

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

DATE: October 20, 2016

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-Conforming Use Permit, pursuant to Sections 6135 and 6133.3 of the San Mateo County Zoning Regulations, to allow the construction of a new 2,023 sq. ft., two-story single-family residence with an attached 447 sq. ft. two-car garage on a nonconforming, 3,351 sq. ft. R-3/S-5 zoned parcel. The project site is located at 341 Berkshire Avenue in the unincorporated North Fair Oaks area of San Mateo County.

County File Number: PLN 2015-00233 (Dunlap/Trainer)

PROPOSAL

The applicant requests a non-conforming use permit to construct a new 2,023 sq. ft. two-story residence with an attached 447 sq. ft. two-car garage on a legal triangular shaped non-conforming 3,351 sq. ft. parcel. The Use Permit request is to allow a 15-foot front yard setback (where 20 feet is required) and an 8-foot street side yard setback (where 10 feet is required) per the San Mateo County Zoning Regulations. Zoning requirements for the interior side and rear yard setbacks, lot coverage, height and off-street parking are met. No tree removal is proposed.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-Conforming Use Permit (County File Number PLN 2015-00233), by making the required findings and adopting the conditions of approval in Attachment A.

BACKGROUND

Report Prepared By: Tiare Peña, Project Planner; 650/363-1850

Applicant: Mary Dunlap

Owner: Shawn Trainer

Location: 341 Berkshire Avenue, Redwood City, California

APN: 054-205-010

Parcel Size: 3,351 sq. ft.

Parcel Legality: Legal parcel. Building Permit #11221 issued for a factory and office in 1946; building demolished in 2011 under Building Permit BLD2010-01209.

Existing Zoning: R-3/S-5 (Multiple-Family Residential District/Minimum 5,000 sq. ft. parcel minimum lot of area per dwelling unit 2,500 sq. ft.)

General Plan Designation: Multi-Family Residential (24 du/ac-60 du/ac)

Sphere-of-Influence: Redwood City

Existing Land Use: Vacant Parcel

Water Supply: California Water Service

Sewage Disposal: Fair Oaks Sewer District

Flood Zone: Zone X (area of minimal flood hazard); Community Panel No. 06081C0302E, effective October 16, 2012

Environmental Evaluation: Categorically exempt pursuant to Section 15303, Class 3, of the California Environmental Quality Act (CEQA); construction of one single-family residence in a residential zone.

Setting: The project site is located on a flat parcel located at the corner intersection of Berkshire Avenue and Huntington Avenue. The property is situated within a developed residential area with primarily single-family residences, some higher density development and businesses. The parcel is adjacent to a 60-foot wide vacant parcel (Hetch Hetchy right-of-way) owned by the San Francisco Public Utilities Commission (SFPUC).

Chronology:

<u>Date</u>	<u>Action</u>
June 2, 2015	- Application submitted.
August 3, 2015	- Application failed by the Department of Public Works.
September 17, 2015	- Project reviewed at New Project Review.
December 15, 2015	- Application revised to meet conditions of the Department of Public Works.
May 26, 2016	- Project presented to the North Fair Oaks Community Council (NFOCC) at their public meeting, the council unanimously recommends approval of the non-conforming use permit.
May 26, 2016	- Application deemed complete.
October 20, 2016	- Zoning Hearing Officer public hearing.

DISCUSSION

A. KEY ISSUES

1. Compliance with the General Plan

- a. Policy 4.36 (*Urban Area Design Concept*) seeks to maintain the visual character of development in urban areas and ensure that new development is designed and constructed to contribute to the orderly and harmonious development of the locality. The project site is located within the urban residential community of North Fair Oaks. The substandard vacant legal 3,351 sq. ft. parcel is triangular in shape, however the proposed two-story single-family residence with an attached two car garage is designed to complement the existing neighborhood which is comprised of similar one- and two-story residences. Apart from the requested front and street side yard setback reductions, the building conforms to the development standards for this zoning district.
- b. Policy 8.39 (*Height, Bulk, and Setbacks*) regulates height, bulk, and setback requirements in zoning districts in order to: 1) ensure that the size and scale of development is compatible with the parcel size, 2) provide sufficient light and air in and around the structure, and 3) ensure public health and safety.

The proposal complies with the maximum height, minimum parking, maximum lot coverage and setback requirements of the R-3/S-5 Zoning District with the exception to the 15-foot front yard and 8-foot street side yard, which will be remedied by the approval of the non-conforming use permit.

2. Compliance with the Zoning Regulations

a. Development Standards

The project parcel is zoned R-3/S-5 (Multiple Family Residential District). The legal 3,351 sq. ft. parcel is non-conforming since it does not meet the minimum 5,000 sq. ft. parcel size of the S-5 Combining District. In order to develop the vacant parcel, a non-conforming use permit is required per Zoning Regulations Section 6133.b. In addition, the applicant requests a non-conforming use permit to allow the construction of a 2,023 sq. ft. single-family residence which will encroach into the required 20-foot front yard setback by 5 feet and into the street side setback by 2 feet. The table below describes the development standards for the S-5 Zoning District.

S-5 Development Standards			
	Required	Existing	Proposed
Minimum Lot Width	50 ft.	49 ft.	No change
Minimum Building Area	5,000 sq. ft.	3,351 ¹	No change
Minimum Front Yard Setback	20 ft.	0 ft.	15 ¹
Minimum Side Yard Setbacks			
Left Side	5 ft.	0 ft.	5 ft.
Right Side	10 ft.	0 ft.	8 ft. ¹
Minimum Rear Yard Setback	20 ft.	0	30 ft. ²
Maximum Lot Coverage	50% (1675.5 sq. ft maximum)	0	38% (1260 sq. ft proposed)
Maximum Floor Area	NA	NA	NA
Maximum Building Height	36 ft.	0	20 ft.
¹ The proposal requires a non-conforming use permit per Section 6311.a.(1). ² Section 6102.60 <i>Lot Line, Rear</i> defines rear yards for triangular shaped lots and calls out a line 10 feet in length within the lot parallel to and at the maximum distance from the front line of the lot. This, in addition, to the required 20-foot setback, comprises the rear yard setback.			

3. Compliance with Non-Conforming Use Permit Regulations

In compliance with Section 6133 (*Non-Conforming Parcels*) and as required by Section 6503 of the Zoning Regulations, a use permit for development of a non-conforming parcel may only be issued upon making the following findings:

a. The proposed development is proportioned to the size of the parcel on which it is being built.

The legal vacant parcel measuring 3,351 sq. ft. is substandard in size. The R-3/S-5 Zoning District requires a minimum of 5,000 sq. ft. parcel size. Due to the Hetch Hetchy right of way, the minimum parcel size cannot be achieved. Maximum lot coverage in this zoning district is 50%, whereas this proposal is for a maximum lot coverage of 38 percent. Staff has determined that the proposal for a modest 2,023 sq. ft. new single-family residence with an attached 447 sq. ft. two-car garage meets the goal of providing living opportunities in the North Fair Oaks community and is proportioned to the size of the parcel.

- b. All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.**

There are no opportunities for the acquisition of contiguous land to meet minimum parcel size since no other parcels abut the subject parcel except the Hetch Hetchy right-of-way; all other parcels are under separate ownership, developed and located either beyond the SFPUC right-of-way or across the street from the subject parcel.

- c. The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.**

The legal vacant parcel measuring 3,351 sq. ft. is substandard in size. The R-3/S-5 Zoning District requires a minimum of 5000 sq. ft. parcel size. Due to the Hetchy Hetchy right of way, the minimum parcel size cannot be achieved. However, the proposal complies with the maximum height, maximum lot coverage, minimum parking and left and rear setback requirements of the R-3/S-5 Zoning District with the exception of the 15-foot front yard and 8-foot right street side yard setbacks which will be remedied by the approval of the non-conforming use permit.

- d. The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.**

Coastal resources are unaffected by this project because the property is not located within the Coastal Zone. The project has been reviewed and conditionally approved by the Building Department and must meet current building code for construction to ensure the health and safety of its occupants and the surrounding neighborhood. Staff has determined that the proposed single-family residence will not result in a negative impact to the neighborhood. The proposal will enhance the neighborhood with a modest single-family residence.

- e. Use permit approval does not constitute a granting of special privileges.**

Staff has determined that this proposal as conditioned will not constitute a granting of a special privilege. This proposal meets the goals of providing living opportunities in the unincorporated North Fair Oaks Community of San Mateo County and is an allowed use under the Multiple-Family Residential Zoning District.

4. North Fair Oaks Community Council

At the May 27, 2016 NFOCC public meeting, the council unanimously recommended approval of the Non-Conforming Use Permit. Further, they commended the owner and applicant for providing the required two-car covered parking for the project.

5. San Francisco Public Utilities Commission

The SFPUC had no issues with the construction of the single-family residence and attached two-car garage. However, it was requested that the project be conditioned that the SFPUC land not be used as a construction staging area and that no vehicles or materials be allowed on the land. Staff has added condition number 9 in response to this request.

B. ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, Class 3; construction of one single-family residence in a residential zone.

C. REVIEWING AGENCIES

Building Inspection Section
Menlo Park Fire Protection District
Department of Public Works
San Francisco Public Utilities Commission

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Site Plan
- D. First Floor Plan
- E. Elevation
- F. Site Photos

DJH: TGP:aow – TGPAA0521_WAU.DOCX

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2015-00233

Hearing Date: October 20, 2016

Prepared By: Tiare Peña, Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, Class 3; construction of one single-family residence in a residential zone .

For the Non-Conforming Use Permit, Find:

2. That the proposed development is proportioned to the size of the parcel on which it is being built. The proposed 2,023 sq. ft. single-family residence with an attached 447 sq. ft. garage is proposed at 38% lot coverage where 50% is allowed and is a modest residence that will enhance and improve the currently vacant parcel.
3. All opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible. As surrounding properties are currently developed and under separate ownership and the SFPUC has a right-of-way to the left of the site, acquisition of additional land is not feasible.
4. The proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible. The proposal complies with the height, lot coverage, parking, left and rear yard setback requirements of the R-3/S-5 Zoning District with the exception of the 15-ft. front yard setback and 8-ft. right street side facing setback which will be remedied by the approval of the non-conforming Use Permit.
5. The establishment, maintenance, and/or conducting of the proposed use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in the said neighborhood.
6. That the use permit approval does not constitute a granting of special privileges. As the Non-Conforming Use Permit Section of the San Mateo County Zoning Regulations allows for use permits to meet the goal of providing living opportunities in

the North Fair Oaks community. The proposal is for a modest home which blends well with the other single-family residences in the neighborhood and is an allowed use under the Multiple-Family Residential Zoning District.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on October 20, 2016. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.
2. This non-conforming use permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (60) days prior to expiration.
3. The applicant is responsible for ensuring that all contracts minimize the transport and discharge of pollutants from the project site into storm drain systems and water bodies by adhering to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision: guidelines."
 - 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 application of pesticides and fertilizers to avoid polluting runoff.
4. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m., weekdays and 9:00 a.m. to 5:00 p.m., Saturdays. Said activities are prohibited on Sundays, Thanksgiving, and Christmas (San Mateo Ordinance Code Section 4.88.360).

5. No tree cutting is allowed by this permit. Removal of any tree over 12 inches in diameter shall require a separate Tree Removal Permit.

Building Inspection Section

6. Roof eaves closer than 5 feet to the property line shall have material of 1 hour rated construction on the underside of the eave.

Menlo Park Fire District

7. Full review of the proposal shall occur during the building permit submittal phase.

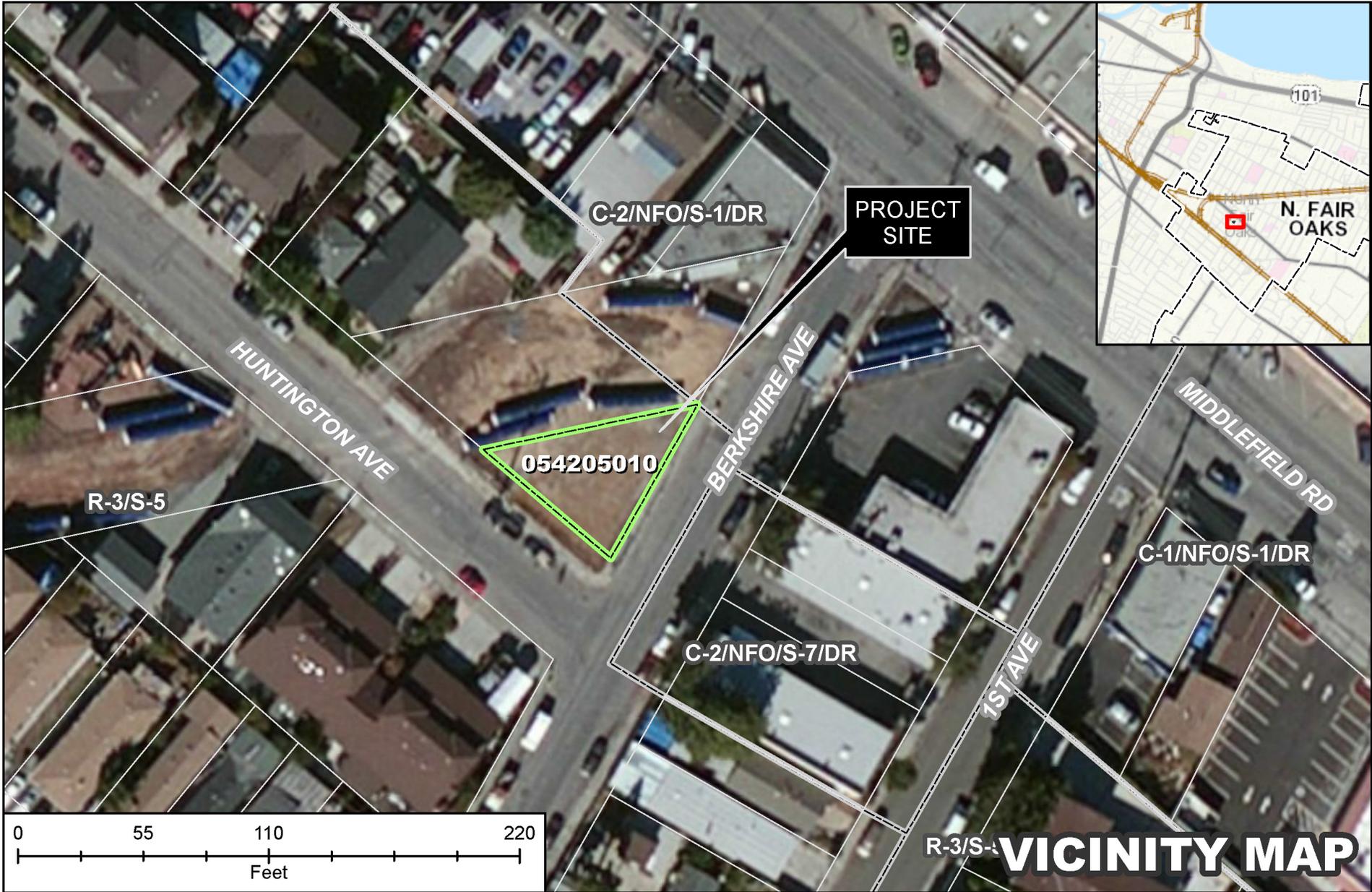
Department of Public Works

8. Prior to the issuance of the BLD permit or PLN permit (if applicable), 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, as determined by the Department of Public Works, 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.
9. 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. Applicant shall contact a Department of Public Works Inspector 48 hours prior to commencing work in the right-of-way.
10. 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 #3277.

San Francisco Public Utilities Commission

11. The 60 ft. SFPUC right-of-way adjacent to the subject site shall not be utilized as a construction staging area, therefore vehicles or materials are not permitted on the land at any time.

DJH: TGP:aow – TGPAA0521_WAU.DOCX



PROJECT SITE

C-2/NFO/S-1/DR

HUNTINGTON AVE

054205010

BERKSHIRE AVE

R-3/S-5

MIDDLEFIELD RD

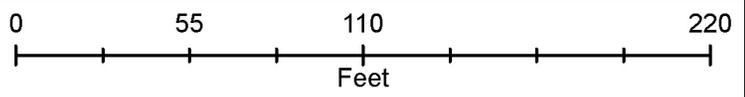
C-1/NFO/S-1/DR

C-2/NFO/S-7/DR

1ST AVE

R-3/S-

VICINITY MAP



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: _____

Attachment: _____

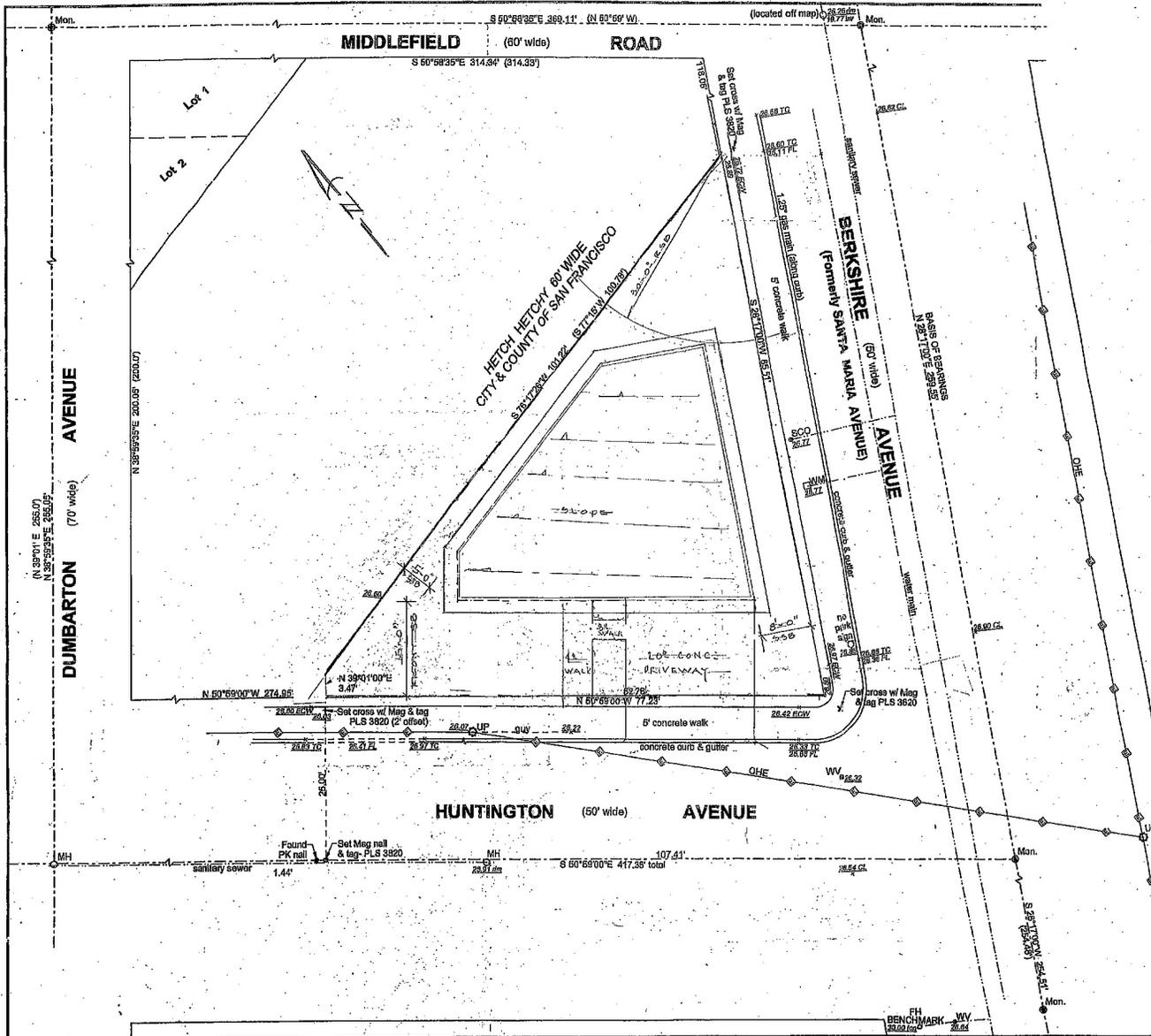
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JUN 02 2015

San Mateo County
Planning Division

MICHAEL J. DUNLAP, P.L.C., M.L.T.C.O.
1000 DUNLAP P. 450-595-3440 P.O. Box 450



SCOPE OF WORK

NEW RESIDENCE

- 2 STORY
- 3 BEDROOMS
- 3 BATHS
- LIVING ROOM - DINING ROOM
- FAMILY ROOM
- KITCHEN
- BACK GARAGE

R2-S5

LOT 3351 ft

GARAGE 441 ft

1st FLOORING 813 ft

2nd FLOORING 1210 ft

TOTAL 2470 ft

50% cov. = 935 ft

1st FLOOR 1260/3351 = 38% cov. max

INDEX:

- 1 SURVEY - PLAT
- 2 1st FLOOR
- 3 2nd FLOOR
- 4 EXTERIOR ELEVATIONS

BENCHMARK:
The Fire hydrant located at the intersection of Berkshire Ave. and Huntington Ave.
Elev. = 30.00' (assumed)



Lot 3351 ft
054-205-010

PLAT OF SURVEY
of a portion of Lots 16 and 17 - Block 26 - shown on, "PLAT OF DUMBARTON", filed in Book 5 of maps, page 32, San Mateo County Records.

SEPT 2010
Date
Raymond B. Thinggaard
PLS 3820

Thinggaard Land Consulting
3524 Breakwater Avenue, Ste. B
Hayward, California 94645
(510) 732-6808

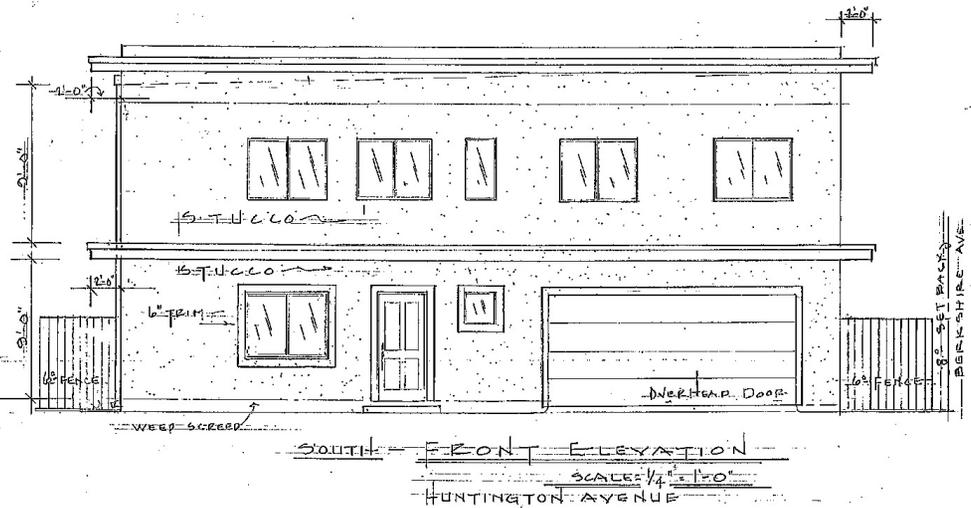
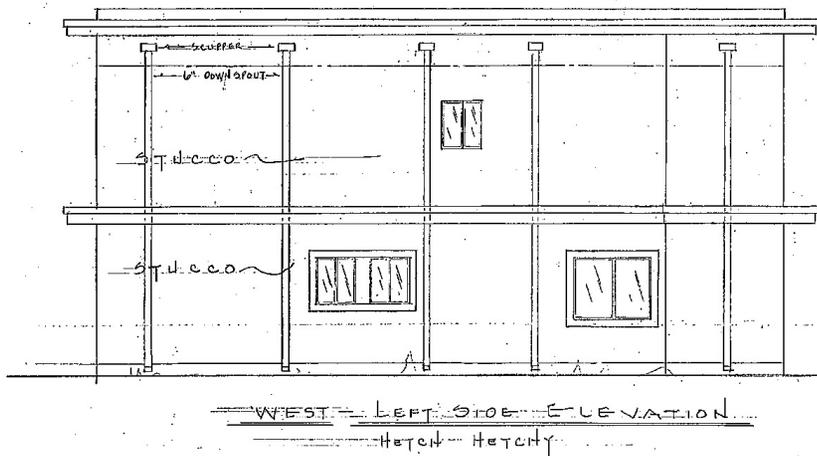
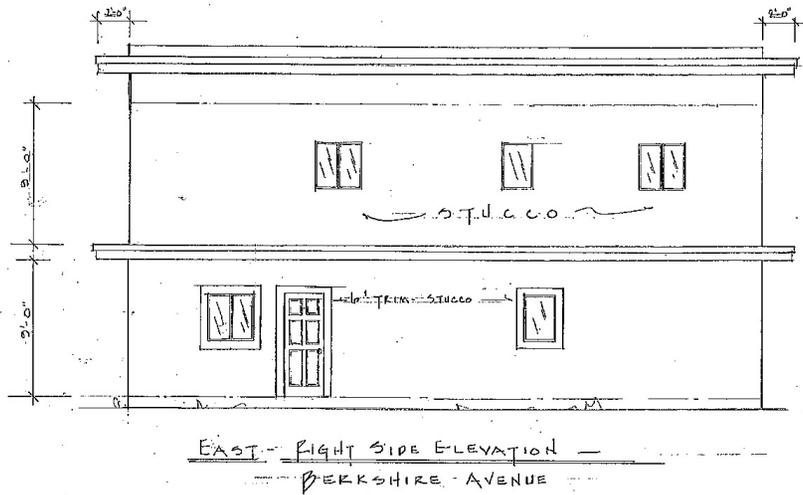
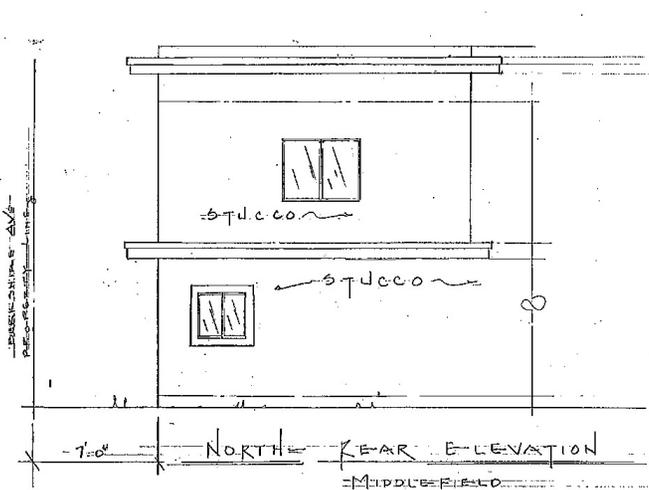
Job No. S-32

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers:



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant:

Attachment:

File Numbers: