COUNTY OF SAN MATEO PLANNING AND BUILDING DEPARTMENT

DATE: August 6, 2015

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Home Improvement Exception pursuant to

Section 6530 for a second-story deck addition to the front of an existing two-story single-family dwelling located at 140 San Lucas Avenue, in the

unincorporated Moss Beach area of San Mateo County.

County File Number: PLN 2015-00071 (Love/Krakower)

PROPOSAL

The applicant is seeking approval for a partially constructed 84 sq. ft. second-story deck above the first floor of the single-family residence. The residence was constructed with a building permit in 1982 and is legal non-conforming since the current lot coverage of 1,883 sq. ft. exceeds the 1,250 sq. ft. maximum allowed, and the deck extension will encroach 4 feet into the required 10-ft. side yard setback. Of the 84 sq. ft. deck, approximately 16 sq. ft. was included in the lot coverage when the residence was originally constructed. The Home Improvement Exception is for the additional 70 sq. ft. (approximately) extension of the non-waterproof entrance covering/upper floor deck. If approved, the Home Improvement Exception (HIE) will result in a residence with a lot coverage of 1,953 sq. ft., where 1,250 sq. ft. is allowed (existing lot coverage 1,883 sq. ft.), and the extension of a 4-foot right side yard encroachment.

The Home Improvement Exception is a staff-level permit with an optional public hearing. If a member of the public requests the optional hearing, the permit is then elevated to a public hearing. During the public comment period, a neighbor requested the public hearing.

RECOMMENDATION

Approve the Home Improvement Exception, County File Number PLN 2015-00071, by making the required findings and adopting the conditions of approval listed in Attachment A.

BACKGROUND

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

Applicant/Owner: Ed Love/Jon and Vicki Krakower

Location: 140 San Lucas Avenue, Moss Beach

APN: 037-283-030

Parcel Size: 5,000 sq. ft (Legal Non-Conforming)

Existing Zoning: R-1/S-105/DR/CD (Single-Family Residential/ 20,000 sq. ft.

minimum/Design Review/Coastal Development)

Parcel Legality: The existing single-family residence was constructed with a permit in

1982, thereby legalizing the parcel.

General Plan Designation: Low Density Residential Urban (.03-2.3 dwelling units/acre)

Sphere-of-Influence: City of Half Moon Bay

Existing Land Use: Single-Family Residence

Water Supply: Montara Water and Sanitary District

Sewage Disposal: Montara Water and Sanitary District

Flood Zone: FEMA Flood Zone Map indicates the location of the parcel is in Zone X, area of minimal flooding, Community-Panel No. 06081C0119E, effective date: October 16, 2012.

Environmental Review: The project is categorically exempt under Section 15301, Class 1, of the California Environmental Quality Act (CEQA) because the proposed second-story deck is considered an addition to an existing structure.

Setting: The project site is on the west side of Highway 1 and is not visible from the highway. The parcel is legal non-conforming. It is 5,000 sq. ft., where 20,000 sq. ft. is required. Though the house was built as a legal structure in 1982, the current house is non-conforming because the residence exceeds the allowable lot coverage by 633 sq. ft., exceeds the floor area by 976 sq. ft., and has a 6-ft. right side yard setback where 10 ft. is required. The site is relatively flat. All adjacent properties are developed with one- and two-story single-family dwellings.

Chronology:

<u>Date</u>		Action
February 20, 2015	-	Application submitted.
February 25, 2015	-	Referrals sent out to other agencies and County departments for comments on the proposed project.
February 26, 2015	-	Referred to the MidCoast Community Council.
March 20, 2015	-	Notified owners within a 300 ft. radius of the application for a Home Improvement Exception with the option for a Public Hearing. The comment period ended April 1, 2015.
March 31, 2015	-	A Neighbor came to the Planning counter opposing the project.
April 3, 2015	-	Staff received a formal request for a public hearing from the neighbor.
May 6, 2015	-	Staff met with the applicant to discuss the project. The neighbor expressed interest in trying to find an agreeable solution with the applicant.
June 3, 2015	-	The applicant confirmed that a resolution was not reached and the project could be scheduled for a public hearing.
July 1, 2015	-	Referred a second time to the MidCoast Community Council. No comments have been received to date.
August 6, 2015	-	Zoning Hearing Officer Public Hearing.

PROJECT HISTORY

The applicant had contacted the Planning Department around December 2013 with an inquiry of whether adding a second-story deck to the front of the existing home would be possible. At the time of this inquiry, staff confirmed that the residence was legal non-conforming, already exceeding the allowable lot coverage of 1,250 sq. ft. and floor area ratio of 2,400 sq. ft. per the S-105 Zoning District. However, staff determined that a small second-story deck, proposed within the existing footprint of the front door entry area already covered by the existing waterproof roof, would be allowed as it would not contribute toward additional lot coverage. The waterproof roof of the residence is already counted with regard to lot coverage.

In a preliminary discussion regarding a front deck prior to the subject discretionary Planning permit submittal, the applicant had met with Planning staff and inquired

whether a front deck addition would be possible. There was a misunderstanding / misinterpretation that a front deck, constructed of wood, would count toward both Lot Coverage and Floor Area. The property owner subsequently contacted management and received confirmation that, since a wood deck does not provide a waterproof covering, it does not count toward Floor Area.

The Building Inspection Section received a complaint on February 3, 2014 regarding front and rear decks being constructed without a building permit. A Stop Work Notice (SWN 2014-00025) was posted on the property on February 4, 2014 for the front second-story deck. The rear decks qualified as a replacement deck, "like for like," for previously legal decks and received a Coastside Design Review Exemption Approval and a Building permit (PLN 2013-00457 and BLD 2013-01809, respectively).

A demolition permit was issued on February 7, 2014, to demolish the front deck (BLD 2014-00226). The subject deck has been partially constructed and is on hold until a decision is made on the subject Home Improvement Exception.

For the front second-story deck, because a portion of the footprint, 70 sq. ft. extends beyond the existing waterproof roof of the residence, the 70 sq. ft. counts as additional lot coverage. However, since the second-story deck does not provide a waterproof roof for the entry below, the 70 sq. ft. expansion is not counted toward the floor area ratio, thus the legal non-conforming floor area ratio is unaffected. The only mechanism to legalize the 70 sq. ft. is the subject Home Improvement Exception.

DISCUSSION

A. KEY ISSUES

1. Conformance with the General Plan

Staff has determined that the project complies with all applicable General Plan policies, with specific discussion of the following:

- a. <u>Chapter 4 Visual Quality</u>: The applicant's proposal complies with Policy 4.36 (*Urban Area Design Concept*) which requires that projects maintain and improve upon the appearance and visual character in urban areas. The proposed deck addition will maintain the appearance and visual character of the existing single-family structure and will contribute to the character of the single-family residence and the neighborhood. The proposed deck will consist of natural wood color and glass material for the railing. Furthermore, the style of the proposed residence is similar to other two-story homes in the neighborhood.
- b. <u>Chapter 8 Urban Land Use</u>: The project complies with Policy 8.39 (*Regulation of Development in Urban Areas Height, Bulk and Setbacks*), which states that the height, bulk, and setback

requirements should be regulated in order to ensure that the size and scale of the development is compatible with the parcel size, provides sufficient light and air in and around structures, ensures that development of permitted densities is feasible, and ensures public health and safety. The proposed project conforms to the height for the district, and the materials incorporate a style that minimizes bulk in shape. The lot coverage and floor area exceed what is permitted for the district and thereby is legal non-conforming primarily because the lot is much smaller than the standard size for the district. It is 5,000 sq. ft., where 20,000 sq. ft. is required.

The proposed second-story deck addition will further increase the overall non-conforming lot coverage by 70 sq. ft. for a total of 1,953 sq. ft. The floor area ratio remains unchanged. The subject deck is small in size and scale, the railing material will be tempered glass and will give an open feel to allow air and light through.

2. Conformance with the Zoning Regulations

The following table summarizes the project's conformance with the R-1/S-105 Zoning Regulations, Section 6300.14:

	Zoning Requirement	Existing/Proposed
Parcel Size	20,000 sq. ft.	5,000 sq. ft./5,000 sq. ft.
Minimum Lot Width	75 ft.	50 ft./No Change
Front Yard Setback	20 ft.	20 ft./No Change
Rear Yard Setback	20 ft.	25 ft./No Change
Side Yard Setbacks	10 ft.	5 ft. (left); 6 ft. (right)/ No Change *
Maximum Building Height	28 ft.	No Change
Maximum Floor Area	48% (2,400 sq. ft.)	No Change
Maximum Lot Coverage	25% (1,250 sq. ft.)	37.66% (1,883 sq. ft.)/ 42% (1,967 sq. ft.) *

^{*} The increase in Lot Coverage and the extension of the Right Side Yard Setback encroachment triggers the need for a Home Improvement Exception.

3. <u>Coastal Development and Design Review Exemptions</u>

The deck/covered entry addition is exempt from a Coastal Development Permit and Design Review in that the improvement does not result in an increase of 10% or more of internal floor area of the existing structure (Zoning Regulations Section 6328.5(4)), and the development is minor in nature and will not have an adverse effect on compliance with design standards (Zoning Regulations Section 6565.4).

Interested Party Concerns:

1. In response to the exemption application for our neighbor's home, we do have objections to the building of this deck because of privacy issues. Our front doors are close to each other and this is an upper deck on top of the Krakower's door. We are interested in what we would be permitted to do in response to the privacy problem. Trees are the only thing I can think of, but trees have their own conflict problems. We would like to work through this privacy problem but, until then, we object to the building of this deck.

<u>Staff's Response</u>: The neighbor mentioned trees as a possible screening solution to address privacy concerns. Staff encouraged the neighbor and applicant to discuss a potential compromise possibly involving trees and/or fencing prior to scheduling the requested public hearing. The neighbor and applicant did meet; however, the two parties were unable to come to an agreement. Please see Section 4.c. for staff's analysis of potential privacy impacts.

2. Would our concerns be best addressed by requesting a public hearing with the Zoning Hearing Office as suggested in your notice? We did not see his or her contact information on your notice.

Staff's Response: Staff discussed the public hearing process with the neighbor, noting that the Zoning Hearing Officer is not permitted to speak privately with any party outside of the public hearing. The neighbor may submit his/her concerns for consideration by the Zoning Hearing Officer at the scheduled meeting as well as speak at the public hearing, if so desired. All comments and concerns are required to be discussed and addressed at the public hearing, when a hearing date is set.

3. What has changed from 2013, when the request for the front deck was denied and not allowed to proceed to an exemption request, and today?

In 2013, Planning staff approved a Coastal Development Exemption and Design Review Exemption permit. The project scope included the new front deck and as well as work proposed to the two legal rear decks. Non-conforming structures (the house does not conform to maximum lot coverage and floor area ratio) may remain and be repaired, however the structure may not be enlarged (front yard deck addition) without an approved exemption if the enlargement does not meet the current zoning regulations. Since the applicant removed the front deck from the project scope in 2013, the approval only included

the rear decks and no approval was given for the front yard deck. A request to exceed lot coverage was not submitted in 2013.

The Interested Party Raised Additional Questions that are Discussed and Addressed in this Staff Report:

1. When does the comment period close for this exemption application?

Staff's Response: Please refer to the Chronology Section.

2. It would help us to have more information regarding the standard process for approval or denial of home improvement permits and the exemption process.

Staff's Response: If opposing parties are not able to resolve their concerns and a public hearing is requested, then the above mentioned public hearing would take place before the Zoning Hearing Officer. The Zoning Hearing Officer has the authority to approve or deny the permit. If a party is dissatisfied with the decision, that decision may be appealed to the Planning Commission by submitting a completed appeal form and appeal fee of \$639.83.

Alternatively, if the parties are able to find resolution to the project concerns, the request for a public hearing may be withdrawn by the party requesting the hearing by submitting in writing to withdraw the public hearing request. The project would then move forward with a staff level decision.

3. If this deck is built, what will be the new total footprint to lot ratio, including the rear deck?

Staff's Response: 1,967 sq. ft.

4. If this deck is built, what will be the new total house floor area to lot ratio?

<u>Staff's Response</u>: Because none of the decks (rear decks or proposed front deck) are waterproof, decks constructed of wood are not waterproof, these do not count toward floor area. The existing floor area is 3,376 sq. ft. This number remains unchanged.

5. Perhaps, the best I can express this may be that it was our experience and awareness that the Krakowers and their contractor had every intention of building the front deck, permit or no permit. Will the county be doing business with this contractor again? Coastal contractors who live and work in jobs

here would not survive a scheme like this. Their reputation would be compromised.

<u>Staff's Response</u>: The County does not have the authority to regulate the hiring of private contractors for private landowners. The Contractors State License Board licenses and regulates contractors both licensed and unlicensed and has a mechanism for filing a complaint specifically for failure to obtain a building permit through the State's website.

4. Conformance with Home Improvement Exception (HIE) Findings

The existing residence, legally built in 1982, conforms to current Zoning Regulations with regard to height and is existing legal non-conforming in regard to floor area ratio, lot coverage, and side setbacks. The proposed deck addition will further exceed the overall non-conforming lot coverage and extend the right side yard setback encroachment, but the floor area will remain unchanged.

Section 6532 of the San Mateo County Zoning Regulations stipulates that, before a Home Improvement Exception may be approved by the Planning Administrator, a notification of optional public hearing on the project must be sent to all neighbors within 300 feet of the project site. This notification was sent to neighbors, as required, on March 20, 2015. One neighbor within 300 feet of the project site requested a public hearing on March 31, 2015, within the stipulated timeframe for community response to the project.

Section 6531 of the County Zoning Regulations allows for the approval of Home Improvement Exceptions to grant relief from strict provisions of the Zoning Regulations for yards, lot coverage, daylight planes, and floor area ratio. Section 6534.2 establishes findings that are required to be made in order to approve a Home Improvement Exception. These findings and staff's responses are as follows:

a. The existing structure has a design or there are conditions applicable to the property such that the proposed project would result in only minor exterior changes.

The residence is existing legal non-conforming, complying with height but exceeds the allowable lot coverage, floor area ratio and right side yard setback due, in large part, to the parcel's relatively small size, since it is 5,000 sq. ft. in a zone where 20,000 sq. ft. is required. Adding 70 sq. ft. of a front second-story deck would allow the owners a view area of the ocean outside their second-story master bedroom. The change is considered a minor visual change to the upper right side of the existing home on the second floor. The HIE is legalizing

70 sq. ft. of the second-story deck addition. The addition will match the residence in similar style, material, design, and color.

b. The Home Improvement Exception sustains the integrity or enhances an existing design concept or the neighborhood character.

The proposed project will have minimal visual impacts due to the location, size and scale of the proposed second-story deck in relation to any public views. The deck will be visible only to immediate neighbors. The deck addition will be an external enhancement to the home. The proposed addition will match the existing residence in style, design, material and color, upholding the existing design concept of the residence and the neighborhood as a whole.

c. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience.

This project received preliminary approval by all applicable agencies, including the Department of Public Works, Building Inspection Section, and Coastside Fire. As a small residential development that is required to meet the Building Inspection Section's structural standards for development, this project will not be detrimental to the public health, safety, general welfare or convenience.

The neighbor expressed concern that the new front deck could cause potential privacy issues, since their front door faces the deck. However, staff does not expect an impact since the deck will be constructed well forward of the applicant's front door and overlooks the applicant's driveway and garage. The neighbor's front door is shielded/housed by opaque walls on both sides of the front door and by a small roof covering, and narrow windows on either side of the chimney are of opaque glass.

d. The Home Improvement Exception authorizes only uses or activities, which are permitted by the zoning district.

The HIE will authorize the addition of the front deck to an existing single-family dwelling, which is a use permitted within the R-1/S-105 Zoning District.

The proposed project will not change the use of the existing single-family residence.

e. The Home Improvement Exception is consistent with the objectives of the General Plan and the Zoning Regulations.

The HIE will allow the applicant to maintain the consistency and character of the existing residence, with the small second-story deck addition to the single-family residence. The project will not result in any change in building use and is consistent with all objectives of the General Plan. The project complies with all zoning regulations of the R-1/S-105 Zoning District, with exception of the lot coverage and setbacks; there is no change to the existing floor area. Approval of this subject permit would allow the project to further exceed the lot coverage. As previously discussed in Section A.1., the proposed project complies with applicable General Plan policies regarding visual quality and urban land use. Staff, therefore, finds that the Home Improvement Exception is consistent with the objectives of the General Plan and the Zoning Regulations.

B. REVIEW BY MIDCOAST COMMUNITY COUNCIL

Staff has received no comment to date.

C. ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15301, Class 1, of the California Environmental Quality Act (CEQA) because the proposed second-story deck is considered an addition to an existing structure.

D. REVIEWING AGENCIES

Department of Public Works Building Inspection Section Coastside Fire

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map and Assessor's Parcel Map
- C. Site Plan
- D. Elevations
- E-K. Site Photos

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County of San Mateo Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2015-00087 Hearing Date: August 6, 2015

Prepared By: Olivia Boo For Adoption By: Zoning Hearing Officer

Project Planner

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt under Section 15301, Class 1, of the California Environmental Quality Act (CEQA) because the proposed second-story deck is considered an addition to an existing structure.

For the Home Improvement Exception, Find:

- 2. That the existing structure has a design or there are conditions applicable to the property such that the proposed project would result in only minor exterior changes. The deck will be a minor change to the exterior façade.
- 3. That the Home Improvement Exception sustains the integrity of or enhances an existing design concept of the neighborhood character. The deck is designed with materials and colors **that** will blend with the design of the existing home and character of the neighborhood and is similar in nature to other residences in the neighborhood.
- 4. That the granting of the application will not be detrimental or injurious to property of improvements in the vicinity and will not be detrimental to the public health, safety, general welfare, or convenience. The deck will be constructed using the current Building Code including structural standards and will not be detrimental or injurious to the public. It will not impact the neighbor's privacy since it will afford views of the ocean across the front yard of the neighboring home.
- 5. That the Home Improvement Exception authorizes only uses or activities, which are permitted by the zoning district. The subject permit specifically authorizes a 70 sq. ft. second-story deck; there will be no change to the use of the single-family residence.

6. That the Home Improvement Exception is consistent with the objectives of the General Plan and the Zoning Regulations. The HIE will allow an addition to the residence, consistent with the General Plan and the Zoning Regulations.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

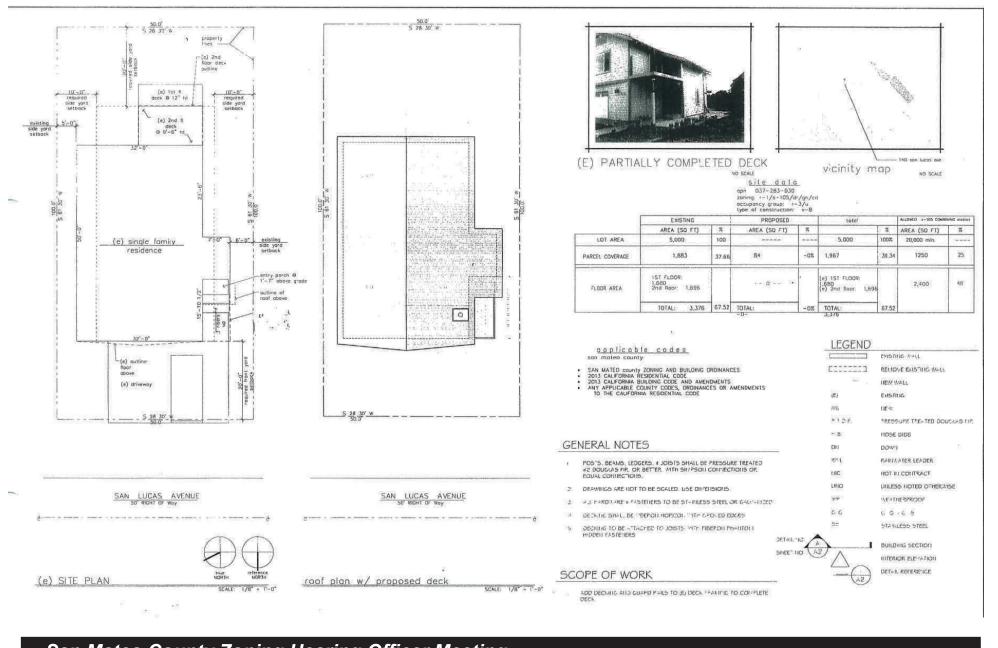
- 1. This approval applies to the proposal as described in this report and approved by the Zoning Hearing Officer on August 6, 2015. Minor revisions or modifications to the project may be approved by the Community Development Director if they are consistent with the intent of and in substantial conformance with this approval.
- 2. This permit shall be valid for two (2) years from the date of approval in which time the project shall be completed. Any extension of the permits shall require submittal of an application for permit extension and payment of applicable extension fees sixty (60) days prior to the expiration date.
- 3. Prior to the issuance of the building permit, the applicant must submit color samples for all exterior colors and materials for approval by the Current Planning Section.
- 4. The applicant shall apply for and be issued a building permit prior to the start of construction and development in accordance with the approved plans as well as install all structures to the current building codes.
- 5. Prior to final inspection for the building permit, the building inspector shall verify that the building has been finished with the approved colors and materials.
- 6. Noise sources associated with demolition, construction, repair, remodeling, or grading of any real property shall be limited to the hours from 7:00 a.m. to 6:00 p.m. weekdays and 9:00 a.m. to 5:00 p.m. Saturdays. Said activities are prohibited on Sundays, Thanksgiving and Christmas. (San Mateo Ordinance Code Section 4.88.360).
- 7. Prior to the issuance of a building permit, the applicant will submit to the Planning Department for review and approval, an erosion control and stormwater management plan, which shows how the transport and discharge of pollutants from the project site will be minimized. The plan shall emphasize the use of impervious materials and the minimization of water runoff from the site. The goal is to prevent sediment and other pollutants from entering the local drainage systems and water bodies, and to protect all exposed earth surfaces from erosion forces. Said plan shall adhere to the San Mateo Countywide Stormwater Pollution Prevention Program "General Construction and Site Supervision Guidelines," including:

- 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 a local storm drain system or water body.
- 8. The approved Stormwater Management Plan shall be implemented prior to the issuance of a building permit. The permanent stormwater controls shall be in place throughout the grading, construction, and life of the project.

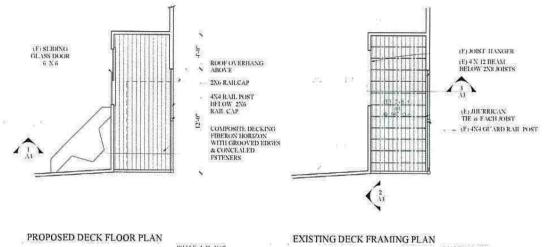
Building Inspection Section

9. The construction plans shall include seismic wall attachment details at the building permit submittal stage.

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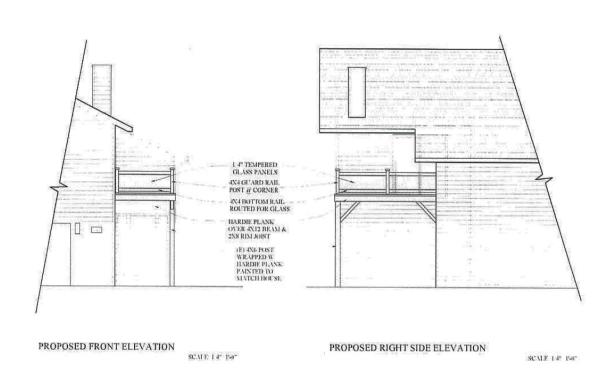


San Mateo County Zoning Hearing Officer Meeting Owner/Applicant: File Numbers: Attachment:



SCALE: 1.4" 150"

SCALE 14" 1'40"



San Mateo County Zoning Hearing Officer Meeting

Attachment: Owner/Applicant:



Owner/Applicant: Attachment:



Owner/Applicant: Attachment:



Owner/Applicant: Attachment:



Owner/Applicant: Attachment:



Owner/Applicant: Attachment:



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