



Office of the City Manager

PUBLIC HEARING
February 8, 2022

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning & Development Department
Subject: ZAB Appeal: 2956 Hillegass Avenue Use Permit #ZP2021-0068

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Zoning Permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of an existing three-story 2,834 square foot single-family dwelling on a 2,754 square foot lot that is non-conforming to lot coverage.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On September 9, 2021, ZAB conducted a public hearing and approved staff's recommendation to approve the Use Permit for the addition or enlargement to a lawfully non-conforming structure that exceeded the maximum allowable lot coverage, and the Administrative Use Permit (AUP) for a residential addition over 14 feet in average height with an added condition to provide additional screening on the west and north side of the balcony (see Exhibit A to the resolution, Condition #11). ZAB approved the project with a unanimous vote of 8-0-0-1, with one recusal by a member who lived with 500 feet of the project site. (Motion Tregub / Second Sanderson; Yes: Tregub, Duffy, Gaffney, Thompson, Olson, O'Keefe, Kim, Sanderson; Abstain: None; Absent: None; Recused: Khan.)

On September 21, 2021, staff issued the notice of the ZAB decision, which established a 14-day appeal period.

On October 4, 2021, an appeal was filed with the City Clerk/Council by the Barbara Romanowicz and Tamio Kajita, neighbors at 2954 Hillegass Avenue and 2523 Webster Street, respectively.

On or before January 25, 2022, staff posted the City Council notice of public hearing near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area. This public hearing is required to resolve the appeal.

BACKGROUND

On April 26, 2021, Edward W. Buchanan (Buchanan Opalach Architects) submitted an AUP application to create a new upper-floor roof balcony, approximately 170 square feet in area, over the existing roof at the rear of the house. Staff determined that a Use Permit with a public hearing was required because the lot is non-conforming to the maximum allowable lot coverage (BMC 23C.04.070.C¹). An AUP was also required because the addition of the balcony, measured to the top of the railings, exceeded 14 feet in average height (BMC 23D.16.070.C).

On May 4, 2021, staff deemed the project application complete.

On August 26, 2021, staff posted the Zoning Adjustment Board (ZAB) Notice of Public Hearing near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area.

At the time the staff report was written, 37 communications had been received expressing both support and opposition to the project. These were included as Attachment 4 of the September 9, 2021 staff report to the ZAB (see Attachment 2 to this report).

On September 9, 2021, the ZAB held a public hearing and approved staff's recommendation to approve Use Permit # ZP2020-0060 with an added condition to provide additional screening on the north and west side of the proposed balcony. As described in the staff report, the ZAB made the findings for an addition on a lot that is non-conforming to lot coverage, because the project would not increase the lot coverage nor would it exceed the height limit of the zoning district (BMC 23C.04.070). ZAB also made the general non-detriment finding (BMC 23B.32.040.A) because the property would continue to meet the R-1 (Single-Family Residential) development standards for density, height, and useable open space. The railings would be lower than the highest roof line and not impact the average or maximum structure height. Because the proposal would not increase the building footprint or add walls, potential impacts on light and air was found to be non-detrimental. Potential privacy impacts were found to be non-detrimental because the balcony would be located outside of all required setbacks. The ZAB added the condition for additional screening on the north and west sides of the balcony to address neighbor concerns related to noise and privacy.

Additional Permit History

¹ The prior Zoning Ordinance was in effect at the time this application was deemed complete and was heard by ZAB. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

On December 6, 2019, the same applicant had submitted Use Permit #ZP2019-0196 to enlarge the existing two-story 1,926 square foot single-family dwelling by converting 908 square feet of basement and crawl space area to habitable space, adding new openings to elevations within front and side non-conforming setbacks, increase the number of bedrooms from three to five, and establish an uncovered off-street parking space within the rear setback. On August 13, 2020, the ZAB held a public hearing and approved staff's recommendation to approve Use Permit # ZP2019-0196 on consent.

In February 2021, during the construction of the related improvements authorized under Building Permit No. B2019-03118, the existing windows were removed and replaced with sliding glass doors, which had not been shown in the approved zoning or building permits. This alteration was allowed by-right because it is not within a setback area and did not add any square footage or modify a roofline of the building over 14 feet in height but still needed to be permitted. The applicant was required to revise the previously approved building permit to include the sliding doors with a safety rail in front of them, on the exterior of the structure, for life-safety reasons. The changes were approved and the doors with the railings are now a legally permitted existing condition on the site. The applicant then applied for the use permit that is the subject of this appeal for the 170 square foot balcony with guardrails on the existing flat roof outside of the doors.

ZAB Action

The ZAB unanimously² voted to approve the project with an added condition that the applicant provide additional screening beyond the proposed railings on the west and north side of the proposed balcony.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project complies with all state and local environmental requirements.

RATIONALE FOR RECOMMENDATION

Applicant/Appellant's Appeal Issues and Staff Responses: The appellants raised one primary issue in their appeal letter: the proposed balcony will be a nuisance that impacts the privacy and peace of three neighboring sites at 2954 Hillegass Avenue, 2523 Webster Street, and 2525 Webster Street. They also offer an alternative proposal to enclose the proposed balcony area to make it a sunroom. The appeal letter is included here as Attachment 4.

The issues raised in the appellant's letter and staff's responses are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter for the full text.

Appeal Issues: The appellants state that the proposed balcony, due to its size and location, will impact the privacy and peace of three of the lots that share common lot

² 8-0-0-1 vote; one member recused because they reside within 500 feet of the subject lot.

lines. The issues raised include the height of the balcony in relation to the rear yards of the neighboring lots at 2523 and 2525 Webster Street (southwest), and that it is only separated by 15 feet from a home office and bedroom at 2954 Hillegass (north). They anticipate noise resulting from the use of the deck and outdoor conversations.

Staff Response: The proposed balcony is 17 feet wide by 10 feet deep (170 square feet in area) and is located on the existing roof of the two-story portion of the building below which contains the existing kitchen nook and laundry area on the main floor and the play room on the lower floor. The proposed balcony would be located off of and accessed only through the master bedroom on the third floor, and is located outside of all required setbacks. Portions of the existing residence are non-conforming to side setbacks, providing 2 feet from the right (north) and 1 foot, 1 inch from the left (south) side lot lines, respectively, where 3.5 feet is required. The proposed balcony, however, sits above an inset two-story portion of the structure that exceeds the side setback requirements and is located 9 feet, 3 inches from the right (north) and 6 feet, 6 inches from the left (south) side lot lines respectively. The required rear setback of 20 feet is met. The north side of the deck is located 15 from the closest structure to the north. Upper-level balconies are a common feature of the residences in the neighborhood, including a similar existing upper-floor balcony on the rear of the house at 2954 Hillegass, which is located behind the subject property.

Because the proposed deck is located on the roof of the existing two-story structure and outside of all required setbacks, it is situated on the lot in a manner that minimizes privacy impacts. The additional screening on the north and west sides of the proposed balcony required by the ZAB provides further measures to minimize potential privacy impacts. Activity on the residential balcony is not within the purview of the Zoning Ordinance.

Other Issues Raised in Appeal Letter:

- Piecemeal manner of improvements at project site since the initial proposal in 2019 including the upper-floor window modification to sliding doors before filing AUP application;
- Installation of an HVAC unit on the roof;
- Misleading information was presented to the ZAB:
 - Sliders shown as “original condition”
 - Room on neighbor’s lot is not a sunroom but a home office
 - Supporters lived far enough away as to not be impacted by the proposed balcony
- Tree removal w/out neighbor consultation
- New fence of poor material on lot line on street side and rear, removal of front landscaping
- Other properties have balconies

Staff Response: The balcony was not part of the original proposal in the 2019 application which included a larger scope of work, including converting existing

basement and crawl space into habitable area. The proposed balcony does not constitute a major residential addition, and only requires a use permit because of the existing condition being non-conforming to lot coverage due to the small lot area. The AUP for the addition of the railings is required because the railings go above 14 feet in average height, however there is no additional footprint or changes to the roofline. The proposed balcony is a relatively small project.

The installation of the HVAC unit on the roof is not subject to land use requirements as it is located outside of all required setbacks and does not constitute floor area or roof area.

The ZAB conducted a public hearing and deliberated based on all of the evidence including the Staff Report, testimony and the findings. For the witness testimony please refer to Attachment 3, the Captioner's record.

The City of Berkeley does not have a tree protection ordinance, and only provides limitations on the removal of live coast oak trees under Ordinance 6,905-N.S. No coast live oak trees were identified on the site prior to any applications or during permitting.

Fences 6 feet or less in height are permitted within required setbacks, and the existing fence was not part of the subject use permit.

Appellant Recommendation: Appellants request that the proposed balcony instead be an enclosed sunroom.

Staff Response: Enclosing the balcony could result in other impacts and is not necessary to avoid any detriment, as determined by the ZAB and staff. It is not appropriate to require building additional floor area as a solution.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) modify, reverse, or affirm, wholly or partly, any decision, determination, condition or requirement of the ZAB, or (3) remand the matter to the ZAB.

Action Deadline:

Pursuant to BMC Section 23.410.040(I), if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess) then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Samantha Updegrave, Zoning Officer, (510) 981-7414

Attachments:

1. Draft Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans dated April 21, 2021
2. ZAB Packet dated September 9, 2021
3. Captioner's Record, ZAB Hearing September 9, 2021
4. Applicant's Appeal Letter dated October 2, 2021
5. Index to Administrative Record
6. Administrative Record
7. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF ZONING PERMIT #ZP2021-0068 FOR THE ADDITION OF A 170 SQUARE FOOT THIRD-FLOOR BALCONY TO THE REAR OF AN EXISTING THREE-STORY 2,834 SQUARE FOOT SINGLE-FAMILY DWELLING ON A 2,754 SQUARE FOOT LOT THAT IS NON-CONFORMING TO LOT COVERAGE; AND DISMISSING THE APPEAL.

WHEREAS, on April 26, 2021, Edward W. Buchanan (Buchanan Opalach Architects) filed a zoning application to create a new upper-floor roof balcony, approximately 170 square feet in area, over the existing roof at the rear of the house on a lot that is non-conforming to lot coverage; and

WHEREAS, on May 4, 2021, staff deemed this application complete; and

WHEREAS, on August 26, 2021 staff posted the Zoning Adjustment Board (ZAB) Notice of Public Hearing near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area; and

WHEREAS, on September 9, 2021, the ZAB conducted the public hearing in accordance with BMC Section 23B.32.030, determined that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines ("Existing Facilities") and approved staff's recommendation to approve Use Permit # ZP2020-0060 with an added condition to provide additional screening on the north and west side of the proposed balcony; and

WHEREAS, on September 21, 2021, staff issued the notice of the ZAB decision, which established a 14-day appeal period; and

WHEREAS, on October 4, 2021, an appeal was filed with the City Clerk/Council by the Barbara Romanowicz and Tamio Kajita, neighbors at 2954 Hillegass Avenue and 2523 Webster Street, respectively; and

WHEREAS, on or before **January 25, 2022**, 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 February 8, 2022, the Council held a public hearing to consider the ZAB's decision, and, in the opinion of this Council, the facts stated in, or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant denying the project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit # ZP2020-0060 as shown in the project plans in Exhibit B, and dismisses the appeals.

Exhibits

A: Findings and Conditions

B: Project Plans, dated April 21, 2021

FINDINGS AND CONDITIONS

SEPTEMBER 9, 2021

2956 Hillegass Avenue

Use Permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of an existing three-story 2,834 square foot single-family dwelling on a 2,754 square foot lot.

PERMITS REQUIRED

- Use Permit, under [Berkeley Municipal Code \(BMC\)](#) Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage; and
- Administrative Use Permit, under BMC Section 23D.16.070.C, for additions over 14 feet in average height

I. 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”).
2. 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.

II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, 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 property will continue to conform to the R-1 development standards regarding density, height, and usable open space (BMC 23D.16.070). Although the addition will increase the height of a portion of the building in the rear, its roofline would be lower than the dwelling’s highest roofline and will not impact the average or maximum height. It will continue to provide usable open space beyond the 400 square foot minimum required for the existing single-family dwelling. One off-street parking space is provided where one is required (BMC 23D.16.080.A). The addition is allowed on a lot with a legal non-conforming lot coverage, subject to issuance of a Use Permit because the proposed project will not increase lot coverage or exceed the height limit. Therefore, air and light impacts to surrounding properties due to the project are determined to not be detrimental.

Privacy:-The proposed balcony will be on the rear (west) elevation in the west would be 9'-3" ft. from the side property line to the north where 3.5 ft. is required, 20 ft. from the rear property line to the west where 20 feet is required and 6'-6" ft. from the south property line where 3.5 ft. is required. It is separated from the closest three-story neighboring property at 2954 Hillegass Avenue by approximately 15 ft. Since the proposed balcony will be located outside of all the required setbacks, it will not create detrimental impacts to privacy of neighboring dwellings.

2. Sunlight, Air and View: The proposed addition will increase a portion of the building's height in the rear, however, it will not create new sunlight, air, or view impacts on the neighboring dwellings because the overall height will be lower than the existing dwelling's highest roofline, it will not expand the building footprint, will be located outside required setbacks, and will be separated from the closest neighbor property to the north by about 15 feet. Therefore air and light impacts to surrounding properties due to the project will not be detrimental.
 3. Pursuant to Berkeley Municipal Code Section 23C.04.070.C, the Zoning Adjustments Board finds that the addition is permissible because the addition will not increase coverage or exceed the height limit.
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III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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 Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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.

Prior to Issuance of Any Building Permit:

11. Low-Carbon Concrete. The project shall verify compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%.
12. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).

During Construction:

13. Construction Hours. 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 Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
16. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%.

Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.

17. 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.

18. 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.

- 19. 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 Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, 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.
- 20. 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.
- 21. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).**
- A. *Qualified Paleontologist.* The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
 - B. *Paleontological Worker Environmental Awareness Program (WEAP).* Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.
 - C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified

Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.

- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.
- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

- 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. 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.
- 24. 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.
- 25. 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.
- 26. 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.
- 27. 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.
- 28. 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 Final Inspection or Issuance of Occupancy Permit:

- 29. 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 May 4, 2021, except as modified by conditions of approval.

At All Times:

- 30. Exterior Lighting.** 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.

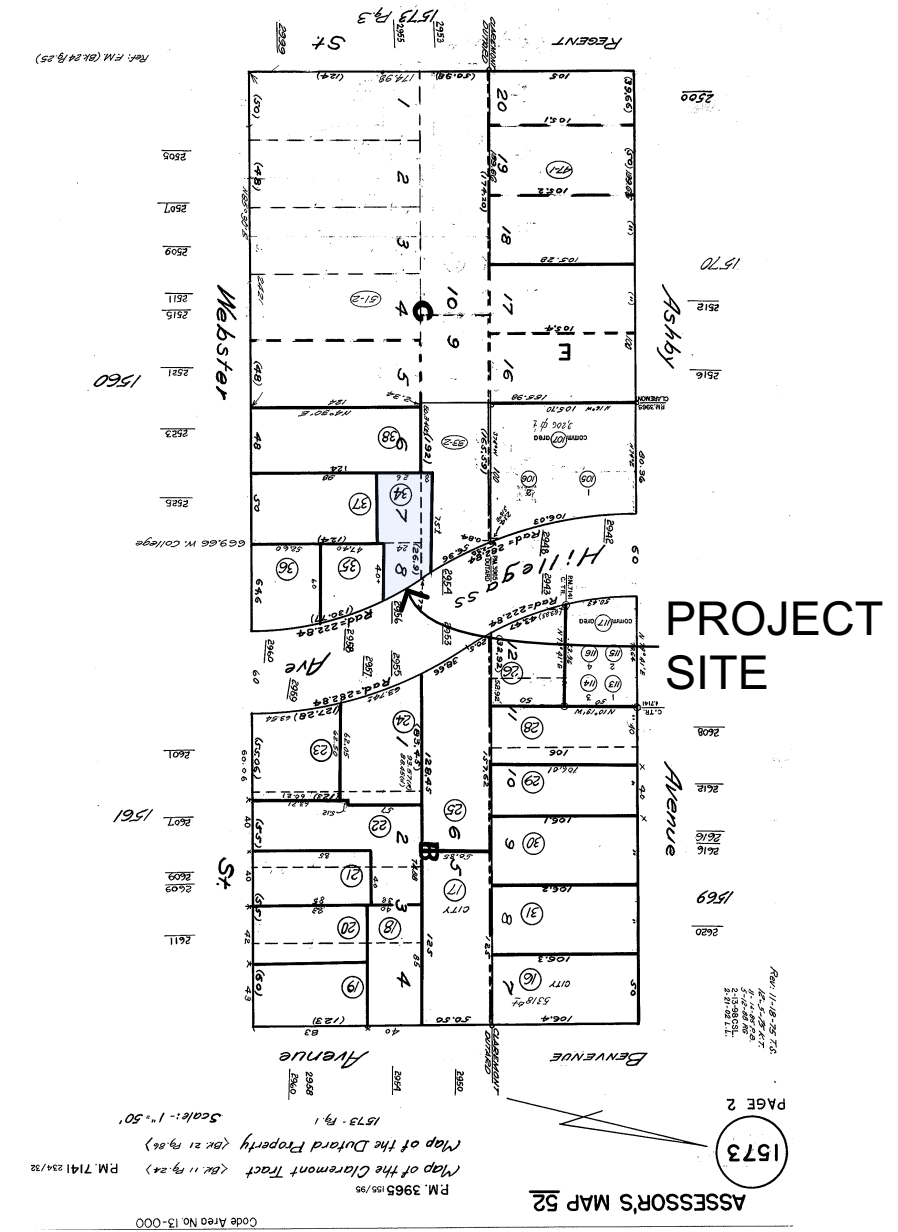
New Upper Roof Deck

Mollie & Adam Starr

2956 Hillegass Ave Berkeley CA 94705

General Notes:

- SITE CONDITIONS:**
Bidders shall visit the site and familiarize themselves with all existing limitations. All features of construction not fully shown shall be of the same type and character as that shown for similar conditions. For special conditions or discrepancies, notify the architect before bidding or proceeding with the work.
- PERMIT FEES AND INSURANCE:**
The contract shall include all permit fees unless specifically noted in the bid and contract. The contractor shall carry liability, property damage, and workers compensation insurance, and provide owner certificates for these policies. The owner shall carry fire insurance.
- BUILDING CODES:**
All work shall conform with all applicable current codes and ordinances. The contractor shall notify the architect of all modifications requested by the building department, the owner, consultants, and other parties.
- SUBCONTRACTORS SHALL PROVIDE SIGNED CF24R FORMS** to the general contractor upon completion of their scope of work.
- TRADE STANDARDS:**
Work shall be completed skillfully and in accordance with accepted trade standards. Standards for care and workmanship shall be as defined and outlined by the national trade body such as SMAACNA, Tile Council of America, NWMA, NRCA, Lathing and Plaster Institute of Northern California, etc.
- MANUFACTURER'S INSTRUCTIONS:**
Follow the manufacturers' instructions carefully. Instructions and warranties shall be given to the owner upon substantial completion.
- SUBSTITUTIONS:**
Substitutions will be considered, but the contractor shall not substitute equipment, material, or methods without specific approval by the architect prior to execution of work.
- SCHEDULE:**
The contractor shall inform the owner and architect of the construction schedule prior to starting work. The contractor shall make every effort to minimize disruption to occupants and neighbors during construction.
- COORDINATION OF WORK:**
The contractor shall coordinate work between subcontractors, tradespeople, and suppliers as shown in the drawings, specifications, and contract.
- DIMENSIONS OR DISCREPANCIES:**
Contractor shall verify all dimensions in the field. Written dimensions have precedence over scaled dimensions. Dimensions are to the rough frame unless otherwise noted. Any discrepancies between the drawings and/or specifications must be brought to the attention of the architect for clarification, prior to proceeding with work.
- NOTCHES, BORES AND CUTS TO THE STRUCTURE:**
Do not notch, bore or cut members for pipes, ducts or other reasons except as shown on drawings without the specific advance approval of the architect.
- DEMOLITION:**
The contractor shall execute demolition work to ensure the safety of persons and adjacent property from damage by settlement, falling debris, and other causes in connection with this work. Where existing construction is cut, damaged, or remodeled, patch or replace with materials which match the kind, quality and performance of adjacent surfaces.
- LEAD PAINT:** Where existing painted materials are to be painted or have the paint removed and lead paint may be present, take proper precautions to ensure that the existing spaces, grounds and soil are not contaminated. Removal of lead paint and/or contaminated materials to be done using methods to minimize lead dust and flakes, airborne particles and exposure to technicians and residents. Dispose of contaminated materials in a lawful manner.
- ASBESTOS:**
If the contractor encounters asbestos, he or she shall warn all employees, subcontractors, owner, occupants, and architect prior to demolition and construction. Also, if during demolition or construction, materials containing asbestos become disturbed or airborne, they must be removed. Removal and disposal must conform to the latest requirements of the EPA, OSHA, California Department of Health Service and local authorities. Asbestos removal is the responsibility of the general contractor.
- CLEANUP:**
The contractor shall remove all construction debris at the end of the job and dispose of it legally. Clean all new windows and leave the job broom clean.
- WARRANTY:**
Contractor shall warrant all workmanship and materials for a period of one year from the date of substantial completion or from the commencement of specific warranties, and make corrections to the work during these periods.
- CHANGE ORDERS:**
All change orders shall be agreed to and in writing prior to execution of work.



Parcel Map 0521573.02

NOT TO SCALE

PLANNING & DEVELOPMENT
Land Use Planning, 1947 Center Street, Berkeley, CA 94704
Tel: 510.981.7410 TDD: 510.981.6903 Fax: 510.981.7420 Email: Planning@CityofBerkeley.info

TABULATION FORM

Project Address: 2956 Hillegass Ave Date: 4/01/21
 Applicant's Name: Edward Buchanan, Architect
 Zoning District: R-1

Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

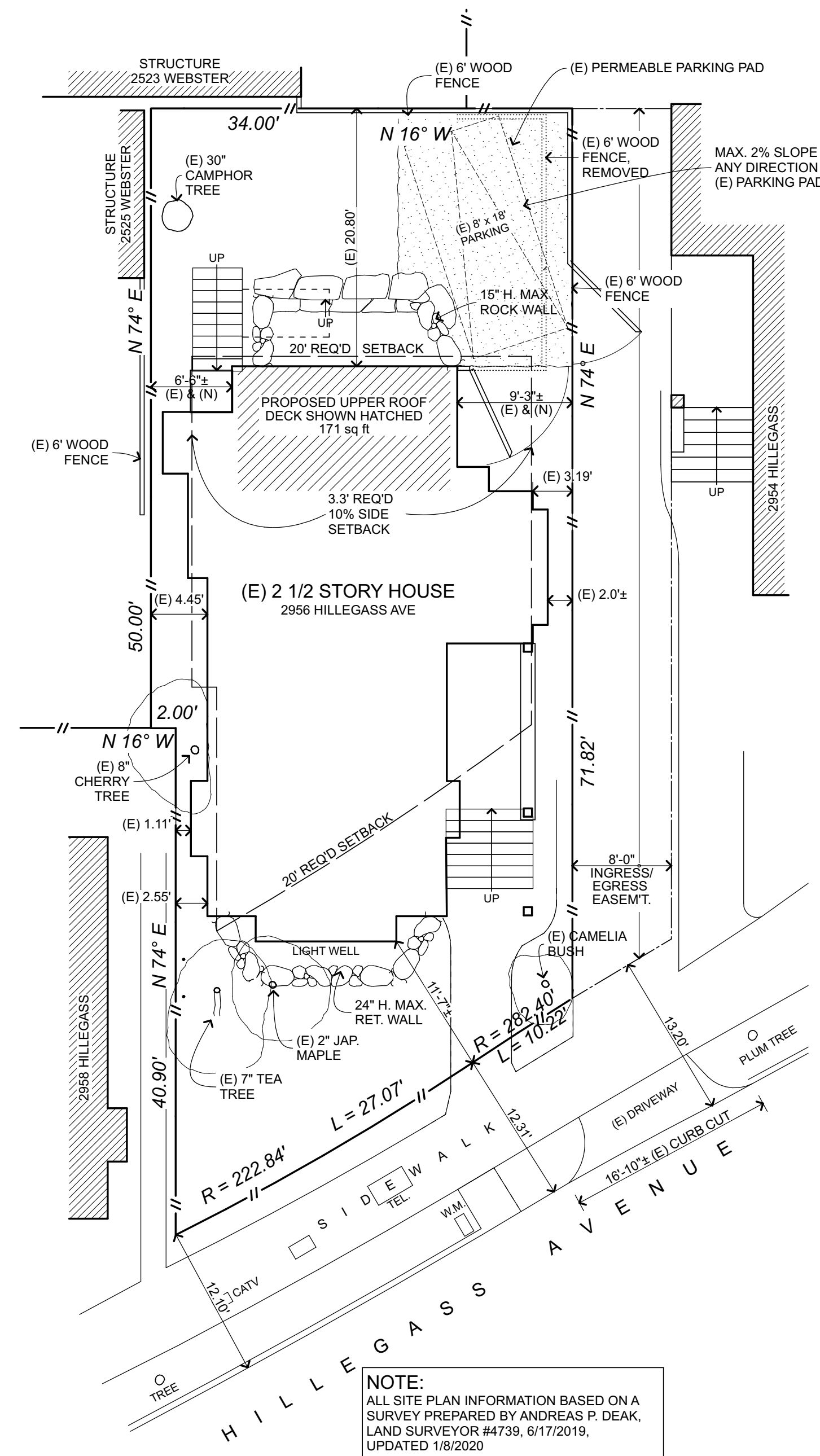
	Existing	Proposed	Permitted/Required
Units, Parking Spaces & Bedrooms			
Number of Dwelling Units (#)	1	1	1
Number of Parking Spaces (#)	1	1	1
Number of Bedrooms (R-1, R-1A, R-2, R-2A, and R-3 only)	5	5	
Yards and Height			
Front Yard Setback (Feet)	11.6'	No Change	
Side Yard Setbacks (facing property)			
Left: (Feet)	1.11'	6'-6"± at Deck	
Right: (Feet)	2.0'	9'-3"± at Deck	
Rear Yard Setback (Feet)	20.8'	No Change	
Building Height* (# Stories)	3	3	
Average* (Feet)	22'-3"±	No Change	
Maximum* (Feet)	31'-7"±	No Change	
Areas			
Lot Area (Square-Feet)	2754± sf	No Change	
Gross Floor Area* (Square-Feet)	2834± sf	2834± sf	
Total Area Covered by All Floors			
Building Footprint* (Square-Feet)	1188± sf	No Change	
Total of All Structures			
Lot Coverage* (Footprint/Lot Area) (%)	43.1%	No Change	
Useable Open Space* (Square-Feet)	910± sf	1081± sf	
Floor Area Ratio* Non-Residential only (Except ES-R)			

*See Definitions - Zoning Ordinance Title 23F. Revised: 05/15

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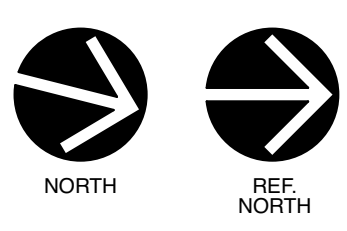
Work in Public Right-of-Way:

An Engineering Permit will be required for any work in the public right-of-way, including but not limited to construction staging, construction parking, sidewalk, shoring, drainage, or sewer work. The Engineering Permit can be issued after the Building Permit is approved and issued. Approval of this Building Permit does not authorize work in the public right-of-way.



NOTE:
ALL SITE PLAN INFORMATION BASED ON A SURVEY PREPARED BY ANDREAS P. DEAK, LAND SURVEYOR #4739, 6/17/2019, UPDATED 1/8/2020

Proposed Site Plan
SCALE 1/8" = 1'-0"



NOTE:
NEIGHBORS WHO HAVE NOT SIGNED, HAVE BEEN SENT THE DRAWINGS VIA USPS CERTIFIED MAIL.

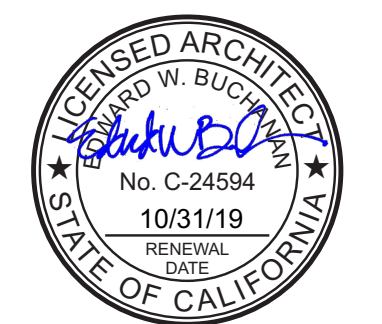
NAME (PRINTED)	SIGNATURE	ADDRESS	DATE	NO OBJECTIONS	HAVE OBJECTIONS, (STATE BRIEFLY)
EMILIO ESCUDERO	<i>Emilio Escudero</i>	2958 Hillegass	4/1/21	NONE	NA
Kurt Bigler	<i>Kurt Bigler</i>	2953 Hillegass	4/1/21	NONE	
		2954 Hillegass			
		2943 Hillegass			
		2525 Webster St			
TAMIO KASITA	<i>Tamio Kasita</i>	2523 Webster St	4/1/21	NONE	NA

Parties Involved:

- OWNER:** Mollie & Adam Starr
2956 Hillegass Ave
Berkeley CA 94705
415 602 4759
adam.m.starr@gmail.com
- ARCHITECT:** BUCHANAN OPALACH ARCHITECTS
580 2nd Street, Suite 275
Oakland, CA 94607
Contact: Edward Buchanan
ed@boa-inc.com
(510) 853-4567
- STRUCTURAL ENGINEER:** VAN MAREN AND ASSOC.
460 Boulevard Way
Oakland, CA 94610
Contact: Peter Van Maren
vmaengineers.peter@gmail.com
(510) 499-0300
- ENERGY CONSULTANT:** GABEL ASSOCIATES, LLC
20825 Nunes Avenue Suite A
Castro Valley, CA 94546
Contact: Michelle Austin
michelle@gabeleenergy.com
(510) 428-0803
- SOILS ENGINEER:** GEOTECNIA
Contact: Luis Moura
luis@geotecnia.com
(510) 913-1067
- SURVEYOR:** ANDREAS DEAK, LS
Contact: Andreas Deak
andreasdeak@yahoo.com
(510) 865-4289

Scope of Work:

Convert an existing rear main floor roof to a new upper floor roof deck off the existing master bedroom.



BUCHANAN OPALACH ARCHITECTS

580 2nd St, Suite 275
Oakland, CA 94607
510 595 1844

boa-inc.com

PROJECT & CLIENT:

New Upper Roof Deck

Mollie & Adam Starr
2956 Hillegass Ave
Berkeley, CA 94705

415 602 4759
adam.m.starr@gmail.com

DATE DESCRIPTION

4/21/21 AUP APPLICATION

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SHEET TITLE:

Cover Sheet

PROJECT NO: 1906

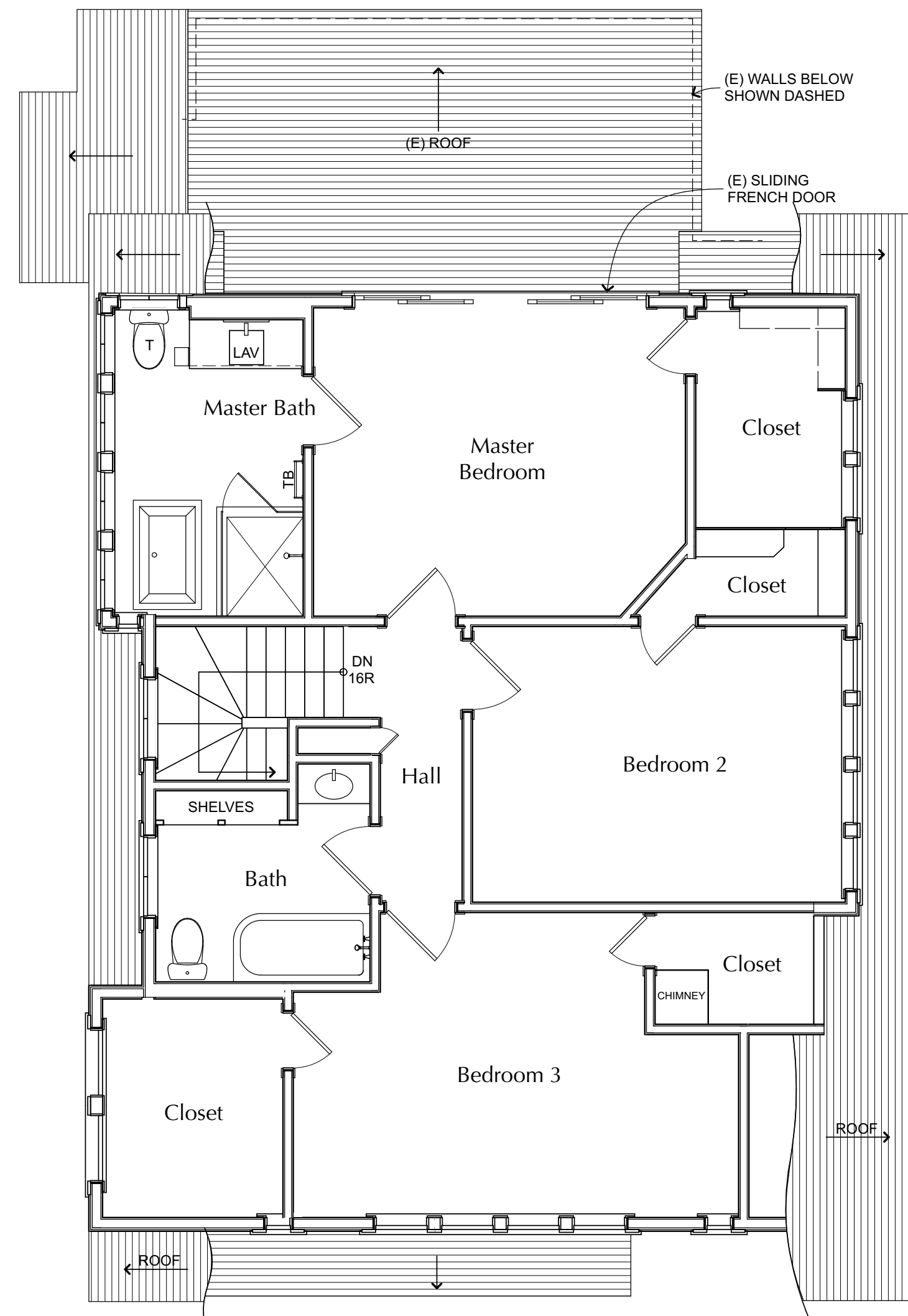
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Project Information:

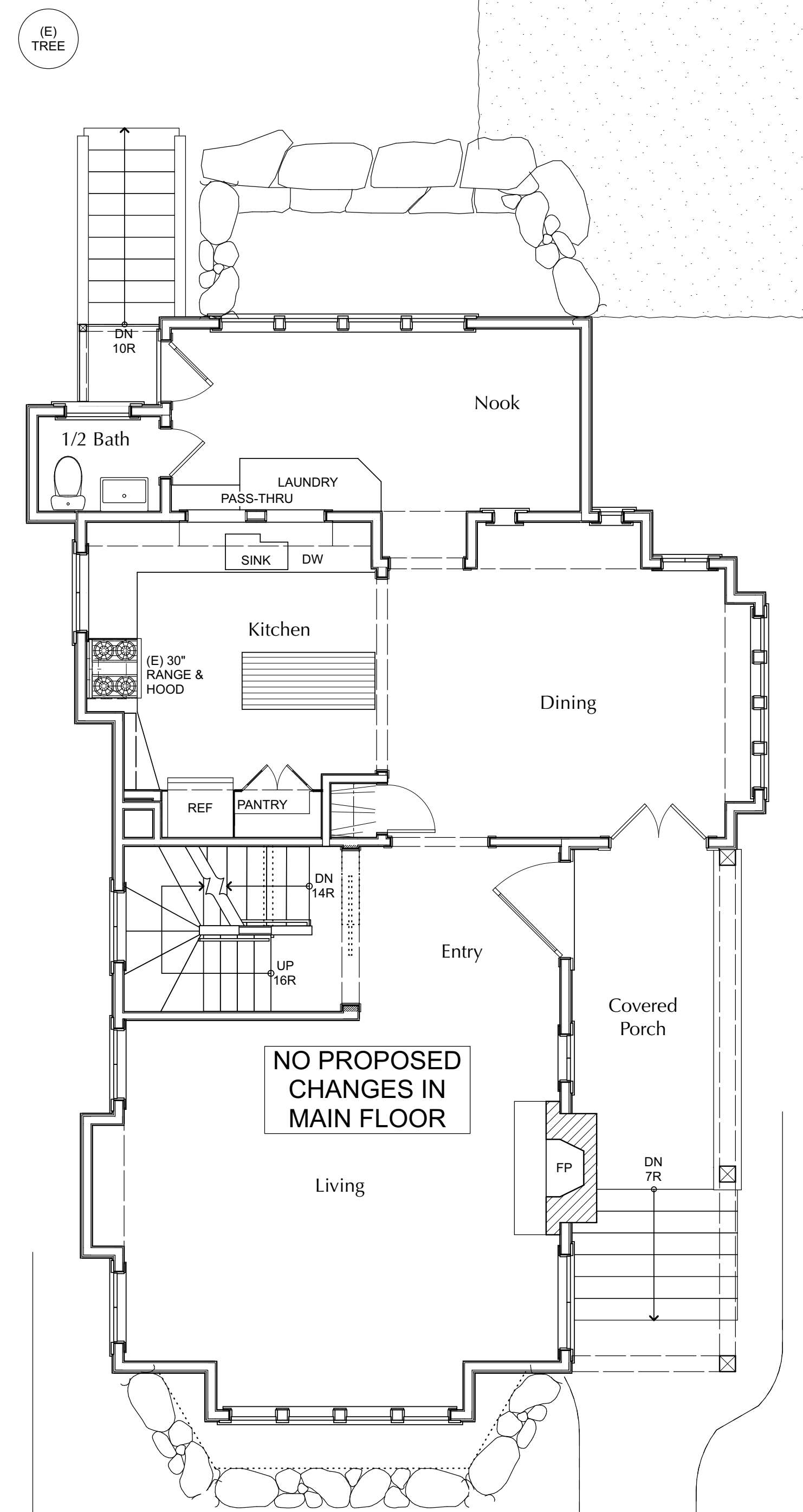
- BUILDING CODES:**
2019 California Residential Code
2019 California Building Code
2019 California Electrical Code
2019 California Mechanical Code
2019 California Plumbing Code
2019 California Energy Code
2019 California Fire Code
2019 California Green Building Standards Code
2019 California Building Code-Structural Provisions
All codes are as further modified by the City of Berkeley.
- BUILDING INFORMATION:**
OCCUPANCY: R-3
BUILDING TYPE: VB (non fire-rated construction)
SPRINKLERED: NO
FIRE ZONE: 1 (NOT WILDLAND URBAN INTERFACE)
- APPROVALS:**
USE PERMIT: ZP2019-0196 Approved 8/13/2020 for windows in setback, create 2 additional bedrooms, create parking space

Sheet Index

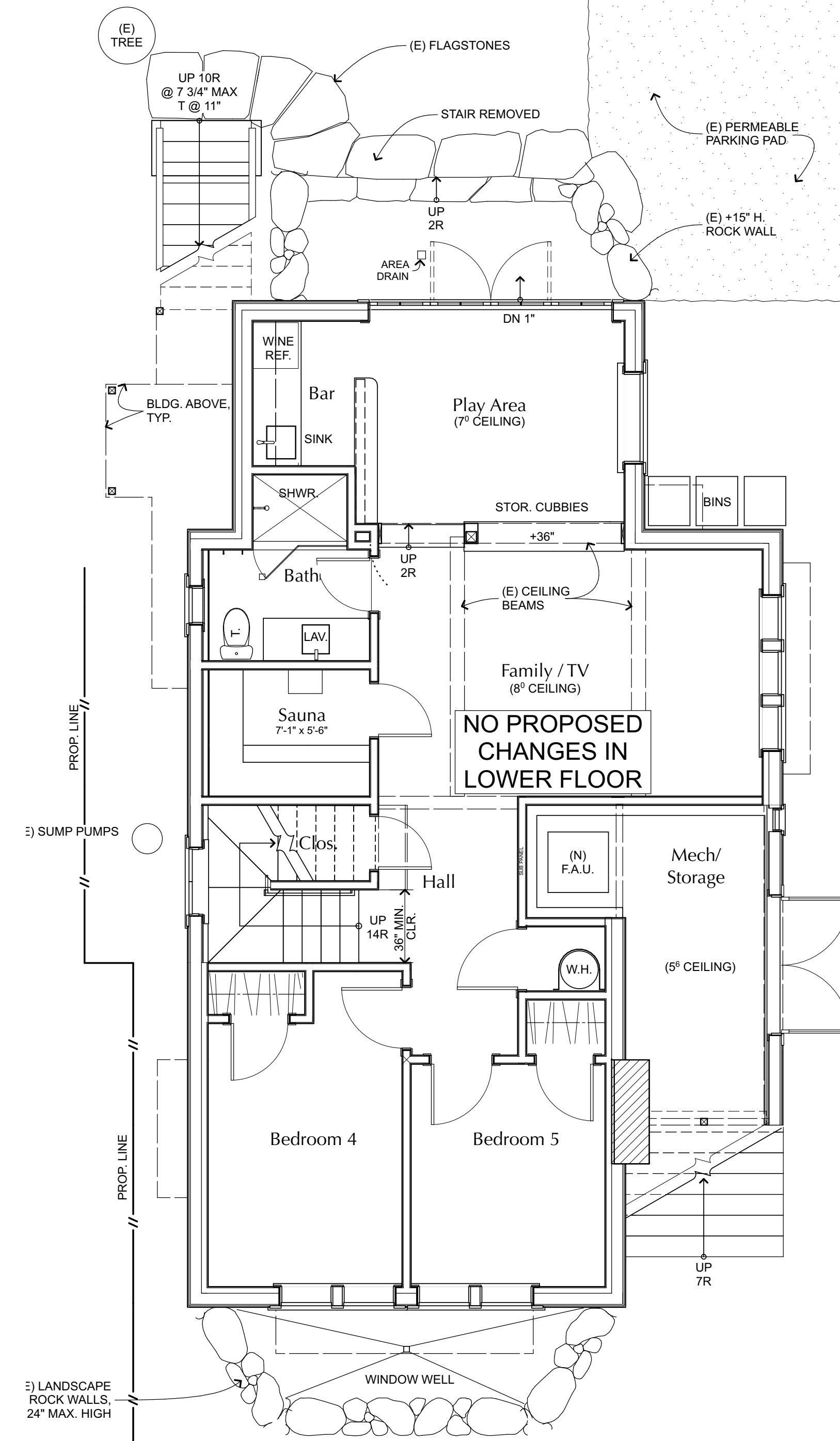
- Cover Sheet
- Existing Floor Plans
- Proposed Floor Plans
- Existing Exterior Elevations
- Proposed Exterior Elevations



Existing Upper Floor Plan
SCALE: 1/4" = 1'-0"



Existing Main Floor Plan
SCALE: 1/4" = 1'-0"



Existing Lower Floor Plan
SCALE: 1/4" = 1'-0"



**BUCHANAN
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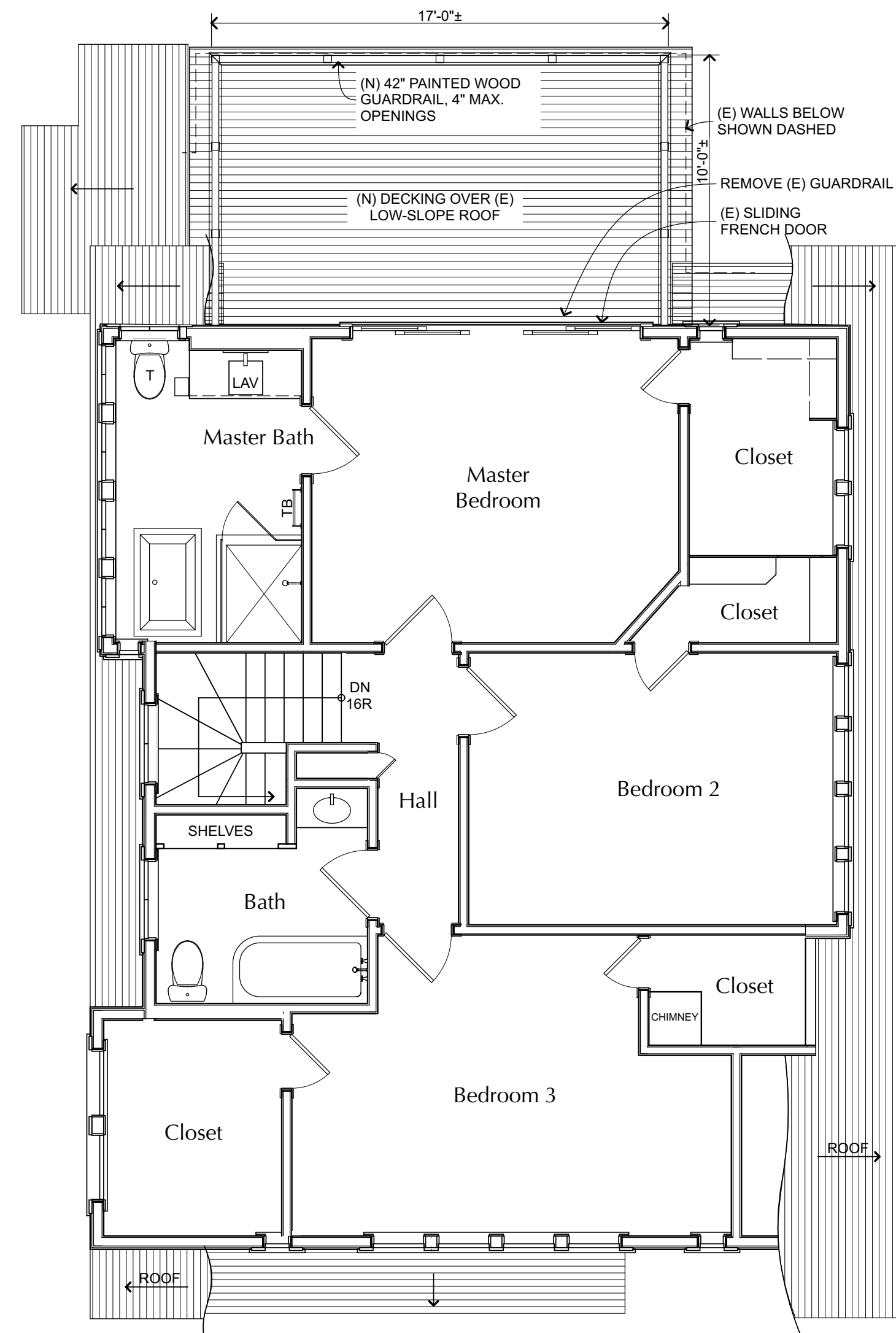
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Existing Floor Plans

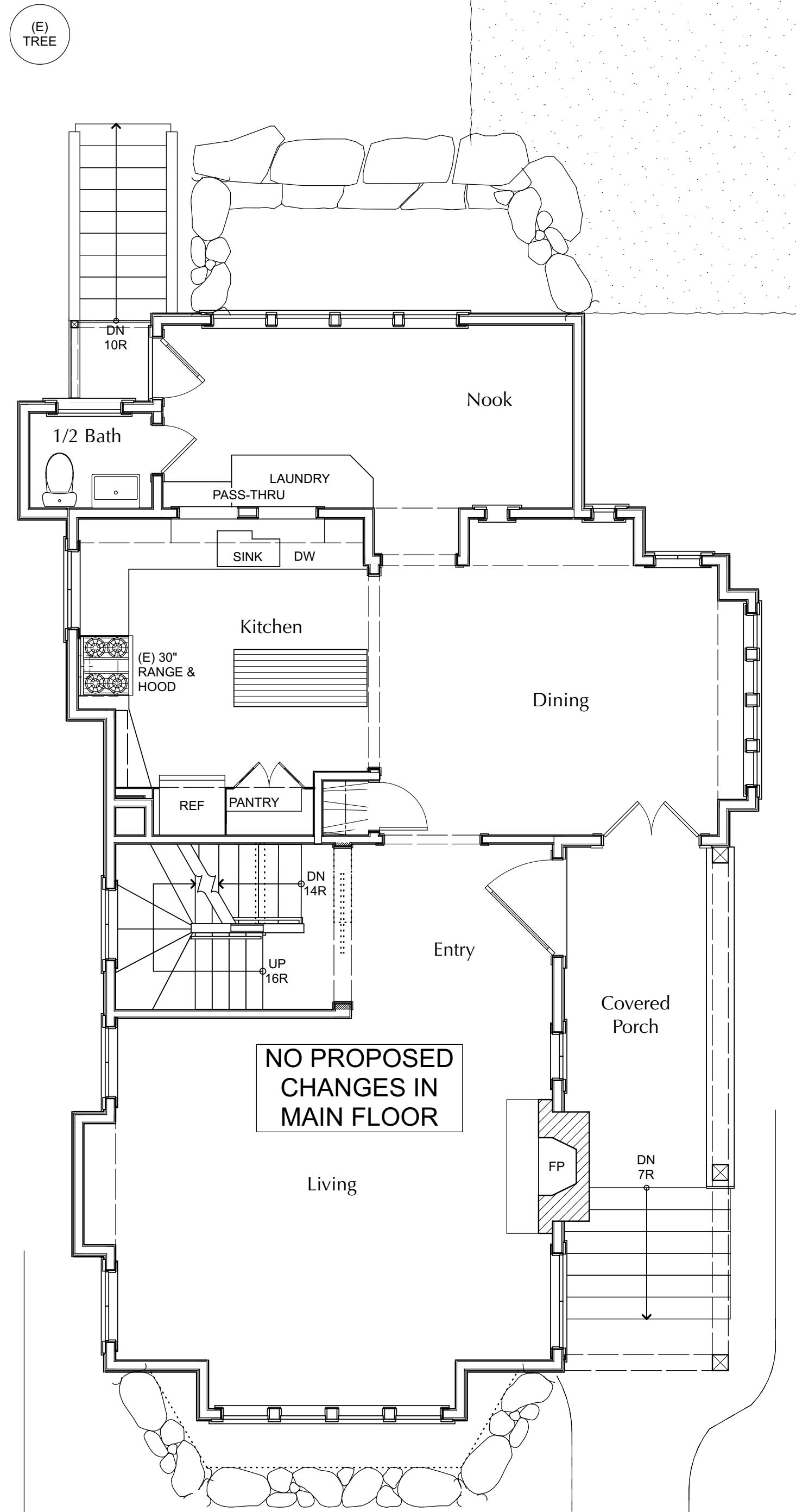
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1906

2

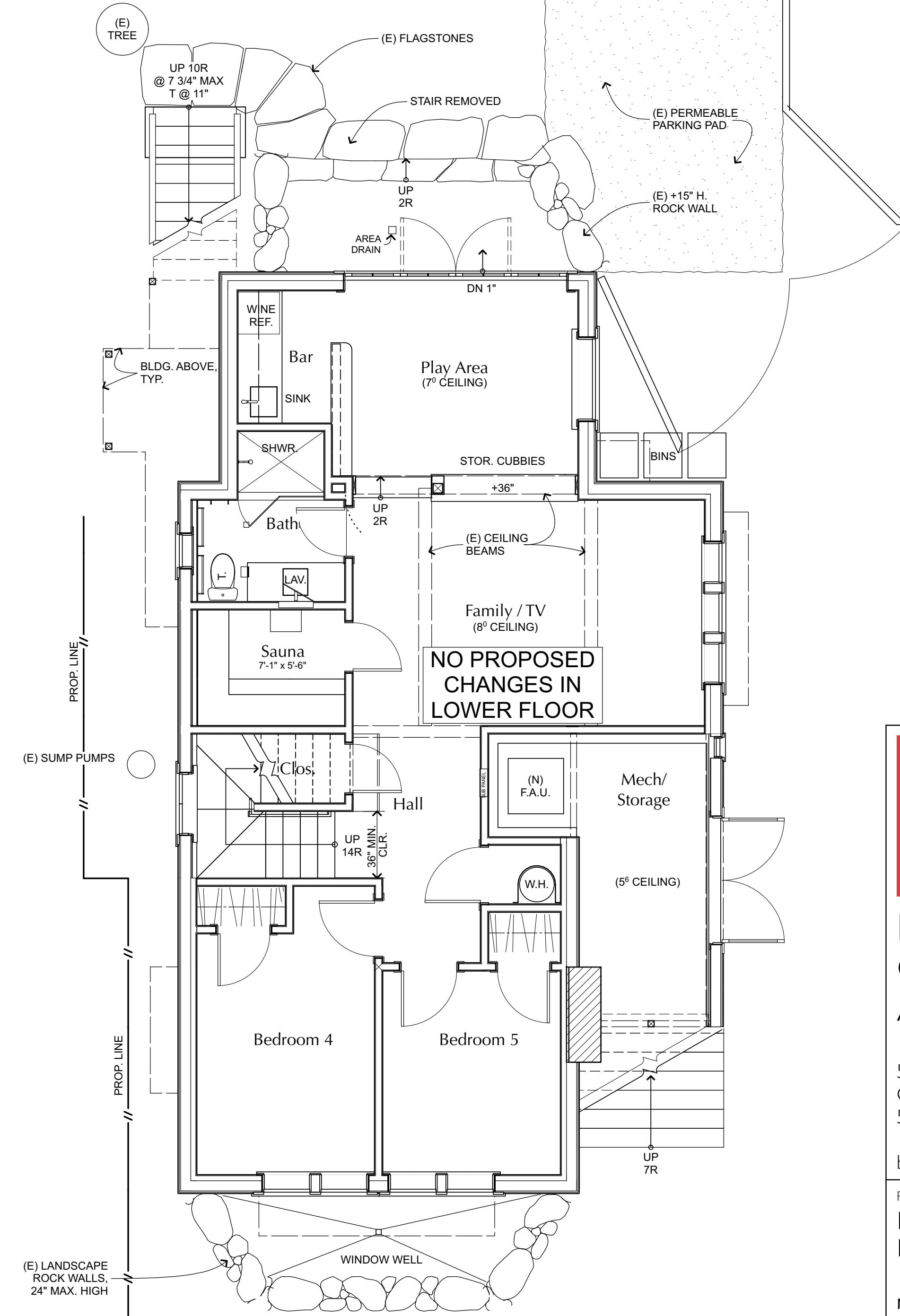




Proposed Upper Floor Plan
SCALE: 1/4" = 1'-0"



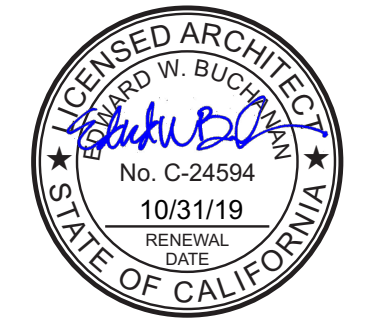
Proposed Main Floor Plan
SCALE: 1/4" = 1'-0"



Proposed Lower Floor Plan
SCALE: 1/4" = 1'-0"

Legend

- NEW (N) WALLS
- EXISTING (E) WALLS TO REMAIN
- EXISTING (E) WALLS, REMOVED
- LINE ABOVE
- LINE BELOW OR BEYOND
- SECTION CUT
- DOOR KEY
- WINDOW KEY



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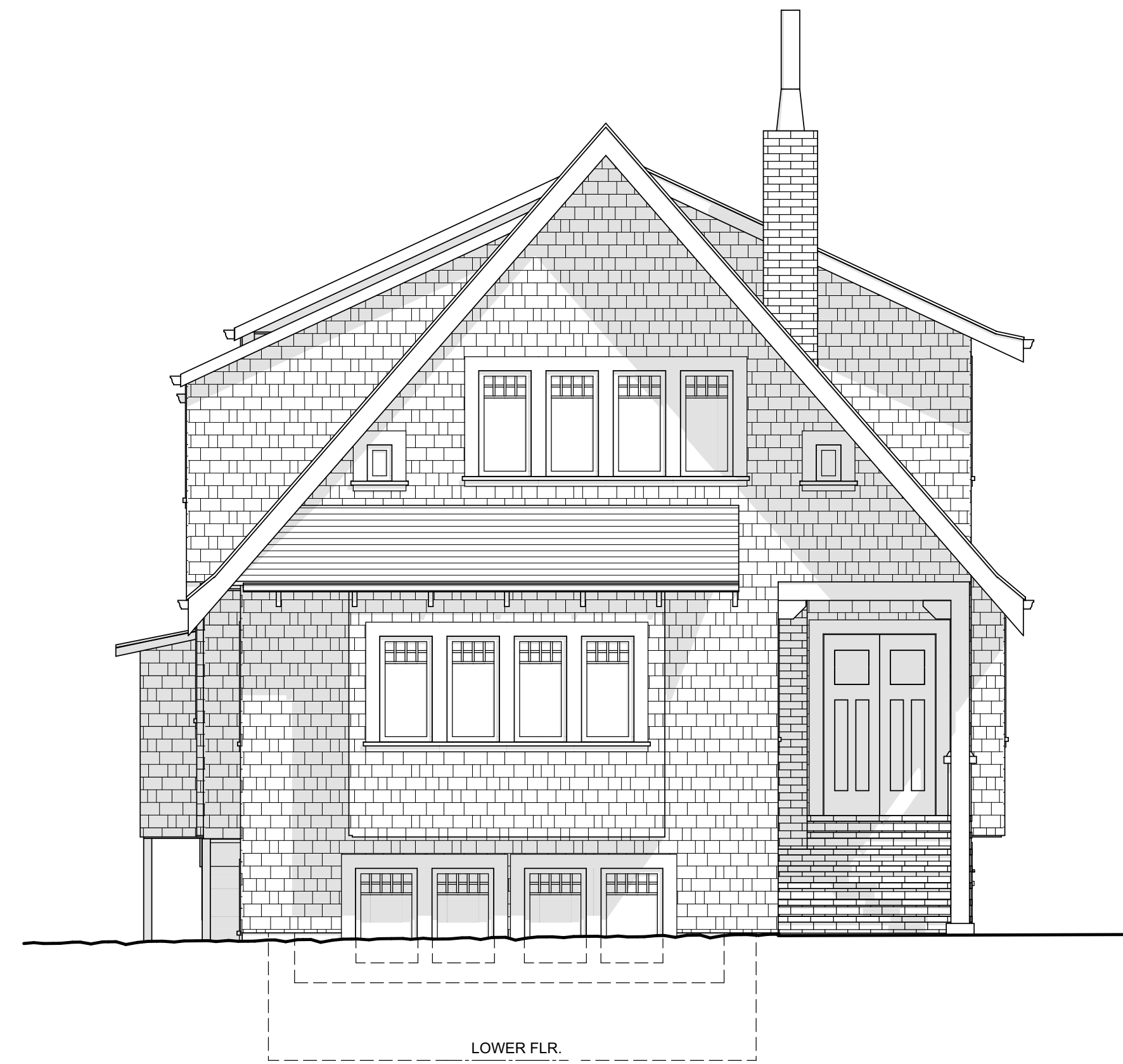
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SHEET TITLE:
**Proposed Floor
Plans**

PROJECT NO:
1906

3





Existing East Elevation
SCALE: 1/4" = 1'-0"



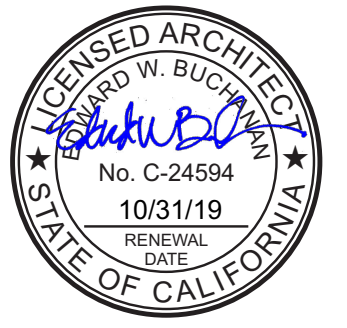
Existing North Elevation
SCALE: 1/4" = 1'-0"



Existing West Elevation
SCALE: 1/4" = 1'-0"



Existing South Elevation
SCALE: 1/4" = 1'-0"



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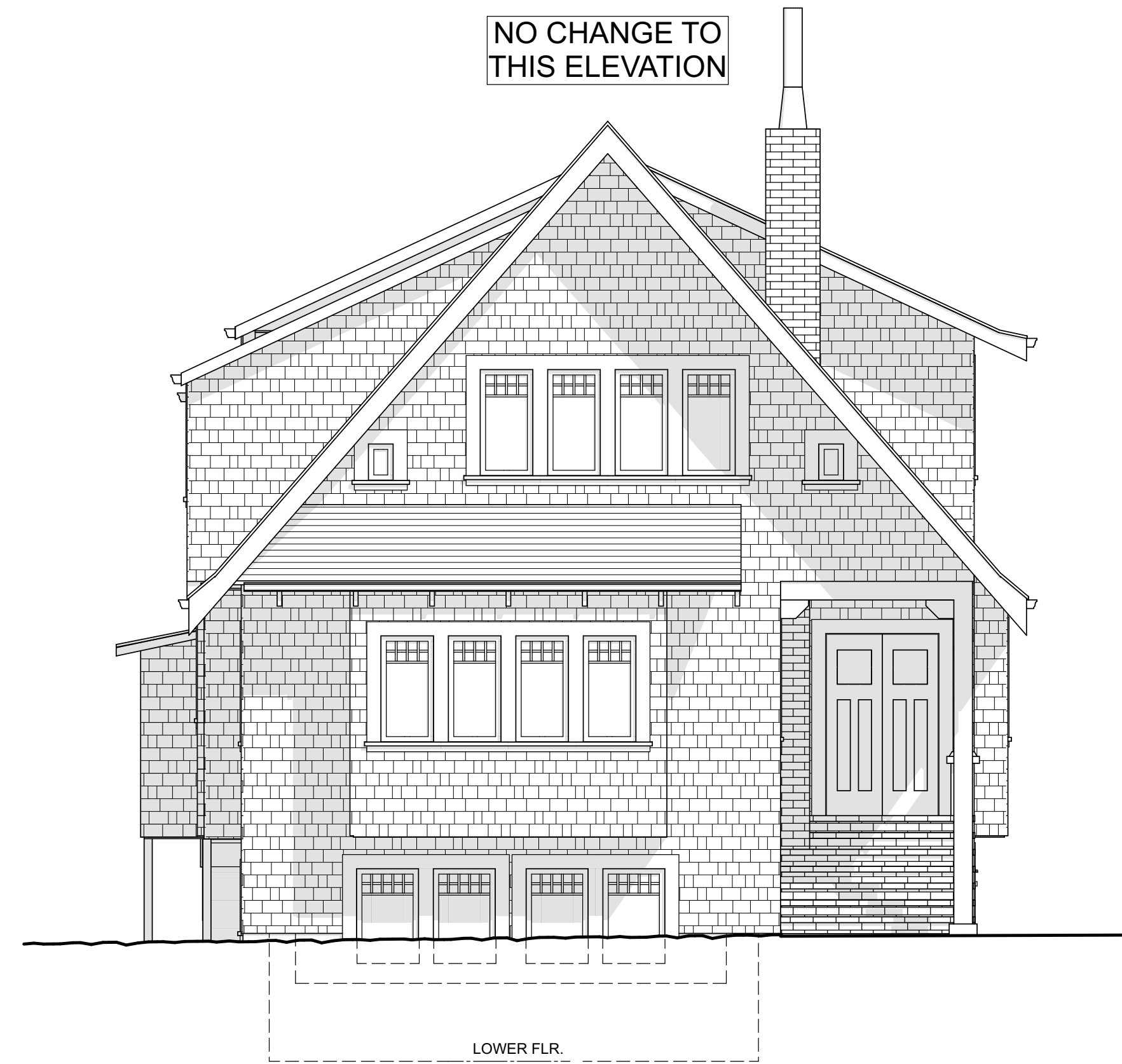
DATE	DESCRIPTION
4/21/21	AUP APPLICATION

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SHEET TITLE:
**Existing Exterior
Elevations**

PROJECT NO:
1906

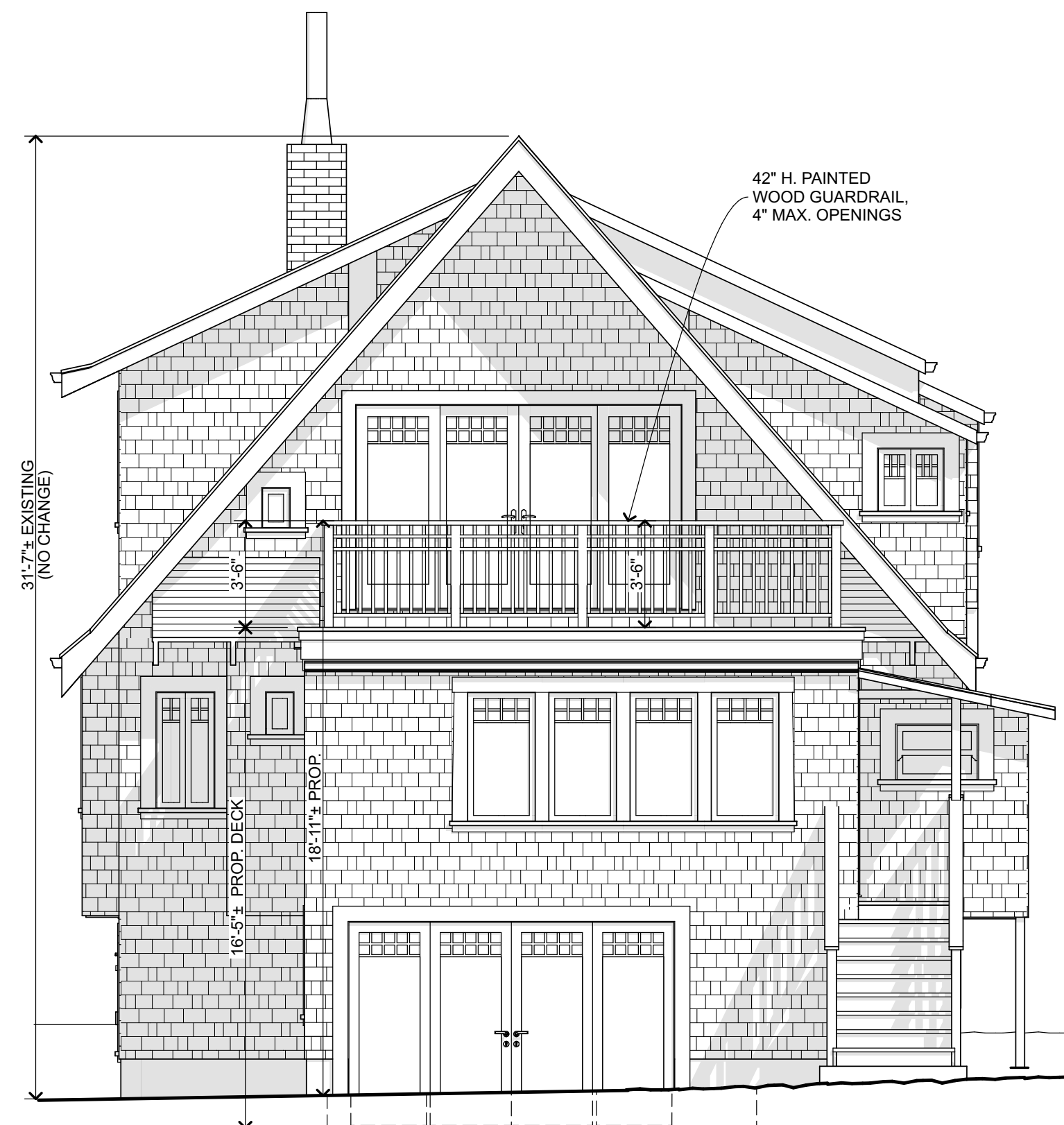
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Proposed East Elevation
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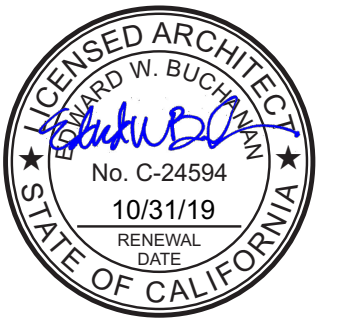
Proposed North Elevation
SCALE: 1/4" = 1'-0"



Proposed West Elevation
SCALE: 1/4" = 1'-0"



Proposed South Elevation
SCALE: 1/4" = 1'-0"



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**Proposed Exterior
Elevations**

PROJECT NO:
1906

5



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
SEPTEMBER 9, 2021

2956 Hillegass Avenue

Use Permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of an existing three-story 2,834 square foot single-family dwelling on a 2,754 square foot lot.

I. Background

A. Land Use Designations:

- General Plan: LDR-Low Density Residential
- Zoning: R-1(Single Family Residential)

B. Zoning Permits Required:

- Use Permit, under [Berkeley Municipal Code \(BMC\)](#) Section 23C.04.070.C, for additions or enlargements to lawful non-conforming structures that are non-conforming by exceeding the maximum allowable lot coverage; and
- Administrative Use Permit, under BMC Section 23D.16.070.C, for additions over 14 feet in average height

C. CEQA Determination: It is staff's recommendation to ZAB that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 ("Existing Facilities") and Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by ZAB.

D. Parties Involved:

- Applicant Edward W. Buchanan
- Property Owner Mollie & Adam Starr

Figure 1: Vicinity Map

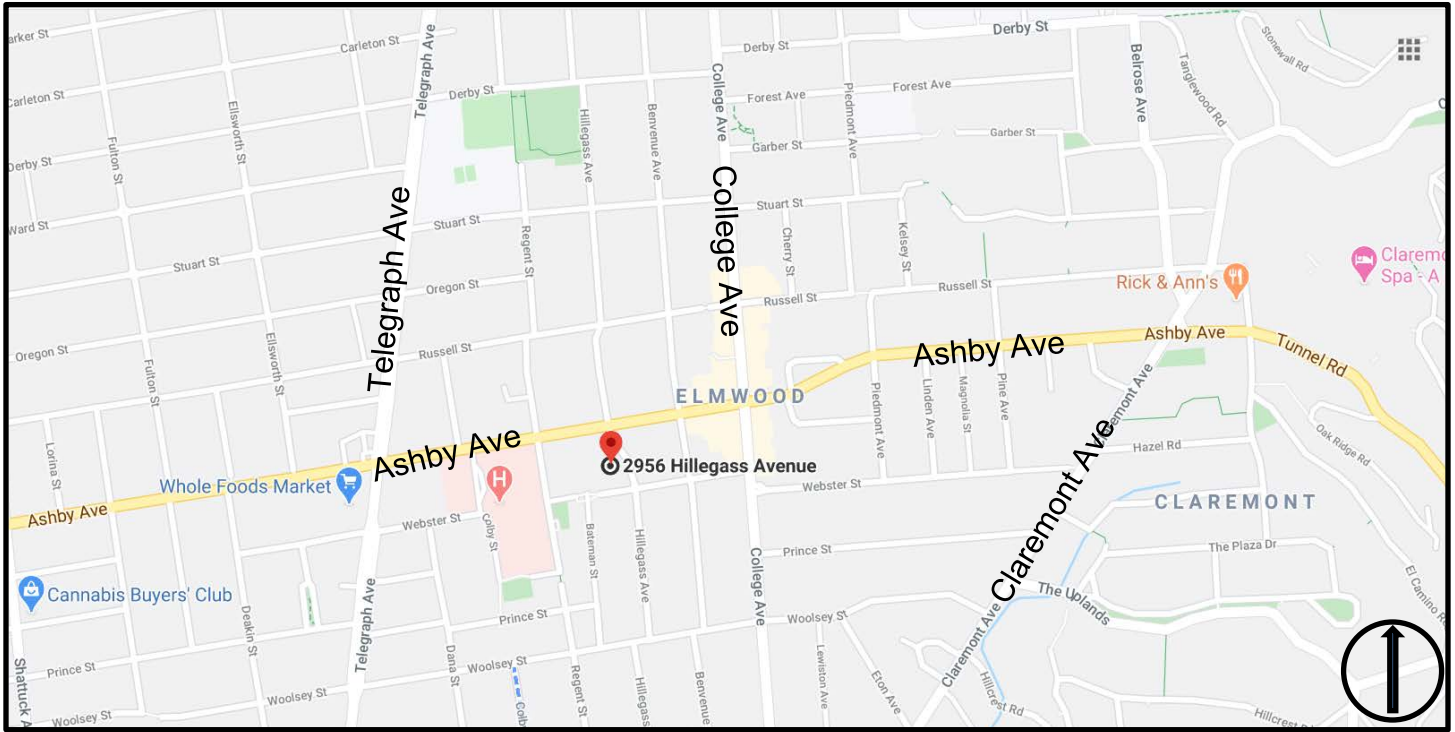


Figure 2: Aerial View



Figure 3: Site Survey

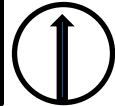
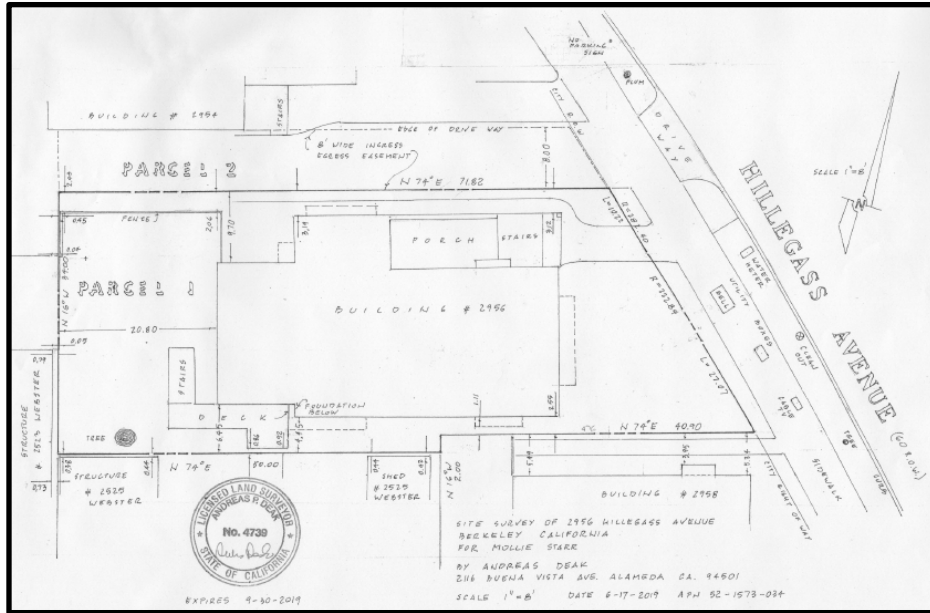


Figure 4: Proposed Site Plan

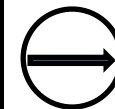
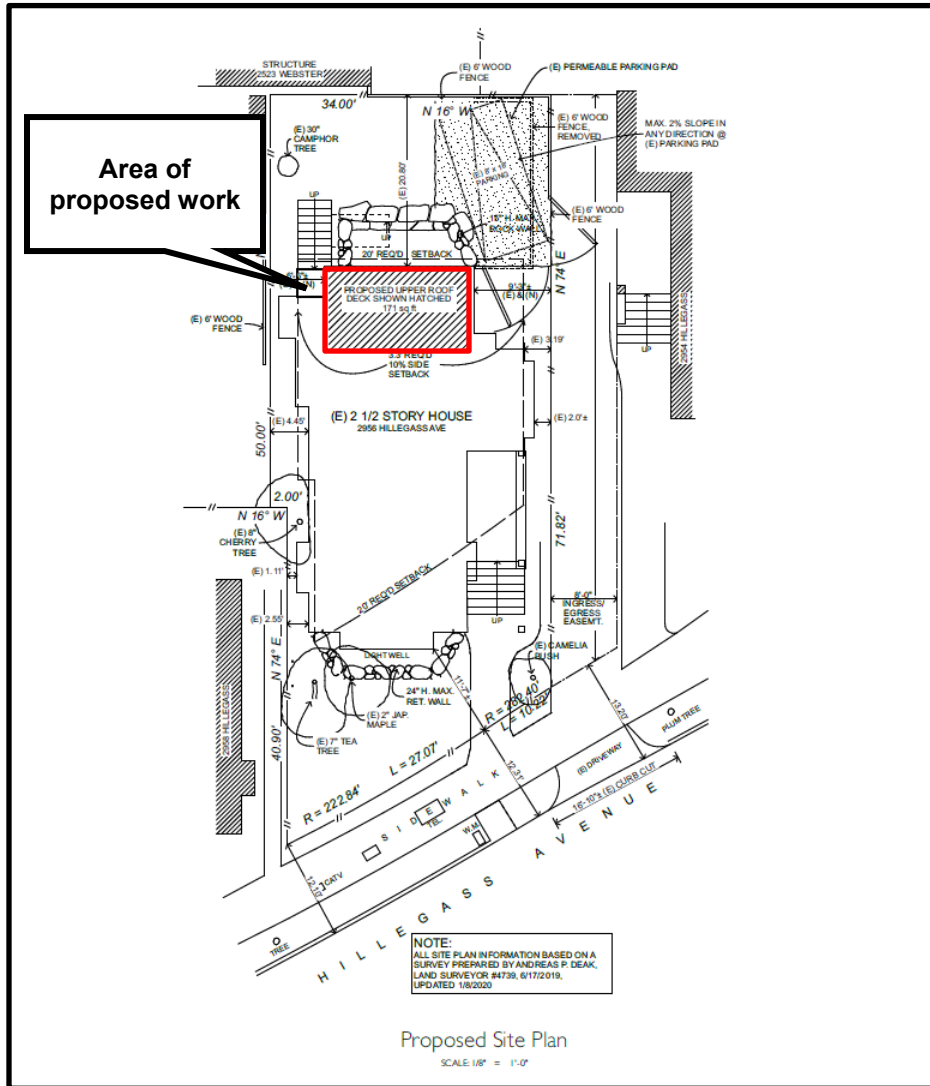


Figure 5: Existing Upper Floor

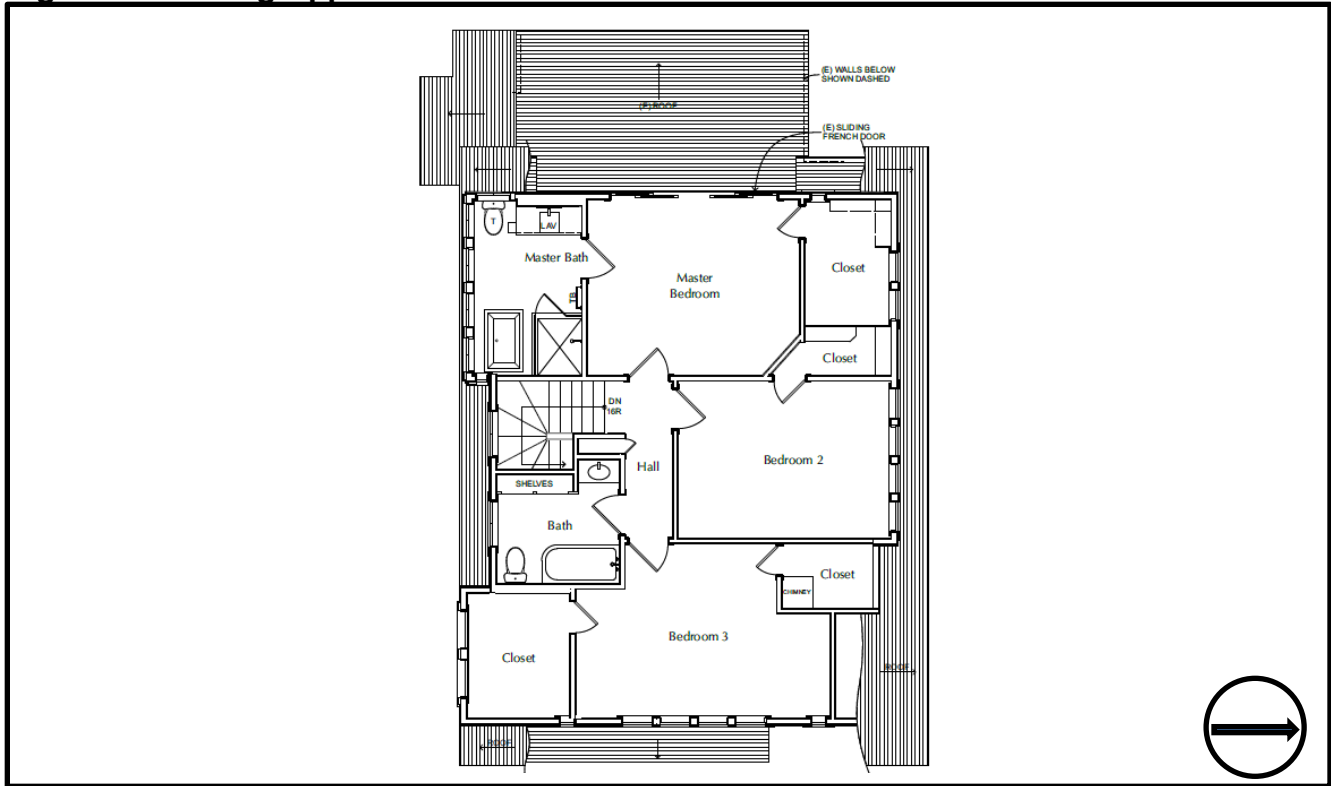


Figure 6: Proposed Upper Floor Balcony

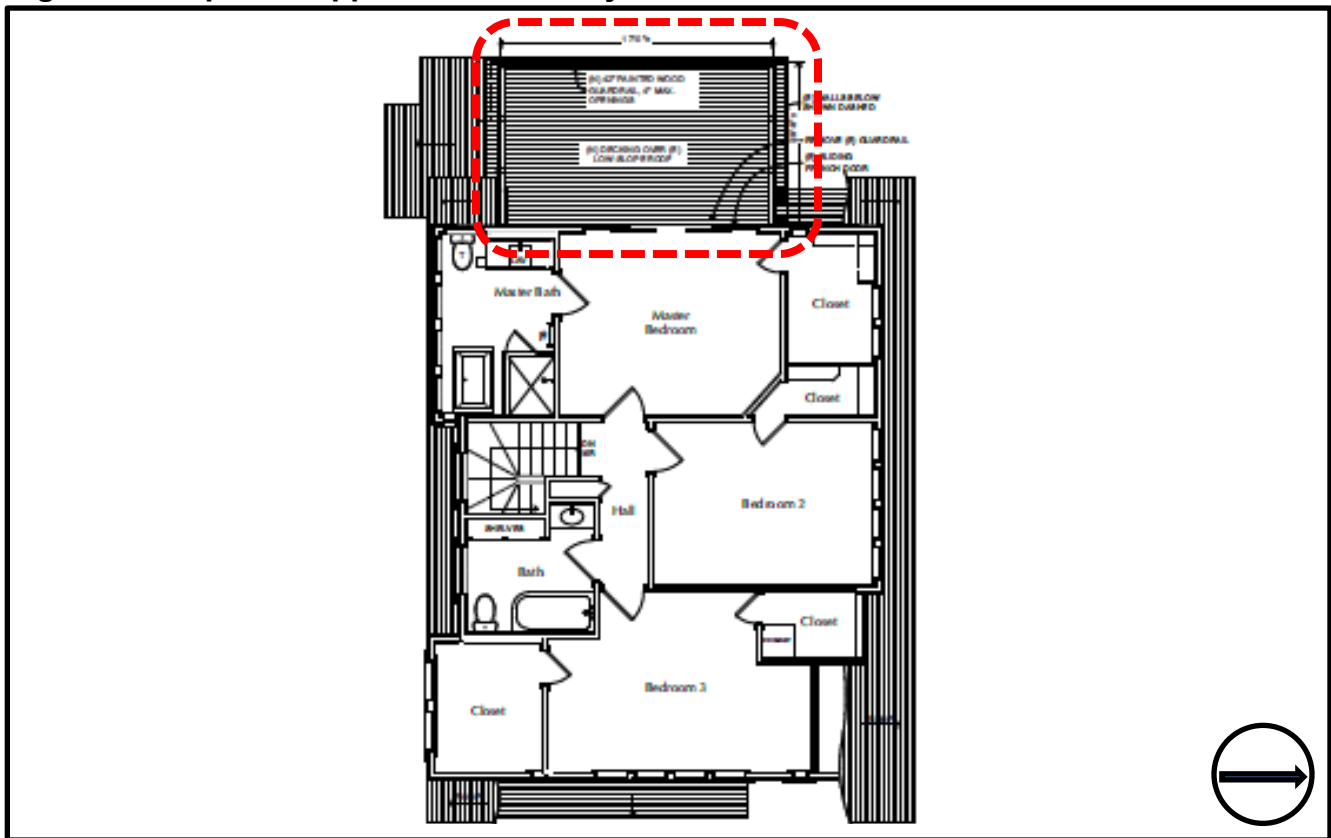


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Three-story single-family residence	Single Family Residential District (R-1)	Low Density Residential (LDR)
Surrounding Properties	North	Two-story single family dwelling (2954 Hillegass Avenue)	Restricted Multiple-Family Residential District (R-2A)	Medium Density Residential (MDR)
	South	Two-story single family dwelling (2954 Hillegass Avenue) & two-story, single family dwelling (2525 Webster St.)	Single Family Residential District (R-1)	Low Density Residential (LDR)
	East	Three-story duplex (2955 & 2957 Hillegass Ave.)		
	West	Single-story single family residence (2523 Webster St.)		

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	These fees apply to projects with more than 7,500 square feet of new non-residential gross floor area. This project is not subject to these resolutions because no new non-residential space is proposed.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Creeks	No	No open creek or culvert exists within 40 ft. of the site.
Housing Accountability Act (Gov't Code Section 65589.5)	No	The proposed project is not a "Housing Development Project" ¹ as defined by Government Code because it does not propose to add dwelling units.
Oak Trees	No	There are no oak trees on the site.
Rent Controlled Units	No	No rent controlled units are at this site.
Residential Preferred Parking (RPP)	No	The site is not within a Residential Preferred Parking Area.
Seismic Hazards Mapping Act (Liquefaction, Fault-rupture, Landslide)	No	The site is not located within an area susceptible to liquefaction, Fault-rupture or Landslide as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The site is not located on a hazardous waste site pursuant to Government Code Section 65962.5
Transit	No	There is a bus stop near the project site on College Avenue that provides access to an AC Transit bus routes (51B).

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

Table 3: Project Chronology

Date	Action
May 4, 2021	Application submitted
June 4, 2021	Application deemed complete
N/A	DRC/LPC hearing
August 26, 2021	Public hearing notices mailed/posted
September 9, 2021	ZAB hearing

Table 4: Development Standards

Standard BMC Sections 23C,16.070-080		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		2,754	2,754	5,000 min
Gross Floor Area (sq. ft.)		2,834	2,834	N/A
Dwelling Units	Total	1	1	1
Building Height	Average	22' - 3"	22' - 3"	28' 35' w/Use Permit
	Maximum	31'-7"	31'-7"	35' max
	Stories	3	3	3 max
Building Setbacks	Front	11'-7"	11'-7"	20' min
	Rear	20'-9"	20'-9"	20' min
	Left Side	1'-1"	1'-1"	3.5 min
	Right Side	2'-0"	2'-0"	3.5 min
Lot Coverage (%)		43.1%	43.1%	40% max
Usable Open Space (sq. ft.)		>400	>400	400 min
Parking	Automobile	1	1	1 min

II. Project Setting

A. Neighborhood/Area Description: The subject site is located in a generally flat residential neighborhood that consists of primarily two and three-story residential properties that include single-family dwellings, duplexes, and multi-family dwellings with conforming and non-conforming setbacks and densities. While the majority of the surrounding uses are residential, the Ashby Avenue (north), Telegraph Avenue (west) and College Avenue (east) commercial districts are within close proximity. Alta Bates Summit Medical Center is one block to the west of the subject property.

B. Site Conditions: The subject property is approximately 2,754 square feet in area. The existing three-story single-family dwelling was constructed in 1910 and is approximately 2,834 square feet. As shown in Table 4 above, it is non-conforming for lot coverage and front and side setbacks.

III. Project Description: The proposed project includes the addition of a 170 square foot balcony off of the third-floor master bedroom at the rear of the subject dwelling. The proposed balcony would be located above the existing roof of the story below, approximately 16 feet, 3 inches above grade plus a 3-foot, 6-inch guard rail. This would increase the overall height (to the top of the railings) of this portion of the building to approximately 20 feet. The balcony would be located within the existing footprint and outside the required rear and side setbacks.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the City, a pre-application poster was erected by the applicant in April 2021. On August 26, 2021, the City mailed public hearing notices to property owners and occupants within a 300-foot radius and to interested neighborhood organizations and posted notices within the neighborhood in three locations. At the time of this writing, staff has received 18 communications from different neighbors in support of the project and 19 communications from the neighbor to the north at 2954 Hilllegass Avenue with objections to the proposed project. (Attachment 4)

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

V. Issues and Analysis

A. Compatibility with District Purposes:

The purposes of the Single Family Residential (R-1) District are to:

1. Recognize and protect the existing pattern of development in the low density, single family residential areas of the City in accordance with the Master Plan;
2. Make available housing for persons who desire detached housing accommodations and a relatively large amount of Usable Open Space;
3. Protect adjacent properties from unreasonable obstruction of light and air; and
4. Permit the construction of community facilities such as places for religious assembly, Schools, parks and libraries which are designed to serve the local population when such will not be detrimental to the immediate neighborhood.

The proposed addition to the structure on this property with non-conforming lot coverage and setbacks is not expected to be detrimental as this project would continue to meet other development regulations in the R-1 district including building heights and building separation.

The lot's existing lot coverage and front and side setback non-conformities are commonly found in the surrounding neighborhood. The proposed addition is under the 28 feet average height limit of the District, and would be compatible with the development pattern for the broader area that is characterized by a mix of two and three-story residential buildings with single family and multiple units and buildings per parcel.

B. Addition to a Structure on a Parcel with Non-Conforming Lot Coverage: BMC

Section 23C.04.070.C allows additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of violation of the maximum allowable lot coverage to be permitted with a Use Permit if the addition does not increase lot coverage or exceed the height limit. The proposed project would add a 17 by 10 foot third-story balcony above an existing roof within the exiting footprint.

Pursuant to BMC section 23D.16.090.A for the R-1 zoning district, the Board may approve an application for a Use Permit for additions on a property with non-conforming lot coverage if the proposed construction satisfies the applicable development standards of the district and meets the findings of non-detriment. As shown in Table 4: Development Standards, the proposed addition meets the R-1 district standards for density, height, number of stories, rear yard setback, open space and parking. A discussion of the project's potential impact to sunlight, shadows, privacy, air and views follows below:

C. General Non-Detriment for Use Permits and Administrative Use Permits:

1. As required by Section 23B.32.040.A of the BMC, 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:

- The property would continue to conform to the R-1 development standards regarding density, height, and usable open space (BMC 23D.16.070), and parking. Although the addition would increase the height of a portion of the building in the rear, its roofline would be lower than the dwelling's highest roofline and would not impact the average or maximum height. It would continue to provide usable open space beyond the 400 square foot minimum requirement for the existing single-family dwelling. One off-street parking space is available where one is required. Although the addition would increase the height of a portion of the building in the rear, its roofline would be lower than the dwelling's roofline, it would not impact the average or maximum height and It would maintain the existing building footprint for the dwelling. The addition would not increase lot coverage or exceed the height limit. Therefore, air and light impacts to surrounding properties due to the project would not be detrimental.
- The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and storm water requirements, thereby ensuring the project would 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.

- Privacy:

The proposed balcony along the rear elevation in the west would be 9'-3" ft. from the side property line to the north where 3.5 ft. is required, 20 ft. from the rear property line to the west where 20 ft. is required and 6'-6" ft. from the south property line where 3.5 ft. is required. It is separated from the closest three-story neighboring property at 2954 Hillegass Avenue by approximately 15 feet. Since the proposed balcony would be located outside of all the required setbacks, it is not expected to create detrimental impacts to privacy of neighboring dwellings.

2. Sunlight, Air and View (BMC Section 23D.16.090): The proposed addition would increase a portion of the building's height in the rear, however, it would not create new sunlight, air, or view impacts on the neighboring dwellings because the overall height would be lower than the existing dwelling's highest roofline, it would not expand the building footprint, would be located outside of all required setbacks, and would be separated from the closest neighbor property to the north by more than 15 feet.

D. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. 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.
3. 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.
4. 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.
5. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: As discussed above, the project would not substantially block views, cast shadows, or create impacts on the privacy of adjacent neighbors. The balcony addition would occur within the existing building footprint and meets the R-1 Zoning District requirements. Because the balcony would be located above the existing roof of the story below, it will not increase the non-conforming lot coverage.

Additionally, the project would be consistent with the design character of other buildings in the vicinity.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and its minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE** Use Permit #ZP2021-0168 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received May 4, 2021
3. Notice of Public Hearing
4. Communications received from January 2021 to September 2021

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>> WELL, WE HAVE A QUORUM SO I WANT TO GET GOING BECAUSE WE HAVE A PACKED SCHEDULE TONIGHT AND SEVERAL ISSUES THAT HAD SOME CONCERNS AND WE NEED TO GIVE AN OPPORTUNITY TO SPEAK AND WANT TO REMIND EVERYBODY THAT THERE IS AN EFFECTIVE TIME LIMIT ON THE COMMISSION. SHOSHANA CORRECT ME IF I'M WRONG WE CANNOT START NEW BUSINESS AFTER 10:00 P.M. WITHOUT A VOTE OF THE COMMISSION TO CONTINUE. AM I GETTING THAT RIGHT.

>> WHAT I CAN'T REMEMBER AND WE SHOULD CLARIFY IS A MAJORITY VOTE OR UNANIMOUS VOTE OR TWO-THIRDS VOTE.

>> I PRESUME IT WOULD HAVE TO BE UNANIMOUS BECAUSE WE COULDN'T HAVE COMMISSIONERS NOT PARTICIPATING AFTER 10:00 P.M.

>> I'LL LOOK THAT UP.

>> WE HAVE TO 10:00 TO FIGURE IT OUT.

>> BUT I'LL TRY TO MOVE THINGS ALONG TONIGHT WITH YOUR HELP AND THE PEOPLE WHO JOINED US FROM THE PUBLIC. SO WITHOUT FURTHER ADO, THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEO AND TELECONFERENCE PURSUANT TO ORDER ISSUED BY GOVERNOR NEWSOM MARCH 17, 2020. THE MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH TELECONFERENCE AND ZOOM VIDEO CONFERENCE. BE ADVISED PURSUANT TO THE ORDER AND SHELTER IN PLACE ORDER TO LIMIT THE SPREAD OF THE COVID-19 VIRUS THERE WILL NOT BE A PHYSICAL

MEETING LOCATION AVAILABLE. FOR THOSE WHO HAVE JOINED TO SPEAK TONIGHT FROM THE PUBLIC YOU'LL BE INVITED TO SPEAK AT KEY MOMENTS. WHEN YOU ARE INVITED TO SPEAK YOU SHOULD USE THE RAISE HAND ICON ON YOUR SCREEN AND CLICK ON IT AND YOUR HAND WILL POP UP AND THE CHAIR WILL BE ABLE TO RECOGNIZE YOU. IF YOU HAVE JOINED BY PHONE, YOU'LL NEED TO PRESS STAR 9 WHEN YOU'RE INVITED TO SPEAK AND RECOGNIZED BY THE CHAIR. BE MINDFUL WILL THE TELECONFERENCE WILL BE RECORDED AS ALL MEETINGS ARE AND OTHER RULES AND PROCEDURE OF DECORUM WILL APPLY FOR SAID MEETINGS TO BE CONDUCTED BY TELECONFERENCE, VIDEO CONFERENCE OR IN PERSON. ALL RIGHT. THAT BRINGS US TO ROLL CALL. AND EX PARTE COMMUNICATION DISCLOSURES.

>> GREAT. THANK YOU, CHAIRMAN KAHN. WE'LL DO THE ROLL CALL AND EX PARTE DISCLOSURES. SO WHEN I CALL YOUR NAME PLEASE SAY IF YOUR PRESENT AND HAVE DISCLOSURES. BOARD MEMBER TREGUB.

>> I HAVE AN EX PARTE ON 1151 GRIZZLY PEEK BOULEVARD. I RECEIVED A CALL BY A REPRESENTATIVE OBJECTING TO THE PROJECT. SHE GAVE ME STATEMENTS THAT WERE NOT SUBMITTED TO US.

>> OKAY. COUNCIL MEMBER DUFFY

>> PRESENT, NO EX PARTE.

>> COUNCIL MEMBER OLSON.

>> PRESENT, NO EX PARTE.

>> COUNCIL MEMBER O'KEEFE.

>> PRESENT AND NO EX PARTE.

>> I FORGOT A FEW PEOPLE.

>> I'M SORRY.

>> BOARD MEMBER KIM.

>> PRESENT, NO EX PARTE.

>> BOARD MEMBER SANDERSON.

>> PRESENT, EX PARTE.

>> I'M GLAD YOU'RE HERE. THANK YOU.

>> THANKS. I'M GLAD EVERYBODY GOT RECOGNIZED. THESE ARE THE ACTION MINUTES FROM THE CONSENT CALENDAR. DO I HAVE A MOTION TO APPROVE THE ACTION ITEM FROM AUGUST 26, 2021 AS A STAND ALONE VOTE? IS THAT A MOTION? IS THAT A SECOND? I SEE A NOD. WE HAVE A MOTION TO APPROVE THE MINUTES. CAN YOU TAKE THE ROLL CALL AND DON'T LEAVE ANYBODY OUT.

>> THIS IS FOR AUGUST 21, 2021. BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> BOARD MEMBER SANDERSON.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> VICE CHAIR O'KEEFE.

>> YES.

>> AND CHAIRPERSON KAHN.

>> YES.

>> WE FORGOT NON-AGENDA ITEMS.

>> LET'S GO BACK TO THAT. SO IF THERE'S ANY THERE WE GO. IF THERE'S ANY MEMBERS OR ATTENDEES THAT WOULD LIKE TO SPEAK ON NON-AGENDA ITEMS NOT ON THE CALENDAR AND GENERAL INTEREST TO THE ZONING BOARD OR OTHER PEOPLE ATTENDING THIS HEARING, THIS IS YOUR OPPORTUNITY TO SPEAK OR RAISE YOUR HAND AND I'LL RECOGNIZE

YOU, PATRICIA. AM I NOT ABLE TO RECOGNIZE PATRICIA? I'M CLICKING ON HER.

>> OKAY. HAVE YOU THREE MINUTES TO SPEAK ON A TOPIC OF INTEREST. YOU SHOULD UNMUTE YOURSELF FIRST. YOU'RE STILL MUTED. YOU'RE STILL MUTED. THERE YOU GO. WE CAN HEAR YOU NOW.

>> CALLER: MY NAME IS PATRICIA MCCULK AND I'M A GOOD FRIEND OF JOAN WAGERS AND HAVE SEEN MATT AND GINA IN THE NEIGHBORHOOD.

>> ARE YOU SPEAKING ON ONE OF THE ITEMS?

>> YES.

>> WE'RE NOT DOING THAT NOW.

>> OH, YOU JUST WANTED TO KNOW IF YOU CAN HEAR ME?

>> YES.

>> AND ALLISON, SHE NEEDS TO BE PUT BACK AS AN ATTENDEE. WE HAD A LITTLE BIT LAST WEEK.

>> WE DON'T HAVE ANYONE ELSE TO BE RECOGNIZED WE'LL CLOSE OUT THAT PORTION AND BRINGS US TO THE BALANCE OF THE CONSENT CALENDAR. I'LL RECUSE MYSELF FROM ITEM 2 AS OUR OFFICE IS THE ARCHITECT FOR THAT PROJECT. AND DEFER TO SHOSHANA TO HANDLE THAT CONSENT ITEM. ALLISON, IF YOU CAN DEMOTE ME TO ATTENDEE THAT WOULD BE GREAT AS A DON'T WANT TO BE PRESENCE FOR THIS

DISCUSSION. WE PRACTICES THIS EARLIER AND IT SHOULD WORK I SEE STOP VIDEO.

>> I CAN MUTE MYSELF AND TURN OFF MY VIDEO AND SHUT UP.

>> IS IT BECAUSE HE'S CO-HOST?

>>

>> WE HAVE TO UNDO AND REMOVE HIS CO-HOST PERMISSIONS. THEN CHANGE ROLE TO ATTENDEE.

>> OKAY. CHARLES HAS LEFT THE ROOM.

>> OKAY. SAFE. WELL, OKAY. HOLD ON I SEE SOME MEMBERS WANTING TO BE RECOGNIZED. I WAS GOING TO GET COMMENT FROM THE PUBLIC FIRST ABOUT WHAT IF THERE WAS ANY OBJECTIONS TO THE TWO REMAINING CONSENT ITEMS. CARRIE WOULD YOU LIKE IT SPEAK BEFORE THE PUBLIC? IF YOU WANT TO TAKE SOMETHING OFF, ACTUALLY, MAYBE WE SHOULD GET THE BOARD IF ANYONE FROM THE BOARD WANTS TO REMOVE ANYTHING. CARRIE.

>> I WOULD LIKE TO PULL THE ITEM ON COLLEGE OFF CONSENT.

>> LET'S PULL THAT. IF YOU'RE HEAR TO SPEAK ON COLLEGE AVENUE YOU'LL HAVE AN OPPORTUNITY IN MOMENTS. THANK YOU. IGOR DID YOU HAVE A DIFFERENT COMMENT?

>> SAME ONE.

>> IT'S OFF CONSENT AND ACTIONS WHAT ABOUT SAN PABLO, IS THERE OBJECTION FROM THE BOARD ON LEAVING IT ON CONSENT? I'LL CHECK WITH THE PUBLIC. MEMBERS OF THE PUBLIC, WHAT WE'RE DOING RIGHT NOW LISTEN CAREFULLY BECAUSE THIS IS A LITTLE BIT CONFUSING AND WANT TO MAKE SURE EVERYTHING INFORMATIONS WHAT'S GOING ON. ITEM 2, COLLEGE AVENUE WE'LL GIVE THAT A FULL HEARING. IF YOU'RE HERE FOR THAT ONE, SIT TIGHT. IF YOU'RE HERE TO SPEAK ON 1443 SAN PABLO AND HERE TO SPEAK ABOUT IT WHERE YOU'D LIKE TO REGISTER AN OBJECTION, I WOULD LIKE TO HEAR FROM YOU NOW. IF YOU'RE HEAR TO SUPPORT IT, YOU DON'T NEED TO SPEAK BECAUSE THE MOST LIKELY THING THAT'S GOING TO HAPPEN IS IF NOBODY HAS AN OBJECTION IT WILL REMAIN ON CONSENT AND THE RECOMMENDATION IS TO APPROVE SO IF THE CONSENT CALENDAR IS APPROVED THIS WILL BE APPROVED BUT IF ANYBODY IS HERE AND WOULD LIKE TO BRING UP AN OBJECTION WE'D LIKE TO HEAR THAT NOW AND IF THERE'S SUCH AN OBJECTION WE'LL PULL THIS ONE FROM THE CONSENT CALENDAR AND GIVE IT A FULL HEARING. ATTENDEES AND MEMBERS OF THE PUBLIC, RAISE YOUR HAND NOW IF YOU HAVE OBJECTION OR WOULD LIKE TO SPEAK BRIEFLY ABOUT ITEM 3, SAN PABLO AVENUE. PRESS STAR 9 IF JOINING BY PHONE. PATRICIA, I'M GOING RECOGNIZE YOU THOUGH AM I A CO-HOST? NOTHING HAPPENS WHEN I CLICK ON PEOPLE.

>> I DO NOT APPEAR TO BE A CO-HOST. PATRICIA I AM PROMISE I'M TRYING TO RECOGNIZE YOU BUT HAVING A TECHNICAL PROBLEM. THIS IS SPECIFICALLY ASKING ABOUT 1443 SAN PABLO. IF THAT'S WHAT YOU

WOULD LIKE IT SPEAK ON, NOW'S YOUR CHANCE OTHERWISE PUT YOUR HAND DOWN IF YOU'RE HEAR TO SPEAK ON A DIFFERENT ITEM. SHE PUT HER HAND DOWN. THANK YOU. SO 1443 SAN PABLO IS THERE ANYTHING THAT WOULD LIKE TO OBJECT TO THAT ITEM NOW? SEEING NONE I'LL BRING IT BACK TO THE BOARD.

>> I'LL MAKE A MOTION TO APPROVE THE CONSENT CALENDAR WITH STAFF RECOMMENDATION.

>> TO CLARIFY, THERE'S A MOTION TO APPROVE THE CONSENT CALENDAR WITH 1443 SAN PABLO.

>> I SECOND.

>> GREAT.

>> SO A MOTION AND SECOND. IS THERE ANY FURTHER DISCUSSION. LET'S DO A ROLL CALL VOTE ON THE CONSENT CALENDAR JUST ITEM 3.

>> SO FOR 1443 SAN PABLO AVENUE, BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER GAFFNEY.

>> YES.

>> BOARD MEMBER SANDERSON.

>> YES.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> VICE CHAIR O'KEEFE.

>> YES.

>> AND CHAIRMAN --

>> HE'LL ABSTAIN. YOU CAN FIGURE THAT OUT. WE DON'T NEED HIS
VOTE TO PASS IT.

>> THAT HAS PASSED. THE CONSENT CALENDAR PASSES, THANK YOU VERY
MUCH. NOW, ACTION CALENDAR. WHAT WE ALL CAME FOR. SO
TRADITIONALLY AND TODAY WE'RE GOING TO FIRST BEFORE WE HEAR THE
PREVIOUSLY SCHEDULED ITEM WE'LL HEAR THE ITEM THAT CAME OFF
CONSENT, 2125 COLLEGE AVENUE SO IF YOU'RE HERE FOR THAT GET
READY. STAFF AUDIENCE, WE'LL DO THAT FIRST. FIRST WHAT WE'LL DO
IS BEGIN WITH THE STAFF REPORT AND THEN HAVE QUESTIONS FOR STAFF
FROM THE BOARD THEN WE'LL HAVE A PRESENTATION FROM THE APPLICANT
FOLLOWED BY QUESTIONS FOR THE APPLICANT AND THEN PUBLIC COMMENT

AND ANYONE WHO WISH TO SPEAK ON 2521 COLLEGE AVENUE WILL HAVE A CHANCE TO DO SO AT THAT TIME AND THE APPLICANT WILL HAVE ONE MORE CHANCE TO SPEAK AND THEN WE'LL CLOSE THE PUBLIC HEARING AND I HAVE BOARD COMMENTS AND HOPEFULLY VOTE THOUGH YOU NEVER KNOW. SO WHAT WAS THE FIRST THING? STAFF REPORT. LET'S HAVE IT.

>> GOOD EVENING, MEMBERS. THIS IS CASE PERMIT 2020-2147 TO MODIFY THE PERMIT ALLOWING FOR A MAXIMUM OF EIGHT OCCUPANTS IN A 268,000 SQUARE FEET OF LIVING TO ALLOW 13 OCCUPANTS AND 13 OCCUPATION ROOMS AND TO LEGALIZE THE ACCESSORY BUILDING WITH AN AVERAGE HEIGHT OF 10 FEET AND INCREASE THE NUMBER OF GROUP LIVING ACCOMMODATION OCCUPANT. IT'S STAFF'S RECOMMENDATION IT'S EXEMPT OF THE CEQA GUIDELINES AND THE DETERMINATION MADE BY ZAB. IT'S A LAND USE OF MEDIUM RESIDENTIAL. THIS LOCATED ON THE EAST SIDE OF COLLEGE AVENUE BETWEEN DWIGHT WAY AND PARKER STREET SOUTH OF THE U.C. BERKELEY CAMPUS AMONG DORM TRIES AND SINGLE AND MULTI-FAMILY DWELLINGS. IT LEADS TO A GARAGE AT THE BASEMENT LEVEL CONTAINING FOUR OFF-STREET PARKING SPACES AND SHARED WITH THE ADJACENT PROPERTY. THE ADJACENT PROPERTY TO THE NORTH IS A NON-UNIT APARTMENT BUILDING AND STAFF RECEIVED NOTICE FROM THE PUBLIC THAT TWO DETACHED ADUS HAVE REVIEW AND CONSTRUCTION AND THEY'RE SEPARATE PARCELS AND THE ADUS ARE NOT PART OF THIS PROPOSAL. OCTOBER 13, 1988, THE ZAB UNANIMOUSLY APPROVED THE PREVIOUS USE PERMIT TO LEGALIZE THE BOARDING HOUSE UP TO SEVEN OCCUPANTS AND ONE MANAGER FOR A TOTAL OF EIGHT OCCUPANTS. WITH

TWO PARKING SPACES AND USABLE PARKING SPACE. SUBSEQUENTLY ON JULY 7, 1997, THE OTHER REGISTERED A 13-BED REMEMBER ROOMING HOUSE WITH THE RENT STABILIZATION BOARD AND NO CHANGE HAVE BEEN MADE TO THE NUMBER OF BEDROOMS REGISTERED SINCE THAT TIME. BOARD RECORDS CURRENTLY INDICATE ALL 13 ROOMS ARE REGISTERED AND AVAILABLE FOR RENT AND THERE ARE TWO OCCUPANTS IN EACH FOR A TOTAL OCCUPANCY OF 17. SO AS I SAID THE PROJECT WOULD INCREASE THE OCCUPANCY OF THIS GROUP LIVING ACCOMMODATION FROM 8 TO 13 WHICH IS THE MAXIMUM NUMBER ALLOWED UNDER THE ORDINANCE AND IT ADDRESSES THE MAXIMUM OCCUPANCY OF 13. IN ORDER TO REQUIRE THE MINIMUM AMOUNT OF OPEN SPACE THE EXISTING WINDOW WOULD BE REMOVED AND REPLACED WITH A DOOR AND NEW INTERIOR WALL WOULD CREATE A HALLWAY TO ALLOW RESIDENTS TO ACCESS THE ROOF DECK PORTION AND THE EXISTING DRIVEWAY WOULD BE REPLACED WITH A USABLE OPEN SPACE AREA CONTAINING PLANTERS. THE FINDINGS IN ORDER TO APPROVE THE PROJECT FIRST THE ZAB MUST FIND THE PROJECT IS NON-DETRIMENTAL AND THE BOARD WOULD BE CONSISTENT WITH THE PURPOSES OF THE R3 DISTRICT PROVIDING AN INCREMENTAL INCREASE IN HOUSING APPROXIMATE TO THE BERKELEY AREA AND INCREASING THE USABLE AMOUNT OF SPACE AND WOULD RESTORE THE ORIGINAL ROOF DECK CREATING NEW SIGHT LINES TOWARDS ADJACENT DWELLINGS AND STAFF BELIEVES IT WOULD NOT BE DETRIMENTAL BELOW THE DISTRICT HEIGHT LIMIT AND VIEWS TO THE NORTH AND SOUTH OF EXISTING BUILDING AND VIEWS TO THE EAST WOULD BE TOWARDS THE REAR YARD AT 2626 ELNA

WITH A SEPARATION OF APPROXIMATELY 120 FEET WITH SEVERAL TREES AND VEGETATION TO SCREEN. THE PROJECT MEETS THE REQUIREMENTS FOR GOA HOUSING AND COMPLIES WITH TENANT PROTECTION ORDINANCE. SECOND, THE ZAB MUST FIND THE ACCESSORY BUILDING IS PERMISSIBLE AND MEETS THE HEIGHT AND STANDARDS AND WOULD BE USED AS A DWELLING UNITS. GIVEN THERE'S NO FACADES TO THE NORTH AND EAST IT'S NOT ANTICIPATED THE BUILDING WOULD BE DETRIMENTAL AND CREATES SIGNIFICANT IMPACTS TO PRIVACY AND BECAUSE OF THE PROJECT'S CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN AND MINIMUM IMPACT ON SURROUNDING PROPERTIES STAFF IS RECOMMENDING THEY APPROVE THE PROJECT WITH FINDINGS ON ATTACHMENT 1. THAT'S ALL I HAVE.

>> THANKS FOR THE STAFF REPORT. RIGHT NOW I'D LIKE TO ASK THE BOARD IF THERE'S QUESTIONS FOR STAFF? I'M NOT SEEING ANY QUESTION FOR STAFF. I'LL MOVE ON HOWEVER, I SHALL BE HERE, MICHAEL DO YOU KNOW HOW TO PUSH THE RAISED HAND BUTTON.

>> EVERY BUTTON BY THAT ONE.

>> I SEE YOUR ACTUAL HAND.

>> TO CLARIFY THERE'S 13 OCCUPANTS THERE NOW?

>> THERE'S 17 NOW.

>> AND THIS WOULD ALLOW 13.

>> AND THE PERMIT WAS FOR 8.

>> SO IF THIS WAS APPROVED WOULD THE 17 BEING REDUCED TO 13? OR WOULD 17 STILL BE THERE EVEN THOUGH IT'S ONLY ALLOWING 13?

>> WE WANT TO MAKE SURE WE'RE COMPLYING WITH ALL THE REGULATIONS AND TENANT PROTECTIONS UNDER THE RENT STABLE PROTECTION AND TENANT PROTECTION ORDINANCES SO CONDITION OF APPROVAL 32, 33 AND 34 ADDRESS THAT FACT. SO THE PLANNING DIVISION COULD BUT AS NATURAL [INDISCERNIBLE] OCCURS THE ROOMS THAT ARE DOUBLE OCCUPANCY WOULD GO DOWN TO SINGLE OCCUPANCY.

>> THANK YOU. IT DOES SAY THAT. I'M LOOKING AT IT NOW. THANK YOU.

>> YOU'RE WELCOME.

>> CARRIE. QUESTION FOR STAFF?

>> DURING YOUR PRESENTATION, YOU SOMETIMES USE THE WORD YOU MAY NOT BE AWARE OF THIS, "OCCUPANTS" AND USE THE WORD "BEDROOMS" AND YOU'VE MADE ME THOROUGHLY CONFUSED AND AFTER IF 32 YEARS OF THIS THERE'S NOT EASY AND I WANT TO MAKE IT CRYSTAL CLEAR TO US AND EVERYONE LISTENING, FROM WHAT I READ WAS APPROVED WAS EIGHT OCCUPANTS. THEY WENT TO 17 WITH APPARENTLY NO ONE PAYING ATTENTION. IS THAT CORRECT?

>> I CAN'T ANSWER THAT QUESTION BECAUSE I DON'T HAVE INFORMATION TO ANSWER THAT QUESTION.

>> BECAUSE HONESTLY, A LOT OF WHAT WE DO ONCE WE APPROVE SOMETHING IS WE TRUST. WE TRUST THE CITY. WE TRUST THE PROPERTY OWNER, WE TRUST THAT WHAT WE'VE APPROVED IS WHAT WILL HAPPEN SO NOW WE'RE BEING ASKED TO APPROVE 13 UNITS IN A BUILDING THAT ALREADY HAS 17 PEOPLE, FOUR OF WHICH WILL HAVE TO FIND HOUSING SOMEWHERE PLUS THERE'S THE CONSTRUCTION WORK THAT WILL, I GUESS, GO ON DURING THE SCHOOL YEAR -- A CRAZY SCHOOL YEAR. SO DO YOU UNDERSTAND WHERE I'M COMING FROM? I NEED TO HAVE YOUR ASSURANCE THAT WHAT WE'RE TALKING ABOUT ISN'T JUST 13 BEDROOMS BUT 13 OCCUPANTS. SINGLE PEOPLE. IS THAT CORRECT?

>> THERE ARE 13 GLA ROOMS CURRENTLY SOME HAVE DOUBLE OCCUPANCY NOT ALL AND HOW WE GET TO 17 OCCUPANTS. THERE'S MORE OCCUPANTS THAN BEDROOMS BUT THE MAXIMUM AMOUNT IS 13 SO THAT MEANS THERE'S A MAXIMUM OF ONE OCCUPANT PER ROOM SO ONE TO ONE IS 13 ROOMS AND 13 PEOPLE.

>> SO HOW DO WE KNOW -- HOW WILL THERE BE A FOLLOW-UP TO ENSURE THAT WHAT WE APPROVE TONIGHT WILL BE WHAT THERE IS?

>> SO IT WOULD RELY ON CONDITIONS OF APPROVAL SO THE OWNER SUBMITS INFORMATION TO PLANNING STAFF AND THERE'S NATURAL ATTRITION. THIS WOULD NOT EVICT ANY TENANT BUT NATURAL ATTRITION WOULD OCCUR BUT THE DOUBLE OCCUPANCY ROOMS WOULD BE RENTED AS SINGLE OCCUPANCY ROOMS IN THE FUTURE.

>> SO NOW THAT YOU'VE SAID THAT TO WHICHEVER ONE OF US MAKES THE MOTION TO APPROVE THIS ASSUMING THIS IS WHERE IT'S HEADED, PLEASE INCLUDE THAT LANGUAGE SO THAT STAFF WILL BE OBLIGATED TO FOLLOW-UP TO MAKE SURE THAT AS ATTRITION HAPPENS, SO THERE WON'T BE 13 ONCE THIS PROJECT IS COMPLETE, BUT THERE SHOULD BE 13 AND MAYBE WE CAN GIVE A TIME LINE? ONE YEAR, TWO YEARS. BECAUSE I THINK IT'S IMPOSSIBLE TO REGULATE. I THINK WHAT WE'RE BEING ASKED TO DO IS AS DIFFICULT AS I'VE EVER SEEN. I JUST WANTED TO ASK. THANK YOU.

>> ALL RIGHT.

>> NEXT UP WE HAVE A NUMBER OF BOARD MEMBERS AND NEXT IS IGOR.

>> THANK YOU. I WILL NOT GET INTO THE DETAILS NOW BUT I WILL GO ON THE RECORD LATER HOW WE ACTUALLY CAN'T REQUIRE ATTRITION AT A CERTAIN TIME. THAT WOULD BE IN CONFLICT WITH CONDITION 34. MY QUESTION FOR STAFF GIVEN THE COMMENT THAT CAME IN IN A SUPPLEMENTAL REGARDING NOISE AND HELP REFRESH MY MEMORY. IN THE PAST I BELIEVE WE HAVE SOMETIMES REQUIRED A MANAGEMENT PLAN TO TAKE PLACE. CAN YOU ANSWER THE QUESTION OF IF WE CHOSE TO DO SO HERE, COULD WE REQUIRE A MANAGEMENT AND OPERATING PLAN TO BE REACH OUT TO STAFF AS A CONDITION OF APPROVAL.

>> AND THE PROJECT WE NEED TO COMPLY WITH THE NOISE ORDINANCE. I'M NOT AWARE OF THAT SPECIFIC CONDITION OF APPROVAL THAT YOU MENTIONED BUT THE OWNER SHOULD NOTIFY US OR THE RENT BOARD WHEN

THERE'S A CHANGE IN TENANT SO WE KNOW SOMEONE ELSE DOESN'T COME IN WITH TWO PEOPLE INSTEAD OF ONE. THERE'S NO WAY THE PLANNING STAFF CAN TRACK THAT. THE OWNER SHOULD NOT JUST NOT NOTIFY THE TENANTS WHERE THEY LEAVE ONLY ONE CAN COME BACK IN BUT I THINK THE OWNER NEEDS TO NOTIFY PLANNING STAFF AND/OR THE REPRESENT CONTROL BOARD WHEN ONE OF THOSE UNITS BECOMES VACANT. AND THE REASON WHEN I WAS THERE IN 2003 YOU HAD AN ILLEGAL UNIT AND REMAINED OCCUPIED. NO ONE TO MY KNOWLEDGE EVER WENT BACK AND CHECKED TO SEE IF WHEN THE UNITS BECAME VACANT THAT THEY WERE THEN BROUGHT INTO COMPLIANCE WITH ZONING. SO WE DON'T WANT TO PUT ANYONE ON THE STREET BUT WE NEED SOME WAY TO KNOW THAT WHEN THERE IS A CHANGE OF TENANCY, THE NEW TENANT IS ONE PERSON AND NOT TWO IN CONDITION OF APPROVAL I THINK 23 WHEN THE OWNER WILL NOTIFY THE TENANTS OF. WE CAN'T HAVE A CONDITION OF APPROVAL FOR THE RENT CONTROL BOARD BUT WE NEED SOME WAY TO DO THIS THAT EITHER THE RENT CONTROL BOARD OR THE OWNER NOTIFIES THE PLANNING DEPARTMENT. SO WE CAN KEEP TRACK OF THIS. SO THAT'S ONE SUGGESTION. ALSO IN RESPONSE TO IGOR'S COMMENTS WHEN WE USED TO DOUGH -- TO DO THE ORDINANCE WE HAD THE MINI ORDINANCE AND THEY WERE REQUIRED TO REGISTER SO THEY'RE ON RECORD. I'M NOT SURE WE NEED TO -- IT'S VERY HARD TO ENFORCE ANY WAY. NOW THE NEIGHBORS KNOW IF THEY HAVE A PROBLEM THEY FOLLOW THE PROCEDURES OF THE MINI DORM ORDINANCE. I DON'T FEEL SO STRONGLY OF DOING WHAT WE

USED TO DO WHICH IS TO MAKE ALL KINDS OF CONVOLUTED PLANS ABOUT NOISE AND ALL OF THAT.

>> I DO WANT TO REMIND YOU AND EVERYONE ELSE THESE ARE JUST QUESTIONS FOR STAFF. I DID ALLOW IT SO IT FELT RELEVANT BUT I WANT TO BRING US BACK TO WHAT WE'RE DOING.

>> I'M SORRY.

>> I'M SORRY.

>> IT'S OKAY. DO YOU HAVE A QUESTION FOR STAFF, DEBRA, WHILE YOU'RE RECOGNIZED?

>> NO.

>> OKAY. GREAT. YOU'RE NEXT.

>> THANK YOU. I'LL HOLD MY COMMENTS BACK. MY QUESTION IS OBVIOUSLY IT'S DIFFICULT FOR US AND THIS COULD OR SHOULD BE ABOUT BEDROOMS BECAUSE IT'S SOMEBODY IN A BED WE CANNOT REGULATE WHETHER THEY INVITE SOMEONE TO COME LIVE IN THEIR BED WITH THEM AND CANNOT MANDATE THAT AND HERE'S THE QUESTION, DO WE HAVE ANYWHERE IN THE PAST OR IN THE CODE NOW THAT TRIES TO ADDRESS OR TRACK THAT? IT SEEMS THE MOST REASONABLE EFFORT IS JUST ABOUT A BED COUNT. WHAT I DID IS IT'S A PLAN WITH ONE BEDROOM IN IT. IS THAT RIGHT?

>> ANOTHER GI PRODUCTS YOU MIGHT SEE ONE BEDROOM WITH TWO SETS OF BUNCH BETS OR SOMETHING LIKE THAT AND THAT'S WHERE THE DISTINCTION BETWEEN GLA ROOM AND OCCUPANT ARE MORE CLEAR IN 13 GLA ROOMS AND 26 OCCUPANTS, SOMETHING LIKE THAT. THERE'S ONE ROOM AND ONE BED AND 13 GLA OCCUPANTS OR PEOPLE.

>> THANK YOU.

>> ANY OTHER QUESTIONS FOR STAFF BEFORE WE MOVE TO APPLICANT STATEMENT? SEEING NONE, LET'S HEAR FROM THE APPLICANT. I'LL STOP SHARING THE SCREEN. IS AUSTIN THE APPLICANT?

>> YEAH. AUSTIN IS THE ONLY APPLICANT TO PRESENT?

>> YES.

>> AUSTIN, YOU HAVE FIVE MINUTES. YOU DON'T HAVE TO USE THE WHOLE FIVE MINUTES BUT THAT'S THE MAXIMUM AND WE'LL HAVE A TIMER FOR YOU. WE'LL WE DON'T SEE A TIMER BUT JUST THE PLANS.

>> I'LL PUT THE PLANS ON THE BACKGROUND.

>> GO FOR IT. I'LL SET MY WATCH.

>> HI, EVERYBODY. MY NAME IS AUSTIN SPRINGER AND AN ARCHITECT AND THE PROJECT LEAD FOR THE USE PERMIT APPLICATION FOR 2521 COLLEGE AVE. THANK YOU FOR YOUR TIME AND CONSIDERATION OF THE APPLICATION AND I'LL TRY TO KEEP IT BRIEF. WE'RE PROPOSING TO UPDATE THE EXISTING USE PERMIT FOR EIGHT RESIDENTS TO 13 AND

SINCE THIS WAS THE DISCUSSION WE'RE BRINGING THE OCCUPANTS AND BEDROOMS AND HUMANS ALL INTO ALIGNMENT. IN THE PAST THERE'S BEEN SOME DISCREPANCY BETWEEN THE AMOUNT OF HUMANS AND RENT BOARD BEDROOMS. OUR CLIENT IS TRYING TO DO EVERYTHING ABOVE BOARD. WE'RE BRINGING IT FROM EIGHT RESIDENTS HOWEVER, YOU INTERPRETED IN THE PAST TO 13 HUMANS, 13 BEDROOMS, 13 GLA OCCUPANTS AND THERE'S NO EVICTION AND WITH COVID OCCUPANCY WENT DOWN AND NOBODY WILL BE KICKING KICKED OUT OF THEIR ROOM IN A TOUGH YEAR. ONE FINAL NOTE, THERE'S ALMOST NO CONSTRUCTION. WE ARE CHANGING THE STATUS OF ROOMS IN THE EXISTING HOME TO WHAT IT USED TO BE LIKE LIVING ROOMS OR OTHER BEDROOMS AND JUST MAKING THEM LEGAL. SO IT'S NOT LIKE WE'RE ACTUALLY DOING A BUNCH OF CONSTRUCTION INSIDE THE BUILDING. THERE'S ONLY ONE WALL THAT WE'RE PROPOSING CONSTRUCTING IN THE BUILDING AND THAT'S JUST TO PROVIDE ACCESS TO ALL THE TENANTS TO THE NEW ROOF DECK WHICH ALSO WILL BE RELATIVELY MINOR CONSTRUCTION. IN ADDITION, THE WHOLE PROJECT IS GOING TO BE CONSISTENT WITH THE APPLICABLE DENSITY GUIDELINES AND IN ADDITION TO THE NEW BEDROOMS WE'RE BEAUTIFYING THE LOT AND UPDATING THE STREETScape AND PLANTING AND MAKING A USABLE ROOFTOP DECK THAT PREVIOUSLY EXISTED IN THE BACKYARD. FINALLY WE'RE SEEKING AN AMP FOR THE EXISTING STRUCTURE IN THE REAR OF THE PROPERTY AND IN FULL COMPLIANCE WITH THE GLS STANDARDS OF THE ZONE AND MEET ALL REQUIREMENTS OF THE ZONING CODE. I'D LIKE TO ADDRESS THE COMMENTS SUBMITTED TO THE BOARD EARLIER THIS WEEK

BY THE NEIGHBOR TO THE REAR OF THE PROPERTY, MR. DESQUALI AND HIS CONCERNS WERE THREE FOLD. FIRST HE SAID HE'S AGAINST THE DENSIFICATION OF THE PROPERTY AND THE STAFF DETAILED HOW THE ADDITIONAL OF BEDS IS CONSISTENT WITH THE GOALS OF CREATING HOUSING IN HIGH AND MEDIUM DENSITY ZONES WITH SORORITY AND DORMITORY AND THE NEIGHBORS BEHIND AND THE OTHER ADJACENT OBJECTED TO THE WINDOWS PLACED AT THE REAR OF THE APPROVED ADU. IT'S APPROVED, UNDER CONSTRUCTION AND MOST THE WAY THROUGH CONSTRUCTION NOW FACING THEIR PROPERTIES. AS ASHLEY MENTIONED AGAIN, THAT PROJECT IS NOT ON THIS PARCEL AND NOT PART OF THIS PERMIT APPLICATION. THAT BEING SAID, IT IS THE SAME OWNER AND WE'D LIKE TO GO ON RECORD AND SAY THAT OUR OWNER HAS AGREED TO TO WORK WITH THE ADJOINING NEIGHBORS TO ADD SOME TRANSLUCENT SCREENING TO THE WINDOWS WHERE APPROPRIATE TO ASSURE THERE'S NO PRIVACY CONCERNS BETWEEN THE TWO. FINALLY, MR. PASQUALI EXPRESSED NOISE CONCERNS AND WE HAVE A SOLUTION. THOUGH THE GLA IS FOR MORE THAN 13 BEDS AND OUR OWNER WILL PROVIDE A MANAGER AND A RESPONSIBLE RESIDENTS OWNER TO CALL AND WE'RE PREPARED TO ACCEPT THE ON-SITE RESPONSIBLE RESIDENT AND PROPERTY MANAGER ON CALL AS A CONDITION OF APPROVAL IN THE INTEREST OF GETTING APPROVAL AND EASING THE NEIGHBORS CONCERN. ANY QUESTIONS FOR THE APPLICANT BEFORE WE MOVE TO PUBLIC COMMENT? IGOR.

>> THANK YOU. FIRST, CAN YOU RESTATE THE CONDITIONS THAT YOU ARE VOLUNTARILY WILLING TO ACCEPT TONIGHT? I'M JUST TRYING TO CAPTURE THEM.

>> SURE, IN THIS ZONE THE GLA ORDINANCE OR WHATEVER SAYS IF YOU HAVE 15 OR MORE OCCUPANTS YOU'RE REQUIRED TO PROVIDE A PROPERTY MANAGER WHO'S ON CALL. WHERE THE STANDARD REQUIREMENT IS JUST TO HAVE A RESPONSIBLE RESIDENT IN HOUSE DISTRIBUTE THE PHONE NUMBER SO NEIGHBORS CAN CALL IF THERE'S AN ISSUE. WHAT WE'RE SAYING IS WE'RE WILLING TO GO ABOVE AND BEYOND AND WILL PROVIDE BOTH OF THOSE THINGS, BOTH A RESPONSIBLE RESIDENT AND A PROPERTY MANAGER THAT WAY WE CAN DOUBLE THE BASES. THERE'S AN ADULT AND A YOUNGER ADULT WHO WOULD BE ABLE TO ANSWER CALLS.

>> THANK YOU. I WANTED TO CLARIFY BECAUSE I THINK I GOT MYSELF MIXED UP THAT PARAGRAPH OF MR. DEPASQUALI. SO THE FIVE WINDOWS AT ISSUE BEING PROPOSED TO BE FROSTED ON ALL ON THE ADU THAT'S NOT THE SUBJECT OF OUR APPLICATION BEFORE TONIGHT, CORRECT?

>> THAT IS CORRECT BUT WE'RE WILLING TO WORK WITH THEM AND TRYING TO BE GOOD NEIGHBORS.

>> THANK YOU.

>> GREAT. CARRIE.

>> A COUPLE QUESTIONS FOR YOU. ONE, ONLINE SOMEBODY POSTED PICTURES OF THESE UNITS WHICH IS ALWAYS HELPFUL FOR US TO

ACTUALLY SEE WHAT THEY LOOK LIKE. THEY ARE BUNK BEDS CURRENTLY AND I'M WONDERING IF THERE ARE PLANS TO TAKE THOSE BUNK BEDS OUT TO MAKE SURE IT'S A SINGLE PERSON? I GET IT PEOPLE WANT TO HAVE FRIENDS STAY. THEY CAN HAVE A SOFA BED.

>> I CAN'T SPEAK TO THE OWNER'S FURNISHING PLANS AND DON'T WANT TO COMMIT THEM TO BUYING NEW BEDS FOR THE ROOMS BUT THE PLAN IS TO BRING EVERYTHING IN ACCORDANCE. TO MY MIND THE EASY WAY TO CONFIRM THAT -- I DON'T KNOW IF YOU HAVE SOMEBODY TO CHECK THE RENT BOARD BUT THE PLAN IS TO HAVE THE RENT BOARD GET THE SAME INFORMATION YOU'RE GETTING. IT WILL BE 13 OCCUPANTS. AS COUNCIL MEMBER DUFFY WAS SAYING, THERE'S NOTHING WE CAN DO IF THEY WANT TO INVITE A FRIEND OVER TO CRASH FOR THE EVENING BUT THERE'LL BE RENTAL DREAMS WITH 13 INDIVIDUALS AND 13 GLA OCCUPANTS.

>> THERE'S ONE UNIT UPSTAIRS THAT SAYS IT'S 77 SQUARE FEET. THAT AN EXISTING UNIT NOW.

>> IT'S ESSENTIALLY AT THE END OF THE HALLWAY THAT LEADS TO WHERE THE DECK IS. SO WE'RE MAKING THAT ROOM SMALLER THAT WAY WE CAN PROVIDE INTERIOR ACCESS TO ALL THE TENANTS TO THAT DECK.

>> IT'S ACTUALLY NOT THAT UNIT. IT'S ON THE SAME SIDE AS THE DOOR OUT TO THE DECK. ABOUT HALFWAY ALONG.

>> IT MEETS ALL THE DIMENSION.

>> IN MY 17 YEARS IN DESIGN REVIEW, THAT WOULD HAVE NEVER PASSED, NEVER EVER. THAT'S REALLY VERY TIGHT. I DON'T KNOW IF IT'S ALREADY EXISTING I GUESS PEOPLE ARE OKAY BUT --

>> IT'S EXISTING AND OCCUPIED. I COULDN'T SAY AT THIS SECOND BUT WHEN I TOURED THE SITE THERE WAS SOMEBODY THERE. THAT ROOM DOES HAVE A FULL WIDTH CLOSET WHICH IS NICE.

>> OKAY.

>> OKAY. THANK YOU.

>> ANY OTHER QUESTIONS FOR THE APPLICANT? SEEING NONE, NOW WE'RE GOING TO TURN TO NO PUBLIC. WE HAVE ONE HAND UP ALREADY. IF YOU WOULD LIKE TO SPEAK ON THIS RAISE YOUR HAND NOW OR SUPPRESS STAR 9. I'LL RECOGNIZED SUSAN. SUSAN, I'M GOING TO ENABLE TALKING. SUSAN, YOU'LL HAVE TWO MINUTES. IT WILL START ONCE WE CAN HEAR YOUR VOICE.

>> HELLO.

>> YOU CAN HEAR ME?

>> WE CAN.

>> THANK YOU. I'M THE NEIGHBOR TO THE EAST OF THIS SUBJECT PROPERTY. THE ADUS THAT ARE BEING CONSTRUCTED ARE 2519 THE AJACE PROPERTY BEHIND OUR HOUSE I WANT TO MAKE SURE YOU UNDERSTAND IT'S TWO ADUS WITH NINE PEOPLE AND THREE FEET FROM OUR ORDER

LINE. IT'S A HUGE IMPACT IN THE NEIGHBORHOOD AND WHAT AUSTIN SAID WORKING WITH US BUT FACING TOWARDS OUR BEDROOMS, I APPRECIATE THAT. I HADN'T HEARD THAT YET FROM TED BARTLETT THE OWNER SO I'LL HOLD HIM TO THAT STATEMENT. BUT GOING FORWARD ON THE 2521 COLLEGE, BASICALLY THEY'VE BEEN OUT OF COMPLIANCE SINCE 1997 AND THIS IS TRYING TO BRING SOMETHING INTO COMPLIANCE. I CAN SUPPORT THAT. THE CHANGING OF THE GARAGE IN THE BACK TO A DWELLING UNIT AND RECOGNIZING THAT AND THAT'S FINE. THE GARAGE HAS BEEN THERE AS LONG AS I CAN REMEMBER. WHAT I OPPOSE IS THE CONSTRUCTION OF THE DECK. IT'S 14 FEET HIGH AND TALLER THAN THE GARAGE THAT WILL BE TURNED INTO A LIVING UNIT AND THAT SOUND WILL CARRY DIRECTLY OVER TO OUR BEDROOMS AND ALSO FOR MR. DE PASQUALI HIS CHILDREN 6 AND 4 THE BEDROOM IS AT THE BACK OF THE HOUSE AND CONSTANTLY HAVING TO GO OVER AND TELL THE FOLKS TO BE QUIET IT IS AN IMPACT ON THE NEIGHBORHOOD AND THE NOISE IS THE MAIN ISSUE. THE DECK WILL JUST INVITE A PARTY AT 14 FEET WHERE THE NOISE CAN CARRY DIRECTLY OVER TO THE HOMES ON EDNA STREET. I WANT TO MAKE THAT POINT THERE. I THINK IT'S GOOD TO HAVE PHONE NUMBERS DISTRIBUTED TO ALL NEIGHBORS WITH A RESPONSIBLE RESIDENT AND PROPERTY MANAGER AND HOPEFULLY THEY CAN TAKE CARE OF NOISE COMPLAINTS WHEN THEY HAPPEN. IN FEBRUARY, THIS IS BEFORE THE PANDEMIC BEFORE EVERYBODY HAD SHOTS YET, THERE WAS A LOUD PARTY ON A TUESDAY NIGHT THAT WENT ON TO 1:00 A.M. IN THE MORNING AND THAT'S A CONSTANT THING. IF YOU JUST THINK ABOUT 13 PEOPLE

LIVING THERE AND I DON'T KNOW HOW MANY PEOPLE LIVING IN THE NEIGHBORHOOD AND THE NEXT DOOR AT 2019, ALL THOSE PEOPLE GET TOGETHER IT'S A VERY LARGE GROUP OF PEOPLE HAVING A PARTY AND THAT HAPPENS ON A REGULAR BASIS AT THESE PROPERTIES MAKING IT UNTENABLE FOR THE NEIGHBORS. THAT IS WHAT I WOULD LIKE TO BRING TO YOUR ATTENTION IN MAKING THIS CONSIDERATION. THANK YOU.

>> THANK YOU VERY MUCH. OKAY. WOULD ANYONE ELSE FROM THE PUBLIC LIKE TO SPEAK ON THIS ITEM? AFTER THIS I'LL CLOSE THE PUBLIC HEARING. APPLICANT, WOULD YOU LIKE TO SAY ANYTHING ELSE? EITHER RESPONSE TO WHAT WAS JUST SAID OR ADD ANYTHING? YOU HAVE TWO MINUTES TO GET YOUR LAST WORD IN.

>> YEAH, THANK YOU. I APPRECIATE THAT. WE APPRECIATE THE COMMENTS AND THE FEEDBACK. IT'S ALWAYS GOOD TO KNOW WHAT THE NEIGHBORS REALLY THINK. IT'S A GOOD OPPORTUNITY FOR THAT. IMPORTANT TO NOTE, THIS DECK WAS EXISTING WHEN OUR CLIENT BROUGHT THE PROPERTY. WE'RE RESTORING IT BACK TO WHAT IT SHOULD BE TO BUILDING STANDARDS. PERMITS WEREN'T THERE WHEN IT GOT REMOVED. AS THE STAFF REPORT NOTES ABOUT 120 FEET AWAY FROM THE ADJACENT BUILDING AND THERE'S VEGETATION TO WHICH WE'RE PLANNING ON ADDING. WE'RE ADDING GREENERY IN THE BACKYARD AND MAKING IT A NICE AREA THAT SHOULD ABSORB MORE OF THE NOISE IF THERE IS ANY BECAUSE THERE'S A REQUIREMENT 40% OF OUR NEW LAND ESCAPED AREA IS VEGETATED. THERE'S BE MORE VEGETATION ON SITE TO SOAK UP THE

NOISE AND AS ALWAYS, IF THERE ARE NOISE PROBLEMS, AS WE POINTED OUT, WE'VE MADE THE PHONE NUMBERS AVAILABLE BOTH THE RESPONSIBLE RESIDENT AND THE PROPERTY MANAGER TO TRY TO COME TO A NEIGHBOR SOLUTION. I THINK THAT'S IT.

>> THANK YOU SO MUCH. WITH THAT UNLESS THERE'S FURTHER QUESTIONS FOR THE APPLICANT, ARE THERE ANY FOR THE BOARD. IGOR.

>> I WAS READY TO MAKE A MOTION.

>> JUMPED THE GUN. NO FURTHER QUESTIONS FOR THE APPLICANT. THEREFORE I'LL CLOSE THE PUBLIC HEARING AND OPEN UP THE FOR A MOTION.

>> IN THE INTEREST OF TIME I WON'T OPINE ON THIS AND WOULD LIKE TO THANK THE NEIGHBORS FOR COMING AND THE APPLICANT FOR WORKING TO RESOLVE OUTSTANDING ISSUES IN GOOD FAITH. I'D LIKE TO MOVE THAT WE APPROVE THIS PERMIT WITH THE ADDITION OF TWO CONDITIONS REQUIRING AN ONSITE RESPONSIBLE RESIDENT AND A SECOND CONDITION OR COULD BE PART OF THE SAME ONE AN ON-CALL PROPERTY MANAGER WITH THE PHONE NUMBERS READILY AVAILABLE TO ADJACENT NEIGHBORS. STAFF, IF THERE'S ANYTHING ELSE YOU'D LIKE TO SEE IN THOSE TWO CONDITIONS, PLEASE LET ME KNOW. HAPPY TO ADD. AND THEN QUICKLY TO COMMISSIONER SANDERSON'S SUGGESTION, WHICH I AGREE ABSOLUTE WITH SPIRIT ABOUT -- I SUPPORT ANY OPPORTUNITIES TO FURTHER DIALOGUE BETWEEN THE RENT BOARD AND PLANNING DEPARTMENT. I'M SURPRISING MYSELF A LITTLE BIT. IT MAY BE THE FIRST TIME ON ZAB

WHERE I'M ARGUING AGAINST A NEW CONDITION INVOLVING THE RENT BOARD. I THINK BECAUSE THIS PROPERTY ALREADY IS SUBJECT TO OR THE UNITS ON THE PROPERTY IS SUBJECT THEY HAVE TO REGISTER THEIR UNITS WITH THE RENT BOARD AND HAVE TO PROVIDE INFORMATION TO THE RENT BOARD ANYTIME THERE'S A CHANGE OR REDUCTION IN OCCUPANCY. I THINK I WOULD INVITE THE PLANNING DEPARTMENT TO REACH OUT TO THE RENT BOARD AND ASK THEM TO NOTIFY THE PLANNING DEPARTMENT WHEN REDUCTIONS IN OCCUPANCY TAKE PLACE BUT I THINK IT WOULD BE PERHAPS DUPLICATIVE AND SLIGHTLY UNFAIR TO THE APPLICANTS TO REQUIRE THEY ALSO NOTIFY THE PLANNING DEPARTMENT AND I PRESENT THE APPRECIATE THE SPIRIT OF THE SUGGESTION. WE HAVE A MOTION.

>> I'LL SAY AS WE WERE TAUGHT ABOUT THE COMMENT MADE AT THE BEGINNING, WE HAVE A RENT BOARD THAT'S WHAT THEY DO AND THEY HAVE A PLANNING DEPARTMENT. IT DOESN'T TRACK HOW MANY PEOPLE LIVE THERE AND SHOULD BE STARTING IN IT. I THINK IT'S BETTER OFF TO LET THE RENT BOARD DO THEIR JOB AND REGULATE THE NUMBER OF ROOMS BUT CAN'T GET INVOLVES IN WHETHER THEY'RE OCCUPIED OR UNOCCUPIED AND HOW MANY PEOPLE ARE IN THEM. I AGREE WITH YOU, IGOR AND SECOND THE MOTION.

>> THAT'S GREAT. WE HAVE A MOTION AND A SECOND. FURTHER DISCUSSION ON THE MOTION OR ANYTHING ELSE? SEEING NONE, SHALL WE VOTE? STAFF, DO WE HAVE -- IGOR SUGGESTED OR STAFF IF FURTHER

CLARIFICATION WAS NECESSARY. I WANT TO CONFIRM YOU'RE COMFORTABLE WITH THE MOTION.

>> A MOTION TO APPROVE AS AMENDED?

>> TO APPROVE 2521 COLLEGE AVENUE. THIS IS FOR THE ON SITE RESIDENT AND PERSON AND NUMBERS TO BE PROVIDED TO NEIGHBORING RESIDENCES. BOARD MEMBER SANDERSON.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> BOARD MEMBER GAFFNEY. YES.

>> BOARD MEMBER THOMPSON.

>> YES.

>> BOARD MEMBER OLSON.

>> I CAN'T TELL YOU HOW MUCH I'M INCLINED TO VOTE NO BUT I'LL SAY YES. I DON'T HAVE ANY FAITH. I DON'T.

>> AND CHAIR KAHN IS NOT --

>> YES.

>> YOU FORGOT DUFFY.

>> IT DIDN'T GO WELL. OKAY. YOU'RE DOING GREAT. SO THAT WAS APPROVED. IT'S AVAILABLE TO THE CITY COUNCIL, OF COURSE, AS

ALWAYS. ENJOY THAT. WE'RE GOING TO MOVE ON AND BEFORE WE MOVE ON, LET'S BRING CHARLES BACK. I WANT TO SAY AS SOON AS HE'S BACK AND CHAIR OF THE MEETING I'M GOING TO TURN MY CAMERA OFF FOR A FEW MINUTES TO EAT THIS AMAZING PASTA THAT WAS BROUGHT TO ME. I DIDN'T WANT TO EAT WHILE I WAS CHAIRING SO I'LL TURN MY CAMERA OFF AND I'M STILL PRESENT AND ENGAGED AND TURN IT BACK ON WHEN I'M DONE.

>> ENJOY THE PASTA, SHOSHANA. THANK YOU FOR COVERING. WE NOW LOOK FORWARD TO THE ITEMS WHICH WERE SCHEDULED FOR THE ACTION CALENDAR BY STAFF. STARTING WITH 1151 GRIZZLY PEAK BOULEVARD AND WE COULD CHANGE THE SEQUENCE. THIS IS THE HEARING FOR 1151 GRIZZLY PEAK BOULEVARD. WHO IS REPRESENTING THIS FOR THE CITY?

>> THIS IS LIAL. I DIDN'T SEE YOU EARLIER. WELCOME.

>> HELLO. GIVE US AN OUTLINE OF THE PROJECT THAT WOULD BE GREAT.

>> GOOD EVENING. I WANT TO MAKE SURE YOU CAN HEAR ME. THE ITEM IS TO LEGALIZE THE ACCESSORY DWELLING. IT'S WITHIN THE R1H ZONING DISTRICT. THAT IS SINGLE-FAMILY RESIDENTIAL WITH HILLSIDE OVERLAY AND CONFORMS TO THE DISTRICT WITH DENSITY, HEIGHT, LOT COVERAGE AND OPEN SPACE. I WANT TO CLARIFY AND MAKE SURE IT'S NOT COMING TO ZAB DUE TO NON-CONFORMITIES BUT DUE TO THE ORIGIN AS THE CODE ENFORCEMENT CASE AND STAFF DECIDED TO BRING THIS TO YOU GUYS. I KNOW IN THE PAST YOU ARE USED TO SEEING PROJECTS THAT ORIGINATE AS AN A.P. DUE TO NON CONFORMITY WHETHER DENSITY

OR LOT BECOME PERMITS. THIS IS ON GRIZZLY PEAK BOULEVARD. THIS IS A SITE PLAN. FOR BACKGROUND IN MAY OF 2021 THE APPLICANTS INVOLVED TWO PRE-FAB CUSTOM BUILD ACCESSORY BUILDING CONSISTENT OF WHAT IS ACCESSORY BUILDING -- EXCUSE ME? I HEARD SOMETHING. NEVER MIND. THEY CONSISTENT OF ACCESSORY BUILDING NUMBER ONE, WHICH IS 120 SQUARE FOOT IN AREA AND USED AS A CERAMICS STUDIO IN THE NORTHEAST CORNER OF THE REAR YARD OF THE PROPERTY. THAT IS THIS ONE RIGHT HERE. AND ACCESSORY BUILDING TWO, WHICH IS APPROXIMATELY 103 SQUARE FEET AND USED AS A HOME OFFICE AND EXERCISE SPACE ON LOCATED ON THE SOUTHEAST CORNER OF THE REAR YARD. THE APPLICANTS INSTALLED PREFAB BUILDINGS FOLLOWING THE CLOSURE OF THEIR GYM AND WORK OUT SPACE DUE TO THE PANDEMIC. THE DEFINITIONS UNDER THE ZONING ORDINANCE DIFFERENTIATE BETWEEN ACCESSORY BUILDING AND ACCESSORY STRUCTURES BASED ON THE USE OF THE STRUCTURE AND WHETHER IT'S CONSIDERED HABITABLE OR NON-HABITABLE SPACE. IN RESEARCHING THE PROJECT, LAND USE STAFF FOUND THE APPLICANTS HAD REQUESTED INFORMATION FROM THE ZONING COUNTER IN AUGUST 2020 REGARDING ACCESSORY STRUCTURES BUT SINCE IT WAS NOT CLEAR WHAT THE INTENTION WAS TO INSTALL HABITABLE STRUCTURE PER THE ACCESSORY BUILDING OF THE ZONING ORDINANCE THE APPLICANTS WERE NOT INFORMED AN AUP WAS REQUIRED. THE ORDINANCE STATES ACCESSORY BUILDING REGARDLESS OF WHETHER YOU HAVE STANDARDS OF SIZE, LOCATION, HEIGHT REQUIRES ZONING APPROVAL THROUGH AN AUP PROFESSION WHILE ACCESSORY STRUCTURES ARE ALLOWED

BY RIGHT. I'M HIGHLIGHTING THE DIFFERENCE VERSUS ACCESSORY STRUCTURES. I SHOULD SAY WE SHOULD BE CAREFUL AS POSSIBLE BECAUSE EVEN I MIX UP TWO SOMETIMES. PER DEVELOPMENT STANDARDS I BELIEVE TABLE 4 IN THE STAFF RECORDS THE ACCESSORY BUILDING WOULD MEET STANDARDS GOVERNING ACCESSIBLE STRUCTURES INCLUDING HEIGHT LIMITS AND MINIMUM STEP OUTS.

>> ARE THERE ANY QUESTIONS AT THIS TIME? NOTHING SEEING ANY WE'LL GO TO THE APPLICANT. IGOR DO YOU HAVE A QUESTION?

>> OF COURSE I DO. ONE THING THAT MAYBE WOULD HELP BEING I'M LOOKING AT TABLE 4 ON PAGE 5 OF THE STAFF REPORT. THERE ARE SOME ELEMENTS THAT CONFORM WITH PARTS OF THE BUILDING SETBACKS DEPENDING ON WHAT THE REQUIRED SETBACK IS BUT I WAS A LITTLE BIT UNCLEAR WHAT THE ZERO TO FOUR FEET MINIMUM IS. AT WHAT POINT IS IT ZERO AND AT WHAT POINT IS IT FOUR AND IN BETWEEN.

>> THE WAY THE ZONE ORDINANCE SECTION IS WRITTEN WITHIN ZERO TO FOUR FEET OF THE SETBACK YOU CAN HAVE A LIMIT OF 10 FEET. HOPEFULLY THAT ANSWERS YOUR QUESTION.

>> I THINK SO.

>> IF IT WAS TALLER THAN 10 FEET IT'D HAVE TO BE SET BACK AT LEAST FOUR FEET.

>> THAT'S HELPFUL. THANK YOU. I DON'T SEE MORE QUESTIONS AT THIS TIME FOR STAFF. SO LET'S MOVE FORWARD WITH THE APPLICANT STATEMENT.

>> APPLICANTS ARE GINA AND MATT AND BELIEVE THEY'RE ALREADY ON YOUR SCREEN AT LEAST THEY'RE ON MINE.

>> THANK YOU FOR THE OPPORTUNITY. I'M MATT JACOBS OWNER OF 1151 GRIZZLY PEAK BOULEVARD AND DUE IT CHANGES IN COVID MY WIFE AND I DECIDED ON ACQUIRING TWO ADDITIONAL STRUCTURES FOR OUR PROPERTY AFTER MUCH RESEARCH AND FOR A NUMBER OF REASONS WE DECIDED TO PURCHASE TWO PRE-FABRICATED STRUCTURES. WE RESEARCHED BERKELEY BUILDING CODES, MADE CONTACT WITH THE CITY AND FROM THAT INFORMATION DECIDED TO MOVE FORWARD, TAKING INTO CONSIDERATION BOTH DESIGN AND PLACEMENT OF OUR UNITS. WHEN LOOKING AT THE PLACEMENT OF THE UNITS WE TOOK THE NEIGHBORS INTO CONSIDERATION. WE COULD HAVE PLACED THEM CLOSER TO OUR SHARED PROPERTY LINES AND CHOSE NOT TO. I'D LIKE THE BOARD TO KNOW WE CONSIDERED OTHER VARIABLE OPTION TO CREATE HABITABLE SPACES TO MEET OUR NEEDS FOR WORK, EXERCISE AND GINA'S ART STUDIO DUE TO COVID CLOSURES. FIRST WE CONSIDERED BUILDING THE STRUCTURES OURSELVES CREATING MONTHS OF NOISE AND DUST -- HELLO ARE YOU STILL THERE?

>> GO AHEAD.

>> I'M JUST SHARE MY SCREEN. AND ON THE WEEKENDS WE COULD USE THE MOST TIME TO WORK AND BUILD. AND SECOND OPTION WAS TO BUILD

A STORY CREATING MORE OF A DISTURBANCE AND GREATER LENGTH OF TIME AND WE NEEDED THE FASTEST TURN AROUND TIME TO MEET THE DEMANDS OF OUR HOME. CONSIDERATIONS RESOLVED OUR NEIGHBOR AT 25 STODDARD WAY IN BUILDING THE UNIT AS OUTLINED IN OUR APPLICATION STATEMENT. DESIGN AND CONSIDERATIONS WERE SUCH THEY DELAYS DELIVERY OF BOTH UNITS BY MONTHS DUE TO THE DESIRES TO CHANGE THE SIZE AND HEIGHT OF UNIT TWO IN RELATION TO 25 STODDARD WAY IT BECAME A CUSTOM BUILD AND WE REDUCED THE SQUARE FOOTAGE AND REMOVED LIGHTING AND REDUCED THE ROOF HEIGHT AND PITCH. INSIDE I CAN TOUCH THE CEILING WHEN I'M STANDING. THE DESIGN IS ULTIMATELY REFLECTION ON OUR DESIRE TO NEGATE SHADOWS AND ALLOW A GREATER AMOUNT OF LIGHT INTO 25 STODDARD WAY. IN FURTHER DISCUSSION OF LIGHT, THERE ARE SEVERAL TREES BETWEEN OUR PROPERTY AND THERE'S STUDIES OF THE PROPERTIES. ALL THE LARGEST TREES IN THAT AREA ARE ON 25 STODDARD WAY AND CREATE SHADOWS ACROSS ADJACENT PROPERTY. IN PREPPING FOR THE PLACEMENT OF THE UNITS WE REMOVED FROM OUR PROPERTY TWO LARGE, NON DECIDUOUS TREES. THE TREES RANGED IN HEIGHT FROM 16 TO 23 FEET AND OVER ALL WE LOWERED THE SHADOW CASTING PROPERTIES. UNIT 1 DESIGN CHOICE WE REMOVED THE STANDARD DROP STRUCTURE FEATURE TO HAVE THE BACK WALL MADE OF GLASS AS THAT COULD POSE PRIVACY ISSUES WE DECIDED TO REDUCE THE OF AMBIENT LIGHT IN THE UNIT AND MAKE THAT BACK WALL COMPLETELY SOLID. WE PUT A THIN WINDOW AT THE BACK OF THE UNIT TO ALLOW SOME LIGHT IN THE REAR OF THE SPACE.

>> WE HAVE DROP STRUCTURES TO MAKE SURE THEY BUILT UNITS TO ADHERE TO CONSIDERATION.

>> YOU'RE OUT OF TIME. YOU HAVE UP TO TWO MINUTES IN REBUTTAL. ARE THERE QUESTIONS FOR THE APPLICANT. I HAVE A COUPLE QUESTIONS MYSELF, MATT. ONE OF THEM IS THE DEFINITION OF ACCESSORY BUILDING OR STRUCTURE AS ARCHITECT I FIND IT ODD THAT REGULATION WHAT THEY ARE AND THAT'S WHAT WE ARE MANDATED TO ENFORCE. YOU'RE HERE TONIGHT. I TEND TO THINK OF THE BUILDING AS SOMETHING WITH THE FOUNDATION TO IT APPARENTLY STRUCTURE OR FOUNDATION IN THE PLANNING DEPARTMENT DEFINITION.

>> YOU CAN DO GRANITE OR GRAVEL OR LAY IT STRAIGHT ON THE GROUND. I FELT BECAUSE -- I FELT LIKE IT WAS BETTER TO GIVE THE GROUND SOMETHING MORE STUDY TO WORK WITH. SO WHAT WE DID WAS WE POURED A ONE-FOOT WIDE BY WHATEVER THE LENGTH OF THE UNIT WAS TRENCH FOOT DEEP WITH GRAVEL IN THERE AND CONCRETE AND REBAR IN THERE SO THOSE UNITS HAD A WAY TO SIT NICELY ON THOSE PADS AND BE MORE LEVEL AND I THINK ACTUALLY MORE SECURE.

>> AND ELECTRICAL?

>> THE WAY THE ELECTRICAL WORKS IN THE UNITS, THERE'S A PLUG ON THE BACK AND WE HAVE AN EXTENSION CORD RUNNING TO THE BACK OF THE UNITS. WE DID GET 12 GAUGE EXTENSION CORDS AND UPON APPROVAL I'D LIKE TO RUN A STANDARD ELECTRICAL WITH A DEDICATED CIRCUIT TO THEM. I THINK THAT WOULD BE THE LONG-TERM CHOICE. I THINK

IT'S A GOOD CHOICE. SO YEAH, RIGHT NOW IT'S AN EXTENSION CORD THAT RUNS TO THEM.

>> THAT'S VERY HELPFUL. I APPRECIATE YOU CLARIFYING. JUST TO BE CLEAR, I APPRECIATE YOUR STATEMENT ABOUT CONCERN FOR THE NEIGHBOR AND THE LIGHT AND SO FORTH. THESE CONCESSIONS YOU MADE WERE THOSE MADE IN COLLABORATION WITH THE NEIGHBOR OR CONSIDERATION OF THE NEIGHBORS?

>> MY COMPUTER SHOWED ON MUTE. I HAVE QUESTIONS. ARE THERE PLANS FOR PLUMBING IN EITHER UNIT?

>> NO, MA'AM. THERE'S NOT.

>> HOW DO YOU PLAN TO HEAT THEM?

>> THERE'S A SMALL HEATER THAT CAN BE PLUGGED IN. THE AFTERNOON SUN ACTUALLY KEEPS THEM QUITE WARM.

>> I'M SORRY, ONCE THE FOG HITS, I DON'T KNOW THAT THAT WILL BE ADEQUATE. DO YOU HAVE ANY PLANS TO ADD SKYLIGHTS ON EITHER UNIT OR SOLAR PANELS?

>> NO.

>> DID YOU GIVE ANY CONSIDERATION TO PLACING THE UNITS CLOSER TO YOUR HOME RATHER THAN TO YOUR NEIGHBOR'S HOME?

>> WE TOOK CONSIDERATION INTO WHAT WE THOUGHT WAS THE BEST LAYOUT. WE TRIED TO CREATE A BUFFER BETWEEN THE UNITS AND THE ADJACENT PROPERTIES.

>> DO YOU KNOW THE DISTANCE BETWEEN THE BACK OF YOUR HOUSE AND THE UNITS?

>> THAT'S REPRESENTED IN THE DOCUMENT. THERE'S 11 FEET AND BETWEEN THE OTHER HOMES, ONE HOME 1157 GRIZZLY PEAK IS CADDY CORNER AND THAT MEASUREMENT I'LL ROUGH AT 10 FEET AS WELL AND THEN 11 FEET OR A HOME VERY CLOSE ON THE WEST SIDE OF THE PROPERTY.

>> WAS THERE A PHYSICAL IMPEDIMENT? 11 FEET ON ONE SIDE AND 41 FEET ON THE OTHER SIDE? WAS THERE A PHYSICAL -- BECAUSE WE HAVEN'T SEEN THE SITE. THERE'S A STAIRCASE GOING UP. -- STAIRCASE GOING UP.

>> THAT'S HELPFUL.

>> IN YOUR STATEMENT YOU SPOKE FOR A WHILE HOW MUCH CONSIDERATION AS TO THE IMPACT ON THE NEIGHBOR YOU TOOK IN YOUR DESIGN AND I APPRECIATE THAT BUT I'M CONFUSED BECAUSE THE NEIGHBOR IS REPRESENTED AND YOU JUST REPRESENTED EARLIER YOU DIDN'T DISCUSS THIS PROJECT WITH THE NEIGHBOR BEFORE GOING FORWARD. HOW DID YOU ASSESS THE IMPACT TO THE NEIGHBOR WITHOUT SPEAKING TO THEM?

>> WHEN WE START THE PROJECT WE THOUGHT THE UNITS WERE STRUCTURES.

>> LET'S TALK TO THE BUILDERS. WE HAD MANY MEETINGS WITH THEM. AT POINTS THEY WERE GETTING THE DESIGNS WRONG. I WAS LIKE NO, YOU NEED TO BRING IT DOWN AND LOWER THE ROOF.

>> I WOULD LIKE EVERYONE TO KNOW BECAUSE WE CONSIDERED THE BACK NEIGHBOR AT 25 STODDARD WE ACTUALLY INCURRED MORE COSTS IN MAKING A CUSTOM BUILT.

>> YOU'VE BEEN CLEAR ABOUT THAT AND I APPRECIATE YOU CLARIFYING. I'M CONFUSED AND MAYBE THERE IS NO ANSWER TO LIKE WHY WOULD YOU TAKE ON THIS COST AND GO THROUGH ALL THIS TROUBLE AND THEN NOT CHECK WITH THE NEIGHBOR TO SEE WHAT THEIR NEEDS WERE? IT'S CONFUSING FOR ME AND MAYBE WE CAN LEAVE IT AT THAT AND YOU CAN RESPONSE BRIEFLY.

>> ULTIMATELY I WOULD THINK WE FELT LIKE THE DECISION STAYED WITH US.

>> THAT'S FAIR. MY SECOND QUESTION IS WHICH IS IS IT POSSIBLE TO TELL ME HOW YOU WENT ABOUT IT HIT

>> IT WAYS A COUPLE THOUSAND POUNDS. I CAN'T I DON'T KNOW WHAT THAT WOULD MEAN.

>> OKAY. THANK YOU. THANK YOU, SHOSHANA. IGOR YOU'RE NEXT.

>> SO JUST A SIMPLE QUESTION. IN THE SUPPLEMENTAL WE RECEIVED THERE WAS A REFERENCE BY A PROPOSED COMPROMISE. WHAT ARE YOUR THOUGHTS.

>> THE COMPROMISE LETTER AND THIS WOULD TAKE IT FROM 11 FOOT TO 6'2" AND IF YOU WERE CONSIDER THE THICKNESS OF THE ROOF JOYCE SO THE INTERIOR WOULD BE 5'8" THAT WASN'T SOMETHING I THOUGHT WAS A REASONABLE REQUEST.

>> THANK YOU.

>> THERE'S SEVERAL LONG TREES LONG 25 STODDARD WAY THAT ARE THE BIGGEST IMPEDIMENT TO THAT PROPERTY'S ABILITY TO HAVE ANY LIGHT ON THAT PROPERTY.

>> THE ANSWER THE QUESTION AND THANK YOU FOR THE RESPONSE.

>> I'LL SAVE IT FOR COMMENTS.

>> THANK YOU.

>> IN THAT CASE WE'LL PROCEED WITH NEIGHBORS COMMENTS AND THIS IS AN OPPORTUNITY IF YOU WISH TO SPEAK ON THIS AN ATTENDEE RAISE YOUR HAND AND I SEE ONE HAND RAISED.

>> SHE SAID SOMETHING TO PUT ON HER SCREEN BEFORE WE START HER TIME IF YOU CAN ALLOW ME TO SHARE MY SCREEN. MY SHARE SCREEN BUTTON HAS DISAPPEARED.

>> BOTH JOANIE AND I WILL BE SHARING A COMPUTER SO WE CAN ALL RAISE ONE HAND. IF YOU COULD CALL HER AFTER ME OR EVEN LET HER GO FIRST, THERE'S TWO PEOPLE ON THE SAME COMPUTER.

>> I ONLY HAVE PATRICIA WITH YOUR HAND RAISED.

>> SHE'S WITH ME JUST ON MY COMPUTER.

>> OH. IN THAT CASE, IF WE HAVE TWO PEOPLE ON THE SAME CALL, YOU WOULD EACH GET A COUPLE MINUTES TO SPEAK.

>> OKAY. SAMANTHA WOULD YOU MIND PUTTING UP THE DOCUMENTS FOR JONAH FIRST.

>> I AM UNABLE TO NAVIGATE STAIRS THE ONLY COMMUNICATION REGARDING THE ART STUDIO WAS A SCRAP OF PAPER IN MY MAILBOX SAYING THERE WERE COMING THE NEXT WEEK AND THE CITY OF BERKELEY APPROVED THEM. .

>> THEN, YOU ENTER THE LIVING ROOM. BOOM. A DARK STRUCTURE FILLS THE WINDOWS BLOCKING LIGHT, SPACE AND THEN, LOOKING OUT OF THE DOORWAY, BOOM. AGAIN. ART STUDIO. INTO THE KITCHEN, DINING AREA, FACING PATIO. A DIFFERENT ROOF. WORKOUT STUDIO, GRABS LIGHT, SPACE AND HORIZON TO THE SOUTHWEST. I CAN'T GET AWAY FROM THESE BUT LOST SIGNIFICANT LIGHT, SPACE AND AIR, CAUSING SIGNIFICANT DISSIDENT TO ENVIRONMENT, AND PEACE OF MIND AS IF THERE ARE DARK CURTAINS AROUND THE SIDE OF THE HOUSE. FACING THAT YARD, FROM I HAD LIGHT, HORIZON AND AIRY FEELING. I REALLY NEED YOUR HELP

ZONING BOARD MEMBERS. I DID MAKE AN OFFER OF COMPROMISE, THEY
THREW IT AT ME. I LIKE THESE STRUCTURES TO NOT BE APPROVED.
THANK YOU VERY MUCH.

>> YOU HAVE TWO MINUTES.

>> THANK YOU.

>> AND HAD THE APPLICANT SAT DOWN WITH JOAN BEFORE THEY DID
THIS, BUT THEY DIDN'T. THE ZONING IS AS IF THE APPLICANT SAT
DOWN AND THESE ARE TWO STRUCTURES AND ONLY WINDOW IS IN THE MAIN
ROOM OF HER HOUSE. THE ROOF PERMIT CRITERIA IS AN OBJECTIVE
STANDARD ON PURPOSE. IT ASKS YOU TO LOOK AT IT FROM EACH CASE
AND FACTS OF EACH CASE. IN THIS CASE, THE DETRIMENT TO JOAN IS
UNMISTAKABLE. IT'S THIS HER FACE IN EVERY ROOM. AND CONTRARY
SOCIAL PURPOSE [AUDIO INDISCERNIBLE]. FOR EXAMPLE, HOUSING.
NOW. NEW BUILDINGS ARE AN ART STUDIO AND EXERCISE ROOM. UNDER
THE CIRCUMSTANCES, I DON'T SEE HOW STAFF CAN DO ANYTHING BUT
MAKE A COMPROMISE TO BE CLEAR WOULD BE ASK APPLICANT TO REMOVE
FIVE FEET A PIECE ADDED TO THE ROOF. OTHER OFFER OF COMPROMISE
IS TO ASK IF THEY REMOVE EXTRA TWO FEET OF HEIGHT AND OVERHANGS
ON THE SECOND BUILDING. IN APPLICANT STATEMENT, THEY SHOW YOU --

.

>> PLEASE WRAP UP.

>> I ASK TO YOU COMPARE APPLICANT STATEMENT IN MY DOCUMENT THAT SHOWS WITH APPLICANTS HAVE A PICTURE OF THE ART STUDIO THE WAY IT ARRIVED. IT ISN'T A PICTURE OF THE ART STUDIO AS IT NOW EXISTS AN THE FORE FRONT YOU SEE SHOWS WHERE THE BUILDINGS ARE AND WHERE EACH ONE OF THOSE BUILDINGS ARE. THEY'RE REALLY -- NO OTHER WAY TO DESCRIBE THESE WORN PATHWAYS. THEY SAT DOWN TO DO THAT INTENTIONALLY. AND THANK YOU.

>> OKAY. WE HAVE ALSO, PATRICIA THIS, IS YOUR OPPORTUNITY AS PROMISED TO SPEAK.

>> OKAY. CAN YOU HEAR ME?

>> YES I'LL BE BRIEF. MY NAME IS PATRICIA LA COAT AT 1173 WOODLEY AVENUE AND I'M A GOOD FRIEND OF JOAN'S, AND HAD A NICE INTERACTION WITH MATT AND GENA AND THEIR DOG, SLOPPO. IT'S SAD TO ME THIS HAPPENING BUT I WANT TO SUPPORT JOAN IN WHAT SHE'S GOING THROUGH WITH THIS. I ARE BEEN TO HER HOUSE MANY TIMES. AND WHEN I WENT TO HER HOUSE AFTER THE STRUCTURES WERE PUT UP I IMMEDIATELY NOTICED A SENSE OF YOU KNOW, LESS SPACE, LESSENS OF -- YOU SAW IT IN THE PHOTOS. AND JOAN IS VERY REASONABLE. I THINK IF MATT AND YOU KNOW, GINA REALLY HAD, THEY DID A LOT OF WORK. YOU GUYS DID A LOT OF WORK IN CONSIDERING. I THINK IF YOU SAT DOWN AND TALKED. THAT IS WHAT FACE-TO-FACE STUFF DOESN'T HAPPEN ANYMORE. IT'S A GOOD EXAMPLE OF IT NEEDING TO HAPPEN. SO ANYWAY, I CAN ATTEST TO THE FACT MUCH OF HER VIEW BLOCKED AND

THE FEELING I GET IN THE HOUSE IS VERY SIMILAR TO WHAT JOAN IS SUFFERING FROM WHERE WITH THESE STRUCTURES SO I HOPE THERE CAN BE SOME KIND OF COMPROMISE AND I HOPE I SHARE IN GOOD TERMS WITH MATT AND GINA BECAUSE MY DOG ANNIE DOESN'T GET ALONG WITH ALL DOGS BUT GETS ALONG WITH THEIR DOG, SLOPPO.

>> THANK YOU FOR COMING TONIGHT. WE HAVE DAVID SCOTT NEXT. NEXT UP. DAVID. YOU HAVE TWO MINUTES.

>> HELLO.

>> YES. WE CAN HEAR.

>> THANK YOU. APPRECIATE THE TIME. MY NAME DAVID SCOTT. MY FAMILY AND ARE NEIGHBORS AND SHARE LINES WITH MATT AND GINA TO WEST NORTHWEST. WE HAVE BEEN RESIDENTS SINCE 2017 AND HERE TO SPEAK FROM THE APPLICATION. MATT AND GINA KEPT US WELL INFORMED AND TOOK CONSIDERATION OF SURROUNDING HOMES AND ABILITY TO PLACE THE UNITS AND THEY COORDINATED WITH US AND OTHER NEIGHBORS ON THE WORKMEN ARRIVED TO CONSULT AND SO FORTH. INSTALLATION PROCESS ITSELF CONSTRUCTION WITH VARIOUS MOVING IN MY OPINION HE DID WHAT THEY SAID THEY'RE GOING TO DO AND THE RESULTING STRUCTURES, WE THINK ARE WELL CONSTRUCTED AND AESTHETICALLY PLEASING. I HAVE A CLEAR VIEW OF THEM. THE PEAKED ROOF IS AESTHETICALLY PLEASING AND WELL DESIGNED STRUCTURE THAT WE THINK ADDS VALUE TO SURROUNDING HOMES AND IN MY BEEN THEY DON'T OBSTRUCT ANYTHING. I CAN UNDERSTAND JOAN'S POINT OF VIEW FROM

HER WINDOWS. WE DON'T HAVE THAT ANGLE. BUT I DON'T THINK THEY'RE THESE DARK STRUCTURES THAT REALLY DETRACT FROM THE SURROUNDINGS IN ANY WAY. IN TERMS OF USE, WE'VE NOTICED NO NOISE OR DISRUPTIONS FROM MATT AND GINA. YOU KNOW. SO THAT NOT BEEN AN ISSUE. AND I HAVE HAD NEIGHBORS HERE, AND FRIENDS HERE TO SEE THE STRUCTURES AND FEEL THEY'RE, AGAIN, VERY AESTHETICALLY PLEASING AND ADD VALUE TO SURROUNDING HOMES. SO I THINK TO WRAP UP, AS DIRECT NEIGHBORS WE HAVE NO ISSUES WITH THE STRUCTURE AND SUPPORT MATT AND GINA'S APPLICATION FOR APPROVAL.

>> DAVID. DOES THAT CONCLUDE YOUR STATEMENT?

>> I'M SORRY?

>> IF THAT CONCLUDES YOUR STATEMENT, I JUST WANT TO --.

>> YES. PLEASE.

>> AS YOU CAN TELL FROM THE COMMISSION EARLIER, THERE MAY BE A DISCUSSION LATER ABOUT POSSIBLE RELOCATION OF ONE OR BOTH OF THESE STRUCTURES. AMONG THOSE OPTIONS WOULD BE RELOCATING THE STRUCTURE ONE IN FRONT OF THE PROPERTY. A COUPLE FEET CLOSER TO YOUR PROPERTY. IS THAT SOMETHING WOULD YOU OBJECT TO?

>> I DON'T THINK SO. RIGHT NOW, I THINK IT'S RIGHT UP AGAINST OUR FENCE AS IT S IF I SEE AN EXTRA COUPLE INCHES IN PERSPECTIVE IT'S NOT GOING TO BOTHER ME. I HAVE A CONSTRUCTION BACKGROUND AS

WELL. I GUESS IT'S FOR ANOTHER DISCUSSION BUT I KNOW DIFFICULTIES MOVING SOMETHING LIKE THAT, TOO.

>> THANK YOU DAVID. I APPRECIATE THAT COMMENT.

>> THANK YOU.

>> AND, LET'S SEE WE DO HAVE KAREN MEADOWS AND SUZIE BAILEY COMING UP. BUT ERIN, YOU'RE RECOGNIZED.

>> HI. THANK YOU. CAN YOU HEAR ME?

>> YES.

>> GREAT. ON HERE IS MY HUSBAND ANTHONY. WE LIVE AT 1148 WRIGLEY PEAK ACROSS THE ROAD. SO WE CAN'T, WE'RE NOT IMPACTED AT ALL BY THE ADU. WE JUST WANT TO SPEAK IN SUPPORT OF MATT AND GINA. AND BASICALLY, YOU KNOW AGREE WITH WHAT DAVID HAD BEEN SAYING. THEY'RE EXTREMELY CONSCIENTIOUS NEIGHBORS AND WE'VE KNOWN THEM SEVERAL YEARS, THEY'VE BEAUTIFIED THE NEIGHBORHOOD ON THEIR GARDEN AND WORK HARD ON THEIR PROPERTY WITH THAT PATIO THEY'VE BUILT. SO I DO FEEL FOR JOAN. I APPRECIATE WHAT SHE HAD TO SAY. I, THERE WAS A PANDEMIC GOING ON THAT LENT TO THE LACK OF COMMUNICATION, BUT I KNOW THAT MATT AND GINA AS THEY FACED IN THEIR REMARKS WERE REALLY TRYING TO BE AS CONSCIENTIOUS AS THEY COULD AND WENT ABOUT THIS DEVELOPING THIS PROJECT. SO WE JUST WANT TO SUPPORT THEM. WE HOPE AWE PROVE.

>> THANK YOU.

>> THAT IS IT.

>> APPRECIATE YOU COMING TONIGHT, ERIN. WE HAVE A SELF MORE PEOPLE THAT RAISED THEIR HANDS. WE'RE THIS A TIGHT TIME LINE HE HERE. LET'S GET THESE LAST FEW PEOPLE IN HERE. SUZY? I NEED TO UNMUTE. KEEP IT TO A MINUTE THAT WOULD BE GREAT.

>> I'M SUZY BAILEY I LIVE OVER JOAN'S BACK FENCE AND I NEW NUDGE THESE PROJECTS. I HADN'T TALKED TO JOAN ABOUT IT. I DON'T KNOW THE PEOPLE WHO BUILT THOSE. WHEN I LOOKED, I JUST WANT TO SAY I'M A DAUGHTER OF TWO ARCHITECTS. I GROUP UP WITH ARCHITECTURE AROUND ME. MY MOTHER WAS EDITOR OF AN NATIONALLY PUBLISHED ARCHITECTURAL MAGAZINE SO I HAVE A BACK GROUND OF LOOKING AT THINGS. WHEN I LOOKED AT THE VIEW OF THE TWO UNITS, FROM THE POINT OF VIEW OF THE BUILDERS, IT LOOKED REALLY NICE. I'VE BEEN IN JOAN'S HOUSE WHEN IT WAS FOR SALE. I TOOK ONE LOOK AT THE PICTURE SHE SHOWED OF WHAT SHE SAW OUT OF HER LIVING ROOM AND I WAS ABSOLUTELY HORRIFIED. THAT REALLY DOES IMPACT HER LIFE. AND HER, WHAT SHE LOOKS AT. AND, YOU KNOW, I'M NOT HERE TO TAKE SIDES. I'M JUST SAYING HOW I THOUGHT, I'M JUST SHOCKED. I WAS JUST SHOCKED TO SEE WHAT IT DID TO HER VIEW OF HER --.

>> THANK YOU. THANK YOU FOR COMING IN AND EXPRESSING YOUR VIEWS TONIGHT. DO YOU HAVE ANYTHING ELSE THAT YOU WANT TO TOUCH ON?

>> NO. THAT IS IT.

>> THANK YOU.

>> I THINK IT WOULD HAVE BEEN GOOD TO TALK TO HER. I REALLY DO. IF THAT HAD BEEN ME, I -- I DON'T KNOW WHAT I WOULD HAVE DONE. I WOULD HAVE BEEN SO UPSET.

>> THANK YOU. MONA HALIBEE?

>> YES. HI. I LIVE AT 1157 SO I'M THE HOUSE THAT IS ADJACENT ON THE OTHER SIDE OF MR. SCOTT. I AM SPEAKING IN SUPPORT OF MATT AND GINA'S APPLICATION. I'M NOT IMPACTED BY THEIR STRUCTURE. THE STRUCTURES ARE FAR ENOUGH IN THE BACK THAT THEY LINE UP WITH MY SIDE GARDEN. AND MY DECK. MY UPSTAIRS DECK. SO I'M IN THE IMPACTED BUT I'M SPEAKING IN SUPPORT OF MATT AND GINA, BECAUSE I'D LIKE TO JUST SAY ABOUT THEIR CHARACTER. THAT I FIND THEM TO BE EXTREMELY RESPECTFUL AND HELPFUL WHENEVER THEY'VE BEEN ANY NEED THEY'RE RIGHT THERE. THEY'RE VERY THOUGHTFUL WHEN THEY MAKE ANY DECISIONS AND SO FAR, I HAD A GOOD RELATIONSHIP WITH THEM. SO I JUST WANTED TO SPEAK IN FAVOR OF THEIR CHARACTER. AND YOU KNOW, I'M SORRY THIS IS IMPACTING JOAN. AND SHE IS MY NEIGHBOR ON THE EASTERN SIDE. AND I HOPE THAT THIS CAN BE RESOLVED BUT I AM SPEAKING IN SUPPORT OF MATT AND GINA'S APPLICATION AND I HOPE IT CAN BE APPROVED. THANK YOU.

>> THANK YOU FOR COMING.

>> MAY BY PROCEED WITH THE RESPONSE? OR DO WE NEED TO --.

>> YES. WE HAVE AS LONG AS IT'S DONE BEFORE 9:00. THAT PORTION
DONE BEFORE 9:00.

>> SOUNDS GOOD. THEN, YOU THOUGH WE'LL HOLD COMMENTS FROM THIS
COMMISSION. WE'LL DOES APPLICANT HAVE AN OPPORTUNITY TO PROVIDE
A RESPONSE.

>> HI, THERE.

>> CAN I GO?

>> SURE.

>> TWO MINUTES I SHOULD LET YOU KNOW, GINA.

>> I JUST WANT TO MAKE SURE THAT LAEL PUTS UP THE IMAGE THAT I
GAVE HER BEFORE STARTING.

>> ALLISON IF YOU CAN HOLD UP THE TIMER THAT WILL BE GREAT.

>> I WILL DO THAT RIGHT NOW. GINA, CAN YOU REMIND ME WHICH ONE?
I RECEIVED A COUPLE THINGS FROM YOU GUYS? .

>> THE SIX NEIGHBORS THAT--THERE WE GO.

>> SHOULD BE UP.

>> OKAY. I THINK IT'S IMPORTANT HERE IN, THIS DISCUSSION, WHY
DIDN'T WE APPROACH JOAN? FROM THE GET GO, MATT AND I WERE
GARDENING WHEN JOAN APPROACHED US FOR THE VERY FIRST TIME AND
IMMEDIATELY ASKED US TO REMOVE OUR VERY OLD APPLE TREE NOT
ENCROACHING ON HER PROPERTY. SO THAT WAS A BAD START. IT WAS,

AND THIS PAST TUESDAY, I RECEIVED NOTICE ON TUESDAY IF NEIGHBORS WERE TO SUPPORT APPROVAL OF OUR TWO ACCESSORY BUILDINGS IN WRITING, THEIR LETTERS WERE DUE THAT DAY. EACH OF THE SIX HOUSEHOLDS I SPOKE TO THAT AFTERNOON E-MAILED LETTERS TO JOINING ADJUSTMENT BOARD IN FAVOR OF APPROVAL OF OUR ACCESSORY BUILDINGS. INCLUDING THREE NEIGHBORS WHO SHARE A FENCE LINE WITH JOAN. ONE LIVES ACROSS THE STREET FROM HER AND 2 ACROSS THE STREET FROM US. IT'S SPEAKING WITH JOAN NEXT DOOR NEIGHBOR TO THE EAST, I HAVE A BETTER UNDERSTANDING OF JOAN'S CHARACTER. THE NEIGHBOR DESCRIBED VARIOUS SITUATIONS BROUGHT ON MY JOAN THAT HER AND OTHER NEIGHBORS HAVE FACED WHEN SHE, HERSELF HAD PERSONALLY REACHED HER LIMIT WITH JOAN. JOAN HAD CALLED HER DIRECTLY AND REQUESTED HER SON CELL PHONE NUMBER. THE REASON BEING THAT HER ADULT SON WHO LIVES IN THE HOME AND HAS HEALTH CONDITIONS LEAVES HIS LIGHT ON PAST JOAN'S BED TIME. JOAN WANTS TO BE ABLE TO CALL HIM TO HAVE HIM TURN OFF A PED ROOM LIGHT SO AS NOT TO INCONVENIENCE HER. I'M SHARING THIS SENSITIVE INFORMATION BECAUSE WE NEED TO SHINE LIGHT ON JOAN'S OVERREACHING REQUEST. I'D LIKE TO REMIND THE BOARD AND PUBLIC, LIKE JOAN'S NEIGHBOR'S SON WHO HAS EVERY RIGHT TO GO TO SLEEP AND TURN OFF A LIGHT WHEN DESIRED, WE ALSO HAVE THE RIGHT, THE LEGAL RIGHT TO ADD HABITABLE SPACE TO OUR LAND THE WAY WE V OUR ACCESSORY BUILDINGS MEET EVERY APPLICABLE BERKELEY MUNICIPAL CODE REQUIREMENT. I WOULD ALSO LIKE TO ADD THE THREE SUPPORTING

LETTERS IN FAVOR OF JOAN'S REQUEST HAVE FIVE FEET OF HEIGHT REMOVED FROM MY ART STUDIO MAKING IT UNINHABITABLE ARE FROM BERKELEY RESIDENTS AS FAR AS A 35 MINUTE WALK TO BONITA REVENUE. NOT ONE OF HER SUPPORTING LETTERS ARE FROM OUR BLOCK OR HERS.

>> THANK YOU. I'M GOING TO CLOSE PUBLIC HEARING TO GIVE THE CAPTIONER AN OPPORTUNITY TO TAKE A TEN MINUTE BREAK AND GIVE EVERYONE HERE AN OPPORTUNITY TO TAKE A TEN MINUTE BREAK.

>> IS MATT ABLE TO REBUT?

>> NO. YOU HAD TWO MINUTES FOR TWO OF YOU.

>> OKAY.

>> SO, THE, IT'S 8:48. PLAN ON COMING BACK PROMPTLY A FEW MINUTES BEFORE 9:00 TO START AT 9:00 PROMPTLY. EVERYONE YOU GO, TAKE A TEN MINUTE BREAK.

>> GREAT. THANK YOU.

>> I'LL LEAVE IT TO THE ARCHITECTS FOR THEIR THOUGHTS. I THINK MOVING THIS BACK UNFORTUNATELY FOR THE APPLICANTS IF WE GO THAT ROUTE WOULD ADD ANOTHER COST TO THEM ON TOP OF THE COSTS THEY'VE ALREADY INCURRED BUT COST IS ALSO SOMETHING NOT SOMETHING IN WHICH WE DO OR SHOULD BASE OUR DECISIONS. I THINK MOVING SOMETHING IS BETTER THAN TAKING IT APART THAT WOULD TAKE EXCAVATION. I WOULD SUPPORT SOME KIND OF COMPROMISE THAT WOULD ALLOW US TO MOVE THIS FORWARD TONIGHT.

>> IF I MAY SAY SOMETHING, IGOR MENTIONED COMPROMISE. I WANT TO MENTION THAT THE APPLICANTS DID SEND ME SOMETHING PRIOR TO THE HEARING. I FRANKLY HAVE NOT HAD A CHANCE TO LOOK AT IT CAREFULLY BUT I BELIEVE IT INCLUDES SOMETHING IN REGARDS TO COMPROMISE. IF YOU WOULD LIKE TO SEE IT NOW LET ME KNOW.

>> NOW WOULD BE GOOD POINT FOR IMPACT. SHOSHANA WOULD YOU LIKE TO SPEAK FIRST?

>> I'D LIKE TO SPEAK FIRST.

>> GO FOR IT. I HAVE ANOTHER COMMENT ABOUT THAT. SO MY ORIGINAL COMMENT WAS I WANT TO REMIND EVERYONE AND STAFF, PLEASE CORRECT ME IF I'M WRONG BECAUSE I'M GOING TO SAY WHAT I THINK IS THE STANDARD WE SHOULD BE USING TO DECIDE THIS AND IT'S YOUR GUYS' JOB TO SET US STRAIGHT ON THIS. MY UNDERSTANDING IS FOR A CASE LIKE THIS WE NEED TO LOOK AT IT AS IF IT'S NOT BEEN BUILT, BECAUSE IT'S BEEN BUILT WITHOUT A PERMIT. WE NEED TO IMAGINE THIS WAS A PLAN WE'RE LOOKING AT AND DECIDE IF IT'S A GOOD PLAN OR NOT. AND IT'S VERY IMPORTANT THAT WE AS ZONING COMMISSIONERS REALLY TAKE THAT SERIOUSLY BECAUSE WE CAN'T LET THE FACT THAT SOMEBODY BUILT SOMETHING WITHOUT A PERMIT MAKE IT HARDER TO SAY NO. THAT'S NOT A GOOD INCENTIVE STRUCTURE AND WE NEED TO HOLD THIS AS THE SAME STANDARD AS SOMETHING PROPOSED. THIS IS OUR PROPOSAL, HOW ABOUT THIS. WE NOT SHOULD WE HAVE THEM MOVE IT, IT SOUNDS EXPENSIVE AND I WANT TO SECOND WHAT IGOR SAID COST SHOULD

BE IRRELEVANT AND STAFF CORRECT ME IF THAT'S NOT RIGHT BUT HOW I'VE VIEWED THE CODE ENFORCEMENT AFTER THE PROJECT ENFORCEMENT.

>> AS NOTED IN THE STAFF REPORT AS I TEND TO REFER TO IT'S AN APPLICATION TO LEGALIZE THE APPROVAL. AND STAFF IN CONSULTATION BASED ANALYSIS ON.

>> YOU OF COURSE PHRASED EVERYTHING IN THE APPROPRIATE WAY AND WE LOOKED AT THE PICTURES IT LOOKS SO NICE IT'S HARD TO QUESTION IT BUT WE CAN'T LET THAT INFLUENCE OUR DECISION.

>> I UNDERSTAND AND I APPRECIATE YOU BRINGING UP THAT POINT, YES.

>> THANK YOU. SO THAT'S MY FIRST AND MOST IMPORTANT POINT. I WANT TO DECIDE THIS ON THE RIGHT BASIS. SECOND THOUGH I WANT TO ACKNOWLEDGE INSTEAD OF IMAGINING WHAT THE IMPACT COULD BE WE HAVE A STRONG SENSE OF WHAT THE IMPACT IS. WE DON'T HAVE TO SPECULATE. SO THAT IS DIFFERENT AND IT'S TOTALLY FINE TO SAY THIS DID IMPACT THE NEIGHBOR AND I THINK IT'S OKAY TO USE THAT AS EVIDENCE IN OUR DECISION. I BELIEVE THIS HAS NEGATIVELY IMPACT THE NEIGHBOR. I'M GOING TO ECHO WHAT CARRIE SAID IT'S ALARMING AND THEY CAN SEE IT. THESE ARE ALL THINGS IF I COULD IMAGINE THEY WOULD HAVE IMPACTED MY DECISION SO I'M HAPPY TO TAKE THAT INTO CONSIDERATION. I ALSO WANT TO SECOND WHAT IGOR SAID AND HE SAID I SAID THIS THOUGH I HAVEN'T YET, YOU DID CORRECTLY READ MY MIND, IGOR WHICH IS I AM PRETTY DISAPPOINTED

THAT THE NEIGHBORS WEREN'T CONSULTED. I DON'T KNOW HOW YOU CAN CONSIDER IMPACT TO NEIGHBORS WITHOUT CONSULTING THEM. THAT DOESN'T MAKE SENSE TO ME. THE FACT THAT WAS STATED SO MANY TIMES IN THE APPLICANT LETTER AND STATEMENT SEEMS DISINGENUOUS AND OBJECT TO THAT. I WISH THEY WOULD HAVE ADMITTED THEY DIDN'T TALK TO THE NEIGHBOR AND DIDN'T REALIZE THE IMPACT. I DON'T KNOW WHAT THE IMAGINED HAPPENED BUT THAT'S THE ONLY THING THAT MAKES SENSE THEY DIDN'T TAKE INTO COUNTY THE IMPACT OF THE NEIGHBOR BECAUSE THEY DID NOT TALK TO THE NEIGHBOR. THAT IS A BIG PROBLEM FOR ME AND I TALKED MORE THAN I USUALLY DO. I'M SORRY. THE LAST THING, REGARDING COMPROMISE, I'LL HEAR IT BUT I DON'T KNOW WHY THIS WASN'T BROUGHT UP BY THE APPLICANT INSTEAD OF COMMENTS ABOUT THE PEOPLE THEY ARE AND WHAT A BAD PERSON THE NEIGHBOR IS WHICH IS AS IGOR STATED CORRECTLY, IRRELEVANT. I'M RESENTFUL WE DIDN'T HEAR THINGS WHEN THE TIME WAS DURING THE APPLICANT STATEMENT. IF WE WANT TO HEAR IT NOW, FINE. OVER. THANK YOU FOR LISTENING. I'M DONE.

>> THANK YOU, SHOSHANA FOR ALL THE COMMENTS. DEBBIE, WOULD YOU LIKE TO HEAR THE COMPROMISE OFFER OR WOULD LIKE TO SPEAK?

>> I'LL HEAR THE COMPROMISE OFFER, FIRST. AS LONG AS YOU COME BACK TO ME, PLEASE. S

>> THIS IS THE DOCUMENT THAT WAS SENT. THERE ARE MORE NOTIFICATION AND THE TREES REMOVED AND DISCUSSION OF A HEDGE A

PROPOSED HEDGE. LET ME PUT THIS IN A WAY THAT'S HOPEFULLY MORE VISUAL. I BELIEVE THIS IS A MARK UP PHOTO SHOWING THE HEDGE WAS INSTALLED OR PLANTED. SORRY, IT'S NOT CONSTRUCTION. ANOTHER PHOTO THERE'S THE DISCUSSION OF HEDGES AND PROPOSED HEDGE. THE GREEN SHOWED A PROPOSED HEDGE. THIS IS THE DOCUMENT SENT TO ME. DEBBIE.

>> FIRST, I JUST WANTED TO CONFIRM HAVING SUBMITTED AN APPLICATION FOR AN AUP THAT THE NEIGHBOR SIGNED OFF WHO SAW THE PLANS AND THERE'S BEEN A YELLOW SIGN OUT. CAN STAFF CONFIRM?

>> AS THE PROJECT STARTED AS A CODE ENFORCEMENT PLACE REPORTED BY THE NEIGHBOR AND FRANKLY WITH THE DIFFERENT PROTOCOLS EMPLOYED DURING COVID TO KEEP UP THE IMPORTANT NEIGHBOR NOTIFICATION THAT HAS BECOME BASICALLY TRANSITION WITH EVERY PROJECT. WITH THIS PROJECT BECAUSE WE WERE BRINGING IT TO THE ZONING BOARD THE NEIGHBORS WHO HAVE BEEN AFFECTED WERE INFORMED OR AWARE OF THE PROJECT FROM THE BEGINNING AND THE STRUCTURES DO EXIST, WE ACTUALLY DID NOT USE CONVENTIONAL POST CARDS OR NEIGHBOR NOTIFICATION AS THAT'S NOT TYPICALLY RECOVERS. THAT'S NOT REQUIRED BY CODE.

>> OKAY.

>> THAT'S UNFORTUNATE. SO THE OTHER THING IS WHEN YOU LOOK AT THIS DRAWING, YOU LOOK AT THE SHADOW STUDY AND THEN LOOK AT THE PLAN SHEET FIRST PAGE, THE DISTANCE BETWEEN THESE TWO STRUCTURES

AND 25 STODDARD WAY, YOU SEE THE STREET LINE THERE BUT WHEN YOU LOOK AT THE BUILDING IS NOT A STRAIGHT LINE LIKE THAT. IT'S STEPPED BACK TWICE. SO IF YOU GO BACK TO THE PICTURE YOU HAD WITH THE HEDGES, SO THERE IS ONE WINDOW WHERE THEY SHOWED THE GLARE. CAN SOMEONE CLARIFY FOR ME WHAT WINDOW THAT WAS TAKEN FROM. WAS THAT HER LIVING ROOM, BREAKFAST ROOM, DINING ROOM.

>> I WILL BRING THAT UP.

>> BELIEVE THAT'S THE LIVING ROOM.

>> IT SAYS LIVING ROOM.

>> THERE YOU GO.

>> THE LIVING ROOM SEES THE GLARE FROM WHICH OF THE STRUCTURES?

>> THE SECOND STRUCTURE.

>> THE ART STUDIO.

>> STRUCTURE 1.

>> IF YOU WERE TO LOOK AT THAT PHOTO OF THE GLARE AND THEN GO TO THE SUPPLEMENTAL DOCUMENT THAT SHOWS THE HEDGE PROPOSED HEDGE, GO DOWN ONE PAGE, KEEP GOING. DO YOU SEE WHERE IT SAYS LR. THOSE PHOTOS WERE TAKEN JUST INSIDE THE LR AND LOOK OUT ON TO PREEXISTING HEDGES AT 25 STODDARD WAY AND WHAT WE'RE PROPOSING IS IN BETWEEN OUR TWO UNITS WHICH ARE TE BLACK BOXES ON THE FAR

SCREEN LEFT, WE WOULD GET THE HEDGE TO GET RID OF THE GLARE SO IT DIDN'T SHINE IN THE PROPERTY. THE DRAWING NOT TO SCALE.

>> BUT IT'S BETTER ON THE PLANS WHICH SHOWS ONE STRAIGHT LINE. THE BUILDING IS NOT ONE STRAIGHT LINE. THIS IS HELPFUL BECAUSE THERE'S OTHER SPACE ON THE PROPERTY FROM THE KITCHEN AND I ASSUME THE EATING ROOM IS IN THE KITCHEN SHE WAS REFERRING TO AND THE ISSUE WAS THE LIVING ROOM. YOUR PROPOSAL IS HEDGE TO STOP THE GLARE, CORRECT?

>> THAT'S CORRECT.

>> ALL RIGHT, THANK YOU.

>> ANY OTHER COMMENTS FROM YOU, DEBRA?

>> NO, I'LL KEEP MY MOUTH SHUT RIGHT NOW, THANK YOU.

>> I WOULD LIKE TO MOVE TOWARDS SOME KIND OF A MOTION. I SEE HER HAND UP. ANYTHING TO RECOGNIZE?

>> THANK YOU, CHAIR. I WANTED TO APOLOGIZE TO COMMISSIONER SANDERSON FOR BRIEFLY INTERRUPTING.

>> THAT'S OKAY. I DID WANT TO ECHO STATEMENT THAT COMMISSIONER'S COLLEAGUES HAVE ALREADY STATED IT'S HARD TO ASSUME INTENTION IN A QUASI-LEGAL BODY LIKE THIS IT'S NOT OBJECTIVE I AGREE WITH THE THAT STATEMENT WE SHOULD LOOK IN THE IMPACT MEASURE AND I THINK IT'S IMPORTANT TO HAVE COMMUNICATION WITH NEIGHBORS AND

GENERALLY PROJECTS THAT DO ENSURE AND I DON'T HAVE THE TECHNOLOGY KNOWLEDGE TO SUGGEST DIFFERENT STRUCTURAL PLANS AND KEEP INTO ACCOUNT THE NEIGHBORS' CONCERN SO I'D PREFER A MOTION TO A CONTINUANCE AND I'D LIKE TO PUT THAT OUT THERE.

>> THANK YOU. BEFORE THE CHAIR STARTS I'D LIKE TO OFFER MY THOUGHTS ON THIS. MY ORIGINAL -- I AGREE FIRST WITH THE PRINCIPLE AND IT'S DIFFICULT TO USE YOUR IMAGINATION TO SAY, OKAY, WHAT IF THIS CAME BEFORE US WITH A RECOMMENDATION FOR APPROVAL FROM STAFF AND IT WASN'T BUILT YET. WOULD WE APPROVE IT? IT DOES MEET ALL THE REQUIREMENTS OF THE ZONING. IT'S NOT A HOUSING ACCOUNTABILITY ACT. THERE'S ADJUSTMENTS FOR IT WOULD WE ASK THAT THEY CONSIDER RELOCATION AND MODIFICATION AND WERE IT BEFORE US AT THE SAME TIME, WE DO HAVE INSTEAD OF STORY POLLS, ACTUAL PHOTOGRAPHS ILLUSTRATING IMPACTS AND I AGREE WITH CARRIE THAT THE PHOTOGRAPH OF THE ROOF WITH THE STARTLING GLARE THOUGH ACKNOWLEDGES IT'S ONLY A BRIEF PORTION OF THE DAY IS QUITE STARTLING AND A NEGATIVE IMPACT ON THE NEIGHBOR, WE'D WANT TO MITIGATE AT THE VERY LEAST AS WE'VE HISTORICALLY DONE BY DEMANDING REQUIRING THAT ROOF BE PAINTED WITH A NON-REFLECTIVE PAINT. AS THE SOMETHING THAT I CERTAINLY WOULD SUPPORT IN MY IMAGINATION WE'VE DONE IT BEFORE. HERE'S THE QUESTION ABOUT THE LOCATION OF THESE BUILDINGS ON THE PROPERTY, I'M NOT PARTICULARLY CONCERNED ABOUT STRUCTURE 2 WHICH IS A CONSIDERABLE DISTANCE FROM THE KITCHEN BUT I'M NOT HAPPY ABOUT THE VIEW OF

THE ROOF IN THE LIVING ROOM. THAT'S AN IMPORTANT VIEW FOR THE NEIGHBOR. I AGREE THAT THIS IS NOT ABOUT CHARACTER OR JUST ABOUT WHAT NEIGHBORS OUGHT TO DO AND WE SOMETIMES HAVE TO STEP IN AND DO IT ON BEHALF OF THEY CAN'T SEE EYE TO EYE. I WAS CONSIDERING ASKING THAT STRUCTURE ONE THE ART STUDIO THE ONE ON THE NORTH NEAR 1147 GRIZZLY PEAK BE PULLED BACK CLOSER TO THE HOUSE. THE IRONY IS IT WOULD MAKE THE CONDITION WORSE BECAUSE OF THE HEDGES. I WAS THINKING TO COMPEL THEM AND TO MAKE IT LESS BAD IN MY OPINION WOULD BE IF IT MOVED TOWARDS THE NEIGHBORS HOUSE AND DIDN'T HAVE TO RELY ON FUTURE HEDGES. THAT'S WHY I ASK THE QUESTION BECAUSE THAT'S THE QUESTION I WOULD HAVE ASKED TO THE NEIGHBOR IN THE NORTH WOULD HAVE COME TO US BEFORE IT WAS BUILT. WE DON'T WANT TO HAVE NEGATIVE IMPACT ONE NEIGHBOR OBJECTS TO FOR THE BENEFIT OF ANOTHER NEIGHBOR. IT'S SOMETHING I WOULD LIKE YOU GUYS TO CONSIDER EITHER FOR TONIGHT, PROMOTION, IF YOU WISH FOR A MOTION FOR APPROVAL OR WE COULD ASK THE APPLICANT TO CONSIDER WAYS OF MITIGATING THE PARTICULAR NOTORIOUS PHOTO BROUGHT FORTH. THAT'S THE ONE THAT DISTURBED ME THE MOST TOO. BESIDES PLANNING A HEALTH WHICH WILL TAKE A WHILE TO GROW AND MAY NEVER MATURE TO DO THE JOB. I THINK WE HAVE OTHER CONSIDERATIONS AND WOULD LIKE TO HEAR WHAT YOU THINK ABOUT THAT BEFORE MOVING FORWARD.

>> THANK YOU, CHARLES. I WOULD LIKE TO SECOND THE MOTION DOHEE JUST MADE THE EXACT MOTION I WAS ABOUT TO MAKE. THANK YOU,

DOHEE. I WOULD NOT VOTE APPROVE THIS AS-IS WERE IT COME BEFORE US AS A PLAN. CHARLES HAD HELPFUL SUGGESTIONS JUST NOW. I'M NOT AN ARCHITECT AND MORE IMPORTANTLY I DON'T HAVE A TASTE FOR REDESIGNING PROJECTS IN THIS FORMAT WHICH IS WHY CONTINUANCE IS THE BEST IDEA. NOT CLOSED MINDED TO VOTING FOR A MOTION THAT HAS SIGNIFICANT CHANGES THAT WOULD GUARANTEE NO IMPACT TO THE NEIGHBOR BUT I PERSONALLY FIND A CONTINUANCE, LETTING THE APPLICANT REDESIGN IT IN CONSULTATION WITH THE NEIGHBOR AND COMING BACK TO US WITH A MODIFIED PROPOSAL TO ADDRESS THE IMPACTS IS THE BEST COURSE OF ACTION. SO APPLICANT IF THAT'S WHAT WE DO TODAY, YOU JUST GOT SOME PRE ADVICE FROM AN EXPERIENCED ARCHITECT. THAT'S PRETTY GOOD. YOU CAN CONSULT WITH YOUR OWN AND SEE WHAT YOU THINK BUT I THINK THAT'S THE WAY TO GO IS CONTINUING POSSIBLY OFF CALENDAR BUT I THINK WE SHOULD CONTINUE IT AND LOOK AT A PROPOSAL THAT ACTUALLY ADDRESSES THESE CONCERNS.

>> SO WE HAVE A MOTION AND SECOND. DISCUSSION ON THE MOTION, CARRIE, YOUR HAND IS UP.

>> THANK YOU, CHARLES FOR YOUR UNPAID ADVICE. YOU SAID SOMETHING THIS RUNG A BELL WITH ME WHICH IS IF THERE WERE NO BUILDING AND WERE COMING TO US FOR A PERMIT WE'D REQUIRED STORY POLLS. THE STORY POLLS WOULD TELL THE STORY. NOT AS WELL AS HAVING THE BUILDINGS MAYBE BUT THEY WOULD ALLOW US TO CONSIDER WHERE ELSE

ON THE SITE WOULD BE LESS OF A DETRIMENT. AND FOR ME THE NO-BRAINER WAS TO PUT BOTH BUILDINGS ADJACENT TO THE STONE PATIO BECAUSE THEN THEY COULD TAKE ADVANTAGE OF HAVING THE MEETING SPACE OUT THERE IN FRONT OF THEM. HONESTLY IF WE'RE STARTING THIS PROPERLY WE WOULD HAVE HAD THE STORY POLLS AND WOULD HAVE HAD A DISCUSSION ON WHAT THE ROOF LINE OF THE BUILDINGS WOULD LIKE AND WHERE THEY WOULD BE PLACED AND THAT'S WHAT I'M LOOKING FOR IS SOMETHING THAT WOULD REMOVE THE DETRIMENT ALLOW THEM TO HAVE THE STRUCTURES AND I WON'T EVEN SPEAK -- SORRY. I WANT TO SAY ONE LAST THING. BACK IN THE DAY WHEN WE USED TO MEET IN PERSON, I HAD THIS LITTLE GOLDEN GATE BRIDGE MODEL I WOULD PUT IN FRONT OF ME WHENEVER WE HAD SOMETHING WITH A VIEW IMPACT. AND THIS ALTHOUGH MAY NOT HAVE A VIEW OF THE GOLDEN GATE BRIDGE, THIS NEIGHBOR SPEAKS OF BEING ABLE TO THE LIGHT THAT COMES FROM THE WEST AND THE SUN SET. AND WOULD HAVE HAD THIS COME TO US FOR A PERMIT. THAT'S ALL. THOSE ARE PROTECTED IN OUR GENERAL PLAN.

>> THANK YOU FOR ALL THE COMMENTS. I HAVE ONE MORE HAND RAISED, DEBBIE.

>> I DON'T KNOW WHERE I AM ON CONTINUING IT BUT THERE'S AN AGREEMENT BETWEEN THE PLANS AND THE PHOTO THAT I CANNOT RECONCILE IN MY MIND VISUALLY. IF THIS COMES BACK, WHEN YOU LOOK AT THE AERIAL PHOTO OR THE SHADOW STUDIES, ACCORDING TO THE AERIAL PHOTO THE STRUCTURE OF THE EXERCISE STUDIO IS -- I'M

USING MY HANDS WHICH NO ONE CAN SEE, THE EXERCISE STUDIO IS ACROSS FROM THE LIVING ROOM AND THE ART STUDIO IS FURTHER OVER. SOMETHING IS NOT ADDING UP. THE PICTURE APPEARS TO SAY IT'S LOOKING AT THE ART STUDIO BUT IN THE SHADOW STUDY, THE ART STUDIO IS QUITE A BIT A WAYS FROM THE LIVING ROOM. I DON'T KNOW WHETHER THERE'S SOME -- I DON'T KNOW WHAT'S OFF.

>> CAN I LOOK AT FOR A SECOND.

>> I DON'T WANT TO REOPEN THE PUBLIC HEARING. IT LOOKS LIKE WE'LL BE CONTINUING AND WE CAN SPEAK TO THAT IF WE DON'T APPROVE IT TONIGHT.

>> THAT'S ALL I HAD TO SAY. I FIND IT INCONSISTENT. I'M DONE.

>> THANK YOU. I HAVEN'T HEARD ANY PART OF THE COMMISSION TO VOTE ON THIS TONIGHT. WE DO HAVE A MOTION TO CONTINUE IT TO GIVE THE APPLICANT AN OPPORTUNITY TO SPEAK WITH THE NEIGHBOR AND WORK WITH THE NEIGHBOR AND SEE IF SOME POSITIVE OUTCOME CAN COME OF THAT. WHY DON'T WE GO AHEAD AND TAKE A VOTE SINCE THERE'S NO OTHER MOTIONS ON THE FLOOR AND SEE WHERE WE STAND.

>> CAN WE CLARIFY IF THIS IS OFF CALENDAR OR TO DATE CERTAIN?

>> WHO MADE THE MOTION?

>> I DID.

>> DO YOU PREFER TO THIS TO BE A DATE CERTAIN OR A MONTH OUT OR TWO MONTHS OUT OR A DATE WHEN THE APPLICANT IS PREPARED TO RETURN? BY ME AS THE MOTION MAKER.

>> IF YOU HAVE RECOMMENDATIONS TO THE MOTION MAKER ON THAT -- WE'D LOVE TO HEAR THEM.

>> I WANTED TO GIVE SPACE TO OTHER BOARD MEMBERS IF THEY HAD AGREEMENTS. I'M FINE WITH IT BEING OFF CALENDAR.

>> IT'S UP TO THE APPLICANT TO ASK FOR THE NEW HEARING AND

>> I AGREE.

>> THAT'S THE MOTION BEFORE US. GOOD CAN WE TAKE ROLL CALL.

>> CAN YOU MAKE AN AMENDMENT.

>> YOU CAN OFFER ONE.

>> I'D LIKE TO OFFER AN AMENDMENT THAT IT NOT BE PUT OFF CALENDAR BUT ON CALENDAR FOR THE REASON THAT THE NEIGHBORS ARE WORKED UP, PEOPLE ARE GOING TO -- IF IT'S ON CALENDAR THEN THERE IS AN INCENTIVE FOR EVERYONE TO WORK TOGETHER AND NOT WAIT AND WAIT AND WAIT AND CONTINUE IT ON. I WOULD PREFER IT BE ON CALENDAR TO A DATE THAT IS REASONABLE AND THERE IS ROOM FOR NEGOTIATOR I DON'T KNOW IF STAFF HAS RECOMMENDED NEGOTIATION WITH THESE NEIGHBORS BUT I CAN SEE WHY HAVING THE APPLICANT AND THE OCCUPANT TALKING DIRECTLY MAY BE DIFFICULT.

>> MEDIATE LAND USE FOR SMALL PROJECTS AND PICK A DATE CERTAIN SIX WEEKS TO TWO MONTHS AWAY SO WE GET SOME CLOSURE ON THIS AND BOTH PARTIES KNOW THEY HAVE TO TALK TO EACH OTHER AND CAN'T JUST WAIT AROUND.

>> IS PART OF THE RECOMMENDATION THE TWO PARTIES AGREE TO MEDIATION --

>> WE CAN'T FORCE THEM TO.

>> THAT'S MY RECOMMENDATION, DATE CERTAIN TWO MONTHS AND CONSIDER THE POSSIBILITY OF USING A MEDIATOR TO FIND SOME RESOLUTION AND THEN WHEN IT COMES BACK, WE NEED SOME CLARIFICATION ON THE RELATIONSHIP OF THESE TWO BUILDINGS TO 25 STODDARD.

>> TO BE CLEAR, THE AMENDMENT TO YOUR RESOLUTION WOULD BE DATE CERTAIN OF TWO MONTHS FROM TODAY THEY WOULD COME BACK AND THE RECOMMENDATION IS SEEK MEDIATION BUT NOT A REQUIREMENT AND THE MATERIALS THAT WE REVIEWED DO PROVIDE AN ACCURATE RENDERING OF THE RELATIONSHIP OF THE MALCONTENT NEIGHBOR WITH THE STRUCTURES. IS THAT ACCEPTABLE TO YOU AS THE MAKER OF THE MOTION?

>> WOULD IT BE POSSIBLE TO STICK WITH THEM BUT INCLUDE THOSE CONDITIONS OF MAKING SURE THEY MEDIATE WITH EACH OTHER?

>> WE CAN'T MAKE SURE THEY MEET.

>> I WOULD LIKE TO HEAR THE SECONDER.

>> OKAY.

>> SHOSHANA WHAT'S WERE OPINION?

>> I AGREE WITH DEBRA AND I WASN'T THINKING ABOUT THIS CLEARLY SO THANK YOU FOR BRINGING IT UP AND CHANGED MY MIND. HERE'S MY THINKING AND TELL ME IF YOU AGREE OR NOT. NORMALLY, WHEN A PROJECT HAS YET TO BE BUILD WHAT IS WHAT WE'RE IMAGINING THAT'S HAPPENING THERE'S A STRONG INCENTIVE FOR THE APPLICANT TO MOVE FORWARD AS QUICKLY AS POSSIBLE BECAUSE THEY WANT TO GET THEIR PROJECT BUILT. HOWEVER, THAT'S NOT THE CASE HERE BECAUSE THE PROJECT'S ALREADY BUILT, THEIR INCENTIVE IS TO DRAG IT OUT. THEY'RE NOT EAGER TO SPEND THIS MONEY THEY'LL HAVE TO SPEND TO MOVE IT OR ALTER IT IN SOME WAY. SO IN ALL THAT TIME THAT THEY'RE HAVING THIS EXISTING STRUCTURES IN PLACE, THE NEIGHBOR IS BEING IMPACTED.

>> IT COULD BE 2092.

>> I THINK BECAUSE OF THE SPECIFIC FACT OF THIS CASE WE SHOULD PUT PRESSURE ON THE APPLICANT TO MAKE A DECISION SOONER AND TWO MONTHS SEEMS REASONABLE AND I WOULD SUPPORT THAT BUT WHAT DO YOU THINK?

>> THANK YOU, SHOSHANA AND DEBRA FOR PROVIDING YOUR THOUGHTS. I DO WANT CONTINUANCE BUT WITH A BIT SURE THE BEST ROUTE. I'M AMENABLE TO BRINGING IT TO CALENDAR. I THINK OCTOBER 14 MAY BE

TOO SOON BECAUSE WE'LL REBOUND TO NOTICE THAT IN A COUPLE WEEKS.
THAT MEANS OCTOBER 28 AND THERE'S NO MEETINGS IN NOVEMBER AND WE
HAVE ONE MEETING IN DECEMBER ON DECEMBER 9TH. IF YEAR TRYING TO
MEET DECEMBER 9 IS PROBABLY THE --

>> OOMPH.

>> SAY THE DATES AGAIN.

>> OCTOBER 28 OR DECEMBER 9.

>> THANK YOU. DEBRA, YOU'RE THE PRO. WHAT DO YOU THINK?

>> I THINK WE HAVE TO GO TO THE DECEMBER MEETING AS MUCH AS I'D
LIKE CLOSURE ON THIS SOONER BUT IF THERE'S NO MEETING IN
NOVEMBER, I THINK OCTOBER'S TOO SOON.

>> I AGREE.

>> I KNOW WE HAVE A TIME CRUNCH AND I LOOKED AT THE RELATIONSHIP
BETWEEN THE HOUSE AND YARD AND ACTUALLY IT'S REALLY HELPFUL. IT
HAS ONE OF THE FOUNDATIONS ON IT. WE WERE GIVEN ATTACHMENT
NUMBER TWO, 1 OF 15 AND -- IT'S NOT RIGHT.

>> AS LONG AS WE'RE ASKING SINCE DEBRA BROUGHT IT UP, THANK YOU
VERY MUCH, CAN WE HAVE A PLAN FOR THE NEIGHBORING HARD AND
STRUCTURES SO WE KNOW, APPLES ARE APPLES.

>> I THINK THAT'S A CONDITION OF THIS MOTION.

>> SORRY, I WAS LOOKING AT GOOGLE MAPS. I SHOULD DO MY JOB.
LET'S CLOSE IT OUT TO MOVE ON.

>> DOUGH WE HAVE CLARIFICATION NOVEMBER VERSUS DECEMBER.

>> THIS IS FOR 1151 GRIZZLY PEAK TO CONTINUE TO 12/9 WITH THE
RECOMMENDATION THE APPLICANT AND NEIGHBOR SEEK MEDIATION AND
THAT THEY CLARIFY THE RELATIONSHIP BETWEEN THE STRUCTURES AND
PROVIDE MORE ACCURATE PLANS.

>> CORRECT.

>> BOARD MEMBER OLSON.

>> YES.

>> BOARD MEMBER DUFFY.

>> YES.

>> BOARD MEMBER GAFFNEY, YES.

>> BOARD MEMBER SANDERSON.

>> YES. BOARD MEMBER KIM.

>> YES.

>> VICE CHAIR O'KEEFE.

>> AND CHAIRPERSON.

>> YES.

>> THE MOTION CARRIES UNANIMOUSLY. I HOPE THAT YOU GUYS CAN HAVE A MEETING OF THE MINDS AND WE'LL SEE WHAT HAPPENS AND WE'LL SEE YOU DECEMBER 9.

>> THANK YOU FOR YOUR TIME.

>> YOUR WELCOME. YOU'LL GET MORE OF IT IN A FEW MONTHS. LET'S GO TO OUR NEXT ITEM THEN, LAST ITEM FOR TONIGHT THOUGH WE HAVE SOME ADMINISTRATIVE ISSUES AS WELL, THIS IS 2956 HILLEGASS AVENUE AND WHO IS OUR PLANNER?

>> GIVE US A SUMMARY OF YOUR STAFF REPORT.

>> GOOD EVENING. I'LL SHARE MY SCREEN. OKAY. ALL RIGHT. IS MY SCREEN SHARING?

>> YES.

>> OKAY. GOOD EVENING, MEMBERS. THE PROJECT BEFORE YOU IS AT 2956 HILLEGASS AVENUE. IT IS IN THE SINGLE FAMILY RESIDENTIAL DISTRICT R1 AND MAJORITY OF THE SURROUNDING USE RESIDENTIAL. THE AVENUE AND COLLEGE AVENUE ARE COMMERCIAL DISTRICTS WITHIN CLOSE PROXIMITY. THE MEDICAL CENTER IS ONE BLOCK WEST TO THE SUBJECT PROPERTY. THE PROJECT IS --

>> I WASN'T AWARE THIS IS AS CLOSE TO MY HOUSE AS IT IS. I'M REMOVING MYSELF FROM THE DISCUSSION. SHOSHANA, YOU'RE IN CHARGE.

>> OKAY. COOL.

>> I'M GOING TO MUTE MYSELF.

>> I'LL MOVE YOU BACK AS AN ATTENDEE.

>> IT'S A GOOD THING TO BE CAREFUL ABOUT THAT BECAUSE THERE WAS ONE CLOSE TO MY HOUSE BUT I HAD NO AWARENESS OF IT.

>> SHOSHANA CAN YOU TEXT ME WHEN YOU'RE READY FOR ME TO COME BACK?

>> I WILL.

>> THANK YOU.

>> THANK YOU, CHARLES. ANYWAY, LONG STORY SHORT, IT DIDN'T SEEM TO MATTER BUT I RECUSED MYSELF AND SOMEONE CUT DOWN A TREE AND I COULD SEE IT AND GLAD I PART OF THE IT BECAUSE IT WOULD HAVE BEEN INAPPROPRIATE. IT'S AN IMPORTANT ROLE WE HAVE. STAFF REPORT.

>> OKAY. THE MONTH IS THE ADDITIONAL OF 170 SQUARE FOOT THIRD FLOOR BALCONY SO THE EXISTING FAMILY DWELLING. A USE PERMIT IS REQUIRED BECAUSE THE ADDITION IS ON A SITE NON-CONFORMING FOR LOT COVERAGE AND AN AUP IS REQUIRED BECAUSE THE ADDITION IS OVER 14 FEET IN HEIGHT. THE EXISTING LOT COVERAGE IS AT 43% WHICH IS OVER THE ALLOWABLE LOT COVERAGE FOR THE ZONING DISTRICT BY 3%. HOWEVER, THE PROPOSED BALCONY WOULD NOT [INDISCERNIBLE] THE BUILDING HEIGHT. IT WOULD BE LOCKED APPROXIMATELY 16 FEET ABOVE GRADE AND THE GUARDRAIL. THIS WOULD INCREASE THE OVERALL HEIGHT

OF THIS PORTION OF THE BUILDING TO APPROXIMATELY 20 FEET AND THAT'S TO THE TOP OF THE RAILING. THE BALCONY WOULD BE LOCATED OUTSIDE THE REQUIRED REAR AND SETBACK. NOTE THE AVERAGE HEIGHT OF THE DWELLING IS 22'3". THIS AVERAGE HEIGHT CAN BE INCREASED TO A MAXIMUM OF 35 FEET IN THE ZONING DISTRICT WITH AN AUP. SINCE THE PROPOSED BALCONY WOULD BE LOCATED OUTSIDE ALL THE REQUIRED SETBACKS AND SEPARATED FROM THE CLOSEST NEIGHBOR PROPERTY AT 2954 HILLEGASS AVENUE BY APPROXIMATELY 15 FEET, IT'S NOT EXPECTED TO CREATE DETRIMENTAL IMPACT TO PRIVACY OF THE NEIGHBORING DWELLINGS. THOUGH THE ADDITION WOULD INCREASE THE HEIGHT OF THE BUILD REAR, THE ROOF LINE WOULD BE LOWER THAN THE DWELLING ROOF LINE AND WITHOUT NOT IMPACT THE MAXIMUM HEIGHT OR EXCEED THE HEIGHT LIMIT AND SUNLIGHT AND AIR AND IMPACT TO SURROUNDING PROPERTY DUE TO THE PROJECT WOULD NOT BE DETRIMENTAL. BECAUSE OF THE PROJECT'S CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN AND MINIMAL IMPACT ON SURROUNDING PROPERTIES, STAFF RECOMMEND THE ZONING ADJUST BOARD APPROVE THIS WITH THE PLANS AND CONDITIONS. I BELIEVE THE ARCHITECT IS AVAILABLE.

>> ARE THERE ANY QUESTION FOR STAFF AT THIS TIME? NO ONE FROM THE BOARD IS RAISING THEIR HANDS SO I TAKE IT NO QUESTIONS FROM STAFF. LET'S HEAR FROM THE APPLICANT. APPLICANT, ONCE WE CAN HEAR YOUR VOICE, YOU'LL HAVE FIVE MINUTES.

>> GREAT, THANK YOU. CAN EVERYBODY HEAR ME?

>> WE CAN.

>> THE TIMER'S SET UP.

>> THANK YOU. I CAN SHARE MY SCREEN I UNDERSTAND. I CAN PUT ME ON VIDEO. THAT'S ME AND I'D LIKE TO SHARE MY SCREEN. CAN PEOPLE SEE IMAGES? GREAT. THANK YOU. WELL, THANK YOU, VERY MUCH. I'M EDWARD BUCHANON THE PROJECT ARCHITECT FOR THIS PROJECT AT 2956 HILLEGASS. THIS IS TO ADD A ROOF DECK OFF THE MASTER BEDROOM AT THE REAR OF THE HOUSE AND THE PROVED ROOF DECK WILL PROVIDE SUNNY OUTDOOR SPACE ON A LOT WITH LITTLE OUTDOOR SPACE ON THE GROUND. LOCATED AT THE REAR OF THE HOUSE, THE DECK IS PRIMARILY DIRECTED WEST AND ONLY ACCESSED THROUGH THE MASTER BEDROOM WHICH MEANS THIS IS A PLACE FOR THE OWNERS TO QUIETLY ENJOY A CUP OF COFFEE OR GLASS OF WINE BUT NOT AN INTENSE USE TYPE OF SPACE. THERE ARE NO VIEWS TO IMPACT WITH THIS PROJECT, IT'S IN A DENSE URBAN NEIGHBORHOOD AND BECAUSE THE DECK WILL BE BUILT ON TOP OF AN EXISTING ROOF THE ONLY REAL ADDITION IS THAT OF A GUARDRAIL AND IT'S AN OPEN GUARDRAIL AND NO IMPACT FOR NEIGHBORS' ACCESS TO AIR AND LIGHT. BECAUSE OF THE DISTANCE BETWEEN THE STRUCTURE AND THE EXISTING HOMES LARGER FORM, THE ONLY ADDING SHADOWS ARE CAST FROM THE OPEN GUARDRAIL ON TO THE ADJACENT DRIVEWAY TO THE NORTH. IT'S VERY NEGLIGIBLE. PRIVACY IS ALWAYS A CONCERN IN PROJECTS LIKE THIS AND THERE'S ALWAYS A MUTUAL DESIRE TO

PRESERVE IT. FROM THIS VIEW, YOU CAN SEE IN THIS AREAL VIEW THERE'S A NEIGHBORHOOD PATTERN ALREADY WITH ADJACENT REAR NEIGHBORS ALL HAVING SIMILAR UPPER FLOOR ROOF DECKS INCLUDING THE NEIGHBORS TO THE NORTH RIGHT HERE. THIS IS ESSENTIALLY SETTING A STANDARD FOR NEIGHBORHOOD PRIVACY AND IN THIS REGARD APPROVING THIS DECK WOULD SIMPLY BE ALLOWING MY CLIENTS TO ENJOY THE SAME RIGHTS AS THEIR NEIGHBORS. THE NEIGHBOR TO THE NORTH AT 2954 HAS THE VIEW IS ABOUT 17 FEET AWAY FROM THE DECK AND THE VIEW IS OF THE DRIVEWAY AND THE ENTRY PORCH ON THE GROUND LEVEL AND A SECONDARY REAR BEDROOM WINDOWS HERE AND SUN PORCH AT THE UPPER LEVEL. THROUGHOUT MUCH OF THE YEAR, AS WE'VE BEEN BY IN THE PROPERTY, THEY HAVE SHADES DRAWN PRESUMABLY BECAUSE OF THE SUNNY ORIENTATION AND TO PROTECT THEIR OWN PRIVACY. THERE'S NO CASUAL DIRECT VIEW IN THE NEIGHBORS MASTER BEDROOM WHICH IS THIS AREA UP HERE. UNLESS YOU WALK TO THE FAR CORNER AND LOOK BACK TOWARDS THE HOUSE. IT'S NOT A CASUAL EASY THING TO DO AND THE DECK IS ORIENTED TO THE WEST AND TO ENSURE PRIVACY MY CLIENTS ARE PROPOSING SCREENING PLANT TO THE NORTH AND SOUTH SIDE OF THE DECK TO SOFTEN THE EDGE AND CREATE THE VISUAL PRIVACY BETWEEN THEM AND NEIGHBORS TO THE NORTH AND TO THE SOUTH. SIMPLY TO CONCLUDE, I JUST WANT TO POINT OUT ALL IMPROVEMENT SO FAR SO THIS PROPERTY HAVE BEEN PERMITTED PROPERLY AND GONE THROUGH ALL THE RIGHT CHANNELS AND SIGNED OFF. THIS IS THE ABUNDANCE OF LETTERS FROM MOST THE NEIGHBORS ENJOY STRONG SUPPORT AND HAS

MINIMAL IMPACT TO SURROUNDING NEIGHBORS AND PROVIDES THE VERY MUCH NEEDED, VERY USEFUL OUTDOOR AREA ON A SMALL LOT. THAT'S ALL I HAVE.

>> THANK YOU VERY MUCH. ARE THERE ANY QUESTIONS FOR THE APPLICANT AT THIS TIME? ALL RIGHT. YOU GUYS ARE SO QUIET. ALL RIGHT. THANK YOU, APPLICANT. AS BEFORE, WE'LL GO AHEAD AND NOW TURN OUR ATTENTION TO MEMBERS OF THE PUBLIC. I'LL GIVE THEM A CHANCE TO SPEAK AND THEN APPLICANT, YOU'LL HAVE A CHANCE TO COME BACK AND RESPOND TO ANYTHING SAID OR ADD ANY LAST COMMENTS AFTER WE HEAR FROM THE PUBLIC.

>> GREAT.

>> THANK YOU. SO ATTENDEES, IF YOU WOULD LIKE TO SPEAK ON THIS PROJECT, NOW IS THE TIME TO RAISE YOUR HAND AND I WE HAVE SIX HANDS UP. THAT'S GREAT AND ONCE AGAIN I'LL REMIND YOU TO PRESS STAR 9 IF YOU'RE JOINING BY PHONE IF YOU'D LIKE TO SPEAK AND I WILL CALL ON THE MEMBERS OF THE PUBLIC IN THE ORDER THEY RAISED THEIR HANDS. EACH MEMBER GETS TWO MINUTES. WE HAVE A TIMER UP. HOPEFULLY YOU CAN SEE IT AND FIRST I'LL RECOGNIZE DANA SACK.

>> THE LETTERS YOU RECEIVED FROM NEIGHBORS NONE ARE IMPACTED BY THE DECK ONLY 2954 AND THE NEIGHBORS ON WEBSTER STREET WOULD BE IMPACTED BY THE DECK BECAUSE IT'S IN THE BACK. THERE'S VERY LITTLE CHANGE TO THE FRONT OF THE HOUSE SO THE COMMENTS ARE REALLY IRRELEVANT. ONE COMMENTER IS FROM OAKLAND, TWO IS FROM

PIEDMONT AVENUE, ONE IS A BLOCK AWAY. THESE ARE PEOPLE NOT IMPACTED ANYWAY. THOSE ARE NOT HONEST COMMENTS. THE APPLICANT YOU SAW THE DOORS OVER THE FUTURE DECK OVER THE ROOF. THOSE WERE INSTALLED WITHOUT PERMITS IN RESPONSE TO THE NEIGHBORS AT 2954, BARBARA AND MARK TELLING NEIGHBORS IT WAS DANGEROUS TO HAVE DOORS ON A ROOF WITHOUT RAILING. THEY PUT UP A GRILL TO KEEP THE DOORS FROM OPENING AND MADE THIS APPLICATION. CLEARLY THEY WERE PLANNING TO BUILD THAT DECK WITHOUT PERMITS. THE OTHER THING THEY DID BESIDES THAT WAS MR. STAR SENT A LETTER TO BARBARA'S HUSBAND, MARK, IN FRANCE, ACCUSING HER OF INFIDELITY AND ADULTERY INCLUDING A PICTURE OF A MAN STANDING AT THE FRONT DOOR OF THE HOUSE WHICH YOU ALSO SAW A PICTURE OF IN THE ARCHITECT'S PRESENTATION. I'M THE LAWYER WHO IS PROSECUTING THE DEFAMATION LAWSUIT OVER THAT FOR INVASION OF PRIVACY. YOU'RE BEING ASKED TO TRUST PEOPLE WHO DID SUSPECT A HEINOUS ACT VIOLATION OF PRIVACY FROM THEIR YARD POINTING THE CAMERA AT THE FRONT DOOR AND YOU WANT TO GIVE THE SAME PEOPLE A DECK THAT LOOKS INTO BARBARA AND MARK'S BEDROOM? THAT'S WAY BEYOND THE PALE. THANK YOU.

>> THANK YOU. I JUST WANT TO SIGH BEFORE WE GONE, MEMBERS OF THE PUBLIC HAVE THE RIGHT TO SPEAK ABOUT WHATEVER THEY'D LIKE SO WE'RE NOT GOING TO CENSOR YOU BUT CAUTIONARY ADVICE, COMMENTS ABOUT PEOPLE'S CHARACTER OR INTENTIONS HAVE VERY LITTLE RELEVANCE TO THIS HEARING. WE ARE HERE TO TALK ABOUT THE PERMIT APPLICATION IN FRONT OF US AND THAT'S IT. IT COULD BE FROM A

VERY GOOD PERSON OR BAD PERSON IN TERMS OF OUR DECISION MAKING. I WANT TO SAY THAT FOR EVERYONE, DO YOUR BEST TO KEEP YOUR COMMENTS RELEVANT TO THE DECISIONS WE'RE MAKING. THANK YOU. NEXT UP WE HAVE BARBARA. BARBARA. YOU HAVE TWO MINUTES ONCE WE HEAR YOUR VOICE.

>> THANK YOU VERY MUCH. I'M 71 YEARS OLD AND ON THE FACULTY ON U.K. BERKELEY AND WE HAVE LIVED AT 2945 FOR 30 YEARS IN PEACE AND HARMONY UNTIL RECENTLY. THE GOAL OF THE OWNERS OF 2956 AND WE AGREED TO THE LAST CHANGE BECAUSE THERE WOULD BE NO IMPACT AND THE PICTURE FROM THE ARCHITECTS ARE PICTURES TAKEN AFTER THEY ALREADY MODIFIED THE BACK SIDE OF THEIR HOUSE TO PUT FLATTEN THE ROOF AND PUT THESE SLIDING DOORS. THEY DID THAT IN A STEALTHY DEVELOPMENT SELECTIVE DISCLOSURE OF INFORMATION BECAUSE IT'S DETRIMENTAL TO US AND I WON'T TALK ABOUT THE CHARACTER. AS DANA SAID, AS WE PUSHED BACK ON THE IMPACT FOR PLANS THEY BECAME AGGRESSIVE AND VINDICTIVE AND TRYING TO DEFAME US AND THIS MAY BE A PROJECT FOR QUIET LIVING BUT THE NEW OWNERS HAVE BEEN CONDUCTING LOUD CONVERSATIONS ON THE PORCH SOMETIMES LATE AT NIGHT. SOMETHING WE NEVER HAD TO PUT UP WITH FROM PREVIOUS OWNERS. ONE MORE THING, THIS IS NOT LOOKING JUST INTO OUR BEDROOM AND IT'S NOT A SUNROOF, IT IS MY HOME OFFICE WHERE I WORK EVERY MORNING, SOMETIMES IN THE EVENING AND ALSO ON THE WEEKEND. IT'S NOT JUST A SUN ROOM. THANK YOU VERY MUCH.

>> THANK YOU VERY MUCH.

>> NEXT UP, WE HAVE ANDREA CAROL.

>> HELLO. GOOD EVENING. I'M ANDREA CAROL AND I AM A NEIGHBOR. I LIVE ACROSS THE STREET. MY FAMILY MOVED ON TO HILLEGASS IN 1976 AND HAVE BEEN HERE EVER SINCE. IN THE LAST 50 OR SO YEARS WE'VE SEEN A LOT OF CHANGES TO OUR BLOCK BETWEEN WEBSTER AND ASHBY AND NOT ALL HAS BEEN GOOD BUT I HAVE TO TELL YOU THE STARRS DESPITE THE PANDEMIC HAVE DONE AN AMAZING JOB TO TURN A VERY SEISMICALLY UNSOUND AGING, CRAMPED HOME INTO A BEAUTIFUL FAMILY HOME ABOVE AND BEYOND WHAT THEY NEEDED TO DO. AND THE TINY DECK AND IT REALLY IS VERY SMALL THAT'S GOING TO GO OFF THEIR PRIVATE MASTER BEDROOM IS NOT GOING TO IMPACT THE PRIVACY OF ANY OF THE NEIGHBORS. I HAVE BEEN IN THEIR MASTER BEDROOM TO VERIFY THIS. I ALSO HAD SPENT TIME IN THE HOME BEFORE THEY WERE OWNERS AND THE LARGE DECK THAT USED TO SPAN THE ENTIRE BACK OF THE HOUSE HAS BEEN REMOVED AND IT ACTUALLY IS EVEN LESS INTRUSIVE THE WAY THEY'RE IMAGINING THE SMALL BALCONY. AGAIN, I CAN'T TELL YOU ENOUGH ABOUT HOW BEAUTIFUL THE HOME HAS TURNED OUT AND I REALLY LOOK FORWARD TO THEM BEING ABLE TO FINISH THIS PROJECT AND LIVE WITH THEIR FAMILY THERE. THANK YOU.

>> NEXT UP WE HAVE JOHN BUTERAS.

>> CAN YOU HEAR ME?

>> YES, JOHN GUTIERREZ, ATTORNEY REPRESENTING BARBARA AND MARK
NOT IN THE MATTER DANA IS HERE TO SPEAK ABOUT.

To: City of Berkeley Zoning Adjustment Board

CITY OF BERKELEY - CITY CLERK
2021 OCT 4 PM 12:13

Berkeley, 10/02/2021

Dear Zoning Adjustment Board,

We are writing to appeal your decision to approve use permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of the 2956 Hillegass Ave property.

Applicants at 2956 Hillegass have been doing major construction on their property, adding features that were **not** in the original plans which neighbors signed off on 2 years ago (November 2019), in a piecemeal manner.

The property at 2956 is on a small key lot and is already over lot coverage. The proposed balcony is large (170 sqft) and acts as a deck rather than a balcony. The nuisance that will result from this balcony project will strongly affect 3 neighbors (2954 Hillegass, 2523 Webster, and 2525 Webster), whose properties are contiguous to the applicant's backyard.

Misrepresentation at the ZAB hearing:

- At the 09/15/2021 hearing, the applicants' architect showed sketches of the rear side of the house claiming they corresponded to the "original" situation, when in fact the third floor elevation windows (now sliding doors) and the steep roof beneath them (now a flat roof) were modified in February 2021, **before** the permit application was filed for the balcony (see Appendix 1). In fact, these planned changes and actions were intended to request approval for a balcony after the major house construction was completed.
- The applicants installed a large H-VAC unit on a platform on the south end of their third floor back elevation, without any screen (see photos starting page 6 of Appendix 1). This was also not in the original construction plans.
- The applicants' architect minimized the impact of the balcony by representing the home office of 2954 Hillegass, heavily used for remote work, and no more than 15 feet from the proposed balcony, as a "sunroom".
- Meanwhile, many "neighbors", most of them living several blocks away, sent emails and voiced support for the balcony project, even though **none of their properties had any proximity** with the rear of 2956 Hillegass. Privacy and sound nuisance from the proposed rear deck and backyard does not affect neighbors who are not directly contiguous. These supporters commented on the exterior and interior beauty of the house, while apparently unaware of, or omitting to mention that:
 - the beautiful tree that provided effective screening between all 4 properties (2523 Webster, 2525 Webster, 2954 Hillegass and 2956 Hillegass) had been cut down without consultation with the affected neighbors.

- new, poor quality fences had been raised where no such fence stood previously, both on the street side and at the back of the applicants' property, and all the landscaping bushes in the front of the house were gone.

- The applicants' architect pointed out that the other properties also had balconies.
 - Indeed, 2954 Hillegass has a large balcony/deck in the rear of the house on the 2nd floor. The difference is: 1) immediately in front of this deck, beyond the backyard of 2954 Hillegass, on the west side, there is a parking lot. On the north side, there is a thick line of trees that provides an effective screen to the next property backyard. The balcony only overlooks one backyard, on the southside (2523 Webster) but from a larger distance, and 3) the deck is not used for entertainment, and rarely used at all.
 - The balcony at 2523 Webster is much lower, and there is no view from it onto the backyard of either 2525 Webster, 2956 Hillegass or 2954 Hillegass.
 - The balcony at 2525 Webster has been transformed into an enclosed sunroom.

Impact

The 3rd floor balcony **will substantially impact the privacy and peace** of all 3 neighbors (2523 Webster, 2525 Webster and 2954 Hillegass):

- It looms high over the backyards of 2523 and 2525 Webster, and is at most 15 feet from the home office and one of the bedrooms of 2954 Hillegass.

- It will create noise nuisances detrimental to all, and particularly to those of us working from home (or present at home) a substantial part of the time. The noise nuisance is anticipated based on past behavior of the applicants, who have shown no consideration for others during the major construction work (e.g. not providing advance warning for periods of excruciating construction work). The applicants, through their architect, have indicated their intention to use the balcony for recreation, which undoubtedly will result in loud conversations, possibly late at night.

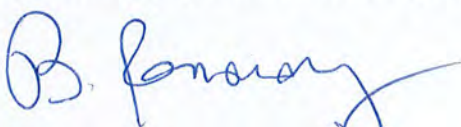
Conclusion

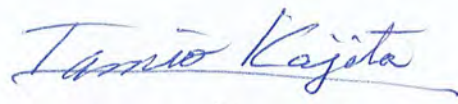
All these actions and plans only benefit the applicants. Having a small lot and less open space is not a hardship that justifies being granted a large balcony. All the adjacent neighbors lose their privacy and peace for one property.

We also object to ethically questionable tactics by which the applicants (1) did not fully disclose their entire project at the design stage, (2) had all neighbors sign off on an initial relatively low impact plan, and (3) later stealthily added features that have impact on the peace and privacy of the closest neighbors.

Counter proposal:

We suggest using the proposed 170 square foot space to build a **sunroom**, rather than a balcony, enclosed with walls on all sides and covered, to minimize privacy and noise impact on the 3 neighboring properties affected by the project.


BARBARA ROMANOWICZ
2954 HILLEGASS AVE
BERKELEY 94705

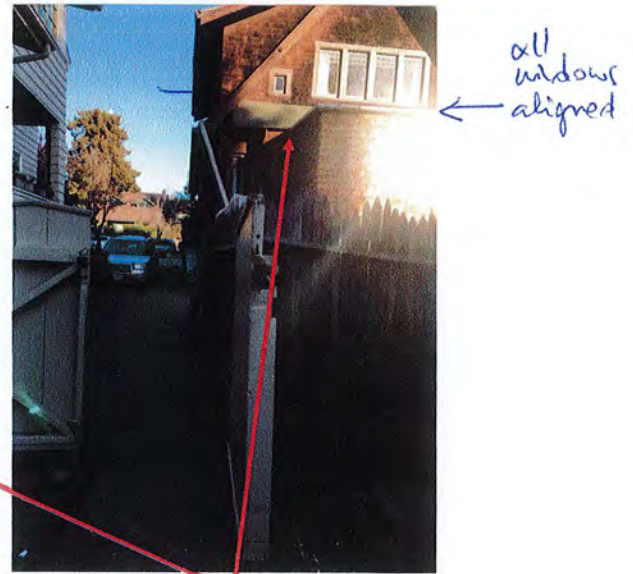
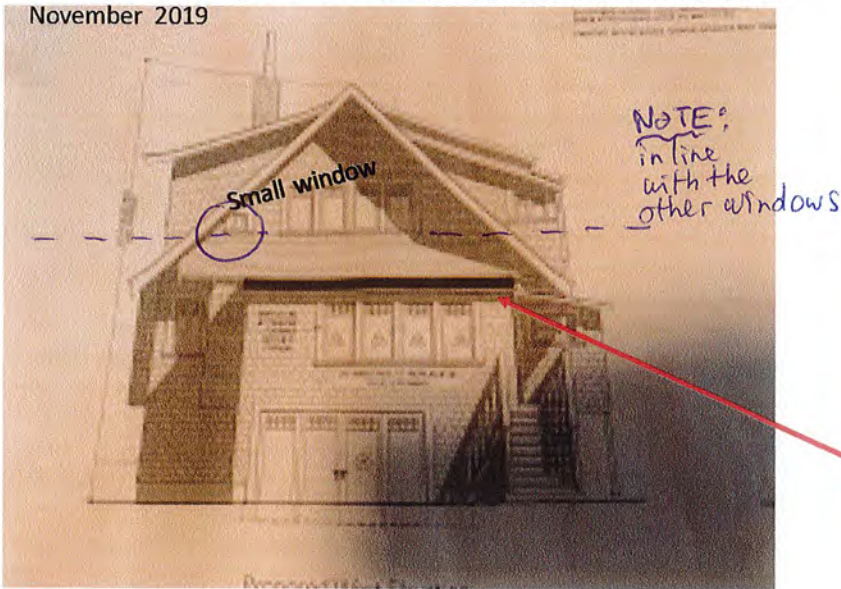

TAMIO KAJITA
2523 WEBSTER ST
BERKELEY, CA 94705

(Appendix 1)
to Appeal letter for
Use permit # 2P2021-0068

2956 HILLEGASS back elevation
before February 2021

CITY OF BERKELEY - CITY CLERK
2021 OCT 4 PM 12:13

Back of 2956 Hillegass from originally approved construction plans,
November 2019



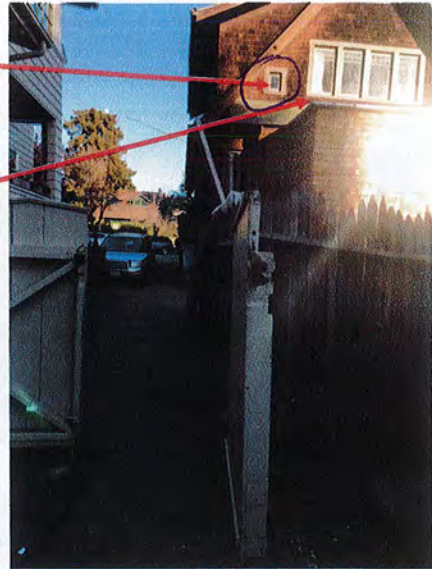
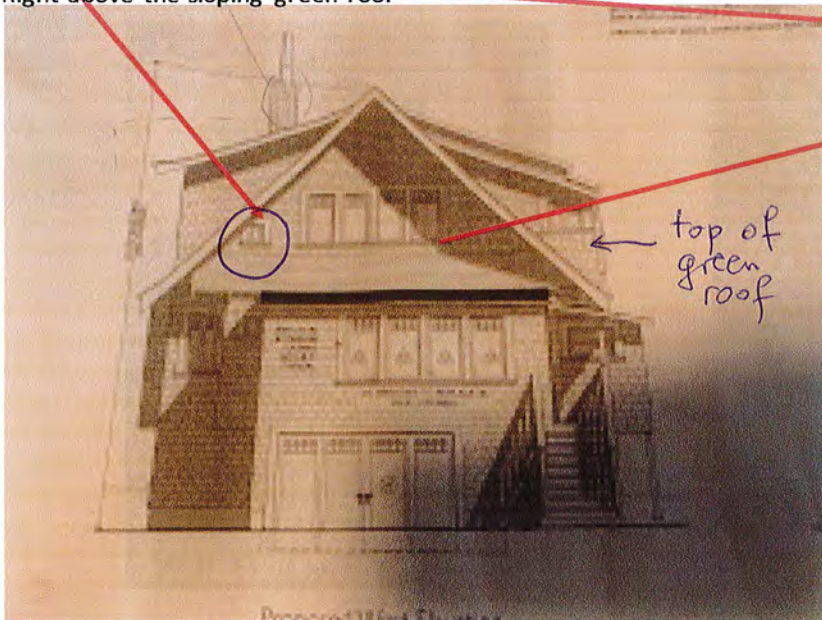
(as part of an email from Adam Starr to Barbara Romanowicz Dated Nov 23, 2019). It conforms to the appearance of the back Of 2956 Hillegass before removal of $\frac{3}{4}$ of the steeply dipping green roof and installation of sliding doors on top of the flat roof that is barely visible because it is in line of sight

The almost horizontal roof was partly covered by the small steeply sloping roof, which extended all across the back elevation

- 2 -

2956 HILLEGASS BACK ELEVATION BEFORE FEBRUARY 2021 (some other details)

Small window: its bottom aligns with bottom of 4 panel elevation window,
Right above the sloping green roof



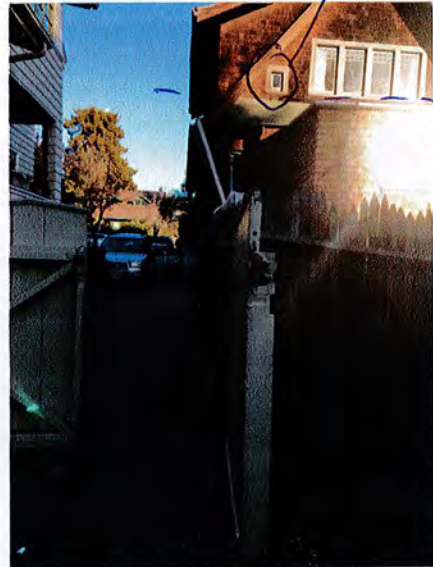
Steeply sloping green roof reaches right under the small window and the 4 paneled larger window pane. Note that the bottom of those windows is at the same level as the bottom of the little window on the left

2956 HILLEGASS BACK ELEVATION BEFORE FEBRUARY 2021

Small window

Before February 2021

View of green steep roof and 4-pane windows in 2006



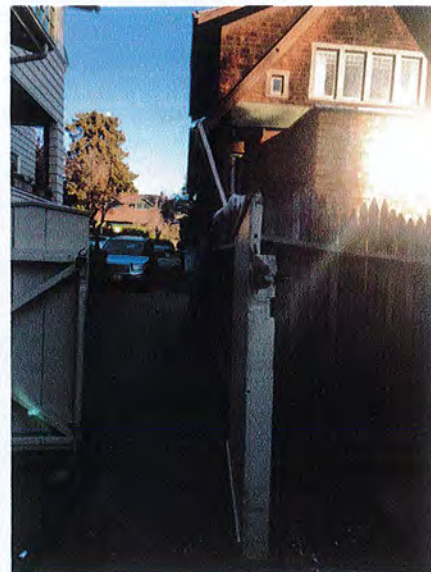
4-

2956 HILLEGASS BACK ELEVATION INSTALLATION OF SLIDING DOORS IN FEB. 2021

Installation of sliding doors in February 2021



Before the construction

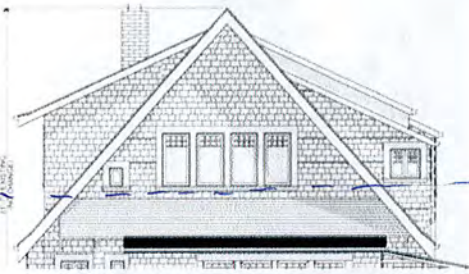


Only a small portion of the green roof is left
The bottom of the opening for the sliding doors is now well below the bottom of the small window on the left

2956 HILLEGASS BACK ELEVATION
AFTER REMOVAL OF STEEP ROOF
AND SLIDING DOOR INSTALLATION

After the fact, February 12, 2021

Original plans as approved



Note the lack of any safety barriers on the sliding doors

Current view of flat roof at 2956 Hillegass from 2954 Hillegass 2nd floor bedroom

New HVAC unit





Administrative Record
ZAB Appeal:
2956 Hillegass Ave.

This attachment is on file and available for review upon request from the City Clerk Department, or can be accessed from the City Council Website.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

ZAB APPEAL: 2956 HILLEGASS AVENUE, USE PERMIT #ZP2021-0068

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, FEBRUARY 8, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Zoning Permit #ZP2021-0068 for the addition of a 170 square foot third-floor balcony to the rear of an existing three-story 2,834 square foot single-family dwelling on a 2,754 square foot lot that is non-conforming to lot coverage.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **JANUARY 27, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Samantha Updegrave, Zoning Officer, (510) 981-7414, or supdegrave@cityofberkeley.info.

Written comments should be mailed to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704 or emailed to 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: January 25, 2022

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.