

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

**DATE:** February 3, 2022

**TO:** Zoning Hearing Officer

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Non-Conforming Use Permit, pursuant to Section 6133 of the San Mateo County Zoning Regulations, to allow for the construction of a non-conforming 1,324 square foot two-story single-family residence, on a non-conforming 2,500 square foot parcel where 5,000 sq ft is required. The proposed residence will have a non-conforming side yard setback, non-conforming daylight planes and non-conforming parking (one car garage where two is required). The project site is located at 624 Hurlingame Avenue in the unincorporated North Fair Oaks area of San Mateo County.

County File Number: PLN 2021-00301 (Yuan)

**PROPOSAL**

The applicant is requesting a Non-Conforming Use Permit to construct a 1,324 square foot two-story single-family residence with an attached one car garage (225 sq. ft. in size). The project site is non-conforming at 2,500 sq. ft. in size where 5,000 sq. ft. is required by the subject zoning district. The parcel is also 25 feet wide where a 50-foot width is normally required. The parcel's legality was confirmed through the recordation of a Certificate of Compliance in 2019. The non-conforming parcel size triggers the requirement for a Use Permit, per Section 6133 of the Zoning Regulations. Because of the narrow width of the parcel, the applicant is requesting an exception to the side yard setback requirement (three feet on the right side where five feet is normally required) and to the daylight plane requirement. Also due to the narrow nature of the subject parcel, the applicant is requesting an exception to the parking requirements, proposing an attached one car garage where two covered parking spaces is the standard requirement. In addition to the proposed new residence, the applicant has submitted a building permit application to construct an Accessory Dwelling Unit (ADU) in the rear yard area, in compliance with both County and State regulations regarding such units. Per State and County regulations, this unit is only subject to ministerial review and not before the Zoning Hearing Officer as part of this Use Permit request.

## **RECOMMENDATION**

That the Zoning Hearing Officer approve the Non-Conforming Use Permit (County File Number: PLN 2021-00301) by making the required findings and adopting the recommended conditions of approval in Attachment A.

## **BACKGROUND**

Report Prepared By: Syed Waqar Shah, Project Planner, [C\\_WSHAH@smcgov.org](mailto:C_WSHAH@smcgov.org)

Applicant: Lei Yuan, Project Architect

Owner: Hurlingame, LLC

Location: 624 Hurlingame Avenue, North Fair Oaks

APN: 054-247-050

Parcel Size: 2,500 sq. ft. (non-conforming parcel)

Parcel Legality: The project parcel is legal per a Certificate of Compliance (Type A) that was recorded on September 17, 2019.

Existing Zoning: R-1/S-73 (Single-Family Residential District/5,000 square foot minimum parcel size)

General Plan Designation: Residential, Medium Density Residential (6.1-8.7 du/ac)

Sphere-of-Influence: Redwood City

Existing Land Use: Undeveloped/Vacant Lot

Water Supply: California Water Service - Bear Gulch

Sewage Disposal: Fair Oaks Sewer Maintenance District

Flood Zone: Zone X (Areas of Minimal Flood Hazard); Community Panel No. 06081C0302E, effective date October 16, 2012.

Environmental Evaluation: The project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15303, Class 3 (a), which exempts construction of small structures including new single-family residences in residential zones. The development is located in a residential zoning district and will be served by all public services.

Setting: The project site is located on a non-conforming 2,500 square foot vacant lot in the residential area of North Fair Oaks. The project site is surrounded by a mix of one- and two-story single-family residences on conforming and non-conforming sized parcels.

Chronology:

<u>Date</u>	<u>Action</u>
September 17, 2019	- Certificate of Compliance (Type A) recorded.
August 08, 2021	- Application submitted.
January 20,2022	- Zoning Hearing Officer public hearing.

## **DISCUSSION**

### A. KEY ISSUES

#### 1. Conformance 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 in unincorporated San Mateo County. The subject parcel is rectangular in shape, similar to other parcels in the area, and the proposed two-story single-family residence is designed to complement the existing neighborhood.

#### 2. Conformance with the Zoning Regulations

##### a. Development Standards

The project parcel is zoned R-1/S-73 (Single Family Residential District/5,000 square foot minimum parcel size). The existing project parcel is a legal non-conforming sized 25-foot wide by 100-foot-long parcel (2,500 square foot). Furthermore, the proposed two-story single-family residence is non-conforming for side yard setbacks. A summary of the project's zoning compliance is provided in the table below:

Standard	Required	Existing/Proposed
Minimum Lot Width	50'	25' (existing)
Minimum Lot Area	5,000 sq. ft.	2,500 sq. ft. (existing)
Minimum Front Yard Setback	20.0'	20.0'
Minimum Right Side Yard Setback	5.0'	3.0'
Minimum Left Side Yard Setback	5.0'	5.0'
Minimum Rear Yard Setback	20.0'	20.2'
Maximum Lot Coverage	50%	43.8% (includes ministerial ADU)
Maximum Building Floor Area	2,600 sq. ft.	1,514 sq. ft. (includes ministerial ADU)
Building Height	28.0' / 2 stories	24'-6" / 2 stories
Daylight Plane	16' / 45° at side setback lines	Proposal is nonconforming
Minimum Covered Parking	2	1

*Non-Conforming Parcel:*

As shown above, the subject parcel is non-conforming as to size and width. Pursuant to Section 6133.3.b (1) of the Zoning Regulations, development of an unimproved non-conforming parcel shall require the issuance of a use permit when the minimum parcel size is less than 3,500 sq. ft. and the width is less than 35 feet.

*Non-Conforming Setbacks:*

The project proposes a non-conforming three-foot side yard setback (on the right side of the proposed house) where the required side yard setback is five feet pursuant to Section 6300.4.17 of the Zoning Regulations. The proposed left side yard setback is compliant at five feet. Adherence to the required side yard setbacks would result in a house that is only 15 feet wide and would not be able to accommodate a usable front entry and space for a building code compliant staircase. The additional two feet on the right side will allow for both.

*Non-Conforming Daylight Plane:*

As proposed, the second story will create non-conforming daylight planes on both sides of the house. Adherence to the daylight plane requirement would result in a non-functioning second floor. It would eliminate the hallway and potentially result in bedrooms that do not meet the minimum size under the Building Code.

*Non-Conforming Covered Parking:*

Additionally, the project proposes a non-conforming one (1) car garage where two (2) covered side-by-side parking spaces are required pursuant to Section 6119 of the Zoning Regulations. Given the limited size of the parcel, providing two standard size, side by side covered spaces (as required by the Zoning Regulations) would not be feasible without creating additional side yard non-conformities and either reducing the habitable space of the house to an extent that makes the project untenable or creates a non-conforming floor area and lot coverage situation.

3. Conformance with the Use Permit Requirements

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

The legal vacant parcel measuring 2,500 sq. ft. is substandard in size. Maximum lot coverage in this zoning district is 50 percent, whereas this proposal is for a maximum lot coverage of roughly 44 percent. The S-73 regulations allow a maximum 2,600 sq. ft. of floor area for all parcels up to 5,000 sq. ft. in size. Uninhabitable garage space below the 400 sq. ft. threshold does not count towards the maximum allowed floor area. This proposal is for a 1,324 sq. ft. house and 190 sq. ft. ADU, which is well below the 2,600 sq. ft. Maximum building floor area limit, so the development is proportional to the 2,500 sq. ft. 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.**

As all adjacent and surrounding parcels are developed as single-family residences, there is no opportunity to acquire contiguous land.

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

As discussed above, the requested setback, daylight plane and parking exceptions are necessary to allow for a functioning house floor plan. As such, the proposed development is in conformance with the regulations as is reasonably possible.

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

The project site is not within the Coastal Zone, so no coastal resources will be impacted. The proposed use, a single-family dwelling is consistent with the General Plan land use designation for this neighborhood and will not introduce a conflicting use into the neighborhood. Additionally, while the subject parcel is only half the minimum parcel size requirement of this district, there are a number of similar non-conforming parcels on this street and in the surrounding neighborhood. Thus, approval of this non-conforming use permit would not be setting a new precedent for the neighborhood.

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

As discussed previously, the requested exceptions are necessary to allow for a functioning floor plan, that accommodates three bedrooms suitable for a larger family. Staff has determined that this proposal as conditioned will not constitute a granting of a special privilege. This proposal satisfies the goals of providing living opportunities in the unincorporated North Fair Oaks Community of San Mateo County.

B. ENVIRONMENTAL REVIEW

The project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15303, Class 3(a), which exempts construction of small structures including new single-family residences in residential zones. The development is located in a residential zoning district and will be served by all public services.

C. NORTH FAIR OAKS COUNCIL (NFOCC)

Due to scheduling and time conflicts, this project was not presented to the North Fair Oaks Community Council.

D. REVIEWING AGENCIES

Redwood City Fire  
Building Inspection Section  
California Water Service - Bear Gulch  
San Mateo County Department of Public Works  
Fair Oaks Sewer Maintenance District  
Geotechnical Section

ATTACHMENTS

- A. Recommended Finding and Conditions of Approval
- B. Vicinity Map
- C. Site Plan
- D. Floor Plans
- E. Elevations

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Project File Number: PLN 2001-00301

Hearing Date: February 3, 2022

Prepared By: Waqar Shah, 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(a) which exempts construction of small structures including new single-family residences in residential zones. The development is located in a residential zoning district and will be served by all public services.

Regarding the Non-Conforming Use Permit, find:

2. The proposed development is proportioned to the size of the parcel on which it is being built. The legal vacant parcel measuring 2,500 sq. ft. is substandard in size. Maximum lot coverage in this zoning district is 50 percent, whereas this proposal is for a maximum lot coverage of roughly 44 percent. The S-73 regulations allow a maximum 2,600 sq. ft. of floor area for all parcels up to 5,000 sq. ft. in size. Uninhabitable garage space below the 400 sq. ft. threshold does not count towards the maximum allowed floor area. This proposal is for a 1,324 sq. ft. house and 190 sq. ft. ADU, which is well below the 2,600 sq. ft. maximum building floor area limit, so the development is proportional to the 2,500 sq. ft. 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 all adjacent and surrounding parcels are developed as single-family residences, there is no opportunity to acquire contiguous land.
4. The proposed development is as nearly in conformance with zoning regulations currently in effect as is reasonably possible. As discussed above, the requested setback, daylight plane and parking exceptions are necessary to allow for a functioning house floor plan. As such, the proposed development is in conformance with the regulations as is reasonably possible.



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. The project site is not within the Coastal Zone, so no coastal resources will be impacted. The proposed use, a single-family dwelling is consistent with the General Plan land use designation for this neighborhood and will not introduce a conflicting use into the neighborhood. Additionally, while the subject parcel is only half the minimum parcel size requirement of this district, there are a number of similar non-conforming parcels on this street and in the surrounding neighborhood. Thus, approval of this non-conforming use permit would not be setting a new precedent for the neighborhood.
6. Use permit approval does not constitute a granting of special privileges. As discussed previously, the requested exceptions are necessary to allow for a functioning floor plan, that accommodates three bedrooms suitable for a larger family. Staff has determined that this proposal as conditioned will not constitute a granting of a special privilege. This proposal satisfies the goals of providing living opportunities in the unincorporated North Fair Oaks Community of San Mateo County.

## **RECOMMENDED CONDITIONS OF APPROVAL**

### **Current Planning Section**

1. This approval applies only to the proposal as described in this report and materials submitted for review and approval by the Zoning Hearing Officer on February 3, 2022. The Community Development Director may approve minor revisions or modifications to the project if they are found to be 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 the expiration date.
3. 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.
  - a. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.

- b. 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 grade of the site.
  - c. 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 existing 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.
  - d. In addition, (1) the existing 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).
  - e. 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.
  - f. 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 the Community Development Director.
4. The applicant shall adhere to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines," including, but not limited to, the following:
- a. Delineation with field markers of clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees, and drainage courses within the vicinity of areas to be disturbed by construction and/or grading.
  - b. Protection of adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching, or other measures as appropriate.
  - c. Performing clearing and earth-moving activities only during dry weather.
  - d. Stabilization of all denuded areas and maintenance of erosion control measures continuously between October 1 and April 30.

- e. Storage, handling, and disposal of construction materials and wastes properly, so as to prevent their contact with stormwater.
- f. Control and prevention of the discharge of all potential pollutants, including pavement cutting wastes, paints, concrete, petroleum products, chemicals, wash water or sediments, and non-stormwater discharges to storm drains and watercourses.
- g. Use of sediment controls or filtration to remove sediment when dewatering site and obtain all necessary permits.
- h. Avoiding cleaning, fueling, or maintaining vehicles on-site, except in a designated area where wash water is contained and treated.
- i. Limiting and timing application of pesticides and fertilizers to prevent polluted runoff.
- j. Limiting construction access routes and stabilization of designated access points.
- k. Avoiding tracking dirt or other materials off-site; cleaning off-site paved areas and sidewalks using dry sweeping methods.
- l. Training and providing instruction to all employees and subcontractors regarding the Watershed Protection Maintenance Standards and construction Best Management Practices.
- m. Additional Best Management Practices in addition to those shown on the plans may be required by the Building Inspector to maintain effective stormwater management during construction activities. Any water leaving the site shall be clear and running slowly at all times.

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.

- 5. 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 Hurlingame Avenue. All construction vehicles shall be parked on-site outside the public right-of-way or in locations which do not impede safe access on Hurlingame Avenue. There shall be no storage of construction vehicles in the public right-of-way.

### Redwood City Fire

- 6. **Required Fire Flow from Municipal Water Supply** - The required fire flow for this project based on the square footage of the building and type of construction is 1000 gallons per minute at 20 Psi residual pressure for a duration of 2 hours in accordance with Appendix B of the 2019 California Fire Code and Section 507.1.1 of the Redwood City Municipal Code (CFC).
- 7. **Fire Hydrants** - The number, location, and spacing of required fire hydrants are based upon the required fire flow for this project and shall be determined utilizing Appendix B and C of the 2016 CFC. **As there is not a fire hydrant within the required 250-foot distance to the property, a new fire hydrant will need to be installed as a condition of this project.**
- 8. **Automatic Fire Sprinkler Systems** - The residence and garage areas of the primary residence, and the detached accessory dwelling unit are required to be equipped throughout with an automatic fire sprinkler system meeting NFPA Standard 13D as per Section 903.2.13 of the 2019 CFC as adopted in Section 12.18 of the Redwood City Municipal Code. Provide plans and hydraulic calculations for the design of this system.
- 9. **Premises Identification (Address Numbers)** - Indicate on the plans where the illuminated premises identification (address) will be located and the size in a contrasting background facing the street from which the building takes the address CFC 505.
- 10. **Carbon Monoxide Alarms Required** - Carbon monoxide alarms that are hard wired, interconnected, and battery backed-up are required in all residential occupancies where fuel burning appliances are installed or that have an attached garage CBC 915.1 this includes the lower level and upper levels of the structure.
- 11. **Smoke Detectors Required** - Smoke detectors that are hard wired, interconnected, and battery backed-up shall be installed in locations specified in Section 907.2.11.2 of the CBC including the bedrooms on the lower level and upper levels of the structure.

12. **Emergency Escape and Rescue Openings** - All sleeping rooms shall be provided with emergency escape and rescue openings in accordance with CBC 1030. Confirm the design of the project includes compliant openings and those openings have ladder access for use by the fire department in an emergency.
13. **Defensible Space** - As per the California Public Resources Code Section 4291, provide adequate defensible space around the structure out to 100 feet or to the property lines.

#### Building Inspection Section

14. The applicant shall obtain a building permit and develop in accordance with the approved plans.

#### Department of Public Works

15. Prior to the issuance of a building permit, the applicant shall submit a driveway plan and profile, to the Department of Public Works and the Department of Planning and Building. Site plan shall show driveway access up to the proposed garage slab. Driveways must comply with County standards for driveway design (maximum slopes not to exceed 20 percent and their elevation at the property line must be the same elevation as the centerline of the access roadway). The driveway plans shall also include and show specific provisions and details for handling both the existing and the proposed drainage.
16. C3 and C6 Development Review Checklist with pages 1 and 2 and any relevant worksheets completed for the project detailing the existing and proposed impervious surfaces.
17. Drainage Plan for the project with features to prevent an increase in stormwater flows across property lines due to development under a 10-year design storm. Please note that for new house projects, pre-development is considered an empty lot and no "credit" is given for existing impervious areas onsite. Drainage plan will need to be on a separate also need to show grades onsite.
18. 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.

#### Fair Oaks Sewer Maintenance District

19. The applicant shall submit building plans to the Sewer District for review when the building permit application is submitted to the Building Inspection Section. The plans shall indicate the location of the existing and proposed sewer laterals to the

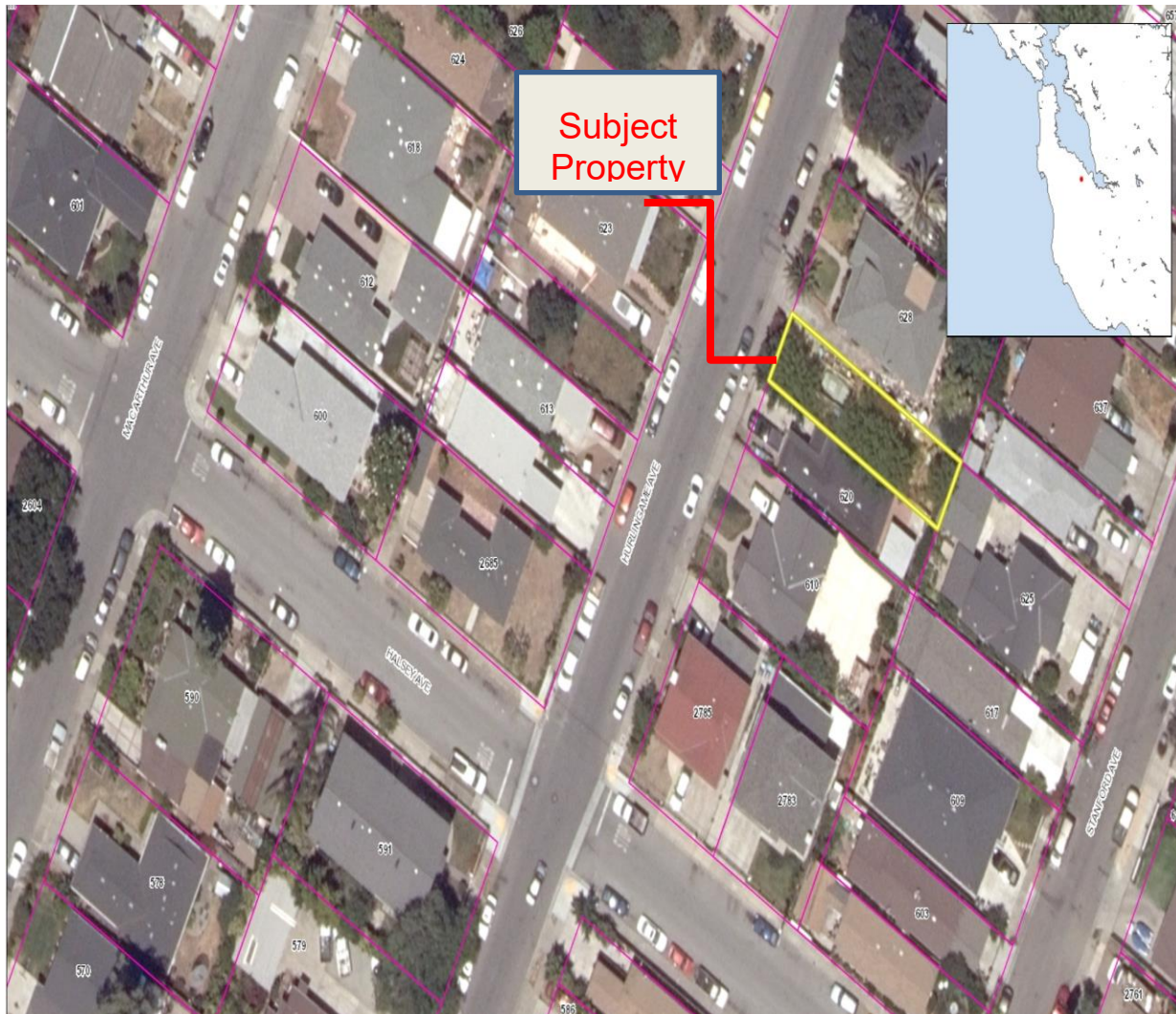
Sewer District main. The County Sanitary Sewer and Streetlight Requirements Checklist can be found on our website at <http://publicworks.smcgov.org/sewer-services> . All appropriate information and notes shall be included on the plans.

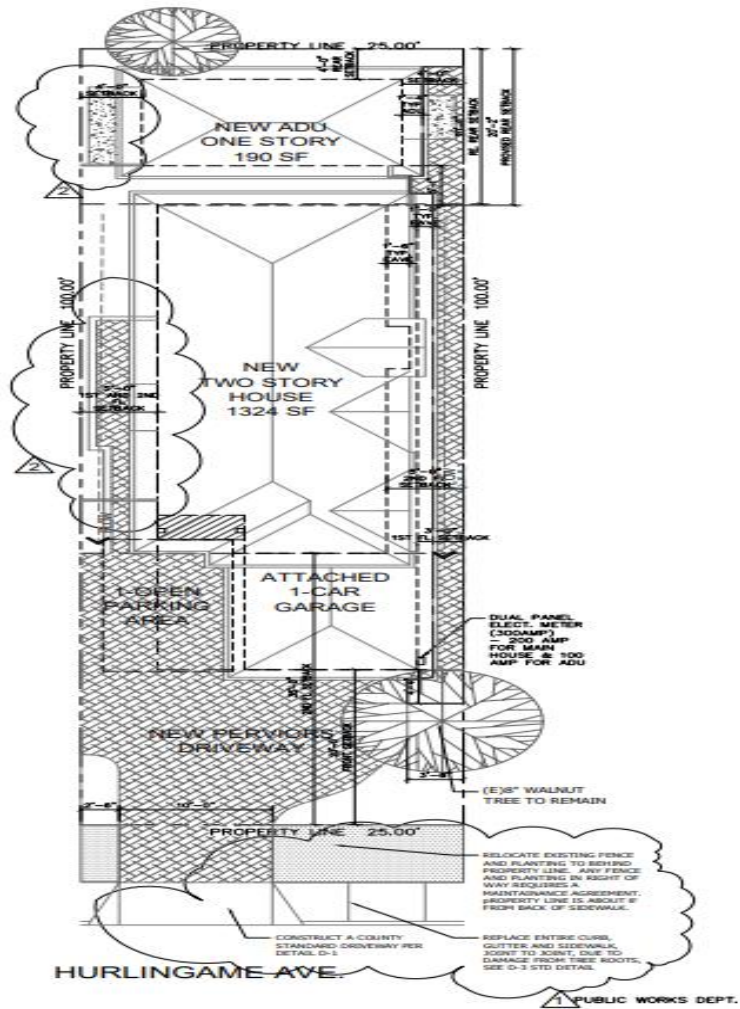
20. The applicant shall pay a plan review fee in the amount of \$300. Payment shall be made to the County of San Mateo.
21. The plans must show sufficient information of the proposed sewer lateral and property line cleanout for the Sewer District's review and approval. Attached is the County Sanitary Sewer and Streetlight Requirements Checklist, for your use. All appropriate information and notes shall be included on the plans.
22. The Sewer District will allow the proposed connection providing that all associated fees are paid. The Sewer District may require payment of additional sewer connection fees and sewage treatment capacity fees.
23. The Sewer District will allow the proposed second unit connection, providing that the lateral from the second unit ties into the primary house lateral on private property upstream of the property/easement line cleanout and all associated fees are paid. The Sewer District requires the purchase of a second unit sewer connection and payment of an additional sewage treatment capacity fee.

#### Geotechnical Section

24. A Geotechnical Report shall be submitted at Building Stage, the report shall be updated to the current adopted code (if 2021 -> CBC2019).
25. Significant grading profiles, grading proposals, foundation design recommendations, retaining wall design recommendations, and basement design recommendations, if any, shall be provided in the geotechnical report at Building Stage.
26. For a vacant site, the Geotechnical Report shall provide sufficient soil investigation data to evaluate the potential hazards, for example, expansive soils, soil corrosivity, weak soil strength, and liquefaction. If any hazards are found, mitigation shall be provided in foundation design and grading proposal.

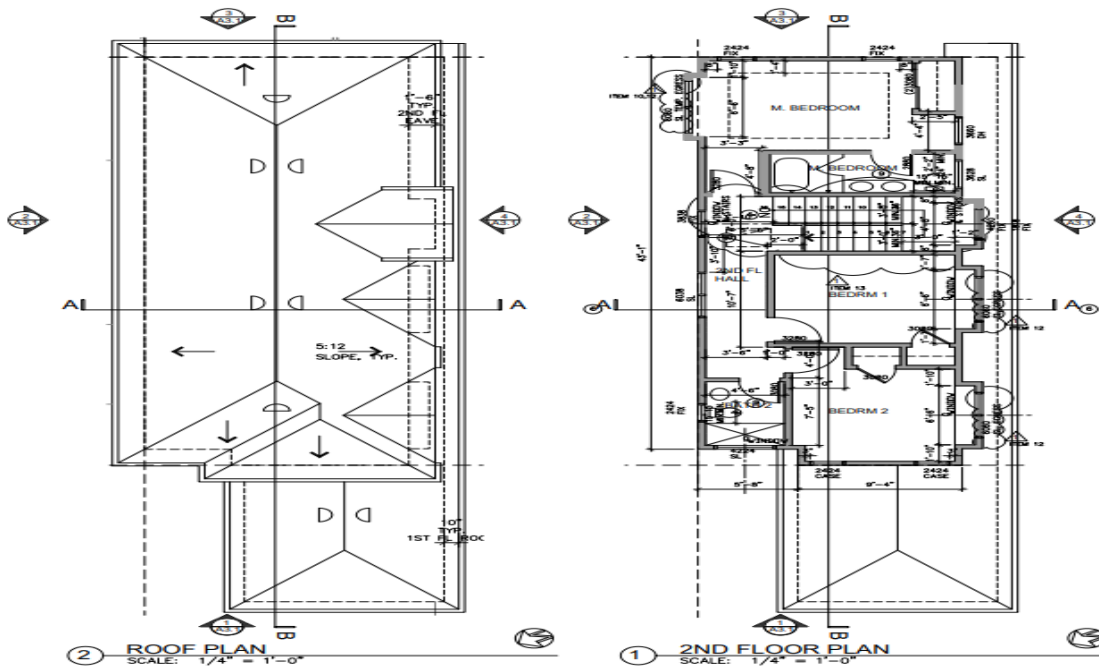
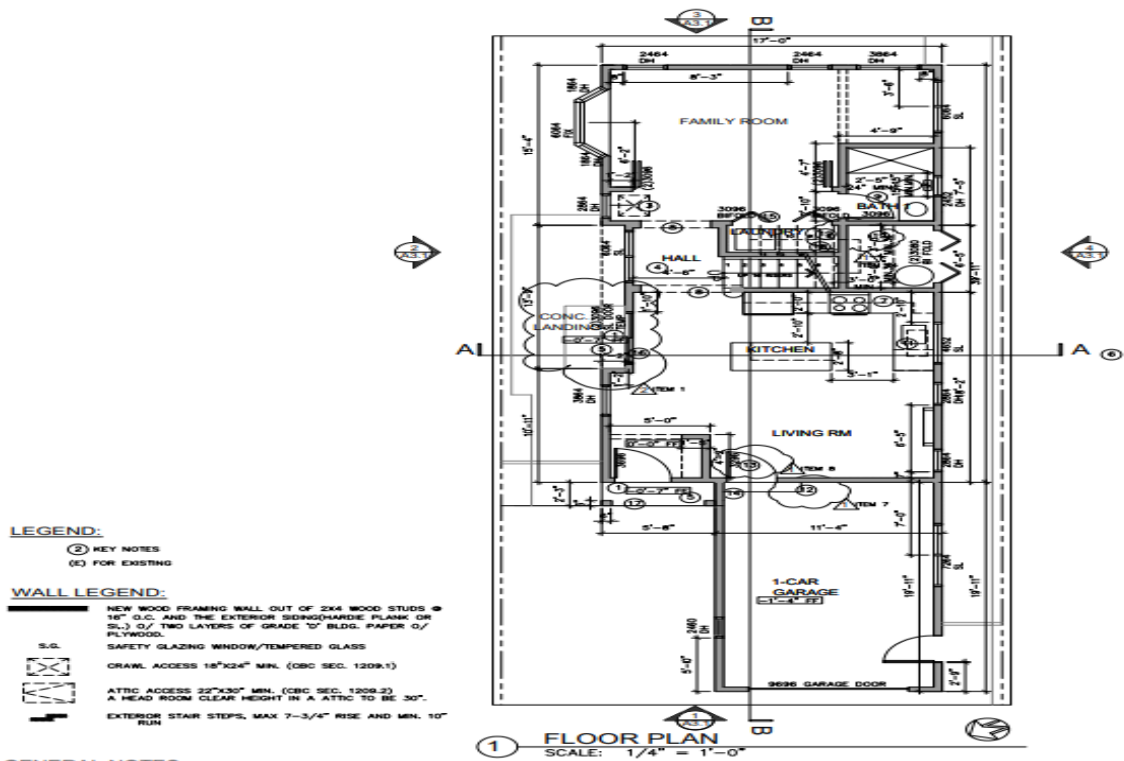
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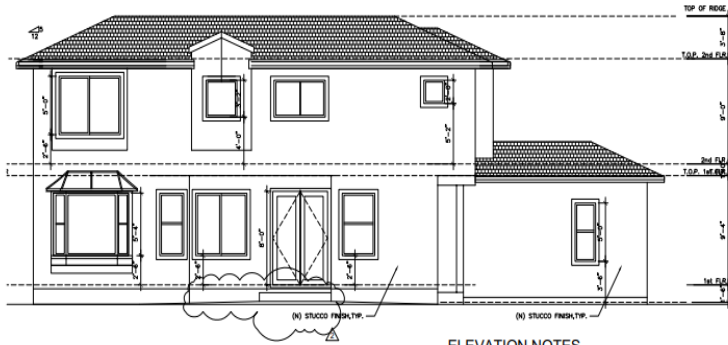


1 SITE PLAN/ROOF PLAN  
 SCALE: 1/8" = 1'-0"





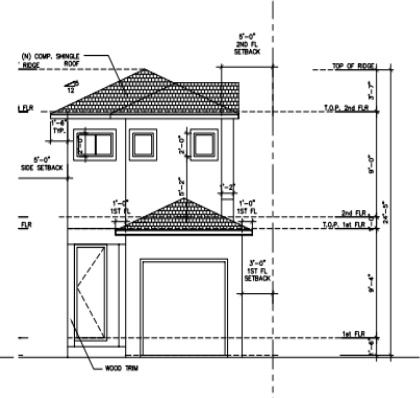
# ATTACHMENT E



② NORTH ELEVATION (LEFT)  
SCALE: 1/4" = 1'-0"

### ELEVATION NOTES

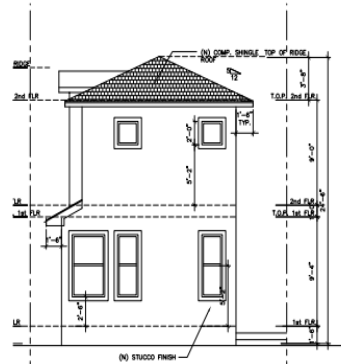
1. PROVIDE WEEP SCORED AT FOUNDATION PLATE LINE ON ALL STUCCO WALL (DHS ORC SEC 9 703.6.1.1) WEEP SCORED SHALL BE 4" ABOVE EARTH AND 2" ABOVE PAVED AREA.
2. CRACK SPACE VENT DO NOT OCCUR IN A SHEAR WALL.
3. NEW UNDER-FLOOR VENT, AT LEAST ONE VENTILATION OPENING SHALL BE PLACED WITHIN 3 FEET OF EACH CORNER OF THE BUILDING.
4. NEW STUCCO TO BE APPLIED W/ THREE COAT APPLICATION WHEN APPLIED OVER METAL LATH OR WIRE LATH ORC 703.6.2
5. BUILDING ADDRESS NUMBERS TO BE A MINIMUM OF 4 FEET HIGH WITH A MINIMUM SPACING BEHIND OF 2 FEET. NUMBERS SHALL CONTRAST WITH THEIR BACKGROUND AND BE PLACED IN A POSITION THAT IS PLAINLY VISIBLE FROM THE STREET FRONTING THE PROPERTY.



① WEST ELEVATION (FRONT)  
SCALE: 1/4" = 1'-0"



④ SOUTH ELEVATION (RIGHT)  
SCALE: 1/4" = 1'-0"



③ EAST ELEVATION (REAR)  
SCALE: 1/4" = 1'-0"