELOPMENT PROPOSED FOR 4 PERRY AVENUE EXCEPTIONS TO STANDARDS REQUESTED BY USE PERMIT

The zoning ordinance outlines a use permit process for addressing the challenges of non-conforming situations. **However, a use permit does not grant a blank slate for development.** Rather, the proposed development must be evaluated in respect to current zoning standards, to ensure that the degree of relief from the standards which the development seeks is reasonable and justifiable.

The significant degree to which the proposed development for 4 Perry Avenue seeks exception from the standards is unreasonable and two of the findings required to grant a use permit cannot be justified.

The 8 zoning standards from which the applicant is requesting an extraordinary degree of relief are:

1. Section 6132.10.
Assume Value = Area, 990sq. ft. x 49% = 485 sq. ft. addition
Proposed addition is 1,737 sq. ft.
To allow approximately 3 1/2 times more new building floor area than a minor remodel with existing non-conforming portions of the existing house to remain would allow.
2. Section 6132.9. and 6135.5.b.
To allow the existing non-conforming portions of the existing house to remain where a major remodel requiring full compliance of both the existing and new is required due to the existing structure's greater than 50% violation of the front setback.
3. Section 6300.4.50.
(Site Dimensions - Setbacks) = Build-able Footprint
50 ft. x 62.5 ft. parcel yields 40 ft. x 22.5 ft. footprint x 2 = 1,800 sq. ft. achievable floor area.
To allow 50% more building floor area than would be allowed by a fully compliant new structure.
4. Section 6300.4.50.
Required front setback is 20 ft.,
Requested exception is for new construction with 11 ft. setback on first floor and 5 ft. setback on second floor.
To allow new building floor area on the first and second floor located within the minimum required front setback, reducing the setback by 45% on the first floor and 75% on the second floor.
5. Section 6300.4.50
Required right side setback is 5 ft.
Requested exception is for new construction with 4 ft. setback on first and second floor.
To allow new building floor area on the first and second floor located within the minimum required right side setback, thereby reducing the setback by 20%.

6. Section 6300.4.50

Required rear yard setback for first and second floor is 20 ft.

Requested exception for new construction is 19.8 ft. setback on first floor and 17.3 ft. setback on second floor.

To allow new building floor area on the second floor located within the minimum required rear setback, thereby reducing the setback by 13.5%.

7. Section 6300.4.10.6. and 6300.4.100.1.b.

To allow new building volume that substantially exceeds the maximum daylight plane volume.

8. Section 6119.

To allow the existing one car garage to remain, without the addition of a second covered parking space, as is required due to an increase in bedroom count resulting in more than two bedrooms.

END

04 March 2013

**San Mateo County Board of Supervisors
Hall of Justice
400 County Center
Redwood City, CA 94063**

Attn: Supervisor Dave Pine, District 1
Supervisor Carole Groom, District 2
Supervisor Don Horsley, District 3
Supervisor Warren Slocum, District 4
Supervisor Adrienne Tissier, District 5

RE: PLN 2012-00056(Valentine) [4 Perry Ave., Menlo Park, CA]

Dear Supervisors;

I am writing this as a supplement to my previous February 15, 2013 letter.

In the February letter I indicated opposition to the Planning Commission's approval of the development as proposed and endorsement of an alternative outlined in the staff report. I also indicated that two findings required to grant a Use Permit could not be justified for the development as as proposed.

1. Section 6133.3.b.(3) Finding (a) that must be made is "The proposed development must be proportioned to the parcel on which it is being built." The proposed development is proportionally 47% - 61% larger than the recent developments on either side; therefore, the finding cannot be justified.
2. Section 6133.3.b.(3) Finding (c) that must be made is "The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible." There are eight regulations to which the applicant seeks an extraordinary degree of relief; therefore, the finding cannot be justified.

This letter outlines a third finding that cannot be justified for the development as proposed:

3. Section 6133.3.b.(3) Finding (e) that must be made is "Use permit approval does not constitute a granting of special privileges."

In addressing this finding, staff indicates that the approval would not involve the granting of a special privilege to the property owner because other exceptions have been granted in the neighborhood, including the adjacent parcel which is also substandard.

However, while a use permit was approved for the development on the substandard parcel at 2 Perry Avenue, the use permit approval came at the end of a public process during which the Planning Department directed negotiation. The house that was ultimately approved was much smaller than originally proposed, to be in proportion to its parcel with small setback exceptions. **The development at 2 Perry Avenue (the only other substan-**

dard parcel on the block) sets the standard, the precedent, for the development at 4 Perry Avenue. To do otherwise, to allow greater bulk or more exceptions, would constitute the granting of special privilege.

The development proposed for 4 Perry Avenue is 2,720 sf with an FAR of 0.87 (47% greater than 2 Perry Avenue).

2 Perry Avenue has a Floor Area Ratio (FAR) of 0.59 (2,155 sf house / 3,654 sf parcel).

Applying the same FAR to 4 Perry Avenue results in a house of 1,844 sf maximum floor area (3,125 sf parcel x 0.59).

It is important to note, that without a use permit, the standards would limit the house size to:

- a. approximately 1,475 sf if the original structure is retained and expanded (Section 6132.10 & 6135.2.&.4.)
- b. 1,800 sf if the original structure is demolished and a new house constructed (Section 6132.9. & 6135.5.b.)

A use permit granting an FAR of 0.59 with a resultant maximum floor area of 1,844 sf, following the standard set by 2 Perry Avenue, allows an increase over what would otherwise be possible on the parcel without the granting of a use permit. To get a house of this size on a parcel this small requires limited and reasonable exceptions to the setbacks and daylight plane. This is a consistent approach that would not constitute the granting of special privilege.

Also, 2 Perry Avenue respects the front setback on the street, as do all other new houses. To allow the 4 Perry Avenue development to add a second story in exception of the front setback would result in this new house looming in front of all other houses on Perry Avenue.

Approving such an exception would be granting a special privilege.

CONCLUSION

I greatly appreciate your consideration of these concerns and look forward to your leadership in negotiating a win-win resolution to this unfortunate situation. The direction the Board provides on this application and appeal has potential impact far beyond the scope of this one proposed development.

Respectfully,



Patricia McBrayer
Architect and Neighbor

cc: Jim Eggemeyer, Planning Director
Mike Schaller, Senior Planner