

From: [Nat Fisher](#)
To: [Council, City; PlanningCommission@cityofpaloAlto.org](#)
Cc: [Nat Fisher](#)
Subject: 9/18
Date: Monday, September 18, 2023 11:17:59 AM

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I am a senior citizen with a handicap status who no longer drives and depends on Avenidas for my transportation. It would be an unfair burden if my deliveries could not be brought to my front door.

Also, having lived on Ellsworth for several decades, the intersection with Middlefield Road has always been dangerous, and the plans to amend PC-2343 will make these conditions worse.

Protect me and my neighbors here on Ellsworth Place. Say no to the current proposal to amend PC-2343.

Natalie Fisher
736 Ellsworth Place

From: [Charlie Effinger](#)
To: [Planning Commission](#); [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: Regarding the Council Meeting, September 18, 2023, Item 7, 2901 Middlefield Rd and 702 Ellsworth Place
Date: Monday, September 18, 2023 10:40:22 AM

Some people who received this message don't often get email from charlie.effinger@gmail.com. [Learn why this is important](#)

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To Whom it May Concern,

I am a tenant who currently rents a house on Ellsworth Place. For environmentally conscious reasons, I choose to not have a car - instead relying on biking, walking, and public transportation for mobility. Thus, I rely on deliveries and delivery services for a fair amount of my livelihood (averaging 2-3 deliveries per week.)

Because of this, I am concerned about any changes to the street that do not adequately consider delivery drivers and safe spaces for them to park and turn around. The inability for delivery drivers to access the lane safely would have a major impact on my life.

I hope that any major changes to the lane are forward-thinking and provide a thought-out approach to support those who choose to be without cars in the long-term.

Thanks,
Charlie Effinger

From: [Kristen Van Fleet](#)
To: [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: Slide Decks for Council Meeting, September 18, 2023, Item 7, 2901 Middlefield Rd and 702 Ellsworth Pl
Date: Monday, September 18, 2023 9:11:30 AM
Attachments: [Kristen Van Fleet-ELLSWORTH PLACE City Council 9-18-23.pdf](#)
[Gala Beykin ELLSWORTH PLACE City Council 9-18-23.pdf](#)

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Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

In speaking with the City Clerk's office this morning, it was advised for me to also send the slide decks, as prepared by Ellsworth Place Residents for Agenda Item #7 tonight, to the City Council.

Please find two PDFs attached.

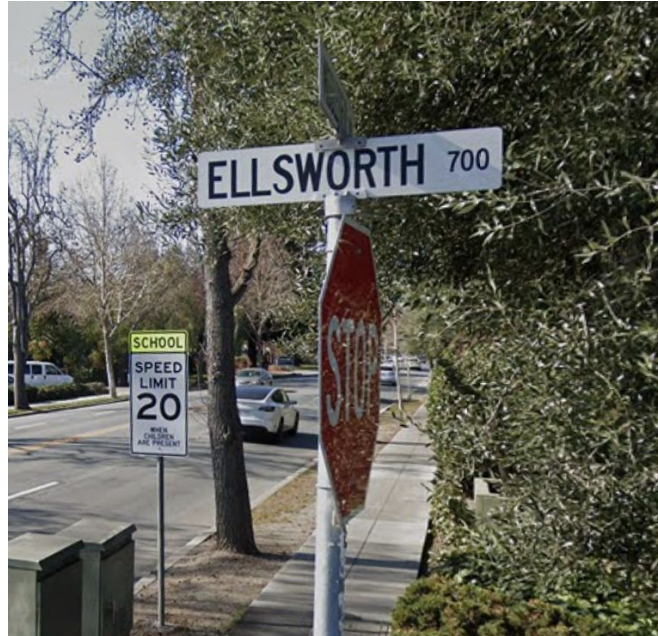
Sincerely,

Kristen A. Van Fleet

ELLSWORTH PLACE - SINCE 1937

.....

Annexed by the City of Palo Alto on May 2, 1947



Ellsworth Place Neighbors Want

- **LINE-OF-SIGHT to MATADERO CREEK**

- NO FENCE in the line of sight
 - We are currently impeded from seeing small pedestrians by the “orange netting” visual aid
 - Who will enforce what happens inside of the fence?
- The fence set back from the edge of the Ellsworth Place road
 - Drivers have complained about nearly hitting the rebar poles holding up the “orange netting” visual aid

- **DRIVEABLE 26-foot width** over the first 100-foot section of the Ellsworth Place

- Current PC-2343 conditions provide 26-foot width over the 76-foot length of the parking lot
- Current PC-2343 conditions provide 21.5-foot width between the driveway entrance up to the parking lot
- If the Cul-De-Sac function is removed, delivery vehicles will back out onto Middlefield Road or park in its right lane
- Delivery companies will refuse to deliver to Ellsworth Place if the conditions are not safe or a legal parking provided (Confirmed by conversations with UPS, Amazon, and FedEx.)

- **A USEABLE DELIVERY SPACE** to fit trucks, measuring 11 feet wide x 26 feet long, w/ room to open doors

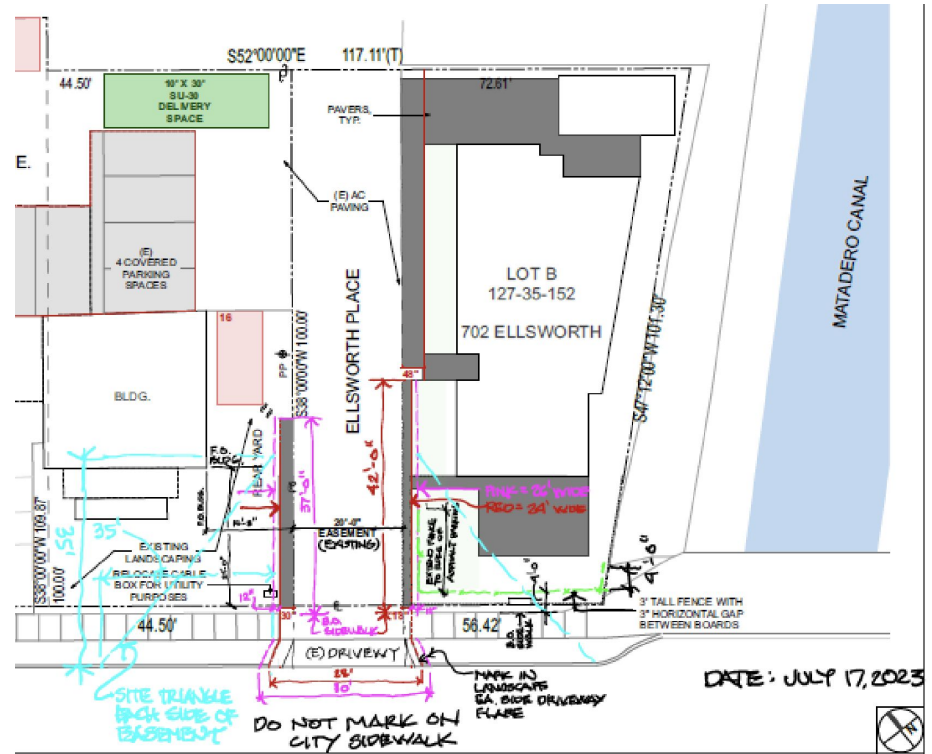
- Current plan requires backing up into the 2nd utility pole
- Current plan assumes no cars are parked in the residential driveway
- Most delivery companies DO NOT ALLOW their drivers to back up into residential driveways
- There is room for road circulation and truck parking if the first utility pole is removed
 - No inquiries have been opened with CPA about moving/removing the first utility pole
 - Comcast has not been asked about moving the cable box on the corner

The parking lot has **PROVIDED CIRCULATION** for both the apartments and homes on Ellsworth Place for over 50 years



“Perceived Width” IS NOT Driveable Width!

In Reality, their plan “Perceivably Widens” the road using pavers, (with no plan to move infrastructure!)



PC-2343 gives public benefit of a 21.5 foot wide road opening w/ 26-feet and increased road circulation over the parking lot



Images are from Google Maps;
overimposed with approximate placements of areas.



**“Perceived width” is
NOT drivable road!**

Options that PROVIDE SOME Public Benefit



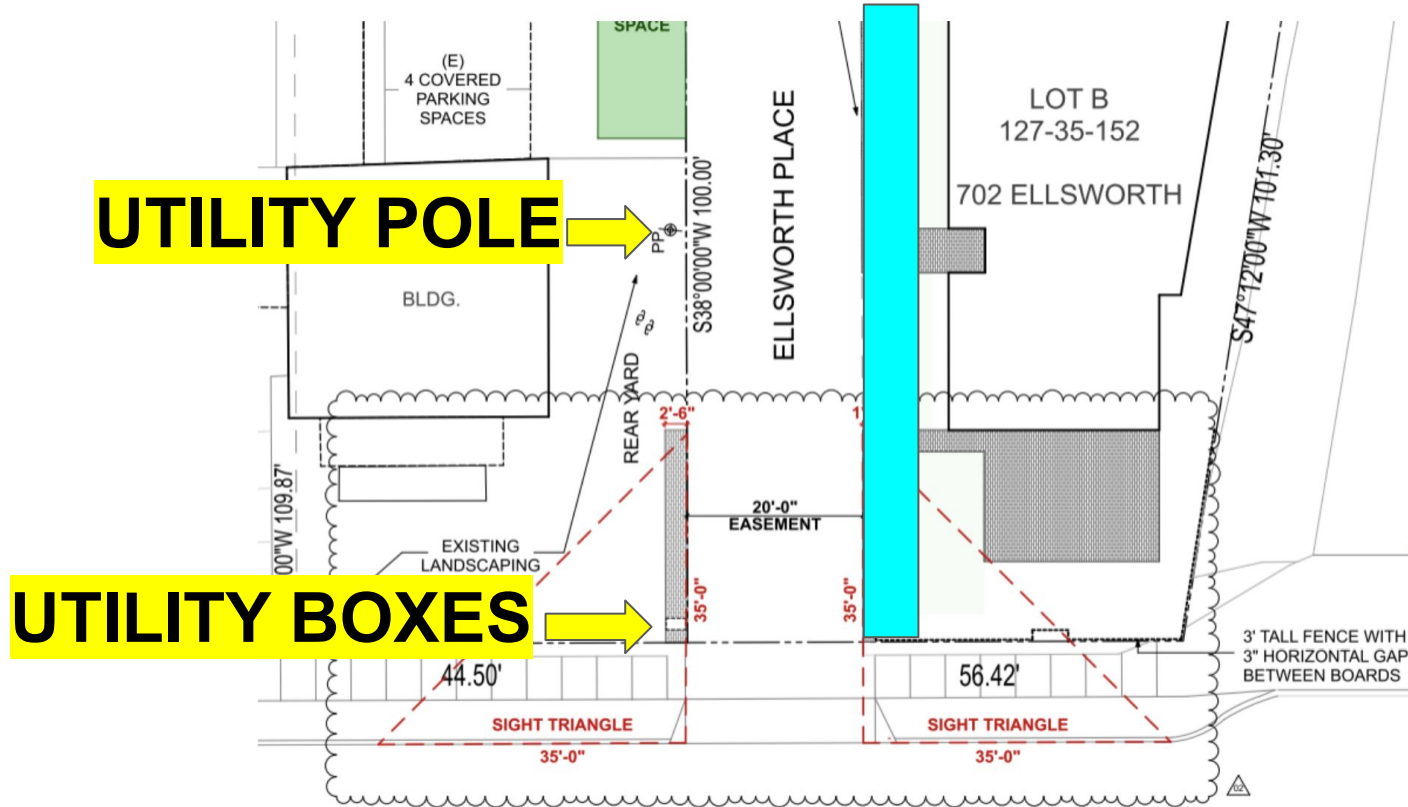
- Utility pole is removed
- 3.5' and 2.5' lengths (in blue) are extended the first 100 feet of Ellsworth Place road length



- 6 feet is added over the first 100 feet of Ellsworth Place road length on the creek side

There is room to both widen the road to 26 feet and place the house

**BLUE rectangle shows widening the road to 26 feet
on the creek side of the Ellsworth Place road.**



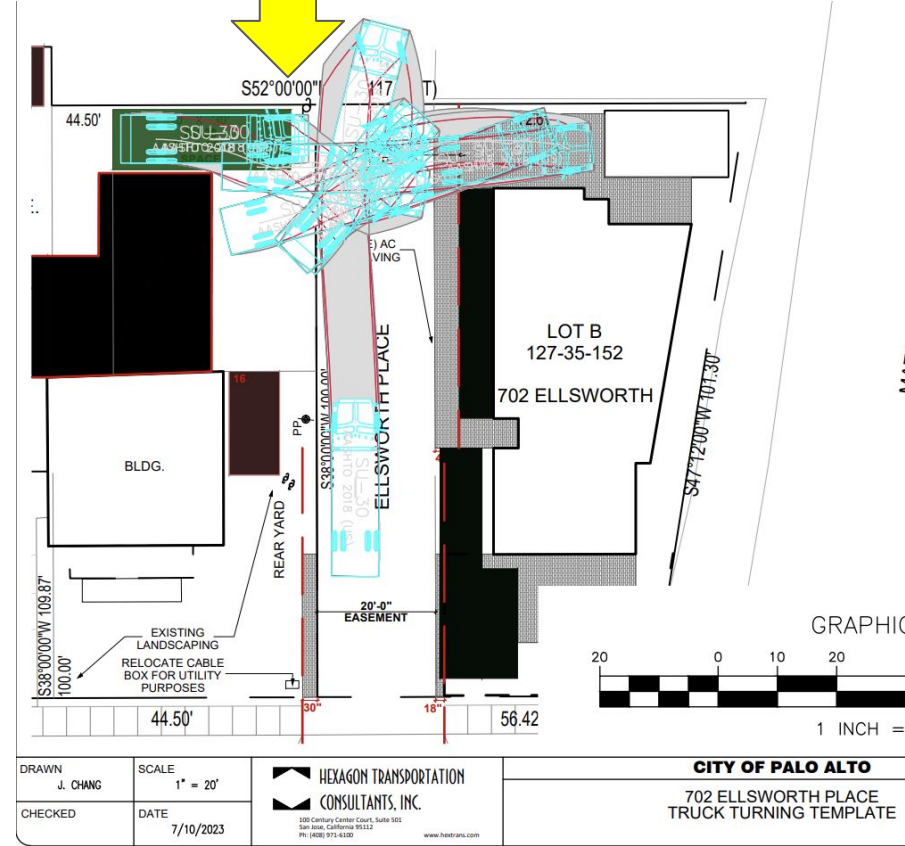
Utility Pole in Proposed Delivery Truck Parking Space

(PTC 7-12-23, Public Comments, PDF pg. 58-62)



- **Missing utility pole on all diagrams**

- Requires backing out into utility pole
- Requires backing into residential driveway which is not allowed
- Assumes driveway is free of cars
- 10 x 30 foot space between wall & fence
- Delivery trucks are 10 to 11 feet wide
- No room to open door



The Temporary Fence Created Difficulty for EVERYONE on Ellsworth Place



**THE FENCE WAS SET 4-FEET BACK FROM THE EDGE OF THE 20' WIDE ROAD.
IT HAD BEEN HIT MORE THAN ONCE!!!**



**THE DEVELOPERS WANT TO MAKE ELLSWORTH PLACE
NARROWER THAN THIS?**

Parking Spaces at 2901 Middlefield Road on Ellsworth Place - The car that parks in the space on the far left must “hug” the parking stripe of their 98” wide space or they can’t open their car door against the wall. (Code for this space is 120” wide.)

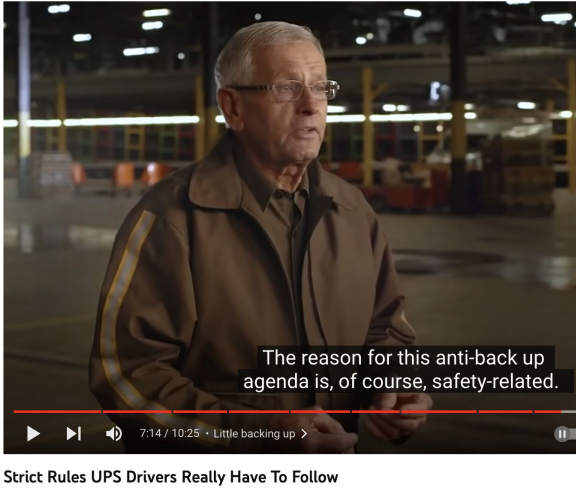
The tenant assigned the adjoining space parks in the apartment “guest” parking lot, a.k.a. 702 Ellsworth Place.

The parking lot is used daily for apartment parking, delivery trucks, and USPS mail delivery.



These Cars Belong to the Apartment Tenants - The Parking Lot is Used Daily!





Delivery Trucks Use the Parking Lot for Both the Apartments and the Homes on Ellsworth Place

These trucks are 10 to 11 feet wide x 26 feet long

They avoid backing up as much as possible!

NO PARKING IS ALLOWED ON ELLSWORTH PLACE



John Abraham

to me ▾

Feb 14, 2023, 4:46 PM

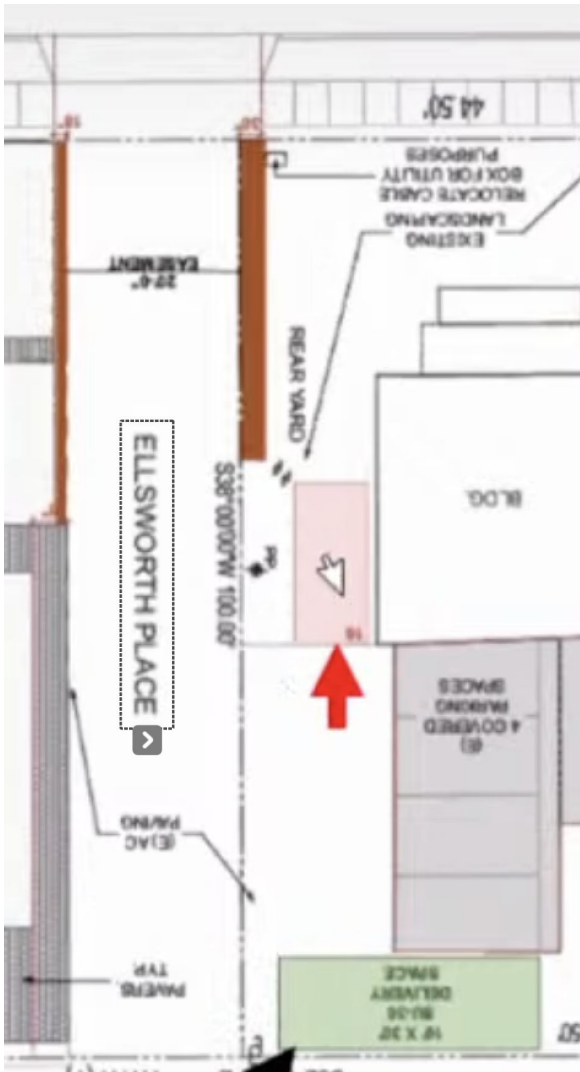


Thanks to you for your brilliant work on this issue. While I cannot attend meetings I fully support the basic position for Ellsworth Place--Namely we do not want to be victims of spillover parking from the Apartment complex. We all are affected, not just the residents near Middlefield. We are 400 feet away from the nearest hydrant and Fire trucks would need all the help they could get in case of an emergency.

John K. Abraham

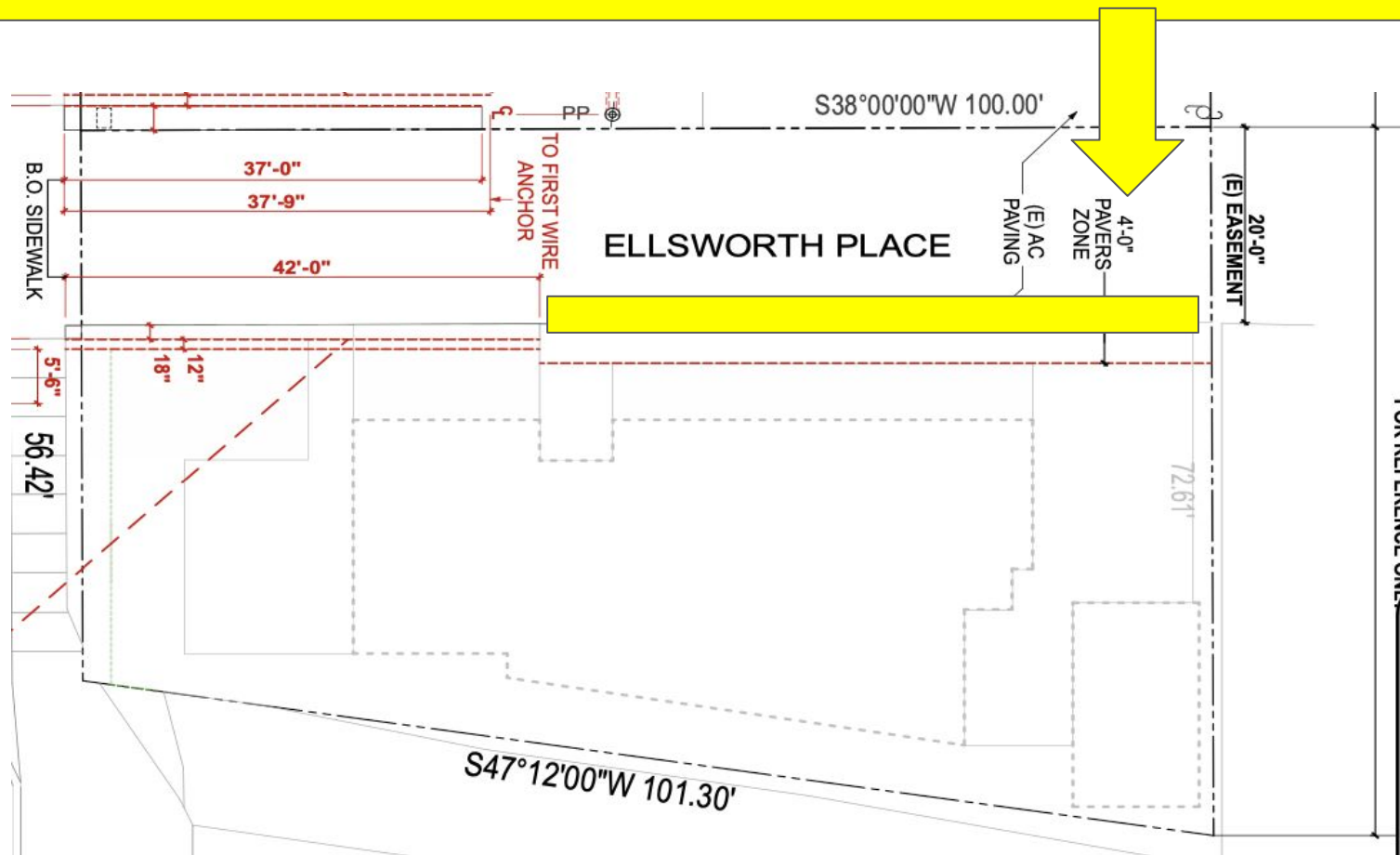
20 feet is the minimum required to get a firetruck down a street.





**How does this parking spot work?
Driver's door opens into guy wires!**

**4-feet of Pavers is NOT WIDE ENOUGH to park a car completely off of the road!
Guests will block Ellsworth Place and create problems with the tenants/home owner.**



**We have solved our
own parking issues
with 7 feet of pavers
or more!**



ELLSWORTH PLACE

**WHO ACTUALLY
OWNS
THE ROAD**





July 27, 2023

Ellsworth Place
Palo Alto, CA 94306

VIA U.S. MAIL AND EMAIL

RE: **Claim Number:**
Policy No.:
Insured:
Property:

Ellsworth Place, Palo Alto, CA 94306

Dear Mr. Bigbee & Ms. Van Fleet,

This letter is to inform you that Chicago Title Insurance Company (the “Company”) has reviewed the documents submitted with the above-referenced claim. As discussed below, coverage is not afforded for this claim.

The Company understands the facts underlying the claim as follows: On or about July 12, 2004, Weichert Relocation Resources, Inc. conveyed the property commonly known as 724 Ellsworth Place, Palo Alto, CA 94306 (the “Property”) to you via Corporation Grant Deed recorded in Santa Clara County on July 22, 2004, as Document No. 17915468. In connection with the transaction, you were issued the above-referenced ALTA Homeowner’s Policy of Title Insurance (the “Policy”), with an effective date of July 22, 2004. The Policy was underwritten by the Company.

The Property abuts Ellsworth Place, a private way which leads to Middlefield Road, a public way. Recently, the owner of the property commonly known as 702 Ellsworth Place, Palo Alto, CA 94306 (“702 Ellsworth”), which abuts Ellsworth Place between the Property and Middlefield Road, contested your right to cross over the portion of Ellsworth Place abutting 702 Ellsworth. You have submitted this claim to address the possibility that the Property lacks access to a public way.

For the Company to have liability for a claim, the claim must fall within one of the Covered Risks of the Policy and not also fall within an exception or exclusion from coverage. Covered Risk 11 of the Policy insures against a lack vehicular and pedestrian access to and from the Property, based upon a legal right. The Company’s investigation has revealed that the Property has both vehicular and pedestrian access to Middlefield Road, a public way, based upon a legal right.

Specifically, on or about January 30, 1946, Katherine Emerson, who owned the entirety of Ellsworth Place at the time, conveyed the Property, including the portion of Ellsworth Place abutting the Property, to Frank and Ruth Coulombe via Grant Deed recorded in Santa Clara County in Book 1322, Page 523 (the “1946 Deed”). In addition to the Property, the 1946 Deed conveyed to Frank and Ruth Coulombe an easement over the portion of Ellsworth Place between Middlefield Road and the Property. On or about May 10, 1947, Frank and Ruth Coulombe conveyed the Property, not including the portion of Ellsworth Place abutting the Property, to Robert and Ruth

Ellsworth Place Homes
HAVE NON-EXCLUSIVE
INGRESS/EGRESS RIGHTS
(Here is written proof from Chicago Title)

**The Joint Tenancy “1946 Deed” gives
this right to 8 of the 13 properties,
and divides the road in half
with house 741.**

**Establishing rights
we already have is
not a public benefit!**

Ellsworth Place - Requesting an Application for Establishing Road Ownership



Kristen Van Fleet

Mon, Aug 7, 1:24 PM (1 day ago)



to planner, city.council, Planning, city.attorney, CityMgr, Annette, sheri11, William,

To Whom it may concern,

Ownership of the Ellsworth Place "private" road is still an unanswered question. There is evidence it is already a public CPA road, per the 1968 County Assessor's Parcel Map, but this has recently been refuted by CPA during the Planning and Transportation Commission meetings regarding a proposed development on Ellsworth Place, Applications: 23PLN-00025, and 23PLN-00027. No one pays taxes for this road.

The Ellsworth Place Homeowners would like to start an application process with the City of Palo Alto to get ownership of the road determined. Per the research, a 170.8 foot portion of this road is abandoned and is, therefore, potential liability to the City of Palo Alto, (or does an abandoned road revert to County or State ownership?)

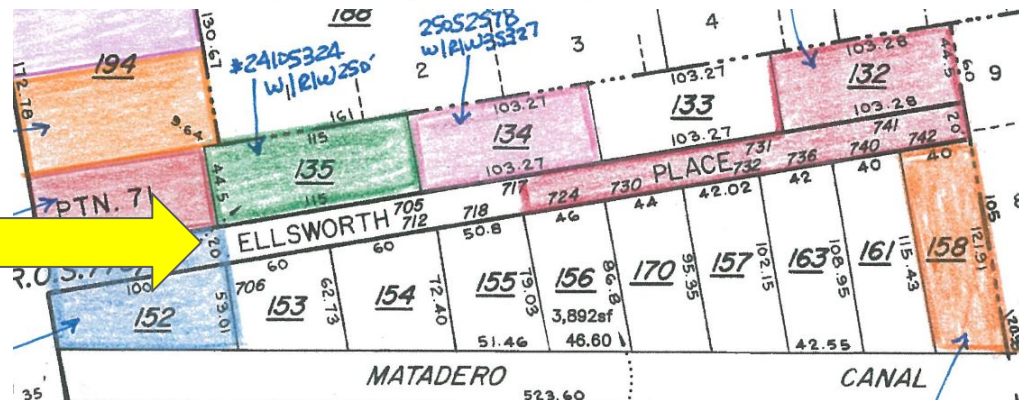
How do we go about starting this process?

Sincerely,

Kristen Van Fleet

on behalf of Ellsworth Place Homeowners

**ABANDONED
ROAD**



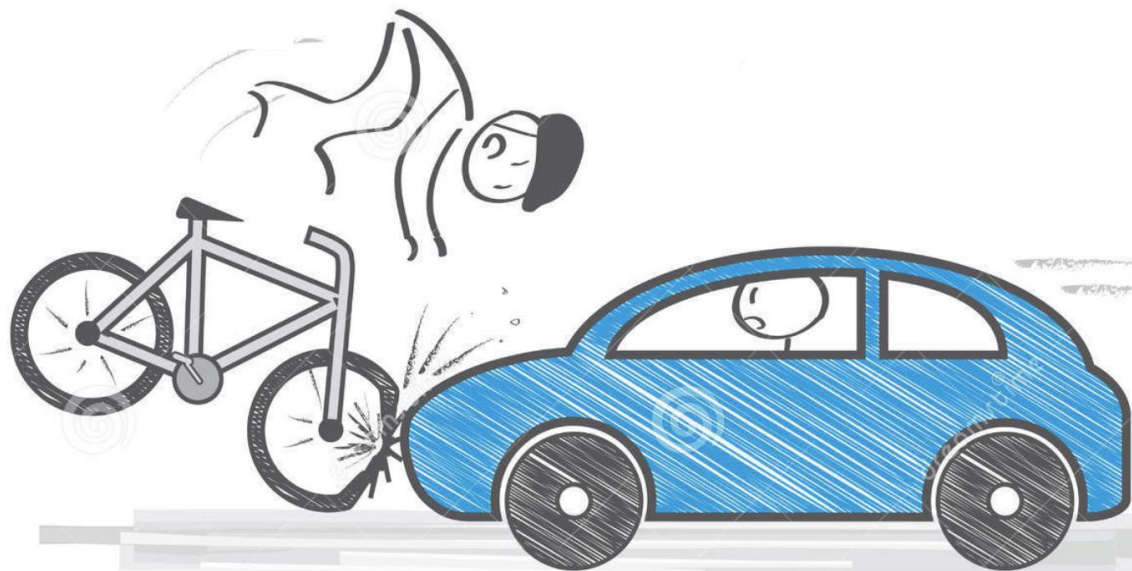
In Conclusion

Ellsworth Place homeowners and residents
Want the Proposed House Site to remain in a PC

- **PROPOSED HOUSE SITE IS ONLY ENFORCEABLE IN PC**
- **AMENDMENT REMOVES CURRENT PUBLIC BENEFITS** of ample apartment parking & provides delivery truck space
- **HARM IS BEING DONE BY REMOVING ROAD CIRCULATION** between Ellsworth Place and Middlefield Road
- **DETAILS IN THE PACKET MUST BE CORRECTED!**
- **ROAD OWNERSHIP MUST BE ESTABLISHED** before a final vote is made on any PC change(s)!

We Want to Prevent this!

There have been too many close calls!



Community Traffic Safety Message from Mayor Kou & Police Chief Binder

Published on September 15, 2023

We are all greatly concerned to hear that there have been two injuries to young people in our community within the past week resulting from traffic collisions. Community safety is our number one priority. With schools back in session, we must all heighten our awareness and support the safety of our streets.

The City of Palo Alto is committed providing a safe environment. As we have since the start of the school year, overtime traffic enforcement will focus around schools. We are also working to review traffic controls around schools, including deployment of our 30 crossing guards. We provide pedestrian and bicycle safety education to PAUSD K-8 students, reaching over 5,850 youth through Safe Routes to School programming and hope these lessons come home. We encourage parents to participate and take an active role to increase youth safety.

Transportation and community safety are the responsibilities of all of us.



Protect Our Children!

The downward slope of the sidewalk causes bicycles to pick up speed faster than walking pace.



It is NOT just about tall adults moving at a walking pace!



**DID YOU
SEE ME?**



Developer wants a horizontal fence with 3" wide gaps.



Chair Suma (page 55):

“It’s too high, it seems even higher than it is because of the grade and I believe it needs to be... the fence needs brought back. ...”

Commissioner Akin (page 55):

“Yes, I agree that the 3-foot fence still interferes with visibility in an area where it’s important. A shorter fence might solve that problem. ...”

Vice-Chair Chang (page 56):

“And then I concur with my colleagues who visited the site and said that the 3-foot fence height does obstruct visibility. ...”

NO FENCE WITHIN THE SIGHT TRIANGLE!

- **Who enforces what is placed inside of the fence?**

Homeowner or Tenant could place inside of the fence large kid’s play equipment, a table and chair set, or shrubbery as shown below.

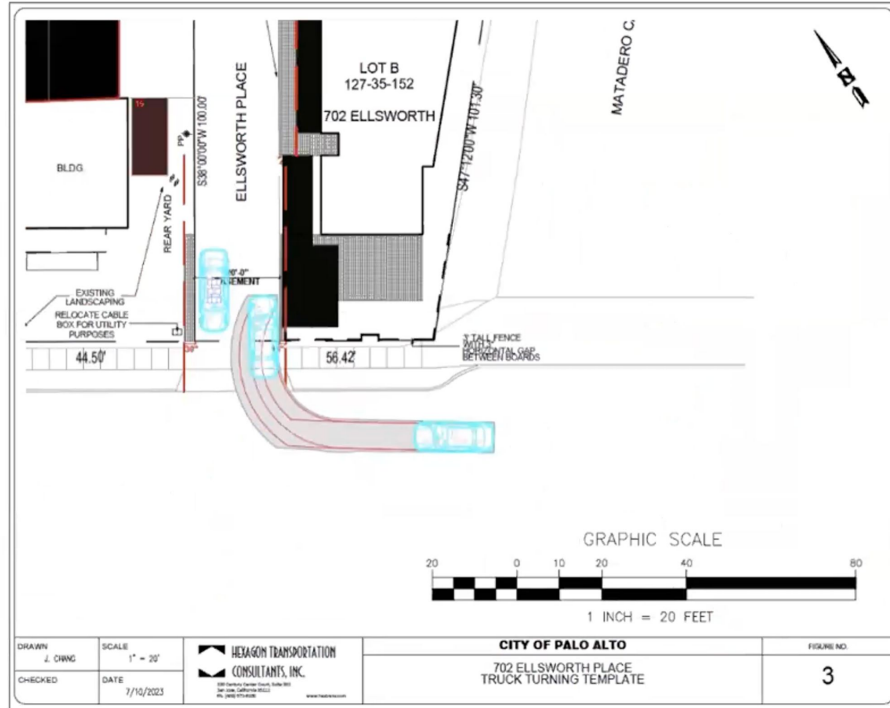
Commissioner Heckman (page 59):

“Wrought iron fences are typically a more open design, so you could see better through them. ...”

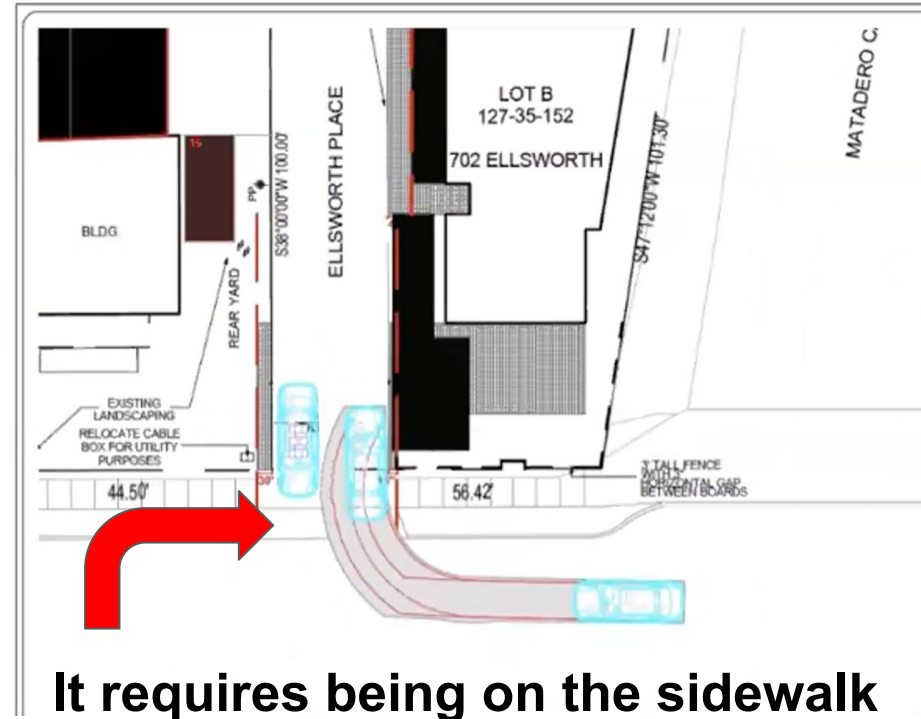


What they think happens...

TOPIC 4: TRUCK MIDDLEFIELD MANEUVER



In reality...



It requires being on the sidewalk
for line of sight to the creek!

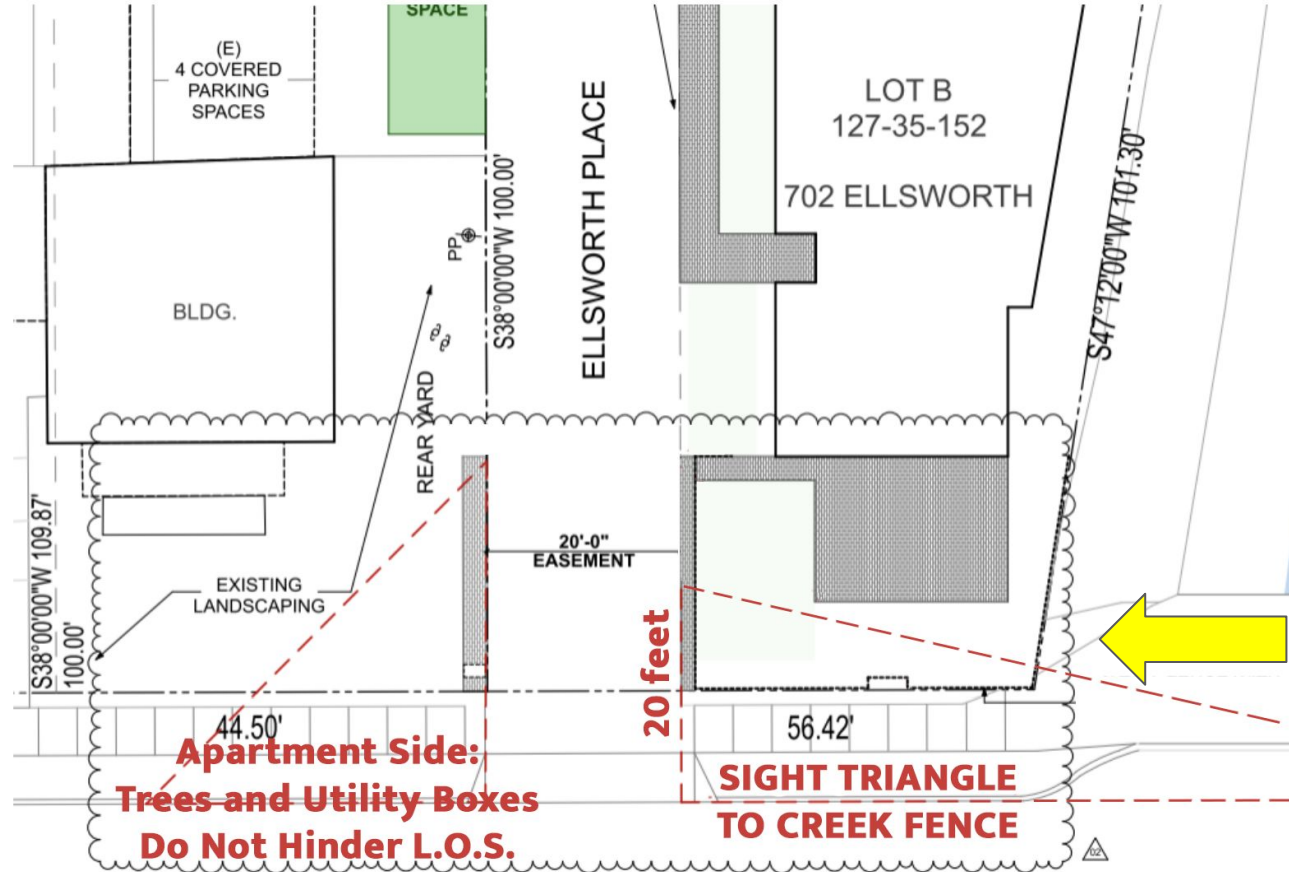
We need to see to the creek fence/bend in the sidewalk!



Current Plan (above)



**Clear Line of Sight
to Creek Fence**



**Exiting Ellsworth Place
requires being on the sidewalk
(with the current conditions)**





An Asphalt Approach With Wide Corners (Alma Village is a private street)



An Asphalt Approach With Wide Corners (Waverly Oaks is a private street in Old Palo Alto)



From HEXAGON TRAFFIC REVIEW of April 14, 2023

(PTC packet 6-28-23, page 40)

- “The current 20-foot dustpan style driveway on Ellsworth Place at Middlefield Road requires vehicles to almost come to a stop to turn into the street.”

Ellsworth Neighbor’s Note:

This means stopping on Middlefield Road with traffic speeds of 30 - 40 mph, immediately after descending the Matadero Creek overpass.

- “The recommended stopping sight distance for the intersection of Ellsworth Place and Middlefield Road is 200 feet (based on a design speed of 30 mph).”

Ellsworth Neighbor’s Note:

200 feet back is the entrance to Winter Lodge Ice Rink; well before the Matadero Creek overpass.

Ellsworth Place Neighbors Want

- **CLEAR LINE-OF-SIGHT to MATADERO CREEK**
 - NO FENCE in the line of sight
 - We are currently impeded by the “orange netting visual aid” from seeing smaller pedestrians
 - The fence set back from the edge of the Ellsworth Place road
 - Drivers turning into Ellsworth Place have complained about nearly hitting the rebar poles holding up the “orange netting visual aid”
- **ASPHALT APPROACH with WIDENED ENTRANCE CORNERS**
 - Gives the right-of-way to cars so they don't have to back-up or make a hasty exit
 - Allows cars to pass one another when turning in/out of Ellsworth Place
 - Eliminates the need to completely stop on Middlefield Road
 - Private streets that join busy roads are designed this way throughout Palo Alto
 - Private streets in expensive neighborhoods are also designed this way

From: [Kristen Van Fleet](#)
To: [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: PRS for Public Record of City Council Meeting, Sept. 18, 2023, Item 7, Regarding 2901 Middlefield Road and 702 Ellsworth Place
Date: Monday, September 18, 2023 9:06:50 AM
Attachments: [W005099 Release 6-27 Redacted \(PAGE 18\).pdf](#)
[W005099 - Release 5-3.pdf](#)
[Public Record Search 6-13.pdf](#)

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Dear Mayor Kou, and members of the City of Palo Alto City Council,

Please find attached a portion of the Public Record Search (PRS) documents received by Ellsworth Place Neighbors. These documents and many more were put into the public record for the Planning and Transportation Commission (PTC) meeting held on July 12, 2023, under the public comments section on pages 89 - 94 of the PDF.

Here is a link to reach that PDF and the additional documents: <https://www.cityofpaloalto.org/files/assets/public/v/5/agendas-minutes-reports/agendas-minutes/planning-and-transportation-commission/2023/ptc-7.12-public-comments6.pdf>

We hope you will find this information helpful.

Sincerely,

Kristen A. Van Fleet
on behalf of Ellsworth Place Neighbors

From: [Jeff Levinsky](#)
To: [Council, City](#)
Subject: Suggested Corrections to Ellsworth Place Ordinances
Date: Monday, September 18, 2023 6:51:01 AM

Some people who received this message don't often get email from jeff@levinsky.org. [Learn why this is important](#)

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Dear City Council Members:

Please consider the following textual corrections and adjustments for the two proposed ordinances:

2901 Middlefield Ordinance	702 Ellsworth Ordinance	Suggested Correction
	Section 1 (g)(ii)	Correct "first 35 feet" to "first 42 feet" to match Section 5(a)(ii) and plan page A2.1
Section 5 (a)		The sight triangle requirement is missing from the 2901 Middlefield ordinance despite it being marked on plan page A2.1 and the PTC recommendation for it at Section 1 (d)(ii). Given that the sight triangle helps ensure pedestrians on the sidewalk can be seen and is already in the plan, it should be added to the 2901 Middlefield ordinance.
	Section 5 (a)(v)	The sight triangle alongside Middlefield does not extend to the creek, impairing full visibility. Council might address this by adjusting the plan and ordinance to "extend the Middlefield side of the sight triangle to the southernmost corner of the property."
	Section 5 (a)(v)	The phrase "new impediments" is imprecise as there is no clear documentation of what impediments exist now. There is also confusion over fences. To handle this, the text could be: "shall not be obstructed by fences and other impediments taller than 1 foot except trees with no branches below 8 feet" to allow existing trees to remain.
Section 1 (d)(v) Section 5 (a)(i)	Section 1 (d)(i) Section 5 (a)(ii)	The PTC motion did not contain the phrase "perceived width" and it is both ambiguous and undefined in our Municipal Code. Council

		could replace the phrase “perceived width” with perhaps “drivable width” or simply “width.”
Section 1 (g)(v)	Section 1 (g)(v)	<p>Asserting consistency with Comprehensive Policy L-1.2 to “hold new development to the highest development standards” is clearly incorrect as regards the 24’ wide road, since our own development standards at §21.20.240 require the higher standard of a 32’ wide road or at least 26’ under certain circumstances. The argument in the staff report that a 26’ width, which the PTC recommended, would be an exaction overlooks that (a) our laws already require at least 26’, (b) a PC is always a voluntary rezoning initiated by a property owner and thus any public benefit of a PC is also voluntary and not an exaction, (c) the fundamental purpose for any PC per §18.38.010 is to have “controlled conditions not otherwise attainable under other districts,” thus allowing for public benefits that wouldn’t be justifiable under a normal land use nexus argument, and (d) no similar objection has been ever raised for public benefits desired by the City for other PCs.</p> <p>The Council can follow staff’s suggestion to ask for 26 feet during deliberation while saying it can only make the finding for Policy L-1.2 and approve the PCs if the road is at least 26’ wide.</p>
Section 1 (d)(ii) Section 5 (b)		<p>The “truck delivery space” is only ten feet wide on plan page A2.1 and situated between a wall and a tall fence. This cannot accommodate modern delivery trucks or allow drivers to exit their trucks while carrying parcels. Hence, there is an inherent conflict between the ordinance language and the plan. The Council can require an alternative location of adequate width for the truck delivery space.</p>

Thank you

From: [gala b](#)
To: [Planning Commission](#); [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: For City Council Meeting on September 18, 2023, Item 7, Regarding 2901-2905 Middlefield Road and 702 Ellsworth Place
Date: Sunday, September 17, 2023 8:40:06 PM

Some people who received this message don't often get email from galab8@gmail.com. [Learn why this is important](#)

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Dear Mayor Kou, and members of the City of Palo Alto City Council,

As a mother of three elementary-aged children and resident of Ellsworth Place, my thoughts are that the orange netting temporary fence is not safe there, not allowing the seeing of pedestrians and cars as I drive out of Ellsworth Place onto Middlefield Road. The inclines and the narrowing of the road make it topographically challenging.

I worry about what will be inside the fence if that fence were permanent. Who will keep the site triangle clear inside of the fence? The home occupant could not know this rule and then place shrubbery, large kid's toys, or a table and chair set, etc. in that corner that would block the visibility. No one has mentioned who has to police this and it would not be a good situation to be in, having to knock on the door and ask them to follow the rules!

For the safety of the neighborhood, there should not be a fence within the sight triangle, and the line of sight needs to be clear to the creek where the sidewalk curves, narrows and has a blind spot for seeing pedestrians. Pedestrians don't see there is the Ellsworth Place road and come down that incline more quickly because they assume it is safe for them to use the sidewalk here.

Thank you for keeping Midtown safe for my children.

Sincerely,

Gala Beykin

From: [Andrea Eyestone](#)
To: [Planning Commission](#); [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: Ellsworth Place Proposal Safety Concerns
Date: Sunday, September 17, 2023 5:50:19 PM

Some people who received this message don't often get email from aeyestone3@gmail.com. [Learn why this is important](#)

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Regarding the City Council Meeting on September 18, 2023, Agenda Item 7, for 2901-2905 Middlefield Road and 702 Ellsworth Place

Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

We are writing to emphasize one of our concerns with the changes on Ellsworth Place being proposed by the developers. We are very concerned the temporary 3-foot fence is planned to become a permanent fence.

Even with the temporary fence being made of netting, it obstructs sightlines, making it challenging for pedestrians, especially children, and drivers to anticipate each other's movements at the intersection of Ellsworth Place and Middlefield Road. Our concerns are rooted in the fact that the fence makes it extremely difficult for a car on Ellsworth Place to see our daughter when she walks or rides her bike on the sidewalk, and we have to keep her very close to us because she doesn't know to stop at that intersection since it doesn't look like a road.

Additionally, when in our compact car, we are unable to see down the sidewalk, to the bend in the sidewalk at Matadero Creek, until our vehicle partially encroaches onto the sidewalk.

These are serious safety issues, and we fear they could lead to accidents due to poor visibility, especially with children.

Removal of the fence will help address this huge safety concern by keeping the line of sight clear, and an asphalt entry would bring awareness to both drivers and pedestrians that the Ellsworth Place road is there while providing a wider entry that allows two cars to pass one another for a safer entry/exit.

We kindly request you take into consideration the safety concerns the fence poses to our neighborhood's children and residents.

Sincerely,
Daniel and Andrea Alberson

From: [Robyn Ziegler](#)
To: [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); [Veenker, Vicki](#)
Subject: For City Council September 18, 2023
Date: Sunday, September 17, 2023 2:07:20 PM
Attachments: [Screenshot 2023-09-16 at 5.35.59 PM.png](#)

Some people who received this message don't often get email from robynne65@yahoo.com. [Learn why this is important](#)

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Dear Mayor Kou, Vice Mayor Stone, and members of the City of Palo Alto City Council, Ellsworth Place has already lost enough flora from the developers not opening pertinent applications, as occurred when the protected Valley Oak tree was torn out on October 8, 2018, without a permit. The excuse for removing the Oak was that rats were getting into their apartments! Had they applied for a permit to remove the protected tree, which is still registered with Canopy, they would have found out the property is governed by Ordinance PC-2343, and the full collection of six trees, as approved by the landscape plan when the apartments were built in 1969, which had a maturity of almost 50 years, would still be standing. The Google Maps photo from November 2017 shows the condition of the parking lot before the trees were removed.



There are now orange-painted stakes set behind the gorgeous Olive Tree to the right as we exit Ellsworth Place. Is this beautiful/stately and mature tree going to be hacked down to provide for paving? I hope not, as this would be extremely unfortunate. The tree is not obstructing vision when exiting and turning. I trust there is a way to remediate the road circulation and safety concerns without destroying more flora on

our street.

Thank you in advance for your consideration,

Robyn Ziegler

730 Ellsworth Place

Palo Alto, CA 94306

From: [Robert Chen](#)
To: [Planning Commission](#); [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Cc: [Kristen Van Fleet](#)
Subject: Regarding the City Council Meeting on September 18, 2023, Agenda Item 7, for 2901-2905 Middlefield Road and 702 Ellsworth Place
Date: Saturday, September 16, 2023 11:44:10 PM

Some people who received this message don't often get email from chaoqiangc@hotmail.com. [Learn why this is important](#)

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Dear Mayo Kou, Vice-Mayor Stone, and members of the Palo Alto City Council,

Per the Planned Community Ordinances (#1810 and #2343), the open space at the front of Ellsworth Pl is an important **community benefit** for people living on Ellsworth Pl as well as some tenants of the Apartments. For the past half century, it has provided a safety buffer for people get in and out of Ellsworth & the Apartments, which also including delivery & other service trucks.

The **split-off** of the open space not only takes the **community benefit** from us because of somebody else's mistake (which is **definitely unfair**), but it also creates a serious public safety problem for people get in and out of the street.

In my humble opinion and with 10+ years living on Ellsworth Pl, it would be safe for the City to keep the original PC zoning **unchanged**, to avoid future problems such as car accident & people get injured, which might cause potential lawsuit against the city due to the **split-off** of the open space.

In addition, "Law and Order" should be respected in our renowned PALO ALTO, cutting of protected trees without permit should not be tolerated, not even be encouraged by sacrifice of other community members' benefit.

Chaoqiang Chen
Ellsworth Pl resident

From: [On Chong](#)
To: [Council, City](#)
Subject: Regarding the Council Meeting, September 18, 2023, Item 7, 2901 Middlefield Rd and 702 Ellsworth Place
Date: Saturday, September 16, 2023 4:16:52 PM

Some people who received this message don't often get email from on18881@hotmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Dear Mayor Kou, Vice Mayor Stone, and members of the City of Palo Alto City Council,

As property owners with tenants on Ellsworth Place, it is imperative for their safety and way of life on Ellsworth that this situation be resolved once and for all. Through this process, we learned that a portion of our property is on the abandoned section of the Ellsworth Place road, and we don't know who is responsible for it. Your packet includes this statement under Item 7: page 5,

"If the City Council were interested in exploring the possibility of taking over ownership of Ellsworth Place that would need to be agendized as a separate discussion."

We would like the road ownership "agendized" before making any changes to the existing PC-2343 Ordinance. As we understand it, the city can make the Ellsworth Road much safer over the "parking lot" area and as it joins Middlefield Road if the road is public. This discrimination against private roads is appalling, and the developer's proposal is more dangerous than our current road conditions over the parking lot as were designed and approved with the current PC-2343 Ordinance.

Our tenants, like most people, rely on getting deliveries to their homes and it would be burdensome to their lives if they lost the ability to receive deliveries. This would in turn have a direct effect on our property values.

The city must preserve package delivery to Ellsworth Place residents and also make the intersection at Middlefield Road and Ellsworth Place safer than what is being proposed by the developers. If this is not possible to do with the proposed development plans, then the current conditions of the PC-2343 Ordinance should remain in place.

Sincerely,
On Chong, Co-Owner of
717,723 Ellsworth Place
Palo Alto, CA

Sent from my iPhone

From: [Chin Chong](#)
To: [Planning Commission](#); [Council, City](#); [Burt, Patrick](#); [Kou, Lydia](#); kou.pacc@gmail.com; [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#)
Subject: Regarding the Council Meeting, September 18, 2023, Item 7, 2901 Middlefield Rd and 702 Ellsworth Place
Date: Saturday, September 16, 2023 4:05:18 PM

Some people who received this message don't often get email from chin18881@hotmail.com. [Learn why this is important](#)

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Dear Mayor Kou, Vice Mayor Stone, and members of the City of Palo Alto City Council,

As property owners with tenants on Ellsworth Place, it is imperative for their safety and way of life on Ellsworth that this situation be resolved once and for all. Through this process, we learned that a portion of our property is on the abandoned section of the Ellsworth Place road, and we don't know who is responsible for it. Your packet includes this statement under Item 7: page 5,

"If the City Council were interested in exploring the possibility of taking over ownership of Ellsworth Place that would need to be agendized as a separate discussion."

We would like the road ownership "agendized" before making any changes to the existing PC-2343 Ordinance. As we understand it, the city can make the Ellsworth Road much safer over the "parking lot" area and as it joins Middlefield Road if the road is public. This discrimination against private roads is appalling, and the developer's proposal is more dangerous than our current road conditions over the parking lot as were designed and approved with the current PC-2343 Ordinance.

Our tenants, like most people, rely on getting deliveries to their homes and it would be burdensome to their lives if they lost the ability to receive deliveries. This would in turn have a direct effect on our property values.

The city must preserve package delivery to Ellsworth Place residents and also make the intersection at Middlefield Road and Ellsworth Place safer than what is being proposed by the developers. If this is not possible to do with the proposed development plans, then the current conditions of the PC-2343 Ordinance should remain in place.

Sincerely,

On and Chai Chin Chong

Owner of 717/723 Ellsworth Place

Palo Alto

From: [Bhanu Iyer](#)
To: [Council, City](#)
Cc: [Planning Commission](#)
Subject: 9/18/2023 City Council Meeting Agenda Item 7 (2901-2905 Middlefield Road and 702 Ellsworth Place)
Date: Saturday, September 16, 2023 12:14:27 AM

Some people who received this message don't often get email from bhanuiyer9@gmail.com. [Learn why this is important](#)

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Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

Thank you for your time and service to our community. While there is a lot to consider regarding this complicated situation, our biggest concerns are the following:

1. Safety: Our biggest concern
2. Optimum use of the road: For all residents and services (delivery and other vehicles)
3. Fairness: A developer's application for a home should be treated like every other resident on this street who has built or remodeled a home on Ellsworth Place.

Please get in touch with me if you have any questions or need more information.

Warm regards,
Bhanu

Bhanu Iyer
712 Ellsworth Place
650-269-4476

From: [Camas J. Steinmetz](#)
To: [Council, City](#); [Kou, Lydia](#); [Tanaka, Greg](#); [Lythcott-Haims, Julie](#); [Veenker, Vicki](#); [Lauing, Ed](#)
Cc: [French, Amy](#); [Sauls, Garrett](#); [Yang, Albert](#); [Richard Dewey](#); [Hayes, Ken](#)
Subject: Applicant Attorney Letter - Sept 18, 2023 Agenda Item No. 7 - 2901-2905 Middlefield Road and 702 Ellsworth
Date: Friday, September 15, 2023 3:10:49 PM
Attachments: [image001.png](#)
[Applicant Attorney Ltr re Agenda Item No. 7 - 2901-05 Middlefield 702 Ellsworth.pdf](#)

Some people who received this message don't often get email from cjs@jsmf.com. [Learn why this is important](#)

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Dear Mayor Kou and Members of the City Council:

On behalf of the 2901-2905 Middlefield applicant, please review and consider the attached letter prior to taking action on Agenda Item No. 7 at your upcoming September 18, 2023 Monday hearing. Thank you for your consideration.

Sincerely,



Camas J. Steinmetz, Esq.

Jorgenson, Siegel, McClure & Flegel, LLP
1100 Alma Street, Suite 210 | Menlo Park, CA 94025
Phone: (650) 743-9700 | Email: cjs@jsmf.com

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DAN K. SIEGEL
JENNIFER H. FRIEDMAN
MINDIE S. ROMANOWSKY
DAVID L. ACH
GREGORY K. KLINGSPORN
NICOLAS A. FLEGEL
KRISTINA A. FENTON
KIMBERLY J. BRUMMER
CAMAS J. STEINMETZ
PHILIP S. SOUSA

BRITTNEY L. STANDLEY
CHRISTIAN D. PETRANGELO

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KENT MITCHELL

RETIRED
JOHN D. JORGENSEN
MARGARET A. SLOAN
DIANE S. GREENBERG

DECEASED
MARVIN S. SIEGEL
(1936 - 2012)
JOHN R. COSGROVE
(1932 - 2017)

September 15, 2023

Mayor Kou and Members of the City Council
City of Palo Alto
city.council@cityofpaloalto.org

Via Email

Re: September 18, 2023 Agenda Item No. 7 - Ordinance Amending Planned Community 2343 zoning for 2901-2905 Middlefield Road and Adopt an Ordinance Establishing a new Planned Community Zoning Designation to Enable the Development of a new Single-Story, Single-Family Residence on 702 Ellsworth Place

Dear Honorable Mayor Kou and Members of the City Council:

This law firm represents RLD Land LLC, the owner of the apartment building at 2901-2905 Middlefield which is subject to the above referenced jointly filed application with the owner of 702 Ellsworth Place. We respectfully request that you *adopt* the PC Ordinance for 2901-2905 Middlefield Road & Exhibit A (Development Plan) *as recommended by Staff* in Exhibit A of Staff Report #:2307-1763 for September 18, 2023 Agenda Item No. 7 ("Staff Report").

Specifically, we request that you approve – and not increase -- the 30-inch increased width of Ellsworth Place that our client has voluntarily offered to pave and grant an easement to the neighbors over on the 2901-2905 Middlefield side, as incorporated in Section 5(a) of the Staff recommended PC Ordinance for 2901-2905 Middlefield Road.

We wholeheartedly agree with Staff's conclusion in the Staff Report that the Planning and Transportation Commission (PTC)'s recommendation to further increase this paved width by an additional 12 inches on the 2901-2905 Middlefield side and by an additional 12 inches on the 702 Ellsworth side (for a total increased width to 26 feet) and grant an easement over this further increased width to the adjacent Ellsworth Place properties would constitute an unwarranted exaction:

The PTC recommendation is to increase the proposed expansion of Ellsworth Place by two feet beyond the 24' the applicant had offered. A City-imposed condition expanding the width of Ellsworth Place to 26-feet would be considered an "exaction" of property from the applicants. The City has the authority to make such exactions only when there is an "essential nexus" between the property being exacted and the public impacts of the application, as well as "rough proportionality" between the amount of the exaction and the amount of impact. Staff are unable to make this nexus and the attached ordinances reflect a 24-foot wide easement.

Staff's conclusion is supported and articulated by the following comments from Commission Hechtman, who is a land use attorney by profession, at the August 9, 2023 PTC meeting:

There's a natural inclination when a proposal is made to develop a property to kind of look not at the project being proposed but at the surroundings and ask yourself well, okay they want to do this on this land. What problems can we solve while they're doing this on this land and there can be in that process over reaches. You would... how do I explain this. *There are limitations on conditions that we can impose or require...* where you often see this is in with public street where somebody wants to develop something and the City wants them to improve a public street and you have to go through this analysis. Well, is what they're doing creating a traffic impact because if it's not creating a traffic impact then you can't make them fix the public street. It's just a public street that needs to be fixed...

we don't have a public street.... We have a private street and what the Commission is talking about doing last time and a little bit tonight is requiring one private property owner to give its property rights not to the public in relation to some impact of the project, but actually to 13 other private property owners. That's what we're talking about when we talk about requiring that these owners grant easements to the folks down the street and *I don't believe we have the power to do that as a City*. To require... you know, anymore than we would have to say gosh, this new development is impacting the value of your 13 properties. So, we're going to make the property owner give each of you \$10,000.

Right, we can't do that and it's particularly troubling here where again, if we look at the impacts of what is being proposed. *The only traffic impact on Ellsworth from the totality of the proposal is a beneficial traffic impact*. It's beneficial, right compared to the existing conditions...

those neighbors are not saying hey, we really need 26-feet here. Right, this road really needs to be 26-feet and so we are each willing to give the City 3-feet... the 3-foot 37 frontage of our property to make it a 26-foot public road. *We're not hearing that.* What we're hearing is a frustration by these neighbors that property they don't own, that happens to be in front of us for development, isn't going to 26-feet which is as near as I can tell it's never been at. (Emphasis added).

Indeed, the required essential nexus and rough proportionality between the Planning Commission's recommended condition requiring the applicants to pave and grant an easement over additional width beyond what the applicants have voluntarily offered and the impacts of the proposed project on Ellsworth Place is entirely missing. Accordingly, imposing this condition would constitute an unconstitutional regulatory taking of private property without just compensation and therefore cannot constitutionally be imposed. *Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 319 (1994).

The seminal cases of *Nollan v. California Coastal Comm'n* and *Dolan v. City of Tigard* prohibit public agencies from conditioning a land use approval on the applicant/owner's relinquishment of a portion of his or her property unless there is an "essential nexus" and "rough proportionality" between the agency demand and the effects of the proposed land use. In *Nollan v. California Coastal Commission*, 483 US 825 (1987), the Supreme Court considered the constitutionality of a California Coastal Commission development permit conditions requiring dedication of a public access easement along the owner's private beach. It held that this condition constituted a taking because there was no "nexus" or relationship between the purported impact of the development (obstruction of the public's ability to view the beach) and the public access easement condition imposed. *Id.* at 837, 839.

In *Dolan v. City of Tigard* 512 US 374, 391 (1994), the Supreme Court addressed the question left open by *Nollan*, adding the second prong to the nexus test. The court held that in addition to showing nexus, cities must show that development conditions placed on a discretionary approval have a "rough proportionality" to the development's impact. In determining whether the condition imposed is roughly proportionate to the impact, the court stated "the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." *Id.* The court held that the city had not met its burden of demonstrating that the building permit condition requiring dedication of a floodplain easement was roughly proportional to the impact of the proposed building.

Both the *Nollan* and *Dolan* decisions stemmed from a permitting authority using its power and discretion to overreach in demanding concessions that were not adequately tied to project effects. The Court held that these agency decisions diminished the applicant's property value without justification or compensation, thereby violating the Takings Clause of the Constitution. Thus, under *Nollan* and *Dolan*, a condition of approval must be related both in nature and extent to the impact of the proposed land use or permitted activity.

As concluded by City staff and articulated by Commissioner Hechtman, there is no relationship between the Planning Commission's recommended condition requiring the applicants to pave

and grant an easement over *any* additional width beyond what the applicants have voluntarily offered and the impacts of the proposed project (to amend the PC Ordinance to remove the 702 Ellsworth site to allow for its development as a single family home and to accommodate 4 additional parking spaces and a temporary loading space on the 2901-05 Middlefield site) on Ellsworth Place.

Hexagon Transportation Consultants, Inc.'s traffic report dated April 14, 2023 which was accepted by City transportation staff concludes that "[t]he existing 20 feet width of Ellsworth Place is adequate for two-way traffic and emergency vehicles access" and "[t]he existing intersection of Ellsworth Place with Middlefield Road has adequate width." Nonetheless, the applicants have voluntarily offered to increase these widths by a combined total of four feet.

As Commissioner Hechtman points out, the project's impact on Ellsworth Place is in fact *beneficial* - not detrimental - as it will improve the existing vehicular, bicycle and pedestrian safety of the intersection of Middlefield and Ellsworth Place and on Ellsworth Place by:


- Creating an enhanced 35-foot sight triangle at Ellsworth/Middlefield.
- Widening the curb cut approach at Ellsworth/Middlefield by 4 feet to a total of 28 feet at the street flare.
- Widening the width of Ellsworth Place to 24 ft by (1) paving an additional 30-inch width on the 2901-05 Middlefield side beginning at the Middlefield Road curb line and extending approximately 37 feet to the location of an existing utility pole guy-wire; (2) paving an additional 18-inch width on the 702 Ellsworth side beginning at the Middlefield Road curb line and extending approximately 42 feet to the proposed walkway to the single-family residence.
- Offering an ingress and egress easement over the additional paved width to the other properties on Ellsworth Place.
- Providing a temporary delivery and loading space onsite at 2901-05 Middlefield Road which is not otherwise required by Code; and
- Reducing vehicle trips on Ellsworth by reducing the number of parking spaces using Ellsworth Place and accommodating all current required parking for the 12-unit apartment complex onsite and moving the trash pickup to the Sutter entrance.
- Accommodating all current required parking for the existing 12-unit apartment building on site at 2901-05 Middlefield Road

Accordingly, we respectfully request that you adopt the PC Ordinance for 2901-2905 Middlefield Road & Exhibit A (Development Plan) as recommended by Staff without modification. Imposing the PTC's recommended conditions to require the applicants pave and/or grant an easement over any additional width beyond what the applicants have voluntarily offered cannot

constitutionally be imposed. *Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 319 (1994).

Respectfully submitted,

JORGENSON, SIEGEL, McCLURE & FLEGEL, LLP

By: 

Camas Steinmetz

Cc: Amy French, Chief Planning Official
Garret Saul, Project Planner
Albert Yang, Assistant City Attorney

From: [Kristen Van Fleet](#)
To: [Burt, Patrick](#); kou.pacc@gmail.com; [Kou, Lydia](#); [Council, City](#); [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#); gsheyner@paweeekly.com; [Planning Commission](#); [William Ross](#)
Subject: Re: Ellsworth Place - For September 18, 2023, Agenda Item 7 - 2901 Middlefield Road
Date: Thursday, September 14, 2023 2:44:25 PM
Attachments: [Chicago Title July 27 2023 950674-Letter.pdf](#)
[Misrepresentation of the deed to 705 Ellsworth Place ptc-7.12-public-comments6.pdf](#)
[Jeff Levinsky Letter ptc-7.12-public-comments6.pdf](#)

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Regarding City Council Meeting on September 18, 2023, Item 7

Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

Attached are the remaining 3 PDFs.

Sincerely,

Kristen A. Van Fleet
on behalf of Ellsworth Place Residents

On Thu, Sep 14, 2023 at 2:36 PM Kristen Van Fleet <kvanfleet@gmail.com> wrote:

Regarding City Council Meeting on September 18, 2023, Item 7

Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

For your reference, Ellsworth Place Residents have prepared an outline of refutes and additional PDF documents to correct statements made in the packet, as prepared for the meeting of September 18, 2023, item 7 on the agenda.

There are a total of 4 PDF files, which will be sent in two emails.

We invite all of you to come for a site visit to Ellsworth Place and meet with us prior to this meeting. Thank you for your time and attention to this matter.

Sincerely,

Kristen A. Van Fleet
on behalf of Ellsworth Place Residents

CHICAGO TITLE INSURANCE COMPANY

2533 North 117th Avenue, Omaha, NE 68164-3679 • Tel: (402) 498-7000 • Fax: (402) 496-8802 • (888) 453-4095



July 27, 2023

Paul W Bigbee & Kristen A Van Fleet
724 Ellsworth Place
Palo Alto, CA 94306
kvanfleet@gmail.com

VIA U.S. MAIL AND EMAIL

RE: Claim Number: 950674
Policy No.: 114918-VW
Insured: Paul W. Bigbee & Kristen A. Van Fleet
Property: 724 Ellsworth Place, Palo Alto, CA 94306

Dear Mr. Bigbee & Ms. Van Fleet,

This letter is to inform you that Chicago Title Insurance Company (the “Company”) has reviewed the documents submitted with the above-referenced claim. As discussed below, coverage is not afforded for this claim.

The Company understands the facts underlying the claim as follows: On or about July 12, 2004, Weichert Relocation Resources, Inc. conveyed the property commonly known as 724 Ellsworth Place, Palo Alto, CA 94306 (the “Property”) to you via Corporation Grant Deed recorded in Santa Clara County on July 22, 2004, as Document No. 17915468. In connection with the transaction, you were issued the above-referenced ALTA Homeowner’s Policy of Title Insurance (the “Policy”), with an effective date of July 22, 2004. The Policy was underwritten by the Company.

The Property abuts Ellsworth Place, a private way which leads to Middlefield Road, a public way. Recently, the owner of the property commonly known as 702 Ellsworth Place, Palo Alto, CA 94306 (“702 Ellsworth”), which abuts Ellsworth Place between the Property and Middlefield Road, contested your right to cross over the portion of Ellsworth Place abutting 702 Ellsworth. You have submitted this claim to address the possibility that the Property lacks access to a public way.

For the Company to have liability for a claim, the claim must fall within one of the Covered Risks of the Policy and not also fall within an exception or exclusion from coverage. Covered Risk 11 of the Policy insures against a lack vehicular and pedestrian access to and from the Property, based upon a legal right. The Company’s investigation has revealed that the Property has both vehicular and pedestrian access to Middlefield Road, a public way, based upon a legal right.

Specifically, on or about January 30, 1946, Katherine Emerson, who owned the entirety of Ellsworth Place at the time, conveyed the Property, including the portion of Ellsworth Place abutting the Property, to Frank and Ruth Coulombe via Grant Deed recorded in Santa Clara County in Book 1322, Page 523 (the “1946 Deed”). In addition to the Property, the 1946 Deed conveyed to Frank and Ruth Coulombe an easement over the portion of Ellsworth Place between Middlefield Road and the Property. On or about May 10, 1947, Frank and Ruth Coulombe conveyed the Property, not including the portion of Ellsworth Place abutting the Property, to Robert and Ruth

Gates via Grant Deed recorded in Santa Clara County in Book 1470, Page 581 (the “1947 Deed”). In addition to the Property, the 1947 Deed conveyed to Robert and Ruth Gates an easement over the portion of Ellsworth Place from Middlefield Road to the Property, including the portion of Ellsworth Place abutting the Property (the “Easement”). The Easement, which provides vehicular and pedestrian access from the Property to Middlefield Road, continues benefit the Property, as it has never been released or otherwise extinguished.¹ As such, the Property has a legal right of access as insured by the Policy.

Additionally, please be advised that the Policy does not provide coverage for informal disputes with other parties over the use of Easement or their improper interference with your right to utilize the Easement. Here, as stated above, the Company’s investigation has revealed that the Property has a right of access to a public way via the Easement. Although the owner of 702 Ellsworth Place has disputed your right to utilize the Easement, they have not presented a meaningful legal challenge to the validity of the Easement. Therefore, this matter does not create a defect in title for which the Policy affords coverage.

Based on the foregoing, coverage is not afforded for this claim. Reference to any particular provision of the Policy in this letter, the contents of this letter, and the contents of any prior correspondence, do not constitute and shall not be construed as a waiver of any other term or provision of the Policy, any grounds for denial, or any applicable defenses as may be afforded by law. The Company retains the right to supplement this letter.

Please also note that the above is based upon the information currently available to the Company. If there are any facts which were unknown to the Company upon making this coverage determination, and which may alter such determination, please provide this information or documentation in writing as soon as possible and your claim will be reevaluated. If I do not receive additional information or documentation, your claim file will be closed in 30 days from the date of this letter.

Enclosed is a “Notice” for your reference. This notice is provided pursuant to state regulations and contains certain information that may be of assistance to claimants whose claims have been denied. Please contact me at (402) 498-7111 or via email at seth.brian@fnf.com should you have any questions or concerns regarding this matter. **Please reference the above claim number in all communications with my office.** Thank you.

Sincerely,

A handwritten signature in black ink that reads "Seth Brian". The script is cursive and fluid, with the first letters of "Seth" and "Brian" being capitalized and prominent.

Seth Brian
Claims Counsel, AVP

Enclosure.

¹ *Moylan v. Dykes*, 181 Cal.App.3d 561, 571–72 (1986) (an express appurtenant easement benefits land until released or extinguished, even if not mentioned in subsequent deeds).

NOTICE

You have various rights, and limitations upon those rights, as provided in the policy or guarantee, under state or federal law, or under governmental regulations. It is important that you are aware of the following:

ARBITRATION

Your policy or guarantee may give you, and the Company, the right to Arbitration. If the right to Arbitration is contained in the Conditions and Stipulations of the policy or guarantee, then you may request that a neutral Arbitrator hear any coverage decision made by the Company. If you should decide to seek Arbitration, then the Company upon request will provide a copy of the Rules for Arbitration to you.

COMPLAINTS TO THE INSURANCE COMMISSIONER

If you believe all or part of your claim has been wrongfully denied or rejected, you may have the matter reviewed by the California Department of Insurance. The California Department of Insurance may be contacted at Claims Services Bureau, 300 South Spring Street, 11th Floor, Los Angeles, CA 90013. The telephone number is (213) 897-8921.

STATUTE OF LIMITATIONS

California Code of Civil Procedure §339 provides that the aggrieved party must file an action on a guaranty of title or policy of title insurance within two (2) years from the discovery of the loss or damage. The statute of limitations may be longer in other states.

From: sel@lightahead.com
To: [Dao, Veronica](#); [Planning Commission](#)
Subject: Fw: Misinformation Given in Packet for PTC Meeting of June 28, 2023 - Action Item #2
Date: Monday, July 10, 2023 11:24:39 AM
Attachments: [705 Ellsworth Deed.pdf](#)
[Geroge stern Grant Deed-705 Ellsworth place 12915085.PDF](#)

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

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my understanding is that you did not receive this email. please let me know if you have any questions or need more information.

From: sel@lightahead.com
Sent: Thursday, July 6, 2023 10:34 AM
To: Planning.Commission@cityofpaloalto.org <Planning.Commission@cityofpaloalto.org>
Cc: amy.french@cityofpaloalto.org <amy.french@cityofpaloalto.org>; garrett.sauls@cityofpaloalto.org <garrett.sauls@cityofpaloalto.org>; city.clerk@cityofpaloalto.org <city.clerk@cityofpaloalto.org>
Subject: Misinformation Given in Packet for PTC Meeting of June 28, 2023 - Action Item #2

Regarding: The Continuation of Action Item #2 from the PTC meeting of June 28, 2023, "2901 Middlefield Road and 702 Ellsworth Place: Request for Rezoning to Amend Planned Community 2343 (PC2343)..." (Applications 23PLN-27, 23PLN-00027, 23PLN-00025)

July 6, 2023

Dear Chair Summa and Members of the Planning and Transportation Commission:

Please find attached copies of the deeds to 705 Ellsworth Place, one is mine and the other is from the previous homeowner.

Referring to the Staff Report prepared for the PTC meeting of June 28, 2023, Action Item #2,

Please go to the deed presented on [PDF page 39, \(Packet page 47\)](#).

This incorrect deed, along with a map showing the utility easements over the 702 property, were prepared by First American Title on behalf of the developers, and then presented to neighbors by Amy French during her sight visit on February 24, 2023. Neighbors had informed Amy that this deed was for 705 Ellsworth Place but it is continuing to be used incorrectly as per the PTC Packet prepared for June 28, 2023, Action Item #2.

In view of the complexity of the two issues being discussed, ownership of the street and zoning for Mr. Handa's property, it would seem to make sense to review these in sequence rather than in parallel since the decision of one will impact the other.

Sincerely,

Susan E. Light, MD

RECORDING REQUESTED BY:

Old Republic Title Company

Order No.: 0626019795-
APN: 127-35-135

When Recorded Mail Document and Tax Statements to:

Susan Light
705 Ellsworth Place
Palo Alto, CA 94306

DOCUMENT: 21327882



Pages: 3

Fees... 31.00
Taxes... ** Conf **
Copies...
AMT PAID 31.00

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
Old Republic Title Company

RDE # 005
9/20/2011
8:00 AM

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

Corporation Grant Deed

R&T CODE 11932-11933

FILOR REQUESTS

DO NOT RECORD STAMP VALUE

The undersigned grantor(s) declare(s):

Documentary Transfer Tax is Filor requests - Do not record stamp value X *for OKR*
(X) computed on full value of property conveyed, or
() computed on full value less of liens and encumbrances remaining at time of sale.
() Unincorporated area: (X) City of Palo Alto

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
DGB Investments, Inc., a Delaware corporation

hereby GRANT(S) to
Susan Light, an unmarried woman

that property in City of Palo Alto, Santa Clara County, State of California, described as:
See "Exhibit A" attached hereto and made a part hereof.

Date: September 08, 2011

In Witness Whereof, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be
executed by its duly authorized officers.

Delaware
DGB Investments, Inc., a ~~California~~ Corporation

By: *D. G. Bergeron*
Douglas G. Bergeron, President

STATE OF CA)SS
COUNTY OF SANTA CLARA

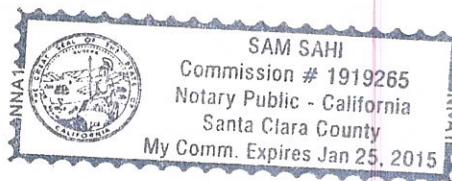
On MAY 9, 2013, before me, SAM SAHI, Notary
Public, personally appeared SCISAN E LIGH

_____, who proved to me on the basis of satisfactory evidence to
be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is
true and correct.

WITNESS my hand and official seal.

Signature _____



My Commission Expires: Jan 25, 2015

This area for official notarial seal

Notary Name: SAM SAHI

Notary Phone: 650-327-7147

Notary Registration Number: 1919265

County of Principal Place of Business: SANTA CLARA

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of Palo Alto, State of California, and is described as follows:

Parcel One:

CM. Wooster Company's Subdivision of the Clarke Ranch, Mayfield, filed November 11, 1912 in Book "O" of Maps, Page 16, Santa Clara County Records, described as follows:

Beginning at a point in the center line of Middlefield Road distance thereon S. 52° E. 355.74 feet from the common corner of Lots 70 and 71; thence leaving said center line and running parallel with the line dividing said Lots 70 and 71, N. 38° E. 135 feet to the True Point of Beginning of the Parcel of Land described herein; thence from said last name point of beginning N. 38° E. and parallel with said dividing line between said Lots 70 and 71, a distance of 115 feet; thence parallel with the center line of Middlefield Road, N. 52° W. 44.50 feet; thence S. 38° W. 115 feet; thence S. 52° E. 44.50 feet to the point of beginning, being a part of Lot 71 of the subdivision herein referred to.

Parcel Two:

A Non-Exclusive right of way as appurtenant to the property herein above described as Parcel No. One for ingress and Egress over a strip of Land described as follows:

Beginning at a point on the center line of Middlefield Road distant thereon South 52° East 355.74 feet from the common corner of Lots 70 and 71, as shown on said Map; thence along said line of Middlefield Road, South 52° East 20 feet; thence at right angles and parallel with the line dividing said Lots 70 and 71, N. 38° E. 250.00 feet; thence at right angles and parallel with the center line of Middlefield Road N. 52° W. 20 feet; thence at right angles S. 38° W. 250 feet to the point of beginning.

APN: 127-35-135

ARB: 127-35-135

N 8 8 1 PAGE 0549

12915085

Order No. 277608
Escrow No. 408946MP
Loan No.

REC FEE	6
RMF	2
MICRO	1
RTCF	1
LIEN	
SMPF	10
TC PCOR	

Recorded at the Request of
First American Title Guaranty Co.

JUN 13 1995 8:00
A.M.

BRENDA DAVIS, Recorder
Santa Clara County, Official Records

WHEN RECORDED MAIL TO:

GEORGE H. STERN
705 Ellsworth Place
Palo Alto, Ca. 94306

DOCUMENTARY TRANSFER TAX \$ 284.90

SPACE ABOVE THIS LINE FOR RECORDER'S USE

☒ Computed on the consideration or value of property conveyed; OR
☐ Computed on the consideration or value less liens or
encumbrances remaining at time of sale.
☒ City of Palo Alto Transfer Tax \$854.70

As declared by the undersigned Grantor
Signature of Declarant or Agent determining tax - Firm Name

127-35-135

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

THOMAS E. STEWART and MARTHA CASTILLO, husband and wife

hereby GRANT(S) to

GEORGE H. STERN, an unmarried man

the real property in the City of
County of

Palo Alto
Santa Clara

, State of California, described as

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated May 26, 1995

STATE OF CALIFORNIA)
COUNTY OF San Mateo) ss.

On May 26, 1995 before me,
Anne Kaz


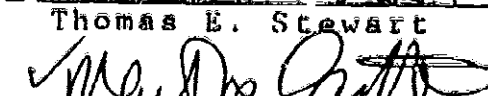
personally appeared THOMAS E. STEWART and MARTHA
CASTILLO

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s) or the entity
upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature

MAIL TAX STATEMENTS TO:

SAME AS ABOVE


Thomas E. Stewart

Martha Castillo



ARS No.	127	35	135	PTN
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LEGAL DESCRIPTION

REAL PROPERTY In the City of Palo Alto, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

C.M. Wooster Company's Subdivision of the Clarke Ranch, Mayfield, filed November 11, 1912 in Book "o" of Maps, page 16, Santa Clara County Records, described as follows:

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PARCEL TWO:

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Beginning at a point on the center line of Middlefield Road distant thereon S. 52° E. 355.74 feet from the common corner of Lots 70 and 71, as shown upon the map of said Subdivision; thence along the center line of Middlefield Road S. 52° E 20 feet; thence at right angles and parallel with the common line of said Lots 70 and 71, N. 38° E. 250.00 feet; thence at right angles and parallel with the center line of Middlefield Road N. 52° W. 20 feet; thence at right angles S. 38° W. 250 feet to the point of beginning.

APN: 127-35-135

From: [Jeff Levinsky](#)
To: [Planning Commission](#)
Subject: Important Corrections Regarding Ellsworth Place PC
Date: Wednesday, July 12, 2023 6:54:13 AM

You don't often get email from [REDACTED]. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Dear Planning Commissioners:

A member of the applicant's team at your June 28, 2023 hearing tried during rebuttal to discount the upzoning in the current PC proposed amendment by claiming the 1967 PC had already upzoned the property to have more units than allowed. He stated that upzoning would have been a reason for the PC in 1967 because:

“the density didn't comply with the RM-15 because our density is like at 20 DUA [dwelling units per acre]”

The above statement contains two major errors.

First, the RM-15 zone did not exist back in 1967. So the 1967 approval could not possibly have used RM-15 standards. Rather, the zoning designation the City evaluated the 1967 project under was R-3:G (“Residential Garden Apartment District”), as can be seen in this excerpt from the March 1, 1967 City Council meeting:

George Cody, architect representing the applicant, said the R-3:G use is based on the overall consideration of the total property and the 12 units would use up the number of units permitted for the land area; that in addition it would be very difficult and very uneconomical to develop the land between Ellsworth Place and the canal in any way.

Second, the 1967 apartment project did not exceed its allowed density. At the bottom of this excerpt from City Ordinance 1426 is the rule for calculating the number of units allowed in R-3:G:

ARTICLE 8. R-3-G RESIDENTIAL GARDEN APARTMENT DISTRICT REGULATIONS

Sec. 8.01 The following specific regulations and the general rules set forth in Article 22 shall apply in all R-3-G Districts.

Sec. 8.02 Uses Permitted:

(a) Uses permitted in the R-1 and R-2 Districts except for boarding and lodging houses.

(b) Apartments.

Sec. 8.03 Uses Requiring Use Permits as provided in Article 23.

(a) Uses as permitted in R-2 Districts.

Sec. 8.10 Minimum Height, Bulk and Space Requirements:

Sec. 8.11 Lot Area: 10,000 square feet with 2,500 square feet for each structure that provides one dwelling unit plus 2,000 square feet for each dwelling unit added to each initial structure.

The R-3:G lot area rule above (Sec 8.11) requires a lot size of 24,500 square feet for a 12 unit apartment building (2,500 sq. ft. for the first unit + 2,000 sq. ft. for each of the 11 other units).

So 12 units could legally be built on the 1967 PC lot, which was slightly larger at 26,478 sq. ft. in size after combining the four parcels extending from Sutter to the creek, including 2,000 sq. ft. of the Ellsworth Place road. The 1967 project's own architect himself explicitly stated that the project was compliant with R-3:G zoning in the City Council minutes excerpt above.

In sum, the City Council did not upzone the property when it approved the 12 units in 1967 because those 12 units were legal under R-3:G rules for the combined site. Rather, the obvious reason for the PC was to combine those four parcels, which included a street and land on both sides of the street, for the calculation. The statement made to the PTC in rebuttal was not correct.

Bringing this forward to the present, by removing 702 Ellsworth Place and the street from the project, the current City Council will have to upzone the property to allow 12 units on the reduced site, as that lot size allows only 9 units under RM-20. By the way, had the applicant in 1967 excluded 702 Ellsworth Place and the road segment from the project, he would have only have been allowed 9 units on 2901 Middlefield Road under the R-3:G rules. Simply put, the R-3:G rules were more generous than RM-15 and allowed about the same density as RM-20 today.

I hope this makes clear that the current proposal is requesting significant upzoning whereas the existing PC, as approved in 1967, actually did not. Determining if any public benefits offered by the proposed amendment justify the upzoning therefore remains relevant.

Thank you,

Jeff Levinsky

From: [Kristen Van Fleet](#)
To: [Burt, Patrick](#); kou.pacc@gmail.com; [Kou, Lydia](#); [Council, City](#); [Lauing, Ed](#); [Lythcott-Haims, Julie](#); [Stone, Greer](#); [Tanaka, Greg](#); greg@gregtanaka.org; [Veenker, Vicki](#); gsheyner@paweeekly.com; [Planning Commission](#); [William Ross](#)
Subject: Ellsworth Place - For September 18, 2023, Agenda Item 7 - 2901 Middlefield Road
Date: Thursday, September 14, 2023 2:38:14 PM
Attachments: [Ellsworth - Letter for City Council Meeting on September 18, 2023 - Google Docs.pdf.pdf](#)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Regarding City Council Meeting on September 18, 2023, Item 7

Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

For your reference, Ellsworth Place Residents have prepared an outline of refutes and additional PDF documents to correct statements made in the packet, as prepared for the meeting of September 18, 2023, item 7 on the agenda.

There are a total of 4 PDF files, which will be sent in two emails.

We invite all of you to come for a site visit to Ellsworth Place and meet with us prior to this meeting. Thank you for your time and attention to this matter.

Sincerely,

Kristen A. Van Fleet
on behalf of Ellsworth Place Residents

Regarding: The meeting scheduled for September 18, 2023, Item 7 - Adopt an Ordinance Amending Planned Community 2343 zoning for 2901-2905 Middlefield Road and Adopt an Ordinance Establishing a new Planned Community zoning designation for to Enable the Development of a new Single-Story, Single-Family Residence on 702 Ellsworth Place.

September 13, 2023

Dear Mayor Kou, Vice-Mayor Stone, and members of the City of Palo Alto City Council,

For your reference, Ellsworth Place Residents have prepared an outline of refutes and additional PDF documents to correct and/or support the record regarding statements made in the packet, as prepared by the CPA Planning Department for item 7 on the agenda of the September 18, 2023 meeting. (Please keep reading past the signatures, and also refer to the attached PDFs.)

The existing PC-2343 is a far better situation than what the developers are offering, and we ask that you either deny the application(s) or send them back to the PTC for better planning.

For us, this is about *SAFETY* and *TRUTH* which encompasses fair treatment under the law and also having accurate information presented so that a safe and sensible solution can be designed for the greater good of all who traverse on or near Ellsworth Place in Palo Alto, CA. We must interact with Middlefield Road, a busy 4-lane road without a shoulder or bike lane, in close proximity to a school, recreational centers, and shopping centers. We want:

- a **sensible line-of-site to Matadero Creek** without a fence impeding L.O.S. or on the road edge
- adequate road circulation maintained at a **DRIVEABLE 26-foot width** over the first 100-foot section of the Ellsworth Place road so delivery vehicles do not have to back out onto Middlefield Road or park in its right lane, or back up through utility poles or use of paved driveways. Delivery companies will refuse to deliver to Ellsworth Place if the conditions are not safe or parking is illegal. (As confirmed by UPS, and documented with Amazon and Fed-Ex.)
- **A USEABLE DELIVERY SPACE** to fit a delivery truck, measuring 11 feet wide x 26 feet long. There is room for this if the first utility pole is removed and no inquiries have been opened regarding this. (Nor has Comcast been asked about moving the cable box on the corner.)

We have been working on this for over eight months, with the developers spending money on expensive letters, charts, and diagrams that remove all benefits of the current PC-2343, and offer the community nothing in exchange. Their proposals decrease current road circulation and safety on Ellsworth Place at Middlefield Road and create undue hardship and undue burden on the homeowners and tenants!

Ellsworth Place residents have throughout this process: (photos and documents can be provided)

1) had our property rights challenged with false claims presented in attorney letters, that, despite our presenting supporting documents to CPA to refute these claims, required a letter from Chicago Title to defend our property rights and make the repeated threats stop.

2) mourned the illegal removal of a protected Valley Oak tree along with several other large and beautiful 50-year-old trees that were a part of the PC landscape plan of the apartment parking lot.

3) had our deeds misused and falsely represented. The homeowner of 705 Ellsworth Place continues to have their deed misrepresented as belonging to the apartments, even though documents and the correct deed for the apartments were put into the public record. This deed is incorrectly referred to yet again, see below, **Item 7: Staff Report Pg 4 - Packet page 146**.

4) dealt with full-size semi-trucks blocking the Ellsworth Place road, more than once, and also the operation of house-shaking equipment by the developer without a permit on the "parking lot".

5) endured illegal and dangerous temporary fencing that was placed around the parking lot, between December 2022 and April 2023, along with an unsightly dirt and wood pile dumped on top of the parking lot; even though a call to code enforcement on December 20, 2022, revealed it was illegal for the fence and dirt pile to be placed there.

6) not been properly notified about the planned projects for the apartment complex located at 2901 Middlefield Road, which also includes the parking lot known as "702 Ellsworth Place". When they were posted, the QR codes did not work for several months, nor was any information about the projects available online. Any information had to come through emails with CPA Planning Staff and neighbors received differing and/or confusing answers, or questions went unanswered.

7) had emails with questions forwarded to the developer in lieu of City Planning answering them.

8) had our letters left out of "the Packet" as prepared for the pre-screening on March 13, 2023, even though we were told all of our letters would be included.

9) received notices for public meetings less than 7 days in advance of the meetings, and/or the notices had the wrong application number on them, or they didn't provide contact information for where to send letters.

10) received a flier for a meeting with the developers less than 24 hours before the meeting time, with some of the single-page fliers placed in our mailboxes without stamps.

11) experienced discrimination by CPA Planning Staff by their giving special treatment to the developers throughout this entire process. Public records revealing emails between CPA Planning Staff and the developer's attorney and architect. We were verbally told the packets are prepared in support of this project because that is what they heard the City Council wanted at the pre-screening meeting, and also being told we are a "private road" so they can't help us.

12) have had verbal threats by CPA Planning Staff to ban delivery trucks on our street.

13) have had verbal threats by CPA Planning Staff of eminent domain of 3' from our properties.

14) have had phone messages and emails ignored and never returned by the CPA Attorney's department, when attempting to get false information corrected.

15) been denied the opportunity to review plans from the developers when those plans were not entered into the public record ahead of the PTC meeting on July 12, 2023. Those plans were almost voted on without the public being allowed to comment on them! (The packet was unchanged, and we were told only comments from new people were allowed at that meeting.)

16) received incomplete public records searches with emails cut off or missing from the chains.

17) received rude treatment by CPA staff when an inquiry for a translator was initially granted and then retracted less than three hours before the meeting was set to begin.

18) continued to compensate for the visual impairment caused by orange netting still in place, which is being used as a 3-foot fence “visual aid” as we exit Ellsworth Place. A fence in this location is dangerous to vehicles and pedestrians alike. (Refer to the photo on the next page.)

19) been given inadequate amounts of time to respond to the developer’s plans. We were given only 5 days to react to the “visual aids” that were half-set up for our benefit. They were initially not installed correctly, and the CPA Planning Staff took weeks to correct them!

20) continued to give useful feedback regarding this development, only to read in the current packet that the developers do not intend to do what they originally offered! They are using the verbiage “PERCEIVED WIDTH” on all of the ordinance drafts, which is not the same thing as driveable width.

This narrows our road from its current 21.5 to 26-foot wide width (over the first 100-foot length of the road) down to a 20-foot road width, thereby affecting road circulation. Additional dangerous situations are added including the road continuing into the walkway of the house and the road ending at guy wires. It will prevent vehicles from safely turning around before exiting onto Middlefield Road (requiring them to instead back up onto Middlefield Road), and delivery trucks may no longer be allowed to enter Ellsworth Place, thereby creating undue burden and undue hardship, and causing logistical nightmares, especially to our senior-aged residents.

21) heard half-truths and excuses from the developers about the inability to move utility infrastructure on their property, the function of which would maintain the road circulation. We have learned through our own inquiries that applications were never opened by the developers to obtain needed information about whether or not the utility infrastructure can be moved.

Quoting Commissioner Vice-Chair Chang, from Item 7: Staff Report Pg 62 - Packet page 204

“...we’re actually being asked to give rights and in exchange, we’re asking to make something safer. Not necessarily to give rights to only 13 property owners but really what we’re doing is trying to make things safer for all... for the rest of our City. For all the people who traverse that opening on Ellsworth. There’s quite a lot of bicyclists and pedestrians who are using that sidewalk. Particularly, given the proximity to the Midtown shopping area and also lots of young children using it to get to Winder Lodge and the Kim Grant Tennis Center and just lots of pedestrians in general. Those of us who did site visits I’m sure saw lots of pedestrians and bicyclists and in addition, there’s the school across the street and the Middlefield itself is a really busy thoroughfare so lots of cars. And so, we’re just trying to make this area safer because no matter what those... no matter what those 13 households do have to use Ellsworth for ingress and egress and if we make it safer for them to go in and out at that opening. We make it safer for everybody else at that intersection and so that’s how I looked at it.”

The Ellsworth Place Neighbors agree with Commissioner Chang. Our objections come from a daily understanding of what it is like to live on Ellsworth Place and interact with Middlefield Road. We have documents from over ten years ago that state our concerns for safety at this intersection.

DO YOU SEE THE CHILD IN THIS PICTURE?



In addition to safety, and as was mentioned more than once during the last PTC meeting on August 9, 2023, the road widening easements being offered by the developers could be accepted by the CPA, but not by the homeowners of a “private road”. Apparently some consider this to be “exaction” of property because it they consider this to only benefit a private road, even though members of the public who traverse by Ellsworth Place are also being affected by these decisions. So establishing road ownership before final approval of the PC applications is granted (or denied) is warranted.

We also want more common sense implemented in the developer's plans such as not having the road end into the paved walkway of the house and guy lines, finding adequate room to park and turn delivery trucks around in a way that actually works, and moving the front fence back along a sight triangle to keep our view clear to the creek fence, where the sidewalk bends before descending over Matadero Creek. If these changes require a smaller house footprint, then we do not see a problem with this as the developers have proposed a house that is 55% larger, on a sub-standard R-1 lot, than the average sub-standard R-1 home on Ellsworth Place; our homes have an average size of 1,090 sq ft.

How Delivery Trucks Use “The Parking Lot”



Where Delivery Trucks Will Park If No Useable Space is Provided



The proposed "delivery space" is not useable! According to UPS, their trucks are between 10 and 11 feet wide. If conditions are not safe or not legal for their drivers to deliver packages then customers will need to provide an alternative delivery address or pick up their packages at the UPS Depot in East Menlo Park.

Quoting Commissioner Akin, from Item 7: Staff Report Pg 63 - Packet page 205

"...the only solutions we can come up with involve using other private property to solve the same problems. So, I think there's a clue here that there is just not enough space for a simple answer."

Quoting Commissioner Chair Suma, from Item 7: Staff Report Pg 63 - Packet page 205

"I'm very moved by what Commissioner Akin just said and I think it's... if I heard him right he was expressing concern that there's sort of conundrum here that we don't have enough space to need what we... to do what we need to do in this location. And that's kind of the Palo Alto... I won't say process but the problem that I often see is and my analogy is somebody with a size ten foot is trying to squeeze into a size 6 shoes. So, we have... we really need to compromise here to get something that makes everybody happy and I believe there was overreach in the process and we have not allowed that. For instance, the determination of private or public street was not our Agenda as much as I know the people... people really care about it. It wasn't agendized, it wasn't part of this process but this is an amendment of a PC and a creation of a new PC and those are supposed to have public benefit."

The Ellsworth Place Neighbors implore you to establish real public benefit in this PC amendment and creation process and enforce changes that make the intersection of Ellsworth Place and Middlefield Road safer. The current PC-2343 Ordinance provides a safer situation with a harmonious design that takes the existing Ellsworth Place home into consideration. The proposed changes to PC-2343 and the new PC are not harmonious with existing homes and they create a dangerous situation. We know there are better solutions to be had that balance safety with profit.

We ask you to vote against the approval of these new ordinances or to send them back to the PTC for changes that make their proposals safe for all who traverse on or near Ellsworth Place.

Thank you for all you do to help make Palo Alto a better City!

Sincerely,

The Ellsworth Place Neighbors

<u>Robyn A. Ziegler #730</u>	<u>DM #75</u>
<u>[Signature] #717</u>	<u>Susan #705</u>
<u>[Signature] #717</u>	<u>Danny ALBERSON #731</u>
<u>[Signature] #706</u>	<u>[Signature] #731</u>
<u>[Signature] #706</u>	<u>Gala #741</u>
<u>[Signature] #729</u>	<u>Yevgeny #741</u>
<u>[Signature] #724</u>	<u>Natalie Fisher #736</u>
	<u>[Signature] #724</u>

Ellsworth Place Neighbors Respond to the CPA City Council Packet for September 18, 2023

Item 7: Staff Report Pg 1 - Packet page 143

"Area residents raised several initial concerns about the recent selling of one of the planned community zoned properties and were instrumental in identifying a zoning map error that showed one of the parcels as zoned for single family residential use instead of being part of a larger planned community project."

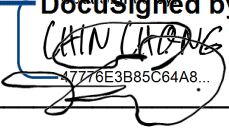


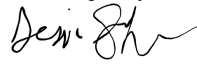


The above statement needs more details to avoid some confusion it creates. CPA Code Enforcement found both ordinances governing the parking lot parcel. They would have been discovered when the application was submitted. They come up in a simple Google search, and the Santa Clara County Assessor's office has the property listed as a "parking lot". (Zoning for an R-1 lot and a parking lot can't exist simultaneously.)

We ask you to vote against the approval of these new ordinances or to send them back to the PTC for changes that make their proposals safe for all who traverse on or near Ellsworth Place.

Thank you for all you do to help make Palo Alto a better City!

Sincerely,

The Ellsworth Place Neighbors

<div>DocuSigned by:  7776E3B85C64A8... 47BDD612B7FA453...</div>	<div>DocuSigned by:  4A17230D800C480...</div>
<div>DocuSigned by:  3050B9D654A44D4...</div>	<div>DocuSigned by:  1E967C803B40499...</div>
<div>DocuSigned by:  6DD1638DDBBB42D...</div>	
<div>Venketa Kurra DocuSigned by:  9014DB411D0E43F...</div>	

Ellsworth Place Neighbors Respond to the CPA City Council Packet for September 18, 2023

Item 7: Staff Report Pg 1 - Packet page 143

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The above statement needs more details to avoid some confusion it creates. CPA Code Enforcement found both ordinances governing the parking lot parcel. They would have been discovered when the application was submitted. They come up in a simple Google search, and the Santa Clara County Assessor's office has the property listed as a "parking lot". (Zoning for an R-1 lot and a parking lot can't exist simultaneously.)

HISTORY:

On June 14, 2022, Kristen A. Van Fleet had a 10:00 a.m. virtual meeting with CPA Planning Emily Foley and Project Coordinator Henry Rafael. She asked how the parking lot could be sold, where will overflow parking from the apartments go, and how would a basement be approved right next to the creek. The property had been listed for sale about two weeks earlier with the address “700 Ellsworth Place” and advertised house plans with a basement and a wall touching the edge of Ellsworth Place. Neighbors were very worried about circulation issues on Ellsworth Place and settlement issues to our houses. Kristen was told by Emily that this transaction is between the buyer and the seller, that the buyer is responsible, and because Ellsworth Place is a private street they (CPA) can’t help us or intervene in this property sale.

Emily ended this call and immediately sent the following email to Ken Hayes at 10:51 a.m., which we received from a public records search. It reads:

“I wanted to follow up on our discussion regarding this property. Today we had a neighbor reach out and ask about how the property is currently used as parking for the apartments at 2901 Middlefield. Although the area on opposite sides of Ellsworth Place have separate APN s I cannot find evidence of a property line or subdivision between 2901 Middlefield/127-35-194 and the subject 127-35-152.

Since this isn’t an active application I do not need to see a title report or anything at this point in time but I wanted to reach out and make sure it is, in fact, a legal parcel.”

On Jun 14 2022 at 10 51 AM Foley Emily <Emily.Foley@CityofPaloAlto.org> wrote

Hi Ken

I wanted to follow up on our discussion regarding this property. Today we had a neighbor reach out and ask about how the property is currently used as parking for the apartments at 2901 Middlefield. Although the area on opposite sides of Ellsworth Place have separate APN s I cannot find evidence of a property line or subdivision between 2901 Middlefield/127-35-194 and the subject 127-35-152.

Since this isn t an active application I do not need to see a title report or anything at this point in time but I wanted to reach out and make sure it is in fact a legal parcel.

Thanks
Emily

<image001.png> **Emily Foley, AICP**
Associate Planner
Planning and Development Services Department
(650) 617-3125 | emily.foley@cityofpaloalto.org
www.cityofpaloalto.org

Both Ordinances that govern the “parking lot”, PC-1810 and PC-2343, were easily discovered by CPA Code Enforcement when they were called to inquire about disruptive construction activity occurring on the “702 Ellsworth” parcel, being done without a permit, (our homes were shaking).

Robin Ellnor of CPA Code Enforcement, found both ordinances within a few minutes of being on the phone. When her original search for the “700 Ellsworth Place” address, (the “marketing” address), did not turn up an entry in the CPA database, Robin quickly figured out the lot was attached to the apartment complex at 2901 Middlefield Road. She said she would take care of opening the code enforcement claim and would have the chain link fence removed. She sent an email with both ordinances attached as the follow-up to this code enforcement call. THIS IS HOW ELLSWORTH PLACE RESIDENTS LEARNED ABOUT THE ORDINANCES! (This communication is available via public records.)

Side Note:

An R-1 and a parking lot can't legally exist simultaneously and the Santa Clara County Assessor's Parcel report has "702 Ellsworth Place" registered as a "parking lot". The screenshot below was captured from the SCC Assessor's website on September 10, 2023.

Property Information - Assessor's Parcel Number (APN): 127-35-152



Situs Address(es) :

(PARKING LOT) PALO ALTO 94306-0000

[View Google Map](#)

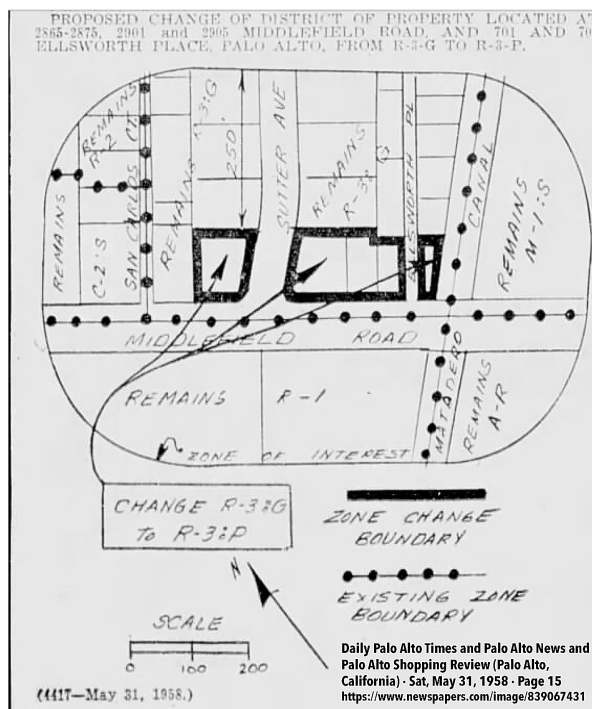
[Print Assessor's Parcel Map](#)

Item 7: Staff Report Pg 2 - Packet page 144

BACKGROUND

"In 1967 a planned community zoning ordinance was approved for the subject property to allow a 12-unit apartment building. The development site consists of four parcels adjacent to the northeast side of Middlefield Road and extends from Sutter Avenue to Matadero Canal (Attachment B)."

This statement leaves out ordinance PC-1810, as established in 1958 and then amended in 1967 to become PC-2343. The original ordinance zoned R-3-P (professional) buildings and it was printed in the newspaper with the following map, which shows Ellsworth Place as a public road:



ORDINANCE 1810, Section 2, sets a “condition that the driveway to Middlefield Road be modified.”

ORDINANCE NO. 1810

AN ORDINANCE OF THE CITY OF PALO ALTO ZONING
PROPERTY AS P-C, APPROVING THE DEVELOPMENT PLAN
AND SETTING DEVELOPMENT SCHEDULE FOR PROPERTY
KNOWN AS 2865-2875 MIDDLEFIELD ROAD, 2901-2905
MIDDLEFIELD ROAD AND 701-702 ELLSWORTH PLACE

The Council of the City of Palo Alto does ordain as follows:

Section 1. Ordinance #1324, the Zoning Ordinance, is hereby amended by amending Section 302 (the Zoning Map) as shown on development plan hereto and made a part hereof.

Section 2. The land shown on the development plan attached hereto is hereby rezoned as P-C and development plan is approved subject to the condition that the driveway to Middlefield Road be modified.

ORDINANCE 2343 was amended from Ordinance-1810 by removing the properties of 2865 - 2875 Middlefield Road and then changing the zoning back to R-3-G to allow for “Garden Apartments”.

Ordinance of the Council of the City of Palo Alto amending Section 2 OF Ordinance NO. 1810 Being the development plan for the property known as 2901-2905 Middlefield Road and 701 - 702 Ellsworth Place.

SECTION 4. All other provisions of Ordinance No. 1810 shall remain in full force and effect.

Item 7: Staff Report Pg 2 - Packet page 144

BACKGROUND

*“The apartment building is located nearest Sutter Avenue. Access to the apartment is provided via an easement across one of the development site’s parcels referred to as 702 Ellsworth Place, which also has guest parking spaces for the apartment building. The easement also provides access to Ellsworth Place, a private street with 13 residential properties; **these properties are not associated with the PC development.**”*

The 13 residential properties (on Ellsworth Place), WERE BUILT 20 to 30+ YEARS BEFORE the PC development, and would therefore have been taken into consideration when the apartments were designed and approved. The Ellsworth Place homes were all built before 1949, situated between a cannery on the other side of Matadero Creek and an airplane parts factory, where Safeway is now, and owned by “blue collar” people. (Census data, directories, and periodicals provide evidence of this history.)

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"This more recent purchase was reportedly based, at least in part, on information provided by the City indicating that 702 Ellsworth Place could be developed with a single family home. This guidance, however, is not consistent with the administrative record and occurred because the zoning map from 1960s was never updated to reflect the approved PC zoning designation. For decades the City's records regarding these parcels appeared to show the incorrect zoning. Similarly, when the City implemented its online property parcel records, the subject property (2901-2905 Middlefield Road and 702 Ellsworth Place) did not include information about the applicable PC zoning designation."

Notes to Keep in Mind:

- History of the property was not researched, (via public records searches)
- It doesn't appear CPA Planning was asked if ordinances governed this parcel. (via public records searches)
- The lot went up for sale around June 1, 2022, at a price of \$1,498,000, and sold for a reduced price of \$950,000 in early November 2022.
- The same real estate agent represented both the buyer and seller of this property
- Preparation to sell this lot was done by Hayes Architects (via public records searches)
- The Santa Clara County Assessor's Parcel Report has the parcel zones as a "parking lot", which is not the same thing as a "vacant lot".
- Legally, a lot can't be simultaneously zoned as both an R-1 AND a Parking Lot.

From: [French, Amy](#)
To: [Sauls, Garrett](#); [Gerhardt, Jodie](#)
Subject: FW: Parcel 127-35-152
Date: Wednesday, January 4, 2023 2:30:00 PM
Attachments: [image001.png](#)
[image002.png](#)

Yikes

Ken reached out a couple years about about this 'vacant corner parcel' to ask which was front and which was side. I only answered the question he asked and didn't do research on the property history.

From: Ken Hayes <khayes@thehayesgroup.com>
Sent: Monday, August 17, 2020 12:28 PM
To: French, Amy <Amy.French@CityofPaloAlto.org>
Subject: Re: Parcel 127-35-152

Thanks Amy!
Ken Hayes, AIA

President



From: French Amy <Amy.French@CityofPaloAlto.org>
Sent: Tuesday December 7 2021 9:07 AM
To: Hayes Ken <khayes@thehayesgroup.com>
Cc: PlannerOnDuty <planner@CityofPaloAlto.org>
Subject: FW: Middlefield parcel

Hello Ken

Thanks for reaching out. Interesting/surprising to find a vacant residential parcel in Palo Alto. One less thing to research (no address to look up past permits no potentially historic home). Yes for this corner lot the front property line (shortest of the two street fronting lines) is Middlefield and development would need to observe the special setback noted in the parcel report. If there is no variance request and it is one story above grade observing height limit and setbacks there is no discretionary review only building permit (ministerial review). I copy the planner on duty to help further on this as needed. I am not aware of rules for substandard residential lots restricting basements for SFR use just height and number of stories.

Note that last night the Council adopted an interim urgency ordinance following SB9 for R1 and RE zoned properties.

From: Ken Hayes <khayes@thehayesgroup.com>
Sent: Tuesday December 7 2021 7:48 AM
To: French Amy <Amy.French@CityofPaloAlto.org>
Cc: Richard Dewey <rrd@deweyland.com>
Subject: Middlefield parcel

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hi Amy

We are about to start design a single family home on this parcel.

Given the dimension and area of the parcel, in accordance with PAMC 18.12.040C(1)(A), it is considered a non-conforming parcel in this district. Parcels that are less than 50' wide and less than 83% of the required minimum lot size are considered non-conforming. The subject parcel is less than 50' wide (it appears the average width is 45.5') and approximately 4,585 SF (less than 83% of 6,000).

Non-conforming parcels are permitted single-story development only, (basements excepted?) with a maximum roof peak height of 17'. The FAR is 0.45/1.0 or approximately 2,083 SF for this parcel. For lots less than 50' in width, the street-side setback is only 10'. A single-family use requires two off-street parking spaces, one of which must be covered. I believe the front yard will be considered Middlefield.

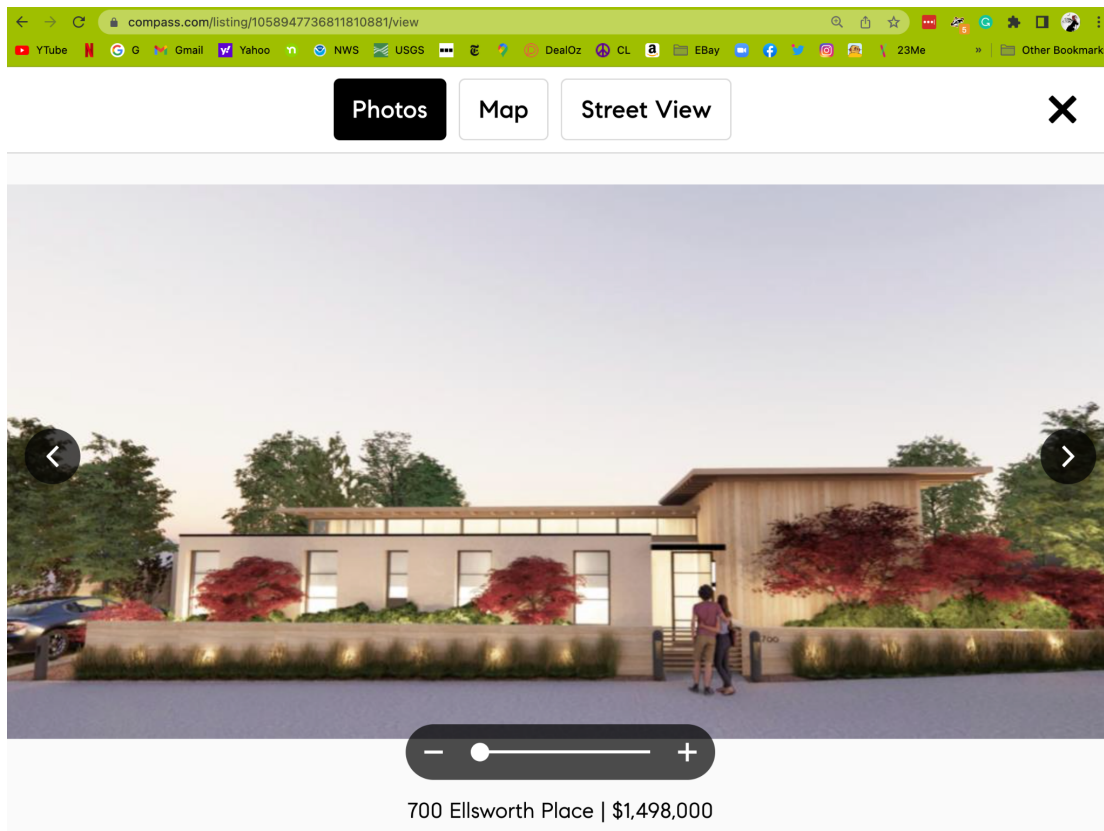
Can this project have a basement? Matadero creek is bordering the long side of the property. Also, does this require any special planning review or will planning review at the time of building permit submittal since it will be one story, and maybe a basement if permitted.

Thanks,

Ken Hayes, AIA

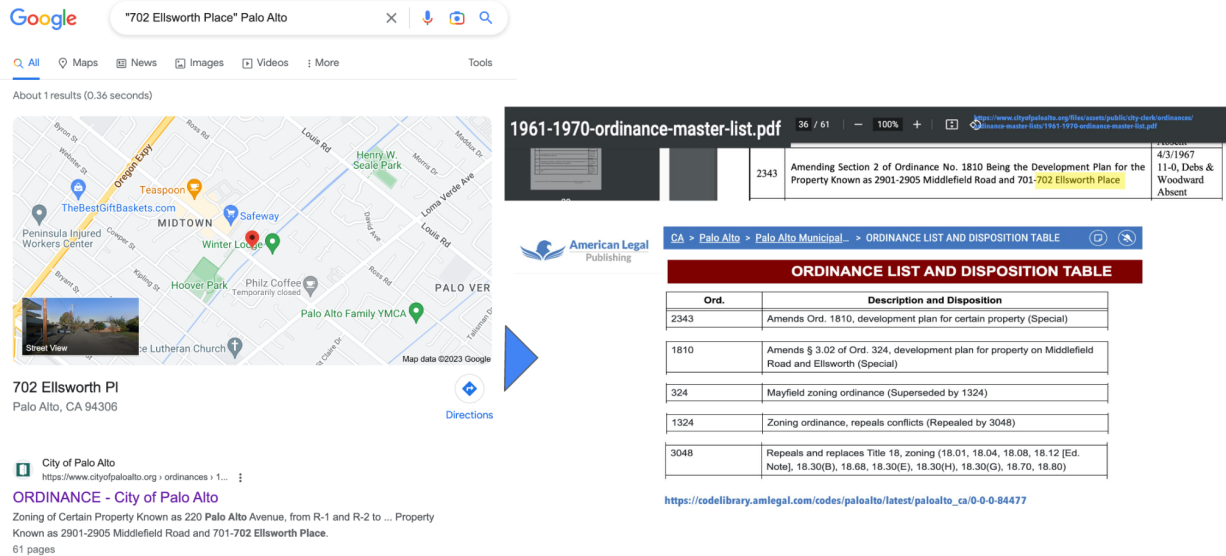
- The property was given the non-registered address of “700 Ellsworth Place” for “marketing purposes” according to the developers, per their statement at the City Council Prescreening meeting on March 13, 2023. Searching this address on Google, City Records via the City Clerk’s Website, or on the SCC Assessor’s website does not provide any history of the property. (The historical address before the home was demolished in c. 1967 is “702 Ellsworth Place” or it requires a search using APN: 127-35-152 to find information about the property.)

Below is a screenshot of the property listing on Compass.com



- Ordinances are not recorded on deeds and therefore do not show up in the chain of title reports.
- Not everything about a property shows in the chain of title reports. The research done by Ellsworth Place Neighbors found additional documents not included in the chain of title for parcel, APN: 127-35-152.
- Ordinances have to be researched at the City level.
- When CPA code enforcement was contacted they easily found both Ordinance PC-2343 and PC-1810 governing the property marketed as “700” or historically known as “702 Ellsworth Place”. These ordinances also came up via a Google search of the historical property address, “702 Ellsworth Place” Palo Alto”. (This search now generates press coverage and CPA meeting notes pertaining to the zone change application.) Here is a screenshot of what a Google search produced in early March 2023.

Listing the R-1 parcel under 700 Ellsworth created confusion - a trivial Google search shows the Ordinances PC-2343 and OR-1810 for 702 Ellsworth Place



Google search results for "702 Ellsworth Place" Palo Alto. The map shows the location in Palo Alto, CA 94306. The search results include a link to the City of Palo Alto website and a PDF document titled "1961-1970-ordinance-master-list.pdf".

City of Palo Alto
<https://www.cityofpaloalto.org/ordinances>
ORDINANCE - City of Palo Alto
 Zoning of Certain Property Known as 220 Palo Alto Avenue, from R-1 and R-2 to ... Property Known as 2901-2905 Middlefield Road and 701-702 Ellsworth Place.
 61 pages

1961-1970-ordinance-master-list.pdf
 36 / 61
 100%
<https://www.cityofpaloalto.org/files/assets/public/city-decl/ordinances/ordinance-master-list/1961-1970-ordinance-master-list.pdf>

Ord.	Description and Disposition
2343	Amends Ord. 1810, development plan for certain property (Special)
1810	Amends § 3.02 of Ord. 324, development plan for property on Middlefield Road and Ellsworth (Special)
324	Mayfield zoning ordinance (Superseded by 1324)
1324	Zoning ordinance, repeals conflicts (Repealed by 3048)
3048	Repeals and replaces Title 18, zoning (18.01, 18.04, 18.08, 18.12 [Ed. Note], 18.30(B), 18.68, 18.30(E), 18.30(H), 18.30(G), 18.70, 18.80)


https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-84477

- “10 Things to Know Before Buying a Vacant Lot”, “There is plenty to know before investing in land. Here are 10 things, including everything from the basic expenses and city ordinances to land surveys and easements.” From the website:
<https://home.howstuffworks.com/real-estate/buying-home/10-things-to-know-before-buying-a-vacant-lot.htm>

There's plenty to know before investing in land. Here are 10 things, including everything from the basic expenses and city ordinances to land surveys and easements.

Contents	
10.	Location
9.	Know the Costs Involved
8.	Zoning Restrictions
7.	Ordinances and Covenants
6.	Utilities
5.	Road Access
4.	Easements
3.	Surveying
2.	Flooding
1.	Building Permits

- Santa Clara County Assessor's Online Property Profile states under the line item Approved Building Site: **"Research needed to evaluate parcel as a Building Site"**
<https://sccplanning.maps.arcgis.com/apps/webappviewer/index.html?id=fb3af8ce73b6407c939e1ac5f092bb30>



Online Property Profile

September 10, 2023 09:20:35 PM. The GIS data used in this analysis was compiled from various sources. While deemed reliable, the Planning Office assumes no liability.

Property Location Information

APN: 127-35-152 [Assessor's Map](#)

Site Address:

Recorded Size (Assessor Database): 3,485 sq. ft. / 0.1 acres

Computed Size (GIS): 4,447 sq. ft. / 0.1 acres

TRA: 06001

Planning and Development Information

APN: 12735152 is incorporated (PALO ALTO).

General Plan: USA

USA: Palo Alto (100%)

SOI: Palo Alto


Zoning: INCORPORATED

Supervisor District: 5

Approved Building Site: Research needed to evaluate parcel as a Building Site

Special Area Policies and Information

- Fire Responsibility Area: LRA (100%)
- Geohazard: County liquefaction hazard zone
- Geohazard: State seismic hazard zone (liquefaction)
- Historic Parcel: NO
- FEMA Flood Zone: X (100%)
- Watershed: San Francisco Bay
- Rain isohyet: 17 inches
- Nearest named creek: MATADERO CREEK (26 feet)
- Nearest named lake: San Francisco Bay (8194 feet)



- Searching either the marketing address of "700 Ellsworth Place" or the historical address of "702 Ellsworth Place" as recorded in the chain-of-title, produces the following result, which requires agreeing to "the terms and conditions" to view, and states, "Please note that the estimator is intended for reassessable changes in ownership only and NOT for new construction." **Since neither address exists, 700 or 702 Ellsworth Place, searching parcel APN 12735152 gives the Assessor's website stating the property is a "Parking Lot". (Refer to the top of page 8).**
<https://www.sccassessor.org/index.php/online-services/supplemental-calculator>

No records meet your search criteria: '700 Ellsworth Place' or the records are incomplete.
Please select different values and try again. See also the list of search tips.

The tax estimator is designed to help new and prospective homeowners reduce confusion concerning the amount of property taxes they can expect to pay following their purchase.

Simple Address Search

(Please enter property address.) ?

Property address

☒ I have read, understand, and accept [the terms and conditions](#)

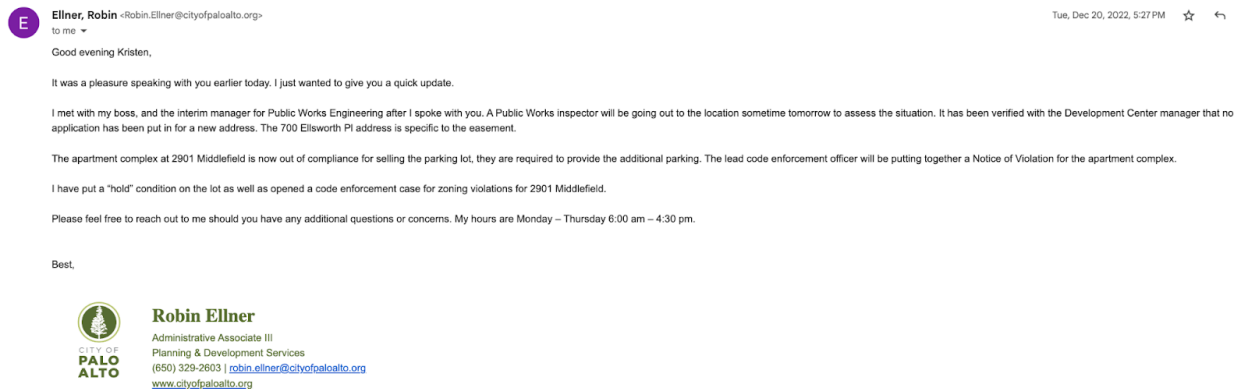
Search

Item 7: Staff Report Pg 2 - Packet page 144

“It was not until residents filed a code enforcement complaint concerning new fencing around 702 Ellsworth Place in anticipation of a future development that research began and uncovered this mapping error.”

INCORRECT STATEMENT - CORRECTION NEEDED:

The “error” was uncovered by Robin Ellnor on December 20, 2022, when Handa developers were operating heavy machinery on the parcel without a permit, which was shaking our houses. We received the following email with copies of both ordinances PC-1810 and PC-2343 attached:



Below is a transcript of the above email:

“It was a pleasure speaking with you earlier today. I just wanted to give you a quick update.

I met with my boss, and the interim manager for Public Works Engineering after I spoke with you. A Public Works inspector will be going out to the location sometime tomorrow to assess the situation. It has been verified with the Development Center manager that no application has been put in for a new address. The 700 Ellsworth PI address is specific to the easement.

The apartment complex at 2901 Middlefield is now out of compliance for selling the parking lot, they are required to provide the additional parking. The lead code enforcement officer will be putting together a Notice of Violation for the apartment complex.

I have put a “hold” condition on the lot as well as opened a code enforcement case for zoning violations for 2901 Middlefield.

Please feel free to reach out to me should you have any additional questions or concerns. My hours are Monday – Thursday 6:00 am – 4:30 pm.”

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“Ellsworth Place is neither owned nor maintained by the City. Similar conditions exist at other locations in the City, dating from development that occurred on formerly-unincorporated land before annexation to the City.”

Similar road conditions to Ellsworth Place exist only on one other road in Palo Alto, which is San Carlos Court. (Cypress Lane, Dymond Way, and Waverly Oaks were also developed pre-annexation, but their conditions are different.) ALL OTHER private roads in Palo Alto were built after their areas were already a part of CPA, and all but two of those have an HOA governing their establishment. (More information is available upon request.)

Item 7: Staff Report Pg 4 - Packet page 146

Missing Information and Possible Typo:

“2901 Middlefield Road’s planned community zoning is simply amended to reflect the ownership boundaries, expands easement access to widen a portion of Ellsworth Place and accounts for a new on-site parking arrangement that serves the apartment units.”

The upzoning of the remaining parcel containing the 12-unit apartment complex at 2901 Middlefield Road will be increased by 33% over what would be allowed by its current RM-20 zoning, without providing any affordable housing. Under its RM-20 zoning, the remaining lot would allow the apartments to have only 9 units in total. This provides a significant benefit to the developer. **(See attached PDF “Jeff Levinsky Letter_ptc-7.12-public-comments6.pdf”)**

The drafted amended PC Ordinance for the apartments reads under SECTION 5, (a), (i)

A 30-inch-wide swath of paving shall be crated alongside Ellsworth Place beginning at the Middlefield Road curb line and extending approximately 37 feet to the location of an existing utility pole guuy-wire, to increase **the perceived width** of Ellsworth Place.

PERCEIVED WIDTH is not the same as DRIVEABLE WIDTH!

Additionally, not all existing covered parking spots are wide enough, so tenants use the parking lot. The developers point to Sutter Ave. as their overflow parking, however, it should be noted that other developers and apartment owners also depend on Sutter Ave. for their parking. How will this plan scale?

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INCORRECT STATEMENT - CORRECTION NEEDED:

“Ellsworth Place Private Street Easement

Ellsworth Place is a private street. Access to the private street is provided from Middlefield Road. An easement was previously conveyed by the developer of the 1960s era apartment building that grants access across portions of 2901 Middlefield Road, and the now proposed to be separated 702 Ellsworth Place property. This 20-foot wide easement provides access to 13 residential properties.”

The developer of the apartment building DID NOT convey the easements for the existing Ellsworth Place homes. The easements for ALL 13 Ellsworth Place residential parcels were established by the original property owner, Katherine Emerson, before her death in 1956. One of the many documents available, a Joint Tenancy deed recorded in book 1322, pages 523-524 and signed by Katherine Emerson on January 30, 1946, gives ingress/egress rights to eight of the 13 parcels, and every parcel can trace its chain-of-title and ingress/egress rights to Katherine Emerson. Katherine Emerson died on February 17, 1956, leaving the remaining property of 702 Ellsworth Place to Helen M. Kenny in a Gift Deed, which included half of the road, as recorded in book 3418, page 48. The apartments were built between in 1969.

The developers keep incorrectly using the deed for 705 Ellsworth Place as their own deed, saying it belongs to 2901 Middlefield Road. We have submitted this several times in writing and provided the correct deed, and they continue to present the false information as their own! (Please see PDF attachment: “Misrepresentation of the deed to 705 Ellsworth Place_ptc-7.12-public-comments6.pdf”)

Item 7: Staff Report Pg 4 - Packet page 146

“To improve ingress and egress access and sight line access for motorists, pedestrians and cyclists, area residents sought to increase the easement to 26-feet wide.”

This request is based on the minimum road width for a private road serving up to four homes, and it is a compromise. Ellsworth Place has 13 properties and 15 addresses, setting the road width required to be 32 feet wide, per city code.

- All 13 properties on Ellsworth Place have legitimate ingress/egress rights.
- Ellsworth Place is considered a “private road”. (See attached PDF “Chicago Title...”)

Item 7: Staff Report Pg 4 - Packet page 146

“The applicant proposed a 24-foot wide easement and submitted a safety study prepared by a traffic engineer to support their position that a wider easement was not necessary.”

This traffic study uses the Municipal Code for Parking Design of Multiple-Family Residential Uses.

Developers may have told Hexagon Transportation Consultants that Ellsworth Place was not a legitimate road because prior to the letter from Chicago Title, dated July 27, 2023, they were adamant that the Ellsworth Place homes did not have legal ingress/egress rights over the “702 Ellsworth Place” parcel.

Hexagon Transportation Consultants and the developers kept referring to the “Ellsworth driveway” in both their minimal *Traffic Review* and also during the PTC meetings.

Hexagon Transportation Consultants used Palo Alto Municipal Parking Lot Code*, as written on page 4 of their April 14, 2023, report titled, “Transportation Review for the Residential Single-Family Home at 702 Ellsworth Place in Palo Alto, California” (excerpt below).

“According to Table 5 of the Palo Alto Municipal Code 18.54.070, 20 feet is the minimum width to serve residential developments¹.”

***Palo Alto Municipal Code 21.20.240 is the “Widths” for a “Private Streets”**

(4) Private streets: Such right-of-way as would be required for a comparable public street, except as specified below. Streets serving five or more lots shall be no less than thirty-two feet wide. Streets serving four or fewer lots shall be no less than twenty-two feet wide providing that the Director of Planning and Community Environment and the City Council specifically approves the twenty-two foot street width.

(a) If a building adjacent to a private street has a setback of at least twenty feet between the street and building allowing on-site parking, then the width of the private street may be no less than twenty-six feet at the discretion of the Director of Planning and Community Environment and the City Council.

(b) If a private street has a public parking strip of at least six feet in width between the street and the building location, then the width of the private street may be no less than twenty-six feet at the discretion of the Director of Planning and Community Environment and the City Council.

Effective Date: This private street width requirement applies to any project or development that has not obtained a final map, building permit, and performed significant construction as of July 31, 2009. If the effective date of July 31, 2009, is held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, then the effective date of this ordinance as it applies to private street width shall be November 4, 2009.

(Ord. 5059 § 5, 2009; Ord. 3345 § 36, 1982; Ord. 3157 § 1 (part), 1979)

Item 7: Staff Report Pg 4 - Packet page 147

“Moreover, the applicant expressed concerns about the feasibility of increasing the easement width further and constraints imposed by existing utility infrastructure.”

To the best of our knowledge, the applicant has not inquired about moving the infrastructure!

- No ticket was opened with Comcast, as confirmed by a Comcast site visit on Thursday, September 14, 2023. (The Ellsworth Place Residents opened a ticket to inquire.)
- No application was submitted with CPA Utilities Engineering as of September 11, 2023. This was confirmed both in an email to Cesar Magdalena and also by a phone call with Benjamin Wong who answered the “general line”, and said that between 6 to 10 feet of space are needed for guy lines, so it may be possible to move them to the second pole. It will require an application to research this!

Kristen Van Fleet <kvanfleet@gmail.com>

Mon, Sep 11, 11:11AM (1 day ago) ☆ ↶ ⋮

to Cesar ▾

Hi Cesar,

The issues with Ellsworth Place will be going before the City Council one week from today, on Monday, September 18, 2023. In preparation for that meeting, I would like to know if there was an application opened to research the ability to move the first utility pole on Ellsworth Place. The Ellsworth Place Neighbors agree that moving that first utility pole would open up circulation on our street, so this is an important bit of information for us to have.

Thank you for your time and help with this question.

Sincerely,

Kristen A. Van Fleet
650-646-8677 cell

...

4 Attachments • Scanned by Gmail ⓘ

⬇️ 🔗



Magdaleno, Cesar

Mon, Sep 11, 11:16AM (1 day ago) ☆ ↶ ⋮

to me ▾

Hello Kristen,

I have not been assigned any project application for this location, so I am not aware of any. You can call our general line at 650-566-4500 to reach a staff member assigned for the day to see if they can find an application.

...

Thanks,

Cesar Magdaleno | Electric Engineering Estimator | Utilities Engineering
1007 Elwell Court | Palo Alto, CA 94303 | (650) 566-4531

Item 7: Staff Report Pg 4 - Packet page 146

"The PTC recommendation is to increase the proposed expansion of Ellsworth Place by two feet beyond the 24' the applicant had offered. A City-imposed condition expanding the width of Ellsworth Place to 26-feet would be considered an "exaction" of property from the applicants."

Commissioner Hechtman's comments, copied from Item 7: Staff Report Pg 59 - Packet page 201

Commissioner Hechtman

"There are limitations on conditions that we can impose or require and for example, we have limitations in CEQA if there's... you can't impose... you can't require a mitigation measures if there's not an impact that needs to be mitigated. And even outside CEQA, you can't exact rights from property owners unless [note – video skipped] impacts."

...because we don't have a public street. We have a private street and what the Commission is talking about doing last time and a little bit tonight is requiring one private property owner to give its property rights not to the public in relation to some impact of the project, but actually to 13 other private property owners."

THIS SUPPORTS THE ARGUMENT THAT CPA SHOULD TAKE OWNERSHIP OF ELLSWORTH PLACE FOR THE GREATER GOOD AND SAFETY OF THE NEIGHBORHOOD!

Item 7: Staff Report Pg 4 - Packet page 146

"The City has the authority to make such exactions only when there is an "essential nexus" between the property being exacted and the public impacts of the application, as well as "rough proportionality" between the amount of the exaction and the amount of impact."

ESSENTIAL NEXUS ("or "relationship" between the private party's activity and a burden that is placed on the community as a result; and the fee or requirement placed on the private party is "roughly proportional" to the burden imposed.

https://www.fhwa.dot.gov/ipd/pdfs/value_capture/rational_nexus_and_but_for_study_state_of_the_practice_report_final_05122021.pdf)

The ESSENTIAL NEXUS is the delivery space being offered by the developers IS NOT USEABLE. Not having an adequate delivery space will result in

- Trucks parking on Middlefield Road (refer to [photo above](#)) in either the bus pull out or by blocking the right lane
- Trucks backing out of Ellsworth Place into Middlefield Road traffic that flows at 40 MPH according to the radar speed display sign set up nearby on Middlefield Road
- Trucks making crazy multi-point back and forth turn abouts using driveways and walkways.

All of these scenarios happened when the temporary fence went up around the parking lot last December, and that fence was set 4-feet back from the property line; it had been hit several times!

We have reached out to UPS, FedEx, and Amazon, and all three companies have documented that there is a potential problem here once the parking lot is no longer usable. Amazon's Property Damage Department pointed out that the mere fact the City has a radar speed display sign set up nearby means they know there is a problem on this portion of Middlefield Road. These companies are more reactionary than proactive, but they have transcripts and emails on file which document this precarious situation with an isolated street in Palo Alto.

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"Notably, this finding of essential nexus and rough proportionality do not apply to voluntary offers of property made by the applicant and the City Council in its deliberation can explore this topic further with the applicant."

A Reminder of what a PC is:

https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-80161

8.38.010 Specific purposes.

The PC planned community district is intended to accommodate developments for residential, commercial, professional, research, administrative, industrial, or other activities, including combinations of uses appropriately requiring flexibility under controlled conditions not otherwise attainable under other districts. The planned community district is particularly intended for unified, comprehensively planned developments which are of substantial public benefit, and which conform with and enhance the policies and programs of the Palo Alto Comprehensive Plan.

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"Additionally, some public commenters have asserted that the prior PC (PC 1810) for the subject property required the widening of Ellsworth Place. This is not accurate; the PC 1810 condition was not to 'widen' a private street, but rather to 'modify' the 'driveway to Middlefield Road,' as stated in Section 2 of that ordinance."

How can you widen a driveway and not keep the road the same width as the driveway?

Once past the first about 20 feet of the Ellsworth Place "private road", which is 21.5 feet wide in this section, the road opens up to about 26 feet over the parking lot, even if it is full of cars.

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Ellsworth Place Ownership

... “If the City Council were interested in exploring the possibility of taking over ownership of Ellsworth Place that would need to be agendized as a separate discussion. In contemplating such direction, the City Council may also want to be aware that there are many private streets in the City ...”

The decision of whether or not CPA takes ownership of Ellsworth Place should come BEFORE any decision is made regarding the PC amendment and the new PC is created.

Restating Commissioner Hechtman’s words, as referenced earlier “...because we don’t have a public street. We have a private street and what the Commission is talking about doing last time and a little bit tonight is requiring one private property owner to give its property rights not to the public in relation to some impact of the project, but actually to 13 other private property owners.”

Most “private roads” were built in the 2000s, with a few going back to 1977, and most were planned with HOAs to govern their maintenance. When you purchase one of these homes, you agree to the HOA.

When looking at the approaches of “private roads”, some are asphalt, some are driveway, and some are a mix of both. The busier their connector street is, or the more expensive the area, the more likely they are to have an asphalt approach. Private streets that connect to quiet roads tend to have driveway approaches. **(A document on Palo Alto Private Roads can be made available for more information.)**

Ellsworth Place was created by following the Mayfield Sewer Outlet, which runs down the street, back when the area was Santa Clara County Unincorporated, just outside of Mayfield. It was situated between a cannery and an airplane parts factory in an area that used to flood. In 1956, the water department took 30 feet from each of the homes on the Matadero Creek side for flood control, without compensation. While this was done for the greater good of the community, the taking of land by the County turned full-size lots into substandard ones, and anytime we remodel CPA Planning has at times made this extremely difficult! **(A document “Ellsworth Place - Our History Since 1937” was already been put into the public record for the pre-screening meeting on March 13, 2023.)**

We want an ordinance that would guarantees the “grandfathered status” of our homes between house numbers 705 - 742. During her site visit in February 2023, Amy French mentioned the possibility of some sort of “neighborhood overlay”. We would like to discuss this in more detail. (Amy’s parents rented a home on Ellsworth Place back in the 1950s.)