



STAFF REPORT

City Council

Meeting Date:

7/14/2026

Staff Report Number:

26-120-CC

Public Hearing:

Consider and adopt a resolution to deny an appeal and uphold the Planning Commission's approval of 1) a use permit to determine the floor area limit on a lot less than 5,000 square feet in area, and to construct a new two-story, single-family residence on a vacant substandard lot with regard to minimum lot width, depth, and area in the R-1-U (Single Family Urban Residential) zoning district, at 305 Haight St. and 2) six variance requests to reduce the interior side setback to three feet where five feet is required, reduce the corner side setback to six feet where 12 feet is required, reduce the rear setback to 13 feet where 20 feet is required, reduce the number of required off-street parking spaces to one compliant space where two compliant spaces are required, increase the maximum building coverage from 722 square feet to 729.4 square feet, and increase the height of the daylight plane to approximately 23 feet, 11 inches where 19 feet, six inches is required; and determine this action is categorically exempt under California Environmental Quality Act Guidelines Section 15303's Class 3 exemption for new construction or conversion of small structures

Recommendation

Staff recommends that the City Council adopt a resolution denying the appeal and upholding the Planning Commission's approval of a use permit and six variances (Attachment A) and determine this action is categorically exempt under California Environmental Quality Act (CEQA) Guidelines Section 15303's Class 3 exemption for new construction or conversion of small structures.

Policy Issues

The proposed project requires the City Council to consider the merits of the project and the appeal, including the project's consistency with the City's General Plan, R-1-U zoning district standards and other adopted policies and programs. Per Section 16.86.040 of the Menlo Park Municipal Code (MPMC), the

City Council may affirm, reverse, or modify the decision of the Planning Commission.

In considering the appeal, the City Council should consider whether the project is consistent with the goals, policies, and programs of the General Plan, including, but not limited to, the following:

Goal H4 – Affordable Housing

Policy H4.2 – Housing to Address Local Housing Needs

Policy H4.3 – Variety of Housing Choices

Goal LU-2 – Maintain and enhance the character, variety and stability of Menlo Park's residential neighborhoods

Policy LU-2.1 – Neighborhood Compatibility.

Each use permit and variance request is considered individually. The City Council should consider whether the required use permit and variance findings can be made for the proposed project.

Background

Project description

The proposed project would consist of a new two-story, single-family residence located on a vacant parcel at 305 Haight St., in the Willows neighborhood. The parcel is a corner lot at the intersection of Haight Street and Laurel Avenue. The site is in the R-1-U zoning district and generally within a single-family residential neighborhood. The subject property is substandard with regard to minimum lot width, depth, and area per the R-1-U zoning standards. The lot width is 21 feet, eight inches, where a width of 65 feet is required; the lot depth is 95.3 feet, where a depth of 100 feet is required; and the lot area is 2,064 square feet, where 7,000 square feet is required for a standard lot.

A use permit is required for two reasons. First, a new two-story single-family residence on a substandard lot requires a use permit, and a second use permit request is required to determine the maximum floor area limit (FAL), or square footage on both floors, for the subject property, because the lot size is less than 5,000 square feet.

Because of the small size of the lot, the proposed project includes the following six variance requests, which are discussed in more detail in this report:

- Reduce the interior side setback from five feet to three feet;
- Reduce the corner side setback from 12 feet to six feet;
- Reduce the rear setback 20 feet to 13 feet;
- Reduce the number of required off-street parking spaces from two compliant spaces to one compliant covered space;
- Exceed the maximum building coverage of 722 square feet with a total of 729.4 square feet; and
- Increase the height of the daylight plane from 19 feet, six inches to 23 feet, 11 inches.

Based on Section 16.82.340(b) of the Zoning Ordinance, the following findings are required for the issuance of a variance:

1. That a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each

case must be considered only on its individual merits;

2. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors;
3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property;
4. That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification; and
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable specific plan process.

The findings must be made for each variance issued.

More details about the proposed project, including information regarding the variance findings, development regulations, vehicular and pedestrian circulation, and parking, are included in the May 4 Planning Commission staff report in Attachment B.

Planning Commission review

The project was heard at the May 4 Planning Commission hearing, where the project, including the use permit and six variances, was approved by a vote of 5-2, with two Commissioners opposed. The meeting minutes are included in this staff report as Attachment C. The hearing included a discussion on the variances and concerns expressed by neighbors during the public comment period, specifically regarding fire safety and public safety, consistency in applying zoning regulations, and visibility, in terms of vehicle site visibility near the subject property and the intersection of Laurel Avenue and Haight Street. In addition, one public commenter comprising part of the appellant team referred to a neighbor-led petition signed by 46 neighbors prior to the meeting. Staff has included this petition as part of an earlier comment letter, as Attachment D.

At the meeting, the Planning Commission weighed the multiple use permit and variance findings, and worked through several factors to determine whether to approve the variances. First, there was general agreement that the property was unusually smaller in lot size and lot width, and greatly constrained with respect to setback requirements generally. Second, the Planning Commission considered the flat roof and more limited overall building height in relation to the flood zone, daylight plane, and height requirements.

Third, the Planning Commission also looked into how an accessory dwelling unit (ADU) and/or two-unit development via Senate Bill (SB 9) could be constructed on the lot as a comparison of development standards, setbacks, and potential impacts to neighboring properties. As a result, the Planning Commission found that the findings for each variance requested could be made, because the lot is uniquely physically constrained. However, the two Commissioners who opposed the project expressed concerns with potential impacts from the proposed building footprint toward the adjoining neighboring property on Laurel Avenue, namely regarding the daylight plane and the side setback variances.

Analysis

Appeal of the Planning Commission's action

Pursuant to MPMC Section 16.86, any person may appeal to the City Council any order, requirement, decision, or determination of the Planning Commission. Appeals must be made in writing and filed with the city clerk within 15 days of a final action of the Planning Commission. At a City Council public hearing of any appeal, the City Council may affirm, reverse, or modify the decision of the Planning Commission. To reverse or modify the Planning Commission's decision requires an affirmative vote of three-fifths of the City Council (i.e., three of the five members).

On May 12, the City received a timely appeal (Attachment A, Exhibit A) of the Planning Commission's approval of the project entitlements. The appeal was submitted on behalf of several residents of surrounding properties. Two of the appellants, whom are named within the appeal letter, were active participants during the plan review process and offered verbal and written testimony that was considered by the Planning Commission at the May 4 hearing. The concerns outlined in the document are similar to those presented at the Planning Commission meeting but expand on a number of concerns pertaining to findings and development capabilities. The main grounds of the appeal letter are summarized below in italics and followed by a summary of staff's responses. More detailed responses are included in the draft resolution to deny the appeal (Attachment A):

1. Legal defectiveness of hardship.

Appeal: The hardship finding is legally defective – the applicant purchased the lot with full knowledge of its substandard conditions.

Response: The required hardship finding is based on the property itself — its size, shape, topography, location, or surroundings — and on whether those physical conditions were created by an act of the owner. The appellant claims that because the applicant acquired the property aware of its size, the applicant cannot claim those constraints as a qualifying hardship for a variance. The substandard dimensions and area of this lot existed before the applicant took title, would burden any owner of the parcel equally, and therefore, are not due to the act of the owner. For the proposed project, the applicant is requesting six variances, which include a modified interior side, corner side, and rear setback, lessening the off-street parking requirement from two spaces to one covered space, increasing the building coverage above the maximum allowable by approximately seven square feet, and increasing the daylight plane, in order to construct a two-story single-family residence. In addition, the site is beset with multiple physical constraints that are unique to the site, which include, a substandard lot width, depth, and area, the last of which being 2,064 square feet, less than one-third of the 7,000-square-foot minimum for the R-1-U district.

2. Senate Bill (SB) 9 inapplicability.

Appeal: The SB 9 rationale is legally inapplicable and constitutes an improper basis for variance approval, including subclaims that SB 9 requires owner occupancy, that ADU law does not apply to a vacant lot without an existing primary dwelling, and that speculative future SB 9 scenarios are not a proper variance finding.

Response: This is not an SB 9 or ADU project, and the Planning Commission's decision was not based on SB 9 or ADU law. The Project before the Commission, and now the City Council, consists of the use permit and variance requests set out in the applicant's submitted plans, and the Commission's action rests entirely on the required variance findings for those requests.

The Commission's brief discussion of SB 9 at the May 4 meeting was an exercise of its discretion to understand the site's overall development potential; it did not establish, and was not offered as, a basis for

any finding. Whether SB 9 or ADU law could ultimately apply to the property and whatever their owner-occupancy or existing-dwelling requirements has no bearing on whether the variance findings for the Project as proposed are justified.

Because the approval rests on the variance findings and not on any SB 9 or ADU rationale, the appellants' challenge to the applicability of SB 9 provides no basis for reversal. The subclaims regarding owner occupancy, vacant-lot ADU eligibility, and speculative future SB 9 scenarios all fail for the same reason: those hypothetical pathways are not the Project before the City Council and are not germane to the determination required.

3. Fire apparatus access not supported for public health and safety.

Appeal: The public health and safety finding is unsupported – fire apparatus access was not adequately reviewed or documented.

Response: The Planning Commission review of this project required a determination that the following finding could be made for each of the six requested variances:

- That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property.

To achieve that finding, the Menlo Park Fire Protection District (Menlo Fire), the agency with jurisdiction over fire operations and apparatus access, reviewed the plans and found the Project compliant with all applicable Fire Code requirements, and the Building Division found it compliant with all applicable Building Code requirements.

The design also incorporates specific measures that address the very concern the appellants raise. The Project provides a three-foot interior side separation and restricts that side setback area to hardscape only, reducing fire-safety exposure and enhancing safety along that elevation. The reduced setback thus reflects a deliberate accommodation of fire-safety requirements rather than a disregard of them, as the three-foot setback requires fewer precautions for fire-safety rating and allowance of window and door openings. With a setback shorter than three feet, the proposed project would need to have a solid wall with no openings on the affected elevation.

Because the Project meets all applicable Fire Code and Building Code requirements as confirmed by both the Building Division and Menlo Fire, and because it incorporates specific measures to mitigate fire risk along the interior side, staff finds this ground of the Appeal to be without merit.

- *Appeal subclaim: The Fire review was limited to fire ratings - not fire apparatus access.*
 - Response: This statement does not account for the Fire Code and Building Code review that was completed prior to the Planning Commission meeting. In their review, Menlo Fire and the Building Division reviewed applicable Code requirements for the building, and, notably, per Section D105.1 within Appendix D of the California Fire Code, no aerial fire apparatus access road is required unless the residence exceeds 30 feet in height. The proposed project is below that height at 23 feet, 11 inches.
- *Appeal subclaim: The combined structural clearance is physically inadequate for fire apparatus.*
 - Response: While it may be apparent that a fire vehicle cannot pass through the space available due to the smaller setback proposed on the left interior side of the proposed residence, the height of the

residence is below the threshold requiring vehicle access. Menlo Fire and the Building Division have found the proposed project compliant with all applicable Building Code requirements.

- *Appeal subclaim: A dissenting Commissioner explicitly found the variances detrimental to public safety.*
 - Response: It is true that a Planning Commissioner spoke on the record to indicate that their vote would be in opposition of the project due to the perceived safety concerns. However, it is the discretion of the Commission to come to this conclusion, and one Commissioner's perspective does not prove that the proposed development is unsafe. Menlo Fire and the Building Division have found the proposed project compliant with all applicable Building Code requirements, and the necessary objective standards for safety have been satisfied.

4. Special privilege and precedent.

Appeal: Approval of six simultaneous variances constitutes a special privilege not enjoyed by neighboring properties.

Variances of this magnitude could potentially set a precedent and be proliferated throughout the city thereby completely changing the inherent nature of the quality of life in the city.

Response: The variances do not constitute a special privilege because each is tied to the lot's unique physical constraints. Here, the subject property is substandard in lot width, depth, and area, at 2,064 square feet, less than one-third of the 7,000-square-foot minimum for the R-1-U district. There is no limit to the number of variances that may be requested, but each variance must meet the required findings. The proposed variances allow the property to develop a modest single-family residential use that conforming lots already enjoy. The proposed floor area limit of 1,333 square feet is substantially less than the 2,800-square-foot floor area limit available to lots of at least 5,000 square feet in the R-1-U zoning district. Although the approved floor area ratio (FAR) appears on its face to be higher than that of a conforming lot, that ratio is measured against a far smaller parcel: the approved floor area limit of approximately 1,333 square feet is substantially less than the 2,800-square-foot floor area limit available to R-1-U lots between 5,000 and 7,000 square feet in lot area. In absolute terms, the Project is therefore smaller than what neighboring owners may build, which is the opposite of a special privilege.

Approval of the variances does not set a precedent. Under the Zoning Ordinance, a variance can never establish a precedent as each request must be, as this one was, considered on its individual merits. Staff and the Planning Commission examined each required finding for the six variances and determined that each finding was satisfied on the physical circumstances of this particular lot. Because the relief here rests on the exceptional narrowness and small area of this particular lot, it does not entitle any other applicant to similar treatment.

5. There is no guaranteed right to build.

Appeal: There is no absolute right to build a reasonable home – the Commission substituted policy sympathy for the required legal findings, including claims that California law establishes no absolute right to develop to a particular scale, that Menlo Park's own code contradicts a "right to build" premise, that the variance "Property Rights" finding is a comparative test rather than an absolute guarantee, that variances are extraordinary relief rather than a safety net for unbuildable lots, and that the lot retains economic value without variances.

Response: The appeal attacks a sentiment expressed in deliberation, not the findings that support the approval. Approval required findings for the use permit and for each of the six variances, and those

findings were made and supported by the record, as the Zoning Code requires.

A general expectation voiced by individual commissioners that owners should be able to build a reasonable home is not a finding and is not the basis for the decision. Whether an absolute right to build exists is therefore beside the point, and the appellants' policy objection provides no basis for reversal.

A variance may be granted only where, because of special circumstances such as the property's size, shape, or surroundings, strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the same vicinity and zoning classification. Correspondingly, a variance may not confer a special privilege inconsistent with the limitations on other properties in the vicinity and zone.

Here, the test is met. The lot is substandard in width, depth, and area for the R-1-U district, and strict application of the R-1-U standards would deny the applicant the residential use that conforming owners in the same district enjoy. The findings, and not any statement about an absolute right to build or the lot's residual economic value, are the basis for the approval. This ground of the Appeal is therefore without merit.

6. Impairment of light and air to 935 Laurel Avenue.

Appeal: The applicant's own statement on the record confirm the two-story design materially impairs light and air to 935 Laurel Avenue, indicating that the design was modified specifically to reduce its impact on light toward the neighboring property, the 935 Laurel Avenue property is the sole neighboring property bear the project impacts, and a single-story development would be more appropriate for the subject property.

Response: The applicable finding is that the variance will not be materially detrimental to the public health, safety, or welfare, which should generally not impair an adequate supply of light and air to adjacent property. An adequate supply of light and air is not the elimination of every effect on a neighboring property. Every permitted structure casts some shadow and affects a neighbor's exposure to some degree; the question therefore was whether an adequate supply would remain such that it would not be materially detrimental to the public health, safety, or welfare. The applicant's statement that the design was shaped to reduce the effect on 935 Laurel Ave.'s light does confirm that the design was deliberately configured to protect the neighboring property's light, which supports rather than undermines the finding.

The Planning Commission assessed this concern at the May 4 meeting. The Commission expressly considered the flat roof and the more limited overall building height in relation to the flood zone, the daylight plane, and the applicable height requirements, which are the features that govern the Project's effect on the light and air reaching 935 Laurel Ave. The applicant has requested, specifically, to have a daylight plane starting at 23 feet, 11 inches, instead of the required 19 feet, six inches. Most residences in the vicinity were built prior to the latest flood zone requirements and benefit from lower floor plates than allowed, and effectively predate the higher first floor elevation that the proposed project must provide. The flat roof was selected specifically to reduce roof mass and preserve more light for the neighboring property than a sloped roof would allow. Because the subject property is a corner lot, one neighboring residence would primarily be affected by the daylight plane and second floor. If not approved, the daylight plane variance would result in a generally uninhabitable second floor, as the second floor would need to be modified in design to have a pitched roof. This would severely reduce the floor space to remain narrowly in the middle of the building mass, while also requiring the stair accessibility to be relocated to a more central

location instead along the side, hampering the ground floor access as well.

Correspondence

In response to the appeal letter, the applicant has provided a response letter, which is included as Attachment E.

Conclusion

Staff believes the project would be compatible with the neighborhood and meet the intent of the R-1-U zoning district to provide new opportunities for single-family residences. The proposal furthers policies in the General Plan, particularly the Housing Element, by creating additional housing and satisfying all findings for the six variance requests. The proposed project would align with Policies H4.2 and H4.3 of the Housing Element and LU-2.1 of the Land Use Element, in the general interest of increasing and diversifying housing units in the City through the granting of variances on uniquely-shaped lots. The contemporary style would be generally attractive and the proposed residence would be well-proportioned. Staff believes that a proposed floor area limit of 1,333.1 square feet (floor area ratio of 64.6%) is suitable for the size of the lot. Staff also believes that due to the combination of smaller lot width, depth, and area, a unique hardship exists and variance findings can be made to allow a reduced interior side setback of three feet, a reduced corner side setback of six feet, a reduced rear setback of 13 feet, reduced required parking, increased building coverage, and increased daylight plane height. Staff recommends that the City Council adopt a resolution denying the appeal and upholding the Planning Commission's approval of the use permit and variances.

Impact on City Resources

The project sponsor is required to pay planning, building and public works permit fees, based on the city's master fee schedule, to fully cover the cost of staff time spent on the review of the project, for the period between the application submittal and the appeal of the Planning Commission action. The appellant paid a \$110 flat fee to file an appeal of the Planning Commission's decision. Staff time spent on the review of the appeal to the City Council is not otherwise recovered under the prior Master Fee Schedule in effect for this application.

Environmental Review

The project is categorically exempt under Class 3 (Section 15303, "New construction or conversion of small structures") of the current CEQA Guidelines.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting. Public notification also consisted of publishing a notice in the local newspaper and notification by mail of owners and occupants within a 300-foot radius of the subject property.

Attachments

A. Resolution

Exhibit to Attachment A

- A. Appeal letter
- B. Conditions of approval
- B. Hyperlink – May 4 Staff Report #26-012-PC:
www.menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/planning-commission/2026-meetings/agenda/20260504-planning-commission-agenda-packet.pdf
- C. Hyperlink – May 4 Planning Commission meeting minutes:
www.menlopark.gov/files/sharedassets/public/v/1/agendas-and-minutes/planning-commission/2026-meetings/minutes/20260504-pc-approved-minutes.pdf
- D. Appellants' comment letter and petition
- E. Applicant response letter

Report prepared by:

Matt Pruter, Associate Planner

Report reviewed by:

Deanna Chow, Community Development Director

Nira Doherty, City Attorney

RESOLUTION NO. XXXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A USE PERMIT TO DETERMINE THE FLOOR AREA LIMIT ON A LOT THAT IS LESS THAN 5,000 SQUARE FEET IN AREA, AND TO CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE ON A VACANT SUBSTANDARD LOT WITH REGARD TO MINIMUM LOT WIDTH, DEPTH, AND AREA IN THE R-1-U (SINGLE FAMILY URBAN RESIDENTIAL) ZONING DISTRICT, AND SIX VARIANCES (1) TO REDUCE THE INTERIOR SIDE SETBACK TO THREE FEET WHERE FIVE FEET IS REQUIRED (2) REDUCE THE CORNER SIDE SETBACK TO SIX FEET WHERE 12 FEET IS REQUIRED (3) REDUCE THE REAR SETBACK TO 13 FEET WHERE 20 FEET IS REQUIRED (4) REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES TO ONE COMPLIANT COVERED SPACE WHERE TWO COMPLIANT SPACES ARE REQUIRED, (5) INCREASE THE MAXIMUM BUILDING COVERAGE FROM 722 SQUARE FEET TO 729.4 SQUARE FEET, AND (6) INCREASE THE HEIGHT OF THE DAYLIGHT PLANE TO APPROXIMATELY 23 FEET, 11 INCHES WHERE 19 FEET, SIX INCHES IS REQUIRED, AT 305 HAIGHT ST. (APN 062-215-080)

WHEREAS, the City of Menlo Park (City) received an application requesting a use permit to determine the maximum floor area limit (FAL) on a lot less than 5,000 square feet in area and to construct a new two-story, single-family residence on a substandard lot in the R-1-U zoning district. The project includes a request for six variances, to reduce the interior side setback to three feet where five feet is required, reduce the corner side setback to six feet where 12 feet is required, reduce the rear setback to 13 feet where 20 feet is required, reduce the number of required off-street parking spaces to one compliant covered space where two compliant spaces are required, increase the maximum building coverage from 722 square feet to 729.4 square feet, and increase the height of the daylight plane to approximately 23 feet, 11 inches where 19 feet, six inches is required (collectively, the Project) from Robert Margoosian (Owner) and Mohammad Kasirossafar (Applicant), located at 305 Haight St. (APN 062-215-080) (Property). The variance and use permit are depicted in and subject to the development plans and documents which are attached hereto as Exhibits A and B and incorporated herein by this reference; and

WHEREAS, the Property is located in the Single Family Urban Residential (R-1-U) zoning district, which supports the construction of single-family residences; and

WHEREAS, because the lot is less than 5,000 square feet in area and the maximum floor area, Section 16.16.030(6)(A)(i) of the Menlo Park Municipal Code (MPMC or the Code) requires that the FAL be determined by the Planning Commission through a conditional use permit, and the Project proposes a FAL of 1,333.1 square feet, representing a floor area ratio (FAR) of 64.6% and building coverage of 35.3%; and

WHEREAS, the Property is substandard with regard to minimum lot dimensions, having a lot width of 21 feet, 8 inches, where 65 feet is required, a lot depth of 95.3 feet, where 100 feet is required, and a lot area of 2,064 square feet, where 7,000 square feet is required for a standard lot in the R-1-U district; and

WHEREAS, due to the narrowness and small area of the lot, the Project includes the following six variance requests:

1. To reduce the interior side setback from five feet to three feet;
2. To reduce the corner side setback from 12 feet to six feet;
3. To reduce the rear setback from 20 feet to 13 feet;
4. To reduce the number of required off-street parking spaces from two compliant spaces to one compliant covered space;
5. To increase the maximum building coverage from 722 square feet to 729.4 square feet; and
6. To increase the height of the daylight plane from 19 feet, six inches to 23 feet, 11 inches;

WHEREAS, two-story residences are allowed to be constructed on a substandard lot, subject to the granting of a use permit; and

WHEREAS, the proposed Project complies with all objective standards of the R-1-U district, aside from the requested variances; and

WHEREAS, the proposed Project was reviewed by the Engineering and Transportation Divisions and found to be in compliance with City standards; and

WHEREAS, the proposed Project was reviewed by the Menlo Park Fire Protection District (MPFPD) and found to be in compliance with MPFPD standards; and

WHEREAS, the Project requires discretionary actions by the City as summarized above, and therefore the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 et seq.) and CEQA Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) require analysis and a determination regarding the Project's environmental impacts; and

WHEREAS, the City is the lead agency, as defined by CEQA and the CEQA Guidelines, and is therefore responsible for the preparation, consideration, certification, and approval of environmental documents for the Project; and

WHEREAS, the Project is categorically exempt from environmental review pursuant to Cal. Code of Regulations, Title 14, Section 15303 et seq. ("New construction or conversion of small structures"); and

WHEREAS, all required public notices and public hearings were duly given and held according to law; and

WHEREAS, at a duly and properly noticed public hearing held May 4, 2026, the Planning Commission fully reviewed, considered, and evaluated the whole of the record including all public and written comments, pertinent information, documents and plans, prior to taking action regarding the Project, and approved the use permit and the six variances by a vote of 5-2, with two Commissioners opposed; and

WHEREAS, pursuant to MPMC Section 16.86.010, any person may appeal to the City Council any order, requirement, decision, or determination of the Planning Commission; and

WHEREAS, May 12, 2026, City received a timely appeal of the Planning Commission's actions (the "Appeal") pursuant to MPMC Section 16.86.010, which authorizes any person to file an

appeal of any final action of the Planning Commission, said Appeal is attached hereto and incorporated herein by this reference as Exhibit A; and

WHEREAS, pursuant to MPMC Section 16.86.040, at the close of the public hearing on the appeal the City Council may affirm, reverse, or modify the decision of the Planning Commission by an affirmative vote of three-fifths of the City Council; and

WHEREAS, July 14, 2026, the City Council held a public hearing and separately reviewed and considered the appeal, and fully reviewed, considered, and evaluated all documents, along with all public and written comments, pertinent information, documents, or plans before taking action to deny the appeal and approve the use permit and variances.

NOW, THEREFORE, BE IT RESOLVED that the City Council independently, after reviewing all of the evidence before it, holding public appeal hearings, considering the appeal before it, and considering the Planning Commission's Actions, and all written and oral testimony presented to it, hereby denies the appeal and affirms the Planning Commission Actions, and approves the use permit and variances, attached hereto and incorporated herein by this reference, for the 305 Haight St. development project based on the following:

BE IT FURTHER RESOLVED by the City Council of the City of Menlo Park as follows:

Section 1., The City Council finds that the foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Council finds that the Project is categorically exempt from CEQA under Class 3 (Section 15303 "New construction or conversion of small structures") of the CEQA Guidelines, as the Project consists of the construction of one new single-family residence in a residential zone. No exception to the exemption under CEQA Guidelines Section 15300.2 applies.

Section 3. Pursuant to the standards for granting a use permit set forth in MPMC Section 16.82.030, the City Council finds:

1. That the establishment, maintenance, or operation of the use applied for will, under the circumstance of the particular case, not be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing in the neighborhood of such proposed use, or injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city because:
 - a. Consideration and due regard were given to the nature and condition of all adjacent uses and structures, and to general plans for the area in question and surrounding areas, and impact of the application hereon; in that, the proposed use permit is consistent with the R-1-U zoning district and the General Plan because two-story residences are allowed to be constructed on substandard lots subject to granting of a use permit.
 - b. Approval of variances for a reduced interior side setback, reduced corner side setback, reduced rear setback, reduced number of off-street parking spaces, increased maximum building coverage, and increased daylight plane height would approve any characteristic of the development not otherwise in compliance with applicable zoning standards.
 - c. The maximum floor area limit would be appropriate to allow a livable multi-bedroom residence with similar features to those of other properties in the R-1-U zoning district, on an atypically narrow property with a lot area slightly greater than 2,000 square feet.

Section 4. Pursuant to the standards for granting a use permit set forth in MPMC Section 16.82.030, the City Council finds:

1. Due regard to adjacent uses and the General Plan (MPMC Section 16.82.030). The City Council has considered and given due regard to the nature and condition of all adjacent uses and structures, and to the general and specific plans for the area and surrounding areas, and the impact of the Project thereon. The Project is a single-family residence in a single-family residential neighborhood and is consistent with the R-1-U zoning district. It furthers the goals and policies of the General Plan, including Goal H4 and Policies H4.2 and H4.3 of the Housing Element and Policy LU-2.1 of the Land Use Element, by adding to the City's housing stock and to the variety of housing on a uniquely small lot while remaining generally smaller in footprint than most residences in the vicinity.
2. No detriment to health, safety, and general welfare; no injury to neighborhood property (MPMC Section 16.82.030). The City Council finds that the establishment, maintenance, and operation of the Project will not, under the circumstances of this plans presented, be detrimental to the health, safety, morals, comfort, and general welfare of persons residing or working in the neighborhood, and will not be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable Building Code and Fire Code requirements, and the reduced setbacks and increased daylight plane still ensure adequate light, air, and privacy for adjacent properties and nearby streets.
3. Determination of the floor area limit. Because the lot area of 2,064 square feet is less than 5,000 square feet, MPMC Section 16.16.030(6)(A)(i) requires the FAL to be established by use permit and vests discretion in the reviewing body to set an appropriate floor area. The City Council determines that a FAL of 1,333.1 square feet is appropriate. A residence of the proposed size is a modest and functional living space, considerably smaller than residences permitted on larger lots under 5,000 square feet, and an FAR of 64.6% is reasonable relative to the uniquely small lot area while remaining compatible with the neighborhood.

Section 5. Pursuant to MPMC Section 16.82.340, the City Council makes the following findings, each of which applies and supports the granting of the six variances requested for:

Variance 1: Findings for reduced interior side setback. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to reduce the interior side setback:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot, particularly the narrow width of 21 feet, eight inches, where 65 feet is required, creates undue hardships to developing a project with a limited buildable area. Applying the required five-foot interior side setback, together with the required corner side setback would consume the great majority of that width and leave a buildable width of roughly four feet, and eight inches. These physical hardships arise from the dimensions of the lot itself and were not created by any act of the owner. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding, because the constraint inheres in the land and does not change with ownership. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding
2. That the variance is necessary for the preservation and enjoyment or substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly narrower than other properties in the vicinity, which prevents redevelopment of a compliant project if required to develop at a

standard five-foot interior side setback. Because the relief is tied to the lot's unique physical constraints and results in a residence generally smaller in footprint than neighboring properties, granting the variances does not constitute a special privilege not enjoyed by other owners in the vicinity.

3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposal meets all Fire and Building Code requirements and the proposed building footprint would still allow adequate light and air into neighboring yards. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable health and safety, Building Code, and Fire Code requirements. The Project provides a three-foot interior side separation with only hardscape within that side setback area, which reduces fire-safety restrictions and improves conditions relative to a narrower setback. The reduced setbacks still ensure adequate light, air, and privacy for adjacent properties and nearby streets.
4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and larger in area, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. All variance requests, including those involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Variance 2: Findings for reduced corner side setback. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to reduce the corner side setback:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot, particularly the narrow width of 21 feet, eight inches, creates undue hardships to developing a project with a limited buildable area. The required 12-foot corner side setback alone would consume more than half of the lot's total width; combined with the interior side setback, no meaningful buildable width would remain. This hardship arises from the combination of the lot's narrow width and its corner configuration — physical conditions of the land not created by any act of the owner and unchanged by ownership. These physical hardships arise from the dimensions of the lot itself and were not created by any act of the owner. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding.
2. That the variance is necessary for the preservation and enjoyment or substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly narrower than other properties in the vicinity, which prevents redevelopment of a compliant project if required to develop at a standard 12-foot corner side setback. The variances would allow the residence to have reasonably sized setbacks, height, and development potential and would prevent a disproportionately narrow buildable area. Because the relief responds to the lot's unique width and corner configuration and yields a residence generally smaller than neighboring properties, it is not a special privilege.

3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposed building footprint meets Fire and Building Code requirements and would still allow adequate light and air into neighboring yards. In addition, no residence is located adjacent to the specific reduced corner side setback. The reduced setbacks still ensure adequate light, air, and privacy for adjacent properties and nearby streets.
4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and larger in area, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. All variance requests, including those involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Variance 3: Findings for reduced rear setback. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to reduce the rear setback:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot creates undue hardships to developing a project with a limited buildable area as the lot is shallow — 95.3 feet deep where 100 feet is required — and the required 20-foot rear setback, combined with the front setback and the 20-foot depth needed for a compliant covered parking space, would leave inadequate depth for a functional residence. This hardship arises from the lot's limited depth and dimensions, physical conditions not created by any act of the owner and unchanged by ownership. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding.
2. That the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly smaller than other properties in the vicinity, which prevents redevelopment of a compliant project if required to develop at a standard 20-foot rear setback, particularly with the inclusion of a compliant covered parking space in an attached garage with a minimum 20-foot depth, which would further constrain the development of a residence with a reasonable area of livable space if a variance were not granted. The variances would allow the residence to have reasonably sized setbacks, height, and development potential and would prevent a disproportionately narrow buildable area. . Because the relief is tied to the lot's unique depth constraint and yields a residence generally smaller than neighboring properties, it is not a special privilege.
3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposal meets Fire and Building Code requirements and the limited proposed building footprint would still allow adequate light and air into neighboring yards. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable health and safety, Building Code, and Fire Code requirements. The Project provides a three-foot interior side separation with only hardscape

within that side setback area, which reduces fire-safety restrictions and improves conditions relative to a narrower setback. The reduced setbacks still ensure adequate light, air, and privacy for adjacent properties and nearby streets. In addition, the residence that would neighbor the reduced rear setback features a side setback, which is required at five feet on the neighboring property.

4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and have a greater lot area, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. All variance requests, including those involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Variance 4: Findings for reduced number of off-street parking spaces. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to reduce the number of required off-street parking spaces from two spaces to one space:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot creates undue hardships to developing a project with two compliant parking spaces. The lot is 21 feet, 8 inches wide, 95.3 feet deep, and 2,064 square feet in area, substantially smaller than the vast majority of lots in the Willows neighborhood and the R-1-U district. The inability to fit a second compliant space arises directly from the lot's narrow width, a physical condition of the land not created by any act of the owner and unchanged by ownership. These physical hardships arise from the dimensions of the lot itself and were not created by any act of the owner. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding.
2. That the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly smaller than other properties in the vicinity, which prevents redevelopment of a compliant project with regard to required parking, since a second parking space would not be feasible due to the narrow lot width. The variances would allow the residence to have reasonably sized setbacks, height, and development potential and would prevent a disproportionately narrow buildable area. Because the relief responds to the lot's unique width and does not exceed what neighboring owners enjoy, it is not a special privilege.
3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposal meets all Fire and Building Code requirements and reducing the required parking would not obstruct light and air to neighboring properties. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable health and safety, Building Code, and Fire Code requirements. The Project provides a three-foot interior side separation with only hardscape within that side setback area, which reduces fire-safety restrictions and improves conditions

relative to a narrower setback. The reduced setbacks and increased daylight plane still ensure adequate light, air, and privacy for adjacent properties and nearby streets.

4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and larger, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. The subject lot is uniquely small and narrow compared to surrounding lots, and other properties in the vicinity are unlikely to require similar relief. All variance requests, including those involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Variance 5: Findings for increased maximum building coverage. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to increase the maximum building coverage:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot creates undue hardships to developing a project with a limited buildable area. The lot is 21 feet, 8 inches wide, 95.3 feet deep, and 2,064 square feet in area, substantially smaller than the vast majority of lots in the Willows neighborhood and the R-1-U district. These physical hardships arise from the dimensions of the lot itself and were not created by any act of the owner. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width, and a considerably smaller building footprint than other neighboring properties. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding.
2. That the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly smaller than other properties in the vicinity, which generally restricts the potential to provide a reasonably sized building footprint. The variances would allow the residence to have reasonably sized setbacks, height, and development potential and would prevent a disproportionately narrow buildable area. Because the relief is tied to the lot's unique physical constraints and results in a residence generally smaller in footprint than neighboring properties, granting the variances does not constitute a special privilege not enjoyed by other owners in the vicinity.
3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposal meets all Fire and Building Code requirements and increasing the maximum building coverage would not obstruct adequate light and air to neighboring properties given the limited footprint. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable health and safety, Building Code, and Fire Code requirements.
4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and larger, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. All variance requests, including those

involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.

5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Variance 6: Findings for increased daylight plane height. The City Council of the City of Menlo Park does hereby make the following Findings per Section 16.82.340 of the Zoning Ordinance pertaining to the granting of a variance to increase the daylight plane height to 23 feet, 11 inches:

1. That a hardship peculiar to the property and not created by any act of the owner exists; in that, the size of the lot creates undue hardships to developing a project with a limited buildable area, which is compounded further by narrow lot width creating daylight planes in very close proximity on each side. Absent variance relief, development within the otherwise-required setbacks would yield an impracticably narrow residence approximately four feet, eight inches in width. Whether the owner was aware of the lot's constraints when acquiring the property is not relevant to this finding.
2. That the variance is necessary for the preservation and enjoyment or substantial property rights possessed by other conforming properties in the vicinity and that the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly smaller than other properties in the vicinity, which generally restricts the potential to provide a reasonably sized building footprint. The variances would allow the residence to have reasonably sized setbacks, height, and development potential and would prevent a disproportionately narrow buildable area. Because the relief is minimal, tied to the lot's small area, and results in a footprint smaller than neighboring properties, it is not a special privilege.
3. That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property; in that, the proposal meets all Fire and Building Code requirements and increasing the daylight plane height would not obstruct adequate light and air to neighboring properties given the limited height (below the maximum permitted) and footprint of the structure, and the inset of the second floor along the front elevation. The Building Division and the Menlo Park Fire Protection District reviewed the plans and found the Project adequate to meet all applicable health and safety, Building Code, and Fire Code requirements. The reduced setbacks and increased daylight plane still ensure adequate light, air, and privacy for adjacent properties and nearby streets.
4. That the conditions upon which the requested variance is based would not be applicable, generally, to property within the same zoning classification; in that, other properties in the R-1-U zoning district are generally wider and larger, which allows more room for a compliant development, and the unique combination of reduced dimensions for the lot are not generally applicable to other R-1-U properties. All variance requests, including those involving multiple variances, are subject to the same review process, and each finding was examined and satisfied for this Project on its individual merits.
5. That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process; in that, the finding is not applicable because the subject parcel is not located within a Specific Plan area.

Section 6. Having considered each ground raised in the Appeal, the City Council finds as follows:

1. Legal defectiveness of hardship. The appellants argue that the Project lacks a valid basis for establishing a hardship supporting the variance findings. They contend that a hardship cannot be one that is knowable, foreseeable, or priced into a real estate transaction, and that because the applicant purchased a substandard lot aware of its characteristics and limitations, the hardship finding cannot be justified. The appellants further contend that the Planning Commission failed to adequately weigh this factor in its review and approval on May 4, 2026.

The contention misstates the standard. The required hardship turns on the special circumstances of the property itself, its size, shape, topography, location, or surroundings, and on whether those physical conditions were created by an act of the owner. It does not turn on the conduct, motives, or knowledge of whoever happens to own the property. A hardship that inheres in the land is not created by the applicant merely because the applicant acquired the property aware of it. The substandard dimensions and area of this lot existed before the applicant took title, would burden any owner of the parcel equally, and are therefore not the result of any act of the owner. For the same reason, the timing of the purchase and whatever the appellants believe the applicant knew about the lot's constraints have no bearing on whether the hardship finding is legally sound.

The physical constraints here are concrete and unique to the site. The subject property is substandard in width, depth, and area, the last being 2,064 square feet, which is less than one-third of the 7,000-square-foot minimum for the R-1-U district. It is against those constraints that the applicant requested six variances to construct a two-story single-family residence: a modified interior side setback, a modified corner side setback, and a modified rear setback; a reduction in the off-street parking requirement from two spaces to one covered space; an increase in building coverage of approximately seven square feet above the maximum allowable; and an increase in the daylight plane. Each variance follows directly from the physical condition of the land rather than from any act of the applicant. The City Council finds this ground of the Appeal to be without merit.

2. Senate Bill (SB) 9 inapplicability. The appellants contend that the Planning Commission improperly relied on a hypothetical Senate Bill 9 (SB 9) pathway as a basis for approval, and that this reasoning is legally flawed for three reasons: (1) SB 9 requires owner occupancy, which the appellants state is not possible here; (2) no accessory dwelling unit (ADU) may be constructed without an existing primary dwelling on site; and (3) no variance finding may rest on a speculative SB 9 scenario.

The premise is incorrect. The Project before the Planning Commission, and now before the Council, is not an SB 9 or ADU project, and the Commission's decision was not based on SB 9 or ADU law. The Project consists of the use permit and the variance requests set out in the applicant's submitted plans, and the Commission's action rests entirely on the required variance findings for those requests.

The Commission's brief discussion of SB 9 at the May 4, 2026, meeting was an exercise of its discretion to understand the site's overall development potential. It did not establish, and was not offered as, the basis for any finding. Whether SB 9 or ADU law could ultimately apply to this property, and whatever their owner-occupancy or existing-dwelling requirements, has no bearing on whether the variance findings for the Project as proposed are justified.

Because the approval rests on the required variance findings and not on any SB 9 or ADU rationale, the appellants' challenge provides no basis for reversal. The three subclaims regarding owner occupancy, vacant-lot ADU eligibility, and speculative future SB 9

scenarios all fail for the same reason: those hypothetical pathways are not the Project before the Council and are not germane to the determination required. The City Council finds this ground of the Appeal to be without merit.

3. Fire apparatus access not supported for public health and safety. The appellants contend that the public health and safety finding is unsupported because fire apparatus access was not adequately reviewed or documented, and that the tight spacing on the interior side makes the Project unsafe under California Fire Code Section 503.

The record supports the finding. For each of the six variances, the Planning Commission was required to find that granting the variance will not be materially detrimental to the public health, safety, or welfare and will not impair an adequate supply of light and air to adjacent property. To support that finding, the Menlo Park Fire Protection District (Menlo Fire), the agency with jurisdiction over fire operations and apparatus access, reviewed the plans and found the Project compliant with all applicable Fire Code requirements, and the Building Division found it compliant with all applicable Building Code requirements. That review was completed before the May 4, 2026 Planning Commission meeting and encompassed the fire-safety considerations within those agencies' authority for a project of this type.

The City Council addresses each of the appellants' specific claims regarding fire access:

- Fire review was limited to fire ratings, not apparatus access. This does not account for the full scope of the Fire Code and Building Code review. Per Section D105.1 of Appendix D of the California Fire Code, no aerial fire apparatus access road is required unless the residence exceeds 30 feet in height. The proposed residence is 23 feet 11 inches in height, below that threshold. Apparatus access of the type the appellants describe is therefore not required for this Project.
- The combined structural clearance is physically inadequate for fire apparatus. Even accepting that a fire vehicle cannot pass through the reduced interior side setback, the height of the residence is below the threshold that would require vehicle access. Menlo Fire and the Building Division have found the Project compliant with all applicable Fire Code and Building Code requirements.
- A dissenting Commissioner found the variances detrimental to public safety. One Commissioner stated on the record that they would vote against the Project based on perceived safety concerns. It is within the Commission's discretion for an individual member to reach that view, but one Commissioner's perspective does not establish that the Project is unsafe. The objective standards for safety have been satisfied, as confirmed by Menlo Fire and the Building Division.

The design also incorporates specific measures that address the concern the appellants raise. The Project provides a three-foot interior side separation and restricts that side setback area to hardscape only, reducing fire exposure along that elevation. The three-foot dimension is a deliberate fire-safety threshold: at three feet, fewer precautions are required for the fire-safety rating, and window and door openings are permitted; with a setback of less than three feet, the affected elevation would require a solid wall with no openings. The reduced setback thus reflects a deliberate accommodation of fire-safety requirements rather than a disregard of them. Because the Project meets all applicable Fire Code and Building Code requirements as confirmed by both the Building Division and the Fire Protection District, and because it incorporates specific measures to mitigate fire risk along the interior side, the City Council finds this ground of the Appeal to be without merit.

4. Special privilege and precedent. The appellants contend that granting the number and magnitude of variances the Project requires, together with its unique floor area limit, would confer a special privilege not enjoyed by neighboring owners, and that approval would set a

precedent that could proliferate throughout the City and erode its residential character. Both concerns are without merit.

The variances do not constitute a special privilege because each is tied to the lot's unique physical constraints. The subject property is substandard in width, depth, and area, at 2,064 square feet, less than one-third of the 7,000-square-foot minimum for the R-1-U district, and the number and degree of the variances follow directly from the severity of that constraint. There is no limit on the number of variances that may be requested; each variance must independently satisfy the required findings, and each of the six does. Relief of this scale is what allows the property to reach the basic residential use that conforming lots already enjoy; it does not place the property ahead of neighboring owners.

The floor area limit confirms the point. Although the approved floor area ratio appears on its face to be higher than that of a conforming lot, that ratio is measured against a far smaller parcel: the approved floor area limit of approximately 1,333 square feet is substantially less than the 2,800-square-foot floor area limit available to conforming R-1-U lots. In absolute terms, the Project is smaller than what neighboring owners may build, which is the opposite of a special privilege.

Nor can the approval set a precedent. Under the Zoning Ordinance, a variance cannot establish a precedent because it is unique to the physical constraints of each lot, and each request must be, as this one was, considered on its individual merits. Staff and the Planning Commission examined each required finding individually for each of the six variances and determined that each finding was satisfied on the physical circumstances of this particular lot. Because the relief here rests on the exceptional narrowness and small area of this particular lot, it does not entitle any other applicant to similar treatment. The City Council finds this ground of the Appeal to be without merit.

5. There is no guaranteed right to build. The appellants argue that individual Commissioners erroneously reasoned that any property owner in Menlo Park should have confidence they can build a "reasonable home" on their lot. They contend that no property owner has an absolute right to build a residence, that the Commission should not have based its determination on whether a home must be possible on the subject property, and that the property retains value even without development. They add that California law establishes no absolute right to develop to a particular scale, that the City's own Code contradicts a right to build premise, that the variance "Property Rights" finding is a comparative test rather than an absolute guarantee, and that variances are extraordinary relief rather than a safety net for unbuildable lots.

This argument attacks a sentiment expressed in deliberation, not the findings that support the action. The Planning Commission's approval, and the Council's approval, rest on the findings made to support the required use permit and the six variances. Those findings were made for each permit and each variance, as the Zoning Code requires, and are supported by the record. A general expectation voiced by individual Commissioners that owners should be able to build a reasonable home is not a finding and is not the basis for the decision. Whether an absolute right to build exists is therefore beside the point, and the appellants' policy objection provides no basis for reversal.

The required finding was properly made. A variance may be granted only where, because of special circumstances such as the property's size, shape, or surroundings, strict application of the zoning ordinance deprives the property of privileges enjoyed by other property in the same vicinity and zoning classification; correspondingly, a variance may not confer a special

privilege inconsistent with the limitations on other properties in the vicinity and zone. Here, that test is met. The lot is substandard in width, depth, and area for the R-1-U district, and strict application of the R-1-U standards would deny the applicant the residential use that conforming owners in the same district enjoy. Because the lot is uniquely small compared to surrounding parcels, no similarly situated neighbor exists who could claim the same relief. The findings and not any statement about an absolute right to build or the lot's residual economic value are the basis for the approval. The City Council finds this ground of the Appeal to be without merit.

6. Impairment of light and air to 935 Laurel Ave. The appellants contend that light and air impacts were not thoroughly assessed, that more studies should have been completed to understand the impacts on the residence at 935 Laurel Ave., and that the applicant's own statement on the record confirms the two-story design materially impairs light and air to that property. They add that 935 Laurel Ave. is the sole neighboring property bearing the Project's impacts and that a single-story development would be more appropriate.

The applicable finding is that the variance will not be materially detrimental to the public health, safety, or welfare and will generally not impair an adequate supply of light and air to adjacent property. An adequate supply of light and air is not the elimination of every effect on a neighboring property. Every permitted structure casts some shadow and affects a neighbor's exposure to some degree; the question is whether an adequate supply would remain such that the Project is not materially detrimental to the public health, safety, or welfare. The applicant's statement that the design was shaped to reduce the effect on 935 Laurel Ave.'s light confirms that the design was deliberately configured to protect the neighboring property's light — which supports, rather than undermines, the finding.

The Planning Commission assessed this concern at the May 4, 2026 meeting. The Commission expressly considered the flat roof and the more limited overall building height in relation to the flood zone, the daylight plane, and the applicable height requirements — the features that govern the Project's effect on the light and air reaching 935 Laurel Ave. The applicant requested a daylight plane starting at 23 feet 11 inches, instead of the required 19 feet 6 inches. Most residences in the vicinity were built before the current flood-zone requirements and benefit from lower floor plates than now allowed, effectively predating the higher first-floor elevation this Project must provide. The flat roof was selected specifically to reduce roof mass and preserve more light for the neighboring property than a sloped roof would allow. Because the subject property is a corner lot, only one neighboring residence is primarily affected by the daylight plane and second floor, and there is no adjoining residence on the opposite side to bear any impact.

The consequence of denial reinforces the reasonableness of the finding. If the daylight plane variance were not approved, the second floor would be rendered generally uninhabitable: it would require a pitched roof, severely reducing usable floor space to a narrow area in the middle of the building mass and forcing the stairs to a more central location, which would also hamper ground-floor access.

The appellants' remaining points do not establish error. The Planning Commission, as the discretionary body charged with the determination, had the authority to decide whether a further light and air study was necessary, and it reasonably concluded on the record before it that further assessment was not required. The appellants' preference for a single-story design, and for the larger building coverage associated with it, is a design option rather than a limitation on the Commission's authority; the Commission's task was to determine whether

the required findings could be made for the two-story Project as proposed, not to compel a different design. The City Council finds this ground of the Appeal to be without merit.

DENIAL OF APPEAL AND APPROVAL OF PROJECT. Based on the forgoing findings and the entire record, the City Council hereby denies the Appeal of the Planning Commission's May 4, 2026, approval of the Project; upholds and affirms the Planning Commission's May 4, 2026, decision and approves the use permit determining the FAL, and the six variances for the Project at 305 Haight St. (APN 062-215-080), subject to the conditions of approval set forth in Exhibit B.

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the fourteenth day of July, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this ___ day of ___, 2026.

Judi A. Herren, City Clerk

Exhibits:

- A. Appeal letter
- B. Conditions of approval

RECEIVED

EXHIBIT A

MAY 12 2026

May 12, 2026

City Clerk
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

City of Menlo Park
City Clerk's Office

RE: Appeal of Planning Commission Approval – Use Permit and Variances No. PLN2025-00005

Property: 305 Haight Street, Menlo Park, CA 94025 (APN: 062-215-080)

Decision Date: May 4, 2026

Appellant(s): Siva Raja Sekhar Reddy Yeruva, Naveena Ganta, and Concerned Neighbors of 305 Haight Street
(C Yeruva. Raj@gmail.com)

Dear Members of the Menlo Park City Council,

Pursuant to Menlo Park Municipal Code (MPMC) Section 16.86.020, the undersigned hereby appeal the decision of the Menlo Park Planning Commission dated May 4, 2026, approving Use Permit and Variances No. PLN2025-00005 for the construction of a new two-story single-family residence on a substandard vacant lot located at 305 Haight Street (APN: 062-215-080), submitted by applicant Mohammad Kasirossafar and owner Robert Margoosian.

The Commission approved six (6) variances and a use permit by a vote of 5 to 2. The appellants respectfully request that the City Council reverse or substantially modify this approval on the following six grounds, each of which is supported by the administrative record.

GROUND I: THE HARDSHIP FINDING IS LEGALLY DEFECTIVE — THE APPLICANT PURCHASED THE LOT WITH FULL KNOWLEDGE OF ITS SUBSTANDARD CONDITIONS

MPMC §16.82.340(b)(1) requires, as the threshold finding for every variance, that “a hardship peculiar to the property and not created by any act of the owner exists.” The code further provides that “loss of prospective profits” is explicitly excluded as a valid hardship.

The Planning Commission’s application of this standard was legally insufficient for the following reasons:

A. The Applicant Voluntarily Purchased a Known-Substandard Lot

The record confirms that the current applicant purchased this vacant lot approximately two years ago in a private arms-length transaction. The lot’s substandard dimensions — 2,064 square feet in area, 21 feet 8 inches in width, and deficient in depth — are matters of public record, fully disclosed in county assessor data, zoning maps, and title reports that any reasonable buyer conducting standard due diligence would have reviewed. The applicant is a professional engineer (Mohammad Kasirossafar of Pro Engineers) who would be expected to understand zoning implications before acquiring property for development.

Notably, Commissioner Sillen — who ultimately voted in favor of approval — explicitly acknowledged this problem on the record:

“If you buy a lot like this, it sounds like based on what staff said, it was sold 2 years ago, so the buyer could have known that the zoning code we have in place right now wouldn’t... essentially wouldn’t guarantee anything to be built on this

lot... inevitably, the buyer would have known that in order to build something on this lot, there has to be this type of conversation."

A hardship that is knowable, foreseeable, and effectively priced into a real estate transaction is not an unforeseeable hardship "peculiar to the property" — it is a calculated investment strategy. California courts and planning authorities have long held that a purchaser who voluntarily acquires land with knowledge of its constraints cannot later claim those constraints as a qualifying hardship for a variance. The applicant's decision to purchase this lot knowing variances would be required is itself "an act of the owner" that created the hardship.

B. The Neighbor Objections on This Point Were Not Adequately Addressed

Neighboring property owners submitted written objections (Notes Regarding Use Permit and Variances, Rev. 4) specifically stating: "There are no known hardships peculiar to the property that were unknown before the acquisition of this property and the submission of this proposal." The Commission approved all six variances without providing any substantive analysis of this objection in the written record. The failure to address a specific, record-based challenge to the primary required finding renders the approval legally insufficient.

GROUND II: THE SB9 RATIONALE IS LEGALLY INAPPLICABLE AND CONSTITUTES AN IMPROPER BASIS FOR VARIANCE APPROVAL

Chair Eric and other commissioners relied significantly on the premise that even if the variances were denied, state law (specifically SB9 and ADU law) would allow the applicant to build on the lot anyway — potentially with even less favorable setbacks — without any public hearing. This reasoning is legally flawed on multiple grounds.

A. SB9 Requires Owner Occupancy — Which This Applicant Cannot Satisfy

Government Code §66411.7 (SB9's urban lot split provision) expressly requires an applicant to "sign an affidavit stating that they intend to occupy one or the housing units as their principal residence for a minimum of 3 years from the date of the approval." This lot is vacant. The applicant does not reside there, has never resided there, and purchased it as a development investment. The applicant cannot satisfy the SB9 owner-occupancy requirement. The SB9 bypass threat cited by the Commission was therefore not a real or imminent possibility for this specific lot and this specific applicant.

B. ADU Law Also Does Not Apply to a Vacant Lot Without an Existing Primary Dwelling

ADU law (Government Code §65852.2) permits ADUs in conjunction with an existing or proposed primary dwelling. This lot has no existing structure. Even staff acknowledged at the hearing that "to get the primary residence on the site, I believe it is impossible without some form of discretionary review" and that ADU protections would only become available "first and foremost" after the primary residence is established through that same discretionary process. In other words, there is no SB9/ADU bypass available without first going through the exact process that was before the Commission. The threat of bypass was illusory.

C. Speculative Future SB9 Scenarios Are Not a Proper Variance Finding

The Commission's SB9 discussion centered on a hypothetical question: could a different property owner, on a different adjacent lot, someday subdivide under SB9 and create a similarly narrow parcel? Staff confirmed this was "hypothetical" and that "we'd have to see the specifics

for each parcel." MPMC §16.82.340 requires findings based on the actual circumstances of the subject property. Speculative scenarios involving future subdivision of other parcels are not among the required findings and do not constitute a lawful basis for approving variances on this lot.

GROUND III: THE PUBLIC HEALTH AND SAFETY FINDING IS UNSUPPORTED — FIRE APPARATUS ACCESS WAS NOT ADEQUATELY REVIEWED OR DOCUMENTED

MPMC §16.82.340(b)(3) requires a finding that "the granting of the variance will not be materially detrimental to the public health, safety, or welfare." The Commission failed to make this finding adequately with respect to fire safety.

A. The Fire Review Was Limited to Fire Ratings — Not Fire Apparatus Access

Staff's response to fire safety concerns consisted of a single conclusory statement: the Menlo Park Fire Protection District (MPFPD) reviewed the plans and "found the project adequate in meeting all requirements." However, staff also clarified that this review focused on fire rating requirements (the construction of fire-rated walls). Specifically, staff stated: "The 3-foot setback on the side is mainly a byproduct of that effort, in terms of that setback distance relative to the 935 Laurel Avenue property."

Fire rating compliance (wall construction standards) and fire apparatus access (physical clearance for fire engines to reach the sides and rear of a structure) are two entirely distinct requirements under the California Fire Code. Satisfying one does not satisfy the other. The record contains no documentation that fire apparatus access under California Fire Code §503 was specifically evaluated for the approved side and rear setback reductions.

B. The Combined Structural Clearance Is Physically Inadequate for Fire Apparatus

The record reflects that the combined clearance between the proposed structure and the neighboring building at 935 Laurel Avenue is approximately 5 to 6 feet total (approximately 3 feet on each side, including the chimney of 935 Laurel). This is insufficient for fire apparatus access by any applicable standard. A member of the public raised this concern precisely and on the record:

"There is no way the fire engines can reach the back and the side of the house, because there's just no space... the fire can jump from house to house within minutes, because the fire engine now cannot reach the side in the back of the house."

This specific concern about fire apparatus access was never substantively answered. The Commission moved on after staff confirmed only that the MPFPD had "reviewed" the plans, without specifying the scope of that review or addressing the access question.

C. A Dissenting Commissioner Explicitly Found the Variances Detrimental to Public Safety

Commissioner Schindler voted no on all variances and stated on the record: "In the context of the corner-side setback, I think the variance would also be detrimental to public safety, so I will not be supporting granting the variances on the resolution." The fire safety finding was thus directly contested by a sitting commissioner. The majority's approval without resolving this

disagreement with documented evidence of adequate fire apparatus access review is insufficient to meet the required finding under MPMC §16.82.340(b)(3).

GROUND IV: APPROVAL OF SIX SIMULTANEOUS VARIANCES CONSTITUTES A SPECIAL PRIVILEGE NOT ENJOYED BY NEIGHBORING PROPERTIES

MPMC §16.82.340(b)(2) requires a finding that the variance “would not constitute a special privilege of the recipient not enjoyed by his/her neighbors.” The Commission approved six (6) simultaneous variances affecting every major dimensional standard applicable to the property:

1. Interior side setback reduced from 5 feet to 3 feet (40% reduction)
2. Corner side setback reduced from 12 feet to 6 feet (50% reduction — the maximum permitted by code)
3. Rear setback reduced from 20 feet to 13 feet (35% reduction)
4. Off-street covered parking reduced from 2 required spaces to 1 space (50% reduction)
5. Maximum building coverage (footprint) increased from the permitted 722 sq ft (35% of lot area) to 729.4 sq ft (35.3% of lot area)
6. Daylight plane height increased from 10 feet 6 inches to 23 feet 11 inches (approximately 22% above the required standard)

A. The Floor Area Limit Further Demonstrates the Scale of Privilege Conferred

It is important to distinguish between two separate metrics that are both at issue here. Building coverage refers to the ground-floor footprint of the structure as a percentage of lot area — the subject of Variance 5 above. Floor Area Limit (FAL) refers to the total livable square footage across all floors. Because this lot is under 5,000 square feet, the city has no established FAL for it; the FAL must be set by the Planning Commission through a Use Permit, which is one of the approvals being appealed.

The applicant proposes a FAL of 1,333.1 square feet on a 2,064 square foot lot — a Floor Area Ratio (FAR) of 64.6%. By comparison, conforming R-1-U lots of 5,000 to 7,000 square feet have an established FAL of 2,800 square feet, which represents only 40% to 56% of their lot area. In other words, the Commission approved a floor area ratio for this project that is higher than what any conforming lot in the district is permitted. This is an additional and independent dimension of the special privilege conferred by this approval, and one that received no meaningful scrutiny in the record.

No neighboring property has been granted relief from all six of these dimensional standards simultaneously, nor has any neighboring property been permitted a floor area ratio of 64.6%. Long-time residents on conforming lots enjoy none of these exemptions. The cumulative effect — six variances, several at or near the maximum 50% relief the code allows, combined with a Use Permit establishing a floor area ratio exceeding that of any conforming lot in the district — results in a structure that bears no meaningful dimensional relationship to the neighborhood standards it is supposed to fit within. This is precisely what the special privilege prohibition is designed to prevent.

The neighbors' written objections stated directly: “Granting the many variances required for this project may be construed as constituting a special privilege.” This concern was not substantively addressed in either the staff report findings or the Commission's deliberation.

GROUND V: THERE IS NO ABSOLUTE RIGHT TO BUILD A REASONABLE HOME — THE COMMISSION SUBSTITUTED POLICY SYMPATHY FOR THE REQUIRED LEGAL FINDINGS

Several commissioners — particularly Chair Eric and Commissioner Beruzzi — grounded their approval in a broader equity principle: that any property owner in Menlo Park should have confidence they can build a “reasonable home” on their lot. While this sentiment is understandable, it is not a legal standard, and its use as an independent basis for approving six variances constitutes a legal error requiring reversal.

A. California Law Establishes No Absolute Right to Develop Property to Any Particular Scale

Under both California and federal constitutional law, property rights are not absolute. The government has broad police power to regulate land use through zoning. Courts have consistently held that a property owner has the right to some economically beneficial use of their land — but not necessarily any specific use, at any particular scale, or in any manner comparable to neighboring properties. A regulation that merely restricts how property may be developed, without eliminating all economic value, is not a taking and does not require compensation. There is no constitutional right to build a home that matches the surrounding neighborhood in size or character.

B. Menlo Park’s Own Code Directly Contradicts the “Right to Build” Premise

The Commission’s “right to build” rationale is flatly contradicted by MPMC §16.59.010, which governs substandard lots and states:

“Subject to the granting of a conditional use permit, any substandard lot may be used as a building site, provided that all other regulations of the applicable zoning district shall apply.”

Three things are explicit in this language. First, development on a substandard lot is conditional — it requires a use permit, which is a discretionary approval, not a guaranteed right. Second, the code states that all other regulations “shall apply” — meaning the setback, height, coverage, and parking standards still govern substandard lot development. The code does not say substandard lots receive relaxed standards; it says the opposite. Third, the code nowhere creates a right to build a home of any particular size, comparability to neighbors, or livability standard. The only right is to apply for a use permit — the outcome of which remains entirely at the Commission’s discretion.

C. The Variance Code’s “Property Rights” Finding Is a Comparative Test, Not an Absolute Guarantee

The “property rights” finding under MPMC §16.82.340(b)(2) is frequently mischaracterized as a guarantee of development opportunity. What the code actually requires is that the variance be “necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity.” This is a comparative test — it asks whether the applicant is being denied rights that neighboring conforming owners already enjoy. It does not ask whether the applicant can build the home they want.

Critically, the conforming neighbors built their homes on conforming lots — lots meeting the minimum 7,000 square foot area requirement of the R-1-U district. They did not require variances. The comparison breaks down entirely when the subject lot, at 2,064 square feet, is

less than 30% of the minimum required lot size. There is no meaningful sense in which this property can be placed "on equal footing" with conforming neighbors through six variances — the dimensional gap is simply too great.

D. Variances Are Extraordinary Relief, Not a Safety Net for Unbuildable Lots

California courts have consistently held that variances are extraordinary relief, intended to be granted sparingly and only when all specific required findings are met. The purpose of the variance process is to avoid undue hardship from strict application of zoning in exceptional circumstances — not to guarantee that every parcel can be developed to neighborhood standards regardless of its dimensions.

If the rule were "any lot that cannot be developed without variances automatically receives those variances," the variance requirement would be rendered meaningless. The fact that a lot is so severely substandard that it cannot be developed without multiple variances is not itself a reason to grant those variances — it is precisely the situation the code calls for the most careful scrutiny, not automatic approval. The Commission effectively adopted the circular reasoning that because the lot needs variances to be buildable, it should receive variances to make it buildable. That is not what the law requires.

E. The Lot Retains Economic Value Without Variances

The only circumstance under which a "right to develop" argument carries constitutional weight is where a regulation denies an owner all economically beneficial use of their property — a regulatory taking under California and federal law. That threshold was never reached here and was never established on the record. The lot was purchased in a private arms-length transaction approximately two years ago at a price reflecting its market value. It retains value as a real property asset regardless of whether six variances are granted. "I cannot build the specific home I want" is not the legal equivalent of "the government has taken my property." The Commission's invocation of property rights in the absence of any takings analysis was legally misplaced.

GROUND VI: THE APPLICANT'S OWN STATEMENTS ON THE RECORD CONFIRM THE TWO-STORY DESIGN MATERIALLY IMPAIRS LIGHT AND AIR TO 935 LAUREL AVENUE

MPMC §16.82.340(b)(3) requires a finding that the variance "will not impair an adequate supply of light and air to adjacent property." The Commission approved all six variances including the two-story height and elevated daylight plane while making this finding. The applicant's own statements at the hearing directly contradict this finding and were never addressed by the Commission.

A. The Applicant Admitted the Design Was Modified Specifically to Reduce Its Impact on Neighbor Light

At the May 4, 2026 public hearing, the applicant's representative stated on the record:

"I would love to have a slope roof, but that actually makes it even worse. Because it's more mass off the roof on top of the house, and it will even block more, if you can't see, natural light for the neighbors. So one of the main reasons that we keep it as a flat roof is to bring more light to the neighboring property."

This admission is legally significant in two independent ways. First, it confirms that the two-story structure, in its approved form, does materially affect the light available to the neighboring property at 935 Laurel Avenue — the applicant himself acknowledged that design choices directly control how much neighbor light is blocked. The Commission cannot simultaneously accept the applicant's acknowledgment of neighbor light impact while finding no material detriment under §16.82.340(b)(3). That is an internal contradiction in the record.

Second, it confirms that a sloped roof — the typical design for residential structures in this neighborhood — would cause even greater light impairment than the flat roof design that was approved. The Commission approved a flat roof as the “better” option for neighbor light, but never made a finding about whether even the flat-roof version provides adequate light and air to 935 Laurel. “Better than a sloped roof” and “adequate” are not the same standard.

B. 935 Laurel Is the Sole Neighbor Bearing the Entire Impact of the Two-Story Approval

Staff explicitly acknowledged in the Staff Report: “being a corner lot results in only one neighboring residence being impacted by the daylight plane and second floor, as there is no neighboring residence to the right side of the property.” That one residence is 935 Laurel Avenue. The entire burden of the daylight plane variance — the increase from 19 feet 6 inches to 23 feet 11 inches, a 22% increase in permitted massing — falls exclusively on the appellants' property. No other neighbor bears any of this impact. The Commission approved this concentrated impact on a single neighbor without obtaining a shadow study, a light analysis, or any quantified assessment of the effect on 935 Laurel. A conclusion that the finding of no material detriment was adequately supported under these circumstances is not credible.

C. The Code's Own Structure Confirms Single-Story Is the Appropriate Form for This Lot

MPMC §16.16.030(5) draws an explicit distinction between single-story and two-story development in the R-1-U district, rewarding single-story construction with a higher building coverage allowance of 40% compared to 35% for two-story development. On this 2,004 square foot lot, this means:

- Single-story: 825 square feet of permitted building footprint (40% of 2,064 sq ft)
- Two or more stories: only 722 square feet permitted (35%), requiring a variance to reach 729.4 square feet

The code deliberately incentivizes single-story development with a larger footprint allowance precisely because single-story structures have less impact on neighbors' light, air, privacy, and fire access. The applicant chose two stories to maximize the Floor Area Limit to 1,333.1 square feet. A single-story design using the 40% coverage allowance (825 sq ft footprint) could achieve a functional residence of approximately 800–825 square feet on one floor — without any second-story impact on 935 Laurel Avenue whatsoever.

Furthermore, because this lot is located in a flood zone, the first floor is required to be elevated approximately two feet above average natural grade. Combined with the proposed 10-foot first-floor ceiling height, a single-story structure would be approximately 12–13 feet tall from grade — a modest, well-proportioned home with a dramatically smaller impact on 935 Laurel than a two-story wall rising to nearly 24 feet at a 3-foot setback.

The appellants do not seek to prevent development of this lot. They seek development that is proportionate to the lot's constraints and does not transfer its deficiencies onto the sole

adjoining neighbor. The code itself provides the path: a single-story home, appropriately sized, developed within the code's framework for exactly this situation.

RELIEF REQUESTED

The appellants wish to be clear at the outset. This appeal does not seek to prevent all development of 305 Haight Street. The appellants recognize the owner's right to develop a residential structure on this lot. What the appellants seek is development that is proportionate to the lot's constraints, compliant with the variance findings required by law, and does not impose the entire burden of six simultaneous variances onto the sole adjoining neighbor at 935 Laurel Avenue.

The appellants therefore request relief in the following order of preference:

Primary Relief: Full Reversal

Reverse the Planning Commission's approval of Use Permit and Variances No. PLN2025-00005 in its entirety and remand for a new hearing with full analysis of the hardship, special privilege, and public safety findings in light of the legal deficiencies identified above.

Alternative Relief — Preferred: Approve Single-Story Only

If the Council declines full reversal, approve the Use Permit and dimensional variances (setbacks, parking, building coverage) but deny Variance 6 (daylight plane height) and modify the Use Permit to limit construction to a single-story structure only. Specifically:

- A single-story structure using the R-1-U single-story building coverage allowance of 40% (825 sq ft footprint) can provide a functional, livable residence without any second-story impact on 935 Laurel Avenue.
- This eliminates all second-story impacts: loss of light and air, privacy intrusion from upper-floor windows, and fire apparatus access constraints at the side and rear of the structure.
- The flood zone elevation requirement (+2 feet above grade) combined with a 10-foot ceiling height produces a well-proportioned single-story home approximately 12–13 feet tall — consistent with the single-story residential character of the neighborhood.
- The code itself rewards this outcome by permitting a larger footprint (40% vs. 35%), meaning no footprint variance is required if the project is redesigned as single-story.

Alternative Relief — Acceptable: Two-Story with Restored Setbacks and Restricted Height

If the Council approves a two-story structure, the approval should be conditioned as follows to meaningfully protect 935 Laurel Avenue:

- Restore the full 5-foot interior side setback (deny Variance 1) along the boundary with 935 Laurel Avenue. The current 3-foot setback places a two-story wall only 3 feet from the property line of the sole impacted neighbor, with no design justification beyond maximizing interior floor width.
- Require the second floor to be set back an additional 2 feet from the interior side ground floor footprint, creating a stepped profile away from 935 Laurel and consistent with how the daylight plane is intended to operate.

- Substantially reduce the daylight plane variance: limit the daylight plane to no more than 21 feet (rather than the approved 23 feet 11 inches) to preserve a meaningful supply of light and air to 935 Laurel above the roof line of the proposed structure.
- Require no operable windows on the interior side (935 Laurel-facing) second-floor elevation to protect the privacy of the adjoining neighbor.

Minimum Conditions in Any Event

Regardless of which form of relief is granted, the appellants request that the following conditions be imposed on any approval:

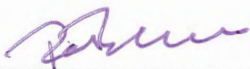
- A certified shadow study demonstrating the impact of the approved structure on 935 Laurel Avenue at summer and winter solstice must be completed and approved by the City before any building permit is issued.
- Documented written findings from the Menlo Park Fire Protection District specifically confirming that fire apparatus access to the side and rear of the proposed structure is adequate under California Fire Code §503 must be placed in the public record before any building permit is issued.
- A Public Records Act request for all MPFPD written review documents, correspondence, and fire apparatus access analysis related to this project must be issued and the results placed into the administrative record before the City Council hearing.
- No building permit shall be issued until the owner-of-record signs and records a covenant confirming the intended use of the structure as a single-family primary residence, preventing conversion to rental, short-term rental, or speculative resale within three years of certificate of occupancy.

PRESERVATION OF ISSUES

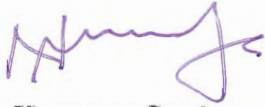
Pursuant to Government Code §65009, the appellants note that by raising these issues in this appeal, they preserve their right to raise them in any subsequent judicial review. The appellants further reserve the right to supplement this appeal with additional evidence or argument prior to or at the City Council hearing.

We appreciate the City Council's consideration of this appeal. This appeal is brought in good faith by a neighbor who does not oppose reasonable development of the adjacent lot, but who asks that such development comply with the legal standards that exist to protect all members of the community. The concerns raised here — about the adequacy of the hardship finding, fire safety, the concentrated impact on a single neighbor, and the absence of a right to develop at any particular scale — are precisely the kinds of concerns the variance and appeal process exists to address. We respectfully request a full and fair hearing and the City Council's careful consideration of the alternative relief options presented above.

Respectfully submitted,



Siva Raja Sekhar Reddy Yeruva
935 Laurel Avenue, Menlo Park, CA 94025
Date: May ____, 2026



Naveena Ganta

935 Laurel Avenue, Menlo Park, CA 94025

Date: May _____, 2026

And on behalf of concerned neighbors of the Haight Street / Laurel Avenue neighborhood — see Enclosure 8 (Signature Sheet).

Enclosures / Attachments (Recommended):

- Copy of Planning Commission Meeting Transcript (May 4, 2026) — applicant's flat-roof admission and light impact statements highlighted
- Staff Report No. 26-012-PC — including staff's acknowledgment that 935 Laurel is the sole neighbor impacted by the daylight plane
- Neighbor objection letter (Notes Regarding Use Permit and Variances, Rev. 4)
- SB9 statute (Government Code §66411.7) — owner occupancy affidavit requirement and 1,200 sq ft minimum parcel size highlighted
- California Fire Code §503 (Fire Apparatus Access Roads)
- MPMC §16.16.030(5) — single-story vs. two-story building coverage comparison (40% vs. 35%)
- Photographs of 935 Laurel Avenue showing existing windows, light exposure, and proximity to subject lot boundary (if available)
- Signed neighbor petition / signature sheets (if available)

ENCLOSURES PACKAGE

Appeal of Planning Commission Approval

Use Permit & Variances No. PLN2025-00005

305 Haight Street, Menlo Park, CA | APN: 062-215-080

Planning Commission Decision Date: May 4, 2026

APPELLANT(S): Siva Raja Sekhar Reddy Yeruva & Naveena Ganta

935 Laurel Avenue, Menlo Park, CA 94025

Submitted to: City Clerk, City of Menlo Park — 701 Laurel St, Menlo Park, CA 94025

Appeal Deadline: May 19, 2026 | Per MPMC §16.86.020

TABLE OF ENCLOSURES

No.	ENCLOSURE TITLE	KEY CONTENT
1	Planning Commission Transcript Excerpts	Key admissions re: flat roof, light impact, SB9
2	Staff Report No. 26-012-PC — Key Excerpts	Sole-neighbor finding; daylight plane; hardship
3	Neighbor Objection Letter (Rev. 4)	Self-created hardship; special privilege objections
4	SB9 Statute — Annotated Key Provisions	Owner-occupancy requirement; 1,200 sq ft minimum
5	MPMC §16.16.030 — R-1-U Development Regs	Single-story 40% vs two-story 35% coverage rule
6	Variance Findings Code — MPMC §16.82.340(b)	All five required findings with appellants' notes
7	Fact Summary Table — Six Variances	Side-by-side: required vs. approved vs. requested
8	Signature Sheet	Neighbor support signatures

ENCLOSURE 1: Planning Commission Meeting Transcript — Key Excerpts

May 4, 2026 | PLN2025-00005 | 305 Haight Street

The following excerpts are taken verbatim from the official Planning Commission transcript of May 4, 2026. Highlighted passages are specifically referenced in the appeal letter. The full transcript is available from the City Clerk's office.

EXCERPT 1 — Applicant's Admission Re: Flat Roof and Neighbor Light

Source: Planning Commission Meeting, May 4, 2026 (Applicant's representative statement)

■ HIGHLIGHTED PASSAGE:

"...Regarding the daylight and having a... I would love to have a slope roof, but that actually makes it even worse. Because it's more mass off the roof on top of the house, and it will even block more, if you call it, natural light for the neighbors. So one of the main reasons that we keep it as a flat roof is to bring more light to the neighboring property."

Relevance to Appeal: The applicant explicitly acknowledged that the approved structure impacts the light available to 935 Laurel Avenue. The Commission cannot simultaneously accept this admission and find no material detriment under MPMC §16.82.340(b)(3). See Appeal Letter, Ground VI, Section A.

EXCERPT 2 — Staff Confirms SB9 Threat Was Hypothetical

Source: Planning Commission Meeting, May 4, 2026 (Staff response to Chair Eric)

■ HIGHLIGHTED PASSAGE:

"There could be similarly configured lots through SB9 lots in the future, but that is hypothetical, and we'd have to see the specifics for each parcel."

Relevance to Appeal: Staff confirmed the SB9 bypass concern was speculative and hypothetical. Speculative future scenarios about other parcels are not a proper basis for granting variances on this lot. Moreover, this lot (2,064 sq ft) cannot be SB9-split because both resulting parcels would be ~1,032 sq ft — below the 1,200 sq ft statutory minimum. See Appeal Letter, Ground II, Section C.

EXCERPT 3 — Commissioner Sillen Acknowledges Buyer Had Notice

Source: Planning Commission Meeting, May 4, 2026 (Commissioner Sillen, who voted YES)

■ HIGHLIGHTED PASSAGE:

"If you buy a lot like this, it sounds like based on what staff said, it was sold 2 years ago, so the buyer could have known that the zoning code we have in place right now wouldn't... essentially wouldn't guarantee anything to be built on this lot... Inevitably, the buyer would have known that in order to build something on this lot, there has to be this type of conversation."

Relevance to Appeal: A commissioner who voted to approve acknowledged on the record that the applicant purchased the lot knowing variances would be required. This directly undermines the hardship finding that the hardship was 'not created by any act of the owner.' See Appeal Letter, Ground I, Section A.

EXCERPT 4 — Commissioner Schindler's Dissent on Public Safety

Source: Planning Commission Meeting, May 4, 2026 (Commissioner Schindler, NO vote)

ENCLOSURE 2: Staff Report No. 26-012-PC — Key Excerpts with Annotations

Planning Commission Meeting: May 4, 2026 | 305 Haight Street, Menlo Park

The following passages are taken verbatim from Staff Report No. 26-012-PC. Annotations in brackets identify the relevance to specific appeal grounds.

PASSAGE 1 — Staff Acknowledges 935 Laurel Is the Sole Impacted Neighbor

Staff Report p.13, Variance 6 (Daylight Plane), Finding 2

■ HIGHLIGHTED PASSAGE:

"In addition, being a corner lot results in only one neighboring residence being impacted by the daylight plane and second floor, as there is no neighboring residence to the right side of the property."

Appellant's annotation: Staff confirmed that 935 Laurel Avenue bears the entire impact of the daylight plane variance. Despite this, no shadow study, light analysis, or quantified assessment of the impact on 935 Laurel was conducted or placed in the record. No other neighbor bears this burden. See Appeal Letter, Ground VI, Section B.

PASSAGE 2 — Flood Zone Requires First Floor Elevated ~2 Feet Above Grade

Staff Report p.13, Variance 6 (Daylight Plane), Finding 1

■ HIGHLIGHTED PASSAGE:

"The lot is further encumbered by the fact that it is located within the flood zone and requires construction of the first floor at a floor plate that would be approximately two feet above the average natural grade for the site."

Appellant's annotation: The flood zone elevation means the approved two-story structure begins ~2 feet above grade before its 10-foot first-floor ceiling and 9-foot second-floor ceiling are added — producing a total structure height approaching 24 feet at a 3-foot setback from 935 Laurel's property line. A single-story design at ~12-13 feet would be dramatically less impactful. See Appeal Letter, Ground VI, Section C.

PASSAGE 3 — Fire Review Was Limited to Fire Rating Requirements

Staff Report p.5, Variance 1 (Interior Side Setback), Finding 3

■ HIGHLIGHTED PASSAGE:

"Staff from the Building Division and the Menlo Park Fire Protection District reviewed the proposed plans and found the project adequate in meeting all requirements."

Appellant's annotation: This is a conclusory statement. Staff clarified at the hearing that the fire review focused on fire rating (wall construction). Fire apparatus access — whether fire engines can physically reach the side and rear of the structure — is a separate and distinct requirement under California Fire Code §503 that was never documented in the record. See Appeal Letter, Ground III, Section A.

PASSAGE 4 — Hardship Finding for All Six Variances

Staff Report passim — repeated for each variance

■ HIGHLIGHTED PASSAGE:

"Staff believes this finding can be met and that there is a hardship peculiar to the property not created by an act of the owner."

Appellant's annotation: Staff's analysis addressed who created the lot's dimensions (historical — not this owner), but failed to address the separate and legally distinct question: did the current owner voluntarily assume this hardship by purchasing a known-substandard lot? The answer — confirmed by Commissioner Sillen's on-record statement — is yes. See Appeal Letter, Ground I, Section A.

NOTE ON FULL STAFF REPORT

The complete Staff Report No. 26-012-PC (including all findings, conditions of approval, and Attachment A: Draft Resolution No. 2026-XXX) is available from the City of Menlo Park's Community Development Department and was published with the May 4, 2026 Planning Commission agenda packet. The full document is incorporated by reference into this appeal.

ENCLOSURE 3: Neighbor Objection Letter — Notes Regarding Use Permit and Variances, Rev. 4

Submitted by neighboring property owners prior to May 4, 2026 Planning Commission hearing

The following is a summary of the key arguments contained in the neighbors' written objection letter (Notes Regarding Use Permit and Variances, Revision 4), submitted to the Planning Commission. The full document is on file with the City of Menlo Park Planning Division.

KEY ARGUMENT 1 — No Hardship Unknown Before Acquisition

■ HIGHLIGHTED PASSAGE:

"There are no known hardships peculiar to the property that were unknown before the acquisition of this property and the submission of this proposal."

This objection was submitted in writing and is part of the administrative record. The Commission approved all six variances without providing substantive analysis of this specific challenge to the threshold hardship finding. The failure to address a specific, record-based challenge to the primary required finding renders the approval legally insufficient. See Appeal Letter, Ground I, Section B.

KEY ARGUMENT 2 — Special Privilege Concern

■ HIGHLIGHTED PASSAGE:

"Granting the many variances required for this project may be construed as constituting a special privilege."

No neighboring property has been granted relief from all six dimensional standards simultaneously. The cumulative effect of six variances — two at the maximum 50% relief the code permits — produces a structure bearing no meaningful dimensional relationship to neighborhood standards. See Appeal Letter, Ground IV.

KEY ARGUMENT 3 — Fire Safety and Setback Concerns

■ HIGHLIGHTED PASSAGE:

The neighbors specifically raised fire safety concerns, noting that with the approved setbacks, fire apparatus cannot physically access the side and rear of the proposed structure. This concern was echoed by Commissioner Schindler's dissenting vote on public safety grounds and by a member of the public at the hearing who stated: "There is no way the fire engines can reach the back and the side of the house, because there's just no space... the fire can jump from house to house within minutes."

KEY ARGUMENT 4 — Substandard Lot Cannot Support Proposed Development

The neighbors argued that the severity and number of variances required — including reducing the interior side setback by 40%, the corner side setback by 50%, and the rear setback by 35% — reflects not a minor adjustment to accommodate a pre-existing constraint, but a fundamental incompatibility between the proposed development and the lot's actual buildable capacity. A project requiring six simultaneous variances is not a project with a hardship: it is a project that should not be built at the proposed scale on this lot.

■ **HIGHLIGHTED PASSAGE:**

"In the context of the corner-side setback, I think the variance would also be detrimental to public safety, so I will not be supporting granting the variances on the resolution."

Relevance to Appeal: The fire safety finding was directly contested by a sitting commissioner. The majority approved without resolving this disagreement with documented evidence of adequate fire apparatus access review. See Appeal Letter, Ground III, Section C.

EXCERPT 5 — Staff Confirms Building Is Impossible Without Variances

Source: Planning Commission Meeting, May 4, 2026 (Staff response to Chair Eric)

■ **HIGHLIGHTED PASSAGE:**

*Chair Eric: "Could you confirm my understanding that... it is impossible to build a house on that lot that meets all of our requirements... there's no way to do it without some sort of variance?"
Staff: "Yes, that is correct."*

Relevance to Appeal: While this fact was cited by the majority as a reason to approve, the appellants argue the correct legal conclusion is the opposite: a lot so severely substandard that no structure can be built without variances requires the most rigorous application of the variance findings — not automatic approval. See Appeal Letter, Ground V, Section D.

ENCLOSURE 4: SB9 (Senate Bill No. 9) — Annotated Key Provisions

California Government Code §§65852.21 & 66411.7 | Chapter 162, Statutes of 2021 | Approved by Governor September 16, 2021

This enclosure reproduces key provisions of SB9 relevant to the appeal. The Commission relied on SB9 as a rationale for approving the variances. The appellants demonstrate below that SB9 is legally inapplicable to this lot and this applicant.

PROVISION 1 — Owner Occupancy Affidavit Requirement (§66411.7(g)(1))

■ HIGHLIGHTED PASSAGE:

"A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split."

Appellant's annotation: This lot is vacant. The applicant purchased it as a development investment and does not reside there. The SB9 owner-occupancy affidavit requirement cannot be satisfied in good faith. Signing a false affidavit constitutes perjury. The SB9 'bypass threat' cited by the Commission is therefore not a real or imminent possibility for this specific applicant. See Appeal Letter, Ground II, Section A.

PROVISION 2 — Minimum Parcel Size Requirement (§66411.7(b)(2))

■ HIGHLIGHTED PASSAGE:

"Both newly created parcels are no smaller than 1,200 square feet."

Item	Figure	Analysis
Total lot area	2,064 sq ft	Confirmed by APN records
Lot area ÷ 2	1,032 sq ft per parcel	Result of any 50/50 split
SB9 minimum parcel size	1,200 sq ft (statutory floor)	Gov. Code §66411.7(b)(2)
Shortfall	168 sq ft BELOW minimum	Urban lot split IMPOSSIBLE on this lot

Conclusion: The Commission's concern about SB9 lot-splitting producing similar narrow corner lots had no factual basis as applied to 305 Haight Street. This lot is categorically ineligible for an SB9 urban lot split. The entire SB9 bypass scenario was legally and mathematically inapplicable. See Appeal Letter, Ground II (updated with SB9 impossibility argument).

PROVISION 3 — Maximum 4-Foot Setback Under SB9 (§66411.7(c)(2)(B))

■ HIGHLIGHTED PASSAGE:

"In all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines."

Appellant's annotation: Staff acknowledged at the hearing that under SB9, the setback would be 4 feet rather than the approved 3 feet. Far from justifying the 3-foot variance, this shows the approved setback is more aggressive than what SB9 would require. The SB9 comparison does not support the approved

variance — it argues against it.

ENCLOSURE 5: MPMC §16.16.030 — R-1-U Development Regulations (Relevant Sections)

Menlo Park Municipal Code | Title 16 Zoning | Chapter 16.16 Single Family Urban Residential

The following provisions of the R-1-U development regulations are directly relevant to the appeal. Appellants have annotated key passages.

§16.16.030(5) — Maximum Building Coverage: Single-Story vs. Two-Story

■ HIGHLIGHTED PASSAGE:

"(5) Maximum building coverage: (A) Single-story development: (i) Building coverage for lots with an area of seven thousand (7,000) square feet or less shall be forty percent (40%)... (B) Development of two (2) or more stories: thirty-five percent (35%)."

Development Type	Coverage Allowed	Footprint on 2,064 sq ft lot	Variance Needed?
Single-story	40%	825 sq ft	NO — compliant
Two-story (standard)	35%	722 sq ft	NO — compliant
Two-story (approved)	35.3%	729.4 sq ft	YES — Variance 5 required

Appellant's annotation: The code deliberately incentivizes single-story development with a larger footprint allowance precisely because single-story structures have less impact on neighbors' light, air, privacy, and fire safety. A single-story design using the 40% allowance (825 sq ft) could provide a functional residence without requiring Variance 5 and without any second-story impact on 935 Laurel. The applicant chose two stories to maximize FAL, not because single-story was impossible. See Appeal Letter, Alternative Relief — Preferred.

§16.16.030(6) — Floor Area Limit (FAL)

■ HIGHLIGHTED PASSAGE:

"(6) Floor area limit (FAL): (A)(i) FAL for lots with less than five thousand (5,000) square feet of area shall be determined by a conditional use permit."

Appellant's annotation: Because this lot is 2,064 sq ft (under 5,000 sq ft), the FAL has no established value — it must be set by the Planning Commission through a discretionary use permit. The Commission set it at 1,333.1 sq ft (64.6% FAR). For comparison, conforming R-1-U lots of 5,000–7,000 sq ft have a fixed FAL of 2,800 sq ft, representing only 40–56% FAR. The approved project has a higher floor area ratio than any conforming lot in the district is permitted. See Appeal Letter, Ground IV, Section A.

§16.16.030(4) — Minimum Yards (Setbacks)

■ HIGHLIGHTED PASSAGE:

Setback	Required by Code	Approved (Variance)	Reduction
Interior side	5 feet	3 feet (Variance 1)	40%

Corner side (street)	12 feet	6 feet (Variance 2)	50% — CODE MAXIMUM
Rear	20 feet	13 feet (Variance 3)	35%
Front	20 feet	Compliant	0%

ENCLOSURE 6: MPMC §16.82.340(b) — Variance Findings with Appellant Annotations

Menlo Park Municipal Code | Title 16 Zoning | Chapter 16.82 Variances

The following reproduces the five required variance findings from MPMC §16.82.340(b). Each finding must be met for every variance. The appellants' annotations identify specifically where the Commission's analysis was legally insufficient.

Finding 1: Hardship Peculiar to the Property, Not Created by Owner

■ HIGHLIGHTED PASSAGE:

Code Text: "That a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each case must be considered only on its individual merits."

Appellant's annotation: The applicant purchased this vacant lot approximately 2 years ago with full knowledge of its substandard dimensions (publicly recorded). A hardship known and priced into a real estate transaction is not unforeseeable. The code's explicit exclusion of 'loss of prospective profits' directly applies. Commissioner Sillen (a yes vote) confirmed the buyer could have known. See Ground I.

Finding 2: Necessary for Preservation of Property Rights; Not a Special Privilege

■ HIGHLIGHTED PASSAGE:

Code Text: "That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors."

Appellant's annotation: This is a comparative test, not an absolute guarantee of development rights. Conforming neighbors built on conforming lots (7,000+ sq ft) without any variances. Six simultaneous variances — two at the maximum 50% relief the code permits — combined with a FAR of 64.6% (exceeding any conforming lot) constitutes special privilege. See Ground IV.

Finding 3: Not Materially Detrimental to Public Health, Safety, Welfare; No Impairment of Light/Air

■ HIGHLIGHTED PASSAGE:

Code Text: "That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property."

Appellant's annotation: TWO deficiencies: (1) Fire apparatus access under CA Fire Code §503 was never documented — only fire rating compliance was reviewed. (2) The applicant admitted the design impacts light at 935 Laurel. Staff confirmed 935 Laurel is the sole impacted neighbor for the daylight plane variance. No shadow study was conducted. Commissioner Schindler voted no specifically on public safety grounds. See Grounds III & VI.

Finding 4: Conditions Not Generally Applicable to Other Properties in Same Zoning District

■ **HIGHLIGHTED PASSAGE:**

Code Text: "That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification."

Appellant's annotation: Staff found this finding supportable given the extreme substandard nature of the lot. Appellants note this finding cannot substitute for the other required findings, and the uniqueness of the lot's constraints is precisely why the self-created hardship doctrine applies with full force: the applicant sought out this uniquely constrained lot and now seeks relief from those unique constraints. See Ground I.

Finding 5: Unusual Factor Not Anticipated in Specific Plan Process

■ **HIGHLIGHTED PASSAGE:**

Code Text: "That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable Specific Plan process."

Appellant's annotation: Staff correctly noted this finding does not apply as the property is not within any Specific Plan area.

ENCLOSURE 7: Master Variance Summary — Required vs. Approved vs. Appellants' Request

PLN2025-00005 | 305 Haight Street | APN 062-215-080

This table provides a side-by-side comparison of all six variances and the use permit, showing the code requirement, what was approved, and what the appellants request as alternative relief.

Item	Code Requires	Approved (Variance)	Reduction	Appellants Request
Use Permit (Floor Area Limit)	Set by Use Permit (lot < 5,000 sq ft)	1,333.1 sq ft (64.6% FAR)	N/A	Reduce to ~800–900 sq ft if single-story approved (40% coverage × 2,064 sq ft lot)
Variance 1 Interior Side Setback	5 feet	3 feet	40%	DENY — restore to full 5 feet (sole protection for 935 Laurel)
Variance 2 Corner Side Setback	12 feet	6 feet	50% (CODE MAX)	REDUCE to no less than 8 feet, preserving street character
Variance 3 Rear Setback	20 feet	13 feet	35%	Accept at 13 feet if other concerns addressed
Variance 4 Off-Street Parking	2 covered spaces	1 covered space	50%	Accept — lot geometry makes 2 spaces physically impossible
Variance 5 Building Coverage	722 sq ft (35%)	729.4 sq ft (35.3%)	Minor exceedance +7.4 sq ft	Accept — de minimis exceedance
Variance 6 Daylight Plane Height	19 ft 6 in	23 ft 11 in	~22% increase	DENY or limit to 21 feet max (protect sole impacted neighbor at 935 Laurel)

LEGEND

Color	Meaning
Yellow	Use Permit — discretionary, set by Commission
Red	Appellants request DENIAL or significant reduction
Green	Appellants accept — no objection
Gray	Appellants accept with conditions

SUMMARY OF APPELLANTS' POSITION

The appellants do not seek to prevent all development. They accept 3 of 6 variances without objection (parking, building coverage, rear setback). Their primary concerns are:

- **Variance 1 (Interior Side Setback):** Restoring the 5-foot setback is the single most important protection for 935 Laurel's privacy, light, and fire safety. The applicant's interior dimension drops from 11'9" to 10'9" — a one-foot difference that the applicant himself acknowledged is the reason for the variance. That one foot of interior space cannot justify eliminating the code-required buffer between two residential structures.
- **Variance 6 (Daylight Plane):** 935 Laurel is the sole neighbor bearing this variance's entire impact. No shadow study was done. The applicant admitted the design was modified to reduce light blockage — confirming the impact is real. Denying or reducing this variance protects the only affected neighbor.
- **Single-Story Alternative:** A single-story design using the 40% coverage allowance requires no footprint variance, eliminates all second-story impacts on 935 Laurel, and produces a home proportionate to the lot's actual constraints. The appellants respectfully urge the Council to direct the applicant to redesign as single-story.

Neighbors are not in favor of approving the egregious and numerous variances requested in Menlo Park Building Proposal 062-215-080

No	Name	Address	Signature	Date
1	ERICA Mansfield	224 Haight St Menlo Park	[Signature]	3/1/2025
2	Logan Granziński	220 Haight St Menlo Park	[Signature]	2/01/25
3	Jarah Krein	919 Laurel Ave Menlo Park	[Signature]	3/5/2025
4	Danielle Stagner	328 Grayson Ct, Menlo Park	[Signature]	3/5/25
5	Taliah Carter	332 Grayson Ct, Menlo Park	[Signature]	3/5/25
6	AMIT Aggarwal	424 Grayson Ct Menlo Park	[Signature]	3/5/25
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ENCLOSURE 8: Neighbor Support — Signature Sheet

In Support of Appeal of PLN2025-00005 | 305 Haight Street, Menlo Park

The undersigned, including lead appellants Siva Raja Sekhar Reddy Yeruva and Naveena Ganta (935 Laurel Avenue, Menlo Park, CA 94025), and other residents and property owners of the Haight Street / Laurel Avenue neighborhood, support this appeal and the concerns raised therein regarding fire safety, privacy, light and air impacts on 935 Laurel Avenue, and the adequacy of the variance findings.

[illegible]

Additional signature sheets may be attached. Please print legibly. By signing, I confirm that I am a resident or property owner in the vicinity of 305 Haight Street, Menlo Park, and that I support this appeal.

PAUL HEINEMANN	908 LAUREL AVE	Paul Heinemann	2/28/25
Starr Heinemann	908 Laurel Ave.	Starr Heinemann	2/28/25
Ahmed Byagun	903 Laurel Ave	Am	2/28/25
Jesslyn Janssen	903 Laurel Ave	Jesslyn Janssen	2/28/25
TREVOR THOMPSON	120 HAIGHT ST	Trevor Thompson	2/28/25
Jane Brinnick	916 LAUREL AVE	Jane Brinnick	2/28/25
Dianna Barksdale	916 Laurel Ave	Dianna Barksdale	2/28/25
DEBORAH SANDERSON	219 HAIGHT ST	Deborah Sanderson	2/28/25
BROCK WOODY	211 HAIGHT ST.	Brock Woody	2/28/25
Angela Woody	211 Haight St	Angela Woody	2/28/25
Richard Zarko	207 Haight St	Richard Zarko	2/28/25
Vanessa Romano	123 Haight St	Vanessa Romano	2/28/25
Ron Mason	127 Haight St	Ron Mason	2/28/25
GAYLE WEISS	216 Haight St	Gayle Weiss	02/28/25
MARK WEISS	216 Haight St	Mark Weiss	02/28/25
Danielle Zimmerman	212 Haight St	Danielle Zimmerman	2/28/25
BRIAN ZIMMERMAN	212 HAIGHT ST	Brian Zimmerman	2/28/25
Gina Connell	204 Haight	Gina Connell	2/28/25
Jason Connell	204 Haight	Jason Connell	2/28/25
Heather Gino	904 Laurel	Heather Gino	2/28/25
Jimmy Wong	323 Haight St	Jimmy Wong	3/1/25
FRANCES WONG	323 Haight Street	Frances Wong	3/1/25

The following neighbors are in agreement with the comments and concerns as stated above.

Name	Address	Signature	Date
Thomas Katzloff	319 Haight St	Thomas Katzloff	2.25.25
Yong Li Chen	307 Haight st	Yong Li Chen	2/25.25
Rajesh Shetty	311 Haight st.	Rajesh Shetty	02/25/2025
Stephen Albano	307 Haight st.	Stephen Albano	2/25/2025
Sam Guo Li	315 Haight st	Sam Guo Li	2/25/2025
Kathleen Ratzloff	319 Haight St.	Kathleen Ratzloff	2/25/2025
Sona Shetty	311 Haight st	Sona Shetty	2/25/2025
Siva Raja Yerrala	935 Laurel ^{ave} St	Siva Raja Yerrala	2/25/2025
Naveena Ganta	935 Laurel ave.	Naveena Ganta	2/27/2025
BENEDICT WIKRAMANAYAKE	316 HAIGHT	BENEDICT WIKRAMANAYAKE	2/28/25
GRACE WIKRAMANAYAKE	316 HAIGHT ST.	GRACE WIKRAMANAYAKE	02/27/25
Noopur Gupta	312 Haight St	Noopur Gupta	02/27/25
Shobhit Gupta	312 Haight St	Shobhit Gupta	02/27/25
Rina Durr	936 Laurel	Rina Durr	02/27/25
Joey Huang	928 Laurel	Joey Huang	2/27/25
Neddie Barnett	920 Laurel	Neddie Barnett	2/27/25
Adam Barnett	920 Laurel	Adam Barnett	2/27/25
Gerard Costello	304 HAIGHT ST	Gerard Costello	2/27/25
Nicole Wilcox	327 Haight st	Nicole Wilcox	2/27/25
Paul Buchholz	331 HAIGHT ST	Paul Buchholz	2/28/25

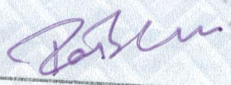
Sivaraja Sekhar Reddy Yeruva
935 Laurel Ave
Menlo Park, CA 94025-2508

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05/12/26 Date

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For Appeal fee. 

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LOCATION: 305 Haight Street	PROJECT NUMBER: PLN2025-00005	APPLICANT: Mohammad Kasirossafar	OWNER: Robert Margoosian
PROJECT CONDITIONS: 1. The use permit shall be subject to the following standard conditions: a. The applicant shall be required to apply for a building permit within one year from the effective date of approval (by May 4, 2027) for the use permit revision to remain in effect. b. Development of the project shall be substantially in conformance with the plans prepared by Professional Engineers, consisting of 11 plan sheets, dated received March 29, 2026 and approved by the Planning Commission on May 4, 2026, except as modified by the conditions contained herein, subject to review and approval of the Planning Division. c. Prior to building permit issuance, the applicant shall comply with all Sanitary District, Menlo Park Fire Protection District, and utility companies' regulations that are directly applicable to the project. d. Prior to building permit issuance, the applicant shall comply with all requirements of the Building Division, Engineering Division, and Transportation Division that are directly applicable to the project. e. Prior to building permit issuance, the applicant shall submit a plan for any new utility installations or upgrades for review and approval by the Planning, Engineering and Building Divisions. All utility equipment that is installed outside of a building and that cannot be placed underground shall be properly screened by landscaping. The plan shall show exact locations of all meters, back flow prevention devices, transformers, junction boxes, relay boxes, and other equipment boxes. f. Prior to building permit issuance, the applicant shall pay all fees incurred through staff time spent reviewing the application. g. The applicant or permittee shall defend, indemnify, and hold harmless the City of Menlo Park or its agents, officers, and employees from any claim, action, or proceeding against the City of Menlo Park or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit, or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings. h. Notice of Fees Protest – The applicant may protest any fees, dedications, reservations, or other exactions imposed by the City as part of the approval or as a condition of approval of this development. Per California Government Code 66020, this 90-day protest period has begun as of the date of the approval of this application.			

RECEIVED

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2025CITY OF MENLO PARK
BUILDING DIVISION

JPA

Response to Application Submittal Notice provided by the City of Menlo Park

Application Number: 062-215-080

Use Permit and Variances

The undersigned neighbors are typically receptive to building permits, including minor variances. Many projects, both completed and in progress in the vicinity of the project associated with this application. However, as stated herein, the undersigned neighbors are not in favor of approving the egregious and numerous variances requested in Menlo Park Building Proposal 062-215-080.

Building Proposal 062-215-080 references City of Menlo Park Zoning Ordinance 16.82, subsection 16.82.340. The following are complete and unaltered texts from the City of Menlo Park website. Summary comments provided by the undersigned follow each group of requirements.

Paragraph 16.82.340 (a) Purpose. The purpose of the variance is to allow variation from the strict application of the terms of this title where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or by reason of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this title would cause undue hardship unnecessary to carry out the spirit and purpose of this title. In no case shall a variance be granted to permit a use other than a use permitted in the district involved or to permit relief in excess of fifty percent (50%) of any requirement of this title. In the SP-ECR/D district, in no case shall a variance be granted to exceed the intensity (floor area ratio) or density (dwelling units per acre) standards.

Summary comments regarding Paragraph 16.82.340 (a):

- As stated in the application, this lot is significantly smaller than the required minimum lot size for the R-1-U zoning district. Note that Menlo Park Municipal Code, Title 16, Chapter 16.16, paragraph 16.16.030, states: "Development regulations in the R-1-U district are as follows: Minimum lot area: seven thousand (7,000) square feet". In contrast, the requestor is proposing that the floor area limit be based on a lot size of 5000 square feet. In accordance with the minimum lot size requirements, the undersigned request that this variance not be approved and the application be rejected.
- "Exceptional narrowness" is an understatement and violates Paragraph 16.16.030 (4). The proposal requests an interior side setback variance reduction from 5 feet to 2 ½ feet. The proposal also requests a street-side setback reduction from 12 feet to 6 ½ feet. The proposed width of this project is inconsistent with existing residences in the city. Section 16.82.030 states: "In considering an application, the planning commission shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question and surrounding areas, and the impact of the application thereon". The proposal violates minimum floor area limits and violates Paragraph 16.16.030 (5). The proposal states that the lot is 2064 square feet and that the proposed floor area is 1386 square feet – over 67% building coverage.
- The proposal violates the daylight plane limits of Paragraph 16.67.020 (1). The proposal requests a variance from 19 feet, 6 inches to 23 feet, 11 inches – a discrepancy of 4 feet, 5 inches.
- The neighboring adjoining property has an existing masonry fireplace on the adjacent wall which protrudes into this property's interior side setback, thereby further decreasing the width between the adjacent structures and further increasing the risk of fire danger.

- In consideration of the impact of the multiple inconsistencies requested in this proposal, the undersigned request that this proposal be rejected.

Paragraph 16.82.340 (b) Findings. The planning commission shall grant a variance only when all of the following conditions are found:

16.82.340 (b) (1) That a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance. Further, a previous variance can never have set a precedent, for each case must be considered only on its individual merits;

Comments associated with Paragraph 16.82.340 (b) (1):

- There are no known hardships peculiar to the property that were unknown before the acquisition of this property and the submission of this proposal.

Paragraph 16.82.340 (b) (2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming property in the same vicinity and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors;

Comments associated with Paragraph 16.82.340 (b) (2):

- Other conforming property owners in the same vicinity do not find this project necessary for the preservation and enjoyment of the neighborhood. The undersigned are jointly voicing their concern through the submission of this document. Note that several of the undersigned have lived in this neighborhood for more than 50 years.
- The applicant states that "the home fits within the broader context of the neighborhood". The undersigned are in disagreement with this statement. There is very little in this project that resembles any of the other homes in the neighborhood. It does not "fit" by any definition of the word.
- The applicant states that these variances would promote "responsible and harmonious development in the community". The undersigned stand in direct opposition to this statement.
- Granting the many variances required for this project may be construed as constituting a special privilege.

Paragraph 16.82.340 (b) (3) That the granting of the variance will not be materially detrimental to the public health, safety, or welfare, or will not impair an adequate supply of light and air to adjacent property:

Comments associated with Paragraph 16.82.340 (b) (3):

- Without question, both the daylight height plane and the side yard setback are materially detrimental in supplying light and air to the adjacent property.
- Additionally, given the recent fire storms in Southern California neighborhoods that are similar in nature, there is a significant impact on fire safety and fire department accessibility to the side yard space that must be carefully considered.

Paragraph 16.82.340 (b) (4) That the conditions upon which the requested variance is based would not be applicable, generally, to other property within the same zoning classification;

Comments associated with Paragraph 16.82.340 (b) (4):

- The significant scope of each of the individual variances required in this application would likely not be granted to other projects in the same zoning area. It also seems quite unlikely that the sum of all these of major variances on one project would not be approved. Additionally, granting these variances may establish a precedent for other applicants.

Paragraph 16.82.340 (b) (5) That the condition upon which the requested variance is based is an unusual factor that was not anticipated or discussed in detail during any applicable specific plan process. (Ord. 979 § 12 (part), 2012: Ord. 879 § 3 (part), 1996).

Comments associated with Paragraph 16.82.340 (b) (5):

- All of the details associated with this paragraph are not known by the undersigned. However, building codes and zoning requirements are easily accessible on the City of Menlo Park website and should have been fully researched before the submission of this proposal.

Summary comments regarding Paragraph 16.82.340 (b):

- As all of the conditions in Paragraph 16.82.340 (b) have not been met, it is requested by the undersigned that the planning commission not grant any of the variances as requested in the proposed project plan.

Additional concerns expressed by the undersigned neighbors:

1. Variances of this magnitude could potentially set a precedent and be proliferated throughout the city thereby completely changing the inherent nature of the quality of life in the city.
2. Driveway entry and egress to the street are immediately adjacent to the corner creating potentially dangerous driving conditions including accidents with cars, bicycles, and pedestrians. Corner side setback reduction from 12 feet to 6 feet exacerbates this issue.
3. Street side yard setback is inconsistent with all other properties in the Willows neighborhood consistent with properties in a major city and inconsistent with all residential areas in our open, inviting suburban community. The proposed construction is unprecedented and does not respect the high-quality residential character of this neighborhood or the City of Menlo Park.
4. The architectural style of the proposed residence is inconsistent with the vast majority of the existing housing in the Willows neighborhood. As stated in the Menlo Park Land Use Element: "Preserving the unique qualities of the city's neighborhoods is an important objective of this Land Use Element".
5. This project reduces the minimal open space that is already quite limited in this low-density zoned neighborhood.
6. Current Lot Maintenance: Poor maintenance offers an indication of a lack of care and concern for the existing lot, the current neighborhood, and the current neighbors. Note that since the sale of this lot, maintenance in the form of weed cutting has been performed only once. This maintenance was eventually

performed at the request of concerned neighbors when the height of the empty lot full of weeds exceeded 4 feet. Care and concern for the existing neighborhood have not been demonstrated. Weeds are approximately 2 feet high currently.

7. There is an oak tree in the proposed backyard area that is not fully addressed in the project plan. A plan for this tree is requested in the unlikely event that this proposal is approved.

In accordance with the discussion above, the undersigned are in opposition to the approval of this project and the variances as discussed and request that this project application be rejected. Thank you for taking the time to carefully review these development regulation inconsistencies and neighbor's concerns.

The following neighbors are in agreement with the comments and concerns as stated above.

Name	Address	Signature	Date
Thomas Katzlaff	319 Haight St	Thomas Katzlaff	2-25-25
Yong Li Chen	307 Haight St	Yong Li Chen	2/25-25
Rajesh Shetty	311 Haight St.	Rajesh Shetty	02/25/2025
Stephen Albano	307 Haight St.	Stephen Albano	2/25/2025
Guo Li	315 Haight St	Guo Li	2/25/2025
Kathleen Ratzlaff	319 Haight St.	Kathleen Ratzlaff	2/25/2025
Sona Shetty	311 Haight St	Sona Shetty	2/25/2025
Siva Raja Yerrala	935 Laurel Ave	Siva Raja Yerrala	2/25/2025
Naveena Ganta	935 Laurel Ave	Naveena Ganta	2/27/2025
BENEDICT WIKRAMANAYAKE	316 HAIGHT	Benedict Wikramanayake	2/28/25
GRACE WIKRAMANAYAKE	316 HAIGHT ST.	Grace Wikramanayake	02/27/25
Noopur Gupta	312 Haight St	Noopur Gupta	02/27/25
Shobhit Gupta	312 Haight St	Shobhit Gupta	02/27/25
Rina Durr	936 Laurel	Rina Durr	02/27/25
Joey Huang	928 Laurel	Joey Huang	2/27/25
Neddie Barnett	920 Laurel	Neddie Barnett	2/27/25
Adan Barnett	920 Laurel	Adan Barnett	2/27/25
Gerald Costello	304 HAIGHT ST	Gerald Costello	2/27/25
Nicole Wilcox	327 Haight St	Nicole Wilcox	2/27/25
Paul Buchholz	331 HAIGHT ST	Paul Buchholz	2/28/25

PAUL HEIKENMAN	908 LAUREL AVE	Paul Heikenman	2/28/25
Sharon Henemann	908 Laurel Ave.	Sharon Henemann	2/28/25
Ahmad Byagun	903 Laurel Ave	Am	2/28/25
Jesslyn Janssen	903 Laurel Ave	Jesslyn Janssen	2/28/25
KEVIN THOMPSON	120 HAIGHT ST		2/28/25
Jane Brinnish	916 LAUREL AVE		2/28/25
Dianna Bartsdale	916 Laurel Ave	Dianna Bartsdale	2-28-25
DEBORAH SANDERSON	219 HAIGHT ST	Deborah Sanderson	2/28/25
Brock Woody	211 HAIGHT ST.	Brock Woody	2/28/25
Angela Woody	211 Haight St	Angela Woody	2/28/25
Richard Zarko	207 Haight St	Richard W. Zarko	2/28/25
Vanessa Romano	123 Haight St	Vanessa Romano	2/28/25
Ron Mason	127 Haight St	Ron Mason	2/28/25
GAYLE WEISS	216 Haight St	Gayle Weiss	02/28/25
MARK WEISS	216 Haight St	Mark Weiss	02/28/25
Danielle Zimmerman	212 Haight St	Danielle Zimmerman	2/28/25
BRIAN ZIMMERMAN	212 HAIGHT ST	Brian Zimmerman	2/28/25
Gina Connell	204 Haight	Gina Connell	2/28/25
Jason Connell	204 Haight	Jason Connell	2/28/25
Heckenfuss	904 Laurel	Heckenfuss	2/28/25
Jimmy Wong	323 Haight St	Jimmy Wong	3/1/25
FRANCES WONG	323 Haight Street	Frances Wong	3/1/25

Neighbors are not in favor of approving the egregious and numerous variances requested in Menlo Park Building Proposal 062-215-080

No	Name	Address	Signature	Date
1	ERICA Mansfield	224 Haight St Menlo Park	[Signature]	3/1/2025
2	Logan Gramzinski	220 Haight St Menlo Park	[Signature]	03/01/25
3	[Signature]	714 Laurel Ave Menlo Park	[Signature]	3/5/2025
4	Danielle Stagner	328 Grayson Ct, Menlo Park	[Signature]	3/5/25
5	Falluk Carter	332 Grayson Ct, Menlo Park	[Signature]	3/5/25
6	MIT AGGARWAL	614 Grayson Ct Menlo Park	[Signature]	3/5/25
7				
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Opposition Letter to Proposed Project and Variances in Application 062-215-080

To
Conner Hochleutner
Assistant Planner
City of Menlo Park

RECEIVED
March 10 2025
CITY OF MENLO PARK
BUILDING DIVISION

This letter expresses strong opposition to the project and multiple variances requested in Application Number 062-215-080 for the property located at 0 Haight St.. As adjacent property neighbors(935 Laurel Ave), we are typically receptive to building permits, including minor variances; however, the extent and nature of this project and variances sought in this application are unacceptable.

Our opposition is based on the following points, grounded in the Menlo Park Municipal Code and the specific details of this proposal:

- **Inconsistency with Zoning Requirements:** The lot in question is significantly smaller(i.e 2064 sqft) than the minimum lot size of 7,000 square feet required for the R-1-U zoning district, as stated in Menlo Park Municipal Code, Title 16, Chapter 16.16, paragraph 16.16.030.
- **Violations of Setback Requirements:** The proposal includes requests for substantial reductions in both interior side and street-side setbacks. Specifically, the applicant seeks to reduce the interior side setback from 5 feet to 2.5 feet and the street-side setback from 12 feet to 6.5 feet. These reductions are inconsistent with existing residences and general plans for the area.
- **Excessive Building Coverage:** The proposal violates minimum floor area limits. The proposed floor area of 1386 square feet on a 2064 square foot lot results in over 67% building coverage.
- **Violation of Daylight Plane Limits:** The proposal violates the daylight plane limits of Paragraph 16.67.020 (1), requesting a variance from 19 feet, 6 inches to 23 feet, 11 inches, a discrepancy of 4 feet, 5 inches.
- **Fire Safety Concerns:** Our property has an existing masonry fireplace on the adjacent wall which protrudes into this property's interior side setback, thereby further decreasing the width between the adjacent structures and further increasing the risk of fire danger. The fire safety risk is a crucial concern given the recent firestorms in similar neighborhoods.
- **Privacy, lighting and ventilation:** Proposed Violations to rear setbacks of 2.5 feet in addition to violation to Daylight plane completely blocks lighting and ventilation to most of our living and bedrooms.
- **Flood Risks:** Proposed site of development is located in AE Flood zone. Granting building permits with numerous variances in AE flood zones is dangerous. It sets a precedent for risky development, increases flood insurance costs, and burdens taxpayers with disaster recovery. Construction in these zones disrupts natural water flow,

impacting surrounding properties. The city must prioritize responsible development and adhere to floodplain management standards.

These requested variances do not align with the criteria for granting a variance as outlined in Menlo Park Municipal Code 16.82.340, which states the purpose of a variance is to allow variation from the strict application of the terms of this title where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or by reason of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this title would cause undue hardship unnecessary to carry out the spirit and purpose of this title.

- **Lack of Hardship:** There are no known hardships peculiar to the property that were unknown before its acquisition.
- **Impact on Neighborhood Enjoyment:** Approving these variances is unnecessary for the preservation and enjoyment of the neighborhood. The proposed home does not "fit" within the broader context of the neighborhood.
- **Detrimental to Public Health, Safety, and Welfare:** The daylight height plane and side yard setback variances are materially detrimental in supplying light and air to our property.
- **Precedent Setting:** Granting these variances may establish a precedent for other applicants, potentially leading to a decline in the quality of life in the city.
- **Dangerous Driving Conditions:** Driveway entry and egress to the street are immediately adjacent to the corner creating potentially dangerous driving conditions including accidents with cars, bicycles, and pedestrians.
- **Accessibility Ramp:** Planned driveway to parking garage dangerously close to corner Accessibility ramp and can be extremely dangerous as it poses safety risk.

For these reasons, we strongly urge the Planning Commission to **deny** the project and requested variances in Application Number 062-215-080. Approving this project and variances would contradict the established zoning regulations, negatively impact the neighborhood, and potentially set a detrimental precedent for future development in Menlo Park.

Sincerely,



Naveena Ganta

Date: 03/05/2025



Siva Raja SR Yeruva

Date: 03/05/2025

Telephone	Law Office Of	
(650) 918-5760	Charles S. Bronitsky	
	756 Niantic Drive	Fax
	Foster City, California 94404	(650) 649-2316
	www.bronitskylaw.com	

July 8, 2026

City Council
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Re: Appeal of Planning Commission Decision
305 Haight Street
PLN2025-00005

Dear Council Members:

The following is the Applicant's Response to the Appeal of the Planning Commission's Decision to approve the development of a single-family residence at 305 Haight Street.

INTRODUCTION

It is beyond argument that in Menlo Park, San Mateo County, and California as a whole, there is a severe shortage of housing, especially smaller single-family homes. New, detached, small single-family homes are almost non-existent. This project, which will provide a new stand-alone single-family home for a new resident of Menlo Park, is an important contribution to the City's housing stock.

The parcel at 305 Haight Street is substandard, meaning that it does not meet the minimum lot size requirement for a single-family home. In addition, the lot configuration makes it fundamentally impracticable to build a single-family home on it as is. Thus, in order to build a single-family home on the property, the Applicant was required to obtain a six variances and a use permit from the City.

The Menlo Park Planning Staff conducted an exhaustive review of the application over more than a year, reviewing the plans and the issues related to the use permit and the variances. As shown in the plans attached to the Staff Report to the Planning Commission, several sets of comments were received from the Planning Staff, and revisions were made to address them. Ultimately, after the year-plus review, the Planning Staff recommended approval of the application, including the use permit and the six variances.

Prior to the Planning Commission meeting, the Planning Staff prepared a set of findings for the Commission to review. For each of the six variances, the Planning Staff explained why they believed the variances should be approved and the application granted.

Ultimately, after an hour-long public hearing, the Planning Commission approved a use permit and six variances, adopting the proposed findings by a 5-2 vote. Subsequently, an appeal was filed asserting six grounds for why the appeal should be granted. Each of these grounds will be addressed below, in turn, and show that the appeal should be denied

GROUND 1: THE HARDSHIP FINDING WAS CORRECTLY MADE

Menlo Park Municipal Code Section 16.82.340 provides that in order to obtain a variance from the Planning Commission, the Commission must find, among other things, “[t]hat a hardship peculiar to the property and not created by any act of the owner exists. In this context, personal, family or financial difficulties, loss of prospective profits and neighboring violations are not hardships justifying a variance.” The Planning Commission correctly made such a finding for each of the six variances at issue.

The Appellants argue that because the lot was substandard when purchased by the Applicant, the hardship finding was legally defective. That argument is incorrect.

In the case of *Committee to Save the Hollywood Specific Plan v. the City of Los Angeles* (2008) 161 Cal.App.4th 1168, the California Court of Appeal addressed a similar claim that, because the property owner was aware of the property constraints when the property was purchased, the hardship was self-inflicted. The Court of Appeal rejected that argument and concluded that “the hardship is not self-inflicted because the hardship inheres in the topography of the property, and this circumstance does not change with ownership.” *Id.* at 1185. Since 305 Haight Street is and was a substandard lot, regardless of who owned the property, the hardship is not self-inflicted, and Appellants’ argument is without merit factually or legally.

Normally, the issue of whether a hardship is self-inflicted arises when a property owner changes the property, for example, by subdividing and creating a substandard lot, or by buying a property and then wanting to use the property for a different use than what was permitted at the time of purchase, such as commercial use in a residential zone. *See, e.g. City of San Marino v. Roman Catholic Archbishop* (1960) 180 Cal.App.2d 657, 673. Neither of those circumstances is present here. The facts presented here are fundamentally identical to those in the *Committee to Save the Hollywood Specific Plan* case, and thus, the law supports the Planning Commission’s finding that the applicable hardship exists and is not self-inflicted.

That the substandard lot, as it is configured, presents a hardship is simply not in

dispute. The hardship here is peculiar to the property, as it is entirely due to the fact that it is not only a substandard lot but also configured in such a way that building any residence on it would be impractical. Thus, as to the hardship issues, the only argument left for the Appellants to make is that the hardship was self-inflicted. The facts, however, do not support that argument.

The Applicant here has not requested a zoning change or a use change. The property is in a single-family residential zone, and that is what is being proposed for it. All that is being requested is the variances to allow the construction of a single-family home on a substandard lot, which is permitted under the Menlo Park Municipal Code, and would give the owner of 305 Haight Street the same rights as any other owner of a residential property in the neighborhood.

The Staff Report addresses the hardship issue directly, stating that, as to the hardship issue, “Staff believes this finding can be met and that **there is a hardship peculiar to the property not created by an act of the owner**. The property is not only substandard, but is smaller than the majority of the lots in the R-1-U zoning district. Further, among substandard lots that are smaller than 5,000 square feet in size, the lot is considerably narrower. Although the size of the lot by itself is not necessarily grounds to approve a variance, maintaining a buildable width of four feet, eight inches on the lot without any variance would be impractical to create a livable residence.” (Emphasis added). None of this can be disputed as it is simply a matter of fact based on the size and configuration of the lot.

Thus, based on the facts and Staff analysis before it, the Planning Commission’s finding that a hardship peculiar to the property exists is supported by substantial evidence, and Appellants’ argument that it was self-inflicted is without merit.

GROUND 2: SB9 WAS NOT THE BASIS FOR THE APPROVALS

The Appellants’ second argument is that SB9 was the basis for granting the variances. That is simply incorrect. After a significant review of the application for the variances by the planning staff, which recommended approval of the variances, the staff prepared a set of findings that the Planning Commission could review, adopt, alter, or reject. After about an hour of public hearing on the matter and significant discussion among the Commissioners, the Planning Commission, in a vote of 5-2, adopted the findings. Nowhere in the findings is there any reference to SB9 or any suggestion that SB9 formed the basis for the granting of the variances.

As the Council is well aware, during public hearings, it is quite common for discussions to address issues not directly related to the matter under consideration but

rather related to policy implications and trends. Such discussions, by themselves, do not mean that the Planning Commission's decision was based on anything other than the formal findings voted on and adopted by resolution of the Planning Commission. Thus, the fact that SB9 may have come up during the public hearing does not mean the Planning Commission's decision was based on SB9. The written findings, adopted by the Planning Commission and supported in detail by the Staff Report, clearly contradict that argument. The actual findings are based on the facts before the Planning Commission and comply with both State law and the Menlo Park Municipal Code.

In fact, when the issue of SB9 came up, both the Commissioner that raised the issue, Commissioner Silin and City Staff, noted that they were speaking about SB9 hypothetically and that it did not apply to the application under consideration. Thus, any claim by Appellants that the decision was somehow based on SB9 is without merit.

As stated in the Appeal, "MPMC §16.82.340 requires findings based on the actual circumstances of the subject property." That is exactly what the Planning Commission did. The Commissioners read the Staff Report, listened to public comment, discussed the matter, and then focused on the subject property, approving the variances based on the actual circumstances of the subject property. Thus, Appellant's arguments that the variances were granted based on SB9 are misplaced. The findings are in writing and speak for themselves. Thus, this basis for the Appeal is also without merit.

GROUND 3: PUBLIC HEALTH AND SAFETY FINDINGS WERE WELL SUPPORTED

The Appellants' next argument is that the public health and safety findings were not supported. That, too, is simply incorrect and contradicted by the facts. Most of Appellant's argument centers around fire equipment access, claiming that the distance between the structures "is insufficient for fire apparatus." That argument completely disregards the note in the Staff Report, which clearly states that all health and safety requirements have been reviewed and met. **"Staff from the Building Division and the Menlo Park Fire Protection District reviewed the proposed plans and found the project adequate in meeting all requirements."** (Emphasis added). It could not be clearer.

The Appellants then argue that there was no evidence of an evaluation under California Fire Code Section 503. The likely reason for that is that the Fire Code Section 503 is not applicable to this project. Fire Code Section 503 sets forth the requirements for fire apparatus access roads, not side yard setbacks. Thus, Appellants' argument that Health and Safety issues were not properly considered is without merit. They were studied by the appropriate professionals who found that the project met all requirements. Thus, the Appeal on this ground is also without merit.

GROUND 4: THE VARIANCES GRANTED ARE NOT A SPECIAL PRIVILEGE

Appellants next argue that the number of variances amounts to a special privilege, claiming that because there were six variances granted and no other properties in the vicinity have had that many variances granted, the variances are a special privilege. No law is cited to support that argument. In addition, as pointed out in the Staff Report, “a previous variance can never have set a precedent, for each case must be considered only on its individual merits.” Thus, what else has or has not happened in the past in connection with other properties in the vicinity is irrelevant.

The findings of the Planning Commission are consistent with the law and are supported by the facts. For example, in connection with the side setback variance, the Planning Commission found that “the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity and that **the variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his/her neighbors; in that, the project site is significantly narrower than other properties in the vicinity, which prevents redevelopment of a compliant project** if required to develop at a standard five-foot interior side setback. (Emphasis added). Similar findings were made in connection with the other variance requests.

Nowhere in the Menlo Park Municipal Code or in California law is there any authority that sets out a maximum number of variances that can be granted, nor is there any definition that more than a certain number of variances is considered a special privilege. As noted throughout the Staff Report and in the Planning Commission's findings, each variance request must be considered on its individual merits. Each of them was, and the Planning Commission's findings are consistent with the law and are supported by the facts.

Appellants go on to discuss the fact that a number of issues related to the project were outside the normal code requirements. That, however, is true in every request for a variance. If the project were fully code-compliant, there would be no need for a variance. In this case, the Staff and the Planning Commission found that the variances were necessary for the preservation and enjoyment of substantial property rights possessed by other conforming properties in the vicinity. None of that is disputed because all of the other properties in the vicinity are on larger lots, configured in such a way that they do not require variances. Thus, the variances were necessary here to allow this property to be developed in the same manner as the other properties in the vicinity.

The California Court of Appeal case of *Eskeland v. City of Del Mar* (2014) 224 Cal.App.4th 936 conducted an exhaustive review of what constitutes a special privilege

under California law and what does not. While somewhat factually distinct from this case, the neighbor appellants in *Eskeland* made most of the same arguments as the Appellants are making in this case, urging their interpretation of their municipal code on the city rather than the city's interpretation.

Ultimately, the Court of Appeal concluded that whether a special privilege was granted was a question of whether the city's findings were supported by the evidence. *Id.* at 954. In this case, it clearly is supported by the evidence. The Staff Report to the Planning Commission sets out the specific facts for each requested variance, explaining why each is not a special privilege. For example, in the Staff Report, as to Variance 1, it states:

Staff believes that allowing a three-foot interior side setback would not constitute a special privilege in that it would allow a residence that is somewhat closer in scale to the neighboring properties. While the proposed interior side setback is more permissive than a five-foot setback required of the neighboring properties, shifting the proposed residence back on the lot to meet a five-foot setback would create width and access issues for the attached garage due to the narrow width of the lot, thus preventing the garage and covered parking space from being compliant in interior size.

The Staff Report contains similar statements that provide the factual basis for why each variance is not a special privilege. Thus, there is more than ample evidence here to support both the Staff's recommendations and the Planning Commission's findings. As supported by these facts, there is no special privilege, and the appeal on that basis is also without merit.

GROUND 5: THE PLANNING COMMISSION FOLLOWED THE LAW AND ADOPTED THE FINDINGS RECOMMENDED BY STAFF AFTER EXHAUSTIVE REVIEW AND A PUBLIC HEARING

Appellants' next argument again confuses issues discussed with the actual written findings. Housing laws and their impacts on cities are complex and controversial in California. Often, they seem to change daily, requiring cities to constantly update their codes and Councils and Planning Commissions to discuss those issues when faced with housing projects that present unique challenges, such as this one.

In this case, however, the Planning Commission followed the law and adopted the findings recommended by Staff after exhaustive review and a public hearing. That some of the Commissioners may have tangentially discussed other issues, does not mean that the findings are something other than what they state in writing.

Despite the Appellants' arguments, no one has claimed an absolute right to build. Menlo Park Municipal Code §16.59.010 provides: "Subject to the granting of a conditional use permit, **any substandard lot may be used as a building site**, provided that all other regulations of the applicable zoning district shall apply." (Emphasis added). The Applicant in this case knew there were challenges and that a use permit and several variances would be required.

The Applicant worked with City Staff for over a year to find a solution that would allow the project to move forward in a manner that complied with Municipal Code §16.59.010 and all other aspects of the law as the City understood it. The Appellants' argument that the Planning Commission based its findings on some "right to build" is simply unfounded and not supported by the record. Based on their arguments, no one could ever build anything unless it was fully code-compliant and required no use permits or variances. That is simply not the case as it is not the law under the Municipal Code.

The Applicant in this case made the proper application to the City, provided the City with all the material needed to assess the various requests, and the City Staff and Planning Commission agreed that the project was consistent with the law as applied to the particular circumstances of the project. That is what the findings state, and they are amply supported by the record. Thus, the appeal on this basis is again, without merit.

GROUND 6: LIGHT AND AIR TO 935 LAUREL STREET ARE NOT MATERIALLY IMPAIRED

Finally, as to the Appellants' final argument, those too are without merit. Here, Appellants argue that light and air to 935 Laurel Avenue are materially impaired. Appellants claim that this was admitted by the Applicant's representative at the Planning Commission hearing. The actual quote does not make any such admission. Instead, it says that the Applicant kept the roof flat to "bring more light to the neighboring property."

Moreover, some light and air impairment is not the same as material impairment, and there is nothing in the record to support the claim that any impairment that may exist is material. In fact, in the variance findings for the side yard setback, the Planning Commission found that "granting of the variance . . . will not impair an adequate supply of light and air to adjacent property." Thus, the Planning Commission considered these arguments and, upon approving the variance, found them without merit.

Appellants also argue that the Municipal Code prefers single-story homes on smaller lots, citing Municipal Code §16.16.030(5). That is simply not true. Municipal Code §16.16.030(5) simply provides maximum building coverages for one and two-story homes. No preference is given to one or the other based on lot size. Appellants' interpretation of

the Municipal Code is simply incorrect.

APPELLANTS WERE AWARE OF THE POTENTIAL DEVELOPMENT OF A TWO STORY HOME ON THE PROPERTY:

Appellants argue that the current owner of the property knew it was substandard when he bought it, and that should be held against him. The truth is that Appellants knew the property was for sale and could have purchased it. In fact, the prior owner of the property would have sold it to Appellants at a discount and would have preferred to sell it to them. None of that was disclosed by Appellants to the Planning Commission or in their appeal.

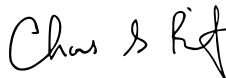
As to what might happen if Appellants did not purchase the property, the seller's agent told them in writing that the most likely outcome would be that a **“new buyer is much more likely able to build a tiny home or ADU, container style unit or skinny 2 story unit and either rent it out or resell it (which is what most calls I get on it plan to do).”** (Email from Julie Alsaegh to Naveena Ganta and Raj Yeruva, attached). Thus, Appellants were well aware that exactly what the Planning Commission approved was the most likely outcome if they did not purchase the property.

In fact, there was significant back and forth between the seller's agent and the Appellants long before it was sold to the current owner. Thus, any claim that there is some unfairness to Appellants in allowing the proposed development is without merit as they could have purchased the property themselves. (Additional text correspondence between the seller's agent and Appellants is also attached).

CONCLUSION:

Clearly, the Appellants do not want the project to move forward. However, both the City's Planning Department and the Planning Commission have thoroughly reviewed the project and found it consistent with the law. The Planning Staff recommended approval of the project, and the Planning Commission approved it, making all legally required findings. None of that should be disturbed on appeal.

Thank you for your attention to these issues.



Charles S. Bronitsky
Attorney at Law

Recap

1 message

Julie Alsaegh <julie.alsaegh@compass.com>

Sat, Feb 10, 2024 at 1:12 PM

To: Naveena Ganta <naveena.ganta@gmail.com>, Raj Yeruva <yeruva.raj@gmail.com>

Hi Raj and Naveena,

Thank you, Raj, for taking my call yesterday. I just want to recap a couple of things so that we're on the same page.

- The tree will be removed as well as any plants/ trees that have been planted.
- You will remove the car parked on the property.

Our plan is that once the tree is removed he will fence it and mulch it and list it openly as we've had enough interest off market that he feels he can get closer to his list price, if not above, with these enhancements. The interested buyers I've had so far are holding for the tree to be removed.

When I spoke to the seller on Friday, I told him to give me the weekend to speak to you again, and discuss the benefits of you combining this lot with yours.

-home and land value increase at resale

-The recently sold lot that's the closest "comp" sold at ~\$81.78 Sq Ft. For the size of this lot it would come out to \$169,121 (at \$135 it's \$65.28 per sq ft).

-Someone else building or using the lot is a wild card

-with the city of menlo's recent conditional approval for housing application, they're expecting to fullfill 3000 more housing units in the coming years which tells me that, possibly with some variances, you would have the ability to, at minimum, build an ADU/in law unit for yourself or parents or use it as a rental.

A new buyer is much more likely able to build a tiny home or ADU, container style unit or skinny 2 story unit and either rent it out or resell it (which is what most calls I get on it plan to do).

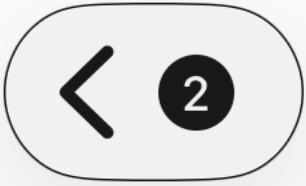
His offer for \$135 stands through the weekend and then we'll be proceeding with his plans mentioned above.

I hope you reconsider.

Thank you both. Call if you'd like to discuss further.

Julie Alsaegh
Realtor® | The Oldham Group
San Francisco Peninsula | Silicon Valley
M: 650.660.9904
www.OldhamGroupLuxury.com
DRE # 02037971

Looking for a condo in the heart of
San Carlos? Check out our latest listing here!



Raj ›



Jan 15, 2024 at 4:00 PM

Hi Raj,
Seller is asking \$135k
cash, 21 day close and
he'll have the tree
removed with a permit.

We will not be able to
match the asking.

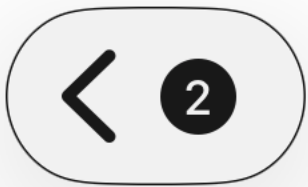
Do you have a counter
#?

Unfortunately, 105k is as

Subject

iMessage





Raj ›

Feb 9, 2024 at 11:02 AM

Hi Raj, please call me when you have a minute. I want to update you on what's happening with the lot

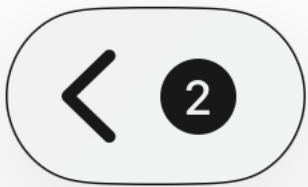
Apr 1, 2024 at 3:55 PM

Hi Raj ,
I'm sure you're glad the tree removal is over! It took a while, that was a monster of a tree!

Subject

iMessage





Raj ›



monster of a tree!

The seller asked if you
would please remove
some tires that you left
on the lot.

Thank you!

Julie

Oh yes. Thank you.

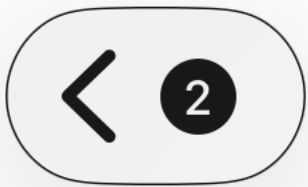
Never worked on any
tires, they are not my
tires. I can ask neighbors.



Subject

iMessage





Raj ›



you.

Apr 23, 2024 at 8:25 PM

Congratulations, looks like property in pending. May I know how much it was sold for.

Hi Raj, thank you. It sold for full price

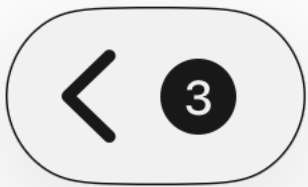
150 or 250?

\$250

Subject

iMessage





Raj ›



150 or 250?

\$250



Thank You and
congratulations

Aug 12, 2024 at 11:31 AM

Hello Julie, Can you
please share corner lot
owner contact info.
Community police visited
couple of times to
enquire about woods

Subject

iMessage



**Raj** ›

iMessage
🔒 Encrypted

Nov 14, 2023 at 6:12 PM

Hi Raj,

Can you send your email address please?

We would prefer to negotiate with you before selling the lot to someone else. Partly because with assembly bill 1033 getting passed, a new owner could potentially build an ADU or tiny

Subject

iMessage



**Raj** ›

yeruva.raj@gmail.com

Nov 21, 2023 at 9:06 AM

Hi Raj,
I'm following up about
the lot.
Are you interested in a
conversation?
We will be actively
marketing it the Monday
after Thanksgiving.
Let me know :)

Dec 8, 2023 at 10:27 AM

Subject

iMessage

