



Office of the City Manager

PUBLIC HEARING

October 12, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning & Development Department

Subject: ZAB Appeal: 1205 Peralta Ave, Variance/Use Permit #ZP2020-0060

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to deny Zoning Permit #ZP2020-0060 for a Variance to legalize the elimination of two off-street parking spaces by conversion of an existing 18 foot x 20 foot garage to habitable space, and a Use Permit to legalize the addition of three bedrooms on a lot that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On April 8, 2021, ZAB conducted a public hearing and approved staff's recommendation to deny: 1) the unpermitted elimination of two existing parking spaces; and 2) the addition of three unpermitted bedrooms beyond the permit threshold of five on the lot. After considering the staff report and administrative record, and hearing comments from the applicant and the neighbors, the ZAB upheld staff's recommendation and denied the project without prejudice. (Motion: Tregub / Second: Olson; and unanimous vote of 8-0-0-1: Yes: Duffy, Kim, O'Keefe, Olson, Hauser, Thompson, Gaffney, Tregub; No: None; Abstain: None; Absent: Kahn.)

On April 13, 2021, staff issued the notice of the ZAB decision, which established a 14-day appeal period.

On April 26, 2021, an appeal was filed with the City Clerk/Council by the applicant/owner Cathy Nason and her attorney Rena Rickles.

On September 28, 2021, staff posted the City Council notice of public hearing 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 July 24, 2020, Cathy Nason (property owner) and Teresa Cambare (architectural designer) submitted a Variance and Use Permit application for a second-story addition to one of the four dwelling units (Unit 4) on a lot that is non-conforming for lot coverage, density, useable open space and parking.

The proposed project required a Variance (BMC 23B.44.030) to increase the lot coverage by an addition to non-conforming structures that are non-conforming for maximum allowable lot coverage (BMC 23C. 04.070.C). It required Use Permits for additions to lawful non-conforming structures that are non-conforming by reason of residential density (BMC 23C. 04.070.E) and for the addition of bedrooms beyond five to the parcel (BMC 23D.20.050.A). It also required Administrative Use Permits (AUPs) for alteration of a portion of a building which encroaches into a non-conforming yard (BMC 23C.04.070.B), for a major residential addition (BMC 23D.20.030), and for additions over 14 feet in average height (BMC 23D.20.070.C).

Staff advised the applicant that the proposed additions on a lot that is over density, over lot coverage, and non-conforming for parking and usable open space, and with multiple neighborhood objections, would not be recommended for approval. Staff also suggested that the applicant limit proposed work to interior improvements of Unit 4 only, without changes to building's existing footprint and envelope.

On August 24, 2020, staff issued a notice of incomplete application to the applicant. This letter required the applicant to provide multiple application submittal requirements that were missing and, if available, provide proof of permits for the previous conversion of part of the existing garage to Unit 3 and the addition of three bedrooms on the lot.

On September 22, 2020, the applicant submitted revised plans to eliminate the second story addition and to only proceed with interior improvements to Unit 4. However, the applicant was required to continue applying for a Variance to legalize the conversion of the garage to living space in Unit 3 and Use Permit to legalize the addition of three bedrooms on the lot.

On February 11, 2021, since progress was not made on the completion of the land use permit applications, the Code Enforcement Unit issued a Notice of Violation to the property owner for the illegal conversion of the garage and unpermitted addition of bedrooms on the subject lot.

On March 22, 2021, after 11 rounds of comments from staff, the application was deemed complete.

On March 25, 2021, staff posted the Zoning Adjustment Board (ZAB) Notice of Public Hearing 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.

Thirty-one communications were received from the neighbors in objection to the project between April 16, 2020 and March 31, 2021 and are included within Attachment 5 of the April 8, 2021 staff report to the ZAB.

On April 8, 2021, the ZAB approved staff's recommendation to deny without prejudice Variance & Use Permit # ZP2020-0060. As described in the staff report, suggested Variance findings provided by the applicant were insufficient to support the required Variance findings for the elimination of parking. Specifically, there were no exceptional circumstances on the property (Finding 1), the Variance was not necessary for the preservation of substantial property rights (Finding 2), and the project would generally be detrimental (Finding 3). Although findings to enlarge a non-conforming structure that exceeds allowable lot coverage and density could be made in isolation, the enlargement (garage conversion to habitable space) was dependent on the approval of the Variance to legalize the removal of parking from the site and hence could not be supported by staff. Use Permit non-detriment findings for the addition of three bedrooms beyond the permit threshold of five also could not be made because the lot is over density, there is a small amount of common space within dwellings relative to the number of bedrooms, there is a small amount of usable open space, and there are no off-street parking spaces on the lot. These additions would be over intensification of this substandard size lot and could be considered detrimental.

ZAB Hearing

At the April 8, 2021 hearing, ZAB members discussed the issues around the impact of the project. The captioner's record of the ZAB discussion is provided as Attachment 3 to this report. The ZAB discussion focused on the legalization of the three unpermitted bedrooms (two in Unit 2 and one in Unit 3) and the unpermitted conversion of garage to living space and bedroom for Unit 3.

The applicant expressed that the lot coverage, density, parking and usable open space non-conformities on the site are due to "pre-existing" conditions and that the conversion of garage to a bedroom made sense from a business standpoint. She noted that their plan was to keep the remainder of the garage as a storage room and not to use it as a bedroom. She added that the narrow width of the existing driveway would make the garage unusable even if it were converted back to its original state.

Several neighbors spoke to the long history of unpermitted conversions and additions on this site and noted that illegal construction began with the previous owner (the applicant's father) and continued after the current owner (the applicant) inherited the property.

The ZAB pointed out that they make decisions based on the underlying land use law and not based on intentions or existing conditions. The ZAB expressed concerns over relocation of the tenants or an increase in rent levels and lack of windows for the bedroom labeled as "storage". The ZAB encouraged the applicant to work with the neighbors and resolve the underlying conditions that have been the source of distrust between the neighborhood and the applicant.

Staff elaborated on what a denial of the application would mean for this property and noted that the two additional unpermitted bedrooms in Unit 2 can be removed by opening the closures from the original dining room (now an unpermitted bedroom) and the hallway to the living room. Staff informed the ZAB that a Condition of Approval for the storage room can prevent it from becoming an additional bedroom for Unit 3 in the future. Furthermore, staff noted that the denial of the Variance means that most of Unit 3 must be converted back to the original two-space garage and that might affect its functionality.

ZAB Action

The ZAB unanimously voted to deny the project without prejudice. The ZAB requested that, if this project come back to ZAB for a future Variance and Use Permit, then the applicant should clearly depict the legally existing versus proposed conditions on the plans, that the Rent Stabilization Board be involved and the sitting tenants be notified of any changes that would happen to their habitable space and their rent ceiling.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Applicant/Appellant's Appeal Issues and Staff Responses: The appellant raised several issues in their appeal letter (Attachment 4) related to Units 2, 3, and 4, and the converted garage. The applicant/appellant disagrees with the characterization of the legal status of certain rooms on the property as bedrooms or common areas, arguing that the work on the property is an improvement that makes the units more functional, that parking could not be provided on the site, and that parking is not a problem in the area. The applicant/appellant therefore believes ZAB acted in error.

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 for the full text.

Appeal Issue 1: Appellant believes that errors were made in describing the existing conditions and the effect of the proposed modifications to the property, and that the denial would result in less desirable conditions.

- Regarding Unit #2 (rear building upper floor), the appellant noted:

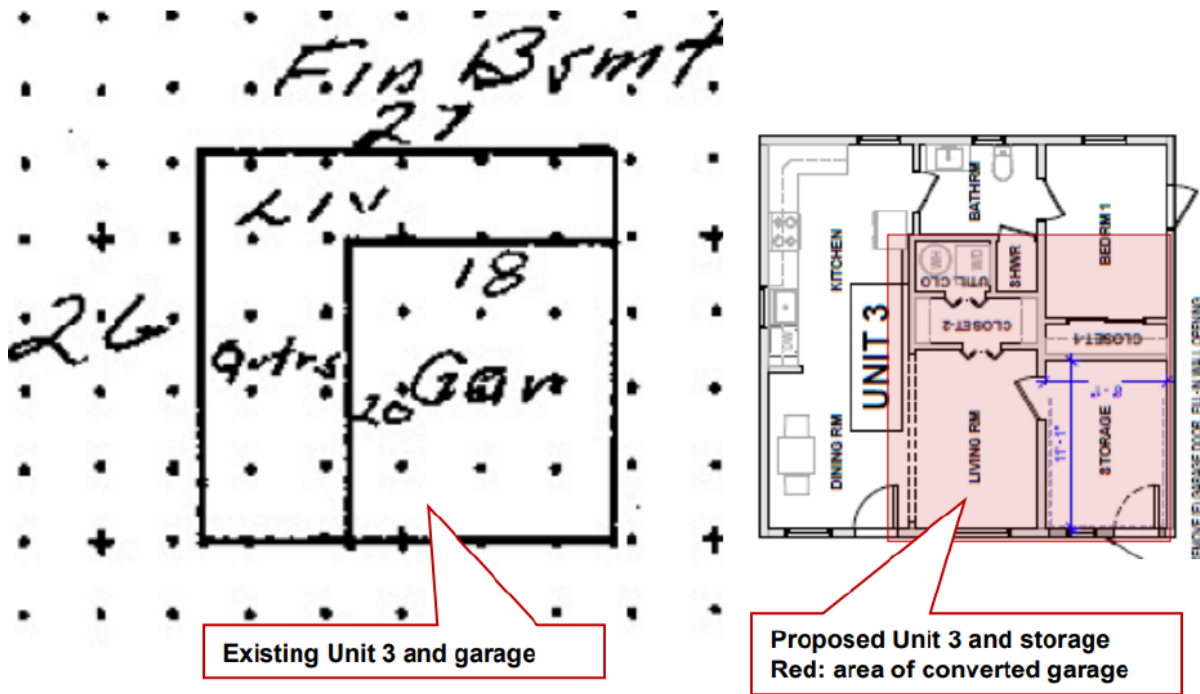
“ Lisa Farmer, a tenant, has lived in that unit for 26 years. This writer [Applicant representative Rena Rickles] visited Unit 2 and spoke with Lisa. It is clearly a 2-bedroom apartment, with a small living room and kitchen. Based on kitchen appliances and cabinets, this unit was built in the late forties. The ZAB decision

requires that the living room be counted as a bedroom, and removed, essentially transforming Unit 2 into a dormitory.”

Staff Response: The City adopted a bedroom ordinance in 2005 (BMC 13.42.020.B) as a response to concerns about overcrowding lots such as the subject lot. This ordinance requires a zoning permit and findings of compatibility and non-detriment for the addition of a fifth or more bedrooms on a lot. City records indicate that Unit 2 was built as a one-bedroom unit and later converted to a three-bedroom unit by closing off the dining area and the living room without permits. The ZAB was unable to make findings for approval of the additional bedrooms and denied this addition.

- Regarding Unit 3 (rear building ground floor), the applicant noted:

“ Unit #3 is a one-bedroom, with a living room area and a kitchen. It has been rented since February. The living room was created out of a tiny one-bedroom and part of the unused and inaccessible garage. The ZAB decision requires that



the living room be removed and returned to a garage use by slicing off the living room to re-create a garage space. The tenant’s only common area would then be an 8’4”-wide corridor running from the front door to the kitchen “

Staff Response: According to the City records, approximately 272 square feet of the original 360 square feet garage area has been converted to living space for Unit 3 without a permit or the required City of Berkeley building and safety inspections. This unit was originally built in the 1940s without a separate living area or bedroom; appropriate zoning and building permits must be obtained.

As of March 2021, the City no longer requires one parking space for newly constructed dwelling units. However, since this is not a new project, it does not qualify for such a waiver of parking. Elimination of parking requires a Variance on the subject lot and the ZAB was not able to make the required Variance findings to approve the elimination of two parking spaces on this lot.

In terms of tenant history of this Unit, at the ZAB public hearing on April 8, 2021, the applicant stated that plans for renting out Unit 3 have been on pause due to Covid-19.

- Regarding Unit 4 (rear unit of the front building), the applicant noted:

“Unit #4: It is now a 3-bedroom unit without any common area, except the kitchen. It is Applicant’s intention to convert the second of the disallowed bedrooms into a living room to create a common space gathering area.”

Staff Response: The only reason this unit has no common area is because of the unpermitted addition of a third bedroom to the unit. Staff, the neighbors and the ZAB did not have any objections to removing the unpermitted third bedroom and bringing this unit back to its original state.

Appeal Issue 2: Appellant claims that the following misleading information was presented to the ZAB:

- “ - *Incorrect or misleading Information, which was material to the decision was Presented to the ZAB.*
- *Witnesses falsely described 1205 as the densest, with the least open space of any property on the block(?). (See Exhibit B. Vicinity Map; Overhead View)*
- *Staff overcounted the number of existing bedrooms by 3: In Unit 2, Staff designated the living room and dining room as bedrooms. In Unit 3, Staff designated the living room as a bedroom. These rooms are being used as common area rooms and should not be counted as bedrooms unless one assumes that one enters their apartments directly into a bedroom.*
- *On-street parking was incorrectly described as heavily impacted. A parking study will show, even during Covid, many on-street available parking spaces.*
- *Unit 3 was erroneous labeled as unoccupied (unfortunately by Applicant’s Architect).”*

Staff Response: The ZAB conducted a public hearing and deliberated based on all of the evidence including the Staff Report, testimony and the findings. For the witness testimony please refer to the Captioner’s record page 46 to 54.

Appeal Issue 3: Appellant believes the Variance findings can be made:

“- The Findings to Deny the Variance to Legalize the “Conversion” of On-Site Garage Cannot Be Factually Sustained.

- *At one time there had been a “2-car garage” on site. Part of that garage was converted to living space at least as early as 1989; the remainder, in 2020. However, based on the site plan, there no way that this structure could ever have functioned as a garage:*
 - *The driveway from the street to the garage is 6’8”;* this is 2’ narrower than City of Berkley minimum allowable driveway width, and impassable by most cars.
 - *The curve radius for a car to enter or exit the garage, cannot be met.*
 - *A car cannot back out of either of the spaces without running over and into the mandated “green” open space; the amount of green space on this property is already below standard.*

- On these facts the Variance Findings for Denial cannot be made; Variance Findings for Approval can be made:

- 1. The property is unique in that the location for the proposed parking cannot be accessed by a vehicle;*
- 2. Most of the homes on this street also do not have on-site parking (See Exhibit B, On-site parking converted to other uses);*
- 3. The parking study will show that there is ample vacant street parking; there are many AC Transit buses within a block of this property.”*

Staff Response:

Due to the age of various buildings and the changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this district to varying degrees, including the subject site. For instance, the site includes four units on a lot that only allows for one. Staff does not believe that the illegal conversion of the garage (noted in an original code enforcement case in 1993) qualifies as an exceptional or extraordinary condition for purposes of making the Variance finding. Staff has not received a parking study from the applicant so there is no formal data on the availability of on-street parking.

Neighbors have expressed that they believe there would be an adverse impact on the street parking due to elimination of off-street parking from this four-unit property. Anecdotal evidence from aerial photos and street view indicate that there is parking available midday. It appears that most homes in the neighborhood have a driveway and/or garage for off-street parking. There is no RPP program in the neighborhood, so on-street parking is also available to residents and visitors at all times of the day.

As for the accessibility of the garage, the applicant originally submitted plans showing a driveway width of 7 feet 9 inches and tandem parking for four vehicles. A property survey was completed in August of 2020 that showed a driveway width 6 feet 7 inches to the property line, with the adjacent fence at the wider location. Berkeley's current driveway standards indicate that a width of 8 to 10 feet should be provided for a driveway such as this, as well as a 2-foot wide landscape strip along adjacent property lines. Therefore, the driveway is also a non-conforming condition on the property. Nonetheless, the garage was previously constructed and available for parking, so reducing the parking would require the Variance (typical passenger vehicles range in width from 5 feet 10 inches to 6 feet 8 inches, with most falling in the middle of the range). The required findings for such a permit are: there are exceptional circumstances on the property, the variance is necessary for the preservation of substantial property rights, and the project would not be generally detrimental.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to deny the proposed project. The ZAB left open the possibility of a different outcome if unspecified modifications were made to the project. Staff recommends that the City Council uphold the ZAB decision to deny the unpermitted elimination of parking spaces and addition of bedrooms on this lot.

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

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Nilu Karimzadegan, Project Planner, (510) 981-7419

Attachments:

1. Draft Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans dated March 22, 2021
2. ZAB Packet dated April 8, 2021
3. Captioner's Record, ZAB Hearing April 8, 2021
4. Applicant's Appeal Letter dated April 26, 2021
5. Index to Administrative Record
6. Administrative Record
7. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S DENIAL OF ZONING PERMIT #ZP2020-0060 FOR A VARIANCE TO LEGALIZE THE ELIMINATION OF TWO PARKING SPACES BY CONVERSION OF AN EXISTING 18 FOOT X 20 FOOT GARAGE TO HABITABLE SPACE AND A USE PERMIT TO LEGALIZE THE ADDITION OF BEDROOMS ON A LOT THAT IS NON-CONFORMING FOR DENSITY, LOT COVERAGE, USABLE OPEN SPACE AND PARKING; AND DISMISSING THE APPEAL

WHEREAS, on July 24, 2020, Cathy Nason (property owner) and Teresa Cambare (architectural designer) filed a Variance and Use Permit application for a second-story addition to one of the four units on a lot that is non-conforming for lot coverage, density, useable open space and parking; and

WHEREAS, on February 11, 2021, the Code Enforcement Unit issued a Notice of Violation addressed to the property owner for the illegal conversion of the garage and unpermitted addition of bedrooms on the subject lot; and

WHEREAS, on March 22, 2021, staff deemed this application complete; and

WHEREAS, on March 25, staff posted the ZAB Notice of Public Hearing 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 April 8, 2021, the ZAB conducted the public hearing in accordance with BMC Section 23B.32.030, determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines ("Existing Facilities") and denied the project without prejudice; and

WHEREAS, on April 13, 2021, staff issued the notice of the ZAB decision, which established a 14-day appeal period; and

WHEREAS, on April 26, 2021, an appeal was filed by the applicant/owner Cathy Nason and her attorney Rena Rickles to the City Clerk/Council; and

WHEREAS, on or before September 28, 2021, 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 October 12, 2021, 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 denying 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 deny #ZP2020-0060as shown in the project plans in Exhibit B, and dismisses the appeals.

Exhibits

A: Findings and Conditions

B: Project Plans, dated March 22, 2021

FINDINGS FOR DENIAL
APRIL 8, 2021

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. x 20 ft. garage to habitable space and Use Permit to legalize the addition of bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

PERMITS REQUIRED

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

I. VARIANCE FINDINGS FOR DENIAL

Pursuant to Berkeley Municipal Code Section 23B.44.030.B, the City cannot make the findings required by Berkeley Municipal Code Section 23B.44.030.A, and therefore must deny the Variances to eliminate the two existing required off-street parking spaces on the lot by conversion of garage to habitable space;

- There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District:*

The applicant has provided no evidence, nor can staff find evidence of circumstance or conditions that apply to the land, building or use which do not generally apply to land buildings and/or uses in the same District. Neither the nonconforming use of the lot nor illegal conversion of garage is considered unique or otherwise exceptional or extraordinary. Similarly, due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this District to varying degrees, including the subject site. This finding cannot be made.

- The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:*

The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. In fact, the property owners purchased, and have managed, a property with four lawful, rental dwelling units for several years. This finding cannot be made.

- iii. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole:*

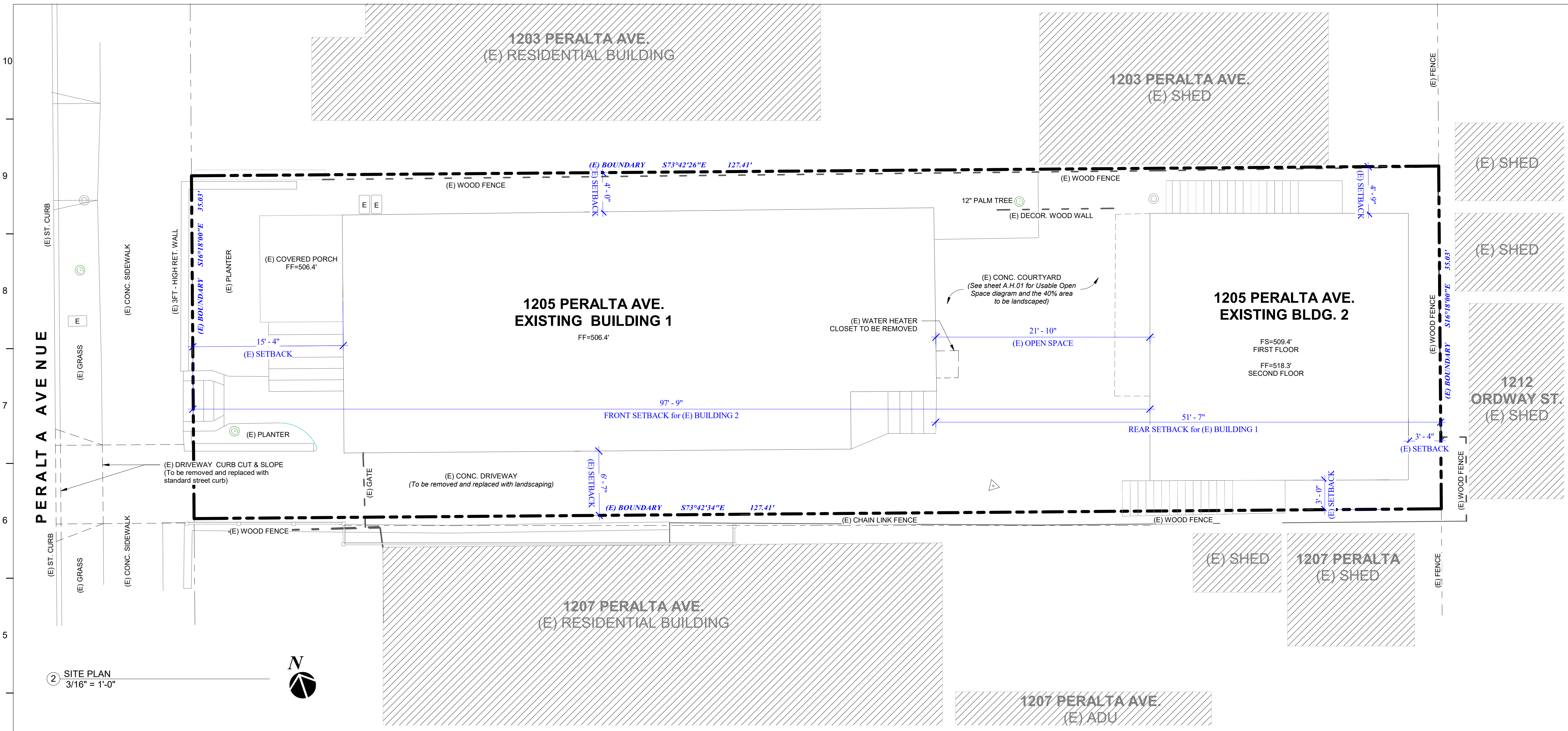
The illegal conversion of the existing garage has eliminated the two available and required off-street parking spaces on the site. Staff has received correspondence from the neighbors stating that the lack of parking spaces on the subject lot puts an additional burden on street parking which is already strained. This finding cannot be made because eliminating the two parking spaces will adversely impact the improvements in said neighborhood as it impacts on-street parking for this over-densified site for the neighborhood and the tenants.

In conclusion, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).

II. ADDITION OF BEDROOMS FINDINGS FOR DENIAL

Pursuant to BMC Section 23D.20.050.A, the addition of more than five bedrooms on the parcel requires the approval of a Use Permit. Specifically, the Board is unable to make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 that there would not be a substantial impact to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because:

Pursuant to BMC Section 23D.20.050.A, the Zoning Adjustments Board finds that the addition of the sixth, seventh and eighth bedrooms is over intensification of this substandard size lot. Two illegal bedrooms have been added to Unit 2 leaving no common space for this unit and one bedroom is created through illegal conversion of the garage for a total of three additional bedrooms on this lot. Additionally, this property only provides about 458 sq. ft. of usable open space with no off-street parking spaces. Although staff considers residential density per dwelling, the addition of bedrooms will increase number of residents on the project and, therefore, increase the intensity of use. Therefore, the addition of three bedrooms, will not support the residential use on the parcel, is not consistent with the purposes of the R-1A District and would be considered detrimental.



ARCHITECTURAL DESIGNER:

Cambare Designs
 DESIGNS ASBUILT BUILDING INFORMATION MODELING
 VACAVILLE, CALIFORNIA
 PHONE: (408) 204-3413
 EMAIL: TERESA@CAMBAREDESIGNS.COM

 03/22/2021
 DESIGNER: TERESA CAMBARE

CONSULTANT

1205 PERALTA AV.
 UNIT 4 TENANT
 IMPROVEMENT

Cathy Nason
 (Owner)
 1205 Peralta Ave,
 Berkeley CA 94706

SITE PLAN

REVISION NO.	DESCRIPTION	DATE

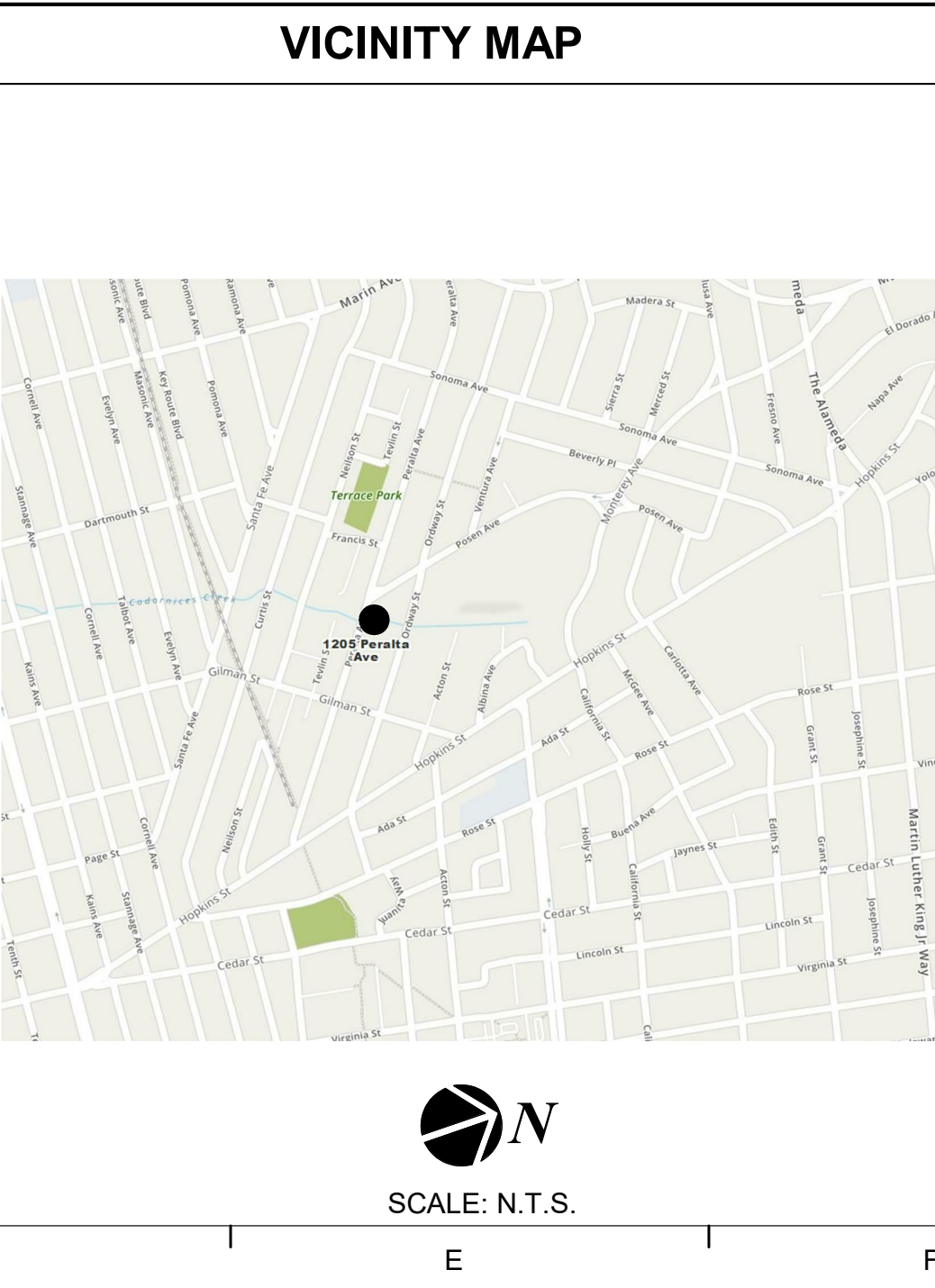
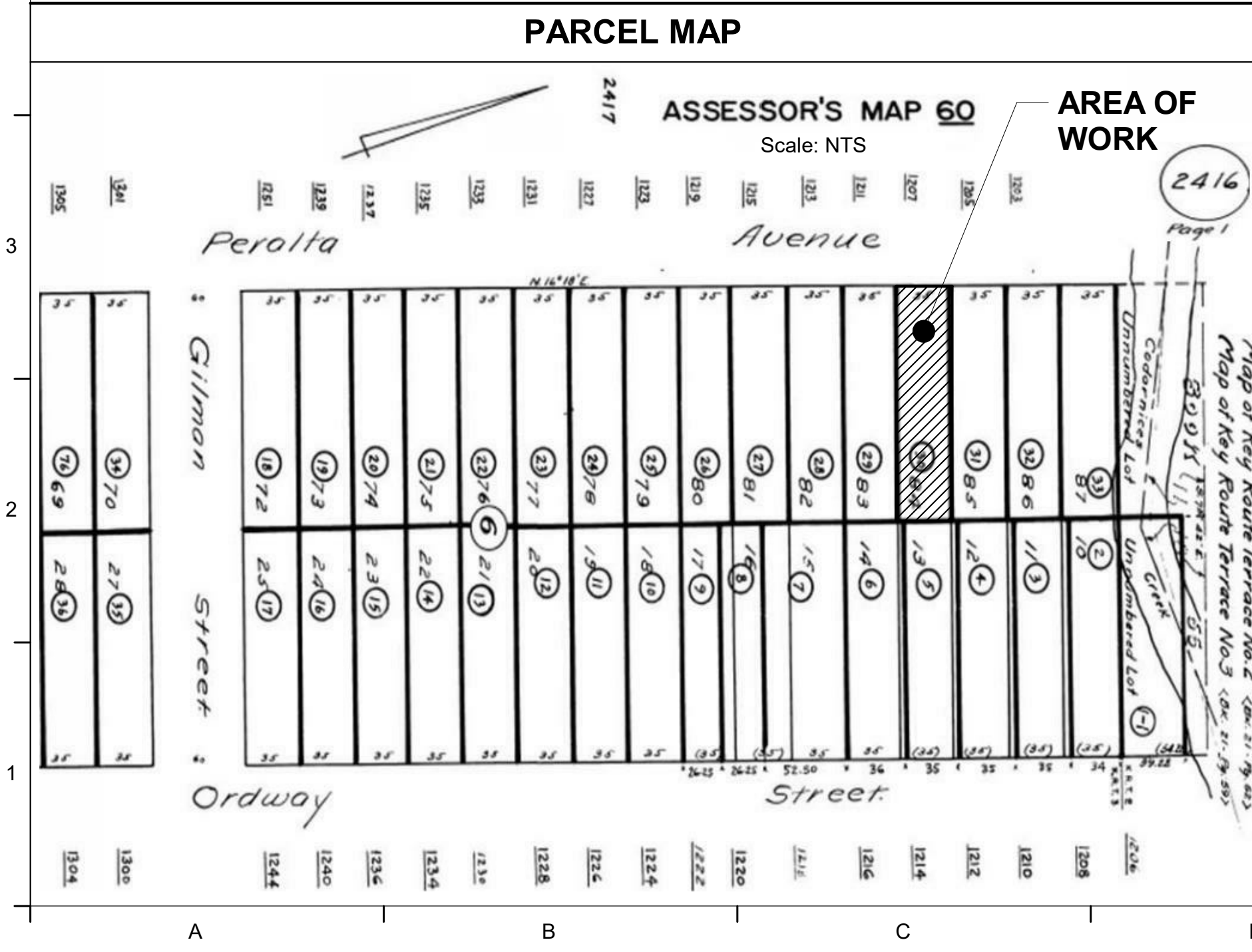
PROJECT NO.	1205-19P
DATE	03/22/2021
DRAWN BY	TC

A.H.00
 SCALE As indicated

② SITE PLAN
 3/16" = 1'-0"

SHEET NOTE:
 A. LOCATIONS AND SIZES OF THE ADJACENT RESIDENTIAL BUILDING FOOTPRINTS SHOWN IN THIS PLAN ARE APPROXIMATE ONLY. NO SITE MEASUREMENTS NOR AN OFFICIAL SITE SURVEY WERE CONDUCTED NOR MADE AVAILABLE FOR THE PURPOSE OF THIS PROJECT.
 B. THE MOST RECENT RECORDED BOUNDARY SURVEY OF THIS LOT PRIOR TO THE RECORD OF SURVEY FILED BY HOGAN LAND SERVICES, WAS AT THE TIME OF THE SUBJECT PARCEL'S CREATION IN SEPTEMBER 1906 VIA MAP OF KEY ROUTE TERRACE NO. 3 FILED IN BOOK 21 OF MAPS PAGE 59 ALAMEDA COUNTY RECORDS.

LOT SETBACK SCHEDULE		
EXISTING	REQUIRED	PROPOSED (No Change)
BUILDING 1 FRONT (West): 15'-4" REAR (East): 51'-7" SIDE (North): 4'-0" SIDE (South): 6'-7"	SEE RESIDENTIAL STANDARDS TABLE BELOW	BUILDING 1 FRONT (West): 15'-4" REAR (East): 51'-7" SIDE (North): 4'-0" SIDE (South): 6'-7"
BUILDING 2 FRONT (West): 97'-9" REAR (East): 3'-4" SIDE (North): 4'-9" SIDE (South): 3'-0"		BUILDING 2 FRONT (West): 97'-9" REAR (East): 3'-4" SIDE (North): 4'-9" SIDE (South): 3'-0"



PROJECT TEAM

OWNER/BUILDER:
 CATHY NASON
 1205 PERALTA AVE.,
 BERKELEY, CA 94706
 Phone: (530) 913-1584

ARCHITECTURAL DESIGNER:
 TERESA CAMBARE
 Cambare Designs
 Phone: (408) 204-3413
 EMAIL: teresa@cambaredesigns.com

STRUCTURAL ENGINEER:
 TBD

CONTRACTOR:
 TBD

PARCEL DATA

PROJECT ADDRESS: 1205 PERALTA ST, BERKELEY CA 94706

OWNER: CATHY NASON
 APN: 060-241603100
 YEAR BUILT: 1913
 CONSTRUCTION TYPE: TYPE V-B
 OCCUPANCY: R2
 ZONING DISTRICT: R-1A
 GEN. PLAN AREA: LMDR

SHEET INDEX

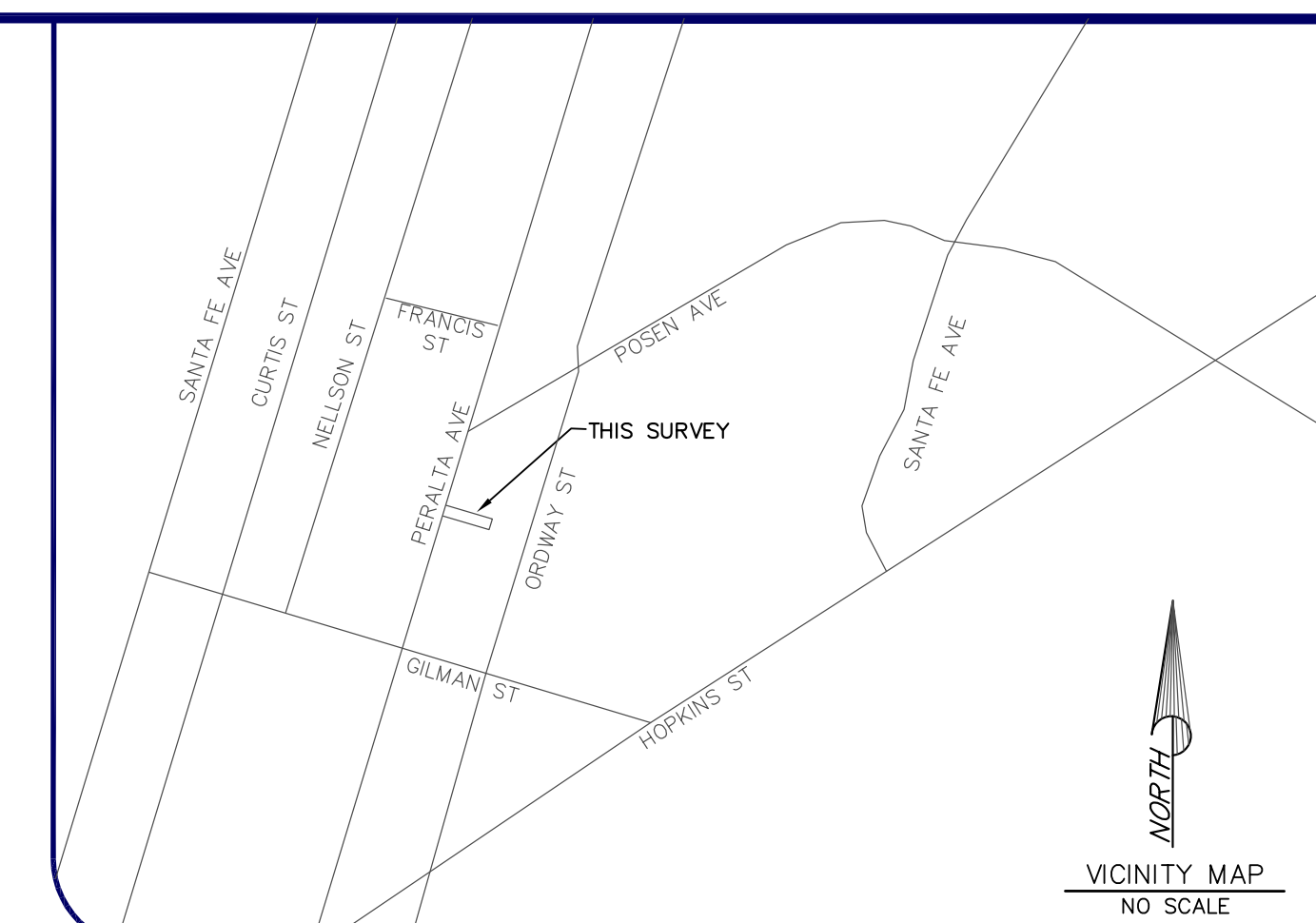
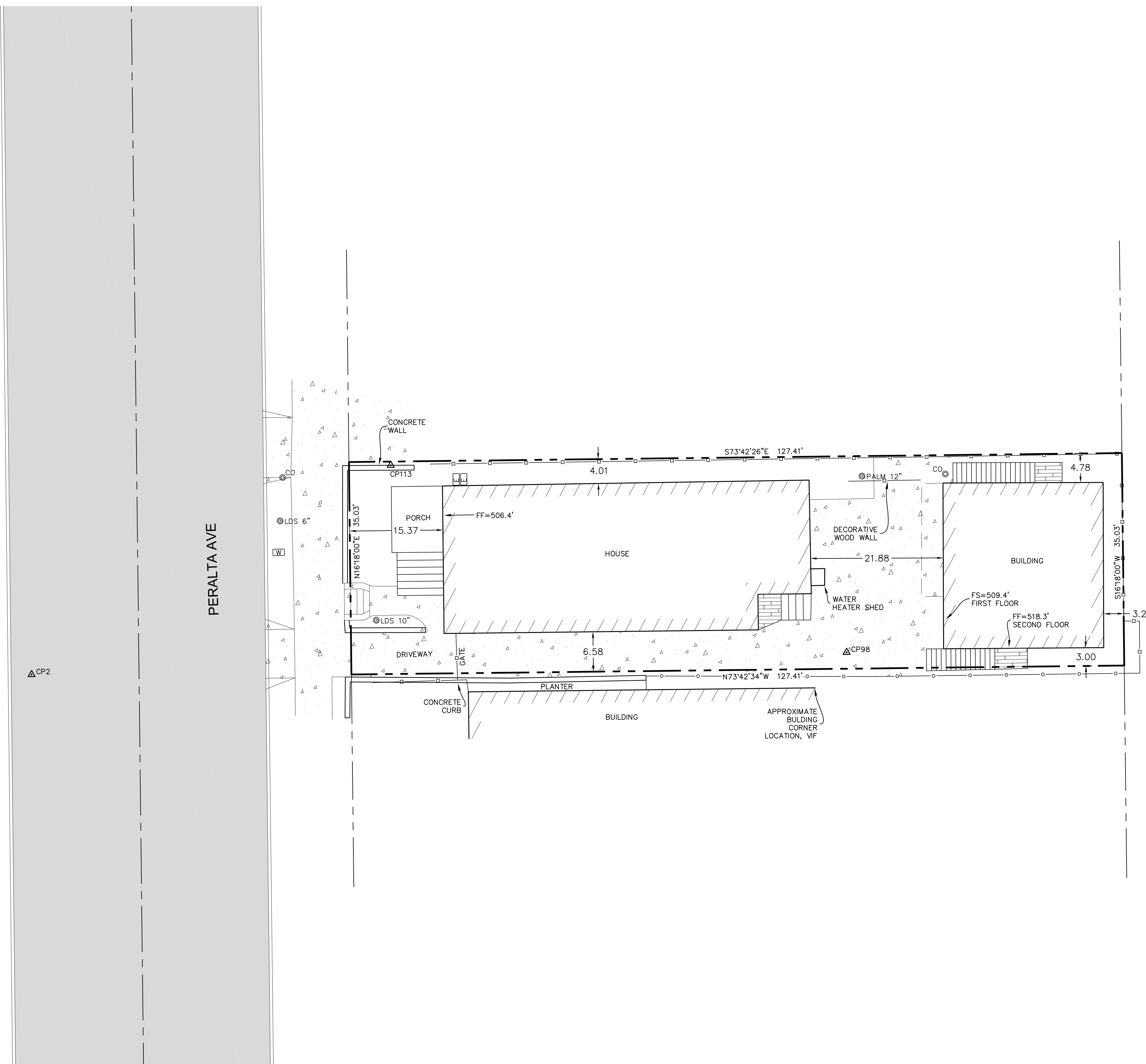
SHEET #	SHEET NAME
A.H.00	SITE PLAN
A.H.01	DIAGRAMS AND EXISTING FLOOR PLANS
A.H.10	PROPOSED FLOOR PLANS & BUILDING SECTIONS
A.H.11	PROPOSED EXTERIOR ELEVATIONS
A.H.12	PROPOSED PERSPECTIVE VIEWS

RESIDENTIAL DEVELOPMENT STANDARDS

Zoning District*	Density (Min. Lot Area Per Unit; sq. ft.)	Height Limit (ft.)**				Min. Setbacks (ft.)**				Max. Lot Coverage**		Min. Open Space** (sq. ft. per unit)			
		Additions		New Main Buildings		Front	Rear	Side	Street Side (Corner Lots)	Between Main Bldgs. on Same Lot	Stories in Main Bldg.		Non-Corner Lots (%)	Corner Lots (%)	
		Average	Max.	Avg.	Max.										
R-1A	14 ⁵	--	--	Front Bldg.: 28' Rear Bldg.: 22'	--	Front Bldg.: 3 Rear Bldg.: 2	20	20 ^{8,9}	4 ¹¹	4 ¹²	1 st story: 8 ¹⁰ 2 nd story: 12 ¹⁰ 3 rd story: 16 ¹⁰	All	40	45	400

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LAND SURVEYOR
NO. LS 8451
STATE OF CALIFORNIA

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AT THE REQUEST OF CATHERINE NASON IN JUNE, 2020

Catherine Nason

ADAM S. RIVERA PLS 8451 EX: 12/31/2022

DRN: ABF
CHK: TWR
PM: ASR
DATE: 1/22/21
JOB #: 4627

LEGEND

- RECORD BOUNDARY LINE
- - - RECORD ADJOINING BOUNDARY LINE
- · - · - RECORD EASEMENT LINE
- · - · - RECORD CENTERLINE
- ==== EDGE OF CONCRETE
- ==== EDGE OF BUILDING
- ==== BUILDING OVERHANG
- □ □ □ WOOD FENCE
- ○ ○ ○ CHAINLINK FENCE
- ~ ~ ~ MINOR CONTOUR
- ~ ~ ~ MAJOR CONTOUR
- ▒ ASPHALT CONCRETE SURFACE
- ▒ CONCRETE SURFACE
- ▒ DECKING

SYMBOLS

- ⊠ WATER METER
- ⊞ ELECTRIC METER
- ⊞ SEWER CLEAN OUT
- △ 3 RANDOM CONTROL POINT W/#
- ⊙ 24" TREE TYPE & DIA.

ABBREVIATIONS

- FF FINISHED FLOOR ELEVATION
- FS FINISHED SLAB ELEVATION
- LDS LANDSCAPE TREE
- PALM PALM TREE
- VIF VERIFY IN FIELD

NOTES:

- 1) THE PURPOSE OF THIS MAP IS FOR PLANNING AND THE CONTENT IS RELATIVE TO THE INTENDED USE. UNAUTHORIZED CHANGES OR ADDITIONS TO THE EXISTING DATA SHOWN ON THIS MAP IS STRICTLY PROHIBITED. ANY USES OF THIS MAP BEYOND THE STATED PURPOSE REQUIRES THE AUTHORIZATION OF HOGAN LAND SERVICES.
- 2) BOUNDARY LINES SHOWN HEREON ARE BASED ON A BOUNDARY DETERMINATION BEING PERFORMED BY THIS OFFICE. THE BOUNDARY INFORMATION SHOWN IS PRELIMINARY AND IS SUBJECT TO CHANGE, PLEASE CONTACT THIS OFFICE OR REVIEW THE COMPLETED AND FILED RECORD OF SURVEY PRIOR TO RELYING ON ANY INFORMATION SHOWN HEREON.
- 3) HORIZONTAL CONTROL:
CENTERLINE MONUMENTS FOUND ALONG PERALTA AVENUE(N16°18'00"E)
- 4) VERTICAL CONTROL:
ELEVATION DATUM IS ASSUMED, BASED ON CP 2 (497.89 FEET)
- 5) THE MOST RECENT RECORDED BOUNDARY SURVEY OF THIS LOT PRIOR TO THE RECORD OF SURVEY BEING FILED BY THIS OFFICE, WAS AT THE TIME OF THE SUBJECT PARCEL'S CREATION IN SEPTEMBER 1906 VIA MAP OF KEY ROUTE TERRACE NO. 3 FILED IN BOOK 21 OF MAPS PAGE 59 ALAMEDA COUNTY RECORDS.

HOGAN LAND SERVICES
A CALIFORNIA CORPORATION

1702 4TH STREET
SANTA ROSA, CA 95404
Tel (707) 544-2104

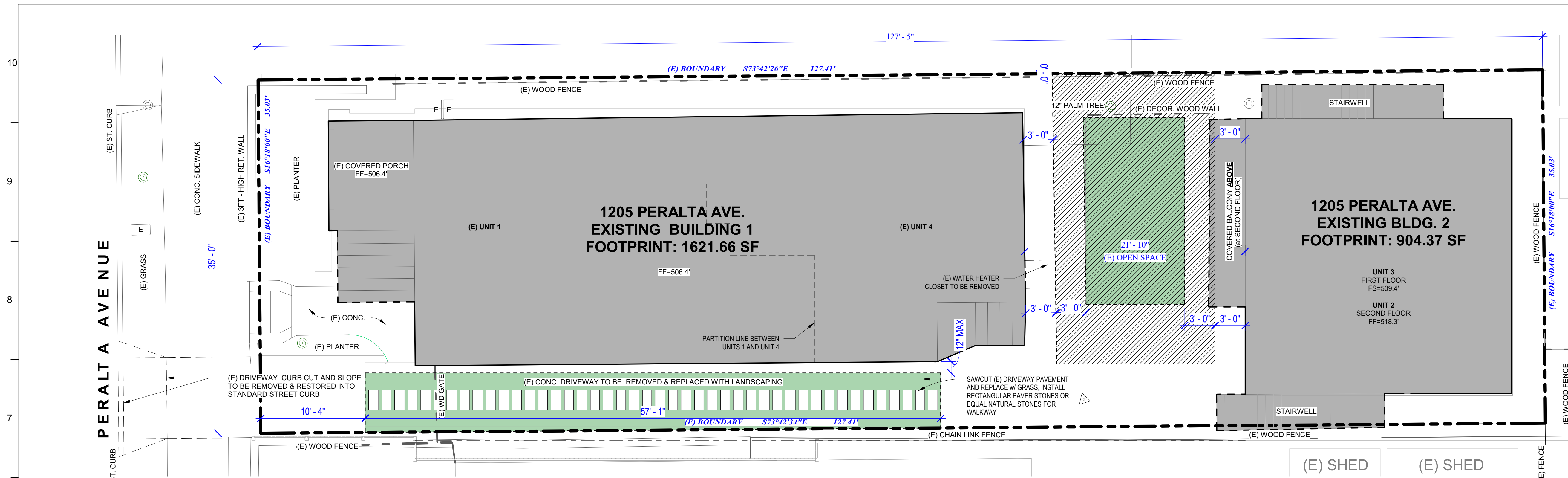
Fax (707) 522-2105
www.hoganls.com

SITE MAP

APN: 60-2416-31

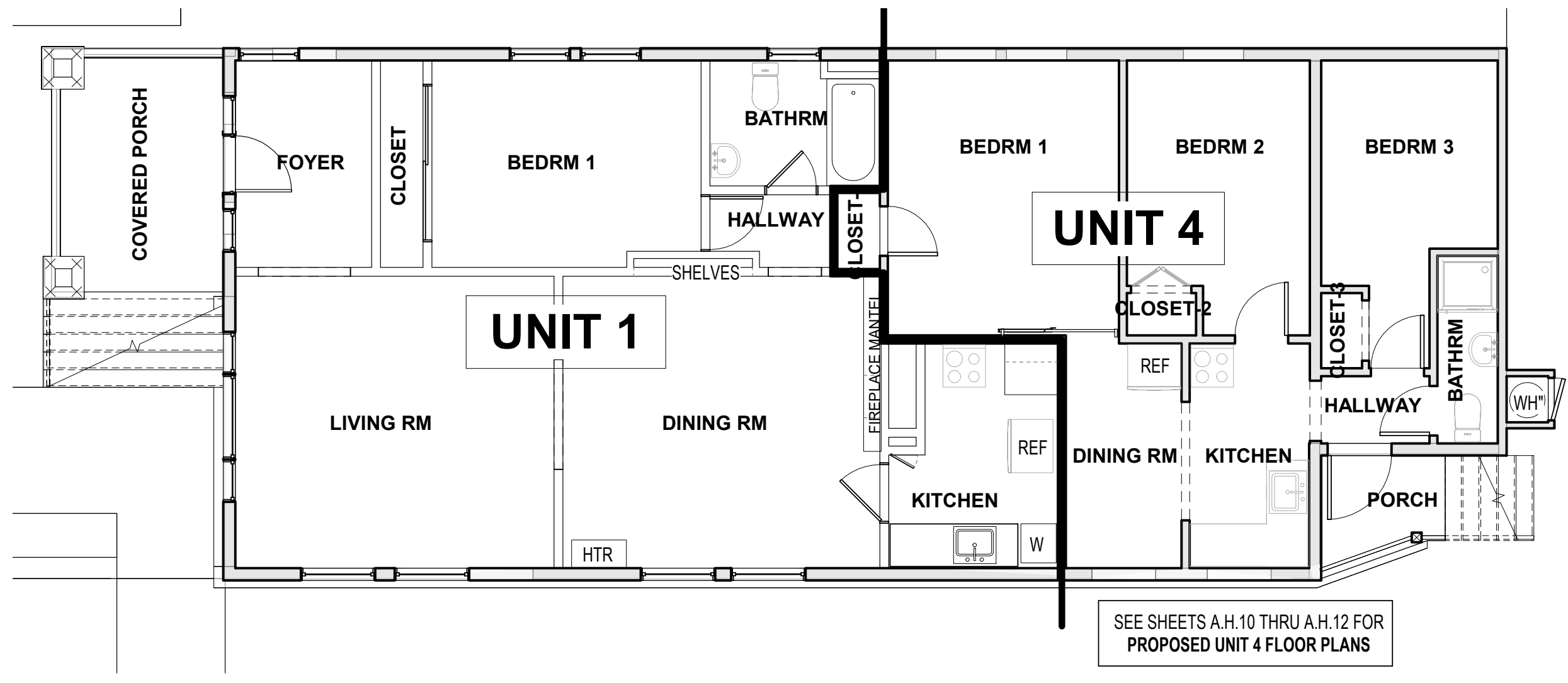
1205 PERALTA AVE
BERKELEY, CALIFORNIA

1 OF 1

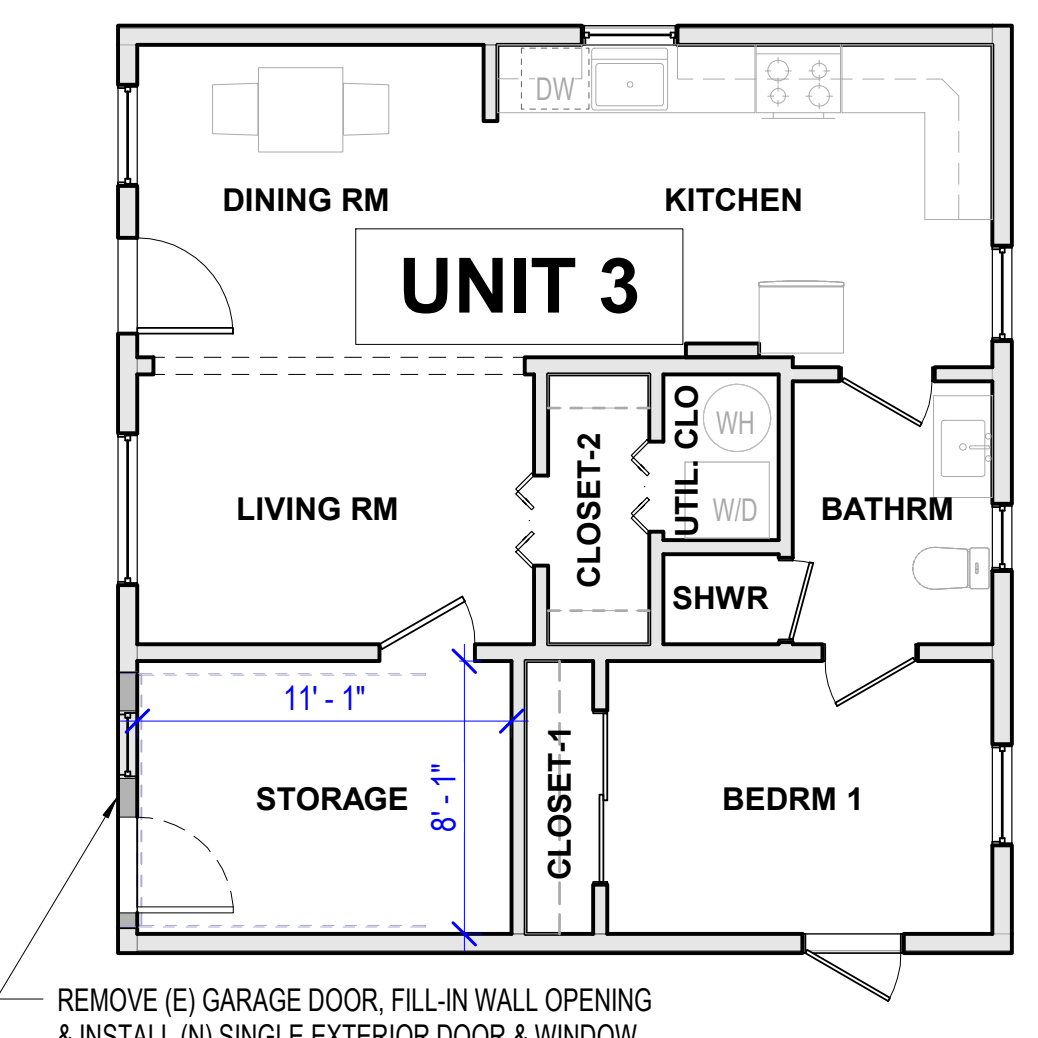


1 DIAGRAMS - BUILDING FOOTPRINT, USABLE OPEN SPACE, & LOT COVERAGE
3/16" = 1'-0"

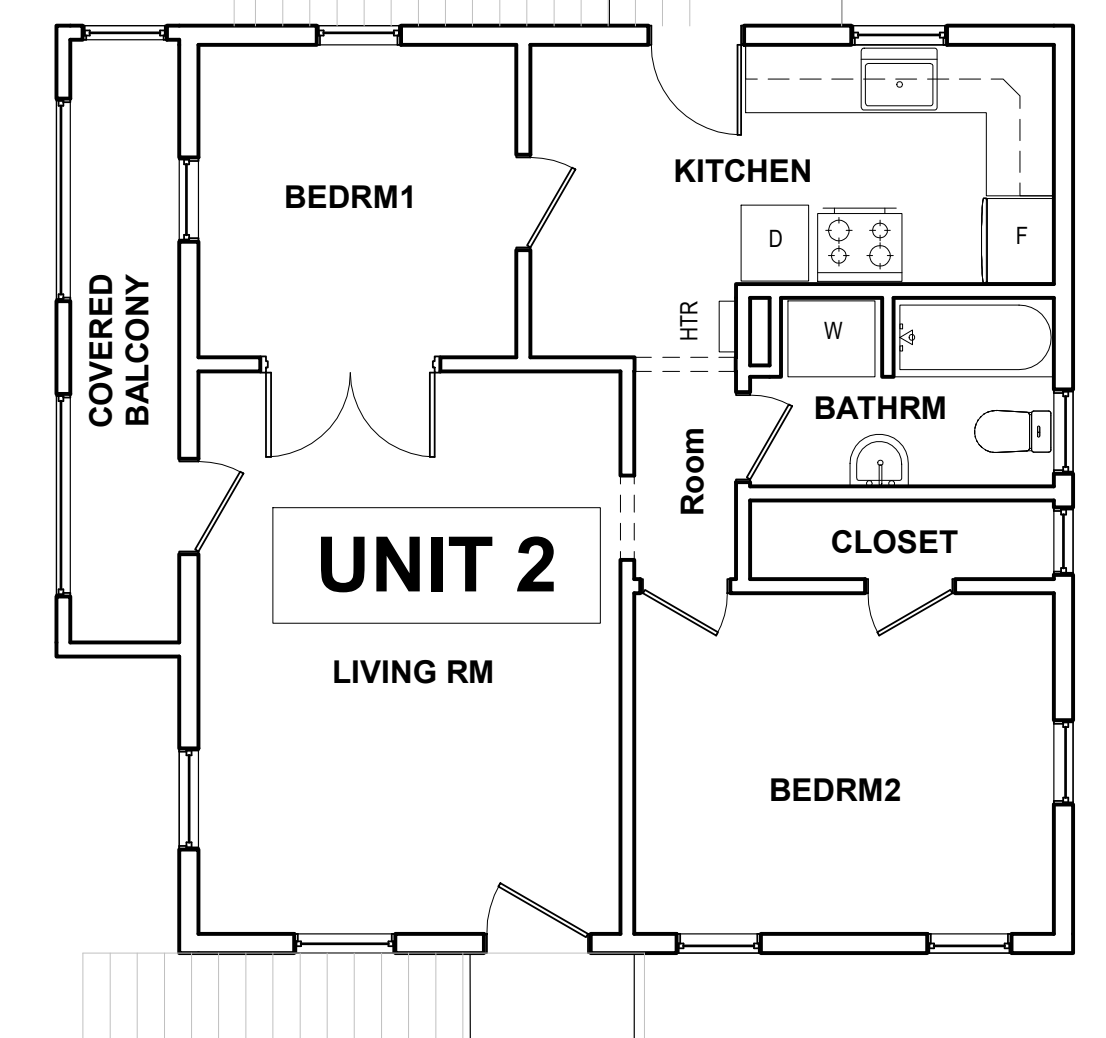
LOT AREA:	EXISTING BUILDING FOOTPRINTS	EXISTING LOT COVERAGE: 56.6%	EXISTING USABLE OPEN SPACE
LOT DEPTH: 127.41' s.f.	TOTAL BUILDING 1 FOOTPRINT: 1621.66 s.f.	(FOOTPRINT / LOT AREA)	TOTAL U.O.S. AREA: 458.92 s.f.
LOT WIDTH: 35.03' s.f. x	TOTAL BUILDING 2 FOOTPRINT: 904.37 s.f. +	TOTAL BUILDING FOOTPRINTS: 2526.03 s.f. /	40% Landscaped U.O.S.: 183.57 s.f.
LOT AREA: 4463.17 s.f.	TOTAL BUILDING FOOTPRINTS: 2526.03 s.f.	LOT AREA: 4463.17 s.f.	Shading Legend:
	Building Footprint Shading Legend:	LOT COVERAGE: 0.566 (56.6%)	Total usable open space: [Hatched Box]
			40% Landscaped U.O.S.: [Green Box]



3 BUILDING 1 (SINGLE STORY DUPLEX) - UNITS 1 & 4 EXISTING FLOOR PLAN
3/16" = 1'-0"



2 BUILDING 2 (TWO STORIES) - UNIT 3 (Ground Floor) EXISTING FLOOR PLAN
3/16" = 1'-0"



4 BUILDING 2 (TWO STORIES) - UNIT 2 (Second Floor) EXISTING FLOOR PLAN
3/16" = 1'-0"

EXISTING GROSS FLOOR AREA SCHEDULE PER OFFICIAL SITE SURVEY		PROPOSED GROSS FLOOR AREA SCHEDULE	
BUILDING 1	BUILDING 2	BUILDING 1	BUILDING 2
UNIT 1: 935.97 s.f.	UNIT 2: 786.12 s.f.	UNIT 1: 935.97 s.f.	UNIT 2: 786.12 s.f.
UNIT 4: 631.68 s.f. +	UNIT 3: 359.82 s.f. +	UNIT 4: 631.68 s.f. +	UNIT 3: 719.82 s.f. +
TOTAL GFA: 1567.65 s.f.	TOTAL GFA: 1145.94 s.f.	TOTAL GFA: 1567.65 s.f.	Subtotal GFA: 1505.94 s.f.
	Where Unit 3 18'x20' (E) garage area = 360 s.f.	(NO CHANGE)	Storage @ Unit 3: 88.00 s.f.
			TOTAL GFA: 1417.94 s.f.

ARCHITECTURAL DESIGNER:

Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING

VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

03/22/2021
DESIGNER: TERESA CAMBARE

CONSULTANT

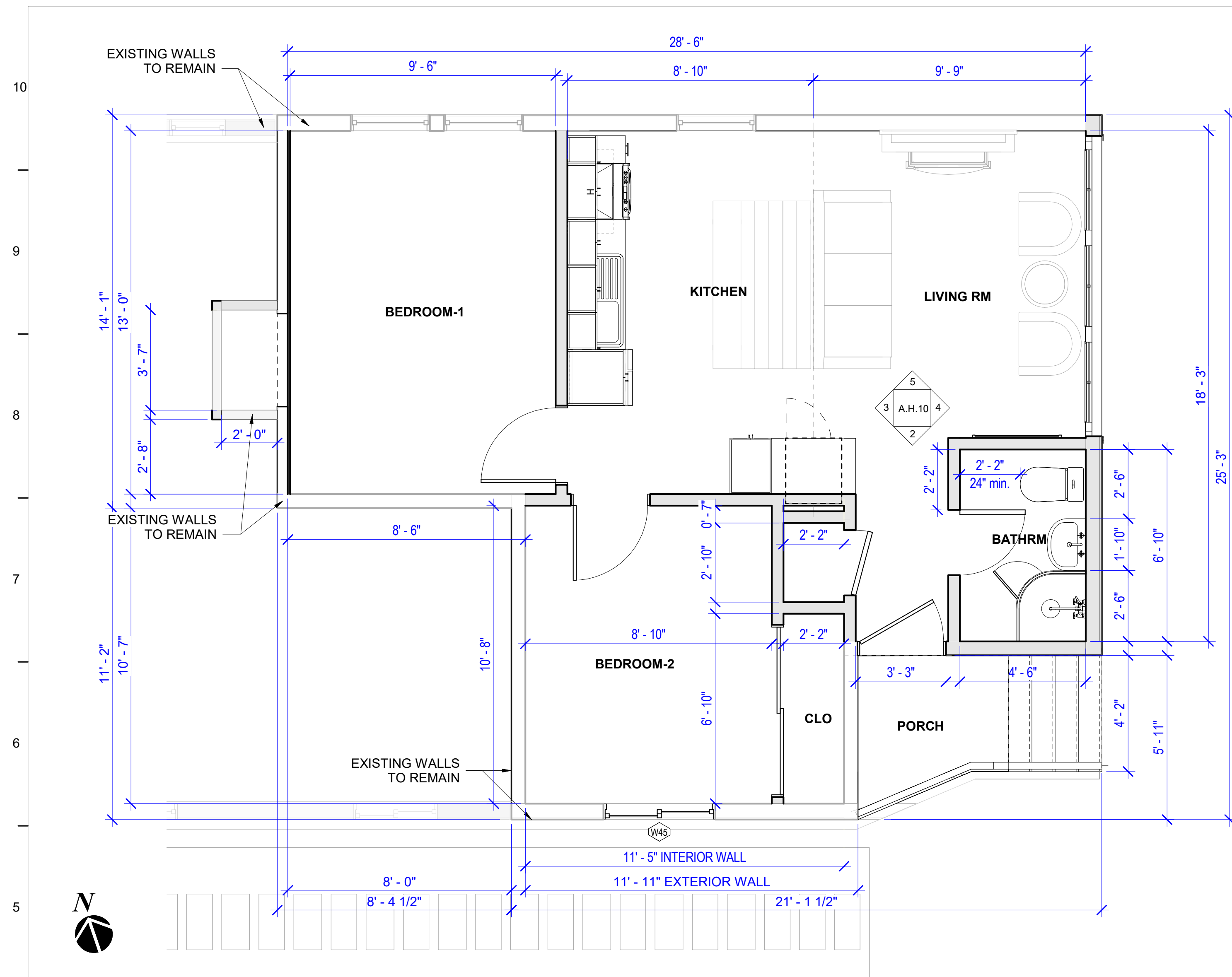
**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

Cathy Nason
(Owner)

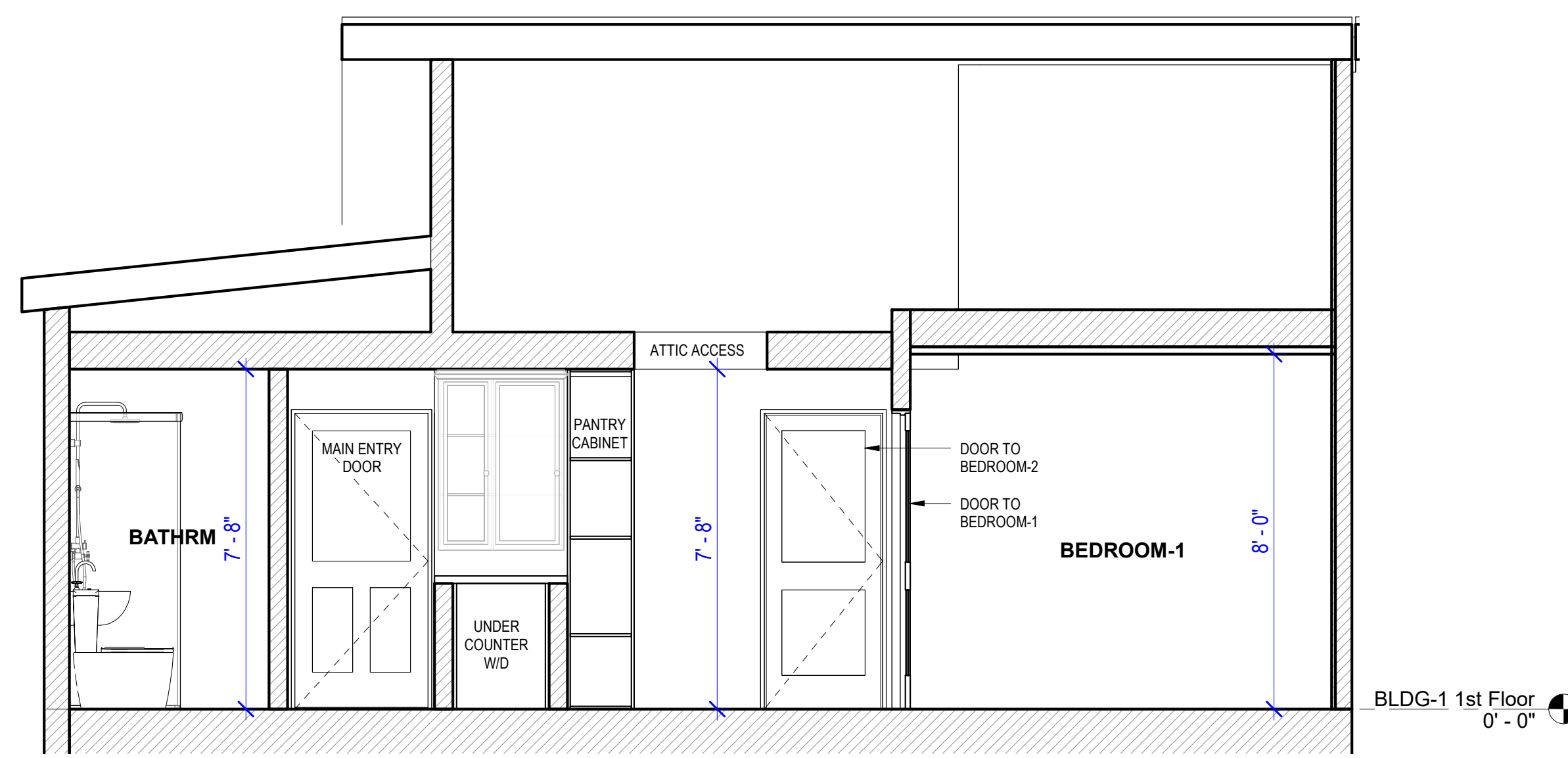
1205 Peralta Ave,
Berkeley CA 94706

**DIAGRAMS AND EXISTING
FLOOR PLANS**

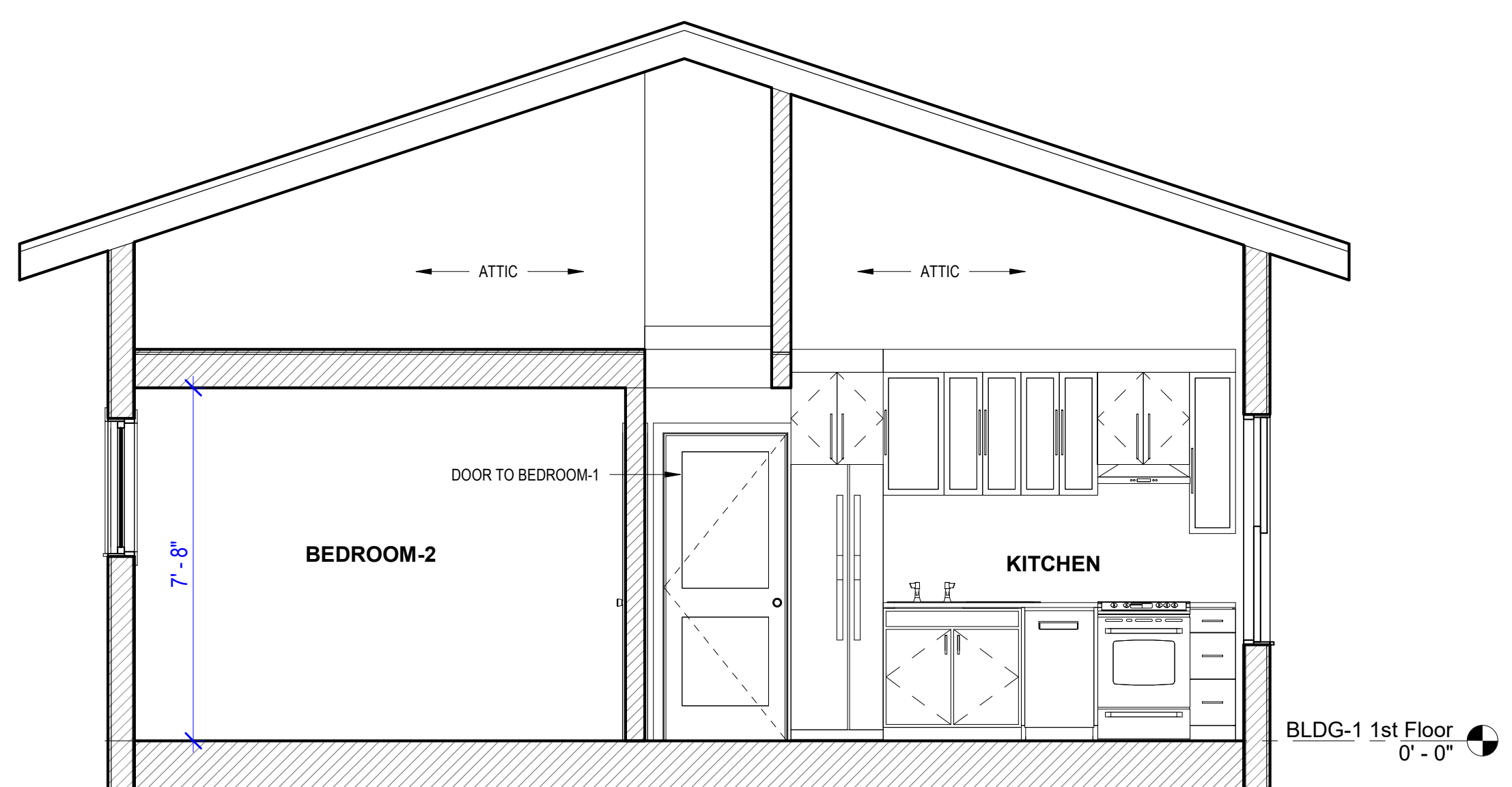
REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	TC	
A.H.01		
SCALE	As indicated	



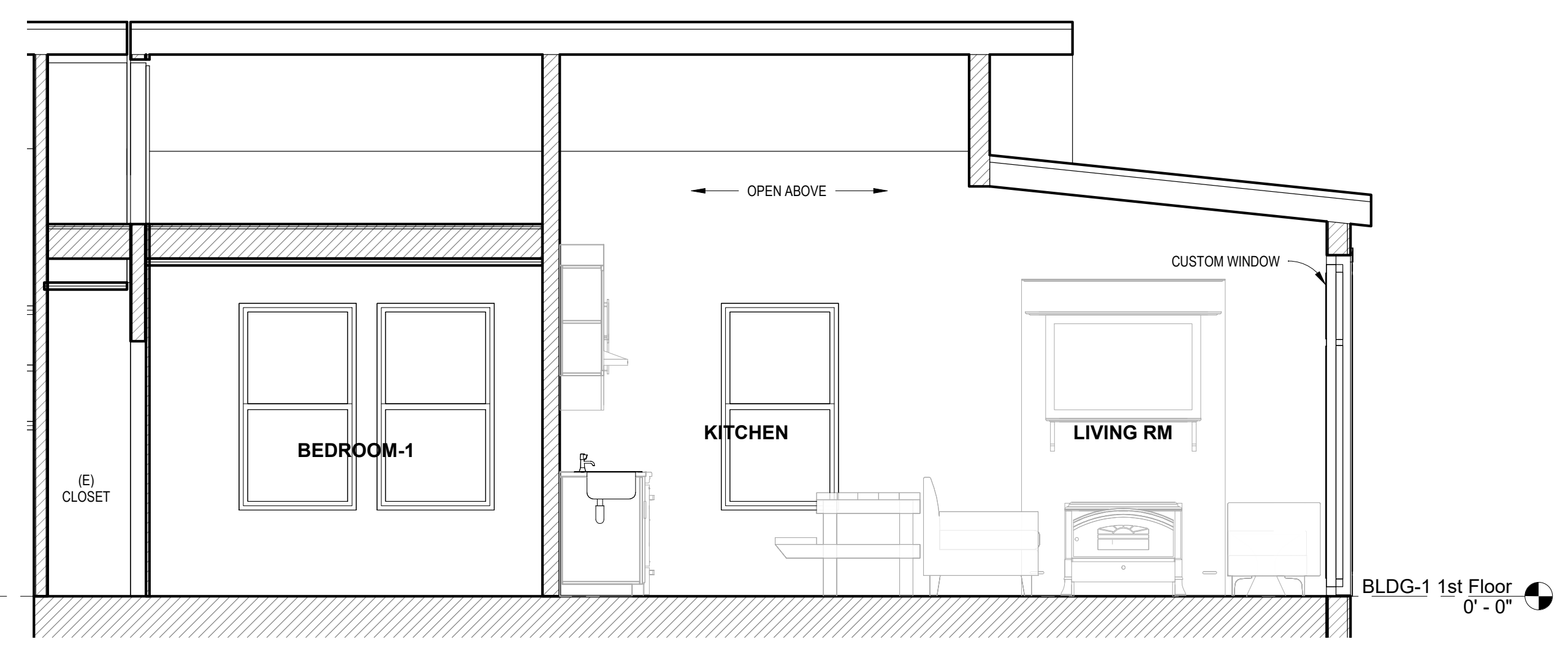
1 1st Floor
3/8" = 1'-0"



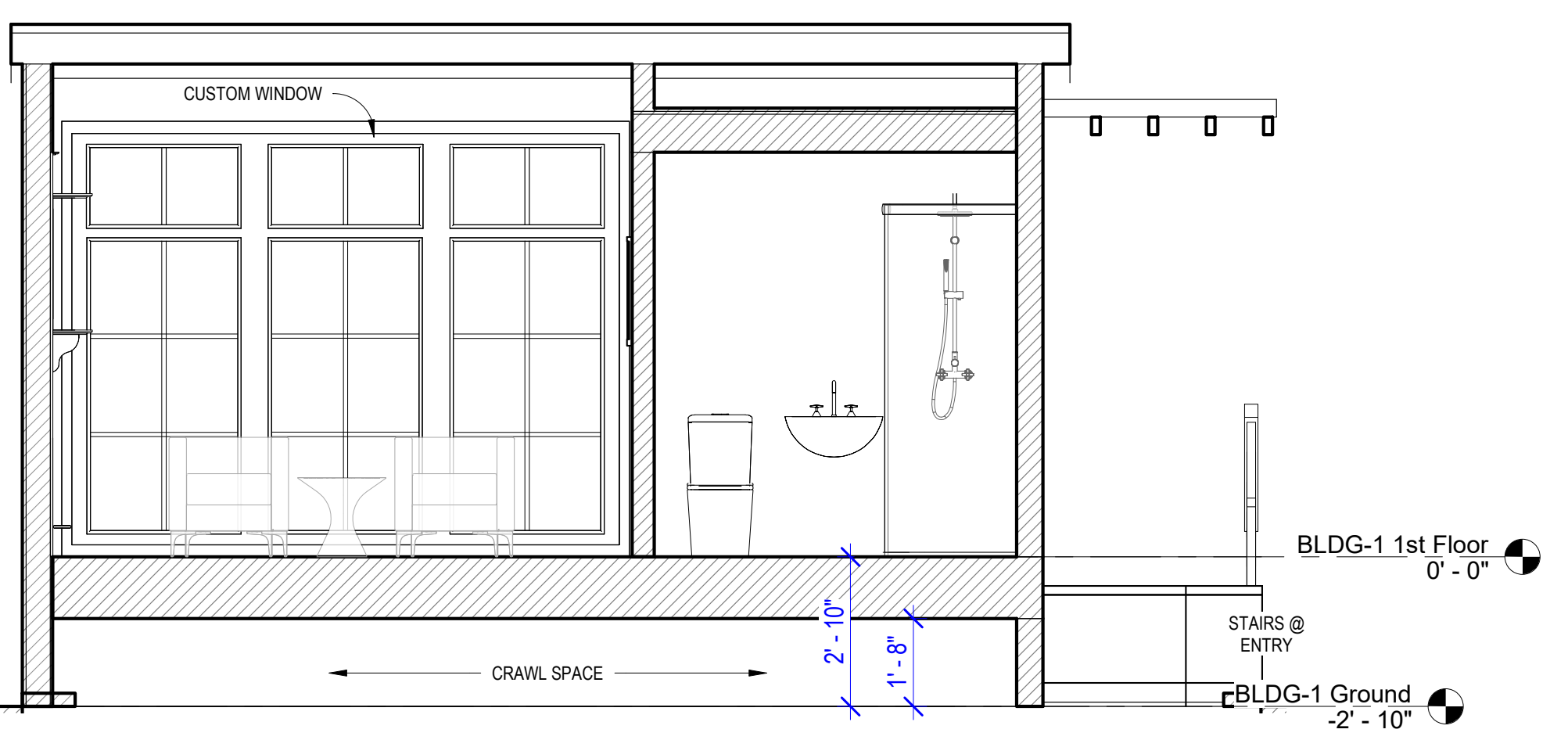
2 BUILDING 1 UNIT 4 SECTION - A
3/8" = 1'-0"



3 BUILDING 1 UNIT 4 SECTION - B
3/8" = 1'-0"



5 BUILDING 1 UNIT 4 SECTION - D
3/8" = 1'-0"



4 BUILDING 1 UNIT 4 SECTION - C
3/8" = 1'-0"

ARCHITECTURAL DESIGNER:



Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING
VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

CONSULTANT

**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

**Cathy Nason
(Owner)**

1205 Peralta Ave,
Berkeley CA 94706

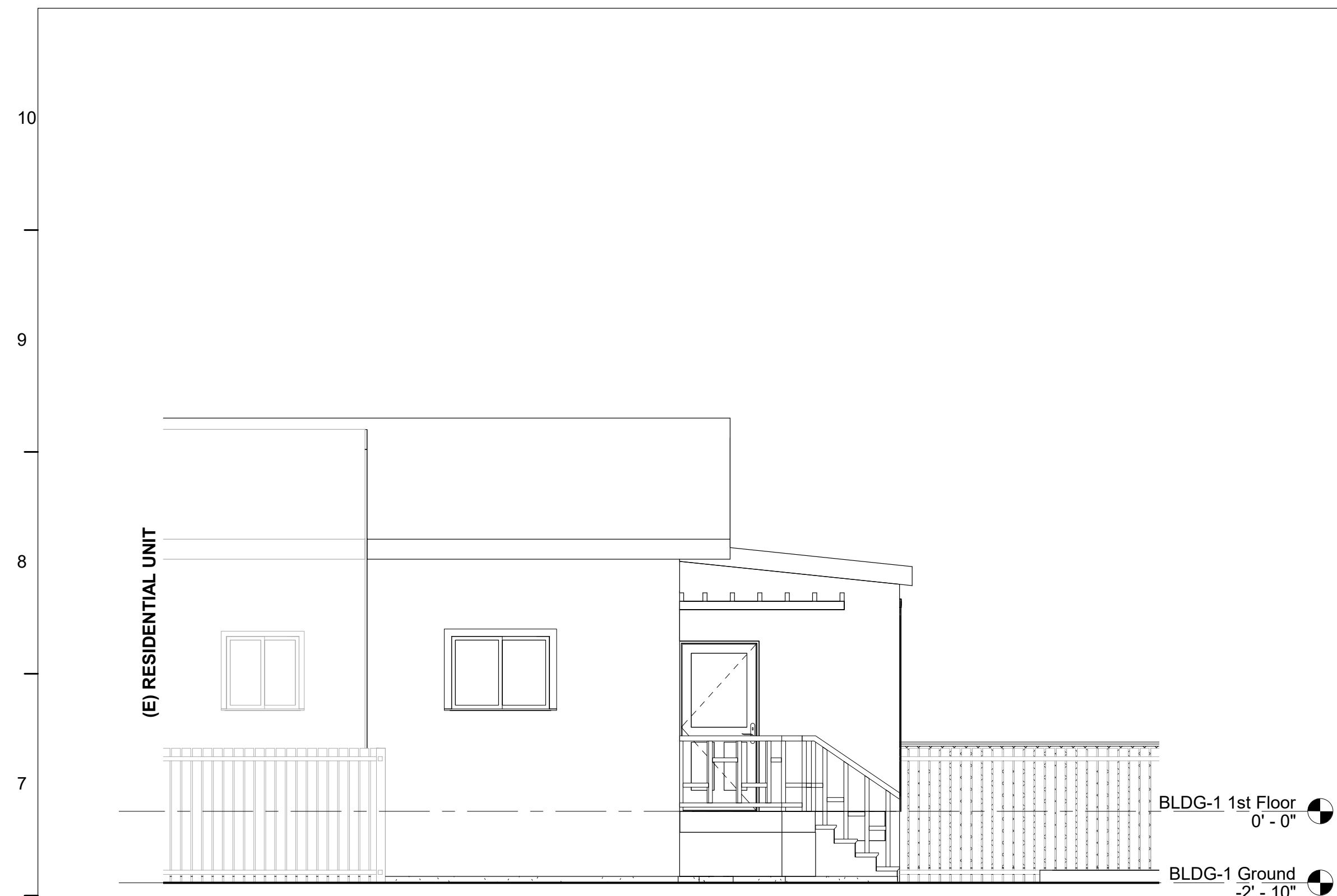
**PROPOSED FLOOR PLANS
& BUILDING SECTIONS**

REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	TC	

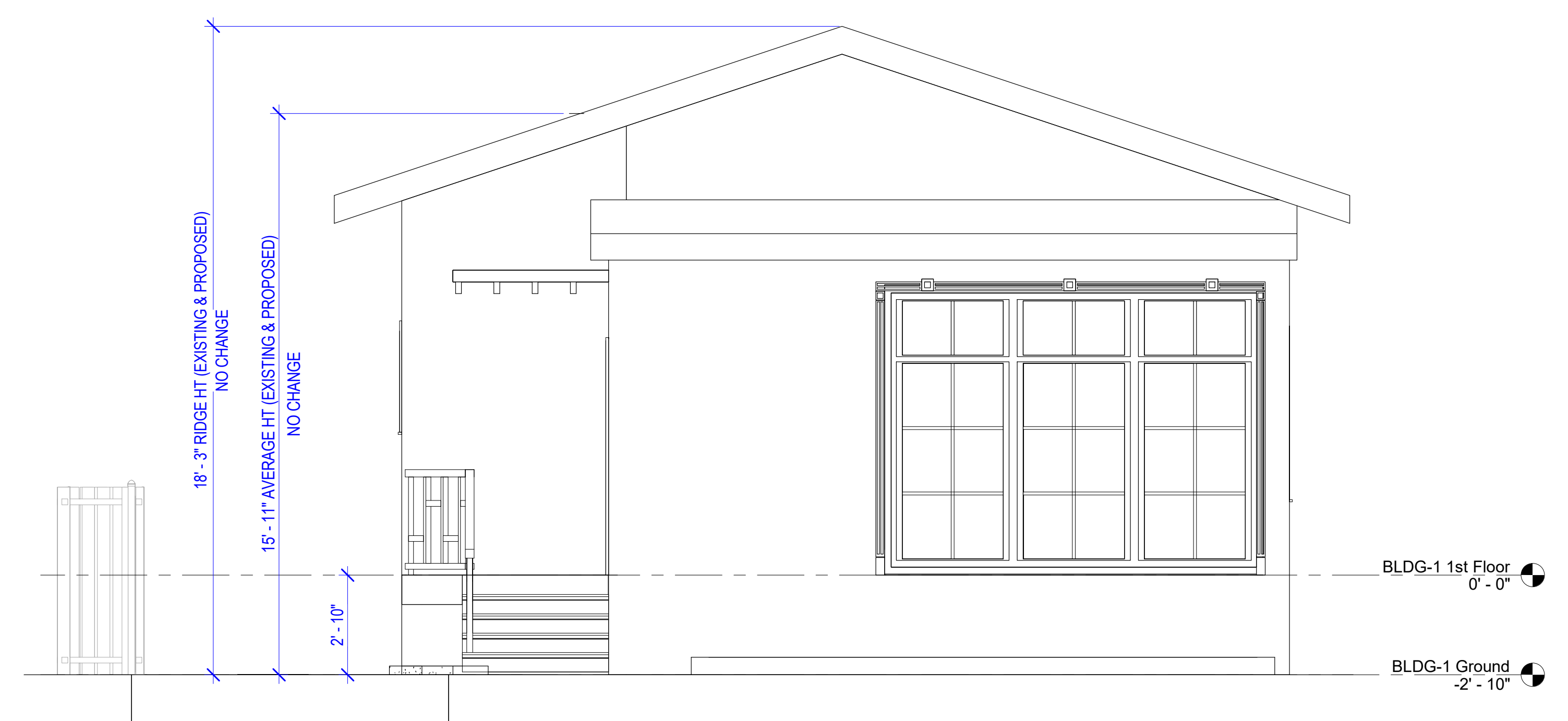
A.H.10

SCALE 3/8" = 1'-0"

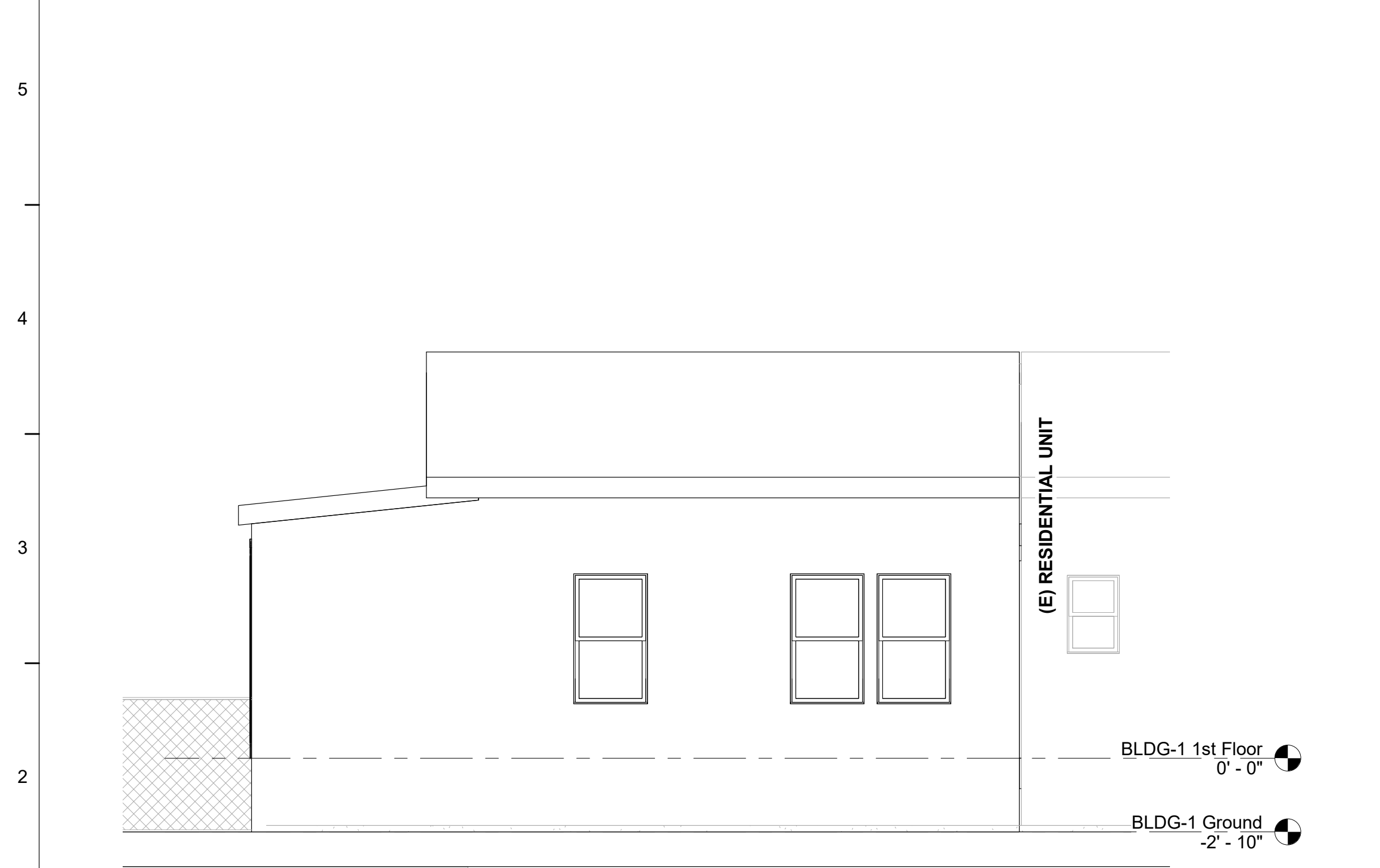
3/22/2021 11:16:37 AM



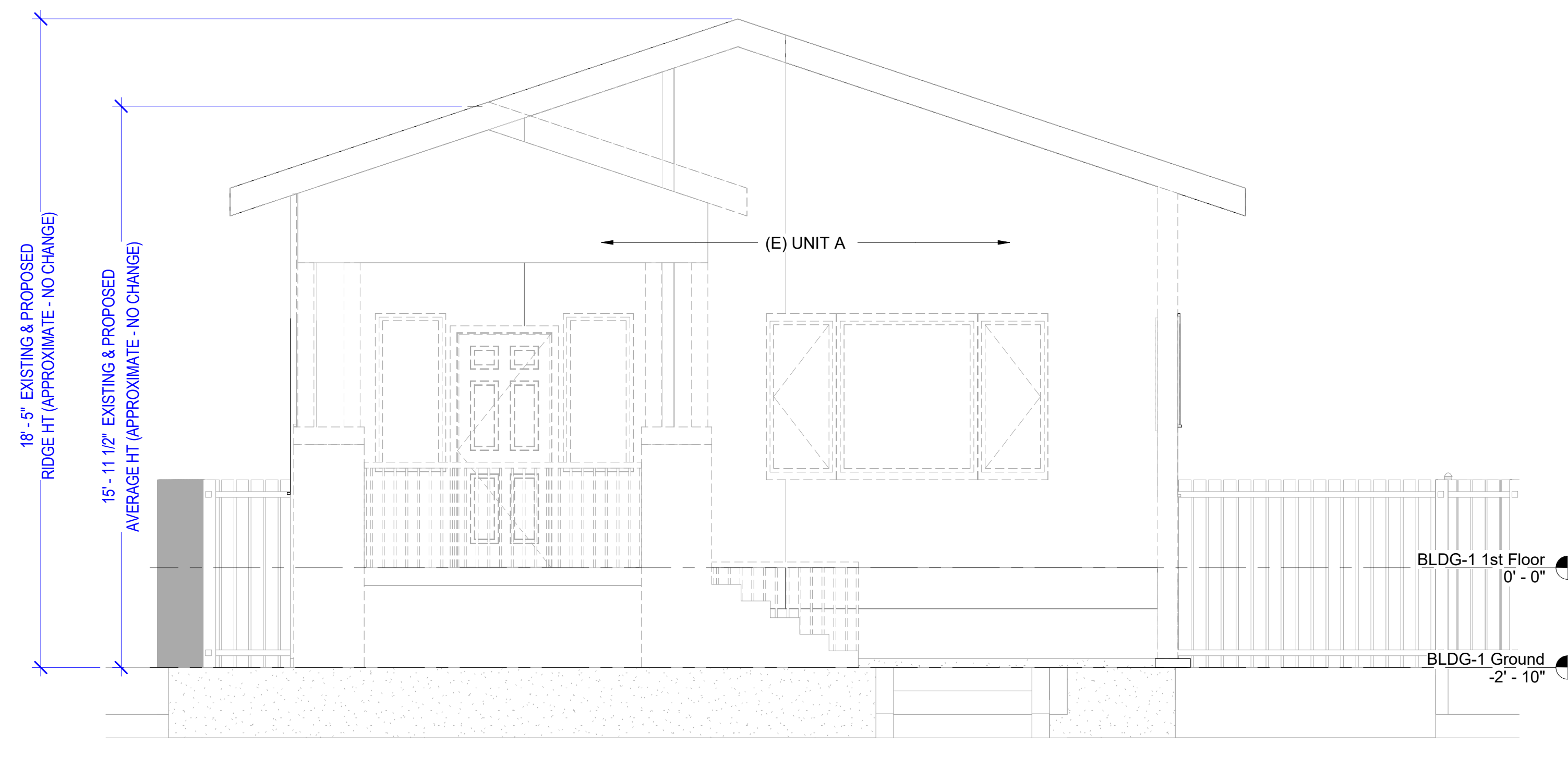
④ Exterior Elevation - South (Right Side)
1/4" = 1'-0"



① Exterior Elevation - East (Rear)
3/8" = 1'-0"



③ Exterior Elevation - North (Left Side)
1/4" = 1'-0"



② Exterior Elevation - West (Front)
3/8" = 1'-0"

ARCHITECTURAL DESIGNER:



Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING
VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

CONSULTANT

**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

**Cathy Nason
(Owner)**

1205 Peralta Ave,
Berkeley CA 94706

**PROPOSED EXTERIOR
ELEVATIONS**

REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	Author	

A.H.11

SCALE As indicated

3/22/2021 11:16:38 AM



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
APRIL 8, 2021

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. x 20 ft. garage to habitable space and Use Permit to legalize the addition of bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

I. Background

A. Land Use Designations:

- General Plan: LMDR – Low Medium Density Residential
- Zoning: R-1A – Limited Two-Family Residential District

B. Zoning Permits Required:

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

C. CEQA Determination: It is staff's recommendation to ZAB that this 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 ("Existing Facilities"). The determination is made by ZAB.

D. Parties Involved:

- Applicant & Owner: Teresa Cambare & Cathy Nason, P.O. Box 142, Inverness, CA 94937

Figure 1: Zoning Map

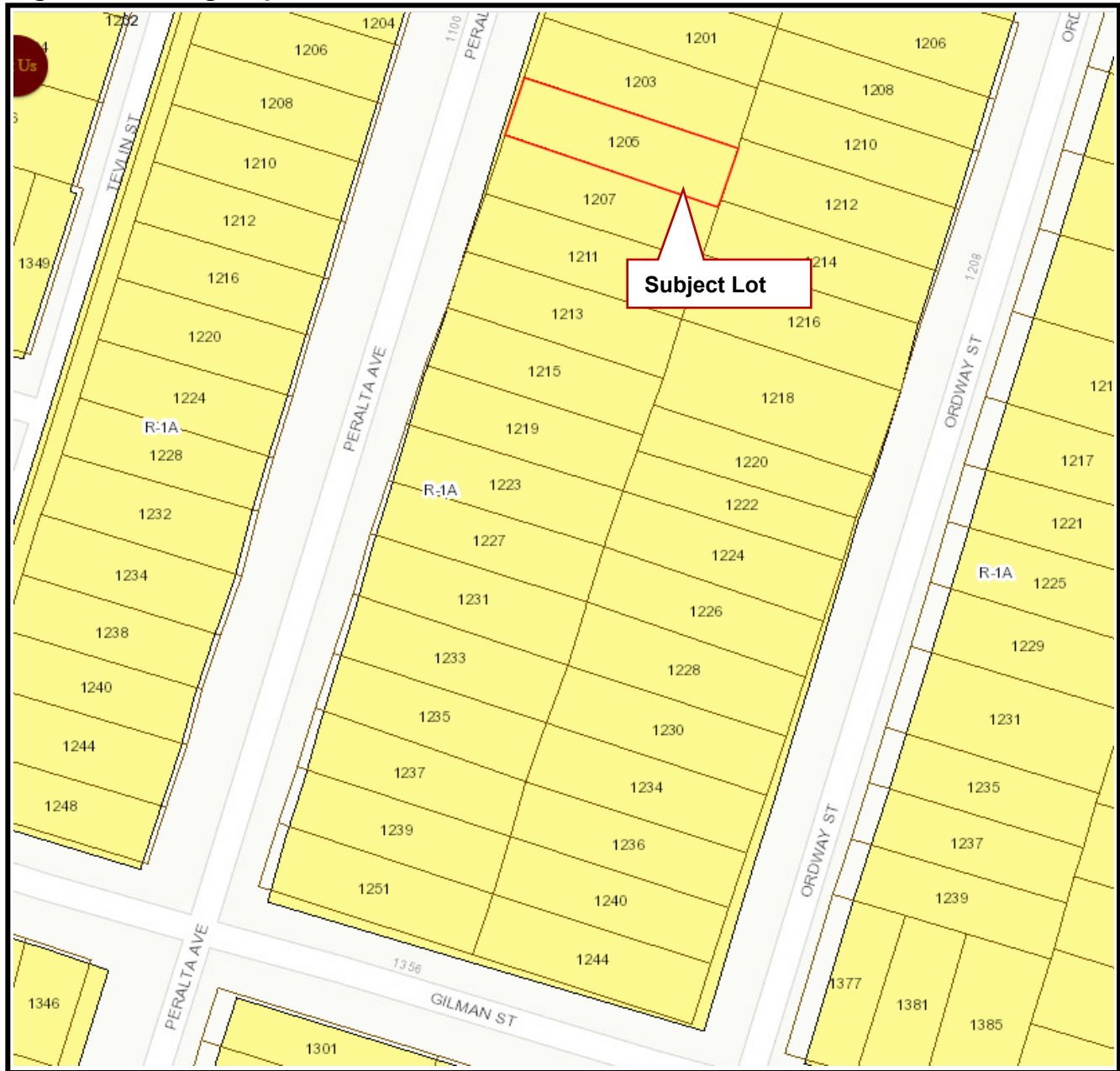
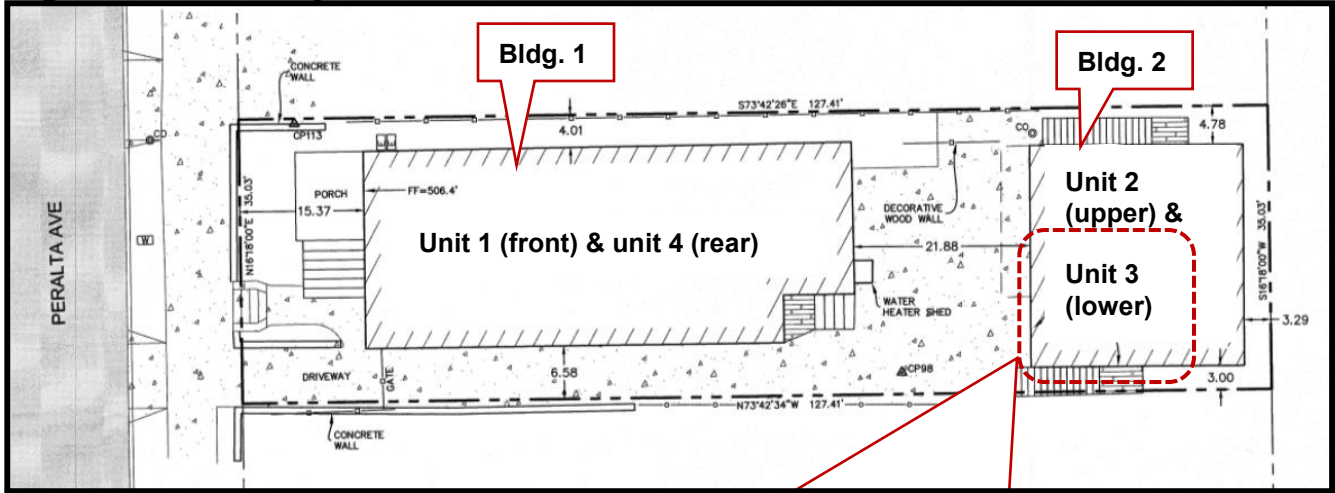


Figure 2: Site Survey



Area of existing 18 'X 20' garage converted to living space for Unit 3 and storage



Figure 3: Converted garage and Unit 3 enlarged plan

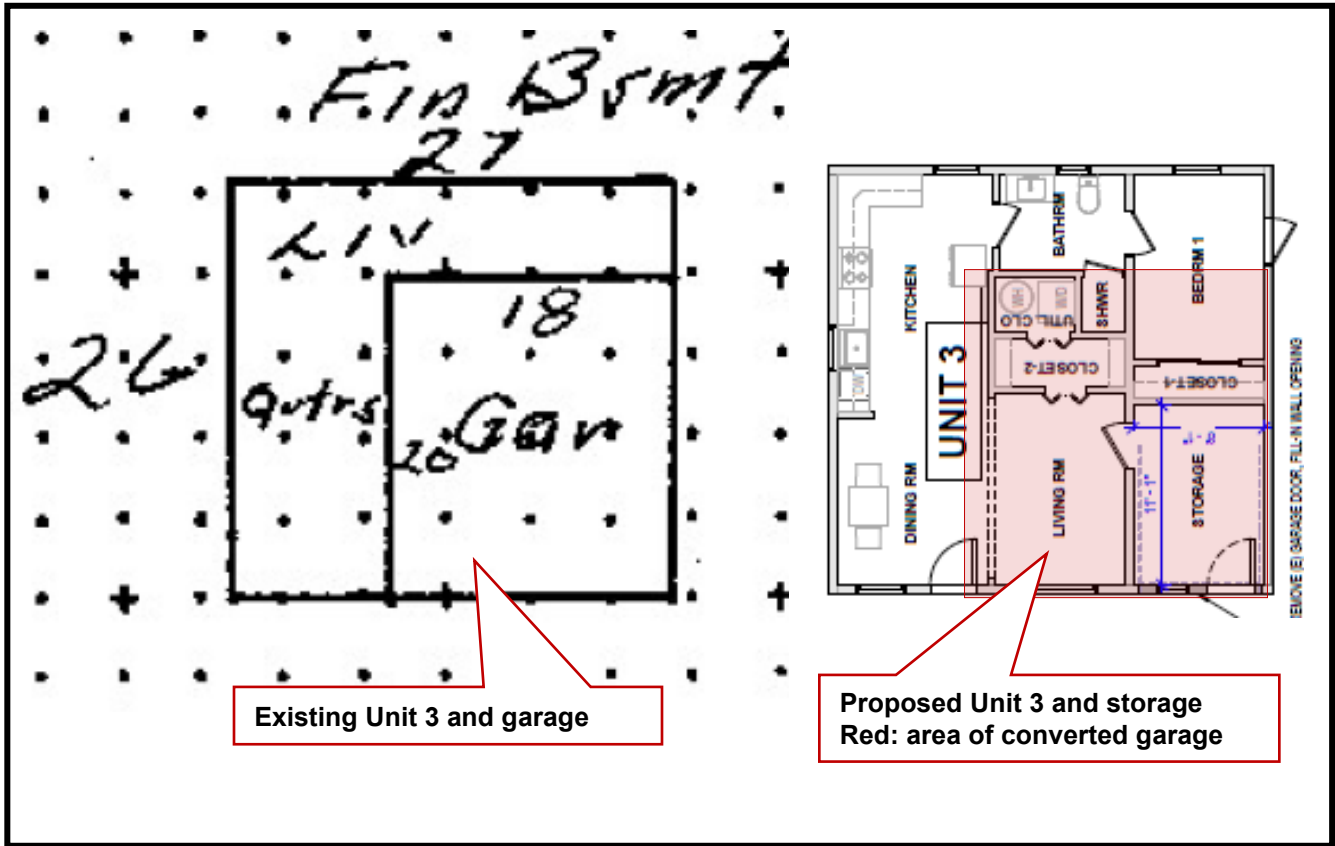


Table 1: Land Use Information

Location		Existing Building	Zoning District	General Plan Designation
Subject Property		A one-story building containing 2 dwellings in the front and a two-story building containing 2 dwellings in the rear (Total of 4 dwellings)	Limited Two-Family Residential District (R-1A)	Low Medium Density Residential (LMDR)
Surrounding Properties	North	One-story building with 1 dwelling unit (1203 Peralta Avenue)	Limited Two-Family Residential District (R-1A)	
	South	One-story building with 1 dwelling unit (1207 Peralta Avenue)	Limited Two-Family Residential District (R-1A)	
	East	Two-story building with 1 dwelling unit (1214 Ordway Street)	Limited Two-Family Residential District (R-1A)	
	West	1204 Peralta Avenue (two-story), 1206 Peralta Avenue (one-story) & 1208 Peralta Avenue (two-story) buildings each with 1 dwelling unit	Limited Two-Family Residential District (R-1A)	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	These fees apply to projects with more than 7,500 square feet of new non-residential gross floor area. This project is not subject to these resolutions because no new non-residential space is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Creeks	No	No open creek or culvert exists within 40 ft. of the site.
Housing Accountability Act (Gov't Code Section 65589.5)	Yes	The proposed project is a "Housing Development Project" ¹ as defined by Government Code because it does not propose to add dwelling units as it is a use consisting of residential units, however, the project requests Variance approval to eliminate required parking, so Section j of the HAA is not applicable. See Section V.A below.
Housing Crisis Act of 2019 (SB330)	No	This project meets the definition of "housing development project" as defined in 65589.5 and is subject to sections of Senate Bill 330. See section V.B.
Oak Trees	No	There are no oak trees on the site.
Rent Controlled Units	Yes	The four existing dwellings are subject to the City's Rent Stabilization and Eviction for Good Cause Program (BMC Chapter 13.76).

¹ Per Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) Residential units only; (B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses with at least two-thirds of the square footage designated for residential use; and (C) Transitional housing or supportive housing.

Characteristic	Applies to Project?	Explanation
Residential Preferred Parking (RPP)	No	The site is not within a Residential Preferred Parking Area.
Seismic Hazards Mapping Act (Liquefaction, Fault-rupture, Landslide)	No	The site is not located within an area susceptible to liquefaction, Fault-rupture or Landslide as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The site is not located on a hazardous waste site pursuant to Government Code Section 65962.5
Transit	Yes	There is a bus stop along Gilman and Ordway streets within 0.2 mile of project that provides access to an AC Transit bus route (12).

Table 3: Project Chronology

Date	Action
July 24, 2020	Application submitted
March 22, 2021	Application deemed complete
March 25, 2021	Public hearing notices mailed/posted
April 8, 2021	ZAB hearing

Table 4: Development Standards

Standards per BMC Sections 23D.28.070		Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)		4,463	No Change	5,000 min.
Gross Floor Area (sq. ft.)	Front Building	1,567	No Change	N/A
	Rear Building	1,145	1,505	
Bedrooms	Front Building	3	3	4 max. (without AUP or UPPH)
	Rear Building	2	5	
Dwelling Units	Total	4	No Change	1 max
Building Height	Average	16 ft. (bldg. 1) 20 ft. (bldg. 2)	No Change	28 ft. max.
	Stories	1 (bldg. 1) 2 (bldg. 2)	No Change	3 max.
Building Setbacks	Front	15 ft. 3 in.	No Change	20 ft. min.
	Rear	3 ft. 3 in.	No Change	20 ft. min
	Left Side (south)	4 ft.	No Change	4 ft. min.
	Right Side (north)	3 ft.	No Change	4 ft. min.
Lot Coverage (%)		56.6	No Change	40 max.
Usable Open Space (sq. ft.)		458 sq. ft.	No Change	1,600 min. (400 sq. ft. per dwelling unit)
Parking Automobile		2 (permitted)	0	4 min. (1 per dwelling unit)

II. Project Setting

- A. Neighborhood/Area Description:** The subject site is located in a residential neighborhood that primarily consists of one and two-story residential properties which range considerably in density to include single-family dwellings and duplexes with other conforming and non-conforming setbacks. While the majority of the surrounding uses are residential, a commercial strip on Gilman Street is within walking distance.
- B. Site Conditions:** The approximately 127 ft. x 35 ft. subject lot is elevated by about 2 ft. above the street level. It includes a one-story building in the front and a two-story building in the rear of the lot. The front building was originally built as a single family dwelling and was later converted to two units. The rear two-story building was originally built as a dwelling on the second floor and a “basement apartment” attached to a two-car garage on the ground floor. The area between the front and the rear building is completely paved. There is an approximately 6.5 ft. wide driveway leading to now an 8’ x 11’ space remainder of the original 18’ X 20’ two-spaced garage. The existing boundary fence and the set of stairs leading up to upper story unit of the rear building on the south side of the lot is located outside the property line and on the neighboring property at 1207 Peralta Avenue. The property does not comply with the R-1A District requirements for density, lot coverage, usable open space, setbacks and off-street parking space.
- C. Background:** The front building was originally constructed in 1917 as a one-story single family dwelling later converted to two units and the rear two-story building including two units were added in 1940 for a total of four units on this lot. City records indicate that the front building (two units) originally included a total of three permitted bedrooms (one bedroom for the front unit and two bedrooms for the rear unit) and the rear building (two units) originally included two permitted bedrooms (one for each unit) for a total of five permitted bedrooms on the lot. Over the years unpermitted bedrooms were added to this lot increasing the number of bedroom to eight. Currently, there are two unpermitted bedrooms in the upper unit of the rear building (6th and 7th bedrooms) and the unpermitted conversion of garage to living space for Unit 3 has created an additional room that is considered the 8th bedroom on this lot. Bedroom means any Habitable Space in a Dwelling Unit or habitable Accessory Structure other than a kitchen or living room that is intended for or capable of being used for sleeping with a door that closes the room off from other common space such as living and kitchen areas that is at least 70 square feet in area, exclusive of closets and other appurtenant space, and meets Building Code standards for egress, light and ventilation. A room identified as a den, library, study, loft, dining room, or other extra room that satisfies this definition will be considered a bedroom for the purposes of applying this requirement (BMC13.42.020B).

An application was submitted on July 24, 2020 for addition of a second story (rear unit in the front building) and addition of a fourth bedroom to Unit 4. Staff advised the applicant that the proposed additions on a lot that is over density; is over lot coverage; is non-conforming for parking and usable open space; and is not supported by the neighborhood, will not be recommended for approval by staff. Staff suggested that

the applicant limit proposed work to interior improvements of Unit 4 without any changes to building's existing footprint and envelope. Furthermore, staff advised that the applicant restore the garage to its original size and remove the unpermitted bedrooms on this lot or legalize the unpermitted elimination of parking by a Variance and legalize the addition of bedrooms by a Use Permit. City's Code Enforcement Unit confirmed the illegal conversion of the garage and identified unpermitted addition of bedrooms on this lot. A Notice of Violation was issued to the applicants on February 11, 2021.

III. Project Description

The project requests a Variance to eliminate the two existing required off-street parking spaces thereby legalizing the conversion of a two-car garage into 360 sq. ft. of additional living space. Additionally, the project proposes to increase the legally permitted number of bedrooms on the parcel from five (5) to eight (8) resulting in two additional bedrooms in the upper unit (Unit 2) and an additional bedroom in the ground floor of the rear building.²

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application on July 24, 2020 to the City, a pre-application poster was erected by the applicant. On July 28, 2020, the City mailed Neighborhood Notification Postcards to abutting and confronting neighbor properties and posted a Neighborhood Poster within the neighborhood in three locations. On March 25, 2021, the City mailed 132 public hearing notices to property owners and occupants, and to interested neighborhood organizations. The City also posted notices within the neighborhood in three locations. At the time of this writing, staff has received 31 communications expressing concerns regarding the history of illegal development on this property, unpermitted construction within Unit 3, number of unpermitted bedrooms, density, parking, lot coverage, and usable open space on this lot. See Attachment 6 for all correspondence.

B. Committee Review: This project is not subject to advisory committee review.

V. Issues and Analysis

A. Housing Accountability Act Analysis: The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

² What is labeled as a "storage" on the ground floor of the rear building, meets the City of Berkeley definition of a bedroom (BMC13.42.020B). The applicants currently have an online advertising for this room as an upcoming bedroom for unit 3. Staff has therefore considered the space as habitable.

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The project is requesting a Variance to eliminate the two existing parking spaces so Paragraph j of the HAA does not apply.

B. SB 330 – Housing Crisis Act of 2019: The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65913.10(a) requires that the City determine whether the proposed development project site is an historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is an historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

The project site is not designated as a Landmark or Structure of Merit by the City and has not previously been surveyed individually for historical significance under local, state, or federal historic significance criteria. However, the property is of common design with other small scale single and multi-family residential development in the neighborhood; the neighborhood has not previously been considered as having historical value. Therefore, this section does not apply to the project. Standard conditions of approval have been included with the permit to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources occurs.

2. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on March 22, 2020. Should ZAB determine the application is categorically exempt from CEQA at the April 8, 2021 public hearing, the application must be approved or disapproved by June 7, 2021.
3. Government Code §66300(d) states that a City “shall not approve a housing development application that will require the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished.” The project does not involve the demolition any dwelling units. Therefore, no replacement units are required.

C. Variance Findings: Pursuant to BMC 23D.12.050, off-street parking spaces may not be reduced below or, if already less than may not be further reduced below, the requirements of this chapter for similar uses or structures. The project is, therefore, requesting Variance approval to eliminate the required parking per BMC Section 23B.44.030.A. The findings required to approve a Variance along with staff analysis follow:

Finding #1: “There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District”.

In support of this Finding the applicant has provided the following evidence (For the sake of brevity, the Variance Statements are not re-stated in their entirety. Please refer to Attachment 3 for the full text):

- *“The existing non-conforming parking of this lot is due to the small size of the lot which is reduced by the addition of the second building at the rear of the property.*
- *The existing non-conforming parking of this lot is due to the modified size of the garage attached to Unit 3.*
- *This condition is pre-existing prior to the change in ownership.*
- *It will eliminate the need to relocate the current tenant of Unit 3 which will cause further loss of income for the landlord and incur additional unnecessary expenses.*
- *Restoring the existing non-compliant garage to its original state (prior to converting a portion of it into a bedroom) could affect the entire building’s integrity and would incur further consulting costs to hire a structural engineer, construction costs, design costs, and other fees for building alteration.*
- *Restoring the garage would mean losing the only bedroom in Unit 3 which will cause a change in the overall use of the entire unit.”*

Although the statements, some subjective, may be true, they do not highlight how they represent exceptional or extraordinary circumstance applying to this property that do not generally apply to other properties in the same zoning district. Due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this district to varying degrees, including the subject site. This property is located in the R-1A Limited Two-Family Residential District. It is a nonconforming lot as it contains four units on a 4,463 sq. ft. lot that allows a maximum of one unit. The lot is also over lot coverage, does not provide the required usable open space and provides two parking spaces where four are required. While the existing garage did not accommodate required parking for all four units, it provided two spaces. The illegal conversion of the existing garage is not relevant to the size of the subject lot or any other non-conforming conditions. Staff does not believe that the illegal conversion of garage qualifies as an exceptional or extraordinary condition for purposes of making this finding. Staff cannot identify any extraordinary conditions on the site that supports this finding to permit non-compliance with the parking standard that applies to all other properties within the district.

Finding #2: “The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property’s owner”.

In support of this Finding the applicant has provided the following evidence:

“We are proposing to reclassify the existing non-conforming garage in Unit 3 into a storage room instead, rather than restoring it to its original state. Granting this request will unquestionably preserve the current use and enjoyment of this unit, as well as the unit above, the surrounding adjacent lots; as well as prevent further financial hardship for the property owner. “

The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. The subject property contains four legal dwelling units that represents a substantial property right in a zoning district that allows a maximum of two units for most lots, and only one on this substandard sized parcel. The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights.

Finding #3: *“The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole”.*

In support of this Finding the applicant has provided the following evidence:

“In addition to the proposed solution mentioned above (re-classifying the garage to storage) the current non-compliant garage in Unit 3, will in fact, also prevent adverse effects to the health and safety of the tenants within this lot and the neighboring properties by preserving the integrity of the building.”

The illegal conversion of the existing garage has eliminated the two available and required off-street parking spaces on the site. Staff has received correspondence from the neighbors stating that the lack of parking spaces on the subject lot puts an additional burden on street parking which is already strained. This finding cannot be made because eliminating the two parking spaces will adversely impact the improvements in said neighborhood as it impacts on-street parking for this over-densified site for the neighborhood and the tenants.

Finding #4: “Any other variance findings required by the Section of the Ordinance applicable to that particular Variance”.

This Finding is not applicable to the Variance requests.

In summary, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).

D. Addition of Bedrooms:

Pursuant to BMC Section 23D.20.050.A, the addition of more than five bedrooms on the parcel requires the approval of a Use Permit. Specifically, the Board must make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 that there would not be a substantial impact to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City. The Board shall deny an application for a Use Permit if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination.”

Historically, staff has considered the number of units on a lot, as well as the amount of common space within a dwelling (living room/dining room/kitchen) relative to the number of bedrooms, as factors when evaluating the addition of bedrooms to a lot or building. Two illegal bedrooms have been added to Unit 2 leaving no common space for this unit and one bedroom is created through illegal conversion of the garage for a total of three additional bedrooms on this lot. Additionally, this property only provides about 458 sq. ft. usable open space with no off-street parking spaces. Staff believes that the addition of sixth, seventh and eighth bedrooms is over intensification of this substandard size lot. Therefore, the addition of three bedrooms could be considered detrimental.

E. Addition to Structure on Parcel with Non-Conforming Lot Coverage and Density:

Pursuant to BMC Section 23C.04.070, an addition and/or enlargements of a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage and density is permitted with a Use Permit if the existing use of the property is conforming, and the addition/enlargement complies with all applicable laws (i.e. development standards) and does not increase lot coverage or residential density, respectively; or exceed the height limit. As previously mentioned, the property is non-conforming for lot coverage—it has a legal lot coverage of 56% where a maximum of 40% is permissible—and residential density because four dwelling units were established on the subject property while only one dwelling units permissible based on the size of the lot. The proposed project would convert 360 sq. ft. of the existing garage to habitable space within the building’s footprint and hence does not increase lot coverage. Additionally, the new square footage would be part of an existing dwelling unit, no new dwelling unit is proposed, therefore, there will be no increase in residential density. Although the findings to enlarge a non-conforming structure can be made in isolation, the enlargement is dependent on the approval of a Variance.

F. General Plan Consistency: The project fails to comply with the following 2002 General Plan policy:

1. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

VI. Recommendation

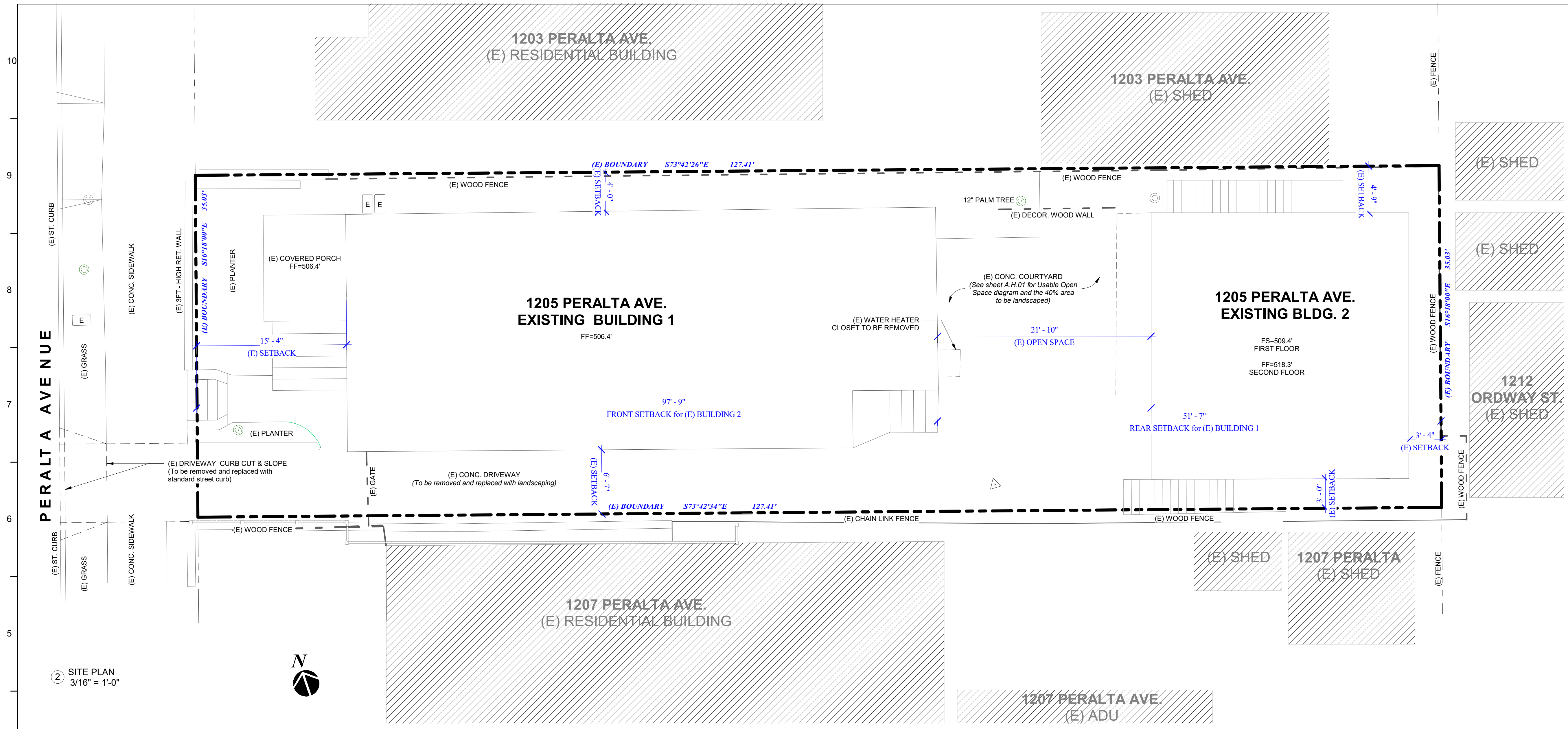
Because of the project's inconsistency with the Zoning Ordinance and General Plan, staff recommends that the Zoning Adjustments Board:

DENY Use Permit/Variance #ZP2020-0060 pursuant to Section 23B.32.040 and subject to the attached Findings (see Attachment 1).

Attachments:

1. Project Plans, received March 22, 2021
2. Findings of Denial
3. Applicant Statement, received March 22, 2021
4. Notice of Public Hearing, dated March 25, 2021
5. Correspondences Received

Staff Planner: Nilu Karimzadegan, nkarimzadegan@cityofberkeley.info, (510) 981-7419



ARCHITECTURAL DESIGNER:



Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING

VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

T. Cambare 03/22/2021
DESIGNER: TERESA CAMBARE

CONSULTANT

**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

**Cathy Nason
(Owner)**

1205 Peralta Ave,
Berkeley CA 94706

SHEET NOTE:

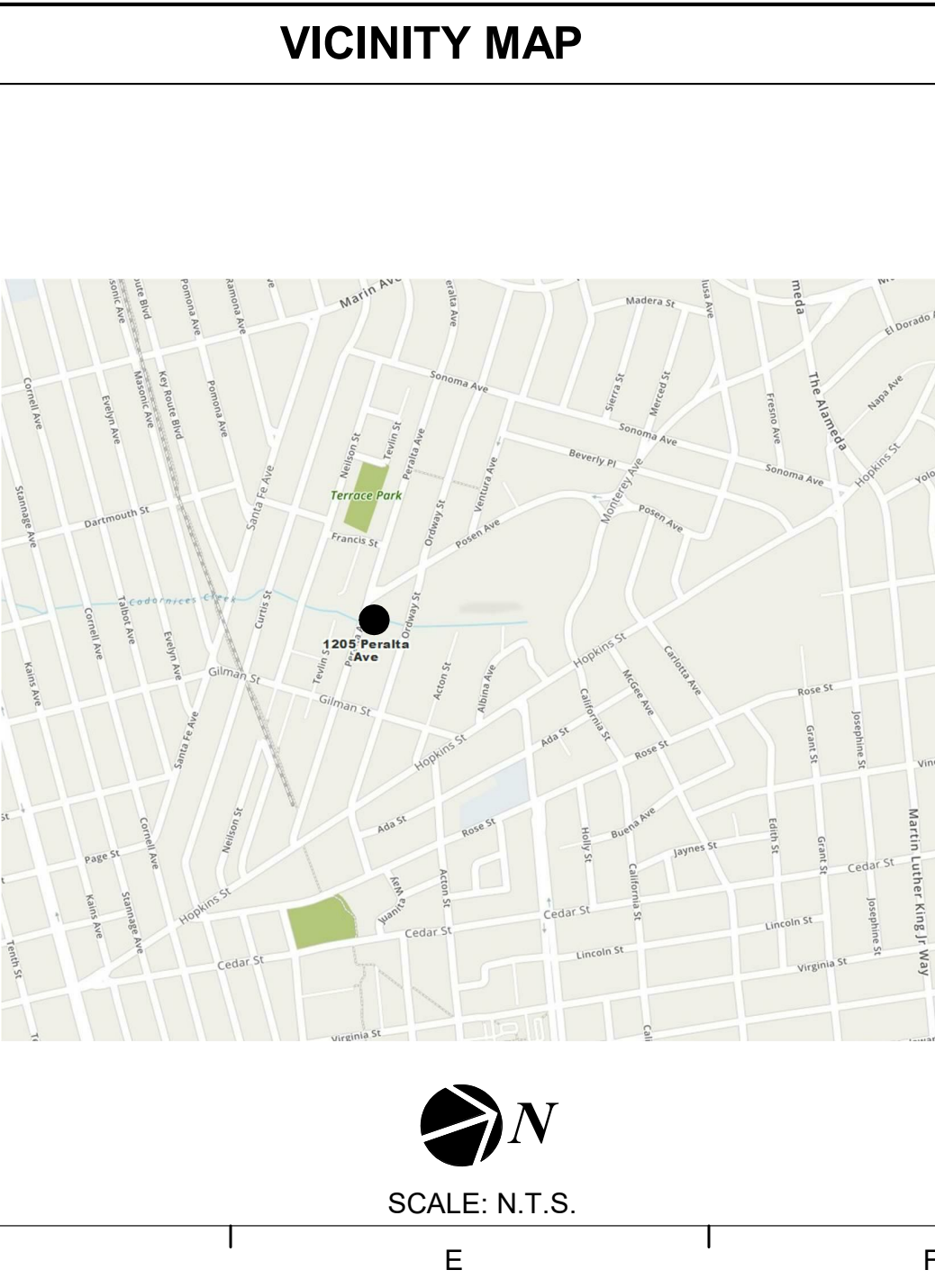
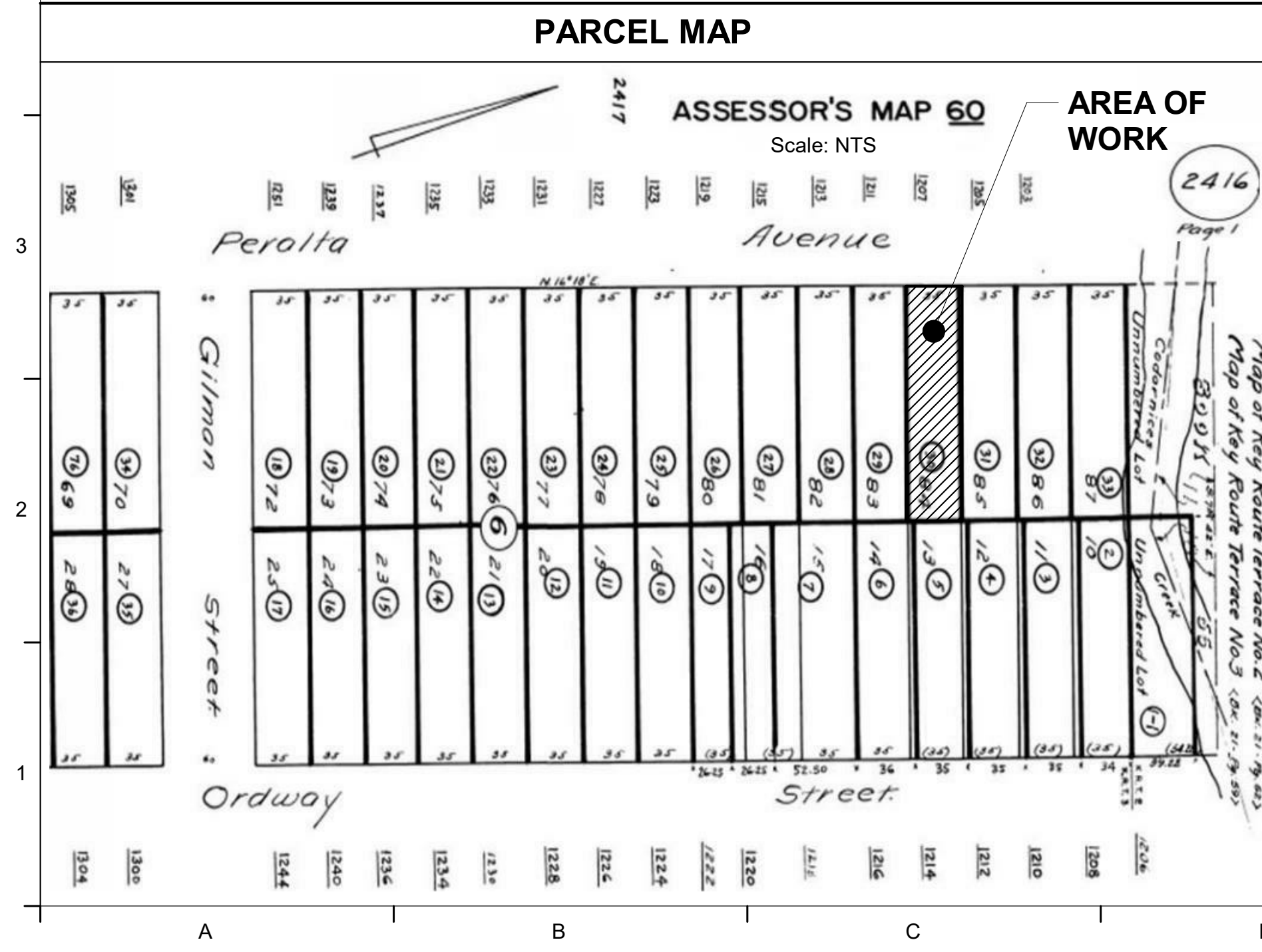
A. LOCATIONS AND SIZES OF THE ADJACENT RESIDENTIAL BUILDING FOOTPRINTS SHOWN IN THIS PLAN ARE APPROXIMATE ONLY. NO SITE MEASUREMENTS NOR AN OFFICIAL SITE SURVEY WERE CONDUCTED NOR MADE AVAILABLE FOR THE PURPOSE OF THIS PROJECT.

B. THE MOST RECENT RECORDED BOUNDARY SURVEY OF THIS LOT PRIOR TO THE RECORD OF SURVEY FILED BY HOGAN LAND SERVICES, WAS AT THE TIME OF THE SUBJECT PARCEL'S CREATION IN SEPTEMBER 1906 VIA MAP OF KEY ROUTE TERRACE NO. 3 FILED IN BOOK 21 OF MAPS PAGE 99 ALAMEDA COUNTY RECORDS.

LOT SETBACK SCHEDULE

EXISTING	REQUIRED	PROPOSED (No Change)
BUILDING 1 FRONT (West): 15'-4" REAR (East): 51'-7" SIDE (North): 4'-0" SIDE (South): 6'-7"	SEE RESIDENTIAL STANDARDS TABLE BELOW	BUILDING 1 FRONT (West): 15'-4" REAR (East): 51'-7" SIDE (North): 4'-0" SIDE (South): 6'-7"
BUILDING 2 FRONT (West): 97'-9" REAR (East): 3'-4" SIDE (North): 4'-9" SIDE (South): 3'-0"		BUILDING 2 FRONT (West): 97'-9" REAR (East): 3'-4" SIDE (North): 4'-9" SIDE (South): 3'-0"

2 SITE PLAN
3/16" = 1'-0"



PROJECT TEAM

OWNER/BUILDER:
CATHY NASON
1205 PERALTA AVE.,
BERKELEY, CA 94706
Phone: (530) 913-1584

ARCHITECTURAL DESIGNER:
TERESA CAMBARE
Cambare Designs
Phone: (408) 204-3413
EMAIL: teresa@cambaredesigns.com

STRUCTURAL ENGINEER:
TBD

CONTRACTOR:
TBD

PARCEL DATA

PROJECT ADDRESS: 1205 PERALTA ST,
BERKELEY CA 94706

OWNER: CATHY NASON
APN: 060-241603100
YEAR BUILT: 1913
CONSTRUCTION TYPE: TYPE V-B
OCCUPANCY: R2
ZONING DISTRICT: R-1A
GEN. PLAN AREA: LMDR

SHEET INDEX

SHEET #	SHEET NAME
A.H.00	SITE PLAN
A.H.01	DIAGRAMS AND EXISTING FLOOR PLANS
A.H.10	PROPOSED FLOOR PLANS & BUILDING SECTIONS
A.H.11	PROPOSED EXTERIOR ELEVATIONS
A.H.12	PROPOSED PERSPECTIVE VIEWS

RESIDENTIAL DEVELOPMENT STANDARDS

Zoning District*	Density (Min. Lot Area Per Unit; sq. ft.)	Height Limit (ft.)**				Min. Setbacks (ft.)**				Max. Lot Coverage**			Min. Open Space** (sq. ft. per unit)		
		Additions		New Main Buildings		Front	Rear	Side	Street Side (Corner Lots)	Between Main Bldgs. on Same Lot	Stories in Main Bldg.	Non-Corner Lots (%)		Corner Lots (%)	
		Average	Max.	Avg.	Max.										
R-1A	1	14 ⁵	--	Front Bldg.: 28' Rear Bldg.: 22'	--	Front Bldg.: 3 Rear Bldg.: 2	20	20 ^{8,9}	4 ¹¹	4 ¹²	1 ¹ story: 8 ¹⁰ 2 ² story: 12 ¹⁰ 3 ³ story: 16 ¹⁰	All	40	45	400

REVISION NO. DESCRIPTION DATE

REVISION NO.	DESCRIPTION	DATE

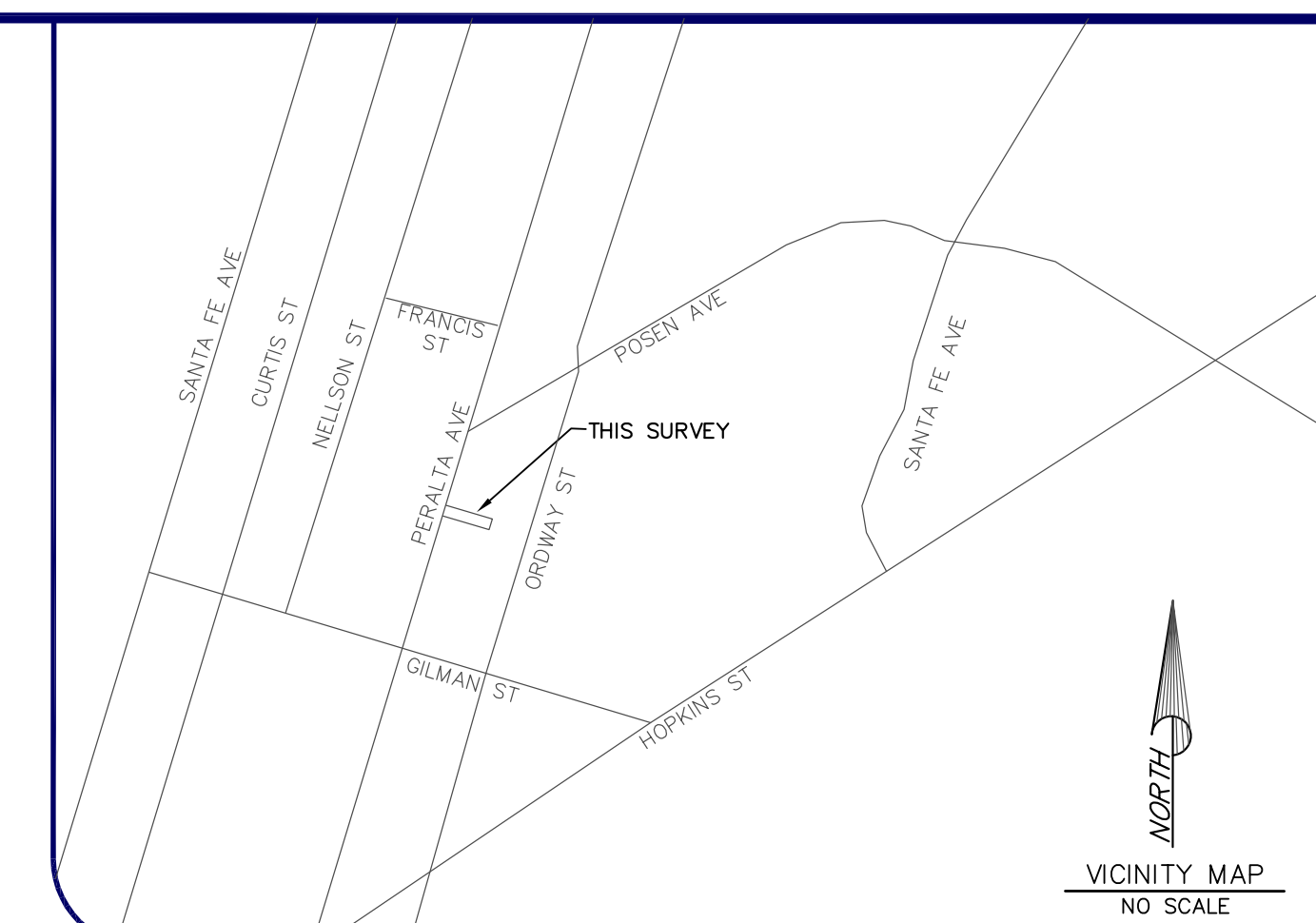
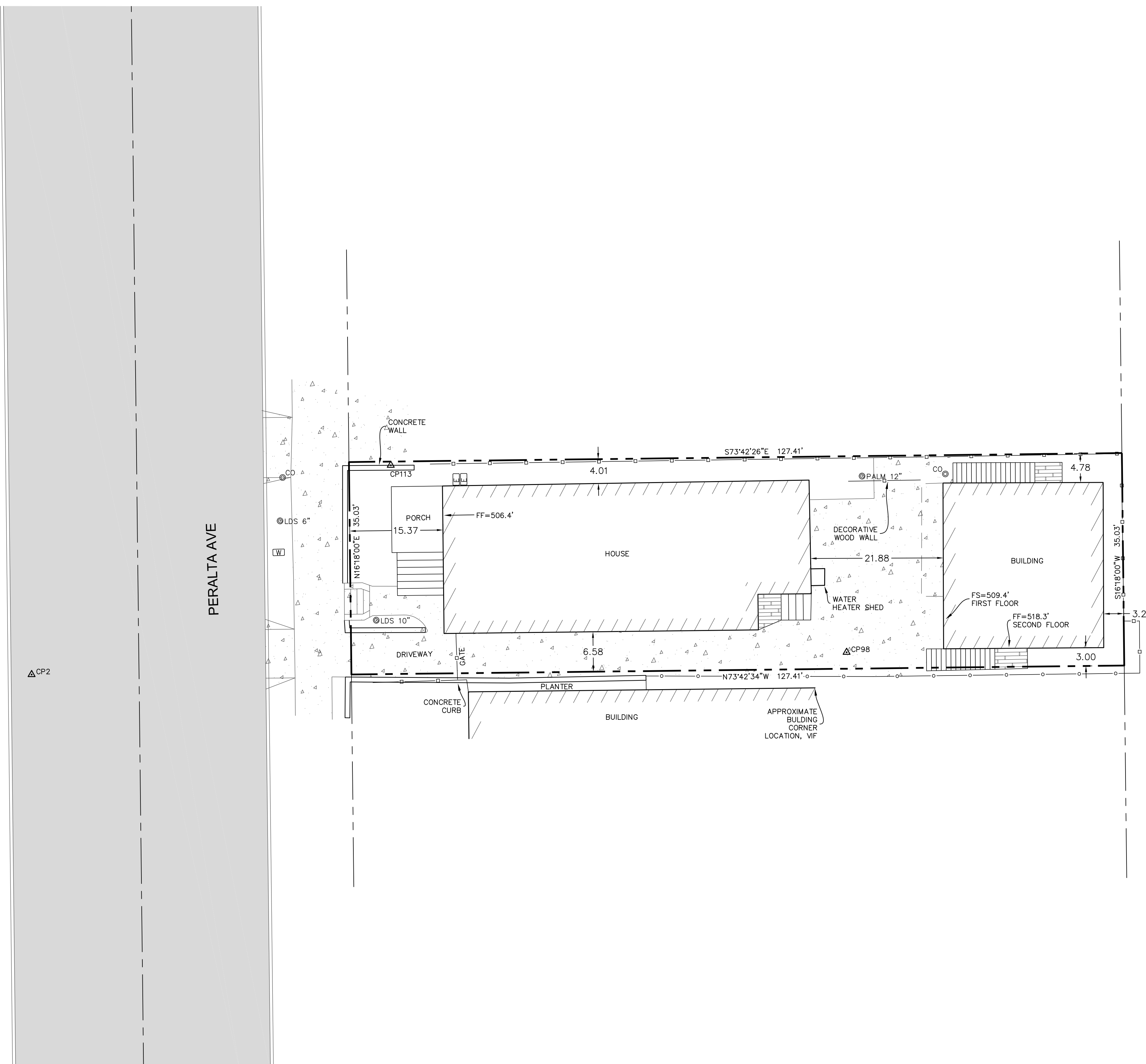
PROJECT NO. 1205-19P
DATE 03/22/2021
DRAWN BY TC

A.H.00

SCALE As indicated

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2:\NLS\Projects\4457\Hogan\Draws\4457\NLS\4457\4457-030-010.dwg, 1/22/2021 7:48:17 AM, Burdette POF



LEGEND

- RECORD BOUNDARY LINE
- - - RECORD ADJOINING BOUNDARY LINE
- RECORD EASEMENT LINE
- RECORD CENTERLINE
- EDGE OF CONCRETE
- EDGE OF BUILDING
- BUILDING OVERHANG
- WOOD FENCE
- CHAINLINK FENCE
- MINOR CONTOUR
- MAJOR CONTOUR
- ASPHALT CONCRETE SURFACE
- CONCRETE SURFACE
- DECKING

SYMBOLS

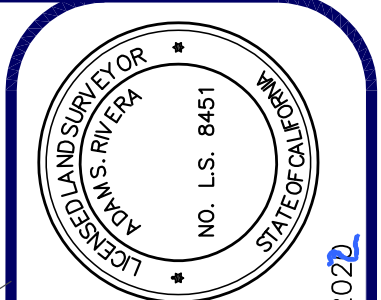
- WATER METER
- ELECTRIC METER
- SEWER CLEAN OUT
- △ 3 RANDOM CONTROL POINT W/#
- ⊙ 24" TREE TYPE & DIA.

ABBREVIATIONS

- FF FINISHED FLOOR ELEVATION
- FS FINISHED SLAB ELEVATION
- LDS LANDSCAPE TREE
- PALM PALM TREE
- VIF VERIFY IN FIELD

NOTES:

- 1) THE PURPOSE OF THIS MAP IS FOR PLANNING AND THE CONTENT IS RELATIVE TO THE INTENDED USE. UNAUTHORIZED CHANGES OR ADDITIONS TO THE EXISTING DATA SHOWN ON THIS MAP IS STRICTLY PROHIBITED. ANY USES OF THIS MAP BEYOND THE STATED PURPOSE REQUIRES THE AUTHORIZATION OF HOGAN LAND SERVICES.
- 2) BOUNDARY LINES SHOWN HEREON ARE BASED ON A BOUNDARY DETERMINATION BEING PERFORMED BY THIS OFFICE. THE BOUNDARY INFORMATION SHOWN IS PRELIMINARY AND IS SUBJECT TO CHANGE, PLEASE CONTACT THIS OFFICE OR REVIEW THE COMPLETED AND FILED RECORD OF SURVEY PRIOR TO RELYING ON ANY INFORMATION SHOWN HEREON.
- 3) HORIZONTAL CONTROL:
CENTERLINE MONUMENTS FOUND ALONG PERALTA AVENUE(N16°18'00"E)
- 4) VERTICAL CONTROL:
ELEVATION DATUM IS ASSUMED, BASED ON CP 2 (497.89 FEET)
- 5) THE MOST RECENT RECORDED BOUNDARY SURVEY OF THIS LOT PRIOR TO THE RECORD OF SURVEY BEING FILED BY THIS OFFICE, WAS AT THE TIME OF THE SUBJECT PARCEL'S CREATION IN SEPTEMBER 1906 VIA MAP OF KEY ROUTE TERRACE NO. 3 FILED IN BOOK 21 OF MAPS PAGE 59 ALAMEDA COUNTY RECORDS.



THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AT THE REQUEST OF CATHERINE NASON IN JUNE, 2020

ADAM S. RIVERA PLS 8451 EX: 12/31/2022

DRN:	ABF
CHK:	TWR
PM:	ASR
DATE:	1/22/21
JOB #:	4627

HOGAN LAND SERVICES
A CALIFORNIA CORPORATION

1702 4TH STREET
SANTA ROSA, CA 95404
Tel (707) 544-2104

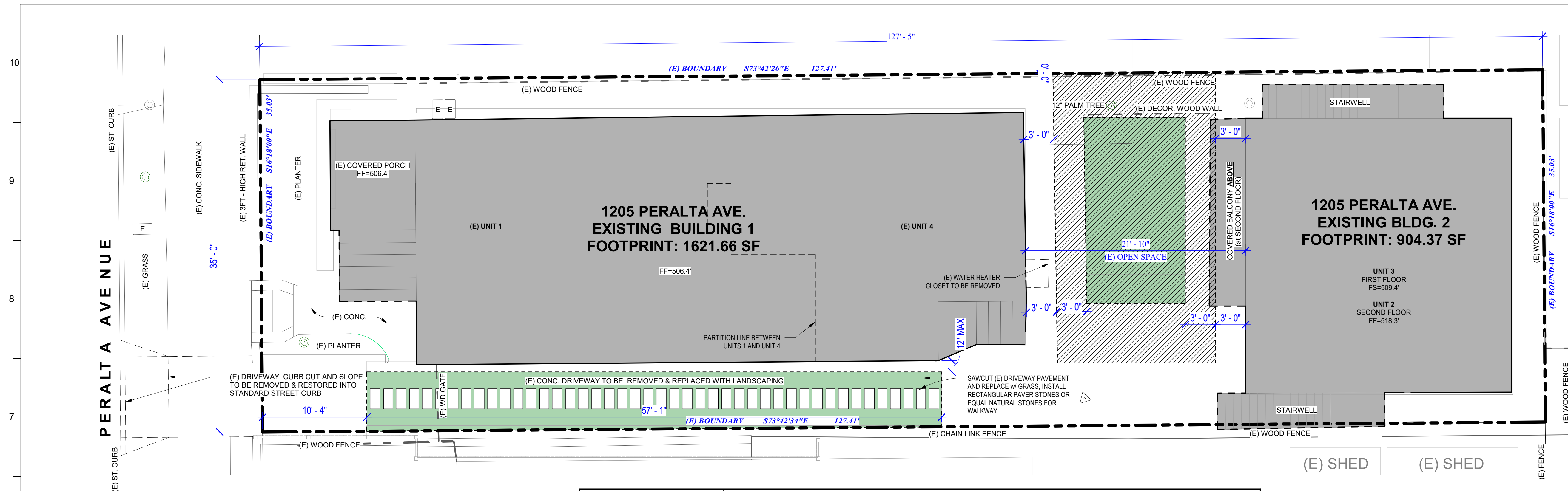
Fax (707) 522-2105
www.hoganls.com

SITE MAP

APN: 60-2416-31

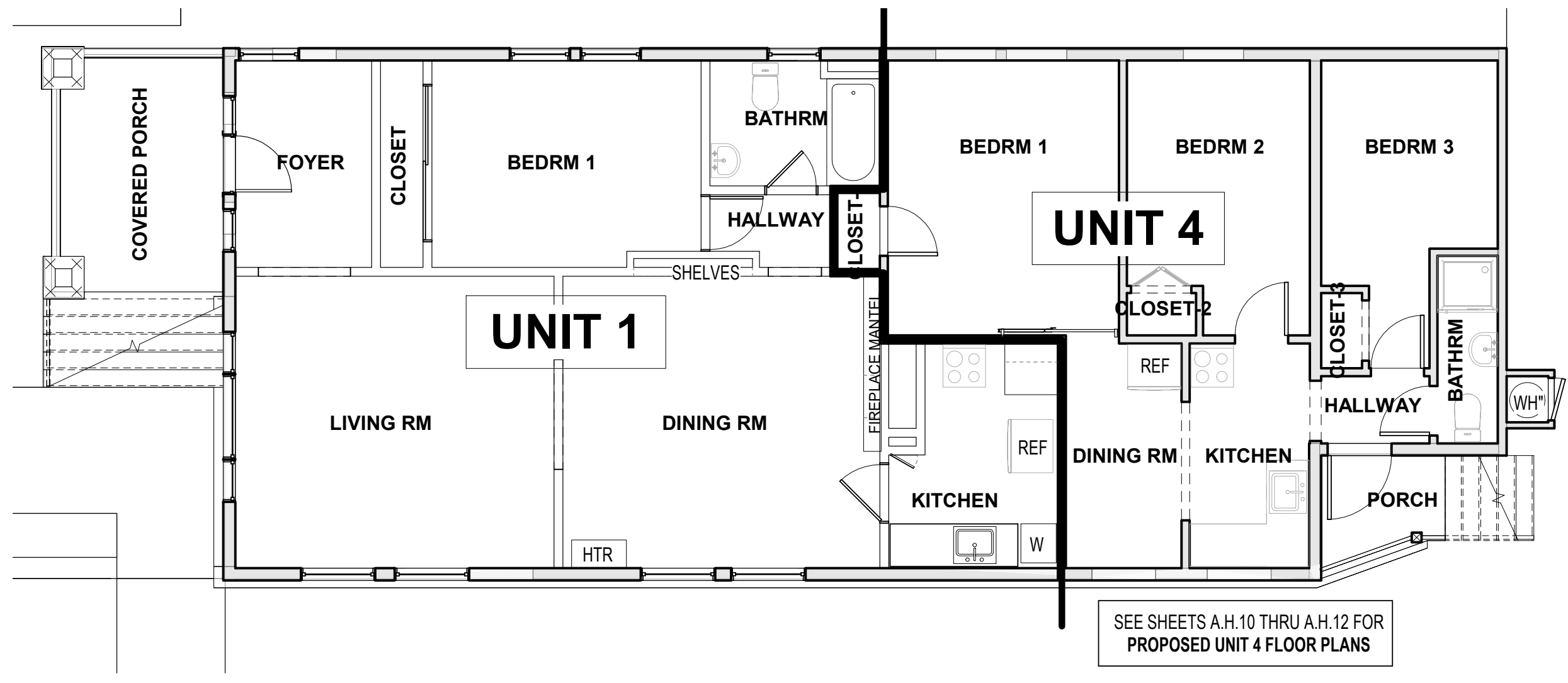
1205 PERALTA AVE
BERKELEY, CALIFORNIA

1 OF 1

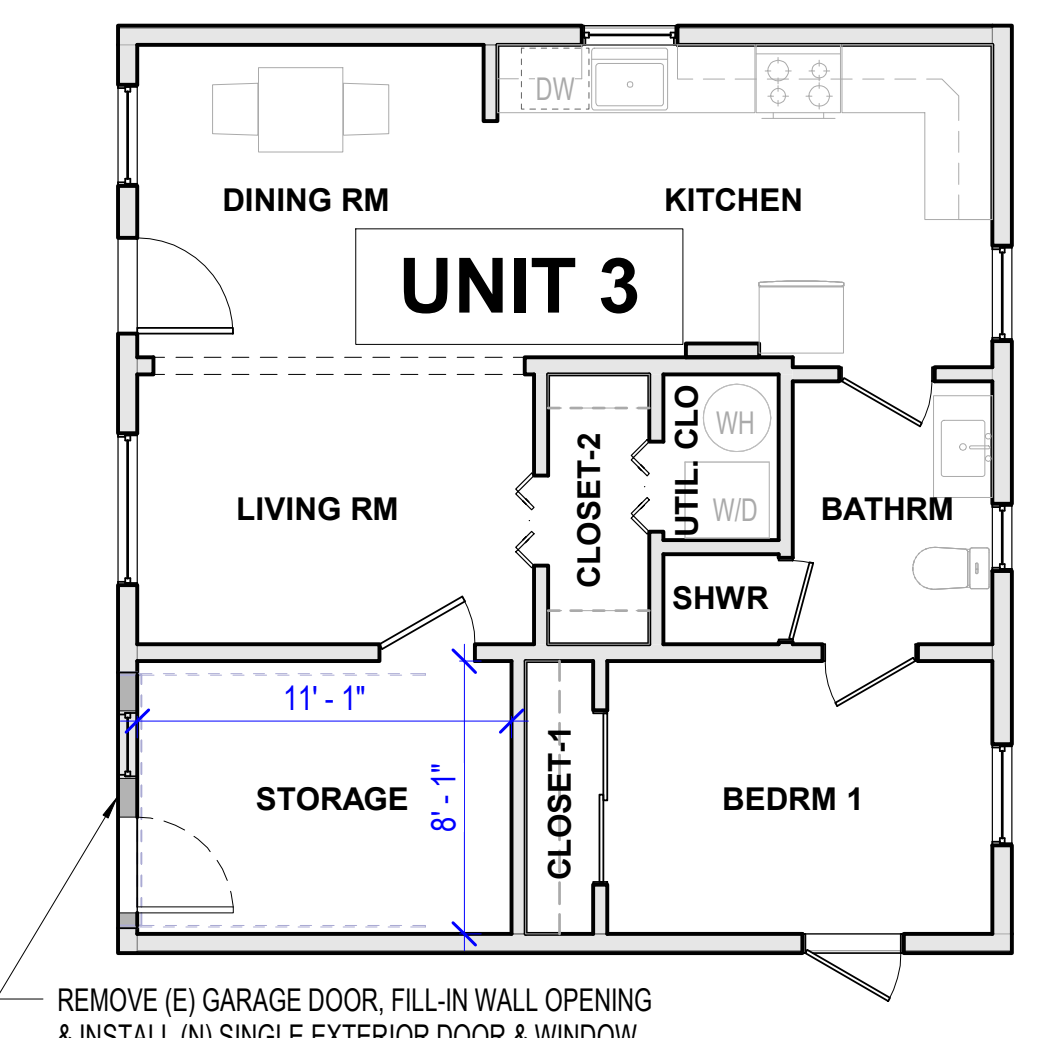


1 DIAGRAMS - BUILDING FOOTPRINT, USABLE OPEN SPACE, & LOT COVERAGE
3/16" = 1'-0"

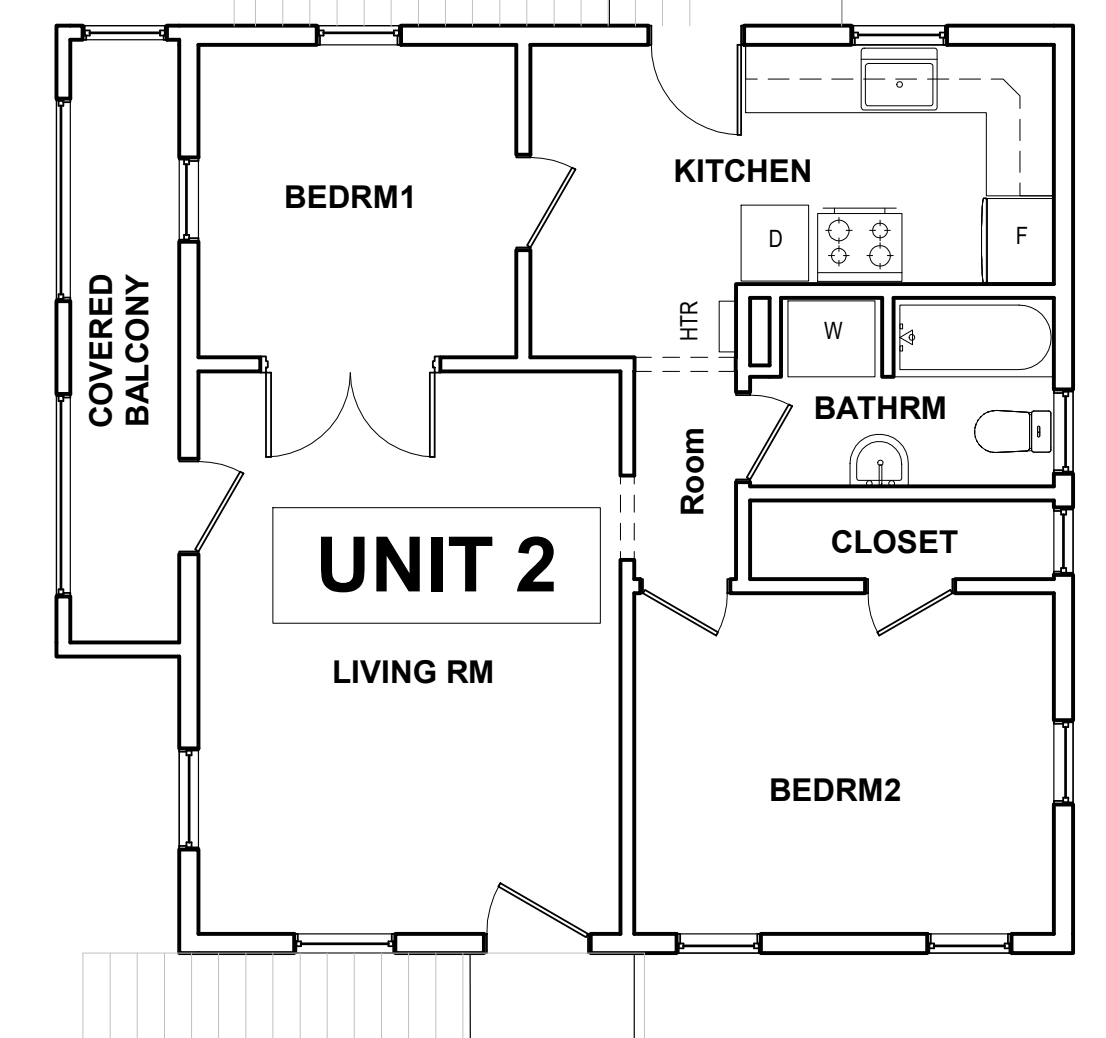
LOT AREA:	EXISTING BUILDING FOOTPRINTS	EXISTING LOT COVERAGE: 56.6%	EXISTING USABLE OPEN SPACE
LOT DEPTH: 127.41' s.f.	TOTAL BUILDING 1 FOOTPRINT: 1621.66 s.f.	(FOOTPRINT / LOT AREA)	TOTAL U.O.S. AREA: 458.92 s.f.
LOT WIDTH: 35.03' s.f. x	TOTAL BUILDING 2 FOOTPRINT: 904.37 s.f. +	TOTAL BUILDING FOOTPRINTS: 2526.03 s.f. /	40% Landscaped U.O.S.: 183.57 s.f.
LOT AREA: 4463.17 s.f.	TOTAL BUILDING FOOTPRINTS: 2526.03 s.f.	LOT AREA: 4463.17 s.f.	Shading Legend:
	Building Footprint Shading Legend:	LOT COVERAGE: 0.566 (56.6%)	Total usable open space: 40% Landscaped U.O.S.



3 BUILDING 1 (SINGLE STORY DUPLEX) - UNITS 1 & 4 EXISTING FLOOR PLAN
3/16" = 1'-0"



2 BUILDING 2 (TWO STORIES) - UNIT 3 (Ground Floor) EXISTING FLOOR PLAN
3/16" = 1'-0"



4 BUILDING 2 (TWO STORIES) - UNIT 2 (Second Floor) EXISTING FLOOR PLAN
3/16" = 1'-0"

EXISTING GROSS FLOOR AREA SCHEDULE PER OFFICIAL SITE SURVEY		PROPOSED GROSS FLOOR AREA SCHEDULE	
BUILDING 1	BUILDING 2	BUILDING 1	BUILDING 2
UNIT 1: 935.97 s.f.	UNIT 2: 786.12 s.f.	UNIT 1: 935.97 s.f.	UNIT 2: 786.12 s.f.
UNIT 4: 631.68 s.f. +	UNIT 3: 359.82 s.f. +	UNIT 4: 631.68 s.f. +	UNIT 3: 719.82 s.f. +
TOTAL GFA: 1567.65 s.f.	TOTAL GFA: 1145.94 s.f.	TOTAL GFA: 1567.65 s.f.	Subtotal GFA: 1505.94 s.f.
	Where Unit 3 18'x20' (E) garage area = 360 s.f.	(NO CHANGE)	Storage @ Unit 3: 88.00 s.f.
			TOTAL GFA: 1417.94 s.f.

ARCHITECTURAL DESIGNER:

Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING
VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

03/22/2021
DESIGNER: TERESA CAMBARE

CONSULTANT

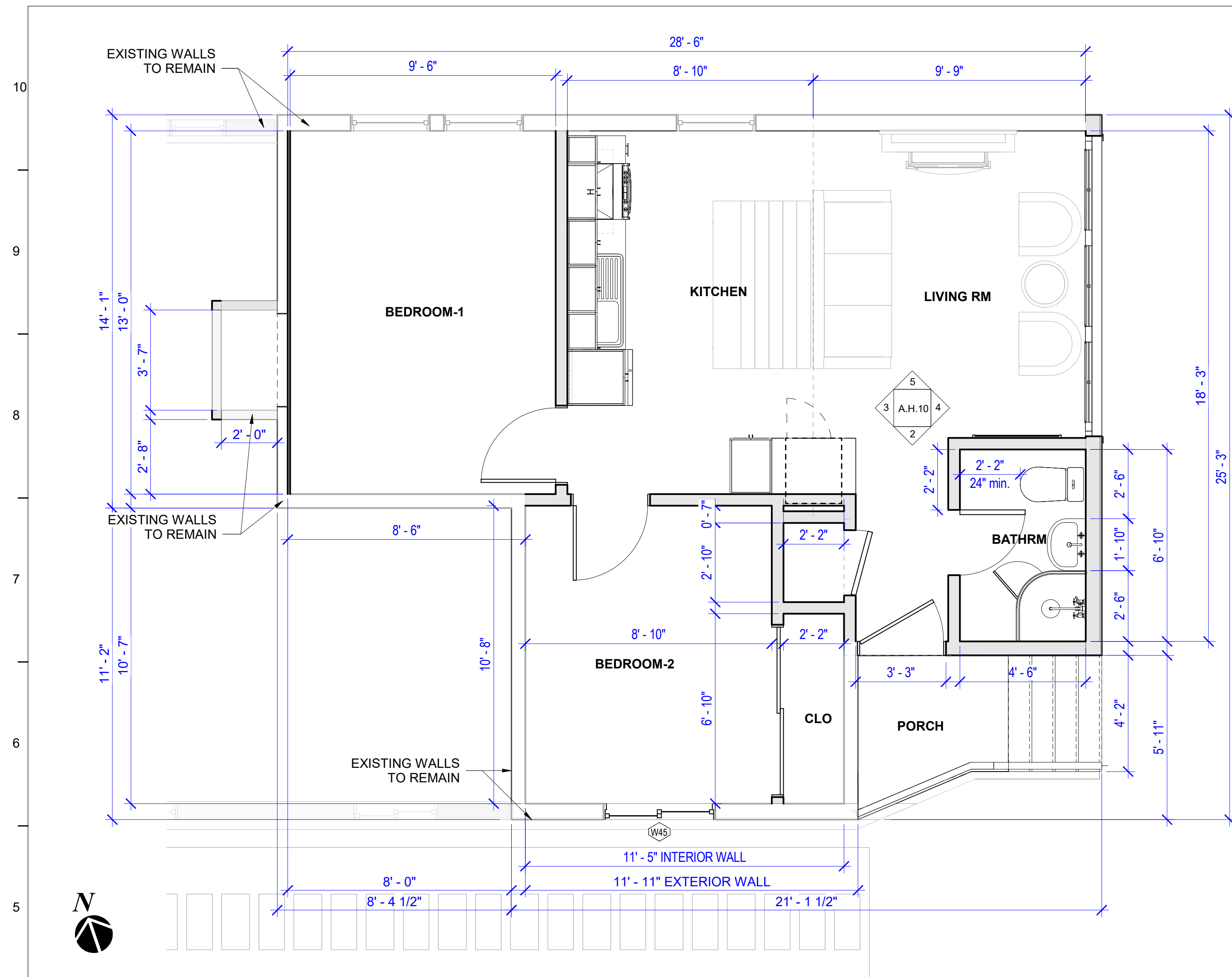
**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

Cathy Nason
(Owner)

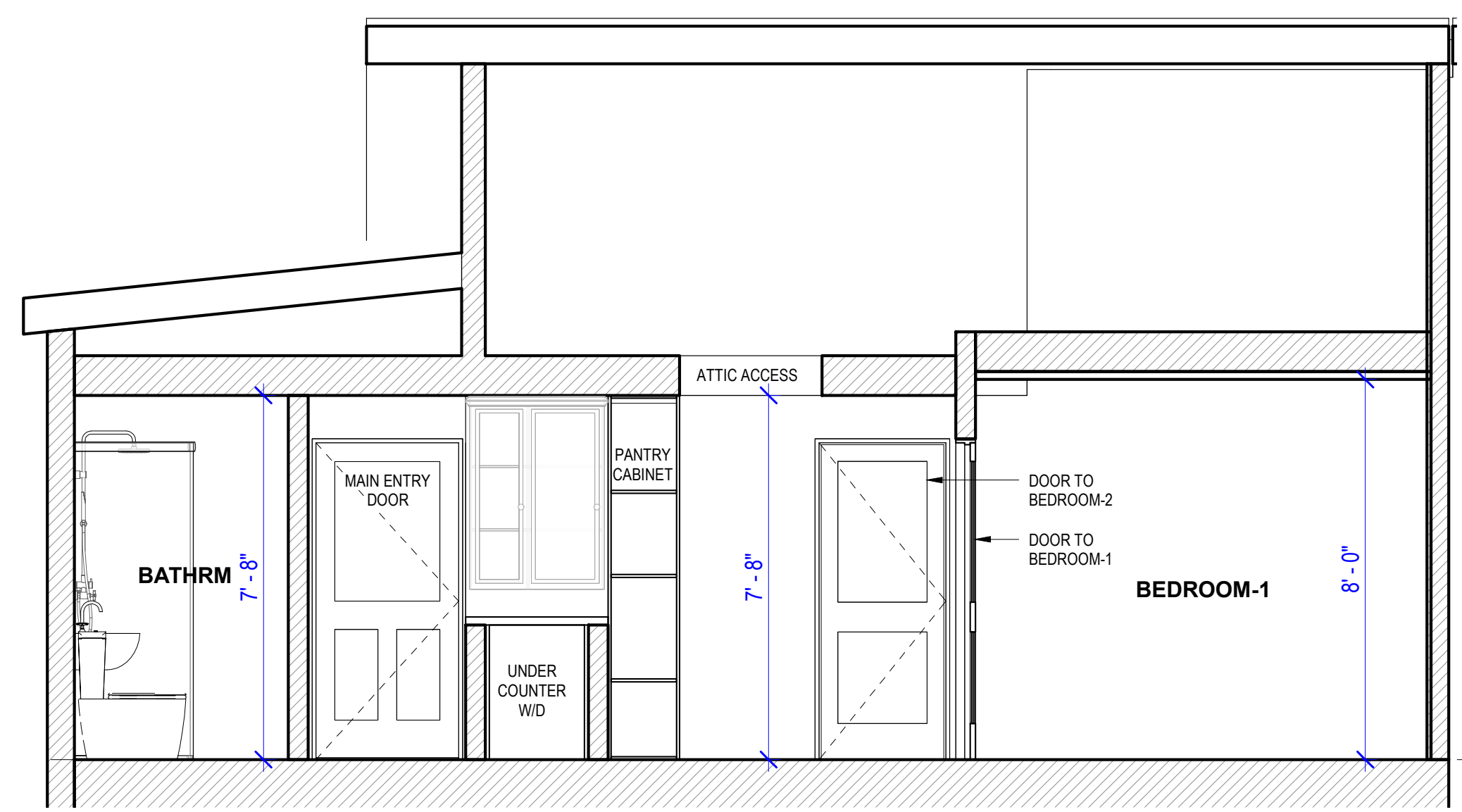
1205 Peralta Ave,
Berkeley CA 94706

**DIAGRAMS AND EXISTING
FLOOR PLANS**

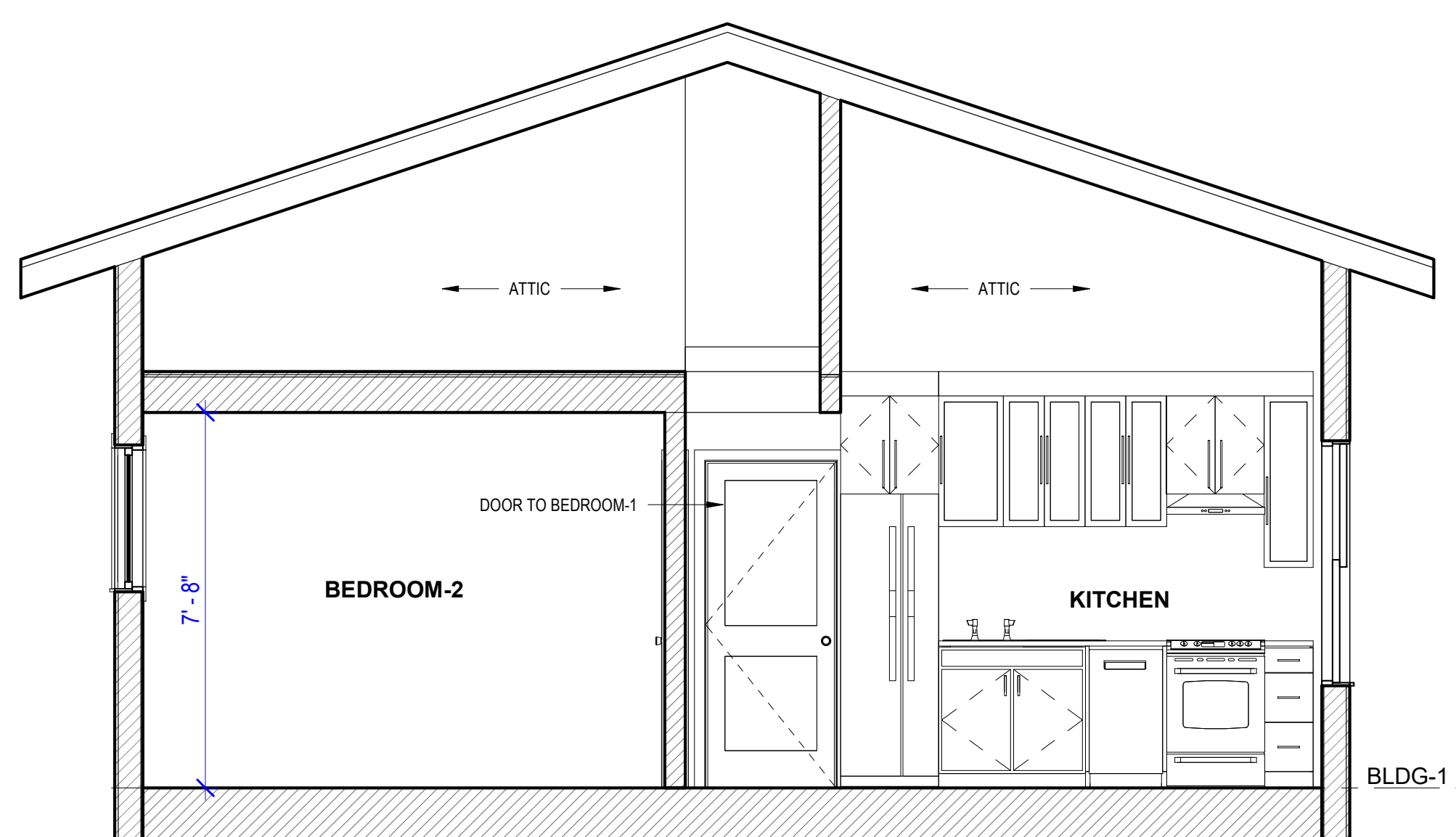
REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	TC	
A.H.01		
SCALE	As indicated	



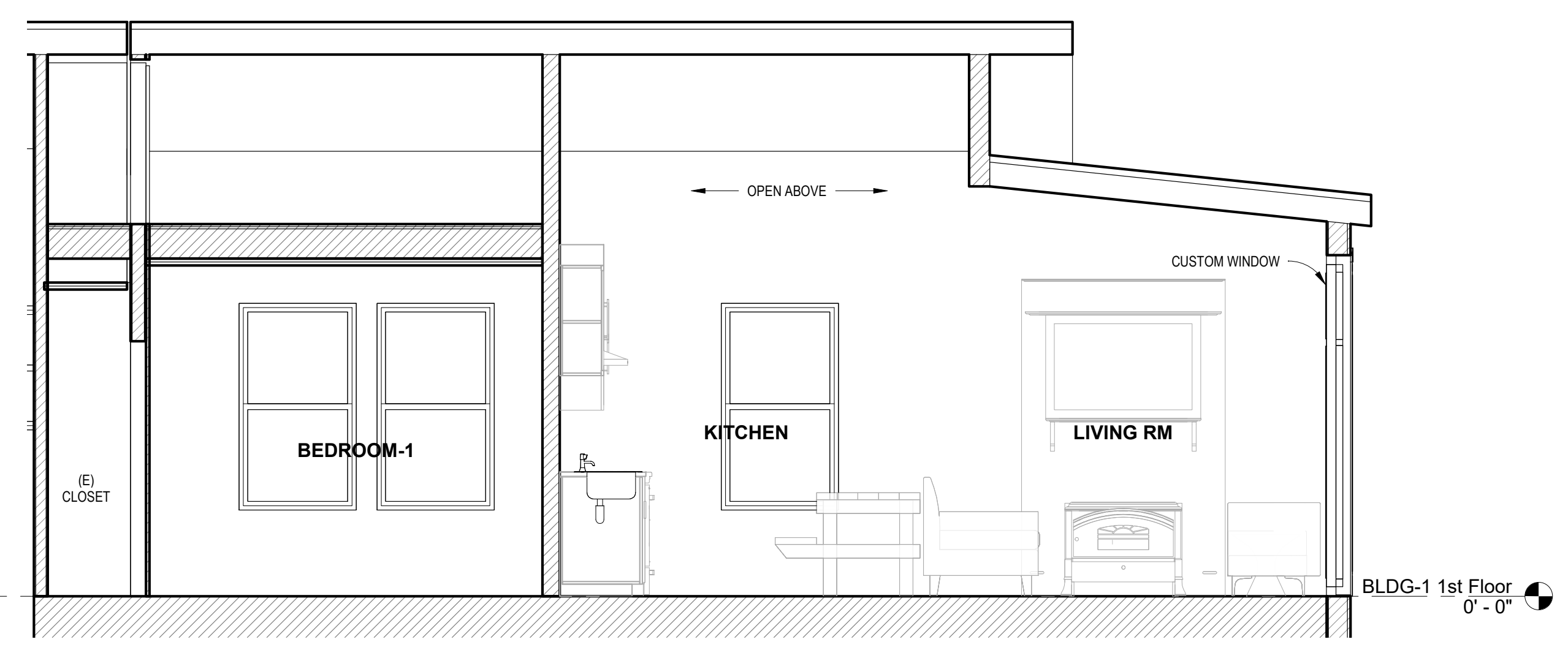
1 1st Floor
3/8" = 1'-0"



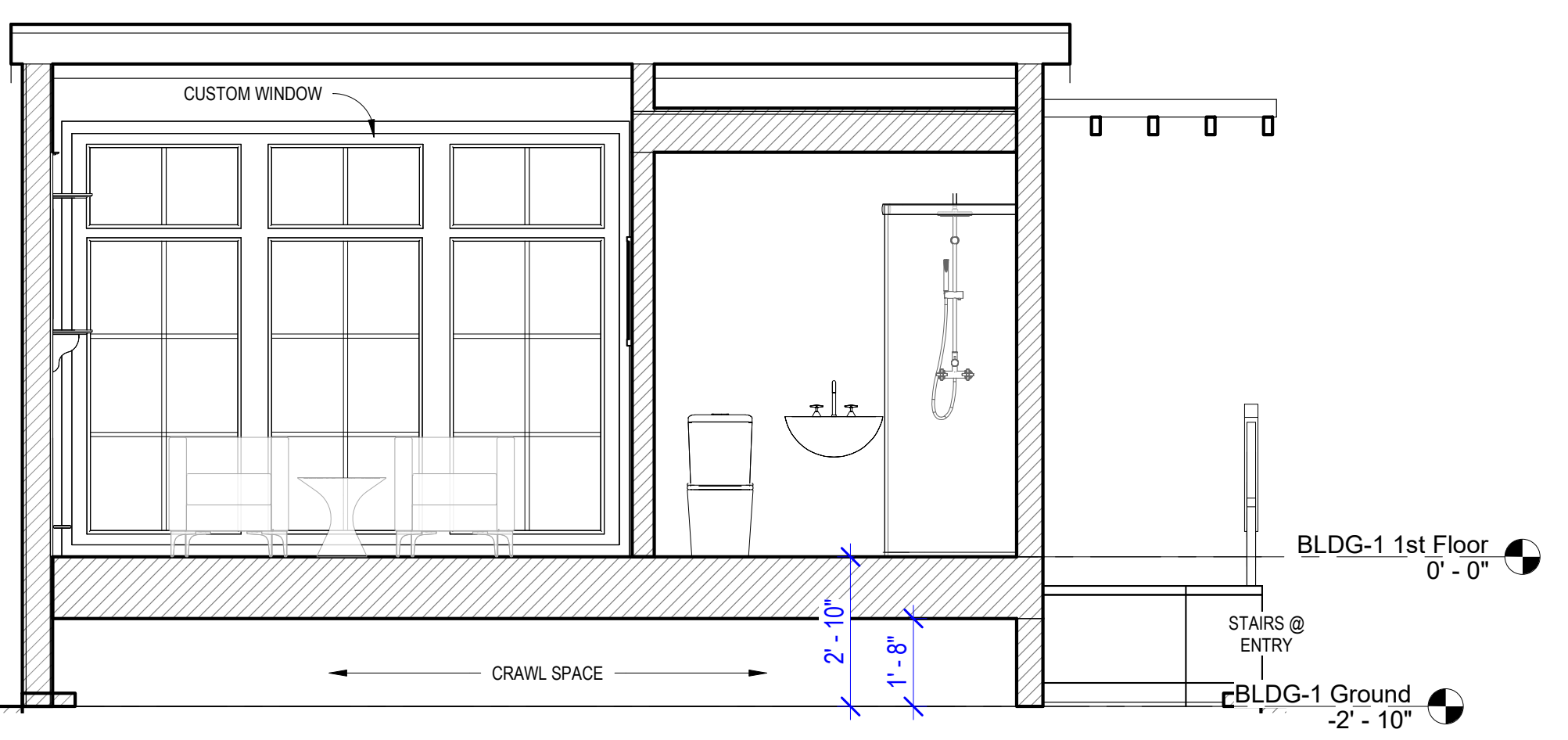
2 BUILDING 1 UNIT 4 SECTION - A
3/8" = 1'-0"



3 BUILDING 1 UNIT 4 SECTION - B
3/8" = 1'-0"



5 BUILDING 1 UNIT 4 SECTION - D
3/8" = 1'-0"



4 BUILDING 1 UNIT 4 SECTION - C
3/8" = 1'-0"

ARCHITECTURAL DESIGNER:



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VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

CONSULTANT

**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

**Cathy Nason
(Owner)**

1205 Peralta Ave,
Berkeley CA 94706

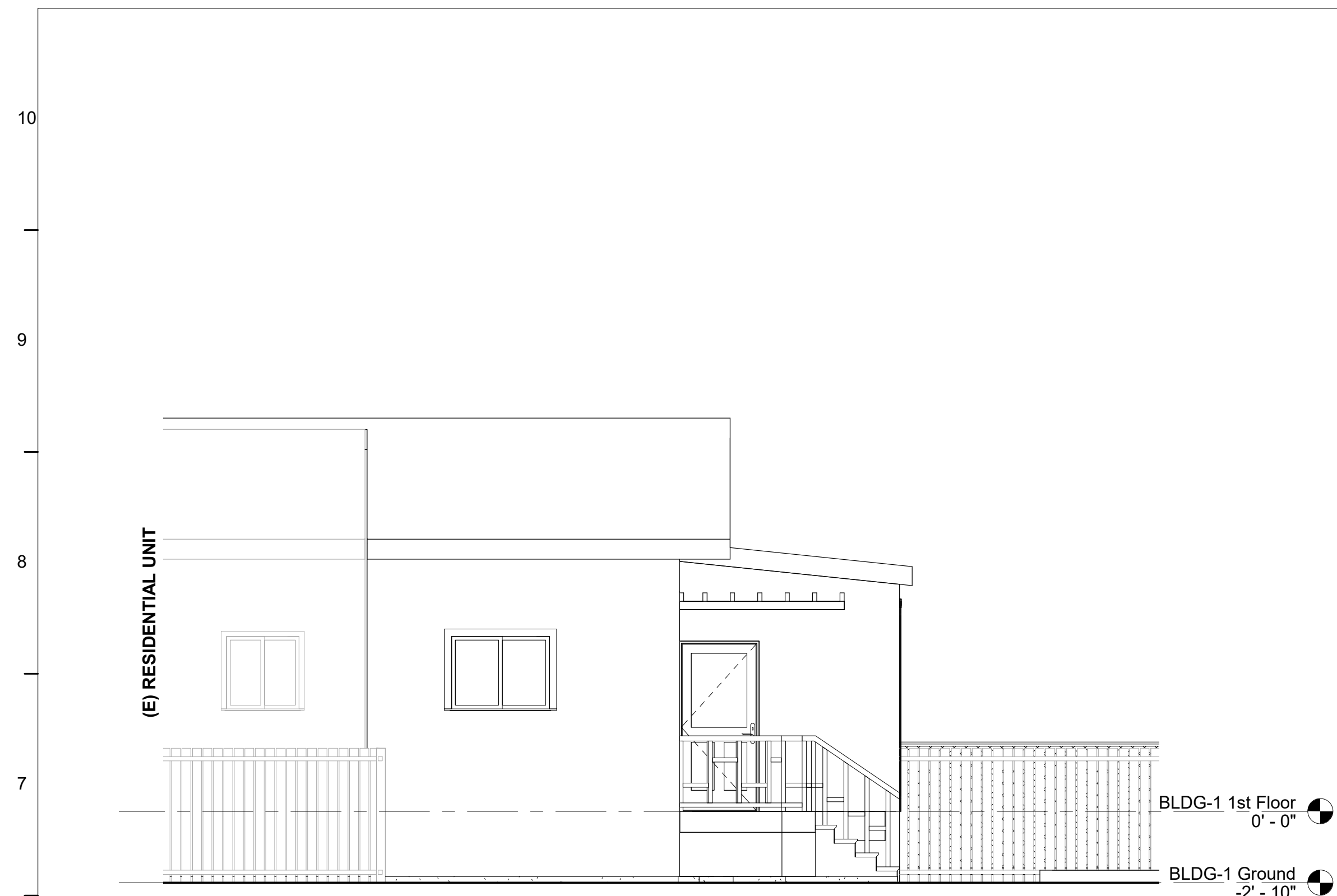
**PROPOSED FLOOR PLANS
& BUILDING SECTIONS**

REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	TC	

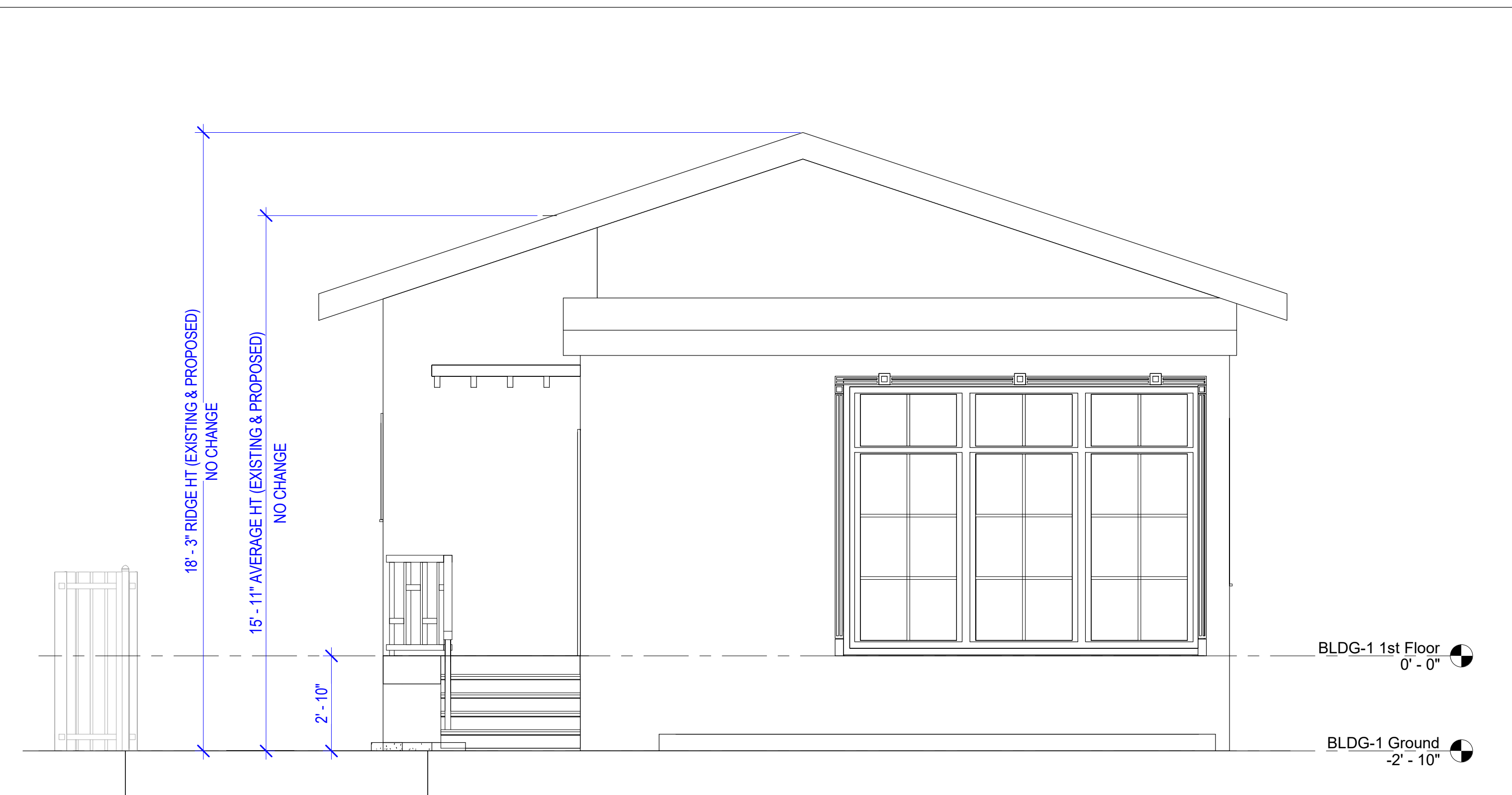
A.H.10

SCALE 3/8" = 1'-0"

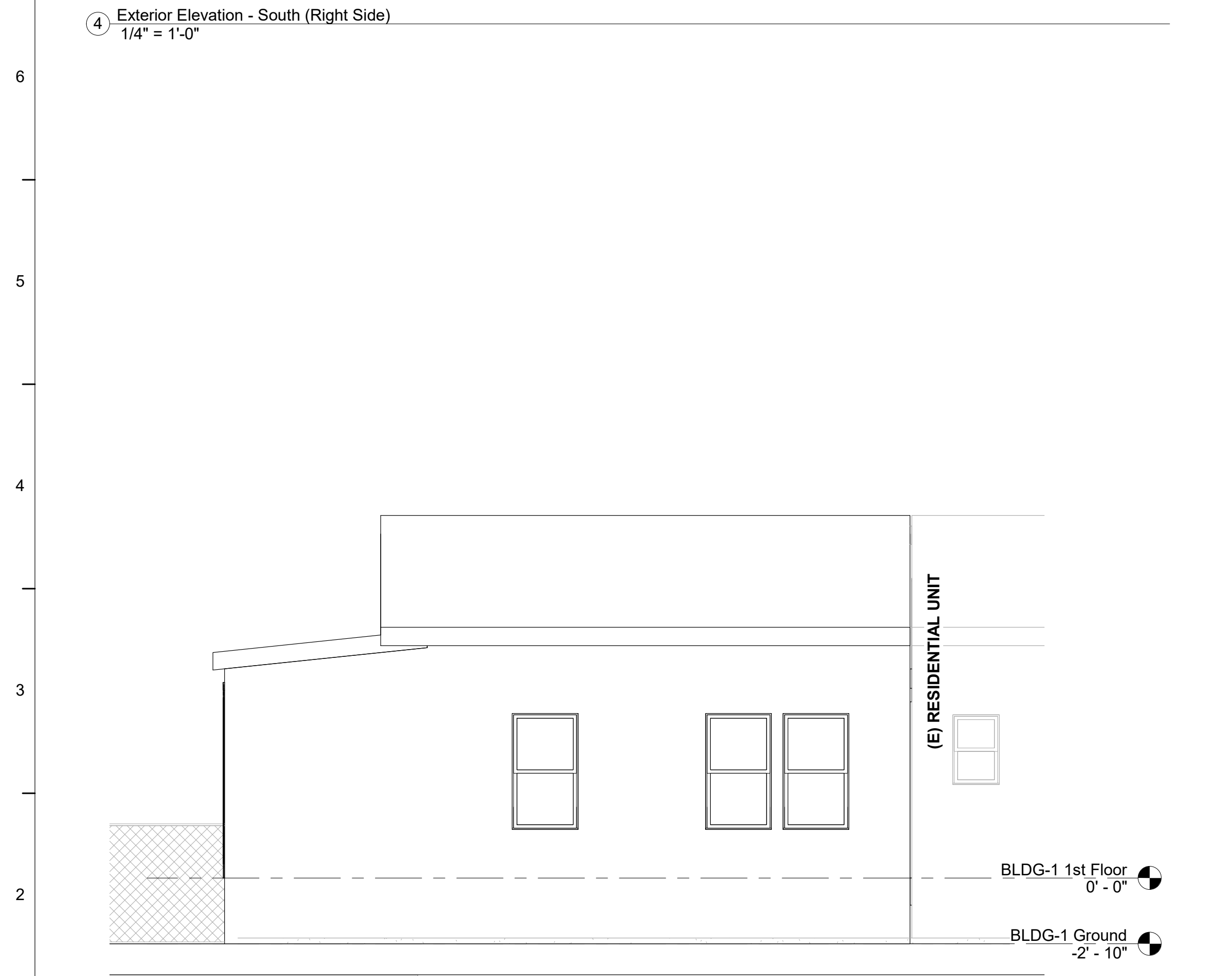
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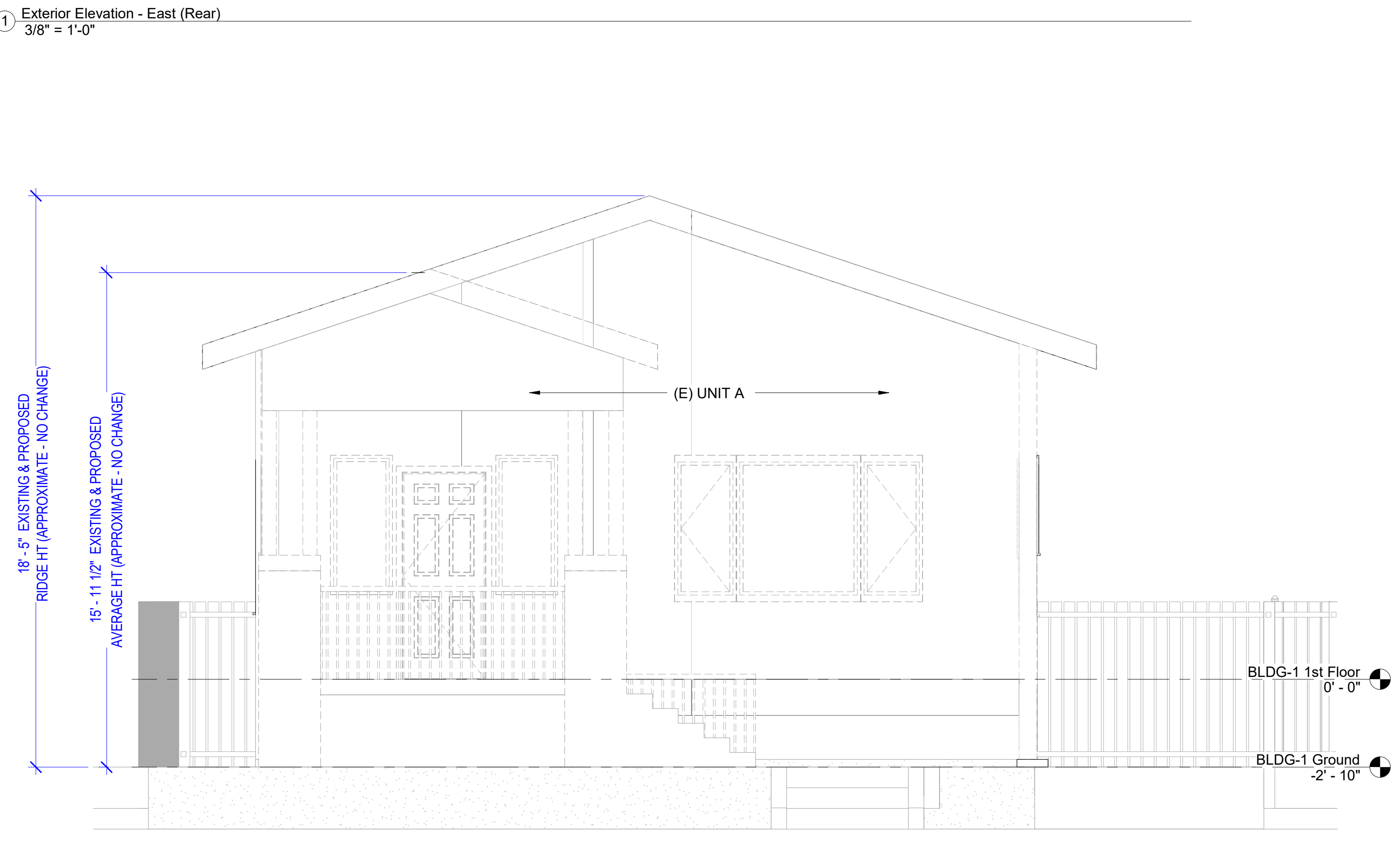
4 Exterior Elevation - South (Right Side)
1/4" = 1'-0"



1 Exterior Elevation - East (Rear)
3/8" = 1'-0"



3 Exterior Elevation - North (Left Side)
1/4" = 1'-0"



2 Exterior Elevation - West (Front)
3/8" = 1'-0"

ARCHITECTURAL DESIGNER:



Cambare Designs
DESIGNS ASBUILT BUILDING INFORMATION MODELING
VACAVILLE, CALIFORNIA
PHONE: (408) 204-3413
EMAIL: TERESA@CAMBAREDESIGNS.COM

CONSULTANT

**1205 PERALTA AV.
UNIT 4 TENANT
IMPROVEMENT**

**Cathy Nason
(Owner)**

1205 Peralta Ave,
Berkeley CA 94706

**PROPOSED EXTERIOR
ELEVATIONS**

REVISION NO.	DESCRIPTION	DATE
PROJECT NO.	1205-19P	
DATE	03/22/2021	
DRAWN BY	Author	
A.H.11		
SCALE	As indicated	

3/22/2021 11:16:38 AM

FINDINGS FOR DENIAL

APRIL 8, 2021

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. x 20 ft. garage to habitable space and Use Permit to legalize the addition of bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

PERMITS REQUIRED

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

I. VARIANCE FINDINGS FOR DENIAL

Pursuant to Berkeley Municipal Code Section 23B.44.030.B, the City cannot make the findings required by Berkeley Municipal Code Section 23B.44.030.A, and therefore must deny the Variances to eliminate the two existing required off-street parking spaces on the lot by conversion of garage to habitable space;

- i. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District:*

The applicant has provided no evidence, nor can staff find evidence of circumstance or conditions that apply to the land, building or use which do not generally apply to land buildings and/or uses in the same District. Neither the nonconforming use of the lot nor illegal conversion of garage is considered unique or otherwise exceptional or extraordinary. Similarly, due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this District to varying degrees, including the subject site. This finding cannot be made.

- ii. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:*

The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. In fact, the property owners purchased, and have managed, a property with four lawful, rental dwelling units for several years. This finding cannot be made.

- iii. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole:*

The illegal conversion of the existing garage has eliminated the two available and required off-street parking spaces on the site. Staff has received correspondence from the neighbors stating that the lack of parking spaces on the subject lot puts an additional burden on street parking which is already strained. This finding cannot be made because eliminating the two parking spaces will adversely impact the improvements in said neighborhood as it impacts on-street parking for this over-densified site for the neighborhood and the tenants.

In conclusion, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).

II. ADDITION OF BEDROOMS FINDINGS FOR DENIAL

Pursuant to BMC Section 23D.20.050.A, the addition of more than five bedrooms on the parcel requires the approval of a Use Permit. Specifically, the Board is unable to make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 that there would not be a substantial impact to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because:

Pursuant to BMC Section 23D.20.050.A, the Zoning Adjustments Board finds that the addition of the sixth, seventh and eighth bedrooms is over intensification of this substandard size lot. Two illegal bedrooms have been added to Unit 2 leaving no common space for this unit and one bedroom is created through illegal conversion of the garage for a total of three additional bedrooms on this lot. Additionally, this property only provides about 458 sq. ft. of usable open space with no off-street parking spaces. Although staff considers residential density per dwelling, the addition of bedrooms will increase number of residents on the project and, therefore, increase the intensity of use. Therefore, the addition of three bedrooms, will not support the residential use on the parcel, is not consistent with the purposes of the R-1A District and would be considered detrimental.

3/22/2021

Variance Statement

(For the Reduction of Existing Parking)

This variance statement is intended for the reduced number of parking on the lot due to the non-conforming measurements of the available spaces previously delegated as parking. We are requesting consideration for approval of this variance due to the following reasons:

A. *“There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances, or conditions do not apply generally to land, buildings and/or uses in the same District”.*

- 1) As previously determined, the following are pre-existing conditions of this lot:
 - a) Existing non-conforming lot coverage of 56.6% which is approximately 16% over the allowed lot coverage of 40% per code on an R-1A lot
 - b) Existing non-conforming rear setback of 3'-4" towards Building 2, in contrast to the code recommendation of 20'-0" rear setback
 - c) Existing over density of the lot due to a total of 4 dwelling units having over six bedrooms (*See sheet A.H.01 for diagram*)
 - d) Existing lot area of 4463 s.f. which is below the recommended development standards of 5,000 s.f. per 23D.20.070(A)
 - e) Existing non-conforming parking due to the pre-existing conditions of the lot
 - f) Existing non-conforming Usable Open Space of 458.92 s.f. which is below the required minimum of 400 s.f. UOS for each unit

Further information to the aforementioned items above:

- A1a)** - This lot was originally developed in 1913 with the front building as the main dwelling. Over time, the previous owner has made several improvements to the lot which include the second building to the rear of the property, thus resulting in the existing lot coverage of 56.6%. Cathy Nason, as the new owner of this lot did not have prior knowledge of any regulations at the time that may have allowed such improvements resulting to its current condition now.
- A1b)** - As mentioned in item "A1a" above, the resulting non-conforming rear setback towards Building 2 was a condition posited between the time of

the original development in 1913 up until recent years prior to the change in the ownership of this lot.

- A1c)** - The over density in this lot was also a result of the improvements on the lot prior to the change in ownership. The existing Building 1 currently have two units (Units 1 and 4). Unit 1 has one bedroom while Unit 4 had three very small bedrooms. In order to alleviate the over-density, the proposed interior alteration for Unit 4 eliminates one bedroom, thus reducing the total number of bedrooms for this unit to only two.

Continuing on to existing Building 2, this secondary rear building also had two units (Unit 2 at the second floor, and Unit 3 at the ground floor). Unit 2 contains two existing bedrooms. However, I must note, that one of the bedrooms in this unit (bedroom 1), was originally intended as a separate enclosed dining area but was utilized by the current tenant as an additional bedroom. We have depicted this room as a bedroom in the diagram only due to its current utilization. In this regard, **for the purpose of this Variance, we are requesting consideration for this room to be classified as a dining room as it was intended for, in order to further clarify and correct the existing over density issue on this lot.** This unit was already occupied prior to the change in ownership of this lot. Within the clause of tenant rights, tenants can use the rooms in their respective units depending on how it fit their needs regardless of the rooms' intended use, without prior approval from the landlord or the county. and as long as they are not causing building safety issues within their unit and towards their neighbors. Thus, Cathy the new owner of this lot, kept everything as is for this unit.

Moving on to Unit 3 at the ground floor, this unit also previously had a total of two existing bedrooms. Prior to its recent alteration in May 2020, the current living room (*shown in detail 2/A.H.01 of the existing Unit 3 floor plan*) was previously enclosed and was utilized as a bedroom. Again, in an effort to alleviate the over density condition on this lot, this unit was altered to reduce the number of bedrooms to only one.

To sum it up, there were 8 total number of bedrooms on this lot at the time of ownership transfer. After the alteration on Unit 3 on May of 2020, this was reduced to a total of 7 bedrooms. In addition, the proposed

interior alteration on Unit 4 is intended to further reduce the total number of bedrooms down to 6 bedrooms for the entire lot. And lastly, if and when granted consideration, for Unit 2's bedroom 1 to be classified as a dining room as it was intended to be, we can further reduce the actual total number of bedrooms for this lot down to only 5 bedrooms.

A1d) – As previously explained, the original development of this lot was done in 1913. The lot area indicated in this Variance was derived from the updated official boundary survey issued on 01/22/2021 which was based on the September 1906 Map of Key Route Terrace No. 3, Book 21 Page 59 of the Alameda County Records.

No alterations to the lot area had been done since the change of ownership of this lot.

A1e) – The existing non-conforming parking of this lot is caused by a couple of factors; first it is due to the small size of the lot which is reduced by the addition of the second building at the rear of the property. Second, was due to the modified size of the garage attached to Unit 3 which had recently been deemed a code violation because its current dimensions do not comply with the prescriptive size of the building codes for it to be classified as a garage. In short, as indicated in the Tabulation form, there are no acceptable parking space for this lot. And again, this condition is pre-existing prior to the change in ownership. Nonetheless, **the code violation for Unit 3's existing garage is currently in progress to be corrected. As such, we are proposing to keep the current non-conforming size of the garage to remain and to reclassify its use into a storage room instead** (which is what it is currently being used for). By granting this request, it will accomplish the following:

- i.* It will eliminate the need to relocate the current tenant of Unit 3 which will cause further loss of income for the landlord and incur additional unnecessary expenses. As we all have known, many people had drastic reduction in income, while others completely lost their income due to the cases of COVID worldwide. Cathy, the owner of this lot, is no exception. She too had been affected by the consequences of COVID and has lost income from tenants who had been unable to pay their rent. Additionally, it was difficult

for her to find new tenants during the entire year of 2019 and 2020, which is ongoing until now in 2021. Relocating the existing tenant will cause further loss of income and posits additional costs for the landlord atop the already depleted income the past two years.

- ii.* It will prevent further undue hardship for the property owner. Restoring the existing non-compliant garage to its original state (prior to converting a portion of it into a bedroom) could affect the entire building's integrity. This in turn, would incur further consulting costs to hire a structural engineer, construction costs, design costs, and other fees for building alteration. Apart from this, the restoring the garage would mean losing the only bedroom in Unit 3 which will cause a change in the overall use of the entire unit. This change then cascades into further alteration cost to make this unit a livable space. All of these additional costs will exacerbate undue hardship for Cathy, the property owner. In short, the previous suggestion to restore the existing non-conforming garage is not a feasible solution.
- iii.* Due to the reclassification of the garage as a storage, there will no longer be a need for the driveway. Thus, in order to regain one street parking, we will go along with the city staff recommendation to convert the existing driveway as a landscaped area, remove the driveway curb cut and replace it with a standard street curb.
- iv.* Lastly, should our request to reclassify the use of the existing non-conforming garage in Unit 3 into a storage room is granted, Cathy, the owner would like to replace the existing garage door with a wall, along with a single exterior door and window, in order to properly enclose the space. *And although per City of Berkeley's comment on 3/19/2021, this room had been reclassified as a bedroom, it's use will be maintained as a storage.*

A1f) – The recommended minimum usable open space for this lot is 400 s.f. for each unit, which is a total of 1600 s.f. for the entire lot. We intend to preserve this condition to maintain the tenant's ability to enjoy their environment and to prevent exacerbating the existing over-built condition

of the lot. Additionally, as suggested by city staff, 40% of such usable open space is proposed to be landscaped. See *sheet A.H.01 for diagram*.

B. *“The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property’s owner”.*

- 1) As stated in the applicant statement, the proposed remodeling for Unit 4 is intended to improve the quality of living for its prospective tenants. And since this alteration preserves the existing footprint of the building, there will be no adverse effects to its exterior nor the existing conditions of the lot. Thus, the existing tenants for the remaining units within this lot shall be able to enjoy the use of the common spaces and will not have problems accessing their units even during the time of construction. Moreover, since the building height and footprint will remain the same, the neighboring lots should also be able to enjoy their respective property without any inconvenience.
- 2) As mentioned in item A1e-ii, we are proposing to reclassify the existing non-conforming garage in Unit 3 into a storage room instead, rather than restoring it to its original state. Granting this request will unquestionably preserve the current use and enjoyment of this unit, as well as the unit above, the surrounding adjacent lots; as well as prevent further financial hardship for the property owner.

C. *“The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole”.*

- 1) The proposed interior alteration for Unit 4 is minimal, and as demonstrated in the design, it will remain within the building’s existing footprint and no additional height to the building. Therefore, we do not anticipate any factors during this construction that may adversely affect the health and/or safety of

the existing tenants within this lot, as well as for the neighbors at the surrounding adjacent properties.

- 2) In addition to the statement mentioned in item "B2" above, the proposed solution the current non-compliant garage in Unit 3, will in fact, also prevent adverse effects to the health and safety of the tenants within this lot and the neighboring properties by preserving the integrity of the building.

D. *"Any other variance findings required by the Section of the Ordinance applicable to that particular Variance".*

- 1) Please refer to item "A1e" above.

For further information regarding the conditions of this lot, please refer to the Site Plan on sheet A.H.00 and the Diagrams on sheet A.H.01. See sheets A.H.10 thru A.H.12 for the proposed floor plans for Unit 4.



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

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. X 20 ft. garage to habitable space and storage and Use Permit to legalize the addition bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

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 April 8, 2021, **conducted via Zoom, see the Agenda for details at:**

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-04-08_Draft_ZAB_Agenda.pdf. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

A. Land Use Designations:

- General Plan: LMDR – Low Medium Density Residential
- Zoning: R-1A – Limited Two-Family Residential District

B. Zoning Permits Required:

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

C. CEQA Recommendation: It is staff's recommendation to ZAB that this 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

1205 PERALTA AVENUE
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NOTICE OF PUBLIC HEARING
Posted MARCH 25, 2021

15301 ("Existing Facilities") and Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by ZAB.

D. Parties Involved:

- Applicant & Owner: Teresa Cambare & Cathy Nason, P.O. Box 142, Inverness, CA 94937

Further Information:

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports 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, Nilu Karimzadegan, at (510) 981-7419 or nkarimzadegan@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.

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. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy 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 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



Accessibility Information / ADA Disclaimer:

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.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

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.
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.

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NOTICE OF PUBLIC HEARING
Posted MARCH 25, 2021

- 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.
-

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave ZP2020-0060

From: Karen Fiene [mailto:kfiene@mills.edu]

Sent: Wednesday, March 31, 2021 4:57 PM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>

Cc: Karen Fiene I. <kfiene@mills.edu>; Mehri Ansari <mehri@ansariinc.com>; Mel Lyons <mlyons@lmi.net>

Subject: 1205 Peralta Ave ZP2020-0060

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To: Niloufar Karimzadegan

Re: RE: 1205 Peralta Ave/ZP2020-0060

Hi Nilu,

I would like to submit comments based on the revised plans for 1205 Peralta which includes the request for a **variance** to eliminate 2 off street parking spaces and a **use** permit to legalize bedrooms 6-7-8.

As an architect and a planner I completely support densification and have no problem with ADU's and responsible legal additions and expansions. My family has lived next door to 1205 for 30 years accepting the noise, cars and activities of 4 families and have not complained because we understand the great need for housing and we like our neighbors. It is important to note that there is a long history of illegal conversions on this property by the previous landlord, Andy Lipnosky and now the current landlord, his daughter Cathy Nason, which has made us wary. I list a few instances of these illegal conversions below.

Unit 4 is little more than a studio yet 3 bedrooms were illegally crammed into a 630 sf space. It was Nason's intention to capitalize on this illegal conversion and build a bloated second story addition with a "rec room". Only after this plan was denied was the more modest plan to revert back to the original 2 bedrooms on a single level proposed.

Unit 3, which originally had a 2 car garage has been slowly whittled away until there is only a partial garage remaining. Earlier illegal conversions created first one bedroom and then a second. Last fall the new owner removed a wall to create a living room out of one of the bedrooms, with the intent to create a second bedroom out of the remaining garage in the future. Due to the amount of construction materials and noise I became alarmed that work was being done illegally and alerted the planning department. They came to inspect and found that a bearing wall had been removed and an improperly sized header installed and covered up. The City required a retroactive permit and required an upsizing of the header. This was not only illegal but could have caused damage in a seismic event.

Ms. Nason wants to add a window and a regular door into the former garage and use it for storage. This seems suspiciously like a future bedroom and in fact would be considered one by the City's definition. If the one bedroom is allowed to remain **the storage area should not have a door to the living room and does not need a normal door and a window, it should remain storage which could be used by the tenants.**

Unit 2, the upper level unit, was originally a one bedroom with a living room and dining room. It appears that perhaps the tenant made some changes to enclose the dining room to make a small bedroom for her son and doing that made the living room technically a third bedroom. In this case I don't believe there was a motive to

gain additional renters and I would personally not want any decisions to negatively impact this tenant who has been our neighbor for 27 years. **But it does not make sense to legalize this unit as a 3 bedroom.** It would seem a simple step to restore this to a one bedroom unit.

We cannot support the legalization of additional bedrooms on a lot that is over density and over lot coverage by 16%, with no off street parking and undersized open space.

Although the driveway and remaining partial garage are no longer an option for parking, our fear is that if the variance to eliminate 2 off street parking spaces is approved it would embolden further development proposals. However removing concrete and adding green space would enhance the living conditions of the tenants.

Kind regards,
Karen Fiene and Mel Lyons

Karen Fiene, FAIA, LEED AP
Senior Director of Facilities, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

*work: 510-430-2323
cell: 510-708-1347*

Karimzadegan, Niloufar

Subject: FW: Comments for 4/8/21 ZAB Meeting re 1205 Peralta Avenue

From: Joan Sprinson [mailto:jsprinson@gmail.com]
Sent: Wednesday, March 31, 2021 4:55 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Comments for 4/8/21 ZAB Meeting re 1205 Peralta Avenue

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Comments for 4/8/21 ZAB Meeting re 1205 Peralta Avenue

I am writing to express my opposition to a Use Permit to allow more than 5 bedrooms at 1205 Peralta Avenue. I have lived 2 houses from the subject property for the last 24 years and have had the opportunity to witness significant unpermitted construction at the subject address, in which the number of bedrooms has been increased. As a neighbor, I am impacted by the lack of off-street parking associated with this property, and my concern increases with the various applications to increase the number of bedrooms and the density on the lot.

The applicant's variance statement submitted on 3/22/21 contains several inaccuracies that misrepresent the history of 1205 Peralta and the current state of affairs, which I would like to correct.

A1c) paragraph 1: states that Unit 4 (which totals 620 square ft), had three very small bedrooms prior to the change in ownership. Ms. Nason's father, Andrew Lipnosky, died in 1/2011. In 2013, after a long-term tenant vacated, extensive unpermitted interior and exterior modifications were made while the property was owned by a family trust and under the management of Lipnosky Real Estate. In fact, although the unit was registered with the City as a 2 bedroom unit, up until that time, it had 1 bedroom, a living room, and a sunporch. After the modifications, the unit was advertised and rented out as a 2 bedroom unit at least twice (photo of the billboard outside the property, as well as copies of digital ads are available). To my knowledge, this unit was never represented as a 3-bedroom unit until the current owner applied for a permit to create a 3-bedroom (with a rec room that could easily be turned into a 4th bedroom), 2 story unit in 2020. In her application, she claimed she was just making a small, poorly designed space, with 3 very small bedrooms, more appealing without increasing the number of bedrooms.

A1c) paragraph 2: Ms. Nason claims incorrectly that Unit 3 previously had a total of 2 existing bedrooms. According to multiple sources, the unit had 1 BR. After Ms. Nason became the legal owner, she enlarged the bedroom, put in a laundry, and created another bedroom out of a portion of the garage that is now a living room. In her initial submission to the Planning Dept, the architectural drawings labelled this entire unit as storage. When she was required by City staff to provide drawings of all units on the lot, and it became apparent that the number of bedrooms on the lot might doom her application, she took out a load-bearing wall in the front bedroom and turned it into a living room. In June 2020, she then turned around and advertised the unit as a 1 BR unit, soon to be 2 BR (after the conversion of remaining half garage) to a bedroom, with a price break

prior to the conversion. Her property management company also gave identical information to prospective tenants.

A1e) iv. The applicant states that she has abandoned her plan to make a second bedroom in Unit 3 by converting the remaining half garage into a storage space. However, she requests to replace the roll-up garage door with a regular door for a person and install a window. If she intends this space as storage for the entire property (which she has previously mentioned), instead of a second bedroom, a window is certainly not needed nor advisable, nor is a door into the living room of unit 3.

In closing, I am strongly opposed to granting a Use Permit that would allow more than 5 bedrooms at 1205 Peralta Avenue.

Joan Sprinson

1201 Peralta Avenue

Karimzadegan, Niloufar

Subject: FW: #ZP2020-0060. 1205 PERALTA AVENUE USE PERMIT & VARIANCE APPLICATION

From: Veronika [<mailto:veronikasf321@gmail.com>]

Sent: Wednesday, March 31, 2021 4:08 PM

To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>

Subject: #ZP2020-0060. 1205 PERALTA AVENUE USE PERMIT & VARIANCE APPLICATION

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TO: Members of the Zoning Board

RE: 1205 Peralta Avenue owned by Cathy (Lipnosky) Nason

DATE: March 30, 2021

Even though I plan to attend the meeting on 4/8/21 along with my neighbors, I would like to raise several points which have led us to be suspicious of what happens at 1205 Peralta.

Over the years there have been a number of problems with this property, ranging from tenants dealing drugs to various projects, mostly involving the addition of walls and bedrooms, a majority of projects which I would dare say has been done without permits. All of this has taken place on a lot which is non-conforming with regard to density, parking, open space, lot coverage, and front, side and rear setbacks.

Ms. Nason's father, Andy Lipnosky, was a master of self-help when it came to working without permits and it is likely that my attitude toward Ms. Nason has been affected by my experiences with her father. Additionally, months ago she submitted and then withdrew a very different application which my neighbors and I found totally unacceptable; several of us neighbors expect that a version of that previous development plan will be resurrected. Fortunately that is not now the case but I still find myself more than wary.

You may hear the applicant talk about the need for housing; this property furnishes quite a bit of housing and we, the neighbors, favor creating affordable housing. Our neighborhood has a number of multiple dwellings and ADU's. Over my back fence is an ADU, next door is an ADU, over

the fence next-door is an ADU, five lots south of me is an ADU and several other households of neighbors are considering ADUs. On other blocks in this modest neighborhood there are more.

We neighbors are considering the four units on the property not in terms of Use Permits and Variances, but in terms of the original configuration of the Units, what they have become, and what we would like them to be.

— Unit 1 is not an issue.

— **Unit 2** was a comfortable one-bedroom apartment when friends of mine lived there and should **revert to one-bedroom.**

— **Unit 3** was a small one-bedroom which has become a three bedroom unit. While I would not like to live in it as a two-bedroom unit, we see no reason to oppose having Ms. Nason be granted her desire to **change it into a two-bedroom unit.**

— **Unit 4** was a studio apartment during all the time the previous neighbor, now deceased, lived there. It shared a west wall with a large space which had been built as a two-car garage but used as storage space. After his death the unit magically became a one-bedroom unit when space from the adjoining storage space was appropriated. We have no problem with **converting the original studio into a one-bedroom** but are suspicious that Ms. Nason has plans to take the remaining square footage from the **storage space to create a second bedroom.** In fact, **prospective tenants** have been **told** that was **her plan** and the unit has been **advertised** in that way. Please note that the plans show the storage space with a window. Why a window in a storage space? Recently there have been a number of thefts and strangers wandering into neighbors' backyards, so it seems that a solid wall minus the window will provide greater security as well as eliminate our suspicions. Therefore, **retain the storage space and remove the window, replace with solid door.**

In conclusion, I have listed what we, the neighbors, wish to see. Speaking for myself, I would like to trust Ms. Nason and her architect but do not. In fact, given recent information I have learned, I am again more suspicious than ever; I believe that they have further development plans for this property in spite of the limitations of the lot. We, the neighbors, are doing our best to keep our modest Berkeley neighborhood a place where people can still afford to live—although it has become increasingly more difficult. I wonder if Ms. Nason and her neighbors in their multi-million-dollar neighborhood struggle with that concern.

Thank you very much for considering these points of view,
Veronika Sakowska Fukson, 1213 Peralta

Karimzadegan, Niloufar

From: Alan Tobey <atobey@gmail.com>
Sent: Wednesday, March 31, 2021 12:17 PM
To: Karimzadegan, Niloufar
Subject: Comment for 4/8 ZAB Meeting - 1205 Peralta Ave - variance and use permit

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My wife Ruth and I have lived at 1228 Peralta Ave., as neighbors to the property being considered by the ZAB, since 1978 — more than 40 years.

We consider ourselves fortunate that the virtues that first attracted us to this special block have continued or even improved: mild weather, a streetscape of buildings first built in the 1920s, a special soil block that moderates earthquake forces, a low rate of property crime, a prime location which has become ever more walkable as time goes on, and other factors. Especially positive has been the human dimension: the 1200 block of Peralta draws a diversity of residents who deliberately move in to capture these very virtues and to join an active local-political community.

And we've shared the dilemma of having 1205 Peralta among us. We and our neighbors have no collective opposition to increasing density on this block or elsewhere in Berkeley — for example, there are several ADU projects underway. But it's hard to accommodate the exceptional degree to which modifications imposed on this narrow single lot and the two buildings it contains, most often without a permit, have defied zoning constraints and normal human reason. As the Planning Department describes the situation (with their single sentence expanded to a list), this is "a parcel that is non-conforming for

- density,
- lot coverage setbacks,
- usable open space and
- parking."

This may be the only multi-unit residential rental building in Westbrae that provides NO off-street parking, requiring the owner to apply for a variance on grounds that basically amount to "I don't want to."

Lot coverage has not only exceeded city standards but has even appropriated space beyond their property line. The recent addition of a small interior garden does not compensate for this over-coverage.

And density requires a special mention. The apparent attempt to reconfigure an array of already-small bedrooms to create a total of EIGHT bedrooms on one small and narrow lot is startling in its greediness. Whether the current situation comprises either 5 or 6 bedrooms has been debated, but the ambition is beyond debate. The frequent adding on, tearing out and squeezing in of new rent-paying bedrooms seems inspired by the philosophy of the Winchester Mystery House: keep building or die. It's simply time to stop.

And yet: Most Peralta neighbors have adjusted to these physical excesses and yet find the property a contributor to neighborhood life and harmony for one simple reason: its residents are very much a positive part of our block and actively add to the diversity we work to maintain. Yet we cannot justify making zoning decisions based on the character of the present inhabitants.

So we have sought over several years to find an accommodation with the owner. Others will present in detail our current thinking of what should be done; but as my summary I can describe how to get there. Reversing most planning logic, in this case we could be bold and make as a linked decision:

**APPROVE THE PARKING VARIANCE AND
DENY THE USE PERMIT AS CURRENTLY REQUESTED**

I believe that a majority of our 1200 block would be willing to concede the practical reality: contributing to overloading local street parking is a *de facto* reality even if it's the spoils of civic defiance. But that concession should be allowed to continue only IF the interior proposals are rejected in their current form.

We believe that the permitted limit for the two buildings together should be A TOTAL OF FIVE bedrooms on this property. Five is a number naturally supported by the existing structure without cramming, and restoring that limit would likely require the reversal of only the most recent of unfortunate modifications. Beyond that, some detailed attention to the plans would further improve the outcome; for example, a space identified as a "storeroom" should not have a window, which would qualify it as a potential bedroom (and temptation to return to bad habits).

This sort of trade — forgive one violation in exchange for improving the livability of the buildings — seems like the only way through. If the owner is unwilling, the only outcome should be to deny both applications and move toward enforcing the existing statutory limits.

Otherwise this property may become a notorious example of how NOT to achieve greater housing density in Berkeley. Better that we create a POSITIVE example of how neighbors can solve problems by working creatively together.

Alan Tobey
1228 Peralta Ave.
510-717-1824

Karimzadegan, Niloufar

Subject: FW: Re : 1205 Peralta new proposed design

From: Karen Fiene [mailto:kfiene@mills.edu]

Sent: Wednesday, September 30, 2020 2:29 PM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>

Cc: wtiana@gmail.com; jsprinson@gmail.com; helen@jswdarch.com; mlyons@lmi.net; veronikasf321@gmail.com; ruthtobey@gmail.com; SSI@berkeley.edu; ian@mitroff.net; Karen Fiene I. <kfiene@mills.edu>

Subject: Re: Re : 1205 Peralta new proposed design

WARNING: This email originated outside of City of Berkeley.

DO NOT CLICK ON links or attachments unless you trust the sender and know the content is safe.

Hi Nilu,

Thank you for the revised permit documents, we will look this over. From your response it appears there are still several variances and use permits required. I have a few clarifications I'm wondering if you can address.

How many off-street parking spaces are required on this non-conforming over density lot?

Can an off-street parking space encroach into open space that is already under sized?

Is the 2'-0" planting strip required alongside the driveway along the full length of it?

Are there penalties or fines for properties that have increased the number of bedrooms over 5 without a permit?

Are there penalties or fines for properties that have reduced garage size without a permit?

We will be interested to see if the owners still want to pursue the project.

Best regards,

Karen

Karen Fiene, FAIA, LEED AP

Director of Facilities, Compliance and Sustainability

pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

*work: 510-430-2323
cell: 510-708-1347*

To: Zoning Adjustment Board, Regarding 1205 Peralta Avenue
Record ZP2020-0060; Parcel Number: 060 241603100
September 23, 2020

I write this letter to emphatically recommend rejection of the permit application at 1205 Peralta Ave. As an adjacent neighbor to this property for almost 30 years I can attest to the effects that an over density property has on the surrounding neighborhood, especially when off street parking and open space requirements are existing non-conforming. I ask you to consider that just because a nonconforming condition is preexisting does not make it right and does not deserve the same consideration as an addition that meets the spirit of the zoning and planning code.

The applicant, Cathy Nason, states that a lack of parking for four units with 7 current bedrooms is existing nonconforming, therefore we should ignore the impact of having 7-10 additional cars on the street. Although the property once had a two-car garage there have been several unpermitted conversions that have steadily removed any pretense of parking a car on the premises. The plan showing 4 cars lined up the driveway showcases a lack of understanding of off-street parking requirements.

Nason expresses a desire to create decent housing, yet provides no open space save a concrete area between the units that has been spruced up with a few potted plants and a statue. The zoning code requires 400 sf of open space per unit, yet this project has only 857 sf, barely half what a project this size should provide and would actually remove a tree to make way for construction. The lack of green space also creates more runoff and greater heat island effect radiating heat to the surrounding houses.

The argument that the building height over 14'-0" will actually cool the house to the north, thus saving on cooling costs is specious. In reality this modest house at 1203 Peralta with all of the living spaces on the south side will lose any possibility of seeing the blue sky. It is not just that the remodel casts a shadow, it's that the additional height further reduces access to sun and light. The impact on this property would be significant, possibly lowering the value of the property, and therefore story poles and a proper shadow and light study should be submitted for consideration. It should be noted that the shadow study for the new addition

only shows the Spring condition, conveniently leaving out the more restrictive Winter shadow impact.

In addition, the 3'-6" deep cantilever on the south side which overhangs the driveway brings the addition to within 5'-11" of our house, the narrowest condition in the entire neighborhood. A deck on the street side of the unit will be directly above our bedroom. Yet Nason claims this will have "no impact" on the neighbors.

By far the most egregious aspect of this project is the claim that there were **7 bedrooms** when Nason acquired the property, as noted on the drawings, and all she is doing is enlarging the existing condition. City records show that this property with two separate buildings comprise 4 living units with a total of **5 bedrooms**, 3 in the front house and two in the back. The unit under consideration had a single tenant for 33 years. Although records show this unit as having 2 bedrooms there are neighbors who were in this **544 sf** space and it was only a single bedroom. After the tenant died the unit was illegally converted to 2 bedrooms by turning a tacked-on mudroom into a second bedroom and relocating the hot water heater outside. It is unclear at what point this mysterious third bedroom was added but the plan reveals the absurdity of a 3 bedroom unit in what would be a studio apartment in any other situation.

On a parallel track, while this permit was being filed, Nason has engaged in *additional* illegal activity. According to city records the lower unit of the rear building was originally a single bedroom with a 2-car garage, however neighbors who were in the space said it was actually a studio with no enclosed bedroom. When that tenant died a few years ago the unit was converted without permit to a two bedroom by taking over part of the garage and was publicly advertised as such for \$3500. (It is worth noting that a building inspection filed in City records from 1993 reports "illegal garage conversion and creation of additional unit". This is likely when the original studio was converted to a one bedroom by taking over one of the garage car spaces).

On May 22nd of this year I submitted a complaint for unpermitted construction activity in this unit and a city inspector visited the site. It was clear that a bearing wall had been removed and a new header put in to convert one of the 2 bedrooms to a living room in order to temporarily reduce the number of bedrooms on site during this application period. But since the work was already

enclosed it had to be uncovered. They found the header to be inadequate and required it to be replaced. Now, interestingly, the unit is being advertised as a one bedroom, but “a large second bedroom is scheduled to be added”, where clearly they plan to convert the remaining one car garage, (already reduced in size to the point a car couldn’t fit in it). This would create an **8th bedroom** on this property. And if the “rec room” in the new addition is counted as a bedroom, which it undoubtedly will become, that is **9 bedrooms** on a property that should only accommodate 5. Incidentally, the permit submission showed this lower unit in the rear building as "storage", further evidence of Nason's willingness to bend the truth. But worse than bending the truth, the latest activity put lives at risk.

The neighbors on this street are not against upgrading property, in fact we welcome affordable units that are in character with local density and context. But we firmly object to an absentee landlord whose family has serially ignored this property and its lack of amenities, and who now claims to be providing necessary housing by capitalizing upon the illegal actions of her father. Cathy Nason seems most intent on extracting as much wealth as possible from an overbuilt property that has been out of compliance for decades. We respectfully ask the Zoning Adjustment Board to please protect the spirit of the R1-A zoning ordinance and reject this application.

Best Regards,

Karen Fiene, FAIA, LEED AP
1207 Peralta Ave
Berkeley, CA 94706
510-708-1347
kfiene@mills.edu

Re: ZP2020-0060

To whom it may concern:

As a concerned neighbor, I am writing to express my strongest opposition to the application for a variance and permits to expand and remodel the existing house and second dwelling structure at 1205 Peralta Avenue.

This property already grossly exceeds both lot coverage and zoned occupancy, as there are a total of four dwelling units already there with a total of six bedrooms. The proposed project would add substantial height to the front house, cutting off both light and views for the neighbor to the north at 1203 Peralta. The living spaces at 1203 (living room, dining and kitchen area as well as the back deck) are all on the south side of the house. Since the house at 1205 is already so very close to the property line, the proposed upward expansion would result in serious year round darkening at 1203. There would no longer be any view of the sky to the south from 1203.

Although the applicant's variance statement avers that "the cantilevered portion of the second floor does not cause any detriment to the existing tenants of the other units in this lot, nor the neighbors to the south of the property," the homeowners at 1207 to the south already feel uncomfortable with the proximity of the house at 1205. The space between the existing houses at 1205 and 1207 is the narrowest of any houses on our block. The homeowners at 1207 definitely do not want to see the proposed cantilevered addition to 1205 extend within 6 feet of the property line. Also, the privacy of the back deck of the home to the south at 1207 would also be impacted by the proposed enlargement of 1205.

With four units, there are a minimum of four cars used by the tenants on the 1205 Peralta property. While the plans show a marked garage, the size of the space has been reduced and used for storage, so no car could conceivably fit in the space. Nor can any vehicle navigate the driveway at 1205, so all vehicles use street parking, which is already precious and hard to find, particularly on the twice monthly street sweeping days.

The request for the variance and permits for 1205 Peralta are actually the result of the previous landlord (father to the current landlord) putting in walls to make unusably tiny rooms that now are being described in the project application as in need of enlargement and upgrade.

I'm all for smart growth, and realize that Berkeley needs to add living spaces to end the continuous urban sprawl, but the project at 1205 Peralta is ill-conceived and would make a bad situation worse for our neighborhood.

I strongly recommend the denial of the request for variance and permits for the project at 1205 Peralta Avenue.

Ruth Tobey
1228 Peralta Avenue

Karimzadegan, Niloufar

Subject: FW: Misc.
Attachments: Overview of 1205 Peralta History.docx

From: Joan Sprinson [mailto:jsprinson@gmail.com]
Sent: Wednesday, September 2, 2020 11:16 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Misc.

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Hi Nilu,

Thanks for answering my questions on the Residential Building Record on Monday.

On your June 15th email to Cambare and Nason, you reference a “UPPH for *over* 6th bedroom”. I am puzzled because on Zoning Information Guide #1 says that increasing the number of bedrooms on the property to five or more requires an AUP (for a 5th bedroom) or a Use Permit (for a sixth bedroom or greater). Is the threshold for requiring a Use Permit ≥ 6 bedrooms or > 6 bedrooms (in other words ≥ 7 BR)?

You mentioned that the applicant had requested a site visit by a Zoning Inspector. Will the findings of this inspection or site visit be uploaded to the City’s site, like the other info related to this permit process? Do you know the planned date for this inspection? I think it would be an excellent idea and an efficient use of zoning inspector resources if s/he visited Unit 3 while at this address.

I’ve developed a brief overview for the Zoning Inspector that, I think will be pertinent. Please note that this is a draft, but I’m happy to share it if you think it’d be helpful. Also, I have some relevant photos, but I have no idea the best way to share them because of the large file size, either at this time or when we submit our comments to the application. What do you advise for sharing photos?

Finally, we have questions about the information shown in the attached screen shots shown below. They clearly relate to the compliance inspection triggered by a neighbor’s complaint to the City about the recent removal of a load-bearing wall in Unit 3 and the removal of a bedroom in the process. But, it is unclear to me what this info means and what the status is. Assuming this is unrelated to planning, is there a phone number or email address you could give me to get more information?

Thanks!

Joan

Karimzadegan, Niloufar

From: Tiana Wages <wtiana@gmail.com>
Sent: Thursday, August 27, 2020 11:24 AM
To: Karimzadegan, Niloufar
Subject: Impact of 1205 Peralta Overbuilding on 1203 Peralta

Categories: Red Category

WARNING: This email originated outside of City of Berkeley.
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Dear Nilou,

I am submitting these photographs to try to illustrate the impact 1205 Peralta permit to overbuild would have on the quality of life on 1203 Peralta, where I live.

My name is Tiana Wages and I live North of the proposed Application to Build the Second Story on the 1205 Front Structure, that faces the Peralta Avenue.

As everyone in the neighborhood is aware, that lot has 2 structures. The back building is 2 stories and contains 2 apartments, the front building has 2 apartments on its first floor. Numerous un-permitted remodelings have been executed over the years and the property has never been in good condition and upkeep. For example, the added back porch (serving as the additional bedroom) has had a blue tarp over it for the past year, as it has been leaking on the last tenants...

A true and conscientious repair would call for upgrading the existing living spaces, enabling and upgrading them for people with Modest Means to live comfortably. Which everybody in the neighborhood supports!

This brings me to the complaint about the proposed overbuilding.

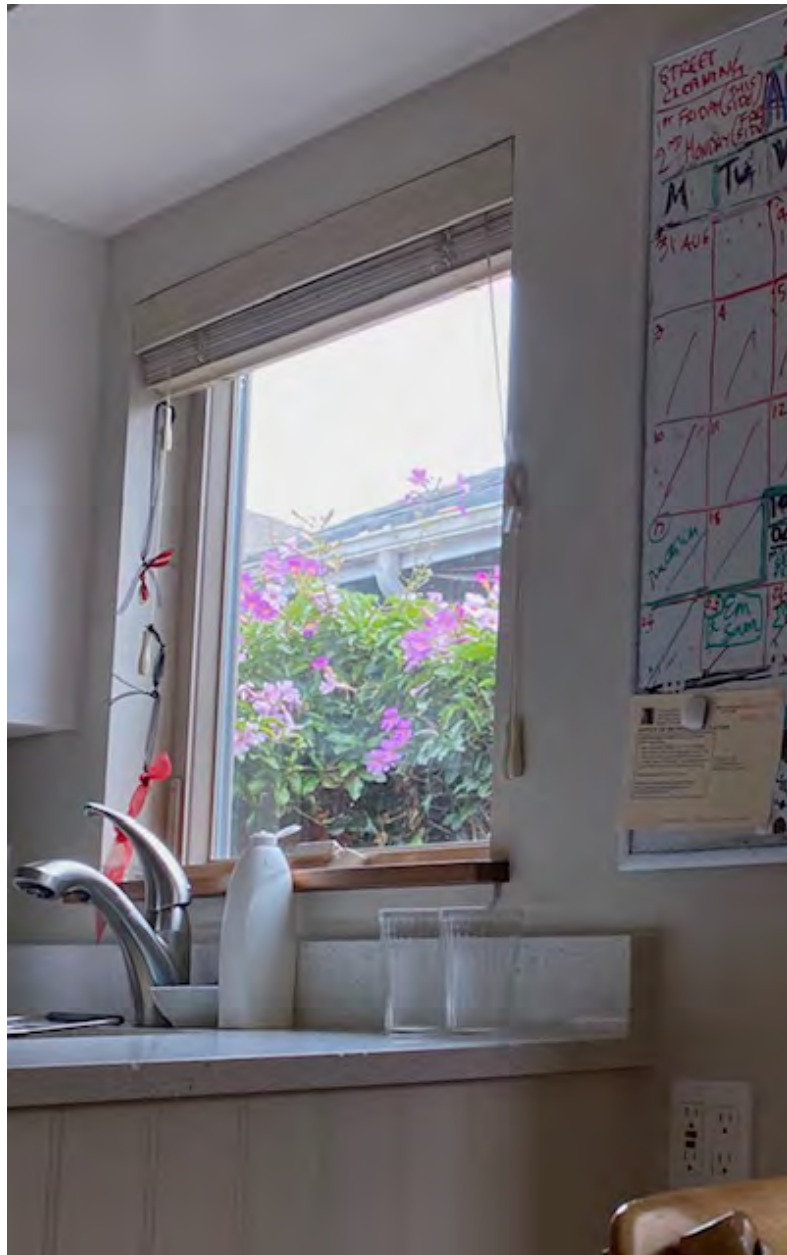
The owners are requesting to Grandfather the existing setback of 3'-5" towards my house, justifying it with a ridiculous excuse, knowing it is not OK!!

If the Second Story is allowed to be built, it will cause No Light and No Visible Sky into my main Living areas, as illustrated in these photographs. The affected rooms are my Living Room, Kitchen nook and Kitchen itself, with the patio: my grandchildren deserve to see the sky when they have lunch, not to sit in darkness!!!





You can see the current roof line through the kitchen window. I took the picture today, with an overcast sky, so it is difficult to see.









This is taken today from my Living Room, showing part of the kitchen nook with the table.

The second story would tower over my small patio, with their East-looking windows eliminating any privacy to that portion of my yard, which the grandkids use all the time.

Their statement “improving quality of life for a tenant” does not call for having 3 bathrooms! It only justifies a potentially high rent and points to the intent of turning the upstairs “recreation room” into the fourth bedroom! For example, in their advertisement to the public about the previously — unpermitted — remodel of the back house first floor apartment, they did exactly that: they promised to turn a one bedroom apartment into 2 bedrooms, after including the remaining part of the garage “when no one would be looking!!”

In addition to the impact on my personal quality of life I feel appalled at the blatant greed and manipulation this strictly commercial plan brings to the Neighborhood. I hope that the Zoning Commission will protect our interests and not allow this overbuilding to proceed.

Thank you,
Tiana Wages
1203 Peralta Avenue

Sent from my iPhone

Karimzadegan, Niloufar

Subject: FW: Concerned Neighbors

From: Ian Mitroff [mailto:ian@mitroff.net]
Sent: Wednesday, August 26, 2020 10:26 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Concerned Neighbors

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To the Berkeley Planning Department

Niloufar Karimzadegan
Assistant Planner
Nkarimzadegan@cityofberkeley.info

Dear Mr. Karimzadegan:

We are writing to you as concerned neighbors with regard to the proposed expansion of the property at 1205 Peralta Ave, Berkeley, 94706.

It is our understanding that the property is already greatly overbuilt in that the lot coverage is substantially beyond the allowable limit.

Furthermore, given the current number of four rental units--we don't know the exact number of renters--there are no parking spaces available on the property itself. This puts an additional burden on street parking which is already strained. It will be even worse if the expansion is approved.

Finally, it is also our understanding that over the years the owner has created additional spaces to the structure without his obtaining any proper permits from the City.

For these reasons, we are asking that the proposed expansion be denied.

Sincerely,

Ian I. Mitroff, PhD

Professor Emeritus, USC

Senior Research Affiliate, Center for Catastrophic Risk

Management, UC Berkeley

1216 Peralta Ave, Berkeley

ian@mitroff.net

510-333-0126

Donna D. Mitroff, PhD

President, the Kidvocate Group

1216 Peralta Ave, Berkeley

Karimzadegan, Niloufar

Subject: FW: Your 1205 Peralta Ave Microfiche Records

From: Joan Sprinson [mailto:jsprinson@gmail.com]

Sent: Saturday, August 22, 2020 3:57 PM

To: Sanford, David <DSanford@cityofberkeley.info>

Cc: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Karen Fiene <kfiene@mills.edu>

Subject: Re: Your 1205 Peralta Ave Microfiche Records

Hello again David,

I have a question on one of the documents in the microfiche you provided. On page 11/50 in the microfiche, an illegal garage conversion was reported as part of a housing code inspection. On that page, it indicates that this violation will be referred to the Zoning Department. Do you have access to the historic records from the Zoning Department, and can you document the follow-up by Zoning regarding this issue?

Thanks again for your assistance,

Joan

On Aug 22, 2020, at 10:31 AM, Joan Sprinson <jsprinson@gmail.com> wrote:

Thank you very much, David, for your quick response to my request. This information is very helpful!

Joan

Karimzadegan, Niloufar

Subject: FW: Application for Permits --1205 Peralta Avenue
Attachments: Zoning Board Peralta Application.docx

From: Veronika [mailto:veronikasf321@gmail.com]
Sent: Friday, August 14, 2020 5:55 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Application for Permits --1205 Peralta Avenue

WARNING: This email originated outside of City of Berkeley.
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Hello Nilou,

I am attaching my statement to members of your staff and members of the Zoning Adjustments Board.

If there is anything which is unclear or inapplicable in what I have submitted, please let me know.

Thank you for your willingness to talk with those of us who are interested in this application and for your work on behalf of the larger Berkeley community.

Stay safe and well,
Veronika Fukson

Veronika S. Fukson

1213 Peralta Avenue
Berkeley, CA 94706

To: Zoning Staff and Members of the Zoning Adjustments Board

When I read the first notice of work to be done at 1205 Peralta, I felt immediately that the work was beyond what was legally allowable under our Zoning Ordinance. Many years ago I was the Chairperson of the Zoning Board and Planning Commission before I moved to the City Council, so although sections of the Ordinance have been revised and added, I am relatively familiar with this document and the City process. I phoned the owner and then her architect, informing them of "problems" with their application and also of the **many changes WITHOUT PERMITS** which have been made over the years by Ms. Nason's scofflaw father, Andy Lipnosky, from whom she inherited the property. In fact, I advised them that there were objections from adjacent neighbors who had years of experience with the illegal work performed by the former owner and with problems created by some of his former tenants.

I have lived at 1213 Peralta for many years and have appreciated many of the changes which my neighbors have made to their property. On my north side and directly behind my back fence are ADU's of which I approve, so my neighbors and I have no argument with additional dwelling spaces in our neighborhood. Also, many years ago close friends lived for about four years as tenants at 1205, comfortable in a one-bedroom unit at the rear above the garages. This is **NOT** a **NIMBY** issue.

When I spoke with Ms. Nason, she told me that her plan was to make livable the main house back unit—the traffic flow didn't make sense and the space was too crowded. I advised her that the problem of crowding had been caused by her father who had **illegally** erected walls in what **had been a small one-bedroom unit to create a new three-bedroom unit**; he intentionally created an unacceptably overcrowded living space. Now Ms. Nason is using his brazen actions to justify adding a partial second story, thus giving the space an acceptable traffic flow. In addition, he increased the livable square footage of the lower unit in the very back using what had originally been garage space by once again erecting a wall to create a two-bedroom unit. At present, work has taken place to remove the illegal wall and the space is once again a one-bedroom unit. however, her leasing agent has told an interested party that after they receive the permits which are the subject of this hearing, the unit will be made a two-bedroom. It is interesting that it is not part of this application!! So the message is: Do a bit legally and then add some "self-help" with illegal additions--that is how her father operated and she is following his *modus operandi*. And please do not accept any excuses that Ms. Nason didn't own the property when her father slipped in a bedroom or two. She may not have known but was part of a trust, knows now, and is following his example.

All in all, I can find **NO JUSTIFICATION** for the Board to grant any variances as requested by the applicant; the property exceeds lot coverage, already overbuilt with less than the required open space and how many bedrooms one cannot be certain about. Ms. Nason told me that she was planning on creating a garden space between the two buildings with some kind of natural feature—what we have recently learned from a "For Rent" ad is touted as "ZEN." Sadly, there are now some potted plants and a large statue of Buddha, "window dressing" and a very sad commentary on the serious issues of legality, livability and appropriate development. No amount of Zen should help this applicant who doesn't seem to understand the meaning of the Zoning Ordinance and our housing concerns in Berkeley; they apparently don't have them in Inverness.

I request that the Zoning Board **DENY THIS DECEPTIVE APPLICATION** and the applicant's desire to "mine" this property for more than it can handle within the allowances of the Zoning Ordinance.

August 14, 2020

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Avenue

From: Ruth Tobey [mailto:ruthsobey@gmail.com]
Sent: Wednesday, August 12, 2020 1:05 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Re: 1205 Peralta Avenue

Thank you so much for your quick help. Please do add my email to your interested party mailing list for this project. I was worried that COVID might impact the process and am glad that we can expect a hearing
Many thanks
Ruth Tobey

Sent from my iPhone

On Aug 12, 2020, at 12:09 PM, Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

Hi Ruth,

Thank you for your email. Please see project material by clicking on the link below:

<https://aca.cityofberkeley.info/Community/Default.aspx>

You will see this under **zoning (enter address in the search box) : Record Info : attachments.**

<image002.jpg>

In regards to the project, we are aware of the site conditions and the neighborhood objections. I have advised the applicants that the project might not be supported by staff and the applicants wanted to submit this application regardless. They are also aware of the neighborhood objections. All we can do is let them know that there is opposition. They are entitled to apply for a project and request permits, however that does not mean that they are going to obtain what they have asked for.

This project will go to a public hearing in a few months and you have until then to write me emails of objections or support. I will keep all communications received from the neighbors as part of the record to share with the Zoning Officer and include in the packet for the board members who will vote on it. I recommend that you send me your letters sooner so that staff can consider it in making a recommendation to the Zoning Adjustment Board.

You will also have the opportunity to attend a virtual public hearing meeting (Zoom meeting) and speak for or against any project.

Please let me know if you have other questions or concerns. Because so many other people have contacted me regarding this application, I am going to make an "interested party" email list and I can add your email to the list if you would like to receive updates from me throughout the process. Please let me know if that is something that you would like me to do.

I hope this helps!

Best,

Nilu Karimzadegan, Assistant Planner
City of Berkeley, Land Use Planning

From: Ruth Tobey [<mailto:ruthsobey@gmail.com>]
Sent: Wednesday, August 12, 2020 10:40 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: 1205 Peralta Avenue

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Dear Nilu,

I live at 1228 Peralta Avenue and saw the posters on the phone poles about the project at 1205 Peralta. I went to the cityofberkeley/zoningapplications website, but the 1205 project was not listed. The alternative site at buildingeye is not secure and my browser warned me not to use it. Is there any other way to access the application materials for the 1205 Peralta project? That property is already a high density rental property with no offstreet parking. I am deeply concerned about this as well as other aspects of the project as I understand it. Thank you for any leads you can provide.

Ruth Tobey
1228 Peralta Ave, Berkeley, CA 94706

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Avenue

From: Ruth Tobey [mailto:ruthtobey@gmail.com]
Sent: Wednesday, August 12, 2020 10:40 AM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: 1205 Peralta Avenue

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Dear Nilu,
I live at 1228 Peralta Avenue and saw the posters on the phone poles about the project at 1205 Peralta. I went to the cityofberkeley/zoningapplications website, but the 1205 project was not listed. The alternative site at buildingeye is not secure and my browser warned me not to use it. Is there any other way to access the application materials for the 1205 Peralta project? That property is already a high density rental property with no offstreet parking. I am deeply concerned about this as well as other aspects of the project as I understand it. Thank you for any leads you can provide.
Ruth Tobey
1228 Peralta Ave, Berkeley, CA 94706

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave

From: Karen Fiene [mailto:kfiene@mills.edu]
Sent: Monday, August 10, 2020 1:08 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: Tiana Wages <wtiana@gmail.com>; Joan Sprinson <jsprinson@gmail.com>
Subject: 1205 Peralta Ave

WARNING: This email originated outside of City of Berkeley.
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Hi Nilu,

I have received several complaints from neighbors who say the posting at 1205 Peralta is so small and located so far from the street that no one can actually read it. Is there a way to ask the owner to enlarge it or post it closer to the street? It's posted on a porch which is raised about 4' and pushed back with a lot of ivy in front so no one can get close to see it.

There are also the notices on telephone poles across the street from the property saying the neighborhood contact and yellow poster requirements are waived due to Covid. Per our last conversation you said we had about a month to send in a response via email, is that still the case? I will get it to you sooner, but just want to make sure we don't lose our window to respond.

Thank you
Karen

Karen Fiene, FAIA, LEED AP
Director of Facilities, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

*work: 510-430-2323
cell: 510-708-1347*

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave APN 060-241603100 Duplex Renovation/Expansion

From: Karen Fiene [<mailto:kfiene@mills.edu>]

Sent: Monday, April 27, 2020 5:26 PM

To: ZoningCounter <ZoningCounter@cityofberkeley.info>

Cc: Tiana Wages <wtiana@gmail.com>; Joan Sprinson <jsprinson@gmail.com>; Helen Degenhardt <helen@jswdarch.com>; Mel Lyons <mlyons@lmi.net>; Karen Fiene I. <kfiene@mills.edu>

Subject: 1205 Peralta Ave APN 060-241603100 Duplex Renovation/Expansion

Dear City Planner, (I believe one of our neighbors has recently reached out to Fatima Gray so she may already know about this project)

I am the resident in the adjacent property at 1207 Peralta and have some questions about the planning process. I am an architect and have familiarized myself with the planning code but seek clarification on a few things.

In order to facilitate the call I will outline the issues. The owner, Cathy Nason, has procured an architect, Cambare Designs, to prepare permit documents, attached. The plan describes the addition of a second floor over the rear unit of an existing duplex on a site that has a total of 4 units. Neighbors have been given the plans for review, a zoning permit is not on record as having been filed yet. Of note is that this neighborhood is all owner occupied with a max of 2 units. This parcel is owned by an absentee landlord, with 4 units, and we are aware of upgrades that have been done without permits in past years. The general condition of the property has been poor, and there has been no sense of contributing to the scale and character of the neighborhood.

Questions and Clarifications:

1. The occupancy is listed as R2 on the permit drawings, but city records call out R-1A. What are the major differences? How can I get a complete copy of regulations for R2 and R-1A designation?
2. Can you confirm which type of AUP will be required? The property has more than 4 bedrooms, the expansion is over 600sf and we believe there are substantial impacts to adjacent neighbors.
3. Would a project like this be subject to design review?
4. Is there any requirement that one of the units be owner occupied?
5. Is it legal to have 4 units in an R-1A?
6. What are the off street parking requirements? My reading of the code is that 2 are required. The existing conditions do not allow for 2 cars, assuming the ADU is exempt. And the proposed plans also do not address off street parking.
7. The required open space of 400 sf per unit = 1600 sf cannot be met given the small open area available, are there exemptions that apply? Otherwise is this proposal legitimate?
8. Proximity to existing house. Plans show a cantilevered second floor will come within 4'-0" of our house.
9. Expanding footprint on second level. The upper level is being cantilevered 3'-0" over existing driveway and over a newly built porch that is an extension of the main floor. Is this considered enlarging the footprint? The drawings say all work is within the existing footprint but this does not look to be the case. Does the new footprint exceed the maximum lot coverage?
10. What is considered a 'detriment' and how does the city react to excessive impact to adjacent properties? In this case one dwelling will lose all of the natural light into the living spaces, and on the other side a balcony will intrude on the privacy of a back garden with a 9'-0" wall looming 4'-0" away. The issue is that the property already feels overbuilt and like a drag on the neighborhood. There are excess cars on

the street, four or more, and the noise and activity of four families, versus one family in almost every other case on the block, feels like too much.

11. Can doing past work without a permit be a consideration in refusing new work to take place until remedied? Two units have had substantial work conducted without any posting of city permits.

Process- can you please confirm if the next steps I have outlined are correct?

1. Owner supplies plans to neighbors, which they have done. Do neighbors legally have to sign off on having received the plans? They have asked that we sign in advance of receiving official notice from the planning department and we don't think this is required. We also noticed the sign they posted is not yellow and only has one elevation, no plan or other supporting information, is that supported by the city?
2. Owner submits plans for zoning approval.
3. Notice of zoning permit request is posted- by who?
4. Neighbors have a chance to comment, how long do we have?
5. What if the planning permit is granted, can we appeal to the ZAB and City Council?
6. Can you give us an idea of how long all of this will take given the Covid-19 conditions?

Thank you very much for your time and assistance

Best regards,

Karen Fiene

1207 Peralta Ave

Karen Fiene, FAIA, LEED AP

Director of Construction, Compliance and Sustainability

pronouns: she, her

cell: 510-708-1347

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave

From: Karen Fiene [mailto:kfiene@mills.edu]

Sent: Friday, May 22, 2020 4:12 PM

To: Drouillard, Wanda <WDrouillard@cityofberkeley.info>

Cc: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Schlepp, Victoria <VSchlepp@cityofberkeley.info>; Karen Fiene I. <kfiene@mills.edu>

Subject: Re: 1205 Peralta Ave







Hi Wanda,

Thank you for your call. Please see attached photos of work going on currently. You can see the new windows stacked up against the house in preparation for the renovation. The area behind the trellis is where they want to expand a new porch into the open space. We suspect they are going to put a footprint out there now in order to say the lot coverage was already there. This is all under the auspices of beautifying the courtyard. The garage, (of which there were once two, is not regulation size and has been cut in half to create a second bedroom,) is also full of windows for new construction.

Best regards
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

*work: 510-430-2323
cell: 510-708-1347*

On Fri, May 22, 2020 at 2:13 PM Karen Fiene <kfiene@mills.edu> wrote:

Hi Wanda,

Thank you for getting back so quickly. If I understand it you are in Code Enforcement and will only come to the site if Building and Safety deem it necessary. I also understand that Building and Safety have received my first complaint for illegal construction. I am attaching the second complaint, for work taking place right now.

Would you be the one to forward to the Building and Safety Supervisor, or should I submit via a different way?

Best regards
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

work: 510-430-2323
cell: 510-708-1347

On Fri, May 22, 2020 at 1:56 PM Drouillard, Wanda <WDrouillard@cityofberkeley.info> wrote:

Good Afternoon,

The request for service was not submitted to Code Enforcement. I spoke to Building & Safety this week and they confirmed they had received the request for service on the property and will be scheduling an inspection.

No action will be taken at this time from Code Enforcement, if Building & Safety feel it is warrant then Code Enforcement will be involved.

I will forward your concerns and inquiry to the Building & Safety Supervisor in case they want to get in touch with you for any questions regarding the potential violations on the property.

Wanda Drouillard

Code Enforcement Officer

City Manager's Office

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave
Attachments: Request for Service Inspection (Illegal Construction).pdf

From: Karen Fiene [mailto:kfiene@mills.edu]
Sent: Friday, May 22, 2020 2:14 PM
To: Drouillard, Wanda <WDrouillard@cityofberkeley.info>
Cc: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Schlepp, Victoria <VSchlepp@cityofberkeley.info>
Subject: Re: 1205 Peralta Ave

Hi Wanda,

Thank you for getting back so quickly. If I understand it you are in Code Enforcement and will only come to the site if Building and Safety deem it necessary. I also understand that Building and Safety have received my first complaint for illegal construction. I am attaching the second complaint, for work taking place right now. Would you be the one to forward to the Building and Safety Supervisor, or should I submit via a different way?

Best regards
Karen

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No action will be taken at this time from Code Enforcement, if Building & Safety feel it is warrant then Code Enforcement will be involved.

I will forward your concerns and inquiry to the Building & Safety Supervisor in case they want to get in touch with you for any questions regarding the potential violations on the property.

Wanda Drouillard

Code Enforcement Officer

City Manager's Office

From: Karen Fiene <kfiene@mills.edu>

Sent: Friday, May 22, 2020 1:28 PM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>

Cc: Drouillard, Wanda <WDrouillard@cityofberkeley.info>; Schlepp, Victoria <VSchlepp@cityofberkeley.info>

Subject: Re: 1205 Peralta Ave

Hi Nilu,

Thanks so much for the quick response, for the update, and for connecting me to Wanda.

Hi Wanda,

Please let me know the best way to keep the city informed of these activities. I can be reached at 510-708-1347.

I understand that these are unprecedented times, and that we are having to work in unique ways. The entire neighborhood, which is in solidarity, really appreciates your time and input on this matter!

Best regards,

Karen

On Fri, May 22, 2020 at 1:19 PM Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info> wrote:

| Hi Karen,

As far as I know, City's Code Enforcement Unit is aware of this issue. My colleague at CE, Wanda is Cced here. Please reach out to her for updates as she might have more information on the status of Notice of Violation. I am with the Land Use Division and working with the applicant on their proposal for additions to the front building. They know that we have been notified on the violations.

Please be patient as this is not normal times and we are dealing with a lot. All your complains are recorded.

Best,

Nilu Karimzadegan |Assistant Planner

Land Use Planning, City of Berkeley

*By order of the Berkeley Public Health Officer, joining all six local Bay Area counties, all local residents and City government employees must remain sheltered at home until further notice. This order has been issued to protect public health and safety. Any updates on this situation will be posted at:

<https://www.cityofberkeley.info/coronavirus/>

*City of Berkeley Holidays:

https://www.cityofberkeley.info/IT/Holiday_and_Reduced_Service_Days.aspx

From: Karen Fiene [mailto:kfiene@mills.edu]

Sent: Friday, May 22, 2020 11:39 AM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Schlepp, Victoria

<VSchlepp@cityofberkeley.info>

Subject: [1205 Peralta Ave](#)

Hi Nilu,

I wanted to get back in touch with you about the property at 1205 Peralta, which we spoke about a few weeks ago. I alerted you, Victoria Schlepp and the city via the complaint form, that there was unpermitted work going on inside the lower level of the back unit. They removed a wall and added a header, all the while telling us that they were just replacing carpet with a wood floor, but we have photos that prove otherwise.

Over this last week they have been busily working away ,again without permit or notice, this time under the pretext they are just fixing up the back patio. However it looks suspiciously like they are building out the area where they want to expand the proposed porch, possibly to make it look like that site coverage was already there. This is the way the owners of this property have operated in the past. As we discussed, it is clear from records that the back unit in the main house did not have 3 bedrooms, yet now it magically does. Their tactic is to say this is an existing condition and all they are doing is improving it.

This ongoing work and blatant disregard for city process and neighborhood intrusion has reached a new level of nuisance. I do not know what else we can do other than to keep reaching out to the city, but so far we have not received any indication that our complaints have been received, or that anyone has come to the site. It is disappointing to see this kind of behavior being allowed to continue with no end in sight.

Thanks for all of the time and attention you and Victoria have given to hear us out, we appreciate anything you are able to do regarding the latest work. As always I am available to talk by phone at 510-708-1347.

All the best

Karen

Karen Fiene, FAIA, LEED AP

Director of Construction, Compliance and Sustainability

pronouns: she, her

Mills College

[5000 MacArthur Blvd](#)

[Oakland CA 94613](#)

work: 510-430-2323

cell: 510-708-1347

--

Karen Fiene, FAIA, LEED AP

Director of Construction, Compliance and Sustainability

pronouns: she, her

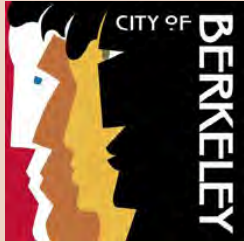
Mills College

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**Building and Safety
Permit Service Center**

Please Note:

Anonymous requests will not be processed. The City of Berkeley will not automatically publicize the origin of this request, however if anyone seeks information about this request, it is considered public information.

This form is for illegal construction/code concerns only. Any noise concerns should be directed to the Environmental Health Division.

For unsafe work practices, complete a **Complaint to Investigate Unsafe Work Practices** form.

Building and Safety
1947 Center St. 3rd floor
Berkeley, CA 94704
510-981-7440 TTY 6903
buildingandsafety@cityofberkeley.info

REQUEST FOR SERVICE

Inspection for Illegal Construction

Request Details

Address: 1205 Peralta Ave

Concern: Ongoing illegal construction to 4 unit rental. This is the second request for service for inspection of illegal construction. In this case an area that is proposed for new construction, permit submittal pending, is being cleared out to allow access. Workers we have spoken to think the permit is in hand and its "all systems go" But drawings are not submitted yet.

Owner Information

Name: Cathy Nason Phone: 530-913-1584

Address: PO Box 142 City/ST/Zip: Inverness, CA 94937

Email: cathynason@gmail.com

Complainant Information

Name: Karen Fiene Phone: 510-708-1347

Address: 1207 Peralta Ave City/ST/Zip: Berkeley, CA 94706

Email: kfiene@mills.edu

Relationship to the Address of Concern: Neighbor Tenant Owner

Fire Department Health Department Other: _____

Karen Fiene 5/22/2020

Complainant Signature Date

Office Use Only

Inspector: _____ Priority: _____ Due: _____

Action: Posted NOV Posted 2nd NOV NFA Other: _____

Notes: _____

Building Inspector Signature Date

Supervising Building Inspector Signature Date Last Revised 07/01/19

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave

From: Karen Fiene [mailto:kfiene@mills.edu]

Sent: Friday, May 22, 2020 11:39 AM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Schlepp, Victoria <VSchlepp@cityofberkeley.info>

Subject: 1205 Peralta Ave

Hi Nilu,

I wanted to get back in touch with you about the property at 1205 Peralta, which we spoke about a few weeks ago. I alerted you, Victoria Schlepp and the city via the complaint form, that there was unpermitted work going on inside the lower level of the back unit. They removed a wall and added a header, all the while telling us that they were just replacing carpet with a wood floor, but we have photos that prove otherwise.

Over this last week they have been busily working away ,again without permit or notice, this time under the pretext they are just fixing up the back patio. However it looks suspiciously like they are building out the area where they want to expand the proposed porch, possibly to make it look like that site coverage was already there. This is the way the owners of this property have operated in the past. As we discussed, it is clear from records that the back unit in the main house did not have 3 bedrooms, yet now it magically does. Their tactic is to say this is an existing condition and all they are doing is improving it.

This ongoing work and blatant disregard for city process and neighborhood intrusion has reached a new level of nuisance. I do not know what else we can do other than to keep reaching out to the city, but so far we have not received any indication that our complaints have been received, or that anyone has come to the site. It is disappointing to see this kind of behavior being allowed to continue with no end in sight.

Thanks for all of the time and attention you and Victoria have given to hear us out, we appreciate anything you are able to do regarding the latest work. As always I am available to talk by phone at 510-708-1347.

All the best
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

work: 510-430-2323
cell: 510-708-1347

Karimzadegan, Niloufar

Subject: FW: Today!
Attachments: IMG_1490.jpg; IMG_1491.jpg; IMG_1492.jpg

From: Karen Fiene [mailto:kfiene@mills.edu]
Sent: Wednesday, May 13, 2020 6:17 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Subject: Fwd: Today!

Hi Nilu,

Our neighbor went inside the illegal construction site and found they had already finished the work. You can see from the images sent earlier that they removed a wall and put in a header. It seems they are trying to reduce the number of bedrooms, but it is unclear. They may also be taking over the garage, which would reduce offstreet parking. You can see why we don't trust this landlord.

Best
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613
work: 510-430-2323
cell: 510-708-1347

----- Forwarded message -----
From: Tiana Wages <wtiana@gmail.com>
Date: Wed, May 13, 2020 at 6:07 PM
Subject: Today!
To: Karen Fiene <kfiene@mills.edu>
Cc: Joan Sprinson <jsprinson@gmail.com>

Hi Karen,
They did a very fast job today.
As you can see, they covered up all the work they did yesterday!! It appears as if it has been like this from the start.
Let the zoning see the photos from yesterday and from today.
Tiana
I took these photos from the Front door.

Karimzadegan, Niloufar

Subject: FW: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

From: Karen Fiene [mailto:kfiene@mills.edu]
Sent: Wednesday, May 13, 2020 2:55 PM
To: Schlepp, Victoria <VSchlepp@cityofberkeley.info>
Cc: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>; Karen Fiene I. <kfiene@mills.edu>
Subject: Re: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

Hi Vicky,

To clarify, you are saying that the owner of 1205 has submitted the plans for the remodel to add a second story to the main house, in one of 4 units, and that you have forwarded my email with the list of concerns about that project, including off street parking, open space etc., to zoning.

In addition you are forwarding the current complaint of illegal activity to the code enforcement division.

Thank you so much for your assistance. Please let me know if there are any additional channels we have in order to stop the illegal activity and block what we feel are inappropriate plans for what we think might be an illegal number of units.

Best regards,
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613
work: 510-430-2323
cell: 510-708-1347

----- Forwarded message -----

From: **Tiana Wages** <wtiana@gmail.com>
Date: Wed, May 13, 2020 at 10:31 AM
Subject: 1205 improvements
To: Karen Fiene <kfiene@mills.edu>

Hi Karen,

You were talking to the foreman this morning who has told you that “the renters wanted the carpet removed, that is all they were doing”... Well, here are the photos of what they Are Doing.

The workers told me that they are putting the carpet down, among other things. It looks to me, and you can see it better with your professional eyes, that they are making One Room out of the 2 that they made earlier. Maybe to be compliant with the number of bedrooms on the property?? Also, other code restrictions...

Karimzadegan, Niloufar

Subject: FW: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

From: Karen Fiene [mailto:kfiene@mills.edu]
Sent: Wednesday, May 13, 2020 5:13 PM
To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>
Cc: Karen Fiene I. <kfiene@mills.edu>
Subject: Re: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

Hi Nilo,

Thank you for your phone message, I'm sorry I missed you. It helps to know where we are in the permitting process. As I understand it the project has been submitted and will require a use permit and a public hearing. You spoke to the architect about code requirements and they need to decide whether to proceed. If so, an invoice will be sent and after payment it will become official. Just to clarify, the work currently being done illegally is on the lower level of the ADU, which was not a part of the submitted plans. You will notice it is labeled as 'storage' on the plan, but is being advertised as a 2 bedroom. It is very disappointing that this owner would flagrantly disobey the law while pretending to abide by it. I hope someone in the enforcement department will be able to take a look tomorrow and put a restraint on construction until proper permits are obtained.

One of our big concerns, and maybe you can help us determine this, is that we believe the property was converted to 4 units after the R-1A zoning change. We have evidence from a former tenant who said the main building was only one unit when they moved out, which was post rezoning. We know for a fact there have never been any city postings for construction, and we checked zoning files and there is nothing on file. Yet there are 4 units with a total of at least 7 bedrooms. The proposed project presupposes there are 3 existing bedrooms, yet we know these were added without a permit and that there was a single person living there for many years and who died there. The place was filthy and attracted rats.

If as we suspect, the property is in violation of the number of allowed dwelling units, is there anything the city can do about this? You mentioned that neighbors did not sign the plans, and have a negative view of this project. I have lived next to this property for 28 years and can attest to the poor quality of the property, the excess noise and cars and the difficulty of communicating with the absentee landlord and property managers. Our street is all owner occupied and we take pride in our property and in our relationships. This property owner, now deceased but his daughter has inherited, has never had any concern for the impact on the neighborhood. This is one of the reasons why there is no support for the project.

I would be happy to speak with you tomorrow at your convenience.

All the best
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Karimzadegan, Niloufar

Subject: FW: Signed Form - Reporting Illegal Construction Activity at 1205 Peralta Ave - URGENT
Attachments: Request for Service.jpg

On Wed, May 13, 2020 at 12:14 PM Karen Fiene <kfiene@mills.edu> wrote:

Hello,

I am reporting illegal construction **going on right now at 1205 Peralta Ave**. There are walls and a header being installed without a permit or structural design. When we inquired about the work we were told they were just replacing carpet with a wood floor. But we have seen truckloads of drywall being removed.

This property is a repeat offender and we believe is illegally renting 4 units where only 2 are allowed. The work may be complete by tomorrow so we urge that an inspector come to the site as quickly as possible. I need to find a place to print this form so I can sign it but please review as soon as possible and please call with any questions.





The request for inspection of illegal construction is in the link below. Please call if you have any trouble viewing.

<https://drive.google.com/file/d/1rTGwxfZKkZAdhsKtzdul8Y9d7UNk3-GR/view?usp=sharing>

510-708-1347

1207 Peralta Ave

Best regards,
Karen

Karen Fiene, FAIA, LEED AP

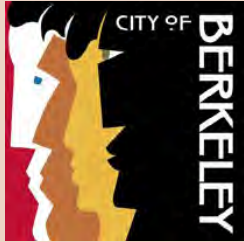
Director of Construction, Compliance and Sustainability

pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

work: 510-430-2323

cell: 510-708-1347



**Building and Safety
Permit Service Center**

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For unsafe work practices, complete a **Complaint to Investigate Unsafe Work Practices** form.

Building and Safety
1947 Center St. 3rd floor
Berkeley, CA 94704
510-981-7440 TTY 6903
buildingandsafety@cityofberkeley.info

REQUEST FOR SERVICE

Inspection for Illegal Construction

Request Details

Address: 1205 Peralta Ave
Concern: Illegal construction activity without a permit. We have photo documentation of structural wall and header being installed at this moment. We were told that they were only replacing carlpet with a wood floor. The job might be done by tomorrow so time is of the essence. This property has done numerous remodels without permits in the past. I am trying to find a place to print out to sign and

Owner Information

Name: Cathy Nason Phone: 530-913-1584
Address: PO Box 142 City/ST/Zip: Inverness,CA 94937
Email: cathynason@gmail.com

Complainant Information

Name: Karen Fiene Phone: 510-708-1347
Address: 1207 Peralta Ave City/ST/Zip: Berkeley, CA 94706
Email: kfiene@mills.edu

Relationship to the Address of Concern: Neighbor Tenant Owner
 Fire Department Health Department Other:

Complainant Signature _____ Date May 13, 2020

Office Use Only

Inspector: _____ Priority: _____ Due: _____
Action: Posted NOV Posted 2nd NOV NFA Other: _____

Notes: _____

Building Inspector Signature _____ Date _____

Supervising Building Inspector Signature _____ Date _____ Last Revised 07/01/19

Karimzadegan, Niloufar

Subject: FW: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

From: Karen Fiene <kfiene@mills.edu>
Sent: Wednesday, May 13, 2020 11:46 AM
To: Schlepp, Victoria <VSchlepp@cityofberkeley.info>
Cc: Tiana Wages <wtiana@gmail.com>; Karen Fiene I. <kfiene@mills.edu>; Joan Sprinson <jsprinson@gmail.com>
Subject: REPORT OF ILLEGAL CONSTRUCTION AT 1205 PERALTA- URGENT

Hi Vicki,

I'm attaching photos of construction taking place at 1205 Peralta, the property you and I have been in conversation about. Yesterday morning they started working on the lower unit in the ADU. We asked about the work and were told they were just putting in a wood floor. A neighbor went inside and took these photos clearly showing structural work going on. There was no posting from the city that this work is being proposed, so presumably no permit. The contractor said they would be done tomorrow so I strongly recommend someone from the city come today to shut them down.

This is the property with 4 units that we believe was not done legally. They are in the process of submitting a permit, maybe just submitted, to add a second floor onto an existing 3 bedroom unit, one of two, in the main house. We know for a fact that it was only one unit at a time after the R-1A zoning went into effect in our neighborhood so we're pretty sure the work was done illegally.

Please don't hesitate to call. 510-708-1347.

Best
Karen

Karen Fiene, FAIA, LEED AP
Director of Construction, Compliance and Sustainability
pronouns: she, her

Mills College
5000 MacArthur Blvd
Oakland CA 94613

*work: 510-430-2323
cell: 510-708-1347*

----- Forwarded message -----

From: Tiana Wages <wtiana@gmail.com>
Date: Wed, May 13, 2020 at 10:31 AM
Subject: 1205 improvements
To: Karen Fiene <kfiene@mills.edu>

Hi Karen,

You were talking to the foreman this morning who has told you that "the renters wanted the carpet removed, that is all they were doing"... Well, here are the photos of what they Are Doing.

The workers told me that they are putting the carpet down, among other things.

It looks to me, and you can see it better with your professional eyes, that they are making One Room out of the 2 that

they made earlier. Maybe to be compliant with the number of bedrooms on the property??
Also, other code restrictions...

Please give me a call when you can,
Tiana

Sent from my iPhone







Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Ave APN 060-241603100 Duplex Renovation/Expansion

From: Karen Fiene <kfiene@mills.edu>

Sent: Monday, April 27, 2020 5:26 PM

To: ZoningCounter <ZoningCounter@cityofberkeley.info>

Cc: Tiana Wages <wtiana@gmail.com>; Joan Sprinson <jsprinson@gmail.com>; Helen Degenhardt <helen@jswdarch.com>; Mel Lyons <mlyons@lmi.net>; Karen Fiene I. <kfiene@mills.edu>

Subject: 1205 Peralta Ave APN 060-241603100 Duplex Renovation/Expansion

Dear City Planner, (I believe one of our neighbors has recently reached out to Fatima Gray so she may already know about this project)

I am the resident in the adjacent property at 1207 Peralta and have some questions about the planning process. I am an architect and have familiarized myself with the planning code but seek clarification on a few things.

In order to facilitate the call I will outline the issues. The owner, Cathy Nason, has procured an architect, Cambare Designs, to prepare permit documents, attached. The plan describes the addition of a second floor over the rear unit of an existing duplex on a site that has a total of 4 units. Neighbors have been given the plans for review, a zoning permit is not on record as having been filed yet. Of note is that this neighborhood is all owner occupied with a max of 2 units. This parcel is owned by an absentee landlord, with 4 units, and we are aware of upgrades that have been done without permits in past years. The general condition of the property has been poor, and there has been no sense of contributing to the scale and character of the neighborhood.

Questions and Clarifications:

1. The occupancy is listed as R2 on the permit drawings, but city records call out R-1A. What are the major differences? How can I get a complete copy of regulations for R2 and R-1A designation?
2. Can you confirm which type of AUP will be required? The property has more than 4 bedrooms, the expansion is over 600sf and we believe there are substantial impacts to adjacent neighbors.
3. Would a project like this be subject to design review?
4. Is there any requirement that one of the units be owner occupied?
5. Is it legal to have 4 units in an R-1A?
6. What are the off street parking requirements? My reading of the code is that 2 are required. The existing conditions do not allow for 2 cars, assuming the ADU is exempt. And the proposed plans also do not address off street parking.
7. The required open space of 400 sf per unit = 1600 sf cannot be met given the small open area available, are there exemptions that apply? Otherwise is this proposal legitimate?
8. Proximity to existing house. Plans show a cantilevered second floor will come within 4'-0" of our house.
9. Expanding footprint on second level. The upper level is being cantilevered 3'-0" over existing driveway and over a newly built porch that is an extension of the main floor. Is this considered enlarging the footprint? The drawings say all work is within the existing footprint but this is does not look to be the case. Does the new footprint exceed the maximum lot coverage?
10. What is considered a 'detriment' and how does the city react to excessive impact to adjacent properties? In this case one dwelling will lose all of the natural light into the living spaces, and on the other side a balcony will intrude on the privacy of a back garden with a 9'-0" wall looming 4'-0" away. The issue is that the property already feels overbuilt and like a drag on the neighborhood. There are excess cars on the street, four or more, and the noise and activity of four families, versus one family in almost every other case on the block, feels like too much.

11. Can doing past work without a permit be a consideration in refusing new work to take place until remedied?
Two units have had substantial work conducted without any posting of city permits.

Process- can you please confirm if the next steps I have outlined are correct?

1. Owner supplies plans to neighbors, which they have done. Do neighbors legally have to sign off on having received the plans? They have asked that we sign in advance of receiving official notice from the planning department and we don't think this is required. We also noticed the sign they posted is not yellow and only has one elevation, no plan or other supporting information, is that supported by the city?
2. Owner submits plans for zoning approval.
3. Notice of zoning permit request is posted- by who?
4. Neighbors have a chance to comment, how long do we have?
5. What if the planning permit is granted, can we appeal to the ZAB and City Council?
6. Can you give us an idea of how long all of this will take given the Covid-19 conditions?

Thank you very much for your time and assistance

Best regards,

Karen Fiene

1207 Peralta Ave

Karen Fiene, FAIA, LEED AP

Director of Construction, Compliance and Sustainability

pronouns: she, her

cell: 510-708-1347

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta, needs zoning information on this address**From:** Sanford, David**Sent:** Monday, April 27, 2020 3:45 PM**To:** ZoningCounter <ZoningCounter@cityofberkeley.info>**Subject:** 1205 Peralta, needs zoning information on this address

Caller Name:	Karen Fiene (pron. Feeny), Architect
Caller Phone Number:	510-708-1345
Caller Email Address:	kfiene@mills.edu
Property Address: (if applicable)	1205 Peralta
Question:	Architect needs further zoning information on this property that she wasn't able to find on line.

Planner Name:	Vicky
First Contact: (date/time)(within 24 hrs)	4/28/20
Answer/Resolution:	Emailed her for more information.

This form is designed to be edited while using Word as your Outlook email editor.

To configure this feature, follow these steps...

- 1) From Outlook, select the **Tools** menu, **Options** menu item
- 2) Select the **Mail Format** tab
- 3) Check the box for "**Use Microsoft Word to edit email messages**"
- 4) Press the **OK** button.
- 5) You may need to close and re-open this email message.

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta, needs detail on project posting

From: Sanford, David
Sent: Tuesday, April 21, 2020 5:22 PM
To: ZoningCounter <ZoningCounter@cityofberkeley.info>
Subject: 1205 Peralta, needs detail on project posting

Caller Name:	Joan Spinson
Caller Phone Number:	
Caller Email Address:	
Property Address: (if applicable)	1205 Peralta
Question:	Says that the proposed posting is very confusingly written and would like details on the project. I don't see the address number in G: - David

Planner Name:	A. James
First Contact: (date/time)(within 24 hrs)	4/22 3:00pm
Answer/Resolution:	STC. She has concerns regarding prior, unpermitted work that occurred. Added her contact information to the file. This application has not yet been submitted.

This form is designed to be edited while using Word as your Outlook email editor.
 To configure this feature, follow these steps...

- 1) From Outlook, select the **Tools** menu, **Options** menu item
- 2) Select the **Mail Format** tab
- 3) Check the box for "**Use Microsoft Word to edit email messages**"
- 4) Press the **OK** button.
- 5) You may need to close and re-open this email message.

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta, objects to project application

From: Sanford, David
Sent: Thursday, April 16, 2020 5:08 PM
To: ZoningCounter <ZoningCounter@cityofberkeley.info>
Subject: 1205 Peralta, objects to project application

Caller Name:	Betternika (approximate) Cookson
Caller Phone Number:	
Caller Email Address:	
Property Address: (if applicable)	1205 Peralta
Question:	States that she has issues with the nature of the project application for this address. I do not see an application for this address so she may be responding to the posted yellow proposed project sign. David

Planner Name:	Nick
First Contact: (date/time)(within 24 hrs)	4/20/20 @ 12:30pm
Answer/Resolution:	<i>Talked to the caller. We have no record of an application yet. It appears they may have installed a Project Yellow poster before the Shelter-in-Place order went into effect. We have not received an email requesting an application at this address yet. Walked the caller through the typical processes, and the reviewd processes given COVID-19</i>

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- 1) From Outlook, select the **Tools** menu, **Options** menu item
- 2) Select the **Mail Format** tab
- 3) Check the box for "**Use Microsoft Word to edit email messages**"
- 4) Press the **OK** button.
- 5) You may need to close and re-open this email message.

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta, neighbor objects to proposed 2nd story as obstructive**From:** Sanford, David**Sent:** Thursday, April 16, 2020 9:32 AM**To:** ZoningCounter <ZoningCounter@cityofberkeley.info>**Subject:** 1205 Peralta, neighbor objects to proposed 2nd story as obstructive

Caller Name:	Tiana Wages (at 1203 Peralta)
Caller Phone Number:	
Caller Email Address:	
Property Address: (if applicable)	1205 Peralta
Question:	Neighbor objects to proposed 2 nd story at 1205 Peralta. States that it will be obstructive.

Planner Name:	Crane
First Contact: (date/time)(within 24 hrs)	04/16/2020
Answer/Resolution:	Spoke to caller. Explained review processs, shadow studies, etc. Encouraged communication with applicant and follow up submittal of written comments after application is received.

This form is designed to be edited while using Word as your Outlook email editor.
To configure this feature, follow these steps...

- 1) From Outlook, select the **Tools** menu, **Options** menu item
- 2) Select the **Mail Format** tab
- 3) Check the box for "**Use Microsoft Word to edit email messages**"
- 4) Press the **OK** button.
- 5) You may need to close and re-open this email message.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
To: Veronika; Zoning Adjustments Board (ZAB)
Subject: RE: Correction to statement RE: 1205

From: Veronika [mailto:veronikasf321@gmail.com]
Sent: Thursday, April 1, 2021 11:15 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Correction to statement RE: 1205

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

In my statement I confused Units 3 & 4. I have made that change in order not to confuse the Board--and that change only. I have added nothing new to the original sent on 3/31. The corrected statement is below.

RE: 1205 Peralta Avenue owned by Cathy (Lipnosky) Nason
DATE: March 30, 2021

Even though I plan to attend the meeting on 4/8/21 along with my neighbors, I would like to raise several points which have led us to be suspicious of what happens at 1205 Peralta.

Over the years there have been a number of problems with this property, ranging from tenants dealing drugs to various projects, mostly involving the addition of walls and bedrooms, a majority of projects which I would dare say has been done without permits. All of this has taken place on a lot which is non-conforming with regard to density, parking, open space, lot coverage, and front, side and rear setbacks.

You may hear the applicant talk about the need for housing; this property furnishes quite a bit of housing and we, the neighbors, favor creating affordable housing. Our neighborhood has a number of multiple dwellings and ADU's. Over my back fence is an ADU, next door is an ADU, over the fence next-door is an ADU, five lots south of me is an ADU and several other households of neighbors are considering ADUs. On other blocks in this modest neighborhood we can see more.

Ms. Nason's father, Andy Lipnosky, was a master of self-help when it came to working without permits and it is likely that my attitude toward Ms. Nason has been affected by my experiences with her father. Additionally, months ago she submitted and then withdrew a very different application which my neighbors and I found totally unacceptable. Fortunately that is not now the case but I still find myself more than wary.

We neighbors are considering the four units on the property not in terms of Use Permits and Variances, but in terms of the original configuration of the Units, what they have become, and what we would like them to be.

— Unit 1 is not an issue.

— **Unit 2** was a comfortable one-bedroom apartment when friends of mine lived there and should **revert to one-bedroom**.

— **Unit 3** was a studio apartment during all the time the previous neighbor, now deceased, lived there. It shared a west wall with a large space which had been built as a two-car garage but used as storage space. After his death the unit magically became a one-bedroom unit when space from the adjoining storage space was appropriated. We have no problem with **converting the original studio into a one-bedroom** but are suspicious that Ms. Nason has plans to take the remaining square footage from the storage space and turn that into a **second bedroom**. In fact, prospective tenants have been told that was her plan and the unit has been **advertised** in

that way. Please note that the storage space on the plans shows a window. Why a window in a storage space? Recently there have been a number of thefts and strangers wandering into neighbors' backyards, so it seems that a solid wall minus the window will provide greater security as well as eliminate our suspicions. Therefore, **remove the window for the storage unit, replace with solid door.**

— **Unit 4** was a small one-bedroom which has become a three bedroom unit. While I would not like to live in it as a two-bedroom unit, we see no reason to oppose having Ms. Nason be granted her desire to **change it into a two-bedroom unit.**

In conclusion, I have listed what we, the neighbors, wish to see. Speaking for myself, I would like to trust Ms. Nason and her architect but do not. In fact, given recent information I have learned, I am again more suspicious than ever; I believe that they have further development plans for this property in spite of the limitations of the lot. We, the neighbors, are doing our best to keep our modest Berkeley neighborhood a place where people can still afford to live—although it has become increasingly more difficult. I wonder if Ms. Nason and her neighbors in their multi-million-dollar neighborhood struggle with that concern.

Thank you very much for considering our points of view,
Veronika Sakowska Fukson, 1213 Peralta

Karimzadegan, Niloufar

Subject: FW: 1205 Peralta Avenue ZP2020-0060

From: Tiana Wages [mailto:wtiana@gmail.com]

Sent: Thursday, April 1, 2021 8:41 AM

To: Karimzadegan, Niloufar <nkarimzadegan@cityofberkeley.info>

Subject: 1205 Peralta Avenue ZP2020-0060

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Nilu,

I was unable to submit this on time, but although belatedly, I am adding my letter to the neighborhood comments about the proposed 1205 Peralta Avenue remodel.

I am the next door neighbor, on the North side of 1205.

I fully agree with Karen Fiene's letter, sent to you yesterday. It precisely describes the sentiments and worries of the whole neighborhood and we all hope that the ZAB decision will take those into account.

Thank you for all your efforts,

Sincerely,
Tiana Wages
1203 Peralta

Sent from my iPhone

>> IT'S 7:00, WHERE IS EVERYBODY?

>> HEY, LESLIE, WE CAN'T HEAR YOU.

>> WELCOME BOARD MEMBER DUFFY.

DID YOU NOT GET A SPECIFIC INVITE IN THE MAIL?

IN YOUR E-MAIL?

NO?

THAT'S OKAY, WE GOT YOU.

THAT'S THE IMPORTANT THING.

>> S. O'KEEFE: MR. THOMPSON, ARE YOU THE NEW APPOINTEE FOR
DISTRICT 3?

>> YES, YES, I AM.

>> WELCOME.

GOOD TO HAVE YOU.

>> WE SEE EACH OTHER, I WATCH YOU GUYS AND I'LL LIKE OH, WOW,
I'M WITH CELEBRITIES.

>> S. O'KEEFE: I'LL SEND YOU MY AUTOGRAPH LATER.

WELCOME, WE'RE GLAD TO HAVE YOU.

>> IT'S GOOD TO BE HERE.

>> MAYBE AFTER WE DO ROLL CALL, WE'LL GIVE YOU A CHANCE TO
INTRODUCE YOURSELF AND TELL US THE BRIEF BACKGROUND.

SO PREPARE.

WE'LL WAIT UNTIL EVERYBODY IS HERE.

>> AND FOR THE RECORD, I'M THE PHONE NUMBER HANGING OUT THERE.

I HAD SOME POWER PROBLEMS WITH MY COMPUTER.

IF MY COMPUTER SHUTS DOWN, I'LL SWITCH QUICKLY TO THE PHONE.

>> KEVIN: THE PHONE NUMBER IS ALWAYS OMINOUS.

>> IF THAT HAPPENS, I'LL GO AWAY AND THERE WILL BE A DISEMBOodied VOICE.

>> S. O'KEEFE: DUFFY, ARE YOU RAISING YOUR HAND?

>> YES, I'M HERE.

>> YES.

>> HI.

>> CAN YOU SEE THAT I'M HERE?

I CAN'T SEE THAT I'M HERE.

>> BOARD MEMBER DUFFY, DID YOU GET A SPECIFIC E-MAIL INVITE? DID YOU LOOK AT THAT FROM JIM BONDI?

>> I DIDN'T SEE IT.

BUT I WILL LOOK FOR THAT.

THAT WILL BE THE RIGHT WAY TO GET INTO THE MEETING, RIGHT?

>> THEN WE CAN SEE YOUR FACE, BUT THIS WILL WORK.

AT LEAST WE CAN HEAR YOU.

>> LAST TIME IT WORKED.

>> I KNOW.

>> Y. DUFFY: I'LL FIND IT.

>> WAIT, I CAN PROMOTE YOU NOW.

PROMOTE YOU TO PANELIST.

>> S. O'KEEFE: CAN I BE MADE HOST, PLEASE?

>> I DID THAT ALREADY -- I THOUGHT.

>> S. O'KEEFE: BECAUSE I TRIED TO DO THAT.

INTERESTING.

>> I. TREGUB: I SAW YOU WERE PROMOTED.

>> S. O'KEEFE: I LOOKED A MINUTE AGO --

>> HOPEFULLY HE'LL COME BACK --

>> S. O'KEEFE: I THINK YOU'VE DONE IT, BUT I CAN DO IT.

WE'LL REJOIN THE WEBINAR AS AN ATTENDEE.

COOL.

COOL.

HELLO, EVERYONE ELSE.

>> HAPPY BIRTHDAY.

>> S. O'KEEFE: HAPPY THURSDAY DAY, IS THAT WHAT YOU SAID?

>> HAPPY THURSDAY, ONE DAY BEFORE FRIDAY.

>> IT'S FRIDAY EVE.

THAT'S WHAT MY FRIENDS CALL IT.

FRIDAY EVE.

>> IT MAY NOT FEEL LIKE THURSDAY EVE, BUT IT IS.

>> S. O'KEEFE: FRIDAY EVE.

>> IT SEEMS LIKE TIME CHANGE IS WE STARTED IN LIKE ACTUALLY THE
DAYTIME SOMETIMES.

I HAVE A WINDOW IN FRONT OF ME.

MY SANITY.

THIS IS MY WORK DESK TOO.

>> S. O'KEEFE: I'VE BEEN FOLLOWING A ACCOUNT ON TWITTER CALLED "ROOM RAIDER" AND THEY TAKE ROOMS LIKE PEOPLE WHO ARE APPEARING ON TELEVISION AND THEY RATE THEIR ROOM.

IT'S MADE ME FEEL SELF-CONSCIOUS ABOUT MY ROOM.

I DON'T THINK I WOULD GET A NICE SCORE.

>> I WOULD BE BANNED.

>> S. O'KEEFE: TWO OUT OF 10 FOR ME.

>> IF YOU CLEANED UP, MAYBE HOARDERS COULD DO AN EPISODE, AND I'M LIKE I HAVE TO CLEAN UP FIRST?

THAT'S TERRIBLE.

>> S. O'KEEFE: WE CAN'T SEE WHATEVER MESS IS ON FLOOR.

>> THIS ROOM IS FINE.

>> SOMEHOW WE LOST BOARD MEMBER DUFFY WHEN WE PROMOTED HIM.

>> WAS HE TRYING TO CONNECT TO THE OTHER?

>> S. O'KEEFE: HE'S AN ATTENDEE NOW.

I THINK I DID THAT.

I THINK I --

>> I'M GOING TO PROMOTE HIM.

YOU DON'T TOUCH ANYTHING.

>> S. O'KEEFE: I THINK I ACCIDENTALLY DEMOTED HIM.

>> WE'LL SEE IF HE COMES NOW.

THERE YOU HAVE.

YEA!

>> I CAN JOIN YOU GUYS NOW, THANK YOU.

I APPRECIATE YOU LETTING ME IN.

YOU CAN CALL ME "YES", BY THE WAY.

IT SOUNDS YES, CAN YOU YOU CAN CALL ME "YES.

>> IT LOOKS LIKE BOARD MEMBER KIM IS HAVING AN ISSUE CONNECTING.

OTHERWISE WE'RE A FULL HOUSE WHEN SHE'S UP AND RUNNING.

>> S. O'KEEFE: BY THE WAY, CHARLES ISN'T COMING.

SO I'M GOING TO BE CHAIRING.

IN CASE YOU'RE WONDERING WHY I WAS TALKING SO MUCH.

WE CAN START -- IS COMMISSIONER KIM ABOUT TO JOIN?

DO YOU THINK?

>> IT SAYS CONNECTING TO AUDIO.

>> S. O'KEEFE: I SEE HER.

OKAY.

THERE WE GO.

>> SORRY ABOUT THAT.

HELLO.

CAN YOU HEAR ME?

>> S. O'KEEFE: YES.

>> D. KIM: MY AUDIO WASN'T WORKING WITH MY COMPUTER, SO I HAD TO

CALL IN.

>> S. O'KEEFE: WE CAN START.

I THINK WE HAVE EVERYONE WHO IS GOING TO COME.

LET'S DO ROLL CALL AND EX-PARTE CLOSURES THEN WE'LL INTRODUCE
OUR NEW BOARD MEMBER.

>> ALL RIGHT.

SO FOR THE NEW FOLKS ON THE BOARD, IF YOU HAVE ANY EX PARTE
DISCLOSURES WHICH IS A CONFLICT OF INTEREST FOR ANY OF THE
ITEMS, BEING SAY IT AT THE TIME AFTER I CALL YOUR NAME FOR ROLL
CALLED.

BOARD MEMBER TREGUB.

>> I. TREGUB: PRESENT NO EX PARTE.

>> BOARD MEMBER DUFFY.

>> PRESENT NO EX PARTE.

>> BOARD MEMBER GAFFNEY.

>> PRESENT NO EX PARTE.

>> BOARD MEMBER THOMPSON.

>> PRESENT NO EX PARTE.

>> BOARD MEMBER OLSON.

>> PRESENT NO EX PARTE.

>> BOARD MEMBER KIM.

YOU'RE ON MUTE.

IF YOU'RE PHONING IN, WAS IT STAR 6 TO UNMUTE?

>> D. KIM: THANK YOU, STAR 6 IS CORRECT.

PRESENT NO EX PARTE.

>> BOARD MEMBER HAUSER.

>> PRESENT NO EX PARTE.

>> AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: PRESENT NO EX PARTE.

WE HAVE A QUORUM.

I WANT TO TACK A MOMENT BEFORE WE BEGIN THE FULL AGENDA TO
WELCOME COMMISSIONER THOMPSON.

AND ALSO COMMISSIONER HAUSER WHO IS SUBBING FOR PINKSTON, IS
THAT CORRECT?

>> THAT'S RIGHT.

THAT'S MY UNDERSTANDING.

>> S. O'KEEFE: SHE'S BEEN ON THE BOARD BEFORE.

SHE KNOWS THE RULES.

COMMISSIONER THOMPSON, WELCOME.

DO YOU WANT TO TELL US ABOUT YOURSELF?

>> DISTRICT 3.

IT'S SO FUNNY, I THINK I'VE LIVED IN BERKELEY A LONG TIME, BUT I
HAVEN'T COMPARED TO ALL OTHER BERKELEY RESIDENTS.

I LIVED IN THE DISTRICT SINCE 2006.

AND I'VE WORKED AT CAMPUS SINCE '93.

I SPENT MOST OF MY DAYS IN BERKELEY, BUT IN '06 I SPENT MY
NIGHTS.

I'M A A BERKELEY EMPLOYEE, I MANAGE 56TH FOURTH STREET.

ON THE CORNER OF FOURTH AND CEDAR.

THAT'S MY DAY JOB.

AND I ALSO -- TUESDAY MORNINGS I'M OUT AT PEOPLE'S PARK AND I WORK WITH CLEANUP CREWS AND WE PICK UP ALL OF OUR NEIGHBOR'S FURNITURE AND ENTERTAINMENT CENTERS THAT HAVE BEEN DROPPED OFF AND PICK THOSE UP ON TUESDAY MORNING.

AND YEAH, I'M EXCITED.

GLAD TO BE HERE.

TODAY I WATCHED BERKELEY PAST AND PRESENT WHICH IS FANTASTIC IF YOU HAVEN'T SEEN THE VIDEO YET.

THE MUSIC GOOD AND IT SHOWS DIFFERENT CLIPS AROUND THE CITY OF BERKELEY FROM THE EARLY DAYS AND A LOT OF SHOTS DURING THE '60S AND HOW THE SAME IMAGES HAVE CHANGED.

YOU KNOW, I'M VERY MUCH CONCERNED WITH THE HOMELESS AND WHERE OUR CITY IS GOING.

AND DEVELOPMENT AND ALL THE INTERSECTIONS OF THAT.

THANK YOU FOR HAVING ME.

>> S. O'KEEFE: WELCOME.

WE'RE GLAD TO HAVE YOU.

SOUNDS LIKE YOU'RE PRETTY INVOLVED IN THE COMMUNITY.

THIS IS ANOTHER WAY TO DO THAT.

IT'S WONDERFUL.

AND IN TERMS OF OUR PROCEDURE, FEEL FREE TO ASK ANY QUESTIONS IF YOU AREN'T SURE WHAT TO DO OR WHAT IS GOING ON.

WE WANT TO MAKE SURE YOU GET THE HANG OF THINGS.

OTHERWISE, FOLLOW ALONG.

WELCOME.

AND --

>> MY BACKGROUND IS ARCHITECTURE BUT CURRENTLY A NON-PROFIT DIRECTOR OF THE COMMUNITY DEVELOPMENT DISTRICT IN OAKLAND, BUT I LIVE IN BERKELEY.

AND I'M A CURRENT PLANNING COMMISSIONER BUT PRIOR TO THAT SERVED ON ZAB.

SO ALSO, VERY INTERESTED IN CITIES AND MAKING THEM WELCOMING FOR ALL.

>> S. O'KEEFE: GREAT.

GLAD TO HAVE YOU BACK.

OKAY, SO NEXT ON THE AGENDA IS PUBLIC COMMENT ON NON-AGENDIZED ITEMS.

MEMBERS OF THE PUBLIC WHO ARE HERE, WELCOME.

GLAD TO HAVE YOU.

IF YOU ARE HERE TO SPEAK ON SOMETHING ON AGENDA, THIS IS NOT YOUR MOMENT.

IF YOU ARE HERE TO SPEAK ON SOMETHING NOT LISTED ANYWHERE ON THIS AGENDA, PLEASE RAISE YOUR HAND OR PRESS STAR 9.

I ANY OF READ THE THING!

COMMISSIONERS THOMPSON AND HAUSER, I AM NOT USED TO BEING CHAIR AND I'M SORRY TO SUCK AT IT SO MUCH.

THERE IS SOMETHING I'M SUPPOSED TO READ.

IF YOU HAVE A COMMENT THAT'S NOT ON THE AGENDA.

WAIT A MINUTE.

THERE IS A THING I'M SUPPOSED TO READ AT THE BEGINNING OF THE MEETING.

SORRY, EVERYONE.

WHERE IS CHARLES, ANYWAY?

>> I DO NOT KNOW BUT HE'S OUT FOR THE NEXT MEETING AS WELL.

>> S. O'KEEFE: I FOUND IT.

SO I'M GOING TO READ THE THING.

PURSUANT TO SECTION 3 OF N-29-20 ISSUED ON GOVERNOR NEWSOM THIS MEET BEEN CONDUCTED EXCLUSIVELY THROUGH TELECONFERENCE AND ZOOM.

PER STUDENT TO THE SHELTER-IN-PLACE ORDER AND TO ENSURE THE HEALTH AND SAFETY OF THE PUBLIC THERE WILL NOT BE A PHYSICAL MEETING LOCATION AVAILABLE.

PERSONS ATTENDING THIS ZOOM VIDEO MEETING HAVE DISPLAYED NAMES WHICH ARE VISIBLE TO COMMISSIONERS AND STAFF.

IF YOU WISH TO BE ANONYMOUS, USE THE DROP DOWN MENU TO CHANGE YOUR NAME.

WE DETERMINED THAT IS NOT ACCURATE.

IF YOU WANT TO RENAME YOURSELF, YOU HAVE TO LEAVE THE MEETING, CHANGE YOUR NAME ON ZOOM AND THEN COME BACK, I BELIEVE.

THAT'S THE ACTUAL INFORMATION AS OPPOSED TO WHAT I JUST READ.

SORRY.

FOR COMMISSIONERS WISHING TO SPEAK DURING DELIBERATIONS USING RAISE HAND ICON AND WAIT TO BE CALLED ON BY THE CHAIR.

MEMBERS OF THE PUBLIC SHOULD USE THE RAISE HAND ICON AT THE BOTTOM OF THE SCREEN.

IF YOU WISH TO COMMENT PRESS STAR 9 AND WAIT TO BE RECOGNIZED BY THE CHAIR.

PLEASE BE MINDFUL ALL RULES OF PROCEDURE AND DAY QUORUM APPLY TO ALL MEETINGS ON TELECONFERENCE OR ZOOM AND IT IS PARTICULARLY IMPORTANT TO GIVE EACH SPEAKER A CHANCE TO COMPLETE THEIR REMARKS BEFORE THE NEXT SPEAKER STARTS.

ON WITH THE SHOW.

PUBLIC, IF YOU ARE HERE TO SPEAK ON SOMETHING NOT LISTED ON THE AGENDA, MEANING, NOT 1175 UNIVERSITY.

1241 ASHBY OR PERALTA.

PLEASE RAISE YOUR HAND OR PRESS STAR 9.

I'M GOING TO RECOGNIZE KAREN CANER.

KAREN.

YOU HAVE THREE MINUTES.

SPEAK ON SOMETHING NOT ON THE AGENDA.

>> I'M JONATHAN CANER, I'M KAREN'S HUSBAND.

I WANT TO TALK ABOUT THE DEVELOPMENT ON GRIZZLY PEAK 1028 GRIZZLY PEAK.

I LIVE ABOVE THE DEVELOPMENT OF SIX LARGE HOMES.

THREE OF THEM HAVE BEEN APPROVED, CONSTRUCTION STARTED ON ONE.

AND THREE ARE UP FOR APPROVAL AT YOUR NEXT MEETING.

I RECENTLY LEARNED THAT THE ROOF THAT WENT ON TO 1028 GRIZZLY

PEAK IS THE FINAL PRODUCT.

I SPOKE TO THE CONTRACTOR WHO TOLD ME THAT IT WAS FINAL AND THAT HE WAS PLANNING ON USING THE SAME ROOF FOR ALL SIX HOMES.

HE SAID THERE WAS NOTHING THAT COULD BE DONE ABOUT IT.

I SPOKE TO THE OWNER AND TOLD HIM ABOUT MY CONCERNS ABOUT THE APPEARANCE OF THE ROOF.

HE SAID HE WOULD TALK TO THE CONTRACTOR AND THEN GET BACK TO ME.

I HAVEN'T HEARD BACK FROM HIM.

THE SITUATION IS THIS A LARGE HOME AND THEY HAVE PLACED A HIGHLY REFLECTIVE LARGE WHITE ROOF THAT IS OBVIOUS EYESORE IN THE FIELD OF THE VIEW OF THE SEVEN HOMES ON THE RIDGE ABOVE THIS.

SO I'VE SPOKEN TO EVERY NEIGHBOR WHO LIVES ABOVE IT.

THERE ARE SEVEN HOMES.

THEY'VE SIGNED A PETITION WHICH I'VE NOT TURNED IN YET, BUT IT IS AN EXTREME EYESORE, DAMAGING TO THE VIEW OF EVERY HOME.

IT'S UGLY.

IT'S TOTALLY OUT OF CHARACTER WITH THE NEIGHBORHOOD.

THE VIEW FROM THIS POINT IS A NATURAL PEAK.

THE HOMES ARE FOREST HOMES AND YOU HAVE A GLARING WHITE FLAT OBJECT RIGHT IN THE CENTER.

SO IN LOOKING AT THE -- THIS HOME WAS APPROVED AND BUILDING HAS NOT STARTED ON TWO MORE AND THREE MORE HAVE YET TO BE APPROVED.

IN LOOKING AT THE FINDINGS FOR APPROVAL OF THIS, YOU KNOW, IT REFERS TO A NUMBER OF POLICIES FROM THE ZONING BOARD WHICH IT

WAS FELT TO BE CONSISTENT WITH.

THIS ROOF IS CLEARLY OUT OF CHARACTER WITH THE FINDINGS.

THE ZONING BOARD REQUIRES THAT THE APPLICATION NOT BE
DETRIMENTAL TO THE HEALTH, SAFETY, PEACE, MORALS, COMFORT
GENERAL WELFARE OF PEOPLE IN THE NEIGHBORHOOD.

AND NOT BE DETRIMENTAL AND INJURIOUS TO PROPERTY AND
IMPROVEMENT.

IT'S CLEARLY DETRIMENTAL TO THE COMFORT AND GENERAL WELFARE OF
THE PEOPLE LIVING HERE AND INTERFERES WITH THE VALUE OF THE
HOMES BECAUSE OF THE DAMAGE.

SO I WILL -- AND THE PEOPLE HERE WILL OPPOSE APPROVAL OF THE UP
COMING PROJECTS UNLESS THERE CAN BE AN AGREEMENT THAT THIS ROOF
BE CHANGED AND THAT THIS TYPE OF ROOF NOT BE USED ON THE OTHER
FIVE HOMES IN THE DEVELOPMENT.

>> S. O'KEEFE: ALL RIGHT.

YOUR TIME IS UP.

I'M GOING TO HAVE TO SAY THANK YOU VERY MUCH AND IT SOUNDS LIKE
WE'LL HAVE A CHANCE TO DISCUSS THIS AGAIN.

WELCOME BACK.

WHEN THAT IS ON ITEM.

NEXT UP WE HAVE EDWARD STRESS.

>> YES, HI.

I'M CONFUSED BECAUSE -- THAT'S THE TIMER.

>> S. O'KEEFE: YES, WE GOT IT WORKING.

>> THANK YOU FOR BEING HERE.

AND GIVING YOUR EVENING.

I JUST WANT TO COMMENT THAT I WOULD APPRECIATE IT IF YOU MADE IT EASIER FOR THE PUBLIC TO FIND THE MINUTES.

I CAN SEE FINALLY AFTER 15 MINUTES WORTH OF STRUGGLE, IT SAYS MEETING DATE A AND AGENDA.

IT SHOULD PROBABLY SAY "AGENDA" AT THE TOP THERE TO LET MEME KNOW.

YOU KNOW, I WASN'T CLEVER ENOUGH TO REALIZE THAT THE BLUE MEANS YOU WANT TO CLICK ON IT.

FINALLY I FOUND OUT IF YOU CLICK ON THE BLUE, THE PART THAT IS LIT UP, IT'S PRETTY COMMON IN COMPUTERS THAT YOU HAVE THAT KIND OF THING.

CAN YOU I DIDN'T SEE THE WORD "AGENDA" AND IF I SAW IT, MAYBE UNCONSCIOUSLY I WOULD THINK THERE IS NO AGENDA HERE NOT REALIZE RISING YOU HAVE TO CLICK ON IT.

I CALLED 3-1-1 AND THE CITY.

IT WOULD BE NICE -- IF YOU WANT PEOPLE TO PARTICIPATE, IF YOU DO, MAKE IT EASIER FOR FOR THEM.

ALL RIGHT, THANK YOU SO MUCH.

>> S. O'KEEFE: LESLIE, IS IT POSSIBLE TO GET THAT FEEDBACK TRANSMITTED TO THE PEOPLE WHO DO THE WEBSITE?

>> BOARD SECRETARY: YES, I WILL DO THAT.

>> S. O'KEEFE: THANK YOU VERY MUCH.

>> I'VE HAD A LITTLE TROUBLE BEFORE LEAVING COMMENTS BECAUSE I
COULDN'T FIND A HAND RAISED.

IT DIDN'T SEEM TO WORK FOR ME.

BUT THE TIME I FOUND IT -- WHEN IT CAME TO MY TURN, I COULDN'T
FIND IT AND I THOUGHT I HAD TO GET OFF ZOOM AND GET A NEW ZOOM
THAT MY ZOOM WAS JAMMED SO I DIDN'T LEAVE A COMMENT TWO MONTHS
AGO AT AN IMPORTANT MEETING AND I'VE BEEN TURNED WAY OFF IN
TRYING TO PARTICIPATE IN OUR TOWN FROM THAT THING.

I'M TRYING RECOVER FROM IT.

>> S. O'KEEFE: SO SORRY TO HEAR THAT SIR.

THANKS SO MUCH FOR SHARING THAT TO US.

>> GO THE EXTRA MILE TO GET US IN -- THE OLDER PEOPLE.

I APPRECIATE YOU.

>> S. O'KEEFE: HAVE A GOOD NIGHT, SIR.

GREAT.

THAT'S REALLY GOOD TO HEAR.

I WAS WONDER WHAT THE USER EXPERIENCE IS.

LAST UP, WE HAVE THOMAS YANG.

>> THANK YOU.

SO THIS IS THOMAS YUNG.

WE'RE NEXT DOOR NEIGHBORS TO JONATHAN THAT SPOKE EARLIER WITH
RESPECT TO THE PROJECT IN GRIZZLY PEAK.

I WANTED IT TO SAY THAT THE CHARACTERISTIC OF THE ROOF IS
COMPLETELY NOT IN KEEPING WITH THE NEIGHBORHOOD AND I WOULD

REITERATE THAT BOTH OURSELVES AND OTHER NEIGHBORS THINK THAT IT WILL WOULD BE MOST BENEFICIAL IF YOU AT THE FUTURE MEETINGS WHERE THIS IS -- WHERE THE MATTER WOULD BE BROUGHT UP, IF YOU COULD HAVE ATTENTION TO THIS IN THAT IF WE WERE IN A GREEK ISLAND IT WOULD BE OKAY TO HAVE A WHITE ROOF BUT NOT IN BERKELEY HILLS.

I WANT TO THANK YOU AND THE REST OF YOU ON THE BOARD FOR YOUR ATTENTION TO THIS MATTER.

>> S. O'KEEFE: THANK YOU VERY MUCH.

SO LAST CALL FOR NON-AGENDIZED ITEMS.

SEEING NONE, IGOR, DID YOU HAVE YOUR HAND UP?

>> I. TREGUB: I'M READY TO MAKE A MOTION AND I HAVE A QUESTION.

>> S. O'KEEFE: A MOTION ON WHAT?

>> I. TREGUB: ON THE AGENDA.

>> S. O'KEEFE: OKAY WE'LL DISCUSS THE AGENDA.

IGOR, WHAT DO YOU WANT TO SAY?

I WAS GOING TO SEE IF ANYONE FROM THE PUBLIC HAD COMMENTS ON THE CONSENT CALENDAR.

>> I. TREGUB: GREAT.

CAN YOU ALSO CHECK, THEN, IF ANYONE IN THE PUBLIC WISHES TO SPEAK IN ANYTHING OTHER THAN SUPPORT OF ITEM 5 2943 PINE AVENUE?

>> S. O'KEEFE: I WAS ALREADY PLANNING TO ASK THAT.

SO IF YOU HAVE SOMETHING MORE TO SAY, THE AGENDA WILL WAIT BUT FIRST I WANT TO ADDRESS THE PUBLIC.

I SEE ONE MEMBER HAS THEIR HAND UP.

WOULD YOU MIND PUTTING IT DOWN FOR A MOMENT.

AND GEORGE, PUT YOUR HANDS DOWN, PUBLIC.

PUT YOUR HAND DOWN, NOT UP, DOWN.

JUST FOR A SECOND.

I HAVE TO DO SOMETHING THAT I NEED TO KNOW -- OKAY.

THANK YOU.

LISTEN CAREFULLY.

FOR THE CONSENT CALENDAR, WHICH WE'RE NOT VOTING ON YET, WE'LL DISCUSS WHAT IS ON THE CONSENT CALENDAR FIRST, THEN THERE WILL BE A TIME WHEN WE VOTE.

ON THE CONSENT CALENDAR THERE ARE TWO ITEMS, THE MINUTES FROM LAST WEEK, LAST SESSION, AND 1175 UNIVERSITY.

THIS IS MY QUESTION FOR PUBLIC: IS THERE ANYBODY IN THE PUBLIC WHO WOULD LIKE TO SPEAK AGAINST 1175 UNIVERSITY?

AND I SAY AGAINST BECAUSE IF NO ONE IS HERE TO OBJECT TO IT, THEN WE'RE GOING TO LEAVE IT ON THE CONSENT CALENDAR AND IT'S RECOMMENDED FOR APPROVAL.

IF NOBODY IS HERE TO OBJECT TO IT, I'M GUESSING IT WILL STAY ON.

IS ANYONE FROM THE PUBLIC HERE TO SPEAK ON 1175 UNIVERSITY?

PRESS STAR 9 IF YOU'RE JOINING US BY PHONE.

MY NEXT QUESTION IS, IT SEEMS AS THOUGH 8943 PINE STREET IS A CONTENDER FOR BEING MOVED ON TO THE CONSENT CALENDAR.

IS THERE ANYONE HERE TO SPEAK AGAINST 2943 PINE?

WE HAVE ONE.

WE HAVE QUITE A FEW.

MEMBERS OF THE PUBLIC, YOU CAN PUT YOUR HANDS DOWN.

YOU'LL HAVE A CHANCE TO SPEAK ABOUT THAT ITEM.

WE'LL HAVE A HEARING ON IT.

IT WILL STAY AS ITEM 5 ON THE ACTION CALENDAR.

IGOR.

>> I. TREGUB: I MOVE THE CONSENT CALENDAR WHICH INCLUDES THE
ACTIONS FROM MARCH 25TH.

>> S. O'KEEFE: OKAY.

WE HAVE A MOTION TO APPROVE THE CONSENT CALENDAR.

COMMISSIONER OLSON.

>> C. OLSON: I WILL SECOND THAT, BUT I HAVE AN IDEA FOR A
FRIENDLY AMENDMENT.

ITEM NUMBER 4, 1205 PERALTA, THE STAFF RECOMMENDATION IS TO
DENY.

DO WE WANT TO PUT THAT ON TO CONSENT?

JUST THROWING IT OUT THERE.

>> I. TREGUB: I DON'T THINK WE CAN.

>> C. OLSON: THEN I'LL SECOND YOUR MOTION, IGOR.

>> S. O'KEEFE: I THINK WE COULD, BUT I WOULDN'T SUPPORT IT.
WE WOULD BE ALLOWED, BUT I THINK WE SHOULD GIVE THAT ONE A
HEARING.

THERE IS A MOTION AND A SECOND.

ANY FURTHER COMMENTS ON THE CONSENT CALENDAR BEFORE WE VOTE?

SEEING NONE, LET'S DO A ROLL CALL VOTE ON THE CONSENT CALENDAR WHICH IS UNCHANGED.

IT'S THE MINUTES AND UNIVERSITY AVENUE.

>> BOARD SECRETARY: BOARD MEMBER KIM.

>> YES.

>> BOARD SECRETARY: BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER HAUSER.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: YES.

SO THE CONSENT CALENDAR PASSES AND THE MINUTES APPROVED AND 1175 UNIVERSITY HAS YOUR USE PERMIT.

BEFORE WE MOVE ON, CAN I ASK COMMISSIONER OLSON, IS THERE A REASON YOU HAVE YOUR CAMERA OFF?

BECAUSE WE PREFER TO HAVE BOARD MEMBERS HAVE THEIR CAMERAS ON IF POSSIBLE.

>> C. OLSON: I APPRECIATE THAT.

IT'S ACTUALLY -- THERE IS A REASON I HAVE IT OFF.

I'M HAPPY TO TALK WITH YOU ABOUT IT LATER.

>> S. O'KEEFE: I JUST WANTED TO CHECK.

KEEP IT OFF AND WE CAN CHECK YOU LATER IF YOU WANT.

ALL RIGHT.

LET'S MOVE ON TO 1241 ASHBY.

WE'LL BEGIN WAY STAFF REPORT.

>> BOARD SECRETARY: SHE'S JOINING US.

>> S. O'KEEFE: ALL RIGHT.

>> GOOD EVENING, CAN YOU HEAR ME?

>> S. O'KEEFE: YES.

>> PERFECT.

SO, I'M GOING TO SHARE MY SCREEN SO I CAN PUT THE PLANS UP.

HOPEFULLY YOU CAN SEE THAT NOW.

GREAT.

I'M GOING TO START WITH JUST A GOOGLE MAP OF THE LOCATION.

THE ITEM THAT IS BEFORE YOU IS 1241 ASHBY AVENUE.

THIS IS USE PERMIT ZP2018-0178.

THIS PROPERTY IS LOCATED IN THE MEDIUM DENSITY AREA OF THE GENERAL PLAN.

AND I CAN SHOW YOU -- THE ZONING MAP.

SO THE SUBJECT PROPERTY IS WITHIN THE R-3 ZONING DISTRICT.
ONCE AGAIN ALONG ASHBY AVENUE ON THE NORTH SIDE OF ASHBY, THE
AREA IS SURROUNDED BY R-3 AND R-2A PROPERTIES.
THE SUBJECT PROPERTY IS APPROXIMATELY 41-SQUARE FEET IN AREA.
WIDTH OF 35 FEET AND DEPTH OF 130 FEET.
THERE IS AN EXISTING TWO-STOREY DUPLEX APPROXIMATELY 2,000
SQUARE FEET IN AREA AND A CURB CUT WITH A DRIVEWAY ON THE LEFT
WHICH IS THE WEST SIDE OF THE PROPERTY THIS SITE PLAN BEFORE YOU
ON THE SCREEN ALTHOUGH YOU YOU HAVE UP WITH IN YOUR PACKET SHOWS
NORTH.

THE PROJECT PROPOSES TO CONSTRUCT A NEW DETACHED RESIDENTIAL
BUILDING TOWARDS THE REAR OF THE LOT CONSISTING OF A TWO-STOREY
DWELLING UNIT 1900 SQUARE FEET IN AREA.

WITH AN ATTACHED THREE-CAR GARAGE TO SERVE PROPOSED DWELLING
UNIT AS WELL AS THE TWO IN THE FRONT DUPLEX.

THE FRONT DUPLEX WOULD REMAIN UNCHANGED AND CURB CUT ALONG ASHBY
AVENUE.

DUE TO THE PROJECT'S CONSISTENCY, THE STAFF RECOMMENDS THAT THE
ZAB APPROVE THE USE PERMIT PURSUANT TO BERKELEY MUNICIPAL CODE
AND PROPOSED FINDINGS AND CONDITIONS.

I BELIEVE THE APPLICANT IS ABLE TO ANSWER QUESTIONS AND THAT
CONCLUDES MY PRESENTATION.

LET ME KNOW IF YOU HAVE ANY QUESTIONS.

>> S. O'KEEFE: THANK YOU.

QUESTIONS FOR STAFF.

IGOR.

>> I. TREGUB: YES, THANK YOU SO MUCH.

I DID HAVE A QUESTION AND I THINK THERE WAS A COMMUNICATION THAT CAME IN AS A SUPPLEMENTAL WITH THE SAME QUESTIONS.

I WAS A LITTLE BIT UNCLEAR UNDER ANALYSIS, HOUSING ACCOUNTABILITY ANALYSIS, IT WAS INCLUDED IN ONE OF THE FINDINGS AND I WOULDN'T CARE AS MUCH IF IT WASN'T ACTUALLY A BINDING THING.

THE QUESTION IS, IT SAYS SECTION 65589.5 J DOES NOT APPLY TO THIS PROJECT CURRENTLY PROPOSED.

BUT IT ALSO SAYS LATER, THAT THE HOUSING ACCOUNTABILITY ACT DOES APPLY.

SO I WAS A LITTLE BIT UNCLEAR ABOUT WHICH ONE IT IS.

>> I APOLOGIZE FOR THAT, THAT WAS A TYPO.

THE HOUSING ACCOUNTABILITY ACT DOES APPLY TO THIS PROJECT.

>> I. TREGUB: AND IS THAT BECAUSE THE REDUCTION IN THE SETBACK IS NOT AN OBJECTIVE STANDARD AT THIS TIME?

>> YES.

>> I. TREGUB: OKAY.

AND WOULD YOU BE OPEN TO AMENDING THE FINDING TO CORRECT THAT TYPO?

>> OF COURSE.

>> I. TREGUB: THANK YOU VERY MUCH.

>> S. O'KEEFE: COMMISSIONER OLSON.

>> C. OLSON: I WANTED TO ASK, THERE IS AN INTERESTING IMAGE OF THIS PROPERTY ON GOOGLE EARTH THAT I'M LOOKING AT.

AND IT SEEMS LIKE THE PROPERTY IT'S TO EITHER SIDE IN THE REAR YARD HAVE NONCONFORMING SETBACKS.

DO YOU KNOW IF THAT'S TRUE?

>> I CANNOT CONFIDENTLY SAY WHETHER THAT'S TRUE.

I HAVE ALSO SEEN THOSE GOOGLE IMAGES AS WELL.

IT APPEARS THAT IT'S LESS THAN 15 FEET.

BUT I CAN'T CHANGE THAT IN DISTANCE.

>> C. OLSON: I'M TALKING ABOUT THE SIDE YARD.

>> I THOUGHT YOU MEANT THE REAR YARD.

>> THE TWO ALONGSIDE THIS.

>> YES, I MEAN --

>> C. OLSON: THEY LOOK LIKE THEY WERE BUILT NEAR THE PROPERTY LINE.

>> THAT'S WHAT SEEMS QUITE EVIDENT FROM THE STREET VIEW AND GOOGLE EARTH CONSIDERING THE SETBACK REQUIREMENT IS FOR FEET MINIMUM PERHAPS THREE IF THEY'RE LESS THAN 40 FEET IN WIDTH. IT DOES APPEAR THEY'RE LESS THAN THAT.

>> C. OLSON: OKAY, THANK YOU.

>> SURE.

>> S. O'KEEFE: ANY MORE QUESTIONS FOR STAFF BEFORE WE HEAR FROM THE APPLICANT?

SEEING NONE, APPLICANT.

ARE YOU HERE?

>> I BELIEVE THAT WOULD BE WILSON OR HELEN.

THERE IS WILSON.

MAYBE I'M NOT -- I'M NOT A CO-HOST.

>> S. O'KEEFE: ENTER CO-HOST POWER.

>> BOARD SECRETARY: WILSON.

>> S. O'KEEFE: THE CO-HOST THING IS NOT WORKING WELL.

>> HOLD ON WILSON AND LET ME PROMOTE YOU AND THEN I WILL --

>> S. O'KEEFE: WHAT ABOUT YANG WA?

THAT'S GOOD.

>> LAYAL, CAN YOU SHUT DOWN YOUR SCREEN SHARE.

>> YES, AS SOON AS I FIGURE OUT HOW TO DO THAT.

HOLD ON.

>> S. O'KEEFE: GREAT.

ALL RIGHT, APPLICANT TELL US ABOUT YOUR PROJECT.

YOU HAVE FIVE MINUTES.

>> JUST IN CASE, WILSON, YOU NEED TO UNMUTE.

>> CAN YOU HEAR ME?

OKAY.

THIS IS -- THIS PROJECT IS FOR A NEW RESIDENCE, DETACHED
TWO-STOREY SINGLE-FAMILY DWELLING AT THE REAR OF THE LOT.

OUR APPLICANT, HELEN, IS GOING TO BE ONE OF THE PEOPLE LIVING IN
THE COMPLEX.

SHE'S THE OWNER AND SHE HAS A FAMILY -- A VERY LARGE FAMILY OF MOTHER AND FATHER AND ALSO HER DAUGHTER WHICH IS FINISHING UP ON UNIVERSITY AND ALSO GETTING READY TO GRADUATE AND ENGAGED TO BE MARRIED AND THEY WOULD LIKE TO LIVE IN THE HOUSE.

SO THEY HAVE A NICE FAMILY PUT TOGETHER AND THE PARENTS ARE OLDER NOW AND THEY WOULD LIKE TO STAY CLOSE TO THE DAUGHTER AND GRANDDAUGHTERS.

THAT'S ONE OF THE THINGS THAT WE HAVE.

THAT'S THE REASON WHY WE HAVE OVER FOUR BEDROOMS AND TWO BATHS. DOWNSTAIRS CAN BE THE ELDER AND THE UPSTAIRS CAN BE THE YOUNGER GENERATION.

PARKING.

YEAH, WE HAVE A TWO-CAR GARAGE FOR PARKING SO JUST THERE IS MORE THAN ENOUGH PARKING SPACE FOR THE RESIDENTS FOR EACH UNIT.

WE'RE PLANNING TO HAVE, YOU KNOW, JUST A LOW COVERAGE LANDSCAPING SO LOW MAINTENANCE AND THINGS LIKE THAT.

WE WANT TO MAKE SURE WE CAN SHARE THE LANDSCAPING WITH OTHER PEOPLE AND NOT TO OVER-BURDEN THE SITE OR ANYTHING ELSE IN THE BACKYARD.

THE EXISTING HOUSE THAT WE HAVE, WE'RE GOING TO LEAVE IT WHAT IT IS NOW.

EVERYTHING IS SETBACK ACCORDINGLY TO WHAT THEY HAVE NOW.

SO I'M WILLING TO ANSWER ANY QUESTIONS THAT YOU PEOPLE HAVE.

SO I HAVE NO PROBLEM WITH THAT.

WHILE I'M THE ARCHITECT ON THIS PROJECT.

I GRADUATED FROM UC BERKELEY IN THE SCHOOL OF ARCHITECTURE ENVIRONMENTAL DESIGN.

SO I'M LIKE YOU FROM THE BERKELEY AREA.

>> S. O'KEEFE: DOES THAT CONCLUDE YOUR PRESENTATION?

>> YES I'M WAITING FOR QUESTIONS.

>> S. O'KEEFE: ANY QUESTIONS FOR THE APPLICANT AT THIS TIME? COMMISSIONER TREGUB.

>> I. TREGUB: THANK YOU SO MUCH AND GO BEARS.

I JUST HAD A SMALL QUESTION OBVIOUSLY UNTIL THE -- WE RECENTLY CHANGED THE ORDINANCE TO REMOVE PARKING MINIMUM STANDARDS FROM MOST PARTS OF BERKELEY.

I KNOW THIS WAS PUT IN AHEAD OF THAT.

BUT LOTS ARE REQUIRED [INDISCERNIBLE]

I'M NOT SURE WHAT THE THINKING WAS BEHIND THAT.

WERE THERE OTHER THINGS YOU COULD DO WITH SPACE LEFT OVER?

IT COULD BECOME LIVING SPACE IF YOU DID FEWER SPOT OF PARKING.

WE CAN APPROVE IT WITH THREE.

BUT I'M JUST CURIOUS.

>> CAN I SPEAK?

>> S. O'KEEFE: PLEASE.

ANSWER THE QUESTION.

>> WELL, YOU KNOW, 1241 ASHBY IS A VERY GOOD SITE.

WE'RE CLOSE TO TRANSPORTATION.

WE'RE CLOSE TO SAN PABLO AVENUE.

THERE ARE FOUR OR FIVE BUSES AND WE HAVE BUS 80 THAT GOES UP AND DOWN ASHBY AND WE HAVE BART STATION ON ADELIN OR EVEN MACARTHUR IS CLOSE WITHIN WALKING DISTANCE.

MAYBE FIVE OR 10 MINUTES.

YOU ARE RIGHT, IF WE CAN COMBINE AND MAKE OUR SUBJECT HOUSE A BIT LARGER OR MORE SPACE FOR RESIDENTIAL, I THINK THAT'S A VERY GOOD IDEA.

>> I. TREGUB: IS THAT SOMETHING IS THAT -- I'M NOT TRYING TO REDESIGN THIS PROJECT.

WOULD YOU BE OPEN TO CONSIDERING TWO PARKING SPACES AND IF FEASIBLE ADDITIONAL BUILDING LIVABLE AREAS?

>> YES.

I'M ALL FOR THAT.

I BELIEVE IN THAT.

LIVING SPACES ARE THERE NOW.

I'LL HAVE A LOT OF STUDENTS THAT IS AROUND THE AREA AND WE ALL TAKE BUSES.

WHEN I WAS HOME TO BERKELEY, I WAS -- WHEN I WAS GOING TO BERKELEY, I WAS RIDING A BICYCLE AND GOING BACK AND FORTH TO UNIVERSITY.

AND I THINK THAT'S FANTASTIC.

A LOT OF PEOPLE HAVE THAT SIMILAR IDEA.

TO KEEP THE TRANSPORTATION GOING AND EVERYTHING ELSE IS SAFER

AND IS MUCH MORE PRODUCTIVE.

>> S. O'KEEFE: I'M GOING TO FOLLOW-UP ON IGOR'S EXCELLENT QUESTION WHICH IS, SIR, MY UNDERSTANDING IS YOU DESIGNED IT WITH THREE PARKING SPACES BECAUSE THAT WAS THE REQUIREMENT AT THE TIME.

HOWEVER, THAT REQUIREMENT IS NO LONG THERE ARE.

SO HOW MANY PARKS SPACES WOULD YOU LIKE?

IF YOU DIDN'T HAVE A REQUIREMENT, IS TWO IDEAL?

OR NONE?

>> WELL, I WOULD LIKE TO HAVE AT LEAST ONE PARKING SPACE POSSIBLY HERE AND THERE.

BUT I LOOK AT -- IF YOU LOOK AT THE SITE PLANS, I HAVE AN AREA THAT IS OPEN BETWEEN BOTH BUILDINGS.

AND I CAN EASILY FIT TWO PARKING SPACES THERE.

BECAUSE IT HAS MORE THAN 18 FEET OR SOMEWHERE -- 19 FEET OR SO THAT YOU CAN FIT TWO PARKING SPACES NO PROBLEM.

BACKUP DISTANCE IS VERY GOOD.

>> S. O'KEEFE: OKAY.

LESLIE WOULD LIKE TO SPEAK AND I WOULD LOVE TO HEAR WHAT SHE HAS TO SAY.

>> JUST SO THE BOARD IS AWARE, THERE IS NO NEW PARKING REQUIRED FOR NEW DWELLING UNITS BUT THIS PROPERTY DOES HAVE TWO LEGAL OFF-STREET SPACES.

THERE WAS NO ELIMINATION OF EXISTING PARKING SPACES.

IF YOU WANT TO PLAY AROUND, YOU CAN GO DOWN TO TWO.

BUT OTHERWISE, IT WOULD REQUIRE A VARIANCE WHICH IS NOT NOTICED FOR THIS MEET BEING.

>> S. O'KEEFE: ONLY ONE VARIANCE PER MEETING ANY WAY.

THAT'S HELPFUL, THANK YOU, LESLIE.

>> I CAN ALSO SPEAK TO THAT, IF YOU'D LIKE.

>> PLEASE.

>> SO, AS YOU MAY HAVE NOTICED, THIS PROJECT HAS AN APPLICATION NUMBER FROM A FEW YEARS AGO.

PART OF THE REASON FOR THAT IS WE'VE GONE THROUGH DIFFERENT ITERATIONS TO TRY TO GET THE APPLICANT SOMETHING THAT THEY WANT. AND AS LESLIE MENTIONED, A VARIANCE WOULD BE REQUIRED TO REDUCE THE PARKING.

THE WAY THE APPLICANT HAS DISCUSSED, UP WITH THING THEY MAY WANT TO CONSIDER IN THE FUTURE IS AN ADU IN SOME OF THE SPACES.

SO THAT WOULD BE SOMETHING THAT CAN BE DONE MINISTERIALLY.

IT WAS COMPLICATED TO BRING THIS TO THE BOARD AS AN ADU PROJECT AS WELL AS A NEW DWELLING UNIT SINCE ADUS ARE NOT THE PURVIEW OF THE BOARD.

THEY'RE THINKING ALONG THE LINES THAT YOU GUYS ARE THINKING.

>> S. O'KEEFE: IGOR, FOLLOW-UP QUESTION?

>> I. TREGUB: LAYAL, THANK YOU FOR THAT.

IF YOU CAN CLARIFY FOR ME BECAUSE THE CHART SAYS THERE ARE TWO REQUIRED PARKING SPACES AND THREE IS BEING PROPOSED.

SO ARE YOU SAYING THAT THEY ALREADY HAVE TWO EXISTING PARKING SPACES AND ONE ADDITIONAL IS BEING PROPOSED?

BUT LEGALLY WE DON'T HAVE TO REQUIRE THEM TO ADD ONE MORE?

>> THE ISSUE, I BELIEVE, AND GRANTED THE PARKING ORDINANCE WENT INTO EFFECT AT THE SAME TIME THIS PROJECT WAS SCHEDULED FOR FEBRUARY AND IT WAS CONTINUED TO THIS EVENING.

THERE ARE TWO SPACES FOR THESE EXISTING UNITS.

THE WAY THE PARKING ORDINANCE IS WRITTEN FROM HERE ON OUT, YOU KNOW, YOU CAN'T REQUIRE HALF A PARKING SPACE.

THAT'S ONE OF THE REASONS WHY THE THIRD SPACE HAS BEEN PROPOSED.

IF THEY WERE NOT TO MOVE FORWARD WITH THE ADU, THEY WOULD BE MEETING THE CODE REQUIREMENT.

YOU COULD HAVE A VARIANCE FOR THE PROJECT TO COME BACK TO THE BOARD.

>> I. TREGUB: SO I THOUGHT THAT AN ADU DOES NOT REQUIRE PARKING.

>> I'M SORRY, I THOUGHT YOU WERE TALKING ABOUT THE PROJECT PROPOSED.

AN ADU WILL NOT REQUIRE A PARKING SPACE.

>> I. TREGUB: SO WE COULD APPROVE IT TODAY.

IRRESPECTIVE OF WHETHER THEY BUILD AN ADU?

>> I'M SORRY, YOU WERE BREAKING UP.

CAN YOU REPEAT THAT?

>> S. O'KEEFE: IGOR, YOU'RE HAVING A BIT OF AN AUDIO ISSUE.

>> I. TREGUB: IS THIS BETTER?

>> S. O'KEEFE: SAY WHAT YOU SAID AGAIN.

>> I. TREGUB: ARE YOU SAYING WE CAN APPROVE IT WITH TWO PARKING SPACES, NOT TWO TONIGHT IRRESPECTIVE OF WHETHER THEY TRY TO MOVE FORWARD WITH AN ADU IN THE FUTURE?

>> I'D LIKE TO RUN THAT BY LESLIE.

BECAUSE THE RESTRICTIONS ARE BRAND NEW THAT WE'D HAVE TO ROUND UP TO ONE FOR THE NEW SPACE AND NOT ROUND DOWN TO ZERO FOR THE NEW UNITS, BUT I CAN LOOK THAT UP IF YOU HAVE ANY OTHER ITEMS THAT YOU NEED TO DISCUSS AND I CAN GET BACK TO YOU.

>> THESE ARE QUESTIONS FOR STAFF.

>> I STILL HAD A HARD TIME HEARING YOUR QUESTION.

MAYBE I'LL HOPEFULLY ANSWER IT.

>> S. O'KEEFE: HE ASKED IF WE WOULD APPROVE IT WITH TWO.

>> YOU MAY PROVE IT WITH TWO, YES.

>> I. TREGUB: THANK YOU.

>> S. O'KEEFE: IF THERE IS MORE, PLEASE FEEL FREE TO JUMP IN. COMMISSIONER OLSON.

QUESTIONS FOR THE APPLICANT.

>> C. OLSON: WELL, I WANTED TO FOLLOW ON TO THE PARKING THING. WHY WOULDN'T THE TWO SPACES BE ALLOWED TO BE NECESSARY ONES FOR EXISTING BE ALLOWED TO BE TANDEM ON THE DRIVEWAY?

>> WE HAVE DISCUSSED VARIOUS ITERATIONS OF THE -- WHERE THE PARKING SPACES COULD BE WITH THE TRAFFIC ENGINEER. POTENTIALLY THEY COULD BE IN THE DRIVEWAY.

THE DRIVEWAY IS A LITTLE SUBSTANDARD.

I DON'T WANT TO SAY HOW MUCH I THINK, BUT CONSIDERING THEY ARE EXISTING PARKING SPACES, WE WOULD BE ABLE TO USE SOME OF THE SPACE AND DEDICATE THAT TO PARKING.

>> S. O'KEEFE: I WOULD LIKE TO REMIND THE BOARD, THIS IS AN INTERESTING ISSUE, WE'RE IN THE PRELIMINARY PART OF THIS SO WE CAN COME BACK TO THIS WHEN WE DO BOARD COMMENTS.

OTHER QUESTIONS FOR THE APPLICANT?

BEFORE WE HEAR FROM THE PUBLIC.

MEMBERS OF THE PUBLIC, IF YOU WOULD LIKE TO SPEAK ON THIS ITEM, PLEASE RAISE YOUR HAND NOW OR PRESS STAR 9 IF YOU'RE JOINING US BY PHONE.

THIS IS YOUR CHANCE, PUBLIC.

ALL RIGHT.

WE'RE NOT SEEING ANY INTEREST IN SPEAKING FROM PUBLIC SO WE'LL BRING IT BACK TO THE APPLICANT.

DO YOU WANT TO ADD ANYTHING TO YOUR ORIGINAL -- USUALLY YOU RESPOND TO COMMENTS FROM THE PUBLIC.

BUT WE'RE NOT GETTING ANY, SO DO YOU WANT TO ADD ANYTHING IT YOUR PRESENTATION?

>> NO.

THIS IS FINE.

I LIKE THE IDEA OF THE PARKING SPACES REDUCTION SO I CAN HAVE A NICER BUILDING AND MORE RESIDENTIAL THINGS.

SO THAT'S GOOD.

I APPRECIATE THAT.

THANK YOU VERY MUCH IGOR.

I'M CONTENT WITH WHAT YOU PEOPLE ARE SAYING.

AS LONG AS I FOLLOW THE CODE AND ORDINANCE AND ZONING, I'M MORE THAN HAPPY.

THANK YOU.

>> S. O'KEEFE: IGOR, DO YOU HAVE A QUESTION FOR THE APPLICANT? OR SHOULD WE CLOSE THE PUBLIC HEARING.

>> I. TREGUB: I HAVE A MOTION.

>> S. O'KEEFE: THANK YOU APPLICANT I'M CLOSING THE PUBLIC HEARING.

>> THANK YOU.

>> S. O'KEEFE: WE'RE GOING TO CLOSE IT NOW FOR BOARD COMMENTS. IGOR.

>> I. TREGUB: THANK YOU AND CAN YOU HEAR ME BETTER NOW?

>> S. O'KEEFE: YES.

>> I. TREGUB: THIS WAS A LIGHT PACKET BUT APPARENTLY WHEN I PUT THE PACKET ON TOP OF MY LAPTOP, IT MESSES WITH THE SOUND.

SO I THINK I FIGURED IT OUT.

SO I WOULD LIKE TO MOVE THIS ITEM WITH ONE AMENDMENT WHICH IS THAT SUBJECT TO FINAL DESIGN REVIEW, WE WOULD APPROVE IT WITH TWO PARKING SPACES.

>> S. O'KEEFE: COMMISSIONER OLSON.

>> C. OLSON: HE'LL SECOND THAT, BUT I HAVE A SUGGESTION TO THROW OUT THERE.

IT GOES BACK TO GETTING RID OF THE PARKING SPACES.

IF THE BALCONY WAS FLIPPED FROM THE NORTH SIDE TO THE SOUTH SIDE, IT WOULD ACTUALLY BE FUNCTIONAL.

BECAUSE IT WOULD BE IN THE SUN.

AND IF THERE AREN'T PARKING SPACES THERE, I THINK IT WOULD BE A BETTER FIT.

THAT'S MY SUGGESTION.

>> STAFF: BASED ON WHAT IGOR SAID, I WOULD ADD TO THAT AND SAY SINCE THIS IS A RESIDENTIAL PROJECT AND WE USE THE TERM "DESIGN REVIEW" IN A DIFFERENT CONTEXT AT ZAB, I WOULD SAY THIS WOULD BE THE PER THE ZONING OFFICERS AND TRAFFIC ENGINEERS APPROVAL AND WE CAN ALSO PROVIDE A CONDITION OF APPROVAL THAT SAYS THE APPLICANT CAN MOVE THE BALCONY TO THE SOUTH SIDE OF THE BUILDING.

AS LONG AS THE FOOTPRINT STAYS THE SAME.

THAT WAS A LITTLE CLUNKY BUT I'LL WRITE IT BETTER.

>> S. O'KEEFE: SO THAT'S A FRIENDLY AMENDMENT.

WHAT DOES THE MOTION-MAKER THINK ABOUT THAT?

>> I. TREGUB: I'M FRIENDLY TO THAT.

THE NEIGHBORS SAW THE PLANS WITH THE BALCONY FACING A CERTAIN WAY.

NOT AS A CONDITION, BUT I HOPE THERE WILL BE SOME ADDITIONAL

OUTREACH IF THERE IS A RECONSIDERATION OF THE BALCONY.

BUT I'M FRIENDLY TO THAT SUGGESTION.

EXCELLENT SUGGESTION, CARRIE, THANK YOU.

>> S. O'KEEFE: WE HAVE A MOTION AND A SECOND.

FURTHER COMMENTS ON THE MOTION OR OTHER MOTIONS?

OKAY.

I THINK IT'S CLEAR WHAT THE MOTION IS.

AND THEN OF COURSE, CLARIFYING THE ISSUE WITH THE HOUSING

ACCOUNTABILITY ACT AS WELL.

>> BOARD SECRETARY: TWO PARK SPACES AND YES TO THE BALCONY?

>> S. O'KEEFE: YES.

>> I. TREGUB: BUT PLEASE OUTREACH TO IMPACTED NEIGHBORS.

>> BOARD SECRETARY: ALL RIGHT.

ROLL CALL.

BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER HAUSER.

>> YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: YES.

SO MOTION PASSES.

ASHBY AVENUE YOU HAVE YOUR USE PERMIT APPEALABLE TO THE CITY
COUNCIL.

PLEASE ENJOY IT.

NEXT UP WE HAVE 1205 PERALTA.

ALL RIGHT.

LET'S BEGIN WITH A STAFF REPORT.

>> STAFF: HELLO.

LET ME SHARE MY SCREEN.

OKAY.

GOOD EVENING ZAB MEMBERS.

THE PROJECT IN FRONT OF YOU IS AT 1205 PERALTA AVENUE.

IT'S A VARIANCE TO UTILIZE THE EXISTING REQUIRED PARKING SPACES
ON THE LOT.

THE USE PERMIT TO LEGALIZE THE ADDITION OF THE SIX, SEVEN AND
EIGHT BEDROOMS ON THE LEFT.

THE SUBJECT LOT IS LOCATED ON PERALTA AVENUE BETWEEN GILMAN
STREET AND COLVIN AVENUE.

IT'S LOCATED IN THE R-1A ZONING DISTRICT.

IT'S SUBSTANDARDIZED LOT.

THERE IS OPEN SPACE AND PARKING.

IT INCLUDES FOUR UNITS WHERE ONE IS ALLOWED.

IT'S OVERLOAD COVERAGE BY 16%.

IT ONLY PROVIDES 458 LIVABLE SQUARE FEET OF LIVABLE OPEN SPACE.

THE PROJECT IS ADDING THREE BEDROOMS ON THE LOT WITH FIVE EXISTING BEDROOMS WHICH RESULT IN A TOTAL OF EIGHT BEDROOMS ON THIS LOT.

AS BEING SEE, TWO UNITS ARE LOCATED IN THE FRONT BUILDING AND TWO UNITS ARE LOCATED IN THE REAR BUILDING.

UNIT ONE AND FOUR ARE IN THE FRONT BUILDING.

NO CHANGES ARE PROPOSED FOR UNIT ONE.

INTERIOR RECONFIGURATION IS PROPOSED FOR UNIT FOUR.

UNIT FOUR'S CURRENT FLOOR PLAN HAS AN UNPERMITTED BEDROOM AND NO LIVING ROOM.

THE FLOOR PLAN INCLUDES THE LIVING ROOM AND UNIT TWO AND THREE ARE IN THE REAR TWO-STOREY BUILDING.

THE UPPER UNIT IS UNIT TWO AND LOWER UNIT IS CALLED UNIT THREE.

A VARIANCE IS TRIGGERED BECAUSE AN EXISTING 18 X 20-FOOT TWO-SPACE GARAGE WAS CONVERTED TO LIVING SPACE FOR UNIT THREE RESULTED IN ELIMINATION OF THE TWO EXISTING PARKING SPACES.

ON A LOT THAT REQUIRES FOUR SPACES FOR FOUR UNITS.

REQUIRED VARIANCE FINDS MUST BE MADE IN ORDER TO APPROVE THE

ILLEGAL CONVERSION OF GARAGE TO LIVING SPACE.

THOSE FINDINGS ARE INCLUDED IN MY STAFF REPORT IN DETAIL.

IN SUMMARY, THE REQUIRED VARIANCE FINDS TO APPROVE THIS CONVERSION CANNOT BE MADE AS THERE NO EXCEPTIONAL CIRCUMSTANCE ON THE PROPERTY.

THAT'S FINDING ONE.

THE VARIANCE IS NOT NECESSARY FOR THE PRESERVATION OF SUBSTANTIAL PROPERTY RIGHTS.

THE PROJECT WOULD BE GENERALLY DETRIMENTAL.

THAT'S FINDING THREE.

IN ORDER TO APPROVE A VARIANCE, ALL THREE FINDINGS MUST BE MADE. USE PERMITS ARE TRIGGERED BECAUSE OF THE ADDITION OF THREE BEDROOMS TO THE REAR BUILDING.

ONE TO UNITS THREE AND TWO TO UNIT TWO.

HERE I HAVE A DIAGRAM.

THIS IS A DIAGRAM TO SHOW THE EXISTING UNPERMITTED AND PROPOSED NUMBER OF BEDROOMS ON THE LOT.

ACCORDING TO THE RECORDS, THIS PROPERTY HAS FIVE LEGAL BEDROOMS. THOSE ARE SHOWN WITH THE BLUE DOTS.

THROUGHOUT THE YEARS, ADDITIONAL BEDROOMS HAVE BEEN ADDED AND REMOVED FROM THIS PROPERTY WITHOUT A PERMIT.

THOSE ARE SHOWN AS RED DOTS.

ONE BEDROOM HAS BEEN ADDED TO UNIT FOUR AND IS PROPOSED TO BE REMOVED.

TWO BEDROOMS WERE ADDED TO UNIT THREE AND ONE OF THOSE BEDROOMS WAS REMOVED FROM UNIT THREE LAST SPRING.

UNIT TWO ORIGINALLY INCLUDED ONE PERMITTED BEDROOM.

HOWEVER, SINCE THE LIVING ROOM AND THE DESIGNING ROOM WHICH IS CURRENTLY LABELED AS BEDROOM ONE ON THE PLAN HAS BEEN CLOSED OFF FROM THE REST OF THE HOUSE AND CAN BE USED FOR SLEEPING.

THEY EACH WOULD BE COUNTED AS AN ADDITIONAL BEDROOM IN THIS UNIT.

THIS APPLIES TO THE ROOM LABELED AS STORAGE IN THE LOWER UNIT THREE.

USE PERMIT FINDINGS ARE REQUIRED TO APPROVE THE ADDITIONAL RULES ABOUT SIX AND HIGHER ON A LOT.

STAFF BELIEVES THAT THE ADDITION OF 6, 7 AND 8 BEDROOMS IS SUBSTANDARD.

THEREFORE THE ADDITIONAL THREE BEDROOMS COULD BE COUNTED DETRIMENTAL.

BECAUSE OF THE PROJECT'S INCONSISTENCY ACCOUNT ZONING ORDINANCE AND GENERAL FUND, STAFF RECOMMENDS THAT THE ZAB DENY THIS VARIANCE AND USE PERMIT SUBJECT TO THE FINDINGS ATTACHED TO THE STAFF REPORT.

>> S. O'KEEFE: THANK YOU.

ARE THERE QUESTIONS FROM STAFF BEFORE WE HEAR FROM THE APPLICANT?

COMMISSIONER TREGUB.

>> I. TREGUB: THANK YOU.

THE STAFF REPORT MENTIONS THAT THE FOUR UNITS ARE SUBJECT TO THE RENT STABILIZATION ORDINANCE.

CAN YOU DESCRIBE WHAT KIND OF OUTREACH MAY HAVE BEEN DONE TO THE RENT BOARD?

>> STAFF: I HAVE CONTACTED THE RENT BOARD TO CONFIRM AND THEY CONFIRMED IT'S SUBJECT TO RENT BOARD.

IS THAT ANSWER YOUR QUESTION?

>> I. TREGUB: IT DOES ON SOME LEVEL.

I MIGHT SAY THIS FOR -- SAVE THIS FOR COMMENTS, BUT WHERE I'M GOING, IF THERE IS A PROPOSED CHANGE TO THE FLOOR PLAN, I WOULD BE INTERESTED IN MAYBE WE CAN ASK THE APPLICANT IF THE UNITS ARE CURRENTLY OCCUPIED WITH SIT BE TENANTS BECAUSE ANY CHANGE IN THE FLOOR PLAN COULD POTENTIALLY NOT ONLY TRIGGER THE RELOCATION ORDINANCE, BUT MIGHT TRIGGER A CHANGE IN THE LEVEL OF SERVICES PROVIDED TO THE TENANT WHICH WOULD IMPACT THE LEGAL RENT.

>> STAFF: RIGHT.

YES.

I THINK THAT'S A GOOD QUESTION FOR THE APPLICANT.

I THINK THAT THEY'RE OCCUPIED CURRENTLY.

AT LEAST UNIT TWO, I'M NOT SURE ABOUT UNIT THREE.

UNIT TWO, I THINK I HEARD FROM THE NEIGHBORS AND THE APPLICANT THAT IT'S CURRENTLY OCCUPIED.

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

SEEING NONE, LET'S BRING UP THE APPLICANT FOR THE APPLICANT
PRESENTATION.

ARE THEY HERE?

>> I JUST PROMOTED TERESA.

>> HI.

>> S. O'KEEFE: TERESA, YOU HAVE FIVE MINUTES FOR YOUR
PRESENTATION.

>> I'M NOT QUITE SURE HOW TO SHARE A SCREEN HERE.

ONE SECOND.

>> S. O'KEEFE: WE CAN WAIT AND START THE TIMER UNTIL YOU'RE SET
UP.

>> LET'S SEE.

OKAY.

ALL RIGHT.

SO JUST A QUICK BACKGROUND ON THIS PROJECT.

IT'S -- WE'VE HAD A LOT OF PREEXISTING CONDITIONS ON THIS LOT.

IT MAKES IT VERY DIFFICULT TO FIGURE OUT WHAT'S THE BEST
SOLUTION SO FAR.

AND UP TO THIS POINT, WE STARTED THIS EARLY 2019 AND WE'VE BEEN
OVER 20 REVISIONS TRYING TO FIGURE OUT HOW TO REALLY RESOLVE THE
SITUATION ON THIS PROJECT.

INITIALLY THE MAIN RENOVATION THAT THE OWNER IS PROPOSING IS FOR
UNIT FOUR.

UNIT FOUR EXISTING.

SO CURRENTLY UNIT ONE, UNIT TWO, ARE OCCUPIED FOR OVER 16 YEARS.

AND THE TENANTS ARE NOT PLANNING TO LEAVE AT ALL ANY TIME SOON.

OR AT LEAST WE DON'T KNOW IF THEY'RE GOING TO LEAVE AT ALL.

THEY HAVEN'T GIVENS ANY NOTICE.

UNIT THREE HAS BEEN VACATED I THINK ABOUT A YEAR AGO PRIOR TO THE START OF COVID-19.

AND RECENTLY I BELIEVE THE PROGRESS HAS BEEN -- THERE IS A PROPOSED TENANT COMING IN HERE.

BUT THE OWNER CATHY CANNOT PLACE THEM IN YET.

JUST NOT YET UNTIL WE RESOLVE THE PARKING ISSUE WHICH IS THE REASON FOR THIS VARIANCE.

SO BACKGROUND ON THE EXISTING CONDITIONS OF THE LOT.

I'M JUST GOING TO READ OFF OF HERE.

BASICALLY THERE IS A EXISTING NONCONFORMING LOT COVERAGE.

WE'RE CURRENTLY AT 56.6% I THINK THE ALLOWED IS ONLY 40%.

SO ALL THESE CONDITIONS ARE THERE PRIOR TO THE OWNER

HAVING -- THE NEW OWNER GETTING OWNERSHIP OF THIS PROPERTY AND

THE OTHER EXISTING NON-COMPING CONDITION IS THE REAR SETBACK.

WHICH IS ONLY 3-FOOT 4 FORWARDS THE BUILDING TWO WHICH IS BACK HERE.

AND ALSO, I BELIEVE THIS IS CONSIDERED OVER-DENSITY FOR THIS LOT BECAUSE OF THE FOUR DWELLING UNITS.

UNIT ONE, TWO, THREE AND FOUR.

AND I BELIEVE THE LOT AREA RECOMMENDED FOR DEVELOPMENT IS 5,000

SQUARE FEET.

AND EXISTING CONDITION OF THE LOT IS ACTUALLY ONLY 4463.

IT IS ALREADY SMALLER THAN WHAT IS EVEN RECOMMENDED.

AND ALSO, THE PARKING CONDITION IS A BIT TROUBLESOME HERE.

YOU CAN SEE FROM THE FACE OF THE EXTERIOR WALL OF THE FRONT BUILDING TO THE LOT LINE IT'S ONLY 6-FOOT 7.

EVEN IF WE WERE TO CONVERT THIS DRIVEWAY AND USE THE PARKING AT THE REAR OF THE BUILDING, YOU CANNOT FIT A CAR IN HERE ANYWAY.

SO THAT'S BEEN ONE OF THE PROBLEMS.

AND THEN THE OTHER PROBLEM IS THE USEFUL OPEN SPACE WHICH IS CURRENTLY AS SHOWN IN THIS DIAGRAM IS A TOTAL OF 458.92 SQUARE FEET.

WITH ALL THESE EXISTING CONDITIONS, THE MAIN PROJECT REALLY ON THIS LOT IS TO RENOVATE UNIT FOUR.

AS YOU CAN SEE HERE, THESE BEDROOMS ARE VERY, VERY SMALL.

AND IN ORDER TO MOVE AWAY FROM IT BEING CONSIDERED A MINI DORM, THE OWNER IS PROPOSING TO JUST HAVE ONE BEDROOM IN THIS UNIT.

AND THEN HAVE A LIVING ROOM.

AS YOU CAN SEE THERE IS NO LIVING ROOM AND MINIMAL SPACE FOR DINING ROOM AND KITCHEN.

SHE'S PROPOSING ON THIS PLAN TO HAVE A LIVING ROOM IN THAT AREA, BEDROOM ONE AND TWO HERE.

HANG ON A SECOND.

>> S. O'KEEFE: YOU HAVE ABOUT 15 SECONDS LEFT.

LAST INTENSE.

>> BASICALLY THIS VARIANCE IS DUE TO -- FROM REVIEWING ALL THESE CHANGES FOR THE PROPOSED RENOVATION, IT HAS BEEN FOUND OUT THAT THE GARAGE ON UNIT THREE WAS ACTUALLY ILLEGAL AND SO THERE HAS BEEN A NOTICE OF VIOLATION THAT'S BEEN ISSUED TO THE OWNER TO CORRECT THIS AREA.

>> S. O'KEEFE: OKAY.

THANK YOU VERY MUCH.

THAT'S YOUR TIME.

WE MIGHT HAVE QUESTIONS FOR YOU.

ANYONE FROM THE BOARD HAVE A QUESTION FOR THE APPLICANT?

BEFORE WE HEAR FROM THE PUBLIC?

COMMISSIONER TREGUB.

>> I. TREGUB: THANK YOU.

I HAVE A QUESTION FOR THE APPLICANT AND I HAVE ONE FOR STAFF.

FOR THE APPLICANT, THANK YOU FOR LETTING US KNOW THE OCCUPANCY STATUS OF UNIT ONE AND THREE.

CAN YOU LET US KNOW WHAT THE STATUS OF UNIT TWO IS?

THAT'S THE ONE WHERE TWO ADDITIONAL BEDROOMS ARE PROPOSED.

IS IT CURRENTLY OCCUPIED?

>> SORRY, I DIDN'T HEAR THAT WELL.

>> S. O'KEEFE: IS UNIT 2 CURRENTLY OCCUPIED?

>> UNIT TWO IS OCCUPIED.

IT'S BEEN OCCUPIED FOR 16 YEARS AND THE TENANT IS NOT PLANNING

TO LEAVE AT ALL.

>> I. TREGUB: OKAY.

I JUST WANTED TO CONFIRM, IS THAT WHERE TWO ADDITIONAL
BEDROOMS -- TWO OF THE THREE ADDITIONAL BEDROOMS ARE BEING
PROPOSED?

OKAY.

>> I'M NOT SURE I UNDERSTAND WHAT YOUR QUESTION IS.

>> I THINK NILU IS NODDING.

>> THE DINING ROOM IS CLOSED OFF AND LIVING ROOM IS CLOSED OFF
AND COUNTED AS TWO ADDITIONAL BEDROOMS.

>> I. TREGUB: NILU, CAN YOU HELP ME UNDERSTAND, THE VARIANCE
REALLY IS THE PROPOSED ELIMINATION OF REQUIRED PARKING, BUT
THERE ARE THREE USE PERMITS TO REHAB, TO REFURBISH TO MAYBE GET
THINGS BACK INTO A LEGAL CONDITION FROM AN UNPERMITTED ONE.
THEORETICALLY THOSE COULD ALL BE APPROVED TONIGHT, CORRECT?

>> STAFF: YES.

YES.

I MEAN UP TO ZAB.

>> S. O'KEEFE: FURTHER QUESTIONS FOR THE APPLICANT FOR FOR STAFF
AS THEY COME UP?

OKAY.

THANK YOU APPLICANT.

WE WILL COME BACK TO YOU IN A MINUTE.

BUT FIRST WE'RE GOING TO SEE IF ANYONE FROM PUBLIC WOULD LIKE TO

SPEAK ON THIS ITEM.

PLEASE RAISE YOUR HAND OR PRESS STAR 9 IF YOU'RE A MEMBER OF THE PUBLIC AND WOULD LIKE TO SPEAK ABOUT THIS ITEM.

I SEE A COUPLE OF HANDS, I'LL CALL THEM IN THE ORDER THAT ZOOM RECEIVED YOUR REQUEST.

FIRST UP IS KAREN.

WE'LL GIVE YOU TWO MINUTES.

I'M OUT OF PRACTICE.

THERE WE GO.

KAREN.

UNMUTE YOURSELF.

>> I'M KAREN.

I LIVE AT 1207 PERALTA TO THE SOUTH OF 1205.

AS AN ARCHITECT AND PLANNER WORKING IN THE BAY AREA FOR 40 YEARS I'M AWARE OF THE NEED FOR MORE AFFORDABLE HOUSING.

>> S. O'KEEFE: CAN WE START THE TIMER, PLEASE.

SORRY.

YOU CAN START AGAIN.

>> SO, I'VE BEEN WORKING IN THE BAY AREA FOR 40 YEARS AS AN ARCHITECT.

I TOTALLY UNDERSTAND THE NEED FOR AFFORDABLE HOUSING, SUPPORT INCREASING DENSITY AND ADUS BUT I DON'T THINK THIS PROPOSAL IS THE WAY TO DO IT.

HE THINK THE STAFF HAS DONE AN EXCELLENT JOB IN DESCRIBING THE

COMPLEX ISSUES.

KEY IS THAT THERE ARE FOUR DWELLING UNITS ON A PROPERTY ZONED FOR A SINGLE-FAMILY HOME.

HAVING LIVED NEXT DOOR TO THIS PROPERTY FOR 30 YEARS, I CAN ATTEST TO THE CHALLENGES AS LIVING CLOSE TOGETHER WITH THESE FAMILIES AS WELL AS ON A CROWDED STREET BUT WE LIVE IN RELATIVE HARMONY. TO COMPOUND THE SITUATION NUMEROUS UNPERMITTED CONVERSIONS BY THE OWNER'S FATHER AND OWNER HAVE CREATED THREE ADDITIONAL BEDROOMS BEYOND THE ORIGINAL FIVE WHICH YOU'RE NOW ASKED TO LEGALIZE.

RESIDENTS ON PERALTA ARE REASONABLE PEOPLE.

WE SUPPORT CONVERTING THREE BEDROOMS TO TWO IN UNIT FOUR IN THE HOUSE.

WE SUPPORT KEEPING ONE BEDROOM IN THE UNIT.

BUT CANNOT CONDONE A SECOND BEDROOM AS THE STORAGE UNIT WOULD BE CONSIDERED.

WE BELIEVE THAT SHOULD STAY AS STORAGE WITHOUT A WINDOW OR DOOR INTO THE LIVING ROOM.

THE UPSTAIRS UNIT TWO SHOULD BE RETURNED TO A ONE BEDROOM.

WE BELIEVE THIS IS A MORE APPROPRIATE FIT FOR AN EXISTING NONCONFORMING LOT WHICH IS OVER DENSITY AND ONLY 25% OPEN SPACE. HOWEVER, WELL-INTENDED, THE GESTURE TO UPGRADE THE PROPERTY, SEE THIS AS AN ATTEMPT TO OVER-BUILD A SUBSTANDARD LOT OUT OF CHARACTER WITH NEIGHBORHOOD DENSITY.

WE DO NOT BELIEVE THAT A VARIANCE TO REMOVE TWO OFF-STREET
PARKING SPACES IS WARRANTED.

THANK YOU.

>> S. O'KEEFE: THANK YOU VERY MUCH.

APPRECIATE YOUR COMMENTS.

NEXT UP.

NEXT UP WE HAVE VERONICA.

I AM ALLOWING YOU TO TALK.

>> I. TREGUB: VERNICKA.

>> I'M UNMUTED NOW, CORRECT?

>> THANK YOU VERY MUCH FOR THE TIME.

MANY YEARS AGO -- DECADES AGO I WAS IN YOUR PLACE AND CHAIRED
THE BOARD.

AT THE SAME TIME I CHAIRED THE PLANNING COMMISSION.

IT WAS GOOD EXPERIENCE, I MUST SAY.

AND THE THING THAT ALWAYS BOTHERED ME MOST THAT CAME BEFORE US
WERE REQUESTS FOR VARIANCES WHEN IT KIND OF BROKE YOUR HEART
BECAUSE YOU COULDN'T MAKE THE FINDINGS AND FAMILY WAS SAYING WE
HAVE MORE CHILDREN, WE NEED MORE SPACE, ET CETERA, ET CETERA.

THOSE WERE THE HARD ONES.

I THINK THIS IS NOT A HARD ONE.

THIS TO ME IS A SIMPLE ONE.

THERE IS NO WAY THAT I CAN SEE THAT YOU CAN MAKE THE FINDINGS
FOR A VARIANCE.

I SENT YOU SEVERAL LETTERS.

MY COMMENTS ABOUT WHAT THE PREVIOUS -- WHAT THE APPLICANT'S FATHER DID AFTER HER FATHER HAD ALREADY DIED, MORE CHANGES WERE MADE TO THE PROPERTY AND WE HAVE WATCHED THINGS GOING ON FOR YEARS AND YEARS.

IT'S JUST FINALLY REACHED AN END POINT WHERE SOME OF US ARE SAYING ENOUGH IS ENOUGH.

WE'VE HAD SCOFFLAWS IN THIS CITY AND EVERY BOARD OF ADJUSTMENTS KNOWS WHO THEY ARE.

IN THE PAST THIS WAS THE PROPERTY OWNED BY A SCOFFLAW.

THE ARCHITECT SAID AT THE VERY BEGINNING OF WHAT SHE SAID, YOU KNOW, WELL, WHAT'S THE BEST SOLUTION?

I THINK MY NEIGHBOR KAREN FEENEY JUST SAID WHAT THE BEST SOLUTION IS AND THAT IS TO GO BACK TO WHAT IT WAS.

THE UPSTAIRS APARTMENT IN UNIT TWO WAS A ONE BEDROOM.

I HAD FRIENDS WHO LIVED IN IT AND I HAD DINNER WITH THEM.

DOWNSTAIRS UNIT UNDER THAT WHICH IS UNIT THREE SHOULDN'T HAVE A WINDOW AND A GARAGE.

IN A STORAGE ROOM?

THAT DOESN'T MAKE ANY SENSE.

IT'S NOT SECURE AND WE'VE HAD THEFTS IN THE NEIGHBORHOOD.

THE THREE BEDROOMS IN THAT TYPE WITH UNIT NUMBER THREE DON'T MAKE ANY SENSE EITHER.

WE'RE PLAYING WITH NUMBERS AND I THANK YOU FOR YOUR TIME.

>> S. O'KEEFE: THANK YOU VERNICKA.

NEXT UP WE HAVE ALAN.

WE CAN HEAR YOU.

>> I'M ALAN TOBY AND MY WIFE AND I LIVED AT 1228 PERALTA FOR 23 YEARS.

FROM CENTRAL LOCATION AND MILD CLIMATE TO THE EVER INCREASING WALKABILITY.

BEST OF ALL IT'S OUR NEIGHBORS.

WITH LOTS [INDISCERNIBLE]

MIXING SINGLES AND FAMILIES IN SESSION 8 AND MILLION DOLLAR HOUSES [INDISCERNIBLE] GENERAL TREASURE OUR DIFFERENCES.

WE'VE LEARNED TO WORK TOGETHER TO IMPROVE THINGS LIKE ADDING A STOP SIGN AT THE END OF OUR BLOCK AT PERALTA AND GILMAN.

IT -- 1205 IS AN EXCEPTION TO THE NEIGHBORHOOD COHESION.

IT'S OWNED BY AN ABSENTEE LANDLADY.

IT'S A PLAN SOLELY FOCUSED ON INCREASING THE RENTAL DENSITY.

SEVERAL PROJECTS HAVE BEEN QUIETLY BUILT OUT OVER THE YEARS.

PLEASE REMEMBER THIS APPLICATION IS NOT A BLESSED CREATIVE NEW PROJECT BUT IT'S A DESPERATE ATTEMPT TO BE FORGIVEN WITHOUT PENALTY.

THE CITY ISSUED A NOTICE OF VIOLATION ON MARCH 20TH.

PLEASE DON'T WASTE TIME TONIGHT PEERING DEEP INTO THE DRAWINGS.

ATTEMPT TO ADJUST WHATEVER WORKS.

INSTEAD, ISSUE A UNANIMOUS DENIAL OF BOTH APPLICATIONS OTHERWISE

THE CITY WILL BECOME A NOTORIOUS EXAMPLE OF HOW NOT TO BUILD.
BETTER THAT WE CREATE A POSITIVE EXAMPLE THAT NEIGHBORS CAN
SOLVE PROBLEMS AND WORK CREATIVELY TOGETHER.

>> S. O'KEEFE: THANK YOU VERY MUCH.

NEXT UP WE HAVE JOAN.

HELLO.

JOAN, YOU HAVE TWO MINUTES.

>> I'M JOAN. I LIVED AT 1201 PERALTA A COUPLE OF HOUSES NORTH
FOR THE LAST 24 YEARS.

I'M GOING TO HAVE TO ELIMINATE A FEW THINGS I WANTED TO SAY, BUT
YOU HEARD FROM THE APPLICANT THAT ALL THESE PARCEL CONDITIONS
OCCURRED PRIOR TO MISS NASON INHERITING THE PROPERTY BUT I WANT
TO SET THE RECORD STRAIGHT, I'VE EXAMINED ALL INFORMATION AND I
CAN TELL THAT YOU ALTHOUGH THE APPLICANT'S FATHER STARTED THE
GARAGE CONVERSION, THE APPLICANT CONTINUED THAT PROCESS BY
FURTHER INCORPORATING PORTIONS OF THE GARAGE INTO THE LIVING
AREA IN UNIT THREE.

SURPRISINGLY ON PLANS SUBMITTED IN 2020 TO THE PLANNING
DEPARTMENT FOR AN EXTENSIVE REMODEL OF UNIT FOUR, SHE CLAIMED
THAT THE ENTIRE BOTTOM FLOOR -- ALL OF UNIT THREE WAS STORAGE.
SHE NOW WANTS TO COMPLETELY ELIMINATE THE TWO-CAR GARAGE BY
CONVERTING THE HALF GARAGE TO A SECOND BEDROOM IN THIS UNIT.
IN UNIT FOUR, THE APPLICANT CLAIMS SHE INHERITED THREE BEDROOMS,
BUT IT'S NOT THE CASE EITHER.

THIS 630 SQUARE FOOT UNIT HAD TWO BEDROOMS UNTIL THEY CREATED A THIRD.

THE APPLICANT ESSENTIALLY ASKS THE CITY IN 1205 PERALTA NEIGHBORS TO LET BYGONES BE BYGONES.

IN THE FROM OF SECURING A CLEAR RESOLUTION OF THE MESSY SITUATION, I SUPPORT LETTING BYGONES BE BYGONES BUT ONLY UP TO A POINT.

ONLY IF THE PARCEL DOES NOT EXCEED FIVE BEDROOMS.

ONLY IF PART OF THE UNIT THREE DESIGNATED STORM REMAINS STORAGE AND ONLY IF PERMISSION WITH THE ROLL-UP GARAGE DOOR INCLUDE AWE DOOR TO UNIT THREE IS DENIED.

THANK YOU FOR THIS OPPORTUNITY TO COMMENT.

>> S. O'KEEFE: IS ANYONE ELSE FROM THE PUBLIC HERE WISHING TO SPEAK ON THIS PROJECT?

OTHERWISE, I SEE ONE MORE.

SARAH.

SARAH, YOU'RE JUST IN TIME.

YOU HAVE TWO MINUTES ONCE YOU UNMUTE YOURSELF.

>> CAN YOU HEAR ME?

>> S. O'KEEFE: YES.

>> OKAY.

SO MY NAME IS SARAH.

I'M AN ARCHITECT AND PROFESSOR AT UCSD.

I ALSO HAD A PRACTICE IN OAKLAND AND BOTH TEACHING AND PRACTICE,

MY INTEREST WAS PRIMARILY IN AFFORDABLE HOUSING.

I'M INTERESTED IN ANYTHING THAT HAS TO [INDISCERNIBLE]

I OWNED AND LIVE IN THE HOUSE AT 1211 PERALTA AVENUE SINCE 1976.

I'M THE SOUTH NEIGHBOR OF CAIRNS AND THEREFORE I'M TWO HOUSES FROM THE SUBJECT PROPERTY.

SOME OF THE CHANGES IN THE PROPOSAL MAKES SENSE IT ME, ESPECIALLY THE CONVERSION OF UNIT FOUR CHANGING IT FROM A THREE BEDROOM TO A TWO BEDROOM.

THE CURRENT THREE BEDROOM PLAN IS TRULY UNDESIRABLE SINCE THERE SEEMS TO BE A TOTAL LACK OF LIVING SPACE.

I'M AGAINST ADDING BEDROOMS IN THE BACK TO ADDITIONAL PARKING PRESSURES THEY WOULD CAUSE.

I OPPOSE THE VARIANCE REQUEST BECAUSE OF THE HISTORY OF ILLEGAL CONVERSIONS AND THE ABSENCE OF ZONING COMPLIANCE WHICH SEEMS TO CONTINUE WITH THIS CURRENT REQUEST.

MY MAIN CONCERN IS WITH THE LACK OF PARKING, THE DENSE FOOTPRINT AND THE LACK OF OPEN SPACE.

THANK YOU.

>> S. O'KEEFE: ANYONE ELSE FROM THE PUBLIC WISHING TO SPEAK ON THIS ITEM?

SARAH HAS HER HAND BACK UP.

YOU HAD TIME LEFT, SARAH, DID YOU WANT TO ADD SOMETHING?

I'VE ENABLED YOU TO TALK AGAIN IF YOU WANT TO ADD SOMETHING QUICK BUT YOU'RE MUTED.

FIVE MORE SECONDS, SARAH, THEN WE'LL MOVE ON.

>> I'M SORRY.

I DON'T WANT TO ADD ANYTHING.

I'M FINE.

>> S. O'KEEFE: THANK YOU VERY MUCH.

AND I THINK -- IF NO ONE ELSE FROM THE PUBLIC WANTS TO SPEAK ON THIS ITEM, WE'LL BY IT BACK TO THE APPLICANT AND LET THEM RESPOND.

APPLICANT, YOU CAN HAVE UP TO THREE MINUTES IF YOU'D LIKE TO RESPOND TO ANYTHING THAT WAS STATED.

>> CAN YOU HEAR ME?

>> YES, WE CAN.

>> PERFECT.

SO THERE WERE SEVERAL ITEMS THAT WERE MENTIONED BY THE PUBLIC PARTICIPANTS.

THE FIRST ONE WAS THEY MENTIONED THAT FIVE TO EIGHT CARS HAD BEEN PARKING ON THE STREET WHICH IS UNTRUE.

THERE ARE ONLY FOUR UNITS THERE AND THERE ARE -- THERE IS ONLY ONE PERSON RENTING EACH ONE.

THIS WAY THERE IS ALSO A PROPOSAL TO REDUCE THE NUMBER OF BEDROOMS ON UNIT FOUR.

FIVE TO EIGHT CARS IS AN EXAGGERATION.

IN THE NEXT ONE, THE PROPOSAL FROM THE PUBLIC IS TO MAINTAIN THE GARAGE ON UNIT THREE WHICH, AS I POINTED OUT, IS GOING TO BE

IMPOSSIBLE TO DO WITH THE EXISTING CONDITIONS OF THE LOT.

THE SIZE OF THE DRIVEWAY AS YOU CAN SEE, IS ONLY 6'7" EVEN FOR THE MINIMUM DRIVING ON THE EXIST CONDITION, WE'RE NOT GOING TO BE ABLE TO MAKE THAT PART.

WE DON'T KNOW HOW THAT IS GOING TO WORK TO PUT A CAR IN THERE AND CONVERT THE GARAGE BACK TO THE REAR BUILDING BACK INTO A GARAGE.

IN ESSENCE, THAT GARAGE IS BASICALLY NOT GOING TO BE UTILIZED AS A GARAGE SO THEREFORE, THE WAY IT IS BEING USED RIGHT NOW, THERE IS A STORAGE THERE.

IT'S ACTUALLY BEING USED AS A STORAGE AND THERE IS A GARAGE DOOR THERE.

SINCE THE RECOMMENDATION FROM THE CITY IS TO CONVERT THAT STORAGE TO A BEDROOM ACCORDING TO THE DEFINITION FOR THE BEDROOMS, WITH THAT COMMENT, THE OWNER HAS PROPOSED IF IT'S GOING TO BE CONSIDERED AS A BEDROOM, THEN IN A BUSINESS PERSPECTIVE, IT MAKES MORE SENSE TO GO ON AHEAD AND CONVERT THAT AS A BEDROOM.

THAT'S WHY THE DOOR AND WINDOW IS LOCATED IN THAT.

BUT IT IS GOING TO BE USED AS STORAGE.

IT'S NOT GOING TO BE USED AS A BEDROOM.

BECAUSE THE FLOOR LEVEL ON THAT ROOM IS ACTUALLY LOWER THAN THE MAIN FLOOR IN THAT UNIT.

AND EVERYTHING ELSE REMAINS THE SAME.

WE'RE TRYING TO RESOLVE THE -- REASON FOR THE VARIANCE IS TO RESOLVE THE NOTICE OF VIOLATION TO CORRECT THE PARKING ISSUE. THE PROPOSED PLAN AT THE MOMENT IS THE BEST SOLUTION WE COULD THINK OF.

>> S. O'KEEFE: OKAY.

THANK YOU VERY MUCH.

AND ONE MORE CHANCE FOR BOARD MEMBERS TO ASK QUESTIONS OF THE APPLICANT.

AND I AM SEEING SOME MEMBERS OF THE PUBLIC WITH THEIR HANDS UP BUT WE'RE DONE WITH PUBLIC COMMENT UNFORTUNATELY.

UNLESS THERE ARE QUESTIONS FOR THE APPLICANT AND I'M NOT SEEING ANY, SO THANK YOU, APPLICANT FOR YOUR PRESENTATION.

IGOR, ARE YOU JUMPING THE GUN?

DO YOU HAVE A REQUEST FOR THE APPLICANT?

>> I. TREGUB: I DON'T HAVE ANY FURTHER QUESTIONS, MADAM CHAIR.

>> S. O'KEEFE: IGOR, WOULD YOU LIKE TO BE RECOGNIZED?

>> I. TREGUB: THANK YOU.

SO FIRST OF ALL, I WANT TO THANK THE APPLICANT AND THE NEIGHBORS FOR THEIR PARTICIPATION TONIGHT.

WE HAVE A LOT OF SITUATIONS WHERE THERE IS A LONG -- THAT SOMETIMES COME TO THE ZAB WITH A LONG HISTORY PERHAPS OF MISTRUST, OF MISUNDERSTANDING THAT ACCUMULATES OVER THE YEARS.

I WANT TO POINT OUT THAT ON THE ZONING BOARD, WE MAKE DECISIONS BASED ON THE UNDERLYING LAND USE LAW.

WE CAN'T TAKE INTO ACCOUNT WHAT SOMEONE'S INTENTIONS MAY BE IN WHAT THEY'RE PROPOSING AND CAN'T TAKE INTO ACCOUNT WHETHER SOMEONE TAKES OVER AN EXISTING CONDITION THAT'S ILLEGAL OR IF THEY WERE RESPONSIBLE.

I MAKE THE BALANCE OF MY STATEMENT AS DISPASSIONATELY AS I CAN TOWARDS THE NATURE OF THE APPLICANT WHILE ALWAYS STRIVING TO ASSUME GOOD INTENTIONS.

BUT GIVEN WHAT I HAVE HEARD, AND I FOR THOSE OF YOU WHO HAVE HAD THE PRIVILEGE OF SERVING WITH BOB ALLEN WHO WAS A LONG-TIME MEMBER OF THIS ZONING BOARD, MAY HIS MEMORY REST IN PEACE, HE WAS ONE OF THE MOST PRO HOUSING PRO DENSITY MEMBERS OF THE ZONING BOARD.

I DISTINCTLY REMEMBER THERE WAS ONE PROJECT THAT WAS PROPOSING INCREASED BEDROOMS.

AND SOME OF THOSE BEDROOMS DID NOT HAVE WINDOWS.

AND HE CALLED THEM TENEMENTS.

I HAVE TO AGREE WITH HIM AND I DON'T KNOW IF THIS STORAGE SPACE IF IT'S ACTUALLY GOING TO BE FOR STORAGE OR IF IT'S GOING TO BE A LIVING ROOM.

BUT UNIT THREE IS A VERY SMALL UNIT.

WHICH RIGHT NOW HAS A LOCATION THAT DOES NOT CONTAIN A WINDOW.

WHAT'S EVEN MORE TROUBLING TO ME IS IT SOUNDS LIKE THERE ARE TWO SITTING TENANTS, POSSIBLY MORE AND THERE IS A PROPOSAL BEING MADE.

I DON'T KNOW EVEN KNOW IF THE TENANTS HAVE BEEN CONSULTED ON THIS PROPOSAL, BUT AT LEAST OF THEM FROM WHAT WAS REPRESENTED HAS BEEN -- THIS HAS BEEN THEIR HOME FOR 16 YEARS.

AND SO FOR THOSE OF YOU WHO LIKE ME HAVE BEEN LARGELY WORKING FROM HOME FOR JUST OVER A YEAR, YOU CAN ONLY IMAGINE HOW DISRUPTIVE IT IS TO NOW HAVE TO MOVE SOMEWHERE FOR THINGS TO BE DONE WITHOUT NOTIFICATION.

I SAY THIS BECAUSE I'M GOING TO MAKE A MOTION TO APPROVE THE STAFF RECOMMENDATION AND DENY THE VARIANCE.

I DO ENCOURAGE THE APPLICANTS VERY MUCH TO WORK WITH THE NEIGHBORS AND FIX THE UNDERLYING CONDITIONS THAT CLEARLY HAVE BEEN THE SOURCE OF A LOT OF, I GUESS, JUST DISTRUST.

I DON'T THINK OF A MORE DIPLOMATIC WORD.

THERE ARE SEVERAL WAYS THAT THIS CAN BE WORKED OUT.

THERE WAS A PROPOSAL TO RETURN SOME OF THE UNITS INTO PERHAPS AN ORIGINAL CONDITION OR THAT WAS ONE OF ALTERNATIVES THAT HOPEFULLY THE APPLICANT WILL CONSIDER.

I HAVE NO PROBLEM.

I FULLY SUPPORT REHABBING THE UNITS.

I DO WANT TO MAKE SURE THAT ANYTHING THAT HAPPENS, ANY USE PERMITS THAT ARE PROPOSED IN THE FUTURE BEFORE THIS COMES BACK TO US, I WANT THE RENT BOARD TO BE INVOLVED AND I WANT THE TENANTS TO BE NOTIFIED AND I WANT TO KNOW IF THIS IS GOING TO IMPACT THEIR HABITABLE SPACE.

AND POTENTIALLY THEIR RENT CEILING.

WITH THAT, I MOVE THE STAFF RECOMMENDATION.

>> S. O'KEEFE: THANK YOU, IGOR.

COMMISSIONER OLSON.

>> C. OLSON: I ONCE AGAIN AM GOING TO SECOND IGOR'S MOTION.

BUT I WOULD LIKE TO ADD THAT WHEN THIS DOES COME BACK TO US,
THE -- I'VE BEEN ON THESE LAND USE COMMISSIONS FOR 23 YEARS AND
THIS IS ONE OF THE SADDEST SET OF PLANS I'VE EVER HAD TO READ.
BECAUSE THERE IS NOT WHAT IS BEING PROPOSED.

THERE IS EXISTING, BUT NOT WHAT IS BEING PROPOSED.

IF IT COMES BACK TO US, PLEASE, PLEASE.

PLEASE, IF YOU'RE GIVING US EXISTING, THEN PLEASE GIVE US THE
EXACT SAME THING WITH THE PROPOSED.

SO THAT WE CAN APPROVE IT.

AND I JUST WANT TO SAY, IGOR, THANK YOU FOR BRINGING UP BOB
ALLEN BECAUSE I SERVED WITH HIM FOR 14 YEARS ON THE DESIGN
REVIEW COMMITTEE AND HE ABSOLUTELY CALLED AS HE SAW IT.

I FEEL LIKE I'M IN THE PRESENCE OF GREATNESS BECAUSE WE'VE HAD
TWO PEOPLE SPEAK ON THIS FROM THE PUBLIC TONIGHT WHO ARE
PERSONAL HEROES OF MINE.

TO NOSE NEIGHBORS WHO SPOKE UP -- TO THOSE NEIGHBOR WHOSE SPOKE
UP, THANK YOU.

>> S. O'KEEFE: WE HAVE A MOTION AND A SECOND.

THIS IS CLOSED TO PUBLIC HEARING.

MY APOLOGIES.

>> I WANTED TO CLARIFY IF THE BOARD APPROVES OUR RECOMMENDATION OF DENIAL FOR VARIANCE, THAT MEANS THAT PORTION OF UNIT THREE THAT WAS ORIGINALLY A GARAGE HAS TO BE CONVERTED BACK TO A GARAGE.

IT'S NOT ONLY ABOUT THE BEDROOM OR STORAGE COUNTED AS A BEDROOM, THAT WE CAN HAVE A CONDITIONAL APPROVE, BUT YOU WANT TO KEEP UNIT THREE AS IT IS, THEN THE VARIANCE HAS TO BE APPROVED. BUT THE STORAGE CAN BE RESOLVED WITH CONDITIONAL APPROVAL. AND LESLIE, IF YOU WANT TO ELABORATE.

>> BOARD SECRETARY: THAT IS CORRECT.

IF YOU CAN SHOW THE IMAGE ON PAGE THREE OF THE STAFF REPORT AT THE BOTTOM.

>> PAGE THREE.

>> IS IT SHOWING?

>> S. O'KEEFE: UH-HUH.

>> BOARD SECRETARY: SO THE AREA THAT IS IN PINK, I ALSO AM A LITTLE CONFUSED WHAT IS THERE AND WHAT IS BEING PROPOSED. BUT IT'S MY UNDERSTAND BEING AND A LOT OF THIS WORK -- IT'S MY UNDERSTANDING A LOT OF THIS WORK WAS DONE.

>> YES.

IT'S ALREADY DONE.

DENYING THE VARIANCE MEANS THAT THIS WHOLE 18 X 20 FEET WILL HAVE TO BE CONVERTED BACK TO A GARAGE.

THIS WHOLE BEDROOM, THE CLOSET, BATHROOM, ALL THIS AREA IS PART OF UNIT THREE.

THEY'RE REDUCING THAT UNIT.

I ALSO WANTED TO ADD THAT THE SITUATION ABOUT TWO ADDITIONAL BEDROOMS IN THE UPPER UNIT, UNIT TWO CAN BE SOLVED BY REMOVING THE DOOR THAT CONNECTS THE BEDROOM ONE TO LIVING ROOM.

IF THAT DOOR IS REMOVED, THEN THOSE TWO SPACES ARE NOT CLOSED OFF AND WON'T BE COUNTED AS BEDROOMS.

I JUST WANTED TO ADD THAT IN THERE TOO.

>> S. O'KEEFE: THANK YOU FOR THAT.

COMMISSIONER TREGUB.

>> I. TREGUB: THANK YOU.

I GUESS I AM NOW UNCLEAR.

NILU, DO YOU HAVE AN ALTERNATIVE IN MIND THEN?

OTHER THAN REWORDING THIS?

IT SOUNDED LIKE -- CAN YOU CLARIFY WHAT THE IMPLICATION OF THE VARIANCE ONLY?

OR WAS THERE SOME KIND OF OTHER PROPOSAL THAT YOU HAD OR THAT --

>> STAFF: STAFF COULD NOT MAKE THE FINDING FOR VARIANCE TECHNICALLY.

BUT THAT CONVERSION IS ALREADY DONE.

AND SO, IF THE NEIGHBORHOOD IS CONCERNED ABOUT THE STORAGE BEING USED AS A BEDROOM, PERHAPS, AND AGAIN, MAYBE LESLIE CAN HELP.

PERHAPS THERE COULD BE A CONDITION OF APPROVAL TO KEEP THE DOOR

OF THE STORAGE AS A GARAGE DOOR SO THAT IT WON'T BE USED AS A BEDROOM.

BUT APPROVE THE VARIANCE SO THAT THEY CAN KEEP UNIT THREE AS-IS AND NOT MAKE IT THE SMALLER AREA.

IN UNIT TWO, THE DOOR THAT IS SEPARATING CLOSING OFF THE DINING AREA ON THE LIVING ROOM CAN BE OPENED UP AND THAT WOULD TAKE CARE OF HAVING THREE BEDROOMS AND NO LIVING ROOM IN THAT UNIT.

>> I. TREGUB: OKAY.

NILU, I APPRECIATE WHAT YOU'RE SAYING.

I WOULD FEEL MORE COMFORTABLE -- LIKE THAT SOUNDS LIKE A GOOD WAY OUT.

I DON'T SEE ANY ALTERNATIVE CONDITIONS IN OUR PACKET.

ALL I SEE WITH THE FINDINGS OF DENIAL.

IF THE PAST, WHAT WE'VE DONE IS WE WOULD -- IF THERE WERE NO ALTERNATIVE FINDINGS GIVEN TO US, WE USUALLY APPROVED -- WE ACTED ON WHAT WAS BEFORE US WHICH A IS PROVE OR DENY THE VARIANCE AND THE APPLICANT COULD COME BACK AND IT COULD BE DONE AT THE NEXT MEETING OR WHENEVER FEASIBLE TO STAFF BUT THEY COULD BRING TO US ACTUAL PLANS THAT WE COULD REVIEW AND I WOULD FEEL MUCH MORE COMFORTABLE DOING THAT.

THIS SEEMS TO MINIMALISTIC THE PLANS THAT I'M LOOKING AT.

I'M GETTING INCREASINGLY CONFUSED, ACTUALLY, AS TO WHAT WE WOULD BE VOTING ON TONIGHT OTHER THAN THE VARIANCE.

BUT I ENCOURAGE THE SPIRIT OF HOW TO FIX THOSE CONDITIONS AND I

LOOK FORWARD TO SEEING SOMETHING IN THE NEAR FUTURE ON HOW WE CAN FIX THEM.

>> STAFF: THANK YOU.

>> S. O'KEEFE: FURTHER COMMENTS FROM THE BOARD.

WE HAVE A MOTION AND A SECOND TO UP HOLD STAFF'S RECOMMENDATION TO DENY.

ARE WE READY TO VOTE?

THIS SEEMS LIKE IT'S A LITTLE BIT -- PREMIER A LITTLE BIT CONFUSED.

I WANT TO MAKE SURE WE'RE ALL COMFORTABLE VOTING.

NO ONE HAS ANY MORE COMMENTS OR QUESTIONS?

>> I HAVE A QUESTION.

DO YOU WANT TO -- I'M GOING TO GET CONFUSED DENY WITHOUT PREJUDICE, SO THEY COULD COME BACK?

>> DENY WITHOUT PREJUDICE.

THANK YOU.

>> S. O'KEEFE: ARE YOU COMFORTABLE WITH THAT COMMISSIONER OLSON?

>> C. OLSON: YES.

>> S. O'KEEFE: OKAY.

GREAT.

I THINK THAT SEEMS LIKE WHAT THE INTENT OF THE MOTION-MAKER WAS. TO DENY WITHOUT PREJUDICE SO THEY CAN COME BACK AND HOPEFULLY SOMETHING WE CAN WORK WITH AND MAKE SOMETHING GOOD OUT OF.

LET'S TAKE A ROLL CALL VOTE.

>> BOARD SECRETARY: BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER HAUSER.

>> YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD SECRETARY: BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: YES.

SO THE MOTION PASSES.

REGRET TO INFORM YOU YOUR APPLICATION IS DENIED, BUT IT IS
APPEALABLE TO THE CITY COUNCIL.

THERE IS THAT.

AND OTHER THAN THAT, WE'LL MOVE ON.

PERHAPS WE'LL SEE YOU AGAIN.

LAST UP WE HAVE 2943 PINE AVENUE.

WE'LL BEGIN AS ALWAYS WITH THE STAFF REPORT.

WHO IS OUR PERSON?

>> MISS REIMER.

>> S. O'KEEFE: WHO IS GOING TO DO THE TIMER?

>> STAFF: I'LL TO THE TIMER.

I'LL DO THE TIMER.

>> S. O'KEEFE: YOU CAN JUGGLE THAT.

YOU CAN TAKE AS MUCH TIME AS YOU WANT.

>> STAFF: OKAY.

SO THE USE PERMIT IS TO CONSTRUCT A -- PERMIT 2349 PINE IS TO CONSTRUCT A SECOND STOREY ADDITION TO AN EXISTING ONE-STOREY WHICH AND THAT WILL BECOME 22-SQUARE FEET FAMILY DWELLING.

IT'S 4,000 [INDISCERNIBLE]

IT'S NONCONFORMING TO THE LOT SIZE AS THE MINIMUM LOT SIZE IS REQUIRED.

THE LEFT NORTH SIDE IN THE FRONT IS NONCOMPLIANT.

THE LOT HAS COVERAGE OF 42% WHERE 40% IS FURNISHED.

[INDISCERNIBLE] INCREASE THE AVERAGE SIZE OF THE EXISTING DWELLING 15 FEET 1 INCH TO 22 FEET.

ALTHOUGH THE EXISTING DWELLING [INDISCERNIBLE] SETBACKS.

IT COULD BE SETBACK 21 FEET 10-INCHES AND 11 FEET FROM THE LEFT SIDE PROPERTY LINE.

THE FIRST FLOOR WOULD LARGELY REMAIN [INDISCERNIBLE] NO PLAN FOR ANY BEDROOM AND A STUDY.

THE PROPOSED STUDY IS THE DEFINITION OF A BEDROOM

[INDISCERNIBLE]

TWO SMALL BATHROOMS WOULD BE ADDED.

[INDISCERNIBLE]

THE OTHER ON THE EAST SIDE.

NO CHANGES FOR [INDISCERNIBLE]

PURSUANT TO BEING IN [INDISCERNIBLE] USE OF THE PROPERTY

CONFORMING CONDITION AND COMPLYING WITH [INDISCERNIBLE]

PROPERTY IS NON-CONFORMING TO LOT CONFORM.

IT'S A COVERAGE OF 42%.

HOWEVER, THE PROPOSED ADDITION DOES NOT EXCEED LOT COVERAGE.

THE PROPOSE THE HEIGHT IS 23 FEET WHERE 28 FEET IS MAXIMUM

ALLOWED.

[INDISCERNIBLE]

CONFORMANCE WITH OTHER LOTS [INDISCERNIBLE]

IT'S PERMITTED BY APPLICANT TO DOCUMENT [INDISCERNIBLE]

PROJECT INVOLVES ON THE SECOND FLOOR [INDISCERNIBLE]

TWO HOURS AFTER SUNRISE ON THE EAST SIDE OF THE DWELLING 2932

PINE AVENUE [INDISCERNIBLE]

SHADOWS ON THE SOUTH SIDE AT [INDISCERNIBLE]

TWO HOURS AFTER SUNSET ON WINTER SOLSTICE, SHADOWS ON THE SOUTH

SIDE OF THE BUILDING [INDISCERNIBLE] WILL INCREASE AND COVERS

THE MAJORITY [INDISCERNIBLE]

NEW -- SHADOWS COULD REACH THE YARD OF [INDISCERNIBLE] IN THE

EVENING.

ON THE SUMMER SOLSTICE, A MAJORITY OF THE YARD WOULD NOT BE
SHADED AND THE SHADOWS WOULD NOT REACH THAT.

[INDISCERNIBLE]

RESIDENTIAL ADDITIONS WOULD NOT RESULT IN SIGNIFICANT LOSS OF
SUNLIGHT AND THE SHADING IMPACTS ARE NOT DEEMED DETRIMENTAL.

[INDISCERNIBLE]

IMPACT ON SURROUNDING PROPERTIES, STAFF RECOMMENDS

[INDISCERNIBLE]

THANK YOU.

>> S. O'KEEFE: THANK YOU.

QUESTIONS FOR STAFF.

SEEING NONE, WE CAN HEAR FROM THE APPLICANT NOW.

ALL RIGHT AND WHO IS THE APPLICANT?

ANN, AND YOU'RE READY, YOU HAVE FIVE MINUTES.

TO TELL US ABOUT YOUR PROJECT.

YOU'RE STILL MUTED.

ANN, ARE YOU THERE?

>> HELLO.

I BELIEVE -- ANN IS THE OWNER.

SHE IS GOING TO SPEAK.

SO, I'M WITH THE ARCHITECTS.

I'M PART OF THAT TEAM.

I BELIEVE ANNE IS SUPPOSED TO SPEAK.

I'M GOING TO -- SORRY.

>> S. O'KEEFE: ANNE.

THERE YOU ARE.

HELLO ANNE.

YOU HAVE FIVE MINUTES.

>> THIS PAST YEAR HAS SOLIDIFIED OUR DESIRE TO ADD ON TO OUR HOUSE.

I'M A EMERGENCY ROOM AND I'VE ENJOYED MY JOB FOR 10 YEARS.

I PUT MY HEAD DOWN AND HAVE GONE TO WORK FULL-TIME TO SERVE MY COMMUNITY AND FAMILY DURING THIS PANDEMIC.

WORRYING ABOUT BRINGING BACK THE VIRUS TO MY CHILDREN AND SPOUSE.

I'M NOW VACCINATED AND GRATEFUL THIS NO ONE IN MY FAMILY HAS GOTTEN SICK.

THIS PANDEMIC CAUSED OUR LIVES TO SHIFT.

LIKE A LOT OF FELLOW PARENTS TO WORK BALANCE WITH OUR CHILDREN.

IN A WAY OUR WORKWEEK IS LIKE A FINE-TUNED GAME OF TETRAS.

MY HUSBAND WORKS AT HOME AND THIS LONG WITH MY PARENTS TO HELP WITH CHILD CHAIR AND OUR CHILDREN NOW 4 AND 7 REQUESTING TO HAVE THEIR OWN HOMES ARE THE CORE REASONS FOR OUR HOUSE TO EXPAND.

THESE DESIRES REQUIRE US TO HAVE MORE ROOM FOR OURSELVES WITHIN OUR HOME.

AS A PARENT, HAVE YOU STEPPED ON A LEGO IN THE MIDDLE OF THE NIGHT OR NEEDED PEACE AND QUIET BEHIND A CLOSED DOOR?

ROB AND I BELIEVE WE NEED MORE SPACE TO CONTINUE TO MAKE OUR

HOME WORK FOR US.

THESE DESIRES TO MAKE OUR HOME BIGGER WOULD HELP US STAY IN OUR COMMUNITY.

WE LIVED ON PINE AVENUE FOR 10 YEARS.

AS VARIOUS NEIGHBOR CAN ATTEST, WE BELIEVE WE'VE ADDED TO THE WHOLESOMENESS OF OUR AREA AND LOVE OUR CHILDREN'S PUBLIC SCHOOL WITHIN WALKING DISTANCE OF THE HOUSE.

WE LOVE LIVING WHERE WE WORK AND HAVING FAMILY MEMBERS WITHIN THE AREA AND ENJOY THE COMMUNITY.

THE LIBRARIES, PARK, TRAILS, WALKABILITY OF THE NEIGHBORHOOD IS BEAUTIFUL.

WE NEED THIS PROJECT TO HAPPEN SO THAT OUR HOMEWORKS FOR US AND WE CAN CONTINUE TO ENJOY OUR NEIGHBORHOOD.

THANK YOU.

>> S. O'KEEFE: THANK YOU VERY MUCH.

ANYONE ELSE FROM THE APPLICANT TEAM GOING TO SPEAK?

OR WE CAN OPEN IT UP FOR QUESTIONS.

>> WE CAN DEFER TO ALAN OR ANNE.

>> S. O'KEEFE: IS ALAN HERE?

I ONLY SEE ANNE.

ARE THERE QUESTIONS FOR THE APPLICANT?

WE DON'T HAVE ANY QUESTIONS FOR YOU.

WHEN WE'RE GOING TO DO NOW IS HEAR FROM THE PUBLIC AND THEN APPLICANT, YOU'LL HAVE A CHANCE TO RESPOND TO ANYTHING THAT

COMES UP DURING THAT TIME.

IF THERE ARE QUESTIONS FOR THE APPLICANT, YOU'LL HAVE A CHANCE TO ASK.

WE'LL NOW HEAD OVER TO THE PUBLIC.

HELLO PUBLIC.

I SEE THREE HANDS UP.

THAT'S GREAT.

I'M GOING TO CALL ON PEOPLE IN THE ORDER RECEIVED.

THERE ARE NOW FIVE HANDS UP.

REMEMBER IT'S STAR 9 TO RAISE YOUR HAND IF JOINING US BY PHONE AND I'M GOING TO START WITH CAREY.

I'M DOING FIRST NAMES BECAUSE THAT'S EASIER NOT TO SCREW UP.

CAREY, YOU HAVE TWO MINUTES.

>> THIS IS ACTUALLY ALAN SALES I'M THE ARCHITECT.

>> S. O'KEEFE: SIR, YOU'RE PART OF THE APPLICANT TEAM?

>> YES.

>> S. O'KEEFE: SORRY.

WE SHOULD HAVE PROMOTED YOU TO A PANELIST EARLIER.

THEY HAD A MINUTE AND A HALF LEFT ON THEIR TIME ALLISON?

SOMETHING LIKE THAT.

SIR, I'LL GIVE YOU A MINUTE AND A HALF WE'LL COUNT THIS AS PART OF THE APPLICANT TIME THEN WE'LL HEAR FROM THE PUBLIC AFTER YOU SPEAK.

>> OKAY.

I'M THE ARCHITECT FOR THE PROJECT.

I WANT TO FIRST THANK THE STAFF REPORT.

FOR THEIR IN-DEPTH REPORT.

I AGREE WITH IT.

THIS IS -- THE SECOND STOREY ADDITION IS ONLY 40% OF THE FIRST FLOOR.

AND IT'S 25% UNDER THE HEIGHT -- MAXIMUM HEIGHT FOR A TWO-STOREY.

THE MASS OF THE SECOND STOREY STEPS IN ON ALL FOUR SIDES.

THE ENTIRE SECOND STOREY ADDITION AS GREATER SETBACKS AS A RESULT AND WHAT IS REQUIRED.

THE SECOND STOREY IS CONSISTENT THREE OF THE SURROUNDING PROPERTIES ARE TWO-STOREY.

THE ARCHITECTURE EXACTLY MATCHES THE HOUSE AND LOOKS LIKE IT'S ALWAYS BEEN THERE.

MY CLIENT MENTIONED AFTER A YEAR OF COVID BEING LOCKED IN ADDITION SPACE IS SORELY NEEDED.

THEY'RE LOOKING FOR THEIR MAIN BEDROOM UPSTAIRS AND ROB'S STUDY UPSTAIRS.

SO HE CAN HAVE SOME QUIET AND BE ABLE TO FUNCTION AND STILL BE AT HOME.

THANK YOU.

>> S. O'KEEFE: THANK YOU VERY MUCH.

THAT CONCLUDES THE APPLICANT'S TIME.

AND NOW WE'LL HEAR FROM THE PUBLIC.

ALL RIGHT.

GEORGE IS UP.

GEORGE, YOU HAVE TWO MINUTES.

I THOUGHT I ALLOWED YOU TO TALK, BUT I DIDN'T.

GEORGE, YOU HAVE TWO MINUTES.

AFTER YOU UNMUTE YOURSELF.

>> I'M DEBORAH AND I'M THE OWNER OF THE HOUSE AT 2918 DIRECTLY EAST OF THE PROJECT.

I THINK THERE ARE A FEW INACCURACIES OF THE STAFF REPORT AND PLANS THAT I WOULD LIKE DISCUSSED.

FIRST IS IT SAYS THERE ARE NO OAK TREES ON PROJECT SITE WHICH IS TRUE BUT THERE A LARGE MATURE OAK TREE ON MY NEIGHBOR'S PROPERTY AND THE CANOPY IS SHOWN CROSSING THE REAR OF THEIR PROPERTY.

IN VIEW OF THAT, THAT THE POSTERIOR OF THE HOUSE IS 10 FEET FROM THE PROPERTY LINE, AS IT GOES UP IT WILL ENCROACH ON THE SETBACKS OF THE OAK TREE AND I WOULD LIKE A CERTIFIED TREE SURVEY TO BE DONE.

ALSO, THERE ARE MULTIPLE TIMES IN THE REPORT THAT SAYS THERE A 10-FOOT SOLID FENCE ALONG THE REAR PROPERTY AND THE FENCE IS 6 FEET TALL AND I DON'T THINK WE SHOULD GRANDFATHER IN A 10-FOOT FENCE WITH A 6-FOOT FENCE THERE.

SINCE THE HOUSE DIRECTLY DUE WEST OF ME, 60% OF THE YARD WOULD BE IN SHADE IN THE AFTERNOON IN THE SUMMER.

AND WHILE THE SECOND FLOOR CEILING IS 7'10", THE HEIGHT OF THE HOUSE GOES TO 28 FEET -- 28 FEET AND I'M CONCERNED THAT IT APPEARS THAT THEY'RE TRYING TO GET A THREE-STOREY HOME OUT OF A SECOND FLOOR ADDITION.

I RECOMMEND THE ROOF PITCH INCREASED SIGNIFICANTLY AND AS LONG AS IT HITS MINIMUM REQUIREMENTS FOR THE APPROPRIATE DRAINAGE. IT'S NOT MY INTENTION TO STOP THEM FROM DOING THE PROJECT, BUT I HOPE THAT WE CAN MAKE IT A SUITABLE ADJUSTMENTS.

THE OTHER ISSUE IS PRIVACY.

THAT REAR WINDOW HAS SEVEN NEW WINDOWS AND A BALCONY WHICH LOOK DIRECTLY INTO MY YARD AND BEDROOMS.

I WOULD LIKE IF THE PROJECT IS APPROVED TO MAKE THESE PRIVACY WINDOWS.

>> THANK YOU VERY MUCH.

AND I BELIEVE JUST A QUICK QUESTION FOR YOU.

YOU'RE NOT GEORGE.

>> DEBORAH.

>> S. O'KEEFE: I THINK THE OAK TREE IS DEPICTED IN THE SHADOW STUDIES.

>> THAT IS THE OAK TREE, BUT THE SHADOW STUDY IS TRYING TO SHOW THAT THE OAK TREE IS GIVING ME SHADOWS BUT SHADOWS --

>> S. O'KEEFE: I UNDERSTAND.

WE UNDERSTAND.

I WANTED TO CLARIFY THAT'S THE OAK TREE THAT YOU'RE REFERRING

TO.

THANK YOU.

OKAY.

NEXT UP WE HAVE SHANNON.

SHANNON, YOU HAVE TWO MINUTES.

>> I AM UNMUTED.

CAN YOU HEAR ME?

>> YES, WE CAN.

>> WE ARE THE NEIGHBORS AT 2939 PINE.

WHICH WOULD BE MOST AFFECTED BY THE SHADE STUDY THAT WAS SHOWN.

AND WE HAVE NO PROBLEM WITH IT WHATSOEVER.

ANNE AND ROB WORKED WITH THEIR ARCHITECT TO MAKE A CONSIDERATE DESIGN TO GIVE US THE PRIVACY IN OUR BEDROOM AND SITTING ROOM WHILE KEEPING THE SHADE TO A MINIMUM AND ALLOWING THEM TO HAVE MORE SPACE WHICH THEY NEED.

THEY HAVE GREAT KIDS BUT I'M SURE THEY WOULD LOVE SOME PEACE AND QUIET PERIODICALLY.

THEY CAN ALWAYS SEND THEM HERE, BUT -- ANYWAY, WE HAVE NO PROBLEM WITH THE ADDITION THAT THEY'RE MAKING AND WE THINK IT'S GREAT.

WE WANT THEM TO BE OUR NEIGHBORS FOR A LONG TIME.

THAT'S ALL I HAVE TO SAY.

>> S. O'KEEFE: THANK YOU.

THAT BABYSITTING OFFER IS ON PUBLIC RECORD.

OKAY.

SO THAT WAS SHANNON.

NOW LET'S GO TO LINDA.

>> MY NAME IS LINDA, AND MY FAMILY OCCUPIES 2916 ELMWOOD COURT NEXT TO DEBORAH AND GEORGE'S.

TO THE NORTH -- WE'RE TO THE NORTH OF THE PROJECT.

MY GRAND PATIENTS BOUGHT THIS HOUSE IN 1983 AND I'VE BEEN A LIFELONG BERKELEY MEMBER AND I AM DEEPLY FAMILIAR WITH THE COMMUNITY AND STRUGGLES FOR HOUSING.

AS I'VE BEEN A RENTER FOR SEVERAL YEARS.

I ALSO LOOK AT PURCHASING A HOUSE ON PINE STREET TO BE NEARBY FAMILY.

I UNDERSTAND THE CHALLENGES OF THE PINE STREET PROBLEM FOR AFFORDABLE HOUSING AND AFFORDABLE HOUSING IN THIS AREA IN PARTICULAR.

I SPECIFICALLY CHOSE NOT TO PURCHASE ONE ON PINE STREET FOR THE SAME REASON WHY PINE AVENUE IS NOW HAVING TO ASK FOR A PERMIT TO EXPAND.

I RENT ON WEBSTER INSTEAD.

AND HOUSING COSTS AND CHILD CARE COSTS ARE TOO MUCH TO BEAR.

THIS PROJECT WILL DARKEN THE FIRST FLOOR.

THE ADDITION BLOCKS THE SUN'S PATH TO OUR HOUSE.

ON SUNNY DAYS CAN, THE DINING ROOM IS FLOODED WITH NATURAL SUNLIGHT AS SUN TAKES POSITION FROM NOON UNTIL SUNSET.

THIS IS OUR DOMINANT SOURCE OF NATURAL LIGHT.

OVER 70 TO 80% FOR OUR FIRST FLOOR.

THE PROJECT ARCHITECT CLAIMS ANY LOSS OF THE NIGHT TO THE
NORTHERLY PROPERTY WILL BE ABSORBED BY THE COASTAL OAK TREE AND
CANOPY.

HOWEVER, AT TREE'S BRANCHES ARE MUCH TOO LOW AS DEPICTED.

IN FACT, THE BRANCHES ARE WELL OVER 9 FEET TALL SO THEREFORE THE
SUN'S PATH STILL IS ABLE TO ENTER OUR FIRST FLOOR.

WE ASK THAT THE SHADE STUDIES BE REDONE SO THAT IT APPROPRIATELY
AFFECTS THE OAK'S TRUE POSITIONING IN ADDITION TO CONTRACT SUN
AND SHADOW.

>> S. O'KEEFE: NEXT UP.

NEXT UP WE HAVE MICHAEL.

>> THANK YOU SO MUCH FOR THE TIME.

I GREW UP AT 2918 ELMWOOD COURT BEHIND THE PROPOSED PROJECT.

IN REVIEWING THE PLANS AND DRAWINGS THERE ARE SEVERAL
INACCURACIES PRIMARILY IN THE SHADE STUDY, LOCATION OF THE
TREES, FENCE.

I ASK THAT THE BOARD HAVE THE APPLICANT REDO THEIR DOCUMENTATION
FOR ACCURACY BEFORE ANY APPROVALS ARE MADE.

I ALSO THINK THAT WE'VE HEARD TONIGHT THAT THE PROJECT IS BEING
REQUESTED AT 23 FEET TALL.

BUT THE TOP OF THE ROOF PITCH IS ACTUALLY 28 FEET TALL.

IT SEEMS LIKE THEY COULD DO LESS DAMAGE IF THEY LOWERED THE ROOF

PITCH WHILE STILL MAINTAINING THE STYLE OF THE HOME.

THE BOARD SHOULD TAKE INTO CAREFUL CONVERSATION WITH THE OTHER PROJECTS THEY'VE SEEN TONIGHT WHAT A 10-FOOT ATTIC AND THEY NEED MORE SPACE BEYOND THE FOUR BEDROOMS THEY HAVE.

>> S. O'KEEFE: THANK YOU FOR KEEPING IT SUCCINCT.

ALLISON, YOU'RE DOING SO MANY THINGS.

THANK YOU AND NOW WE HAVE ONE MORE SPEAKER.

AND THAT IS ADITIA [PHONETIC].

>> CAN YOU HEAR ME?

>> YES.

>> HI, SO HI, I LIVE IN 2932 PINE AVENUE.

MY WIFE AND I PURCHASED THIS PROPERTY IN AUGUST 2019 WHEN WE STARTED AS PROFESSORS AT UC BERKELEY.

WE'RE A BIT NEW TO ALL OF THIS AND HOME OWNERSHIP.

I GUESS ONE -- WE HAVE A COUPLE OF QUESTIONS OR CONCERNS THAT WE WANT TO RAISE.

THE FIRST WAS THAT THE LETTER FROM THE ASSISTANT PLANNER IS -- ARCHITECTING ARE OWNERS REACH OUT TO US WITH IMPACT OF THE SHADOW AND THE ARCHITECT'S LETTER DOES MENTION THE OWNER'S CONTACTED 2932 PINE AVENUE REGARDING THE ROOMS AND GOT DETAILS FROM US.

BUT TO THE BEST OF OUR KNOWLEDGE WE WERE NOT CONTACTED AND I'M WALKING AND TEACHING FROM HOME.

I WOULD HAVE BEEN ABLE TO ANSWER THE DOOR.

WE WERE WONDERING WHY THAT HAPPENED.

BECAUSE IF THAT HAPPENED, WE WOULD BE ABLE TO ENGAGE WITH THE OWNERS DIRECTLY AND ABLE TO WORK WITH THEM TO TRY TO UNDERSTAND IF IT IS POSSIBLE TO PERFORM THIS ADDITION IF AT ALL WITHOUT HAVING SOME IMPACT ON US.

THERE IS A SUBSTANTIAL SHADOW ON OUR HOUSE AND YARD DURING THE WINTER.

WE DO USE THE ROOM QUITE A BIT IN THE MORNINGS FOR WORK AND READING.

WE COMPLETELY UNDERSTAND THE NEEDS AND WE'RE SUPPORTIVE.

BUT WE WISH WE WOULD HAVE BEEN CONTACTED AND BEEN INVOLVED EARLIER IN THE PROCESS SO WE COULD HAVE HAD STEERED IT IN THE WAY THAT IS BENEFICIAL TO US.

THAT'S ALL I HAVE TO SAY.

THANKS.

>> S. O'KEEFE: THANK YOU VERY MUCH.

ALL RIGHT.

I'M NOT SEEING ANY MORE MEMBERS OF THE PUBLIC WITH THEIR HANDS UP.

BUT I'LL WAIT ONE MORE MINUTE IF ANYBODY IS DECIDING THEY WANT TO SPEAK.

REMEMBER TO PRESS STAR 9 IF YOU'RE JOINING BY PHONE.

OKAY.

SEEING NONE, I WANT TO THANK EVERYONE WHO CAME TO SPEAK.

IT'S ALWAYS A RICHER PROCESS WHEN WE GET THE COMMUNITY INVOLVED.

THANK YOU VERY MUCH FOR TAKING THE TIME.

I WOULD LIKE TO BRING IT BACK TO THE APPLICANT NOW TO RESPOND TO ANYTHING SAID OR ADD ANYTHING YOU WOULD LIKE.

ANYONE FROM THE APPLICANT TEAM.

YOU HAVE THREE MINUTES TO USE HOWEVER YOU WOULD LIKE.

APPLICANT.

WE CAN HEAR YOU.

>> IS ALAN RAISING HIS HAND NOW?

>> S. O'KEEFE: YOU KNOW WHAT?

THAT WAS THE ARCHITECT.

LET'S MAKE HIM A PANELIST.

>> LET ME SEE --

>> S. O'KEEFE: GOOD CATCH THERE.

I MADE ALAN A PANELIST.

HE SHOULD BE ABLE TO SPEAK NOW.

>> IF HE WANTS TO SPEAK FIRST.

>> S. O'KEEFE: ALAN, YOU SHOULD BE ABLE TO UNMUTE YOURSELF AND SPEAK IF YOU'D LIKE.

APPLICANT, YOU GUYS HAVE TO START.

WE HAVE TO PICK THIS UP.

>> I'LL JUST SPEAK TO THE SIMPLE QUESTIONS.

THAT WERE BROUGHT UP.

SO CAN I SHARE MY SCREEN HERE?

>> S. O'KEEFE: SURE.

JUST LOOK FOR THE TIMER IN THE SIDE AND I'LL GIVE YOU A WARNING
IF YOU'RE RUNNING OUT OF TIME.

BUT WE'LL -- ALLISON, CAN YOU STOP SHARING.

THERE WE GO.

LET'S START THE TIMER OVER.

WE'LL GO THREE MINUTES.

>> I'LL RESPOND TO LIKE THE INACCURACIES OF THIS.

THERE WERE QUESTIONS BY THE NEIGHBORS ABOUT THE INACCURACIES.

THE SHADOW STUDY WAS DONE IN REVIT.

YOU GET TO CHOOSE THE ACCURATE LOCATION FOR THE SHADOW STUDIES.

THIS PROGRAM IS VERY ACCURATE.

A LOT OF ARCHITECTS USE IT.

ANOTHER THING THAT WAS BROUGHT UP WAS THE INACCURACY OF THE
PLACEMENT OF THE OAK TREE.

WE DID -- THERE IS NO SURVEY OF THE OAK TREE, BUT WE DO HAVE AN
AERIAL PHOTO THAT WE USED TO PLACE THE OAK TREE SO THIS IS WHAT
WE USED.

THIS WAS SENT TO THE PLANNER AND I BELIEVE THE PLANNER SENT
IT -- THERE WAS A QUESTION ABOUT THAT AS WELL WITH THE NEIGHBOR.
SO I THINK THAT WOULD EXPLAIN HOW WE PLACED THE TREE.

AND THEN THERE WERE ALSO COMMENTS ABOUT THE HEIGHT OF THE
STRUCTURE.

SO WE DID DO SECTIONS.

YOU CAN SEE THE ATTIC IS NOT LIKE A 10-FOOT ATTIC THAT THEY WERE TALKING ABOUT.

THREE-STOREY ELEMENT.

THIS DOES NOT MAKE IT THREE-STOREYS.

IT'S NOT GOING TO BE POSSIBLE TO MAKE A HEIGHT HERE TO MAKE IT THREE STOREYS.

IF THAT WAS THEIR CONCERN.

SO THAT'S -- AND I DON'T KNOW ABOUT THE NEIGHBOR THAT WAS NOT CONTACTED.

THAT COULD HAVE BEEN A MISCOMMUNICATION.

SO WE COULD, YOU KNOW, I'M SORRY THAT HAPPENED.

SO WE COULD, YOU KNOW, DO BETTER NEXT TIME.

AND SO, I WOULD LIKE TO -- SO I WOULD LIKE TO STOP NOW TO SEE IF ALAN HAS ANY FURTHER INPUT.

>> S. O'KEEFE: ALAN.

DID WE GET THE RIGHT PERSON?

HE MAY NOT BE THERE.

>> S. O'KEEFE: ANNE AND ROB, DO YOU WANT TO ADD ANYTHING?

>> NO.

I TOO WANT TO SECOND THE APOLOGIES TO THE NEIGHBOR ACROSS THE STREET.

THAT WAS NEVER OUR INTENTION TO NOT INCLUDE ANYONE.

AND I THINK IT WAS A MISCOMMUNICATION.

OUR INTENTION IS TO BE INCLUSIVE AS MUCH AS WE CAN AND WE DO

WANT EVERYONE TO KNOW WHAT WE'RE UP TO.

AND JUST BE POLITE PROFESSIONALS.

>> S. O'KEEFE: OKAY.

ALL RIGHT.

ACTUALLY -- SORRY, IGOR.

COULD I ASK A QUICK QUESTION -- I'M GOING TO ASK A QUICK
QUESTION ABOUT THE NEIGHBOR CONTACT.

THEY'RE SUPPOSED TO SIGN SOMETHING.

DID YOU NOT ACQUIRE THEIR SIGNATURE?

DO WE HAVE THE SIGNATURE PAGE?

I FEEL LIKE THAT'S CHECKABLE.

>> [INDISCERNIBLE]

>> S. O'KEEFE: THAT'S RIGHT.

I THINK I WAS AWARE OF THAT.

IGOR, GO AHEAD.

>> I. TREGUB: IF THE APPLICANT COULD IN BROAD BRUSH STROKES
DESCRIBE THE LEVEL OF INTERACTION THAT THEY HAD WITH THE
NEIGHBORS.

HAS THERE BEEN ANY GIVE-AND-TAKE NEGOTIATIONS?

HAVE YOU BEEN OPEN TO RESPONDING TO THE CONCERNS THAT HAVE BEEN
RAISED?

AND HOW DID YOU RESPOND?

>> WE ACTUALLY HAD NO CONTACT WITH OUR NEIGHBORS BEHIND US.
ESPECIALLY DIRECTLY BEHIND US.

I HAVE MADE NUMEROUS ATTEMPTS IN THE PAST TO COMMUNICATE FRIENDLY THINGS.

WE'RE HAVING A PARTY, THIS IS OUR CELL PHONE NUMBER, GIVE US A CALL IF WE'RE TOO LOUD.

TEXT ME OR CALL ME.

I WOULD LIKE TO TRIM THE GREENERY BETWEEN OUR TWO HOMES AND I'VE GOTTEN NO REPLY OR RESPONSE FROM THAT NEIGHBOR.

I LEFT IT UP TO OUR ARCHITECTURE FIRM TO BE PROFESSIONAL AND INTERACT BECAUSE ANY OF NOT MAKE MUCH EFFORT TO SPEAK TO US.

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

ALL RIGHT.

WITH THAT, WE'LL CLOSE THE PUBLIC HEARING.

THANK YOU, APPLICANT TEAM FOR PRESENTING.

THANK YOU PUBLIC FOR SPEAKING AND NOW WE'LL MOVE IT OVER TO BOARD COMMENTS.

>> S. O'KEEFE: MADAM CHAIR --

>> S. O'KEEFE: MY GOODNESS.

I'M OUT OF PRACTICE.

YES SO THAT'S A GREAT TIME FOR A CAPTIONER BREAK THAT WE'RE REQUIRED TO TAKE EVERY TWO HOURS.

PERHAPS THE BOARD -- WE'LL SPEND 10 MINUTES LETTING THE CAPTIONER REST HER FINGERS AND WE'LL THINK ABOUT THE COMMENTS WE'LL MAKE WHEN WE COME BACK.

10 MINUTES, AT 9:24 I'LL SEE EVERYONE BACK HERE.

>> S. O'KEEFE: IT'S 9:24.

I SEE SOME PEOPLE ARE BACK.

THANK YOU.

IF WE CAN COME BACK AND RESTART THE MEETING.

OKAY.

GREAT.

I'M ASSUMING CARRIE IS BACK.

WELCOME BACK.

BOARD COMMENTS.

LAST THING THAT HAPPENED WAS WE CLOSED THE PUBLIC HEARING.

SO WHO WANTS TO START US OFF?

WHO HAS THOUGHTS?

COMMISSIONER OLSON.

>> C. OLSON: I CAN START WITH AN EASY SUGGESTION.

AND THAT'S THE WINDOWS IN THE REAR.

ONE OF THEM IS A BATHROOM SO IT COULD BE TRANSLUCENT.

ANOTHER ONE IS THE STAIRCASE.

AND IT'S SET WAY BACK.

THE ONLY ONE I SUGGEST WE MAKE TRANSLUCENT IS THE BATHROOM
WITHIN.

THAT WILL START US OFF.

>> S. O'KEEFE: THANK YOU, THAT'S HELPFUL.

ANYONE ELSE?

YOU HAVEN'T BEEN TO A ZOOM.

>> I HAVE BUT MAYBE PEOPLE WANT THE VISUAL OVERRIDE.

I THINK IT'S ACTUALLY -- I KNOW THAT STREET WELL.

I TAKE LOTS OF WALKS IN THE NEIGHBORHOOD.

AND THERE ARE A HANDFUL OF HOMES THAT HAVE A SECOND FLOOR

ADDITION THAT PROBABLY WEREN'T ORIGINAL.

AND IT'S VERY MODEST PROPOSAL.

IT'S DEFINITELY MORE IMPORTANT TO KEEP PEOPLE AND THESE

NEIGHBORS IN BERKELEY THAN IT IS POTENTIALLY A PORTION OF THE

OAK TREE CANOPY IN BERKELEY.

I THINK THE DESIGN IS VERY SENSITIVE AND MODEST.

AND I WOULD MOVE TO APPROVE THE PROJECT AS RECOMMENDED BY STAFF.

>> S. O'KEEFE: DO YOU CARE TO COMMENT ON COMMISSIONER OLSON'S
SUGGESTION?

>> I WOULD BE RELUCTANT TO MAKE THOSE TYPES OF CONDITIONS.

I THINK IT'S A GREAT SUGGESTION.

BUT I DON'T KNOW THAT IT'S PROPER IT MAKE THAT A CONDITION OF
APPROVAL.

IT'S OPEN TO DISCUSSION BUT I WOULD LIKE TO HEAR FROM THE
APPLICANT.

>> THAT'S A SUGGESTION AND NOT A CONDITION OF APPROVAL.

>> S. O'KEEFE: OKAY.

THAT'S YOUR MOTION.

OTHER COMMENTS, SECONDS?

SUBSTITUTE MOTIONS?

COMMISSIONER GAFFNEY.

>> I WOULD LIKE TO SECOND THE MOTION.

>> S. O'KEEFE: OKAY.

COMMISSIONER DUFFY, WERE YOU GOING TO SECOND?

>> SURE, I CAN DO THAT.

>> S. O'KEEFE: OKAY.

WE HAVE A MOTION AND A SECOND.

COMMISSIONER OLSON.

>> C. OLSON: I JUST WANT TO STAND UP FOR THE IDEA OF THE
TRANSLUCENT GLASS.

IT'S SOMETHING WE'VE DONE OFTEN OVER THE YEARS BECAUSE IT IS A
NOD TO THE NEIGHBORS WHO DO MAKE COMMENT ON WHETHER OR NOT THEY
WILL LOSE PRIVACY AND IT IS A BATHROOM AND THE BATHTUB IS RIGHT
THERE.

SO I THINK -- I WOULDN'T WANT TO LOSE THAT -- WE HAVE A LOT OF
NEW MEMBERS ON THE COMMISSION AND SO I JUST -- YEAH, IT'S
SOMETHING WE ACTUALLY DO.

>> THAT'S TRUE.

I SECOND THAT STATEMENT.

COMMISSIONER TREGUB.

>> I. TREGUB: THANK YOU.

SO IN ALL THE YEARS THAT I'VE BEEN ON ZAB, IT WILL IS OUR

PREROGATIVE TO SUGGEST CONDITIONS AS LONG AS THEY'RE REASONABLE.
TRANSLUCENT GLASS IS SOMETHING THAT WE'VE SUGGESTED IN THE PAST.
BUT MAYBE WE CAN REOPEN THE PUBLIC HEARING SO WE CAN ASK THE
APPLICANTS DIRECTLY IF THAT IS SOMETHING THEY WOULD BE OPEN OR
AND/OR ANY OTHER PERHAPS ELEMENTS OF THE DESIGN THAT THEY COULD
TWEAK IN THE SPIRIT OF TRYING TO FIND SOME COMPROMISE WITH THE
NEIGHBORS.

>> S. O'KEEFE: WHEN I REOPEN THE PUBLIC HEARING, I WOULD LIKE TO
HAVE IT FOR A LIMITED PURPOSE JUST TO SORT OF KEEP THINGS TIGHT.
CAN WE OPEN IT FOR THE PURPOSE OF DISCUSSING THE PRIVACY GLASS?

>> I. TREGUB: SURE.

>> S. O'KEEFE: WE CAN REOPEN THE HEARING FOR THE LIMITED PURPOSE
OF LETTING US KNOW -- IT HASN'T BEEN PROPOSED IN THE MOTION, BUT
OF HAVING PRIVACY GLASS IN THE BATHROOM.

DO YOU HAVE ANY THOUGHTS ABOUT THAT?

>> NO PROBLEM WHATSOEVER TO DO THAT.

THAT WOULD MAKE SENSE AND BENEFIT US AS WELL.

>> S. O'KEEFE: GOOD TO KNOW.

THANK YOU VERY MUCH.

OKAY.

SO CLOSE THE PUBLIC HEARING BACK UP.

COMMISSIONER HAUSER, STILL YOUR MOTION.

WHAT DO YOU THINK?

>> SURE.

THEN IT SEEMS LOOK A MOOT POINT THAT YEAH.

I HESITATE TO DO THESE -- TRYING TO ORCHESTRATE THESE TYPES OF NEGOTIATIONS AT THIS POINT BUT SINCE THE APPLICANT FINDS IT TO BE A BENEFIT, THAT HOLD THINGS UP.

>> S. O'KEEFE: SO YOU WANT TO PUT THAT IN THE MOTION?

>> YES.

THANKS FOR STREAMLINING.

>> S. O'KEEFE: COMMISSIONER GAFFNEY, ARE YOU OKAY WITH THAT?

>> YES.

>> S. O'KEEFE: SO THERE WE GO.

THANK YOU FOR CLARIFYING THAT.

ANY OTHER COMMENTS?

OR ARE WE READY TO VOTE?

ALL RIGHT.

SEEING NONE, LET'S DO A ROLL CALL VOTE ON THE MOTION TO APPROVE WITH THE SMALL LIMIT OF PRIVACY GLASS ON THE BATHROOM.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER TREGUB.

>> I. TREGUB: YES, WITH A COMMENT.

I'LL MAKE THE COMMENT AFTER THE VOTE.

>> S. O'KEEFE: OKAY.

>> BOARD MEMBER HAUSER.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: YES.

SO THE MOTION PASSES.

IT'S APPEALABLE TO THE CITY COUNCIL.

BUT YOU HAVE YOUR USE PERMIT UNLESS IT'S APPEALED.

COMMISSIONER TREGUB, COMMENT.

>> I. TREGUB: THANK YOU.

JUST VERY BRIEFLY.

AND I KNOW WE'VE HAD THESE SITUATIONS WITH ZAB WHERE

SOMETIMES -- FOR WHATEVER REASON THERE ARE NO OPPORTUNITIES TO

DISCUSS A PROJECT UNTIL IT GETS HERE TO ZAB.

AND WE ARE STUCK HAVING TO MAKE DECISIONS WHEN THERE WERE

MULTIPLE POINTS MADE.

THERE ARE SOME ASPECTS WHERE I DID HEAR SOME POSSIBLE CONSENSUS.

IT MIGHT NOT REQUIRE CONDITIONS.

SUCH AS TRIMMING PART OF THE CANOPY, ET CETERA.

AND SO, THERE ARE ACTUALLY -- THE PRIVACY GLASS DID NEED A
CONDITION, BEFORE THERE ARE SOME THINGS THAT I WOULD JUST
ENCOURAGE THE NEIGHBORS TO TRY TO COME TOGETHER AND WORK OUT,
OUTSIDE OF THE ZONING REVIEW PROCESS.

THANKS.

>> S. O'KEEFE: THANK YOU.

COMMISSIONER KIM.

>> THANK YOU, CHAIR.

I JUST WANT TO QUICKLY SAY AT THIS TIME THAT I KNOW MY CAMERA
HASN'T BEEN ON FOR THE PAST FEW WEEKS DUE TO WI-FI TROUBLE AT
THE HOUSE.

I KNOW THAT THERE ARE NEW FACES ON ZAB AND I KIND OF WANTED TO
TAKE TIME TO EXPLAIN THAT THE PUBLIC THAT I'VE BEEN PRESENT AND
IT'S NICE TO MEET NEW BOARD MEMBERS.

I DON'T THINK I'VE HAD THE CHANCE TO SAY THAT IN THE LAST COUPLE
OF MEETINGS AND SEEING FORMER BOARD MEMBERS AS WELL.

I WANTED TO QUICKLY SAY THAT.

AND I APPRECIATE THE SPACE FOR THAT.

>> S. O'KEEFE: COMMISSIONER OLSON.

COMMENT.

>> C. OLSON: THANKS, I WANTED TO THANK ALL THE MEMBERS OF THE
PUBLIC FOR PARTICIPATING.

IT WAS VERY GOOD TO HEAR YOUR COMMENTS ABOUT HOW THIS -- WHAT
YOU THINK OF THIS PROJECT -- NEW PROJECT IN YOUR NEIGHBORHOOD.

BUT I AM CONCERNED ABOUT THAT NEIGHBOR WHO DIDN'T -- WASN'T CONTACTED BEFORE -- THEY SHOULD HAVE BEEN.

SINCE WE HAVE NEW MEMBERS ON THE COMMISSION, I JUST WANT YOU ALL IT KNOW THERE IS A FORM THAT USED TO GO DOOR-TO-DOOR.

WE WOULD GET IT IN OUR PACKET SO WE WOULD KNOW THAT THE NEIGHBORS SIGNED OFF ON PROJECT.

I WOULD LIKE TO ENCOURAGE STAFF TO MAKE SURE THAT WE GET A VIRTUAL EQUIVALENT SOMEHOW.

IT SHOULD BE DOABLE.

SO THEN WE DON'T HAVE -- BECAUSE I FEEL FOR NEIGHBOR WHO IS DON'T KNOW WHAT IS COMING.

YEAH.

THANK YOU.

>> S. O'KEEFE: I THINK LESLIE HAS A RESPONSE TO THAT.

>> WE GET BETTER PROJECTS GO THERE IS MORE COMMUNICATION AHEAD OF TIME.

WE DID SUSPEND -- THERE WERE CERTAIN REQUIREMENT RULES SUSPENDED WHEN SHELTER IN PLACE CAME INTO EFFECT.

I THINK WE NEED TO START LOOKING INTO REINSTITUTING THEM.

THE FIRST THING TO GO WAS GOING FROM HOUSE TO HOUSE BECAUSE NO ONE WANTED TO GO HOUSE TO HOUSE.

WEAN SENT OUT POSTCARDS SO IT'S A PRETTY SET RADIUS, BUT A POSTCARD -- IT'S NOT THE SAME THING AS GOING HOUSE TO HOUSE AND JUST FOR THE RECORD, WE'VE HAD SUSPENDED PUTTING UP THE YELLOW

POSTERS.

SOME PEOPLE STILL ENDED UP DOING IT BUT IT WASN'T FOR REQUIREMENT DURING SHELTER-IN-PLACE.

AS PEOPLE ARE GETTING MORE VACCINATED AND THINGS ARE LOOSENING UP, IT'S TIME TO REVISIT THAT BECAUSE I WHOLEHEARTEDLY AGREE, THE MORE COMMUNICATION, THE SOONER IS BETTER FOR THE PROCESS. THANK YOU FOR THAT, COMMISSIONER OLSON.

>> S. O'KEEFE: I HAVE MY OWN APPLICATION I'M DEALING WITH RIGHT NOW.

I DIDN'T KNOW ABOUT THE REQUIREMENT.

I DIDN'T KNOW ABOUT THE LACK OF REQUIREMENT SO I WENT AROUND TO ALL THE NEIGHBORS AND IT TURNS OUT THAT EVERYONE HAD BEEN VACCINATED.

SO THERE YOU GO.

COMMISSIONER DUFFY, COMMENT.

>> I HAD TO GET A BUNCH OF SIGNATURES FROM MY NEIGHBORS.

I GOT 18.

THE SIGNATURES ARE NOT THAT THEY'VE SEEN THE PLANS.

THERE ARE SOME NEIGHBORS THAT WERE SEWN OWNERS OF THE PROPERTY THAT DIDN'T LIVE ON THE PROPERTY AND I EVEN GOT THEIR SIGNATURES.

EVEN IN THE CONTEXT OF COVID, WE CAN GET SIGNATURES FROM OTHERS JUST THROUGH THE MAIL AND THEY JUST NEED TO SIGN SAYING THEY'VE SEEN THE PLANS AND KNOW WHAT IS HAPPENING.

>> S. O'KEEFE: ALL RIGHT.

ANY WAY, I THINK THE CITY WILL REEXAMINE THE POLICY IN THE NEXT YEAR AND ANYWAY, THANK YOU EVERYONE FOR COMMENTING.

SO, OKAY.

WE'RE DONE WITH THIS ITEM.

LAST ON OUR AGENDA IS I THINK THERE IS A DRC REPORT.

HAS THERE BE A MEETING?

-- HAS THERE BEEN A REPORT?

>> COMMISSIONER KAHN IS NOT HERE.

LAST MEETING WELD A ZAB MEETING PRIOR TO OUR LAST DRC MEETING.

ARE WE SUPPOSED TO PEEK TO IT TWICE?

BECAUSE WE TALKED ABOUT THE DRC MEETING.

LAST WEEK WAS OUR BREAK.

>> S. O'KEEFE: IT'S ALWAYS ON THE AGENDA.

>> NOTHING TO REPORT RIGHT NOW.

>> S. O'KEEFE: LAST IS STAFF COMMUNICATIONS.

ANYTHING UNDER STAFF COMMUNICATIONS?

>> A PERSONAL NOTE, I HAD A SIX-MONTH A EXCITEMENT IT HAS COME TO THE END SO I'VE HAD A LOT OF FUN BEING ZAB SECRETARY AND I'LL SEE YOU AGAIN AS A PROJECT PLANNER COMING IN ON THE OTHER END. SO THANK YOU FOR ALL OF THAT.

>> S. O'KEEFE: I THOUGHT IT WAS FOREVER.

IT'S BEEN GREAT.

THANKS FOR TELLING US THAT.

>> THANK YOU.

>> THANK YOU.

>> THANK YOU SO MUCH LESLIE.

>> S. O'KEEFE: BEFORE WE SAW HER ALL THE TIME BEFORE SHE WAS SECRETARY SO WE'LL SEE HER AGAIN.

>> THAT WAS FUN.

>> S. O'KEEFE: ALL RIGHT.

SO OKAY, THEN ANY LAST COMMENTS BEFORE WE ADJOURN THE MEETING?

>> THANK YOU SHOSHANA.

THANK YOU.

JUST SAYING THANKS.

>> THANK YOU.

>> S. O'KEEFE: I THINK I'M DOING IT NEXT TIME IS MY UNDERSTANDING.

I THINK CHARLES IS TAKING A MONTH LEAVE OF ABSENCE.

I'LL REMEMBER MORE STUFF NEXT TIME.

>> BOARD SECRETARY: WE DO TAKE A VOTE FOR ADJOURNMENT. MOTION AND A SECOND.

>> S. O'KEEFE: THAT IS NEW.

COMMISSIONER GAFFNEY.

>> MOTION TO ADJOURN.

>> S. O'KEEFE: COMMISSIONER KIM.

>> SECOND.

>> S. O'KEEFE: WE HAVE A MOTION AND A SECOND.

DO WE HAVE TO DO A ROLL CALL?

>> BOARD SECRETARY: YOU CAN ALL -- I THINK WE HAVE TO VOTE.

I WOULD SAY RAISE YOUR HANDS BUT WE DON'T HAVE EVERYONE ON
CAMERA EITHER.

WE'LL GO QUICK.

COMMISSIONER GAFFNEY.

BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER HAUSER.

>> YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER KIM.

>> YES AND THANK YOU AGAIN, LESLIE.

>> YOU'RE WELCOME, THANK YOU AND VICE CHAIR O'KEEFE.

>> S. O'KEEFE: YES AND THAT WAS ABSURD.

NEXT TIME WE'LL DO IT BY AFFIRMATION.

GOOD-BYE EVERYONE.

WELCOME BOARD MEMBER THOMPSON AND GOOD-BYE EVERYONE.

>> BYE, THANK YOU.

>> GOOD-BYE.

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April 26, 2021

Mayor Jesse Arreguin
Berkeley Councilmembers
2180 Milvia Street
Berkeley, CA 94704

VIA U. S. MAIL and EMAIL Clerk (City of Berkeley) /filing
<rmolina@ci.berkeley.ca.us>

Re: 1205 Peralta: Appeal of April 8, 2021 Zoning Adjustments Board ("ZAB")
Decision

Dear Mayor Arreguin and Councilmembers:

On behalf of Cathy Nason, owner of 1205 Peralta since October, 2019, and has since, she had ownership (inherited from her late father), has been upgrading the quality of the units and the open space for her tenants, one whom is a 26-year resident, I am appealing the ZAB decision. In sum, the ZAB voted to remove [by not legalizing existing] bedrooms and require restoration of on-site parking into a garage that has not been used since 1989. ¹

This decision clearly is at odds with Berkeley's current housing policies, and was based on false information,

General Grounds for Appeal

- The evidence does not support the Findings;
- As such the Findings do not support the decision;
- And, acting as it did, the ZAB acted without or in excess of its jurisdiction.

Statement of Facts

When Cathy acquired 1205 Peralta, a 4-unit, rent controlled building, it needed a lot of work. She transformed the inner courtyard from a barren concrete yard to an idyllic garden (See Exhibit A, before and after of open space); and added an attractive redwood fence to provide privacy and security for her tenants. She then embarked on remodel-upgrade and small expansion plan. That proposed

¹ According to the Berkeley microfiche records obtained by the then project architect.

plan was what got her to where she is now. Neighbors complained about expansions by prior owners, including her late father. The end result: remove three "extra" bedrooms; restore an inaccessible garage.

Units 2, 3 and 4 and the inaccessible garage are the subject of this appeal.

Unit #2 (upstairs rear building) . Lisa Farmer, a tenant, has lived in that unit for 26 years. This writer visited Unit 2 and spoke with Lisa. It is clearly a 2-bedroom apartment, with a small living room and kitchen. Based on kitchen appliances and cabinets, this unit was built in the late forties. The ZAB decision requires that the living room be counted as a bedroom, and removed, essentially transforming Unit 2 into a dormitory.

Unit # 3. A one-bedroom, with a living room area and a kitchen. It has been rented since February. The living room was created out of a tiny one-bedroom and part of the unused and inaccessible garage. The ZAB decision requires that the living room be removed² and returned to a garage use by slicing off the living room to re-create a garage space. The tenant's only common area would then be an 8'4" wide corridor running from the front door to the kitchen

Unit # 4: It is now a 3-bedroom unit without any common area, except the kitchen. It is Applicant's intention to convert the second of the disallowed bedrooms into a living room to create a common space gathering area.

The ZAB's Decisions of Denial, Based on Incorrect Information Requires the Removal of Three Existing "Bedrooms" to Reduce On-Site Density, and Restoration of a Garage. It Should Be Overturned.

Incorrect or Misleading Information, which was Material to the Decision was Presented to the ZAB.

- Witnesses falsely described 1205 as the densest, with the least open space of any property on the lot. (See Exhibit B. Vicinity Map; Overhead View)
- Staff overcounted the number of existing bedrooms by 3: In Unit 2, Staff designated the living room and dining room as bedrooms. In Unit 3, Staff designated the living room as a bedroom. These rooms are being used as common area rooms and should not be counted as bedrooms unless one assumes that one enters their apartments directly into a bedroom.
- On-street parking was incorrectly described as heavily impacted. A parking study will show, even during Covid, many on-street available parking spaces
- Unit 3 was erroneously labeled as unoccupied (unfortunately by Applicant's Architect.

The Findings to Deny the Variance to Legalize the "Conversion" of On-Site Garage Cannot Be Factually Sustained.

² Staff has labeled this living room as one of the three disallowed bedrooms.

True, at one time there had been a "2-car garage" on site. Part of that garage was converted to living space at least as early as 1989; the remainder, in 2020. However, based on the site plan, there no way that this structure could ever have functioned as a garage:

The driveway from the street to the garage is 6'8"; this is 2' narrower than City of Berkley minimum allowable driveway width ³, and impassable by most cars.

The curve radius for a car to enter or exit the garage, cannot be met. ⁴

A car cannot back out of either of the spaces without running over and into the mandated "green" open space; the amount of green space on this property is already below standard.

On these facts the Variance Findings for Denial cannot be made; ⁵ Variance Findings for Approval can be made:

1. The property is unique in that the location for the proposed parking cannot be accessed by a vehicle;
2. Most of the homes on this street also do not have onsite parking (See Exhibit B, On-site parking converted to other uses);
3. The parking study will show that there is ample vacant street parking; there are many AC Transit buses within a block of this property.

CONCLUSION

When Cathy Nason inherited 1205 Peralta Avenue, she inherited a property that had not been cared for many years, and a lot of pent-up neighborhood aggravation. Since she took ownership, she has improved the aesthetics of the open space, upgraded a unit, and but for this ZAB decision, would be upgrading three of the units.

If this ZAB decision is not overturned, there will less places for people to live, and an 18' X 20" section of the property wasted because it cannot be used for anything but inaccessible unusable vehicular parking.

Therefore, we ask that you GRANT this appeal.

We thank you in advance for your time and courtesy in this matter.

Very truly yours,



RENA RICKLES

Attachments:

³ City of Berkeley, Parking and Driveway Design Guidelines for residential driveways over 31' in length.

⁴ City of Berkeley Basic Parking Requirements, 21' minimum for backing out.

⁵ Formal Variance Findings for Approval will be submitted by the time of the Hearing; however, the same facts that bar a finding of denial are, in fact, the findings for approval.

True, at one time there had been a 2' car garage, but the 2' car garage was converted to living space at least as early as 1978, the remainder in 2007. However, based on the site plan, there is no way that the car garage could ever have functioned as a garage.

The driveway from the street to the garage is 8'3"; this is 2' narrower than City of Berkeley minimum allowable driveway width, and impossible by most standards. The driveway for a car to enter or exit the garage cannot be used. A car cannot back out of either of the spaces without turning over and into the mandated "open space"; the amount of green space on this property is already below standard.

On these facts the Varadero Findings for Daniel's should be a "No" because Daniel's for Approval can be made.

1. The property is unique in that the location for the proposed parking cannot be accessed by a vehicle.
2. Most of the area around the property is already parking space. Exhibit B shows the parking spaces around the property.
3. The parking study will show that there is ample vacant street parking; there are many AC Transit buses within a block of this property.

Exhibit A

CONCLUSION

When Cathy Karon inherited 1505 Parilla Avenue, she inherited a property that had not been cared for many years, and a lot of pent up neighborhood organization. Since she took over, she has removed the aesthetics of the open space, replaced it with a unit, and for the ZAB decision, would be ignoring three of the units.

If this ZAB decision is not overturned, there will be places for people to live, and an 18' x 20' section of the property wasted because it cannot be used for anything but necessary, unattractive vehicular parking.

Therefore, we ask that you GRANT the appeal.

We thank you in advance for your part and support in this matter.

Very truly yours,

ALVA HICKS

Alva Hicks

Alva Hicks is a professional writer and editor with over 20 years of experience. She has worked for several major corporations and is currently a freelance writer. She is also a member of the National Writers Guild and the International Brotherhood of Writers. She has a Bachelor's degree in English from the University of California, Berkeley.



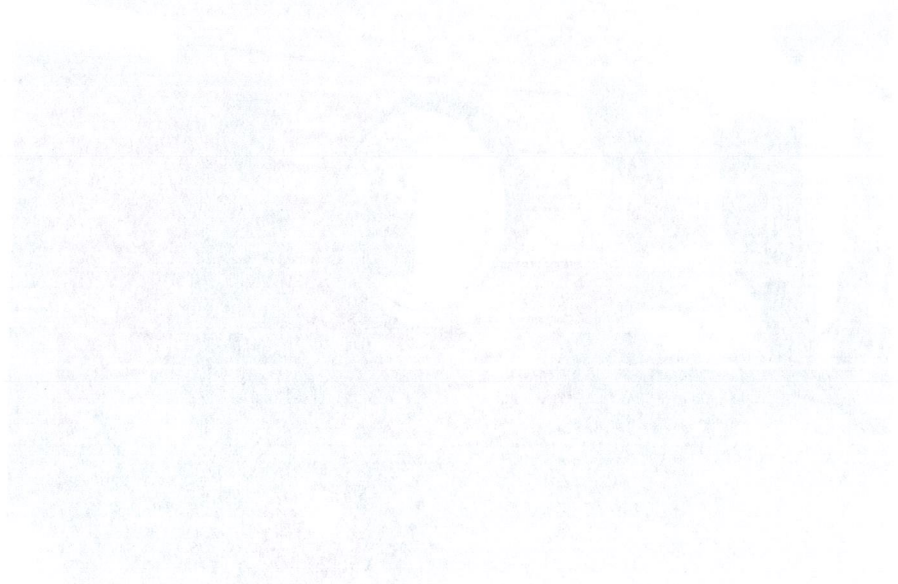
Courtyard – BEFORE

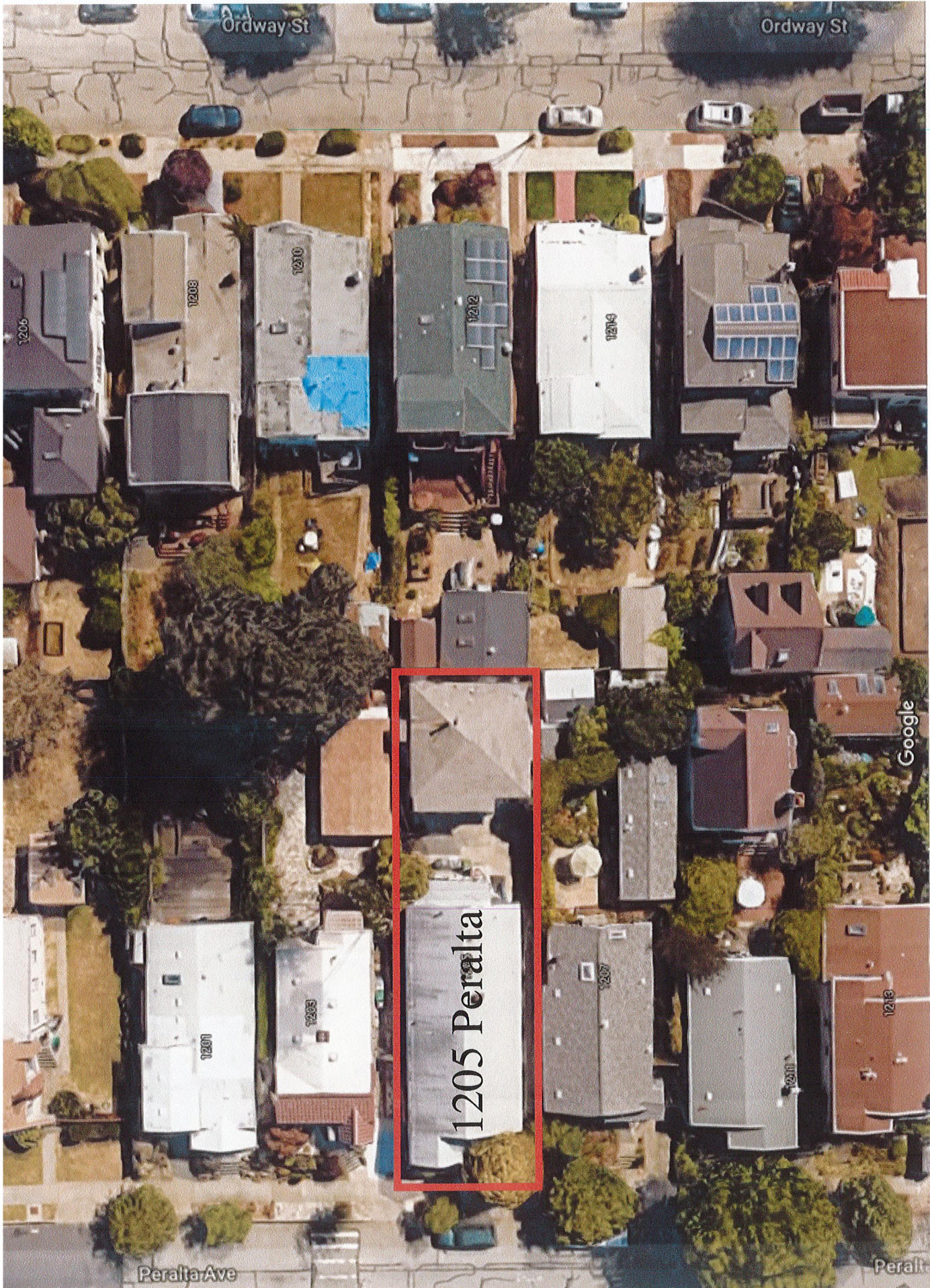


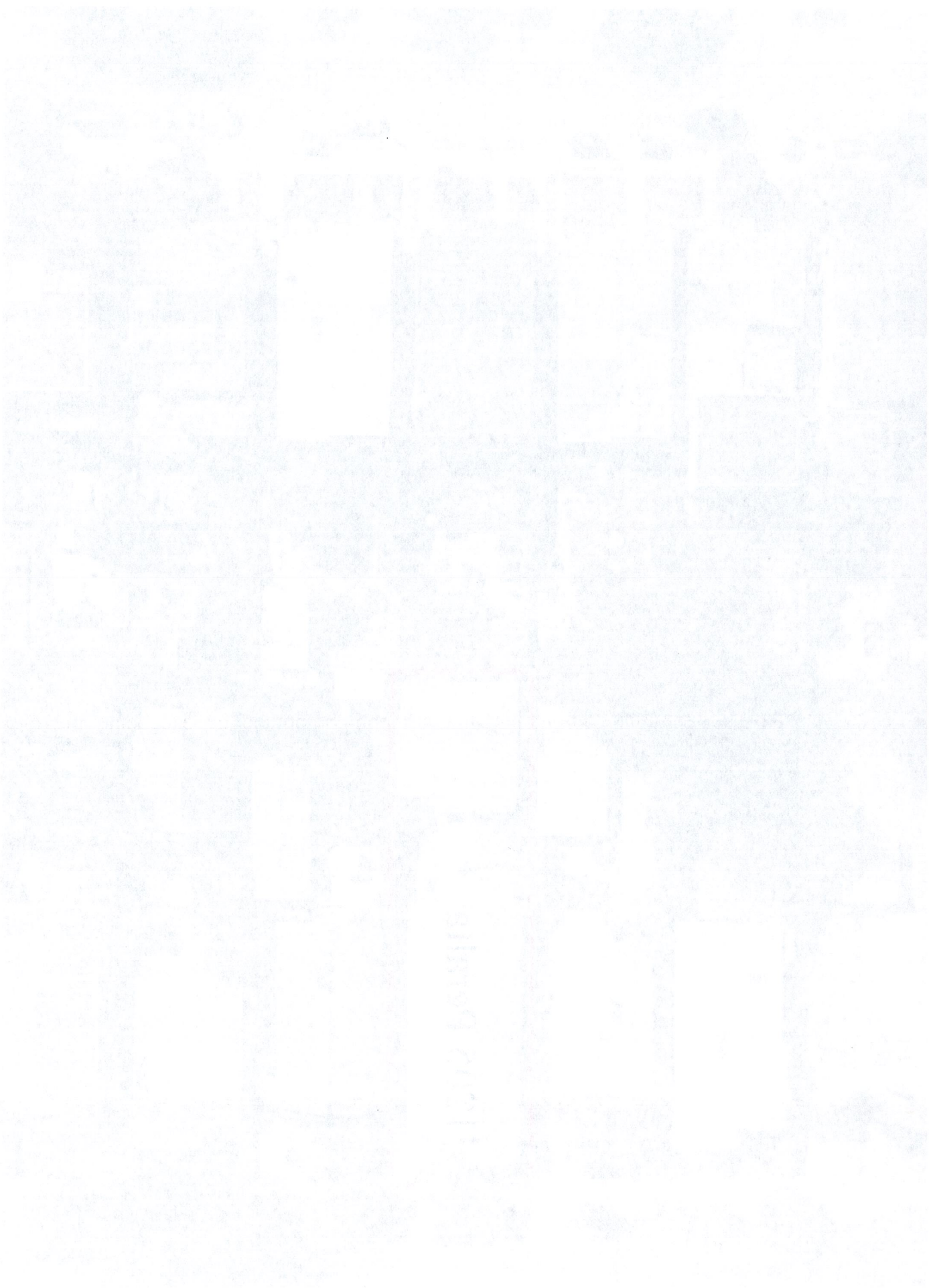
Courtyard - AFTER

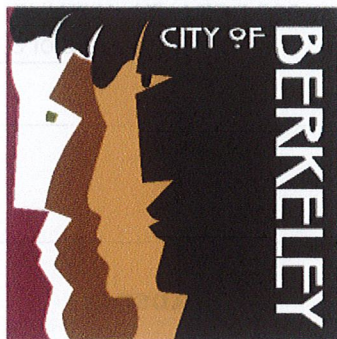


Exhibit B









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

DATE OF BOARD DECISION: April 8, 2021

DATE NOTICE MAILED: April 13, 2021

APPEAL PERIOD EXPIRATION: April 27, 2021

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)¹: May 5, 2021

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. x 20 ft. garage to habitable space and Use Permit to legalize the addition of bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

The Zoning Adjustments Board of the City of Berkeley, after conducting a public hearing, **DENIED WITHOUT PREJUDICE** the following permits:

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

ZONING: R-1A – Limited Two-Family Residential District

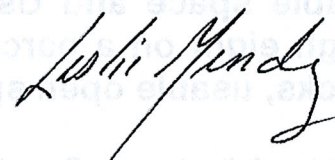
APPLICANT/OWNER: Teresa Cambare & Cathy Nason, P.O. Box 142, Inverness, CA 94937

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

¹ 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.*

FINDINGS FOR DENIAL ATTACHED

	Yes	No	Abstain	Absent
DUFFY	X			
KAHN				X
KIM	X			
O'KEEFE	X			
OLSON	X			
HAUSER	X			
THOMPSON	X			
GAFFNEY	X			
TREGUB	X			
BOARD VOTE:	8	0	0	1



ATTEST:
Leslie Mendez, 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, Nilu Karimzadegan, at (510) 981-7419 or nkarimzadegan@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 method for appeal submittals described below have been 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.

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.

- 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 include 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 FOR DENIAL

APRIL 8, 2021

1205 Peralta Avenue

Variance/Use Permit #ZP2020-0060 to eliminate two required off-street parking spaces by legalizing conversion of an existing 18 ft. x 20 ft. garage to habitable space and Use Permit to legalize the addition of bedrooms six through eight on a parcel that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

PERMITS REQUIRED

- Variance under [Berkeley Municipal Code](#) (BMC) Section 23B.44.030.B to eliminate required parking.
- Use Permit, under BMC Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage.
- Use Permit, under BMC Section 23C.04.070.E, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable density.
- Use Permit under BMC Section 23D.20.050.A to legalize the sixth, seventh and eighth bedrooms on the lot.

I. VARIANCE FINDINGS FOR DENIAL

Pursuant to Berkeley Municipal Code Section 23B.44.030.B, the City cannot make the findings required by Berkeley Municipal Code Section 23B.44.030.A, and therefore must deny the Variances to eliminate the two existing required off-street parking spaces on the lot by conversion of garage to habitable space;

- There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District:*

The applicant has provided no evidence, nor can staff find evidence of circumstance or conditions that apply to the land, building or use which do not generally apply to land buildings and/or uses in the same District. Neither the nonconforming use of the lot nor illegal conversion of garage is considered unique or otherwise exceptional or extraordinary. Similarly, due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this District to varying degrees, including the subject site. This finding cannot be made.

- The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:*

The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. In fact, the property owners purchased, and have managed, a property with four lawful, rental dwelling units for several years. This finding cannot be made.

- iii. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole:*

The illegal conversion of the existing garage has eliminated the two available and required off-street parking spaces on the site. Staff has received correspondence from the neighbors stating that the lack of parking spaces on the subject lot puts an additional burden on street parking which is already strained. This finding cannot be made because eliminating the two parking spaces will adversely impact the improvements in said neighborhood as it impacts on-street parking for this over-densified site for the neighborhood and the tenants.

In conclusion, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).

II. ADDITION OF BEDROOMS FINDINGS FOR DENIAL

Pursuant to BMC Section 23D.20.050.A, the addition of more than five bedrooms on the parcel requires the approval of a Use Permit. Specifically, the Board is unable to make the required “non-detriment” findings pursuant to BMC Section 23B.32.040 that there would not be a substantial impact to the “health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because:

Pursuant to BMC Section 23D.20.050.A, the Zoning Adjustments Board finds that the addition of the sixth, seventh and eighth bedrooms is over intensification of this substandard size lot. Two illegal bedrooms have been added to Unit 2 leaving no common space for this unit and one bedroom is created through illegal conversion of the garage for a total of three additional bedrooms on this lot. Additionally, this property only provides about 458 sq. ft. of usable open space with no off-street parking spaces. Although staff considers residential density per dwelling, the addition of bedrooms will increase number of residents on the project and, therefore, increase the intensity of use. Therefore, the addition of three bedrooms, will not support the residential use on the parcel, is not consistent with the purposes of the R-1A District and would be considered detrimental.

The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereto, to be approved will not under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or interests in said neighborhood, and that the granting of the variance will promote the public health, welfare and safety and benefit the City as a whole.

The legal conversion of the existing garage has eliminated the two available and required off-street parking spaces on the site. Staff has received correspondence from the neighbors stating that the lack of parking spaces on the subject lot puts an additional burden on street parking which is already strained. The finding cannot be made because eliminating the two parking spaces will adversely impact the improvements in said neighborhood as it impacts on-street parking for this over-defined site for the neighborhood and the tenants.

In conclusion, the requested Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).

II. ADDITION OF BEDROOMS FINDINGS FOR DENIAL

Pursuant to BMC Section 23D.02.050 A, the addition of more than five bedrooms on the parcel requires the approval of a Use Permit. Specifically, the Board is unable to make the required "non-detriment" findings pursuant to BMC Section 23B.02.040 that there would not be a substantial impact to the health, safety, peace, and also, comfort or general welfare of persons residing or working in the area or neighborhood or be detrimental or injurious to property or improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because:

Pursuant to BMC Section 23D.02.050 A, the Zoning Agreement Board finds that the addition of the sixth, seventh and eighth bedrooms is over-intensification of the substantial site lot. Two legal bedrooms have been added to lot 3 leaving no common space for the lot and one bedroom is created through legal conversion of the garage for a total of three additional bedrooms on the lot. Additionally, the property only provides about 488 sq. ft. of usable open space with no off-street parking spaces. Although staff considers residential density, the addition of bedrooms will increase number of residents on the project and therefore increase the intensity of use. Therefore, the addition of third bedrooms will not support the residential use on the parcel, is not consistent with the purpose of the R-1A District and would be a general detrimental.



Index &
Administrative Record
ZAB Appeal: 1205
Peralta Avenue

These attachments are on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

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
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

ZAB APPEAL: 1205 PERALTA AVENUE, USE PERMIT #ZP2020-0060

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, OCTOBER 12, 2021 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to deny Zoning Permit #ZP2020-0060 for a Variance to legalize the elimination of two off-street parking spaces by conversion of an existing 18 foot x 20 foot garage to habitable space, and a Use Permit to legalize the addition of three bedrooms on a lot that is non-conforming for density, lot coverage, setbacks, usable open space and parking.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **SEPTEMBER 30, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Nilu Karimzadegan, Project Planner at (510) 981-7419, or nkarimzadegan@cityofberkeley.info. 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 for further information.

Mark Numainville, City Clerk

Mailed: September 28, 2021

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.*

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 at least 10 days prior to the public hearing.