

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

DATE: February 28, 2018

TO: Planning Commission

FROM: Planning Staff

SUBJECT: EXECUTIVE SUMMARY: Consideration of an appeal of the Community Development Director's decision to approve a Significant Tree Removal Permit to remove a 38-inch diameter at breast height (d.b.h.) Valley Oak tree to allow construction of a new residence, on property located at 626 Berkeley Avenue in the unincorporated Menlo Oaks area of San Mateo County.

County File Number: PLN 2017-00272 (Mitigang and Gottesman)

PROPOSAL

The appellant has appealed the Community Development Director's approval of a permit to remove one 38-inch d.b.h. Valley Oak tree located in the rear yard of a 20,894 sq. ft. parcel (per survey). The property owners have submitted a building permit application (BLD 2017-02635) for a new house. The Valley Oak tree is located in the middle of the property just east of the existing 2,266 sq. ft. one-story residence. The current proposal includes construction of a 4,672 sq. ft. two-story single-family residence with an attached 516 sq. ft. garage, and a pool. The appellant contends that the tree can be preserved and that the owners have alternative options to construct their home without removing the Valley Oak tree.

During the final drafting of the tree removal decision letter approval, the owners submitted the building permit application for demolition of all structures on the property and construction of a new residence. At the time of staff's decision, the project considered as part of the tree removal permit, was for a single-family residential addition/remodel and that the oak tree was damaging the existing residence and would be impacted by the addition/remodel. The change in project scope (for a new residence) does not affect staff's decision to approve the removal of the Valley Oak tree since the reason for removal, due to proximity of development and the proposed footprint of the residence, remain the same. The project scope identified in this staff report reflects the new residence instead of an additional/remodel.

RECOMMENDATION

Deny the appeal and uphold the decision of the Community Development Director to approve the Tree Removal Permit, County File Number PLN 2017-00272, by

making the findings for approval and adopting the conditions of approval included in Attachment A of the staff report.

SUMMARY

On December 29, 2017, the Community Development Director approved the significant tree removal permit, finding that the tree's location, in the middle of the property, does not allow the owner's to pursue a practical remodel and reasonable enjoyment of their home. The appellant submitted an appeal in opposition to the Community Development Director's decision to approve the tree removal permit. The letter states that the appellant disagrees with the decision to allow removal of the significant tree based on the availability of open tree canopy to the east of the oak for development, that building permit plans should be approved prior to the posting of a tree removal permit, and that the removal of the oak would be a loss to the property and to the Menlo Oaks neighborhood.

The landowners considered alternative design options in an effort to save the tree. However, given the existing access easement within the property (south side/right side yard) and a second large Valley Oak tree located on the south side of the parcel, proposing the addition in the location of the existing residence and removing the Valley Oak tree provides the most practical house design. Consideration was also given in locating the home toward the rear half of the parcel but the landowners did not find this option desirable due to loss of a rear yard and privacy (in utilizing their front yard as backyard space). Locating a residence in the rear half of a property also has zoning implications in that detached accessory buildings (e.g., storage sheds, garages) are only allowed in the rear half of a parcel.

The property is located at the end of a 200-foot, 25-foot wide access driveway and the subject tree is located in the center of the parcel, thus the Valley Oak tree is only visible to the immediate neighbors. As conditioned, the removal of the tree may only occur after issuance of the building permit for the residence and replacement trees, consisting of two 24-inch box Valley Oak trees, are required prior to the building permit final inspection.

The tree removal is consistent with General Plan Policy 1.25 (*Protect Vegetative Resources*) which seeks to ensure development will minimize tree removal in addition to Section 12,023 (*Criteria for Permit Approval*) which allows the Community Development Director to grant tree cutting if the tree will be replaced by plantings approved by the Community Development Director and that the required action is necessary to utilize the property in a manner which is of greater public value than any environmental degradation caused by the action and to allow reasonable economic or other enjoyment of the property.

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

DATE: February 28, 2018

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of an appeal of the Community Development Director's decision to approve a Significant Tree Removal Permit to remove a 38-inch diameter at breast height (d.b.h.) Valley Oak tree to allow construction of a new residence, pursuant to Section 12,000 of San Mateo County Ordinance Code, on property located at 626 Berkeley Avenue in the unincorporated Menlo Oaks area of San Mateo County.

County File Number: PLN 2017-00272 (Mitigang and Gottesman)

PROPOSAL

The appellant has appealed the Community Development Director's approval of a permit to remove one 38-inch d.b.h. Valley Oak tree located in the rear yard of a 20,894 sq. ft. parcel (per survey). The property owners have submitted a building permit application (BLD 2017-02635) for a new house. The Valley Oak tree is located in the middle of the property just east of the existing 2,266 sq. ft. one-story residence. The current proposal includes construction of a 4,672 sq. ft. two-story single-family residence with an attached 516 sq. ft. garage, and a pool. The appellant contends that the tree can be preserved and that the owners have alternative options to construct their home without removing the Valley Oak tree.

During the final drafting of the tree removal decision letter approval, the owners submitted the building permit application for demolition of all structures on the property and construction of a new residence. At the time of staff's decision, the project considered as part of the tree removal permit, was for a single-family residential addition/remodel and that the oak tree was damaging the existing residence and would be impacted by the addition/remodel. The change in project scope (for a new residence) does not affect staff's decision to approve the removal of the Valley Oak tree since the reason for removal, due to proximity of development, and the proposed footprint of the residence, remain the same. The project scope identified in this staff report reflects the new residence instead of an additional/remodel.

RECOMMENDATION

Deny the appeal and uphold the decision of the Community Development Director to approve the Tree Removal Permit, County File Number PLN 2017-00272, by making the findings for approval and adopting the conditions of approval included in Attachment A of the staff report.

BACKGROUND

Report Prepared By: Olivia Boo, Project Planner; Telephone 650/363-1818

Appellant: Judy Horst

Applicant/Owner: Michael Mitigang and Barbara Gottesman

Location: 626 Berkeley Avenue, Menlo Park

APN: 062-183-210

Size: 20,894 sq. ft.

Existing Zoning: R-1/S-100

General Plan Designation: Low Density Residential Urban

Sphere-of-Influence: Menlo Park

Existing Land Use: Existing Single-Family Residence

Water Supply: California Water Service Company

Sewage Disposal: West Bay Sanitary

Flood Zone: Zone X (Area of Minimal Flooding). Panel No. 06081C0308E, effective date October 16, 2012.

Environmental Evaluation: This project is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15304 (*Minor Alterations to Land*), exempting minor public and private alterations in the condition of land, water and/or vegetation, which does not involve removal of healthy, mature, scenic trees. Section 15303 (*New Construction or Conversion of Small Structures*), Class 3, exempts construction of a new structure.

Setting: The subject parcel is a flat lot with mature trees along the property lines. The parcel takes access from Berkeley Avenue along a 200-foot long 25-foot wide access

easement that terminates at the parcel and includes an ingress/egress easement located within the property. The parcel is developed with an existing single-family residence, detached carport, and two sheds.

DISCUSSION

A. KEY ISSUES OF THE APPEAL

The appellant submitted an appeal letter in opposition to the Community Development Director's decision to approve the Tree Removal Permit. The letter states that the appellant disagrees with the decision to allow removal of the significant tree based on the following concerns.

1. ***The appellant states that there is a huge open space on this property where there is no canopy. Removing this significant Valley Oak tree would be a loss to the property and to the Menlo Oaks neighborhood. Large oaks, like this tree, add value to the properties and to the neighborhood.***

Staff Response: The tree canopy within the building envelope is bisected by the 38-inch Valley Oak tree. To the west of the oak tree is the existing single-family residence and two detached sheds; to the east is an existing carport. Taking into consideration building setbacks and the ingress/egress easement on the property, it is estimated that the westward open tree canopy is approximately 2,006 sq. ft. and eastward is 3,253 sq. ft.

At staff's request, the landowner considered alternative design options in an effort to save the tree. The landowner considered locating the residence toward east of the oak tree (rear half of the building envelope) but did not find this option desirable due to loss of a rear yard and privacy (in utilizing their front yard as backyard space). Locating a residence in the rear half of a property also has zoning implications in that detached accessory buildings (e.g., storage sheds, garages) are only allowed in the rear half of a parcel. Locating the residence in this location would require land use exceptions for detached accessory buildings if they were proposed in the future.

The landowner also considered construction to surround the tree; however, given the access easement location and a second large Valley Oak tree located on the south side of the property, removal of the subject tree and construction of a new residence in the general vicinity of the existing residence provides the most practical house design.

Staff visited the property and confirmed the mature Valley Oak tree sits immediately adjacent to the rear of the existing house (less than 5 feet), which is also in the middle of the property. The Valley Oak tree is damaging

the existing cement patio and the house foundation. The condition of the tree is not an issue, it appears to be in good health. Rather, the location of the Valley Oak impedes rebuilding a home in a reasonable manner. No arborist report has been submitted, nor is it required. Although the subject Valley Oak tree to be removed will eliminate existing tree canopy, the property has several mature trees existing on or adjacent to the property and the owner also proposes to plant two new 24-inch box Valley Oak trees to replace the one proposed for removal.

The following identifies the trees on or in close proximity to the subject property. Along the rear property line and in the rear yard area, there are eight existing trees, four oak trees, ranging in size from 8-inch d.b.h. to 33-inch d.b.h. Along the right side yard on the adjacent property there are three oak trees, ranging in size from 24-inch to 33-inch d.b.h. Along the left property line are five oak trees, various sizes, 13-inch d.b.h. to 20-inch d.b.h. The front yard has one 18-inch d.b.h oak.

Removal of this one tree allows for the enjoyment of the property by the owner to the fullest possible extent. Replacement of the tree with two 24-inch box Valley Oak trees prior to the building permit final Certificate of Occupancy ensures the quantity and species of oak trees will not diminish as a result of the development.

2. ***No building plans for the home have been approved by the County for the new home. Why ask to remove a tree before the plans are drawn and approved? The County could assert some authority to save the tree by working with the homeowners to alter its building plans as it has in other cases. And if the plans are approved, that is the time to post a tree removal permit, not now.***

Staff Response: Landowners who propose development that involve tree removal are required to apply for a Tree Removal Permit, as applicable due to size and species, either concurrent with a building permit application or prior to building permit submittal. Trees proposed for removal as a result of a development project may be removed only upon building permit issuance (Condition No. 2).

In the processing of a building permit with an associated tree removal permit, a landowner may submit their development application to the Building Inspection Section to begin the building permit process. Copies of the plans are routed to the applicable departments/agencies for review with one copy sent to the Planning Department for review. When a development project includes a required Tree Removal Permit, the Planning Department cannot “approve” the zoning review of the building permit until the associated Tree Removal Permit is approved. Thus, a building permit

cannot be “approved” prior to the granting of the associated Tree Removal Permit. In order for a building permit to be issued, all reviewing agencies must approve the building permit plans.

Due to building permit fees and costs associated with plan preparation (e.g., civil engineer, structural engineer, architect, etc.), a landowner may choose to submit for a tree removal permit prior to finalizing development plans for building permit submittal. In instances where a landowner must alter their development plans, the cost of modifying conceptual plans not yet submitted for a building permit may be substantially less than modifying plans for which a building permit has already been made (e.g., conceptual plans typically include only architectural drawings and not structural or civil drawings). When to submit for a development permit is at the discretion of the landowner since there is no Planning requirement for a building permit to have been submitted when a tree removal permit is required, though it is recommended.

3. ***Why grant a tree removal permit at this time, if as Planning states, it is conditioned by the approval of an associated building permit. At the time building plans were approved, a tree removal permit would be posted and the community could decide whether to appeal the permit.***

Staff Response: See response to Comment 2, above.

B. CONFORMANCE WITH THE GENERAL PLAN

General Plan Policy 1.25 (*Protect Vegetative Resources*) seeks to ensure that development will: (1) minimize the removal of vegetative resources and/or; (2) protect vegetation which enhances microclimate, stabilizes slopes or reduces surface water runoff, erosion or sedimentation; and/or (3) protect historic and scenic trees.

The new residence is located in generally the same footprint as the existing residence and will retain all trees within the property with exception to the one Valley Oak tree. The proposed 652 sq. ft. second story is located near the center of the first floor in order to minimize the impact on the existing tree canopy. As conditioned, the landowners are required to replant two 24-inch box Valley Oak trees prior to the building permit final inspection. Given the proposed residential development, removal of one tree, and replanting requirement, the project minimizes tree removal in conformance with this policy.

C. CONFORMANCE WITH THE SIGNIFICANT TREE ORDINANCE

Section 12,023 (*Criteria for Permit Approval*) of the Significant Tree Ordinance states that the Community Development Director or any other person or body

charged with determining whether to grant, conditionally grant or deny a Significant Tree Cutting Permit may approve a permit only if one or more of the following findings are made:

1. The tree is diseased;
2. The tree could adversely affect the general health and safety;
3. The tree could cause substantial damage;
4. The tree is a public nuisance;
5. The tree is in danger of falling;
6. The tree substantially detracts from the value of the property;
7. The tree acts as a host for a plant which is parasitic to another species of tree which is in danger of being infested or exterminated by the parasite;
8. The tree is a substantial fire hazard;
9. The tree will be replaced by plantings approved by the Community Development Director; or
10. The required action is necessary: (a) to utilize the property in a manner which is of greater public value than any environmental degradation caused by the action; (b) to allow reasonable economic or other enjoyment of the property.

The tree removal permit was granted based on staff's assessment that Finding Nos. 3, 9 and 10 could be made. As noted in the Proposal Section of this staff report, the initially permit approval was based on the landowners' residential addition/remodel project scope and that the tree was damaging the existing single-family residence and would be impacted by the residential addition/remodel. Although the project scope has changed upon building permit submittal, these findings remain applicable. As conditioned, the landowner is required to replant two 24-inch box Valley Oak trees prior to the final inspection of the building permit thus satisfying Finding No. 9.

Regarding Finding No. 10, the *Purpose* (Section 12,002 of the Significant Tree Ordinance) states that the *Board of Supervisors further finds and declares that it is necessary to enact this Ordinance for the above reasons* [referring to Section 12,000 Findings and Section 12,001 Intent] *and to promote the public health, safety, general welfare and prosperity of the County, while respecting and recognizing individual rights to development, maintain, and enjoy private property*

to the fullest possible extent, consistent with the public interest, convenience, and necessity. As considered by staff under the Tree Removal Permit, the landowners provided preliminary drawings indicating a residential addition/remodel consistent with the R-1/S-100 development standards. The current new residence proposal is also compliant with the development standards (e.g., setbacks, maximum lot coverage and floor area ratio, height, and parking standards). Thus, staff's consideration of Finding No. 10 was based on the conditions placed on the permit (size and type of replacement trees and removal after building permit issuance), location of the existing residence and proposed addition/remodel, limited number of trees for removal, the landowner's utilization of the property, and the reasonable economic and other enjoyment of the property.

D. ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines, Section 15304 (*Minor Alterations to Land*), Class 4. This class exempts minor public and private alterations in the condition of land, water and/or vegetation, which do not include removal of a healthy, mature tree in a scenic area. The Valley Oak tree is not located in a mapped scenic resource area and the tree cannot be seen beyond the immediate vicinity and adjacent neighbors. Section 15303 (*New Construction or Conversion of Small Structures*), Class 3, exempts construction of a new structure.

ATTACHMENTS:

- A. Recommended Findings and Conditions of Approval
- B. General Location/Vicinity Map
- C. Significant Tree Permit Application with Original Proposed House Plans
- D. Alternative design options
- E. Tree Canopy
- F. Public Comment
- G. Decision Letter, dated December 29, 2017
- H. Appeal Application and Supporting Documents
- I. Site Photos
- J. Statement from Applicant, dated December 11, 2017
- K. Revised Proposed Plans (BLD 202017-02635)

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County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2017-00272 Hearing Date: February 28, 2018

Prepared By: Olivia Boo
Project Planner

For Adoption By: Planning Commission

RECOMMENDED FINDINGS

Regarding the Environmental Review, Find:

1. That the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304 (*Minor Alterations to Land*). This class exempts minor public or private alterations in the condition of land, water and/or vegetation, such as the removal of a healthy, mature tree in a scenic area. The Valley Oak tree is not located in a mapped scenic resource area and the tree cannot be seen beyond the immediate vicinity and adjacent neighbors. Section 15303 (*New Construction or Conversion of Small Structures*), Class 3, exempts construction of a new structure.

Regarding the Significant Tree Removal Permit, Find:

2. That the subject 38-inch Valley Oak tree meets the criteria for removal found in Section 12,000 of San Mateo County Ordinance Code. After reviewing the subject application and supporting materials and visiting the site, staff determined that this tree permit meets the criteria for removal which include: (1) to utilize the property in a manner which is of greater public value than any environmental degradation caused by the action; (2) to allow reasonable economic or other enjoyment of the property; and (3) the tree could cause substantial damage.

RECOMMENDED CONDITIONS OF APPROVAL

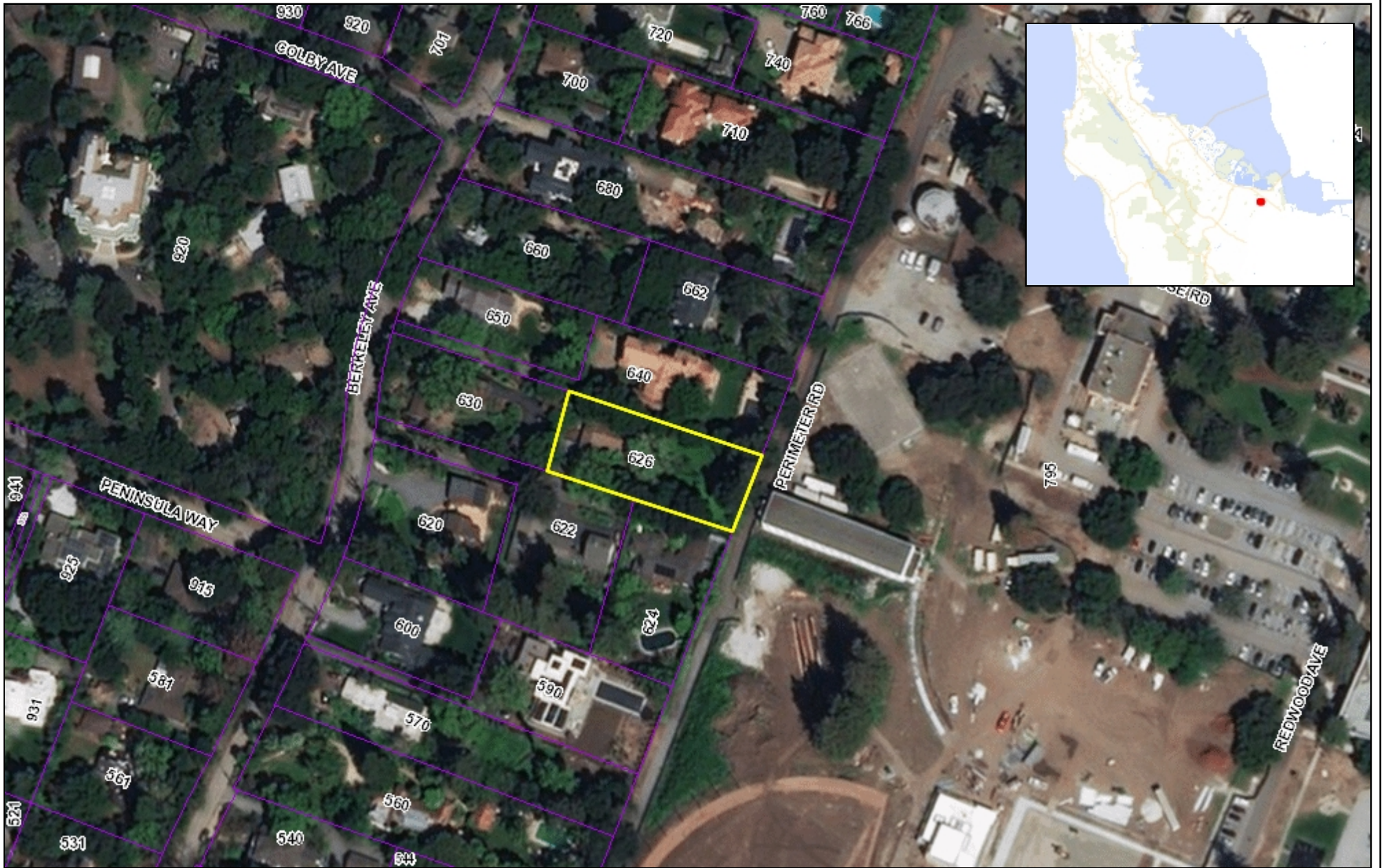
Current Planning Section

1. The tree indicated on the application form dated February 28, 2018 may be removed after the end of the appeal period, assuming no appeal is filed as stipulated in this letter. A separate Tree Removal Permit shall be required for the removal of any additional trees.

2. This Tree Removal Permit approval shall be on the site and available at all times during the tree removal operation and shall be available to any person for inspection. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street. Tree removal may only begin after the issuance of the associated building permit for the residence (BLD 2017-02635).
3. The applicant shall plant on-site a total of two (2) Valley Oak trees using at least 24-inch-box size stock, for the tree removed. Replacement planting shall occur prior to the final building inspection.
4. The applicant shall submit photo verification to the Planning Department of the planted replacement trees required in Condition of Approval No. 3. Photos shall either be submitted in person to the Planning Department, or via email to plngbldg@smcgov.org with reference to the Planning Application PLN Number, PLN 2017-00272.
5. If the subject Tree Removal Permit is associated with a building permit for construction of a new or remodeled residence, the required tree replanting, per Condition of Approval No. 3, shall be required prior to the final building inspection approval. Any outstanding tree replacement(s) not yet complied with from previously approved tree removal permits, if any, shall also be fulfilled. An inspection final by the Planning Department will be added to the building permit.
6. If work authorized by an approved permit is not commenced within the period of one (1) year from the date of approval, the permit shall be considered void.
7. During the tree removal phase, the applicant shall, pursuant to Chapter 4.100 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site by:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
 - b. 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.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - d. Using filtration or other measures to remove sediment from dewatering effluent.
 - 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.
- 8. Prior to the removal of any trees located within the public right-of-way, the applicant shall obtain an encroachment permit from the Department of Public Works. Additionally, prior to planting any trees within the public right-of-way, the applicant shall obtain a landscaping/encroachment permit from the Department of Public Works.
- 9. The applicant shall clear all debris from the public right-of-way.

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0.07 0 0.04 0.07 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Latitude Geographics Group Ltd.

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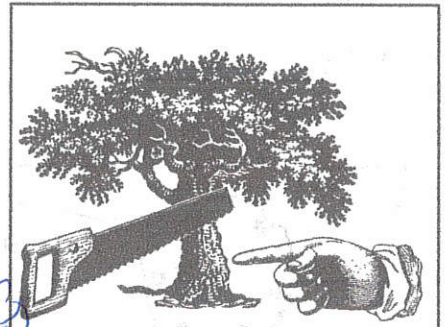
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Application for Permit to Remove Tree(s)

Sections 11,000 et seq and 12,000 et seq of the San Mateo County Ordinance Code.

HERITAGE TREE(S) SIGNIFICANT TREE(S)



Property Owner: MG Trust (Michael Mitgang + Barbara Gottesman Trustees)

Address: 626 Berkeley Ave Menlo Park, CA 94025 Telephone: 650-888-2468

Date of Application: 6/29/2017

Applicant (if different): Michael Mitgang + Barbara Gottesman

10 Day Period of Posted Notice From: 6/29/2017

Address: (same as above) Telephone: Michael@Mitgangs.com

To: 7/10/2017

Address and parcel number where tree(s) located: same as above
APN, 062183-210

Tree(s) Diameter or Circumference (at 4½ ft. height)	Kind of tree(s)	Heritage Tree? (Yes / No)	Health of tree(s)	Reason for Removal/Trimming
<u>38- 120" Cir</u>	<u>Valley Oak</u>	<u>Yes</u>	<u>Good</u>	<u>Construction</u>

REMOVAL PLAN:

- Method of removal: By Owner
 By Tree Removal Service. Name: TBD Phone: _____
- Disposal of tree debris: All debris to be removed from site by Tree Removal Service
 All/some debris to remain on site; Purpose: _____

The information contained in the application is accurate and true to the best of my knowledge. I understand that an approved permit is conditional. Further, the decision on this application may be appealed to the San Mateo County Planning Commission. Authority to remove or trim a tree is effective only after the approval appeal period has expired.

[Signature], Trustee.
Applicant's Signature

Public Notification of this application request will be sent to all property owners within 100 feet of the project site and in addition, to the Mid-Coast Community Council if your project site is located in the Mid-Coast.

NOTE: All Tree Removal Applications must be submitted in person.

Note: Acceptance of this application by Planning Staff...

- **Does not guarantee the approval of the proposed tree removal(s).**
Planning staff will grant a tree removal permit only if staff is able to make one or more of the findings listed in Section 12,023 of the "Regulation of Removal of Significant Trees". A copy of this ordinance can be obtained at the Planning counter or at www.co.sanmateo.ca.us. The decision to make these findings takes into consideration public comment, recommendation(s) of reviewing agencies, the reason for removal and documentation of the tree's health or hazard as indicated by an arborist (if required, see below).
- **Does not imply that the application is "complete".** Other items, such as a report from a certified arborist, may be requested in order to complete your application (Section 12,021) For example, an arborist report may be required in order to confirm or refute a property owner's claim that a tree is diseased or a hazard to safety or property.

Applicant to sign below, in acknowledgment of the above information.

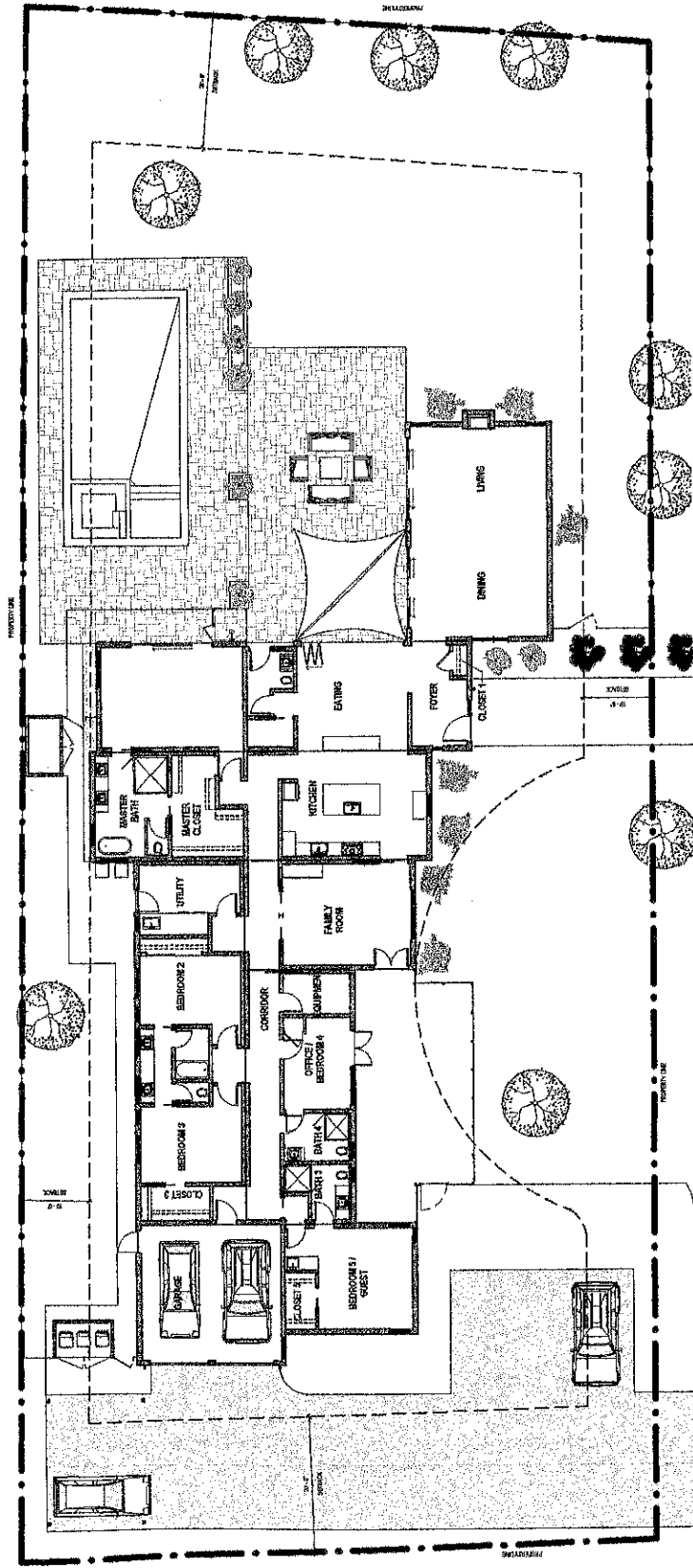
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Applicant

See last page for Tree Replacement Requirements

No.	Revision	Date
1	Issue for Review	11/09/11
2	Revised	11/09/11
3	Revised	11/09/11

No.	Revision	Date

Sheet Description
DATE: 11/09/11 7:59:57 PM
SUB NO: 1604E
DRAWN BY: AUBREY
CHECKED BY: CHESTER



FLOOR PLAN
1/8" = 1'-0"



MG
CONCEPT
OPTION ONE

NO. OF UNITS	100
NO. OF UNITS PER FLOOR	10
NO. OF UNITS PER UNIT	10
NO. OF UNITS PER UNIT	10

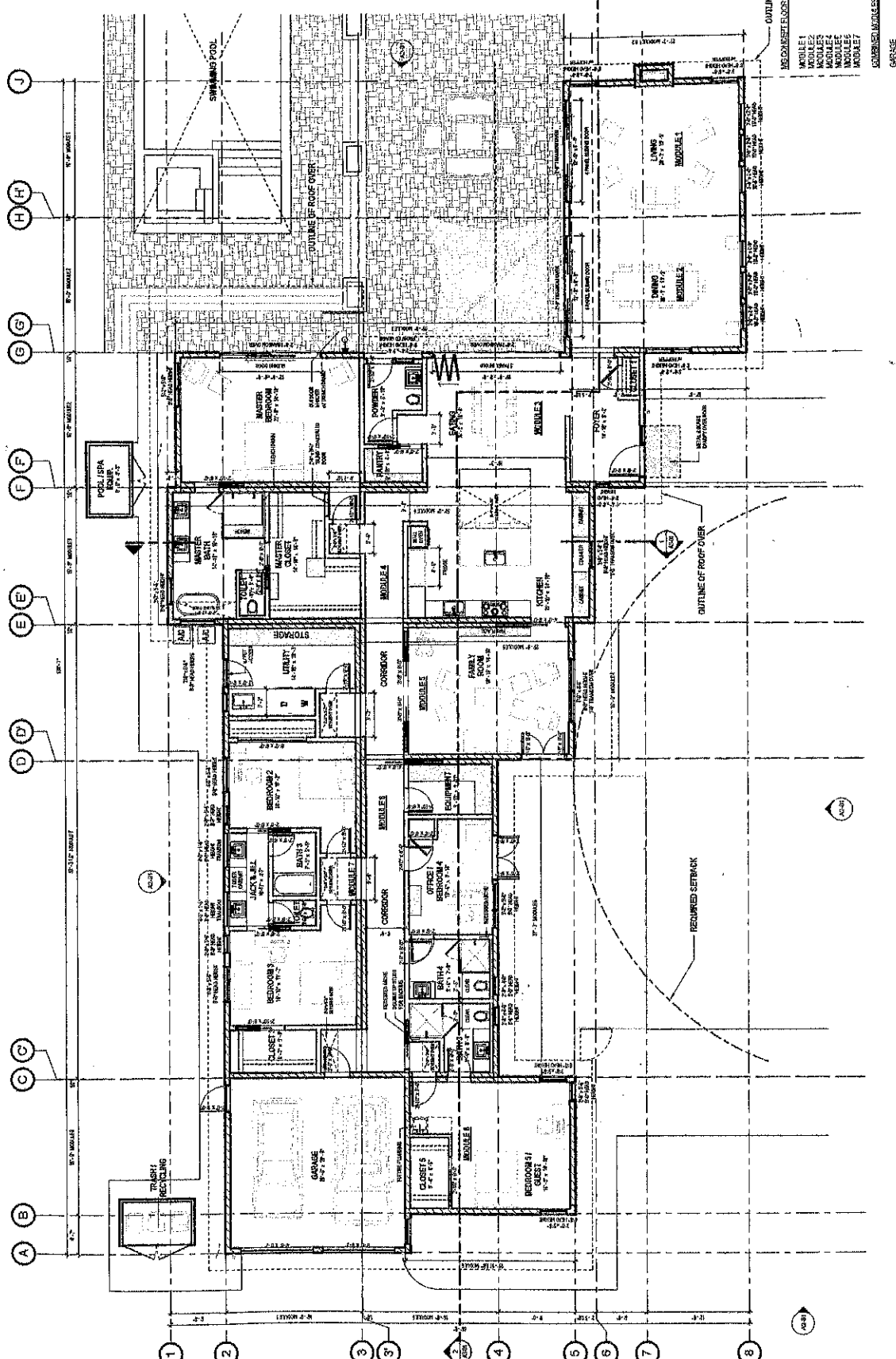
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 Checked by: [Name]
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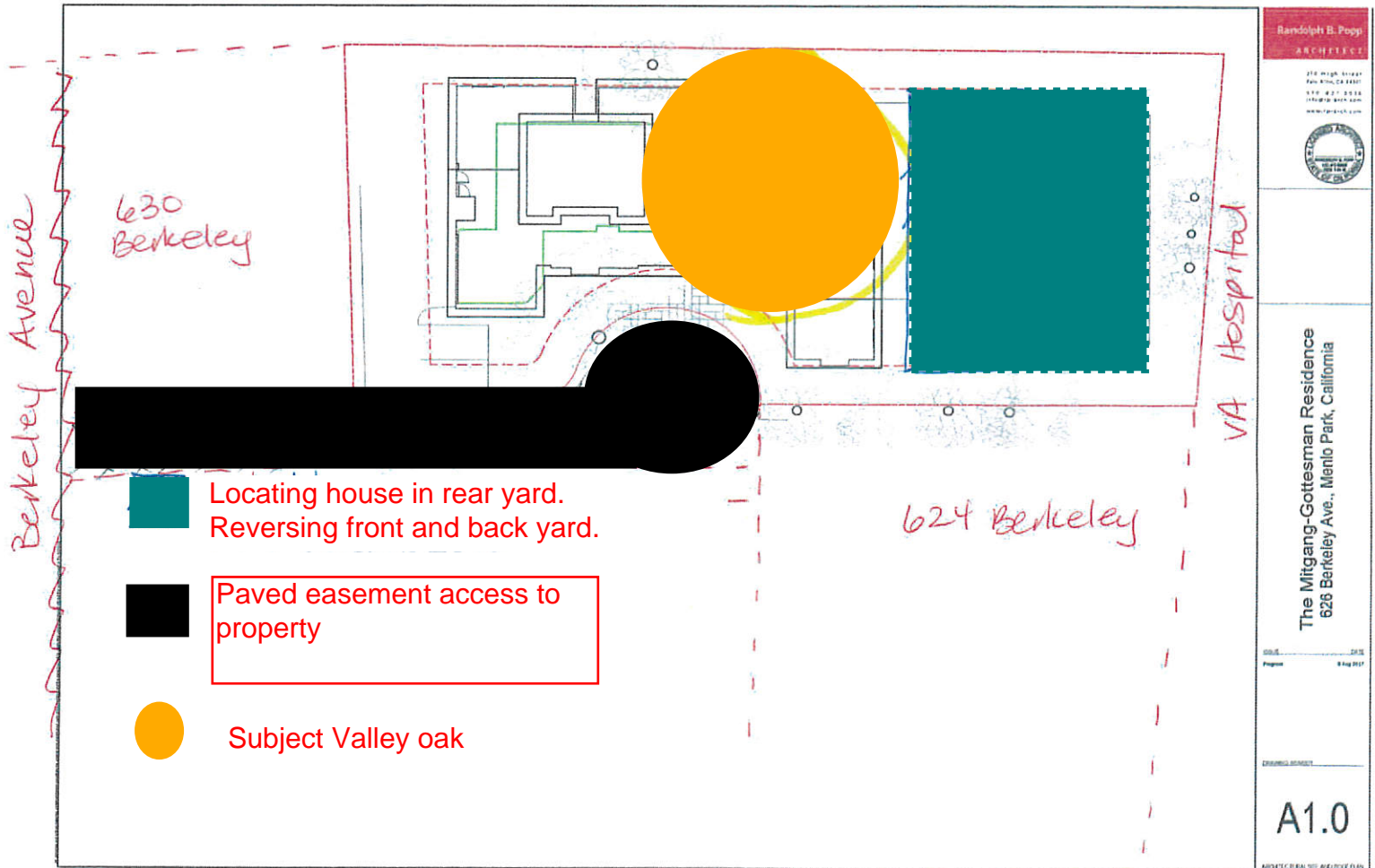
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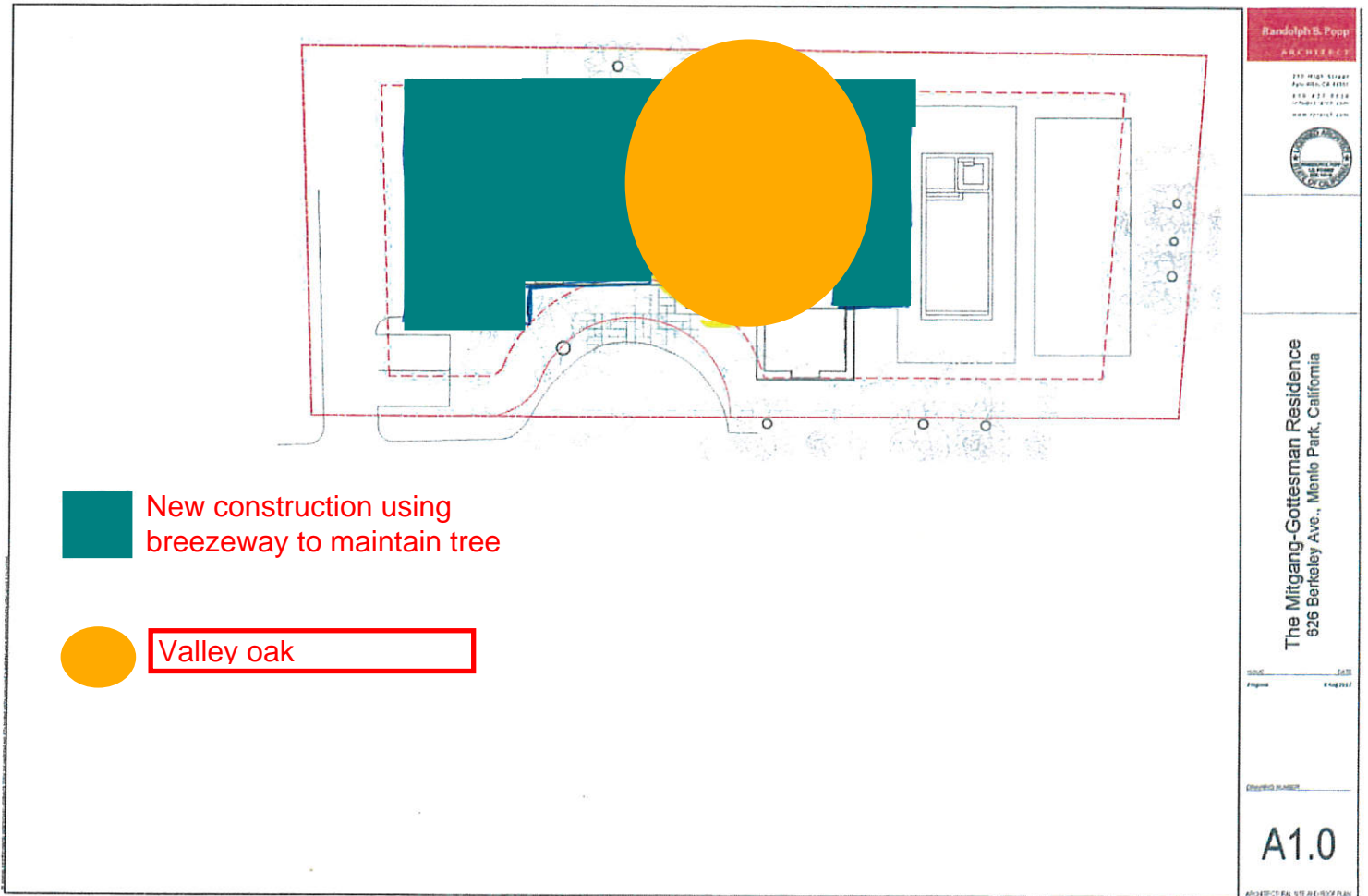


Attachment C

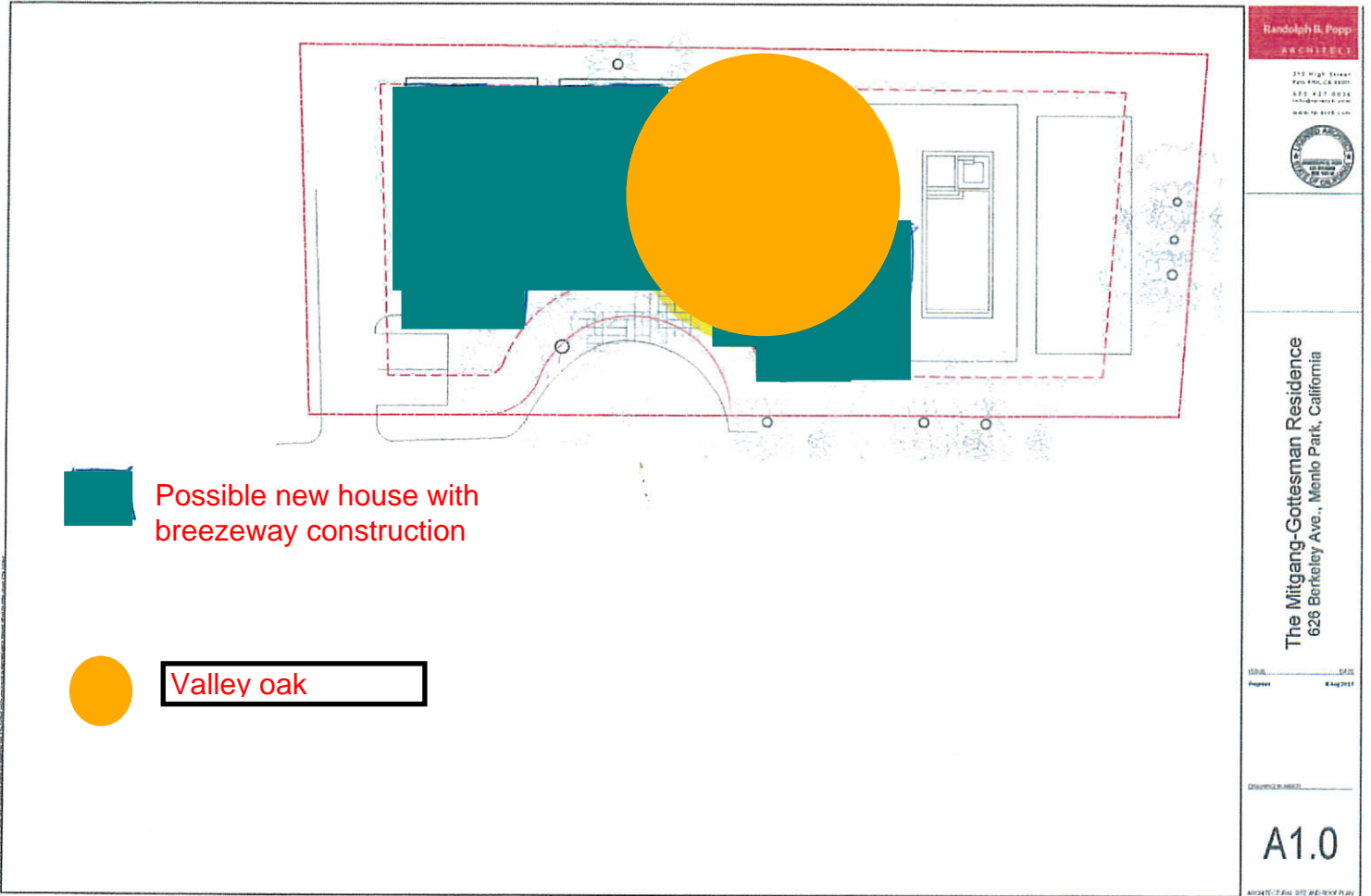
Attachment A



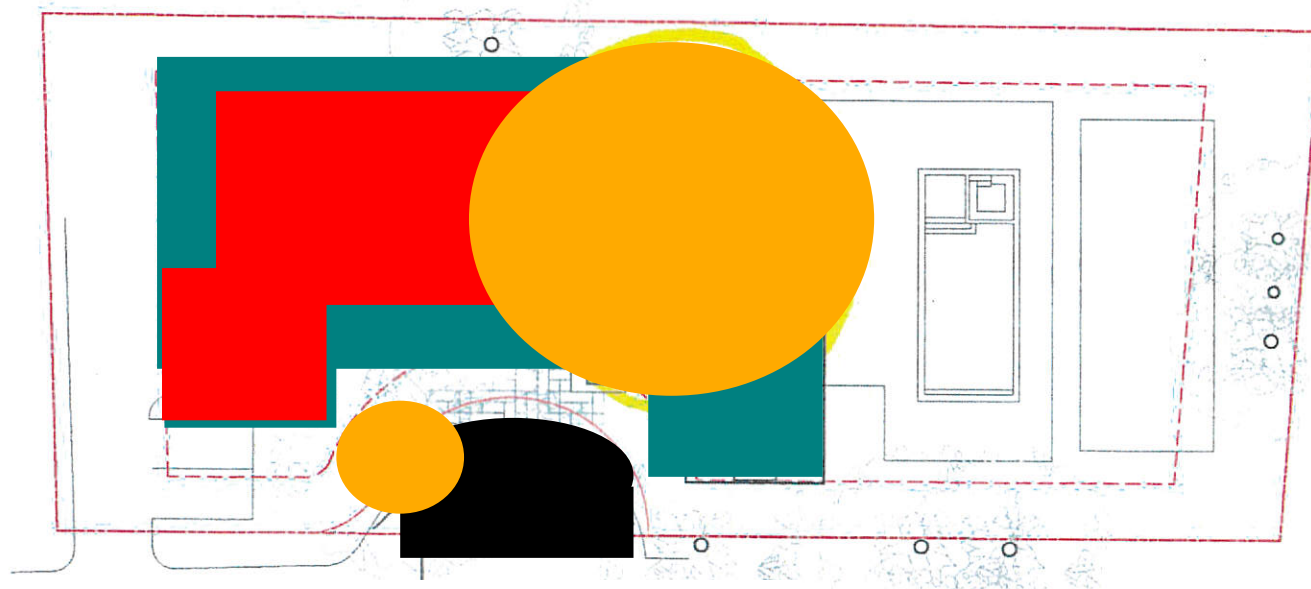
Attachment B



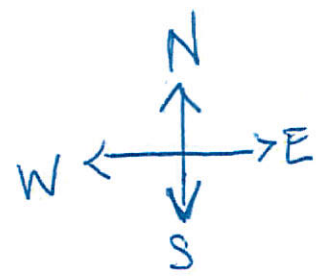
Attachment C



Marked-Up Site Plan



-  Existing house
-  Easement
-  Proposed House
-  Valley oak



Randolph B. Popp
ARCHITECT

210 High Street
Falo Alto, CA 94301
415.427.0034
info@rbpopp.com
www.rbpopp.com



The Mitgang-Gottesman Residence
626 Berkeley Ave., Menlo Park, California




ISSUE _____ DATE _____
Program _____ 8 Aug 2017

DRAWING NUMBER _____

A1.0

ARCHITECTURAL SITE AND ROOF PLAN

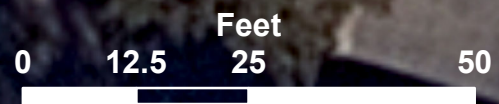
Approximate Visible Tree Canopy

-  Approximate Visible Tree Canopy (~14,801.76 sq. ft.)
-  Ingress and Egress Easement (~1,020.7 sq. ft.)
- Subject Parcel (APN: 062-183-210)**
-  Area: 20,992.20 sq. ft. (Legal Area: 20,832 sq. ft.)

Source: SMC Geodatabase (Aerial Orthophotography from April 2017)

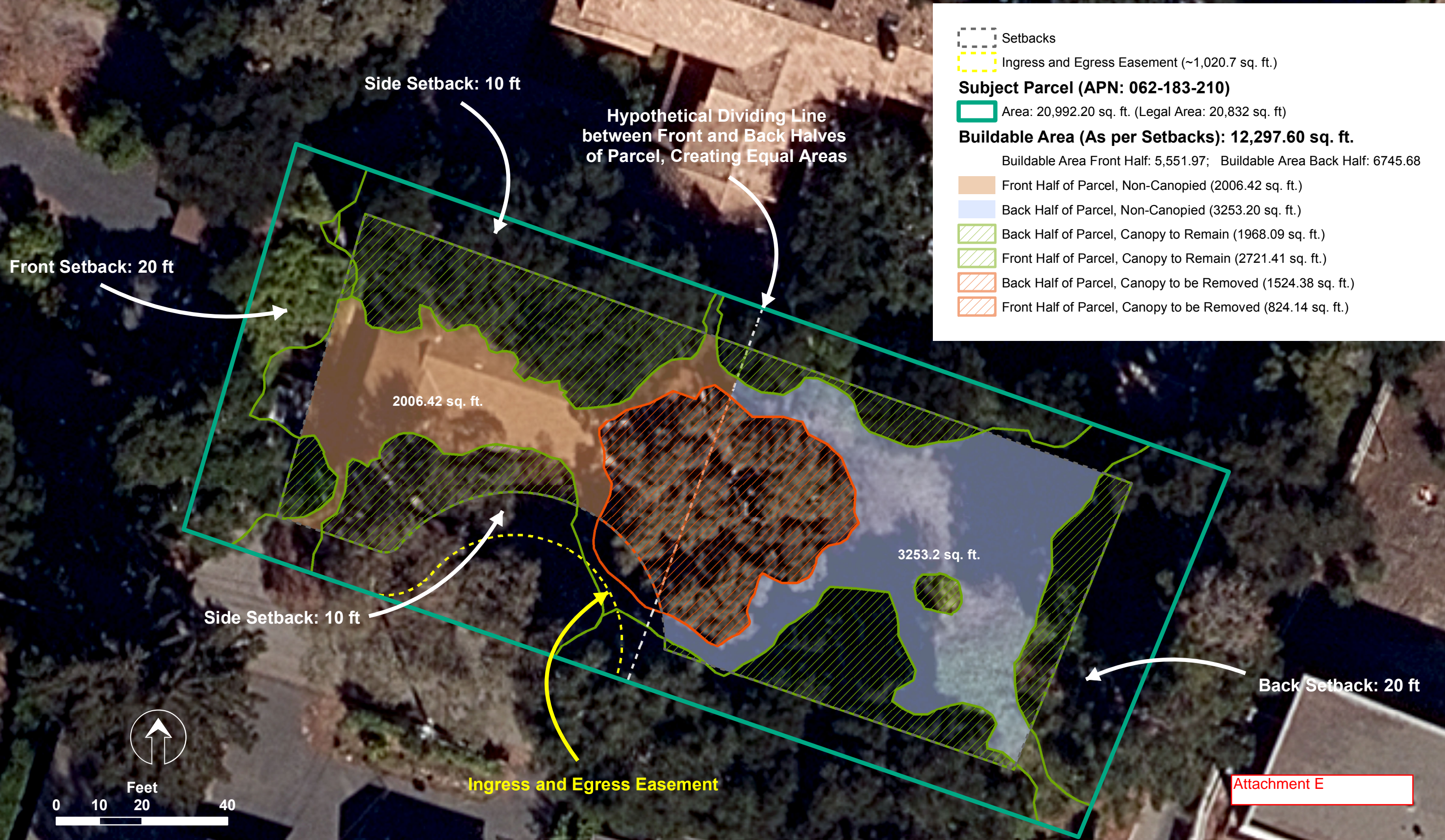


Ingress and Egress Easement



Attachment E

Approximate Visible Tree Canopy within the Buildable Area



Existing Building Footprint

Approximate Visible Tree Canopy within Buildable Area

- To Remain
- Proposed for Removal

Subject Parcel (APN: 062-183-210)

- Area: 20,992.20 sq. ft. (Legal Area: 20,832 sq. ft.)
- Ingress and Egress Easement (~1,020.7 sq. ft.)
- Existing Building Footprint (~2549.4 sq. ft.)

Source: SMC Geodatabase (Aerial Orthophotography from April 2017)

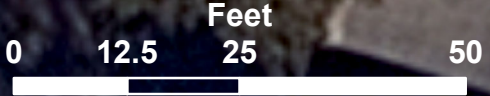
Side Setback: 10 ft

Front Setback: 20 ft

Side Setback: 10 ft

Back Setback: 20 ft



Ingress and Egress Easement






Attachment E

Proposed Building Footprint

Approximate Visible Tree Canopy within Buildable Area

-  To Remain
-  Proposed for Removal

Subject Parcel (APN: 062-183-210)

-  Area: 20,992.20 sq. ft. (Legal Area: 20,832 sq. ft.)
-  Ingress and Egress Easement (~1,020.7 sq. ft.)
-  Proposed Building Footprint (~4,625.2 sq. ft.)

Source: SMC Geodatabase (Aerial Orthophotography from April 2017)

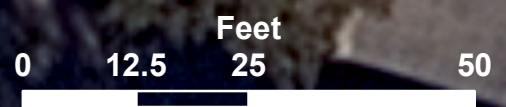
Front Setback: 20 ft

Side Setback: 10 ft

Side Setback: 10 ft

Back Setback: 20 ft

Ingress and Egress Easement



Attachment E

Olivia Boo

From: Janet Weisman Goff <weisman-goff@hotmail.com>
Sent: Saturday, July 08, 2017 3:52 PM
To: Olivia Boo
Cc: Steve Monowitz; Joe LaClair; Judy Horst; Anne Kortlander; remonam@sbcglobal.net; John Danforth
Subject: OBJECTION to PLN2017-00272

This letter urges you to deny PLN2017-00272 to remove a healthy, 38-inch diameter, 200-year-old Valley Oak tree for the convenience of yet-to-be-built structure at 626 Berkeley Avenue in Menlo Oaks. Applying for its removal before the overall project has been approved shows complete disregard for San Mateo's commitment to preserving its oak savannah and for the neighborhood named in honor of these old oaks.

I'm cc'ing Steve Monowitz and Joe LaClair because this is an example of the very low bar that currently exists for removing the old and valuable oak trees of Menlo Oaks. Aside from the sheer wastefulness, asking to remove a healthy heritage tree even before the County has inspected the site and issued Plan or Building Permits is a backward process in every sense of the word.

The owner of the property has admitted that the tree is in good health. The proposed demolition and the new structure could be achieved without harming any of the old-growth trees on the parcel. When developers and homeowners ignore alternatives to destroying the canopy and put expediency above the protection of the natural landscape, every person in the neighborhood loses.

Please help us conserve the oaks of Menlo Oaks and do not approve this application. San Mateo County must insist on environmentally conscientious development to maintain our healthy standard of living for future generations.

Janet & Greg Goff
941 Peninsula Way
Menlo Park, CA 94025

Attachment F

Olivia Boo

From: Anne Kortlander <akortland@aol.com>
Sent: Monday, July 10, 2017 8:11 AM
To: Olivia Boo
Cc: Joe LaClair
Subject: PLN2017-00272: 626 Berkeley, Menlo Park

This permit request should be denied:

- this large heritage oak appears healthy and in good form. There is apparently no arborist report citing irremediable problems;
- the tree provides valuable benefits to the neighbors including a large canopy, noise reduction, carbon sequestration;
- the lot is large and there is ample space to site a large home for the owner on the non-tree'd part of the lot;
- it does not appear that all the plans are approved, nor permits approved by the County or local fire department. Now is the time to ensure the approved plans include preserving this tree-- as opposed to prematurely removing it or enabling cookie-cutter plans to destroy our Menlo Oaks neighborhood's environment through unnecessary tree removal;
- this permit, if approved, reinforces the dangerous precedent that the County's trees are simply inconveniences in the way of building ever-larger homes for individuals;
- this permit, as denied, supports San Mateo County's new direction to care for all of its citizens by caring for the trees that provide for the common good.

Thank you.

Anne Kortlander
Owner, 945 Peninsula Way, Menlo Park
Menlo Oaks District

Sent from my iPhone

Olivia Boo

From: John Danforth <jdanforth@gmail.com>
Sent: Saturday, July 08, 2017 4:12 PM
To: Janet Weisman Goff
Cc: Olivia Boo; Steve Monowitz; Joe LaClair; Judy Horst; Anne Kortlander; remonam@sbcglobal.net
Subject: Re: OBJECTION to PLN2017-00272

I endorse and adopt this objection.

Step by step, parcel by parcel, the character of our Menlo Oaks neighborhood is being destroyed.

The county needs to enforce its tree ordinances.

Please copy me regarding this application.

John Danforth

On Jul 9, 2017, at 6:51 AM, Janet Weisman Goff <weisman-goff@hotmail.com> wrote:

This letter urges you to deny PLN2017-00272 to remove a healthy, 38-inch diameter, 200-year-old Valley Oak tree for the convenience of yet-to-be-built structure at 626 Berkeley Avenue in Menlo Oaks. Applying for its removal before the overall project has been approved shows complete disregard for San Mateo's commitment to preserving its oak savannah and for the neighborhood named in honor of these old oaks.

I'm cc'ing Steve Monowitz and Joe LaClair because this is an example of the very low bar that currently exists for removing the old and valuable oak trees of Menlo Oaks. Aside from the sheer wastefulness, asking to remove a healthy heritage tree even before the County has inspected the site and issued Plan or Building Permits is a backward process in every sense of the word.

The owner of the property has admitted that the tree is in good health. The proposed demolition and the new structure could be achieved without harming any of the old-growth trees on the parcel. When developers and homeowners ignore alternatives to destroying the canopy and put expediency above the protection of the natural landscape, every person in the neighborhood loses.

Please help us conserve the oaks of Menlo Oaks and do not approve this application. San Mateo County must insist on environmentally conscientious development to maintain our healthy standard of living for future generations.

COUNTY OF SAN MATEO
PLANNING AND BUILDING

County Government Center
455 County Center, 2nd Floor
Redwood City, CA 94063
650-363-4161 T
650-363-4849 F
www.planning.smcgov.org

December 29, 2017

Michael Mitigang and Barbara Gottesman
Trustees MG Trust
626 Berkeley Avenue
Menlo Park, CA 94025

Dear Mr. Mitigang and Ms. Gottesman:

SUBJECT: Bayside Tree Removal Permit
626 Berkeley Avenue, Menlo Park
APN 062-183-210; County File No. PLN 2017-00272

Your application for a Tree Removal Permit, to remove one 38-inch circumference Valley oak, located in the rear yard on the subject property, is hereby **approved**, pursuant to Section 12,000 of the San Mateo County Ordinance Code. Public notification was sent out on June 29, 2017. The posting period began on June 29, 2017 and ended on July 10, 2017. Comments were received and are discussed below.

The applicant has requested removal of one Valley oak, located in the rear yard, as they are proposing an addition/remodel to their one-story residence which will include new footprint expansion into the rear yard. The tree is located adjacent to the rear of the residence and is damaging the surrounding concrete patio and foundation. Due to an existing access easement (fire truck turnaround) on the south side of the property, the easement limits the owner's ability to propose an addition on the south side.

Staff visited the property and confirmed the mature Valley oak sits immediately adjacent to the rear of the house (less than 5 feet), which is also in the middle of the property. The Valley oak is already damaging an existing cement patio, the house foundation, and will continue to damage the house as it matures. The canopy branches are likely to grow even closer to the existing house and cause further property damage, including to the roof eave.

As requested by staff and in response to public comments received, the applicant considered alternative design options for the addition/remodel in effort to save the tree. However, given the access easement location and a second large Valley oak located on the south side of the property, proposing the addition in the rear yard and removing the subject Valley oak provides the most practical house design. Keeping the Valley oak and building around it will eventually confine the trees growth.

The tree removal permit has been conditioned (Condition No. 2) to require the issuance of the associated building permit (BLD 2017-02635) prior to the tree's removal. The owner has agreed to replant two 24-inch box Valley oak trees to replace the one Valley oak proposed for



Attachment G

removal. Regulations require only one 15-gallon tree (of any indigenous species) to be replanted, thus the applicant is exceeding the requirement.

The owners have proactively reached out to the immediate neighbors as well as both Menlo Oaks District Association (MODA) and Menlo Oaks Tree Association (MOTA). Staff received comments from members of MOTA and MODA, discussed below.

Comment 1: *"The 38-inch Valley oak is a 200 year old tree. The request for removal is for the convenience of a house remodel. Applying for its removal, before the project is approved shows complete disregard for San Mateo County's commitment to preserving the tree. The request to remove a healthy heritage tree before the County Planning Department has inspected the site and issued a planning or building permit is a backward process."*

Staff's Response: Applicants proposing development projects that involve tree removal are required to apply for a Tree Removal Permit, as applicable due to size and species, either concurrently or prior to submitting a building permit application. As conditioned, trees proposed for removal as a result of a development project may be removed only upon building permit issuance. The applicant has submitted for a building permit subsequent to the Significant Tree Removal Permit application.

Comment 2: *"The Valley oak is healthy and in good form. It provides benefit to the neighbors with its large canopy, noise reduction, carbon sequestration. The property is large enough to allow a home remodel in areas away from the Valley oak. If this tree permit is approved it reinforces that trees pose an inconvenience to build and remodel. Denial of this permit is in line with San Mateo County's direction to retain trees for the community."*

Staff's Response: Staff and the applicant concur that the tree appears to be in good health. Removal is proposed because the tree is located in the middle of the property and designing a house around the tree does not create a practical floor plan nor protect from potential limb failure to the house. The Purpose of the Significant Tree Ordinance is *to promote the public health, safety, general welfare and prosperity of the County, while respecting and recognizing the individual rights to development, maintain, and enjoy private property to the fullest possible extent, consistent with the public interest, convenience, and necessity.* Removal of this one tree, currently causing damage to the existing residence, allows for the enjoyment of the property by the owner to the fullest possible extent. Replacement of the tree with two 24-inch box Valley oak trees prior to the building permit final Certificate of Occupancy ensures the quantity and species of oak trees will not diminish as a result of the development. It should be noted that although this tree removal is being requested to allow for construction of an addition/remodel, removal of the tree absent the addition/remodel could still be justified by staff because of the damage the tree is causing to the existing house foundation.

Comment 3: *"Removing the Valley oak creates another big hole in the Menlo Oaks canopy."*

Staff's Response: The tree does provide a large tree canopy to the property; however, staff does not believe there will be a significant "canopy hole" given the Menlo Oaks community

size, the removal of one tree on the subject property, and the required two replacement oaks. There is a second mature Valley oak on the south side of the property, and the property perimeter overall has several mature oak trees that border the property. The property is well shielded and screened by existing mature oak trees and other vegetation. Should the owner choose to remodel with a one-story home, the visual impact of a remodeled one-story home will be far less of a visual impact than a two-story home which is what is being constructed on other properties in the area.

Comment 4: *"The lot is large and there is ample space to site a large home for the owner on the non-tree part of the lot. It appears that the reason to remove the tree is that it is in the way of the new five-bedroom home that replaces and expands the existing home on the property, even though there appears to be ample room on the lot to re-position the home on the property without removing any trees."*

Staff's Response: The applicant considered locating a home toward the rear setback line (rear half of the building envelope) of the parcel but did not find this option desirable due to loss of a rear yard and privacy (in utilizing their front yard as backyard space). Locating a residence in the rear half of a property also has zoning implications in that detached accessory buildings (e.g., storage sheds, garages) are only allowed in the rear half of a parcel. Locating the residence at the rear of the property may require land use exceptions for the location of detached accessory buildings if they were proposed in the future.

Comment 5: *"It does not appear that all the plans are approved, nor permits approved by the County or local fire department. Now is the time to ensure the approved plans include preserving this tree-as opposed to prematurely removing it or enabling cookie-cutter plans to destroy our Menlo Oaks neighborhoods environment through unnecessary tree removal. We don't think the plans for this home have gone through zoning and planning stages yet, and we don't think the building plans have been approved. There is also a question as to whether the Fire district Department will approve the plans we were shown when we met with the homeowners. Access to the back of the new home to put out fires may be problematic. I oppose the permit because it has been requested prematurely and should be withdrawn until the County and Fire Department have OK'd the plans for the home. Granting a permit now, or removing the tree now, serves no purpose. If approved, the permit gives the property owner license to take out the tree at any time in the future whether a new home is approved and built, or not."*

Staff's Response: As previously stated, this tree removal permit is conditioned to only allow the removal of the tree upon issuance of the building permit (Condition No. 2). There is no prohibition on the application of a tree removal permit prior to a building permit submittal. In order for a building permit to be issued, all reviewing agencies must approve the building permit plans.

Comment 6: *"The tree permit, if approved, reinforces the dangerous precedent that the County's trees are simply an inconvenience in the way of building ever large homes for individuals."*

Staff's Response: See staff's response to Comment 2.

Comment 7: *"This permit, as denied, supports San Mateo County's new direction to care for all its citizens by caring for the trees that provide for the common good."*

Staff's Response: Removal of the one Valley oak tree and replacement of two 24-inch box Valley oak trees to allow the residential is consistent with the Purpose of the Significant Tree Ordinance by balancing the landowner's right to enjoy their private property and by considering the public interest by requiring additional tree replanting.

Based on the foregoing, your application is hereby approved subject to the following findings and conditions of approval:

FINDINGS

Staff found that:

1. The tree will be replaced by plantings approved by the Community Development Director.
2. The required action is necessary to utilize the property in a manner which is of greater public value than any environmental degradation caused by the action.
3. The required action is necessary to allow reasonable economic or other enjoyment of the property.

CONDITIONS OF APPROVAL

1. The tree indicated on the application form dated June 29, 2017, may be removed after the end of the appeal period, assuming no appeal is filed as stipulated in this letter. A separate Tree Removal Permit shall be required for the removal of any additional trees.
2. This Tree Removal Permit approval shall be on the site and available at all times during the tree removal operation and shall be available to any person for inspection. The issued permit shall be posted in a conspicuous place at eye level at a point nearest the street. Tree removal may only begin after the issuance of the associate building permit for the residential addition (BLD 2017-02635).
3. The applicant shall plant on-site a total of two (2) Valley oak trees using at least 24-box size stock, for the tree removed. Replacement planting shall occur prior to the final building inspection.
4. The applicant shall submit photo verification to the Planning Department of the planted replacement trees required in Condition of Approval No. 3. Photos shall either be submitted in person to the Planning Department, or via email to plngbldg@smcgov.org

with reference to the Planning Application PLN Number, as identified in the subject line of this letter.

5. If the subject Tree Removal Permit is associated with a building permit for construction of a new or remodeled residence, the required tree replanting, per Condition of Approval No. 3, shall be required prior to the final building inspection approval. Any outstanding tree replacement(s) not yet complied with from previously approved tree removal permits, if any, shall also be fulfilled. An inspection final by the Planning Department will be added to the building permit.
6. If work authorized by an approved permit is not commenced within the period of one year from the date of approval, the permit shall be considered void.
7. During the tree removal phase, the applicant shall, pursuant to Chapter 4.100 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site by:
 - a. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 1 and April 30.
 - b. 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.
 - c. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - d. Using filtration or other measures to remove sediment from dewatering effluent.
 - 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.
8. Prior to the removal of any trees located within the public right-of-way, the applicant shall obtain an encroachment permit from the Department of Public Works. Additionally, prior to planting any trees within the public right-of-way, the applicant shall obtain a landscaping/encroachment permit from the Department of Public Works.
9. The applicant shall clear all debris from the public right-of-way.

To ensure compliance with the above conditions, a "Parcel Tag" will be placed on this parcel which shall restrict future development until these conditions are met, particularly with regard to the planting and photo verification of the replacement trees. Upon fulfillment of these conditions, as determined by the Community Development Director, the subsequent parcel tag shall be lifted.

Michael Mitigang
Barbara Gottesman

- 6 -

December 29, 2017

The approval of this Tree Removal Permit and any conditions of the approval may be appealed within ten (10) working days of the date of this letter. An appeal form accompanied by the applicable filing fee of \$616.35 must be submitted by **5:00 p.m., January 16, 2017**. If at the end of that period no appeal has been filed, the subject tree may be removed (Section 12,028 of the San Mateo County Ordinance Code).

You will be notified if an appeal is made.

If you have any questions, please call the project planner, Olivia Boo, at 650/363-1818 or by email at oboo@smcgov.org.

To provide feedback, please visit the Department's Customer Survey at the following link:
<http://planning.smcgov.org/survey>.

FOR STEVE MONOWITZ
COMMUNITY DEVELOPMENT DIRECTOR, By:



Melissa Ross, Senior Planner

MR:OB:pac - OSBBB0786_WPN.DOCX

cc: Interested Parties

Application for Appeal

To the Planning Commission

To the Board of Supervisors

RECEIVED

JAN 1 6 2018

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

San Mateo County
Planning Division

Name: Stacy Horst

Phone, W: 650-327-5207 H: Same

Address: 945 PENINSULA WAY
MENLO PARK, CA

Zip: 94025

Permit Numbers involved:

APN 062-183-210

PLN 2017-00272

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:

Stacy E. Horst

Date: _____

made on Dec 29, 2018, to approve/deny the above-listed permit applications.

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

See attached

Allso please read under Conditions of Approval Statement #1 which appears to be in conflict with the Planner's letter, paragraph #5. It appears the home owners could remove the tree in question as of January 17th, and we do not think the information provided in the letter is clear enough for such a serious action.

RECEIVED

January 16, 2018

JAN 16 2018

To: Melissa Ross, Senior Planner
San Mateo Planning & Building **San Mateo County
Planning Division**

From: Judy Horst, Menlo Oaks Tree Advocacy (MOTA)

Subject: Appeal of Tree Removal Permit
626 Berkeley Avenue, Menlo Park
APN 062-183-210, County File, PLN 2017-00272

The removal of this one 38-inch Valley Oak, a Significant tree by County definition, is not necessary. This tree has been called healthy by the County, and it is certainly in good form.

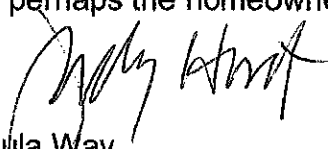
Approval by the County to allow this tree's removal is premature. There is an abundance of tree-free land available on this property for better siting of the home. The home owners need to investigate other ways to develop the property. This premature application and its approval to remove this tree shows that the County and the home owners are only interested in expedient solutions. Both show little interest in maintaining the character of the Menlo Oaks neighborhood if they want to remove one of the few large trees on this property. This tree seems to just be in the way of some future building plans that have yet to be approved by the County. By dismissing the value of this large tree so casually, we have to wonder how seriously the County is committed to protecting Heritage and Significant trees.

I will not at this time go into all of the detailed reasons why this Significant tree should remain on the property and be cared for—and not removed; however, here are a few of those reasons:

- There is a huge open space on this property where there is no canopy. Removing this one, significant Valley Oak would be a loss to the property and to our neighborhood. Large oaks, like this tree, add value to properties and to the neighborhood. After all, we do live in Menlo Oaks.
- No building plans for the home have been approved by the County for the new home. Why ask to remove a tree before the plans are drawn and approved? The County could assert some authority to save the tree by working with the home owners to alter its building plans as it has in other cases. And, if the plans are approved, that is the time to post a tree removal permit. Not now.
- For just these reasons alone, it is premature to file a tree removal permit. It forces MOTA, or anyone, to pay the County money for an appeal before any plans have been approved. Why grant a tree removal permit at this time if as you state, it is conditioned by the approval of an associated building permit. At the time building plans were approved, a tree removal permit would be posted and

we could decide whether to appeal the permit. (We presented this objection at the Planning Commission meeting last week, and there was talk that maybe having to pay a fee to file an objection to a tree permit when all permits and approvals were not in place presented an unfair burden to individuals or groups like MOTA. There was discussion at the Commission that maybe our appeal fee could be refunded if approved plans didn't call for the tree's removal. We think the process is backwards. It should be changed. No tree removal permit for a new addition or new home should be conditionally approved before all permits and conditions have been met and approved by the County. We should not have to tie up \$616.35 to file our objection to a tree removal permit when no one knows whether the development will go forward as indicated.

While I would like to answer every one of your reasons for granting this permit and your answers to our questions earlier that are contained in your letter to us dated December 29, 2017, I will save that for the future Planning Commission hearing which will hear our appeal. Or, perhaps the homeowners and MOTA can come to an agreement in the meantime.


Judy Horst
945 Peninsula Way
Menlo Park, CA 94025



Driveway easement to 525 Berkeley Avenue



Shrubbery are is front yard of property

San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:

Valley oak to remain. Located in access easement. Right side yard



San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



Subject Valley oak
proposed for
removal



San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



**Rear yard
View of back of the house
Valley oak proposed for
removal**



San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



Subject Valley oak damaging house

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:



San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:



Crown of Valley oak
to be removed.

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____



San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:



Rear yard behind house.
VA hospital building behind
property. Conifer trees
circled..



Left side yard
View from back yard

San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:

Valley oak to remain
and easement.
View from rear of
property.



Neighbors across
street/easement

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____

Barbara Gottesman & Michael Mitgang
626 Berkeley Avenue
Menlo Park, CA 94025
650-868-0610 | BarbG@Mitgangs.com

Olivia Boo, Planner III
Planning and Building Department
455 County Center, 2nd Floor
Redwood City, CA 94063

December 11, 2017

Dear Olivia –

Re: Tree Removal Application PLN2017-00272
626 Berkeley Avenue, Menlo Park, CA
Parcel #062183210
Owner: MG Trust

Thank you for all the effort you and your team have put into understanding the background and issues related to our tree removal application, submitted on June 29, 2017.

In your most recent request for additional information, you were attempting to understand why the current plan for the house is located where it is and not in some other location so as to allow the subject tree to remain. I thought I would address this, as well as other issues that have come up, so that you would have all the details in one place.

In addition, you will see at the outset that our building plans have changed only slightly since we submitted our tree removal application nearly six months ago. Mostly to preserve more of the outside space, we shifted massing a bit by adding a small second story. This does not affect the necessity of, or reasons for, our tree removal application.

Background:

As you are most likely aware, we have had intentions to build a new home on our current lot for as long as we have lived there – more than 15 years. Over the years we have spoken with architects and contractors about expanding our living space beyond our current 1700 sf (approx.) 3-bedroom 2-bathroom 1973-built home with the possibility of keeping the subject tree. No matter who we have talked to, we have been unable to come up with any reasonable plan that could allow the subject tree to remain. Our difficulty with the idea of removing the tree is partially what has kept us from moving forward with the development of our property to date, but we have had to come to terms with the fact that the only way to develop our property in a way that is in keeping with our neighborhood and our dreams, would mean that the subject tree must be removed.

Unless removed, this mature tree, centered on the site, creates an unmanageable constraint. The size of the drip-line of this tree alone bisects the site in a way that renders it virtually unusable. In addition, common home design principles focus the indoor/outdoor connection of space at a central location between the common or public space of the home and the active outdoor area. The trunk of the tree, which is adjacent to a bedroom door in our existing home, will be just a few feet from the most important family and entertaining space on the lot. Designing around a 40" tree trunk directly in the active area, while interrupting all sightlines and activity, is simply not feasible nor does it make good design sense.

The reason to approve our tree removal application: The subject tree completely interferes with our ability to develop our property.

Unique Lot:

Our lot has unique characteristics as a result of an easement granted in favor of the other two homes (622 and 624 Berkeley Avenue) on the "flagpole"/laneway that we share, situated on the south portion of our property. This easement was created to allow for vehicles to turn around once down the laneway, and must be maintained as such. As you can see from the Marked-Up Site Plan (attached to this email), the easement itself extends even beyond the pavement. Furthermore, building envelope restrictions are calculated from the edge of that easement, and not from the edge of the property line. Thus, the allowable width for the buildable area of the house is significantly impacted relative to what would be permitted without this easement. In addition, because of the orientation of the property, we are also restricted on the south and west sides by setback restrictions, such that, in order to expand square footage, we would need to expand to the east, which is where the tree is located (again, see the Marked-Up Site Plan).

As an aside: please note that we require slightly more than the setback requires at the southerly end of the property to allow for the turning car radius in order to exit from the garage, although this amount is negligible and would have no bearing on this application even if the house were positioned slightly more southerly and right up against the setback lines. The subject tree still would impact our ability to develop the property.

As I noted in my email dated November 5, 2017, "even if there were no easement, there is another large heritage oak tree at the very edge of the turn-around circle that would constrain development in that location. This heritage oak tree [shown with an arrow in the Marked-Up Site Plan] gives the entire turnaround circle and the drive down the laneway to the three properties it serves (622, 624 and 626 Berkeley) the character that it has. In other words, if there were no easement on the bulb of the turnaround circle that would allow us to build closer to the property line, such development would be limited because of that oak."

Note also that our current home would not be able to be constructed today with the location of where the tree is. It currently sits approximately 5 feet from the edge of

the house, and its roots have compromised the integrity of the concrete walkways and steps creating an ongoing maintenance nuisance. See photos attached to this email.

Other Building Options Are Unreasonable:

As I noted in my email to you dated September 10, 2017,

“Unfortunately we do not have any other designs that were drawn [to show other building options]. We had gone down the road to developing our property several times over the last 18 years of ownership and have been advised by architects and contractors alike that there are no other options but to take the tree down should we wish to develop our property in keeping with the surrounding neighborhood. We never had other drawings created keeping the tree because the tree is basically centered on the lot and there is no reasonable way to design around it and maintain a conventional plan considering the constraint of the easement. ... The tree needs to be removed not because it is unhealthy, but because it limits the ability to develop the lot consistent with what others in the neighborhood with similar lots are able to achieve.”

All of this is, of course, based on the fact that we wish to expand our square footage to approximately 4500-5000 sf (which seems to be in the ‘low’ range of new properties in Menlo Oaks). In terms of placing the home elsewhere on the property, notwithstanding that we had considered several options, none of which were reasonable, I am attaching to this email three illustrations with regard to #1 (Attachment A) and #2 (Attachment B & C) below to show in very draft hand-written, free-hand form:

1. Building at the east end of the lot: By doing so, our front yard would have to become our outside space, thus giving up the privacy we so cherished when we purchased the house. We immediately dismissed this option as unreasonable. We believe it is a reasonable expectation that a back yard is in the back of the house, and not the front. See Attachment A.
2. Building around the tree: By doing so, we would be required to begin with a footprint smaller than the current footprint of our 1700sf home so as not to damage the roots of the tree, and then build a small breezeway connecting to what would seem like a second structure on the property in order to maintain the square footage. This option will cover much of the lot with built area, creates inefficiencies in both the house plan and the outdoor space leaving very little useable backyard space for normal use as compared to other nearby lots. In addition, we have been advised by our architect, as well as other professionals, including a planner in the San Mateo County Planning Department a few years back (unfortunately I did not record who it was), that such a design is not considered professionally sound design, in part because the tree may not outlive the home. At that point we would be stuck with a design that no longer makes sense and would seriously compromise our property value. See Attachments B&C.

Path of Least Resistance:

As noted above, you will see that we have modified our design slightly since we submitted our tree removal application nearly 6 months ago, in order to maintain more outdoor space. However, the need for the tree removal remains the same. This new plan includes a small second story. A larger second story would require severe cutting back of the trees along the northerly edge of our property to the point that those trees may not be able to survive, because currently the canopy of those trees hangs over a large portion of the roof. Our view is that removing the one tree in the middle of our property is the path of least resistance when it comes to trees being removed or altered. See photos with this email that show trees at north end of property overhanging the house.

Neighborhood concerns:

As you know, we proactively reached out to our immediate neighbors on all sides, as well as to the Menlo Oaks District Association (MODA), specifically Remona Murray, who helped us reach out to the Menlo Oaks Tree Association (MOTA).

It is significant to note that none of our immediate neighbors have voiced an issue with our desire to remove this one tree.

During the initial ten-day commenting phase of our application, we met with Remona and one other person on our property, to discuss all of the above with them. Remona advised us that the MOTA would be objecting to the application because that is their mandate, but not to take it personally. MOTA's main concern is that developers building on spec do not care about the nature of the neighborhood. As residents of Menlo Oaks, that could not be further from our intentions. In fact, we are hoping to create a home that very much reflects the character of our neighborhood and we believe that MOTA has gone too far with their objections in our particular case.

To address each of their concerns individually, I have outlined them here in one place as sent to me via email in late July:

- a) "this large heritage oak appears healthy and in good form. There is apparently no arborist report citing irremediable problems";
and,
"I oppose this permit application at this time based on the fact that the Heritage Oak is apparently healthy--there is no arborist report to the contrary. It shows good form and good vigor. While it is close to the current home, it seems that over time, it has adjusted to any adverse affects caused by a cement pathway and the home.... This [application] makes no sense for a healthy tree. An arborist report should be required before any decision is made to remove a Heritage Oak, and one is definitely needed for this tree in particular.

Our response: Removal of the tree is being requested because it interferes with the

ability for us to develop and enjoy our property, not because it is unhealthy. We are not debating this factor. In addition, as noted above, the cement pathway referred to above is cracked, as is the foundation to our home, indicating that the tree does in fact negatively impact the current developed property and would continue to do so with any new structure in its place.

- b) “the tree provides valuable benefits to the neighbors including a large canopy, noise reduction, carbon sequestration”;
- and
- “Removing it creates another big hole in the Menlo Oaks canopy.”

Our response: The subject tree is wholly on our property and its canopy does not directly impact other properties. In addition, another reason for MOTAs objection is that traffic noise increases when trees are cut down. The subject tree is right in the middle of the property, and we have at least twelve other oak trees around the perimeter of our property, as well as 3 pines, that create barriers to surrounding noise. Another large oak was lost in a storm a couple of seasons ago in the south east corner of our property, and our intention is to add a planting screen to replace it as part of our development plan. This is particularly important to us as that corner is exposed to the VA Hospital perimeter road and we wish to maintain the privacy we’ve enjoyed until now. In addition, with the revamping of the 101/Willow Road intersection and the stripping of trees around that area, the traffic noise from 101 increasing due to the removal of our single tree has become a negligible point. As far as carbon sequestration, we intend to replace the tree with additional plantings.

- c) “the lot is large and there is ample space to site a large home for the owner on the non-tree'd part of the lot”;
- and,
- “It appears that the reason to remove this tree is that it is in the way of a new 5-bedroom home that replaces and expands the home currently on this property--even though there appears to be ample room on the lot to re-position the home on the property without removing any trees.”

Our response: See explanation above under “Other Building Options Are Unreasonable”.

- d) “it does not appear that all the plans are approved, nor permits approved by the County or local fire department. Now is the time to ensure the approved plans include preserving this tree-- as opposed to prematurely removing it or enabling cookie-cutter plans to destroy our Menlo Oaks neighborhood's environment through unnecessary tree removal”;
- and,
- “We don't think the plans for this home have gone through the zoning and planning stages yet, and we don't think the building plans have been approved. There is also a question as to whether the Fire Department will approve the plans we were shown when we met with the homeowners. Access to the back of the new home to put out fires may be problematic.

In addition, I oppose this permit because it has been requested prematurely and should be withdrawn until the County and Fire Department have OK'd all plans for the home. Granting a permit now, or removing the tree now, serves no purpose. Granting a permit now, if approved, gives the property owners license to take out the tree at any time in the future whether a new home is approved and built, or not."

Our response: As we've discussed with you, we would expect an application approval being conditional upon our submission of building permit application plans. As you know, we were hoping to have this application conditionally approved before we spent thousands of dollars preparing our building permit application materials. Given our earlier discussions with you, we have proceeded in good faith to parallel process both this application and the building permit application. Furthermore, we do not believe that, as long-time residents of Menlo Oaks, we are contributing to a cookie-cutter plan that will destroy the neighborhood's environment. As noted above, we believe our plan will bring our property in sync with the natural character of the neighborhood, and we too wish to preserve its elegance through natural beauty. Any issues regarding fire department approval are not the subject of this application, and will be addressed during the building permit application stage. We are confident in our ability to resolve any issues raised according to fire department requirements. Frankly, and I'm sure you can appreciate our frustration, this objection simply seems to be a grasp at anything to stop the taking down of trees, period. Our expectation of being able to improve and enjoy our property consistent with the manner in which the objectors are able to improve and enjoy theirs is reasonable. Each application must be examined on its own merits.

e) "this permit, if approved, reinforces the dangerous precedent that the County's trees are simply inconveniences in the way of building ever-larger homes for individuals";

Our response: We are not creating any type of precedent but rather requesting that you consider the unique characteristics of our lot, while balancing out our rights as property owners to enjoy our property through developing it in a way that is consistent with our needs and with what is normal and expected for the neighborhood. Yes, we wish to have a larger home than our current 1700 sf, and this does not constitute a legal finding for denial of our tree removal application. On the contrary, the basis under which we wish to have the tree removed is that it interferes with our ability to enjoy our property. We believe our building plans are thoughtful and personalized to both our needs and the unique constraints of the site, and we are not speculators who are trying to max out whatever floor plan we can get for creating maximum value in the shortest amount of time at the expense of preserving the character of our beautiful neighborhood.

f) "this permit, as denied, supports San Mateo County's new direction to care for all of its citizens by caring for the trees that provide for the common

good.”

Our response: We are citizens of San Mateo County and we support the County’s direction of caring for its citizens and the trees that provide common good. This support does not exclude the right to develop one’s property thoughtfully and rationally, including if that requires a tree removal. The processing of a tree removal application is specifically focused on rigorous and rational evaluation and the process was created specifically to allow for thoughtful review. And that has occurred. Not all trees are capable of being preserved but, by balancing removal with the need for thoughtful development, impacts can be reduced.

In Summary

In summary, we are requesting an approval of our tree removal application on the basis that a requirement to maintain the tree would interfere with our enjoyment of our property and the ability to improve it in a manner which is consistent with both our needs and desires and what is typical for recent construction approved for nearby and adjacent properties. Given the unique character of our lot, being surrounded by at least another dozen oak trees and three pines, the approval of the application is appropriate. We feel the necessary findings can be made for removal, due to the central location of the tree and the impact that creates relative to any improvement that might be proposed. We welcome a condition that the tree be removed only once we have submitted plans for a building permit.







Finally, we request that you record your decision without any further delay, especially given that it has been outstanding for over five months. We understand that any appeal to your decision could take upwards of two months, and we are anxious to keep this process moving forward.

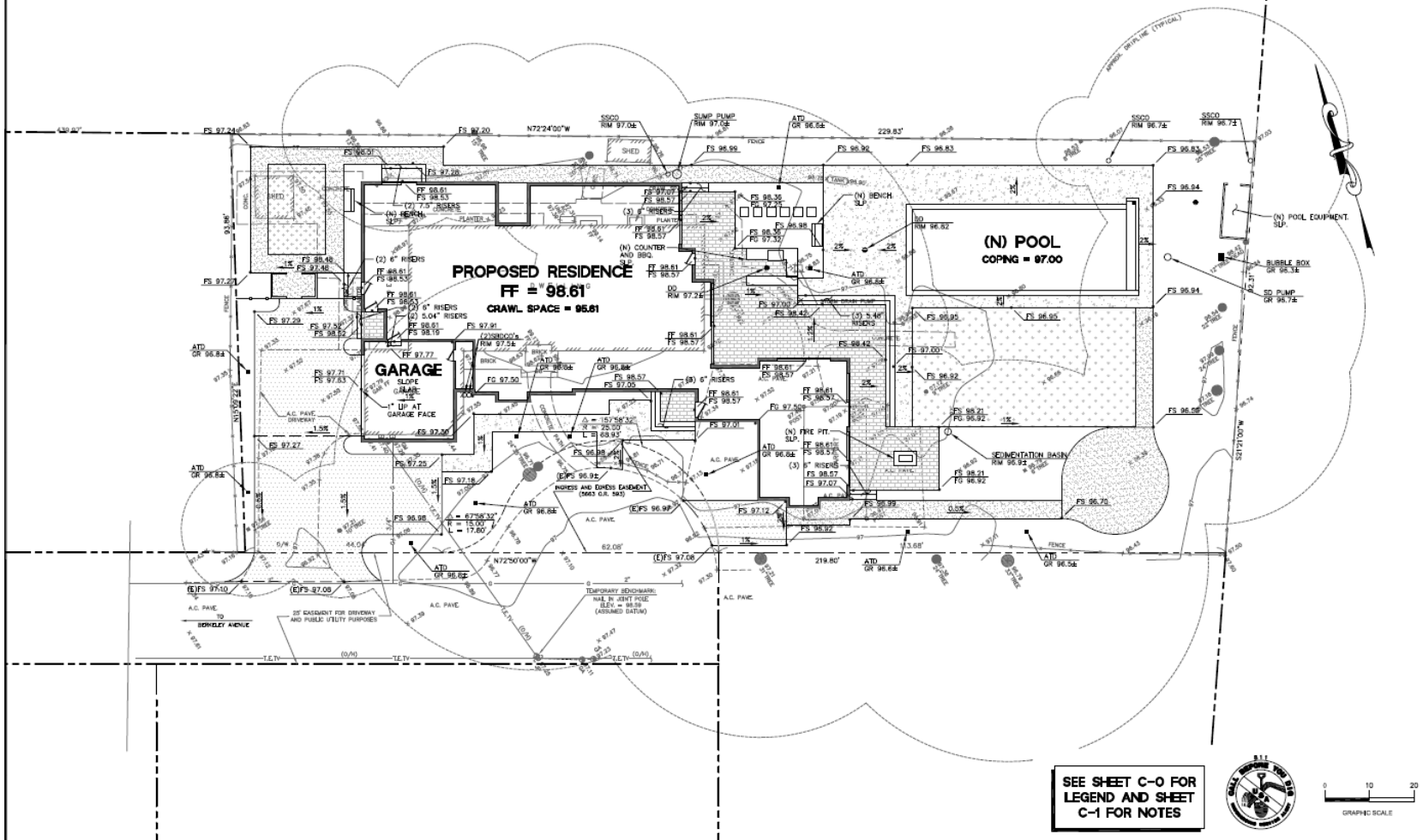
With appreciation,

Barbara Gottesman and Michael Mitgang
Trustees MG Trust (Owners)
626 Berkeley Avenue, Menlo Park, CA

PAVEMENT LEGEND:

SEE SITESPECIFIC REPORT BY FULTS ENGINEERS, INC. DATED AUGUST 8, 2017 FOR EXACT PAVEMENT SECTIONS AND OVERSIGHT/CONSTRUCTION REQUIREMENTS. SEE ARCHITECTURAL PLANS FOR EXACT MATERIAL SELECTION.

	TILE	1/2" UNF OVER A THIN LEVELING COURSE OF SAND OVER 6" MIN OF CLASS II AGGREGATE BASE. INSTALL PER MANUFACTURERS RECOMMENDATIONS. COLOR AND TYPE TO BE APPROVED BY THE OWNER PRIOR TO INSTALLATION. INSTALL EDGE CONSTRAINT SUCH AS A FLUSH CURB. SLP.		AC PAVING	2.5" OF AC PAVING OVER 8" MIN OF CALTRANS CLASS II AGGREGATE BASE ROCK.		GRASS LAWN	SLP
	CONCRETE	4" OF CONCRETE OVER 8" OF CALTRANS CLASS II AGGREGATE BASE ROCK.		OG	SLP		ARTIFICIAL TURF	SLP



DATE:	
REVISIONS:	



GRADING PLAN
GOTTESMAN-MTGANG RESIDENCE
 626 BERKELEY AVENUE
 MENLO PARK (SMCO), CA 94025

Date:	12/19/2017
Scale:	1" = 10'
Author:	A.P.
Checker:	TRL
Sheet Number:	C-2
Project No.:	PEC 17-124

San Mateo County Planning Commission Meeting

Owner/Applicant:

Attachment:

File Numbers:



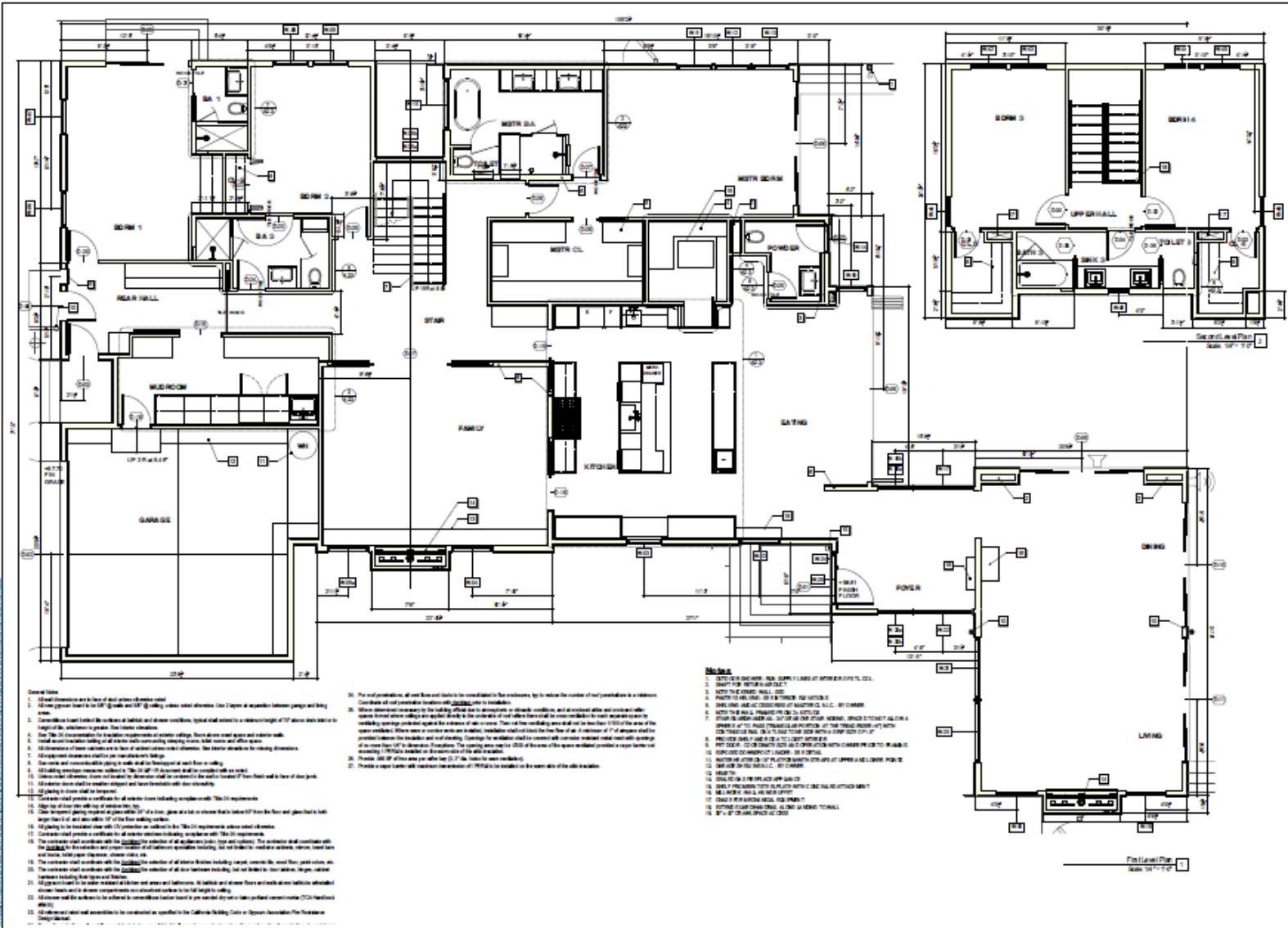
The Mitgang-Gottesman Residence
626 Berkeley Ave., Menlo Park, California

DATE: 01.08.2017
Plan Check Submittal: 01.08.2017

CONTRACT NUMBER:

A2.1

CONSTRUCTION PLAN



- General Note:
1. All dimensions are to face unless otherwise noted.
 2. Minimum door height is 80" @ walls and 84" @ ceiling unless noted otherwise. Use 2 types of expansion between jambs and living space.
 3. Casework shall be installed to include all cabinet and drawer conditions, typical shall extend to a maximum height of 72" above base cabinet to height of the cabinet's upper. See cabinet schedule.
 4. See "Site" for all requirements for foundation, waterproofing, exterior walling, floor, stairs, roof, and other items.
 5. All exterior foundation walling shall include walling extending from below to above and above ground.
 6. All dimensions of floor, ceiling and base of wall shall include all conditions. See details schedule for existing structures.
 7. All equipment dimensions shall be per manufacturer's listing.
 8. Clear work and construction shall be in accordance with all applicable codes and regulations.
 9. All existing structure remains shall be "As Is" unless noted otherwise. All work shall be completed with a new finish.
 10. All exterior dimensions shall be in accordance with the California Building Code and all applicable codes and regulations.
 11. All exterior dimensions shall be in accordance with the California Building Code and all applicable codes and regulations.
 12. All existing structure shall be in accordance with the California Building Code and all applicable codes and regulations.
 13. All exterior dimensions shall be in accordance with the California Building Code and all applicable codes and regulations.
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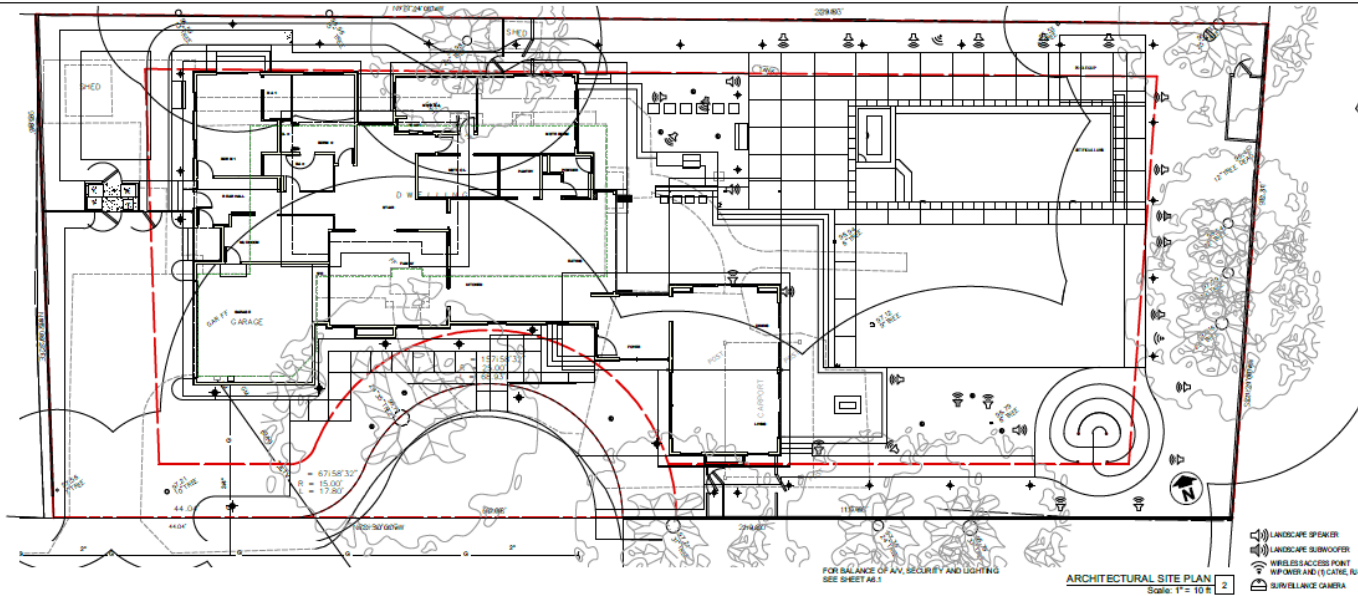
- Notes:
1. SEE OTHER DRAWINGS FOR SUPPLY LISTS AT OTHER SHEETS TO COL.
 2. SHOWN FOR REFERENCE ONLY.
 3. SEE THE ARCHITECT'S SCHEDULE FOR MATERIALS.
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San Mateo County Planning Commission Meeting

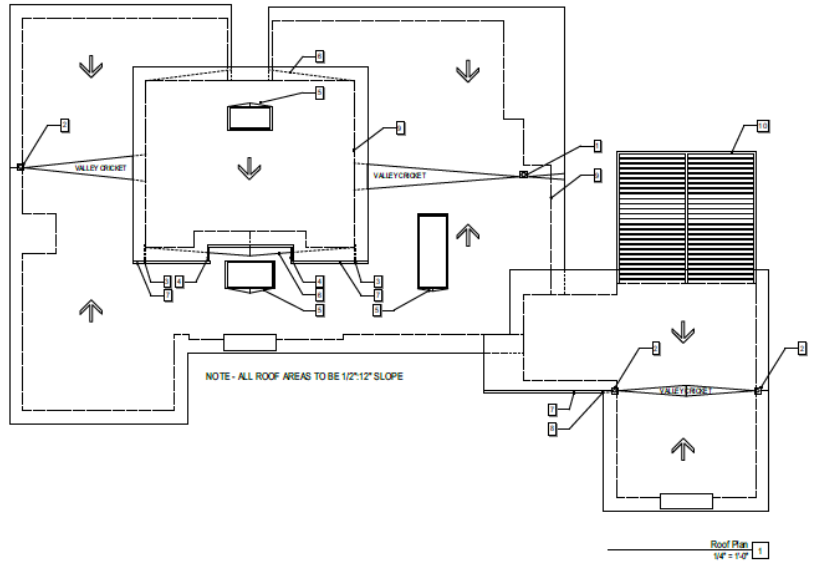
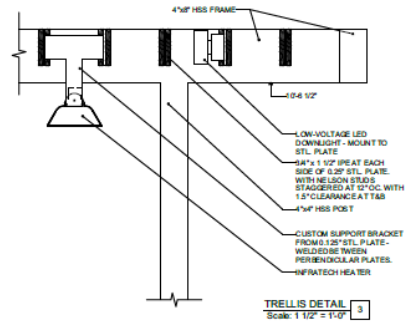
Owner/Applicant:

Attachment:

File Numbers:



- ROOF PLAN NOTES**
1. ROOF DRAIN TO INTERNAL DRAIN LEADER
CONNECT TO SITE DRAINAGE - SEE CIVIL DRAWINGS
 2. ROOF DRAIN TO EXTERNAL LEADER
CONNECT TO SITE DRAINAGE - SEE CIVIL DRAWINGS
 3. DOWN SPOUT LEADER, TERMINATE AT SPLASHBLOCK ON LOWER ROOF
 4. DIAGONAL DOWNPOUT LEADER TO LOWER GUTTER
 5. CROCKET TO DIRECT DRAINAGE AROUND SKYLIGHT
 6. CROCKET TO DIRECT DRAINAGE AROUND SECOND LEVEL
 7. GUTTER AT LOWER ROOF EDGE
 8. DOWNPOUT LEADER CONNECTED TO ADJACENT ROOF DRAIN LEADER
 9. OUTLINE OF STRUCTURE BELOW ROOF
 10. TRELLIS - SEE SIA1.0



Randolph B. Popp
ARCHITECT

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Palo Alto, CA 94301
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www.rbp-arch.com

REGISTERED ARCHITECT
STATE OF CALIFORNIA
No. 15171

The Mitgang-Gottesman Residence
626 Berkeley Ave., Menlo Park, California

ISSUE	DATE
Plan Check Submittal	1.08.2017

DRAWING NUMBER

A1.0

ARCHITECTURAL SITE AND ROOF PLAN

San Mateo County Planning Commission Meeting

Owner/Applicant: _____

Attachment: _____

File Numbers: _____