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October 28, 2025

VIA EMAIL: mhasselshearer@burlingame.org

Meaghan Hassel-Shearer, City Clerk

The Honorable Mayor Peter Steveson
and City Council Members
City of Burlingame
501 Primrose Road
Burlingame, CA 94010

Re: 1151 Rosedale Avenue, Burlingame, CA

This brief is submitted on behalf of Priya Takiar and Dhruv Batura, the family who owns and resides at 1151 Rosedale Avenue, Burlingame, California, ("1151 Rosedale") in support of their Appeal of the denial of the portion of their Special Encroachment Permit Application ("Encroachment Permit"), attached as Exhibit A, concerning their request to allow for a fence and stone patio in the City of Burlingame's ("City") right-of-way. The fence at issue in the appeal faces Westmoor Road and consists of an existing portion which runs along the Westmoor frontage of their property at 1151 Rosedale and a portion proposed to be constructed between one (1) to four (4) feet, back from the sidewalk (the "Fence"). The two proposed options for the fence are shown on the last two (2) pages of Exhibit A.

Background:

In the fall of 2023, Priya and Dhruv purchased the brand-new construction at 1151 Rosedale so that their growing family would be able to enjoy all the benefits that the City of Burlingame has to offer, including the ability to play outside. Shortly after closing escrow, Priya and Dhruv finished the patio and installed fencing lining up with the neighbor's fence. In April 2024, the City notified them that their fencing apparently encroached into the City's right-of-way. Ever since then, Priya and Dhruv have been attempting to engage with the City to address the City's concerns. As evidenced by the fact that we are now having an appeal hearing, their efforts have been unsuccessful.

For a number of months, Priya and Dhruv communicated directly with Burlingame's Public Works Department to try to learn what the City's concerns were as Priya and Dhruv's fencing was in keeping with and lined up with the fencing in the neighborhood and with their immediate neighbor on Westmoor. Exhibit B attached shows Priya and Dhruv's immediate neighbor's fencing on page 1 and the following pages show multiple other houses on Westmoor with fences in similar locations to Priya and Dhruv. Despite Priya and Dhruv's repeated efforts, to learn what the City's concern with the placement of the fence was and to work with Public Works to come to a resolution which worked for all, they were not successful. Public Works never provided any explanation of why the Fence that lines up with the neighbor's fence on Westmoor was problematic nor how the issues could be resolved.

In July of 2024, Priya and Dhruv received a Notice of Violation ("Violation") (attached as Exhibit C). The Notice sets forth:

Violation: Metal front yard fence has been constructed in the public right-of-way.

Wood fence along the Westmoor frontage has been constructed in the public-right-of-way,

Correction Move the metal front yard fence back 9'8" from the face of the street curb or remove it¹. Move the wood fence which abuts Westmoor back 11'5" from the face of the street curb or remove it.

The Notice specifically states: "No person without first obtaining a permit shall construct or place an encroachment within, on, over or under a right-of-way of the city. Encroachment shall include any paying, tower, pole, pipe, **fence**, building or any other structure or object of any kind (Burlingame Municipal Code Section(s) 12.10.020 emphasis added).

After receiving the Notice, Priya and Dhruv engaged our office as part of their continued effort to understand the City's concerns and to learn how they could be ameliorated. In early August 2024, we reached out to Code Enforcement Officer Rachel Norwitt and requested that she provide information concerning the violation. We received a response informing us that we must file a Public Records Request to obtain that information. We did so, however no records were provided, and our office sent a letter dated August 28, 2024, (attached as Exhibit D) to Michael Guina the Burlingame City Attorney, informing him that the City had failed to timely respond to the

¹ In December of 2024, Priya and Dhruv at their cost moved the metal fence along Rosedale Avenue. That metal fence is not at issue in this appeal. This appeal concerns the denial of Priya and Dhruv's application of a Special Encroachment Permit to maintain a Fence in the right-of-way along Westmoor, maintain their patio, and to keep two pillars in the right-of-way along Rosedale.

Public Record Request and reattaching the request. While we never heard directly from Mr. Guina, eventually some public records were provided. The produced records only concerned 1151 Rosedale. No documents were provided concerning: 1) any encroachment permits issued for other properties on Rosedale Avenue or Westmoor Road; 2) the location of any other fences on Rosedale or Westmoor; nor 3) any code enforcement actions regarding encroachments into the public right-of-way on Rosedale or Westmoor.

During the fall of 2024, other than the sporadic production of the public records, neither our office nor Priya and Dhruv heard from the City. On December 12, 2024, I wrote the following to the City Clerk and assistant City Attorney Scott Spansail:

Mr. Spansail, please note since this matter first came to my attention, I have expressed my willingness to discuss this matter with the City Attorney's office and to the extent that there is an issue to find a mutually acceptable resolution. However, other than Rachel Norwitt writing to me in August of 2024, that the City Attorney's office did not feel a need to handle the communications at this point and one email from you on September 10, 2024, I have had no contact from the City Attorney's office. My clients and I remain willing to engage in those conversations to the extent that there are open issues which require resolution. If the City is willing to engage in a conversation, please let me know.

The City did not engage in a conversation. Instead, the City issued a Notice of Abatement on February 27, 2025². Thereafter, on March 6 and March 12, 2025, I heard from Edward K Low, an attorney with Jarvis Fay, whom the City retained to address the issue. A copy of that correspondence is attached as Exhibit E.

For the first time, we were able to have substantive discussion with the City regarding the City's concerns. Mr. Low informed me that the City had concerns about liability on the Westmoor Road side but that applying for an encroachment permit which would contain indemnity and insurance language was the "offramp" from the abatement action and would allow resolution of the open matters.

After much delay, a meeting was held on site on May 16, 2025, with Francis Dollard from Burlingame Public Works, Ed Low, Priya, Dhruv, and me. We walked the exterior of the property, discussed the location of the pillars, access to the storm drain, and we entered and exited through

² In addition to the fence along Westmoor Road, the Notice of Abatement addressed the metal fence along Rosedale Avenue which had already been removed at that time.

the gate on the Westmoor side. Neither Mr. Low nor Mr. Dollard mentioned at that time or thereafter any concerns about the gate opening toward the sidewalk. Furthermore, when asked if there was a minimum amount of clearance required around the sewer cleanout for City access purposes, we were told that they did not know, but they would find out the answer. Mr. Low wrote to me on May 20, 2025, that:

After conferring with Public Works, we can now confirm that the City has no such minimum. The reason being, sewer clean-out facilities are placed in the City's right-of-way and because of its placement in the right-of-way, there is typically no obstacle or impediment to access. As such, the City has had no reason to set forth minimum clearance requirement around a clean-out. That said, in their special encroachment application, your clients are free to propose dimensions around the clean-out to enable the City's access.

Submission of the Special Encroachment Permit Application:

On June 10 and July 11, 2025, Priya and Dhruv submitted the documents attached as Exhibit A for the special encroachment permit that they had been encouraged to request. In their submission, Priya explained their desire to have a fenced in side yard and front pillars, offered two different options to allow access to the sewer cleanout, and conveyed their understanding of the city's concerns and a willingness to take on insurance and indemnity responsibilities, in addition to all the costs which Priya and Dhruv had already incurred.

The City's Denial:

On July 29, 2025, Priya and Dhruv received a letter approving the Special Encroachment Permit for the two stone columns along Rosedale for five-year period subject to the terms of the encroachment permit and a DENIAL of the request for the Fence and patio on the Westmoor Road side. (A copy of that correspondence is attached as Exhibit F).

The reasons provided for the denial are summarized here and are set forth in greater detail in Exhibit F.

1. Public Nuisance. When opened, the gate would obstruct the public passage and that the Fence is a public nuisance.
2. Unlawful gift of Public property. That the issuance of an encroachment permit for a fence would be an unlawful gift by the City of Burlingame.

3. Sewer Cleanout Facility and Potential Damage to Private Property. The City's access to the sewer cleanout might be restricted and work on the sewer cleanout poses a risk to private property including the Fence and patio.

Support for the Granting of the Special Encroachment Permit:

1. The Fence along Westmoor Road does not create a public nuisance. Rather it creates a continuous fence line along Westmoor Road. The fence line is what the public expects to see, the absence of a fence there would create an open area of City right-of-way along Westmoor Road, which would stand out and in fact be more likely to create a nuisance as it would be open and invite dumping and sleeping. Furthermore, the assertion that the gate is an issue is a red herring. First, neither person from the City who visited 1151 Rosedale and walked through the gate expressed any concern regarding the gate. Second, and more important, if the City had brought this to Priya and Dhruv's attention they could have revised the application—something they are still willing to do—to have the gate open in or removed in its entirety.

2. The granting of an encroachment permit is not an unlawful gift. First, as set forth above, Burlingame's Code specifically sets forth that an encroachment permit can be obtained for a fence (see Section 12.10.020). The assertion that such a permit would be an unlawful gift would render Section 12.10.020 meaningless. Furthermore, the City issues encroachment permits all the time and without objection that they are unlawful gifts. This is evidenced by the City's granting of the encroachment permit for the pillars.

It is important to remember that the granting of an encroachment permit is not the granting of a property right, rather it is a revocable license to use. The term gift is statutorily defined as a transfer of personal property, made voluntarily, and without consideration (Civ. Code, § 1146). Case law defines gifts in this context as a (i) transfer of property made voluntarily and without consideration. Here, there is no transfer of public property because an encroachment permit is merely a license — revocable by nature and not a property right. The wording of the proposed permit for the two pillars specially states that the "permit is revocable" and is only for five (5) years.

3. The City's concerns regarding access to the sewer cleanout and damage to private property are similarly without merit. Despite repeated requests the City never provided any information or reference to any code which sets forth the access required for the storm cleanout. In fact, the City has never set forth what type of access might be needed, nor has the City ever provided a response to the question as to whether the City has ever needed access to the storm cleanout. By presenting Options 1 and 2 in the Encroachment Permit Application, Priya and Dhruv attempted to address any potential issue regarding access to the storm drain by the City. Again, without explanation or detail, Public Works denied the Special Encroachment Permit Application

because of some theoretical concern about access. This rejection rings hollow. First, there is no explanation or reason given for why the proposed access is not sufficient. Second, there are multiple other instances in the City where access is more restricted than is proposed by either Option 1 or Option 2 and the Public Works has not experienced any issues. Third, the concern about liability is specifically addressed by the proposed encroachment permit which states **“OWNER hereby holds the City, its officers, agents, and employees harmless and shall defend the City, its officers, agents, and employees from any and all claims and liability, including any costs of defense and attorney fees, for personal injury or property damages of any kind which may arise from, the granting of this Permit or that may arise in any way out of the placement of use of the encroachments allowed under this Permit.”**

Request:

As set forth above, Priya and Dhruv have done everything that they can to have a side yard which is safe and secure and matches their neighbors'. They reached out directly to the City and instead of the City working with them to come to a mutually agreeable solution, the City issued a Notice of Violation which required Priya and Dhruv to engage counsel. When counsel attempted to understand the issue and obtain documents they were rebuffed and had to inform the City that it was in violation of the law. Eventually, counsel for the City and Public Works met on site. However, neither during that meeting nor at any time thereafter did they, or anyone else from the City, express any concerns about the gate opening or about specifications to ensure access to the sewer cleanout. Despite repeated requests, the City has never set forth guidelines for access to the sewer cleanout nor what if any other City property is underneath the right-of-way. The City has not been helpful in suggesting a resolution which would allow Priya and Dhruv to have a usable fenced in side yard for their family and neighborhood children to play. Rather they encouraged Priya and Dhruv to apply for the Special Encroachment Permit and then denied that Application for reasons that have never been previously raised as concerns and without the opportunity to address any alleged concerns.

It is hard to understand why the City encouraged Priya and Dhruv to apply for Special Encroachment Permit only to deny the Application. It is similarly hard to understand how the City can reconcile its contention that an encroachment permit for a fence would violate the law, as the City's Code specifically authorizes it.

We also remain surprised and concerned that the City would find the gate which they walked through to be a concern and: 1) never raise the issue with its residents and; 2) fail to provide the residents the ability to submit revised plans which would completely address the concern.

The requested encroachment complies with the City's rules and is wholly within the City Council's discretion to authorize. The issuance of this permit would not be granting Priya and Dhruv special rights that their immediate neighbors and neighborhood do not already have. As the pictures show, the Fence lines up with the neighbor on Westmoor Road and there are numerous fences in the right-of-way in the immediate neighborhood. Further, as disclosed by the City, there have never been any code enforcement actions regarding removing fences in the neighborhood other than the notice issued to Priya and Dhruv. The Fence creates a safe area for their child and others to play so they are not playing in street, appears consistent with the neighborhood, and eliminates an area which would be prone to dumping and sleeping. Furthermore, the Fence complies with all safety rules for the corner lot, and the City has not expressed any safety concerns. There is no opposition from the neighbors nor has anyone apart from Public Works expressed any concerns about allowing the Fence.

Further, by definition, the Special Encroachment Permit is temporal, if concerns were to arise, the permit could either be revised or not extended.

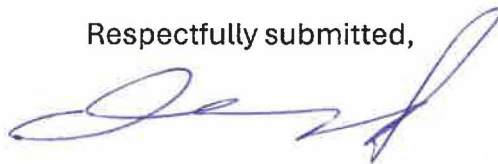
We are grateful that the City Council is empowered to hear this Appeal as the reasons for its denial are specious.

Conclusion:

As set forth above, the reasons for the denial of the encroachment permit are not meritorious nor substantive and the City Council should grant the Appeal with directions to Public Works, the City Attorney, and to the City Manager to work with the Priya and Dhruv to enter into encroachment permits that are workable and fair to the City and its residents and to Priya and Dhruv.

Priya, Dhruv, and I will be at the Appeal Hearing on Monday, November 1 and will be pleased to address any questions and to assuage any concerns you may have so that you can grant the Appeal and the encroachment permit can be granted.

Respectfully submitted,



Dan K. Siegel
Counsel for the Takiar-Batura Family

EXHIBIT A

Attn: Francis Dollard

Permit Application for
1151 Rosedale Ave

Thank you,

Dhruv Batura &
Priya Takiar

City of Burlingame

SPECIAL ENCROACHMENT PERMIT APPLICATION



Purpose of this application is for constructing permanent and non-permanent fixtures within the City's right-of-way. The application and plans shall be reviewed by the Engineering Division, who will also perform field investigation and inspections. **Attach plans or drawings to show the dimensions, locations, and heights of the encroachment.** If application is approved, Engineering Staff will finalize the permit and file it with the County of San Mateo for recording (For Permanent Encroachments Only). When work is ready to be inspected, please call (650)-558-7230.

DATE RECEIVED: _____

Site Information for Proposed Encroachment

Street Address: 1151 Rosedale Avenue APN: 025-243-010

Lot No.: 23 Block No.: 4 Subdivision: Burlingame Village

Describe Encroachment (Attach additional pages if applicable): See diagrams. Fence and concrete on Westmoor side of house, 2 pillars on Rosedale front of house.

Purpose of Request: See explanation attached.

Business Information

Business Name: _____ Contact On-Site: _____

Manager: _____ Phone: _____

Applicant Information

Applicant Name: Dhruv Batura and Priya Takiar Phone: 5106777462

Address: 1151 Rosedale Avenue City, State, Zip: Burlingame, CA, 94010

Owner Information

Owner Name: Dhruv Batura and Priya Takiar Phone: 5106777462

Address: 1151 Rosedale Avenue City, State, Zip: Burlingame, CA, 94010

Priya Takiar
Signature of Property Owner/Business Owner

6/6/25
Date

FOR CITY USE ONLY

ACTION Permit: ☐ Approved ☐ Denied City Official: _____ Date: _____	FEES & DEPOSITS Security Bond (refundable): \$ _____ Permanent: \$ _____ Non-Permanent: \$ _____ Subsurface Shoring System: \$ _____ Total Fees Paid: \$ _____
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To: City of Burlingame

In late 2023, we purchased our current residence (1151 Rosedale Ave) with the understanding that we would be able to create a side yard for our young son. None of the documentation received from the previous owners, contractors, title company and city indicated that the planned fences for the yard would be an issue. Accordingly, we applied for a permit which was approved after we moved in, and we started construction on a fence along Westmoor, and a shorter fence along Rosedale.

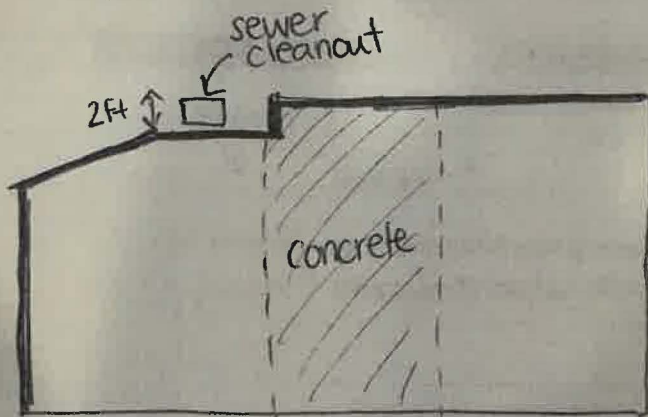
Shortly after the fence on Westmoor was complete, we were informed by the Department of Public Works that we were encroaching on the city's right of way. This was a huge shock to us since we believed we were operating with all of the appropriate approvals. We had just moved into the neighborhood, feeling extremely excited to be part of this community, and stretched beyond our budget to purchase this house hoping to build our family here.

Since the Rosedale fence was only partially complete, we went ahead and paid the extra money to relocate it out of the City's right of way. The existing fence on Westmoor is visually congruent with our neighbors and is in keeping with the neighborhood. Relocating the fence on the Westmoor side and two stone columns on the Rosedale side is not trivial and extremely expensive given the concrete involved. We understand there is a sewer cleanout along Westmoor to which the city needs access. In order to facilitate this access, we have worked with our contractor to develop two options to make adjustments to the fence without needing to tear out concrete. These are both still expensive, but we remain hopeful that the city will be agreeable to these, and consider them for review and approval for the special encroachment permit. We understand there are considerations for the city such as insurance and liability and are willing to take on whatever is needed there.

Thank you for your consideration.

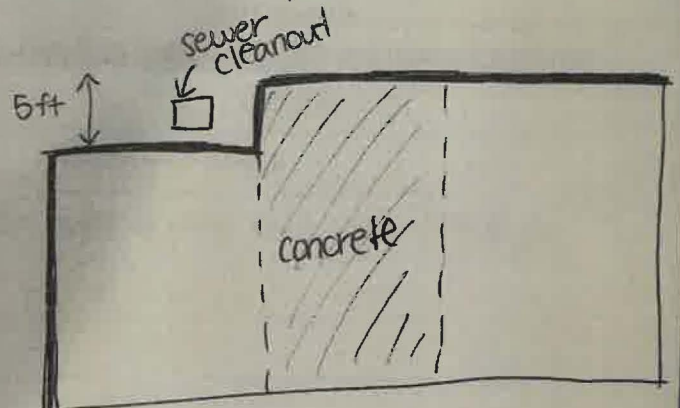
Westmoor Side

Option #1



- move part fence to allow room for sewer cleanout

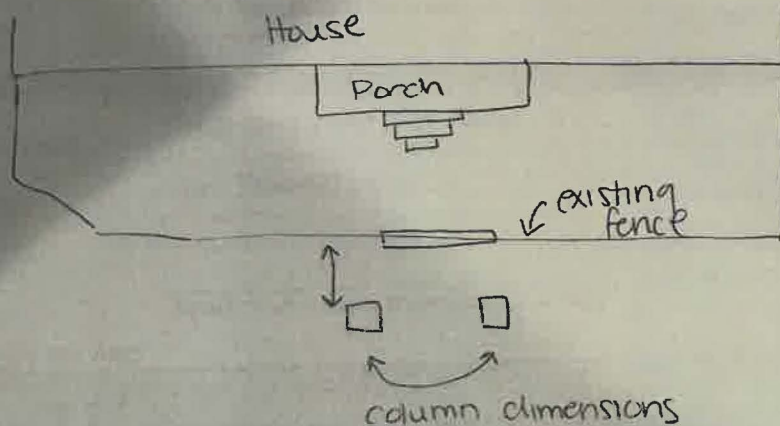
Option #2



- move part fence to appropriate property line to allow room for sewer cleanout

Rosedale Side

- 2 concrete columns w/mailbox



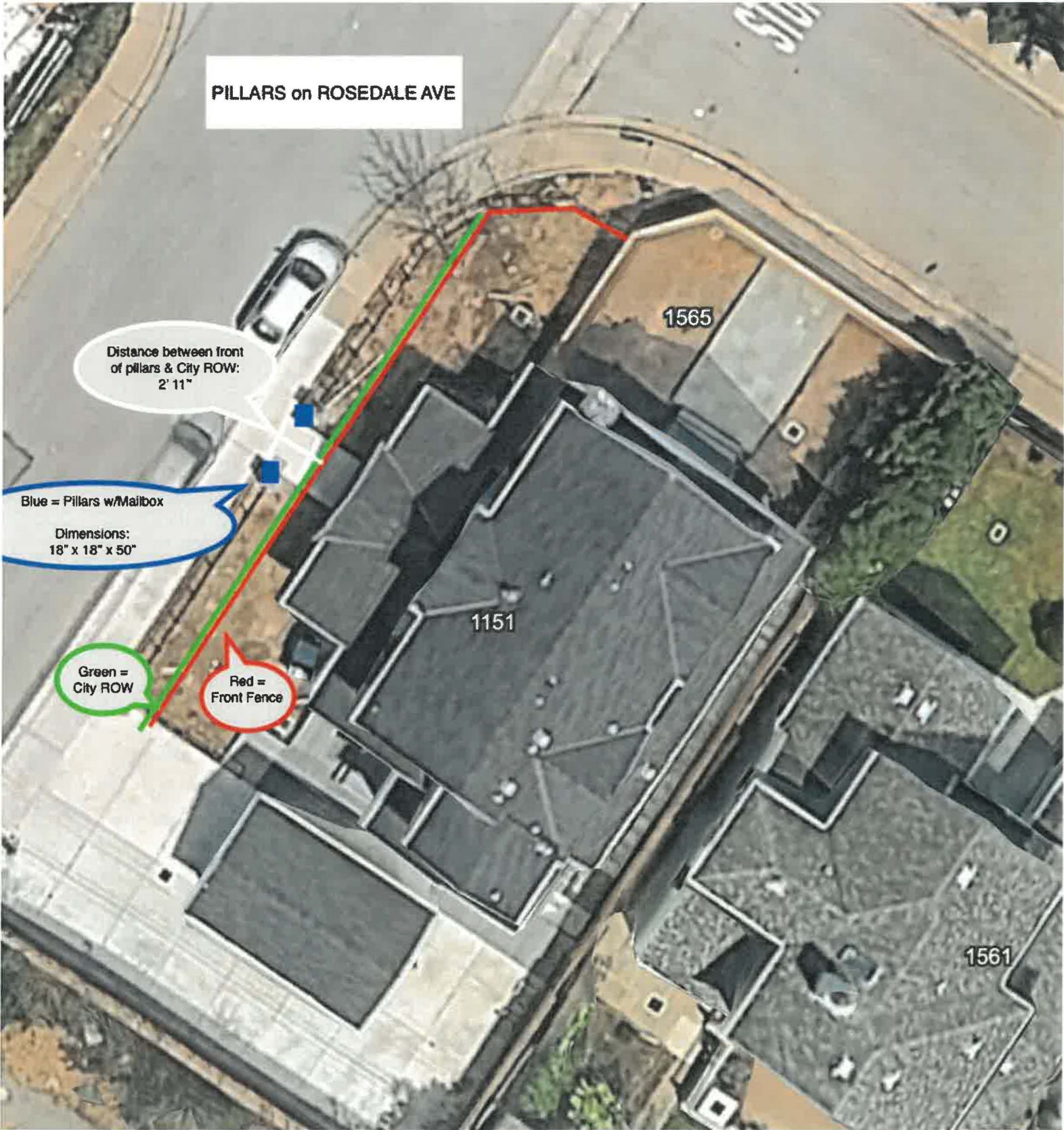
PILLARS on ROSEDALE AVE

Distance between front
of pillars & City ROW:
2' 11"

Blue = Pillars w/Mailbox
Dimensions:
18" x 18" x 50"

Green =
City ROW

Red =
Front Fence



**FENCE ON WESTMOORE
OPTION #1**

Distance
between fence & City
ROW: 3' 7"

Green =
City ROW

Orange = Sewer Cleanout

Setback between Sewer & Fence: 1 ft

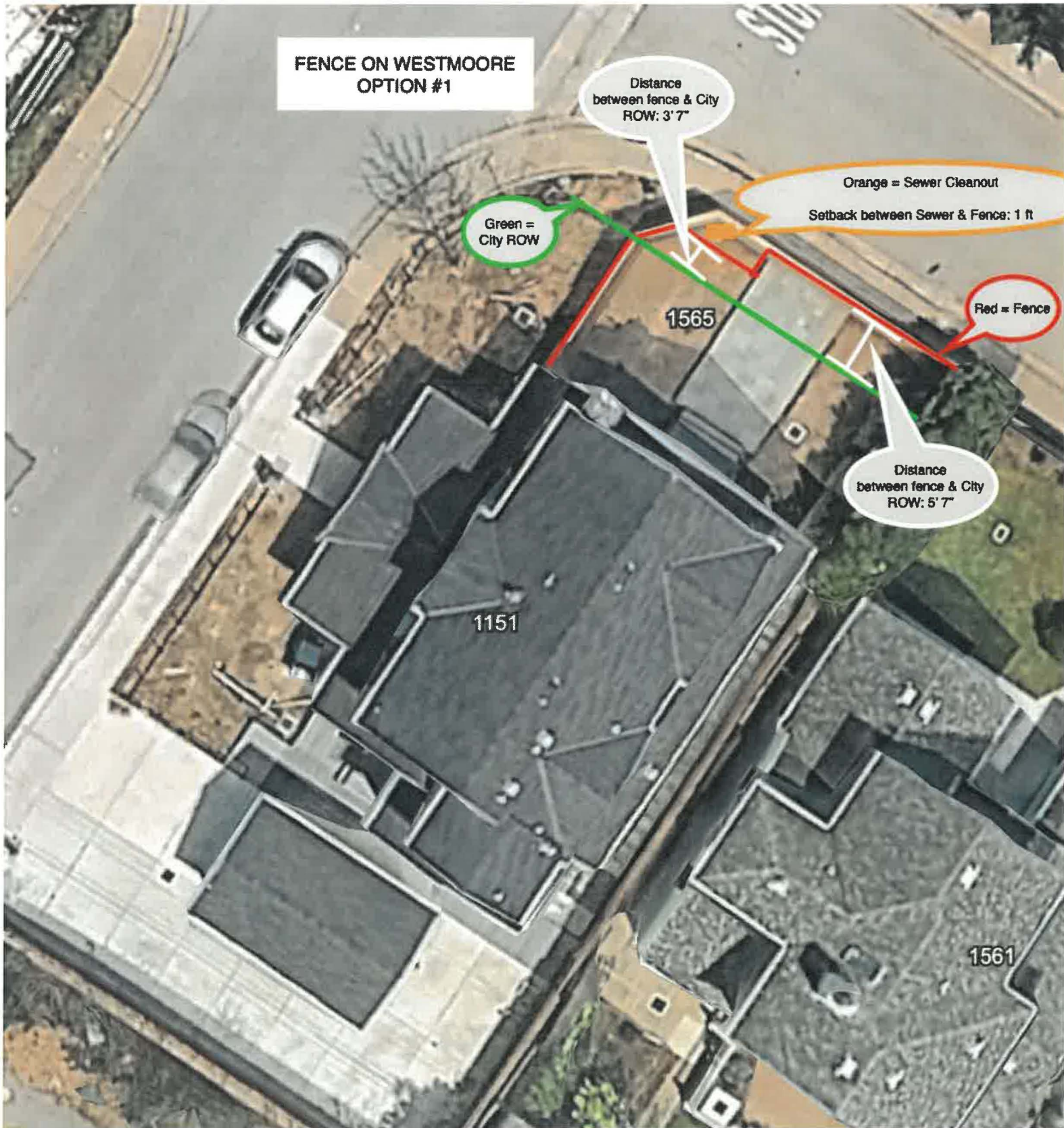
1565

Red = Fence

Distance
between fence & City
ROW: 5' 7"

1151

1561



FENCE ON WESTMOORE
OPTION #2

Green =
City ROW

Orange = Sewer Cleanout

Setback between Sewer & Fence: 4 ft

1565

Red = Fence

Distance
between fence & City
ROW: 5' 7"

1151

1561

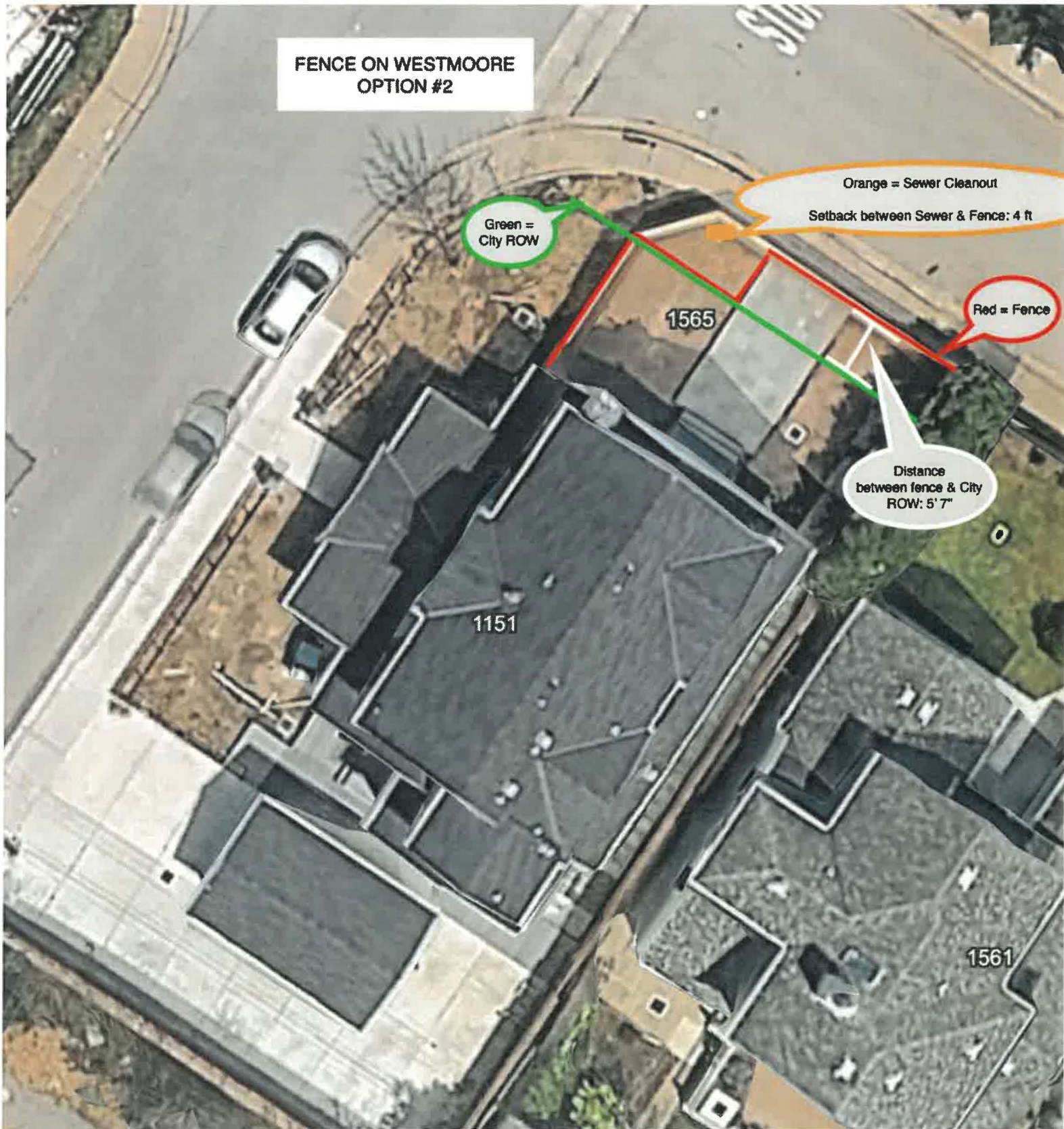


EXHIBIT B



1561

PRIVATE
PROPERTY
NO
TRESPASSING

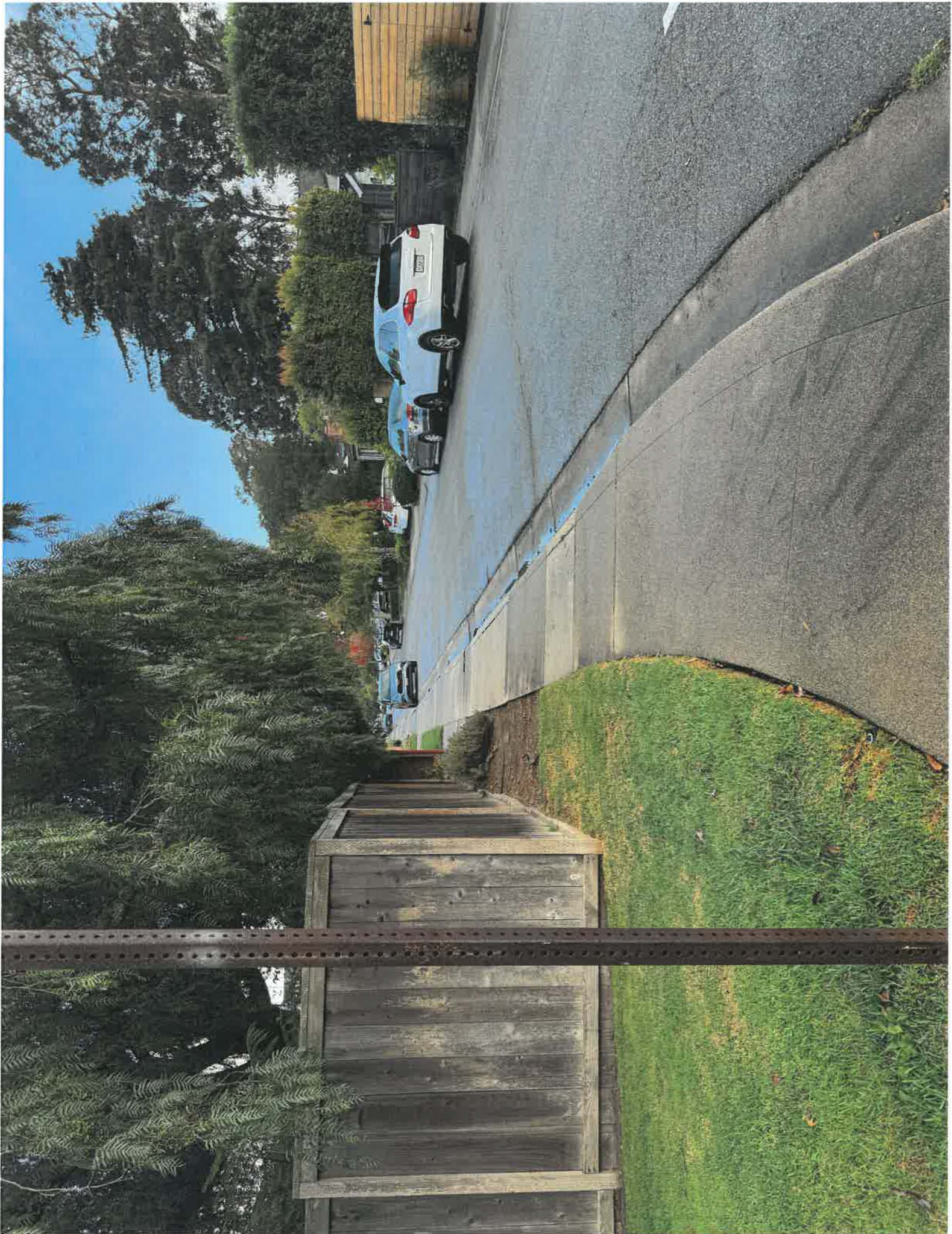






EXHIBIT C



City of Burlingame Code Compliance - 501 Peninsula Rd. Burlingame, CA 94010 - 650.548.7308

July 12, 2024

Priya Takiar
Dhruv Batura
1151 Rosedale Ave
Burlingame, CA 94010

Via certified and first-class mail to the property owner at the address shown on the county's last property tax assessment rolls or to any other address known for the property owner.

NOTICE OF VIOLATION

CASE NO.: CE24-0193

PARCEL NO.: 025243010

LOCATION: 1151 Rosedale Ave Burlingame CA 94010 – front and side yard fences.

DESCRIPTION OF VIOLATION(S) AND REQUIRED CORRECTIVE ACTION(S)

Violation:

Metal front yard fence has been constructed in the public right-of-way.

Wood fence along the Westmoor frontage has been constructed in the public right-of-way.

Burlingame Municipal Code Section(s):

12.10.020 Paving or structures—Permit required.

No person without first obtaining a permit shall construct or place an encroachment within, on, over or under a right-of-way of the city. Encroachment shall include any paving, tower, pole, pipe, fence, building or any other structure or object of any kind. This chapter shall apply if a permit other than a building permit is not otherwise required by this code.

(Ord. 1053 § 1, (1975); Ord. 1171 § 2, (1980))

Correction:

Move the metal front yard fence back 9'8" back from the face of the street curb or remove it.

Move the wood fence which abuts Westmoor, back 11'5" from the face of the street curb or remove it.

CONSEQUENCES OF NOT ABATING

Should these conditions not be corrected by 08/05/24, the following action(s) may be taken:

City of Burlingame Municipal Code, Chapter 1.14.020, provides for the issuance of administrative citations for Municipal Code violations. Each Municipal Code section violated is a separate offense with an independent fine. Likewise, each day any violation exists is a separate and distinct offense. Fines per each Municipal Code section violated are as follows: \$100.00 for the first violation, \$200.00

for a second violation of the same code section within a twelve (12) month period, \$500.00 for each additional violation of the same code section within a twelve (12) month period.

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to, civil penalties, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect fines, fees, demolish structures, make necessary repairs at the owner's expense, and incarcerate violators. Any of these options or others may be used if the notice and/or citations do not result in the achievement of compliance. If you need further clarification, please call the Department listed on the front of the citation.

If you have any questions, please contact me immediately at the phone number or e-mail address listed below. Thank you.

Sincerely,



Rachel Norwitt
Code Enforcement Officer
(650)558-7208

Code-enforcement@burlingame.org

Meetings by appointment only.

EXHIBIT D

JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP
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JOSEPH H. FELDMAN
AMELIA S. FORSBERG

August 28, 2024

VIA EMAIL: mguina@burlingame.org
AND US MAIL

Michael Guina, City Attorney
City of Burlingame
501 Primrose Road
Burlingame, CA 94010

Re 1151 Rosedale, Burlingame, CA
Public Record Request dated August 12, 2024

Dear Mr. Guina

This letter shall serve to follow-up on the Public Records Request, which I submitted on August 12, 2024, to the City of Burlingame ("City") (a copy is enclosed for your convenience) ("PRA"). As required by the California Constitution and the California Public Records Act Government Code Section 6250 et seq., a response was due by no later than August 22, 2024. To date, I have not received any response. On Friday August 23, 2024, before writing this letter, I called your office and was sent straight to voicemail. I left a voicemail informing you that I had not received a response to my PRA. As I stated in my message, I was surprised that I had not received the mandated response, especially as my PRA was submitted pursuant to specific direction from Burlingame's Code Enforcement Office Rachel Norwitt. I inquired as to why I had not heard back in the mandated time and inquired as to when I would hear back. As of today's date, I have not received a response to my PRA nor to my voice-mail

As you are aware, it is the City's obligation to respond within ten (10) days. As of the writing of this letter, it has been sixteen days (16) days with no response. The PRA is not complicated and is narrowly tailored in scope and breadth. I am unaware of any reason why the requested documents have not been provided and I cannot conceive of any reason as to why I have not received the mandated response.

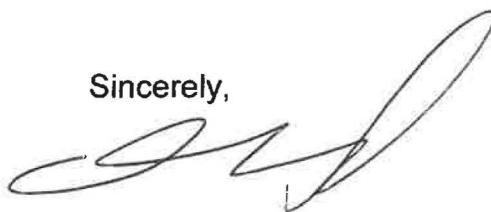
Michael Guina, City Attorney, City of Burlingame
August 28, 2024 - Page 2

It is important to note that the only reason that I even submitted a PRA was that I received an email from Ms. Norwitt informing me that the City would not provide me with information regarding the code enforcement action against my client at 1151 Rosedale Avenue, Burlingame, CA, Case No. CE24-0193, unless I submitted a public records request. I found it highly unusual that my request for information about the code enforcement action was refused and I was directed that I needed to submit a public records request.

Ms. Norwitt wrote "We do require that all requests for documents go through our Public Records Request portal. This allows us to track requests and ensures various departments submit documents in a timely manner." (See the enclosed email chain.) Despite the fact that the City has an obligation to provide information as to why it believes that its citizens/residents are in violation, I complied with that request with a narrowly tailored and time-bound PRA request, which has been completely ignored in violation of California Law.

Based on the City's lack of compliance with the Public Records Act and the refusal to provide any information/evidence as to why the City believes that the code enforcement action against my clients is meritorious, my clients and I are treating the code enforcement matter as withdrawn and closed and expect that we will promptly receive confirmation that the code enforcement Action, to the extent that there is one, has been withdrawn and that the City will finalize any open permits that were delayed by the initiation of the code enforcement action.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan K. Siegel', with a large, sweeping loop at the end.

Dan K. Siegel

Attachments:

Public Record Request

Email Chain with Rachel Norwitt, Code Enforcement Officer

DKS:rr

cc: Clients (via email only w/aths.)



City of Burlingame Public Records Request

The California Legislature has declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in California, as set forth in Article 1, Section 3 of the California Constitution and the California Public Records Act (Government Code Section 6250 et seq.)

Please be aware that any information you provide to the City of Burlingame will be used, disseminated, and retained as needed in conducting the City's official business and may be subject to disclosure in accordance with the California Public Records Act. In some cases, contact information is mandatory based on the nature of the request or report. In other cases, it is essential to assist the agency in obtaining any follow-up information required to service or address the problem.

Date

8/12/2024

Requester Information

First Name *

Dan

Last Name

Siegel

Phone Number

6503249300

Email *

dks@jsmf.com

Address

Street Address

Address Line 2

1100 Alma Street

City

Menlo Park

Postal / Zip Code

94025

State / Province / Region

CA

Country

United States

Request Details

To ensure accurate processing of your request, please clearly identify the record(s) you are making the request for. Consider including in the description the address or location in question, a date or date range, the type of records you are seeking, etc.

Request Details*

All public records of the City of Burlingame, department , employee or contractor concerning:

- 1.Any code enforcement actions of the City of Burlingame concerning 1151 Rosedale Burlingame, CA.
- 2.The location of the fencing at 1151 Rosedale Avenue, Burlingame:
3. Any documents including, but not limited to, surveys regarding the location of the public-right-of way at 1151 Rosedale Avenue, Burlingame.
- 4.Any policies regarding fences constructed in the public right of way in Burlingame.
- 5.Any encroachment permits issued for properties on Rosedale Avenue, Burlingame
6. Any encroachment permits issues for properties on Westmore Road, Burlingame.
7. The location of any fences on Rosedale Avenue, Burlingame.
8. The location of any fence on Westmore Road, Burlingame
- 9.All documents regarding the removal of the fire hydrant, which was previously located on or near 1151 Rosedale Avenue, Burlingame
10. All documents concerning code any enforcement action in the City of Burlingame regarding encroachment into the public right of way. The records for this specific request may be limited to the time-period from August 1, 2019, to present with the exception of any enforcement actions occurring on Rosedale Avenue or Westmore Road which shall have no time boundary.

EXHIBIT E

Robin H. Riggins

From: Ed Low <elow@Jarvisfay.com>
Sent: Wednesday, March 12, 2025 9:55 AM
To: Dan K. Siegel
Cc: ATTY-Michael Guina; Robin H. Riggins
Subject: Re: Notice of Violation -- 1151 Rosedale Avenue, Burlingame
Attachments: map_20240614 (12).png; rosedale streetcard.bmp; westmoor streetcard.bmp; original-A3B02471-5A2A-4DAB-ADA7-168FB2362242[26].jpeg; IMG_0256.jpg

Hi Dan:

Thank you for your time yesterday to discuss the encroachment issues at 1151 Rosedale Avenue.

Attached to this email is an aerial view depicting the property and fencing in relation to the street, sidewalk, and the City's ROW and utility infrastructure. Also attached are street cards that define the street and ROW dimensions. Finally, attached are photos depicting the side fence facing Westmoor and the location of the sewer clean out facilities.

I would like to set up a time for us to reconvene. Next week, I am available at the following dates and times:

- Monday, anytime
- Tuesday, anytime
- Wednesday, 8am to 1pm

Please let me know what works for you and I'll send a calendar invite.

Thanks, Ed



EDWARD K. LOW

Partner Ed/he/him/his

📞 (510) 318-3008 desk
(415) 606-2473 mobile

✉️ elow@jarvisfay.com

📍 555 12th Street, Suite 1630
Oakland, CA 94607

🌐 jarvisfay.com

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From: Dan K. Siegel <dks@jsmf.com>
Date: Thursday, March 6, 2025 at 4:32 PM
To: Ed Low <elow@Jarvisfay.com>
Cc: ATTY-Michael Guina <mguina@burlingame.org>
Subject: RE: Notice of Violation -- 1151 Rosedale Avenue, Burlingame

Ed, thank you for reaching out to me and inviting me to have a discussion with you. Presently I have availability:

Tuesday 11th – Between 2pm and 5pm

Wednesday – Between 10 and noon

Thursday – between 11 and 2pm

I will look for the calendar invite.

Dan

Dan K. Siegel, Esq.

Jorgenson, Siegel, McClure & Flegel, LLP

1100 Alma Street, Suite 210

Menlo Park, CA 94025

650/324-9300, ext. 1030

650/324-0227 (fax)

dks@jsmf.com

www.jsmf.com

From: Ed Low <elow@Jarvisfay.com>

Sent: Thursday, March 6, 2025 2:31 PM

To: Dan K. Siegel <dks@jsmf.com>

Cc: ATTY-Michael Guina <mguina@burlingame.org>

Subject: Notice of Violation -- 1151 Rosedale Avenue, Burlingame

Dear Dan:

The City of Burlingame has retained me in connection with the Notice of Violation issued to your clients at 1151 Rosedale Avenue. I would like to schedule a time next week for us to discuss the matter.

I am available at the following dates and times:

Monday 10th – Anytime

Tuesday 11th – Between 2pm and 5pm

Wednesday – Between 8:30am and 1pm

Thursday – Anytime

Please let me know what works for you and I will send a calendar invite.

Regards, Ed



EDWARD K. LOW

Partner

Ed/he/him/his



(510) 318-3008 desk

(415) 606-2473 mobile



elow@jarvisfay.com



555 12th Street, Suite 1630

Oakland, CA 94607



jarvisfay.com

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STREET Westmoor Road Major Secdr.

Limits: From Rosedale To Eastmoor Lgth 900 ft

Base: Type Asphalt Concrete Av. Depth 3 1/2 "

Surface: Type Asphalt Concrete Av. Depth 1 1/2 "

Reconst: Date _____ Contractor _____

Job MCS Fld Bk No. _____ Dwg. Nos _____

Limits: From _____ To _____ Lght _____

Surfacing: Type _____ Av. Dpth _____

Cost: \$ _____ Per Ton _____ Per Sq. Yd. \$ _____





STREET

Rondale Avenue

Major Secdr ✓

Limits: From El Camino Real To California Dr Lgth 730'

Base: Type Hard Red Rock Av. Depth 5"

Surface: Type Armor Coat Av. Depth 1/2"

Reconst: Date _____ Contractor _____

Job MCS Fld Bk No. _____

Dwg. Nos _____

Limits: From _____ To _____

Light _____

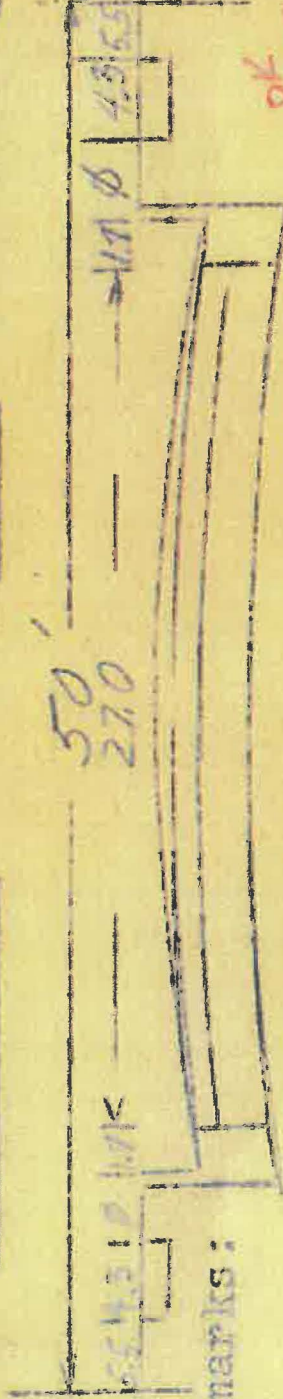
Surfacing: Type _____

Av. Dpth _____

Cost: \$ _____

Per Ton _____

Per Sq. Yd. \$ _____



Remarks:

OK
11/11/50

8/54

DW



EXHIBIT F



The City of Burlingame



PUBLIC WORKS ENGINEERING
DIVISION
501 PRIMROSE ROAD, 2ND FLOOR
BURLINGAME, CA 94010
TEL: (650) 558-7230
FAX: (650) 685-9310
www.burlingame.org

PUBLIC WORKS CORPORATION
YARD
1361 N. CAROLAN AVENUE
BURLINGAME, CA 94010
Tel: (650) 558-7670
FAX: (650) 696-1598

VIA FEDERAL EXPRESS OVERNIGHT

July 29, 2025

Dhruv Batura and Priya Takiar
1151 Rosedale Avenue
Burlingame, California 94010

Re: Application for Special Encroachment Permit
1151 Rosedale Avenue, Burlingame, California

Dear Property Owners:

The City is in receipt of your June 10, 2025 Special Encroachment Permit Application and the July 11, 2025 resubmission of your Special Encroachment Permit Application¹ (together, "Application") for your property located at 1151 Rosedale Avenue, Burlingame, California ("Property").

City Staff has carefully reviewed and considered your Application, as well as the active building permit (B23-0785) for landscaping and fence improvements at the Property, and made the following determinations:

- A. **Rosedale Avenue side:** The portion of your Application pertaining to the two (2) stone columns within the City's Right-of-Way on Rosedale Avenue is **GRANTED**, subject to certain terms and conditions to be memorialized in an executed Special Encroachment Permit. A form of the Special Encroachment Permit is enclosed for

¹ We note that your July 11, 2025 resubmission included aerial depictions of your Property with color coded features: Green = City ROW; Orange = City Cleanout; Red = Fence; etc. However, your July 11, 2025 resubmission, including the aerial depictions, were in black & white only. No color copies were attached. City Staff was nevertheless able to interpret the July 11, 2025 resubmission.

your review. This portion of the Application is granted in recognition of the potential difficulty you may encounter in removing the two (2) unpermitted stone column structures located within the City's Right-of-Way. As a result, and as stated in the enclosed Special Encroachment Permit, you are hereby granted a permission to encroach for a period of five (5) years, during which time the stone columns may remain in the City's Right-of-Way. At the end of such five (5) years, the two (2) stone columns must be removed from the public Right-of-Way. The City's determination on this portion of your Application is without prejudice to your submission of a new Special Encroachment Permit Application concerning the two (2) stone columns at the end of the five (5) years, if you so choose.

B. **Westmoor Road side:** The portion of your Application pertaining to the fence improvements, landscaping, concrete patio, and other improvements within the City's Right-of-Way on Westmoor Road is **DENIED** for the following reasons.

1. **Public Nuisance.** The fence improvements within the City's Right-of-Way on Westmoor Road presents a public nuisance. The fence prevents public access and usage of the City's Right-of-Way enclosed behind the fence. Also, built into the fence is a door that opens out towards the sidewalk along Westmoor Road. This door, when opened, obstructs free and clear public passage along the sidewalk and presents the risk of harm to persons and property. The door, when opened, is also an accessibility barrier to persons with disabilities.
2. **Unlawful gift of public property.** Options #1 and #2 in your Application propose realignment of the fence improvements on the Westmoor Road side. However, both options show significant portions of the City's Right-of-Way that would remain enclosed for your private use to the exclusion of the public. If the City were to grant your application based on either Option #1 or #2, the City would effectively be giving away valuable public property for your exclusive, private use and enjoyment. This would result in an unlawful gift of public property.
3. **Sewer cleanout facility and potential damage to private property.** Options #1 and #2 offer to realign the fence improvements to provide a 1-foot or 4-foot setback from the City's sewer cleanout facility, respectively. Under either option, the proposed encroachment adversely impacts City's utilization of the Right-of-Way for the purposes of equipment staging and access when performing maintenance and repairs to the City's sewer cleanout and/or associated infrastructure. The adverse impacts to the City's ability to conduct maintenance and repairs are not acceptable to the City. Additionally, under either option, the City's access and connection to the sewer cleanout facility

pose a potential risk of property damage to the fence improvements, concrete patio, and the Property's underground irrigation lines (if any). That risk of damage is not acceptable to the City.

If you agree with this determination, please execute the attached Special Encroachment Permit and return the **wet-ink originals** to me at the address above. A fully executed, recorded conforming copy will be forwarded to you.

PLEASE BE ADVISED that if you wish to appeal the City's decision on your Application to the Burlingame City Council, you must do so in writing within five (5) days of this letter. (Burlingame Municipal Code § 12.10.050.)

Sincerely,

A handwritten signature in blue ink, appearing to read 'Syed Murtuza', is written over a circular stamp or seal.

Syed Murtuza
Director of Public Works
City of Burlingame

cc: Dan Siegel with enclosure (via email – dks@jsmf.com)

Enclosure – Special Encroachment Permit form

RECORDING REQUESTED BY:

CITY OF BURLINGAME
501 PRIMROSE ROAD
BURLINGAME, CA 94010

WHEN RECORDED RETURN TO:

CITY CLERK
CITY OF BURLINGAME
501 PRIMROSE ROAD
BURLINGAME, CA 94010

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

**Exempt from Recording Fees pursuant to Government Code section 6103 and 27383
[Recording requested by California municipality]**

Assessor's Parcel No. 025-243-010

PUBLIC WORKS SPECIAL ENCROACHMENT PERMIT ("Permit")

August _____, 2025

TO APPLICANT/OWNER: 1151 Rosedale Avenue, Burlingame, CA 94010 (the "Property")

Pursuant to your requests on June 10, and July 11, 2025, and subject to all of the terms, conditions and restrictions set forth herein and attached hereto and Chapter 12.10 of the Burlingame Municipal Code, limited permission is hereby granted for **the placement and maintenance of two (2) stone columns within the City Right-of-Way on Rosedale Avenue** as shown on the attached drawing labeled Exhibit A (the "Nonstandard Improvements"). All work, including, but not limited to the construction, repair, and maintenance of the Nonstandard Improvements (the "Work") shall be performed as shown on the attached drawings labeled Exhibit A approved as part of this Permit. The owner(s) of **1151 Rosedale Avenue, Burlingame, CA 94010** ("OWNER") and their successors in interest shall assume all maintenance responsibility for and any liability, including defense costs and indemnification of the City, arising out of said construction, maintenance, or design for the Nonstandard Improvements, as further described herein.

Location: **1151 Rosedale Avenue, Burlingame, CA 94010 APN: 025-243-010**

General Provisions

1. Definition; Revocability; Expiration. The term "encroachment" is used in this Permit to mean any structure or object of any kind or character which is placed in, under, or over, any portion of the City Right-of-Way or property owned by the City of Burlingame. This Permit is revocable at any time by the City with thirty (30) days advance written notice provided by the City to the OWNER and property owner of record (as reflected in the Assessor's rolls for the County of San Mateo at the time notice is provided hereunder) if: (i) OWNER fails to comply with its maintenance obligations set forth in Paragraph 15 below or (ii) the Nonstandard Improvements conflict in any way with the City's construction of public improvements and/or infrastructure within the City Right-of-Way. This Permit may also be revoked immediately and without any advance written notice if the Nonstandard Improvements at any time present a risk to public health or safety. By accepting this Permit and performing Work as contemplated hereunder, OWNER expressly waives any and all claims and causes of action against the City of Burlingame, its officers or agents, relating to or arising out of the revocation of this Permit in accordance with this provision.

The rights, interests, and privileges granted under this Permit shall expire five (5) years after the execution of this Permit by City. Such expiration is without prejudice to the OWNER's ability to apply for another permit for the encroachment contemplated herein. The OWNER shall remove the two (2) stone columns from within the City Right-of-way on or before the expiration of this Permit term. Failure to comply with this or any of the other provisions of this Permit may result in revocation of this Permit, including but not limited to, enforcement action by the City.

2. Acceptance of Provisions. It is understood and agreed by OWNER that the placement and maintenance of two (2) stone columns within the City Right-of-Way on Rosedale Avenue as shown in Exhibit A pursuant to this Permit shall constitute an acceptance of the provisions and conditions of this Permit and Chapter 12.10 of the Burlingame Municipal Code, as it may be amended from time to time. OWNER further agrees that OWNER has read and understands these provisions and Chapter 12.10 of the Burlingame Municipal Code and

agrees that OWNER will observe and conform to the requirements. OWNER accepts this Permit and its conditions on behalf of OWNER and OWNER's heirs, successors, and assigns.

3. No Precedent Established. This Permit is granted with the understanding that this action is not to be considered as establishing any precedent on the question of the expediency of permitting any certain kind of encroachment within or upon the City Right-of-Way nor does it constitute the granting or conveyance of any franchise or property interest of any kind to OWNER.

4. Notice Prior To Repairs To The Nonstandard Improvements. Before starting Work (including but not limited to any repair or maintenance work), or whenever stated on the face of this Permit, OWNER shall notify, in writing, the Director of Public Works or other designated employee of the City. Such written notice shall be given at least three (3) days in advance of the date Work is to begin.

5. Permit on Premises. A copy of this Permit shall be kept at the Property and must be shown to any representative of the City, or any law enforcement officer on demand.

6. Protection of Traffic. Adequate provision shall be made for the protection of the public pursuant to generally accepted standards, particularly the State of California Standard Specifications as utilized by the City. All Work shall be planned and carried out so that there will be the least possible inconvenience to the public, particularly pedestrian and vehicle traffic. Unless otherwise expressly approved in connection with this Permit by the City, pedestrian and vehicle travel shall not be blocked.

9. Standards of Construction. All Work shall conform to recognized standards of construction and the City's standard drawings, and as shown on the approved project plans in Exhibit A, as applicable.

10. Inspection by City. All the Work shall be done subject to the inspection of, and to the satisfaction of the City.

11. Intentionally Omitted.

12. Liability for Damages. OWNER hereby holds the City, its officers, agents and employees harmless for and shall defend the City, its officers, agents and employees from any and all claims and liability, including any costs of defense and attorney fees, for personal injury

or property damage of any kind which may arise from the granting of this Permit or that may arise in any way out of the placement or use of the encroachments allowed under this Permit.

13. Location Plan. Within thirty (30) days of completion of the Work under this Permit, the OWNER shall furnish a plan to the City showing the actual location of the Nonstandard Improvements in such detail as the City may require.

15. Maintenance. OWNER agrees to exercise reasonable care to maintain properly the Nonstandard Improvements, and to exercise reasonable care in inspecting and immediately repairing and making good any injury to any portion of the right-of-way which occurs as a result of the maintenance of the Nonstandard Improvements, or as a result of Work done under this Permit, including any and all injury to the right-of-way which would not have occurred had such work not been done or such encroachment not placed therein. Maintenance and repair shall include prevention and correction of any damage that may be caused by roots of City trees. If OWNER fails to maintain the Nonstandard Improvements, as determined by the Director of Public Works, and OWNER fails to commence maintenance within thirty (30) days after notice from the Director of Public Works, the City may revoke this Permit as set forth in Paragraph 1 above.

16. Intentionally Omitted.

17. Recording. This Permit shall be recorded by the City Clerk with the County Recorder of the County of San Mateo.

18. Binding. This Permit shall be binding on the heirs, successors, and assigns of the parties hereto.

19. Approved Nonstandard Improvement Drawings. See Exhibit A.

20. Payment of Taxes. The following notice is provided pursuant to California Revenue & Taxation Code § 107.6:

The Premises are owned by the City and the City is exempt from real property taxes. However, this Permit may create a possessory interest by the permittee subject to property taxation, and the permittee may be subject to the payment of property taxes levied on that interest by the State of California or the County of San Mateo. The permittee shall be

responsible for the payment of any such property taxes.

21. Waiver and Amendment. No failure on the part of the City to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that the City may have under this Permit or any law, nor does waiver of a breach or default under this Permit constitute a continuing waiver of a subsequent breach of the same or any other provision of this Permit.

22. Governing Law. This instrument, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court for the County of San Mateo.

23. Amendment. No modification, waiver, mutual termination, or amendment of this Permit is effective unless made in writing and signed by the City and OWNER or their successor in interest. This Permit constitutes the entire Permit granted to OWNER.

24. Waiver of Civil Code section 1542. OWNER declares that they have been advised by legal counsel of and understands the nature, extent, and import of any releases and waivers in favor of the City contemplated by this Permit, and OWNER expressly waives its rights under Civil Code section 1542, which provides:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

[Balance of page intentionally left blank; signature page follows]

PROPERTY OWNER(S)

CITY OF BURLINGAME

By: _____

Priya Takiar
Owner, 1151 Rosedale Avenue,
Burlingame, CA

Dated: _____

By: _____

Syed Murtuza,
Director of Public Works

Dated: _____

By: _____

Dhruv Batura
Owner, 1151 Rosedale Avenue,
Burlingame, CA

Dated: _____

Approved as to form:

Michael Guina, City Attorney

Attest:

Meaghan Hassel-Shearer, City Clerk

Exhibit A
(Plat Drawing)

EXHIBIT A TO SPECIAL ENCROACHMENT PERMIT - 1151 ROSEDALE AVE

