

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

DATE: February 19, 2015

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Non-Conforming Use Permit, pursuant to Sections 6137 and 6133.3 of the San Mateo County Zoning Regulations, to enlarge a non-conforming residence on a non-conforming parcel (9,125 sq. ft.) by legalizing the reconstruction and enlargement of a 65 sq. ft. upper level rear deck to 188 sq. ft. and a 65 sq. ft. lower level rear deck to 80 sq. ft. with a 63 sq. ft. staircase from the lower level deck to the rear yard; enlargement of these decks results in the enlargement of lot coverage and floor area non-conformities by increasing the lot coverage non-conformity from 27.6% to 29% and the floor area non-conformity from 44.4% to 46%, where 25% and 30%, respectively, are the maximums allowed in the RH (Residential Hillside) Zoning District. The project site is located at 356 Summit Drive in the unincorporated Emerald Lake Hills area of San Mateo County.

County File Number: PLN 2013-00507 (Gere)

PROPOSAL

The applicant, Brian Villavicencio of The Kastrop Group Architects, is requesting a non-conforming use permit to enlarge the non-conforming 3,572 sq. ft. residence on a non-conforming 9,125 sq. ft. parcel. Specifically, the applicant proposes to legalize the reconstruction and enlargement of two rear decks that results in the enlargement of lot coverage and floor area non-conformities. A 65 sq. ft. upper level rear deck has been reconstructed and enlarged to 188 sq. ft., and a 65 sq. ft. lower level rear deck has been reconstructed and enlarged to 80 sq. ft. with a new 63 sq. ft. staircase leading from the lower level deck to the rear yard. Both decks are constructed of redwood with horizontal cabling. Enlargement of these decks increases the lot coverage non-conformity from 27.6% to 29% and the floor area non-conformity from 44.4% to 46%, where 25% and 30%, respectively, are the maximums allowed in the RH (Residential Hillside) Zoning District. No grading or tree removal was involved in the reconstruction or enlargement of the decks.

RECOMMENDATION

That the Zoning Hearing Officer approve the Non-Conforming Use Permit (County File Number PLN 2013-00507), by making the required findings and adopting the conditions of approval in Attachment A.

BACKGROUND

Report Prepared By: Summer Burlison, Project Planner; 650/363-1815

Applicant: Brian Villavicencio, The Kastrop Group Architects

Owner: Gary Gere

Location: 356 Summit Drive, Emerald Lake Hills

APN: 057-162-060

Size: 9,125 sq. ft.

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

General Plan Designation: Low Density Residential

Sphere-of-Influence: Redwood City

Existing Land Use: Single-family residence

Water Supply: Redwood City Municipal Water

Sewage Disposal: Emerald Lake Sewer District

Flood Zone: Zone X (area of minimal flood hazard); Community Panel No. 06081C0285E, effective October 16, 2012

Environmental Evaluation: Categorically exempt pursuant to Section 15301, Class 1 of the California Environmental Quality Act (CEQA), related to the minor addition to an existing structure where the addition is less than 50% of the floor area of the existing structure.

Setting: The project site is located on a steeply sloped parcel located on the south side of Summit Drive, situated within a developed single-family residential hillside area of San Mateo County.

Chronology:

<u>Date</u>	<u>Action</u>
August 14, 2013	- Stop Work Notice (SWN 2013-00115) issued for the reconstruction of three decks without a valid building permit.
August 14, 2013	- Building permit (BLD 2013-01377) issued to resolve SWN 2013-00115 by demolishing decks built without a permit.
December 5, 2013	- Revision to BLD 2013-01377 submitted to legalize the reconstruction of two decks.
December 16, 2013	- Application for Design Review Exemption (PLN 2013-00507) submitted to legalize the replacement of upper and middle rear decks, associated with BLD 2013-01377.
October 1, 2014	- Application for non-conforming use permit submitted under PLN 2013-00507 to enlarge (i.e., increase lot coverage and floor area) a non-conforming structure by legalizing the enlargement of decks.
November 5, 2014	- Application for non-conforming use permit (PLN 2013-00507) deemed complete.
February 19, 2015	- Zoning Hearing Officer hearing.

DISCUSSION

A. **KEY ISSUES**

1. **Compliance with General Plan**

- a. Policy 4.36 (*Urban Area Design Concept*) seeks to maintain and improve upon the appearance and visual character of development in urban areas and ensure that new development is designed and constructed to contribute to the orderly and harmonious development of the locality. The project site is located within the urban community of Emerald Lake Hills. The reconstructed and enlarged decks have a natural wood finish with metal horizontal cable railing. The decks complement the existing earth toned horizontal siding utilized on the residence. Wood decking is not uncommon in the hillside community and blends in with the natural wooded environment.
- b. Policy 8.15 (*Land Use Compatibility*) seeks to protect and enhance the character of existing single-family areas. The County General Plan

designates the subject property as Low Density Residential. The existing dwelling complies with this designation. Enlargement of the rear decks does not change the use of the property as a single-family residence.

2. Compliance with Zoning Regulations

a. Development Standards

The project parcel is zoned RH/DR (Residential Hillside/Design Review). The legal 9,125 sq. ft. parcel is non-conforming for lot width and building area (i.e., parcel size). Furthermore, the legal 3,572 sq. ft. two-story residence with 486 sq. ft. attached garage is non-conforming for lot coverage, floor area, and height. Additionally, enlargement of the rear decks increases the lot coverage and floor area non-conformities:

RH Development Standards			
	Required	Existing/Legal	Proposed
Minimum Lot Width	50 ft.	41.13 ft.*	No change
Minimum Building Area	30,000 sq. ft. (based on slope)	9,125 sq. ft.*	No change
Minimum Front Yard Setback	0 ft. for garage (due to slope) 20 ft. for house	6 ft. for garage 20 ft. for house	No change
Minimum Side Yard Setbacks			
Left Side	7.5 ft. (min.)	7.5 ft.	No changes
Right Side	7.5 ft. (min.)	12.5 ft.	
Combined Total	20 ft.	20 ft.	
Minimum Rear Yard Setback	20 ft.	41 ft.	37 ft.
Maximum Lot Coverage	25%	27.6%*	29%**
Maximum Floor Area	30%	44.4%*	46%**
Maximum Building Height	28 ft.	32 ft.*	No change
*Non-conforming.			
**Proposal requiring a non-conforming use permit.			

As evidenced in the table above, the current RH development standards allow a total lot coverage of 25%, where the existing/legal lot coverage is 27.6%. These development standards also allow a total floor area of 30%, where the existing/legal floor area is 44.4%. The applicant is requesting a non-conforming use permit to legalize the enlargement of two existing rear decks, which will increase the total parcel's lot coverage to 29% and floor area to 46%.

b. Design Review Exemption

The project is located within a Design Review District and qualifies for a Design Review Exemption, as the project involves the replacement and enlargement of existing legal wood decks over 24 inches from grade that meet minimum setback requirements and have no visual impacts to public views as they are located at the rear of the residence. The applicant has complied with a 10-day site posting requirement for the Design Review Exemption. No public comments were received during the site posting period, or as of the date of this staff report.

3. Compliance with Non-Conforming Use Permit Regulations

The existing residence was constructed in 1988 and is non-conforming as identified in Section A.2 above. Section 6133.3b(2) of the Zoning Regulations requires the issuance of a use permit when proposed development on an improved non-conforming parcel does not conform with the zoning regulations currently in effect. Furthermore, Section 6135.4 of the Zoning Regulations allows a non-conforming structure to be enlarged provided the enlargement conforms with the zoning regulations currently in effect. Alternatively, Section 6137 (*Exceptions*) allows an applicant to request a non-conforming use permit to enlarge an existing non-conforming structure when the enlargement does not conform with the zoning regulations, as is being proposed under the subject application. Therefore, the following findings, as required by Sections 6133.3b(3) and 6137, must be made:

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

Staff has determined that the enlarged rear decks do not adversely impact the public welfare or cause detriment to property or improvements in the neighborhood. Furthermore, the project site is not located within the Coastal Zone and therefore does not generate a significant adverse impact to coastal resources. The increase in deck square footage is minor and includes a staircase that provides access from the lower deck to the rear yard. Given the steep slope of the property, there is a minimal flat usable area in the rear yard. Therefore, the slight increase in deck square footage is a reasonable request to provide usable outdoor space in the rear yard. The enlarged decks are set back more than 15 feet from the left side yard setback, where 7.5 feet is the minimum required. As proposed, staff

has determined that the enlarged decks have a negligible impact to adjacent parcels and surrounding residential areas.

b. That the proposed development is proportioned to the size of the parcel on which it is being built.

The legal parcel is substandard in size. The RH Zoning District standards allow a maximum lot coverage of 25%, where existing/legal lot coverage is 27.6%, and allow a maximum floor area of 30%, where existing floor area is 29%. While the enlarged decks slightly increase the lot coverage and floor area non-conformities, the decks are located at the rear of the residence where they are not visible from public views and therefore do not generate an adverse public impact due to their added proportion of development.

c. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible.

Surrounding properties are currently developed and used as single-family residences, and are under separate ownership. Furthermore, adjacent parcels are also considered substandard in size. Therefore, acquisition is not feasible.

d. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible.

Aside from the existing non-conformities identified in Section A.2 above, the proposed project is as nearly in compliance with the zoning regulations as is reasonably possible. Although the enlarged decks exacerbate the lot coverage and floor area non-conformities, the total increase in square footage is minimal and otherwise complies with all setback requirements, thus minimizing any impact to neighboring properties.

e. That the use permit approval does not constitute a granting of special privileges.

Approval of a non-conforming use permit does not constitute the granting of a special privilege as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions.

B. ENVIRONMENTAL REVIEW

The project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, as a minor addition to an existing structure where the addition is less than 50% of the floor area of the existing structure.

C. REVIEWING AGENCIES

Building Inspection Section
San Mateo County Fire Department
Emerald Hills Homeowners Association
Emerald Hills Community Coalition

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Vicinity Map
- C. Site Plan/Elevation/Deck Plan, Sheet A1.0
- D. 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 2013-00507 Hearing Date: February 19, 2015

Prepared By: Summer Burlison
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, Class 1, as a minor addition to an existing structure where the addition is less than 50% of the floor area of the existing structure.

For the Non-Conforming Use Permit, Find:

2. That the establishment, maintenance and/or conducting of the use will not, under the circumstances of the particular case, result in a significant adverse impact to coastal resources, or be detrimental to the public welfare or injurious to property or improvements in said neighborhood, as the site is not located within the Coastal Zone and the increase in deck square footage is minor and generates negligible impacts on adjacent parcels and the surrounding neighborhood. The enlarged decks provide reasonable usable outdoor space in the rear yard, are not visible from public streets, and will comply with all setback requirements of the applicable RH Zoning District.
3. That the proposed development is proportioned to the size of the parcel on which it is being built, as the decks are located at the rear of the residence where they are not visible from public views and therefore do not generate an adverse public impact due to their added proportion of development on the substandard parcel, despite generating a slight increase in lot coverage and floor area non-conformities.
4. That all opportunities to acquire additional contiguous land in order to achieve conformity with the zoning regulations currently in effect have been investigated and proven to be infeasible, as surrounding properties are currently developed and used as single-family residences, and are under separate ownership.

Furthermore, adjacent parcels are also considered substandard in size. Therefore, acquisition is not feasible.

5. That the proposed development is as nearly in conformance with the zoning regulations currently in effect as is reasonably possible, as the enlarged decks otherwise comply with all setback requirements of the RH Zoning District, thus minimizing any impact to neighboring properties.
6. That the use permit approval does not constitute a granting of special privileges, as the Zoning Regulations Non-Conformities Chapter provides the same exception process for similar parcels under the same conditions.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

1. This approval applies only to the proposal, documents, and plans described in this report and submitted to and approved by the Zoning Hearing Officer on February 19, 2015. Minor modifications to the project may be approved by the Community Development Director if they are consistent with the intent of, and in substantial conformance with, this approval.
2. This non-conforming use permit is valid for one (1) year from the date of final approval, in which time a valid building permit shall be issued and a completed inspection (to the satisfaction of the Building Inspector) shall have occurred within 180 days of its issuance. Any extension of this permit shall require submittal of an application for permit extension and payment of applicable fees sixty (60) days prior to expiration.
3. A Planning final is required prior to the final building inspection of any associated building permit to verify the final size, locations, color and materials of the decks being legalized.

Building Inspection Section

4. Final inspection of a valid building permit for this project is required to clear the associated Stop Work Notice (SWN 2013-00115).

San Mateo County Fire Department

5. All buildings that have a street address shall have the number of that address on the building, mailbox, or other type of sign at the driveway entrance in such a manner that the number is easily and clearly visible from either direction of travel from the street. New residential buildings shall have internally illuminated address numbers contrasting with the background so as to be seen from the public way fronting the building. Residential address numbers shall be at least 6 feet above

the finished surface of the driveway. An address sign shall be placed at each break of the road where deemed applicable by the San Mateo County Fire Department. Numerals shall be contrasting in color to their background and shall be no less than 4 inches in height, and have a minimum 1/2-inch stroke. Remote signage shall be 6" x 18" green reflective metal sign.

6. Compliance with the following is required:
 - a. Any chimney or woodstove outlet shall have installed onto the opening thereof an approved (galvanized) spark arrester of a mesh with an opening no larger than 1/2 inch in size or an approved spark arresting device.
 - b. Maintain around and adjacent to such buildings or structures a fuelbreak/firebreak made by removing and clearing away flammable vegetation for a distance of not less than 30 feet and up to 100 feet around the perimeter of all structures or to the property line, if the property line is less than 30 feet from any structure. This is not a requirement nor an authorization for the removal of live trees. Remove that flammable portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe, or within 5 feet of any portion of any building or structures. Remove that dead or dying portion of any tree which extends over the roofline of any structure.
7. This project is located in a wildland urban interface area. Decking must meet California Residential Code Section R327 or California Building Code Chapter 7A requirements.

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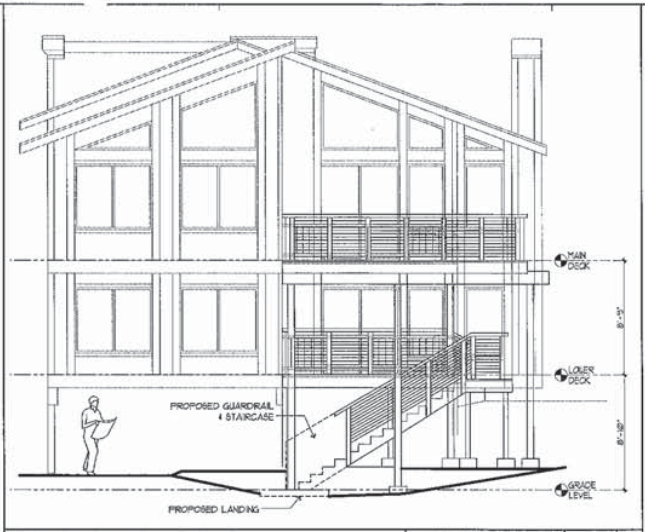
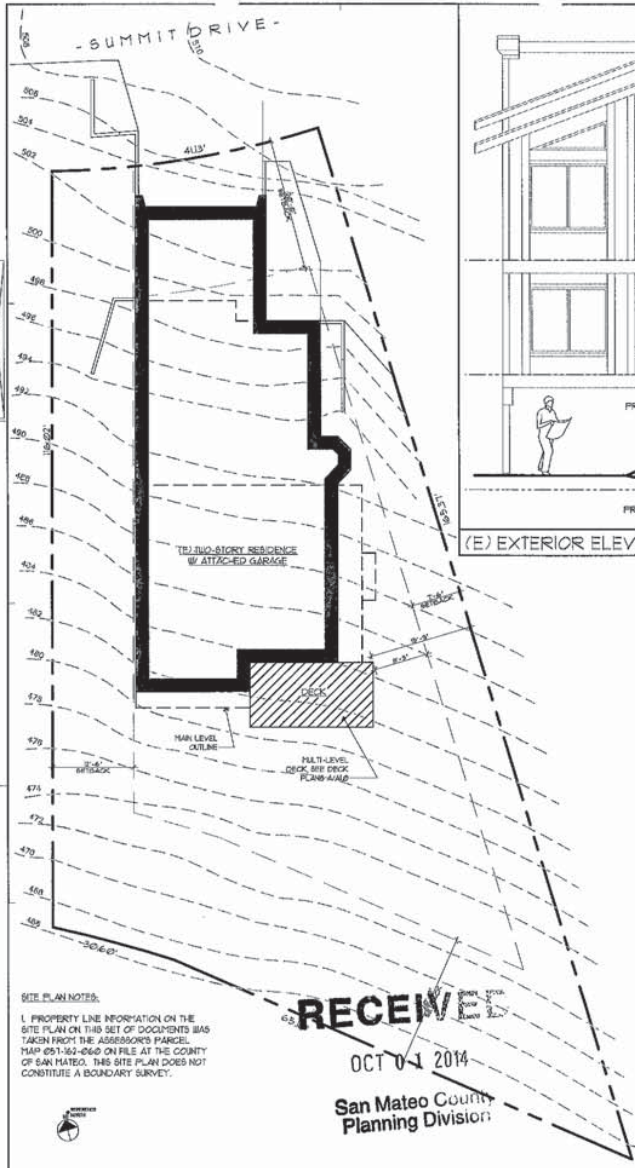
San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: GERE/THE KASTROP GROUP ARCH.

Attachment: B

File Numbers: PLN 2013-00507

PLN 2013-00507



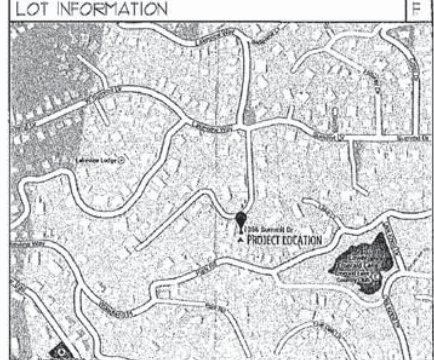
(E) EXTERIOR ELEVATIONS

THIS IS A NON-CONFORMING USE PERMIT APPLICATION TO REQUEST UNPERMITTED DECKS TO REMAIN. THE UNPERMITTED WORK WAS BUILT BY THE FORMER PROPERTY OWNER & WAS NOT DISCLOSED TO THE CURRENT OWNER. WE ARE PROPOSING TO ALSO EXTEND THE EXISTING STAIRS SO THAT THEY LAND ON GRADE LEVEL.

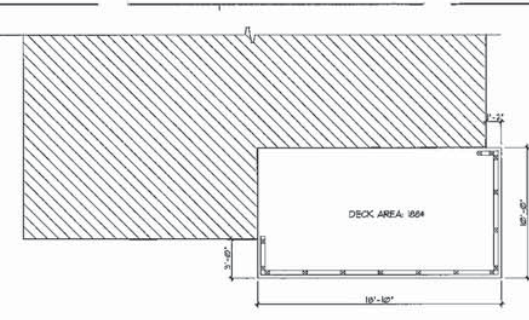
SCOPE OF WORK

ZONING DESIGNATION: R-1
 ASSESSOR'S PARCEL NUMBER: 092-162-056-0
 LOT AREA: 5,284
 BUILDING TYPE: V-15
 OCCUPANCY: N-303

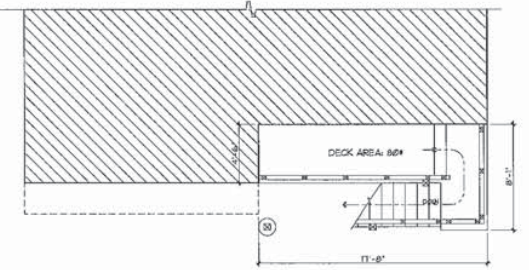
SUMMARY OF UNPERMITTED DECKS & STAIRCASE					
	PERMITTED AREA (SF) RMS	PERMITTED DIMENSIONS	PRESENT AREA (SF)	PRESENT DIMENSIONS	UNPERMITTED AREA (SF)
MAIN DECK	65	3'-0" x 13'-0"	88	8'-0" x 12'-0"	23
LOWER DECK	65	3'-0" x 13'-0"	67	4'-4" x 11'-8"	5
GRADE LEVEL (STAIRCASE)	NONE	NONE	63	3'-11" x 17'-8"	63



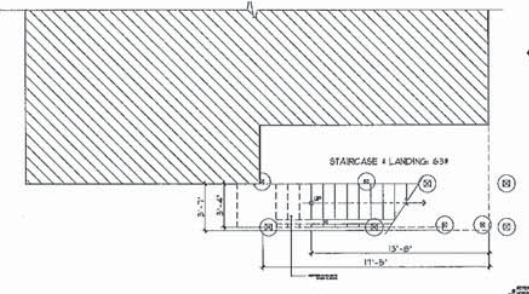
VICINITY MAP



(E) MAIN DECK PLAN



(E) LOWER DECK PLAN



(E) GRADE LEVEL PLAN

THE KASTROP GROUP, INC.
 ARCHITECTS
 2546 SPRING STREET
 REDWOOD CITY, CA 94063
 P: 650.288.1146
 F: 650.288.1146
 www.kastropgroup.com

NON-CONFORMING USE PERMIT
GERE RESIDENCE
 356 SUMMIT DRIVE
 REDWOOD CITY, CA 94062

PRELIMINARY DESIGN NOT FOR CONSTRUCTION

THESE DRAWINGS CONSTITUTE THE WORK OF THE ARCHITECTS AND MAY NOT BE USED WITHOUT THEIR WRITTEN CONSENT.

SHEET TITLE:
 SITE PLAN
 (E) EXTERIOR ELEVATIONS
 VICINITY MAP
 DECK PLANS
 LOT INFORMATION
 SCOPE OF WORK

DATE: 8/26/14
 ISSUE TITLE: 10/27/14
 JOB NO: 1446-0
 DRAWN: BY: DP
 CHECKED: DPK
 SCALE: AS NOTED

A1.0

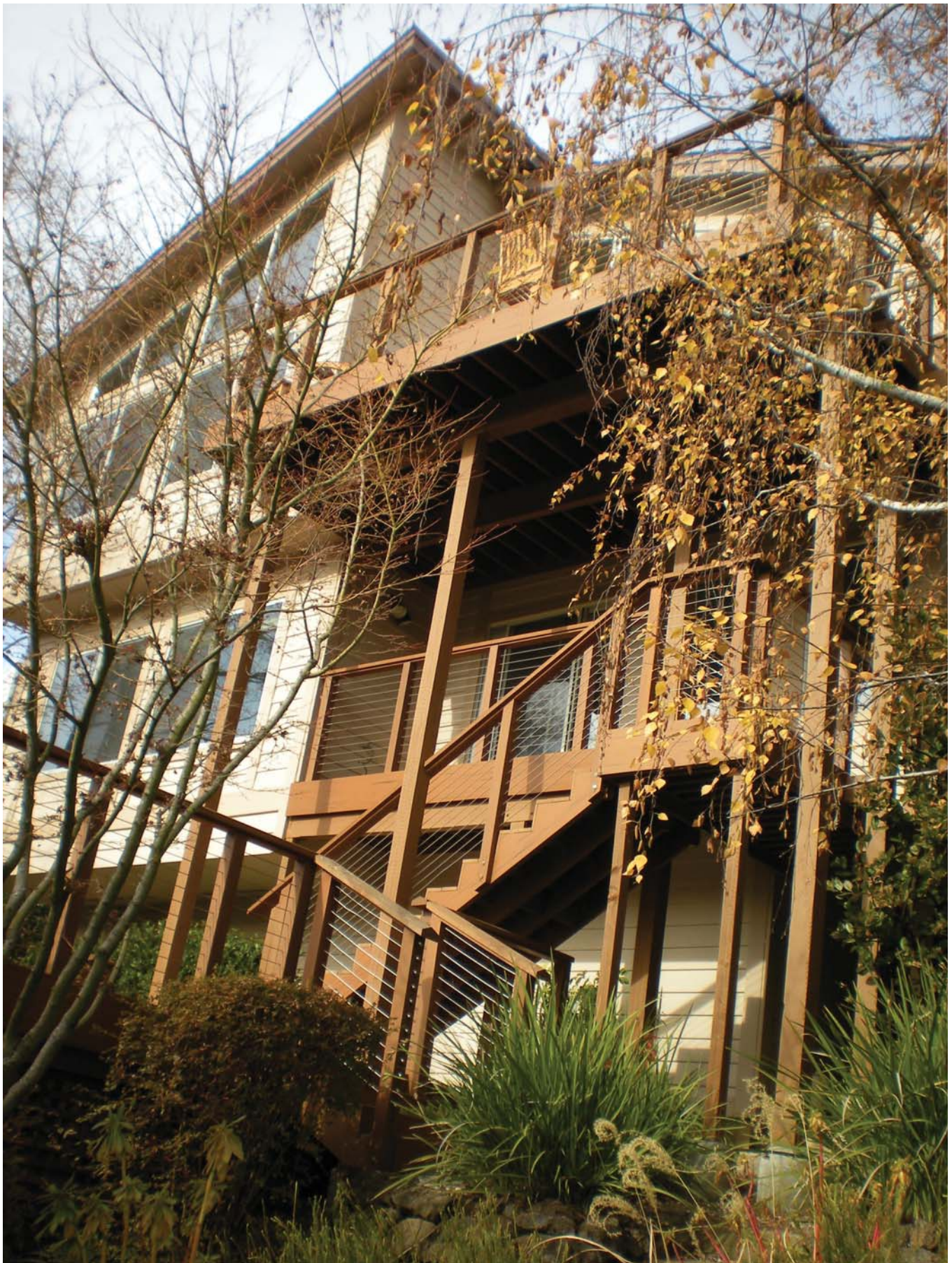
3.00 PERMIT APP NO. OF 1

San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: GERE/THE KASTROP GROUP ARCH.

Attachment: C

File Numbers: PLN 2013-00507



San Mateo County Zoning Hearing Officer Meeting

Owner/Applicant: GERE/THE KASTROP GROUP ARCH.

Attachment: D

File Numbers: PLN 2013-00507



San Mateo County Zoning Hearing Officer Meeting

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