



Office of the City Manager

PUBLIC HEARING

July 7, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning & Development Department

Subject: ZAB Appeal: 1449 Grizzly Peak Boulevard, Administrative Use Permit  
#ZP2019-0111

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board decision to approve Administrative Use Permit #ZP2019-0111 to construct a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, increasing the average and maximum building height by approximately two feet, increase the number of bedrooms on the parcel from four to five, and constructing a perimeter fence over six feet in height, on a conforming residential parcel, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On June 19, 2019, Lillian Mitchell Architects submitted an application for an Administrative Use Permit (#ZP2019-0111) to construct a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, increasing the average and maximum building height by approximately 2', and increase the number of bedrooms on the parcel from four to five.

On October 29, 2019, after two rounds of comments from staff, the application was deemed complete.

On November 20, 2019, a Notice of Administrative Decision approving the Administrative Use Permit (AUP) application was issued by the Zoning Officer, which established a 20-day appeal period.

On December 11, 2019, Pamela Sihvola, the neighbor at 1476 Summit Road, filed an appeal of the Zoning Officer's decision to the Zoning Adjustments Board (ZAB). On February 27, 2020, staff posted the public hearing notice near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area.

On March 12, 2020, the ZAB conducted a public hearing for the appeal of the Zoning Officer's decision. After considering the staff report and administrative record, and hearing comments from the applicant and appellant, the ZAB added Condition of Approval #11 and Recommendation #12 related to the maximum ceiling height of the addition and the glare impacts of a white roof and exterior color of the addition to the adjacent neighbor to the rear, to which the applicant agreed. The ZAB then upheld the Zoning Officer's decision to approve the AUP with the condition and recommendation by a unanimous vote (Yes: Clarke, Kahn, Kim, O'Keefe, Lewis, Pinkston, Sheahan, Tregub).

On April 14, 2020, staff issued the notice of the ZAB decision, which established a 14-day appeal period. On April 28, 2020, Pamela Sihvola, the neighbor at 1476 Summit Road, filed an appeal of the ZAB decision with the City Clerk. On June 23, 2020, staff posted the public hearing notices near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area. This public hearing is required to resolve the appeal.

#### BACKGROUND

On May 23, 2014, the Zoning Officer approved a previous AUP (AUP#13-20000050) at the subject property to construct a two-story, 556 square-foot addition that increased the building's average and maximum heights by four and five feet, respectively. During the review process for that AUP application, the applicant and the appellant engaged in voluntary mediation, which the appellant contends "included a commitment by the applicant to choose a building color to blend with the environment."<sup>1</sup> Mediation is a tool that the Land Use Planning Division encourages applicants and neighbors to utilize through a private third-party early in the design process in order to identify and resolve issues of concern. However, participation is voluntary, and compliance with any private party agreements reached in mediation cannot be enforced by the City, unless the commitments made in mediation are incorporated into a Condition of Approval. In this case, a Condition of Approval regarding exterior materials and colors was not included in the previously-approved AUP, and the approved plans indicate stucco as the exterior material on the newly constructed second and third stories. The Zoning Officer determined that the stucco exterior did not result in a detriment to views, privacy, light or air, pursuant to the required findings for approval.<sup>2</sup> No appeals were filed for that permit and the work was completed pursuant to a Building Permit.

On November 20, 2019, the Zoning Officer approved the most recent AUP (ZP2019-0111) at the subject property to construct a 500 square-foot major residential addition, expanding the existing third story at the rear of the building, increasing the average and maximum heights by 2'-2" and 2'-3", respectively, adding the fifth bedroom on the

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<sup>1</sup> Attachment 3, ZAB Staff Report, Appeal Issue 5 – Exterior Materials, page 10.

<sup>2</sup> BMC Sections 23D.16.090.B and 23B.28.050.

parcel, and constructing a perimeter fence four feet from the rear property line and at the side property lines that ranges from 6'-2" to 8'-7" in height.

On December 11, 2019, the appellant, who lives uphill and to the east of the project site, filed an appeal of the Zoning Officer's decision to the ZAB. As described in the March 12, 2020 ZAB staff report, the appeal listed eight separate points, including the approved increase in the maximum building height and the applicant's choice of white stucco for the exterior and roof color. The appellant explained that the property owner and appellant discussed the color choice in mediation discussions during the review process for the previous AUP (#13-20000050) at the subject property; they agreed to choose a building color that blended with the environment.<sup>3</sup> In the March 12, 2020 ZAB hearing staff report for the appeal, staff described that mediation cannot be enforced by the City unless the commitments made in mediation are incorporated into a Condition of Approval. A Condition of Approval was not incorporated into the AUP, and the Zoning Officer determined the white stucco did not cause a detriment to views, privacy, light or air.

At the March 12, 2020 hearing, ZAB members had substantive discussion regarding three of the eight appeal points: 1) ceiling height; 2) roof color; and 3) exterior color. For reference, the ZAB discussion was recorded<sup>4</sup> and the captioner's record is provided as Attachment 4 to this report.<sup>5</sup> Regarding ceiling height, the applicant agreed to a Condition of Approval to limit the height to nine feet in order to reduce impacts to views. Regarding the roof and exterior colors, the ZAB asked the applicant for their reaction to the appellant's request that the third-floor siding be wood color and the roof be a similar color. The applicant responded that the color choice had been discussed with the appellant and they would continue discussing the issue, but "didn't know if that's appropriate for it to be a condition of approval from ZAB." The ZAB asked the property owner to state the reason why they chose white for the roof color. The property owner responded that "the roofer recommended it because of the heat reflection and the home gets sun all day. I don't feel like I should change the whole roof, it would be a \$15,000 roofing problem. If my neighbors can help me with that, great, but so far that hasn't been the case."

After asking questions of the applicant and appellant, the ZAB continued its discussion. One ZAB member, referring to pictures submitted by the appellant of the view from their backyard, commented that the white roof color is "pretty bright" and recommended that the applicant agree to a "modest request" to change the color of the roof in the area of new construction only: "it doesn't need to be wood, but it doesn't need to be as reflective." After describing how a cool roof is usually reflective and offering color options that would accomplish a cooling effect and are less reflective, the ZAB member

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<sup>3</sup> Attachment 3, March 12, 2020 ZAB staff report.

<sup>4</sup> March 12, 2020 ZAB recording, [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=af425775-6581-11ea-99b9-0050569183fa](http://berkeley.granicus.com/MediaPlayer.php?publish_id=af425775-6581-11ea-99b9-0050569183fa)

<sup>5</sup> All quotes in this report are copied from the Captioner's Record, Attachment 4.

made a motion with a second to: “recommend that the applicant tone down the white with a different color on the back where it’s most visible.” Another ZAB member commented how a darker roof color “that is not so glaring accommodates the appellant without negatively impacting the applicant...we can’t condition paint color. What I was saying as a good faith gesture, a recommendation that the applicant do that.” The ZAB chair clarified the motion on the table was to request a “non-binding look at changing the color for the roof...that the roof not be this bright.”

Another ZAB member, who was present during the mediation for the previously approved AUP in 2014, stated that the property owner promised to “do dark colors for the proposed addition, which helped lead to a successful outcome for the mediation and eventually the approval at the time.” The ZAB member asked that the property owner “honor the intent of the original mediation because the issues are there, they’re all the same...the impact really is very intense from the appellant’s house and not only the appellant’s but also the houses to either side of the appellant. All the houses uphill, several houses, have a prominent view of this project. I think it’s a reasonable ask on all points by the appellant.” The ZAB member then asked the Secretary to clarify whether it was within the ZAB’s purview to condition a darker roof color but not a darker wall color. The Secretary asked the ZAB to consider how “any conditions on this project or others relates to the findings that are required to be made. Findings around views, privacy, air, light, if you find areas of detriment related to those that are analyzed for residential projects...the other piece is that we do not have residential design guidelines in the City of Berkeley.”

After hearing from the Secretary, the ZAB member proposed that a detriment finding be made and the roof color be included as a condition of approval, as “this intensely bright white structure which is proposed to be significantly expanded...is a serious detriment to the view and consequently the quality of life...the contrast is intense, and I think that constitutes detriment. I don’t think it’s unreasonable to ask for a moderation in color.” Although there was discussion, the ZAB did not make a finding of detriment related to views.

The ZAB continued to discuss whether it was within their purview to include a condition of approval to reduce the glaring condition caused by the white roof, and asked the applicant if they were willing to consider going with a color that is less glaring white, suggesting pale green or grey. The Secretary expressed concern about including a requirement for staff to negotiate an agreement between two neighbors and suggested the ZAB find a way to address the appellant’s concern directly through a condition or recommendation that would be the responsibility of the applicant to implement, rather than through an open-ended negotiation between the applicant, appellant and staff.

The ZAB continued its discussion and was not comfortable choosing a particular color but suggested that the “principle of good neighborliness would dictate that this neighbor try to reduce glare” by choosing a color that is “less glaring white.” The ZAB chair then

restated the original motion related to the exterior color: “This is a recommendation from ZAB not enforced by staff but with the good faith hope that the applicant follows through with his pledge to work with the neighbors.” The final motion was stated by the ZAB Chair as follows: “A condition of approval for the 9-foot ceiling height, condition of approval that the roof be not as bright, and a recommendation for the change of the color of the third story addition.”

Staff transcribed the final motion into a condition of approval and recommendation as follows:

**Prior to Issuance of Any Building and Safety Permit (Demolition or Construction)**

11. *The applicant shall revise the approved plans to indicate the following:*
  - *The maximum ceiling height of the addition shall be no higher than 9’.*
  - *The roof material of the addition shall be a darker color than the proposed white, subject to review by staff.*
  
12. *The ZAB recommends that the exterior color of the addition at the third story be darker than the proposed white.*

With the addition of this Condition of Approval and recommendation, the ZAB was satisfied that the appellant’s concerns were properly addressed. The ZAB upheld the remainder of the Zoning Officer’s decision to approve the Administrative Use Permit for the third story addition. Staff did not receive any further comments or concerns about the ZAB’s decision.

**ENVIRONMENTAL SUSTAINABILITY**

The project approved by the ZAB is in compliance with all state and local environmental requirements.

**RATIONALE FOR RECOMMENDATION**

The issues raised in the appellant’s letter, and staff’s responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment #2: Appeal Letter) for the full text.

Issue: Staff’s shortcomings transcribing the ZAB Conditions of Approval: The appellant contends that staff omitted two conditions of approval that were requested in her appeal of the AUP filed on December 11, 2019 and were approved by the ZAB at their March 12, 2020 hearing. Specifically, the appellant’s requested Conditions of Approval were the following:

- 1) Third floor siding to be ipe<sup>6</sup> wood color, as ipe wood is already a feature of the house design.
- 2) Roof color similar in tone to the requested ipe wood color on the third-floor siding.

The appellant states that ipe wood is incorporated in the front entrance and in the areas under the overhang of the roof of the existing dwelling. As such, the appellant proposed ipe wood (or wood of a similar color), be incorporated as the siding of the third floor of the dwelling in the appeal letter to the ZAB filed on December 11, 2019. In order to mitigate glare impacts from the existing white roof and white third-floor siding, the appellant proposed the roof color be of a similar tone to the requested ipe siding. The appellant cited a 2014 mediation meeting and a later 2018 meeting where the property owner previously agreed to these proposals. The appellant provided magazine cut sheets to illustrate the type of siding and roof color proposed to the ZAB during comments at the March 12, 2020 hearing.

In asserting that staff omitted the proposed Conditions of Approval, the appellant states that the proposed white exterior and roof color were determined by the ZAB to be detrimental to the neighbors residing to the east on Summit Road. Further, the appellant states that the ZAB determined the exterior and roof color must be a darker tone, similar to the ipe wood that exists on portions of the building's exterior.

The appellant states that ZAB discussion included a reference to staff to negotiate with neighbors, in the spirit of neighborliness, when the revised plans, with a couple color options, are ready for review. Finally, the appellant requested to receive a set of the revised plans via mail as soon as they are available.

**Response:** A summary of the ZAB discussion is provided above in the Background section of this report. In response to the appellant's request that ipe siding be used on the third story, and the roof color be a similar tone, the ZAB decided not to require ipe wood specifically, but rather recommended that the applicant choose a less reflective color. In response to the appellant's claim that the ZAB made findings of detriment related to views as a result of the roof and exterior color, the captioner's record (Attachment 4) shows that ZAB did not make findings of detriment. However, ZAB members acknowledged that the roof color was bright, and one ZAB member proposed that a detriment finding be made. To address the appellant's

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<sup>6</sup> Ipe, also known as Brazilian walnut, is a hard tropical wood that is used for decking and siding. The wood is a medium to darker brown color, similar to mahogany.

concerns, the ZAB added a Condition of Approval that the roof not be as bright.

In response to the appellant's statement that ZAB determined the exterior and roof color must be a darker tone, similar to the existing wood, Condition of Approval #11 states that staff will review the roof material of the addition to ensure it is a darker color than the proposed white. As described in the Background section above, the City of Berkeley does not have residential design guidelines, and the ZAB Secretary expressed concern about including a requirement that staff negotiate between two neighbors. As such, Condition of Approval #11 was written according to standard Land Use Planning procedures, which are to review revised plans submitted by the applicant in order to ensure any required changes have been incorporated prior to issuance of any Building and Safety permit.

In response to the appellant's request to receive a set of revised plans via mail, the applicant sent a letter and color samples via certified mail to the appellant on June 1, 2020 (See Attachment 5: Applicant Communications). The letter confirms the color of the roof will be grey and the exterior wall color will be within a similar color value range. The applicant also provided a letter to staff indicating the chosen roof color and color range of the exterior (page 4), as well as three examples of recently constructed homes in the vicinity of the project site that are a similar color to the proposed addition (pages 5 to 8).

Therefore, staff recommends that the City Council uphold the ZAB decision to approve the third-story addition as amended with conditions of approval related to the exterior colors.

#### ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

#### Action Deadline:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess) then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

#### CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Ashley James, Project Planner, (510) 981-7458

**Attachments:**

1. Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated August 12, 2019
2. Appeal Letter dated April 28, 2020
3. ZAB Packet and Project Plans, dated March 12, 2020
4. Captioner's Record, ZAB Hearing March 12, 2020
5. Applicant Communications, received June 3, 2020
6. Index to Administrative Record
7. Administrative Record
8. Public Hearing Notice



RESOLUTION NO. ##,###-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF ADMINISTRATIVE USE PERMIT #ZP2019-0111 TO CONSTRUCT A 500 SQUARE-FOOT MAJOR RESIDENTIAL ADDITION TO EXPAND THE EXISTING THIRD STORY AND INCREASE THE NUMBER OF BEDROOMS ON THE PARCEL FROM FOUR TO FIVE, FOR AN EXISTING SINGLE-FAMILY DWELLING, AND DISMISSING THE APPEAL

WHEREAS, on June 19, 2019, Lillian Mitchell Architects ("applicant") filed an application for an Administrative Use Permit to add a 500 square-foot residential addition to expand the third story of the existing dwelling and increase the number of bedrooms on the parcel from four to five at 1449 Grizzly Peak Road; and

WHEREAS, on October 29, 2019, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines ("Existing Facilities"); and

WHEREAS, on November 20, 2019, staff posted the Notice of Administrative Decision near the site in three locations and mailed 85 notices to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations; and

WHEREAS, on December 11, 2019, Pamela Sihvola, the neighbor at 1476 Summit Road, filed an appeal of the Zoning Officer's decision to the Zoning Adjustments Board (ZAB); and

WHEREAS, on February 27, 2020, staff posted the ZAB Notice of Public Hearing near the site in three locations and mailed 85 notices to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations; and

WHEREAS, on March 12, 2020, the ZAB conducted the public hearing in accordance with BMC Section 23B.32.030 and approved the application with modified Conditions of Approval; and

WHEREAS, on April 14, 2020, staff issued the notice of the ZAB decision; and

WHEREAS, on April 28, 2020, Pamela Sihvola filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before June 23, 2020, staff posted the public hearing notice near the site in three locations and mailed notices to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations; and

WHEREAS, on July 7, 2020, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2019-0111, adopts the conditions of approval in Exhibit A and the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, dated August 12, 2019

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FINDINGS AND CONDITIONS  
APPROVED BY ZAB ON MARCH 12, 2020

# 1449 Grizzly Peak Boulevard

## Administrative Use Permit #ZP2019-0111

To alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height by 2'-2" and the maximum building height by 2'-3", resulting in a 3,291 square-foot, three-story, single-family dwelling with an average building height of 24'-8" and a maximum building height of 28'-9", 2) constructing the fifth bedroom on the parcel, and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.

### PERMITS REQUIRED

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- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

### CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to CEQA Guidelines Section 15301 (Existing Facilities). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

### FINDINGS FOR APPROVAL

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2. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. The subject property is equal to or below the Single-Family Residential (R-1H) standards (BMC Section 23D.16.070-.080) for maximum residential density, height, setbacks, lot coverage, useable open space, and off-street parking (one main dwelling unit, where one main dwelling unit is allowed, average height of 24'-8" where 28' is the maximum, 5'-5" side (north) yard setback where 4' is the minimum, 4'-1" side (south) yard setback where 4' is the minimum, and 39'-3" rear yard setback where 20' is the minimum, 30% lot coverage where 40% is the maximum, 1,545 sq. ft. of usable open space where 400 sq. ft. is the minimum, and one off-street parking space where one is required). The subject property has a legally non-conforming front yard setback of 17'-1" where 20' is the minimum; however, the project would not extend or worsen this non-conformity. The subject property is equal to or below the Hillside Overlay District standards (BMC Section 23E.96.070) for maximum height for all residential additions of 28'-9" where 35' is the maximum. Therefore, the residential addition will be compatible with the existing property and neighborhood character;
- B. Privacy: Though the project includes new window openings on the addition to the third floor, these new windows on the front, northeast-side and rear are not expected to be detrimental to the privacy of neighbors because they would be located in walls that exceed all required yards; the new windows on the front of the building at the third floor would be setback 21'-1" from the front property line, where 20' is required. The building to building separation from the subject dwelling to abutting dwelling to the southeast at 1480 Summit Road is approximately 58', the dwelling to the southwest at 1455 Grizzly Peak Boulevard is approximately 9', and the dwelling to the northeast at 1445 Grizzly Peak Boulevard is approximately 14'-6". This separation, along with new openings that will mostly not directly face any windows in neighboring dwellings, will limit new privacy impacts;
- C. The addition to the main building will be constructed with proportions, scale and roof slopes that match the existing;
- D. While the project increases the number of bedrooms as defined in BMC Section 13.42.020.B on this parcel from four to five, the additional bedrooms will be added to an existing single-family residence. The addition of a fifth bedroom will provide more room for residents at the single-family residence and will not result in an increase in dwelling unit density; and
- E. The proposed perimeter fence will be from 6'-2" in height at the front of the property to 8'-3" in height at the rear of the property, and will be setback approximately 6' from the northwest property line at the front of the property, at the property line along the side yards, and setback approximately 4' from the rear property line. The fence will be located approximately 19' from the building located to the northeast at 1476 Summit Road, and 17' from the building located to the southeast at 1480 Summit Road. The fence will be constructed in an architectural style with colors and materials that are consistent with the surrounding buildings and fences. Due to its location, solar orientation, limited scale, and the presence of mature trees and other vegetation, the proposed fence is not

expected to create significant changes to the existing sunlight or privacy conditions in the immediate vicinity of this project. No new sight lines will be created to or from neighboring buildings, as the fence is located on a sloping hillside, below the existing sightlines to the San Francisco Bay from the properties directly to the rear of the property, and will thus not block views.

3. Pursuant to BMC Section 23D.16.090.B, the Zoning Officer finds that the major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
  - A. Sunlight: The 500 sq. ft. addition to the existing third floor and the perimeter fence will not result in a significant loss of direct sunlight on neighboring dwellings. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice.
    - a. Two hours before sunset on the winter solstice, shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover portions of four living room windows and a portion of the entryway door.
    - b. Two hours before sunset on the summer solstice, the shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover a living room window.
    - c. Because the impacts to neighboring properties will occur on limited areas, and will only partially shade a neighboring building for a limited time during the year, and only for a few hours of the day, the residential addition will not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental;
  - B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1H neighborhood because the addition is an expansion of the existing third story, where a maximum of three are allowed. The minimum 4 ft. required side yard setbacks will be maintained; and
  - C. Views: Berkeley Municipal Code Section 23F.04.010 defines view corridors as: a significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz. The dwellings to the east (1476 and 1480 Summit Road) are placed higher on the hill and have views of the Berkeley Hills and a partial view San Francisco Bay which is occluded by several mature trees in the yards of parcels across Grizzly Peak Boulevard from the subject property. Further, the proposed addition would not obstruct any existing partial views of the San Francisco Bay, as documented in the pictures of the story poles provided by the applicant. The dwellings to the west (1448 and 1446 Grizzly Peak Boulevard) are placed lower on the hill and have views of the Bay but the steep upsloping topography and the placement of the existing dwellings to the west occlude the Berkeley Hills. Further, the proposed addition would be located at the rear of the existing building on the third floor, and would match the existing roofline at the front of the building, therefore not obstructing views of the Berkeley Hills.

4. As required by BMC Section 23E.96.090.B, the Zoning Officer finds that the addition above the 20' maximum height that applies to additions is consistent with the purposes of the Hillside Overlay District as the height occurs in part because of the slope of this site, the proposed addition and fence will not adversely compromise the quality and character of this hillside parcel and its immediate environs, nor will it adversely impact views available from neighboring residences and parcels. The project maintains the original pattern and design of the lot and preserves westward views of the San Francisco Bay from the original building and its neighbors, as described above, in Section 3.

## STANDARD CONDITIONS

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The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### 2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

### 3. Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

### 4. Modification of Permits (BMC Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

### 5. Plans and Representations Become Conditions (BMC Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### 6. Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building

and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (BMC Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

**10. Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below:

**Project Liaison**

\_\_\_\_\_ Name

\_\_\_\_\_ Phone #

**Prior to Issuance of Any Building and Safety Permit (Demolition or Construction)**

**11.** The applicant shall revise the approved plans to indicate the following:

- The maximum ceiling height of the addition shall be no higher than 9’.
- The roof material of the addition shall be a darker color than the proposed white, subject to review by staff.

**12.** The ZAB recommends that the exterior color of the addition at the third story be darker than the proposed white.

**Standard Construction-related Conditions Applicable to all Projects:**

**13. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer’s approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

**14.** Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.



15. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
16. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
17. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
18. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
22. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
23. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
24. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
25. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique

archaeological resources accidentally discovered during construction” should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

**26. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

**27. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995, 1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

**Prior to Issuance of Occupancy Permit or Final Inspection:**

- 28. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
- 29. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 12, 2019.

**At All Times (Operation):**

- 30. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 31. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 32. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.



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Prepared by: Ashley James  
For Greg Powell, Zoning Officer

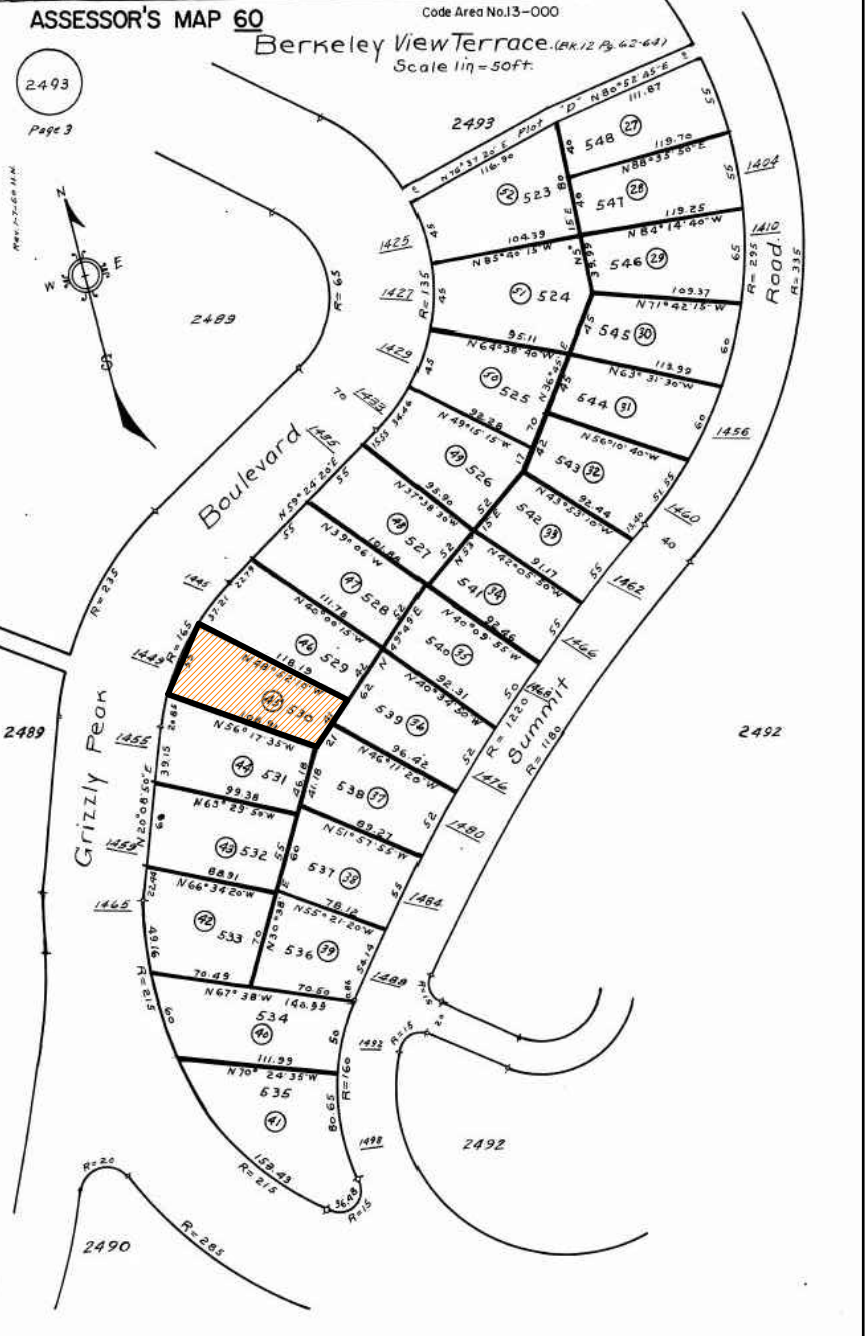
**BEST MANAGEMENT PRACTICES**

- SAND, DIRT, AND SIMILAR MATERIALS MUST BE STORED AT LEAST 10 FEET FROM CATCH BASINS, AND COVERED WITH A TARP DURING WET WEATHER OR WHEN RAIN IS FORECAST.
- SWEEP STREETS AND OTHER PAVED AREAS DAILY. DO NOT WASH DOWN STREETS OR WORK AREAS WITH WATER.
- RECYCLE ALL ASPHALT, CONCRETE, AND AGGREGATE BASE MATERIAL FROM DEMOLITION ACTIVITIES.
- CHECK DUMPSTERS REGULARLY FOR LEAKS AND TO MAKE SURE THEY DON'T OVERFLOW. REPAIR OR REPLACE LEAKING DUMPSTERS PROMPTLY.
- LABEL ALL HAZARDOUS MATERIALS AND HAZARDOUS WASTES (SUCH AS PESTICIDES, PAINTS, THINNERS, SOLVENTS, FUEL, OIL, AND ANTIFREEZE) IN ACCORDANCE WITH CITY, STATE, AND FEDERAL REGULATIONS.
- STORE HAZARDOUS MATERIALS AND WASTES IN SECONDARY CONTAINMENT AND COVER THEM DURING WET WEATHER.
- BE SURE TO ARRANGE FOR APPROPRIATE DISPOSAL OF ALL HAZARDOUS WASTES.
- WHEN SPILLS OR LEAKS OCCUR (HAZARDOUS OR NON-HAZARDOUS), CONTAIN THEM IMMEDIATELY AND BE PARTICULARLY CAREFUL TO PREVENT LEAKS AND SPILLS FROM REACHING THE GUTTER, STREET, OR STORM DRAIN. NEVER WASH SPILLED MATERIAL INTO A GUTTER, STREET, STORM DRAIN, OR CREEK.
- REPORT ANY HAZARDOUS MATERIALS SPILLS IMMEDIATELY! DIAL 911 OR YOUR LOCAL EMERGENCY RESPONSE NUMBER.
- DO NOT CLEAN VEHICLES OR EQUIPMENT ON-SITE USING SOAPS, SOLVENTS, DEGREASERS, STEAM CLEANING EQUIPMENT, ETC.
- KEEP EXCAVATED SOIL ON THE SITE WHERE IT IS LEAST LIKELY TO COLLECT IN THE STREET. TRANSFER TO DUMP TRUCKS SHOULD TAKE PLACE ON THE SITE, NOT IN THE STREET.
- USE FIBER ROLLS, SILT FENCES, OR OTHER CONTROL MEASURES TO MINIMIZE THE FLOW OF SILT OFF THE SITE. SEE SITE PLAN FOR SPECIFIC MEASURES.
- SHOVEL, ABSORB, OR VACUUM SAW-CUT SLURRY AND PICK UP ALL WASTE AS SOON AS YOU ARE FINISHED IN ONE LOCATION OR AT THE END OF EACH WORK DAY (WHICHEVER IS SOONER).
- IF SAW CUT SLURRY ENTERS A CATCH BASIN, CLEAN IT UP IMMEDIATELY.
- PROTECT GUTTERS, DITCHES, AND DRAINAGE COURSES WITH SAND/GRAVEL BAGS, OR EARTHEN BERMS.
- BE SURE TO STORE CONCRETE, GROUT, AND MORTAR UNDER COVER AND AWAY FROM DRAINAGE AREAS. THESE MATERIALS MUST NEVER REACH A STORM DRAIN.
- WASH OUT CONCRETE EQUIPMENT/TRUCKS OFF-SITE.
- NEVER RINSE PAINT BRUSHES OR MATERIALS IN A GUTTER OR STREET.
- PAINT OUT EXCESS WATER-BASED PAINT BEFORE RINSING BRUSHES, ROLLERS, OR CONTAINERS IN A SINK. IF YOU CAN'T USE A SINK, DIRECT WASH WATER TO A DIRT AREA AND SPADE IN IT.
- PAINT OUT EXCESS OIL-BASED PAINT BEFORE CLEANING BRUSHES IN THINNER.
- FILTER PAINT THINNERS AND SOLVENTS FOR REUSE WHENEVER POSSIBLE. DISPOSE OF OIL-BASED PAINT SLUDGE AND USEABLE THINNER AS HAZARDOUS WASTE.

**GENERAL NOTES**

- ALL WORK SHALL CONFORM TO THE CALIFORNIA RESIDENTIAL CODE, 2016 EDITION; CALIFORNIA PLUMBING CODE, 2016 EDITION; CALIFORNIA MECHANICAL CODE, 2016 EDITION; CALIFORNIA ELECTRICAL CODE, 2016 EDITION; 2016 ENERGY CODE; CITY OF BERKELEY ORDINANCES; ALAMEDA COUNTY REQUIREMENTS AND ALL OTHER APPLICABLE CODES AND ORDINANCES.
- THE CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS ON THE SITE PRIOR TO BEGINNING WORK. CONTRACTOR SHALL FAMILIARIZE HIM/HERSELF WITH VERTICAL AND LATERAL LOAD TRANSFER THROUGH FRAMING TO FOUNDATION. DIMENSIONS, FOUNDATION LAYOUT, FRAMING LAYOUT, LOAD TRANSFER THROUGH NEW AND EXISTING FRAMING TO FOUNDATION LOCATION OF BEAMS, BRACING, ETC. SHOULD ALL BE VERIFIED PRIOR TO ACTUAL CONSTRUCTION. VARIANCE BETWEEN THE DRAWINGS AND THE ACTUAL SITE CONDITIONS, AND ANY ERRORS OR OMISSIONS FOUND IN THE DRAWINGS, SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT BEFORE PROCEEDING WITH THE WORK. UPON DISCOVERY OF UNFORESEEN CONDITIONS ON THE SITE, THE CONTRACTOR SHALL STOP THE WORK AND REQUEST ADDITIONAL INFORMATION FROM THE ARCHITECT. THE CONTRACTOR SHALL NOTIFY THE ARCHITECT WHEN THE EXISTING STRUCTURE HAS BEEN EXPOSED.
- DURING DEMOLITION CONTRACTOR IS TO CAP ALL ELECTRICAL OUTLETS, SWITCHES AND UTILITIES PER CODE. NOTIFY OWNER 24 HOURS PRIOR TO ANY INTERRUPTION IN POWER OR UTILITIES.
- BRACE AND SUPPORT EXTERIOR AND INTERIOR WALLS AS NECESSARY PRIOR TO REMOVAL OF EXISTING STRUCTURE. SO AS TO PREVENT ANY MOVEMENT OF THE EXISTING STRUCTURE. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR PROVIDING ADEQUATE SHORING AND BRACING DURING CONSTRUCTION FOR VERTICAL AND LATERAL LOADS AS REQUIRED FOR THE PROTECTION OF LIFE AND PROPERTY DURING CONSTRUCTION.
- WRITTEN DIMENSIONS SHOWN IN THE DRAWINGS ARE TO FACE OF FINISH UNLESS OTHERWISE NOTED. THEY SHALL HAVE PRECEDENCE OVER ANY SCALED DIMENSIONS. THE CONTRACTOR SHALL NOT USE SCALED DIMENSIONS. DETAIL DRAWINGS HAVE PRECEDENCE OVER MORE GENERAL DRAWINGS.
- THE CONTRACTOR SHALL GUARANTEE ALL NEW WORK AGAINST LEAKS FOR A PERIOD OF TWO YEARS FOLLOWING COMPLETION OF THE WORK.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING TO ORIGINAL CONDITION, AT HIS OWN EXPENSE, ANY DAMAGE DONE BY HIM OR HIS AGENTS TO THE EXISTING BUILDINGS OR GROUNDS.
- THE CONTRACTOR SHALL INSTALL ALL PRODUCTS AND MATERIALS IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND IN ACCORDANCE WITH THE LATEST EDITION OF TRADE STANDARDS, PUBLISHED BY THE TRADE ASSOCIATIONS.
- THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE PORTIONS OF TITLE 24 OF THE CALIFORNIA ADMINISTRATIVE CODE.
- DIMENSIONS, LOCATIONS OF DOORS, PARTITIONS, CABINET WORK AND SIMILAR FEATURES TO BE VERIFIED ON SITE.
- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE LAYOUT OF ALL THE VARIOUS COMPONENTS OF THE CONSTRUCTION AS REQUIRED TO ACCOMMODATE THE ELECTRICAL LAYOUT INDICATED. SPECIAL ATTENTION SHOULD BE GIVEN TO FRAMING LAYOUT TO AVOID CUTTING AND REFRAMING TO ACHIEVE PROPER LOCATIONS FOR FIXTURES.
- THE ARCHITECT DOES NOT ASSUME RESPONSIBILITY FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCE OR PROCEDURES OF CONSTRUCTION, OR SAFETY PRECAUTIONS, WHICH ARE TO REMAIN THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
- THE ARCHITECT DOES NOT PROVIDE EVALUATION FOR THE EXISTENCE OF HAZARDOUS MATERIAL NOR ASSUME RESPONSIBILITY FOR THEIR MANAGEMENT. SHOULD THE CONTRACTOR ENCOUNTER ANY HAZARDOUS MATERIALS IN THE PERFORMANCE OF HIS WORK, THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY AND PROCEED WITH WORK ONLY IN COMPLIANCE WITH APPLICABLE HAZARDOUS MATERIAL HANDLING REGULATIONS.
- DIVERT CONSTRUCTION AND DEMOLITION WASTE AS FOLLOWS:  
A. DIVERT ALL CARDBOARD, CONCRETE, ASPHALT AND METALS.  
B. DIVERT 25% C&D WASTE, EXCLUDING ALL CARDBOARD, CONCRETE, ASPHALT, AND METALS.

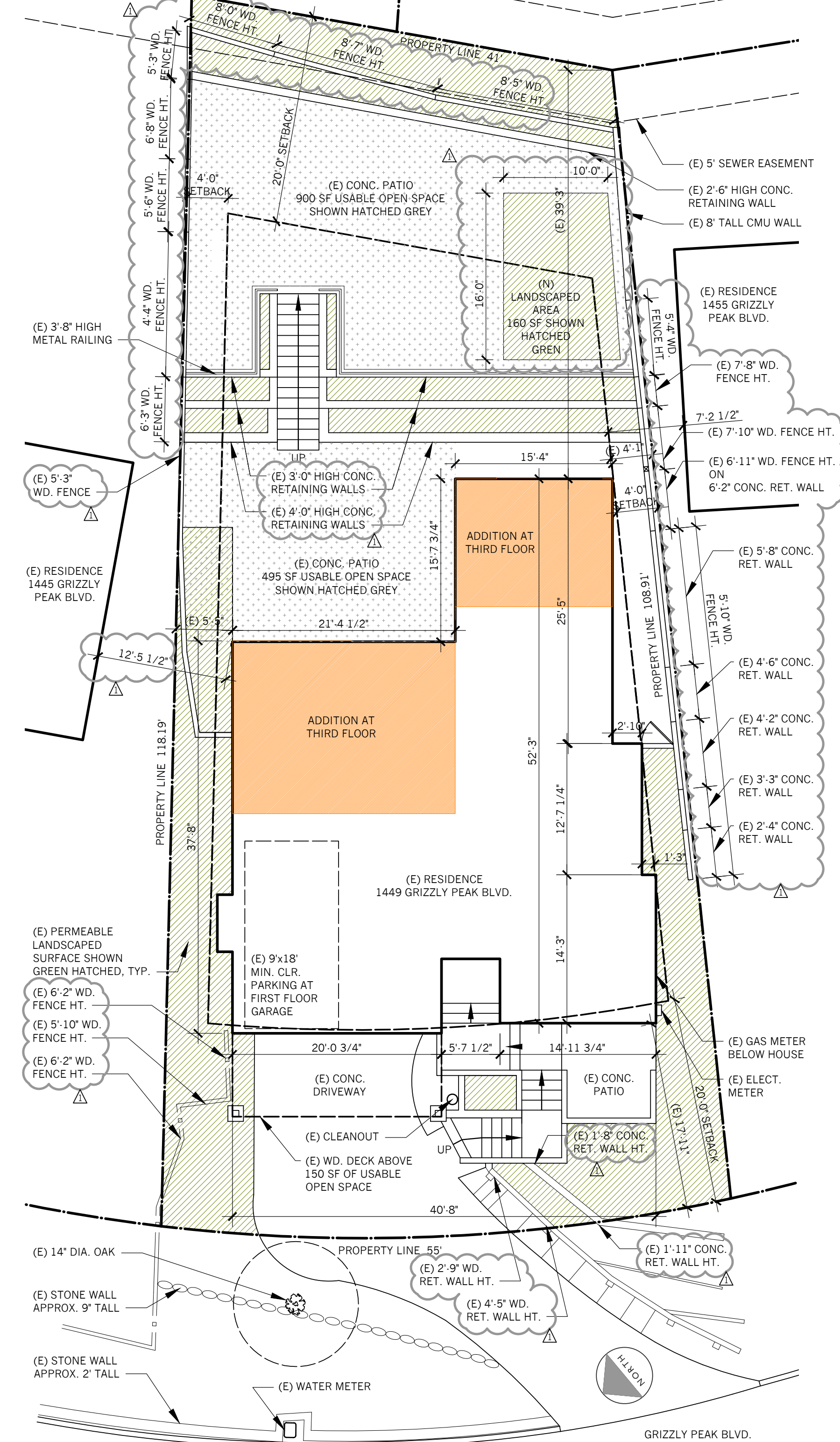
**ASSESSOR'S MAP**



**VICINITY MAP**



**SITE PLAN**



**DRAWING INDEX**

- A-0.0 COVER SHEET
- A-1.0 DEMO PLANS AND EXISTING ELEVATIONS
- A-2.0 PROPOSED FLOOR PLAN AND ROOF PLAN
- A-3.0 PROPOSED EXTERIOR ELEVATIONS
- A-4.0 SECTION

**PROJECT DATA**

CLIENTS:  
CHERYL AND RODRIGO UBILLUS  
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

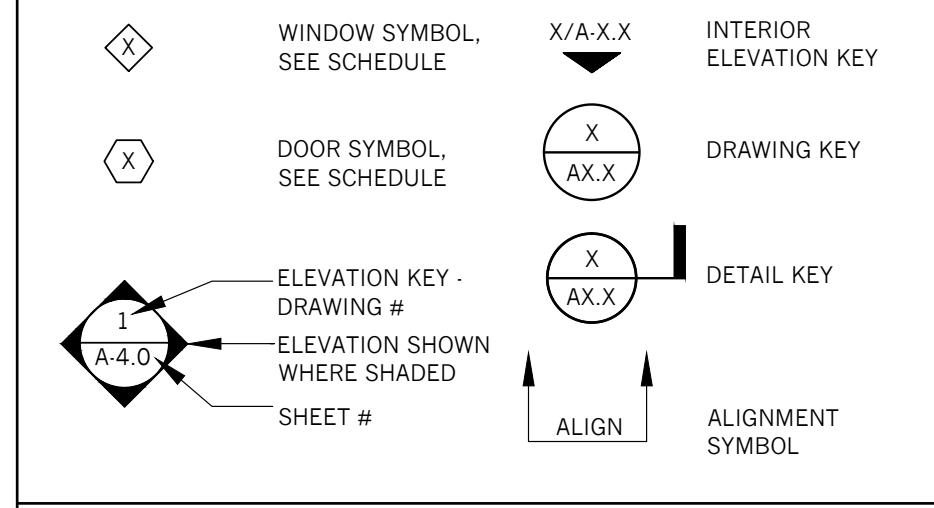
PROJECT SCOPE:  
REAR ADDITION OF 500 SQ. FT. AT THE THIRD FLOOR, INCLUDING A BEDROOM, BATHROOM, AND WALK-IN CLOSET.

ZONING: R1-H  
APN: 60-2493-45  
FLOOD ZONE: NO  
FIRE ZONE: 2  
LANDSLIDE ZONE: YES  
FIRE SPRINKLERS: NONE  
OCCUPANCY: R-3  
CONSTRUCTION TYPE: V-B  
AVG. LOT SLOPE: 15%

**TABULATION FORM**

	Existing	Proposed	Permitted/Required
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (#)	1	1	
Number of Parking Spaces (#)	1	1	
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	4	5	
<b>Yards and Height</b>			
Front Yard Setback (Feet)	17'-11"	NA	20
Side Yard Setback (Feet) (Facing property)	5'-5"	NA	4
Right (Feet)	4'-1"	NA	4
Rear Yard Setback (Feet)	39'-3"	NA	20
Building Height* (# Stories)	3	3	3
Average* (Feet)	22'-6"	24'-8"	14
Maximum* (Feet)	26'-6"	28'-9"	20
<b>Area</b>			
Lot Area (Square-Feet)	5,526	NA	NA
Gross Floor Area* (Square-Feet)	2,791	3,291	NA
Total Area Covered by All Floors (Square-Feet)	1,659	NA	NA
Total of All Structures (Square-Feet)	1,659	NA	NA
Lot Coverage* (Footprint/Lot Area) (%)	30%	NA	40%
Useable Open Space* (Square-Feet)	1,545	NA	400
Floor Area Ratio* Non-Residential only (Except ES-R)	NA	NA	NA

**SYMBOL LEGEND**



**NEIGHBOR'S SIGNATURES**

I HAVE REVIEWED THE DRAWINGS FOR THE PROPOSED ADDITION AT 1449 GRIZZLY PEAK BLVD, WHICH INCLUDES 500 SF AT THE SECOND FLOOR.

NAME (PRINTED)	SIGNATURE	ADDRESS	OWNER YES/NO	DATE	HAVE NO OBJECTIONS	COMMENTS OR OBJECTIONS (PLEASE STATE BRIEFLY)
		1444 GRIZZLY PEAK BLVD.				
		1445 GRIZZLY PEAK BLVD.				
		1446 GRIZZLY PEAK BLVD.				
		1448 GRIZZLY PEAK BLVD.				
		1452 GRIZZLY PEAK BLVD.				
		1455 GRIZZLY PEAK BLVD.				
		1476 SUMMIT RD.				
		1480 SUMMIT RD.				



1708 martin luther king jr way  
suite 6  
berkeley, ca 94709

510.705.1061

**UBILLUS RESIDENCE ADDITION**

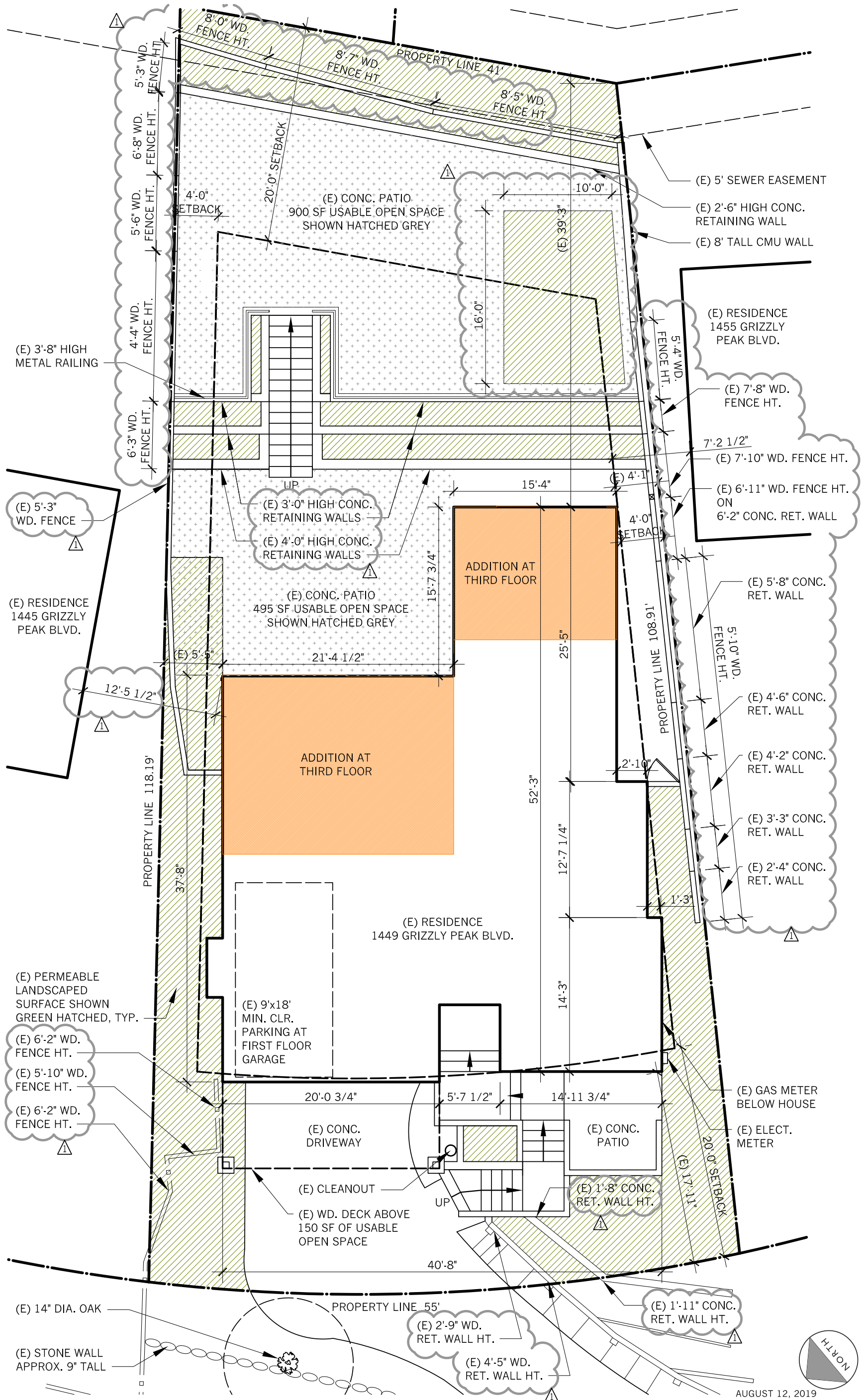
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

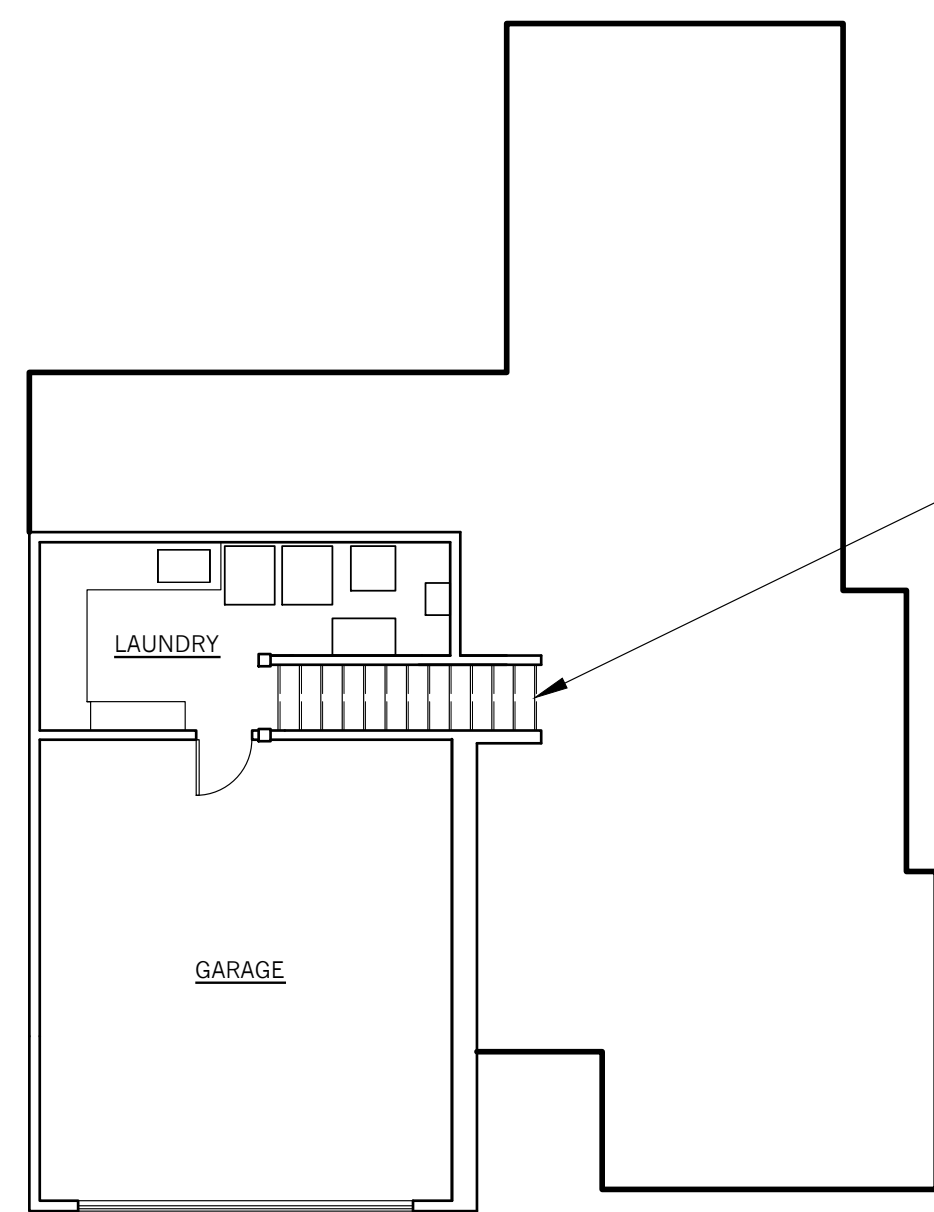
CONSULTANTS

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

**COVER SHEET**

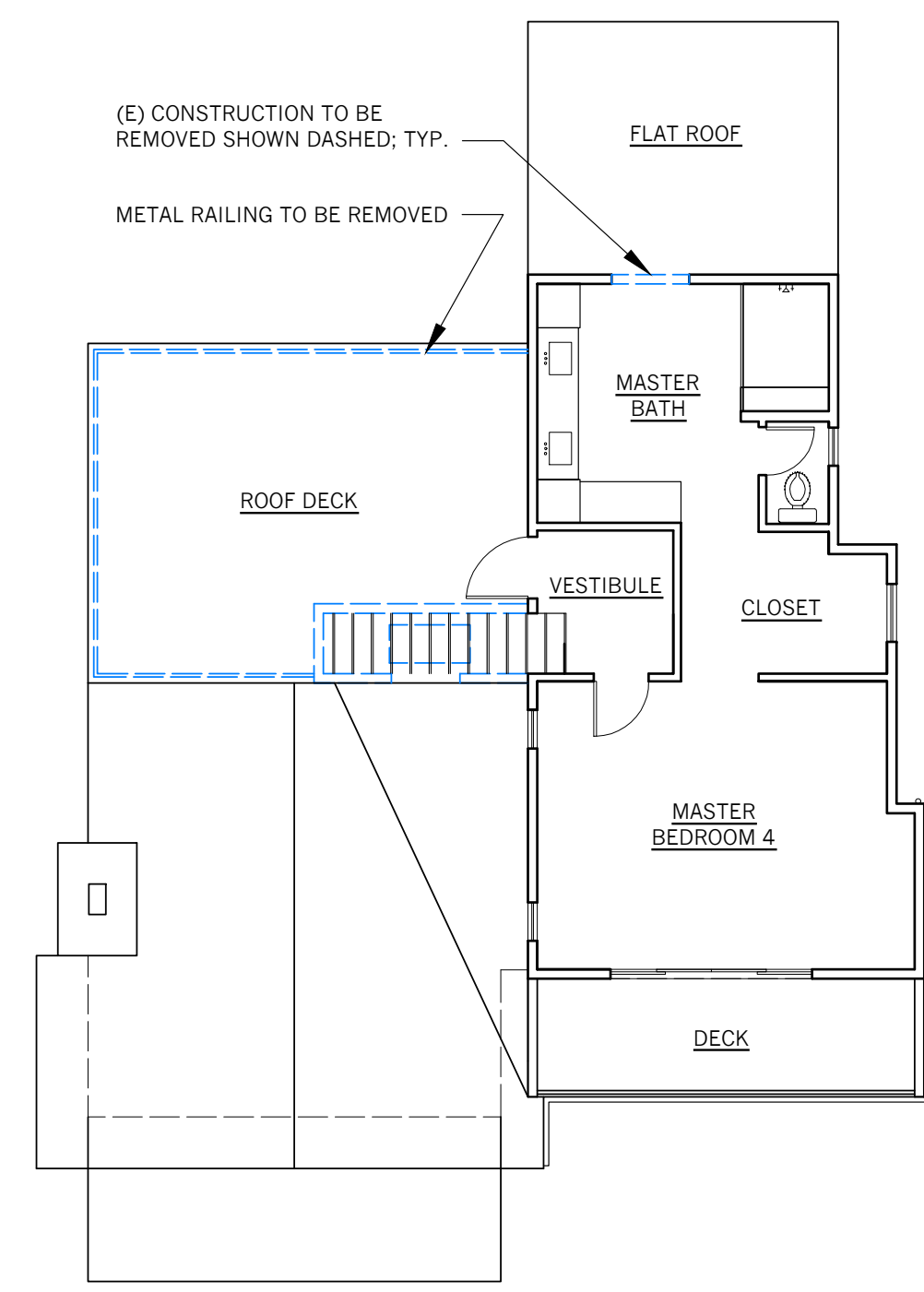
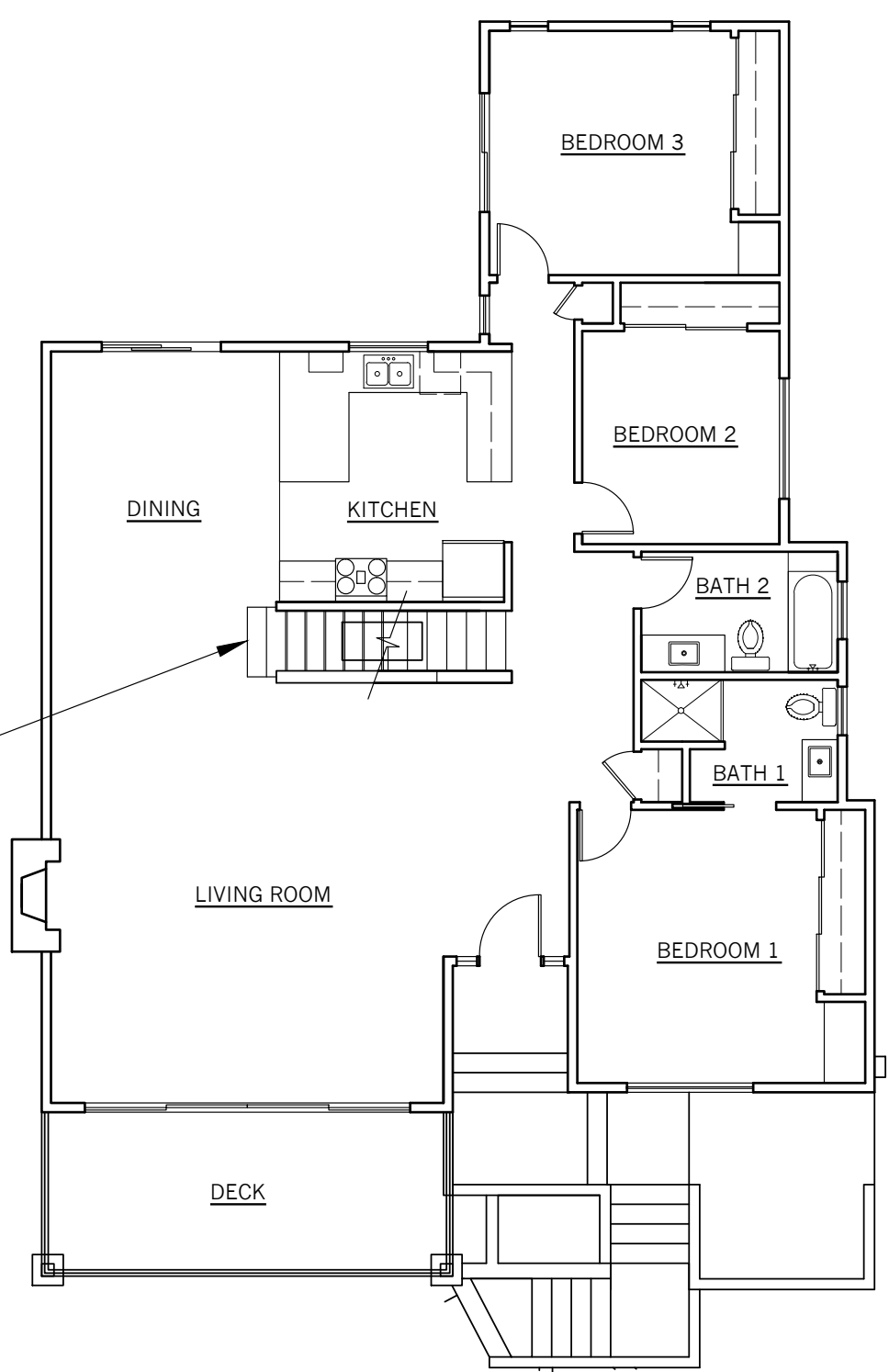
**A - 0.0**





(E) STAIR  
(13) RISERS AT 7 3/4"  
(12) TREADS AT 11 1/2"

(E) STAIR  
(15) RISERS AT 7 1/4"  
(14) TREADS AT 11 1/4"

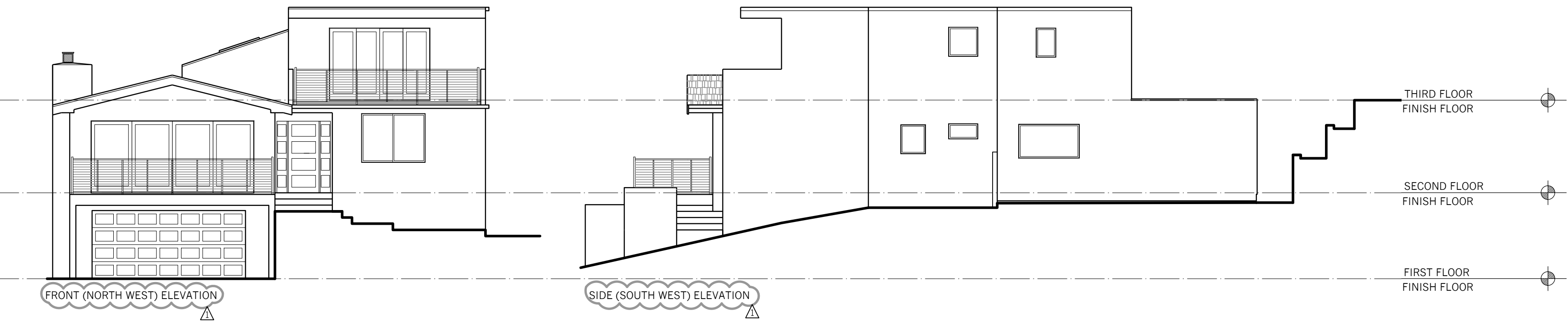
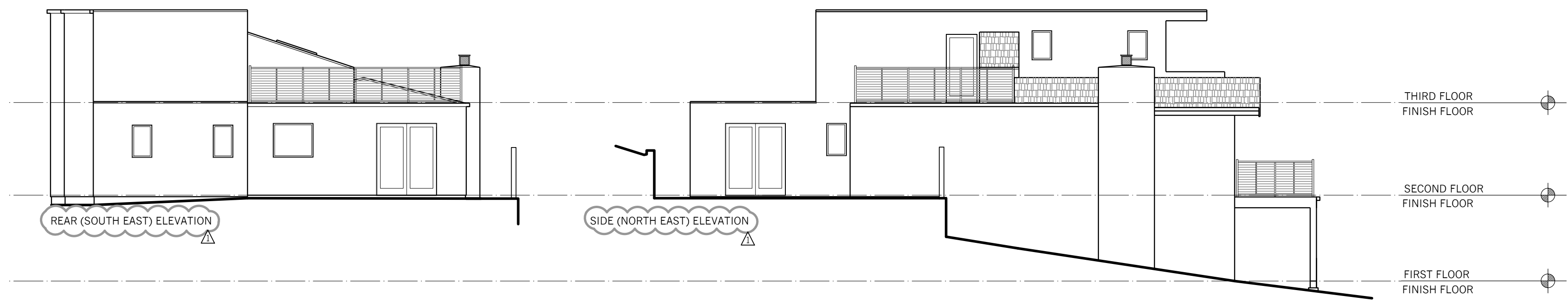


(E) CONSTRUCTION TO BE  
REMOVED SHOWN DASHED: TYP.  
METAL RAILING TO BE REMOVED

1 FIRST FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

2 SECOND FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

3 THIRD FLOOR  
A1.0 SHOWING DEMOLITION  
1/8" = 1'-0"



4 EXISTING EXTERIOR ELEVATIONS  
A1.0  
1/8" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/16"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

mitche  
holladay

architects

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suite b  
berkeley, ca 94709

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UBILLUS  
RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

DEMO PLANS  
AND EXISTING  
ELEVATIONS

A - 1.0

mitche||  
holladay

architects

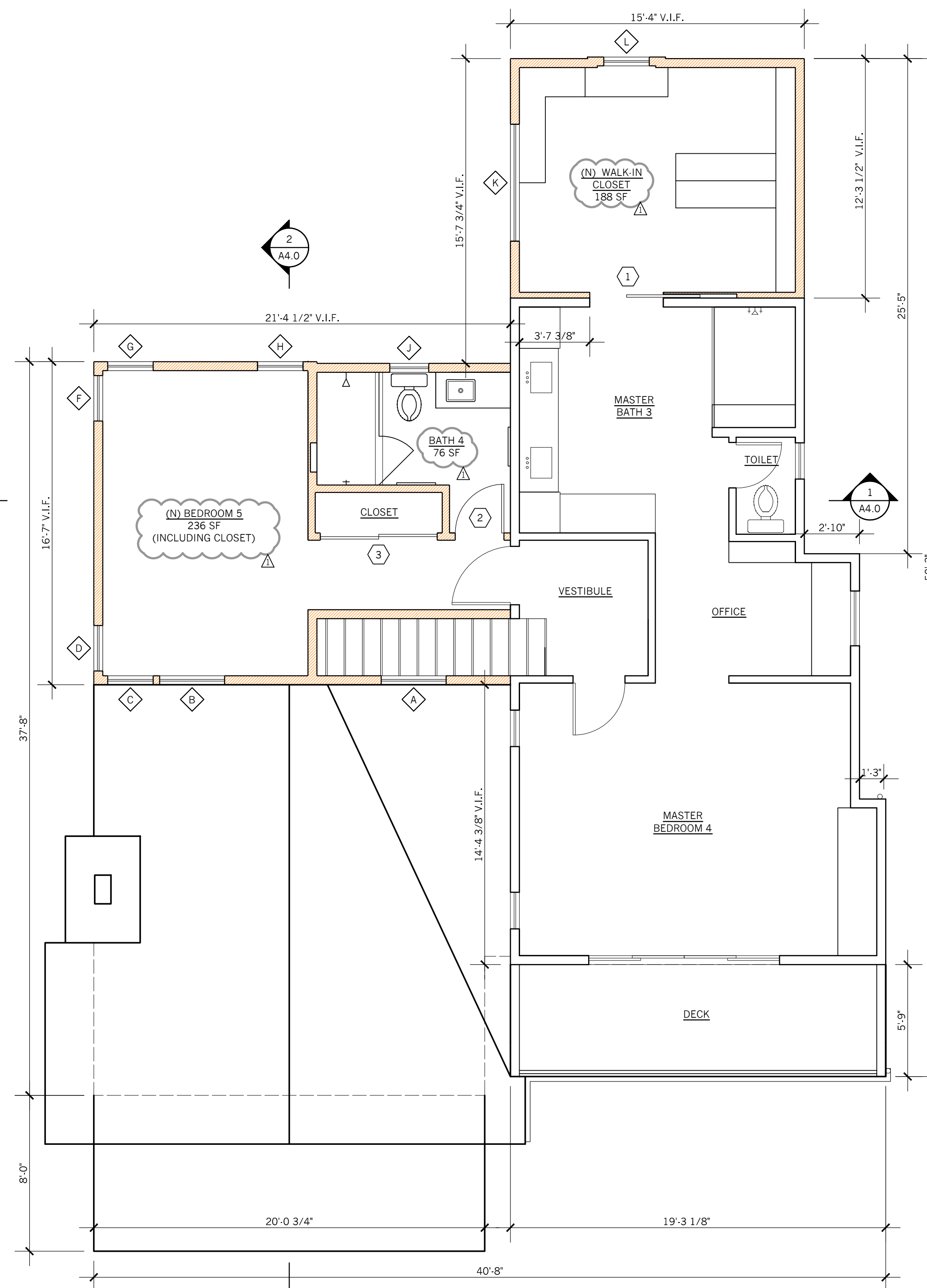
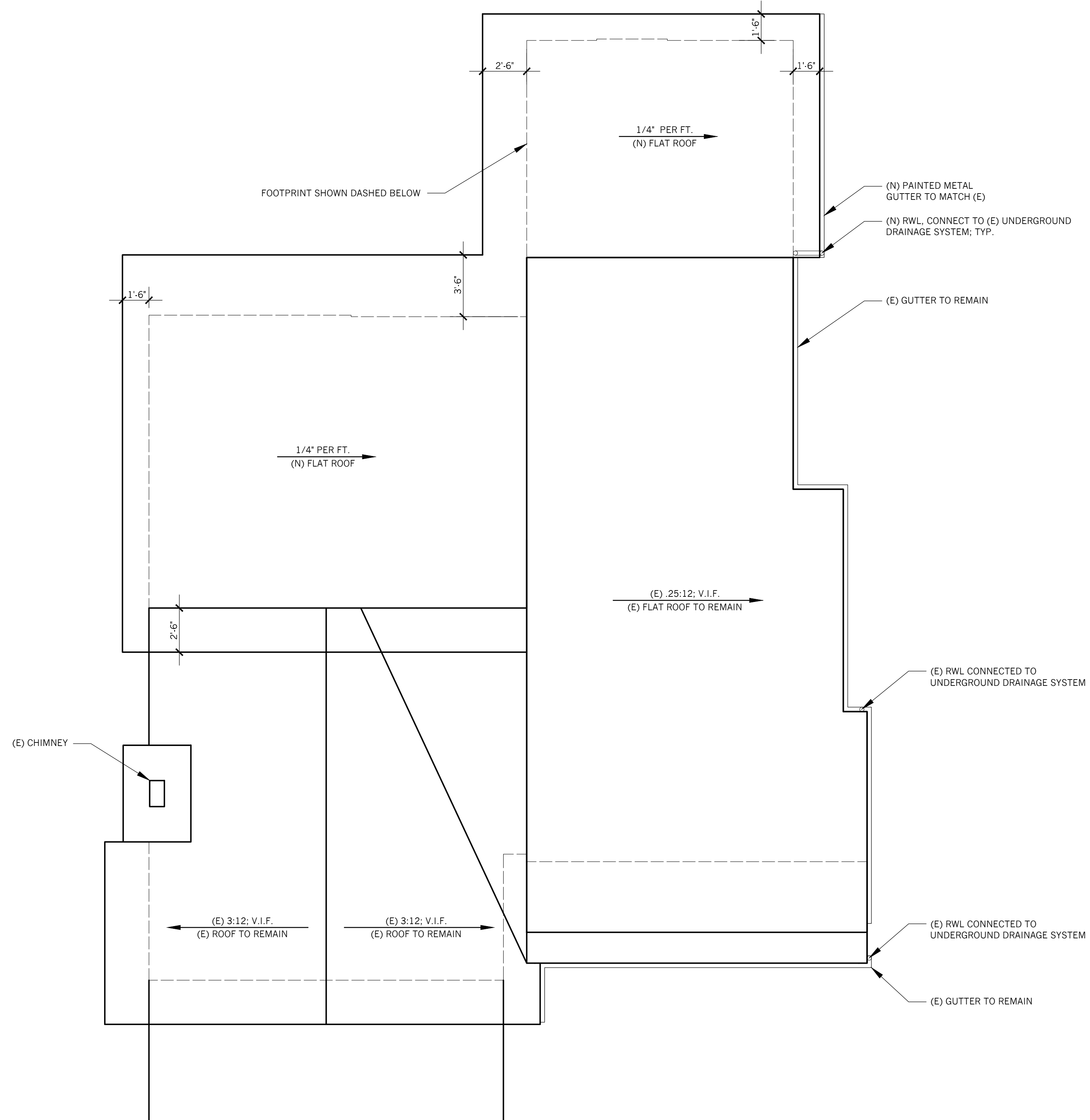
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RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS



WALL TYPE KEY		FLOOR PLAN NOTES: 1. THE TERMINATION OF ALL ENVIRONMENTAL AIR DUCTS SHALL BE A MINIMUM OF 3 FEET FROM ANY OPENINGS INTO THE BUILDING. DUCT TERMINATIONS (I.E. DRYERS, BATH AND UTILITY FANS, ETC.) MUST BE 3 FEET AWAY FROM DOORS, WINDOWS, OPENING SKYLIGHTS, OR ATTIC VENTS (PER CMC 504.5) 2. VERIFY OR INSTALL AUTOMATIC GAS SHUT-OFF VALVES. 3. ALL NEW HOT WATER SUPPLY PIPING 3/4" OR GREATER SHALL BE INSULATED PER CEC SECTION 150.0(j)2iii. 4. ALL NEW HOT WATER SUPPLY PIPING FROM THE HEATING SOURCE TO THE KITCHEN FIXTURES SHALL BE INSULATED PER CEC SECTION 150.0(j)2vi.
(E) WALLS TO REMAIN		
(N) FULL HEIGHT WALL		
(N) 1-HR CONSTRUCTION		

2 ROOF  
A2.0

1/4" = 1'-0"

1 THIRD FLOOR  
A2.0 AREA OF WORK

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

PROPOSED  
FLOOR PLAN  
AND  
ROOF PLAN

A - 2.0

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

mitche||  
holladay

architects

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UBILLUS  
RESIDENCE  
ADDITION

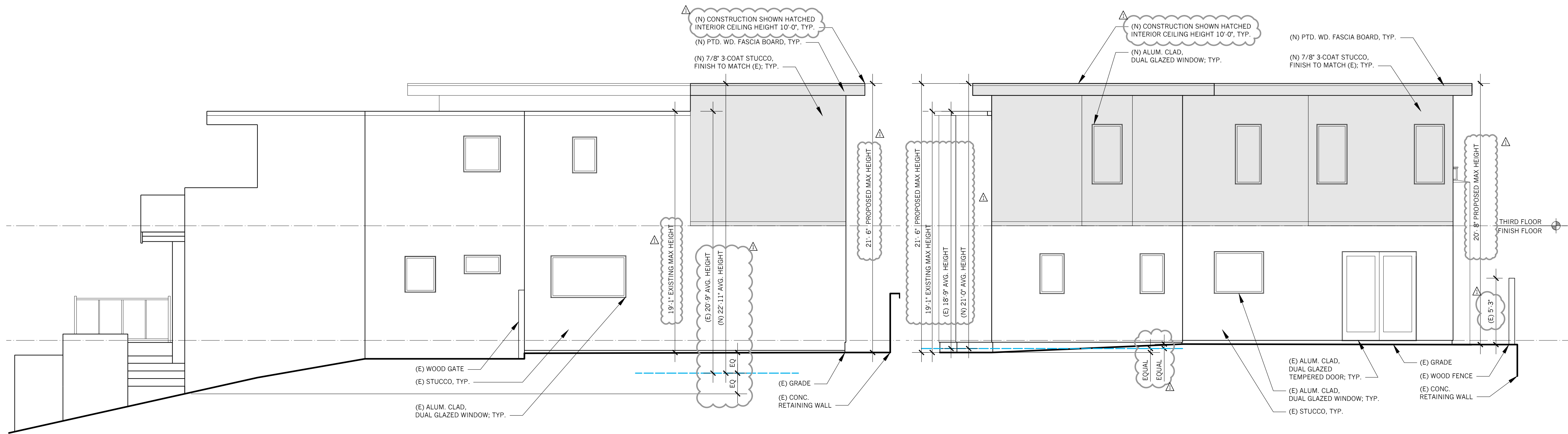
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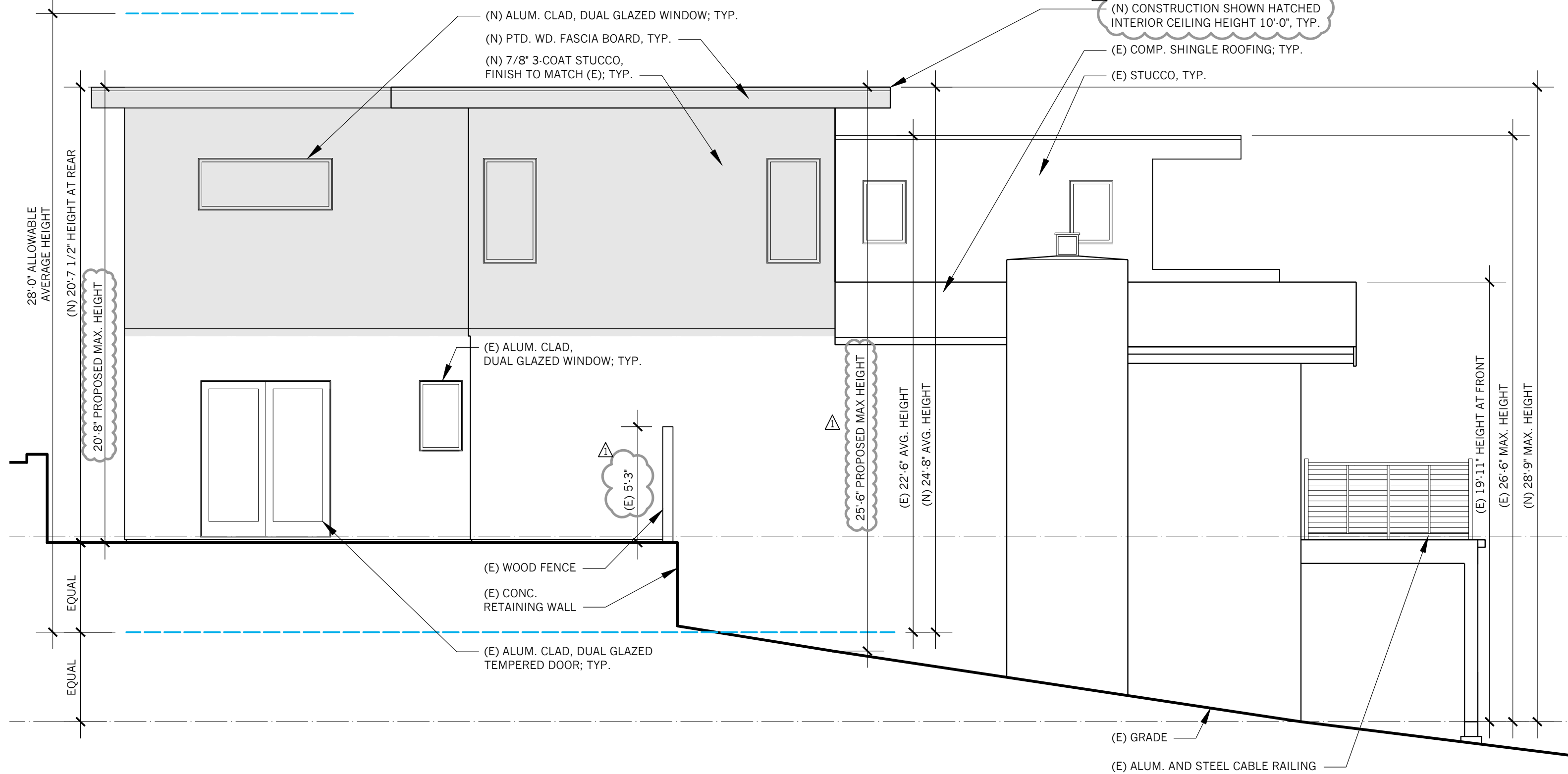
PROPOSED  
EXTERIOR  
ELEVATIONS

A - 3.0



2 SIDE (SOUTH WEST) ELEVATION

1/4" = 1'-0"

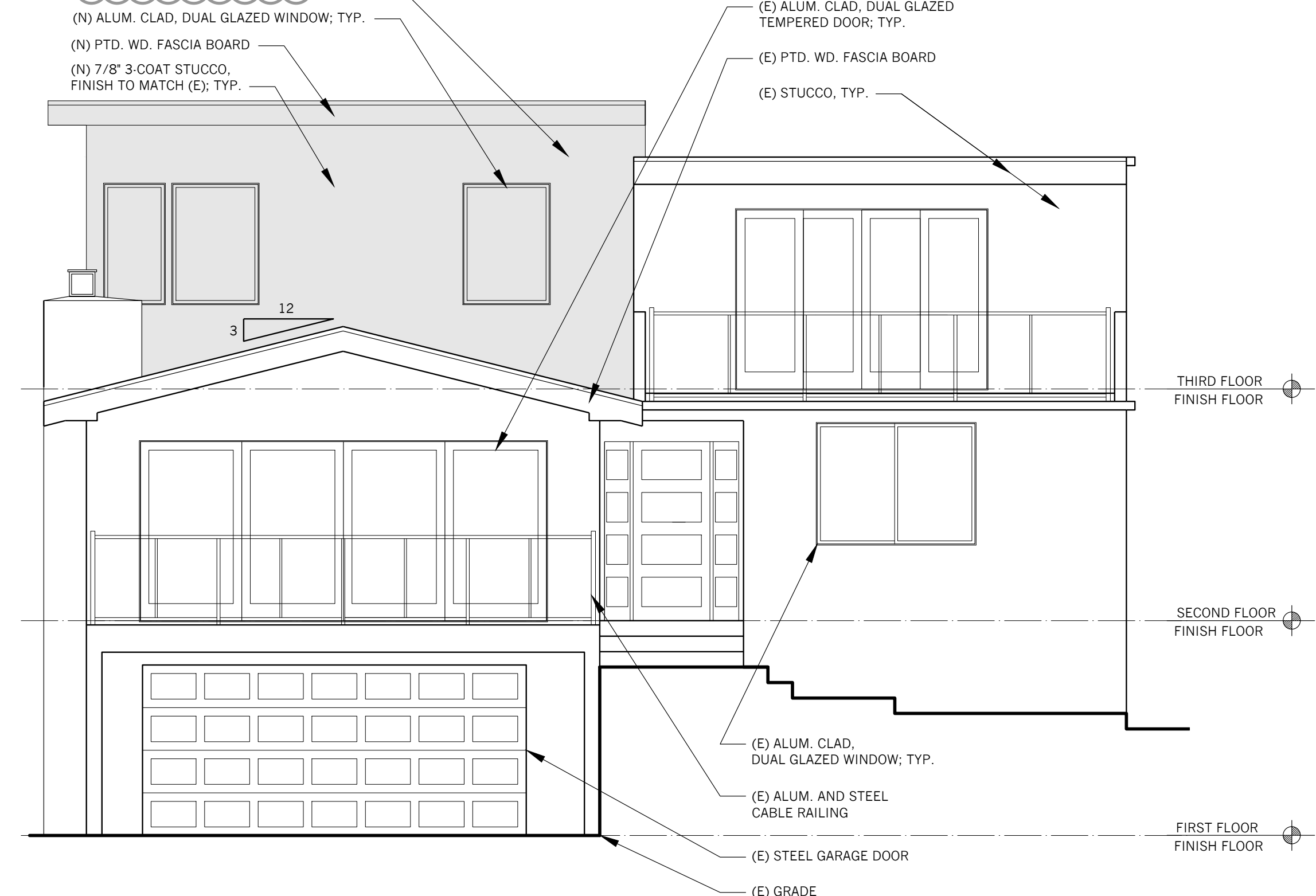


4 SIDE (NORTH EAST) ELEVATION

1/4" = 1'-0"

1 REAR (SOUTH EAST) ELEVATION

1/4" = 1'-0"



3 FRONT (NORTH WEST) ELEVATION

1/4" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE



mitche||  
holladay

architects

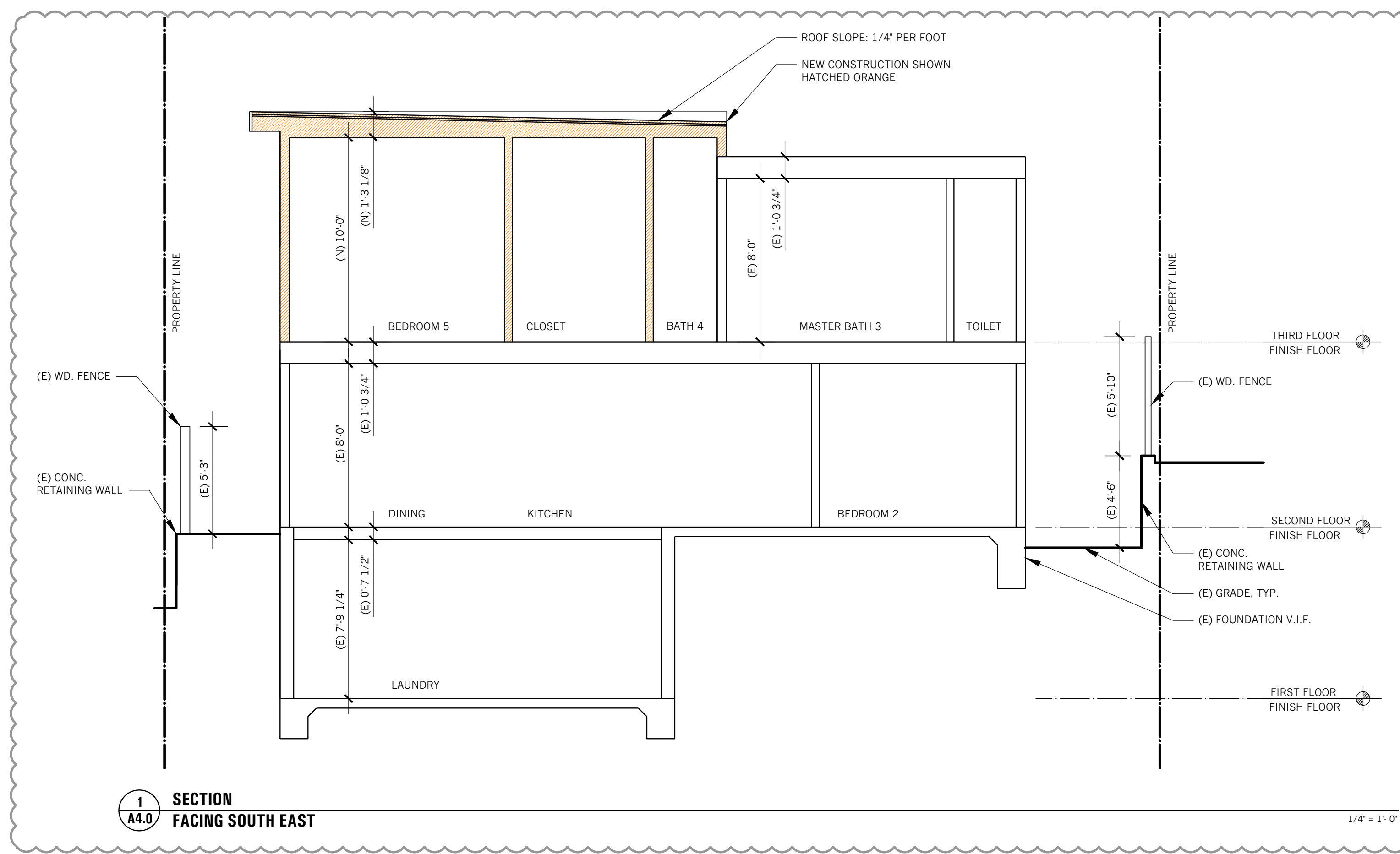
1708 martin luther king jr way  
suite b  
berkeley, ca 94709

510.705.1061

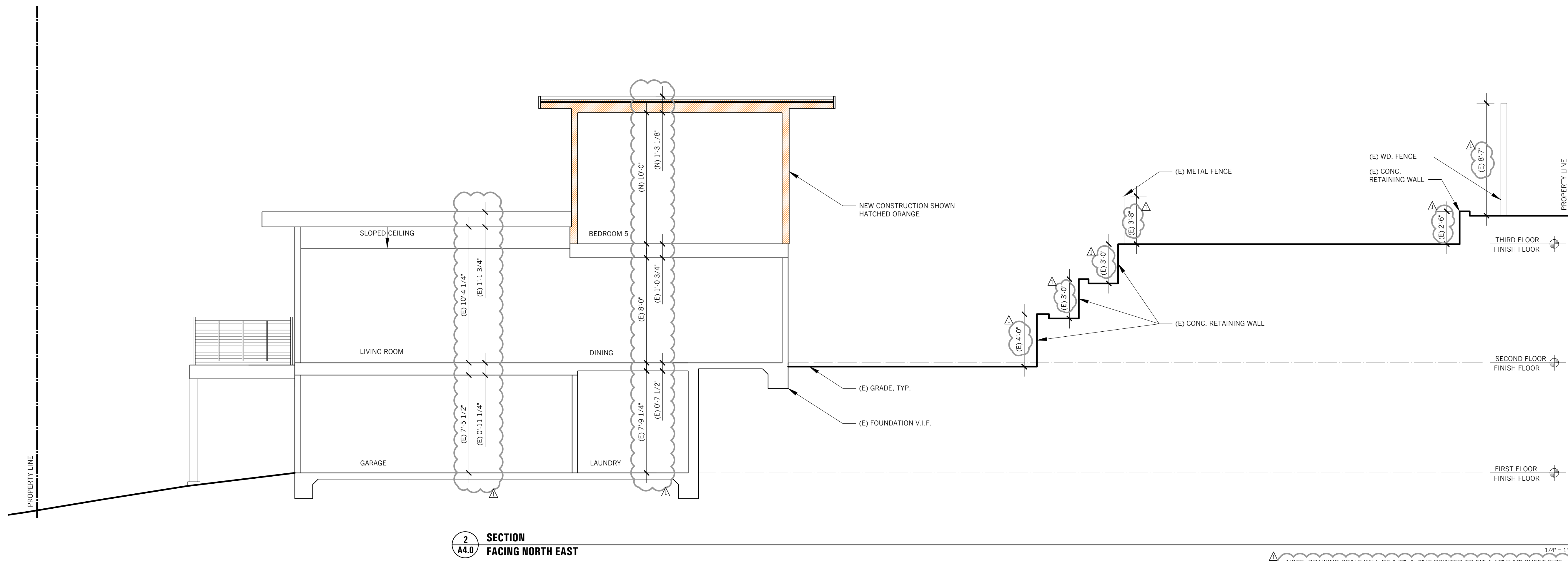
UBILLUS  
RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS



1 SECTION  
A4.0 FACING SOUTH EAST



2 SECTION  
A4.0 FACING NORTH EAST

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

ISSUE	DATE
AHP SUBMITTAL	06/03/2019
AHP RESPONSE	08/12/2019

SECTION

A - 4.0

RECEIVED

APR 28 2020

CITY OF BERKELEY  
CITY CLERK DEPARTMENT

URGENT

City Clerk Department  
City of Berkeley

2180 Milvia Street  
Berkeley, CA 94704

April 27, 2020

Attn: Ashley James  
Associate Planner

Re: Appeal to the Berkeley City Council pertaining to ZAB's  
Decision of March 12, 2020 re: AUP #ZP2019-0111 for  
1449 Grizzly Peak Boulevard, Berkeley, CA 94708

Dear Sirs,

Please enclosed find a check in the amount of \$500.00 (#6371),  
as the fee to formally appeal the above referenced ZAB Decision.  
(Attachment 1.)

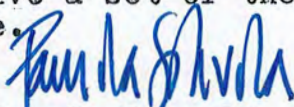
I am specifically referring to Conditions #11 and #12 (page 6 of 9),  
which were discussed at length at the March 12, 2020 ZAB meeting -  
and to the staff's shortcomings in recording the discussions and  
decisions:

Since the originally proposed color for the new addition is a  
glaring, intense bright white and determined by ZAB members to  
be a serious detriment to the neighbors to the east on Summit Road -  
the color for the roof and new siding (at least on the east facing  
walls) was determined to be a darker tone, similar to the brown  
IPE wood color already a feature of the house design on the front  
side, facing west. (Attachment 2., original packet for the Public  
Hearing).

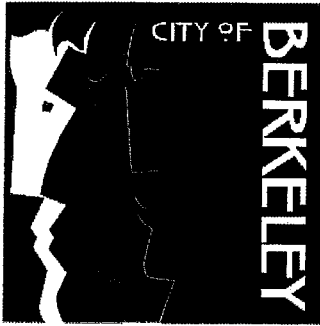
Also discussions included a reference to staff to negotiate with  
neighbors, in the spirit of neighborliness, when the revised plans,  
with a couple of color suggestions are ready for review.

Thus, I am respectfully asking to receive a set of the revised plans  
via mail, as soon as they are available.

Thank you, Sincerely,

  
Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94708

PS. In addition to the enclosed  
attachments, the Appeal consists of the entire Administrative Record  
for the project, as well as the video and transcript of the March 12, 2020  
ZAB Public Hearing.



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
NOTICE OF DECISION

DATE OF BOARD DECISION: March 12, 2020  
DATE NOTICE MAILED: April 14, 2020  
APPEAL PERIOD EXPIRATION: April 28, 2020  
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)<sup>1</sup>: April 29, 2020

## 1449 Grizzly Peak Boulevard

Appeal of Zoning Officer's Decision to approve Administrative Use Permit #ZP2019-0111 to alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height by 2'-2" and the maximum building height by 2'-3, resulting in a 3,291 square-foot, three-story, single-family dwelling with an average building height of 24'-8" and a maximum building height of 28'-9", 2) constructing the fifth bedroom on the parcel, and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.

The Zoning Adjustments Board of the City of Berkeley, after conducting a public hearing, **DISMISSED** the appeal and **APPROVED** the following permits:

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

ZONING ADJUSTMENTS BOARD  
April 14, 2020

449 GRIZZLY PEAK BOULEVARD  
Page 2 of 4

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**APPLICANT:** Lillian Mitchell, 1708 Martin Luther King Jr. Way, Suite B, Berkeley

**APPELLANTS:** Pamela Sihvola, 1476 Summit Road, Berkeley CA 94708

**PROPERTY OWNER:** Rodrigo Ubillus, 1449 Grizzly Peak Boulevard, Berkeley CA 94708

**ZONING DISTRICT:** R-1(H) – Single-Family Residential District, Hillside Overlay

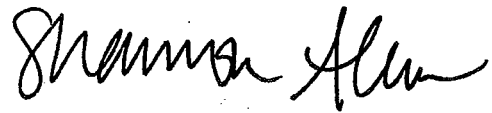
**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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	Yes	No	Abstain	Absent
CLARK	x			
KAHN	x			
KIM	x			
O'KEEFE	x			
LEWIS	x			
PINKSTON	x			
SHEAHAN	x			
TREGUB	x			
<b>BOARD VOTE:</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>



**ATTEST:**  
Shannon Allen, Zoning Adjustments Board  
Secretary

**PUBLICATION OF NOTICE:**

Pursuant to BMC Section 23B.32.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Ashley James, at (510) 981-7458 or [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info). All project application materials, including full-size plans, may be viewed online at <https://aca.cityofberkeley.info/Community/> or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

**TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):**

Please note that the new methods for appeal submittals described below are put in place to comply with the requirements of the Shelter In Place Order and shall be effective for the duration of Shelter In Place requirements.

1. Mail your complete appeal to the City Clerk Department, 2180 Milvia Street, Berkeley, CA 94704 with payment of fees by check or money order included. Appeals submitted by mail must be postmarked on or before the deadline date for filing the appeal.

OR

2. E-mail your complete appeal to the Planning Department, [planning@cityofberkeley.info](mailto:planning@cityofberkeley.info) and include a telephone number where you can be reached during the day. Planning Department

staff will call you within three business days to obtain credit card information over the phone for payment of required fees.

- A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
- B. The fee for all appeals by Applicants is \$2,500.

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

- 1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
- 2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
- 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
- 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
- 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

# ATTACHMENT 1

## FINDINGS AND CONDITIONS APPROVED BY ZAB ON MARCH 12, 2020

### 1449 Grizzly Peak Boulevard

#### Administrative Use Permit #ZP2019-0111

To alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height by 2'-2" and the maximum building height by 2'-3, resulting in a 3,291 square-foot, three-story, single-family dwelling with an average building height of 24'-8" and a maximum building height of 28'-9", 2) constructing the fifth bedroom on the parcel, and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.

#### PERMITS REQUIRED

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

#### CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to CEQA Guidelines Section 15301 (Existing Facilities). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### FINDINGS FOR APPROVAL

2. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. The subject property is equal to or below the Single-Family Residential (R-1H) standards (BMC Section 23D.16.070-.080) for maximum residential density, height, setbacks, lot coverage, useable open space, and off-street parking (one main dwelling unit, where one main dwelling unit is allowed, average height of 24'-8" where 28' is the maximum, 5'-5" side (north) yard setback where 4' is the minimum, 4'-1" side (south) yard setback where 4' is the minimum, and 39'-3" rear yard setback where 20' is the minimum, 30% lot coverage where 40% is the maximum, 1,545 sq. ft. of usable open space where 400 sq. ft. is the minimum, and one off-street parking space where one is required). The subject property has a legally non-conforming front yard setback of 17'-1" where 20' is the minimum; however, the project would not extend or worsen this non-conformity. The subject property is equal to or below the Hillside Overlay District standards (BMC Section 23E.96.070) for maximum height for all residential additions of 28'-9" where 35' is the maximum. Therefore, the residential addition will be compatible with the existing property and neighborhood character;
- B. Privacy: Though the project includes new window openings on the addition to the third floor, these new windows on the front, northeast-side and rear are not expected to be detrimental to the privacy of neighbors because they would be located in walls that exceed all required yards; the new windows on the front of the building at the third floor would be setback 21'-1" from the front property line, where 20' is required. The building to building separation from the subject dwelling to abutting dwelling to the southeast at 1480 Summit Road is approximately 58', the dwelling to the southwest at 1455 Grizzly Peak Boulevard is approximately 9', and the dwelling to the northeast at 1445 Grizzly Peak Boulevard is approximately 14'-6". This separation, along with new openings that will mostly not directly face any windows in neighboring dwellings, will limit new privacy impacts;
- C. The addition to the main building will be constructed with proportions, scale and roof slopes that match the existing;
- D. While the project increases the number of bedrooms as defined in BMC Section 13.42.020.B on this parcel from four to five, the additional bedrooms will be added to an existing single-family residence. The addition of a fifth bedroom will provide more room for residents at the single-family residence and will not result in an increase in dwelling unit density; and
- E. The proposed perimeter fence will be from 6'-2" in height at the front of the property to 8'-3" in height at the rear of the property, and will be setback approximately 6' from the northwest property line at the front of the property, at the property line along the side yards, and setback approximately 4' from the rear property line. The fence will be located approximately 19' from the building located to the northeast at 1476 Summit Road, and 17' from the building located to the southeast at 1480 Summit Road. The fence will be constructed in an architectural style with colors and materials that are consistent with the surrounding buildings and fences. Due to its location, solar orientation, limited scale, and the presence of mature trees and other vegetation, the proposed fence is not



expected to create significant changes to the existing sunlight or privacy conditions in the immediate vicinity of this project. No new sight lines will be created to or from neighboring buildings, as the fence is located on a sloping hillside, below the existing sightlines to the San Francisco Bay from the properties directly to the rear of the property, and will thus not block views.

3. Pursuant to BMC Section 23D.16.090.B, the Zoning Officer finds that the major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
  - A. Sunlight: The 500 sq. ft. addition to the existing third floor and the perimeter fence will not result in a significant loss of direct sunlight on neighboring dwellings. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice.
    - a. Two hours before sunset on the winter solstice, shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover portions of four living room windows and a portion of the entryway door.
    - b. Two hours before sunset on the summer solstice, the shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover a living room window.
    - c. Because the impacts to neighboring properties will occur on limited areas, and will only partially shade a neighboring building for a limited time during the year, and only for a few hours of the day, the residential addition will not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental;
  - B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1H neighborhood because the addition is an expansion of the existing third story, where a maximum of three are allowed. The minimum 4 ft. required side yard setbacks will be maintained; and
  - C. Views: Berkeley Municipal Code Section 23F.04.010 defines view corridors as: a significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz. The dwellings to the east (1476 and 1480 Summit Road) are placed higher on the hill and have views of the Berkeley Hills and a partial view San Francisco Bay which is occluded by several mature trees in the yards of parcels across Grizzly Peak Boulevard from the subject property. Further, the proposed addition would not obstruct any existing partial views of the San Francisco Bay, as documented in the pictures of the story poles provided by the applicant. The dwellings to the west (1448 and 1446 Grizzly Peak Boulevard) are placed lower on the hill and have views of the Bay but the steep upsloping topography and the placement of the existing dwellings to the west occlude the Berkeley Hills. Further, the proposed addition would be located at the rear of the existing building on the third floor, and would match the existing roofline at the front of the building, therefore not obstructing views of the Berkeley Hills.

4. As required by BMC Section 23E.96.090.B, the Zoning Officer finds that the addition above the 20' maximum height that applies to additions is consistent with the purposes of the Hillside Overlay District as the height occurs in part because of the slope of this site, the proposed addition and fence will not adversely compromise the quality and character of this hillside parcel and its immediate environs, nor will it adversely impact views available from neighboring residences and parcels. The project maintains the original pattern and design of the lot and preserves westward views of the San Francisco Bay from the original building and its neighbors, as described above, in Section 3.

## **STANDARD CONDITIONS**

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The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### **2. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

### **3. Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

### **4. Modification of Permits (BMC Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

### **5. Plans and Representations Become Conditions (BMC Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### **6. Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building

and Safety Division, Public Works Department and other affected City divisions and departments.

- 7. Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)**  
Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.
- 8. Exercise and Lapse of Permits (BMC Section 23B.56.100)**
- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
  - B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
  - C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.
- 9. Indemnification Agreement**  
The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

10. **Project Liaison.** The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

**Project Liaison**

Name

Phone #

**Prior to Issuance of Any Building and Safety Permit (Demolition or Construction)**

11. The applicant shall revise the approved plans to indicate the following:

- The maximum ceiling height of the addition shall be no higher than 9'.
- The roof material of the addition shall be a darker color than the proposed white, subject to review by staff.

12. The ZAB recommends that the exterior color of the addition at the third story be darker than the proposed white.

**Standard Construction-related Conditions Applicable to all Projects:**

13. **Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

14. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

15. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
16. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
17. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
18. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
22. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
23. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
24. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
25. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique

archaeological resources accidentally discovered during construction” should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

26. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

27. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

**Prior to Issuance of Occupancy Permit or Final Inspection:**

28. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
29. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 12, 2019.

**At All Times (Operation):**

30. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
31. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
32. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.



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Prepared by: Ashley James  
For Greg Powell, Zoning Officer

MAR 12 2020  
**RECEIVED**  
at Meeting

**URGENT**

Shoshana O'Keefe, Chairperson  
Members of the City of Berkeley's  
Zoning Adjustments Board (ZAB)

c/o ZAB Secretary Shannon Allen  
1947 Center Street, 2nd. Floor  
Berkeley, CA 94704

AGENDA  
ITEM #3  
12  
March 18, 2020

Re: Public Hearing: 1449 Grizzly Peak Boulevard  
Berkeley, CA 94708

AUP # ZP2019-0111

Chairperson O'Keefe and Members of the Zoning Adjustments Board,

First I want to thank the City's Planning Staff and the Zoning Adjustments Board for providing this first opportunity for a Public Hearing on a project that started over 6 years ago.

Since 2014 there have been 4 separate stages of development and demolition at the site, some with permits, some without permits, resulting in an expansion of a 1515 sq.ft. house to the proposed 3291 sq.ft. 3-story structure, i.e. over doubling the size of the original house.

The history of the development is outlined in our letter of July 15, 2019 (Attachment 1.) and the continuation of the main concerns are included in the Appeal letter, dated December 11, 2019. (Attachment 2.)

I have lived in this neighborhood for over a quarter of a century. The neighborhood was built after the II World War, and consists mainly of modest, single-family homes, many originally built for UC and Lawrence Lab scientists, some houses also built with GI Bill funds by home-coming service men.

The neighborhood is next to the Tilden Regional Park - and the homes in the community were built respecting nature, using colors and materials reflecting the natural surroundings. Many of my neighbors are original residents, now in their late 80s and 90s.

The lots here are mostly standard, narrow 50'x100', with rear yards of Grizzly Peak properties abutting the front yards of Summit Road residences. In addition the topography of the hillside increases impacts to Summit Road residents, as you can see in the photo of the proposed project (Attachment 3.)



I am not opposing the applicant's right to build these 2 new III story additions, but presenting an opportunity to positively mitigate the impacts of the structure's height, mass and color, as viewed from Summit Road.

The street view of 1449 Grizzly Peak Blvd. shows the incorporation of IPE wood at the front entrance and in the areas under the overhang of the roof (Attachment 4./Google Maps)

As a mitigation proposal I am submitting 2 photos of an award-winning home, where IPE wood (or wood of similar color) was incorporated as the siding/cladding of the building's III floor.(Attachment 5A&B)


With the addition of IPE wood color siding on the III floor additions and with a roof color of similar tone, the glare of the current stark, bright white structure would be mitigated and the structure would blend with the natural setting, which had been the promise of the applicant already at the 2014 Mediation meeting and reiterated at a spring 2018 meeting.

Lastly I am also presenting a compromise as to the height of the 2 new additions; since our 2014 Mediation meetings were successful, and we reached an agreement that the addition height was to be 8ft. I am respectfully asking that the requested new height of the addition be split in half and that the new ceiling height be 9 ft. This would reduce the mass of the building and with the new siding color would reduce the impacts.

In closing, I am thankful to the Board for allowing me to present these mitigation proposals, and respectfully asking that you add the following conditions to AUP # ZP2019-0111, as listed above and below:

1. III floor siding to be IPE wood color, as IPE wood is already a feature of the house design
2. Roof color similar in tone to the III floor siding color
3. Maximum ceiling height to be 9 ft.

Sincerely,

  
Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94709



PROPOSED IV PROJECT (IN 4+YRS) @ 1449 GP BND WILL INCREASE THE ORIGINAL RESIDENCE FROM 1515 SF TO 3291 SF (= +1776 SF) I.E. +117.25%. DUE TO PIECEMEETING THE DEVELOPMENT<sup>THRU</sup> WITHOUT ANY PUBLIC HEARINGS

Google Maps 1449 Grizzly Peak Blvd



HAWAII

▶ AWARD-WINNING HOMES

# H O M E

## + R E M O D E L I N G

FREE | NOVEMBER 2018

### DESIGNING A MASTERPIECE

Inside a vibrant home built to entertain



An East Oahu family establishes a home  
as colorful and inviting as they are.

BY TYLER SHIROMA // PHOTOS BY PANAVIZ



**URGENT**

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP  
Associate Planner

City of Berkeley  
Planning and Development  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

July 15, 2019

Re: 1449 Grizzly Peak Blvd.  
proposed second/third story additions (500 sq. ft.)

As a follow-up to our discussion on June 27, 2019, I am submitting the following comments, concerns and modification requests to the current proposed plans regarding the above referenced project.

We, the abutting neighbors on Summit Road continue to be the most impacted by the current proposed plans. This proposal represents CONSTRUCTION CREEP, ie. serial permit applications and construction during the past 6-7 years (since 2013, see attachment 1), including potentially unpermitted, illegal work.

Background:

In 2014 Summit Road neighbors successfully mediated a compromise with the help of Seeds Community Resolution staff (case # 10250), and the applicant agreed to modify the project to protect our views to the west by reducing some of the mass of the addition with a maximum ceiling height of 8 feet. (2013 application for additions)

Attachment 2. includes the list of neighbors' concerns and attachment 3. represents the resolution to these concerns.

On May 1, 2014 the City issued an AUP # 13-20000050 (see attachment 4.)

The permit specified that all construction shall conform <sup>to</sup> the approved UP drawings (section 24) and that all landscape, site and architectural improvements be completed per approved drawings dated March 5, 2014. (section 25). See p.5 of the Notice of Administrative Decision-Findings and Conditions, (attachment 4.).

The above referenced drawings specified the following: 1. (E) rear yard: NO CHANGE, 2. (E) rear deck NO CHANGE 3. (E) 2 retaining walls to remain. (Page 1.), and on page 3. (E) wood siding to remain.

Attachment 5. shows the building (and portions of the rear yard) as completed. The bright white color is blinding and obtrusive - this is the view from our living room.

I met with the applicant Rodrigo Ubillus in May of 2018. He promised to remedy our concerns regarding the blinding brightness of the building color by 1. installing dark grey tiles on the deck, matching the color of the dark grey shingles on the existing peak roof, and by 2. painting the east facing wall same grey color.

During mediation he had promised that the building color will <sup>be</sup> one to "blend with the surrounding nature", which did not happen.

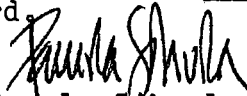
1. So we ask that the color of the entire second/third floor be painted to match the grey/brown color of the existing peak roof and that the same roofing material/color be rolled out on all the flat roof areas. This would remedy the blinding, obtrusive brightness of the structure,

2. In addition, the proposed project goes against the agreement neighbors reached with the applicant in 2014 (see attachment 3.), specifically regarding the maximum ceiling height of 8 feet.

3. So we ask that the plans be modified so that the maximum ceiling height for the 5th bedroom and the 4th bathroom will be 8 feet. We also ask that the ceiling height for the walk-in closet be reduced to 7.5 feet. These modifications will still give the applicant the square footage they are requesting. (See attachments 6A and 6B).

We also ask that this project be put on hold until all the issues related to the 2014 permit have been resolved, including clarifying any code enforcement issues/permit issues with regard to the rear yard now completely covered with concrete. Attachment 7. shows the project site prior to the construction of the first addition, with the vegetation and deck in the rear yard still intact. Attachment 8 (A,B,C) show the concrete structures in the rear yard.

Sincerely,

  
Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94708

PS. Attachment 9 A and B show plans for a deck replacement at rear, dated 1/25/2018, and still indicating (E) REAR YARD, NO CHANGE

Zoning Officer  
Permit Service Center  
1947 Center Street, 3<sup>rd</sup> Floor  
Berkeley, CA 94704

December 11, 2019

Re: AUP #ZP2019-0111  
1449 Grizzly Peak Boulevard, Berkeley CA 94708

Appeal of Administrative Decision to Issue a Permit for AUP #ZP2019-0111, dated November 20, 2019, and, therefore, a Request for a Public Hearing Before the Zoning Adjustments Board (ZAB)

Dear Zoning Officer:

We are appealing the above referenced decision for the following reason:

- This proposed project would appear to represent “construction creep” and a violation of the premise of the previous permit AUP #13-20000050, dated May 1, 2014, which was approved after City Planning & Development recommended negotiations and mediation among the applicant and the neighbors to modify the project and define the limits of construction and its impacts on the abutting neighbors.

The following questions need to be addressed by ZAB, on behalf of the affected public, in consideration of the fact that the property applicant(s) have already proceeded to alter the property and are currently requesting Permits that would over-double the original size of the building in a piecemeal fashion thus to circumvent a Public Hearing

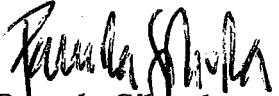
- Was the Permit Department informed of the demolition of the entire back yard, including the removal of a mature California Live Oak, and the construction of a massive concrete structure covering the entire area? In violation of the specific language in the approved AUP #13-20000050?
- Why was a permit granted for a roof deck facing the Summit Road neighbors, who were party to the AUP #13-20000050 mediation resolution, without informing those neighbors who are impacted?
- Mediation discussion included a commitment by the applicant to choose a building color to blend with the environment – note the stark bright white façade remains on the house and continues to reflect sunlight in a blinding and obtrusive manner.




- In accordance with Planning Department Staff statement, was a boundary survey done in order to determine the exact location of the rear property line to determine its location with respect to the City's sewer easement? Did the backyard concrete construction, in fact, encroach upon the City's sewer easement? Did, also, the recently constructed rear fence encroach upon the City's sewer easement?
- If the approved AUP #13-20000050 specifically stipulated that the maximum ceiling of the structure would be 8 ft., how might it be approvable that the maximum building height will be allowed to be increased by 2 ft. 3 inches (27 inches), per AUP #ZP2019-0111, without a Public Hearing?
- Furthermore, how is it legal that the Planning Department allows the applicant to over-double the residence size from the original 1,515 sq. ft. to 3,291 sq. ft. in a piecemeal fashion without scheduling a Public Hearing?

In conclusion, the above questions are relevant and warrant a Public Hearing before Permit AUP #ZP2019-0111 might be issued. Therefore, we are formally appealing the administrative decision and request a Public Hearing before the ZAB.

Sincerely,

  
Pamela Silvola,  
1476 Summit Road, Berkeley CA 94708

  
Kathleen Wasser  
1435 Grizzly Pk., Berkeley, CA 94708



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
S T A F F R E P O R T

FOR BOARD ACTION  
MARCH 12, 2020

## 1449 Grizzly Peak Road

**Appeal of Zoning Officer’s Decision to approve Administrative Use Permit #ZP2019-0111 to alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height and maximum building height by approximately 2’; 2) constructing the fifth bedroom on the parcel; and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6’-2” to 8’-7” in height.**

### I. Background

#### A. Land Use Designations:

- General Plan: LDR – Low Density Residential
- Zoning: R-1(H) – Single-Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the “H” Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

**C. CEQA Determination:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

#### D. Parties Involved:

- Applicant: Lillian Mitchell, 1708 Martin Luther King Jr. Way, Suite B, Berkeley

- Owner: Rodrigo Ubillus, 1449 Grizzly Peak Boulevard, Berkeley
- Appellant: Pamela Sihvola, 1476 Summit Road, Berkeley

Figure 1: Vicinity Map

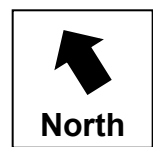
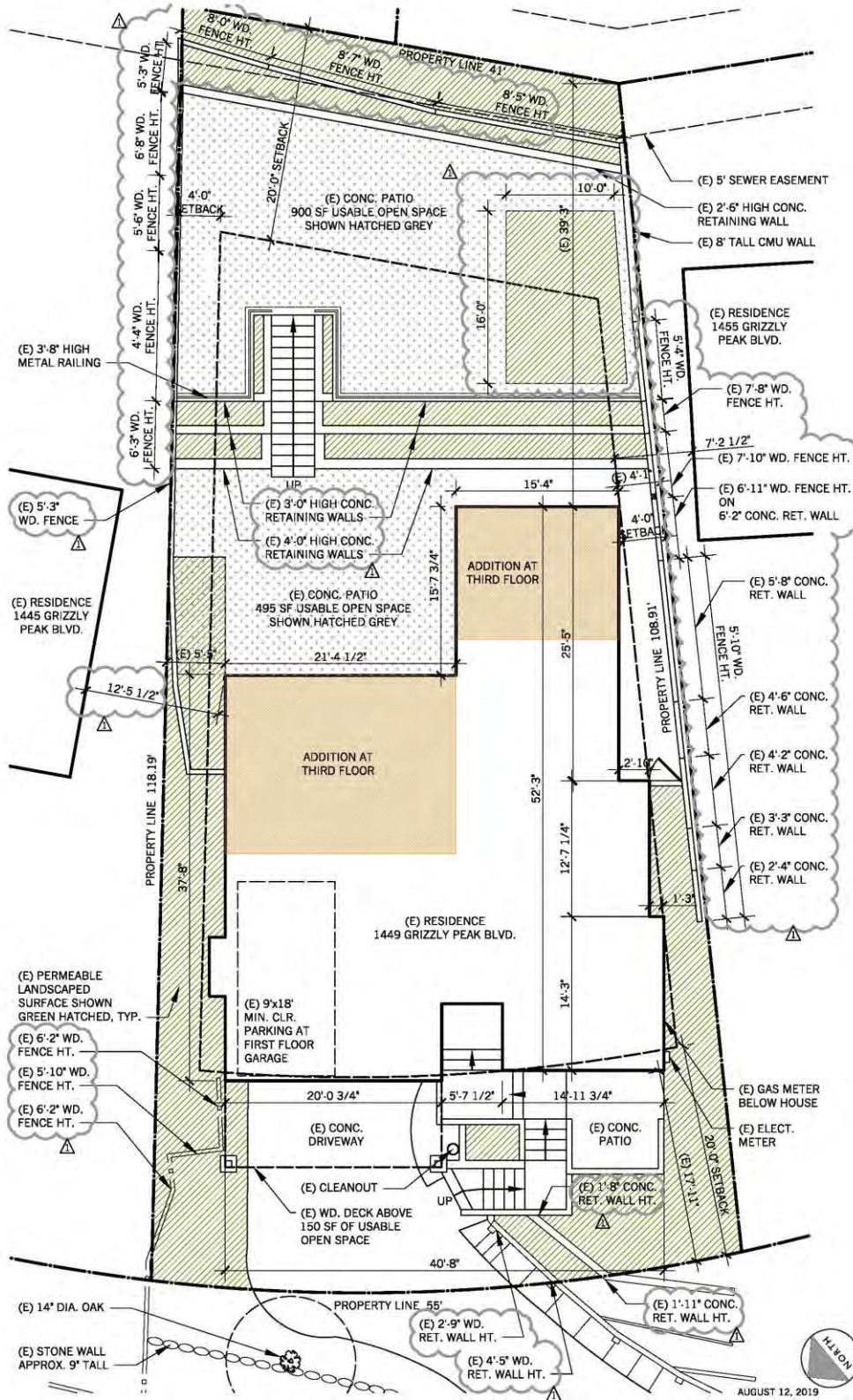


Figure 2: Site Plan



Grizzly Peak Boulevard

**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-family dwelling	R-1(H)	LDR (Low Density Residential)
Surrounding Properties	North			
	South			
	East			
	West			

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Creeks (Per BMC Section 17.08.045)	No	The project is not within a creek buffer zone.
Green Building Score	No	The project does not involve a new main dwelling unit. The Green Building Checklist is not required.
Housing Accountability Act (Per Gov't Code Section 65589.5(j))	No	The project is an addition to an existing residential building and is therefore not a "housing development project" as defined by Government Code.
Historic Resources	No	The project does not involve demolition of an existing residential building that is greater than 40 years old.
Oak Trees (BMC Section 6.52.010)	Yes	An existing, protected Coast Live Oak tree was removed from the project site at some point after the construction approved under AUP#13-20000050. A Code Enforcement case was opened in January 2020, pursuant to BMC Section 6.52.010.
Rent Controlled Units (Per BMC Chapter 13.76)	No	There are no units subject to the Rent Control Ordinance at this site.
Residential Preferred Parking (RPP) (Per BMC Chapter 14.72)	No	The Residential Preferred Parking Program does not apply to the site.
Seismic Hazards Mapping Act (Per State Hazards Mapping Act)	Yes	The project is located within an area susceptible to landslide.
Soil/Groundwater Contamination	No	The project site is not located in the City's Hazards Management Area and the site is not on any list maintained pursuant to the Cortese List.

**Table 3: Project Chronology**

Date	Action
June 19, 2019	Application submitted
July 18, 2019	Application deemed incomplete
August 12, 2019	Revised application submitted
August 30, 2019	Application deemed incomplete
October 29, 2019	Revised application submitted/Application deemed complete
November 20, 2019	Notice of Administrative Decision issued
December 11, 2019	Application appealed
February 27, 2020	Public hearing notices mailed/posted
March 12, 2020	ZAB hearing

**Table 4: Development Standards**

Standard BMC Sections 23D.16.070-080		Existing	Change	Proposed	Permitted/ Required
Lot Area (sq. ft.)		5,526	-	5,526	5,000 min.
Gross Floor Area (sq. ft.)		2,791	+500	3,291	N/A
Dwelling Units (Parcel)		1	-	1	1 max.
Bedrooms (Parcel)		4	+1	5	4 max. (without AUP or UPPH)
Building Height	Maximum	26'-6"	+2'-3"	28'-9"	35' max.
	Average	22'-6"	+2'-2"	24'-8"	14' max. for residential additions (28' max. average height w/AUP)
	Stories	3	-	3	3 max.
Building Setbacks	Front	17'-11"	-	17'-11"	20' min.
	Rear	39'-3"	-	39'-3"	20' min.
	Left (North) Side	5'-5"	-	5'-5"	4' min.
	Right (South) Side	4'-1"	-	4'-1"	4' min.
Lot Coverage (%)		30	-	30	40 max.
Usable Open Space (sq. ft.)		1,545	-	1,545	400 min. (400 per unit)
Automobile Parking		1	-	1	1 min.

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in the Terrace View neighborhood of North Berkeley on the east side of Grizzly Peak Boulevard between Avenida Drive and Senior Avenue. The neighborhood primarily consists of two- and three-story single-family dwellings, separated by driveways leading to garages in the front yard and landscaping. The area slopes toward the west and includes mature vegetation along the street and between buildings.

**B. Site Conditions:** The project site slopes to the east, is rectangular in shape, and 55' wide by 118.19' deep. As noted above, the lot is currently developed with a 3-story single-family dwelling. The main building exceeds the rear and side yard setback requirements and provides a 17'-11" front yard setback, where 20' is required. There is one off-street parking space located in an existing garage in the front portion of the property at the first floor.

## III. Project Description

The project approved by the Zoning Officer would construct a 500 sq. ft. addition, comprised of an approximately 200 square foot addition and an approximately 300

addition. The addition would extend the existing third story at the rear of the dwelling, where an unenclosed roof deck and flat roof currently exist. The addition would increase the height of the dwelling by 2'-3" in maximum height (2'-2" average height) for a new maximum height of 28'-9" and a new average height of 24'-8". The new floor area would consist of a bedroom (the fifth on the parcel), bathroom and walk-in closet.

While the approved project is less than 600 square feet (which in certain circumstances could be approved with a Zoning Certificate, see BMC 23D.16.030), it is considered a major residential addition because the cumulative square footage added to the existing dwelling since October 31, 1991, is 1,056 sq. ft.<sup>1</sup> On May 23, 2014, the Planning Division issued AUP#13-20000050 to construct a two-story, 556 sq. ft. addition to a 1,515 sq. ft. single-family dwelling.

The site plan submitted on June 19, 2019 for the residential addition showed an existing, approximately 1,395 sq. ft. split-level concrete patio connected by a staircase and retaining wall, surrounded by an existing fence ranging from 6 feet to 8'-3" in height. During the initial 30-day review, staff determined that the retaining wall required a building permit, which had not been obtained prior to its construction. Staff requested the applicant submit a building permit application to properly permit the retaining wall. In response, the applicant submitted a building permit application to the Permit Service Center on October 29, 2019, and the building permit is ready to issue as of February 13, 2020.<sup>2</sup>

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application to the City, a pre-application poster was erected by the applicant. The applicant also notified owners and occupants of all confronting and abutting properties, including the appellant. On July 15 and July 23, 2019, Staff received letters from the appellant stating concerns that are similar to the appeal points listed below, and discussed those concerns with the appellant (See Attachment 3). On November 20, 2019, Staff posted the Notice of Administrative Decision at the site and two nearby locations and sent notices to abutting and confronting property owners and occupants and to interested neighborhood groups.

**B. Zoning Officer's Decision to Approve:** The Zoning Officer determined that the proposed project will not be detrimental to those living and working in the neighborhood because it will meet the R-1(H) district standards for maximum residential density, height, minimum rear and side setbacks, lot coverage, usable open space and parking, and because the minor nature and location of the proposed addition will not create detrimental air, views, light, or privacy impacts (see Attachment 1). In addition, the project will not extend the non-conforming front yard setback. The addition of the fifth bedroom on the parcel will provide more room for residents at the single-family residence and will not result in an increase in dwelling unit density. The perimeter fence, ranging from 6'-2" to 8'-3" in height, is not expected to create

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<sup>1</sup> Berkeley Municipal Code Section 23F.04.010, Addition, Major Residential.

<sup>2</sup> Building Permit No. B2019-04688



significant changes to the existing sunlight or privacy conditions in the immediate vicinity of the project, as the fence is located on a sloping hillside, below the existing sightlines to the San Francisco Bay from the properties directly to the rear, and will thus not block views.

An appeal of the administrative decision was filed on December 11, 2019.

- C. Public Notice:** On December 31, 2019, January 31, 2020, and February 13, 2020, Staff notified the appellant that the public hearing date had been tentatively scheduled for March 12, 2020, and requested confirmation of their availability to attend the hearing. The City received confirmation that the notification was delivered. The City did not receive any communication from the appellant in response to the notifications. On February 27, 2020, the City mailed public hearing notices to all adjacent property owners and occupants within 300 feet of the subject property, and to interested neighborhood organizations. Staff also posted the Notice of Public Hearing at two locations within the immediate vicinity of the subject site. At the time of this writing, Staff has received no other communication from the public regarding this project.

## V. Appeal Issues and Analysis

- A. Appeal Issue 1 – “Construction Creep”.** The appellant believes the proposed project would appear to represent "construction creep" and a violation of the premise of the previous permit AUP #13-20000050, dated May 1, 2014, which was approved after City Planning & Development recommended negotiations and mediation among the applicant and the neighbors to modify the project and define the limits of construction and its impacts on the abutting neighbors (page 1)." See Attachment 4, page 1, bullet 1.

Staff Analysis: The 2019 application is a new and distinct application from that approved and constructed five years earlier in 2014. In addition, as noted above, while the approved project is less than 600 square feet (which in certain circumstances could be approved with a Zoning Certificate, see BMC 23D.16.030), it is considered a major residential addition because the *cumulative* square footage added to the existing dwelling since October 31, 1991, is 1,056 square feet. As per the definition of Addition, Major Residential (BMC Section 23F.04.010), Floor area from all residential additions since October 31, 1991, with two exceptions, shall count towards the calculation of gross floor area for the purposes of this definition. The project conforms to the development standards of the R-1(H) district, and meets the findings for non-detriment as summarized above as described in the findings and conditions (Attachment 1). Negotiations and mediations among the applicant and neighbors is addressed under Appeal Point 5.

- B. Appeal Issue 2 – Oak Tree removal:** The appellant contends that a protected Oak Tree was removed from the rear yard, in violation of the conditions of approval for AUP #13-20000050 (Attachment 4, page 1, bullet 2).

Staff Analysis: According to the appellant, a Coast Live Oak Tree was removed from the southwest corner of the property sometime after construction approved pursuant to AUP #13-20000050 was completed, most likely during the unpermitted construction of the concrete patio and retaining wall (see Attachment 2, page 3A and Attachment 5). Staff conferred with the City's consulting arborist, who confirmed the tree is a Coast Live Oak, based on site photos submitted by the appellant, and is therefore subject to the provisions of BMC Chapter 6.52 (Moratorium on the Removal of Coast Live Oak Trees), which states that there are "no permits and no exceptions to its removal unless it is an emergency or passed by Ordinance". The City has recently executed a contract with a consulting Arborist to enhance the review of proposed projects that include demolition and or/construction activity near a protected Coast Live Oak, as well as to improve the enforcement process. In addition, the Land Use Planning Division supports the Parks, Recreation and Waterfront Department in their current efforts to consider an update to the Tree Ordinance. In response to the arborist's confirmation, a Code Enforcement Case was opened on January 29, 2020, pursuant to BMC Section 1.20.020, which provides that any violation of any ordinance of the City may be charged as an infraction; the penalty by fine for the first violation is \$100.<sup>3</sup>

Since the protected Oak Tree is subject to Code Enforcement, staff recommends the ZAB dismiss this appeal point.

- C. Appeal Issue 3 – Construction in the rear yard:** The appellant contends that a concrete structure was constructed in the rear yard, in violation of the conditions of approval for AUP #13-20000050 (Attachment 4, page 1, bullets 1 and 2).

Staff Analysis: As discussed in the Project Description (Section III) above, during initial 30-day review of the AUP#2019-0111, staff determined that the retaining wall in the rear yard was constructed without the necessary building permits. In response, staff requested the applicant apply for a building permit to correct the unpermitted work; the applicant submitted a building permit on October 29, 2019, which is ready to issue as of February 13, 2020. According to the appellant, construction of the concrete patio and retaining wall violates the Conditions of Approval pursuant to AUP #13-20000050 (See Attachment 5). The scope of work approved under that AUP did not include the concrete patio and retaining wall, nor did the associated building permit. The building permit associated with AUP #13-20000050 was finalized, indicating that construction was completed in compliance with the Conditions of Approval. As construction of the retaining wall and patio occurred after the building permit was finalized, it is not considered a violation of the Conditions of Approval, and is rather considered unpermitted work that must either be removed or properly permitted.

Since the unpermitted construction of the retaining wall occurred separately from the scope of work approved under AUP #13-20000050, and the applicant has since applied for a building permit to legalize the unpermitted work, which is ready to issue, staff recommends the ZAB dismiss this appeal point.

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<sup>3</sup> [The removal of the subject Protected Live Oak Tree is being enforced through](#) Code Enforcement Case No. 121000747356.

- D. Appeal Issue 4 – Roof deck:** The appellant asks staff to explain why a permit was granted for a roof deck facing the Summit Road neighbors “without informing the neighbors who are impacted.” (Attachment 4, page 1, bullet 3).

Staff Analysis: The roof deck was permitted as a revision to the approved Administrative Use Permit plans (AUP #13-20000050) during the Building Permit application process to add a “roof terrace over an existing flat roof” (B2014-04403-REV2). The roof deck is approximately 310 square feet, and setback 5’-5” from the side (northwest) property line and 55’ from the rear property line. It includes a railing which is located below the roof line of the addition approved under the previous AUP at a height of 12’-10”, where the roof line is at a height of 18’-7” at the rear. Planning Staff determined the revision was a minor change, consistent with AUP #13-20000050 Condition of Approval #4: “the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.” Also, the approved project (ZP2019-0111) includes replacement of the existing roof terrace with a new bedroom and bathroom at the third level. Therefore, Staff recommends that the ZAB dismiss this appeal point.

- E. Appeal Issue 5 – Exterior Materials:** The appellant contends that during the review process for AUP#13-20000050, “mediation discussion included a commitment by the applicant to choose a building color to blend with the environment - note the stark bright white facade remains on the house and continues to reflect sunlight in a blinding and obtrusive manner.” (Attachment 4, page 1, bullet 4).

- F. Staff Analysis:** The project plans approved under the previous AUP indicated stucco as the exterior material on the new third floor and wood siding to remain on the existing second floor. Although the approved building permit plans indicate stucco on both the second and third floors, the change of exterior materials is considered minor as it does not “expand, intensify or substantially change the use or building” pursuant to standard Condition of Approval #4. Further, the change in exterior materials complies with Condition of Approval #24 (AUP#13-20000050), which states “All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.”

Mediation is a tool that the Planning Division encourages applicants and neighbors to utilize through a private third-party early in the design process, in order to identify and resolve issues of concern. However, participation in mediation is voluntary, and compliance with any private party agreements reached in mediation cannot be enforced by the City unless the commitments made in mediation are incorporated into a Condition of Approval. Further, Planning Staff determined that the stucco exterior did not result in a significant aesthetic impact (i.e., light and glare), and was therefore determined to be non-detrimental. Since the appellant has not provided additional evidence to suggest the non-detriment finding cannot be made based on impacts to light and glare from the stucco exterior materials at the second and third stories, staff recommends the ZAB dismiss this appeal point.

- G. Appeal Issue 6 – Sewer easement encroachment:** The appellant asks staff to confirm whether a “boundary survey [was] done in order to determine the exact location of the rear property line to determine its location with respect to the City's sewer easement? Did the backyard concrete construction, in fact, encroach upon the City's sewer easement? Did, also, the recently constructed rear fence encroach upon the City's sewer easement?” (Attachment 4, page 2, bullet 5).

Staff Analysis: A boundary survey was completed prior to the submittal of the zoning permit application, and the existing 8'-3"- tall fence encroaches on a portion of the sewer easement. However, the fence does not require an encroachment permit pursuant to BMC Section 16.18.020, and Public Works Staff approved the location of the fence as part of the current building permit application, as the fence can be easily removed in the event the sanitary sewer needs to be accessed; therefore, staff recommends the ZAB dismiss this appeal point.

- H. Appeal Issue 7 – Maximum Building Height:** The appellant asks staff to explain why the proposed increase in the maximum building height by 2'-3" was approved by the Zoning Officer without a public hearing, “If the approved AUP #13-20000050 specifically stipulated that the maximum ceiling of the structure would be 8 ft.?” (Attachment 4, page 2, bullet 6).

Staff Analysis: The Conditions of Approval for AUP #13-20000050 are applicable to the previously approved project, which has been constructed, and do not carry over to the current, approved project (ZP2019-0111), including the maximum allowable building height.

The proposed project requires the Administrative Use Permits listed on page 1 of this Staff Report. The application process requires multiple forms of neighbor notification: a yellow poster must be installed at the front of the project site, and the applicant must notify all abutting and confronting neighbors by obtaining signatures on the site plan prior to submitting an application. The Notice of Administrative Decision is posted on-site and mailed to property owners within 300 feet; the Decision may be appealed for a period of 21 days after it is posted. A public hearing is not required for approval of an AUP. Staff recommends the ZAB dismiss this appeal point.

- I. Appeal Issue 8 – Major Residential Addition:** The appellant asks staff to explain “how is it legal that the Planning Department allows the applicant to over-double the residence size from the original 1,515 sq. ft. to 3,291 sq. ft. in a piecemeal fashion without scheduling a Public Hearing?” (Attachment 4, page 2, bullet 7).

Staff Analysis: As described in Appeal Point 1, cumulative projects are addressed in the Berkeley Municipal Code. As described in Appeal Point 7, the project requires several AUPs; however the AUP process does not require a public hearing. Staff recommends that the ZAB dismiss this appeal point.

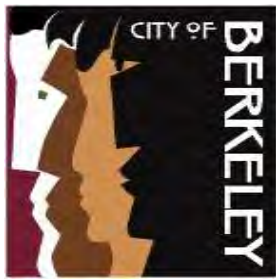
## VI. Recommendation

The appeal points discussed above are focused on process, and no evidence has been provided to dispute any finding of non-detriment for this project. Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: **APPROVE Administrative Use Permit #ZP2019-0111** pursuant to Section 23B.28.060.C.1 and subject to the attached Findings and Conditions (see Attachment 1) and **DISMISS the Appeal**.

### Attachments:

1. Findings and Conditions, ZP#2019-0111, November 20, 2019
2. Project Plans, received August 12, 2019
3. Neighbor Comment Letters, received July 17, and July 23, 2019
4. Letter of Appeal, received December 11, 2019
5. AUP #13-20000050, effective May 23, 2014
6. Notice of Public Hearing

**Staff Planner:** Ashley James, [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info), (510) 981-7458



# N O T I C E O F A D M I N I S T R A T I V E D E C I S I O N

## 1449 Grizzly Peak Boulevard

Administrative Use Permit #ZP2019-0111

To alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height by 2'-2" and the maximum building height by 2'-3", resulting in a 3,291 square-foot, three-story, single-family dwelling with an average building height of 24'-8" and a maximum building height of 28'-9", 2) constructing the fifth bedroom on the parcel, and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.

**ZONING OFFICER DECISION:** The Zoning Officer of the City of Berkeley has APPROVED the following permits pursuant to Berkeley Municipal Code (BMC) Section 23B.28.050, and based on the attached findings and conditions (attachment 1) and plans (attachment 2):

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

**DATE NOTICE IS ISSUED: November 20, 2019**

**APPEAL PERIOD:** November 21, 2019 to December 11, 2019

**ATTACHMENTS:**

1. Findings and Conditions
2. Project Plans, dated received August 12, 2019

**FOR FURTHER INFORMATION:**

All application materials for this project are available online at: <http://www.cityofberkeley.info/zoningapplications> and at the Permit Service Center, Third Floor, at 1947 Center Street, between 8:30 AM to 4 PM Monday, Wednesday - Friday & 8:30 AM to 2:30 PM Tuesday (closed 2<sup>nd</sup> Friday of every month). Questions about the project should be directed to the project planner, Ashley James, at (510) 981-7458 or [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info).

**PUBLIC NOTICE, PURSUANT TO BMC SECTION 23B.28.040 B&C:**

This Notice of Administrative Decision was:

1. Forwarded to the Zoning Adjustments Board and sent to the Main Library;
2. Posted at three visible locations in the vicinity of the subject property and at a bulletin board at the Zoning counter.
3. Mailed to neighborhood and community organizations for which the project falls within their expressed area of interest, as set forth in BMC Section [23B.24.060](#);
4. Mailed to owners and residents of properties abutting and confronting the subject property.

The validity of the proceedings, however, shall not be affected by the failure of any such property owner, occupant or neighborhood or community organization to receive such mailed notice.

**TO APPEAL THIS DECISION, PURSUANT TO BMC SECTION 23B.28.060:**

To appeal this decision, you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal, along with the required fee (see below) to the Zoning Officer, at the Permit Service Center, 1947 Center Street, 3rd Floor, Berkeley.
2. The appeal and required fee (see below) must be received prior to 4:00 p.m. on the last day of the appeal period shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee to the Permit Service Center (see above; checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for appeals of a Zoning Officer decision to the Zoning Adjustments Board is \$200. This fee may be reduced to \$75 if the appeal is signed by persons who lease or own at least 35 percent of the parcels or dwelling units within 300 feet of the project site, or at least 20 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If an appeal is filed, the Zoning Officer shall set the matter for consideration by the Zoning Adjustments Board. An appeal stays the issuance and exercise of the AUP until a decision is rendered or the appeal is withdrawn. If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised in an appeal of the decision.
2. You must appeal to the Zoning Adjustments Board within twenty (20) days after the Notice of Decision of the action of the Zoning Officer is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently

1449 GRIZZLY PEAK BOULEVARD  
Page 3 of 3

NOTICE OF ADMINISTRATIVE DECISION  
Administrative Use Permit #ZP2019-0111

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proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:

- A. That this belief is a basis of your appeal.
- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City and in court.

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# ATTACHMENT 1

## FINDINGS AND CONDITIONS NOVEMBER 20, 2019

### 1449 Grizzly Peak Boulevard

#### Administrative Use Permit #ZP2019-0111

To alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height by 2'-2" and the maximum building height by 2'-3, resulting in a 3,291 square-foot, three-story, single-family dwelling with an average building height of 24'-8" and a maximum building height of 28'-9", 2) constructing the fifth bedroom on the parcel, and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.

#### PERMITS REQUIRED

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

#### CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to CEQA Guidelines Section 15301 (Existing Facilities). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### FINDINGS FOR APPROVAL

2. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons

residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. The subject property is equal to or below the Single-Family Residential (R-1H) standards (BMC Section 23D.16.070-.080) for maximum residential density, height, setbacks, lot coverage, useable open space, and off-street parking (one main dwelling unit, where one main dwelling unit is allowed, average height of 24'-8" where 28' is the maximum, 5'-5" side (north) yard setback where 4' is the minimum, 4'-1" side (south) yard setback where 4' is the minimum, and 39'-3" rear yard setback where 20' is the minimum, 30% lot coverage where 40% is the maximum, 1,545 sq. ft. of usable open space where 400 sq. ft. is the minimum, and one off-street parking space where one is required). The subject property has a legally non-conforming front yard setback of 17'-1" where 20' is the minimum; however, the project would not extend or worsen this non-conformity. The subject property is equal to or below the Hillside Overlay District standards (BMC Section 23E.96.070) for maximum height for all residential additions of 28'-9" where 35' is the maximum. Therefore, the residential addition will be compatible with the existing property and neighborhood character;
- B. Privacy: Though the project includes new window openings on the addition to the third floor, these new windows on the front, northeast-side and rear are not expected to be detrimental to the privacy of neighbors because they would be located in walls that exceed all required yards; the new windows on the front of the building at the third floor would be setback 21'-1" from the front property line, where 20' is required. The building to building separation from the subject dwelling to abutting dwelling to the southeast at 1480 Summit Road is approximately 58', the dwelling to the southwest at 1455 Grizzly Peak Boulevard is approximately 9', and the dwelling to the northeast at 1445 Grizzly Peak Boulevard is approximately 14'-6". This separation, along with new openings that will mostly not directly face any windows in neighboring dwellings, will limit new privacy impacts;
- C. The addition to the main building will be constructed with proportions, scale and roof slopes that match the existing;
- D. While the project increases the number of bedrooms as defined in BMC Section 13.42.020.B on this parcel from four to five, the additional bedrooms will be added to an existing single-family residence. The addition of a fifth bedroom will provide more room for residents at the single-family residence and will not result in an increase in dwelling unit density; and
- E. The proposed perimeter fence will be from 6'-2" in height at the front of the property to 8'-3" in height at the rear of the property, and will be setback approximately 6' from the northwest property line at the front of the property, at the property line along the side yards, and setback approximately 4' from the rear property line. The fence will be located approximately 19' from the building located to the northeast at 1476 Summit Road, and 17' from the building located to the southeast at 1480 Summit Road. The fence will be constructed in an architectural style with colors and materials that are consistent with the surrounding buildings and fences. Due to its location, solar orientation, limited scale, and the presence of mature trees and other vegetation, the proposed fence is not

expected to create significant changes to the existing sunlight or privacy conditions in the immediate vicinity of this project. No new sight lines will be created to or from neighboring buildings, as the fence is located on a sloping hillside, below the existing sightlines to the San Francisco Bay from the properties directly to the rear of the property, and will thus not block views.

3. Pursuant to BMC Section 23D.16.090.B, the Zoning Officer finds that the major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
  - A. Sunlight: The 500 sq. ft. addition to the existing third floor and the perimeter fence will not result in a significant loss of direct sunlight on neighboring dwellings. Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice.
    - a. Two hours before sunset on the winter solstice, shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover portions of four living room windows and a portion of the entryway door.
    - b. Two hours before sunset on the summer solstice, the shadows on the west side of the dwelling at 1445 Grizzly Peak Boulevard will increase and cover a living room window.
    - c. Because the impacts to neighboring properties will occur on limited areas, and will only partially shade a neighboring building for a limited time during the year, and only for a few hours of the day, the residential addition will not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental;
  - B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1H neighborhood because the addition is an expansion of the existing third story, where a maximum of three are allowed. The minimum 4 ft. required side yard setbacks will be maintained; and
  - C. Views: Berkeley Municipal Code Section 23F.04.010 defines view corridors as: a significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz. The dwellings to the east (1476 and 1480 Summit Road) are placed higher on the hill and have views of the Berkeley Hills and a partial view San Francisco Bay which is occluded by several mature trees in the yards of parcels across Grizzly Peak Boulevard from the subject property. Further, the proposed addition would not obstruct any existing partial views of the San Francisco Bay, as documented in the pictures of the story poles provided by the applicant. The dwellings to the west (1448 and 1446 Grizzly Peak Boulevard) are placed lower on the hill and have views of the Bay but the steep upsloping topography and the placement of the existing dwellings to the west occlude the Berkeley Hills. Further, the proposed addition would be located at the rear of the existing building on the third floor, and would match the existing roofline at the front of the building, therefore not obstructing views of the Berkeley Hills.

4. As required by BMC Section 23E.96.090.B, the Zoning Officer finds that the addition above the 20' maximum height that applies to additions is consistent with the purposes of the Hillside Overlay District as the height occurs in part because of the slope of this site, the proposed addition and fence will not adversely compromise the quality and character of this hillside parcel and its immediate environs, nor will it adversely impact views available from neighboring residences and parcels. The project maintains the original pattern and design of the lot and preserves westward views of the San Francisco Bay from the original building and its neighbors, as described above, in Section 3.

## **STANDARD CONDITIONS**

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The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. **Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. **Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. **Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. **Modification of Permits (BMC Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

5. **Plans and Representations Become Conditions (BMC Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. **Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building

and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (BMC Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

**Project Liaison**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Phone #

**Standard Construction-related Conditions Applicable to all Projects:**

11. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer’s approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

12. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

13. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

14. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

15. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
16. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
17. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
18. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
19. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
20. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
21. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
22. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
23. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
  - A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
  - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate

- determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
  - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
  - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
24. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
25. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- Prior to Issuance of Occupancy Permit or Final Inspection:**
26. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
27. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 12, 2019.



**At All Times (Operation):**

- 28.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 29.** Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 30.** Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

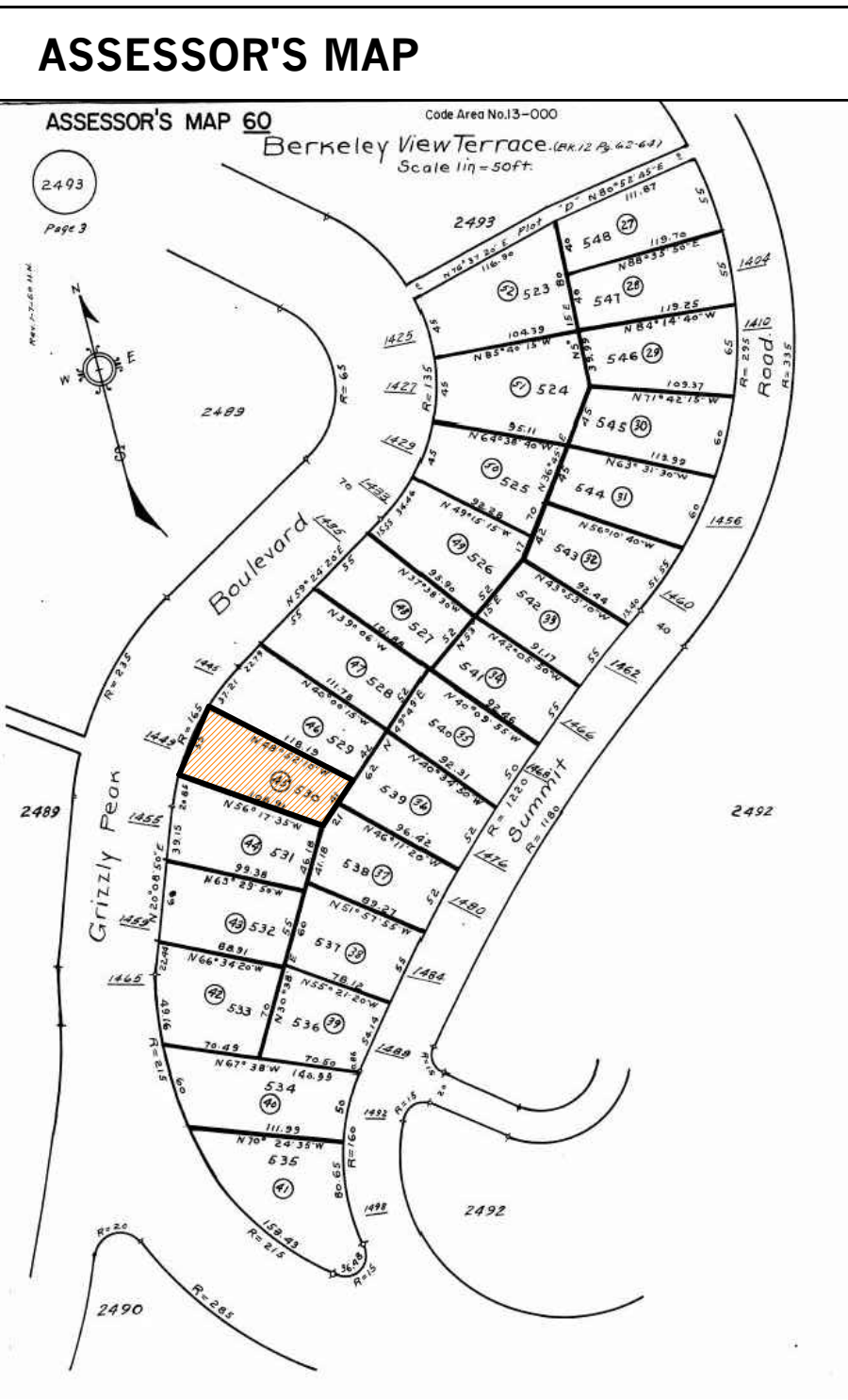


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Prepared by: Ashley James  
For Greg Powell, Zoning Officer

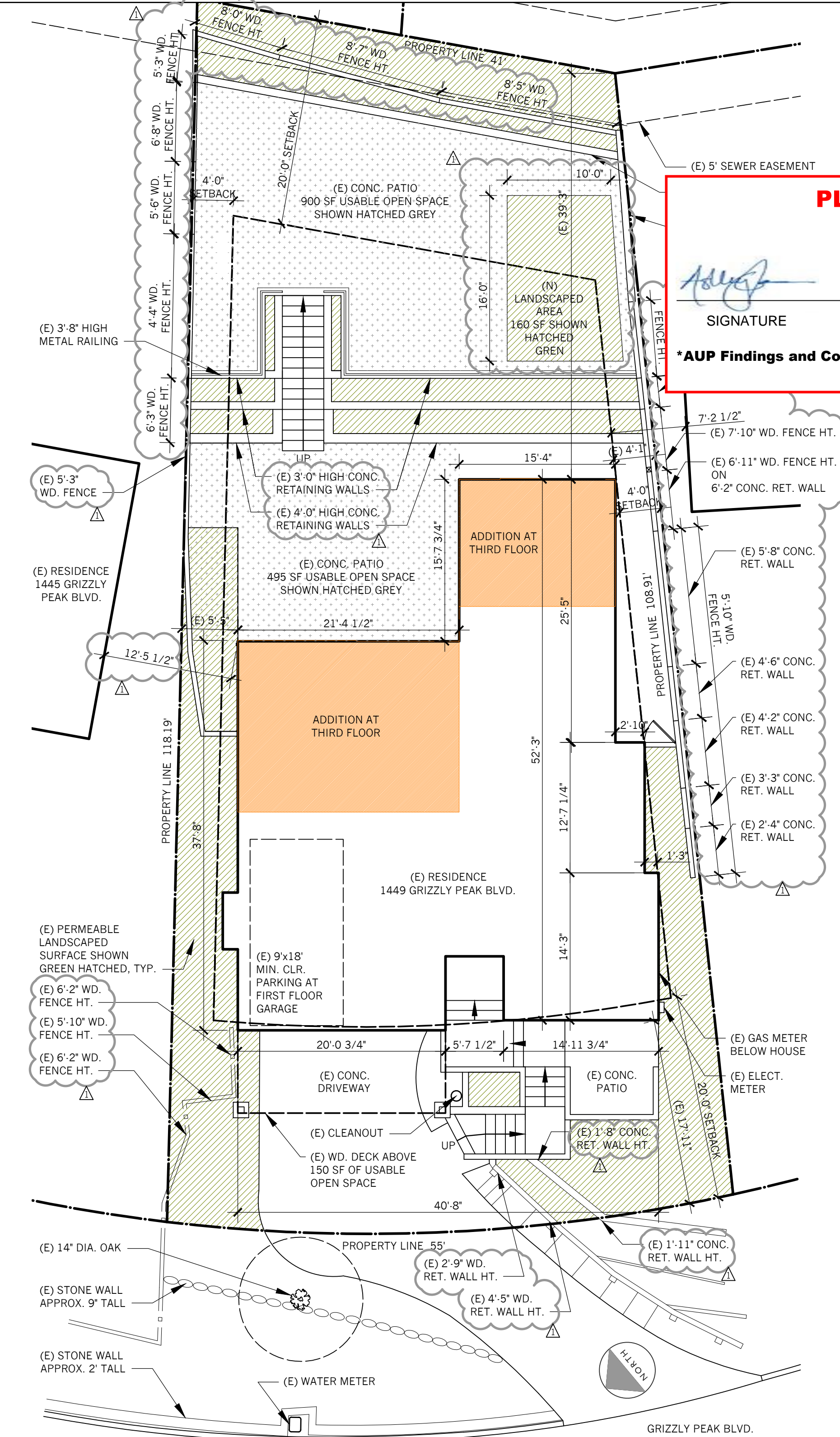
- ### BEST MANAGEMENT PRACTICES
- SAND, DIRT, AND SIMILAR MATERIALS MUST BE STORED AT LEAST 10 FEET FROM CATCH BASINS, AND COVERED WITH A TARP DURING WET WEATHER OR WHEN RAIN IS FORECAST.
  - SWEEP STREETS AND OTHER PAVED AREAS DAILY. DO NOT WASH DOWN STREETS OR WORK AREAS WITH WATER.
  - RECYCLE ALL ASPHALT, CONCRETE, AND AGGREGATE BASE MATERIAL FROM DEMOLITION ACTIVITIES.
  - CHECK DUMPSTERS REGULARLY FOR LEAKS AND TO MAKE SURE THEY DON'T OVERFLOW. REPAIR OR REPLACE LEAKING DUMPSTERS PROMPTLY.
  - LABEL ALL HAZARDOUS MATERIALS AND HAZARDOUS WASTES (SUCH AS PESTICIDES, PAINTS, THINNERS, SOLVENTS, FUEL, OIL, AND ANTIFREEZE) IN ACCORDANCE WITH CITY, STATE, AND FEDERAL REGULATIONS.
  - STORE HAZARDOUS MATERIALS AND WASTES IN SECONDARY CONTAINMENT AND COVER THEM DURING WET WEATHER.
  - BE SURE TO ARRANGE FOR APPROPRIATE DISPOSAL OF ALL HAZARDOUS WASTES.
  - WHEN SPILLS OR LEAKS OCCUR (HAZARDOUS OR NON-HAZARDOUS), CONTAIN THEM IMMEDIATELY AND BE PARTICULARLY CAREFUL TO PREVENT LEAKS AND SPILLS FROM REACHING THE GUTTER, STREET, OR STORM DRAIN. NEVER WASH SPILLED MATERIAL INTO A GUTTER, STREET, STORM DRAIN, OR CREEK.
  - REPORT ANY HAZARDOUS MATERIALS SPILLS IMMEDIATELY! DIAL 911 OR YOUR LOCAL EMERGENCY RESPONSE NUMBER.
  - DO NOT CLEAN VEHICLES OR EQUIPMENT ON-SITE USING SOAPS, SOLVENTS, DEGREASERS, STEAM CLEANING EQUIPMENT, ETC.
  - KEEP EXCAVATED SOIL ON THE SITE WHERE IT IS LEAST LIKELY TO COLLECT IN THE STREET. TRANSFER TO DUMP TRUCKS SHOULD TAKE PLACE ON THE SITE, NOT IN THE STREET.
  - USE FIBER ROLLS, SILT FENCES, OR OTHER CONTROL MEASURES TO MINIMIZE THE FLOW OF SILT OFF THE SITE. SEE SITE PLAN FOR SPECIFIC MEASURES.
  - SHOVEL, ABSORB, OR VACUUM SAW-CUT SLURRY AND PICK UP ALL WASTE AS SOON AS YOU ARE FINISHED IN ONE LOCATION OR AT THE END OF EACH WORK DAY (WHICHEVER IS SOONER).
  - IF SAW CUT SLURRY ENTERS A CATCH BASIN, CLEAN IT UP IMMEDIATELY.
  - PROTECT GUTTERS, DITCHES, AND DRAINAGE COURSES WITH SAND/GRAVEL BAGS, OR EARTHEN BERMS.
  - BE SURE TO STORE CONCRETE, GROUT, AND MORTAR UNDER COVER AND AWAY FROM DRAINAGE AREAS. THESE MATERIALS MUST NEVER REACH A STORM DRAIN.
  - WASH OUT CONCRETE EQUIPMENT/TRUCKS OFF-SITE.
  - NEVER RINSE PAINT BRUSHES OR MATERIALS IN A GUTTER OR STREET.
  - PAINT OUT EXCESS WATER-BASED PAINT BEFORE RINSING BRUSHES, ROLLERS, OR CONTAINERS IN A SINK. IF YOU CAN'T USE A SINK, DIRECT WASH WATER TO A DIRT AREA AND SPADE IN IT.
  - PAINT OUT EXCESS OIL-BASED PAINT BEFORE CLEANING BRUSHES IN THINNER.
  - FILTER PAINT THINNERS AND SOLVENTS FOR REUSE WHENEVER POSSIBLE. DISPOSE OF OIL-BASED PAINT SLUDGE AND USEABLE THINNER AS HAZARDOUS WASTE.

- ### GENERAL NOTES
- ALL WORK SHALL CONFORM TO THE CALIFORNIA RESIDENTIAL CODE, 2016 EDITION; CALIFORNIA PLUMBING CODE, 2016 EDITION; CALIFORNIA MECHANICAL CODE, 2016 EDITION; CALIFORNIA ELECTRICAL CODE, 2016 EDITION; 2016 ENERGY CODE; CITY OF BERKELEY ORDINANCES, ALAMEDA COUNTY REQUIREMENTS AND ALL OTHER APPLICABLE CODES AND ORDINANCES.
  - THE CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS ON THE SITE PRIOR TO BEGINNING WORK. CONTRACTOR SHALL FAMILIARIZE HIM/HERSELF WITH VERTICAL AND LATERAL LOAD TRANSFER THROUGH FRAMING TO FOUNDATION. DIMENSIONS, FOUNDATION LAYOUT, FRAMING LAYOUT, LOAD TRANSFER THROUGH NEW AND EXISTING FRAMING TO FOUNDATION LOCATION OF BEAMS, BRACING, ETC. SHOULD ALL BE VERIFIED PRIOR TO ACTUAL CONSTRUCTION. VARIANCE BETWEEN THE DRAWINGS AND THE ACTUAL SITE CONDITIONS, AND ANY ERRORS OR OMISSIONS FOUND IN THE DRAWINGS, SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT BEFORE PROCEEDING WITH THE WORK. UPON DISCOVERY OF UNFORESEEN CONDITIONS ON THE SITE, THE CONTRACTOR SHALL STOP THE WORK AND REQUEST ADDITIONAL INFORMATION FROM THE ARCHITECT. THE CONTRACTOR SHALL NOTIFY THE ARCHITECT WHEN THE EXISTING STRUCTURE HAS BEEN EXPOSED.
  - DURING DEMOLITION CONTRACTOR IS TO CAP ALL ELECTRICAL OUTLETS, SWITCHES AND UTILITIES PER CODE. NOTIFY OWNER 24 HOURS PRIOR TO ANY INTERRUPTION IN POWER OR UTILITIES.
  - BRACE AND SUPPORT EXTERIOR AND INTERIOR WALLS AS NECESSARY PRIOR TO REMOVAL OF EXISTING STRUCTURE SO AS TO PREVENT ANY MOVEMENT OF THE EXISTING STRUCTURE. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR PROVIDING ADEQUATE SHORING AND BRACING DURING CONSTRUCTION FOR VERTICAL AND LATERAL LOADS AS REQUIRED FOR THE PROTECTION OF LIFE AND PROPERTY DURING CONSTRUCTION.
  - WRITTEN DIMENSIONS SHOWN IN THE DRAWINGS ARE TO FACE OF FINISH UNLESS OTHERWISE NOTED. THEY SHALL HAVE PRECEDENCE OVER ANY SCALED DIMENSIONS. DETAIL DRAWINGS HAVE PRECEDENCE OVER MORE GENERAL DRAWINGS.
  - THE CONTRACTOR SHALL GUARANTEE ALL NEW WORK AGAINST LEAKS FOR A PERIOD OF TWO YEARS FOLLOWING COMPLETION OF THE WORK.
  - THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING TO ORIGINAL CONDITION, AT HIS OWN EXPENSE, ANY DAMAGE DONE BY HIM OR HIS AGENTS TO THE EXISTING BUILDINGS OR GROUNDS.
  - THE CONTRACTOR SHALL INSTALL ALL PRODUCTS AND MATERIALS IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND IN ACCORDANCE WITH THE LATEST EDITION OF TRADE STANDARDS, PUBLISHED BY THE TRADE ASSOCIATIONS.
  - THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE PORTIONS OF TITLE 24 OF THE CALIFORNIA ADMINISTRATIVE CODE.
  - DIMENSIONS, LOCATIONS OF DOORS, PARTITIONS, CABINET WORK AND SIMILAR FEATURES TO BE VERIFIED ON SITE.
  - IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE LAYOUT OF ALL THE VARIOUS COMPONENTS OF THE CONSTRUCTION AS REQUIRED TO ACCOMMODATE THE ELECTRICAL LAYOUT INDICATED. SPECIAL ATTENTION SHOULD BE GIVEN TO FRAMING LAYOUT TO AVOID CUTTING AND REFRAMING TO ACHIEVE PROPER LOCATIONS FOR FIXTURES.
  - THE ARCHITECT DOES NOT ASSUME RESPONSIBILITY FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCE OR PROCEDURES OF CONSTRUCTION, OR SAFETY PRECAUTIONS, WHICH ARE TO REMAIN THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
  - THE ARCHITECT DOES NOT PROVIDE EVALUATION FOR THE EXISTENCE OF HAZARDOUS MATERIAL, NOR ASSUME RESPONSIBILITY FOR THEIR MANAGEMENT. SHOULD THE CONTRACTOR ENCOUNTER ANY HAZARDOUS MATERIALS IN THE PERFORMANCE OF HIS WORK, THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY AND PROCEED WITH WORK ONLY IN COMPLIANCE WITH APPLICABLE HAZARDOUS MATERIAL HANDLING REGULATIONS.
  - DIVERT CONSTRUCTION AND DEMOLITION WASTE AS FOLLOWS:  
A. DIVERT ALL CARDBOARD, CONCRETE, ASPHALT AND METALS.  
B. DIVERT 25% C&D WASTE, EXCLUDING ALL CARDBOARD, CONCRETE, ASPHALT, AND METALS.



### SITE PLAN

1/8" = 1' - 0" AT 24" x 36"  
1/16" = 1' - 0" AT 12" x 18"



- ### DRAWING INDEX
- A-0.0 COVER SHEET
  - A-1.0 DEMO PLANS AND EXISTING ELEVATIONS
  - A-2.0 PROPOSED FLOOR PLAN AND ROOF PLAN
  - A-3.0 PROPOSED EXTERIOR ELEVATIONS
  - A-4.0 SECTION

**PLANS APPROVED by**

*Adriana*  
SIGNATURE

**November 20, 2019**  
DATE

**\*AUP Findings and Conditions Attached**

### SYMBOL LEGEND

	WINDOW SYMBOL SEE SCHEDULE		INTERIOR ELEVATION KEY
	DOOR SYMBOL SEE SCHEDULE		DRAWING KEY
	ELEVATION KEY - DRAWING #		DETAIL KEY
	ELEVATION SHOWN WHERE SHADED		ALIGN SYMBOL
	SHEET #		

### PROJECT DATA

CLIENTS:  
CHERYL AND RODRIGO UBILLUS  
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

PROJECT SCOPE:  
REAR ADDITION OF 500 SQ. FT. AT THE THIRD FLOOR,  
INCLUDING A BEDROOM, BATHROOM, AND WALK-IN CLOSET.

ZONING: R1-H  
APN: 60-2493-45  
FLOOD ZONE: NO  
FIRE ZONE: 2  
LANDSLIDE ZONE: YES  
FIRE SPRINKLERS: NONE  
OCCUPANCY: R-3  
CONSTRUCTION TYPE: V-B  
AVG. LOT SLOPE: 15%

### NEIGHBOR'S SIGNATURES

I HAVE REVIEWED THE DRAWINGS FOR THE PROPOSED ADDITION AT 1449 GRIZZLY PEAK BLVD. WHICH INCLUDES 900 SF AT THE SECOND FLOOR.

NAME (PRINTED)	SIGNATURE	ADDRESS	OWNER YES/NO	DATE	HAVE NO OBJECTIONS	COMMENTS OR OBJECTIONS (PLEASE STATE BRIEFLY)
		1444 GRIZZLY PEAK BLVD.				
		1445 GRIZZLY PEAK BLVD.				
		1446 GRIZZLY PEAK BLVD.				
		1448 GRIZZLY PEAK BLVD.				
		1452 GRIZZLY PEAK BLVD.				
		1455 GRIZZLY PEAK BLVD.				
		1476 SUMMIT RD.				
		1480 SUMMIT RD.				

### TABULATION FORM

	Existing	Proposed	Permitted/Required
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (E)	1	1	
Number of Parking Spaces (E)	1	1	
Number of Bedrooms (E)	4	5	
<b>Yards and Height</b>			
Front Yard Setback (Feet)	17'-11"	NA	20
Side Yard Setbacks (Facing property):			
Left (Feet)	5'-5"	NA	4
Right (Feet)	4'-1"	NA	4
Rear Yard Setback (Feet)	39'-3"	NA	20
Building Height* (F Stories)	3	3	3
Average* (Feet)	22'-6"	24'-6"	14
Maximum* (Feet)	28'-6"	28'-9"	20
<b>Areas</b>			
Lot Area (Square-Feet)	5,526	NA	NA
Gross Floor Area* (Square-Feet)	2,791	3,291	NA
Total Area Covered by All Floors (Square-Feet)	1,659	NA	NA
Building Footprint* (Square-Feet)	1,659	NA	NA
Total of All Structures (Square-Feet)	1,659	NA	NA
Lot Coverage* (Percentage)	30%	NA	40%
Usable Open Space* (Square-Feet)	1,545	NA	400
Floor Area Ratio* (Non-Residential only) (Except ES-R)	NA	NA	NA

\*See Definitions - Zoning Ordinance Title 23F. Revised: 10/15



1708 martin luther king jr way  
suite b  
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510.705.1061

UBILLUS  
RESIDENCE  
ADDITION

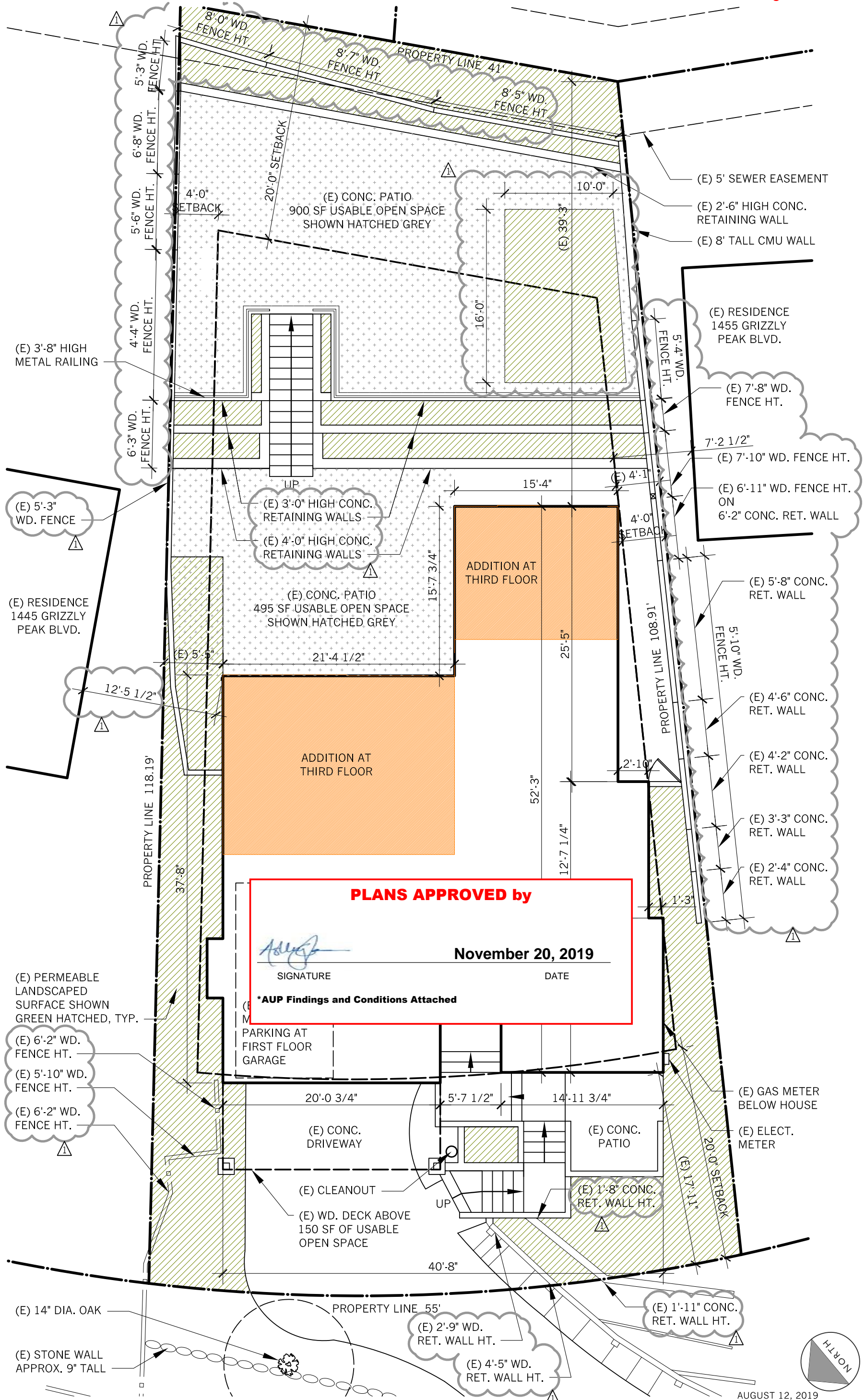
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

COVER SHEET

A - 0.0




**PLANS APPROVED by**

*[Signature]* **November 20, 2019**

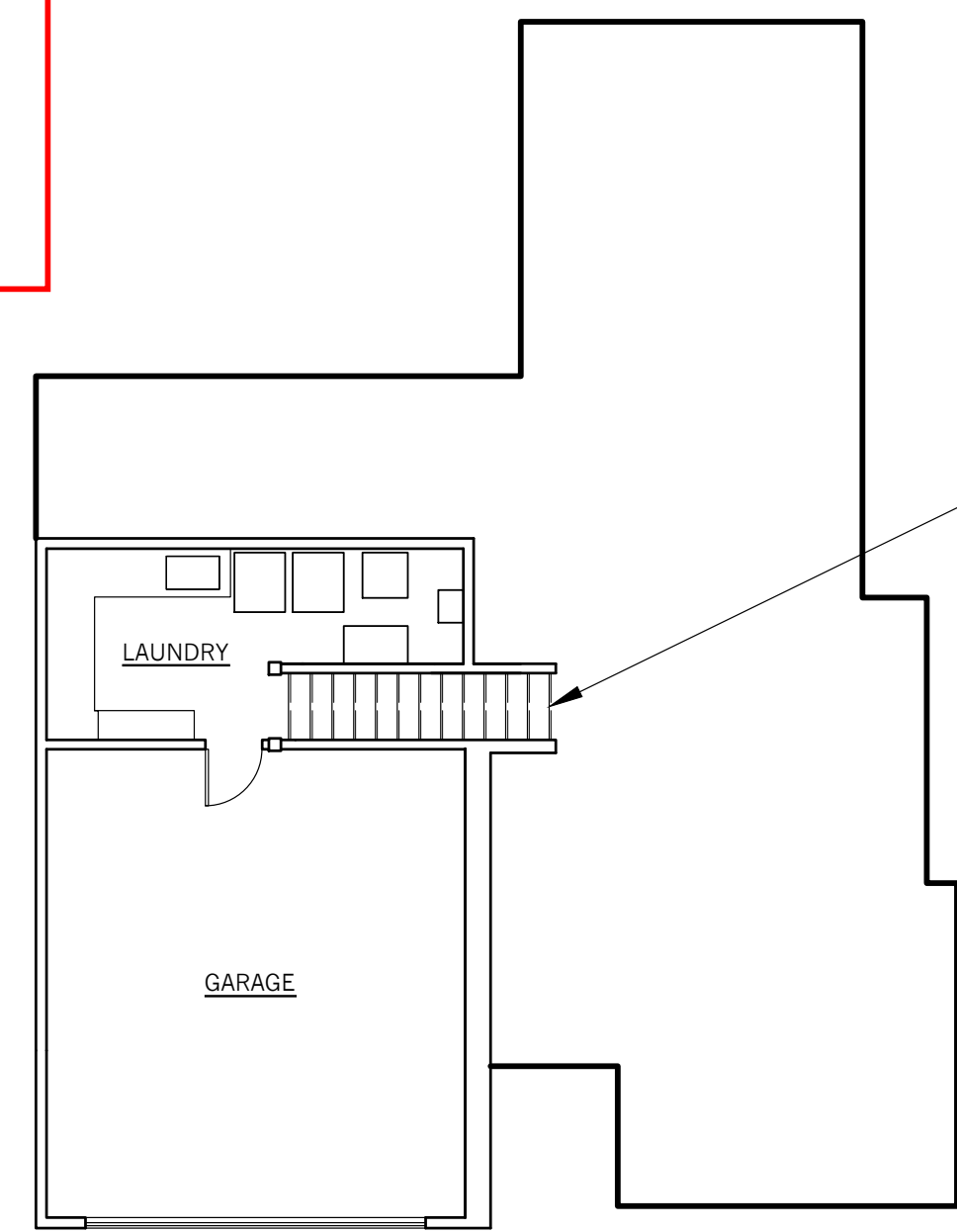
SIGNATURE DATE

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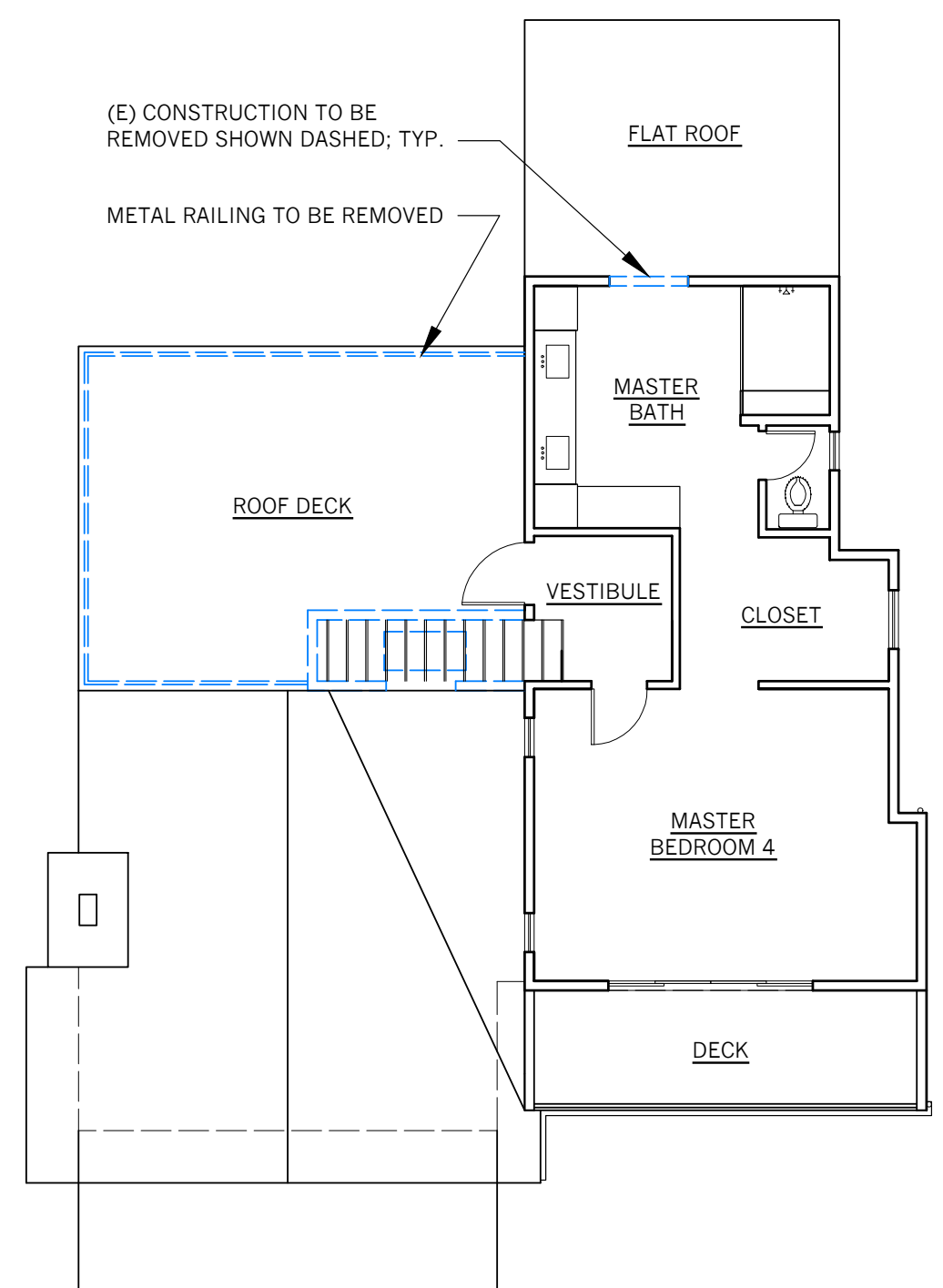
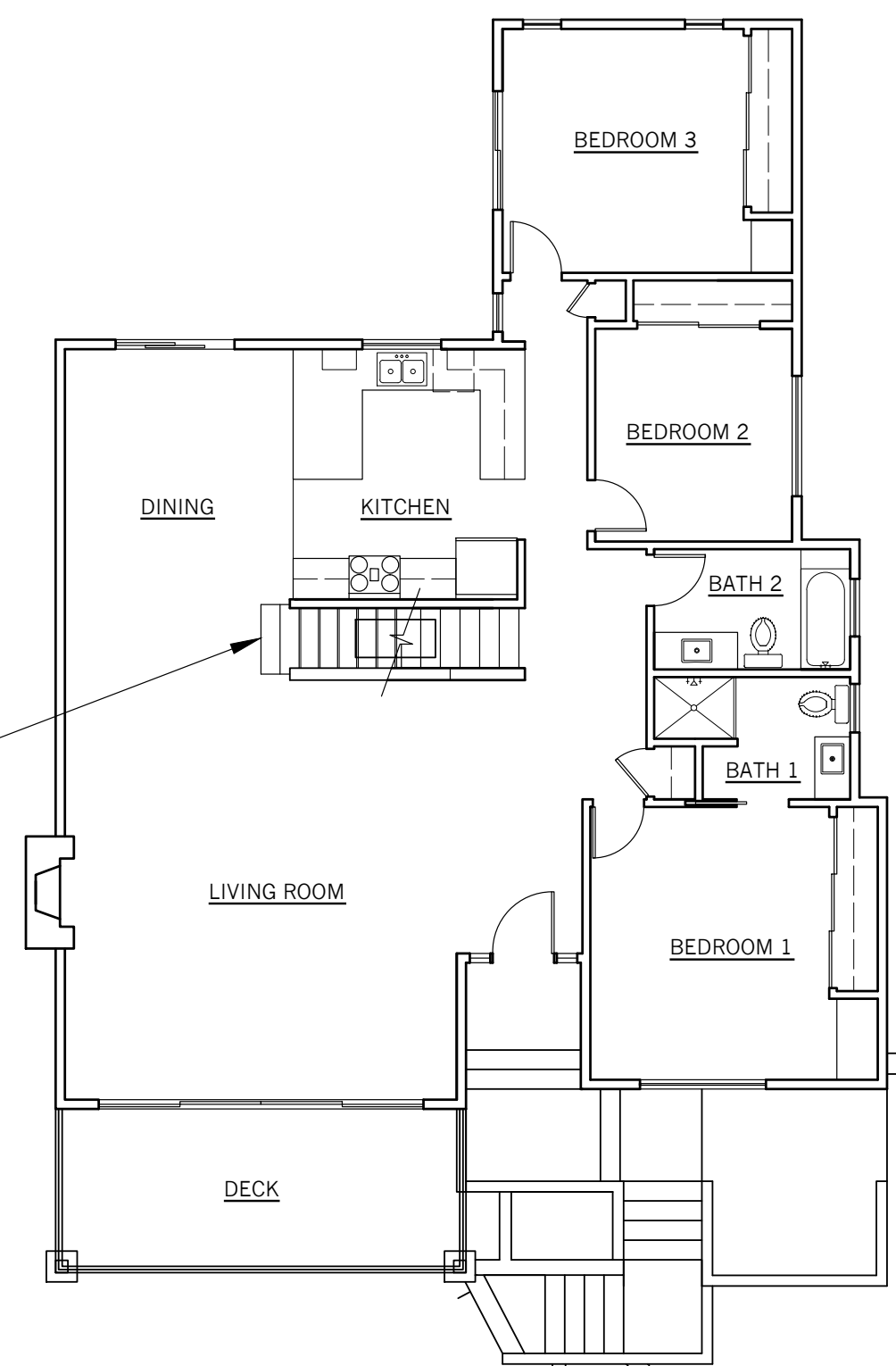

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 SIGNATURE DATE

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(E) STAIR  
(13) RISERS AT 7 3/4"  
(12) TREADS AT 11 1/2"

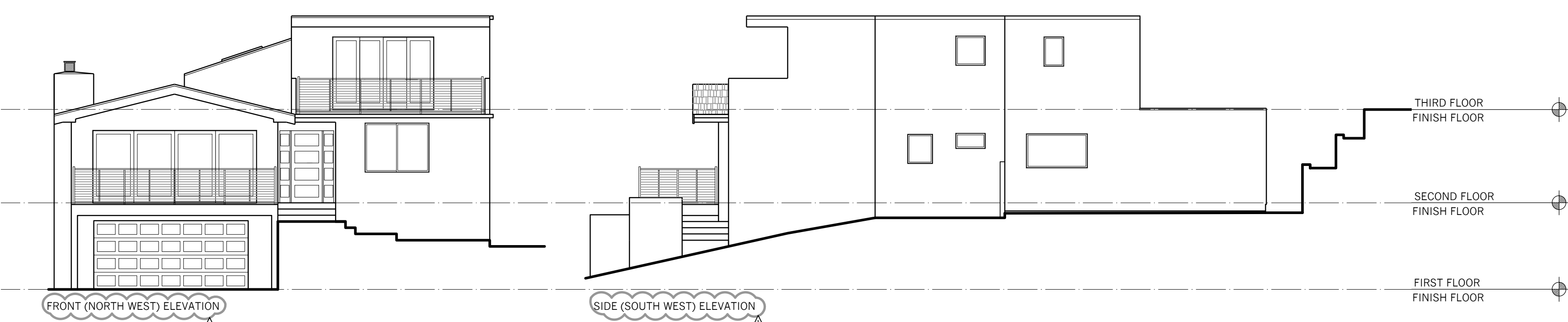
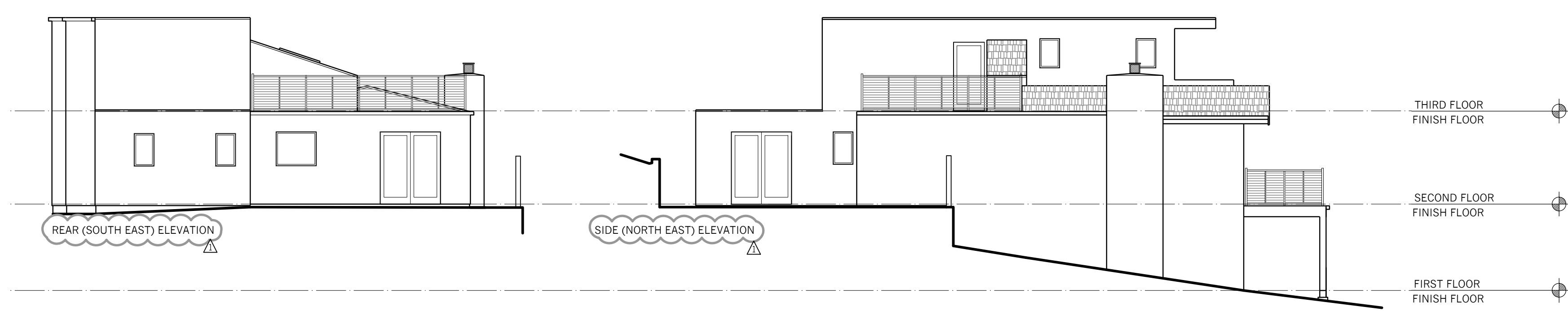
(E) STAIR  
(15) RISERS AT 7 1/4"  
(14) TREADS AT 11 1/4"



1 FIRST FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

2 SECOND FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

3 THIRD FLOOR  
A1.0 SHOWING DEMOLITION  
1/8" = 1'-0"



4 EXISTING EXTERIOR ELEVATIONS  
A1.0  
1/8" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/16"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE



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**UBILLUS  
RESIDENCE  
ADDITION**

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BERKELEY, CA 94708

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**DEMO PLANS  
AND EXISTING  
ELEVATIONS**

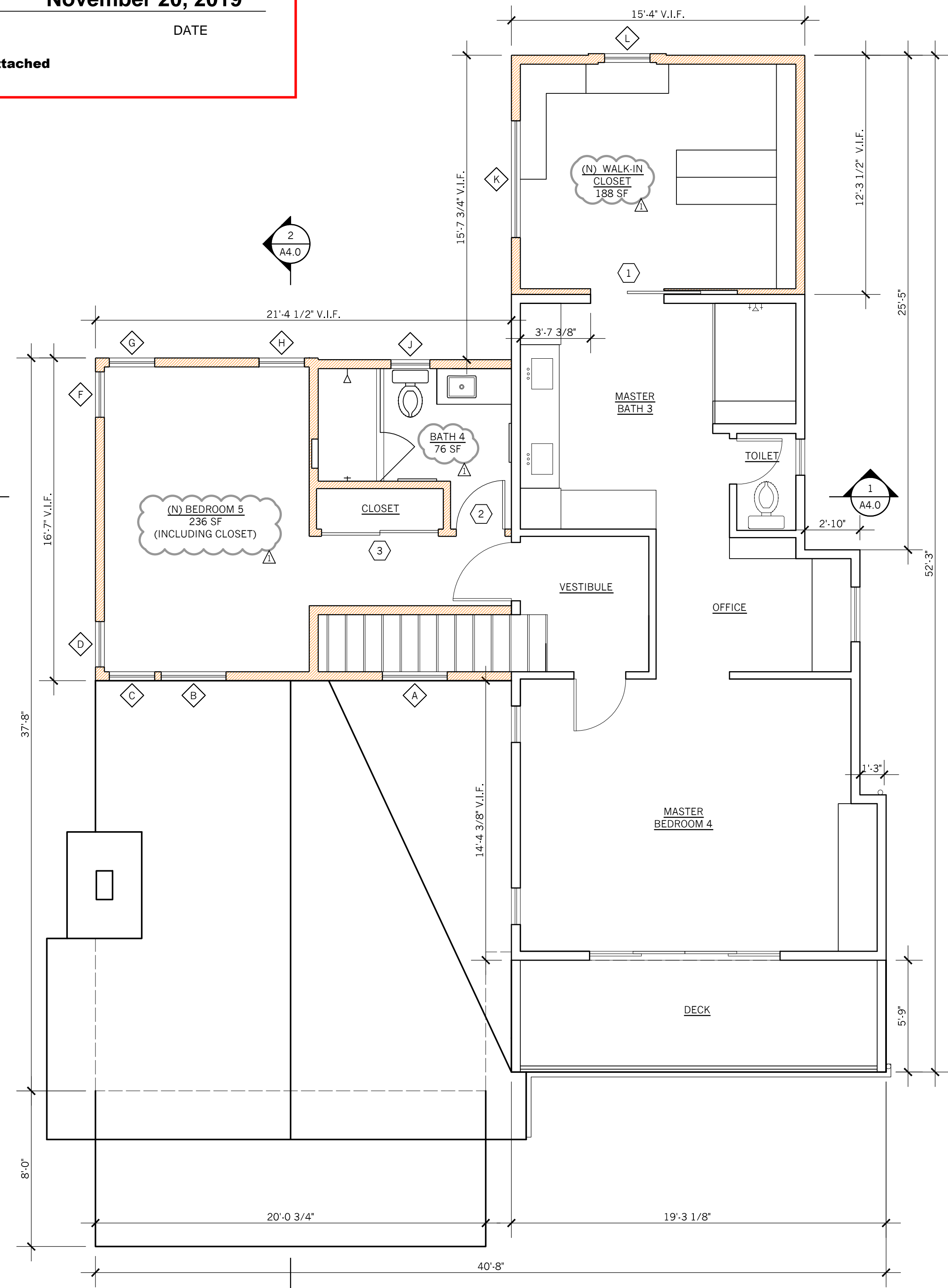
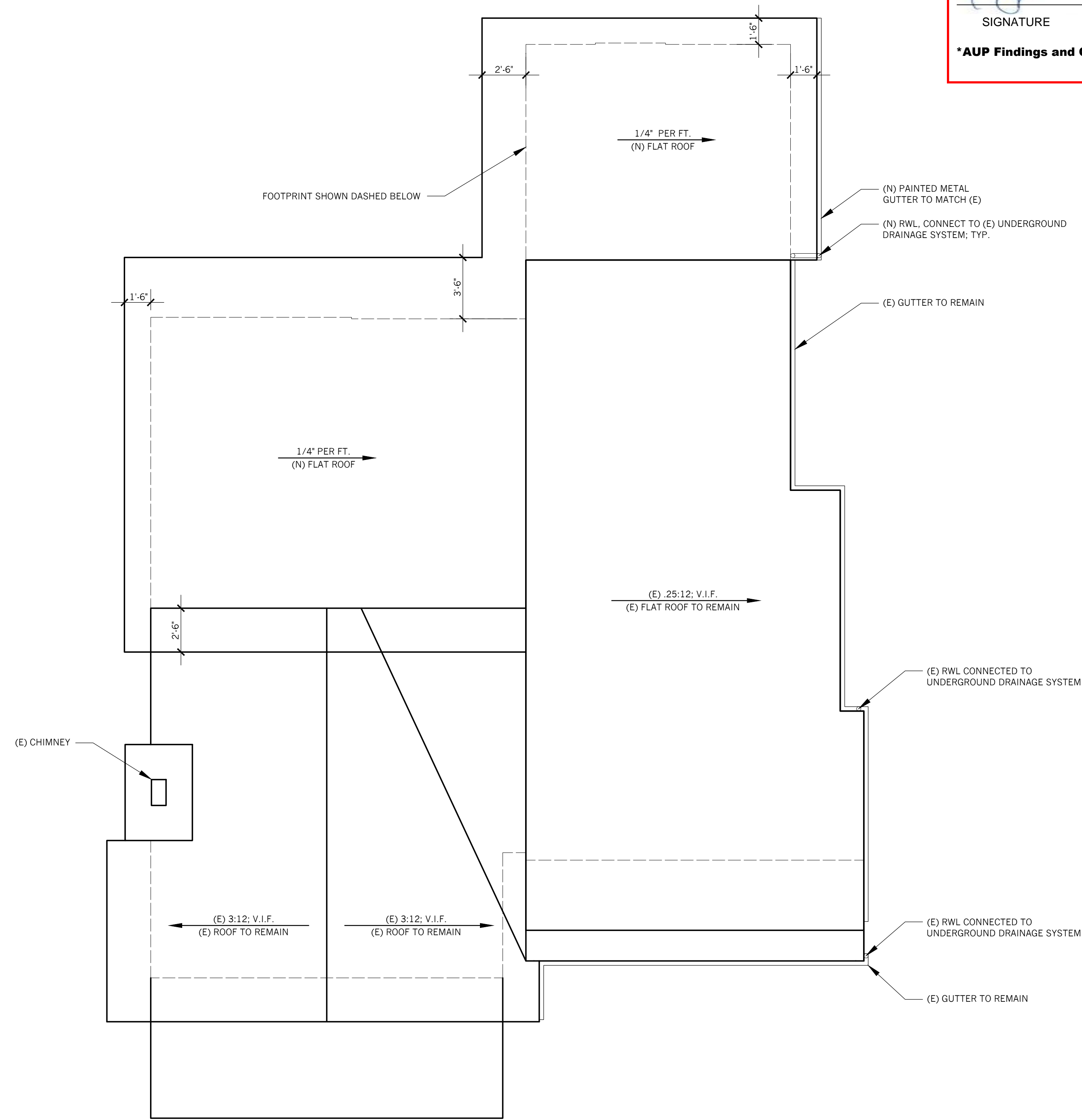
**A - 1.0**

**PLANS APPROVED by**

*[Signature]* **November 20, 2019**

SIGNATURE DATE

**\*AUP Findings and Conditions Attached**



WALL TYPE KEY		FLOOR PLAN NOTES: 1. THE TERMINATION OF ALL ENVIRONMENTAL AIR DUCTS SHALL BE A MINIMUM OF 3 FEET FROM ANY OPENINGS INTO THE BUILDING. DUCT TERMINATIONS (I.E. DRYERS, BATH AND UTILITY FANS, ETC.) MUST BE 3 FEET AWAY FROM DOORS, WINDOWS, OPENING SKYLIGHTS, OR ATTIC VENTS (PER CMC 504.5) 2. VERIFY OR INSTALL AUTOMATIC GAS SHUT-OFF VALVES. 3. ALL NEW HOT WATER SUPPLY PIPING 3/4" OR GREATER SHALL BE INSULATED PER CEC SECTION 150.0(j)2iii. 4. ALL NEW HOT WATER SUPPLY PIPING FROM THE HEATING SOURCE TO THE KITCHEN FIXTURES SHALL BE INSULATED PER CEC SECTION 150.0(j)2.vi.
(E) WALLS TO REMAIN		
(N) FULL HEIGHT WALL		
(N) 1-HR CONSTRUCTION		

**2**  
A2.0 ROOF

1/4" = 1'-0"

**1**  
A2.0 THIRD FLOOR  
AREA OF WORK

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

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**PROPOSED  
FLOOR PLAN  
AND  
ROOF PLAN**

**A - 2.0**

mitche  
holladay

architects

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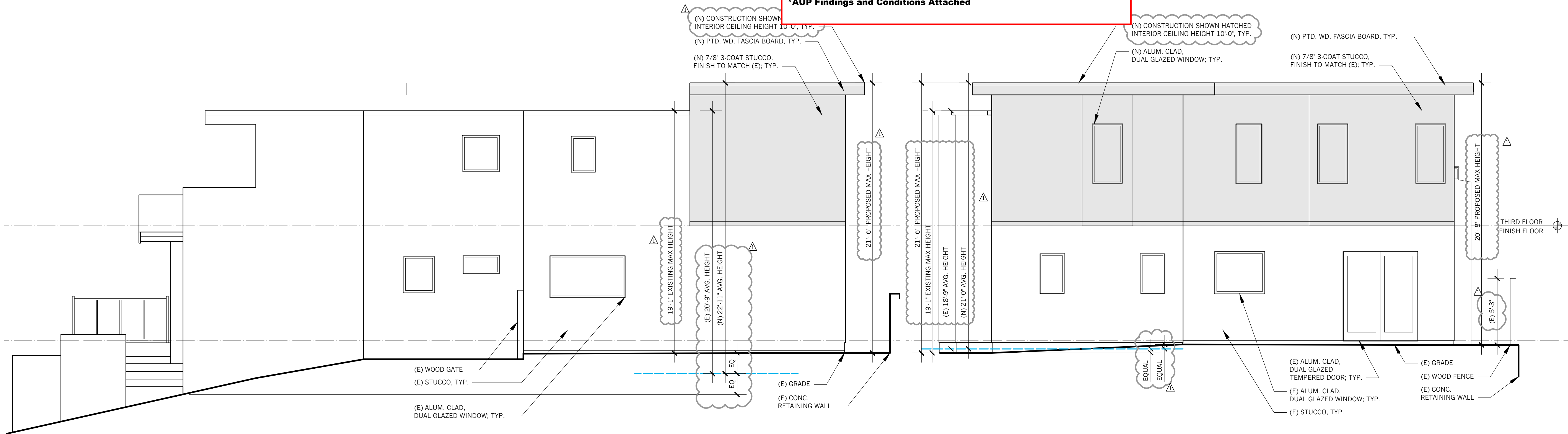
CONSULTANTS

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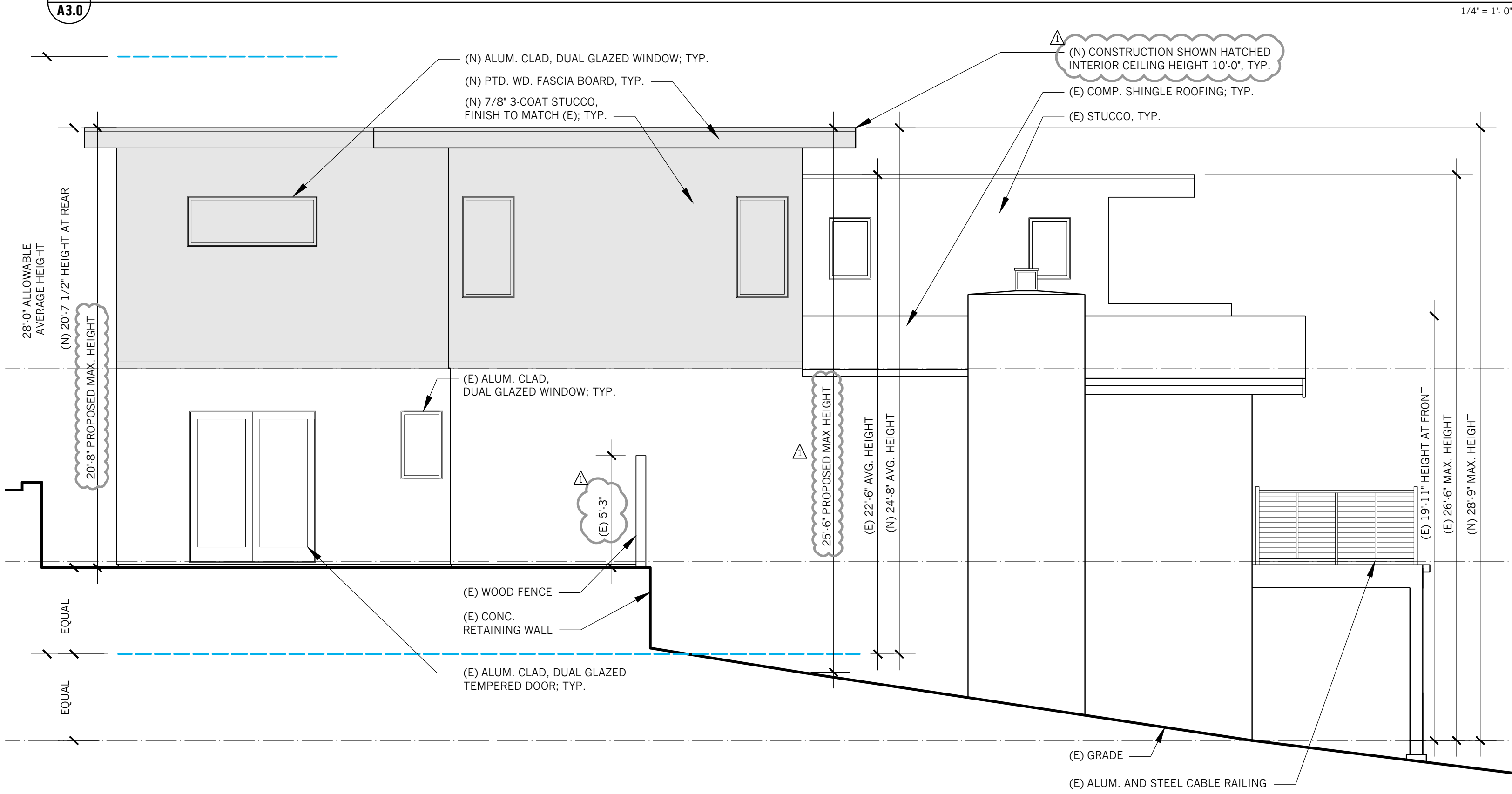
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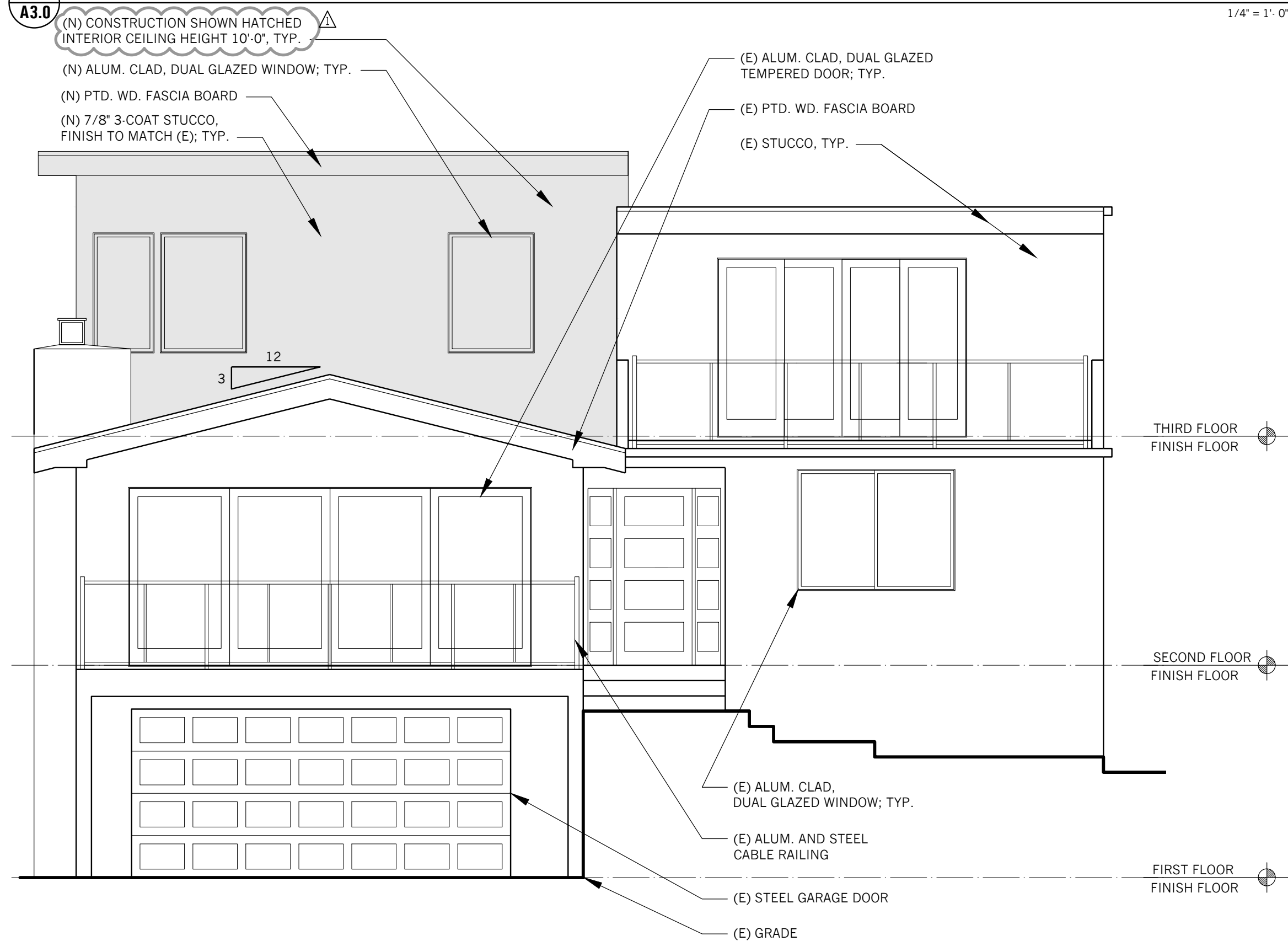
1449 GRIZZLY PEAK BLVD.  
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CONSULTANTS

2 SIDE (SOUTH WEST) ELEVATION  
A3.0



1 REAR (SOUTH EAST) ELEVATION  
A3.0



4 SIDE (NORTH EAST) ELEVATION  
A3.0



3 FRONT (NORTH WEST) ELEVATION  
A3.0



NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE


ISSUE DATE

AUP SUBMITTAL 06/03/2019  
AUP RESPONSE 08/12/2019

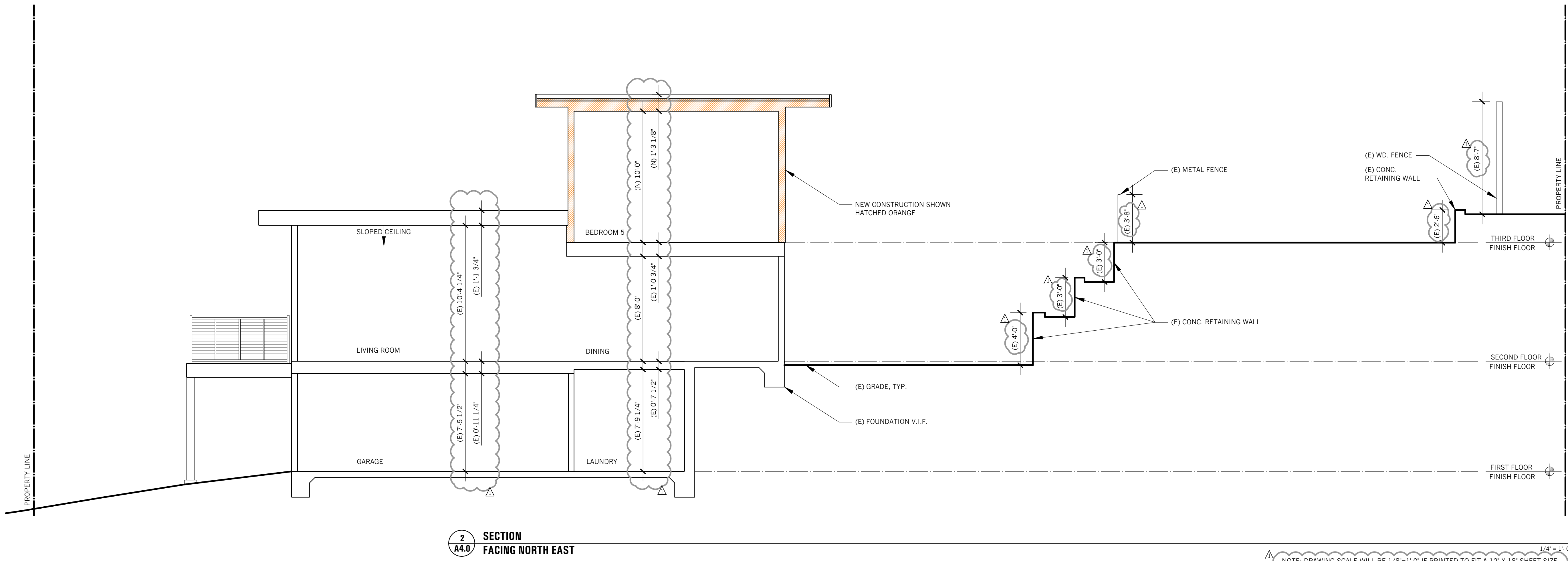
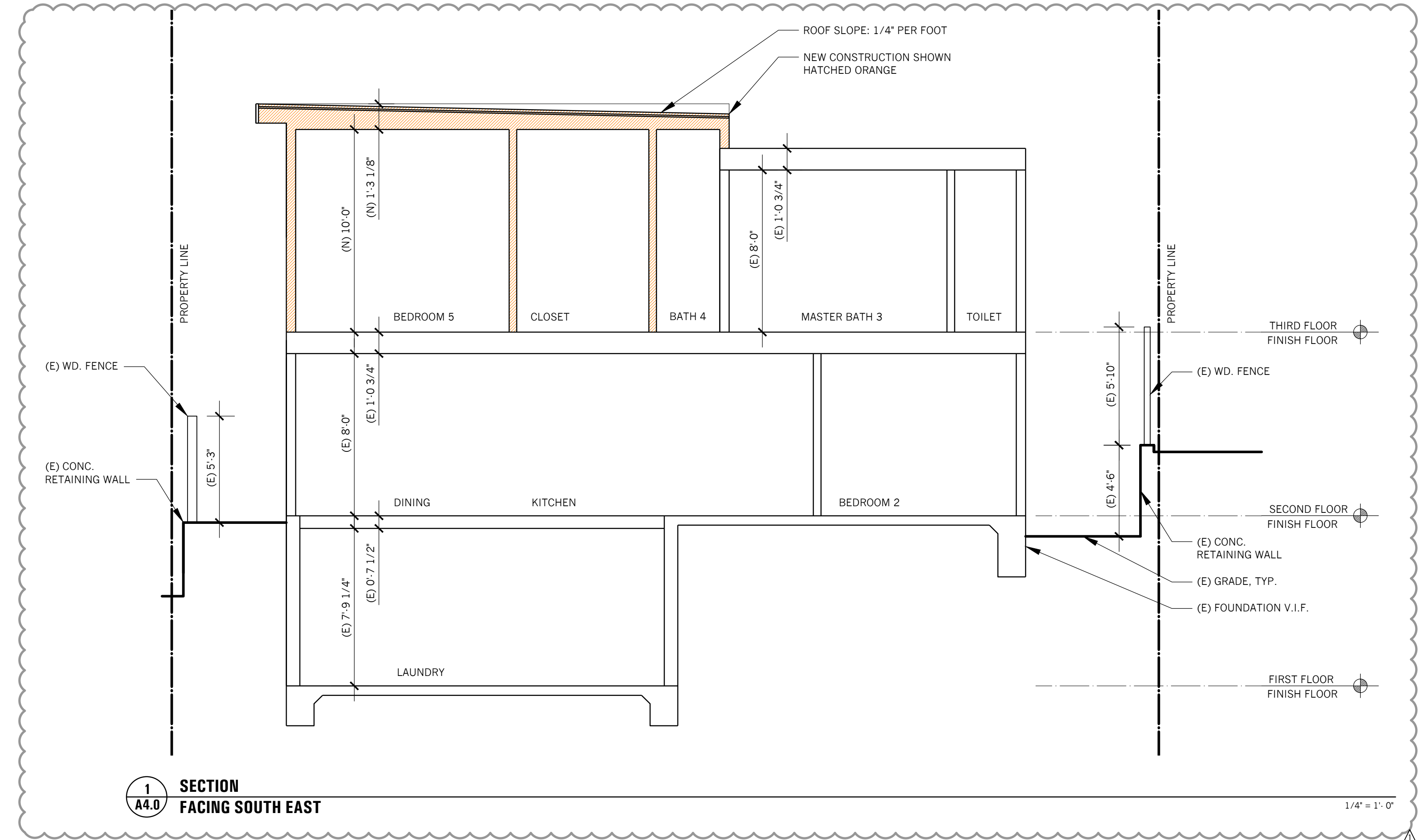
PROPOSED  
EXTERIOR  
ELEVATIONS

A - 3.0

**PLANS APPROVED by**


November 20, 2019  
 SIGNATURE DATE

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**SECTION**

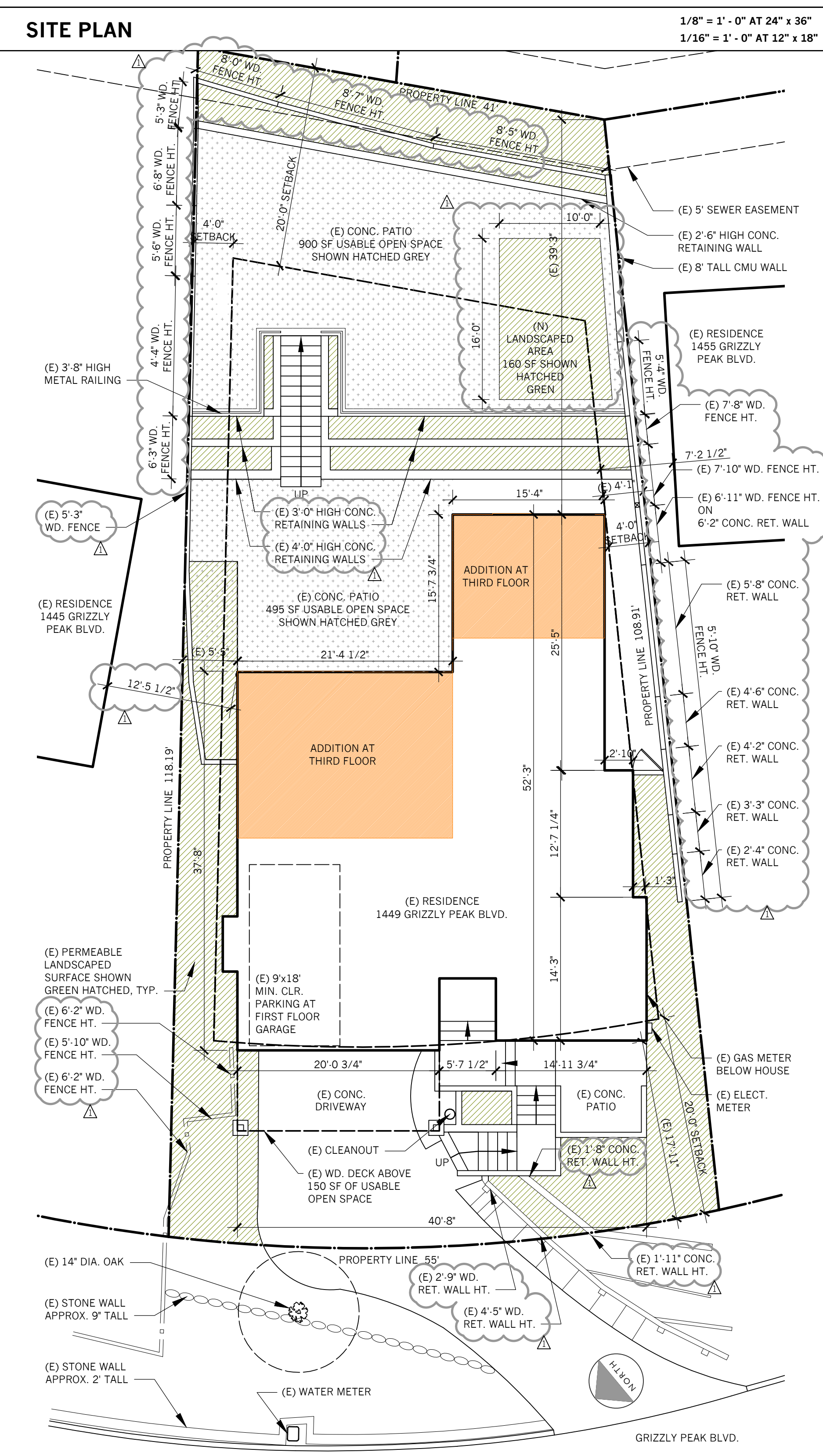
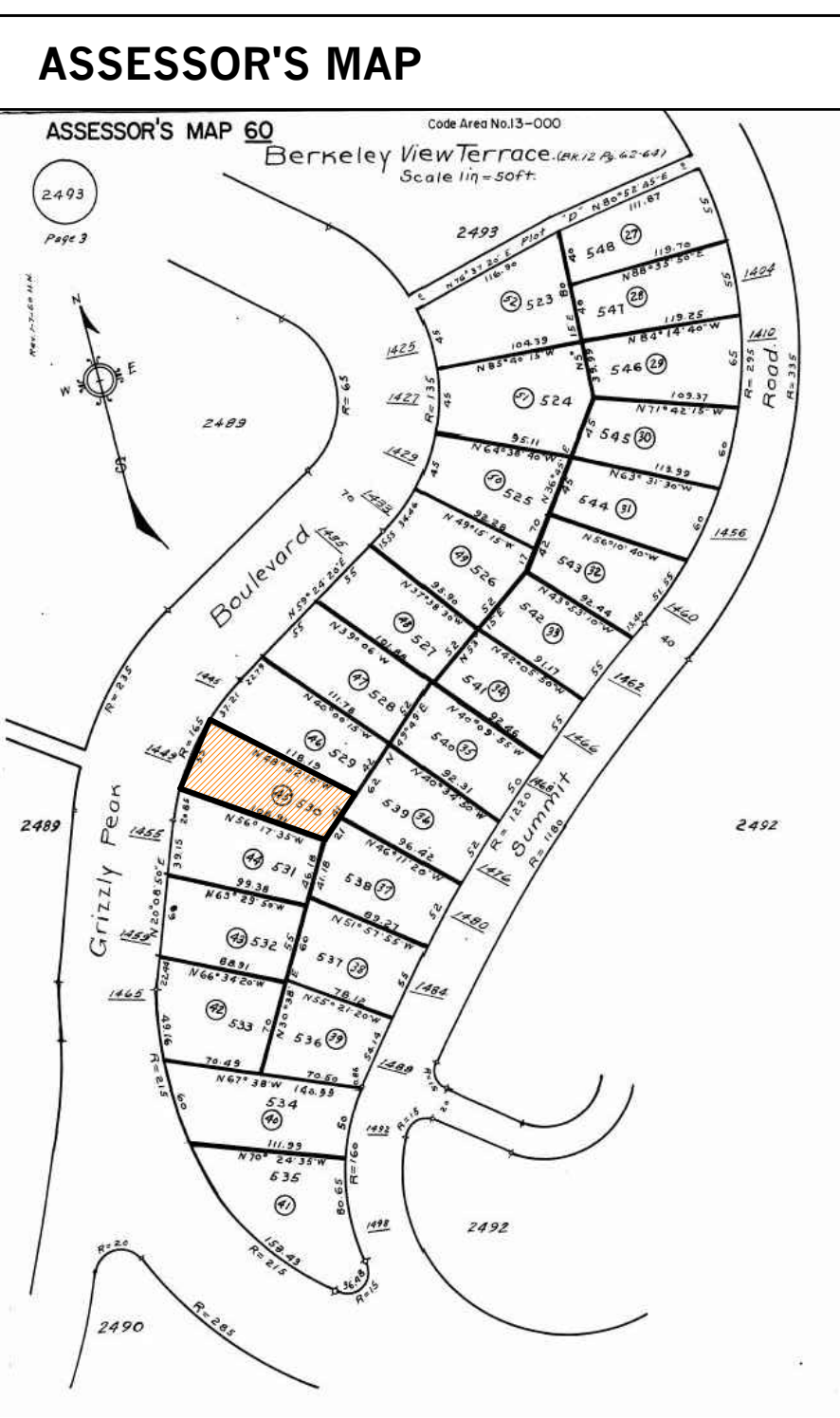
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- PROTECT GUTTERS, DITCHES, AND DRAINAGE COURSES WITH SAND/GRAVEL BAGS, OR EARTHEN BERMS.
- BE SURE TO STORE CONCRETE, GROUT, AND MORTAR UNDER COVER AND AWAY FROM DRAINAGE AREAS. THESE MATERIALS MUST NEVER REACH A STORM DRAIN.
- WASH OUT CONCRETE EQUIPMENT/TRUCKS OFF-SITE.
- NEVER RINSE PAINT BRUSHES OR MATERIALS IN A GUTTER OR STREET.
- PAINT OUT EXCESS WATER-BASED PAINT BEFORE RINSING BRUSHES, ROLLERS, OR CONTAINERS IN A SINK. IF YOU CAN'T USE A SINK, DIRECT WASH WATER TO A DIRT AREA AND SPADE IN IT.
- PAINT OUT EXCESS OIL-BASED PAINT BEFORE CLEANING BRUSHES IN THINNER.
- FILTER PAINT THINNERS AND SOLVENTS FOR REUSE WHENEVER POSSIBLE. DISPOSE OF OIL-BASED PAINT SLUDGE AND USEABLE THINNER AS HAZARDOUS WASTE.

### GENERAL NOTES

- ALL WORK SHALL CONFORM TO THE CALIFORNIA RESIDENTIAL CODE, 2016 EDITION; CALIFORNIA PLUMBING CODE, 2016 EDITION; CALIFORNIA MECHANICAL CODE, 2016 EDITION; CALIFORNIA ELECTRICAL CODE, 2016 EDITION; 2016 ENERGY CODE; CITY OF BERKELEY ORDINANCES, ALAMEDA COUNTY REQUIREMENTS AND ALL OTHER APPLICABLE CODES AND ORDINANCES.
- THE CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS ON THE SITE PRIOR TO BEGINNING WORK. CONTRACTOR SHALL FAMILIARIZE HIM/HERSELF WITH VERTICAL AND LATERAL LOAD TRANSFER THROUGH FRAMING TO FOUNDATION. DIMENSIONS, FOUNDATION LAYOUT, FRAMING LAYOUT, LOAD TRANSFER THROUGH NEW AND EXISTING FRAMING TO FOUNDATION LOCATION OF BEAMS, BRACING, ETC. SHOULD ALL BE VERIFIED PRIOR TO ACTUAL CONSTRUCTION. VARIANCE BETWEEN THE DRAWINGS AND THE ACTUAL SITE CONDITIONS, AND ANY ERRORS OR OMISSIONS FOUND IN THE DRAWINGS, SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT BEFORE PROCEEDING WITH THE WORK. UPON DISCOVERY OF UNFORESEEN CONDITIONS ON THE SITE, THE CONTRACTOR SHALL STOP THE WORK AND REQUEST ADDITIONAL INFORMATION FROM THE ARCHITECT. THE CONTRACTOR SHALL NOTIFY THE ARCHITECT WHEN THE EXISTING STRUCTURE HAS BEEN EXPOSED.
- DURING DEMOLITION CONTRACTOR IS TO CAP ALL ELECTRICAL OUTLETS, SWITCHES AND UTILITIES PER CODE. NOTIFY OWNER 24 HOURS PRIOR TO ANY INTERRUPTION IN POWER OR UTILITIES.
- BRACE AND SUPPORT EXTERIOR AND INTERIOR WALLS AS NECESSARY PRIOR TO REMOVAL OF EXISTING STRUCTURE SO AS TO PREVENT ANY MOVEMENT OF THE EXISTING STRUCTURE. THE GENERAL CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR PROVIDING ADEQUATE SHORING AND BRACING DURING CONSTRUCTION FOR VERTICAL AND LATERAL LOADS AS REQUIRED FOR THE PROTECTION OF LIFE AND PROPERTY DURING CONSTRUCTION.
- WRITTEN DIMENSIONS SHOWN IN THE DRAWINGS ARE TO FACE OF FINISH UNLESS OTHERWISE NOTED. THEY SHALL HAVE PRECEDENCE OVER ANY SCALED DIMENSIONS. THE CONTRACTOR SHALL NOT USE SCALED DIMENSIONS. DETAIL DRAWINGS HAVE PRECEDENCE OVER MORE GENERAL DRAWINGS.
- THE CONTRACTOR SHALL GUARANTEE ALL NEW WORK AGAINST LEAKS FOR A PERIOD OF TWO YEARS FOLLOWING COMPLETION OF THE WORK.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR RESTORING TO ORIGINAL CONDITION, AT HIS OWN EXPENSE, ANY DAMAGE DONE BY HIM OR HIS AGENTS TO THE EXISTING BUILDINGS OR GROUNDS.
- THE CONTRACTOR SHALL INSTALL ALL PRODUCTS AND MATERIALS IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS AND IN ACCORDANCE WITH THE LATEST EDITION OF TRADE STANDARDS, PUBLISHED BY THE TRADE ASSOCIATIONS.
- THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE PORTIONS OF TITLE 24 OF THE CALIFORNIA ADMINISTRATIVE CODE.
- DIMENSIONS, LOCATIONS OF DOORS, PARTITIONS, CABINET WORK AND SIMILAR FEATURES TO BE VERIFIED ON SITE.
- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO COORDINATE LAYOUT OF ALL THE VARIOUS COMPONENTS OF THE CONSTRUCTION AS REQUIRED TO ACCOMMODATE THE ELECTRICAL LAYOUT INDICATED. SPECIAL ATTENTION SHOULD BE GIVEN TO FRAMING LAYOUT TO AVOID CUTTING AND REFRAMING TO ACHIEVE PROPER LOCATIONS FOR FIXTURES.
- THE ARCHITECT DOES NOT ASSUME RESPONSIBILITY FOR CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCE OR PROCEDURES OF CONSTRUCTION, OR SAFETY PRECAUTIONS, WHICH ARE TO REMAIN THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
- THE ARCHITECT DOES NOT PROVIDE EVALUATION FOR THE EXISTENCE OF HAZARDOUS MATERIAL, NOR ASSUME RESPONSIBILITY FOR THEIR MANAGEMENT. SHOULD THE CONTRACTOR ENCOUNTER ANY HAZARDOUS MATERIALS IN THE PERFORMANCE OF HIS WORK, THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY AND PROCEED WITH WORK ONLY IN COMPLIANCE WITH APPLICABLE HAZARDOUS MATERIAL HANDLING REGULATIONS.
- DIVERT CONSTRUCTION AND DEMOLITION WASTE AS FOLLOWS:  
A. DIVERT ALL CARDBOARD, CONCRETE, ASPHALT AND METALS.  
B. DIVERT 25% C&D WASTE, EXCLUDING ALL CARDBOARD, CONCRETE, ASPHALT, AND METALS.



### DRAWING INDEX

A-0.0	COVER SHEET
A-1.0	DEMO PLANS AND EXISTING ELEVATIONS
A-2.0	PROPOSED FLOOR PLAN AND ROOF PLAN
A-3.0	PROPOSED EXTERIOR ELEVATIONS
A-4.0	SECTION

### PROJECT DATA

CLIENTS:  
CHERYL AND RODRIGO UBILLUS  
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

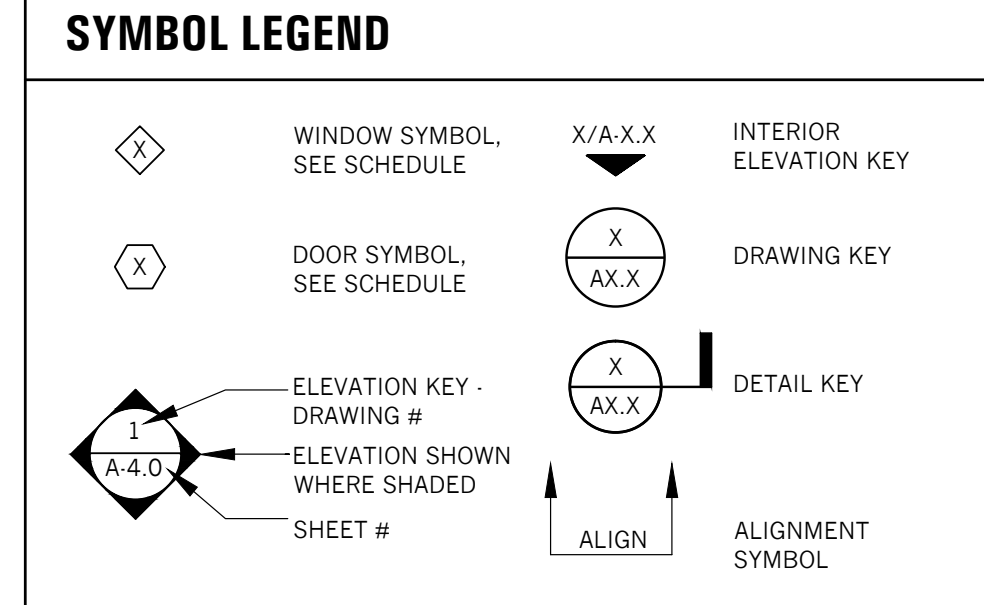
PROJECT SCOPE:  
REAR ADDITION OF 500 SQ. FT. AT THE THIRD FLOOR, INCLUDING A BEDROOM, BATHROOM, AND WALK-IN CLOSET.

ZONING:	R1-H
APN:	60-2493-45
FLOOD ZONE:	NO
FIRE ZONE:	2
LANDSLIDE ZONE:	YES
FIRE SPRINKLERS:	NONE
OCCUPANCY:	R-3
CONSTRUCTION TYPE:	V-B
AVG. LOT SLOPE:	15%

### TABULATION FORM

	Existing	Proposed	Permitted/Required
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (U)	1	1	
Number of Parking Spaces (P)	1	1	
Number of Bedrooms (B)	4	5	
<b>Yards and Height</b>			
Front Yard Setback (Feet)	17'-11"	NA	20
Side Yard Setbacks (Facing property):			
Left (Feet)	5'-5"	NA	4
Right (Feet)	4'-1"	NA	4
Rear Yard Setback (Feet)	39'-3"	NA	20
Building Height* (F Stories)	3	3	3
Average* (Feet)	22'-6"	24'-6"	14
Maximum* (Feet)	28'-6"	28'-9"	20
<b>Area</b>			
Lot Area (Square-Feet)	5,526	NA	NA
Gross Floor Area* (Square-Feet)	2,791	3,291	NA
Total Area Covered by All Floors (Square-Feet)	1,659	NA	NA
Building Footprint* (Square-Feet)	1,659	NA	NA
Total of All Structures (Square-Feet)	1,659	NA	NA
Lot Coverage* (Percentage)	30%	NA	40%
Usable Open Space* (Square-Feet)	1,545	NA	400
Floor Area Ratio* (Non-Residential only) (Except ES-R)	NA	NA	NA

\*See Definitions - Zoning Ordinance Title 23F. Revised: 10/15



### NEIGHBOR'S SIGNATURES

I HAVE REVIEWED THE DRAWINGS FOR THE PROPOSED ADDITION AT 1449 GRIZZLY PEAK BLVD. WHICH INCLUDES 500 SF AT THE SECOND FLOOR.

NAME (PRINTED)	SIGNATURE	ADDRESS	OWNER		HAVE NO OBJECTIONS	COMMENTS OR OBJECTIONS (PLEASE STATE BRIEFLY)
			YES/NO	DATE		
		1444 GRIZZLY PEAK BLVD.				
		1445 GRIZZLY PEAK BLVD.				
		1446 GRIZZLY PEAK BLVD.				
		1448 GRIZZLY PEAK BLVD.				
		1452 GRIZZLY PEAK BLVD.				
		1455 GRIZZLY PEAK BLVD.				
		1476 SUMMIT RD.				
		1480 SUMMIT RD.				



1708 martin luther king jr way  
suite b  
berkeley, ca 94709

510.705.1061

UBILLUS  
RESIDENCE  
ADDITION

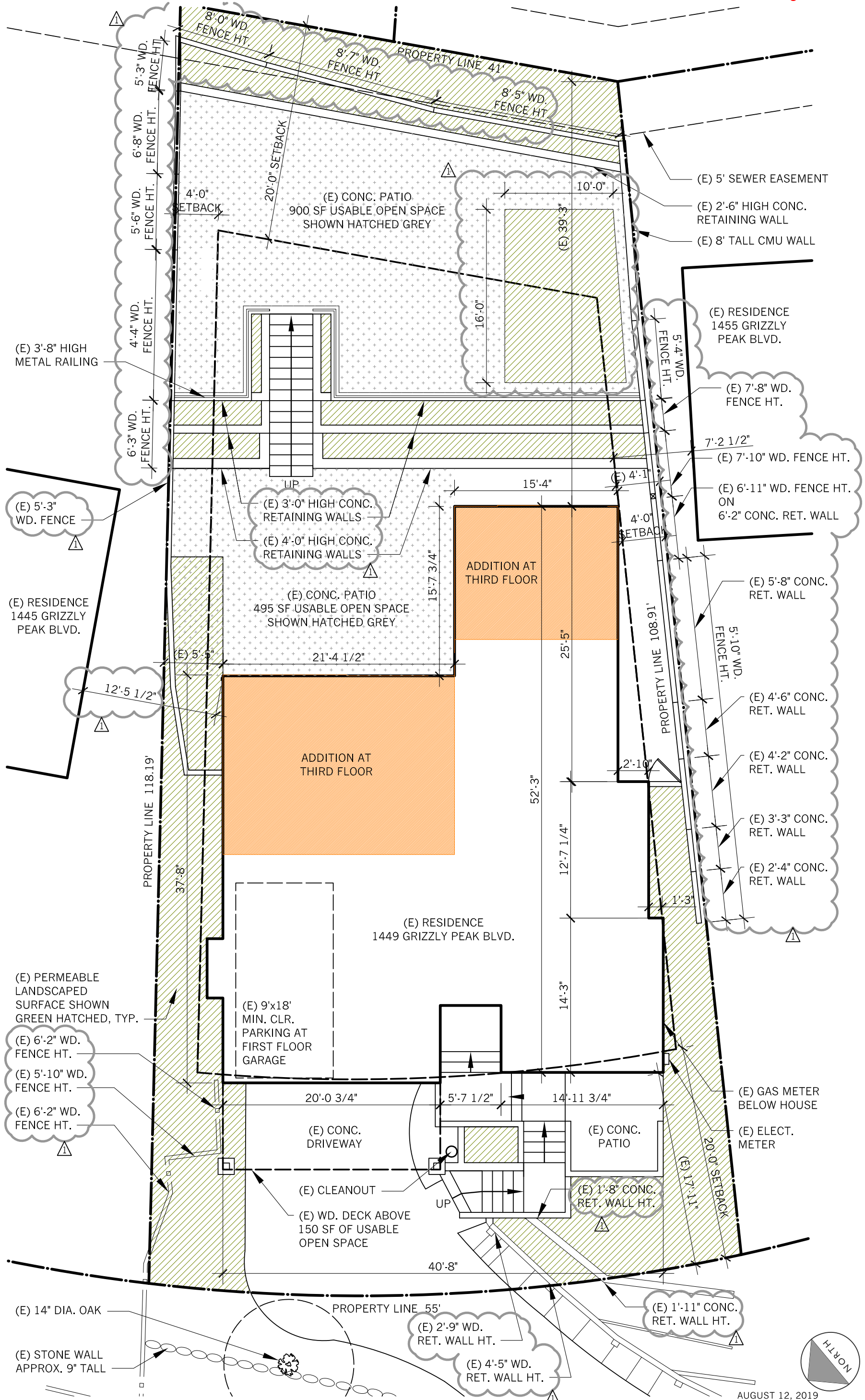
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

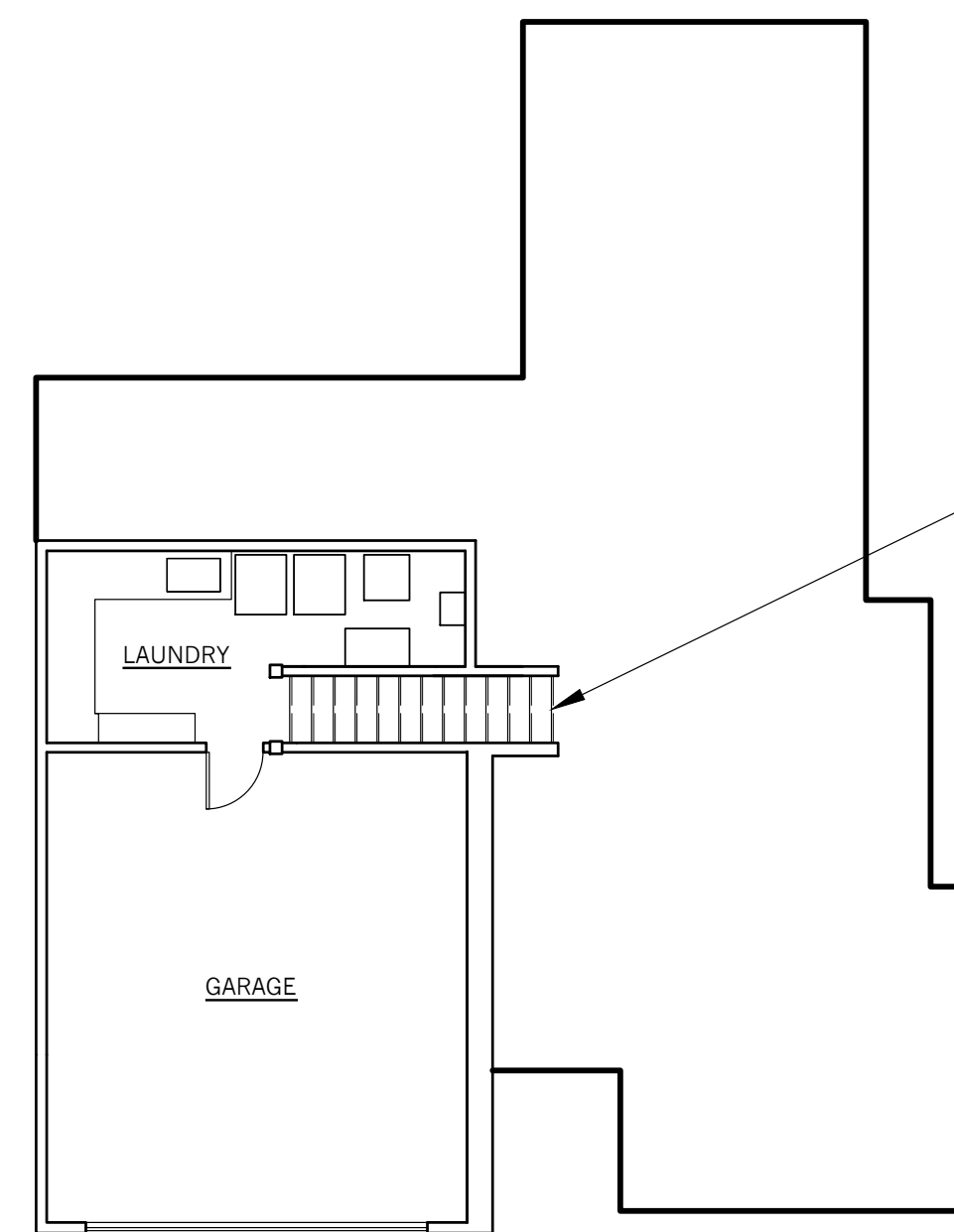
CONSULTANTS

COVER SHEET

A - 0.0

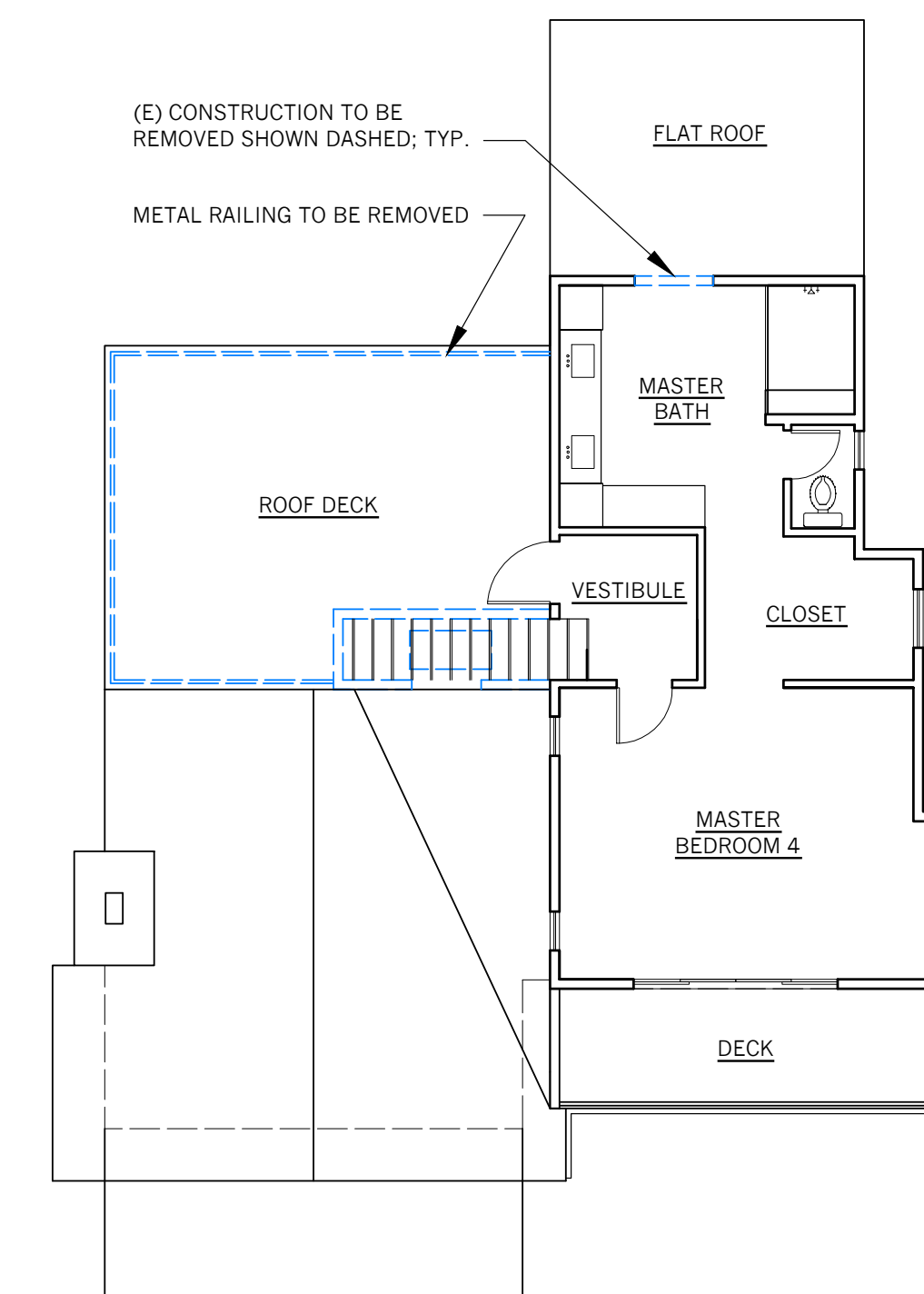
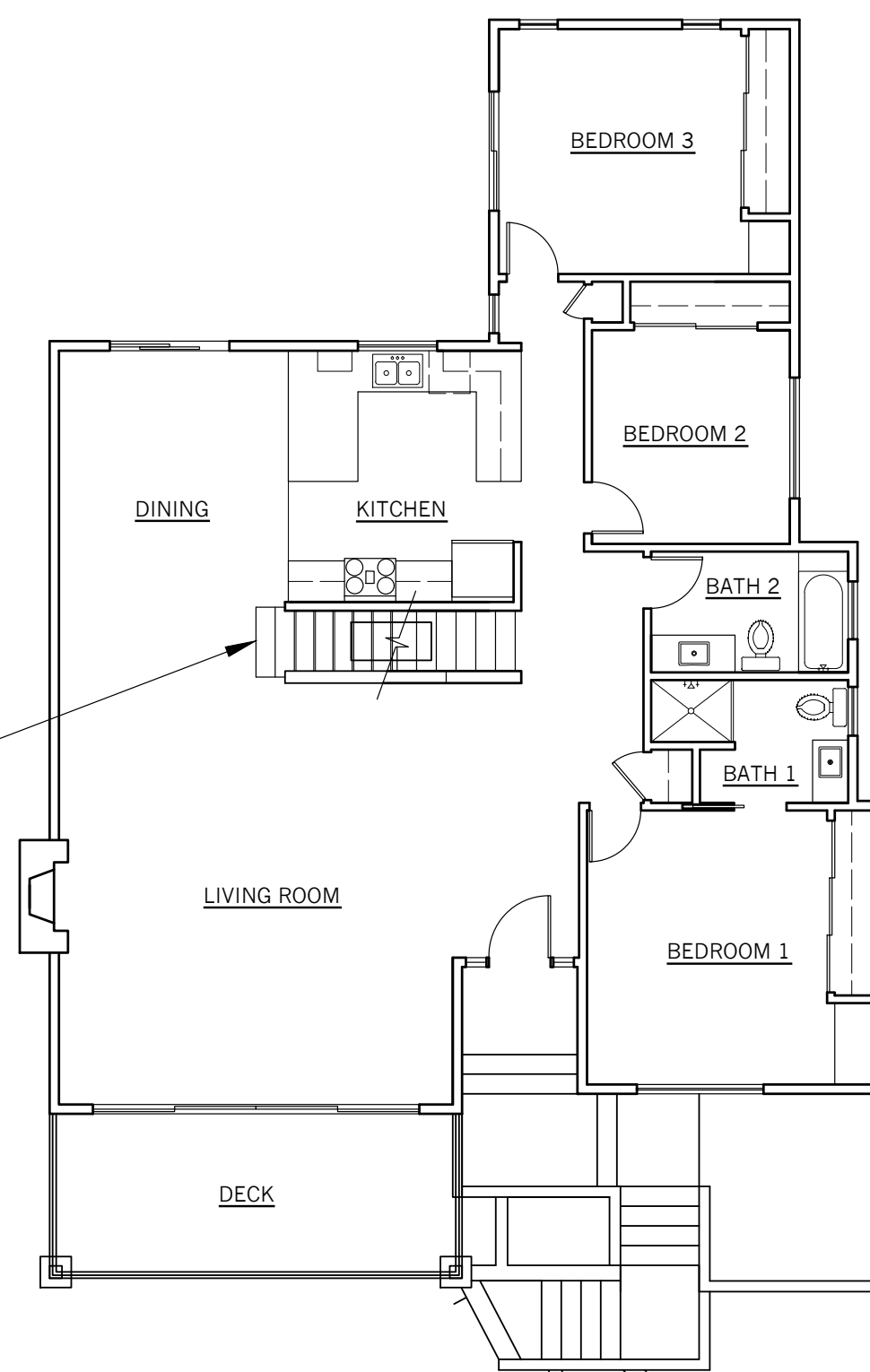






(E) STAIR  
(13) RISERS AT 7 3/4"  
(12) TREADS AT 11 1/2"

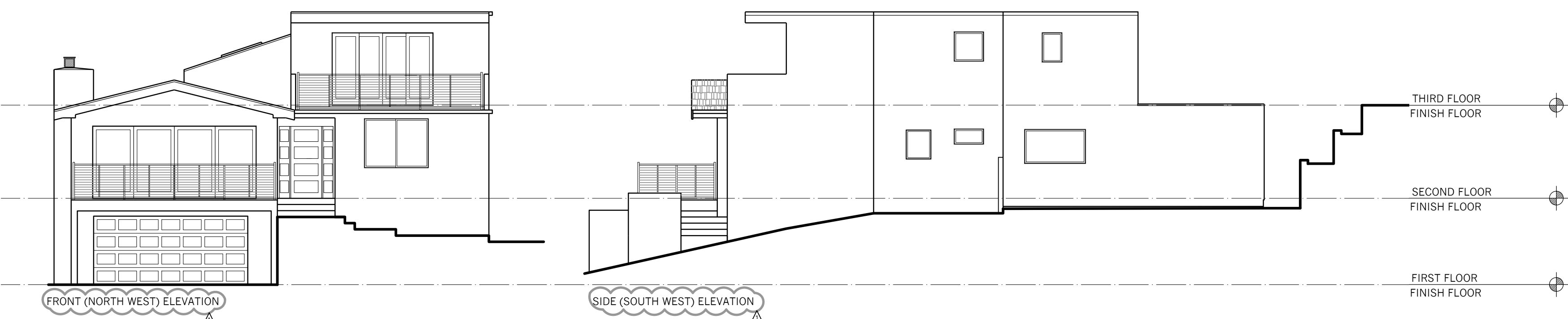
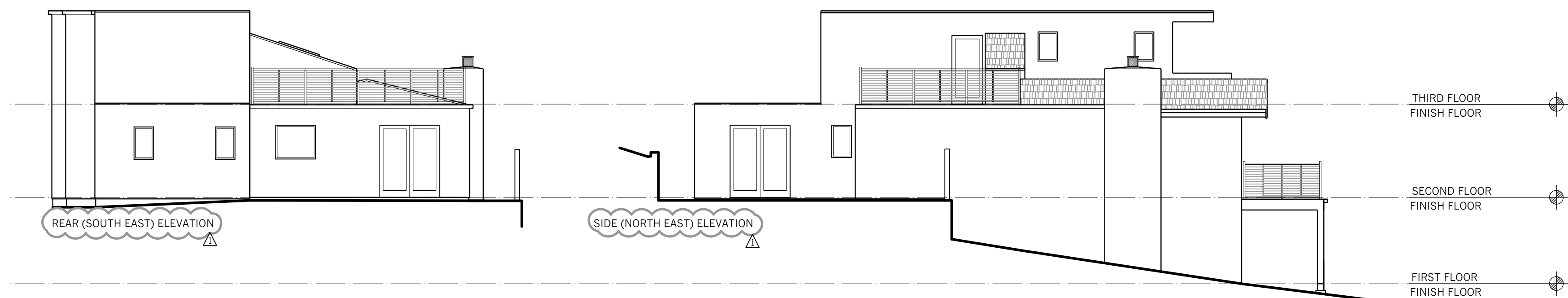
(E) STAIR  
(15) RISERS AT 7 1/4"  
(14) TREADS AT 11 1/4"



1 FIRST FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

2 SECOND FLOOR  
A1.0 NO WORK  
1/8" = 1'-0"

3 THIRD FLOOR  
A1.0 SHOWING DEMOLITION  
1/8" = 1'-0"



4 EXISTING EXTERIOR ELEVATIONS  
A1.0  
1/8" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/16"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

mitche  
holladay

architects

1708 martin luther king jr way  
suite b  
berkeley, ca 94709

510.705.1061

UBILLUS  
RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS

ISSUE DATE

AUP SUBMITTAL 06/03/2019  
AUP RESPONSE 08/12/2019

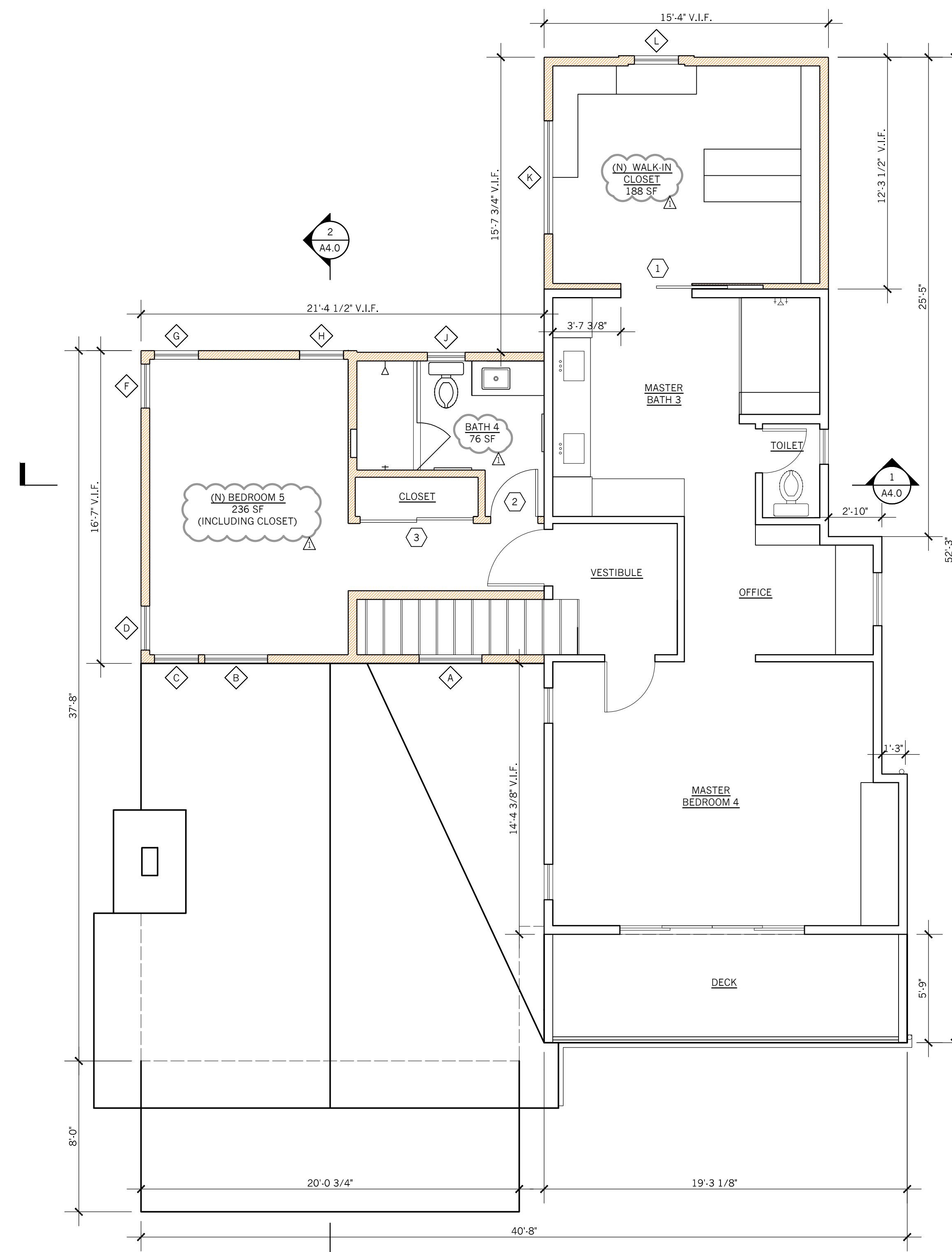
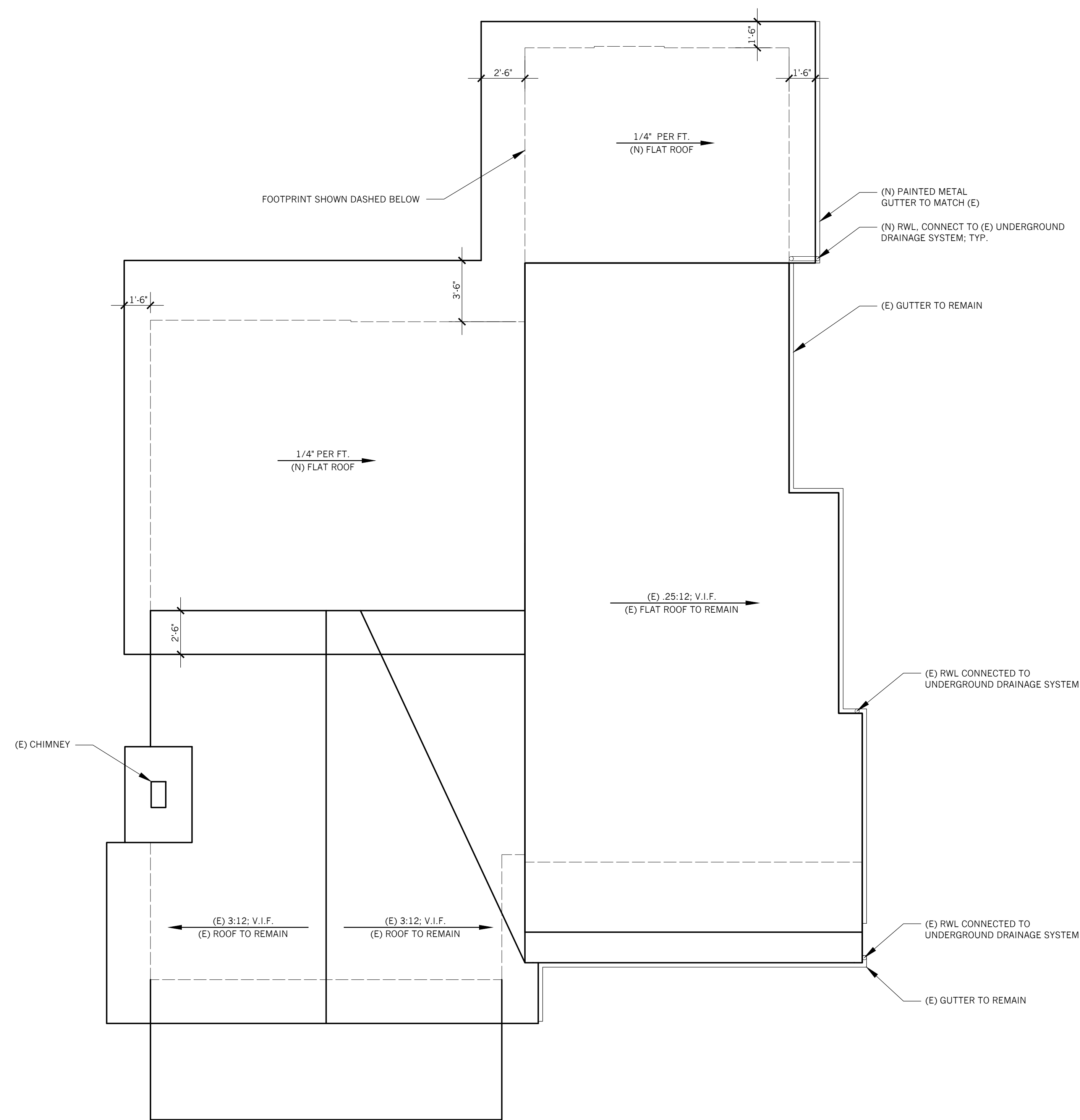
DEMO PLANS  
AND EXISTING  
ELEVATIONS

A - 1.0

UBILLUS  
RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS



WALL TYPE KEY	
(E) WALLS TO REMAIN	
(N) FULL HEIGHT WALL	
(N) 1-HR CONSTRUCTION	

- FLOOR PLAN NOTES:
1. THE TERMINATION OF ALL ENVIRONMENTAL AIR DUCTS SHALL BE A MINIMUM OF 3 FEET FROM ANY OPENINGS INTO THE BUILDING. DUCT TERMINATIONS (I.E. DRYERS, BATH AND UTILITY FANS, ETC.) MUST BE 3 FEET AWAY FROM DOORS, WINDOWS, OPENING SKYLIGHTS, OR ATTIC VENTS (PER CMC 504.5)
  2. VERIFY OR INSTALL AUTOMATIC GAS SHUT-OFF VALVES.
  3. ALL NEW HOT WATER SUPPLY PIPING 3/4" OR GREATER SHALL BE INSULATED PER CEC SECTION 150.0(j)2iii.
  4. ALL NEW HOT WATER SUPPLY PIPING FROM THE HEATING SOURCE TO THE KITCHEN FIXTURES SHALL BE INSULATED PER CEC SECTION 150.0(j)2.vi.

2 ROOF  
A2.0

1/4" = 1'-0"

1 THIRD FLOOR  
A2.0 AREA OF WORK

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

PROPOSED  
FLOOR PLAN  
AND  
ROOF PLAN

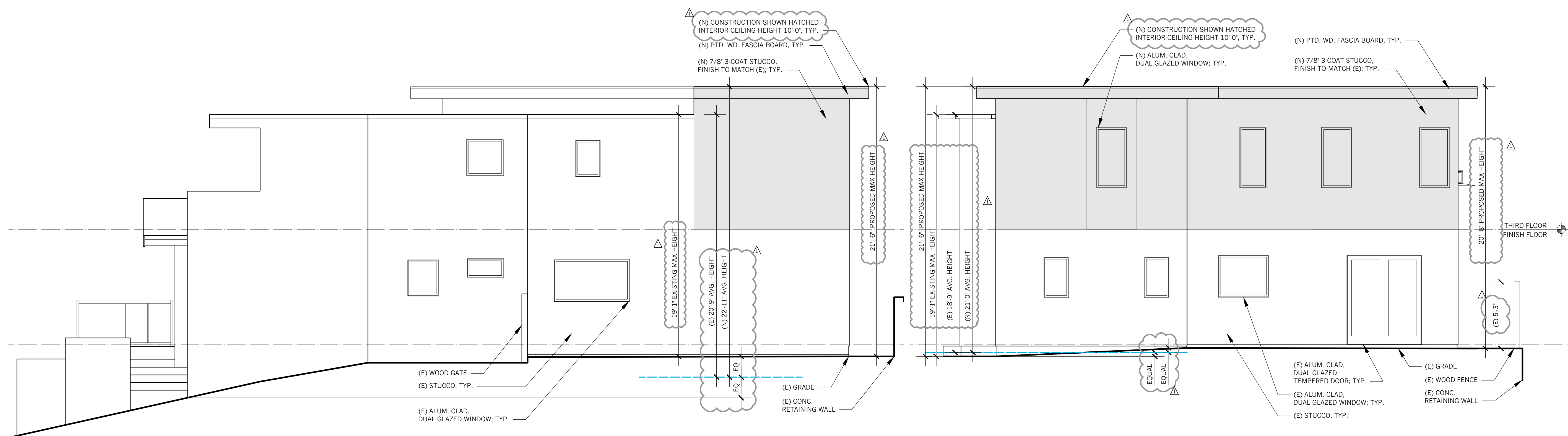
A - 2.0

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

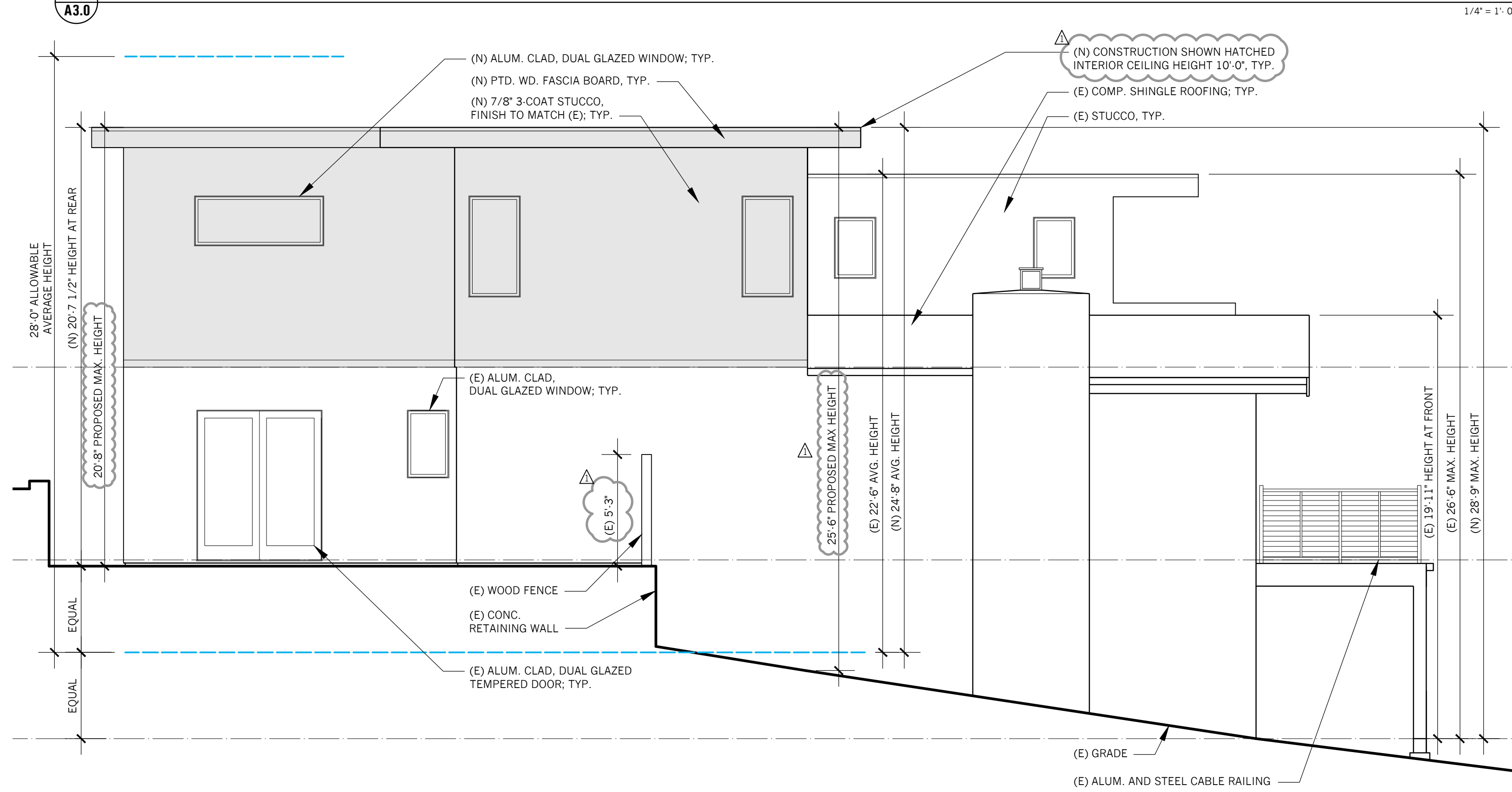
UBILLUS  
RESIDENCE  
ADDITION

1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

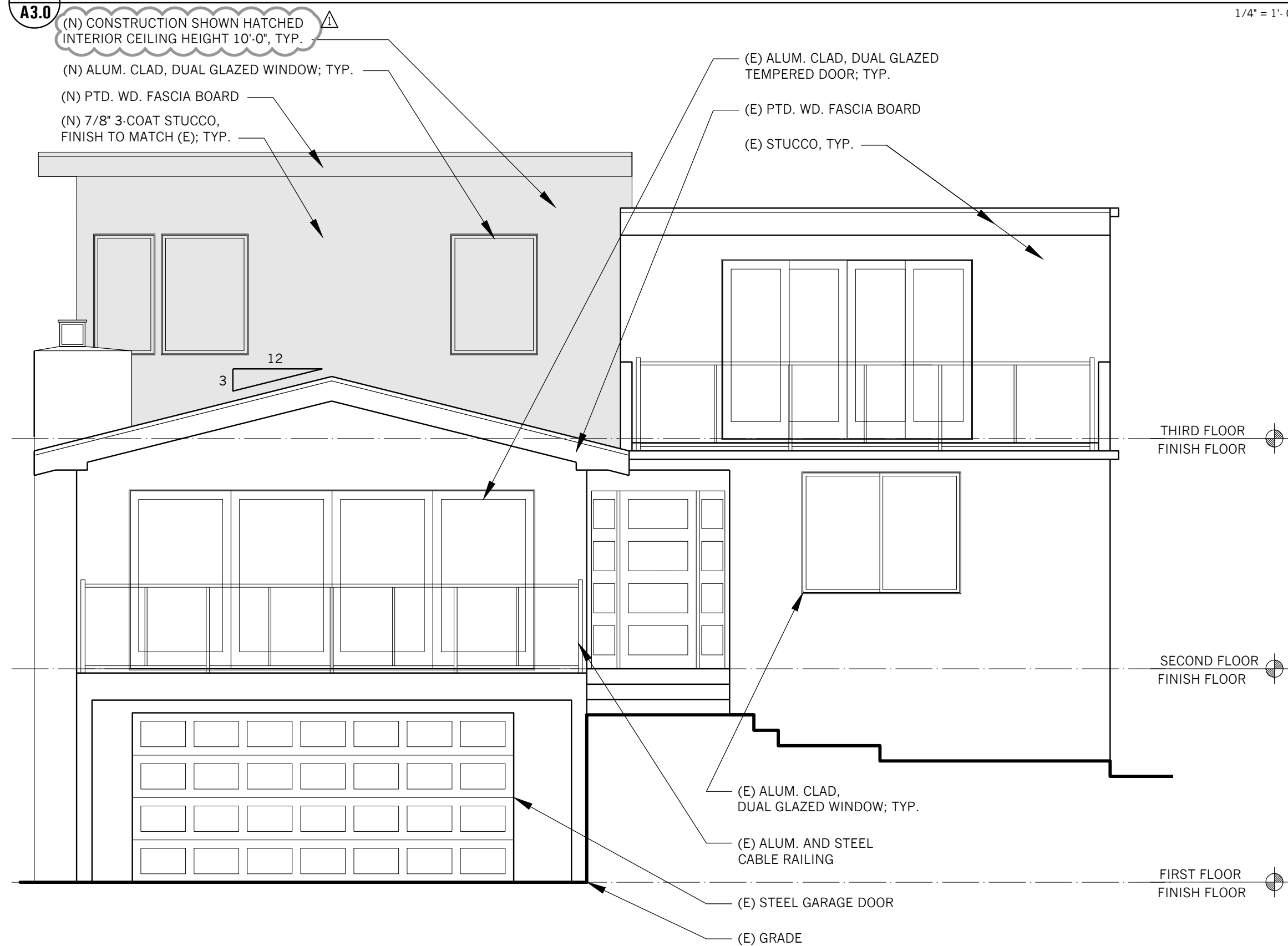
CONSULTANTS



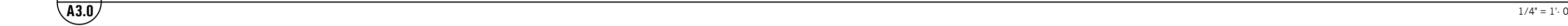
2 SIDE (SOUTH WEST) ELEVATION



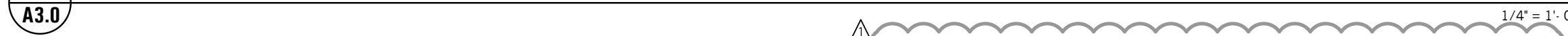
1 REAR (SOUTH EAST) ELEVATION



4 SIDE (NORTH EAST) ELEVATION



3 FRONT (NORTH WEST) ELEVATION



NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

ISSUE	DATE
AUP SUBMITTAL	06/03/2019
AUP RESPONSE	08/12/2019

PROPOSED  
EXTERIOR  
ELEVATIONS

A - 3.0

mitche  
holladay

architects

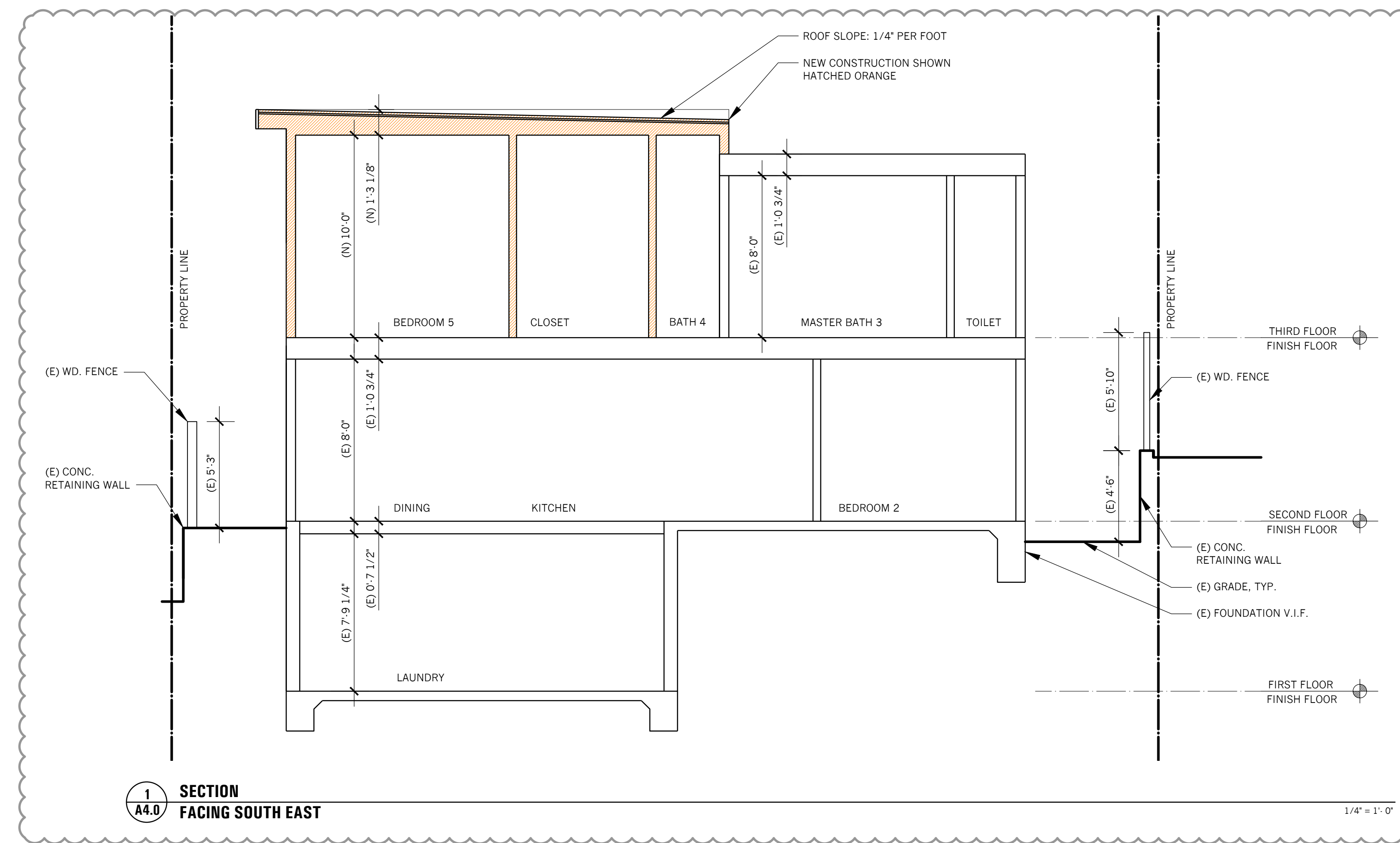
1708 martin luther king jr way  
suite b  
berkeley, ca 94709

510.705.1061

UBILLUS  
RESIDENCE  
ADDITION

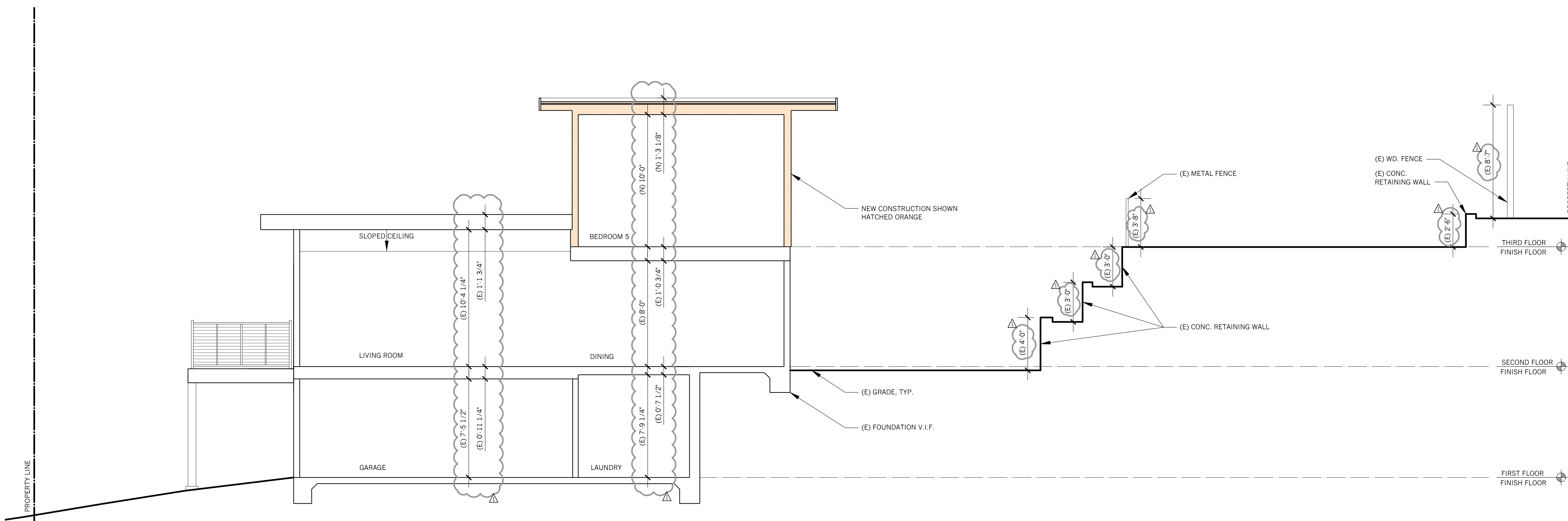
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS



1 SECTION  
A4.0 FACING SOUTH EAST

1/4" = 1'-0"



2 SECTION  
A4.0 FACING NORTH EAST

1/4" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE

ISSUE DATE

AUP SUBMITTAL 06/03/2019  
AUP RESPONSE 08/12/2019

SECTION

A - 4.0

**URGENT**

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP  
Associate Planner

City of Berkeley  
Planning and Development  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

July 15, 2019

Re: 1449 Grizzly Peak Blvd.  
proposed second/third story additions (500 sq. ft.)

As a follow-up to our discussion on June 27, 2019, I am submitting the following comments, concerns and modification requests to the current proposed plans regarding the above referenced project.

We, the abutting neighbors on Summit Road continue to be the most impacted by the current proposed plans. This proposal represents CONSTRUCTION CREEP, ie. serial permit applications and construction during the past 6-7 years (since 2013, see attachment 1), including potentially unpermitted, illegal work.

Background:

In 2014 Summit Road neighbors successfully mediated a compromise with the help of Seeds Community Resolution staff (case # 10250), and the applicant agreed to modify the project to protect our views to the west by reducing some of the mass of the addition with a maximum ceiling height of 8 feet. (2013 application for additions)

Attachment 2. includes the list of neighbors' concerns and attachment 3. represents the resolution to these concerns.

On May 1, 2014 the City issued an AUP # 13-20000050 (see attachment 4.)

The permit specified that all construction shall conform <sup>to</sup> the approved UP drawings (section 24) and that all landscape, site and architectural improvements be completed per approved drawings dated March 5, 2014. (section 25). See p.5 of the Notice of Administrative Decision-Findings and Conditions, (attachment 4.).

The above referenced drawings specified the following: 1. (E) rear yard: NO CHANGE, 2. (E) rear deck NO CHANGE 3. (E) 2 retaining walls to remain.(Page 1.), and on page 3. (E) wood siding to remain.

Attachment 5. shows the building (and portions of the rear yard) as completed. The bright white color is blinding and obtrusive - this is the view from our living room.

I met with the applicant Rodrigo Ubillus in May of 2018. He promised to remedy our concerns regarding the blinding brightness of the building color by 1. installing dark grey tiles on the deck, matching the color of the dark grey shingles on the existing peak roof, and by 2. painting the east facing wall same grey color.

During mediation he had promised that the building color will <sup>be</sup> one to "blend with the surrounding nature", which did not happen.

1.  
/

So we ask that the color of the entire second/third floor be painted to match the grey/brown color of the existing peak roof and that the same roofing material/color be rolled out on all the flat roof areas. This would remedy the blinding, obtrusive brightness of the structure,

2.  
/


In addition, the proposed project goes against the agreement neighbors reached with the applicant in 2014 (see attachment 3.), specifically regarding the maximum ceiling height of 8 feet.

So we ask that the plans be modified so that the maximum ceiling height for the 5th bedroom and the 4th bathroom will be 8 feet. We also ask that the ceiling height for the walk-in closet be reduced to 7.5 feet. These modifications will still give the applicant the square footage they are requesting. (See attachments 6A and 6B).

3.  
/

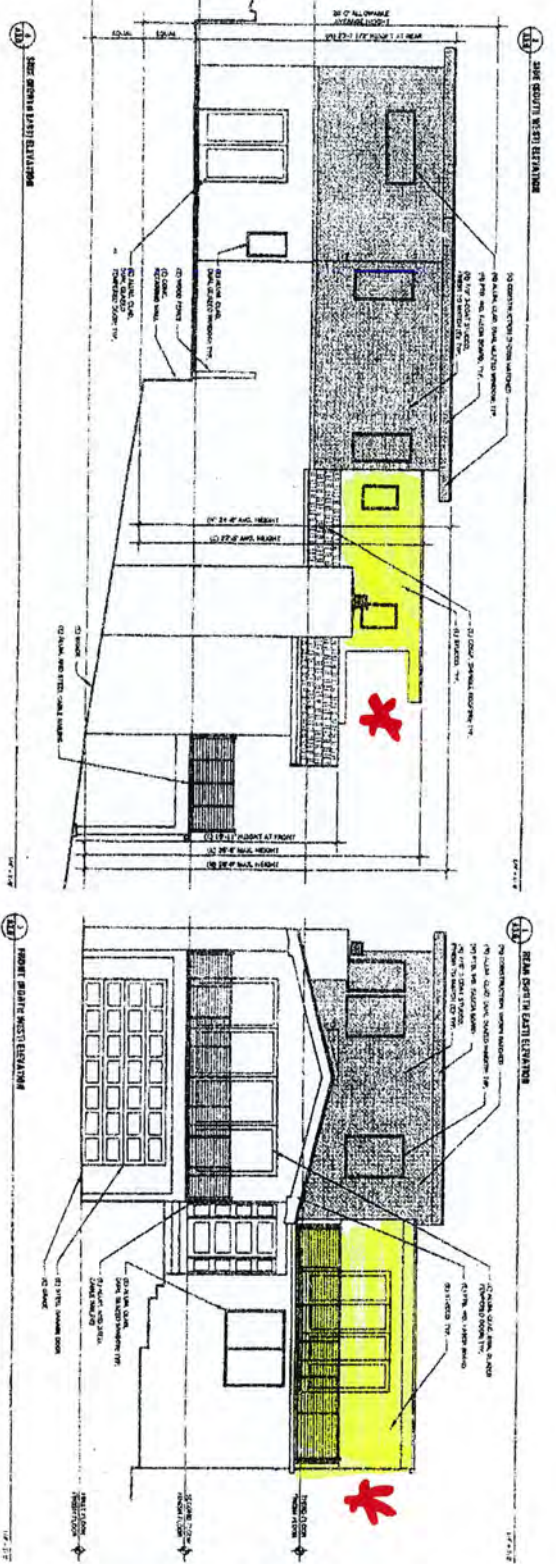
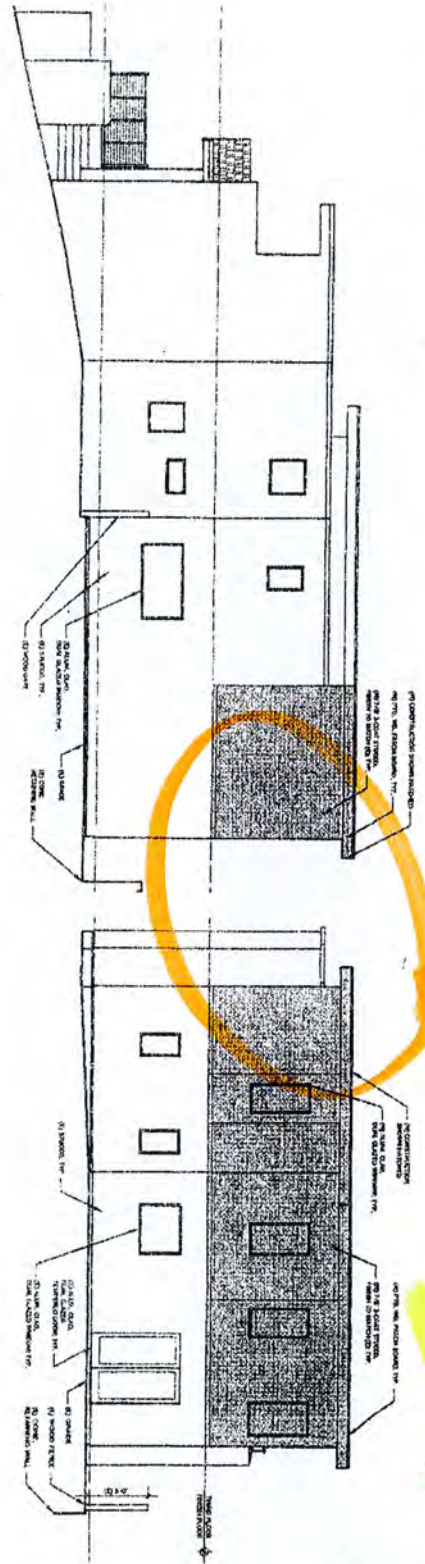
We also ask that this project be put on hold until all the issues related to the 2014 permit have been resolved, including clarifying any code enforcement issues/permit issues with regard to the rear yard now completely covered with concrete. Attachment 7. shows the project site prior to the construction of the first addition, with the vegetation and deck in the rear yard still intact. Attachment 8 (A,B,C) show the concrete structures in the rear yard.

Sincerely,

  
Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94708

PS. Attachment 9 A and B show plans for a deck replacement at rear, dated 1/25/2018, and still indicating (E) REAR YARD, NO CHANGE

NO INDICATION OF CEILING HEIGHTS  
FOR NEW ADDITIONS -  
(INADEQUATE / DEFICIENT)  
REDUCE TO 8' AS  
IN 2014 ADDITION \*



A-3.0

PROPOSED  
EXTERIOR  
ELEVATIONS

A.

USELLIS  
RESIDENCE  
ADDITION





B.





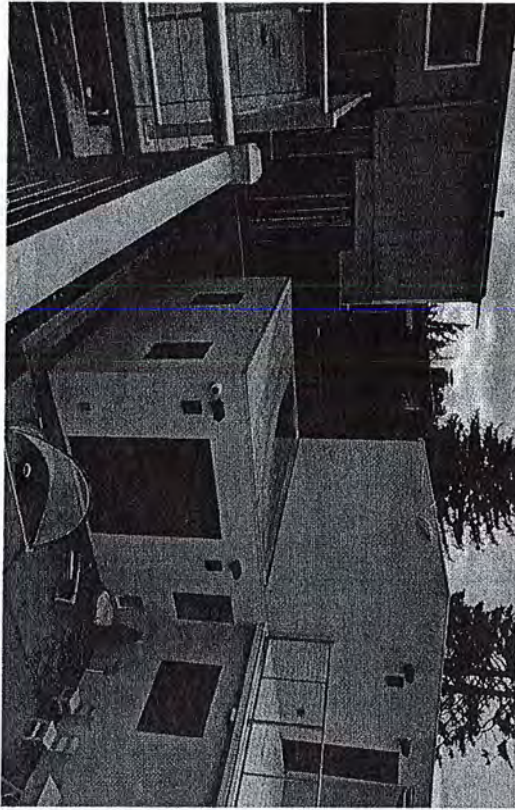
PLEASE CHECK IF



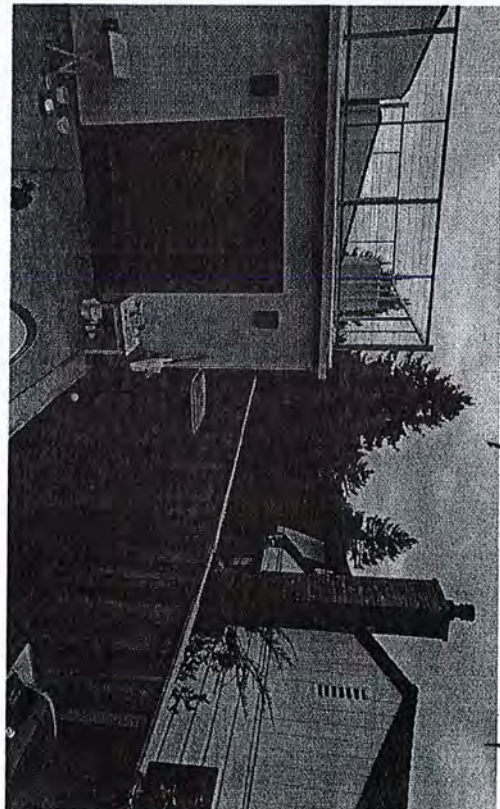
FIND THE ENTIRE BENCH AND WITH CONCERNS WITH  
POLE 1. WITH PERMITS 2. IS CODE COMPLIANT OR 3. POTENTIAL

DATE 11/26/2014  
D.

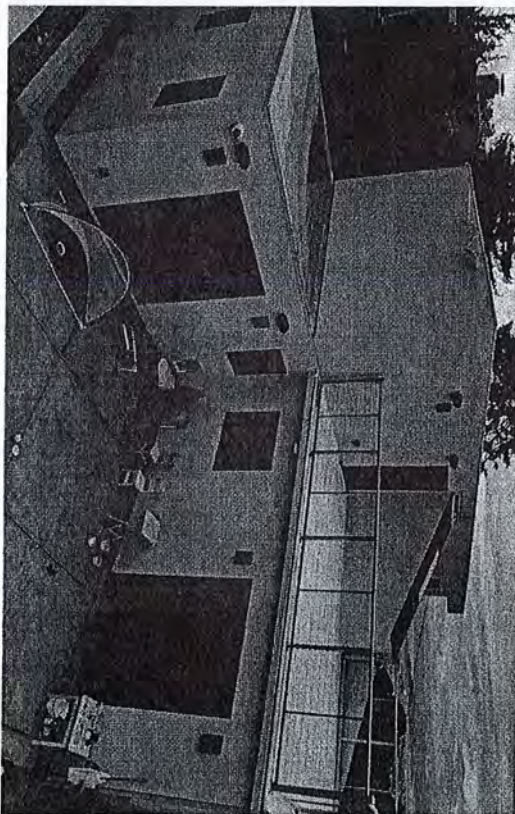
1476 - (1) 1480 SUNLIGHT RD. (NEIGHBORS PROJ) SUBJECT PROPERT.



1435 GRICEL, PE-1 BL. D. PROJ) SUBJECT PROPERT.



1445 GRICEL, PE-1 BL. D. (NEIGHBOR PROJ) SUBJECT PROPERT.

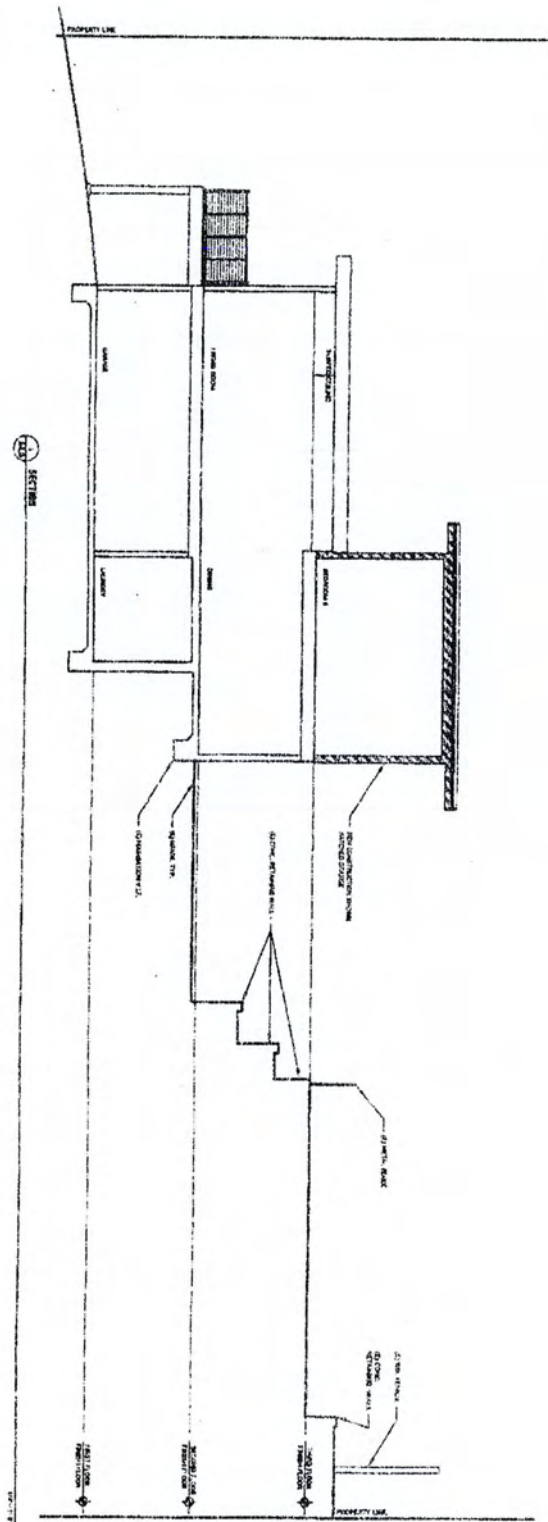


1449 GRICEL, PE-1 BL. D. SUBJECT PROPERT. -PE- OF A.O.P)

mitcheil  
holladay architects

1708 martin luther king jr way, suite b  
berkeley, ca 94709

*SECTION DRAWING INADEQUATE*



A-4.0

SECTION

DATE: 11/11/19

BY: [Signature]

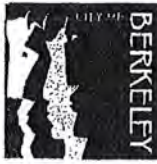
TITLE: [Signature]

LIBELLS  
RESIDENCE  
ADDITION

NO. 00000000000000000000  
NO. 00000000000000000000  
NO. 00000000000000000000

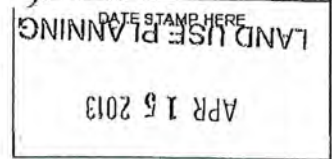
*E.*

ATTACHMENT 1.



**PLANNING & DEVELOPMENT**

Land Use Planning, 2120 Milvia Street, Berkeley, CA 94704  
Tel: 510.861.7410 TDD: 510.981.7474 Fax: 510.861.7420  
Email: [landuse@berkeley.gov](mailto:landuse@berkeley.gov)



**I.A Zoning Project Application Form**

Effective May 1, 2007.

- For:  Administrative Use Permits (AUP)  
 Use Permits (UP)  
 Variances (VAR)  
 Alteration Permit (LPC)  
 Design Review (DRC)  
 Modifications (MOD AUP, MOD UP)

Intake Planner Harrison

- Project Address: 1449 Grizzly Peak Blvd. Unit/Suite #: N/A  
 Project Description: We are proposing a 599 sq. ft addition to an existing 1515 sq. ft. home. 84 sq. ft on main level and 515 sq. ft. master bedroom & bath on a new upper level.
- Property Owner Name (Print) Robert & Cheryl Ubillus  
 Owner's Mailing Address: 1449 Grizzly Peak Blvd.  
Berkeley, CA 94705  
 Daytime Phone # 831-750-0257 FAX # \_\_\_\_\_ E-mail: randcubillus@aol.com
- Applicant Name (or write same): ~~Robert~~ Ryan Ferguson  
 Applicant's Mailing Address: 564 Gregory Drive  
Vacaville, CA 95687  
 Daytime Phone # 510 499 9135 FAX # 707 454 3800 E-mail: rg.ferguson@gmail.com

**Submittal Requirements Checklist -- Instructions:**

- Complete the checklist below and sign the bottom of page 2.
- For each item you check "yes", provide the submittal requirement indicated in the right-hand column. Refer to the document **1. Zoning Project Submittal Requirements** for further instructions.
- Label each item with the Submittal Requirement # (i.e., III.A.2) and the project address; attach to this application form.
- Submit to a Planner with the appropriate application fee. Call 981-7410 to make an appointment.

Does the project include:	No	Yes	Application Requirement
1. Converting existing Rental or Tenant In Common (TIC) Units to Condominiums?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Refer to the "Condominium Conversion Procedures: Guide for Applicants".
2. Demolition of, or exterior modifications to, a designated City of Berkeley landmark, structure of merit, historic district or building registered with the National Historic registry?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements".

ATTACHMENT Z.

Claudine Asbagh, Assistant Planner

City of Berkeley  
Planning and Development  
2120 Milvia Street  
Berkeley, CA 94704

May 15, 2013

RE: 1449 Grizzly Peak Blvd.  
proposed second story addition.

Dear Ms. Asbagh,

Thank you for your message of April 24, 2013, and the information you provided on May 9, 2013.

As we discussed, we, the most heavily impacted, abutting neighbors on Summit Road, have serious concerns regarding the above referenced project (as proposed), especially regarding the design of the second story addition, and its impact on our views to the west.

Due to these concerns we are asking for the following changes to the design (see Attachment 1., areas marked in blue):

1. The reconfiguration of portions of the proposed upstairs closet/staircase area, in such a way that the view obstructing components be removed (see east (rear) and west (front) elevation drawings in Attachment 1.)
2. The redesign of the second story roof from a proposed gable to a flat roof, as is the current roof design of this mid-century home, with a maximum 8 ft. ceiling height. See south (right) and north (left) elevation drawings in Attachment 1.

In conclusion, we ask that the project be put on hold until these issues are addressed in full, and a resolution reached among all parties.

Sincerely,

*Catherine Feucht*  
 Catherine Feucht  
 1480 Summit Road  
 Berkeley, CA 94708  
*Pamela Sinyora*  
 Pamela Sinyora  
*Luis Garcia*  
 Luis Garcia  
 1476 Summit Road  
 Berkeley, CA 94708

RECEIVED

MAY 16 2013

LAND USE PLANNING

ATTACHMENT 3.

Rodrigo Ubillus  
1449 Grizzly Peak Blvd.  
Berkeley, CA 94708

March 4, 2014

Re: Proposed second story addition  
and remodel @ 1449 Grizzly Peak Blvd.

Mr. Rodrigo Ubillus,

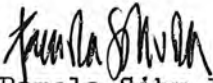
Thank you for the 2 plan sheets and your note I received on  
February 27, 2014.

As you requested I am enclosing the 2 plan sheets with neighbors'  
signatures, reflecting the principal points of agreement, as shown  
on plan sheet 3, dated 2/26/2014 (Attachment 1.) and on stacked  
stair section drawing (Attachment 2.) for the above referenced  
proposed project:

- 1. 8 ft. ceiling height
- 2. Flat roofs throughout
- 3. Stacked stair with a 7 ft. head height

When you are ready to submit the final, complete set of plans to  
the city, could you also please, email the set to us via Patrick,  
as a pdf-file, to: info@sheahan-quandt.com.

Sincerely,

  
Pamela Sihvola  
1476 Summit Rd.  
Berkeley, CA 94708

PS. We look forward to receiving the information and quotes for the  
tree cutting project as soon as possible. Thank you.

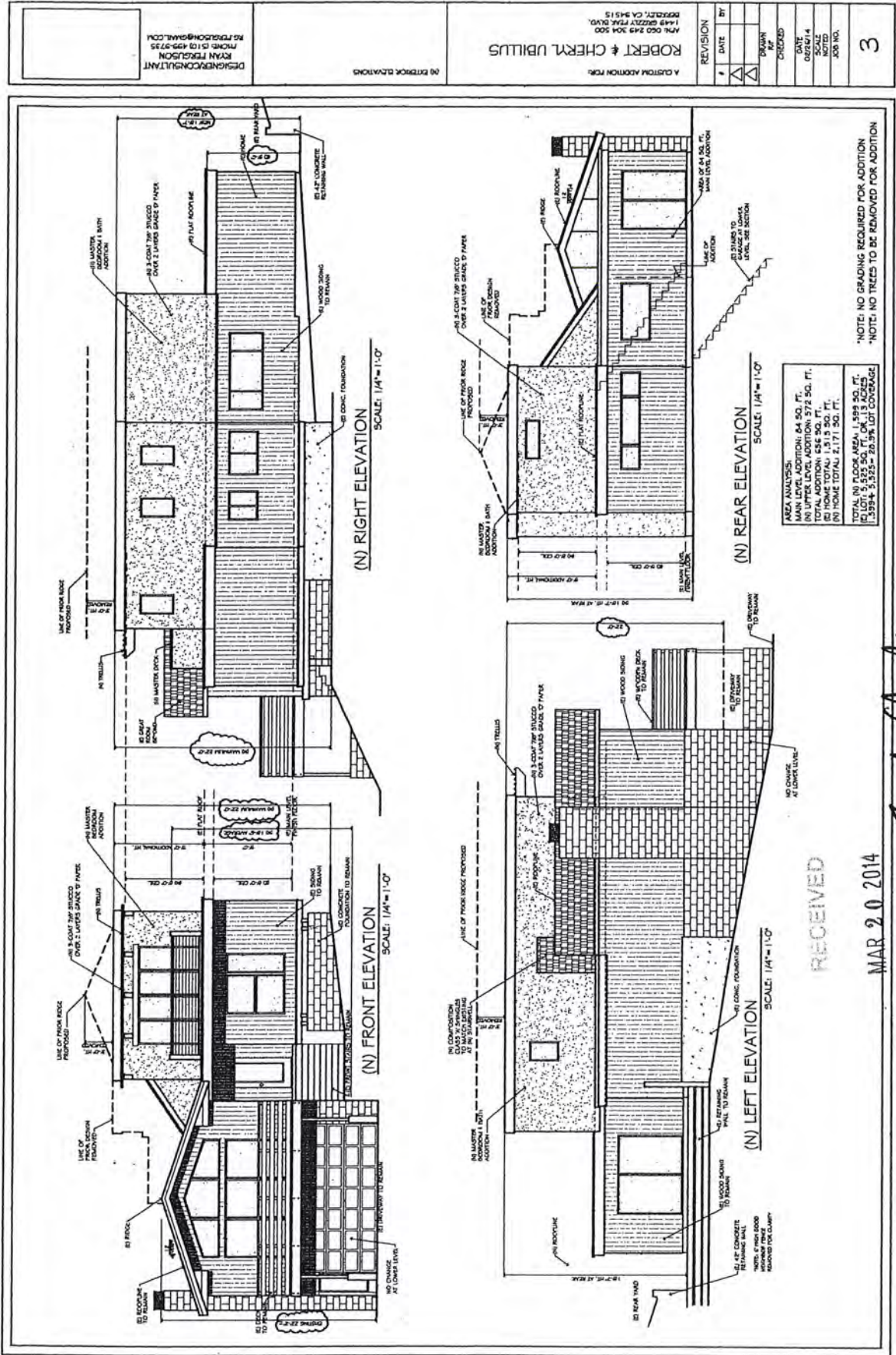
cc: Victor Herbert, Zoning Mediations

RECEIVED

MAR 20 2014

LAND USE PLANNING

ATTACHMENT 1.



1476 SUMMIT RD. BERKELEY, CA 94708

RECEIVED  
MAR 20 2014

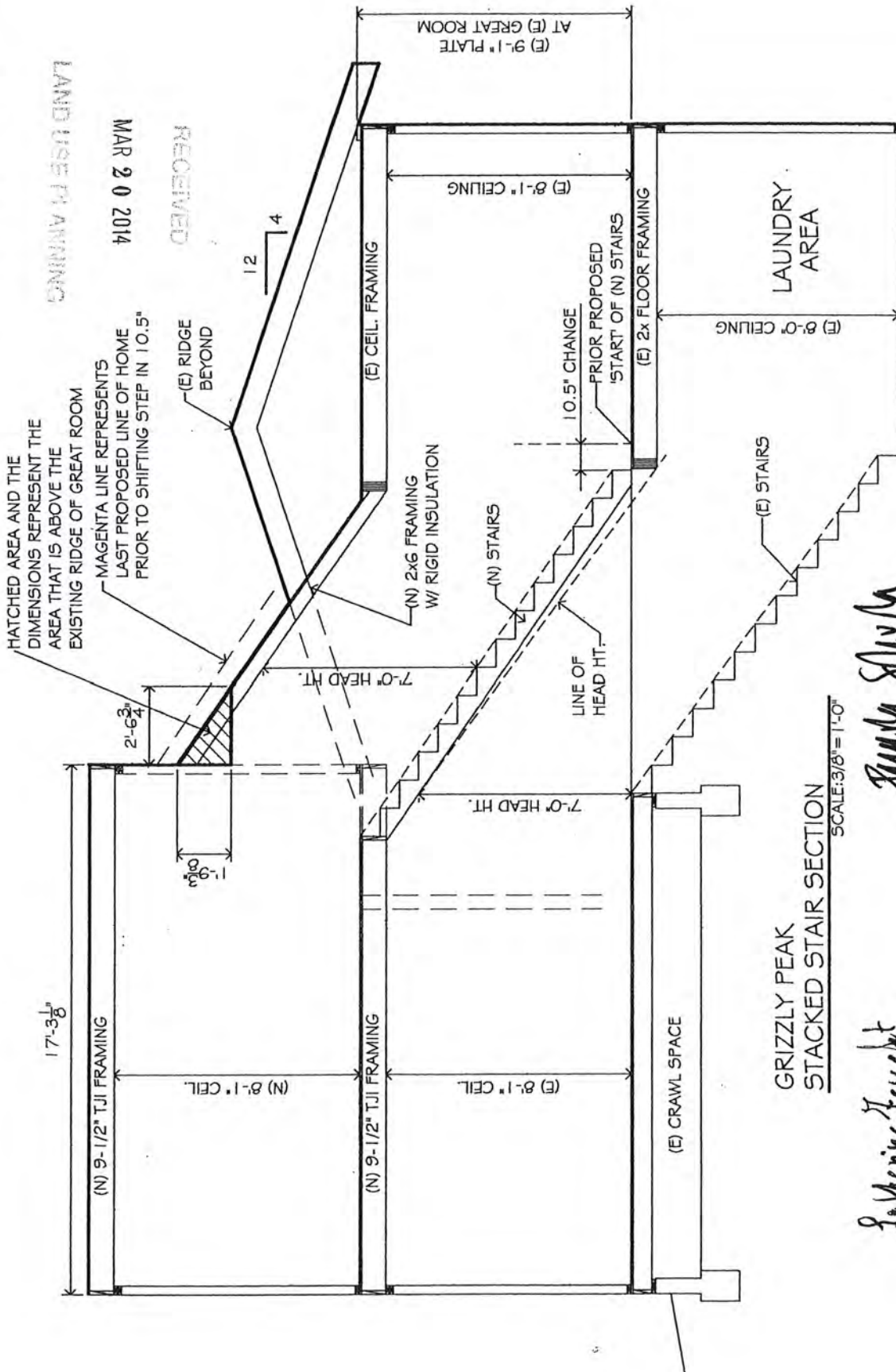
LAND USE PLANNING

Pauline Krenth  
1480 Summit Rd. Berkeley

Paulina Gluvia  
Luis Garcia



ATTACHMENT 2.



HATCHED AREA AND THE DIMENSIONS REPRESENT THE AREA THAT IS ABOVE THE EXISTING RIDGE OF GREAT ROOM

MAGENTA LINE REPRESENTS LAST PROPOSED LINE OF HOME PRIOR TO SHIFTING STEP IN 10.5'

LAND USE PLANNING

MAR 20 2014

RECEIVED

GRIZZLY PEAK  
STACKED STAIR SECTION  
SCALE: 3/8" = 1'-0"

*Randa Shum*  
*Luis Garcia*  
*1476 SUMMIT RD. BERKELEY. CA 94708*

*Stephen Forest*  
*1480 Summit Rd.*  
*Berkeley*

ATTACHMENT 4.

## ATTACHMENT 1

## FINDINGS AND CONDITIONS

MAY 1, 2014

**1449 Grizzly Peak Blvd.****Administrative Use Permit #13-20000050**

**To construct a two-story, 556 square foot residential addition that will increase the building's average and maximum heights from 14' 6" to 18' 6" and from 17' to 22' respectively.**

**CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

**FINDINGS FOR APPROVAL**

2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - The proposed addition would not unreasonably obstruct sunlight, air, or views, because it would not cast new shadows on the windows of adjacent residences. The addition remains well outside of the required yards, and is located within the general footprint of the existing dwelling in an area that is already developed with substantial vegetation that also filters views.
  - The project consists of a two story addition that will maintain the flat roof lines of the existing dwelling to maintain the views of adjacent neighbors located uphill from the site.
  - The subject property satisfies the district standards for maximum residential density, maximum main building height, minimum front, rear, and side yard setbacks, maximum lot coverage and minimum open space.
  - The project would not increase parking demand and existing parking is provided in accordance with the minimum requirement.

**STANDARD CONDITIONS**

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

**1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

**2. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

1449 GRIZZLY PEAK BLVD.  
Page 3 of 5

NOTICE OF ADMINISTRATIVE DECISION - Findings and Conditions  
AUP #13-20000050

#### 8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

#### 9. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

#### ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

#### Prior to Submittal of Any Building Permit:

10. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:
  - Alterations, closures, or blockages to sidewalks or pedestrian paths
  - Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
  - Storage of building materials, dumpsters, debris anywhere in the public ROW
  - Provision of exclusive contractor parking on-street
  - Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

**Prior to Issuance of Any Building Permit:**

12. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

**During Construction:**

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

1449 GRIZZLY PEAK BLVD.  
Page 5 of 5

NOTICE OF ADMINISTRATIVE DECISION - Findings and Conditions  
AUP #13-20000050

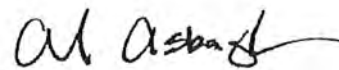
22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
23. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.

**Prior to Issuance of Occupancy Permit or Final Inspection:**

24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 5, 2014**.

**At All Times (Operation):**

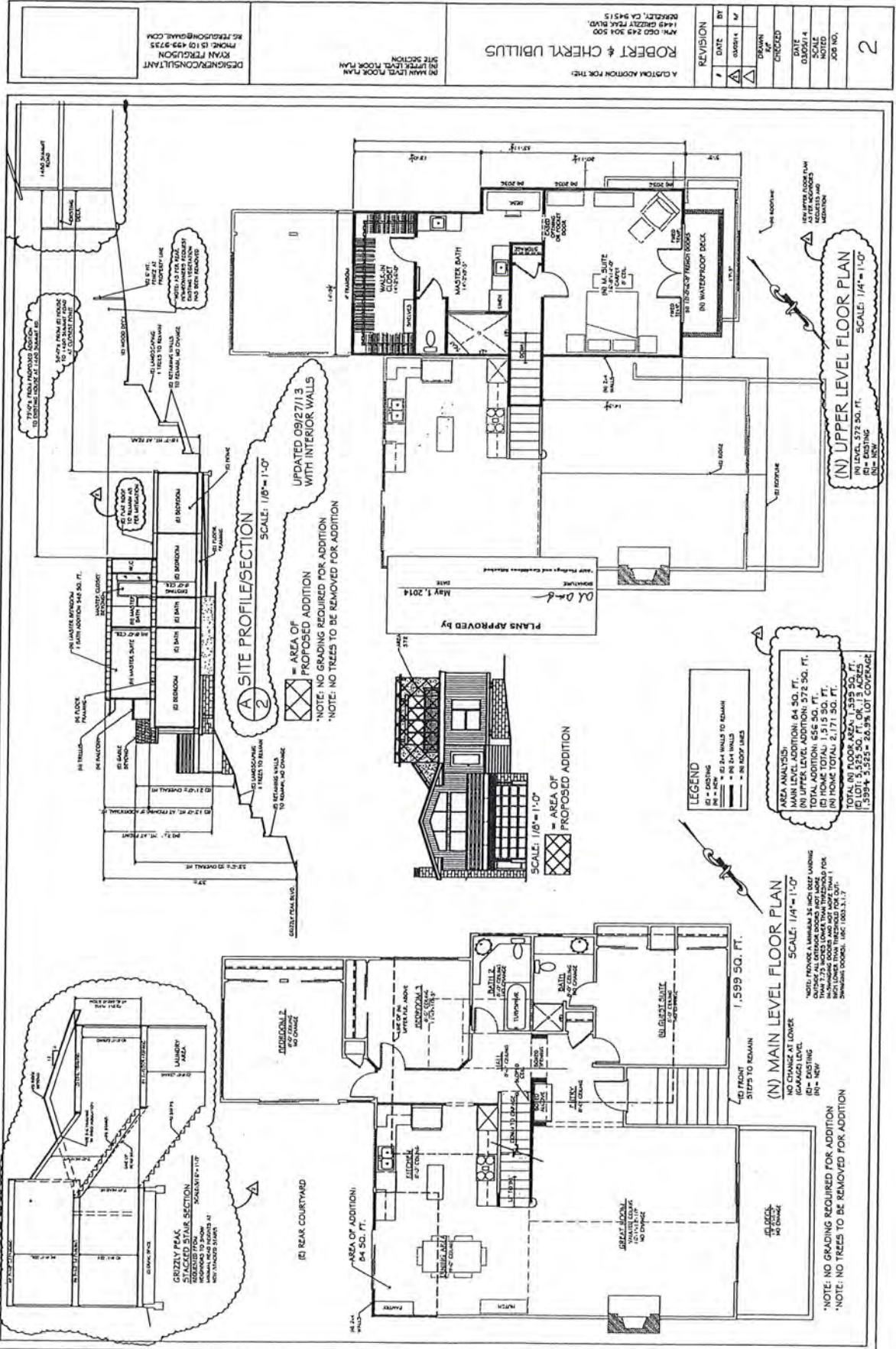
26. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
27. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
28. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.



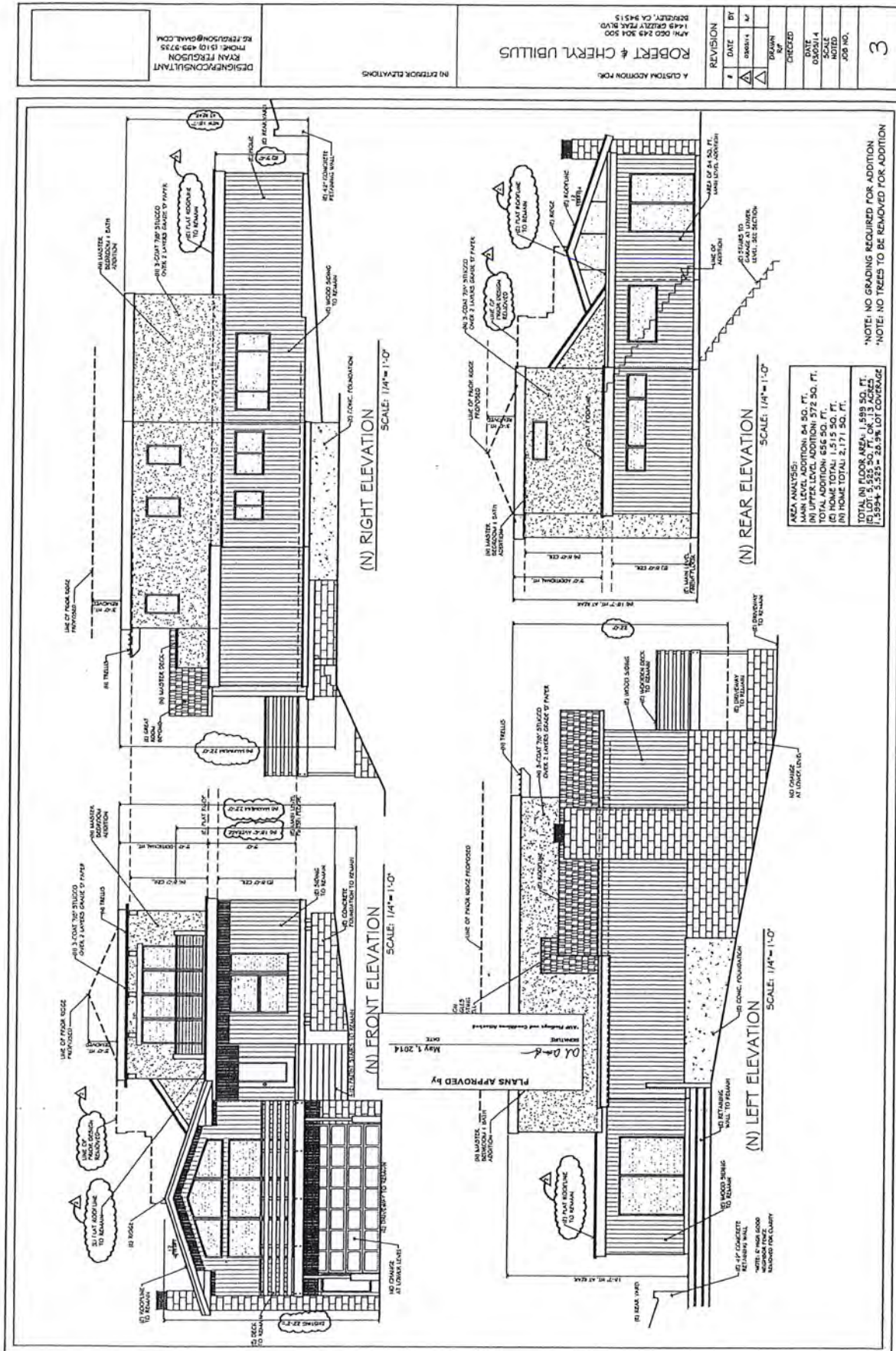
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Prepared by: Claudine Asbagh  
For Eric Angstadt, Planning Director









DESIGNER/CONSULTANT  
 RYAN FERGUSON  
 PHONE: (510) 439-9735  
 EMAIL: RYAN@RYANFC.COM

A CUSTOM ADDITION FOR:  
 ROBERT & CHERYL UBILLUS  
 149 CREEZY FEAR BLVD  
 BERKELEY, CA 94515

REVISION	#	DATE	BY
CREATED	1	05/01/14	RYAN
NOTED	2		
SCALE			
NOTED			
JOB NO.			

VIEW OF 1449 GRIEZZLY PEARL BLVD.  
FROM 1476 SUMMIT ROAD LIVING ROOM WINDOW

ATTACHMENT 5.



ATTACHMENT 6.A

- PAINT COLOR FOR THE ENTIRE 3<sup>RD</sup> STORY AND ALL ROOFS SHOULD MATCH THE EXISTING SHINGLE ROOF COLOR TO BLEND WITH THE SURROUNDING NATURE (AS APPLICANT PROMISED DURING MEDIATION FOR THE FURTHER ADDITION)



- PROPOSED: ● BED ROOM (#5) & BATH (#4) ~ MAX. CEILING HEIGHT: 8 FT. (AS IN MAY 1, 2014 APPROVED PLANS FOR THE PREVIOUS ADDITION)
- CLOSET CEILING HEIGHT 7.5 FT.

ATTACHMENT  
03

MAXIMUM CEILING HEIGHT 8 FT.

mitche  
holiday

architects

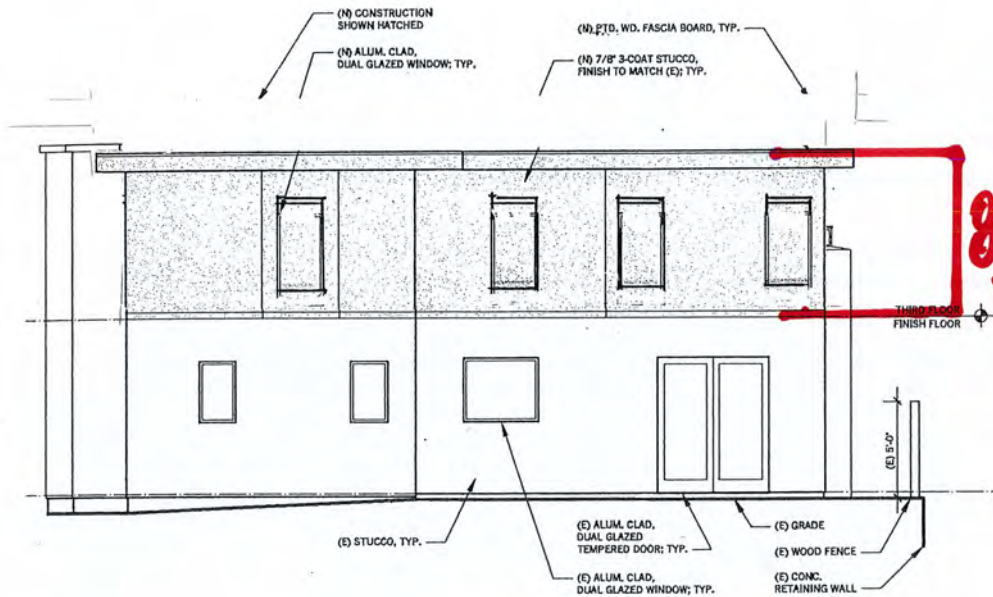
1718 Market Street, Suite 200  
Berkeley, CA 94708

510.725.1091

UBILLUS  
RESIDENCE  
ADDITION

1449 GRIEZZLY PEAK BLVD.  
BERKELEY, CA 94708

CONSULTANTS



1 REAR (SOUTH EAST) ELEVATION



3 FRONT (NORTH WEST) ELEVATION

ISSUE	DATE
ACP SUBMITTAL	06/30/19

PROPOSED  
EXTERIOR  
ELEVATIONS

A - 3.0

ATTACHMENT 7. (A= PROJECT SITE)



ATTACHMENT 8A



ATTACHMENT B.B.

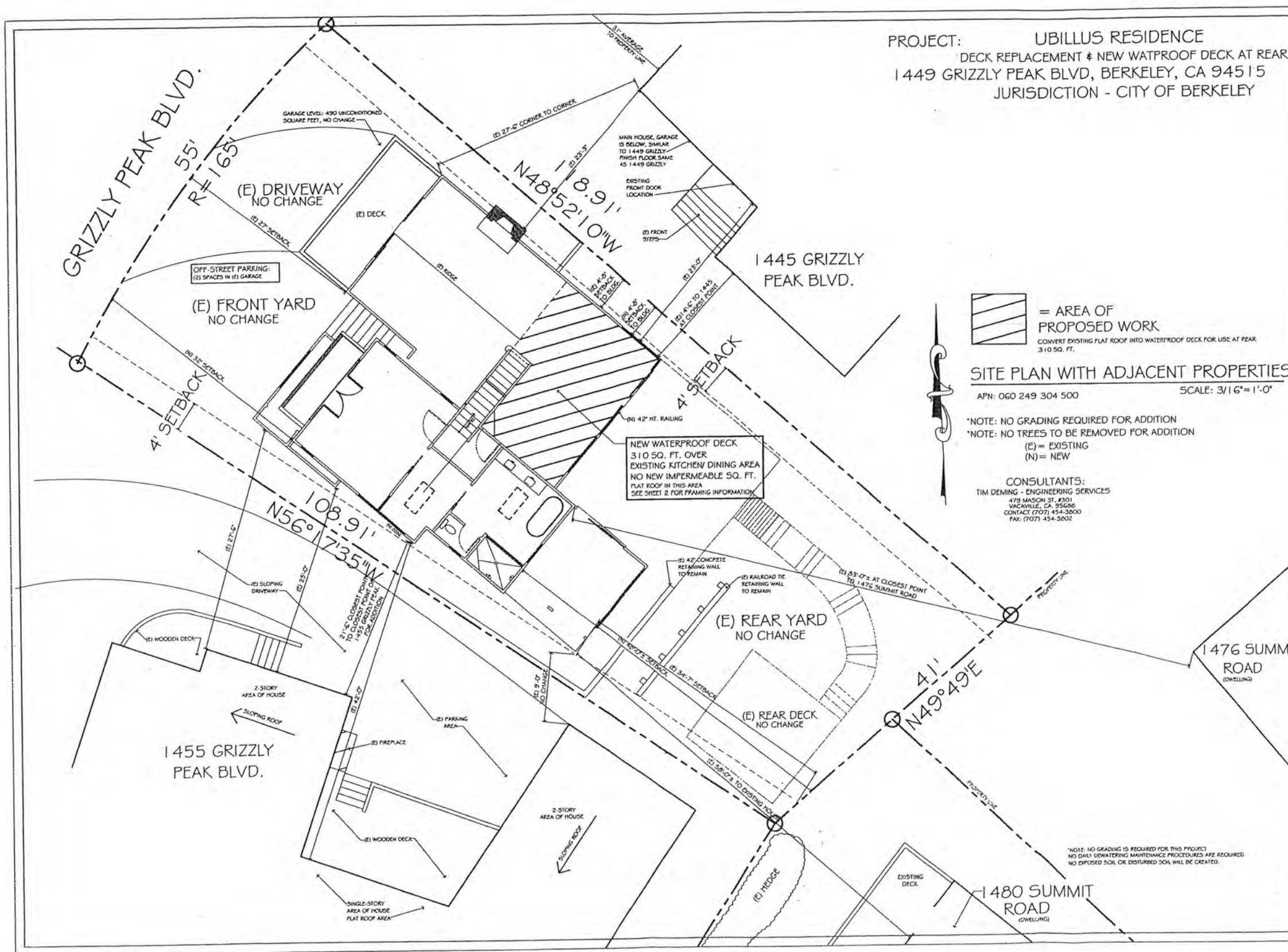


ATTACHMENT B.C.





ATTACHMENT 9A.



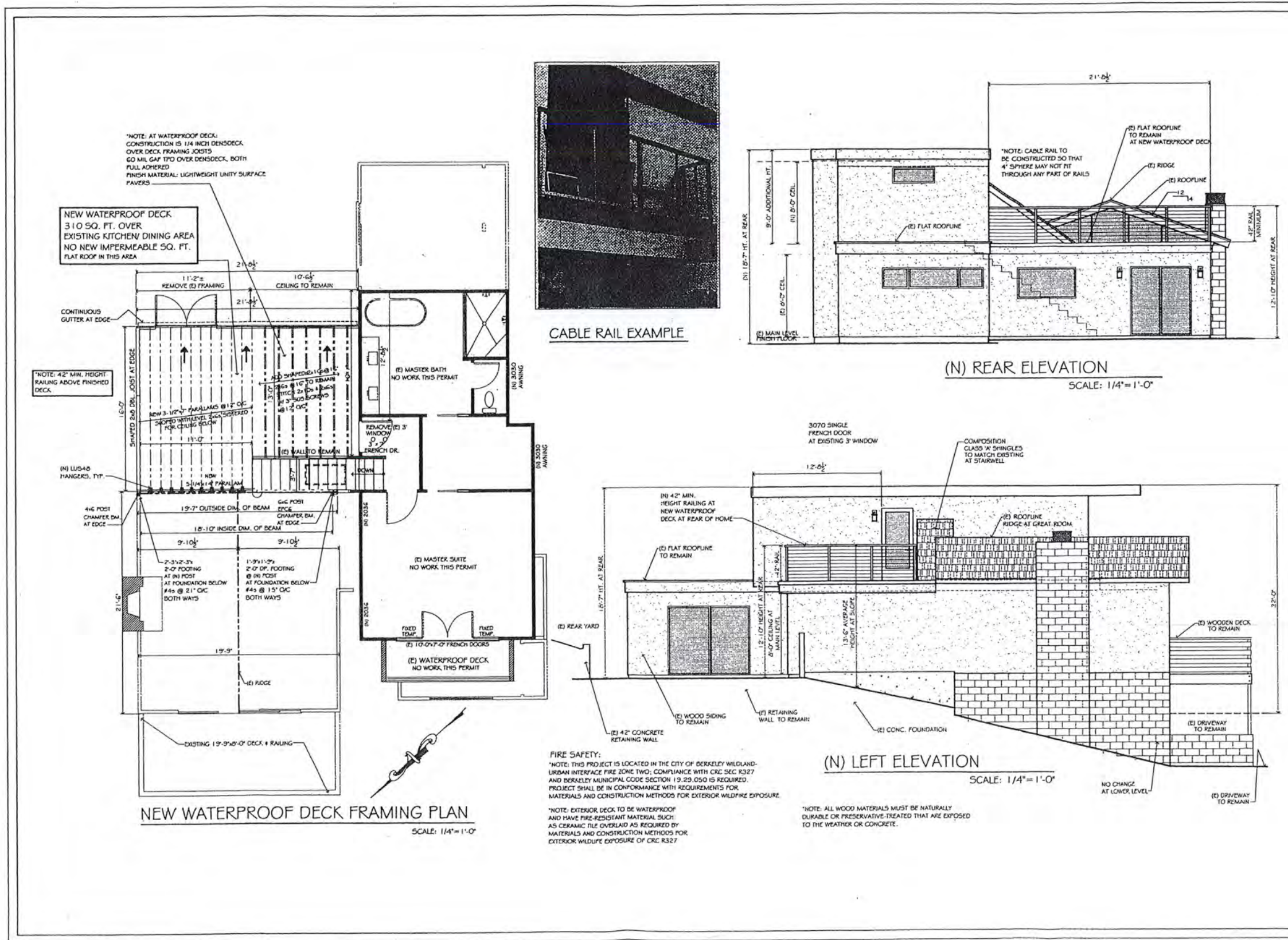
ENGINEERING SERVICES  
TIM DEMING  
479 MASON ST. #301  
VACAVILLE, CA 95606  
CONTACT (707) 454-3000  
FAX: (707) 454-3002

RYAN FERGUSON  
PHONE: (510) 499-9735  
RG.FERGUSON@GMAIL.COM

SITE PLAN W/ NEW DECK LOCATION

A NEW REAR WATERPROOF DECK AT EXISTING FLAT ROOF FOR:  
**ROBERT & CHERYL UBILLUS**  
APN: 060 249 304 500  
1449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94706

ATTACHMENT 9B.



ENGINEERING SERVICES  
475 MARSH AVENUE  
VALLEJO, CA 94590  
COMMERCIAL@ENGINEERING

DESIGNER/CONSULTANT  
RYAN FERGLUSON  
PHONE: (707) 499-9735  
RF.FERGLUSON@GMAIL.COM  
INS/SCALE DESIGN

WATERPROOF DECK AT REAR FRAMING DECK  
NEW REAR AND SIDE ELEVATIONS WILL BE SUBMITTED

A NEW REAR WATERPROOF DECK AT EXISTING FLAT ROOF FOR:  
**ROBERT & CHERYL UBILLUS**  
APN: 060 249 304 500  
1448 GRIZZLY PEAK BLVD.  
BERKELEY, CA 94706

REVISION		
#	DATE	BY
1		
2		

DRAWN BY: [Signature]  
CHECKED: [Signature]  
DATE: 01/25/18  
SCALE: NOTED  
JOB NO. 2

**URGENT**

DATE 7/18.2019

NO. OF PAGES 3  
(including Cover Page)

**MESSAGE TO:**

NAME ASHLEY JAMES, AICP ASSOCIATE PLANNER

COMPANY CITY OF BERKELEY PLANNING & DEVELOPMENT

E-MAIL FAX# ajames@CityofBerkeley.info

NOTES PER YOUR REQUEST (7/17.2019) I AM ENCLOSEING A PHOTO (F) OF 1449 GULLY PERL BLVD. (VIEW FROM 1476 SUMMIT RD.) SHOWING THE REAR YARD BEFORE THE FINAL CONCRETE POUR AND BEFORE THE PROTECTED LIVE OAK (ON THE LEFT) WAS CUT DOWN

**MESSAGE FROM:**

NAME PAMELA SITHOUA

THE SECOND PHOTO (G) SHOWS THE SAME AREA (IN SPRING TIME) PRIOR TO ANY CONSTRUCTION, WITH ORIGINAL PLANTINGS OF A PERSIMMON TREE, MAGNOLIA, JAPANESE MAPLES, FRUIT TREES, ETC. IN THE REAR YARD.



PHOTO OF 1449 GALEZZY PEARL BLVD. REAR YARD PRIOR TO ANY CONSTRUCTION, SHOWING ORIGINAL PLANTINGS OF A PERSIMMON TREE, MAGNOLIA, FRUIT TREES, JAPANESE APPLES ETC. (6)



— PHOTO OF 1449 GUILLY PERLE BLVD. REAR YARD BEFORE FINAL CONCRETE POUR AND BEFORE THE PROTECTED LIVE OAK ( ON THE LEFT) WAS CUT DOWN.

(F)



# I. ZONING PROJECT APPLICATION FORM

*(This box for staff use only.)*

ZP201 \_\_\_\_\_ - \_\_\_\_\_ PLN201 9 - 0072

Administrative Use Permit  Pre-Application

Use Permit / Variance

Modification of any of the Above Intake Planner: Alison Lenci

RECEIVED  
DATE STAMP HERE  
**DEC 11 2019**  
LAND USE PLANNING

• **Project Address:** 1449 GRIZZLY PEAK Unit/Suite #: \_\_\_\_\_

Project Description: APPEAL OF AUP#ZP2019 - 0111

( See Attached )

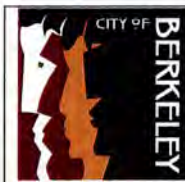
• **Property Owner Name:** \_\_\_\_\_  
Owner's Mailing Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  Home  Mobile  Business E-mail: \_\_\_\_\_

• **Applicant Name** (or write "same"): PAMELA SIHVOCA  
Applicant's Mailing Address: 1476 SUMMIT ROAD, BERKELEY, CA 94708  
Phone #: (510) 697-0525  Home  Mobile  Business E-mail: NO/RESPOND VIA USPS

<b>For projects involving <u>only</u> the following four items and <u>none</u> of the items on pages 2-3 of this form, please refer to the handout indicated in the right-hand column <u>instead</u> of filling out this form.</b>	
1. Converting existing Rental or Tenant In Common (TIC) Units to Condominiums?	Refer to the "Condominium Conversion Procedures: Guide for Applicants"
2. Demolition of, or exterior alterations to, a designated City of Berkeley Landmark, Structure of Merit, or structure in a City Historic District (or interior alterations to such buildings if publicly owned)?	Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements"
3. Application to designate a City Landmark, Structure of Merit or Historic District?	Refer to the "Landmark, Structure of Merit or Historic District Designation Form"
4. Exterior changes (including signs) to (1) any structure (new or existing) in a non-residential zoning district OR (2) a commercial or mixed-use building in the R-4 District?	Refer to the Design Review Submittal Packet

Continued on Page 2

**PLANNING & DEVELOPMENT**  
Land Use Planning Division, 1947 Center Street, 2<sup>nd</sup> Floor, Berkeley, CA 94704  
Tel: 510.981.7410 TDD: 510.981.6903  
Fax: 510.981.7420 Email: [Planning@CityofBerkeley.info](mailto:Planning@CityofBerkeley.info)



# I. ZONING PROJECT APPLICATION FORM

Page 2 of 4

## Submittal Requirements Checklist – Instructions

1. Complete the checklist below and **sign the bottom of page 3**. (*Owner must also sign, or provide a letter authorizing the applicant to sign on the owner's behalf.*)
2. For each question for which you check "yes", review the Zoning Project Submittal Requirements to learn more and to provide the item indicated in the right-hand column.
3. **Submit a pdf copy of the entire application, along with the paper application to the Planner at the Permit Service Center, Zoning Counter.**

Does the project include:	No	Yes	Handout / Application Requirement
1. Any work requiring an Administrative Use Permit, Use Permit, Variance, or Modification of any these permits?	<input type="checkbox"/>	<input type="checkbox"/>	Required For All Projects
2. Any new structure(s), addition(s), demolition(s), exterior alteration(s), or change(s) of use?	<input type="checkbox"/>	<input type="checkbox"/>	Required For All Projects Involving Construction
3. A new main building, OR a new accessory building/structure or main building addition within 2 feet of a required setback?	<input type="checkbox"/>	<input type="checkbox"/>	Boundary/Topographic Survey
4. More than 50 cubic yards of grading?	<input type="checkbox"/>	<input type="checkbox"/>	Grading Plan
5. A request to waive or reduce required parking?	<input type="checkbox"/>	<input type="checkbox"/>	Parking Survey
6. (1) a building over three stories in height, (2) a Density Bonus, (3) an FAR over 2.0, (4) over 10,000 sq. ft. of gross floor area; OR any wireless installation	<input type="checkbox"/>	<input type="checkbox"/>	Photo Simulations
7. A new main building or an addition exceeding 14 feet in average height in the 'H' Overlay District?	<input type="checkbox"/>	<input type="checkbox"/>	Section Drawings Story Poles
8. A new main building or an addition exceeding 14 feet in average height on a site adjacent to a residential use?	<input type="checkbox"/>	<input type="checkbox"/>	Shadow Study
9. A new main building (except accessory buildings/structures)?	<input type="checkbox"/>	<input type="checkbox"/>	Street Strip Elevation
10. Creation of (1) 5 or more dwelling or live/work units, or (2) additional condominium units resulting in 5 or more condominium units on the site?	<input type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Applicant Anti-Discriminatory Housing Policies
11. Under Government Code Section 65915: a. A request for a Density Bonus? b. A request for any concessions or incentives in addition to a Density Bonus?	<input type="checkbox"/>	<input type="checkbox"/>	Housing Affordability Statement Additional Incentives or Concessions Documents
12. Creation of (1) 10 or more dwelling units, (2) 5,000 sq. ft. of floor area, OR (3) 25 or more peak hour vehicle trips (based on ITE trip generation rates)?	<input type="checkbox"/>	<input type="checkbox"/>	Traffic Impact Analysis
13. Creation or replacement of 2,500 square feet or more of impervious surface area? (Includes additions and new buildings but not routine maintenance and re-surfacing).	<input type="checkbox"/>	<input type="checkbox"/>	Stormwater Requirements Checklist
14. Any new dwelling unit(s), or addition or renovation of 10,000 sq. ft. or more of non-residential space?	<input type="checkbox"/>	<input type="checkbox"/>	Green Building Checklist Energy Efficiency Analysis ( <i>nonresidential mixed-use only</i> )
15. 2,500 sq. ft. or more of new landscape area or 2,500 sq. ft. or more of rehabilitated landscape?	<input type="checkbox"/>	<input type="checkbox"/>	Berkeley Water Efficient and Bay Friendly Landscape Requirements
16. A new building on a site with a history of soil and/or groundwater contamination or within Environmental Management Areas?	<input type="checkbox"/>	<input type="checkbox"/>	Phase I or II Assessment
17. A new building or addition in a liquefaction, landslide, or fault zone shown on the "Environmental Constraints Map"	<input type="checkbox"/>	<input type="checkbox"/>	Seismic Hazard Investigation
18. Federal funding, either directly or through the City of Berkeley Housing Trust Fund?	<input type="checkbox"/>	<input type="checkbox"/>	Area of Potential Effects (APE) Statement
19. A new business, or a new commercial space with tenant/operator already selected? ( <b>Does not include</b> home occupations.)	<input type="checkbox"/>	<input type="checkbox"/>	Zoning Use Questionnaire



# I. ZONING PROJECT APPLICATION FORM

Page 3 of 4

You must disclose whether or not any of the following are true of the project:	No	Yes
<ul style="list-style-type: none"> <li>Over 7,500 square feet of office, retail, restaurant, hotel, lodging, manufacturing, light industrial, research and development, warehouse or storage? If so, Affordable Child Care and Affordable Housing Fees apply. Refer to Council Resolutions #66,618-N.S. &amp; #66,617-N.S.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Any new commercial or industrial building, more than five or more Dwelling Units; or an addition or more than 10,000 square feet. If so, Percent for Public Art on Private Projects Program applies, per BMC Chapter 23C.23.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Project involves the elimination or rehabilitation of any dwelling units, and/or are any of the dwelling units on the property controlled rental units? If so, your application will be referred to the Rent Stabilization Board. No action is required on your part. You may contact them at (510) 981-7368 if you have any questions.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Construction activity within the drip line of a Coast Live Oak tree with circumference over 18" at 4'-6" above ground (or 26" aggregate circumference for multi-trunked trees)? If so, the Moratorium on the removal of Coast Live Oaks Ordinance applies, per BMC Chapter 6.52.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Removal of 25% or more of a main building's exterior walls and roof (including replacement of existing structural members)? If so, the Demolition Ordinance may apply, per BMC Chapter 23C.08.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Smoke Shops or Drug Paraphernalia?</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Cultivation, Distribution, Manufacture or Sale of Cannabis?</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Demolition or substantial change of a building &gt;40 years old? If so, the Demolition Ordinance will apply, per BMC Chapter 23C.08, as well as Section 15300.2 of the CEQA Guidelines.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Construction on a parcel that is within 40' of an open creek or 25' of a culverted creek? If so, the Preservation and Restoration of Natural Watercourses Ordinance applies, per BMC Chapter 17.08</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

*Under penalty of perjury, I certify that:*

- (1) the above information is true and complete to the best of my knowledge, and**
- (2) the attached paper and electronic copies of this application are the same.**

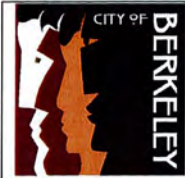
*(\*Owner's signature, or signed letter authorizing applicant to apply on owner's behalf, is required for all applications.)*

**Applicant Signature:** \_\_\_\_\_ **Owner's Signature:** \_\_\_\_\_

Printed: \_\_\_\_\_ Printed: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_



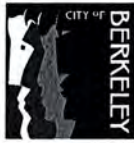


# I. ZONING PROJECT APPLICATION FORM

Page 4 of 4

*(This page is for staff use only.)*

Zoning District(s):	
Zoning Section	Description
1. 23____.____.____	UP/AUP to
2. 23____.____.____	UP/AUP to
3. 23____.____.____	UP/AUP to
4. 23____.____.____	UP/AUP to
5. 23____.____.____	UP/AUP to
6. 23____.____.____	UP/AUP to
7. 23____.____.____	UP/AUP to
8. 23____.____.____	UP/AUP to
9. 23____.____.____	UP/AUP to



**CITY OF BERKELEY**

Permit Service Center  
1947 Center St, 3rd floor  
Berkeley, CA 94704

**Receipt Date:**  
12/11/2019

**Receipt Number:**  
594727

**R E C E I P T**  
**PLN2019-0072**

**Applicant Information**

Pamela Sihvola  
1476 SUMMIT RD  
BERKELEY CA 94708-2215

**Property Information**

Parcel Number: 060 249304500

**Project Information**

Type: Planning  
Group: Special Request  
Category: NA  
Sub-Category: Appeal  
Project:  
Work Description: Appeal of AUP #ZP2019-0111 for 1449 Grizzly Peak Blvd.

**Location**

1449 GRIZZLY PEAK Blvd  
BERKELEY, CA 94708

**Received**  
**DEC 11 2019**  
**Land Use Planning**

<b>Payor:</b> Pamela E Sihvola	<b>Payment Status:</b> Paid	<b>Date Printed:</b> 12/11/2019
<b>Cashier:</b> RASMITH	<b>Payment Method:</b> Check	<b>Check #:</b> 6358
<b>Fees:</b>		<b>Amount</b>
APPL010 - APPEAL of AUP - Non Applicant		\$200.00
	<b>Total:</b>	<b>\$200.00</b>

**Property Address:**  
1449 GRIZZLY PEAK Blvd  
BERKELEY, CA 94708



Permit Service Center  
Building and Safety Division  
1947 Center St. 3rd Floor  
Berkeley, CA 94704

# INVOICE

Date: 12/11/19

Invoice #: 419843

Record #: PLN2019-0072

Bill to:

Address: 1449 GRIZZLY PEAK  
BLVD

Pamela Sihvola  
1476 SUMMIT RD  
BERKELEY CA 94708-2215

Received

DEC 11 2019

Land Use Planning

Date Assessed	Invoiced Fee Item	Fee	Paid	Balance
12/11/2019	APPEAL of AUP - Non Applicant APPL010	\$200.00	\$0.00	\$200.00
<b>Totals:</b>		\$200.00	\$0.00	\$200.00



RECEIVED

DEC 11 2019

PERMIT SERVICE CENTER

LAND USE PLANNING

DEC 11 2019

Zoning Officer  
Permit Service Center  
1947 Center Street, 3<sup>rd</sup> Floor  
Berkeley, CA 94704

RECEIVED BY: \_\_\_\_\_

December 11, 2019

Re: AUP #ZP2019-0111  
1449 Grizzly Peak Boulevard, Berkeley CA 94708

Appeal of Administrative Decision to Issue a Permit for AUP #ZP2019-0111, dated November 20, 2019, and, therefore, a Request for a Public Hearing Before the Zoning Adjustments Board (ZAB)

Dear Zoning Officer:

We are appealing the above referenced decision for the following reason:

- This proposed project would appear to represent “construction creep” and a violation of the premise of the previous permit AUP #13-20000050, dated May 1, 2014, which was approved after City Planning & Development recommended negotiations and mediation among the applicant and the neighbors to modify the project and define the limits of construction and its impacts on the abutting neighbors.

The following questions need to be addressed by ZAB, on behalf of the affected public, in consideration of the fact that the property applicant(s) have already proceeded to alter the property and are currently requesting Permits that would over-double the original size of the building in a piecemeal fashion thus to circumvent a Public Hearing

- Was the Permit Department informed of the demolition of the entire back yard, including the removal of a mature California Live Oak, and the construction of a massive concrete structure covering the entire area? In violation of the specific language in the approved AUP #13-20000050?
- Why was a permit granted for a roof deck facing the Summit Road neighbors, who were party to the AUP #13-20000050 mediation resolution, without informing those neighbors who are impacted?
- Mediation discussion included a commitment by the applicant to choose a building color to blend with the environment – note the stark bright white façade remains on the house and continues to reflect sunlight in a blinding and obtrusive manner.

- In accordance with Planning Department Staff statement, was a boundary survey done in order to determine the exact location of the rear property line to determine its location with respect to the City's sewer easement? Did the backyard concrete construction, in fact, encroach upon the City's sewer easement? Did, also, the recently constructed rear fence encroach upon the City's sewer easement?
- If the approved AUP #13-20000050 specifically stipulated that the maximum ceiling of the structure would be 8 ft., how might it be approvable that the maximum building height will be allowed to be increased by 2 ft. 3 inches (27 inches), per AUP #ZP2019-0111, without a Public Hearing?
- Furthermore, how is it legal that the Planning Department allows the applicant to over-double the residence size from the original 1,515 sq. ft. to 3,291 sq. ft. in a piecemeal fashion without scheduling a Public Hearing?

In conclusion, the above questions are relevant and warrant a Public Hearing before Permit AUP #ZP2019-0111 might be issued. Therefore, we are formally appealing the administrative decision and request a Public Hearing before the ZAB.

Sincerely,



Pamela Sihvola,

1476 Summit Road, Berkeley CA 94708



Kathleen Wasser

1435 Grizzly Pk., Berkeley, CA 94708

ATTACHMENT 1B.



PROPOSED TV PROJECT (IN 4+4M) @ 1449 GR FUND. WILL INCREASE THE ORIGINAL RESIDENCE FROM 1915  $\text{sq ft}$  TO 3291  $\text{sq ft}$  (= +1776  $\text{sq ft}$ ) I.E. + 117.25% WITHOUT A PUBLIC HEARING DUE TO DELIBERATE PIECE MEALING OF THE DEVELOPMENT

ATTACHMENT 1A.



ORIGINALLY 1515 FT RESIDENCE @ 1449 GUEZZY PEAR BLVD. IN 2014-15.

(SEE NEXT PAGE →)

ATTACHMENT 1A.



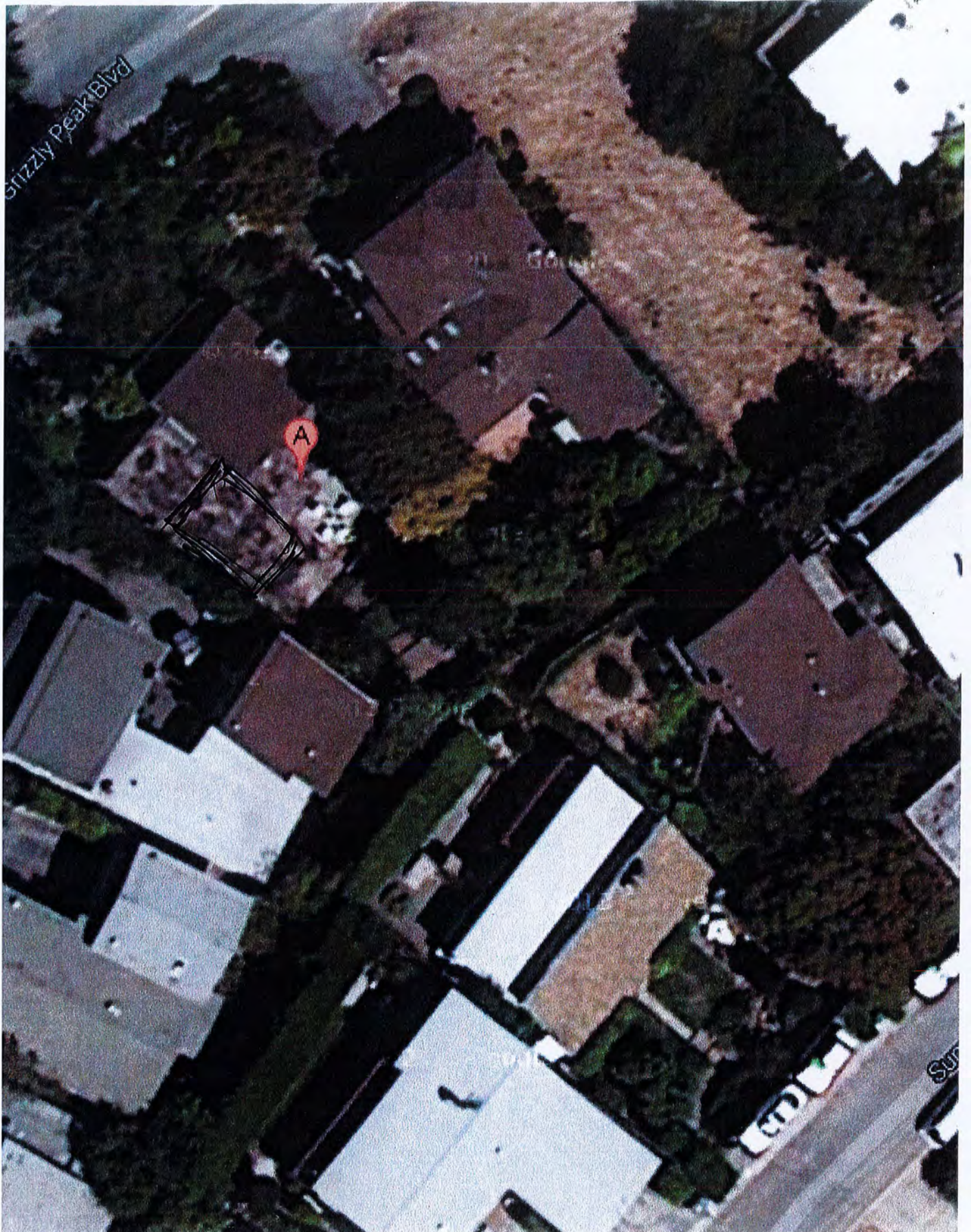


ATTACHMENT 1B.



ATTACHMENT 3A





A D D E N D U M

PERMIT SERVICE CENTER

To Letter of Appeal  
for AUP # ZP2019-0111

DEC 11 2019

RECEIVED BY: \_\_\_\_\_

Zoning Officer  
Permit Service Center  
1947 Center Street, 3rd. Floor  
Berkeley, CA 94704

**RECEIVED**

12/11/2019

DEC 11 2019

Dear Zoning Officer,

**LAND USE PLANNING**

At the request of a member of the Planning Staff, I have submitted a Request for Service with the City of Berkeley's Code Enforcement Division. The request is for determining whether the massive, multi-level concrete structure, covering most of the rear yard at 1449 Grizzly Peak Boulevard, was constructed with proper zoning, building, grading and/or other applicable permits, and also whether this structure encroaches upon the City of Berkeley's Sewer Easement, located at the rear of the property. Was a proper boundary survey done to determine the location of the rear property line with respect to the City's Sewer Easement?  
(Please see Attachment 1.)

We are also asking that the issue of this massive concrete structure be included in the Public Hearing we are requesting before ZAB.

I am also enclosing a copy of my original comment letter regarding the proposed additions (a 4th. major project in the last 4+ years!) describing 2 major matters of concern: 1. The blinding glare of the bright, white structure, and the 2. over two feet of additional height proposed for the new additions, against the agreement reached in 2014 and made part of the conditions of Permit # AUP#13-20000050,  
(Attachment 2.)

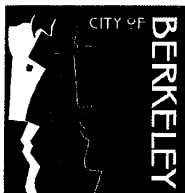
we are therefore respectfully asking that this item, with all its outstanding issues and concerns be deferred to the City's Mediation Services at Seeds Community Resolution Center.

Sincerely,



Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94708

ATTACHMENT 1.



Office of the City Manager  
Neighborhood Services-Enforcement Division

**City of Berkeley Code Enforcement Request for Service**

Problem Property Information:

RODRIGO UBILLUS

(510) 773-4835

Owner or Property Manager

Telephone Number

1449 GRIZZLY PEAK BLVD., BERKELEY, CA 94708

Address

COMPLAINT: (Use additional page as needed) **PLEASE INVESTIGATE AND DETERMINE WHETHER THE MASSIVE MULTI-LEVEL CONCRETE STRUCTURE, COVERING MOST OF THE REAR YARD AT THE ABOVE REFERENCED LOCATION, WAS BUILT WITH PROPER ZONING, BUILDING, GRADING AND/OR OTHER APPLICABLE PERMITS (ATTACHMENTS 1A & 1B) - PLEASE SEE ENCLOSED LETTER AND ALL OTHER ATTACHMENTS, FOR MORE INFORMATION.**

Complainant's Information (Required):

PAMELA SIHVOLA

(510) 697-0525

Print Name

Telephone Number

1476 SUMMIT RD. BERKELEY, CA 94708

Address

*Pamela Sihvola*

12/11. 2019

Signature

Date

For Code Enforcement Use ONLY

Assigned to: \_\_\_\_\_ Assigned By: \_\_\_\_\_ Date Assigned: \_\_\_\_\_

Staff notes:

City of Berkeley  
Code Enforcement Division

2180 Milvia Street, 1st. Floor  
Berkeley, CA 94704

Attn: Wanda Drouillard  
Code Enforcement Officer

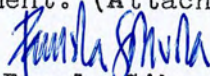
December 11, 2019

Dear Ms. Drouillard,

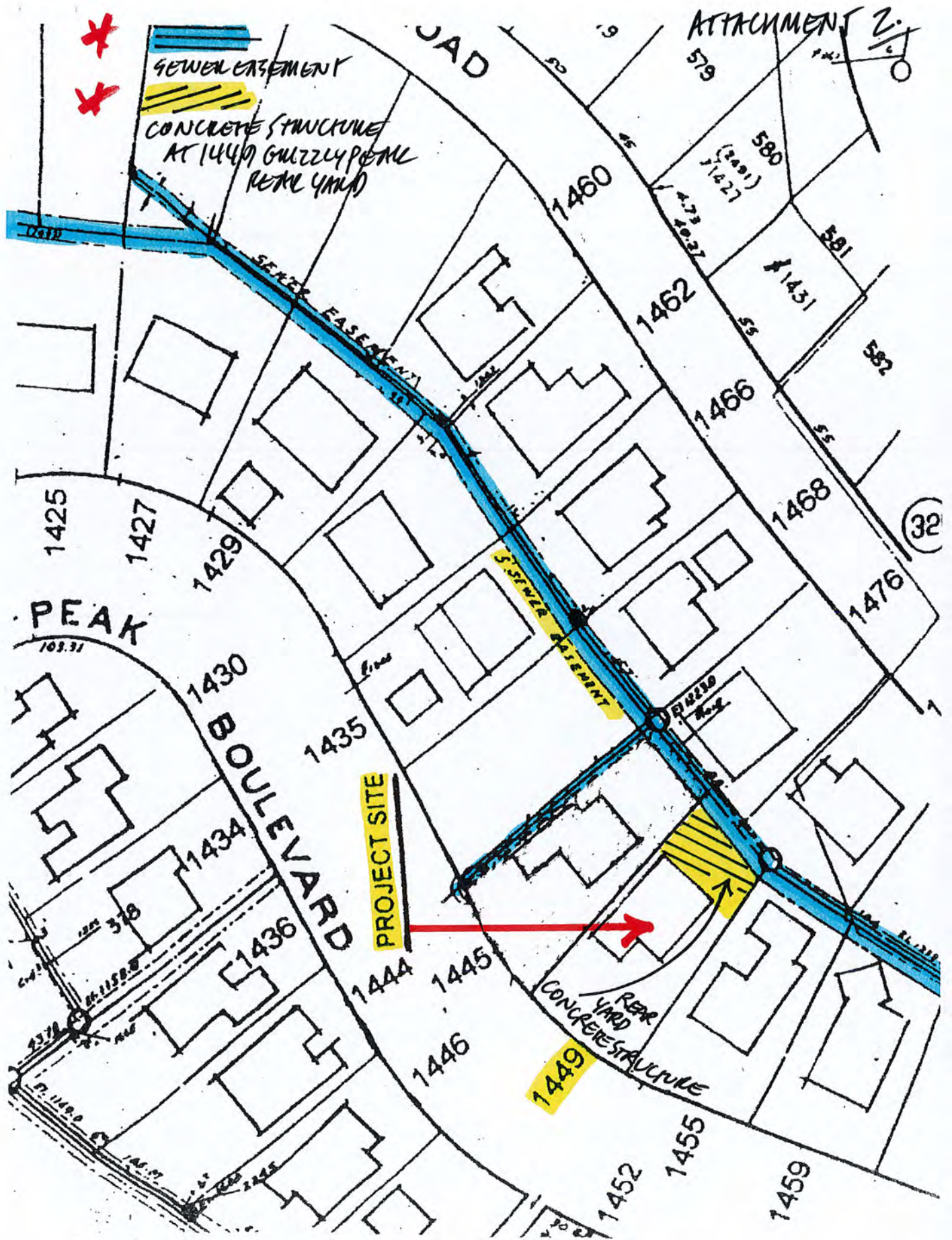
I am enclosing the attached Code Enforcement Request for Service form regarding property at 1449 Grizzly Peak Blvd.  
Berkeley, CA 94708

1. Please investigate and determine whether the massive, multi-level concrete structure, covering most of the rear yard area at the above referenced location, was built with proper zoning, building, grading and/or other applicable permits. (Attachments 1A and 1B)
2. Also please investigate and determine whether this structure encroaches on the City of Berkeley's Sewer Easement, located at the rear of the property. Please, also review if a boundary survey of the rear property line was done for this project. If none found, please, → request a formal survey of the rear property line with respect to the City's Sewer Easement. (Attachment 2.)

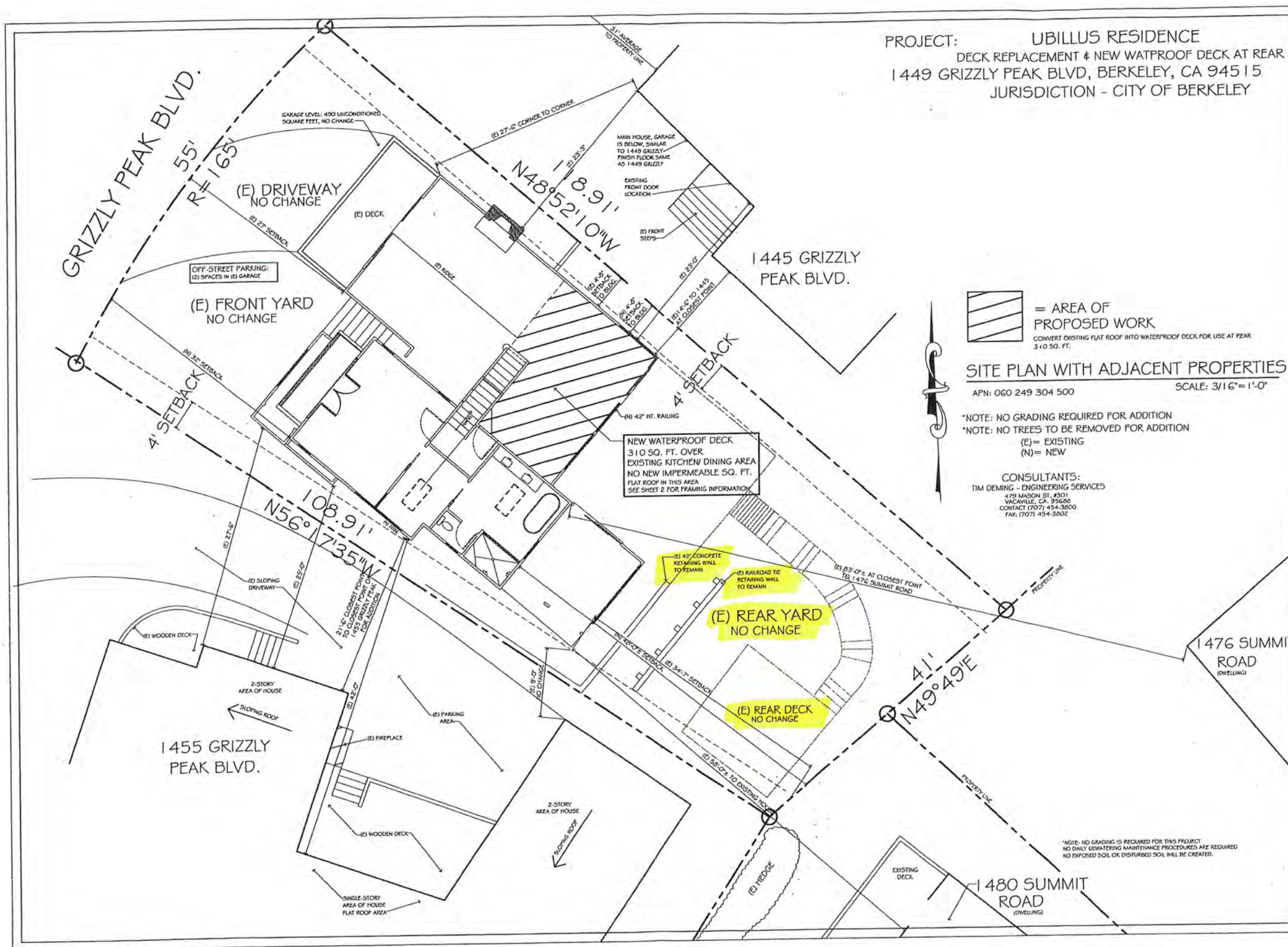
Sincerely,

  
Pamela Sihvola  
1476 Summit Rd.  
Berkeley, CA 94708

PS. Attachment 3A shows the rear yard prior to any construction. Attachment 3B is a Site Plan, dated 1/25/2018, (part of an application for a new roof deck), and shows the rear yard with no changes proposed. Attachment 3C is an aerial photo of the property (marked with red and the letter A) showing the original rear yard and its vegetation.



ATTACHMENT 3B



ENGINEERING SERVICES  
 TIM DEMING  
 479 MASON ST., #301  
 VACAVILLE, CA 95606  
 CONTACT (707) 454-3000  
 DEMING@ESCONSULTING.NET

RYAN FERGUSON  
 PHONE: (510) 498-9735  
 R.F. FERGIUSON@GMAIL.COM

SITE PLAN W/ NEW DECK LOCATION

A NEW REAR WATERPROOF DECK AT EXISTING FLAT ROOF FOR:  
**ROBERT & CHERYL UBILLUS**  
 APN: 060 249 304 500  
 1449 GRIZZLY PEAK BLVD.  
 BERKELEY, CA 94708



ATTACHMENT 2.

**URGENT**

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP  
Associate Planner

City of Berkeley  
Planning and Development  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

July 15, 2019

Re: 1449 Grizzly Peak Blvd.  
proposed second/third story additions (500 sq. ft.)

As a follow-up to our discussion on June 27, 2019, I am submitting the following comments, concerns and modification requests to the current proposed plans regarding the above referenced project.

We, the abutting neighbors on Summit Road continue to be the most impacted by the current proposed plans. This proposal represents CONSTRUCTION CREEP, i.e. serial permit applications and construction during the past 6-7 years (since 2013, see attachment 1), including potentially unpermitted, illegal work.

Background:

In 2014 Summit Road neighbors successfully mediated a compromise with the help of Seeds Community Resolution staff (case # 10250), and the applicant agreed to modify the project to protect our views to the west by reducing some of the mass of the addition with a maximum ceiling height of 8 feet. (2013 application for additions)

Attachment 2. includes the list of neighbors' concerns and attachment 3. represents the resolution to these concerns.

On May 1, 2014 the City issued an AUP # 13-20000050 (see attachment 4.)

The permit specified that all construction shall conform <sup>to</sup> the approved UP drawings (section 24) and that all landscape, site and architectural improvements be completed per approved drawings dated March 5, 2014. (section 25). See p.5 of the Notice of Administrative Decision-Findings and Conditions, (attachment 4.).

The above referenced drawings specified the following: 1. (E) rear yard: NO CHANGE, 2. (E) rear deck NO CHANGE 3. (E) 2 retaining walls to remain.(Page 1.), and on page 3. (E) wood siding to remain.

Attachment 5 shows the building (and portions of the rear yard) as completed. The bright white color is blinding and obtrusive - this is the view from our living room.

I met with the applicant Rodrigo Ubillus in May of 2018. He promised to remedy our concerns regarding the blinding brightness of the building color by 1. installing dark grey tiles on the deck, matching the color of the dark grey shingles on the existing peak roof, and by 2. painting the east facing wall same grey color.

During mediation he had promised that the building color will <sup>be</sup> one to "blend with the surrounding nature", which did not happen.

1.

So we ask that the color of the entire second/third floor be painted to match the grey/brown color of the existing peak roof and that the same roofing material/color be rolled out on all the flat roof areas. This would remedy the blinding, obtrusive brightness of the structure,

In addition, the proposed project goes against the agreement neighbors reached with the applicant in 2014 (see attachment 3.), specifically regarding the maximum ceiling height of 8 feet.


2.

So we ask that the plans be modified so that the maximum ceiling height for the 5th bedroom and the 4th bathroom will be 8 feet. We also ask that the ceiling height for the walk-in closet be reduced to 7.5 feet. These modifications will still give the applicant the square footage they are requesting. (See attachments 6A and 6B).

3.

We also ask that this project be put on hold until all the issues related to the 2014 permit have been resolved, including clarifying any code enforcement issues/permit issues with regard to the rear yard now completely covered with concrete. Attachment 7 shows the project site prior to the construction of the first addition, with the vegetation and deck in the rear yard still intact. Attachment 8 (A,B,C) show the concrete structures in the rear yard.

Sincerely,

  
Pamela Sihvola  
1476 Summit Road  
Berkeley, CA 94708

PS. Attachment 9 A and B show plans for a deck replacement at rear, dated 1/25/2018, and still indicating (E) REAR YARD, NO CHANGE

ATTACHMENT 3.

Rodrigo Ubillus  
1449 Grizzly Peak Blvd.  
Berkeley, CA 94708

March 4, 2014

Re: Proposed second story addition  
and remodel @ 1449 Grizzly Peak Blvd.

Mr. Rodrigo Ubillus,

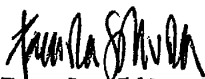
Thank you for the 2 plan sheets and your note I received on  
February 27, 2014.

As you requested I am enclosing the 2 plan sheets with neighbors'  
signatures, reflecting the principal points of agreement, as shown  
on plan sheet 3, dated 2/26/2014 (Attachment 1.) and on stacked  
stair section drawing (Attachment 2.) for the above referenced  
proposed project:

- 1. 8 ft. ceiling height
- 2. Flat roofs throughout
- 3. Stacked stair with a 7 ft. head height

When you are ready to submit the final, complete set of plans to  
the city, could you also please, email the set to us via Patrick,  
as a pdf-file, to: info@sheahan-quandt.com.

Sincerely,

  
Pamela Sihvola  
1476 Summit Rd.  
Berkeley, CA 94708

PS. We look forward to receiving the information and quotes for the  
tree cutting project as soon as possible. Thank you.

cc: Victor Herbert, Zoning Mediations

RECEIVED

MAR 20 2014

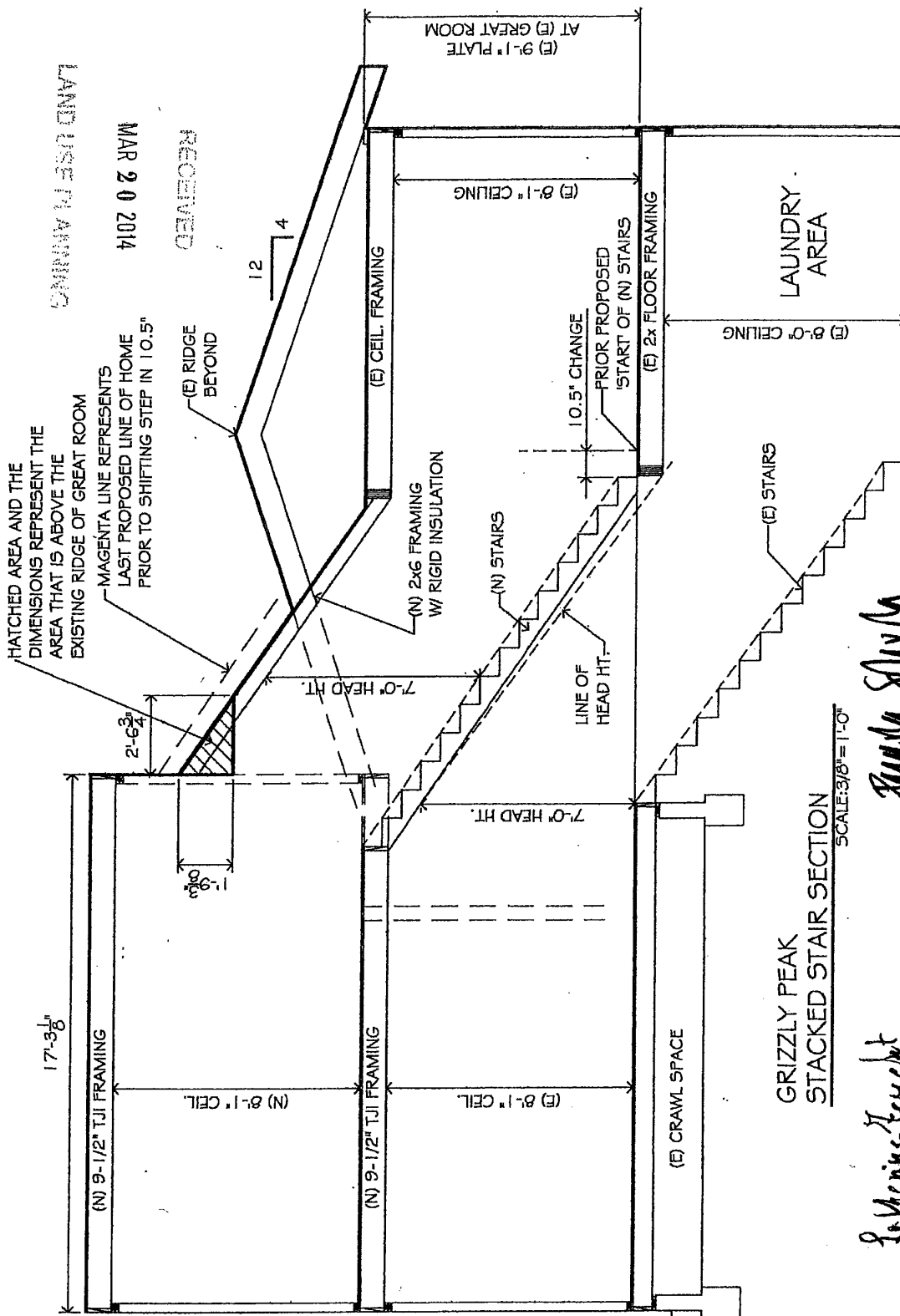
LAND USE PLANNING

ATTACHMENT 2.

LAND USE PLANNING

MAR 20 2014

RECEIVED



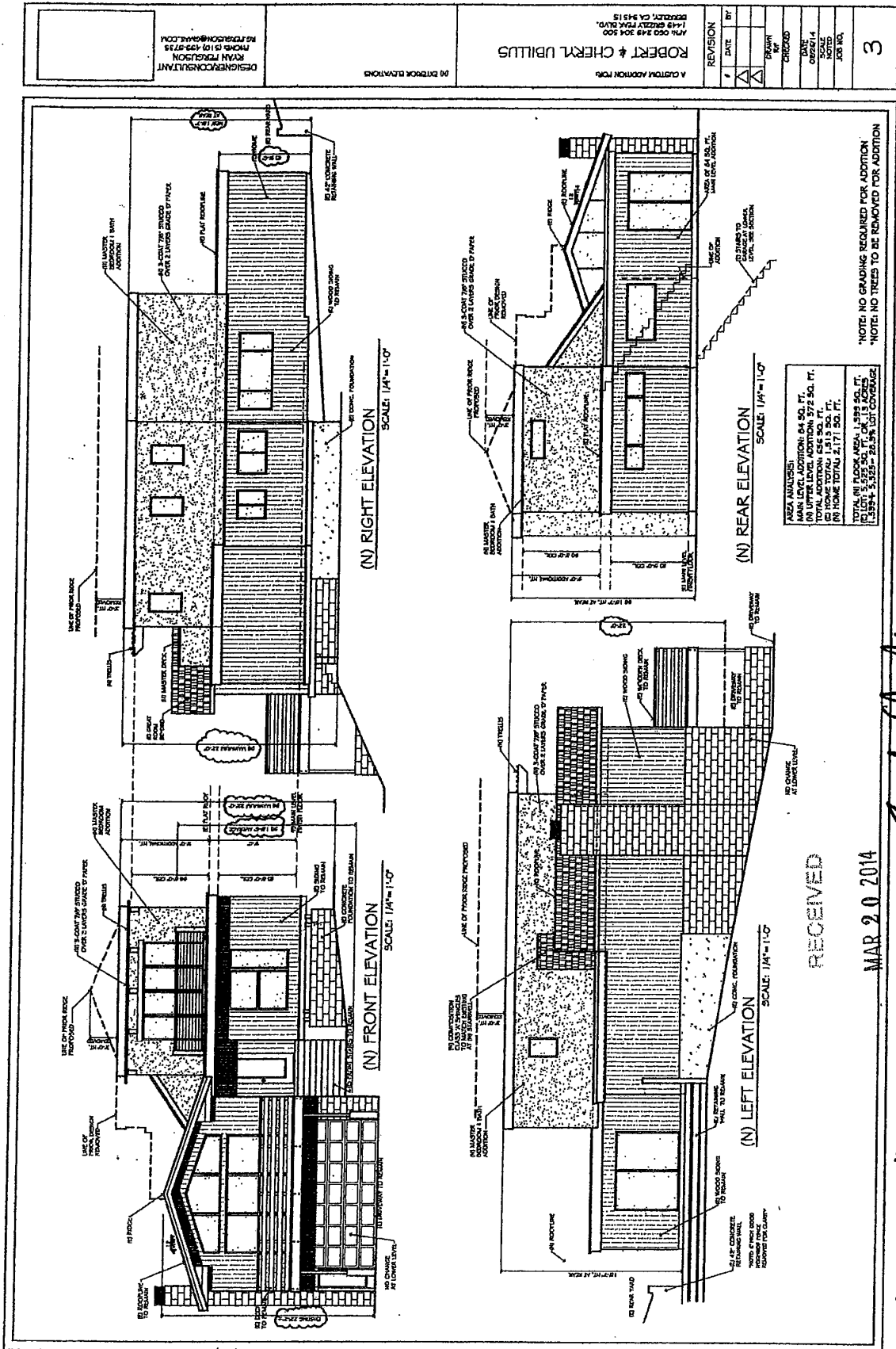
GRIZZLY PEAK  
STACKED STAIR SECTION

SCALE: 3/8" = 1'-0"

*Amela Slavina*  
*Luis Garcia*  
 1476 SUMMIT RD. BERKELEY. CA 94708

*LaVernice Forechet*  
 1480 Summit Rd.  
 Berkeley

ATTACHMENT 1.



1476 SUMMIT RD. BERKELEY, CA 94708

Yamila Juvin  
 Luis Garcia

RECEIVED  
 MAR 20 2014

Pathway Ranch  
 1480 Summit Rd.  
 Berkeley







# N O T I C E O F A D M I N I S T R A T I V E D E C I S I O N

## 1449 Grizzly Peak Blvd.

### Administrative Use Permit #13-2000050

To construct a two-story, 556 square foot residential addition that will increase the building's average and maximum heights from 14' 6" to 18' 6" and from 17' to 22' respectively.

**ZONING OFFICER DECISION:** The Zoning Officer of the City of Berkeley has APPROVED, pursuant to Zoning Ordinance Section 23B.28.050 and subject to the attached findings and conditions (attachment 1), and based on the attached approved plans (attachment 2), an Administrative Use Permit pursuant to:

- Section 23D. 16.070 to construct a residential addition greater than 14' in average height.

**DATE OF DECISION:** May 1, 2014

**APPEAL PERIOD:** May 2, 2014 to May 22, 2014

#### ATTACHMENTS:

1. Findings and Conditions
2. Project Plans, dated March 5, 2014

#### FOR FURTHER INFORMATION:

All application materials for this project are available online at: <http://www.cityofberkeley.info/zoningapplications> and at the Permit Service Center, Second Floor, at 2120 Milvia Street, between 8:30 a.m. and 4 p.m., Monday through Friday (closed the 2<sup>nd</sup> Friday of every month). Questions about the project should be directed to the project planner, **Claudine Asbagh**, at (510) 981-7424 or [casbagh@cityofberkeley.info](mailto:casbagh@cityofberkeley.info).

#### PUBLIC NOTICE, PURSUANT TO SECTION 23B.28.040 B&C OF THE BERKELEY MUNICIPAL CODE:

This Notice of Administrative Decision was:

1. Forwarded to the Zoning Adjustments Board and sent to the Main Library;
2. Posted at three visible locations in the vicinity of the subject property and at a bulletin board at the Zoning counter.
3. Mailed to neighborhood and community organizations for which the project falls within their expressed area of interest, as set forth in Section [23B.24.060](#);
4. Mailed to owners and residents of properties abutting and confronting the subject property -or- when for a major residential additions in the R-1(H) District, or any project within the C-T District, to property owners and residents in a 300 foot radius.

The validity of the proceedings, however, shall not be affected by the failure of any such property owner, occupant or neighborhood or community organization to receive such mailed notice.



**TO APPEAL THIS DECISION, PURSUANT TO SECTION 23B.28.060 OF THE BERKELEY MUNICIPAL CODE:**

To appeal this decision, you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal, along with the required fee (see below) to the Zoning Officer, at the Permit Service Center, 2120 Milvia Street, 1<sup>st</sup> Floor, Berkeley.
2. The appeal and required fee (see below) must be received prior to 4:00 p.m. on the last day of the appeal period shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee to the Permit Service Center (see above; checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for appeals of a Zoning Officer decision to the Zoning Adjustments Board is \$200. This fee may be reduced to \$75 if the appeal is signed by persons who lease or own at least 35 percent of the parcels or dwelling units within 300 feet of the project site, or at least 20 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If an appeal is filed, the Zoning Officer shall set the matter for consideration by the Zoning Adjustments Board. An appeal stays the issuance and exercise of the AUP until a decision is rendered or the appeal is withdrawn. If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised in an appeal of the decision.
2. You must appeal to the Zoning Adjustments Board within twenty (20) days after the Notice of Decision of the action of the Zoning Officer is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City and in court.

# ATTACHMENT 1

---

## FINDINGS AND CONDITIONS

MAY 1, 2014

### 1449 Grizzly Peak Blvd.

#### Administrative Use Permit #13-20000050

**To construct a two-story, 556 square foot residential addition that will increase the building's average and maximum heights from 14' 6" to 18' 6" and from 17' to 22' respectively.**

#### CEQA FINDINGS

---

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### FINDINGS FOR APPROVAL

---

2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - The proposed addition would not unreasonably obstruct sunlight, air, or views, because it would not cast new shadows on the windows of adjacent residences. The addition remains well outside of the required yards, and is located within the general footprint of the existing dwelling in an area that is already developed with substantial vegetation that also filters views.
  - The project consists of a two story addition that will maintain the flat roof lines of the existing dwelling to maintain the views of adjacent neighbors located uphill from the site.
  - The subject property satisfies the district standards for maximum residential density, maximum main building height, minimum front, rear, and side yard setbacks, maximum lot coverage and minimum open space.
  - The project would not increase parking demand and existing parking is provided in accordance with the minimum requirement.

## STANDARD CONDITIONS

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The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### 2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

### 3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

### 4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

### 5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### 6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

### 7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

10. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:
  - Alterations, closures, or blockages to sidewalks or pedestrian paths
  - Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
  - Storage of building materials, dumpsters, debris anywhere in the public ROW
  - Provision of exclusive contractor parking on-street
  - Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

**Prior to Issuance of Any Building Permit:**

12. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

**During Construction:**

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
23. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.

**Prior to Issuance of Occupancy Permit or Final Inspection:**

24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 5, 2014**.

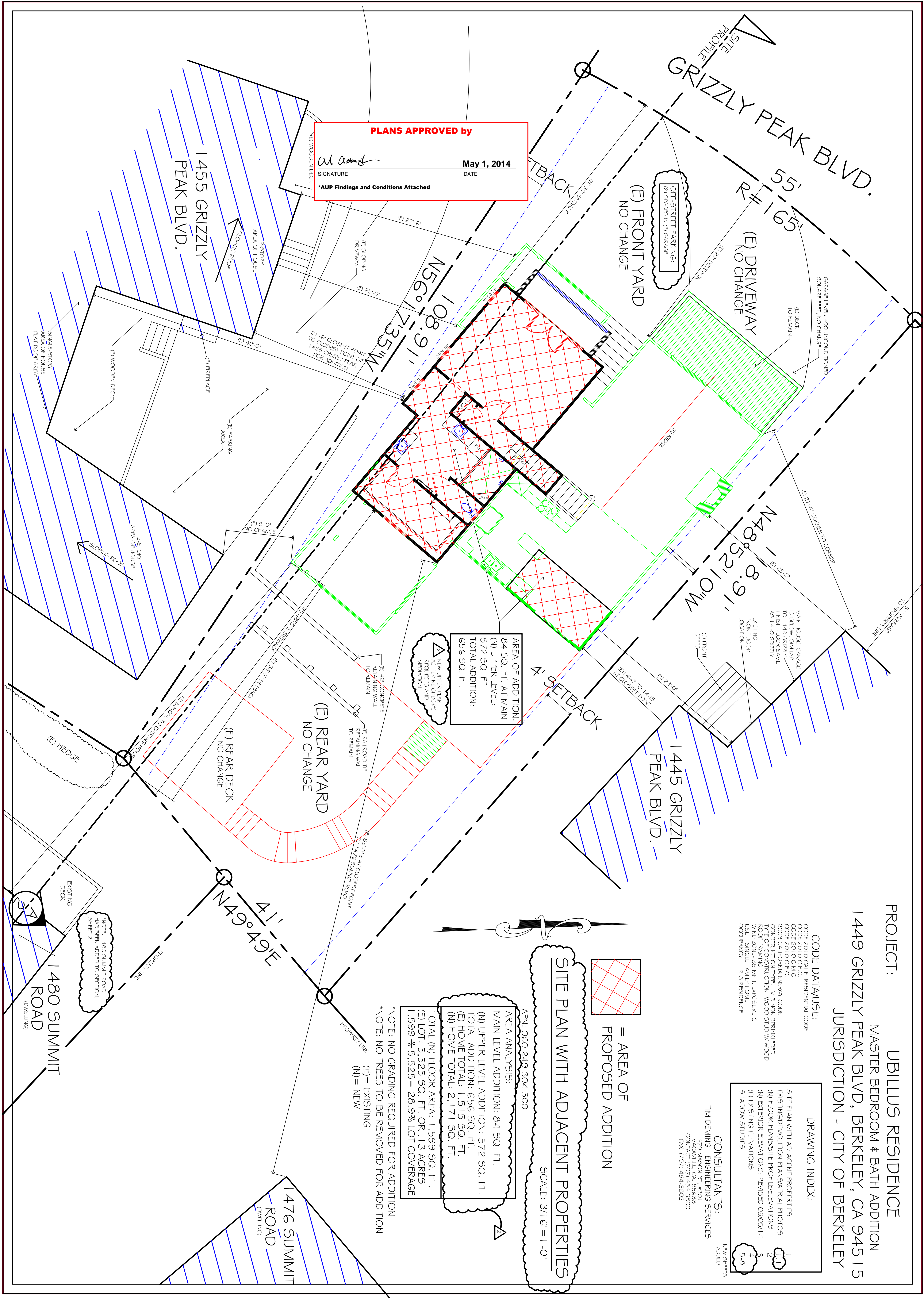
**At All Times (Operation):**

26. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
27. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
28. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.



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Prepared by: Claudine Asbagh  
For Eric Angstadt, Planning Director



#	DATE	BY
1	03/05/14	R/F

REVISION

DATE: 03/05/14  
 SCALE: NOTED  
 JOB NO. 1

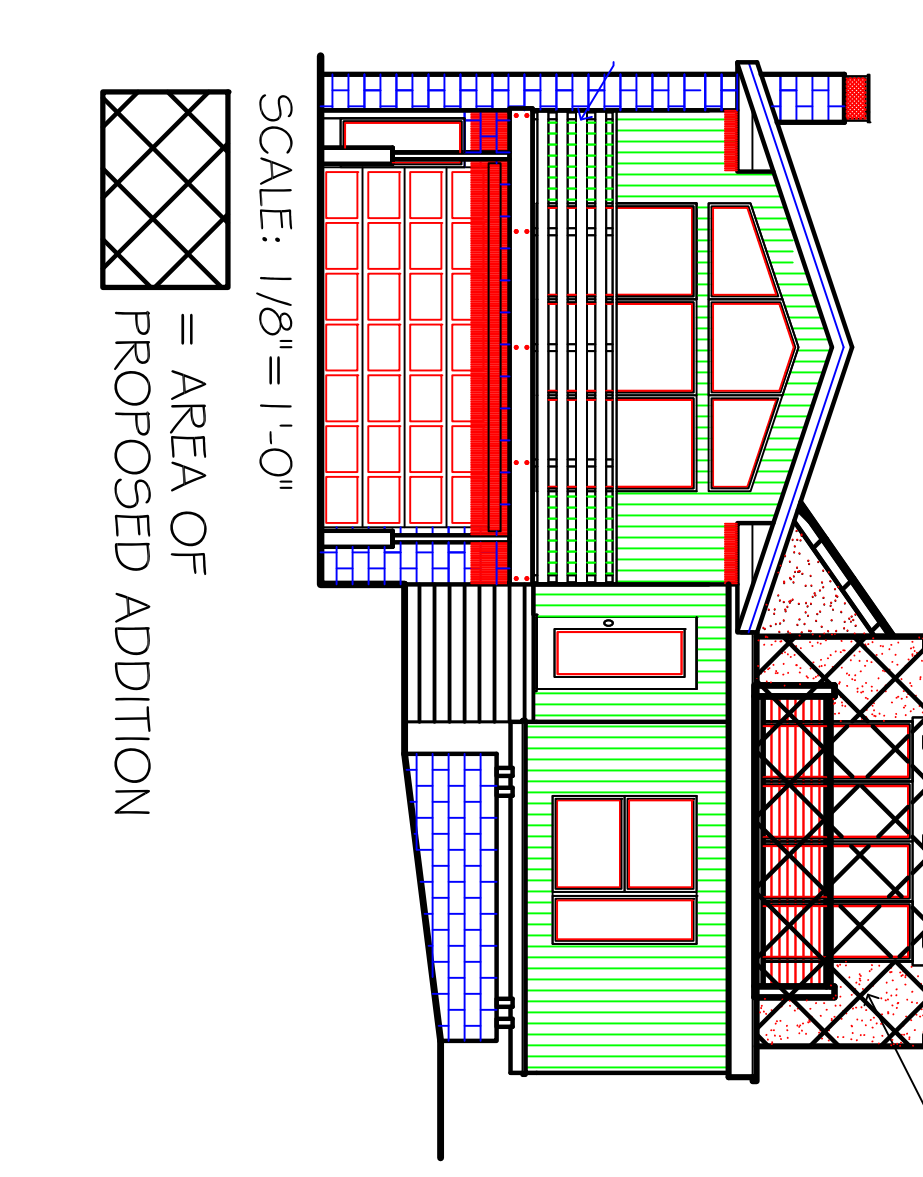
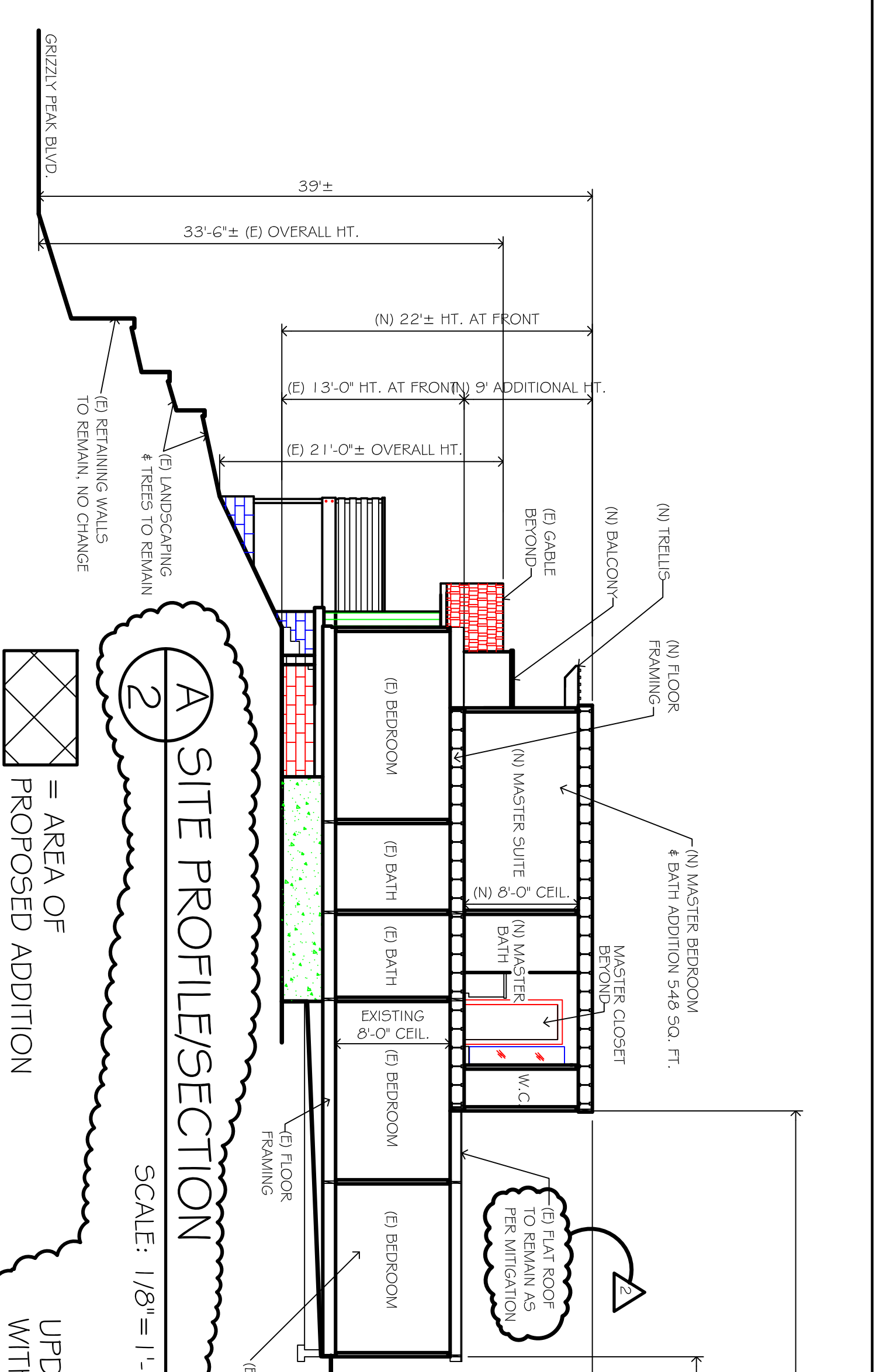
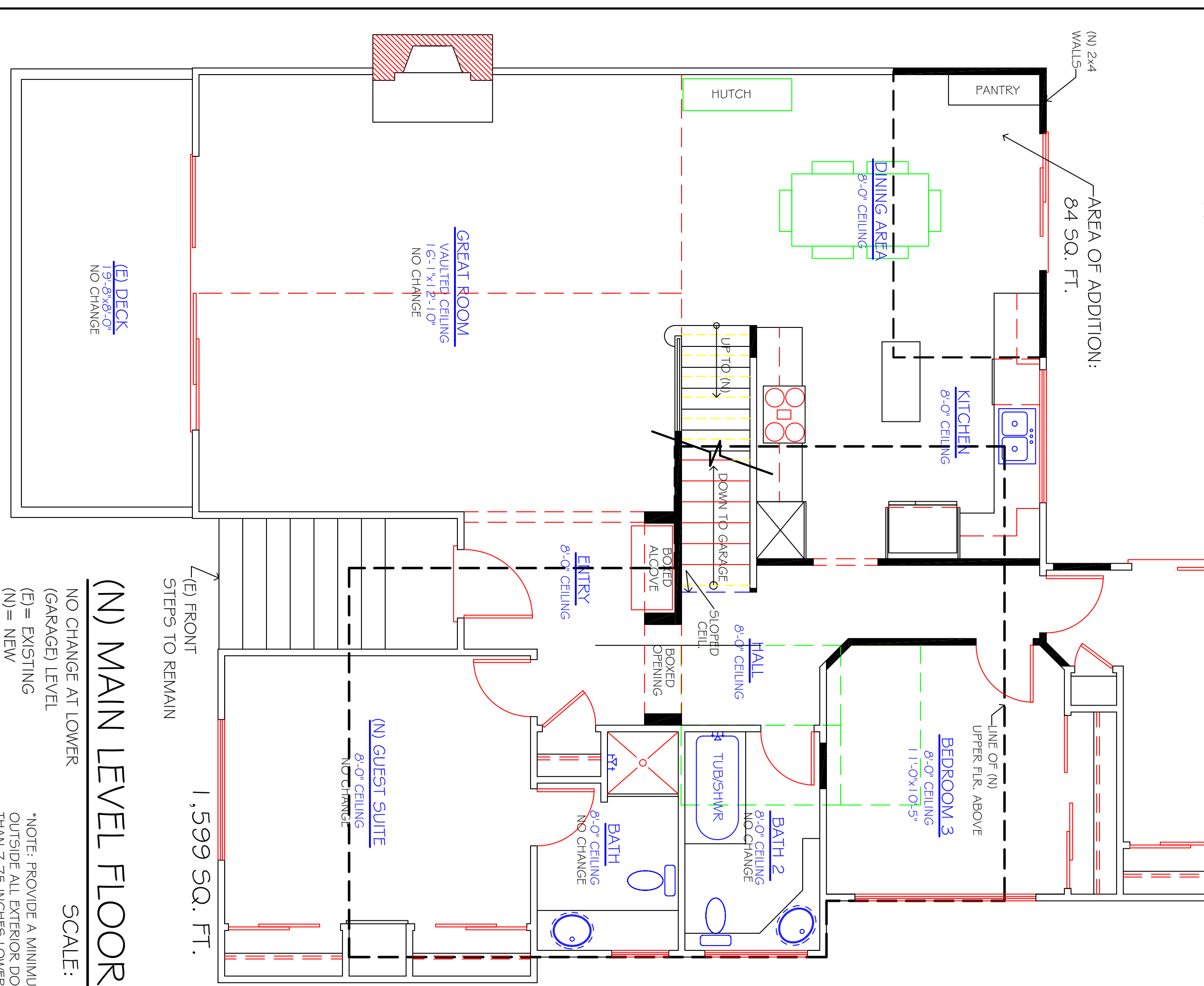
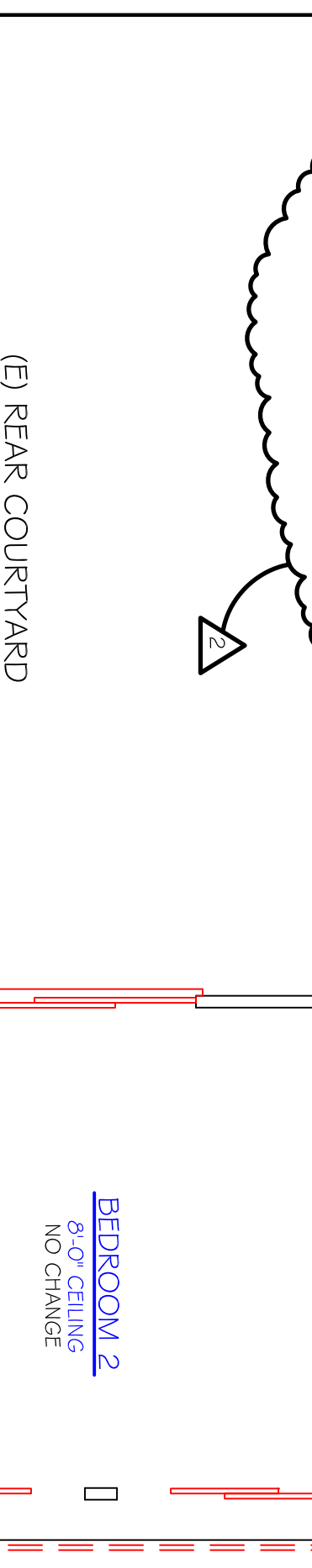
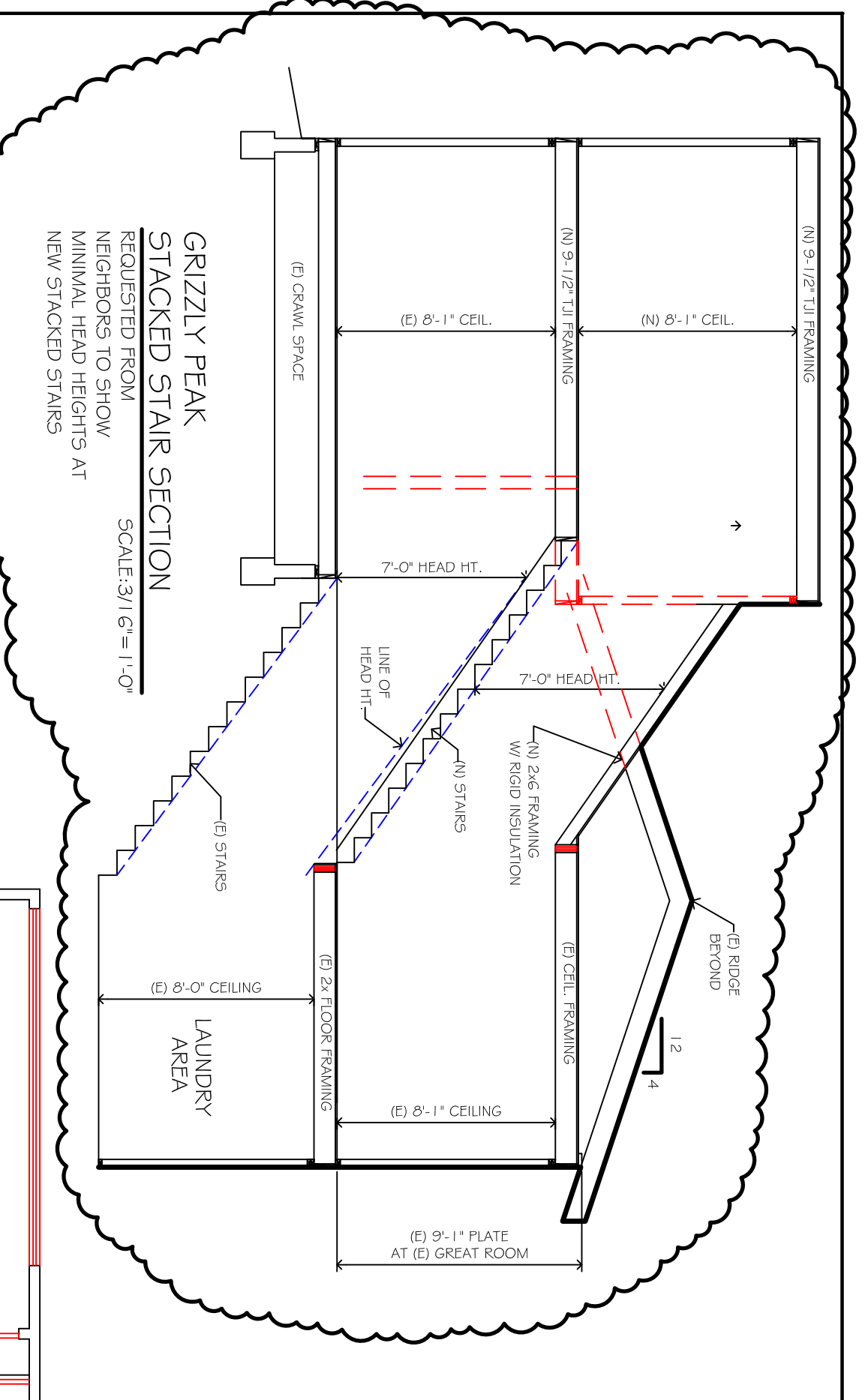
A CUSTOM ADDITION FOR:  
**ROBERT & CHERYL UBILLUS**

APN: 060 249 304 500  
 1449 GRIZZLY PEAK BLVD.  
 BERKELEY, CA 94515

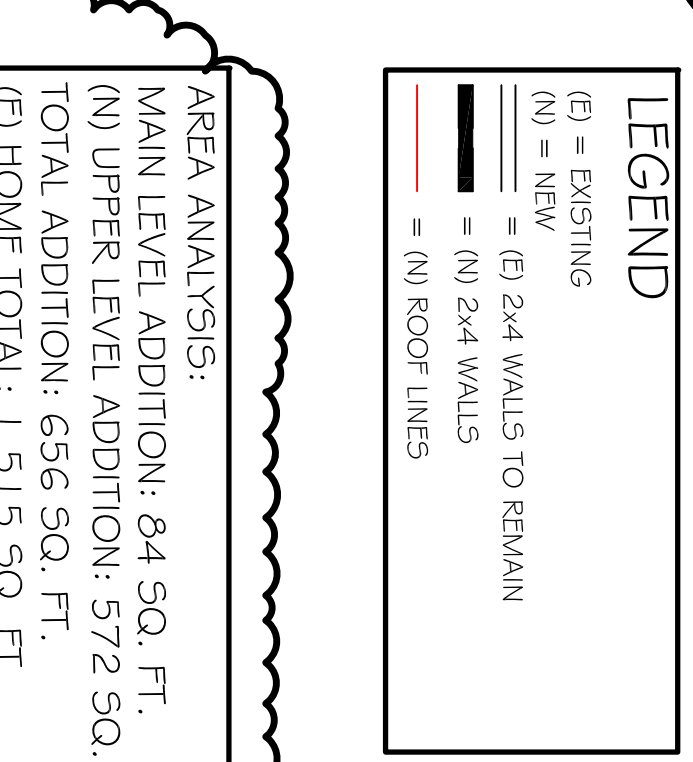
SITE PLAN WITH ADJACENT PROPERTIES

**RYAN FERGUSON**  
 PHONE: (510) 499-9735  
 RG.FERGUSON@GMAIL.COM

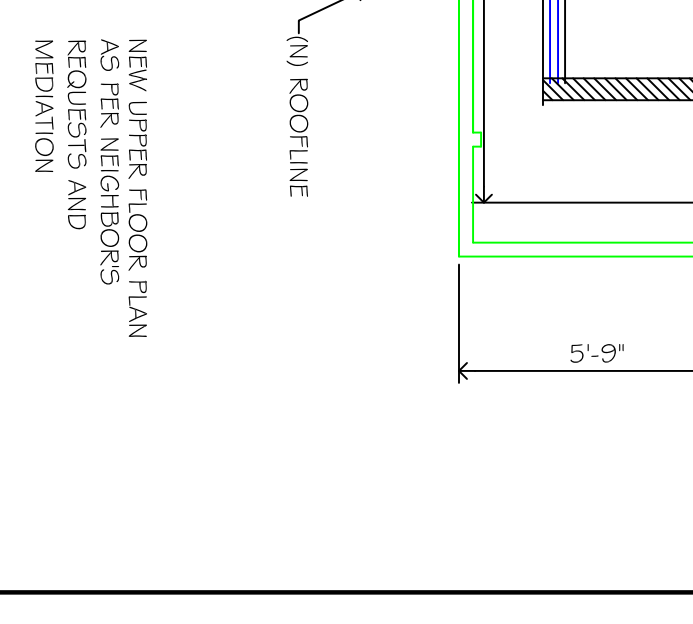
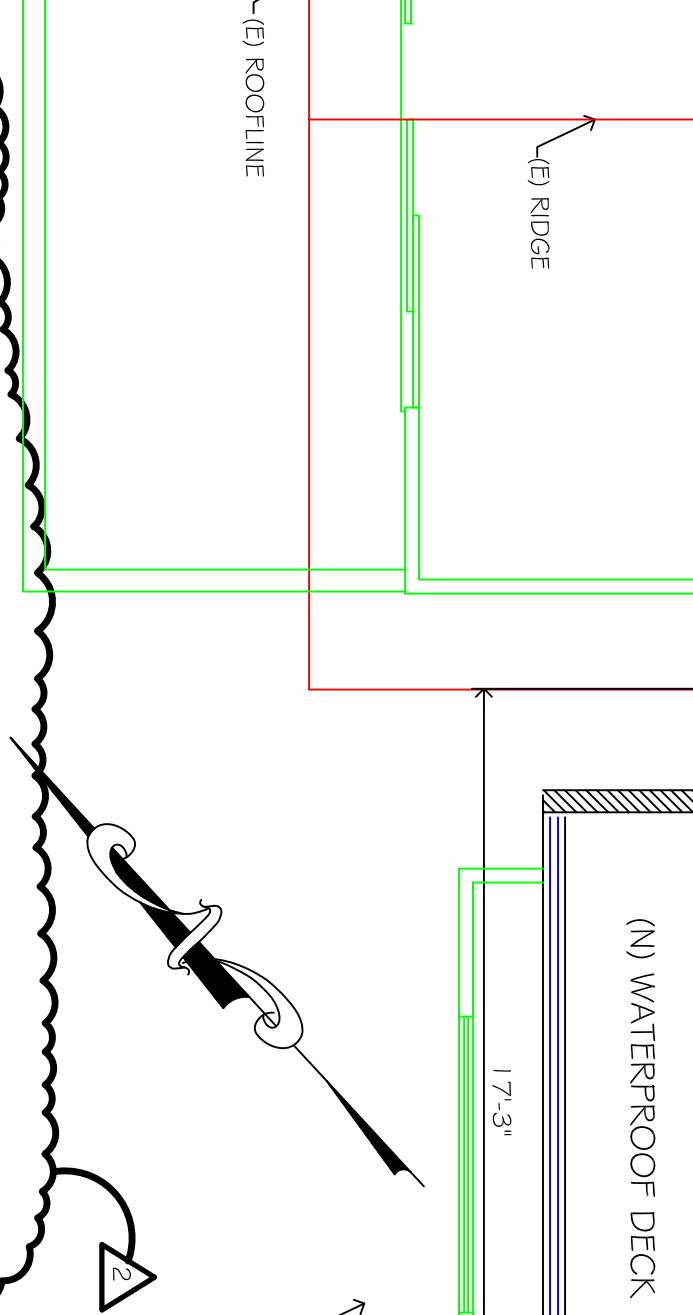
CALL BEFORE YOU DIG  
 800-672-2444



**PLANS APPROVED by**  
*Al Assad*  
SIGNATURE  
May 1, 2014  
DATE  
\*AUP Findings and Conditions Attached



**AREA ANALYSIS:**  
MAIN LEVEL ADDITION: 84 SQ. FT.  
(N) UPPER LEVEL ADDITION: 572 SQ. FT.  
TOTAL ADDITION: 656 SQ. FT.  
(E) HOME TOTAL: 1,515 SQ. FT.  
(N) HOME TOTAL: 2,171 SQ. FT.  
TOTAL (N) FLOOR AREA: 1,599 SQ. FT.  
(E) LOT: 5,525 SQ. FT. OR 1.3 ACRES  
1,599% 5,525 = 28.9% LOT COVERAGE



A CUSTOM ADDITION FOR THE:  
**ROBERT & CHERYL UBILLUS**  
APN: 060 249 304 500  
1 449 GRIZZLY PEAK BLVD.  
BERKELEY, CA 945 15

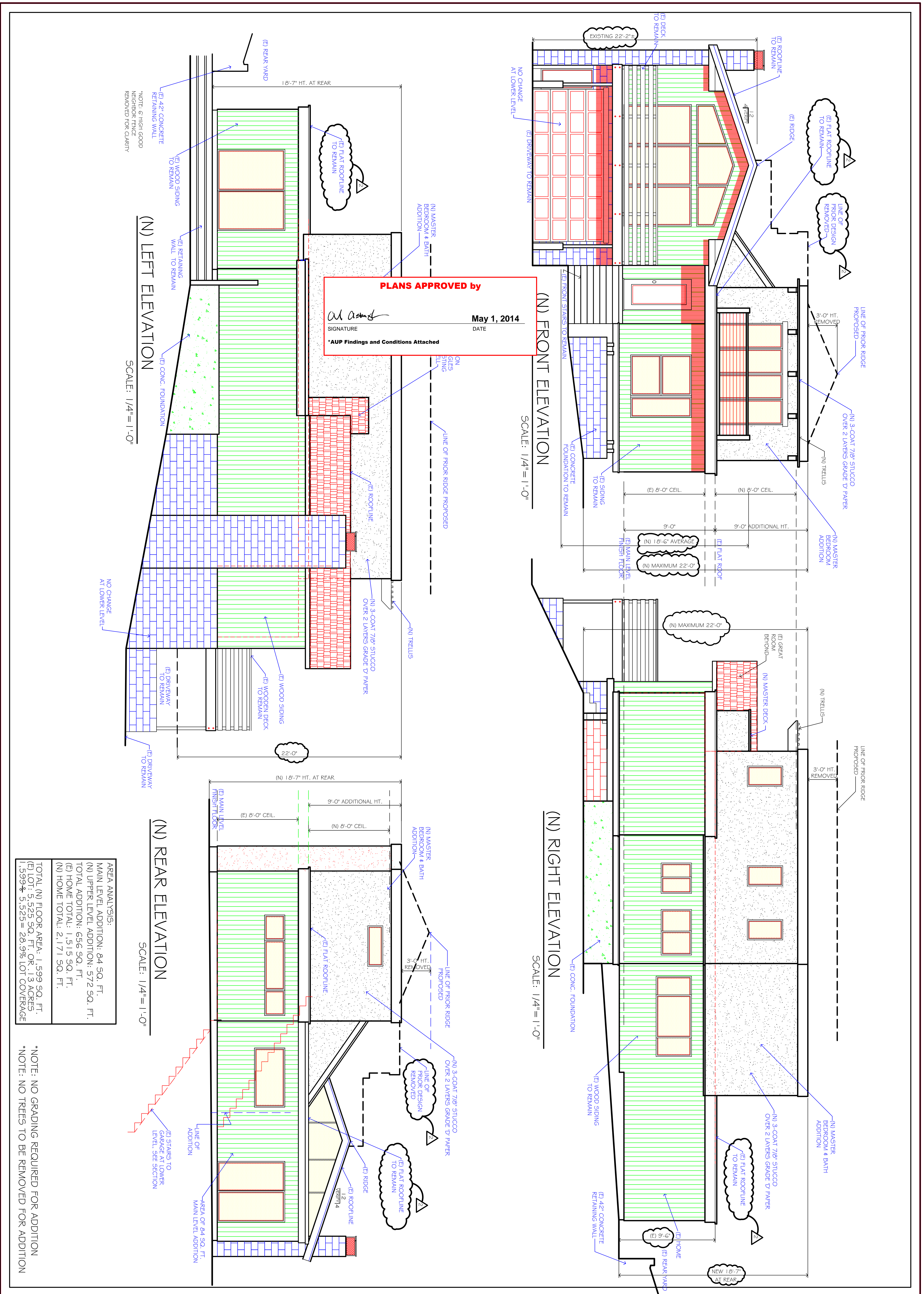
(N) MAIN LEVEL FLOOR PLAN  
(N) UPPER LEVEL FLOOR PLAN  
SITE SECTION

DESIGNER/CONSULTANT  
**RYAN FERGUSON**  
PHONE: (510) 499-9735  
RG.FERGUSON@GMAIL.COM

REVISION	
#	DATE
2	03/05/14
1	03/05/14

DATE: 03/05/14  
SCALE: NOTED  
JOB NO.:





A CUSTOM ADDITION FOR:		(N) EXTERIOR ELEVATIONS		DESIGNER/CONSULTANT RYAN FERGUSON PHONE: (510) 499-9735 RG.FERGUSON@GMAIL.COM	
ROBERT & CHERYL UBILLUS					
APN: 060 249 304 500 1 449 GRIZZLY PEAK BLVD. BERKELEY, CA 94515					
#	DATE	BY	REVISION		
1	03/09/14	R/F			
DRAWN R/F					
CHECKED					
DATE 03/09/14					
SCALE NOTED					
JOB NO.					
3					



# Z O N I N G A D J U S T M E N T S B O A R D

## NOTICE OF PUBLIC HEARING

### 1449 Grizzly Peak Boulevard

**Appeal of Zoning Officer's Decision to approve Administrative Use Permit #ZP2019-0111 to alter a 5,526 square-foot residential parcel by 1) constructing a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, which will increase the average building height and maximum building height by approximately 2'; 2) constructing the fifth bedroom on the parcel; and 3) constructing a perimeter fence four feet from the rear property line and on the side property lines that will be from 6'-2" to 8'-7" in height.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on **March 12, 2020** at the **Berkeley Unified School District meeting room, 1231 Addison Street**, (wheelchair accessible). The meeting starts at 7:00 p.m.

#### A. Land Use Designations:

- General Plan: LDR – Low Density Residential
- Zoning: R-1(H) – Single-Family Residential District, Hillside Overlay

#### B. Zoning Permits Required:

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.030 to construct a major residential addition (cumulative);
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to construct a fifth bedroom on the parcel;
- Administrative Use Permit pursuant to BMC Section 23D.16.070.C to construct an addition which would exceed fourteen feet in average height;
- Administrative Use Permit pursuant to BMC Section 23E.96.070.B to construct an addition which would exceed twenty feet in maximum height for a building located within the "H" Hillside Overlay District; and
- Administrative Use Permit pursuant to BMC Section 23D.08.060.A.2 to construct a fence over six feet in height.

#### C. CEQA Determination: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").

#### D. Parties Involved:

- Applicant Lillian Mitchell, 1708 Martin Luther King Jr. Way, Suite B, Berkeley
- Property Owner Rodrigo Ubillus, 1449 Grizzly Peak Boulevard, Berkeley

1449 GRIZZLY PEAK BOULEVARD  
Page 2 of 4

NOTICE OF PUBLIC HEARING  
Posted FEBRUARY 27, 2020

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- Appellant Pamela Sihvola, 1476 Summit Road, Berkeley

1449 GRIZZLY PEAK BOULEVARD  
Page 3 of 4

NOTICE OF PUBLIC HEARING  
Posted FEBRUARY 27, 2020

**Further Information:**

All application materials are available at the Land Use Planning Division, during normal office hours or online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board agenda and all agenda materials regarding this project will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Ashley James, at (510) 981-7458 or [ajames@cityofberkeley.info](mailto:ajames@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

**Correspondence received by 8:00 AM, on the Thursday before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by Noon Tuesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #1, which is released the end of the day Tuesday, two days before the public hearing;
- **Correspondence received by Noon Wednesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #2, which is released the end of the day Wednesday, one day before the public hearing; or
- **Correspondence received by 3 PM Thursday** will be given to the Zoning Adjustment Board just prior to the public hearing.

Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.

**Accessibility Information / ADA Disclaimer:**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Land Use Planning Division, during regular business hours.

**Notice Concerning Your Legal Rights:**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

ROUGHLY EDITED COPY

BERKELEY ZAB MEETING  
REMOTE BROADCAST CAPTIONING  
THURSDAY, MARCH 12, 2020

Services provided by:  
QuickCaption, Inc.  
4927 Arlington Avenue  
Riverside, CA 92504  
Telephone - 951-779-0787  
Fax Number - 951-779-0980  
[quickcaption@gmail.com](mailto:quickcaption@gmail.com)  
[www.quickcaption.com](http://www.quickcaption.com)

\* \* \* \* \*

This text is being provided in a rough draft format.  
Communication Access Realtime Translation (CART) is provided in  
order to facilitate communication accessibility and **may not be  
totally verbatim record of the proceedings.**

\* \* \* \* \*

>> S. O'KEEFE: OKAY, WE'RE GOING TO START. HELLO, EVERYONE. WELCOME TO MARCH 12TH, 2020 EDITION OF ZONING AND ADJUSTMENTS BOARD. BEFORE WE BEGIN AND DO ROLL CALL AND ALL OF THAT, I JUST WANT TO ADDRESS SOME OF THE WAYS THAT WE'RE ADDRESSING THE PUBLIC HEALTH CRISIS THAT WE'RE FACING. THERE WAS A MEETING TO DISCUSS WHETHER OR NOT WE SHOULD EVEN GO FORWARD WITH THIS MEETING. BECAUSE OF THE MANY GATHERINGS ARE CANCELED. I DON'T BELIEVE THIS IS NONESSENTIAL. WE ARE GOING FORWARD, BUT I WANTED EVERYONE TO KNOW THAT THERE ARE CERTAIN PRECAUTIONS THAT WE'RE TAKING AND I'M GOING TO MAKE RECOMMENDATIONS TO EVERYONE ON THE BOARD AND IN THE AUDIENCE TO PROTECT OUR HEALTH. THE FIRST IS STAFF HAS WIPED DOWN ALL SURFACES BEFORE THE MEETING. THAT IS GOOD. PLEASE WASH YOUR HANDS AND AVOID COFFERING OR TOUCHING YOUR FACE. COUGHING INTO YOUR HANDS AND TOUCHING YOUR FACE AS WE ALL KNOW. AS YOU CAN SEE, WE'RE SITTING IN A DIFFERENT ARRANGEMENT SO WE'RE TRYING TO ENFORCE SOCIAL DISTANCING. WE ENCOURAGE YOU ALL IN THE AUDIENCE TO DO THAT AS WELL. WE HAVE QUITE A BIT OF SPACE. WE WOULD LIKE TO ENCOURAGE EVERYONE TO USE UP THE SPACE AS MUCH AS POSSIBLE. SO ANOTHER RECOMMENDATION THAT I THINK IS A GOOD ONE IS THAT WE REDUCE THE NUMBER OF PEOPLE IN THE ROOM AT ANY ONE TIME. I WOULD LIKE IT SUGGEST IF YOUR ITEM IS NOT DISCUSSED, THAT YOU WAIT OUTSIDE. THE WEATHER IS PRETTY NICE OUTSIDE. WE PROMISE WE'LL COME AND GET YOU WHEN WE BEGIN TO DISCUSS YOUR ITEM. AND WE'LL TAKE A FIVE-MINUTE BREAK BETWEEN

ITEMS TO MAKE SURE EVERYBODY KNOW WHAT IS GOING ON. WE'RE GOING TO TRY TO RUSH THROUGH THE MEETING AS MUCH AS POSSIBLE TO MINIMIZE THE AMOUNT OF TIME WE'RE SPENDING, WE'RE GOING TO RESPECT THE PROCESS AND EVERYONE WILL GET THEIR TIME. BUT WE ARE GOING TO TAKE SOME MEASURES TO SPEED THROUGH THE MEETING AS MUCH AS POSSIBLE WHILE STILL MAKING SURE EVERYONE GETS TO SPEAK. PLEASE BE RESPECTFUL AND UNDERSTAND IF WE RUSH YOU A LITTLE BIT. I'M MOSTLY TALKING TO THE BOARD MEMBERS. WE'RE GOING TO LIMIT HOW MUCH YOU GUYS SPEAK. SO, ANY QUESTIONS ABOUT THAT FROM THE BOARD? SEEING NONE, OKAY, LET'S DO ROLL CALL AND EX-PARTE.

>> THANK YOU. BOARD MEMBER TREGUB.

>> I. TREGUB: PRESENT. ON 2150 TO 2817 -- RENA RICKLES ATTEMPTED TO MAKE CONTACT WITH ME BUT WE WERE UNABLE TO CONNECT.

>> CLERK: BOARD MEMBER CLARKE.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER SHEAHAN.

>> PRESENT AND I HAVE EX-PARTE FOR THE PROJECT ON GRIZZLY. I RECEIVED A CALL FROM THE APPELLANT ASKING ME IF THE MEETING WAS STILL ON AND REASSURED IT WAS. HOWEVER, ALSO I WANTED TO DISCLOSE PRIOR TO BEING ON ZAB, I WAS ASKED TO ATTEND A MEETING WITH THE CURRENT PROJECT PROPONENT IN CONNECTION WITH THE PREVIOUS PROJECT DATING 13 AND 14TH. AND I WAS ASKED TO ATTEND A MEDIATION MEETING WHICH I DID.

>> MEDIATION FOR THE PROJECT BEFORE US THIS EVENING?



>> 2013-14.

>> BOARD MEMBER KIM.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER PINKSTON.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER LEWIS.

>> PRESENT NO EX-PARTE. CAN I GET A COPY OF THE PACKET?

>> WE DON'T HAVE AN EXTRA COPY. VICE CHAIR KAHN.

>> C. KAHN: PRESENT NO EX-PARTE.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: PRESENT NO EX-PARTE. SO WE HAVE A QUORUM.

NOW WE'RE GOING TO OPEN UP THE MEETING WHO IS HERE TO SPEAK ON ANYTHING THAT IS NOT ON THE AGENDA. WOULD ANYONE LIKE TO SPEAK? SEEING NONE, WE'LL MOVE ON. WE'LL DISCUSS THE AGENDA. THERE IS NOTHING ON CONSENT EXCEPT FOR THE MINUTES. SO IGOR.

>> I. TREGUB: I MOVE THE MINUTES.

>> S. O'KEEFE: MINUTES ARE MOVED. IS THERE A SECOND? IS THERE A PROBLEM WITH THE MINUTES?

>> SECOND.

>> S. O'KEEFE: A MOTION AND A SECOND. WE DO A ROLL CALL VOTE?

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER CLARKE -- BOARD MEMBER CLARKE ON THE

MINUTES.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> YES.

>> BOARD MEMBER OLSON -- BOARD MEMBER KIM.

>> ABSTAIN DUE TO ABSENCE.

>> BOARD MEMBER PINKSTON.

>> ABSTAIN DUE TO ABSENCE.

>> BOARD MEMBER KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> YES.

>> REGARDING 2150. 2176 KITTREDGE, I WONDER IF MY FELLOW COMMISSIONERS WOULD ENTERTAIN THE NOTION OF MOVING THAT TO CONSENT. I FEEL LIKE WE ASKED FOR CERTAIN CONVERSATIONS WITH THE COMMUNITY TO MAKE SURE THAT THEIR NEEDS AND CONCERNS WERE ADDRESSED. I THINK THE SUPPLEMENTAL REPORT SATISFIES ME IN THAT REGARD AND GIVEN THE CONCERNS OF THE LENGTH OF THIS PROCEEDING AND HEALTH CONCERNS, UNLESS SOMEONE HAS AN OBJECTION, I THOUGHT WE MIGHT BE ABLE TO MOVE THAT TO CONSENT.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I WOULD BE HAPPY TO SECOND THAT IF YOU ARE WILLING TO ACCEPT AMENDMENTS SUBMITTED INTO THE RECORD BY I BELIEVE THIS IS SABRINA RICKLES.

>> THE AMENDMENTS ADMITTED TO THE RECORD.

>> I. TREGUB: AS A LATE COMMUNICATION.

>> WHAT IS -- THE THICKER PACKET?

>> I. TREGUB: IT'S TITLED [INDISCERNIBLE] AMENDMENTS TO  
KITTREDGE.

>> SO THE THICKER ONE.

>> S. O'KEEFE: THAT ONE WE GOT TONIGHT.

>> I. TREGUB: YES.

>> I DIDN'T GET A CHANCE TO READ THAT.

>> S. O'KEEFE: LET'S HOPE TO HAVE A SHORT HEARING ON IT.

>> THAT WAS JUST AN IDEA.

>> S. O'KEEFE: SOUNDS MORE APPROPRIATE, BUT THANK YOU FOR  
THE IDEA. NO FURTHER AGENDA CHANGES? OKAY.

>> CALL THE QUESTION.

>> I MOVE WE VOTE ON THE AGENDA.

>> S. O'KEEFE: I DON'T THINK WE HAVE TO VOTE ON AGENDA.

MOVING ON, WE'LL DO KITTREDGE FIRST. IF YOU'LL GIVE ME A MOMENT,  
I MISPLACED THE SPEAKER CARDS. IS THERE IS A MYSTERY. IS IT OVER  
THERE? I WALKED OVER THERE FOR A SECOND. I HAD THE SPEAKER CARDS  
IN MY HANDS AND QUESTIONED NO IDEA WHAT HAPPENED TOO THEM. WE'LL  
TAKE A BRIEF RECESS. WOULD I LIKE TO REMIND THOSE HERE TO SPEAK  
ON 1449 GRIZZLY PEAK AND 2016 TELEGRAPH, IF YOU COULD WAIT  
OUTSIDE THAT WOULD BE BETTER FOR PUBLIC HEALTH AND WE PROMISE  
WE'LL COME AND GET YOU.

>> [OFF MIC]

>> S. O'KEEFE: WE'LL DO IT AS QUICKLY AS WE CAN. THEY DON'T HAVE TO. IT'S A SUGGESTION.

>> SHOSHANA, YOU CAN ASK PEOPLE TO COMPLETE ANOTHER CARD.

>> S. O'KEEFE: IT'S HERE SOMEWHERE. I HAVE NO EXPLANATION FOR IT. BUT, THAT'S A GOOD IDEA. WE CAN START WITH THE STAFF PRESENTATION.

>> THE USE PERMIT HEARING IS A CONTINUATION OF CONSIDERATION FOR A PROJECT PROPOSAL AT 2150 TO 2176 KITTREDGE STREET CALLS FOR A DEMOLITION OF A LOW-RISE SET OF BUILDINGS AND A MULTI-STORY BUILDING ON TWO ADJACENT PARCELS CAN WITH A TOTAL 165 DWELLING UNITS. IT'S ZONED FOR COMMERCIAL -- I'M SORRY, UNDER THE GENERAL PLAN DESIGNATION IT'S NOT DOWN. PROJECT SITE IS LOCATED ON THE CORNER OF KITTREDGE AND FULTON. IT'S A CORNER AND A THROUGH LOT KITTREDGE TO THE NORTH BOLTEN TO THE EAST AND BANCROFT TO THE SOUTH LOCATED THREE BLOCKS FROM THE DOWNTOWN BERKELEY BART STATION. IT WOULD DEMOLISH THE OFFICE BUILDING AS WELL AS THE CAR WASH, CONVENIENCE STORE AND GAS STATION AND MERGE THE TWO ABUTTING PARCELS INTO A SINGLE PARCEL AND CONSTRUCT A 7-STORY MIXED USE BUILDING WITH ONE LEVEL OF UNDERGROUND PARKING TO ACCOMMODATE 52 VEHICLES AND 89 BICYCLE SPACES. THE BUILDING WOULD HAVE -- I'M SORRY SEVEN-STORY MASS ON ALL THREE STREET FRONTAGES. THE GROUND FLOOR WOULD FEATURE AN ESTIMATED 21,000 SQUARE FEET OF COMMERCIAL TENANT SPACE. THE

COMMERCIAL USES AT THIS TIME ARE DESIGNATED AS FOOD SERVICES ALTHOUGH THAT'S NOT CLEAR THEY'D ALL BE FOOD SERVICES. SUBSURFACE PARKING AND GARAGE ENTRANCE WOULD APPEAR ON KITTREDGE. SECOND AND 7TH STOREYS WOULD HAVE IS 65 DWELLING UNITS. 39 STUDIO APARTMENTS, 48 ONE BEDROOM/ONE BATH APARTMENTS AND 78 TWO BEDROOM TWO BATH APARTMENTS A TOTAL OF 1300 -- 13,355 SQUARE FEET OF USABLE OPEN SPACE FOR RESIDENTIAL COMPONENT WILL BE PROVIDED IN PATIOS. TERRACES WITHIN THE PROJECT AND PLANS ARE PRESENTED FOR YOUR CONSIDERATION. JUST BRIEFLY I'LL LIST THE USE PERMITS. USE PERMIT TO DEMOLISH THE EXISTING BUILDING, USE PERMIT TO CONSTRUCT THE MIXED USE BUILDING TO CONSTRUCT MORE THAN 10,000 SQUARE FEET OF COMMERCIAL FLOOR AREA. TO EXCEED 60 FEET IN HEIGHT BUT NOT EXCEED 75 FEET IN BUILDING HEIGHT TO MODIFY THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACKS FROM FIVE FEET IN CERTAIN LOCATIONS TO ZERO FEET AND PAY IN-LIEU PARKING INSTEAD OF PROVIDING THE TOTAL REQUIREMENT FOR PARKING AT THIS SITE. TO REDUCE THE PUBLICLY ACCESSIBLE USABLE OPEN SPACE AND FINALLY TO ESTABLISH A FOOD SERVICE. THIS PROJECT IS CATEGORICALLY ATTEMPT FROM ENVIRONMENTAL REVIEW SUBJECT TO THE STREAMLINING INFILL REQUIREMENT OF CEQA. THE PROJECT ANALYSIS AND COMPLIANCE WITH ALL STANDARDS WAS PRESENTED IN THE PREVIOUS STAFF REPORT TONIGHT. THIS HEARING WAS OPENED ON JANUARY 24TH. THERE ARE CONCERNS AFTER LEARNING ABOUT CONCERNS FROM MAKES IT WHO SAID THEY DIDN'T HAVE OPPOSITION TO THE PROJECT BUT HAD

CONCERNS ABOUT THE CONSTRUCTION FACE. THE ZAB ASKED THE APPLICANT TO WORK WITH THE CONCERNED NEIGHBORS TO REACH AN AGREEMENT AND UNDERSTANDINGS ABOUT THEIR CONCERN. SINCE THAT MEETING ON JANUARY 23RD, THE APPLICANT HAS MET WITH THE FOLKS WHO SPOKE THAT NIGHT, ONE OF THEM WAS SUSAN CARLSON, SHE'S A RESIDENT PROPERTY OWNER AT THE BUILDING AT 2138 KITTREDGE AS WELL AS THE OPERATOR OF THE GREAT CHINA RESTAURANT. WHICH IS A BLOCK SOUTH AND THE REPRESENTATIVE OF THE ODD FELLOWS LODGE AT 2288 FULTON STREET. STAFF ALSO MET WITH THESE FOLKS AND THE APPLICANTS. WE CONTINUE TO MEET WITH OUR OTHER STAFF MEMBERS TO FOCUS ON THE LIST THAT THE ZAB PRESENTED AND KIND OF TAKE THAT LIST DOWN TO EXACTLY WHAT IS THE USE PERMIT AND LAND USE RELATED MATTERS AND SAW THAT THE CONCERNS AROUND TEMPORARY IMPACTS RELATED TO CONSTRUCTION HAVE BEEN RAISED AND STUDIED AND ADDRESSED IN THE CITY'S EXISTING PLANS AND ORDINANCES AND HAS BEEN CODIFIED IN OUR STANDARD CONDITIONS OF APPROVAL FOR PROJECTS OF THIS SIZE AND SCALE IN THE DOWNTOWN. WE'RE GOING TO REITERATE OUR RECOMMENDATION FOR APPROVAL AND THE RELIANCE ON THE STANDARD CONDITIONS THEREIN. AND JUST WANTED TO MENTION AND REMIND THE ZAB THE IMPORTANT THING ABOUT CONDITIONS OF APPROVAL IS NOT ONLY THAT THEY REPRESENT INTERAGENCY COORDINATION IN OUR ESTABLISHED PRACTICE, BUT THEY'RE ALSO ENFORCEABLE. WE'VE SEEN SEVERAL ITERATIONS OF AGREEMENTS AND REQUESTS FROM THE OWNERS AND REPRESENTATIVES OF THE ODD FELLOWS LODGE AND WE'RE NOT

CONVINCED THAT ALL OF THOSE CONDITIONS OF APPROVAL THAT THEY'RE RECOMMENDING WOULD BE ENFORCEABLE SO WE'RE GOING TO STICK WITH THE ORIGINAL RECOMMENDATION AND SUGGEST THAT ZAB CONSIDER APPROVING THE PROJECT GIVEN THE CLIENTS WITH THE DOWNTOWN AREA PLAN AND ALL AT APPLICABLE STANDARDS AND CONDITIONS. THANK YOU.

>> S. O'KEEFE: ANY QUESTIONS FOR STAFF AT THIS TIME? IGOR.

>> I. TREGUB: I HAVE TWO QUESTIONS. FIRST, IS THIS PROJECT GOING TO BE SUBJECT TO BERKELEY'S NEW BUILDING ELECTRIFICATION REQUIREMENTS?

>> NO IT WOULDN'T BECAUSE IT WAS PRIOR TO THE DEADLINE THAT PROJECTS UNDER THAT ORDINANCE WOULD BE AFFECTED.

>> I WILL RESERVE MY QUESTION FOR THE APPLICANT THEN. IF THEY WOULD BE WILLING TO VOLUNTARILY AGREE TO THAT. MY SECOND QUESTION IS -- AND I RECOGNIZE WE ALL JUST RECEIVED THIS, BUT IT WOULD BE EXTREMELY HELPFUL IF YOU COULD HELP US GO THROUGH THEM AND LET US KNOW WHICH ONES IN YOUR PROFESSIONAL OPINION WOULD NOT BE ENFORCEABLE.

>> OKAY. LET ME GET TO THAT.

>> WHEN WERE THESE SUBMITTED TO YOU?

>> THEY WERE SUBMITTED TO ME AT THE SAME TIME THEY WERE SUBMITTED TO YOU.

>> YOU HAVE REVIEWED THEM?

>> NO, I'VE SEEN EARLIER VERSIONS AND MY UNDERSTANDING IS THAT THE TWO PARTIES, THE APPLICANT AND THE REPRESENTATIVE FROM

THE ODD FELLOWS HAVE REACH A PRIVATE AGREEMENT. OUR POSITION IS THIS A PRIVATE AGREEMENT BETWEEN TWO PARTIES. THE USE PERMIT CONDITIONS OF APPROVAL ARE SPECIFICALLY BETWEEN THE REGULATORY AGENT AND THE RECIPIENTS OF THE APPLICANT AND IT'S NOT OPEN TO THIRD OR FOURTH PARTIES IN THIS CASE. I'M GOING TO GRAB THAT PIECE OF PAPER.

>> MAYBE YOU CAN ASK ANOTHER QUESTION WHILE I LOOK FOR THAT AND I'LL COME BACK TO YOUR QUESTION, IGOR.

>> S. O'KEEFE: TERESA.

>> T. CLARKE: IS THIS A CONTINUATION? SO THE PUBLIC HEARING IS CLOSED.

>> S. O'KEEFE: WE'RE GOING TO HAVE A NEW HEARING.

>> IT'S REQUIRED. WHILE THERE WAS PUBLIC TESTIMONY, ANY TIME AN ITEM IS AGENDIZED FOR ACTION, WE'RE REQUIRED TO HAVE A PUBLIC HEARING ON THE ITEM.

>> WE HAVE TO HAVE A PUBLICATION FROM EVERYONE? OR JUST A PUBLIC HEARING?

>> S. O'KEEFE: WE'RE LIMITING THE TIME. WE'RE LIMITING THEIR TIME AS WE ALWAYS DO.

>> T. CLARKE: OKAY.

>> SO MY UNDERSTANDING IS THAT THESE TEXT REVISIONS ARE INTENDED TO IMPEL THE CITY -- OR COMPEL THE CITY TO MEDIATION A PRIVATE AGREEMENT. FOR EXAMPLE, THE FIRST SUGGESTION THAT WE ADD A CONDITION TO TEXT LANGUAGE AGAINST NUMBER 14, I BELIEVE THE



REQUEST THERE THAT THE APPLICANT HAS MADE IS COVERED BY  
CONDITION OF APPROVAL NUMBER 10. THE TEXT EDIT SUGGESTED FOR A  
CONDITION OF APPROVAL NUMBER 15, IS THIS INTRODUCING A THIRD  
PARTY INTO THIS SET OF CONDITIONS FOR APPROVAL AND IT WOULD BE  
DIFFICULT FOR US TO ENFORCE AND WE'D DISCOURAGE THAT. THE TEXT  
REVISION FOR THAT SECTION FALLS UNDER THAT SAME CONCERN. THE  
CONDITION OF APPROVAL SUGGESTED FOR CONDITION NUMBER  
41 -- ACTUALLY I DON'T HAVE ANY STRONG CONCERN ABOUT THAT. THE  
TEXT SUGGESTION FOR CONDITION NUMBER 56 IS ACTUALLY A CONDITION  
FOR PUBLIC WORK STAFF TO ENFORCE AND I'M NOT GOING TO MAKE ANY  
PROMISES ABOUT WHAT THEIR ABLE TO DO OR WILLING TO DO THAT  
INVOLVES A THIRD PARTY. FINALLY JUST THE SUGGESTIONS TO ADD  
LANGUAGE RELATED TO DISCLOSURES IN FUTURE TENANTS IS COVERED  
UNDER 72 IN STAFF'S RECOMMENDATION. AND THE FINAL ONE, I'M NOT  
SURE WHERE THIS WELL IS LOCATED SO I CAN'T COMMENT ON IT AND I  
WOULDN'T SUGGEST TO THE APPLICANT HOW THEY ENGINEERED A PROJECT.

>> S. O'KEEFE: CAN YOU REPEAT THE ONE YOU HAD NO OBJECTION  
TO.

>> THERE WAS ONE. THE SUGGESTION FOR EDITS TO CONDITION OF  
APPROVAL NUMBER 41 THAT SAYS ADDITIONALLY TO EXTENT POSSIBLE  
DURING THE CONSTRUCTION PERIOD THAT WILL THE FRONT -- SIDEWALK  
IN FRONT OF 2288 FULTON REMAIN UNOBSTRUCTED WHICH IS ONE OF OUR  
PRACTICES ANYWAY.

>> SO YOU HAVE NO OBJECTION TO PUTTING THAT IN WRITING.

OKAY, THANK YOU. IGOR, DOES THAT ANSWER YOUR QUESTION?

>> I. TREGUB: THAT ANSWERS MY QUESTION.

>> S. O'KEEFE: ANY FURTHER QUESTIONS FOR STAFF? SEEING NONE, WE'LL HAVE THE APPLICANT COME UP. AND EVEN -- YOU HAVE THREE MINUTES OR YOU HAVE FIVE MINUTES ACTUALLY BUT YOU DON'T HAVE IT USE THE WHOLE TIME. YOU'RE WELCOME TO SAY WHATEVER YOU'D LIKE TO SAY ABOUT THIS.

>> THE ONLY THING -- I'M HEAR TO ANSWER QUESTIONS ON THE DESIGN. ONE THING I WANT TO SAY IS I WANT TO THANK STAFF. I THINK WITHOUT HAVING A CREDIBLE RESOURCE THAT BOTH THE COMMUNITY AND APPLICANT COULD GO TO BE AN HONEST BROKER IN THIS DISCUSSION, I COULD HAVE TALKED UNTIL I WAS BLUE IN THE FACE AND WOULDN'T HAVE A LOT OF CREDIBILITY. TO HEAR IT FROM STAFF AND TO HAVE THAT HAPPEN WAS HELPFUL. I HAD WANTED TO SAY -- I WANTED TO SAY THANKS. THE PROJECT IS UNCHANGED FROM WHAT YOU SAW ON THE 23RD. WE SPENT THE LAST FEW WEEKS TRYING TO NEGOTIATE WITH THE NEIGHBORS.

>> S. O'KEEFE: ANY QUESTIONS?

>> I. TREGUB: I WANT TO THANK YOU FOR YOUR EFFORTS TO WORK WITH AFFECTED NEIGHBORS. AND MY QUESTION TO YOU IS THERE IS SOME PROJECTS WE'VE APPROVED THAT HAVE INDICATED A COMMITMENT TO MAKE THEMSELVES READY FOR ALL ELECTRIC WHEN FEASIBLE. WOULD YOU BE WILLING TO MAKE THE SAME COMMITMENT?

>> WHEN YOU SAY "WHEN FEASIBLE" WHAT DOES THAT MEAN FOR THE

OTHER APPLICANTS?

>> I. TREGUB: I WOULD HAVE TO DEFER TO STAFF ON THE LANGUAGE USED. BUT ESSENTIALLY IT'S THE IDEA -- THERE IS A WAY THAT THEY'D SWAP OUT GAS BOILERS AND REPLACE IT WITH ALL ELECTRIC HEATING. THAT MEANS ALSO -- I CAN'T REMEMBER IF THEY PUT IN INDUCTION STOVES OR WERE JUST EXPRESSED INTEREST IN DOING SO. BUT THOSE TWO THINGS WOULD BE GOOD WAYS TO ADHERE TO THE SPIRIT IF NOT THE LETTER OF THE NEW BUILDING ELECTRIFICATION ORDINANCE THAT WENT INTO EFFECT THIS YEAR.

>> I'M HAPPY TO CONSIDER AND ALL ACTIONS WE CAN TAKE TO BE BETTER STEWARDS OF THE ENVIRONMENT.

>> I. TREGUB: THANK YOU AND WE CAN TALK MORE AFTER THIS ABOUT WHAT THAT ENTAILS BUT THANK YOU.

>> S. O'KEEFE: ANY OTHER QUESTIONS FOR THE APPLICANT? YES, DOHEE.

>> D. KIM: I WAS WONDERING IN OUR PACKET WE HAVE THE ACCESS LICENSE AGREEMENT. AND SOME OTHER CONDITIONS THAT SEEM TO BE EVIDENT THAT YOU TALKED WITH THE LODGE PEOPLE AND NEIGHBORS NEARBY. IS THAT SOMETHING THAT HAS BEEN DISCUSSED BEFORE THIS MEETING WITH ALL THE NEIGHBORS?

>> WE MET WITH GREAT CHINA AND WALKED THE SITE WITH HIM AND HE FELT COMFORTABLE THAT GIVEN SOME OF THE ITEMS NOW IN THE CONDITIONS AND JUST AN E-MAIL AGREEMENT THAT WE HAVE THAT HE FELT COMFORTABLE THAT WE WERE GOING TO BE GOOD NEIGHBORS AND HE

SUPPORTS THE PROJECT. WE'VE HAD PROBABLY FOUR OR FIVE IN-PERSON MEETINGS WITH RESIDENTS AT 2138 KITTREDGE IN ADDITION TO TEXT AND E-MAILS AND GOING BACK AND FORTH AND EXPLAINING WHO IT IS THAT WOULD BE IMPACTED AND HOW WE'D MITIGATE CERTAIN IMPACTS TO THEM AND TRYING TO SET THEIR MIND AT EASE. WE HAVE AN AGREEMENT WITH MEMBERS AND THEY FEEL COMFORTABLE SUPPORTING THE PROJECT. WE MET WITH THE LODGE ON SEVERAL OCCASIONS AND COME UP WITH AN AGREEMENT TO BE EXECUTED BETWEEN THE PRIVATE PROJECTS. THE ISSUE ON WHETHER OR NOT THE CITY ELECTS TO HAVE THE CONDITIONS ACCEPTED INTO ITS DOCUMENTATION IS NOT A DECISION FOR US TO MAKE. THE AGREEMENT EXISTS AND IS ENFORCEABLE BETWEEN US. IF YOU GUYS WANT TO DO MORE, IT'S UP TO YOU. WE SPENT A LOT OF TIME TRYING TO GET THIS TO THE FINISH LINE.

>> S. O'KEEFE: CHARLES.

>> C. KAHN: TO UNDERSTAND THE LATE-ARRIVING REQUESTED AMENDMENTS FROM THE LODGE ARE ALREADY PART OF A SEPARATE AGREEMENT YOU MADE WITH THE LODGE?

>> WE HAVE AN EXECUTED AGREEMENT WITH THE LODGE ALREADY.

>> C. KAHN: OKAY. THAT'S REASSURING.

>> S. O'KEEFE: OKAY. NO MORE QUESTIONS FOR THE APPLICANT? YOU CAN HAVE A SEAT. I'M GOING TO GIVE EVERYBODY TWO MINUTES. WE HAVE THREE SPEAKER CARDS. I THINK TWO MINUTES IS NORMAL. FIRST WE HAVE DAVID KELLOGG AND RITA COOPER.

>> PLEASE PROCEED. I WILL TAKE THE CHAIR UNTIL SHOSHANA

RETURNS.

>> I WANT TO BRING A COUPLE OF POINTS BEFORE THE BOARD. ONE, THIS IS NOT AHA COMPLIANT. I'D LIKE TO PROTECT AGAINST THAT BECAUSE IT'S GENERALLY NOT TRUE. THEY CONSIDER -- YOU HAVE YOUR BASE HEIGHT LIMIT, 65. YOU CAN ASK FOR A USE PERMIT TO GO UP. IF YOU MEET THE OBJECTIVE REQUIREMENTS FOR THE HIGHER USE PERMIT YOU'RE PROTECTED FROM THE AHA. WHEN YOU MEET ALL THE OBJECTIVE REQUIREMENTS YOU'RE PROTECTED FROM DENIAL UNDER THE AHA. LOOK AT THAT CLOSELY. I WOULD NOT SUGGEST THAT. THE OTHER THING I WANT TO MENTION IS THIS APPLICATION WAS CEQA COMPLETE ON JANUARY 23RD. FAIL TOWER TO APPROVE OR DENY WITHIN THE 60 DAYS IS A DENIAL UNDER THE AHA. THERE IS STANDING ANY CITIZEN INCLUDING ME JUST FOR THE DELAY. LET'S NOT DO THAT AGAIN. THIS CASE IS OVERDUE. I HOPE YOU CAN APPROVE IT TODAY AND WE CAN AVOID ANY SITUATION WHERE THE AHA COMES IN PLAY. THE DEVELOPER CAN TURN AROUND AT ANY INSTANT AND SAYS THIS APPLICATION IS DEEMED APPROVED. TAKE IT OUT OF YOUR HANDS. THAT IS SOMETHING WE DON'T WANT TO HAPPEN. LET'S GET THESE THINGS APPROVED QUICKLY WITHIN THE STATE DEADLINE AND I THINK THAT'S BETTER FOR EVERYONE.

>> S. O'KEEFE: NEXT WE HAVE RITA COOPER.

>> GOOD EVENING, CHAIR AND GOOD EVENING BOARD MEMBERS. I WANTED TO SAY THAT LITERALLY 45 MINUTES AGO WE EXECUTED THE AGREEMENT AND WE'RE HAPPY ABOUT THAT. IT WAS AT THE LAWYERS ON BOTH SIDES WORKED VERY, VERY HARD TO MAKE SURE THAT BOTH PARTIES

WERE PROTECTED NOT ONLY LOOKING AT THE CONSTRUCTION PHASE BUT BEYOND THAT IN THE FUTURE. AND IT SO HAPPENS THAT MANY OF THE ITEMS OF REGARDING THE CITY CHANGES INCORPORATED INTO OUR PRIVATE AGREEMENT. I WOULD LIKE TO THANK YOU AND ALSO TO THANK MY ATTORNEY RENA RICKLES AND WITH THEIR ATTORNEY BROUGHT US OVER THE GOAL LINE ABOUT TWO HOURS AGO. SO THANK YOU VERY MUCH.

>> S. O'KEEFE: THANK YOU.

>> C. KAHN: THANK YOU.

>> S. O'KEEFE: MISS RICKLES.

>> GOOD EVENING. YES, ATTORNEYS WERE INVOLVED AND YOU GOT IT LATE, IT DID WORK VERY WELL. I THINK BOTH PARTIES WORKED COOPERATIVELY. MY PART WAS IS THIS ENFORCEMENT AND ARE YOU OKAY WITH THE CONDITIONS THAT WE WANT AS PART OF THE APPROVAL ARE ONES TO SOLVE PROBLEMS, NOT TO CREATE THEM. AND I CAN GO THROUGH THE SPECIFICALLY THIS IS A 1927 BUILDING WHEN THE LODGE OWNED ALL OF THE PROPERTY SO THE BUILDING TOOK LICENSE INTO WHERE THE BASEMENT WOULD BE AND AIR VENTS WOULD BE AND WHERE THE SEWERS WOULD BE AND NOW HERE COMES A BUILDING THAT IS GOING TO BE ON TOP OF IT. ALL WE'RE ASKING IS TO SHORT CIRCUIT THE PROCESS AND THE OPPOSING ATTORNEY CONCURS THERE IS A WAY THAT THE LODGE IS BROUGHT IN EARLIER. THE NOISE USUAL IS THAT THEY BE ALLOWED TO GET IN EARLY AND TO THE CONTRACTORS NOT TO HAVE TO WAIT FOR THE NORMAL WAY IT TAKES TO WORK OUT A NOISE ISSUE. NUMBER 150, THAT WE ADDED IS THAT THE LODGE BE BROUGHT IN NOT TO MAKE A DECISION

BUT TO BE THERE AND BE IN THE LOOP. WHAT IS AT ISSUE IS THE FOUNDATION TO THE LODGE BUILDING. AND THERE WILL BE DECISIONS MADE WHETHER THAT FOUNDATION IS IN TROUBLE OR NOT. THE LODGE SHOULD BE INFORMED EARLY ON AS TO HERE IS WHAT WE FOUND. IT JUST BRINGS THEM IN. ON THE NEXT ONE WHICH IS THE NUMBER 41, WE'RE AGREED AND STAFF HAS AGREED IT'S IMPORTANT TO HAVE THAT. THESE ARE OPEN BUSINESSES THAT NEED TO SEE THEIR CLIENTS.

>> S. O'KEEFE: WE HAVE THE AGREEMENT.

>> THE REASON YOU GOT THAT LATE WAS NOT TO SABOTAGE ANYONE. IT'S JUST MEANT TO SOLVE PROBLEMS SO STAFF IS NOT GETTING A MYRIAD OF THINGS COMING TO THEM.

>> S. O'KEEFE: THANK YOU VERY MUCH. ALL RIGHT THAT'S OUR LAST SPEAKER CARD. DOES THE APPLICANT WANT TO COME BACK UP? OKAY SO WE'LL CLOSE THE PUBLIC HEARING. BOARD COMMENTS. DOHEE.

>> D. KIM: I THINK BASED ON THE FACT THAT THE PROJECT DIDN'T CHANGE AS MUCH OTHER THAN THE THIRD PARTY AGREEMENTS, I FEEL COMFORTABLE MOTIONING FOR AN APPROVAL RIGHT NOW. FOR THE PROJECT.

>> S. O'KEEFE: OKAY. THAT'S A MOTION.

>> I'LL SECOND.

>> S. O'KEEFE: IGOR HAD HIS HAND UP.

>> I. TREGUB: I WOULD LIKE TO SEE IF THE MOVER AND SECONDER WOULD BE FRIENDLY TO ADDING CONDITION 41. WHICH IS THE ONE STAFF WAS --

>> NO PROBLEM. I WAS GOING TO SUGGEST THAT MYSELF.

>> I. TREGUB: THANK YOU.

>> S. O'KEEFE: QUESTION -- I'M GOING TO RECOGNIZE MATTHEW AND THEN TERESA.

>> [OFF MIC]

>> S. O'KEEFE: TERESA.

>> T. CLARKE: I WANT TO MAKE SURE THAT STAFF IS COMFORTABLE WITH THAT LANGUAGE. I DON'T REALLY FEEL COMFORTABLE ADDING CONDITIONS OF APPROVAL THAT STAFF HASN'T HAD A CHANCE.

>> S. O'KEEFE: I BELIEVE SHE SAID SHE WAS COMFORTABLE.

>> SHE WAS COMFORTABLE WITH THE CONCEPT BUT I DON'T KNOW ABOUT THE EXACT WORDING. I WOULD WANT TO HEAR FROM STAFF PRIOR TO US VOTING ON THAT.

>> THANK YOU FOR THE QUESTION. I AGREE, I CAN'T COMMENT ON THE EXACT LANGUAGE, BUT IT IS REDUNDANT. IT'S ALREADY WHAT WE -- WHAT OUR PRACTICE IS WITH RESPECT TO KEEPING SIDEWALKS OPEN. THAT'S A REQUIREMENT AS A MAINTAINER OF THE PUBLIC RIGHT-OF-WAY.

>> REDUNDANT, SO I'M NOT SURE WHY WE'D BE ADDING AND CHANGING STAFF'S REPORT AND CONDITIONS. I DON'T THINK THAT'S THE LAST MINUTE THAT'S THAT IMPORTANT IF YOU CAN MAKE THE CASE, IGOR OR WHY YOU THINK THAT LANGUAGE IS SO MUCH BETTER THAN OUR STANDARD LANGUAGE, I MIGHT FEEL MORE COMFORTABLE WITH IF. COULD YOU DO THAT?



>> I. TREGUB: SURE IF THE CHAIR --

>> S. O'KEEFE: YOU CAN RESPOND.

>> I. TREGUB: YOU NOTICED THAT I ONLY WAS AMENABLE AND I DON'T THINK WE WOULD HAVE THE VOTES TO ADD ANYTHING THAT STAFF WOULD NOT BE AGREEABLE TO. THAT SAID, THIS IS IMPORTANT, SO YES, CONDITIONS ARE WRITTEN BY STAFF. THAT SAID, ANY DISCRETIONARY REVIEW, WE HAVE THE FULL DISCRETION UNLESS APPEALED TO THE CITY COUNCIL TO DETERMINE WHETHER ADDITIONAL CONDITIONS ARE WARRANTED.

>> S. O'KEEFE: TERESA --

>> I. TREGUB: I'M TRYING TO ANSWER YOUR QUESTIONS AND I'M GETTING THERE. I THINK AFTER THE BERKELEY [INDISCERNIBLE] DEBACLE AND I WAS ON THE BOARD GUILTY AS CHARGED WHEN WE APPROVED SOMETHING WITH CONDITIONS THAT END ENDED UP BEING SO UNENFORCEABLE THAT MEMBERS OF THE PUBLIC HAVE TO COME TO US OVER AND OVER AGAIN BECAUSE THEY WERE NOT GETTING RELIEF THROUGH THE ENFORCEMENT PROCESS. SO EVEN IF SOMETHING LOOKS REDUNDANT, I THINK IF THESE NEIGHBORS THAT HAVE WORKED VERY CLOSELY WITH THE APPLICANT AND HAVE RESOLVED MOST OF THEIR ISSUES VIA A PRIVATE AGREEMENT, IF THEY WANT TO INSERT THIS IN HERE, I WOULD LIKE TO OR ON THE FIVE OF THEM DOING SO TO AGAIN, AS A STEP TOWARDS AVOIDING THE TYPES OF THINGS THAT HAPPENED WITH BERKELEY HONDA.

>> S. O'KEEFE: OKAY. ANY FURTHER COMMENT? SHOULD WE CALL THE QUESTION? TERESA, YOU CAN VOTE AGAINST IT IF YOU DON'T FEEL

COMFORTABLE. LET'S HAVE A ROLL CALL. MOTION IS TO APPROVE WITH THE AMENDED -- YOU WANT TO STAY WITH THE AMENDMENT? WITH THE AMENDMENT TO NUMBER 41.

>> CLERK: BOARD MEMBER SHEAHAN.

>> YES.

>> KIM.

>> YES.

>> CLARKE.

>> PASS.

>> PINKSTON.

>> YES.

>> TREGUB.

>> YES.

>> BOARD MEMBER LEWIS.

>> YES. I DON'T THINK MY MICROPHONE IS ON.

>> S. O'KEEFE: HE SAID YES.

>> CLERK: BOARD MEMBER CLARKE.

>> YES.

>> CLERK: VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: SO THE MOTION PASSES. KITTREDGE STREET YOU HAVE YOUR USE PERMIT AND IT'S APPEALABLE TO THE CITY COUNCIL. YOU CAN GO AND GET OUT OF THIS. NEXT UP WE HAVE AS PROMISED

WE'LL TALK A QUICK BREAK AND MAKE SURE THAT EVERYONE WHO IS HERE FOR I BELIEVE GRIZZLY PEAK IS NEXT. EVERYONE HERE FOR GRIZZLY PEAK IS IN THE ROOM. SO SOMEONE FROM STAFF IS GOING TO MAKE SURE THEY COME IN. WE'LL HAVE A VERY BRIEF RECESS.

>> S. O'KEEFE: WE'LL START THE GRIZZLY PEAK PROJECT IN A MOMENT. I WANT TO MAKE SURE EVERYONE WHO WANTS TO SPEAK ON THIS HAS FILLED OUT A SPEAKER CARD. I DON'T HAVE ANY. OF COURSE, WE'LL HEAR FROM -- WE DON'T HAVE ANYBODY. WE'LL HEAR FROM THE APPELLANT AND APPLICANT, IF ANYONE ELSE WOULD LIKE TO SPEAK, LET US KNOW NOW. WE'LL START AS SOON AS DOHEE GETS BACK. WE'RE GOING TO START. SO THIS IS 1449 GRIZZLY PEAK BOULEVARD. WE'LL START WITH THE STAFF REPORT. IT'S AN APPEAL, BY THE WAY.

>> GOOD EVENING, ZAB MEMBERS. THIS IS AN APPEAL OF THE ZONING OFFICER'S DECISION TO APPROVE THE ADMINISTRATIVE USE PERMIT BP 2019-0111 THIS IS A 500 SQUARE FOOT RESIDENTIAL CONDITION ON A THIRD STOREY OF A 7,091 SQUARE FOOT SINGLE-FAMILY DWELLING. INCREASE THE BUILDING HEIGHT BY THREE FEET AND CONSTRUCT A FIFTH BEDROOM FROM 6 FEET TWO INCHES TO 8'7" IN HEIGHT. THE PROPERTY HAS A LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL AND IS IN THE SINGLE FAMILY HILLSIDE OVERLAY ZONING DISTRICT. THE PROJECT REQUIRED A ADMINISTRATIVE USE PERMIT. THE FIFTH BEDROOM ON THE PARCEL, ADDITION ABOVE 14 FEET IN AVERAGE HEIGHT AND 7 FEET IN MAXIMUM HEIGHT AND CONSTRUCT A FENCE. THE CEQA DETERMINATION MADE IT EXEMPT UNDER THE EXISTING FACILITY

SECTION. THE PLAN IS UP ON THE PROJECTOR. THE PROJECT APPROVED BY THE ZONING OFFICER EXTENDED THE EXISTING THIRD STOREY YOU'LL A SEE AT THE REAR OF THE DWELLING WHICH WAS A FLAT ROOF AND ROOF DECK INCREASING THE HEIGHT TO 28 FEET. WHILE THE APPROVED PROJECT IS LESS THAN 600 SQUARE FEET WHICH OTHERWISE WOULD BE APPROVED WITH A ZONING CERTIFICATE, BECAUSE THERE WAS CUMULATIVE SQUARE FOOT ADDED OF 1,056 SQUARE FEET, THIS REQUIRED AN AUP FOR A MAJOR ADDITION. THE SITE PLAN SUBMITTED FOR THE APPLICATION ON JUNE 19TH SHOWED AN EXISTING APPROXIMATELY 1,390-SQUARE FEET PATIO IN THE BACKYARD SURROUNDED BY A FENCE FROM 6 FEET TO 8 FEET IN HEIGHT. STAFF DETERMINED THE RETAINING WALL REQUIRED A BUILDING PERMIT. SO STAFF REQUESTED THAT THE APPLICANT APPLY FOR THE BUILDING PERMIT WHICH THEY DID AND IT'S READY FOR ISSUE. AND BEFORE SUBMITTING THE APPLICATION, THE APPLICANT NOTIFIED ALL OWNERS AND OCCUPANTS AND THE APPELLANT IS THE PROPERTY OWNER AT THE REAR OF THE PROPERTY 1476 SUMMIT ROAD. AND STAFF HAS RECEIVED LETTERS FROM THE APPELLANT STATING THEIR CONCERNS JULY 15TH AND 23RD AND DISCUSSED THOSE CONCERNS WITH THEM. AND THE NOTICE OF DECISION WAS POSTED ON NOVEMBER 20TH AND THE APPEAL WAS FILED ON DECEMBER 11TH. THE DECISION TO APPROVE THE PERMIT WAS BASED ON THE FINDING OF NON-DETRIMENT BECAUSE THE PROJECT MET THE R-1(H) DISTRICT STANDARD AND WOULD NOT CREATE DETRIMENTAL IMPACTS. THE FENCE WOULD NOT CREATE A SIGNIFICANT CHANGES. IT'S LOCATED ON A SLOPING HILLSIDE AND SLOPES TO THE

WEST WHICH IS BELOW THE EXISTING SIGHT LINES TO THE BAY AND PROPERTIES TO THE REAR. YOU'LL SEE IN SECTION 5 OF THE STAFF REPORT THERE IS A TOTAL OF 8 APPEAL POINTS WHICH I WILL BRIEFLY SUMMARIZE AND ARE ANALYZED IN MORE DETAIL IN THE STAFF REPORT. THE FIRST APPEAL ISSUE IS THE CONCERN THAT THE PROJECT REPRESENTS CONSTRUCTION FROM WHAT WAS APPROVED UNDER PREVIOUS AUP IN 2014. THAT THERE WERE NEGOTIATIONS AND MEDIATIONS AMONG THE APPLICANT AND NEIGHBORS AT THAT TIME. AND IN RESPONSE TO THIS APPEAL POINTS, STAFF BELIEVES THE APPLICATION IS A NEW AND DIFFERENT APPLICATION THAN WHAT WAS APPROVED AND CONSTRUCTED FIVE YEARS PREVIOUSLY AND THAT THE PROJECT IN 2019 CONFORMS TO THE DEVELOPMENT STANDARDS OF THE DISTRICT AND LEAVES THE FINDINGS FOR NON-DETRIMENT. APPEAL ISSUE TWO IS BILLION A OAK TREE. STAFF CONSULTED WITH AN ARBORIST THAT WE HAVE ON CONTRACT AND DETERMINED THAT THE OAK TREE WAS PROTECTED AND OPENED A CODE ENFORCEMENT CASE ON JANUARY 29TH. APPEAL ISSUE THREE, CONTENTS THERE WAS A CONCRETE STRUCTURE CONSTRUCTED IN THE REAR YARD WHICH VIOLATED CONDITIONS OF APPROVAL FOR THE PREVIOUS AUP AND DURING LIKE I SAID PREVIOUSLY, THE INITIAL 30-DAY REVIEW STAFF DID NOTE THAT THE CONCRETE PATIO AND RETAINING WALL REQUIRED A BUILDING PERMIT. THE APPLICANT HAS SINCE APPLIED FOR THE PERMIT WHICH IS READY TO ISSUE. APPEAL ISSUE FOUR, QUESTIONS THE APPROVAL OF A ROOF DECK FACING THE NEIGHBORS TO THE REAR ALONG SUMMIT ROAD WITHOUT INFORMING THE NEIGHBORS IMPACTED. THAT WAS

DONE RESEARCH FOR BUILDING PERMIT ASSOCIATED WITH THE AUP APPROVED IN 2014 AND DURING THE BUILDING PERMIT APPLICATION PROCESS, THE ROOF TERRACE IS CONSIDERED A MINOR CHANGE WHICH MEETS STANDARDS CONDITIONS OF APPROVAL FOR MINOR CHANGES THAT WOULD NOT EXPAND INTENSIFIER IT CHANGE THE USE OF THE BUILDING AND UNDER THE CURRENT AUP APPROVED AT THE END OF 2019, THE ROOF TERRACE WOULD BE REPLIES PLACED WITH A NEW BEDROOM AND BATHROOM. UNDER APPEAL ISSUE FIVE, THIS CONTENDS THAT THE MEDIATION DISCUSSION FOR THE AUP APPROVED IN 2014 INCLUDED A COMMITMENT TO CHOOSE A BUILDING COLOR THAT BLENDED WITH THE ENVIRONMENT RATHER THAN THE WHITE STUCCO THAT WAS CONSTRUCTED. AND THE APPROVED BUILDING PERMIT PLANS UNDER THE AUP DID INDICATE STUCCO ON THE SECOND AND THIRD FLOORS, THE CHANGE OF THE MATERIAL FROM WHAT WAS DISCUSSED IN MEDIATION IS ALSO CONSIDERED MINOR AGAIN UNDER CONDITION OF APPROVAL NUMBER FOUR WHICH WOULD NOT CHANGE THE USE OR THE BUILDING. DURING THAT TIME, STAFF DETERMINED THAT THE STUCCO WOULD NOT RESULT IN A SIGNIFICANT DETRIMENTAL IMPACT TO LIGHTING GLARE. THE REPEAL ISSUE 6, THIS WAS A QUESTION FOR STAFF TO CONFIRM WHETHER A BOUNDARY SURVEY WAS COMPLETED TO DETERMINE IF THE FENCE WAS CONSTRUCTED OVER A SEWER EASEMENT. THE FENCE DOES ENCROACH ON A PORTION OF THE SEWER EASEMENT, BUT AFTER TALKING WITH PUBLIC WORK STAFF, THAT FENCE IS APPROVED BECAUSE IT CAN BE REMOVED IF THEY NEED TO ACCESS THE SANITARY SEWER. UNDER APPEAL ISSUE 7, THIS QUESTIONS THE APPROVAL OF THE

INCREASE IN THE MAXIMUM BUILDING HEIGHT BY 2'3" ABOVE WHAT WAS APPROVED UNDER THE AUP IN 2014 WITHOUT A PUBLIC HEARING. AND THE CONDITIONS OF APPROVAL FOR THAT PROJECT DO NOT CARRY OVER TO THE CURRENT APPROVED PROJECT INCLUDING THE MAXIMUM HEIGHT. AND ADMINISTRATIVE USE PERMITS REQUIRE MULTIPLE FORMS OF NEIGHBORHOOD NOTIFICATION AND A PUBLIC HEARING IS NOT REQUIRED FOR A APPROVAL OF AN ADMINISTRATIVE USE PERMIT. AND APPEAL ISSUE NUMBER 8 QUESTIONS APPROVAL OF THE CUMULATIVE ADDITION FROM THE ORIGINAL SIZE OF THE HOUSE WHICH IS 1,516 SQUARE FEET TO BE APPROVED 3,091 SQUARE FOOT. THIS PROJECT REQUIRES SEVERAL AUPS FOR A MAJOR RESIDENTIAL EDITION THAT IS CUMULATIVE AND AUP DOES NOT REQUIRE A PUBLIC HEARING. IN CONCLUSION, THE APPEAL POINTS FOCUS ON PROCESS, BUT THERE IS NO EVIDENCE TO DISPUTE ANY FINDING OF NON-DETRIMENT. BECAUSE OF THE CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN AND MINIMAL IMPACTS ON SURROUNDING PROPERTIES WE RECOMMEND APPROVAL AND DISMISSAL OF THE APPEAL.

>> S. O'KEEFE: QUESTIONS FOR STAFF. SEEING NONE. WITH APPEALS, WE BRING THE APPELLANT UP FIRST. AND LET THE APPLICANT RESPOND. IS THE APPELLANT HERE? HELLO. WE'LL GIVE YOU THREE MINUTES.

>> I'M SORRY, I WAS ABLE TO -- DO YOU ALL HAVE THIS PACKET? IT WAS NOT IN YOUR PACKET.

>> S. O'KEEFE: I HAVE IT. DO DOES EVERYONE HAVE IT?

>> YOU GOT IT. SO I WOULD LIKE TO -- WE HAVE A FEW PHOTOS AND IT HAS BASICALLY MY CURRENT POINTS THAT I WOULD LIKE THIS COMMISSION TO ADDRESS. FIRST I WANT TO THANK THE CITY PLANNING STAFF AND ZONING ADJUSTMENTS BOARD FOR PROVIDING THIS FIRST OPPORTUNITY FOR A PUBLIC HEARING ON A PROJECT THAT STARTED OVER SIX YEARS AGO. SINCE 2014, THERE HAVE BEEN FOUR SEPARATE STAGES OF DEVELOPMENT AND DEMOLITION AT THE SITE. SOME WITH PERMITS, SOME WITHOUT PERMITS RESULTING IN AN EXPANSION OF A 1515 SQUARE FOOT HOUSE TO THE PROPOSED 3,091 SQUARE FOOT THREE STOREY STRUCTURE OVER DOUBLING THE SIZE OF THE ORIGINAL HOUSE. THE HISTORY OF THE DEVELOPMENT IS OUTLINED IN OUR LETTER OF JULY 15, 2019 WHICH IS ALSO PART OF YOUR PACKET. AND THE CONTINUATION OF THE MAIN CONCERNS ARE INCLUDED IN THE APPEAL LETTER DATED DECEMBER 11TH, 2019. I LIVED IN THE NEIGHBORHOOD FOR OVER A QUARTER OF A CENTURY. THE NEIGHBORHOOD WAS BUILT AFTER THE SECOND WORLD WAR CONSISTS MAINLY OF MODEST SINGLE-FAMILY HOMES. MANY ORIGINALLY BUILT FOR LAB SCIENTISTS AND IT WAS BUILT WITH THE G.I. BUILD FUNDS BY HOME-COMING SERVICE MEN. THE NEIGHBORHOOD IS NEXT TO FIELD AND REGIONAL PARK. THE HOMES IN THE COMMUNITY WERE BUILT RESPECTING NATURE. USING COLORS AND MATERIALS REFLECTING THE NATURAL SURROUNDINGS. MANY OF MY NEIGHBORS ARE ORIGINAL RESIDENTS NOW IN THEIR LATE 80S AND 90S. THE LOTS HERE ARE MOST STANDARD, NARROW 50 X 100 FEET WITH REAR YARDS OF GRIZZLY PEAK PROPERTIES ABUTTING THE FRONT YARDS OF



SUMMIT ROAD RESIDENCES. IN ADDITION TO THE TOPOGRAPHY OF THE HILLSIDE, INCREASES THE IMPACTS TO SUMMIT ROAD RESIDENTS AS YOU CAN SEE IN THE FIRST PHOTO OFFER THE PROPOSED PROJECT. AND IF YOU LOOK AT THE FIRST PHOTO, IT ACTUALLY SHOWS THE VERY STARK, BRIGHT, WHITE COLOR OF THE STUCCO. THAT IS THE MAIN -- THIS IS A VIEW FROM MY MAIN LIVING ROOM, DINING ROOM WINDOW. IT IS EXTREMELY DETRIMENTAL TO THE WELL-BEING OF OUR EVERY DAY EXISTENCE. SO I AM -- SO THAT IS GOING TO BE ONE OF THE ISSUES THAT I HAVE ADDRESSED AT THE END OF THE LETTER. I AM NOT OPPOSING THE APPLICANT'S RIGHT TO BUILD THESE TWO NEW THIRD-STOREY ADDITIONS, BUT PRESENTING AN OPPORTUNITY TO POSITIVELY MITIGATE THE IMPACTS OF THE STRUCTURES HEIGHT, MASS AND COLOR AS VIEWED FROM SUMMIT ROAD.

>> S. O'KEEFE: I'LL GIVE YOU ONE MORE MINUTE TO FINISH.

>> I JUST HAVE THIS PARAGRAPH. THE STREET VIEW OF 1449 GRIZZLY PEAK BOULEVARD WHICH IS THE SECOND PHOTO IN THE PACKET. THIS IS THE GOOGLE STREET VIEW AND SHOWS THE INCORPORATION AT THE FRONT ENTRANCE AND IN THE AREAS UNDER THE OVERHANG OF THE ROOF. AS A MITIGATION PROPOSAL, I AM SUBMITTING TWO PHOTOS OF AWARD-WINNING HOMES WHERE A WOOD OF SIMILAR COLOR WAS INCORPORATED AS THE SIDING OF THE BUILDING'S THIRD FLOOR. PHOTO NUMBER FOUR AND PHOTO NUMBER FIVE ARE SHOWING A WHITE STUCCO BUILDING WITH AN IPE WOOD COLOR THIRD STOREY SIDING AND CLADDING. WITH THE ADDITION OF THE IPE WOOD COLOR SIDING ON THE

THIRD FLOOR ADDITIONS AND WITH THE ROOF COLOR OF SIMILAR TONE, THE GLARE OF THE CURRENT STARK WHITE BRIGHT STRUCTURE WOULD BE MITIGATED AND THE STRUCTURE WOULD BLEND WITH THE NATURAL SETTING WHICH HAD BEEN THE PROMISE OF THE APPLICANT ALREADY AT THE 2014 MEDIATION MEETING.

>> S. O'KEEFE: YOUR IT TIME HAS ELAPSED.

>> I JUST HAVE WITHIN MORE PARAGRAPH.

>> S. O'KEEFE: WE HAVE THE LETTER AND WE READ IT.

>> BUT I WANT TO SPEAK.

>> S. O'KEEFE: NO. I'M SORRY. THIS IS I GAVE YOU THREE MINUTES AND GAVE YOU ONE MORE MINUTE AND YOU'VE A EXCEEDED THAT.

>> THE LAST PARAGRAPH.

>> S. O'KEEFE: SUMMARIZE IT IN TWO SENTENCE.

>> IN CLOSING I'M THANKFUL FOR THE BOARD IN ALLOWING ME TO PRESENT THIS AND ASKING THAT YOU ADD THE FOLLOWING CONDITIONS TO THE AUP AS LISTED. THIRD FLOOR SIDING TO BE IPE WOOD COLOR. ROOF COLOR SIMILAR IN TONE TO THE THIRD FLOOR SIDING COLOR AND LASTLY THE MAXIMUM CEILING HEIGHT -- THIS IS A COMPROMISE -- TO BE 9 FEET. AND I WOULD VERY MUCH APPRECIATE YOUR POSITIVE DECISION ON THESE THREE CONDITIONS TO BE ADDED TO THE PERMIT. AND THEN I AM HAPPY TO DEFEND THE APPLICANT TO GET HIS PERMIT.

>> I. TREGUB: CAN I ASK A QUESTION. MAYBE THIS IS FOR THE APPLICANT.

>> S. O'KEEFE: IS IT FOR THE APPELLANT OR APPLICANT?

>> I. TREGUB: APPELLANT CLAIMED MAXIMUM CEILING HEIGHT SHOULD BE 9 FEET. I WONDER WHAT IT IS NOW.

>> S. O'KEEFE: MAYBE THE APPLICANT CAN ANSWER THAT QUESTION. CAN THE APPLICANT COME UP, PLEASE. I WAS GOING TO GIVE YOU THREE MINUTES.

>> MY NAME IS LILLIAN MITCHELL. I'M THE ARCHITECT FOR MY CLIENT THE PROPERTY OWNER. LIKE EVERYONE ELSE, WOULD I LIKE TO THANK THE ZAB BOARD AND FOR THE STAFF REPORT. LOOKING AT THIS, THE QUESTIONS THAT I HEARD JUST ASKED THAT CEILING LIGHTS AT 9 FEET. WE HAD TO -- THE ROOF HEIGHT LOOKS A LITTLE HIGHER BECAUSE OF TRYING TO MAKE THE ROOF SLOPE WORK OUT ON A FLAT WORK SITUATION. OUR INTERIOR CEILING HEIGHT IS AT 9 FEET. I'M HAPPY TO ANSWER ANY QUESTIONS.

>> S. O'KEEFE: LET'S LET IGOR CONTINUE.

>> I. TREGUB: SO THERE ARE TWO OTHER REQUESTS, THE THIRD FLOOR SIDING TO BE IPE WOOD COLOR AND THE ROOF COLOR SIMILAR TO THE THIRD FLOOR COLOR AND I WANTED TO ASK HOW THE APPLICANT FEELS ABOUT THIS.

>> WE DID DISCUSS IT. I DON'T KNOW THAT IT'S APPROPRIATE FOR IT TO BE A CONDITION OF APPROVAL FROM ZAB. BUT I'M HAPPY TO DISCUSS IT WITH MY CLIENT.

>> S. O'KEEFE: OKAY.

>> I. TREGUB: IS YOUR CLIENT HERE?

>> S. O'KEEFE: WHY DON'T YOU COME UP AND ANSWER THE

QUESTION.

>> I DON'T KNOW IF I WANT TO DO THAT. LAST TIME I DID THAT, IT CAUSED ME ISSUES. WHEN THE ORIGINAL PERMIT -- WHEN THE ORIGINAL PERMIT WAS APPROVED, I HAD WOOD SIDING WHEN I OPENED THE HOME TO MAKE SURE THE FOUNDATION WAS STRONG ENOUGH TO GO UP AND PUT THE NEW BEDROOM UPSTAIRS, THERE WERE RATS AND DIFFERENT THINGS HAPPENING. I HAD TO REPLACE ALL OF THE SIDING. IF YOU LOOK AT THE PHOTO THAT SHE GAVE YOU, I DON'T IMPACT HER VIEW AT ALL. ALL THE OTHER NEIGHBORS ARE FINE WITH THE PROJECT. WE GET ALONG GREAT. TWO HOUSES DOWN, ANOTHER HOME GOT STUCCO ON THE SIDING.

>> S. O'KEEFE: I THINK YOU'VE ANSWERED THE QUESTION.

>> I. TREGUB: THE FIRST OF MY QUESTIONS -- THE SECOND ONE WAS THE ROOF COLOR. CAN YOU SPEAKING TO THAT.

>> IT WAS RECOMMENDED BY A ROOFER. ALL IT IS THE SINGLE PLY. THE ROOF IS ALMOST SEMI FLAT. THAT'S JUST -- I CAN'T DIDN'T WANT TO PUT TILE OR ANYTHING ELSE.

>> S. O'KEEFE: THAT'S YOUR ANSWER.

>> I HAVE HUNDREDS OF THOUSANDS OF DOLLARS INTO THE HOME.

>> S. O'KEEFE: THANK YOU FOR ANSWERING THE QUESTION. I THINK IGOR, ARE YOU FINISHED? MATTHEW.

>> MY QUESTION WAS THE SAME. YOU HAD.

>> T. CLARKE: WHY DO YOU HAVE TO HAVE THE WALLS WHITE?

>> FOR THE HEAT.

>> T. CLARKE: SO YOU'RE ONLY DOING WHITE.

>> BECAUSE IF I REPLACE --

>> S. O'KEEFE: I'M TALKING ABOUT THE PAINT COLOR ON THE STUCCO.

>> IT'S AN ACRYLIC STUCCO THAT COMES LIKE THAT.

>> BUT YOU DIDN'T BUILT IT LIKE THAT.

>> THE REST OF THE HOME IS BUILT. SO I WOULD JUST CHANGE ONE BEDROOM TO BE ONE COLOR AND THE REST OF THE HOME IS TO ANOTHER COLOR.

>> S. O'KEEFE: SO HE'S SAYING NO. YOU'RE SAYING IT'S THE COLOR. IT DOESN'T HAVE ANYTHING DO WITH THE RATS. THE COLOR DOESN'T HAVE ANYTHING DO WITH THE RATS, DOES IT? I GUESS THE WOOD COLOR, SHE REQUESTED IPE WOOD COLOR.

>> I HAVE IPE IN THE HOME.

>> T. CLARKE: THE OTHER QUESTION I HAVE IS ABOUT THE DEMOLITION OF THE CALIFORNIA LIVE OAK AND IF YOU COULD EXPLAIN WHY YOU DEMOLISHED THAT WITHOUT A PERMIT.

>> THAT WAS THE FAULT OF MY CONTRACTOR. I DO APOLOGIZE AND I WILL BE HAPPY DO WHATEVER PENALTY OR WHATEVER I HAVE TO DO ABOUT IT. THERE IS NO GREAT RESPONSE FOR IT. I DO HAVE NORTHERLY LIVE OAK IN THE FRONT OF THE HOME WHICH I'VE MEASURED AND HAD A SURVEYOR MAKE SURE IT'S OKAY TO BE REMOVED OR KEPT THERE. IT WAS LARGER THAN THE ONE IN THE BACKYARD. A BERKELEY HILL'S -- MY BACKYARD CONSISTS OF THREE RETAINING WALLS BASED OUT OF ROCK.

WHAT I ACTUALLY DID IS I PUT REAL RETAINING WALLS BECAUSE IF YOU HAVE A ROCK RETAINING WALL, THEY ALL COME APART AND DIRT COMES THROUGH.

>> S. O'KEEFE: IT SOUND LIKE IT'S BEEN REFERRED TO CODE ENFORCEMENT SO THAT'S OUTSIDE OF OUR -- DO YOU HAVE ANY MORE QUESTIONS FOR HIM? CHARLES.

>> C. KAHN: YOU KNOW, WHEN WE HAVE NEIGHBORS HAVE CONCERNS, WE TRY TO ACCOMMODATE THEIR CONCERNS IF POSSIBLE. SO IT'S NOT A REQUIREMENT, THIS IS AN ADJUSTMENTS BOARD. ACTUALLY LILLIAN, I THINK THAT SHEET A-4 SHOWS INTERIOR 10-FOOT CLEAR CEILING HEIGHT THAT MIGHT BE IN ERROR. IF YOU'RE WILLING TO HAVE 9-FOOT CEILINGS IN THAT BEDROOM, I APPRECIATE THAT YOU'RE ACCOMMODATING HALF OF THE REQUEST. ARE YOU WILLING TO HAVE A 9-FOOT CEILING?

>> I'M FINE WITH THAT.

>> C. KAHN: IT GIVES US A CHANCE TO LET THE APPELLANT KNOW THAT WE'VE HEARD THEM AND TRIED TO MEET THEM HALFWAY. THANKS AND I APPRECIATE YOUR POINT ABOUT NOT WANTING ONE PART OF THE HOUSE A DIFFERENT COLOR FROM THE REST. MAYBE YOU CAN TALK TO YOUR NEIGHBOR ABOUT HAVING SOME PLANTING THAT MIGHT HELP WITH THE FEW ISSUES. I DON'T KNOW WHAT YOU COULD DO.

>> DID I DO THAT. I'VE ACTUALLY ON THE BACK OF THE FENCE I PUT EIGHT OR NINE DIFFERENT TREES TO GIVE HER MORE GREENERY. THE ISSUE WITH THE FENCE THAT IT'S 8 FEET, IT'S AN ABUTTING FENCE TO HER. IT WAS AN AGREEMENT BETWEEN HER AND I.

>> C. KAHN: I'M NOT TOO CONCERNED ABOUT THAT.

>> ANY OTHER QUESTIONS? PATRICK.

>> THAT WAS RESOLVED BY CHARLES' QUESTION.

>> I WANT TO CONFIRM SOMETHING YOU SAID EARLIER. THE REASON WHY YOU'RE GOING WITH THAT COLOR IS BECAUSE IT REFLECT HEAT BETTER IN.

>> THE ROOFING, THE ROOFER SAID THAT REFLECTS HEAT. I DIDN'T WANT IT WHITE TO BE HONEST WITH YOU. MY ROOFER RECOMMENDED IT BECAUSE OF THE HEAT REFLECTION AND THE HOME GETS THE SUN ALL DAY LONG. THE REST OF THE HOMES THAT. I DON'T FEEL LIKE I SHOULD CHANGE THE WHOLE ROOF. IT WOULD BE A \$15,000 ROOFING PROBLEM. IF MY NEIGHBORS CAN HELP ME WITH THAT, GREAT, BUT SO FAR THAT HASN'T BEEN THE CASE.

>> S. O'KEEFE: OKAY. SEEING NO MORE QUESTIONS FOR THE APPLICANT, YOU CAN HAVE A SEAT. WE HAVE NO SPEAKER CARDS ON THIS ITEM. I WANT TO MAKE SURE NO ONE FROM THE AUDIENCE WOULD LIKE TO COME AND SPEAK. THIS IS YOUR CHANCE. WITH THAT, WE'LL CLOSE THE PUBLIC HEARING AND BRING IT BACK FOR BOARD COMMENT. TERESA.

>> T. CLARKE: YES, I POINT OUT TO PAGE 9 OF 26, THE PHOTO OF THE STOREY POLES. IF EVERYBODY COULD GO TO THAT. WHAT TIME IT SHOWS IS THE ADDITION. THIS IS THE ADDITION ON HERE. DOES EVERYBODY SEE THAT? IT'S ATTACHMENT 4. ATTACHMENT 4, PAGE 9 OF 26. AND TO WHAT I SEE THERE ARE TWO NEW PIECES OF VOLUME BEING ADDED. I SEE THAT THOSE ARE GOING TO -- IF THOSE ARE PAINTED

BRIGHT WHITE, YOU CAN'T EVEN SEE THE REST OF THE BUILDING. THIS IS FACING THE BACK OF THE PROPERTY. THIS IS THE VIEW THAT THE APPELLANT CAN CONCERNED ABOUT BECAUSE IF THIS IS ALL GOING TO BE AS BRIGHT WHITE AS THE OTHER ONE, IT IS PRETTY BRIGHT. I DON'T KNOW WHY THIS COULD BE A DIFFERENT COLOR. IT'S IN THE BACKYARD. I DON'T BUY THE ARGUMENT YOU CAN'T PAINT IT A DIFFERENT COLOR. THAT'S A MINOR REQUEST TO SOFTEN THE BRIGHT COLOR OF THE BUILDING. SO I WOULD RECOMMEND THAT THE APPLICANT AGREE TO SOME KIND OF MODEST CHANGE IN THE COLOR. IT DOESN'T NEED TO BE IPE WOOD BUT IT DOESN'T NEED TO BE AS REFLECTIVE. I UNDERSTAND ABOUT THE COOL ROOF. BASICALLY WHAT A COOL ROOF IS USUALLY REFLECTIVE. IF YOU DON'T HAVE INSULATION IN YOUR OLDER HOUSE, WHICH HE MAY OR MAY NOT, THEN YOU NEED THAT COOL ROOF BECAUSE THAT'S GOING TO REFLECT THE HEAT. IN THE NEW CONSTRUCTION WHICH THEY'RE DOING HERE, I DON'T SEE WHY THE ROOF COLOR COULDN'T BE LESS THAN A WHITE BRIGHT. THERE ARE A COUPLE OF DIFFERENT TYPES OF COOL ROOFS THAT YOU CAN USE THAT WOULDN'T BE SO STARK WHITE. THERE IS A COUPLE OF DIFFERENT TYPES. THERE ONE THAT IS GRAY AND HAS A SIMILAR REFLECTION FACTOR AND I'M SURE THE ARCHITECT CAN FIND THAT FOR THE APPLICANT. SO I WOULD RECOMMEND THAT THE APPLICANT DO THOSE TWO THINGS. TONE DOWN THE WHITE WITH A DIFFERENT COLOR ON THE BACK. WHERE IT'S MOST VISIBLE. I DON'T THINK THAT'S A BIG ASK, REALLY.

>> S. O'KEEFE: CHARLES. THAT'S A MOTION AND A SECOND AND



CHARLES WOULD LIKE TO COMMENT.

>> C. KAHN: I THINK YOUR POINTS ARE VALID SO FAR AS THE ROOF IS CONCERNED. I THINK THAT ONLY PEOPLE THAT ARE GOING TO SEE THE NEW ROOFS ARE THE APPELLANT. I DON'T THINK THE APPLICANT WILL SEE THE ROOFS. I THINK GOING WITH A DARKER COLOR THERE THAT IS NOT SO GLARING ACCOMMODATES THE APPELLANT WITHOUT NEGATIVELY IMPACTING THE APPLICANT. BUT I CAN'T SEE CHANGING THE BUILDING MASS BECAUSE THAT WILL BE VISIBLE FROM THEIR BACKYARD AS I SEE IT HERE. I THINK THAT IT IS A LITTLE BIT OF A BIG ASK TO TELL YOUR NEIGHBOR WHAT COLOR TO PAINT THEIR BUILDING. IF THEY CAN SEE IT AND DOESN'T WANT TO DO IT THAT COLOR, IT DOESN'T FEEL RIGHT NO ME.

>> WE CAN'T CONDITION PAINT COLOR. WHAT I WAS SAYING AS A GOOD FAITH GESTURE, A RECOMMENDATION THAT THE APPLICANT DO THAT.

>> C. KAHN: I THINK WE COULD PUT IN A THAN THE ROOFING MATERIAL BE REVIEWED BY STAFF THAT IT'S BRIGHTNESS NOT BE SO SEVERE. CERTAINLY WE CAN MAKE THE REQUEST. I HAVE NO TROUBLE WITH THAT.

>> CAN I CLARIFY. IS THE MOTION THEN THAT THE CEILING BE LOWER THAN 9 FEET THAT THE APPLICANT HAVE A COOL ROOF WITH A LESS REFLECTIVE COLOR AND THAT WE SUGGEST THE APPLICANT CONSIDER A DIFFERENT PAINT COLOR, IS THAT WHAT THE MAKER AND SECONDER OF THE MOTION INTENDED?

>> T. CLARKE: I DIDN'T HAVE ANY CONCERN ABOUT THE HEIGHT,

BUT I'M OKAY WITH THE HEIGHT BECAUSE IT SOUNDED LIKE THE ARCHITECT WAS OKAY WITH THAT SO I WOULD BE FINE WITH THAT.

>> DID YOU WANT THE HEIGHT TO STAY AS IT IS ON THE PLANS?

>> T. CLARKE: I WASN'T CONCERNED ABOUT THE HEIGHT. I'M OKAY IF EVERYONE ELSE WANTS THAT.

>> I WOULD LIKE YOU TO INCLUDE THAT AND I THINK WE CAN CALL THE QUESTION AND KEEP MOVING.

>> COULD SOMEONE REPEAT THE QUESTION.

>> ARCHITECT STOOD THERE AS I RECALL. IT WASN'T A CONCERN OF MINE.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I'M ON BOARD WITH ALL THREE.

>> S. O'KEEFE: RECOMMENDATION AND LOWERING THE HEIGHT TO 9 FEET.

>> ENSURING THAT IT IS 9 FEET.

>> THOUGH CLARIFY, WE ARE A MAKING IT A CONDITION TO BE 9 FEET, WE'RE REQUESTING NON-BINDING TO LOOK AT CHANGING THE COLOR FOR THE ROOF COLOR OR THE FLOOR?

>> SECOND STOREY ADDITION, NOT THE ROOF. THIRD STOREY.

>> I'M TRYING TO LINE THESE UP. WE'RE SAYING -- SO THE SECOND FLOOR WOULD BE -- IS THERE A THIRD PART OF THIS MOTION?

>> THAT THE ROOF NOT BE THIS BRIGHT.

>> ROOF NOT BE THIS RIGHT AND OTHER COLORS WE'RE ASKING TO BE CHANGED.

>> I'M SAYING JUST THE NEW ROOF. NOT THE OLD ROOF, JUST THE NEW. AS HE POINTED OUT, IT'S NOT RIGHT TO HAVE TO REPLACE THE ENTIRE ROOF FOR THAT.

>> THESE ARE NOT GOING TO AFFECT THE ABILITY TO BE A HEAT ISLAND.

>> THERE IS ANOTHER COLOR, THERE IS MORE THAN ONE COLOR. THERE IS STARK WHITE AND THERE IS KIND OF A LESS WHITE.

>> THIS IS A LOT OF DISCUSSION ON SOMETHING WE DON'T HAVE ANY CONTROL OVER.

>> I THINK I'LL SUPPORT THIS.

>> CALL THE QUESTION.

>> PATRICK, FURTHER COMMENT?

>> I WOULD LIKE TO -- SINCE I WAS THERE IN 2014 DISCUSSING THIS PROJECT IN ITS PREVIOUS EXPANSION, AND I HAVE BEEN AT THE APPELLANT'S HOUSE. I HAVE SEEN THAT VIEW. AND THIS LITTLE POCKET OF THE HILLS IS ACTUALLY QUITE DENSE. SEVERAL HOUSES IN CLOSE PROXIMITY. THERE IS A LETTER INCLUDED HERE FROM ANOTHER CLOSE BY NEIGHBOR SUPPORTING THE CONCERNS RAISED BY THE APPELLANT. IN THE MEDIATION IN 2014, THERE WERE SEVERAL NEIGHBORS SURROUNDING NEIGHBORS ALL VOICING THE SAME CONCERNS. PART OF THAT MEDIATION WAS A PROMISE BY THE DEVELOPER TO DO DARK COLORS FOR THE PROPOSED ADDITION. THAT HELPED LEAD TO A SUCCESSFUL OUTCOME FOR THE MEDIATION AND EVENTUALLY THE APPROVAL AT THAT TIME. SO I JUST WANT TO ASK THAT THE APPELLANT HONOR THE INTENT OF THE

ORIGINAL MEDIATION BECAUSE THE ISSUES ARE THERE, THEY'RE ALL THE SAME. THE IMPACT REALLY IS VERY INTENSE FROM THE APPELLANT'S HOUSE AND NOT ONLY THE APPELLANT'S BUT ALSO THE HOUSES TO EITHER SIDE OF THE APPELLANT. ALL THE HOUSES UPHILL -- SEVERAL HOUSES HAVE A PROMINENT VIEW OF THIS PROJECT. I THINK IT'S A REASONABLE ASK ON ALL POINTS BY THE APPELLANT. I'M NOT SURE WHY WE CAN ASK -- CONDITION A DARKER ROOF COLOR BUT NOT A DARKER WALL COLOR. STAFF. CAN YOU CLARIFY? IS THAT NOT WITHIN OUR PURVIEW?

>> SO WHAT I WOULD ASK ZAB TO CONSIDER IS HOW ANY CONDITIONS ON THIS PROJECT OR OTHERS RELATES TO THE FINDINGS THAT ARE REQUIRED TO BE MADE. FINDINGS AROUND VIEWS, PRIVACY, AIR, LIGHT, IF YOU FIND AREAS OF DETRIMENT RELATED TO THOSE THAT ARE ANALYZED FOR RESIDENTIAL PROJECTS, THAT'S HOW I WOULD ASK THE ZAB TO CONSIDER. THE OTHER PIECE IS THAT WE DO NOT HAVE RESIDENTIAL DESIGN GUIDELINES IN THE CITY OF BERKELEY.

>> WELL, I WILL COUCH THAT IN TERMS OF DETRIMENT. BASED UPON MY FIRST-HAND OBSERVATION OF THIS SITE, I THINK THIS INTENSELY BRIGHT WHITE STRUCTURE WHICH IS PROPOSED TO BE SIGNIFICANTLY EXPANDED THAT MUCH CLOSER TO THE APPELLANT IS -- IT IS A SERIOUS DETRIMENT TO THE VIEW AND CONSEQUENTLY THE QUALITY OF LIFE. IT'S EXTREMELY BRIGHT. LOOK AT THE BACKGROUND AROUND THE PHOTOGRAPH. TREES ARE DARK, CITY THE IS DARK. THE CONTRAST IS INTENSE AND I THINK THAT CONSTITUTES DETRIMENT. I DON'T THINK IT'S UNREASONABLE TO ASK FOR A MODERATION IN COLOR.

>> S. O'KEEFE: OKAY. FURTHER COMMENTS?

>> PATRICK AND I OFTEN DON'T AGREE, BUT I DO AGREE WITH HIM ON THIS POINT. I THINK THAT THE FINDING VIEWS ARE A CONSIDERATION. AND WE USUALLY THINK OF VIEWS IN TERMS OF OBSTRUCTION OF VIEWS. BUT A GLARING CONDITION AND IT DOES APPEAR TO BE GLARING AND WE HAVE PATRICK'S FIRSTHAND TESTIMONY THAT IT IS GLARING. I THINK IT'S GOOD NEIGHBORLINESS AND COURTESY NOT TO PERPETUATE THAT. I COULD SUPPORT A REQUEST THAT THE ARCHITECT WORK WITH THE APPLICANT AND STAFF TO FIND A COLOR WHICH IS LESS GLARING THAN THE WHITE CURRENTLY ON THE BUILDING FOR THESE TWO ADDITIONS. JUST FOR THE ADDITION UNLESS THEY WANT TO PAINT THE WHOLE THING. THAT'S AT THEIR DISCRETION.

>> WHEN YOU SAY REQUEST, DO WE MEAN REQUEST OR CONDITION OF THE PERMIT?

>> I THINK PATRICK WAS ASKING FOR A CONDITION AND I SUPPORT HIM IN THAT.

>> S. O'KEEFE: SO I'D LIKE TO HEAR FROM THE MOTION MAKER AND SECONDER WHICH IS IGOR.

>> I MADE THE MOTION AND I THINK IT'S OKAY TO CONDITION IT IF STAFF THINKS WE CAN. I DIDN'T THINK WE COULD CONDITION A PAINT COLOR ON A RESIDENTIAL. I THINK BECAUSE OF THE GLARE, IT HAS MORE WEIGHT.

>> I. TREGUB: I'M FINE WITH ADDING THAT AS A CONDITION.

>> S. O'KEEFE: DO YOU WANT TO COMMENT?

>> I WORRY ABOUT A CONDITION THAT STAFF WOULD NEGOTIATE SOME AGREEMENT BETWEEN TWO NEIGHBORS THAT HAVEN'T AGREED FOR 10 YEARS. I'M NOT CONFIDENT IN MY NEGOTIATING SKILLS TO THAT LEVEL. SHOULD WE REFER TO ANN BURNS?

>> I'M GUESSING DENISE HAS BETTER LANGUAGE ON HOW TO GET TO A YES THAT DOESN'T INVOLVE STAFF.

>> I THINK THE ARCHITECTS ON THE BOARD SHOULD RECOMMEND A COLOR AND LIGHT GRAY AND ASK THE APPLICANT TO PAINT IT THAT COLOR. YOU GUYS HAVE AN IDEA OF WHAT WORKS, YOU SHOULD SUGGEST IT AND ASK THE APPLICANT AND WE SHOULD WRAP THIS UP.

>> S. O'KEEFE: I LIKE THAT SUGGESTION. ARCHITECT? SHOULD -- DOHEE, I'M GOING TO LET THEM THINK ABOUT THIS. ARCHITECTS WHAT DO YOU THINK? PATRICK?

>> P. SHEAHAN: I THINK THE SUGGESTION FROM THE APPELLANT IN THE FIRST PLACE -- THAT'S NOT MY COMMENT, JUST TO POINT THAT OUT. IN LIEU OF THAT, YOU COULD VALUE MATCH A COLOR TO THAT. AND THAT WOULD GIVE YOU, I THINK, A MEDIUM, WARM BROWN GRAY.

>> S. O'KEEFE: CHARLES.

>> I APPRECIATE SHANNON'S POINT. IT WAS NEBULOUS VERBAL DESCRIPTION AND HARD TO ENFORCE. SO -- BUT I'M NOT PREPARED TO SPECIFY A PARTICULAR COLOR OR IMPOSE THAT. WHILE I AGREE WITH THE PRINCIPLE THAT GOOD NEIGHBORLINESS WOULD DICTATE THAT THIS NEIGHBOR TRY TO REDUCE THE GLARE, AND I DON'T THINK YOU SHOULD HAVE TO MAKE US MAKE YOU DO IT. I THINK IT'S THE RIGHT THING DO.

I SEE NODDING. THAT IS GOOD TO SEE. SO ARE YOU WILLING TO CONSIDER GOING WITH A COLOR THAT IS LESS GLARING WHITE? IT COULD BE A PALE GREEN OR GRAY. SOMETHING THAT BLENDS IN WITH THE ENVIRONMENT. FOR THOSE TWO PIECES.

>> [OFF MIC]

>> S. O'KEEFE: SIR, WOULD YOU MIND COMING UP -- WE'D LIKE TO GET YOUR COMMENTS ON THE RECORD.

>> IT'S BEEN DISCUSSED THAT WE WOULD TONE THE STRUCTURE DOWN SO IT DOESN'T LOOK LIKE AN ERECT CEMENT BUILDING. WE CAN HAVE A COUPLE OF OPTIONS WITH TONING IT DOWN.

>> LILLIAN SERVES ON DESIGN REVIEW AND DOES A GREAT JOB. I THINK THE NEIGHBOR'S CONCERNS WILL BE IN GOOD HANDS.

>> I AGREE.

>> NOW IT GOES BACK TO THE ORIGINAL MOTION THAT THIS IS A RECOMMENDATION FROM ZAB NOT ENFORCED BY STAFF BUT WITH THE GOOD FAITH HOPE THAT THE APPLICANT FOLLOWS THROUGH WITH HIS PLEDGE TO WORK WITH THE NEIGHBORS.

>> LILLIAN HAS A GOOD SENSE OF COLOR.

>> SHE IS TRYING TO HELP ME PUT IPE ON THE WALLS.

>> AND I UNDERSTAND IT'S EXPENSIVE.

>> YOUR SHIRT IS A HANDSOME COLOR, GO WITH THAT.

>> S. O'KEEFE: THANK YOU, WE'LL CLOSE THE PUBLIC HEARING. I'M COMFORTABLE WITH THAT. ANY OTHER COMMENTS -- DO WE UNDERSTAND WHAT THE MOTION IS? DOHEE WANTED TO SPEAK.

>> D. KIM: I JUST WANT TO SAY THAT I'M NOT COMFORTABLE WITH  
ADDING A CONDITION OF APPROVAL BECAUSE THE PURVIEW OF ZAB  
DOESN'T SEEM TO BE ADDING THIS ADDITIONAL LEGAL --

>> S. O'KEEFE: WE'RE MAKING IT A SUGGESTION.

>> I WANT TO MAKE SURE, IS IT A SUGGESTION ONLY?

>> S. O'KEEFE: GREAT, SO YOU'RE GOOD. LET'S VOTE. CAN WE  
VOTE?

>> I'M SORRY, I WANT TO MAKE SURE. CONDITIONAL OF APPROVAL  
FOR THE 9-FOOT CEILING HEIGHT. CONDITION OF APPROVAL THAT THE  
ROOF BE NOT AS BRIGHT AND A RECOMMENDATION FOR THE CHANGE OF THE  
COLOR OF THE THIRD STOREY ADDITION.

>> S. O'KEEFE: THANK YOU FOR -- THAT'S GOOD TO GET THAT  
CLEAR. CAN WE DO A ROLL CALL.

>> PINKSTON.

>> YES.

>> KIM.

>> YES.

>> TREGUB.

>> YES.

>> SHEAHAN.

>> YES.

>> CLARKE.

>> YES.

>> LEWIS.



>> YES.

>> VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: YES, THE MOTION PASSES. WE SAID APPROVED, BUT IT'S A DENIAL OF THE APPEAL AND UPHOLDING OF THE ORIGINAL AUP. THERE WE GO AS MANNED YOU HAVE YOUR AUP AND IT'S APPEALABLE TO THE CITY COUNCIL.

>> I. TREGUB: JUST TO CLARIFY UPHOLDING OF THE AUP WITH NEW CONDITIONS.

>> YES AS WE JUST VOTED ON. THANK YOU VERY MUCH. YOU MAY GO. NOW WE'LL TAKE A BREAK. IT GOT DARK. KEY WE MAKE SURE THAT NO ONE IS OUTSIDE FOR KITTREDGE AND WE'LL TAKE A BRIEF BREAK WHILE WE MAKE SURE EVERYONE IS IN THE ROOM -- IT'S TELEGRAPH, I APOLOGIZE.

>> IS IT FIVE MINUTES OR SHORTER?

>> KEVIN: I THINK IT'S -- IT DOESN'T SEEM LIKE --

>> I'M FINE WITH SHORTER. I WANTED TO CLARIFY.

>> S. O'KEEFE: I'VE RECEIVED AN E-MAIL THAT BERKELEY SCHOOLS ARE CLOSED.

>> ARE WE KICKED OUT?

>> NO, BUT I DON'T HAVE TO GO TO WORK TOMORROW. IAN, YOU HAVE TO GO TO SCHOOL TOMORROW. ELEMENTARY SCHOOLS ARE CLOSED STARTING MONDAY. DO YOU NEED CHILD CARE TOMORROW? YOU DO

STARTING MONDAY.

>> SO IS IT -- SO IS IT NEXT WEEK THERE WOULD NORMALLY BE SCHOOL? I'M CURIOUS.

>> S. O'KEEFE: TWO WEEKS OF SCHOOL ARE CANCELED AND OUR SPRING BREAK IS MARCH 30TH THROUGH APRIL --

>> THAT'S A WEEK LATER THAN UC BERKELEY DOES IT. I THINK THAT'S WHEN BCC DOES.

>> S. O'KEEFE: ARE WE READY TO BEGIN? NOT QUITE? JUST TO WARN EVERYONE. WE'LL HAVE TO TAKE A CAPTIONER BREAK IN 30 MINUTES BUT MAYBE WE'LL BE DONE BY THEN. I JUST WANT TO WARRANT SPEAKERS, SINCE THERE ARE QUITE A FEW SPEAKER CARDS, I'M GOING TO LIMIT YOUR TIME. BUT I'LL BE FLEXIBLE. I SEE THERE ARE FOUR PEOPLE THAT WOULD LIKE TO GO TOGETHER. AS I SAID WE'LL TRY TO SHORT THEN MEET BUT RESPECT THE PROCESS. I WOULD NORMALLY GIVE ONE MINUTE PER PERSON BUT IF YOU WANT TO BE FLEXIBLE. NORMALLY WE DON'T DO CEDING TIME BUT WE'LL DO THAT TO MAKE UP FOR THE ONE MINUTE. IF YOU HAVE A TEAM THAT YOU WANT TO GO TOGETHER, YOU CAN HAVE FOUR MINUTES IF THERE ARE FOUR. FIGURE THAT OUT WHILE WE'RE DOING STAFF REPORT. OKAY. ARE WE READY?

>> SO THE PROJECT IS 2650 TELEGRAPH AVENUE WHICH IS USE PERMIT ZP2019-0070 WHICH WOULD DEMOLISH A CURRENT BUILDING TO CONSTRUCT THE 34,249 SQUARE FEET MIXED USE BUILDING WITH 49 DWELLING UNITS WHICH ARE FOUR LOW INCOME. COMMERCIAL SPACE ON THE GROUND LEVEL, 4,051 USABLE OPEN SPACE. 50 BICYCLE PARKING

SPACES AND 20 VEHICULAR PARKING SPACES AT THE GROUND LEVEL. THE LAND USE DESIGNATION IS AVENUE COMMERCIAL IN THE GENERAL COMMERCIAL ZONING DISTRICT. THE ZONING PERMITS REQUIRED ARE USE PERMITS TO DEMOLISH A COMMERCIAL BUILDING TO CONSTRUCT NEW FLOOR AREA OF 5,000 SQUARE FEET OR MORE AND ADMINISTRATIVE USE PERMIT TO ALLOW ARCHITECTURAL ELEMENTS TO EXCEED THE HEIGHT LIMIT. THIS QUALIFIES FOR A STATE DENSITY BONUS AND THERE ARE THREE WAIVERS AND ONE CONCESSION. WAIVER TO EXCEED THE HEIGHT LIMIT TO BE 55 FEET 6 INCHES WHERE 40 FEET IS THE LIMIT. TO REDUCE THE PARKING LIMIT. TO EXCEED THE MAXIMUM FLOOR AREA RATIO TO BE 3.15. THE CONCESSION IS TO DECREASE THE USABLE OPEN SPACE BY ELIMINATING THE ROOF DECK PROVIDING 4,051 SQUARE FEET WHERE 5,000 IS THE MINIMUM. THE CEQA IS A CATEGORICAL EXCEPTION UNDER 15332 UNDER INFILL DEVELOPMENT PROJECTS. THIS PROJECT WAS HEARD BY ZAB AS A PREVIEW IN DECEMBER AND DRC ALSO IN DECEMBER. REVISED APPLICATION WAS SUBMITTED ON JANUARY 21ST. ON FEBRUARY 20TH, THE DRC CONDUCTED THEIR PRELIMINARY REVIEW WITH A FAVORABLE RECOMMENDATION TO THE ZAB INCLUDING CONDITIONS FOR FINAL DESIGN REVIEW AND RECOMMENDATIONS FOR DISCUSSION WHICH ARE ATTACHMENT SEVEN TO THE STAFF REPORT. THE PROJECT COMPLIES WITH ALL APPLICABLE AND OBJECTIVE GENERAL PLAN AND ZONING STANDARDS. SO THE HOUSING ACCOUNTABILITY ACT DOES APPLY. PROJECT SITE IS LOCATED WITHIN THE RPP BOUNDARY. HOWEVER, BECAUSE THE APPLICANT IS NOT REQUESTING A VARIANCE FOR PARKING, THE PROJECT IS NOT

ELIGIBLE FOR THAT PROGRAM. IN TERMS OF THE NEIGHBOR CONTEXT, THIS IS 7 TO 8 BLOCKS WEST OF THE UC CLARK CAMPUS ALONG THE TRANSIT CORRIDOR COMMERCIAL DISTRICT AT THE SOUTHERN END OF THE TELEGRAPH BUSINESS IMPROVEMENT DISTRICT AND LOCATED ONE BLOCK SOUTH OF CARLETON WHERE THERE ARE TWO BUILDING ON THAT SAME SIDE AND THREE BLOCKS NORTH OF OREGON WHERE TWO SIX STOREY BUILDINGS ARE LOCATED ON BOTH SIDES MUCH TELEGRAPH. IN THIS AREA, MOST COMMERCIAL BUILDINGS HAVE ACTIVE PEDESTRIAN ORIENTED USES ON THE GROUND FLOOR. TO THE WEST ARE LOW-RISE RESIDENTIAL UNITS MOSTLY CONSISTING OF ONE TO TWO-STOREY BUILDING WITH A MIX OF SINGLE AND MULTI-FAMILY DWELLING. THE PROJECT IS LOCATED ABOUT ONE MILE FROM BOTH THE DOWNTOWN BERKELEY AND ASHBY BART STATION. FOUR BLOCKS NORTH OF RUSSELL WHICH ARE BOTH BICYCLE BOULEVARDS. IN RESPONSE TO BOTH THE ZAB AND DRC PREVIEW COMMENTS, THE APPLICANT REVISED THE PROJECT TO REDUCE THE HEIGHT. THIS IS ACHIEVED BY LOWERING THE GROUND FLOOR BY FOUR FEET AND BY EXCAVATING BELOW GRADE. IN THE PROPOSED OPTIONAL MEZZANINE HAS BEEN ELIMINATED AND THE PROPOSED RESIDENTIAL [INDISCERNIBLE] HAS BEEN REDESIGNED. THE OPEN SPACE ON THE PROPERTY CONSISTS OF SEVEN PATIOS AND A COMMONLY ACCESSIBLE PODIUM ON THE SECOND FLOOR THAT IS 1,572 SQUARE FEET AS WELL AS A 1,300 SQUARE FEET COMMONLY ACCESSIBLE ROOF DECK. ALSO ON THE GROUND FLOOR IS A 562 SQUARE FOOT COMMON AREA DESIGNED AS A COMMON AREA GARDEN BUT NOT USABLE OPEN SPACE. THAT'S AT THE REAR OF THE PROPERTY. SO TO SUMMARIZE

THE ANALYSIS FROM SECTION 5, STAFF BELIEVES THE FINDINGS FOR NOT DETRIMENT WILL BE MADE. DURING THE APPLICATION REVIEW, STAFF HAS RECEIVED SEVERAL LETTERS FROM BOTH RESIDENTS AND THE COMMERCIAL PROPERTIES THAT ARE ADJACENT TO THE PROJECT AND THOSE ARE ATTACHMENTS THREE AND I BELIEVE THERE ARE SUPPLEMENTAL COMMUNICATIONS YOU RECEIVED TONIGHT AND ANOTHER COMMUNICATION THAT YOU RECEIVED PREVIOUSLY. IN ATTACHMENT THREE IS A RESPONSE LETTER FROM THE ARCHITECT DAVID TRACHTENBERG THAT RESPONDED AND STAFF AS WELL AS THE CITY ATTORNEY HAS MET WITH THE ATTORNEY REPRESENTING SEVERAL OF THE NEIGHBORS YESTERDAY AND WE'VE LISTENED AND REVIEWED THEIR CONCERNS WHICH ARE LISTED IN TABLE SIX WHICH IS PAGE 14 OF THE STAFF REPORT. I'LL SUMMARIZE THE TOPICS AND HAPPY TO ANSWER ANY QUESTIONS AND ALLOW TIME FOR THE PEOPLE THAT ARE HERE TO SPEAK. SO THE TOPICS INCLUDE SHADING OF ROOFTOP SOLAR PANELS ON THE DENTIST'S OFFICE NORTH OF THE SITE. ELIMINATION OF THE SIGNAGE AND REDUCED VISIBILITY OF THAT DENTIST'S OFFICE. GENERAL PRIVACY AND NOISE IMPACTS RELATED TO THE USABLE OPEN SPACE AS WELL AS THE COMMON AREA GARDEN ON THE GROUND FLOOR. POTENTIAL NOISE FROM THE GARAGE DOOR, PARKING IMPACTS AND SHADOWS, AFFORDABILITY, CULTURAL RESOURCES, LIGHT POLLUTION AND CONSTRUCTION-RELATED IMPACTS. I'LL LEAVE IT TO PUBLIC COMMENT.

>> S. O'KEEFE: ANY QUESTIONS FOR STAFF? OKAY. DONE. TERESA.

>> T. CLARKE: COULD YOU SPEAK TO THE DEADLINE FOR CEQA

EXEMPT PROJECTS TO BE COMPLETED BY FEBRUARY 10TH.

>> I THINK SHANNON CAN ANSWER THAT.

>> I CAN. THE CITY HAS RECEIVED A HANDFUL OF LETTERS RECENTLY QUESTIONING THE TIMING OF THE CEQA DETERMINATIONS AND THE PERMITS STREAMLINING ACT. IT'S THE CITY STAFF HAS REVIEWED THESE LETTERS SUBMITTED MOST RECENTLY BY MR. KELLOGG AND DOES NOT FIND THE CITY IS VIOLATING THE ACT. STREAMLINE STARTS WHEN THE AGENCY DETERMINES THAT THE PROJECT IS EXEMPT. STAFF RECOMMENDS THE CEQA DETERMINATION BUT ZAB CONFIRMS THAT AND MOVING FORWARD, THE LANGUAGE IN THE STAFF REPORTS WILL BE REVISED TO REFLECT THAT NUANCE. SECONDLY, A PERMIT CANNOT BE DEEMED APPROVED UNDER THE STREAMLINING ACT UNLESS A PUBLIC NOTICE REQUIRED BY LAW HAS OCCURRED. THE NOTICE MUST COMPLY WITH THE CITY'S CODE AS WELL AS DUE PROCESS REQUIREMENTS. SINCE NOTICE HAS INTO THE BEEN GIVEN WITH RESPECT TO AN APPLICANT'S PROJECT, THE 60-DAY PERIOD FOR APPROVAL UNDER THE STREAMLINING ACT DOES NOT APPLY.

>> ARE YOU SAYING IN OUR APPROVAL WE'RE DETERMINING THE CEQA EXEMPTION? WHERE IS THAT IN OUR RECOMMENDATION? SO IN THE FRONT OF SECTION HERE UNDER BACKGROUND AND WHAT WE ARE APPROVING, I SEE -- I SEE FOUR USE PERMITS.

>> ON PAGE 2 THERE IS A CEQA DETERMINATION THAT IS CATEGORICALLY EXEMPT UNDER SECTION 15332 UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

>> DO WE HAVE PURVIEW TO DENY THAT IT'S CATEGORICALLY EXEMPT? YOU'RE ARGUING THAT WE'RE THE ONE AS PROVING THE DETERMINATION.

>> AND THEN -- YES.

>> BECAUSE WE'VE NEVER DISCUSSED THAT BEFORE. WE'VE BEEN TOLD BY THE STAFF THAT THIS IS A CEQA -- THE PROJECT IS EXEMPT FROM CEQA.

>> I DON'T WANT TO BE ARGUE WITH YOU BUT I WANT TO CLARIFY. THERE ARE FINDINGS THAT ARE STANDARD AND WE'LL GET TO THOSE.

>> WE'RE ESSENTIALLY APPROVING THE STANDARDS SO WHEN WE'RE CONSIDERING THE PROJECT, WE HAVE THE OPTION TO SAY THAT IT'S NOT OR IS.

>> ON PAGE ONE FOR FINDINGS AND CONDITIONS THERE ARE CEQA FINDINGS. IT SAYS IT'S EXEMPT AND LIST REASONINGS BEFORE THAT.

>> S. O'KEEFE: IT'S ALWAYS BEEN THERE.

>> I'M SAYING WE'VE NEVER DISCUSSED IT. OCCASIONALLY WE HAVE IN TERMS OF HAZARDOUS MATERIAL, WE'VE DISCUSSED IT. BUT NORMALLY WE DON'T. BUT BASICALLY WE'RE APPROVING THAT AS WELL WHEN WE APPROVE A PROJECT.

>> YES.

>> I WANT TO MAKE THAT CLEAR TO EVERYBODY.

>> S. O'KEEFE: MATTHEW.

>> I HAVE A QUESTION FOR STAFF ABOUT THE LETTER FROM RAMSEY LAW GROUP. IN IT THAT HE TALK ABOUT -- THEY SUGGEST THAT IN

ORDER TO DEAL WITH THE SHADING OF THE EXISTING SOLAR PANELS WE SHOULD USE THE POWER UNDER 23B.32.030 TO REQUIRE AS A CONDITION TO PUT BASICALLY THE PANELS ON THE ROOF OF THE PROPOSED DEVELOPMENT. I WANT TO CONFIRM, THAT SOMETHING IN THEORY WE COULD DO IF IT VIOLATED THE CONDITIONS AROUND MORALS OR GENERAL WELFARE? I'M NOT GOING TO READ THE WHOLE LIST, COULD WE REQUIRE THAT THEORETICALLY?

>> THEORETICALLY YOU COULD.

>> I THINK IT'S WORTH CONSIDERING.

>> IT'S NOT -- IT'S NOTHING THAT THE ZONING ADJUSTMENTS BOARD HAS DETERMINED IN THE PAST. THE ZONING ADJUSTMENTS BOARD HAS APPROVED PROJECTS WHERE NEW CONSTRUCTION CAST SHADOWS ON SOLAR PANELS. IT WOULD BE A DEVIATION FROM PAST PRACTICE AND NOT SOMETHING THAT THE ZONING BOARD HAS CONSIDERED WHEN THEY'VE DISCUSSED DETRIMENT ASSOCIATED WITH SHADOWS.

>> DOES STAFF HAVE ANY OPINIONS ON THAT BEING A THING THAT THE ZAB MIGHT CONSIDER? ARE THERE DOWN SIDES TO DO THAT? WHAT ARE THE DOWNSIDES?

>> I PREFER THIS IS A CONVERSATION FOR THE ZONING ADJUSTMENTS BOARD. THERE IS LANGUAGE SAYING CITY MAY NOT LIMIT THE DEVELOPMENT OF THE SUBJECT PROPERTY TO PROTECT THE ABILITY OF ANOTHER PROPERTY TO INSTALL PRODUCTIVE SOLAR PANELS. THIS IS A DENSITY BONUS PROJECT SO THERE ARE DIFFERENT FINDINGS THAT NEED TO BE MADE IF YOU WERE TO DENY AN ELEMENT OF DENSITY OF THE



PROPOSED PROJECT AND IT'S HEALTH AND SAFETY.

>> ARE YOU SAYING IF WE REQUIRED PUTTING THE SOLAR PANELS ON THIS DEVELOPMENT, IT WOULD REDUCE THE DENSITY OF THE DEVELOPMENT?

>> I'M --

>> SHE DID NOT SAY THAT.

>> YOU'RE CONSIDERING FOR -- YOU'RE ASKING FOR STAFF'S THOUGHT IF YOU WERE TO CONDITION -- PUT A CONDITION OF APPROVAL ON THIS PROJECT THAT THEY PROVIDE SOLAR ON THEIR ROOF FOR THEIR ADJACENT NEIGHBORS OR THAT YOU WOULD LIKE TO REQUIRE THE RELOCATION OF SOLAR ON THE DENTIST'S LETTER.

>> I DIDN'T UNDERSTAND THE DISTINCTION BETWEEN THE TWO THAT YOU'RE OFFERING.

>> CAN YOU RESTATE WHAT YOU'RE ASKING.

>> I WANT TO CONFIRM IF IT WAS -- IF THIS WAS A POTENTIAL THING WE DO TO. I MEAN MAYBE WE'LL LEAVE IT UP FOR DISCUSSION AMONG THE BOARD LATER.

>> S. O'KEEFE: DENISE, DID YOU HAVE A RESPONSE?

>> I'VE NEVER SEEN AN APPLICANT BE OBLIGATED TO PROVIDE SOLAR FROM THE PROJECT TO AN ADJACENT PROJECT. THERE ARE ENFORCEMENT AND ADMINISTRATIVE PROBLEMS WITH REQUIRING THAT. SOMETHING ONE GUY OWNS IS ON THE BUILDING ANOTHER GUY OWNS. THAT IS LIKE AN EASEMENT WHICH CREATES ENFORCEABILITY ISSUES. I WOULD NEVER RECOMMEND WE GET INTO THAT.

>> I THINK TALKING ABOUT IT UNDER BOARD DISCUSSION IS GOOD. LET'S MOVE THIS CONVERSATION TO THEN. ANY MORE QUESTIONS FOR STAFF? TERESA.

>> T. CLARKE: I KNOW ON SOME PROJECTS WE'VE PUT IN SKY LIGHTS FOR NEXT DOOR NEIGHBORS.

>> MY RECOLLECTION IS THAT ANY KIND OF WORK ON SOMEONE ELSE'S PROPERTY IS DONE AS A SIDE -- COULD SOMEONE OUT OF THE GOODNESS OF THEIR HEART OR FOR NEIGHBORLY RELATIONS PUT IN SKY LIGHTS OR RELOCATE SOLAR. THAT'S MY RECOMMENDATION THAT ZAB DOESN'T HAVE THAT AS A CONDITION BUT OTHER PEOPLE HAVE NEGOTIATED THAT.

>> OKAY.

>> FURTHER QUESTIONS FOR STAFF. IT'S 8:47, I'M TRYING TO BE MINDFUL OF THE CAPTIONER BREAK AT 9:00. LET'S BRING UP THE APPLICANT. AND DO YOU GUYS NEED FIVE MINUTES? OKAY. ALL RIGHT, WE'LL GIVE YOU FIVE. PLEASE STICK TO THE TIME LIMIT.

>> I'M MICHAEL, I'M THE DEVELOPER OF 2650 TELEGRAPH. I WAS AT THE ARB HEARING AND THE ZAB PRELIMINARY HEARING AND SUBSEQUENTLY MY ARCHITECT DAVID TRACHTENBERG HAS MET WITH THE NEIGHBORS AND DONE HIS BEST TO ADDRESS THEIR CONCERNS. TONIGHT HE'LL PROVIDE A PRESENTATION AND HOW HE HAS TRIED TO ADDRESS THE CONCERNS AND IF YOU HAVE ANY QUESTIONS AFTERWARDS, I'M HERE TO ANSWER THEM TO THE BEST OF MY ABILITY. THANK YOU.

>> THANK YOU AND THANKS EVERYBODY FOR BEING HERE. I'M GOING

TO GO THROUGH THIS. HERE IS THE PROJECT. WHAT'S THE DEAL HERE? AS YOU HEARD, WE VOLUNTARILY LOWERED IT JUST UNDER THE HEIGHT LIMIT, FOUR FEET DOWN TO 55.5. WE DID THAT BY TAKING FOUR FEET OUT OF THE PODIUM LEVEL AND DID THAT BY INTRODUCING THESE -- AT CONSIDERABLE COST. THE OTHER THING WE DID WAS ELIMINATE THE LOFT BEDROOMS IN THE THREE UNITS AT THE GROUND LEVEL THERE SO THOSE BECOME STUDIOS INSTEAD OF ONE BEDROOMS. THOSE ARE SIGNIFICANT RESPONSES TO THE NEIGHBORS. WE MET MULTIPLE TIMES WITH NEIGHBORS AND THEIR ATTORNEYS. I THINK WE'VE DONE A LONG WAY TO DEALING WITH THEIR ISSUES. I'M GOING TO DEAL WITH THE THREE MAIN CONCERNS WHICH IS ONE LOSS OF LIGHTING IN THE DENTIST'S OFFICE AND EXISTING SOLAR PANELS AND NOISE AND PRIVACY TO THE WEST. ON THIS PLAN, WE SHOW THE ADJACENT DENTIST'S OFFICE RIGHT THERE. ONE THING THAT MASSIH DID WAS ALLOW FOR A LIGHT COURT BECAUSE HE UNDERSTOOD THAT EVENTUALLY THERE WOULD BE A TALL BUILDING HERE ON THIS SITE. I THINK THAT CONDITION IS SOLVED BY THE BUILDING ITSELF. ANY CONCERNS ABOUT THE LIGHT IN THE TWO ROOMS AT THE GROUND FLOOR WHICH IS A TREATMENT ROOM AND A STAFF KITCHEN, I THINK IT'S MANAGED QUITE WELL. AS YOU GO UP A FLOOR -- THIS SOUTH ELEVATION OF THE BUILDING. THESE ARE THE WINDOWS IN QUESTION OF CONCERN TO THE OWNERS OF THE TWO BUSINESS. A DENTIST BELOW AND ORTHODONTIST ABOVE. ON THE GROUND FLOOR THERE IS FILM ON THE WINDOWS WHICH SUGGESTED THERE IS TOO MUCH LIGHT THERE. I THINK CHANGE IN THE CONTEXT IS GOING TO HAVE LITTLE NEGLIGIBLE

EFFECT. ESPECIALLY YOU GO UP A FLOOR WHERE THE BIG MOVE IS CARVING OUT THIS PORTION OF THE MASS TO ALLOW LIGHT TO GET INTO THE BUILDING IS A NON-ISSUE. WE SHOW THE EXISTING SOLAR PANELS AND I THINK THAT THE L-SHAPED BUILDING ALSO HELPS TO MITIGATE THE LOSS OF SUN ON TO THE PANELS. AND I NOTE THAT YOU CAN SEE IN THIS VIEW YOU CAN SEE BOTH THE 5'8" SETBACK HERE AND YOU CAN IMAGINE THAT THE LIGHT -- THE MOST IMPACTED PORTION OF THE SOLAR IS THIS TRIANGULAR PORTION OUT BY TELEGRAPH AVENUE. I CAN'T READ THIS. THIS IS A CITATION OF THE STATE LAW ABOUT SOLAR. THIS IS THE SUMMER -- MOST PRODUCTIVE TIME FOR SUMMER IS DURING THE SUMMER. AS YOU CAN SEE IN THESE ILLUSTRATIONS, THE BUILDING MASS THAT WE'RE PROPOSING HAS VIRTUALLY NO IMPACT. IT'S IN THE WINTERTIME WHEN THE PANELS ARE LESS PRODUCTIVE THAT THERE IS SOME IMPACT. WE HIRED A STUDY TO BE DONE WHICH INDICATED THAT THE NEW MASS WOULD HAVE AN IMPACT BY REDUCING THE EFFICACY OF THE EXISTING SOLAR PANEL BY 33%. AND AGAIN, THAT'S IN THIS AREA RIGHT BY THE STREET. YOU CAN SEE THE BUILDING DEPENDING ON WHERE YOU ARE, THE SOLAR PANELS ARE ON THAT ROOF AND MORE OR LESS EFFECTIVE. ONE THING I WOULD SUGGEST IS THE POSSIBILITY OF THE OWNER COULD RELOCATE SOME OF THE PANELS TO A CARPORT THAT THEY MIGHT WANT TO BUILD HERE IN THE REAR. THEY'D HAVE GOOD SOLAR ACCESS BACK THERE. NOISE AND PRIVACY, BY DESIGN THE BUILDING IS STEPPING DOWN. WE HAVE THE BAKED-IN CONFLICT WHICH OCCURS WITH BIG BUILDINGS NEXT TO SMALL BUILDINGS. WE TRIED TO MITIGATE

THAT. SO I WANT TO POINT OUT THESE TERRACES HERE ARE PRIVATE TO THE ONE BEDROOM APARTMENTS. THAT'S A COMMON AREA. AND THE NEIGHBORS PROPOSED -- PROPOSED THAT WE ADD AN 8-FOOT RAILING AROUND THAT. I WANT TO PUT OUT AN ANALOGOUS POSITION HERE. THERE ARE NO CAN COMPLAINTS ABOUT THIS BUILDING WHICH HAS NO ON SITE MANAGER BUT THERE ARE COMPLAINTS ABOUT THE ONE-STOREY BUILDING.

>> S. O'KEEFE: THANK YOU VERY MUCH. AND ARE THERE QUESTIONS FOR YOU. IGOR.

>> I. TREGUB: THANK YOU. THE QUESTION ARE YOU AMENABLE TO PUTTING IN ANY OF THE BUILDING ELECTRIFICATION MANDATES THAT WENT IN?

>> ARE WE AMENABLE? FULL ELECTRIFICATION?

>> I. TREGUB: OR SOMETHING THAT IS ENOUGH TO EVENTUALLY GET THERE.

>> I DON'T REMEMBER. I HAVE TO ASK THE DEVELOPER ABOUT THAT.

>> I CAN ANSWER THAT. THIS APPLICATION WAS FILED IN 2019 AND SO THE NATURAL GAS DOESN'T APPLY. BUT THE BUILDING ELECTRIFICATION AND NEW BUILDING CODE DOES APPLY TO THIS PROJECT BECAUSE THE BUILDING PERMIT WILL BE SUBMITTED IN 2020.

>> I. TREGUB: IT'S WITHIN THE REACH CODE?

>> CORRECT.

>> I. TREGUB: AND THEN HOW OPEN IS THE APPLICANT TO CONTINUING THE DIALOGUE WITH THE DENTAL CLINIC OVER PAYING SOME

OR ALL OF THE COSTS OF RELOCATING THE SOLAR PANELS IF THEY CHOOSE TO GO THAT ROUTE?

>> THAT'S A SLIPPERY SLOPE. I THINK ANYBODY WHO WANTS TO STOP A PROJECT CAN INSTALL SOLAR PANELS IN THEIR BACKYARD AND STOP A PROJECT. THE LAW SAYS, YOU READ THE CITATION EARLIER. I THINK ONE THING IS CURIOUS THIS WAS BUILT ONLY 10 YEARS AGO WHEN THEY COULD HAVE BUILT A FIVE STOREY BUILDING AND AT THIS POINT I THINK THEY WISH THEY HAD.

>> I. TREGUB: I APPRECIATE THE ANSWER.

>> S. O'KEEFE: MORE QUESTIONS FOR THE APPLICANT. TERESA.

>> T. CLARKE: WAS THERE ANOTHER ITEM OR IS THAT THE LOST ONE?

>> THERE IS ANOTHER. I'D LIKE TO ADDRESS THAT. SO THE NEIGHBORS REQUESTED AN 8-FOOT TALL GLASS RAIL AT THE TOP DECK. I WANT TO SHOW YOU WHAT THAT LOOKS LIKE. WE TOOK THAT SERIOUSLY. HERE IS THE CONDITION AS IT EXISTS. I WANT TO POINT OUT WE'VE TAKEN CARE TO PUT BARRICADES OF LANDSCAPE THAT PREVENT THEM FROM GETTING UP TO THE EDGES AS WELL AS THE STEEL CORNICE WHICH SHADES PEOPLE'S VIEW DOWN PEOPLE CANNOT OCCUPY THE EDGE. WE'RE SHOWING LIGHTS VERY LOW WHICH WASH THE DECK SURFACE. WE DON'T HAVE ANY LIGHTS. THIS IS A GOOD CONDITION. THIS IS WHAT THEY'VE REQUESTED. HERE ARE A COUPLE OTHER VIEWS. I THINK THIS IS TERRIBLE. I THINK -- I'M ALSO THE ARCHITECT OF THE PEOPLE WHO ARE GOING TO LIVE HERE. TRY TO BE THE ARCHITECT OF NEIGHBORS. I

WANT THEIR QUALITY OF LIFE TO MEAN SOMETHING HERE. HERE IS ANOTHER VIEW. THINK THIS WOULD BE AN UNPLEASANT THING. IT'S ANOTHER SLIPPERY SLOPE. WE HAVE MANY CASES AROUND THE CITY WHERE WE HAVE TERRACES LIKE THIS. THERE IS A CODE ISSUE WHICH IS THE NEED FOR WINDOW WASHING EQUIPMENT WHICH GETS TO BE -- WHERE YOU THROW THE CABLES OVER A GLASS RAILING. I THINK IT'S A DIFFICULT CONDITION.

>> S. O'KEEFE: THANK YOU.

>> SO WOULD YOU CONSIDER SOME GLAZING IN TERMS OF WIND PROTECTION? I DON'T KNOW WHAT THE PURPOSE OF THE GLASS IS EXACTLY.

>> IT WOULD MITIGATE AGAINST [INDISCERNIBLE]

>> I THOUGHT IT WAS FOR PEOPLE LOOKING DOWN OR SOMETHING.

>> LOOKING INTO CLEAR GLASS.

>> OKAY, THANK YOU.

>> S. O'KEEFE: CHARLES AND A REMINDER WE HAVE A CAPTIONER BREAK COMING UP. BUT GO AHEAD.

>> ONE OF THE IMPORTANT CONSIDERATIONS FOR DESIGN REVIEW WHEN YOU CAME BEFORE US WAS THE MASSING OF THE BUILDING. IT WAS SPOKEN FAVORABLY IN DESIGN REVIEW. I WOULD LIKE TO MAKE MY COLLEAGUES AWARE OF YOUR CHOICES RELATIVE TO THAT BECAUSE I THINK IT SPEAKS TO SOME OF THE NEIGHBOR'S CONCERNS SORT OF PROACTIVELY. DO YOU HAVE ANY -- CAN YOU SPEAK TO THAT?

>> THINK YOU'RE RIGHT. WE TRY TO GET APPROVAL QUICKLY. IN

OUR PRACTICE WHICH MEANS WE DON'T TRY TO FAKE PEOPLE OUT AND COME BACK WITH STUFF THAT IS STUPID. WE TRY TO PRESENT A BUILDING THAT IS GOOD AND SOLVES A PROBLEM IN THE BEST POSSIBLE WAY. I THINK AT THE GATE WE DID THAT HERE. AGAIN, I THINK THE BIG MOVE OF CARVING OUT A QUARTER OF THE MASS TO RELIEVE SHADOW IMPACTS AND SO ON WAS A BIG AND IMPORTANT MOVE. IN ADDITION TO THE STEPPING OF THE MASS AS IT MOVES TOWARDS THE WEST.

>> THANK YOU.

>> S. O'KEEFE: ANY MORE QUESTIONS FOR THE APPLICANT? YOU CAN SIT DOWN MR. TRACHTENBERG. WHICH HAVE TO TAKE A BREAK AT 9:00 BECAUSE THERE IS SOMEBODY WHO CAPTIONING THE MEETING AND THEY NEED A BREAK EVERY TWO HOURS. WE'LL TAKE A BREAK AND MEMBERS OF THE PUBLIC, IF YOU HAVE ANY LITTLE STRATEGIES OR ANYTHING, YOU CAN TELL ME AS YOU COME UP. THANK YOU.

>> S. O'KEEFE: WE'LL BRING THE MEETING BACK TO ORDER. HELLO. SO WE'RE GOING TO START WITH PUBLIC COMMENT. ONCE AGAIN, I WANT TO REMIND EVERYONE YOU HAVE ONE MINUTE. WE'RE TRYING TO GET THIS MEETING WRAPPED UP AS QUICKLY AS POSSIBLE WHILE STILL RESPECTING THE PROCESS AND LET EVERYONE SPEAK. DO BE RESPECTFUL OF YOUR WITHIN-MINUTE TIME LIMIT. EVERYONE IS GOING TO HAVE YOUR ONE MINUTE. I HAVE THE FOUR PEOPLE THAT WILL HAVE ONE PERSON SPEAK FOR FOUR MINUTES. THIS IS THE ORDER THAT I RECEIVED THE CARDS IN. FIRST WE HAVE DAVID KELLOGG FOLLOWED BY -- PLEASE BE READY TO COME UP IF YOUR NAME IS NEXT. DAVID KELLOGG FOLLOWED BY



CORY SMITH FOLLOWED BY SILANE KAHN. YOU HAVE ONE MINUTE.

>> TERESA, YOU WERE ASKING GOOD QUESTIONS ABOUT THE CEQA DETERMINATION. IT'S TO STAFF NOT TO THE BOARD. IS THERE A STATE DEADLINE TO DO THE INITIAL CEQA DETERMINATION AND WE KNOW THERE IS NO WAY THE BOARD IS MAKING THAT DETERMINATION IN 30 DAYS. THE BOARD CAN'T DO ANYTHING IN 30 DAYS. THE IDEA FOR THE BOARD TO DO IS THE CITY ATTORNEY'S GRAND FANTASY TO AVOID A LAWSUIT. NOT HOW IT WORKS. THERE IS A DIFFERENCE BETWEEN INITIAL DETERMINATIONS AND CERTIFICATIONS. IT'S THAT'S PART OF YOUR JOB BUT NOT THE CEQA DETERMINATION. THE PREVIEW MEETING, THAT SATISFIED THE DUE PROCESS REQUIREMENTS. IT'S BEEN LEGALLY DENY SOD YOU HAVE TO APPROVE IT TODAY.

>> GOOD EVENING, CORY SMITH ON BEHALF THE BAY AREA. WE'RE A REGIONAL NON-PROFIT TO ADVOCATE FOR HOUSING FOR AFFORDABLE HOUSING. WE ASK YOU TO APPROVE THE PROJECT. THIS PROJECT HAS 20% AFFORDABLE HOUSING INCLUDED IN THIS. WHENEVER WE HAVE THE OPPORTUNITY TO GET SUBSIDIZED AFFORDABLE HOUSING, WE NEED TO TAKE ADVANTAGE OF IT. WHILE I UNDERSTAND THE DESIRE TO GET ADDITIONAL CONCESSIONS AND EXTRACTIONS, WHEN YOU ADD THOSE UP, IT GETS TO THE POINT WHERE THE PROJECT DOESN'T WORK. IF IT DOESN'T WORK 20% OF ZERO WILL BE ZERO AFFORDABLE HOUSING. THE OTHER THING IS THE FACT THAT THE CONVERSATION HAS OCCURRED OVER AND OVER AGAIN WITH THE NEIGHBORS. THE WAY THAT THIS PROJECT HAS MOVED FORWARD, THEY DESERVE A GOOD-FAITH EFFORT TO COMMUNICATE

AND TRY TO WORK WITH THE NEIGHBORS IN THE NEIGHBORHOOD. AND WE WANT TO APPLAUD THEM FOR THAT.

>> S. O'KEEFE: I WANT TO SAY FOR THE RECORD I BELIEVE THIS HAS FOUR UNITS LOW-INCOME HOUSING AND THERE IS A FEE AS WELL. SO IT'S MEETING THE 20% REQUIREMENT. SYLVAIN INVOLVED BY OLGA.

>> I LIVE ACROSS THE STREET FROM THE PROPOSED PROJECT. THANK YOU TO ZAB AND TO THE ARCHITECTS FOR THE EFFORTS THEY MADE TO SPORT NEIGHBORS THIS EFFORT. ONE ISSUE THAT HASN'T BEEN ADEQUATELY ADDRESSED IS THE PARKING ISSUE. 20 PACES IF FOR 45 UNITS PLUS COMMERCIAL IS DEEPLY INADEQUATE. EVEN WITHOUT RESIDENTIAL PARKING PERMITS, THAT IS GOING TO MEAN THAT PEOPLE CAN EFFECTIVELY USE COMMUTER VEHICLES AND THERE WILL BE VERY LITTLE DIFFERENCE IN TERMS OF THE PARKING SITUATION. MY OTHER MAJOR CONCERN IS JUST SOME ISSUES AROUND STREET AND HOW THAT IS GOING TO WORK. FIRST OF ALL, CONSTRUCTION HOURS AND WHETHER OR NOT THAT'S GOING TO BE BLOCKING DERBY. THE OTHER ISSUE IS WHERE DELIVERIES AND MAINTENANCE VEHICLES MIGHT GO. THEY SAID THEY'LL BE PARKING ON TELEGRAPH.

>> S. O'KEEFE: THANK YOU. MARTIN HUSSEIN.

>> I'LL SPEAK ON BEHALF OF THE NEXT DOOR NEIGHBORS. WHICH WE LIVE ABOUT SIX YARDS FROM THE SITE WHERE THE DEMOLITION -- FROM THE DEMOLITION ITS SOFA. SO THE POLLUTION AND THE NOISE IS A MAJOR, MAJOR CONCERN. AND THE SEVEN SPOTS -- THE ROOF WILL BE RIGHT ABOVE OUR BEDROOM. I THINK THAT THOSE GLASS

SCREENS WHICH WERE ADVISED BY THE DESIGN REVIEW ARE ESSENTIAL. AND WHAT ELSE YOU CAN DO TO HELP US DECREASE NOISE WOULD BE WISE BECAUSE RIGHT NOW WE'RE CONSIDERING WHAT WE CAN DO AND WE CANNOT MOVE OUT BECAUSE THE PROJECT DECREASES THE VALUE OF OUR HOUSE LIKEWISE IT KEY DECREASES THE VALUE OF THE BUSINESSES. THEY DON'T ALLOW US TO CHANGE THE RESIDENCE. THAT'S THE CHANGE.

>> S. O'KEEFE: I THINK YOU HAVE ONE MORE MINUTE?

>> I THINK TO SUMMARIZE YOUR CONCERNS.

>> S. O'KEEFE: THANK YOU. OKAY. TELL US YOUR NAME.

>> I'M HUSSEIN. SO I SUBMITTED A COUPLE OF LETTERS INCLUDING TWO EARLIER TODAY TO TRY TO ADDRESS SOME OF THE ISSUES THAT IMPACT BOTH THE DENTISTRY AND PEDIATRIC OFFICE. I WOULD URGE ZAB TO DISCUSS AND EXPLORE WAYS TO ACHIEVE RELOCATION OF SOLAR PANELS. IT'S A PITY TO LOSE THE SOLAR PANELS. AT THE SAME TIME WE'LL TRY TO FIND A WAY TO DO THAT. I BULLET POINTED A LETTER IN RELATION TO PRIVACY THAT I THINK COULD BE ACHIEVED. I WANT TO ADD TO THOSE. I ASK ZAB TO REVIEW THOSE. ONE POINT REGARDING CONSTRUCTION THAT WAS NOT IN THERE IS THAT I WOULD ASK THAT THE CONDITIONS OF APPROVAL REGARDING CONSTRUCTION NOISE. THOSE APPLICABLE TO RESIDENTIAL CONSTRUCTION AND ZONING FOR RESIDENTIAL CONSTRUCTION, ALTHOUGH THE SITE ITSELF IS IN A COMMERCIALLY-ZONED AREA, THE RESIDENTS -- THERE WILL BE IMPACTS ON RESIDENTS. I THINK THE MAX IS 60 RATHER THAN 75, I ASK THAT THAT BE CONSIDERED TOGETHER WITH A TALLER THAN THE MINIMUM

TEMPORARY FENCE TO ALSO MITIGATE NOISE BOTH FOR THE RESIDENTS AND THE SPECIAL NEEDS PATIENTS OF THE DENTIST'S OFFICE. AS FOR THE PRIVACY ISSUES, WE ADVOCATE FOR THE GLASS ENCLOSURE ON THE SECOND FLOOR AS WELL AS TALLER GLASS RAILINGS FOR THE OTHER PATIOS. RIGHT NOW I THINK THERE ARE FOUR FEET ADDITIONALLY -- A FOOT OR TWO ADDITIONAL WOULD BE APPROPRIATE, WE THINK. TO MINIMIZE NOISE.

>> S. O'KEEFE: THANK YOU VERY MUCH. NOW WE HAVE THE GROUP OF FOUR WHICH IS JEFF, DAVID, JOHN AND KATHLEEN REPRESENTED BY JEFF. IS THAT RIGHT? FOUR MINUTES.

>> I'M JEFF I LIVE TO THE WEST OF THE PROPOSED SITE WITH MY WIFE AND OUR TWO SMALL KIDS. LAST WEEK THE NEIGHBORS PART OF THIS GROUP HAD A GREAT MEETING WITH DAVID TRACHTENBERG THE ARCHITECT AND WE CAME UP WITH A LIST OF AGREEMENTS WITH HIM THAT WE SUBMITTED TO ASHLEY AND ZAB AS PART OF YOUR PACKET TODAY. MOST OF THESE WERE NOT ADDRESSED IN THE REMARKS BY DAVID EARLIER. I WANT TO MAKE SURE THAT THESE ARE CLEAR AND ARE CONSIDERED AS AGREEMENTS AND GET BAKED INTO THE PLAN AS CONDITIONS. ONE IS RELATED TO THE LANDSCAPING PLAN HAVING A SERIES OF MATURE TREES PLANTED ALONG THE WESTERN EDGE OF THE PROPERTY BETWEEN OUR HOUSE AND 2650 TELEGRAPH. AT THE TIME THAT WE MET WITH THE ARCHITECT, A DOG RUN WAS BEING PROPOSED. I THINK THE LANGUAGE HAS CHANGED THAT TONIGHT TO AN OUTDOOR AREA WHICH IS THE SOUTHWESTERN PART OF THE PROPERTY AND WE BELIEVE THERE IS

NO REASON TO HAVE A DOG RUN AS PART OF THIS PROJECT AND THAT WOULD BE INCREDIBLY DISRUPTIVE TO US AS NEIGHBORS. INSTEAD OF THAT, WE PROPOSE HAVING MORE MATURE TREES PLANTED IN THAT AREA TO PROVIDE MORE PRIVACY TO THE NEIGHBORS. WE ALSO TALKED ABOUT A FENCE BETWEEN OUR PROPERTY AND 2650 TELEGRAPH THAT WAS 8 FEET IN HEIGHT AND NOT 6 FEET IN HEIGHT. SO DAVID PROPOSED A TYPE OF MATERIAL TO USE THAT WE THOUGHT WOULD WORK NICELY. THE WALLS AROUND THE PATIO ARE ALREADY ADDRESSED EARLIER. AND OLGA TALKED ABOUT THAT. IN TERMS OF NOISE, WE'RE PLEASED TO SEE THERE IS GOING TO BE AN ON SITE BUILDING MANAGER THAT WE CAN CONTACT WITH EXCESSIVE NOISE AND WE PROPOSE THERE WILL BE SIGNAGE PLACED ON TERRACES TO LIMIT THE MAXIMUM NUMBER OF PEOPLE ALLOWED ON THE TERRACE AND IF THERE ARE NEIGHBOR COMPLAINTS ABOUT NOISE THAT THOSE KINDS OF GATHERINGS BE STOPPED AND PROHIBITED. THERE WAS TALK ABOUT THE LIGHTING ISSUES AND HAVING WALKWAY LIGHTING SEEMS GREAT, LIGHTING THAT IS FACING TO THE EAST AND NOT TO OUR PROPERTY. ON THE GROUND FLOOR, LIGHTING THAT DOES NOT EXCEED 7 FEET SO BELOW THE 8-FOOT FENCE THAT WE HAD AGREED UPON AND OUR LAST POINT WAS AROUND THE GARAGE DOOR NOT INCLUDING ANY LIGHT OR SOUND THAT WILL WOULD BE A NUISANCE FOR THE NEIGHBORHOOD. WOULD ANYBODY LIKE TO SAY ANYTHING?

>> I'M DAVID MILLER I LIVE AT 2639 DANA WHICH IS THE HOUSE NEXT TO THEM. I LIVE WITH MY WIFE AND DAUGHTER. I WAS PART OF THE MEETING THAT JEFF MENTIONED AND I WANTED TO MAKE IT A

CLARIFICATION. THE ARCHITECT SAID WE HAD NO NOISE COMPLAINTS WITH THE MULTI-STOREY BUILDING AND THAT IS NOT CORRECT. WE DO HAVE NOISE COMPLAINTS WITH THAT BUILDING AS WELL SO WE'D LIKE TO STICK WITH OUR REQUEST ON NOISE COMPLAINTS INCLUDING THE GLASS STRUCTURES. FINALLY, I WANT TO MAKE SURE IT'S ON THE RECORD THAT IN ADDITION TO THE MATURE TREES THAT WE'RE ASKING FOR ON THE WESTERN SIDE OF THE BUILDING THAT WE ASK FOR A MATURE TREE ON THE NORTHWEST CORNER OF THE LOT FOR ADDITIONAL PRIVACY. THANK YOU.

>> JOHN ALLEN 2643 DANA. THE ARCHITECT'S PLAN CALLS FOR A COMMON AREA GARDEN OF 562 SQUARE FEET. WE'RE ALL IN FAVOR OF THAT. SOMEHOW THE TERM "DOG RUN" HAS MORPHED INTO THIS CONVERSATION. WE'RE OPPOSED TO A DOG RUN.

>> I THOUGHT I HAD MORE CARDS BUT THEY WERE EXTRA CARDS. GREAT MYSTERY WHICH WAS SOLVED. SO WE'LL BRING THE APPLICANT BACK UP NOW TO RESPOND TO ANYTHING THAT WAS SAID OR ANYTHING ELSE YOU WANTED TO ADD. YOU HAVE THREE MINUTES.

>> THANKS FOR THE COMMENTS. I'LL TRY TO CAPTURE THEM. PARKING ISSUE. IT'S CURIOUS THAT THE DENTIST BUILDING HAS 24 EMPLOYEES AND ABOUT THAT MANY CUSTOMERS AND FIVE PARKING SPACES. SO I THINK THAT THEY HAVE SOME RESPONSIBILITY FOR PARKING ISSUES. THE DOG RUN IS TAKEN OUT AT THE REQUEST OF THE NEIGHBORS. WE ARE WILLING TO LOOK AT RAISING THE WALL AT THE TOP FLOOR THERE TO INSTEAD OF 42 INCHES TO 52 INCHES WHICH WOULD

MEAN THE PEOPLE SITTING DOWN WOULD NOT HAVE A VIEW BUT PEOPLE  
STANDING UP WOULD HAVE A VIEW. WE'RE NOT PUTTING THE GLASS UP  
BECAUSE IT'S OF NO CONSEQUENCE ANYWAY. WE'RE HAPPY TO MAKE THE  
HIRE AGAINST WHICH IS HELPFUL TO BOTH PARTIES AS WELL AS TO  
NEGOTIATE WHATEVER SPECIES THAT IS MUTUALLY AGREEABLE FOR THE  
TREES PLANTED ALONG THE PROPERTY LINE. I THINK THAT'S IT.

>> YOU'RE GOING TO HAVE AN 8-FOOT PROPERTY LINE FENCE?

>> THAT'S WHAT THE NEIGHBORS REQUESTED. WE THINK THAT IS  
REASONABLE.

>> WHY?

>> IT SEPARATES THE THREE LITTLE COMMON -- PATIOS FROM THE  
NEIGHBORS' BACKYARD.

>> WHAT IS THE PURPOSE OF IT?

>> PRIVACY.

>> FOR PEOPLE PEEKING ABOVE IT OR WHAT?

>> THIS IS A REQUEST FROM THE NEIGHBORS.

>> I KNOW BUT I DON'T LIKE 8-FOOT FENCES ON ANYBODY'S  
PROPERTY. IT WILL BE -- IT'S A ZONING CERTIFICATE OR SOMETHING.  
IT'S A USE PERMIT.

>> S. O'KEEFE: TERESA, IS THIS A REQUEST FOR THE APPLICANT.

>> THE OTHER QUESTION I HAD WAS WHAT ARE YOU REPLACING THE  
DOG RUN AREA WITH?

>> LANDSCAPE.

>> THAT'S WHERE THE TREES ARE GOING. MATURE TREES?

>> LANDSCAPE PLAN --

>> DID YOU REVISE THAT?

>> YES WE REVISED IT IN THE SET YOU HAVE.

>> S. O'KEEFE: SHANNON, DID YOU WANT TO SAY SOMETHING ABOUT THE FENCE?

>> IF THE ZAB DECIDES IT ADD AN 8-FOOT FENCE, THERE IS AN ADMINISTRATIVE USE PERMIT REQUIRED. WE WANT TO READ THAT INTO THE RECORD.

>> S. O'KEEFE: THANK YOU. DENISE AND IGOR AND MATTHEW.

>> I WANT TO CLARIFY THE STATUS OF THE OTHER THINGS THE NEIGHBORS OUTLINED AS BEING PART OF THE AGREEMENT. THE LANDSCAPE PLANS ARE SHOWING MATURE TREES AT THE WESTERN EDGE, THEY SHOW THAT NOW?

>> YES.

>> THE LANDSCAPE PLANS SHOW A MATURE TREE AT THE WEST CORNER OF THE LOT NOW?

>> IS THAT A QUESTION?

>> YES, IS THAT AGREEMENT ON THE LANDSCAPE PLAN OR DO WE HAVE TO ADD IT AS A CONDITION?

>> THIS HAPPENED QUICKLY.

>> THERE IS NO RIGHT OR WRONG ANSWER. I JUST WANT TO KNOW.

>> WE DON'T HAVE ANY PROBLEM WITH THAT.

>> I'M GOING TO SAY IF IT'S NOT ON THE PLAN, PUT IT ON THE PLAN. YOU SHOWED US AN IMAGE OF OUTDOOR LIGHTING ON THE



EXTERIOR. IS THAT ON THE PLANS TONIGHT?

>> LIGHTS IS THE FINAL DESIGN REVIEW ISSUE. BUT WE ACKNOWLEDGE THAT'S A GOOD IDEA AND WE DID SHOW IT IN THE SET IN THE -- SOMEWHERE IN THE SET. IT'S NOT SPECIFIED. WE ALSO AGREED TO HAVE THE LIGHTING ALONG THE WESTERN FACADE DOWNWARD FACING LESS THAN 7 FEET IN HEIGHT.

>> THAT WILL BE IN FINAL DESIGN REVIEW AND THE GARAGE DOOR ISSUE I SAW IN THE STAFF REPORT CONDITIONS OF APPROVAL? NO? I DIDN'T?

>> S. O'KEEFE: SHANNON.

>> THAT WOULD BE REVIEWED BY THE CITY ENGINEER NOT TO HAVE ANY NOISE OR LIGHT AT AN EXIT OF A GARAGE.

>> THAT'S WHAT I MEANT. THAT'S PART OF THE CITY'S STANDARD. OKAY. THANK YOU.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I WANTED TO FOLLOW UP ABOUT SOME COMMENTS ON THE COMMERCIAL LOADING ZONE. AND ACTUALLY JUST FOR MY OWN EDIFICATION WHERE IS THAT PROPOSED NOW TO BE? AND WHAT KIND OF CONVERSATIONS HAVE BEEN HAD WITH THE NEIGHBORS? HAS ANYTHING CHANGED?

>> WE DISCUSSED THAT WITH THE DENTIST. WE THINK THE LOGICAL PLACE FOR LOADING IS THE FRONT ENTRANCE OF THE LOBBY ON TELEGRAPH. VERY OFTEN WE HAVE A LOADING ZONE THERE FOR THE PICKUPS AND SO ON.

>> I. TREGUB: OKAY. AND THEN WOULD YOU BE AMENABLE -- THIS IS WITHIN OUR JURISDICTION TO DECIDE ON, BUT I'M ASKING TO CHANGE THE CONSTRUCTION HOURS TO START AT 8:00 A.M. GIVEN THAT IT IS LARGELY A RESIDENTIAL NEIGHBORHOOD.

>> I DON'T THINK I CAN SPEAKING TO THAT. THE CITY HAS STANDARD CONDITIONS OF CONSTRUCTION AND I THINK THEY SHOULD BE OBSERVED.

>> S. O'KEEFE: BUT THAT'S FOR THE COMMERCIAL DISTRICT. THIS IS HALF RESIDENTIAL.

>> WE CHANGED THAT BEFORE IN SIMILAR SITUATIONS.

>> IF THAT'S -- I MEAN I DEFER TO YOUR WISDOM.

>> S. O'KEEFE: ARE YOU AMENABLE?

>> YES, WE ARE.

>> I. TREGUB: AND THE LAST ONE WAS ABOUT THE HOURS FOR CONSTRUCTION WHICH I WASN'T EVEN AWARE OF THAT THE NOISE LIMITS WERE DIFFERENT FOR RESIDENTIAL AND COMMERCIAL. MAYBE THIS IS A QUESTION FOR STAFF IN TERMS OF CAN WE REGULATE OR CHANGE THE THRESHOLD LIMITS ALIGNED TO THE RESIDENTIAL STANDARD.

>> WAS THAT -- NEVER MIND. WHAT ARE THE CONSTRUCTION HOURS FOR COMMERCIAL VERSUS RESIDENTIAL? CAN YOU CLARIFY, PLEASE.

>> I HAVE THE CONDITION.

>> S. O'KEEFE: IT'S THE COMMERCIAL HOURS. ARE THEY DIFFERENT FOR RESIDENTIAL?

>> I DON'T KNOW BUT I CAN LOOK IT UP.

>> S. O'KEEFE: I'D LIKE TO STICK WITH SOMETHING --

>> I THINK -- THERE ARE TWO DIFFERENT QUESTIONS THERE. MAYBE I'M NOT UNDERSTANDING, BUT THE FIRST QUESTION WAS ABOUT HOURS OF CONSTRUCTION. SO THAT MAYBE HAS BEEN PUT TO BED THAT THE ZAB COULD CHANGE THAT. THE QUESTION OF THE COMMUNITY NOISE STANDARDS WITHIN THE BERKELEY MUNICIPAL CODE THAT RELATES TO COMMERCIAL DISTRICTS VERSUS RESIDENTIAL DISTRICTS, I'M NOT FAMILIAR WITH AN INSTANCE WHERE THE ZAB HAS CHANGED THAT AND I'M NOT SURE BECAUSE THAT'S MANAGED BY OUR NOT PUBLIC HEALTH, BUT THE ENVIRONMENTAL HEALTH DIVISION. SO I'M NOT SURE WHAT -- HOW YOU WOULD MAKE THE CONNECTION FOR THIS PROPERTY TO BE SUBJECT TO DIFFERENT STANDARDS THAN OTHERS.

>> IT'S NOT IN THE FINDINGS AND CONDITION ABOUT DECIBEL LEVELS.

>> I. TREGUB: THANK YOU.

>> S. O'KEEFE: OKAY. MATTHEW WAS NEXT.

>> I HOPE I'M WRONG ON THIS. DID WE FORGET TO FORMALLY OPEN THE PUBLIC HEARING.

>> S. O'KEEFE: WE DON'T USUALLY DO THAT.

>> OKAY, NEVER MIND.

>> S. O'KEEFE: ARE THERE MORE QUESTIONS FOR THE APPLICANT? PATRICK.

>> P. SHEAHAN: YOU'RE A PROPOSES RAISING THE GLASS PORTION, THE RAILING TO 52 AT THE COMMON DECK?

>> TO 54 BUT WE'D LIKE TO HAVE AN OPTION. WE'D LIKE TO HAVE THE TOP 12 INCHES BE TRANSLUCENT GLASS.

>> P. SHEAHAN: MEANING CLEAR?

>> SANDBLASTED. IF IT'S NOT FEES BE, WE'LL HAVE THE STUCCO WALL GO UP TO 54.

>> P. SHEAHAN: OKAY.

>> THAT MEANS WHEN YOU'RE SITTING DOWN YOU CAN'T HAVE A VIEW OF THE BAY BUT WHEN YOU STAND UP, YOU CAN. IT AFFORDS MORE PRIVACY.

>> P. SHEAHAN: WOULD YOU CONSIDER THAT FOR THE PRIVATE PATIOS AS WELL?

>> NO. THESE ARE ONE-BEDROOM APARTMENTS.

>> P. SHEAHAN: MY THOUGHT WAS DO THAT IN CLEAR GLASS, FOR INSTANCE. THIS IS PARTLY DO ADDRESS THE PROPOSAL TO DO 8-FOOT SCREENS BECAUSE SOUND DEFLECTED BY LINE OF SIGHT. IF YOU HAVE A SOLID OBJECT, IT DOESN'T PENETRATE. THE HIGHER EVEN A MODEST AMOUNT HIGHER PROJECTS OF IMPACT OF THE SOUND MUCH FARTHER OUT. IT MIGHT GO SOME WAYS TO HELP TO ALLEVIATE THAT CONCERN BY MITIGATING THAT MUCH MORE IMPACT.

>> OUR CLIENT SAYS HE'S WILLING TO ACCEPT THE CONDITION OF 54 INCHES ON BOTH LEVELS. THAT MIGHT BE AT OUR DISCRETION EITHER GLASS FOR ONE FOOT OR SOLID PLASTER UP TO 54 INCHES.

>> S. O'KEEFE: OKAY. MORE QUESTIONS FOR THE APPLICANT?  
SORRY, SIR, WE'RE NOT GOING TO RECOGNIZE YOU. MORE QUESTIONS FOR

THE APPLICANT. NO? OKAY, WE'LL CLOSE PUBLIC HEARING AND BRING IT BACK FOR BOARD COMMENTS. SIR, PLEASE HAVE A SEAT. IT'S CLOSED TO PUBLIC HEARING.

>> [OFF MIC]

>> S. O'KEEFE: SIR, PLEASE HAVE A SEAT. THANK YOU. BOARD COMMENTS. IGOR.

>> I. TREGUB: OKAY. SO I'D LIKES TO SEE IF THERE MIGHT BE CONSENSUS ON THE BOARD. HERE ARE THE VARIOUS CONDITIONS I HEARD. WHERE WE SEEM TO HAVE SOME AGREEMENT. SO UNTIL SHORT, SOME OF THESE ARE PROBABLY BEST REFLECTED IN THE PLAN. THE FACT THAT THE DOG RUN WAS TAKEN OUT, THAT'S PROBABLY MORE OF A PLAN ISSUE. I HEARD WILLINGNESS TO RAISE THE TOP WALL TO 54 --

>> 54, I BELIEVE.

>> I. TREGUB: AND THAT WILL IT BE MADE OF GLASS OR SOLID PLASTIC. IF I HEARD THAT CORRECTLY.

>> DISCRETION OF THE APPLICANT.

>> I. TREGUB: HIGHER FENCE UP TO 8 FEET INCLUDING AN ADMINISTRATIVE USE PERMIT ASSOCIATED WITH THAT.

>> S. O'KEEFE: TERESA, WAIT TO BE RECOGNIZED.

>> I. TREGUB: MAYBE NOT FULL CONSENSUS PLANTED TO BE SPECIES TO BE MUTUALLY AGREEABLE WITH THE APPLICANT AND NEIGHBORS. LANDSCAPING PLAN, OUTDOOR LIGHTING AND CONSTRUCTION HOURS THAT WILL START AT 8:00 A.M. WHICH IS A CHANGE TO ONE OF THE CONDITIONS OF APPROVAL. I THINK IT'S 63.

>> S. O'KEEFE: OKAY. SO WAS THAT -- WERE YOU SAYING THINGS?  
OR WAS IT AN OPTION?

>> I. TREGUB: I CAN MAKE A MOTION AND I'M AMENABLE -- IF I  
MISSED ANYTHING -- HAPPY TO CONSIDER IT.

>> I SECOND THE MOTION.

>> S. O'KEEFE: I THINK DOHEE HAD HER HAND UP. I'M GOING TO  
RECOGNIZE DOHEE. SHE DID THE RIGHT THING BY RAISING HER HAND.

>> D. KIM: I'M STILL ON THE FENCE ABOUT THE 8 FEET. BUT SO  
FAR I AGREE WITH WHAT HAS BEEN SAID.

>> S. O'KEEFE: SO A MOTION AND A SECOND. I THINK MATTHEW  
HAD HIS HAND UP AS WELL.

>> GOING BACK TO THE SOLAR PANELS FROM EARLIER, I THINK THE  
POINT RAISED ABOUT HOW SPECIES RAISE A LOT OF COMPLEXITIES. ONE  
THING MENTIONED BY THE APPLICANT, I THINK IT WAS BY THE  
ARCHITECT, WAS THE IDEA THAT THE DENTIST FOLKS SHOULD MOVE THE  
PANEL TO -- I THINK IT WAS A CARPORT IN THE BACK OF THAT LOT. I  
WAS THINKING ABOUT THE IDEA OF WE COULD REQUIRE AS A CONDITION  
AND I THINK IT IS WITHIN OUR POWER UNDER 23B.32.340 OF THE  
MUNICIPAL CODE TO REQUIRE THE CONDITION TO PAY FOR MOVING THOSE.  
I THINK IT DOES AFFECT THE THINGS LISTED IN THERE SUCH AS  
GENERAL WELFARE OF THE NEIGHBORS FOLKS. I THINK THAT IS A SMALL  
ASK THAT IS REASONABLE AS A CONDITION FOR THIS AND I'D LIKE TO  
GET THE REST OFFED BOARD'S THOUGHTS. ALSO IF THE APPLICANT  
VOLUNTEERS TO DO THAT, THAT'S EVEN BETTER.

>> S. O'KEEFE: CHARLES IS NEXT.

>> C. KAHN: I THINK THE CARPORT WAS A THEORETICAL CARPORT, NOT ONE THAT CURRENTLY EXISTS. I DON'T FEEL COMFORTABLE ASKING THE APPLICANT TO PAY FOR CAPITAL IMPROVEMENT TO THE NEIGHBOR'S PROPERTY IN ORDER TO PROVIDE THE SOLAR DEVICES. THE OTHER -- IN THEORY, IT MAKES TOTAL SENSE TO ME. IN THEORY IT MAKES TOTAL SENSE TO PUT IT ON THE ROOF OF YOUR NEW BUILDING. ALTHOUGH THE POINTS THAT DENISE BRINGS UP ABOUT EASEMENTS AND SO FORTH MAKE THAT UNTENABLE. THE OTHER PROBLEM IS THAT WE -- I DON'T THINK WE HAVE -- WE CAN'T COMPEL ONE NEIGHBOR TO PAY ANOTHER NEIGHBOR FOR A LOSS. I DON'T THINK THAT'S WITHIN OUR AUTHORITY. THAT IS EFFECTIVELY DEMANDING A PAYMENT. I WISH WE DID BECAUSE IT SEEMS LIKE A REASONABLE SOLUTION.

>> S. O'KEEFE: MATTHEW. I WILL SAY THAT I MEAN I'M NOT -- I'M SERVING AS AN ALTERNATE COMMISSIONER. I'M NOT LIKE AN EXPERIENCED MEMBER LIKE THE REST OF THE BOARD. I LOOK AT WITHIN THAT PART OF THE CODE, I LOOK AT PART D WHICH THE BOARD MAY ATTACH CONDITIONS USE PERMITTED AS IT DEEMS NECESSARY. I ACTUALLY DO THINK IT IS WITHIN OUR POWER. LIKE I'LL -- IF LIKE CITY ATTORNEY WERE TO TELL US NO YOU DON'T HAVE THE POWER. BUT I DO THINK WE HAVE THAT POWER. MAYBE IT'S -- I DIDN'T REALIZE THAT APPARENTLY THE CARPORT IS THEORETICAL. THEY SHOULDN'T HAVE TO PAY FOR THE CARPORT BUT MAYBE IT'S SOMETHING LIKE -- I MEAN, I DON'T EVEN KNOW WHAT AN EASEMENT IS OFF THE TOP OF MY HEAD. BUT

LIKE I DO THINK LIKE WHETHER IT'S -- I THINK THERE DOES NEED TO BE SOME TYPE OF MITIGATION THAT IS TIED TO ENSURING THAT SPECIFICALLY THAT THE SOLAR PANEL -- WE DON'T LOSE RENEWABLE ENERGY. THAT'S IN PART BECAUSE I DON'T THINK IT SHOULD BE LIKE AN UNCONDITIONAL CASH PAYMENT. BUT I SAY LIKE MORALS AND GENERAL WELFARE ARE TIED TO HAVING RENEWABLE ENERGY.

>> S. O'KEEFE: I THINK WE UNDERSTAND YOUR POSITION. IF ANYBODY HAS A WAY TO DO IT TO ACCOMPLISH THIS GOAL, WE SHOULD COMMENT ON THAT. AS YOU ASKED, WE CAN GET MORE COMMENTS ON IT FROM THE BOARD. PATRICK.

>> P. SHEAHAN: I'M NOT SUBJECT -- I THINK ANALOGOUS I KNOW THIS OCCURRED ON SEVERAL OCCASIONS THROUGHOUT THE CITY WHERE AN AGREEMENT IS MADE BETWEEN THE PARTIES TO -- YES, I'LL PAY FOR THE INSTALLATION OF A SKY LIGHT INTO YOUR BEDROOM IN -- ACKNOWLEDGE OF THE FACT THAT MY PROJECT IS BLOCKING A SIGNIFICANT AMOUNT OF YOUR LIGHT. I THINK IT WOULD BE APPROPRIATE FOR US TO ENCOURAGE A GOOD FAITH NEGOTIATION BETWEEN THE PROPERTY OWNERS TO TRY TO FIND SOME SORT OF MITIGATION NOT ONLY BETWEEN THE NEIGHBORS BUT FOR THE COMMON GOOD TO HAVE MORE SOLAR PANELS, HAVE MORE TREES. THESE THINGS ARE FOR THE COMMON GOOD. SO I JUST SUGGEST WE ENCOURAGE THAT APPROACH BETWEEN THE NEIGHBORS AND OPEN THAT SOMETHING PRODUCTIVE CAN COME OUT OF IT.

>> S. O'KEEFE: I'M GOING TO MAKE A SMALL CLARIFICATION THAT THESE SOLAR PANELS ARE STILL GOING TO OPERATE AT 66% CAPACITY.



IT'S MAKING THEM LESS EFFICIENT IS MY UNDERSTANDING. I'LL RECOGNIZE IGOR.

>> I. TREGUB: THANK YOU. 66% IS BETTER THAN HALF. BUT IT'S STILL A SIGNIFICANT REDUCTION. IN LIGHT OF THAT, I WAS THINKING ALONG SIMILAR LINES TO PATRICK. I'D LIKE TO AMEND THE MOTION, BUT NOT ADD IT TO THE CONDITION BUT MAKE IT A STRONG ENCOURAGEMENT TO CONTINUE ATTEMPTING TO FINAL A MUTUALLY AGREEABLE SOLUTION WITH THE DENTAL CLINIC AROUND THE ISSUE OF SOLAR ACCESS. SOLAR PANEL ACCESS.

>> S. O'KEEFE: DOES THE SECONDER FEEL OKAY IF.

>> I'M AMENABLE TO THAT.

>> I'M IN FAVOR OF THE MOTION. IF WE ENCOURAGE THE APPLICATION TO TALK TO THEIR NEIGHBOR ABOUT SOLAR, THAT'S NICE, BUT UNENFORCEABLE AND NOT OUR BUSINESS. WE MAKE OURSELVES FEEL BETTER WHETHER WE ASK PEOPLE TO TALK ABOUT IT BUT ALL WE DO IS ENGENDER CONFLICT. THIS IS A COMMERCIAL ZONE ON AN ALMOST 8-LANE STREET. FOUR LANE STREET, IT'S NOISY AND HAS BUS LINES AND OTHER 7-STOREY BUILDINGS. NO COMMERCIAL PROPERTY OWNER SHOULD ANTICIPATE A NEW ADJACENT COMMERCIAL BUILDING IS GOING TO RECTIFY AN IMPACT TO A PORTION OF THEIR BUILDING THAT THEY'RE NOT ENTITLED. WHEN WE GOT INTO ADJACENT COMMERCIAL LANDLORDS JUST SETTING IMPACTS THAT WERE NOT THE BUSINESS OF THE APPLICANT PROPOSING A PROJECT. SO IF PEOPLE WANT TO SAY WE HOPE YOU TALK ABOUT IT, THAT'S FINE. BUT I WANT TO BE CLEAR THAT IT'S NOT -- I

THINK WE'RE OVERREACHING TO REQUIRE THAT. WE HAVE NO CODE BASIS FOR REQUIRING IT. IT'S NOT A GENERAL WELFARE FINDING. IMPROVING THE GENERAL WELFARE MEANS OF THE COMMUNITY AS A WHOLE. IF THERE IS DETRIMENT, AND IN THIS CASE, THE DETRIMENT IS TO HOW MUCH THEY'RE GOING TO PAY MONTHLY FOR ENERGY. THEY'RE STILL GOING TO PAY LESS THAN THEY WOULD HAVE WITHOUT THE SOLAR PANELS. THE UTILITY PANELS ARE NOT ELIMINATED. IT'S EXPECTED THAT YOUR NEIGHBORS MAY HAVE A TALL TREE THAT COULD REDUCE THE CAPACITY OF THE SOLAR PANELS. I'M MINDFUL OF THE CONCERN, BUT I DON'T THINK THIS IS A GOOD PATH FOR US TO GO DOWN. I'M STILL IN FAVOR OF THE MOTION AND IN FAVOR OF HAVING NEIGHBORS COOPERATE. WE SHOULD NOT BE TELLING PEOPLE TO COOPERATE IF WE DON'T HAVE THE AUTHORITY TO ENFORCE IT BECAUSE WE CREATE TROUBLE AND EXPECTATIONS THAT SOMETHING IS GOING TO MAKE PEOPLE'S LIVES BETTER AND NOTHING IS LIKELY TO OCCUR AND PEOPLE GET MAD AT US AND THE APPLICANT. WE SHOULD KNOW THAT'S NOT A GOOD PATH TO WALK DOWN.

>> S. O'KEEFE: I COMPLETELY AGREE, DENISE. TERESA FIRST AND THEN PATRICK.

>> T. CLARKE: I WOULD LIKE TO HAVE US CONSIDER THE FENCE EITHER SEPARATELY. I WOULD LIKE TO SEE IF YOU'RE FRIENDLY TO AMENDING THAT SLIGHTLY. WHAT I WOULD LIKE TO SEE US RECOMMEND THE DESIGN REVIEW, SELECT THE TREES THAT ARE AGAINST MARTIN SCHWARTZ. I WOULD LIKE TO RECOMMEND A DESIGN REVIEW. WITH MATURE TREES THERE, LARGER TREES, TREES THAT ARE GOING TO GROW LARGER

IS GOING TO REDUCE THE IMPACT ON MARTIN'S HOUSE. THAT'S THE HOUSE YOU LOOK AT 0.7-A YOU CAN SEE IT WELL. IF YOU LOOK AT THE SECTION GOING FROM THE STREET BACK TO THE INNER PART OF THE LOT, THE FENCE WOULD GET TALLER AND TALLER AS YOU GET CLOSER TO DERBY. IF YOU HAD IT AT 8 FEET, I THINK 8 FEET IS REALLY TALL. I THINK I'D BE OKAY WITH 7 FEET. BUT I THINK -- HOW MANY PEOPLE CAN SEE OVER A 6-FOOT FENCE? SOME OF US CAN. AND THEN BUT WHO IS GOING TO BE KIND OF POKING THEIR HEAD OVER AND STARING AT OTHER PEOPLE? ANYWAY, I DON'T KNOW WHAT AN 8-FOOT FENCE WOULD GIVE US. I THINK 8 FEET IS EXTREME. IF YOU WANT TO KEEP IT AT 8 FEET, I WOULD ASK THAT YOU SEPARATE THAT MOTION FROM THE MAIN MOTION BECAUSE I WANT TO SPORT PROJECT AND I THINK IT'S WELL-DESIGNED AND I THINK THE ARCHITECT HAS MADE GOOD DESIGN MOVES TO REDUCE THE IMPACT TO THE ADJACENT PROPERTIES IN TERMS OF ALL THE THINGS WE TALKED ABOUT ALREADY. AND I WOULD LIKE US TO HAVE DESIGN REVIEW CONFIRM THE TREES THERE WHERE THE DOG RUN USED TO BE.

>> S. O'KEEFE: PATRICK.

>> P. SHEAHAN: ON THE SUBJECT OF FENCE, I GENERALLY SUPPORT TERESA'S POSITION THAT SIX FEET ON PROPERTY LINES IS A REASONABLE STANDARD. I THINK IN THIS CASE, I DON'T KNOW THE EXACT LINES OF SIGHT INVOLVED BUT IF A LIVING SPACE IS ABOVE GRADE, A PERSON IS STANDING 9 OR 10 FEET OFF THE GROUND. IN WHICH CASE AN 8-FOOT FENCE WOULD PROVIDE AN ADDITIONAL LEVEL OF PRIVACY. IS THIS REQUESTED BY THE NEIGHBORS. I THINK IN LIGHT OF

THAT REQUEST BY THE NEIGHBORS, TO WHICH THE PROJECT PROPONENT HAS AGREED, I DON'T SEE ANY REASON TO SPLIT HAIRS OVER IT. AND THEN I BELIEVE I MIGHT HAVE BEEN FROM DENISE'S COMMENTS, I MIGHT HAVE BEEN MISUNDERSTOOD AS TO WHAT I WAS SUGGESTING IN TERMS OF GOOD FAITH DISCUSSION AROUND SOLAR. I WAS NOT IN ANY WAY SUGGESTING THAT THERE BE A REQUIREMENT SIMPLY AN ENCOURAGEMENT TO HAVE THE DISCUSSION. AND WE CAN ALL HOPE THAT IT MIGHT LEAD SOMEWHERE. I THINK I HAVE PERSONALLY SEEN TANGIBLE POSITIVE RESULTS FROM THOSE KINDS OF DISCUSSIONS THAT ARE UNDERTAKEN VOLUNTARILY AMONG PROPERTY OWNERS AND I WOULD ENCOURAGE THAT.

>> S. O'KEEFE: MATTHEW.

>> I WANT TO AGREE WITH -- WHAT WAS YOUR LAST NAME? COMMISSIONER PINKSTON. I AGREE THAT THE -- WHEN WE MAKE RECOMMENDATIONS OR SUGGESTIONS THAT THEY ARE NONBINDING. I DON'T THINK THAT'S THE ROLE OF CITY GOVERNMENT OR ANY GOVERNMENT FROM THAT MATTER TO BE SAYING WE GIVE RECOMMENDATIONS. THAT'S WHY I THINK MEDIATION BOARDS THAT DON'T HAVE RENT CONTROL POWERS ARE NOT USEFUL. I AGREE BECAUSE LIKE WHEN I THINK THAT THERE IS NO WAY TO ENFORCE IT AND SO -- BUT IN TERMS OF -- I THINK IT AFFECTS THE GENERAL WELFARE BECAUSE IT AFFECTS EVERYBODY. THERE IS LESS RENEWABLE ENERGY IS HOW I SEE IT WITH GENERAL WELFARE. I DON'T LIMIT IT TO JUST THAT. I THINK IT IS WITHIN OUR POWER -- I THINK IT'S MORE THAN FAIR FOR US TO CONDITION LIKE TO PUT IN A CONDITION OF SOME KIND TO MAKE SURE THE DECREASE IN SOLAR ENERGY

IS NOT LOSS SO WE DON'T HAVE LESS RENEWABLE ENERGY BUT SPECIFICALLY FOR THE NEIGHBORS. FOR THEM THEMSELVES ARE NOT LOSING THE BENEFIT THEY PUT IN. I THINK IT'S A MORE THAN FAIR ASK. I DON'T KNOW THAT I CAN FIND THE REQUIREMENTS IN THE CODE THAT THERE IS NO DETRIMENT TO THE THINGS THAT I'M REQUIRED TO FIND NO JUDGMENT FOR FOR APPROVAL OF THIS.

>> S. O'KEEFE: YOU'VE MADE YOUR POINT CLEAR. I'M GOING TO RECOGNIZE IGOR. AND IGOR IS NEXT AND THEN DENISE THAT I PROMISED I WOULD LIMIT BOARD SPEAKING TIME. LET'S GIVE EVERYONE -- I'LL RECOGNIZE YOU AND LET'S GO DOWN AND JUST EACH SAY FOR NO MORE THAN ONE OR TWO MINUTES WHAT WE HAVE TO SAY AND THEN -- I PROMISED A SHORT MEETING AND I FEEL LIKE BEHIND NOT DELIVERING ON THAT PROMISE. LET'S TRY THAT AND SEE HOW IT GOES. I'M GOING TO -- DENISE, ARE YOU OKAY WITH THAT? IGOR. A MINUTE.

>> I. TREGUB: PERFECT. I LOVE IT. SO I WOULD SUGGEST THAT THIS HOUR JUST IF YOU WANT TO CHANGE SOMETHING, PUT A MOTION OUT ON THE FLOOR AND SEE WHERE IT LANDS. WE NEED TO MOVE FORWARD ON SOMETHING. WHERE I COME DOWN ON -- I APPRECIATE WHERE TERESA IS COMING FROM. I FEEL DEEPLY UNCOMFORTABLE SECOND GUESSING SOMETHING THAT THE NEIGHBORS WHO HAVE A MUCH BETTER APPRECIATION OF THAT AREA THAN I DO. I TRUST THEM. SO WHERE I WOULD COME DOWN ON THAT IS IF THERE IS A WAY TO MAKE SOMETHING A CONDITION AND SAY EITHER 8 FEET OR IF THE APPLICANT AND NEIGHBORS AGREE TO SOMETHING DIFFERENT THAT GOES TO DESIGN REVIEW, I'D BE AMENABLE

TO THAT BUT I DON'T KNOW HOW TO PUT THAT INTO A CONDITION THAT LOOKS LIKE A CONDITION. OPEN TO SUGGESTIONS.

>> S. O'KEEFE: TERESA.

>> T. CLARKE: I WOULD LIKE TO REQUEST THAT YOU VOTE ON THE FENCE SEPARATELY. I THINK IT'S NOT GOING TO BE THAT GREAT. THEY CAN GO UP TO 8 FEET. IF YOU WANT TO -- IF EVERYONE WANTS TO AGREE, YOU CAN DO THAT AS A SEPARATE MOTION. IT'S A SEPARATE USE PERMIT THAT HASN'T EVEN BEEN APPLIED FOR UNDER THIS CURRENT APPLICATION. SO IF YOU DON'T MIND JUST TAKING THAT OUT OF MAIN MOTION AND DOING IT SEPARATELY, I WOULD BE HAPPY.

>> I. TREGUB: WE COULD SEVER IT.

>> S. O'KEEFE: CAN WE DO THAT IF IT'S NOT ON THE AGENDA? WE SHOULD GET CLARIFICATION ON THIS. I WANT SHANNON'S OPINION.

>> I DON'T THINK I'M ANY MORE QUALIFIED THAN ANY OF THE ZAB MEMBERS ON THIS. I'M COMFORTABLE ADDING IT TO THE APPROVALS THAT ARE IN FRONT OF THE ZAB TONIGHT.

>> S. O'KEEFE: BECAUSE IT'S RELATED TO WHAT WE'RE DISCUSSING.

>> IT IS VERY MUCH RELATED.

>> KEVIN: I WANTED TO MAKE SURE. THANK YOU. TERESA.

>> T. CLARKE: I'LL MAKE A SUBSTITUTE MOTION TO APPROVE IT WITHOUT THE FENCE. I THINK IT'S IMPORTANT -- IT HASN'T BEEN STUDIED THAT MUCH. NEIGHBORS THINK THEY WANT BIGGER IS BETTER. I THINK IT ACTUALLY REDUCES SAFETY IN THE NEIGHBORHOOD. THERE IS

SOMETHING CALLED DEFENSIBLE SPACE. HAVING EVERYTHING WALLED UP IS -- IT ISN'T GOOD.

>> S. O'KEEFE: THERE IS A SUBSTITUTE MOTION. PATRICK'S TURN.

>> P. SHEAHAN: I SUPPORT THE MAIN MOTION. IN CLARIFYING THE LANGUAGE YOU COULD SAY MAXIMUM OF 8 FEET. AS AGREED BETWEEN THE PROPONENT AND NEIGHBORS.

>> I BELIEVE THE LANGUAGE IS UP TO 8 FEET.

>> P. SHEAHAN: SO IT'S COVERED. NO NEED TO IMPROVISE.

>> THE MAIN MOTION INCLUDED UP TO 8 FEET.

>> S. O'KEEFE: DOHEE.

>> D. KIM: I THOUGHT THE SOLAR PANEL DISCUSSION WAS INTERESTING, BUT I THINK AS THIS CONVERSATION BECOMES MORE FREQUENT WITH OTHER PROJECTS, THINK WE WOULD HAVE A MORE SET IDEA OF HOW TO HANDLE KIND OF MITIGATING THE IMPACT TO SOLAR PANELS, BUT FOR NOW, I SUPPORT THE MAIN MOTION AND IN REGARDS TO RENEWABLE ENERGY, I'D BE LOOKING FORWARD TO WHETHER THE CITY MAKES A JUST TRANSITION TO RENEWABLE ENERGY IN THE FUTURE WITH OTHER PROJECTS. BUT FOR THIS PROJECT IN PARTICULAR, I'M NOT COMFORTABLE MAKING IT AS A CONDITION, BUT I SUPPORT MAIN MOTION.

>> S. O'KEEFE: I THINK THAT UP TO 8 FEET IDEA IS BRILLIANT BECAUSE -- WHERE IS MY MINUTE? BECAUSE I WAS GOING TO SUGGEST IT CHANGING IN THE EVENT OF A CHANGE OF MIND. I THINK THIS IS GREAT. I LIKE THE MAIN MOTION BECAUSE THIS IS A LARGE BUILDING

THAT IS GOING TO HAVE IMPACTS TO THE NEIGHBORHOOD AS IT ALWAYS DOES. I SAW A LOT OF NEGOTIATION THAT WAS PRETTY FRUITFUL AND I THINK SEEMS LIKE BOTH SIDES WERE NEGOTIATING IN GOOD FAITH AND WE GOT MOST OF WHAT THEY WANTED. THE OUTSTANDING THING IS THE GLASS WALL AND I WAS CONVINCED BY THE WINDOW WASHING ARGUMENT. I DON'T LIKE TO IMPOSE CONDITIONS THAT CAUSE UNINTENDED CONSEQUENCES. I'M SORRY TO THE NEIGHBORS, I KNOW YOU'VE WANTED THAT BUT YOU'VE GOTTEN A LOT OF WHAT YOU WANTED AND IT'S A NICE PROJECT AND I WANT TO APPROVE IT.

>> I WANT TO ACKNOWLEDGE THE EFFORTS OF THE NEIGHBORS AND DESIGN TEAM TO WORK TOGETHER. IT TAKES A LOT OF TIME.

>> S. O'KEEFE: TIME IS UP.

>> BUT I ALSO WANT TO ACKNOWLEDGE THE -- THERE WAS A COMMENT PATRICK THAT YOU MADE ABOUT LOWERING THE PODIUM BY POSSIBLY GETTING THE PARKING BELOW GRADE. I APPRECIATE THAT WAS DONE BEFORE THEY EVEN CAME BACK HERE. AND I THINK THAT'S A LOT OF THE REASON WHY THOSE KINDS OF THINGS ARE WHY THIS IS BEING GENERALLY SUPPORTED UP HERE. I'LL BE VOTING FOR THE MOTION.

>> I SUPPORT THE MAIN MOTION IF WE MOVE TO MAKE THE SOLAR CHANGES MANDATORY, I AGREE WITH EVERYTHING MY COLLEAGUES SAID. I APPRECIATE THE NEIGHBORS WORKING WITH THE DEVELOPERS AND THE DEVELOPERS WORKING WITH THE NEIGHBORS AND THE ZONING BOARD TO ADDRESS THE CONCERNS. I SUPPORT THE MAIN MOTION.

>> S. O'KEEFE: MATTHEW.



>> IF I MADE SOME TYPE OF SUBSTITUTE MOTION TO INVOLVE SOMETHING ABOUT MAKING SOLAR MANDATORY, IS THERE ANYBODY ELSE ON THE BOARD THAT WOULD POTENTIALLY ACCEPT THE MOTION?

>> JUST MAKE THE MOTION.

>> I MOTION TO REQUIRE A SUBSTITUTE MOTION THAT REQUIRES A CONDITION TO PAY THE COST OF RELOCATING SOLAR PANELS SO THERE IS NO LOSS IN THE AMOUNT OF ENERGY GENERATED FROM THEM.

>> S. O'KEEFE: THERE CAN BE A SECOND. DO YOU WANT TO TAKE 25 SECONDS?

>> IF THIS DOESN'T GET A SECOND, MY RECOMMENDATION IS THAT LIKE THE APPLICANT AND THE FOLKS RAISING THE ISSUES ABOUT THE SOLAR PANEL NEGOTIATE SOME KIND OF DEAL AND LIKE BASICALLY WE AGREE TO THESE CONDITIONS AND PART OF THAT, WE WON'T APPEAL THIS TO CITY COUNCIL. THAT'S ONE WAY.

>> S. O'KEEFE: WE'VE ALL SAID OUR PIECES.

>> IS ANYONE SECONDING?

>> S. O'KEEFE: THEY WILL IF THEY WANT TO. THAT WAS GOOD. EVERYONE. IS ANYONE DYING TO SAY ANYTHING ELSE? LIKE SECOND A MOTION?

>> T. CLARKE: SO THE PROPERTY LINE, NOT THE FENCE FACING THE STREET.

>> I. TREGUB: WHAT DID WE -- I THINK SOME.

>> S. O'KEEFE: JUST ON THE PROPERTY LINE, NOT FACING THE STREET.

>> MY UNDERSTANDING IT'S THE WESTERN PROPERTY LINE BETWEEN THE RESIDENTIAL USES AND THE PROPOSED PROJECT.

>> SO ONLY ON THE WEST SIDE. IT'S ONE SPECIFIC PROPERTY?

>> [OFF MIC]

>> SO THE SCHWARTZ'S DID NOT WANT IT 8 FEET. IT'S UP TO. SO THEY CAN DO 6 FEET IN SOME PLACES. 8 IN OTHER.

>> SO IT'S ONLY ADJACENT TO WHICH ADDRESS? 2643 DANA'S PROPERTY LINE. THAT WOULD BE MUCH BETTER. I FEEL MORE COMFORTABLE WITH THAT. I DIDN'T WANT TO SEE A HUGE FENCE ALL THE WAY ALONG THERE. I FEEL BETTER. 24108 CARLETON. IGOR, THIS IS YOUR MOTION.

>> YES.

>> DOHEE?

>> YES.

>> GREAT. ANYONE ELSE WANT TO SAY ANYTHING OR CAN WE VOTE ON IT?

>> I SECOND CALLING THE QUESTION.

>> CLERK: BOARD MEMBER CLARKE. I AM VOTING FOR IT BECAUSE OF THE CLARIFICATION. THANK YOU VERY MUCH.

>> CLERK: BOARD MEMBER TREGUB.

>> YES.

>> KIM.

>> YES.

>> PINKSTON.

>> YES.

>> SHEAHAN.

>> YES.

>> BOARD MEMBER LEWIS.

>> ABSTAIN.

>> CLERK: VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: YES. MOTION PASSES APPEALABLE TO CITY COUNCIL. OKAY. GOOD JOB, EVERYONE. SORRY, DAVID, YOU CAN E-MAIL ME. DON'T GO. SUBCOMMITTEE REPORTS. DO WE HAVE ANY?

>> WE HAD ONE.

>> THERE IS ONE.

>> I. TREGUB: WE HAD A PRODUCTIVE -- IN LIGHT OF PUBLIC HEALTH CONCERNS RIGHT NOW --

>> S. O'KEEFE: LET'S SKIP THEM. DRC. A QUICK REPORT. EXCUSE ME, WE'RE HAVING A DRC SUBCOMMITTEE REPORT.

>> BURTON EDWARDS, ONE OF THE MEMBERS OF THE DRC HAS MOVED AWAY. AND SO, THERE WAS OUTREACH FOR, YOU KNOW, A REPLACEMENT. FIVE PEOPLE HAVE THROWN THEIR HATS IN THE RING. ONE OF THEM IS ME. I KNOW THAT PATRICK HAS BEEN INTERESTED IN JOINING DESIGN REVIEW. I KNOW THAT CARRIE HAS AN INTEREST IN THAT. I'M INTERESTED IN THE ARCHITECTURAL SLOT. I HOPE YOU'LL SUPPORT ME. I HOPE THE COMMITTEE WILL SELECT ME. THE ONE REASON I WANT TO DO

IT IS I THINK IT WOULD GIVE A BETTER REPRESENTATION BY ZAB ON THE DESIGN REVIEW. I JUST WANTED TO MENTION THAT IS HAPPENING. SO WE'LL SEE HOW IT ALL EVOLVES.

>> S. O'KEEFE: WHEN DO WE VOTE ON THAT?

>> THE PROCESS IS THAT THERE IS A SUBCOMMITTEE OF THE DESIGN REVIEW THAT WILL BE PRESENTING APPLICANT. THEY'LL MAKE A REPRESENTATION FOR ZAB BUT IT WILL BE THE ZONING ADJUSTMENT BOARD DECISION. AND I ACTUALLY CAN PARTICIPATE IN THAT VOTE. IT'S NOT A CONFLICT OF INTEREST.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: ON THAT NOTE, AND WE HAD A MUCH MORE DULL SELECTION PROCESS FOR CHAIR AND VICE CHAIR, BUT THANKS TO THE SUPPORT OF OUR COLLEAGUES, THANK YOU FOR MAKING ME CHAIR OF JAY SIZZLE AND SHOSHANA VICE CHAIR. IT'S GREAT TO SEE SO MUCH TALENT HERE ON ZAB AND FLOWING TO OTHER COMMISSION.

>> CONGRATULATIONS SHOSHANA AND IGOR.

>> S. O'KEEFE: ANY MORE REPORTS? PATRICK.

>> P. SHEAHAN: I HAVE A NON-REPORT FROM ZORP. THERE WERE FOUR PEOPLE SHOWED UP AT THE LAST SCHEDULED MEETING. I WAS THE ONLY PERSON FROM ZAB. THERE WERE THREE PLANNING COMMISSION MEMBERS. IT TURNS OUT THAT TO HAVE A QUORUM FOR THESE COMMITTEES THAT ARE SPLIT BETWEEN ZAB AND PLANNING, THAT THERE NEED TO BE TWO MEMBERS OF EACH TO CONSTITUTE A QUORUM. SO THE MEETING WAS CANCELED AND PROCESS OF RESCHEDULING. I'M NOT SCOLDING, I'M

SAYING IT'S IMPORTANT IF WE'RE COMMITTED TO GOING WE MAKE SURE AT LEAST TWO OF US ARE THERE. IF ONE OF US HAS A PROBLEM OR SEND SOMEBODY ELSE LIKE WE OFTEN DO.

>> S. O'KEEFE: I DIDN'T COME TO JAY SIZZLE.

>> I. TREGUB: WE SHOULD PROBABLY HAVE AN OFF-LINE CONVERSATION WITH STAFF. BECAUSE I KNEW TWO WEEKS IN ADVANCE THAT MEETING WOULD CONFLICT WITH A DIFFERENT COMMISSION MEETING. I WAS TOLD IT WOULD BE POSSIBLE TO FIND AN ALTERNATE THEN I WAS TOLD THAT MAYBE ALTERNATES ARE NOT ASSIGNED FOR ZORP. MAYBE WE WANT TO CONSIDER A AGENDIZING WHENEVER WE MEET AGAIN. I GUESS WE'RE EXEMPT FROM NOT MEETING. MAYBE ON OUR NEXT AGENDA PUTTING ON SELECTING ALTERNATES FOR ZORP.

>> S. O'KEEFE: I SECOND THAT. SHANNON. IS THAT FINE?

>> I WILL LOOK INTO IT AND REPORT BACK AND EITHER REPORT BACK WITH IT BEING ON THE AGENDA OR I'LL JUST REPORT BACK.

>> EITHER WAY. THANK YOU. IT'S A GOOD IDEA.

>> WE WERE TRYING TO GET ALTERNATES FOR DESIGN REVIEW AND FOUND THAT PER THE CLERK'S OFFICE IT WASN'T LEGALLY, JUST THE WAY THE DUMB THING WAS WORDED, WE COULDN'T DO IT. THAT MAY BE DESIGN REVIEW.

>> ONE MORE COMMENT, I THINK IF WE HAVE THREE PEOPLE, IT SHOULDN'T BE THAT HARD FOR TWO OF US TO GET THERE. IF THAT'S A PROBLEM, WE SAY SO AHEAD OF TIME AND IT GETS RESCHEDULED. THAT'S THE EASIEST WAY TO DEAL WITH IT.

>> S. O'KEEFE: I THINK WE ARE ADJOURNED. I HAVE TO DEAL  
WITH THIS. THANK YOU EVERYBODY. STAY HEALTHY. SOCIAL DISTANCING  
IS GOOD. FLATTEN THE CURVE. GOOD NIGHT.

To: Pamela Schivola

Regarding: 1449 Grizzly Peak

Administrative Use Permit ZP2019-0111

6-1-2020

Dear Pamela,

I hope you are well during these times.

I'd like to make an effort and work with you on your appeal of my permit. As it came up in the ZAB, I am attaching in this letter mailed to you the color we will use for the new TPO roof structure.

I am also attaching sample colors of the color we have in mind for the new structure. We WILL stay within this range of darkness which I think will address your concern.

Colors codes from Benjamin Moore are:

HC-168

2134-20

2131-10

2120-30

HC-155

Please give me a call directly. 510-773-4835.

  
Thanks, Rod Ubillus

1449 grizzly peak blvd.

Berkeley CA 94708xd

6-3-2020

Dear Ashley,

I have sent Pamela a letter with color samples. As we have not finalized the color, I placed colors to which we will stay near that shade or color value. I am attaching those colors to this letter so it can be shown that they are much darker gray colors. I am also attaching to this letter the color of TPO roofing I will use in the new addition roof as per the request of the ZAB board.

As the City knows, that Pamela is extremely hard to get a hold of, I am attaching the receipt from the postal office showing that I did mail this letter certified yesterday June 2<sup>nd</sup> and it'll be arriving to her home today June 3<sup>rd</sup>.

Furthermore, I want to make known 2 homes near Pamela's home which are modern looking homes like mine and that they are white. Also, one more newly built home (last 3 years) of another home in the neighborhood with similar style as mine.

While I know it is Pamela's right to appeal, I want to make known of 2 homes in our very close vicinity which the City approved and they did not enforce a color change or choosing the color of the home for the owner because a neighbor didn't like the color the owners picked. It is our right to choose the color of our home, especially if nearby neighbor used a similar color palette. While I will add some gray's and darker colors to my new construction, which I provided. I want to protect my rights, especially as the City approve 2 brand new builds with similar home style and colors. It would be atrocious for us all to spend our money time and resources arguing a color of a home. Please note that our neighbor, 1 home down from me and 1 home down from Pamela just built a home that is larger, taller and whiter than mine. Directly below Pamela's. Lastly, for the record, my home is not white is light gray which you can see in the photo of my home in this document.

Thank you for your time.

Rod Ubillus



Receipt from postal service (letter to Pamela)

10:38 📶 🔋  
cns.usps.com

**Label Summary**

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We are sorry but a communication error has occurred. Please retry your request or print at a later time from Shipping History.

**Return Address**  
CHERYL UBILLUS  
1449 GRIZZLY PEAK BLVD  
BERKELEY, CA 94708-2201

**Delivery Address**  
PAMELA SIHVOLA  
1475 SUMMIT RD  
BERKELEY, CA 94708

---

**Package**

Tracking #:	9405 5036 9930 0402 1650 23
Shipping Date:	06/02/2020
Exp. Delivery Date:	06/03/2020
ZIP Code™:	94708
Package Weight:	0 lb. 4 oz.
Contents Value:	\$20.00

---

**Service**

Priority Mail® 1-Day:	\$7.50
Insurance:	Free

---

**Total:** \$7.50

---

**Payment Method**  
VISA-2673

You have until 11:59 PM Central Time of the ship date to print your label.

[View Label](#)

Color which will be used for new construction roof, TPO gray.



These are the shades of gray which I will stay near. Similar color value and shade of gray.



Example 1:

1441 Grizzly Peak Blvd. which is the home right in front and 1 home to the left of Pamela's. (My home is right in front of Pamela's but one home to the right) Also, this home is on the same side of the street as mine and it there is 1 home separating me and 1441.

This is a photo of the lot of land before the home was build. They are still building it.



This is a photo of the home now built. As you can see, this home is white, taller than mine and a brand new construction, approved by the City of Bekrleey. They did not get any color restrictions. The home is modern as is mine. The use permit for that home is Use Permit #ZP2015-0089

Example 2:

This home is on Pamela's street. It is 3-5 homes from her home.1453 Summit rd.

I just want to point out that this home is modern and white, my home looks similar as well.



Example 3:

This is a home 2 blocks away on grizzly peak. Address is 1234 Grizzly peak. This was a completely new built home in 2016. It was an empty lot before. But you can see this is also a very modern home in white. Similar style to mine.



This is a photo of my home taken yesterday. (all photos were taken yesterday or today)



**UBILLUS RESIDENCE ADDITION**

140 GRIZZLY PEAK BLVD.  
 BERKELEY, CA 94709

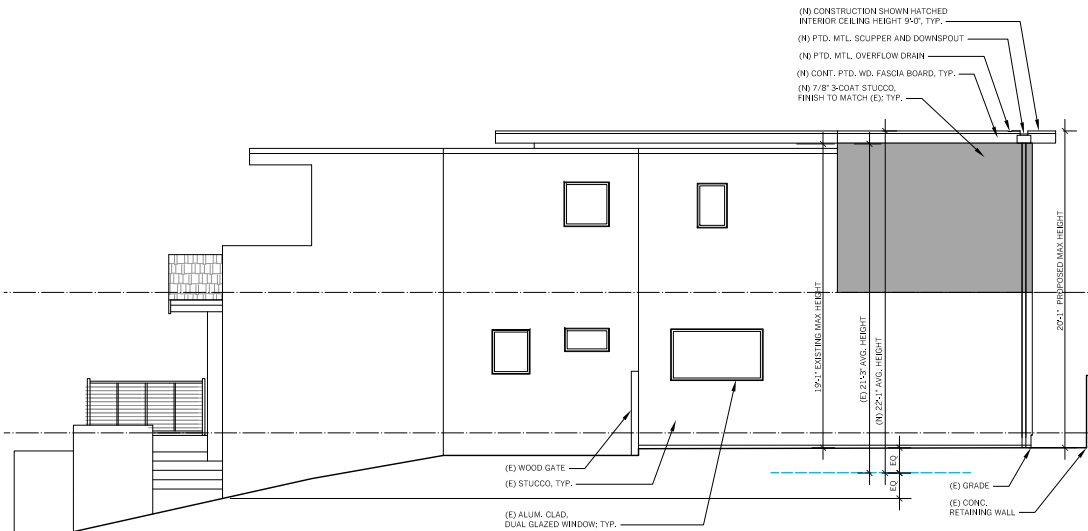
CONSULTANTS

ISSUE DATE

▲ AUP SUBMITAL	06/03/2019
▲ AUP RESPONSE	08/12/2019
▲ BUILDING PERMIT	04/08/2020

**PROPOSED EXTERIOR ELEVATIONS**

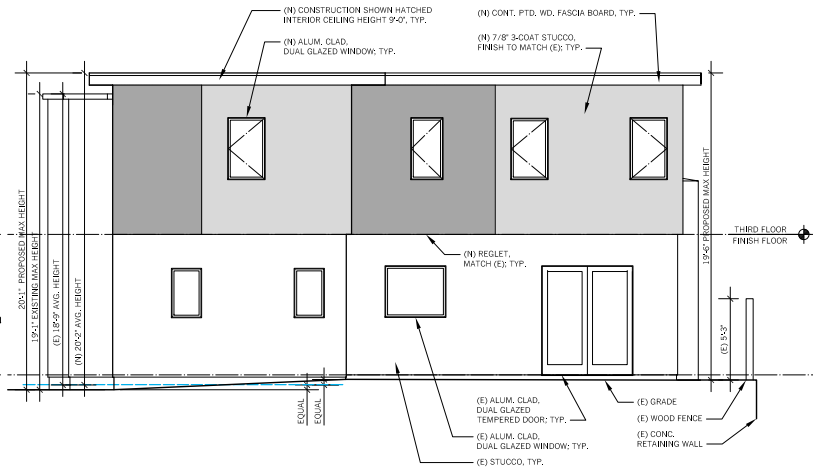
**A - 3.0**



**2 SOUTH ELEVATION**

A3.0

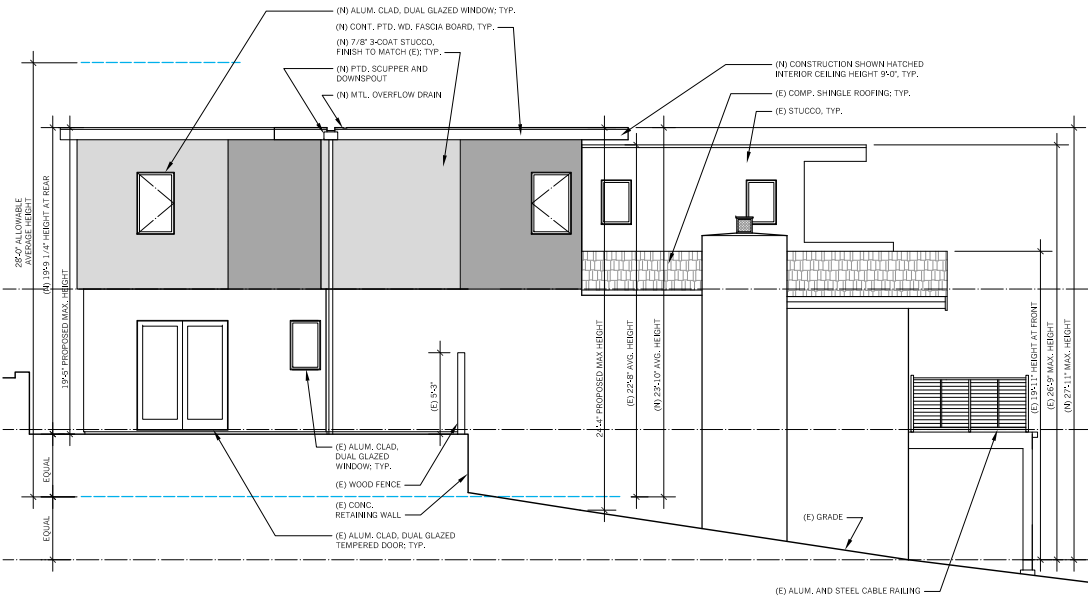
1/4" = 1'-0"



**1 EAST ELEVATION**

A3.0

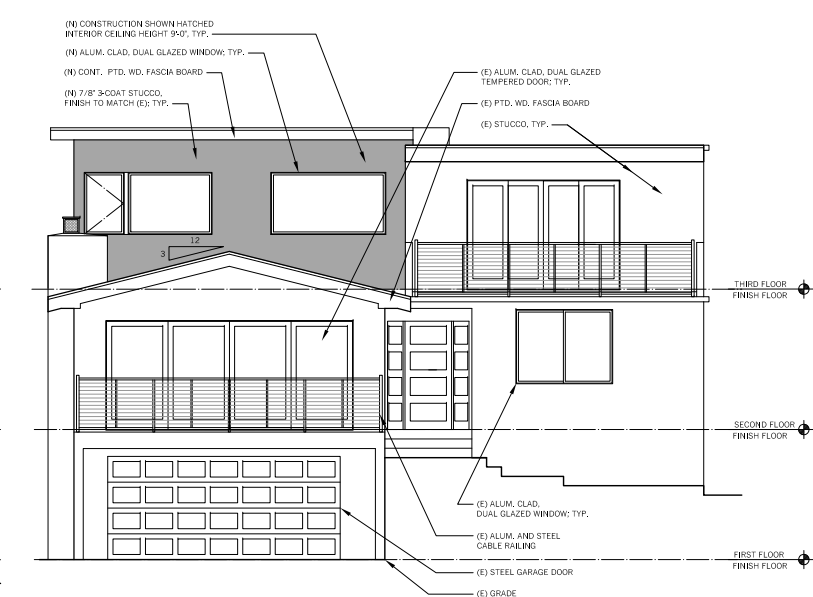
1/4" = 1'-0"



**4 NORTH ELEVATION**

A3.0

1/4" = 1'-0"

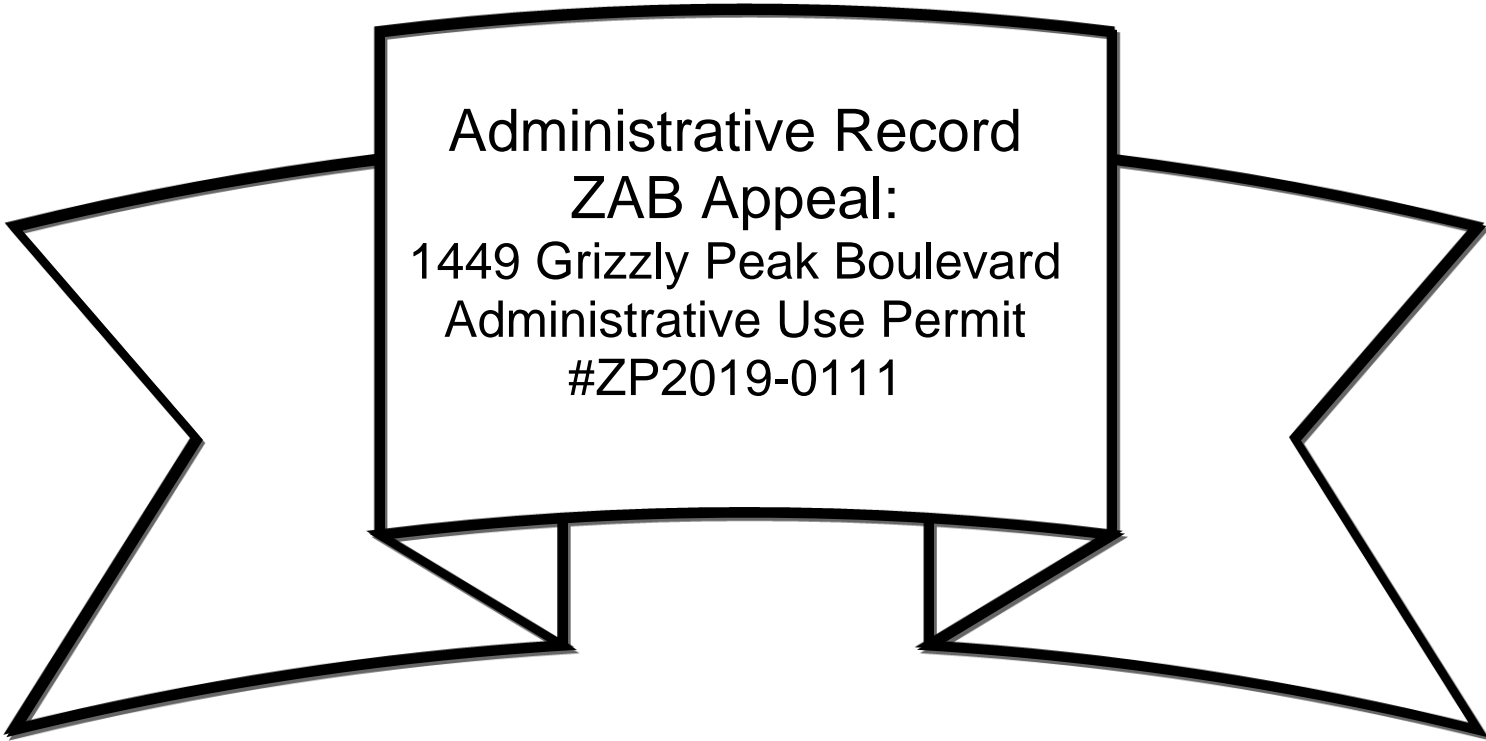


**3 WEST ELEVATION**

A3.0

1/4" = 1'-0"

NOTE: DRAWING SCALE WILL BE 1/8"=1'-0" IF PRINTED TO FIT A 12" X 18" SHEET SIZE



Administrative Record  
ZAB Appeal:  
1449 Grizzly Peak Boulevard  
Administrative Use Permit  
#ZP2019-0111

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>



**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,  
1231 ADDISON STREET  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: ADMINISTRATIVE USE PERMIT #ZP 2019-0111, 1449 GRIZZLY PEAK  
BOULEVARD**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JULY 7, 2020** at **6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to uphold the Zoning Officer's decision to approve Administrative Use Permit #2019-0111, to construct a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, increasing the average and maximum building height by approximately two feet, and increase the number of bedrooms on the parcel from four to five.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **JUNE 30, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Ashley James, Project Planner at (510) 981-7458. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: June 23, 2020

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

**ATTACHMENT 8**

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.*