

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

DATE: December 4, 2014

TO: Zoning Hearing Officer

FROM: Planning Staff

SUBJECT: Consideration of a Certificate of Compliance (Type B) to confirm the legality of an existing 7,317 sq. ft. parcel, pursuant to Section 7134.2 and Section 7123, respectively, of the County Subdivision Regulations, located on Bishop Lane in the unincorporated Weekend Acres area of San Mateo County.

County File Number: PLN 2014-00257 (Rogers/Nelson)

PROPOSAL

The applicant has applied for a Certificate of Compliance (Type B). The subject parcel's land division, by which this parcel was created, must be legally confirmed prior to further development approvals. Accordingly, the Certificate of Compliance (Type B) is required to confirm this legality and to comply with the County Subdivision Regulations.

RECOMMENDATION

That the Zoning Hearing Officer approve the Certificate of Compliance (County File Number PLN 2014-00257), by making the required findings and adopting the conditions of approval identified in Attachment A.

BACKGROUND

Report Prepared By: Pete Bentley, Project Planner, Telephone 650/363-1821

Applicant/Owner: Nelson/Rogers

Location: Bishop Lane, Weekend Acres

APN: 074-303-170

Size: Approximately 7,317 sq. ft.

Existing Zoning: R-1/S-75 (Single-Family Residential/5,000 sq. ft. minimum parcel size)

General Plan Designation: Medium Density Residential (6.1 – 8.7 dwelling units per acre)

Parcel Legality: Portion of lots numbered eight (8) and nine (9) as shown on that certain map entitled "Map of Stanford Weekend Acres, property of the Tacoma Land Co., San Mateo County, California," filed in the Office of the County Recorder of San Mateo County, May 9, 1921, in Book 10 of Maps at Page 38. This application intends to confirm the legality of the land division that created this lot, thus allowing for possible development.

Existing Land Use: Undeveloped/Vacant

Water Supply: California Water Service

Sewage Disposal: West Bay Sanitary District

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X (areas determined to be outside the 0.2% annual chance floodplain), Community Panel No. 06081C0312E, dated October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines, related to minor alternations to land use limitations.

Setting: The subject parcel is located on the northerly side of Bishop Lane, a non-maintained County roadway, approximately 200 feet easterly of Alpine Road in the Stanford Weekend Acres area. The parcel is approximately one-half mile northeasterly of Highway 280 and is in a neighborhood of existing single-family residences built between 1924 and 1986. Sanitary sewers exist throughout the area, as do facilities for water and electrical connections.

DISCUSSION

A. KEY ISSUES

1. Invalid Clearing Violation

On August 4, 2014, a violation case (VIO 2014-00132) was opened as a result of clearing activity occurring on the subject parcel. The County Grading & Land Clearing Regulations (Section 8602.2) state that a land clearing permit is required when "the land to be cleared is 5,000 sq. ft. or greater, within any 2-year period...." At the time, the subject parcel's size was unknown; the applicant had estimated it at about 7,500 sq. ft. Upon inspection of the site (on October 21, 2014), the County Code Compliance Officer (CCO) noted that the extent of the clearing did not appear to reach the 5,000 sq. ft. threshold, adding that erosion control measures had been

implemented around the edges of the clearing activity. With that assessment, the violation case was tentatively closed. As processing of the subject Certificate of Compliance proceeded, staff asked the applicant for a definitive map confirming the parcel's size. Upon considering the possibility that the clearing activity may have exceeded the 5,000 sq. ft. limit, the violation was reactivated (under new file No. VIO 2014-00270). However, by the time the violation notice had been sent, the applicant had submitted a letter from his civil engineer (Attachment D) confirming that the area cleared was approximately 4,700 sq. ft. and a parcel survey (Attachment E) confirming the parcel size (7,317 sq. ft.), and the size of the area that had been cleared (4,700 sq. ft.) Upon review of this new information, the land clearing violation has been deemed invalid. However, prior to the violation case being formally closed, staff asked the applicant to submit a plan showing the type and location of erosion control measures implemented, for review and approval by the Community Development Director. Any changes to the plan deemed necessary will be required to have been implemented on the site prior to the Zoning Hearing Officer's approval of the subject Certificate of Compliance. A condition of approval (Attachment A) is recommended to require that any changes to the erosion control plan deemed necessary by the Community Development Director be made and confirmed by the County, and that the approved erosion control measures be maintained until such time as the parcel is developed.

2. Conformance with the General Plan

The proposal complies with General Plan (GP) Policy 8.13 (*Appropriate Land Use Designations and Locational Criteria for Urban Unincorporated Areas*) in that this portion of unincorporated Weekend Acres has a GP Land Use Designation of Medium Density Residential (6.1 - 8.7 dwelling units per acre). The proposal does not exceed this density, and this area is correspondingly zoned "Single-Family Residential/5,000 Sq. Ft. Minimum Lot Size" (R-1/S-75), with which the proposed project is in compliance relative to lot size (the subject lot is 7,317 sq. ft.). The project also complies with Policy 8.14 (*Land Use Compatibility*), in that the parcel's future and potential development with a single-family residence would "protect and enhance the character of existing single-family areas."

3. Conformance with subdivision Regulations

Two recent appellate court cases, *Abernathy Valley, Inc. v. County of Solano* (2009; 173 Cal. App. 4th 42) and *Witt Home Ranch, Inc. v. County of Sonoma* (2008; 165 Cal. App. 4th 543), have significantly affected the previously presumed legal status of lots within historic subdivisions recorded prior to 1937. These two court decisions established that the recordation of such subdivision maps does not, in and of itself, create legal parcels for land use and planning purposes. These decisions concluded that one or more

contiguously owned lots of such a subdivision could only be considered separately legal if they had been transferred, separately or together, by deed conveyance apart from any contiguous lots.

The County Subdivision Regulations, Section 7134, state that a Certificate of Compliance (CoC) is required to confirm the legality of parcels that were not created and approved pursuant to County Subdivision Regulations, to ensure compliance with provisions of the County and State subdivision laws in effect at the time of the parcel's creation. This process is required (with the CoC document being recorded) before any new development can proceed.

Section 7134.2 requires a CoC Type B when the subject parcel's land division history confirms that the parcel, in its current configuration, was not created (e.g., conveyed by deed) until after the County's first Subdivision Ordinance, effective July 15, 1945. In this case, the subject parcel is comprised of portions of Lots 8 and 9 as shown on that certain map entitled "Map of Stanford Weekend Acres" recorded in 1921. This lot was first conveyed in 1946, thus triggering the need for a CoC Type B (since such conveyance occurred after July 1945). The current owner/applicant acquired the parcel in 2013. A CoC Type B must be considered at a public hearing, and the conditions of approval require that the CoC document (which confirms the parcel's legality) be recorded prior to issuance of any other permit approvals or any associated grading or building permits.

Regarding conditions of approval, Section 7134.2.c(2) of the County Subdivision Regulations states that the Community Development Director may impose "any conditions which would have been applicable (to the division) at the time the applicant acquired his or her interest in the property, and which had been established at the time in the Map Act or the County Subdivision Regulations." The subject lot, totaling 7,317 sq. ft., was compliant with the zoning in 2013, when acquired by the current owner, as well as with the applicable Subdivision Regulations at that time (road access, sewer, water and power availability). This portion of Bishop Lane, which is not maintained by the County, consists of approximately twenty (20) parcels of which the majority have been developed previously with "single-family" residences. Additionally, water, sewer sanitary and energy infrastructure exists within this predominantly developed and improved neighborhood. Given these facts, along with the nature and intent of the previously cited court cases mandating that these lots legality be confirmed, there are no additional improvements (typical of an urban subdivision) that must be required via conditions. The only additional and applicable improvements (i.e., house planning and building permits, sewer, water and energy line laterals from the street to a future house) will be triggered and required at the time of the submittal and issuance of those respective permits. Thus, the Community Development Director, pursuant to

Subsection (c) of the above-cited Section, stipulates (aside from Condition No. 3 in Attachment A) that "compliance with the conditions of the Conditional Certificate of Compliance is not required until the time which a permit or other grant of approval for development of the property is issued by the County."

B. ENVIRONMENTAL REVIEW

The proposed parcel legalization is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15305, Class 5: minor alterations in land uses that do not result in any change in land use or density. The process and documentation to legalize the subject lots represent a minor alteration in land use.

C. REVIEWING AGENCY

County Counsel
Code Compliance Section

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location and Parcel/Zoning Map
- C. Original "Map of Stanford Weekend Acres"
- D. Letter from Lea and Braze Engineering regarding Clearing
- E. Site Plan Confirming Parcel Size and Showing Area Cleared

PSB:jlh – PSBY0886_WJU.DOCX

County of San Mateo
Planning and Building Department

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2014-00257 Hearing Date: December 4, 2014

Prepared By: Pete Bentley
Project Planner

For Adoption By: Zoning Hearing Officer

RECOMMENDED FINDINGS

For the Environmental Review, Find:

1. That the project is categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines (minor alterations to land use limitations).

For the Conditional Certificate of Compliance (Type B), Find:

2. That the processing of the Certificate of Compliance (CoC) (Type B) is in full conformance with (a) the County Subdivision Regulations Section 7134 (*Legalization of Parcels; Certificate of Compliance*) particularly Section 7134.2, and (b) Government Code Section 66499 et seq. (State Map Act) as described further in the staff report dated December 4, 2014.

RECOMMENDED CONDITIONS OF APPROVAL

Current Planning Section

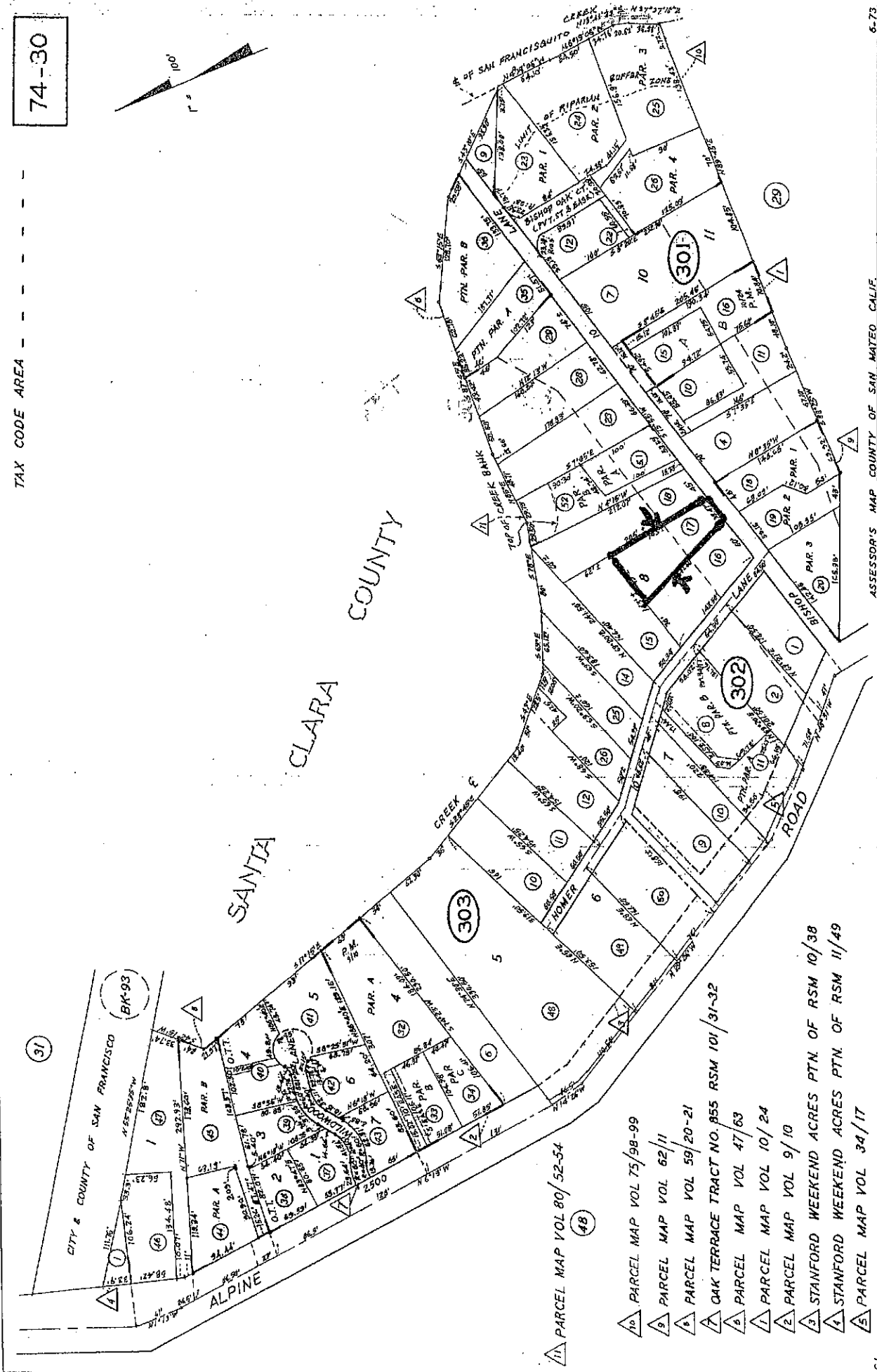
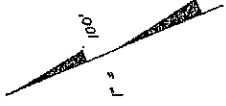
1. This approval applies only to the proposal as described in those plans, supporting materials and reports submitted on July 23, 2014 and September 11, 2014 and as approved by the Zoning Hearing Officer. Minor revisions or modifications to the project may be made subject to the review and approval of the Community Development Director, if they are consistent with the intent of and in substantial conformance with this approval.
2. The subject Certificate of Compliance (Type B), which shall represent portions of Lots 8 and 9 as one single developable parcel, shall be recorded, by the Project Planner, prior to the issuance of any other permits related to any development on this property.

3. Prior to recording the Certificate of Compliance, it shall be confirmed to the satisfaction of the Community Development Director that the erosion control measures, as implemented on the subject parcel, are intact and effective, per the approved plan, with any changes subject to the Director's review and approval. Additionally, the applicant shall keep and maintain the erosion control measures implemented on the subject parcel until such time as a building permit is issued for any future development.
4. The applicant is hereby informed that any future development on this parcel would be subject to compliance with the zoning regulations in place at that time, as well as with any applicable policies required by this zoning district.
5. This approval does not authorize the removal of any trees. Any tree removal or tree trimming will require a separate tree removal/trimming permit.
6. The applicant is advised that, prior to recordation of the Certificate of Compliance description, the owner/applicant shall provide the Project Planner with a check to cover the fee now charged by the Recorder's Office. The fee is estimated to be \$34.00 (which includes a "conformed" copy for distribution to the planning file and the applicant). The Project Planner will confirm the amount "prior to" recordation.

PSB;jlh -- PSBY0886_WJU.DOCX

TAX CODE AREA - - - - -

74-30



ATTACHMENT "B"

STATE OF CALIFORNIA
COUNTY OF SAN MATEO

San Mateo, State of California, hereby certifies that there are no liens for unpaid taxes against parcels hereinafter described which were in effect on the 22nd day of April, 1921.

The Board of Supervisors of San Mateo County by their regular meeting on the 22nd day of May, 1921, duly authorized the Clerk of said Board to endorse their approval of the within map.
D. J. [Signature]
Clerk of the Board of Supervisors.

Mr. Geo. A. [Signature], County Surveyor and a duly sworn, County Surveyor, of San Mateo County, California, has caused to be prepared this map thereon, the same having been carefully examined, by an agent or representative, duly sworn, by an agent or representative of the proper authorities, and he hereby certifies that the same conform to the provisions of the Act.

Let Parcels and dimensions shown include to center line of San Francisco Creek and to center line of the Highway.
Numbers within circles Lot Nos.
(c) Indicates position of 2 1/2 rounded levees with Lot nos. indicated thereon.

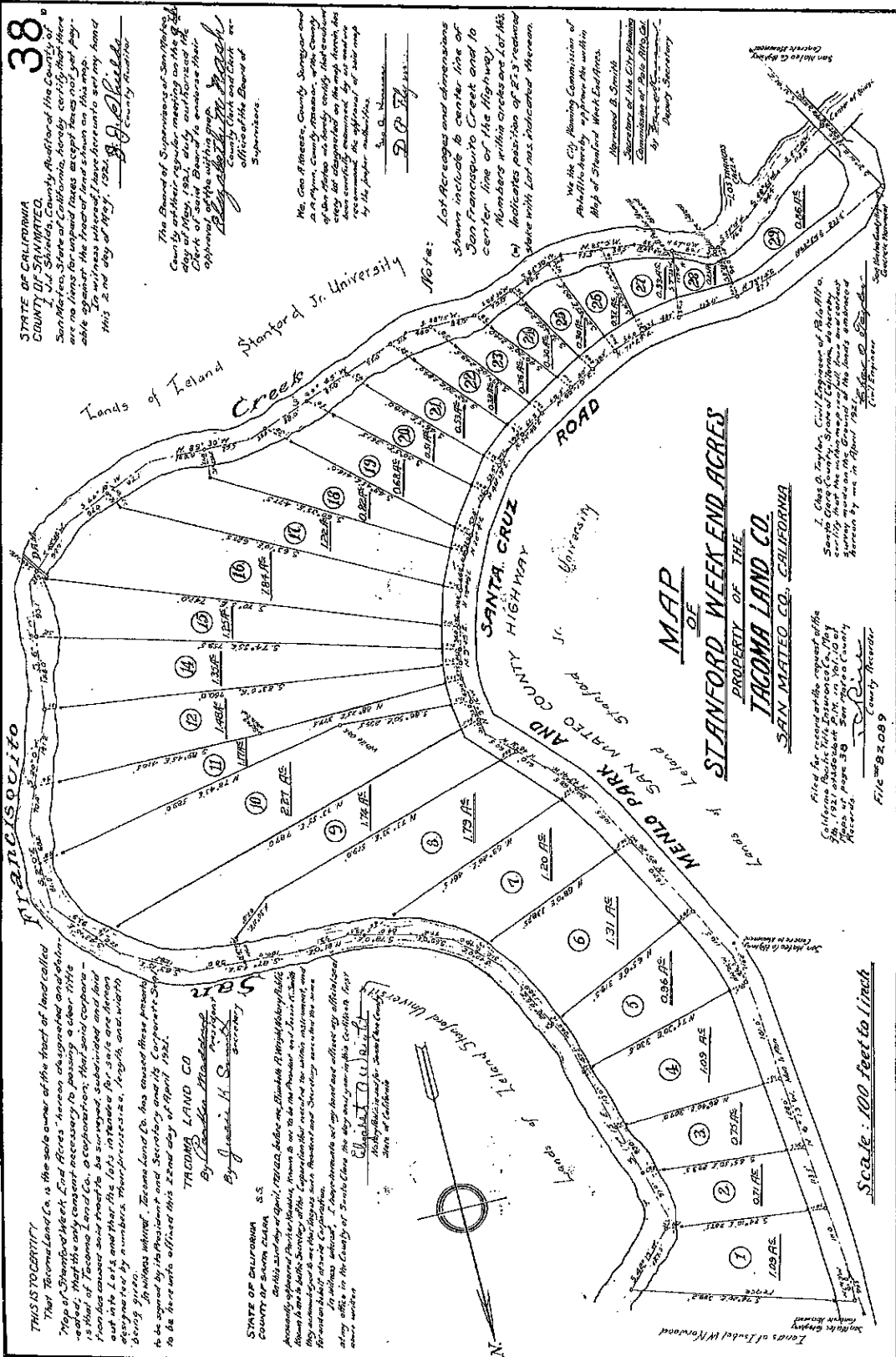
We the City Planning Commission of Pacific hereby approve the within Map of Standard Work Endlines.
[Signature]
Secretary of the City Planning Commission of Pacific
Deputy Secretary

I, Chas. O. Taylor, Civil Engineer of Palo Alto, San Mateo County, State of California, do hereby certify that the within map and plat have been carefully examined and that they were prepared and drawn by me in April, 1921.

THIS IS TO CERTIFY
That Tacoma Land Co. is the sole owner of the tract of land called
"Map of Standard Week End Acres" herein designated and herein
referred to; that the only consent necessary to publish this map
is that of Tacoma Land Co., a corporation; that said consent
has been given and that the parcels hereon shown for sale are hereon
set out in Lots, and that the number, size, length, width, and worth
of each parcel, is as shown on the within map, and is as follows:
In witness whereof, Tacoma Land Co. has caused these presents
to be signed by its President and Secretary and its Corporate Seal
to be hereunto affixed this 22nd day of April, 1921.

TACOMA LAND CO
By [Signature]
Secretary

STATE OF CALIFORNIA
COUNTY OF SAN MATEO
I, Geo. A. [Signature], County Surveyor and a duly sworn, County Surveyor, of San Mateo County, California, do hereby certify that the within map thereon, the same having been carefully examined, by an agent or representative, duly sworn, by an agent or representative of the proper authorities, and he hereby certifies that the same conform to the provisions of the Act.



MAP
OF
STANFORD WEEK END ACRES
PROPERTY OF THE
TACOMA LAND CO.
SAN MATEO CO., CALIFORNIA

Filed for record in the regular office
of the County Clerk of San Mateo County,
California, on the 22nd day of April, 1921, in
Book of Maps 38 San Mateo County
Records.

FILE # 82089
County Recorder

Scale: 100 feet to 1 inch



LEA & BRAZE ENGINEERING, INC.
CIVIL ENGINEERS | LAND SURVEYORS

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Sacramento Region:
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Roseville, CA 95661
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Fx: 916.797.7363

November 3, 2014

Pete Bentley
County of San Mateo
555 County Center
5th Floor
Redwood City, CA 94063

Subject: Vacant Lot, Bishop Lane, Menlo Park (APN: 074-303-160)
Vegetation clearing analysis
Job: 2141019

Dear Mr. Bentley,

This letter serves as my review of the above mentioned project with the respect to the amount of land clearing that has taken place recently of the existing vegetation. I have walked the site, reviewed the project topographic survey and reviewed the site conditions prior to vegetation removal on Google Earth. I have determined that that area of disturbance is approximately 4,700 s.f. This is based on review of the site and determining where significant locations of vegetation were removed and observing where the ground was run over with equipment, but vegetation was not removed. Areas under the existing tree canopy and areas where an existing shed that remains undisturbed has also helped me come to this conclusion.

Please let me know if you have any questions.

Sincerely,

Jim Toby, P.E., P.L.S.
Principal



ATTACHMENT "D"



LEA & BRAZE ENGINEERING, INC.

CIVIL ENGINEERS & LAND SURVEYORS

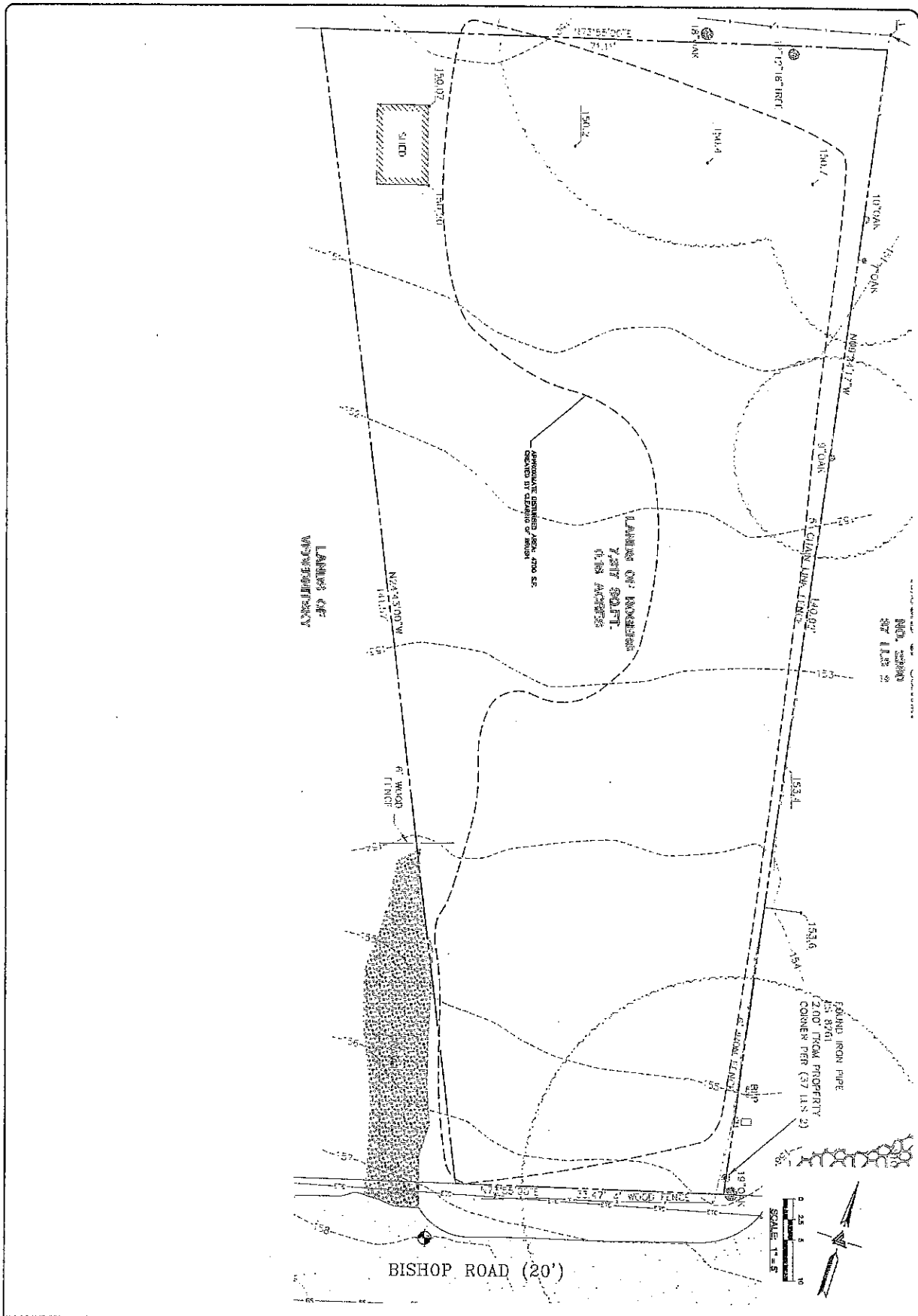
LANDS OF ROGERS BISHOP LANE, MENLO PARK

North: 4495.6506	East : 5367.4515
Line Course: N 09-24-17 W	Length: 140.92
North: 4634.6764	East : 5344.4241
Line Course: S 73-55-00 W	Length: 71.11
North: 4614.9764	East : 5276.0974
Line Course: S 24-43-00 E	Length: 141.57
North: 4486.3761	East : 5335.2923
Line Course: N 73-55-00 E	Length: 33.47
North: 4495.6485	East : 5367.4522

Perimeter: 387.05 Area: 7,317. sq. ft. 0.16 acres

Mapcheck Closure - (Uses listed courses and chords)
 Error Closure: 0.0022 Course: S 19-51-48 E
 Error North: -0.00204 East : 0.00074
 Precision 1: 175,940.91

ATTACHMENT "E"



NO. 2380	DATE	BY	CHKD.
11-2-14	11-2-14	JF	JF
1" = 5'			
DRYAN BN	JF		
SHEET NO.			

GRADING &
DRAINAGE PLAN

NEW RESIDENCE
BISHOP LANE
MENLO PARK, CALIFORNIA

SAN MATEO COUNTY
APRIL 074-303-160

LEA & BRAZE ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS

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