

County of San Mateo - Planning and Building Department

ATTACHMENT B



Project Parcel

Streets

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Vicinity Map



County of San Mateo - Planning and Building Department

ATTACHMENT C

April 6, 2018

Ehsan Kameli
P. O. Box 1352
Palo Alto, CA 94302

Dear Mr. Kameli:

Subject:	<u>LETTER OF DECISION</u>
Location:	338 Rutherford Avenue, Sequoia Tract
APN:	069-321-260
File Number:	PLN2017-00517

On April 5, 2018 the Zoning Hearing Officer considered your request for a Non-Conforming Use Permit, pursuant to Section 6133 and 6173 of the County Zoning Regulations, to enlarge an existing non-conforming single family residence on a non-conforming parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2 ft. (right side) and 3 ft. (left side) where 5 ft. is the minimum required side yard setbacks; a new 698 sq. ft. second story which will encroach into the 16'/45° daylight plane; and to allow the second required parking space to be uncovered and tandem to an existing one-car garage; on a non-conforming 2,549 sq. ft. parcel. This item was continued from the March 15, 2018 Zoning Hearing.

The Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) business days from such date of determination.
The appeal period for this project will end on **April 19, 2018, at 5:00 p.m.**

Please direct any questions to Planner Summer Burlison at 650-363-1815 or sburlison@smcgov.org.

Also, please take a few minutes and complete the online version of our Customer Survey which will help us to enhance our customer service. Thank you in advance for your time in providing valuable feedback. The survey is available at: <http://planning.smcgov.org>.

Very truly yours,


Lisa Grote
Zoning Hearing Officer
zhodl0405cc.3.dr

cc: Assessor's Office
Building Inspection Section
Carol Milstein
Frank Shanahan
Menlo Park Fire District

Public Works Department
Redwood City Community Development
Joseph Hertlein
William Hertlein
Shawn Misialek



Attachment A

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00517

Hearing Date: April 5, 2018

Prepared By: Project Planner, Summer Burlison

Adopted By: Zoning Hearing Officer

FINDINGS

For the Environmental Review, Found:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, as the residential addition is less than 10,000 sq. ft. of floor area in an urbanized area that is zoned for residential use where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

For the Non-Conforming Use Permit, Found:

2. That the proposed development is proportioned to the size of the parcel on which it is being built, as the proposed project will comply with the maximum allowed lot coverage and floor area of the applicable "S-74" development standards and the new second floor will be recessed from the existing first floor to comply with the minimum required side yard setbacks of the zoning development standards.
3. 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 as none of the adjacent conforming-sized parcels significantly exceed the minimum lot size for the applicable zoning district or have additional net land to offer the project parcel (once the development standards are applied for those adjacent parcels), and are under separate private ownership.
4. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible as the first floor additions are minor extensions of existing non-conforming side yard setbacks and the newly proposed second floor will only slightly encroach into the "16'/45°" side setback line daylight planes of the "S-74" development standards. However, the second floor addition is proposed to be recessed from the first floor in order to comply with the minimum 5-foot side yard setbacks, maximum allowed floor area, and height allowance of the "S-74" development standards. Furthermore, the size and configuration of the existing parcel and residential development limits the options available to create a functional floor plan that provides a reasonable front entrance and internal stairway access to the new second floor if a second covered parking space were provided. Therefore, the applicant's proposal to continue providing off-street parking by a one-car garage and one tandem uncovered parking space in the driveway is as nearly in compliance with the zoning standards as reasonably possible.
5. 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 to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood as the project site is not located in the coastal zone and the proposed second floor of the subject project has been recessed on both sides to comply with the minimum 5-foot side yard setbacks of the "S-74" development standards and proposes minimal windows along the right side property line to minimize privacy impacts onto the nearest adjacent neighboring residence (also situated on a non-conforming 25-foot wide parcel). While the proposed second story will slightly encroach into the daylight plane, such encroachment area is minimal and will not generate a significant adverse impact to the neighbor or area.

Furthermore, the project will continue use of a one-car garage with one uncovered tandem parking space in the driveway to minimize street parking impacts along Rutherford Avenue, which is the consistent pattern of a majority of the residential development along this block of the roadway.

Therefore, as proposed, staff believes the project will not generate any significant adverse impacts to or be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

6. That the use permit approval does not constitute a granting of special privileges as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions.

CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on April 5, 2018. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.
2. This Non-Conforming Use Permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued and a completed inspection (to the satisfaction of the building inspector) shall have occurred within 180 days of its issuance. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (60) days prior to expiration.
3. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section, the Department of Public Works, and the Menlo Park Fire Protection District. Additionally, construction shall not commence until a valid building permit is issued.
4. To reduce the impact of any construction-related activities on neighboring properties, comply with the following:
 - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
 - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
 - c. The applicant shall ensure that no construction-related vehicles shall impede through traffic along the Rutherford Avenue right-of-way. All construction vehicles shall be parked on-site outside the public right-of-way, or in locations which do not impede safe access on Rutherford Avenue. There shall be no storage of construction vehicles in the public right-of-way.
5. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 5:00 p.m. Saturdays. Said activities are prohibited on Sundays, Thanksgiving and Christmas (San Mateo Ordinance Code Section 4.88.360).
6. The project parcel is limited to single-family residential uses permissible under the "R-1" zoning regulations.

Building Inspection Section

7. The project shall be designed and constructed according to the currently amended and adopted California Building Standards Code, which at the time of this review is the 2016 version.
8. The project requires fire sprinklers to be installed throughout the existing and proposed structure.

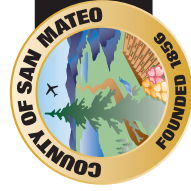
Department of Public Works

9. 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.

Menlo Park Fire Protection District

10. The project requires the installation of a NFPA 13-D fire sprinkler system to be submitted under a separate fire permit. The fire sprinkler system shall be a two (2) head calculation.
11. Residential fire sprinklers shall have an interior alarm activated by the flow switch that is audible in all sleeping areas.
12. Fire flow data shall be provided at the time of deferred submittal for the fire sprinkler system.
13. Smoke detectors shall be installed in each sleeping area, the area outside of sleeping areas and on each level of the house (2016 CBC 907.2.11.2). Furthermore, carbon monoxide detectors shall be installed outside of sleeping areas and on each level of the house (2016 CBD Sec. 420). Smoke and carbon monoxide detectors shall be inter-connected for alarm.
14. Window and door schedules are required to be submitted with the building permit submittal. Emergency escape and rescue openings shall meet the following conditions and be verified by the Building Inspection Section who is the authority having jurisdiction:
 - a. Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.53m²); 2016 CFC/CBC 1029.2.

Exception: The minimum net clear opening for grade-floor emergency escape and rescue openings shall be 5 square feet (0.46m²)
 - b. The minimum net clear opening height dimension shall be 24 inches (610 mm). The minimum net clear opening width dimension shall be 20 inches (508 mm). The net clear opening dimensions shall be the result of normal operation of the opening; 2016 CFC/CBC 109.2.1.
 - c. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches (1118 mm) measured from the floor; 2016 CFC/CBC 1029.3.
15. The applicant shall provide and maintain at least 4-inch tall with 1/2-inch stroke illuminated address numbers; solar is not an allowed illumination source. The address shall be visible from the street and contrasting to its background.
16. Fire Department approved plans and letter must be on-site at the time of all inspections by the Menlo Park Fire Protection District.
17. Upon completion of the work and prior to closing the ceiling, the Menlo Park Fire Protection District's Deputy Fire Marshal, Bob Blach, shall be contacted for a final inspection at 650/688-8430. A 48 hours' notice is required for all inspections.



County of San Mateo - Planning and Building Department

ATTACHMENT D

Application for Appeal

☒ To the Planning Commission

☐ To the Board of Supervisors

County Government Center • 455 County Center, 2nd Floor
Redwood City • CA • 94063 • Mail Drop PLN 122
Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849

Name: WILLIAM HERTLEIN

Address: 330 RUTHERFORD AVE
REDWOOD CITY CA

Phone, W: H: 831-236-1909

Zip: 94061

Permit Numbers involved:

PLN 2017-00517 (KAMELI)

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

☒ yes

☐ no

I hereby appeal the decision of the:

☐ Staff or Planning Director

☒ Zoning Hearing Officer

☐ Design Review Committee

☐ Planning Commission

Appellant's Signature:

Date: APRIL 17, 2018

made on APRIL 5 2018, to approve/deny the above-listed permit applications.

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?

PLEASE SEE ATTACHED LETTER

RECEIVED

2018 APR 19 P 12:25

SAN MATEO COUNTY
PLANNING AND BUILDING
DEPARTMENT

PAGE 1 of 2

WILLIAM HERTLEIN
330 Rutherford Avenue
Redwood City, CA 94061

April 17, 2018

SUBJECT: Application for Appeal to San Mateo County Planning Commission
REGARDING: PLN2017-00517

Planning Commission, San Mateo County
Planning and Building Department
455 County Center, 2nd floor
Redwood City, CA 94063

RECEIVED
2018 APR 19 P 12:25
SAN MATEO COUNTY
PLANNING AND BUILDING
DEPARTMENT

Dear Planning Commissioners:

We are requesting the decision of the zoning hearing officer, issued the 5th of April, 2018, to be reversed for the following reasons:

1. The applicant made no attempt to comply with existing zoning regulations. The proposed project is not "as nearly in conformance with the zoning regulations currently in effect as is reasonably possible" (Section 6133.b.3.c) and the applicant was granted too many variances, including:
 - a. Intrusion into the daylight plane (Section 6300.4.30)
 - b. Side yard setbacks (Section 6300.4.26) and enlargement of a non-conforming structure (Section 6135.4)
 - c. Major remodel of a non-conforming structure (6135.5.b)
 - d. Parking regulations (Section Section 6119)
2. The size and mass of the proposed project (FAR¹ of 67%) is not proportional to any other home on the block (27%), let alone in the neighborhood (28%), and is not "proportioned to the size on the parcel on which it is being built" (Section 6133.b.3.a)
3. The intrusion into the daylight plane will have a detrimental impact on the adjacent homes, including the appellant's property, and constitutes as taking
4. The proposed project is not in compliance with the intent of the S-74 Zoning District ordinances, which were specifically passed at the request of the neighborhood in 2004 after numerous community meetings and unanimous approvals by both the planning commission and the Board of Supervisors

Initial supporting documentation was presented, and entered into record, at the Zoning Officer meeting on the 5th of April, 2018. Additional supporting documentation is forthcoming.

Sincerely,



William Hertlein

1. FAR = Floor Area Ratio. Floor area square footage divided by lot square footage.

April 4, 2018

RE: Consideration of Non-Conforming Use Permit (PLN2017-00517)

Dear Madam Zoning Officer:

The following are prepared remarks that I plan to give at the April 5, 2018 Zoning Officer Hearing. I hereby submit them for the record with regards to the proposed development at 338 Rutherford Ave, Sequoia Track Neighborhood, Redwood City, CA 94061.

****START****

Good morning madam Zoning Chair. Thank you for allowing me the opportunity to speak again on this matter. I would like to start with a little historical context on zoning in the Sequoia Track neighborhood.

In 2004, prior to the applicant purchasing 338 Rutherford (Sep 2007), a community-wide effort was undertaken to rezone the Sequoia Track neighborhood to the current S-74 regulations. "Residents, [many of whom have lived in the area for decades], wanted to preserve the existing character of the neighborhood".¹

This was a democratic process. It began at the community level, progressed through numerous town hall meetings, had the support of county staff, was approved by the Planning Commission in a unanimous vote, and ultimately approved by the Board of Supervisors². Again, by a unanimous vote. A copy of the proposal and Ordinance 4241 can be found in Exhibits A and B of the materials I have provided.

¹ Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height. (Exhibit A)

² ORDINANCE NO. 04241 (Exhibit B)

As outlined in the letter to the Board of Supervisors dated November 17th, 2004, there were three primary aspects of the S-74 rezoning that together would help maintain the existing character and integrity of the neighborhood.

This proposal, as currently put forth by the applicant, is in non-compliance with two of the three primary aspects. Proportionality and daylight plane encroachment. Two of three. That is a significant variance request and I would like to address each in turn.

To the matter of the size of a permitted house, the maximum ratio of floor area square footage to lot size is 52% per zoning standards³. Staff states that since the "project proposes a floor area of [less than the maximum total square feet it complies] with the floor area requirement of the zoning district."⁴ But this finding ignores both the original intent of the S-74 ordinance, as well as Section 6300.4.22⁵, which states that "In the case where a requirement, standard, or provision of this Chapter conflicts with another requirement, standard, or provision... the most limiting provision shall take precedence and govern." In this case, is a 52% ratio not the more limiting standard? The data would indicate that is in fact the case.

Based on an initial survey of 246 properties on, and immediately surrounding, the 300 Rutherford block, only six properties exceed the 52% maximum ratio (Exhibit C). And all of those were constructed or remodeled prior to 2004 and the passage of the S-74 ordinance. So in 14 years since the passing of S-74, not a single variance to that maximum ratio has occurred in the surveyed area. Even on non-conforming lots, of which there are many.

³ Zoning standards allow for a maximum floor area square footage of 2,600 sq ft, but those same standards consider a conforming lot size to be 5,000 sq ft or greater. This equates to 52%.

⁴ County File Number: PLN 2017-00517. Page 5-6.

⁵ San Mateo County - Zoning Regulations

Furthermore, “staff believes [the proposed 64% floor area percentage] is a reasonable exceedance”, that “the proposed project is adequately proportioned” and “consistent with surrounding homes and will blend in to the immediate surrounding area”. That’s simply untrue. Per Exhibit D, of the 246 properties surveyed, the average floor area percentage is 28.0%. On the 300 block of Rutherford, the average ratio is 27.1%. And if only other non-conforming lots in the area are examined, the average ratio is 29.7%. So to say that this proposal, which has a floor area square footage greater than 2X the neighborhood average, and would be the largest home per floor area square footage percentages in all of the Sequoia Track neighborhood (Exhibit D.1), is consistent with the surrounding homes is not true. Nor is it in keeping with the intent of Zoning Regulations and the notion of ‘proportionality’ as outlined by the first finding that needs to be met under Use Permit Findings⁶.

Second, to the matter of the daylight plane, the proposal does not “slightly encroach into the 16’/45° daylight plane” as staff states. The proposal encroaches on the daylight plane for the entire length of the house, all 55 feet, on both sides. That is a significant encroachment. More specifically, according to the plans submitted, the encroachment to the north side of the 2nd story would be just shy of 3’ of livable space, or almost 20% greater than the ordinance based on the 16’ mark (Exhibit E). Again, that is not “slight”, that’s a significant encroachment.

The daylight plane encroachment is particularly concerning as this was a primary contribution of the S-74 zoning ordinance as previously none had existed. Section 6300.4.30 specifically calls out that while “architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the side setbacks” that they can only do so “provided that they measure perpendicularly to the daylight plane no more than 20 feet in continuous or cumulative length on each side.” (Exhibit F)

⁶ Section 6133.3.b.(3)

So not only is the daylight plane, a key component of the S-74 zoning ordinance, being significantly encroached upon, but the proposal and staff have failed to address the issue of continuous or cumulative length exceeding 20 feet by again more than 2X the current ordinance.

These two issues, a disproportionate building for the size of the lot and significant encroachment of the daylight plane, brings me to a third and new point of concern. This is a major remodel, but it is not being treated that way.

In its report, staff repeatedly describes the proposal and the non-conforming variance requests as “minor”, “minimal”, or “slight”. However, given the definition in Section 6132.9⁷, this is clearly a major remodel as it would add far more than 100% to the current structure’s value (878 sq ft to 764 sq ft currently).

So if that definition applies, and this is a major remodel, then according to Section 6135.5, which again staff failed to mention, a “major remodel...of a non-conforming structure, where any nonconformity violates the required zoning standard by 50% or more, shall result in the entire structure conforming with zoning regulations currently in effect.” Given that the current north side setback violates the required zoning standard by 56%, shouldn’t the project then be required to conform to all zoning regulations currently in effect? Including the side yard setbacks?

The point I am trying to make is that this entire proposal feels a bit like putting the cart in front of the horse. That instead of asking for a single variance request or two, the applicant is asking for variance requests to just about every ordinance applicable. That rather than attempt to design a residence with the ordinances in mind, and put forth a proposal that makes every attempt to conform with zoning regulations where possible, the

⁷ Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure that amounts to 50%

applicant has submitted plans that are, I quote "what [Fast Cad Drafting] came up with - based on the proposal I had given to [them]" and that he doesn't know things like, and again I quote, "if there was any possibility for the roof to meet the envelope requirement so it doesn't have any encroachment⁸". Well, not only does it appear possible to design a functional second floor that abides by the daylight plane requirements, but that it's also possible to design an expansion to 338 Rutherford that actually requires fewer variance requests, is more in keeping with the neighborhood on a proportionality basis, and would still allow the applicant to expand the living space of his current residence in a far more family-oriented layout.

To summarize, and state for the record, we recognize the applicant's position, we understand his desire to provide for his growing household, and we do want to see an eventual outcome where he is able to pursue a *reasonable* expansion. But in its current state, the proposal put forth has too many variance requests (Exhibit G). It is a major remodel, not a minor one, and should be treated as such during staff review. It is significantly disproportionate in size and scope to the rest of the neighborhood. And it has significant and unnecessary encroachments into the daylight plane. For these reasons, and others stated previously, we remain categorically opposed to this project as it stands and request that a use permit is not issued given this proposal does not satisfy 2 of the 5 required findings under Section 6133.

Thank you.

****END TESTIMONY****

William Hertlein
Resident, 330 Rutherford Ave

⁸ Recording of Zoning Officer Hearing, date March 15, 2018. Timestamp - 38:55.



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
ENVIRONMENTAL SERVICES AGENCY

DATE: November 17, 2004

SET TIME: 9:30 a.m.

BOARD MEETING DATE: December 7, 2004

TO: Honorable Board of Supervisors

FROM: Marcia Raines, Director of Environmental Services

SUBJECT: Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height.

County File Number: PLN 2004-00545

RECOMMENDATION

1. Adopt, by ordinance, the "S-74" zoning district regulations as an amendment to the County Zoning Regulations.
2. Rezone, by ordinance, lands in the R-1/S-7 zoning district in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 as shown on Exhibit A.

PROPOSAL

Residents in the Selby Neighborhood (Sequoia Tract), which lies between Redwood City and Atherton, have requested that the County adopt new zoning regulations to: (1) reduce the permitted size of houses by establishing maximum building floor areas, (2) reduce the

permitted building height, and (3) establish daylight planes to control the bulk and shape of houses.

BACKGROUND

The Selby Neighborhood in the Sequoia Tract is comprised of modest single-family homes on predominately 5,000 sq. ft. parcels. There are some larger parcels that are 10,000 to 20,000 sq. ft. in size. The area is semi-rural in character with mature landscaping. Many residents have lived in the neighborhood for a long time. Households are mostly comprised of families and retired couples.

Over the past three years, several modest homes have been torn down and replaced with substantially larger houses. Some large parcels have been subdivided and developed with large houses. These new houses range in size from 3,000 to 6,000 sq. ft. They now sporadically appear from block to block. Residents are concerned that the character of the neighborhood will be significantly altered if larger and larger houses continue to be built.

Several meetings have been held in the neighborhood to discuss this issue. Residents have agreed that new zoning regulations are needed to control house size, height, and bulk. County planning staff was asked to bring the new regulations and the proposed rezoning to the Planning Commission for a recommendation to the Board of Supervisors.

DISCUSSION

A. PREVIOUS ACTION

On November 10, 2004, the Planning Commission voted 5-0 recommending approval of the proposed rezoning.

B. KEY ISSUES

1. Maximum Building Floor Area

The current R-1/S-7 zoning regulations allow a 7,200 sq. ft. house on a 5,000 sq. ft. parcel. The proposed new regulations would allow a maximum house size of 2,600 sq. ft. on a 5,000 sq. ft. parcel which is much more in scale with the majority of existing houses in the neighborhood.

Residents want to preserve the existing character of the neighborhood. If larger and larger houses continue to be built, the appearance of the neighborhood will become more urban, dense, and crowded. Larger homes will obtrusively stand out in sharp contrast to smaller ones. The varying volumes of houses will visually and aesthetically destroy the harmonious scale of buildings in the neighborhood.

2. Maximum Building Height

The current zoning allows a building height of 36 feet or three stories. The proposed new regulations would reduce allowable building height to 28 feet or two

stories.

Three-story houses can overwhelm neighboring one- and two-story houses. They can cast long, dark shadows and invade privacy. A lot of tall houses in the neighborhood would contribute to destroying the harmonious scale of buildings in the neighborhood.

3. Daylight Plane

The current zoning regulations do not require daylight planes. The proposed new regulations would set the maximum height of a house along the side setbacks at 16 feet at which point the house would inwardly slant at 45 degrees until the maximum height of 28 feet was reached.

Daylight planes reduce the impact of tall walls looming over neighboring houses and yards. They help protect privacy and prevent the blockage of sunlight.

C. ENVIRONMENTAL REVIEW

Adoption of these regulations is exempt from review under the California Environmental Quality Act under 14 California Code of Regulations Section 15061(b)(3) because there is no possibility that the regulations, which impose further restrictions on development of property, will have the potential for causing a significant effect on the environment, in that they are more protective of the environment than prior regulations.

D. REVIEWING AGENCIES

County Counsel

VISION ALIGNMENT

The rezoning keeps the commitment of offering a full range of housing choices and goal number 9, housing exists for people at all income levels and for all generations of families. The rezoning contributes to this commitment and goal by providing limitations on house size that prevents overly sized and very high cost housing.

FISCAL IMPACT

There would be no cost to the County to implement these regulations.

ATTACHMENTS

- A. Ordinance to establish R-1/S-74 zoning district regulations
- B. Ordinance to rezone land in Selby Neighborhood from R-1/S-7 to R-1/S-74

ORDINANCE NO. 04241
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

AN ORDINANCE AMENDING THE SAN MATEO COUNTY ORDINANCE CODE
 (ZONING ANNEX), DIVISION VI, PART ONE, CHAPTER 20,
 "S" (COMBINING DISTRICTS) TO ADD THE "S-74" COMBINING DISTRICT
 (SELBY NEIGHBORHOOD, SEQUOIA TRACT) AND CHAPTER 2, SECTION 6111,
 COMBINING DISTRICTS TO ADD THE S-74 COMBINING DISTRICT

The Board of Supervisors of the County of San Mateo, State of California,
 ordains as follows:

SECTION 1. The San Mateo County Ordinance Code, Division VI, Part One,
 Chapter 20, be amended to add the "S-74" Combining District (Selby Neighborhood,
 Sequoia Tract), Sections 6300.4.22 through 6300.4.30 as follows:

CHAPTER 20. "S-74" DISTRICT
(COMBINING DISTRICT – SELBY NEIGHBORHOOD, SEQUOIA TRACT)

SECTION 6300.4.22. REGULATIONS FOR "S-74" COMBINING DISTRICT (SELBY NEIGHBORHOOD, SEQUOIA TRACT). The following regulations shall apply in the
 single-family (R-1) residential zoning district with which the "S-74" District is combined.

In the case where a requirement, standard, or provision of this Chapter conflicts with
 another requirement, standard, or provision in the Zoning Regulations, including this
 Chapter, the most limiting provision shall take precedence and govern.

SECTION 6300.4.23. BUILDING SITE WIDTH. The minimum building site width shall
 be an average of 50 feet.

SECTION 6300.4.24. BUILDING SITE AREA. The minimum building site area shall be
 5,000 sq. ft.

SECTION 6300.4.25. DEVELOPMENT DENSITY. The maximum density of development shall be 8.7 dwelling units/net acre.

SECTION 6300.4.26. BUILDING SETBACKS. The minimum building setbacks shall be:

Front:	20 feet	
Sides:	10 feet	- When the side property line fronts a public or private street
	5 feet	- All other cases
Rear:	20 feet	

SECTION 6300.4.27. BUILDING SITE COVERAGE AREA RATIO. The maximum building site coverage area ratio shall be .50 (50%) and shall include all: (1) buildings, (2) accessory buildings, and (3) structures such as patios, decks, balconies, porches and other similar uses which are 18 inches or more above the ground, except fences/walls.

SECTION 6300.4.28. BUILDING FLOOR AREA. The maximum building floor area shall be established according to the following table:

<u>Building Site Area</u>	<u>Maximum Floor Area</u>
≤5,000 sq. ft.	2,600 sq. ft.
>5,000 sq. ft.	.26 (building site area - 5,000) + 2,600 sq. ft.

Floor area specifically includes: (1) the area of all stories of all main and accessory buildings on a building site as measured from the outside face of all exterior perimeter walls, (2) the area of all decks, porches, balconies, or other areas covered by a waterproof roof which extends four or more feet from exterior walls, and (3) the area of all garages and carports that exceed 400 sq. ft., but excludes uninhabitable attics and sub-grade basements.

SECTION 6300.4.29. BUILDING HEIGHT. The maximum building height shall be **28 feet, not to exceed two habitable stories.** Building height shall be measured as the vertical distance from any point on the **existing grade** to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend beyond the respective maximum height to a maximum of 36 feet as required for safety or efficient operation.

SECTION 6300.4.30. DAYLIGHT PLANES. The daylight planes shall be established by measuring along the **side setback lines** a vertical distance of **16 feet** from the existing grade and then inward at an **angle of 45 degrees** until a **maximum height of 28 feet** is reached.

Daylight planes shall not be applicable to the side setback line of the street-facing side of a corner parcel.

Certain architectural features shall be allowed to extend into all yard setback areas according to the provisions of Zoning Regulations Section 6406.

Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend into the daylight plane up to a maximum of **36 feet** as required for safety or efficient operation.

Additionally, architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the **side setbacks** provided that: (1) they measure perpendicularly to the daylight plane no more than **20 feet** in continuous or cumulative

length on each side, and (2) they measure no more than **24 feet in height** from the **existing** grade.

SECTION 2. The San Mateo County Ordinance Code, Division VI, Part One, Chapter 2, Section 6111, be amended to add the S-74 Combining District.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after adoption by the San Mateo County Board of Supervisors.

MD:fc – MLDO1239_WFQ.DOC
(11/17/04)

Regularly passed and adopted this 7th day of December, 2004

AYES and in favor of said ordinance:

Supervisors:

MARK CHURCH

JERRY HILL

RICHARD S. GORDON

ROSE JACOBS GIBSON

MICHAEL D. NEVIN

NOES and against said ordinance:

Supervisors:

NONE

Absent Supervisors:

NONE

Mark Church

President, Board of Supervisors
County of San Mateo
State of California

Certificate of Delivery

I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.

Barbara Heinaman

Barbara Heinaman, Deputy
Clerk of the Board of Supervisors

EXHIBIT C



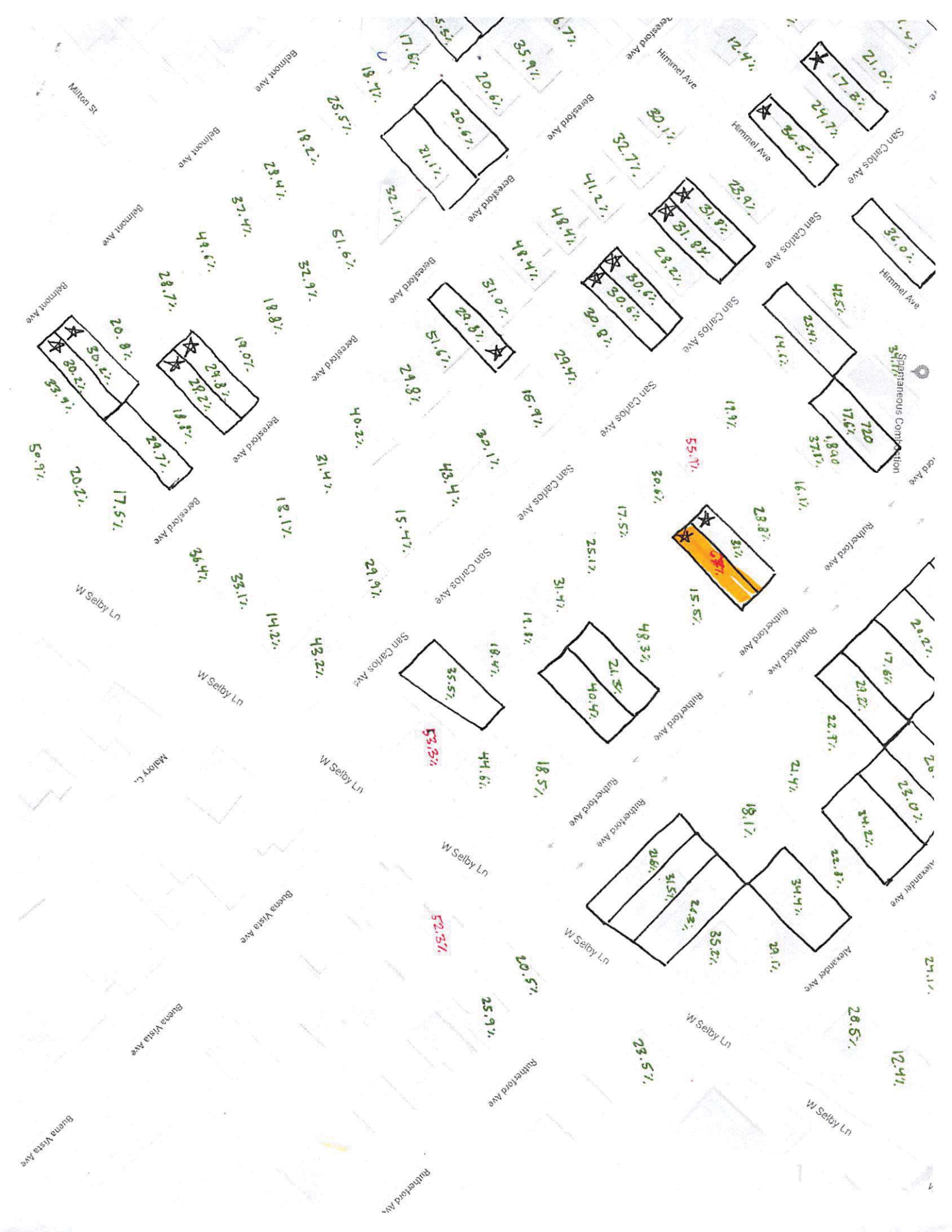




EXHIBIT D

House Sq Ft & Lot Size Analysis of the Sequoia Track Neighborhood

Neighborhood Averages

Count	246
House - Sq Ft	1,385
% ratio	28.0%

300 Block - Rutherford

Count	24
House - Sq Ft	1,284
% ratio	27.1%

Non-conforming lots (<5,000 sq ft)

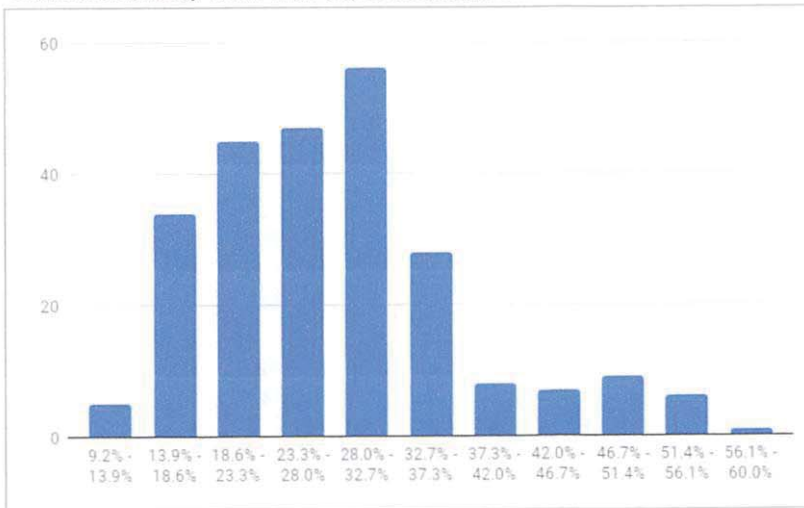
Count	71
House - Sq Ft	1,070
% ratio	29.7%

Proposed project - 338 Rutherford

Count	1
House - Sq Ft	1,642
% ratio	64.4%

EXHIBIT D.1

Distribution of homes by "% ratio" in the Sequoia Track Neighborhood

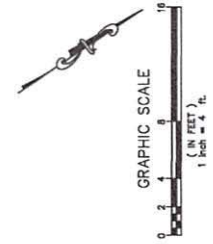
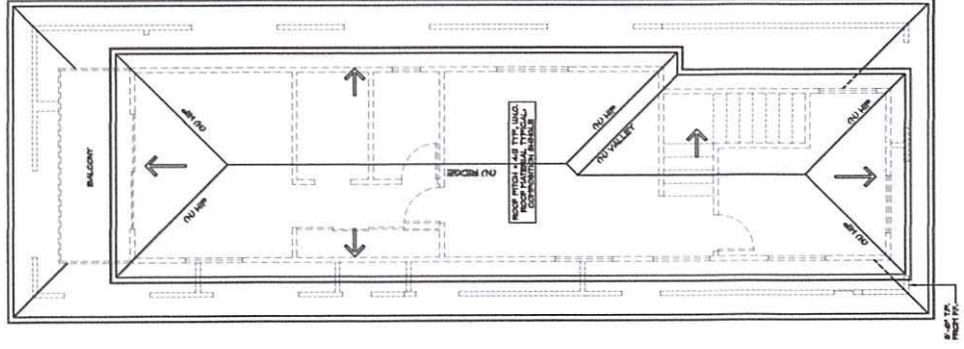
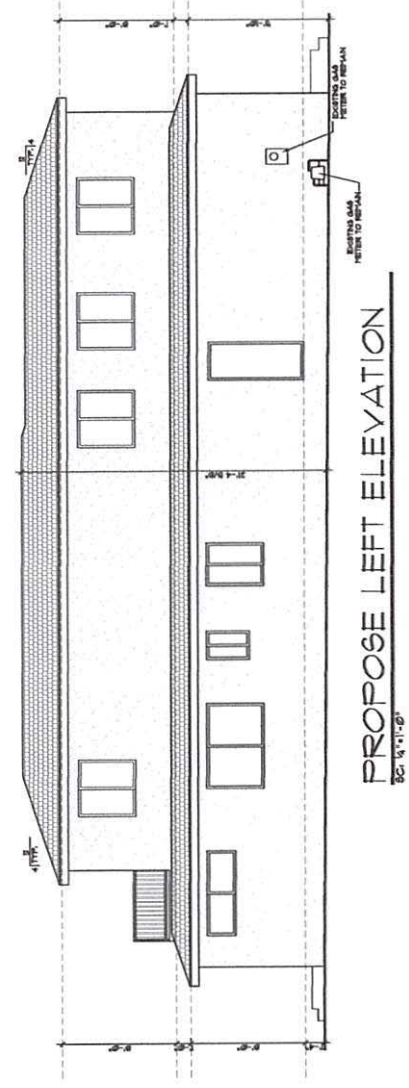
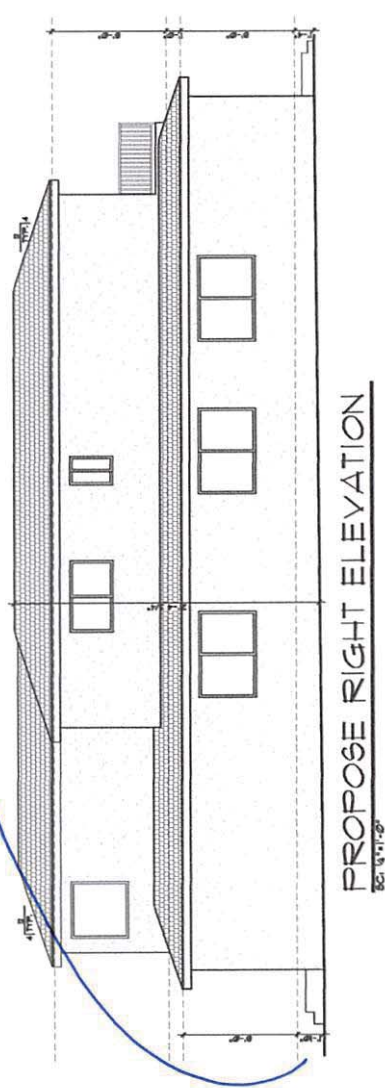
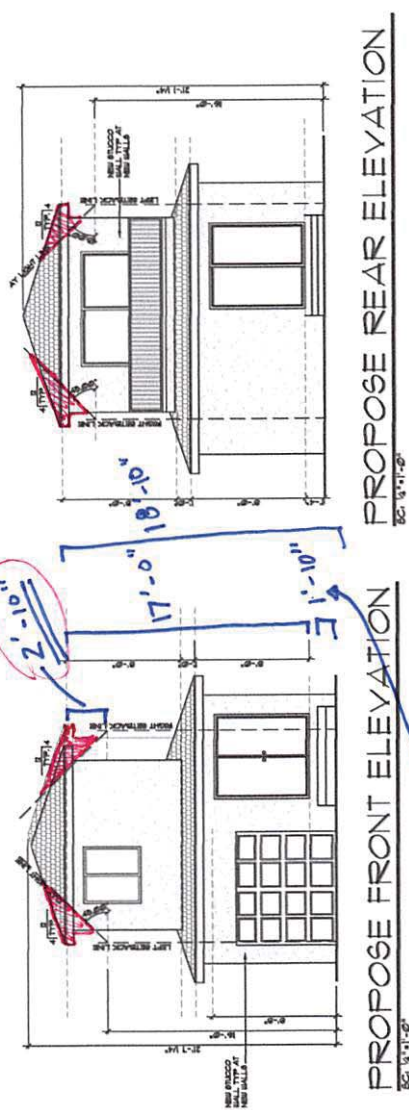


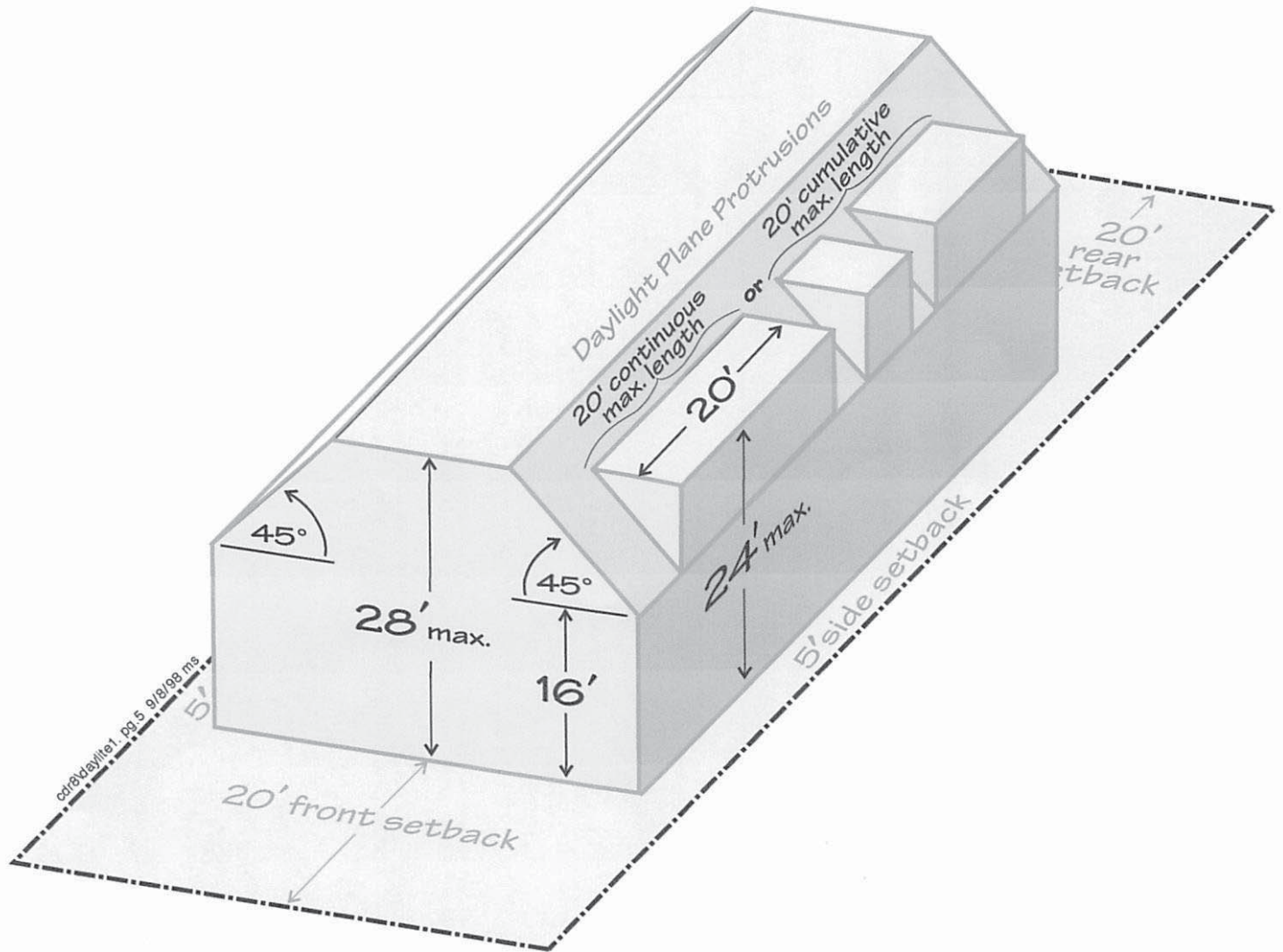
****338 Rutherford proposal would not even fit on the current distribution chart for the 246 properties surveyed*****

Key

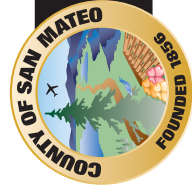
Count	Number of homes include in analysis
% ratio	House Sq Ft / Lot Sq Ft

Date Taken from Redfin & Zillow records, as of April 4th, 2018.





R-1 / S-74 Zoning Development Standards					Existing Non-Conformity?
Standard	Required	Existing	Proposed Additions	Addressed by Staff?	
Minimum Lot Width	50 ft.	25 ft. *	No change **		
Minimum Lot Area	5,000 sq. ft.	2,549 sq ft*	No change **		
Minimum Front Yard Setback	20 ft.	24.3 ft	20.04 ft.		
Minimum Right Yard Setback	5 ft.	2 ft. *	2.5 ft. **		
Minimum Left Yard Setback	5ft	3.4 ft. *	3.4 ft. **		
Minimum Rear Yard Setback	20 ft	20.4 ft	20.4 ft		
Maximum Lot Coverage	50%	39%	46%		
Maximum Building Floor Area	2,600 sq ft	764 sq ft	1,642 sq ft		
Maximum Building Floor Area %	52%	30.0%	64.4% **	No	No
Maximum Building Height	28 ft / 2 stories	14 ft / 1 story	21'-7 (1/4)" / 2 stories		
Maximum Daylight Plane	16' / 45° at side setback lines	Complies	Encroachment **		No
Daylight Plane Protusions	20' ft cumulative each side	Complies	53'-2" ft each side **	No	No
Minimum Covered Parking	2	1*	1**		
Major Remodel	+50% of structure's value	Complies	Exceedes (114% increase) **	No	No
*Non-conforming					
** Proposal requiring a non-conforming use permit					



County of San Mateo - Planning and Building Department

ATTACHMENT E

COUNTY OF SAN MATEO PLANNING AND BUILDING

455 County Center, 2nd Floor
Redwood City, CA 94063
650-599-7310 T
www.planning.smcgov.org

August 8, 2018

Ehsan Kameli
P.O. Box 1352
Palo Alto, CA 94302

Dear Mr. Kameli:

Subject: **LETTER OF DECISION**
File Number: PLN2017-00517
Location: 338 Rutherford Avenue, Sequoia Tract, unincorporated Redwood City
APN: 069-321-260

On July 25, 2018, the San Mateo County Planning Commission considered an appeal of the Zoning Hearing Officer's approval of a Non-Conforming Use Permit, pursuant to Sections 6133 and 6137 of the San Mateo County Zoning Regulations, to enlarge an existing non-conforming single-family residence on a non-conforming sized parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2' (right side) and 3' (left side) where 5' is the minimum required side yard setback; a new 698 sq. ft. second-story which will encroach into the 16'/45 degree daylight plane; and to allow the second required covered parking space to be uncovered and tandem to an existing one-car garage; on a non-conforming 2,549 sq. ft. parcel.

Based on information provided by staff and evidence presented at the hearing, the Planning Commission voted 2 to 2 on a motion to deny the appeal and uphold the Zoning Hearing Officer's approval of the Non-conforming Use Permit. Since there was not a majority of the Commissioners voting in favor of the motion, the motion failed, and no subsequent motion was made. As a result, the Zoning Hearing Officer's decision to approve the Non-conforming Use Permit stands.

Any interested party aggrieved by the determination of the Planning Commission, which results in the project's approval, has the right of appeal to the Board of Supervisors within ten (10) business days from such date of determination. The appeal period for this matter will end at **5:00 p.m. on August 8, 2018.**

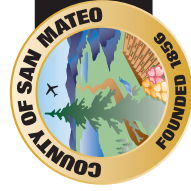
Sincerely,



Janneth Lujan
Planning Commission Secretary
Pcd0725cc_ (Item 1 Kameli_Rutherford)

cc: Department of Public Works
Building Inspection Department
Menlo Park Fire Protection District
William Hertlein
Nancy Arbuckle
Alvin Yao
Paul Thekan
Frank Shanahan
Shawn Misialek
Charles Schrader
Chris Kellems
Mrs. Stephen West





County of San Mateo - Planning and Building Department

ATTACHMENT F

Application for Appeal☐ To the Planning Commission☒ To the Board of Supervisors

County Government Center • 455 County Center, 2nd Floor
 Redwood City • CA • 94063 • Mail Drop PLN 122
 Phone: 650 • 363 • 4161 Fax: 650 • 363 • 4849

Name: WILLIAM HERTLEINAddress: 330 RUTHERFORD AVEREDWOOD CITY CA

Phone, W:

H: 831-236-1909Zip: 94061

Permit Numbers involved:

PLN2017-00517

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

☒ yes☐ no

I hereby appeal the decision of the:

☐ Staff or Planning Director☐ Zoning Hearing Officer☐ Design Review Committee☒ Planning CommissionAppellant's Signature: Date: 8/8/2018

made on July 25 2018, to approve/deny
 the above-listed permit applications.

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 LETTERS**RECEIVED**

AUG 08 2018

San Mateo County
 Planning Division

WILLIAM HERTLEIN
330 Rutherford Avenue
Redwood City, CA 94061

August 6, 2018

SUBJECT: Application for Appeal to San Mateo County Board of Supervisors
REGARDING: PLN2017-00517

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

Dear Board of Supervisors:

We are appealing the tie vote of the Planning Commission made on July 25, 2018 on an appeal of the April 5, 2018 decision of the Zoning Hearing Officer for the following reasons:

1. The project can only lawfully be approved through the issuance of multiple variances
2. The project fails to comply with the Zoning Regulations and findings are not supported by evidence
3. The project is inconsistent with the County's General Plan
4. The County's action fails to comply with the California Environmental Quality Act

All of these grounds for the appeal were detailed in July 20, 2018 correspondence to the Planning Commission, which is attached hereto and incorporated herein by reference. Additional supporting documentation was presented, and entered into record, at the Zoning Hearing Officer meeting, as well as the Planning Commission hearing. Such materials are hereby incorporated by reference into this appeal as well.

The Sequoia Tract neighborhood, or S-74 Zoning District, was specifically created at the request of the entire neighborhood in 2004. It was the result of a numerous community-wide meetings and a democratic process that culminated with unanimous approvals by both the Planning Commission and the Board of Supervisors. Such a process and approval should not be taken lightly nor overturned without careful examination of all potential implications and outcomes. We request that you enforce the S-74 zoning requirements as they were intended.

Sincerely,



William Hertlein
Owner, 330 Rutherford Avenue

RECEIVED

AUG 08 2018

San Mateo County
Planning Division

July 20, 2018

VIA EMAIL and FEDERAL EXPRESS

Honorable Zoe Kersteen-Tucker, Chair
and Members of the Planning Commission
COUNTY OF SAN MATEO
455 County Center, 2nd Floor
Redwood City, CA 94063

RECEIVED

AUG 08 2018

San Mateo County
Planning Division

Re: 338 Rutherford Avenue (PLN2017-00517); Appeal of Zoning Hearing Officer's Approval of Non-Conforming Use Permit (July 25, 2018 Planning Commission Hearing, Agenda Item 1)

Dear Chair Kersteen-Tucker and Members of the San Mateo County Planning Commission:

We write on behalf of our clients, William Hertlein and Elizabeth Kelly ("Appellants"), in support of the appeal of the Zoning Hearing Officer's approval of a non-conforming use permit to allow Ehsan Kameli ("Applicant") to expand a single-family home located at 338 Rutherford Avenue (the "Property") in a manner that conflicts with numerous key zoning regulations enacted precisely to preclude such development (the "Project"). As explained below, because the Zoning Hearing Officer's approval of the Project is inconsistent with state law as well as with the County's General Plan and Zoning Regulations, it must be set aside. We respectfully ask the Planning Commission to grant the appeal and direct the Applicant to revise the Project plans to conform as nearly as possible with development standards enacted to protect the integrity of the subject neighborhood.¹

1. Background

The Property is located at 338 Rutherford Avenue in the Sequoia Tract Neighborhood of the County near Redwood City. Appellants' property is located at 330 Rutherford Avenue, just north of the subject Property.

¹ We hereby incorporate by reference into the record of proceedings for this item, all of the codes, ordinances, plans, documents, reports, articles, and studies cited in this letter. We also incorporate by reference the agendas, staff reports, video recordings and minutes of the Planning Commission and Board of Supervisors hearings culminating in the adoption of Ordinance No. 04241. Upon request, copies of these materials will be furnished to the County. Additionally, emphasis in quotations herein is supplied and citations are omitted unless otherwise noted.

Honorable Zoe Kersteen-Tucker, Chair and
Members of the Planning Commission
July 20, 2018
Page 2

The Applicant's Property and Appellants' property are both zoned R-1 (One-Family Residential)/S-74 (Combining District-Selby Neighborhood, Sequoia Tract). Single family dwellings are permitted in the R-1 District. (Zoning Regulations ["ZR"], Section 6161.)

The development standards for the Sequoia Tract Neighborhood where the Property is located are set forth in the S-74 combining district. Specifically, the minimum lot width is an average of 50 feet. (ZR, Section 6300.4.23.) The minimum lot area is 5,000 square feet. (ZR, Section 6300.4.24.) The minimum side setbacks are 5 feet. (ZR, Section 6300.4.26.) The maximum lot coverage is 50 percent. (ZR, Section 6300.4.27.) The maximum building floor area is 2,600 square feet. (ZR, Section 6300.4.28.) The minimum required covering parking spaces is two. (ZR, Section 6119.) Further, architectural features are allowed to extend into the daylight plane of the side setback provided that they measure perpendicularly to the daylight plane no more than 20 feet in continuous or cumulative length on each side.² (ZR, Section 6300.4.30.)

The S-74 combining district was unanimously approved by the Board of Supervisors in November 2004 due to residents' concerns that the character of the neighborhood was being significantly altered by the replacement of smaller homes with much larger ones on relatively small lots.³ As such, the County adopted new zoning regulations to: (1) reduce the permitted size of houses by establishing maximum building floor areas, (2) reduce the permitted building height, and (3) establish daylight planes to control the bulk and shape of houses.

In a November 17, 2004 Staff Report, the County's Director of Environmental Services explained the purpose of the limit on maximum building floor area as follows:

Residents want to preserve the existing character of the neighborhood. If larger and larger houses continue to be built, the appearance of the neighborhood will become more urban, dense, and crowded. Larger homes will obtrusively stand out in sharp contrast to smaller ones. The varying volumes of houses will visually and aesthetically destroy the harmonious scale of buildings in the neighborhood.

(Staff Report for the Appeal ["Staff Report"], Attachment K.) As to the daylight plane, the Director explained that the new regulations would "reduce the impact of tall walls looming over neighboring houses and yards," which would "help protect privacy and prevent the blockage of sunlight." (Staff Report, Attachment K.)

² Daylight planes are established by measuring along the side setback lines a vertical distance of 16 feet from the existing grade and then inward at an angle of 45 degrees until the maximum height of 28 feet is established. (ZR, Section 6300.4.30.)

³ The Planning Commission unanimously recommended approval of the S-74 zoning regulations to the Board of Supervisors.

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With this background in mind, we turn now to the Project's numerous inconsistencies with both state and local law.

2. The Project can only lawfully be approved through issuance of multiple variances.

The Project can only lawfully be approved through multiple variances. The County has not and is not proposing to grant any variances for the Project. Even if it had, the County could not legally make the findings to support issuance of such a variance.

The Project unquestionably requires approval of numerous variances. Yet, the County is purporting to approve the Project through a use permit. It is well settled that a use permit is not a legal substitute for a variance. (Government Code § 65906 [noting that the statutory provisions pertaining to variances "shall not apply to conditional use permits."]; *Tustin Heights Association v. Board of Supervisors of Orange County* (1959) 170 Cal.App.2d 619, 627 [court observes that "a conditional use and variance are not one and the same and the provisions for each of them are not to be construed together as reciprocal parts of an integrated ordinance . . ."]; *see also Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal.App.4th 997 [court overturns granting of ad hoc exceptions from zoning requirements as violating the uniformity requirement of Government Code § 65852].)

Moreover, under the State Planning & Zoning Law and the County's Zoning Regulations, a variance can only lawfully be approved if the County makes all of the following findings:

- (1) The parcel's location, size, shape, topography and/or other physical conditions vary substantially from those of other parcels in the same zoning district or vicinity.
- (2) Without the variance, the landowner would be denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity.
- (3) The variance does not grant the landowner a special privilege which is inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity.
- (4) The variance authorizes only uses or activities which are permitted by the zoning district.
- (5) The variance is consistent with the objectives of the General Plan or the Zoning Regulations.

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(ZR, Section 6534.1; *see also* Government Code § 65906 [“Variances from the terms of [a] zoning ordinance[] shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical classifications.”].)

The County is not proposing to approve any variance for the Project, let alone six, as would be required. Thus, it has failed to make the requisite findings for any such variance. (Code of Civil Procedure § 1094.5(b).) Even if it had purported to make such findings, the findings would not be supported by substantial evidence, as required. (*Id.*; *see also Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 522 and *Lucas Valley Homeowners Association v. County of Marin* (1991) 233 Cal.App.3d 130, 142.)

First, the Property’s location, size, shape, topography, and/or other physical conditions do not vary substantially from those of other parcels in the same zoning district or vicinity such that special circumstances exist. There are nearly 70 substandard lots, like the Property, in the neighborhood. (Staff Report, Attachment G.) As Staff observes, none of these have undergone substantial modifications since the S-74 zoning regulations were enacted in 2004. (Staff Report, p. 5.) Courts have overturned an agency’s granting of a variance in similar circumstances when there has been no showing that the property differs substantially from other parcels in the zoning district. (See, e.g., *Topanga Association for a Scenic Community*, *supra*, 11 Cal.3d at 522; *Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1166; and *PMI Mortgage Ins. Co. v. City of Pacific Grove* (1981) 128 Cal.App.3d 724, 731.)

Second, the County cannot find that without the variance, the Applicant would be denied the rights and privileges that are enjoyed by other landowners in the same zoning district or vicinity. The Applicant claims hardship, stating that the current residence “doesn’t allow for more than one person to live in it comfortably.” (Staff Report, Attachment S.) The Applicant similarly told Mr. Hertlein that his current residence is too small and that it did not make financial sense to propose a smaller development. For its part, Staff states that redesigning the Project to eliminate the intrusion into the daylight plane “is not a reasonable option for the applicant from a cost to utilization perspective and would discourage the applicant from pursuing a second-story addition and thus prevent them from being able to meet their objective of gaining additional floor space for their growing family.” (Staff Report, p. 7.) None of these reasons provide legal justification for the granting of a variance.

As noted by the First District Court of Appeal in *Orinda Association*, *supra*, 186 Cal.App.3d at 1166, “*the desirability of the proposed development*, the attractiveness of its design, the benefits to the community, *or the economic difficulties of developing the property in conformance with the zoning regulations, lack legal significance* and are simply irrelevant to the controlling issue of whether strict application of zoning rules would prevent the would-be developer from utilizing

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his or her property to the same extent as other property owners in the same zoning district.”⁴ The County itself advises applicants that they cannot justify a variance request by stating that it would provide “a more convenient or profitable use of . . . property” or because the applicant “can’t afford to comply with the Zoning Ordinance.” (“How to Apply for a Variance,” San Mateo County Planning & Building Department, November 2003.) Further, from a practical standpoint, it appears that the Project could have been redesigned to better meet building floor area requirements (proportionality) and comply with the daylight plane standards through use of a cathedral ceiling.

The Applicant purchased the Property in 2007, after enactment of the S-74 zoning regulations. The Applicant knew or should have known of the key limitations on development, including the limits on building setbacks and intrusions into the daylight plane. Self-induced hardship, as is the case here, is not a sufficient basis on which to grant a variance. (See, e.g., *Broadway, Laguna, Valley Association*, *supra*; *San Marino v. Roman Catholic Archbishop* (1960) 180 Cal.App.2d 657; *Minney v. Azusa* (1958) 164 Cal.App.2d 12; and *Town of Atherton v. Templeton* (1961) 198 Cal.App.2d 146.)

Third, contrary to state and local law, the Project would grant the Applicant special privileges that are inconsistent with the restrictions placed on other parcels in the same zoning district or vicinity.⁵ Based on a survey of 246 surrounding lots, the only ones not in conformance with floor area ratio requirements (and likely daylight plane standards) were built prior to enactment of the S-74 zoning regulations. Approval of the Project thus would grant the Applicant special privileges inconsistent with other properties in the area.

Fourth, approval of the Project is inconsistent with both the General Plan and Zoning Regulations, as discussed below.

In short, the County’s approval of the Project would violate both state and local law. The Project requires major variances from the Zoning Regulations, yet the County has not required or issued such approvals. Even if it had, no facts would support its decision.⁶

⁴ (*Accord, Broadway, Laguna, Valley Association v. Board of Permit Appeals* (1967) 66 Cal.2d 767, 775; *Hamilton v. Board of Supervisors of Santa Barbara County* (1969) 269 Cal.App.2d 64, 67; and *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, 926.)

⁵ (ZR, Section 6534.1; Government Code § 65906 [“Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.”].)

⁶ (See, e.g., *Topanga Association for a Scenic Community*, *supra*, 11 Cal.3d at 522 [California Supreme Court overturns variances for nonconforming mobile home park development reasoning that the approvals would “radically alter” the nature of the zone and noting that such changes were a “proper subject for legislation, not piecemeal administrative regulations.”].)

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3. The Project fails to comply with the Zoning Regulations.

The Project fails to comply with numerous key development standards applicable to the Property. The Zoning Hearing Officer improperly approved the Project despite the Project's major deviations from the Zoning Regulations, characterizing the exceptions as "minor" or "slight." In reality, the exceptions are major and threaten to radically alter the nature of the Sequoia Tract Neighborhood.

As a preliminary matter, the Project cannot lawfully be approved without complying with the development standards currently in effect. ZR Section 6135 specifically provides that the "[m]ajor repair, remodel or upgrade of a non-conforming structure, where any nonconformity violates the required zoning standard by 50% or more, shall result in the entire structure conforming with the zoning regulations currently in effect." The non-conforming structure currently violates the required zoning standards by more than 50 percent in the areas of minimum lot width and side setbacks. The Project will perpetuate these nonconformities and exacerbate them by an intrusion in the daylight plane by more than 100 percent and by only providing one covered parking space when two are required (a violation of the zoning standard by 50 percent). The Project thus cannot lawfully be approved without complying with the development standards currently in effect.

Even assuming that ZR Section 6135 does not constitute a complete and total bar to the Project, which it does, and even assuming the County could legally grant such exceptions through a use permit, which it cannot (see Section 2 above), neither the Zoning Hearing Officer's approved findings nor the Planning Commission's proposed findings are supported by substantial evidence, as required. (See Code of Civil Procedure § 1094.5(b); see also *Topanga Association for a Scenic Community* and *Lucas Valley Homeowners Association*, both *supra*.) The Zoning Regulations purport to allow development of a nonconforming parcel with approval of a use permit. (ZR, Section 6133.) Such a use permit may only be issued if the approving entity makes all of the following findings:

- (1) The proposed development is proportioned to the size of the parcel on which it is being built.
- (2) 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.
- (3) The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.
- (4) The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case . . . be detrimental to the

Honorable Zoe Kersteen-Tucker, Chair and
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July 20, 2018
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public welfare or injurious to property or improvements in said neighborhood.

- (5) Use permit approval does not constitute a granting of special privileges.

(ZR, Section 6133 [emphasis in the original]; *see also* ZR, Sections 6137 and 6503.)

The Project has a floor area ratio of 64.4 percent. This is more than double the average floor area of homes in the neighborhood. (Staff Report, Attachment D, Exhibit D.) The Project is not proportional to any other homes in the vicinity let alone proportional to the Property, as required. The Project would be larger by 150 to 400 square feet than any of the existing second-story homes on small lots cited in Attachment J to the Staff Report, all of which were constructed prior to the enactment of the S-74 zoning regulations. Despite Staff's unsubstantiated claims to the contrary, the Project presents precisely the type of situation that enactment of the S-74 zoning regulations were intended to prohibit.

It is absolutely, unequivocally, 100 percent FALSE that the Project is as nearly in conformance with the Zoning Regulations currently in effect as is reasonably possible. The Project conflicts with at least six development standards. The only modifications made to the original Project plans were to clarify the front setback measurements. The front setback is one of the few development standards with which the Project complies. No modifications were made to address the incursion into both side setbacks or the daylight plane.

The Project does not "slightly encroach" into the daylight plane as Staff claims. (Staff Report, pp. 14, 15 and Attachment A.) ***It encroaches into the daylight plane for the entire length of the proposed structure (55 feet) on both sides.*** At the March 15, 2018 hearing, the Applicant admitted that he did not know "if there was any possibility for the roof to meet the envelope requirement so it doesn't have an encroachment—[the drawings] are just what [Fast Cad Drafting] came up with based on the proposal I had given [them]."

The Board of Supervisors found that developments like the Project would be detrimental to the public welfare when it adopted the S-74 zoning regulations. Neither the Zoning Hearing Officer nor the Planning Commission, both unelected entities, can now credibly claim that the Project, which violates almost every major development standard of the S-74 zoning district, will not produce adverse effects. The intrusion into the daylight plane alone will have a detrimental effect on neighboring homes.⁷ The shadow study performed only on June 21 (the longest day of the year when the sun is highest in the sky) does not undermine this conclusion, and in fact, shows the Project

⁷ The Project is unquestionably subject to the daylight plane provisions as acknowledged in both the approved and proposed findings. (Staff Report, Attachments A and C.) Yet, Staff inconsistently suggests that the Project is not subject to the daylight plane requirements reasoning that the upper walls are not "architectural features." (Staff Report, p. 7.) Staff cites no authority in support of this position nor could it since such a claim defies any practical or reasonable construction of that phrase.

Honorable Zoe Kersteen-Tucker, Chair and
Members of the Planning Commission
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results in significant shadow impacts to both neighboring properties during the morning hours. (Staff Report, p. 7 and Attachment M.) During the winter, the impacts will be even more severe, with the shadows experienced during the morning hours in the summer extending all day long to neighboring properties and even to Appellants' property during the morning hours.⁸

Moreover, Staff's claim that the Project does not set a precedent is belied by the very findings in support of its approval, which state that other properties can apply for the same exceptions. (Staff Report, Attachment A.) If the Project is approved, there would be no legal basis for the County to deny a similar development at 334 Rutherford Avenue. Such a development would immediately and significantly impact the Appellants' home located at 330 Rutherford Avenue. The cumulative impacts of such developments were not considered in the shadow analysis nor in any other studies prepared in connection with the Project. As explained below, the City cannot lawfully approve the Project absent consideration of such impacts.

Finally, the approval of the Project, with exceptions for almost all major development standards in the applicable zoning district, unquestionably constitutes the granting of special privileges to the Applicant.⁹ The proposed findings claim that it does not because the County "provides the same exception process for similar parcels under the same conditions." (Staff Report, Attachment A.) This rationale subverts the relevant legal standard. The Zoning Hearing Officer must find that approval of the Project will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. (Government Code § 65906.) As explained above, *the approval of the Project does improperly constitute the granting of special privileges*.¹⁰

Because the Project fails to comply with the Zoning Regulations, the City cannot lawfully approve it.

4. The Project is inconsistent with the County's General Plan.

All local land use decisions, including consideration of this Project, must be shown to be "consistent with" the applicable general plan. (*Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 152 [invalidating project approval where not shown to be consistent with general plan]; *Families Unafraid to Uphold Rural Etc. of Placer County v. Board of Supervisors*

⁸ (<https://www.gaisma.com/en/location/redwood-city-california.html>).

⁹ Staff's response that the Zoning Regulations "provide no limit on the number of exceptions that can be requested under a non-conforming use permit" is anathema to the reasons underlying the Board of Supervisors' 2004 approval of the S-74 zoning regulations. (Staff Report, p. 4 and Staff Report, Attachment K.)

¹⁰ There is also no evidence to support the finding that opportunities to acquire additional contiguous land were investigated and proven to be infeasible.

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of Placer County (1998) 62 Cal.App.4th 1332, 1336 [county abused its discretion by approving a development project inconsistent with general plan policies].)

The County's General Plan is effectively the "constitution for all future development" in the community, and any subordinate land use action that is not shown to be consistent with the general plan is "void ab initio." (*Leshar Communications, Inc. v City of Walnut Creek* (1990) 52 Cal.3d 531, 540, 545.) "The propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.)

In order to be deemed "consistent," a proposed project must actually be "compatible with the objectives, policies, general land uses, and programs specified in the General Plan." (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378-79 [county abused its discretion in adopting a specific plan that permitted development without "definite affirmative commitments to mitigate" impacts to traffic and housing contrary to policies and objectives set forth in its general plan].) "Consistency requires more than incantation, and [an agency] cannot articulate a policy in its general plan and then approve a conflicting project." (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 789.)

Failure to comply with even one general plan policy is enough to render a project "inconsistent" with the general plan, and any project approvals would be invalid. (*See, e.g., Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91 [invalidating city's approval of permit for commercial development because of failure to show consistency with one general plan policy]; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 640-642 [finding a project to be inconsistent with an agency's general plan based on its failure to comply with a single policy requiring the agency to "coordinate" with specified resource agencies on mitigation for impacts to special-status species]; *accord, Endangered Habitats League, supra*, 131 Cal.App.4th at 789 [project's failure to comply with a single general plan provision calling for use of a prescribed traffic study methodology].)

The current proposed Project is manifestly inconsistent with several of the County's fundamental policies embodied in the General Plan.

The General Plan establishes a goal of "[p]romot[ing] aesthetically pleasing development in rural and urban areas." (General Plan, Visual Quality Policies, Goals and Objectives, Section 4.4.) To achieve that goal, Policy 4.15 requires that development be regulated to "promote and enhance good design, site relationships and other aesthetic considerations." Policy 4.36 likewise requires that the appearance and visual character of development in urban areas be maintained and, where possible, improved, and that new development be "designed and constructed to contribute to the orderly and harmonious development of the locality."

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In its Urban Land Use Policies, Policy 8.15 of the General Plan calls for “[p]rotect[ing] and enhanc[ing] the character of existing single-family areas.” To ensure that development is consistent with land use designations, the County is to “continue to use zoning districts which regulate development by applying specific standards.” (General Plan, Urban Land Use Policies, Policy 8.35.) In particular, maximum allowable densities are to be regulated to ensure a level of development that is consistent with land use designations; comports with the efficient provision of public facilities, services, and infrastructure; and that minimizes exposure to natural and man-made hazards. (*Id.*, Policy 8.37.)

Minimum parcel sizes are to be regulated in order to: (1) ensure that parcels are usable and developable, (2) establish orderly and compatible development patterns, (3) protect public health and safety, and (4) minimize significant losses of property values. (*Id.*, Policy 8.38.) Height, bulk, and setbacks are to be regulated in order to: (1) ensure that the size and scale of development is compatible with parcel size, (2) provide sufficient light and air in and around structures, (3) ensure that development of permitted densities is feasible, and (4) ensure public health and safety. (*Id.*, Policy 8.39.)

Since the Project fails to comply with almost every single major development standard applicable to the area, approval of it does not protect and enhance the character of the Sequoia Tract Neighborhood as required by the General Plan. The S-74 zoning regulations were enacted precisely to prevent developments like the Project. The Project’s floor area ratio is more than double that of the average home in the neighborhood and is not compatible with the size of the Property or surrounding developments. It significantly intrudes into the daylight plane thereby threatening the provision of sufficient light and air in and around structures. For similar reasons, it threatens, rather than contributes to, the visual character of the area.

Because the Project is inconsistent with the General Plan, the County cannot lawfully approve it.

5. The County’s action fails to comply with the California Environmental Quality Act.

Because the Project may have a significant effect on the environment, the County cannot approve it without complying with the California Environmental Quality Act (“CEQA”).

The County claims that the Project is exempt from CEQA pursuant to the Class 1 exemption. That exemption only applies, however, to projects that involve “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” The Project will increase the size of the existing home at 338 Rutherford Avenue by 114 percent. This is not a negligible expansion of use.

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Moreover, the County cannot rely on any categorical exemption if there is a “reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines § 15300.2(c).)¹¹ As the Supreme Court recently explained “an agency invoking a categorical exemption may not simply ignore the unusual circumstances exception; it must consider the issue of significant effects . . . in determining whether the project is exempt from CEQA where there is some information or evidence in the record that the project might have a significant environmental effect.” (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086, 1103.) “Thus, an agency may not apply a categorical exemption without considering evidence in its files of potentially significant effects, regardless of whether that evidence comes from its own investigation, the proponent’s submissions, a project opponent, or some other source.” (*Id.*)

The significance of an environmental impact is not based on its size but is instead “measured in light of the context where it occurs.” (*Friends of College of San Mateo Gardens v. San Mateo County Community College District* (2017) 11 Cal.App.5th 596, 610 [aesthetic impact of removing campus gardens potentially significant because gardens were “unique,” even though loss of total landscaped and open space would have been less than one-third of one percent].) The Project may result in significant impacts related to aesthetics, land use/planning, and construction-related air quality, traffic, and noise. Yet, no studies were performed to demonstrate that the Project would not have any significant impacts to any of these environmental resources categories. Because there is a reasonable possibility that the Project may result in significant environmental impacts, the County cannot lawfully rely on a categorical exemption from CEQA.

In short, the County cannot lawfully approve the Project until it conducts CEQA review.

6. Conclusion

We appreciate that the Planning Commission affords us this opportunity to appeal and to point out the serious legal flaws and omissions in the Project application, as currently proposed. In connection with the Project, the County has failed to comply with numerous state and local laws. The Project requires, but has not been granted, necessary variances. The purported findings for approval are not supported by substantial evidence. The Project is inconsistent with fundamental and mandatory policies of the General Plan. Further, no analysis of the potentially significant environmental impacts of the Project has been undertaken. The Planning Commission must assure that the Project is “as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.” (ZR, Section 6133 [emphasis in the original].) Based on the

¹¹ CEQA Guidelines § 15300.2(b) also precludes reliance on a categorical exemption when the “cumulative impact of successive projects of the same type in the same place, over time is significant.” As admitted in the proposed findings, the Project can be precedent setting by enabling other property owners to apply for similar nonconforming developments. Because the County has failed to analyze the potential impacts of such cumulative development, it cannot lawfully rely on a categorical exemption for the Project.

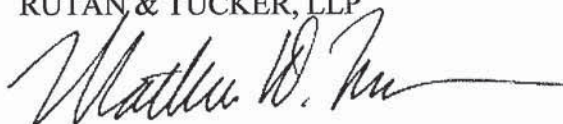
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numerous, significant exceptions from the Zoning Regulations needed for the Project, and the lack of any effort to achieve conformance with them, the County cannot credibly make this finding.

Appellants respectfully urge the Planning Commission to deny the Project or, at minimum, defer action on it until, and unless, these critical issues are studied and addressed. Representatives of the Appellants, including the undersigned, will be in attendance at your July 25, 2018 hearing on this matter. In the meantime, please do not hesitate to contact me with any questions regarding this correspondence. We appreciate your consideration.

Very truly yours,

RUTAN & TUCKER, LLP

A handwritten signature in black ink, appearing to read "Matthew D. Francois", with a long horizontal flourish extending to the right.

Matthew D. Francois

cc: William Hertlein & Elizabeth Kelly
Summer Burlison
Timothy Fox



County of San Mateo - Planning and Building Department

ATTACHMENT G



County of San Mateo - Planning and Building Department

ATTACHMENT H

CHAPTER 20. “S-74” DISTRICT **(COMBINING DISTRICT – SELBY NEIGHBORHOOD,** **SEQUOIA TRACT)**

SECTION 6300.4.22. REGULATIONS FOR “S-74” COMBINING DISTRICT (SELBY NEIGHBORHOOD, SEQUOIA TRACT). The following regulations shall apply in the single-family (R-1) residential zoning district with which the “S-74” District is combined.

In the case where a requirement, standard, or provision of this Chapter conflicts with another requirement, standard, or provision in the Zoning Regulations, including this Chapter, the most limiting provision shall take precedence and govern.

SECTION 6300.4.23. BUILDING SITE WIDTH. The minimum building site width shall be an average of **50 feet**.

SECTION 6300.4.24. BUILDING SITE AREA. The minimum building site area shall be **5,000 sq. ft.**

SECTION 6300.4.25. DEVELOPMENT DENSITY. The maximum density of development shall be 8.7 dwelling units/net acre.

SECTION 6300.4.26. BUILDING SETBACKS. The minimum building setbacks shall be:

Front:	20 feet	
Sides:	10 feet	- When the side property line fronts a public or private street
	5 feet	- All other cases
Rear:	20 feet	

SECTION 6300.4.27. BUILDING SITE COVERAGE AREA RATIO. The maximum building site coverage area ratio shall be **.50 (50%)** and shall include all: (1) buildings, (2) accessory buildings, and (3) structures such as patios, decks, balconies, porches and other similar uses which are 18 inches or more above the ground, except fences/walls.

SECTION 6300.4.28. BUILDING FLOOR AREA. The maximum building floor area shall be established according to the following table:

<u>Building Site Area</u>	<u>Maximum Floor Area</u>
≤5,000 sq. ft.	2,600 sq. ft.
>5,000 sq. ft.	.26 (building site area - 5,000) + 2,600 sq. ft.

Floor area specifically includes: (1) the area of all stories of all main and accessory buildings on a building site as measured from the outside face of all exterior perimeter walls, (2) the area of all decks, porches, balconies, or other areas covered by a waterproof roof which extends four or more feet from exterior walls, and (3) the area of all garages and carports that exceed 400 sq. ft., but excludes uninhabitable attics and sub-grade basements.

SECTION 6300.4.29. BUILDING HEIGHT. The maximum building height shall be **28 feet, not to exceed two habitable stories.** Building height shall be measured as the vertical distance from any point on the **existing grade** to the topmost point of the building immediately above. Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend beyond the respective maximum height to a maximum of 36 feet as required for safety or efficient operation.

SECTION 6300.4.30. DAYLIGHT PLANES. The daylight planes shall be established by measuring along the **side setback lines** a vertical distance of **16 feet** from the existing grade and then inward at an **angle of 45 degrees** until a **maximum height of 28 feet** is reached.

Daylight planes shall not be applicable to the side setback line of the street-facing side of a corner parcel.

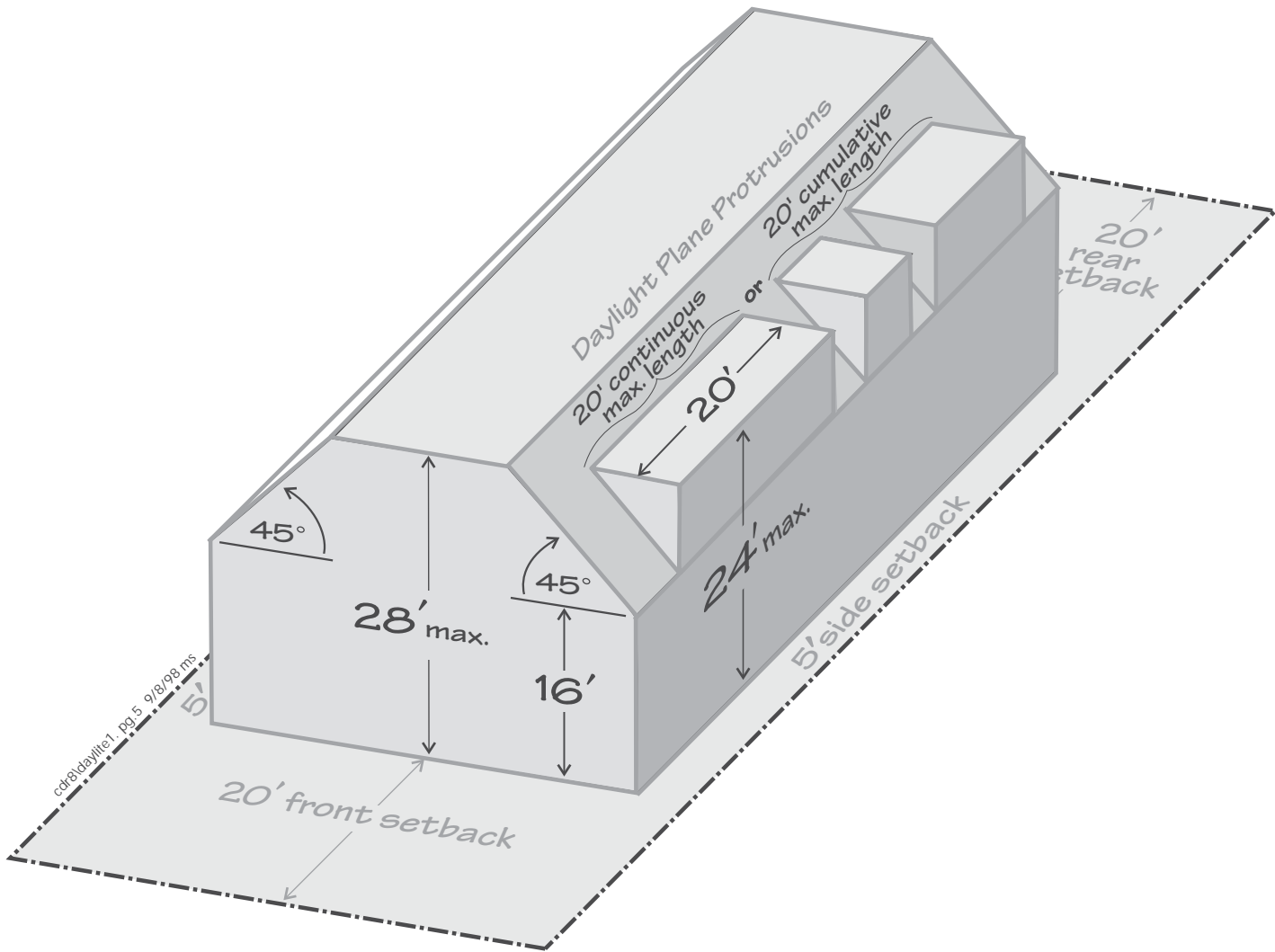
Certain architectural features shall be allowed to extend into all yard setback areas according to the provisions of Zoning Regulations Section 6406.

Chimneys, pipes, mechanical equipment, antennae, and other common facilities may extend into the daylight plane up to a maximum of **36 feet** as required for safety or efficient operation.

Additionally, architectural features, such as dormers or gables, shall be allowed to extend into the daylight plane of the **side setbacks** provided that: (1) they measure perpendicularly to the daylight plane no more than **20 feet** in continuous or cumulative length on each side, and (2) they measure no more than **24 feet in height** from the **existing grade**.

(Sections 6300.4.22 through 6300.4.30 - Added by Ordinance No. 4241 - December 7, 2004)

R-1/S-74 Daylight Plane Requirement (16'/45°)





County of San Mateo - Planning and Building Department

ATTACHMENT I

CHAPTER 4. ZONING NONCONFORMITIES

SECTIONS:

- 6130. PURPOSE
- 6131. APPLICATION
- 6132. DEFINITIONS
- 6133. NON-CONFORMING PARCELS
- 6134. NON-CONFORMING USES
- 6135. NON-CONFORMING STRUCTURES
- 6136. NON-CONFORMING SITUATIONS

SECTION 6130. PURPOSE. The purpose of this Chapter is to regulate zoning nonconformities, which are defined as any legal parcel, use, building, structure or other situation that does not conform with the current zoning regulations. The general intent of this Chapter is to (1) allow residential zoning nonconformities to continue, and (2) phase out non-residential zoning nonconformities. This approach implements General Plan policy to maintain and preserve the existing housing stock and existing residential areas.

SECTION 6131. APPLICATION.

1. The provisions of this Chapter shall apply to all zoning nonconformities.
2. When multiple zoning nonconformities occur, all provisions related to each nonconformity shall apply.
3. Where provisions of this Chapter conflict with each other, the most limiting provision shall take precedence.

SECTION 6132. DEFINITIONS.

1. **Abandoned.** The voluntary termination of a land use or use of a building or structure for a period of at least 18 months. The inability to operate through no fault or intent of the owner, e.g., unsuccessful attempts to sell/lease property or litigation constraints, shall not be considered voluntary termination or constitute abandonment.
2. **Demolished.** The state of a structure after it has been voluntarily torn down, razed or otherwise completely eliminated. Demolition of a building or structure that has been destroyed shall not be considered "demolished."
3. **Destroyed.** The state when reconstruction, repair or replacement of a building or structure, required because of an act of nature or other event unintended by the property owner, e.g., fire or earthquake, amounts to 50% or more of its value, as

determined by the most current Building Valuation Data published by the International Conference of Building Officials.

4. Enlarged. The state of a land use or structure after it has been expanded to cover more land area, consume more air space, or increase its intensity on the site.
5. Improved Parcel. Any parcel developed with a building or structure to serve the principal use of the parcel, e.g., a parcel in a residential district developed with a dwelling.
6. Legal Building or Structure. A building or structure either (1) constructed in accordance with a building permit issued by the County, (2) constructed prior to the date that the County began issuing building permits, or (3) legalized through an official County action.
7. Legal Land Use. A land use either (1) established in accordance with the applicable County zoning requirements at the time the use was established, (2) established prior to the date of the County's zoning authority, or (3) legalized through an official County action.
8. Legal Parcel. A parcel created by (1) a subdivision approved by the County, (2) a land division which was exempt from subdivision regulations, (3) a land division predating the County's authority over subdivision, July 20, 1945, provided the parcel in question has subsequently remained intact, (4) recording of a Certificate of Compliance or a Conditional Certificate of Compliance, or (5) other means but subsequently developed with a building or structure to serve the principal use of the parcel, for which a valid building permit was issued.
9. Major Repair, Remodel or Upgrade. Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure that amounts to 50% or more of the structure's value, as determined by the most current Building Valuation Data published by the International Conference of Building Officials.
10. Minor Repair, Remodel or Upgrade. Any combination of activities intended to repair, rehabilitate, upgrade or otherwise extend the usable life of an existing structure that does not exceed 50% of the structure's value, as determined by the most current Building Valuation Data published by the International Conference of Building Officials.
11. Non-Conforming Parcel. Any legal parcel with an area, width and/or frontage that does not conform with the minimum building site area, width or frontage required by the zoning regulations currently in effect, i.e., a substandard parcel.

12. Non-Conforming Structure. Any legal building or structure that does not conform with the development standards required by the zoning regulations currently in effect including, but not limited to, density (number of dwelling units per parcel area), setback, height, floor area, daylight plane, and lot coverage requirements.
13. Non-Conforming Use. Any legal land use that does not conform with the uses permitted by the zoning regulations currently in effect. A non-conforming use includes the area devoted to the use, the structure(s) housing the use, and all use related activities.
14. Non-Conforming Situation. Any zoning nonconformity that is not a non-conforming parcel, non-conforming use or non-conforming structure. Examples include non-conforming parking, landscaping, or signs.
15. Principal Use. The primary or predominant use of any parcel.
16. Residential Use. One-family dwellings, two-family dwellings, multiple-family dwellings, second dwelling units, and residential accessory uses, buildings or structures.
17. Unimproved Parcel. Any parcel that is not developed with a building or structure to serve the principal use of the parcel, e.g., a parcel in a residential district not developed with a dwelling unit.
18. Zoning Nonconformity. Any legal parcel, use, building, structure, or other situation that does not conform with the zoning regulations currently in effect.
19. Zoning or Building Code Regulations Currently in Effect. Those regulations in effect at the time when final approval is given to an entitlement under this Chapter. Final approval does not occur until all administrative appeals are exhausted.

SECTION 6133. NON-CONFORMING PARCELS.

1. Continuation of Non-Conforming Parcels. A non-conforming parcel may continue as a separate legal parcel, subject to the merger provisions of the County Subdivision Regulations, and compliance with all other provisions of this Chapter.
2. Enlargement of Non-Conforming Parcels. A non-conforming parcel may be enlarged through the addition of contiguous land by lot line adjustment, lot consolidation, merger, or resubdivision, provided that the enlargement does not create nonconformities on adjoining property.

3. Development of Non-Conforming Parcels

a. Development Not Requiring Use Permit

- (1) Unimproved Non-Conforming Parcel. Development of an unimproved non-conforming parcel may occur without the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d) below) exist:

Required Minimum Parcel Size	Actual Non-Conforming Parcel Size
(a) 5,000 sq. ft. (area)	≥3,500 sq. ft. (area)
(b) 50 ft. (width)	≥35 ft. (width)
(c) >5,000 sq. ft. (area)	≥5,000 sq. ft. (area)
(d) ≥50 ft. (width)	≥50 ft. (width)

Proposed development on the unimproved non-conforming parcel shall conform with the zoning and building code regulations currently in effect.

- (2) Improved Non-Conforming Parcel. Development of an improved non-conforming parcel may occur without requiring the issuance of a use permit provided that the proposed development conforms with the zoning and building code regulations currently in effect.

b. Development Requiring a Use Permit

Notwithstanding the provisions of this subsection b, no use permit may be granted to exceed maximum floor area, height, and parcel coverage for parcels located in the Midcoast.

(1) Unimproved Non-Conforming Parcel

- (a) Development of an unimproved non-conforming parcel shall require the issuance of a use permit when any of the following circumstances ((a), (b), (c), or (d)) exist:

Required Minimum Parcel Size	Actual Non-Conforming Parcel Size
(a) 5,000 sq. ft. (area)	<3,500 sq. ft. (area)
(b) 50 ft. (width)	<35 ft. (width)
(c) >5,000 sq. ft. (area)	<5,000 sq. ft. (area)
(d) ≥50 ft. (width)	<50 ft. (width)

- (b) Proposed development on any unimproved non-conforming parcel that does not conform with the zoning regulations in effect shall require the issuance of a use permit.
- (2) Improved Non-Conforming Parcel. 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.
- (3) Use Permit Findings. As required by Section 6503, a use permit for development of a non-conforming parcel may only be issued upon making the following findings:
 - (a) The proposed development is proportioned to the size of the parcel on which it is being built,
 - (b) 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,
 - (c) The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible,
 - (d) 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 to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood, and
 - (e) Use permit approval does not constitute a granting of special privileges.

SECTION 6134. NON-CONFORMING USES.

1. Continuation of Non-Conforming Uses. A non-conforming use may continue to exist providing all other provisions of this Chapter are met, and the use is not a confined animal use shown to degrade water quality or sensitive habitats. A non-conforming confined animal use shown to degrade water quality and sensitive habitats shall be abated in accordance with the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).

The Board of Supervisors, upon recommendation by the Planning Commission at a public hearing, can require that any non-conforming use (except residential) be removed or converted to a permitted use within a prescribed period of time, as allowed by law, and upon findings that (1) the non-conforming use is detrimental

to the health, safety or public welfare of the surrounding area, and (2) it degrades the neighborhood character.

2. Minor Repair, Remodel or Upgrade of Non-Conforming Uses. Minor repair, remodel or upgrade of a non-conforming use is permitted. Any portion of the use may be replaced as it previously existed on the property.
3. Abandonment of Non-Conforming Uses (Except Residential). If a non-conforming use is abandoned, all subsequent use of the property shall conform with the zoning and building code regulations currently in effect. This provision does not apply to residential uses.
4. Abandonment of Residential Non-Conforming Uses. If a residential non-conforming use is abandoned, it may be reestablished provided that all other provisions of this Chapter are met.
5. Enlargement of Non-Conforming Uses (Except Residential). A non-conforming use may not be enlarged. This provision does not apply to residential uses.
6. Enlargement of Non-Conforming Residential Uses. A non-conforming residential use in a non-residential zoning district, e.g., a residence in an industrial zone, may be enlarged subject to the issuance of a use permit, and provided that the enlargement conforms with the following combining zoning district regulations:

Residential Use	Combining Zoning District Regulations
One Family Residential Inside Coastal Zone Outside	S-17 S-7
Two Family Residential	S-5
Multiple Family Residential	S-3

A non-conforming residential use in a lower density residential zoning district, e.g., a duplex or apartment building in a single-family residential zone, may not be enlarged.

7. Major Repair, Remodel or Upgrade of Non-Conforming Uses (Except Residential). Major repair, remodel or upgrade of a non-conforming use is permitted, providing that the resultant use conforms with the zoning and building code regulations currently in effect. This provision does not apply to residential uses.

8. Major Repair, Remodel or Upgrade of Residential Non-Conforming Uses. Major repair, remodel or upgrade of a residential non-conforming use is permitted. Any portion of the use may be replaced as it previously existed on the property.
9. Destruction, Demolition and Removal of Non-Conforming Uses (Except Residential). If a non-conforming use is destroyed, demolished or removed from the site, it may only be replaced by a use that conforms with the zoning and building code regulations currently in effect. This provision does not apply to non-conforming residential uses.
10. Destruction, Demolition and Removal of Non-Conforming Residential Uses.
 - a. If a non-conforming residential use in a non-residential zoning district, e.g., a residence in an industrial zone, is destroyed, it may be replaced or rebuilt, subject to the issuance of a use permit. Replacement structures shall be located either as they previously existed on the property or in conformance with the following combining zoning district regulations:

Residential Use	Combining Zoning District Regulations
One Family Residential Inside Coastal Zone Outside	S-17 S-7
Two Family Residential	S-5
Multiple Family Residential	S-3

If a non-conforming residential use in a lower density residential zoning district, e.g., a duplex or apartment building in a single-family residential zone, is destroyed, it may only be replaced by a use that conforms with the zoning and building code regulations currently in effect.

- b. If a non-conforming residential use is demolished or removed from the site, it shall only be rebuilt or replaced by a use that conforms with the zoning and building code regulations currently in effect.

SECTION 6135. NON-CONFORMING STRUCTURES.

1. Continuation of Non-Conforming Structures. A non-conforming structure may continue to exist providing all other provisions of this Chapter are met, and the structure is not a confined animal structure shown to degrade water quality or sensitive habitats. A non-conforming confined animal structure shown to degrade water quality and sensitive habitats shall be abated in accordance with

the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).

2. Minor Repair, Remodel or Upgrade of Non-Conforming Structures. Minor repair, remodel or upgrade of a non-conforming structure is permitted. Any portion of the structure may be replaced as it previously existed on the property.
3. Abandonment of Non-Conforming Structures. If a non-conforming structure is abandoned, its use may be reestablished provided all other provisions in this Chapter are met.
4. Enlargement of Non-Conforming Structures. 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. A residential structure built to a non-conforming density may be enlarged provided there is no increase the number of housing units.
5. Major Repair, Remodel or Upgrade of Non-Conforming Structures.
 - a. Major repair, remodel or upgrade of a non-conforming structure, where each nonconformity violates the required zoning standard by less than 50%, is permitted. If any non-conforming portion of the structure is proposed to be removed, replacement shall conform with the zoning regulations currently in effect.
 - b. Major repair, remodel or upgrade of a non-conforming structure, where any nonconformity violates the required zoning standard by 50% or more, shall result in the entire structure conforming with the zoning regulations currently in effect.
6. Destruction, Demolition and Removal of Non-Conforming Structures (Except Residential). If a non-conforming structure is destroyed, demolished or removed from the site, it may only be rebuilt to conform with the zoning and building code regulations currently in effect. This provision does not apply to residential non-conforming structures.
7. Destruction, Demolition and Removal of Residential Non-Conforming Structures.
 - a. If a residential non-conforming structure is destroyed, i.e., as a result of an act of nature or other event unintended by the property owner, it may be rebuilt or replaced. Replacement structures shall be limited to the number of housing units that previously existed on the property. Replacement structures shall be located either as they previously existed on the property or in conformance with the zoning regulations currently in effect.

- b. 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.

SECTION 6136. NON-CONFORMING SITUATIONS.

1. Continuation of Non-Conforming Situations. A non-conforming situation may continue to exist providing all other provisions of this Chapter are met, and the situation is not a confined animal situation shown to degrade water quality or sensitive habitats. A non-conforming confined animal situation shown to degrade water quality and sensitive habitats shall be abated in accordance with the procedure established by the Confined Animal Regulations (San Mateo County Ordinance Code, Division 6, Part 4, Chapter 1).
2. Minor Repair, Remodel or Upgrade of Non-Conforming Situations. Minor repair, remodel or upgrade of a non-conforming situation is permitted.
3. Abandonment of Non-Conforming Situations. If a non-conforming situation is abandoned, it may be reestablished provided all other provisions in this Chapter are met.
4. Enlargement of Non-Conforming Situations. A non-conforming situation may be enlarged provided that the enlargement conforms with the zoning regulations currently in effect, e.g., parking and sign regulations.
5. Major Repair, Remodel or Upgrade of Non-Conforming Situations. Major repairs, remodel or upgrade of a non-conforming situation is permitted, providing that the resultant situation conforms with the zoning and building code regulations currently in effect.
6. Destruction, Demolition and Removal of Non-Conforming Situations. If a non-conforming situation is destroyed, demolished or removed from the site, it shall only be replaced by a situation that conforms with the zoning and building code regulations currently in effect.

SECTION 6137. EXCEPTIONS.

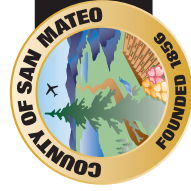
1. The Planning Commission, at a public hearing, may grant a use permit to except any provision in this Chapter which restricts the continuation, enlargement, re-establishment or replacement of a non-conforming use, structure or situation. The use permit shall be processed in accordance with the procedures and requirements of Section 6503.

Notwithstanding the provisions of this subsection 1, no use permit may be granted to exceed maximum floor area, height, and parcel coverage for parcels located in the Midcoast.

2. The Planning Director may grant an administrative exception to any provision of this Chapter when it conflicts with another government mandated requirement.

(Section 6133.3.b - Amended by Ordinance No. 4062 - August 21, 2001)
(Section 6134.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6135.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6136.1 - Amended by Ordinance No. 4076 - November 6, 2001)
(Section 6136.5 - Added by Ordinance No. 2813 - December 7, 1982)
(Sections 6137 and 6138 - Amended by Ordinance No. 3002 - July 3, 1984)
(Section 6137 - Amended by Ordinance No. 3299 - March 12, 1991)
(Section 6137 - Amended by Ordinance No. 4062 - August 21, 2001)
(Section 6138.1 - Added by Ordinance No. 3322 - April 29, 1991)
(Section 6142 - Added by Ordinance No. 2549 - December 5, 1978)
(Chapter 4 - Repealed by Ordinance No. 3592 - September 20, 1994)
(Chapter 4 - Added by Ordinance No. 3593 - September 20, 1994 - Non-Coastal Areas)
(Chapter 4 - Enacted by Ordinance No. 3672 - September 12, 1995 - Countywide)

Chapter 4 (Non-Conformities).doc
(9/18/12)



County of San Mateo - Planning and Building Department

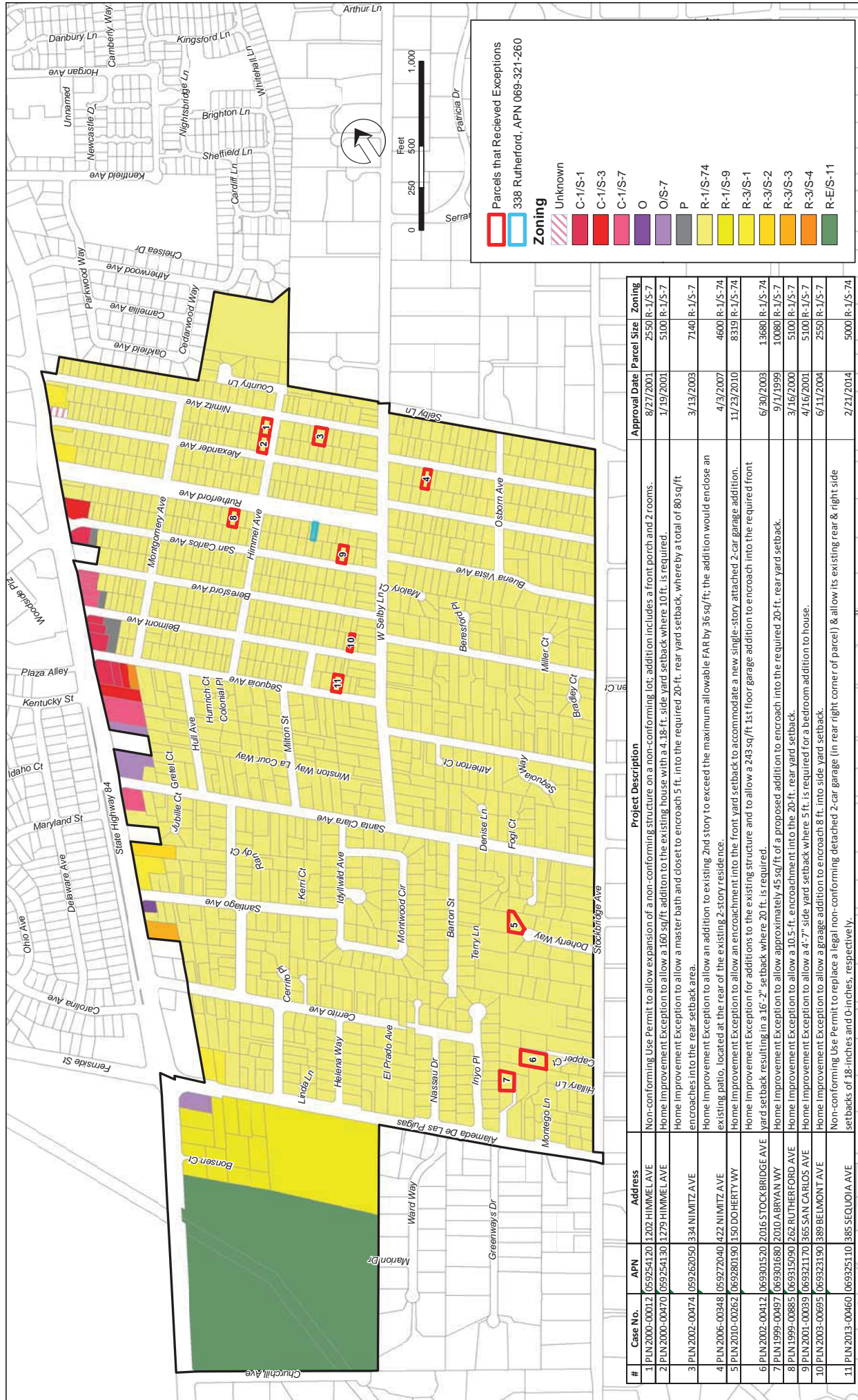
ATTACHMENT J





County of San Mateo - Planning and Building Department

ATTACHMENT K



#	Case No.	APN	Address	Project Description	Approval Date	Parcel Size	Zoning
1	PLN 2000-00012	059254120	1202 HIMMEL AVE	Non-conforming Use Permit to allow expansion of a non-conforming structure on a non-conforming lot; addition includes a front porch and 2 rooms.	8/27/2001	2550	R-1/S-7
2	PLN 2000-00470	059254130	1279 HIMMEL AVE	Home improvement Exception to allow a 160 sq/ft addition to the existing house with a 4.18-ft. side yard setback where 10 ft. is required.	1/19/2001	5100	R-1/S-7
3	PLN 2002-00474	059262050	334 NIMITZ AVE	Home improvement Exception to allow a master bath and closet to encroach 5 ft. into the required 20-ft. rear yard setback, whereby a total of 80 sq/ft encroaches into the rear setback area.	3/13/2003	7140	R-1/S-7
4	PLN 2006-00348	059272040	422 NIMITZ AVE	Home improvement Exception to allow an addition to existing 2nd story to exceed the maximum allowable FAR by 36 sq/ft; the addition would enclose an existing patio, located at the rear of the existing 2-story residence.	4/3/2007	4600	R-1/S-74
5	PLN 2010-00262	069280190	150 DOHERTY WAY	Home improvement Exception to allow an encroachment into the front yard setback to accommodate a new single-story attached 2-car garage addition.	11/23/2010	8319	R-1/S-74
6	PLN 2002-00412	069301520	2016 STOCKBRIDGE AVE	Home improvement Exception to allow a 16'-2" setback where 20 ft. is required.	6/30/2003	13680	R-1/S-74
7	PLN 1999-00497	069301680	2010 ABBRYAN WAY	Home improvement Exception to allow approximately 45 sq/ft of a proposed addition to encroach into the required 20-ft. rear yard setback.	9/1/1999	10080	R-1/S-7
8	PLN 1999-00885	069315090	262 RUTHERFORD AVE	Home improvement Exception to allow a 10.5-ft. encroachment into the 20-ft. rear yard setback.	3/16/2000	5100	R-1/S-7
9	PLN 2001-00039	069321170	365 SAN CARLOS AVE	Home improvement Exception to allow a 4'-7" side yard setback where 5 ft. is required for a bedroom addition to house.	4/16/2001	5100	R-1/S-7
10	PLN 2003-00695	069323190	389 BELMONT AVE	Home improvement Exception to allow a garage addition to encroach 8 ft. into side yard setback.	6/11/2004	2550	R-1/S-7
11	PLN 2013-00460	069325110	385 SEQUOIA AVE	Non-conforming Use Permit to replace a legal non-conforming detached 2-car garage (in rear right corner of parcel) & allow its existing rear & right side setbacks of 18-inches and 0-inches, respectively.	2/21/2014	5000	R-1/S-74



County of San Mateo - Planning and Building Department

ATTACHMENT L



330

334

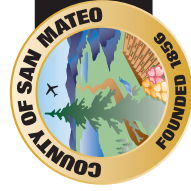
338

Project Site



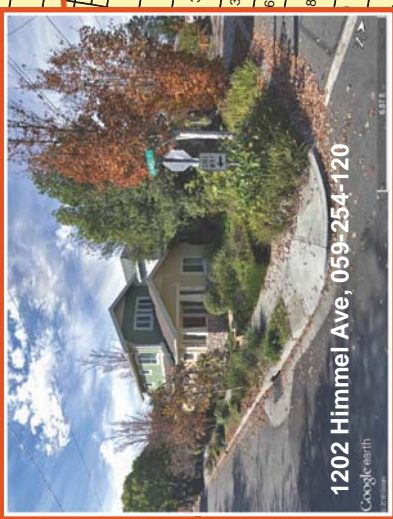
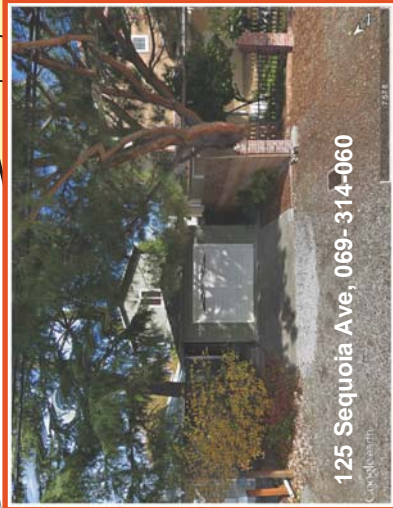
342

338
Project Site

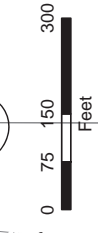


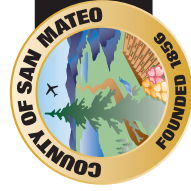
County of San Mateo - Planning and Building Department

ATTACHMENT M



Project Parcel
Similary Sized Two-Story Developments





County of San Mateo - Planning and Building Department

ATTACHMENT N



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
ENVIRONMENTAL SERVICES AGENCY

DATE: November 17, 2004

SET TIME: 9:30 a.m.

BOARD MEETING DATE: December 7, 2004

TO: Honorable Board of Supervisors

FROM: Marcia Raines, Director of Environmental Services

SUBJECT: Consideration of an amendment to the County Zoning Regulations to create the "S-74" zoning district regulations and consideration of rezoning lands zoned R-1/S-7 in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 to control house size and height.

County File Number: PLN 2004-00545

RECOMMENDATION

1. Adopt, by ordinance, the "S-74" zoning district regulations as an amendment to the County Zoning Regulations.
2. Rezone, by ordinance, lands in the R-1/S-7 zoning district in the Selby Neighborhood (Sequoia Tract) to R-1/S-74 as shown on Exhibit A.

PROPOSAL

Residents in the Selby Neighborhood (Sequoia Tract), which lies between Redwood City and Atherton, have requested that the County adopt new zoning regulations to: (1) reduce the permitted size of houses by establishing maximum building floor areas, (2) reduce the permitted building height, and (3) establish daylight planes to control the bulk and shape of houses.

BACKGROUND

The Selby Neighborhood in the Sequoia Tract is comprised of modest single-family homes on predominately 5,000 sq. ft. parcels. There are some larger parcels that are 10,000 to 20,000 sq. ft. in size. The area is semi-rural in character with mature landscaping. Many residents have lived in the neighborhood for a long time. Households are mostly comprised of families and retired couples.

Over the past three years, several modest homes have been torn down and replaced with substantially larger houses. Some large parcels have been subdivided and developed with large houses. These new houses range in size from 3,000 to 6,000 sq. ft. They now sporadically appear from block to block. Residents are concerned that the character of the neighborhood will be significantly altered if larger and larger houses continue to be built.

Several meetings have been held in the neighborhood to discuss this issue. Residents have agreed that new zoning regulations are needed to control house size, height, and bulk. County planning staff was asked to bring the new regulations and the proposed rezoning to the Planning Commission for a recommendation to the Board of Supervisors.

DISCUSSION

A. PREVIOUS ACTION

On November 10, 2004, the Planning Commission voted 5-0 recommending approval of the proposed rezoning.

B. KEY ISSUES

1. Maximum Building Floor Area

The current R-1/S-7 zoning regulations allow a 7,200 sq. ft. house on a 5,000 sq. ft. parcel. The proposed new regulations would allow a maximum house size of 2,600 sq. ft. on a 5,000 sq. ft. parcel which is much more in scale with the majority of existing houses in the neighborhood.

Residents want to preserve the existing character of the neighborhood. If larger and larger houses continue to be built, the appearance of the neighborhood will become more urban, dense, and crowded. Larger homes will obtrusively stand out in sharp contrast to smaller ones. The varying volumes of houses will visually and aesthetically destroy the harmonious scale of buildings in the neighborhood.

2. Maximum Building Height

The current zoning allows a building height of 36 feet or three stories. The proposed new regulations would reduce allowable building height to 28 feet or two stories.

Three-story houses can overwhelm neighboring one- and two-story houses. They can cast long, dark shadows and invade privacy. A lot of tall houses in the neighborhood would contribute to destroying the harmonious scale of buildings in the neighborhood.

3. Daylight Plane

The current zoning regulations do not require daylight planes. The proposed new regulations would set the maximum height of a house along the side setbacks at 16 feet at which point the house would inwardly slant at 45 degrees until the maximum height of 28 feet was reached.

Daylight planes reduce the impact of tall walls looming over neighboring houses and yards. They help protect privacy and prevent the blockage of sunlight.

C. ENVIRONMENTAL REVIEW

Adoption of these regulations is exempt from review under the California Environmental Quality Act under 14 California Code of Regulations Section 15061(b)(3) because there is no possibility that the regulations, which impose further restrictions on development of property, will have the potential for causing a significant effect on the environment, in that they are more protective of the environment than prior regulations.

D. REVIEWING AGENCIES

County Counsel

VISION ALIGNMENT

The rezoning keeps the commitment of offering a full range of housing choices and goal number 9, housing exists for people at all income levels and for all generations of families. The rezoning contributes to this commitment and goal by providing limitations on house size that prevents overly sized and very high cost housing.

FISCAL IMPACT

There would be no cost to the County to implement these regulations.

ATTACHMENTS

- A. Ordinance to establish R-1/S-74 zoning district regulations
- B. Ordinance to rezone land in Selby Neighborhood from R-1/S-7 to R-1/S-74

MR:MD:fc – MLDO1341_WFU.DOC



County of San Mateo - Planning and Building Department

ATTACHMENT O

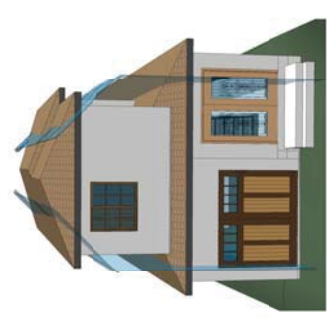
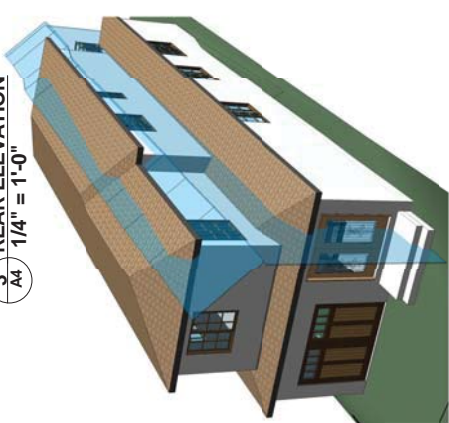
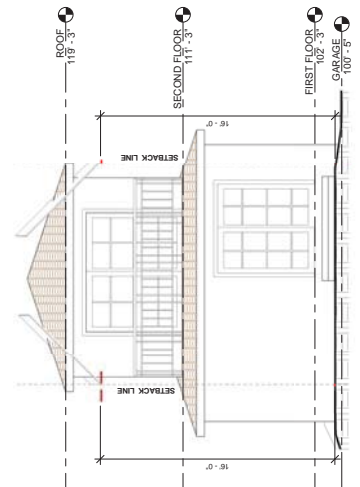
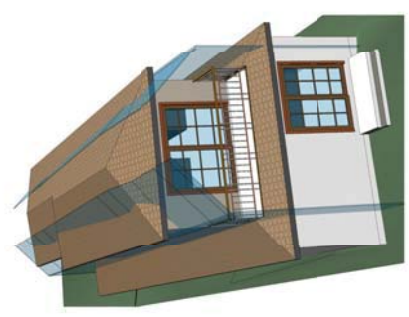
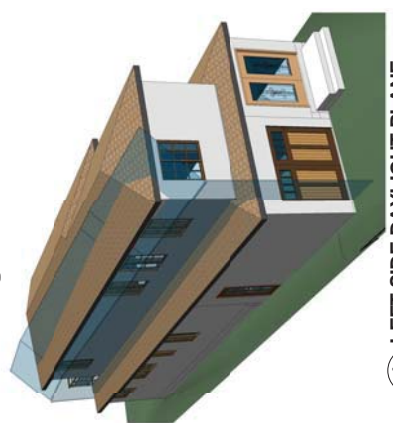
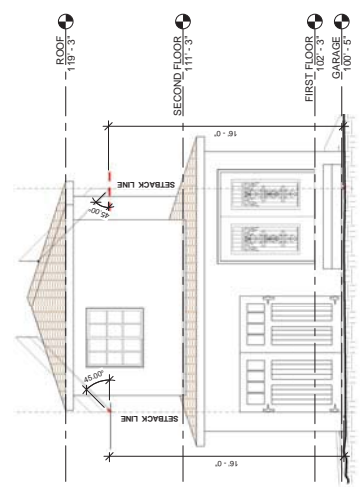
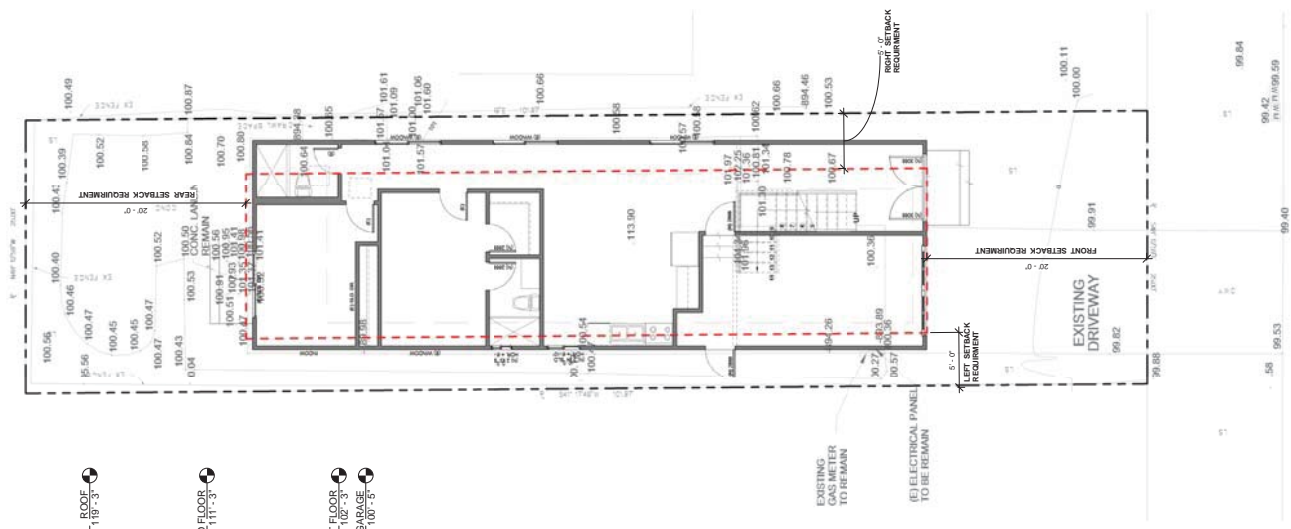
No.	Description	Date

DESIGNER: FAST CAD DRAFTING
1610 BLOSSOM HILL ROAD SUITE 7D
SAN JOSE, CA 95124
PH: 408-806-7912
EMAIL: BKDRAFTING@COMCAST.NET

DAYLIGHT PLAN

ADDITION REMODELING FOR:
338 RUTHERFORD
REDWOOD CITY, CA 94061
APN: 069-321-260

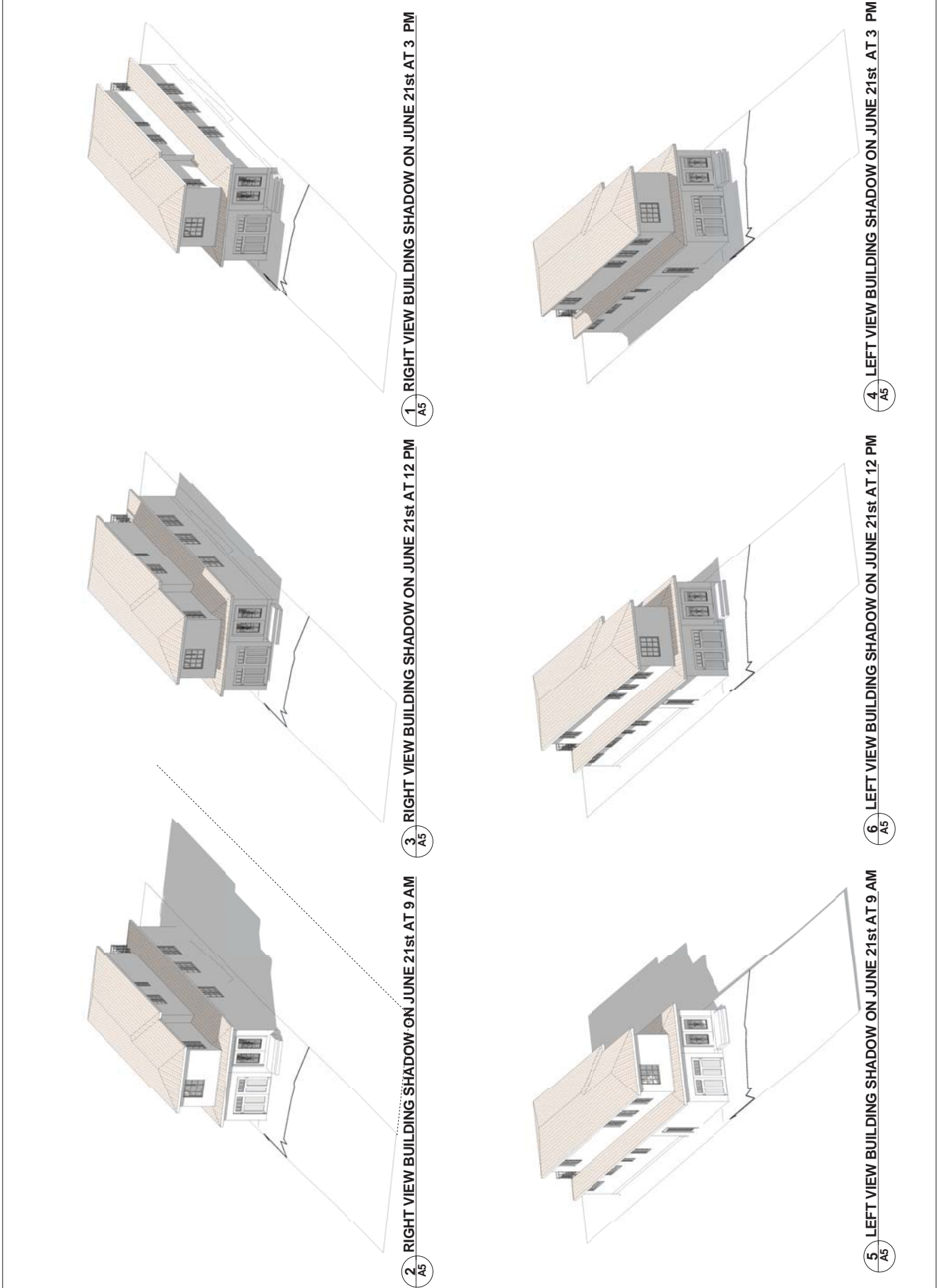
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Date	05/26/06
Drawn by	B.C.
Checked by	B.C.
Scale	As indicated

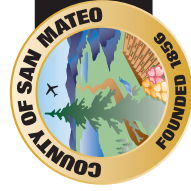




County of San Mateo - Planning and Building Department

ATTACHMENT P





County of San Mateo - Planning and Building Department

ATTACHMENT Q

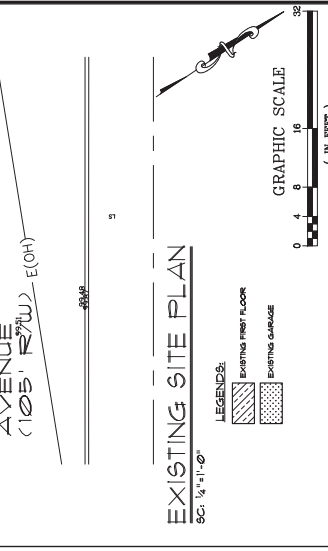
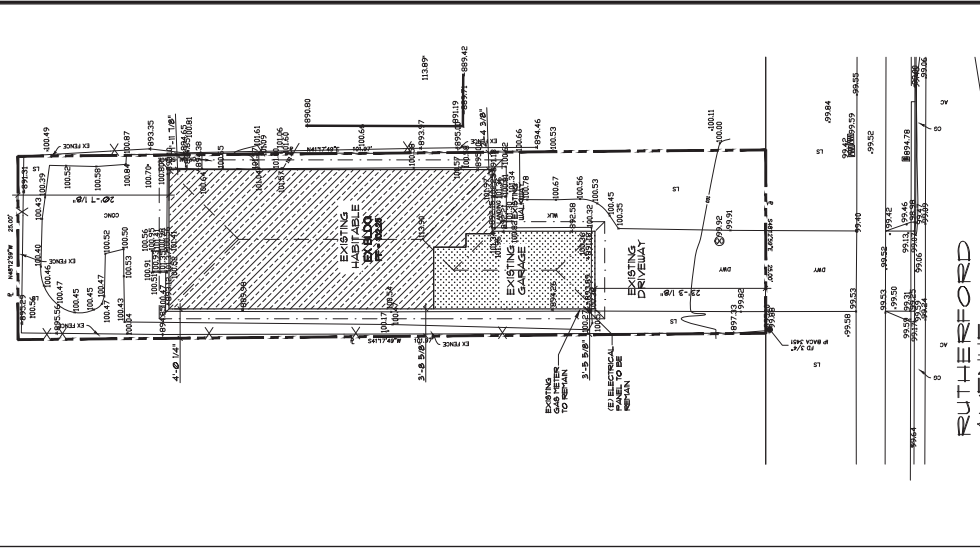
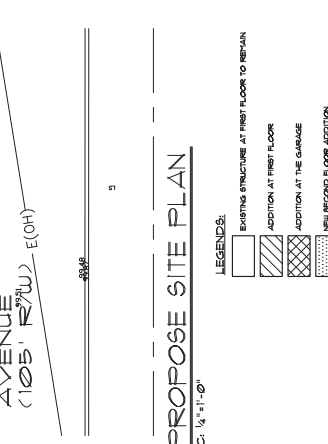
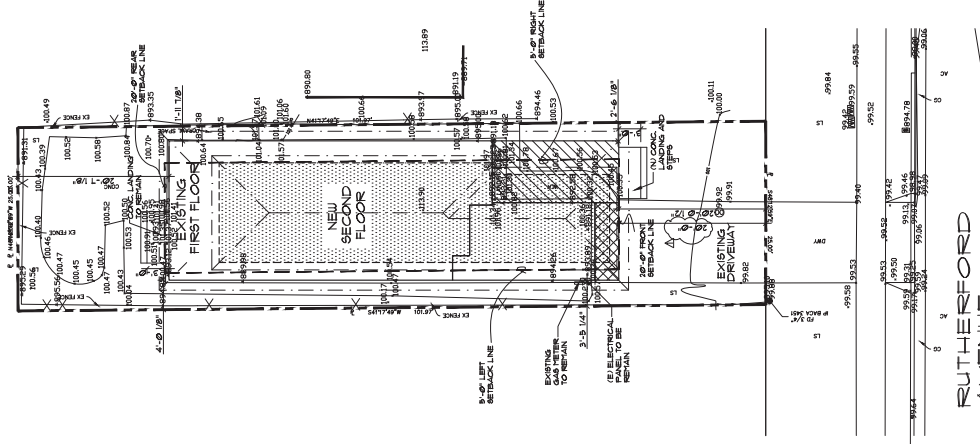
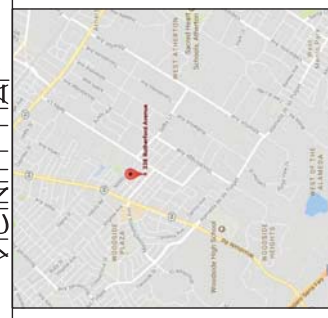
**ADDITION FOR:
338 RUTHERFORD,
REDWOODCITY, CA
APN: 069-321-260**

[illegible]

DRAWING INDEX	SCOPE OF WORK
ARCHITECTURAL:	
SHEET 1 A/D COVER SHEET, EXISTING AND PROPOSE SITE PLANS	1. ADD 68'114.50 SQ. FT. SECOND FLOOR.
SHEET 2 A/I EXISTING FLOOR AND ROOF PLANS	2. ADD ABOUT 33 SQ. FT. TO EXTEND THE EXISTING GARAGE.
SHEET 3 A/S PROPOSED FLOOR PLANS	3. ADD 148 SQ. FT. TO THE FIRST FLOOR TO RELOCATE THE ENTRANCE
SHEET 4 B/C ELEVATIONS	4. ADD 179 SQ. FT. TO THE FIRST FLOOR TO ENLARGE THE PORCH.
SHEET 5 C/I BOUNDARY SURVEY AND TOPOGRAPHIC MAP	5. ADD A BATHROOM AND W.C. TO BEDROOMS AND CONVERT IT TO HALLWAY AND BATHROOM.
	6. THE REST OF FIRST FLOOR REMAIN AS IT IS.

THIS PROJECT IS BEING SUBMITTED TO GET VARIANCE BECAUSE OF THE DAYLIGHT BAN AND ALSO ENFORCEMENT AT FIRST FOR NON CONFORMING BUILDING


	CONSULTANTS
DESIGNER:	EAST CAD DRAFTING 1640 BLOSSOM HILL RD., SUITE # 110 SAN JOSE , CA 95124 (408) 806-7302
CIVIL:	LE ENGINEERING 598 E SANTA CLARA, SUITE NO 210 SAN JOSE, CA 95122 (408) 806-7301



DESIGNER: FAST CAD DRAFTING	BARZIN, KRYHANKADIV	610 BLOSSOM HILL RD, SUITE # 1D	5AN JOSE, CA 95124	(408) 806-1912	BKDRRAFTING@COMCASTNET
REVISIONS	BY	DATE			
1	BY	01-10-18			

COVER SHEET,
EXISTING AND PROPOSE
SITE PLANS

APN: 069-321-260
REDWOOD CITY, CA 94061
338 RUTHERFORD,
ADDITION, REMODELING FOR:

DATE	09/04/11
SCALE	1/8" = 1'-0"
DRAWN	ESK
JOB	
SHEET	
OF	SHEETS



County of San Mateo - Planning and Building Department

ATTACHMENT R

20



AC. 1/2011.0



EXISTING 2x6 STUD WALL TO BE DEMOLISHED

EXISTING 2x6 STUD WALL TO BE REMAINED

GRAPHIC SCALE

(IN FEET)
1 inch = 4 ft.

DATE _____SCALE $1/4" = 1'-0"$ JOBOF
SHEETS
1

338 RUTHERFORD,
WOOD CITY, CA 94
APN: 069-321-260

FLOOR AND ROOF PLANS

ST CAD DRAFTING
BARZIN KEYHANKHADI
BLOSSOM HILL RD, SUITE # 7D
SAN JOSE, CA 95124
(408) 806-7912
BKDRFTING@COMCASTNET

REVISIONS:	BY:
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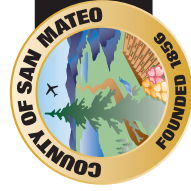
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County of San Mateo - Planning and Building Department

ATTACHMENT S



County of San Mateo - Planning and Building Department

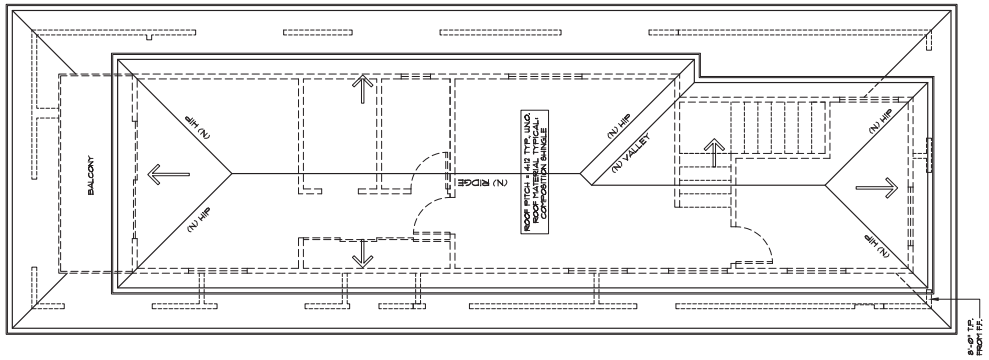
ATTACHMENT T

PROPOSE FRONT ELEVATION
SC: 1/8" = 1'-0"

PROPOSE REAR ELEVATION
SC: 1/8" = 1'-0"

PROPOSE RIGHT ELEVATION
SC: 1/8" = 1'-0"

PROPOSE LEFT ELEVATION
SC: 1/8" = 1'-0"



PROPOSED ROOF PLAN
SC: 1/8" = 1'-0"



County of San Mateo - Planning and Building Department

ATTACHMENT U



County of San Mateo - Planning and Building Department

ATTACHMENT V

December 8, 2017

RE: Use Permit for 338 Rutherford Ave. Redwood City, CA 94061

Dear County Planner and Planning Committee;

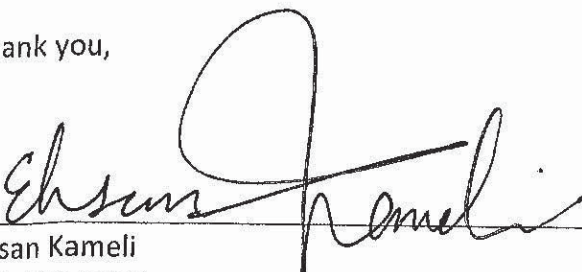
With this statement I'd like to explain to you the reasons that have led me to no option but to apply for a Use Permit.

Current living space of my residence is only 790 Square Feet, consisting of two tiny bedrooms and a bathroom, and it doesn't allow for more than one person to live in it comfortably. However, the size of my household is growing and my fiancé and I would like to move into one residence in the near future. But as you're probably aware, the current housing inventory in our area is very low and the demand is extremely high. This has made it exceptionally difficult for us to find and purchase a property within our affordability limits and has left us with no option but to pursue expanding the living space of my current residence. However, the subject property is a legal nonconforming structure on a substandard parcel (2,500 Sq-Ft) and unfortunately it'd be nearly impossible to make any expansions to it, unless if we're allowed to maintain the existing sides' setbacks (3 Feet) on the first floor. I have also explored the possibility of purchasing additional land from my adjacent neighbors, but unfortunately one of them has a similar sized parcel as I do and the other one won't be able and willing to sell me any part of their parcel.

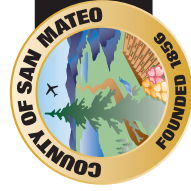
We would very much appreciate your kind consideration in giving us the opportunity to stretch the structure of my property within the required front and rear setbacks (20 Feet), while maintaining the existing sides' setbacks (3 Feet) for the first floor. We will be able to comply with all the required setbacks on the 2nd floor that we're looking to build.

I hope this explanation has sufficiently addressed all your concerns; but please contact me with any further question or concerns regarding this request.

Thank you,



Ehsan Kameli
650-646-8820



County of San Mateo - Planning and Building Department

ATTACHMENT W

Date: 03/22/2018

Ref: County File Number: PLN 2017-00517 (Kameli)

Location: 338 Rutherford Ave, Redwood City

APN: 069-321-260

Zoning Hearing Officer,

I am aware of proposed construction plans for 338 Rutherford Ave. I know there was a public hearing earlier this month, to review non-conforming use permit. I support the planned construction and permit.

Shawn Misialek

334 Rutherford Ave., Redwood City, CA 94061

650-867-0286

myxl@yahoo.com

A handwritten signature in black ink, reading "Shawn Misialek", is written over a horizontal line.

June 20, 2018

Re: County File # PLN 2017-00517 (Kameli)

Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)

APN: 069-321-260

To Whom It May Concern,

We are aware of the proposed construction plan for 338 Rutherford Ave. and the pending use permit application for it. We're not concerned about any effect of the proposed building on our property or the neighborhood, and are in full support of the approval of this permit and the *planned construction.*

Should you have any question or concerns, please don't hesitate to contact us.

Sincerely,

Handwritten signatures of Ricky and Cheryl Ratley. The signature on the left is 'Ricky' and the one on the right is 'Cheryl Ratley'.

Ricky & Cheryl Ratley

Property Owner of 358 Rutherford Ave. Redwood City, CA 94061

(919)600-9255

cheryl_ratley@yahoo.com

September 21, 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)
APN: 069-321-260


To Whom It May Concern,

I am aware of the proposed construction plan for 338 Rutherford Ave. and the pending use permit review and appeal process. I have reviewed the below list of pertinent documents and am in full support of the approval of this permit and planned construction activities. I am not concerned about the effect or impact of the proposed building on our neighborhood.

Reviewed documents:

A-0 – Cover Sheet (Existing & Proposed Site Plans)
A-1 – Existing Roof & Floor Plans
A-2 – Propose Floor Plans
A-3 – Propose Elevation & Roof Plans
Daylight Plane Renderings
Shadow Study

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,


Ramin Khaksar
Property Owner of 131 Santa Clara Ave. Redwood City, CA 94061
Phone # (408) 966-5295 | Email: ramin.khaksar@gmail.com

July 17th 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)
APN: 069-321-260

To Whom It May Concern,

I am aware of the proposed construction plan for 338 Rutherford Ave. and the pending use permit application for it. I'm not concerned about any effect of the proposed building on my property or the neighborhood, and am in full support of the approval of this permit and the planned construction.

Should you have any question or concerns, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Paul Thekan". The signature is written in a cursive style with a large, stylized "P" and "T".

Paul Thekan
Property Owner of 335 Rutherford Ave. Redwood City, CA 94061
(650) 367-1499
paul.thekan@cpii.com

Date 7/24/2018

Ref: County File Number: PLN 2017-00517 (Kameli)

Location: 338 Rutherford Ave., Redwood City (Sequoia Tract)

APN: 069-321-260

To Whom It May Concern:

I am aware of the proposed construction plans at 338 Rutherford Ave. and the pending use permit review and appeal process. I have reviewed the below list of pertinent documents and am in full support of the approval of this permit and planned construction activities. I am not concerned about the effect or impact of the proposed building on my adjacent property.

Reviewed documents:

A-0 – Cover Sheet – Existing & Proposed Site Plans, Dated 9/01/2017

A-1 – Existing Roof & Floor Plans, Dated 9/01/2017

A-2 – Propose Floor Plans, Dated 9/01/2017

A-3 – Propose Elevation & Roof Plans, Dated 9/01/2017

Daylight Plane Renderings, Dated 5/25/2018

Shadow Study, Dated 5/25/2018

If you have any questions or concerns, please do not hesitate to reach me at the below contact information.

Regards,

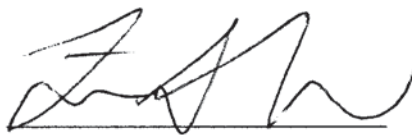
Frank Shanahan

650-868-9074

Fts7185@yahoo.com

Property Owner of 342 Rutherford Ave. Redwood City, CA 94061

Signature:

A handwritten signature in black ink, appearing to be 'F. Shanahan', written over a horizontal line.

May 30, 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)
APN: 069-321-260

To Whom It May Concern,

I am aware of the proposed construction plans for 338 Rutherford Ave. and the pending use permit application for it. I'm not concerned about any effect of the proposed building on my property or the neighborhood.

Should you have any question or concerns, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles Edward Schrader".

Charles Edward Schrader
Property Owner of 341 Rutherford Ave. Redwood City, CA 94061
650-814-1756
cschrade68@yahoo.com

September 26, 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave., Redwood City (Sequoia Tract)
APN: 069-321-260

To Whom It May Concern:

I am aware of the proposed construction plan for 338 Rutherford Ave and the pending use permit review and appeal process. I have reviewed the list of pertinent documents and I'm in full support of the approval of this permit and planned construction. I am not concerned about the effect or impact of the proposed building on my property or our neighborhood, in fact, I believe it will only enhance the neighborhood.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carol Milstein', followed by a long horizontal line extending to the right.

Carol Milstein
Property Owner of 321 Rutherford Ave., Redwood City, CA
94061
650-867-9859
carolyes@sbcglobal.net

June 21, 2018

Re: County File # PLN 2017-00517 (Kameli)
Location: 338 Rutherford Ave - Redwood City (Sequoia Tract)
APN: 069-321-260

To Whom It May Concern,

I am aware of the proposed construction plan for 338 Rutherford Ave. and the pending use permit application for it. I'm not concerned about any effect of the proposed building on our property or the neighborhood, and am in full support of the approval of this permit and the planned construction.

Should you have any question or concerns, please don't hesitate to contact me.

Sincerely,



Alvin Li Yao
Property Owner of 347 Rutherford Ave. Redwood City, CA 94061
(650) 576-7572
alvinyaoli@hotmail.com