



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building Department



DATE: February 14, 2011
BOARD MEETING DATE: March 1, 2011
SPECIAL NOTICE/HEARING: 10 days, within 300 ft.
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jim Eggemeyer, Community Development Director *by JME*

SUBJECT: Public hearing to consider a design review permit, pursuant to Section 6565.3 of the County Zoning Regulations, to construct a new 4,155 sq. ft. single-family residence and the removal of five (5) trees, and a grading permit, pursuant to Section 8600 of the County Ordinance Code, for 755 cubic yards of cut and fill for the Farahyar project located at 726 Bayview Way in the unincorporated Emerald Lake Hills area of San Mateo County (appeal of the Planning Commission's decision/Community Development Director's approval of the project).

County File Number: PLN 2009-00332 (Farahyar)

RECOMMENDATION:

Deny the appeal, and uphold the Planning Commission's decision and Community Development Director's approval of the project, by making the findings and adopting the conditions of approval as shown on Attachment A.

BACKGROUND:

Proposal: The applicant is proposing to construct a 4,155 sq. ft. single-family residence on a 13,864 sq. ft. parcel. Construction requires 755 cubic yards of grading and the removal of five significant size trees. The parcel is located at 726 Bayview Way in the unincorporated County area of Emerald Lake Hills.

Board of Supervisors Action: The appeal was heard on January 25, 2011 and the project was continued to allow parties to address privacy concerns.

Planning Commission Action: Motion to grant the appeal and deny the project failed; the Community Development Director's approval of the project remains in place.

Report Prepared By: Erica Adams, Bayside Design Review Officer, Telephone 650/363-1828

Report Reviewed By: Lisa Aozasa, Senior Planner, Telephone 650/363-4852

Owner/Applicant: Ayoub Farahyar

Appellants: Liwen Huang, Stephen M. Munich, David Smith, and Virginia Smith

Location: 726 Bayview Way, Emerald Lake Hills

APN: 068-091-370

Parcel Size: 13,864 sq. ft.

Existing Zoning: RH/DR (Residential Hillside District/Design Review)

General Plan Designation: Medium-Low Density Residential (2.4 to 6.0 dwelling units per acre)

Sphere-of-Influence: City of Redwood City

Existing Land Use: Vacant

Water and Sewer Services: Redwood City Water Service/Emerald Lake Heights Sewer District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone C, Areas of Minimal Flooding, Community Panel No. 0603110250B, dated July 5, 1984.

Environmental Evaluation: Categorically exempt from CEQA Guidelines pursuant to Section 15303, Class 3, construction of a new small structure in an urban area.

Parcel Legality: The existing parcel was created by the Highlands of Emerald Lake Subdivision 1948, and legalized by a lot line adjustment recorded in 1987 (APN 068-091-370). The parcel size is less than the required area for 37% slope; therefore, the parcel is considered legal, non-conforming.

DISCUSSION:

A. PAST ACTIONS ON THE PERMIT APPLICATION

1. Decision by the Emerald Lake Hills Design Review Officer and the Community Development Director

The applicant submitted a Design Review application for a new single-family residence on November 23, 2009. Construction of the proposed residence also requires a grading permit for 755 cubic yards. The project application was scheduled and heard at the February 2, 2010 Emerald Lake Hills Design Review Officer meeting, where three neighbors raised the following issues with the project, and the Design Review Officer (DRO) responded to them, as summarized below:

a. Drainage

Conditions of approval require the applicant submit construction plans for the project that include drainage calculations, prepared by a civil engineer. The plans will be evaluated by the Public Works Department to ensure all requirements are met to prevent increased off-site water flow after construction.

b. Story Poles to Show Shadow Casting on Neighboring Property

The requested story poles were not required by the Design Review Officer since little additional information would be gathered from their installation, due to the fact that there are 25 feet between the two houses, and there are trees taller than the proposed house which will create more shadow than the proposed building.

c. Privacy for Neighbor's Outdoor Spaces

Privacy for the neighbor across the street is protected by the 60-foot distance and the 20-foot difference in elevation between the existing home and the proposed residence. In addition, the balcony area in the front of the proposed house was reduced to a small porch which serves as an exit from the second floor. Privacy for the outdoor area on the adjacent parcel is improved by the maintenance of the existing trees between the two properties and approximately 25 feet between the houses. In addition, the applicant agreed to reduce the size of the kitchen windows from 6 feet in height to 4 feet. This modification was made a condition of approval.

d. Tree Protection

Tree protection during construction would include all the procedures outlined in the applicant's arborist report, which were made conditions of approval, and an additional condition that trees which were not identified to be removed for construction, which are damaged, are required to be replaced with 36- or 48-inch box trees.

e. Non-Traditional Residential Style

The Design Review Officer stated that although the proposed house does not emulate, to a high degree, similarity with the prevailing styles of the surrounding residences, that the project in its entirety adheres to the design standards criteria, which made the project appropriate for the location and neighborhood.

After hearing public testimony, the Design Review Officer recommended the project for approval at the hearing with conditions of approval which included

minimizing the front balcony area, reduction in the size of kitchen windows, and an increased size for replacement trees. Subsequently, the Community Development Director made the required findings for the Design Review application and the associated grading permit, and approved the project on June 3, 2010. The project's approval was appealed to the Planning Commission on August 25, 2010, by Steve Munich and Liwen Huang, and the appeal was heard at the September 8, 2010 Planning Commission hearing.

2. Appeal to the Planning Commission

In the August 25, 2010 appeal letter, the appellants raised three issues for the Planning Commission's consideration: (1) privacy, (2) tree protection, and (3) construction hours. The style of the house was raised as an additional issue at the public hearing. After public testimony, the Planning Commission made the following findings: (1) The modifications to the windows along the west side of the house closest to the Munich's house were adequate to provide privacy; (2) The tree survey and protection plan commissioned by the appellant was more comprehensive than the applicant's, and that the recommendations by appellant's consultant, McClenahan Consulting, should be integrated into the applicant's tree protection plan; and (3) The construction hours need not be modified. One Commissioner found that the proposal was inconsistent with the design review standards which address compatibility with surrounding house styles and roof styles (Sections 6565.15.B and 6565.15.F). The motion to grant the appeal, and deny the project, failed and as a result the Community Development Director's approval of the project remained in place.

3. Appeal to the Board of Supervisors

On September 17, 2010, an appeal of the Planning Commission's decision was filed by two neighboring households: Dave and Virginia Smith, across the street to the east, and Stephen Munich and Liwen Huang, adjacent to the northwest. The Board of Supervisors opened a hearing for the project on January 25, 2011. The appeal letter (Attachment H) states the project does not comply with and references three sections of the zoning regulations in Section 6565.15 (*Standards for Design for Emerald Lake Hills*).

At the January 25 hearing, the prevalent issue was privacy in outdoor areas. The lead appellant, Steven Munich, hired a new arborist who challenged the thoroughness of the two previous arborists reporting on the site with respect to the preservation of several oak trees in the side yard between the applicant and appellant's property. The appellant contended that the tree would either be lost immediately to damage from construction or pruned so severely that it would provide no screening or not survive many years post-construction.

The Board of Supervisors continued the hearing to allow the two opposing parties to discuss additional ways to address the privacy issue. The applicant and appellant and their representatives met on February 1, 2011, at the project

site. The resulting correspondence is attached (Attachment J) and shows the progression to address the privacy aspect. The applicant and his designer agreed to provide a screen window cover on the kitchen and living room windows on the west side of the proposed residence. In addition, there was discussion of providing more screening through additional, non-tree, plantings. This portion of the proposal did not develop completely due to discrepancies as to whom would put together the associated plan needed for the desired landscaping.

In subsequent emails, the appellant's arborist asked if the windows in the kitchen/family room areas of the proposed residence could be removed, stated that he could not propose plantings since he was employed by Mr. Munich, and offered that he did not believe that the prior two arborists' reports were thorough enough and that all the trees should be addressed for impacts, protection, and monitoring along with the proposed mitigation as part of the plan to assure longevity.

A letter was submitted by the appellant on February 10, 2011, which summarizes the process from the appellant's perspective. In general, the letter points to communications failures between the two parties. However, the letter also indicates that there was some consensus regarding the proposed window screening as long as it covered both the kitchen window and the living room window. It also indicates some agreement on additional plantings, although it is unclear which party was to take the lead.

Staff reviewed the proposal for the window screens and found that they meet zoning regulations. If the additional plantings were made a condition of approval, review by the Planning Department would be required. If it remains as an activity to be resolved between the two parties, no Planning Department review is required. The additional plantings and/or the window screens would provide additional screening and increase privacy between the two residences and improve upon the compliance with the privacy standards.

The other appeal issues mentioned in the letters submitted on September 17 are addressed below, followed by staff's response.

- a. Compliance with Section 6515.A.3 – Site Planning: Respect for privacy of neighboring houses and outdoor living areas.

The minimum side yard setback in the Residential Hillside (RH) Zoning District is a combination of 20 feet. The smallest size side yard setback allowed is 7.5 feet; therefore, the minimum combination is 7.5 feet and 12.5 feet. Both the proposed house and Mr. Munich's residence will have a 12.5-foot setback from the shared property line, affording the maximum separation for side yard setbacks.

Mr. Munich has a patio area which extends approximately 9 feet into this side yard setback. This encroachment is allowed since the patio is not covered and is at grade. Mr. Munich's decisions to place the patio area approximately 3 feet from the property line, and outside of the building envelope make privacy more difficult to achieve.

Staff determined that the design review standards which encourage accommodation for privacy of neighboring outdoor areas have been met with the proposed design based on the following: (1) The proposed house is utilizing the larger side yard setback along the shared property line and does not have any additional encroachments (i.e., patio) into the required 12.5-foot side yard setback; (2) There are three mature oak trees, which will remain in place, and three trees proposed to be planted along the shared property line that will provide screening between the outdoor area and the proposed house; (3) A 6-foot high fence is proposed; and (4) The achievement of privacy for the Munich's patio is complicated by their own decision to establish their outdoor patio area in close proximity to the shared property line.

- b. Compliance with Section 6515.B – Architectural Style: Design new buildings that are architecturally compatible with existing buildings by requiring them to reflect and emulate, as much as possible, the predominant architectural styles and natural surroundings of the immediate area.

The compatibility of the design for the proposed residence has been challenged by the appellants at both hearings and in the appeal letter. The appeal letter states that the proposed home would be "dramatic and imposing" due to "extreme modern architecture" since the eastward facing slope of Bayview Way is an upward slope and, therefore, it is visible. The appellants state that the proposed house offers "extreme modern architecture" and the Planning Department chose to ignore the aforementioned regulations in the recommendation for approval of the project. They also note that the compatibility of style was an issue raised by the dissenting Planning Commissioner, when the project was approved by a two to one vote at the September 8 Planning Commission hearing.

The proposed residence is by a designer who has had several houses of similar design approved and constructed in the Emerald Hills Community. As mentioned by the applicant, one of these houses is across the street from the subject property, on a downward sloping parcel. The integration of other previously approved residential development which resembles the proposed house creates a pattern of styles in the area which the project would emulate.

The proposed house will be constructed on an upward sloping hill like other houses on the street. The front façade will have natural stone retaining wall and stucco. The color will be a medium brown to integrate

with natural surroundings. Two Planning Commissioners found that the design was architecturally compatible with the surrounding neighborhood.

- c. Compliance with Section 6515.F – Roofs: Design buildings using primarily pitched roofs, design buildings with roof that reflect the predominant architectural style of the immediate area.

The height and pitch of the roof over the garage is mentioned by the appellants, the Munichs. It was also mentioned by the dissenting Planning Commissioner.

The roof will appear approximately 20 feet above the ground, since approximately 8 feet of the garage is below the existing ground level. The proposed roof is not flat, and a house with a similar roof profile is located across the street. As previously stated, the prevalence of residences by the same designer provides structures of this style to be more easily integrated into this residential community.

- d. Easement

The appellants have expressed a desire “to maintain the existing land use” and restoration of any damaged landscaping.

This concern pertains to an easement on the subject property, which grants access to the owner of the adjacent property (722 Bayview) to existing improvements (primarily a walkway, stairs, and a fence) (see Attachment M). The easement was not discussed in detail at the Design Review Officer’s hearing or Planning Commission’s hearing because it is primarily a private agreement. The County is not responsible for enforcing the easement, but should not approve anything which contradicts it. The proposed house is located outside of the easement and the approved plans do not show changes in that area.

The easement agreement calls for repair to damaged driveways and utilities. There is no mention in the easement language regarding the use of the area for front or side yard activities, and it was not a consideration when addressing the privacy design review standard. Currently, there are four trees planted in the easement, which if they are greater than 6 inches in diameter, will need tree removal permits and replacement trees should they be removed.

- e. Geotechnical Issues

A geotechnical report was submitted and evaluated by the Planning and Building Department’s Geotechnical Section. No issues are outstanding with the proposed development.

f. Windows

The applicant's plans were modified after the February 2, 2010 meeting. The original house design included 10' x 8' windows in the kitchen area. This window size was reduced by the applicant during the design review hearing and made a condition of the approval. Currently, the windows which will face the west side of the Munich's residence are 6' x 4' in size. As previously mentioned, there are approximately 25 feet between the two residences and three mature oak trees between the houses which will provide screening and privacy between the houses.

B. PROJECT COMPLIANCE WITH COUNTY REGULATIONS

1. Conformance with the County General Plan

The project conforms to specific General Plan Policies, in particular Policies 4.14 (*Appearance of New Development*) and 4.35 (*Urban Area Design Concept*) that require structures to promote and enhance good design, improve the appearance and visual character of development in the area by managing the location and appearance of the structure.

2. Conformance with Zoning Regulations

The project is in compliance with the RH/DR Zoning Regulations as shown in the chart below.

Development Standards	Zoning Requirements	Proposal
Building Site Area	51,000 sq. ft.	13,894 sq. ft.*
Building Site Width	50 ft.	72 ft.
Minimum Setbacks		
Front	20 ft.	20 ft.
Rear	20 ft.	50 ft.
Sides	Combination of 20 ft. Minimum of 7.5 ft.	Right 12.5 ft. Left 8.5 ft.
Lot Coverage	3,466 sq. ft. or 25%	3,460 sq. ft. (25%)
Building Floor Area	4,168 sq. ft. or 30%	4,159 sq. ft. (29.9%) proposed for house
Building Height	28 ft.	28 ft.
Minimum Parking	2 covered spaces/ 2 guest spaces	2 covered spaces/ 2 guest spaces
Grading limit	1,000 cy	755 cy
*Parcel is considered legal non-conforming.		

3. Conformance with Design Review Regulations

The project complies with Design Review Standards as previously discussed in Sections A.1 and A.3 of this report and in the Planning Commission staff report dated September 8, 2010 (see Attachment O).

4. Conformance with the County Grading Regulations

The Community Development Director made the required findings associated with the grading permit based on the following:

The proposed grading plan was prepared by a licensed civil engineer and reviewed by the San Mateo County Department of Public Works. The grading plan is based on an independent geotechnical study submitted for review. The project conforms to the criteria of Chapter 8, Division VII of the County Ordinance Code, including the standards referenced in Section 8605. The proposed grading will be subject to standard conditions of approval that include pre-construction, during, and post-construction measures to ensure that the project is in compliance with San Mateo County Grading Regulations. Finally, the project is consistent with General Plan Policies 2.23 (*Regulate Excavation, Grading, Filling and Land Clearing Activities Against Accelerated Soil Erosion*) and 2.17 (*Erosion and Sedimentation*) because the project includes measures to protect against soil erosion and sedimentation.

C. ENVIRONMENTAL REVIEW

The project is categorically exempt from CEQA pursuant to Section 15303, Class 3(a), construction of a single-family residence, in a residential zone, within an urbanized area.

County Counsel has reviewed and approved the proposed materials as to form and content.

Approval of the Design Review and Grading Permit, to allow the construction of a new single-family residence, contributes to the 2025 Shared Vision outcome of Livable Community because it is consistent with the County's land use regulations, including the Emerald Lake Hills Design Review Standards, General Plan, and Zoning Regulations.

FISCAL IMPACT:

Approval by the Board of Supervisors would result in property tax revenue increase with tax being assessed on future residential construction.

ATTACHMENTS:

- A. Recommended Findings and Conditions of Approval
- B. Location Map
- C. Site Plan
- D. Grading Plan

- E. Elevation Drawings and Cross Sections
- F. Floor Plans
- G. Planning Commission Letter of Decision September 9, 2010
- H. Appeal Letters
- I. Email Correspondence from Applicant and Appellant
- J. Letters Summarizing February 1, 2011 Meeting
- K. Applicant's Summary Letter Dated February 9, 2011
- L. Arborist Reports
- M. Recorded Easement
- N. Emerald Lake Hills Design Review Standards
- O. Planning Commission Staff Report

COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit File Number: PLN 2009-00332

Board Meeting Date: March 1, 2011

Prepared By: Erica D. Adams Project Planner For Adoption By: Board of Supervisors

RECOMMENDED FINDINGS:

For the Environmental Review, Find:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15303, Class 3, relating to new construction of a small structure.

For the Design Review, Find:

2. That this project is in compliance with the Design Review Standards as stipulated in Chapter 28 Section 6565.15 of San Mateo County Zoning Regulations. The proposal was reviewed by the Planning Commission on September 8, 2010. The Planning Commission stated that: (1) the proposal had a project and site designed with minimal tree removal and appropriate attention to tree protection, (2) the house had been formed so that, with the proposed excavations, the house would replicate the shape of the existing topography, and (3) the proposed materials are natural and the colors inspired by nature.

After consideration of public testimony at the March 1, 2011 Board of Supervisors hearing, the Board of Supervisors finds the project in compliance with the Design Review Standards because the project: (a) minimizes tree removal and blockage of sunlight on neighboring buildings, (b) respects the privacy of neighboring houses, (c) has well articulated façade and other elevations, (d) is designed to fit the natural topography, and (e) avoids massive blank walls.

For the Grading Permit, Find:

3. That the granting of the permit will not have a significant adverse effect on the environment. The proposed grading is limited to that which is necessary for the proposed construction. This project has been reviewed by the Department of Public Works and Building Inspection Section's Geotechnical Engineer.
4. That the project conforms to the criteria of Chapter 8, Division VII, San Mateo County Ordinance Code, including the standards referenced in Section 8605.

The project, as proposed and conditioned, conforms to the standards in the Grading Ordinance, including an erosion and sediment control plan, dust control plan, and timing of grading activity.

5. That the project is consistent with the General Plan. As proposed and conditioned, the project complies with General Plan Policies 2.23 (*Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion*) and 2.17 (*Erosion and Sedimentation*) because the project includes measures to protect against soil erosion and sedimentation.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. The project shall be constructed in compliance with the approved plans considered by the Board of Supervisors on March 1, 2011. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are compatible with Design Review Standards and in substantial compliance with the approved plans prior to being incorporated into building plans. Adjustments to the project may be approved by the Design Review Officer if they are consistent with the intent of and are in substantial conformance with this approval. Adjustments to the design during the building plan stage may result in the assessment of additional plan resubmittal or revision fees. Alternatively, the Design Review Officer may refer consideration of the adjustments, if they are deemed to be major, to a new Emerald Lake Hills Design Review public hearing which requires payment of an additional \$1,500 fee.
2. No site disturbance shall occur, including any grading or tree removal, until both the building permit and grading permit have been issued concurrently, and then only those trees approved for removal shall be removed.
3. The approved building materials may not change without review by the Community Development Director. Approved materials include stone façade along the front retaining wall, slate patios, custom curved windows, and medium brown stucco finish. Color samples shall be submitted and approved prior to installation.
4. The west side kitchen windows shall be reduced in dimension size from 6 feet to 4 feet in height.
5. The tree protection plan developed by McClenahan Consulting, dated May 7, 2010, shall be implemented during construction. Implementation of the measures shall be supervised by a certified arborist. If a field inspection by a County official indicates that the tree protection plan is not being properly implemented, work on the site will cease until the necessary measures are taken to ensure tree protection adheres to the approved protection plan.

6. Tree protection measures shall appear clearly on the building plans submitted to the County. Tree protection measures shall be installed prior to the commencement of any construction.
7. Any tree over 18 inches in diameter or between the proposed residence and 722 Bayview Way which is damaged during construction and required to be removed shall be replaced with either a 36-inch box or 48-inch box oak tree. If the new tree dies, it shall be subject to replacement for three years after the issuance of a final building permit.
8. Only those trees approved for removal shall be removed. Trees designated to remain shall be protected from damage during construction. Any additional tree removal is subject to the San Mateo County Significant Tree Ordinance and will require a separate permit for removal.
9. The design review approval shall be valid for five (5) years from the date of approval in which time a 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. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration. The design review approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
10. This conditional approval for the grading permit shall be valid for one year from the date of approval, in which time a 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. The grading permit approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
 - a. Prior to the issuance of grading permit, if the applicant submits a grading plan which shows significant deviation from the grading shown on the approved plans, specifically with regard to slope heights, slope ratios, pad elevations or pad configuration, the Community Development Director (Director), or his/her designee, shall review the plan for a finding of substantial conformance. If the Director fails to make such a finding, the applicant shall process a revised grading permit and/or site development applications. Additionally, if the requested changes require it, the applicant shall process a new environmental assessment for determination by the decision-making entity.
 - b. If the grading permit (issued as the "hard card" with all necessary information filled out and signatures obtained) has not been issued within this time period, this approval will expire. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration.

11. Exterior color verification shall occur in the field after the applicant has applied the approved materials and colors, but before a final inspection has been scheduled.
12. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.
13. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof, and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).
14. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. This datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).
 - a. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height--as constructed--is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
 - b. If the actual floor height, garage slab, or roof height--as constructed--is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Building Official and Community Development Director.
15. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. This plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
16. 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 respective Fire Authority.

17. To reduce the impact of construction 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 right-of-way on Bayview 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 Bayview Way. There shall be no storage of construction vehicles in the public right-of-way.
18. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
19. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
 - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
 - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.

- f. Limiting and timing applications of pesticides and fertilizers to avoid polluting runoff.
- 20. Unless approved in writing, by the Community Development Director, no grading shall be allowed during the winter season (October 1 to April 30) to avoid potential soil erosion. The applicant shall submit a letter to the Current Planning Section, a minimum of two (2) weeks prior to commencement of grading, stating the date when grading will begin.
- 21. Per San Mateo County Ordinance Section 8605.5, all equipment used in grading operations shall meet spark arrester and fire fighting tool requirements, as specified in the California Public Resources Code.
- 22. For the final approval of the grading permit, the applicant shall ensure the performance of the following activities, within thirty (30) days of the completion of grading:
 - a. The engineer shall submit written certification that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans, conditions of approval, and the Grading Ordinance (as required by Condition 32, below), to the Department of Public Works and the Current Planning Section.
 - b. The geotechnical consultant shall observe and approve all applicable work during construction and sign Section II of the Geotechnical Consultant Approval form, for submittal to the Building Inspection Section's Geotechnical Engineer and the Current Planning Section.

Building Inspection Section

- 23. At the time of application for a building permit, the following will be required:
 - a. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
 - b. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.
 - c. If a water main extension, upgrade or hydrant is required, this work must be completed prior to the issuance of the building permit or the applicant must submit a copy of an agreement and contract with the water purveyor which will confirm the work will be completed prior to finalization of the building permit.
 - d. A site drainage plan will be required. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area.

- e. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
- f. This project must meet Chapter 7A standards with respect to siding (Class-A Rated), roofing (Class-A Rated), venting, exterior doors (solid-core) and windows (tempered). Please review the approved materials and standards on the State Fire Marshal's website:

http://www.fire.ca.gov/fire_prevention/fhsz_maps/fhsz_maps_sanmateo.php
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_codes.php

- 24. This project must comply with the Green Building Ordinance.
- 25. All drawings must be drawn to scale and clearly define the whole project and its scope in its entirety.

Geotechnical Section

- 26. A geotechnical consultant shall observe and approve all applicable work.

Department of Public Works

- 27. 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.
- 28. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.
- 29. Prior to the issuance of a building permit, the applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for both the existing and the proposed drainage patterns and drainage facilities.
- 30. Prior to the issuance of a building permit, the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed improvements and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off the property being developed shall be detailed on the plan and

shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the street improvement plans and submitted to the Department of Public Works for review and approval.

31. Prior to the issuance of a building permit, the applicant shall submit to the Department of Public Works, for review, documentation that existing ingress/egress easements exist from the adjacent parcel to the applicant's parcel for the adjacent parcel's use.
32. No trees shall be planted in the right-of-way.

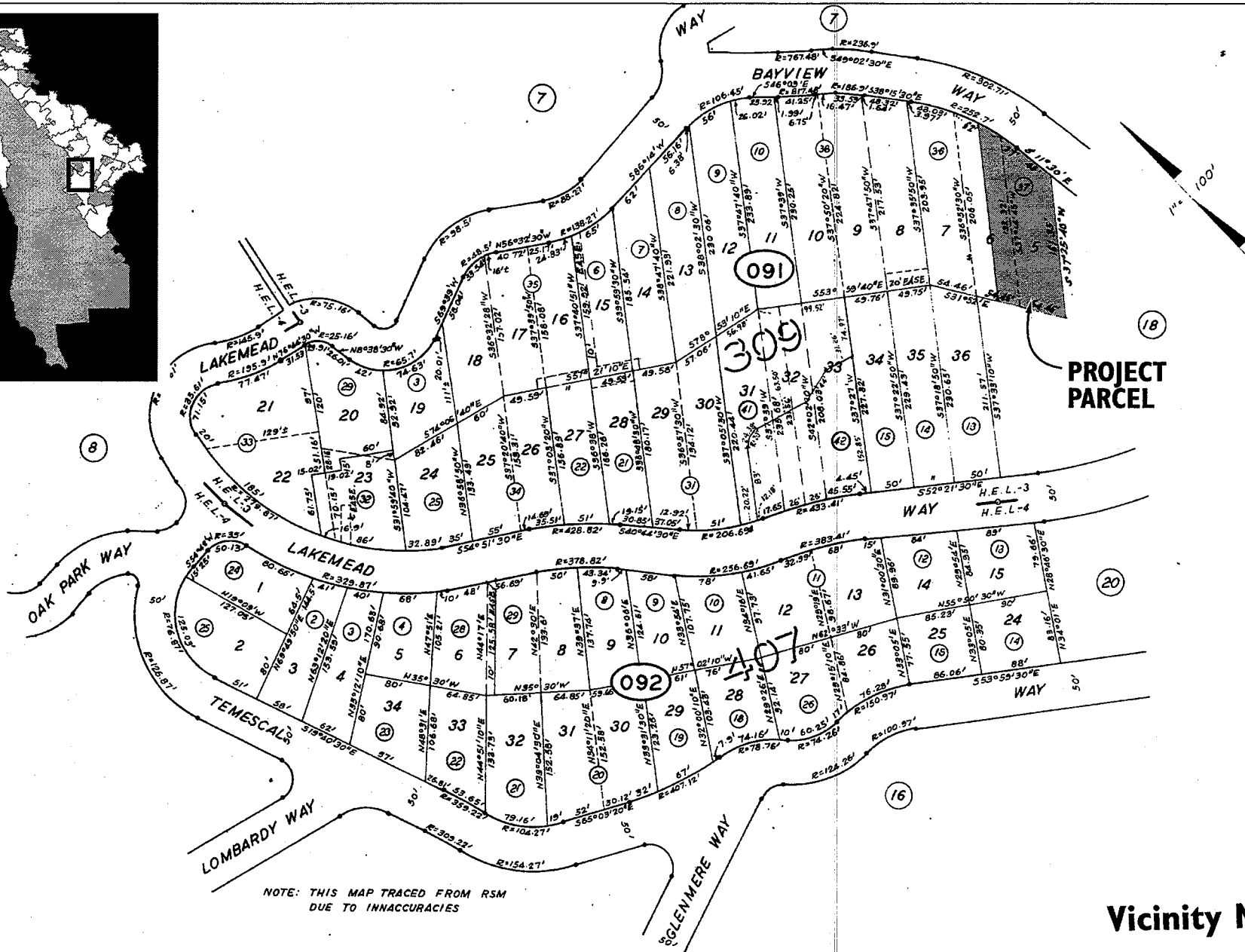
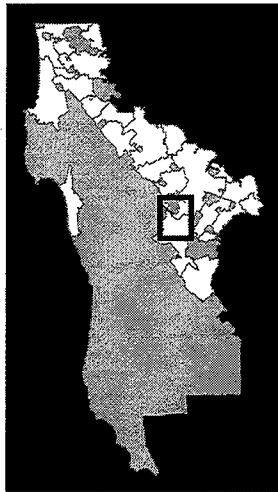
Woodside Fire Protection District

33. An automatic fire sprinkler system is required.
34. Indicate gallons per minute (gpm) of the existing fire hydrant.
35. Project must be in compliance with Chapter 7A, 2007 CBC: Materials and Construction Methods for Exterior Wildfire Exposure.



County of San Mateo - Planning and Building Department

ATTACHMENT B



Vicinity Map

San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

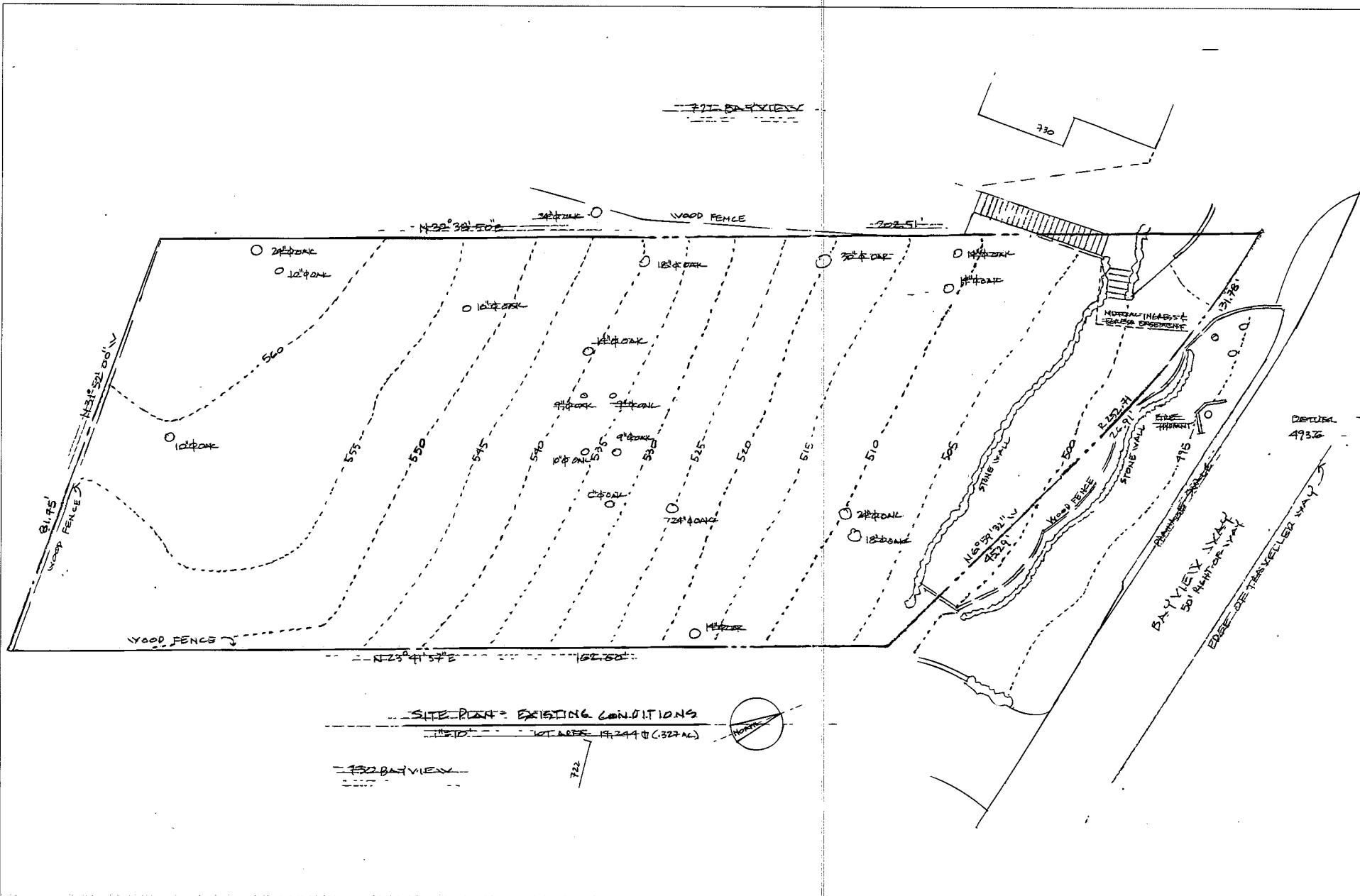
Attachment:

File Numbers: **PLN 2009-00332**



County of San Mateo - Planning and Building Department

ATTACHMENT C



San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

File Numbers: **PLN 2009-00332**

Attachment:



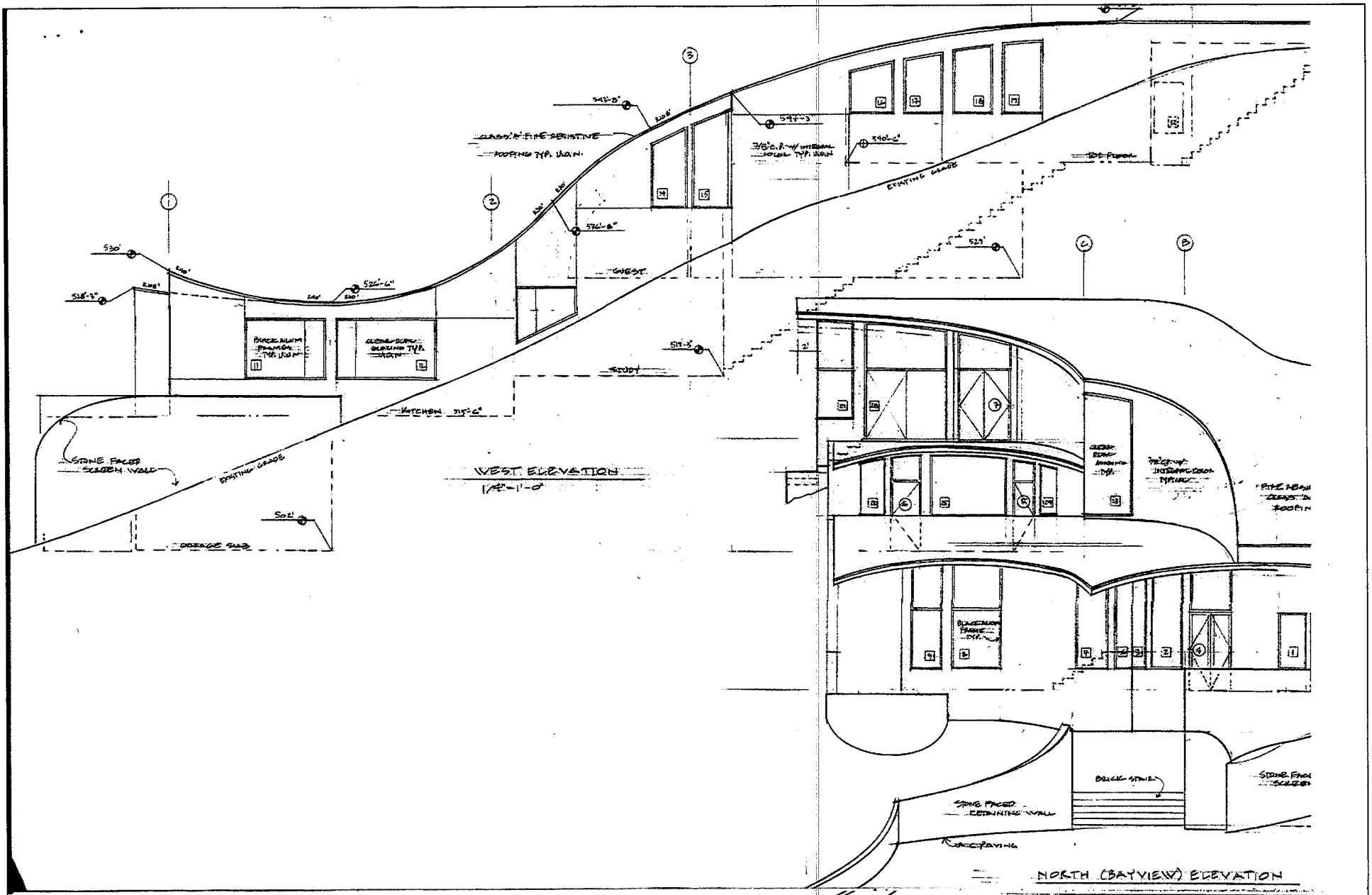
County of San Mateo - Planning and Building Department

ATTACHMENT D



County of San Mateo - Planning and Building Department

ATTACHMENT E

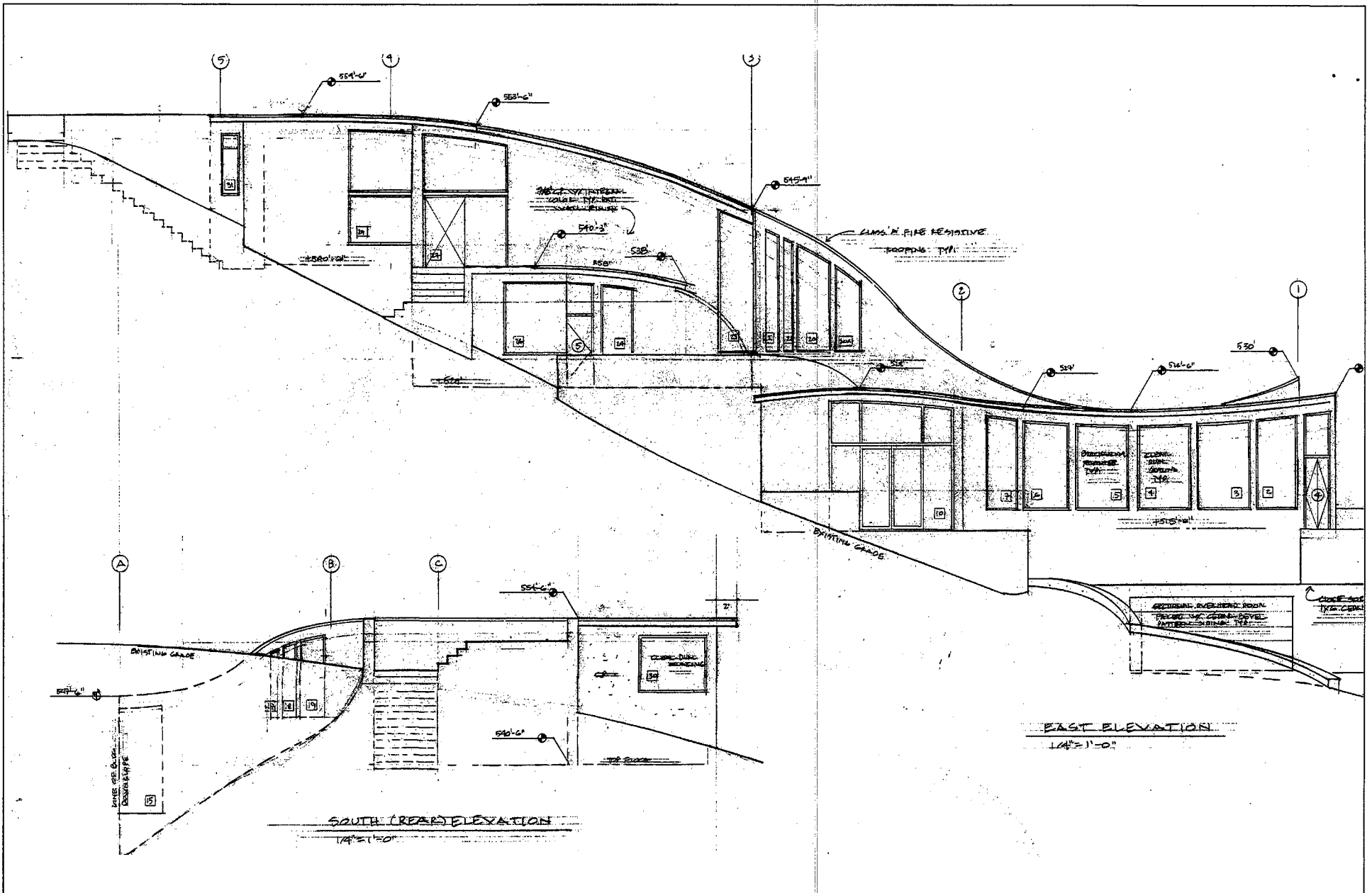


San Mateo County Board of Supervisors Meeting

Owner/Applicant: **Ayoub Farahyar**

File Numbers: **PLN 2009-00332**

Attachment:

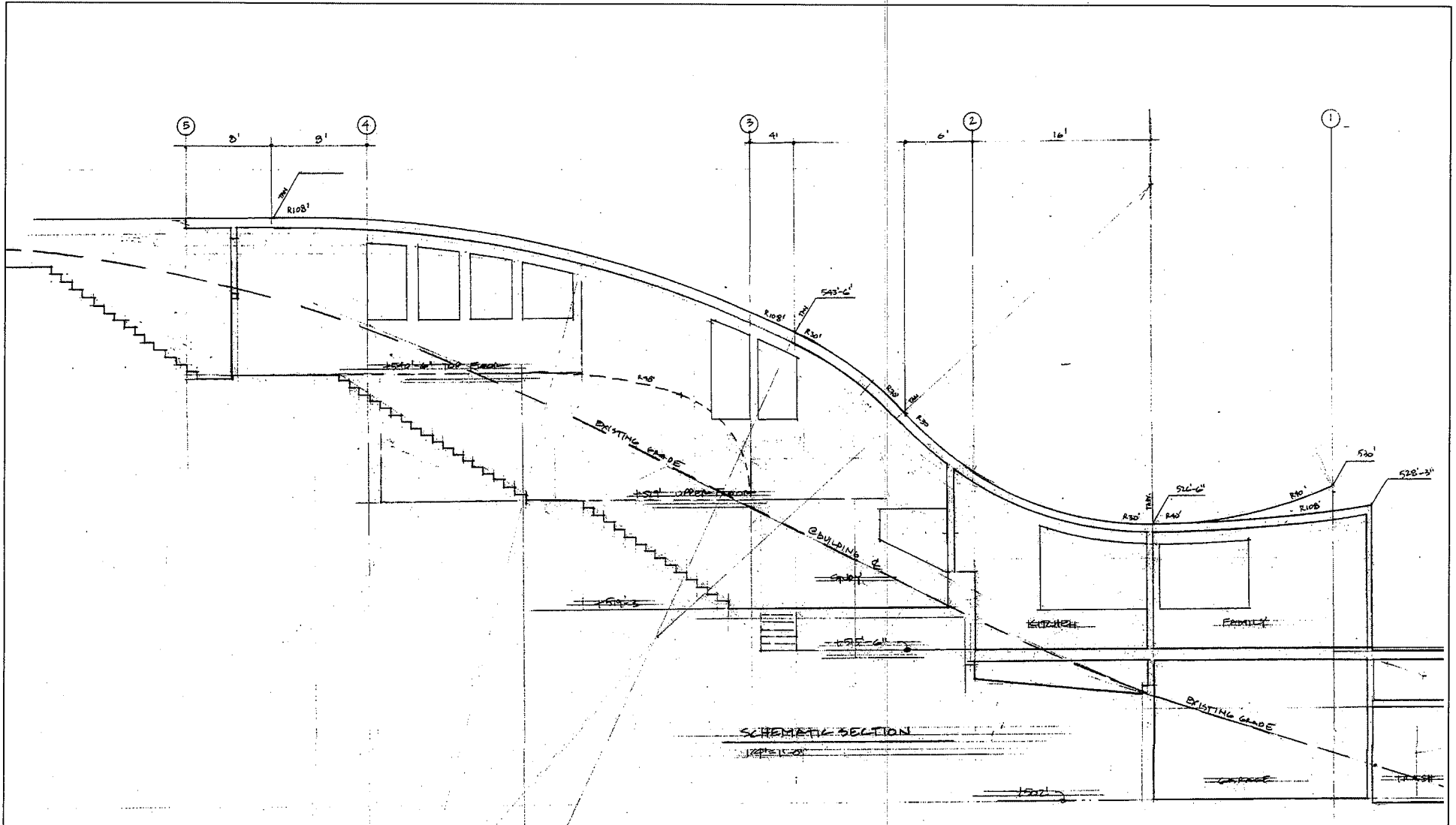


San Mateo County Board of Supervisors Meeting

Owner/Applicant: **Ayoub Farahyar**

File Numbers: **PLN 2009-00332**

Attachment:

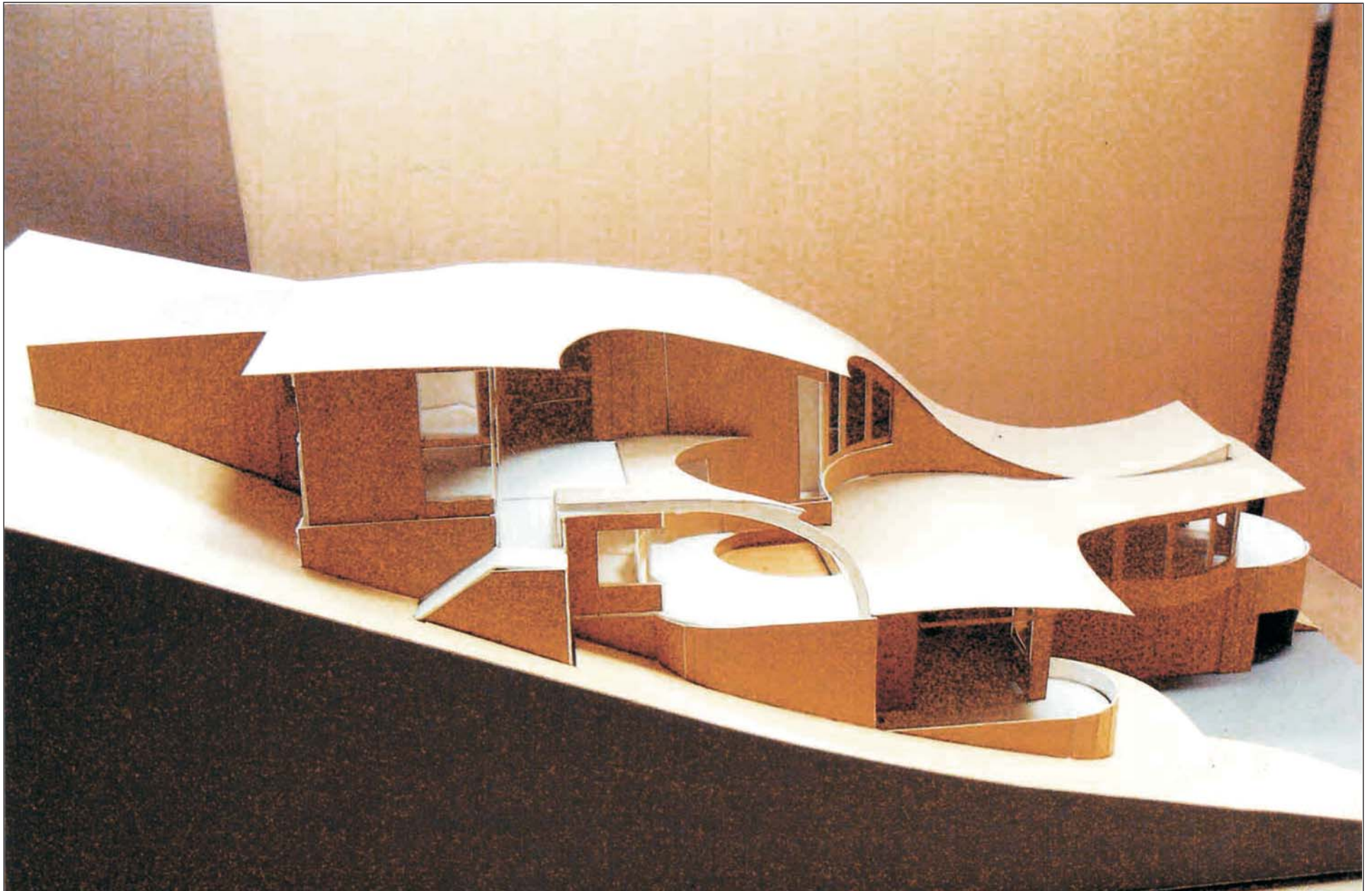


San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment:

File Numbers: **PLN 2009-00332**



San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment: _____

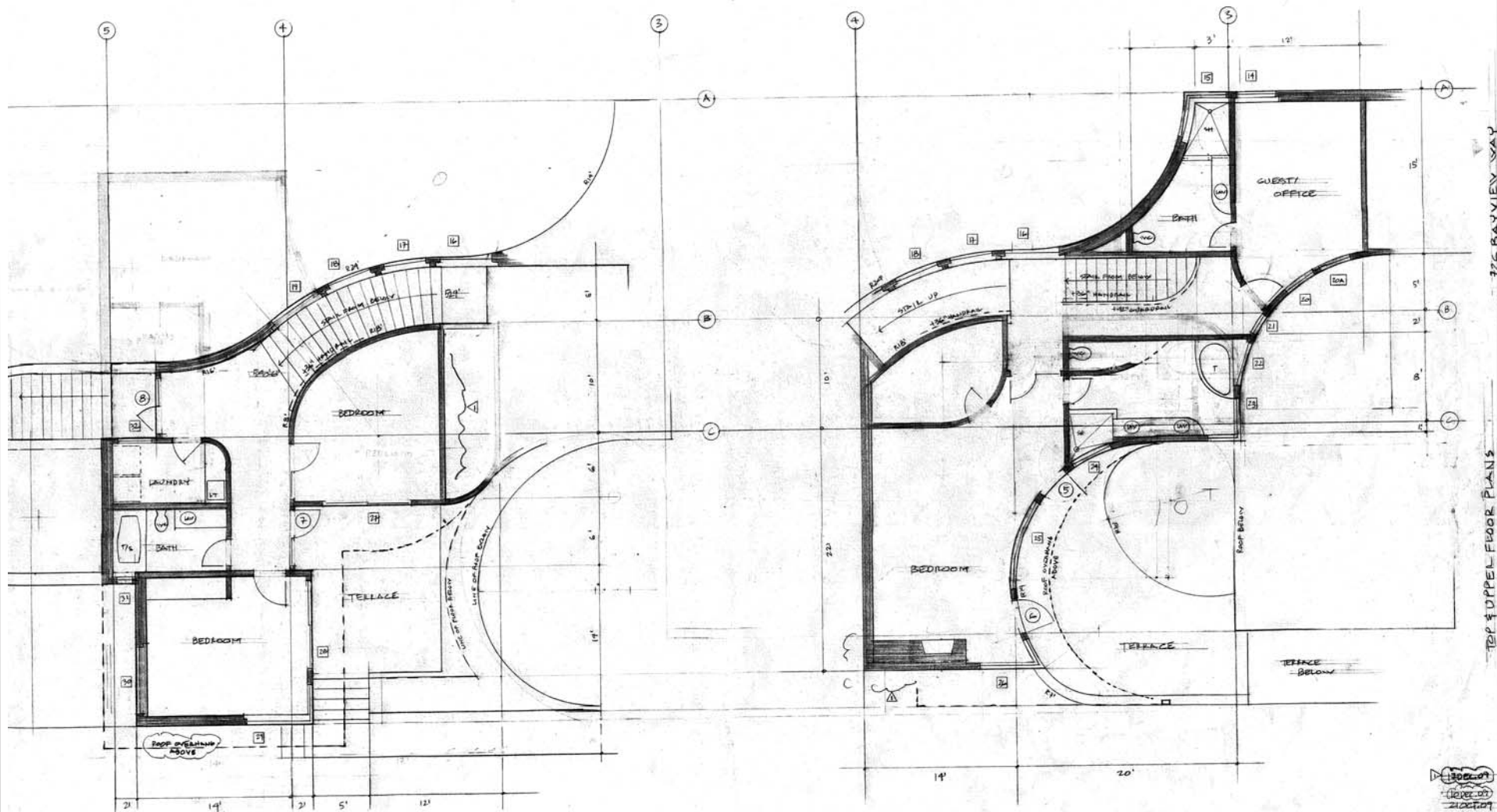
File Numbers: **PLN 2009-00332**



County of San Mateo - Planning and Building Department

ATTACHMENT F





San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment:

File Numbers: **PLN 2009-00332**



County of San Mateo - Planning and Building Department

ATTACHMENT G

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

September 9, 2010

Ayoub Farahyar
747 Southview
Redwood City, CA 94062

Steven Munich
722 Bayview Way
Redwood City, CA 94062

Dear Mr. Farahyar and Mr. Munich:

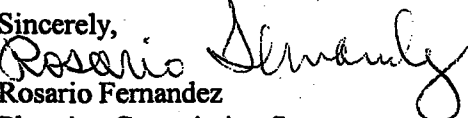
Subject:	Letter of Decision
File Number:	PLN2009-00332
Location:	726 Bayview , Emerald Lake Hills
APN:	068-091-370

On September 8, 2010 the San Mateo County Planning Commission considered a design review permit to allow the construction of a new 4,155 sq.ft. single-family residence and the removal of five (5) trees, and a grading permit for 755 cubic yards of cut and fill on a parcel located at 726 Bayview Way in the unincorporated Emerald Lake Hills area of San Mateo County.

Based on information provided by staff and evidence presented at the hearing, the Planning Commission approved the project with the conditions of approval as shown in Attachment A and the incorporation of recommendations from the Arborist Report by McClenahan consulting, LLC.

Any interested party aggrieved by the determination of the Planning Commission 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 September 22, 2010.**

If you have questions regarding this matter, please contact Erica Adams at 650/363-1828.

Sincerely,

Rosario Fernandez
Planning Commission Secretary
Pcd0908U_rf (Farahyar)

Enclosure: San Mateo County Survey-An online version of our Customer Survey is also available at:
<http://www.co.sanmateo.ca.us/planning/survey>

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2009-00352

Hearing Date: September 8, 2010

Prepared By: Erica D. Adams

Adopted By: Planning Commission

FINDINGS

For the Environmental Review, Found:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15303, Class 3, relating to new construction of a small structure.

For the Design Review, Found:

2. That this project is in compliance with the Design Review Standards as stipulated in Chapter 28 Section 6565.15 of San Mateo County Zoning Regulations. The proposal was reviewed by the Emerald Lake Hills Design Review Officer on February 2, 2010. The Design Review Officer stated that: (1) the proposal had a project and site designed with minimal tree removal and appropriate attention to tree protection, (2) the house had been formed so that, with the proposed excavations, the house would replicate the shape of the existing topography, and (3) the proposed materials are natural and the colors inspired by nature.

After consideration of public testimony at the September 8, 2010 hearing, the Planning Commission finds the project in compliance with the Design Review Standards because the project: (a) minimizes tree removal and blockage of sunlight on neighboring buildings, (b) respects the privacy of neighboring houses, (c) has well articulated façade and other elevations, (d) is designed to fit the natural topography, and (e) avoids massive blank walls.

For the Grading Permit, Found:

3. That the granting of the permit will not have a significant adverse effect on the environment. The proposed grading is limited to that which is necessary for the proposed construction. This project has been reviewed by the Department of Public Works and Building Inspection Section's Geotechnical Engineer.
4. That the project conforms to the criteria of Chapter 8, Division VII, San Mateo County Ordinance Code, including the standards referenced in Section 8605. The project, as proposed and conditioned, conforms to the standards in the Grading Ordinance, including an erosion and sediment control plan, dust control plan, and timing of grading activity.
5. That the project is consistent with the General Plan. As proposed and conditioned, the project complies with General Plan Policies 2.23 (Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion) and 2.17 (Erosion and Sedimentation) because the project includes measures to protect against soil erosion and sedimentation.

CONDITIONS OF APPROVAL

Current Planning Section

1. The project shall be constructed in compliance with the approved plans. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are compatible with Design Review Standards and in substantial compliance with the approved plans prior to being incorporated into building plans. Adjustments to the project may be approved by the Design Review Officer if they are consistent with the intent of and are in substantial conformance with this approval. Adjustments to the design during the building plan stage may result in the assessment of additional plan resubmittal or revision fees. Alternatively, the Design Review Officer may refer consideration of the adjustments, if they are deemed to be major, to a new Emerald Lake Hills Design Review public hearing which requires payment of an additional \$1,500 fee.
2. No site disturbance shall occur, including any grading or tree removal, until both the building permit and grading permit have been issued concurrently, and then only those trees approved for removal shall be removed.

3. The approved building materials may not change without review by the Community Development Director. Approved materials include stone façade along the front retaining wall, slate patios, custom curved windows, and medium brown stucco finish. Color samples shall be submitted and approved prior to installation.
4. The east side kitchen windows shall be reduced in dimension size from six feet to four feet in height.
5. The tree protection plan developed by McClenahan Consulting, dated May 7, 2010 shall be implemented during construction. Implementation of the measures shall be supervised by a certified arborist. If a field inspection by a County official indicates that the tree protection plan is not being properly implemented, work on the site will cease until the necessary measures are taken to ensure tree protection adheres to the approved protection plan.
6. Tree protection measures shall appear clearly on the building plans submitted to the County. Tree protection measures shall be installed prior to the commencement of any construction.
7. Any tree over 18 inches in diameter or between the proposed residence and 722 Bayview Way which is damaged during construction and required to be removed shall be replaced with either a 36-inch box or 48-inch box oak tree. If the new tree dies, it shall be subject to replacement for three years after the issuance of a final building permit.
8. Only those trees approved for removal shall be removed. Trees designated to remain shall be protected from damage during construction. Any additional tree removal is subject to the San Mateo County Significant Tree Ordinance and will require a separate permit for removal.
9. The design review approval shall be valid for five (5) years from the date of approval in which time a 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. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration. The design review approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
10. This conditional approval for the grading permit shall be valid for one year from the date of approval, in which time a 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. The grading permit approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.

- a. Prior to the issuance of grading permits, if the applicant submits a grading plan which shows significant deviation from the grading shown on the approved plans, specifically with regard to slope heights, slope ratios, pad elevations or pad configuration, the Community Development Director (Director), or his/her designee, shall review the plan for a finding of substantial conformance. If the Director fails to make such a finding, the applicant shall process a revised grading permit and/or site development applications. Additionally, if the requested changes require it, the applicant shall process a new environmental assessment for determination by the decision-making entity.
 - b. If the grading permit (issued as the "hard card" with all necessary information filled out and signatures obtained) has not been issued within this time period, this approval will expire. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration.
11. Exterior color verification shall occur in the field after the applicant has applied the approved materials and colors, but before a final inspection has been scheduled.
 12. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.
 13. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).
 14. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. This datum point and its elevation shall be shown on the

submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).

- a. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height--as constructed--is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
 - b. If the actual floor height, garage slab, or roof height--as constructed--is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Building Official and Community Development Director.
15. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. This plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
16. 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 respective Fire Authority.
17. To reduce the impact of construction 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 right-of-way on Bayview 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 Bayview Way. There shall be no storage of construction vehicles in the public right-of-way.

18. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
19. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
 - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
 - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
 - f. Limiting and timing applications of pesticides and fertilizers to avoid polluting runoff.
20. Unless approved in writing, by the Community Development Director, no grading shall be allowed during the winter season (October 1 to April 30) to avoid potential soil erosion. The applicant shall submit a letter to the Current Planning Section, a minimum of two (2) weeks prior to commencement of grading, stating the date when grading will begin.
21. Per San Mateo County Ordinance Section 8605.5, all equipment used in grading operations shall meet spark arrester and fire fighting tool requirements, as specified in the California

Public Resources Code.

22. For the final approval of the grading permit, the applicant shall ensure the performance of the following activities, within thirty (30) days of the completion of grading:
- a. The engineer shall submit written certification that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans, conditions of approval, and the Grading Ordinance (as required by Condition 32, below), to the Department of Public Works and the Current Planning Section.
 - b. The geotechnical consultant shall observe and approve all applicable work during construction and sign Section II of the Geotechnical Consultant Approval form, for submittal to the Building Inspection Section's Geotechnical Engineer and the Current Planning Section.

Building Inspection Section

23. At the time of application for a building permit, the following will be required:
- a. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
 - b. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.
 - c. If a water main extension, upgrade or hydrant is required, this work must be completed prior to the issuance of the building permit or the applicant must submit a copy of an agreement and contract with the water purveyor which will confirm the work will be completed prior to finalization of the building permit.
 - d. A site drainage plan will be required. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
 - e. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
 - f. This project must meet Chapter 7A standards with respect to siding (Class-A Rated),

roofing (Class-A Rated), venting, exterior doors (solid-core) and windows (tempered). Please review the approved materials and standards on the State Fire Marshal's website:

http://www.fire.ca.gov/fire_prevention/fhsz_maps/fhsz_maps_sanmateo.php
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_codes.php

24. This project must comply with the Green Building Ordinance.
25. All drawings must be drawn to scale and clearly define the whole project and its scope in its entirety.

Geotechnical Section

26. A geotechnical consultant shall observe and approve all applicable work.

Department of Public Works

27. 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.
28. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.
29. Prior to the issuance of a building permit, the applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for both the existing and the proposed drainage patterns and drainage facilities.
30. Prior to the issuance of a building permit, the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed improvements and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the

property being developed shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the street improvement plans and submitted to the Department of Public Works for review and approval.

31. Prior to the issuance of a building permit, the applicant shall submit to the Department of Public Works, for review, documentation that existing ingress/egress easements exist from the adjacent parcel to the applicant's parcel for the adjacent parcel's use.
32. No trees shall be planted in the right-of-way.

Woodside Fire Protection District

33. An automatic fire sprinkler system is required.
34. Indicate gallons per minute (gpm) of the existing fire hydrant.
35. Project must be in compliance with Chapter 7A, 2007 CBC: Materials and Construction Methods for Exterior Wildfire Exposure.



County of San Mateo - Planning and Building Department

ATTACHMENT H

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: Stephen Munich
 Phone, W: 408 489 3735 H: 650 368 2176

Address: 722 Bayview Way
Emerald Hills CA
 Zip: 94062

Permit Numbers involved:

File No. PLN 2009-00332

I hereby appeal the decision of the:

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

made on June 3 20 10 to approve/deny
 the above-listed permit applications.

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

☒ yes

☐ no

Appellant's Signature:

Stephen M. Munich

Date: 6-18-10

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)

RECEIVED

JUN 18 2010

**San Mateo County
 Planning Division**

We are appealing certain conditions of approval:

1) Regarding Condition #6: The approved east side kitchen and family windows significantly reduce the privacy of both property dwellers. No matter where on the interior wall the 4 foot high windows are placed, they will look directly into onto our outdoor dining area, deck and backyard; we could see directly into the other property's family room and kitchen. The only solution is to have the bottom of clerestory-type windows no less than 6 feet from the kitchen finish floor to maintain privacy.

2) Regarding Conditions #8 & #9: The approved plan does not adequately protect the large Coast Live Oaks between our home and the proposed new construction. We have hired a county-approved arborist (S.P. McClenahan Tree Service) to inspect the tree situation. We request that McClenahan's report (included with this appeal) should be incorporated as a condition of approval. We also request that McClenahan be used as the project arborist replacing or in addition to the existing arborist. Additionally, some of the trees of concern are just under 18" in diameter; the McClenahan report addresses how these should be replaced due to loss/damage during the valid period of this design review approval.

3) Regarding Condition #20: We are a family living in very close proximity to the construction site. Our 13 month-old son's bedroom is just on the edge of our easement with the next-door lot, and our outdoor dining area and deck is less than 15 feet from the east wall of the proposed construction. We request your consideration of desire to enjoy our property on the weekends and ask that no outdoor construction activities be conducted on Saturdays due to noise and construction dust.



Stephen M. Munich

6/18/10

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: Dave Smith, Liwen Hwang
Steve Munich, Virginia Smith
Phone, W: 650 368 2176 H: 650 365 2339

Address: 722 Bayview Way
717 Bayview Way
Zip: 94062

Permit Numbers involved: APN 068-091-370,
File No. PLN 2009-00332

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:

made on 9/8 20 10 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

RECEIVED

SEP 17 2010

San Mateo County
Planning Division

September 17, 2010

Honorable Board of Supervisors
400 County Center
Redwood City CA 94063

We are appealing the Planning Commission's 9/8/10 decision to deny our original appeal of the approval by the Planning and Building Department of the proposed home at 726 Bayview Way for the following reasons:

As background, no attempt was ever made by the developer or architect to meet with us to discuss our concerns prior to the submission of their application to the Planning and Building Department. As described in a letter dated January 29 2010 from Mr. Munich and Ms. Huang (see underlined text in the attached copy), the proposed design will have a high impact on neighbors living in its vicinity. It is a very large house, nearly 4200 square feet, not including any "bonus rooms" typically embedded in this architect's designs. The lot is narrow and steeply sloped and a less impactful design could have been proposed that would not come so close to the existing homes. This closeness is exacerbated given the proposed 72 square feet of window space facing directly into the Munich/Huang property and impacting privacy. The Commission's decision to reduce the original window height from 6 feet to 4 feet is not enough to ensure privacy. This respect for privacy is outlined in the County zoning regulation 6565.15 A.3 listed below. Although repeatedly requested, no two-dimensional computer representation of the view into and out of these windows has been created.

The proposed home on this steep lot would be dramatic in an imposing sense given its extreme modern architecture as all the homes on the eastward facing slope of Bayview Way are very visible. Another modern Fred Herring home at 711 Bayview Way is much less visible to passersby as it faces westward and mainly the garage that can be seen from the street level. But the proposed home at 726 Bayview is far more modern in style. We feel that this proposed home design is at odds with the County zoning regulations 6515.15.B and 6515.15.F that enumerate requirements for architectural styles and roof designs. The Planning Department chose to ignore the above regulations in their recommendation for approval of the proposed design. We are appealing the 4-1 ruling by the Planning Commission to approve this design.

We would note that the issue of style compatibility was raised by Commissioner Gail Slocum in her dissenting vote.

Design Review District (DR) – San Mateo County Zoning Regulations

Section 6565.15 – Standards for Design in Emerald Lake Hills...

A.3 - Site Planning: Respect the Privacy of neighboring houses and outdoor living areas

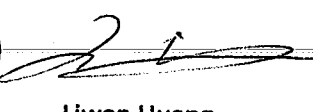
B – Architectural Styles: Design new buildings that are architecturally compatible with existing buildings by requiring them to reflect and emulate, as much as possible, the predominant architectural styles and the natural surroundings of the immediate area (e.g. bungalow, craftsman, ranch). Avoid revivalist historical styles.

F – Roofs: Design buildings using primarily pitched roofs. Design buildings with roofs that reflect the predominant architectural style of the immediate area.

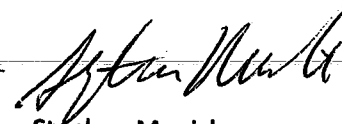
Sincerely,



Dave Smith
717 Bayview



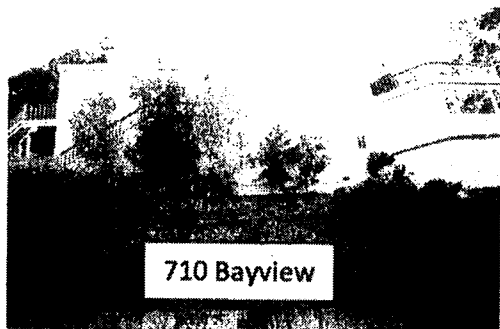
Liwen Huang
722 Bayview



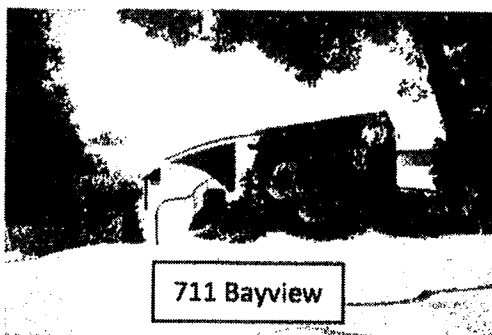
Stephen Munich
722 Bayview



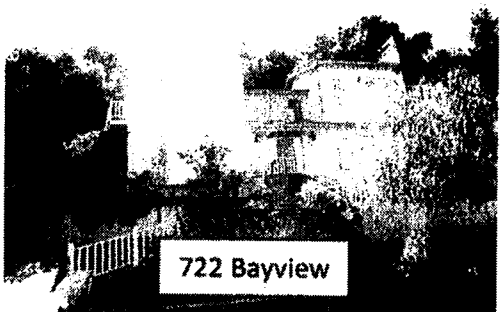
Virginia Smith
717 Bayview



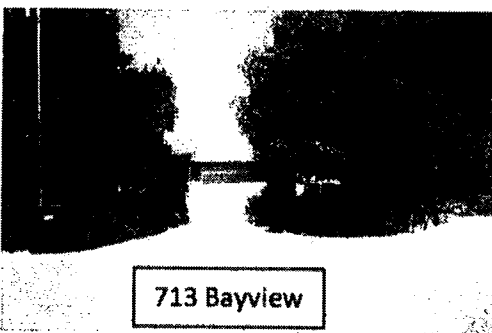
710 Bayview



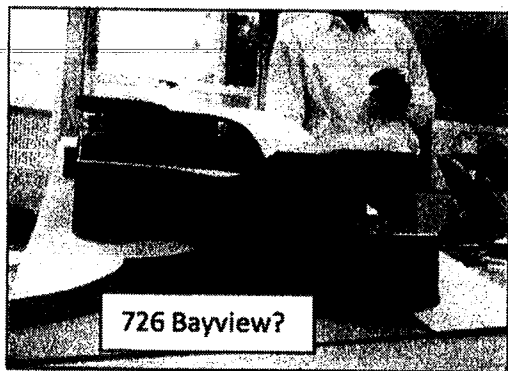
711 Bayview



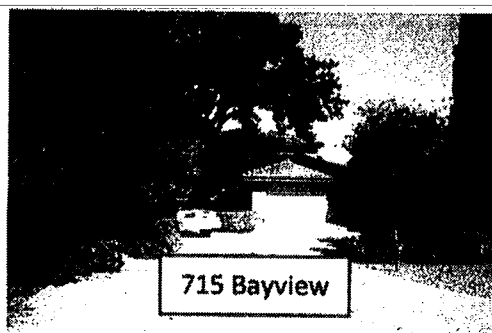
722 Bayview



713 Bayview



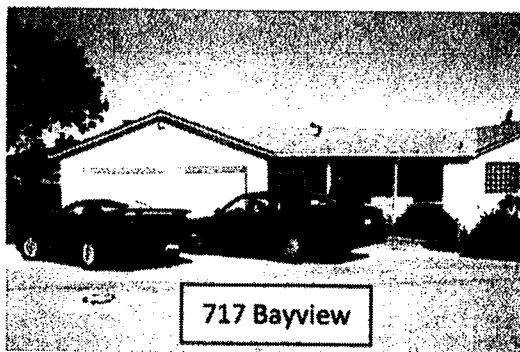
726 Bayview?



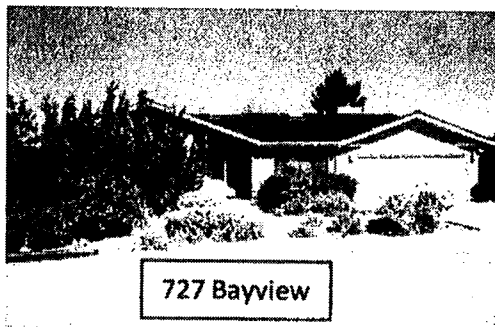
715 Bayview



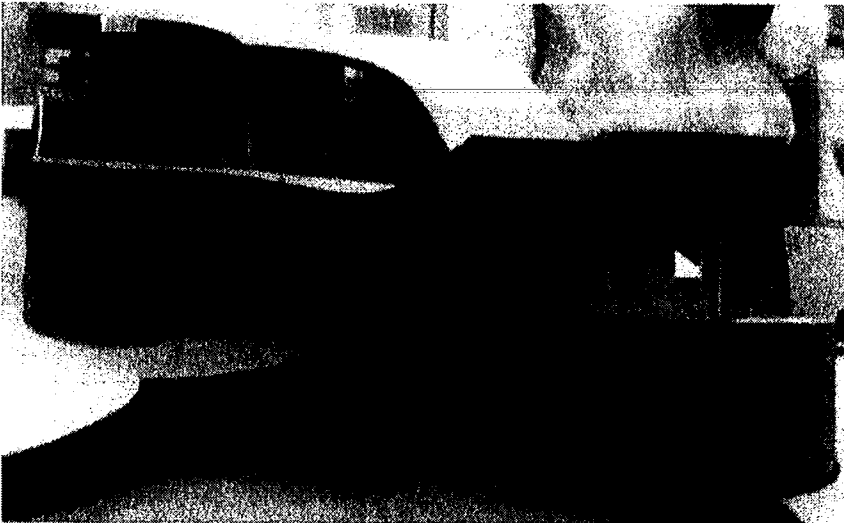
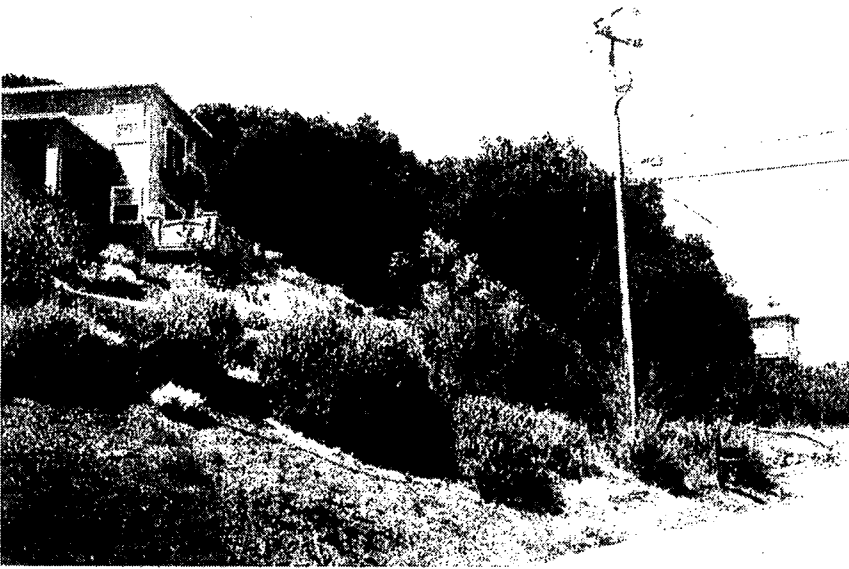
Bayview "inlaw"



717 Bayview



727 Bayview



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

January 29, 2010

Stephen Munich & Liwen Huang
722 Bayview Way
Emerald Hills CA 94062

Dear Ms. Adams,

This letter is concerning the proposed development at 726 Bayview Way, APN 068 091 370, immediately next door from our property at 722 Bayview Way, as shown in the drawings initially submitted to the Planning Department on 11/23/09.

We are the homeowners in closest proximity to the proposed construction and in many ways we will be the most impacted by it.

We are generally opposed to a house of this magnitude on the relatively small lot next to ours – nearly 4200 square feet on less than one-third of an acre, most of which is sloped. We also feel this particular modern design may not at all compatible with the existing homes on our block; its grand scale and close visual proximity to the more traditional architectural styles of the Bayview Way homes exacerbates this issue. Since all we have studied are project schematics, a clearer representation of the building from the street level could offer further clarification. That being said, the rest of this letter concerns the potential impact of the proposed construction as it stands today.

1) Maintaining Existing Land Use

We are diligently interested in maintaining our existing land use of our property:

a) When our home was built in 1994, both lots (APN 068-091-360 and APN 068-091-370) were owned by the same person. In 2005, in order for her to sell what is now our property, the owner of both lots created an easement on the neighboring lot at the proposed 726 Bayview site. This easement created legal precedent for land use and privacy issues above and beyond those created by our ownership and inhabitation of the neighboring parcel alone. Included with this letter is county document 2005-050663, outlining the details of our easement, improvements and maintenance responsibilities as the Dominant Tenement.

When we purchased our home in August of 2007, plans for a home on the lot next door had already been approved. The construction site for this previously approved plan was much higher on the slope than the proposed new construction on APN 068 091 370, and would not even have cast a shadow on our home. Had this current construction plan at this site been the approved

construction next door at the time of our consideration of purchase, we probably would not have completed our transaction. We contend that this proposed construction would lower the value of our home, especially due to the fact that the orientation of the outdoor activity areas of our home are directly towards the garage, trash receptacle area, balcony, family room and kitchen of the proposed construction. Double doors from our kitchen and family room open directly onto the widest part of our deck – just barely wide enough to accommodate an outdoor dining table where we entertain family and guests. A large flat wall of a neighboring home would create a completely different atmosphere and would greatly reduce our enjoyment of this valuable part of our home.

Additionally, the above reference easement area was always intended area as a front lawn for the property owner's use and enjoyment- we use it as a play and recreation area for our child, family and guests (see included photos). Doors from two downstairs bedrooms open up directly into this lawn and garden area which we meticulously maintain. Immediately adjacent to the easement area is a slate patio with an electrical outlet and a gas outlet for a barbeque grill. We are concerned that the proposed construction's trash receptacle area will not only be the first part of the structure that we see, but that fumes emanating from this area could severely curtail our enjoyment of our improved easement and our adjacent property, as this proposed trash area is clearly not fully enclosed. We request that this trash receptacle area be eliminated from the design. We keep our accumulated trash in our garage and see no reason why the next door occupants could not do the same.

b) We are concerned that the roof line of the proposed project is unnecessarily high above the proposed garage. This section of the roof could be flattened or even sloped downward without changing the nature of the design. This proposed change will reduce the shadow cast by the proposed building on our house and grounds, particularly on our southern deck and private yard area. It is difficult to estimate the total shadow impact from the limited plans submitted. We request that story poles be erected, especially for the downhill part of the proposed building, to give us a better understanding of the impact of the proposed structure on our property.

c) We want to make a public record of our desire to restore certain easement improvements on APN 068-091-370. Several large shrubs that allowed for separation on the easement line existed at the time of our home purchase and were destroyed by the previous owner of the subject property and never restored. When this previous owner of APN 068-091-370 defaulted and it was taken by the bank, the prior owner's commitment to restore these plants at his cost was also lost. Also the remaining shrubs were also mysteriously removed at some point during the time when the lot was listed for sale. We have included photos of the easement shrub area (before and after the damage) with this letter; a sheriff's report could be made available. Restoration of these plants will help in demarcating the easement line and also prevent construction workers and others from accessing the construction area through our easement. With the Planning Department approval, we plan to restore these shrubs as soon as possible, at our cost.

2) Trees

a) We are concerned about the loss of privacy due to the potential death of the mature heritage and significant trees during the construction process, especially those heritage oak trees near the adjoining borders of our two properties. In fact, all of these larger oak trees on APN 068-091-360 are valuable neighborhood assets and are likely interconnected to by their root system to the trees nearest our parcel. Since we do not live in a city, there is no "city arborist" as referenced by the letter dated 12/15/09 from Jerry Ingalls, Certified Arborist WE #7076A of Mayne Tree Arborist Company Inc. We are therefore concerned that no legal authority will certify that this specific Mayne Tree Inc. plan, or a more suitable and detailed plan, will be or can be followed.

b) We also have found no map in the planning documents supplied by the county which links the tree numbers from the Mayne Tree Inc. arborist's report to the trees plotted on the project schematics. The arborist report calls for several trees to be pruned, but does not mention which trees, tree limbs or the extent of pruning needed. Many of the trees which are to be retained will require massive trimming as they now extend into the proposed building envelope, and we need to understand the potential impact of this pruning. We also need to see definitive evidence that construction so close to the base of these trees and into their root systems will not damage and eventually kill them. The arborist report has also left off many trees that may be of interest to us, but again we have no way to verify which is which. I have included a set of photo prints that show the four trees closest to our property all taken from my property. The tree numbers referenced in the photos are those from the arborist's report when the numbered tags were visible at the time of photography.

3) Windows

The proposed structure contains two large picture windows that look directly into our house, deck, and private yard and therefore would invade our privacy. One window is 10 feet wide, the other is 8 feet wide; both of these windows are 6 feet high. Since the predominant window orientation of the proposed house is towards the southeast, away from our house, these two large windows are not necessary for the design and should be removed entirely. They serve no purpose and, just as they allow the occupants of the proposed house to look into our residence, they also allow us to look into theirs.

5) Geological Issues

a) We are greatly concerned about the stability of the slope that runs across both parcels. We would like to be presented with detailed proof that the construction process will not destabilize this shared slope.

b) We are concerned about the soil type and conditions and we need to see a thorough soils/geologist plan for the investigation of the presence of naturally occurring asbestos (NOA) contained in serpentine rock, common to the Emerald Hills area and found on our neighboring

lot. As there is a great amount of land to be cut and hauled from the proposed project, we would also like to see detailed material handling plans.

4) Drainage

We need to see a drainage plan that will insure that there is no additional runoff than currently exists from this parcel.

Sincerely,



Stephen M. Munich Liwen Huang

Erica Adams - Re: 726 Bay View Way

From: "Fred Herring" <flh1741@sbcglobal.net>
To: eadams@co.sanmateo.ca.us
Date: 2/1/2010 12:08 PM
Subject: Re: 726 Bay View Way

Erica:

Thank you for forwarding us a copy of the letter you received from Ms. Huang and Mr. Munich on Friday. In connection with issues raised in that letter you may note:

RE: "Maintaining existing land use". Maintaining the existing (non)use of Mr. Farahyar's property provides the neighbor with a free park. That's surely desirable from their point of view but it's difficult to imagine how anyone would buy a home on a nearby (re)subdivided parcel without understanding that the landowner would sell the property for development with another home.

Please also note that the trash area about which these neighbors express concern is fully screened from their view.

Our understanding is that easements (over both properties) is "mutual". Perhaps we can alter our planting plan to include the "restoration" of plant materials removed by the previous owners and which Ms. Huang and Mr. Munich wish to see replanted. That's a decision to be made by Mr. Farahyar since the plantings would be on his property. The neighbors' letter cites an enclosure which includes (all?) recorded easement documents. Could you please send us copies so we will all be reading off the "same page"?

As for the "unnecessarily high" roof line it should be noted that Mr. Farahyar's home will be deeply inset into this upslope site--and the roof height is well below the height limit (or the height of the neighboring home?).

RE: "Trees"

We agree that the existing oaks are very important to the visual "success" of this project. The plan of building is driven by my desire to "miss" all heritage trees. Only small oaks are proposed for removal and the arborist's recommendations for construction-period protection measure will be incorporated in the plans from which the home will be constructed.

RE: "Windows"

Yes, the predominant window orientation is "away from" the Huang-Munich residence. Reasonably balanced lighting is also needed, so closing all windows which face the neighbors' property seems inappropriate. Privacy is of import to Mr. Farahyar as well as to his neighbors. Many of the proposed plantings are located where they will screen views from the windows to which the neighbors object.

RE: "Geological Issues"

Few sites enjoy better geotechnical conditions than 726 Bayview. The geotechnical report which was part of the earlier development proposal approved by Mr. Munich and Ms. Huang makes that point as does the work done by Mr. Farahyar's consultant (David Jones Associates). Logs of tests (borings and test pit) reveal stable bedrock not asbestos.

RE: "Drainage"

Public Works will require that runoff waters be detained and gradually released, so the proposed developments will not increase runoff flows.

We trust the foregoing makes clear that the "issues" which concern Mr. Farahyar's neighbors (building heights, privacy, tree preservation, drainage) also concerned us. Dealing with those issues resulted in the proposed design. If you have any questions about the above responses to Mr. Munich and Ms. Huang, please let me know.

Regards,

Fred Herring

--- On Mon, 2/1/10, Erica Adams <eadams@co.sanmateo.ca.us> wrote:

From: Erica Adams <eadams@co.sanmateo.ca.us>
Subject: Re: 726 Bay View Way
To: "Fred Herring" <flh1741@sbcglobal.net>
Cc: farahyar2002@yahoo.com
Date: Monday, February 1, 2010, 10:51 AM

I had already scanned this to send to you this AM. No staff report unless it goes to ZHO.iv>

 Save Paper. Think Before You Print.

>>> "Fred Herring" <flh1741@sbcglobal.net> 2/1/2010 10:43 AM >>>

Erica:

RE: Farahyar Residence - 726 Bay View Way Design Review Hearing of 2/2/2010

Your earlier email mentioned "concerned" neighbors. If you have received any communications from neighbors, please send me copies today so I can be sure I have appropriate "answers" tomorrow. If there is a "staff report" please send that to me as well.

Thank you,

Fred Herring

cc: Ayoub Farahyar



County of San Mateo - Planning and Building Department

ATTACHMENT I

Erica Adams - FW: Request for meeting on BOS Appeal

From: "Ralph Osterling" <ralph@ralphosterling.com>
To: <eadams@co.sanmateo.ca.us>
Date: 1/26/2011 2:16 PM
Subject: FW: Request for meeting on BOS Appeal
CC: <munich59@yahoo.com>

Hello Erica
Attached is the memo I wrote to Jim E. we look forward to working together.
Best
Ralph

Ralph Osterling
President
ralph@ralphosterling.com

Ralph Osterling Consultants, Inc.
1650 Borel Place, #204
San Mateo, California
94402
(650) 573-8733
(650) 345-7890 fax

From: Ralph Osterling [mailto:ralph@ralphosterling.com]
Sent: Wednesday, January 26, 2011 12:33 PM
To: Jim Eggemeyer
Cc: 'Mike McCracken'; 'munich59@yahoo.com'; John M. Ward
Subject: Request for meeting on BOS Appeal

Jim
I apologize for not stopping and saying howdy to you at the BOS appeal hearing. Moving forward promptly is important if we are to meet the March BOS meeting deadline and for construction to proceed. We would like to coordinate as best possible through your Department to come to a consensus. Unfortunately I do not have the email contacts for the applicant or his architect, so I ask that you help to reach out to them. I propose we have an initial meeting on site so we are all on the same page with the current plans regarding the trees and the privacy issues. From that review, I recommend the following be directly addressed:

1. the safety and health of the trees during and following construction addressing both crown and root impacts
2. confirm privacy screening values of the trees following trimming for construction clearances
3. staking the construction limits to establish a baseline setback for tree protection as outlined in the Arborist report.
4. installation of story poles to confirm the overall heights and the window locations
5. any proposed mitigation in the form of tree protection, planting and the anticipated mitigation values and grow out times.
6. developing a mutually agreeable plan to move forward in good faith to resolve the issues
7. meeting the deadline set by the Board with all parties in agreement.

Your prompt help to put the meeting between all of us will be appreciated. If you wish that I coordinate the meetings, both field and office, however I do not have the applicant's contact information. I look forward to your prompt response.
Respectfully,

Ralph

Ralph Osterling
President
ralph@ralphosterling.com

Ralph Osterling Consultants, Inc.
1650 Borel Place, #204
San Mateo, California
94402
(650) 573-8733 office
(415) 860-1557 mobile
(650) 345-7890 fax

**Re: March 1 Board of Supervisors report deadline**

Wednesday, January 26, 2011 4:58 PM

From: "John M. Ward" <john@jmwassociates.com>**To:** "Ralph Osterling" <ralph@ralphosterling.com>, munich59@yahoo.com, "Mike McCracken" <mac@landuselaw.com>**Cc:** "Fred Herring" <flh1741@sbcglobal.net>, farahyar2002@yahoo.com

Ralph,

While Erika's position does not surprise me, I do not think President Carole Groom would necessarily embrace it. In Board's action to continue matter it effectively "directed" parties to meet and negotiate a compromise solution. It certainly did not exclude county staff's involvement. In asking for latter, your suggestion was reasonable because in the end if parties do not come to terms, the Board will be asking staff for its opinion and based on set of facts and defensible findings. I don't want to prejudge Mr. Herring's e-mail, but it will likely reinforce what he said at hearing in response to your presentation. That's one way to start negotiations!

John

----- Original Message -----

From: Ralph Osterling**To:** munich59@yahoo.com ; 'Mike McCracken' ; John M. Ward**Cc:** 'Fred Herring' ; farahyar2002@yahoo.com**Sent:** Wednesday, January 26, 2011 4:34 PM**Subject:** RE: March 1 Board of Supervisors report deadline

Team

I spoke with Erica this afternoon and she said that the County will not be involved in our settlement. Planning Dept already made a decision. She did afford me the contact information for Mr. Farahyar and Mr. Herring and I called and spoke with Mr. Farahyar. Mr. Farahyar said that Mr. Herring is preparing a letter to me in response to what I sent to the County. He expects that Mr. Herring will get an email letter out tomorrow. I requested a meeting with them on Friday afternoon and he will confirm with Mr. Herring. We both are aware of the short time frame expressed by Erica for us to do our work and for her to complete a staff report.

Ralph

Ralph Osterling

President

ralph@ralphosterling.com**Ralph Osterling Consultants, Inc.**

1650 Borel Place, #204

San Mateo, California

94402

(650) 573-8733

(650) 345-7890 fax

From: Erica Adams [mailto:eadams@co.sanmateo.ca.us]**Sent:** Wednesday, January 26, 2011 3:23 PM**To:** Ralph Osterling

January 27, 2011

Planning & Building Division
Attn: Ms. Erica Adams and
Mr. Jim Eggemeyer
County of San Mateo
455 County Center, 2nd Floor
Redwood City, CA 94063-4161

RE: 726 Bayview Way, Redwood City - Farahyar Residence

Dear Ms Adams and Mr. Eggemeyer:

Now I have the copy you provided of Mr. Osterling's e-mail to you. I also have copies of e-mail to/from Mr. Munich's (self-described) "team" (Messrs. Osterling, Ward and McCracken).

In connection with issues raised in those communications I ask that you note:

1. I very much doubt that a site meeting during which we all (County officers, property owners, consultants) struggle across Mr. Farahyar's hillside lot and peer through the bushes at Mr. Munich's backyard will further our common understanding of project circumstances.
2. I don't believe granting Mr. Munich a special privilege (Story poles in a district where they are not required) will reveal anything which can't be readily determined from the survey, from my drawings and from the model I constructed off those materials.
3. I will shortly provide photos and drawings to supplement the materials which were the basis for earlier County approvals of Mr. Farahyar's project. To that end I yesterday revisited the project site with Mr. Farahyar. I came away convinced that no significant privacy problem will be created by the construction of Mr. Farahyar's proposed home as approved. I also believe that the clear illustration of why that conviction is well founded will not be difficult.
4. I don't agree with Mr. Ward's view that the Board "directed" parties to meet and "negotiate". I think the Board asked for clarification of site circumstances to insure that earlier approvals were appropriately grounded. I also think that demonstrating to the Board that both applicant and County staff decisions took carefull account of Mr. Munich's privacy concerns will not be difficult.
5. All of the foregoing notwithstanding, I now plan to propose additional measures designed to ally Mr. Munich's fears that his privacy will be compromised by the construction of Mr. Farahyar's home as approved. With a copy of this letter I'll request that Mr. Munich and I meet at his home on Monday (January 31) or Tuesday (February 1) at any mutually convenient hour. I'll send you a report on the results of that meeting on the day following the meeting. At that time I'll also provide you with photos and drawings which further illustrate both site circumstances and my supplementary proposals.

Planning & Building Division
Attn: Ms. Erica Adams and Mr. Jim Eggemeyer
County of San Mateo
January 27, 2011
Page Two

Thank you for your continuing support of this project.

Yours truly,

HERRING & WORLEY, INC.


By Fredrick L. Herring

FLH:cp

cc: Mr. Farahyar
Mr. Munich
Mr. McCracken
Mr. Osterling
Mr. Ward

Enclosures

Erica Adams - RE: 726 Bayview

From: "Ralph Osterling" <ralph@ralphosterling.com>
To: "Fred Herring" <flh1741@sbcglobal.net>, "Erica Adams" <eadams@co.san...>
Date: 1/28/2011 3:05 PM
Subject: RE: 726 Bayview
CC: <munich59@yahoo.com>, <mac@landuselaw.com>, <john@jmassociates.com>

Mr. Herring

Thank you for affording me a copy of your January 27 letter to the County. I offer the following comments directly to your issues:

1. I feel a site meeting between you, your client, Mr. Munich and me will be very productive. Steve and I look forward to it.
2. Story poles or my survey rod placed along the edge of the proposed residence will be very valuable. We request that opportunity to show the elevations.
3. Mr. Farahyar confirmed you will be sending PDF drawings today. please bring an extra set of prints for us to the meeting.
4. You are correct in stating that Mr. Munich's privacy concerns will not be difficult, hence #2 above. I believe President Groom did direct the parties to resolve the issues and come back for the meeting as directed for Board action.
5. We look forward to meeting with you Tuesday 8:30 – 9:30 AM or 1:30 PM. Meeting at the Munich property and then confirming our discussion on the Farahyer property should resolve the issues.

Please confirm the time frame with me ASAP.

Respectfully,
 Ralph

Ralph Osterling
 President
ralph@ralphosterling.com

Ralph Osterling Consultants, Inc.
 1650 Borel Place, #204
 San Mateo, California
 94402
 (650) 573-8733 office
 (415) 860-1557 mobile
 (650) 345-7890 fax

From: Fred Herring [mailto:flh1741@sbcglobal.net]
Sent: Thursday, January 27, 2011 11:03 AM
To: Erica Adams; jeggmeyer@co.sanmateo.ca.us
Cc: munich59@yahoo.com; mac@landuselaw.com; john@jmassociates.com; ralph@ralphosterling.com
Subject: 726 Bayview

Erica and Jim:

Please see attached correspondence of today.

Fred Herring

Erica Adams - RE: Request letter to Mr. Herring/726 Bayview

From: "Ralph Osterling" <ralph@ralphosterling.com>
To: "Fred Herring" <flh1741@sbcglobal.net>, "Ayoub Farahyar" <farahyar20...>
Date: 2/8/2011 3:08 PM
Subject: RE: Request letter to Mr. Herring/726 Bayview
CC: "Erica Adams" <eadams@co.sanmateo.ca.us>, "Michael McCracken" <mac@l...>

Mr. Herring,
Please clarify and provide drawing to eliminate the needs for your "*Refinements to accomodate various circumstances (up and down slope) from that point (existing grade or existing trees) may be required.*"
Is this window really needed with all of the windows on the opposite side along the curving wall? Yes, admittedly I am not an architect, however that wall with the window removed would be a nice place for a book case or entertainment center.

As I stated before, it is improper for me to provide planting information since I am working for Mr. Munich.

Ralph Osterling

Ralph Osterling
President
ralph@ralphosterling.com

Ralph Osterling Consultants, Inc.
1650 Borel Place, #204
San Mateo, California
94402
(650) 573-8733
(650) 345-7890 fax

From: Fred Herring [mailto:flh1741@sbcglobal.net]
Sent: Tuesday, February 08, 2011 2:46 PM
To: Ralph Osterling
Cc: Erica Adams
Subject: RE: Request letter to Mr. Herring/726 Bayview

Mr. Osterling----- The sections I provided were cut at the centerline Of the 16'-6"kit-fam window assembly. Refinements to accomodate various circumstances (up and downslope) from that point (existing grade or existing trees) may be required
. I took the essential goal to be screening views toward Mr. Munichs rear yard (or home) from Mr. Farahyars new home. A screen attached to the building insures that we will accomplish that goal.
Regards, Fred Herring P.S. Planting suggestions?

--- On Tue, 2/8/11, Ralph Osterling <ralph@ralphosterling.com> wrote:

From: Ralph Osterling <ralph@ralphosterling.com>
Subject: RE: Request letter to Mr. Herring/726 Bayview
To: "Fred Herring" <flh1741@sbcglobal.net>, "Erica Adams" <eadams@co.sanmateo.ca.us>, munich59@yahoo.com, "Michael McCracken" <mac@landuselaw.com>
Date: Tuesday, February 8, 2011, 1:53 PM

Erica Adams - RE: Request letter to Mr. Herring/726 Bayview

From: "Ralph Osterling" <ralph@ralphosterling.com>
To: "Fred Herring" <flh1741@sbcglobal.net>, "Erica Adams" <eadams@co.san...
Date: 2/8/2011 1:54 PM
Subject: RE: Request letter to Mr. Herring/726 Bayview

Mr. Herring
 Thank you for the sketches over the kitchen window. Would you please provide a similar set for the family/dining room, for that is the greatest invasion of Mr. Munich's privacy.
 Thank you
 Ralph Osterling

Ralph Osterling
 President
ralph@ralphosterling.com

Ralph Osterling Consultants, Inc.
 1650 Borel Place, #204
 San Mateo, California
 94402
 (650) 573-8733
 (650) 345-7890 fax

From: Fred Herring [mailto:flh1741@sbcglobal.net]
Sent: Tuesday, February 08, 2011 11:01 AM
To: Ralph Osterling
Cc: Ayoub Farahyar; Erica Adams; munich59@yahoo.com
Subject: Re: Request letter to Mr. Herring/726 Bayview

Mr. Osterling:

I returned to the Bay Area late last night. This morning I arrived at my office to find your note of Friday afternoon. In reply to the items in your letter I ask you to note (responses numbered to correspond with items in your letter a copy of which is attached):

1. My understanding was that the Board directed us to work together to find means to insure our clients' privacy. Although I believe the approved proposal (windows reduced in size facing upslope through trees) achieves that end, I also understood from our meeting that Mr. Munich believes plantings in addition to approved "replacement trees" are needed. I suggested that you recommend those additional plantings. I also requested that some of those plantings be on Mr. Munich's (relatively tree-free) property.

2. The photos I planned to send Mr. Munich were of trellis screens on which vines are planted. I've been corresponding with County Planning about the possibility of using that approach on this project. I'd like to be sure I don't satisfy Mr. Munich only to discover that my "solution" falls afoul of Zoning District regulations. I'm hoping to receive a determination on permissible screens/trellises from County Planning today.

3.& 4. I prepared the drawings (dimensioned plan, site section and elevation) on Thursday of last week and delivered them to Mr. Farahyar that evening. I believe he delivered them to Mr. Munich on the following day. I think next day service is timely delivery of materials I agreed to prepare at our meeting! I look forward to seeing your suggestions for screen plantings today (?) or tomorrow.

I, too, wish to see us come to agreement on appropriate supplemental privacy plantings/measures in the next few days. That will allow the Staff Report prepared for the Board of Supervisors to describe

measures acceptable to both our clients.

Thank you for your continuing attention to our clients' needs.

Regards,

Fred Herring

cc: Mr. Farahyar
San Mateo County Planning
Mr. Munich and Team

Enclosures: Reference Copy of Mr. Osterlings Email of 1/4/2011

--- On Fri, 2/4/11, Ralph Osterling <ralph@ralphosterling.com> wrote:

From: Ralph Osterling <ralph@ralphosterling.com>
Subject: Request letter to Mr. Herring
To: "Fred Herring" <flh1741@sbcglobal.net>, "Ayoub Farahyar" <farahyar2002@yahoo.com>
Cc: "Michael D. McCracken" <mac@landuselaw.com>, munich59@yahoo.com, "John M. Ward" <john@jmwassociates.com>
Date: Friday, February 4, 2011, 2:22 PM

Mr. Herring:

This letter is a follow up to our meeting on the Munich property and to your letter to the County. It is critical for you to note the following:

1. We discussed and I agreed to cooperate with you on a landscape plan for your client's property plus the small planter area adjacent to the fence on Mr. Munich's property. Professionally I feel this approach is improper for I am working only for Mr. Munich and not for you or your client. Your team must develop the planting plans and irrigation design.
2. You promised copies of photos depicting one of your past projects with similar design. These photos were apparently in your office at the time of our meeting. You stated that you would send them out promptly when you returned to your office. As of this writing we are still waiting to receive them.
3. Your promised timing of having the dimensioned drawings with the trees properly located will be available on February 9. As you stated, these new plans will include the proposed screen in both plan and profile above existing grade plus building heights and window locations.
4. Your proposed delivery schedule does not allow us time to properly evaluate your new plans, to complete a site visit, and to submit our findings to the County in a timely manner for Erica to include in the staff report, so I am requesting an earlier delivery from you.
5. You will recall that the Staff Report will be prepared on February 11. I took the initiative, in a timely manner, to coordinate with you and to meet your schedule for our brief meeting on the Munich Property. I expect timely responses from you also.

Your prompt response is requested.

Ralph Osterling

Erica Adams - Re: Feedback from the meeting last week Re 726 Bayview

From: "Fred Herring" <flh1741@sbcglobal.net>
To: <munich59@yahoo.com>
Date: 2/9/2011 3:56 PM
Subject: Re: Feedback from the meeting last week Re 726 Bayview
CC: "Ayoub Farahyar" <farahyar2002@yahoo.com>, "Erica Adams" <eadams@co.sanm...>

Mr. Munich:

A copy of your e-mail to Erica Adams of late yesterday and Mr. Osterling's e-mail to me of about the same time are now on my desk. Neither of you appears to have closely examined the drawing I prepared last Thursday. You seem not to have understood the location of the cross section (with grade and fence elevations appended) I provided. I chose the midpoint of the proposed set of windows so that one section would address concerns about views from either window.

I was also disappointed that Mr. Osterling has not proposed screen plantings in accord with our discussions at your home on Tuesday of last week. In these circumstances submittal materials I prepare for Erica's use in preparing a Staff Report for the Board of Supervisors will necessarily lack planting suggestions I'd expected to receive from Mr. Osterling. I suggest we also take her suggestion and again meet at your home in the hope of identifying means which will allow you to understand that your privacy will not be intruded upon by the construction of Mr. Farahyar's home. At that meeting we could review both details of the trellis-like screens I've been discussing with Planning officials and Mr. Osterling's planting suggestions.

Please let me know when you and Mr. Osterling are available to meet.

Fred Herring

cc: Mr. Farahyar
 Mr. Osterling
 San Mateo County Planning, Attn: Erica Adams

--- On Tue, 2/8/11, Steve Munich <munich59@yahoo.com> wrote:

From: Steve Munich <munich59@yahoo.com>
 Subject: Re: Feedback from the meeting last week
 To: "Erica Adams" <eadams@co.sanmateo.ca.us>
 Cc: farahyar2002@yahoo.com, mac@landuselaw.com, ralph@ralphosterling.com, h_liwen@yahoo.com, john@jmwassociates.com, flh1741@sbcglobal.net, jeggmeyer@co.sanmateo.ca.us
 Date: Tuesday, February 8, 2011, 3:23 PM

Dear Ms. Adams -

We did just this afternoon receive two versions of a screening drawing superimposed on a schematic section that only addresses the kitchen window. The family room and its window were mysteriously not shown in the drawing - see attached. The photographs Mr. Herring promised to send us immediately after our on-site meeting last week have not been received.

The proposed family room window looks directly into our private outdoor dining area and deck and without screening (or removal) it would be the greatest invader of our privacy. Nothing Mr Herring has sent us as of today at 3pm makes an attempt to

address this most critical issue. Once we receive these drawings we will make measurements to verify that his proposal addresses our privacy concern, but as of now we cannot move forward at all.

Even if we were able to receive a better drawing set today from Mr. Herring, it is would not be possible for us to verify their effectiveness by tomorrow to meet your deadline. We would instead prepare our own report for submission to the Board of Supervisors meeting on March 1.

We still are hoping to receive the above mentioned information from Mr. Herring so that some sort of compromise can be reached in advance of the March 1 board meeting.

Sincerely

Steve Munich

--- On **Mon, 2/7/11**, Erica Adams <eadams@co.sanmateo.ca.us> wrote:

From: Erica Adams <eadams@co.sanmateo.ca.us>

Subject: Feedback from the meeting last week

To: "Ralph Osterling" <ralph@ralphosterling.com>, mac@landuselaw.com, munich59@yahoo.com

Date: Monday, February 7, 2011, 2:45 PM

Hello Gentlemen,

I am just wondering if you have any information that you would like to submit to be included in the BOS staff report? As I mentioned before I need that information by Wed. of this week. If you are preparing something that is not complete at this time, that is helpful to know as well. I by chance you concur with the letter that Mr. Herring submitted which summarized the meeting and course of action, that would be helpful to know as well.

Please keep me apprized as best as possible.

Respectfully,

Erica D. Adams, Planner III
Planning and Building Department
455 County Center, Second Floor
Redwood City, CA 94063
Phone: (650) 363-1828
Fax: (650) 363-4849



Save Paper. Think Before You Print.



County of San Mateo - Planning and Building Department

ATTACHMENT J

HERRING & WORLEY, INC.
1741 BROADWAY • REDWOOD CITY, CALIFORNIA 94063
PHONE: (650) 361-1441 • (650) 361-1009 FAX

February 2, 2011

Planning & Building Division
Attn: Ms. Erica Adams and
Mr. Jim Eggemeyer
County of San Mateo
455 County Center, 2nd Floor
Redwood City, CA 94063-4161

RE: 726 Bayview Way, Redwood City - Farahyar Residence

Dear Ms Adams and Mr. Eggemeyer:


Yesterday afternoon Mr. Farahyar and I met with Mr. Munich and Mr. Osterling at Mr. Munich's home. I proposed that the purpose of our meeting be to identify means we could agree would insure Mr. Munich's future privacy. To that end I suggested that Mr. Farahyar construct trellis-like screens parallel with the face of his home and located to obscure views from kitchen and family room windows which face Mr. Munich's rear yard. I also requested that Mr. Osterling propose screen plantings (on both Farahyar's and Munich's properties). I've agreed to prepare a site section which illustrates existing grades (along the building line and at the property line), proposed floor and window elevations and the suggested trellis. I further agreed to provide a partial plan which locates trees #13, 14 and 15 in relationship to Mr. Farahyar's and Munich's homes. Mr. Osterling has agreed to propose a planting plan based on the above-described detail plan and section.

I very much hope to avoid a replay of a hearing at which I say "There is no problem" and Mr. Osterling replies "There is a terrible problem". My suggestions of yesterday were intended to allow Mr. Osterling and I to work together so that Mr. Munich (and the members of the Board) will know that privacy concerns have been carefully addressed at 726 Bayview.

I'll provide you with copies of the materials I prepare for Messrs. Munich and Osterling as soon as they are complete. Thank you for your continuing attention to this project.

Yours truly,

HERRING & WORLEY, INC.


By Fredrick L. Herring

FLH:cp

cc: Mr. Farahyar
Mr. Munich
Mr. McCracken
Mr. Osterling
Mr. Ward

February 10, 2011

Dear Ms. Adams

Our view of the consensus from the initial meeting on Tuesday Feb 2 2011:

- 1) Mr. Herring and Mr. Farahyar showed up at my residence and left us with some incomplete plan drawings including elevations. We discussed the screening values of the two trees as they stand today and the impacts of possible removal of one of these trees. There was no drawing showing the construction impact on the trees on the applicant's property.
- 2) Fred Herring promised to come up with a screening plan based on a trellis-type design as one option to address our privacy issue. No other design options were discussed. As he had used this sort of method in previous screening applications, Mr. Herring also said he would immediately send us trellis photographs as examples along with pertinent section drawings, and appropriate detailed drawings of the screen.
- 3) Although Mr. Herring objected, the applicant agreed to allow us into his property to make measurements to verify his proposal.
- 4) Mr. Osterling did mention that he would offer to help select landscape plants to cover. No appropriate arborist report provided.

Further communications were as follows:

On Feb 4 2011, Mr. Osterling sent an email request to Mr. Herring, the summary:

- 1) It is inappropriate for Mr. Osterling to do work for Mr. Herring or the applicant as I am his client, and that Farahyar should hire his own advisor for planting plans and irrigation design.
- 2) The promised photographs were never sent (still the case as of 2/10/11).
- 3) Drawings of "proposed screen in both plan and profile above existing grade plus building heights and window locations" were promised. (as of this date only part of this was delivered).
- 4) The delivery date of items in 3) above will not (and did not) allow us time to verify dimensions and screening values.

On Friday Feb 4, 2011, I received section drawings with a screening plan at my residence. None of these were mailed or delivered to Mr. Osterling at his place of business.

On Feb 8 2011 Mr Herring emailed "possibilities" for a privacy screening plan and again asked for Mr Osterling to contribute plant selections. We found these privacy screening plans to not include the family room window. Also no photographs were sent. Mr. Herring also proposed a 6' high fence, but no drawings for it were included. Mr. Herring was waiting for feedback from the county planning staff (we never received any email of this feedback, if it was even supplied).

Also on Feb 8 2011, Mr Osterling immediately responded via email to Mr. Herring's drawing examples, asking for the an appropriate privacy screening plan to cover the privacy issue of the family room window.

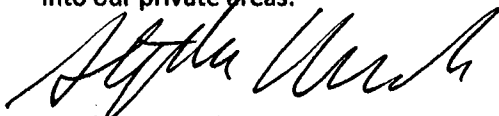
On Feb 8 2011 Mr Herring replied that "refinements to accommodate varying circumstances (up and downslope) from that point (existing grade or existing trees) may be necessary".

Seeing that Mr Herring was evading the issue, on Feb 8 2011 I sent an email to his team, my team and the county staff that stated (in summary):

- 1) "The family room and its window were mysteriously not shown" in the drawings Mr Herring sent us. The drawing did include the garage below but no family room window was shown. The proposed trellis did not extend far enough in the direction of the family room window to offer any coverage.
- 2) No photos were received, as promised.
- 3) The privacy issue from the family room window on the proposed building is the most critical issue to be resolved.
- 4) Nothing sent to us will allow us to verify these plans by the deadline of your staff report.
- 5) We are still hoping for information to resolve this issue.

On February 9 2011 Mr Herring sent us an email offering to meet with us to help "interpret" these trellis drawings. As of this date we have not responded to his offer.

Our conclusion is that without verifiable drawings of a suitable privacy screening solution that can be measured and verified by an independent contractor, no viable screening solution has been proposed other than to remove the window entirely or include a clearstory-type window to allow light but no view into our private areas.

A handwritten signature in black ink, appearing to read "Stephen Munich", written in a cursive style.

Stephen Munich



County of San Mateo - Planning and Building Department

ATTACHMENT K

PLN 2009-332

HERRING & WORLEY, INC.
1741 BROADWAY • REDWOOD CITY, CALIFORNIA 94063
PHONE: (650) 361-1441 • (650) 361-1009 FAX

February 9, 2011

RECEIVED

FEB 10 2011

**San Mateo County
Planning Division**

Planning & Building Division
Attn: Ms. Erica Adams and
Mr. Jim Eggemeyer
County of San Mateo
455 County Center, 2nd Floor
Redwood City, CA 94063-4161

RE: 726 Bayview Way, Redwood City - Farahyar Residence

Dear Ms. Adams and Mr. Eggemeyer:

On January 26, I revisited Mr. Farahyar's 726 Bayview property. My visit focused specifically on understanding the relationship of existing trees (#13, 14 15) to the approved project design and the privacy concerns of both Mr. Munich and Mr. Farahyar. Observations made during my site visit include:

1. Trees #13 and 14 are near the property line and cannot reasonably be described as endangered by the proposed development. Attached photos #1 and 2 illustrate the (close) relationship of these trees to the property line fence. It's also clear from those photos that few of the limbs of these trees will intrude on the volume of the proposed home.
2. Tree #15 is very close to proposed foundations. However, as a privacy barrier for the Munich residence, tree #15 aligns with tree #13 and tree #13 (set well back from project foundations) thoroughly screens the Munichs' home from Mr. Farahyar's kitchen and family room windows. See attached diagram #3 and photo #4.
3. Enclosed photo #5 illustrates the view from the midpoint (in plan) of the two windows Mr. Munich believes will intrude on his privacy. This is exactly where replacement trees were proposed and approved (see diagram #6). Even more complete screening could be provided were Mr. Munich to allow plantings within his (now tree-free) sideyard. In this connection it should be noted that were the Munich and Farahyar home not well offset in plan, the many Munich residence windows which face the Farahyar property would pose genuine privacy issues! Note photo #7!
4. As a supplementary privacy protection measure, I'd like to now propose trellis-like screens to obscure views out of kitchen and family room windows toward Mr. Munich's rear yard and home (see attachments #8 and 9). I don't believe this measure is essential (or even necessary) to the presentation of Mr. Munich's privacy, but it surely addresses a construction-period "worst case". In these circumstances I take the "worst case" to be serious damage to (or the destruction of) tree #15 during construction. I understand that County "Conditions of Approval" already address this concern (with construction-period tree protection measures, replacement trees and supplemental larger replacement trees should existing trees be damaged by construction activities).

Planning and Building Division
Attn: Ms. Erica Adams
County of San Mateo
February 9, 2011
Page Two

I further understand that (as noted above in #2 and illustrated by photo #4) privacy screening provided by endangered tree #15 is duplicated by tree #13. In terms of privacy, tree #15 is largely redundant.

All that being said, Mr. Farahyar's willingness to add trellis-like screens over proposed kitchen and family area windows should make it clear to Mr. Munich that he need not fear a future loss of privacy.

I have proposed a second meeting with Mr. Munich and his consultants. At that meeting I'll review screening provisions described on attachments #8 and 9. I hope Mr. Osterling will provide screen planting suggestions at that meeting. In any event, I will keep you apprised of any agreements we reach before the Board meets to again consider Mr. Munich's appeal.

Thank you for your continuing support of this project.

Yours truly,

HERRING & WORLEY, INC.

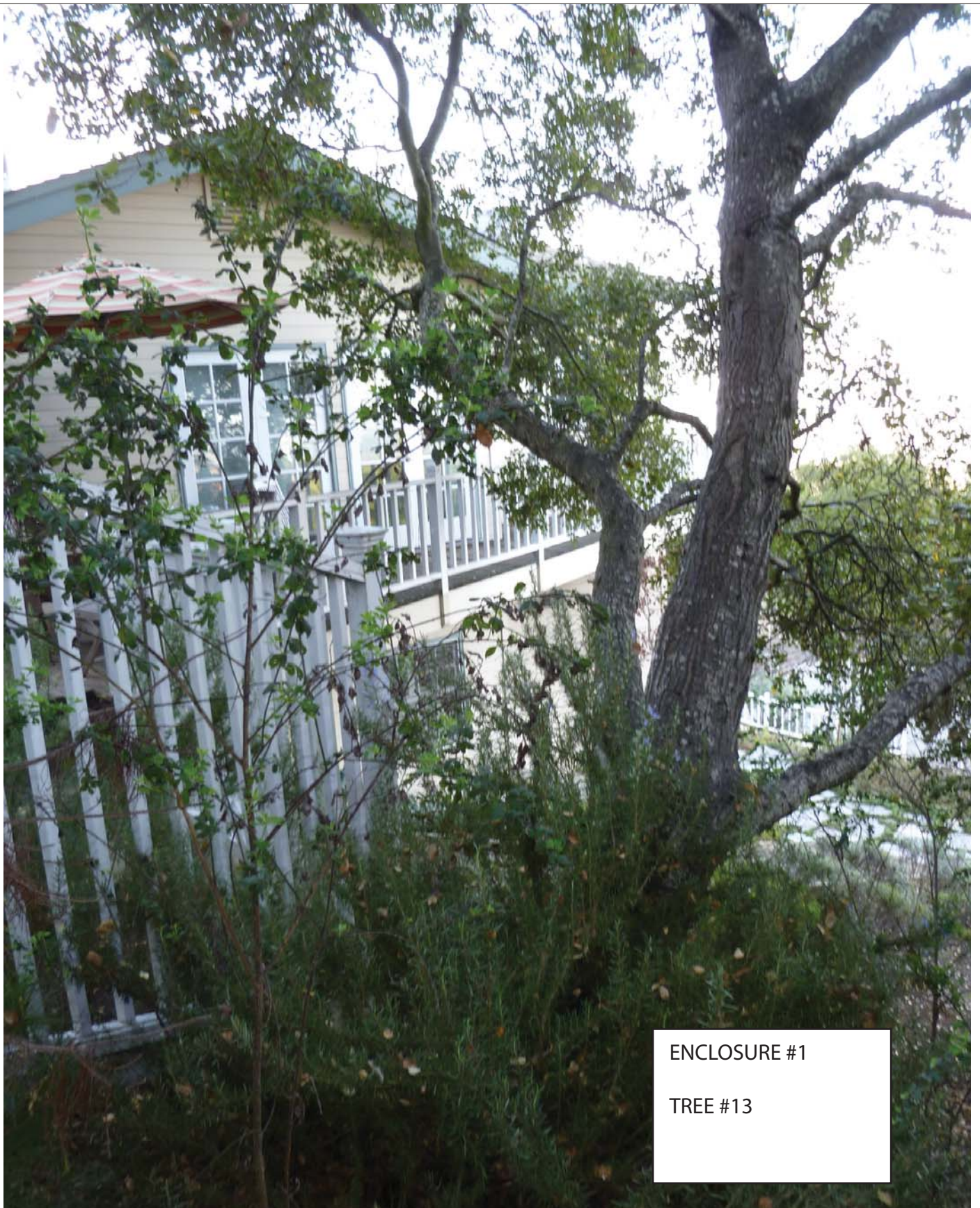


By Fredrick L. Herring

FLH:cp

cc: Mr. Farahyar

- Enclosures:
1. Photographs of Tree #3 Showing its Location Relative to the Property Line Fence;
 2. Photograph of Tree #14 Showing its Location Relative to the Property Line Fence;
 3. Plan/Diagram to Illustrate Duplication of Screening Effects of Trees #13 and 15;
 4. Photograph of Trees #13 and 15 to Illustrate Duplication of Screening Effects of These Trees;
 5. Photograph to Illustrate View Towards Munich Property from Midpoint between Kitchen and Family Room Area Windows;
 6. Partial Plan with Location of Replacement Trees Noted;
 7. Photograph of (Window-laden) Munich Residence Facade Facing Farahyar Property;
 8. Exterior Elevation of Farahyar Residence Facing Munich Property Marked up to Identify Locations of Proposed Screens;
 9. Detail Section of Proposed Screens over Kitchen and Family Room Windows.



ENCLOSURE #1

TREE #13

San Mateo County Board of Supervisor's Meeting

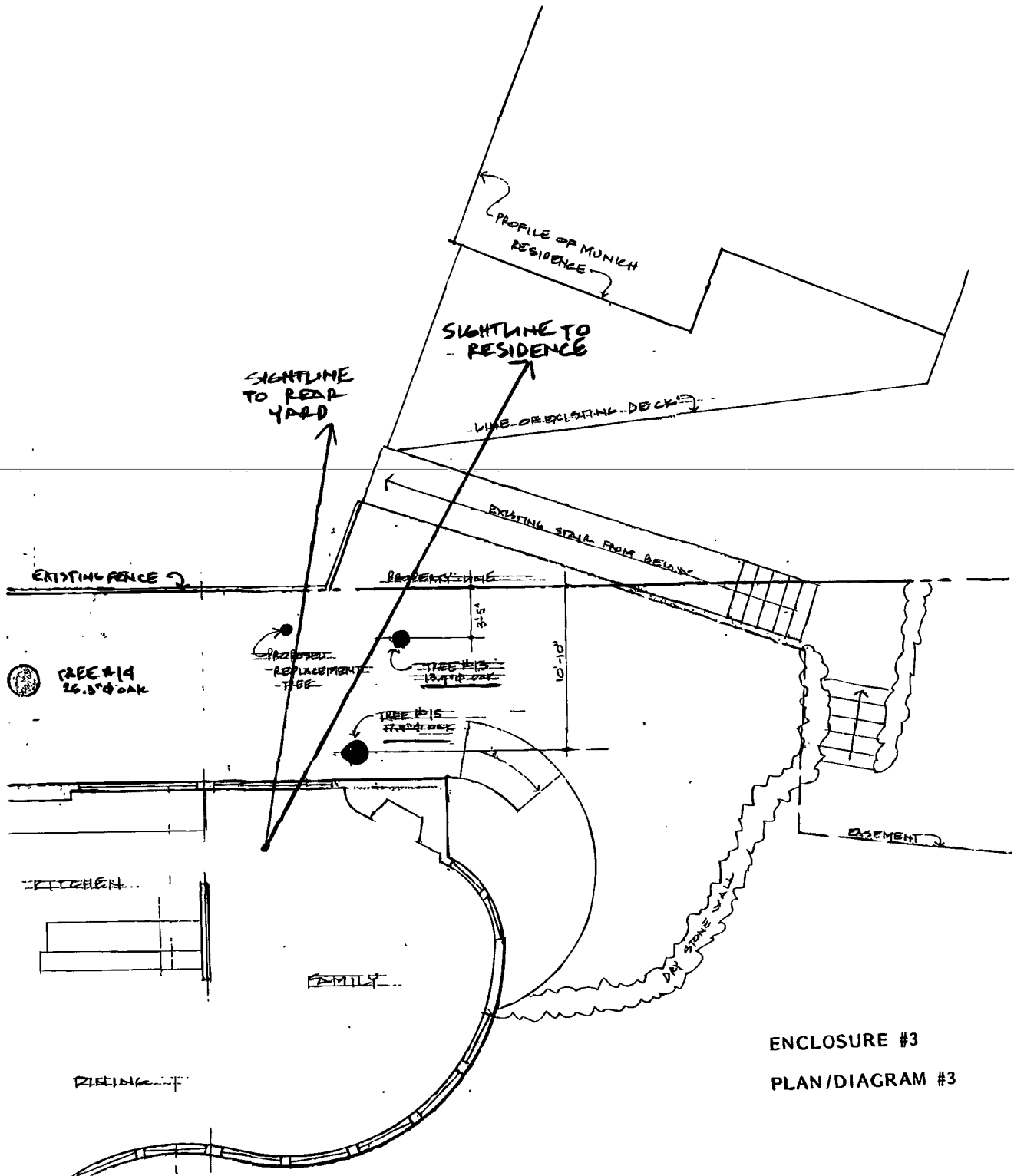
Owner/Applicant: **Ayoub Farahyar**

Attachment:

File Numbers: **PLN 2009-00332**

DIAGRAM #3

DUPLICATION OF SCREENING BY TREES #13 & #15



ENCLOSURE #3
PLAN/DIAGRAM #3

San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment:

File Numbers: **PLN 2009-00332**

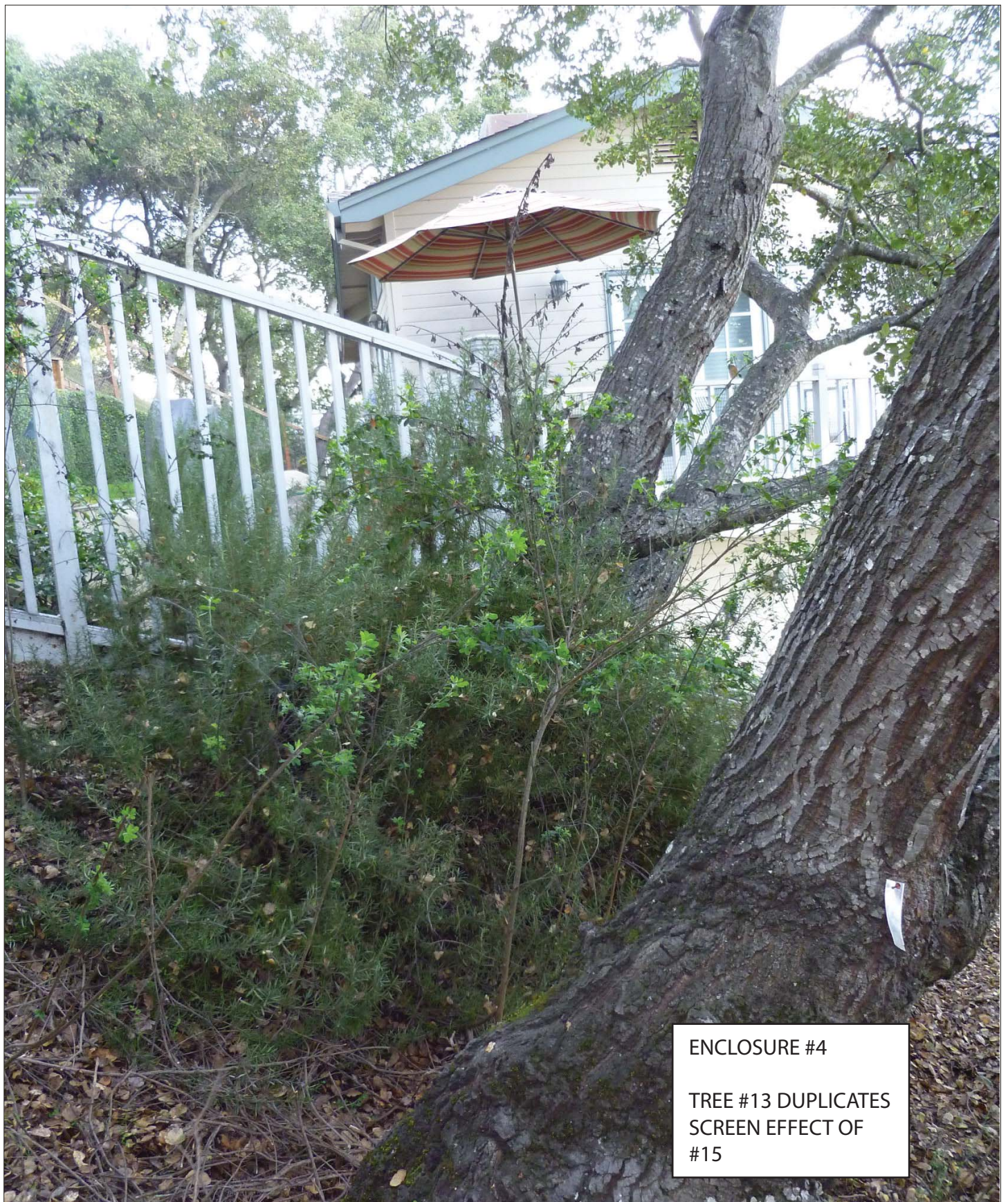


San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment: _____

File Numbers: **PLN 2009-00332**



ENCLOSURE #4

TREE #13 DUPLICATES
SCREEN EFFECT OF
#15

San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment:

File Numbers: **PLN 2009-00332**



San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment: _____

File Numbers: **PLN 2009-00332**



San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

Attachment: _____

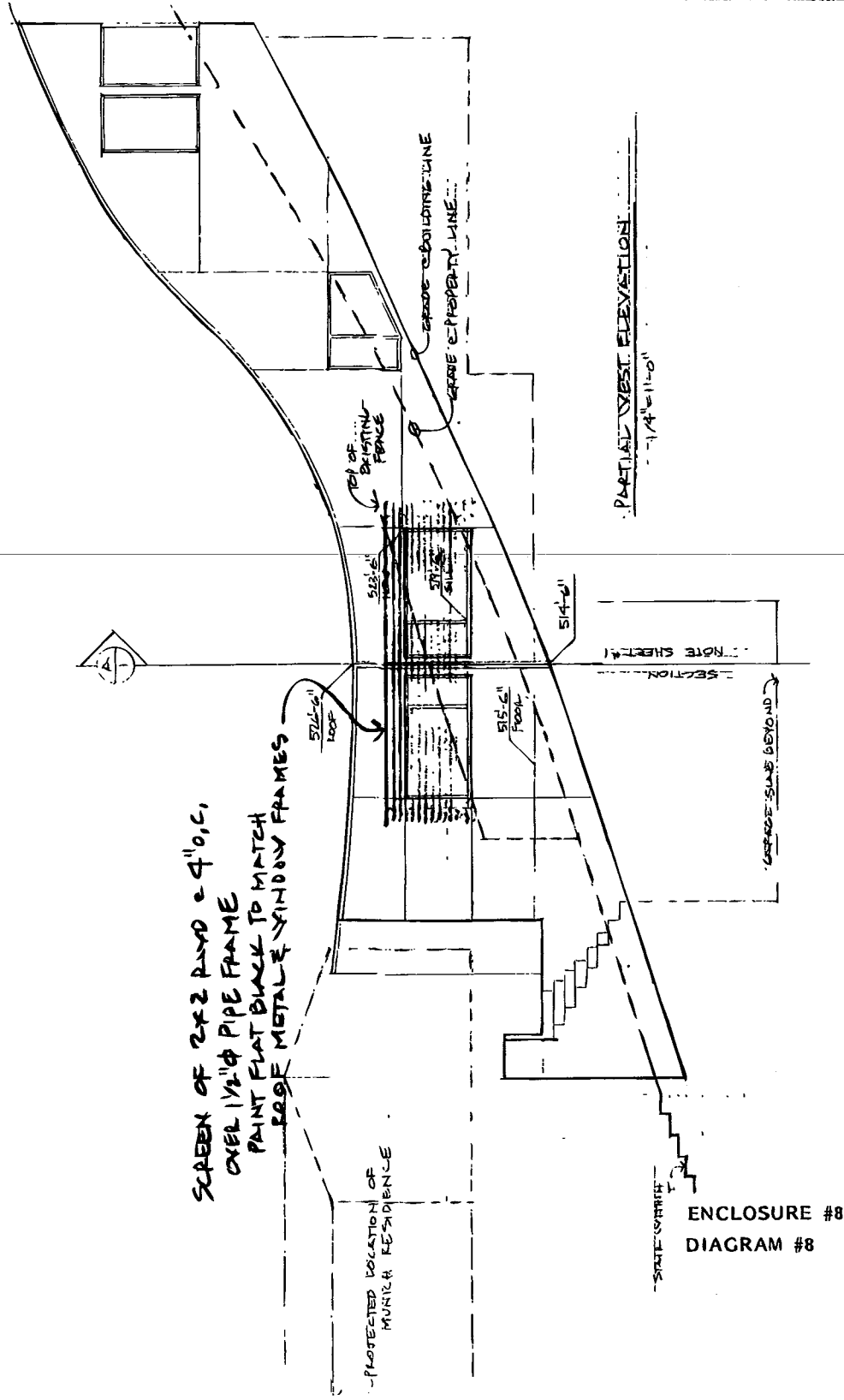
File Numbers: **PLN 2009-00332**

APPROVED LOCATION OF REPLACEMENT TREES
SCREENS VIEWS TO NEIGHBORING REARYARD



CDR8\plan09-332 01-11-11 rp

DIAGRAM #8 LOCATION OF PROPOSED TRELLIS SCREEN



San Mateo County Board of Supervisor's Meeting

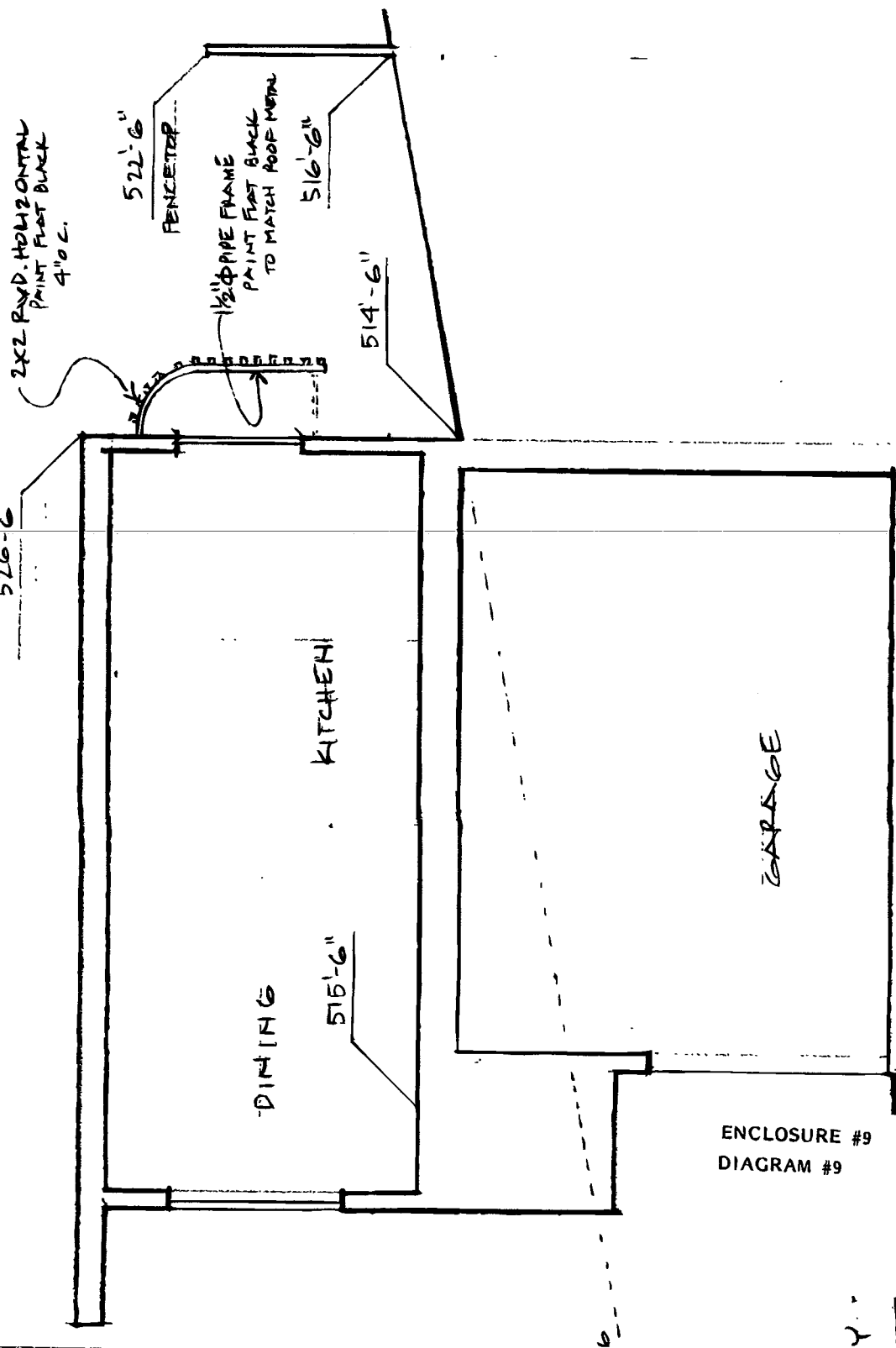
Owner/Applicant: **Ayoub Farahyar**

File Numbers: **PLN 2009-00332**

Attachment:

DIAGRAM #9

CROSS SECTION w/ TRELLIS SCREEN 526'-6"



San Mateo County Board of Supervisor's Meeting

Owner/Applicant: **Ayoub Farahyar**

File Numbers: **PLN 2009-00332**

Attachment:



County of San Mateo - Planning and Building Department

ATTACHMENT L



Mayne Tree Expert Company, Inc.

ESTABLISHED 1931

STATE CONTRACTOR'S LICENSE NO. 276793

CERTIFIED FORESTER

• CERTIFIED ARBORISTS

• PEST CONTROL

• ADVISORS AND OPERATORS

RICHARD L. HUNTINGTON
PRESIDENT

JEROMEY INGALLS
CONSULTANT/ESTIMATOR

535 BRAGATO ROAD, STE. A
SAN CARLOS, CA 94070-6228

TELEPHONE: (650) 593-4400

FACSIMILE: (650) 593-4443

EMAIL: info@maynetree.com

December 15, 2009

Mr. Ayoub Farahy
747 Southview Way
Redwood City, CA 94062

Dear Mr. Farahy,

RE: 721 BAYVIEW WAY, REDWOOD CITY

On December 9, 2009, at your request, I visited the above referenced site. The purpose of my visit was to identify, inspect, and comment on the trees at this site.

Method

Each tree was identified and given an identification number that was scribed onto a metal foil tag and placed at eye level on the trunk of the tree. This identification number has also been placed onto a site map, which was provided by you, to show the approximate location on the property. The diameter (DBH) of each tree was found by measuring the trunk at 54 inches off of the natural grade as described in the County of San Mateo tree ordinance. The height and the canopy spread were estimated to give the approximate dimensions. Each tree was then given a condition rating. This rating is based on form and vitality and can be further defined by the following table:

0	-	29	Very Poor
30	-	49	Poor
50	-	69	Fair
70	-	89	Good
90	-	100	Excellent

Lastly, a comments section is provided for each tree, this section gives more individualized detail for each tree's condition.

Limitations of this report

The inspection of this property is a visual inspection only that is performed from the ground. I assume no responsibility for any future problems that arise with the roots of these trees or any unseen problems in the upper canopies. As requested by the property owner, any trees above the upper portion of the proposed construction project, or any tree that will not be affected by the proposed construction project, will not be on this report.

Tree Survey

Tree #	Species	DBH (inches)	Condition (percent)	Height (feet)	Spread (feet)	Comments
1	Coast Live Oak	29.1	65	20	42	Two-stem at base; small low branch has re-rooted into the ground and become an additional leader; unique form; root crown covered; healthy canopy; abundance of interior deadwood.
2	Coast Live Oak	16.3	55	18	36	Uphill side of root crown covered; healthy canopy; abundance of interior deadwood.
3	Coast Live Oak	13.3	50	15	27	Two-stem at one foot; uphill side of root crown covered; some interior deadwood; good vigor.
4	Coast Live Oak	12.3	50	15	21	Root crown covered; poison oak on trunk; codominant at four feet; healthy canopy,
5	Coast Live Oak	7.8	50	12	15	Poison oak on trunk, root-crown covered, leans Northeast.
6	Coast Live Oak	9.6	45	15	24	Two-stem at base; main stem leans southeast uphill; root crown covered; abundance of interior deadwood.
7	Coast Live Oak	8.1	45	12	21	Severe southeast lean; root crown covered; abundance of interior deadwood.
8	Coast Live Oak	12.3	50	15	18	Two-stem at four feet; abundance of interior deadwood; root crown covered.
9	Coast Live Oak	8.0	50	18	15	Abundance of interior deadwood; root crown covered; codominant at ten feet.
10	Coast Live Oak	9.4	45	20	15	Root crown covered; codominant at five and a half feet with included bark; poison oak on trunk and around tree.
11	Coast Live Oak	Est. 8.2	40	15	18	Two-stem at one foot; poison oak on and around the trunk.
12	Coast Live Oak	13.7	55	20	33	Root crown covered; abundance of interior deadwood; poison oak around and on the trunk; healthy canopy; slight lean northeast.

Tree #	Species	DBH (inches)	Condition (percent)	Height (feet)	Spread (feet)	Comments
13	Coast Live Oak	7.4	45	12	18	Leans north; root crown covered; two-stem at base.
14	Coast Live Oak	26.3	50	20	45	Root crown covered; sycamore borer on trunk; heavy lateral limbs; large deadwood present; two-stem at base.
15	Coast Live Oak	17.9	45	20	33	Root crown covered; leans north; two-stem at four feet; abundance of interior deadwood.
16	Coast Live Oak	13.4	50	20	30	Root crown significantly covered; abundance of interior deadwood.

Observations

All the trees on this property are the result of natural undisturbed forest growth ecology. Many of these trees have poor growth patterns due to a competition for light with larger more mature trees. The slope of this property increases the natural erosion process, which causes the root crowns to become covered, making the trees more susceptible to fungal infections. There is an abundance of poison oak in the undergrowth on this property as well as other smaller undesirable species of plants including California bay trees.

Tree Protection Plan

1. A protective barrier of 6-foot chain link fencing shall be installed around the dripline of protected tree(s). The fencing can be moved within the dripline if authorized by the Project Arborist or City Arborist but not closer than 2 feet from the trunk of any tree. Fence posts shall be 1.5 inches in diameter and are to be driven 2 feet into the ground. The distance between posts shall not be more than 10 feet. This enclosed area is the Tree Protection Zone (TPZ). I have drawn in the approximate location of the tree protection fencing onto the site map provided by you.
2. Movable barriers of chain link fencing secured to cement blocks can be substituted for "fixed" fencing if the Project Arborist and City Arborist agree that the fencing will have to be moved to accommodate certain phases of construction. The builder may not move the fence without authorization from the Project Arborist or City Arborist.

3. Avoid the following conditions:**DO NOT:**

- a. Allow run off of spillage of damaging materials into the area below any tree canopy.
 - b. Store materials, stockpile soil, or park or drive vehicles within the TPZ.
 - c. Cut, break, skin, or bruise roots, branches, or trunks without first obtaining authorization from the City Arborist.
 - d. Allow fires under and adjacent to trees.
 - e. Discharge exhaust into foliage.
 - f. Secure cable, chain, or rope to trees or shrubs.
 - g. Trench, dig, or otherwise excavate within the dripline or TPZ of the tree(s) without first obtaining authorization from the City Arborist.
 - h. Apply soil sterilants under pavement near existing trees.
4. Only excavation by hand or compressed air shall be allowed within the dripline of trees. Machine trenching shall not be allowed.
5. Avoid injury to tree roots. When a ditching machine, which is being used outside of the dripline of trees, encounters roots smaller than 2 inches, the wall of the trench adjacent to the trees shall be hand trimmed, making clear, clean cuts through the roots. All damaged, torn, and cut roots shall be given a clean-cut to remove ragged edges, which promote decay. Trenches shall be filled within 24 hours, but where this is not possible, the side of the trench adjacent to the trees shall be kept shaded with four layers of dampened, untreated burlap, wetted as frequently as necessary to keep the burlap wet. Roots 2 inches or larger, when encountered, shall be reported immediately to the Project Arborist, who will decide whether the Contractor may cut the root as mentioned above or shall excavate by hand or with compressed air under the root. Root is to be protected with dampened burlap.

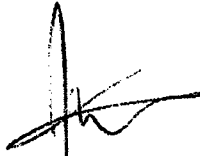
6. Route pipes outside of the area that is 10 times the diameter of a protected tree to avoid conflict with roots.
7. Where it is not possible to reroute pipes or trenches, the contractor shall bore beneath the dripline of the tree. The boring shall take place not less than 3 feet below the surface of the soil in order to avoid encountering "feeder" roots.
8. Trees that have been identified in the arborist's report as being in poor health and/or posing a health or safety risk may be removed or pruned by more than one-third, subject to approval of the required permit by the Planning Division. Pruning of existing limbs and roots shall only occur under the direction of a Certified Arborist.
9. Any damage due to construction activities shall be reported to the Project Arborist or City Arborist within six hours so that remedial action can be taken.

To allow adequate space for the proposed building, several of these trees will need pruning before construction begins. I recommend this work be done by a qualified licensed tree care professional and in accordance with the ISA accepted ANSI 300 standards.

When excavating for the future driveway it is very important, for the health of the trees, to "hand dig only" when inside the dripline of any protected tree; this will minimize the potential for root damage.

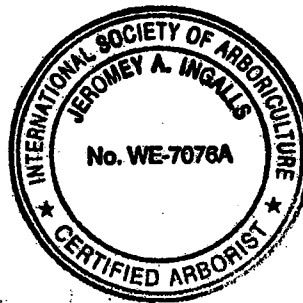
I believe this report is accurate and based on sound arboricultural principles and practices. If I can be of further assistance, please contact me at my office.

Sincerely,

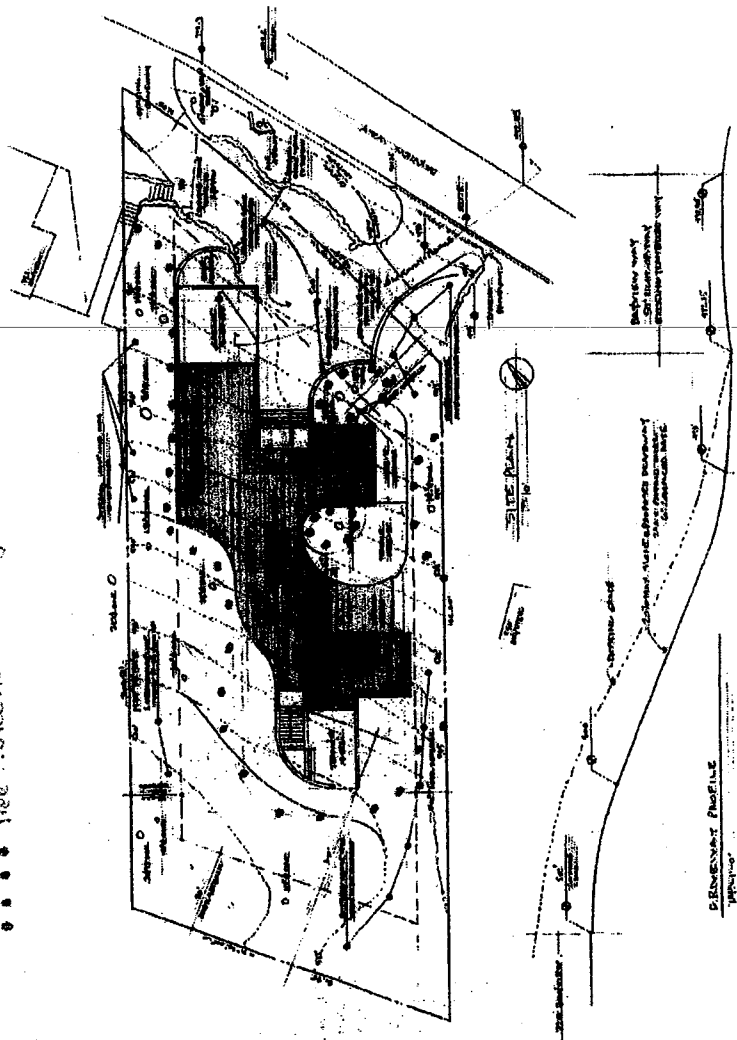


Jeromey A. Ingalls
Certified Arborist WE #7076A

JAI:pmd



..... Tree Protection Fencing



COMPILED BY: [illegible] DRAWN BY: [illegible] CHECKED BY: [illegible] DATE: [illegible]

ARBORIST REPORT

Submitted To:

**Mr. Stephen M. Munich
722 Bayview Way
Redwood City, CA 94062**

Submitted By:

**McCLENAHAN CONSULTING, LLC
James M. McClenahan
Registered Consulting Arborist #249
American Society of Consulting Arborists
May 7, 2010
©Copyright McCLENAHAN CONSULTING, LLC 2010**



McClenahan Consulting, LLC

Arboriculturists Since 1911

1 Arastradero Road, Portola Valley, CA 94028-8012

Telephone (650) 326-8781

Fax (650) 854-1267

www.spmcclenahan.com

May 7, 2010

Mr. Stephen M. Munich
722 Bayview Way
Redwood City, CA 94062

Assignment

As requested, I inspected specific Coast live oak trees on neighboring property to determine feasibility of tree retention and provide recommendations for tree protection and preservation during site improvement work.

Background

The site is a vacant parcel with gradual easterly sloping terrain. The dominant site species is Coast live oak with sufficient canopy cover to create a woodland effect.

Coast live oaks tagged #14, #15 and #16 are located in close proximity to the Munich property. They provide site screening, shading from southerly exposure and are growing in their native habitat.

Methodology

Site access could not be provided at the time of this inspection. Therefore this inspection was accomplished visually from the Munich property. The Mayne Tree Expert Company Arborist Report and County Planning Commission letter were provided. Tree measurements were taken from the Mayne Tree Expert Company, Inc. tree survey of December 15, 2009.

No root crown exploration, climbing or plant tissue analysis was performed as part of this survey.

In determining Tree Condition several factors have been considered which include:

- Rate of growth over several seasons;
- Structural decays or weaknesses;
- Presence of disease or insects; and
- Life expectancy.

Summary

Trees included in this survey can be retained. Actual distances from trunks for necessary excavation/grading cannot be determined from construction drawings provided. Sufficient distance from construction will allow preservation of buttress/sinker roots and sufficient lateral root environment would remain to allow sustained vigor. When within established *Tree Protection Zones (TPZ)* hand excavation of footings/grading to the first 30 inches in depth is required. Roots greater than one inch in diameter shall not be severed until inspected by the construction site arborist. Adoption of vertical shoring methods i.e. stitch piers may be necessary when with the *TPZ* to avoid over excavation.

Summary continued

The use of pier and beam foundation footings when within the *TPZ* can often lessen impacts to lateral root structures by reducing necessary excavations.

Directional boring for underground utilities will minimize root injury and is included in the construction documents as stated by Mr. Munich.

Pruning to provide construction clearances (most significant in tree #15) will not adversely impact long term health.

Tree Description/Observation

#14: Coast live oak (*Quercus agrifolia*)

26.3" DSH (diameter standard height)

Height: 20' Spread: 45'

Condition: Fair

Location: Within 8 feet of Munich garden fencing

Observation: Foliage is of uniform size and coloration. Shoot elongation is erratic. Trunk bifurcation is considered an inherent defect with canopy weighted to south. Restoration of natural grade at the root crown within 2 feet of trunk and permanent retention is advised. *TPZ* is established at 10 feet from trunk.

#15: Coast live oak

17.9" DSH

Height: 20' Spread: 33'

Condition: Fair

Location: Within 11 feet of Munich garden fencing

Observation: Foliage indicates vigor typical of the species. Codominant stems are considered an inherent defect. Restoration of natural grade within 2 feet of trunk and permanent retention is advised.

TPZ is established at 7 feet from trunk.

#16: Coast live oak

13.4" DSH

Height: 20' Spread: 30'

Condition: Fair

Location: Within 3 feet of Munich garden fencing

Observation: Foliage is typical of the species and indicates adequate vigor. Tree has grown to a slight northeasterly one sided canopy. Restoration of natural grade within 18 inches of trunk and permanent retention advised.

TPZ is established at 6 feet from trunk.

Conclusion

Two trees #15 and #16 are less than 18.0" in diameter less than the 18.0 inch diameter replacement basis for county guidelines. Based on the benefit to both sites should these trees be removed or die during construction, replacement should be considered necessary. Thirty-six inch box nursery grown container Coast live oak trees should be the minimum requirement requested by the County of San Mateo.

Observance of *Tree Protection Zone* as outlined in the Preservation Plan will minimize impact to tree environments and provide adequate tree protection during construction should encroachment become necessary. Implementation of preservation measures are provided to encourage adaptation to environmental changes, provide tree protection during improvement work, enhance tree conditions and prolong life expectancy.

TREE PRESERVATION GUIDELINES

Tree Preservation and Protection Plan

In providing recommendations for tree preservation, we recognize that injury to trees as a result of construction include mechanical injuries to trunks, roots and branches, and injury as a result of changes that occur in the growing environment.

To minimize these injuries, we recommend grading operations encroach no closer than five times the trunk diameter, (i.e. 30" diameter tree x 5=150" distance). At this distance, buttress/anchoring roots would be preserved and minimal injury to the functional root area would be anticipated. Should encroachment within the area become necessary, hand digging is *mandatory*.

Barricades

Prior to initiation of construction activity, temporary barricades should be installed around all trees in the construction area. Six-foot high, chain link fences are to be mounted on steel posts, driven 2 feet into the ground, at no more than 10-foot spacing. The fences shall enclose the entire area under the drip line of the trees or as close to the drip line area as practical. These barricades will be placed around individual trees and/or groups of trees as the existing environment dictates.

The temporary barricades will serve to protect trunks, roots and branches from mechanical injuries, will inhibit stockpiling of construction materials or debris within the sensitive 'drip line' areas and will prevent soil compaction from increased vehicular/pedestrian traffic. No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground around the tree canopy shall not be altered. These barricades should remain in place until final inspection of the building permit, except for work specifically required in the approved plans to be done under the trees to be protected. Designated areas beyond the drip lines of any trees should be provided for construction materials and onsite parking.

Root Pruning (if necessary)

During and upon completion of any trenching/grading operation within a tree's drip line, should any roots greater than one inch (1") in diameter be damaged, broken or severed, root pruning to include flush cutting and sealing of exposed roots should be accomplished under the supervision of a qualified Arborist to minimize root deterioration beyond the soil line *within twenty-four (24) hours*.

Pruning

Pruning of the foliar canopies to include removal of deadwood is recommended and should be initiated prior to construction operations. Such pruning will provide any necessary construction clearance, will lessen the likelihood or potential for limb breakage, reduce 'windsail' effect and provide an environment suitable for healthy and vigorous growth.

Fertilization

A program of fertilization by means of deep root soil injection is recommended with applications in spring and summer for those trees to be impacted by construction.

Such fertilization will serve to stimulate feeder root development, offset shock/stress as related to construction and/or environmental factors, encourage vigor, alleviate soil compaction and compensate for any encroachment of natural feeding root areas.

Inception of this fertilizing program is recommended prior to the initiation of construction activity.

Mulch

Mulching with wood chips (maximum depth 3") within tree environments (outer foliar perimeter) will lessen moisture evaporation from soil, protect and encourage adventitious roots and minimize possible soil compaction.

Inspection

Periodic inspections by the **Site Arborist** are recommended during construction activities, particularly as trees are impacted by trenching/grading operations.

Inspections at approximate four (4) week intervals would be sufficient to assess and monitor the effectiveness of the Tree Preservation Plan and to provide recommendations for any additional care or treatment.

All written material appearing herein constitutes original and unpublished work of the Arborist and may not be duplicated, used or disclosed without written consent of the Arborist.

We thank you for this opportunity to be of assistance in your tree preservation concerns.

Should you have any questions, or if we may be of further assistance in these concerns, kindly contact our office at any time.

Very truly yours,

McCLENAHAN CONSULTING, LLC

By. 
James M. McClenahan
Registered Consulting Arborist #249
American Society of Consulting Arborists

JMMc: pm



McClenahan Consulting, LLC

Arboriculturists Since 1911

1 Arastradero Road, Portola Valley, CA 94028-8012

Telephone (650) 326-8781

Fax (650) 854-1267

www.spmcclenahan.com

ARBORIST DISCLOSURE STATEMENT

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the arborist, or seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like a medicine, cannot be guaranteed.

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services such as property boundaries, property ownership, site lines, disputes between neighbors, landlord-tenant matters, etc. Arborists cannot take such issues into account unless complete and accurate information is given to the arborist. The person hiring the arborist accepts full responsibility for authorizing the recommended treatment or remedial measures.

Trees can be managed, but they cannot be controlled. To live near a tree is to accept some degree of risk. The only way to eliminate all risks is to eliminate all trees.

Arborist:


James M. McClenahan

Date:

May 7, 2010



County of San Mateo - Planning and Building Department

ATTACHMENT M

4316- 1720522

Recording Requested By:

Harry I. Price, Esq.
PRICE LAW FIRM
40 Main Street
Los Altos, CA 94022

When Recorded Return To:

Harry I. Price, Esq.
PRICE LAW FIRM
40 Main Street
Los Altos, CA 94022

2005-050663

02:51pm 03/30/05 ES Fee: 46.00

Count of pages 14

Recorded in Official Records

County of San Mateo

Warren Slocum

Assessor-County Clerk-Recorder



* 2 0 0 5 0 0 5 0 6 6 3 A R *

Line above for Recorder's use only

148

**DEED OF DRIVEWAY AND WALKWAY EASEMENT AND MAINTENANCE
AGREEMENT, TOGETHER WITH REVOCATION OF PRIOR GRANT OF MUTUAL
RECIPROCAL DRIVEWAY EASEMENTS AND MAINTENANCE AGREEMENT**

THIS GRANT OF A SINGLE DRIVEWAY EASEMENT AND MAINTAINENCE AGREEMENT ("Grant of Easement") is made on the date hereinafter set forth by KATHY LITTLE, as surviving Trustee of the LITTLE FAMILY TRUST dated August 4, 2003, ("Owner A") and KATHY LITTLE, as surviving Trustee of the LITTLE FAMILY TRUST dated August 4, 2003, ("Owner B").

RECITALS:

WHEREAS, Owner A is the owner of certain real property in the City of Redwood City, County of San Mateo, State of California, more fully described in paragraph 1.1 below.

WHEREAS, Owner B is the owner of certain real property in the City of Redwood City, County of San Mateo, State of California, more fully described in paragraph 1.2 below.

WHEREAS, Owner A and Owner B previously made a GRANT OF MUTUAL RECIPROCAL DRIVEWAY EASEMENTS AND MAINTENANCE AGREEMENT, dated and recorded on March 14, 2005 in the official records of the San Mateo County Recorder's Office ("The Prior Grant of Mutual Easements"), as instrument number 2005039708, and do now seek by this document to hereby revoke the prior grant of mutual easements document in its entirety, so that it is of no further force or effect, and is superseded in its entirety by this DEED OF DRIVEWAY AND WALKWAY EASEMENT.

NOW, THEREFORE, Owner B desires to formally grant to Owner A an easement for driveway and pedestrian access to be appurtenant to the property of Owner A, and to provide for the repair and maintenance of such easement. Owner A and Owner B hereby declare that all of the real property described in paragraphs 1.1 and 1.2 below, and the improvements located

thereon, shall be held, sold and conveyed subject to the following easement, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and improvements and be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
PROPERTY DESCRIPTIONS

- 1.1 Owner A currently owns a fee interest in that certain real property commonly known as 722 Bayview Way, Redwood City, California, APN 068-091-360, more particularly described as:

See legal description attached hereto as Exhibit "E" and incorporated as though fully set forth herein.

- 1.2 Owner B currently owns a fee interest in that certain real property commonly known as 721 Bayview Way, Redwood City, California, APN 068-091-370, more particularly described as:

See legal description attached hereto as Exhibit "F" and incorporated as though fully set forth herein.

ARTICLE 2
GRANT OF EASEMENT

- 2.1 Owner B, as Servient Tenement, agrees to and does hereby grant to Owner A, as Dominant Tenement and owner, an easement that is appurtenant to the Dominant Tenement, and shall run with the land, over the following physical area:

See legal description attached hereto as Exhibit "A" and incorporated as though fully set forth herein, the text of surveyor's description for portion of property for DRIVEWAY AND WALKWAY EASEMENT, together with diagram of easement area shown in Exhibit "B", a plat map of the portion of property described therein.

The Subject Easement shall be known as the "DRIVEWAY AND WALKWAY EASEMENT," and is made for two purposes: (1) for the benefit of the Dominant Tenement for the purpose of ingress and egress along the improved driveway, including the right to turn around vehicles, on the improved portion of the Servient Tenement, which driveway services the existing primary residence which is located on the property referred to herein owned by Owner A; and, (2) for the benefit the Dominant Tenement for the purpose of ingress and egress along the improved walkway, including the right to maintain and repair said improved walkway, on the improved portion of the Servient Tenement, which walkway only services the existing primary residence which is located on the Dominant Tenement.

Notwithstanding the ownership of the Dominant Tenement and Servient Tenement by the same individual at this time, or at any future date, it is expressly intended that there shall be no merger of title, but rather that the Subject Easement and covenants contained

in this Agreement shall remain in full force and effect. This Agreement applies to, inures to the benefit of and binds all parties hereto and their respective heirs, personal representatives, legatees, devisees, administrators, executors, successors and assigns. Any person or party who now or hereafter owns or acquires any right, title or interest in or to any portion of the Dominant Tenement and/or the Servient Tenement shall be conclusively deemed to have consented to and agreed to the covenants and restrictions contained herein.

- 2.2 Owner A and Owner B previously made a GRANT OF MUTUAL RECIPROCAL DRIVEWAY EASEMENTS AND MAINTENANCE AGREEMENT dated and recorded on March 14, 2005 in the official records of the San Mateo County Recorder's Office ("the prior grant of mutual easements"), as instrument number 2005039708, and the undersigned do hereby agree to revoke the prior grant of mutual easements document in its entirety, so that it is of no further force or effect, and is superseded in its entirety by this DEED OF DRIVEWAY AND WALKWAY EASEMENT. Owner B further acknowledges and agrees that it shall have no easement or access rights upon the property of Owner A, as more particularly described in Exhibit "E," attached hereto.

ARTICLE 3. USE RESTRICTIONS

- 3.1 Use of Driveway Easement Area. No use shall be made of the Driveway Easement Area except in accordance with this Grant of Easement; nothing shall be constructed, stored, kept, placed, built, planted or maintained on any part of the Driveway Easement Area except in accordance with the Grant of Easement.
- 3.2 Owner's Covenants. Each Owner, by acceptance of a deed to a Lot, covenants and agrees, and shall be deemed to covenant and agree for himself, his heirs, successors and assigns to abide by the provisions of the Grant of Easement.

ARTICLE 4. MAINTENANCE AND REPLACEMENT

- 4.1 Maintenance. Owner A shall be solely responsible for the maintenance and repair of the Driveway Easement Area, and the improvements located within the Driveway Easement Area. The Owners shall have the following rights, duties and obligations with regard to maintenance, repair, replacement and restoration of the Driveway Easement Area and any improvements located within the Driveway Easement Area.

4.1.1 Owner A shall solely maintain, repair, replace and restore the Driveway Easement Area, including, without limitation, any pavement and/or concrete surface located thereon. Said obligation shall include, without limitation, maintenance of asphalt, pavement or other road surface together with all curb and gutter facilities, utilities, sewer and drainage systems not maintained by the City, County or by any other public or private utilities. However, no maintenance, repair, replacement and/or restoration shall occur hereunder unless and until both Owner A and Owner B have approved such action. Both Owner A and Owner B agree that approval shall not be unreasonably withheld.

- 4.2 Purpose of the Maintenance and Repair Contribution. The Maintenance and Repair Contribution shall be used exclusively for the improvement, repair, maintenance and restoration of the Driveway Easement Area improvements within the Driveway Easement Area.
- 4.3 Common Area Destruction. In the event the Driveway Easement Area or improvements thereon which are to be maintained or repaired by the Owners are totally or substantially damaged or destroyed, the repair, reconstruction or disposition thereof and the use and disposition of insurance proceeds payable to the Owners in such event, if any, shall be used as agreed by both Owner A and Owner B, subject to the rights of institutional lenders; provided, however, that in no event shall hazard insurance proceeds for losses to the Driveway Easement Area be used for other than the repair, replacement or reconstruction of such damaged Driveway Easement Area unless both Owner A and Owner B give their prior written assent thereto.

ARTICLE 5. GENERAL PROVISIONS

- 5.1 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Grant of Easement shall be appurtenant to the land described herein, and the benefit of which shall pass to each Owner's successors in title and the burden of which shall pass to each Owner's successor in title.
- 5.2 Enforcement. Any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Grant of Easement. Failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 5.3 Liability for Damage: Each Owner shall be responsible for any damage caused to the private road and utilities described herein; and in the event such damage is caused by any Owner, or by that Owner's employees, agents, guests, or invitees, then that Owner shall be responsible for repairing the damage and restoring the road and utilities to their condition prior to such damage.
- 5.4 Term: The covenants, conditions, agreements and restrictions of this Grant of Easement shall run with and bind Property A and Property B in perpetuity from the date this Grant of Easement is recorded.
- 5.5 Captions: The captions or headings of the several Articles and paragraphs of this instrument are for convenience only and do not limit or restrict or modify the provisions of this instrument.
- 5.6 Severability: Should any provisions or portion hereof be declared to be invalid or in conflict with any law, the validity of all other provisions and portion hereof shall remain unaffected and in full force and effect.
- 5.7 Notice: Any notice permitted or required by this Agreement may be delivered personally

or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, certified mail, return receipt requested, postage prepaid, addressed to the Owner at the Property, unless the Owner notifies the other Owners in writing of a different address.

- 5.8 **Governmental Requirements:** This Agreement shall not in any way affect the duties or obligations of any Owner which are imposed on said owner by any governmental entity in connection with the development or use of the Property.
- 5.9 **Recording:** This Agreement shall be recorded with the County Recorder for the County of San Mateo.
- 5.10 **Governing Law:** This Agreement shall be governed by and enforced in accordance with the laws of the State of California.
- 5.11 **No Merger:** Notwithstanding the ownership of the Dominant Tenement(s) and Servient Tenement by the same individual, it is expressly intended that there shall be no merger of title, but rather that the Subject Easement and covenants contained in this Agreement shall remain in full force and effect.
- 5.12 **Entire Agreement:** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. All past oral representations and/or agreements are integrated into this agreement, and there are no other existing agreements between the parties herein. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by all parties (or their successors in interest) to this agreement.
- 5.13 **Attorney's Fees:** In the event of any controversy, claim, arbitration or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees, and costs incurred.
- 5.14 **AMENDMENTS:** Any changes to this Agreement must be in writing and signed by the parties thereto.
- 5.15 **MEDIATION OF DISPUTES:** The undersigned agree to and shall mediate any dispute or claim between them arising out of this contract or any resulting transaction. The mediation shall be held prior to any court action or arbitration. The mediation shall be confidential and in accordance with California Evidence Code §1152.5. In the event the parties are not able to agree on a mediator within thirty days of the first party seeking mediation, the presiding judge of the Superior Court of the county in which the property is located shall have jurisdiction to appoint a mediator. Should the prevailing party attempt an arbitration or a court action before attempting mediate, **THE PREVAILING PARTY SHALL NOT BE ENTITLED TO ATTORNEY FEES THAT MIGHT OTHERWISE BE AVAILABLE TO THEM IN A COURT ACTION OR ARBITRATION, AND IN ADDITION THERETO, THE PARTY WHO IS DETERMINED BY THE ARBITRATOR TO HAVE RESISTED MEDIATION MAY BE SANCTIONED BY THE ARBITRATOR OR JUDGE.** Mediation fees, if

any, shall be divided equally by the parties to the disputes.

IN WITNESS WHEREOF, the undersigned, being the grantors and grantees herein, have hereunto signed this DEED OF DRIVEWAY AND WALKWAY EASEMENT AND MAINTENANCE AGREEMENT, TOGETHER WITH REVOCATION OF PRIOR GRANT OF MUTUAL RECIPROCAL DRIVEWAY EASEMENTS AND MAINTENANCE AGREEMENT as of this 28th day of march, 2005.

GRANTOR of Easement from 722 Bayview Way, Redwood City, California
KATHY LITTLE, as surviving Trustee
of the LITTLE FAMILY TRUST dated August 4, 2003

By: _____

KATHY LITTLE, as surviving Trustee

GRANTOR of Easement from 721 Bayview Way, Redwood City, California
KATHY LITTLE, as surviving Trustee
of the LITTLE FAMILY TRUST dated August 4, 2003

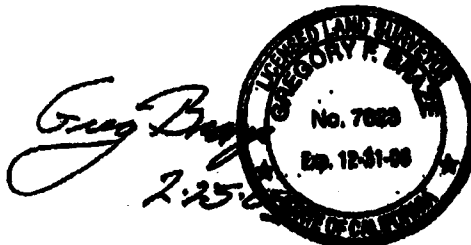
By: _____

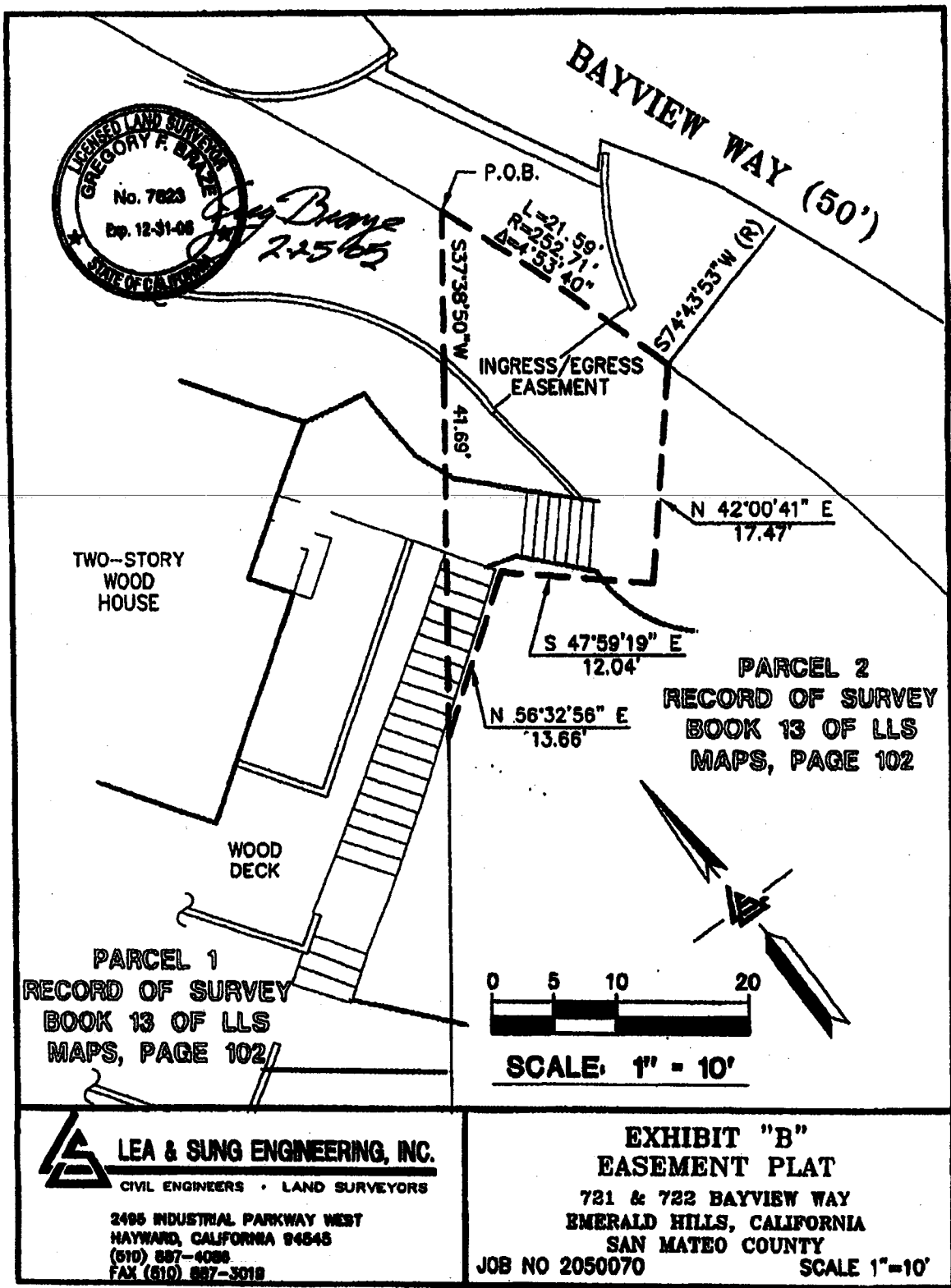
KATHY LITTLE, as surviving Trustee

Exhibit "A"
EASEMENT LEGAL DESCRIPTION

An Easement for Ingress & Egress over a portion of Parcel 2 for the benefit of Parcel 1 as said Parcels are shown on that certain Record of Survey recorded in Book 13 of Maps at Page 102, Records of San Mateo County, State of California, as shown on Exhibit "B" made a part hereof, more particularly described as follows:

Beginning at a point on the Westerly line of Bayview Way, said point being the most Northerly corner of said Parcel 2; thence Southwesterly along the Northwesterly line of said Parcel 2 South $37^{\circ}38'50''$ West, 41.69 feet; thence North $56^{\circ}32'56''$ East, 13.66 feet; thence South $47^{\circ}59'19''$ East, 12.04 feet; thence North $42^{\circ}00'41''$ East, 17.47 feet to said Westerly line of Bayview Way; thence along the arc of a non-tangent curve to the left, the center of which bears South $74^{\circ}43'53''$ West, having a radius of 252.71 feet, through a central angle of $04^{\circ}53'40''$, an arc distance of 21.59 feet to the point of Beginning.





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FAX (510) 887-3019

EXHIBIT "B"
EASEMENT PLAT

721 & 722 BAYVIEW WAY
EMERALD HILLS, CALIFORNIA
SAN MATEO COUNTY

JOB NO 2050070

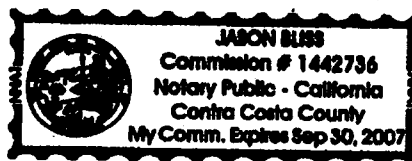
SCALE 1"=10'

Exhibit "D"
INTENTIONALLY LEFT BLANK

State of California)
County of Santa Clara) ss.

On March 28 2005, before me, Jason Bliss, personally appeared Kathy Little, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



[Signature] (Seal)
Signature

State of California)
County of Santa Clara) ss.

On _____ 2005, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature (Seal)

State of California)
County of Santa Clara) ss.

On _____ 2005, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature (Seal)

State of California)
County of Santa Clara) ss.

On _____ 2005, before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature (Seal)

Exhibit "E"
LEGAL DESCRIPTION

Real property in the unincorporated area of the County of San Mateo, State of California, described as follows:

ALL THE REAL PROPERTY SITUATE IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING A PORTION OF BLOCK 309 OF HIGHLANDS OF EMERALD LAKE, SUBDIVISION NO. 3, FILED IN BOOK 14 OF MAPS AT PAGE 48, RECORDS OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO LOTS 7, 8, 35 AND 36 OF SAID BLOCK 309 AND RUNNING THENCE SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF LOTS 6 AND 7, TO THE MIDPOINT OF LOT 6; THENCE NORTHEASTERLY TO THE MIDPOINT OF SAID LOT 6 LOCATED ON THE SOUTHWESTERLY LINE OF BAYVIEW WAY; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF BAYVIEW WAY, TO THE MOST NORTHERLY CORNER OF LOT 7; THENCE SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF LOT 7 TO THE POINT OF BEGINNING.

APN: 068-091-360 JPN: 068-009-091-12.01A

Exhibit "F"

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of San Mateo, State of California, described as follows:

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, BEING A PORTION OF BLOCK 309 OF HIGHLANDS OF EMERALD LAKE, SUBDIVISION NO. 3, FILED IN BOOK 14 OF MAPS AT PAGE 48, RECORDS OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER COMMON TO LOTS 4, 5, 38 AND 39 OF SAID BLOCK 309 AND RUNNING THENCE NORTHWESTERLY, ALONG THE SOUTHWESTERLY LINE OF LOTS 5 AND 6, TO THE MIDPOINT OF LOT 6; THENCE NORTHEASTERLY TO THE MIDPOINT OF SAID LOT 6 LOCATED ON THE SOUTHWESTERLY LINE OF BAYVIEW WAY; THENCE SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF BAYVIEW WAY; THENCE SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF BAYVIEW WAY, TO THE MOST EASTERLY CORNER OF LOT 5; THENCE SOUTHWESTERLY, ALONG THE SOUTHEASTERLY LINE OF LOT 5 TO THE POINT OF BEGINNING.

AND AS SHOWN ON THE APPROVAL OF LOT LINE ADJUSTMENT RECORDED OCTOBER 8, 1987 AS INSTRUMENT NO. 87155064 OF OFFICIAL RECORDS.

APN: 068-091-370



County of San Mateo - Planning and Building Department

ATTACHMENT N

SECTION 6565.15. STANDARDS FOR DESIGN IN EMERALD LAKE HILLS AND OAK KNOLL MANOR (AREAS ZONED RH/DR) AND DEVONSHIRE. The following design standards shall apply within Emerald Lake Hills and Oak Knoll Manor (areas zoned RH/DR only) and within Devonshire.

A. Site Planning

As much as possible, site new buildings on a parcel in locations that:

1. Minimize tree removal;
2. Minimize alteration of the natural topography;
3. Respect the privacy of neighboring houses and outdoor living areas;
4. Minimize the blockage of sunlight on neighboring buildings; and 5. Minimize alteration of streams and natural drainage channels.

B. Architectural Styles

Design new buildings that are architecturally compatible with existing buildings by requiring them to reflect and emulate, as much as possible, the predominant architectural styles and the natural surroundings of the immediate area (e.g., bungalow, craftsman, ranch). Avoid revivalist historical styles.

C. Building Shapes and Bulk

Design buildings with shapes that respect and conform to the natural topography of the site by requiring them to step up or down hillsides in the same direction as the natural grade. Control the bulk of buildings on hillsides by requiring them to be terraced up or down the hill at a uniform height. 28.1.11

D. Unenclosed Spaces

As much as possible, avoid the creation of unattractive, useless space beneath buildings by prohibiting buildings that are predominantly built on stilts.

E. Facades

Design well articulated and proportioned facades by:

1. Avoiding the dominance of garages at street level;
2. Considering the placement and appearance of garages and the width of garage doors;

3. Prohibiting massive blank walls by creating aesthetic and proportioned patterns of windows and shadows; and
4. Relating the size, location, and scale of windows and doors to adjacent buildings.

F. Roofs

Design buildings using primarily pitched roofs. Design buildings with roofs that reflect the predominant architectural styles of the immediate area.

G. Materials and Colors

Make varying architectural styles compatible by using similar materials and colors which blend with the natural setting and the immediate area. Avoid the use of building materials and colors which are highly reflective and contrasting by requiring them to blend and harmonize with the natural woodland environment and vegetation of the area.

1. Use colors such as warm grays, beiges, natural woods, and muted greens. Prohibit the use of cool grays, blues, pinks, yellows, and white.
2. Encourage the use of building materials that are compatible with the predominant architectural styles of the immediate area. In areas where bungalow, craftsman, and ranch architectural styles are predominant, use real wood and stone building materials such as board and batten, wall shingles, fire-resistant roof shingles, flagstone, and rock.
3. Avoid such materials as simulated stone and T-111 plywood. Ensure that all roof materials have Class "C" or better fire resistive ratings.

H. Utilities

Install all new service lines underground.

I. Signs

Control the use of signs so that their number, location, size, design, lighting, materials, and colors harmonize with their surroundings and are compatible with the architectural style of the building.

J. Paved Areas

As much as possible, keep the amount of visible paved areas (e.g., driveways, walkways, etc.) to a minimum.



County of San Mateo - Planning and Building Department

ATTACHMENT O

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

DATE: September 8, 2010

TO: Planning Commission

FROM: Planning Staff

PROJECT FILE

SUBJECT: EXECUTIVE SUMMARY: Consideration of a design review permit to allow the construction of a new 4,155 sq. ft. single-family residence and the removal of five (5) trees, and a grading permit for 755 cubic yards of cut and fill on a parcel located at 726 Bayview Way in the unincorporated Emerald Lake Hills area of San Mateo County (appeal of the Community Development Director's decision to approve the project).

PROPOSAL

The applicant is proposing to construct a 4,155 sq. ft. single-family residence on a 13,864 square foot parcel. Construction requires 755 cubic yards of grading and the removal of five significant trees. The parcel is located in the unincorporated County area of Emerald Lake Hills.

RECOMMENDATION

That the Planning Commission deny the appeal and uphold the Emerald Lake Hills Design Review Officer's recommendation and the Community Development Director's final decision to approve the project by making the findings and adopting the conditions of approval as shown on Attachment A, pursuant to Section 6565.15 of the San Mateo Zoning Regulations and Section 8602 of the County Ordinance Code.

SUMMARY

The applicant submitted a Design Review application for a new single-family residence on November 23, 2009. The project for the new house requires both a design review and a grading permit. The grading permit cannot be approved by the Design Review Officer and must be approved by the Community Development Director.

The Design Review Officer reviewed the design review proposal for the single-family residence on February 2, 2010, and stated that (1) the project is designed with minimal tree removal and attention to tree protection, (2) that the house will be formed so that the proposed excavation will replicate the shape of the existing topography, and (3) the proposed materials are natural and the colors are inspired by nature. Based on these aspects of the project, the project was recommended for approval. The Community Development Director made the required findings for the Design Review application and the associated grading permit, and granted final approval in a decision letter dated June 3, 2010.

On June 18, 2010, the project was appealed by Stephen M. Munich on the basis that (1) privacy is not maintained between the residences by allowing windows in the kitchen, which were reduced in dimension size from six feet to four feet in height as a condition of approval, (2) that inadequate tree protection has been proposed for trees between the two properties, and (3) that construction should have been prohibited on weekends.

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

DATE: September 8, 2010

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of a design review permit to allow the construction of a new 4,155 sq. ft. single-family residence and the removal of five (5) trees, and a grading permit for 755 cubic yards of cut and fill on a parcel located at 726 Bayview Way in the unincorporated Emerald Lake Hills area of San Mateo County (appeal of the Community Development Director's decision to approve the project.).

County File Number: PLN 2009-00332 (Farahyar)

PROPOSAL

The applicant is proposing to construct a 4,155 sq. ft. single-family residence on a 13,864 square foot parcel. Construction requires 755 cubic yards of grading and the removal of five significant trees. The parcel is located at 726 Bayview Way in the unincorporated County area of Emerald Lake Hills.

RECOMMENDATION

That the Planning Commission deny the appeal, and uphold the Emerald Lake Hills Design Review Officer's (DRO) recommendation and the Community Development Director's final decision to approve the project, by making the findings and adopting the conditions of approval as shown on Attachment A, pursuant to Section 6565.15 of the San Mateo Zoning Regulations and Section 8602 of the County Ordinance Code.

BACKGROUND

Report Prepared By: Erica D. Adams, Bayside Design Review Officer, Telephone 650/363-1828

Report Reviewed By: Lisa Aozasa, Senior Planner, Telephone 650/363-4852

Owner/Applicant: Ayoub Farahyar

Appellant: Stephen M. Munich

Location: 726 Bayview Way, Emerald Lake Hills

APN: 068-091-370

Parcel Size: 13,864 sq. ft.

Existing Zoning: RH/DR (Residential Hillside District/Design Review)

General Plan Designation: Medium-Low Density Residential (2.4 to 6.0 dwelling units per acre)

Sphere-of-Influence: City of Redwood City

Existing Land Use: Vacant

Water and Sewer Services: Redwood City Water Service and Individual sewage disposal system

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone C, Areas of Minimal Flooding, Community-Panel No. 0603110250B, dated July 5, 1984.

Environmental Evaluation: Categorically exempt from CEQA Guidelines pursuant to Section 15303, Class 3, construction of a new small structure in an urban area.

Parcel legality: The existing parcel was created by the Highlands of Emerald Lake Subdivision 1948, and legalized by a lot line adjustment recorded in 1987 (APN 068-091-370). The parcel is legal, non-conforming.

Setting: The project site is located in the unincorporated community of Emerald Lake Hills. The site is adjacent to parcels developed with single-family residences, with adjacent residences being approximately 22 feet away from the proposed development on each side. The parcel has a slope of approximately 30 percent and has 18 trees greater than six inches in diameter.

DISCUSSION

A. PREVIOUS ACTION REGARDING SUBJECT PROPERTY

In 2006, Planning application PLN 2006-00337 was submitted for a design review permit for a new 3,565 square foot single-family residence, a grading permit for 877 cubic yards, and removal of one tree. The project was approved on March 14, 2007. Building permits were applied for but never issued. All building and planning permit approvals were cancelled to allow processing of this application, PLN 2009-00332 in 2009.

B. PREVIOUS ACTION REGARDING CURRENT PROPOSAL

The applicant submitted a Design Review application for a new single-family residence on November 23, 2009. Construction of the proposed residence also requires a grading permit, which must be approved by the Community Development Director. After the plans were reviewed for zoning compliance and modified to comply with the floor area and lot

coverage limitations, the project was scheduled for the February 2, 2010 Emerald Lake Hills Design Review Officer meeting.

Emerald Lake Hills Design Review Officer Meeting on February 2, 2010

At the Emerald Lake Hills Design Review public hearing on February 2, 2010, the project was presented by the applicant. There were three neighbors at the meeting who raised issues with the project. These concerns included (1) drainage issues, (2) a request for story poles, (3) an asserted lack of privacy that the project would create on the adjacent property's outdoor spaces, (4) tree protection concerns, and (5) the non-traditional style of the proposed residence.

These issues were addressed by the Design Review Officer in the meeting in the following manner.

1. The Design Review Officer (DRO) stated that although drainage is a common topic raised at design review hearings, the issue is primarily addressed at the building permit stage. The County requires that water runoff levels to adjacent parcels or the street be the same before and after new development. Construction plans will include drainage calculations, prepared by a civil engineer and evaluated by the Public Works Department to ensure that this requirement is met.
2. Story poles were requested at the hearing by the appellant, Mr. Munich, to determine the height of the house and the potential for shadows to be cast on to his property. The DRO denied the request for story poles due to the fact that: (1) the height limit is 28 feet and a portion of the house is below ground, (2) there is nearly 22 feet between the proposed development and the Munich residence, (3) there are two mature oak trees which are proposed to remain on the subject property between the location of the two houses; and (4) the aforementioned trees exceed the height of the proposed house, therefore, any potential shadow created by the new residence would be less than the existing shadow created by the trees.
3. The appellant and a neighbor whose residence is located across the street, approximately 60 feet away, stated that she was concerned about viewing people in outdoor areas in the front balcony of the proposed house. In addition, the appellant has concern about neighbors viewing his family in his outdoor areas. The plans presented at the hearing showed a balcony area over the garage. This area is not directly visible from the house across the street since the house across the street is approximately 80 feet away and 20 feet higher in elevation. At the hearing, the Design Review Officer stated that since a portion of the garage was in the 20-foot front yard setback that there could not be any type of a second floor above the garage in the setback, including a balcony.

A condition of approval to remove this balcony area was included in the decision letter. Subsequent to the Design Review hearing, the applicant modified plans to place the residence entirely outside of the 20-foot setback and reduced the balcony

area to the size of a porch, which can provide an additional exit on the second floor. This change was allowed as an minor modification to the project for the building plans.

The discussion about privacy proceeded to the location of the windows on the east side of the house in the kitchen and family room. The appellant indicated that the windows would look onto his outdoor dining area. In preparation of this report, staff reviewed the building permits for 722 Bayview Way, currently Mr. Munich's residence, to assess the elevation of the finished floors of both the existing residence and the proposed. Comparison of the topography and stated finished floor elevations show that the two residences will have second levels at approximately the same elevation.

As previously mentioned, there are two large oak trees between the existing residence and the location of the proposed residence. In addition, the dining area is approximately 22 feet from the proposed residence. The windows, as proposed, were to have a dimension of six feet in height. At the hearing, Mr. Munich requested that there be no windows in the kitchen area. The Design Review Officer stated that a better compromise would be to reduce the dimension size of the windows and additionally either locate them slightly higher on the wall or lower on the wall to enable natural light to enter the room but not have as much of a direct line of sight to the adjacent property. It was concluded that by reducing the dimension size of the windows from six feet to four feet, that privacy between the two parcels would be increased, and this was made a condition of approval.

4. There are five trees proposed to be removed to construct this residence. In addition, there are six large trees near the footprint of the house which have been designated to remain, which may be impacted by construction. The Design Review Officer was concerned about two trees which are the ones that the house terraces have been designed to accommodate, since they are very close to the foundation of the house. Four other trees are of concern by the neighbors for the same reason, most notably the ones between the proposed residence and Mr. Munich's residence.

A tree survey and tree protection measures for the proposed construction, dated December 15, 2009, were prepared by Mayne Tree Expert Company Inc. (Attachment K) to address the health of the trees and how they may be impacted by construction. This report indicated that all of the trees in question could be retained during construction with appropriate protection measures. The report calls for an on-site arborist, hand digging around drip lines, strategic trimming of the trees, covering of exposed roots within a 24-hour period, and maintenance of a tree protection zone (TPZ). Conditions of approval have been added which require adherence to these measures during construction, replacement of any tree over 18 inches in diameter which is damaged and needs to be removed with a 36- or 48-inch box oak tree, and monitoring of the health of replacement trees for three years beyond the date of issuance of the final building permit.

5. The final issue raised was the non-traditional style of the proposed residence. Two of the three neighbors expressed this sentiment directly to the Design Review Officer; asking the DRO to specifically address how the project complied with the design review standard for compatibility with surrounding residences. The DRO stated that compatibility with the surrounding houses was not high, but that other aspects of the project illustrated substantial compliance with other design review standards and, therefore, it was possible to make a recommendation of approval for the proposal. The Community Development Director made the required findings for the Design Review application and the associated grading permit, and granted final approval in a decision letter dated June 3, 2010.

C. APPELLANT'S BASIS FOR APPEAL

On June 18, 2010, the project was appealed by Stephen M. Munich on the basis that (1) privacy is not maintained between the residences by allowing windows in the kitchen, which were reduced in dimension size from six feet to four feet in height as a condition of approval (2) that inadequate tree protection has been proposed for trees between the two properties, and (3) that construction should be prohibited on weekends. These concerns are directly linked to conditions of approval found in the decision letter dated June 3, 2010 (Attachment G). A detailed response to each item raised by the appellant is below.

1. PRIVACY

Condition Number 6: The east side windows shall be reduced to a dimension of four feet in height.

The appeal letter states that the approved east side kitchen and family room windows significantly reduce the privacy of both the property dwellers. It states that regardless of where on the interior wall the four-foot high windows are placed, the resulting view from the rooms will look into the Munich's outdoor dining area, deck and back yard and that the Munichs will be able to see into the family room and kitchen of the proposed house. Further, the letter contains a request to have the windows be no lower than six feet high from the floor of the kitchen.

Staff Response: Staff concurs that the DRO's condition of approval, modifying the kitchen window sizes and location adequately ensures privacy of the two residences. With respect to additional modification requested by Mr. Munich, it should be noted that windows at such a high height (six feet above the floor level) would be an undesirable feature of a kitchen area. Windows which are significantly above the floor, such as those requested, are typically only required to ensure privacy in bedrooms.

The kitchen area in the proposed residence is approximately 22 feet from the Munich's deck. There are two existing mature oak trees directly outside of where the kitchen windows will be located. In addition, there is one new tree proposed to be planted between the two houses in the area in question. As discussed in detail in

the next appeal response below, according to both the applicant's and the appellant's arborists, the existing trees are anticipated to survive construction and, therefore, continue to offer screening. If the trees are damaged and must be removed, a tree removal permit is required and replacement trees required. All trees 18-inches or greater in diameter are subject to the condition of approval for a minimum 36-inch box oak tree. Two of the four trees are subject to this condition, and although replacement trees are typically 5-gallon trees, size and type are subject to conditions set by the Community Development Director.

The Munich's outdoor area is in a side yard that is eight feet from the property line. It is not feasible to achieve a high level of privacy in a side yard area with eight feet of distance from a property line when both properties are developed. If additional screening between the properties is desired, it can be addressed through additional vegetation and fencing.

2. TREE PROTECTION

Condition Numbers 8 and 9: Requirement for a tree protection plan, representation of that plan on the building plans, and installation of protection measure prior to the issuance of a building permit.

Mr. Munich hired an arborist firm, McClenahan Consulting, to report on the tree protection measures necessary to retain the trees between his house and the proposed residence. A report dated May 7, 2010, was submitted with his appeal filing (Attachment H). In the appeal letter Mr. Munich requests that the arborist report by McClenahan be utilized by either replacing or supplementing the applicant's arborist report, and that the recommendations from the McClenahan report should be implemented on-site and reflected in the conditions of approval.

Staff Response: It is not the County's policy to determine that a report prepared by a service provider will take precedence over a report prepared by another. Both reports were produced by certified arborists which is the requirement for an acceptable report. In addition in reviewing both reports, staff finds that they are essentially the same in most respects. The differences are with regard to measurements, such as whether a post can be installed at 1.5 feet in depth or 2 feet in depth, whether hand digging only or air compression digging is allowed within the tree drip line, and the specification of fertilization and mulching. One difference in the McClenahan report which is raised by Mr. Munich is a recommendation that the trees which do not measure 18 inches in diameter also be replaced with the larger 36-inch box oak. However, both reports indicate that the trees that Mr. Munich is most concerned about will survive the construction process. Therefore, while the applicant is not opposed to modifying the replacement to include those trees just under 18 inches in diameter, according to both arborists, this will most likely not be necessary. Staff does not believe that the applicant's arborist report is inadequate or incomplete. Retention of mature oaks is advantageous to the applicant since it increases both the financial and aesthetic value of the property. While requiring fertilization and

mulching can be a way to increase adherence to the design review standards regarding tree protection, requiring a change in arborists is not.

3. CONSTRUCTION HOURS

Condition Number 20: Construction hours are 9:00 a.m. to 5:00 p.m. on Saturday.

Mr. Munich is requesting that no construction activity occur on Saturdays since it may be close to the outdoor area of his residence.

Staff Response: The condition that specifies the hours during which construction activities are permitted come from the County ordinance code and is a standard condition for most projects. These hours are typically only modified when the project site is directly adjacent to a city that has more restrictive construction hours. Saturday construction hours, 9:00 a.m. to 5:00 p.m., are three hours less than week-day hours which are 7:00 a.m. to 6:00 p.m. No construction is allowed on Sunday. Residential construction is a temporary inconvenience for residents, and by prohibiting construction on Saturday, the work will continue for more weeks. In this case, staff finds that weekend construction hours are adequately regulated through existing County's ordinances.

D. PROJECT COMPLIANCE WITH COUNTY REGULATIONS

1. Conformance with the General Plan

The General Plan contains an overarching goal, Visual Quality Policy 4.4, for the appearance of rural and urban development to "Promote aesthetically pleasing development." The General Plan then calls for the establishment of guidelines for communities to achieve these goals. The establishment of the Design Review chapter in the San Mateo County Zoning Regulations is the mechanism which fulfills this directive.

Design Standards for Emerald Lake Hills are found in Section 6565.15 of the Zoning Regulations. The relevant standards for this project include: (1) Site Planning with respect to tree removal, respecting the privacy of neighboring houses and outdoor living areas, (2) Architectural styles which reflect and emulate the predominant architectural style of the area, (3) Facades with respect to avoiding massive blank walls and relating the size, location and scale of windows and doors to adjacent buildings, and finally (4) Materials and Colors, with respect to encouraging the use of materials that are compatible with the styles in the immediate area and use of colors such as warm grays, beiges, and natural wood.

The project complies in the following manner: (1) The trees proposed for removal are located in the center of the parcel. The required 20-foot, front yard setback and the distance between the road and the flatter, rear portion of the property, cause the trees to be in the footprint of the most desirable location for a residence. Two mature

trees in the center of the parcel are being retained through design considerations to keep the trees. Privacy between neighboring parcels is achieved in part through the retention of the mature trees on the southern side of the parcel.

As previously stated, the proposed residence is visually unlike other residences in the immediate vicinity. However, there are a variety of styles of residences in the area, and in this sense, it cannot be said that the proposed residence conflicts with a predominant architectural style.. The proposed colors and materials are similar to nearby residences. There are stucco residences in the vicinity and the proposed residence will have stone and wood accents to meet the design standards in the regulations. The facades are articulated by terrace windows and doors. The condition which required the modification of the size of windows in the kitchen was imposed to ensure that the project would relate well with the adjacent building.

Based on the discussion at the hearing and further elaboration in this section the project complies with the Emerald Lake Hills design standards, and staff has determined that the project also conforms to specific General Plan Policies, in particular Policies 4.14 (*Appearance of New Development*) and 4.35 (*Urban Area Design Concept*) that require structures to promote and enhance good design, improve the appearance and visual character of development in the area by managing the location and appearance of the structure.

2. Conformance with Zoning Regulations

The project complies with the RH Zoning Regulations as follows.

Development Standards	Zoning Requirements	Proposal
Building Site Area	39,000 s.f.	13,864 s.f. net*
Building Site Width	50 ft.	72 ft.
Minimum Setbacks		
Front	20 ft.	20 ft.
Rear	20 ft.	50 ft.
Side	Combination f 20 ft. Minimum of 7.5 ft.	Right 12.5 ft. Left 7.5 ft.
Lot Coverage	25% or 3,466 s.f.	25% or 3,460 s.f.
Building Floor Area	30% or 4,159	30% or 4,155 s.f.
Building Height	28 ft.	28 ft.
Minimum Parking	2 covered spaces/ 2 guest	2 covered spaces/ 2 guest
Grading Limit	1,000 cy.	755 cy.
*Parcel created prior to existing zoning.		

3. Conformance with Design Review Regulations

The project complies with Design Review Standards as discussed in detail earlier in this staff report. At the February 2, 2010 meeting, the project was discussed and modifications made through conditions of approval. The DRO recommended approval based on facts that (1) the proposal had a project and site designed with minimal tree removal and appropriate attention to tree protection, (2) the house had been formed so that, with the proposed excavations, the house would replicate the shape of the existing topography, and (3) the proposed materials are natural and the colors inspired by nature.

4. Conformance with the Grading Ordinance

The Commission must be able to make the following findings in order to issue a grading permit for this project.

- a. That the granting of the permit will not have a significant adverse effect on the environment.

The grading plan is based on a geotechnical study, and has been reviewed by the Department of Public Works. In addition, there are numerous regulations and conditions of approval which will ensure that there is not an adverse effect on the environment.

- b. That the project conforms to the criteria of Chapter 8, Division VII of the Grading Ordinance, including the standards referenced in Section 8605.

The proposed grading will be subject to standard conditions of approval that include pre-construction, during, and post-construction measures to ensure that the project is in compliance with San Mateo County Grading Ordinance. Erosion and sediment control measures have been required, must remain in place, and will be monitored throughout construction. A dust control plan must be submitted for approval and implemented on the site. The proposed grading plan was prepared by a licensed civil engineer and reviewed by the San Mateo County Department of Public Works. Grading is only allowed during the period between October 1 and April 30.

- c. That the project is consistent with the General Plan.

As discussed in the General Plan Compliance Section of this report, the project, as conditioned, complies with all applicable General Plan goals and policies.

E. ENVIRONMENTAL REVIEW

The project is categorically exempt from CEQA pursuant to Section 15303, Class 3(a), construction of a single-family residence, in a residential zone, within an urbanized area.

G. REVIEWING AGENCIES

1. Department of Public Works
2. Building Inspection Section
3. Geotechnical Section
4. Cal-Fire
5. Emerald Lake Hills Property Owners Association

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Appeal Submittals
- C. Parcel Map
- D. Original Project Plans Submitted for the February 2, 2010 Emerald Lake Hills Design Review Officer Meeting
- E. Correspondence from February 2, 2010 DRO hearing
- F. DRO decision letter dated February 10, 2010
- G. Community Director final decision letter dated June 3, 2010
- H. Arborist reports
- I. San Mateo County Zoning Regulations Section 6565.15 – Standards for Design in Emerald Lake Hills

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2009-00352

Hearing Date: September 8, 2010

Prepared By: Erica D. Adams

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That this project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), Section 15303, Class 3, relating to new construction of a small structure.

For the Design Review, Find:

2. That this project is in compliance with the Design Review Standards as stipulated in Chapter 28 Section 6565.15 of San Mateo County Zoning Regulations. The proposal was reviewed by the Emerald Lake Hills Design Review Officer on February 2, 2010. The Design Review Officer stated that: (1) the proposal had a project and site designed with minimal tree removal and appropriate attention to tree protection, (2) the house had been formed so that, with the proposed excavations, the house would replicate the shape of the existing topography, and (3) the proposed materials are natural and the colors inspired by nature.

After consideration of public testimony at the September 8, 2010 hearing, the Planning Commission finds the project in compliance with the Design Review Standards because the project: (a) minimizes tree removal and blockage of sunlight on neighboring buildings, (b) respects the privacy of neighboring houses, (c) has well articulated façade and other elevations, (d) is designed to fit the natural topography, and (e) avoids massive blank walls.

For the Grading Permit, Find:

3. That the granting of the permit will not have a significant adverse effect on the environment. The proposed grading is limited to that which is necessary for the proposed construction. This project has been reviewed by the Department of Public Works and Building Inspection Section's Geotechnical Engineer.

4. That the project conforms to the criteria of Chapter 8, Division VII, San Mateo County Ordinance Code, including the standards referenced in Section 8605. The project, as proposed and conditioned, conforms to the standards in the Grading Ordinance, including an erosion and sediment control plan, dust control plan, and timing of grading activity.
5. That the project is consistent with the General Plan. As proposed and conditioned, the project complies with General Plan Policies 2.23 (Regulate Excavation, Grading, Filling, and Land Clearing Activities Against Accelerated Soil Erosion) and 2.17 (Erosion and Sedimentation) because the project includes measures to protect against soil erosion and sedimentation.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. The project shall be constructed in compliance with the approved plans. Any changes or revisions to the approved plans shall be submitted for review by the Community Development Director to determine if they are compatible with Design Review Standards and in substantial compliance with the approved plans prior to being incorporated into building plans. Adjustments to the project may be approved by the Design Review Officer if they are consistent with the intent of and are in substantial conformance with this approval. Adjustments to the design during the building plan stage may result in the assessment of additional plan resubmittal or revision fees. Alternatively, the Design Review Officer may refer consideration of the adjustments, if they are deemed to be major, to a new Emerald Lake Hills Design Review public hearing which requires payment of an additional \$1,500 fee.
2. No site disturbance shall occur, including any grading or tree removal, until both the building permit and grading permit have been issued concurrently, and then only those trees approved for removal shall be removed.
3. No patio is allowed adjacent to the garage in the front of the house/over the proposed trash enclosure.
4. The approved building materials may not change without review by the Community Development Director. Approved materials include stone façade along the front retaining wall, slate patios, custom curved windows, and medium brown stucco finish. Color samples shall be submitted and approved prior to installation.
5. The east side kitchen windows shall be reduced in dimension size from six feet to four feet in height.
6. A tree protection plan, which addresses trimming and protection, shall be developed by an arborist and implemented during and post-construction. Tree protection measures shall appear on the building plans submitted to the County. Tree protection measures shall be installed prior to the commencement of any construction.

7. Any tree over 18 inches in diameter which is damaged during construction and required to be removed shall be replaced with either a 36-inch box or 48-inch box oak tree. If the new tree dies, it shall be subject to replacement for three years after the issuance of a final building permit.
8. Only those trees approved for removal shall be removed. Trees designated to remain shall be protected from damage during construction. Any additional tree removal is subject to the San Mateo County Significant Tree Ordinance and will require a separate permit for removal.
9. The design review approval shall be valid for five (5) years from the date of approval in which time a 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. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration. The design review approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
10. This conditional approval for the grading permit shall be valid for one year from the date of approval, in which time a 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. The grading permit approval may be extended in 1-year increments with submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
 - a. Prior to the issuance of grading permits, if the applicant submits a grading plan which shows significant deviation from the grading shown on the approved plans, specifically with regard to slope heights, slope ratios, pad elevations or pad configuration, the Community Development Director (Director), or his/her designee, shall review the plan for a finding of substantial conformance. If the Director fails to make such a finding, the applicant shall process a revised grading permit and/or site development applications. Additionally, if the requested changes require it, the applicant shall process a new environmental assessment for determination by the decision-making entity.
 - b. If the grading permit (issued as the "hard card" with all necessary information filled out and signatures obtained) has not been issued within this time period, this approval will expire. An extension to this approval will be considered upon written request and payment of applicable fees 60 days prior to expiration.
11. Exterior color verification shall occur in the field after the applicant has applied the approved materials and colors, but before a final inspection has been scheduled.
12. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.

13. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).
14. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site. This datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).
 - a. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height--as constructed--is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
 - b. If the actual floor height, garage slab, or roof height--as constructed--is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved until a revised set of plans is submitted to and subsequently approved by both the Building Official and Community Development Director.
15. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. This plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
16. 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 respective Fire Authority.
17. To reduce the impact of construction 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 right-of-way on Bayview 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 Bayview Way. There shall be no storage of construction vehicles in the public right-of-way.
18. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
19. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
- a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
 - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
 - f. Limiting and timing applications of pesticides and fertilizers to avoid polluting runoff.
20. Unless approved in writing, by the Community Development Director, no grading shall be allowed during the winter season (October 1 to April 30) to avoid potential soil erosion. The applicant shall submit a letter to the Current Planning Section, a minimum of two (2) weeks prior to commencement of grading, stating the date when grading will begin.
21. Per San Mateo County Ordinance Section 8605.5, all equipment used in grading operations shall meet spark arrester and fire fighting tool requirements, as specified in the California Public Resources Code.

22. For the final approval of the grading permit, the applicant shall ensure the performance of the following activities, within thirty (30) days of the completion of grading:
- a. The engineer shall submit written certification that all grading, lot drainage, and drainage facilities have been completed in conformance with the approved plans, conditions of approval, and the Grading Ordinance (as required by Condition 32, below), to the Department of Public Works and the Current Planning Section.
 - b. The geotechnical consultant shall observe and approve all applicable work during construction and sign Section II of the Geotechnical Consultant Approval form, for submittal to the Building Inspection Section's Geotechnical Engineer and the Current Planning Section.

Building Inspection Section

23. At the time of application for a building permit, the following will be required:
- a. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
 - b. An automatic fire sprinkler system will be required. This permit must be issued prior to or in conjunction with the building permit.
 - c. If a water main extension, upgrade or hydrant is required, this work must be completed prior to the issuance of the building permit or the applicant must submit a copy of an agreement and contract with the water purveyor which will confirm the work will be completed prior to finalization of the building permit.
 - d. A site drainage plan will be required. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area.
 - e. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
 - f. This project must meet Chapter 7A standards with respect to siding (Class-A Rated), roofing (Class-A Rated), venting, exterior doors (solid-core) and windows (tempered). Please review the approved materials and standards on the State Fire Marshal's website:

http://www.fire.ca.gov/fire_prevention/fhsz_maps/fhsz_maps_sanmateo.php
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_codes.php

24. This project must comply with the Green Building Ordinance.

25. All drawings must be drawn to scale and clearly define the whole project and its scope in its entirety.

Geotechnical Section

26. A geotechnical consultant shall observe and approve all applicable work.

Department of Public Works

27. 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.
28. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued.
29. Prior to the issuance of a building permit, the applicant shall submit a driveway "plan and profile," to the Department of Public Works, showing the driveway access to the parcel (garage slab) complying with County standards for driveway slopes (not to exceed 20%) and to County standards for driveways (at the property line) being the same elevation as the center of the access roadway. When appropriate, this plan and profile shall be prepared from elevations and alignment shown on the roadway improvement plans. The driveway plan shall also include and show specific provisions and details for both the existing and the proposed drainage patterns and drainage facilities.
30. Prior to the issuance of a building permit, the applicant shall have prepared, by a registered civil engineer, a drainage analysis of the proposed improvements and submit it to the Department of Public Works for review and approval. The drainage analysis shall consist of a written narrative and a plan. The flow of the stormwater onto, over, and off of the property being developed shall be detailed on the plan and shall include adjacent lands as appropriate to clearly depict the pattern of flow. The analysis shall detail the measures necessary to certify adequate drainage. Post-development flows and velocities shall not exceed those that existed in the pre-developed state. Recommended measures shall be designed and included in the street improvement plans and submitted to the Department of Public Works for review and approval.
31. Prior to the issuance of a building permit, the applicant shall submit to the Department of Public Works, for review, documentation that existing ingress/egress easements exist from the adjacent parcel to the applicant's parcel for the adjacent parcel's use.
32. No trees shall be planted in the right-of-way.