



PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

Tuesday, July 7, 2020

6:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order 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.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87660512181>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial **1-669-900-9128** and enter Meeting ID: **876 6051 2181**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Public Comment - Limited to items on this agenda only

Action Calendar – Public Hearing

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, use the “raise hand” function to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

1. **ZAB Appeal: 1449 Grizzly Peak Boulevard, Administrative Use Permit #ZP2019-0111**

From: City Manager

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

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

2. **ZAB Appeal: 0 Euclid Avenue (Berryman Reservoir), Use Permit #ZP2018-0236**

From: City Manager

Recommendation: Conduct a public hearing regarding an appeal of the Zoning Adjustments Board decision to deny Use Permit #ZP2018-0236, a request to establish a new 50' high monopole 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment and, upon conclusion, consider the record of proceedings and testimony to determine whether the findings for approval can be made regarding view protection and camouflage.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 30th day of June, 2020.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: June 30, 2020
Mark Numainville, City Clerk

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

Communications

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing through [Records Online](#).

Item #2: ZAB Appeal: 0 Euclid Avenue (Berryman Reservoir), Use Permit #ZP2018-0236

1. 14 form letters "Deep Opposition"
2. 9 form letters "Live on Euclid"
3. 11 form letters "Do Not Want"
4. Isaac Kaplan
5. Jack Newman
6. Ellen Archilla and Jacques Watteyne
7. Elissa Berall
8. Allison Sell
9. Danielle Schanz
10. Debbie Lai
11. Julia MacMillan
12. Wolf Arnold
13. Lina Schweidel
14. Amber Turley
15. Brooke Dougherty
16. David Moren
17. Corien Anderson
18. Julie Therien
19. Rebecca Armstrong
20. Kristi Lentz Taylor
21. Janice Schroeder
22. John Williams
23. Mark Gonzalez
24. Ginger Parnes
25. Jane Eisenstark
26. Francine Foltz
27. Carolyn NcNiven
28. Leah Mazel-Gee
29. Julia Rogers
30. Jane Hansen
31. Debbie
32. Julieta Zuniga
33. Oliver Raisner
34. Susan Nunes (2)
35. Michael Burt on behalf of the Law Office of Michael Burt
36. Raissa Lerner
37. Anonymous
38. Layal Nawfal, Associate Planner, Land Use Planning Division
39. Regina DiMaggio
40. Kaellyn Moss (2)

41. Mary McGann (2)
42. Andrea Lappen
43. Cynthia Li
44. Jennifer Monahan
45. Daniel Richheimer
46. Phyllis Peacock
47. Mayanne Stahl
48. Amanda Coggin
49. Jan Jarvis
50. Vivian Warkentin
51. Tiffany Fyans
52. Arthur Stopes III
53. Carol Hirth
54. Mary Ann Brewin
55. Lloyd Morgan



Office of the City Manager

PUBLIC HEARING

July 7, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

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

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

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

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

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

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

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

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

BACKGROUND

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

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

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

² BMC Sections 23D.16.090.B and 23B.28.050.

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

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

At the March 12, 2020 hearing, ZAB members had substantive discussion regarding three of the eight appeal points: 1) ceiling height; 2) roof color; and 3) exterior color. For reference, the ZAB discussion was recorded⁴ and the captioner's record is provided as Attachment 4 to this report.⁵ Regarding ceiling height, the applicant agreed to a Condition of Approval to limit the height to nine feet in order to reduce impacts to views. Regarding the roof and exterior colors, the ZAB asked the applicant for their reaction to the appellant's request that the third-floor siding be wood color and the roof be a similar color. The applicant responded that the color choice had been discussed with the appellant and they would continue discussing the issue, but "didn't know if that's appropriate for it to be a condition of approval from ZAB." The ZAB asked the property owner to state the reason why they chose white for the roof color. The property owner responded that "the roofer recommended it because of the heat reflection and the home gets sun all day. I don't feel like I should change the whole roof, it would be a \$15,000 roofing problem. If my neighbors can help me with that, great, but so far that hasn't been the case."

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

³ Attachment 3, March 12, 2020 ZAB staff report.

⁴ March 12, 2020 ZAB recording, http://berkeley.granicus.com/MediaPlayer.php?publish_id=af425775-6581-11ea-99b9-0050569183fa

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

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

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

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

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

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

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

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

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

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

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

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

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

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

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

- 1) Third floor siding to be ipe⁶ wood color, as ipe wood is already a feature of the house design.
- 2) Roof color similar in tone to the requested ipe wood color on the third-floor siding.

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

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

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

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

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

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

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

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

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

ALTERNATIVE ACTIONS CONSIDERED

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

Action Deadline:

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

CONTACT PERSONS

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

Attachments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibits

A: Findings and Conditions

B: Project Plans, dated August 12, 2019

FINDINGS AND CONDITIONS
APPROVED BY ZAB ON MARCH 12, 2020

1449 Grizzly Peak Boulevard

Administrative Use Permit #ZP2019-0111

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

PERMITS REQUIRED

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

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

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

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

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

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

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

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

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Project Liaison

_____ Name

_____ Phone #

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

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

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

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

Standard Construction-related Conditions Applicable to all Projects:

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

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

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

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

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

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

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

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

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

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

Prior to Issuance of Occupancy Permit or Final Inspection:

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

At All Times (Operation):

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



Prepared by: Ashley James
For Greg Powell, Zoning Officer

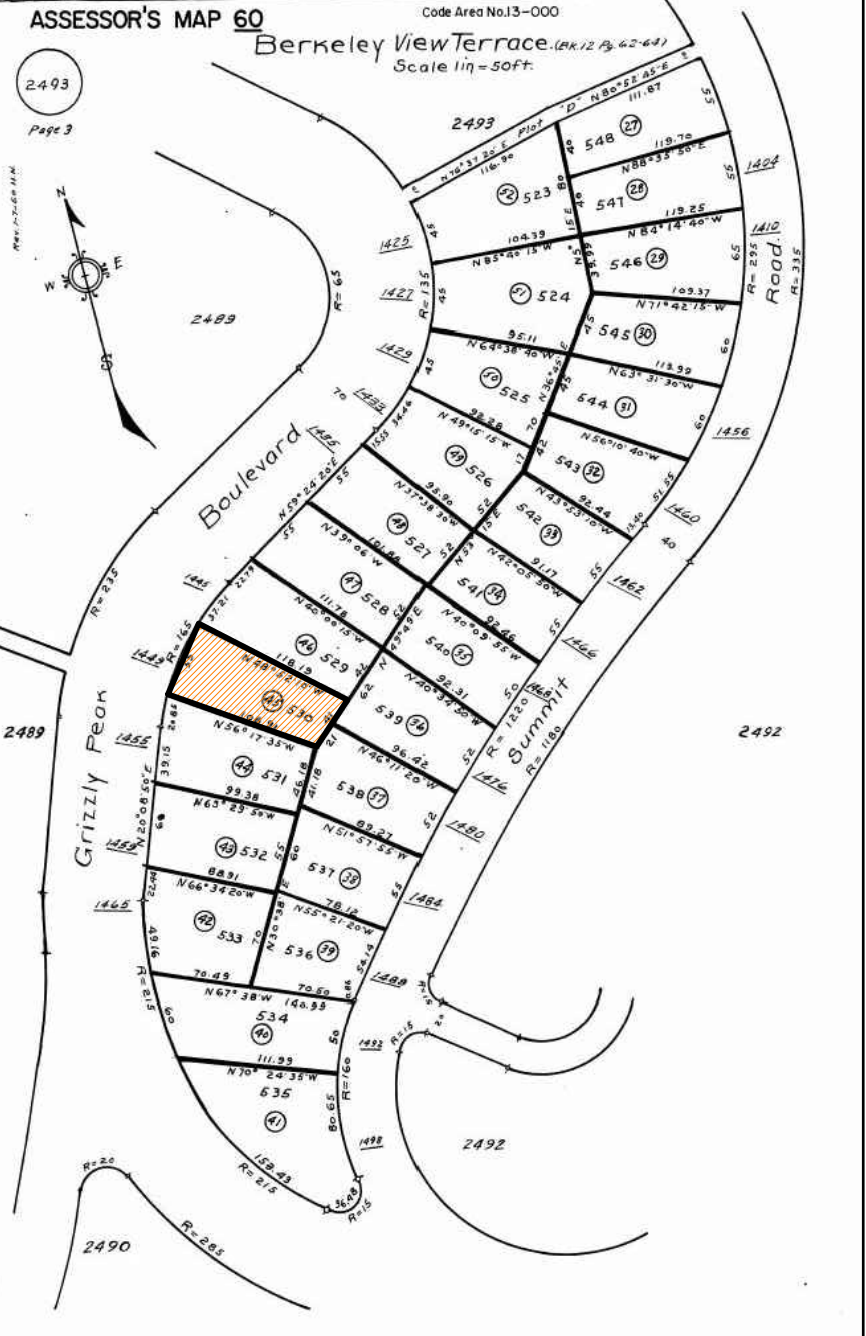
BEST MANAGEMENT PRACTICES

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

GENERAL NOTES

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

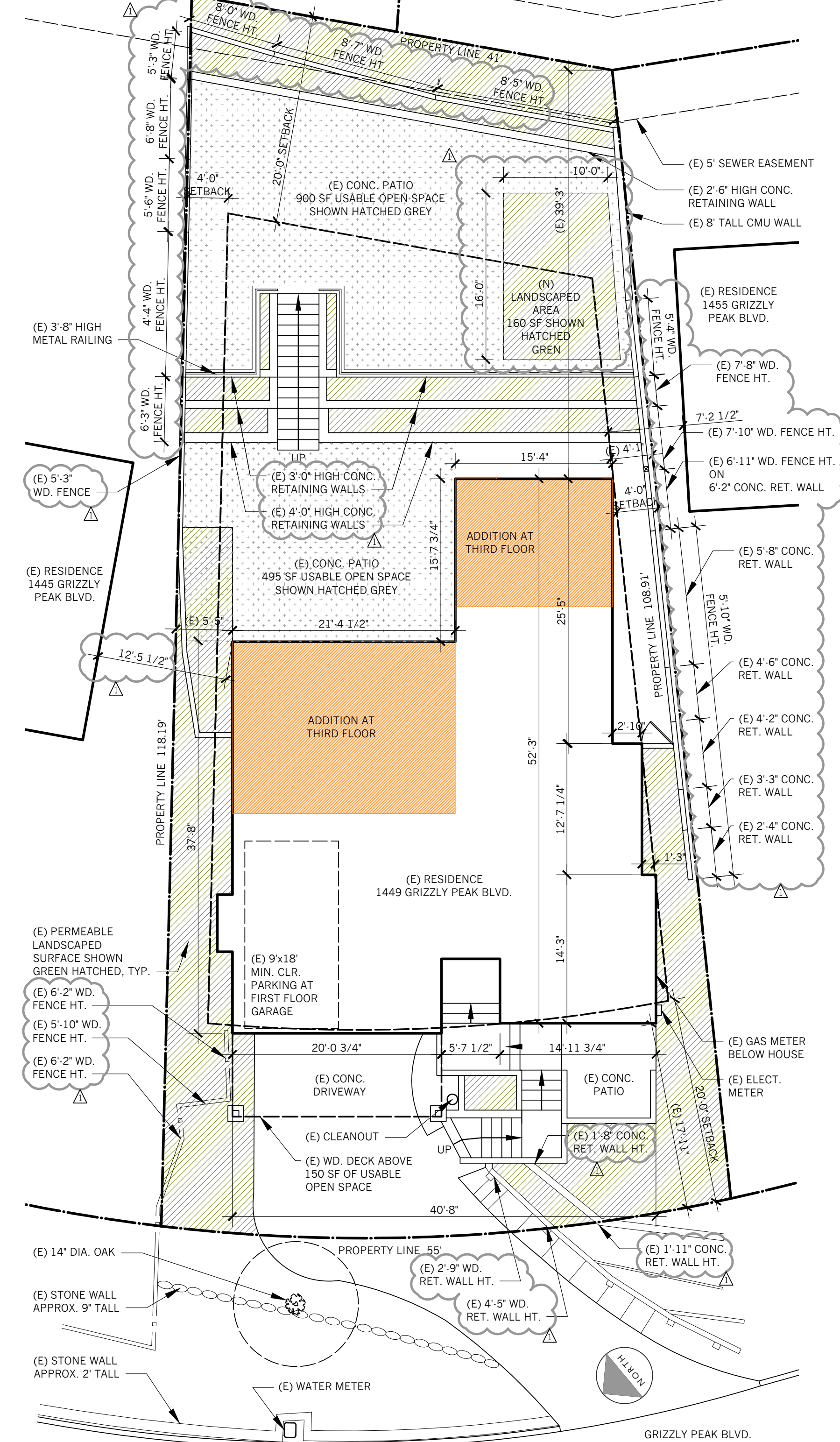
ASSESSOR'S MAP



VICINITY MAP



SITE PLAN



DRAWING INDEX

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

PROJECT DATA

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

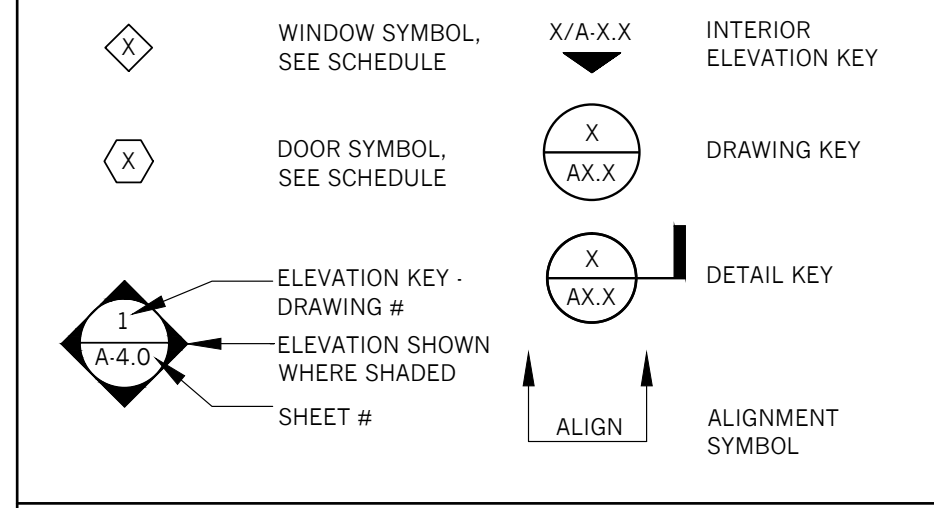
PROJECT SCOPE:
REAR ADDITION OF 500 SQ. FT. AT THE THIRD FLOOR, INCLUDING A BEDROOM, BATHROOM, AND WALK-IN CLOSET.

ZONING: R1-H
APN: 60.2493.45
FLOOD ZONE: NO
FIRE ZONE: 2
LANDSLIDE ZONE: YES
FIRE SPRINKLERS: NONE
OCCUPANCY: R-3
CONSTRUCTION TYPE: V-B
AVG. LOT SLOPE: 15%

TABULATION FORM

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

SYMBOL LEGEND



NEIGHBOR'S SIGNATURES

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

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

mitchell holladay architects

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

510.705.1061

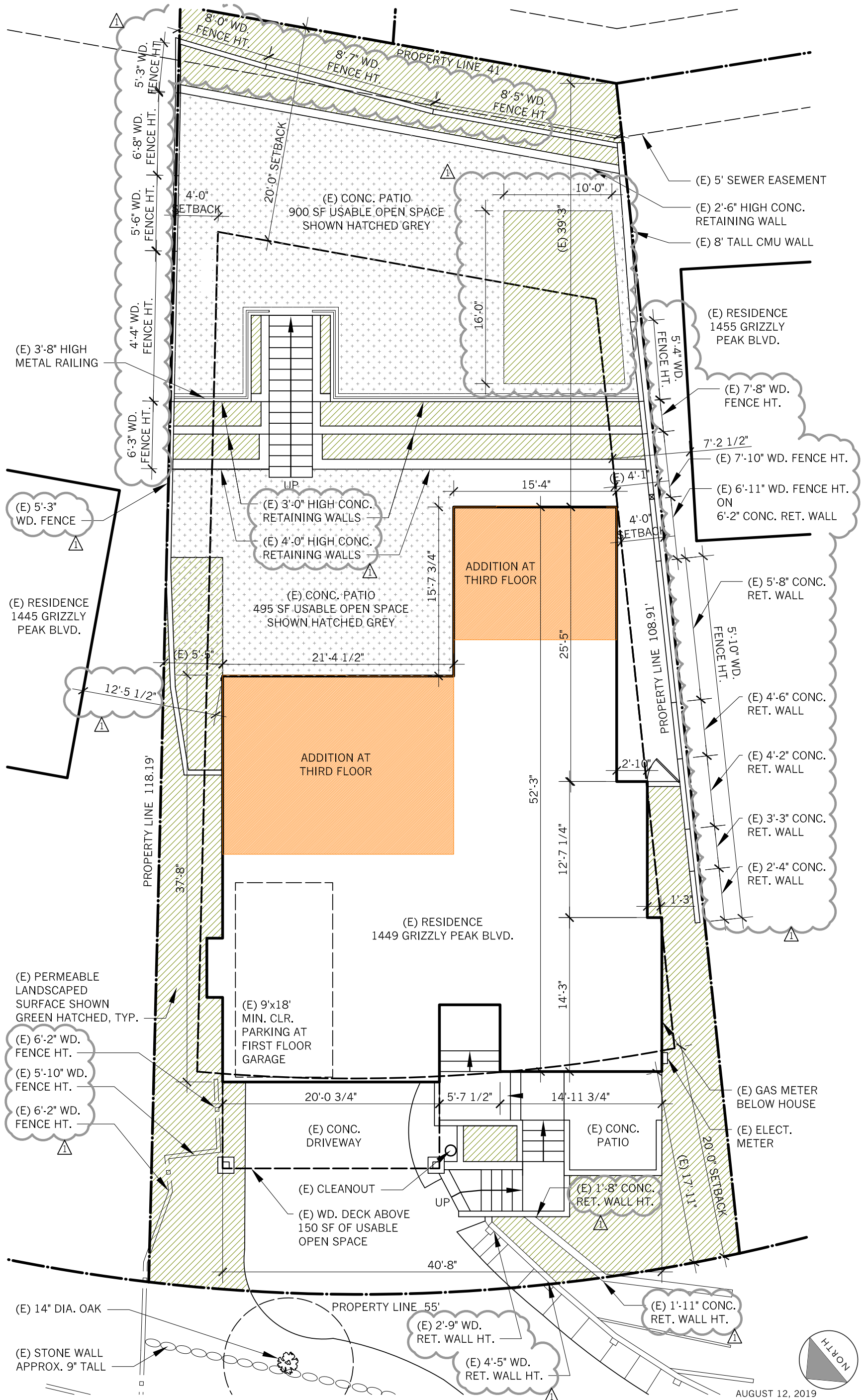
UBILLUS RESIDENCE ADDITION

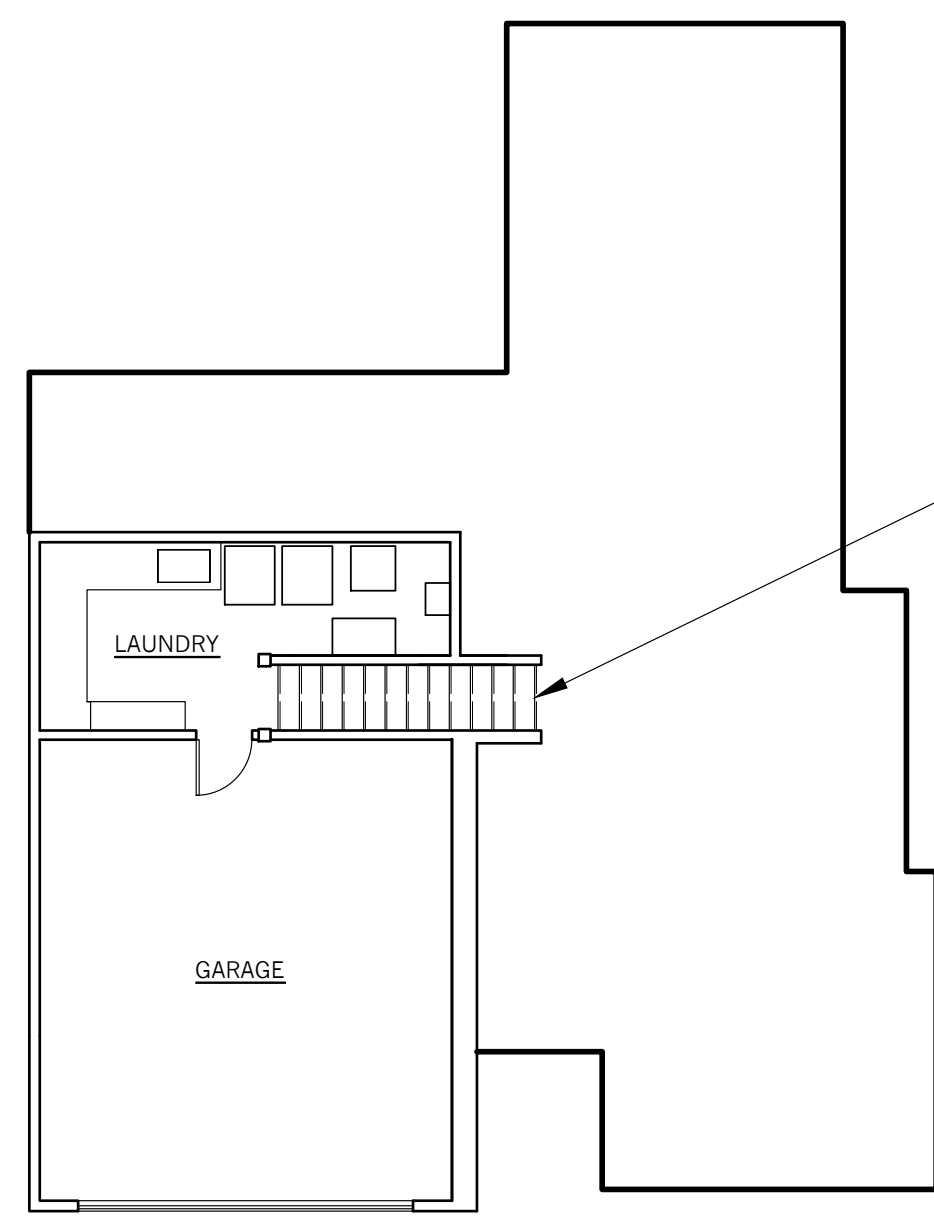
1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

COVER SHEET

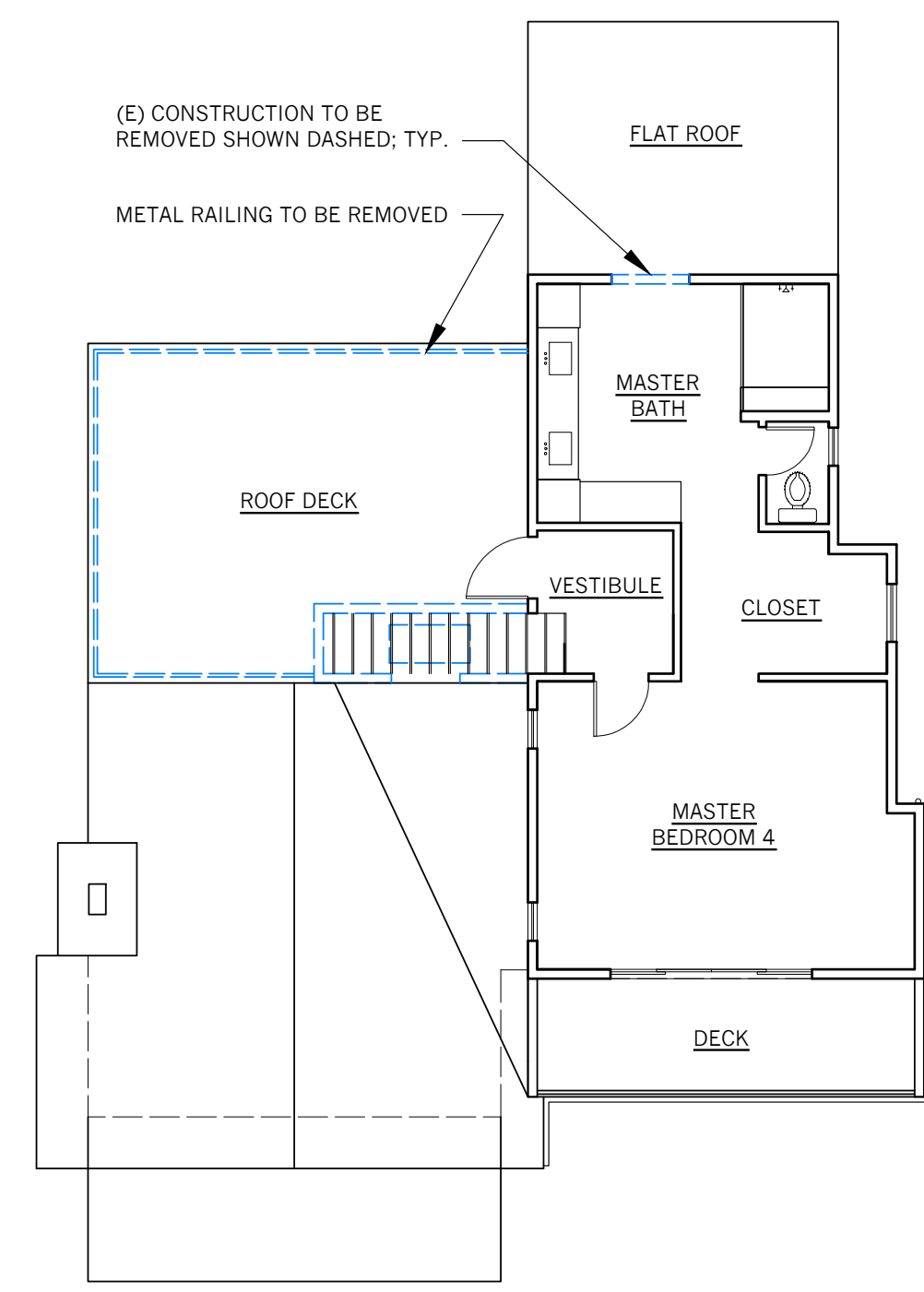
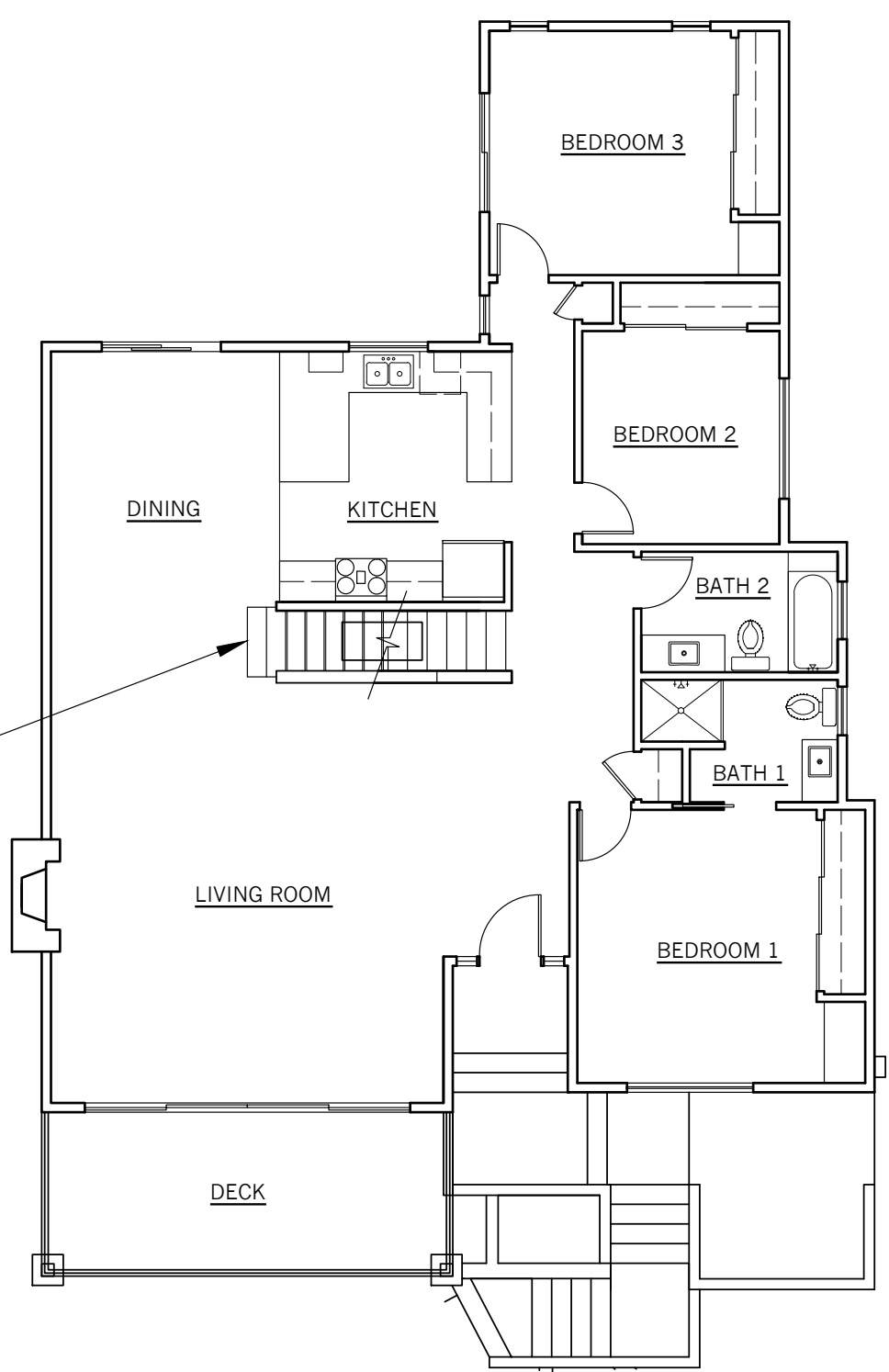
A - 0.0





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

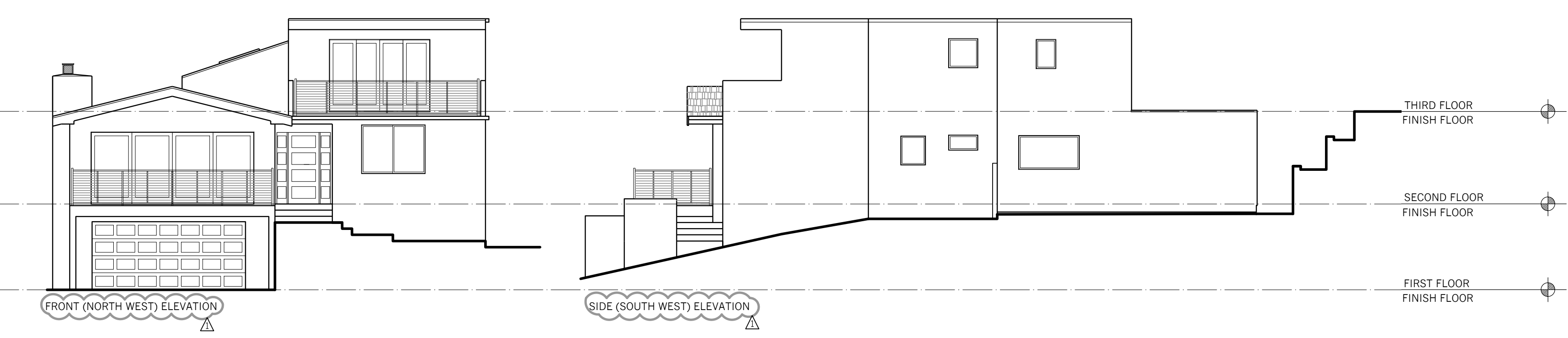
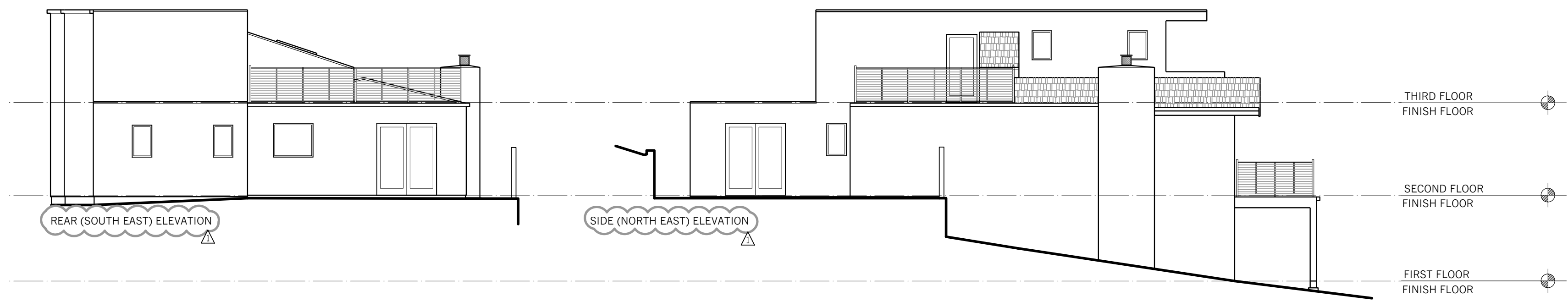
(E) STAIR
(15) RISERS AT 7 1/4"
(14) TREADS AT 11 1/4"



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

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

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



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

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

mitche||
holladay

architects

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suite b
berkeley, ca 94709

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UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

ISSUE DATE

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

DEMO PLANS
AND EXISTING
ELEVATIONS

A - 1.0

mitche||
holladay

architects

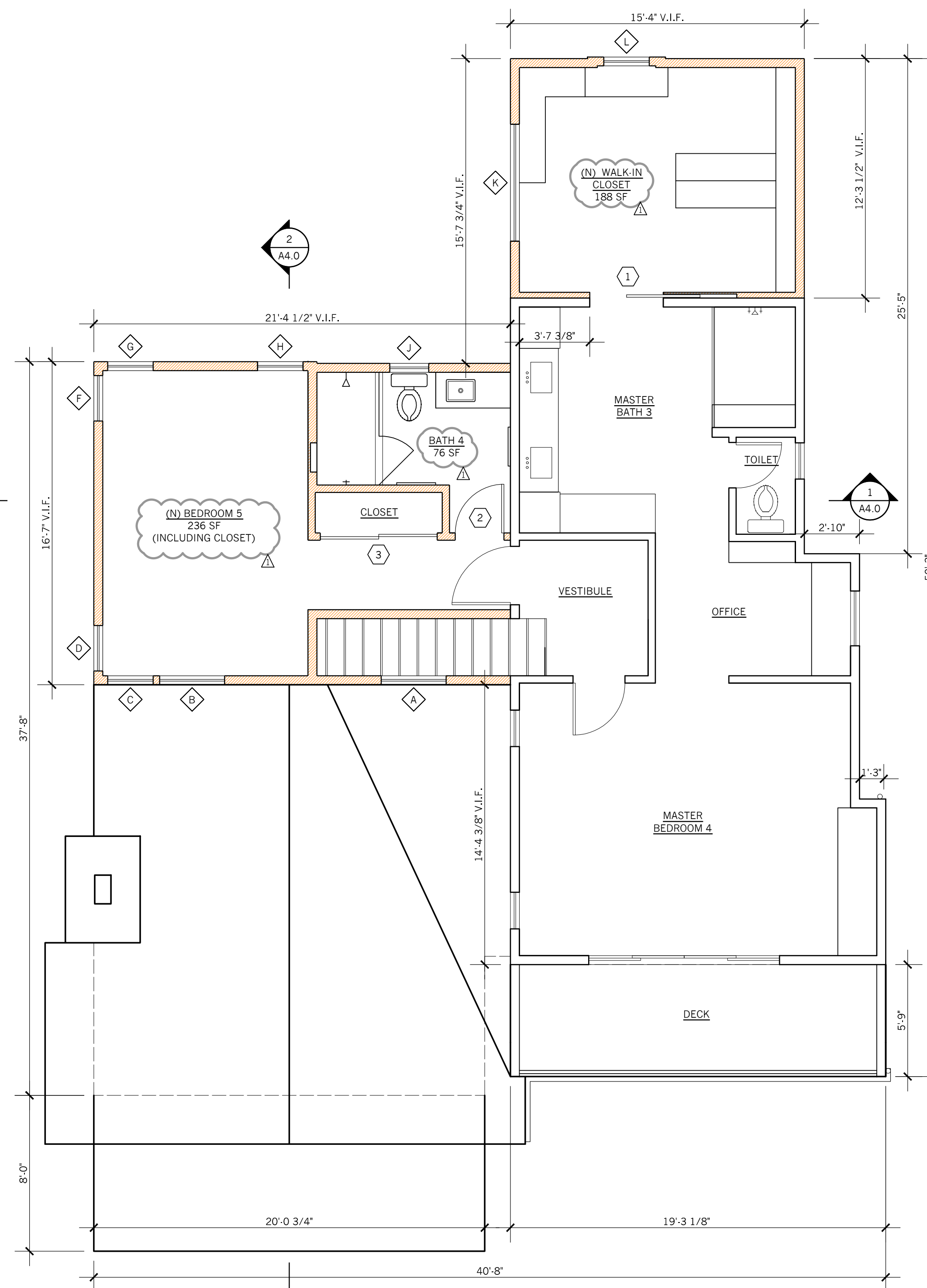
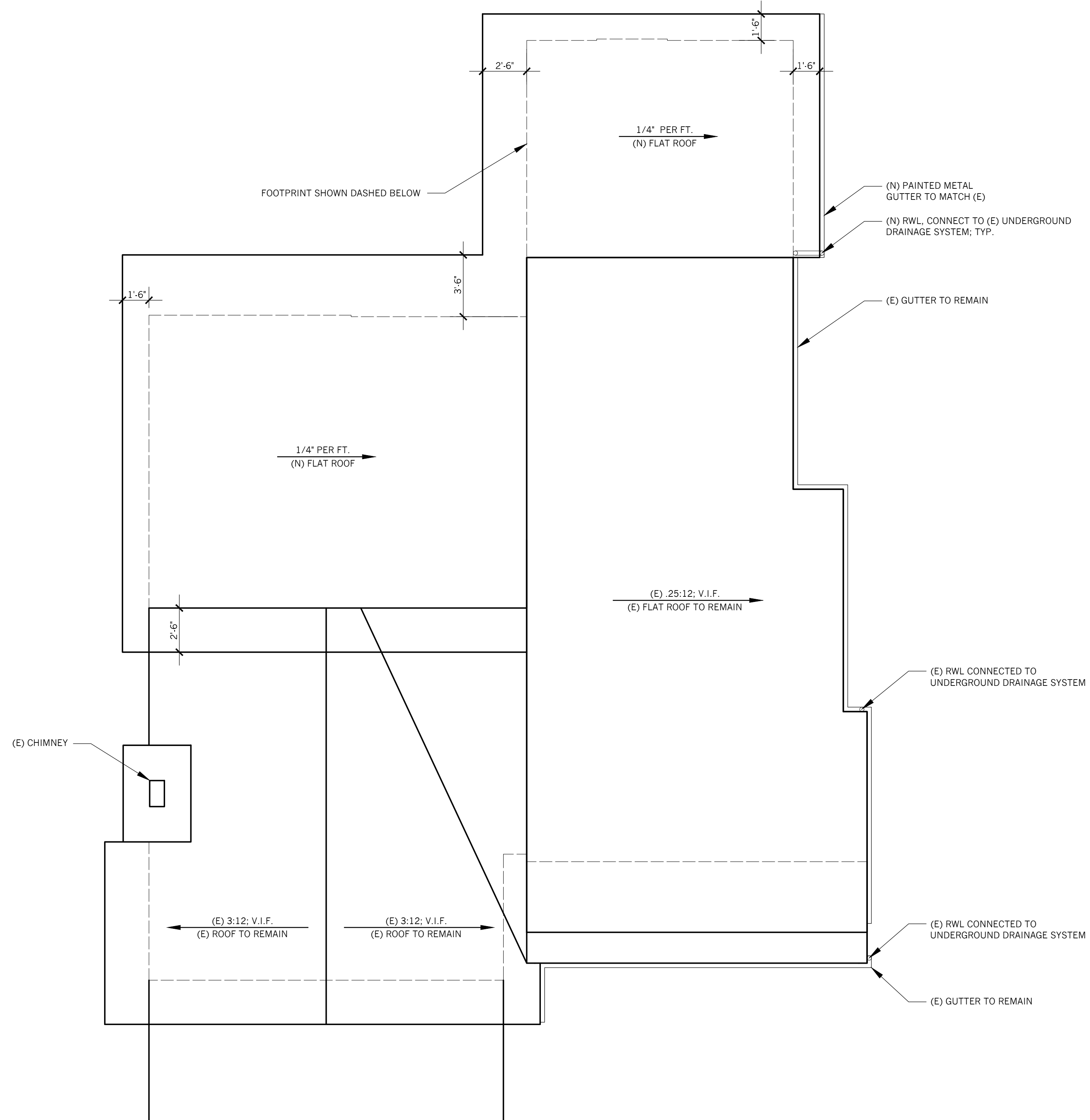
1708 martin luther king jr way
suite b
berkeley, ca 94709

510.705.1061

UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS



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

2 ROOF
A2.0

1/4" = 1'-0"

1 THIRD FLOOR
A2.0 AREA OF WORK

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

ISSUE DATE

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

PROPOSED
FLOOR PLAN
AND
ROOF PLAN

A - 2.0

mitche||
holladay

architects

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suite b
berkeley, ca 94709

510.705.1061

UBILLUS
RESIDENCE
ADDITION

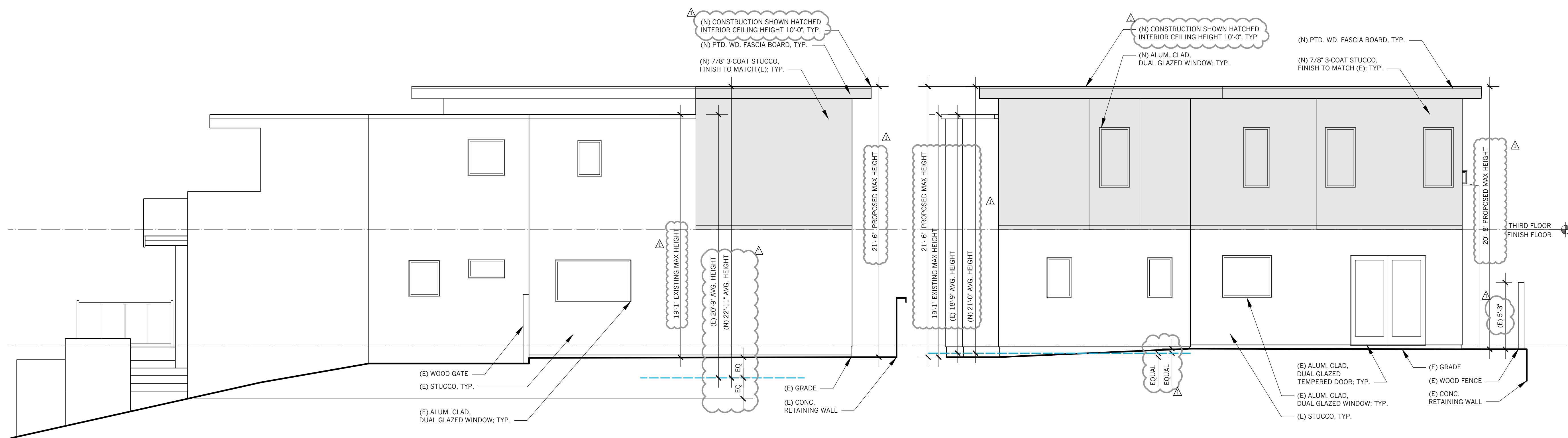
1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

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

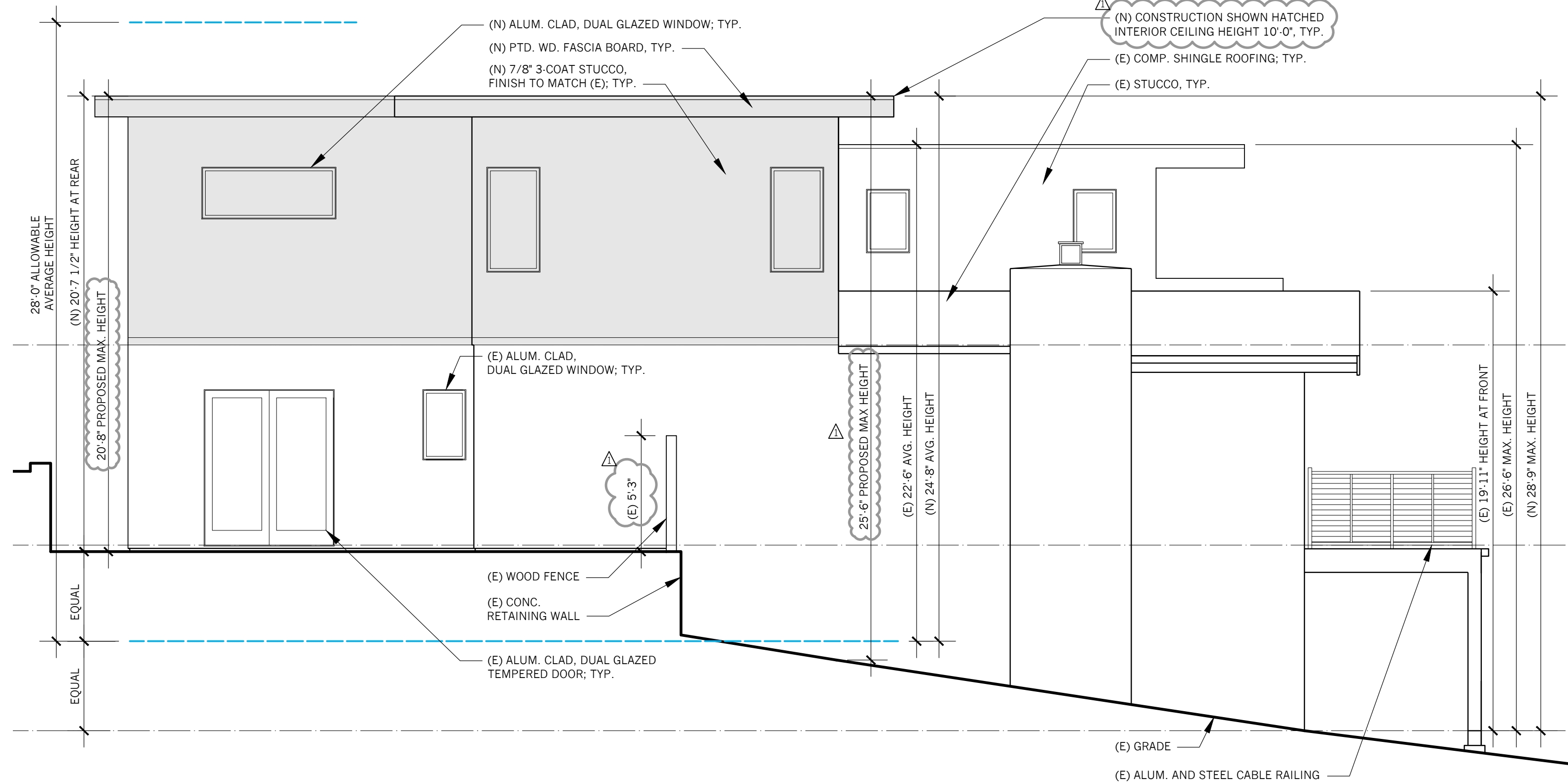
PROPOSED
EXTERIOR
ELEVATIONS

A - 3.0

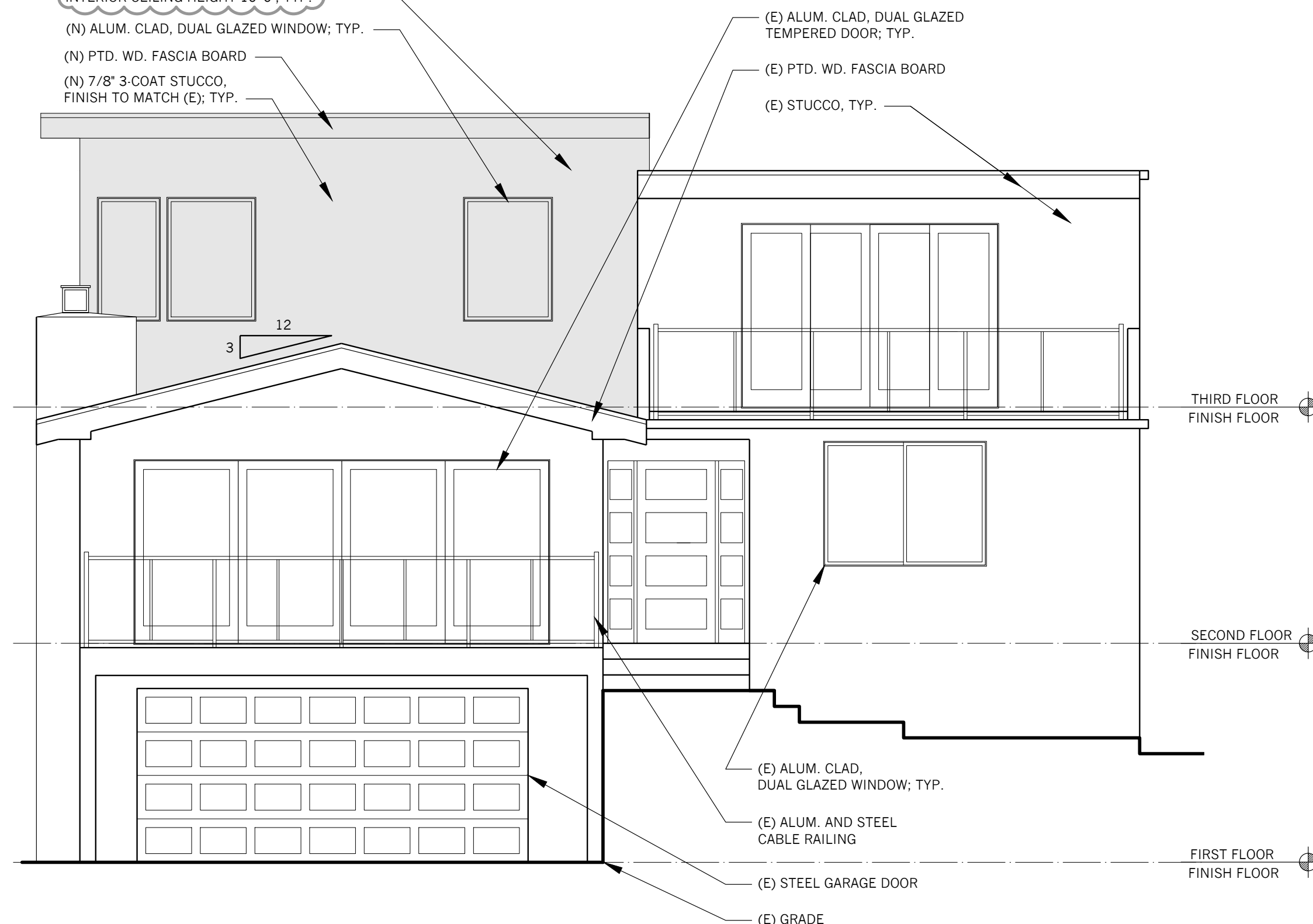


2 SIDE (SOUTH WEST) ELEVATION

1 REAR (SOUTH EAST) ELEVATION



4 SIDE (NORTH EAST) ELEVATION



3 FRONT (NORTH WEST) ELEVATION

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

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holladay

architects

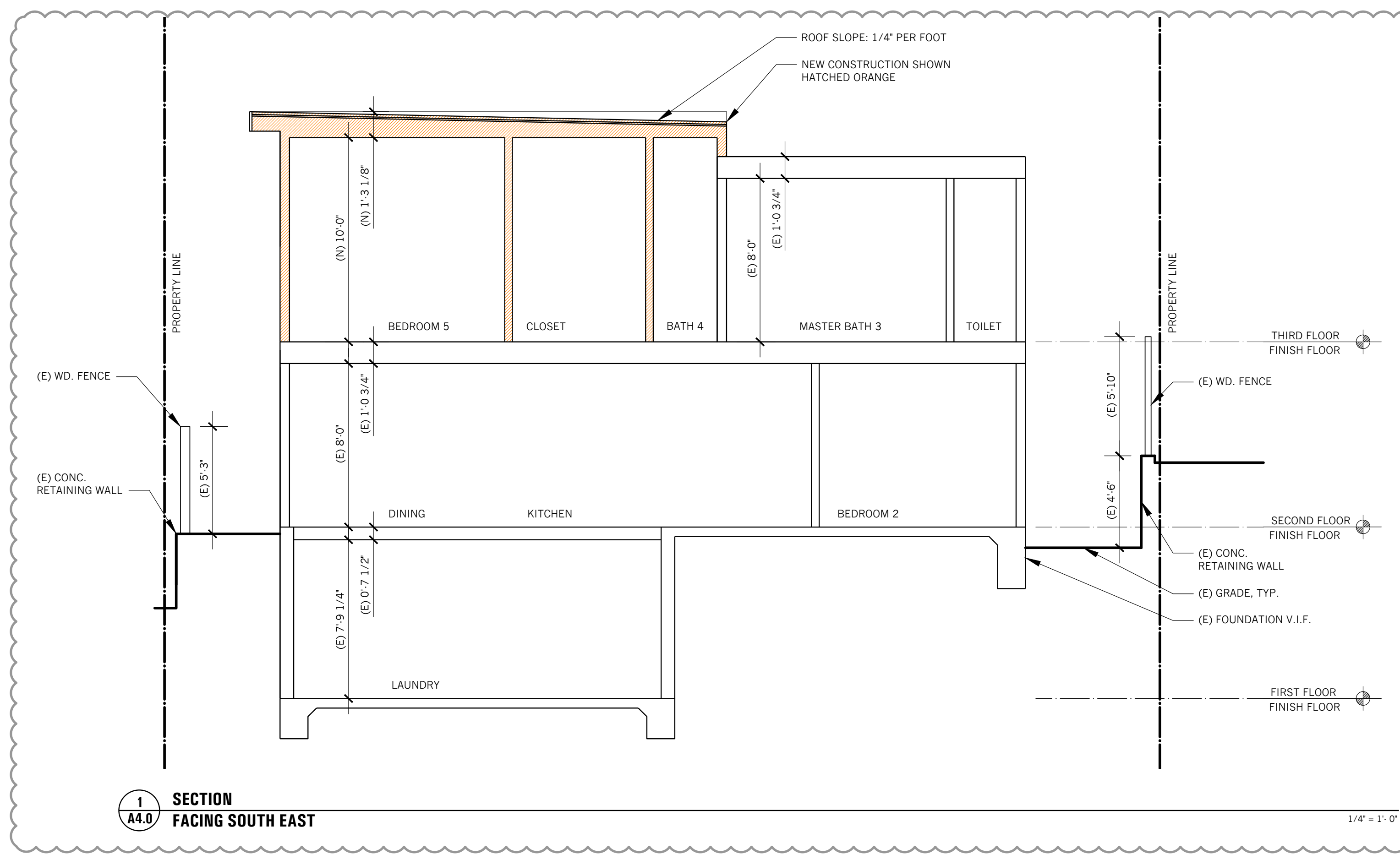
1708 martin luther king jr way
suite b
berkeley, ca 94709

510.705.1061

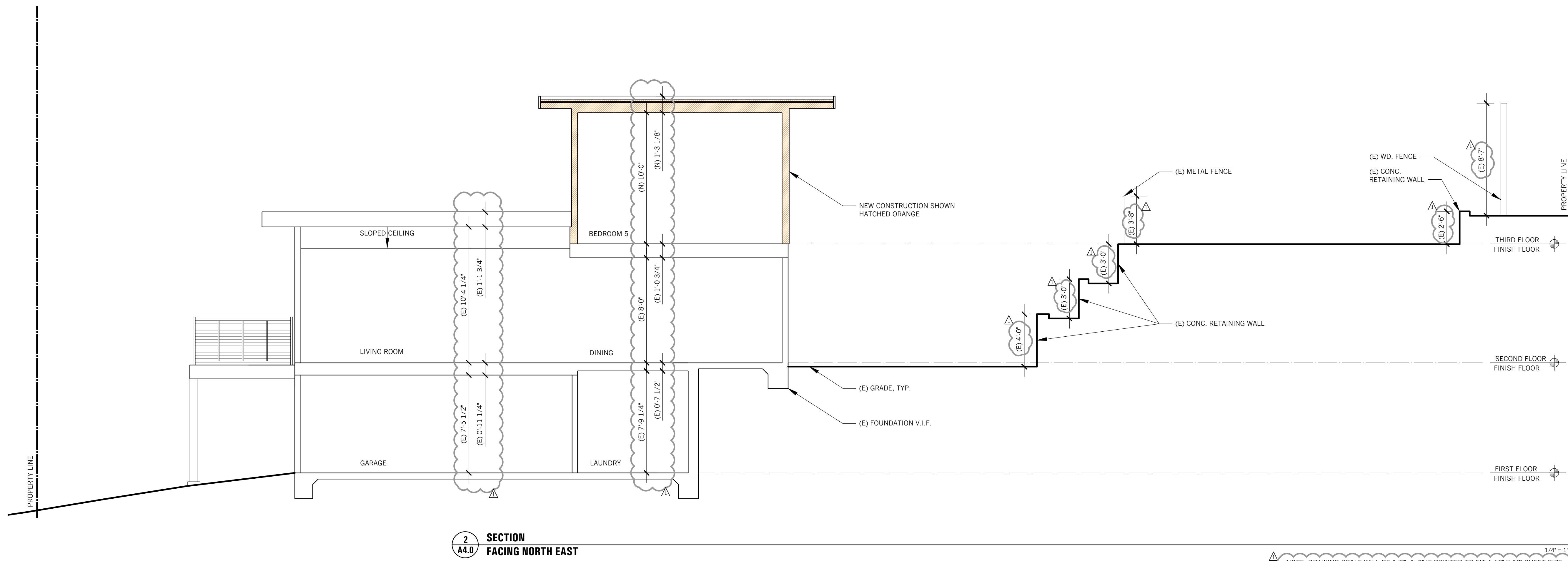
UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS



1 SECTION
A4.0 FACING SOUTH EAST



2 SECTION
A4.0 FACING NORTH EAST

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

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

SECTION

A - 4.0

RECEIVED

APR 28 2020

CITY OF BERKELEY
CITY CLERK DEPARTMENT

URGENT

City Clerk Department
City of Berkeley

2180 Milvia Street
Berkeley, CA 94704

April 27, 2020

Attn: Ashley James
Associate Planner

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

Dear Sirs,

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

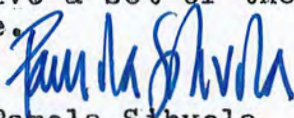
I am specifically referring to Conditions #11 and #12 (page 6 of 9),
which were discussed at length at the March 12, 2020 ZAB meeting -
and to the staff's shortcomings in recording the discussions and
decisions:

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

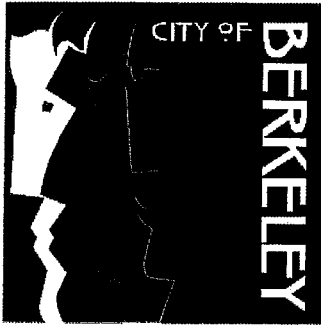
Also discussions included a reference to staff to negotiate with
neighbors, in the spirit of neighborliness, when the revised plans,
with a couple of color suggestions are ready for review.

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

Thank you, Sincerely,


Pamela Sihvola
1476 Summit Road
Berkeley, CA 94708

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



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

DATE OF BOARD DECISION: March 12, 2020

DATE NOTICE MAILED: April 14, 2020

APPEAL PERIOD EXPIRATION: April 28, 2020

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)¹: April 29, 2020

1449 Grizzly Peak Boulevard

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

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

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

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.*

ZONING ADJUSTMENTS BOARD
April 14, 2020

449 GRIZZLY PEAK BOULEVARD
Page 2 of 4

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

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

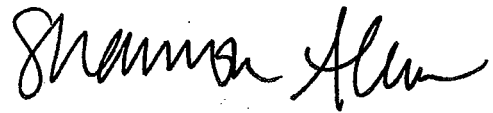
PROPERTY OWNER: Rodrigo Ubillus, 1449 Grizzly Peak Boulevard, Berkeley CA 94708

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

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

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

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



ATTEST:
Shannon Allen, Zoning Adjustments Board
Secretary

PUBLICATION OF NOTICE:

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

FURTHER INFORMATION:

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

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

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

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

OR

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

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

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

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

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

- 1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
- 2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
- 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
- 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
- 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must 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 AND CONDITIONS APPROVED BY ZAB ON MARCH 12, 2020

1449 Grizzly Peak Boulevard

Administrative Use Permit #ZP2019-0111

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

PERMITS REQUIRED

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

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

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

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

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

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

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

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

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Project Liaison

Name

Phone #

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

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

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

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

Standard Construction-related Conditions Applicable to all Projects:

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

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

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

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

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

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

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

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

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

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

Prior to Issuance of Occupancy Permit or Final Inspection:

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

At All Times (Operation):

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



Prepared by: Ashley James
For Greg Powell, Zoning Officer

MAR 12 2020

RECEIVED
at Meeting

URGENT

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

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

AGENDA
ITEM #3
12
March 18, 2020

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

AUP # ZP2019-0111

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Pamela Sihvola
Pamela Sihvola
1476 Summit Road
Berkeley, CA 94709



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

Google Maps 1449 Grizzly Peak Blvd



HAWAII

▶ AWARD-WINNING HOMES

H O M E

+ R E M O D E L I N G

FREE | NOVEMBER 2018

DESIGNING A MASTERPIECE

Inside a vibrant home built to entertain



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

BY TYLER SHIROMA // PHOTOS BY PANAVIZ



URGENT

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP
Associate Planner

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

July 15, 2019

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

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

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

Background:

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

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

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

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

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

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

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

During mediation he had promised that the building color will ^{be} one to "blend with the surrounding nature", which did not happen.

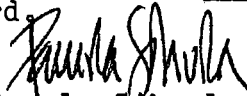
1. So we ask that the color of the entire second/third floor be painted to match the grey/brown color of the existing peak roof and that the same roofing material/color be rolled out on all the flat roof areas. This would remedy the blinding, obtrusive brightness of the structure,

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

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

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

Sincerely,


Pamela Sihvola
1476 Summit Road
Berkeley, CA 94708

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

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

December 11, 2019

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

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

Dear Zoning Officer:

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

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

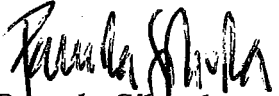
The following questions need to be addressed by ZAB, on behalf of the affected public, in consideration of the fact that the property applicant(s) have already proceeded to alter the property and are currently requesting Permits that would over-double the original size of the building in a piecemeal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


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

- In accordance with Planning Department Staff statement, was a boundary survey done in order to determine the exact location of the rear property line to determine its location with respect to the City's sewer easement? Did the backyard concrete construction, in fact, encroach upon the City's sewer easement? Did, also, the recently constructed rear fence encroach upon the City's sewer easement?
- If the approved AUP #13-2000050 specifically stipulated that the maximum ceiling of the structure would be 8 ft., how might it be approvable that the maximum building height will be allowed to be increased by 2 ft. 3 inches (27 inches), per AUP #ZP2019-0111, without a Public Hearing?
- Furthermore, how is it legal that the Planning Department allows the applicant to over-double the residence size from the original 1,515 sq. ft. to 3,291 sq. ft. in a piecemeal fashion without scheduling a Public Hearing?

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

Sincerely,


Pamela Silvola,
1476 Summit Road, Berkeley CA 94708


Kathleen Wasser
1435 Grizzly Pk., Berkeley, CA 94708



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

FOR BOARD ACTION
MARCH 12, 2020

1449 Grizzly Peak Road

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

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required:

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

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

D. Parties Involved:

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

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

Figure 1: Vicinity Map

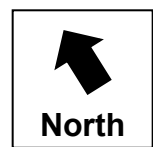
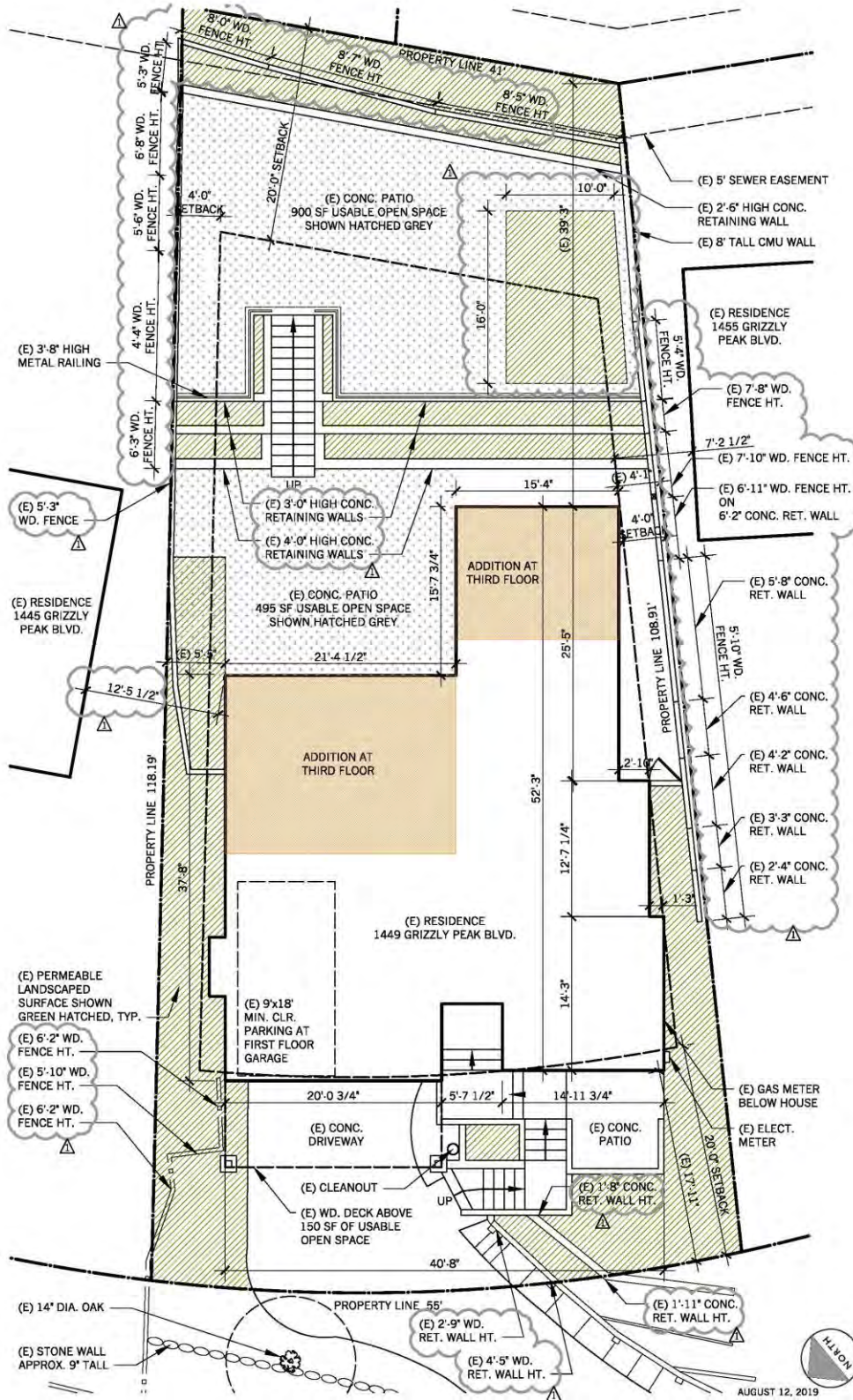


Figure 2: Site Plan



Grizzly Peak Boulevard

Table 1: Land Use Information

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

Table 2: Special Characteristics

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

Table 3: Project Chronology

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

Table 4: Development Standards

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

II. Project Setting

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

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

III. Project Description

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

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

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

The site plan submitted on June 19, 2019 for the residential addition showed an existing, approximately 1,395 sq. ft. split-level concrete patio connected by a staircase and retaining wall, surrounded by an existing fence ranging from 6 feet to 8'-3" in height. During the initial 30-day review, staff determined that the retaining wall required a building permit, which had not been obtained prior to its construction. Staff requested the applicant submit a building permit application to properly permit the retaining wall. In response, the applicant submitted a building permit application to the Permit Service Center on October 29, 2019, and the building permit is ready to issue as of February 13, 2020.²

IV. Community Discussion

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

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

¹ Berkeley Municipal Code Section 23F.04.010, Addition, Major Residential.

² Building Permit No. B2019-04688

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

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

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

V. Appeal Issues and Analysis

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

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

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

Staff Analysis: According to the appellant, a Coast Live Oak Tree was removed from the southwest corner of the property sometime after construction approved pursuant to AUP #13-20000050 was completed, most likely during the unpermitted construction of the concrete patio and retaining wall (see Attachment 2, page 3A and Attachment 5). Staff conferred with the City's consulting arborist, who confirmed the tree is a Coast Live Oak, based on site photos submitted by the appellant, and is therefore subject to the provisions of BMC Chapter 6.52 (Moratorium on the Removal of Coast Live Oak Trees), which states that there are "no permits and no exceptions to its removal unless it is an emergency or passed by Ordinance". The City has recently executed a contract with a consulting Arborist to enhance the review of proposed projects that include demolition and or/construction activity near a protected Coast Live Oak, as well as to improve the enforcement process. In addition, the Land Use Planning Division supports the Parks, Recreation and Waterfront Department in their current efforts to consider an update to the Tree Ordinance. In response to the arborist's confirmation, a Code Enforcement Case was opened on January 29, 2020, pursuant to BMC Section 1.20.020, which provides that any violation of any ordinance of the City may be charged as an infraction; the penalty by fine for the first violation is \$100.³

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VI. Recommendation

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

Attachments:

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

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



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

1449 Grizzly Peak Boulevard

Administrative Use Permit #ZP2019-0111

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

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

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

DATE NOTICE IS ISSUED: November 20, 2019

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

ATTACHMENTS:

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

FOR FURTHER INFORMATION:

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

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

This Notice of Administrative Decision was:

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

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

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

To appeal this decision, you must:

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

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

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

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

1449 GRIZZLY PEAK BOULEVARD
Page 3 of 3

NOTICE OF ADMINISTRATIVE DECISION
Administrative Use Permit #ZP2019-0111

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

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

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

ATTACHMENT 1**FINDINGS AND CONDITIONS**
NOVEMBER 20, 2019**1449 Grizzly Peak Boulevard****Administrative Use Permit #ZP2019-0111**

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

PERMITS REQUIRED

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

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

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

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

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

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

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

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

STANDARD CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Project Liaison

Name	Phone #
------	---------

Standard Construction-related Conditions Applicable to all Projects:

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

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

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

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

- 12. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
- 13. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
- 14. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

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

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

At All Times (Operation):

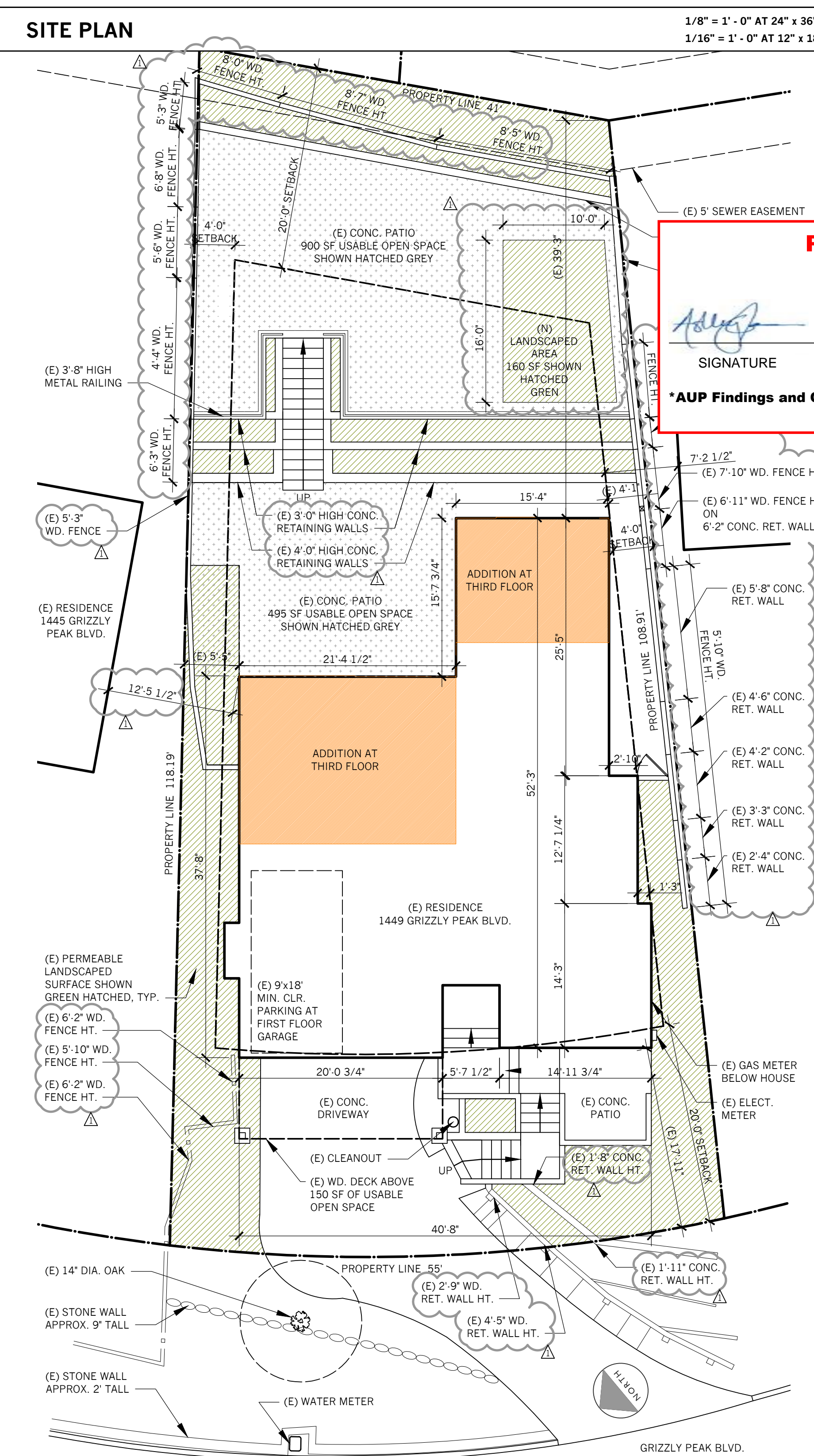
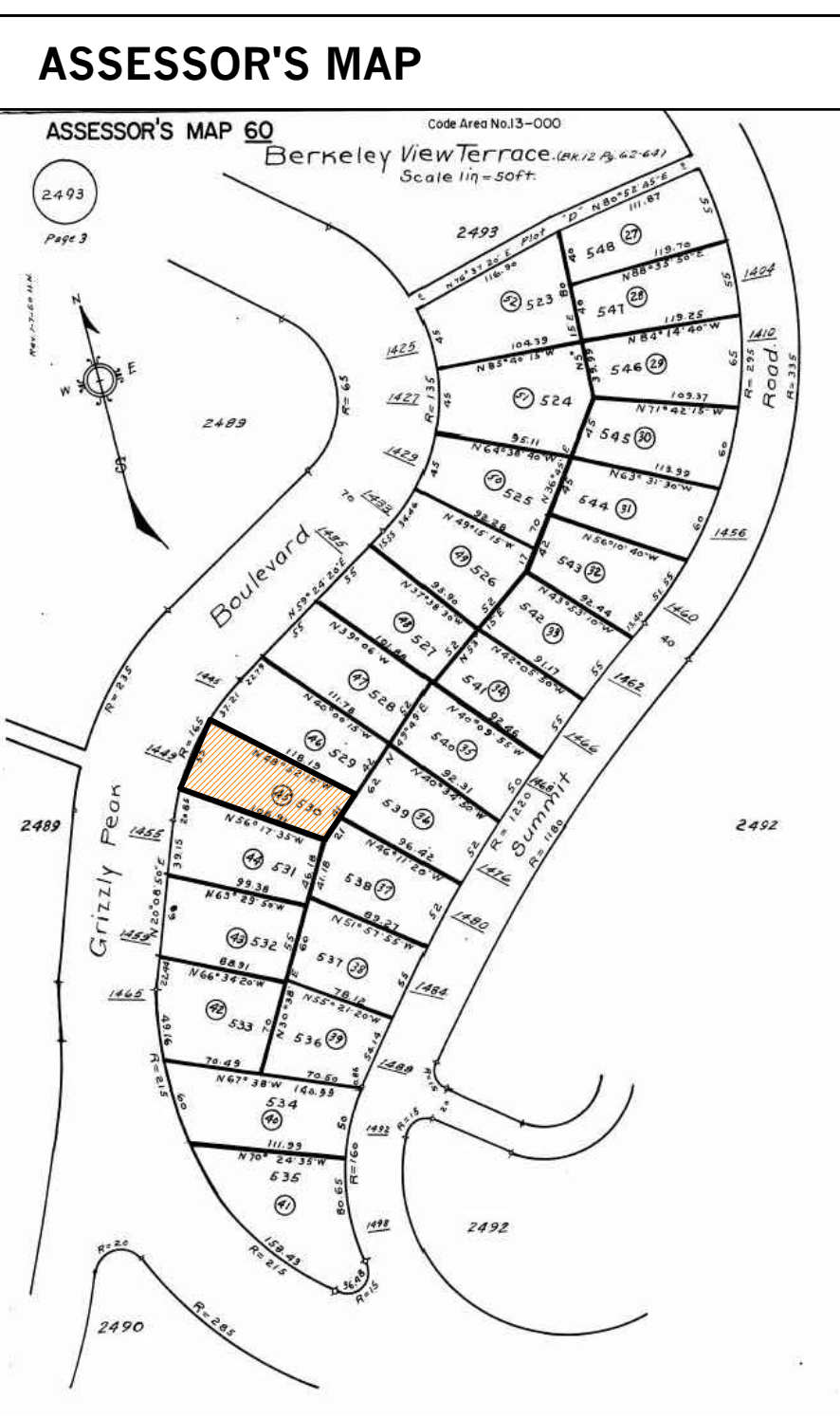
- 28.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 29.** Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely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



Prepared by: Ashley James
For Greg Powell, Zoning Officer

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

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



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

PLANS APPROVED by

Adriana
SIGNATURE

November 20, 2019
DATE

***AUP Findings and Conditions Attached**

PROJECT DATA

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

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

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

TABULATION FORM

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

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

- ### SYMBOL LEGEND
- ◇ WINDOW SYMBOL, SEE SCHEDULE
 - ◊ DOOR SYMBOL, SEE SCHEDULE
 - ◊ ELEVATION KEY - DRAWING #
 - ◊ ELEVATION SHOWN WHERE SHADED
 - ◊ SHEET #
 - ▲ INTERIOR ELEVATION KEY
 - ⊗ DRAWING KEY
 - ⊗ DETAIL KEY
 - ↑ ALIGN SYMBOL

NEIGHBOR'S SIGNATURES

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

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



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

510.705.1061

UBILLUS
RESIDENCE
ADDITION

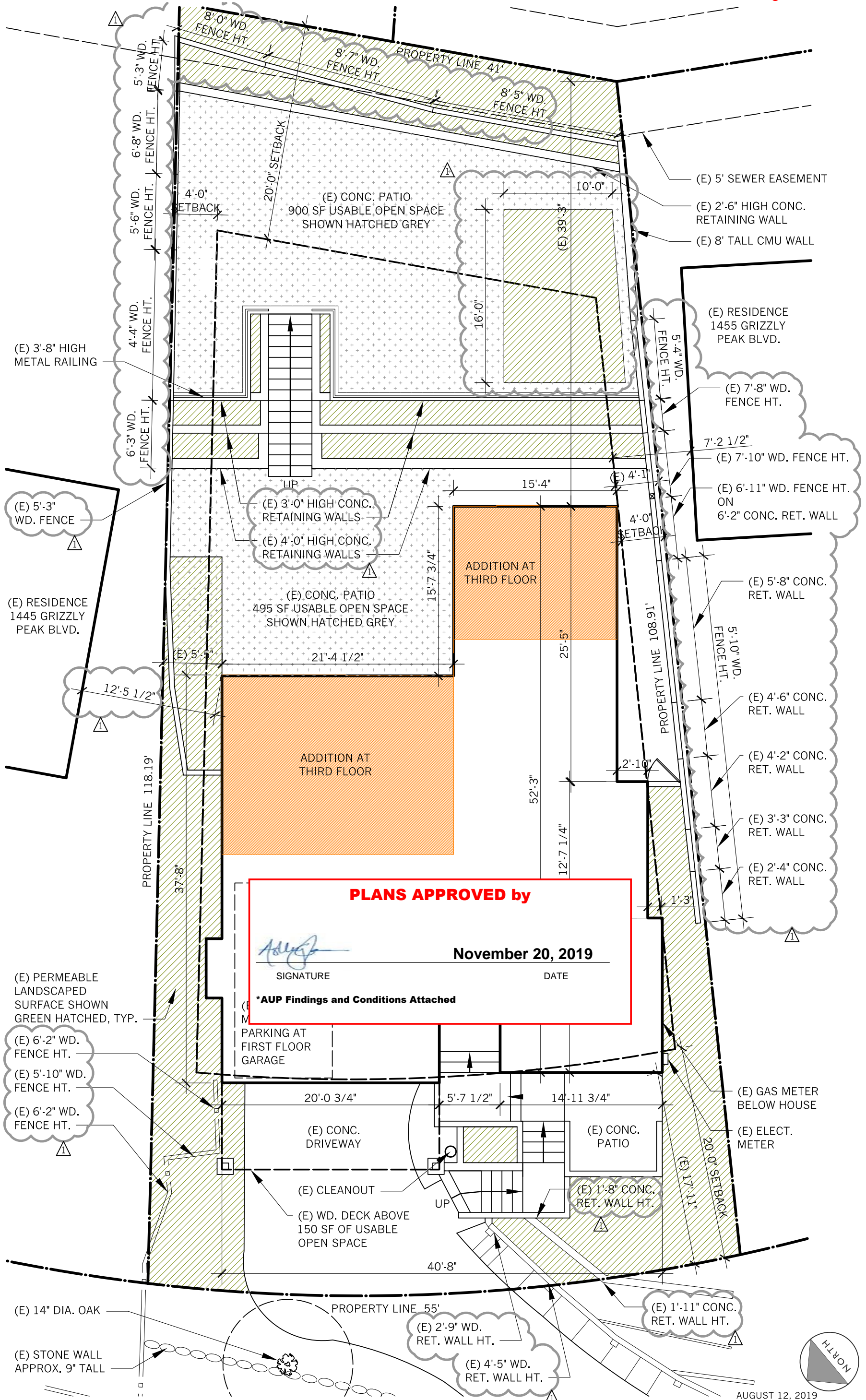
1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

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

COVER SHEET

A - 0.0

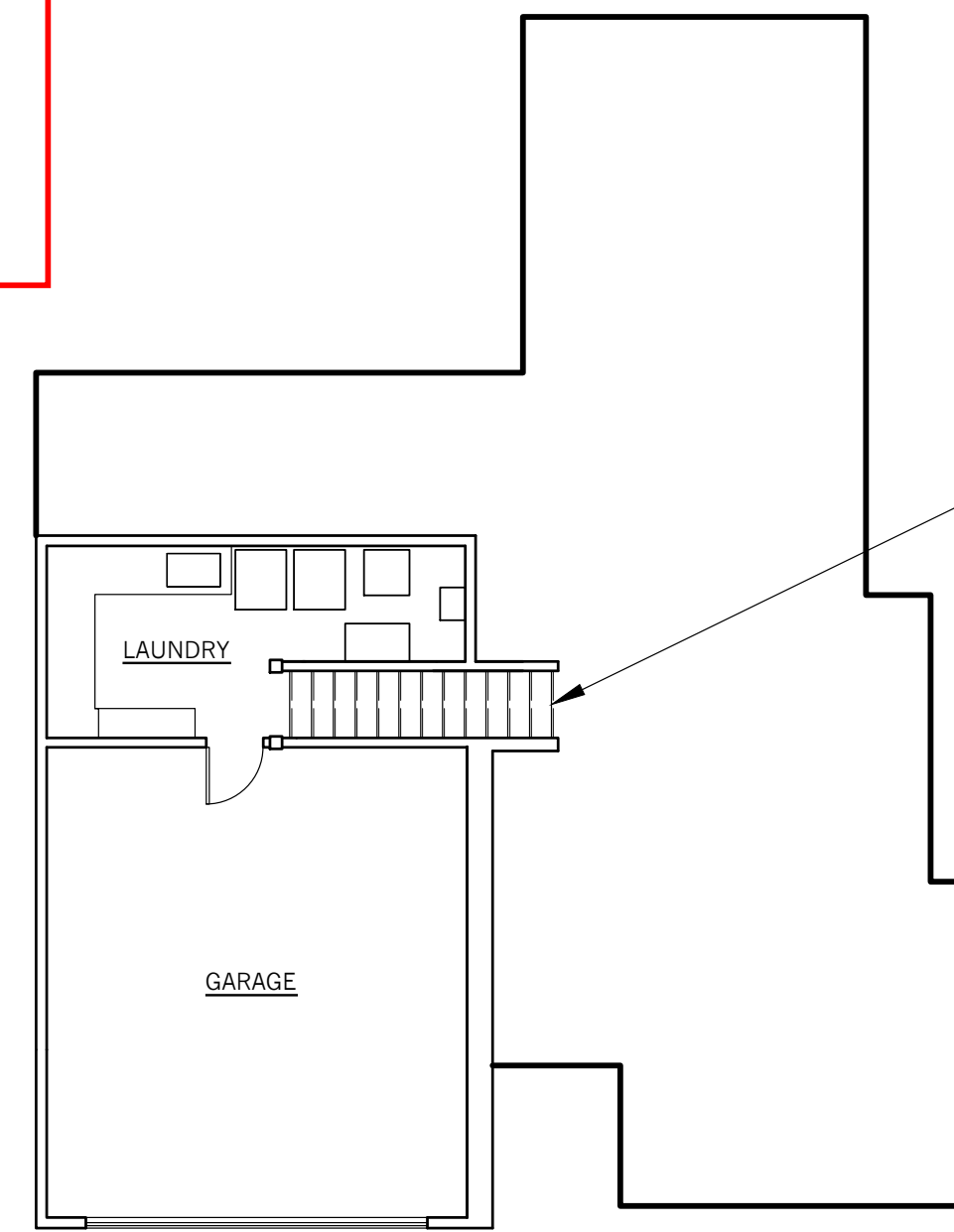


PLANS APPROVED by

[Signature] **November 20, 2019**

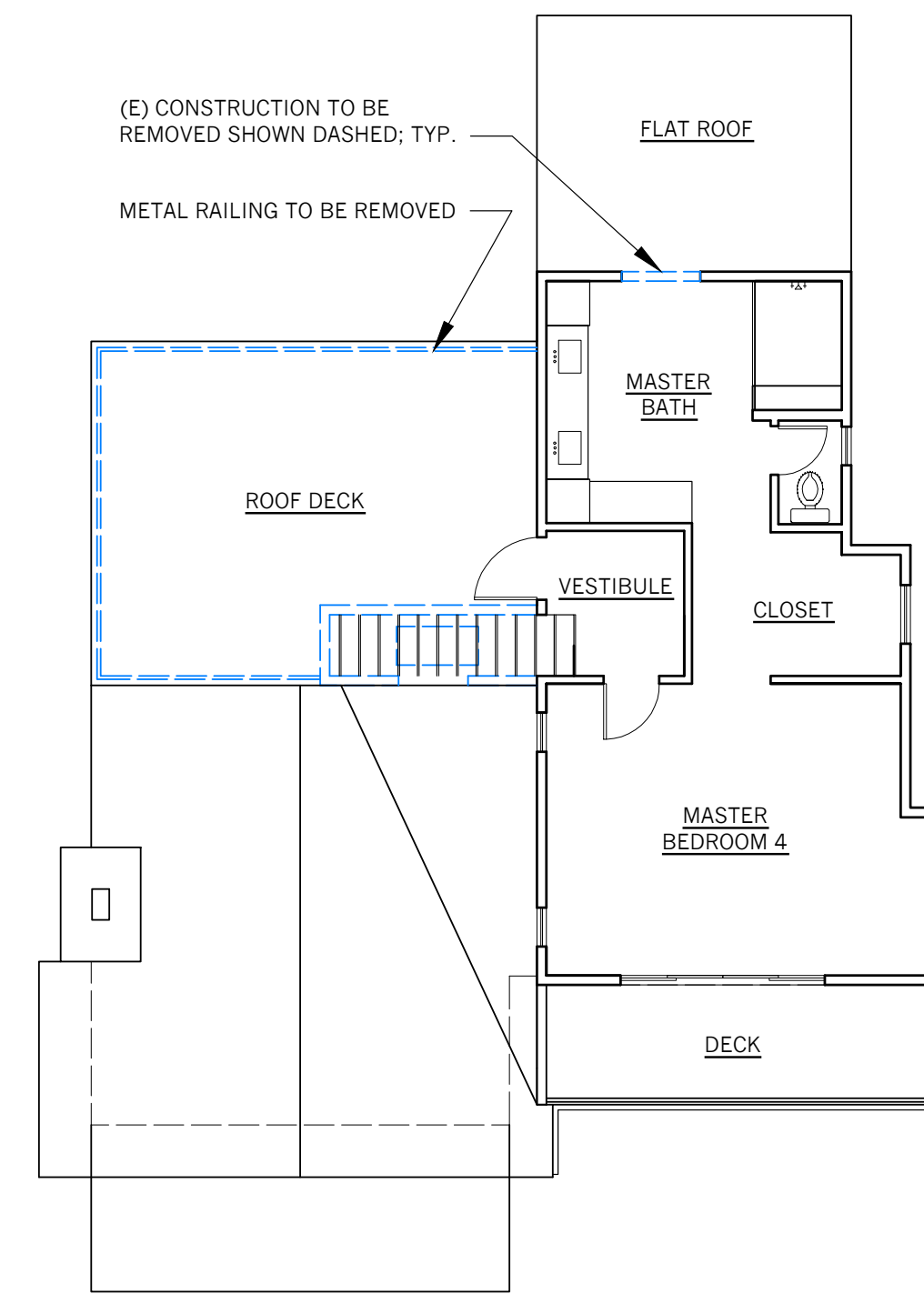
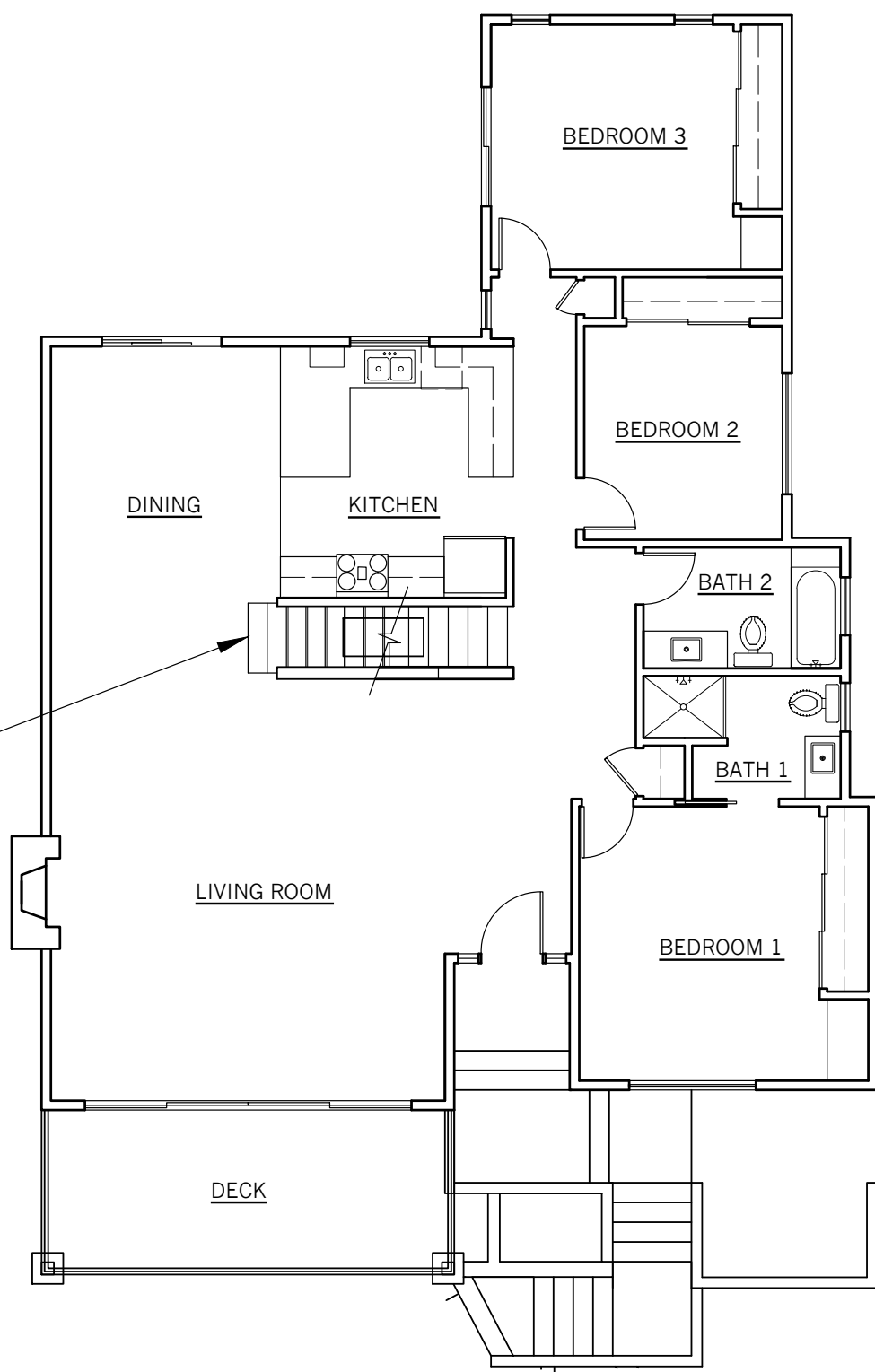
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***AUP Findings and Conditions Attached**



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

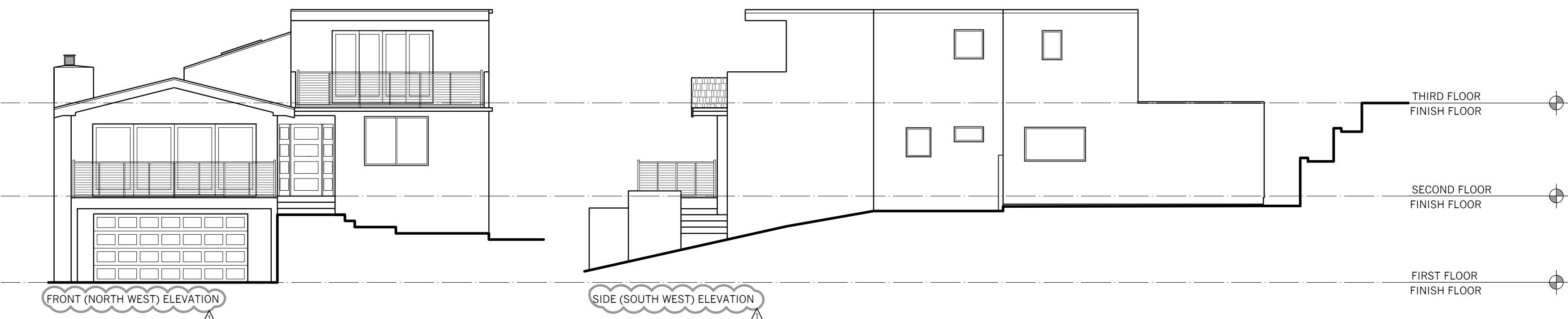
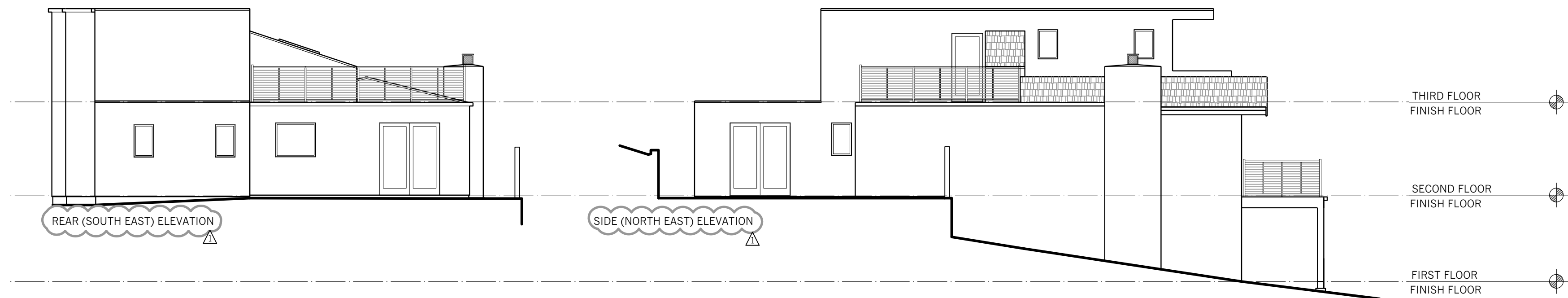
(E) STAIR
(15) RISERS AT 7 1/4"
(14) TREADS AT 11 1/4"



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

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

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



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

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

mitche
holladay
architects

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

510.705.1061

**UBILLUS
RESIDENCE
ADDITION**

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**DEMO PLANS
AND EXISTING
ELEVATIONS**

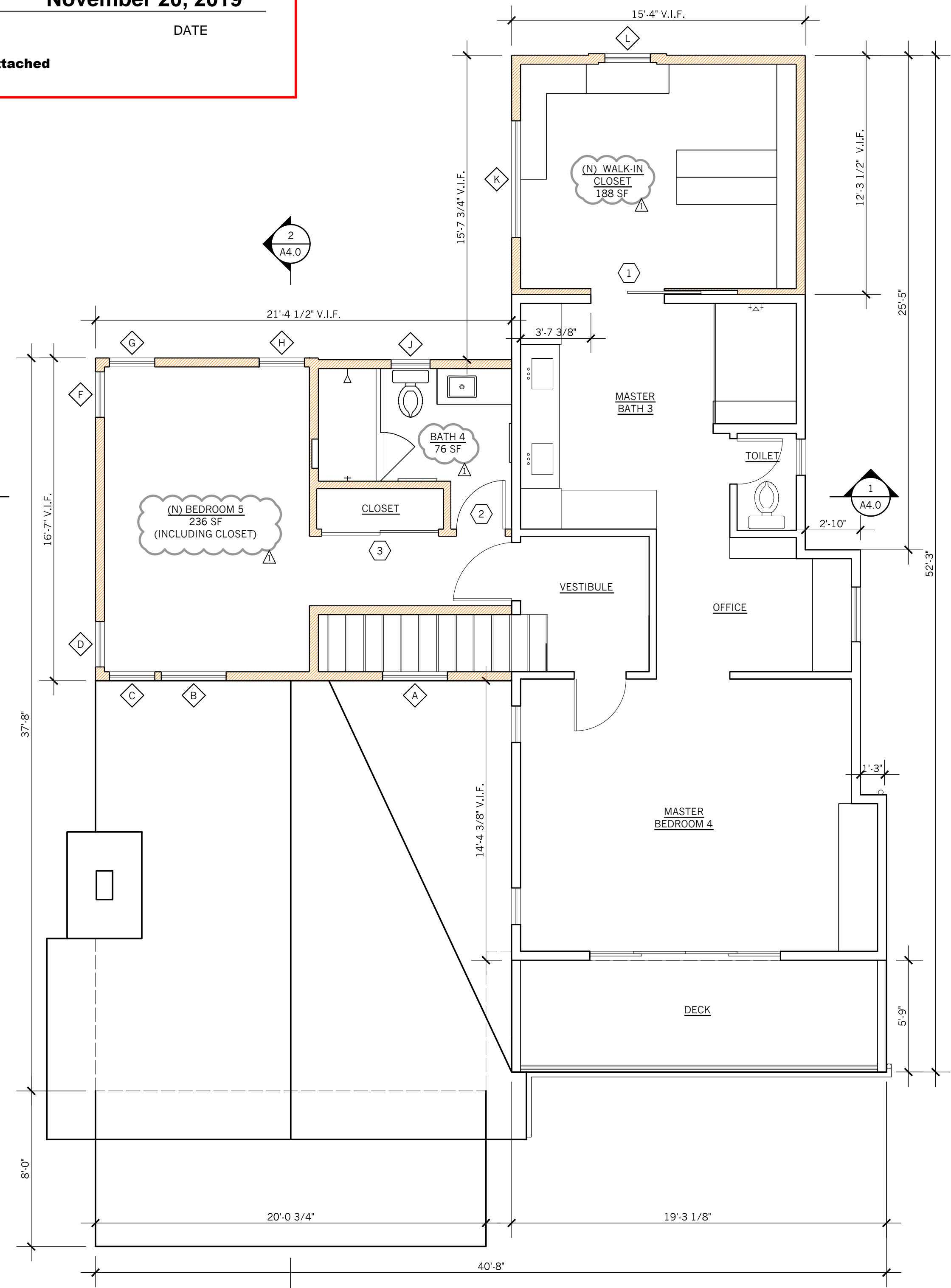
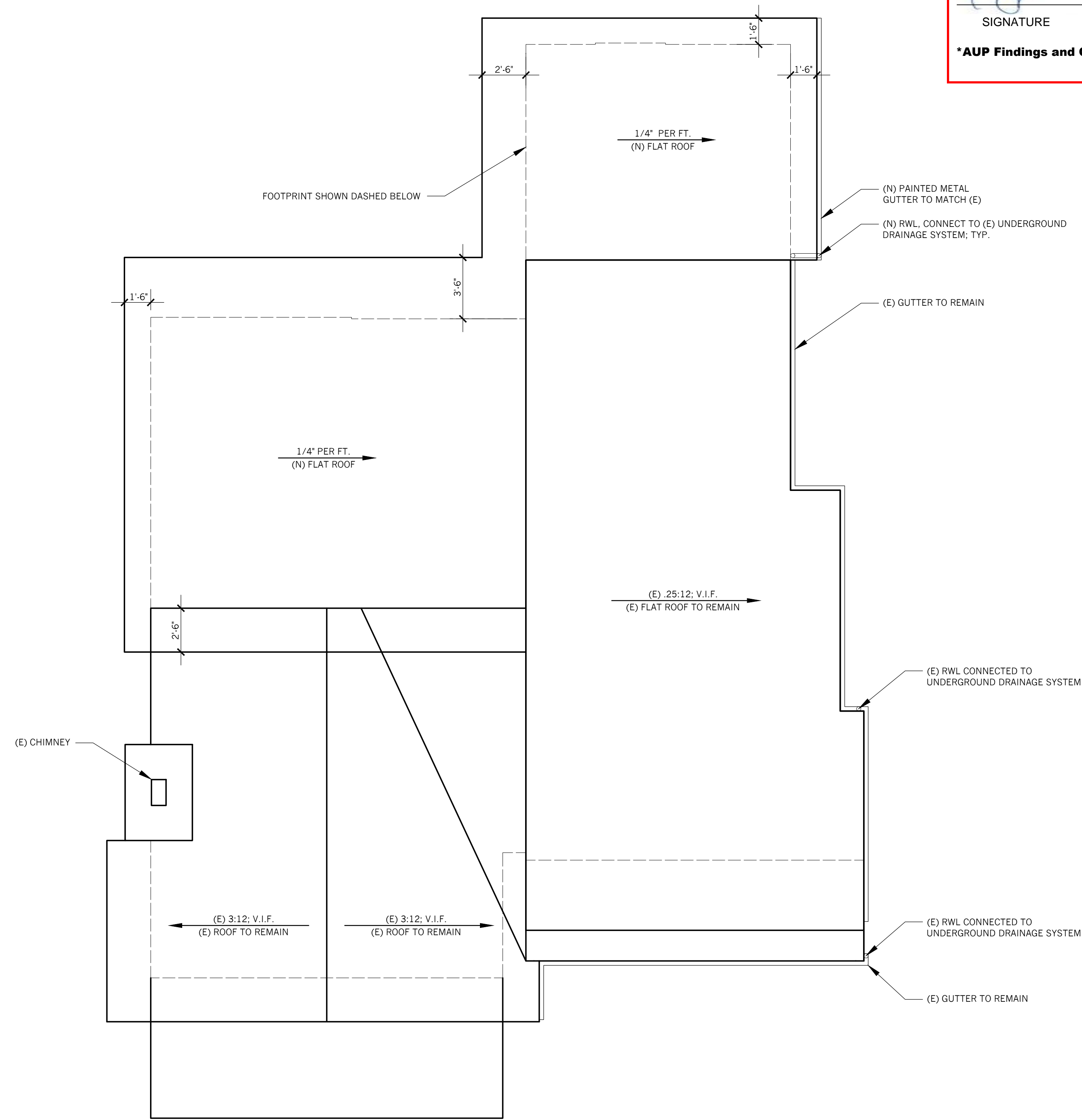
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PLANS APPROVED by

[Signature] **November 20, 2019**

SIGNATURE DATE

***AUP Findings and Conditions Attached**



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

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

2
A2.0 ROOF

1/4" = 1'-0"

1
A2.0 THIRD FLOOR
AREA OF WORK

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

mitche
holladay

architects

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

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1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

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AUP RESPONSE 08/12/2019

**PROPOSED
FLOOR PLAN
AND
ROOF PLAN**

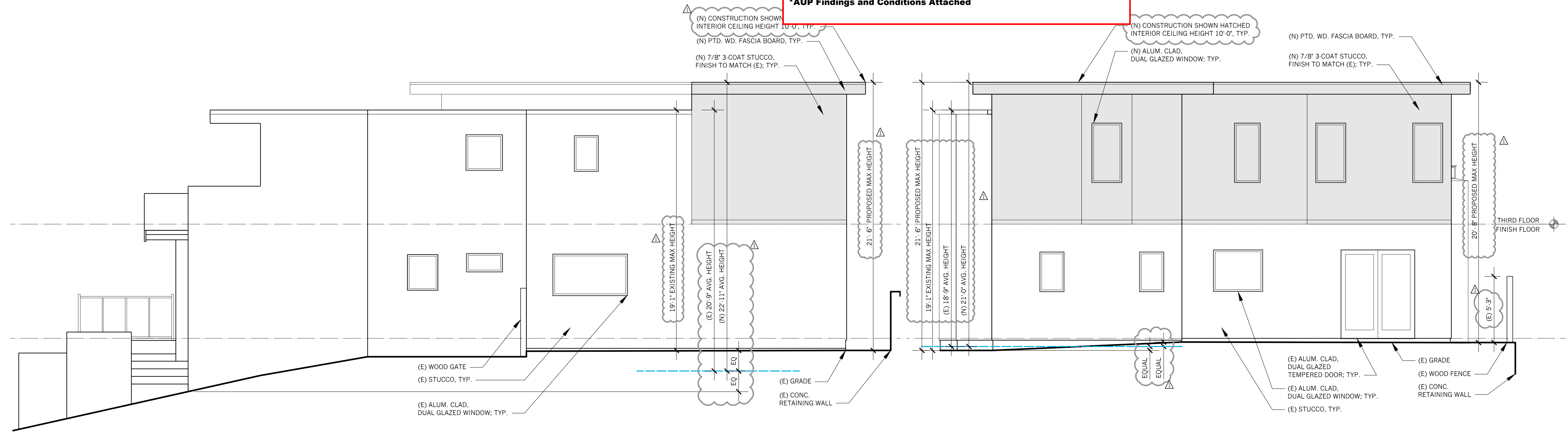
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PLANS APPROVED by

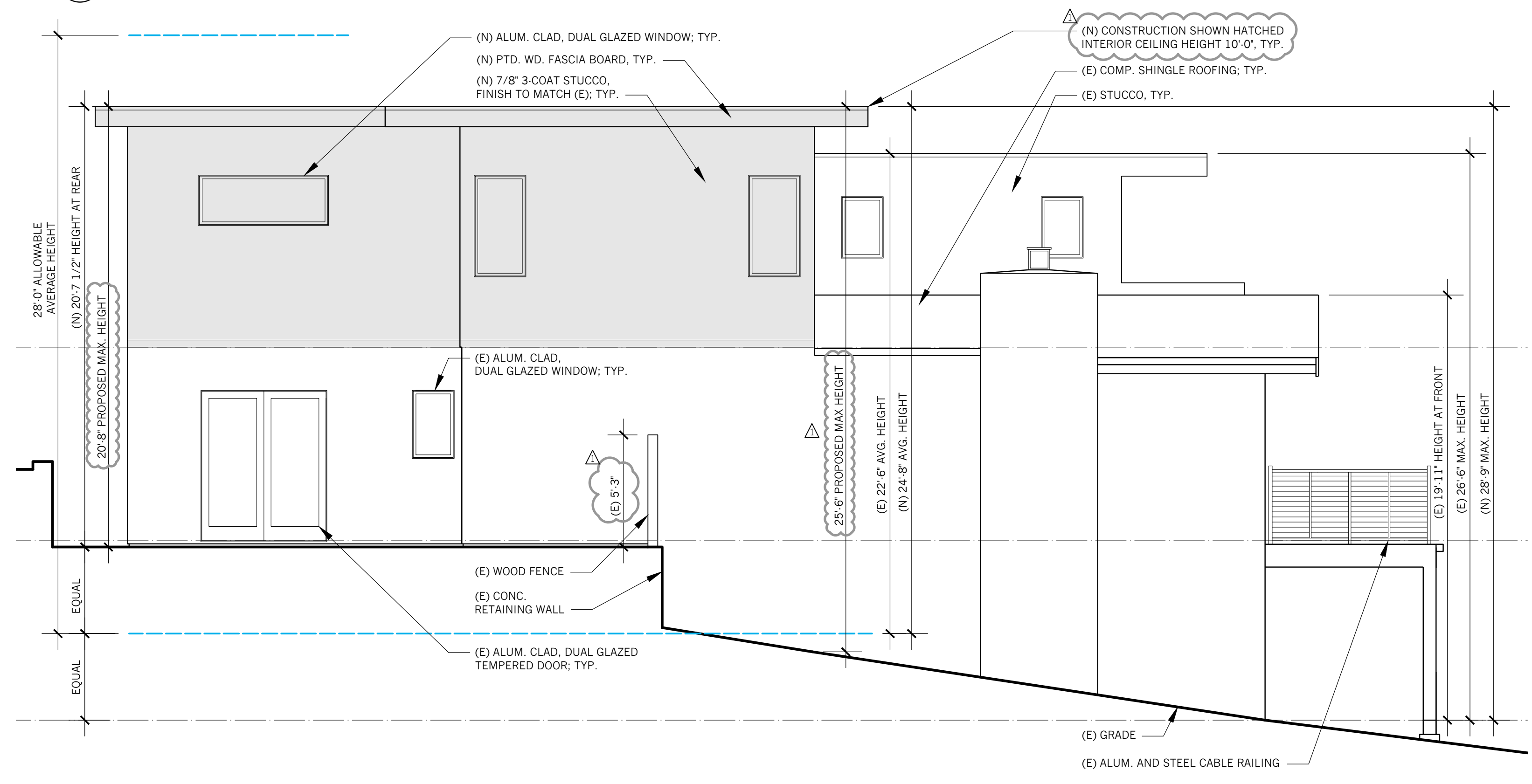
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SIGNATURE

November 20, 2019
DATE

***AUP Findings and Conditions Attached**

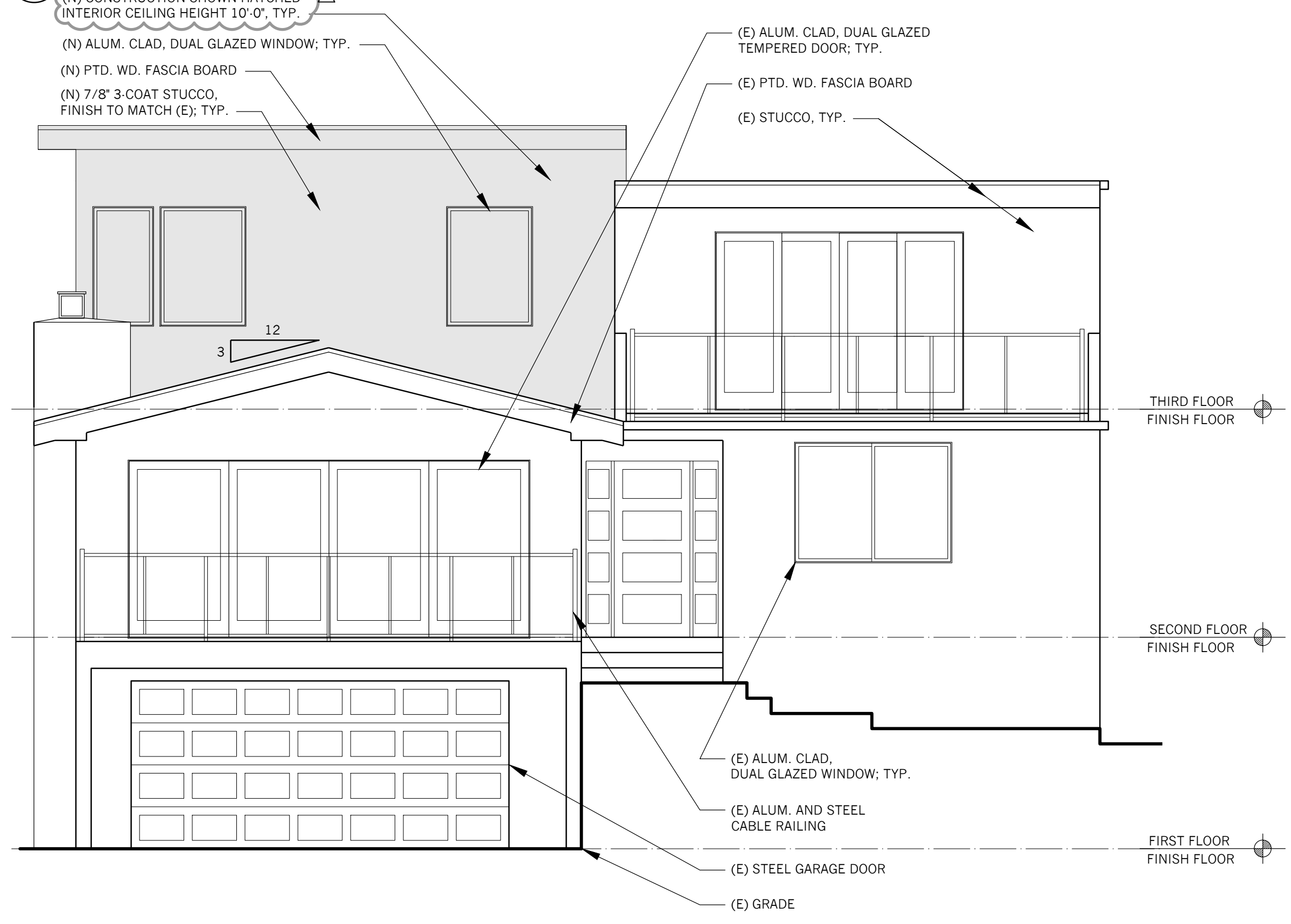


2 SIDE (SOUTH WEST) ELEVATION
A3.0



4 SIDE (NORTH EAST) ELEVATION
A3.0

1 REAR (SOUTH EAST) ELEVATION
A3.0



3 FRONT (NORTH WEST) ELEVATION
A3.0

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



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AUP SUBMITTAL	06/03/2019
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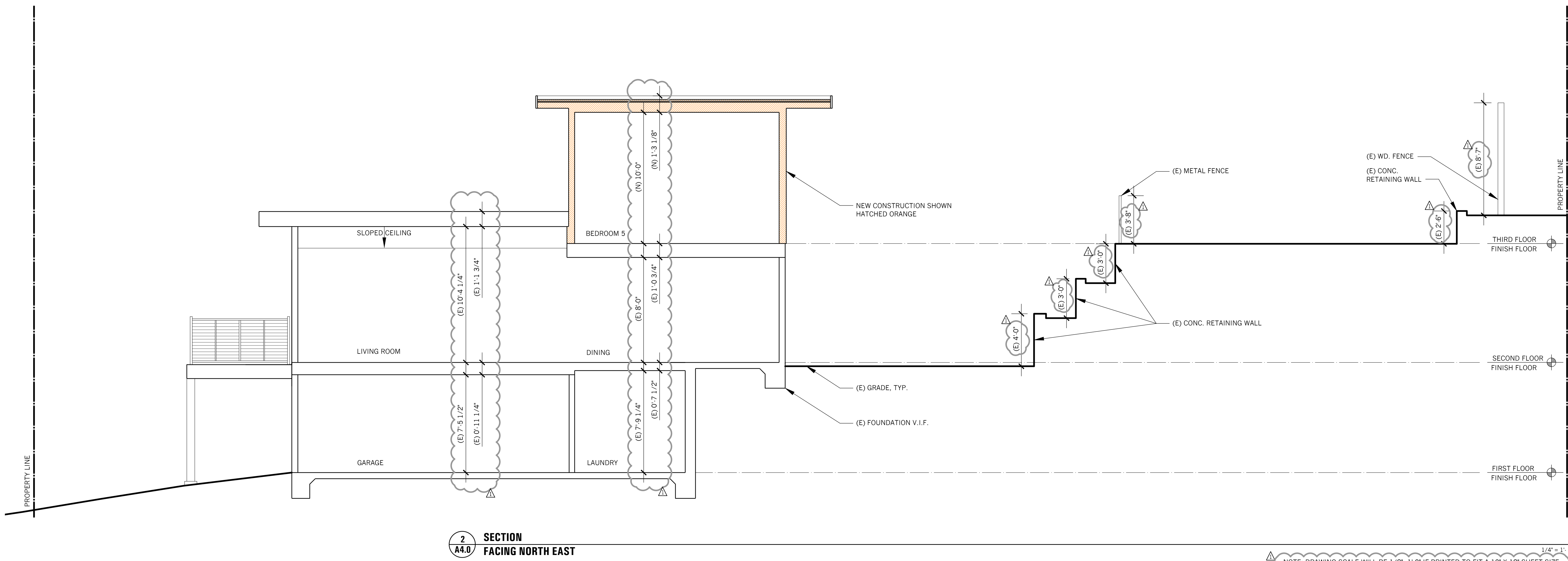
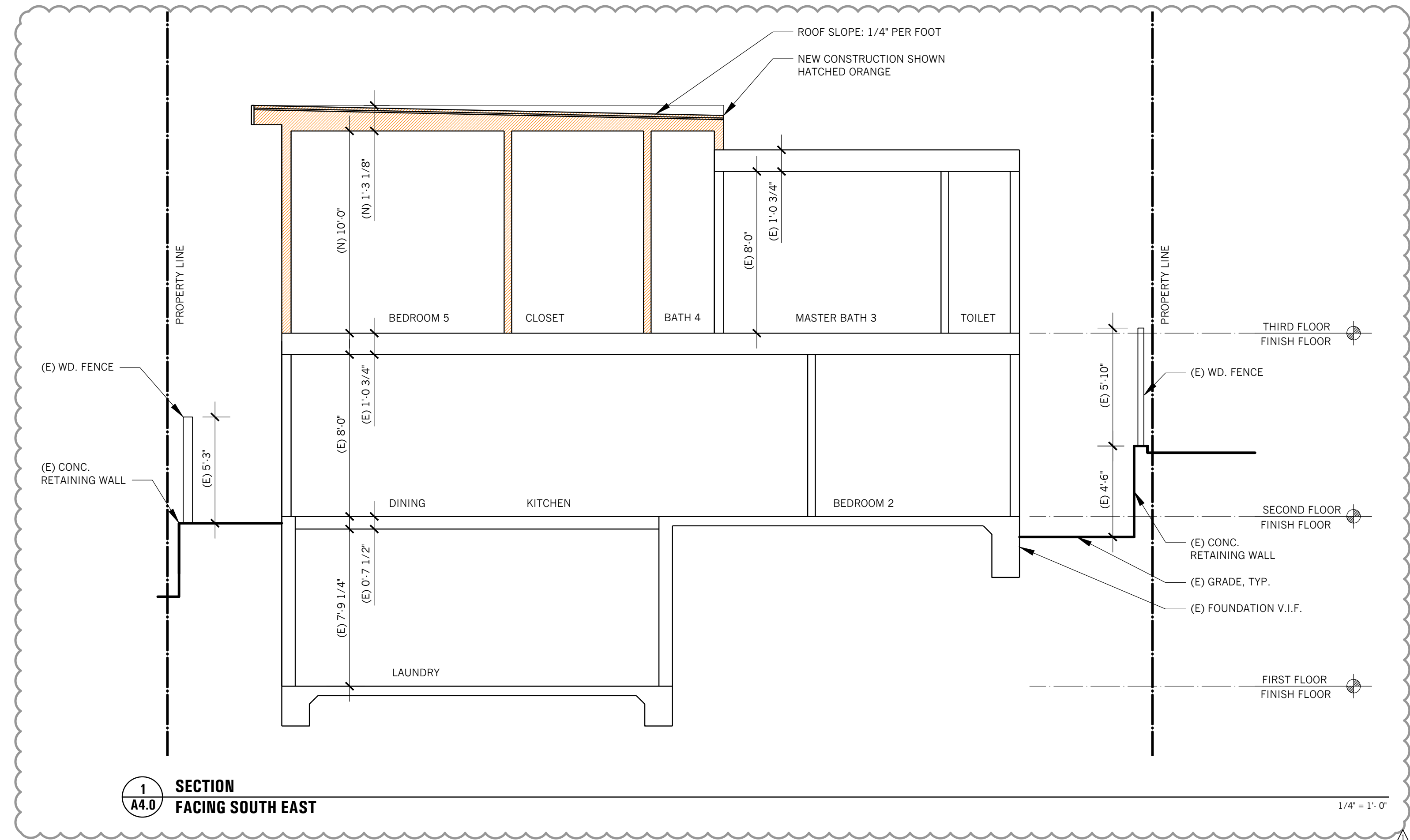
**PROPOSED
EXTERIOR
ELEVATIONS**

A - 3.0

PLANS APPROVED by


November 20, 2019
 SIGNATURE DATE

***AUP Findings and Conditions Attached**



mitche
holladay

architects

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

510.705.1061

**UBILLUS
RESIDENCE
ADDITION**

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

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

SECTION

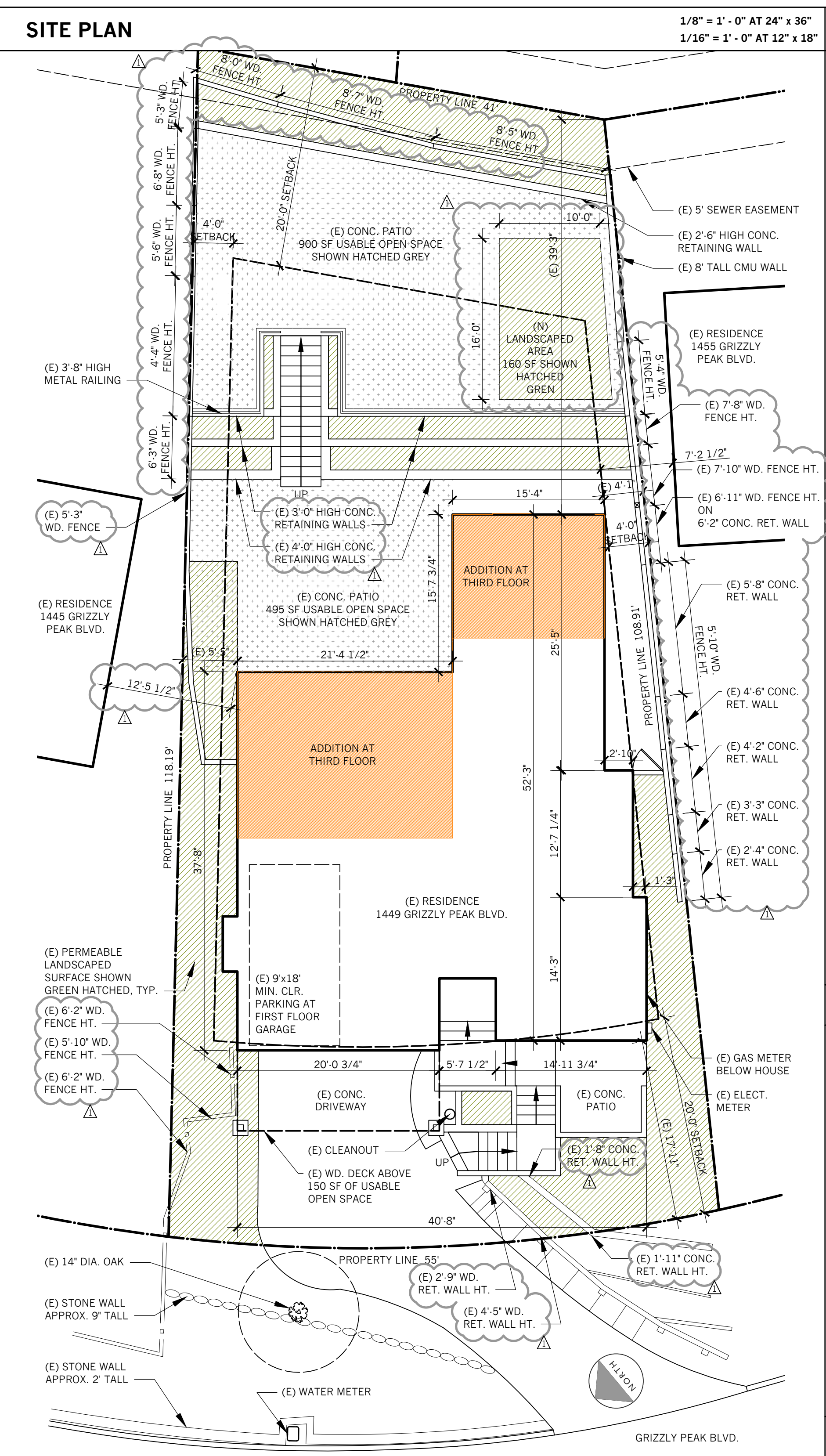
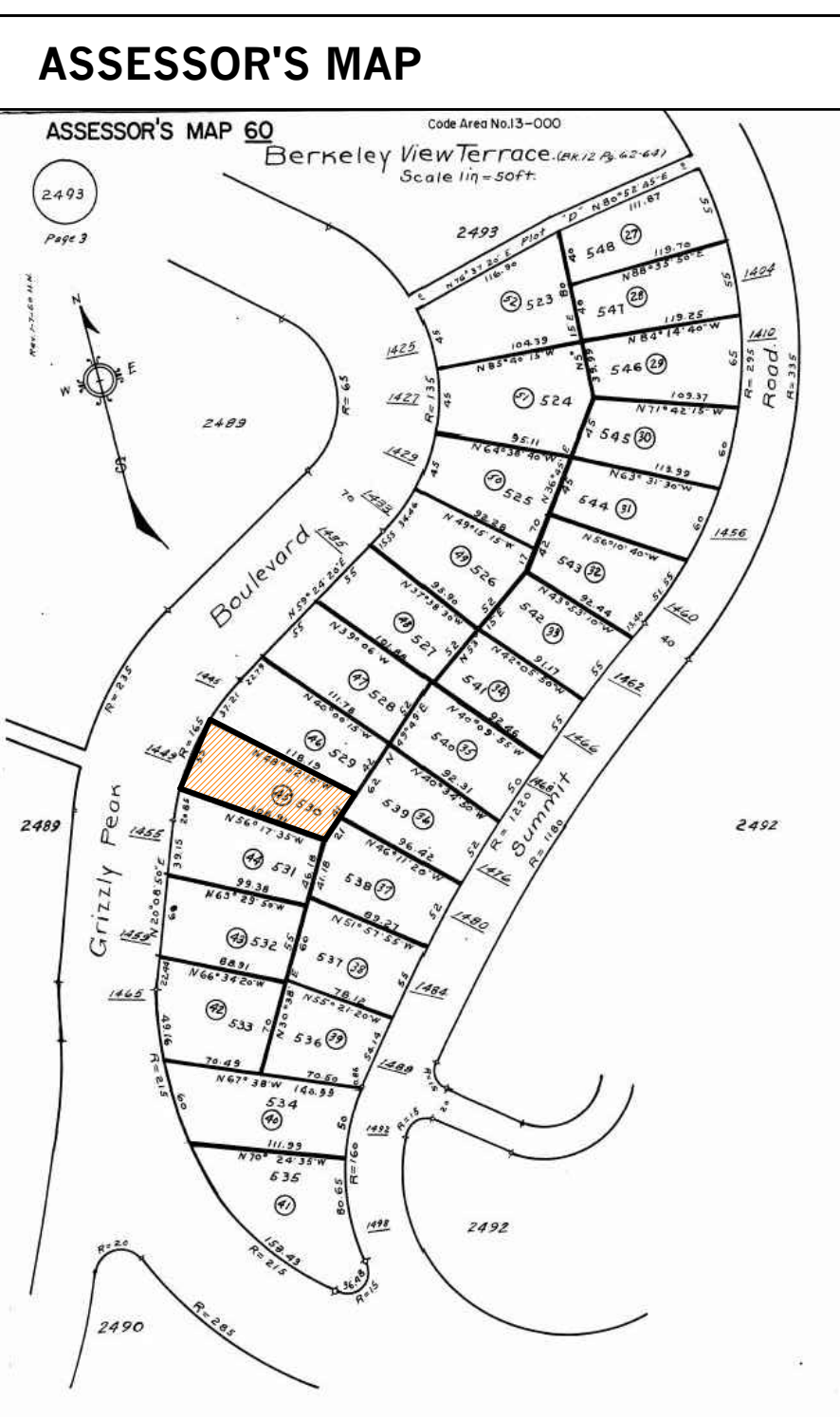
A - 4.0

BEST MANAGEMENT PRACTICES

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

GENERAL NOTES

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



DRAWING INDEX

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

PROJECT DATA

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

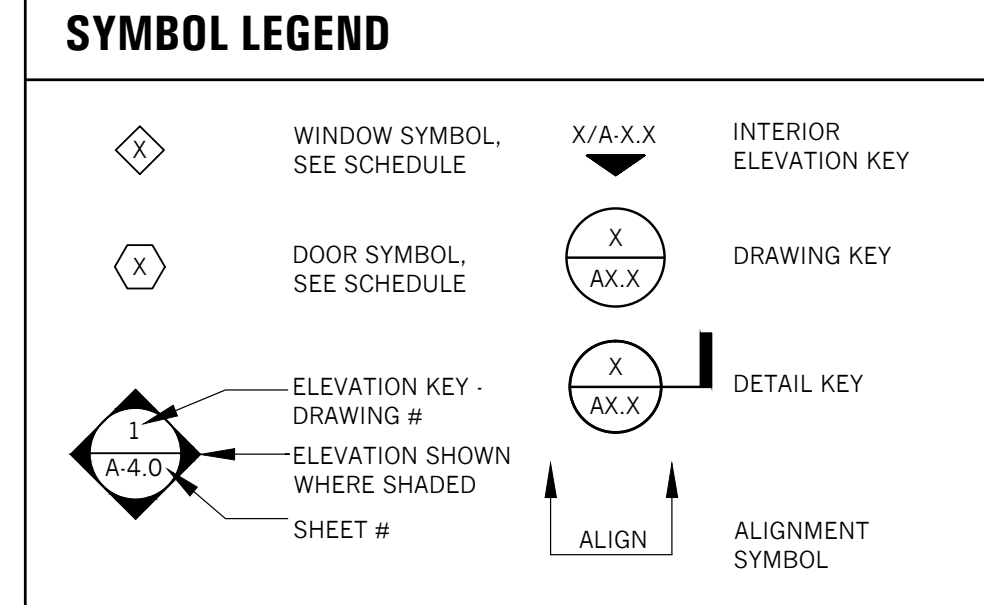
PROJECT SCOPE:
REAR ADDITION OF 500 SQ. FT. AT THE THIRD FLOOR, INCLUDING A BEDROOM, BATHROOM, AND WALK-IN CLOSET.

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

TABULATION FORM

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

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



NEIGHBOR'S SIGNATURES

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

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



architects

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

510.705.1061

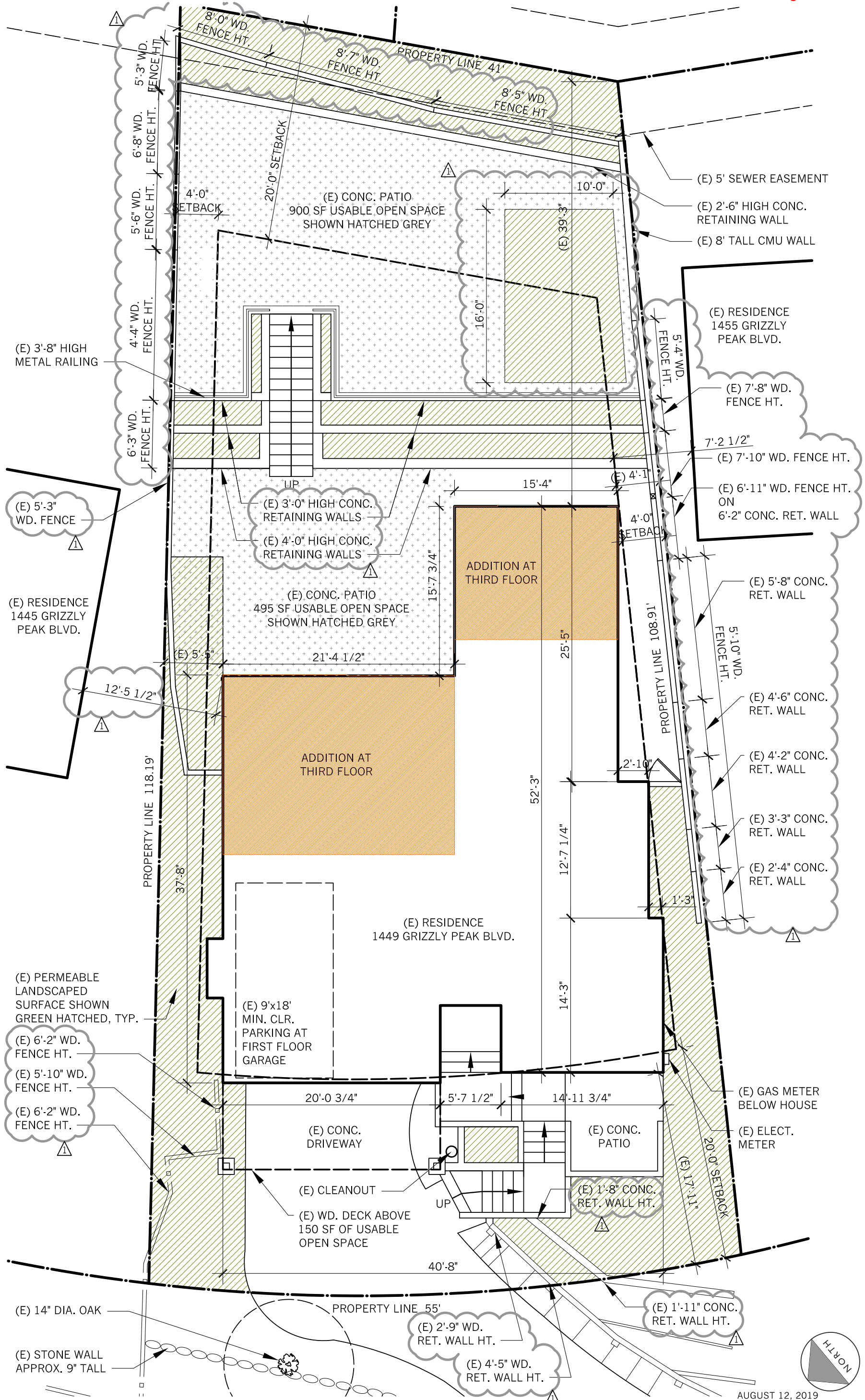
UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

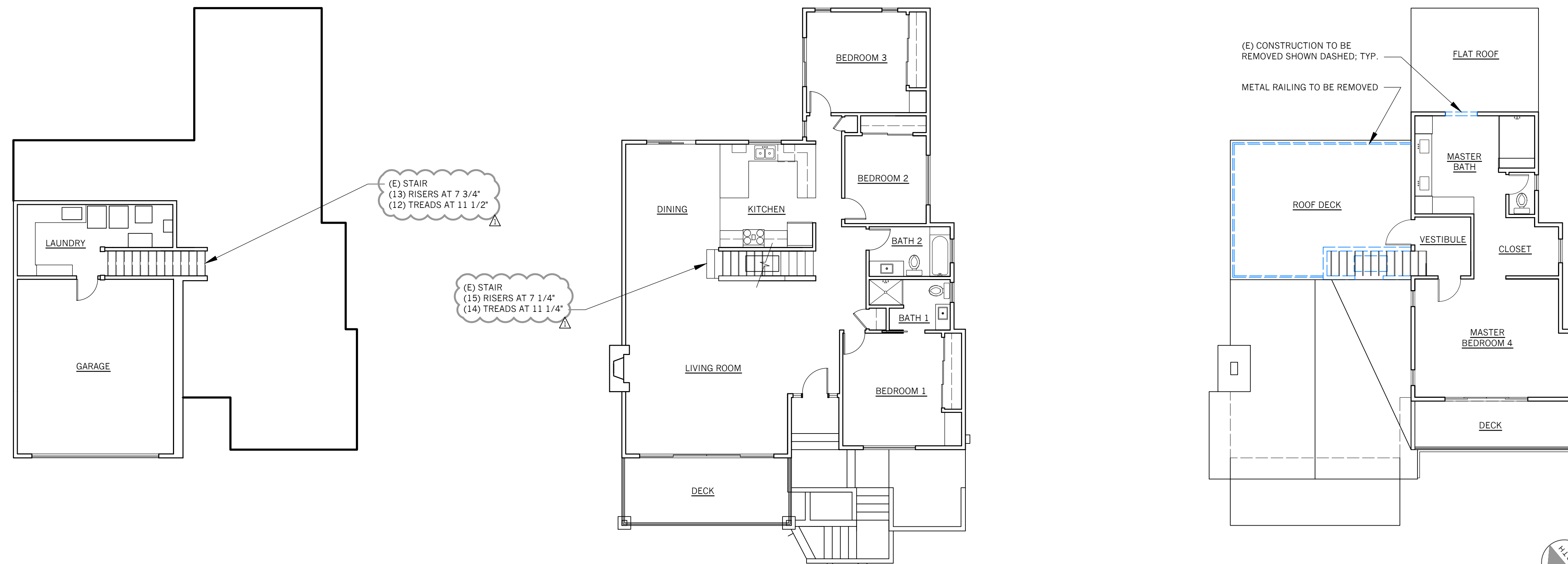
CONSULTANTS

COVER SHEET

A - 0.0



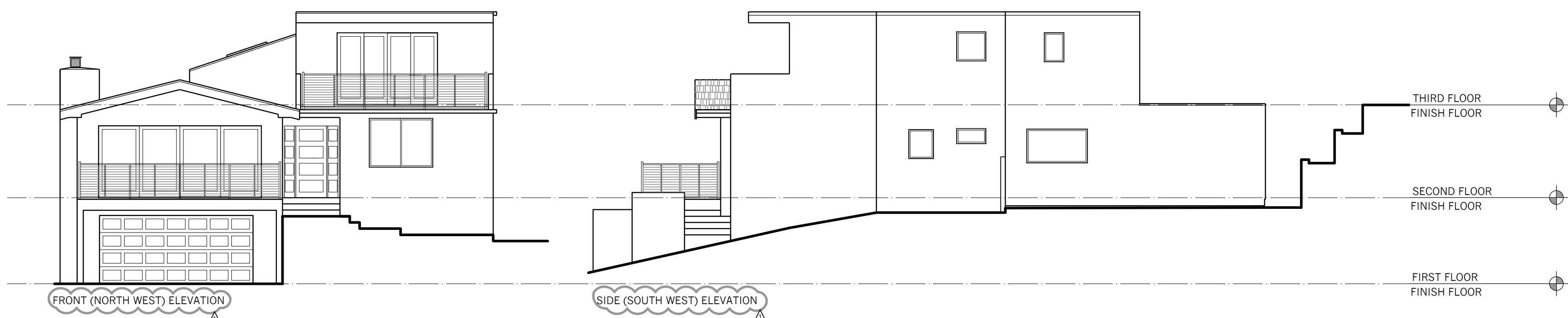
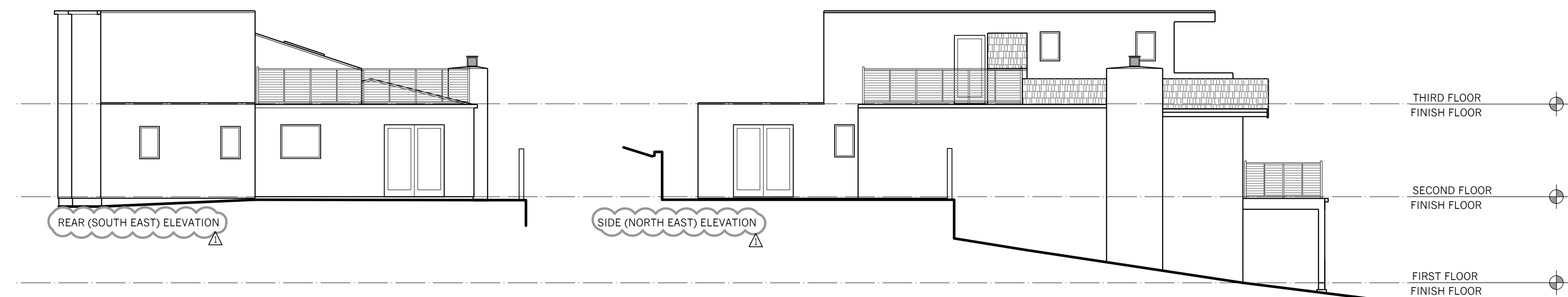
AUGUST 12, 2019



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

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

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



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

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

mitche
holladay

architects

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

510.705.1061

UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS

ISSUE DATE

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

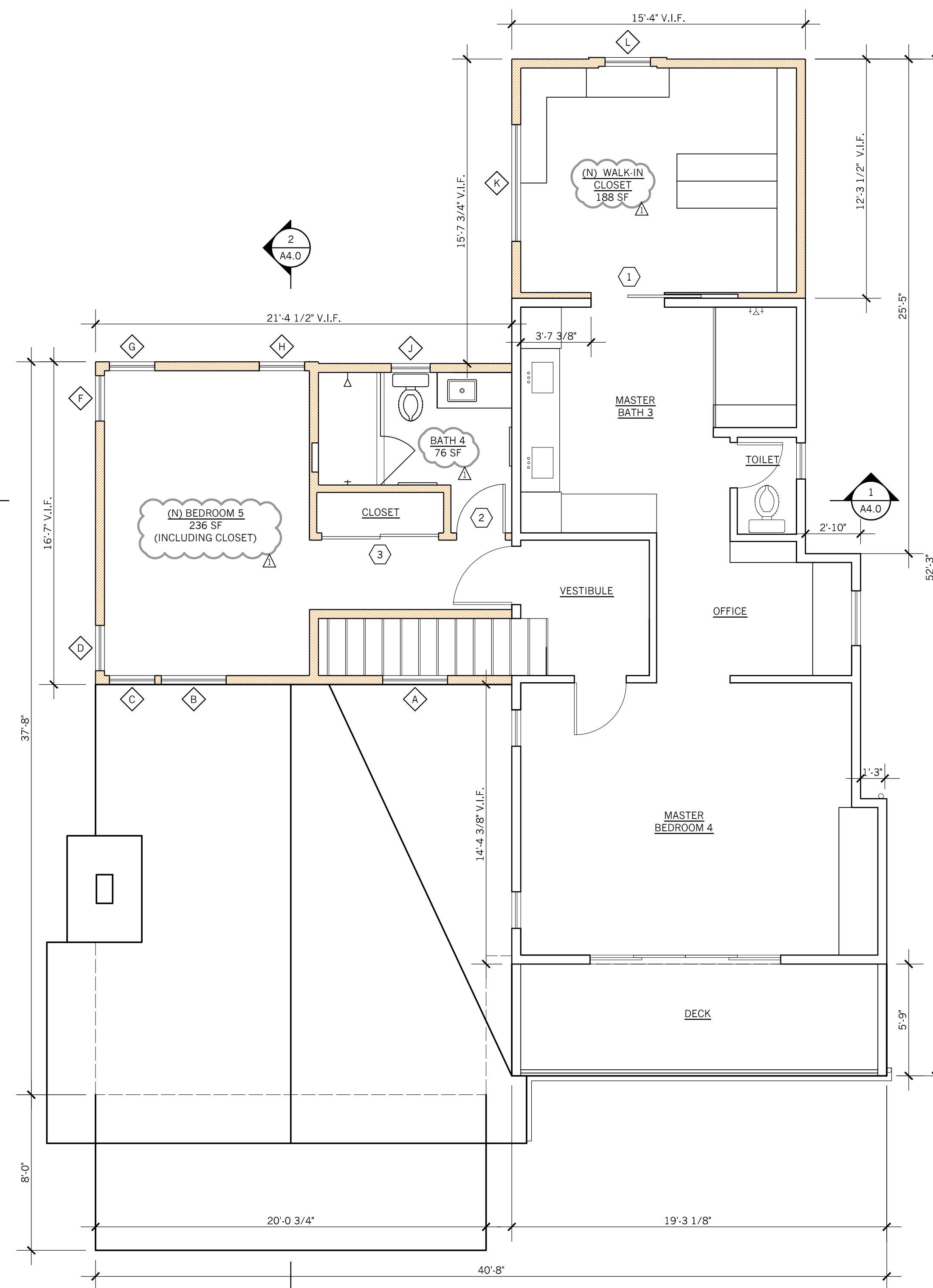
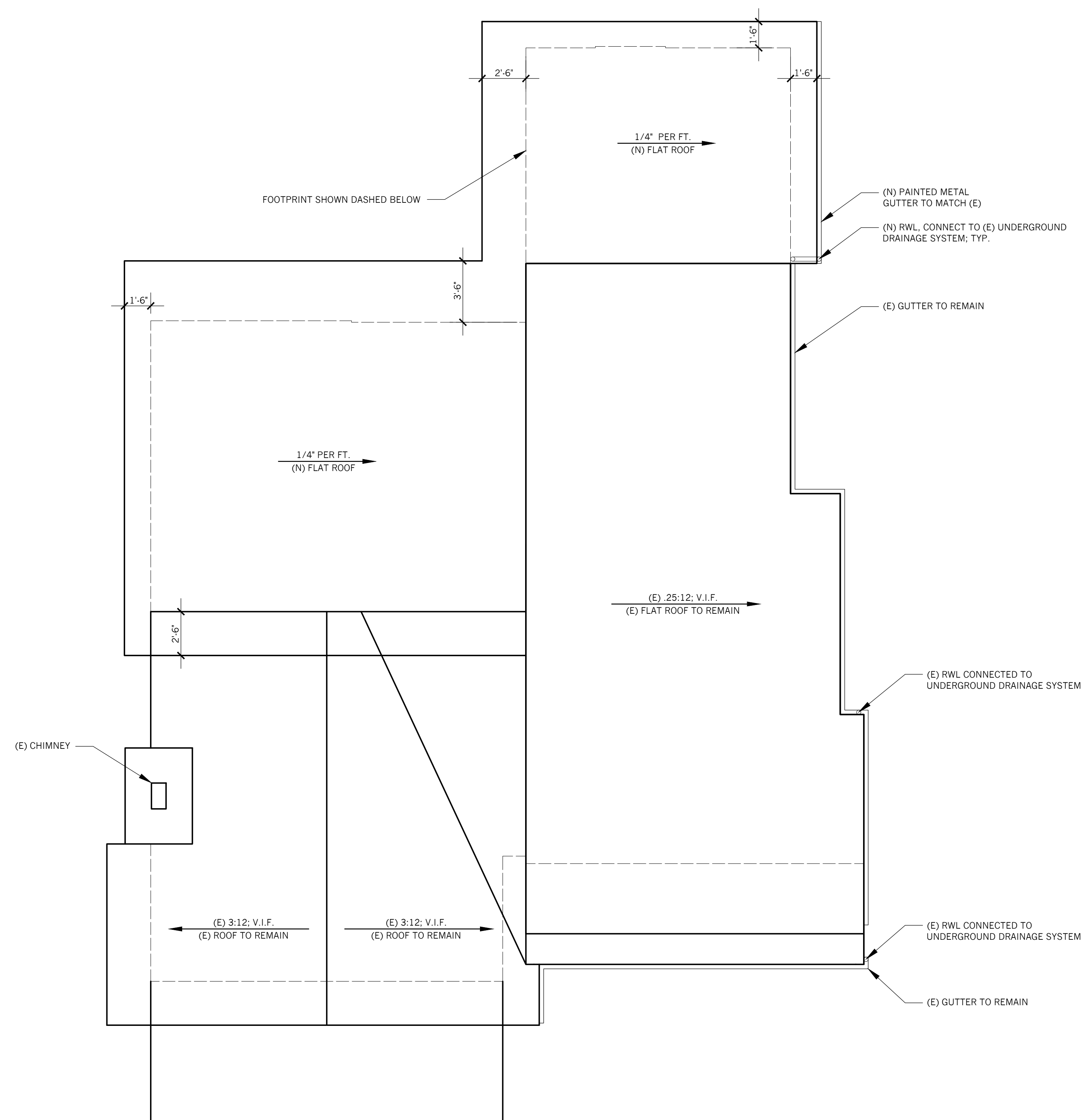
DEMO PLANS
AND EXISTING
ELEVATIONS

A - 1.0

UBILLUS
RESIDENCE
ADDITION

1449 GRIZZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS



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

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

2 ROOF
A2.0

1/4" = 1'-0"

1 THIRD FLOOR
A2.0 AREA OF WORK

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

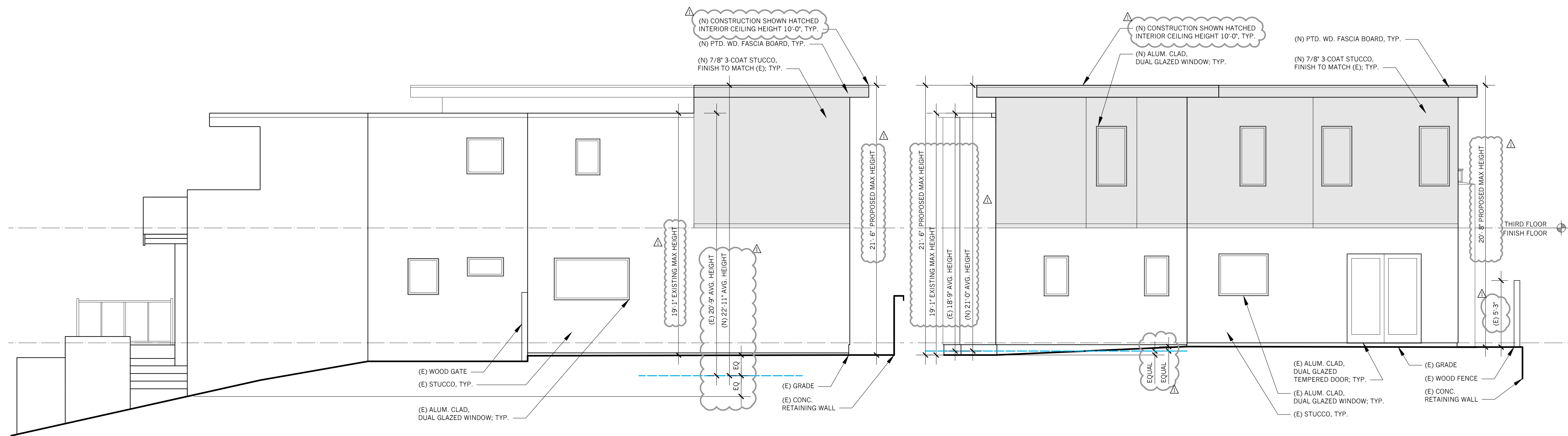
PROPOSED
FLOOR PLAN
AND
ROOF PLAN

A - 2.0

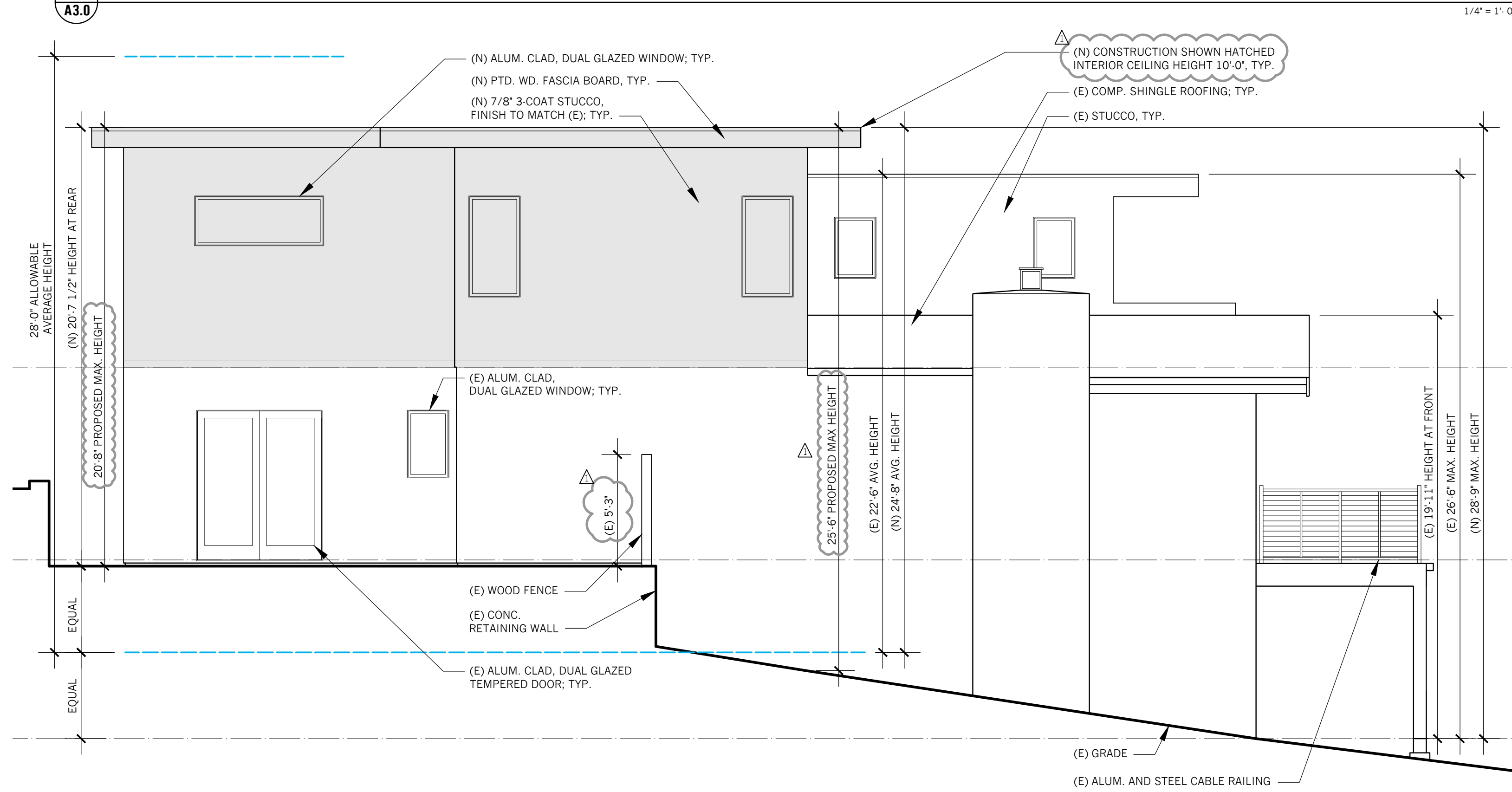
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BERKELEY, CA 94708

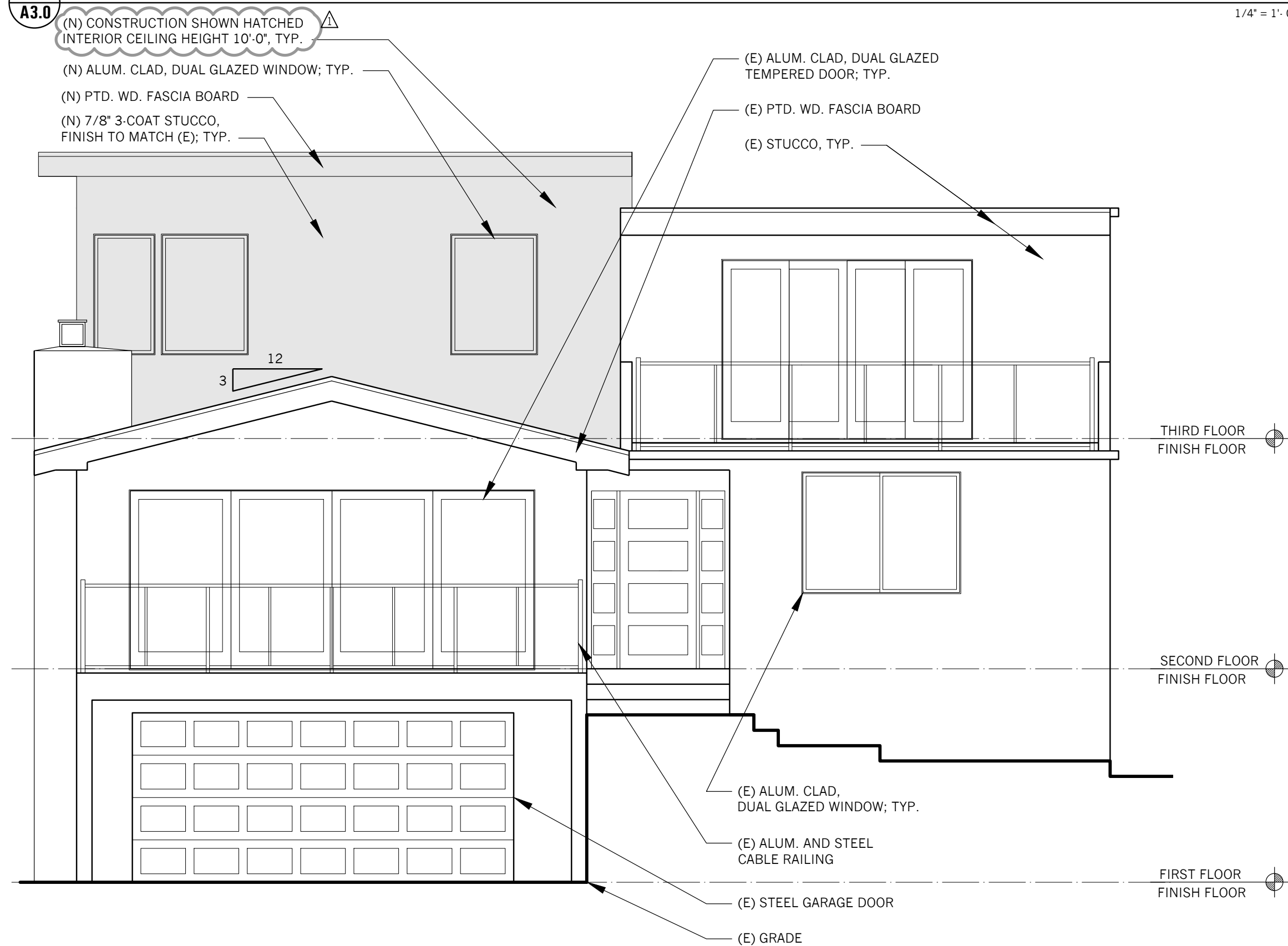
CONSULTANTS



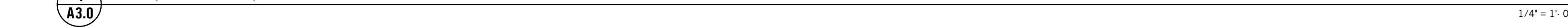
2 SIDE (SOUTH WEST) ELEVATION



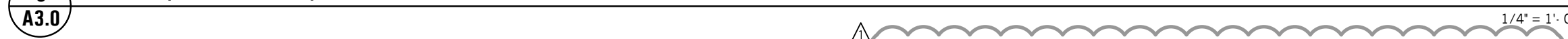
1 REAR (SOUTH EAST) ELEVATION



4 SIDE (NORTH EAST) ELEVATION



3 FRONT (NORTH WEST) ELEVATION

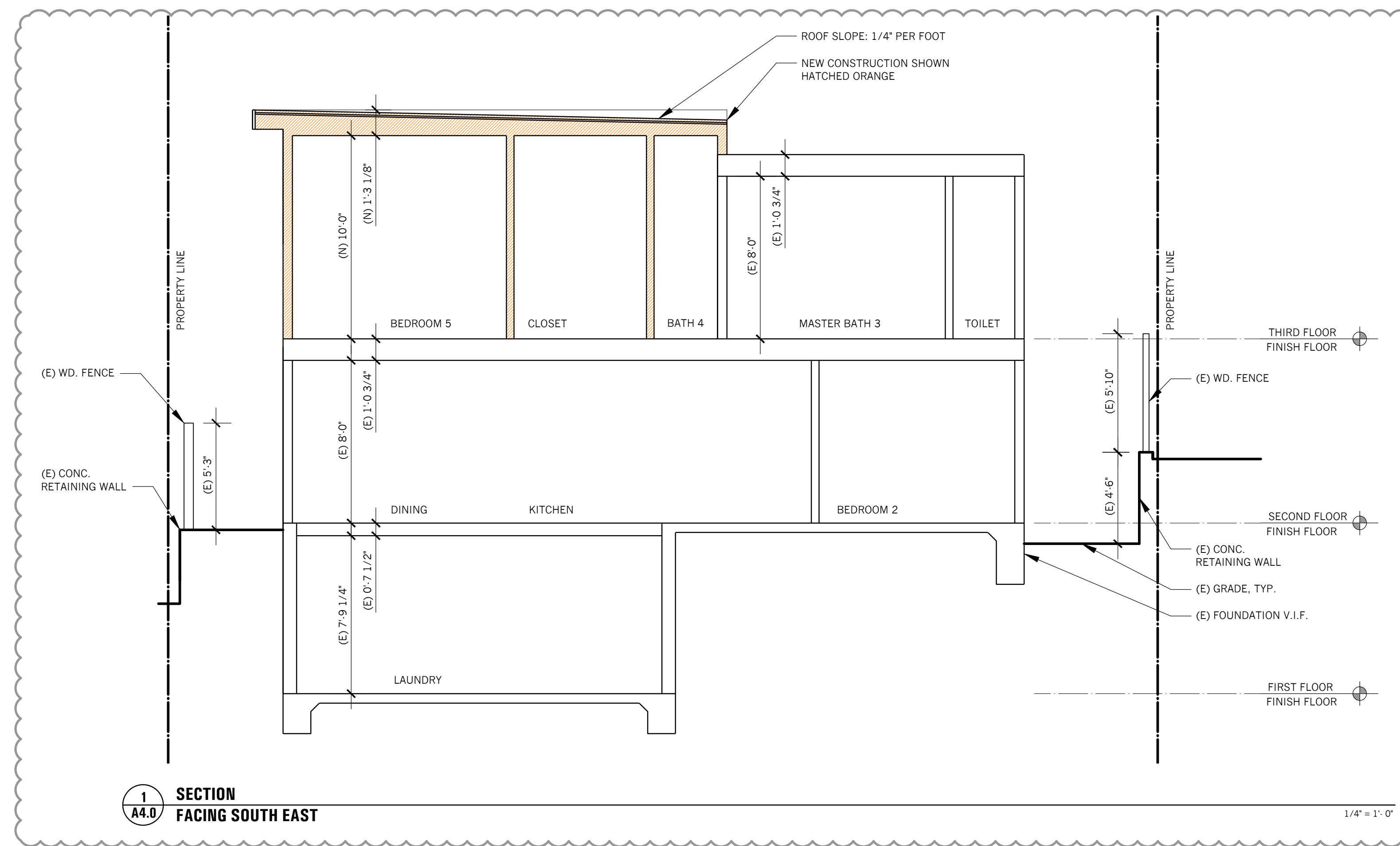


NOTE: DRAWING SCALE WILL BE 1/8\"/>

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

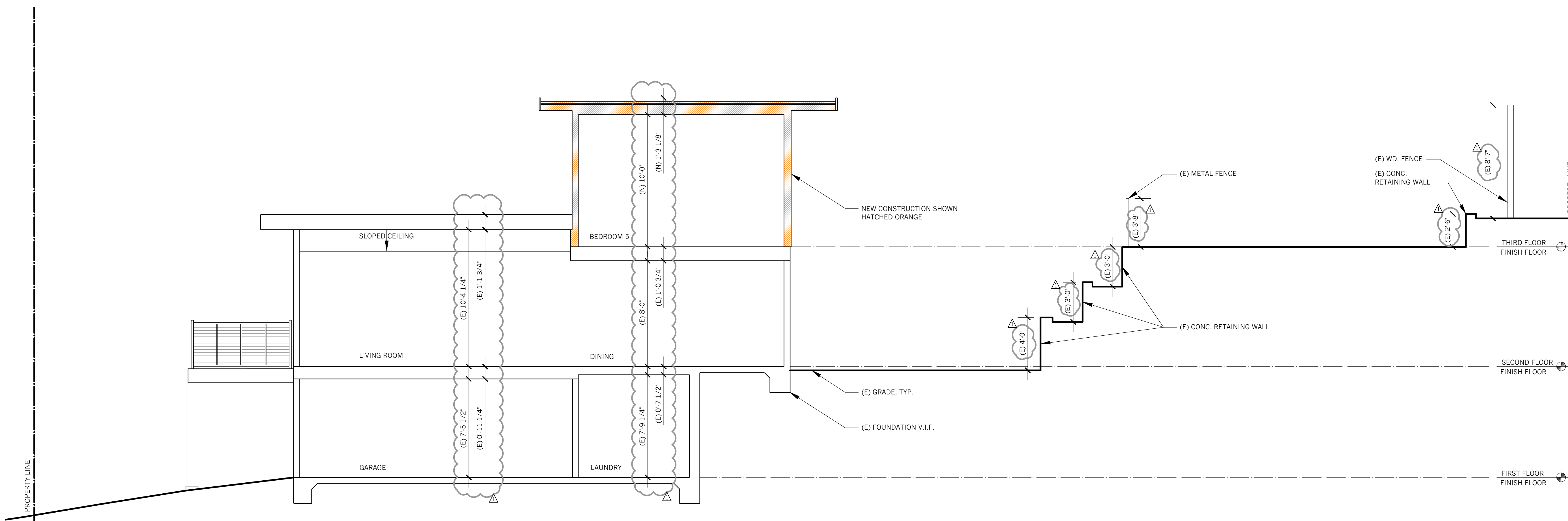
PROPOSED
EXTERIOR
ELEVATIONS

A - 3.0



1 SECTION
A4.0 FACING SOUTH EAST

1/4" = 1'-0"



2 SECTION
A4.0 FACING NORTH EAST

1/4" = 1'-0"

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

ISSUE DATE

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

SECTION

A - 4.0

URGENT

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP
Associate Planner

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

July 15, 2019

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

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

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

Background:

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

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

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

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

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

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

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

During mediation he had promised that the building color will ^{be} one to "blend with the surrounding nature", which did not happen.

1.
/

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

2.
/

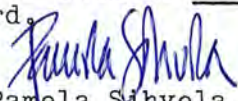
In addition, the proposed project goes against the agreement neighbors reached with the applicant in 2014 (see attachment 3.), specifically regarding the maximum ceiling height of 8 feet.

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

3.
/

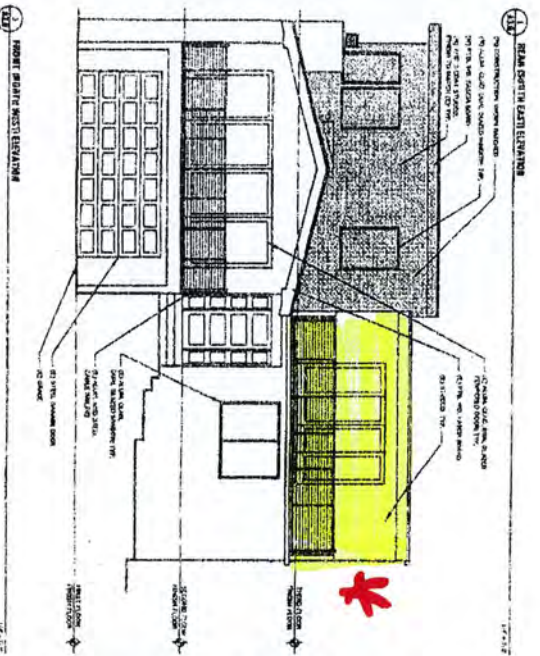
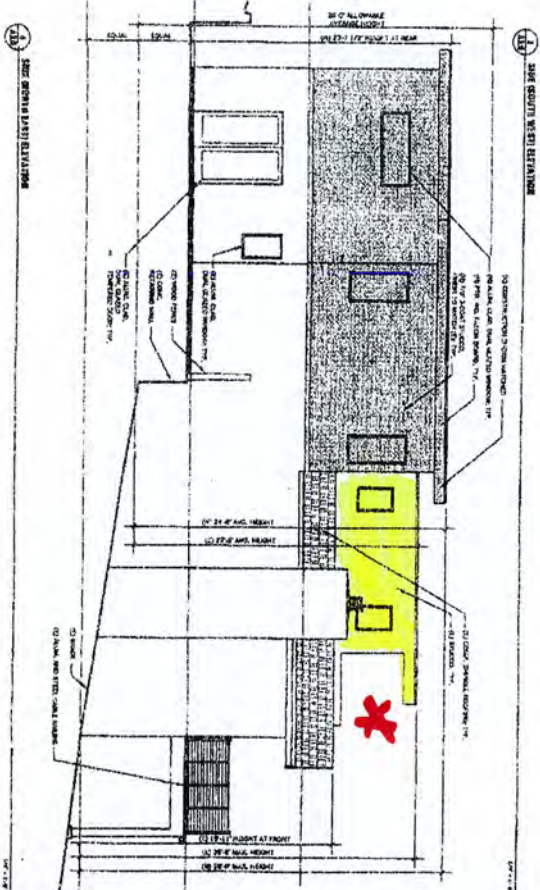
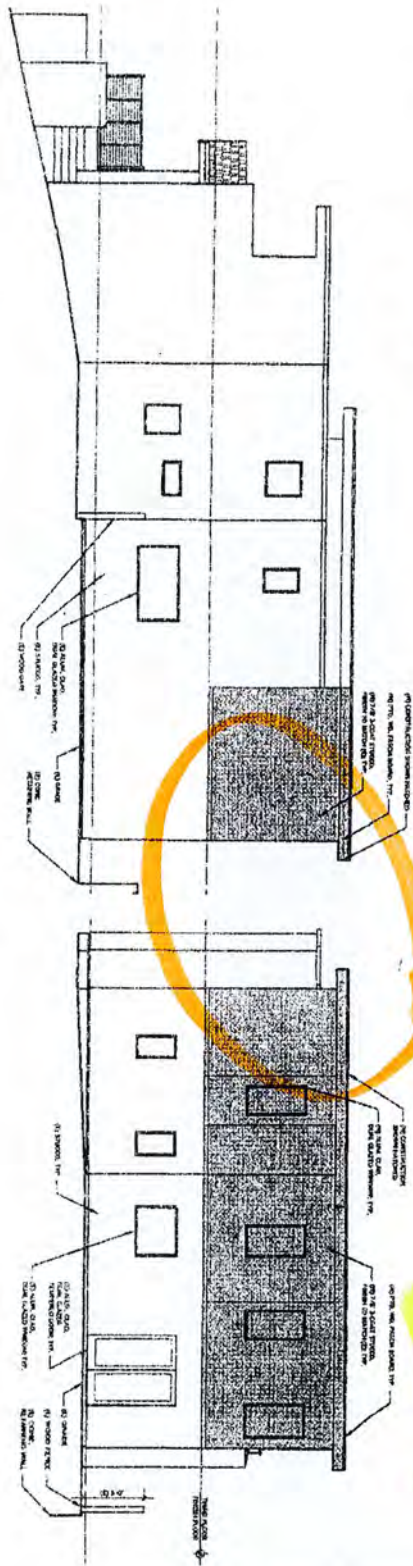
We also ask that this project be put on hold until all the issues related to the 2014 permit have been resolved, including clarifying any code enforcement issues/permit issues with regard to the rear yard now completely covered with concrete. Attachment 7. shows the project site prior to the construction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

Sincerely,


Pamela Sihvola
1476 Summit Road
Berkeley, CA 94708

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

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



A-3.0

PROPOSED
EXTERIOR
ELEVATIONS



ES.

ENTERN PROPERTY LINE NOT CORRECT -
FENCE SHOULD BE APPROX. 6" INSIDE
1449 PROPERTY LINE
PLEASE CHECK OR DO A SURVEY

<p>BEST MANAGEMENT PRACTICES</p> <ol style="list-style-type: none"> 1. MAINTAIN VEGETATION ALONG PROPERTY BOUNDARIES TO FILTER AND REDUCE SOLID MATERIALS FROM RAINWATER RUNOFF TO ADJACENT PROPERTIES. 2. MAINTAIN VEGETATION ALONG PROPERTY BOUNDARIES TO FILTER AND REDUCE SOLID MATERIALS FROM RAINWATER RUNOFF TO ADJACENT PROPERTIES. 3. MAINTAIN VEGETATION ALONG PROPERTY BOUNDARIES TO FILTER AND REDUCE SOLID MATERIALS FROM RAINWATER RUNOFF TO ADJACENT PROPERTIES. 4. MAINTAIN VEGETATION ALONG PROPERTY BOUNDARIES TO FILTER AND REDUCE SOLID MATERIALS FROM RAINWATER RUNOFF TO ADJACENT PROPERTIES. 	<p>GENERAL NOTES</p> <ol style="list-style-type: none"> 1. THE PROPERTY LINES ARE SHOWN AS DOTTED LINES. 2. THE PROPERTY LINES ARE SHOWN AS DOTTED LINES. 3. THE PROPERTY LINES ARE SHOWN AS DOTTED LINES. 4. THE PROPERTY LINES ARE SHOWN AS DOTTED LINES. 	<p>ASSESSOR'S MAP</p>	<p>SITE PLAN</p>	<p>DRAWING INDEX</p> <table border="1"> <tr><td>4.00</td><td>COVER SHEET</td></tr> <tr><td>4.01</td><td>PROPOSED WALKWAY AND DRIVWAY DETAIL</td></tr> <tr><td>4.02</td><td>PROPOSED SIDEWALK DETAIL</td></tr> <tr><td>4.03</td><td>PROPOSED DRIVEWAY DETAIL</td></tr> <tr><td>4.04</td><td>SECTION</td></tr> </table>	4.00	COVER SHEET	4.01	PROPOSED WALKWAY AND DRIVWAY DETAIL	4.02	PROPOSED SIDEWALK DETAIL	4.03	PROPOSED DRIVEWAY DETAIL	4.04	SECTION																																																																												
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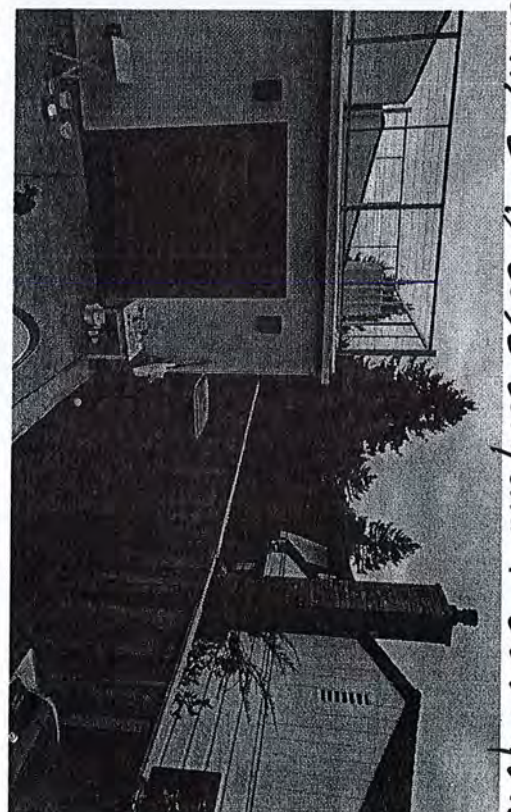
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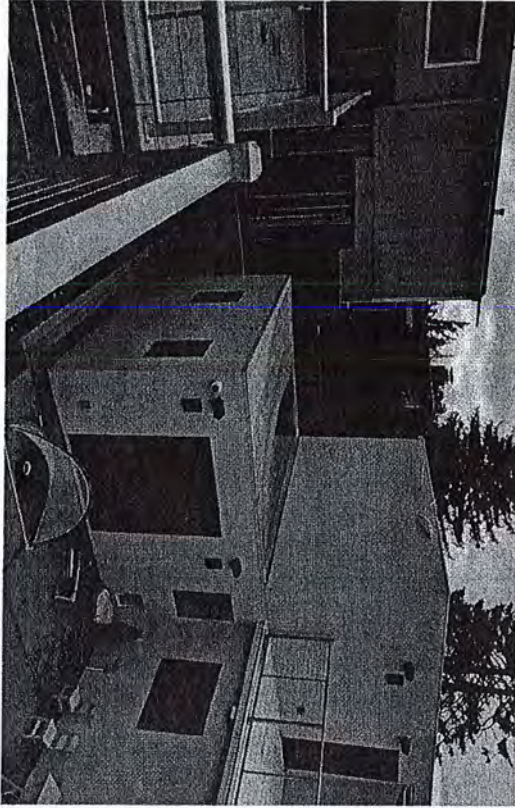
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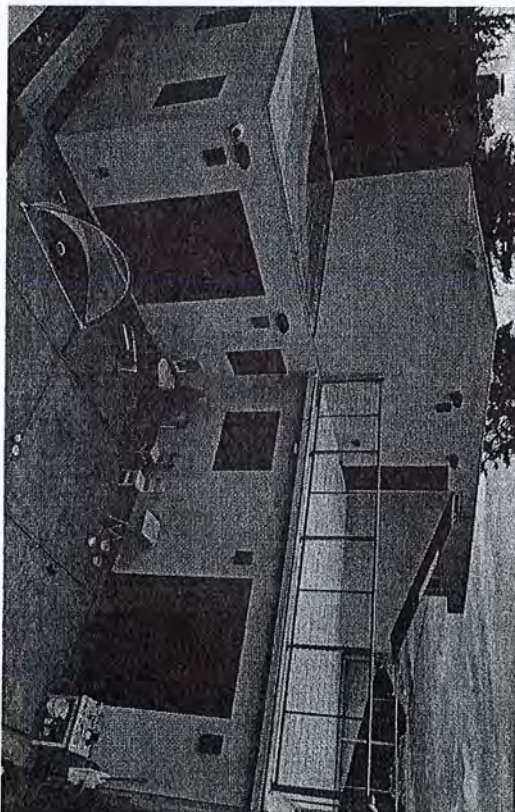
1476 - (1) 1480 SUNLIGHT RD. (NEIGHBORS FRONT SUBJECT PROPERTY)



1445 GRICEL, PE-1 BL. D. SUBJECT PROPERTY



1435 GRICEL, PE-1 BL. D. FRONT SUBJECT PROPERTY



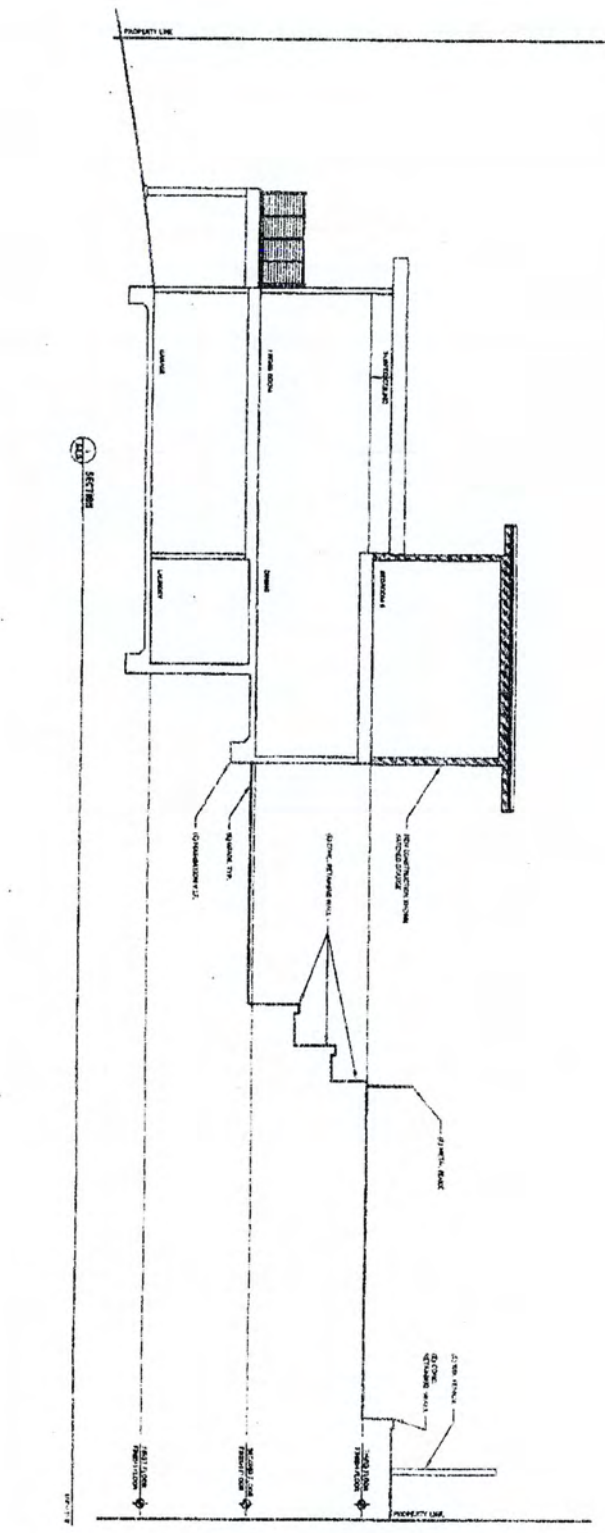
1449 GRICEL, PE-1 BL. D. SUBJECT PROPERTY - PE-1 OF A.O.P

michele
holladay architects

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

DATE ILLUSTRATED: **D.**

SECTION DRAWING INADEQUATE



A-4.0

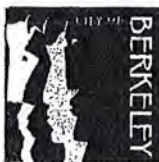
SECTION

DATE
SCALE

PROJECT
RESIDENCE
ADDITION



ATTACHMENT 1.



PLANNING & DEVELOPMENT

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

DATE STAMP HERE
LAND USE PLANNING
APR 15 2013

I.A Zoning Project Application Form

Effective May 1, 2007.

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

Intake Planner Harrison

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

Submittal Requirements Checklist -- Instructions:

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

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

ATTACHMENT Z.

Claudine Asbagh, Assistant Planner

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

May 15, 2013

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

Dear Ms. Asbagh,

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

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

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

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

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

Sincerely,

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

RECEIVED

MAY 16 2013

LAND USE PLANNING

ATTACHMENT 3.

Rodrigo Ubillus
1449 Grizzly Peak Blvd.
Berkeley, CA 94708

March 4, 2014

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

Mr. Rodrigo Ubillus,

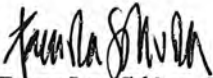
Thank you for the 2 plan sheets and your note I received on
February 27, 2014.

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

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

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

Sincerely,


Pamela Sihvola
1476 Summit Rd.
Berkeley, CA 94708

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

cc: Victor Herbert, Zoning Mediations

RECEIVED

MAR 20 2014

LAND USE PLANNING

ATTACHMENT 1.

(N) FRONT ELEVATION SCALE: 1/4" = 1'-0"

(N) REAR ELEVATION SCALE: 1/4" = 1'-0"

(N) LEFT ELEVATION SCALE: 1/4" = 1'-0"

(N) RIGHT ELEVATION SCALE: 1/4" = 1'-0"

REVISION	
#	DATE

DATE: 02/14/14
SCALE: 1/4" = 1'-0"
NOTED:
JOB NO.:

DESIGNER/CONSULTANT: RYAN THORNTON
PHONE: (510) 439-3735
EMAIL: RYAN@RYANTHORNTON.COM

A CUSTOM ADDITION FOR:
ROBERT & CHERYL UBIJLUS
1449 GARDEN PARK BLVD.
BERKELEY, CA 94715

AREA ANALYSIS:
MAIN LEVEL ADDITION: 64 SQ. FT.
SECOND LEVEL ADDITION: 372 SQ. FT.
TOTAL ADDITION: 436 SQ. FT.
EXISTING HOME: 1,315 SQ. FT.
TOTAL HOME: 1,751 SQ. FT.
TOTAL FLOOR AREA: 1,899 SQ. FT.
TOTAL LOT: 5,525 SQ. FT. OR 13 ACRES
3,595 ± 3,525 = 20.5% LOT COVERAGE

NOTE: NO GRADING REQUIRED FOR ADDITION
NOTE: NO TREES TO BE REMOVED FOR ADDITION

1476 SUMMIT RD. BERKELEY, CA 94708

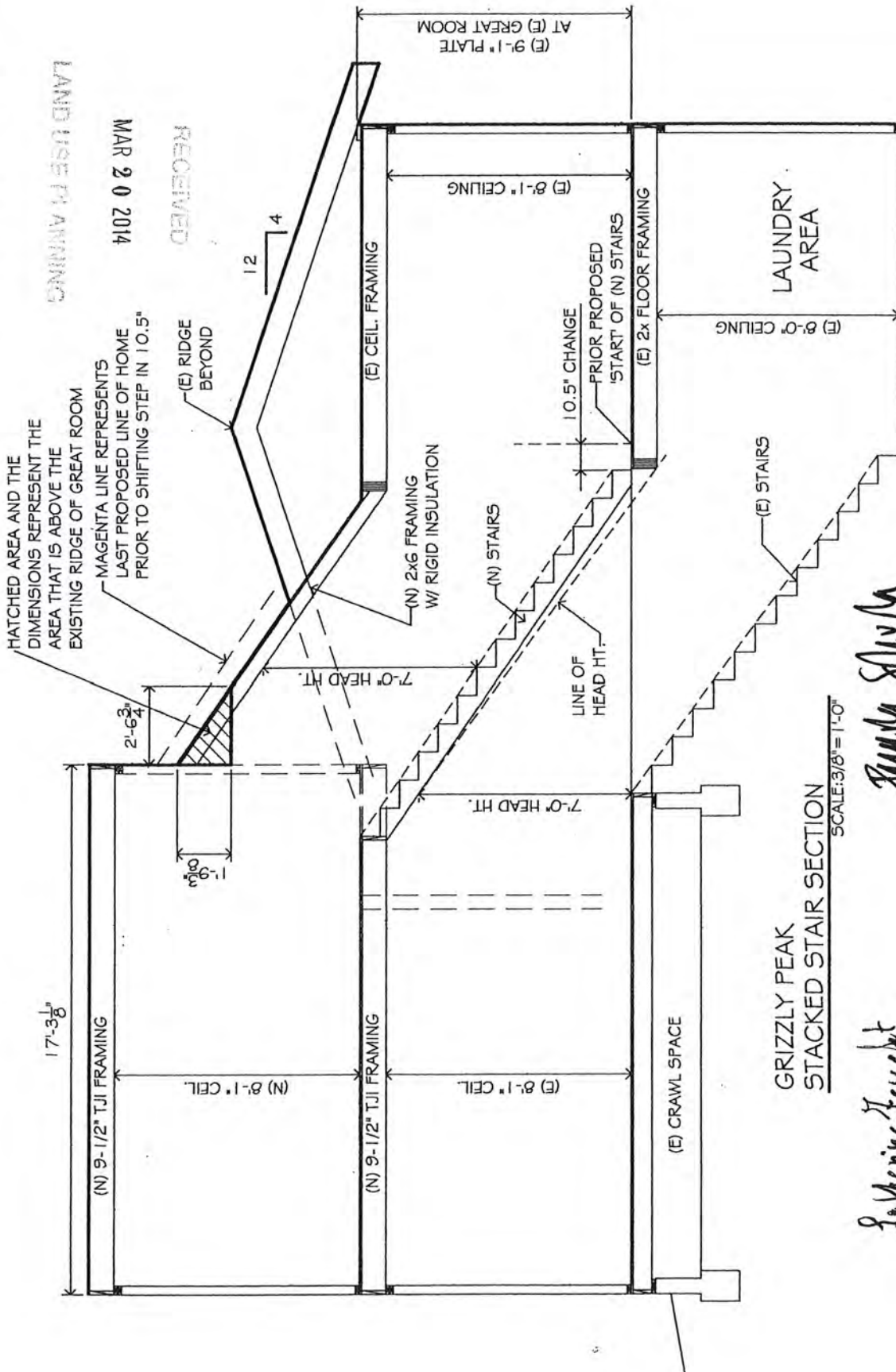
RECEIVED
MAR 20 2014

LAND USE PLANNING

Pauline Gandy
1480 Summit Rd. Berkeley

Paulina Gluvia
Luis Garcia

ATTACHMENT 2.



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

Luken Forest
 1480 Summit Rd.
 Berkeley

Randa Shum
 Luis Garcia
 1476 Summit Rd. Berkeley. CA 94708

ATTACHMENT 4.

ATTACHMENT 1

FINDINGS AND CONDITIONS

MAY 1, 2014

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

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

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

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

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Name: _____ Phone: _____

- 11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:

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

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

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

Prior to Issuance of Any Building Permit:

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

During Construction:

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

1449 GRIZZLY PEAK BLVD.
Page 5 of 5

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

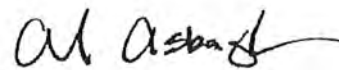
22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.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

Prior to Issuance of Occupancy Permit or Final Inspection:

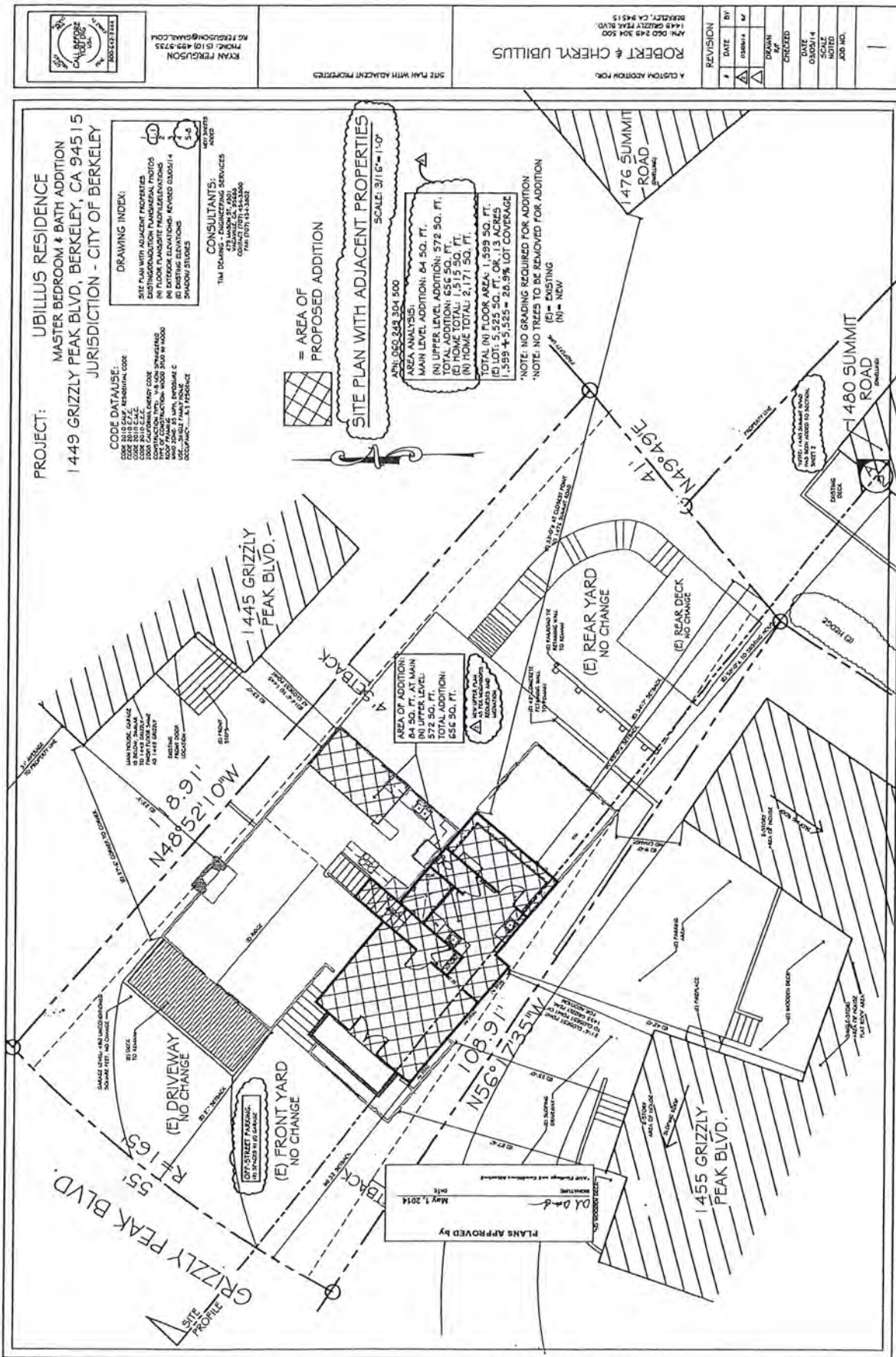
24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 5, 2014**.

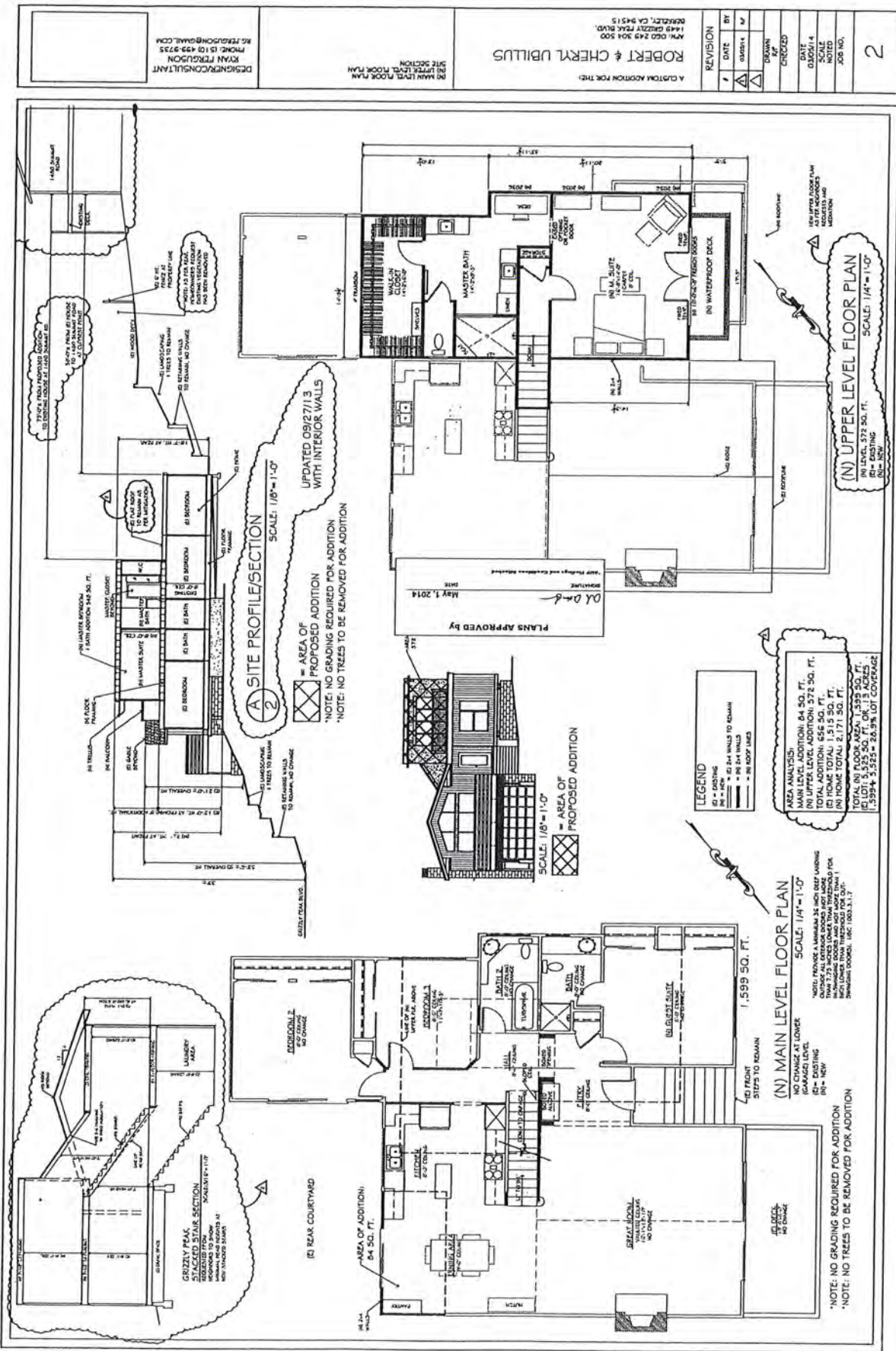
At All Times (Operation):

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



Prepared by: Claudine Asbagh
For Eric Angstadt, Planning Director





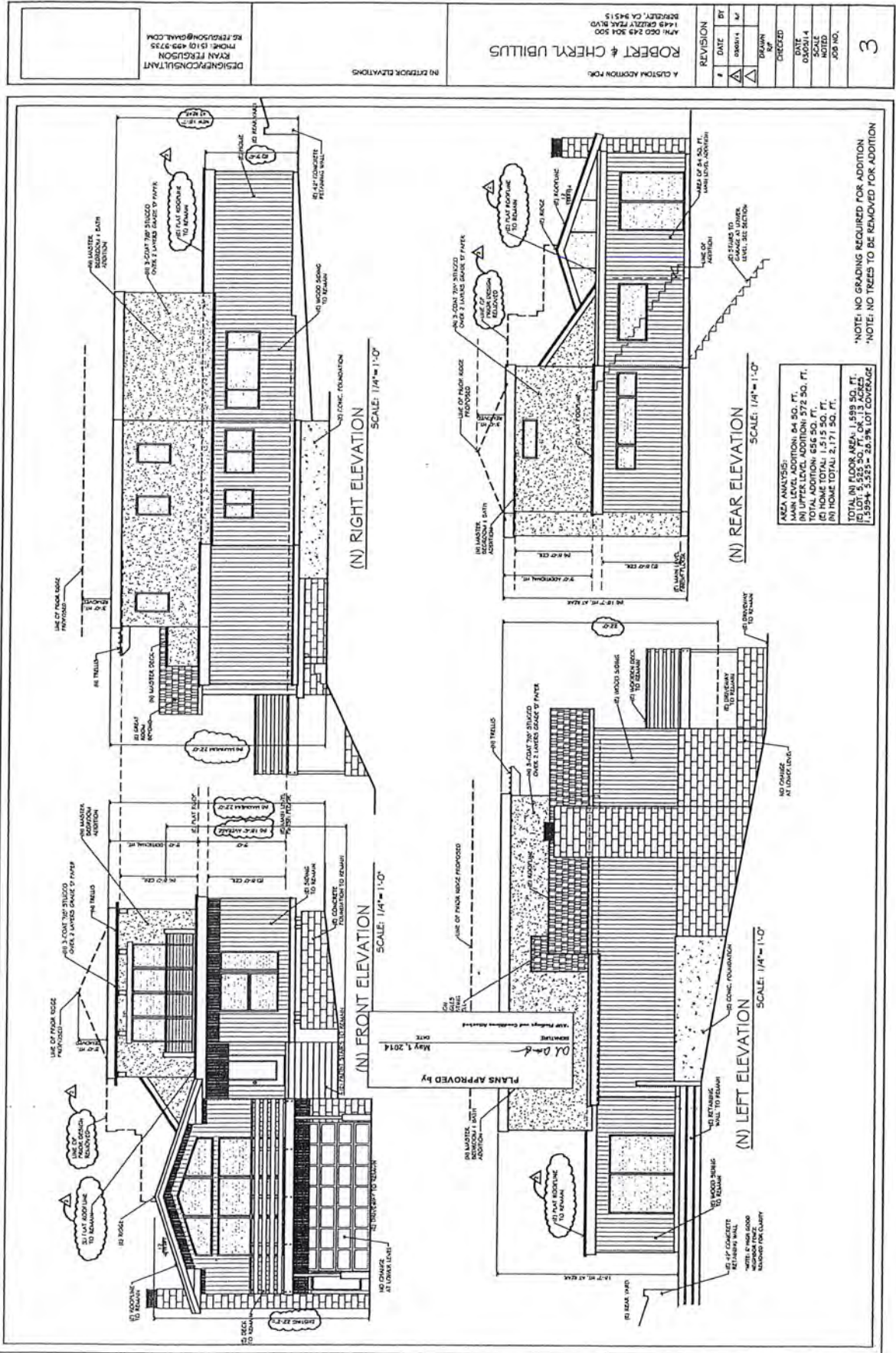
DESIGNER/CONSULTANT
 KRYAN PETERSON
 PHONE (916) 939-9155
 KP.PETERSON@GMAIL.COM

IN MAIN LEVEL FLOOR PLAN
 SHE SECTION

A CUSTOM ADDITION FOR THE:
 ROBERT & CHERYL UBILLUS
 1449 GRIZZLY PEAK BLVD.
 ROCKY HILLS, CA 94515

REVISION	DATE	BY
1		
2		

2



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

ATTACHMENT 5.



ATTACHMENT 6.A

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



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

ATTACHMENT
03

MAXIMUM CEILING HEIGHT 8 FT.

mitche
holiday
architects

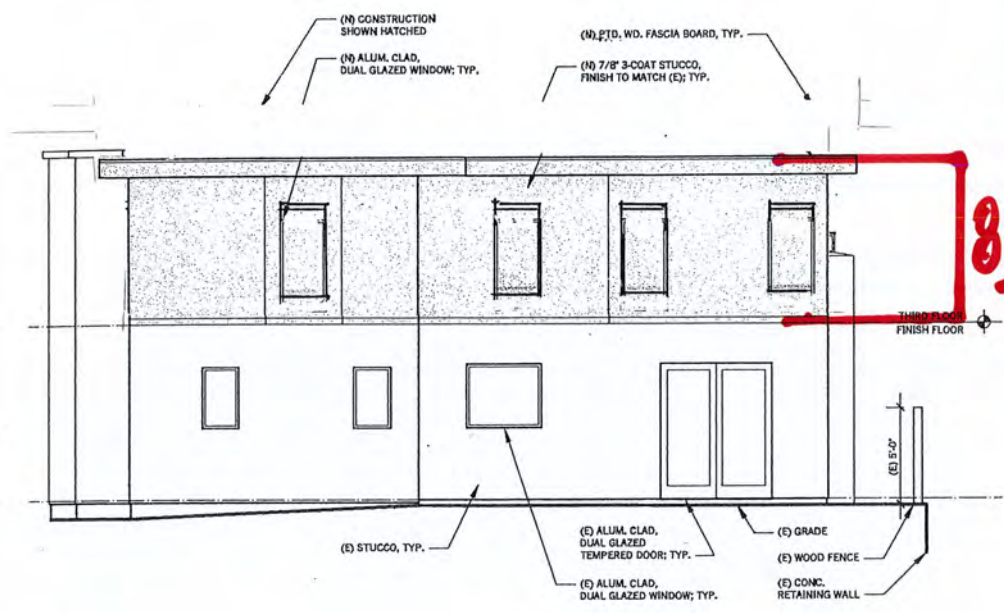
1718 Market Street, Suite 200
Berkeley, CA 94704

510.725.1091

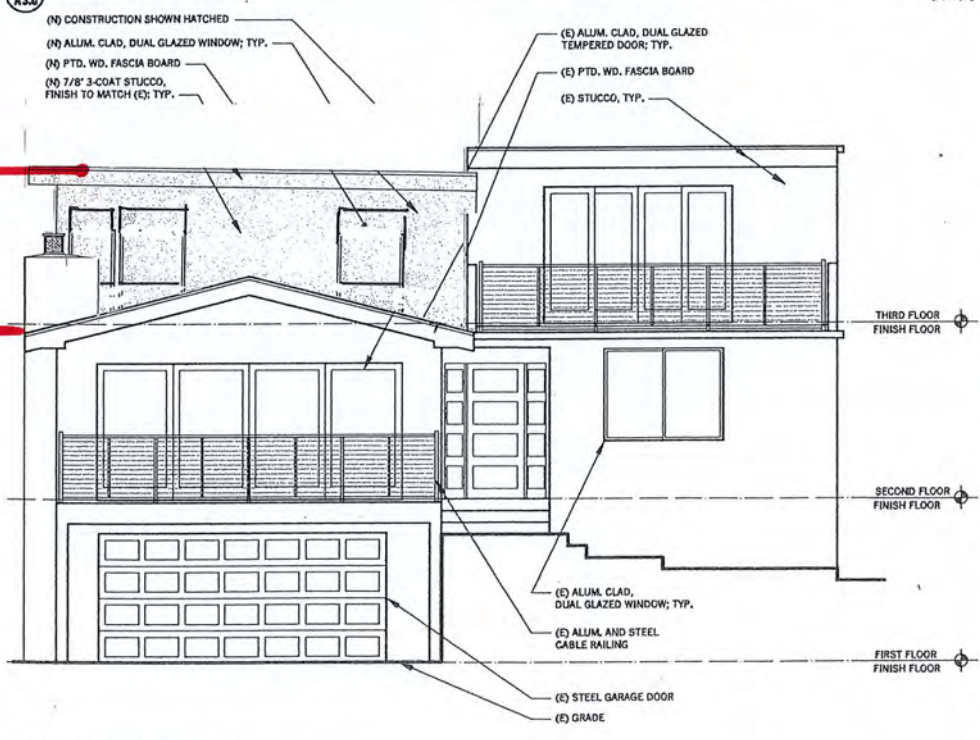
UBILLUS
RESIDENCE
ADDITION

1449 GRIEZLY PEAK BLVD.
BERKELEY, CA 94708

CONSULTANTS



1 REAR (SOUTH EAST) ELEVATION



3 FRONT (NORTH WEST) ELEVATION

8 FT.

8 FT.

ISSUE	DATE
ACP SUBMITTAL	06/30/19

PROPOSED
EXTERIOR
ELEVATIONS

A - 3.0

ATTACHMENT 7. (A= PROJECT SITE)



ATTACHMENT 8A



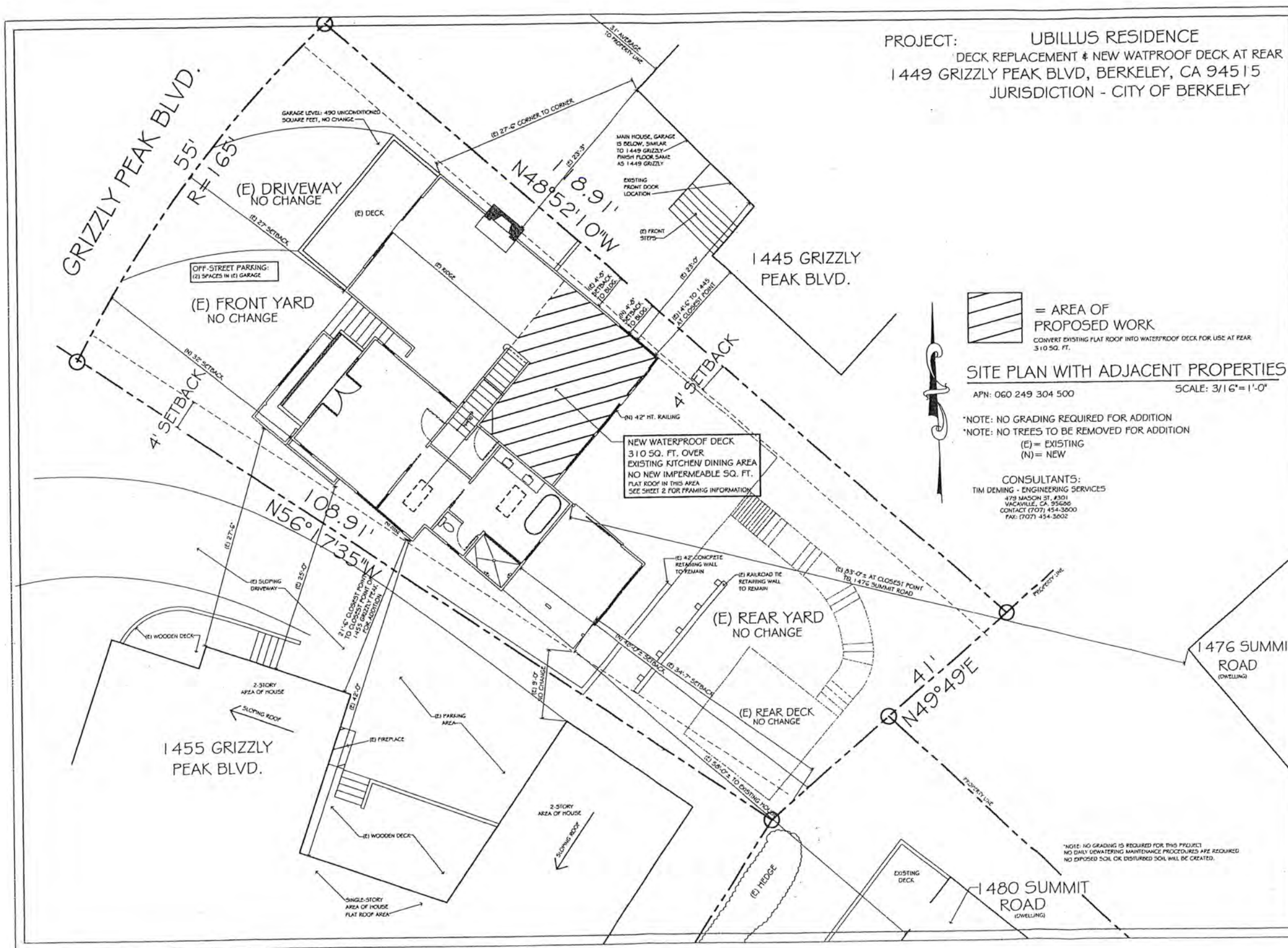
ATTACHMENT B.B.



ATTACHMENT B.C.



ATTACHMENT 9A.



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

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

SITE PLAN W/ NEW DECK LOCATION

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

REVISION		
#	DATE	BY
1		

DRAWN
R/T

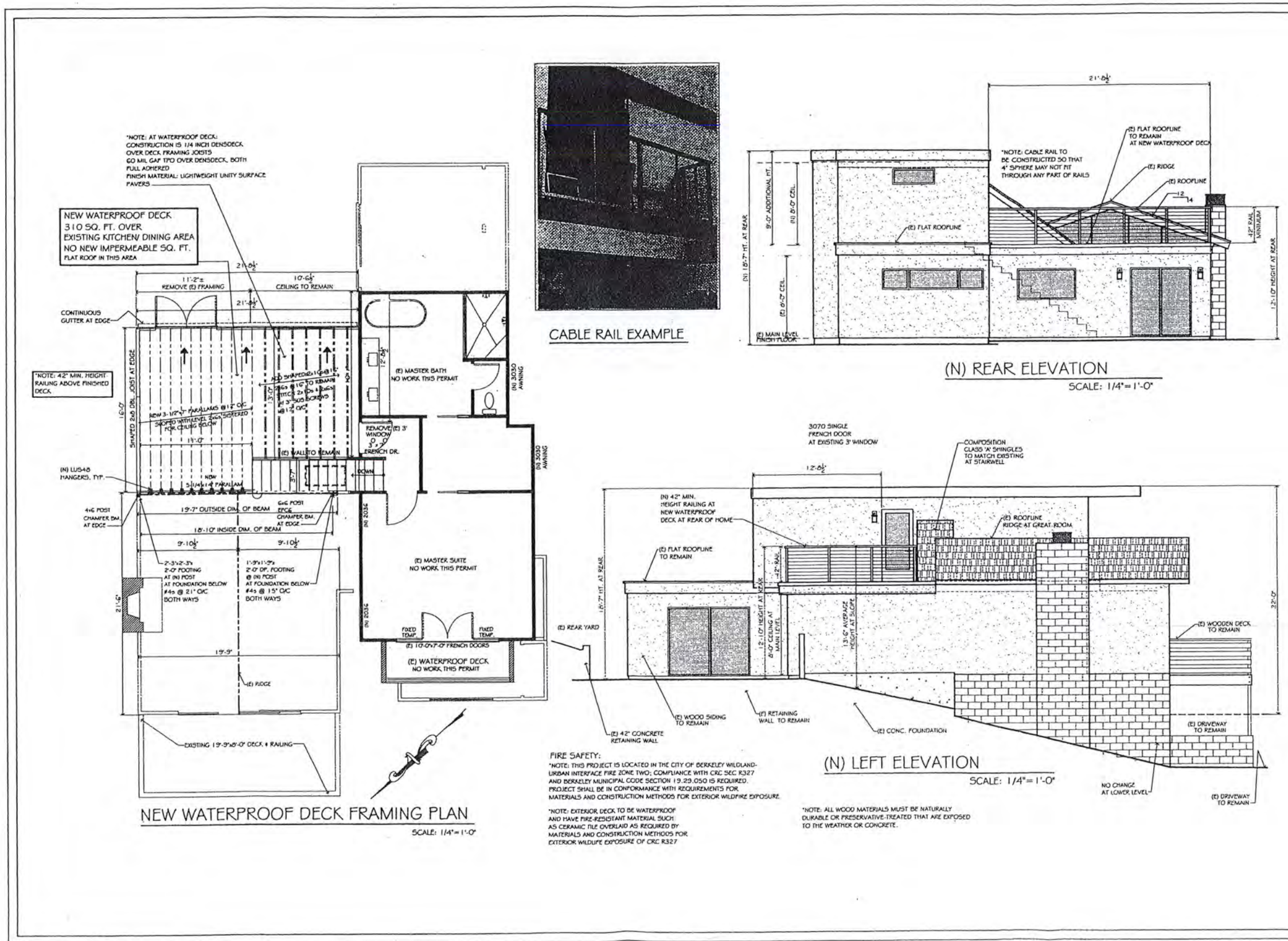
CHECKED

DATE
01/25/18

SCALE
NOTED

JOB NO.
1

ATTACHMENT 9B.



ENGINEERING SERVICES
475 MARSH ST. 4801
VALLEJO, CA 94588
DOMINGUEZ@ENGINEERING

DESIGNER/CONSULTANT
RYAN FERGLUSON
PHONE: (510) 499-9735
RF.FERGLUSON@GMAIL.COM
INS-SCALE DESIGN

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

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

REVISION		
#	DATE	BY
1		
2		

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

URGENT

DATE 7/18.2019

NO. OF PAGES 3
(including Cover Page)

MESSAGE TO:

NAME ASHLEY JAMES, AICP ASSOCIATE PLANNER

COMPANY CITY OF BERKELEY PLANNING & DEVELOPMENT

E-MAIL FAX# ajames@CityofBerkeley.info

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

MESSAGE FROM:

NAME PAMELA SITHOUA

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



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



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

(F)



I. ZONING PROJECT APPLICATION FORM

(This box for staff use only.)

ZP201 _____ - _____ PLN201 9 - 0072

Administrative Use Permit Pre-Application

Use Permit / Variance

Modification of any of the Above Intake Planner: Alison Lenci

RECEIVED
DATE STAMP HERE
DEC 11 2019
LAND USE PLANNING

Project Address: 1449 GRIZZLY PEAK Unit/Suite #: _____

Project Description: _____
APPEAL OF AUP#ZP2019 - 0111

(See Attached)

Property Owner Name: _____

Owner's Mailing Address: _____

Phone #: _____ Home Mobile Business E-mail: _____

Applicant Name (or write "same"): PAMELA SIHVOCA

Applicant's Mailing Address: 1476 SUMMIT ROAD, BERKELEY, CA 94708

Phone #: (510) 697-0525 Home Mobile Business E-mail: NO/ CORRESPOND VIA USPS

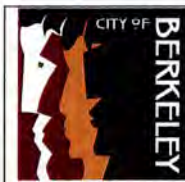
For projects involving only the following four items and none of the items on pages 2-3 of this form, please refer to the handout indicated in the right-hand column instead of filling out this form.

1. Converting existing Rental or Tenant In Common (TIC) Units to Condominiums?	Refer to the "Condominium Conversion Procedures: Guide for Applicants"
2. Demolition of, or exterior alterations to, a designated City of Berkeley Landmark, Structure of Merit, or structure in a City Historic District (or interior alterations to such buildings if publicly owned)?	Refer to the "Landmark Preservation Commission: Structural Alteration Permit and Design Review Submittal Requirements"
3. Application to designate a City Landmark, Structure of Merit or Historic District?	Refer to the "Landmark, Structure of Merit or Historic District Designation Form"
4. Exterior changes (including signs) to (1) any structure (new or existing) in a non-residential zoning district OR (2) a commercial or mixed-use building in the R-4 District?	Refer to the Design Review Submittal Packet

Continued on Page 2

PLANNING & DEVELOPMENT

Land Use Planning Division, 1947 Center Street, 2nd Floor, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903
Fax: 510.981.7420 Email: Planning@CityofBerkeley.info



I. ZONING PROJECT APPLICATION FORM

Page 2 of 4

Submittal Requirements Checklist – Instructions

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

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



I. ZONING PROJECT APPLICATION FORM

Page 3 of 4

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

Under penalty of perjury, I certify that:

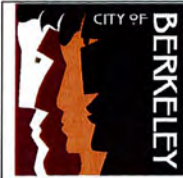
- (1) the above information is true and complete to the best of my knowledge, and**
- (2) the attached paper and electronic copies of this application are the same.**

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

Applicant Signature: _____ **Owner's Signature:** _____

Printed: _____ Printed: _____

Date: _____ Date: _____



I. ZONING PROJECT APPLICATION FORM

Page 4 of 4

(This page is for staff use only.)

Zoning District(s):

Zoning Section	Description
1. 23____.____.____	UP/AUP to
2. 23____.____.____	UP/AUP to
3. 23____.____.____	UP/AUP to
4. 23____.____.____	UP/AUP to
5. 23____.____.____	UP/AUP to
6. 23____.____.____	UP/AUP to
7. 23____.____.____	UP/AUP to
8. 23____.____.____	UP/AUP to
9. 23____.____.____	UP/AUP to



CITY OF BERKELEY

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

Receipt Date:
12/11/2019

Receipt Number:
594727

R E C E I P T
PLN2019-0072

Applicant Information

Pamela Sihvola
1476 SUMMIT RD
BERKELEY CA 94708-2215

Property Information

Parcel Number: 060 249304500

Project Information

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

Location

1449 GRIZZLY PEAK Blvd
BERKELEY, CA 94708

Received
DEC 11 2019
Land Use Planning

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

Property Address:
1449 GRIZZLY PEAK Blvd
BERKELEY, CA 94708



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

INVOICE

Date: 12/11/19

Invoice #: 419843

Record #: PLN2019-0072

Bill to:

Address: 1449 GRIZZLY PEAK
BLVD

Pamela Sihvola
1476 SUMMIT RD
BERKELEY CA 94708-2215

Received

DEC 11 2019

Land Use Planning

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



RECEIVED

DEC 11 2019

PERMIT SERVICE CENTER

LAND USE PLANNING

DEC 11 2019

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

RECEIVED BY: _____

December 11, 2019

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

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

Dear Zoning Officer:

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

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

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

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

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

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

Sincerely,



Pamela Sihvola,
1476 Summit Road, Berkeley CA 94708



Kathleen Wasser
1435 Grizzly Pk., Berkeley, CA 94708

ATTACHMENT 1B.



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

ATTACHMENT 1A.



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

(SEE NEXT PAGE →)

ATTACHMENT 1A.



ATTACHMENT 1B.



ATTACHMENT 3A





A D D E N D U M

PERMIT SERVICE CENTER

To Letter of Appeal
for AUP # ZP2019-0111

DEC 11 2019

RECEIVED BY: _____

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

RECEIVED

12/11/2019

DEC 11 2019

LAND USE PLANNING

Dear Zoning Officer,

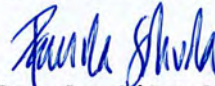
At the request of a member of the Planning Staff, I have submitted a Request for Service with the City of Berkeley's Code Enforcement Division. The request is for determining whether the massive, multi-level concrete structure, covering most of the rear yard at 1449 Grizzly Peak Boulevard, was constructed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

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

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

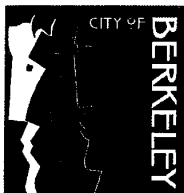
we are therefore respectfully asking that this item, with all its outstanding issues and concerns be deferred to the City's Mediation Services at Seeds Community Resolution Center.

Sincerely,



Pamela Sihvola
1476 Summit Road
Berkeley, CA 94708

ATTACHMENT 1.



Office of the City Manager
Neighborhood Services-Enforcement Division

City of Berkeley Code Enforcement Request for Service

Problem Property Information:

RODRIGO UBILLUS

(510) 773-4835

Owner or Property Manager

Telephone Number

1449 GRIZZLY PEAK BLVD., BERKELEY, CA 94708

Address

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

Complainant's Information (Required):

PAMELA SIHVOLA

(510) 697-0525

Print Name

Telephone Number

1476 SUMMIT RD. BERKELEY, CA 94708

Address

Pamela Sihvola

12/11. 2019

Signature

Date

For Code Enforcement Use ONLY

Assigned to: _____ Assigned By: _____ Date Assigned: _____

Staff notes:

City of Berkeley
Code Enforcement Division

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

Attn: Wanda Drouillard
Code Enforcement Officer

December 11, 2019

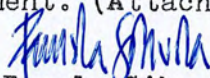
Dear Ms. Drouillard,

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

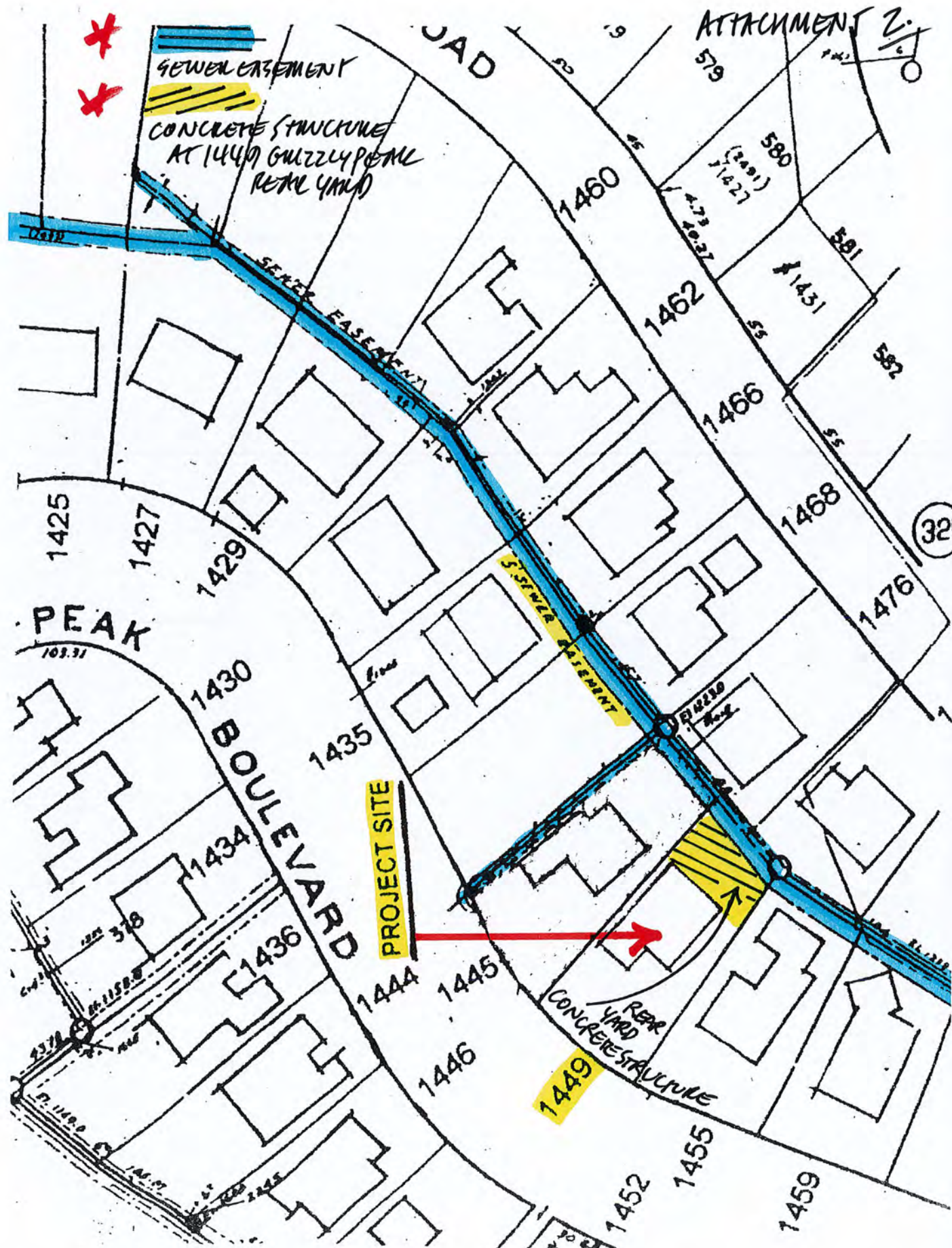
1. Please investigate and determine whether the massive, multi-level concrete structure, covering most of the rear yard area at the above referenced location, was built with proper zoning, building, grading and/or other applicable permits. (Attachments 1A and 1B)

2. Also please investigate and determine whether this structure encroaches on the City of Berkeley's Sewer Easement, located at the rear of the property. Please, also review if a boundary survey of the rear property line was done for this project. If none found, please, → request a formal survey of the rear property line with respect to the City's Sewer Easement. (Attachment 2.)

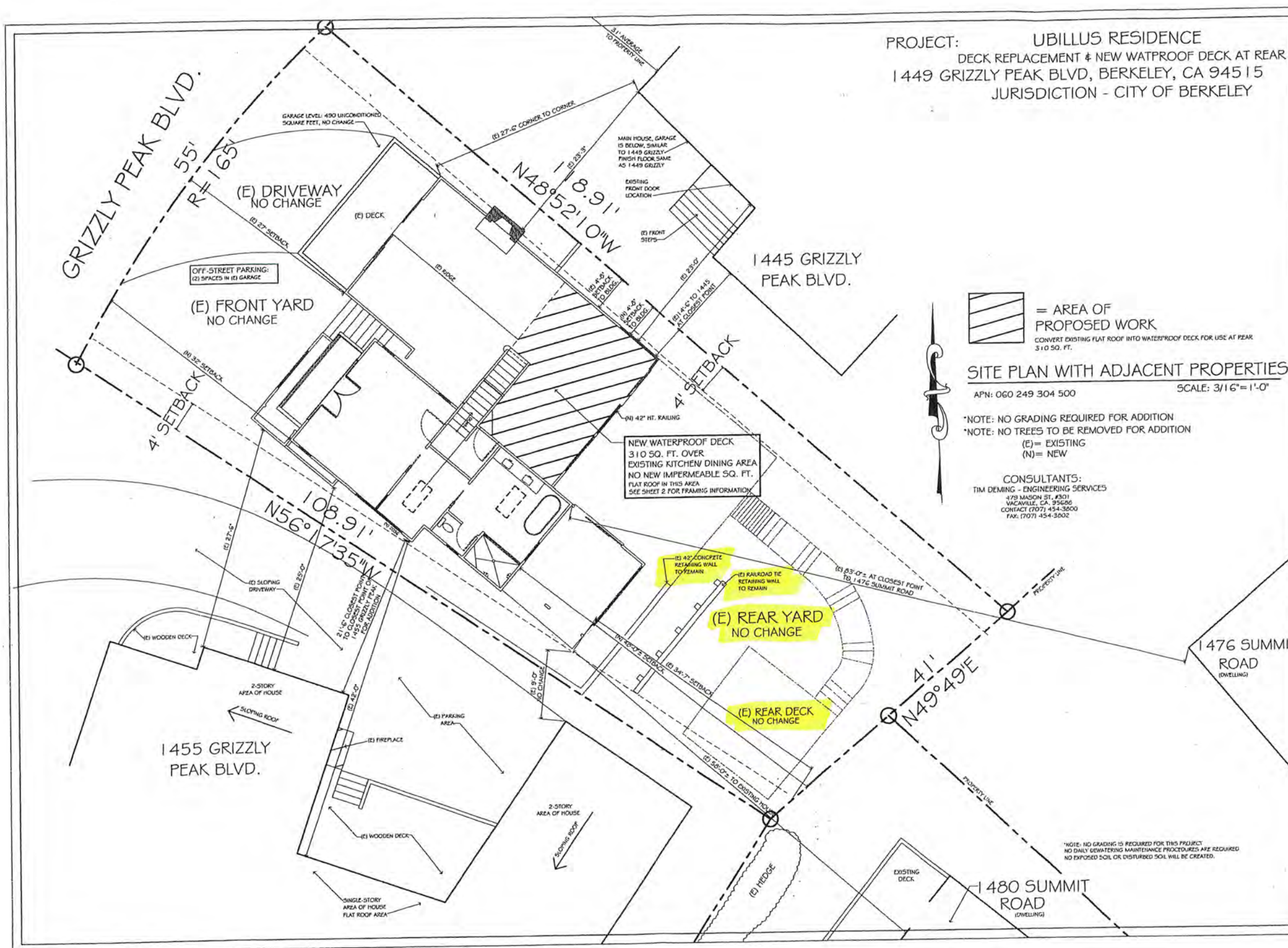
Sincerely,


Pamela Sihvola
1476 Summit Rd.
Berkeley, CA 94708

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



ATTACHMENT 3B



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

RYAN FERGUSON
 PHONE: (510) 498-9735
 RGF.FERGUSON@GMAIL.COM



SITE PLAN W/ NEW DECK LOCATION

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

REVISION		
#	DATE	BY
1	01/25/18	

DATE 01/25/18
 SCALE NOTED
 JOB NO.

ATTACHMENT 2.

URGENT

PERMIT SERVICE CENTER

JUL 17 2019

RECEIVED BY: AJ

Ashley James, AICP
Associate Planner

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

July 15, 2019

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

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

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

Background:

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

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

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

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

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

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

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

During mediation he had promised that the building color will ^{be} one to "blend with the surrounding nature", which did not happen.

1.

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

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


2.

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

3.

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

Sincerely,


Pamela Sihvola
1476 Summit Road
Berkeley, CA 94708

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

ATTACHMENT 3.

Rodrigo Ubillus
1449 Grizzly Peak Blvd.
Berkeley, CA 94708

March 4, 2014

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

Mr. Rodrigo Ubillus,

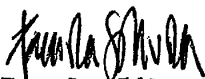
Thank you for the 2 plan sheets and your note I received on
February 27, 2014.

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

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

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

Sincerely,


Pamela Sihvola
1476 Summit Rd.
Berkeley, CA 94708

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

cc: Victor Herbert, Zoning Mediations

RECEIVED

MAR 20 2014

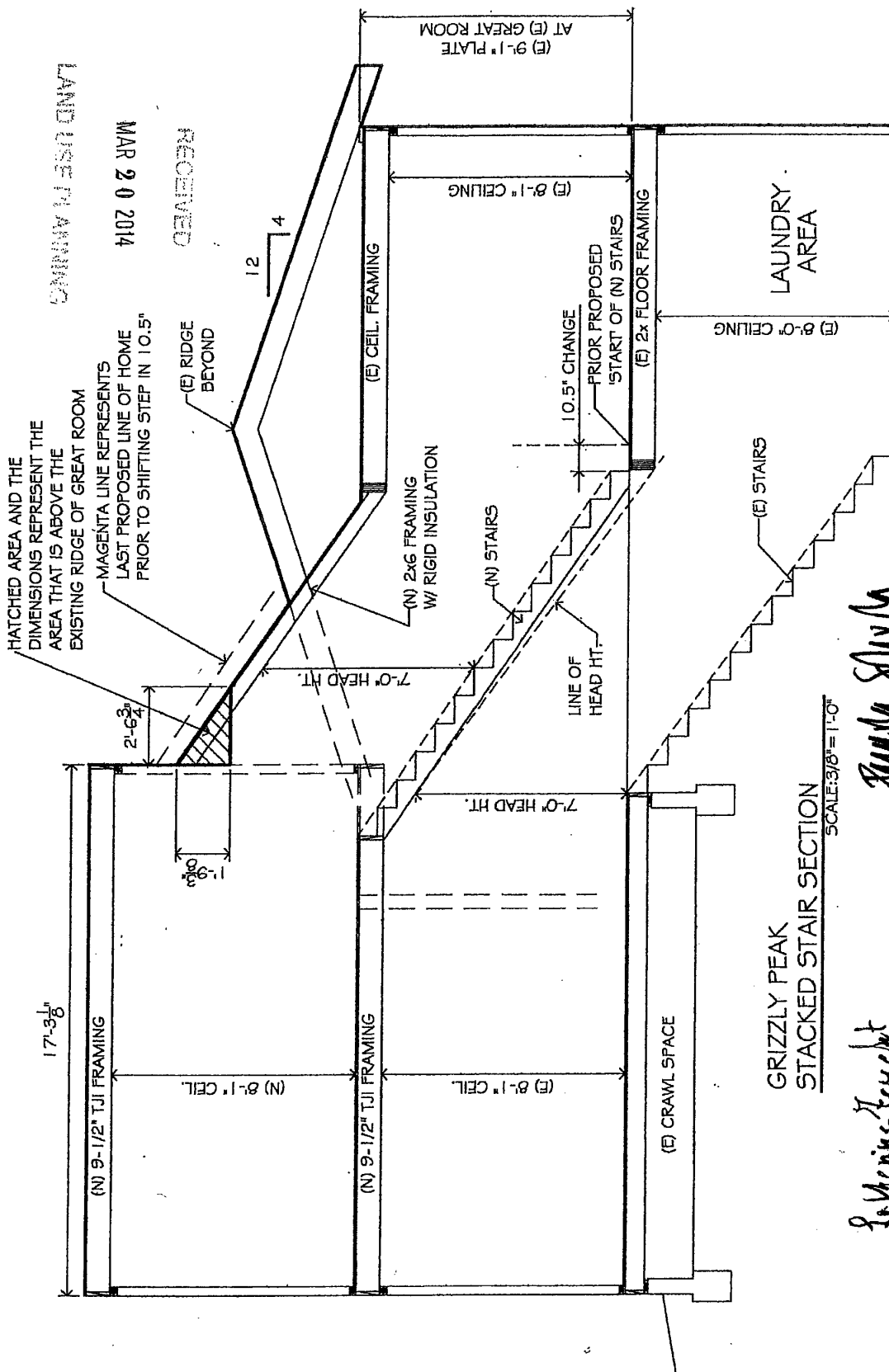
LAND USE PLANNING

ATTACHMENT 2.

LAND USE PLANNING

MAR 20 2014

RECEIVED



GRIZZLY PEAK
STACKED STAIR SECTION

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

Anna Smith
Luis Garcia
1476 SUMMIT RD. BERKELEY. CA 94708

LaVernice Forebet
1480 Summit Rd.
Berkeley

ATTACHMENT 1.

(N) FRONT ELEVATION SCALE: 1/4" = 1'-0"

(N) LEFT ELEVATION SCALE: 1/4" = 1'-0"

(N) RIGHT ELEVATION SCALE: 1/4" = 1'-0"

(N) REAR ELEVATION SCALE: 1/4" = 1'-0"

AREA ANALYSIS:
 MAIN LEVEL ADDITION: 64 SQ. FT.
 (N) UPPER LEVEL ADDITION: 172 SQ. FT.
 TOTAL ADDITION: 236 SQ. FT.
 TOTAL HOME: 2,171 SQ. FT.
 (R) HOME TOTAL: 2,171 SQ. FT.
 (R) LOT: 10,000 SQ. FT. (23.1 AC.)
 (R) LOT COVERAGE: 23.5%
 (R) LOT AREA: 10,000 SQ. FT.

REVISION

NO.	DATE	BY	REVISION
1			
2			
3			

ROBERT & CHERYL URBILLUS
 ARCHITECTS
 1449 CEDAR ST. SUITE 200
 BERKELEY, CA 94715

DESIGNER/CONSULTANT
 KIM THOMPSON
 PHONE: 916-439-2715
 EMAIL: KTHOMPSON@GMAIL.COM

A CUSTOM ADDITION FOR

RECEIVED

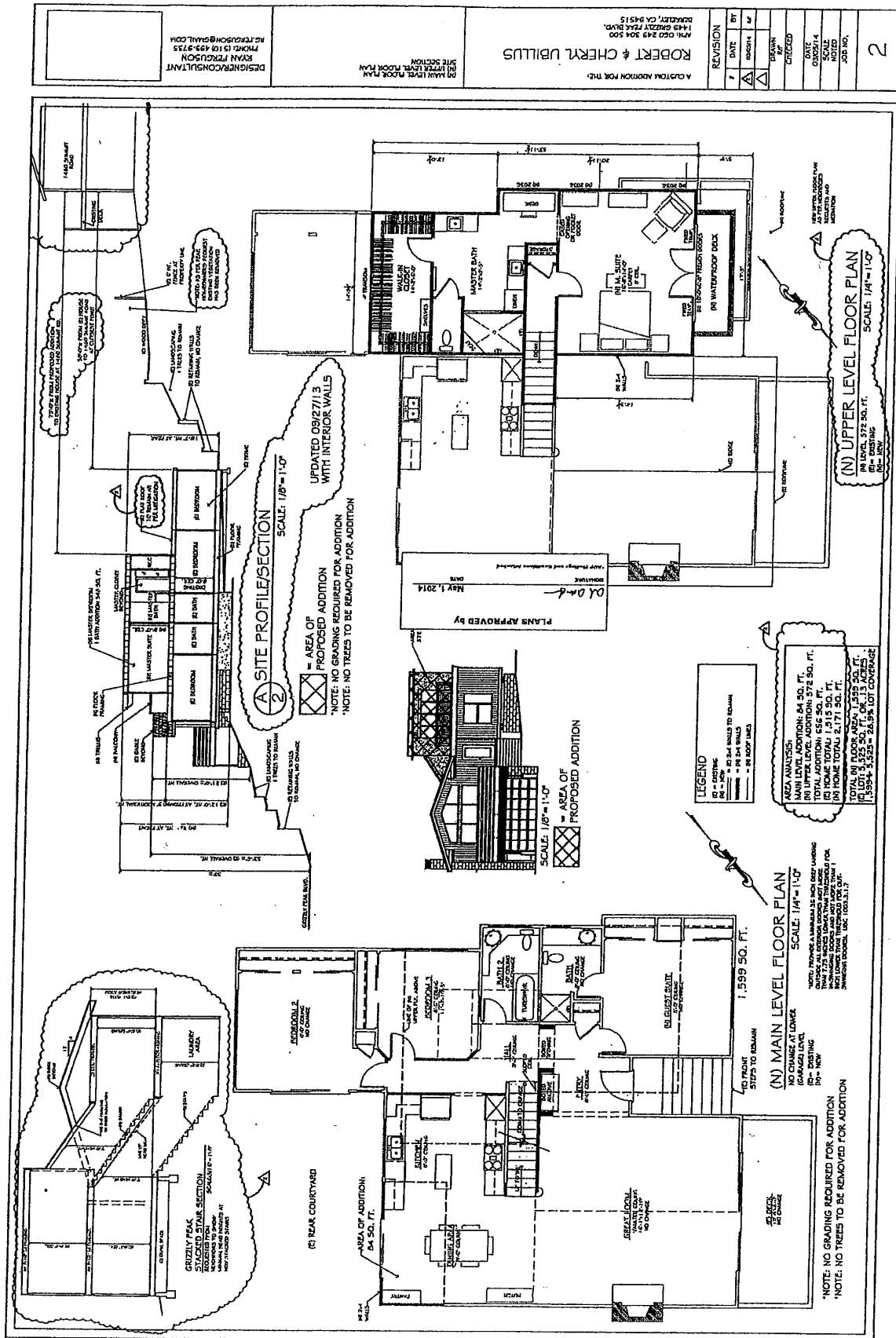
MAR 20 2014

NOTE: NO GRADING REQUIRED FOR ADDITION
NOTE: NO TREES TO BE REMOVED FOR ADDITION

Pathways Ranch
 1480 Summit Rd. Berkeley

Yamila Slavin
 LAND USE PLANNING

Luis Garcia
 1476 SUMMIT RD. BERKELEY, CA 94708





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

1449 Grizzly Peak Blvd.

Administrative Use Permit #13-2000050

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

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

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

DATE OF DECISION: May 1, 2014

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

ATTACHMENTS:

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

FOR FURTHER INFORMATION:

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

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

This Notice of Administrative Decision was:

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

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

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

To appeal this decision, you must:

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

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

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

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

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

ATTACHMENT 1

FINDINGS AND CONDITIONS

MAY 1, 2014

1449 Grizzly Peak Blvd.

Administrative Use Permit #13-20000050

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

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

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

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Name: _____ Phone: _____

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

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

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

Prior to Issuance of Any Building Permit:

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

During Construction:

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

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

Prior to Issuance of Occupancy Permit or Final Inspection:

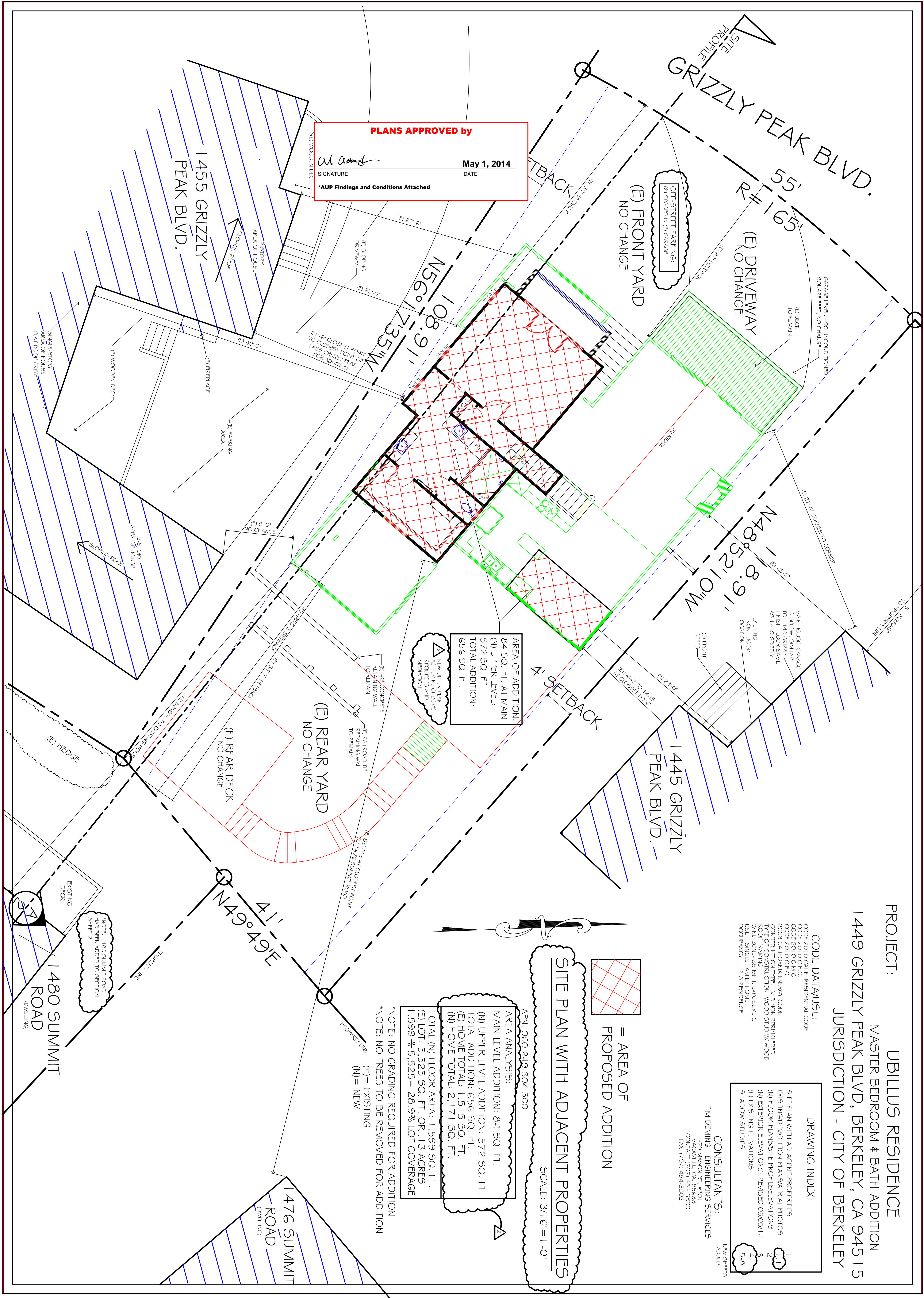
24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 5, 2014**.

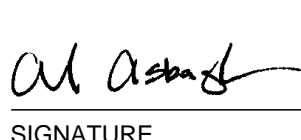
At All Times (Operation):

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



Prepared by: Claudine Asbagh
For Eric Angstadt, Planning Director



PLANS APPROVED by

 SIGNATURE
 May 1, 2014
 DATE
 *AUP Findings and Conditions Attached

AREA OF ADDITION:
 84 SQ. FT. AT MAIN
 (N) UPPER LEVEL:
 572 SQ. FT.
 TOTAL ADDITION:
 656 SQ. FT.

AREA ANALYSIS:
 MAIN LEVEL ADDITION: 84 SQ. FT.
 (N) UPPER LEVEL ADDITION: 572 SQ. FT.
 TOTAL ADDITION: 656 SQ. FT.
 (E) HOME TOTAL: 1,515 SQ. FT.
 (N) HOME TOTAL: 2,171 SQ. FT.
 TOTAL (N) FLOOR AREA: 1,599 SQ. FT.
 (E) LOT: 5,525 SQ. FT. OR .13 ACRES
 1,599 ÷ 5,525 = 28.9% LOT COVERAGE

*NOTE: NO GRADING REQUIRED FOR ADDITION
 (E) = EXISTING
 (N) = NEW

SITE PLAN WITH ADJACENT PROPERTIES
 SCALE: 3/16" = 1'-0"

 = AREA OF PROPOSED ADDITION

CODE DATAUSE:
 CODE 2010 CALIF. RESIDENTIAL CODE
 CODE 2010 C.F.C.
 CODE 2010 C.F.C.
 2008 CALIFORNIA ENERGY CODE
 CONSTRUCTION TYPE - V-9 NON SPRINKLERED
 TYPE OF CONSTRUCTION: WOOD STUD W/ WOOD
 ROOF FRAMING
 WIND ZONE: 95 MPH, EXPOSURE C
 USE: SINGLE FAMILY HOME
 OCCUPANCY: R-3 RESIDENCE

DRAWING INDEX:

1	EXISTING/DEMOLITION PLANS/PICTURE PHOTOS
2	(N) FLOOR PLANS/SITE PROFILE/ELEVATIONS
3	(N) EXTERIOR ELEVATIONS; REVISED 03/05/14
4	(E) EXISTING ELEVATIONS
5-9	SHADOW STUDIES

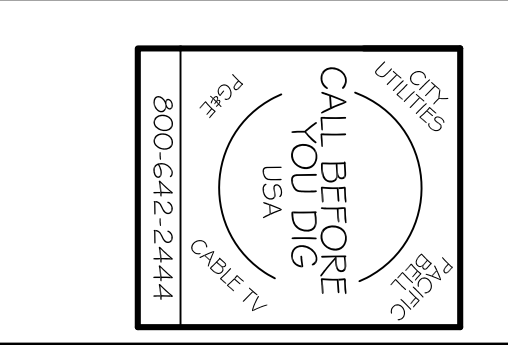
CONSULTANTS:
 NEW SHEETS ADDED
 TIM DEMING - ENGINEERING SERVICES
 479 MASON ST. #301
 YACAVILLE, CA 95688
 CONTRACT # 121435200
 FAX: (916) 434-3802

*NOTE: 1480 SUMMIT ROAD HAS BEEN ADDED TO SECTION, SHEET 2

1480 SUMMIT ROAD (DWELLING)

1476 SUMMIT ROAD (DWELLING)

PROJECT: UBILLUS RESIDENCE
 MASTER BEDROOM & BATH ADDITION
 1449 GRIZZLY PEAK BLVD, BERKELEY, CA 94515
 JURISDICTION - CITY OF BERKELEY



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

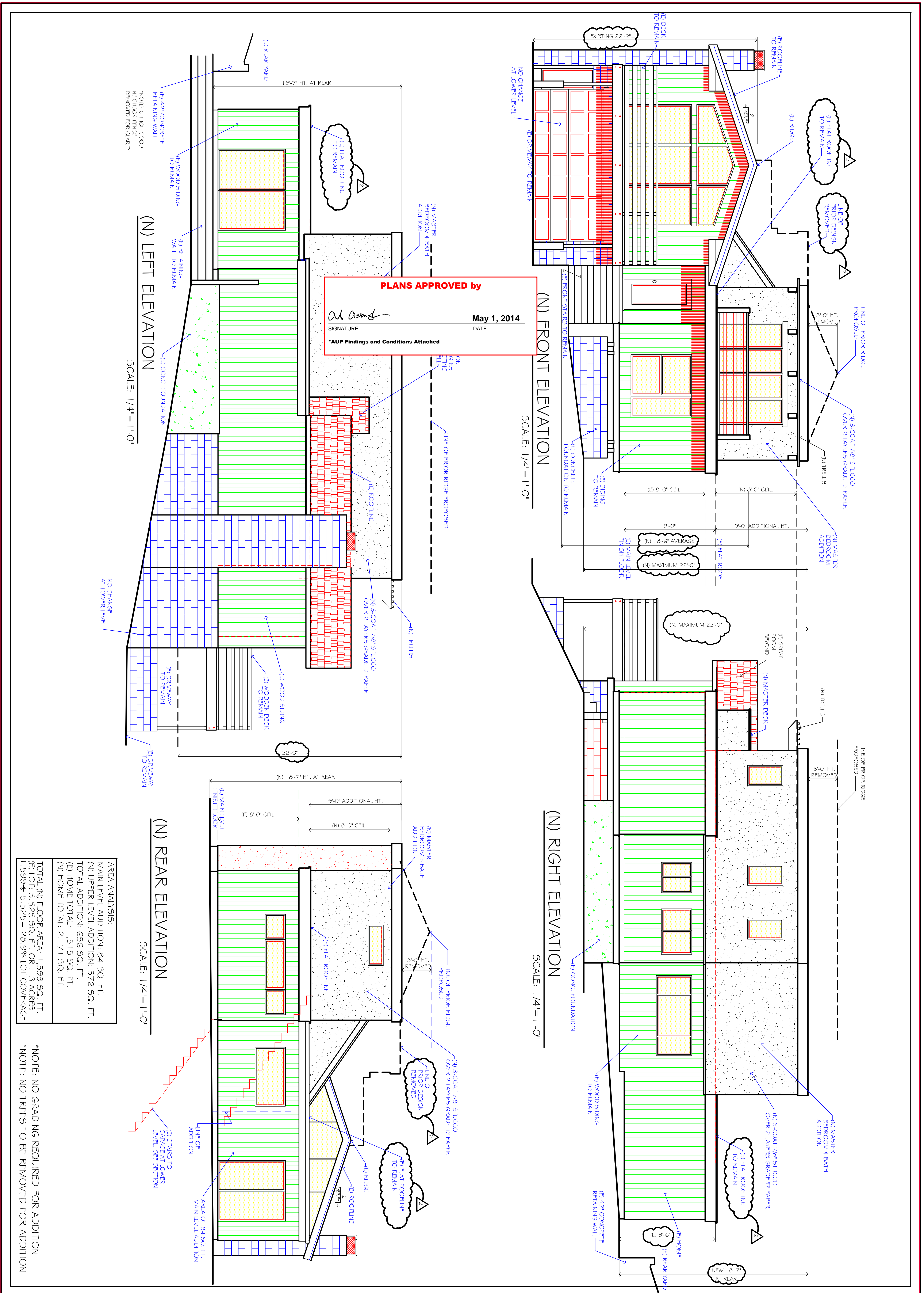
SITE PLAN WITH ADJACENT PROPERTIES

A CUSTOM ADDITION FOR:
ROBERT & CHERYL UBILLUS

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

REVISION		#	DATE	BY
Δ		03/05/14	RF	
Δ				

DRAWN: RF
 CHECKED: RF
 DATE: 03/05/14
 SCALE: NOTED
 JOB NO.:



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



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

NOTICE OF PUBLIC HEARING

1449 Grizzly Peak Boulevard

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

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

A. Land Use Designations:

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

B. Zoning Permits Required:

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

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

D. Parties Involved:

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

Land Use Planning Division
1947 Center Street, Second Floor, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7420
E-mail: zab@cityofberkeley.info

1449 GRIZZLY PEAK BOULEVARD
Page 2 of 4

NOTICE OF PUBLIC HEARING
Posted FEBRUARY 27, 2020

- Appellant Pamela Sihvola, 1476 Summit Road, Berkeley

1449 GRIZZLY PEAK BOULEVARD
Page 3 of 4

NOTICE OF PUBLIC HEARING
Posted FEBRUARY 27, 2020

Further Information:

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

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

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/>.

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

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

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

**Accessibility Information / ADA Disclaimer:**

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

SB 343 Disclaimer:

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

Notice Concerning Your Legal Rights:

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

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

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

ROUGHLY EDITED COPY

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

Services provided by:
QuickCaption, Inc.
4927 Arlington Avenue
Riverside, CA 92504
Telephone - 951-779-0787
Fax Number - 951-779-0980
quickcaption@gmail.com
www.quickcaption.com

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

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

>> THANK YOU. BOARD MEMBER TREGUB.

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

>> CLERK: BOARD MEMBER CLARKE.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER SHEAHAN.

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

>> MEDIATION FOR THE PROJECT BEFORE US THIS EVENING?

>> 2013-14.

>> BOARD MEMBER KIM.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER PINKSTON.

>> PRESENT NO EX-PARTE.

>> BOARD MEMBER LEWIS.

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

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

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

>> AND CHAIR O'KEEFE.

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

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

>> I. TREGUB: I MOVE THE MINUTES.

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

>> SECOND.

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

>> BOARD MEMBER TREGUB.

>> YES.

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

MINUTES.

>> YES.

>> BOARD MEMBER SHEAHAN.

>> YES.

>> BOARD MEMBER OLSON -- BOARD MEMBER KIM.

>> ABSTAIN DUE TO ABSENCE.

>> BOARD MEMBER PINKSTON.

>> ABSTAIN DUE TO ABSENCE.

>> BOARD MEMBER KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> YES.

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

>> S. O'KEEFE: IGOR.

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

>> THE AMENDMENTS ADMITTED TO THE RECORD.

>> I. TREGUB: AS A LATE COMMUNICATION.

>> WHAT IS -- THE THICKER PACKET?

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

>> SO THE THICKER ONE.

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

>> I. TREGUB: YES.

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

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

>> THAT WAS JUST AN IDEA.

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

>> CALL THE QUESTION.

>> I MOVE WE VOTE ON THE AGENDA.

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

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

>> [OFF MIC]

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

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

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

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

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

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

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

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

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

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

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

>> OKAY. LET ME GET TO THAT.

>> WHEN WERE THESE SUBMITTED TO YOU?

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

>> YOU HAVE REVIEWED THEM?

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

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

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

>> S. O'KEEFE: TERESA.

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

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

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

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

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

>> T. CLARKE: OKAY.

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

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

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

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

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

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

>> I. TREGUB: THAT ANSWERS MY QUESTION.

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

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

>> S. O'KEEFE: ANY QUESTIONS?

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

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

OTHER APPLICANTS?

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

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

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

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

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

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

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

>> S. O'KEEFE: CHARLES.

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

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

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

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

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

RETURNS.

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

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

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

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

>> S. O'KEEFE: THANK YOU.

>> C. KAHN: THANK YOU.

>> S. O'KEEFE: MISS RICKLES.

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

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

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

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

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

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

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

>> I'LL SECOND.

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

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

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

>> I. TREGUB: THANK YOU.

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

>> [OFF MIC]

>> S. O'KEEFE: TERESA.

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

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

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

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

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

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

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

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

>> S. O'KEEFE: TERESA --

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

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

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

>> CLERK: BOARD MEMBER SHEAHAN.

>> YES.

>> KIM.

>> YES.

>> CLARKE.

>> PASS.

>> PINKSTON.

>> YES.

>> TREGUB.

>> YES.

>> BOARD MEMBER LEWIS.

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

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

>> CLERK: BOARD MEMBER CLARKE.

>> YES.

>> CLERK: VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

>> I JUST HAVE THIS PARAGRAPH. THE STREET VIEW OF 1449 GRIZZLY PEAK BOULEVARD WHICH IS THE SECOND PHOTO IN THE PACKET. THIS IS THE GOOGLE STREET VIEW AND SHOWS THE INCORPORATION AT THE FRONT ENTRANCE AND IN THE AREAS UNDER THE OVERHANG OF THE ROOF. AS A MITIGATION PROPOSAL, I AM SUBMITTING TWO PHOTOS OF AWARD-WINNING HOMES WHERE A WOOD OF SIMILAR COLOR WAS INCORPORATED AS THE SIDING OF THE BUILDING'S THIRD FLOOR. PHOTO NUMBER FOUR AND PHOTO NUMBER FIVE ARE SHOWING A WHITE STUCCO BUILDING WITH AN IPE WOOD COLOR THIRD STOREY SIDING AND CLADDING. WITH THE ADDITION OF THE IPE WOOD COLOR SIDING ON THE

THIRD FLOOR ADDITIONS AND WITH THE ROOF COLOR OF SIMILAR TONE, THE GLARE OF THE CURRENT STARK WHITE BRIGHT STRUCTURE WOULD BE MITIGATED AND THE STRUCTURE WOULD BLEND WITH THE NATURAL SETTING WHICH HAD BEEN THE PROMISE OF THE APPLICANT ALREADY AT THE 2014 MEDIATION MEETING.

>> S. O'KEEFE: YOUR IT TIME HAS ELAPSED.

>> I JUST HAVE WITHIN MORE PARAGRAPH.

>> S. O'KEEFE: WE HAVE THE LETTER AND WE READ IT.

>> BUT I WANT TO SPEAK.

>> S. O'KEEFE: NO. I'M SORRY. THIS IS I GAVE YOU THREE MINUTES AND GAVE YOU ONE MORE MINUTE AND YOU'VE A EXCEEDED THAT.

>> THE LAST PARAGRAPH.

>> S. O'KEEFE: SUMMARIZE IT IN TWO SENTENCE.

>> IN CLOSING I'M THANKFUL FOR THE BOARD IN ALLOWING ME TO PRESENT THIS AND ASKING THAT YOU ADD THE FOLLOWING CONDITIONS TO THE AUP AS LISTED. THIRD FLOOR SIDING TO BE IPE WOOD COLOR. ROOF COLOR SIMILAR IN TONE TO THE THIRD FLOOR SIDING COLOR AND LASTLY THE MAXIMUM CEILING HEIGHT -- THIS IS A COMPROMISE -- TO BE 9 FEET. AND I WOULD VERY MUCH APPRECIATE YOUR POSITIVE DECISION ON THESE THREE CONDITIONS TO BE ADDED TO THE PERMIT. AND THEN I AM HAPPY TO DEFEND THE APPLICANT TO GET HIS PERMIT.

>> I. TREGUB: CAN I ASK A QUESTION. MAYBE THIS IS FOR THE APPLICANT.

>> S. O'KEEFE: IS IT FOR THE APPELLANT OR APPLICANT?

>> I. TREGUB: APPELLANT CLAIMED MAXIMUM CEILING HEIGHT SHOULD BE 9 FEET. I WONDER WHAT IT IS NOW.

>> S. O'KEEFE: MAYBE THE APPLICANT CAN ANSWER THAT QUESTION. CAN THE APPLICANT COME UP, PLEASE. I WAS GOING TO GIVE YOU THREE MINUTES.

>> MY NAME IS LILLIAN MITCHELL. I'M THE ARCHITECT FOR MY CLIENT THE PROPERTY OWNER. LIKE EVERYONE ELSE, WOULD I LIKE TO THANK THE ZAB BOARD AND FOR THE STAFF REPORT. LOOKING AT THIS, THE QUESTIONS THAT I HEARD JUST ASKED THAT CEILING LIGHTS AT 9 FEET. WE HAD TO -- THE ROOF HEIGHT LOOKS A LITTLE HIGHER BECAUSE OF TRYING TO MAKE THE ROOF SLOPE WORK OUT ON A FLAT WORK SITUATION. OUR INTERIOR CEILING HEIGHT IS AT 9 FEET. I'M HAPPY TO ANSWER ANY QUESTIONS.

>> S. O'KEEFE: LET'S LET IGOR CONTINUE.

>> I. TREGUB: SO THERE ARE TWO OTHER REQUESTS, THE THIRD FLOOR SIDING TO BE IPE WOOD COLOR AND THE ROOF COLOR SIMILAR TO THE THIRD FLOOR COLOR AND I WANTED TO ASK HOW THE APPLICANT FEELS ABOUT THIS.

>> WE DID DISCUSS IT. I DON'T KNOW THAT IT'S APPROPRIATE FOR IT TO BE A CONDITION OF APPROVAL FROM ZAB. BUT I'M HAPPY TO DISCUSS IT WITH MY CLIENT.

>> S. O'KEEFE: OKAY.

>> I. TREGUB: IS YOUR CLIENT HERE?

>> S. O'KEEFE: WHY DON'T YOU COME UP AND ANSWER THE

QUESTION.

>> I DON'T KNOW IF I WANT TO DO THAT. LAST TIME I DID THAT, IT CAUSED ME ISSUES. WHEN THE ORIGINAL PERMIT -- WHEN THE ORIGINAL PERMIT WAS APPROVED, I HAD WOOD SIDING WHEN I OPENED THE HOME TO MAKE SURE THE FOUNDATION WAS STRONG ENOUGH TO GO UP AND PUT THE NEW BEDROOM UPSTAIRS, THERE WERE RATS AND DIFFERENT THINGS HAPPENING. I HAD TO REPLACE ALL OF THE SIDING. IF YOU LOOK AT THE PHOTO THAT SHE GAVE YOU, I DON'T IMPACT HER VIEW AT ALL. ALL THE OTHER NEIGHBORS ARE FINE WITH THE PROJECT. WE GET ALONG GREAT. TWO HOUSES DOWN, ANOTHER HOME GOT STUCCO ON THE SIDING.

>> S. O'KEEFE: I THINK YOU'VE ANSWERED THE QUESTION.

>> I. TREGUB: THE FIRST OF MY QUESTIONS -- THE SECOND ONE WAS THE ROOF COLOR. CAN YOU SPEAKING TO THAT.

>> IT WAS RECOMMENDED BY A ROOFER. ALL IT IS THE SINGLE PLY. THE ROOF IS ALMOST SEMI FLAT. THAT'S JUST -- I CAN'T DIDN'T WANT TO PUT TILE OR ANYTHING ELSE.

>> S. O'KEEFE: THAT'S YOUR ANSWER.

>> I HAVE HUNDREDS OF THOUSANDS OF DOLLARS INTO THE HOME.

>> S. O'KEEFE: THANK YOU FOR ANSWERING THE QUESTION. I THINK IGOR, ARE YOU FINISHED? MATTHEW.

>> MY QUESTION WAS THE SAME. YOU HAD.

>> T. CLARKE: WHY DO YOU HAVE TO HAVE THE WALLS WHITE?

>> FOR THE HEAT.

>> T. CLARKE: SO YOU'RE ONLY DOING WHITE.

>> BECAUSE IF I REPLACE --

>> S. O'KEEFE: I'M TALKING ABOUT THE PAINT COLOR ON THE STUCCO.

>> IT'S AN ACRYLIC STUCCO THAT COMES LIKE THAT.

>> BUT YOU DIDN'T BUILT IT LIKE THAT.

>> THE REST OF THE HOME IS BUILT. SO I WOULD JUST CHANGE ONE BEDROOM TO BE ONE COLOR AND THE REST OF THE HOME IS TO ANOTHER COLOR.

>> S. O'KEEFE: SO HE'S SAYING NO. YOU'RE SAYING IT'S THE COLOR. IT DOESN'T HAVE ANYTHING DO WITH THE RATS. THE COLOR DOESN'T HAVE ANYTHING DO WITH THE RATS, DOES IT? I GUESS THE WOOD COLOR, SHE REQUESTED IPE WOOD COLOR.

>> I HAVE IPE IN THE HOME.

>> T. CLARKE: THE OTHER QUESTION I HAVE IS ABOUT THE DEMOLITION OF THE CALIFORNIA LIVE OAK AND IF YOU COULD EXPLAIN WHY YOU DEMOLISHED THAT WITHOUT A PERMIT.

>> THAT WAS THE FAULT OF MY CONTRACTOR. I DO APOLOGIZE AND I WILL BE HAPPY DO WHATEVER PENALTY OR WHATEVER I HAVE TO DO ABOUT IT. THERE IS NO GREAT RESPONSE FOR IT. I DO HAVE NORTHERLY LIVE OAK IN THE FRONT OF THE HOME WHICH I'VE MEASURED AND HAD A SURVEYOR MAKE SURE IT'S OKAY TO BE REMOVED OR KEPT THERE. IT WAS LARGER THAN THE ONE IN THE BACKYARD. A BERKELEY HILL'S -- MY BACKYARD CONSISTS OF THREE RETAINING WALLS BASED OUT OF ROCK.

WHAT I ACTUALLY DID IS I PUT REAL RETAINING WALLS BECAUSE IF YOU HAVE A ROCK RETAINING WALL, THEY ALL COME APART AND DIRT COMES THROUGH.

>> S. O'KEEFE: IT SOUND LIKE IT'S BEEN REFERRED TO CODE ENFORCEMENT SO THAT'S OUTSIDE OF OUR -- DO YOU HAVE ANY MORE QUESTIONS FOR HIM? CHARLES.

>> C. KAHN: YOU KNOW, WHEN WE HAVE NEIGHBORS HAVE CONCERNS, WE TRY TO ACCOMMODATE THEIR CONCERNS IF POSSIBLE. SO IT'S NOT A REQUIREMENT, THIS IS AN ADJUSTMENTS BOARD. ACTUALLY LILLIAN, I THINK THAT SHEET A-4 SHOWS INTERIOR 10-FOOT CLEAR CEILING HEIGHT THAT MIGHT BE IN ERROR. IF YOU'RE WILLING TO HAVE 9-FOOT CEILINGS IN THAT BEDROOM, I APPRECIATE THAT YOU'RE ACCOMMODATING HALF OF THE REQUEST. ARE YOU WILLING TO HAVE A 9-FOOT CEILING?

>> I'M FINE WITH THAT.

>> C. KAHN: IT GIVES US A CHANCE TO LET THE APPELLANT KNOW THAT WE'VE HEARD THEM AND TRIED TO MEET THEM HALFWAY. THANKS AND I APPRECIATE YOUR POINT ABOUT NOT WANTING ONE PART OF THE HOUSE A DIFFERENT COLOR FROM THE REST. MAYBE YOU CAN TALK TO YOUR NEIGHBOR ABOUT HAVING SOME PLANTING THAT MIGHT HELP WITH THE FEW ISSUES. I DON'T KNOW WHAT YOU COULD DO.

>> DID I DO THAT. I'VE ACTUALLY ON THE BACK OF THE FENCE I PUT EIGHT OR NINE DIFFERENT TREES TO GIVE HER MORE GREENERY. THE ISSUE WITH THE FENCE THAT IT'S 8 FEET, IT'S AN ABUTTING FENCE TO HER. IT WAS AN AGREEMENT BETWEEN HER AND I.

>> C. KAHN: I'M NOT TOO CONCERNED ABOUT THAT.

>> ANY OTHER QUESTIONS? PATRICK.

>> THAT WAS RESOLVED BY CHARLES' QUESTION.

>> I WANT TO CONFIRM SOMETHING YOU SAID EARLIER. THE REASON WHY YOU'RE GOING WITH THAT COLOR IS BECAUSE IT REFLECT HEAT BETTER IN.

>> THE ROOFING, THE ROOFER SAID THAT REFLECTS HEAT. I DIDN'T WANT IT WHITE TO BE HONEST WITH YOU. MY ROOFER RECOMMENDED IT BECAUSE OF THE HEAT REFLECTION AND THE HOME GETS THE SUN ALL DAY LONG. THE REST OF THE HOMES THAT. I DON'T FEEL LIKE I SHOULD CHANGE THE WHOLE ROOF. IT WOULD BE A \$15,000 ROOFING PROBLEM. IF MY NEIGHBORS CAN HELP ME WITH THAT, GREAT, BUT SO FAR THAT HASN'T BEEN THE CASE.

>> S. O'KEEFE: OKAY. SEEING NO MORE QUESTIONS FOR THE APPLICANT, YOU CAN HAVE A SEAT. WE HAVE NO SPEAKER CARDS ON THIS ITEM. I WANT TO MAKE SURE NO ONE FROM THE AUDIENCE WOULD LIKE TO COME AND SPEAK. THIS IS YOUR CHANCE. WITH THAT, WE'LL CLOSE THE PUBLIC HEARING AND BRING IT BACK FOR BOARD COMMENT. TERESA.

>> T. CLARKE: YES, I POINT OUT TO PAGE 9 OF 26, THE PHOTO OF THE STOREY POLES. IF EVERYBODY COULD GO TO THAT. WHAT TIME IT SHOWS IS THE ADDITION. THIS IS THE ADDITION ON HERE. DOES EVERYBODY SEE THAT? IT'S ATTACHMENT 4. ATTACHMENT 4, PAGE 9 OF 26. AND TO WHAT I SEE THERE ARE TWO NEW PIECES OF VOLUME BEING ADDED. I SEE THAT THOSE ARE GOING TO -- IF THOSE ARE PAINTED

BRIGHT WHITE, YOU CAN'T EVEN SEE THE REST OF THE BUILDING. THIS IS FACING THE BACK OF THE PROPERTY. THIS IS THE VIEW THAT THE APPELLANT CAN CONCERNED ABOUT BECAUSE IF THIS IS ALL GOING TO BE AS BRIGHT WHITE AS THE OTHER ONE, IT IS PRETTY BRIGHT. I DON'T KNOW WHY THIS COULD BE A DIFFERENT COLOR. IT'S IN THE BACKYARD. I DON'T BUY THE ARGUMENT YOU CAN'T PAINT IT A DIFFERENT COLOR. THAT'S A MINOR REQUEST TO SOFTEN THE BRIGHT COLOR OF THE BUILDING. SO I WOULD RECOMMEND THAT THE APPLICANT AGREE TO SOME KIND OF MODEST CHANGE IN THE COLOR. IT DOESN'T NEED TO BE IPE WOOD BUT IT DOESN'T NEED TO BE AS REFLECTIVE. I UNDERSTAND ABOUT THE COOL ROOF. BASICALLY WHAT A COOL ROOF IS USUALLY REFLECTIVE. IF YOU DON'T HAVE INSULATION IN YOUR OLDER HOUSE, WHICH HE MAY OR MAY NOT, THEN YOU NEED THAT COOL ROOF BECAUSE THAT'S GOING TO REFLECT THE HEAT. IN THE NEW CONSTRUCTION WHICH THEY'RE DOING HERE, I DON'T SEE WHY THE ROOF COLOR COULDN'T BE LESS THAN A WHITE BRIGHT. THERE ARE A COUPLE OF DIFFERENT TYPES OF COOL ROOFS THAT YOU CAN USE THAT WOULDN'T BE SO STARK WHITE. THERE IS A COUPLE OF DIFFERENT TYPES. THERE ONE THAT IS GRAY AND HAS A SIMILAR REFLECTION FACTOR AND I'M SURE THE ARCHITECT CAN FIND THAT FOR THE APPLICANT. SO I WOULD RECOMMEND THAT THE APPLICANT DO THOSE TWO THINGS. TONE DOWN THE WHITE WITH A DIFFERENT COLOR ON THE BACK. WHERE IT'S MOST VISIBLE. I DON'T THINK THAT'S A BIG ASK, REALLY.

>> S. O'KEEFE: CHARLES. THAT'S A MOTION AND A SECOND AND

CHARLES WOULD LIKE TO COMMENT.

>> C. KAHN: I THINK YOUR POINTS ARE VALID SO FAR AS THE ROOF IS CONCERNED. I THINK THAT ONLY PEOPLE THAT ARE GOING TO SEE THE NEW ROOFS ARE THE APPELLANT. I DON'T THINK THE APPLICANT WILL SEE THE ROOFS. I THINK GOING WITH A DARKER COLOR THERE THAT IS NOT SO GLARING ACCOMMODATES THE APPELLANT WITHOUT NEGATIVELY IMPACTING THE APPLICANT. BUT I CAN'T SEE CHANGING THE BUILDING MASS BECAUSE THAT WILL BE VISIBLE FROM THEIR BACKYARD AS I SEE IT HERE. I THINK THAT IT IS A LITTLE BIT OF A BIG ASK TO TELL YOUR NEIGHBOR WHAT COLOR TO PAINT THEIR BUILDING. IF THEY CAN SEE IT AND DOESN'T WANT TO DO IT THAT COLOR, IT DOESN'T FEEL RIGHT NO ME.

>> WE CAN'T CONDITION PAINT COLOR. WHAT I WAS SAYING AS A GOOD FAITH GESTURE, A RECOMMENDATION THAT THE APPLICANT DO THAT.

>> C. KAHN: I THINK WE COULD PUT IN A THAN THE ROOFING MATERIAL BE REVIEWED BY STAFF THAT IT'S BRIGHTNESS NOT BE SO SEVERE. CERTAINLY WE CAN MAKE THE REQUEST. I HAVE NO TROUBLE WITH THAT.

>> CAN I CLARIFY. IS THE MOTION THEN THAT THE CEILING BE LOWER THAN 9 FEET THAT THE APPLICANT HAVE A COOL ROOF WITH A LESS REFLECTIVE COLOR AND THAT WE SUGGEST THE APPLICANT CONSIDER A DIFFERENT PAINT COLOR, IS THAT WHAT THE MAKER AND SECONDER OF THE MOTION INTENDED?

>> T. CLARKE: I DIDN'T HAVE ANY CONCERN ABOUT THE HEIGHT,

BUT I'M OKAY WITH THE HEIGHT BECAUSE IT SOUNDED LIKE THE ARCHITECT WAS OKAY WITH THAT SO I WOULD BE FINE WITH THAT.

>> DID YOU WANT THE HEIGHT TO STAY AS IT IS ON THE PLANS?

>> T. CLARKE: I WASN'T CONCERNED ABOUT THE HEIGHT. I'M OKAY IF EVERYONE ELSE WANTS THAT.

>> I WOULD LIKE YOU TO INCLUDE THAT AND I THINK WE CAN CALL THE QUESTION AND KEEP MOVING.

>> COULD SOMEONE REPEAT THE QUESTION.

>> ARCHITECT STOOD THERE AS I RECALL. IT WASN'T A CONCERN OF MINE.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I'M ON BOARD WITH ALL THREE.

>> S. O'KEEFE: RECOMMENDATION AND LOWERING THE HEIGHT TO 9 FEET.

>> ENSURING THAT IT IS 9 FEET.

>> THOUGH CLARIFY, WE ARE A MAKING IT A CONDITION TO BE 9 FEET, WE'RE REQUESTING NON-BINDING TO LOOK AT CHANGING THE COLOR FOR THE ROOF COLOR OR THE FLOOR?

>> SECOND STOREY ADDITION, NOT THE ROOF. THIRD STOREY.

>> I'M TRYING TO LINE THESE UP. WE'RE SAYING -- SO THE SECOND FLOOR WOULD BE -- IS THERE A THIRD PART OF THIS MOTION?

>> THAT THE ROOF NOT BE THIS BRIGHT.

>> ROOF NOT BE THIS RIGHT AND OTHER COLORS WE'RE ASKING TO BE CHANGED.

>> I'M SAYING JUST THE NEW ROOF. NOT THE OLD ROOF, JUST THE NEW. AS HE POINTED OUT, IT'S NOT RIGHT TO HAVE TO REPLACE THE ENTIRE ROOF FOR THAT.

>> THESE ARE NOT GOING TO AFFECT THE ABILITY TO BE A HEAT ISLAND.

>> THERE IS ANOTHER COLOR, THERE IS MORE THAN ONE COLOR. THERE IS STARK WHITE AND THERE IS KIND OF A LESS WHITE.

>> THIS IS A LOT OF DISCUSSION ON SOMETHING WE DON'T HAVE ANY CONTROL OVER.

>> I THINK I'LL SUPPORT THIS.

>> CALL THE QUESTION.

>> PATRICK, FURTHER COMMENT?

>> I WOULD LIKE TO -- SINCE I WAS THERE IN 2014 DISCUSSING THIS PROJECT IN ITS PREVIOUS EXPANSION, AND I HAVE BEEN AT THE APPELLANT'S HOUSE. I HAVE SEEN THAT VIEW. AND THIS LITTLE POCKET OF THE HILLS IS ACTUALLY QUITE DENSE. SEVERAL HOUSES IN CLOSE PROXIMITY. THERE IS A LETTER INCLUDED HERE FROM ANOTHER CLOSE BY NEIGHBOR SUPPORTING THE CONCERNS RAISED BY THE APPELLANT. IN THE MEDIATION IN 2014, THERE WERE SEVERAL NEIGHBORS SURROUNDING NEIGHBORS ALL VOICING THE SAME CONCERNS. PART OF THAT MEDIATION WAS A PROMISE BY THE DEVELOPER TO DO DARK COLORS FOR THE PROPOSED ADDITION. THAT HELPED LEAD TO A SUCCESSFUL OUTCOME FOR THE MEDIATION AND EVENTUALLY THE APPROVAL AT THAT TIME. SO I JUST WANT TO ASK THAT THE APPELLANT HONOR THE INTENT OF THE

ORIGINAL MEDIATION BECAUSE THE ISSUES ARE THERE, THEY'RE ALL THE SAME. THE IMPACT REALLY IS VERY INTENSE FROM THE APPELLANT'S HOUSE AND NOT ONLY THE APPELLANT'S BUT ALSO THE HOUSES TO EITHER SIDE OF THE APPELLANT. ALL THE HOUSES UPHILL -- SEVERAL HOUSES HAVE A PROMINENT VIEW OF THIS PROJECT. I THINK IT'S A REASONABLE ASK ON ALL POINTS BY THE APPELLANT. I'M NOT SURE WHY WE CAN ASK -- CONDITION A DARKER ROOF COLOR BUT NOT A DARKER WALL COLOR. STAFF. CAN YOU CLARIFY? IS THAT NOT WITHIN OUR PURVIEW?

>> SO WHAT I WOULD ASK ZAB TO CONSIDER IS HOW ANY CONDITIONS ON THIS PROJECT OR OTHERS RELATES TO THE FINDINGS THAT ARE REQUIRED TO BE MADE. FINDINGS AROUND VIEWS, PRIVACY, AIR, LIGHT, IF YOU FIND AREAS OF DETRIMENT RELATED TO THOSE THAT ARE ANALYZED FOR RESIDENTIAL PROJECTS, THAT'S HOW I WOULD ASK THE ZAB TO CONSIDER. THE OTHER PIECE IS THAT WE DO NOT HAVE RESIDENTIAL DESIGN GUIDELINES IN THE CITY OF BERKELEY.

>> WELL, I WILL COUCH THAT IN TERMS OF DETRIMENT. BASED UPON MY FIRST-HAND OBSERVATION OF THIS SITE, I THINK THIS INTENSELY BRIGHT WHITE STRUCTURE WHICH IS PROPOSED TO BE SIGNIFICANTLY EXPANDED THAT MUCH CLOSER TO THE APPELLANT IS -- IT IS A SERIOUS DETRIMENT TO THE VIEW AND CONSEQUENTLY THE QUALITY OF LIFE. IT'S EXTREMELY BRIGHT. LOOK AT THE BACKGROUND AROUND THE PHOTOGRAPH. TREES ARE DARK, CITY THE IS DARK. THE CONTRAST IS INTENSE AND I THINK THAT CONSTITUTES DETRIMENT. I DON'T THINK IT'S UNREASONABLE TO ASK FOR A MODERATION IN COLOR.

>> S. O'KEEFE: OKAY. FURTHER COMMENTS?

>> PATRICK AND I OFTEN DON'T AGREE, BUT I DO AGREE WITH HIM ON THIS POINT. I THINK THAT THE FINDING VIEWS ARE A CONSIDERATION. AND WE USUALLY THINK OF VIEWS IN TERMS OF OBSTRUCTION OF VIEWS. BUT A GLARING CONDITION AND IT DOES APPEAR TO BE GLARING AND WE HAVE PATRICK'S FIRSTHAND TESTIMONY THAT IT IS GLARING. I THINK IT'S GOOD NEIGHBORLINESS AND COURTESY NOT TO PERPETUATE THAT. I COULD SUPPORT A REQUEST THAT THE ARCHITECT WORK WITH THE APPLICANT AND STAFF TO FIND A COLOR WHICH IS LESS GLARING THAN THE WHITE CURRENTLY ON THE BUILDING FOR THESE TWO ADDITIONS. JUST FOR THE ADDITION UNLESS THEY WANT TO PAINT THE WHOLE THING. THAT'S AT THEIR DISCRETION.

>> WHEN YOU SAY REQUEST, DO WE MEAN REQUEST OR CONDITION OF THE PERMIT?

>> I THINK PATRICK WAS ASKING FOR A CONDITION AND I SUPPORT HIM IN THAT.

>> S. O'KEEFE: SO I'D LIKE TO HEAR FROM THE MOTION MAKER AND SECONDER WHICH IS IGOR.

>> I MADE THE MOTION AND I THINK IT'S OKAY TO CONDITION IT IF STAFF THINKS WE CAN. I DIDN'T THINK WE COULD CONDITION A PAINT COLOR ON A RESIDENTIAL. I THINK BECAUSE OF THE GLARE, IT HAS MORE WEIGHT.

>> I. TREGUB: I'M FINE WITH ADDING THAT AS A CONDITION.

>> S. O'KEEFE: DO YOU WANT TO COMMENT?

>> I WORRY ABOUT A CONDITION THAT STAFF WOULD NEGOTIATE SOME AGREEMENT BETWEEN TWO NEIGHBORS THAT HAVEN'T AGREED FOR 10 YEARS. I'M NOT CONFIDENT IN MY NEGOTIATING SKILLS TO THAT LEVEL. SHOULD WE REFER TO ANN BURNS?

>> I'M GUESSING DENISE HAS BETTER LANGUAGE ON HOW TO GET TO A YES THAT DOESN'T INVOLVE STAFF.

>> I THINK THE ARCHITECTS ON THE BOARD SHOULD RECOMMEND A COLOR AND LIGHT GRAY AND ASK THE APPLICANT TO PAINT IT THAT COLOR. YOU GUYS HAVE AN IDEA OF WHAT WORKS, YOU SHOULD SUGGEST IT AND ASK THE APPLICANT AND WE SHOULD WRAP THIS UP.

>> S. O'KEEFE: I LIKE THAT SUGGESTION. ARCHITECT? SHOULD -- DOHEE, I'M GOING TO LET THEM THINK ABOUT THIS. ARCHITECTS WHAT DO YOU THINK? PATRICK?

>> P. SHEAHAN: I THINK THE SUGGESTION FROM THE APPELLANT IN THE FIRST PLACE -- THAT'S NOT MY COMMENT, JUST TO POINT THAT OUT. IN LIEU OF THAT, YOU COULD VALUE MATCH A COLOR TO THAT. AND THAT WOULD GIVE YOU, I THINK, A MEDIUM, WARM BROWN GRAY.

>> S. O'KEEFE: CHARLES.

>> I APPRECIATE SHANNON'S POINT. IT WAS NEBULOUS VERBAL DESCRIPTION AND HARD TO ENFORCE. SO -- BUT I'M NOT PREPARED TO SPECIFY A PARTICULAR COLOR OR IMPOSE THAT. WHILE I AGREE WITH THE PRINCIPLE THAT GOOD NEIGHBORLINESS WOULD DICTATE THAT THIS NEIGHBOR TRY TO REDUCE THE GLARE, AND I DON'T THINK YOU SHOULD HAVE TO MAKE US MAKE YOU DO IT. I THINK IT'S THE RIGHT THING DO.

I SEE NODDING. THAT IS GOOD TO SEE. SO ARE YOU WILLING TO CONSIDER GOING WITH A COLOR THAT IS LESS GLARING WHITE? IT COULD BE A PALE GREEN OR GRAY. SOMETHING THAT BLENDS IN WITH THE ENVIRONMENT. FOR THOSE TWO PIECES.

>> [OFF MIC]

>> S. O'KEEFE: SIR, WOULD YOU MIND COMING UP -- WE'D LIKE TO GET YOUR COMMENTS ON THE RECORD.

>> IT'S BEEN DISCUSSED THAT WE WOULD TONE THE STRUCTURE DOWN SO IT DOESN'T LOOK LIKE AN ERECT CEMENT BUILDING. WE CAN HAVE A COUPLE OF OPTIONS WITH TONING IT DOWN.

>> LILLIAN SERVES ON DESIGN REVIEW AND DOES A GREAT JOB. I THINK THE NEIGHBOR'S CONCERNS WILL BE IN GOOD HANDS.

>> I AGREE.

>> NOW IT GOES BACK TO THE ORIGINAL MOTION THAT THIS IS A RECOMMENDATION FROM ZAB NOT ENFORCED BY STAFF BUT WITH THE GOOD FAITH HOPE THAT THE APPLICANT FOLLOWS THROUGH WITH HIS PLEDGE TO WORK WITH THE NEIGHBORS.

>> LILLIAN HAS A GOOD SENSE OF COLOR.

>> SHE IS TRYING TO HELP ME PUT IPE ON THE WALLS.

>> AND I UNDERSTAND IT'S EXPENSIVE.

>> YOUR SHIRT IS A HANDSOME COLOR, GO WITH THAT.

>> S. O'KEEFE: THANK YOU, WE'LL CLOSE THE PUBLIC HEARING. I'M COMFORTABLE WITH THAT. ANY OTHER COMMENTS -- DO WE UNDERSTAND WHAT THE MOTION IS? DOHEE WANTED TO SPEAK.

>> D. KIM: I JUST WANT TO SAY THAT I'M NOT COMFORTABLE WITH
ADDING A CONDITION OF APPROVAL BECAUSE THE PURVIEW OF ZAB
DOESN'T SEEM TO BE ADDING THIS ADDITIONAL LEGAL --

>> S. O'KEEFE: WE'RE MAKING IT A SUGGESTION.

>> I WANT TO MAKE SURE, IS IT A SUGGESTION ONLY?

>> S. O'KEEFE: GREAT, SO YOU'RE GOOD. LET'S VOTE. CAN WE
VOTE?

>> I'M SORRY, I WANT TO MAKE SURE. CONDITIONAL OF APPROVAL
FOR THE 9-FOOT CEILING HEIGHT. CONDITION OF APPROVAL THAT THE
ROOF BE NOT AS BRIGHT AND A RECOMMENDATION FOR THE CHANGE OF THE
COLOR OF THE THIRD STOREY ADDITION.

>> S. O'KEEFE: THANK YOU FOR -- THAT'S GOOD TO GET THAT
CLEAR. CAN WE DO A ROLL CALL.

>> PINKSTON.

>> YES.

>> KIM.

>> YES.

>> TREGUB.

>> YES.

>> SHEAHAN.

>> YES.

>> CLARKE.

>> YES.

>> LEWIS.

>> YES.

>> VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: YES, THE MOTION PASSES. WE SAID APPROVED, BUT IT'S A DENIAL OF THE APPEAL AND UPHOLDING OF THE ORIGINAL AUP. THERE WE GO AS MANNED YOU HAVE YOUR AUP AND IT'S APPEALABLE TO THE CITY COUNCIL.

>> I. TREGUB: JUST TO CLARIFY UPHOLDING OF THE AUP WITH NEW CONDITIONS.

>> YES AS WE JUST VOTED ON. THANK YOU VERY MUCH. YOU MAY GO. NOW WE'LL TAKE A BREAK. IT GOT DARK. KEY WE MAKE SURE THAT NO ONE IS OUTSIDE FOR KITTREDGE AND WE'LL TAKE A BRIEF BREAK WHILE WE MAKE SURE EVERYONE IS IN THE ROOM -- IT'S TELEGRAPH, I APOLOGIZE.

>> IS IT FIVE MINUTES OR SHORTER?

>> KEVIN: I THINK IT'S -- IT DOESN'T SEEM LIKE --

>> I'M FINE WITH SHORTER. I WANTED TO CLARIFY.

>> S. O'KEEFE: I'VE RECEIVED AN E-MAIL THAT BERKELEY SCHOOLS ARE CLOSED.

>> ARE WE KICKED OUT?

>> NO, BUT I DON'T HAVE TO GO TO WORK TOMORROW. IAN, YOU HAVE TO GO TO SCHOOL TOMORROW. ELEMENTARY SCHOOLS ARE CLOSED STARTING MONDAY. DO YOU NEED CHILD CARE TOMORROW? YOU DO

STARTING MONDAY.

>> SO IS IT -- SO IS IT NEXT WEEK THERE WOULD NORMALLY BE SCHOOL? I'M CURIOUS.

>> S. O'KEEFE: TWO WEEKS OF SCHOOL ARE CANCELED AND OUR SPRING BREAK IS MARCH 30TH THROUGH APRIL --

>> THAT'S A WEEK LATER THAN UC BERKELEY DOES IT. I THINK THAT'S WHEN BCC DOES.

>> S. O'KEEFE: ARE WE READY TO BEGIN? NOT QUITE? JUST TO WARN EVERYONE. WE'LL HAVE TO TAKE A CAPTIONER BREAK IN 30 MINUTES BUT MAYBE WE'LL BE DONE BY THEN. I JUST WANT TO WARRANT SPEAKERS, SINCE THERE ARE QUITE A FEW SPEAKER CARDS, I'M GOING TO LIMIT YOUR TIME. BUT I'LL BE FLEXIBLE. I SEE THERE ARE FOUR PEOPLE THAT WOULD LIKE TO GO TOGETHER. AS I SAID WE'LL TRY TO SHORT THEN MEET BUT RESPECT THE PROCESS. I WOULD NORMALLY GIVE ONE MINUTE PER PERSON BUT IF YOU WANT TO BE FLEXIBLE. NORMALLY WE DON'T DO CEDING TIME BUT WE'LL DO THAT TO MAKE UP FOR THE ONE MINUTE. IF YOU HAVE A TEAM THAT YOU WANT TO GO TOGETHER, YOU CAN HAVE FOUR MINUTES IF THERE ARE FOUR. FIGURE THAT OUT WHILE WE'RE DOING STAFF REPORT. OKAY. ARE WE READY?

>> SO THE PROJECT IS 2650 TELEGRAPH AVENUE WHICH IS USE PERMIT ZP2019-0070 WHICH WOULD DEMOLISH A CURRENT BUILDING TO CONSTRUCT THE 34,249 SQUARE FEET MIXED USE BUILDING WITH 49 DWELLING UNITS WHICH ARE FOUR LOW INCOME. COMMERCIAL SPACE ON THE GROUND LEVEL, 4,051 USABLE OPEN SPACE. 50 BICYCLE PARKING

SPACES AND 20 VEHICULAR PARKING SPACES AT THE GROUND LEVEL. THE LAND USE DESIGNATION IS AVENUE COMMERCIAL IN THE GENERAL COMMERCIAL ZONING DISTRICT. THE ZONING PERMITS REQUIRED ARE USE PERMITS TO DEMOLISH A COMMERCIAL BUILDING TO CONSTRUCT NEW FLOOR AREA OF 5,000 SQUARE FEET OR MORE AND ADMINISTRATIVE USE PERMIT TO ALLOW ARCHITECTURAL ELEMENTS TO EXCEED THE HEIGHT LIMIT. THIS QUALIFIES FOR A STATE DENSITY BONUS AND THERE ARE THREE WAIVERS AND ONE CONCESSION. WAIVER TO EXCEED THE HEIGHT LIMIT TO BE 55 FEET 6 INCHES WHERE 40 FEET IS THE LIMIT. TO REDUCE THE PARKING LIMIT. TO EXCEED THE MAXIMUM FLOOR AREA RATIO TO BE 3.15. THE CONCESSION IS TO DECREASE THE USABLE OPEN SPACE BY ELIMINATING THE ROOF DECK PROVIDING 4,051 SQUARE FEET WHERE 5,000 IS THE MINIMUM. THE CEQA IS A CATEGORICAL EXCEPTION UNDER 15332 UNDER INFILL DEVELOPMENT PROJECTS. THIS PROJECT WAS HEARD BY ZAB AS A PREVIEW IN DECEMBER AND DRC ALSO IN DECEMBER. REVISED APPLICATION WAS SUBMITTED ON JANUARY 21ST. ON FEBRUARY 20TH, THE DRC CONDUCTED THEIR PRELIMINARY REVIEW WITH A FAVORABLE RECOMMENDATION TO THE ZAB INCLUDING CONDITIONS FOR FINAL DESIGN REVIEW AND RECOMMENDATIONS FOR DISCUSSION WHICH ARE ATTACHMENT SEVEN TO THE STAFF REPORT. THE PROJECT COMPLIES WITH ALL APPLICABLE AND OBJECTIVE GENERAL PLAN AND ZONING STANDARDS. SO THE HOUSING ACCOUNTABILITY ACT DOES APPLY. PROJECT SITE IS LOCATED WITHIN THE RPP BOUNDARY. HOWEVER, BECAUSE THE APPLICANT IS NOT REQUESTING A VARIANCE FOR PARKING, THE PROJECT IS NOT

ELIGIBLE FOR THAT PROGRAM. IN TERMS OF THE NEIGHBOR CONTEXT, THIS IS 7 TO 8 BLOCKS WEST OF THE UC CLARK CAMPUS ALONG THE TRANSIT CORRIDOR COMMERCIAL DISTRICT AT THE SOUTHERN END OF THE TELEGRAPH BUSINESS IMPROVEMENT DISTRICT AND LOCATED ONE BLOCK SOUTH OF CARLETON WHERE THERE ARE TWO BUILDING ON THAT SAME SIDE AND THREE BLOCKS NORTH OF OREGON WHERE TWO SIX STOREY BUILDINGS ARE LOCATED ON BOTH SIDES MUCH TELEGRAPH. IN THIS AREA, MOST COMMERCIAL BUILDINGS HAVE ACTIVE PEDESTRIAN ORIENTED USES ON THE GROUND FLOOR. TO THE WEST ARE LOW-RISE RESIDENTIAL UNITS MOSTLY CONSISTING OF ONE TO TWO-STOREY BUILDING WITH A MIX OF SINGLE AND MULTI-FAMILY DWELLING. THE PROJECT IS LOCATED ABOUT ONE MILE FROM BOTH THE DOWNTOWN BERKELEY AND ASHBY BART STATION. FOUR BLOCKS NORTH OF RUSSELL WHICH ARE BOTH BICYCLE BOULEVARDS. IN RESPONSE TO BOTH THE ZAB AND DRC PREVIEW COMMENTS, THE APPLICANT REVISED THE PROJECT TO REDUCE THE HEIGHT. THIS IS ACHIEVED BY LOWERING THE GROUND FLOOR BY FOUR FEET AND BY EXCAVATING BELOW GRADE. IN THE PROPOSED OPTIONAL MEZZANINE HAS BEEN ELIMINATED AND THE PROPOSED RESIDENTIAL [INDISCERNIBLE] HAS BEEN REDESIGNED. THE OPEN SPACE ON THE PROPERTY CONSISTS OF SEVEN PATIOS AND A COMMONLY ACCESSIBLE PODIUM ON THE SECOND FLOOR THAT IS 1,572 SQUARE FEET AS WELL AS A 1,300 SQUARE FEET COMMONLY ACCESSIBLE ROOF DECK. ALSO ON THE GROUND FLOOR IS A 562 SQUARE FOOT COMMON AREA DESIGNED AS A COMMON AREA GARDEN BUT NOT USABLE OPEN SPACE. THAT'S AT THE REAR OF THE PROPERTY. SO TO SUMMARIZE

THE ANALYSIS FROM SECTION 5, STAFF BELIEVES THE FINDINGS FOR NOT DETRIMENT WILL BE MADE. DURING THE APPLICATION REVIEW, STAFF HAS RECEIVED SEVERAL LETTERS FROM BOTH RESIDENTS AND THE COMMERCIAL PROPERTIES THAT ARE ADJACENT TO THE PROJECT AND THOSE ARE ATTACHMENTS THREE AND I BELIEVE THERE ARE SUPPLEMENTAL COMMUNICATIONS YOU RECEIVED TONIGHT AND ANOTHER COMMUNICATION THAT YOU RECEIVED PREVIOUSLY. IN ATTACHMENT THREE IS A RESPONSE LETTER FROM THE ARCHITECT DAVID TRACHTENBERG THAT RESPONDED AND STAFF AS WELL AS THE CITY ATTORNEY HAS MET WITH THE ATTORNEY REPRESENTING SEVERAL OF THE NEIGHBORS YESTERDAY AND WE'VE LISTENED AND REVIEWED THEIR CONCERNS WHICH ARE LISTED IN TABLE SIX WHICH IS PAGE 14 OF THE STAFF REPORT. I'LL SUMMARIZE THE TOPICS AND HAPPY TO ANSWER ANY QUESTIONS AND ALLOW TIME FOR THE PEOPLE THAT ARE HERE TO SPEAK. SO THE TOPICS INCLUDE SHADING OF ROOFTOP SOLAR PANELS ON THE DENTIST'S OFFICE NORTH OF THE SITE. ELIMINATION OF THE SIGNAGE AND REDUCED VISIBILITY OF THAT DENTIST'S OFFICE. GENERAL PRIVACY AND NOISE IMPACTS RELATED TO THE USABLE OPEN SPACE AS WELL AS THE COMMON AREA GARDEN ON THE GROUND FLOOR. POTENTIAL NOISE FROM THE GARAGE DOOR, PARKING IMPACTS AND SHADOWS, AFFORDABILITY, CULTURAL RESOURCES, LIGHT POLLUTION AND CONSTRUCTION-RELATED IMPACTS. I'LL LEAVE IT TO PUBLIC COMMENT.

>> S. O'KEEFE: ANY QUESTIONS FOR STAFF? OKAY. DONE. TERESA.

>> T. CLARKE: COULD YOU SPEAK TO THE DEADLINE FOR CEQA

EXEMPT PROJECTS TO BE COMPLETED BY FEBRUARY 10TH.

>> I THINK SHANNON CAN ANSWER THAT.

>> I CAN. THE CITY HAS RECEIVED A HANDFUL OF LETTERS RECENTLY QUESTIONING THE TIMING OF THE CEQA DETERMINATIONS AND THE PERMITS STREAMLINING ACT. IT'S THE CITY STAFF HAS REVIEWED THESE LETTERS SUBMITTED MOST RECENTLY BY MR. KELLOGG AND DOES NOT FIND THE CITY IS VIOLATING THE ACT. STREAMLINE STARTS WHEN THE AGENCY DETERMINES THAT THE PROJECT IS EXEMPT. STAFF RECOMMENDS THE CEQA DETERMINATION BUT ZAB CONFIRMS THAT AND MOVING FORWARD, THE LANGUAGE IN THE STAFF REPORTS WILL BE REVISED TO REFLECT THAT NUANCE. SECONDLY, A PERMIT CANNOT BE DEEMED APPROVED UNDER THE STREAMLINING ACT UNLESS A PUBLIC NOTICE REQUIRED BY LAW HAS OCCURRED. THE NOTICE MUST COMPLY WITH THE CITY'S CODE AS WELL AS DUE PROCESS REQUIREMENTS. SINCE NOTICE HAS INTO THE BEEN GIVEN WITH RESPECT TO AN APPLICANT'S PROJECT, THE 60-DAY PERIOD FOR APPROVAL UNDER THE STREAMLINING ACT DOES NOT APPLY.

>> ARE YOU SAYING IN OUR APPROVAL WE'RE DETERMINING THE CEQA EXEMPTION? WHERE IS THAT IN OUR RECOMMENDATION? SO IN THE FRONT OF SECTION HERE UNDER BACKGROUND AND WHAT WE ARE APPROVING, I SEE -- I SEE FOUR USE PERMITS.

>> ON PAGE 2 THERE IS A CEQA DETERMINATION THAT IS CATEGORICALLY EXEMPT UNDER SECTION 15332 UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

>> DO WE HAVE PURVIEW TO DENY THAT IT'S CATEGORICALLY EXEMPT? YOU'RE ARGUING THAT WE'RE THE ONE AS PROVING THE DETERMINATION.

>> AND THEN -- YES.

>> BECAUSE WE'VE NEVER DISCUSSED THAT BEFORE. WE'VE BEEN TOLD BY THE STAFF THAT THIS IS A CEQA -- THE PROJECT IS EXEMPT FROM CEQA.

>> I DON'T WANT TO BE ARGUE WITH YOU BUT I WANT TO CLARIFY. THERE ARE FINDINGS THAT ARE STANDARD AND WE'LL GET TO THOSE.

>> WE'RE ESSENTIALLY APPROVING THE STANDARDS SO WHEN WE'RE CONSIDERING THE PROJECT, WE HAVE THE OPTION TO SAY THAT IT'S NOT OR IS.

>> ON PAGE ONE FOR FINDINGS AND CONDITIONS THERE ARE CEQA FINDINGS. IT SAYS IT'S EXEMPT AND LIST REASONINGS BEFORE THAT.

>> S. O'KEEFE: IT'S ALWAYS BEEN THERE.

>> I'M SAYING WE'VE NEVER DISCUSSED IT. OCCASIONALLY WE HAVE IN TERMS OF HAZARDOUS MATERIAL, WE'VE DISCUSSED IT. BUT NORMALLY WE DON'T. BUT BASICALLY WE'RE APPROVING THAT AS WELL WHEN WE APPROVE A PROJECT.

>> YES.

>> I WANT TO MAKE THAT CLEAR TO EVERYBODY.

>> S. O'KEEFE: MATTHEW.

>> I HAVE A QUESTION FOR STAFF ABOUT THE LETTER FROM RAMSEY LAW GROUP. IN IT THAT HE TALK ABOUT -- THEY SUGGEST THAT IN

ORDER TO DEAL WITH THE SHADING OF THE EXISTING SOLAR PANELS WE SHOULD USE THE POWER UNDER 23B.32.030 TO REQUIRE AS A CONDITION TO PUT BASICALLY THE PANELS ON THE ROOF OF THE PROPOSED DEVELOPMENT. I WANT TO CONFIRM, THAT SOMETHING IN THEORY WE COULD DO IF IT VIOLATED THE CONDITIONS AROUND MORALS OR GENERAL WELFARE? I'M NOT GOING TO READ THE WHOLE LIST, COULD WE REQUIRE THAT THEORETICALLY?

>> THEORETICALLY YOU COULD.

>> I THINK IT'S WORTH CONSIDERING.

>> IT'S NOT -- IT'S NOTHING THAT THE ZONING ADJUSTMENTS BOARD HAS DETERMINED IN THE PAST. THE ZONING ADJUSTMENTS BOARD HAS APPROVED PROJECTS WHERE NEW CONSTRUCTION CAST SHADOWS ON SOLAR PANELS. IT WOULD BE A DEVIATION FROM PAST PRACTICE AND NOT SOMETHING THAT THE ZONING BOARD HAS CONSIDERED WHEN THEY'VE DISCUSSED DETRIMENT ASSOCIATED WITH SHADOWS.

>> DOES STAFF HAVE ANY OPINIONS ON THAT BEING A THING THAT THE ZAB MIGHT CONSIDER? ARE THERE DOWN SIDES TO DO THAT? WHAT ARE THE DOWNSIDES?

>> I PREFER THIS IS A CONVERSATION FOR THE ZONING ADJUSTMENTS BOARD. THERE IS LANGUAGE SAYING CITY MAY NOT LIMIT THE DEVELOPMENT OF THE SUBJECT PROPERTY TO PROTECT THE ABILITY OF ANOTHER PROPERTY TO INSTALL PRODUCTIVE SOLAR PANELS. THIS IS A DENSITY BONUS PROJECT SO THERE ARE DIFFERENT FINDINGS THAT NEED TO BE MADE IF YOU WERE TO DENY AN ELEMENT OF DENSITY OF THE

PROPOSED PROJECT AND IT'S HEALTH AND SAFETY.

>> ARE YOU SAYING IF WE REQUIRED PUTTING THE SOLAR PANELS ON THIS DEVELOPMENT, IT WOULD REDUCE THE DENSITY OF THE DEVELOPMENT?

>> I'M --

>> SHE DID NOT SAY THAT.

>> YOU'RE CONSIDERING FOR -- YOU'RE ASKING FOR STAFF'S THOUGHT IF YOU WERE TO CONDITION -- PUT A CONDITION OF APPROVAL ON THIS PROJECT THAT THEY PROVIDE SOLAR ON THEIR ROOF FOR THEIR ADJACENT NEIGHBORS OR THAT YOU WOULD LIKE TO REQUIRE THE RELOCATION OF SOLAR ON THE DENTIST'S LETTER.

>> I DIDN'T UNDERSTAND THE DISTINCTION BETWEEN THE TWO THAT YOU'RE OFFERING.

>> CAN YOU RESTATE WHAT YOU'RE ASKING.

>> I WANT TO CONFIRM IF IT WAS -- IF THIS WAS A POTENTIAL THING WE DO TO. I MEAN MAYBE WE'LL LEAVE IT UP FOR DISCUSSION AMONG THE BOARD LATER.

>> S. O'KEEFE: DENISE, DID YOU HAVE A RESPONSE?

>> I'VE NEVER SEEN AN APPLICANT BE OBLIGATED TO PROVIDE SOLAR FROM THE PROJECT TO AN ADJACENT PROJECT. THERE ARE ENFORCEMENT AND ADMINISTRATIVE PROBLEMS WITH REQUIRING THAT. SOMETHING ONE GUY OWNS IS ON THE BUILDING ANOTHER GUY OWNS. THAT IS LIKE AN EASEMENT WHICH CREATES ENFORCEABILITY ISSUES. I WOULD NEVER RECOMMEND WE GET INTO THAT.

>> I THINK TALKING ABOUT IT UNDER BOARD DISCUSSION IS GOOD. LET'S MOVE THIS CONVERSATION TO THEN. ANY MORE QUESTIONS FOR STAFF? TERESA.

>> T. CLARKE: I KNOW ON SOME PROJECTS WE'VE PUT IN SKY LIGHTS FOR NEXT DOOR NEIGHBORS.

>> MY RECOLLECTION IS THAT ANY KIND OF WORK ON SOMEONE ELSE'S PROPERTY IS DONE AS A SIDE -- COULD SOMEONE OUT OF THE GOODNESS OF THEIR HEART OR FOR NEIGHBORLY RELATIONS PUT IN SKY LIGHTS OR RELOCATE SOLAR. THAT'S MY RECOMMENDATION THAT ZAB DOESN'T HAVE THAT AS A CONDITION BUT OTHER PEOPLE HAVE NEGOTIATED THAT.

>> OKAY.

>> FURTHER QUESTIONS FOR STAFF. IT'S 8:47, I'M TRYING TO BE MINDFUL OF THE CAPTIONER BREAK AT 9:00. LET'S BRING UP THE APPLICANT. AND DO YOU GUYS NEED FIVE MINUTES? OKAY. ALL RIGHT, WE'LL GIVE YOU FIVE. PLEASE STICK TO THE TIME LIMIT.

>> I'M MICHAEL, I'M THE DEVELOPER OF 2650 TELEGRAPH. I WAS AT THE ARB HEARING AND THE ZAB PRELIMINARY HEARING AND SUBSEQUENTLY MY ARCHITECT DAVID TRACHTENBERG HAS MET WITH THE NEIGHBORS AND DONE HIS BEST TO ADDRESS THEIR CONCERNS. TONIGHT HE'LL PROVIDE A PRESENTATION AND HOW HE HAS TRIED TO ADDRESS THE CONCERNS AND IF YOU HAVE ANY QUESTIONS AFTERWARDS, I'M HERE TO ANSWER THEM TO THE BEST OF MY ABILITY. THANK YOU.

>> THANK YOU AND THANKS EVERYBODY FOR BEING HERE. I'M GOING

TO GO THROUGH THIS. HERE IS THE PROJECT. WHAT'S THE DEAL HERE?
AS YOU HEARD, WE VOLUNTARILY LOWERED IT JUST UNDER THE HEIGHT
LIMIT, FOUR FEET DOWN TO 55.5. WE DID THAT BY TAKING FOUR FEET
OUT OF THE PODIUM LEVEL AND DID THAT BY INTRODUCING THESE -- AT
CONSIDERABLE COST. THE OTHER THING WE DID WAS ELIMINATE THE LOFT
BEDROOMS IN THE THREE UNITS AT THE GROUND LEVEL THERE SO THOSE
BECOME STUDIOS INSTEAD OF ONE BEDROOMS. THOSE ARE SIGNIFICANT
RESPONSES TO THE NEIGHBORS. WE MET MULTIPLE TIMES WITH NEIGHBORS
AND THEIR ATTORNEYS. I THINK WE'VE DONE A LONG WAY TO DEALING
WITH THEIR ISSUES. I'M GOING TO DEAL WITH THE THREE MAIN
CONCERNS WHICH IS ONE LOSS OF LIGHTING IN THE DENTIST'S OFFICE
AND EXISTING SOLAR PANELS AND NOISE AND PRIVACY TO THE WEST. ON
THIS PLAN, WE SHOW THE ADJACENT DENTIST'S OFFICE RIGHT THERE.
ONE THING THAT MASSIH DID WAS ALLOW FOR A LIGHT COURT BECAUSE HE
UNDERSTOOD THAT EVENTUALLY THERE WOULD BE A TALL BUILDING HERE
ON THIS SITE. I THINK THAT CONDITION IS SOLVED BY THE BUILDING
ITSELF. ANY CONCERNS ABOUT THE LIGHT IN THE TWO ROOMS AT THE
GROUND FLOOR WHICH IS A TREATMENT ROOM AND A STAFF KITCHEN, I
THINK IT'S MANAGED QUITE WELL. AS YOU GO UP A FLOOR -- THIS
SOUTH ELEVATION OF THE BUILDING. THESE ARE THE WINDOWS IN
QUESTION OF CONCERN TO THE OWNERS OF THE TWO BUSINESS. A DENTIST
BELOW AND ORTHODONTIST ABOVE. ON THE GROUND FLOOR THERE IS FILM
ON THE WINDOWS WHICH SUGGESTED THERE IS TOO MUCH LIGHT THERE. I
THINK CHANGE IN THE CONTEXT IS GOING TO HAVE LITTLE NEGLIGIBLE

EFFECT. ESPECIALLY YOU GO UP A FLOOR WHERE THE BIG MOVE IS CARVING OUT THIS PORTION OF THE MASS TO ALLOW LIGHT TO GET INTO THE BUILDING IS A NON-ISSUE. WE SHOW THE EXISTING SOLAR PANELS AND I THINK THAT THE L-SHAPED BUILDING ALSO HELPS TO MITIGATE THE LOSS OF SUN ON TO THE PANELS. AND I NOTE THAT YOU CAN SEE IN THIS VIEW YOU CAN SEE BOTH THE 5'8" SETBACK HERE AND YOU CAN IMAGINE THAT THE LIGHT -- THE MOST IMPACTED PORTION OF THE SOLAR IS THIS TRIANGULAR PORTION OUT BY TELEGRAPH AVENUE. I CAN'T READ THIS. THIS IS A CITATION OF THE STATE LAW ABOUT SOLAR. THIS IS THE SUMMER -- MOST PRODUCTIVE TIME FOR SUMMER IS DURING THE SUMMER. AS YOU CAN SEE IN THESE ILLUSTRATIONS, THE BUILDING MASS THAT WE'RE PROPOSING HAS VIRTUALLY NO IMPACT. IT'S IN THE WINTERTIME WHEN THE PANELS ARE LESS PRODUCTIVE THAT THERE IS SOME IMPACT. WE HIRED A STUDY TO BE DONE WHICH INDICATED THAT THE NEW MASS WOULD HAVE AN IMPACT BY REDUCING THE EFFICACY OF THE EXISTING SOLAR PANEL BY 33%. AND AGAIN, THAT'S IN THIS AREA RIGHT BY THE STREET. YOU CAN SEE THE BUILDING DEPENDING ON WHERE YOU ARE, THE SOLAR PANELS ARE ON THAT ROOF AND MORE OR LESS EFFECTIVE. ONE THING I WOULD SUGGEST IS THE POSSIBILITY OF THE OWNER COULD RELOCATE SOME OF THE PANELS TO A CARPORT THAT THEY MIGHT WANT TO BUILD HERE IN THE REAR. THEY'D HAVE GOOD SOLAR ACCESS BACK THERE. NOISE AND PRIVACY, BY DESIGN THE BUILDING IS STEPPING DOWN. WE HAVE THE BAKED-IN CONFLICT WHICH OCCURS WITH BIG BUILDINGS NEXT TO SMALL BUILDINGS. WE TRIED TO MITIGATE

THAT. SO I WANT TO POINT OUT THESE TERRACES HERE ARE PRIVATE TO THE ONE BEDROOM APARTMENTS. THAT'S A COMMON AREA. AND THE NEIGHBORS PROPOSED -- PROPOSED THAT WE ADD AN 8-FOOT RAILING AROUND THAT. I WANT TO PUT OUT AN ANALOGOUS POSITION HERE. THERE ARE NO CAN COMPLAINTS ABOUT THIS BUILDING WHICH HAS NO ON SITE MANAGER BUT THERE ARE COMPLAINTS ABOUT THE ONE-STOREY BUILDING.

>> S. O'KEEFE: THANK YOU VERY MUCH. AND ARE THERE QUESTIONS FOR YOU. IGOR.

>> I. TREGUB: THANK YOU. THE QUESTION ARE YOU AMENABLE TO PUTTING IN ANY OF THE BUILDING ELECTRIFICATION MANDATES THAT WENT IN?

>> ARE WE AMENABLE? FULL ELECTRIFICATION?

>> I. TREGUB: OR SOMETHING THAT IS ENOUGH TO EVENTUALLY GET THERE.

>> I DON'T REMEMBER. I HAVE TO ASK THE DEVELOPER ABOUT THAT.

>> I CAN ANSWER THAT. THIS APPLICATION WAS FILED IN 2019 AND SO THE NATURAL GAS DOESN'T APPLY. BUT THE BUILDING ELECTRIFICATION AND NEW BUILDING CODE DOES APPLY TO THIS PROJECT BECAUSE THE BUILDING PERMIT WILL BE SUBMITTED IN 2020.

>> I. TREGUB: IT'S WITHIN THE REACH CODE?

>> CORRECT.

>> I. TREGUB: AND THEN HOW OPEN IS THE APPLICANT TO CONTINUING THE DIALOGUE WITH THE DENTAL CLINIC OVER PAYING SOME

OR ALL OF THE COSTS OF RELOCATING THE SOLAR PANELS IF THEY CHOOSE TO GO THAT ROUTE?

>> THAT'S A SLIPPERY SLOPE. I THINK ANYBODY WHO WANTS TO STOP A PROJECT CAN INSTALL SOLAR PANELS IN THEIR BACKYARD AND STOP A PROJECT. THE LAW SAYS, YOU READ THE CITATION EARLIER. I THINK ONE THING IS CURIOUS THIS WAS BUILT ONLY 10 YEARS AGO WHEN THEY COULD HAVE BUILT A FIVE STOREY BUILDING AND AT THIS POINT I THINK THEY WISH THEY HAD.

>> I. TREGUB: I APPRECIATE THE ANSWER.

>> S. O'KEEFE: MORE QUESTIONS FOR THE APPLICANT. TERESA.

>> T. CLARKE: WAS THERE ANOTHER ITEM OR IS THAT THE LOST ONE?

>> THERE IS ANOTHER. I'D LIKE TO ADDRESS THAT. SO THE NEIGHBORS REQUESTED AN 8-FOOT TALL GLASS RAIL AT THE TOP DECK. I WANT TO SHOW YOU WHAT THAT LOOKS LIKE. WE TOOK THAT SERIOUSLY. HERE IS THE CONDITION AS IT EXISTS. I WANT TO POINT OUT WE'VE TAKEN CARE TO PUT BARRICADES OF LANDSCAPE THAT PREVENT THEM FROM GETTING UP TO THE EDGES AS WELL AS THE STEEL CORNICE WHICH SHADES PEOPLE'S VIEW DOWN PEOPLE CANNOT OCCUPY THE EDGE. WE'RE SHOWING LIGHTS VERY LOW WHICH WASH THE DECK SURFACE. WE DON'T HAVE ANY LIGHTS. THIS IS A GOOD CONDITION. THIS IS WHAT THEY'VE REQUESTED. HERE ARE A COUPLE OTHER VIEWS. I THINK THIS IS TERRIBLE. I THINK -- I'M ALSO THE ARCHITECT OF THE PEOPLE WHO ARE GOING TO LIVE HERE. TRY TO BE THE ARCHITECT OF NEIGHBORS. I

WANT THEIR QUALITY OF LIFE TO MEAN SOMETHING HERE. HERE IS ANOTHER VIEW. THINK THIS WOULD BE AN UNPLEASANT THING. IT'S ANOTHER SLIPPERY SLOPE. WE HAVE MANY CASES AROUND THE CITY WHERE WE HAVE TERRACES LIKE THIS. THERE IS A CODE ISSUE WHICH IS THE NEED FOR WINDOW WASHING EQUIPMENT WHICH GETS TO BE -- WHERE YOU THROW THE CABLES OVER A GLASS RAILING. I THINK IT'S A DIFFICULT CONDITION.

>> S. O'KEEFE: THANK YOU.

>> SO WOULD YOU CONSIDER SOME GLAZING IN TERMS OF WIND PROTECTION? I DON'T KNOW WHAT THE PURPOSE OF THE GLASS IS EXACTLY.

>> IT WOULD MITIGATE AGAINST [INDISCERNIBLE]

>> I THOUGHT IT WAS FOR PEOPLE LOOKING DOWN OR SOMETHING.

>> LOOKING INTO CLEAR GLASS.

>> OKAY, THANK YOU.

>> S. O'KEEFE: CHARLES AND A REMINDER WE HAVE A CAPTIONER BREAK COMING UP. BUT GO AHEAD.

>> ONE OF THE IMPORTANT CONSIDERATIONS FOR DESIGN REVIEW WHEN YOU CAME BEFORE US WAS THE MASSING OF THE BUILDING. IT WAS SPOKEN FAVORABLY IN DESIGN REVIEW. I WOULD LIKE TO MAKE MY COLLEAGUES AWARE OF YOUR CHOICES RELATIVE TO THAT BECAUSE I THINK IT SPEAKS TO SOME OF THE NEIGHBOR'S CONCERNS SORT OF PROACTIVELY. DO YOU HAVE ANY -- CAN YOU SPEAK TO THAT?

>> THINK YOU'RE RIGHT. WE TRY TO GET APPROVAL QUICKLY. IN

OUR PRACTICE WHICH MEANS WE DON'T TRY TO FAKE PEOPLE OUT AND COME BACK WITH STUFF THAT IS STUPID. WE TRY TO PRESENT A BUILDING THAT IS GOOD AND SOLVES A PROBLEM IN THE BEST POSSIBLE WAY. I THINK AT THE GATE WE DID THAT HERE. AGAIN, I THINK THE BIG MOVE OF CARVING OUT A QUARTER OF THE MASS TO RELIEVE SHADOW IMPACTS AND SO ON WAS A BIG AND IMPORTANT MOVE. IN ADDITION TO THE STEPPING OF THE MASS AS IT MOVES TOWARDS THE WEST.

>> THANK YOU.

>> S. O'KEEFE: ANY MORE QUESTIONS FOR THE APPLICANT? YOU CAN SIT DOWN MR. TRACHTENBERG. WHICH HAVE TO TAKE A BREAK AT 9:00 BECAUSE THERE IS SOMEBODY WHO CAPTIONING THE MEETING AND THEY NEED A BREAK EVERY TWO HOURS. WE'LL TAKE A BREAK AND MEMBERS OF THE PUBLIC, IF YOU HAVE ANY LITTLE STRATEGIES OR ANYTHING, YOU CAN TELL ME AS YOU COME UP. THANK YOU.

>> S. O'KEEFE: WE'LL BRING THE MEETING BACK TO ORDER. HELLO. SO WE'RE GOING TO START WITH PUBLIC COMMENT. ONCE AGAIN, I WANT TO REMIND EVERYONE YOU HAVE ONE MINUTE. WE'RE TRYING TO GET THIS MEETING WRAPPED UP AS QUICKLY AS POSSIBLE WHILE STILL RESPECTING THE PROCESS AND LET EVERYONE SPEAK. DO BE RESPECTFUL OF YOUR WITHIN-MINUTE TIME LIMIT. EVERYONE IS GOING TO HAVE YOUR ONE MINUTE. I HAVE THE FOUR PEOPLE THAT WILL HAVE ONE PERSON SPEAK FOR FOUR MINUTES. THIS IS THE ORDER THAT I RECEIVED THE CARDS IN. FIRST WE HAVE DAVID KELLOGG FOLLOWED BY -- PLEASE BE READY TO COME UP IF YOUR NAME IS NEXT. DAVID KELLOGG FOLLOWED BY

CORY SMITH FOLLOWED BY SILANE KAHN. YOU HAVE ONE MINUTE.

>> TERESA, YOU WERE ASKING GOOD QUESTIONS ABOUT THE CEQA DETERMINATION. IT'S TO STAFF NOT TO THE BOARD. IS THERE A STATE DEADLINE TO DO THE INITIAL CEQA DETERMINATION AND WE KNOW THERE IS NO WAY THE BOARD IS MAKING THAT DETERMINATION IN 30 DAYS. THE BOARD CAN'T DO ANYTHING IN 30 DAYS. THE IDEA FOR THE BOARD TO DO IS THE CITY ATTORNEY'S GRAND FANTASY TO AVOID A LAWSUIT. NOT HOW IT WORKS. THERE IS A DIFFERENCE BETWEEN INITIAL DETERMINATIONS AND CERTIFICATIONS. IT'S THAT'S PART OF YOUR JOB BUT NOT THE CEQA DETERMINATION. THE PREVIEW MEETING, THAT SATISFIED THE DUE PROCESS REQUIREMENTS. IT'S BEEN LEGALLY DENY SOD YOU HAVE TO APPROVE IT TODAY.

>> GOOD EVENING, CORY SMITH ON BEHALF THE BAY AREA. WE'RE A REGIONAL NON-PROFIT TO ADVOCATE FOR HOUSING FOR AFFORDABLE HOUSING. WE ASK YOU TO APPROVE THE PROJECT. THIS PROJECT HAS 20% AFFORDABLE HOUSING INCLUDED IN THIS. WHENEVER WE HAVE THE OPPORTUNITY TO GET SUBSIDIZED AFFORDABLE HOUSING, WE NEED TO TAKE ADVANTAGE OF IT. WHILE I UNDERSTAND THE DESIRE TO GET ADDITIONAL CONCESSIONS AND EXTRACTIONS, WHEN YOU ADD THOSE UP, IT GETS TO THE POINT WHERE THE PROJECT DOESN'T WORK. IF IT DOESN'T WORK 20% OF ZERO WILL BE ZERO AFFORDABLE HOUSING. THE OTHER THING IS THE FACT THAT THE CONVERSATION HAS OCCURRED OVER AND OVER AGAIN WITH THE NEIGHBORS. THE WAY THAT THIS PROJECT HAS MOVED FORWARD, THEY DESERVE A GOOD-FAITH EFFORT TO COMMUNICATE

AND TRY TO WORK WITH THE NEIGHBORS IN THE NEIGHBORHOOD. AND WE WANT TO APPLAUD THEM FOR THAT.

>> S. O'KEEFE: I WANT TO SAY FOR THE RECORD I BELIEVE THIS HAS FOUR UNITS LOW-INCOME HOUSING AND THERE IS A FEE AS WELL. SO IT'S MEETING THE 20% REQUIREMENT. SYLVAIN INVOLVED BY OLGA.

>> I LIVE ACROSS THE STREET FROM THE PROPOSED PROJECT. THANK YOU TO ZAB AND TO THE ARCHITECTS FOR THE EFFORTS THEY MADE TO SPORT NEIGHBORS THIS EFFORT. ONE ISSUE THAT HASN'T BEEN ADEQUATELY ADDRESSED IS THE PARKING ISSUE. 20 PACES IF FOR 45 UNITS PLUS COMMERCIAL IS DEEPLY INADEQUATE. EVEN WITHOUT RESIDENTIAL PARKING PERMITS, THAT IS GOING TO MEAN THAT PEOPLE CAN EFFECTIVELY USE COMMUTER VEHICLES AND THERE WILL BE VERY LITTLE DIFFERENCE IN TERMS OF THE PARKING SITUATION. MY OTHER MAJOR CONCERN IS JUST SOME ISSUES AROUND STREET AND HOW THAT IS GOING TO WORK. FIRST OF ALL, CONSTRUCTION HOURS AND WHETHER OR NOT THAT'S GOING TO BE BLOCKING DERBY. THE OTHER ISSUE IS WHERE DELIVERIES AND MAINTENANCE VEHICLES MIGHT GO. THEY SAID THEY'LL BE PARKING ON TELEGRAPH.

>> S. O'KEEFE: THANK YOU. MARTIN HUSSEIN.

>> I'LL SPEAK ON BEHALF OF THE NEXT DOOR NEIGHBORS. WHICH WE LIVE ABOUT SIX YARDS FROM THE SITE WHERE THE DEMOLITION -- FROM THE DEMOLITION ITS SOFA. SO THE POLLUTION AND THE NOISE IS A MAJOR, MAJOR CONCERN. AND THE SEVEN SPOTS -- THE ROOF WILL BE RIGHT ABOVE OUR BEDROOM. I THINK THAT THOSE GLASS

SCREENS WHICH WERE ADVISED BY THE DESIGN REVIEW ARE ESSENTIAL. AND WHAT ELSE YOU CAN DO TO HELP US DECREASE NOISE WOULD BE WISE BECAUSE RIGHT NOW WE'RE CONSIDERING WHAT WE CAN DO AND WE CANNOT MOVE OUT BECAUSE THE PROJECT DECREASES THE VALUE OF OUR HOUSE LIKEWISE IT KEY DECREASES THE VALUE OF THE BUSINESSES. THEY DON'T ALLOW US TO CHANGE THE RESIDENCE. THAT'S THE CHANGE.

>> S. O'KEEFE: I THINK YOU HAVE ONE MORE MINUTE?

>> I THINK TO SUMMARIZE YOUR CONCERNS.

>> S. O'KEEFE: THANK YOU. OKAY. TELL US YOUR NAME.

>> I'M HUSSEIN. SO I SUBMITTED A COUPLE OF LETTERS INCLUDING TWO EARLIER TODAY TO TRY TO ADDRESS SOME OF THE ISSUES THAT IMPACT BOTH THE DENTISTRY AND PEDIATRIC OFFICE. I WOULD URGE ZAB TO DISCUSS AND EXPLORE WAYS TO ACHIEVE RELOCATION OF SOLAR PANELS. IT'S A PITY TO LOSE THE SOLAR PANELS. AT THE SAME TIME WE'LL TRY TO FIND A WAY TO DO THAT. I BULLET POINTED A LETTER IN RELATION TO PRIVACY THAT I THINK COULD BE ACHIEVED. I WANT TO ADD TO THOSE. I ASK ZAB TO REVIEW THOSE. ONE POINT REGARDING CONSTRUCTION THAT WAS NOT IN THERE IS THAT I WOULD ASK THAT THE CONDITIONS OF APPROVAL REGARDING CONSTRUCTION NOISE. THOSE APPLICABLE TO RESIDENTIAL CONSTRUCTION AND ZONING FOR RESIDENTIAL CONSTRUCTION, ALTHOUGH THE SITE ITSELF IS IN A COMMERCIALY-ZONED AREA, THE RESIDENTS -- THERE WILL BE IMPACTS ON RESIDENTS. I THINK THE MAX IS 60 RATHER THAN 75, I ASK THAT THAT BE CONSIDERED TOGETHER WITH A TALLER THAN THE MINIMUM

TEMPORARY FENCE TO ALSO MITIGATE NOISE BOTH FOR THE RESIDENTS AND THE SPECIAL NEEDS PATIENTS OF THE DENTIST'S OFFICE. AS FOR THE PRIVACY ISSUES, WE ADVOCATE FOR THE GLASS ENCLOSURE ON THE SECOND FLOOR AS WELL AS TALLER GLASS RAILINGS FOR THE OTHER PATIOS. RIGHT NOW I THINK THERE ARE FOUR FEET ADDITIONALLY -- A FOOT OR TWO ADDITIONAL WOULD BE APPROPRIATE, WE THINK. TO MINIMIZE NOISE.

>> S. O'KEEFE: THANK YOU VERY MUCH. NOW WE HAVE THE GROUP OF FOUR WHICH IS JEFF, DAVID, JOHN AND KATHLEEN REPRESENTED BY JEFF. IS THAT RIGHT? FOUR MINUTES.

>> I'M JEFF I LIVE TO THE WEST OF THE PROPOSED SITE WITH MY WIFE AND OUR TWO SMALL KIDS. LAST WEEK THE NEIGHBORS PART OF THIS GROUP HAD A GREAT MEETING WITH DAVID TRACHTENBERG THE ARCHITECT AND WE CAME UP WITH A LIST OF AGREEMENTS WITH HIM THAT WE SUBMITTED TO ASHLEY AND ZAB AS PART OF YOUR PACKET TODAY. MOST OF THESE WERE NOT ADDRESSED IN THE REMARKS BY DAVID EARLIER. I WANT TO MAKE SURE THAT THESE ARE CLEAR AND ARE CONSIDERED AS AGREEMENTS AND GET BAKED INTO THE PLAN AS CONDITIONS. ONE IS RELATED TO THE LANDSCAPING PLAN HAVING A SERIES OF MATURE TREES PLANTED ALONG THE WESTERN EDGE OF THE PROPERTY BETWEEN OUR HOUSE AND 2650 TELEGRAPH. AT THE TIME THAT WE MET WITH THE ARCHITECT, A DOG RUN WAS BEING PROPOSED. I THINK THE LANGUAGE HAS CHANGED THAT TONIGHT TO AN OUTDOOR AREA WHICH IS THE SOUTHWESTERN PART OF THE PROPERTY AND WE BELIEVE THERE IS

NO REASON TO HAVE A DOG RUN AS PART OF THIS PROJECT AND THAT WOULD BE INCREDIBLY DISRUPTIVE TO US AS NEIGHBORS. INSTEAD OF THAT, WE PROPOSE HAVING MORE MATURE TREES PLANTED IN THAT AREA TO PROVIDE MORE PRIVACY TO THE NEIGHBORS. WE ALSO TALKED ABOUT A FENCE BETWEEN OUR PROPERTY AND 2650 TELEGRAPH THAT WAS 8 FEET IN HEIGHT AND NOT 6 FEET IN HEIGHT. SO DAVID PROPOSED A TYPE OF MATERIAL TO USE THAT WE THOUGHT WOULD WORK NICELY. THE WALLS AROUND THE PATIO ARE ALREADY ADDRESSED EARLIER. AND OLGA TALKED ABOUT THAT. IN TERMS OF NOISE, WE'RE PLEASED TO SEE THERE IS GOING TO BE AN ON SITE BUILDING MANAGER THAT WE CAN CONTACT WITH EXCESSIVE NOISE AND WE PROPOSE THERE WILL BE SIGNAGE PLACED ON TERRACES TO LIMIT THE MAXIMUM NUMBER OF PEOPLE ALLOWED ON THE TERRACE AND IF THERE ARE NEIGHBOR COMPLAINTS ABOUT NOISE THAT THOSE KINDS OF GATHERINGS BE STOPPED AND PROHIBITED. THERE WAS TALK ABOUT THE LIGHTING ISSUES AND HAVING WALKWAY LIGHTING SEEMS GREAT, LIGHTING THAT IS FACING TO THE EAST AND NOT TO OUR PROPERTY. ON THE GROUND FLOOR, LIGHTING THAT DOES NOT EXCEED 7 FEET SO BELOW THE 8-FOOT FENCE THAT WE HAD AGREED UPON AND OUR LAST POINT WAS AROUND THE GARAGE DOOR NOT INCLUDING ANY LIGHT OR SOUND THAT WILL WOULD BE A NUISANCE FOR THE NEIGHBORHOOD. WOULD ANYBODY LIKE TO SAY ANYTHING?

>> I'M DAVID MILLER I LIVE AT 2639 DANA WHICH IS THE HOUSE NEXT TO THEM. I LIVE WITH MY WIFE AND DAUGHTER. I WAS PART OF THE MEETING THAT JEFF MENTIONED AND I WANTED TO MAKE IT A

CLARIFICATION. THE ARCHITECT SAID WE HAD NO NOISE COMPLAINTS WITH THE MULTI-STOREY BUILDING AND THAT IS NOT CORRECT. WE DO HAVE NOISE COMPLAINTS WITH THAT BUILDING AS WELL SO WE'D LIKE TO STICK WITH OUR REQUEST ON NOISE COMPLAINTS INCLUDING THE GLASS STRUCTURES. FINALLY, I WANT TO MAKE SURE IT'S ON THE RECORD THAT IN ADDITION TO THE MATURE TREES THAT WE'RE ASKING FOR ON THE WESTERN SIDE OF THE BUILDING THAT WE ASK FOR A MATURE TREE ON THE NORTHWEST CORNER OF THE LOT FOR ADDITIONAL PRIVACY. THANK YOU.

>> JOHN ALLEN 2643 DANA. THE ARCHITECT'S PLAN CALLS FOR A COMMON AREA GARDEN OF 562 SQUARE FEET. WE'RE ALL IN FAVOR OF THAT. SOMEHOW THE TERM "DOG RUN" HAS MORPHED INTO THIS CONVERSATION. WE'RE OPPOSED TO A DOG RUN.

>> I THOUGHT I HAD MORE CARDS BUT THEY WERE EXTRA CARDS. GREAT MYSTERY WHICH WAS SOLVED. SO WE'LL BRING THE APPLICANT BACK UP NOW TO RESPOND TO ANYTHING THAT WAS SAID OR ANYTHING ELSE YOU WANTED TO ADD. YOU HAVE THREE MINUTES.

>> THANKS FOR THE COMMENTS. I'LL TRY TO CAPTURE THEM. PARKING ISSUE. IT'S CURIOUS THAT THE DENTIST BUILDING HAS 24 EMPLOYEES AND ABOUT THAT MANY CUSTOMERS AND FIVE PARKING SPACES. SO I THINK THAT THEY HAVE SOME RESPONSIBILITY FOR PARKING ISSUES. THE DOG RUN IS TAKEN OUT AT THE REQUEST OF THE NEIGHBORS. WE ARE WILLING TO LOOK AT RAISING THE WALL AT THE TOP FLOOR THERE TO INSTEAD OF 42 INCHES TO 52 INCHES WHICH WOULD

MEAN THE PEOPLE SITTING DOWN WOULD NOT HAVE A VIEW BUT PEOPLE
STANDING UP WOULD HAVE A VIEW. WE'RE NOT PUTTING THE GLASS UP
BECAUSE IT'S OF NO CONSEQUENCE ANYWAY. WE'RE HAPPY TO MAKE THE
HIRE AGAINST WHICH IS HELPFUL TO BOTH PARTIES AS WELL AS TO
NEGOTIATE WHATEVER SPECIES THAT IS MUTUALLY AGREEABLE FOR THE
TREES PLANTED ALONG THE PROPERTY LINE. I THINK THAT'S IT.

>> YOU'RE GOING TO HAVE AN 8-FOOT PROPERTY LINE FENCE?

>> THAT'S WHAT THE NEIGHBORS REQUESTED. WE THINK THAT IS
REASONABLE.

>> WHY?

>> IT SEPARATES THE THREE LITTLE COMMON -- PATIOS FROM THE
NEIGHBORS' BACKYARD.

>> WHAT IS THE PURPOSE OF IT?

>> PRIVACY.

>> FOR PEOPLE PEEKING ABOVE IT OR WHAT?

>> THIS IS A REQUEST FROM THE NEIGHBORS.

>> I KNOW BUT I DON'T LIKE 8-FOOT FENCES ON ANYBODY'S
PROPERTY. IT WILL BE -- IT'S A ZONING CERTIFICATE OR SOMETHING.
IT'S A USE PERMIT.

>> S. O'KEEFE: TERESA, IS THIS A REQUEST FOR THE APPLICANT.

>> THE OTHER QUESTION I HAD WAS WHAT ARE YOU REPLACING THE
DOG RUN AREA WITH?

>> LANDSCAPE.

>> THAT'S WHERE THE TREES ARE GOING. MATURE TREES?

>> LANDSCAPE PLAN --

>> DID YOU REVISE THAT?

>> YES WE REVISED IT IN THE SET YOU HAVE.

>> S. O'KEEFE: SHANNON, DID YOU WANT TO SAY SOMETHING ABOUT THE FENCE?

>> IF THE ZAB DECIDES IT ADD AN 8-FOOT FENCE, THERE IS AN ADMINISTRATIVE USE PERMIT REQUIRED. WE WANT TO READ THAT INTO THE RECORD.

>> S. O'KEEFE: THANK YOU. DENISE AND IGOR AND MATTHEW.

>> I WANT TO CLARIFY THE STATUS OF THE OTHER THINGS THE NEIGHBORS OUTLINED AS BEING PART OF THE AGREEMENT. THE LANDSCAPE PLANS ARE SHOWING MATURE TREES AT THE WESTERN EDGE, THEY SHOW THAT NOW?

>> YES.

>> THE LANDSCAPE PLANS SHOW A MATURE TREE AT THE WEST CORNER OF THE LOT NOW?

>> IS THAT A QUESTION?

>> YES, IS THAT AGREEMENT ON THE LANDSCAPE PLAN OR DO WE HAVE TO ADD IT AS A CONDITION?

>> THIS HAPPENED QUICKLY.

>> THERE IS NO RIGHT OR WRONG ANSWER. I JUST WANT TO KNOW.

>> WE DON'T HAVE ANY PROBLEM WITH THAT.

>> I'M GOING TO SAY IF IT'S NOT ON THE PLAN, PUT IT ON THE PLAN. YOU SHOWED US AN IMAGE OF OUTDOOR LIGHTING ON THE

EXTERIOR. IS THAT ON THE PLANS TONIGHT?

>> LIGHTS IS THE FINAL DESIGN REVIEW ISSUE. BUT WE ACKNOWLEDGE THAT'S A GOOD IDEA AND WE DID SHOW IT IN THE SET IN THE -- SOMEWHERE IN THE SET. IT'S NOT SPECIFIED. WE ALSO AGREED TO HAVE THE LIGHTING ALONG THE WESTERN FACADE DOWNWARD FACING LESS THAN 7 FEET IN HEIGHT.

>> THAT WILL BE IN FINAL DESIGN REVIEW AND THE GARAGE DOOR ISSUE I SAW IN THE STAFF REPORT CONDITIONS OF APPROVAL? NO? I DIDN'T?

>> S. O'KEEFE: SHANNON.

>> THAT WOULD BE REVIEWED BY THE CITY ENGINEER NOT TO HAVE ANY NOISE OR LIGHT AT AN EXIT OF A GARAGE.

>> THAT'S WHAT I MEANT. THAT'S PART OF THE CITY'S STANDARD. OKAY. THANK YOU.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: I WANTED TO FOLLOW UP ABOUT SOME COMMENTS ON THE COMMERCIAL LOADING ZONE. AND ACTUALLY JUST FOR MY OWN EDIFICATION WHERE IS THAT PROPOSED NOW TO BE? AND WHAT KIND OF CONVERSATIONS HAVE BEEN HAD WITH THE NEIGHBORS? HAS ANYTHING CHANGED?

>> WE DISCUSSED THAT WITH THE DENTIST. WE THINK THE LOGICAL PLACE FOR LOADING IS THE FRONT ENTRANCE OF THE LOBBY ON TELEGRAPH. VERY OFTEN WE HAVE A LOADING ZONE THERE FOR THE PICKUPS AND SO ON.

>> I. TREGUB: OKAY. AND THEN WOULD YOU BE AMENABLE -- THIS IS WITHIN OUR JURISDICTION TO DECIDE ON, BUT I'M ASKING TO CHANGE THE CONSTRUCTION HOURS TO START AT 8:00 A.M. GIVEN THAT IT IS LARGELY A RESIDENTIAL NEIGHBORHOOD.

>> I DON'T THINK I CAN SPEAKING TO THAT. THE CITY HAS STANDARD CONDITIONS OF CONSTRUCTION AND I THINK THEY SHOULD BE OBSERVED.

>> S. O'KEEFE: BUT THAT'S FOR THE COMMERCIAL DISTRICT. THIS IS HALF RESIDENTIAL.

>> WE CHANGED THAT BEFORE IN SIMILAR SITUATIONS.

>> IF THAT'S -- I MEAN I DEFER TO YOUR WISDOM.

>> S. O'KEEFE: ARE YOU AMENABLE?

>> YES, WE ARE.

>> I. TREGUB: AND THE LAST ONE WAS ABOUT THE HOURS FOR CONSTRUCTION WHICH I WASN'T EVEN AWARE OF THAT THE NOISE LIMITS WERE DIFFERENT FOR RESIDENTIAL AND COMMERCIAL. MAYBE THIS IS A QUESTION FOR STAFF IN TERMS OF CAN WE REGULATE OR CHANGE THE THRESHOLD LIMITS ALIGNED TO THE RESIDENTIAL STANDARD.

>> WAS THAT -- NEVER MIND. WHAT ARE THE CONSTRUCTION HOURS FOR COMMERCIAL VERSUS RESIDENTIAL? CAN YOU CLARIFY, PLEASE.

>> I HAVE THE CONDITION.

>> S. O'KEEFE: IT'S THE COMMERCIAL HOURS. ARE THEY DIFFERENT FOR RESIDENTIAL?

>> I DON'T KNOW BUT I CAN LOOK IT UP.

>> S. O'KEEFE: I'D LIKE TO STICK WITH SOMETHING --

>> I THINK -- THERE ARE TWO DIFFERENT QUESTIONS THERE. MAYBE I'M NOT UNDERSTANDING, BUT THE FIRST QUESTION WAS ABOUT HOURS OF CONSTRUCTION. SO THAT MAYBE HAS BEEN PUT TO BED THAT THE ZAB COULD CHANGE THAT. THE QUESTION OF THE COMMUNITY NOISE STANDARDS WITHIN THE BERKELEY MUNICIPAL CODE THAT RELATES TO COMMERCIAL DISTRICTS VERSUS RESIDENTIAL DISTRICTS, I'M NOT FAMILIAR WITH AN INSTANCE WHERE THE ZAB HAS CHANGED THAT AND I'M NOT SURE BECAUSE THAT'S MANAGED BY OUR NOT PUBLIC HEALTH, BUT THE ENVIRONMENTAL HEALTH DIVISION. SO I'M NOT SURE WHAT -- HOW YOU WOULD MAKE THE CONNECTION FOR THIS PROPERTY TO BE SUBJECT TO DIFFERENT STANDARDS THAN OTHERS.

>> IT'S NOT IN THE FINDINGS AND CONDITION ABOUT DECIBEL LEVELS.

>> I. TREGUB: THANK YOU.

>> S. O'KEEFE: OKAY. MATTHEW WAS NEXT.

>> I HOPE I'M WRONG ON THIS. DID WE FORGET TO FORMALLY OPEN THE PUBLIC HEARING.

>> S. O'KEEFE: WE DON'T USUALLY DO THAT.

>> OKAY, NEVER MIND.

>> S. O'KEEFE: ARE THERE MORE QUESTIONS FOR THE APPLICANT? PATRICK.

>> P. SHEAHAN: YOU'RE A PROPOSES RAISING THE GLASS PORTION, THE RAILING TO 52 AT THE COMMON DECK?

>> TO 54 BUT WE'D LIKE TO HAVE AN OPTION. WE'D LIKE TO HAVE THE TOP 12 INCHES BE TRANSLUCENT GLASS.

>> P. SHEAHAN: MEANING CLEAR?

>> SANDBLASTED. IF IT'S NOT FEES BE, WE'LL HAVE THE STUCCO WALL GO UP TO 54.

>> P. SHEAHAN: OKAY.

>> THAT MEANS WHEN YOU'RE SITTING DOWN YOU CAN'T HAVE A VIEW OF THE BAY BUT WHEN YOU STAND UP, YOU CAN. IT AFFORDS MORE PRIVACY.

>> P. SHEAHAN: WOULD YOU CONSIDER THAT FOR THE PRIVATE PATIOS AS WELL?

>> NO. THESE ARE ONE-BEDROOM APARTMENTS.

>> P. SHEAHAN: MY THOUGHT WAS DO THAT IN CLEAR GLASS, FOR INSTANCE. THIS IS PARTLY DO ADDRESS THE PROPOSAL TO DO 8-FOOT SCREENS BECAUSE SOUND DEFLECTED BY LINE OF SIGHT. IF YOU HAVE A SOLID OBJECT, IT DOESN'T PENETRATE. THE HIGHER EVEN A MODEST AMOUNT HIGHER PROJECTS OF IMPACT OF THE SOUND MUCH FARTHER OUT. IT MIGHT GO SOME WAYS TO HELP TO ALLEVIATE THAT CONCERN BY MITIGATING THAT MUCH MORE IMPACT.

>> OUR CLIENT SAYS HE'S WILLING TO ACCEPT THE CONDITION OF 54 INCHES ON BOTH LEVELS. THAT MIGHT BE AT OUR DISCRETION EITHER GLASS FOR ONE FOOT OR SOLID PLASTER UP TO 54 INCHES.

>> S. O'KEEFE: OKAY. MORE QUESTIONS FOR THE APPLICANT? SORRY, SIR, WE'RE NOT GOING TO RECOGNIZE YOU. MORE QUESTIONS FOR

THE APPLICANT. NO? OKAY, WE'LL CLOSE PUBLIC HEARING AND BRING IT BACK FOR BOARD COMMENTS. SIR, PLEASE HAVE A SEAT. IT'S CLOSED TO PUBLIC HEARING.

>> [OFF MIC]

>> S. O'KEEFE: SIR, PLEASE HAVE A SEAT. THANK YOU. BOARD COMMENTS. IGOR.

>> I. TREGUB: OKAY. SO I'D LIKES TO SEE IF THERE MIGHT BE CONSENSUS ON THE BOARD. HERE ARE THE VARIOUS CONDITIONS I HEARD. WHERE WE SEEM TO HAVE SOME AGREEMENT. SO UNTIL SHORT, SOME OF THESE ARE PROBABLY BEST REFLECTED IN THE PLAN. THE FACT THAT THE DOG RUN WAS TAKEN OUT, THAT'S PROBABLY MORE OF A PLAN ISSUE. I HEARD WILLINGNESS TO RAISE THE TOP WALL TO 54 --

>> 54, I BELIEVE.

>> I. TREGUB: AND THAT WILL IT BE MADE OF GLASS OR SOLID PLASTIC. IF I HEARD THAT CORRECTLY.

>> DISCRETION OF THE APPLICANT.

>> I. TREGUB: HIGHER FENCE UP TO 8 FEET INCLUDING AN ADMINISTRATIVE USE PERMIT ASSOCIATED WITH THAT.

>> S. O'KEEFE: TERESA, WAIT TO BE RECOGNIZED.

>> I. TREGUB: MAYBE NOT FULL CONSENSUS PLANTED TO BE SPECIES TO BE MUTUALLY AGREEABLE WITH THE APPLICANT AND NEIGHBORS. LANDSCAPING PLAN, OUTDOOR LIGHTING AND CONSTRUCTION HOURS THAT WILL START AT 8:00 A.M. WHICH IS A CHANGE TO ONE OF THE CONDITIONS OF APPROVAL. I THINK IT'S 63.

>> S. O'KEEFE: OKAY. SO WAS THAT -- WERE YOU SAYING THINGS?
OR WAS IT AN OPTION?

>> I. TREGUB: I CAN MAKE A MOTION AND I'M AMENABLE -- IF I
MISSED ANYTHING -- HAPPY TO CONSIDER IT.

>> I SECOND THE MOTION.

>> S. O'KEEFE: I THINK DOHEE HAD HER HAND UP. I'M GOING TO
RECOGNIZE DOHEE. SHE DID THE RIGHT THING BY RAISING HER HAND.

>> D. KIM: I'M STILL ON THE FENCE ABOUT THE 8 FEET. BUT SO
FAR I AGREE WITH WHAT HAS BEEN SAID.

>> S. O'KEEFE: SO A MOTION AND A SECOND. I THINK MATTHEW
HAD HIS HAND UP AS WELL.

>> GOING BACK TO THE SOLAR PANELS FROM EARLIER, I THINK THE
POINT RAISED ABOUT HOW SPECIES RAISE A LOT OF COMPLEXITIES. ONE
THING MENTIONED BY THE APPLICANT, I THINK IT WAS BY THE
ARCHITECT, WAS THE IDEA THAT THE DENTIST FOLKS SHOULD MOVE THE
PANEL TO -- I THINK IT WAS A CARPORT IN THE BACK OF THAT LOT. I
WAS THINKING ABOUT THE IDEA OF WE COULD REQUIRE AS A CONDITION
AND I THINK IT IS WITHIN OUR POWER UNDER 23B.32.340 OF THE
MUNICIPAL CODE TO REQUIRE THE CONDITION TO PAY FOR MOVING THOSE.
I THINK IT DOES AFFECT THE THINGS LISTED IN THERE SUCH AS
GENERAL WELFARE OF THE NEIGHBORS FOLKS. I THINK THAT IS A SMALL
ASK THAT IS REASONABLE AS A CONDITION FOR THIS AND I'D LIKE TO
GET THE REST OFFED BOARD'S THOUGHTS. ALSO IF THE APPLICANT
VOLUNTEERS TO DO THAT, THAT'S EVEN BETTER.

>> S. O'KEEFE: CHARLES IS NEXT.

>> C. KAHN: I THINK THE CARPORT WAS A THEORETICAL CARPORT, NOT ONE THAT CURRENTLY EXISTS. I DON'T FEEL COMFORTABLE ASKING THE APPLICANT TO PAY FOR CAPITAL IMPROVEMENT TO THE NEIGHBOR'S PROPERTY IN ORDER TO PROVIDE THE SOLAR DEVICES. THE OTHER -- IN THEORY, IT MAKES TOTAL SENSE TO ME. IN THEORY IT MAKES TOTAL SENSE TO PUT IT ON THE ROOF OF YOUR NEW BUILDING. ALTHOUGH THE POINTS THAT DENISE BRINGS UP ABOUT EASEMENTS AND SO FORTH MAKE THAT UNTENABLE. THE OTHER PROBLEM IS THAT WE -- I DON'T THINK WE HAVE -- WE CAN'T COMPEL ONE NEIGHBOR TO PAY ANOTHER NEIGHBOR FOR A LOSS. I DON'T THINK THAT'S WITHIN OUR AUTHORITY. THAT IS EFFECTIVELY DEMANDING A PAYMENT. I WISH WE DID BECAUSE IT SEEMS LIKE A REASONABLE SOLUTION.

>> S. O'KEEFE: MATTHEW. I WILL SAY THAT I MEAN I'M NOT -- I'M SERVING AS AN ALTERNATE COMMISSIONER. I'M NOT LIKE AN EXPERIENCED MEMBER LIKE THE REST OF THE BOARD. I LOOK AT WITHIN THAT PART OF THE CODE, I LOOK AT PART D WHICH THE BOARD MAY ATTACH CONDITIONS USE PERMITTED AS IT DEEMS NECESSARY. I ACTUALLY DO THINK IT IS WITHIN OUR POWER. LIKE I'LL -- IF LIKE CITY ATTORNEY WERE TO TELL US NO YOU DON'T HAVE THE POWER. BUT I DO THINK WE HAVE THAT POWER. MAYBE IT'S -- I DIDN'T REALIZE THAT APPARENTLY THE CARPORT IS THEORETICAL. THEY SHOULDN'T HAVE TO PAY FOR THE CARPORT BUT MAYBE IT'S SOMETHING LIKE -- I MEAN, I DON'T EVEN KNOW WHAT AN EASEMENT IS OFF THE TOP OF MY HEAD. BUT

LIKE I DO THINK LIKE WHETHER IT'S -- I THINK THERE DOES NEED TO BE SOME TYPE OF MITIGATION THAT IS TIED TO ENSURING THAT SPECIFICALLY THAT THE SOLAR PANEL -- WE DON'T LOSE RENEWABLE ENERGY. THAT'S IN PART BECAUSE I DON'T THINK IT SHOULD BE LIKE AN UNCONDITIONAL CASH PAYMENT. BUT I SAY LIKE MORALS AND GENERAL WELFARE ARE TIED TO HAVING RENEWABLE ENERGY.

>> S. O'KEEFE: I THINK WE UNDERSTAND YOUR POSITION. IF ANYBODY HAS A WAY TO DO IT TO ACCOMPLISH THIS GOAL, WE SHOULD COMMENT ON THAT. AS YOU ASKED, WE CAN GET MORE COMMENTS ON IT FROM THE BOARD. PATRICK.

>> P. SHEAHAN: I'M NOT SUBJECT -- I THINK ANALOGOUS I KNOW THIS OCCURRED ON SEVERAL OCCASIONS THROUGHOUT THE CITY WHERE AN AGREEMENT IS MADE BETWEEN THE PARTIES TO -- YES, I'LL PAY FOR THE INSTALLATION OF A SKY LIGHT INTO YOUR BEDROOM IN -- ACKNOWLEDGE OF THE FACT THAT MY PROJECT IS BLOCKING A SIGNIFICANT AMOUNT OF YOUR LIGHT. I THINK IT WOULD BE APPROPRIATE FOR US TO ENCOURAGE A GOOD FAITH NEGOTIATION BETWEEN THE PROPERTY OWNERS TO TRY TO FIND SOME SORT OF MITIGATION NOT ONLY BETWEEN THE NEIGHBORS BUT FOR THE COMMON GOOD TO HAVE MORE SOLAR PANELS, HAVE MORE TREES. THESE THINGS ARE FOR THE COMMON GOOD. SO I JUST SUGGEST WE ENCOURAGE THAT APPROACH BETWEEN THE NEIGHBORS AND OPEN THAT SOMETHING PRODUCTIVE CAN COME OUT OF IT.

>> S. O'KEEFE: I'M GOING TO MAKE A SMALL CLARIFICATION THAT THESE SOLAR PANELS ARE STILL GOING TO OPERATE AT 66% CAPACITY.

IT'S MAKING THEM LESS EFFICIENT IS MY UNDERSTANDING. I'LL RECOGNIZE IGOR.

>> I. TREGUB: THANK YOU. 66% IS BETTER THAN HALF. BUT IT'S STILL A SIGNIFICANT REDUCTION. IN LIGHT OF THAT, I WAS THINKING ALONG SIMILAR LINES TO PATRICK. I'D LIKE TO AMEND THE MOTION, BUT NOT ADD IT TO THE CONDITION BUT MAKE IT A STRONG ENCOURAGEMENT TO CONTINUE ATTEMPTING TO FINAL A MUTUALLY AGREEABLE SOLUTION WITH THE DENTAL CLINIC AROUND THE ISSUE OF SOLAR ACCESS. SOLAR PANEL ACCESS.

>> S. O'KEEFE: DOES THE SECONDER FEEL OKAY IF.

>> I'M AMENABLE TO THAT.

>> I'M IN FAVOR OF THE MOTION. IF WE ENCOURAGE THE APPLICATION TO TALK TO THEIR NEIGHBOR ABOUT SOLAR, THAT'S NICE, BUT UNENFORCEABLE AND NOT OUR BUSINESS. WE MAKE OURSELVES FEEL BETTER WHETHER WE ASK PEOPLE TO TALK ABOUT IT BUT ALL WE DO IS ENGENDER CONFLICT. THIS IS A COMMERCIAL ZONE ON AN ALMOST 8-LANE STREET. FOUR LANE STREET, IT'S NOISY AND HAS BUS LINES AND OTHER 7-STOREY BUILDINGS. NO COMMERCIAL PROPERTY OWNER SHOULD ANTICIPATE A NEW ADJACENT COMMERCIAL BUILDING IS GOING TO RECTIFY AN IMPACT TO A PORTION OF THEIR BUILDING THAT THEY'RE NOT ENTITLED. WHEN WE GOT INTO ADJACENT COMMERCIAL LANDLORDS JUST SETTING IMPACTS THAT WERE NOT THE BUSINESS OF THE APPLICANT PROPOSING A PROJECT. SO IF PEOPLE WANT TO SAY WE HOPE YOU TALK ABOUT IT, THAT'S FINE. BUT I WANT TO BE CLEAR THAT IT'S NOT -- I

THINK WE'RE OVERREACHING TO REQUIRE THAT. WE HAVE NO CODE BASIS FOR REQUIRING IT. IT'S NOT A GENERAL WELFARE FINDING. IMPROVING THE GENERAL WELFARE MEANS OF THE COMMUNITY AS A WHOLE. IF THERE IS DETRIMENT, AND IN THIS CASE, THE DETRIMENT IS TO HOW MUCH THEY'RE GOING TO PAY MONTHLY FOR ENERGY. THEY'RE STILL GOING TO PAY LESS THAN THEY WOULD HAVE WITHOUT THE SOLAR PANELS. THE UTILITY PANELS ARE NOT ELIMINATED. IT'S EXPECTED THAT YOUR NEIGHBORS MAY HAVE A TALL TREE THAT COULD REDUCE THE CAPACITY OF THE SOLAR PANELS. I'M MINDFUL OF THE CONCERN, BUT I DON'T THINK THIS IS A GOOD PATH FOR US TO GO DOWN. I'M STILL IN FAVOR OF THE MOTION AND IN FAVOR OF HAVING NEIGHBORS COOPERATE. WE SHOULD NOT BE TELLING PEOPLE TO COOPERATE IF WE DON'T HAVE THE AUTHORITY TO ENFORCE IT BECAUSE WE CREATE TROUBLE AND EXPECTATIONS THAT SOMETHING IS GOING TO MAKE PEOPLE'S LIVES BETTER AND NOTHING IS LIKELY TO OCCUR AND PEOPLE GET MAD AT US AND THE APPLICANT. WE SHOULD KNOW THAT'S NOT A GOOD PATH TO WALK DOWN.

>> S. O'KEEFE: I COMPLETELY AGREE, DENISE. TERESA FIRST AND THEN PATRICK.

>> T. CLARKE: I WOULD LIKE TO HAVE US CONSIDER THE FENCE EITHER SEPARATELY. I WOULD LIKE TO SEE IF YOU'RE FRIENDLY TO AMENDING THAT SLIGHTLY. WHAT I WOULD LIKE TO SEE US RECOMMEND THE DESIGN REVIEW, SELECT THE TREES THAT ARE AGAINST MARTIN SCHWARTZ. I WOULD LIKE TO RECOMMEND A DESIGN REVIEW. WITH MATURE TREES THERE, LARGER TREES, TREES THAT ARE GOING TO GROW LARGER

IS GOING TO REDUCE THE IMPACT ON MARTIN'S HOUSE. THAT'S THE HOUSE YOU LOOK AT 0.7-A YOU CAN SEE IT WELL. IF YOU LOOK AT THE SECTION GOING FROM THE STREET BACK TO THE INNER PART OF THE LOT, THE FENCE WOULD GET TALLER AND TALLER AS YOU GET CLOSER TO DERBY. IF YOU HAD IT AT 8 FEET, I THINK 8 FEET IS REALLY TALL. I THINK I'D BE OKAY WITH 7 FEET. BUT I THINK -- HOW MANY PEOPLE CAN SEE OVER A 6-FOOT FENCE? SOME OF US CAN. AND THEN BUT WHO IS GOING TO BE KIND OF POKING THEIR HEAD OVER AND STARING AT OTHER PEOPLE? ANYWAY, I DON'T KNOW WHAT AN 8-FOOT FENCE WOULD GIVE US. I THINK 8 FEET IS EXTREME. IF YOU WANT TO KEEP IT AT 8 FEET, I WOULD ASK THAT YOU SEPARATE THAT MOTION FROM THE MAIN MOTION BECAUSE I WANT TO SPORT PROJECT AND I THINK IT'S WELL-DESIGNED AND I THINK THE ARCHITECT HAS MADE GOOD DESIGN MOVES TO REDUCE THE IMPACT TO THE ADJACENT PROPERTIES IN TERMS OF ALL THE THINGS WE TALKED ABOUT ALREADY. AND I WOULD LIKE US TO HAVE DESIGN REVIEW CONFIRM THE TREES THERE WHERE THE DOG RUN USED TO BE.

>> S. O'KEEFE: PATRICK.

>> P. SHEAHAN: ON THE SUBJECT OF FENCE, I GENERALLY SUPPORT TERESA'S POSITION THAT SIX FEET ON PROPERTY LINES IS A REASONABLE STANDARD. I THINK IN THIS CASE, I DON'T KNOW THE EXACT LINES OF SIGHT INVOLVED BUT IF A LIVING SPACE IS ABOVE GRADE, A PERSON IS STANDING 9 OR 10 FEET OFF THE GROUND. IN WHICH CASE AN 8-FOOT FENCE WOULD PROVIDE AN ADDITIONAL LEVEL OF PRIVACY. IS THIS REQUESTED BY THE NEIGHBORS. I THINK IN LIGHT OF

THAT REQUEST BY THE NEIGHBORS, TO WHICH THE PROJECT PROPONENT HAS AGREED, I DON'T SEE ANY REASON TO SPLIT HAIRS OVER IT. AND THEN I BELIEVE I MIGHT HAVE BEEN FROM DENISE'S COMMENTS, I MIGHT HAVE BEEN MISUNDERSTOOD AS TO WHAT I WAS SUGGESTING IN TERMS OF GOOD FAITH DISCUSSION AROUND SOLAR. I WAS NOT IN ANY WAY SUGGESTING THAT THERE BE A REQUIREMENT SIMPLY AN ENCOURAGEMENT TO HAVE THE DISCUSSION. AND WE CAN ALL HOPE THAT IT MIGHT LEAD SOMEWHERE. I THINK I HAVE PERSONALLY SEEN TANGIBLE POSITIVE RESULTS FROM THOSE KINDS OF DISCUSSIONS THAT ARE UNDERTAKEN VOLUNTARILY AMONG PROPERTY OWNERS AND I WOULD ENCOURAGE THAT.

>> S. O'KEEFE: MATTHEW.

>> I WANT TO AGREE WITH -- WHAT WAS YOUR LAST NAME? COMMISSIONER PINKSTON. I AGREE THAT THE -- WHEN WE MAKE RECOMMENDATIONS OR SUGGESTIONS THAT THEY ARE NONBINDING. I DON'T THINK THAT'S THE ROLE OF CITY GOVERNMENT OR ANY GOVERNMENT FROM THAT MATTER TO BE SAYING WE GIVE RECOMMENDATIONS. THAT'S WHY I THINK MEDIATION BOARDS THAT DON'T HAVE RENT CONTROL POWERS ARE NOT USEFUL. I AGREE BECAUSE LIKE WHEN I THINK THAT THERE IS NO WAY TO ENFORCE IT AND SO -- BUT IN TERMS OF -- I THINK IT AFFECTS THE GENERAL WELFARE BECAUSE IT AFFECTS EVERYBODY. THERE IS LESS RENEWABLE ENERGY IS HOW I SEE IT WITH GENERAL WELFARE. I DON'T LIMIT IT TO JUST THAT. I THINK IT IS WITHIN OUR POWER -- I THINK IT'S MORE THAN FAIR FOR US TO CONDITION LIKE TO PUT IN A CONDITION OF SOME KIND TO MAKE SURE THE DECREASE IN SOLAR ENERGY

IS NOT LOSS SO WE DON'T HAVE LESS RENEWABLE ENERGY BUT SPECIFICALLY FOR THE NEIGHBORS. FOR THEM THEMSELVES ARE NOT LOSING THE BENEFIT THEY PUT IN. I THINK IT'S A MORE THAN FAIR ASK. I DON'T KNOW THAT I CAN FIND THE REQUIREMENTS IN THE CODE THAT THERE IS NO DETRIMENT TO THE THINGS THAT I'M REQUIRED TO FIND NO JUDGMENT FOR FOR APPROVAL OF THIS.

>> S. O'KEEFE: YOU'VE MADE YOUR POINT CLEAR. I'M GOING TO RECOGNIZE IGOR. AND IGOR IS NEXT AND THEN DENISE THAT I PROMISED I WOULD LIMIT BOARD SPEAKING TIME. LET'S GIVE EVERYONE -- I'LL RECOGNIZE YOU AND LET'S GO DOWN AND JUST EACH SAY FOR NO MORE THAN ONE OR TWO MINUTES WHAT WE HAVE TO SAY AND THEN -- I PROMISED A SHORT MEETING AND I FEEL LIKE BEHIND NOT DELIVERING ON THAT PROMISE. LET'S TRY THAT AND SEE HOW IT GOES. I'M GOING TO -- DENISE, ARE YOU OKAY WITH THAT? IGOR. A MINUTE.

>> I. TREGUB: PERFECT. I LOVE IT. SO I WOULD SUGGEST THAT THIS HOUR JUST IF YOU WANT TO CHANGE SOMETHING, PUT A MOTION OUT ON THE FLOOR AND SEE WHERE IT LANDS. WE NEED TO MOVE FORWARD ON SOMETHING. WHERE I COME DOWN ON -- I APPRECIATE WHERE TERESA IS COMING FROM. I FEEL DEEPLY UNCOMFORTABLE SECOND GUESSING SOMETHING THAT THE NEIGHBORS WHO HAVE A MUCH BETTER APPRECIATION OF THAT AREA THAN I DO. I TRUST THEM. SO WHERE I WOULD COME DOWN ON THAT IS IF THERE IS A WAY TO MAKE SOMETHING A CONDITION AND SAY EITHER 8 FEET OR IF THE APPLICANT AND NEIGHBORS AGREE TO SOMETHING DIFFERENT THAT GOES TO DESIGN REVIEW, I'D BE AMENABLE

TO THAT BUT I DON'T KNOW HOW TO PUT THAT INTO A CONDITION THAT LOOKS LIKE A CONDITION. OPEN TO SUGGESTIONS.

>> S. O'KEEFE: TERESA.

>> T. CLARKE: I WOULD LIKE TO REQUEST THAT YOU VOTE ON THE FENCE SEPARATELY. I THINK IT'S NOT GOING TO BE THAT GREAT. THEY CAN GO UP TO 8 FEET. IF YOU WANT TO -- IF EVERYONE WANTS TO AGREE, YOU CAN DO THAT AS A SEPARATE MOTION. IT'S A SEPARATE USE PERMIT THAT HASN'T EVEN BEEN APPLIED FOR UNDER THIS CURRENT APPLICATION. SO IF YOU DON'T MIND JUST TAKING THAT OUT OF MAIN MOTION AND DOING IT SEPARATELY, I WOULD BE HAPPY.

>> I. TREGUB: WE COULD SEVER IT.

>> S. O'KEEFE: CAN WE DO THAT IF IT'S NOT ON THE AGENDA? WE SHOULD GET CLARIFICATION ON THIS. I WANT SHANNON'S OPINION.

>> I DON'T THINK I'M ANY MORE QUALIFIED THAN ANY OF THE ZAB MEMBERS ON THIS. I'M COMFORTABLE ADDING IT TO THE APPROVALS THAT ARE IN FRONT OF THE ZAB TONIGHT.

>> S. O'KEEFE: BECAUSE IT'S RELATED TO WHAT WE'RE DISCUSSING.

>> IT IS VERY MUCH RELATED.

>> KEVIN: I WANTED TO MAKE SURE. THANK YOU. TERESA.

>> T. CLARKE: I'LL MAKE A SUBSTITUTE MOTION TO APPROVE IT WITHOUT THE FENCE. I THINK IT'S IMPORTANT -- IT HASN'T BEEN STUDIED THAT MUCH. NEIGHBORS THINK THEY WANT BIGGER IS BETTER. I THINK IT ACTUALLY REDUCES SAFETY IN THE NEIGHBORHOOD. THERE IS

SOMETHING CALLED DEFENSIBLE SPACE. HAVING EVERYTHING WALLED UP IS -- IT ISN'T GOOD.

>> S. O'KEEFE: THERE IS A SUBSTITUTE MOTION. PATRICK'S TURN.

>> P. SHEAHAN: I SUPPORT THE MAIN MOTION. IN CLARIFYING THE LANGUAGE YOU COULD SAY MAXIMUM OF 8 FEET. AS AGREED BETWEEN THE PROPONENT AND NEIGHBORS.

>> I BELIEVE THE LANGUAGE IS UP TO 8 FEET.

>> P. SHEAHAN: SO IT'S COVERED. NO NEED TO IMPROVISE.

>> THE MAIN MOTION INCLUDED UP TO 8 FEET.

>> S. O'KEEFE: DOHEE.

>> D. KIM: I THOUGHT THE SOLAR PANEL DISCUSSION WAS INTERESTING, BUT I THINK AS THIS CONVERSATION BECOMES MORE FREQUENT WITH OTHER PROJECTS, THINK WE WOULD HAVE A MORE SET IDEA OF HOW TO HANDLE KIND OF MITIGATING THE IMPACT TO SOLAR PANELS, BUT FOR NOW, I SUPPORT THE MAIN MOTION AND IN REGARDS TO RENEWABLE ENERGY, I'D BE LOOKING FORWARD TO WHETHER THE CITY MAKES A JUST TRANSITION TO RENEWABLE ENERGY IN THE FUTURE WITH OTHER PROJECTS. BUT FOR THIS PROJECT IN PARTICULAR, I'M NOT COMFORTABLE MAKING IT AS A CONDITION, BUT I SUPPORT MAIN MOTION.

>> S. O'KEEFE: I THINK THAT UP TO 8 FEET IDEA IS BRILLIANT BECAUSE -- WHERE IS MY MINUTE? BECAUSE I WAS GOING TO SUGGEST IT CHANGING IN THE EVENT OF A CHANGE OF MIND. I THINK THIS IS GREAT. I LIKE THE MAIN MOTION BECAUSE THIS IS A LARGE BUILDING

THAT IS GOING TO HAVE IMPACTS TO THE NEIGHBORHOOD AS IT ALWAYS DOES. I SAW A LOT OF NEGOTIATION THAT WAS PRETTY FRUITFUL AND I THINK SEEMS LIKE BOTH SIDES WERE NEGOTIATING IN GOOD FAITH AND WE GOT MOST OF WHAT THEY WANTED. THE OUTSTANDING THING IS THE GLASS WALL AND I WAS CONVINCED BY THE WINDOW WASHING ARGUMENT. I DON'T LIKE TO IMPOSE CONDITIONS THAT CAUSE UNINTENDED CONSEQUENCES. I'M SORRY TO THE NEIGHBORS, I KNOW YOU'VE WANTED THAT BUT YOU'VE GOTTEN A LOT OF WHAT YOU WANTED AND IT'S A NICE PROJECT AND I WANT TO APPROVE IT.

>> I WANT TO ACKNOWLEDGE THE EFFORTS OF THE NEIGHBORS AND DESIGN TEAM TO WORK TOGETHER. IT TAKES A LOT OF TIME.

>> S. O'KEEFE: TIME IS UP.

>> BUT I ALSO WANT TO ACKNOWLEDGE THE -- THERE WAS A COMMENT PATRICK THAT YOU MADE ABOUT LOWERING THE PODIUM BY POSSIBLY GETTING THE PARKING BELOW GRADE. I APPRECIATE THAT WAS DONE BEFORE THEY EVEN CAME BACK HERE. AND I THINK THAT'S A LOT OF THE REASON WHY THOSE KINDS OF THINGS ARE WHY THIS IS BEING GENERALLY SUPPORTED UP HERE. I'LL BE VOTING FOR THE MOTION.

>> I SUPPORT THE MAIN MOTION IF WE MOVE TO MAKE THE SOLAR CHANGES MANDATORY, I AGREE WITH EVERYTHING MY COLLEAGUES SAID. I APPRECIATE THE NEIGHBORS WORKING WITH THE DEVELOPERS AND THE DEVELOPERS WORKING WITH THE NEIGHBORS AND THE ZONING BOARD TO ADDRESS THE CONCERNS. I SUPPORT THE MAIN MOTION.

>> S. O'KEEFE: MATTHEW.

>> IF I MADE SOME TYPE OF SUBSTITUTE MOTION TO INVOLVE SOMETHING ABOUT MAKING SOLAR MANDATORY, IS THERE ANYBODY ELSE ON THE BOARD THAT WOULD POTENTIALLY ACCEPT THE MOTION?

>> JUST MAKE THE MOTION.

>> I MOTION TO REQUIRE A SUBSTITUTE MOTION THAT REQUIRES A CONDITION TO PAY THE COST OF RELOCATING SOLAR PANELS SO THERE IS NO LOSS IN THE AMOUNT OF ENERGY GENERATED FROM THEM.

>> S. O'KEEFE: THERE CAN BE A SECOND. DO YOU WANT TO TAKE 25 SECONDS?

>> IF THIS DOESN'T GET A SECOND, MY RECOMMENDATION IS THAT LIKE THE APPLICANT AND THE FOLKS RAISING THE ISSUES ABOUT THE SOLAR PANEL NEGOTIATE SOME KIND OF DEAL AND LIKE BASICALLY WE AGREE TO THESE CONDITIONS AND PART OF THAT, WE WON'T APPEAL THIS TO CITY COUNCIL. THAT'S ONE WAY.

>> S. O'KEEFE: WE'VE ALL SAID OUR PIECES.

>> IS ANYONE SECONDING?

>> S. O'KEEFE: THEY WILL IF THEY WANT TO. THAT WAS GOOD. EVERYONE. IS ANYONE DYING TO SAY ANYTHING ELSE? LIKE SECOND A MOTION?

>> T. CLARKE: SO THE PROPERTY LINE, NOT THE FENCE FACING THE STREET.

>> I. TREGUB: WHAT DID WE -- I THINK SOME.

>> S. O'KEEFE: JUST ON THE PROPERTY LINE, NOT FACING THE STREET.

>> MY UNDERSTANDING IT'S THE WESTERN PROPERTY LINE BETWEEN THE RESIDENTIAL USES AND THE PROPOSED PROJECT.

>> SO ONLY ON THE WEST SIDE. IT'S ONE SPECIFIC PROPERTY?

>> [OFF MIC]

>> SO THE SCHWARTZ'S DID NOT WANT IT 8 FEET. IT'S UP TO. SO THEY CAN DO 6 FEET IN SOME PLACES. 8 IN OTHER.

>> SO IT'S ONLY ADJACENT TO WHICH ADDRESS? 2643 DANA'S PROPERTY LINE. THAT WOULD BE MUCH BETTER. I FEEL MORE COMFORTABLE WITH THAT. I DIDN'T WANT TO SEE A HUGE FENCE ALL THE WAY ALONG THERE. I FEEL BETTER. 24108 CARLETON. IGOR, THIS IS YOUR MOTION.

>> YES.

>> DOHEE?

>> YES.

>> GREAT. ANYONE ELSE WANT TO SAY ANYTHING OR CAN WE VOTE ON IT?

>> I SECOND CALLING THE QUESTION.

>> CLERK: BOARD MEMBER CLARKE. I AM VOTING FOR IT BECAUSE OF THE CLARIFICATION. THANK YOU VERY MUCH.

>> CLERK: BOARD MEMBER TREGUB.

>> YES.

>> KIM.

>> YES.

>> PINKSTON.

>> YES.

>> SHEAHAN.

>> YES.

>> BOARD MEMBER LEWIS.

>> ABSTAIN.

>> CLERK: VICE CHAIR KAHN.

>> YES.

>> AND CHAIR O'KEEFE.

>> S. O'KEEFE: YES. MOTION PASSES APPEALABLE TO CITY COUNCIL. OKAY. GOOD JOB, EVERYONE. SORRY, DAVID, YOU CAN E-MAIL ME. DON'T GO. SUBCOMMITTEE REPORTS. DO WE HAVE ANY?

>> WE HAD ONE.

>> THERE IS ONE.

>> I. TREGUB: WE HAD A PRODUCTIVE -- IN LIGHT OF PUBLIC HEALTH CONCERNS RIGHT NOW --

>> S. O'KEEFE: LET'S SKIP THEM. DRC. A QUICK REPORT. EXCUSE ME, WE'RE HAVING A DRC SUBCOMMITTEE REPORT.

>> BURTON EDWARDS, ONE OF THE MEMBERS OF THE DRC HAS MOVED AWAY. AND SO, THERE WAS OUTREACH FOR, YOU KNOW, A REPLACEMENT. FIVE PEOPLE HAVE THROWN THEIR HATS IN THE RING. ONE OF THEM IS ME. I KNOW THAT PATRICK HAS BEEN INTERESTED IN JOINING DESIGN REVIEW. I KNOW THAT CARRIE HAS AN INTEREST IN THAT. I'M INTERESTED IN THE ARCHITECTURAL SLOT. I HOPE YOU'LL SUPPORT ME. I HOPE THE COMMITTEE WILL SELECT ME. THE ONE REASON I WANT TO DO

IT IS I THINK IT WOULD GIVE A BETTER REPRESENTATION BY ZAB ON THE DESIGN REVIEW. I JUST WANTED TO MENTION THAT IS HAPPENING. SO WE'LL SEE HOW IT ALL EVOLVES.

>> S. O'KEEFE: WHEN DO WE VOTE ON THAT?

>> THE PROCESS IS THAT THERE IS A SUBCOMMITTEE OF THE DESIGN REVIEW THAT WILL BE PRESENTING APPLICANT. THEY'LL MAKE A REPRESENTATION FOR ZAB BUT IT WILL BE THE ZONING ADJUSTMENT BOARD DECISION. AND I ACTUALLY CAN PARTICIPATE IN THAT VOTE. IT'S NOT A CONFLICT OF INTEREST.

>> S. O'KEEFE: IGOR.

>> I. TREGUB: ON THAT NOTE, AND WE HAD A MUCH MORE DULL SELECTION PROCESS FOR CHAIR AND VICE CHAIR, BUT THANKS TO THE SUPPORT OF OUR COLLEAGUES, THANK YOU FOR MAKING ME CHAIR OF JAY SIZZLE AND SHOSHANA VICE CHAIR. IT'S GREAT TO SEE SO MUCH TALENT HERE ON ZAB AND FLOWING TO OTHER COMMISSION.

>> CONGRATULATIONS SHOSHANA AND IGOR.

>> S. O'KEEFE: ANY MORE REPORTS? PATRICK.

>> P. SHEAHAN: I HAVE A NON-REPORT FROM ZORP. THERE WERE FOUR PEOPLE SHOWED UP AT THE LAST SCHEDULED MEETING. I WAS THE ONLY PERSON FROM ZAB. THERE WERE THREE PLANNING COMMISSION MEMBERS. IT TURNS OUT THAT TO HAVE A QUORUM FOR THESE COMMITTEES THAT ARE SPLIT BETWEEN ZAB AND PLANNING, THAT THERE NEED TO BE TWO MEMBERS OF EACH TO CONSTITUTE A QUORUM. SO THE MEETING WAS CANCELED AND PROCESS OF RESCHEDULING. I'M NOT SCOLDING, I'M

SAYING IT'S IMPORTANT IF WE'RE COMMITTED TO GOING WE MAKE SURE AT LEAST TWO OF US ARE THERE. IF ONE OF US HAS A PROBLEM OR SEND SOMEBODY ELSE LIKE WE OFTEN DO.

>> S. O'KEEFE: I DIDN'T COME TO JAY SIZZLE.

>> I. TREGUB: WE SHOULD PROBABLY HAVE AN OFF-LINE CONVERSATION WITH STAFF. BECAUSE I KNEW TWO WEEKS IN ADVANCE THAT MEETING WOULD CONFLICT WITH A DIFFERENT COMMISSION MEETING. I WAS TOLD IT WOULD BE POSSIBLE TO FIND AN ALTERNATE THEN I WAS TOLD THAT MAYBE ALTERNATES ARE NOT ASSIGNED FOR ZORP. MAYBE WE WANT TO CONSIDER A AGENDIZING WHENEVER WE MEET AGAIN. I GUESS WE'RE EXEMPT FROM NOT MEETING. MAYBE ON OUR NEXT AGENDA PUTTING ON SELECTING ALTERNATES FOR ZORP.

>> S. O'KEEFE: I SECOND THAT. SHANNON. IS THAT FINE?

>> I WILL LOOK INTO IT AND REPORT BACK AND EITHER REPORT BACK WITH IT BEING ON THE AGENDA OR I'LL JUST REPORT BACK.

>> EITHER WAY. THANK YOU. IT'S A GOOD IDEA.

>> WE WERE TRYING TO GET ALTERNATES FOR DESIGN REVIEW AND FOUND THAT PER THE CLERK'S OFFICE IT WASN'T LEGALLY, JUST THE WAY THE DUMB THING WAS WORDED, WE COULDN'T DO IT. THAT MAY BE DESIGN REVIEW.

>> ONE MORE COMMENT, I THINK IF WE HAVE THREE PEOPLE, IT SHOULDN'T BE THAT HARD FOR TWO OF US TO GET THERE. IF THAT'S A PROBLEM, WE SAY SO AHEAD OF TIME AND IT GETS RESCHEDULED. THAT'S THE EASIEST WAY TO DEAL WITH IT.

>> S. O'KEEFE: I THINK WE ARE ADJOURNED. I HAVE TO DEAL
WITH THIS. THANK YOU EVERYBODY. STAY HEALTHY. SOCIAL DISTANCING
IS GOOD. FLATTEN THE CURVE. GOOD NIGHT.

To: Pamela Schivola

Regarding: 1449 Grizzly Peak

Administrative Use Permit ZP2019-0111

6-1-2020

Dear Pamela,

I hope you are well during these times.

I'd like to make an effort and work with you on your appeal of my permit. As it came up in the ZAB, I am attaching in this letter mailed to you the color we will use for the new TPO roof structure.

I am also attaching sample colors of the color we have in mind for the new structure. We WILL stay within this range of darkness which I think will address your concern.

Colors codes from Benjamin Moore are:

HC-168


2134-20

2131-10

2120-30

HC-155

Please give me a call directly. 510-773-4835.


Thanks, Rod Ubillus

1449 grizzly peak blvd.

Berkeley CA 94708xd

6-3-2020

Dear Ashley,

I have sent Pamela a letter with color samples. As we have not finalized the color, I placed colors to which we will stay near that shade or color value. I am attaching those colors to this letter so it can be shown that they are much darker gray colors. I am also attaching to this letter the color of TPO roofing I will use in the new addition roof as per the request of the ZAB board.

As the City knows, that Pamela is extremely hard to get a hold of, I am attaching the receipt from the postal office showing that I did mail this letter certified yesterday June 2nd and it'll be arriving to her home today June 3rd.

Furthermore, I want to make known 2 homes near Pamela's home which are modern looking homes like mine and that they are white. Also, one more newly built home (last 3 years) of another home in the neighborhood with similar style as mine.

While I know it is Pamela's right to appeal, I want to make known of 2 homes in our very close vicinity which the City approved and they did not enforce a color change or choosing the color of the home for the owner because a neighbor didn't like the color the owners picked. It is our right to choose the color of our home, especially if nearby neighbor used a similar color palette. While I will add some gray's and darker colors to my new construction, which I provided. I want to protect my rights, especially as the City approve 2 brand new builds with similar home style and colors. It would be atrocious for us all to spend our money time and resources arguing a color of a home. Please note that our neighbor, 1 home down from me and 1 home down from Pamela just built a home that is larger, taller and whiter than mine. Directly below Pamela's. Lastly, for the record, my home is not white is light gray which you can see in the photo of my home in this document.

Thank you for your time.

Rod Ubillus

Receipt from postal service (letter to Pamela)

10:38 📶 🔋
cns.usps.com

Label Summary

[View Label](#)

We are sorry but a communication error has occurred. Please retry your request or print at a later time from Shipping History.

Return Address
CHERYL UBILLUS
1449 GRIZZLY PEAK BLVD
BERKELEY, CA 94708-2201

Delivery Address
PAMELA SIHVOLA
1475 SUMMIT RD
BERKELEY, CA 94708

Package

Tracking #:	9405 5036 9930 0402 1650 23
Shipping Date:	06/02/2020
Exp. Delivery Date:	06/03/2020
ZIP Code™:	94708
Package Weight:	0 lb. 4 oz.
Contents Value:	\$20.00

Service

Priority Mail® 1-Day:	\$7.50
Insurance:	Free

Total: \$7.50

Payment Method
VISA-2673

You have until 11:59 PM Central Time of the ship date to print your label.

[View Label](#)

Color which will be used for new construction roof, TPO gray.



These are the shades of gray which I will stay near. Similar color value and shade of gray.



Example 1:

1441 Grizzly Peak Blvd. which is the home right in front and 1 home to the left of Pamela's. (My home is right in front of Pamela's but one home to the right) Also, this home is on the same side of the street as mine and it there is 1 home separating me and 1441.

This is a photo of the lot of land before the home was build. They are still building it.



This is a photo of the home now built. As you can see, this home is white, taller than mine and a brand new construction, approved by the City of Bekrleey. They did not get any color restrictions. The home is modern as is mine. The use permit for that home is Use Permit #ZP2015-0089

Example 2:

This home is on Pamela's street. It is 3-5 homes from her home.1453 Summit rd.

I just want to point out that this home is modern and white, my home looks similar as well.



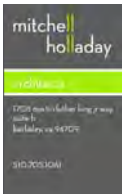
Example 3:

This is a home 2 blocks away on grizzly peak. Address is 1234 Grizzly peak. This was a completely new built home in 2016. It was an empty lot before. But you can see this is also a very modern home in white. Similar style to mine.



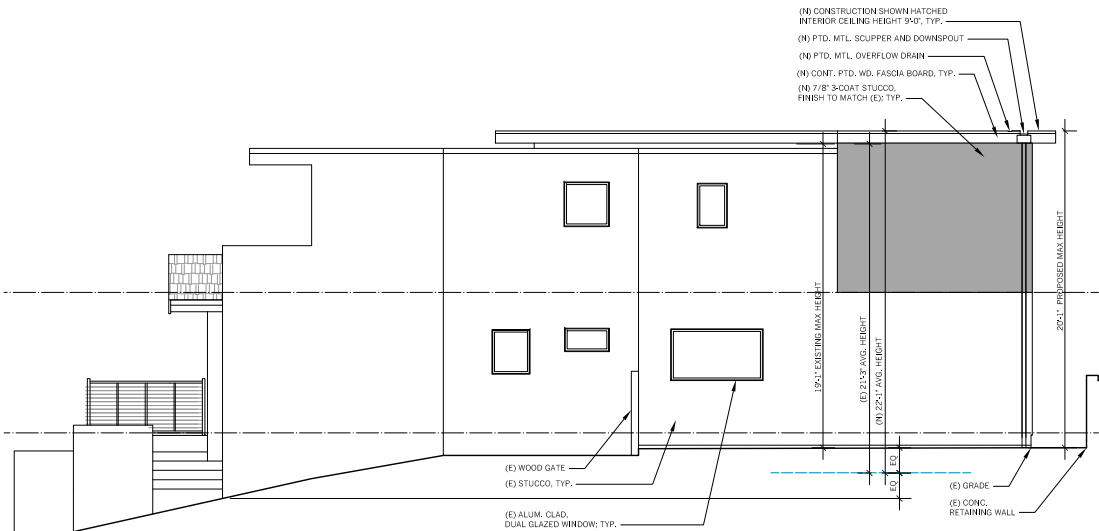
This is a photo of my home taken yesterday. (all photos were taken yesterday or today)



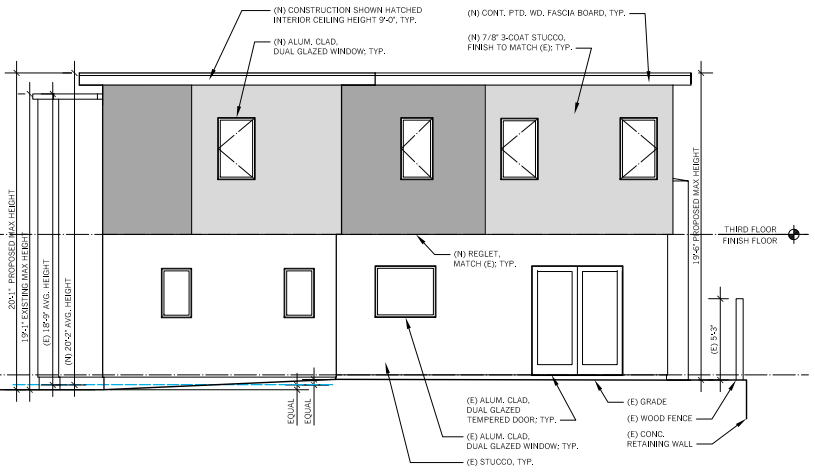


UBILLUS RESIDENCE ADDITION

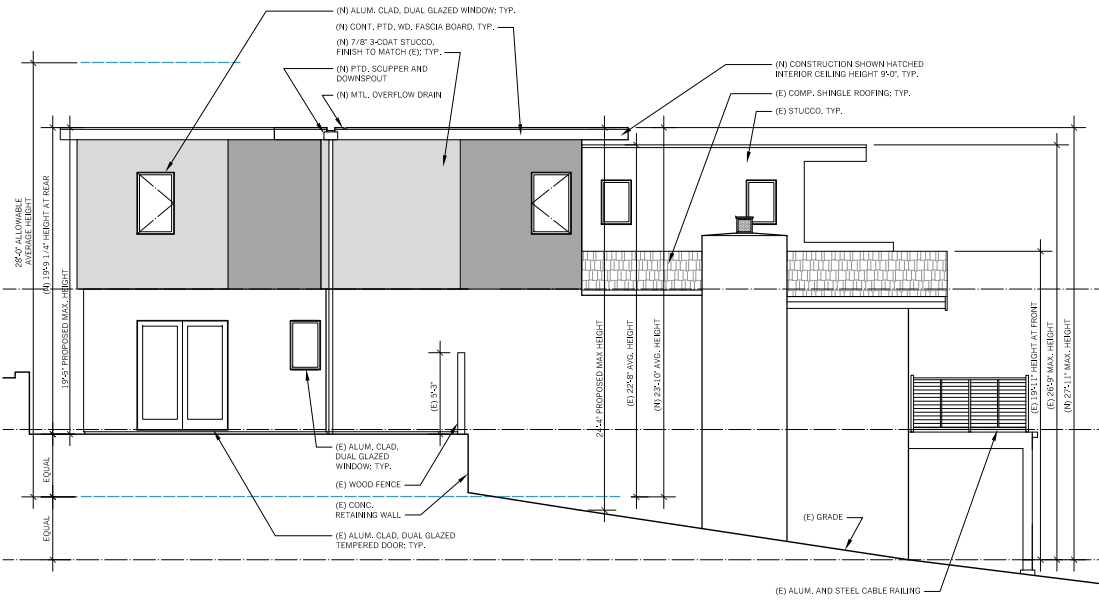
1440 GRIZZLY PEAK BLVD. BERKELEY, CA 94709
CONSULTANTS



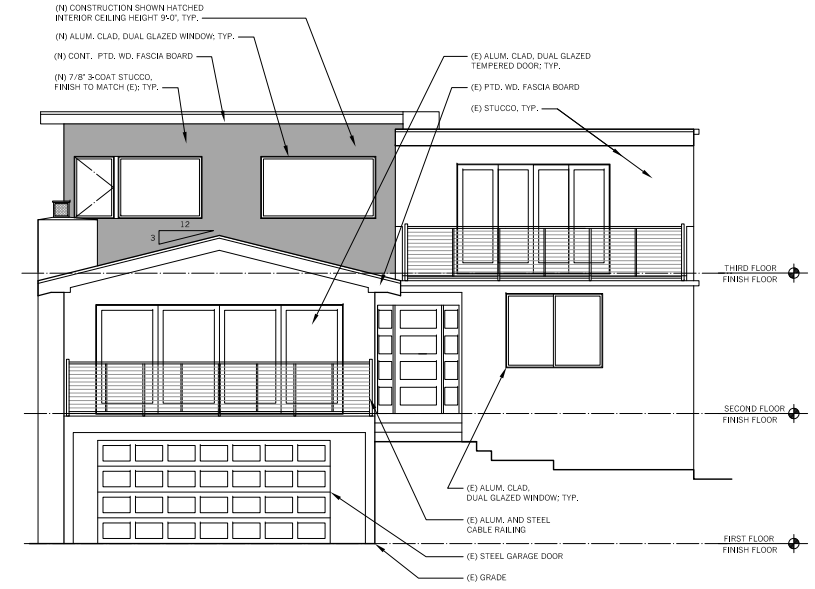
2 SOUTH ELEVATION



1 EAST ELEVATION



4 NORTH ELEVATION



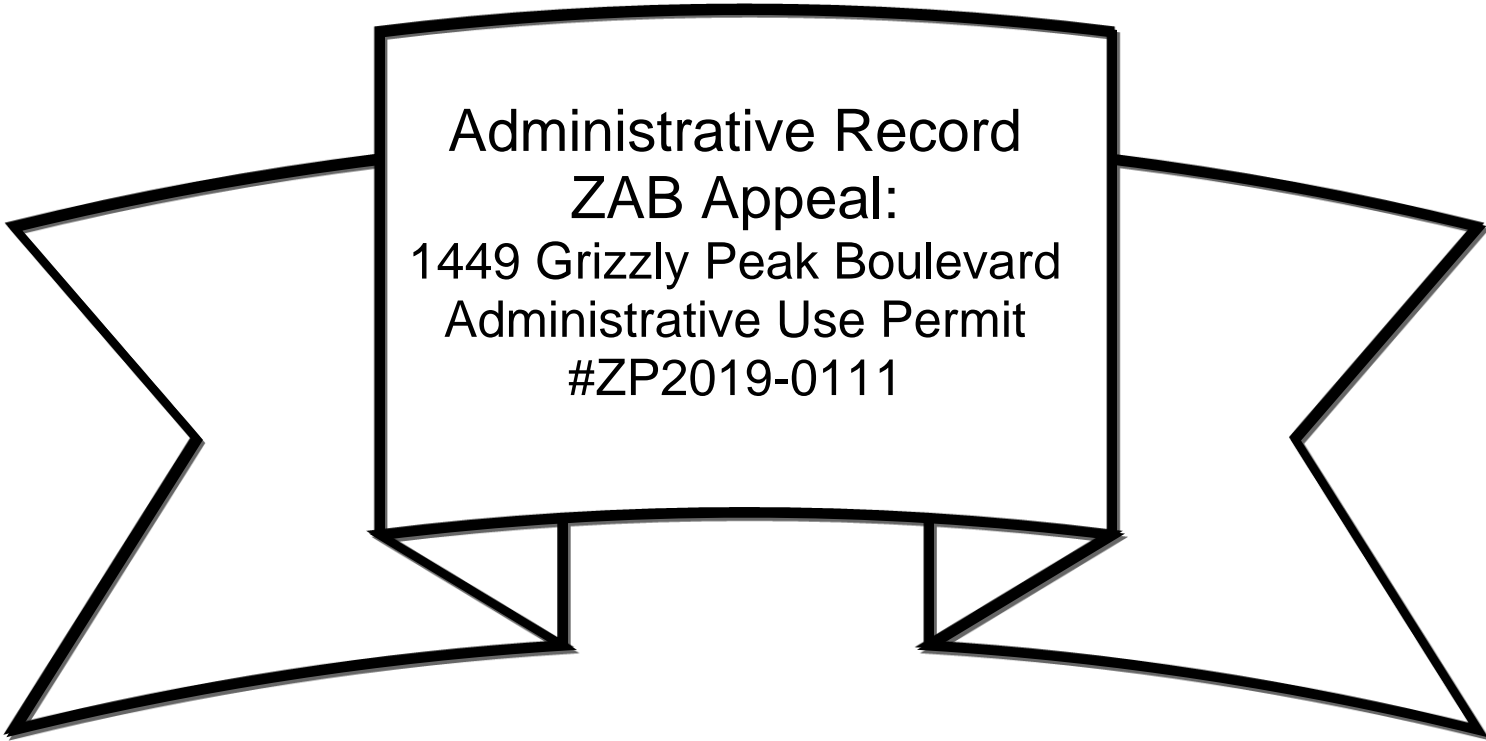
3 WEST ELEVATION

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

ISSUE	DATE
AUP SUBMITAL	06/03/2019
AUP RESPONSE	08/12/2019
ARCHITECTURE	06/03/2020

PROPOSED EXTERIOR ELEVATIONS

A - 3.0



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

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,
1231 ADDISON STREET
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: ADMINISTRATIVE USE PERMIT #ZP 2019-0111, 1449 GRIZZLY PEAK
BOULEVARD**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JULY 7, 2020** at **6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to uphold the Zoning Officer's decision to approve Administrative Use Permit #2019-0111, to construct a 500 square-foot major residential addition on the third story of an existing 2,791 square-foot, three-story single-family dwelling, increasing the average and maximum building height by approximately two feet, and increase the number of bedrooms on the parcel from four to five.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **JUNE 30, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Ashley James, Project Planner at (510) 981-7458. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mark Numainville, City Clerk

Mailed: June 23, 2020

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

ATTACHMENT 8

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.



Office of the City Manager

PUBLIC HEARING

July 7, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: ZAB Appeal: 0 Euclid Avenue (Berryman Reservoir), Use Permit #ZP2018-0236

RECOMMENDATION

Conduct a public hearing regarding an appeal of the Zoning Adjustments Board decision to deny Use Permit #ZP2018-0236, a request to establish a new 50' high monopole 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment and, upon conclusion, consider the record of proceedings and testimony to determine whether the findings for approval can be made regarding view protection and camouflage.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On December 17, 2018, the applicant team for Verizon Wireless, represented by David Haddock of Ridge Communications Inc., submitted an application for Use Permit #ZP2018-0236 for a proposed 50' high wireless freestanding tower facility with antennas and remote radio units mounted on the monopole. Equipment cabinets and a standby generator are proposed on the ground near the monopole. The site is in the Single Family Residential District – Hillside Overlay (R-1H) Zoning District.

On June 27, 2019, the ZAB conducted a public hearing and discussed the project. (See Attachment 2 for the staff report that was presented to ZAB.) There were approximately 25 speakers, most of whom were local residents who opposed the project on grounds related to aesthetics, noise, health hazards, safety, property values, and procedural issues, among others. The ZAB found that the applicant did not adequately address concerns and questions regarding the need for the facility and expressed concerns regarding the design and location of the facility. The ZAB determined that it could not make the necessary findings for approval and therefore denied the Use Permit by a unanimous vote (Yes: Clarke, Habibi, Kahn, Kim, Lee-Owens, Olson, Selawsky, Sheahan, Tregub).

On July 2, 2019, staff issued the notice of the ZAB decision (see AR pages 729 - 736). On July 16, 2019, the applicant filed an appeal of the ZAB decision with the City Clerk (see Attachment 3). On July 23, 2019, the appellant filed an agreement to toll the shot clock in order to allow the Council an opportunity to review the appeal. On October 15, 2019, notices were posted for an October 29, 2019 City Council hearing. The appellant subsequently requested a postponement of the originally scheduled October 29, 2019 City Council hearing in order to prepare additional studies. Several additional extensions were agreed to between the appellant and City (see Attachment 4).

On March 16, 2020, the applicant submitted additional information regarding the local service limitations and alternative sites that were considered. On May 7, 2020 the City's peer reviewer determined that these documents reasonably demonstrated that the proposed facility would improve service in service area (including filling a coverage gap) and that the proposed antenna installation would have the least visual impact on the community (see Attachments 5A, 5B and 5C).

The City Clerk set the matter for a public hearing at the City Council meeting on July 7, 2020. At least ten days prior to the hearing, staff posted the public hearing notice at the site and two nearby locations, 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 at City Council is required to resolve the appeal.

BACKGROUND

The site is in the Berkeley hills on the east side of Euclid Avenue. It is a 3.7 acre parcel belonging to the East Bay Municipal Utility District (EBMUD) and is developed with an approximately 2.6 million gallon water storage tank (reservoir). The balance of the property includes vehicular access areas for maintenance trucks, as well as landscaping, including a pedestrian path. The property is bowl-shaped, surrounded by an earthen berm and fence, with substantial trees around the perimeter of the property. The topography of the neighborhood is such that the elevation of the surrounding area is lower to the west across Euclid Avenue and increases to the east with homes located roughly 400 feet away and at an elevation 20 to 60 feet above the site. The area primarily consists of one- and two-story single-family residential dwellings along Euclid Avenue, Codornices Road, Rose Street and Tamalpais Road. Two public parks are also in the vicinity including Codornices Park immediately to the north (including a large playfield) and the Berkeley Rose Garden approximately 500 feet to the northwest and across the street (see AR page 2).

The proposed wireless telecommunications facility consists of a freestanding tower ("monopole") that would be located at the far northern edge of the bowl-shaped depression on the site. Six antennas, six remote radio units, and other related cables and equipment are proposed to be mounted on the monopole. The equipment cabinets and standby generator are proposed to be placed on the ground of the lowest elevations of the site and would be obscured from view from the street.

Federal Telecommunication Regulations

The Federal Communications Commission (FCC), pursuant to regulations established under the Telecommunications Act of 1996 and the Spectrum Act of 2012, regulates the development of wireless communications infrastructure, limiting the scope and duration of local government review. Federal regulations prohibit the regulation of wireless facilities by state and local governments on the basis of Radio Frequency (RF) emissions to the extent that such facilities comply with the FCC's regulations.

The federal and state laws also limit or prohibit local discretionary review over certain other technical aspects of wireless facilities, including demonstration of need or alternative siting requirements that are excessively burdensome to applicants. This application has demonstrated compliance with all applicable FCC standards for RF; the City's RF peer review consultant reviewed and confirmed these facts.

With respect to siting and other local regulations, current FCC rules prohibit local governments from adopting regulations that "materially inhibit" the ability of wireless providers to provide services. Under current federal rules, "a state or local legal requirement could materially inhibit service in numerous ways—not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services." (FCC 18-133 ¶ 37.) Thus, local regulations cannot require an applicant to demonstrate the existence of a "coverage gap" or prevent an applicant from densifying an existing wireless network. (*Ibid.*)

On the other hand, the City retains the authority to regulate the placement and design of wireless facilities based on objective criteria, so long as reasonable alternatives are available to the carrier. Specifically, FCC Order No. 18-133 provides that local jurisdictions may implement rules for aesthetic and locational requirements that are "(1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and are (3) objective and published in advance." (FCC 18-133 ¶ 86.)

Additionally, local jurisdictions' decisions on wireless applications have permitting time limits as mandated by Federal regulations, commonly referred to as the "shot clock," which for this application originally expired on June 10, 2019. The applicant team did not originally agree to an extension or "tolling" of the clock prior to the ZAB public hearing on July 2, 2019. Following the submittal of the appeal by the applicant, the applicant team later agreed to toll this clock until November 22, 2019, to allow for the City Council public hearing and resolution of the appeal. Following the Applicant's request for the postponement of the originally scheduled City Council hearing, the tolling agreement was subsequently extended to July 10, 2020 to allow for this hearing to take place.

City of Berkeley Wireless Telecommunication Regulations and ZAB Findings

The City of Berkeley's regulations with respect to wireless telecommunications facilities complement the Federal requirements and focus on compliance with established standards while protecting public safety and promoting community welfare and aesthetic quality.

The City's regulations require that applicants provide information regarding the need for the facility and related design issues (see BMC Section 23C.17.100.B.3):

- (1) the telecommunications objectives sought for the proposed location;
- (2) whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant's service area;
- (3) whether it is the least intrusive means of doing so; and
- (4) whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.

The application of BMC Section 23C.17.100.B.3 is constrained by FCC rules, which among other things expressly preempt local regulations requiring an applicant to demonstrate a gap in coverage, reject the "least intrusive means" standard that had been previously applied in certain federal Courts of Appeals, and prohibit the denial of a permit application based on unpublished or non-objective standards.

Subject to these constraints, the City retains discretion to regulate the design of wireless facilities, including its visibility from a public park, while considering technological requirements and the facilitation of future co-locations. Thus, placement, screening, camouflage, and colors and materials for facilities must be chosen to minimize visibility (see BMC Sections 23C.17.050.B, 23C.17.070.B and C, and 23C.17.100.B.2). Specifically, BMC Sections 23C.17.050.B states: that "[a]ll wireless telecommunications facilities proposed for locations where they would be readily visible from the public right-of-way or from the habitable living areas of residential units within 100 feet shall incorporate appropriate techniques to camouflage or disguise the facility, and/or blend it into the surrounding environment, to the greatest extent feasible." In addition, BMC Section 23C.17.050.C provides:

- C. No readily visible antenna shall be placed at a location where it would impair a significant or sensitive view corridor except as provided in subsection 1, below.*
- 1. [G]round-mounted antennas shall not be placed in direct line of sight of significant or sensitive view corridors or where they adversely affect scenic vistas unless the [City] finds that the facility incorporates appropriate, creative stealth techniques to camouflage, disguise, and/or blend into the surrounding environment to the extent possible....*

“Readily visible” is defined as follows:

A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.

Thus, the City’s Wireless Telecommunication Facility ordinance allows the Council to consider design and location alternatives for the installation of wireless facilities, consistent with the requirements under and constraints imposed by federal law.

The applicant’s original proposal consisted of a “monopine” (faux tree), designed to look like a pine tree which blends in with the surrounding tree cover and vegetation as depicted in the submitted photosimulations (see AR pages 21-46). Staff requested that the applicant provide multiple photosimulations of design alternatives. The applicant team provided two design options painted in two different colors. These consist of an un-camouflaged monopole painted either grey or green or a four legged tower with an enclosure around the antennas painted grey or green.

The applicant also provided two brief paragraphs as a “Statement Related to Need” in conjunction with the submitted Applicant Statement. Additionally, two tri-color coverage maps were provided which indicated existing and anticipated Verizon coverage following installation of the proposed monopole. These coverage maps denoted existing and expected on-street coverage, in-vehicle coverage, and in-building coverage within the wider Berkeley Hills area (see AR pages 71-75).

During the review of the application, multiple public comment letters were received stating that the proposed faux tree was not a desirable design in proximity to the existing vegetation and tree cover. In response, staff advised the applicant that the proposed un-camouflaged monopole design option painted green was staff’s preferable option at the proposed location. Staff stated that this design option would minimize its visibility, and would require less additional monitoring and maintenance to ensure that the faux branches of the faux tree remain in good condition and are not damaged due to weather.

On June 27, 2019, the ZAB heard public testimony, considered the proposed wireless freestanding tower facility with related equipment, and discussed the height, location and visual impacts of the project. A view from one of the neighboring homes was presented with an unverified simulation of a tower at the site (see AR page 109). This

simulated tower appears to be much taller than the tower represented in the application materials. Requests were also made that a “story pole” be installed so the actual size and location of the proposed tower could be seen and that additional viewpoints such as from the hillside above the site and the public parks be considered when evaluating the aesthetic impact. Members of the ZAB expressed a desire to review and consider additional information from the applicant, including such visual representations and location alternatives. However, due to the shot clock’s impending expiration at that time, the ZAB noted that it was required to make a decision regarding the proposal as presented.

The ZAB determined that it could not make the findings for approval because the application did not provide adequate evidence that the proposed wireless telecommunications facility is required to address a coverage gap or capacity shortfall. The ZAB also found that the facility would be readily visible at the proposed location and would impair a significant or sensitive view corridor, and would be inconsistent with General Plan policies and ordinance purposes to preserve the character of the area. The ZAB concluded the public hearing and denied the project with findings regarding detriment.¹

ENVIRONMENTAL SUSTAINABILITY

The CEQA Determination prepared for the project was as Categorically Exempt pursuant to Sections 15301 and 15303 of the CEQA Guidelines (“Existing Facilities” and “New Construction or Conversion of Small Structures”). However, this determination was not adopted by the ZAB as the project was denied.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellant’s letter, and staff’s response, are as follows.

Appeal Issue #1: The applicant/appellant states that “[t]he ZAB erred in finding that the facility is not necessary to fill “a significant gap or capacity shortfall” in Verizon Wireless service as required by Code Sections 23C.17.040.C.2 and 23C.17.100.B.3...”

Staff Response: BMC Section 23C.17.040.C.2 requires that the applicant provide “a statement of the telecommunications objectives sought for the proposed location, whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant’s service area, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.” The applicant’s originally submitted statement prior to the ZAB hearing was:

Verizon’s coverage objectives for this project are to improve service in the area described [of coverage in the Berkeley Hills area, especially along

¹ For the reasons previously explained, Council should consider the extent to which the bases for these findings are preempted by federal law.

Euclid Avenue north of EBMUD's Berryman Reservoir], and to offload traffic from other nearby sites that are often at or exceeding capacity. Coverage maps showing existing coverage are included with this application, as are coverage maps showing anticipated coverage after the proposed project is constructed.

The proposed location is most appropriate as it will allow Verizon to achieve its coverage objectives, while causing the least impact on the neighborhood. This EBMUD parcel is already used for utility purposes. Adding a Verizon tower to this location will allow Verizon to cover the neighborhood without changing its character.

The ZAB found that while the statements, coverage maps, and information provided in the application and at the public hearing reflected the telecommunications objectives sought for the proposed location, they did not clearly explain or demonstrate three of the other four concerns required by the applicant's statement regarding coverage. Members of the ZAB found the information provided was inadequate to explain the significant gap in coverage or capacity shortfall. The ZAB also found that the applicant did not provide adequate information regarding specific alternative locations, either on-site or within the vicinity, and why they are unsuitable.

Although the applicant team responded to questions raised during the ZAB public hearing, they did not clearly explain the discrepancy between the referenced coverage data and published marketing maps available on Verizon's website which show that the area has coverage. The applicant stated these marketing maps reflect different information and are not accurate for all situations, including in-building and in-vehicle situations. Following receipt of the appeal letter, staff requested that the applicant provide additional information to confirm or elaborate on the coverage maps and information regarding coverage gaps.

Subsequently, additional information was submitted on March 16, 2020. This consisted of a Statement in Support of Verizon Wireless's Proposed Facility that described the local coverage and capacity limitations and an Alternative Analysis that discussed the potential placement of a similar antenna system on ten sites in the vicinity. These additional statements were peer reviewed by the City's consultant (see Attachments 5A, 5B and 5C) and were found to be reasonable.

The additional evidence presented by the applicant included a "drive test" conducted in December 2019 to measure signal strength at different locations, plotted on a map, which the peer reviewer noted is "a usual and customary means of expressing signal strength at a given location." The coverage maps also show the projected signal strength after the antenna installation. Alternative locations throughout north Berkeley were described and also evaluated, including

façade/roof-mounted antennas and freestanding antennas at institutional sites such as a church, school, park and utility. Upon reviewing the additional evidence, the City's peer reviewer stated:

"[The Applicant's] justification statement and its alternatives analysis reasonably demonstrate that: (a) there are underserved areas within the claimed gap area that are likely to be subject to reducing service levels if a new nearby cell site is not constructed, and (b) among the alternative sites identified by Verizon, the Berryman Reservoir site is most able to serve the claimed gap area...."

In reaching this conclusion, the City's peer reviewer cited the distance from and topography around the proposed coverage area, lack of availability of the sites, and close proximity of the alternative sites to residences and other sensitive uses. The City has limited discretion to deny the project based on these considerations, and in particular, cannot require the applicant to demonstrate a gap in coverage or service exists before granting an application to install wireless facilities.

Appeal Issue #2: The applicant/appellant asserts that "[t]he ZAB erred in finding that the Proposed Facility is not the least intrusive means of serving the gap [in coverage], and that Verizon Wireless did not show there are no alternative sites to provide service with fewer aesthetic impacts. The ZAB did not raise any alternatives that would be less intrusive and provided no factual basis for this finding of denial. Verizon Wireless presented alternative design options for an unconcealed monopole..."

Staff Response: As noted above, data in support of coverage gaps and location alternatives has been supplemented by the applicant and peer reviewed by the City's consultants, and may support the conclusion that the project site is a necessary means of addressing the coverage gap.

As for options to reduce the intrusiveness of the project at the Berryman Reservoir site, the project was originally evaluated under three design scenarios including a 50-foot tall monopine, a monopole, and a boxy screening shroud, the latter two in color schemes of gray and green (see AR pages 30 – 46).

During the public hearing, the ZAB asked the applicant team whether the proposed facility could be moved more to the north and whether "there [was] something about this particular location that requires it to be in that particular spot." The applicant team responded that "the location was mainly chosen for that precise purpose to move it as far away from the houses on the adjacent street and to tuck it in towards the trees." The applicant further stated that the height could potentially be lowered, but that collocation of other providers is a

consideration, and did not provide any additional information regarding the potential to design the tower to be lower.

The ZAB could not affirmatively find based on the available evidence that the proposed project was the least intrusive means nor that it would not be readily visible or obstruct significant views from residential living areas, nor that it was not readily visible from a public park, and so it denied the project. The City has limited discretion to deny the project based on these considerations.

In particular, the City cannot require the applicant to demonstrate that the proposed facility is the “least intrusive means” of providing service and cannot deny the application based on unpublished or non-objective standards. However, the City Council may evaluate the project based on objective standards related to impacts on view corridors (see generally BMC Section 23C.17.050.C), subject to the constraints that the application of those standards may not materially inhibit the provision of wireless services and may not be based on subjective considerations.

Appeal Issue #3: The applicant/appellant states that “[t]he written denial simply references [General Plan Land Use and Urban Design] policies but provides no explanation as to how the Proposed Facility does not comply. Similarly, the written denial referenced the provisions of the City's wireless regulations, Code Section 23C.17.020.B.1, but did not elaborate on how the Proposed Facility does not satisfy those objectives...”

Staff Response: During the public hearing on June 27, 2019, the ZAB stated that the project was not consistent with the General Plan Policies and voted to deny the wireless facility and directed staff to prepare the findings of denial. ZAB discussed that the proposed 50-foot tall wireless facility at the proposed location within an open area on the Berryman Reservoir, not adjacent to trees of similar heights, is not consistent with the scale or character of the Residential Hillside area. Members of the ZAB stated that they found the design and location proposed to be intrusive. The ZAB referenced the 2002 General Plan, which contains policies regarding area character, context, and design.

Additionally, based on the proceedings of the public hearing, the written ZAB Findings of Denial state that the proposed wireless telecommunications facility does not meet the objectives of the City's ordinance (BMC Section 23C.17.020.B.1, Purposes) due to its design and location. Therefore, it was denied.

The site plan, aerial photos, visual simulations and viewshed map illustrate that the proposed monopine or monopole would be located adjacent to substantial trees and within an isolated portion of the existing reservoir bowl, such that it would be seen against a backdrop of similar height vegetation (see AR pages 21

– 46). Any decision to uphold ZAB’s denial of the permit on this basis would require the Council to identify a published, objective design or location standard that meets the requirements of FCC Order 18-133 ¶ 86.

Appeal Issue #4: The applicant/appellant asserts that the ZAB erred when it concluded it was not possible to determine if a different location would render the Proposed Facility to be "not readily visible" as required by Code Section 23C.17.100.B.2. Verizon Wireless provided photosimulations as evidence that show the Proposed Facility treepole blends with the backdrop of established evergreen trees.

Staff Response: The applicant originally submitted only one location option for the monopole on the subject property, which the ZAB reviewed and discussed. The ZAB reviewed and considered the alternative design options and photo simulations presented by the applicant and neighbors; the ZAB found that the views presented did not clearly demonstrate what the facility would look like from the surrounding properties, including the homes and public park in the area.

BMC Section 23C.17.070.C (Design Requirements) further states: “No readily visible antenna shall be placed at a location where it would impair a significant or sensitive view corridor...” and BMC Section 23F.04.010 defines “view corridor” as: “A significant view of the Berkeley Hills... or any other significant vista that substantially enhances the value and enjoyment of real property.” The ZAB considered the concerns of the neighbors and concluded that construction of the proposed 50’ tall monopole at the proposed location at Berryman Reservoir would be noticeable by residents and park visitors and could affect their views.

The “readily visible” test in BMC Section 23C.17.100.B.2 (Findings Required for Approval) states that in order to approve a Use Permit for a Wireless Facility the ZAB must find that the facility 1) not be readily visible; or (2) be readily visible, but it is not feasible to incorporate additional measures that would make the facility not readily visible.

BMC Section 23F.04.10 defines “readily visible” as:

“A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.”

The applicant has not submitted any additional information about views. It is possible that neighbors and park users could see the pole, but it is not clear that it would be obtrusive in light of the existing tree cover around the perimeter of the reservoir and the distances to the viewers, and it does not appear that the pole would be in a line of sight to a significant view corridor because it would be located to the far north of the site while residential views are generally toward the west.

In assessing the impact of the proposed wireless facility on views, the City Council must consider the availability of alternative sites and the possibility that a denial of the permit application would materially inhibit the provision of wireless services. The City retains discretion to determine the most effective means of camouflaging the tower, whether it be a pole (in gray or green) or a faux tree.

Appeal Issue #5: The applicant/appellant asserts that “the ZAB claimed that Verizon Wireless did not demonstrate that the Proposed Facility is designed to the minimum height and width required, or that a higher facility would facilitate other objectives per Code Section 23C.17.070.C.3. Verizon Wireless seeks an administrative use permit for height greater than allowed in the R-1H zone pursuant to Code Sections 23D.04.020.B and 23E.96.070. At only 50 feet, the Proposed Facility height is necessary in order for Verizon Wireless to achieve its coverage objectives given the Berryman Reservoir location, its elevation and nearby topography.”

Staff Response: BMC Section 23C.17.070.C.3 states: “All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless a higher monopole or lattice tower will facilitate co-location or other objectives”.

During the public hearing the ZAB asked why the height was necessary, why 50 feet was proposed, and whether the wireless tower height could be lowered. The applicant team replied that the height of 50 feet was required to be above the metal reservoir water tank which would interfere with the signal and to accommodate future co-locations of other antennas. The applicant team stated that they may be able to lower the height, perhaps to a maximum height of 40 or 45 feet, but did not specify to what degree. The additional information provided by the applicant does not discuss whether lowering the height of the proposed facility would materially inhibit the introduction of new services or the improvement of existing services.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) dismiss the appeal and uphold the ZAB decision to deny the project (see Attachment 1, Exhibit A1 for ZAB-adopted findings); (2) uphold the appeal and approve the project (see Attachment 1, Exhibit A2 for findings and conditions of approval prepared by staff prior to the ZAB

hearing); or (3) modify either the denial or approval documents based on evidence and testimony at the hearing.

Action Deadline:

The City and Applicant have agreed to a tolling of the FCC “shot clock” to July 10, 2020. Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Layal Nawfal, Associate Planner, (510) 981-7424

Attachments:

1. Draft Resolution
 - Exhibit A1: Findings of Denial
 - Exhibit A2: Findings and Conditions of Approval
 - Exhibit B: Project Plans from June 27, 2019, ZAB Report
 - Exhibit C: Photosimulations from June 27, 2019, ZAB Report
2. ZAB Staff Report, dated June 27, 2019
3. Appeal Letter, dated July 16, 2019
4. Verizon Wireless Shot Clock Extension Agreements
5. Supplemental Applicant Submittal Materials
 - Exhibit 5A: Alternative Analysis, submitted March 16, 2020
 - Exhibit 5B: Statement in Support of Verizon Wireless’s Proposed Facility, submitted March 16, 2020
 - Exhibit 5C: Peer Review of Alternatives Analysis and Justification Statement, received May 7, 2020
6. Index to Administrative Record
7. Administrative Record
8. Public Hearing Notice

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

[UPHOLD / DENY] THE APPEAL OF THE ZONING ADJUSTMENTS BOARD (“ZAB”) DECISION TO DENY USE PERMIT #ZP2018-0236 AND [DENY / APPROVE] THE REQUEST TO ESTABLISH A NEW 50’ HIGH [“MONOPOLE” / “MONOPINE”] 4G LTE WIRELESS FACILITY OPERATED BY VERIZON WIRELESS AT THE EAST BAY MUNICIPAL UTILITY DISTRICT BERRYMAN RESERVOIR SITE CONSISTING OF SIX ANTENNAS, SIX REMOTE RADIO UNITS, AND ASSOCIATED GROUND EQUIPMENT.

WHEREAS, on December 17, 2018, the applicant team for Verizon Wireless represented by David Haddock of Ridge Communications Inc., (“applicant”) filed an application for a Use Permit to establish a new wireless telecommunications facility to include a 50’ high wireless freestanding tower facility with antennas and remote radio units mounted on the monopole. Equipment cabinets and a standby generator were proposed on the ground near the monopole (“project”); and

WHEREAS, on April 11, 2019, staff deemed the application complete; and

WHEREAS, on June 12 2019, staff mailed 125 public hearing notices to adjoining property owners and occupants within 300 feet of the site, and to interested neighborhood organizations and posted a Notice of Public Hearing at and in the vicinity of the site to inform the public of the Zoning Adjustments Board (ZAB) Public Hearing; and

WHEREAS, on June 27, 2019, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and denied the Use Permit application; and

WHEREAS, on July 2, 2019, staff issued the notice of the ZAB decision; and

WHEREAS, on July 16, 2019, the applicant team filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS on March 16, 2020, the applicant team submitted additional information about the existing coverage and capacity gaps and an alternative location analysis for City review; and

WHEREAS on May 7, 2020, the City’s peer reviewer provided an assessment of the applicant’s submitted information; and

WHEREAS, on June 23, 2020, staff mailed notices to adjoining property owners and occupants within 300 feet of the site, and to interested neighborhood organizations and posted a Notice of Public Hearing at and in the vicinity of the site, to inform the public of the City Council public hearing; and

WHEREAS, on July 7, 2020, the Council considered the record of the proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby [APPROVES / DENIES] Use Permit #ZP2018-0236 based on the findings and conditions shown in Exhibit A for the project depicted in Exhibits B and C, and dismisses the appeal.

- Exhibit A1: Findings of Denial
- Exhibit A2: Findings and Conditions of Approval
- Exhibit B: Project Plans from June 27, 2019, ZAB Report
- Exhibit C: Photosimulations from June 27, 2019, ZAB Report

ATTACHMENT 1 - EXHIBIT A1

0 Euclid Avenue – Berryman Reservoir

Use Permit #ZP2018-0236 to establish a new 50’ high “monopole” 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment.

FINDINGS OF DENIAL

1. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board (ZAB) finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, will be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use and will be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, because the application did not provide adequate evidence that the proposed wireless telecommunications facility is required to support the need to prevent a gap in coverage or capacity shortfall.

Pursuant to Berkeley Municipal Code Section 23C.17.100.B.3, the ZAB does not find that the proposed facility “is necessary to prevent a significant gap in coverage or capacity shortfall in the applicant’s service area, and is the least intrusive means of doing so” because the applicant has not provided sufficient information to support a finding that the facility is necessary to support the existing Verizon facilities, particularly in order to increase the capacity of Verizon’s network.

Additionally, the ZAB finds that the applicant did not demonstrate as required by BMC Section 23C.17.040.C.2 that that the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant’s service area, or that it is the least intrusive means of doing so, or that there are not any alternative sites that will have fewer aesthetic impacts while providing comparable service.

2. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.1, the ZAB finds that the project is not consistent with the requirements of this chapter and applicable specific requirements applicable because the project does not meet the provisions of the 2002 General Plan, particularly Policy LU-7 Neighborhood Quality of Life, Action A, Policy UD-16 Context, and Policy UD-24 Area Character, and does not meet the objectives of the chapter per BMC Section 23C.17.0520.B.1 (Purpose), as the proposed wireless telecommunications facility:

- a. Is not consistent with the scale or historic character of the surrounding uses;
 - b. Does not foster an aesthetically pleasing urban environment;
 - c. Does not prevent visual blight, protect and preserve public safety and general welfare; and
 - d. Does not maintain the character of residential areas, consistent with the adopted General Plan and Area Plans.
3. Pursuant to Berkeley Municipal Code Sections 23C.17.100.B.2.a and 23C.17.100.B.2.b, the ZAB finds that with the limited information provided, it is not possible to determine if a monopole or monopine, away from trees, in an area of complex elevations will not be readily visible.

Similarly, the applicant did not demonstrate that the proposed project meets the requirements of BMC Section 23C.17.070.C (Design Requirements) which requires that “no readily visible antenna shall be placed at a location where it will impair a significant or sensitive view corridor”. The applicant did not demonstrate that the application meets the requirements of BMC Section 23C.17.070.C.3 that the proposed monopole was designed to be the minimum functional height and width required to support the proposed antenna installation, or that a higher than the minimum monopole height will facilitate other objectives of the Chapter.

ATTACHMENT 1 - EXHIBIT A2

0 Euclid Avenue – Berryman Reservoir

Use Permit #ZP2018-0236 to establish a new 50' high “monopole” 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Sections 15301 and 15303 of the CEQA Guidelines (“Existing Facilities” and “New Construction or Conversion of Small Structures”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
 - A. A report prepared by a registered engineer, and peer-reviewed by the City, demonstrates that the Verizon wireless telecommunications facility would comply with the Federal Communications Commission (FCC) standards for limiting human exposure to radio frequencies.
 - B. A report prepared by a registered engineer, and peer-reviewed by the City, confirmed that the proposed facility would significantly increase the capacity of Verizon’s wireless data network in the subject area.

- C. A noise study prepared for the project and peer-reviewed by the City demonstrated that the proposed equipment is not expected to generate audible noise levels and would not contribute to the ambient noise environment; and
- D. The facility is conditioned to meet all standards of the California Building Code and all portions of the facility shall be anchored so that an earthquake does not dislodge them or tip them over.

OTHER REQUIRED FINDINGS

- 3. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.1, the Zoning Adjustments Board finds that the project *is consistent with the general requirements of this chapter and any specific requirements applicable* because the project meets the provisions of the 2002 General Plan, particularly Policy LU-7 Neighborhood Quality of Life, Action A, Policy UD-16 Context, and Policy UD-24 Area Character.
- 4. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.2, the Zoning Adjustments Board finds that project *“will comply with all applicable state and Federal standards and requirements”* for the following reasons:
 - A. A report prepared by Hammett & Edison concludes that the Verizon will comply with the FCC standards for limiting human exposure to radio frequency energy; and
 - B. An independent licensed engineer peer reviewed this RF report and concurred with its analysis and concludes that the proposed facility will comply with the FCC guidelines for radio frequency emissions.
- 5. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.2.a, and 23C.17.100.C, the Zoning Adjustments Board finds that the design (i.e. location and height) of the new antennas is the least visible means of achieving the intent of their installation. The location of the monopole will ensure that is a less visible project than if located elsewhere in the neighborhood. The associated equipment enclosures are located in an area of the property which below grade of the surrounding public right of way and is surrounded by vegetation and will not be visible.
- 6. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.3, the Zoning Adjustments Board finds that the facility *“is necessary to prevent a significant gap in coverage or capacity shortfall in the applicant’s service area, and is the least intrusive means of doing so”* because the City’s peer reviewer independently reviewed the Verizon proposal and concluded that the facility is necessary to support the existing Verizon facilities, particularly in order to increase the capacity of Verizon’s network.

7. Pursuant to Berkeley Municipal Code Section 23C.17.100.B.4, the Zoning Adjustments Board finds that Verizon, is in compliance with Sections 23C.17.090.A.1 and 23C.17.090.A.2 based on written certification that each Verizon facility in the City of Berkeley is operating in accordance with the approved local and federal permits, that includes contact information for Verizon, and provides written certification by a licensed professional engineer that the new facilities' radio frequency emissions are in compliance with the approved application and any required conditions.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

1. **Conditions Shall be Printed on Plans**
The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.
2. **Applicant Responsible for Compliance with Conditions**
The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.
3. **Uses Approved Deemed to Exclude Other Uses** (Section 23B.56.010)
 - A. This Permit authorizes only those uses and activities actually proposed in the application and excludes other uses and activities.
 - B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.
4. **Modification of Permits** (Section 23B.56.020)
No change in the use or structure for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.
5. **Plans and Representations Become Conditions** (Section 23B.56.030)
Except as expressly specified herein, the site plan, floor plans, elevations, photosimulations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.
6. **Subject to all City and Other Regulations** (Section 23B.56.040)
The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.
7. **Exercised Permit for Use Survives Vacancy of Property** (Section 23B.56.080)
Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8 below.
8. **Exercise and Lapse of Permits** (Section 23B.56.100)
 - A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS OF APPROVAL

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Issuance of Any Building Permit

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

Project

Liaison

- | Name | Phone # |
|------|---------|
|------|---------|
11. The plan set shall be revised to show the photo-simulations on one of the first three pages (Sheet A-1, for example). The sheet(s) containing the photo-simulations shall be of the same size as those sheets containing the construction drawings. Revisions shall include the following:

 - a. The proposed facility shall be designed as an un-camouflaged monopole painted green.
 - b. The plans shall strike all 'future' elements from the Plans and submittal materials.
 12. All final Noise Study and RF studies shall reflect final approval design and Conditions of Approval prior to issuance of Building Permit. The applicant shall provide a statement which expressly agrees to follow all of the City's Municipal Code pertaining to RF safety, including but not limited to BMC Section 23C.17.040.D, sworn statement and BMC Section 23C.17.090 Requirement for Certification of Facilities in its entirety.
 13. The applicant shall provide signage identifying the name and phone number of a party to contact in event of an emergency. The design, materials, colors and location of signs shall be subject to the Conditions of Approval. The plans submitted for a building permit shall include a sample of the proposed emergency sign(s) as well as the warning signs as required in COA #25 & #26 below, as well as the location for posting such signs.
 14. Any outstanding Land Use Planning Fees or Peer Review Invoices shall be paid prior to issuance of a Building Permit.
 15. The applicant shall either secure a bond or provide financial assurances in a form acceptable to the City Manager for the removal of the facility in the event that its use is abandoned or the approval is otherwise terminated.
 16. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

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

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please

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

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

During Construction:

17. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 12:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
18. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
19. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
20. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
21. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
22. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
23. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works

Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Issuance of Occupancy Permit or Final Inspection:

24. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated March 3, 2018 except as modified by Conditions of Approval,

At All Times:

25. Signage identifying the name and phone number of the individual to contact in the event of an emergency shall be installed at the project site (see Condition #13 above).
26. Verizon Wireless, the operator, shall install warning signs and provide RF training for persons authorized to access the facility, as called for as mitigation measures in the RF-EME Report for the project by Hammett & Edison and the City's Peer Reviewer, including the following:
- a. The permittee shall keep all access points to the site locked at all times, except when active maintenance is performed on the equipment.
 - b. The permittee shall install and at all times maintain in good condition an "RF Notice" sign and a network operations center sign adjacent to all access points of the site. The signs required in this condition must be placed in a location where they are clearly visible to a person approaching the access point(s) whether in the open or closed positions.
 - c. The permittee shall ensure that all signage complies with FCC OET Bulletin 65 and ANSI C95.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter shut-down control over this site as required by the FCC.
27. Subject to review and approval by the Zoning Officer, future changes to or replacement of the wireless equipment shall be permitted through issuance of a Zoning Certificate, rather than a Modification of the Use Permit, so long as the proposed changes are not detrimental, comply with performance standards within this Use Permit (e.g. noise levels, visual appearance, and RF standards), do not increase the size or visibility of any legally established wireless telecommunication facility, and complies with the FCC's MPE limits for electric and magnetic field strength and power density for transmitters within the designated equipment area.
28. The wireless telecommunications facility and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize

occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city.

29. The wireless telecommunications facility shall be operated in a manner that will minimize noise impacts to surrounding residents and persons using nearby parks, trails, and similar recreation areas. Except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 am and 7:00 pm on Monday through Friday, excluding holidays. All air conditioning units and any other equipment that may emit noise that would be audible from beyond the property line shall be enclosed or equipped with noise attenuation devices. Backup generators shall only be operated during periods of power outages or for testing. At no time shall equipment noise from any source exceed the standards specified in the Berkeley Community Noise Ordinance (BMC Chapter 13.40).
30. The exterior walls and roof covering of all aboveground equipment shelters and cabinets shall be constructed of materials rated as nonflammable in the Uniform Building Code.
31. Openings in all aboveground equipment shelters and cabinets shall be protected against penetration by fire and windblown embers to the extent feasible.
32. Material used as supports for antennas shall be fire resistant, termite proof, and subject to all applicable requirements of the California Building Code.
33. Telecommunications antenna towers shall be designed to withstand forces expected during earthquakes to the extent feasible. Building-mounted facilities shall be anchored so that an earthquake does not dislodge them or tip them over. All equipment mounting racks and attached equipment shall be anchored so that a quake would not tip them over, throw equipment off its shelves, or otherwise damage equipment.
34. All connections between various components of the wireless telecommunications facility and necessary power and telephone lines shall, to the extent feasible, be protected against damage by fire, flooding, and earthquake. Reasonable measures shall be taken to keep wireless telecommunication facilities in operation in the event of a natural disaster.
35. No wireless telecommunications facility or combination of facilities shall at any time produce power densities that exceed the FCC's limits for electric and magnetic field strength and power density for transmitters. In order to ensure continuing compliance with all applicable emission standards, all wireless telecommunications facilities shall be reviewed by an approved engineer in accord with the schedule and procedures set forth in Section 23C.17.090. All reasonable costs of such inspections shall be borne by the owner or operator of the facility.

The City may require, at the operator's expense, independent verification of the results of any analysis. If an operator of a telecommunications facility fails to supply the required reports or fails to correct a violation of the Federal Communications Commission standard following notification, the Use Permit is subject to modification or revocation by the Zoning Adjustments Board following a public hearing.

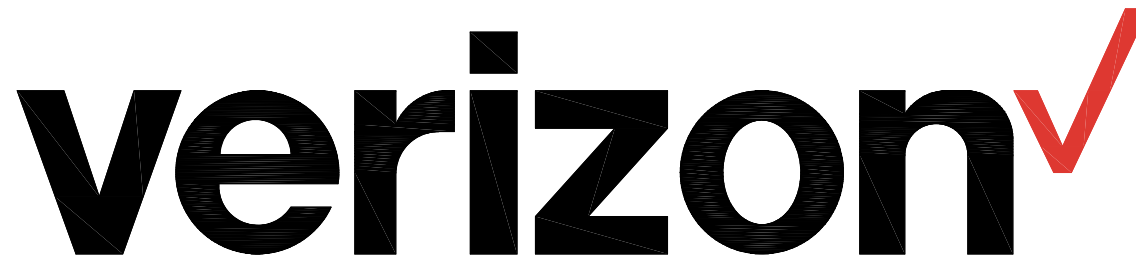
36. Within forty five (45) days of initial operation or modification of a telecommunications facility, the operator of each telecommunications antenna shall submit to the Zoning Officer written certification by an approved engineer that the facility's radio frequency emissions are in compliance with the approved application and any required conditions. The engineer shall measure the radio frequency radiation of the approved facility and determine if it meets the FCC requirements. A report of these measurements and the engineer's findings with respect to compliance with the FCC's MPE limits shall be submitted to the Zoning Officer. If the report shows that the facility does not comply with applicable FCC requirements, the owner or operator shall cease operation of the facility until the facility complies with, or has been modified to comply with, this standard. Proof of compliance shall be a certification provided by the engineer who prepared the original report. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.
37. Hereafter, prior to January 31 of every year, an authorized representative for each wireless carrier providing service in the City of Berkeley shall provide written certification to the City that each facility is being operated in accordance with the approved local and federal permits and shall provide the current contact information.
38. Once every two years, the City may retain, at the operator's expense, an approved engineer to conduct an unannounced spot check of the facility's compliance with applicable FCC radio frequency standards.
39. In the event of a change in the FCC's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters, the operator of the facility shall be required to submit to the Zoning Officer written certification by an approved engineer of compliance with applicable FCC radio frequency standards within 90 days of any change in applicable FCC radio frequency standards or of any modification of the facility requiring a new submission to the FCC to determine compliance with emission standards. If calculated levels exceed 50% of the FCC's MPE limits, the operator of the facility shall hire an approved engineer to measure the actual exposure levels. If calculated levels are not in compliance with the FCC's MPE limit, the operator shall cease operation of the facility until the facility is brought into compliance with the FCC's standards and all other applicable requirements. A report of these calculations, required measurements, if any, and the engineer's findings with

respect to compliance with current MPE limits shall be submitted to the Zoning Officer.

40. If the Zoning Officer at any time finds that there is good cause to believe that a telecommunications antenna is not in compliance with applicable FCC radio frequency standards, he/she may require the operator to submit written certification that the facility is in compliance with such FCC standards.
41. Within thirty (30) days of cessation of operations of any wireless telecommunications facility approved pursuant to this chapter, the operator shall notify the Zoning Officer in writing. The permit for said wireless telecommunications facility shall be deemed lapsed and of no further effect six (6) months thereafter unless:
 - A. The Zoning Officer has determined that the same operator resumed operation within six (6) months of the notice; or
 - B. The City has received an application to transfer the permit to another operator.
42. No later than thirty (30) days after a permit has lapsed under the preceding condition of approval, the operator shall remove all wireless telecommunication facilities from the site. If the operator fails to do, the property owner shall be responsible for removal, and may use any bond or other assurances provided by the operator pursuant to the requirements of Section 23C.17.050 to do so. If such facilities are not removed, the site shall be deemed to be a nuisance pursuant to Section 23B.64 and the City may call the bond to pay for removal.
43. Failure to inform the Zoning Officer of cessation of operations of any existing facility shall constitute a violation of the Zoning Ordinance and be grounds for:
 - A. Prosecution;
 - B. Revocation or modification of the permit;
 - C. Calling of any bond or assurance secured by the operator pursuant to the requirements of Section 23C.17.050; and/or
 - D. Removal of the facilities.
44. Any FCC-licensed telecommunications carrier that is buying, leasing, or considering a transfer of ownership of an already approved facility, shall provide written notification to the Zoning Officer and request transfer of the existing Use Permit. The Zoning Officer may require submission of any supporting materials or documentation necessary to determine that the proposed use is in compliance with the existing Use Permit and all of its conditions including, but not limited to, statements, photographs, plans, drawings, models, and analysis by a State-licensed radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission and the California Public Utilities Commission. If the Zoning Officer determines that the proposed operation is not consistent with the existing Use Permit, he/she shall notify the applicant who may revise the application or apply for modification to the

Use Permit pursuant to the requirements of Section 23B.56.

45. The applicant shall be responsible for paying all costs (including City staff time) associated with monitoring and/or enforcement of the above conditions. Fees shall be based on the adopted City fee schedule in place at the time the work is performed or action is taken.
 46. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
 47. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
 48. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding properties.
-



BERKELEY HILLS
EBMUD BERRYMAN RESERVOIR, BERKELEY, CA 94708
LOCATION NUMBER: 273566

VERIZON WIRELESS EQUIPMENT ENGINEER: SIGNATURE _____ DATE _____	VERIZON WIRELESS REAL ESTATE: SIGNATURE _____ DATE _____
VERIZON WIRELESS CONSTRUCTION: SIGNATURE _____ DATE _____	VERIZON WIRELESS RF ENGINEER: SIGNATURE _____ DATE _____
PROPERTY OWNER: SIGNATURE _____ DATE _____	RIDGE COMMUNICATIONS – LEASING SIGNATURE _____ DATE _____
RIDGE COMMUNICATIONS – CONSTRUCTION SIGNATURE _____ DATE _____	RIDGE COMMUNICATIONS – ZONING SIGNATURE _____ DATE _____

BERKELEY HILLS

273566
 EB MUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708



Streamline Engineering
and Design, Inc.
 8445 Sierra College Blvd, Suite E Granite Bay, CA 95661
 Contact: Larry Houghby Phone: 916-276-4180
 E-Mail: larry@streamlineeng.com Fax: 916-660-1941
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PRELIMINARY:
 NOT FOR
 CONSTRUCTION
 KEVIN R. SORENSEN
 S4469

ISSUE STATUS			
Δ	DATE	DESCRIPTION	REV.
	10/27/17	ZD 90%	D.G.
	12/11/17	CSR RED LINES	C.C.
	02/06/18	ZD 100%	D.L.
	03/13/18	CLIENT REV	D.G.
	-	-	-
	-	-	-

DRAWN BY: D. GARCIA
 CHECKED BY: J. GRAY
 APPROVED BY: -
 DATE: 03/13/18

SHEET TITLE:
 TITLE
SHEET NUMBER:
 T-1

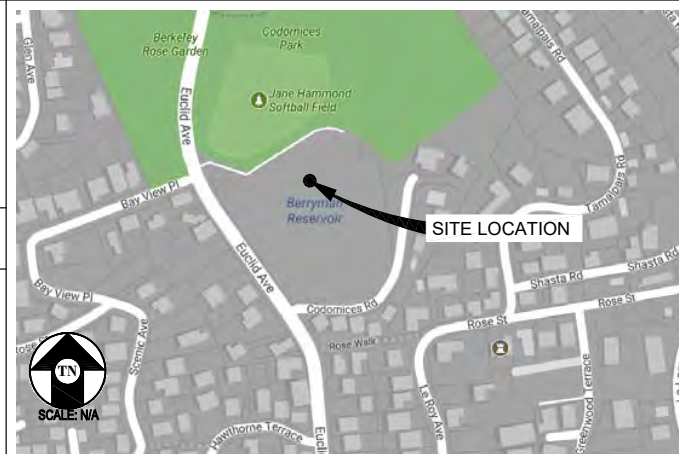
PROJECT DESCRIPTION

- A (P) VERIZON WIRELESS UNMANNED TELECOMMUNICATION FACILITY CONSISTING OF INSTALLING:
- (P) 50'-0" HIGH MONOPINE W/ (6) (P) VERIZON WIRELESS ANTENNAS
 - (6) (P) RRU UNITS
 - (2) (P) SURGE SUPPRESSORS, (1) ⊕ EQUIPMENT & (1) ⊕ ANTENNAS
 - (P) VERIZON WIRELESS 25'-0"X20'-0" (500 SQ FT) EQUIPMENT LEASE AREA
 - (P) VERIZON WIRELESS (177 SQ FT) MONOPINE LEASE AREA
 - (P) GPS ANTENNA
 - (P) VERIZON WIRELESS 30KW DIESEL GENERATOR ON 132 GALLON UL 2085 RATED FUEL TANK

PROJECT INFORMATION

SITE NAME:	BERKELEY HILLS	SITE #:	273566
COUNTY:	ALAMEDA	JURISDICTION:	CITY BERKELEY
APN:	060-2468-001-04	POWER:	PG&E
SITE ADDRESS:	EBMUD BERRYMAN RESERVOIR BERKELEY, CA 94708	FIBER:	AT&T
CURRENT ZONING:	R-1H (SINGLE FAMILY RESIDENTIAL)		
CONSTRUCTION TYPE:	V-B		
OCCUPANCY TYPE:	U, (UNMANNED COMMUNICATIONS FACILITY)		
PROPERTY OWNER:	EAST BAY MUNICIPAL UTILITY DISTRICT P.O. BOX 24055 OAKLAND, CA 94623 CONTACT: ROB KORN (510) 287-1246 ROBERT.KORN@EBMUD.COM		
APPLICANT:	VERIZON WIRELESS 2785 MITCHELL DRIVE, BLDG 9 WALNUT CREEK, CA 94598		
SITE ACQUISITION COMPANY:	RIDGE COMMUNICATION, INC (925)498-2340 12667 ALCOSTA BLVD, SUITE 175 SAN RAMON, CA 94583		
LEASING CONTACT:	ATTN: DAVID HADDOCK (916) 420-5802 DAVID.HADDOCK@RIDGECOMMUNICATE.COM		
ZONING CONTACT:	ATTN: DAVID HADDOCK (916) 420-5802 DAVID.HADDOCK@RIDGECOMMUNICATE.COM		
CONSTRUCTION CONTACT:	ATTN: KEITH SCHMID (408) 679-1141 KEITH.SCHMID@RIDGECOMMUNICATE.COM		

VICINITY MAP



DRIVING DIRECTIONS

FROM: 2785 MITCHELL DRIVE, BLDG 9, WALNUT CREEK, CA 94598
 TO: EB MUD BERRYMAN RESERVOIR, BERKELEY, CA 94708

1. HEAD NORTHEAST ON MITCHELL DR TOWARD OAK GROVE RD 30 FT
2. TURN RIGHT ONTO OAK GROVE RD 0.4 MI
3. TURN RIGHT ONTO YGNACIO VALLEY RD 3.4 MI
4. YGNACIO VALLEY RD TURNS RIGHT AND BECOMES HILLSIDE AVE 0.2 MI
5. TURN RIGHT ONTO THE 24 W RAMP TO OAKLAND 1.2 MI
6. CONTINUE ONTO CA-24 W/HWY 24 W 8.1 MI
7. KEEP LEFT AT THE FORK TO CONTINUE ON CA-24 W 1.4 MI
8. TAKE EXIT 5B TO MERGE ONTO CA-13 N TOWARD BERKELEY 0.4 MI
9. MERGE ONTO CA-13 N 1.0 MI
10. TURN RIGHT ONTO CLAREMONT AVE 164 FT
11. TURN LEFT ONTO CLAREMONT BLVD 0.2 MI
12. CONTINUE ONTO BELROSE AVE 0.1 MI
13. BELROSE AVE TURNS LEFT AND BECOMES DERBY ST 0.2 MI
14. TURN RIGHT ONTO WARRING ST 0.2 MI
15. SLIGHT LEFT ONTO PIEDMONT AVE 0.2 MI
16. AT THE TRAFFIC CIRCLE, CONTINUE STRAIGHT TO STAY ON PIEDMONT AVE 0.4 MI
17. CONTINUE ONTO GAYLEY RD 0.3 MI
18. CONTINUE STRAIGHT ONTO LA LOMA AVE 0.1 MI
19. TURN LEFT ONTO LE CONTE AVE 0.2 MI
20. TURN RIGHT AT THE 2ND CROSS STREET ONTO EUCLID AVE 0.5 MI

END AT: EB MUD BERRYMAN RESERVOIR, BERKELEY, CA 94708
 ESTIMATED TIME: 29 MINUTES ESTIMATED DISTANCE: 18.4 MILES

VERIZON WIRELESS EMERGENCY
 CONTACT NUMBER TO BE POSTED AT
 SITE: VERIZON NOC#: (800) 264-6620

CODE COMPLIANCE

ALL WORK & MATERIALS SHALL BE PERFORMED & INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES:

- 2016 CALIFORNIA ADMINISTRATIVE CODE, PART 1, TITLE 24 C.C.R.
- 2016 CALIFORNIA BUILDING CODE (CBC), PART 2, VOLUME 1&2, TITLE 24 C.C.R. (2015 INTERNATIONAL BUILDING CODE AND 2016 CALIFORNIA AMENDMENTS)
- 2016 CALIFORNIA ELECTRICAL CODE (CEC), PART 3, TITLE 24 C.C.R. (2014 NATIONAL ELECTRICAL CODE AND 2016 CALIFORNIA AMENDMENTS)
- 2016 CALIFORNIA MECHANICAL CODE (CMC) PART 4, TITLE 24 C.C.R. (2015 UNIFORM MECHANICAL CODE AND 2016 CALIFORNIA AMENDMENTS)
- 2016 CALIFORNIA PLUMBING CODE (CPC), PART 5, TITLE 24 C.C.R. (2015 UNIFORM PLUMBING CODE AND 2016 CALIFORNIA AMENDMENTS)
- 2016 CALIFORNIA ENERGY CODE (CEC), PART 6, TITLE 24 C.C.R.
- 2016 CALIFORNIA FIRE CODE, PART 9, TITLE 24 C.C.R. (2015 INTERNATIONAL FIRE CODE AND 2016 CALIFORNIA AMENDMENTS)
- 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE, PART 11, TITLE 24 C.C.R.
- 2016 CALIFORNIA REFERENCED STANDARDS, PART 12, TITLE 24 C.C.R.
- ANSI/EIA-TIA-222-G

ALONG WITH ANY OTHER APPLICABLE LOCAL & STATE LAWS AND REGULATIONS

DISABLED ACCESS REQUIREMENTS

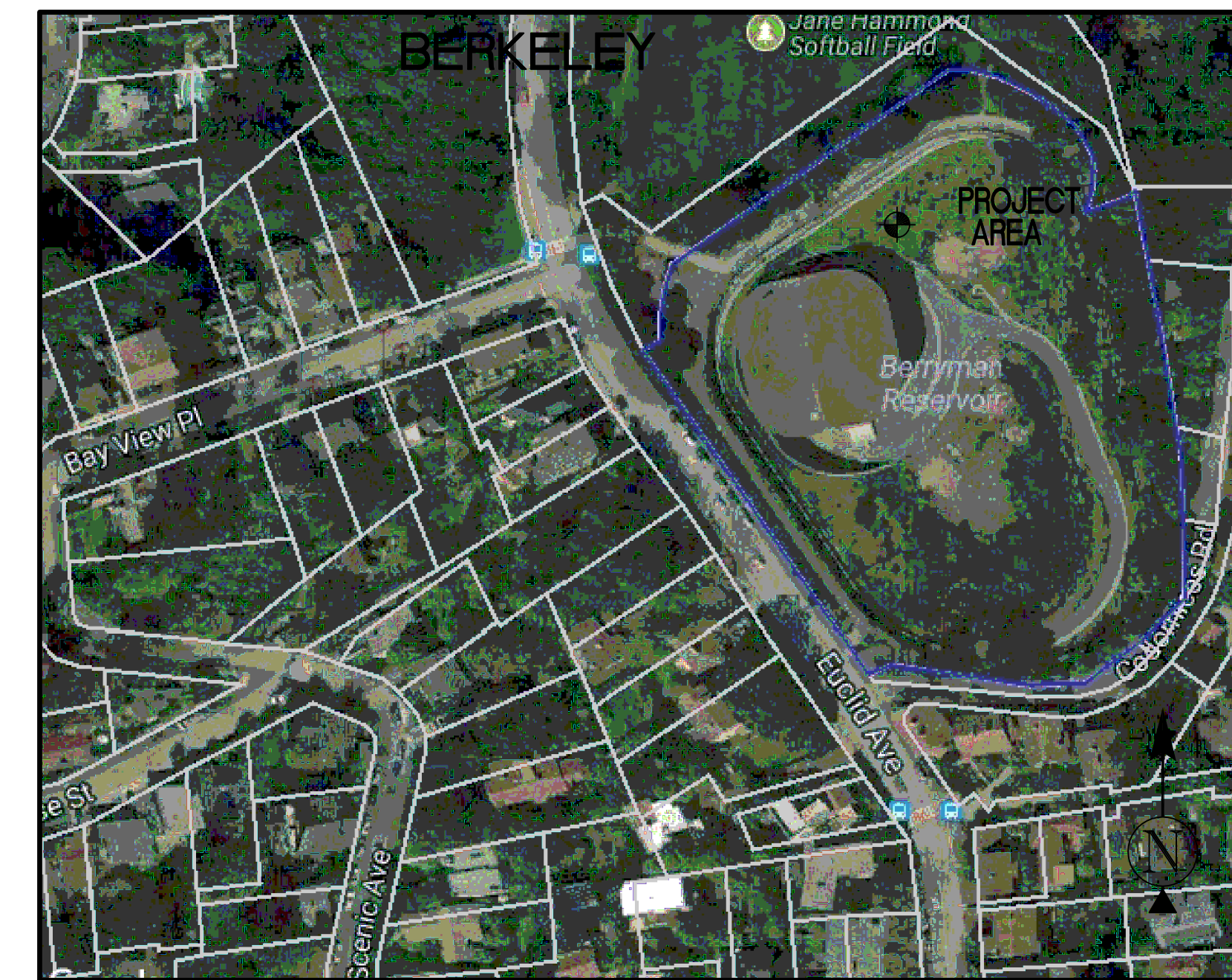
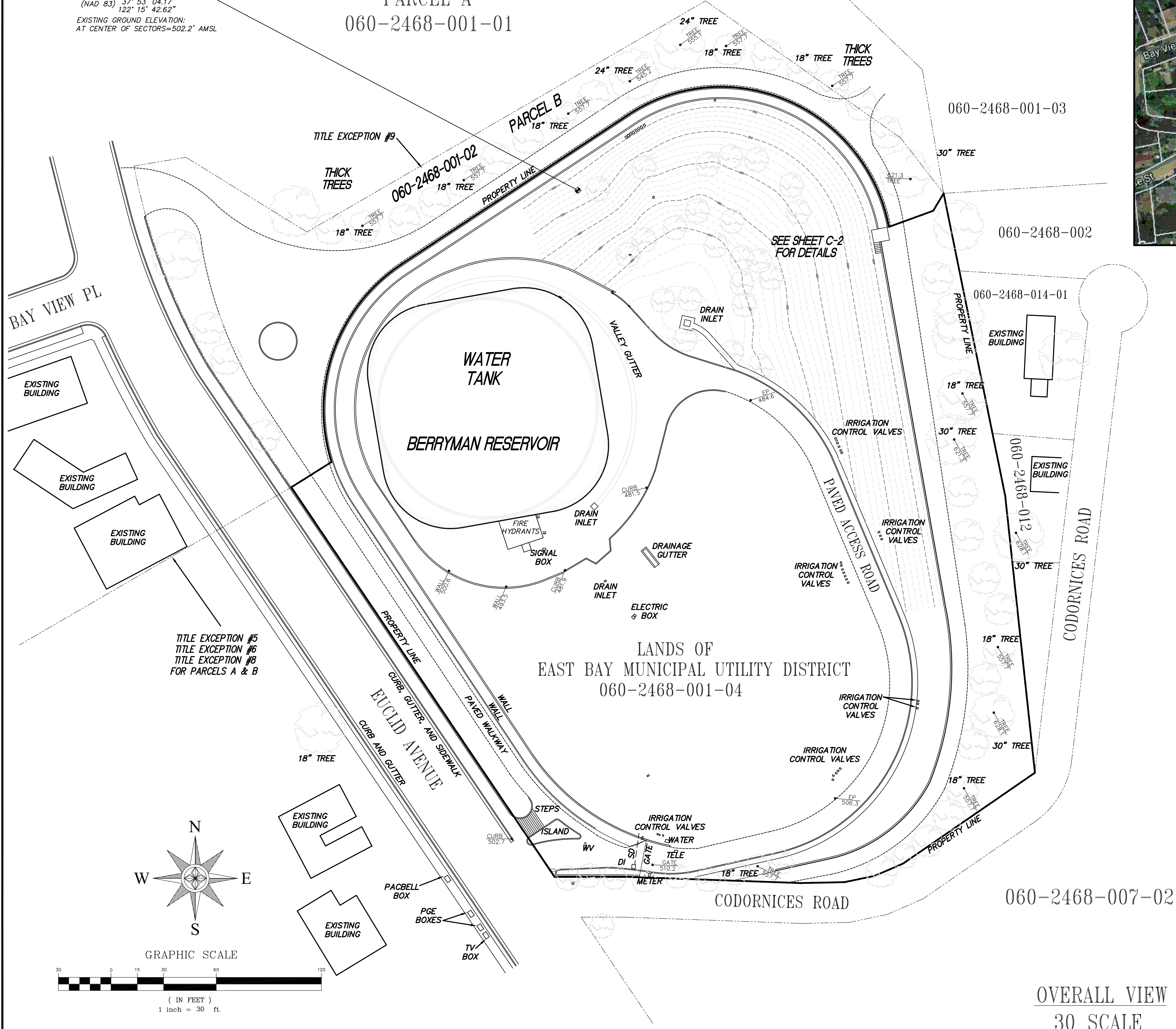
THIS FACILITY IS UNMANNED & NOT FOR HUMAN HABITATION. DISABLED ACCESS & REQUIREMENTS ARE NOT REQUIRED IN ACCORDANCE WITH CALIFORNIA STATE BUILDING CODE, TITLE 24 PART 2, SECTION 11B-203.4

SHEET INDEX

SHEET	DESCRIPTION	REV
T-1	TITLE SHEET	-
C-1	TOPOGRAPHIC SURVEY	-
C-2	TOPOGRAPHIC SURVEY	-
C-3	TOPOGRAPHIC SURVEY	-
A-1	SITE PLAN	-
A-2	ENLARGED SITE PLAN	-
A-3	EQUIPMENT PLAN & DETAILS	-
A-4	ANTENNA PLAN & DETAILS	-
A-5	ELEVATION	-
A-6	ELEVATION	-

GEODETIC COORDINATES TAKEN HERE AT CENTER OF SECTORS
 (NAD 83) 37° 53' 04.17"
 122° 15' 42.62"
 EXISTING GROUND ELEVATION:
 AT CENTER OF SECTORS=502.2' AMSL

PARCEL A
 060-2468-001-01



VICINITY MAP
 N.T.S.

PROPERTY INFORMATION

OWNER: EAST BAY MUNICIPAL UTILITY DISTRICT
 ADDRESS: 375 11TH STREET
 OAKLAND, CA 94607
 SITE: BERKELEY HILLS
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708
 ASSESSOR'S PARCEL NUMBER: 060-2468-001-04
 EXISTING GROUND ELEVATION: AT CENTER OF SECTORS=502.2' AMSL

UTILITY NOTES

ALL EASEMENTS CONTAINED IN SAID TITLE REPORT AFFECTING THE IMMEDIATE AREA SURROUNDING THE LEASE HAVE BEEN PLOTTED. SURVEYOR HAS NOT PERFORMED A SEARCH OF PUBLIC RECORDS TO DETERMINE ANY DEFECT IN TITLE ISSUED. THE BOUNDARY SHOWN HEREON IS PLOTTED FROM RECORD INFORMATION AND DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE PROPERTY.

TITLE REPORT

TITLE REPORT WAS PROVIDED BY FIRST AMERICAN TITLE INSURANCE COMPANY, DOC. NO: 5026900-5517887, DATED: AUGUST 15, 2017. THE ABOVE TITLE REPORT COVERS ALL OF THE ORIGINAL PARCELS FROM THE 1920'S, NOT JUST THE APN:060-2468-001-04.

SURVEYOR'S NOTES

SURVEYOR DOES NOT GUARANTEE THAT ALL UTILITIES ARE SHOWN OR THEIR LOCATIONS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR AND DEVELOPER TO CONTACT U.S.A. AND ANY OTHER INVOLVED AGENCIES TO LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION, REMOVAL, RELOCATION AND/ OR REPLACEMENT IS THE RESPONSIBILITY OF THE CONTRACTOR.

BASIS OF BEARING

BEARINGS SHOWN HEREON ARE BASED UPON U.S. STATE PLANE NAD83 COORDINATE SYSTEM STATE PLANE COORDINATE ZONE 3, DETERMINED BY GPS OBSERVATIONS.

BENCHMARK

ELEVATION ESTABLISHED FROM GPS DERIVED ORTHOMETRIC HEIGHTS, APPLYING GEOD 99 SEPARATIONS, CONSTRAINING TO NGS CONTROL STATION 'LUTZ' ELEVATION=450.0' (NAVD88)

LESSOR'S LEGAL DESCRIPTION

THE LAND IS SITUATED IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA RECORDED MARCH 1, 1969 IN DOCUMENT NO. 079963.

SURVEY DATE

10/8/17

LEGEND

- | | | |
|--------|----------------------|------------------------|
| P.O.B. | POINT OF BEGINNING | WATER CONTROL VALVE |
| TFC | TOP FACE CURB | FIRE HYDRANT |
| R/W | RIGHT OF WAY | GUY CONDUCTOR |
| GS | GROUND SHOW | FOUND AS NOTED |
| DW | ACCESS DRIVEWAY | POWER POLE |
| TOP | TOP OF SLOPE | LIGHT POLE |
| SW | SIDEWALK | ELECTRICAL TRANSFORMER |
| JP | JOINT POLE | AIR CONDITIONING UNIT |
| FH | FIRE HYDRANT | TELEPHONE PEDESTAL |
| Ⓛ | LOT NUMBER | TELEPHONE VAULT |
| Ⓜ | GEODETIC COORDINATES | TELEPHONE MANHOLE |
| Ⓢ | SPOT ELEVATION | GAS VALVE |
| Ⓜ | DISH ANTENNA | GAS METER |
| | | PROPERTY LINE |
| | | CHAIN LINK FENCE |

OVERALL VIEW
 30 SCALE

REV.	DESCRIPTION	DATE	ISSUE STATUS
1	SITE PLAN	10/15/2017	FINALIZE SURVEY
2	FINALIZE SURVEY	1/29/2018	FINALIZE SURVEY
3	EASEMENTS PLOTTED	5/20/2018	EASEMENTS PLOTTED

HAYES
 Land Surveying
 And Mapping
 2850 MADRICKAN COURT
 CONCORD, CA 94518



2785 MITCHELL DRIVE
 WALNUT CREEK, CA. 94598
 OFFICE: 925-279-6000
 (925) 279-6333

TOPOGRAPHIC SURVEY EXISTING CONDITIONS

PSL#273566
 BERKELEY HILLS
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708

C-1
SHEET 1 of 3

PARCEL A
060-2468-001-01

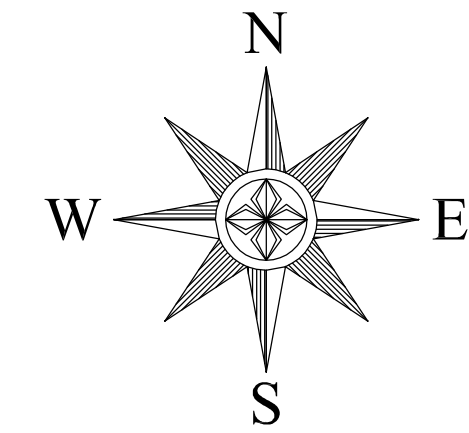
PARCEL B
060-2468-001-02

GEODETIC
COORDINATES
TAKEN HERE AT
CENTER OF SECTORS

(NAD 83) 37° 53' 04.17"
122° 15' 42.62"

EXISTING GROUND ELEVATION:
AT CENTER OF SECTORS=502.2' AMSL

THICK
TREES



DATE	DESCRIPTION	REV.
10/15/2017	SITE PLAN	
1/29/2018	FINALIZE SURVEY	
5/20/2018	EASEMENTS PLOTTED	



HAYES
Land Surveying
And Mapping
2830 MADRIGAN COURT
CONCORD, CA 94518



verizon

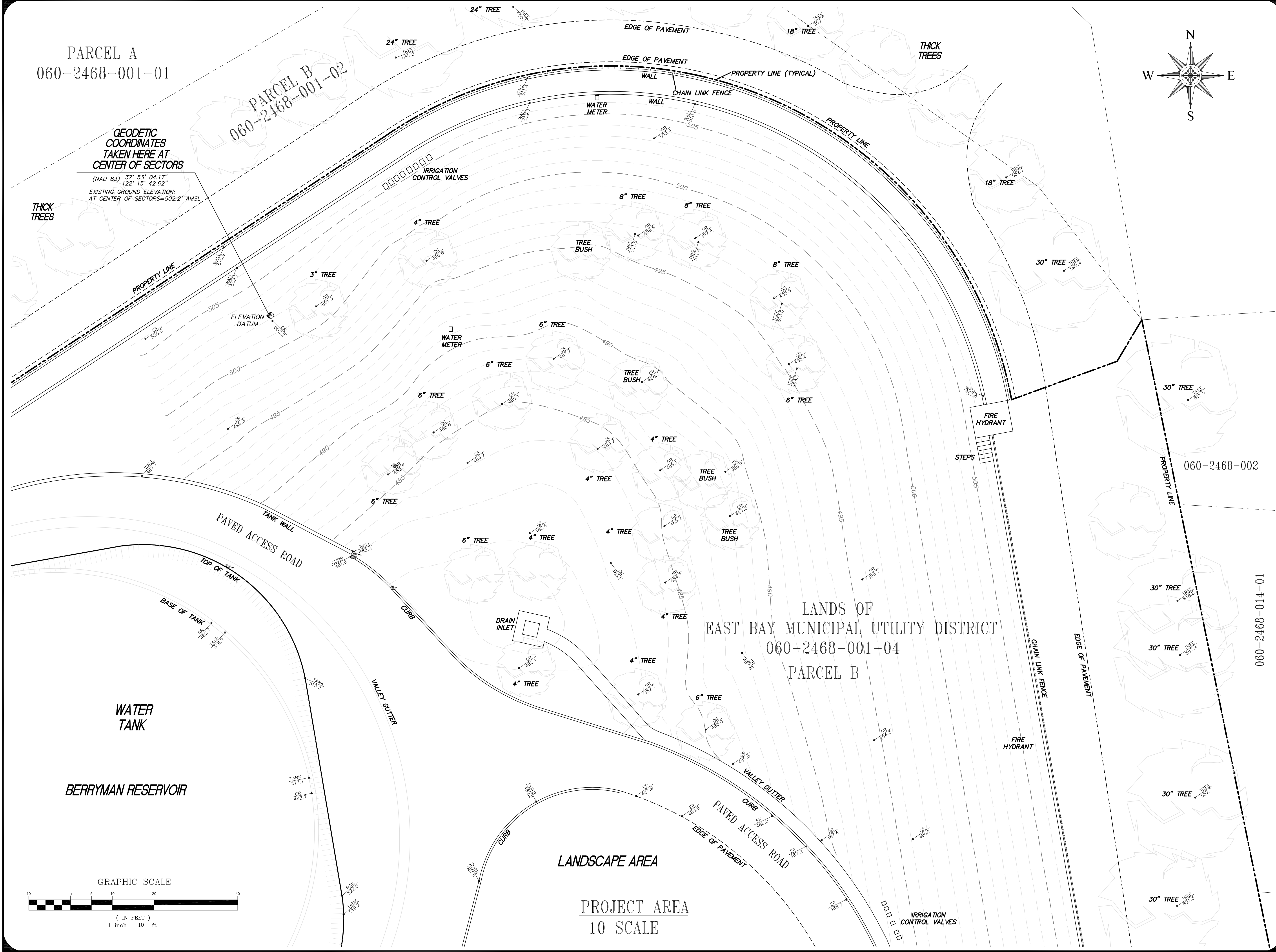
2785 MITCHELL DRIVE
WALNUT CREEK, CA. 94598
OFFICE: 925-279-6000
(925) 279-6333

TOPOGRAPHIC SURVEY
EXISTING CONDITIONS

PSL#273566
BERKELEY HILLS
EBMUD BERRYMAN RESERVOIR
BERKELEY, CA 94708

C-2

SHEET 2 of 3



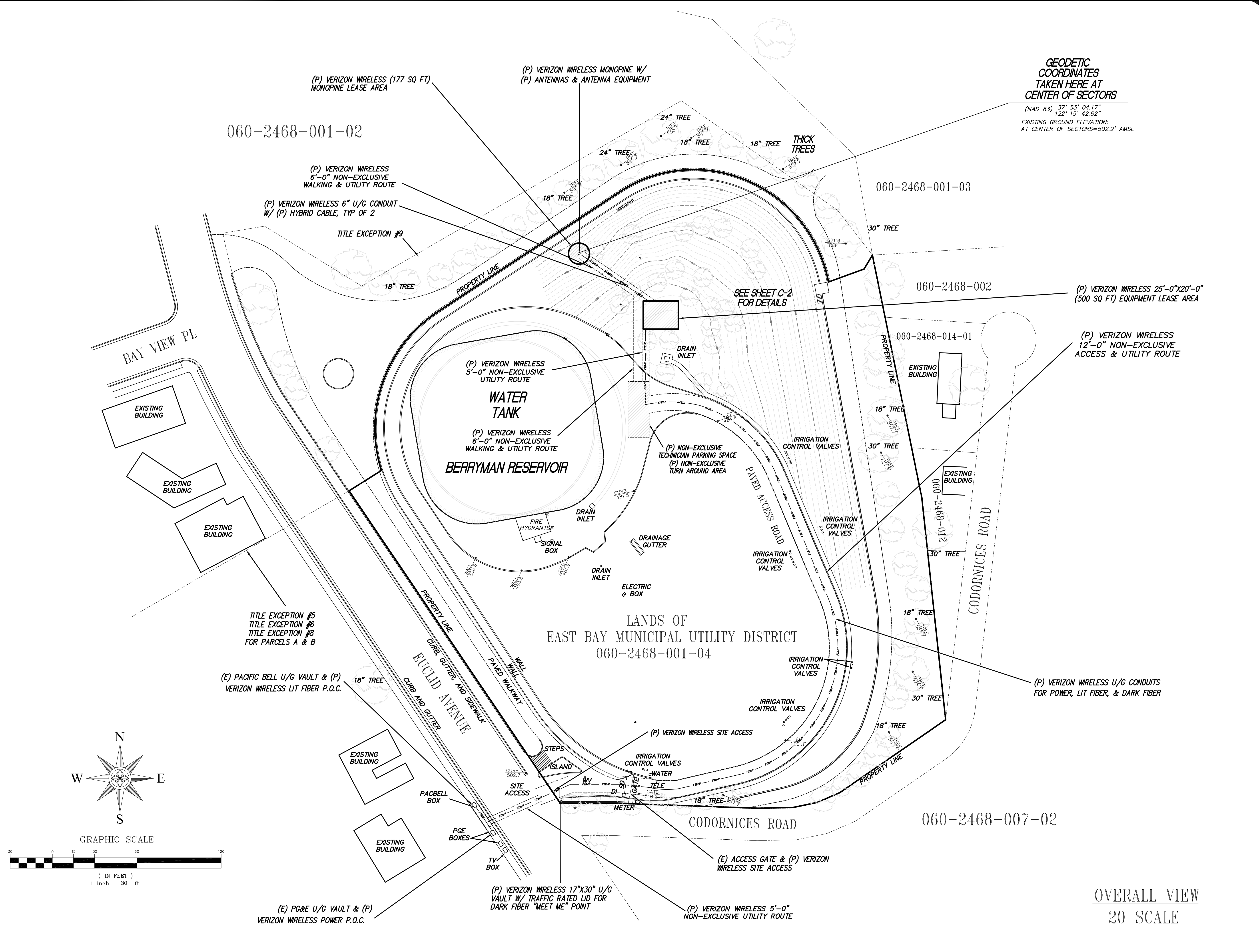
060-2468-014-01

060-2468-002

LANDS OF
EAST BAY MUNICIPAL UTILITY DISTRICT
060-2468-001-04
PARCEL B

PROJECT AREA
10 SCALE

GRAPHIC SCALE
(IN FEET)
1 inch = 10 ft.



GEODETTIC COORDINATES TAKEN HERE AT CENTER OF SECTORS
 (NAD 83) 37° 53' 04.17" 122° 15' 42.62"
 EXISTING GROUND ELEVATION: AT CENTER OF SECTORS=502.2' AMSL

DATE	DESCRIPTION	REV.
10/15/2017	SITE PLAN	
1/29/2018	FINALIZE SURVEY	
5/20/2018	EASEMENTS PLOTTED	

HAYES
 Land Surveying
 And Mapping
 2830 MADRIGAN COURT
 CONCORD, CA 94518

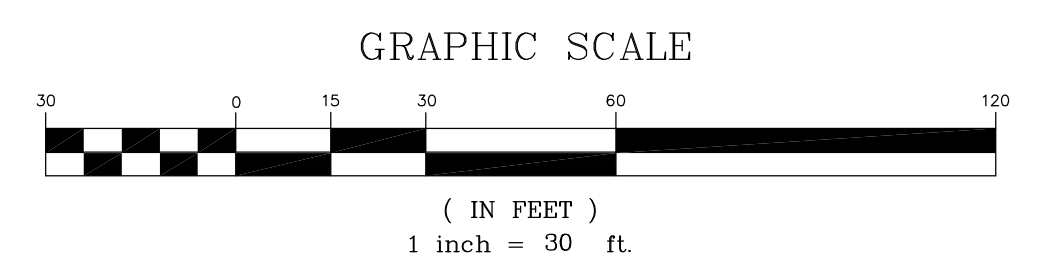
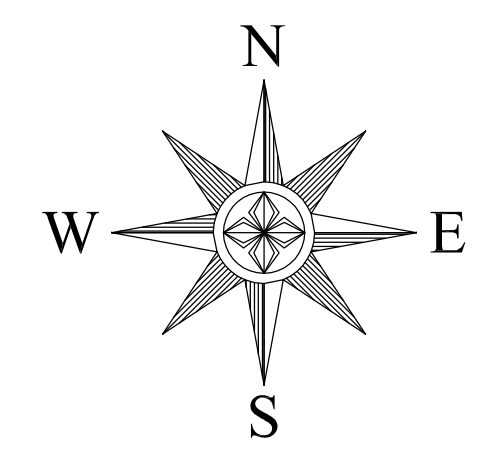


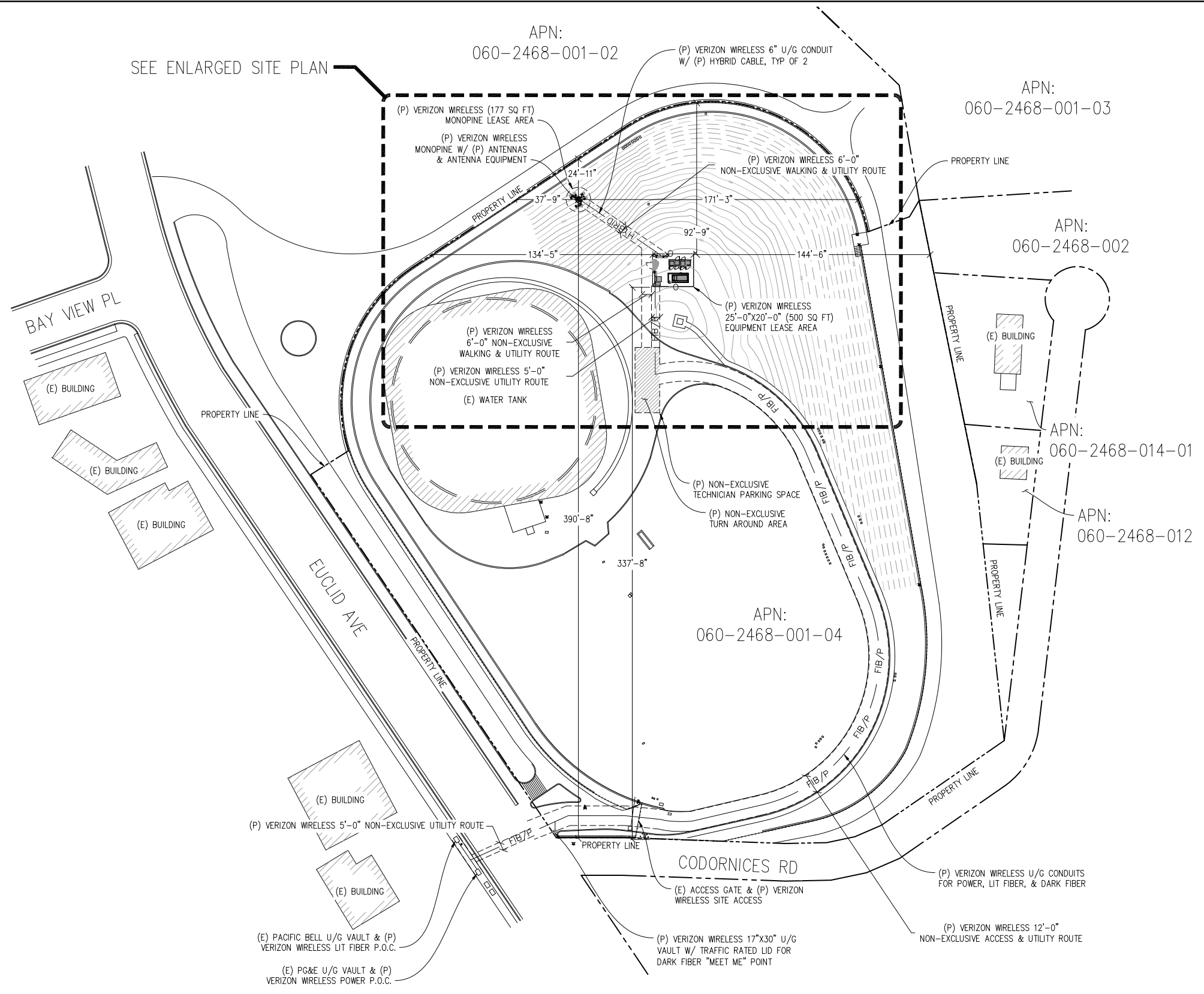
verizon
 2785 MITCHELL DRIVE
 WALNUT CREEK, CA. 94598
 OFFICE: 925-279-6000
 (925) 279-6333

TOPOGRAPHIC SURVEY EXISTING CONDITIONS
 PSL#273566
 BERKELEY HILLS
 EMMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708

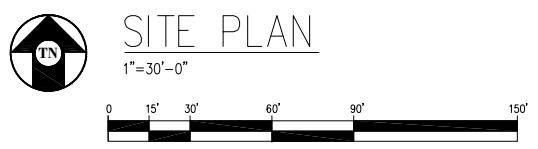
C-3
SHEET 3 of 3

OVERALL VIEW
 20 SCALE





VERIZON WIRELESS EMERGENCY CONTACT NUMBER TO BE POSTED AT SITE: VERIZON NOC#: (800) 264-6620



CABLE LENGTHS:

POWER	= APPROX 624'
LIT FIBER	= APPROX 620'
DARK FIBER	= APPROX 558'
HYBRID	= APPROX 105'

BERKELEY HILLS
273566
EBMUD BERRYMAN RESERVOIR
BERKELEY, CA 94708

verizon
2785 MITCHELL DRIVE, BLDG 9
WALNUT CREEK, CA 94598

Streamline Engineering
and Design, Inc.
8445 Sierra College Blvd, Suite E Granite Bay, CA 95861
Contact: Larry Houghton Phone: 916-276-4160
E-Mail: larry@streamlineeng.com Fax: 916-660-1941
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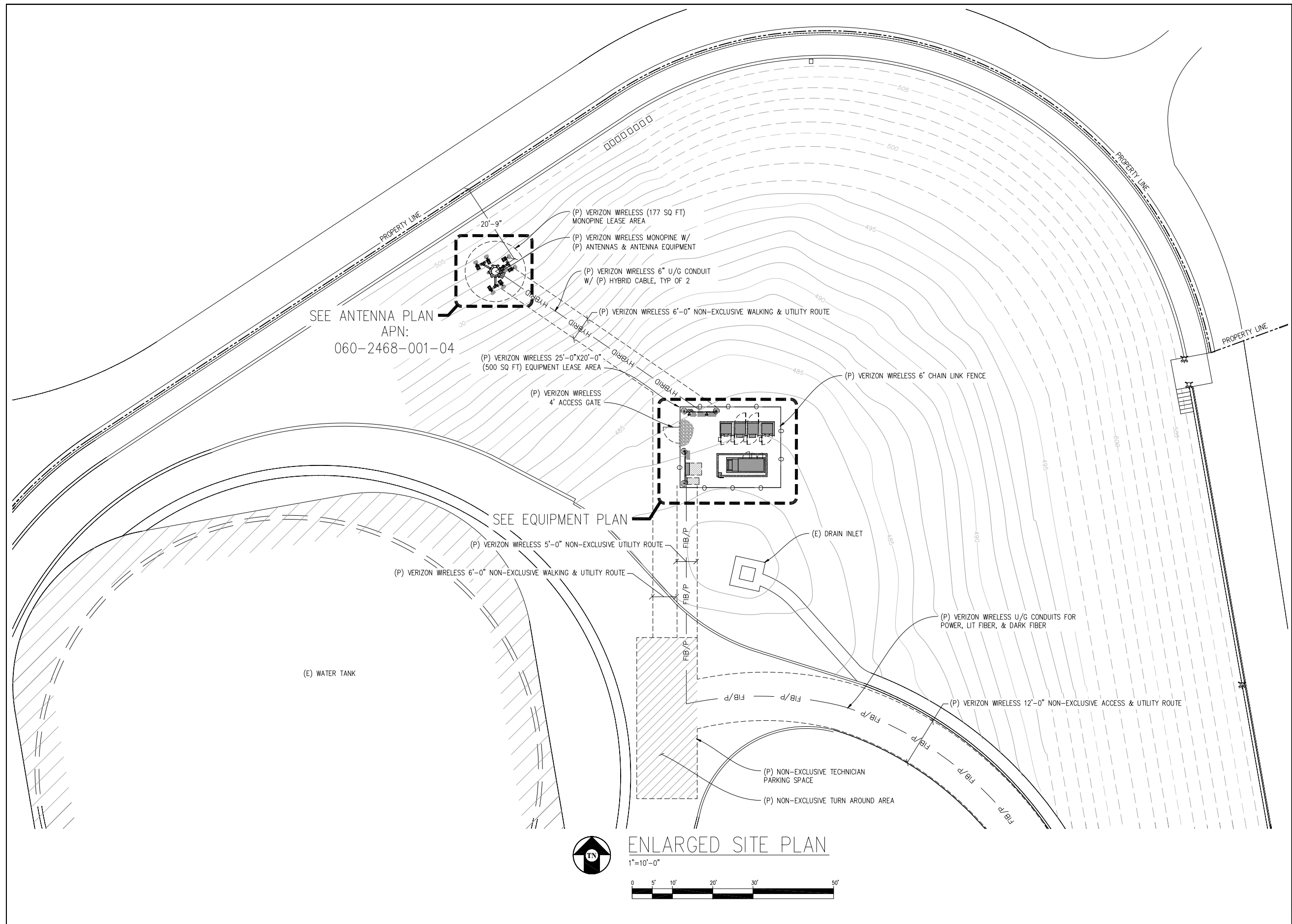
PRELIMINARY:
NOT FOR
CONSTRUCTION
KEVIN R. SORENSEN
S4469

ISSUE STATUS

Δ	DATE	DESCRIPTION	REV.
	10/27/17	ZD 90%	D.G.
	12/11/17	CSR RED LINES	C.C.
	02/06/18	ZD 100%	D.L.
	03/13/18	CLIENT REV	D.G.
	-	-	-
	-	-	-

DRAWN BY: D. GARCIA
CHECKED BY: J. GRAY
APPROVED BY: -
DATE: 03/13/18

SHEET TITLE:
SITE PLAN
SHEET NUMBER:
A-1



ENLARGED SITE PLAN
 1"=10'-0"
 0 5' 10' 20' 30' 50'

BERKELEY HILLS

273566
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708



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 and Design, Inc.
 8445 Sierra College Blvd, Suite E Granite Bay, CA 95861
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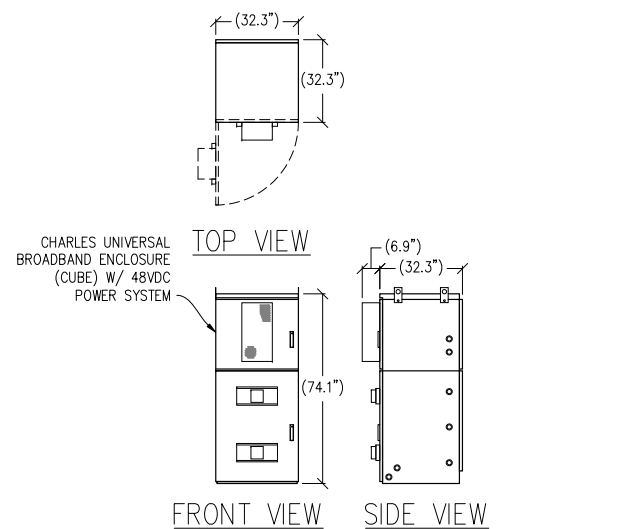
**PRELIMINARY:
 NOT FOR
 CONSTRUCTION**
 KEVIN R. SORENSEN
 S4469

ISSUE STATUS

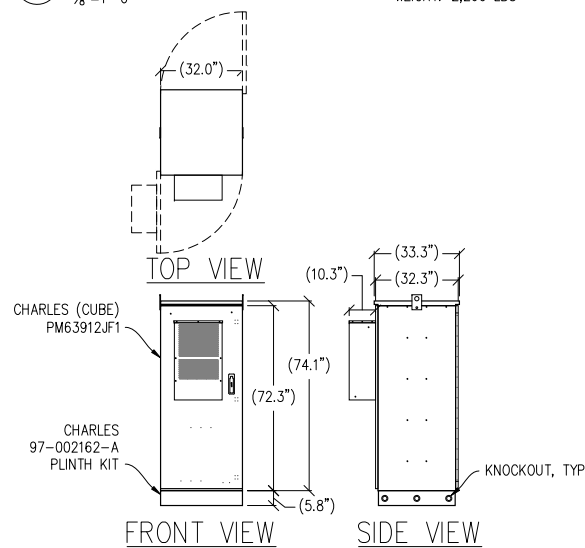
Δ	DATE	DESCRIPTION	REV.
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	02/06/18	ZD 100%	D.L.
	03/13/18	CLIENT REV	D.G.
	-	-	-
	-	-	-

DRAWN BY: D. GARCIA
 CHECKED BY: J. GRAY
 APPROVED BY: -
 DATE: 03/13/18

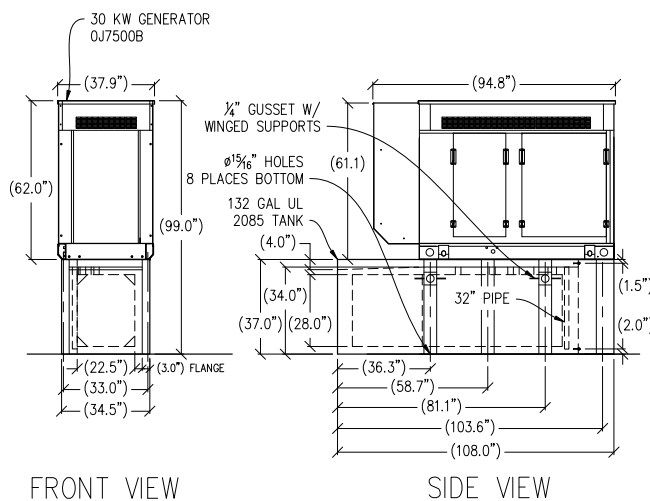
SHEET TITLE:
 ENLARGED SITE PLAN
SHEET NUMBER:
 A-2



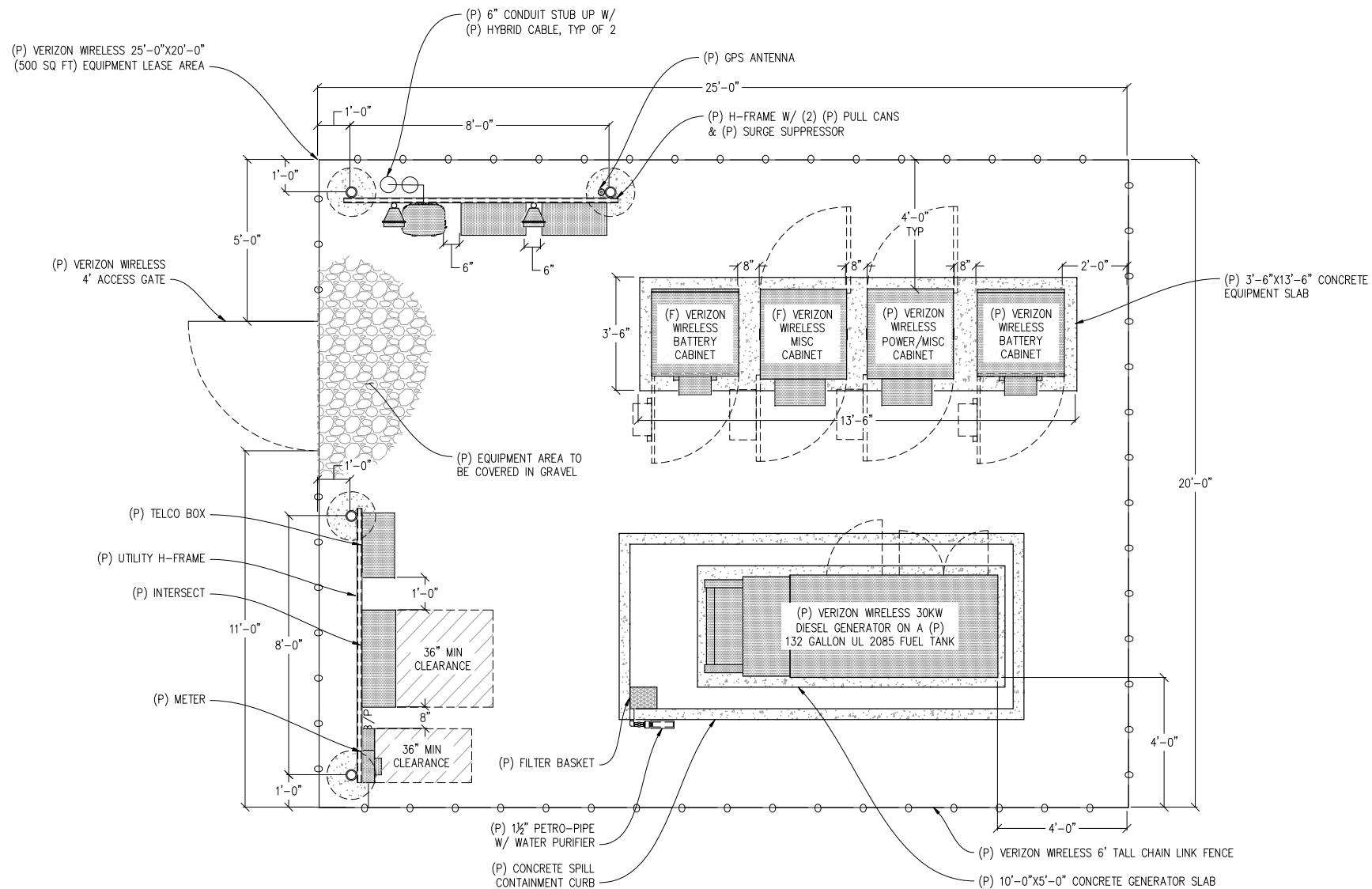
1 POWER CABINET DETAIL
 3/8"=1'-0" WEIGHT: 2,260 LBS



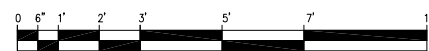
2 MISC CABINET DETAIL
 3/8"=1'-0" WEIGHT: 500 LBS



3 30KW GENERATOR DETAIL
 3/8"=1'-0" MAX WEIGHT: 3,230 LBS



EQUIPMENT PLAN
 1/2"=1'-0"



BERKELEY HILLS

273566
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708



2785 MITCHELL DRIVE, BLDG 9
 WALNUT CREEK, CA 94598

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 Contact: Larry Houghton Phone: 916-276-4160
 E-Mail: larry@streamlineeng.com Fax: 916-660-1941

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KEVIN R. SORENSEN
 S4469

ISSUE STATUS

Δ	DATE	DESCRIPTION	REV.
	10/27/17	ZD 90%	D.G.
	12/11/17	CSR RED LINES	C.C.
	02/06/18	ZD 100%	D.L.
	03/13/18	CLIENT REV	D.G.
	-	-	-
	-	-	-

DRAWN BY: D. GARCIA

CHECKED BY: J. GRAY

APPROVED BY: -

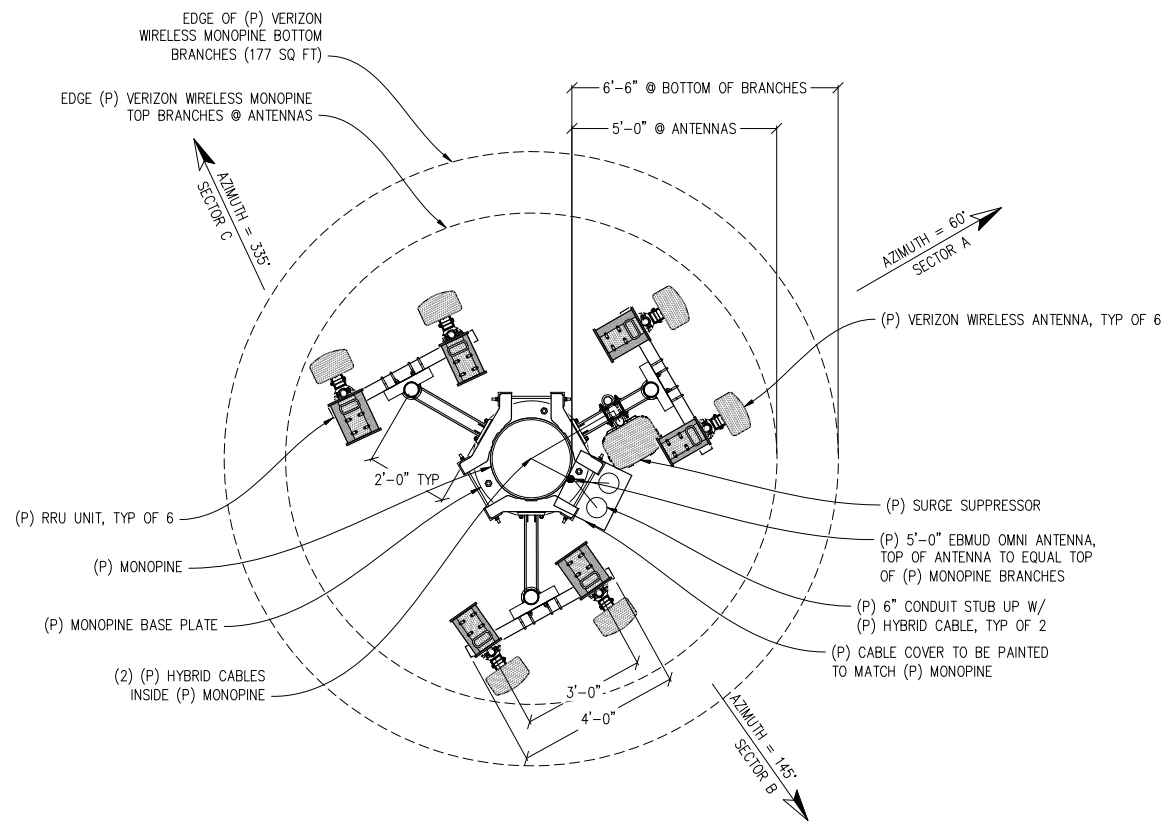
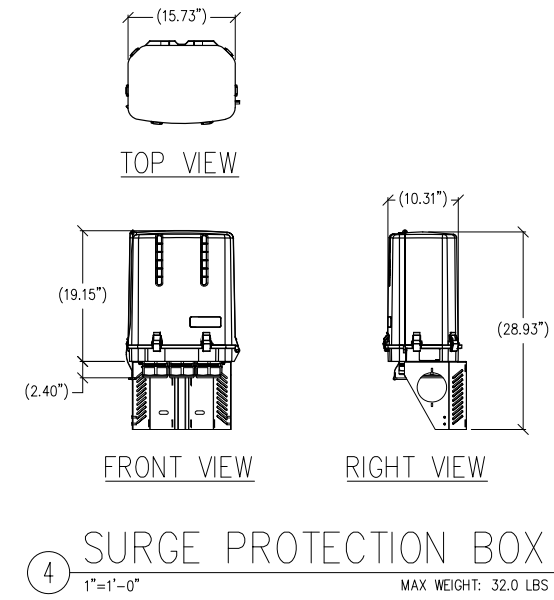
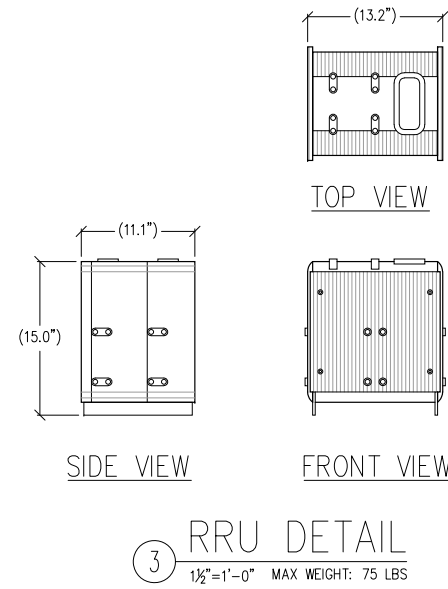
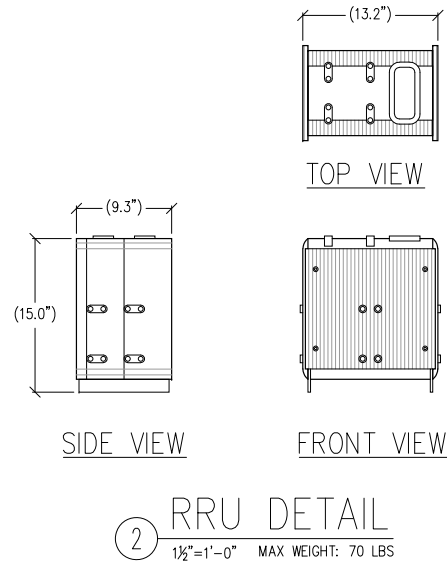
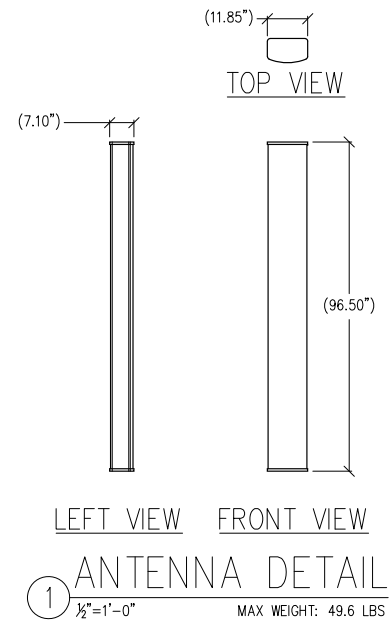
DATE: 03/13/18

SHEET TITLE:

EQUIPMENT PLAN
 & DETAILS

SHEET NUMBER:

A-3



ANTENNA PLAN
 $\frac{1}{2}''=1'-0''$

- NOTES:
 1. ALL (P) VERIZON WIRELESS ANTENNAS, ANTENNA MOUNTS, ANTENNA EQUIPMENT, EXPOSED CABLES, & (P) EBMUD OMNI ANTENNA TO BE PAINTED TO MATCH (P) MONOPINE & TO BE FULLY WITHIN (P) MONOPINE BRANCH RADIUS.
 2. ALL (P) VERIZON WIRELESS ANTENNAS TO BE COVERED IN MONOPINE SOCKS
 3. MONOPINE BRANCHES NOT SHOWN FOR CLARITY

BERKELEY HILLS

273566
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708



2785 MITCHELL DRIVE, BLDG 9
 WALNUT CREEK, CA 94598

Streamline Engineering
 am Design, Inc.
 8445 Sierra College Blvd, Suite E Granite Bay, CA 95661
 Contact: Larry Houghton Phone: 916-276-4180
 E-Mail: larry@streamlineeng.com Fax: 916-600-1941
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	03/13/18	CLIENT REV	D.G.
	-	-	-
	-	-	-

DRAWN BY: D. GARCIA
 CHECKED BY: J. GRAY
 APPROVED BY: -
 DATE: 03/13/18

SHEET TITLE:

ANTENNA PLAN
 & DETAILS

SHEET NUMBER:

A-4

BERKELEY HILLS

273566
EBMUD BERRYMAN RESERVOIR
BERKELEY, CA 94708

verizon

2785 MITCHELL DRIVE, BLDG 9
WALNUT CREEK, CA 94598

Streamline Engineering
and Design, Inc.

8445 Sharn College Blvd, Suite E Granite Bay, CA 95861
Contact: Larry Houghton Phone: 916-276-4180
E-Mail: larry@streamlineeng.com Fax: 916-860-1941

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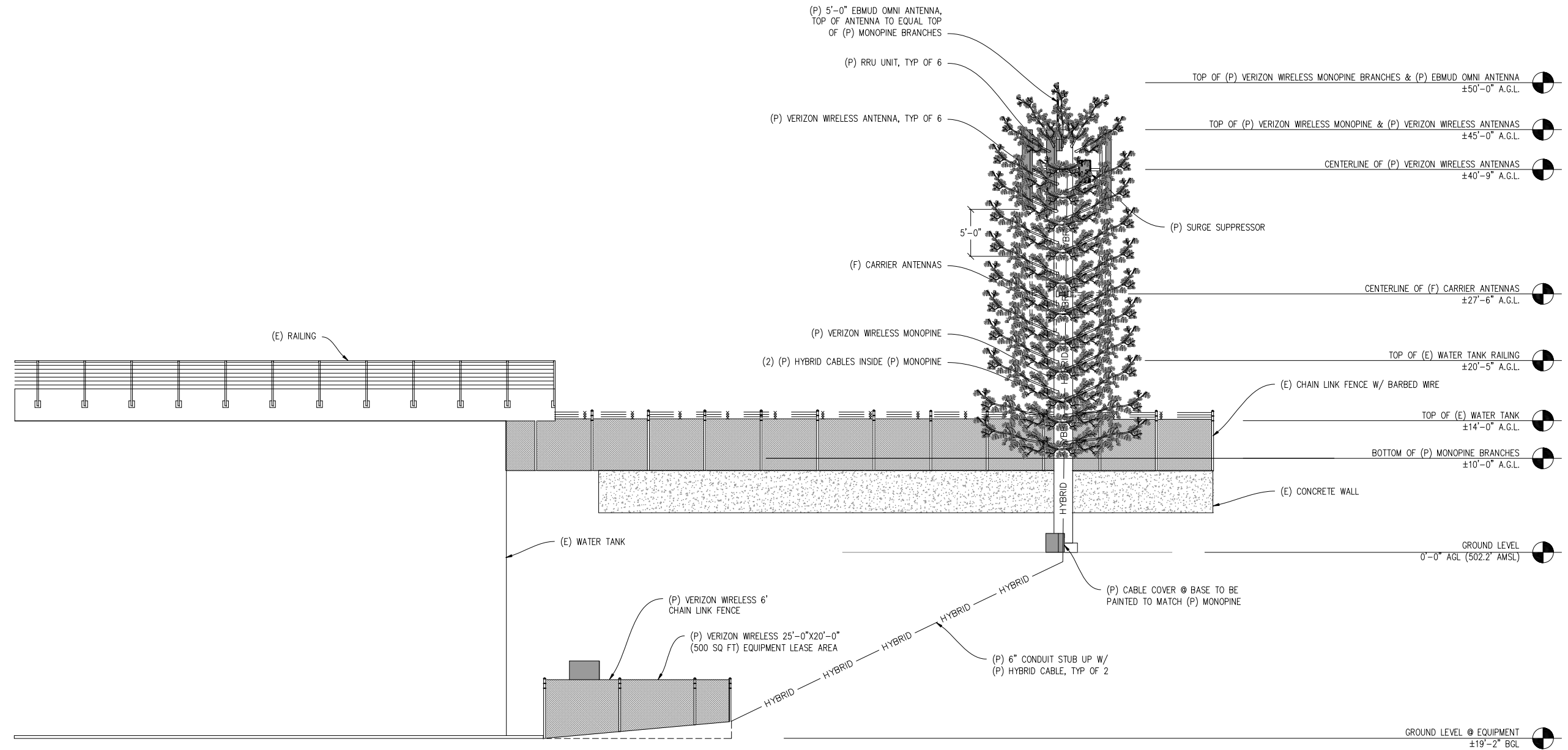
KEVIN R. SORENSEN
S4469

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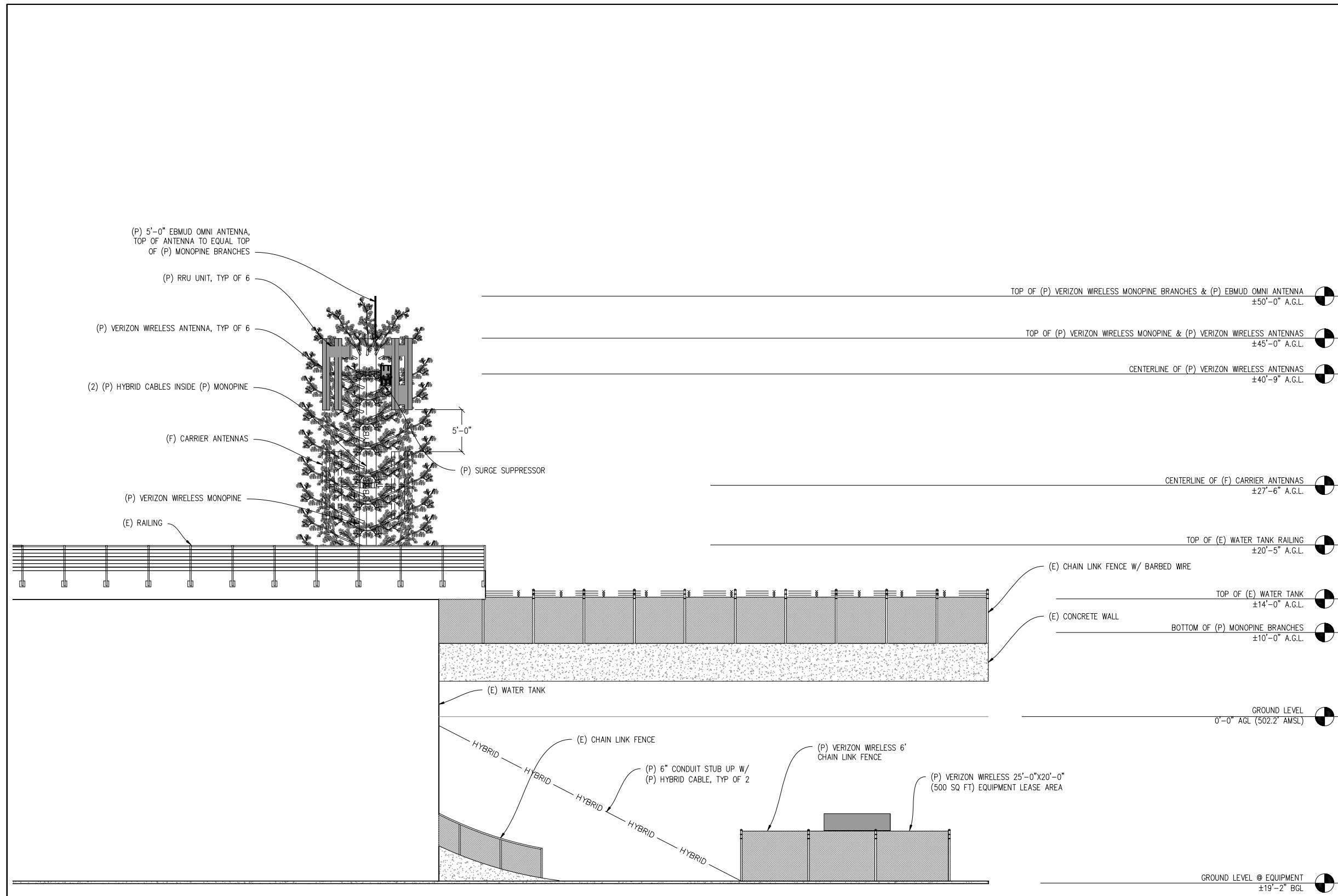
DRAWN BY: D. GARCIA
CHECKED BY: J. GRAY
APPROVED BY: -
DATE: 03/13/18

SHEET TITLE:
ELEVATION
SHEET NUMBER:
A-5



EAST ELEVATION
3/16"=1'-0"

NOTES:
1. ALL (P) VERIZON WIRELESS ANTENNAS, ANTENNA MOUNTS, ANTENNA EQUIPMENT, EXPOSED CABLES, & (P) EBMUD OMNI ANTENNA TO BE PAINTED TO MATCH (P) MONOPINE & TO BE FULLY WITHIN (P) MONOPINE BRANCH RADIUS.
2. ALL (P) VERIZON WIRELESS ANTENNAS TO BE COVERED IN MONOPINE SOCKS



SOUTH ELEVATION
3/16" = 1'-0"

NOTES:
 1. ALL (P) VERIZON WIRELESS ANTENNAS, ANTENNA MOUNTS, ANTENNA EQUIPMENT, EXPOSED CABLES, & (P) EBMUD OMNI ANTENNA TO BE PAINTED TO MATCH (P) MONOPINE & TO BE FULLY WITHIN (P) MONOPINE BRANCH RADIUS.
 2. ALL (P) VERIZON WIRELESS ANTENNAS TO BE COVERED IN MONOPINE SOCKS

BERKELEY HILLS

273566
 EBMUD BERRYMAN RESERVOIR
 BERKELEY, CA 94708

verizon

2785 MITCHELL DRIVE, BLDG 9
 WALNUT CREEK, CA 94598

Streamline Engineering
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	-	-	-

DRAWN BY: D. GARCIA
 CHECKED BY: J. GRAY
 APPROVED BY: -
 DATE: 03/13/18

SHEET TITLE:
 ELEVATION
 SHEET NUMBER:
A-6







Existing



Proposed



Projected visibility generated using Google Earth data. Actual visibility may be affected by conditions not reflected in the available data.



Berkeley Hills Site # 237566

Viewshed Map

11/6/18

EBMUD Berryman Reservoir
Berkeley, CA

Applied Imagination 510 914-0500

















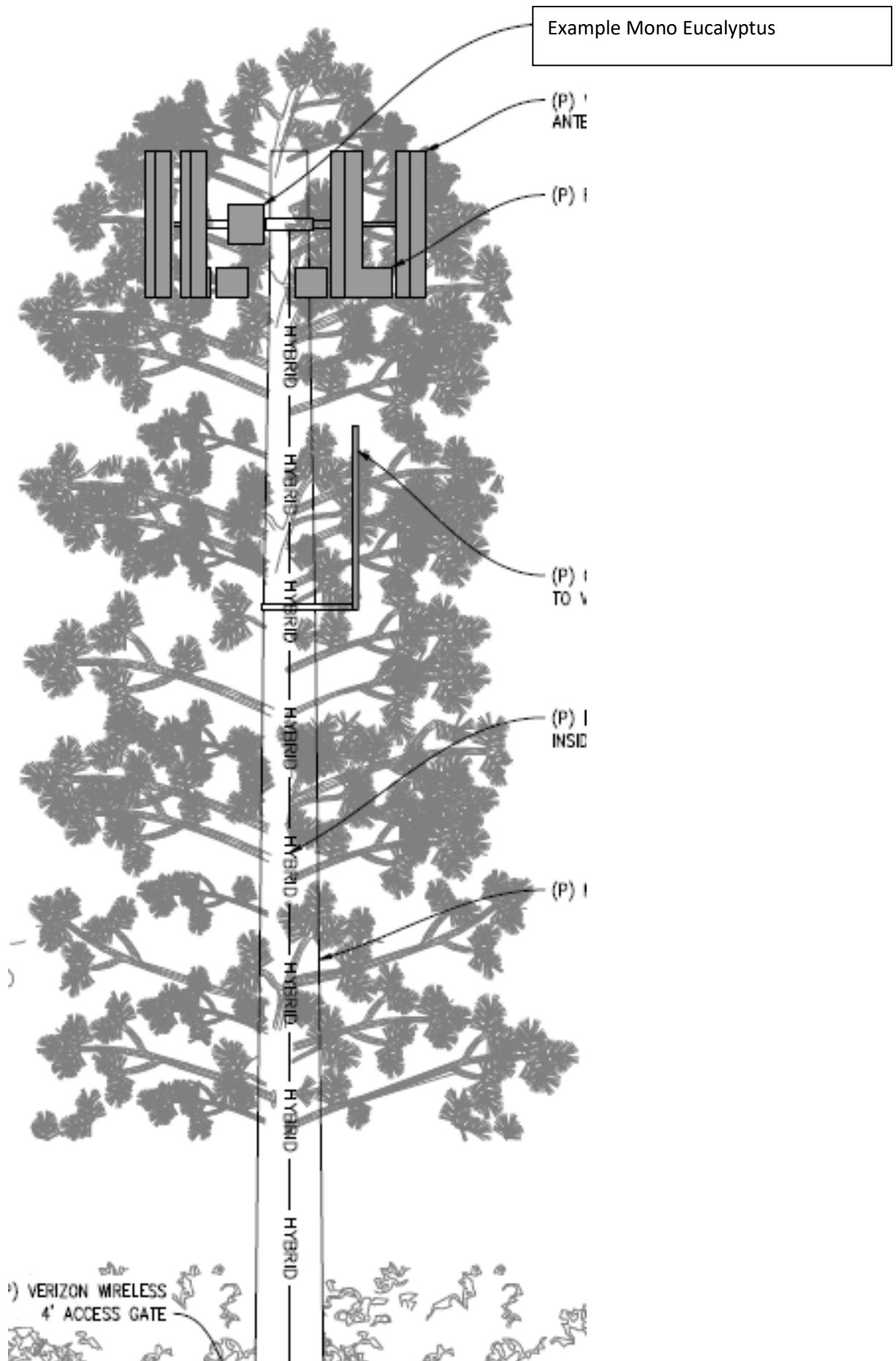


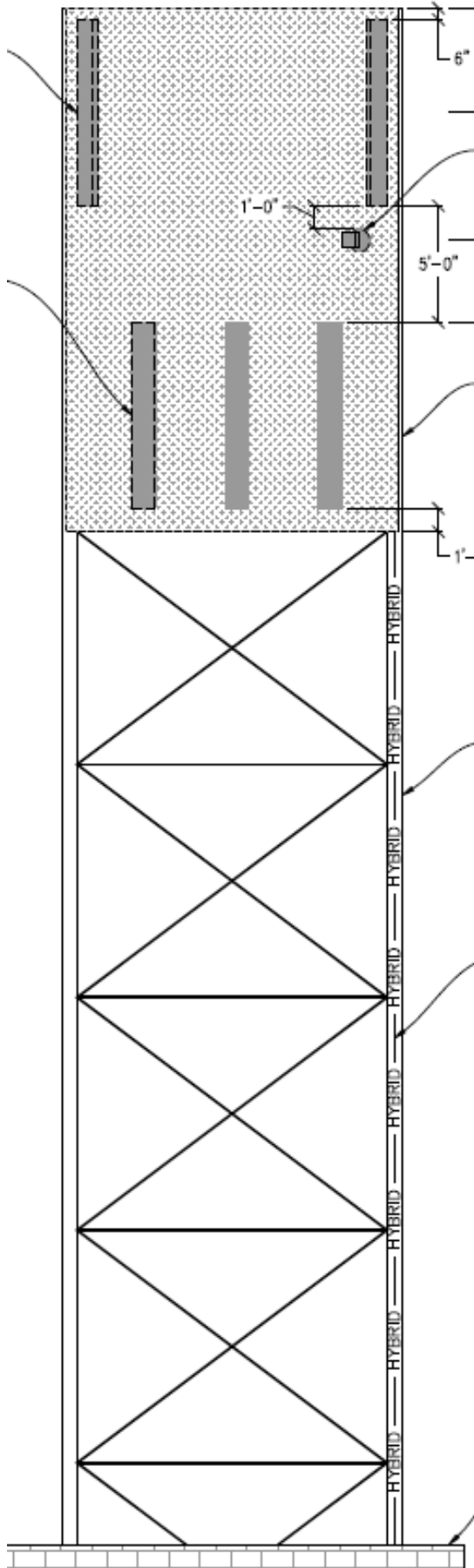
Existing



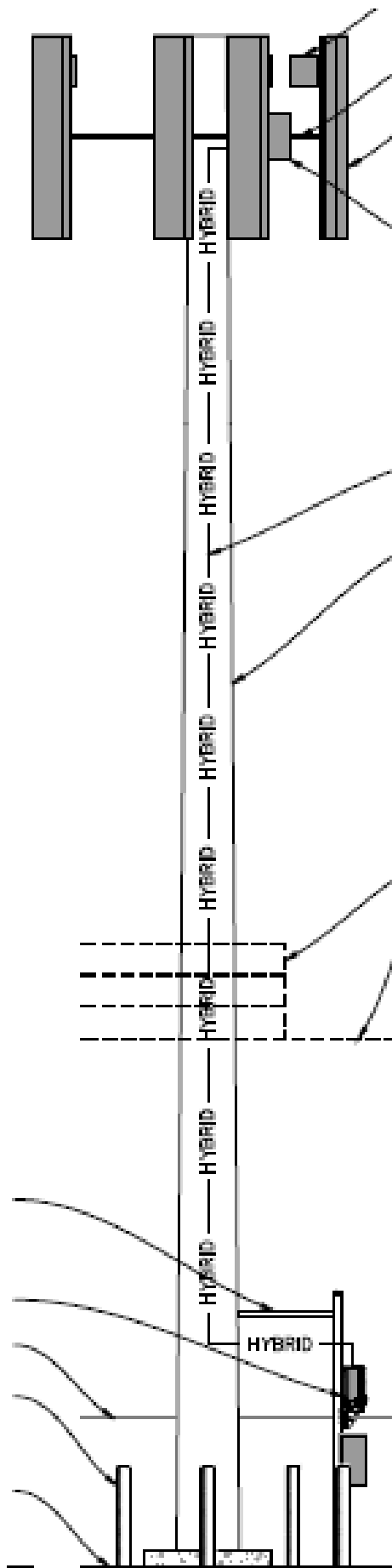
Proposed







Example four legged tower with FRP screen panels at the top.



Standard Monopole



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
JUNE 27, 2019

0 Euclid Avenue – Berryman Reservoir

Use Permit #ZP2018-0236 to establish a new 50' high “monopole” 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment.

I. Background

A. Land Use Designations:

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

B. Zoning Permits Required:

- Use Permit to establish a Wireless Telecommunications Facility, under BMC Section 23C.17.100.A.2;
- Use Permit to establish a Wireless Telecommunications Facility in the R-1 Single Family Residential District, Hillside Overlay, under BMC Section 23D.16.030; and
- Administrative Use Permit to establish Wireless Telecommunications Facility, other than those located within the public right-of-way built higher than 35' in height in the R-1H Single Family Residential District, Hillside Overlay under BMC Sections 23E.96.070 and 23D.04.020.

C. CEQA Determination: Categorically exempt pursuant to Sections 15301 and 15303 of the CEQA Guidelines (“Existing Facilities” and “New Construction or Conversion of Small Structures”).

D. Parties Involved:

- Applicant David Haddock, Ridge Communications Inc
for Verizon Wireless
12919 Alcosta Blvd, Suite 1, San Ramon, CA 94583
- Owner East Bay Municipal Utility District, Rob Korn
PO Box 24055, Oakland, CA 94623

Figure 1: Zoning & Vicinity Map

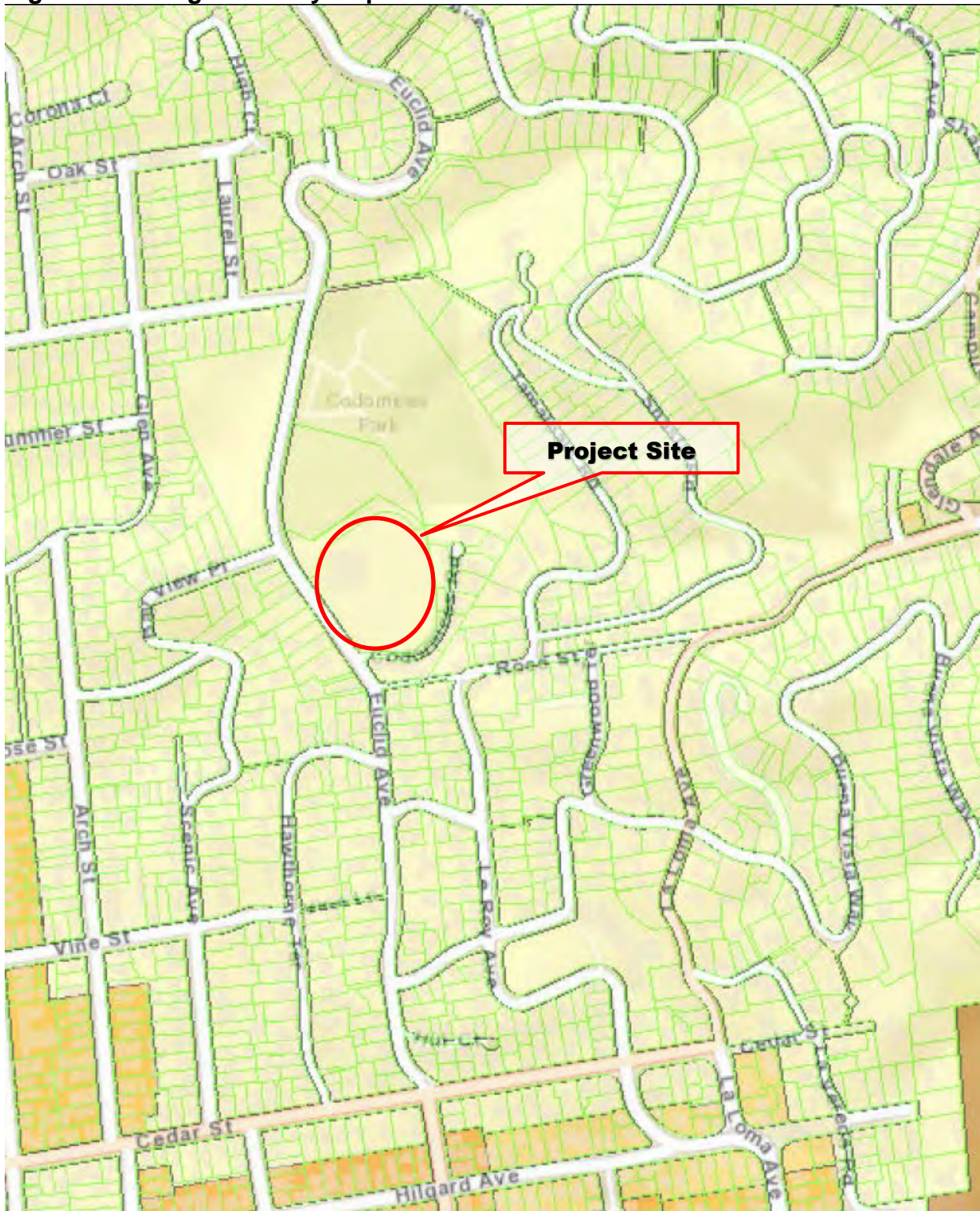
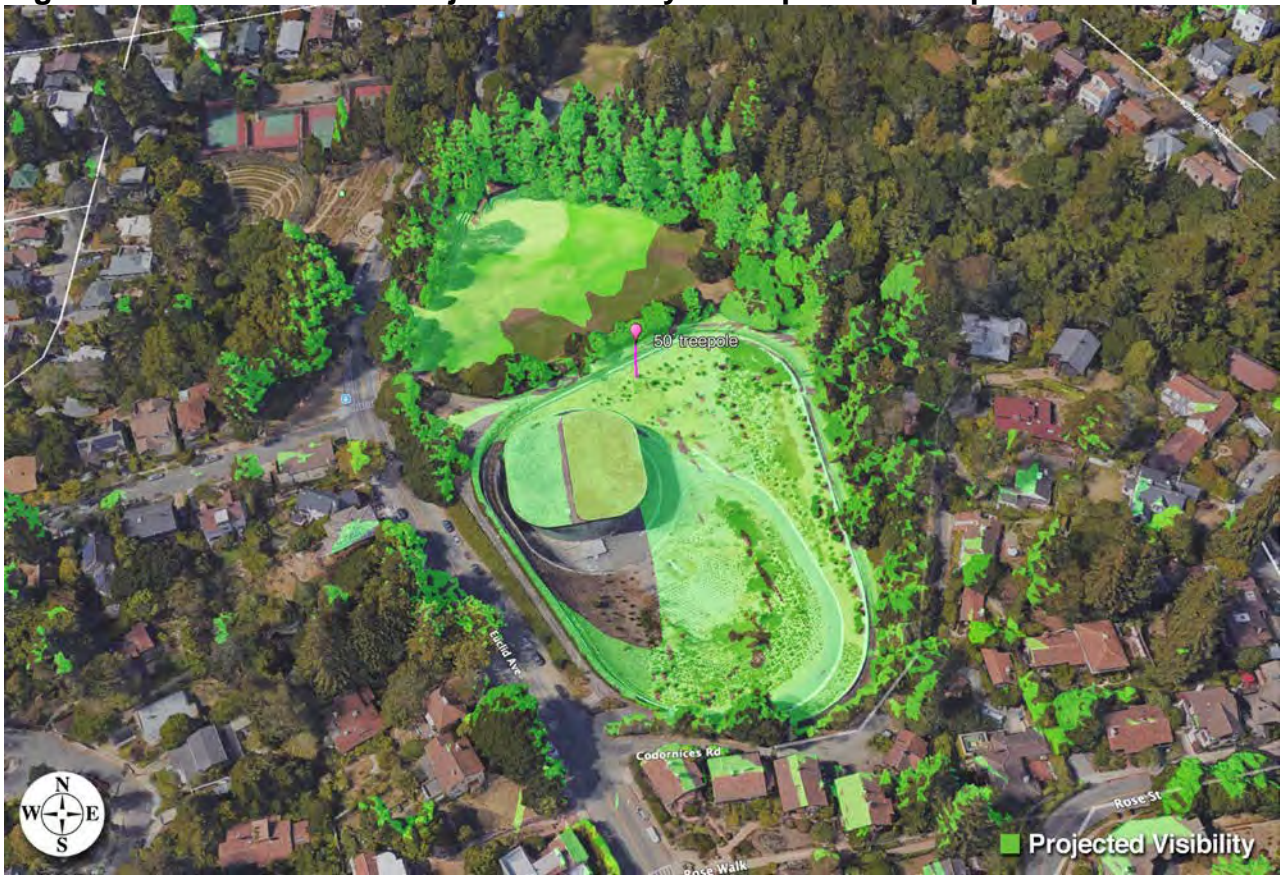


Figure 2: Aerial View and Projected Visibility of Proposed Monopole*



*See Attachment 2a for site plan and Attachment 2b for photosimulations of existing view, applicant's proposed faux tree design and staff's recommended design of un-camouflaged monopole.

Table 1: Project Chronology/Shot-Clock

Date	Action
December 17, 2018	Application Submitted
January 16, 2019	Application Deemed Incomplete
March 12, 2019	Additional Photosimulations submitted per Staff's request
April 11, 2019	Application Deemed Complete
June 12, 2019	ZAB Meeting noticed mailed/posted
June 27, 2019	ZAB Hearing

This application is subject to FCC Ruling 09-99, allowing local governments 150 days as a "reasonable period of time" in which to act on new facility applications. The FCC considers a new wireless facility on pole structure to be new facility. Under California law (Govt. Code 65091) this is also a new facility, eligible for a 150-day Shot-clock. The shot clock expires on July 10, 2019 and the applicant has not executed a tolling agreement.

Table 2: Land Use Information

Location	Existing Use	Zoning District	General Plan Designation
Subject Property	Berryman Reservoir (East Bay Municipal Utility District)	R-1H	Low Density Residential
Surrounding Properties	North	Codornices Park	Low Density Residential
	South	Residential Dwellings	
	East	Residential Dwellings	
	West	Residential Dwellings	

Table 3: Special Characteristics

Characteristic	Applies to Project?	Explanation
Compliant with FCC standards for RF EME levels and, therefore, permissible	Yes	47 United States Code § 332 (c) (7) (iv) prohibits the regulation of personal wireless facilities by state and local governments on the basis of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such facilities and emission levels. This application demonstrates compliance with all applicable FCC standards as described in Section V.A of this report and documented in Attachment 4a; the City's RF EME consultant has reviewed and confirmed these facts.
Compliant with Federal shot clock timeframe for 150-day review	Yes	47 United States Code § 332 (c) (7) (iii) and implementing FCC Regulations, including Regulation 09-99 as well as Section 6409 of the Spectrum Act (2012), require state and local governments to act on wireless telecommunication applications within a reasonable time period of time and mandate the following periods: 60 days for non-substantial changes, 90 days for colocations, and 150 days for new facilities where future co-locations are presumed. This proposed facility is considered a new facility because it is a monopole design Accordingly the 150-day shot clock is applicable. Please see Table 1
Subject to preemptive State approval	No	Pursuant to California Government Code Section 65964.1 for Wireless telecommunications facility approval, this request may not be deemed approved if the reasonable timeframes of the federal regulations are not met (see explanations, above) because it is a new facility and does not meet the State's criteria under California Government Code Section 65850.6.
Historic Resources	No	The site of the proposed wireless project is not on a parcel that contains a City Landmark. Therefore, the project was not referred to the Landmarks Preservation Commission for comment.

II. Project Setting

- A. Neighborhood/Area Description:** The site is on the east side of Euclid Avenue near Bay View Place, in the Berkeley hills. The elevation in the area increase west to east. The surrounding area primarily consists primarily of single family residential dwellings and parks, including Codornices Park and the Berkeley Rose Garden.
- B. Site Conditions:** The subject property is a 3.7 acre (161,401 square foot) parcel belonging to the East Bay Municipal Utility District (EBMUD). It is developed with an approximately 2.6 million gallon water storage tank (reservoir). The balance of the property includes vehicular access for maintenance trucks, and landscaping.

III. Community Discussion

- A. Neighbor/Community Concerns:** Prior to submitting the application to the City, a pre-application poster was erected on the project site by the applicant in December 2018. On June 12, 2019, public hearing notices were posted on the site and at three locations in the vicinity; notices were also mailed to property owners and occupants within a 300' radius, and to interested neighborhood organizations. As of writing this staff report, staff has received approximately 40 emails regarding the proposed monopole, with the majority of the comments focused on the location and design of the proposed monopole and stating that the faux tree was not a desirable design (see Attachment 7).
- B. Committee Review:** Additional committee review is not required for this facility. Land Use and Design Review staff worked with the applicant team on alternative design options; see Section V.B. Design and Aesthetic Quality, below.

IV. Project Description

Verizon is proposing to install a new wireless telecommunications facility consisting of a freestanding tower also commonly referred to as a “monopole”, designed as a “monopine” or “treepole” in order to be disguised as an evergreen tree. Antennas, remote radio units, and other related cables and equipment are proposed to be mounted on the monopole. Other equipment cabinets, including a standby generator are proposed be installed on the ground near the monopole and would not be visible from the street as the property is bowl shaped with the lowest elevations surrounded by an earthen berm. Verizon is proposing to provide LTE “data only” service from this facility.

V. Issues and Analysis

- A. Zoning Compliance – BMC Chapter 23C.17 for Wireless Telecommunication Facilities:** The Federal Communications Commission, pursuant to regulations established under the Telecommunications Act of 1996 and the Spectrum Act of 2012, regulates the development of wireless communications infrastructure, limiting the scope and duration of local government review (47 USC § 332). The City of Berkeley’s regulations with respect to wireless facilities were written to compliment the Federal requirements, while protecting public safety, and promoting community welfare and aesthetic quality. These regulations focus on compliance with established standards

for facility necessity, Radio Frequency exposure and noise, and regulate provider compliance with applicable Federal Regulations, design and parking. As summarized in Table 4, below, the application is in compliance with the requirements established in Chapter 23C.17 for the approval of Use Permits for new wireless communication facilities.

Table 4: Wireless Facilities Compliance Checklist – BMC 23C.17

Regulatory requirement	Satisfied?	Explanation
Necessity. The applicant's statement of the project objectives and necessity demonstrate that project will prevent or fill a significant gap in coverage or capacity; and these statements have been peer reviewed to confirm that the project will meet these objectives per BMC Sections 23C.17.040 and 23C.17.100	Yes	A peer review confirmed that the applicant's statement of project necessity complied with applicable FCC standards.
RF exposure. Compliance with FCC RF exposure limits shall be demonstrated and peer reviewed. Per BMC Sections 23C.17.040.F.1	Yes	See Attachment 4a. Maximum RF exposure at ground level from project was calculated at 60% of applicable public exposure limit. Maximum exposure in adjacent residences was calculated at 12% of applicable public exposure limit. Peer reviews by the City's RF EME consultant confirmed these calculations, methodology used, and compliance with FCC standards.
Noise. Applicant shall provide a noise study demonstrating that the facility will comply with the Berkeley Community Noise Ordinance (BMC 13.40) per 23C.17.080.C	Yes	See Attachment 5. The City's noise consultant peer reviewed the applicant's noise study (Hammett & Edison, Inc) and provided comments to ensure compliance with the Community Noise Ordinance and Conditions of Approval require that the final noise study be review and approved prior to the issuance of Building Permits.
Provider compliance certification. Operator has filed a statement of compliance with FCC requirements with respect to all of their facilities in the City of Berkeley, per BMC Sections 23C.17.090.A.2 or 23C.17.100.B.4	Yes	Verizon Wireless has provided the requisite annual compliance report for 2019. See Attachment 6.
Height. Project is within the applicable height limits. Per BMC Sections 23C.17.060.D, 23D.16.070, 23E.96.070, and 23D.04.020	Yes	BMC Section 23D.04.020 requires that an Administrative Use Permit is secured for Wireless Telecommunications Facilities built to a height greater than the limit established for the district other than those located within the public right-of-way. The Wireless Ordinance allows wireless facilities to extend up 15' above the height limit of the district. In this case, the R-1H district height limit is 35', accordingly, the proposed 50' wireless tower would be within the applicable height limit.

<p>Design. Project is designed to minimize potential visual impacts per BMC Section 23C.17.070</p>	<p>Yes</p>	<p>The applicant presented a design intended to minimize visual impacts and integrate the new antennas and equipment with the surroundings, based on recent experience with other wireless applications in Berkeley. See the discussion in V.B, below.</p>
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B. Design and Aesthetic Quality: The federal and state laws limit or prohibit local discretionary review over many technical aspects of wireless telecommunication facilities including the establishment of radio frequency emission levels and demonstration of need or alternative siting requirements that are excessively burdensome to applicants. Furthermore, local government permitting time limits are mandated by Federal regulations, as shown in Table 1. The City’s discretion over this request is limited to design and aesthetic consideration and the BMC prescribed design requirements for these facilities. Therefore, only these aspects of the discretionary application have become the City’s focus when reviewing requests for new and modified wireless facilities. Staff’s discussion of this proposed facility’s placement, design and aesthetic qualities follows for the Board’s consideration.

BMC Section 23C.17.070 lists extensive design requirements for telecommunication facilities, including all facilities shall be designed and located to minimize their visibility to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage and colors and materials for facilities shall be chosen to minimize visibility. Subsection C.3 states: *“All monopoles and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation unless a higher monopole or lattice tower will facilitate co-location or other objectives of this Chapter.”*

Per BMC Section 23C.17.100.B.2, the Zoning Adjustments Board must make a finding that the facility the proposed antenna or related facility, operating alone and in conjunction with other telecommunications facilities, would comply with all applicable state and federal standards and requirements and would either:

- (1) not be readily visible; or*
- (2) be readily visible, but it is not feasible to incorporate additional measures that would make the facility not readily visible.*

In this case, staff believes that the applicant’s original proposal of a “monopine” design would comply would comply with #1, above, to not be readily visible, as it is a camouflaged monopole designed to looks like a pine tree and blends in with the surrounding tree cover and vegetation as depicted in the photosimulations.

Per staff’s request, the applicant has provided multiple photo simulations of design alternatives of the monopole (see Attachment 2b) including the following:

- a “monopine”/“treepole”, faux tree design;
- an un-camouflaged monopole painted grey;
- an un-camouflaged monopole painted green;
- a four legged tower with RF screen enclosure painted grey; and

- a four legged tower with RF screen enclosure painted green.

Alternative design options consisting of large enclosure screen walls were found to make the facility more noticeable and visible.

Multiple public comment letters sent to the City state that the proposed faux tree is not a desirable design and in response Staff has evaluated the un-camouflaged design of the monopole. A monopole in proximity to the existing vegetation and tree cover minimizes the its visibility as required under #1 or #2 above, without the installation of faux tree as shown in the applicants submitted alternative photosimulations. Additionally, the proposed faux tree would require monitoring and maintenance to ensure that the faux branches designed to obscure the antennas are in good condition and not damaged due to weather. Because the un-camouflaged monopole can be painted green and its location would minimize the visibility of its respective components and preserve the aesthetic quality of the area, staff recommends that the Board approve the request for a new monopole wireless facility, with Condition of Approval that the wireless facility be designed as an un-camouflaged monopole painted green.

C. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

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.

Staff Analysis: The un-camouflaged monopole painted green option of proposal is consistent with the relevant zoning standards, which require that need for the wireless telecommunication facility be demonstrated and that the facility not be readily visible and not result in negative effects on public health (see Design and Aesthetic Quality and Zoning Compliance, above).

2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: The un-camouflaged monopole painted green design option of the proposed wireless facility as shown in the submitted photo simulations is within an area which will reduce the visibility of the facility and will blend in with the surrounding vegetation at the reservoir.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2018-0236,

pursuant to BMC Sections 23B.32.030 and 23C.17.100, subject to the attached Findings and Conditions that the wireless facility be the **un-camouflaged monopole painted green** option presented by the applicant. (See Attachment 1).

Attachments:

1. Findings and Conditions
2. a. Project Plans, March 3, 2018
b. Photosimulations, dated November 6, 2016
3. Notice of Public Hearing, dated June 12, 2019
4. a. RF-EME Peer Review memo and Report, Hammett & Edison, Inc.
b. Statement of need and coverage maps
5. Acoustic Report, Bollard Acoustical Consultants and Peer Review memo
6. Annual Compliance Certification, June, 6 2019
7. Correspondences Received

Staff Planner: Loyal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424

CITY OF BERKELEY
CITY CLERK DEPT

2019 JUL 16 AM 11:39

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

July 16, 2019

VIA HAND DELIVERY

City Council
c/o City Clerk
City of Berkeley
2180 Milvia Street
Berkeley, California 94704

Re: Appeal of Denial of Application #2018-0236
Telecommunications Facility, 0 Euclid Avenue (Berryman Reservoir)

Dear Councilmembers:

We write on behalf of Verizon Wireless to appeal the June 27, 2019, denial by the Zoning Adjustments Board (the "ZAB") of a proposed wireless communications facility at 0 Euclid Avenue (the "Proposed Facility"). Verizon Wireless appeals the ZAB's decision because it violates federal law and in particular the Telecommunications Act of 1996. Specifically, the decision mailed on July 2, 2019, is not supported by substantial evidence, in violation of 47 USC § 332(c)(7)(B)(iii), and it prohibits, or has the effect of prohibiting, Verizon Wireless from providing personal wireless services in violation of 47 USC § 332(c)(7)(B)(i)(II). Further, the ZAB's denial is not supported by the Berkeley Municipal Code (the "Code").

In general, the ZAB's decision ignores practical considerations of wireless facility siting that are acknowledged in the Code. Verizon Wireless must provide service to low-density residential neighborhoods as well as other developed areas of Berkeley, but in low-density areas, there are very few properties not in residential use. Verizon Wireless chose the Berryman Reservoir location because it is ideally situated in the center of a gap in service and is not directly adjacent to properties in residential use.

The ZAB erred in finding that the facility is not necessary to fill "a significant gap or capacity shortfall" in Verizon Wireless service as required by Code Sections 23C.17.040(C)(2) and 23C.17.100(B)(3). Verizon Wireless provided a statement of need and coverage maps that show a gap in in-building service, as well as a larger gap in in-vehicle service, in the Berkeley Hills area near Berryman Reservoir. The statement and maps are substantial evidence of a significant service gap, and the ZAB's written denial does not provide any evidence to refute a gap. The lack of service coverage also results

Berkeley City Council
July 16, 2019
Page 2 of 3

in an inability to provide adequate network capacity to meet growing customer demand in the area.

The ZAB also erred in finding that the Proposed Facility is not the least intrusive means of serving the gap, and that Verizon Wireless did not show there are no alternative sites to provide service with fewer aesthetic impacts. The ZAB did not raise any alternatives that would be less intrusive and provided no factual basis for this finding of denial. Verizon Wireless presented alternative design options for an unconcealed monopole and a four-legged tower, but staff favored the treepole design and recommended that the ZAB approve it. *See ZAB Staff Report, June 27, 2019, pp. 7-8.*

The ZAB further erred in finding that the Proposed Facility is not consistent with Code Section 27C.17.100(B)(1) and General Plan Policies LU-7 (neighborhood quality of life), UD-16 (context) and UD-24 (area character). The written denial simply references these policies but provides no explanation as to how the Proposed Facility does not comply. Similarly, the written denial referenced the purpose provisions of the City's wireless regulations, Code Section 23C.17.020(B)(1), but did not elaborate on how the Proposed Facility does not satisfy those objectives (which are not development standards in any event). In fact, Verizon Wireless followed all Code standards for design and screening to minimize visual impacts to the extent feasible, and the proposed treepole design will blend in with nearby established trees, and pose no impact to surrounding uses, the urban environment, area character or general welfare.

The ZAB's written denial claims it was not possible to determine if a different location would render the Proposed Facility to be "not readily visible" as required by Code Section 23C.17.100(B)(2). However, Verizon Wireless provided photosimulations as evidence that show the Proposed Facility treepole blends with the backdrop of established evergreen trees. Staff agreed that the Proposed Facility would "not be readily visible." *See ZAB Staff Report, June 27, 2019, p. 7.* Because it is not readily visible, Code Section 23C.17.070(C) is inapplicable, and the Proposed Facility will not impair any view corridor.

Lastly, the ZAB claimed that Verizon Wireless did not demonstrate that the Proposed Facility is designed to the minimum height and width required, or that a higher facility would facilitate other objectives per Code Section 23C.17.070(C)(3). Verizon Wireless seeks an administrative use permit for height greater than allowed in the R-1H zone pursuant to Code Sections 23D.04.020(B) and 23E.96.070. At only 50 feet, the Proposed Facility height is necessary in order for Verizon Wireless to achieve its coverage objectives given the Berryman Reservoir location, its elevation and nearby topography.

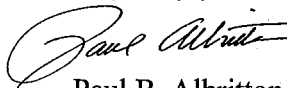
In sum, the ZAB's denial is not supported by substantial evidence. On the other hand, there is substantial evidence that the Proposed Facility meets all standards of the Code and satisfies all required findings for approval of a use permit and administrative use permit.

Berkeley City Council
July 16, 2019
Page 3 of 3

In addition to lack of substantial evidence, denial of the Proposed Facility would constitute a prohibition of service in violation of 47 U.S.C. § 332(c)(7)(B)(i)(II) because there is a significant gap in Verizon Wireless service and the Proposed Facility is the least intrusive feasible alternative to fill that gap.

The Council should overturn the ZAB's denial and approve the Proposed Facility. We reserve the right to state additional grounds for appeal and submit additional evidence in support of the above arguments in advance of the appeal hearing.

Very truly yours,



Paul B. Albritton

MACKENZIE & ALBRITTON LLP155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

July 23, 2019

VIA EMAILFarimah Brown, Esq.
City Attorney
City of Berkeley
2180 Milvia Street, Fourth Floor
Berkeley, California 94704Re: Verizon Wireless Application ZP2018-0236
Telecommunications Facility, O Euclid Avenue (Berryman Reservoir)
FCC Shot Clock Extension Agreement: November 22, 2019

Dear Farimah:

We write to you on behalf of our client GTE Mobilnet of California Limited Partnership d/b/a Verizon Wireless (“Verizon Wireless”) with respect to the above-referenced application for a wireless telecommunications facility filed December 17, 2018 (the “Application”). Federal law requirements obligate the City of Berkeley (the “City”) to take final action on the Application within a specified time period unless the time period for the City to take final action is extended by mutual consent. Verizon Wireless has appealed the denial of the Application by the Zoning Adjustments Board, and anticipates that a City Council appeal hearing will occur by November 22, 2019. When countersigned, this letter will confirm an agreement between Verizon Wireless and the City to extend the applicable time period for review of the Application under the federal Telecommunications Act to November 22, 2019 (the “Extension Date”).

The federal Telecommunications Act requires that local governments act on wireless siting applications “within a reasonable period of time.” *See* 47 U.S.C. § 332(c)(7)(B)(ii). In a 2009 declaratory ruling, the Federal Communications Commission established a legal presumption that a local government has violated this requirement if it takes longer than 90 days to act on an application to collocate a wireless facility, or 150 days to act on any other type of wireless facility application, plus the number of days it takes an applicant to respond to a timely notice of incomplete application. *See In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the “Ruling”).¹ The FCC recently codified the time period for action. 47 CFR § 1.6003(c). The Ruling

¹ The Ruling was upheld by the United States Supreme Court on May 20, 2013. *See City of Arlington v. Federal Communications Commission*, 569 U.S. 290 (2013).

Farimah Brown, Esq.
City of Berkeley
July 23, 2019
Page 2 of 2

further permits the period for review of an application to be extended by mutual consent.
Ruling, ¶ 49; 47 C.F.R. § 1.6003(d).

In order to allow the City to act on the Application without either party risking the loss of important rights, the parties agree that the time period within which the City may act on the Application shall be extended through the Extension Date, and that no limitations period for any claim of unreasonable or unlawful delay in processing the Application shall commence to run before said date.

If you agree, this letter agreement may be executed in counterparts, and scanned or facsimile signatures shall be deemed equivalent to original signatures. I will appreciate your returning a countersigned copy to me at your convenience.

Sincerely,



Paul B. Albritton

cc: Layal Nawfal

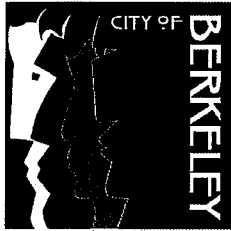
ACCEPTED AND AGREED TO:

City of Berkeley

By: 

Printed name: Christopher D. Jensen

Title: Deputy City Attorney



City Clerk Department

October 8, 2019

Paul Albritton
Mackenzie & Albritton LLP
155 Sansome St, Suite 800
San Francisco, CA 94104

RE: 0 Euclid Avenue - Berryman Reservoir – Appeal ZAB Decision Use Permit #ZP2018-0236

Dear Mr. Albritton:

At the request of the applicant for this project, the public hearing for 0 Euclid Avenue - Berryman Reservoir – Appeal ZAB Decision Use Permit #ZP2018-0236 will not occur at the October 29, 2019 City Council meeting.

Once a new date has been selected, all parties will be notified.

If you have any additional questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

Mark Numainville
City Clerk

cc: Timothy Burroughs, Director of Planning
Steven Buckley, Land Use Planning Manager
Layal Nawfal, Staff Planner
Farimah Brown, City Attorney
David Haddock, Ridge Communications Inc. for Verizon Wireless (Applicant)
East Bay Municipal Utility District, Attn: Rob Korn (Owner)
Christian Raisner

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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) Pursuant to Government Code Section 66020(d)(1), 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. 3) 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.

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

November 11, 2019

VIA EMAIL

Farimah Brown, Esq.
City Attorney
City of Berkeley
2180 Milvia Street, Fourth Floor
Berkeley, California 94704

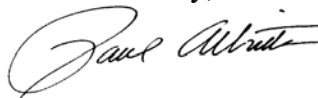
Re: Verizon Wireless Application ZP2018-0236
Telecommunications Facility, O Euclid Avenue (Berryman Reservoir)
FCC Shot Clock Extension Agreement: March 31, 2020

Dear Farimah:

In a letter agreement effective July 23, 2019 (the “Tolling Agreement”), Verizon Wireless and the City of Berkeley (the “City”) agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through November 22, 2019 (the “Extension Date”). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to March 31, 2020. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,




Paul B. Albritton

cc: Christopher Jensen, Esq.
Layal Nawfal

Farimah Brown, Esq.
City of Berkeley
November 11, 2019
Page 2 of 2

ACCEPTED AND AGREED TO:

City of Berkeley

By: 

Printed name: Christopher D. Jensen

Title: Assistant City Attorney

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

February 19, 2020

VIA EMAIL

Farimah Brown, Esq.
City Attorney
City of Berkeley
2180 Milvia Street, Fourth Floor
Berkeley, California 94704

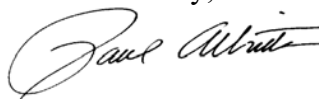
Re: Verizon Wireless Application ZP2018-0236
Telecommunications Facility, O Euclid Avenue (Berryman Reservoir)
FCC Shot Clock Extension Agreement: April 30, 2020

Dear Farimah:

In a letter agreement effective July 23, 2019 and amended November 11, 2019 (the "Tolling Agreement"), Verizon Wireless and the City of Berkeley (the "City") agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through March 31, 2020 (the "Extension Date"). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to April 30, 2020. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,



Paul B. Albritton

cc: Christopher Jensen, Esq.
Loyal Nawfal

Farimah Brown, Esq.
City of Berkeley
February 19, 2020
Page 2 of 2

ACCEPTED AND AGREED TO:

City of Berkeley

By: _____  _____

Printed name: Christopher D. Jensen

Title: Acting City Attorney

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

May 13, 2020

VIA EMAIL

Farimah Brown, Esq.
City Attorney
City of Berkeley
2180 Milvia Street, Fourth Floor
Berkeley, California 94704

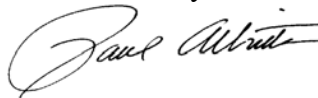
Re: Verizon Wireless Application ZP2018-0236
Telecommunications Facility, O Euclid Avenue (Berryman Reservoir)
FCC Shot Clock Extension Agreement: July 10, 2020

Dear Farimah:

In a letter agreement effective July 23, 2019 and amended November 11, 2019 and February 19, 2020 (the "Tolling Agreement"), Verizon Wireless and the City of Berkeley (the "City") agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through June 30, 2020 (the "Extension Date"). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to July 10, 2020. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,




Paul B. Albritton

cc: Christopher Jensen, Esq.
Loyal Nawfal

Farimah Brown, Esq.
City of Berkeley
May 13, 2020
Page 2 of 2

ACCEPTED AND AGREED TO:

City of Berkeley

By: _____  _____

Printed name: Christopher D. Jensen

Title: Assistant City Attorney



Alternatives Analysis

Berkeley Hills
0 Euclid Avenue, City of Berkeley



March 5, 2020

Summary of Site Evaluations
Conducted by Ridge Communications, Inc.
Compiled by Mackenzie & Albritton LLP

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Map of Alternatives

I. Executive Summary

Verizon Wireless has a significant gap in service in the north Berkeley hills residential neighborhoods. Based on a review of 10 alternatives as set forth in the following analysis, Verizon Wireless believes that placement of a new wireless tower disguised as a pine tree (the “Proposed Facility”) constitutes the least intrusive feasible alternative to provide service to the identified gap in network service based on the values expressed in the Berkeley Municipal Code (the “Code”).

II. Significant Gap

There is a significant gap in Verizon Wireless network service in the north Berkeley hills. Residential areas lack reliable LTE in-building and in-vehicle service coverage, and there are pockets lacking any reliable service. The coverage gap is particularly pronounced for the high-band PCS and AWS frequency spectrum bands that Verizon Wireless uses to provide over 70 percent of its LTE service throughout Berkeley. Further, a distant Verizon Wireless facility serving much of the area has reached capacity exhaustion. This compromises communications for residents and visitors as well as emergency service personnel. (Collectively, the “Significant Gap”) The Significant Gap is described in detail in the *Statement of Verizon Wireless Radio Frequency Design Engineer Amr Kharaba* (the “RF Engineer’s Statement”). To remedy the Significant Gap, Verizon Wireless must place new infrastructure to ensure reliable network service.

III. Methodology

Once a significant gap has been determined, Verizon Wireless seeks to identify a location and design that will provide reliable network service through the “least intrusive means” based upon the values expressed by local regulations. In addition to seeking the least intrusive alternative, sites proposed by Verizon Wireless must be feasible. Feasibility means that a site has suitable radio frequency propagation, proximity to end users, available equipment space, access, topography, slope and other critical factors such as a willing landlord. Wherever feasible, Verizon Wireless seeks to use existing infrastructure to minimize visual impacts.

The Berkeley Hills present a challenge for providing wireless service. In order to control radio signal propagation for network design, antennas generally face east into the Berkeley Hills. West-facing antenna sectors are avoided to prevent signal propagation extending beyond desired coverage areas. Further, west-facing antennas are problematic due to the signal-skipping properties of water on the bay that can result in interference as far away as Marin County and San Francisco.

Private Property – Zoning Code

Under the zoning code, applicants for facilities on private property must submit an alternatives analysis demonstrating that a new facility is the least intrusive means to provide service with the least aesthetic impact, with an explanation of why any preferred facility types are not feasible. Code §§ 23C.17.040(C)(2), 23C.17.040(E)(4).

Microcell networks on private property may be approved in any zoning district with an administrative permit, and all other new wireless facilities require a use permit. Code § 23C.17.100(A). The preferred type of wireless facility is a microcell network, followed by façade-mounted facilities, roof-mounted facilities, ground-mounted facilities and freestanding towers. Code §§ 23C.17.070(A), 23C.17.030(D).

Wireless facilities must be designed to minimize visibility through screening and camouflage to the greatest extent feasible with respect to technological requirements, and designed to blend with surrounding buildings or the natural setting. Code § 23C.17.070(B). One finding requires that facilities not be readily visible, or that it is infeasible to incorporate additional measures to achieve this. Code § 23C.17.100(B)(2). Facilities must not impair significant or sensitive view corridors. Code § 23C.17.070(C). A facility may be sited at a location visible from a public park if it meets the wireless facility findings. Code §§ 23C.17.050(B), 23C.17.100.

A new freestanding wireless facility should not be located within 1,000 feet of another freestanding facility unless it is stealthed to the extent feasible and co-location or placement on a building are not feasible. Code § 23C.17.050(C).

Public Right-of-Way – Streets and Sidewalks Code

The City regulates wireless facilities in the right-of-way under its streets and sidewalks code, not the Zoning Code which applies to private property. Right-of-way facilities require a public right-of-way permit issued by the Public Works Director. Code §§ 16.10.030, 16.10.045.

Right-of-way location and design standards are set forth in the City’s *Guidelines for Projects Requiring Telecommunications Encroachment/Excavation Permits* (the “ROW Guidelines”). Preferred locations are commercial and manufacturing districts, followed by neighborhood commercial districts, then residential districts, with least-favored locations including sites within 100 feet of City parks, landmarks or certain historic resources. ROW Guidelines § II(A).

Right-of-way facilities must use the smallest, least visible antennas and equipment that can meet service objectives. Equipment must be no larger or more obtrusive and readily visible than existing facilities on a pole. ROW Guidelines §§ III(C), III(E)(1). Specific size constraints limit associated equipment to one enclosure on the subject pole up to approximately 12 inches wide, 10 inches deep and four cubic feet, and another such enclosure on a nearby pole, plus an electric meter and cut-off switch. ROW Guidelines § III(E)(4).

The map below is an excerpt of the City's *Wireless Telecom Facilities* map showing wireless facilities on private property in the northeast Berkeley area. The existing Verizon Wireless sites on this map are (1) Kensington Circle and (7) Shattuck North. There are no wireless facilities shown in the hilly area near the Proposed Facility.

*Excerpt of City of Berkeley
Wireless Telecom Facilities Map 2015*



IV. Analysis

Review of Microcell Network

Verizon Wireless investigated the possibility of placing microcells (also known as small cells) in the gap area that could be approved administratively by the Planning Department or Public Works Department. With respect to private property, the first preference for facility type under the zoning code is a microcell network. Given the R-1 zoning of the area, microcells on residential buildings would be required to serve the Significant Gap.

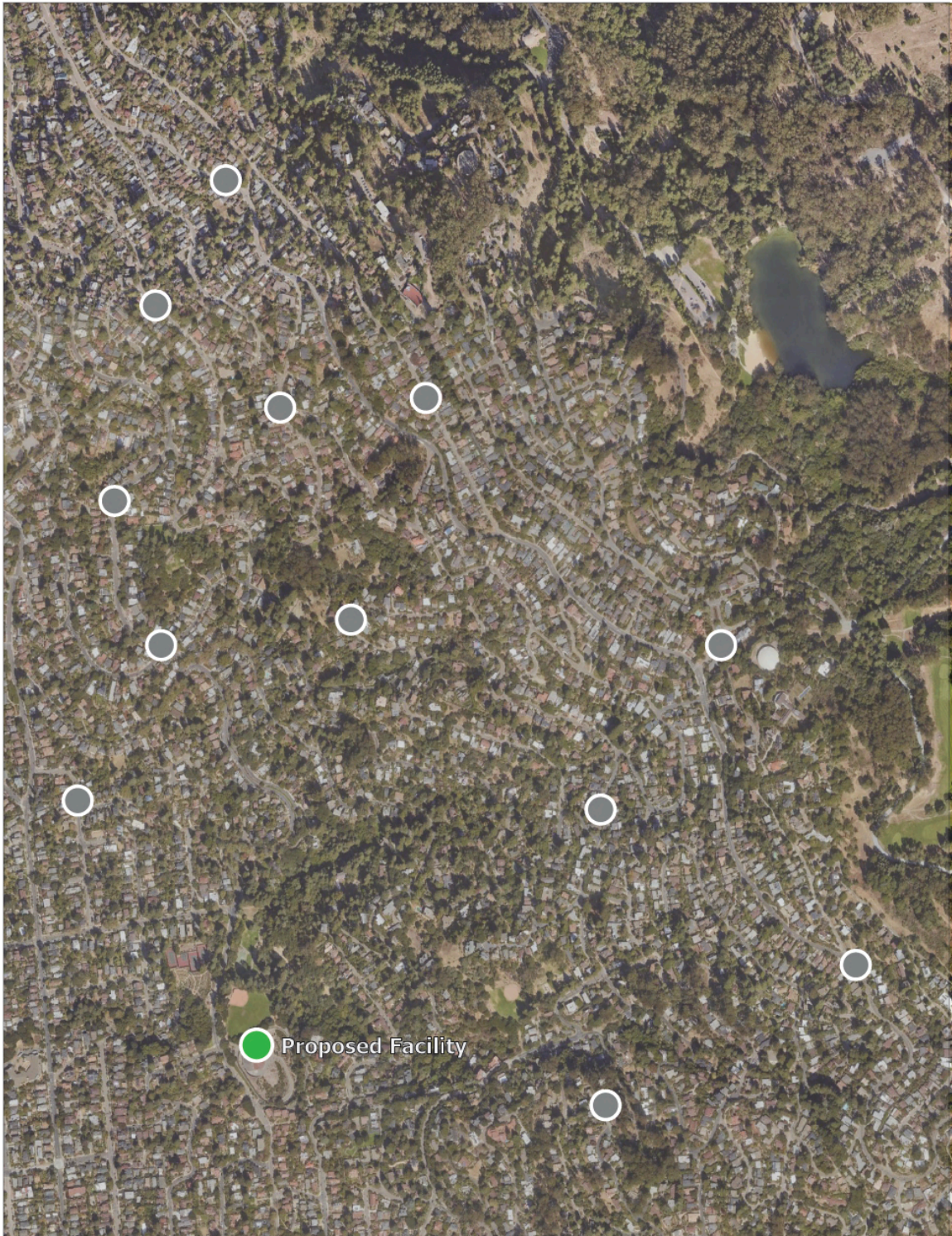
To avoid siting on residences, Verizon Wireless reviewed placement of microcells in the right-of-way. Though the ROW Guidelines prefer siting in commercial and manufacturing zones, residential zones are the only option in the gap area. Right-of-way facilities are discouraged within 100 feet of parks, and there are several in the area.

The ROW Guidelines place dimension constraints on right-of-way equipment that limit radio units to low-wattage models, resulting in facilities with a smaller coverage footprint. Low-power radios mean more microcells are required to serve an area, though utility poles generally offer advantageous height for antennas, somewhat improving coverage.

Low-power microcell facilities have a limited coverage radius of approximately 500 to 1,500 feet, and signal would be easily impeded by the substantial tree clutter and topographic obstructions in the gap area. Due to these factors, Verizon Wireless RF engineers determined that 12 microcell facilities would be required to serve the Significant Gap. For this solution, the 12 microcells would be placed north and east of the Proposed Facility location. A potential microcell network solution is shown in the following map.

Elevated on utility poles along streets, right-of-way microcells would be more readily visible than the Proposed Facility, which is disguised as a tree and placed away from street vantage points. Given the residential nature of the gap area, a number of right-of-way microcells would be located adjacent to residential properties, whereas the Proposed Facility is over 270 feet from the nearest residence. The close proximity of numerous right-of-way microcells to streets and residences would lead to a more intrusive deployment overall. Coverage limitations resulting from trees, building clutter and topography, as well as the prospect of more intrusive installations, make a microcell network a less feasible and potentially more intrusive alternative to the Proposed Facility.

Example Map of Network of 12 Microcells



Façade- and Roof-Mounted Facilities

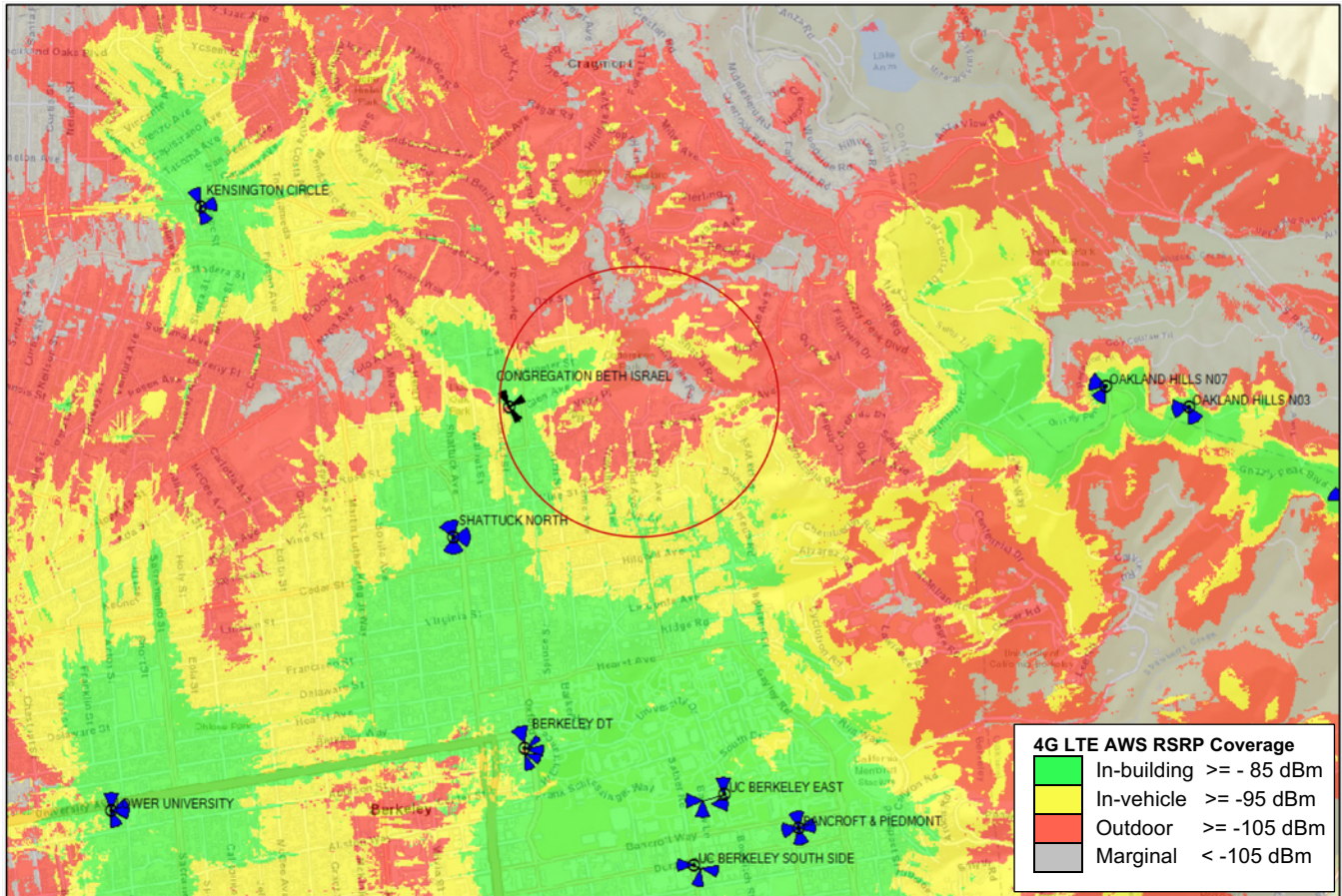
Verizon Wireless reviewed the vicinity of the gap for non-residential buildings that could support façade- or roof-mounted antennas, considering the following locations.

<p>1. Congregation Beth Israel Address: 1301 Oxford Street Elevation: 320 Feet Zoning: R-1 Residential</p>



Verizon Wireless reviewed placement of antennas on this building 0.3 miles west of the Proposed Facility and 120 feet lower in elevation. Verizon Wireless RF engineers determined that a facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a facility at this location of the same height as the Proposed Facility would provide coverage to only the western fringe of the gap area. Due to inability to serve the Significant Gap, this is not a feasible alternative to the Proposed Facility.

High-Band 4G LTE Coverage Provided by a Facility at Congregation Beth Israel



Coverage plot maps depict the anticipated level of signal, and therefore the projected coverage provided by a site at a given location. The areas in green reflect good coverage that meets or exceed thresholds to provide consistent and reliable network coverage in homes and in vehicles. The areas in yellow and red depict decreasing levels of coverage, respectively, with yellow areas generally representing reliable in-vehicle coverage only, and red areas depicting poor service areas with marginal coverage unsuitable for in-vehicle use. Gray depicts marginal service areas with unreliable service levels.

The circle surrounds the Proposed Facility location and its critical coverage area.

Many wireless facilities in this area of the East Bay do not include west-facing antenna sectors. This is because west-facing antennas would direct signal over the bay. As signal propagates well over water, it would become a source of interference for distant wireless facilities in San Francisco and/or Marin County. In these coverage maps, the antenna sectors for the Proposed Facility and the various alternatives are not directed west.

2. Oxford Elementary School

Address: 1301 Oxford Street

Elevation: 380 Feet

Zoning: R-1 Residential



Verizon Wireless reviewed this school facility 0.4 miles northwest of the Proposed Facility and 120 feet lower in elevation. Verizon Wireless recently contacted the Berkeley Unified School District regarding placement of wireless facilities on its property, and the District responded that it was not interested. Due to lack of landlord interest, this is not a feasible alternative to the Proposed Facility.

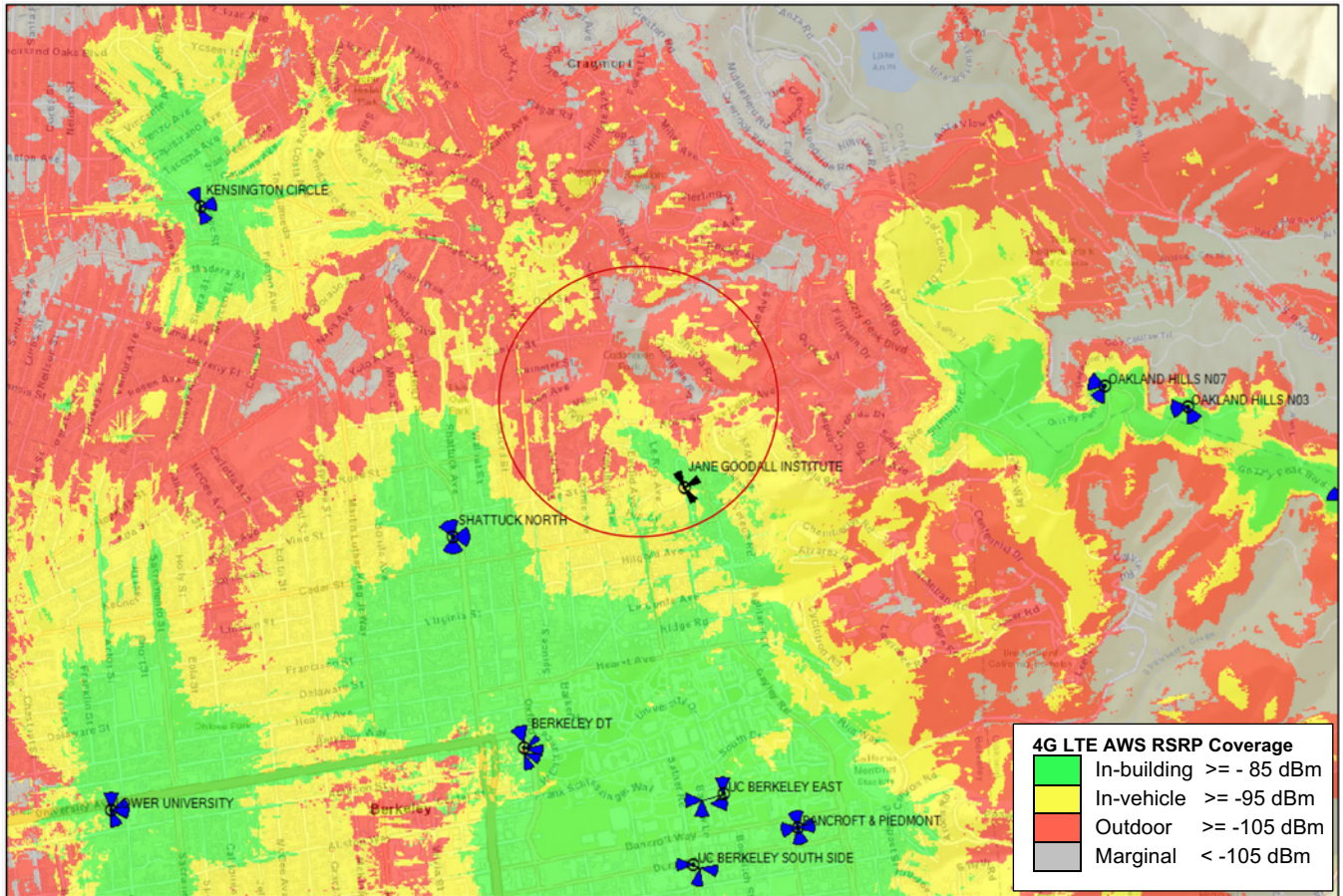
3. Jane Goodall Institute

Address: 1581 Leroy Avenue
Elevation: 540 Feet
Zoning: R-1 Residential



Verizon Wireless reviewed this property 0.3 miles south of the Proposed Facility and 40 feet greater in elevation. Verizon Wireless RF engineers determined that a facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a facility at this location of the same height as the Proposed Facility would provide coverage to only the southern fringe of the gap area. Due to inability to serve the Significant Gap, this is not a feasible alternative to the Proposed Facility.

High-Band LTE Coverage Provided by Facility at Jane Goodall Institute



Freestanding Tower Facilities

Lacking any non-residential buildings suitable for a façade- or roof-mounted facility, Verizon Wireless reviewed the gap area for non-residential properties with sufficient space for a new freestanding tower facility, identifying the following alternatives.

<p>4. Proposed Facility – Berryman Reservoir Address: 0 Euclid Avenue Elevation: 500 Feet Zoning: R-1 Residential</p>
--



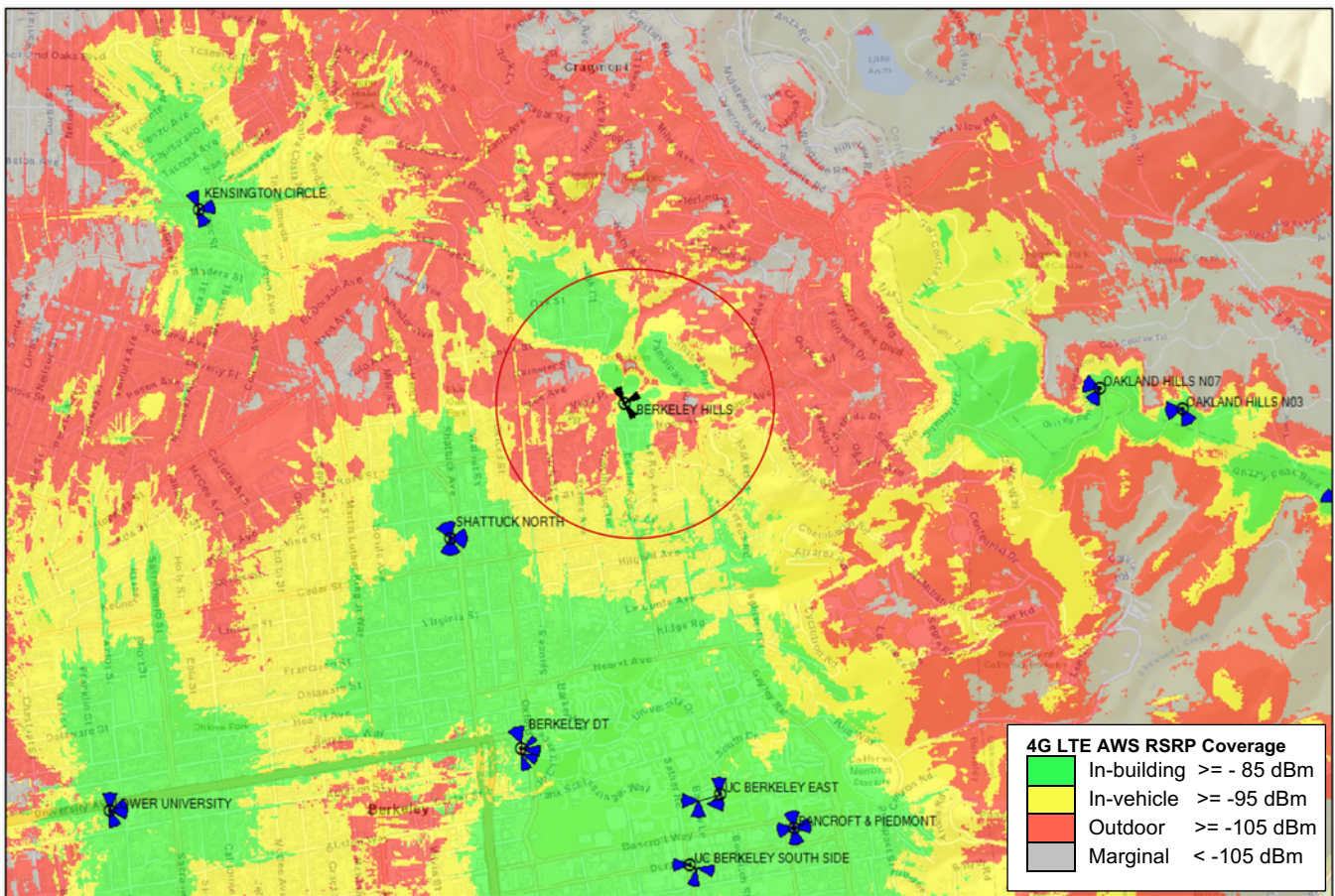
Verizon Wireless proposes to conceal its panel antennas on a 50-foot freestanding facility camouflaged as a pine tree, placed in an unused area of an East Bay Municipal Utilities District property. Antennas will be concealed within faux foliage and branches, and branches will extend beyond and above the antennas, providing a realistic tapered crown. Antennas will be covered with needle socks for further concealment. The treepole will be located near a row of established trees of similar height that provide screening as viewed from the park to the west, as well as a backdrop to allow the treepole to blend with its surroundings.

Near the treepole, a 500-square foot equipment area will contain radio cabinets and a diesel generator to provide continued service in case of emergencies. The equipment area will be surrounded by a six-foot chain link fence. Secure within the EBMUD compound, neither the treepole nor the equipment area will be accessible to the

public. Verizon Wireless also presented the City with alternative designs for an uncamouflaged monopole or a four-legged tower with antennas screened within square panels, with options for either design to be painted gray or green.

With antennas elevated to the required centerline of 40 feet 9 inches at this optimal location, the Proposed Facility will provide reliable Verizon Wireless service to the Significant Gap. As shown in the following propagation map, the Proposed Facility will provide new, reliable coverage in the north Berkeley hills. It is also placed at an optimal location to relieve demand on the existing Verizon Wireless facilities currently serving the gap area, including exhausted antenna sectors of the Lower University facility to the southwest that serve much of the gap. This will improve overall network performance in a greater area. An analysis comparing existing and proposed coverage is found in the RF Engineer’s Statement. This is Verizon Wireless’s preferred location and design for the Proposed Facility.

High-Band 4G LTE Coverage Provided by Proposed Facility



5. Codornices Park

Address: 1201 Euclid Avenue

Elevation: 500 Feet

Zoning: R-1 Residential



Verizon Wireless reviewed this City park located due north of the Proposed Facility at a similar elevation. The level areas of the park include a playing field north of the Proposed Facility, and a basketball court and playground further north. A new freestanding wireless facility and equipment area in these level areas would remove recreational areas from use. A facility on the slopes surrounding recreational areas would require substantial trenching and grading for placement of a tower foundation, equipment area and underground utility conduit, requiring tree removal if feasible at all. This would present environmental impacts to a park property, whereas the Proposed Facility is placed on a utility property where it would not disrupt public uses. Lastly, the Code discourages facilities visible from a public park. A facility within the park itself would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility.

6. Berkeley Rose Garden

Address: 1200 Euclid Avenue
Elevation: 420-480 Feet
Zoning: R-1 Residential



Berkeley Rose Garden



Storage Area

Verizon Wireless reviewed this public park across the street and 0.1 miles northwest of the Proposed Facility with a varying elevation. The only area of this park not in recreational use is a small storage area in the northwest corner behind the tennis courts, immediately adjacent to homes. This storage area is 50 feet lower in elevation than the Proposed Facility, requiring a much taller tower to elevate antennas to the height required serve the Significant Gap. A new freestanding wireless tower in the storage area would be within 60 feet of homes, blocking views of the park beyond, whereas the Proposed Facility is over 270 feet from the nearest home. The Code discourages facilities visible from a public park. A very tall facility within the Rose Garden park would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility.

7. Glendale-La Loma Park

Address: 1310 La Loma Avenue

Elevation: 780-840 Feet

Zoning: R-1 Residential



Verizon Wireless reviewed this City park located 0.3 miles east of the Proposed Facility with a varying elevation 280 to 340 feet greater. This terraced park is situated in a canyon that opens to the west. While the parking lot and playground are located at somewhat higher elevations on the east side of the park, they are flanked by ridges north and south that would block signal from antennas in those directions absent a very tall tower that would pose visual impacts to homes on the ridges.

The playing field at the west end of the park is at the mouth of the canyon, where a facility at the western edge above a slope could potentially serve the Significant Gap. However, a facility at this location would silhouette against the sky and block bay views from vantage points east in the park. Sloped areas surrounding the recreational areas would require substantial trenching and grading for placement of a tower foundation, equipment area and underground utility conduit, requiring tree removal if feasible at all. This would present environmental impacts to a park property, whereas the Proposed Facility is placed on an existing utility property where it would not disrupt public uses. Lastly, the Code discourages facilities visible from a public park. As noted, a tower facility at the western edge within this park would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility.

8. PG&E Ridge Substation

Address: 1313 Glendale Avenue
Elevation: 855 Feet
Zoning: R-1 Residential



Verizon Wireless reviewed this utility property located 0.35 miles east of the Proposed Facility and 355 feet greater in elevation. A wireless facility placed on the one-story building could not serve the gap because ridges north and south would block signal; a tower facility would be required. The only area of the property potentially viable for placement of a new tower foundation and equipment area is the small parking lot, where a tower would be within 50 feet of homes. A new tower facility at this location would present substantial visual impact as viewed from nearby residences and the adjacent roadway. This cannot be considered a less intrusive alternative to the Proposed Facility.

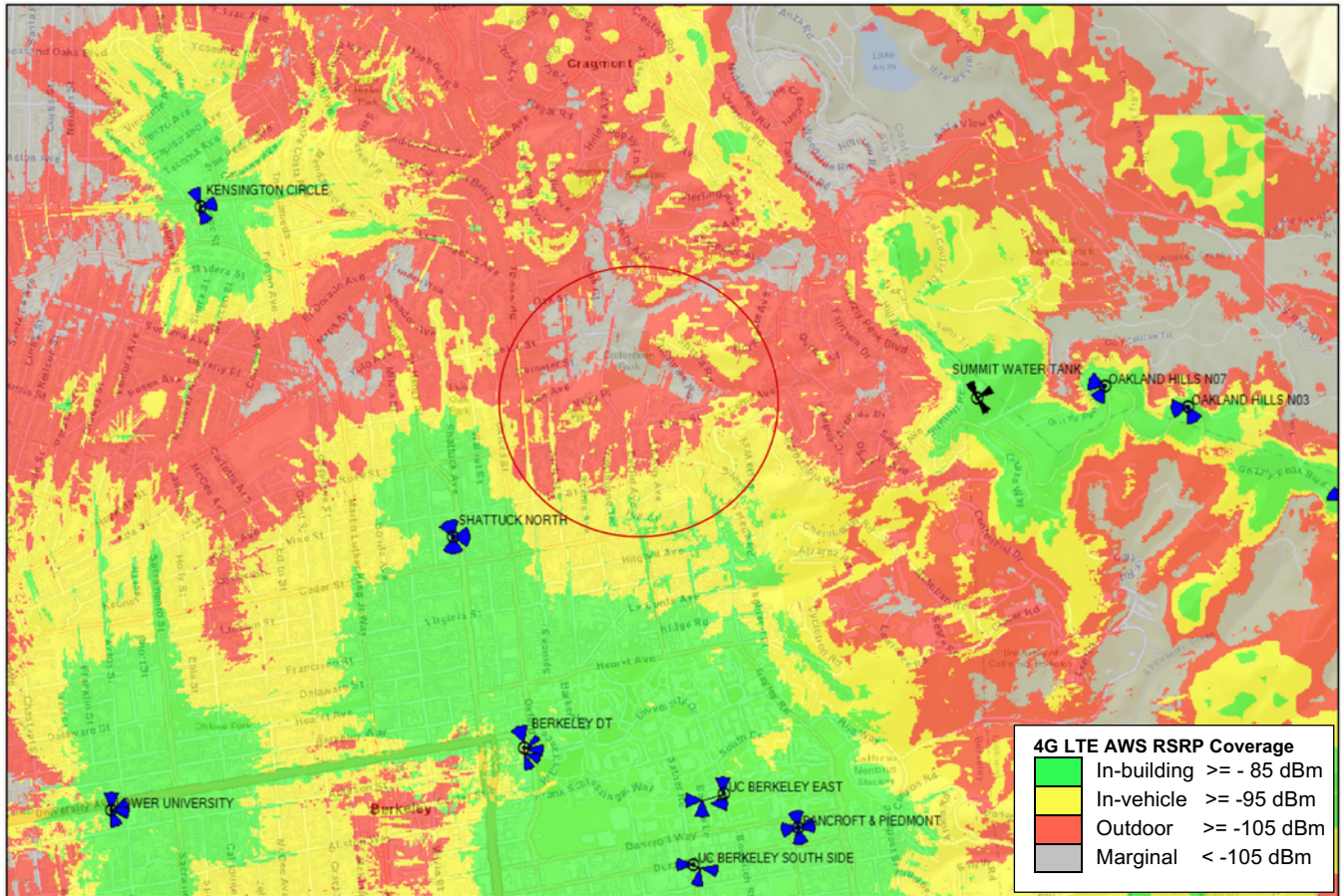
9. Summit Reservoir

Address: Summit Road
Elevation: 1,340 Feet
Zoning: City of Oakland



Verizon Wireless reviewed this East Bay Municipal Utility District property located 0.9 miles east of the Proposed Facility and 840 feet greater in elevation. Verizon Wireless RF engineers determined that a facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a facility at this location of the same height as the Proposed Facility would not provide any new coverage to the identified gap area. Due to inability to serve the Significant Gap, this is not a feasible alternative to the Proposed Facility.

High-Band LTE Coverage Provided by Facility at Summit Reservoir



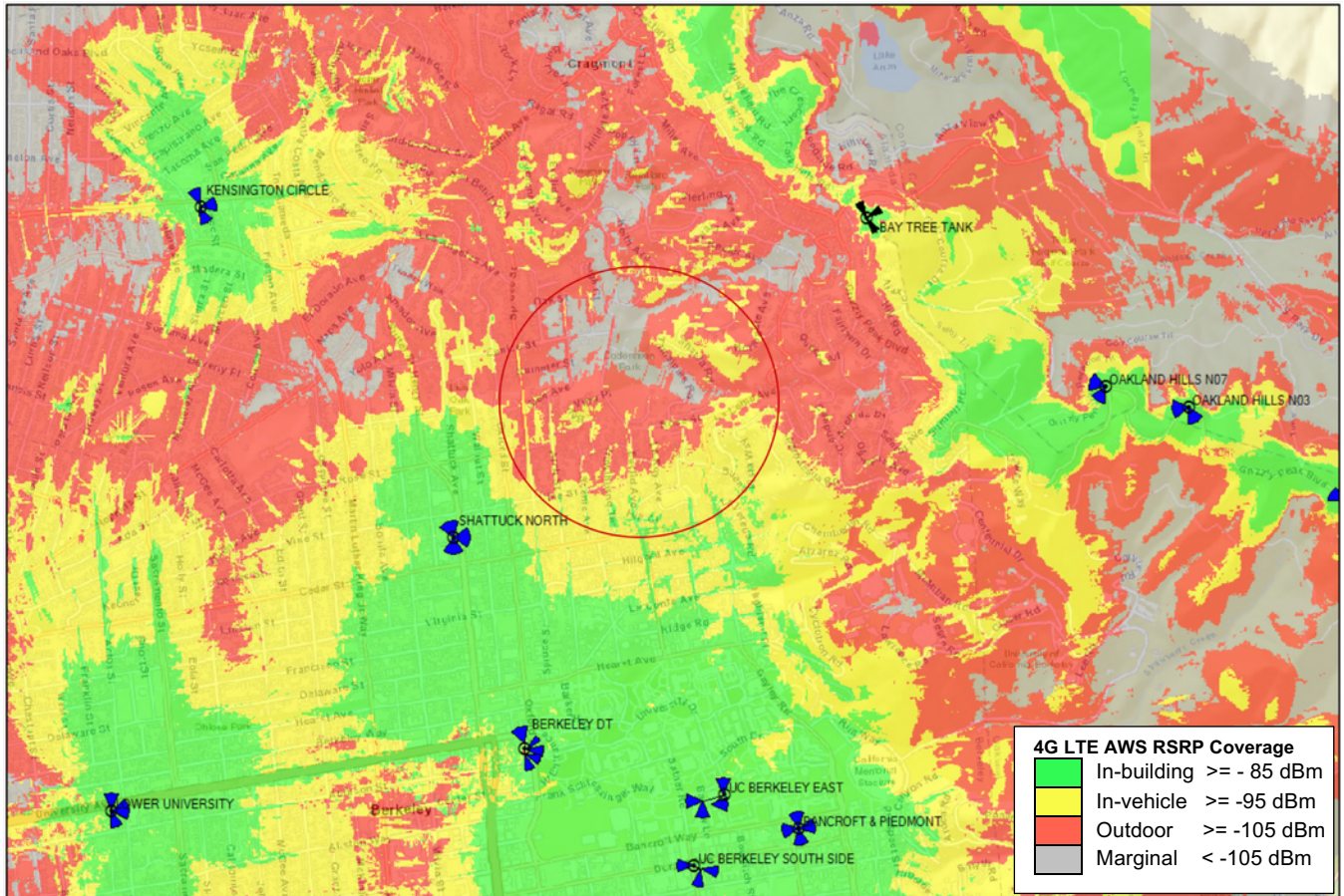
10. Bay Tree Reservoir

Address: Bay Tree Lane
Elevation: 1,150 Feet
Zoning: R-1 Residential



Verizon Wireless reviewed this East Bay Municipal Utility District property located 0.75 miles northeast of the Proposed Facility and 650 feet greater in elevation. Verizon Wireless RF engineers determined that a facility at this location cannot serve the Significant Gap. As shown in the following coverage map, a facility at this location of the same height as the Proposed Facility would not provide any new coverage to the identified gap area. Due to inability to serve the Significant Gap, this is not a feasible alternative to the Proposed Facility.

High-Band LTE Coverage Provided by Facility at Bay Tree Reservoir

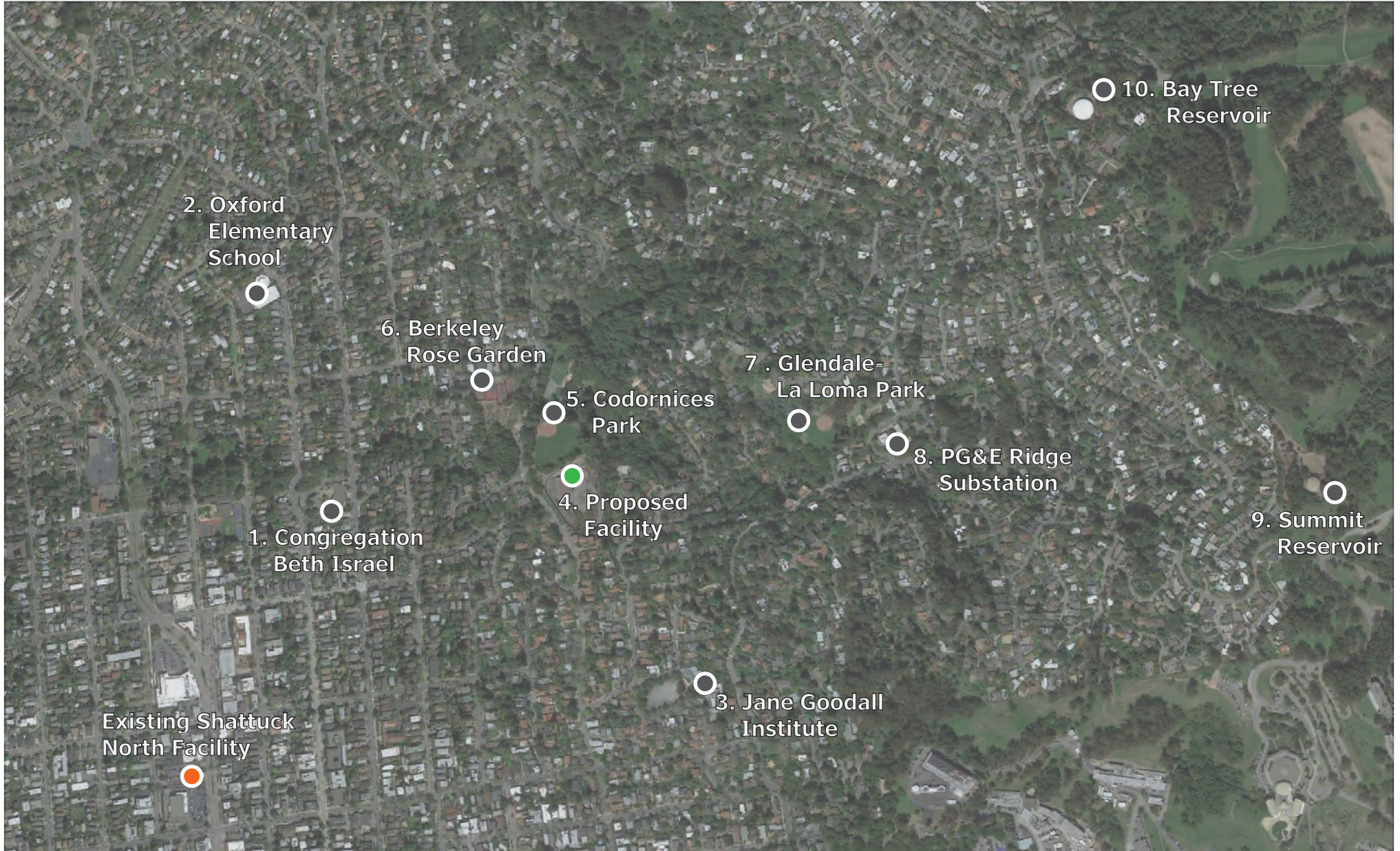


V. Conclusion

Verizon Wireless has reviewed 10 alternatives and a microcell network to fill the Significant Gap in service in the north Berkeley hills. Based upon the preferences identified in the Berkeley Municipal Code, the Proposed Facility, by placing antennas on a tower disguised as a pine tree on a utility property, constitutes the least intrusive alternative under the values expressed in the Berkeley Municipal Code.



Berkeley Hills
City of Berkeley
Alternative Site Locations





March 5, 2020

To: Berkeley City Council

**From: Amr Kharaba, Radio Frequency Design Engineer
Verizon Wireless Network Engineering Department**

**Subject: Statement in Support of Verizon Wireless's Proposed
Facility, 0 Euclid Avenue**

Executive Summary

Verizon Wireless has identified a significant gap in its fourth-generation long-term evolution (4G LTE) service in the north Berkeley hills residential neighborhoods. This area currently receives inadequate 4G LTE service coverage from the existing Verizon Wireless Kensington Circle facility 1.1 miles northwest of the proposed facility, the Shattuck North facility 0.5 miles southwest, the Lower University facility 1.6 miles southwest, the Berkeley Bekins facility 1.8 miles southwest, and the Gilman Street facility 1.9 miles west. Other existing facilities do not provide appreciable service levels to the area.

As a result of the distance from existing facilities, there is a gap in 4G LTE in-building and in-vehicle service coverage in the north Berkeley hills, and areas lacking outdoor coverage. Further, exponential growth in voice and data usage by Verizon Wireless customers has increased the demand on the existing Verizon Wireless network in a manner that compromises network accessibility and reliability. Slow data speeds and increased latency, resulting from network exhaustion, particularly compromise voice call quality and reliability for Verizon Wireless's Voice over LTE ("VoLTE") technology. This exponential growth in demand has led to capacity exhaustion of the Verizon Wireless facility that provides the most service to the gap area. I have described this significant gap in coverage and capacity in more detail below (the "Significant Gap").

To address the Significant Gap, Verizon Wireless is deploying efficient high-speed 4G LTE technology in Berkeley. Verizon Wireless provides the majority of its 4G LTE service using high-band PCS and AWS frequency spectrum. Higher frequencies mean shorter wavelengths, which means that the PCS and AWS bands provide greater data capacity. However, these high-band frequencies do not travel as far as low-band frequencies and require facilities closer together and closer to the end user to provide reliable LTE service.

To provide reliable LTE service and avoid further degradation of Verizon Wireless service in the north Berkeley hills, Verizon Wireless must resolve the Significant Gap through construction of a new stealth tower facility at Berryman Reservoir, 0 Euclid Avenue (the "Proposed Facility").

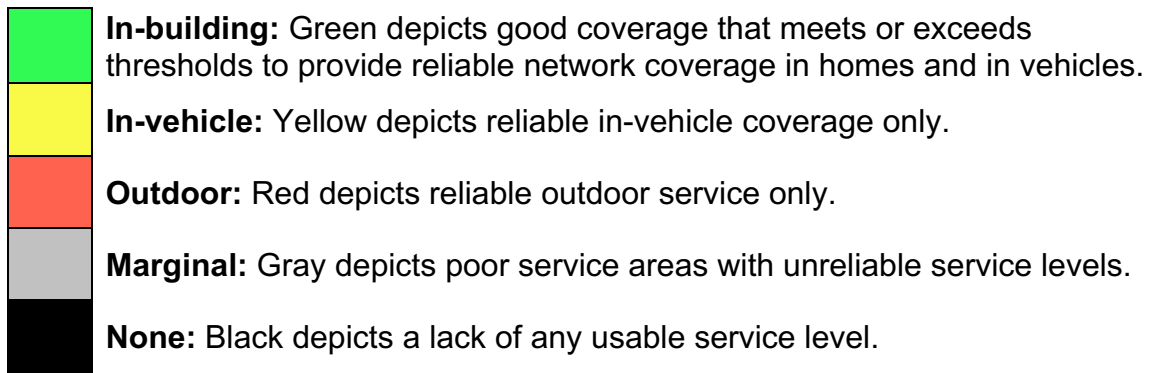
Coverage Gap

Verizon Wireless is experiencing a gap in 4G LTE service coverage in the north Berkeley hills (the “Coverage Gap”). The gap is demonstrated by a recent drive test as well as coverage maps showing poor service throughout the area.

Drive Test – 4G LTE Service Levels

On Tuesday, December 17, 2019, Verizon Wireless drove a test truck through streets in the gap area to measure the 4G LTE signal strength received. The strongest signal measured at a particular location was recorded and geographically plotted on the following map. The drive tester collected the real-time data using Verizon Wireless’s DMAT software (Device Monitoring and Analysis Tool).

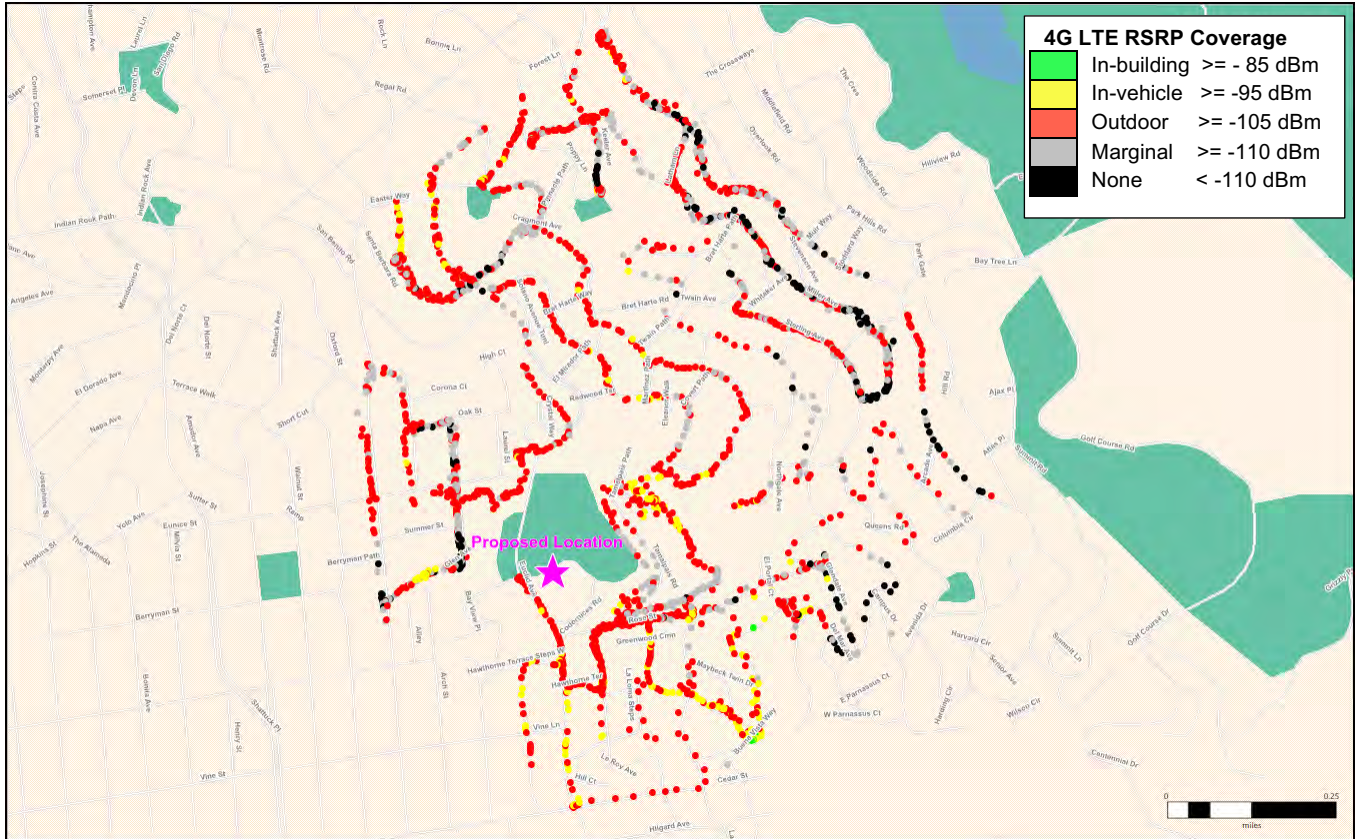
Referenced signal receive power (RSRP) is a measurement of signal level in decibels (dBm), which decreases due to distance, terrain and other factors. The color of each point indicates the service level received at that location. The coverage thresholds are:



The drive test staff, timeframe and equipment setup are described below.

<i>Drive Tester</i>	Gerald Kinney, Principal System Performance Engineer
<i>Drive Test Date, Time</i>	Tuesday, December 17, 2019, 12:07 p.m. – 3:18 p.m.
<i>Equipment Used</i>	Samsung Galaxy S7 & Samsung Galaxy S8
<i>Data analysis software</i>	DMAT (Verizon Device Monitoring and Analysis Tool)
<i>4G LTE Bands Scanned</i>	700 MHz, 850 MHz, PCS (1900 MHz), AWS (2100 MHz)

Drive Test Result - 4G LTE Service Levels



This map shows a lack of in-building coverage in the north Berkeley hills and barely any in-vehicle coverage. In most of the gap area, only outdoor coverage is available, with pockets receiving marginal or no coverage.

Signal is weak due to distance of existing facilities. The best serving signals received generally are in the low-band 700 MHz and 850 MHz frequencies, which travel farther because they have longer wavelengths. The high-band PCS and AWS bands operate in the 1900 and 2100 MHz frequencies, and with shorter wavelengths, they do not travel as far.

Verizon Wireless uses PCS and AWS to provide over 70 percent of its 4G LTE service capacity throughout Berkeley, as shown in the following chart. However, the lack of PCS and AWS service is particularly pronounced in the gap area.

Verizon Wireless Capacity by Band

Band	FCC Designation	Frequency	LTE Bandwidth	% of total bandwidth
700 MHz	UHF Low Band	700 MHz	22 MHz	19.64 %
850 MHz	Cellular	850 MHz	10 MHz	8.93 %
PCS	Personal Communications Service	1900 MHz	20 MHz	17.86 %
AWS	Advanced Wireless Service	2100 MHz	60 MHz	53.57 %

Modifying the surrounding facilities is not a feasible solution to the Significant Gap. Other Verizon Wireless facilities serving the gap area are fully built out to provide all channels on all four frequency bands used by Verizon Wireless, except the Shattuck North facility which does not provide the 850 MHz band. As described below, the Shattuck North facility provides very little service to the gap area, and adding the 850 MHz band will not provide significant relief to the Significant Gap.

Coverage Maps

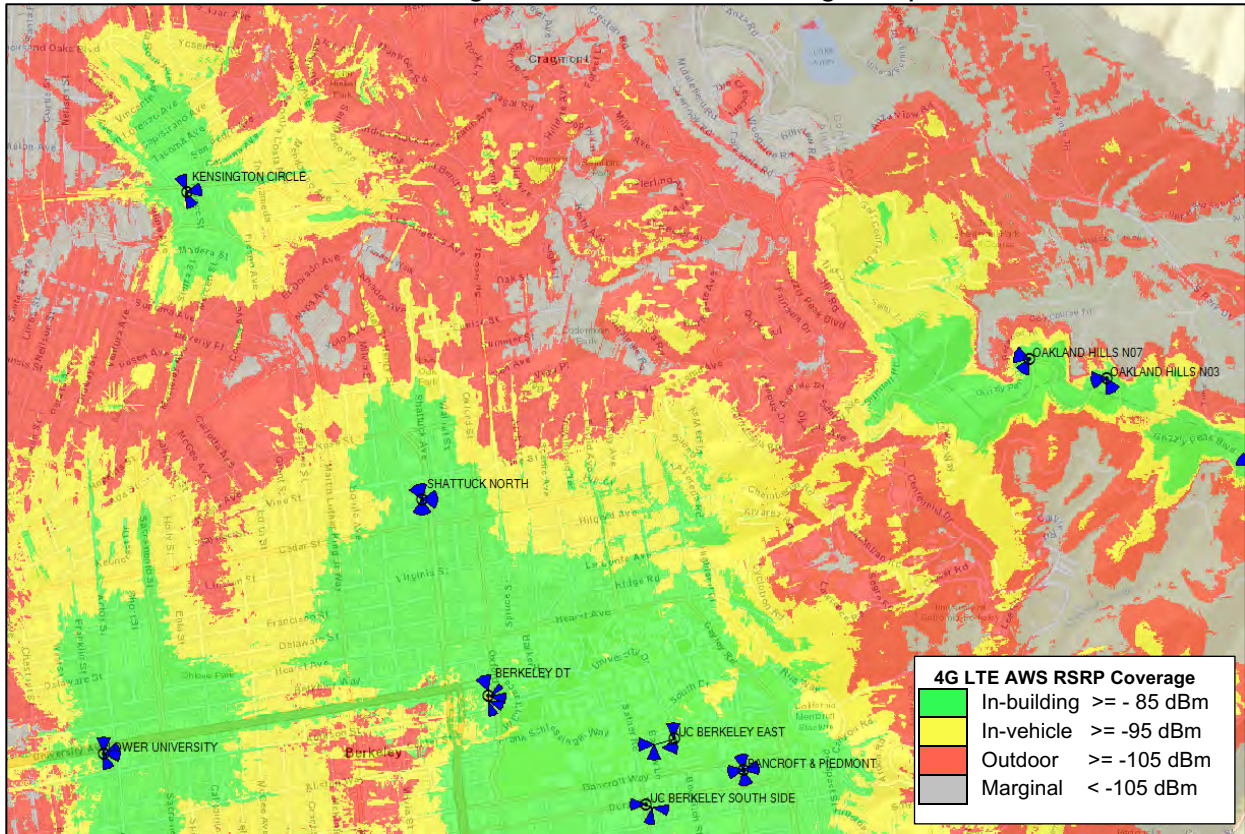
Coverage maps depict the anticipated level of signal, and therefore the projected LTE coverage provided by a wireless facility at a given location. Consistent with the above drive test map showing the actual, measured service levels, the following 4G LTE coverage map shows a lack of high-band service in the north Berkeley hills. There is a lack of in-building coverage and barely any in-vehicle coverage, with the area receiving only outdoor or marginal coverage levels.

Verizon Wireless uses a 4G LTE RF link budget to calculate the maximum allowable path loss (MAPL). The link budget takes into account free space loss, fading and interference margins, and equipment receiver sensitivity to calculate the MAPL. A combination of the transmit power out of the antennas and the MAPL determine the receive signal threshold required for outdoor coverage. Adding vehicle body losses to the calculation determines the receive signal threshold required for in-vehicle coverage. Similarly, adding the building penetration losses to the calculation determines the receive signal threshold required for in-building coverage.

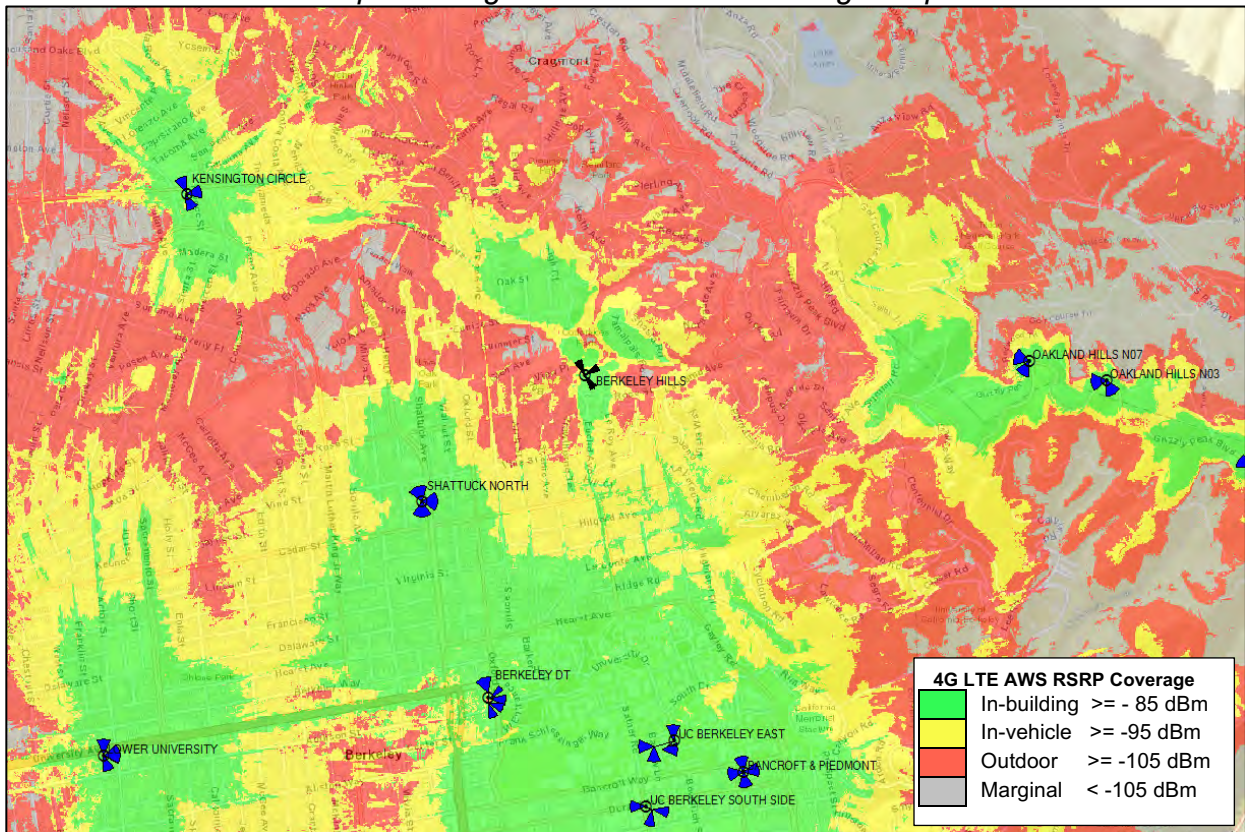
Located near the center of the gap, the Proposed Facility will provide new reliable 4G LTE service coverage to the gap area, including areas near Euclid Avenue between Keith Avenue and Vine Lane. In total, the Proposed Facility will provide improved service coverage to an area of 1.6 square miles and a population of 2,420 residents.

See Coverage Maps on Following Page

Current High-Band 4G LTE Coverage Map



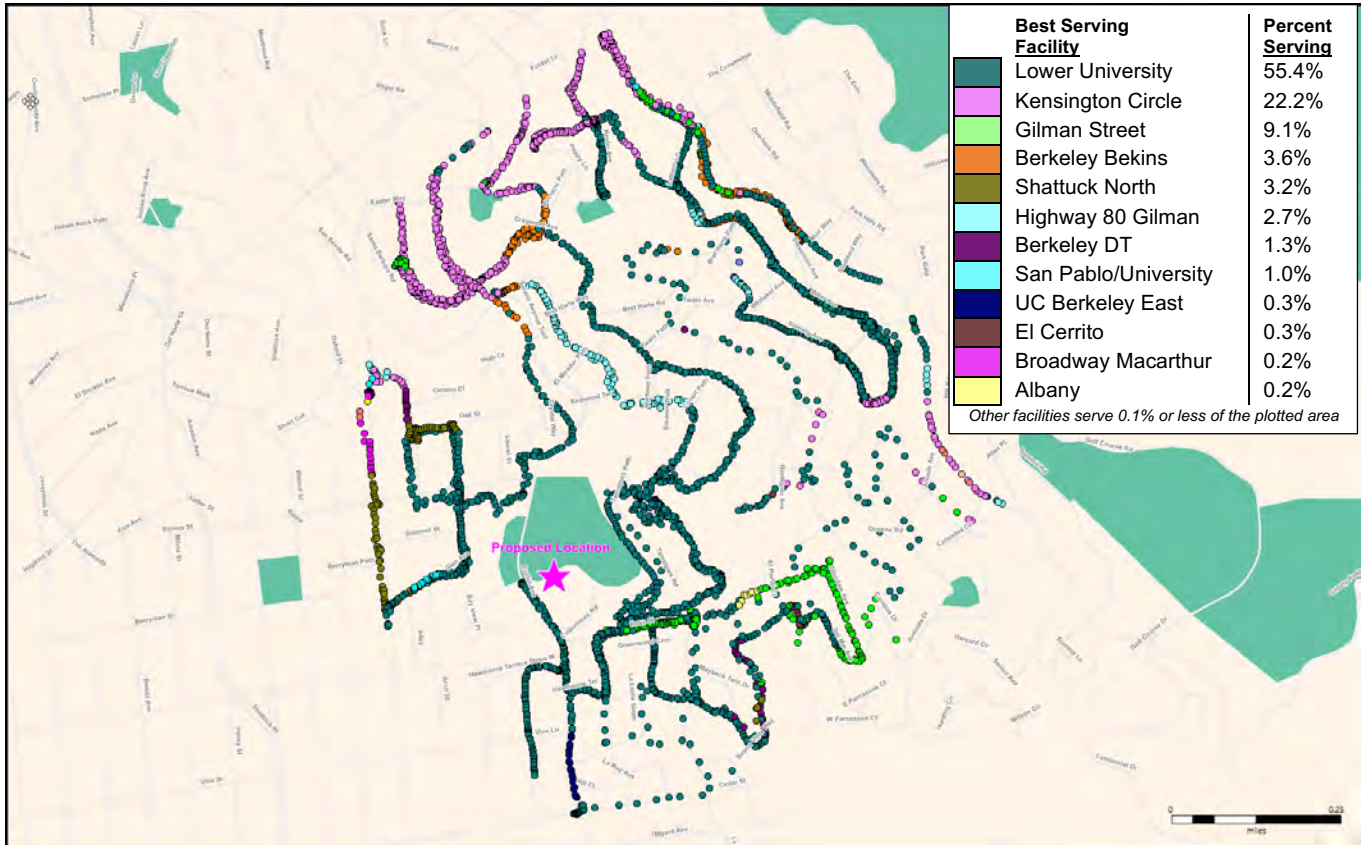
Proposed High-Band 4G LTE Coverage Map



Drive Test - Best Serving Facility

As described above, the specified gap area receives inadequate service from distant Verizon Wireless macro facilities. The following drive test map depicts which Verizon Wireless facility is serving a particular location by providing the strongest signal to customer handsets. Signal from each facility is depicted in a different color. The percentage of the plotted area served by each facility is shown in the legend.

Drive Test Result – Best Serving Facility



Over half of the area plotted is served principally by the Lower University facility 1.6 miles southwest of the Proposed Facility (shown in dark green). As explained below, that facility has reached capacity exhaustion. The Lower University facility serves much of the gap area, though weakly, because it has a good line-of-sight to the hills to the east. The vertical dimension of the beam emitted from an antenna increases in height with greater distance, so signal from the Lower University facility easily reaches elevated terrain in the distant hills to its east, spreading across a broad area. In contrast, the Shattuck North facility is close to the hills, and its signal immediately encounters nearby low-elevation terrain that impedes it from extending to the higher terrain beyond.

The best serving facility map shows scattered service from other facilities throughout the gap area, intermixed with signal from the Lower University facility. This demonstrates a lack of reliable dominant signal, which compromises system

performance for Verizon Wireless customers, including those in transit. As explained above, signal from all of the distant facilities is weak in the gap area, further compromising performance. These factors lead to unreliable service for residents, visitors and emergency services personnel, particularly during busy hours.

The Proposed Facility is strategically located to provide consistent dominant signal to the gap area, ensuring reliable service for customer handsets.

Capacity Gap

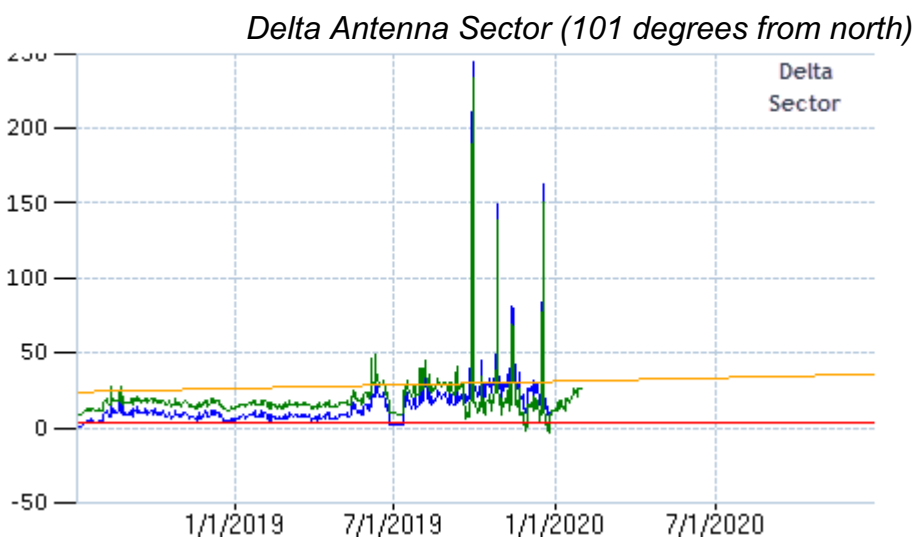
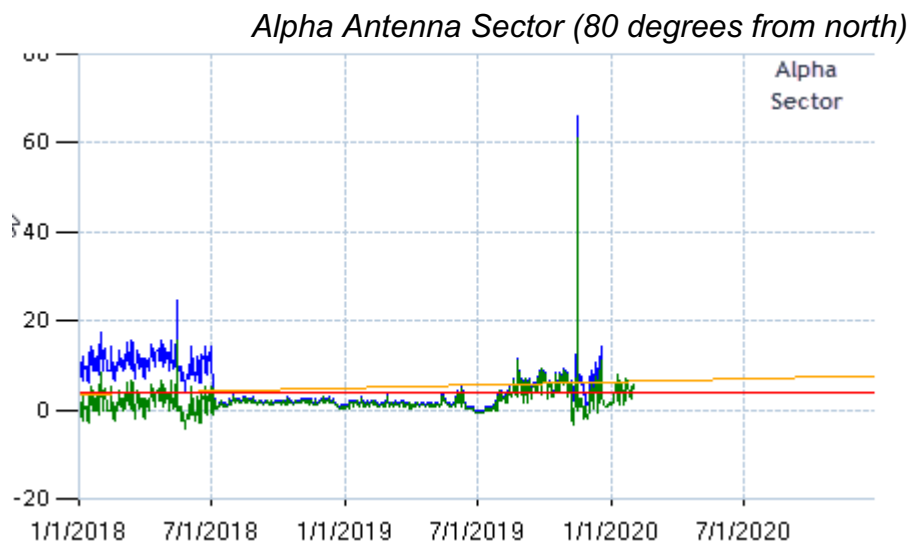
As noted above, the Lower University facility that serves more than half of the gap area has reached capacity exhaustion.

The following capacity chart shows how increased demand has already outstripped the capacity of the Lower University facility's antenna sectors that serve the gap area. The capacity chart depicts the increased usage of this facility through January 2020 as well as predicted usage through late 2020. ASEU (Average Scheduler Eligibility Usage) is a measure of resource management of the facility and shows its ability to schedule the data packets over the radio channel. The ASEU charts show that growth in the number of customers accessing the facility has outstripped its capacity to provide reliable service.

See Capacity Charts on Following Page

ASEU Capacity Charts
 Lower University Facility
 East-Facing Antenna Sectors

- Actual Usage
- Normalized Usage
- Usage Trend
- Capacity Exhaustion



By comparing the trend line of average usage (orange line) with the maximum capacity of a facility (red line), Verizon Wireless RF engineering demonstrates that these Lower University facility antenna sectors reached capacity exhaustion over one year ago. Capacity exhaustion severely compromises the Verizon Wireless network in the entire area served by the exhausted antenna sectors, leading to call failures and slow data speeds, as well as poor call quality and reliability over Verizon Wireless VoLTE technology (the “Capacity Gap”).

At times of high traffic volume, the coverage area of the surrounding Verizon Wireless facilities shrinks to accommodate an increasing number of mobile

devices closer to each facility. As a result, the Coverage Gap area expands and is exacerbated during times of high customer usage. The contraction of coverage during times of high usage has become more relevant as the demand for wireless services has increased rapidly over time. In North America, mobile data traffic increased 44 percent during the year 2016.¹

The Proposed Facility is strategically located to provide new dominant signal to the gap area, which will relieve the overburdened Lower University facility so it can devote its network capacity to customers closer to its location. This will improve overall network performance in Berkeley, and provide new reliable service within the gap area.

As noted, the gap area generally receives weak signal in only the low-band 700 MHz and 850 MHz frequencies, with little to no service in the high-band PCS and AWS frequencies. In addition to low-band service, the Proposed Facility will provide new high-band PCS and AWS service, which provides greater data capacity to customers.

Conclusion

As cellular networks mature, the network must be supplemented with more sites closer to customers, in large measure due to the increase in usage of the network. The LTE technology used by Verizon Wireless to provide 4G service requires facilities closer to customers, and this technology cannot be provided by the existing, distant facilities serving the gap area. These coverage and capacity challenges have resulted in the Significant Gap in Verizon Wireless 4G LTE coverage and network capacity in the north Berkeley hills. Verizon Wireless must deploy the Proposed Facility to provide reliable 4G LTE service to customers and to avoid further degradation of its network in the area of the Significant Gap.

Please feel free to contact me with any questions or comments regarding Verizon Wireless's proposed facility.

Respectfully submitted,

Amr Kharaba
RF Design Engineer
Network Engineering Department
Verizon Wireless



¹ Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021 White Paper, updated March 28, 2017.

WIRELESS PLANNING MEMORANDUM
RE: Alternatives Analysis and Justification Statement

TO: Rincon Consultants, Inc.
FROM: Dr. Jonathan L. Kramer *Jonathan Kramer*
DATE: May 7, 2020
ADDRESS: East Bay Municipal Utility District (“EBMUD”)
 Berryman Reservoir, Berkeley, California

CLIENT: Rincon’s Client – City of Berkeley, California
CARRIER: Verizon
LOC. NO: 273566
LOCATION ID: BERKELEY HILLS
RINCON #: 19-07869

I. SUMMARY

Telecom Law Firm, PC (“TLF”) is subcontractor to the lead contractor for the City of Berkeley (“City”), Rincon Consultants, Inc. (“Rincon”). TLF is a telecommunications law firm retained by local governments. TLF does not work for the wireless industry.

TLF has carefully reviewed the alternatives site analysis and RF justification statements provided by Verizon into the public record for this case.

Verizon’s justification statement and its alternatives analysis reasonably demonstrate that: (a) there are underserved areas within the claimed gap area that are likely to be subject to reducing service levels if a new nearby cell site is not constructed, and (b) among the alternative sites identified by Verizon, the Berryman Reservoir site is most able to serve the claimed gap area with the least visual impact on the community.

II. PROJECT DESCRIPTION

In May 2019, Verizon submitted a wireless application to the City to construct and operate a new wireless site, specifically a 50-foot-tall Monopine, at the East Bay Municipal Utility District (“EBMUD”) Berryman Reservoir in Berkeley, California. Verizon proposes to construct the Monopine north of the existing water tank on the property.

- See Figure 1 for Verizon’s proposed project description;
- See Figure 2 for the overall location of the proposed Monopine and associated base station equipment;
- See Figure 3 for the proposed location of the proposed Monopine and antenna azimuths;

- See Figure 4 for the proposed antenna layout within the canopy of the proposed Monopine; and
- See Figure 5 for an elevation view of the proposed Monopine.

PROJECT DESCRIPTION

A (P) VERIZON WIRELESS UNMANNED TELECOMMUNICATION FACILITY CONSISTING OF INSTALLING:

- (P) 50'-0" HIGH MONOPINE W/ (6) (P) VERIZON WIRELESS ANTENNAS
- (6) (P) RRU UNITS
- (2) (P) SURGE SUPPRESSORS, (1) (P) EQUIPMENT & (1) (P) ANTENNAS
- (P) VERIZON WIRELESS 25'-0"X20'-0" (500 SQ FT) EQUIPMENT LEASE AREA
- (P) VERIZON WIRELESS (177 SQ FT) MONOPINE LEASE AREA
- (P) GPS ANTENNA
- (P) VERIZON WIRELESS 30KW DIESEL GENERATOR ON 132 GALLON UL 2085 RATED FUEL TANK

Figure 1: Verizon's Project Description (Source: Plans, title page T-1).

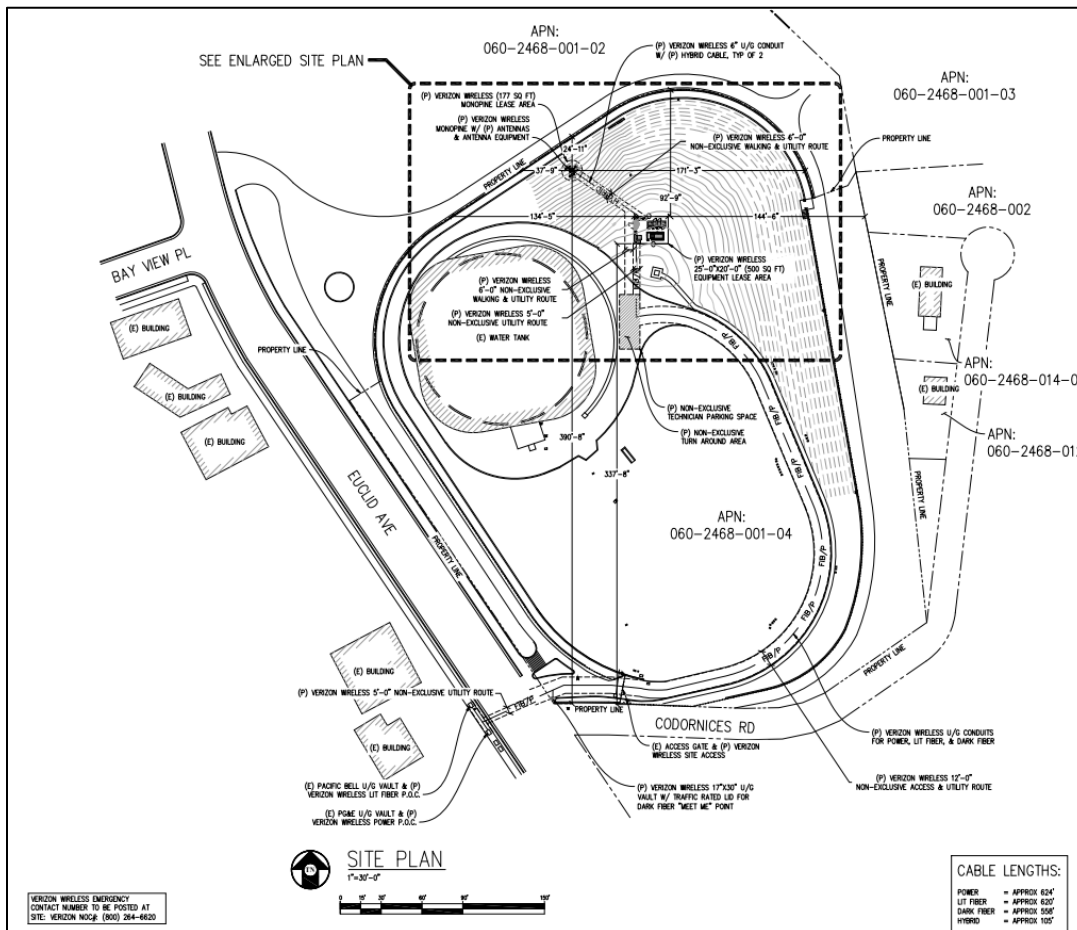


Figure 2: Overall location of the Monopine and associated equipment (Source: Plans, Page A-1).





Figure 3: Approximate (i) location of Monopine and (ii) azimuth orientations for the three proposed antenna sectors (Source: Google Maps; Annotated by Dr. Kramer).

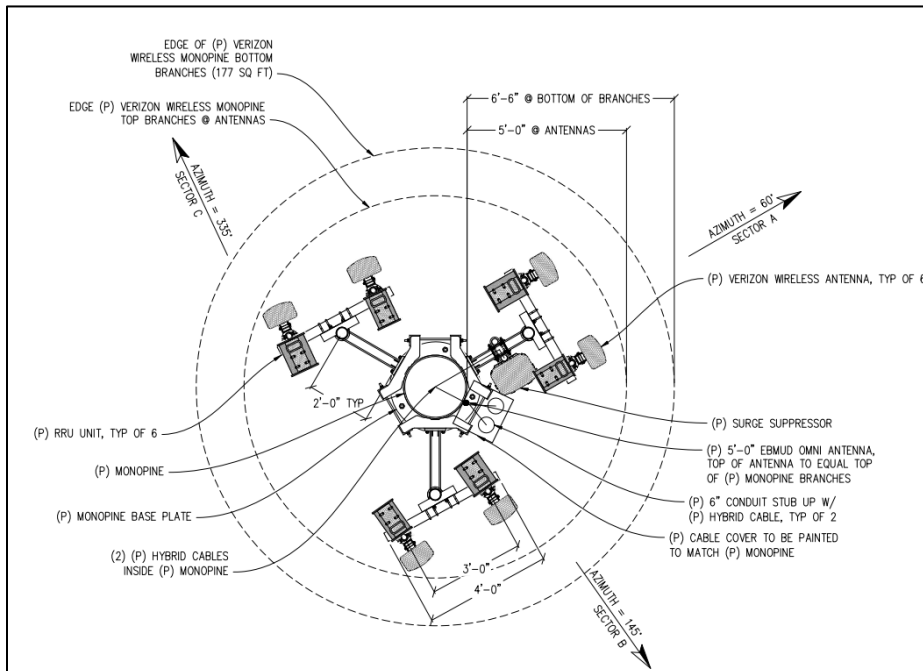


Figure 4: Antenna Plan (Source: Plans, Page A-4).



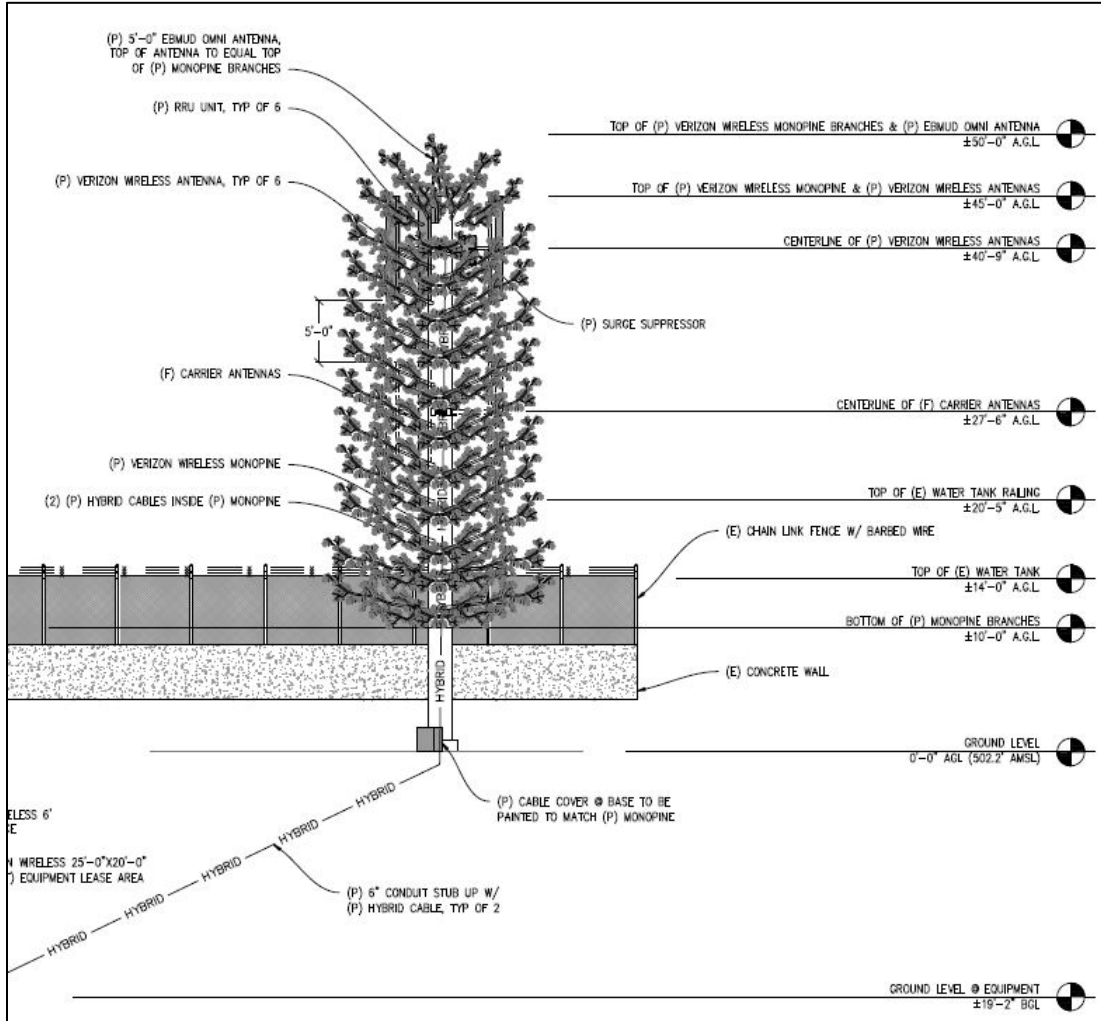


Figure 5: Overall height and design of Monopine (Elevation view; Source: Plans Page A5).

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III. ALTERNATIVES ANALYSIS

The City, through Rincon, requested that TLF review Verizon’s submitted alternatives analysis, prepared conducted by Ridge Communications, Inc. and compiled by Mackenzie & Albritton LLP and dated March 5, 2020 (“**Alternatives Analysis**”).

<i>Review of Microcell Network.....</i>
<i>Façade- and Roof-Mounted Facilities</i>
1. Congregation Beth Israel
2. Oxford Elementary School
3. Jane Goodall Institute
<i>Freestanding Tower Facilities.....</i>
4. Proposed Facility – Berryman Reservoir
5. Codornices Park
6. Berkeley Rose Garden
7. Glendale-La Loma Park
8. PG&E Ridge Substation
9. Summit Reservoir
10. Bay Tree Reservoir

Figure 6: List of ten alternative sites analysis (Source: Alternatives Analysis).

The next sections analyze each of the alternatives as well as cross-compare them with the proposed Monopine.

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1. Alternative No. 1: “CONGREGATION BETH ISRAEL” - See Figure 7

Address: 1301 Oxford Street

Elevation: 320 Feet

Zoning: R-1 Residential

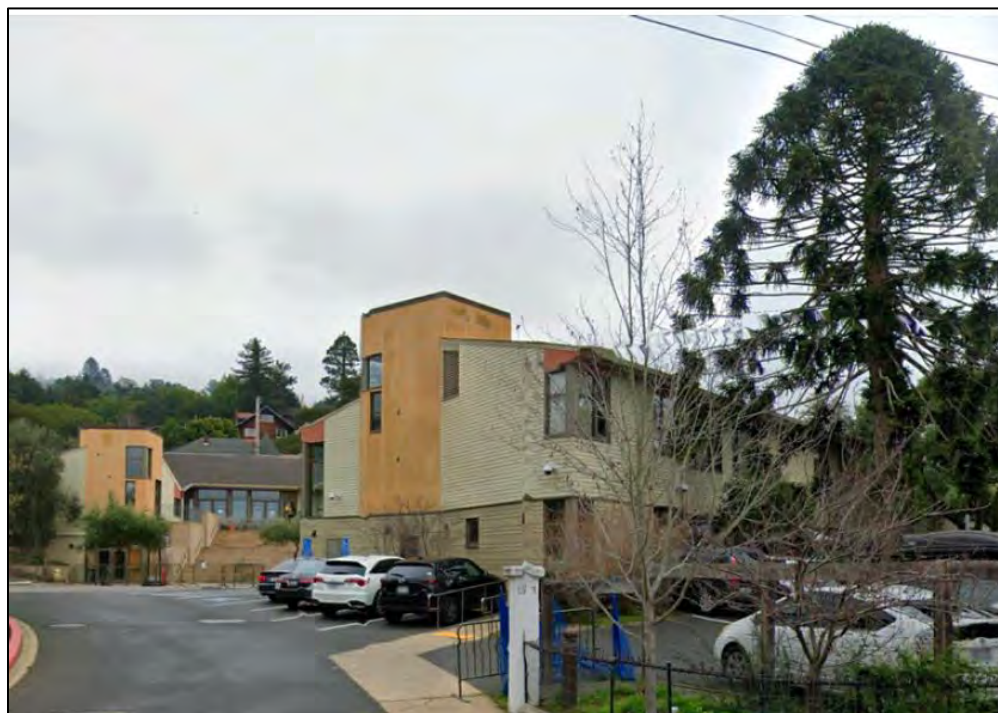


Figure 7: “Congregation Beth Israel” (actually Congregation Beth El).
(Source: Alternatives Analysis).

Alternative No. 1, Congregation Beth El (misabeled by Verizon as Congregation Beth Israel) is surrounded primarily by single family residences.

Figure 8a depicts a close-in view of Verizon’s projected coverage map of the High-Band 4G LTE Coverage that would be provided by a facility located at Congregation Beth El. Figure 8a can be compared to Figure 8b, the projected Verizon coverage from the proposed Berryman Reservoir site at the same scale.

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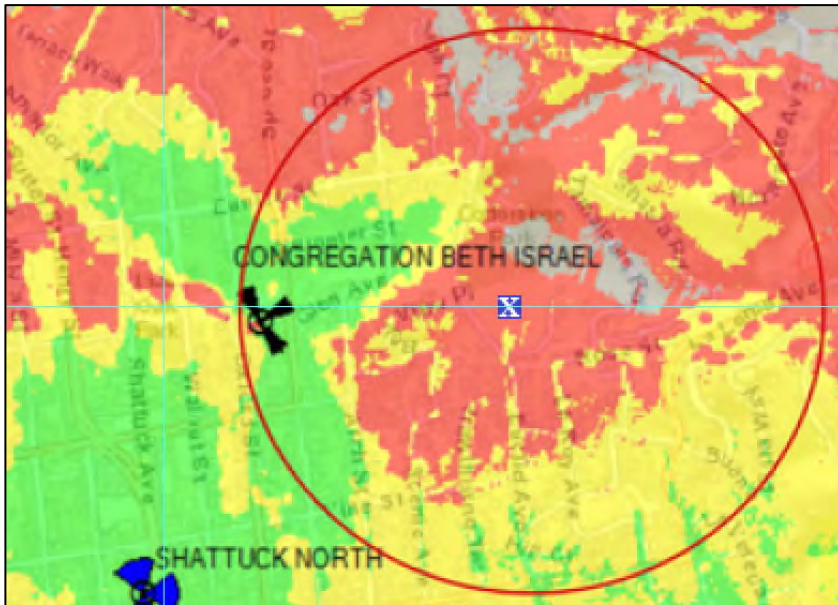


Figure 8a: Estimated coverage from Alt 1 site. The white "X" shows the approximately of the Berryman Reservoir.

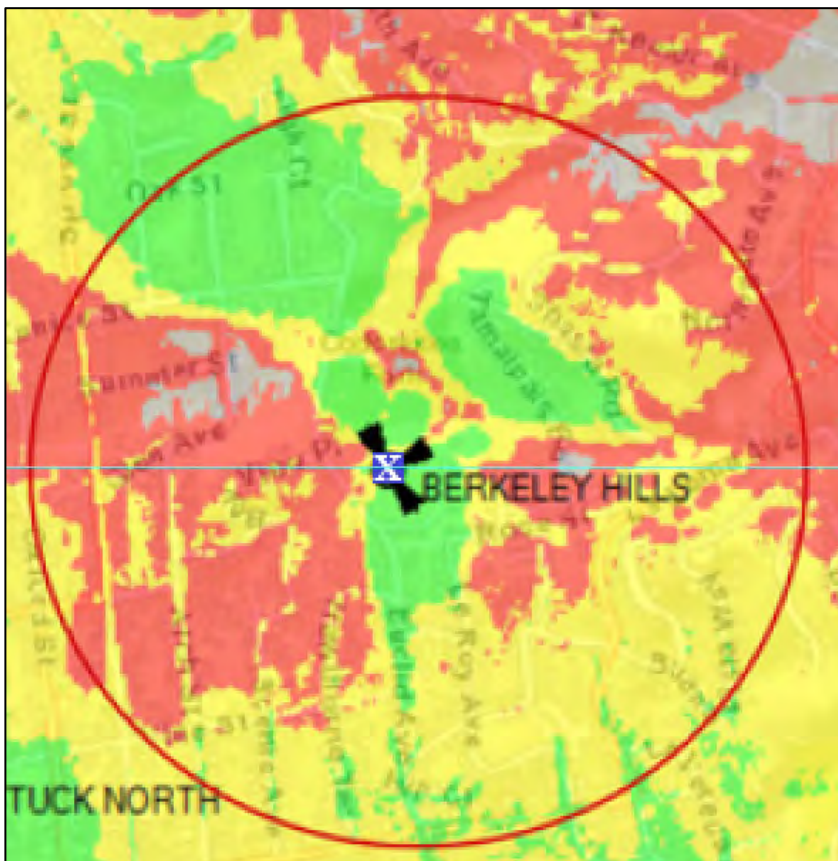


Figure 8b: Estimated coverage from the Berryman Reservoir candidate site (white "X").



From the estimated coverage maps in Figures 8a and 8b it is seen the projected signal coverage from Alt 1 would be mainly to the west portion of the Verizon-claimed gap area, and that the candidate site at the Berryman Reservoir, which is substantially higher in elevation above sea level would provide substantially greater ‘fill in’ of the claimed gap area. As the elevation rises from west to east, the estimated signal from Alt 1 is attenuated or shadowed by the terrain.

This alternative location is immediately adjacent to residential uses. Moreover, a site at Alt 1 would be substantially closer to residences than Verizon’s candidate site at the Berryman Reservoir. The residential uses near Alt 1 are denser—both in proximity to each other and the religious center—than compared to those near the Berryman Reservoir.

From the perspective of improving signal coverage in Verizon’s claimed gap area with less impact on community aesthetics, the Berryman Reservoir site is materially superior to Alt. 1.

2. Alternative No. 2: “OXFORD ELEMENTARY SCHOOL”- See Figure 9

Address: 1301 Oxford Street

Elevation: 380 Feet

Zoning: R-1 Residential



Figure 9: Oxford Elementary School (Source: Alternatives Analysis).

TLF notes that the Alternatives Analysis indicated that the Berkeley Unified School District responded to Verizon that the District is not interested in hosting a cell site at



this location. To the extent that this representation is true, this alternative should be considered not potentially available and therefore not a viable alternative candidate to the proposed site at the Berryman Reservoir.

Additionally, Verizon has misidentified the location of the school as being the same as that of Verizon's misidentified "Congregation Beth Israel" (correctly, Congregation Beth El). The correct address for Oxford Elementary School is 1130 Oxford Street.

Notwithstanding the lack of landlord interest, it is extremely unlikely that a site at this school would provide substantially equal or more coverage to Verizon's claimed gap area, much less more or even equally effective as the proposed Berryman Reservoir site. These factors strongly suggest that a site at the school would suffer from the similar technical concerns presented by a facility were it to be placed at Congregation Beth El.

Finally, this alternative location is immediately adjacent to residential uses, which would not be the case at the proposed Berryman Reservoir site.

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3. Alternative No. 3: "JANE GOODALL INSTITUTE" - See Figure 10

Address: 1581 Leroy Avenue

Elevation: 540 Feet

Zoning: R-1 Residential



Figure 10: Jane Goodall Institute (Source: Alternatives Analysis).

We note that Verizon misidentifies the address of this location as "1581 Leroy Avenue." The correct address is 1581 Le Roy Avenue.

This alternative location is immediately adjacent to residential uses, which is not the case at the Berryman Reservoir.

Figure 11a depicts a close-in coverage map of the High-Band 4G LTE Coverage Provided by a Facility at the Jane Goodall Institute compared to Figure 11b, the coverage from proposed site at the same close-in scale.

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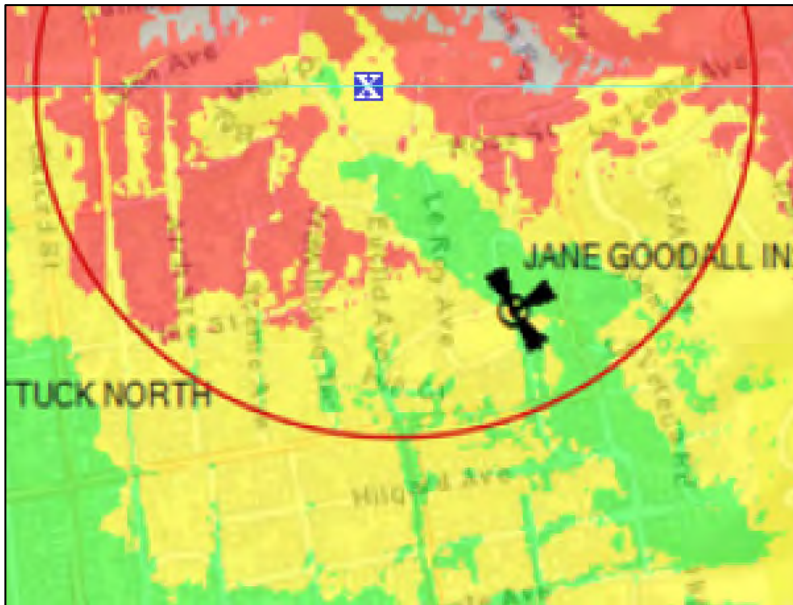


Figure 11a: Estimated coverage from Alt 3 site. The white “X” shows the approximately of the Berryman Reservoir

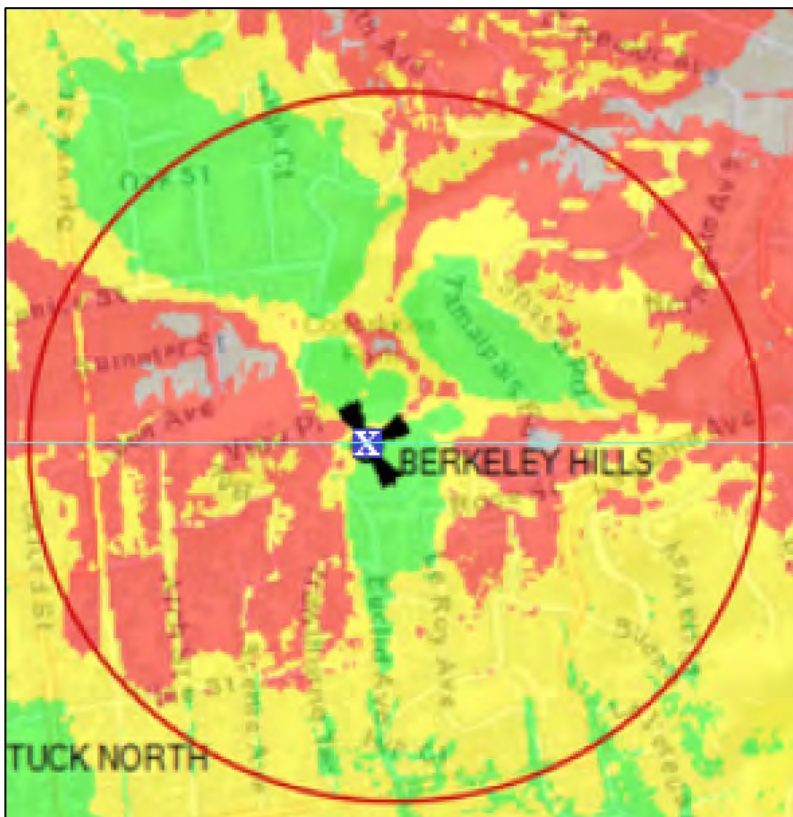


Figure 11b: Estimated coverage from the Berryman Reservoir candidate site (white “X”).



From the estimated coverage maps in Figures 11a and 11b it is seen the coverage from Alt 3 would be mainly to a small southernly portion of the Verizon-claimed gap area, and that the candidate site at the Berryman Reservoir, which is lower than Alt. 3 would provide substantially greater 'fill in' of the claimed gap area.

Moreover, a site at Alt 3 would be closer to more residences than Verizon's candidate site at the Berryman Reservoir. The residential uses near Alt 3 are denser—both in proximity to each other and the Jane Goodall Institute—than compared to those near the reservoir. Alt 3 appears to be potentially superior to Alt 1 due to slightly less dense development nearby and a larger property with more concealment opportunities, but not to the candidate site at the reservoir.

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4. BERRYMAN RESERVOIR (Primary Candidate)

Address: 0 Euclid
Elevation: 500 Feet
Zoning: R-1 Residential

This is the primary candidate site. The projected coverage from this site is shown in Figure 12, below:

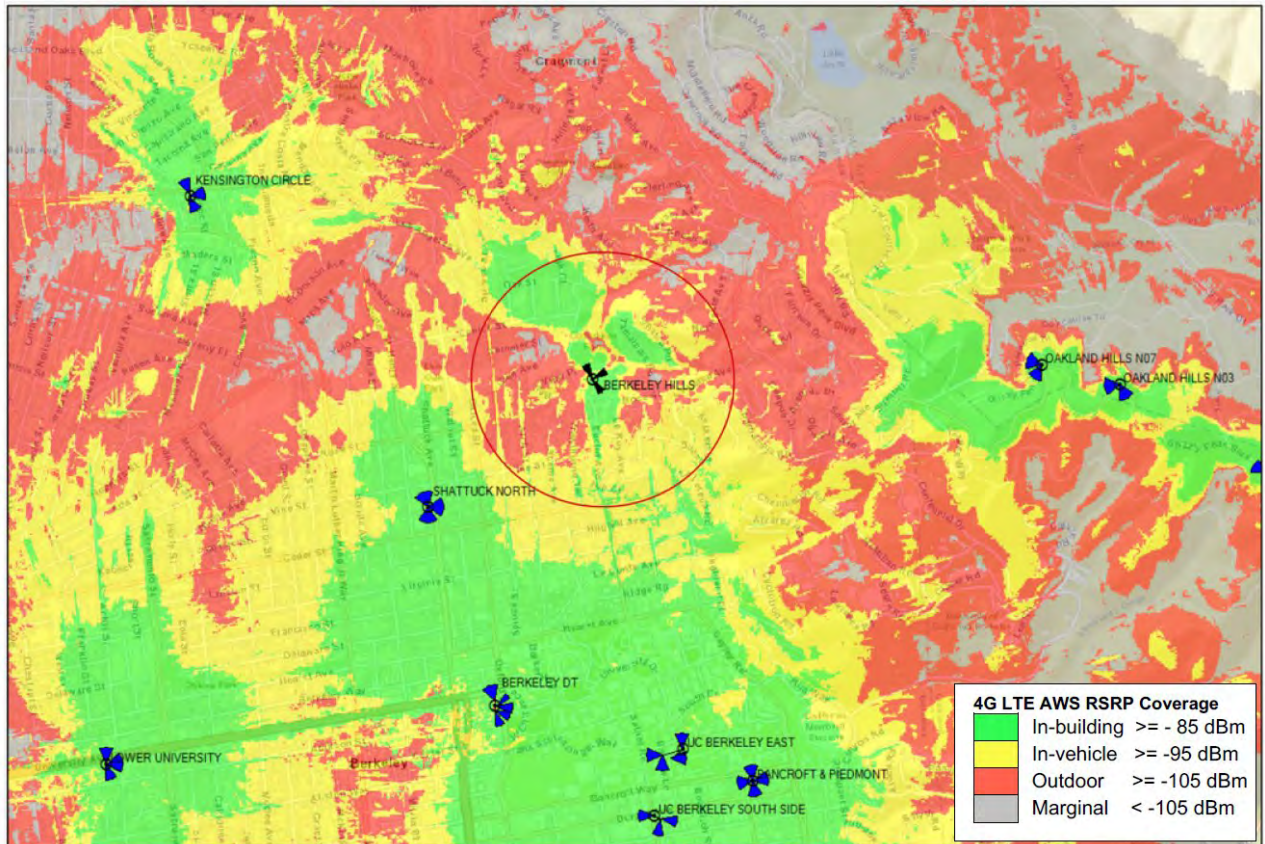


Figure 12: Estimated coverage from proposed candidate site at the Berryman Reservoir.

In relation to the other alternatives identified by Verizon, the proposed site provides the most estimated signal coverage within Verizon’s claimed gap area, show as the red circle on the estimated coverage map.

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TLF notes that the Berryman Reservoir is located immediately south of Codornices Park, a City owned public park, which is discussed in the next section.

TLF has analyzed publicly available photographs taken within and above Codornices Park to assess whether a wireless site located at the Berryman Reservoir would be “readily visible” from that public park.

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Figure 13a shows a flyover view of Codornices Park looking south to Berryman Reservoir. Note the stand of mature trees identified by the white arrow between Codornices Park and Berryman Reservoir.



Figure 13a: Flyover view looking south over Cordornices Park to the Berryman Reservoir (Source: Bing “Birds Eye” view; annotated by Dr. Kramer).

A second stand of mature trees, also located inside Cordornices Park just south of the sandy play area and the Basketball court, is shown in Figure 13b.





Figure 13b: Flyover view looking south over Cordornices Park to the Berryman Reservoir (Source: Bing “Birds Eye” view; annotated by Dr. Kramer).

The City of Berkeley Municipal Code Section 23F.04.010 (“Definitions”) defined the term “readily visible” as follows:



“A wireless telecommunications facility is readily visible if it can be seen from street level or from the main living area of a legal residence in a residential district or from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape, protrudes above or out from the building or structure ridgeline, or is otherwise not sufficiently camouflaged or designed to be compatible with the appurtenant architecture or building materials. For purposes of this definition, "main living area" means the living and dining and similar areas of a dwelling, but not bedrooms, bathrooms or similar areas.”

The directly relevant portion of the Municipal Code just cited is: “A wireless telecommunications facility is readily visible if it can be seen ...from a public park by a person with normal vision, and distinguished as an antenna or other component of a wireless telecommunication facility, due to the fact that it stands out as a prominent feature of the landscape... “

Assessing the physical layout of Cordornices Park, including the stands of mature trees, and the proposed wireless site monopine tree camouflage for the trunk and antennas of the proposed site, TLF believes that Verizon’s proposed site at the Berryman Reservoir will not be ‘readily visible” within the meaning of Berkeley Municipal Code Section 23C.17.050(B) incorporating the relevant definition in Berkeley Municipal Code Section 23F.04.010.

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5. Alternative No. 5: “CODORNICES PARK” - See Figure 14

Address: 1201 Euclid Avenue

Elevation: 500 Feet

Zoning: R-1 Residential

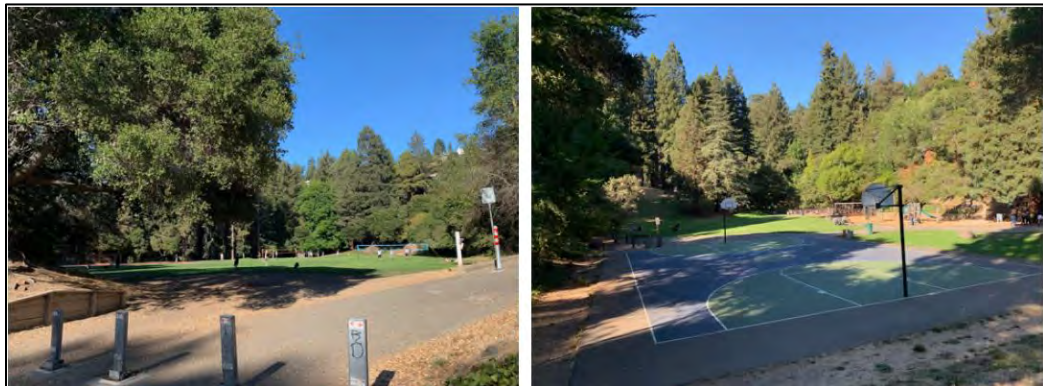


Figure 14: Codornices Park (Source: Alternatives Analysis).

Alt. 5 is located immediately north of the proposed candidate site.

The Alternative Analysis provided by Verizon for this site indicates that “[t]his [alternative] cannot be considered a less intrusive alternative to the Proposed Facility.” TLF agrees, and refers the reader to Berkeley Municipal Code Section 23C.17.050(B), which says in relevant part, “No wireless communications facilities shall be sited on or above a ridgeline or at any other location readily visible from a public park, unless the Zoning Adjustments Board makes the applicable findings required in Section 23C.17.100.” If this alternative were selected, the cell site would be readily visible from within the park.

Verizon elected not to provide a proposed coverage map for a site located at Codornices Park, but for all useful purposes it would be essentially identical to the proposed coverage from the proposed candidate site at Berryman Reservoir.

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6. Alternative No. 6: “BERKELEY ROSE GARDEN” - See Figure 15.

Address: 1200 Euclid Avenue

Elevation: 420-480 Feet

Zoning: R-1 Residential



Figure 15: Berkeley Rose Garden (Source: Alternatives Analysis).

Alt 6 is located directly west of Cordornices Park across Euclid Avenue, and just northwest of the proposed candidate site. Alt 6 has closely adjacent homes.

Verizon’s Alternative Analysis for this site indicated that “A very tall facility within the Rose Garden park would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility”. TLF agrees.

A wireless site at Alt 6 is visually counterintuitive as it would place a faux tree structure in an area reserved to preserve and present living flora.

Alt 6 location is immediately adjacent to residential uses, which is not the case at the Berryman Reservoir.

Verizon elected not to provide a proposed coverage map for a site located at the Berkeley Rose Garden Park, but for all useful purposes it would be essentially identical to the proposed coverage from the proposed candidate site at Berryman Reservoir.

Based on the multiple stands of mature trees visually isolating the Berkeley Rose Garden from the Berryman Reservoir, TLF concludes that the proposed wireless site at Berryman Reservoir will not be “readily visible” from the Berkeley Rose Garden, a public park, but that a cell site within the Rose Garden would be “readily visible” to the public from within the park.



7. Alternative No. 7: “GLENDALE LA LOMA PARK”- See Figure 16

Address: 1310 La Loma Avenue
Elevation: 780-840 Feet
Zoning: R-1 Residential



Figure 16: Glendale La Loma Park (Source: Alternatives Analysis).

The Alternative Analysis for this site indicated that: “...the Code discourages facilities visible from a public park. As noted, a tower facility at the western edge within this park would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility.”

Verizon’s Alternative Analysis for this site indicated that “a tower facility at the western edge within [Glendale-La Loma Park] would be readily visible to park users. This cannot be considered a less intrusive alternative to the Proposed Facility.” TLF agrees , but notes that based on the distance from and mature trees between multiple stands of mature trees and existing residential structures visually separating Glendale La Loma Park from the Berryman Reservoir, the proposed wireless site at Berryman Reservoir will not be “readily visible” at the Glendale La Loma Park.



Verizon elected not to provide a proposed coverage map for a site located at the Glendale La Loma Park, but for all useful purposes it would be like the proposed coverage from the proposed candidate site at Berryman Reservoir.

Alt 7 is immediately adjacent to residential uses, which is not the case at the Berryman Reservoir.

8. Alternative No. 8: “PG&E RIDGE SUBSTATION”-See Figure 17

Address: 1313 Glendale Avenue

Elevation: 855 Feet

Zoning: R-1 Residential



Figure 17: PG&E Substation (Source: Alternatives Analysis).

Verizon’s Alternative Analysis for this site indicated that “[a] wireless facility placed on the one story building could not serve the gap because ridges north and south would block signal [sic]; a tower facility would be required. The only area of the property potentially viable for placement of a new tower foundation and equipment area is the small parking lot, where a tower would be within 50 feet of homes. A new tower facility at this location would present substantial visual impact as viewed.”



TLF has reviewed this alternative site using topographic maps and agrees with Verizon that the local topography is unfavorable to a rooftop cell site this location. Moreover, the apparent limited space in the adjacent parking area would be too small for a macrocell site, and even if so, would require the removal of trees in that lot.

Moreover, this site is immediately adjacent to residential uses, which is not the case at the Berryman Reservoir.

9. Alternative No. 9: "SUMMIT RESERVOIR" - See Figure 18

Address: Summit Road (N37.884227, W122.246064)

Elevation: 1,340 Feet

Zoning: City of Oakland



Figure 18: Summit Reservoir (Source: Alternative Analysis).

Figure 19 depicts a coverage map of the High-Band LTE Coverage Provided by the Facility at Summit Reservoir in relation to the area of the Berryman Reservoir (marked with the white "X").

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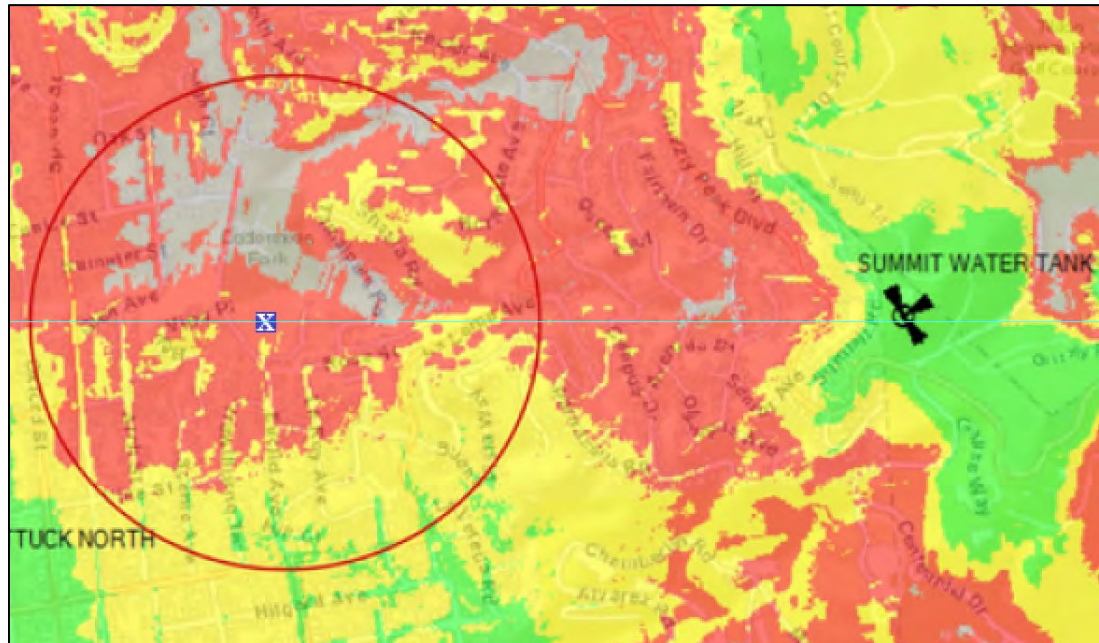


Figure 19: Emissions from Summit Reservoir (Source: Alternatives Analysis; annotated by Dr. Kramer).

Verizon reports that “[d]ue to inability [of the Summit Reservoir] to serve the Significant Gap, this is not a feasible alternative to the Proposed Facility.”

TLF agrees. The topography between the Summit alternative and the area of Verizon’s claimed gap prevents the Summit site from being considered as a viable alternative. No signals from this alternative would provide any benefit to the area claimed by Verizon to be in a service gap.

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10. Alternative No. 10: "BAY TREE RESERVOIR" -See Figure 20

Address: Bay Tree Lane
Elevation: 1,150 Feet
Zoning: R-1 Residential



Figure 20: Bay Tree Reservoir (Source: Alternatives Analysis).

Figure 21 depicts a predicted coverage map of the High-Band LTE Coverage Provided by the Facility at Bay Tree Reservoir.

[Balance of page intentionally left blank]



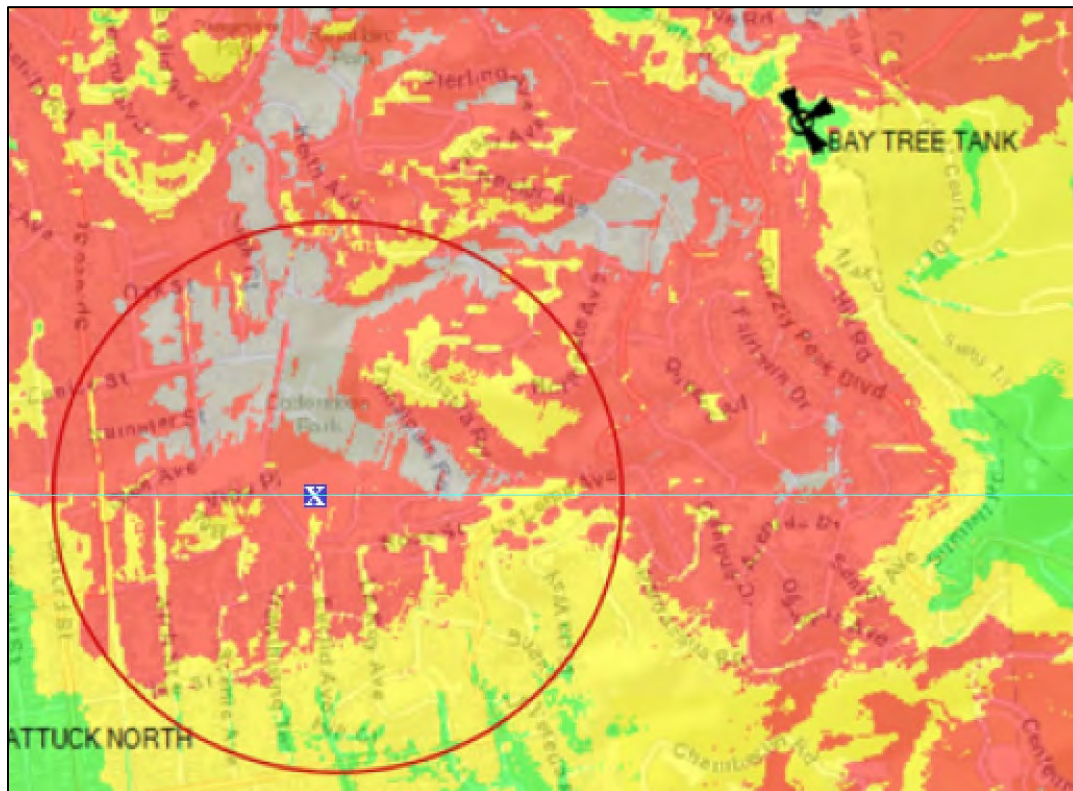


Figure 21: Emissions from Bay Tree Reservoir (Source: Alternatives Analysis; annotation by Dr. Kramer).

Verizon reports that its "...RF engineers determined that a facility at this location cannot serve the Significant Gap. As shown in the [] coverage map, a facility at this location of the same height as the Proposed Facility would not provide any new coverage to the identified gap area." TLF agrees. The Bay Tree Reservoir would afford no coverage whatsoever to the gap area claimed by Verizon. As such, this is not a viable alternative to the proposed Berryman Reservoir site.

A. Conclusion as to Alternative Sites

It is TLF's conclusion that none of the alternative sites identified by Verizon offer any realistic possibility to be a viable alternative to the proposed Berryman Reservoir site. Moreover, of the sites identified by Verizon, the Berryman Reservoir site is the location best suited to reducing Verizon's claimed gap, with the least visual intrusion, and the greatest distance from the site to the most nearby residential uses.

[Balance of page intentionally left blank]



IV. RADIO FREQUENCY JUSTIFICATION STATEMENT ANALYSIS

The City also requested that TLF review and comment on Verizon’s March 5, 2020 Radio Frequency (“RF”) statement (“RF Justification Statement”). As an initial observation, Verizon is presently proposing a 4G network upgrade, rather than a 5G network deployment.

The RF Justification Statement indicated that on December 17, 2019 Verizon conducted a drive test through the Berkeley streets in the claimed gap area to measure the then-existing 4G LTE signal strengths. See Figure 22 for the drive test results.

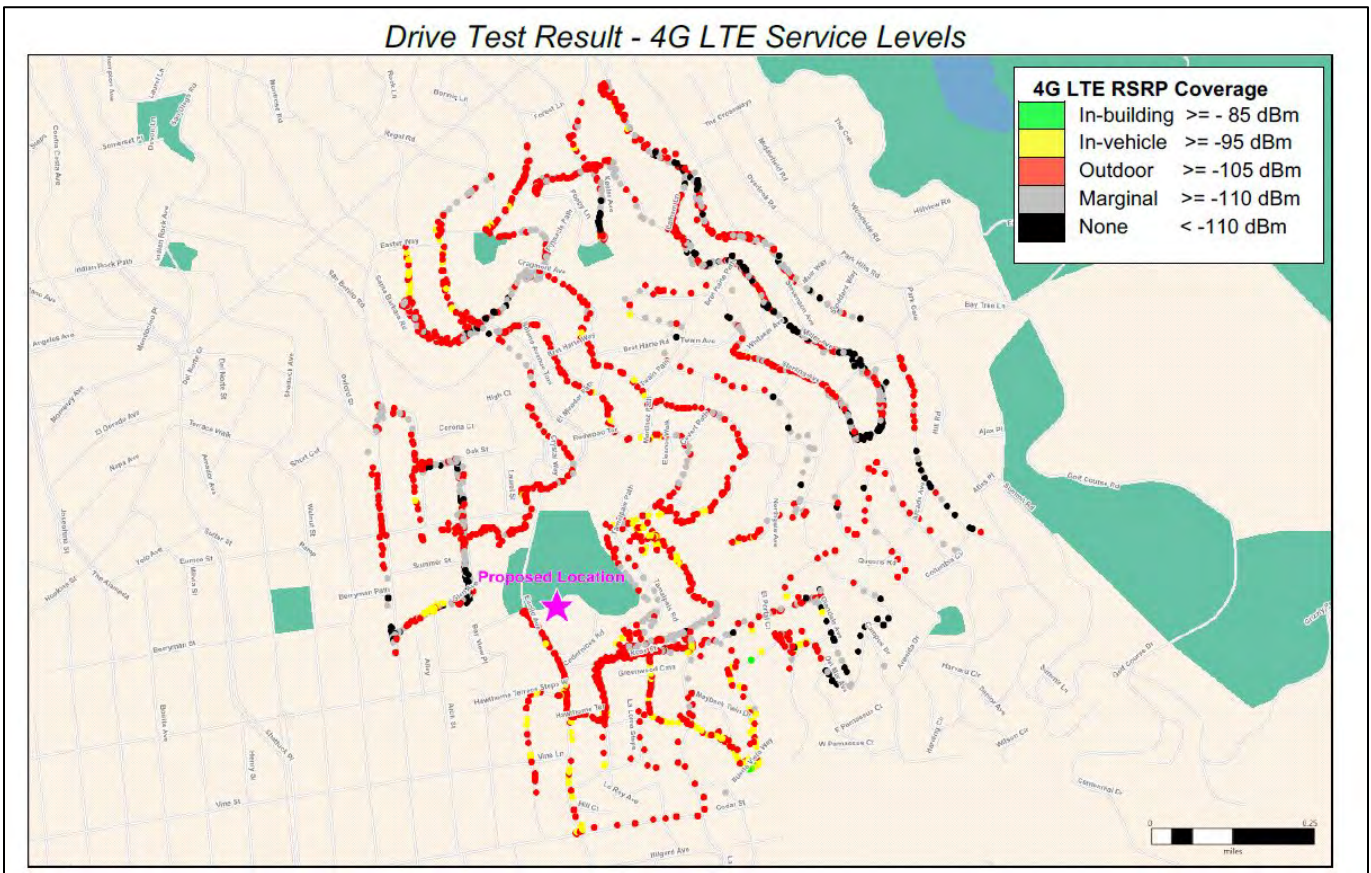


Figure 22: Drive Test Results (Source: RF Justification Statement).

The dot-plotted results shown in Figure 22 are a usual and customary means of expressing signal strength at a given location. The type of dot-map is produced by connecting a cellular receiver’s signal strength measurements coupled with a GPS receiver’s location data into a computer while driving on the street segments shown with dots. The data are later analyzed and printed to scale on a local street map, all as shown in Figure 22.



In addition to the signal strength gradients shown in Figure 22, Verizon supplied those objective level bands with written descriptions of what each color means to Verizon. The chart that Verizon provided to accomplish that task is show below in Figure 23:

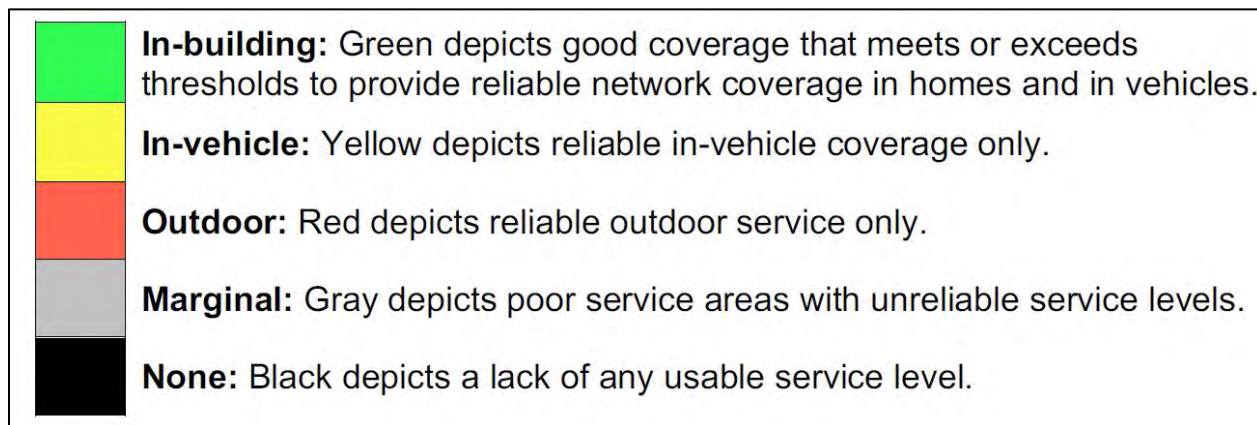


Figure 23: Coverage Thresholds (Source: RF Justification Statement).

Note that the levels and descriptions shown above are solely selected by Verizon. They are not set or otherwise regulated by the FCC or any State of California agency, and each wireless company is free to select its own levels and descriptions.

Verizon’s RF Justification Statement indicated that it uses PCS and AWS to provide over 70% of its 4G LTE services throughout the City of Berkeley. See Figure 24 for the bands of services, frequencies, LTE bandwidth and the percentage of the total bandwidth within the area of the City of Berkeley.

<i>Verizon Wireless Capacity by Band</i>				
Band	FCC Designation	Frequency	LTE Bandwidth	% of total bandwidth
700 MHz	UHF Low Band	700 MHz	22 MHz	19.64 %
850 MHz	Cellular	850 MHz	10 MHz	8.93 %
PCS	Personal Communications Service	1900 MHz	20 MHz	17.86 %
AWS	Advanced Wireless Service	2100 MHz	60 MHz	53.57 %

Figure 24: Percentage of total bandwidth in the area by band (Source: RF Justification Statement).

The RF Justification Statement provided the coverage maps of the existing high-band 4G LTE and the proposed high-band 4G LTE. See Figure 25.

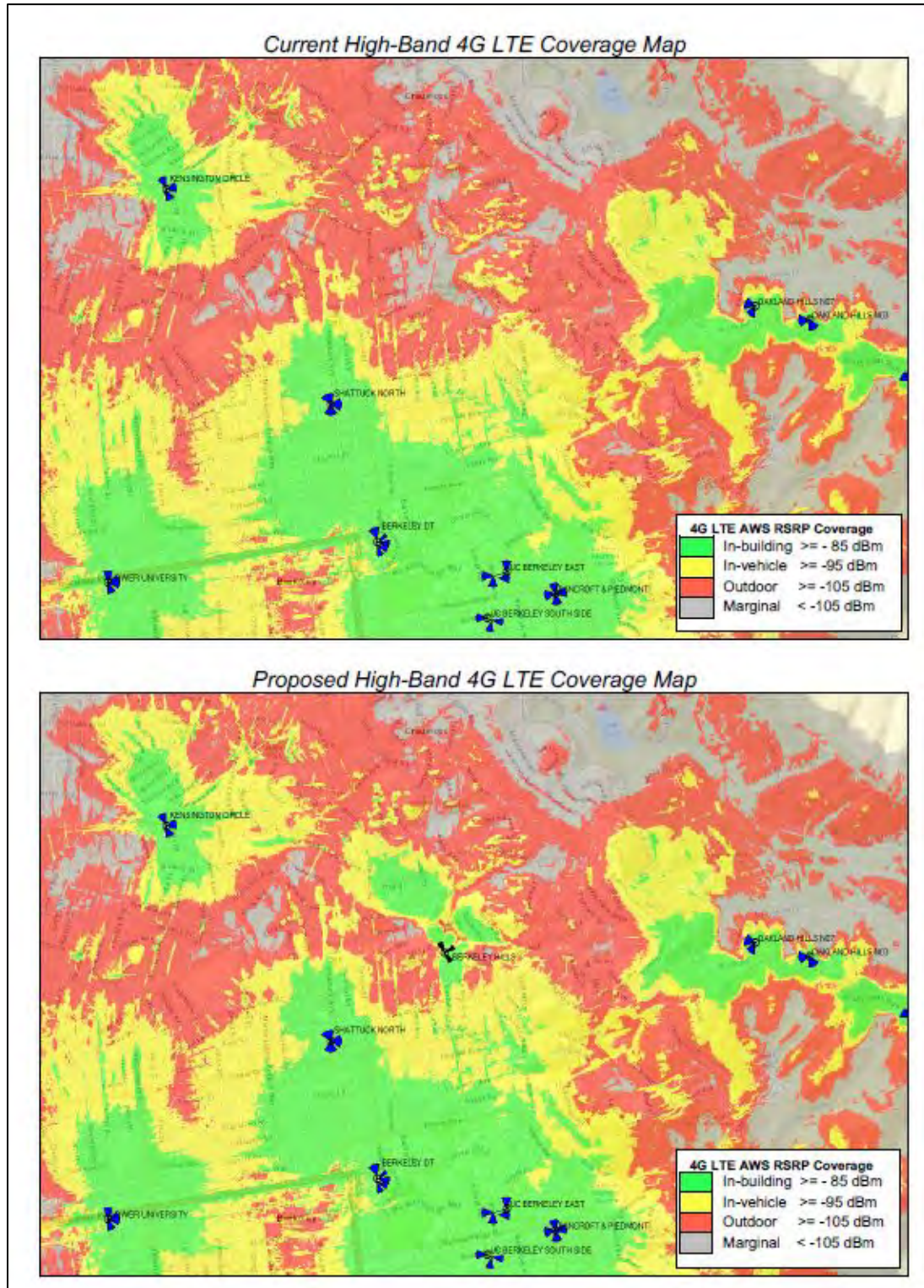


Figure 25: Current and proposed high-band 4G LTE (Source: RF Justification Statement).



As may be deduced by looking at the before-and-after maps jointly shown in Figure 25, many “in-building” coverage gaps will remain presuming that the proposed site is constructed. That is common for evolving wireless network.

The RF Justification Statement included a drive test map depicting different but relevant data. Specifically, the “Best Serving Facility” map, produced by the same drive test described above, lists which cell site was received at a particular location. See Figure 26.

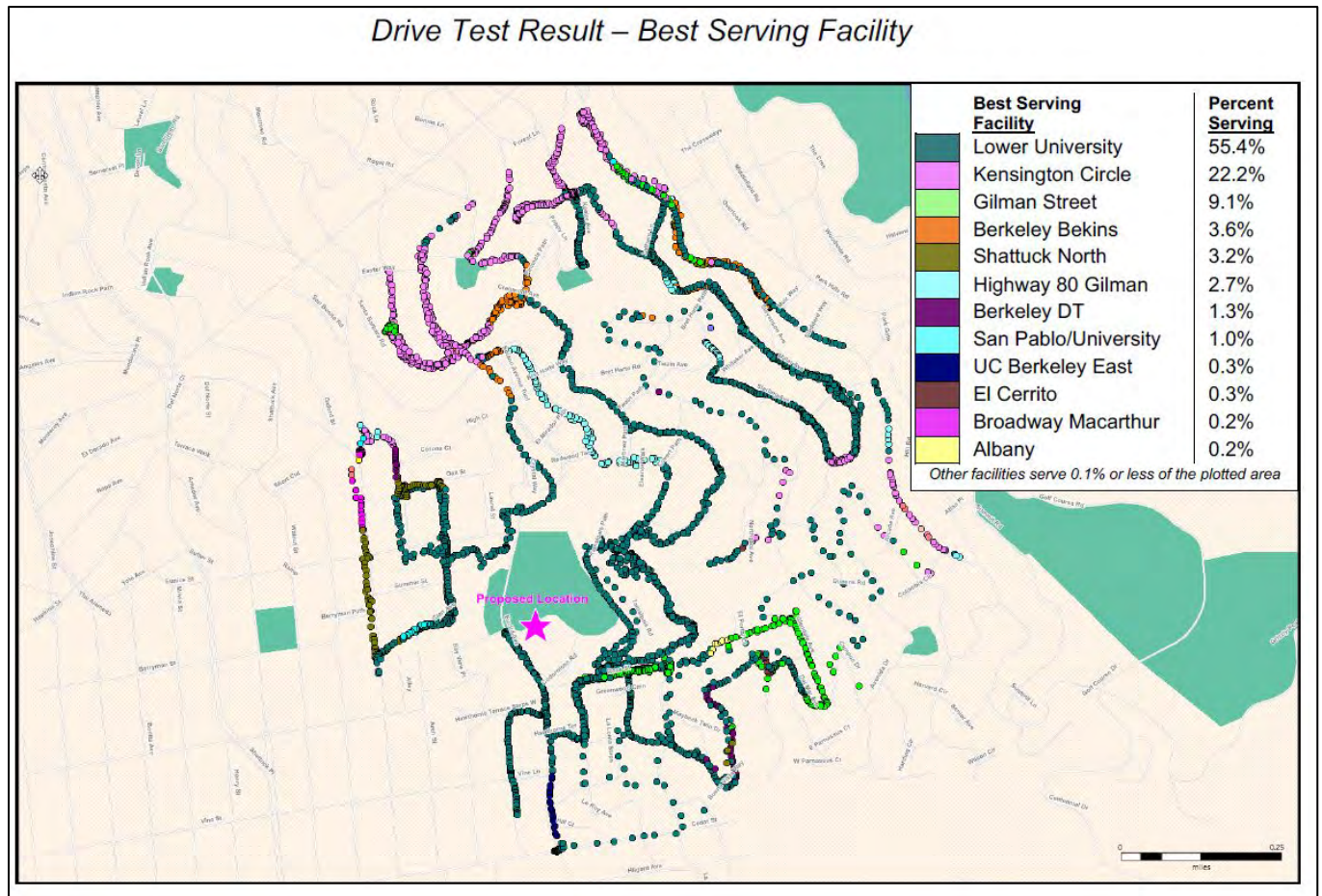


Figure 26: Drive test results for Macros services specific areas (Source: RF Justification Statement).

The information displayed in Figure 26 is helpful because it shows twelve cell sites are currently serving the claimed gap area measured by Verizon. Of the twelve serving cell sites, one site (“Lower University” serves over 50 percent of the claimed gap area. In total, the highest four sites serve over 90 percent of the claimed gap area, but in total this map also shows that cellular users in the area are likely to be “bounced” from one cell site to another to another, rather than connected to and staying with a single dominant area cell site signal source as would be the case



with the Berryman Reservoir site if built. Staying on a single dominant area cell site is preferred from a network management standpoint, and also promotes greater data throughput (which for this purpose equates to higher data transfer speeds).

Finally, Verizon’s RF Justification Statement also includes a chart regarding the availability capacity at the Lower University site (the dominant site serving the claimed gap area). Verizon relies on the data in the chart to show that the site has reached its capacity limit. See Figure 27.

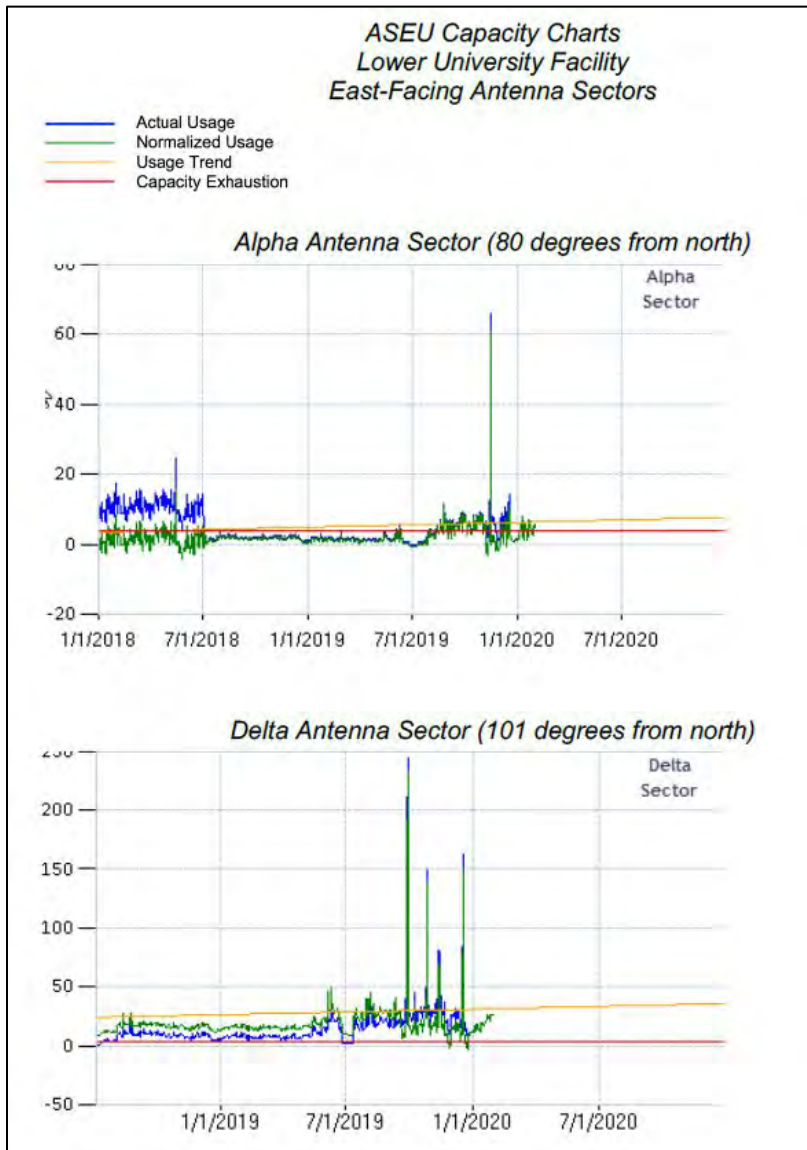


Figure 27: Capacity Gaps 80 degrees and 101 degrees (Source: RF Justification Statement).

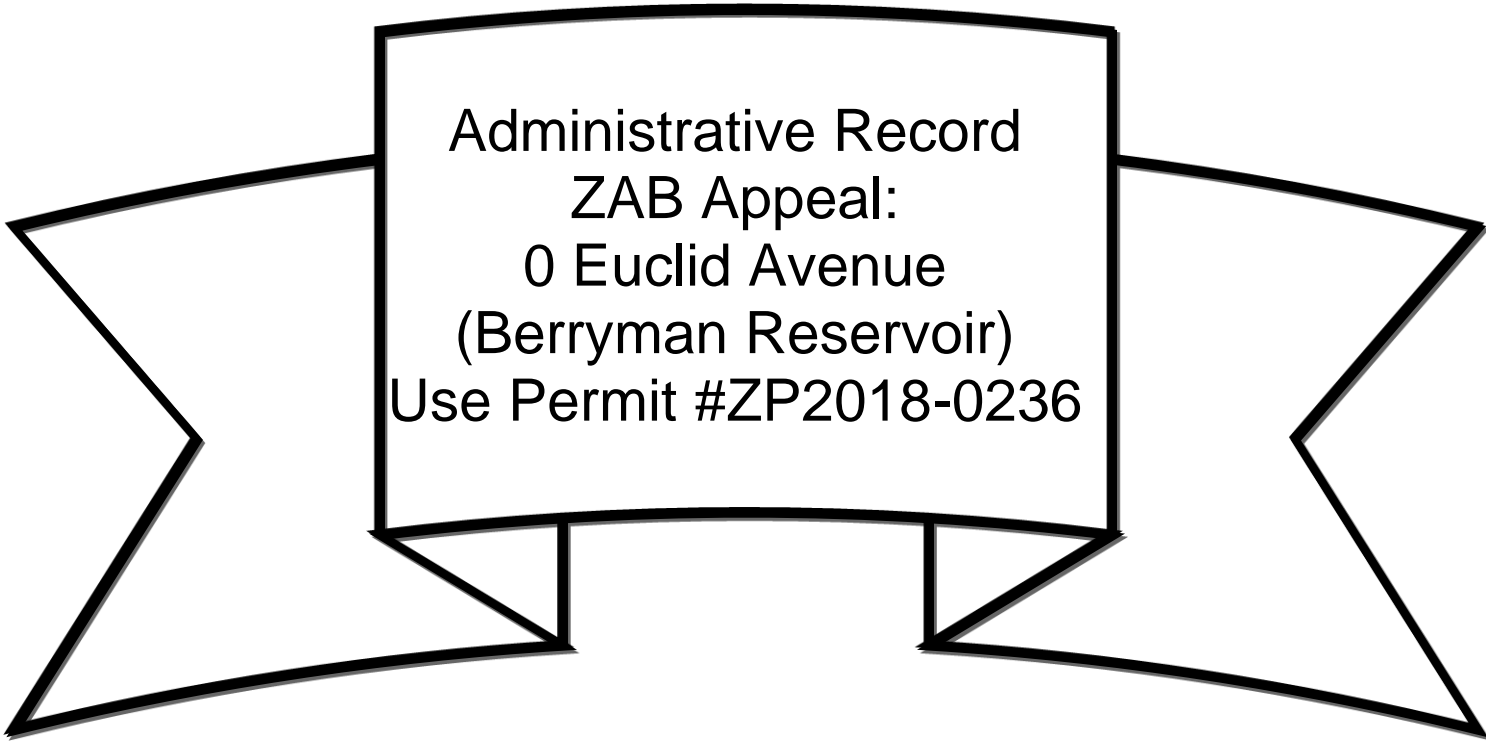


Whether the Local University site has reached its capacity limit is a metric not regulated by the FCC; rather this type of capacity exhaustion determination is left to each of the wireless carriers.

In conclusion regarding Verizon's RF Justification Statement, there are areas within the claimed gap that have adequate Verizon signal strength to provide personal wireless services, but other areas that do not. Exacerbating this, the currently dominant serving cell site has, according to Verizon, reached its capacity limit. Failing to add another cell site to more centrally and closely serve the claimed gap area may lead to lower data throughput speeds and potentially some undisclosed degradation(s) on the ability of Verizon customers (and those customers of other carriers that roam on Verizon's network) to make and receive calls in the claimed gap area.

/TLF





Administrative Record
ZAB Appeal:
0 Euclid Avenue
(Berryman Reservoir)
Use Permit #ZP2018-0236

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,
1231 ADDISON STREET
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**APPEAL OF ZAB DECISION: DENIAL OF USE PERMIT #ZP2018-0236, 0 EUCLID AVENUE
(BERRYMAN RESERVOIR)**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, JULY 7, 2020 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to deny Use Permit # ZP2018-0236 to establish a new 50' high "monopole" 4G LTE wireless facility operated by Verizon Wireless at the East Bay Municipal Utility District site consisting of six antennas, six remote radio units, and associated ground equipment.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **JUNE 30, 2020**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Layal Nawfal, Land Use Planning, 510-781-7424 or Lnawfal@cityofberkeley.info

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or council@cityofberkeley.info 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: June 23, 2020

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else,*

orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.

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 at the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.

Communications – July 7, 2020 – 6 P.M.

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Item #2: ZAB Appeal: 0 Euclid Avenue (Berryman Reservoir), Use Permit #ZP2018-0236

1. 14 form letters “Deep Opposition”
2. 9 form letters “Live on Euclid”
3. 11 form letters “Do Not Want”
4. Isaac Kaplan
5. Jack Newman
6. Ellen Archilla and Jacques Watteyne
7. Elissa Berall
8. Allison Sell
9. Danielle Schanz
10. Debbie Lai
11. Julia MacMillan
12. Wolf Arnold
13. Lina Schweidel
14. Amber Turley
15. Brooke Dougherty
16. David Moren
17. Corien Anderson
18. Julie Therien
19. Rebecca Armstrong
20. Kristi Lentz Taylor
21. Janice Schroeder
22. John Williams
23. Mark Gonzalez
24. Ginger Parnes
25. Jane Eisenstark
26. Francine Foltz
27. Carolyn NcNiven
28. Leah Mazel-Gee
29. Julia Rogers
30. Jane Hansen
31. Debbie
32. Julieta Zuniga
33. Oliver Raisner
34. Susan Nunes (2)
35. Michael Burt on behalf of the Law Office of Michael Burt
36. Raissa Lerner
37. Anonymous
38. Layal Nawfal, Associate Planner, Land Use Planning Division

39. Regina DiMaggio
40. Kaellyn Moss (2)
41. Mary McGann (2)
42. Andrea Lappen
43. Cynthia Li
44. Jennifer Monahan
45. Daniel Richheimer
46. Phyllis Peacock
47. Mayanne Stahl
48. Amanda Coggin
49. Jan Jarvis
50. Vivian Warkentin
51. Tiffany Fyans
52. Arthur Stopes III
53. Carol Hirth
54. Mary Ann Brewin
55. Lloyd Morgan

Benado, Tony

From: Harrington, Phillip
Sent: Wednesday, September 18, 2019 2:44 PM
To: City Clerk
Subject: FW: #ZAB 2018-0236

For the record.

From: Dr. Jane Hansen [mailto:drjanehansen@gmail.com]
Sent: Monday, September 16, 2019 11:21 AM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: #ZAB 2018-0236

Hello Mr. Harrington,

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. Our family spends hours each week at that park, and it is a place we treasure. A true gem of Berkeley.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and **do not allow the tower in Berryman Reservoir.**

Thank you for your support.

--
 Jane Hansen, Psy.D.
 Clinical Psychologist

Berkeley Natural Medicine
 2730 Telegraph Avenue, 2nd floor
 Berkeley, CA 94705
 p. 415.890.6428
 f. 510.981.8184
 License: CA PSY26818
www.drjanehansen.com

A Reminder: All appointments canceled less than 48 hours from scheduled time will be billed at full fee.

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Confidentiality Notice:
 This message may contain information that is confidential, privileged, and protected from disclosure under applicable law. Email is NOT a confidential form of communication. Email is recommended for logistical purposes only, such as scheduling. I will communicate via email when necessary and/or appropriate. Please do not use email for emergency or confidential communication. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. Please feel free to inform me that such a breach has occurred directly at 415.890.6428.
 Thanks very much.

Benado, Tony

From: Ryan Crochiere <ryancrochiere@icloud.com>
Sent: Sunday, September 29, 2019 1:54 PM
To: All Council
Subject: Berryman reservoir cell tower proposal

Hello,

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

Sincerely,
Ryan Crochiere
920 Keeler Ave.
Berkeley, CA

Sent from my iPhone

Benado, Tony

From: David Landon <davidlandon@sbcglobal.net>
Sent: Monday, September 23, 2019 9:04 PM
To: All Council
Subject: NO 5G Tower!!

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

David Landon Whipple
510 528 5440
www.davidlandon.com

Benado, Tony

From: Sara Antunovich <sarasofija@gmail.com>
Sent: Monday, September 16, 2019 5:19 PM
To: Davila, Cheryl; All Council; Harrington, Phillip
Subject: Cell tower at Berryman Reservoir

Hello,

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley (permit proposal #ZP 2018-0236). Our family spends hours each week at that park, and it is a place we treasure. My child goes to school in the park 4 days a week.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to ADHD, autism, developmental delays, insomnia, anxiety, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the small children and the community, and **do not allow the cell tower in Berryman Reservoir.**

Thank you for your support.
Sincerely,

Sara Antunovich

--

Sent from a phone. Please excuse typos, terseness, and grammar.

Benado, Tony

From: Harrington, Phillip
Sent: Wednesday, September 18, 2019 2:42 PM
To: City Clerk
Subject: FW: URGENT

For the record.

From: Mia Feuer [mailto:miafeuer@gmail.com]
Sent: Monday, September 16, 2019 9:43 PM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>; constantine roumel <croumel@yahoo.com>
Subject: URGENT

Hello Phil

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley (permit proposal #ZP 2018-0236). Our family spends hours each week at that park, and it is a place we treasure.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to ADHD, autism, developmental delays, insomnia, anxiety, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and **do not allow the cell tower in Berryman Reservoir.**

Thank you for your support.
Mia Feuer, Constantine Roumel and Galileo Roumel

Benado, Tony

From: Louise Palmer <louisesophia@gmail.com>
Sent: Tuesday, September 24, 2019 12:37 AM
To: Harrington, Phillip
Cc: All Council
Subject: A BIG FAT NO TO 5G TOWER AT CORDONICES (AND ANYWHERE ELSE)!!

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

Benado, Tony

From: Harrington, Phillip
Sent: Wednesday, October 02, 2019 7:33 AM
To: City Clerk
Subject: FW: Cell tower at Berryman Reservoir in Berkeley

From: Casey Harch [mailto:charch@berkeley.edu]
Sent: Tuesday, October 01, 2019 11:41 AM
To: All Council <council@cityofberkeley.info>; Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: Cell tower at Berryman Reservoir in Berkeley

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

-Casey Harch

Benado, Tony

From: Mary Ann Brewin <fabmaob@lmi.net>
Sent: Tuesday, September 24, 2019 3:58 PM
To: All Council
Cc: Harrington, Phillip
Subject: 5 G at Berryman Reservoir / Codornices Park NO NO NO

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir/ Codornices Park in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

These towers are potentially deadly. We do NOT need them in Berkeley. The current "towers" work well enough, and even they are dangerous to health and welfare. Thank you for your support,

Mary Ann Brewin

Summer St, Berkeley
resident and TAX PAYER of 50 years

Benado, Tony

From: Harrington, Phillip
Sent: Tuesday, September 24, 2019 4:57 PM
To: City Clerk
Subject: FW: 5 G at Berryman Reservoir / Codornices Park NO NO NO

From: Mary Ann Brewin [mailto:fabmaob@lmi.net]
Sent: Tuesday, September 24, 2019 3:58 PM
To: All Council <council@cityofberkeley.info>
Cc: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: 5 G at Berryman Reservoir / Codornices Park NO NO NO

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir/ Codornices Park in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

These towers are potentially deadly. We do NOT need them in Berkeley. The current "towers" work well enough, and even they are dangerous to health and welfare. Thank you for your support,

Mary Ann Brewin

Summer St, Berkeley
resident and TAX PAYER of 50 years

Benado, Tony

From: Casey Harch <charch@berkeley.edu>
Sent: Tuesday, October 01, 2019 11:41 AM
To: All Council; Harrington, Phillip
Subject: Cell tower at Berryman Reservoir in Berkeley

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

-Casey Harch

Benado, Tony

From: Harrington, Phillip
Sent: Wednesday, September 25, 2019 7:17 AM
To: City Clerk
Subject: FW: Proposed 5G cell tower at Berryman Reservoir

From: Martin Aston [mailto:astonma@me.com]
Sent: Tuesday, September 24, 2019 10:11 PM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: Re: Proposed 5G cell tower at Berryman Reservoir

Hello, I am writing to express my deep opposition to the plans for a 5G cell tower at Berryman Reservoir in North Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

Sincerely,
Martin Aston and Sheila Krystal

Benado, Tony

From: Wendy Dhillon <wendy.j.dhillon@gmail.com>
Sent: Tuesday, September 24, 2019 10:28 AM
To: Harrington, Phillip; All Council
Subject: opposition to Cell Tower at Codornices Park

Dear Mr. Harrington, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and use the park daily, if not twice a day. One of the reasons we bought our house was the proximity to the Cordornices park -- we used to spend much time there before living in the neighborhood and fell in love with the neighborhood because of that park.

I think that a cell tower would be a horrible addition to the park. If I had to go to the park and look at the tower each time I went, it would curtail my visits, if not stop them completely. In addition, I strongly believe that it would negatively impact the value of the homes nearby because it would be such an eyesore. I would think that it would affect the views from above also.

Please do not allow the cell tower at Berryman reservoir above Codornices Park.

Thank you.

Wendy Dhillon

Benado, Tony

From: Lanier Pietras <lanier1280@gmail.com>
Sent: Monday, September 23, 2019 5:49 PM
To: All Council; Harrington, Phillip
Subject: Cell Tower at Cordonices Park

Hello,

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley.

We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

--

Lanier Pietras
(510) 990-5488

Benado, Tony

From: J & J Schroeder <janicejimschroeder@gmail.com>
Sent: Tuesday, September 24, 2019 8:25 AM
To: All Council
Subject: Opposition to plans for the cell tower at Berryman Reservoir

Dear Mayor Arreguín and Council members:

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. The park is a gem that is used frequently by many who are sensitive receptors (infants, young children, pregnant women, elders with grandchildren), not to mention its potential impact on wildlife. This tower would be more than 50 feet tall, with 7 antennas! The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

The City of Berkeley adopted the Precautionary Principle years ago and must do the right thing, prevent harm and nix this plan.

Sincerely,
Janice Schroeder
1610 Curtis St.

Benado, Tony

From: Kathleen Frumkin <kathleenfrumkin@gmail.com>
Sent: Saturday, October 05, 2019 4:49 PM
To: All Council; Harrington, Phillip
Subject: NO to 50 foot cell tower for Berryman reservoir

Dear Councilmembers,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.
Kathleen Frumkin

Benado, Tony

From: George Lakoff <george.lakoff@gmail.com>
Sent: Saturday, October 05, 2019 5:12 PM
To: All Council; Harrington, Phillip
Cc: kathleen Frumkin
Subject: NO to 50 foot cell tower for Berryman reservoir

Dear Councilmembers,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

George Lakoff
Distinguished Professor Emeritus
In Cognitive Science and Linguistics
UC Berkeley
Berkeley, CA

Benado, Tony

From: George Lakoff <george.lakoff@gmail.com>
Sent: Saturday, October 05, 2019 5:19 PM
To: All Council; Harrington, Phillip
Subject: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

RE: REFERENCE ZAP 2018-0236

Dear Council members,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

George Lakoff
Distinguished Professor Emeritus
In Cognitive Science and Linguistics
UC Berkeley
Berkeley, CA
Website: georgelakoff.com

Benado, Tony

From: Kathleen Frumkin <kathleenfrumkin@gmail.com>
Sent: Saturday, October 05, 2019 5:21 PM
To: All Council; Harrington, Phillip
Subject: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

RE: REFERENCE ZAP 2018-0236

Dear Council members,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

Kathleen Frumkin
kathleenfrumkin@gmail.com

Benado, Tony

From: Harrington, Phillip
Sent: Monday, October 07, 2019 7:13 AM
To: City Clerk
Subject: FW: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

From: Kathleen Frumkin [mailto:kathleenfrumkin@gmail.com]
Sent: Saturday, October 05, 2019 5:21 PM
To: All Council <council@cityofberkeley.info>; Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

RE: REFERENCE ZAP 2018-0236

Dear Council members,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

Kathleen Frumkin
kathleenfrumkin@gmail.com

Benado, Tony

From: Harrington, Phillip
Sent: Monday, October 07, 2019 7:13 AM
To: City Clerk
Subject: FW: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

From: George Lakoff [mailto:george.lakoff@gmail.com]
Sent: Saturday, October 05, 2019 5:19 PM
To: All Council <council@cityofberkeley.info>; Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: NO to 50 foot cell phone tower at Berryman Reservoir or in our neighborhood

RE: REFERENCE ZAP 2018-0236

Dear Council members,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

George Lakoff
Distinguished Professor Emeritus
In Cognitive Science and Linguistics
UC Berkeley
Berkeley, CA
Website: georgelakoff.com

Benado, Tony

From: Harrington, Phillip
Sent: Monday, October 07, 2019 7:13 AM
To: City Clerk
Subject: FW: NO to 50 foot cell tower for Berryman reservoir

From: George Lakoff [mailto:george.lakoff@gmail.com]
Sent: Saturday, October 05, 2019 5:12 PM
To: All Council <council@cityofberkeley.info>; Harrington, Phillip <PHarrington@cityofberkeley.info>
Cc: kathleen Frumkin <kathleenfrumkin@gmail.com>
Subject: NO to 50 foot cell tower for Berryman reservoir

Dear Councilmembers,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.

George Lakoff
Distinguished Professor Emeritus
In Cognitive Science and Linguistics
UC Berkeley
Berkeley, CA

Benado, Tony

From: Harrington, Phillip
Sent: Monday, October 07, 2019 7:14 AM
To: City Clerk
Subject: FW: NO to 50 foot cell tower for Berryman reservoir

From: Kathleen Frumkin [mailto:kathleenfrumkin@gmail.com]
Sent: Saturday, October 05, 2019 4:49 PM
To: All Council <council@cityofberkeley.info>; Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: NO to 50 foot cell tower for Berryman reservoir

Dear Councilmembers,

I live on Euclid Avenue just a few houses south of the Berryman Reservoir. I OPPOSE the installation of this cell tower in my neighborhood. There are health hazards associated with such towers. I also bring to your attention that this tower, should it be allowed to be built at the Berryman Reservoir, is right next door to playing fields for children's softball and other community sports activities for the community at large. In addition, there is a TOT LOT and playground at Cordonices Park next door to the reservoir and the Rose Garden just across the street. Many many people and children enjoy the activities mentioned above and the hiking trails next to and right behind the Reservoir.

Building such a cell tower is not a good idea for peoples' health on Euclid Ave. and in our neighborhood. PLEASE VOTE NO! DON'T ALLOW THIS TOWER TO BE BUILT IN OUR NEIGHBORHOOD. PLEASE KEEP CORDONICES PARK AND ENVIRONS A SAFE AND HEALTHY PLACE FOR PEOPLE AND CHILDREN TO ENJOY.

PLEASE KEEP ME INFORMED AS TO THE FATE OF THIS PROPOSED PROJECT.

Thank you.
Kathleen Frumkin

Benado, Tony

From: Ember Crippen <emcrip5@gmail.com>
Sent: Monday, September 16, 2019 5:30 PM
To: All Council; Harrington, Phillip
Subject: Proposed Cell Tower-Berryman Reservoir

To Our Council Members,

I live on Euclid Ave. across the street from the Berryman Reservoir. I am very distressed about a cell tower being put up there or anywhere in our neighborhood for the following reasons:

Our cell service is good enough.

We don't need anything else to damage our health or our environment and a cell tower will do both.

Even dressed up like a tree, it can never compare to the beauty of our redwoods. It will stand out like a big, ugly, fake tree.

Please consider our health and our environment and do Not put up a cell tower in our neighborhood.

Thank you.
Respectfully,
Ember Crippen
1350 Euclid Ave.
Berkeley

Benado, Tony

From: Chase Carter <cec4290@gmail.com>
Sent: Saturday, September 28, 2019 7:13 AM
To: All Council
Subject: Opposition to ZP3028-9236

Dear Councilmembers,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,

- Chase Carter

Benado, Tony

From: Michaela Pluskovich <michaela.pluskovich@googlemail.com>
Sent: Saturday, September 28, 2019 12:08 PM
To: All Council
Subject: Proposed Cell Tower at Berryman Reservoir

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,
Michaela Pluskovich and daughters

Benado, Tony

From: Zeina Morad <zino87@gmail.com>
Sent: Saturday, September 28, 2019 7:39 AM
To: All Council
Subject: No cell tower please!

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,
Zeina Morad

Benado, Tony

From: Barrett Stroh <ldbtes@gmail.com>
Sent: Saturday, September 28, 2019 8:05 PM
To: All Council
Subject: Codornices Park

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we **DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!**

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely

Tom Stroh

Benado, Tony

From: Marsha Saxton <marsax@berkeley.edu>
Sent: Sunday, September 29, 2019 5:53 PM
To: All Council
Subject: No to cell towers in Codornices Park in Berkeley

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

-The tower would expose everyone in the park to high levels of radiation.

-People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.

-There is no post construction accountability re: design and operation.

-There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,

Marsha Saxton

Marsha Saxton, PhD
Lecturer, Disability Studies Program
University of California, Berkeley
marsax@berkeley.edu



Virus-free. www.avast.com

Benado, Tony

From: Laura Davis <ddlaura@gmail.com>
Sent: Sunday, September 29, 2019 8:37 PM
To: All Council
Subject: Proposed cell tower at Berryman Reservoir

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CODORNICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Codornices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,

Laura Davis

Benado, Tony

From: Spencer Honeyman <spencer.honeyman@gmail.com>
Sent: Tuesday, October 01, 2019 10:00 AM
To: All Council
Subject: Opposition to Cell Tower at Cordonices Park

To: council@cityofberkeley.info

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we **DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!**

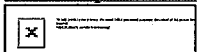
- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,
Spencer Honeyman

--

Spencer Honeyman
Leadership Coach / Facilitator
www.spencerhoneyman.com



Benado, Tony

From: Dessiree McFarland <dessireemcfarland@gmail.com>
Sent: Wednesday, October 02, 2019 9:51 AM
To: All Council
Subject: The cell tower at Berryman Reservoir

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CODORNICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Codornices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,

Dessiree McFarland

*Freelance Video and Sound Editor | www.dessireemcfarland.com
415-290-5077*

Benado, Tony

From: Lisa Barrett <lisb020@yahoo.com>
Sent: Thursday, October 03, 2019 2:04 PM
To: All Council
Subject: CODORNICES Park Cell Tower Concern

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CODORNICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Codornices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,

Lisa stroh

Benado, Tony

From: Wendy Tico <wendytico@gmail.com>
Sent: Monday, September 30, 2019 6:34 AM
To: All Council
Subject: Proposed cell tower

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

-The tower would expose everyone in the park to high levels of radiation.

-People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.

- I have electronic sensitivity and my doctor recommends spending time in nature daily to reduce the strain on my system. Cordonices Park is great for me and my young kids. Young children's developing brains are particularly susceptible to harm from radiation. Please keep this a low radiation zone.

-There is no post construction accountability re: design and operation.

-There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,
Wendy Tico

Benado, Tony

From: Jodi Nelson <jnelson10987@gmail.com>
Sent: Thursday, October 03, 2019 5:23 PM
To: All Council
Subject: ZP2018-9236 Cell Tower at Berryman Reservoir

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we **DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!**

-The tower would expose everyone in the park to high levels of radiation.

-People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.

-There is no post construction accountability re: design and operation.

-There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely, Jodi Nelson

Benado, Tony

From: Harrington, Phillip
Sent: Tuesday, September 24, 2019 7:16 AM
To: City Clerk
Subject: FW: 5G cell tower proposal

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

From: Isaac Kaplan [mailto:isaackaplan@gmail.com]
Sent: Monday, September 23, 2019 6:32 PM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: 5G cell tower proposal

Mr Harrington,

I am writing in support of any proposed new cell tower installation in the Berkeley Hills. Currently we in North Berkeley, the hills especially, are badly underserved, and better signal coverage is a critical need. I regard the wireless phone service as akin to land line service, it's availability and quality should be regulated by government agency. The presence of reliable communications is a public safety issue, and overrides non-scientific based private citizen concerns.

Thanks you for your attention.

Sincerely

Isaac Kaplan
460 Cragmont Ave.

Benado, Tony

From: xileh2@gmail.com
Sent: Monday, September 23, 2019 10:13 PM
To: All Council
Cc: Harrington, Phillip
Subject: SUPPORT for Cell Tower at Berryman Reservoir

Hello,

I am writing to express my deep SUPPORT FOR for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood and the cell service is quite poor.

Cell service is important to emergency response especially as this is a fire hazard zone.

thank you for considering approving this much needed cell tower.

Jack Newman
1340 Arch st
Berkeley, CA 94708

Sent from my iPhone

Benado, Tony

From: Harrington, Phillip
Sent: Tuesday, September 24, 2019 7:14 AM
To: City Clerk
Subject: FW: Proposed cell tower at Berryman a reservoir.

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

From: Ellen Archilla [mailto:earch@att.net]
Sent: Tuesday, September 24, 2019 4:16 AM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: Proposed cell tower at Berryman a reservoir.

Hello,
We are writing to express our opposition to the construction of a cell tower at Berryman Reservoir and Codornices Park. Research has demonstrated the many adverse health problems generated by being in proximity to cell towers. It is our belief that such structures should be erected away from densely-populated areas. We both have health conditions that are affected by EMF radiation, and we had our smart meter removed. If this project goes through, we may have to sell our beloved home of 26 years. We are both seniors, and this would be very hard on us.

Thank you for your serious consideration of this matter.

Ellen Archilla and Jacques Watteyne
954 Euclid Avenue

Sent from my iPad

Benado, Tony

From: Elissa Berall <breathe7deeply@gmail.com>
Sent: Saturday, September 14, 2019 11:48 AM
To: All Council; andy.katz@ebmud.com
Subject: Fwd: Cell tower near Codornices Park - Berryman Reservoir - Please NO!!!

Hello -

>

> I am writing to voice my disapproval with the proposed installation of a cell tower in the vicinity of Codornices field and Berryman Reservoir.

>

> Aesthetically the tower is unwelcome, and would intrude on the beauty of the environment.

>

> In addition the long term health implications of such a tower are not well understood, and caution should be exercised in this regard.

>

> Thank you for considering this perspective.

>

> Sincerely -

>

> Elissa Berall

> Frequenter of Codornices Park

>

>

> Sent from my iPhone

Benado, Tony

From: Ali Kiselis Sell <ali.kiselis.sell@gmail.com>
Sent: Monday, September 16, 2019 7:14 PM
To: All Council; Harrington, Phillip
Subject: ZAP 2018-0236

To Berkeley City Council,

In support of health and safety of our community, I'm writing to express opposition to the cell tower adjacent to Cordonices Park.

Thanks,
Allison Sell
(Resident at Euclid & Hawthorne Terrace)

Sent from my iPhone

Benado, Tony

From: Dis <danielle.schanz@gmail.com>
Sent: Tuesday, September 24, 2019 10:34 AM
To: All Council
Cc: pharrington@cityofberkeley.com
Subject: Cell Tower at Berryman Reservoir

Hello,
I have been informed that a cell tower is planned at Berryman Reservoir. I am writing to express my deep opposition to it.

I own a home at 1211 Henry Street, near the Reservoir and use the nearby park frequently.

The proposed cell tower would bring potent exposure to high levels of toxic radiation to my neighborhood.

Please consider the health and safety of the community and do not allow the cell tower at Berryman Reservoir to be built.

Sincerely,
Danielle Schanz

Sent from my iPhone

Benado, Tony

From: Debbie Lai <debbie.j.lai@gmail.com>
Sent: Monday, September 16, 2019 9:44 PM
To: All Council; Harrington, Phillip
Subject: Concern about proposed cell tower at Berryman Reservoir

Dear Berkeley City Council and Phil Harrington,

I am writing to you with urgency about the plans for a cell tower at Berryman Reservoir in Berkeley (permit proposal #ZP 2018-0236). I still remember the first time I visited Cordonices Park and the awe I felt at finding such a beautiful oasis of nature in close proximity to such an urban setting. My family spends countless hours there with two young children who love to play at the playground, within the redwoods, and in the little creek, and we often see the park filled with other kids, whether for camp, birthday parties, or after school adventure.

Firstly, I am very concerned about the health effects of having a 5G tower so close to Cordonices, especially on developing bodies and brains. I also believe that having a huge metal tower that essentially comes out of the forest will diminish the beauty and remote feeling of the park. The construction efforts will prevent us from enjoying the secluded nature of the forests, and should anything go wrong in the future, the beautiful old growth trees will be at risk. Please, please, please, do not allow this tower to be built.

Sincerely,
Debbie Lai

Benado, Tony

From: Julia MacMillan <julia.macmillan@gmail.com>
Sent: Tuesday, September 17, 2019 9:53 PM
To: All Council; Harrington, Phillip
Subject: Berryman Reservoir Cell Tower

Hello Mr. Harrington and the Berkeley City Council,

I am a Berkeley Resident writing to express my opposition to the plans for a cell tower at Berryman Reservoir in Berkeley (permit proposal #ZP 2018-0236). Our family spends hours each week at that park, and it is a place we treasure.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to ADHD, autism, developmental delays, insomnia, anxiety, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. Please consider the health and safety of our children and the community at large, and **do not allow the cell tower in Berryman Reservoir.**

Thank you for your support.

Julia MacMillan
1801 Fairview St.
Berkeley, 94703

Benado, Tony

From: Wolfram Arnold <wolfram@arnold.name>
Sent: Monday, September 16, 2019 8:53 PM
To: All Council; Harrington, Phillip
Subject: Concerned citizen regarding 5G towers at Berryman Reservoir

Dear Berkeley City Council Members, Dear Mr. Harrington:

I am writing to express my deep concern and opposition to the plans for a cell tower at Berryman Reservoir in Berkeley (permit proposal #ZP 2018-0236). Our family spends hours each week at that park, and it is a place we treasure. Our daughter has made many friends there and loves the park and the playground.

The proposed cell tower would bring potent exposure to high levels of cell radiation. There is a growing body of scientific evidence linking high levels of cell radiation to adverse health outcomes like ADHD, autism, developmental delays, insomnia, anxiety, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, etc.

Many technological breakthroughs that were initially deemed harmless, turn out to be quite detrimental over many years and decades of exposure. Everything from leaded gasoline to pesticides comes to mind. In all these cases early scientific warning signs were available but summarily ignored. Don't let Berkeley stand on the wrong side of history on this issue.

This tower should not be built. Please consider the health and safety of the community, and **do not allow the cell tower in Berryman Reservoir.**

Thank you for your support.

Wolf Arnold

Benado, Tony

From: Linda Schweidel <linda@fomlaw.com>
Sent: Monday, September 23, 2019 11:14 AM
To: All Council; Harrington, Phillip
Subject: Opposed to Cell Tower @ Berryman Reservoir

Hello.
My husband David and I are opposed to the building of the proposed cell tower at Berryman Reservoir. We are concerned at the prospects of living so close to the tower, which will emit large amounts of radio frequency radiation. Please reject this plan.
Thank you.
Linda

Linda M. Schweidel
Legal Assistant
Friedman McCubbin Law Group LLP
425 California Street, 25th Floor
San Francisco, CA 94104
Tel: (415) 434-2626
Fax: (415) 434-1937
linda@fomlaw.com

Benado, Tony

From: Amber Turley <amberjerman@gmail.com>
Sent: Monday, September 23, 2019 6:50 PM
To: All Council
Cc: Harrington, Phillip; Sophie Hahn
Subject: 5G Cell tower at Berryman Reservoir

Hi Phil (and Sophie),

I wanted to write to express my **STRONG** opposition to the addition of a 5G tower at Berryman Reservoir.

My son has both Autism and mitochondrial dysfunction, making him very sensitive to radiation and other environmental toxins. We try to create a clean environment for him, but a 5G tower could unravel all of our hard-fought efforts.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more.

This tower simply may not stand. **Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.**

Prior to implementing something that could prove an environmental toxin, I would advocate:

- Monitoring EMF irradiation
- Monitor, assess and report on adverse health and environmental effects of 5G installations
- Establish advisory guidelines based on standard for schools, classrooms, hospitals and workplaces
- Hold town meetings where all stakeholders are welcome to present their case and openly debate the options.
- Allow the community to vote on 5G, with fully informed health concerns

Thank you for your support.

Amber

--

Amber Turley
[LinkedIn](#)

Benado, Tony

From: Brooke Dougherty <brooke@brookedougherty.com>
Sent: Monday, September 30, 2019 10:11 AM
To: All Council
Subject: Cell Tower at Codornices Park

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we do not want to harm our children by putting the tower at our park. My kids and I spend time at the park numerous times per week because it is a way to be connected with nature. We are trying to increase healthy by being there, no decrease it.

My family appreciates your support. Thanks very much.

Sincerely,
Brooke Dougherty

--

Brooke Dougherty
Marriage & Family Therapist #50892
www.BrookeDougherty.com
(415) 632-1678

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Benado, Tony

From: David Moren <davidmoren@gmail.com>
Sent: Saturday, September 28, 2019 8:32 AM
To: All Council
Subject: Re: Cell tower at Berryman Reservoir

Dear Berkeley City Council,

As the parent of two young children who spend a lot of time in Codornices Park each week, I thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). I ask that you please continue to oppose the tower, as we do not want it next to the park given it would expose everyone in the park, most notably children, to high levels of cell radiation.

I am also concerned to have learned that there is no construction accountability around design and operation, nor plans for unbiased monitoring of radiation limits.

I appreciate your support in continuing to oppose its construction. Thank you very much.

Best regards,
David Moren

Benado, Tony

From: Corien Anderson <iluverie@gmail.com>
Sent: Saturday, September 28, 2019 3:35 PM
To: All Council
Subject: Cordonices Cell Tower

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). **Please continue to oppose the tower, as we do not want the tower next to Cordonices Park.**

My son goes to school in the forest at Cordonices with his kindergarten class and we do not take for granted the tranquility that reigns under the trees. This tower would infringe on a sanctuary, a park for the people, and a preserve of nature.

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.**

This is my first time ever writing a city council member...I appreciate the privilege and thank you for listening,

Corien Anderson

Benado, Tony

From: julie therien <julietherien@gmail.com>
Sent: Saturday, September 28, 2019 7:59 AM
To: All Council
Subject: Please oppose the cell tower in Cordonices!

Dear Councilmember,

My family spends many hours/week at Cordonices and the Rose Garden. I am a pregnant woman and I have two very young children (ages 2 and 3). I am very concerned about the levels of radiation that we would all be exposed to if a new cell tower goes up near the park. My husband is also concerned. We are Berkeley residents (we live at Ashby and Sacramento) and I am also a Registered Nurse (RN) and UC Berkeley alumnus. I am especially concerned about the effects of radiation on children and pregnant women. Not enough is known about the potential long-term effects, but there is much reason to believe that it can be quite damaging, especially to vulnerable populations such as myself and my children.

Please advocate for us and protect our parks! Living on a busy street like Ashby, in an often-neglected area of our city, concerns us as well. We go to Cordonices to escape the dangerous traffic, low air quality, and barren streets of our neighborhood. Please save our safe haven. We would truly hate to have to avoid this beautiful park. It is what makes Berkeley special, an urban Oasis. Please protect it!!

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CORDONICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Cordonices Park offers; a huge tower facility does not belong here.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thanks very much.

Sincerely,
Julie Therien

Benado, Tony

From: Rebecca Armstrong <becca15x@gmail.com>
Sent: Saturday, September 28, 2019 9:15 PM
To: All Council
Subject: Please no cell phone tower at Berryman Reservoir

Dear Councilmember,

I am very concerned about the proposed cell tower at Berryman Reservoir (ZP2018-9236). This is much too close to Codornices Park, one of the most beautiful and calming spots in Berkeley.

I would like to thank you for voting against the proposed cell tower. Please continue to oppose the tower, as I am highly concerned about the high levels of radiation all park users would be exposed to.

Codornices Park is a sanctuary for urban locals and visitors to use and enjoy. A huge cell tower does not belong here.

I appreciate your support. Thank you very much.

Sincerely,
Rebecca Armstrong

Benado, Tony

From: Kristi Lentz Taylor <kristi.lentz@gmail.com>
Sent: Saturday, September 28, 2019 8:27 PM
To: All Council
Subject: Person with electrosensitivity urges resistance to proposed cell tower at Berryman Reservoir

Dear Berkeley City Councilmember,

I'm writing with urgent and intense concern over the proposed cell tower at Berryman Reservoir (ZP2018-9236). Three years ago, I moved to Berkeley, eager to enjoy its values of equity, inclusion and safe spaces for all. Once in town, however, I found myself pushed to the margins, as I have electrosensitivity and nearly every public place in this Silicon Valley-influenced university town is drenched in WiFi radiation. My health plummeted and I found two places of refuge in which to recuperate: a radiation-shielding canopy in my home, and... Codornices Park. I spent hours lying on the ground in Codornices, soaking up healing earth energies in one of the few public places with an extremely low measurement of EMF radiation. After a year of hard work, I recovered my health. I am forever grateful to the safe space of Codornices in which I could read, study, meet with friends, and live a happy life as I recovered -- something I couldn't do almost anywhere else in Berkeley during the most difficult days of my physical limitations.

I beg you, I urge you: If Berkeley is truly to embody the values of inclusion, diversity, and equity, then people living with electrosensitivity -- we are a growing population -- need safe spaces, too. If people who use wheelchairs have ramps which actually serve to benefit everyone, then people with electrosensitivity need safe low-radiation public spaces which also benefit everyone (since radiation harms us all... even those who don't feel it!).

In summary, please resist the oppressive efforts of Verizon to install this and other future poles, and please create radiation-free nature preserves within the city, thus moving toward the vision of being a city of safe spaces for the flourishing of all.

Sincerely yours,

Kristi Lentz Taylor

--

*Kristi Lentz Taylor
 MTS Student at the Jesuit School of Theology
 K-12 Spanish Language and Literacy Teacher
 Berkeley/El Cerrito/Richmond area, CA
 1-425-876-1828*

Benado, Tony

From: J & J Schroeder <janicejimschroeder@gmail.com>
Sent: Sunday, September 29, 2019 2:52 PM
To: All Council
Subject: Opposition to 5G cell phone towers in Berkeley - EMF Scientist letter to UNEP June 2019

Dear Mayor and Councilmembers,

I wrote to you previously to voice my strong objection to 5G cell phone towers in Berkeley. I am a health educator, not a scientist studying the possible health effects of 5G towers on humans and wildlife. Please read the International EMF Scientist Appeal letter signed by 247 scientists in 42 nations to the United Nations Environment Programme.

<https://www.emfscientist.org/Letter to UNEP June 25 %202019.pdf>

I implore you to use the Precautionary Principle the City of Berkeley adopted years ago to protect the community and stop 5G towers from popping up all over Berkeley.

Sincerely,
Janice Schroeder
1610 Curtis St.

Benado, Tony

From: Harrington, Phillip
Sent: Thursday, September 26, 2019 7:21 AM
To: City Clerk
Subject: FW: 56 Verizon cell tower at Cordonices Park

From: John Williams [mailto:williamsjohncameron@gmail.com]
Sent: Wednesday, September 25, 2019 1:53 PM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: 56 Verizon cell tower at Cordonices Park

To whom this should concern,

The proposed 5g Tower at Berryman Reservoir adjacent to Cordonices Park in the City of Berkeley is not a good idea. The permit process being followed by the City of Berkeley regarding this Tower, if it was even legal,... (I know CEQA isn't what it used to be)... was totally inadequate. Much more research needs to be done and the public deserves to be better informed on this topic before being radiated ipso facto by a reckless decision made not in the public interest but in the interests of Verizon. The public is ill informed about the potential harmful effects of 5g on living organisms. There are deleterious effects and a place like Cordonices Park, that is frequented by families and children, is not a suitable environment for real time scientific experimentation. The City of Berkeley should not allow this tower to be built at this time. PERIOD. Quite frankly, that there is not a direct address to respond to this potential health hazard should be grounds for a lawsuit in the future and it no doubt will be. The City of Berkeley should use it's collective head and delay this decision and allow for more public input on this issue. This is a bad idea. It isn't worth it.

Sincerely, John C. Williams
9560 White Meadow Rd.
Pollock Pines , CA
95726Berryman Reservoir adjacent to

Benado, Tony

From: Harrington, Phillip
Sent: Monday, September 30, 2019 7:16 AM
To: City Clerk
Subject: FW: 5G Cell Tower Plan

From: markgonzalez [mailto:markgonzalez@comcast.com]
Sent: Friday, September 27, 2019 10:22 PM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: 5G Cell Tower Plan

Hello community,

I am writing to share my deep concern about a 5G cell tower planned for Berryman Reservoir, directly adjacent to Cordonices Park. This tower would be more than 50 feet tall, with 7 antennas. The time to act in opposition to these plans is now, as Berkeley City Council plans to make a final decision in early October (permit #ZAB 2018-0236).

So many of us live near the park, and thus near to the radiation that these towers would bring. I am horrified at the thought of constant exposure to high levels of cell radiation, which in countless studies has been linked to ADHD, Autism, developmental delays, insomnia, headaches, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, etc. etc. Children are especially vulnerable to such radiation exposure. If this is a known fact, how can we allow this?

Deeply concerned,

Mark Gonzalez

Sent from my T-Mobile 4G LTE Device

Benado, Tony

From: Harrington, Phillip
Sent: Monday, September 30, 2019 7:16 AM
To: City Clerk
Subject: FW: No cell tower

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

From: ginger parnes [mailto:gparnes@me.com]
Sent: Saturday, September 28, 2019 12:05 AM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: No cell tower

Sir:
Please protect us from the proposed cell tower that will cause serious health issues to our community.
Ginger Parnes

Benado, Tony

From: Jane Eisenstark <maw.jane@gmail.com>
Sent: Tuesday, October 01, 2019 6:29 PM
To: All Council
Subject: Cell Tower

PLEASE NO CELL TOWER IN CORDORNICES PARK

Jane Eisenstark

94708

Benado, Tony

From: Francine Foltz <foltz.fran@gmail.com>
Sent: Monday, September 30, 2019 12:53 PM
To: All Council
Subject: no cell tower at Codornices Park

Dear Council,

I urge you to resist the request to build a cell tower at Codornices Park. Whether or not you consider the current research on the risks of such things to be adequate, it is certainly sufficient to hold off until more definitive evidence

has been collected, when the health of Berkeley citizens is at stake!

Francine Foltz
1527 Posen Ave.

Benado, Tony

From: mcnivenc@gtlaw.com
Sent: Monday, September 30, 2019 3:20 PM
To: All Council
Cc: lucindareinold@gmail.com
Subject: Opposition to Cell Tower

Dear City Council:

My family and I reside close to Berryman Reservoir and use the park every day to walk our dog and escape into nature. The proposed cell tower would negatively impact our use and enjoyment of this public area. For those reasons and other health related reasons, I wish to lodge my unequivocal opposition to the placement of this tower in such an important residential and recreational location.

Carolyn McNiven
Shareholder

Greenberg Traurig, LLP
4 Embarcadero Ctr, Ste. 3000 | San Francisco, CA 94111-5983
T +1 415.655.1270
mcnivenc@gtlaw.com | www.gtlaw.com | [View GT Biography](#)

GT GreenbergTraurig



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Benado, Tony

From: Leah Mazel <leahmazel@gmail.com>
Sent: Sunday, September 29, 2019 10:44 PM
To: J & J Schroeder
Cc: All Council
Subject: Re: Opposition to 5G cell phone towers in Berkeley - EMF Scientist letter to UNEP June 2019

Thanks for sharing and for being on top of this!
Leah

Leah Mazel-Gee, L.Ac., M.S.
510-548-5676
1543 Shattuck Ave. #202
Berkeley, CA 94709
www.HolisticChineseMedicine.com

On Sun, Sep 29, 2019 at 2:52 PM J & J Schroeder <janicejimschroeder@gmail.com> wrote:
Dear Mayor and Councilmembers,

I wrote to you previously to voice my strong objection to 5G cell phone towers in Berkeley. I am a health educator, not a scientist studying the possible health effects of 5G towers on humans and wildlife. Please read the International EMF Scientist Appeal letter signed by 247 scientists in 42 nations to the United Nations Environment Programme.

https://www.emfscientist.org/Letter_to_UNEP_June_25_%202019.pdf

I implore you to use the Precautionary Principle the City of Berkeley adopted years ago to protect the community and stop 5G towers from popping up all over Berkeley.

Sincerely,
Janice Schroeder
1610 Curtis St.

Benado, Tony

From: Julie Rogers <jlundyr@gmail.com>
Sent: Sunday, September 29, 2019 8:53 PM
To: All Council
Subject: Cell tower in Codornices Park

Dear Councilmember,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower. Codornices Park needs to be protected!

The tower would expose people in the park to high levels of radiation. People come from all over Berkeley and nearby cities to enjoy the unique nature immersion that Codornices Park offers; a huge tower facility does not belong there. Please support keeping this low-EMF public space in Berkeley.

I appreciate your support. Thanks very much.

Sincerely,

Julia L. Rogers
Richmond, CA

Benado, Tony

From: Dr. Jane Hansen <drjanehansen@gmail.com>
Sent: Friday, September 13, 2019 5:06 AM
To: All Council
Subject: NO on ZAB 2018-0236!

Hello,

I am writing with extreme concern and many questions about the ordinance to allow a 5G tower at Berryman reservoir in Berkeley.

This tower must not go up! This is a residential area, it is a park where children play. The negative health effects of blasting cell tower radiation are simply too great to take this risk. When is the next community forum on this matter? This cannot happen.

Thank you.

Dr Jane Hansen

--

Jane Hansen, Psy.D.
Clinical Psychologist

Berkeley Natural Medicine
2730 Telegraph Avenue, 2nd floor
Berkeley, CA 94705
p. 415.890.6428
f. 510.981.8184
License: CA PSY26818
www.drjanehansen.com

A Reminder: All appointments canceled less than 48 hours from scheduled time will be billed at full fee.

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POSTAGE CARD

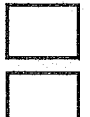
龍安寺・石庭虎の子渡し
Rock Garden, Ryoan-ji Temple



Please don't cave in
to the backdoor appeals
process when the public
has made it clear
that we don't want the
cell tower at Condones.
We need you to be
brave and protect our
green spaces!

City of Berkeley Clerk
Attn: City Council
Re: Permit #ZP2018-0236 Appeal
2180 Milvia St, 1st Fl.
Berkeley, CA 94704

郵便はがき



4704-119393 Debb

Benado, Tony

From: Julieta Zuniga <eldrac@sbcglobal.net>
Sent: Wednesday, October 02, 2019 6:56 PM
To: All Council
Subject: No tower cell 5G in codornices park causes Cancer

I opposed to have the the tower for cell 5G produce cancer I live few fts from codornices park I am

Totally opposed

Julieta zuniga

High court

Berkely ca 94708

Sent from my iPhone

Sent from my iPhone

Re: appeal of ZAB decision re Verizon Cell Tower, O Euclid Ave., Berryman Reservoir

Dear City Council Members:

I am writing to urge you to affirm ZAB's unanimous decision on June 27, 2019 to deny Verizon a permit to construct a cell phone tower and "wireless facility" at O Euclid Ave., Berryman Reservoir. I was present at the hearing in which ZAB members heard from the dozens of concerned Berkeley residents who stayed until midnight for their opportunity to oppose this unwanted project. Rarely has such a diverse ZAB membership (representing millennials to baby-boomers) been so moved to unanimously vote against such a project.

The environment of Codornices Park adjacent to the proposed site is unique. Its aesthetics and current robust use by all neighborhoods of Berkeley, Oakland and beyond would be permanently altered and damaged by the raising of a for-profit high-tech corporate tower over it, regardless of what color it is painted or however it is temporarily partially camouflaged. People go to this park to experience a remnant of woody nature in a calm low-tech atmosphere. There is a creek flowing from a steep hillside that seems to be in constant seismic flux. The large trees are beloved. People make a point of sitting on their roots. Kids roam free, playing off-line. I can tell you a tower there would be hated, and the kids would suffer. My kid would suffer. There would be little Verizon vans coming and going, as well as Verizon security guards. Before too long the height will go up, there will be collocation with other telecommunication giants, and the facility expanded to get ready for the coming of 5G. The park eventually would be referred to as "Verizon Park", the big trees would be considered a threat to the facility (like the current PG&E war on trees). In the event of an earthquake such a tower and facility could cause a fire and pollute the water of the creek and the reservoir. People might continue to gamely say they still love the park and its history and special vibe, but it would never be the same. Berkeley would have lost one of its treasures. Why risk it?

Verizon does not need this tower for its stated purpose of providing its users in the hills with greater wireless service. Reception is good already and there is a widespread fiber optic along most of the streets, safely providing residents with the fastest Internet speeds. Residents simply don't need any new towers. I believe we are living at a time when large-scale environmentally risky projects should not be realized if they are not absolutely required, particularly when they would worsen the quality of life of a neighborhood.

As a homeowner and rate-payer, I felt betrayed by EBMUD over their quiet lease negotiations with Verizon. I have spoken with many neighbors and colleagues about it and I am not alone in thinking their responsibilities are for water, not finding strange ways to make greater profit. From Verizon's point of view, they are trying to colonize Berkeley public space. EBMUD is just trying to make some side money, but could end up as being a corporate vassal! EBMUD should be reminded by the city of Berkeley to focus on its main task: safe and reliable water, for storage, drinking and putting out fires. Towers next to water facilities create safety and access problems that work against their mandate.

Thank you for your time and consideration.

Sincerely,
Oliver Raisner
96 Tamalpais Road
Berkeley, CA 94708 (510) 655-9245

Benado, Tony

From: susan nunes <suminu1@gmail.com>
Sent: Wednesday, October 02, 2019 2:43 PM
To: All Council
Subject: Verizon Cell Tower at 0 Euclid
Attachments: EBMUD VERIZON LEASE.pdf

To: Berkeley City Council
 From: Susan Nunes Fadley
 Agenda Item, October 29th Council Meeting

October 3, 2019

Please include in the Council packet the letter pasted in this message and also the attachment "EBMUD Verizon Lease.pdf."

Honorable Members of the City Council:

On November 8, 2018, EBMUD's real estate services entered into a lease agreement with Verizon Wireless allowing the company to build, maintain and operate a 50' cellular tower and other adjacent structures and ancillary equipment, including a diesel generator, on the Berryman Reservoir site at 0 Euclid Avenue. The site is adjacent to the Codornices public park and playing field and Rose Walk, across the street from the Berkeley Rose Garden, and within sight of nearby homes. (See EBMUD VERIZON LEASE.)

The agreement requires Verizon to first secure the necessary approvals from the City. On June 27, 2019, the Berkeley ZAB voted 9-0 to deny the company a use permit. Verizon's appeal is now before the City Council.

Allowing an industrial tower to be built on a site created especially for the upgraded Berryman Reservoir runs counter to the historic, collaborative effort by EBMUD, the City, and the community to create this special site, as required by a CEQA environmental review.

In the mid-nineties, EBMUD began an extensive EIR process to completely rebuild the Berryman Reservoir. A steel tank was completed in 2010. The primary goal was earthquake safety, but as required by the EIR, EBMUD worked closely with the community and the City of Berkeley to create a special "designed space" that ultimately cost the utility more than \$6 million to build.

As part of the EIR process, EBMUD hired Muller and Caulfield Architects and the landscape architect firm, Dillingham Associates, to reach out to the community and finalize a design that would (a) enhance the adjacent Codornices Park and fit into a neighborhood of historic homes; (b) avoid impeding hillside views; and (c) complement historic resources such as the Rose Garden and Rose Walk. The architects responded at length to people's concerns, and worked to create a space that the community accepted. And came to love.

http://www.mullercaulfield.com/mca/web_pages/proj_pages/EBMUD_Berryman.html

The results of this rare collaborative process are there for everyone in Berkeley to access and enjoy. Families from all over Berkeley and the East Bay regularly frequent the park and its surroundings, including the Reservoir property.

EBMUD selected an architectural firm that believes in creating designs that "enhance the harmony and beauty of existing landscapes and communities," and that make "the entire neighborhood look better." Design elements are "too important to relegate to civil engineers."

By leasing this unique and beloved design space for a 50' industrial tower bristling with antennae, EBMUD has countered its own fine work and relegated the beautiful space it created for the benefit of the community to Verizon's civil engineers.

The Berryman Reservoir is not simply a "utility property," as Verizon dismissively refers to it. It is a unique space in a historic neighborhood, adjacent to public parks where children play, a space that welcomes visitors. It means much more to our community and to visitors from far and near than a mere utility property.

The lease agreement requires Verizon to first obtain the necessary approvals from the City. If the City Council upholds the ZAB decision and Verizon fails to win City approval, it is free to terminate the lease. In the face of such opposition from both the City and the community, that would be the gracious, and politic, action for Verizon to take.

Thank you.

Susan Nunes Fadley
Tamalpais Road, Berkeley

TELECOMMUNICATION LEASE

(Not to be Recorded)

THIS LEASE, made this 8th day of November, 20 18, for reference purposes, by and between East Bay Municipal Utility District, a public corporation of the State of California, hereinafter designated as "Lessor," and GTE Mobilnet of California Limited Partnership, dba Verizon Wireless, hereinafter designated as "Lessee."

WITNESSETH:

1. PREMISES

Lessor, in consideration of the payment of rent hereinafter specified to be paid by Lessee and of the covenants and agreements herein contained to be performed and observed by Lessee, does hereby lease, demise and let to Lessee for the purpose hereinafter specified, that certain property ("the Premises"), located at Berryman Reservoir, Euclid Avenue, City of Berkeley, County of Alameda, State of California, delineated and described on **Exhibit A** consisting of a total of approximately six hundred seventy-seven (677) square feet of ground space for the placement of Lessee's equipment and a monopine antenna tower, including fiber vault, utility and access routes to the Premises as shown, and being a portion of the real property described in **Exhibit B** (the "Property") attached hereto and incorporated by reference.

2. USE OF PREMISES

Lessee shall use the Premises only for the purpose of installing, maintaining, operating, replacing, and removing a personal communications service ("PCS") system facility consisting of one approximately fifty foot (50') high monopine ("Monopine") on which will be mounted three (3) sectors of antennas, with each sector having two (2) transmitting and receiving antennas, together with ancillary equipment; together with a diesel generator, and equipment cabinets to house the PCS equipment, and one (1) GPS antenna and related appurtenances, and cable and conduit to connect the PCS equipment to the antennas and to telephone, fiber, and electrical facilities, subject to the provisions of Section 8, below.

3. TERM

- A. **Initial Term:** Lessee shall have the rights to the Premises for a period of five (5) years firm-term ("Initial Term"), commencing thirty (30) days after the date of full execution of this Lease ("Commencement Date") and ending five (5) years from the Commencement Date ("Expiration Date"), subject to renewal or cancellation rights as hereinafter set forth.
- B. **Extended Term (Renewal Options):** Lessee shall have the option to extend the Term of this Lease for two (2) consecutive five (5) year periods after the Initial Term expires (each an "Extended Term") by giving Lessor written notice no later than a hundred and twenty (120) days prior to the expiration of the Initial Term or First Extended Term, whichever is applicable. The base rent during the extension term shall increase as set forth in Section 4.C, below.

4. RENT

- A. **Base Rent:** Lessee agrees to pay Lessor, as Base Rent for the Demised Premises starting on the Commencement Date, the annual sum of Ten Thousand and 00/100 Dollars (\$10,000.00) payable in advance on or before the Commencement Date of the Initial Term and annually thereafter to the Lessor at P.O. Box 24055, Oakland, CA 94623, MS#903. On the first annual anniversary of the Commencement Date, Lessee shall pay Lessor, as Base Rent for the second (2nd) year of the Initial Term, Thirty-Five Thousand and 00/100 Dollars (\$35,000.00).
- B. **Base Rent Adjustment.** The amount of Base Rent payable hereunder shall be adjusted annually, commencing with the second annual anniversary date (twenty-four (24) months after the Commencement Date of the Initial Term) and thereafter on each anniversary date of the Commencement Date during the Initial Term or any extensions thereof (the "Adjustment Date"). Adjustments shall increase and be calculated by two percent (2%) of the previous year's rental. Adjustments shall become effective on the Adjustment Date.
- C. **Extended Term (Renewal) Base Rent.** If Lessee elects to exercise its option for an Extended Term, then on the first day of the first year of any Extended Term the Base Rent shall increase by ten percent (10%) above the rent paid by Lessee during the previous twelve (12) month period and thereafter during the remaining years in each such Extended Term, Base Rent will increase as provided in Section 4.B above.
- D. **Late Rent.** Should the annual Base Rent payment not be paid in full within fifteen (15) days of Lessee's receipt of written notice from Lessor of such late payment, a ten percent (10%) late fee shall be added to the annual rent payment due. Lessor's right to collect a late fee shall not be deemed an extension of the Due Date nor prevent the Lessor from exercising any other rights and remedies available under this agreement and by law.
- E. If Lessor and Lessee do not fully execute at least eight (8) Telecommunication Leases on this same form of Telecommunications Lease by December 31, 2018 (the "End Date"), then as of the next annual anniversary of the Commencement Date for each of those seven (7) or fewer Telecommunications Leases fully executed by Lessor and Lessee prior to the End Date (the "Below Threshold Leases"), Base Rent shall increase to the annual sum of Fifty Thousand and 00/100 Dollars (\$50,000.00). The Base Rent as increased for the Below Threshold Leases shall thereafter be subject to the two percent (2%) annual adjustment commencing on the next annual anniversary of the Commencement Date of that lease.
- F. Exhibit "D" attached hereto and made a part hereof shall be a list of the Telecommunications Leases based on this form of Telecommunications Lease, including the instant Lease, signed by Lessor and Lessee as of January 1, 2017 through the End Date. Exhibit "D" shall be revised and updated with each Telecommunications Lease signed by Lessor and Lessee through the End Date, so that the most recent Telecommunications Lease fully executed by Lessor and Lessee will contain the most current list of such leases. On or before the End Date, Lessee shall send Lessor, with a copy to Lessee's headquarters, written confirmation of the full list of Telecommunications Leases fully executed by Lessor and Lessee as of the

End Date regardless of whether eight (8) or fewer Telecommunications Leases have been fully executed.

5. UTILITIES

Lessee agrees to furnish at Lessee's sole cost and expense, all water, gas, heat, light, power and all other utilities and operating infrastructure required at the Premises.

6. LESSOR'S RIGHTS

A. Lessor reserves the right to use the Property at any and all times for Lessor's operations, provided however, Lessor may access the Premises only upon forty-eight (48) hours prior notice to Lessee and accompanied by a Lessee representative if Lessee so requires. During an emergency Lessor has the right to enter upon the Premises for any purpose necessary in the conduct of Lessor's operations. At any time that Lessor enters the Premises, for emergency or non-emergency purposes, Lessor may not access Lessee's antenna structures, equipment cabinets and/or equipment shelters.

B. It is understood that construction, reconstruction, maintenance, and use of the reservoir, pumping plants, pipelines and other facilities or improvements of Lessor, present or future, upon the Property shall at all times be paramount to any rights under this Agreement, provided that Lessor will not unreasonably interfere with Lessee's use of the Premises. The construction, reconstruction, maintenance, and use of the facilities of Lessee, and all work upon or in connection therewith, shall at no time and in no way whatever interfere with the present or future operations of Lessor; the location of the facilities, the construction, reconstruction, and maintenance thereof, and all work in connection therewith, shall be done and made under the supervision and to the reasonable satisfaction of Lessor.

7. ACCESS

Where Lessor holds rights of access to the Property in fee title, Lessor grants Lessee access to the Property via use of the access road as described in Exhibit "B", and a right of access to the source of electrical and telephone facilities, twenty-four (24) hours a day, seven (7) days a week as depicted in Exhibit "A". Where Lessor does not own access rights in fee title, Lessee shall be solely responsible for obtaining any and all rights required from third parties to access the Premises. Lessor will, however, provide Lessee with copies of any applicable easement agreements granting Lessor access to the Property. If Lessee uses Lessor's existing access road, Lessor and Lessee will share equally in road maintenance costs as determined and billed by Lessor. Lessor agrees to permit Lessee free ingress and egress to the Premises to conduct such surveys, structural strength analyses, subsurface boring tests and other activities of a similar nature as Lessee may deem necessary at the sole cost of Lessee.

8. PRIOR APPROVAL

Lessee agrees that prior to construction of Lessee's facilities on the Premises, Lessee shall submit to Lessor for final approval the approved building permit from the appropriate permitting agency and the final construction plans for the improvements to be built. Upon Lessor's approval, the final construction plans shall replace Exhibit "A."

9. CONDITION OF PREMISES

Lessee further agrees that upon completion of the installation of its facilities, Lessee shall promptly return as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work and Lessee shall not commit or suffer to be committed any waste upon the Premises or any nuisance thereon and agrees to keep the Premises in a neat, clean, sanitary and orderly condition at all times during occupancy, and not to permit any amount of rubbish, garbage or refuse to accumulate and remain thereon at any time. If Lessee fails so to keep the Property as stated herein, then after thirty (30) days written notice to Lessee, Lessor may perform the necessary work at the reasonable expense of Lessee, which expense Lessee agrees to pay to Lessor upon demand.

10. LIENS

Lessee shall keep the Premises free and clear from any liens arising out of any work performed, material furnished, or obligations incurred by Lessee.

11. TREES

Lessee agrees that no trees will be damaged and/or removed during installation of Lessee's facilities without mitigation approved in advance by Lessor. During the term of this Lease, trimming of trees must be minimized and shall be subject to prior approval by Lessor.

12. INTERFERENCE

- A. Lessee agrees that any facilities constructed or equipment installed on the Premises or modifications to the improvements shall be constructed, installed and operated at all times in such a manner that they will not interfere with Lessor's present communications transmitters and receiver stations if any, and in the event of such interference, Lessee agrees, at its own costs and expense, to take all necessary steps to eliminate such interference whether so required by the Federal Communications Commission or not. In the event that such interference shall develop and such interference is not eliminated by Lessee within fifteen (15) business days after written notice from Lessor to do so, the facility or equipment causing such interference shall be taken out of service by Lessee until the problem is corrected to the complete satisfaction of Lessor. The term "interference" as used herein may be direct or consequential, and includes, but is not limited to, intermediation and desensitizing of Lessor's receiving equipment by Lessee's transmitter operations.
- B. Lessee agrees that Lessee's radio or cellular equipment installed on the Premises shall be frequency compatible with all other pre-existing radio and cellular transmitting and receiving equipment existing on the Property at the time Lessee's initial radio installation is made. If at a future date a transmitter from another location other than those owned or controlled by Lessor should cause interference to previously installed equipment on any site owned or controlled by Lessor by causing interference with frequencies generated by Lessee's equipment, it shall be Lessee's responsibility to make such corrections as are necessary to eliminate such interference.

13. GOVERNMENTAL APPROVALS

Lessee shall, at its sole cost and expense, comply with all applicable requirements, rules, regulations and environmental documentation pertaining to facilities, equipment and operations to be conducted on the Premises, including all requirements imposed by the City of Berkeley, County of Alameda, the State of California and the United States of America, and the Bay Area Air Quality Management District. Lessor agrees to cooperate with Lessee with respect to obtaining any required zoning or other governmental approvals or permits for the Premises and Lessee's facilities, including providing signatures where necessary on Lessee's governmental permit applications. Lessee acknowledges, however, that Lessor is not a permitting entity and shall not be responsible for obtaining or maintaining any necessary governmental approvals on behalf of Lessee.

14. MODIFICATIONS AND IMPROVEMENTS

- A. Once Lessee's improvements are installed on the Premises, as depicted in Exhibit "A," Lessee will not make any alterations to the site without obtaining the prior written approval of Lessor, which approval shall not be unreasonably withheld or delayed. If, within ten (10) business days after Lessor's receipt of Lessee's written request for consent to modifications or improvements, in the event Lessor does not either (i) object to the request for alterations in writing with written reasons for such objections or (ii) furnish Lessee with written approval, Lessor will be deemed to have approved them. Lessor's approval for subsequent alterations to Lessee's improvements shall not be required in connection with alterations that consist of upgrades or replacements of "like-kind" equipment which is comparable in dimensions and weight, or equipment which is comparable in dimensions and weight and wholly contained within Lessee's equipment shelter and/or cabinets. Any alterations to the site from the approved improvements as identified in Exhibit "A" will require an amendment to the Lease and may require compensation from Lessee. If Lessee will require Lessor, as property owner to sign a permit application or other similar document to be submitted to the permitting agency, Lessor will require a letter from the Lessee that certifies all documentation submitted to the permitting agency is true and correct and that Lessee indemnifies the Lessor against any claims resulting from erroneous representations or misrepresentations.
- B. Upon Lessee receiving approval from the appropriate permitting agency, if any, Lessee must submit to Lessor a copy of the approved permit and a copy of the final construction plans that will supplement or replace Exhibit "A."
- C. Lessee shall provide Lessor, without charge or expense except as provided herein, space as necessary for Lessor's communications equipment on Lessee's antenna structure located on the Premises, provided, however, Lessor's equipment shall be utilized solely in connection with Lessor's operations as a municipal utility district, space on the antenna structure must be available at the time of such installation, Lessor's equipment will not cause interference with Lessee's equipment or prevent Lessee's use of its facilities as permitted hereunder, Lessor shall enter into a separate agreement with Lessee for the installation and operation of such equipment on the antenna structure, Lessor shall pay the costs for any modifications required to Lessee's antenna structure to allow Lessor's installation of its improvements on the antenna structure and Lessor shall pay the costs of any structural analysis necessitated by the

proposed installation of its improvements on the antenna structure. Lessor shall submit plans and specifications to Lessee for review to determine any impact on Lessee's improvements, which plans and specifications Lessor shall submit to Lessee at the address below pursuant to the same method of notice prescribed by Section 29 of this Lease. Within thirty (30) days after Lessee's receipt of such plans and specifications from Lessor, Lessee shall either approve Lessor's plans and specifications or deny approval based on the conditions herein. Failure by Lessee to approve or deny approval of Lessor's plans and specifications within thirty (30) days from receipt of the same shall be deemed approval. The address to which Lessor shall submit its plans and specifications for approval under this Section 14.C is: Verizon Wireless, c/o Property Management, 2785 Mitchell Drive, Walnut Creek, California 94598, Attention: Network Real Estate.

- D. Lessor shall be solely responsible for all costs associated with the installation and maintenance of Lessor's equipment or improvements on the Premises.

15. INDEMNIFICATION AND DAMAGES

- A. **Hold Harmless:** To the fullest extent permitted by law, Lessee expressly agrees to indemnify, defend and hold harmless Lessor, and Lessor's directors, officers, officials, agents, volunteers and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, court costs and costs of alternative dispute resolution (if any), arising out of or resulting from Lessee's, or Lessee's officials', associates', employees', subconsultants', or other agents' use, maintenance or occupancy of the Premises and/or performance under this Lease. The defense and indemnification obligations of this Lease are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained herein. Lessee acknowledges and agrees that it has read and understands the provisions hereof and that this section is a material element of consideration. Lessor's acceptance of Certificates of Insurance provided by Lessee in accordance with the requirements of this Lease shall not in any way relieve Lessee, its officials, associates, employees, subconsultants or other agents from liability under this section. The parties agree that if any part of this indemnification provision is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws.
- B. **Damages:** Lessee shall be responsible for and shall reimburse Lessor for any damage or loss to Lessor's present or future facilities, to the extent directly or indirectly contributed to by, or caused by Lessee's, Lessee's officials', associates', employees', subconsultants', or other agents' operations and/or performance under this Lease, including, but not limited to, any damage or loss due to Lessee's, Lessee's officials', associates', employees', subconsultants', or other agents' deposit of hazardous substance, hazardous material or hazardous wastes, including petroleum onto the Property.
- C. **Assumption of Risk:** Lessee agrees to assume all risk of damage to the structure and to any other property of Lessee or any other property under the control or custody of Lessee, Lessee's officials', associates', employees', subconsultants', or other agents' while upon the Property or rights-of-way of Lessor or in proximity thereto, caused by or contributed to in any way by construction, reconstruction, operation, maintenance,

repair, or use of pipelines, reservoirs or other facilities or improvements or roadways of Lessor, present or future. In accordance with California law, this assumption does not apply to damage resulting from Lessor's gross negligence or willful misconduct.

- D. **Survivability:** The provisions of this Section 15 shall survive the expiration or termination of this Lease

16. HAZARDOUS MATERIALS

- A. **Representation:** Lessor represents that it has conducted no site investigation(s) for hazardous materials and has no knowledge of any hazardous materials (as defined below) existing on or about the Property in violation of any applicable law. Lessee represents and warrants to Lessor that Lessee will not generate, store or dispose of any hazardous materials on, under or about the Property in violation of any hazardous substance laws (as defined below). Lessee shall indemnify and hold Lessor harmless from any losses, claims, damages, penalties and liabilities arising from any breach of the Lessee's foregoing representations and warranties in this paragraph (a) herein.
- B. **Clean-up:** If any cleanup, repair, detoxification, or other similar action is required by any governmental or quasi-governmental agency as a result of the storage, release, or disposal of hazardous materials by Lessor and/or Lessor's directors, officers, officials, agents, volunteers and employees and/or Lessor's contractors or subcontractors, at any time, or by any prior owner, possessor, or operator of any part of the Property, and such action interferes with Lessee's normal use of the Premises for greater than a twenty-four (24) hour period, then the Rent will be abated entirely during the period beyond twenty-four (24) hours and Lessee shall have the right to terminate the Lease upon not less than thirty (30) days written notice to Lessor.
- C. **Definition of Hazardous Materials:** In this Section, "hazardous materials" includes, but is not limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq.; and those substances defined as hazardous, toxic, hazardous wastes, toxic wastes, or as hazardous or toxic substances by any law or statute now or after this date in effect in the state in which the Premises are located; and in the regulations adopted and publications promulgated pursuant to those laws (all collectively "hazardous substance laws").
- D. **Survivability:** No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to hazardous materials unless specifically agreed to by Lessor in writing at the time of such agreement. The provisions of this Section 16 shall survive the expiration or termination of this Lease.

17. INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of this Lease, and for any additional period of time as specified below, Lessee shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below. Lessee may use existing coverage to comply with these requirements. If any required coverage is not provided by Lessee's insurance, Lessor may accept self-insurance by Lessee. Lessee acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance policy or other proceeds broader than or in excess of the specified limits and coverage required in this section, which are applicable to a given loss, shall be available to Lessor. Lessee shall submit Certificates of Insurance, for Lessor's review and acceptance. The scope of coverage provided is subject to review and acceptance by Lessor following receipt of Certificates of Insurance as required herein. The Lease shall not be issued, and Lessee shall not commence operations as permitted under the Lease until such insurance has been accepted by Lessor. Acceptance of Certificates of Insurance by Lessor shall not relieve Lessee of any of the insurance requirements set forth herein, nor decrease liability of Lessee. Liability coverage provided by Lessee shall be primary and any insurance or self-insurance procured or maintained by Lessor shall not be required to contribute with it.

17.1 Workers' Compensation and Employer's Liability

Workers' Compensation coverage shall be on a state-approved policy form providing statutory benefits as required by law, and Employer's Liability coverage with limits no less than \$1,000,000 per accident or \$1,000,000 per disease covering all of Lessee's employees on the Property. If any of Lessee's operations under this Lease include any exposure to additional State or Federal regulations, the Lessee shall also provide evidence of coverage compliance with the U.S. Longshore and Harbor Workers' Compensation Act, coverage for Jones Act (Marine Employer's Liability), and/or any other applicable or statutorily required coverage, all with limits in compliance with all applicable State and Federal Statutes, or at least \$1,000,000, whichever is greater.

Lessee agrees to waive its rights of subrogation, and the Workers' Compensation and all coverages required in this paragraph shall be endorsed to provide a waiver of subrogation in favor of Lessor and its directors, officers, officials, employees, agents, and volunteers. Lessee shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the Insurance carrier(s). If Lessee is self-insured with respect to Workers' Compensation coverage, Lessee shall provide a Certificate of Consent to Self-Insure from the California Department of Industrial Relations confirming Lessee's self-insured status. Such self-insurance shall meet the minimum limit requirements and waive subrogation as stated above. Lessee shall require any agent, consultant, subconsultant, and/or subcontractor to provide it with evidence of Workers' Compensation and Employer's Liability insurance coverage which shall be in compliance with all the requirements outlined above. However, if any agent, consultant, subconsultant, and/or subcontractor is a sole proprietorship or partnership, with no employees, and exempt from the state requirement to provide Workers' Compensation insurance, such individual or entity must submit a letter to Lessee stating that he/she is either the owner of the entity, or the partner of the entity performing operations, and is exempt from the State of California's Workers' Compensation requirements because he/she has no employees.

17.2 Commercial General Liability

- a. Lessee shall provide Commercial General Liability insurance coverage on a policy form that provides coverage at least as broad as coverage under the Insurance Services Office (ISO) form CG 00 01 or its substantial equivalent.
- b. Subject to standard ISO policy terms and conditions, coverage is provided for claims and allegations of 'Bodily Injury', 'Property Damage', 'Personal and Advertising Injury' that arise from, or are related to (i) Lessee's access, use, occupancy, and/or maintenance of the Property, and/or (ii) any operations and/or performance under this Lease.
- c. The required coverage limits shall be the following:
\$4,000,000 per occurrence for Bodily Injury or Property Damage Liability, and
\$4,000,000 per occurrence for Personal and Advertising Injury Liability, and
\$4,000,000 General Aggregate; and
\$4,000,000 Products – Completed Operations Aggregate
- d. Coverage must be included for all of Lessee's Premises and Operations in any way related to this Lease.
- e. Coverage must be on an "occurrence" basis.
- f. Lessee shall self-insure for any required coverage (including but not limited to policy exclusions and defense costs) not provided by Lessee's insurance
- g. "Personal Injury" coverage must include such allegations as libel, slander, false arrest, wrongful entry or eviction.
- h. Coverage must be included for "explosion, collapse, and underground hazards".
- i. Contractual Liability coverage at least as broad as coverage provided by the ISO CG 00 01 or its substantial equivalent policy form must be included.
- j. Independent Contractor's Liability must be included, covering liability arising from subconsultants' and/or subcontractors' operations and/or performance on Lessee's behalf.
- k. Any exclusion for Employer's Liability claims must include an exception to the exclusion so that coverage is provided for liability assumed by Lessee under an "Insured Contract," as is provided under the ISO CG 00 01 form.
- l. To the fullest extent permitted by law, Lessor and its directors, officers, officials, agents, volunteers, and employees must be covered as additional insureds on a primary and noncontributory basis. The additional insureds must be covered as respects:
 - Liability arising out of or related to this Lease, including any operations and/or performance hereunder by or on behalf of Lessee,
 - Products and completed operations of Lessee, and
 - Lessee's use, access, occupancy, and/or maintenance of the Property.
- m. A severability of interests provision must apply for all the additional insureds, ensuring that Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.
- n. Lessee and its Commercial General Liability insurance must waive any rights of subrogation against Lessor and its directors, officers, officials, agents, volunteers, and employees.

17.3 Business Auto Liability

- a. Lessee shall provide Business Auto Liability coverage on a policy form that provides coverage at least as broad as coverage under ISO Business Auto Coverage form CA 00 01.
- b. Coverage must be provided for "Bodily Injury" and "Property Damage" Liability caused by an accident and resulting from the ownership, maintenance or use of covered autos.
- c. The required coverage limits shall be the following: \$4,000,000 per Accident for Bodily Injury and Property Damage Liability.
- d. Covered "autos" must include Symbol 1, "any auto".
- e. Coverage must be provided on a per accident basis.
- f. Coverage must be provided for leakage of fuel or other "pollutants" needed for the normal functioning of covered autos, as is provided under the ISO CA 00 01 form.
- g. Lessee shall self-insure for any required coverage (including but not limited to policy exclusions and defense costs) not provided by Lessee's insurance.
- h. To the fullest extent permitted by law, Lessor and its directors, officers, officials, agents, volunteers, and employees must be covered as additional insureds, primary and noncontributory basis, as respects "any auto" owned, leased, hired, or borrowed by Lessee.
- i. A severability of interests provision must apply for all the additional insureds, ensuring that Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.
- j. Lessee and its Business Auto Liability insurance must waive any rights of subrogation against Lessor and its directors, officers, officials, agents, volunteers, and employees.
- k. The policy shall include Transportation Pollution Liability insurance covering materials to be transported by Lessee in any operations and/or performance under this Lease. Alternatively, this coverage may be provided on the Lessee's Pollution Liability Policy.

17.4 Pollution Liability

- A. Coverage includes for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs, related to the release resulting from discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of or resulting from:
 - i. Lessee's access, use, occupancy, and/or maintenance of the Property, and
 - ii. any operations and/or performance under this Lease, including
 - iii. any transportation of hazardous wastes, hazardous materials, or contaminants.
- B. The required coverage limits shall be the following: \$4,000,000 per occurrence or claim and \$10,000,000 aggregate.
- C. Coverage may be written on a "claims made" form. If coverage is on a "claims made" basis, the coverage must be maintained for at least 3 years after all operations and/or performance under this Lease are complete, and additional "claims-made" coverage requirements apply as described below.

- D. Lessee shall self-insure for any required coverage (including but not limited to policy exclusions and defense costs) not provided by Lessee's insurance
- E. Defense costs must be included in the coverage provided.
- F. To the fullest extent permitted by law, Lessor and its directors, officers, officials, agents, volunteers, and employees must be covered as *additional insureds* on a primary and noncontributory basis.
- G. Coverage includes Transportation Liability insurance covering materials to be transported by Lessee/Permittee in operation and/or performance under Lease/Permit.
- H. A severability of interests provision must apply for all the additional insureds, ensuring that Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability.
- I. Lessee and its Pollution Liability insurance must waive any rights of subrogation against Lessor and its directors, officers, officials, agents, volunteers, and employees.

17.5 Provisions Applicable to All Required Insurance

A. Lessee shall be responsible for payment of claims for damages that exceed and/or are not covered by insurance to include the cost of defense arising from Lessee's, or Lessee's officials', associates', employees', subconsultants', or other agents' use, maintenance or occupancy of the Premises and/or performance under this Lease, including without limitation claims for damages to Lessor's property in Lessee's care, custody and control and for the threatened release of hazardous materials.

B. Acceptability of Insurers

Unless otherwise reviewed and accepted by Lessor, all required insurance must be placed with insurers with a current A. M. Best's rating of no less than A-VII and admitted, or approved by the Surplus Lines Association, to do business in California. (Workers' Compensation and Employer's Liability coverage provided by the California State Compensation Insurance Fund is acceptable.)

C. Claims-Made Coverage

For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified above):

- (i) The retroactive date must be shown, and must be before the date of this Lease, and before the beginning of any operations and/or performance related to this Lease.
- (ii) Insurance must be maintained and Certificates of Insurance must be provided to Lessor for at least three (3) years after expiration of this Lease.
- (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Lease or the start of any operations and/or performance related to this Lease, Lessee must purchase an extended reporting period for a minimum of three (3) years after expiration of the Lease.

D. Additional Parties in Interest

Upon notification, Lessee shall reasonably add lenders, investors, and/or other parties of interest as additional insureds to the required insurance, on a primary and

noncontributory basis, where such coverage is required for the Lessor, and shall waive any rights of subrogation as is required for the Lessor.

E. Additional Insured Coverage

Additional insured coverage is required and shall, be “primary and non-contributory” where allowable by law, and will not seek contribution from Lessor’s insurance or self-insurance.

F. Notice of Claims

Lessee agrees to provide notice as soon as reasonably practical to Lessor of any loss or claim against Lessee arising out of or in connection with this Lease, and/or any operations and/or performance under this Lease. Lessor assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the Lessor.

G. Proof of Compliance

Lessee agrees to provide evidence of insurance required herein, satisfactory to Lessor, consisting of Certificate of Insurance, on Lessor-provided forms, evidencing all of the coverages required in this Section 17. If (i) Lessor determines that Lessee is in default of any of its indemnity obligations under this Lease after Lessee’s receipt of written notice and the expiration of all applicable cure periods and such default relates to a matter covered under the Insurance Requirements described herein, and (ii) the parties enter into the Nondisclosure Agreement attached hereto as Exhibit “D” (“Nondisclosure Agreement”), Lessor shall have the right to require Lessee to make available redacted copies of insurance policies for Lessor’s review, subject to the provisions set forth in the Nondisclosure Agreement. If and when required, Lessee shall make such insurance policies available to Lessor promptly after the policies are made available to Lessee, it being understood that a particular policy may not be available for some reasonable period of time after the policy was first in effect. All Certificates of Insurance must be received and accepted by Lessor before any operations and/or performance under this Lease commences. Acceptance of Lessee’s Certificates of Insurance or any other evidence of insurance coverage does not constitute any guarantee that Lessee’s insurance meets the requirements herein. It is Lessee’s responsibility to ensure its compliance with these insurance requirements. Any actual or alleged failure on the part of Lessor to obtain proof of insurance required under this Lease shall not in any way be construed to be a waiver of any right or remedy of the Lessor, in this or any regard.

H. Notice of Cancellation/Non-Renewal/Material Reduction

Lessee agrees to provide notice to Lessor thirty (30) days prior to cancellation of coverage required under this Lease, or of any material reduction or non-renewal of such coverage, other than for non-payment of premium which shall require a 10-day prior written notification. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction below these requirements does not require notice beyond submission to Lessor of an updated Certificates of Insurance.

I. Subcontractor’s/Subconsultant’s Indemnity

Lessee agrees to require in any subcontracts and other leases or agreements to perform any operations under this Lease, or to provide products or services in connection with this Lease, (parties to such subcontracts and/or leases or agreements collectively shall be

referred to as “Subconsultants”), that all Subconsultants comply with the provisions of this Lease, including fulfilling the indemnity and insurance requirements to the extent they apply to the scope of the Subconsultant’s operations and/or performance under this Lease. Subconsultants and their insurers must comply with all waiver of subrogation requirements outlined above. Subconsultants shall provide Lessee with properly executed Certificates of Insurance before beginning any operations and/or performance related to this Lease. (As required by the Indemnification provisions), Lessee is responsible for actual or alleged losses, injuries, or damages arising from any operations, activities and/or performance under this Lease by any Subconsultants.

18. ASSIGNABILITY

Lessee shall not voluntarily or by operation of law assign, transfer, sublet, or otherwise transfer or encumber all or any part of Lessee’s interest in the Lease or in the Premises, without Lessor’s prior written consent. Lessor’s consent will not to be unreasonably withheld, conditioned or delayed. If Lessor does not respond to Lessee’s written request for consent to assign, transfer, sublet, or otherwise transfer or encumber all or any part of Lessee’s interest in the lease or the Premises within ten (10) business days from Lessor’s receipt of Lessee’s written request for consent, consent will be deemed given. Lessor’s consent does not relieve Lessee of any liability associated with this Lease.

19. DEFAULT

It is understood and agreed that if Lessee fails to pay any installment of rent as it becomes due, or if Lessee defaults on any of the other covenants, agreements or terms of this Lease, and if upon receipt of ten (10) days’ written notice in the case of a monetary default, thirty (30) days’ written notice in the case of a non-monetary default or fifteen (15) business days’ upon Lessee’s receipt written notice in the case of a frequency incompatibility default, Lessee shall fail or refuse to correct the default, Lessor at its option may re-enter the Premises and remove all improvements therefrom, and may terminate this Lease or take possession of the Premises as the agent and for the account of Lessee, and may lease or rent the whole, or any part of the Premises for the balance or any part of the term of this Lease and retain all rents received and apply them in payment on any rents owed by Lessee. The performance of any or all of these acts by Lessor shall not release Lessee from the full and strict compliance with all of the terms, conditions and covenants of this Lease, If the nature of Lessee’s default is such that more than thirty (30) days are reasonably required to cure the default, then Lessee shall not be in default if Lessee commences the cure within this thirty (30) day period and thereafter diligently prosecutes such cure to completion.

20. WAIVER

The waiver by Lessor of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of the term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition. Lessor’s subsequent acceptance of rent shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease, other than failure of Lessee to pay the particular rent so accepted, regardless of Lessor’s knowledge of such preceding breach at the time of acceptance of the rent.

21. REMEDIES

It is understood that the remedies provided for Lessor in case of a violation of the terms of this Lease by Lessee are not exclusive, but are in addition to any remedies provided by law, any of which Lessor shall have the right to use at its option.

22. RELOCATION

Lessee hereby specifically waives any rights to, and releases Lessor from, any and all claims for relocation benefits and/or relocation payments to which Lessee might otherwise be entitled. Lessee shall hold Lessor harmless from and indemnify Lessor against any and all liability, cost, and expense suffered or incurred by Lessee and arising in connection with any such right or claim asserted by Lessee.

23. CONDEMNATION

If any part of the Premises is condemned for a public use and a part of the Premises remains that is capable of occupation and use as authorized under this Lease, this Lease shall, as to the part so taken, terminate as of the date title shall vest in the condemnor. If all of the Premises is condemned or if such part is condemned so that there does not remain a portion capable of occupation and use as herein authorized, this Lease shall thereupon terminate. If a part or all of the Premises is condemned, all compensation awarded upon such condemnation, except such compensation as shall be specifically awarded to Lessee for loss of or damages to fixtures owned by Lessee, or business interruption or moving expenses, shall go to Lessor and Lessee shall have no claim thereto and Lessee irrevocably assigns and transfers to Lessor any and all rights to all other compensation or damages to which Lessee may become entitled during the term of this Lease by reason of the condemnation.

24. TAXES AND ASSESSMENTS:

The property interest created by this Lease may be subject to property taxation and the Lessee may be subject to the payment of property taxes levied on this interest. Lessee agrees to pay all lawful taxes, assessments or charges which at any time may be levied by any tax or assessment levying body upon any interest in this Lease or any possessory right that Lessee may have in or to the Premises under this Lease.

25. TERMINATION (NONDEFAULT)

Lessor's Right to Terminate. After expiration of the Initial Term of this Lease, provided the conditions of this Section are met, Lessor may terminate this Lease during any Extended Term upon at least three (3) years' notice to Lessee.

After expiration of Initial Term and Extended Terms, if lease is in holdover, Lessor may terminate occupancy upon at least thirty (30) days' notice to Lessee.

Lessee's Right to Terminate. If the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of Lessee's facilities is not obtained in a timely manner, or is revoked or withdrawn, or if Lessor fails to have proper ownership of the Property or authority to enter into this Lease, then Lessee

shall have the right to terminate this Lease upon at least 180 days written notice to Lessor.

Upon termination, neither party will owe any further obligation under the terms of this Lease except for Lessee's responsibility to remove all of Lessee's facilities from the Premises and restore the Premises to its original condition, as near as practicable in accordance with Section 28, below.

Upon any early termination of this Lease, any prepaid rent shall be prorated from the date of termination and returned to Lessee.

26. SURVIVAL

The provisions of Sections 15, 16 and 20 of this Lease will survive the expiration or termination of this Lease.

27. HOLD-OVER

Any holding over after the expiration of the Initial Term or an Extended Term, with the consent of Lessor, shall be construed to be a tenancy from month to month. All terms and conditions of the lease, excluding Base Rent shall be in full force and effect during Hold-Over.

During Hold-Over, the Base Rent shall increase by fifty percent (50%) above the previous year's rent paid by Lessee. The full Base Rent shall be due and payable on the anniversary date of the commencement of the lease.

28. REMOVAL OF LESSEE'S FACILITIES UPON TERMINATION

In the event of the termination of this Lease by reason of the breach of this Lease by Lessee, or by not exercising one or both of the renewal options, or by the expiration of this Lease, all towers, buildings and improvements other than "trade fixtures" constructed on the Premises by Lessee shall become and remain the property of Lessor, at no cost to Lessor, except as otherwise provided by this section. If Lessor decides not to retain all or a portion of the towers, buildings and improvements constructed by Lessee, upon termination of this Lease for any reason Lessee shall remove all towers, buildings and improvements as directed by Lessor within thirty (30) days following termination of this Lease. Lessee agrees to fill in all excavations with solidly compacted earth and to leave said Premises in a neat and clean condition following any such removal save and except normal wear and tear and acts beyond Lessee's control. Should Lessee fail to complete the removal of Lessee's facilities within thirty (30) days following termination of this Lease, rent shall accrue at Hold-Over rates until all equipment has been satisfactorily removed and the Premises have been left in satisfactory condition.

Within thirty (30) days following termination of this Lease, Lessee shall at Lessee's expense eliminate and pay in full any encumbrances, liens and debts incurred by Lessee with respect to any improvements to remain on the property.

Towers, buildings or other permanent structural improvements on the Premises shall not be considered as "trade fixtures" for the purpose of this section.

29. NOTICE

Any notice required or desired to be given or served under this Lease shall be deemed properly given or served if sent by **registered** mail, postage prepaid, addressed to Lessor at 375-11th Street, Oakland, California 94607 Attn: Manager of Real Estate Services MS# 903, or Lessee at Verizon Wireless, 180 Washington Valley Road, Bedminster, New Jersey 07921, Attention: Network Real Estate, Site: Berkeley Hills, or at such other address as shall be last furnished in writing by one party to the other. For Lessor's submission of plans to Lessee for Lessor's proposed installation of communications equipment on Lessee's antenna structure, notice shall also be provided to the address specified in Section 14.C of this Lease. For any notice from Lessor to Lessee regarding regulatory compliance and related issues, notice shall **also** be provided to Lessee by electronic mail at VZWNENORCALPROPMGMT@verizonwireless.com.

30. EXISTING CONDITION

This Lease is made subject to all existing liens, encumbrances, conditions and restrictions of record affecting the Premises and is also subject to all existing rights, rights-of-way, licenses, leases, reservations, and easements by whomsoever held, in and to the Premises which predate this Lease.

31. BINDING PROVISIONS

Lease shall be binding upon and inure to the benefit of the executors, administrators and permitted assigns of the respective parties hereto.

32. TITLE AND QUIET POSSESSION

Lessor represents and agrees (a) that it is the owner of the Property; (b) that it has the right to enter into this Lease; (c) that the person signing this Lease has the authority to sign; (d) that Lessee is entitled to access to the Premises at all times and to the quiet possession of the Premises throughout the term so long as Lessee is not in default beyond the expiration of any cure period; and (e) that, except in case of emergency, Lessor shall not handle or otherwise disturb Lessee's antennas or PCS equipment.

33. ENTIRE AGREEMENT

This Lease (including the Exhibits) constitutes the entire agreement between the parties and supersedes all prior written and verbal representations or understandings between the parties.

34. SEVERABILITY

If any provision of this Lease is held to be invalid or unenforceable with respect to any party, the remainder will not be affected and each provision of this Lease will be valid and enforceable to the fullest extent permitted by law.

35. ATTORNEYS FEES

The prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Lease is entitled to receive its reasonable attorneys' fees, limited to the rate of local independent counsel in Alameda County.

36. GOVERNING LAW

This Lease shall be governed, construed, and enforced in accordance with the laws of the State of California.

37. JURISDICTION

Lessor and Lessee agree that all disputes, disagreements, or claims arising in connection with this Lease shall be submitted to the exclusive jurisdiction of the state and federal courts of the State of California, with venue in Alameda County. This choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to this Lease in any jurisdiction other than that specified in this Section.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Lease in duplicate, the day and year last written below.

LESSEE: GTE MOBILNET OF CALIFORNIA LIMITED PARTNERSHIP, d/b/a VERIZON WIRELESS

LESSOR: EAST BAY MUNICIPAL UTILITY DISTRICT

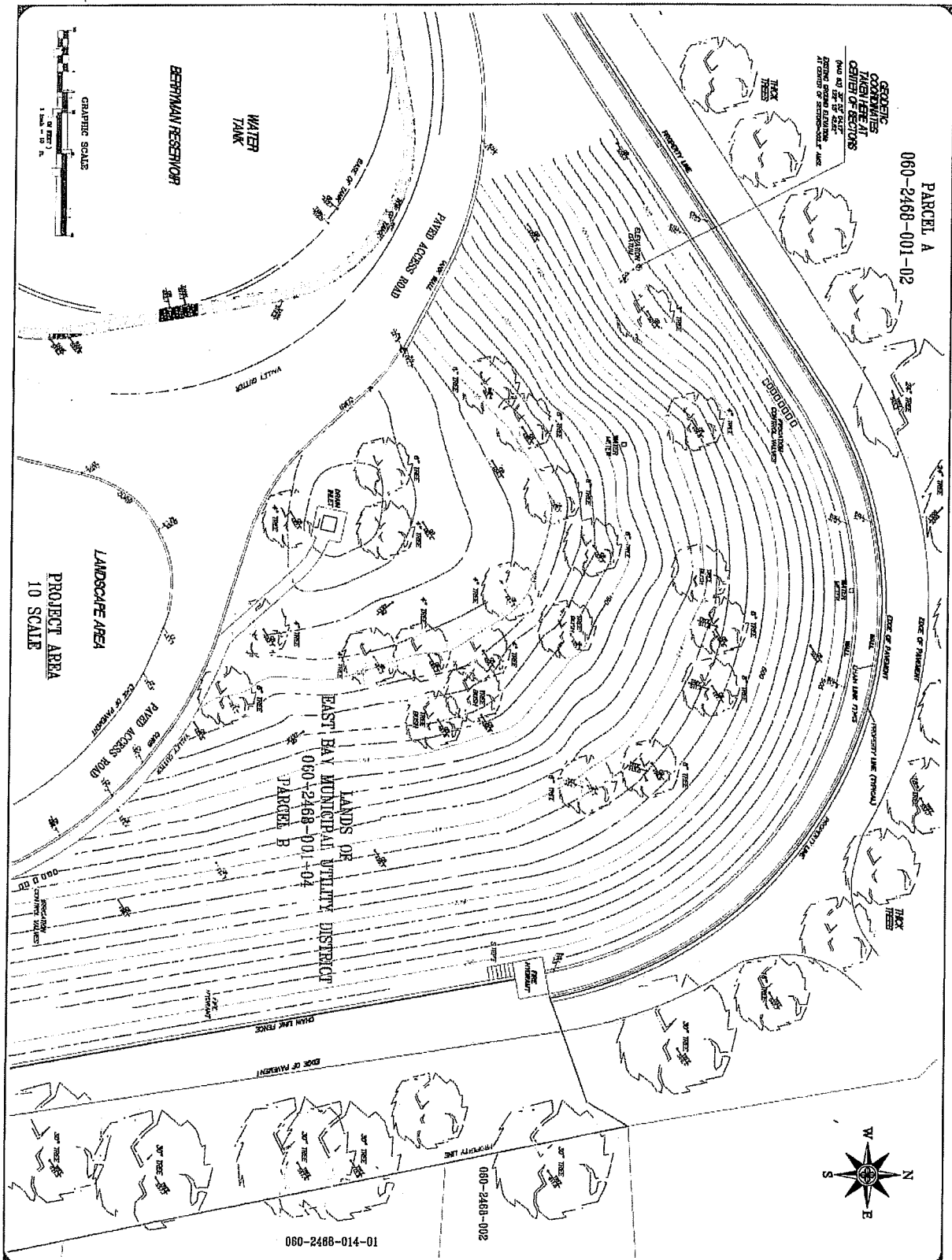
BY: Celco Partnership
ITS: General Partner

By: Scott Stewart
Name: SCOTT STEWART
Its: DIRECTOR NETWORK
Date: 10/5/18

By: [Signature]
Name: MATT ELAWADY
Its: Manager of Real Estate Services
Date: _____

By: Rischa S. Cole
Name: Rischa S. Cole
Its: Secretary of the District
Date: 10/10/18

EXHIBIT "A"
DEPICTION OF PREMISES
(ATTACHED)



**TOPOGRAPHIC SURVEY
EXISTING CONDITIONS**

C-2

SHEET 2 of 3

PSL#273588
BERKELEY HILLS
BERNAD BERRYMAN RESERVOIR
BERKELEY, CA 94708

verizon

2783 MITCHELL DRIVE
WALNUT CREEK, CA. 94598
OFFICE: 925-279-6000
(925) 279-6333



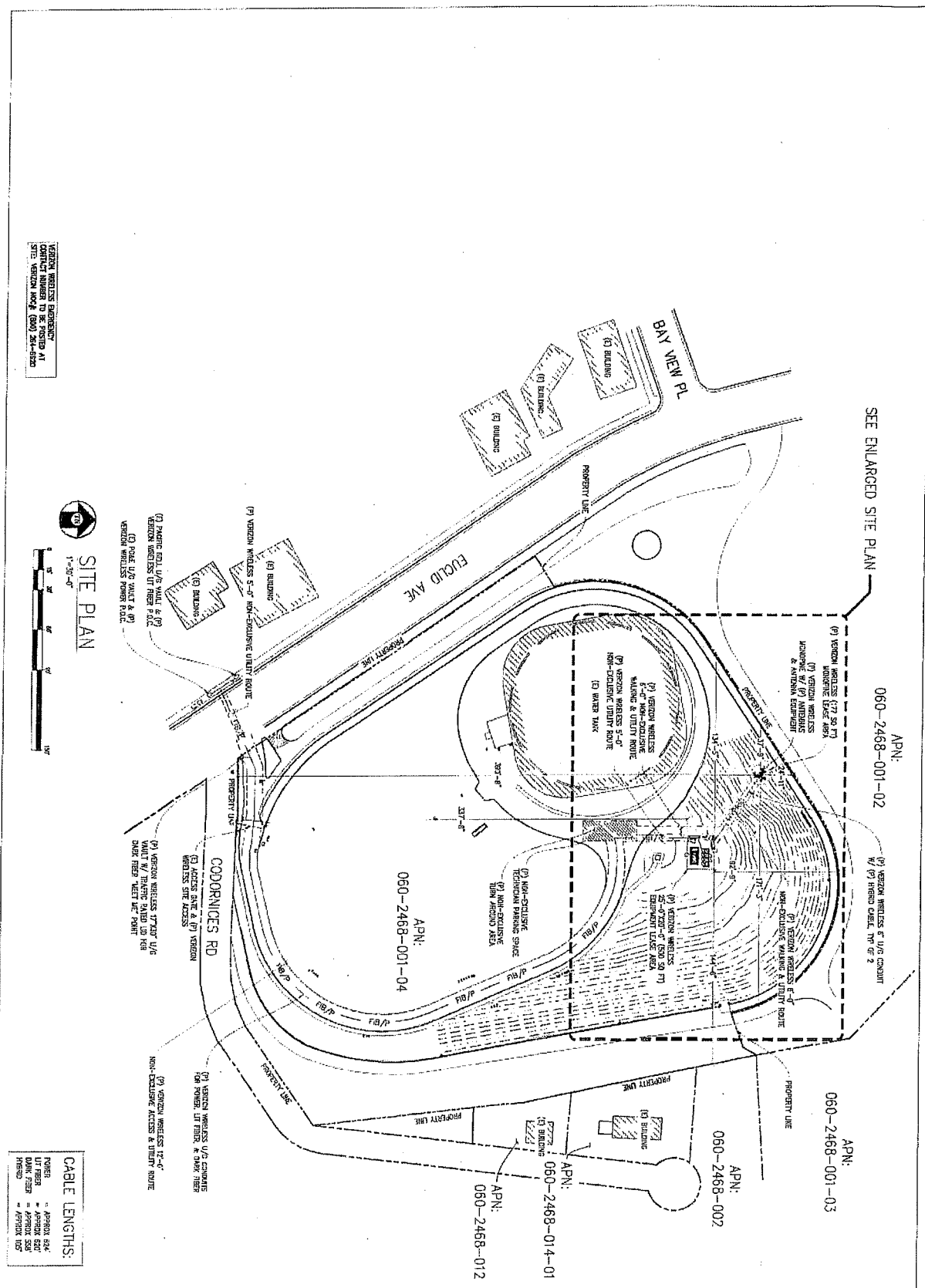
HAYES

Land Surveying
And Mapping

2210 HADJIAN COURT
DUBLINO, CA 94568

ISSUE STATUS

Δ	DATE	DESCRIPTION	REV.
	10/15/2017	SITE PLAN	
	1/29/2018	TRIAL SURVEY	



VERIZON WIRELESS EQUIPMENT CONTRACT NUMBER TO BE POSTED AT SITE: VERIZON WLF (060) 24-6550

SITE PLAN
1"=50'-0"

CABLE LENGTHS:
 POWER - APPROX 100'
 UT RISER - APPROX 500'
 DARK RISER - APPROX 500'
 MISC - APPROX 100'

SHEET TITLE:
SITE PLAN
SHEET NUMBER:
A-1

ISSUE STATUS

DATE	DESCRIPTION	BY
06/27/07	NO BOX	DK
12/21/07	1ST WIRE TUNES	DK
01/22/08	2ND WIRE TUNES	DK
01/23/08	3RD WIRE TUNES	DK
01/23/08	4TH WIRE TUNES	DK
01/23/08	5TH WIRE TUNES	DK
01/23/08	6TH WIRE TUNES	DK
01/23/08	7TH WIRE TUNES	DK
01/23/08	8TH WIRE TUNES	DK
01/23/08	9TH WIRE TUNES	DK
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01/23/08	94TH WIRE TUNES	DK
01/23/08	95TH WIRE TUNES	DK
01/23/08	96TH WIRE TUNES	DK
01/23/08	97TH WIRE TUNES	DK
01/23/08	98TH WIRE TUNES	DK
01/23/08	99TH WIRE TUNES	DK
01/23/08	100TH WIRE TUNES	DK

DRAWN BY: D. GARCIA
 CHECKED BY: J. GAY
 APPROVED BY: [Signature]
 DATE: 02/02/08

PRELIMINARY:
NOT FOR CONSTRUCTION
KENN B. SHERMAN
04/08

StreamLine Engineering
and Design, INC.

8445 Stone College Blvd, Suite E 60000 Bay, CA 94661
 Contact: Larry Houghtry, Phone: 916-252-0488
 Fax: 916-252-0488
 E-Mail: larry@streamlineeng.com, Fax: 916-252-0481

verizon

2789 MITCHELL DRIVE, BLDG 0
WALNUT CREEK, CA 94598

BERKELEY HILLS

2735666
 1400 BARRINGTON AVENUE, BERKELEY
 BERKELEY, CA 94709

EXHIBIT "B"
LEGAL DESCRIPTION

REAL PROPERTY IN THE CITY OF BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERN LINE OF THAT CERTAIN 8.01 ACRE PARCEL OF LAND DESCRIBED IN DEED FROM MOSES HOPKINS TO ALAMEDA WATER COMPANY, A CORPORATION, DATED JULY 1, 1885 AND RECORDED JULY 2, 1885 IN BOOK 288 OF DEEDS, PAGE 249, ALAMEDA COUNTY RECORDS, WITH THE EASTERN LINE OF EUCLID AVENUE, AS ESTABLISHED BY INSTRUMENT FROM PEOPLES WATER COMPANY, A CORPORATION TO CITY OF BERKELEY, A MUNICIPAL CORPORATION, DATED APRIL 21, 1911 AND RECORDED APRIL 27, 1911, IN BOOK 1898 OF DEEDS, PAGE 256, ALAMEDA COUNTY RECORDS, UNDER RECORDER'S SERIES NO. O/17658; RUNNING THENCE ALONG THE SAID EASTERN LINE OF EUCLID AVENUE, NORTH 34° 52' WEST, 152.80 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERN LINE OF EUCLID AVENUE, NORTH 34° 52' WEST, 279.88 FEET; THENCE LEAVING LAST NAMED LINE OF EUCLID AVENUE, NORTH 55° 08' EAST, 39.11 FEET TO A POINT FROM WHICH THE CENTER OF A CURVE TO THE RIGHT HAVING A RADIUS OF 96.50 FEET BEARS NORTH 81° 36' EAST; THENCE NORTHERLY ALONG THE ARC OF LAST SAID CURVE, AN ARC DISTANCE OF 107.01 FEET; THENCE NORTH 55° 08' EAST, 156.80 FEET; THENCE TANGENT TO LAST SAID COURSE, NORTHEASTERLY, EASTERLY AND SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 96.50 FEET; AN ARC DISTANCE OF 173.81 FEET; THENCE NORTH 68° 20' EAST, 26.88 FEET; THENCE NORTH 48° 00' EAST, 11.53 FEET TO THE NORTHERN LINE OF THAT CERTAIN 1.90 ACRE PARCEL OF LAND DESCRIBED IN DEED FROM EAST BAY WATER COMPANY, A CORPORATION, TO FRANK GRAY DATED MAY 10, 1924 AND RECORDED MAY 22, 1924 IN BOOK 736 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 67; THENCE SOUTH 11° 00' 00" EAST, 176.00 FEET; THENCE SOUTH 6° 15' 00" EAST, 146.50 FEET; THENCE SOUTH 21° 20' 22" WEST, 41.75 FEET; THENCE SOUTH 53° 00' 00" WEST, 68.80 FEET; THENCE SOUTH 60° 28' 00" WEST, 17.50 FEET; THENCE SOUTH 72° 36' 00" WEST, 17.70 FEET; THENCE SOUTH 81° 25' 00" WEST 25.15 FEET; THENCE NORTH 85° 20' 00" WEST, 99.80 FEET; THENCE SOUTH 88° 58' 00" WEST, 42.39 FEET TO THE TRUE POINT OF BEGINNING.

APN: 060-2468-001-04

EXHIBIT "C"
INSURANCE CERTIFICATES
(ATTACHED)



VERIFICATION OF COMMERCIAL GENERAL LIABILITY INSURANCE

THIS IS TO VERIFY TO: East Bay Municipal Utility District (EBMUD)
Department:
Street Address:
Mailing Address:
City, State, Zip:

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Contract Number:
Insured:
Address:

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

This Verification applies to all VZW /EBMUD permits and leases

TYPE OF INSURANCE: Commercial General Liability Coverage/Endorsements as required by agreement.

LIMITS OF LIABILITY:

(MINIMUM) \$4,000,000/Occurrence, Bodily Injury, Property Damage-General Liability
\$4,000,000/Personal and Advertising Injury
\$4,000,000 General Aggregate/\$4,000,000/Products Completed Operations

All General Liability coverage maintained or procured by permit Holder shall be endorsed to delete the subrogation condition as to District, or must specifically allow the named insured to waive subrogation prior to a loss.

DEDUCTIBLE(\$): (GL) (if applicable)
Aggregate Limits (GL) (if applicable)

INSURANCE COMPANY(IES): (GL)

POLICY NUMBER(S): (GL)

POLICY TERM: From: (GL) To: (GL)

THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):

- 1. [X] The District, it's Directors, Officers and Employees are Additional Insureds in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO.
2. [X] The coverage is Primary and non-contributory to any other applicable insurance carried by the District.
3. [X] The policy(ies) covers contractual liability.
4. [X] The policy(ies) covers 'Independent Contractor's Liability'
5. [X] The policy(ies) is written on an occurrence basis.
6. [X] The policy(ies) covers personal injury (libel, slander, false arrest and wrongful entry or eviction) liability.
7. [X] The policy(ies) covers explosion, collapse, and underground hazards.
8. [X] The policy(ies) covers products and completed operations.
9. [X] The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice from Lessee/Permittee to East Bay Municipal Utility District at the address above.

The above policies provide liability insurance as required by the agreement between the East Bay Municipal Utility District and the insured.

Signed Address Firm Date Phone

This verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



VERIFICATION OF AUTO LIABILITY INSURANCE

THIS IS TO VERIFY TO:

East Bay Municipal Utility District (EBMUD)

Department: _____

Street Address: _____

Mailing Address: _____

City, State, Zip: _____

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Contract Number: _____

Insured: _____

Address: _____

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

This Verification applies to all VZW /EBMUD permits and leases

TYPE OF INSURANCE: Automobile Liability Coverage/Endorsements as required by agreement.

LIMITS OF LIABILITY:

(MINIMUM) \$4,000,000 per Accident, Bodily Injury, Property Damage-Auto Liability

All Automobile Liability coverage maintained or procured by permit Holder shall be endorsed to delete the subrogation condition as to District, or must specifically allow the named insured to waive subrogation prior to a loss.

DEDUCTIBLE (\$):

(Auto) _____

INSURANCE COMPANY(IES):

(Auto) _____

POLICY NUMBER(S):

(Auto) _____

POLICY TERM:

From: (Auto) _____

To: (Auto) _____

THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):

1. The District, it's Directors, Officers and Employees are Additional Insureds in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO. _____
2. The coverage is *Primary* and *non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) is written on an occurrence basis.
4. The policy(ies) covers the use of any auto, including owned, non-owned and hired automobiles.
5. The policy(ies) covers the leakage of fuel or other 'pollutants' needed for normal functioning of covered autos.
6. The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice from Lessee/Permittee to East Bay Municipal Utility District at the address above.

The above policies provide liability insurance as required by the agreement between the East Bay Municipal Utility District and the insured.

Signed _____

Address _____

Firm _____

Date _____

Phone _____

This verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



VERIFICATION OF WORKERS' COMPENSATION INSURANCE

THIS IS TO VERIFY TO:

East Bay Municipal Utility District (EBMUD)
Department: _____
Street Address: 375 11th Street, MS 702
Mailing Address: P.O. Box 24055
City, State, Zip: Oakland, CA 94623-1055

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Purchase Order
Number: _____

(Completed by EBMUD) _____

Insured: _____

Address: _____

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

This Verification applies to all VZW /EBMUD permits and leases

TYPE OF INSURANCE: Workers' Compensation Insurance as required by California State Law.

All Workers' Compensation coverage maintained or procured by permit Holder shall be endorsed to delete the subrogation condition as to District, or must specifically allow the named insured to waive subrogation prior to a loss.

INSURANCE COMPANY: _____

POLICY NUMBER: _____

POLICY TERM: From: _____ To: _____

The policy will not be canceled without 30 days written notice from Lessee/Permittee to East Bay Municipal Utility District at the address above.

The above policy provides insurance as required by the agreement between East Bay Municipal Utility District and the Insured.

Signed: _____

Date: _____

Firm: _____

Email: _____

Address: _____

Phone: _____

"This verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



VERIFICATION OF POLLUTION LIABILITY INSURANCE

THIS IS TO VERIFY TO:

East Bay Municipal Utility District (EBMUD)

Department: _____

Street Address: _____

Mailing Address: _____

City, State, Zip: _____

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Contract Number: _____

Insured: _____

Address: _____

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

This Verification applies to all VZW /EBMUD permits and leases

TYPE OF INSURANCE: Pollution Liability (Occurrence with Defense Inside the limits.) ---bodily injury and property damage

MINIMUM LIMITS OF LIABILITY: \$4,000,000 per occurrence or claim \$10,000 aggregate

Pollution Liability coverage maintained or procured by permit Holder shall be endorsed to delete the subrogation condition as to District, or must specifically allow the named insured to waive subrogation prior to a loss.

INSURANCE COMPANY: _____

POLICY NUMBER(S): _____

POLICY TERM:

From: _____

To: _____

POLICY TAIL:

From: _____

To: _____

THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):

1. The District, it's Directors, Officers and Employees are *Additional Insureds* in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO. _____
2. The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) include defense costs.
4. The policy includes Transportation Liability insurance covering materials to be transported by Lessee/Permittee in operation and/or performance under the Lease/Permit.
5. The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice from the Lessee/Permittee to East Bay Municipal Utility District at the address above.

The above policy provides pollution liability insurance as required by the agreement between East Bay Municipal Utility District and the Insured.

Signed _____

Address _____

Firm _____

Date _____

Phone _____

"This verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."

RM 4/15

EXHIBIT "D"

LIST OF TELECOMMUNICATIONS LEASES SIGNED BY LESSOR AND LESSEE BETWEEN
JANUARY 1, 2017 THROUGH DECEMBER 31, 2018

Telecommunications Lease Number	Date of Telecommunications Lease	Property Address/Location

Benado, Tony

From: Numainville, Mark L.
Sent: Friday, October 25, 2019 3:54 PM
To: City Clerk
Subject: FW: Berryman Reservoir EIR

From: Hahn, Sophie
Sent: Friday, October 25, 2019 3:42 PM
To: Numainville, Mark L. <MNumainville@cityofberkeley.info>
Subject: FW: Berryman Reservoir EIR

This correspondence I received relates to the 0 Euclid Cell Tower Application, which was denied by ZAB and is being appealed to Council. Please add it to the record. Thanks! Sophie Hahn

From: susan nunes [mailto:suminu1@gmail.com]
Sent: Wednesday, October 23, 2019 12:48 PM
To: Sophie Hahn
Subject: Berryman Reservoir EIR

Dear Councilmember Hahn,

This link will take you to the site of the architect hired by EBMUD back in the 90s to improve the Berryman Reservoir. It summarizes in a paragraph the work and findings of the EIR, and the collaboration with the community. It's hard to believe that Verizon wants to plunk an industrial tower in the middle of what has become a public space:

http://www.mullercaulfield.com/mca/web_pages/proj_pages/EBMUD_Berryman.html

Please don't get talked into supporting Verizon's appeal.

Susan Nunes Fadley

Benado, Tony

From: Michael Burt <mb@michaelburtlaw.com>
Sent: Monday, December 16, 2019 9:50 AM
To: Nawfal, Layal; City Clerk
Cc: pa@mallp.com; David.Haddock@ridgecommunicate.com
Subject: Request for advance 60 day notice of the setting of any public hearing, and advance access to any new evidence the appellant intends to submit, regarding public hearing on Appeal of Denial of Application # 2018-0236, Telecommunication Facility, 0 Euclid A 2019.12.16 Burt -Request to City Council for reasonable notice of public hearing and posting of new evidence.pdf

Attachments:

Dear Ms. Nawfal

Attached please find a request on behalf of myself and several concerned neighbors regarding the above-entitled matter. I assume from past correspondence that you are the appropriate person to correspond with on this matter. If not, could you please forward this request to the responsible person. Please also let me know that you are in receipt of this e-mail. Thanks.

Michael Burt
Law Office of Michael Burt
1000 Brannan Street, Suite 400
San Francisco, California 94103-4888
415-522-1508 phone
415-522-1509 fax
415-250-4541 cell
mb@michaelburtlaw.com

Law Office of Michael Burt
1000 Brannan Street, Suite 400
San Francisco, California 94103
415-522-1508 phone; 415-522-1506 fax
mb@michaelburtlaw.com

December 16, 2019

VIA e-mail

City Council
c/o City Clerk
City of Berkeley
2180 Milvia Street
Berkeley, California
2180 Milvia Street
Berkeley, California 94704

Re: Request for advance 60 day notice of the setting of any public hearing, and advance access to any new evidence the appellant intends to submit, regarding public hearing on Appeal of Denial of Application # 2018-0236, Telecommunication Facility, 0 Euclid Avenue (Berryman Reservoir)

Dear City Clerk and Councilmembers:

I am an attorney and I reside at 178 Tamalpais Road, Berkeley, CA, where I have owned and lived in my home since 1980. I write this letter on behalf of myself and a number of other residents of the neighborhoods directly affected by the appeal in the above- referenced matter, including the names listed in Attachment I to this letter. The purpose of my letter is to formally request that the Berkeley community be provided on the City's website: (1) a 60 day advanced notice of any public hearing on this appeal; and (2) advance access to any new evidence that the appellant intends to produce at the public hearing of this appeal. We believe that both of these requests are reasonable and that compliance with them is mandated under the due process clauses of the federal and state constitutions.

As you are aware, the Zoning Adjustments Board denied Verizon's application for this cell tower permit on June 27, 2019. On July 16, 2019, Verizon filed a written appeal of this decision with the City Council. The written appeal does not indicate that it was served on anybody in the affected neighborhoods, and as of the date of this letter, the written appeal has

still not been posted on the part of the City's website devoted to this project.¹ Instead, on October 8, 2019, the City posted a letter to Verizon's counsel indicating that Verizon's request for a postponement of the public hearing, then set for October 29, 2019, had been granted, and that "[o]nce a new date was selected, all parties will be notified." Like Verizon's written appeal, Verizon's request for a postponement of the public hearing is not posted on the City's website. It is only through fortuity that members of the affected neighborhoods discovered the pendency of Verizon's appeal, its contents, and its subsequent request for a postponement. The request for a postponement of the public hearing, granted without any input from the public, was based on Verizon's assertion that it needed "a few months" because "Verizon is in the process of gathering coverage details that we think will be helpful for the hearing", and "[t]he City of Berkeley may also benefit from some extra time to have those details peer reviewed." (October 7, 2019 email of Verizon representative David Haddock to Loyal Nawfal).

Based on the foregoing events, we are very concerned that decisions are being made by the City's staff in this matter without appropriate notice to and input from the community. We are especially concerned that after having secured through an *ex parte* process a delay in the public hearing "for a few months" Verizon will eventually seek in yet another *ex parte* request to have the new public hearing date set at a time and date that does not give the affected neighborhoods sufficient time to review the new coverage evidence referenced in Verizon's email, and to present its views in opposition to the appeal to the City Council.

Berkeley's Resolution No. 62,571-N.S- (Establishing Fair Procedures In Land Use Public Hearings (adopted July 13, 2004) sets forth certain specific procedures for conducting public hearings in land use cases such as the present one, but it also specifically states that the procedures set out in the Resolution are "in addition to any other procedure required by applicable federal, state, or local standards", and that "[n]othing in these procedures shall be construed as limiting any procedural protections that a party *or the public* may be entitled to by law over and above the protections of this resolution, based on the facts of any particular proceeding." (emphasis added)

One such procedural protection available to the public in land use cases like the present one is the federal and state constitutional right to procedural due process. See, *American Tower Corp. v. City of San Diego* (9th Cir. 2014) 763 F. 3d 1035, 1048-1053); *Horn v. County of Ventura* (1979) 24 Cal 3d 605. As stated in *Horn*, "Due process principles require reasonable notice and opportunity to be heard before governmental deprivation of a significant property interest." (Id. at 612.) In both these cases, although notice was given pursuant to local and state laws, it was found to be insufficient to satisfy constitutional due process standards. In *Horn*, after finding that general posting of relevant materials in a county office did not provide constitutionally sufficient notice, the Court observed that "depending on the magnitude of the project, and the degree to which a particular landowner's interests may be affected, acceptable techniques might include notice by mail to the owners of record of property situate within a designated radius of the subject property, or by the posting of notice at or near the project site, or

¹
https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/0_Euclid_Avenue.aspx (last visited December 13, 2019)

both. Notice must, of course, occur sufficiently prior to a final decision to permit a meaningful' predeprivation hearing to affected landowners." In *City of San Diego*, the Ninth Circuit Court of Appeal specifically found that notice of a cell tower permit extension hearing, given fifty-six days before the hearing, did not meet federal due process standards. (*City of San Diego*, supra, 763 F. 3d at 1051-1053 n. 13.)

Moreover, the United States Supreme Court has long held that "[t]he right to a hearing embraces not only the right to present evidence, but also a reasonable opportunity to know the claims of the opposing party and to meet them. The right to submit argument implies that opportunity; otherwise the right may be but a barren one." *Morgan v. United States* (1938) 304 U.S. 1, 18.

Finally, we note that the Berkeley Municipal Code itself, in Section 23B.32.010(D), requires that the notice of public hearing be mailed both to "[n]eighborhood and community organizations listed in the registry of neighborhood/community organizations within whose expressed area of interest the project falls", and to "[t]he owners of properties and residents in the affected area." So far as we are aware, no such notice was ever mailed prior to the setting of the last public hearing in this matter. In any event, Section 23B.32.010(D) allows the notice to be mailed a mere 14 days before the hearing, which is plainly insufficient to meet federal due process standards, as was concluded in *City of San Diego*.

For all of the foregoing reasons, we believe that the City must go beyond the requirements of Section 23B.32.010(D) and must, as required by federal and state constitutional guarantees of due process, provide on its website: (1) a 60 day advanced notice of any public hearing on this appeal; and (2) advance access to any new evidence that the appellant intends to produce at the public hearing of this appeal.

Sincerely,

/s/ Michael N. Burt
Michael N. Burt
Attorney at Law

cc: Paul Albritton (pa@mallp.com) ; David Haddock
(David.Haddock@ridgecommunicate.com);
Nawfal, Layal (LNawfal@cityofberkeley.info); City Clerk (clerk@cityofberkeley.info).

ATTACHMENT I

The following individuals join in this request:

Jennifer and Jake Burt, 178 Tamalpais Road, Berkeley, CA 94708

JoAnn Driscoll, 1348 Euclid Ave, Berkeley, CA 94708

Susan Nunes Fadley, 1 Tamalpais Road, Berkeley, CA 94708.

Kelley Hart, 1350 Scenic Ave, Berkeley, CA 94708

Dawn Hawk, 180 Tamalpais Road, Berkeley CA

Oren Leiman, 1348 Euclid Ave, Berkeley, CA 94708

Justin Edward Lombardelli, 1350 Scenic Ave, Berkeley CA

L. Lloyd Morgan, 2022 Francisco Street, Berkeley, CA 94709

Nick Paszty and Gay Pelletier, 1304 Bay View Place, Berkeley CA 94708

Phyllis Peacock, 1345 Bay View Pl, Berkeley CA 94708

Lucinda and Susan Reinold, 1306 Euclid Avenue, Berkeley, CA 94708

Robert and Susan Roth, 80 Codornices Road, Berkeley 94708

Phoebe Anne Sorgen, 1053 Cragmont Ave, Berkeley, CA 94708

Paul Teicholz, 1322 Bay View Place, Berkeley, CA 94708

Benado, Tony

From: Raissa Lerner <raissalerner@gmail.com>
Sent: Sunday, December 15, 2019 4:40 PM
To: All Council
Subject: Zab 2018-0236

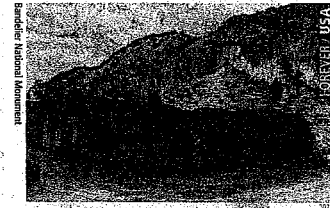
Hi, I am a resident of North Berkeley and the ZIP Code 94707. I am writing in opposition to the application for 5G tower next to Codornices Park.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

Sincerely,
Raissa Lerner
1021 Colusa Ave

Sent from my iPhone

A DANCING BOY, Ink and Light Colors on Paper
Album Leaf by Kim Hong-do (1745-after 1814 A.D.)
Korea—Yr
H. 28 cm
National Museum of Korea

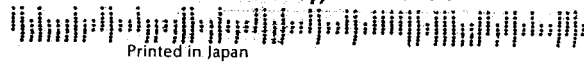


Cell tower in Codornies
will be a HUGE
eyesore in an ICOMC
Berkeley Park. Don't
let the corporation
bully you. Stand
strong with Berkeley
Parkes!

Asian Art Museum of San Francisco

City of Berkeley Clerk
Attn: City Council
Re: Permit #ZP2018-0236 Appeal
2180 Milvia St, 1st Fl.
Berkeley, CA 94704

Color Photo by James Medley



Benado, Tony

From: Nawfal, Loyal
Sent: Tuesday, October 29, 2019 12:27 PM
To: Nawfal, Loyal
Cc: City Clerk
Subject: Postponed: 0 Euclid City Council Appeal Hearing

Hello,
Just in case you were not informed, the previously scheduled City Council Public Hearing of the appeal of ZAB's denial of Use Permit #ZP2018-0236 located at Berryman Reservoir will not be heard tonight (Tuesday Oct 29), per the applicant's request. The hearing will be re-scheduled in 2020. The new date is to be determined and a Public Hearing notice will be issued.

Please see the postponement confirmation letter issued by the City Clerk which may be accessed via the following link:
[https://www.cityofberkeley.info/uploadedFiles/Planning and Development/Level 3 - ZAB/2019-10-08 LTR Appeal%20Postponement 0%20Euclid.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2019-10-08_LTR_Appeal%20Postponement_0%20Euclid.pdf)

If you have any other questions or comments regarding the pending City Council hearing for this item, please direct those emails to the City Clerk's office to ensure they become part of the public record.
<https://www.cityofberkeley.info/clerk/>

Thank you,
-Loyal

Loyal Nawfal
Associate Planner
Land Use Planning Division
City of Berkeley
lnawfal@cityofberkeley.info

Closure schedule: [https://www.cityofberkeley.info/IT/Holiday and Reduced Service Days.aspx](https://www.cityofberkeley.info/IT/Holiday_and_Reduced_Service_Days.aspx)

Benado, Tony

From: Regina Dimaggio <rmdimaggio@fedex.com>
Sent: Tuesday, October 29, 2019 11:31 AM
To: All Council
Subject: 5G CELL TOWER AT BERRYMAN RESERVIOR AND CODORNICES PARK

OCT. 29, 2019

Dear City of Berkeley Council members,

The science is in: EMFs are harmful. I am calling on you to stop 5G to protect our trees, bees, birds and humans! 5G will greatly increase *involuntary exposure* to wireless radiation in our communities with cell towers planned for every other block. There is no scientific evidence to support any claim of 5G safety! The Telecom Industry has not begun to do due diligence in advance of deploying 5G grids throughout our neighborhoods and Scientists and public health experts from around the world are calling for a moratorium on 5G.

In 2018 Newsweek reported: *"Technology is quite literally destroying nature, with a new report further confirming that electromagnetic radiation from power lines and cell towers can disorientate birds and insects and destroy plant health. The paper warns that as nations switch to 5G this threat could increase."* Peer-reviewed studies show worker bees did not return to their hives because of wireless radiation, which led to a colony collapse. Radiation impacts on wild birds documented nest abandonment, plumage deterioration and death. Lab studies of chick embryos documented heart attacks and death. In 2019 the Swiss environmental group Pro Natura reported 5G increases the body temperature of insects. The 30 million dollar, ten year US National Toxicology Program study found clear evidence of cancer from exposure to wireless radiation.

In addition to detrimental health and environmental impacts of 24/7 microwave radiation, these cell towers will exceed Berkeley's noise ordinance as well as create toxic diesel generator pollution adding to out already compromised air quality due to toxic exposure to aircraft noise and emissions after FAA rerouting of jet liners/air traffic over our neighborhoods in 2016.

The telecommunication industry's unbounded profit motive should never outweigh public and environmental safety. Municipalities in California and other cities have taken their moral obligation to protect their communities health and safety seriously and placed a moratorium on this technology. The City of Berkeley should follow suit and invoke tenets of Precautionary Principle approach in its action and decision making as stated in Chapter 12 of the Berkeley municipal code and consider safer options that do not pose a threat to the health and well being of our communities or undermine and destroy the unique qualities and characteristics of our great City.

Communications are faster, more reliable, and safer using wired and corded connections. **Stop 5G!**

Sincerely,

Regina DiMaggio
 Berkeley resident

Benado, Tony

From: kaellyn moss <klmoss_10@yahoo.com>
Sent: Friday, November 01, 2019 6:03 PM
To: All Council; Harrington, Phillip
Subject: Proposed 5G Cell Tower for Cordonices Park Area

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently.

I am strongly opposed to 5G technology due to the uncertain impacts of health and well being of people in it's vicinity. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community as a primary priority, and do not allow the tower in Berryman Reservoir.

Better to invest in fiber optic technology. As recent fires have shown, any above ground structures are extremely vulnerable to fires, not to mention earth quakes. Please kill the proposal now.

Thank you and kind regards,
Kaellyn

Kaellyn Moss 510-375-5206 klmoss_10@yahoo.com

Benado, Tony

From: kaellyn moss <klmoss_10@yahoo.com>
Sent: Monday, November 04, 2019 12:14 AM
To: All Council; Harrington, Phillip
Subject: Re: Proposed 5G Cell Tower for Cordonices Park Area

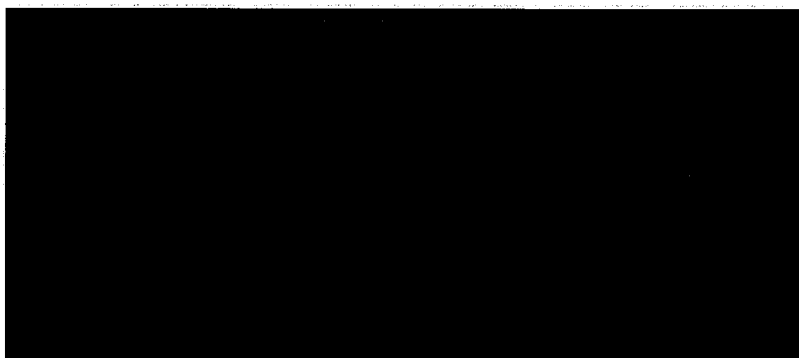
Please read the 2 below articles.....especially the scientific american...

Many developed countries have banned 5G due to health concerns. [Worldwide Countries Taking Action on Wireless](#)



Countries around the world are taking action. Parents for Safe Technology: Credible information and research on ...

And in case you don't believe me, read this: [Scientific American issues severe warning on 5G dangers -- Sott.net](#)



dangers -- Sott.net

In a recently published article entitled, We Have No Reason to Believe 5G is Safe, Scientific American (SciAm) m...

Kaellyn Moss 510-375-5206 klmoss_10@yahoo.com

On Friday, November 1, 2019, 06:02:45 PM PDT, kaellyn moss <klmoss_10@yahoo.com> wrote:

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently.

I am strongly opposed to 5G technology due to the uncertain impacts of health and well being of people in it's vicinity. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community as a primary priority, and do not allow the tower in Berryman Reservoir.

Better to invest in fiber optic technology. As recent fires have shown, any above group structures are extremely vulnerable to fires, not to mention earth quakes. Please kill the proposal now.

Thank you and kind regards,
Kaellyn

Kaellyn Moss 510-375-5206 klmoss_10@yahoo.com

Benado, Tony

From: Mary McGann <mmcgann@scu.edu>
Sent: Friday, October 11, 2019 1:48 PM
To: All Council
Subject: Voice against Verizon

I write to speak against the building of a Verizon cell-phone tower near Berryman reservoir, Euclid Ave. Berkeley.

From information I have gathered about the impact of cell phone tower radiation on persons in proximity to where it is built, this initiative would be dangerous to the numerous families, children, and young adults who use the extensive park area adjacent to the reservoir. I myself walk through the area twice each day, and know how many people would be affected by the radiation emitted. I'm aware as well that the emissions of such a tower can interfere with migrating birds, causing them to lose their way to places of migration.

I urge you to listen to citizens who will be directly and adversely affected by this move by Verizon, and to protect us from harm - which is, I believe, the first responsibility of local government. Please don't be fooled by Verizon's many claims about safety and protection!!!

If I am free, I will attend the re-scheduled hearing of their appeal. Please stay faithful to your original judgement in this matter.

Many thanks!
Dr. Mary E. McGann, RSCJ

Dr. Mary McGann, RSCJ
Adj. Associate Professor of Liturgical Studies'
Jesuit School of Theology / Graduate Theological Union
Berkeley, CA 94709

Benado, Tony

From: Mary McGann <mmcgann@scu.edu>
Sent: Saturday, October 26, 2019 2:16 PM
To: All Council
Subject: Verizon tower near CORDONICES PARK!

I write to urge you not to allow the building of a cell phone tower near the Berriman Reservoir. This would be dangerous to so many children who play in the park and adjacent field -- as well as to residents in the area. I fear for the negative impact on my health, since I walk through that area twice a day.

There are many other places where such a tower can be built that will not have the same impact on children and adults who live and enjoy the outdoors in this area.

PLEASE PUT THE NEEDS OF THE CITIZENS OF BERKELEY BEFORE THE COMMERCIAL DESIGNS OF A COMPANY LIKE VERIZON! YOU ARE OUR COUNCIL, AND WE DEPEND ON YOU TO PROTECT OUR HEALTH.

Thank you very much for your acting on our behalf!

Mary

Dr. Mary McGann, RSCJ

Adj. Associate Professor of Liturgical Studies'

Jesuit School of Theology / Graduate Theological Union

Berkeley, CA 94709

Benado, Tony

From: Harrington, Phillip
Sent: Friday, October 25, 2019 9:57 AM
To: City Clerk
Subject: FW: Concern about cell tower

And another one.

From: Andrea Lappen [mailto:andrealappen@comcast.net]
Sent: Friday, October 25, 2019 9:50 AM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: Concern about cell tower

Hello, I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently. The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir. Thank you for your support.

Andrea Lappen
Walnut Street

Sent from my iPhone

Benado, Tony

From: Cynthia Li <cynth.li@gmail.com>
Sent: Friday, October 11, 2019 11:19 AM
To: All Council
Subject: please uphold ZAB's unanimous decision to deny the proposed cell tower!

Dear City Council Members:

I am writing in strong support of upholding ZAB's unanimous decision to deny the construction of a proposed cell tower at 0 Euclid Avenue by Verizon Wireless.

First, the proposed 50-70-foot cell tower will be an eyesore in this area of Berkeley, a historic landmark, to say nothing of the landscape of the multi-purpose park and field adjacent to the Berryman Reservoir.

Second, I'm concerned about the safety hazards created, increasing the potential for fire or injury.

Third, as a doctor, I'm especially concerned about the sound of the generator. Not only will it violate the city's noise ordinance, but noise pollution has a great impact on human health.

Thank you for your consideration of this important matter.

Sincerely,

Cynthia Li
1328 Bay View Pl
Berkeley, CA 94708
510-848-8599

--

Cynthia Li, MD
Integrative & Functional Medicine (ABIM)
Author, *Brave New Medicine*
www.cynthialimd.com
www.facebook.com/dr.cynthia.li

Benado, Tony

From: Jennifer Monahan <jennifer.m.monahan@gmail.com>
Sent: Thursday, October 10, 2019 2:40 PM
To: All Council
Subject: proposed cell phone base station at Berryman Reservoir

Dear City Council members,

As a resident of the neighborhood around Codornices Park, I am writing to express my support for the placement of a cell phone base station at Berryman Reservoir.

If the American Cancer Society and the World Health Organization aren't worried about health effects from base stations then neither am I. The aesthetics aren't my cup of tea, but 1) I appreciate that an effort has been made to blend the tower in with the surroundings of the park and 2) I strongly suspect that once the tower is built people will quickly get used to the way it looks.

As more and more people in the hills get rid of their land lines and rely entirely on cell phones, this is a needed investment in public safety and public infrastructure.

Respectfully,

Jennifer Monahan
1189 Euclid Avenue

Thomsen, Rose

From: daniel richheimer <danielrichheimer@gmail.com>
Sent: Tuesday, October 08, 2019 9:26 PM
To: All Council
Subject: Cell Tower at 0 Euclid Ave.

To: Council@CityofBerkeley.info

Date: October 08, 2019

Re: Appeal of ZAB decision re: Verizon Cell Tower, 0 Euclid Ave., Berryman Reservoir

Dear City Council Members

I am writing you in support of ZAB's unanimous decision on June 27, 2019 to deny Verizon a permit to construct a cell tower at 0 Euclid Ave., Berryman Reservoir. Please reject Verizon's appeal of that decision.

The proposed Verizon cell tower will have a substantial negative impact on a historically significant area of the Berkeley Hills, including Cordornices Park and the Rose Walk and Rose Garden. This is an area that is visited by thousands of people a year from all over the world for its historic significance and beauty. A cell phone tower (even a tower disguised as a tree) will ruin this area.

Verizon has failed to show that there is a need for additional capacity or coverage.

The sound of the generator will violate the City's noise ordinance, especially as it will need to be tested weekly, which will amplify the sound volume in the bowl of the basin where it is located. The generator will also be burning fossil fuels and contributing to carbon emissions.

The tower will dramatically reduce the property values of homes in the near-by neighborhoods. A cell phone tower should not be located in such close proximity to a playground, baseball field, basketball courts and slide that are used so frequently by kids from Berkeley and beyond.

Importantly, the proposed tower does not meet the City's zoning requirements: for example, 23B.32.040 Findings for Issuance and Denial and Conditions; 23C.17.100 Findings Required for Approval; and 23C.17.040 Minimum Application Requirements.

In addition, the proposed tower violates policies of the General Plan, including Policy LU-7 "Neighborhood Quality of Life, Action A.." and Policy UD-16 "Context."

Thank you for your consideration.

Sincerely,
Daniel Richheimer
1142 Cragmont Ave.
Berkeley, CA 94708
Phone #510-295-8991

Thomsen, Rose

From: Phyllis Peacock <phyllispeacock@gmail.com>
Sent: Monday, October 07, 2019 6:58 PM
To: All Council
Subject: Opposition of proposed Verizon cell tower at Berryman Reservoir

Re: Appeal of ZAB decision re: Verizon Cell Tower, 0 Euclid Ave., Berryman Reservoir Permit application number: ZP2018-2036

Dear City Council Members:

I'm writing to urge you to affirm ZAB's unanimous decision on June 27, 2019 to deny Verizon's permit to construct the proposed cell tower at 0 Euclid Ave., Berryman Reservoir. Verizon's appeal of that decision must be rejected for many reasons.

The proposed Verizon cell tower will have a huge negative visual impact in a historically land marked area, including Rose Walk and the Berkeley Rose Garden. A cell tower no matter how it's disguised as a 'tree' will not blend with the surrounding natural environment.

If the tower were to be constructed, it would create a safety hazard with an increased risk of fire in the immediately adjacent Codornices Park, further threatening access to Berryman Reservoir.

Verizon has failed to show their need for additional coverage or capacity, which is their legal responsibility. Verizon has also failed to show that there are no better alternatives to this tower.

The sound of the generator will violate the City's noise ordinance. It will need to be tested weekly, and will be amplified by the bowl of the reservoir basin.

The tower will reduce property values of homes in the neighborhood.

Several Berkeley City zoning requirements are not met by the proposed tower. For example: 23B.32.040 Findings for Issuance and Denial and Conditions; 23C.17.100 Findings Required for Approval; and 23C.17.040 Minimum Application Requirements.

The proposed tower also violates policies of the General Plan, including Policy LU-7 "Neighborhood Quality of Life, Action A." And Policy UD-16 "Context".

Thank you for your consideration in serving the City of Berkeley and its people.

Sincerely,

Phyllis Peacock
1345 Bay View Place
Berkeley Ca 94708
510.928.8505

Sent from my iPad

Benado, Tony

From: Harrington, Phillip
Sent: Tuesday, October 15, 2019 11:15 AM
To: City Clerk
Subject: FW: 5G tower

From: Maryanne Stahl [mailto:moondoxy@gmail.com]
Sent: Tuesday, October 15, 2019 9:38 AM
To: Harrington, Phillip <PHarrington@cityofberkeley.info>
Subject: 5G tower

I am writing to express my deep opposition to the plans for a cell tower at Berryman Reservoir in Berkeley. We live in the neighborhood, and the park is a gem that we use frequently.

The proposed cell tower would bring potent exposure to high levels of cell radiation, which in countless studies has been linked to: ADHD, Autism, developmental delays, insomnia, immune system dysfunction, DNA damage, calcium signaling deficiencies in the brain, and so much more. This tower simply may not stand. Please consider the health and safety of the community, and do not allow the tower in Berryman Reservoir.

Thank you.
Maryanne Stahl
Berkeley

Benado, Tony

From: Amanda Coggin <amandacoggin@gmail.com>
Sent: Tuesday, October 15, 2019 12:44 PM
To: All Council
Cc: Kesarwani, Rashi
Subject: No cell tower at Berryman Reservoir

Dear Councilmembers,

Thank you for voting against the proposed cell tower at Berryman Reservoir (ZP2018-9236). Please continue to oppose the tower, as we DO NOT WANT THE TOWER NEXT TO CODORNICES PARK!

- The tower would expose everyone in the park to high levels of radiation.
- People come from all over Berkeley to enjoy the unique nature immersion that Codornices Park offers; a huge tower facility does not belong here. Nature, citizens and especially children deserve to be protected from this.
- There is no post construction accountability re: design and operation.
- There are no plans for unbiased monitoring of radiation limits.

We appreciate your support. Thank you very much.

Amanda Coggin
North Berkeley resident

Kindness in words creates confidence. Kindness in thinking creates profoundness. Kindness in giving creates love. - Lao Tzu

Zen Caregiving Project - Facilitator
Mindful Caregiver Education, Open Death Conversations + End of Life Contemplations
| zencaregiving.org

writing
| giftofgrief.com
| tweeting @giftofgrief

Benado, Tony

From: Jan <jfjarvis@gmail.com>
Sent: Tuesday, October 15, 2019 1:03 PM
To: All Council
Subject: Verizon cell tower

Dear City Council Members:

I am writing to urge you to affirm ZAB's unanimous decision on June 27, 2019 to deny Verizon a permit to construct the proposed cell tower at Euclid Ave., Berryman Reservoir.

I am a frequent visitor of friends who live near the location of the proposed tower. My friends have shared with me what they have determined to be legal and environmental reasons the tower should not be built. My perspective, however, is different.

When I visit, I spend a lot of time at the Rose Gardens, Rose Walk and Cordonices Park. These areas are really beautiful and they would, in my opinion, be marred by the addition of the tower, no matter how hard Verizon worked to disguise it. I know this for a fact because I live a few miles from a Verizon cell tower, which Verizon attempted to disguise by making it look like a big pine tree. However, when you drive by it, there's no doubt as to what it actually is.

I also think these areas are a draw for the city of Berkeley; I frequently see visitors (and locals) out walking, and just enjoying nature. These places are very welcoming, and in my opinion, the noise and general hazards relating to a cell tower would definitely not improve the overall experience.

Sincerely,
Jan Jarvis
30540 Yosemite Springs Parkway
Coarsegold, CA 93614
jfjarvis@gmail.com
559-760-0033

Benado, Tony

From: Vivian Warkentin <vivwark@sbcglobal.net>
Sent: Monday, March 09, 2020 6:29 PM
To: All Council
Subject: Fwd: Investigation: Coronavirus and 5G

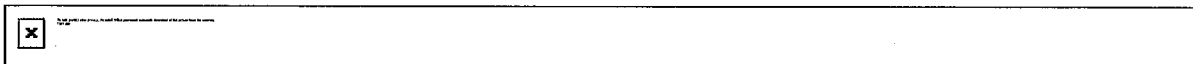
Begin forwarded message:

From: Wanda Warkentin <wandawarkentin@hotmail.com>
Subject: Fw: Investigation: Coronavirus and 5G
Date: March 7, 2020 at 3:20:39 PM PST
To: "cafred1@juno.com" <cafred1@juno.com>, "vivwark@sbcglobal.net" <vivwark@sbcglobal.net>, Mary BehmSteinberg <marybehmsteinberg@gmail.com>, "Gale G." <galeg@berkeley.edu>

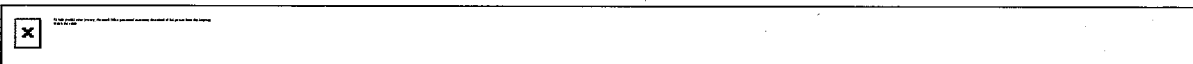
From: takebackyourpower.activehosted.com@d13c.emsend1.com <takebackyourpower.activehosted.com@d13c.emsend1.com> on behalf of Josh del Sol <info@takebackyourpower.net>
Sent: Saturday, March 7, 2020 12:23 AM
To: Wanda <wandawarkentin@hotmail.com>
Subject: Investigation: Coronavirus and 5G

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Featured Story & Video



A Critical Examination of the Coronavirus-5G Connection by Derrick Broze

What are the facts? What is yet unproven? And what is the Hegelian agenda underneath it all? Journalist and filmmaker **Derrick Broze** joins **James Corbett** to discuss the **Coronavirus-5G connection**, and the quest for truth-inspired action. [Watch video...](#)

Key News Of The Week

x

China, 5G, And The Wuhan Coronavirus

by Paul Doyon [ElectricSense.com]

Another perspective is from Paul Doyon, a researcher, writer, and teacher who inadvertently became involved in researching the EMF issue after becoming sick in 2005, while living in the vicinity of several cell phone towers. Mr. Doyon's piece starts by exploring the basics of electrosmog, the various health concerns associated with 5G, and finally, examining the possibility that EMF's could be weakening immune systems, and making folks more susceptible to infection by the Coronavirus. [Read more...](#)

x

Santa Barbara Council Hits 'Big Fat Pause Button' on 5G Antennas

by Nick Welsh [Independent.com]

Congrats to Santa Barbarans! Facing a gathering storm of opposition, the Santa Barbara City Council voted to delay authorizing a licensing agreement with Verizon that would have allowed the cell phone service giant to install up to 60 new 5G cell phone antennas on light fixtures downtown. [Read more...](#)

x

Study Demonstrates a New Way For Hackers to 'Hijack' Voice Activated Devices

by Ravie Lakshmanan [TheHackerNews.com]

Just when you thought "smart devices" couldn't get any less trustworthy, researchers have now published a study highlighting

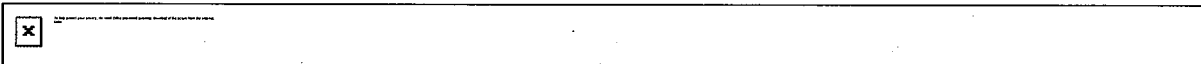
how hackers might hijack popular voice activated devices. The so-called "SurfingAttack" is the result of hackers using ultrasonic waves to communicate voice commands without the victims' knowledge. The new research highlights even more disturbing vulnerabilities present within the Smart Grid. [Read more...](#)



**CANADA: Google Sister Company Faces New Scrutiny
Over "Smart" Toronto**

[CBC.ca]

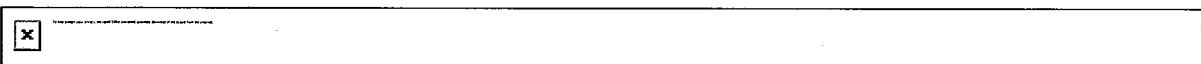
Quayside, a planned Smart City being built by Google sister company Sidewalk Labs, is facing fresh scrutiny over privacy concerns. The community is a partnership between Sidewalk Labs and Waterfront Toronto. The project is facing new pushback from Waterfront Toronto's Digital Strategy Advisory Panel, which is composed of experts in digital privacy and innovation. [Read more...](#)



**INDIA: 'Smart Cities Mission' Risks Ushering in
Orwellian Future**

by India Business Law Journal

Concern around 5G and Smart Cities is a global movement, with concerned residents of the United States, Canada, Europe, Australia, and now, India, speaking out. Two of the voices sounding alarm bells in India are Rachika Sahay and Aakash Sharma, partner and associate at HSA Advocates, a leading law firm in India. In a recent blog the two attorneys discuss the Indian government's "Smart Cities Mission" and the right to privacy. The piece does a great job of highlighting the legal hurdles facing Indian citizens who wish to preserve their privacy in the face of a push towards the 5G Smart Grid. [Read more...](#)



The Crucial Difference Between 5G and 5GHz

Activist **Raji Nevin** recently sent out an important clarification regarding the differences between the 5th Generation of wireless technology (aka 5G) and 5 gigahertz (5 GHz) wifi. This information is extremely important as we make attempts to educate our communities about the concerns regarding 5G, wifi, and EMF's.

So, as a reminder, 5G is the name of the latest generation of wireless tech, following 1G, 2G, 3G, 4G, and LTE. **On the other hand, the 5 GHz band of the electromagnetic spectrum is used for modern wifi systems. These wifi networks will often be listed as "5G", but the G in this case means "Gigahertz".**

While there are concerns regarding router manufacturers' plans to use actual 5G frequencies in new wireless routers, 5G and 5GHz are not the same thing.

This is important, because many people mistakenly believe that 5G is already in their home. It is not. This false understanding can have the effect of reducing one's resistance to the 5G rollout.

*Note: Use Josh's eBook for simple EMF-safety tips, such as how to ethernet-wire your computers, phone, etc: **7 Effective Ways To Make Your Home EMF-Safe***

Food For The Soul

At this time there is need to engage all levels of our being. Returning to simple truths and intentions can inspire and re-center us. You can customize the words as need be.



[share / view this image on TBYP Facebook](#)

Note From Josh

Beginning this month, we're pleased to announce our collaboration with **Derrick Broze**. Derrick will be contributing his skills in writing as well as sourcing and distilling key information each week.

As you may recall Derrick is a speaker in our 5G Crisis Summit, and he also ran for Mayor of Houston on a platform calling for an end to the installation of 5G small cells. Derrick is also the creator of the new film The 5G Trojan Horse, which I believe is the best documentary currently available on the topic.

With Derrick joining our team we are going to bring you even more valuable information related to the mission to raise awareness on the dangers of 5G and EMFs in general.

-Josh del Sol



Thank you for helping to create change worldwide! Some of the organizations whose products and events we carefully review may choose to provide a portion of sales to support our mission. You are receiving this email because you subscribed to Josh del Sol's updates via registration at either the 5G Crisis Summit and/or the Take Back Your Power website. To unsubscribe, please use the link just below.

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Million Faces Productions, c/o #339 - 14241 NE Woodinville Duvall Road, Woodinville,
Washington [98072], United States

Benado, Tony

From: Quintessence Healing Arts <chineitsang@me.com>
Sent: Tuesday, March 10, 2020 10:09 AM
To: All Council
Subject: 5G in Berkeley

Dear Mayor and City Council of Berkeley,

Yesterday I read an article about the effects 5 G rollout is having on cities around the world. Sometimes concerns about 5G seem to be equated with conspiracy theorists so I have been reluctant to be associated with the issue. On Next-door I saw a father expressing concern about a tower in Cordonices Park receive a lot of abuse for having the gall to voice his questions and concerns publicly. This atmosphere may cause many people to keep their doubts to themselves. I am becoming increasingly concerned though, and wish to consult with you about your plans for Berkeley.

I read an article yesterday that some may brand as alarmist but I which I read all the way through. Have you seen/read this article? If not, would you take the time to look it over? I'll provide the link at the bottom of my email.

It seems to make some important points with care to back them up with research and science. I learned something although I can't claim to understand the effects of EMFs, non-ionizing radiation, microwaves, etc. I wish I did understand them right now cause if I did I might find myself to be satisfied with the explanation that was condescendingly given to the father on NextDoor that ionizing radiation is what hurts people and non-ionizing radiation is fine. It looks like there is more going on than these two types of radiation in 5G. Anyhow, in the article they provide a link to a website which tracks the places in the world that have significant 5G systems in place. Apparently there are areas that are halting further progress with 5G due to the unknowns. Belgium among them...

It doesn't escape me that Verizon has a campaign designed to appear as a grass roots movement, complete with petitions calling for the right to faster internet and access to the latest technology of 5G. That they have already sunk millions into the infrastructure and advertising could bias them toward wanting to implement rollout without consumers actual consent. Many consumers could also be drawn into the notion that Berkeley is slow and backward and needs a push to join the 5G "revolution". I hope that the Mayor and City Council can see through and withstand libel such as this and stand up with the people you represent who have a more wait and see attitude.

Since many areas are becoming suffused with 5G and the IoT, perhaps we can watch for patterns and see if any emerge as warnings to locales who weren't first adopters. It would be easier to not move forward with it than to undo it once it's done, if this proves to be untenable for populations to live with.

Thank you so much for reading my letter, if you made it this far. I appreciate your attention and welcome any response you might have.

Respectfully,
Tiffany Fyans
on Henry Street

<https://www.electricsense.com/5g-coronavirus/?fbclid=IwAR1QN9WtmyGUV4Yg-kOCjaBS9aEQTUIwscwdYW8wLxIoosbXAgBHLxjomTo>

Benado, Tony

From: Arthur Stopes III. <arthurstopes@sbcglobal.net>
Sent: Thursday, March 12, 2020 1:32 PM
To: editors@berkeleyside.com
Cc: Tom Dalzell
Subject: Revelations, re "5G" and the F.C.C.

To the Editors of the "Berkeleyside" news site:

Greetings... I have sought in vain to bring the true nature of the difficulty of "dealing with" the F.C.C. and its dependent corporations to the attention of the Berkeley City Council, *et al.* I've sent to Tom Dalzell a Copy of a comprehensive explanation of the problem - which is not about "5G" specifically, but about the mistaken venue which is being addressed. Legally speaking, the F.C.C. is a *foreign jurisdiction*, as its "Powers" do not derive from the Constitution, but are only those of an "Act of Congress". And, such an "Act of Congress" is LIMITED by the Constitution for the United States of America (the Preamble "title") to the territories and possessions of the (federal) "United States". To them, I am foreign.

E-mail to David Crompton, Principal Planner, Town of Danville, California:

It is a Fact, that an Attorney (hired by Verizon Wireless), actually induced the new (Iranian born) City Attorney of Berkeley to ignorantly AGREE - in writing - to the terms of the F.C.C. in regard to telecommunications installations without any recourse to modification or refusal. What *she* does not (and most probably *you* do not) realize, is that such ' "needful" Rules and Regulations ' cannot lawfully apply to the several States (of the Union). Please read and study what I've provided here.

Kindly reply; thank you.

Arthur Stopes, III. / Legislative Analyst and Writer (L.A.W.) / Berkeley, California.

Comment:

"[W]hat I've provided here", refers to a revealing Analysis and History of how the federal government - since 1864, and what the Federal Communications Commission (F.C.C.) - since 1934, through legislative subtlety, have suppressed re the public's knowledge of the *lawful venue* of the F.C.C.'s legal jurisdiction. It is ...

NOT the several States of the Union, but the federal "States" of the "United States".

This is why there are no less than ten "definitions" of the word/*legal term* "State" in Title 47-TELECOMMUNICATIONS of the United States Code - written in *code*.

None of those ten "definitions" of the word/*legal term* "State" mean California, etc.

For further information, please request this Writer's unique Analysis and History.
Thank you.

Very sincerely,

/S/

Arthur Stopes, III.

Legislative Analyst and Writer (L.A.W.)

Center for Unalienable Rights Education (C.U.R.E.) / Berkeley, California state.

Benado, Tony

From: Carol Hirth <chirth@mac.com>
Sent: Thursday, March 12, 2020 3:59 PM
To: All Council
Subject: New Cell Towers in Berkeley

I am writing to oppose the construction of new cell towers in residential neighborhoods especially in the "flats", west of Shattuck Avenue. Many cities and communities have serious concerns about new cell towers with increased 5g transmissions, concerns about the possibilities of harm to people, especially people with environmental and other sensitivities. These localities have banned to construction of such cell towers.

The City of Berkeley should make sure that proper notice is given to citizens BEFORE such towers are allowed, giving people the opportunity to know what is happening and to express their thoughts and concerns. Public hearings should be held to make sure this happens. Regulations should insure that installation of new cell towers does not occur unless each instance has been specifically approved AFTER thoughtful consideration and discussion.

I am disturbed that the city is not protecting, informing and representing citizens regarding this critical issue.

Thank you for responding to my concerns.

Carol Hirth
1309 Cornell
94702

Benado, Tony

From: Mary Ann Brewin <fabmaob@lmi.net>
Sent: Friday, March 13, 2020 5:07 PM
To: All Council
Subject: 5G draft from Telecom's guidelines

Hello,

I am writing to urge you to get the City Manager and the assistant City Attorney to work with our attorney, Ariel Strauss, as soon as possible to strengthen their drafts in legally permissible ways:

I am concerned about these guidelines and ordinances and their influence on the possible and frightening deployment of 5G in our community.

Currently there are even some studies suggesting a connection with 5G and weakened immune systems and vulnerability to CoronaVirus. Check it out. **Take this whole thing very seriously.** Citizens will probably suffer from 5G.

Do the right thing! You live here, too.

Mary Ann Brewin
Berkeley tax payer for 50 years

Benado, Tony

From: Lloyd Morgan <lloyd.l.morgan@gmail.com>
Sent: Wednesday, June 24, 2020 3:26 PM
To: All Council
Subject: Verizon's Application for a Cell Tower

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.

Email letter to the Berkeley City Council in opposition to the proposed Verizon Cell Tower - 0 Euclid Ave., Berryman Reservoir

Date: 6/24/20

Re: Verizon Cell Tower, 0 Euclid Ave

Permit application number: ZP2018-2036

Dear City Council Members:

I am writing to urge you to affirm ZAB's unanimous decision on June 27, 2019 to deny Verizon a permit to construct the proposed cell tower at 0 Euclid Ave., Berryman Reservoir. Verizon's appeal of that decision must be rejected for many reasons.

- First and foremost, Codornices Park is a playground for young children. Not only will they be continuously radiated by the initial camouflaged cell tower, but also Verizon is allowed to increase the height of their tower by 20 feet without any review what-so-ever. The consequence will be an even higher exposure to children from cell tower radiation. Children's brain absorbs double the radiation compared to an adult, and the bone marrow will absorb 10 times the radiation compared to an adult.
- In addition, the resultant damage to trees and other foliage will result in a hideous destruction of vegetation.
- At the very least, whatever the fee to build such a tower on EBMUD Property, it will be a miniscule amount compared to the total income received by EBMUD.
- The proposed Verizon cell tower will have a huge negative visual impact on Berkeley's unique nature-based park in a historically landmarked area, including Rose Walk and the Rose Garden.
- With an additional antenna (which is allowed under federal rules, with no approval from the city, or the public required, or for that matter, EBMUD, there will be further damage to all vegetation from pine needle to leaves.

- Given the increase absorption to children's bone marrow and brains, within a few year some of the children who regularly play in the park will be diagnosed with cancer,
- If constructed, the tower would create a safety hazard for several reasons. The proposed tower would be balanced on a steep slope about 8 feet away from an access road to the reservoir. It is right on the Hayward fault. A major earthquake could cause the tower to topple and ignite a fire and/or obstruct access to the reservoir, which is the water supply for the whole downstream area. The tower itself, located in a high fire zone, could catch on fire thereby heightening the risk to the adjacent Codornices Park, and jeopardizing safety and access to Berryman Reservoir. Cell tower fires are more common than you might think. Please see the articles in the following link: <http://www.electronicssilentsspring.com/primers/cell-towers-cell-phones/cell-tower-fires-collapsing/>
- The sound of the generator will violate the City's noise ordinance, especially as it will need to be tested weekly, which will amplify the sound volume in the bowl of the basin where it is located. If our "new normal" for increasing fire safety in the area – as PG&E claimed last year – is for PG&E to cut power to this neighborhood to reduce the likelihood of fires, then the generator will need to run for days on end every fire season.
- The proposed tower doesn't meet City's zoning requirements:
 - o Violates: 23B.32.040 Findings for Issuance and Denial and Conditions because it will be detrimental ...or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
 - o Violates 23C.17.100 Findings Required for Approval because the Zoning Adjustments Board could not make the following findings... "that the facility is necessary to prevent or fill a significant gap in coverage or capacity shortfall in the applicant's service area, and is the least intrusive means of doing so."
 - o Violates 23C.17.040 Minimum Application Requirements because the applicant is required and failed to provide "A statement of the telecommunications objectives sought for the proposed location,... whether it is the least intrusive means of doing so, and whether there are any alternative site that would have fewer aesthetic impacts while providing comparable service."
 - o Freestanding towers are the least preferential according to the zoning code
- In addition, the proposed tower violates policies of the General Plan:
 - o Policy LU-7, which says: "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."
 - o Policy UD-16 "Context" because the proposed tower doesn't respect the surrounding built environment. Element says: "The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings." (The adjacent Rose Walk and Rose Garden are landmarked)

- Verizon recently began a campaign to garner public support for this project by sending a text message to its customers in the Berkeley Hills enumerating ways that the tower would allegedly be good for the Berkeley Hills and asking its customers to show their support. Its main argument is that the tower is needed for emergency and safety purposes. Nothing is further from the truth. Verizon and its tower proponents have given no evidence of any emergency calls being dropped because of lack of mobile phone service in the Berkeley Hills. As they state in their own public campaign materials, any call to 911 will automatically be picked up by any carrier who provides service to the area. This is the language from the Verizon website: “Should another wireless carrier’s network fail, the Verizon Wireless network is available to all users for emergency calls and text messages.” (from: <https://improveyourwireless.com/berkeleyhills/>) The same is true for all of the carriers. In fact, they are required to provide this service by federal law. There is already ample coverage in the Berkeley Hills to support emergency calls. There was a long thread about this last fall on Nextdoor. Not one single person reported having a dropped call to 911. It’s not a valid reason to approve this tower as there is already adequate coverage for emergency calls.
- Verizon’s same public campaign materials refer to an increased need for “dependable service” because of the COVID-19 pandemic. Anecdotal evidence suggests that the pandemic is convincing more and more people to install fiber and landlines because they are more dependable telecommunication service during shelter-in-place and other types of emergencies. When we have emergencies that lead to power outages, land lines will still work. Cell phones are worthless when the power is out for days on end, as it was last fall for many North Berkeley residents. There’s no power to charge a cell phone but corded landlines operate without electricity. The most reliable source of communications in any emergency, be it a pandemic or wildfire season (or both), is a land-line.
- Any pro-tower public comments provided to you by Verizon solicited in response to their recent public campaign should be prohibited because those public responses have been biased by misleading information provided by Verizon. See <https://improveyourwireless.com/berkeleyhills/>. On this page Verizon insists that this tower is needed for first responders and residents making emergency calls, and it is not. (1) Emergency responders have their own network. First Net (First Responder Network Authority) is the public safety, high-speed, broadband network designed by Congress to meet the exclusive needs of the fire, police, and EMS personnel. First net is owned and currently being built by AT&T in conjunction with the US Government. All 50 states and 6 territories have “opted in” and developed state-wide plans www.firstnet.gov. (2) Personal cell phones can use ANY AVAILABLE NETWORK to dial 911. This is a federal law. <https://www.fcc.gov/consumers/guides/911-wireless-services> . Additionally, Verizon provides a misleading photograph of how the tower will look once it is built. In reality, it will look nothing like this flat image which shows the tower far in the backdrop of Berryman Reservoir. The proposed location is about mid-deep into the property so it will be much more noticeable and imposing. Also, Verizon is allowed to immediately increase by an additional 20

feet higher because Verizon can modify the tower without seeking any further approval from you or anyone else if you approve it.

PS: I yield my time to members the group who has fought this installation, first at the ZAB meeting (who unanimously rejected approval), second at two EBMUD Board meetings, and now for the second time before the Berkeley City Council.

PPS: There are now several Lawsuits underway in various Federal Courts, including one the San Francisco 9th Circuit Court of Appeals.

Thank you for your consideration,

L. Lloyd Morgan
Nearby Berkeley Resident

