

November 27, 2006

To: The County of San Mateo

Attn: Lisa Grote, Director of Community Development
County Office Building
455 County Center 2nd Flr
Redwood City, CA 94063
Transmitted by: Certified Letter No. 7006 0810 0003 1943 5953
and Email: lgrote@co.sanmateo.ca.us

Attn:
Supervisor Richard Gordon
Hall of Justice
400 County Center
Redwood City, CA 94063
Transmitted by: Certified Letter No. 7006 0810 003 1943 5960
and Email: rgordon@co.sanmateo.ca.us

Subject: 1050 Acacia – Zoning Regulation Violations – Request for Response

Reference: APN # 036-121-410 Design Review File No. PLN 2005-00418
Email to San Mateo County 9/8/06
Letter to San Mateo County 10/9/06
Email to San Mateo County 11/6/06

This letter is the fourth in a series of communications to San Mateo County regarding construction underway at 1050 Acacia in Montara. The issues include defective design document submittals; the contractor's failure to conform to approved plans and County construction permit requirements; and zoning regulation violations.

Please find attached (Attachment #1) a copy of an email sent to the County on 11/6/06 from Robert Carey which details zoning regulation violations regarding height of the structure and grading around the structure.

The County has failed to respond in writing or verbally to any of the issues raised in the three communications referenced above. The County has not disputed any of the facts or conclusions in these documents. It is over eleven weeks since the County was first notified of serious problems on the site; during that time construction has proceeded at a rapid pace. Note that the most significant issues can be verified in a short site visit by an individual familiar with plans, grades and County requirements. For an initial evaluation, use of the first floor as a benchmark elevation (193') should suffice and a hand laser level would allow better accuracy.

I request that the County respond to the following five questions, in writing, as soon as possible. Please respond to any of the items as your answers become available.

1) Does the County agree that the structure as constructed is in violation of the County Zoning Regulation 6300.2 (Item 6) regarding maximum allowable building height of 28 feet. Please provide the calculations used to make your determination. In particular please specify the natural grade elevation used and how this value was determined.

- 2) Does the County agree that the grading around the structure as constructed is in violation of the County Zoning Regulation 6300.2 (Item 6) which states : "*Finished grade, measured at the outside face of exterior perimeter walls, shall not significantly deviate from the natural grade, to the satisfaction of the Design Review Committee.*"
- 3) Does the County agree that the grades shown along the rear (west) fence line on the Site Plan submitted to the CDRC for design review (Sheet A2.1) are incorrect by a significant amount? What is the County estimate of the difference between actual natural (existing) grade and that depicted on the drawings submitted to CDRC. In particular what is the County's estimate of the difference at the point where the 190 foot contour elevation crosses the west fence.
- 4) Does the County agree that the Elevation drawings submitted for design review to the CDRC do not accurately show the relationship between the structure and the existing (natural) ground, particularly on west side (rear); i.e. that the submitted drawings show the structure much lower to the existing ground than it has actually been constructed . (Reference South and North Elevations on Sheets A6.1 and A6.2)
- 5) Who is the contact person(s) in the County regarding these issues? Has this person(s) reviewed the correspondence referenced above?

These issues have a significant negative impact on the adjacent properties. As stated in previous correspondence, we consider these issues to be of a very serious nature and request the County require an immediate stop to construction.

This letter is also being transmitted by email, wherein you will find the photo attachments originally sent with the 11/6/06 email and a copy of the 10/9/06 letter for reference (PDF version without attachments).

Sincerely,

Robert Carey
PO 370010, Montara, 94037

CC (by email):

Bill Cameron, Bldg Inspection, bcameron@co.sanmateo.ca.us

Jim Eggemeyer, Planning, jeggemeyer@co.sanmateo.ca.us

Dave Holbrook, Planning, dholbrook@co.sanmateo.ca.us

Margaret Hernandez, Code Compliance, mhernandez@co.sanmateo.ca.us

Farhad Mortazavi, Design Review, fmortazavi@co.sanmateo.ca.us

Jeremy Dennis, Legislative Aide to Richard Gordon, jdennis@co.sanmateo.ca.us

Matt Jacobs, Legislative Aide to Richard Gordon, mjacobs@co.sanmateo.ca.us

Attachment #1: Email dated 11/6/06 from Robert Carey to San Mateo County (4 pgs)

**Attachment #1: Copy of Email sent to San Mateo County on 11/6/06
from Robert Carey**

1050 Acacia, Montara - Zoning Regulation Violations

Rob C <robweb@gmail.com> Mon, Nov 6, 2006 at 3:33 PM
To: lgrote@co.sanmateo.ca.us, rgordon@co.sanmateo.ca.us
Cc: bcameron@co.sanmateo.ca.us, jeggemeyer@co.sanmateo.ca.us,
dholbrook@co.sanmateo.ca.us, mhernandez@co.sanmateo.ca.us,
fmortazavi@co.sanmateo.ca.us, jdennis@co.sanmateo.ca.us,
mjacobs@co.sanmateo.ca.us

November 6, 2006

To: San Mateo County

Attn: Lisa Grote - Director of Community Development
(lgrote@co.sanmateo.ca.us)
and Supervisor Richard Gordon (rgordon@co.sanmateo.ca.us)

SUBJECT: 1050 Acacia, Montara - Zoning Regulation Violations
REFERENCE: APN # 036-121-410 Design Review File No. PLN 2005-00418

This email details zoning regulation violations at the project under construction at 1050 Acacia St., Montara. The first two items below (1 & 2) were discussed in a phone conversation between Robert Carey and Lisa Grote on 10/23/06. I request that San Mateo County stop work on this project and address these critical issues.

1) BUILDING HEIGHT:

The structure under construction is higher than allowed by San Mateo County zoning regulations.

Section 6300.2 San Mateo County Zoning Regulations (S-17 Districts)
Item 6. states:

"Building Height, The maximum building height shall be established, as follows:

a. Up to 30% slopes ... maximum building height is 28 feet.

...

Building height shall be measured as the vertical distance from any point

on the natural grade to the topmost point of the building immediately above."

The approved design drawing A6.1 indicates a ridge elevation of 218.67 and an overall building height of 27.08. This results in an assumed natural grade of $218.67' - 27.08' = 191.59'$, or approximately 1.4 feet below the first floor elevation of 193.00'.

The actual natural grade that should be used to determine the building height can be observed by simple inspection to be considerably lower than 191.59, and so the building height is higher than the allowable 28 feet.

A rough estimate can be made by inspecting the difference in elevation between the as-built first floor elevation and the undisturbed grade in the adjacent yard to the south (on the south side of the retaining wall installed by the contractor). This difference in elevation appears to be approximately 4' to 5' at the western peak of the structure. This results in a natural grade, conservatively of about $193' - 4' = 189'$. As can be seen from the attached photos the natural grade had very little slope up to the north. The use of this more accurate natural grade results, conservatively in an estimated actual building height of $218.67 - 189 = 29.67$, possibly considerably higher.

The attached five photos help to illustrate the situation.

2) FINISHED GRADE:

The finished grade being constructed does not meet the San Mateo County zoning regulations.

Section 6300.2 San Mateo County Zoning Regulations (S-17 Districts) Item 6. states:

"Finished grade, measured at the outside face of exterior perimeter walls, shall not significantly deviate from the natural grade, to the satisfaction of the Design Review Committee."

The contractor has imported a large amount of fill material resulting in a grade at the perimeter walls that is significantly higher than the natural grade, up to approximately 3' on the west side. Sheet A2.1 on the submitted and approved design plans includes a note stating: No site grading required except for minor adjustments needed for drainage around the house driveway and approach to street. Clearly the Design Review Committee did not approve the grading that has been constructed.

3) RELATED ISSUE: Requirement for NATURAL GRADES on CONSTRUCTION PLANS.

In the letter to San Mateo County dated 10/9/06, sent by myself and other neighbors I included the following paragraph:

"Additional Item No. 2 - County Requirement for Natural Grades on plans Construction Plans

The County Design Review Approval letter [Attach #2] (dated 11/14/06) Condition Item No. 5c states: Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans:

(1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades.

Regarding the above County requirement, please provide the following information:

- 1) Did the Contractor comply with this requirement?
- 2) If the Contractor did comply, what were the submitted elevations?
- 3) If the Contractor did comply, does the County find the information accurate and consistent with the Site Plan contour elevations and the elevations shown on the Cross Sections, Elevations and Profile drawings?"

After submitting the letter to SMC dated 10/9/06 I reviewed the SMC planning and building files for 1050 Acacia and found no evidence that the Contractor has included natural grades on the construction plans as required by the Design Review Approval letter.

Note: A letter sent to San Mateo County dated 10/9/06 from myself and other neighbors included other very substantial issues regarding the project at 1050 Acacia. In particular, that the approved design documents are defective and that the project is not being constructed in conformance with the approved plans. San Mateo County has not responded in writing to any of these issues, however a meeting has been tentatively scheduled for 11/8/06. Construction at the site continues to this date (11/6/06).

Design review for construction proposed by the same contractor on the adjacent lot is scheduled for 11/9/06 ((PLN 2006-00394).

From:
Robert Carey

Attached Photos:

1050-Acacia_Aug-27-2006_South-side_DSCF0008_red.jpg
1050-Acacia_Nov-7-2005_undeveloped-lot_DSCF0103_red.jpg
1050-Acacia_Nov-5-2006_South-side_DSCF0147_red.jpg
1050-Acacia_Nov-5-2006_South-side-neighbor_DSCF0145_red.jpg
1050-Acacia_Sept-4-2006_South-fence-from-front_DSCF0049_red.jpg

Cc:

Bill Cameron, Bldg Inspection, bcameron@co.sanmateo.ca.us
Jim Eggemeyer, Planning, jeggemeyer@co.sanmateo.ca.us
Dave Holbrook, Planning, dholbrook@co.sanmateo.ca.us
Margaret Hernandez, Code Compliance, mhernandez@co.sanmateo.ca.us
Farhad Mortazavi, Design Review, fmortazavi@co.sanmateo.ca.us
Jeremy Dennis, Legislative Aide to Richard Gordon,
jdennis@co.sanmateo.ca.us
Matt Jacobs, Legislative Aide to Richard Gordon,
mjacobs@co.sanmateo.ca.us

----- END ATTACHMENT #1 to 11/27/06 Letter to SMC -----

Text of Email transmitting Letter to San Mateo County (Dated 11/27/06) regarding 1050 Acacia:

To: lgrote@co.sanmateo.ca.us, rgordon@co.sanmateo.ca.us
cc: bcameron@co.sanmateo.ca.us, jeggemeyer@co.sanmateo.ca.us,
dholbrook@co.sanmateo.ca.us, mhernandez@co.sanmateo.ca.us,
fmortazavi@co.sanmateo.ca.us, jdennis@co.sanmateo.ca.us,
mjacobs@co.sanmateo.ca.us

Subject: 1050 Acacia – 11/27/06 Letter to County - Zoning Regulation Violations

11/27/06

To: San Mateo County
Attn: Lisa Grote and Richard Gordon

Please find attached to this email a PDF version of a certified letter sent to the County dated 11/27/06. Also attached to this email are the photo attachments originally sent with a 11/6/06 email, the text of which is included in the certified letter.

For reference I have also attached a PDF version (without attachments) of the letter sent to the County dated 10/9/06.

From:
Robert Carey

The text of the 11/27/06 certified letter follows (same as attached PDF):

[IN EMAIL VERSION : TEXT OF 11/27/06 LETTER HERE]

**Attached Photos to 11/27/06 email:
(same as attachments to 11/6/06 email to SMC)**
1050-Acacia_Aug-27-2006_South-side_DSCF0008_red.jpg
1050-Acacia_Nov-7-2005_undeveloped-lot_DSCF0103_red.jpg
1050-Acacia_Nov-5-2006_South-side_DSCF0147_red.jpg
1050-Acacia_Nov-5-2006_South-side-neighbor_DSCF0145_red.jpg
1050-Acacia_Sept-4-2006_South-fence-from-front_DSCF0049_red.jpg