

-----Original Message-----

From: [REDACTED]
Sent: Saturday, July 9, 2022 10:05 AM
To: Vinson Kwan <vkwan@cityofsanmateo.org>
Subject: 415 Fairfax Avenue

Vinson,

I am writing again to urge the Planning Commission to deny a permit for demolition of the above. Our neighbors want to preserve the style of architecture which is the charm of Baywood and replacing this historic home with a more contemporary structure will be a step towards destroying our beloved area. As a resident of Fairfax Avenue for 50 years, I have seen that it is possible to make changes but still maintain the character of the area. Unfortunately, the proposed project will have the opposite effect. Thank you.

Jeanne Bosschart

[REDACTED]

Sent from my iPad

From: Jerry Davis [REDACTED]

Sent: Saturday, July 09, 2022 3:10 AM

To: City Council (San Mateo) <CityCouncil@cityofsanmateo.org>

Subject: Fwd: Don't demolish our historic neighborhood in favor glass boxes with no personality. These are my thoughts and requests regarding destruction and OVERDEVELOPMENT.

1. **Follow CEQA regarding historic resources**--The City is required to follow proper CEQA procedures and prepare an Environmental Impact Report before making a decision
2. **Save the two Heritage Oak trees**--Don't allow removal of one Heritage coastal live oak tree and damage to a second Heritage coastal live oak trees on the property. The plans as proposed will result in the loss of both trees. Retaining walls, large plantings, irrigation, and a large part of the pool would be located in the Heritage oak tree protection zone and result in a significant loss of tree roots.
3. **We are asking the City to recognize and value our historic buildings.**

I urge you not to destroy everything I moved here for.

Respectfully

Jerry Davis

[REDACTED]
[REDACTED]
[REDACTED]

Be wise in word and in deed

From: Mike Etheridge [REDACTED]
Sent: Sunday, July 10, 2022 8:50 PM
To: Planning Commission <PlanningCommission@cityofsanmateo.org>
Cc: Patrice Olds <polds@cityofsanmateo.org>; Christina Horrisberger <chorrisberger@cityofsanmateo.org>
Subject: RE: PA-2021-066 415 Fairfax Ave

Chair Williams and Commissioners -

I have been following the controversy with respect to 415 Fairfax Ave and the aggressive coordinated efforts to delay and block this home construction project the Alstons have been working on.

I have known Gene and Nicole for over 20 years now and consider them good friends, they have raised a beautiful family and have contributed so much to the San Mateo community in the years they have lived here and in Burlingame. I am surprised and disappointed to see such a lack of neighborly welcome and fellowship towards them - the City of San Mateo and the Baywood neighborhood are lucky to have them.

Looking at their current design I believe it is a beautiful project that fits in well with the neighborhood; noting it is a change from the current layout, which causes consternation for some, but a change that reflects intentional effort to address feedback and comments over the last few years and fit into the greater neighborhood.

I encourage and hope the Commission sees fit to adopt the resolution as drafted by the Community Development Department. This project is in compliance with all applicable Zoning Code standards, and I specifically note the F.A.R. is within maximum allowed and also considerably lower than several other existing residences on Parrott, Fairfax, and other Baywood streets. I would like to mention that I appreciate and agree with the condition of allowing for the backyard Live Oak tree removal only if the ADU will cause adverse effects.

Thank you for your service to the City and kindest regards / Mike Etheridge

--

Mike Etheridge

home [REDACTED]
cell/text: [REDACTED]

From: crystal hayling [REDACTED]
Sent: Monday, July 11, 2022 5:43 AM
To: Patrice Olds <polds@cityofsanmateo.org>; Planning Commission
<PlanningCommission@cityofsanmateo.org>
Subject: Support for 415 Fairfax project

Dear San Mateo Planning Commission,

We are writing to express our strong support for the Alston family's proposed home at 415 Fairfax Ave., in San Mateo.

The plans clearly follow guidelines and rules for construction. The style is similar to many homes in the neighborhood.

We have known Gene and Nicole and their 2 lovely children for many years and know they will be wonderful neighbors and assets to the community.

Warmest regards,

Chris Misner and Crystal hayling
[REDACTED], San Mateo, CA

From: James Isaacs [REDACTED]
Sent: Sunday, July 10, 2022 10:08 AM
To: Patrice Olds <polds@cityofsanmateo.org>
Cc: Planning Commission <PlanningCommission@cityofsanmateo.org>
Subject: 415 Fairfax

Dear Patricia:

I hope you are well.

I wanted to write in support of the proposed remodel at 415 Fairfax, San Mateo put forward by Gene and Nicole Alston. The plans are within scope of code restrictions and meet overall size requirements, ratio of house size to lot and will be an aesthetic improvement fitting the wonderful style of the neighborhood. I hope Gene and Nicole Alston can gain approval and build their dream house. They are a lovely family and will be wonderful in the community.

My wife and I have lived in San Mateo since 1989, raising our family here. We have owned three houses, including one in Baywood for eight years. We have enjoyed seeing the town grow and prosper. A key part of that has been the steady, incremental improvement in each and every property as homeowners exercise their rights and deploy their own resources to improve them.

Wishing you the best in all of your endeavors.

Best,

James Isaacs
[REDACTED]
San Mateo, CA 94402

From: Steve McKay [REDACTED]
Sent: Friday, July 8, 2022 12:08 PM
To: Planning <planning@cityofsanmateo.org>
Cc: Vinson Kwan <vkwan@cityofsanmateo.org>
Subject: Planning Commission Mtg - July 12 - Item 2: 415 Fairfax Ave.

Dear Planning Commissioners,

Firstly, thank you for the long hours and hard work you provide for the welfare of our great community. You are very generous in your service and we are lucky to have you.

My family lives at [REDACTED], directly [REDACTED] the property at 415 Fairfax that is being considered for demolition. I urge you to reject the Resolution for the Special Use Permit (SUP) that would destroy this wonderful historic home, directly harm many neighbors in the community, and result in the senseless loss of life.

In 20 years of living in our home, we have seen many dozens of renovation projects by our neighbors. We've supported all of them. In general, when someone invests in their home, they are helping the entire community--all boats rise.

The proposed project at 415 Fairfax is the exact opposite. This is a zero-sum proposal in which the gain of the owners of 415 Fairfax will come from the loss and harm of their neighbors. That harm will come in many forms, including:

- Destruction of a historic home that is integral to the neighborhood architecture
- Destruction of value in neighbors' homes (our homes will all be worth less)
- Invasion of privacy (a massive ADU will now peer over our fence)
- Destruction of shade and air quality for surrounding homes

For these reasons, **this project is opposed by every single contiguous neighbor of 415 Fairfax.**

My family got our first, small dose of harm from this project recently when PG&E showed up and dug up our backyard, killing trees in the process. When I asked PG&E who ordered this, they simply told me that the house across the fence was being demolished and PG&E was instructed to terminate the gas service (which unfortunately runs through our backyard). We felt violated. Imagine how our dead lemon tree felt.

This brings me to the topic of the wonderful oak trees on 415 Fairfax. It has taken many decades for them to reach their current state--majestic, beautiful, functional, and perfectly healthy. They are comfortably far from the footprint of the home and fit in perfectly with the neighborhood. It is my understanding that these are protected heritage trees and the city's arborist is responsible for preserving this category of tree in our community.

The plans for 415 Fairfax include the removal of at least one oak tree. These trees need to be protected because they:

- Are protected by law

- Provide important functions for the neighborhood: shade, privacy, beautification, air quality, etc.
- Are perfectly healthy
- Can be preserved without requiring significant changes to the proposed plans
- Are living and breathing members of our community

When we raised the issue of the trees with the architect, he used carefully scripted language but effectively told us that the homeowners can do whatever they want. It is my understanding that a permit for the tree removal was denied and, even then, the applicants continue to insist on it. It's one thing to ignore the neighbors' input; quite another to ignore applicable laws and ordinances.

Finally, the current plans for the home reflect walls of privacy trees that don't currently exist. We would like to know exactly what trees are being planned and what their height would be on Day 1. We also ask that the Planning Commission instruct the architect and homeowners to work in collaboration with their neighbors, not in combat with them, and to consider our input into the project as it relates to protecting the architectural integrity of the neighborhood, preserving protected trees that perform an important role for all of us, and ensuring the privacy of our homes.

Thank you for your consideration. Thank you for your service.

Sincerely,
Steve McKay

A solid black rectangular box used to redact the signature of Steve McKay.

From: Jon New [REDACTED]
Sent: Sunday, July 10, 2022 8:40 PM
To: Clerk <clerk@cityofsanmateo.org>
Subject: Public comment on 415-Fairfax-Avenue

Hi, I'd like to submit the following for public comment for the Planning Commission Public Hearing regarding 415-Fairfax Avenue.

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I just wanted to compliment the applicant on their plans for their beautiful new home and welcome them to the neighborhood.

It's unfortunate that many of the applicant's neighbors do not share these sentiments. In fact, it reflects poorly on them that they have spent so much energy to needlessly antagonize the applicant about their perfectly legitimate and reasonable construction plans. I hope in the future they can spend their energy welcoming new neighbors and fostering community.

Thank you,

Jonathan New
San Mateo

To: City of San Mateo
From: Peter Sortwell Certified Arborist WC #361
RE: 415 Fairfax, San Mateo

This letter serves as a rebuttal to the removal of Oak Tree # 1 and preservation plans for Oak Tree #4.

In respect to the well written arborist report by Kielty Arborist Services there are other considerations in regards to their recommendations.

Tree # 1 is properly defined as a “Heritage Tree”. The purpose of designating trees as *Heritage* is primarily to help preserve our tree canopy. The tree is not “poorly located” and is in better than “fair condition”.

Three surrounding neighbors have voiced concerns about the trees removal and the impact it would have on their privacy.

Therefore, preserving this “Heritage Tree” for the good of the neighborhood and Baywood’s tree canopy environment should be a strong consideration.

Tree #4 is in an area that will undergo significant environment changes. Excessive root removal, irrigation changes, retaining wall construction and grade changes that will ultimately cause severe stress to this tree over the long term. The ending result would necessitate removal. This would add to the property exposure and lack of privacy for the surrounding neighbors.

Thank you for your consideration of this proposed construction project.

Peter Sortwell
Certified Arborist WE-361
Founder, Arborwell Professional Tree Service
Past Board & Chairman, Tree Care Industry Association
[REDACTED], San Mateo CA, 94402



SAN MATEO HERITAGE ALLIANCE

July 11, 2022

VIA EMAIL

San Mateo Planning Commission
330 W. 20th Ave.
San Mateo, CA 94403

SUBJECT: 415 Fairfax Avenue PA2021-066

Dear Commissioners:

Please accept this letter that presents the concerns of the San Mateo Heritage Alliance regarding the subject project and the staff report posted on July 10, 2022. Our key comments, that will be discussed below include:

- 1) We are against the proposed demolition and construction project and ask the Planning Commission to deny the applications.
- 2) The house is a historic resource, based on substantial evidence and a fair argument.
- 3) The City is required to follow proper California Environmental Quality Act (CEQA) procedures and prepare an Environmental Impact Report (EIR) before making a decision on whether to approve the demolition permit because the house qualifies as a historic resource.
- 4) The project cannot be exempt from CEQA review because it will adversely affect a historic resource through demolition.
- 5) Please deny the application and do not allow removal and damage to the two protected heritage coastal live oak trees on the property.

COMMENTS ON THE PROPOSED PROJECT

Do not allow demolition of 415 Fairfax

This project has united the neighborhood and neighbors from other neighborhoods. The community has united against the demolition of an architectural jewel. We ask the City to follow City policies and CEQA and protect our historic resources.

Baywood is a Historic District Eligible for the National Register of Historic Places

1. Richard Brandi, a noted architectural historian, identified Baywood as a historic district eligible for listing on the National Register of Historic Places in his 2022 historic resources report: *Historic Asset Analysis* prepared for the Baywood Neighborhood Association (Brandi 2022).



2. The 1989 Downtown Historic Building Survey identified the Baywood neighborhood as a historic district
3. The 1990 letter from the State Historic Preservation Officer identified Baywood as a National Register of Historic Places-eligible historic district.

415 Fairfax is a contributor to the Baywood Historic District and is therefore a Historic Resource

1. Richard Brandi found the house at 415 Fairfax is intact and maintains its integrity with 1933 Spanish Revival architecture, and therefore is contributor to the Baywood Historic District.
2. A contributor to a historic district is considered an historical resource under the California Environmental Quality Act.
3. As stated in San Mateo General Plan policy C/OS 8.1, bullet 4:
 - a. Historic building shall mean buildings which are on or individually eligible for the National Register or Downtown Historic District contributor buildings as designated in the 1989 Historic Building Survey Report, or as determined to be eligible through documentation contained in a historic resources report. The City Council by resolution may add or delete any building which it finds does, or does not, meet the criteria for the National Register or other criteria.

The city is not recognizing the historic resource identified by a qualified historian

1. In response to Laurie Hietter's letter requesting the City consider the effects of demolition in a CEQA document the city said,
 - a. "While there was initial survey work completed that identified these three referenced neighborhoods as being potentially historic, the necessary evaluations, surveys, and analysis from a qualified architectural historian to evaluate the eligibility for listing on the California Register as a historic district have not yet been completed.
2. Attorney Rachel Mansfield-Howlett submitted to the City the necessary report from Richard Brandi, a noted architectural historian. Mr. Brandi identified Baywood as a historic district eligible for listing on the National Register of Historic Places in his 2022 historic resources report: *Historic Asset Evaluation of the Baywood Neighborhood*.

The City is not following CEQA

1. The house at 415 Fairfax was determined to be a contributor to the Baywood Historic District, which is eligible for the National and California Register of Historic Places, and is therefore a historic resource
2. There is substantial evidence the house is a historic resource
3. The City cannot issue a categorical exemption for demolition of a historic resource

4. An EIR must be prepared to consider alternatives to demolition and define mitigation for loss of a historic resource before the City can make a decision on the application for demolition
5. The City is evaluating a discretionary project (demolition) and a ministerial project Single Family Dwelling Design Review (SFDDR) under a Categorical Exemption. because the demolition is discretionary. The court says:
 - a. The statutory distinction between discretionary and purely ministerial projects implicitly recognizes that unless a public agency [is authorized to] shape the project in a way that would respond to concerns raised in an EIR, or its functional equivalent, environmental review would be a meaningless exercise."
 - b. CEQA-triggering discretion is being exercised by the agency

We request the City consider:

"The foremost principle under CEQA is that the Legislature intended the act 'to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.' " (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 390, citing Friends of Mammoth v. Board of Supervisors (1975) 8 Cal.3d 247, 259.)

The Applicant is not following the City's Guidelines

The *Single-Family Design Guidelines* ("Design Guidelines" or "Guidelines") address the construction of new single-family dwellings and second story additions to single-family dwellings, and how the building's size, architectural character, and relationship to the street and nearby houses contribute to successful neighborhoods. The intent of these Guidelines is to have new single-family dwellings and second-story additions enhance the livability of San Mateo neighborhoods.

The proposed project does not meet the City's Design Guidelines.

1. *"When changing the front of a house, avoid making the garage the dominant feature as seen from the street."* (pg. 12)
 - a. The garage is the main feature in the front of the house
2. *Immediate context – how does the house relate to adjacent houses?*
 - a. The 1940s style does not relate to the adjacent houses, which are Mediterranean, Tudor
3. *Neighborhood context – how does house relate to visual character and scale of other houses in general vicinity?*
 - a. The house is massive and does not respect established building footprint pattern of the neighborhood
 - b. The house copies a 1940s house instead of homes from the 1920s, which are characteristic of the neighborhood.

4. *"Observe the scale of houses in the neighborhood to determine if there is a common size or shape to houses in the neighborhood. If a common size or shape exists, respect the scale of the neighborhood through building sizes and shapes compatible with the houses in the neighborhood."*
 - a. The house is bigger than 73% of homes sold in 2020-2021
5. *"Where feasible, place the primary volume of a second-story addition over the house instead of only over the garage."*
 - a. The volume of the house is over the garage
6. *"Design house additions to respect adjacent neighbor privacy through careful placement of second-story massing and other architectural solutions."*
 - a. Design has full second story, one wall (NE) with windows only 10' from property line and first floor bay window right at the 5' setback from property line.
7. *"Use exterior materials that are common to the neighborhood and compatible with the architecture of the house." (pg. 28) "Use exterior materials that are of a similar or better quality of those used in the neighborhood..."*
 - a. Windows do not reflect the neighborhood
 - b. The house includes stick-on stone, asphalt shingles, etc.

DO NOT ALLOW REMOVAL OR DAMAGE TO TWO HERITAGE OAK TREES

The Kielty Arborist Services LLC, letter to Michael Callan dated March 2, 2022, revised April 18th, 2022, is considered the arborist report. The arborist report and the proposed plans show the project will remove one heritage coastal live oak and the roots of the second heritage coastal live oak will be irreparably damaged by planting trees, irrigation, and constructing a retaining wall, and a pool in the tree protection zone. The arborist report describes:

- Coast live oak tree #1 to be removed: 33.1 diameter at breast height, 60 ft. tall
- Coast live oak tree #4 to remain: 47.1 dbh, 45 ft. tall
- Applicant will construct the following in the oak tree protection zone:
 - About 10 ft of pool
 - 3 ft high retaining wall that requires 2-3 ft of excavation over about 50 feet
 - 36-in box trees, requiring at least 3-4 ft of excavation
 - Extensive irrigation

The coast live oak tree #1 to be removed and tree #4 are heritage trees because they are oaks and have a diameter of 10 inches or more (dbh of 33.1 inches and 47.1 inches, respectively).

Application for the Heritage Tree Removal was Denied by City Arborist

- The applicant submitted an application to remove the protected coast live oak tree #1 to allow for an 800 sq ft ADU.
- That application was rejected by the Parks & Recreation Department; therefore, tree protection measures will be required for both trees.

- The applicant was directed (in the City comment on the application) to change the arborist report and the project plans accordingly. Project plans were not changed to relocate the ADU or pool.

The proposed plans are not consistent with the City's Protected Tree Ordinance, which represents a significant impact under CEQA

The project does not meet any of the City criteria for allowing removal of the heritage trees:

1. The trees are in good condition
2. The trees are not a danger to the people or property
3. The trees do not interfere with existing structures or utility services
4. It is not necessary to remove the trees to allow reasonable economic enjoyment of the property
5. The effect of tree removal on erosion and soil retention has not been addressed

The arborist's review of alternate ADU locations is inadequate

The arborist's report contains a review of different ADU locations on the lot. The alternatives analysis should be conducted by the architect and extend beyond relocating the 800 square foot area on the lot. The house plans should be revised to incorporate an ADU within the footprint of the house without causing damage to the heritage trees on site.

Inadequate impact analysis in the arborist's report

The arborist report states the Coast Live Oak tree #4 is located 28 foot 3 inches from the proposed pool. The pool extends over 11 feet into the 39.2-foot tree protection zone. The impact analysis states 15% of the roots would be removed.

The impact analysis in the arborist report does not address the impacts from the trenching required for installation of the 36-inch boxed trees and the retaining wall in the tree protection zone.

The City Arborist should conduct an independent review of the arborist report because this second version of the report does not address the issues presented by the City in their comments and is not consistent with the Protected Tree Ordinance.

Inadequate tree protection plan for protected heritage coast live oak tree #4

Coast Live Oak tree #4 is located 28 feet 3 inches from the proposed pool, well within the 39.2-foot tree protection zone.

The arborist's report states:

“The location of the tree protection fencing is required to be placed at the 10x the diameter of the trees **where possible**. Where not possible due to approved work, the tree protection should be placed at the edge of the approved work with enough space given for the work to safely take place.”

This statement “where possible” essentially negates the required tree protection zone. The project plans give the contractor discretion on when to respect the tree protection zone. The recommended tree protection zones shown in the arborists report do not reflect the required 39.2-foot zone and show a large cut-out for the pool. The tree protection zone should be installed for the full 10x diameter of the trees. The pool and other features should not be excluded from the tree protection zone.

We request another arborist review the plans, a complete impact assessment for the trees, and provide a revised tree protection plan.

The root cutting and irrigation will likely kill the protected heritage oak tree #4.

The current plans show the coastal live oak tree #4 will be subject to major pruning/root cutting for the proposed:

- Pool will encroach over 10 feet into the tree protection zone
- Excavation for almost 50 feet of retaining walls
- Planting twelve 36-inch box trees
- Extensive irrigation

No work should be approved within the tree protection zone.

The City Protected Tree Ordinance Administrative Guidelines state:

Major Pruning

Major Pruning means any pruning of a Street Tree or removal of more than 25% of the crown or existing foliage of the Heritage Tree, **or any root cutting** within a radius of six times the trunk diameter, topping, or any other pruning that has the potential to negatively affect the condition of a tree as determined by the Managing Arborist in accordance with the current editions of the American National Standards Institute A-300 Best Management Practices.

The root cutting required for the installation of the 36-inch box trees, and rock wall will likely result in substantial cutting of the tree roots, which will have a negative effect on the tree.

COMMENTS ON STAFF REPORT

The staff report for the 415 Fairfax project presents a partial analysis of the proposed project. The draft approval combines the Special Use Permit, a discretionary action, with the Single Family Dwelling Design Review.

Special Use Permit for Substantial Removal of an Existing Residence (PDF p. 3)

“Municipal Code Section 27.18.035. The Municipal Code also requires that the application for a new residence be submitted concurrently with the SUP application, which the applicant complies with. In addition, the City must find that the granting of the SUP will not adversely affect the general health and

safety of the community and that the SUP will not cause injury or disturbance to adjacent property through impacts such as traffic, noise, or dust.

As a condition of approval, the applicant is also required to obtain a demolition permit from the Building Division and comply with noise, dust control, and material hauling measures during the project's construction period. The City also engaged its historic preservation consultant, Bridget Maley of *architecture + history*, to prepare a historic resources evaluation (Attachment 5), which concludes that the existing residence does not qualify as a historic resource. As such, staff's evaluation of the proposed demolition of the existing residence is that findings to approve the SUP can be made, which are discussed in greater detail within Attachment 1."

- The SUP is a discretionary action. The City has not conducted the analysis of traffic, noise and dust, which represents a deferred analysis
- The scope of work for the historic consultant was limited in that it did not address the historic district at all.

Single Family Dwelling Design Review (SFDDR) (p. 3 and 4)

"...a new residence that employs similar building materials and colors and proposes an architectural style utilizing traditional architectural features such as decorative corbels, oriel bay windows, and decorative columns which are compatible with residences found in the neighborhood."

Traditional elements tacked on to a building don't make the building traditional or consistent with the neighborhood. Thin stick-on stone (which the architect criticized in the description of modifications made to the back of the original house) is not a traditional or quality material used in the 1920s and 1930s homes.

Neighborhood Concerns (p. 4 of PDF)

"Since application submittal, staff has received several public comment letters in opposition of the project..."

Several: Over 60 letters were received from the community (p. 6 of PDF).

Historic Analysis (p. 4)

"The report prepared by Richard Brandi, however, does not appear to be a complete analysis of the Baywood neighborhood in that it does not indicate a district boundary and does not identify or rank contributors to the district."

The neighborhood and district is defined on page 1 and Figure 2 of the Brandi report. The report identifies several representative homes that are potential contributors and a separate report identifies 415 as a contributor to the district.

"The focus of the City's CEQA analysis is based on whether the structure proposed to be demolished qualifies individually as a historic resource, which it does not, as determined by the project's historic resources evaluation."

The City and its historian are inappropriately limiting the scope of historic analysis. The Brandi historic report and letter regarding 415 Fairfax are substantial evidence the house is a historic resource. See the excerpt from the CEQA Guidelines below.

Historical Resources (CEQA Guidelines Section 15064.5 (a))

“(a) For purposes of this section, the term “historical resources” shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR. Section 4850 et seq.).

(2) A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency’s determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work Guidelines for Determining Significance 6 Cultural Resources: Archaeological, Historic, and Tribal Cultural Resources of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

(4) The fact that a resource is not listed in, or determined eligible for listing in the California Register of Historical Resources, not included in a local register of historical

resources (pursuant to Section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resource Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code Section 5020.1(j) or 5024.1. 1.2 National Register of Historic Places Criteria.”

The City should recognize the Brandi reports, and the State Historic Preservation Officer’s assertion that Baywood is a historic district eligible for listing on the National Register of Historic Places.

The Impact Analysis in the Historic Report does not reflect the CEQA Guidelines direction:

Phase 2 Impact Analysis

“Note that if a project will affect a significant historical (e.g., one that is eligible for inclusion on a federal, state or local list or register), then the project is not exempt from CEQA (CEQA Guidelines Section 15300.2(f); the “exception to the exemption”). This is the case even if the project only requires a simple or ministerial permit (e.g., a Land Use Permit or Coastal Development Permit for demolition of a structure). In such instances, an Initial Study should be prepared.”

Protected Tree Removal (p.6)

The design review reflects the effects on one tree. In fact, the plans will kill the second protected oak tree by installing the pool, 12 36-inch box trees, retaining wall, and irrigation in the tree protection zone, affecting a substantial amount of the root zone.

The condition of approval indicated the City should have conducted environmental review.

Public Comments (p. 6)

“...informational meeting on August 4, 2021 and received comments from eight members of the public.”

There were nine commenters, and many comment letters were sent to the architect and planner. Many comments stated the house should not be demolished, and addressed the size and mass of the proposed house. The architect understated comments and misrepresented community comments, in both of his attempts to summarize public comments.

“On January 6, 2022, City Staff met with three representatives of the interested parties to discuss the project application status, City process in reviewing Planning Applications, Design Guidelines, State-wide accessory dwelling unit guidelines, historic preservation ordinance, and to field any additional questions.”

The City asked us to limit the number of participants in the meeting and to designate key representatives. Many residents requested a second public meeting; the request was denied.

“Public comments on the project generally pertained to:

- Historic resource impacts
- Design review
- Heritage tree removal
- Accessory dwelling unit size”

Opposition to the demolition, requests for additional meetings, and the size and mass of the project were also key comments.

Community Meeting

The architect misrepresented the results of the public meeting and Mr. Kwan directed him to revise the notes. The revised notes in Attachment 11 (p. 141 of PDF file) are inaccurate.

There were 22 people on the call. Nine people spoke, most indicating the house should not be demolished. The others shared the concerns but did speak because they did not want to be repetitive. The meeting lasted 1.5 hours. See also the comments from Glenn Voyles (p. 247 of PDF). The architect misrepresented the public concern in his map and notes. He does not show residents beyond the 500-foot notification area, when in fact there were concerned residents from Aragon and Baywood Knolls, as well as many beyond the notification area.

Multiple requests for additional public meetings were not granted by City staff. Community members also requested story poles, which were not provided.

Environmental Determination (p.7)

“The existing residence was constructed in 1933 and was not included in the City’s Historic Building Survey conducted in 1989. Since the structure is greater than 45 years old, the City conducted a Historic Resource Evaluation which determined the existing residence at 415 Fairfax Avenue is not a historic resource under CEQA.”

The historic analysis was incomplete because it did not consider the potentially National Register-eligible Baywood Historic District identified in 1989 and confirmed by the State Historic Preservation Officer in 1990. The report should have been revised after Ms. Rachel Mansfield-Howlett submitted the Brandi reports to the City.

CEQA states:

“Whether formally listed in the National Register of Historic Places or not, places and areas that may qualify as historical resources need to be evaluated and considered in the CEQA process.”

From the Richard Brandi Historic Asset Analysis:

“The City of San Mateo Historical Building Survey Final Report concluded that the “Baywood,” “Baywood Knolls,” “Aragon,” and “San Mateo Park” neighborhoods should be documented as potential historic districts (San Mateo Historical Association, 1989); City of San Mateo Historical Building Survey Final Report, Linda Wickert, survey coordinator, September 1989). In 1990, the State Historic Preservation Officer wrote there “were two huge (500+ resources) Register-eligible

residential districts” west of El Camino. Letter from Kathryn Gualtieri, State Historic Preservation Officer, to San Mateo Mayor Thomas Mack, January 22, 1990.”

The 1989 survey was limited to downtown but the report acknowledges the existence of many large, eligible districts west of El Camino. The project historic report acknowledged the 1989 survey but ignores the potential districts.

In *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358, the Third District Court of Appeal held that the lay opinions of local community members created a fair argument of potentially significant aesthetic impacts of a proposed retail store. In this case, we have lay arguments and expert arguments by Richard Brandi and the State Historic Preservation Officer.

EXHIBIT A CONDITIONS OF APPROVAL , PA-2021-066, 415 FAIRFAX AVE., SUP + SFDDR (p. 12)

The City is applying 40 conditions to this project. The City is claiming the project is Categorically Exempt from CEQA yet is including 40 conditions, including many related to environmental issues, most notably protection of heritage oak trees, in violation of CEQA.

SUMMARY

- 6) We are against the proposed project and ask the Planning Commission to deny the applications.
 - a) Don't demolish the house.
 - b) Consider an alternative design that will preserve the historic nature of the neighborhood and preserve the protect heritage trees.
- 7) The house is a historic resource.
 - a) Richard Brandi, an architectural historian, determined the Baywood neighborhood qualifies as an historic district eligible for listing on the National Register of Historic Places.
 - b) Richard Brandi determined 415 Fairfax is a contributor to the Baywood Historic District
 - c) The contributor is considered a historic resource.
 - d) The historic report did not address the historic district identified by the State Historic Preservation Officer (1990) and Richard Brandi.
- 8) The City is required to follow proper California Environmental Quality Act (CEQA) procedures and prepare an Environmental Impact Report (EIR) before making a decision on whether to approve the demolition permit because the house qualifies as a historic resource.

- 9) The project cannot be exempt from CEQA review because it will adversely affect a historic resource through demolition.
- 10) Please deny the application and do not allow removal and damage to the two protected heritage coastal live oak trees on the property.
 - a) The plans as proposed will result in the loss of both trees, due to the extensive construction and root removal that will be necessary for the proposed pool, 12 trees, retaining wall, and irrigation that will be located in the tree protection zone.
 - b) The project does not meet any of the San Mateo Protected Trees Ordinance criteria for removing trees; the layout of the house could be configured to include an ADU.
 - c) The trees are in good health.

We ask the City to follow the intent of CEQA:

"The foremost principle under CEQA is that the Legislature intended the act 'to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.' " (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 390, citing Friends of Mammoth v. Board of Supervisors (1975) 8 Cal.3d 247, 259.)

Please conduct the appropriate CEQA analysis for this project, an Environmental Impact Report.

Sincerely,

Laurie Hietter

Laurie Hietter
for the San Mateo Heritage Alliance

cc: Vinson Kwan, Project Planner
Rendell Bustos, Senior Planner
Manira Sandhir, Planning Manager
Zachary Dahl, Deputy Community Development Director
Christina Horrisberger, Community Development Director

City of San Mateo
Planning Commission
PlanningCommission@cityofsanmateo.org

July 11, 2022

Via email

Re: 415 Fairfax Avenue PA2021-066

Dear Planning Commissioners:

On behalf of San Mateo Heritage Alliance, I submit this follow up letter to my April 18, 2022 letter regarding the historic home proposed for demolition at 415 Fairfax Ave.

As an initial point, I concur with the objections and legal points made by Laurie Hietter of the San Mateo Heritage Alliance in her letter submitted to the Planning Commission for the July 12 hearing and would like to add the following information regarding the City's proposal to consider the removal of a heritage oak tree post project approval and the CEQA implications of that decision.

A project that entails a mixed ministerial/ discretionary project of any kind is treated as discretionary under CEQA. (*Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, CEQA Guidelines, §15268(d).) All phases of a project must be considered as the "whole of the action," so that "environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Commission of Ventura County* (1975) 13 Cal.3d 263, 283–284; *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577; *Citizens Association for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 167.)

CEQA Guidelines section 15126 also provides that "[a]ll phases of a project must be considered when evaluating its impact on the environment ..." In this instance, any heritage tree removal or injury to the remaining heritage trees on the property are the direct result of the demolition of the residence and thus the removal/harm is intertwined with the proposed demolition and should be fully considered prior to project approval as a foreseeable consequence of the project.

In this instance, the applicant submitted an application to remove the protected coast live oak tree #1 to allow for an 800 sq. ft. ADU. That application was rejected by the Parks & Recreation Department. Although the application was denied, the City is allowing the applicant to come back, post project approval, to bring forward new evidence, outside of a public forum, that may result in the eventual removal of the heritage tree. In that event, residents would not be afforded any opportunity to rebut the evidence or object to the removal. The Alliance therefore requests that this analysis be conducted prior to project approval as part of the reasonable review of the “whole of the action”, taking into consideration all foreseeable actions that could result in environmental harm.

As explained in Laurie Hietter’s letter, the City’s treatment of the heritage trees is inconsistent with the City’s Protected Tree Ordinance. Evidence of a project’s arguable lack of consistency with a plan adopted for environmental protection can trigger preparation of an EIR. (*The Pocket Protectors*, 24 Cal.App.4th 903, at 934; *Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358; *Protect Niles v. City of Fremont* (2018) 25 Cal.App.5th 1129.) *John R. Lawson Rock & Oil v. State Air Resources Board* (2018) 20 Cal.App.5th 77 found that evidence of “inconsistencies between the proposed project and applicable general plans, specific plans and regional plans” created a fair argument mandating EIR review. *Friends of Riverside’s Hills v. City of Riverside* (2018) 26 Cal.App.5th 1137 agreed that a violation of city zoning (the Residential Conservation Zone) adopted for environmental protection could have a significant impact and thus trigger an EIR. Here, the City’s tree protection ordinance was adopted for the purpose of environmental protection and inconsistencies with its provisions can trigger preparation of an EIR.

Sincerely,



Rachel Mansfield-Howlett

cc: Vinson Kwan, Project Planner
Rendell Bustos, Senior Planner
Manira Sandhir, Planning Manager
Zachary Dahl, Deputy Community Development Director
Christina Horrisberger, Community Development Director

July 11, 2022

Planning Commission
City of San Mateo
330 West 20th Avenue
San Mateo, CA 94403
Via email

SUBJECT: 415 Fairfax, PA21-066

Members of the Planning Commission:

I am writing to respectfully challenge - as inaccurate and unsupportable - the *Resolution with Findings and Conditions of Approval* (Att. 1) for the application to demolish and replace 415 Fairfax Avenue in the Baywood neighborhood of San Mateo (PA21-066).

FINDING

“WHEREAS, a historical resources evaluation was completed on June 14, 2021 by the City’s Historic Preservation consultant, which finds that the existing residence does not qualify as an historical resource.”

CHALLENGE

The City’s Historic Preservation consultant did not evaluate the existing residence in the context of its contribution to a potentially eligible National or California Register historic district. This omission unnecessarily circumscribed the California Register criteria for significance, limiting the study of significance to individual significance only.

Subsequent studies by the Baywood Neighborhood Association’s Historic Preservation consultant assessed the significance of the Baywood subject area against all four National and California Register criteria and evaluated the subject property in its locational context within the study area. The original Baywood Subdivision was found to be an eligible historic district because it met two of the criteria: A) Associated with events that made a significant contribution to the broad patterns of our history, and; C) Embodies the distinctive characteristics of a type, period, or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction. The subject property, because of its date of construction, locational and architectural integrity, was determined to be significant as a contributor to the eligible district.

Substantial evidence has been provided to the City documenting the significance of Baywood as a historic district and 415 Fairfax as a contributor to that district - evidence that must be taken into consideration in evaluating the Project. The City’s Historic Preservation consultant’s June 14, 2021 report can only be considered complete if it is revised to include the additional information unknown to the consultant at the time of the original report.

FINDINGS

“WHEREAS, the City finds the Project consistent with the applicable policies of the General Plan and other applicable policies.”

“WHEREAS, the City finds that the Project is categorically exempt from CEQA under Section 15301(l)(1) and 15303(a).”

CHALLENGE

The Project is inconsistent with the applicable policies of the Conservation and Open Space element of the General Plan.

The Project is inconsistent with General Plan “Policy C/OS 8.1: Preserve, where feasible historic buildings...determined to be eligible through documentation contained in a historic resources report.” The City has been provided substantial evidence in a historic resources report from Historic Preservation consultant Richard Brandi that documents Baywood as eligible for listing on the California Register as a historic district, and significance of the subject property as a contributor to that district, an historic resource as defined by CEQA.

Further, C/OS 8.1 states, “Any resource that is eligible for listing in the California Register of Historical Resources is considered significant for the purposes of CEQA.” As described above, substantial evidence has been provided to the City documenting the subject property as a significant historic resource subject to CEQA.

The Project is inconsistent with General Plan “Policy C/OS 8.2: Consider the protection of concentrations of buildings which convey the flavor of local historical periods or provide an atmosphere of exceptional architectural interest or integrity, after additional study...In consideration of future historic districts, specific regulations to maintain historic character shall be developed.”

In summary, the three underpinning Findings for Project approval - that the subject property does not qualify as a historical resource, that the Project is consistent with the General Plan, and that the Project is exempt from CEQA - are incorrect and unsupportable. Moreover, there is substantial evidence on record that documents the Project is a historical resource subject to CEQA and that demonstrates that the Project is not consistent with applicable General Plan policies or CEQA requirements.

Sincerely,

Keith Weber
San Mateo

Cc:
Vinson Kwan, Project Planner
Rendell Bustos, Senior Planner
Manira Sandhir, Planning Manager
Zachary Dahl, Deputy Community Development Director
Christina Horrisberger, Community Development Director

From: Michael Nash [REDACTED]
Sent: Monday, July 11, 2022 6:41 PM
To: Planning <planning@cityofsanmateo.org>
Cc: Vinson Kwan <vkwan@cityofsanmateo.org>
Subject: 425 Fairfax PA2021-066

July 11, 2022

San Mateo Planning Commission

330 W. 20th Ave.

San Mateo, CA 94403

SUBJECT: 415 Fairfax Avenue PA2021-066

Dear Planning Commission:

I am writing as I cannot attend the session on July 12.

There is considerable concern about the 415 Fairfax project being expressed by nearly 100 residents in the Baywood area. The advance materials sent for the Planning Commission meeting, like the original documents submitted with the original project plans, significantly understate the concern. The materials show only a fraction of the people who oppose this project. The concern about removing heritage trees is included in virtually every comment/letter.

That Baywood is a historic district, as was recently determined by Richard Brandi's *Historic Asset Analysis*, and that the house at 415 Fairfax is a contributor to that zone is definitive. The staff report states that additional study is needed to support that view. The historical survey the planning department says is required to confirm Baywood's status will take time and money. However, other than adding detail, it will provide no further justification for the area's historic status as that has already been established. Further, the City has the authority (*CEQA Guidelines Section 15064.5 (a)*) to recognize the Baywood area as historical, but the Planning Department failed to point out this possibility to the Commission or even mention it in their report. If a permit is issued, it will destroy a building that contributes to the City's history without complying with the analysis that CEQA requires in such cases.

The Alstons have rights that the neighborhood supports, but their revised plans do not respond to neighbors' concerns. Rather than attempting to make design changes that accommodate the concerns, the process has been to trivialize the comments and defend the design as the only one possible. There have been minor changes, but overriding concerns were not addressed - especially by the continued request to remove the heritage trees.

Curiously, despite the denial of a tree removal permit by the City's Master Arborist, The proposer's arborist states that the tree needs removal to construct the ADU. It claims there is no other solution, which is unreasonable as the home and ADU design could be modified.

San Mateo takes its heritage tree protection ordinances seriously. The people of Baywood support heritage tree protection. We should not approve removal based on the inadequate information provided in the advance material and not accept what I am told is an ineffective tree protection plan. The project's arborist's report says building the ADU will kill the tree, so the only solution is to remove the it. Adjusting the design is casually dropped as an option. This is not protection.

We do not have an effective tree protection ordinance if we allow the removal of healthy heritage trees only to support a particular design.

I strongly urge the Planning Commission to reject the current plan for 415 Fairfax Ave. and require changes to the design that protect the heritage trees, address neighborhood concerns and reflect the house's historic nature.

Regards,

Michael C Nash

Resident San Mateo

Michael Nash

[REDACTED]
[REDACTED]

From: Jon New [REDACTED]
Sent: Monday, July 11, 2022 7:29 PM
To: Vinson Kwan <vkwan@cityofsanmateo.org>
Subject: Fwd: Public comment on 415-Fairfax-Avenue

Hi, I wasn't sure where best to send this, but I'd like to submit the following for public comment for the Planning Commission Public Hearing regarding 415-Fairfax Avenue.

=====

I just wanted to compliment the applicant on their plans for their beautiful new home and welcome them to the neighborhood.

It's unfortunate that many of the applicant's neighbors do not share these sentiments. In fact, it reflects poorly on them that they have spent so much energy to needlessly antagonize the applicant about their perfectly legitimate and reasonable construction plans. I hope in the future they can spend their energy welcoming new neighbors and fostering community.

Thank you,

Jonathan New
San Mateo

From: Lisa Nash [REDACTED]
Sent: Tuesday, July 12, 2022 12:29 PM
To: Planning <planning@cityofsanmateo.org>
Subject: 415 Fairfax Avenue – New Single-Family Residence (PA-2021-066)

Dear Planning Commission:

I am a member of the San Mateo Library Board and Measure S Oversight Committee but am acting in my private capacity.

I urge you to return this application and require that the applicant submit a new design that will protect the heritage trees on the property. These trees provide shade to several homes, reducing energy consumption and protecting the natural environment. These trees are almost 100 years old. They are rare assets in San Mateo and are protected by San Mateo city ordinances.

San Mateo's arborist's opinion also is that this project does not sufficiently protect these trees. His opinion should guide the Commission's actions. This project should be required to demonstrate in detail how these trees will be protected rather than approve the project now and let the architect and builder figure out how to deal with the trees later. If the latter path is chosen, these trees will die from harm during construction and San Mateo will have chosen not to protect its heritage trees or follow its own ordinances.

Thank you for your consideration,
Lisa Diaz Nash

--

Lisa Diaz Nash

Candidate, [San Mateo City Council](#)
Trustee, [San Mateo Library Board](#)
Member, San Mateo [Measure S Oversight Committee](#)
Vice President, [Baywood Neighborhood Association \(BNA\)](#)
Board Chair, [Atma Connect](#)
Board Director, [HIP Housing](#), [San Mateo Neighborhood Watch](#) | [Rotary Haciendas, LLC](#)
Co-Captain, [Sister District Project CA Peninsula](#)
[REDACTED]



7/12/2022

San Mateo Planning Commission
330 W 20th Ave
San Mateo, CA 94403

planning@cityofsanmateo.org
Via Email

Re: 415 Fairfax Avenue
PA-2021-066

Dear San Mateo Planning Commission,

YIMBY Law is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California. YIMBY Law sues municipalities when they fail to comply with state housing laws, including the Housing Accountability Act (HAA). As you know, the Planning Commission has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the HAA. Should the City fail to follow the law, YIMBY Law will not hesitate to file suit to ensure that the law is enforced.

The project at 415 Fairfax will see the replacement of the existing structure with a four bedroom single family home, along with an attached ADU.

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety.

The above captioned proposal is zoning compliant and general plan compliant, therefore, your local agency must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. Should the City fail to comply with the law, YIMBY Law will not hesitate to take legal action to ensure that the law is enforced.

I am signing this letter both in my capacity as the Executive Director of YIMBY Law, and as a resident of California who is affected by the shortage of housing in our state.

Sincerely,

A handwritten signature in black ink that reads "Sonja Trauss". The script is fluid and cursive, with the first name "Sonja" and last name "Trauss" clearly distinguishable.

Sonja Trauss
Executive Director
YIMBY Law