

existing objective standards, there would eventually be no small – and thus more affordable – houses and units left. If this were the case in Berkeley, every property owner could in effect propose adding a couple of bedrooms, thus destroying the small houses available in the city and making it impossible for lower income earners and young families afford to live here. This would entirely change the socioeconomic makeup of Berkeley.

In sum, this proposal does not provide additional housing in Berkeley and does not meet any affordable housing needs and thus should not benefit from restrictions on city powers to influence development created by the HAA. This is simply a matter of one family seeking to increase the size of its property – in contravention of zoning standards – without having consulted and reached agreement with its neighbors. There is no justifiable reason why in this circumstance, the ZAB should favor the interests of one property owner over those of its neighbors.

The December 9, 2021 vote by the ZAB to approve the project without modifications was clearly influenced by an erroneous interpretation of the law, with ZAB members voting for the project because they thought they had to do so under the HAA, even after having expressed significant concerns about the size and purpose of the project and about the constraints they felt were being imposed upon them by the law. Recognizing that this was the first time after passage of the new HAA standards that the ZAB had to decide on a case in which a project does not comply with objective standards, and that the ZAB seems to not have fully understood the limitations and powers that law affords to cities, we request that the City Council return this project proposal for another hearing. At that hearing, we would expect that the project be considered for what it is - a proposed expansion that does not comply with objective standards, is not protected under the HAA, and does not count with support from the neighbors, such that the ZAB will feel free to deny the project or impose conditions considering input and requests for modifications from affected neighbors.

SECTION B. Absence of the opportunity for meaningful public participation regarding the project.

Throughout this process we experienced multiple problems with the City's process that created obstacles to the effective and timely participation in the zoning/planning review process. Our full, detailed concerns are described below.

The most egregious issue with respect to public participation in this case was that critical guidance from the City Attorney upon which the ZAB decision was based, was not available to affected parties or apparently to the City Planner until the very end of the ZAB hearing about this project. At that time – after the public participation section of the meeting was closed and with attendee microphones, chats, and videos all turned off on zoom -- and right before the vote was called -- the ZAB chairman found and read a memo to the rest of the ZAB, and in so doing changed the entire focus and purpose of the hearing. Because it had not been previously available, no participant or affected party was able to prepare for or comment on the content of that memo as it potentially applies to the project, and the ZAB made its decision after mere minutes of superficial consideration of this new information. That is not appropriate.

This ZAB hearing was held on December 9th, and the information from the City Attorney that the ZAB Chairman referenced was said to be in an October memo from the City Attorney. The memo supposedly states that any project for which the HAA applies cannot be reduced in square footage. This assertion is completely at odds with comments that the City Planner put in the Staff Report, in his Advisory Comments to the project proponents, and made to us in calls and emails prior to our writing a letter to the ZAB in opposition to the project. As described above, it also seems to be a misinterpretation of what the HAA requires.

One must presume that a memo about zoning from the City Attorney would also have been shared with the Department of Planning and Development and its staff. Nevertheless, the city planner at no point indicated that it would not be possible for the ZAB to deny permits for the proposed third level or otherwise require a significant reduction in size of the project.

In fact, the initial Advisory Comments from the city planner specifically asked for removal of the upper floor to minimize impacts on the neighbors (a reduction in square footage). When speaking with us about our letter to the ZAB he suggested we could reference these comments and ask the ZAB to request "major modifications to the plan prior to continuation of the hearing".

Further, the City Planners comments in the final Staff Report and to us in emails clearly state that the ZAB cannot reduce the number of units (two units, both already existing on this property) but can require other modifications to lessen the impact to neighbors. We therefore chose to focus the comments in our letter and during the hearing to request removal of the upper floor addition to yield a project that would still allow expansion on the non-conforming property from a 1,400 sq ft to 2,700 sq ft structure, on a tiny 3,100 sq ft lot.

The ZAB Chairman who had the additional information from the City Attorney, and presumably read the Staff Report and the submitted public written comments ('Correspondences Received') prior to the hearing, had many opportunities to bring this information to light earlier in the hearing, both right after the City Planner summarized the project, or during the lengthy discussion the ZAB members had about the impacts to lighting and privacy to adjacent neighbors prior to hearing public comment.

Moreover, any information from the City Attorney should have been in the Staff Report as it sets the boundaries for modifications to the plan. If we had been told by the City Planner about this restriction, our letter to the ZAB would have been different, and if we had heard this information from the ZAB chairman during the ZABs initial discussions our oral comments would also have been different.

We thus ask for the City Council to direct the ZAB to reschedule this permit application for a re-hearing, not only as described above in Section A on the HAA, but also so that we and other neighbors can make specific requests to the plan to mitigate the impact to our properties, if the city still decides that it will allow this non-conforming project.

Additionally, we request that the City Council direct the City Planner to require the applicants to erect story poles on their current roof, prior to that ZAB hearing, to show the positioning of the new upper

floor and the location of windows,⁷ as this was never done even though the City's website says that any additions with average heights over 14 feet require application of story poles prior to the ZAB hearing.

If, in the end, the City for some reason decides it still cannot or does not want to deny a project that clearly violates objective standards, exceeds allowed lot density, requires a very large number of UPs and AUPs, is opposed by adjacent neighbors and is completely out of character with the rest of the neighborhood, neighbors might for example request the below modifications:

1. Only permit upper floor window glazing on the south and east side of the development at a height above 5'6" from floor, to increase privacy of neighboring properties.⁸
2. Mandate the construction of a fence between the properties to a height of 8'6" to increase privacy for both neighbors and the project proponents by blocking the direct view between the windows of adjacent houses.⁹
3. Remove the parapet feature on the east side of the top floor. Currently this is set to be built identically to the parapet structure on the front of the house (west side) which is used as a balcony. The parapet feature on the west side is not needed for aesthetic continuity as it isn't continuous on the south and north sides, and on the east side will only act to collect tree droppings from the three tall trees near the property line. These trees are a constant source of complaints from the project proponents as droppings fall on their existing flat roof with a parapet feature. Moreover, to illegally convert that parapet roof structure to a balcony, the owners would only have to add a door to the bedroom on the second floor (a feature that was in their initial submission). Given the project proponent's history of illegal, non-permitted modifications to their property, as described in the fact section above and in the City Planners Staff Report, it would be best to make it impossible for that outside balcony to be easily created.

Complete list of concerns with the city's process and associated impacts to public participation

- The lack of signage and story poles means neighbors were not sufficiently alerted to potential impacts
 - COVID policies from early in the pandemic temporarily removed the requirement for posting a large yellow sign on the property applying for permits to alert neighbors to an application. Signage policies seem to have been changed back to normal during 2021, as we started seeing yellow posters in front of other houses with building proposals, before this proposal was deemed complete. However, we never saw any kind of signage on site describing this project. A few posters were eventually placed on telephone poles, but those were not nearly as noticeable as the traditional large yellow signs on site and have since been removed.

⁷ One concern with the project is whether the proposed project will create a direct clear view from the added upper level into neighbors' bedroom and bathroom, in addition to compromising the privacy of back yards.

⁸ If the project proponents want to keep the total glazing square footage the same to keep the amount of light into that room the same, they have plenty of space in that bedroom on the same wall to extend the 'high windows' toward the south end of that room.

⁹ This would likely require an additional use permit but if the City is willing to issue seven such permits, an eighth seems reasonable as well.

- The project in question never erected 'story poles' even though the City's website says that doing so is required for any addition exceeding 14 feet in height. Again, we saw story poles on other houses in Berkeley that had proposals pending, even before this project was deemed complete.
- Even if temporary COVID policies were put in place to minimize human interaction, once reinstated, requirements should have been applied to all open applications.
- For some period of time, these signage requirements were replaced by postcards the city sent to neighbors. However, those postcards simply listed the address and did not specify on a map which house was affected or what the project implied. The likelihood of people proactively turning to their computer to learn about a proposed project is far lesser after receiving a postcard about an unfamiliar address, than if someone sees signage or story poles on a site.
- This relative lack of information about the project and its impacts - especially the absence of story poles – likely impacted the level of public participation overall, reducing the ability and likelihood of the public commenting on proposals.
- Interactions with the City Planner and the ZAB
 - Over the course of 2021 we had over a dozen email exchanges with the city planner as well as two phone calls. He was very responsive and we greatly appreciate him taking the time to speak with us.
 - Before even hearing the details of our concerns, the City Planner's advisory comment letter to the applicants called out the impacts to light and privacy to adjacent lots and specifically requested the applicants to remove the upper floor of their proposal (a reduction in square footage).
 - In our final call with the city planner on September 21, 2021, he mentioned options to (1) call out the impact to our light and privacy, (2) reference the suggestions he made in his Advisory Comments to make the scope of the project more reasonably sized by removing the upper floor to minimize/eliminate impacts to neighbors, (3) ask the ZAB to request "major modifications to the plan prior to continuation of the hearing", and (4) describe the ways in which the applicants misrepresented their neighbors' support of the project. At no point did he suggest that requesting a reduction in square footage would not be possible.
 - We thus focused our comments on requesting removal of the upper floor addition, to reduce impacts on neighbors but still allow the owners to expand the duplex on their non-conforming property from ~1400 sq ft to ~2700 sq ft.
 - As of 10am on 12/8/2021, the day before the ZAB hearing, the Staff Report was still not posted for public access. At that time, we were the ones who had to reach out to the city planner to get the report from him and make sure it was posted. Thus, there was also insufficient advance time for review and consideration of that report.
- The ZAB Hearing
 - In general, with the need to conduct public hearings on zoom rather than in person, those hearings should be conducted with video and chat channels enabled for all participants so that affected parties can communicate easily. Having chat channels, microphones and videos all disabled, as was the case in this hearing, is not appropriate. The zoom December 9 ZAB meeting did not even allow participants to communicate by

- raising a hand to be called on (except during the very limited public comment section). This is extremely problematic, as evidenced by one person who was trying to participate but had not way to communicate with the ZAB to let the ZAB know she for sure wanted to speak. ZAB members themselves found themselves needing to call each other via cellphone rather than being able to interact on chat.
- During the ZAB hearing on 12/9/2021 the city planner reviewed the project and made the same statements described above. The ZAB then had a discussion, and several members raised concerns about the large impact to the neighbor's light and privacy. After this the project proponents spoke, followed by several neighbors who mostly opposed particularly the upper floor addition.
 - A discussion by ZAB members ensued. It was at the end of this conversation that the ZAB Chairman referenced a letter he had from the City's Attorney from October supposedly stating that for projects where the HAA applies, the ZAB cannot reduce the square footage of the project, in effect saying that all ZAB members had to vote to approve (at this point in the Zoom hearing we 'raised our hand' to comment but were not called on)
 - Finally, the chairman called for a vote and got the unanimous approval that he had already stated was required.
 - The fact that this critical piece of information from the City Attorney was (i) counter to what the City Planner states in the Staff Report and to us directly, and (ii) was presumably known but not shared by the ZAB Chairman until after all public participation was complete, in effect took away the public's ability to submit comments that were meaningful in the context of this critical information.
 - Rather, the important information about how the HAA will be applied should be shared prior to the hearing. As stated above, if we had known about this supposed restriction our comment letter to the ZAB would have been different. Similarly, if we had heard this from the ZAB chairman during the ZABs initial discussions, our verbal comments would have been different.
 - We have since asked the ZAB and the City Planner for a copy of this memo from the City Attorney (and access to the ZAB hearing recording) three times, with neither party even replying to our request.
- Appeal process
 - On December 14th, a few days after the ZAB hearing, we sent an email to the ZAB and to the City Planner requesting to be informed when the 'approval' would be posted and how the 14 days from then would be counted (calendar vs. work days, and considering which holidays?). We received no response from either. We also wrote a longer letter to the ZAB and City Planner and requested this information again on December 27th.
 - Having received no information from the ZAB or the City planner, we reached out to the City Webmaster on 12/17/2021 and were at that time referred to the 'Approved Zoning Applications' site, and the 'Guidelines for Filing an Appeal' site. We checked the 'Approved Zoning Applications' site immediately and then regularly thereafter and never saw the project appear.

- On January 4th, we received information from the City Planner that we would be required to appeal, but no further information as to what the timing would be. Since we were not seeing any postings on the site to which we had been referred, we assumed the clock was not yet running.
- Even so, we reached out to the City Clerk's office by email on January 7th. They immediately responded and told us that the decision had been posted to the 'Zoning Applications in Appeal Period' site on the 27th of December (the same day we last asked the ZAB and the City Planner for this information, and during a holiday break), and that we had three days until January 10th to file our appeal.

There are clearly numerous fronts on which public participation in zoning decisions needs to be improved.

- 1) The city must provide clear and easily understandable information as to how and when the HAA will be applied.
- 2) Posting of information about projects and story poles should be required and enforced.
- 3) The zoom logistics for hearings should be improved to promote meaningful participation in times of virtual meetings. (Unruly participants could always be muted, but excluding or preventing participation should not be the default.)
- 4) Berkeley should more clearly and proactively make available information about the appeals process to everyone who participates in a public hearing.

Thank you for your consideration and action on these matters,



Anna Cederstav



Adam Safir



Kay Bristol

Owners of properties adjacent to 1643-47 California.



Office of the City Manager

PUBLIC HEARING

April 26, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: ZAB Appeal: 1643-1647 California Street, Use Permit #ZP2021-0001

RECOMMENDATION

Conduct a public hearing, and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

On January 8, 2021, Sundeep Grewel ("Applicant") submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street.

On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at the site, and posted a project yellow poster.¹

In response to this notification, staff received several communications regarding the project, both in support and opposition. Concerns raised include:

- a. Concerns from neighbors to the east and south due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and of shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

¹ The standard protocol for installation of a Project Yellow Poster and neighborhood contact and signatures was waived from March 2020 until July 2021.

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Support of the application includes:

- a. Improved structure and project site.
- b. Restoration of the second dwelling unit.

On December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

On December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022.

On or before April 12, 2022, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. The Council must conduct a public hearing to resolve the appeal.

Project Description

The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses including one- and two-story single-family dwellings and two-story multi-family buildings.

The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a side-by-side duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units, effectively converting the building to one unit, without the necessary approval of a Use Permit to remove a dwelling.

The property and structure is currently non-conforming due to several reasons: 1) lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) allowable residential density, containing two units when only one unit is permitted due to the lot size (prior to the unauthorized removal of 1643 California); and 3) reduced front, rear, and left side yards.

The project would make several alterations to the existing property. An existing accessory structure (shed) would be removed. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore one additional dwelling unit at 1643 California, but

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would reduce the size of this unit from the previous 650 square feet to 501 square feet. Additionally, the floor plan of the main level of right unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would also add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet in total.

BACKGROUND

The issues raised in the appellants' letters and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2) for the full text.

Issue #1: Appellants allege that ZAB and staff erroneously applied the Housing Accountability Act (HAA) in a way that inappropriately limited ZAB's ability to modify the project. The appellants contend that the HAA only applies to very-low to moderate income housing developments. They further contend that since the project does not add new units, or provide low-income housing, the HAA should not apply, and ZAB should modify the project to address the appellants' concerns.

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

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

The HAA applies to a "housing development project," which could be residential units only or a mixed-use development consisting of residential and nonresidential that is at least two-thirds residential, as well as transitional or supportive housing. The definition of housing development project uses the plural "units", meaning that it applies to two or more units.

The HAA also applies only when a project meets the local agency's objective development standards. Although the existing structure is non-conforming for lot

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coverage, density, and yards, the proposed additions would continue, but not worsen, these non-conformities. The project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), listed above.

Pursuant to Berkeley Municipal Code (BMC) Section 23C.04.070.C², additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is eligible for the use permit because it is non-conforming for the maximum allowable lot coverage, with 50 percent coverage where 45 percent is the maximum on this R-2 zoned property. The proposed project would remove an existing shed in the rear yard which would reduce the lot coverage to 44 percent, but the standards are different for a one-story or a two-story house, so the property would remain non-conforming for the revised allowable lot coverage of 40 percent.

While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore does not increase the non-conforming lot coverage. Additionally, the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, and the addition would comply with the allowable average height limit in the district.

Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not: 1) reduce any yard below the minimum setback requirements or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. The existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The

² The prior Zoning Ordinance was in effect at the time this application was deemed complete. 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)

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front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear setback. Because the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

Since the ZAB decision, the City has determined that “to lower density” means a reduction in the units built per acre. This is consistent with guidance from the California Department of Housing and Community Development. Therefore, a condition of approval that limited the size of the units would not lower the density of the project. Even if an application to expand an existing dwelling unit were found to be a housing development project, the expansion could be modified without lowering the density.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project, although ZAB may have had faulty information that led them to believe that they could not modify the project. Council may add conditions to the proposed project to address the appellants’ concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB.

Issue #2: Appellants allege that staff failed to provide adequate opportunities for neighbors to receive information and provide input on the proposed project. The appellants contend that after public comment had been closed, the ZAB chair read from a memo on the interpretation of the HAA that affected how the ZAB voted on the proposed project. Appellants claim that the memo had not been made publicly available, and that they were not able to comment on the memo during the public comment portion of the ZAB meeting. If the appellants had been aware of the memo before the ZAB meeting, they state that their letters to staff and ZAB, and public comments during the meeting, would have been different.

Response: The August 26, 2021 ZAB meeting packet included a communication from the Land Use Planning Manager to staff, that was included as a staff communication to ZAB³. The memo discusses the HAA, Density Bonuses, and objective standards. Before public comment opened at the December 9 meeting, staff and ZAB did briefly discuss the HAA and objective standards and how both relate to the project. The ZAB chair referenced the memo from the Land Use Planning Manager before public comment was opened.

³ See page 4 of the agenda:
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-08-26_ZAB_Agenda.pdf.

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Neighbors have shared letters of opposition with staff and ZAB throughout the application process, and were able to share their concerns during the ZAB meeting. Neighbors at 1609 Virginia are concerned about the increased shadows on their kitchen windows and bedroom windows, and deck and yard, during the afternoon and evening during the summer, and increased shadows on a detached office/bedroom during the winter. The neighbors are also concerned about views from the addition to their deck and yard, and kitchen and bedroom. The neighbor at 1651 California is concerned about views from the addition to her yard and kitchen. In addition, the appellants find the number of Administrative Use Permits and Use Permits required for the proposed project to be excessive.

Members of the ZAB described the impacts as “typical of an urban setting,” noted that the applicant had changed the roof from a butterfly roof to a gable to lower the height, the project had been revised from three stories to two stories with a below-grade basement, and that the addition met the 20-foot setback requirements at the front and rear. Even if neighbors are opposed to a project, ZAB may choose to not modify a project and approve it as is. Staff recommends the Council dismiss this appeal point.

Issue #3: Appellants allege that several procedural requirements were not met when story poles were not installed, the typical zoning project “yellow poster” was not installed, and the staff report was not available far enough in advance before the ZAB meeting.

Response: Page 10 of [Zoning Project Application Submittal Requirements](#) addresses when story poles are required: for new main buildings and additions exceeding 14 feet in average height in the Hillside Overlay District. This project is not in the Hillside Overlay. At the project planner’s discretion story poles may be required for projects outside of the Hillside Overlay when there is a concern about a protected view⁴, but views were not discussed prior to or during the ZAB hearing.

The appellants also state that the typical “yellow poster” was not installed by the applicant. When the application was submitted in January 2021, the 2-foot by 3-foot yellow poster requirement was on hold due to COVID-19 shelter-in-place orders. In July 2021, the yellow poster requirement was reinstated for new applications (page 4 of the [Submittal Requirements](#)). In January 2021, staff sent postcards informing neighbors of the project and posted a smaller yellow poster, similar to what is posted before public hearings, as that was the procedure at the time. Normal noticing procedures were followed by staff prior to the ZAB meeting in December 2021.

The appellants contend that the ZAB staff report was not posted by the morning of December 8, and they had to reach out to the planner to get a copy of the report.

⁴ Defined in BMC 23F.04 – View Corridor: A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

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However, the ZAB agenda, with links to the staff reports and attachments, was posted to the ZAB webpage on December 2, 2021.

Staff recommends the Council dismiss these appeal points.

Issue #4: Appellants dislike the City's Zoom meeting format. The appellants contend that ZAB meetings conducted over Zoom should have "video and chat channels enabled for all participants so that affected parties can communicate easily."

Response: Like all public meetings that have occurred during the COVID-19 pandemic, ZAB meetings are conducted over Zoom, using a webinar format. The ZAB chair, ZAB secretary, and ZAB clerk can allow people to talk during the appropriate times outlined in the agenda. Similar to regular public meetings, members of the public must request to speak when public comment is called for, and the amount of time members of the public may speak is limited by the ZAB chair and enforced by the clerk.

Staff recommends the Council dismiss this appeal point.

Issue #5: Appellants are frustrated with the City's appeal process. The appellants contend that they sent emails to ZAB and the project planner after the ZAB meeting to find out the appeal procedure, but they never got a thorough answer, until they contacted the Office of the City Clerk on January 7.

Response: Page 7 of the December 9, 2021 ZAB agenda, like all ZAB agendas, describes the procedure to request a Notice of Decision.

Staff recommends the Council dismiss this appeal point.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

RATIONALE FOR RECOMMENDATION

The ZAB considered all of the information received from staff, the applicant, and the neighbors, and determined that the project is consistent with the zoning ordinance and applicable policies of the General Plan, and would not result in detrimental impacts to residents, adjacent properties, the surrounding area, or to the general welfare of the city.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project. None of the issues raised on appeal are different from those raised at the ZAB hearing, and no new evidence or argument would dispute the reasoned findings of the ZAB. Therefore, staff

ZAB Appeal: 1643-1647 California Street
Use Permit #ZP2021-0001

PUBLIC HEARING
April 26, 2022

recommends that the City Council uphold the ZAB decision to approve 2,229 square-foot addition, with an average height of 23 feet 10 inches.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

Action Deadline:

Pursuant to BMC Section 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
Allison Riemer, Project Planner, (510) 981-7433

Attachments:

- 1: Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans, dated July 15, 2021
- 2: Appeal Letter, received January 10, 2022
- 3: ZAB Staff Report, dated December 9, 2021
- 4: Index to Administrative Record
- 5: Administrative Record
- 6: Public Hearing Notice

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

UPHOLD THE ZONING ADJUSTMENTS BOARD (ZAB) DECISION TO APPROVE USE PERMIT #ZP2021-0001 TO: 1) CREATE A NEW LOWER BASEMENT LEVEL, 2) CONSTRUCT A NEW SECOND STORY, AND 3) MODIFY THE EXISTING DUPLEX LAYOUT RESULTING IN A 3,763 SQUARE FOOT DUPLEX ON AN EXISTING PROPERTY, AND DISMISS THE APPEAL.

WHEREAS, on January 8, 2021, Sundeep Grewel (“Applicant”) submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street; and

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

WHEREAS, on December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022; and

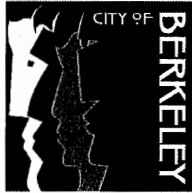
WHEREAS, on or before April 12, 2022, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on April 26, 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 approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby adopts the findings for approval made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2021-0001, and dismisses the appeal.

Exhibits

- A: Findings and Conditions
- B: Project Plans, dated July 15, 2021



City Clerk Department

May 27, 2022

Adam Safir
1609 Virginia Street
Berkeley, CA 94703

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

On April 26, 2022, the Berkeley City Council voted to adopt the enclosed Resolution No. 70,331–N.S., remanding the Use Permit to the Zoning Adjustments Board (ZAB) for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

Berkeley Municipal Code 23.410.040.G.3 states that the Council may remand the matter to the Board to reconsider the application, and/or any revisions to the application submitted after the review authority's action.

Berkeley Municipal Code 23.410.040.J.1 and 23.410.040.J.2 state that a ZAB decision on an appeal remanded by the City Council may be appealed in the normal manner unless otherwise directed by the City Council. If the ZAB does not act within 90 days after an appeal is remanded by the City Council, the original appeal of the ZAB's decision shall be placed back on the City Council agenda in the same manner as a new appeal.

If you have any questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville
City Clerk

Enclosures:

Resolution No. 70,331–N.S.
Proof of Service

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Page 2

cc: Alene Pearson, Acting Director of Planning
Steven Buckley, Land Use Planning Manager
Allison Riemer, Staff Planner
Farimah Brown, City Attorney
Sundeep Grewal, Applicant
Ido and Tamar Oppenheimer, Owner

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

PROOF OF SERVICE

Rose Thomsen, an employee of the City Clerk Department, City of Berkeley, declares under penalty of perjury, that on May 27, 2022, I served the following documents:

Letter of Decision and Resolution 70,331–N.S. by forwarding true copies to:

Adam Safir
1609 Virginia Street
Berkeley, CA 94703

Sundeep Grewal
Studio G+S Architects
2223 Fifth Street
Berkeley, CA 94710

Ido and Tamar Oppenheimer
1643 & 1647 California Street
Berkeley, CA 94703

addressed as shown by the following means of service:

By Certified Registered Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with Certified Registered thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.


By First Class Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with first class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

By Facsimile - I caused transmission of the document(s) described above to each addressee following ordinary business practices in compliance with applicable rules of civil procedure and rules of court.

By Electronic Service - I caused the document(s) described above to be sent to the electronic service address of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 27, 2022, at Berkeley, California.



Signature

Enc: Letter of Decision
Resolution 70,331–N.S.

RESOLUTION NO. 70,331-N.S.

REMANDING THE USE PERMIT TO THE ZONING ADJUSTMENTS BOARD (ZAB), TO RECONSIDER THE APPLICATION OF THE HOUSING ACCOUNTABILITY ACT, AND VERIFY WHETHER THE RENT STABILIZATION ORDINANCE APPLIES TO USE PERMIT #ZP2021-0001.

WHEREAS, on January 8, 2021, Sundeep Grewel ("Applicant") submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street; and

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

WHEREAS, on December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022; and

WHEREAS, on or before April 12, 2022, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on April 26, 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 remanding the project for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby remands the Use Permit to the Zoning Adjustments Board for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

The foregoing Resolution was adopted by the Berkeley City Council on April 26, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk

SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

ZAB 07-14-2022

Page 1 of 27

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Supplemental Communication related to ZAB 7-14-22 meeting, Item #5, ZP2021-0001
Attachments: 07-14-22 ZAB- Item 5_Appallent Slides.pdf

From: Adam Safir <cederfir@hotmail.com>
Sent: Tuesday, July 12, 2022 4:27 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Cc: Anna Cederstav <acederstav@gmail.com>; Adam Safir <cederfir@hotmail.com>; Kay Bristol <kbristol@berkeley.edu>
Subject: Supplemental Communication related to ZAB 7-14-22 meeting, Item #5, ZP2021-0001

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

Dear ZAB members,

In addition to the written document that we sent to you several weeks ago, and which is now attachment 4 (p70) of the staff report, we are sharing a set of slides with you via this email. We will in part cover these slides in our presentation at the July 14th meeting, but given the time limitation we wanted to make sure you have all this information as the slides detail both our reasoning and suggestions for potential modification of this project.

We look forward to speaking with you later this week.

Sincerely,
Anna, Adam, Kay

ZAB Hearing 7/14/2022 Action Item #5

Appellant slides detailing opposition to project

Adam Safir and Anna Cederstav

1609 Virginia St.

Kay Bristol

1639 / 1641 California St.

Why did we appeal the prior ZAB decision?*

1. As has since been confirmed, the city memo used by the ZAB in making its decision misinterpreted the HAA, leading the ZAB to believe that it's "hands were tied" and that the ZAB could not require a reduction in the number of bedrooms or square footage of this project, entirely counter to past City practice.
 - The Housing Accountability Act (HAA) -- meant to drive new affordable housing and protect low-to-moderate income housing – had been misinterpreted to suggest that the city was obligated to permit conversion of two lower-income units into a luxury home with an attached ADU, drastically limiting the powers of the City and ZAB in contravention of the law.
 2. We felt that the city was unjustly allowing addition of a massive expansion and second story that adjacent neighbors oppose because it impacts their properties and multiple City goals:
 - Even though this project does not add any new housing or in any way alleviate the current housing crisis, and to the contrary decreases availability of lower-income housing in the neighborhood.
 - Even though the zoning standards would be exceeded and no objective standards are in place to either allow or disallow the impacts of the proposed project on shadow, light and privacy of adjacent properties.
 - Even though it would set a precedent for gentrification and elimination of lower-income units, in contravention of the General Plan and the goals of the City Counsel related to maintaining diversity.
 - Without considering all potential modifications initially suggested by the City Planner (removal of top floor to reduce impacts on neighbors) and by us in conversations with the City Planner.
- * See Pages 1-2 of written submission for detail

What's at stake here?

Detriment to city:

- Loss of two, small protected units that would be rent-controlled if rented, appropriate for single persons, students, elderly, new families – in the highly sought-after North-Berkeley neighborhood where diversification is a priority.
- Precedent that such units will be allowed to be converted into massive single-family homes.
- Precedent that illegal modification of a protected-unit duplex into a single family home will yield no consequence, with the City eventually permitting further modifications in that direction.
- Precedent that exceeded lot coverage of a storage shed with no impact on neighbors can be traded in to justify lot coverage exceedance of a three-level structure with significant impact on neighbors.

Detriment to neighbors:

- Significant reduction in property value and enjoyment of properties due to loss of light, air and privacy.

ZAB Role and Responsibilities

Approves or denies permits related to the use and development of land in Berkeley. (ZAB website)

Is not limited by HAA or SB330 from requiring significant modifications, including potentially denying or limiting request for expansion of square footage. (City Council, City Attorney)

Considers multiple factors in making land-use decisions, including the existing land uses (in this case, a rent-controlled low-income duplex) and social and economic consequences of the proposed project. (LU-4 on Discretionary Review)

Is appointed by City Council which delegates to the ZAB the administrative duty of applying established policies to make sure decisions to issue or deny permits are in line with current City goals. (Groch vs. City of Berkeley, 1981)

Relevant elements of City Plan and Policies that would support denial of this permit but are not mentioned in staff report

Berkeley General Plan Goal 2:

“Take steps to maintain an adequate supply of decent, affordable housing ...One major threat to Berkeley’s character and to its diversity is gentrification.”

“To maintain Berkeley’s unique character and quality of life, Berkeley must strive to maintain the cultural, social, and economic diversity that is such an important aspect of the character of Berkeley.”

LU-4 on Discretionary Review specifically states that among factors to be considered for land-use decisions are the existing land uses (in this case, a rent-controlled duplex of small, low-income units) and social and economic consequences of the proposed project.

H-1 which seeks to Increase the number of housing units affordable to Berkeley residents with lower income level. We assume this translates to a directive to not permit the elimination of more affordable housing units by allowing those that exist to be substantially reduced in size or converted into much larger residences, as proposed here.

H-32 (cited as H-33 in the staff report) regarding the need to encourage housing production adequate to meet City needs and the City’s share of regional housing needs. The question for ZAB here becomes whether it is more important for meeting City needs to maintain the existing smaller, protected rent-controlled, lower-income units, or to allow gentrification via massive expansion beyond zoning standards.

Comments on elements of City Plan and Policies that were mentioned in staff report

LU-3 regarding infill development was cited by staff as applicable to this project, but it is not. Whereas the City plan indeed advocates for infill development, infill development” refers to **building within unused and underutilized lands within existing development patterns.** (www.opr.ca.gov/planning/land-use/infill-development/)

“Infill revitalizes communities by breathing new life into empty buildings, vacant lots, and unused parcels.”

This property is already built beyond zoning standards for density and lot coverage and thus could not possibly be considered infill development. Thus LU3 does not apply.

LU-7. Here the staff focuses on subpart A and the requirement that new development be consistent with zoning standards. If this project is indeed new development, then it should be required to meet the 40% lot coverage for a two story building. If it is not new development, then subpart B that requires the city to “monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses” should apply. In either scenario, the second story should not be allowed.

H-12 which seeks to encourage construction of new medium and high density housing on major transit corridors was referenced. The proposed project is not new construction and does not add any units, and thus this policy would not apply.

Current permitted structure.

- One-story duplex, with two identical units, each 671 sq. ft. (total 1,342)
- Both are protected, rent controlled units, ideal for lower-income residents.
- Duplex structure represents 44% lot coverage (3100 sq. ft. lot), where the maximum allowed for a single story structure is 45%. (Added backyard shed raised lot coverage to 50%)
- Duplex was illegally converted by project proponents into a single home, when their four children were young more than 20 years ago



Owner's current cars use all adjacent street parking and no off-street parking exists on this property

Proposed conversion

- The two 671 sq ft units would be eliminated and be replaced by a 3763 sq.ft. home containing an apartment.
 - One 3,262 sq. ft., three-level home with 4 bedrooms, a 'storage room', 5 bathrooms, and a 700 sq. ft. gym/family room, to be occupied by two adults.
 - One 501 sq. ft. apartment to be occupied by an adult son (who lives in Canada / Switzerland).
- Per the City Planner staff report: "non-conforming for lot coverage, density, and yards" (40% lot coverage is maximum for this structure) and thus "does not comply with the applicable, objective zoning standards" (requires 7 UPs/AUPs)
- Proposed design is opposed by two of three adjacent neighbors because it would be a massive dwelling on a tiny lot and because the third level generates privacy and shadow impacts, thus reducing property values.
- Both units would theoretically remain rent-controlled, but it is unlikely an owner would ever rent out the 4BR, 5 bath unit + gym under rent control.



Subjective vs. objective standards

City Planning argues that this project poses “no detrimental impacts” BUT that analysis:

- Does not consider loss of lower-income units, impacts on gentrification, and diversity in the city;
- Does not consider likelihood of rent-controlled units with the new configuration actually being rented;
- Does not consider precedents established by this case for future development in the city;
- Is based on a department policy of recommending for approval any permit that can be legally requested; and
- Makes an entirely subjective determination as to what constitutes minimal impact on neighbors.

The Berkeley City Council has not yet established objective standards for privacy, air and shadows.

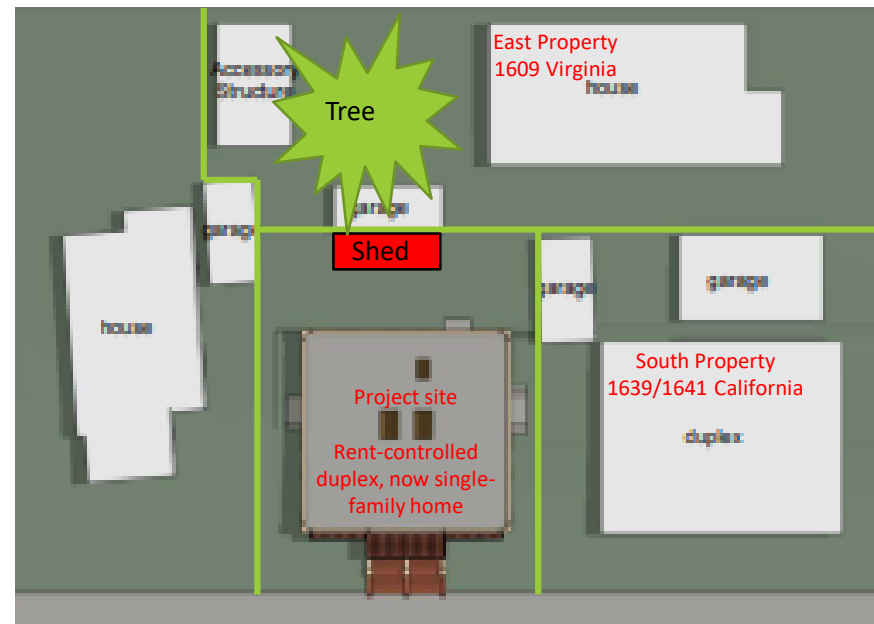
In absence of objective standards, it is our belief that ZAB should act with precaution with regard to detriment to neighbors, and focus on promoting the longer-term interests of the city, which in this case favors retaining existing smaller, lower-income units to promote diversification and help alleviate the housing crisis while also meeting sustainability goals.

Detriment to the City: Why you should not eliminate smaller, more affordable units.

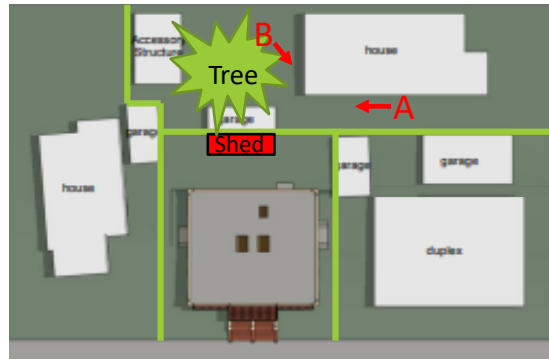
- Protect lower-income units that increase economic and racial diversity in Berkeley, especially North Berkeley.
- Promote inclusion and integration by maintaining a variety of size, price and kinds of units that are currently interspersed throughout neighborhoods.
- Help meet Berkeley's climate change goals by protecting and promoting smaller dwellings.
- Limit real estate speculation and gentrification that in the long-term will drive out lower-income residents and increase Berkeley's carbon foot-print.

These goals can all be accomplished by the ZAB and planning department exercising their discretion to not issue UPs and AUPs. There is nothing in the law that requires the City to give use permits for expansion of structures that do not bring additional housing units and it is ZAB's responsibility to approve OR DENY permits requested. This project does not add housing and thus is not protected under SB 330 or the HAA.

Detriment to neighbors: Property lines/structures impacted



Detriment to neighbors: Shading of 1609 Virginia



During the spring/summer months, much of the light entering the kitchen, dining room, and bedroom in the afternoon and evenings would be eliminated.

Redwood trees largely shade the back yard. During the summer months, the frequently used small sunny back yard deck and sitting area to the west of the house would both lose late-afternoon/evening sun from the proposed top story.

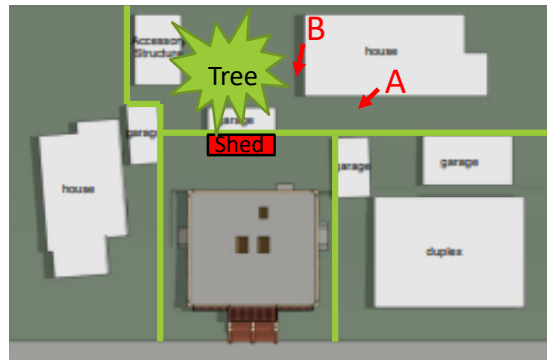


(‘driveway’, looking north)



(rear deck, looking south-west)

Detriment to neighbors: Privacy at 1609 Virginia



When the neighbors walk on their roof, we have a clear view of them from the bedroom and dining room windows. We already removed a west-facing window to eliminate views of their house. A large new window facing east would now look into ours.

The proposed top floor would not only reduce light, but would also provide direct views into the house. The sky in these pictures would be almost entirely replaced by construction.

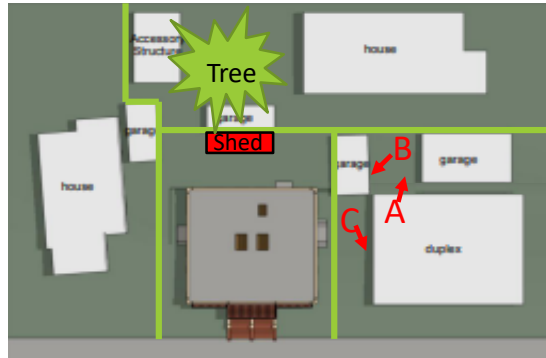


(View from mid-house dining room window)



(View from farthest east bedroom window)

Detriment to neighbors: 1639/1641 California



A - patio



B – from patio looking north



C – north fenestration



If this project were allowed, the very small outdoor space (a quiet and private patio) would be adjacent to a towering structure with views into the patio, and the view of the sky from north facing windows would be eliminated.

Current design significantly exceeds allowed floor area for new construction

The architect argues that the proponents need to be issued AUPs and UPs because it is a pre-existing building that has many constraints. "...we have to deal with a small lot and it was already overbuilt...if this was an empty lot we'd be building a very, very different structure on the site" (Sonny Grewal, ZAB hearing @ 1:27)

That is absolutely true and the owners were presumably 100% aware of these limitations and the rent-controlled nature of the property when they purchased it.

Per City Planning, 6/24/21: a "replacement building would have to comply with all applicable development standards of the R-2A zoning district, including lot coverage and setbacks."

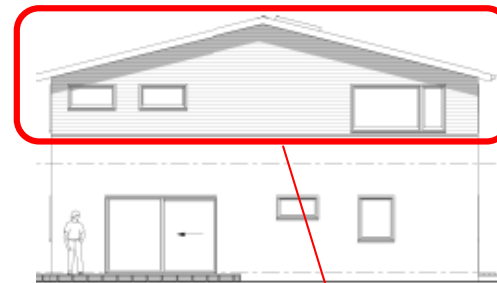
So, just because the project might require use permits if ZAB allowed expansion, does not mean that ZAB has to permit square footage beyond what would normally be allowed for the lot.

- **Today's standards for new construction, if complying with all zoning, would permit ~2700 sq.ft.**
- **By comparison, a 2-level structure at the existing footprint and beginning at ground level – as initially proposed by the City Planner - would be 2,668 sq.ft and would have little impact on neighbors although it would still remove a low-income unit from the City.**
- Meanwhile, the current proposed design is for 3,763 sq. ft.

Backyard storage shed. Not a fair trade for the proposed new upper floor for neighbors.

City planning considers that removal of a backyard shed added in 1952 represents a reduction in lot coverage that somehow justifies issuing a Use Permit to exceed lot coverage for a multi-level structure rather than requiring a variance for exceeding lot coverage. Allowing a shed removal to guarantee a right to a second story creates a pathway for others in Berkeley to circumvent zoning standards to build huge multi-level homes that exceed lot coverage for the new number of levels.

The 40% lot coverage zoning standard for a two-story structure should be applied as the impacts to neighbors of a shed vs. a second story are not even remotely comparable.



New upper level would substantially impact privacy and light



Current shed barely visible over fence

Discussion of options

We want to be clear that we do NOT feel that it is appropriate for a substantial expansion of this lower-income, rent-controlled duplex to be permitted, given current housing pressures in Berkeley, the City council's environmental & housing goals and objectives, the scale of the project proposed, and the detriment it would bring to our properties and property values.

The original City Planner assigned to this project agreed with the above, which is why he recommended we ask for major modifications of the permit, and why his advisory comments initially recommended a much smaller project (two stories, one of which is at street level to limit impacts on neighbors.)

Nevertheless, because this is our only opportunity to show ZAB various potential options, the following slides show different options for mitigating impacts.

Summary of options in order of preference

- 1. Protect and retain small lower-income duplex units in Berkeley by requiring structure to remain at current size and to restore the unit that was illegally removed.**
2. Allow expansion of one unit through addition of basement level.
3. Allow expansion of one unit by raising current structure 3' to add a 1st floor at street level.
4. Allow 3rd level (2nd story) with greatly reduced sq.ft. to south and east sides
5. Make minor modifications to proposed project (fencing, windows, parapet)

Options presented to ZAB (Five options, in order of preference), Options 1&2

1. Do not allow UPs/AUPs where not required and where the outcome is contrary to City goals and needs. Instead, choose to protect and maintain the lower income, rent controlled units of this North-Berkeley duplex. Require the owners to reconvert the current single-family residence into the original and legally registered duplex, thus bringing back the second unit to the neighborhood.
2. Allow only an expansion of the structure to 2,668 sq. ft. by adding the basement level with little impact to neighbors. **This option would be in line with the maximum square footage allowed on this lot, if this project were new construction.**
 - Removal of the basement 700 sq.ft 'gym/family-room' would allow for additional bedrooms / bathrooms on that level.
 - This would still be the only house on the block that has expanded to the size limit based on setbacks and lot coverage

Option 3

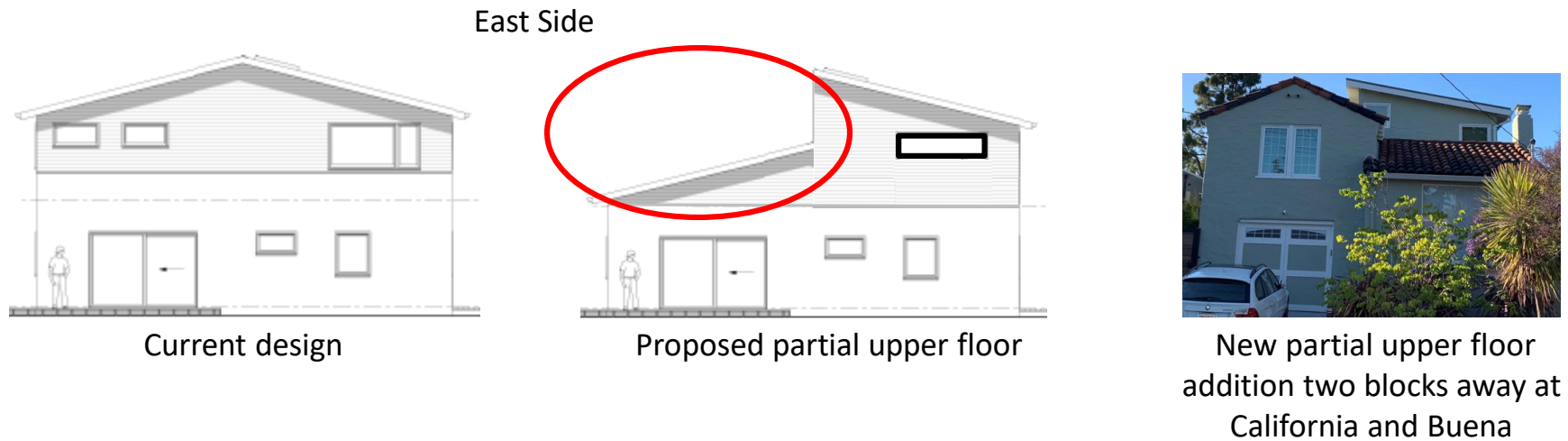
3. Consider an expansion of the structure by raising the current level 3ft and adding a 1st floor at street level again increasing square footage to 2,668 sq.ft. while allowing easier access and more light into the lower story.

Note that this is the **design that city planner Nick Armour originally suggested to the applicants in his February 2021 staff advisory comments even prior to learning that neighbors were opposed.**

- We might be willing to support raising a two level house by ~3' so that more windows could be added to the lower level
 - In this case, as well as for options 4 and 5 below, addition of a 2-3' obscuring trellis above the current property line fence could mitigate privacy concerns

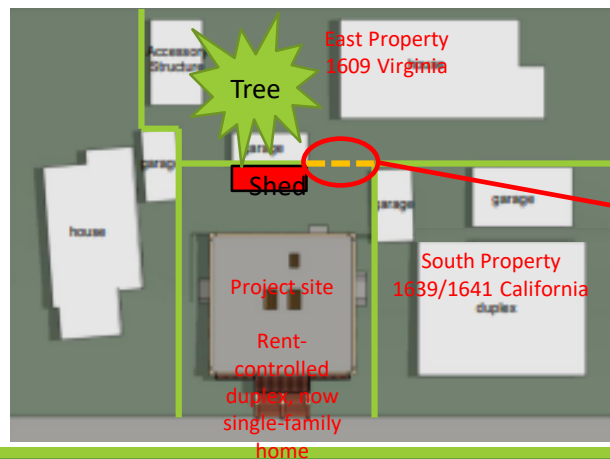
Option 4.

4. If the ZAB opts against preserving rent-controlled, lower-income housing and decides to permit the massive three-level, two-story structure, even so it could still modify the project to significantly limit the size of the upper floor addition by pulling it back from the south side of the building. Shadow studies would be needed to determine the amount of reduction needed, but this could reduce privacy and shadow impacts on the adjacent neighbors that oppose the project. Also require the modifications described in option 5 below.



Option 5 a – Add trellis to fence to increase 1st floor privacy

5. As a very last option, if the permit for this huge structure on such a small lot were nevertheless to be issued, require the following modifications on the south and east side of the house
 - a. Addition of trellis to fence between properties (raised to ~8½ ft) would block 1st floor views between properties
 - b. Modify all upper-level windows facing south and east to be awning windows (positioned above 5') to increase privacy for everyone (see following slides)
 - c. Remove the parapet feature from the upper-level east side of the house and replace it with a sloped roof that will not collect debris from the overhanging trees in a difficult-to-reach area. Specifically condition the permit so that no deck can be added through permit modification (see following slides)



Option 5 b - Window Reduction East Side

Make all eastern facing windows awning style windows set at 5' or above

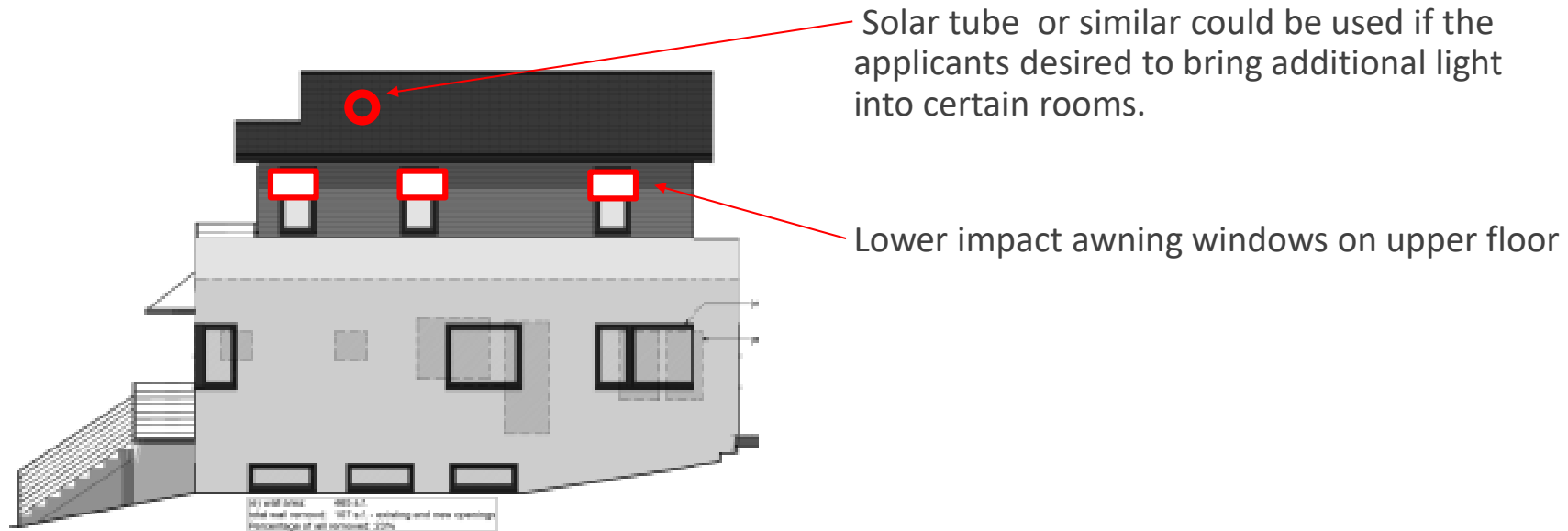


(Shadow's show existing windows)



(Red shows 'lower impact' window)

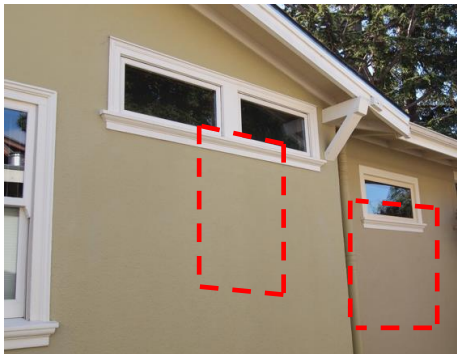
Option 5 b – Window Reduction South Side



Relevant for any upper floor addition (Options 4 & 5)

Example: 1609 Virginia remodel and fenestration (2017) was planned to decrease views between neighbors

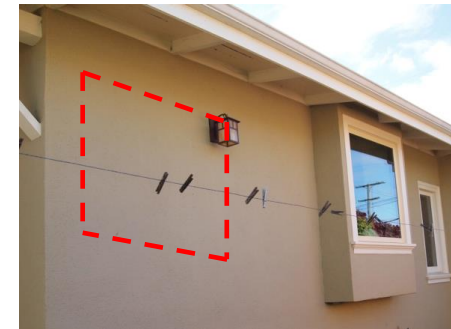
East side



North side



West side

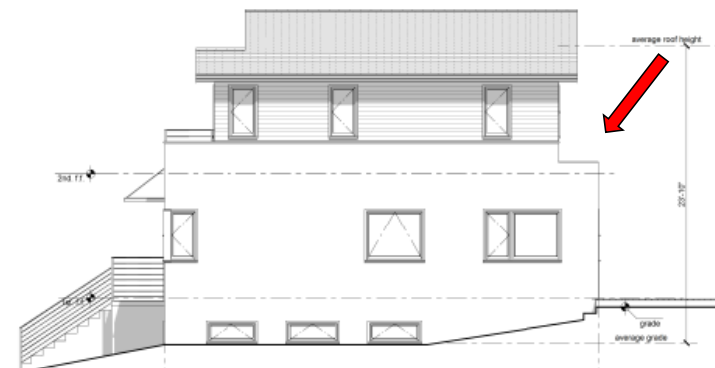


- North Side: Our 2017 remodel moved most of our windows to the north side, to increase privacy without losing too much light/sun. Very large windows on the North side now bring light into our bedroom and kitchen, but would be shaded part of the year by the proposed project.
- East Side: Bedroom and bathroom remodels utilized high-awning windows to ensure privacy w/ neighbors
- West Side: One window removed (---) to eliminate our direct view of the project property

Option 5 c - Parapet removal

Given the initial design submitted, history of illegal modifications on this property, and the potential to seek a post-permit legal modification directly from planning, we are concerned about a possible future conversion of the parapet roof to a 'deck' within the setback.

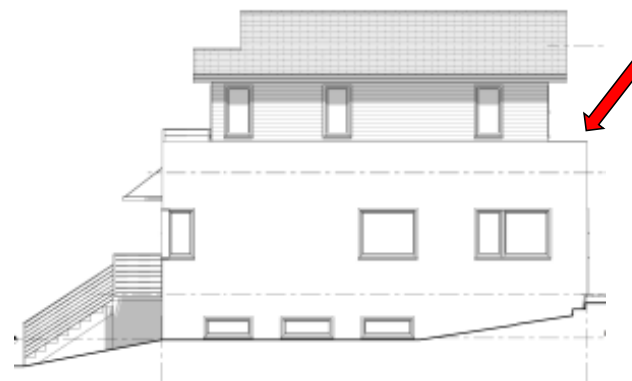
- The rear parapet was removed in 1st resubmission, but then added back in the final version for no apparent reason.
- Parapet only serves to collect tree debris and would be difficult to clean with no direct access (a continual source of frustration for the property owners for their current flat roof)
- Add condition to permit such that upper floor east side deck cannot be added in the future



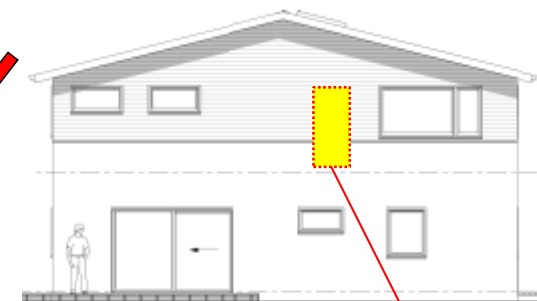
From 1st resubmission 5/25/21
(south side)

5/25/21 applicant response p3:

"We have eliminated the balcony at the rear (east side)"



From Final resubmission 8/21/21
(East side - rear)



Location of possible door if a rear 'deck' were to be added later and as proposed to planning in early 2021.

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WE WILL PROCEED TO ITEM 33.

AND I'D LIKE TO SUMMARIZE THE PROCESS FOR THE CONDUCT OF THIS HEARING TONIGHT.

FIRST, WE WILL HEAR A PRESENTATION ON THE APPEAL.
THEN, WE WILL PROCEED TO THE PUBLIC HEARING AND THE APPELLATE OR APPELLATE' S WILL HAVE FIVE MINUTES TO ADDRESS THE CITY COUNCIL ON THE APPEAL.

FORWARD THE APPLICANT FIVE MINUTES TO PRESENT ON APPLICATION.

IF THERE ARE, THIS IS SUMMARIZED ON THE PUBLISHED AGENDA, IF THERE ARE UP TO TEN SPEAKERS, EACH SPEAKERS TWO MINUTES.

MORE THAN TEN SPEAKERS, EACH SPEAKER WILL HAVE ONE MINUTE TO ADDRESS THE APPEAL.

I'D LIKE TO RECOGNIZE THE PLANNING DEPARTMENT AND I'LL GO FIRST TO ELAINE PETERSON.

I WILL TURN THE FLOOR OVER TO YOU

>> THANK YOU, MAYOR AND COUNCILMEMBERS.

ALLISON IS GOING TO START THINGS OFF WITH THE PRESENTATION

>> MAYOR J. ARREGUIN: I SEE THE PRESENTATION.

>> CAN YOU STILL SEE IT NOW?

>> MAYOR J. ARREGUIN: YES, WE CAN SEE IT.

>> OKAY.

MAYBE I'LL STOP AND COME BACK

>> MAYOR J. ARREGUIN: GREAT.

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I'M ALLISON.

WE'RE TO HEAR APPEAL ON ZONING DECISION REGARDING 1643-1647
CALIFORNIA STREET.

THE SUBJECT PROPERTY ON CALIFORNIA STREET BETWEEN LINK ON AND
VIRGINIA IN THE RESIDENTIAL DISTRICT.

THERE'S ONE STORY DUPLEX AND SHED ON THE SITE.

BOTH THE DUPLEX IS OCCUPIED AS ONE UNIT BY THE OWNERS.

THE PROPERTY IS NOT CONFORMING FOR LOT COVERAGE FOR CITY
SETBACKS.

EXISTING LOT COVERAGE IS 50% WITH 5% MORE COVERAGE THAN ALLOWED
FOR ONE STORY BUILDING IN THE R2 DISTRICT.

IT IS NON-CONFORMING FOR RESIDENTIAL DENSITY FOR TWO UNITS WITH
1 UNIT ALLOWED FOR THE LOT OF THE SIZE.

THE FRONT AND REAR SETBACKS ARE NON-CONFORMING.

SINCE THE PROPERTY IS EXISTING NON-CONFORMING FOR LOT
COVERAGE -- HEIGHT AND LOCATION OF THE ADDITION AND
ADMINISTRATIVE USE PERMIT FOR ADDING FIFTH BEDROOM.

THE EXISTING BUILDING WOULD BE SHIFTED ONE INCH TO THE SOUTH TO
SET BACK OF FOUR FEET.

THE PROJECT WOULD REDUCE THE FIVE OF THE UNIT AT 1643 CALIFORNIA
BY ABOUT 150 SQUARE FEET AND THE RIGHT UNIT 1647 CALIFORNIA
WOULD EXPAND BY CREATING NEW BASEMENT LEVEL BELOW THE EXISTING
BUILDING AND NEW SECOND FLOOR.

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NEW SECOND FLOOR WOULD STEP IN AT THE REAR TO COMPLY WITH THE
REQUIRED CENTER.

THE FRONT BACK WOULD BE EXTENDED BACK WITH THE SECOND STORY AND
DOWN WITH THE BASEMENT.

THE REAR SET BACK WOULD BE SET DOWN WITH THE EXPANSION OF THE
BASEMENT.

1647 CALIFORNIA WOULD EXPAND OUT 26 HUNDRED FEET.

AT THE REAR EXISTING SHED WOULD BE REMOVED TO ADD COVERAGE.

THE PROPOSED AVERAGE HEIGHT IS 24 FEET BELOW THE LIMIT OF 28
FEET.

THE DOTTED LINE AT THE TOP OF THE ROOF SHOWS THE PRIOR DESIGNED
WHICH WAS MODIFIED AFTER STAFF SENT FIRST REVIEW LETTER.

THE APPLICATION WAS SUBMITTED IN JANUARY 2021.

REVISED DESIGNED SUBMITTED IN MAY.

IN SEPTEMBER, THE OBLIGATION WAS DEEMED COMPLETE.

IN DECEMBER, ZAB COMPLETED THE PROJECT.

THE DECISION WAS APPEALED.

OVERALL THE APPELLATE' S ARE CONCERNED ABOUT THE HOUSING
ACCOUNTABILITY AND PROCEDURAL REQUIREMENTS.

THERE WERE NOT CONCERNED ABOUT IMPACTS TO PROTECTED USE.

THE TYPICAL YELLOW POSTER NOT REQUIRED WHEN APPLICATION
SUBMITTED BECAUSE SOME SIMILAR REQUIREMENTS WERE MODIFIED AT THE
BEGIN OF THE PANDEMIC.

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IN JANUARY 2021, STAFF SENT POSTCARDS INFORMING NEIGHBORS OF THE PROJECT.

SIMILAR TO WHAT IS POSTED BEFORE PUBLIC HEARINGS.

THE STAFF REPORT WAS AVAILABLE FROM A LINK IN THE AGENDA POSTED A WEEK BEFORE THE MEETING ON THE ZAB WEBSITE.

TO THE APPEAL POINTS, THE HOUSING ACCOUNTABILITY ACT SHOULD NOT APPLY BECAUSE NO UNITS WERE ADDED.

AND APPLYING THE HAA LIMITED TO MODIFY PROJECT.

THE APPELLANT'S WOULD MODIFY THE PROJECT TO ADDRESS THE CONCERNS ABOUT SHADOWS AND PRIVACY.

STAFF AGREES THAT THE PROJECT INCLUDES TWO UNITS AND NO NEW UNITS ADDED.

THE HAA SHOULD NOT APPLY TO THIS PROJECT.

THE PROJECT MUST BE THE OBJECTED ZONING STANDARDS FROM THE BERKELEY MUNICIPAL CODE.

THE NEIGHBORS AT 1609 NEIGHBOR ARE CONCERNED ABOUT THE SHADOWS IN THE WINDOWS AND THE DECK AND YARD DURING THE AFTERNOON AND EVENING DURING THE SUMMER AND INCREASE SHADOWS ON DETACHED OFFICE/BEDROOM DURING THE WINTER.

ZAB CANNOT FIND DETRIMENT IN THE PROPOSED SHADOW.

NEIGHBORS IN 1609 VIRGINIA ARE CONCERNED ON VIEWED ON THE DECK, KITCHEN AND BEDROOM.

AND THE NEIGHBOR AT 1651 CALIFORNIA IS CONCERNED ABOUT THE USE

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OF THE ADDITION OF THE YARD AND THE KITCHEN.

ZAB CONCERNED NEIGHBORS CONCERN AND SINCE DRIVEWAYS ACT AS
BUFFERS FROM BOTH SIDES.

THE PROJECT HAVE BEEN REVISED FROM THREE STORIES TO THREE.

THE ADDITION COMPLIED WITH THE 22-FOOT SET BACK.

STAFF BELIEVES THE ZAB DISCUSS EVENTS PRESENTED AT THE HEARING
AND ACTED ON THE PER VIEW TO PROPOSE BUDGET.

STAFF RECOMMENDS UPHOLDING ZAB APPROVING THE ADDITION.

COUNCIL MAY CONTINUE THE HEARING OR MODIFY THE ZAB DECISION AND
APPROVE THE PERMITS OR REVERSE THE DECISION AND DENY THESE
PERMITS OR REMANDED THE PROJECT TO ZAB OR CONSIDERATION OF
SPECIFIED ISSUES.

THANK YOU.

I'M AVAILABLE FOR QUESTIONS

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

BEFORE WE PROCEED TO PUBLIC TESTIMONY, I WOULD LIKE TO ASK ANY
EX PARTE DISCLOSURES FROM THE CITY COUNCIL ON THIS APPEAL.

IF SO, RAISE YOUR HAND.

COUNCILMEMBER KESARWANI.

>> R. KESARWANI: YEAH, I MET WITH THE APPELLANT'S TO REVIEW
THE CONCERNS WITH THE PROJECT.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU.

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ANY OTHER EX PARTE DISCLOSURES.

JUST NOTE THAT MEMBERS OF THE COUNCIL CAN DISCUSS THOSE PARTICULARLY OR SUBMIT IN WRITING IF AVAILABLE TO REVIEW IN THE CITY CLERK.

NO ADDITIONAL HANDS.

NO EX PARTE DISCLOSURES TO BE MADE.

WE CAN PROCEED TO PUBLIC TESTIMONY.

AS ONE APPEAL, I WOULD LIKE TO ASK THE CLERK FOR NOTIFICATIONS. FILE BY THREE NEIGHBORS.

MY UNDERSTANDING, PURSUANT TO THE ROLES, THE APPELLANT'S HAVE FIVE MINUTES AND USE THE TIME AS THEY WISH.

>> IF THEY'RE ASSIGNERS TO THE SAME APPEAL, THEY SPLIT THE FIVE MINUTES.

>> MAYOR J. ARREGUIN: I THINK ANA HAS HAND RAISED.

I WILL PROMOTE YOU TO PANELIST.

I'LL PROMOTE ADAM AND KATE BRISTOL.

AS I NOTED, AS ONE APPEAL FILED, THE APPELLANT'S HAVE FIVE MINUTES TO PRESENT ON THE APPEAL.

LET ME MOVE YOU OVER.

THIS IS ADAM.

AS I TOLD THE CITY ATTORNEY, I'M THE ONLY ONE SPEAKING

>> MAYOR J. ARREGUIN: OKAY, GREAT.

>> JUST ME.

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>> MAYOR J. ARREGUIN: THANK YOU, FOR CLARIFYING THAT.

I WILL TURNOVER TO YOU.

YOU HAVE FIVE MINUTES TO PRESENT ON THE APPEAL

>> HOLD ON A MOMENT WHILE I SHARE MY SCREEN.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU

>> ALL RIGHT.

CAN YOU SEE THE SCREEN?

>> MAYOR J. ARREGUIN: YES, WE CAN.

>> PLEASE, THERE'S MISSED UNDERSTANDING FROM PLANNING.

LET ME GO THROUGH OUR SLIDES HERE.

FIRST OFF, THANK YOU MAYOR AND CITY COUNCILMEMBERS TO SPEAK
TONIGHT ABOUT THE APPEAL.

THERE'S MULTIPLE REASONS WHY YOU SHOULD SUPPORT THE APPEAL.

THE REASON IN THEIR INTERPRETATION IS LIMIT THE AUTHORITY OF THE
PROJECT.

CRITICAL REASON TO PROTECT AFFORDABLE HOUSING, EQUITABLE AND
INCLUSION.

TO RECAP, THE EXISTING STRUCTURE AT DUPLEX TWO UNITS ILLEGALLY
CONVERTED TO A SWELLING BY THE CURRENT OWNERS.

THE PROPOSED STRUCTURE CONTAINS A LUXURY HOME INCLUDING A GYM
AND CONTAIN AN APARTMENT.

REQUIRES USE PERMIT FOR EXCEEDING LAW COVERAGE.

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LET ME MAKE CLEAR, WE ARE NOT ASKING THE COUNCIL TO DISALLOW THE PROJECT ALL TOGETHER.

WE WANT TO SEE RENOVATION ON THE PROPERTY.

WE ARE ASKING THAT YOU SEND BACK TO THE ZAB FOR TURNING YOUR ATTENTION HEARING.

THE PRIMARY REASON FOR THIS FOR OUR APPEAL IS THAT WE FELT CONFIDENT THAT THE HAA WAS BEING MISINTERPRETED.

THE NEW LAW WAS MEANT TO DRIVE NEW AFFORDABLE HOUSING.

SO, THIS QUOTE IS FROM PLANNING DIRECTORS LETTER.

(READING FROM POWERPOINT SLIDE).

THE LETTER GOES ON TO SAY, ZAB MAY HAVE FAULTY INFORMATION THAT MAY LED BELIEVE THAT THEY MAY NOT MODIFY THE PROJECT.

ADDS TO THE COUNCIL, TO ADDRESS THE CONCERNS OR MAY REMAIN ON THE PROJECT.

LET'S LOOK AT THE TEN MINUTES OF THE ZAB HEARING OF THE PROJECT TO HEAR THE FAULTY INFORMATION.

WE SHARED THE FULL TRANSCRIPT WITH MARKERS FOR EASE OF REFERENCE.

THIS EXCHANGE SHOWS HOW COMMISSIONERS WERE ASKING CLARIFICATION TO LIMIT SQUARE FOOTAGE AND BEDROOMS.

THE CITY MANAGER SAID THERE WAS NO DESCRIPTION.

(READING FROM POWERPOINT SLIDE).

AGAIN, TO BE CLEAR, WE ARE NOT ASKING FOR ANYTHING OUTRAGEOUS.

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WE ARE ASKING THE COUNCIL TO GUARANTEE STATUS AND SENDING THE PROJECT BACK TO ZAB FOR EVALUATION AND CONTINUING OF HEARINGS.

WE SHOW PROPOSED EXCHANGES FOR CONSIDERATION.

SLIDE 11 AND 12 DISCUSS WHY WE THINK THE COUNCIL SHOULD DISALLOW THE UPPER FLOOR.

WHY DEMOLITION OF IMPACT SHED.

(READING FROM POWERPOINT SLIDES).

I'LL LEAVE YOU WITH A FINAL THOUGHT.

DURING THE HEARING, THE APPLICANT STATED IF LOT EMPTY THEY WERE BUILDING DIFFERENT STRUCTURE.

AS CITY PLANNING TOLD THEM, THEY HAVE TO FOLLOW ALL APPLICABLE STANDARDS.

THEY WOULD BE ALLOWED TO ADD ABSOLUTELY AT A MAXIMUM BUILDING THAT IS ABOUT THREE QUARTERS OF THE SIZE THAT THEY'RE CURRENTLY PROPOSING.

BECAUSE OF THAT, AND MISUSE OF THE LAW, WE ASK THAT YOU REMANDED BACK TO ZAB WITH THE CURRENT USE OF THE LAW CONSIDER THE CASE.

WITH THAT, I THANK YOU FOR THE CONSIDERATION AND CONSIDERATION OF THE APPEAL.

HAPPY TO ANSWER QUESTIONS

>> MAYOR J. ARREGUIN: WE WILL HOLD QUESTIONS AFTER THE PUBLIC TESTIMONY.

I WILL NOTE IT WAS ON THE SUPPLEMENTAL PACKET.

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WHO WILL BE REPRESENTING THE APPLICANT?

PLANNING STAFF OR CITY CLERK SO I KNOW WHO TO PROMOTE TO

PANELIST

>> OH, SUNNY.

WELL,

>> OH, I DO SEE SUNNY.

>> I WILL PROMOTE TAMARA.

JUST CONFIRM THAT THEY'RE REPRESENTING THE APPLICANT.

TAMARA, JUST VERIFY THAT YOU WILL BE REPRESENTING THE APPLICANT

>> SUNNY IS TRYING TO LOG IN AND HE CAN'T.

OUR ARCHITECT IS TRYING TO LOG IN BECAUSE HE COULDN'T RAISE HIS
HAND.

IF YOU CAN SEE HIM, PAGE HIM IN

>> MAYOR J. ARREGUIN: I DON'T SEE HIS NAME ON THE ATTENDEE
SIDE.

ARE THEY CALLING IN FROM A PHONE NUMBER?

>> YES.

>> MAYOR J. ARREGUIN: WHAT IS THE NUMBER THEY'RE CALLING IN
FROM TO SEE IF THEY'RE ON THE ATTENDEE SIDE.

>> HOLD ON A SECOND.

>> 510-393-5691.

>> MAYOR J. ARREGUIN: I SEE THEM NOW.

>> ALL RIGHT.

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>> MAYOR J. ARREGUIN: CALLER WITH THE NUMBER ENDING 691 IS THE APPLICANT REPRESENTATIVE.

THEY'RE UNABLE TO UNMUTE.

PRESS STAR 6.

YOU SHOULD BE ABLE TO UNMUTE YOURSELF AND SPEAK.

PRESS STAR 6.

>> SUNNY, ARE YOU THERE?

>> MAYOR J. ARREGUIN: I ACTIVATED THE LINE AND ENABLED THEM TO SPEAK.

>> WE'RE TRYING TO CALL HIM.

>> I CAN'T FIND UNMUTE.

>> YOU HAVE TO DO STAFF 6.

>> I DID.

I PRESSED IT SEVERAL TIMES

>> MAYOR J. ARREGUIN: TO CITY CLERK, WHAT DO YOU ADVICE?

>> IF YOU TALK ON THE PHONE, CAN YOU HEAR ME.

>> MAYOR J. ARREGUIN: LET ME ASK THE CITY CLERK TO ADVICE WHAT THE CALLER SHOULD DO?

>> THE CLERK: I'M NOT SURE WHY THE TECHNICAL DIFFICULTIES ARE WHY WE CAN'T JOIN.

>> CAN YOU HEAR ME.

>> MAYOR J. ARREGUIN: WE CAN HEAR BUT NOT AS LOUD, BUT WE CAN HEAR HIM.

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>> OKAY.

I'LL SPEAK.

THAT'S WHAT IS GOING TO HAPPEN TODAY.

MY NAME IS TAMARA.

I'M THE OWNER OF THE HOUSE.

WE WERE PLANNING SUNNY DO MOST OF THE TALKING.

THERE'S NO QUESTION THAT HOUR HOUSE NEED A REPAIR BECAUSE IT IS
A TWO-UNIT HOUSE.

WE WOULD LIKE TO REMOVE ONE OF THE UNITS TO THE YOUNGEST SON WHO
IS VISION IMPAIRED AND NEVER HAVE DRIVER LICENSE.

THE LOCATION NEXT TO THE BART.

GIVE HIM THE DEPENDENCIES THAT HE DESERVES.

I'M APOLOGIZING FOR MY ENGLISH.

ENGLISH IS SECOND LANGUAGE.

GET THE APPROVAL FROM YOU AND NOT TO BE SEND BACK TO THE ZAB.

THE STUFF ON PAGE 5, THREE POINTS TO YOU ON PAGE 9.

THE NOTES SUBMITTED TO THE ZAB.

THE ZAB DO NOT TAKE CONSIDERATION BECAUSE THEY DIDN'T KNOW ABOUT
IT.

BEFORE THE ZAB VOTED, SAID NO MODIFICATION REQUEST TO GO AHEAD
AND VOTE.

THEY DIDN'T REALLY SUBMIT ANYTHING FOR CONSIDERATION ABOUT ANY
CHANGE.

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I WANT TO REMIND THE COUNCIL AND ADAM AND ANA, THE BACKYARD AND OUR YARD AND ANOTHER SHADE.

IN KATE HOUSE, WE ARE ON THE NORTH SIDE OF THE HOUSE, WE DON'T GIVE HER ANY SHADE THE WHOLE YEAR AROUND. SHE DOESN'T GET ANYTHING FROM US.

THERE'S STILL DRIVEWAY AND 7 FEET DISTANCE FROM US AND HER HOUSE.

WHEN WE GOT TO THE ZAB MEETING, IT WAS ALMOST A YEAR BACK AND FORTH US AND THE STAFF.

WE LOWERED THE HOUSE TO SHADE FOR THE PEOPLE.

WE ARE ACTUALLY THE AREA THAT ADAM WAS TALKING ABOUT THE YARD THAT THE HOUSE IS GOING BACK AND MENTIONED THAT WE WILL DO A PORCH THERE.

IT CAME OUT TO BE THIS PLACE BECAUSE THE CITY ASKED US TO BE FURTHER SET BACK FROM THE PROPERTY LINE.

THAT'S THE ONLY REASON WHY WE HAVE IT.

THE ONLY WAY WE HAVE TO SOLVE THE PROBLEM IS GO BACK TO THE WALL TO THE FIRST FLOOR.

IT WILL NOT GIVE US THE SPACE THE 20 FEET THAT WE NEED FROM THE SET UP FROM THE NEIGHBORS.

THERE'S NO OTHER SOLUTION FOR THAT.

I UNDERSTAND THEY DON'T LIKE THE PROJECT.

I UNDERSTAND THEY'RE UPSET WITH THE CITY WAS HANDLING THE

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PROJECT.

OUR FEELING THEY CAME UP WITH NEW GOOD IDEAS MORE REQUESTS LIKE
8 FEET.

MAYBE ONE OF THE NEIGHBORS MAYBE THEY WILL HAVE ONE OR TWO
REQUESTS.

THEY GIVE US EXAMPLE AND THEY DON'T GIVE US SOMETHING THAT THEY
WOULD LIKE TO HAVE.

DECIDING FOR OUR OTHER NEIGHBORS, WHAT THEY WANT IS RIDICULOUS.

WE HAVE CONSENT AND THE NEIGHBORS ARE HAPPY WITH PROJECTS AND
WOULD LIKE US TO START WITH THE PROJECT IN OUR BLOCK.

SAYING THAT THERE'S NO BUILDINGS AROUND THE AREA THAT IS NOT THE
SIZE IS NOT TRUE.

I SENT THE LETTER TO THE COUNCIL.

WITH STATISTICS, HOW MANY HOUSES IN THEIR BLOCKS AND OUR BLOCKS
WITH SECOND FLOOR AND THIRD FLOOR PROJECT FAMILIAR WITH THE
AREA.

IN THE ZAB IS THE SAME.

NO REASON TO SEND BACK TO THE ZAB TO TALK ABOUT THE SAME THINGS
WE TALKED ABOUT.

THEY HAD TIME TO TALK ABOUT MODIFICATION.

IN A WAY IT IS TOO LATE RIGHT NOW.

I DON'T SEE ANY REASON FOR THAT.

ANYTHING?

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>> I WANT TO MENTION THAT BESIDES ONE NEIGHBOR, OUR BLOCK SUPPORTING THIS PROJECT AND WE TURNED A LETTER FROM EACH ONE OF THE NEIGHBORS IN THE BLOCK.

>> SOMETHING ELSE, TALKING ABOUT SMALL WINDOWS. IN THE CORNER OF EAST AND SOUTH, THERE'S TWO BATHROOMS WITH HIGH WINDOWS TO PROTECT PRIVACY.

THE PRIVACY THAT THEY'RE TALKING IS YARD PRIVACY.

WHEN I PICTURE THE SECOND FLOOR, YOU DON'T SEE ANYTHING IN THE YARD.

NOTHING ABOUT CONCERN.

THE OTHER YARD, WE SEE THE TREES AND NO BEDROOM OR TALKING OR BEDROOM.

THEY DON'T HAVE SECOND FLOOR.

NO REASON TO SEND US BACK TO THE ZAB.

>> MAYOR J. ARREGUIN: THANK YOU SO MUCH FOR THE PRESENTATION.

>> I'M SORRY I WASN'T READY TO SPEAK ALL OF THE THINGS.

>> MAYOR J. ARREGUIN: NO PROBLEM.

WE APPRECIATE YOU STEPPING IN AND PRESENTING ON THE PROJECT.

THERE MAY BE QUESTIONS ON THE COUNCIL AFTER THE PUBLIC PORTION OF THE HEARING

>> I'M NOT CLEAR ABOUT SOME OF THE THINGS BECAUSE OF MY ENGLISH.

I APOLOGIZE FOR THAT

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>> MAYOR J. ARREGUIN: YOU DID GREAT ON THAT.

PUBLIC TESTIMONY ON THE ZAB APPEAL FOR 1643-1647.

ANYONE WISH TO SPEAK?

LESS THAN TEN SPEAKERS.

FIRST TO ACDR AT EARTH JUSTICE.ORG, YOU HAVE TWO MINUTES

>> YEAH, HI.

ONE OF THE FIRST PROJECTS BY THE ZAB WHILE TRYING TO APPLY THE
NEW HAA RULES.

AS A RESULT, THE ZAB HEARINGS WAS FOCUSED ON WHAT IT COULD OR
COULDN'T DO.

UNFORTUNATELY, THERE WAS A MISUNDERSTANDING AS TO WHAT THE ZAB
COULD DO.

THEY THOUGHT THEY COULDN'T REDUCE THE SIZE OF THE SECOND STORY.

THEY THOUGHT THEY COULDN'T REDUCE BEDROOMS THE SQUARE FOOTAGE.

THE CITY PLANNER WE HAVE BEEN IN CONTACT FOR A YEAR WITH THE
PROJECT, WOULD ADVISE THAT SEEK MAJOR MODIFICATION AND SHOULDN'T
BRINGING UP DETAILS LIKE WINDOWS AND FENCES AND OTHER THINGS.

HE WAS JUST AS BLINDSIDED BY THE HAA AND NOT UNDERSTOOD OR

THOUGHT THAT THERE WAS ANY POSSIBILITY THAT THE ZAB COULD FEEL
CONSTRAINT BY THE NEW RULES.

HE DID NOT KNOW THAT THERE WAS OPTION FOR THEM TO VOTE.

THINKING THAT THEY COULDN'T REQUIRE ANY MISUNDERSTANDINGS.

HE RESIGNED AFTER THIS HEARING.

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NOW, THE INTERPRETATION BY THE CITY OF THE HAA HAS BEEN FIXED.

OUR PROJECT IS ONE OF THE ONLY ONES THAT WILL BE CONSIDERED

USING THIS FAULTY INTERPRETATION OF THE HAA.

>> YOU KNOW, THAT'S THE OWNER OF THE HOUSE.

>> MAYOR J. ARREGUIN: MA'AM, YOU ARE NOT ABLE TO INTERRUPT.

YOU HAD FIVE MINUTES TO PRESENT.

PLEASE DO NOT INTERRUPT THE SPEAKERS

>> NEIGHBORS IMPACTED BY THE PROJECT DESERVE TO HAVE A HEARING
BY ZAB THAT UNDERSTAND THE RESTRICTIONS THAT ARE AND NOT IMPOSED
BY THE HAA.

THIS PROJECT CONVERTS SMALL BERKELEY DUPLEX INTO MASSIVE
DWELLING AS HIGH COST TO THE ENVIRONMENT HOUSING AND NEIGHBORS.

NOT BE PUSHED THROUGH WITHOUT FAIR HEARING.

IN ADDITION, I WANT TO MENTION THAT THREE NEIGHBORS DO NOT
APPROVE OF THIS PROJECT.

TWO NEIGHBORS OUT OF THREE ADJACENT NEIGHBORS --

>> MAYOR J. ARREGUIN: THANK YOU, FOR YOUR COMMENTS.

>> THANK YOU.

>> MAYOR J. ARREGUIN: NEXT SPEAKER, SHARON.

PANELISTS MUTE YOUR MICS.

DO NOT SPEAK UNLESS COUNCILMEMBER HAVE A QUESTION

>> CAN YOU HEAR ME?

>> MAYOR J. ARREGUIN: YES.

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>> WE ARE NEIGHBORS AND WE DO OPPOSE THIS PROJECT BECAUSE IT WOULD REMOVE A SMALL MORE AFFORDABLE HOUSING FROM BERKELEY.

WE DECIDED TO BUILD A BACKYARD.

THE UNIT WE BUILT IS 640 SQUARE FOOT AND BUILT AT CONSIDERABLE COSTS AND 18 MONTHS OF WORK.

THE UNITS AT 1643 CALIFORNIA ARE THE SAME SIZE AS OUR ADU.

WE DON'T THINK THE CITY SOME ISSUE USED PERMIT FOR PROJECT AFFECTS LIMITS THE UNIT WHILE IMPACTING THE NEIGHBORHOOD AND NEIGHBORS.

IT IS UPSETTING TO HEAR, WHILE THE CITY IS ADVOCATING FOR RESIDENTS TO BUILD ADU TO ALLEVIATE HOUSING CRISIS IT IS CONSIDERING THE REMOVAL OF THE SMALL UNITS THAT ARE ALREADY EXISTS.

DOING SO, GIVES THE OWNERS OF THE PROPERTIES TREMENDOUS VALUE INCREASE AT THE EXPENSE OF NEIGHBORS AND THE HOUSING DETRIMENTAL OF THE CITY.

TO ALLOW THE PROJECT TO BE APPROVED WOULD BE UNDERMINE EFFORTS TO CREATE AFFORDABLE HOUSING IN THE CITY.

THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

WE WILL GO NEXT TO MARK

>> CORRECT.

THANK YOU.

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MY NAME IS MARK.

I LIVE IN DISTRICT 2 CURRENTLY.

HOWEVER, MY FAMILY AND I USED TO LIVE HOUSES AWAY FROM THIS PROPERTY BEING DISCUSSED.

WE HAD TO MOVE WHEN THE OWNER SOLD RENTING.

WE HOPED TO STAY IN THE NEIGHBOR BUT COULDN'T AFFORD A HOUSE IN THE SMALL AREA.

ASK THE COUNCIL TO COMMIT TO PRESERVING AND SMALLER AND AFFORDABLE HOMES IN BERKELEY.

BY THAT, I MEAN NOT APARTMENTS BUT STREET-LEVEL HOMES WITH YARDS FOR FAMILIES LIKE MINE CAN HAVE KIDS PLAYING OUTSIDE.

UNITS THAT ARE ONE THOUSAND, TWELVE THOUSAND SQUARE FEET OR LESS.

THIS PROJECT PROPOSES TO BUILD AN ENORMOUS HOUSE NOT ALIGNED WITH THE NEIGHBORHOOD.

I DON'T THINK SINGLE-FAMILIES NEED FIVE BATHROOMS.

IT IS A FORM THAT WE DON'T WANT TO SEE IN BERKELEY.

I WOULD ASK THE COUNCIL TO SEND THE PROJECT BACK TO ZONING ASKING FOR A DESIGN WITH TWO MORE REASONABLE SIZE UNITS RATHER THAN THIS HUGE ONE.

SMALL UNITS LIKE THE ONES IN THE EXISTING DUPLEX PROVIDE NEED MUCH HOUSING FOR SINGLE PEOPLE, FAMILIES AND THE ELDERLY.

THEY SHOULD BE PRESERVED AND NOT DESTROYED.

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THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU.

OKAY.

WE WILL GO TO THE NEXT SPEAKER TOM.

>> HI.

IN MY OPINION, IT IS INFORMED OPINION, BECAUSE I HAVE SPENT A LOT OF TIME WITH SOME OF THESE LAWS.

THE APPELLANT'S HAVE A STRONG CASE THAT THE PLANNING STAFF OF BERKELEY HAS CONSISTENTLY MISS APPLIED THE HOUSING ACCOUNTABILITY ACT AND VARIOUS OTHER STREAMLINE LAWS TO OVERLY RESTRICT THE CONDITION OF PROJECTS THAT TAKE PLACE.

THIS ERROR HAS BEEN POINTED BY A BUNCH OF BERKELEY EXPERTS BETTER THAN ME BY FAR TO THE PLANNING STAFF IN MY DIRECT WITNESS.

AND YET, HERE WE ARE.

I WOULD TAKE THE APPELLANT'S CASE SERIOUSLY IF I WERE TO.

I DON'T KNOW IF THEY WOULD PURSUE TO COURT BUT SOMEBODY AT SOME POINT SHALL.

SECONDARILY, THE STAFF SHOWS A BIAS.

WHEN THEY SAY THAT, OH, THIS LEVEL OF SHADOWING VIEW BLOCKING AND AIRFLOW INTERRUPTION IS TYPICAL OF URBAN ENVIRONMENT.

NOTHING IS TYPICAL OF URBAN ENVIRONMENT OF THIS SORT.

CITIES ARE HETEROGENOUS IN BUILT FORM.

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EACH HAS ECONOMIC CONTEXT AND INCUMBENT CONTEXT AND SO ON.

THERE'S NO SUCH THINGS.

STAFF IS EXERCISING A PURE UNLAWFUL FIAT AND IN VIOLATION OF THE
CODE TO OBLIGATES THE ZAB AGAINST THE SHADOWING OF BLOCKING

>> MAYOR J. ARREGUIN: THANK YOU FOR YOUR COMMENTS.

NEXT TO JOHN.

>> GOOD EVENING, COUNCIL.

I WOULD LIKE TO POINT IN THE ZAB MEETING OUT OF THE THREE A
JOINING NEIGHBORS CALL TO EXPRESS THE MEASURE ON THE PROJECT.

WROTE THAT CONTRARY TO THE LANGUAGE IN THE AUP, THEY WERE NOT IN
SUPPORT OF THE PROJECT.

SO, WHY THEN DID THE ARCHITECT CHOOSE TO CLAIM IN HIS STATEMENT,
I QUOTE THE PROPOSED PROJECT HAS SUPPORT FROM THE NEIGHBORS,
SUPPORT FROM ONE ADJOINING NEIGHBOR AND NEIGHBOR FROM ACROSS THE
STREET.

IN CHOOSING THE LANGUAGE, IS MISREPRESENTING THE NEIGHBORS
CONSENT NOT SURPRISINGLY IT HAS LED TO CONSENT.

THIS REPRESENTATION OF CONSENT PUTS NEIGHBORS IN CONTENT.

UNFORTUNATELY, IT IS NOT A ONETIME EVENT.

THE REASON I'M HERE TONIGHT BECAUSE MR. [NAME INDISCERNIBLE]

MADE THE CLAIM ON DIFFERENT AUP AND DIFFERENT PROJECT BUT HE

FALSELY CLAIMED BY FAMILY'S CONSENT AND SUPPORT ON PROJECT NEVER
PRESENTED TO US NOR TO ANY OTHER NEIGHBOR.

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I THINK HE KNOWS WHAT HE'S DOING.

HE'S LICENSED ARCHITECT AND PRACTICING IN BERKELEY FOR 18 YEARS.

SOMEONE NEEDS TO TELL THE ARCHITECT TO STRAIGHTEN UP AND FLY UP.

STOP MAKING REPRESENTATIONS.

DEVELOPMENT IS CONTENTIOUS ENOUGH.

THANK YOU, MR. MAYOR AND COUNCIL

>> MAYOR J. ARREGUIN: THANK YOU, SIR.

WE WILL GO TO ANONYMOUS

>> HELLO.

I'VE BEEN LIVING IN THE NEIGHBORHOOD FOR A LONGTIME.

I WOULD LIKE TO START BY SAYING THAT THE APPELLATE INCORRECTLY STATED THAT THE NEIGHBORS ARE AGAINST THE PROJECT.

THE NEIGHBOR MOST AFFECTED BY THE CHANGES, BOTH BY SUNLIGHT IS IN SUPPORT OF THE PROJECT.

I ALSO WANT TO STATE THE FIRST SPEAKER TODAY AFTER THE APPELLATE AND APPLICANT WAS ONE OF THE APPELLANT'S AND THEIR ARGUMENTS SHOULD NOT BE CONSIDERED BECAUSE THAT WAS ADDITIONAL TIME.

I ALSO WANT TO SAY AS SOMEONE WHO WENT TO THE ZAB MEETING, THEY STATED THAT THEY KNEW COULD MAKE CHANGES.

NON-REQUESTED AND NOTHING TO CONSIDERED.

IT SEEMS RIDICULOUS THAT NOW THAT THE NEIGHBORS ARE UNHAPPY WITH THE RESULT THEY WANT TO GO BACK AND CONTINUE THE DELIBERATIONS.

THIS BUILDING IS IN LINE WITH OTHER STRUCTURES IN THE

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NEIGHBORHOOD BECAUSE IT IS AFFECTING THE NEIGHBORS BECAUSE IT IS NEARBY IT DOESN'T MEAN IT DOESN'T FIT WITH THE NEIGHBORHOOD.

UM, WHEN CONSIDERING THE BIGGER UNIT, IT IS FOR A BIGGER FAMILY.

IT ALSO SEEMS RIDICULOUS THAT A BIG FAMILY SHOULD BE FORCED TO SQUEEZE IN A SMALL PLACE BECAUSE THE POSSIBILITY OF SMALL UNIT IN THE FUTURE TO BE USED FOR LOW-COST HOUSING.

THE OTHER UNIT WILL BE RENTED OUT AS STATED BY THE APPLICANT.

THERE'S NO PLAN TO DO WITH THE MAIN UNIT THAT THE FAMILY IS PLANNING ON LIVING IN.

I HAVE BEEN DISAPPOINTED IN THE ZAB HEARING AND THIS AS WELL TO HEAR THE PERSONAL ATTACKS BETWEEN THE NEIGHBORS.

I'M DISAPPOINTED IN THE NEIGHBORHOOD

>> MAYOR J. ARREGUIN: THANK YOU.

WE WILL PROCEED TO THE NEXT SPEAKER, KATE BRISTOL.

I WANT TO CLARIFY FOR THE RECORD IT IS UP TO THE APPELLANT'S WHO WANTS TO USE THEIR TIME AND REPRESENT THEM.

IT DOESN'T PRECLUDE OTHER APPELLANT'S FROM SPEAKING IN THE TWO-MINUTE PERIOD.

KATE BRISTOL, IF YOU WISH TO SPEAK UNMUTE YOURSELF.

KRIS, YOU SHOULD BE ABLE TO SPEAK

>> HELLO, THANKS FOR HAVING US.

I WANT TO CLARIFY IT SEEMS LIKE THIS IS NOT REMOVING A UNIT.

I KNOW THERE'S CLAIMS ABOUT REMOVING UNITS FROM THE LOT.

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THIS DOESN'T APPEAR TO BE DOING THAT.

IT SEEMS WE SHOULD ALLOW THE PROJECT TO GO FORWARD.

THIS SEEMS LIKE THE PROJECT DOES SUPPORT FAMILIES IN THE
NEIGHBORHOOD.

IT SEEMS LIKE GROWING FAMILY.

ADULT SON IS DISABLED AND VISION IMPAIRED.

HAVING HIM TO LIVE IN THE NEIGHBORHOOD WHERE HE GREW UP SEEMS
LIKE A GREAT THING TO SUPPORT FAMILIES ESPECIALLY WITH DISABLED
CHILDREN.

THERE SHOULD BE SUPPORT IN LETTERS THAT HAVE BEEN SUBMITTED
ALREADY IN SUPPORT FROM THE PROJECT.

IT DOESN'T SEEM LIKE THERE'S ANY NEED TO SLOW DOWN THE PROCESS
ANYMORE.

GOING BACK WITH THE VIEWS IT MAKES IT HARDER TO IMPROVE THE
HOUSING.

EVEN THE PEOPLE SUBMITTING THE APPEAL IS SAYING THAT THE HOUSE
NEEDS TO WORK ON.

IT IS JUST MAKING THE NEIGHBORHOOD BETTER AS SOON AS POSSIBLE

>> MAYOR J. ARREGUIN: THANK YOU.

OKAY.

WE WILL GO BACK TO KATE BRISTOL.

KATE, IF YOU WISH TO SPEAK, UNMUTE YOURSELF

>> HELLO.

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I'M KATE BRISTOL.

I LIVED IN BERKELEY FOR OVER 50 YEARS.

I AM A NEIGHBOR TO THE SOUTH.

WHO IN 2004, REMOLDED THE DUPLEX.

IT CREATED A BEDROOM WITH ONE BEDROOM AND ONE STUDIO.

LEFT AS SINGLE STORY AND KEPT THE ORIGINAL FOOTPRINTS TO NOT
NEED ADDITIONAL FOOTPRINTS.

MY FAVORITE THING IS SMALL BACKYARD PATIO THAT I HAVE PLANTED
WITH TREES AND FLOWERS.

IF THIS HUGE PROJECT IS PERMITTED, MY ENJOYMENT OF MY PATIO
KITCHEN WILL BE REDUCE DOLLARS.

THE I THINK THE NEIGHBORHOODS WANT THE PROJECT NOT FOR THEIR
REDUCE BUT FOR RESALE.

THEY HAVE LIVED IN 13 HUNDRED SQUARE FEET FOR 30 YEARS WHILE
RAISING 3 CHILDREN.

THIS NON-CONFORMING PROJECT REQUIRES 7 DIFFERENT PERMITS.

WHY DO THE PERMITS AND ZAB PROCESS EVEN EXISTS IF NOT TO PREVENT
PROJECTS LIKE THIS THAT HARM NEIGHBORS AND GO AGAINST BERKELEY'S
GOALS OF PROVIDING SMALLER MORE AFFORDABLE HOUSING.

THANK YOU VERY MUCH FOR YOUR ATTENTION

>> MAYOR J. ARREGUIN: THANK YOU.

NEXT, BARBARA FRITZ.

>> HI, THANKS.

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I'M AT 1639 CALIFORNIA STREET AND I HAVE LIVED HERE 42 YEARS AND NEXT TO THE [NAME INDISCERNIBLE] SINCE THEY MOVED IN.

I DO SUPPORT THE PROJECT.

I AM GOING TO BE MOST IMPACTED FROM THE PHYSICAL STRUCTURE.

I DO SUPPORT IT.

I JUST THINK, YOU KNOW, LISTENING TO SOME OF THE DIALOGUE.

I'M THINKING, MAYBE THIS IS AN OPPORTUNITY TO LOOK AT THE KIND OF LAWS AND HOW THEY'RE MADE AND WHAT WE DO.

YOU KNOW, THAT'S A DIFFERENT DISCUSSION I LIVE FOR THE COUNCIL AND PLANNING COMMISSION AND THE ZAB.

I DO WANT THIS PROJECT TO GO AHEAD.

I LOOK FORWARD TO HAVING THEM AS NEIGHBORS FOR MANY MORE YEARS.

THAT'S ALL I'M GOING TO SAY

>> MAYOR J. ARREGUIN: THANK YOU.

WE WILL GO TO THE NAME A1-IS.

A1-IS YOU SHOULD BE ABLE TO SPEAK.

UNMUTE YOURSELF.

YOU WANT TO UNMUTE YOUR COMPUTER IF YOU ARE ZOOMING.

IF YOU HAVE A LIVE FEED YOU WANT TO MUTE THAT.

YES, ARE YOU THERE

>> THAT'S FOR ME.

I THOUGHT YOU SAID DIFFERENT NAME

>> MAYOR J. ARREGUIN: A1-IS, YOU WANT TO SPEAK ON APPEAL.

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>> MY NAME IS THOMAS.

I WANT TO CLARIFY A FEW THINGS.

THEY SAID MISLEAD THE COMMITTEE.

WE DIDN'T MISLEAD THE COMMITTEE.

WE NEVER MISLEAD ANYBODY.

SHE WAS SUPPORTED WHEN ASKED TO SEND FIRST DRAFT.

I JUST WANT TO CLARIFY THAT WE NEVER MISLEAD ANYBODY.

WHEN WE GO IN THE ROOF IN THE SECOND FLOOR AND WE LOOK DOWN TO
HER, LOOKING AT THE BACKYARD AND PATIO, WE CAN'T SEE ANYTHING.

THERE'S OVERHANG OF ROOF AND PLANTS.

THERE WILL BE NO INTERRUPTION IN HER PRIVACY.

WE INCLUDED IN THE PICTURES IN THE LETTER TO SHOW THAT YOU CAN'T
SEE ANYTHING INSIDE OF HER YARD.

I GUESS THAT'S IT.

THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU.

JILL

>> I HAVE A COMMENT ON THIS.

I FIND IT LIEU CONTRACT ADVERTISE.

I THINK THEY NEED WHAT SIZE THEY NEED FOR THEIR FAMILY.

THEY PURCHASED A PIECE OF LAND, AND THEY SHOULD BE ABLE TO
ACCOMMODATE THE FAMILY.

IF SOMEONE DIDN'T WANT THEM THERE, THEY SHOULD PRESSURE THE HOME

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THEMSELVES.

THANK YOU

>> MAYOR J. ARREGUIN: NO HANDS RAISED ON THE APPEAL FROM
1643-1647 CALIFORNIA STREET.

I WOULD LIKE TO REMIND THE PARTIES.

COUNCIL MUST DELIBERATE UNLESS COUNCIL HAS QUESTION FOR YOU.

THE HEARING IS STILL OPEN.

BEFORE WE ENTERTAIN A MOTION.

I HAVE A QUESTION FOR STAFF THAT I WOULD LIKE TO ASK BEFORE WE
START THE DISCUSSION.

SO ON PAGE 584 OF THE PACKET.

IT QUOTES -- (READING QUOTE FROM PACKET).

MY QUESTION DID PLANNING STAFF CHECK AS TO WHETHER THE UNIT NOT
PROPERLY PERMITTED TO BE ELIMINATED WHETHER IT WAS RENT CONTROL?
AND IF SO, HOW ARE THEY ABLE TO ILLEGALLY REMOVE A DWELLING UNIT
WITHOUT GETTING THE PROPER PERMITS TO DEMOLISH OR REMOVE
DWELLING UNIT?

>> IT IS OWNER OCCUPIED DUPLEX.

IT IS EXEMPT FROM RENT CONTROL.

YES, THEY DIDN'T GET A PERMIT.

LIKE A USE PERMIT TO REMOVE THE UNIT.

IT HAS BEEN REMOVED WITHOUT PERMITS TECHNICALLY

>> MAYOR J. ARREGUIN: LET ME CLARIFY.

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I WAS ON THE REPORT.

IT WAS OWNER OCCUPIED IN 79?

YOU ARE SAYING IT WAS GOLDEN DUPLEX.

THAT'S JUST CAUSE FOR EVICTION.

DID YOU CONSULT THE RENT BOARD WHAT IS THE RENTAL HISTORY IF IT
WAS GOLDEN DUPLEX

>> I DON'T KNOW THE RENTAL DUPLEX.

I THINK THE CURRENT OWNER HAS OCCUPIED SINCE 1989.

I WASN'T THE PLANNER REVIEWING THIS

>> MAYOR J. ARREGUIN: THAT'S RIGHT.

YOU ARE STEPPING IN.

MR. BUCKLEY, ANY INFORMATION ON THIS?

>> YES, GOOD EVENING.

STEVE BUCKLEY THE PLANNING MANAGER.

WE DID LOOK INTO THE RENT BOARD ONLINE RECORDS.

IT WAS MANAGED AS OF 1980.

SUBSEQUENTLY, SO THERE'S A BASE RENT FOR BOTH UNITS.

BUT IT HAS BEEN OWNER OCCUPIED FOR QUITE A LONGTIME

>> MAYOR J. ARREGUIN: THEY ILLEGALLY ELIMINATED A UNIT AND

ASKING FOR PERMITS TO ADD TO THE PROPERTY AND THEY -- YOU KNOW,
THEY'RE MODIFYING THE LAYOUT.

IF THERE IS -- I GUESS, IT WAS A DUPLEX AND ILLEGALLY CONVERTED
TO SINGLE-FAMILY HOME.

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THEY'RE ADDING A UNIT, CORRECT?

THE QUESTION IS IF THEY ADD UNIT AND RENT CONTROL AND
ELIMINATED, DOES THE NEW UNIT NEED RENT CONTROL.

>> THAT'S A GOOD POINT.

I THINK, YOU KNOW, BY RE-ESTABLISHING THE UNIT AT LEAST THEY'RE
SATISFYING THE ZONING REQUIREMENT TO HAVE TWO UNITS RATHER THAN
A DEMOLITION OF ELIMINATION OF UNIT.

THE SECOND UNIT COULD BE CONSIDERED ADU BECAUSE OF THE SIZE AND
THE FACT THAT IT IS INTERNAL TO THE PROJECT.

IT HAS SEPARATE ENTRANCE.

NOT SURE HOW THE RENT STABILIZATION WORKS

>> MAYOR J. ARREGUIN: WITH THE PREVIOUS FLOOR SPACE, IT MAY BE
SUBJECT TO RENT CONTROL.

I GUESS I'LL SAY TO THAT END, REMANDED IS APPROPRIATE JUST ON
THAT POINT.

IN ADDITION TO THE ISSUE AROUND THE HOUSING ACCOUNTABILITY ACT.
WE HAVE LEARNED THAT THE HAA DOESN'T APPLY WHETHER MODIFICATIONS
CAN BE MADE TO THE PLAN.

MR. BUCKLEY, I APPRECIATE YOU PROVIDING THE INFORMATION THE
CONTEXT.

IF THERE'S REMANDED, I THINK THE ISSUE SHOULD BE EXPLORED THE
ADJUSTMENTS BOARD.

COUNCIL KESARWANI

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>> R. KESARWANI: THANK YOU, MAYOR.

THANK YOU TO THE APPLICANT AND TO THE APPELLATE FOR

PRESENTATIONS AND TO THE PUBLIC COMMENTER'S WHO SHARED THEIR
VERY VIEWS.

THE MAYOR MENTIONED I UNDERSTAND FROM THE STAFF REPORT AND

MENTIONED IN THE PRESENTATION, THE ZONING ADJUSTMENTS BOARD MAY

HAVE HAD FAULTY INFORMATION THAT LED THEM TO BELIEVE THAT THEY

COULD NOT MAKE MODIFICATIONS TO THE PROJECT BECAUSE OF THIS

MISUNDERSTANDING ABOUT THE APPLICATION OF THE HOUSING

ACCOUNTABILITY ACT.

SO WE ARE CLEAR TONIGHT, IS MY UNDERSTANDING CORRECT,

MR. BUCKLEY, THE HAA SPEAKS TO NOT REDUCING THE DENSITY THAT IS

TO SAY THE NUMBER OF UNITS, BUT OTHER MODIFICATIONS ARE

ALLOWABLE, CORRECT?

>> YES, FROM OUR READING OF GUIDANCE ALSO PUBLISHED BY THE

STATE HCD.

THERE'S CASES IF YOU WERE TO SUBSTANTIALLY RESTRICT THE

DEVELOPMENT POTENTIAL YOU MAY EFFECTIVELY REDUCE THE NUMBER OF

UNITS.

IN THIS CASE, THERE'S PLENTY OF WIGGLE ROOM WHERE YOU CAN HAVE

THE TWO UNITS AND NOT REDUCE DENSITY IF YOU CHIP AWAY ON SQUARE

FOOTAGE

>> R. KESARWANI: I KNOW THE APPLICANT HAS GONE THROUGH A

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LENGTHY PROCESS TO GET TO THIS POINT.

IT IS UNFORTUNATE THAT THE ZAB DIDN'T HAVE THE CORRECT
INFORMATION OF THE HAA.

I DO WANT TO MAKE SURE THAT THE APPELLANT'S HAVE A FAIR PROCESS.

I AM CONCERNED ABOUT THIS FAULTY INFORMATION MAY HAVE FOR AN
OUTCOME THAT WOULD NOT HAVE HAPPENED OTHERWISE.

I WILL SAY THAT I PERSONALLY DO NOT THINK IT WOULD BE GOOD IDEA
FOR THE COUNCIL THIS EVENING AT THIS LATE HOUR TO ATTEMPT TO DO
SOME KIND OF MODIFICATION ON THE DAIS. WHEN WE HAVE THE BOARD
TO CONDUCT REVIEWS AND TO LOOK AT SHADOW STUDIES AND RELEVANT
MATERIAL AND DETERMINE BASED ON PROJECTS WHETHER MODIFICATIONS
ARE WARRANTED.

I WOULD ALSO SUPPORT THE IDEA OF REMAPPING THIS TO ZAB.

I KNOW WE HAVEN'T CLOSED PUBLIC HEARING AND I WILL NOT MAKE
MOTION YET.

I WILL SAY THAT I DO THINK WE CAN COME UP WITH CORRECT LANGUAGE.

I WOULD LIKE MAYBE IT IS THE RENT BOARD THAT NEEDS TO WEIGH IN
HOW -- WHAT IS PROPOSED TO ADU HOW THE UNIT NEEDS TO BE TREATED
IN TERMS OF AN APPLICABILITY OF RENT CONTROL.

WE NEED THE CLARITY AS WELL.

THAT'S ALL I HAVE TO SAY AT THIS POINT.

I'LL LEAVE AT THAT

>> MAYOR J. ARREGUIN: VICE MAYOR HARRISON.

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>> K. HARRISON: FIRST OF ALL, I WANT TO SAY TO THE APPLICANTS.

I DON'T THINK YOU INTENDED TO MISLEAD ANYONE.

I FEEL THE STAFF MADE A MISTAKE AT ZAB.

THAT'S A PROBLEM FOR US.

HAA EXISTS FOR A REASON.

EXISTS TO ENSURE THAT WE BUILD MORE HOUSING AND NOT THAT WE
BUILD LARGER UNITS.

WHILE EVERYONE'S FAMILIES HAS NEEDS.

HAA IS SPECIFICALLY TO CREATE MORE HOUSING.

THIS IS NOT TO SAY THAT IF THIS COMES TO US IF WE WERE TO
REMANDED NOT SUPPORT THE PROJECTS BECAUSE I'M NOT SURE ABOUT THE
DETRIMENTS.

RIGHT NOW, THAT'S NOT BEFORE US BECAUSE I FEEL LIKE THE ENTIRE
HISTORY OF THE HEARING WAS DONE INCORRECT BASIS.

THAT CONCERNS ME A LOT.

IT CONCERNS ME ABOUT THE TENANT ISSUES.

WE HAD FAMOUS EXAMPLE WITH AFRICAN HOMEOWNER BROKE UP
MULTIPLE-UNIT HOME INTO SINGLE HOME AND LED TO YEARS OF CONCERN
BY THE CITY.

I THINK WE NEED TO APPLY STANDARD WHERE IT OCCURS IN BERKELEY.

AND I ALSO WANT TO SAY THE IDEA OF SHADOWING, WE NEED OBJECTIVE
STANDARDS.

THE CASE OF NOT THAT BAD.

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WE NEED THE STANDARD TO MAKE THE JUDGMENT.

THE BASE OF MY CONCERN IS FOR THE GOVERNMENT HAVING DONE THE
WRONG THING IN THE LOGIC THEY TOLD THE ZAB EASTBOUND PERMANENT
HOUSINGS.

IT DOESN'T MEAN THAT THE ZAB HAVE NOT REACHED THE SAME
CONCLUSION.

THEY REACHED THE CONCLUSION IN SOMETHING INCORRECT FROM OUR
STAFF AND BECAUSE OF THAT I THINK WE HAVE TO REMANDED.

THANK YOU

>> MAYOR J. ARREGUIN: MR. BUCKLEY BEFORE I GO TO COUNCILMEMBER
DROSTE.

>> THANK YOU.

I WANT TO CLARIFY.

THE STAFF ADVISED TO THE ZAB IN THE WRITTEN MATERIALS AND AT THE
HEARING WAS NOT ENTIRELY ERRONEOUS.

WE DID GET THE ZAB DISCRETION BY THE ORDINANCE TO MAKE THE
FINDINGS.

THEY DID CONSIDER THE VARIOUS ANALYSIS OF SHADOWS, PRIVACY,
LIGHT AND AIR.

I JUST WANT TO MAKE IT IS CLEAR VARIOUS MEMBERS OF THE ZAB HAVE
VARIOUS OPINIONS ABOUT AN APPLICABILITY OF THE HAA AND THE
FINDINGS.

THEY ULTIMATELY DID APPROVE THE PROJECT BASED ON THE FINDINGS

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>> K. HARRISON: IF I WOULD SAY IF THE IMPACT LOOKING AT THE IMPACTS, IT WOULD BE ONE THING.

THERE'S LENGTHY DISCUSSION ON THE HAA.

THAT'S WHAT MUDDY THE WATER FOR ME.

THAT'S WHY I SUPPORT REMANDING THIS

>> MAYOR J. ARREGUIN: COUNCILMEMBER DROSTE.

>> L. DROSTE: I WILL BE BRIEF.

THIS MEETS THE THRESHOLD FOR ME.

IT IS AN ISSUE OF FAIRNESS.

THE MOST COMPELLING REASON, WHAT THEY JUST MENTIONED IN THE APPLICABLE OF THE HAA.

SOMETHING THAT I HAVE BEEN INVOLVED THROUGH HISTORY ON COUNCIL.

I THINK IT IS WHOLLY APPROPRIATE THEY GIVE A CHANCE TO CONSIDER THE DECISION WITH THE CLARIFIED INFORMATION IN THE WAY IT WAS ALLOWED IN THE ZONING CODE.

I WANT TO THANK THE MAYOR FOR RAISING THE POINT OF THE RENTING HISTORY WHICH I THINK IT IS WORTH CLARIFYING AT ZAB.

THANK THE APPELLANTS FOR BRINGING THIS MISS INTERPRETATION TO OUR ATTENTION.

I HOPE THAT ALL PARTIES CAN WORK TOGETHER AND REACH A MUTUALLY BENEFICIAL CONCLUSION SO I WILL BE SUPPORTING A REMANDED.

THANK YOU.

>> MAYOR J. ARREGUIN: I WOULD LIKE TO MAKE MOTION TO CLOSE

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PUBLIC HEARING ASSUMING NO QUESTIONS OR PARTIES.

>> SECOND.

>> MAYOR J. ARREGUIN: SECONDED BY VICE MAYOR HARRISON.

ROLL CALL, PLEASE.

[ROLL CALL VOTE].

>> MAYOR J. ARREGUIN: OKAY.

PUBLIC HEARING IS CLOSED.

NOW, ORDER FOR COUNCILMEMBER TO MAKE MOTION

>> MOTION TO APPEAL BACK TO ZAB FOR PURPOSES OF RECONSIDERATION AND LIGHT OF ISSUE OF HOUSING ACCOUNTABILITY ACT AND REVIEW THE SECOND UNIT REMAINS A RENT CONTROL UNIT.

>> MAYOR J. ARREGUIN: SECOND.

COLLEAGUES, ANY OTHER QUESTIONS OR COMMENTS?

COUNCIL MEMBER HAHN

>> S. HAHN: I WANT TO MAKE SURE.

GOOD TO REVIEW RENT CONTROL APPLICABLE FOR ALL UNITS NOT JUST THE SECOND UNIT.

THERE'S A CHANCE THAT IT COULD APPLY TO BOTH UNITS

>> MAYOR J. ARREGUIN: YEAH.

IF WE CAN -- SECOND OR MODIFY THE LANGUAGE TO SAY IT IS PART OF THE REMANDED ONE OF THE SECOND ISSUES TO LOOK AT AN APPLICABILITY OF RENT CONTROL TO THE SUBJECT PROPERTY.

THE PLANNING SHOULD CONSULT THE RENT BOARD AS PART OF THE REVIEW

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>> R. KESARWANI: YES.

THAT MAKES SENSE

>> MAYOR J. ARREGUIN: THANK YOU.

>> MAYOR J. ARREGUIN: COUNCIL MEMBER HAHN.

ANY OTHER COMMENTS?

>> S. HAHN: NO, THAT WAS IT.

>> MAYOR J. ARREGUIN: VICE MAYOR HARRISON.

>> K. HARRISON: INCLUDES JUST CAUSE.

I THINK IT IS IMPORTANT THAT WE BE SPECIFIC ABOUT THAT.

IT IS NOT JUST RENT CONTROL.

IT IS THE WHOLE ORDINANCE.

I THINK WE WANT THE APPLICATION OF THE RENT STABILIZATION
ORDINANCE

>> R. KESARWANI: OKAY.

>> MAYOR J. ARREGUIN: YES, THAT'S THE INTENT.

THANK YOU FOR THAT.

I ACCEPT AS FRIENDLY AMENDMENT.

DO YOU ACCEPT THAT

>> R. KESARWANI: YES, I ACCEPT THAT.

>> MAYOR J. ARREGUIN: FURTHER DISCUSSION ON THE MOTION?

OKAY.

WE HAVE A MOTION TO REMANDED FOR THE REASON STATED.

NO FURTHER DISCUSSION, CALL ROLL.

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[ROLL CALL VOTE]

>> MAYOR J. ARREGUIN: OKAY.

THE MOTION CARRIES.

THAT COMPLETES THAT ITEM.

Unofficial Text File

THAT ALLOWS US ON TO THE FINAL ITEM FOR TONIGHT WHICH IS THE PUBLIC HEARING FOR AN ITEM WHICH HAS BEEN REMANDED BACK TO THIS COMMITTEE -- TO THIS COMMISSION.

ON THE BASIS THAT, IF I UNDERSTAND, SAMANTHA, THERE WAS A DETERMINATION MADE BY THE CURRENT ATTORNEY FOR THE CITY -- CITY ATTORNEY THAT WE WERE IMPROPERLY ADVISED THAT THIS PROJECT WAS COVERED BY THE HAA AND THEY'RE NOW -- SO WE ARE THEN IT'S REMANDED BACK BY COUNCIL SO WE CAN EVALUATE IT WITHOUT THE PROTECTIONS OF HAA.

JUST THE CONVENTIONAL PROTECTIONS OF OUR ZONING CODE.

IS THAT AN ACCURATE DESCRIPTION?

SO THIS WILL COME BACK TO US.

I WANT TO SAY THAT ON AN APPEAL, WE ACTUALLY HEAR THE APPELLANT FIRST.

THE APPELLANT IS THE AGENT.

THEY'RE TREATED THE SAME WAY AS AN APPLICANT WOULD BE TREATED.

ORDINARILY AN APPLICANT RECEIVES FIVE MINUTE AND THE PUBLIC GETS TWO MINUTES APIECE TO RESPOND.

IN THIS CASE, WE HAVE THREE APPELLANTS AND THEY'LL GET THE FIVE MINUTES AND CAN DIVIDE THEM.

WE DON'T ALLOW MEMBERS OF THE APPLICANT TEAM TO SPEAK MORE THAN TWO MINUTES.

I WOULD ASK THAT THE APPELLANT ABIDE BY THE SAME RULES AS APPLICANTS AS A CONDITION OF FAIRNESS.

I CAN'T BEND THE RULES FOR ONE AND NOT THE OTHER.

SO, I KNOW THAT YOU SPOKE WITH SAMANTHA EARLIER AND SHE ADVISED YOU OF THAT.

SO I HOPE YOU'RE PREPARED.

INSTEAD OF SIX MINUTES, YOU'LL GET FIVE BUT HOPEFULLY YOU CAN BE ORGANIZED TO MAKE THAT WORK.

IN FACT, SINCE IT'S THREE OF YOU, I'LL STRETCH IT TO SIX SO YOU HAVE THE SAME AMOUNT OF TIME YOU'D GET IF YOU WERE SPEAKING INDIVIDUALLY.

THAT IS MORE THAN PAIR.

AND WITH THAT, WE'LL FIRST HEAR FROM THE PLANNER ASSIGNED PLANNER.

I BELIEVE THAT IS ALLISON HERE TO LAY OUT AN OUTLINE FOR THE PROJECT.

IT WILL BE A FAMILIAR PROJECT TO -- I THINK EVERYONE HERE ON THE COMMISSION SAID THEY WERE HERE WHEN IT WAS HEARD PREVIOUSLY. HIT IT ALLISON.

>> I'M ALLISON RIEMER.

THE APPLICATION WAS SUBMITTED IN JANUARY 2021.

REVISED DESIGN WAS SUBMITTED IN MAY.

AND IT SEPTEMBER 2021 IT WAS COMPLETE.

IN DECEMBER ZAB APPROVED THE PROJECT AND DID NOT ADD ANY CONDITIONS.

IN JANUARY, 2022, THE ZAB DECISION WAS APPEALED TO THE CITY

COUNCIL BY ANNA AND ADAM OWNERS OF 1509 VIRGINIA AND KATE, THE OWNER OF THE ADDRESS ON CALIFORNIA STREET.

THEY WERE CONCERNED WITH THE HOUSING ACT, THE LACK OF MODIFICATION BY ZAB, PROCEDURAL REQUIREMENTS AND INADEQUATE OPPORTUNITIES FOR PUBLIC PARTICIPATION.

ON APRIL 26TH, COUNCIL HELD A PUBLIC HEARING TO CONSIDER ZAB'S DECISION.

STAFF VERIFIED THAT THE HAA SHOULD NOT APPLY TO THE PROJECT SINCE NEW UNITS WILL BE ADDED.

THE ADDITION MAY BE MODIFIED.

COUNCIL REMANDED IT FOR RECONSIDERATION OF THE APPLICABILITY OF THE HOUSING ACCOUNTABILITY ACT.

AND THE RENT STABILIZATION AND EVICTION FOR GOOD CAUSE ORDINANCE.

>> THE SUBJECT PROPERTY IS ON CALIFORNIA STREET BETWEEN LINCOLN AND VIRGINIA IN THE R-2 RESIDENTIAL DISTRICT IS AN EXISTING ONE-STOREY DUPLEX AND SHED COULDN'T SITE.

THE DUPLEX IS OCCUPIED BY THE OWNERS.

THE NONCONFORMING ARE DISCUSSED OVER THE NEXT COUPLE OF SLIDES.

THE EXISTING ROCK COVERAGE IS 50% WITH 5% MORE COVERAGE IS ALLOWED FOR A ONE-STOREY BUILDING IN THE R-2 DISTRICT.

THE PROPERTY IS NOT REQUIRING FOR DENSITY.

IT'S ONE PERMIT WHERE ONLY ONE UNIT IS PERMITTED FOR A LOT OF THIS SIZE.

AND THE FRONT MIRROR AND SIDE SETBACKS ARE NONCONFORMING.

SINCE THE PROPERTY IS EXISTING NONCONFORMING, TWO USE PERMITS APPLY.

THEY APPLY DUE TO THE SIZE, HEIGHT AND LOCATION OF THE ADDITION AND AN AUP APPLIES FOR ADDING A FIFTH BEDROOM.

SO THE EXISTING BUILDING WILL BE SHIFTED ONE INCH TO CREATE A CONFORMING [INDISCERNIBLE] BACK OF FOUR FEET.

AND THEY WOULD REDUCE THE SIZE OF THE LEFT UNIT 1643 CALIFORNIA BY 150 SQUARE FEET AND THE RIGHT UNIT 1647 CALIFORNIA WOULD BE EXPANDED BY CREATING A NEW BASEMENT LEVEL BLOAT EXISTING BUILDING AND A NEW SECOND FLOOR.

A NEW SECOND FLOOR WOULD STEP IT UP TO REQUIRE -- APPLY WITH THE REQUIRED SETBACK.

THE FRONT SETBACK WOULD BE DOWN WITH THE BASEMENT WHILE THE REAR SETBACK WOULD BE EXTENDED DOWN WITH THE EXPANSION OF THE BASEMENT.

1647 CALIFORNIA WOULD EXPAND BY ABOUT 2600 SQUARE FEET.

AT THE REAR, AN EXISTING SHED WOULD BE MOVED TO REDUCE THE LOT COVERAGE AND A DECK WOULD BE ADDED.

THE PROPOSED AVERAGE HEIGHT IS ABOUT 24 FEET.

A LIMIT OF 28 FEET.

THE LINE AT THE TOP OF THE ROOF SHOWS THE DESIGN AFTER THE FIRST REVIEW LETTER.

COUNCIL REMANDED THE PROJECT TO ZAB FOR RECONSIDERATION OF THE

APPLICABILITY OF THE HOUSING ACCOUNTABILITY ACT AND THE RENT STABILIZATION AND EVICTION FOR GOOD CAUSE ORDINANCE.

HAA IS GOVERNMENT CODE SECTION 6558.95 SECTION J.

HOUSING DEVELOPMENT APPLIES TO THE APPLICABLE GENERAL PLAN AND LOCAL AGENCY CHOOSES TO DENY OR REFUSE IT.

THE AGENCY MUST ACCEPT THE FINDINGS SUPPORTED BY SPECIFIC EVIDENCE.

HAA DOES NOT APPLY TO THE PROPOSED PROJECT BECAUSE NO NEW DWELLINGS ARE PROPOSED.

THE TWO EXISTING DWELLINGS WOULD REMAIN AND THE SIZE OF THE DWELLINGS WOULD CHANGE.

THEREFORE, THE HAA FINDINGS DO NOT APPLY TO THIS PROJECT.

RENT BOARD STAFF PREPARED A MEMO ATTACHED TO THE ZAB REPORT WHICH ANALYZE WHERE THE EVICTION FOR GOOD CAUSE ORDINANCE APPLIES TO THE PROJECT SINCE THERE ARE CURRENTLY NO TENANT PROTECTIONS AT ISSUE CURRENTLY.

FUTURE TENANTS WOULD BE PROTECTED BY THE ORDINANCE.

BOTH UNITS ARE SUBJECT TO RENT CONTROL.

STAFF RECOMMENDS APPROVAL OF THE USE PERMIT.

I'M AVAILABLE FOR QUESTIONS.

>> C. KAHN: THANK YOU VERY MUCH FOR THAT CLEAR PRESENTATION, ALLISON.

I THINK IT ANSWERS THE QUESTION THAT KELLY HAD ABOUT THE LAST PROJECT.

BECAUSE IT'S A SIMILAR SITUATION WHERE VACANT UNITS DO NOT
REMOVE THOSE FROM THE RENT CONTROL LIST.

WE CHANGE THE SIZE.

ANY QUESTIONS FROM THE COMMISSION OR STAFF?

SEEING NONE, I WOULD LIKE TO OPEN THE PROCEEDINGS TO THE
APPELLANTS AND WE'LL BE BREAKING WITH TRADITION, YOU'LL GET SIX
MINUTES, NOT FIVE.

I THINK IT'S ONLY FAIR THAT EACH OF YOU GET THE TWO MINUTES THAT
YOU WOULD BE GETTING IF YOU WERE ON AVERAGE -- IF YOU WERE
PRESENTING SEPARATELY.

DO WE HAVE A TIMEKEEPER.

SAMANTHA?

>> YES.

KAREN IS HERE.

TO SET THE TIMER FOR SIX MINUTES.

>> I'M SHARING MY SCREEN RIGHT NOW.

>> C. KAHN: THANK YOU, KAREN.

AND I SEE TWO HANDS UP.

ANNA AND KAY.

IS THERE ANYONE ELSE FROM THE APPELLANTS WHO WISHES TO SPEAK
TONIGHT?

I THOUGHT THERE WOULD BE THREE INDIVIDUALS.

>> CAN YOU HEAR US?

>> C. KAHN: I CAN.

ANNA, IS THERE A THIRD PERSON THAT WISHES TO SPEAK TONIGHT?

>> YES AND WE WERE NO AWARE THIS WAS GOING TO BE THE LAYOUT.
WE PREPARED ONE FIVE-MINUTE PRESENTATION AND ONE, ONE-MINUTE
PRESENTATION.

WE WERE EXPECTING THE OTHERS TO SPEAK DURING PUBLIC
PARTICIPATION.

>> C. KAHN: BUT SAMANTHA ADVISED YOU EARLIER.

>> I THINK ALLISON COMMUNICATED.

>> C. KAHN: SO I'M GIVING YOU -- I'M BENDING THE RULES TO GIVE
YOU SIX MINUTES WHICH IS MORE THAN ANYBODY HAS HAD IN YOUR
POSITION.

IF YOU NEED MORE THAN FIVE MINUTES, YOU GET SIX.

>> NO ONE IN THE OPPENHEIMER FAMILY -- THEY WILL BE CONSIDERED.
THEY'LL BE CONSIDERED PART OF THE --

>> C. KAHN: ANYONE WHO IS NOT LISTED AS AN APPELLANT CAN SPEAK
INDEPENDENTLY.

>> ON THE OPPENHEIMER SIDE BECAUSE THEY HAVE FAMILY MEMBERS THAT
DID NOT SIGN THE APPLICATION.

IF THEY CAN SPEAK DURING THE PUBLIC PARTICIPATION PORTION OF THE
HEARING AND WE CANNOT, THEY WOULD BE GIVEN SIGNIFICANT
ADDITIONAL TIME.

>> C. KAHN: YOU KNOW, I HAVE TO PLAY IT IN A FAIR WAY.
SAME WAY I WOULD IF IT WAS AN APPLICANT.

WE HAVE APPLICANT TEAMS, 10 AND 12 PEOPLE AND THEY GET FIVE

MINUTES.

AND I'M GIVING YOU MORE TIME THAN IS TYPICALLY GRANTED.

PROCEED WITH YOUR COMMENTS.

LET'S START THE CLOCK, YOU HAVE SIX MINUTES.

>> MAY WE SHARE THAT SLIDE.

>> HI, EVERYONE.

WE APPEALED YOUR INITIAL APPROVAL FOR THREE REASONS.

FIRST WE FELT THE DECISION GIVES UNREASONABLE PROPERTY VALUE.

THE IT ADDRESS HOUSING CRISIS, PROMOTE INTEGRATION AND INCREASE
SUSTAINABLE.

THIRD, THE HAA HAS BEEN MIS--

>> ANNA, WERE YOU GOING TO SHARE A PRESENTATION?

>> YES.

>> IT'S NOT UP THERE.

>> I DON'T KNOW WHY YOU DON'T SEE THE PRESENTATION.

I SEE IT ON MY SCREEN.

>> AT THE BOTTOM IT SAYS "SHARE SCREEN."

>> IT'S NOT ACTIVE ON OURS.

>> I THINK KAREN HAS TO STOP SHARING HER SCREEN, MAYBE.

>> C. KAHN: KAREN, YOU HAVE TO STOP SHARING YOUR SCREEN AND GIVE
THEM AN OPPORTUNITY TO SHARE.

>> ALL RIGHT, YOU SHOULD BE ABLE TO SHARE NOW.

>> I WILL KEEP THE CLOCK RUNNING ON MY END.

AND I WILL GIVE A ONE-MINUTE WARNING.

>> C. KAHN: WE STOPPED THE CLOCK FOR THIS DISCUSSION JUST SO YOU
KNOW.

>> WE NEED TO BE MADE --

>> C. KAHN: ANNA, WE CAN'T HEAR YOU.

>> CAN YOU HEAR ME?

I'M NEXT TO ANNA.

>> THEY'RE PROMOTING ANNA TO PANELIST.

>> THAT MIGHT HELP.

>> C. KAHN: DO YOU SEE THE SHARE SCREEN ICON, ANNA?

GREAT.

OKAY.

LET'S DO THIS.

KAREN, IF YOU CAN START THE CLOCK OVER.

I'D LIKE ANNA TO HAVE A CHANCE TO PRESENT.

>> IT'S RESET.

>> C. KAHN: THANK YOU.

ANNA, IT'S YOUR SHOW.

WE CAN'T HEAR YOU.

YOU'RE STILL MUTED.

>> YOU MUTED US.

>> C. KAHN: THAT'S TECHNOLOGY.

YOU CAN TAKE IT FROM THE TOP, WE'RE STARTING THE CLOCK OVER.

>> WE APPEALED THE INITIAL APPROVAL FOR THREE REASONS, FIRST THE
DECISION UNJUSTLY GIVES AN INCREASE IN PROPERTY VALUE TO THE

PROPONENTS AT THE EXPENSE OF THE NEIGHBORS.

APPROVAL SEEMS TO CONTRAVENE TO ADDRESS THE HOUSING CRISIS,
PROMOTE RACIAL AND ECONOMIC DISCRIMINATION IN BERKELEY.

THIRD, THE HAA HAD BEEN MISINTERPRETED.

WE'RE GLAD THE CITY AGREED AND CLARIFIED THAT THE ZAB HAS THE
AUTHORITY TO REQUIRE MODIFICATION TO THE SIZE AND DESIGN OF THIS
PROJECT IS UP AS THE ELIMINATION OF THE TOP STORY INITIALLY
SUGGESTED BY THE CITY PLANNER AND LIMIT THE PROJECT TO 700
SQUARE FEET THAT WOULD BE ALLOWED FOR NEW CONSTRUCTION ON THIS
LOT.

WHAT IS AT STAKE WITH THIS APPEAL, HOWEVER, IS NOT ONLY OUR
PROPERTY VALUES, IT'S ABOUT THE PRESERVATION OF LOWER INCOME,
RENT-CONTROLLED HOUSING IN THE FACE OF GENTRIFICATION.

AND ABOUT THE ABILITY OF ZAB TO STEER FROM THE DECISIONS TO
ALIGN DEVELOPMENT WITH CITY GOALS AND NEEDS.

WE FACE THE RECOMMENDATION THAT ZAB APPROVE THIS PROJECT.

WE UNDERSTAND THE PLANNING DEPARTMENT POLICY IS TO RECOMMEND FOR
APPROVAL ANY PERMIT THAT CAN BE LEGALLY REQUESTED AND WE ALSO
UNDERSTAND IT IS THE RESPONSIBILITY AND DUTY OF THE ZAB TO
APPROVE OR DENY PERMITS CONSIDERING WHETHER PROPOSAL ALIGNS WITH
CITY GOALS AND POLICIES WHILE BALANCING ENVIRONMENT, SOCIAL AND
ECONOMIC IMPACTS AS WELL AS RESIDENTS AND PROPERTY OWNERS.

THE STAFF REPORT LISTS POLICIES THAT IS APPLICABLE TO THE
PROJECT.

OUR SLIDES FIVE AND SIX SHOW ADDITIONAL CITY POLICY IT'S APPLY AND WHY SOME OF THE DECIDED POLICIES DO NOT APPLY.

WE WANT TO HIGHLIGHT GENERAL [INDISCERNIBLE] TWO TO MAINTAIN THE SUPPLY OF DECENT AFFORDABLE HOUSING AND IDENTIFYING GENTRIFICATION AS A SIGNIFICANT THREAT.

H-1 TO INCREASE THE NUMBER OF UNITS AVAILABLE TO BERKELEY RESIDENTS WITH LOWER INCOME LEVELS SO WE CAN ONLY ASSUME THIS TRANSLATES INTO A DIRECT PLOY TO PREVENT THE ELIMINATION AND PRESERVE EXISTING UNITS OF THAT TYPE, SMALLER UNITS.

THEN THERE IS LU-4 THAT STATES THAT ECONOMIC AND SOCIAL CONSEQUENCES DO NOT ADJUST ZONING STANDARDS MUST BE CONSIDERED IN DECISION MAKING.

LU-3 TO PROMOTE IN-FILL DEVELOPMENT DOES NOT APPLY HERE.

IT REFERS TO UNDER UTILIZED PARCELS SUCH AS VACANT LOTS.

SINCE THIS PROPERTY EXCEEDS BOTH LOT COVERAGE AND ZONING DENSITY STANDARDS, IT COULD NOT BE CONSIDERED UNDER DEVELOPED OR UNDERUTILIZED.

THE PROPONENTS REQUEST A MASSIVE EXPANSION AS A PROPERTY REGISTERED AS A DUPLEX WITH TWO SMALL LOW-INCOME UNITS BOTH OF WHICH A SUBJECT TO RENT CONTROL.

WE DO NOT SEE HOW ALLOWING THIS SIGNIFICANT MODIFICATION OF THOSE TWO UNITS COULD BE IN ACCORDANCE WITH THE CITY PLAN.

WHILE THE REPLACEMENT UNITS TECHNICALLY REMAIN SUBJECT TO RENT CONTROL, ONE WOULD BE MADE EVEN SMALLER AND NO LONGER SUITABLE

FOR A SMALL FAMILY AND THE OTHER SO LARGE THAT NO OWNER IN THEIR RIGHT MIND WOULD PUT IS ON THE MARKET UNDER RENT CONTROL.

THIS CITY WOULD SAY THAT IT'S OKAY FOR THE PROPONENTS TO CONVERT THEIR DUPLEX TO A SINGLE FAMILY HOME AND IT WILL BE OKAY TO EXPAND THE PERSONAL LIVING SPACE BOTH AT THE EXPENSE OF THE NEIGHBORHOOD AND GENTRIFIES THE NEIGHBORHOOD AND REDUCE MORE AFFORDABLE RENTAL UNITS.

THE PROPONENTS MUST HAVE BEEN AWARE OF THE LIMITATIONS OF THE PROPERTIES WHEN THEY PURCHASED IT'S YOUNG FAMILY DECADES AGO. IF THEY NEED A LARGER HOME, THEY SHOULD TRADE UP RATHER THAN DESTROYING THE HOUSE THAT SERVED THEM SO WELL.

BERKELEY NEEDS TO CREATE MORE SMALL AND AFFORDABLE LIVING UNITS. THIS IS CAUSING CONFLICT MERE BLOCKS WAY WITH THE PROPOSED DEVELOPMENT IN NORTH BERKELEY PARK.

AND ALLOW PLANNING FOR THE EXISTING SMALL UNITS SEEMS INCONSISTENT.

THIS PROJECT WOULD HAVE MINIMAL IMPACT ON NEIGHBORS.

THAT IS SUBJECTIVE.

IN OUR CASE, THE LOSS OF THE SUNNY AREAS IN OUR YARD WHERE WE SPEND TIME AND ENTERTAINMENT IS A TREMENDOUS IMPACT.

THE SAME GOES FOR THE LOSS OF PRIVACY THIS PROJECT WOULD ENTAIL.

THE CITY HAS NOT YET ESTABLISHED SUBJECTIVE STANDARDS TO GUIDE DECISION MAKING.

ZAB SHOULD ACT WITH PRECAUTION AND NOT APPROVE THE PROJECTS THAT

IRREVERSIBLY HARM NEIGHBORS.

>> ONE MINUTE WARNING.

>> IN OUR SUBMISSION, 18 THROUGH 26 WE DETAILED MULTIPLE OPTIONS TO REDUCE HARM TO BOTH THE CITY AND NEIGHBORS.

ONE OPTION THAT PROTECTS THE LOWER INCOME DUPLEX UNITS, TWO OPTIONS WOULD PERMIT EXPANSION BY ADDING A LOWER LEVEL TO INCREASE THE SQUARE FOOTAGE UP TO THE MAXIMUM ALLOWED ON THIS LOT IF THIS WERE UNDER CONSTRUCTION.

AND TWO OPTIONS WHERE ZAB DOES ALLOWS EXPANSION TO BEYOND THE SQUARE FOOTAGE THAT WOULD BE PERMISSIBLE, YOU WOULD PERMIT EITHER A PARTIAL OR FULL THIRD UPPER LEVEL WITH MODIFICATIONS. OUR MATERIALS SHOW A VARIETY OF MODIFICATIONS THAT SHOULD BE CONSIDERED IN THE SITUATION.

I WANT TO BE VERY CLEARLY.

CLEAR WHILE WE HOPE YOU WOULD NOT ALLOW EXPANSION OF THIS PROPERTY BEYOND THE 2700 SQUARE FEET MAXIMUM PERMITTED --

>> TIME IS UP.

>> THE PREFERABLE OPTION IS FOR ZAB TO PRESERVE THESE LOW RENT UNITS.

>> C. KAHN: THAT'S A WELL-PREPARED PRESENTATION.

AND I APPRECIATE THAT.

THE APPLICANT -- WE'LL NOW GIFT APPLICANT AN OPPORTUNITY TO RESPOND.

IS THE APPLICANT HERE?

I SEE MR. OPPENHEIMER'S HAND IS UP.

I THINK THE APPLICANT GETS THREE MINUTES FOR THE RESPONSE,
SAMANTHA, IS THAT RIGHT?

>> I THINK THEY GET FIVE MINUTES.

>> C. KAHN: SO YOU HAVE FIVE MINUTES TO RESPOND.

>> AND WE HAVE SUNNY JOINING OUR ARCHITECT.

>> ANNA, I NEED YOU TO STOP SHARING YOUR SCREEN, PLEASE.

>> C. KAHN: THANK YOU.

THE APPLICANT TEAM GETS FIVE MINUTES TO SPEAK.

>> I ALSO HAVE A PRESENTATION WITH SLIDES I WAS HOPING TO SEE.

IS IT POSSIBLE TO GET THAT APPROVAL TO SHOW THIS?

>> C. KAHN: SHE SHOULD BE PROMOTED TO PANELIST.

>> I HAVE SOME SLIDES AND SUNNY, I BELIEVE, HAS HIS HAND UP.

>> C. KAHN: IT'S [INDISCERNIBLE] THAT WOULD BE DOING THE
PRESENTATION SLIDES.

>> I THINK ALLISON DID A GOOD JOB OF EXPLAINING WHERE WE STARTED
AND ENDED UP WITH THIS PROJECT.

THIS PROJECT IS THE EXACT SAME PROJECT THAT YOU APPROVED BACK IN
2021.

DECEMBER.

INCENTIVES APPEAL TO THE CITY COUNCIL.

CITY COUNCIL AS YOU KNOW DID NOT LOOK AT IT AND SEND IT BACK TO
YOU BECAUSE OF HOW THE AGENT [INDISCERNIBLE]

AT THIS POINT, YOU KNOW, WE WORK WITH THE PLANNING DEPARTMENT TO

MODIFY OUR DESIGN.

BASED ON THE RESPONSE THAT WE GOT BACK.

AS YOU KNOW, WE MODIFIED THE REAR OF THE UPPER FLOOR TO ACCOMMODATE THE 20-FOOT SETBACK AND ELIMINATED THE ROOF AND CHANGED THE BUILDING HEIGHT AND REMOVED THE ONE-CAR GARAGE FOR THE INITIAL DESIGN TO MAKE THE BUILDING NOT TO BE A THREE-STOREY AND HAVE ADDITIONAL SETBACK ISSUES.

WE MODIFIED THE ROOF DESIGN AND INCREASED THE IMPACT ON THE ADDITIONAL PROPERTIES WHICH YOU CAN SEE IN THE SHADOW SECTION. WE REDESIGNED AND SCALED THE BUILDING SO IT LOOKS SIMILAR TO OTHER TWO-STOREY HOUSES OVER A BASEMENT.

WE'RE NOT DOING SOMETHING THAT IS UNUSUAL HERE.

THERE ARE MANY, MANY EXAMPLES OF HOUSE OF THIS SCALE IN THE NEIGHBORHOOD.

YOU KNOW, THE PLANNING -- AGAIN, PLANNING DEPARTMENT AND STAFF IS RECOMMENDING THIS PROJECT FOR APPROVAL.

AND I WOULD LIKE TO GIVE THE REMAINING TIME TO PAUL TO SPEAK ON BEHALF OF THE FAMILY.

>> CAN YOU ALL SEE MY PRESENTATION?

>> WE SEE 1643-1647 CALIFORNIA STREET.

>> THANK YOU.

SO I'M SPEAKING ON BEHALF OF MY PARENTS BECAUSE ENGLISH IS THEIR SECOND LANGUAGE.

MY FAMILY HAS LIVED IN THIS HOME IN BERKELEY FOR OVER 30 YEARS

NOW.

THEY'RE LOOKING TO RENOVATE THE OLD HOME TO MEET THE NEEDS OF THEIR FAMILY.

MY BROTHER IS VISION IMPAIRED.

A QUICK REMINDER, ECHOING THAT STAFF DOES RECOMMEND APPROVING THIS PROJECT.

WE DECIDED TO SHARE THE MODIFICATIONS WEAVE A MADE TO ADDRESS THE NEIGHBORHOOD FEEDBACK.

IT WENT THROUGH EXTENSIVE REDESIGN TO LOWER THE HEIGHT AND STAFF NOW RECOMMENDS APPROVING THE PROJECT.

IT'S NOW A TWO-STOREY HOUSE OVER A BASEMENT.

THE NEIGHBOR TO THE NORTH SUPPORTS THE PROJECT.

THIS NEIGHBOR IS MOST AFFECTED BY THE SHADE AND THE LIGHT.

WE LOWERED THE SIDE MUCH THE ROOF REDUCING THE IMPACT TO HER HOUSE AND AS YOU CAN SEE SHE REMAINS SUPPORTIVE OF THE PROJECT.

THE NEIGHBOR TO THE SOUTH EXPRESSED PRIVACY CONCERNS ABOUT VISIBILITY IN THEIR BACKYARD.

ALTHOUGH THE BACKYARD IS ALREADY OBSCURED BY AN EXISTING STRUCTURE, WE STILL UPDATED THE DESIGN SO THAT THE WINDOW NEAR THE BACKYARD IS A SMALL BATHROOM WINDOW WITH OBSCURE GLASS.

THE NEIGHBOR EXPRESSED CONCERNS ABOUT SELLING THE HOUSE RATHER THAN LIVING HERE.

MY FAMILY WANTS TO KEEP LIVING IN THEIR HOME.

THE NEIGHBORS TO THE EAST ARE MINIMALLY AFFECTED BY THE PROJECT.

THEIR BUILDING IS NOT DIRECTLY IN LINE WITH MY PARENT BECAUSE
IT'S SOUTHEAST OF THE PROJECT.

NONE OF THE NEIGHBOR'S PROPERTY FACE PIE PARENTS' BUILDING.
EXCITE IMPACT, WE MODIFIED THE PROJECT TO ADDRESS THEIR
CONCERNS.

FOR PRIVACY, WE UPDATED THE DESIGN.

THE UPPER WINDOWS CLOSEST TO THE EAST NEIGHBOR IS A SMALL
BATHROOM WINDOW WITH OBSCURE GLASS.

THE OTHER OVER 50 FEET AWAY.

THERE IS VERY LITTLE LIGHT IMPACT ON THE PROPERTY.

THE NEIGHBORS TO THE EAST RAISED OTHER CONCERNS TO ZAB THAT
HASN'T --

>> ONE MINUTE WARNING.

>> THANK YOU.

STAFF STATED THAT THE NUMBER OF PERMITS, WE WORKED CLOSELY WITH
THE CITY PLANNER.

NO UNITS ARE REMOVED.

THIS MAINTAINS TWO UNITS AND THERE NO UPPER DECK.

NEIGHBORS ON THE BLOCK EXPRESSED THEIR SUPPORT.

WE HAVE SOME SIGNATURES SHOWING THEIR SUPPORT.

THESE ARE PHOTOS OF SIMILARLY-SIZED BUILDINGS WITHIN A BLOCK OF
THE PROJECT ITSELF.

WE BELIEVE THAT WE'VE ADDRESSED ALL THE CONCERNS FROM ZAB AND
CITY COUNCIL AND ADDRESSED THE CONCERNS FROM THE NEIGHBOR.

MY FAMILY IS EXCITED TO BE A PART OF THE BERKELEY COMMUNITY.

THANK YOU.

>> THANK YOU THAT WAS QUITE ARTICULATE.

WITH THIS, I WOULD LIKE TO RECOGNIZE PARTICIPATES WHO ARE NOT PART OF -- PARTICIPANTS WHO ARE NOT PART OF THE APPLICANT OR APPELLANT.

I SEE TWO INDIVIDUALS.

ONE IS A PHONE NUMBER 2818 THE LAST THREE DIGITS.

I SEE DANA, AND JEFF AND TOM.

AND A BERKELEY NEIGHBOR.

IF ANYONE ELSE WISHES TO SPEAK FROM THE COMMUNITY, THIS IS THE TIME TO RAISE YOUR HANDS.

I SEE NICOLE WOULD LIKE TO SPEAK.

WE HAVE TWO, ONE -- ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT.

ANYONE ELSE WISHING TO SPEAK IN.

OKAY.

AS LONG AS WE HAVE EIGHT PEOPLE -- IT'S QUITE A FEW.

SAMANTHA, YOU HAVE YOUR HAND UP.

>> I WAS GOING TO ASK IF THE APPLICANTS COULD STOP SHARING THE SCREEN.

>> YES.

>> SORRY.

>> C. KAHN: WE'LL GIVE EACH OF THE MEMBERS OF THE PUBLIC TWO

MINUTES TO SPEAK.

IF YOU ARE ONE OF THE APPELLANTS -- ARE ANY OF THESE INDIVIDUALS
APPELLANTS?

ALLISON?

>> NO.

NO, THE OTHER SPEAKERS ARE APPELLANTS. WE'LL RECOGNIZE EVERYBODY
WHO HAS -- EIGHT PEOPLE HAVE THEIR HANDS UP.

YOU EACH GET TWO MINUTES.

I'LL START WITH THE PHONE NUMBER.

YOU NEED TO UNMUTE SO WE CAN HEAR YOU SPEAK.

>> I. TREGUB: IT'S *6 TO UNMUTE.

>> C. KAHN: OKAY.

VERY GOOD.

OKAY.

I THINK WE CAN HEAR YOU NOW.

WE CAN'T HEAR YOU NOW.

HELLO.

SOMEBODY IS VAGUE PROBLEM.

I'M GOING TO GO AHEAD AND WHILE THEY'RE FIGURING THAT OUT, CAN
WE HEAR YOU?

I DON'T KNOW WHAT THE PROBLEM IS.

I'M GOING TO GIVE YOU A CHANCE.

>> CAN YOU HEAR ME?

>> C. KAHN: YES, WE CAN NOW.

>> OKAY, CHARLES, THIS IS KELLY.

YOU BUMPED ME OFF THE SYSTEM AND I CAN'T GET BACK IN.

>> C. KAHN: OH, I'M SO SORRY.

>> WAS IT PERSONAL?

>> C. KAHN: NOT AT ALL.

WHY CAN'T YOU GET BACK IN?

>> BECAUSE WHEN YOU THROW SOMEBODY OFF THE SYSTEM, YOU PRESSED A
BUTTON AND THEN THREW ME OFF.

IT GAVE ME A MESSAGE I'M UNABLE TO REJOIN.

>> C. KAHN: I'M SO SORRY.

>> OKAY.

THANK YOU.

THAT WAS WHAT I WANTED TO KNOW.

AND I'LL WAIT TO HEAR THE OTHER SPEAKERS AND SEE IF THERE IS
SOMETHING I WANT TO SAY AT THE END.

>> C. KAHN: YOU KNOW YOU'RE ALWAYS WELCOME HERE.

I APOLOGIZE.

THAT WAS -- I WAS SAYING MEETING I'M NOT INTO TECHNOLOGY.

>> THANK YOU.

I'LL JUST WAIT AND HEAR WHAT THE OTHERS HAVE TO SAY.

>> C. KAHN: THANK YOU.

I SHOULDN'T DO THAT IN THE FUTURE.

WE HAVE DANA NEXT.

>> HELLO, CAN YOU HEAR ME?

>> C. KAHN: HELLO.

WE CAN HEAR YOU.

>> I'VE BEEN ASKED TO READ A STATEMENT FROM THE NEXT DOOR
NEIGHBOR TO THE OPPENHEIMER PROPERTY WHO WAS UNABLE TO ATTEND
TONIGHT.

I'M GOING TO PROCEED TO READ IT AS WRITTEN.

SO MY NAME IS BARBARA, I'M UNABLE TO ATTEND THIS SESSION AND
WOULD LIKE TO SUBMIT THE FOLLOWING STATEMENT.

I HAVE LIVED AT 1639 CALIFORNIA STREET SINCE 1980.

MY PROPERTY WILL BE THE MOST IMPACTED BY THE DESIGN OF MORE
SHADOW AND LESS LIGHT.

I SUPPORT THE IMPROVEMENTS UNDER CONSIDERATION OF 1643 TO 1647
CALIFORNIA STREET.

AS THE PROJECT GOES THROUGH THE VARIOUS DEPARTMENTS, MANY
ARGUMENTS HAVE BEEN PRESENTED AND MANY HAVE LEGAL INTERPRETATION
AND HAVE LITTLE OR NOTHING DO WITH THE DESIGN OF THE PROJECTS.
THE LIGHT AND SHADOW DO NOT LIE WITH THE DEPARTMENTS.

I HOPE THIS PROCESS WILL BE RESOLVED WITH A DECISION BASED ON
CURRENT CODES.

LAWS AND PRESENTATIONS AND THE OPPENHEIMERS WILL BE ABLE TO MOVE
FORWARD WITH THE IMPROVEMENTS ON THEIR PROPERTY.

THAT'S THE END OF THE STATEMENT.

>> C. KAHN: THANK YOU FOR READING THAT.

WE APPRECIATE IT.

I'LL NEXT RECOGNIZE JEFF.

>> OKAY.

AM I UNMUTED?

>> C. KAHN: YES, SIR.

>> MY FAMILY LIVED AT 1636 CALIFORNIA STREET FOR 39 YEARS.

WE WANTED TO EXPAND OUR HOME AND ADD A SECOND STOREY.

WHEN OUR NEIGHBOR TO THE NORTH WANTED TO EXPAND THEIR HOME AND ADD A SECOND STOREY, WE PROVIDED OUR SUPPORT AS DID THE OTHER GOOD NEIGHBORS.

WHEN THE OPPENHEIMERS DECIDED TO RENOVATE AND IMPROVE THEIR HOME ON CALIFORNIA STREET WHERE THEY'VE LIVED FOR 32 YEARS, THEY OBTAINED SIGNATURES OF SUPPORT OF ALL THE GOOD NAMES EXCEPT FOR ADAM SAPIR AND ANNA WHO LIVES ON 1609 VIRGINIA STREET.

AFTER READING THEIR MULTI-PAGE SINGLE SPACE APPEALS WITH LEGAL CITATIONS AND GRAPHICS AND IF HE CAN TOURS, IT IS CLEAR TO ME THAT MISS KAY BRISTOL AT 1639 CALIFORNIA STREET IS NOT THE PERSON GENERATING THIS LEVEL OF VINDICTIVENESS TOWARD THE OPPENHEIMER PROJECT BUT A CASUAL OBSERVER WHO HAPPENS TO LIVE ON CALIFORNIA AND THE OTHERS HAVE CONVINCED TO COSIGN THEIR PIECE. IN MY OPINION IT IS INCORRECT. I WOULD LIKE TO ASK MISS BRISTOL TO ARTICULATE THE ISSUES BY THE APPEALS.

I DOUBT SHE CAN AND SHE DID NOT IN THE LAST ZOOM MEETING LIMITING HER CONCERNS TO HER PROPERTY BEING ADVERSELY AFFECTED. IF THE CITY ALLOWS THE SITUATION TO CONTINUE, IT'S A SAD

COMMENTARY ON A PROCESS THAT WAS ALREADY APPROVED ONCE AND
KICKED BACK TO THE RENT BOARD FOR NO APPARENT REASON AND NOW
IT'S AGAIN BEFORE THE ZONING BOARD.

THAT ESSENTIALLY ONE FAMILY WHO LIVES ON -- I SUPPORT
OPPENHEIMER'S PROJECT AND HOPE THEY GET THEIR PERMIT TO RENOVATE
AND IMPROVE THEIR HOME.

>> C. KAHN: THANK YOU FOR COMING TONIGHT.

TODD JAILER IS NEXT.

>> HELLO.

CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I'M TODD JAILER AND I LIVE AROUND THE CORNER OR VIRGINIA
STREET AND I OPPOSE THE PROJECT BECAUSE I BELIEVE IT'S WRONG TO
REMOVE SMALL, AFFORDABLE HOUSING UNITS FROM BERKELEY.

WE RECENTLY BUILT A BACKYARD ADU TO ADDRESS THE HOUSING SHORTAGE
IN BERKELEY.

WE BUILT IT AT 1600 SQUARE FEET EXACTLY THE SIZE OF THOSE TWO
UNITS AT 1643.

WE DON'T -- WHEN WE DID IT, IT TOOK ABOUT A YEAR AND A HALF TO
BUILD.

WE FOLLOWED ALL THE ZONING RULES AND ALL THE OTHER CITY RULES
AND IT WAS DIFFICULT TO MAKE THAT WORK.

BUT WE FIGURED THAT'S WHAT RULES ARE FOR.

YOU FOLLOW THEM.

AND WE DON'T THINK THE CITY SHOULD ISSUE A USE PERMIT WHERE THERE IS NO REQUIREMENT TO DO SO FOR A PROJECT THAT DOESN'T FOLLOW THE RULES AND ELIMINATES SMALL HOUSING UNITS AND IMPACTING NEIGHBORS.

IT'S UPSETTING TO HEAR THAT RESIDENTS ARE BEING ASKED BY THE CITY TO BUILD BACKYARD ADUS TO ALLEVIATE THE HOUSING CRISIS, BUT AT THE SAME TIME REMOVING SMALL UNITS THAT ALREADY EXIST. CAN.

DOING SO BASICALLY GIVES THE OWNERS OF THOSE PROPERTIES AN ENORMOUS PROPERTY VALUE INCREASE AT THE EXPENSE OF THE NEIGHBORS, AT THE EXPENSE OF POTENTIAL NEIGHBORS OF LOWER INCOME OR LESSER WEALTH AND IT'S A DETRIMENTAL DEVELOPMENT OF HOUSING AVAILABILITY IN BERKELEY.

THANK YOU.

>> C. KAHN: THANK YOU FOR YOUR COMMENTS, TODD AND FOR COMING TONIGHT.

WE HAVE ONE IDENTIFIED AS A BERKELEY NEIGHBOR.

>> THANK YOU, CAN YOU HEAR US?

>> C. KAHN: YES.

>> THANK YOU VERY MUCH.

I'M ELIZABETH.

>> AND I'M ZOLTAN. WE'RE NEIGHBORS HALF A BLOCK AWAY ON CALIFORNIA STREET TO THE SOUTH.

>> WE WANTED TO SPEAK UP AND GIVE OUR SUPPORT FOR THE PROJECT.

I KNOW THERE IS SOME BAD FEELING AGAINST IT, BUT I HAVE TO SAY THAT THERE IS ALREADY SO MUCH DEVELOPMENT BOTH ON OUR BLOCK AND IN THE NEIGHBORHOOD THAT THIS CONFORMS WITH.

I DON'T THINK THERE IS ANYTHING OUT OF STEP ABOUT THIS PROJECT IN PROPORTIONS OR FITTING INTO THE NEIGHBORHOOD.

I THINK IT WILL BE JUST FINE.

THE REASON WE'RE SPEAKING UP ALSO IS BECAUSE WE'VE HAD THIS KIND OF DEVELOPMENT HAPPEN ALL AROUND OUR HOUSE.

TO THE SOUTH THE HOUSE WAS DOUBLED IN SIZE AND MOVED BACK AND IT'S MUCH CLOSER TO US AND GIVEN OUR PROPERTY MUCH SHADE.

TO THE NORTH OF US, THE SAME THING PRETTY MUCH HAPPENED.

THE HOUSE INCREASED ALMOST DOUBLE IN SIZE AND HEIGHT WHILE NOT BEING MOVED.

IT TOOK AWAY A VIEW THAT WE VERY MUCH LOVE.

WE APPROVED BOTH PROJECTS.

AND BOTH NEIGHBORS WERE WONDERFUL AND TOTALLY WORTH IT.

AND IT WOULD HAVE BEEN TERRIBLE FOR THEM NOT TO BE ABLE

TO -- ONE NEIGHBOR MIGHT HAVE LOST HIS LOAN IN ORDER TO DO THE PROJECT AT ALL IF THERE WAS ANY MORE STALLING ON THE PROJECT AND WE THOUGHT THAT WASN'T RIGHT.

OUR OTHER NEIGHBOR WAS RETIRING AND THIS WAS THEIR RETIREMENT HOME.

YOU KNOW, I JUST DON'T THINK THESE REASONS ARE GOOD ENOUGH TO DENY PEOPLE THE ENJOYMENT OF THEIR HOMES AND PROPERTY.

I DON'T THINK IT'S OUT OF LINE WITH PROJECTS THAT HAVE BEEN DONE TO THE REST OF THE NEIGHBORHOOD AND I DON'T THINK IT'S RIGHT, FOLKS.

I WOULD HOPE THE NEIGHBORHOOD WOULD COME TOGETHER AND SUPPORT THIS PROJECT AND WE ASK THAT YOU DO SO.

>> THANK YOU.

>> C. KAHN: THANK YOU SO MUCH FOR COMING TONIGHT.

WE HAVE THREE MORE SPEAKERS.

WE CALL YVONNE.

>> THANK YOU.

CAN YOU HEAR ME?

>> C. KAHN: YES.

WELCOME.

>> THANK YOU SO MUCH.

I WANTED TO ADDRESS COMMENT THAT A PREVIOUS SPEAKER MADE ABOUT THE SIZE OF THE HOME.

IT SEEMS LIKE THAT IS A MAJOR ISSUE FOR THE SPEAKER.

HOWEVER, AS BROUGHT UP BY THE PREVIOUS NEIGHBOR WHO SPOKE, IT SEALS LIKE THIS KIND OF SIZE OF HOME IS ACTUALLY BECOMING MORE AND MORE COMMON IN THE COMMUNITY.

IN FACT, ABOUT 50% OF THE BUILDINGS ON THE BLOCK ARE ABOUT THE SIZE OF THE PROPOSED EXPANSION.

THERE IS NO REASON TO REDUCE THE SIZE OF THE PROJECT.

FURTHERMORE, THE INDIVIDUALS WHO WORKED ON THIS HOME AND

REDESIGN TOOK INTO ACCOUNT THEIR NEIGHBORS WISHES AND DESIRES AND CARE ABOUT THEIR COMMUNITY AND HOW THIS WILL AFFECT THEY ARE NEIGHBORHOOD AND FURTHER INCORPORATION AND FURTHER STALLING SEEMS UNREASONABLE TO FORCE THEM TO.

THANK YOU GUYS FOR YOUR TIME.

>> C. KAHN: THANKS FOR COMING.

WE HAVE KAY -- JOHN IS NEXT.

>> GOOD EVENING.

WHILE THIS PROJECT MIGHT HAVE BEEN CONTENTIOUS, WOULD I LIKE TO POINT OUT THAT THE ARCHITECT IN QUESTION SUNNY GREWEL CHOSE TO MAKE IT MORE CONTENTIOUS THAN IT NEEDS TO BE.

HE SAID THE PROPOSED PROJECT HAS SUPPORT FROM THE ADJOINING NEIGHBORS PLURAL.

IN FACT IT HAS THE SUPPORT OF ONE.

THE OTHER NEIGHBORS WROTE THAT THEY WERE NOT IN SUPPORT OF THIS PROJECT.

LANGUAGE MATTERS.

MR. GREWEL IN CHOOSING THIS LANGUAGE MATERIAL MISREPRESENTS THE OTHER NEIGHBORS' CONSENT.

MR. GREWEL MADE THE SAME CLAIM ON MY NEIGHBORS WHERE IT WAS A DIFFERENT AUP AND PROJECT, HE SPOKE ABOUT THE NON-SUPPORT.

DEVELOPMENT CAN BE CONTENTIOUS ENOUGH WITHOUT SETTING NEIGHBOR AGAINST NEIGHBOR.

SOMEONE NEEDS TO TELL THIS ARCHITECT TO STRAIGHTEN UP AND FLY

RIGHT.

THANK YOU BOARD MEMBERS FOR YOUR TIME.

>> C. KAHN: THANK YOU FOR THOSE COMMENTS.

I'M SURE THEY ARE BEING HEARD.

>> HELLO.

THE PRESENTATION BY THE APPELLANT SEEMS TO BE AN ENDLESS LIST OF ANY COMPLAINTS THAT THEY CAN THINK OF.

THEY DON'T SEEM TO FOCUS ON THE -- THEY'RE NOT FOR THE PROJECT.

THERE WILL IS NO REASON FOR THIS PRESENTED BEFORE THE ZAB AGAIN.

I'M IN SUPPORT OF THE PROJECT THAT SEEMS REASONABLE TO ME.

>> C. KAHN: ANY OTHER COMMENTS?

>> NO.

>> C. KAHN: THANK YOU FOR COMING TONIGHT.

WE APPRECIATE THAT.

I BELIEVE THAT KAY BRISTOL HAS SPOKEN.

>> NO, SHE DIDN'T SPEAK BUT SHE IS ONE OF THE APPELLANTS.

>> C. KAHN: WE HAVE SOMEONE NAMED RIVER WHO HAS APPEARED.

I'LL RECOGNIZE YOU AND WE HAVE KELLY WHO IS BACK.

RIVER.

>> GOOD EVENING.

I WOULD LIKE TO SAY I'M IN SUPPORT OF THIS PROJECT.

THE FAMILY HAS LIVED THERE OVER 30 YEARS.

THEY'VE LIVED IN A MODEST DWELLING THE ENTIRE TIME.

IT SEEMS LIKE A REASONABLE REQUEST.

HAS BEEN STATED EARLIER, A NUMBER OF OTHER HOUSES IN THE AREA ARE OF SIMILAR SIZES AND THEY WORKED WITH THE NEIGHBORS IN THE AREA AND GOTTEN THOSE APPROVED BY STAFF MULTIPLE TIMES.

IT SEEMS REASONABLE TO ME.

THANK YOU.

>> C. KAHN: THANK YOU FOR COMING.

I DON'T SEE ANY MORE HANDS, KELLY, PUT YOUR HAND UP, IT'S YOUR LAST CHANCE IF YOU WANT TO SPEAK.

I DON'T SEE YOUR HAND GOING UP.

I'M GOING TO CLOSE THE PUBLIC HEARING AND BRING IT BACK TO THE COMMISSION.

AND ARE THERE ANY QUESTIONS YOU HAVE FOR STAFF, VERIFICATIONS BASED ON THE COMMENTARY THAT WE HEARD TONIGHT AND ANY COMMENTS OR THOUGHTS YOU HAVE RELATIVE TO THE MERITS OF THIS APPLICATION.

IGOR, I SEE YOUR HAND UP.

>> I. TREGUB: BEFORE YOU DO, I JUST SEE NOW KELLY RAISING HER HAND.

>> C. KAHN: I DO WANT TO RECOGNIZE HER.

KELLY, YOU ARE RECOGNIZED.

>> OKAY.

CAN YOU HEAR ME?

>> C. KAHN: YES, MA'AM.

>> I REALLY WANTED TO COMMENT ON TWO THINGS ON THE DESIGN.

THAT IS THAT THE STAIRWAY ENTRANCE DOESN'T LOOK BALANCED WITH

THE SIDES OF THE BUILDING.

YOU HAVE TALENTED ARCHITECTS ON ZAB.

I WISH YOU WOULD TAKE A LOOK AT THAT.

AND THE OTHER CONCERN IS THE DECK, IF THAT'S A WOOD DECK GOING ALL THE WAY TO THE PROPERTY LINE, I THINK WITH THE WAY LEGISLATION IS GOING, ON FIRE ZONES AND FIRE SAFETIES THAT THOUGH NEED TO TAKE THAT BACK FROM THE PROPERTY LINE.

THOSE ARE MY TWO COMMENTS.

>> C. KAHN: THANK YOU FOR THAT.

OKAY.

NOW I WILL RECLOSE PUBLIC HEARING AND IGOR, I SEE YOU AND I SEE YOU DEBBIE.

PROCEED.

>> I. TREGUB: OKAY.

THANK YOU.

WELL, KELLY BRINGS UP AN INTERESTING POINT.

STAFF, COULD YOU ADDRESS -- I WOULD PRESUME THAT BEFORE SOMETHING GOES BEFORE STAFF RECOMMENDATION --

>> C. KAHN: ARE YOU ASKING ABOUT WHAT KELLY RAISED?

>> EITHER OF YOU.

I WOULD PRESUME THAT THE FIRE DEPARTMENT BUILDING INSPECTOR --

>> C. KAHN: THAT'S NOT A ZAB ISSUE.

I'M SPEAKING AS CHAIR NOW.

KELLY'S ISSUE IS NOT A ZONING BOARD ISSUE.

IT'S A BUILDING DEPARTMENT ISSUE.

IT WILL BE ADDRESSED IN DUE TURN BY THE BUILDING AND FIRE
DEPARTMENT.

FIRE SAFETY IS NOT OUR BAILIWICK.

>> I. TREGUB: JUST WANTED TO CLARIFY.

THANK YOU FOR CLARIFYING.

I WAS CURIOUS, STAFF, IF YOU COULD WALK US THROUGH.

AT SOME POINT IT WAS TWO UNITS -- WELL, IT WAS ALWAYS TWO UNITS
AND SOME MODIFICATIONS WERE MADE TO ONE OR BOTH OF THE UNITS
WITHOUT PERMITS.

SO WOULD YOU JUST CONFORM LIKE WHAT WILL MY UNDERSTANDING IS
THAT PART OF THE PERMITS WE ARE TRYING TO DO OR WE'RE BEING
ASKED TO PROVIDE WOULD BE IN PART TO CORRECT SOMETHING THAT MAY
HAVE BEEN DONE WITHOUT PERMITS.

>> C. KAHN: IS THAT TRUE ALLISON?

>> NO.

IT WAS INTERIOR WORK DONE WITHOUT PERMITS.

THERE WERE TWO KITCHENS, ONE PROPERTY WAS PURCHASED BY THE
CURRENT OWNERS.

MAYBE THEY REMOVED THE SECOND ONE, BUT OTHERWISE REMOVED A DOOR,
ADDED A DOORWAY SO THAT THEY WERE USING THE TWO UNITS AS ONE
HOUSE.

>> I. TREGUB: THAT WOULD NOT REQUIRE SEPARATE PERMITS.

IT WAS AN ENTIRELY INTERIOR MODIFICATION.

CAN YOU CONFIRM THAT ON THE ASPECT WHERE OTHER THAN CODE ENFORCEMENT WHERE IT WOULD BE MAYBE THE RENT BOARD PURVIEW WOULD HAVE BEEN IF THAT WILL UNPERMITTED WORK IMPACTED SOMEONE THAT MAY HAVE BEEN RENTING THE UNIT AT THE TIME AND WOULD HAVE BEEN IMPACTED BY A REDUCTION IN SERVICES OR A CHANGE IN THE FLOOR PLAN.

THAT WOULD BE WITHIN THE PURVIEW OF THE RENT BOARD, NOT THE ZAB, CORRECT?

>> YES, BUT MY UNDERSTANDING IS THAT THE CURRENT OWNERS BOUGHT THE PROPERTY WHEN NO ONE WAS OCCUPYING.

SO THERE WASN'T A DISRUPTION TO EXISTING TENANTS WHEN THEY OCCUPIED BOTH UNITS.

BUT IT WAS DETERMINED THAT IT'S NOT A GOLDEN DUPLEX SO IT'S SUBJECT TO RENT CONTROL WHEN IT IS RENTED.

>> C. KAHN: THEY WERE RESTORING IT TO TWO UNITS.

>> I. TREGUB: THANK YOU SO MUCH FOR CLARIFYING THAT.

>> C. KAHN: ANYTHING ELSE?

NO CAN.

DEBBIE AND [INDISCERNIBLE]

>> I WANT TO MAKE A COMMENT ON THE SIZE OF THE UNITS.

501 SQUARE FEET IS A NORMAL SIZE FOR A SMALL UNIT.

IT IS WHAT WE CONSIDER THAT AND BELOW IS A TYPICAL LOW INCOME AFFORDABLE UNIT.

THEY'RE GETTING SMALLER AND SMALLER.

WE STARTED WITH TWO UNITS COMPARABLE IN SIZE WE END UP WITH TWO UNITS WHERE ONE IS SMALLER AND ONE IS LARGER.

I THINK THAT CHANGE STRONGLY SUPPORTS THE CITY OF BERKELEY'S RESIDENTS AND BUYERS OF PROPERTY.

AND I THINK THE BUILDING HAS RESULTED FROM THESE EXTENSIONS.

IT'S LIKE A BUILDING YOU WOULD FIND IN THAT NEIGHBORHOOD.

WOULD I LIKE TO RECOMMEND THAT WE APPROVE THIS PROJECT AS PROPOSED.

>> C. KAHN: IS THAT A MOTION?

>> D. SANDERSON: YES IT IS.

>> C. KAHN: YES.

>> Y. DUFFY: I HAVE A COUPLE OF COMMENTS.

>> C. KAHN: I WANT TO MAKE ONE THING CLEAR.

JUST BECAUSE SOMEONE MAKES A MOTION IT DOESN'T STOP THE DISCUSSION.

THAT STARTS THE DISCUSSION.

THAT'S HOW THE PARLIAMENTARY PROCEDURE WORKS.

WE'RE NOT DISCUSSING THE MOTION.

SO PLEASE PROCEED.

>> Y. DUFFY: FIRST, I APPRECIATE THE CLARITY OF ALL THE PRESENTATIONS.

I HOPE TO BE AS CLEAR MYSELF NOW.

I PLAN TO SUPPORT THIS PROJECT AS PRESENTED WITH THE CONDITIONS OF APPROVAL ATTACHED.

I'VE READ ALL THE CORRESPONDENCE ON THE RECORD.

TO THE AMENDMENT, A QUICK NOTE ABOUT SMALL UNITS BEING
CONSIDERED AFFORDABLE LOW-INCOME UNITS.

SMALL DOESN'T ALWAYS EQUATE MORE AFFORDABLE.

A BETTER METRIC IS PROBABLY NUMBER OF BEDROOMS.

AS ANY STUDENT WOULD KNOW, SHARED LIVING SITUATIONS WITH
MULTIPLE ROOMS CAN ACTUALLY BE MORE AFFORDABLE TO INDIVIDUALS.
WHILE WE ARE ALIGNED ON THE IMPORTANCE OF AFFORDABILITY.

IT'S NOT ALWAYS ABOUT BEING SMALL.

SHARING ALLEVIATES SOME THE COST BURDEN.

I APPRECIATE THE LEVEL OF DETAIL THAT THE APPELLANT DESCRIBES
THE SITUATION, BUT I STILL FEEL THIS APPROVAL RECOMMENDATION
FROM STAFF IS SUBSTANTIATED.

THIS PROJECT IS LEGAL, CONFORMING AND A SECOND STOREY ADDITION.
THE LOT COVERAGE IS NON-CONFORM BIG A SMALL AMOUNT BUT IT'S
IMPROVING WITH THE REMOVAL OF THE SHED.

A COUPLE OTHER THINGS TO MENTION, SHADOWS AND PRIVACY, I KNOW
YOU BROUGHT THEM UP.

IT WOULD BE IMPORTANT TO ADDRESS.

SHADOWS NOT ONLY ARE THEY MOSTLY CAST FROM THE EXISTING RED WOOD
TREES BUT AS FOR THE BUILDING, THEY ARE A FUNCTION OF HEIGHT AND
ROOF DESIGN AND THIS PROPOSAL MADE A FRIENDLY AMENDMENT TO
ADDRESS THIS ISSUE.

FURTHER MORE, THIS PROJECT PROPOSES A ROOF HEIGHT THAT IS WELL

UNDER THE ALLOWED HEIGHT COMPLIMENTS AND IT STEPS BACK IN THE REAR YARD TO COMPLY WITH REQUIRED SETBACKS.

THOSE ARE SOME ISSUES REGARDING SHADOW AND PRIVACY.

WE ADDRESSED THIS PREVIOUSLY WITH RECOMMENDING HIGHER STRATEGICALLY-PLACED WINDOWS AT THE LAST HERO AND PRIVACY FROSTING IN THE BATHROOM.

IT IS ADEQUATE.

THE APPELLANTS WINDOWS ARE NEARLY 50 FEET AWAY IN THE REAR YARD.

50 FEET IS THE WIDTH OF A PUBLIC STREET.

NOT ONLY THAT, THOSE WINDOWS ARE 90° TO EACH OTHER.

THEY'RE NOT EVEN LOOKING ACROSS AND INTO EACH OTHER.

THAT'S IMPORTANT TO NOTICE.

THE ISSUE OF PEOPLE LOOKING INTO EACH OTHER'S BACKYARD IS A PRIVACY ISSUE, BUT I THAT I IS SOMETHING THAT MOST OF US LIVE WITH IN THIS URBAN CITY.

HOME MY PREPAREDNESS IS RESPONDING TO THE IMPORTANT ISSUES.

AND I WOULD SUPPORT AND SECOND DEBORAH'S MOTION.

>> C. KAHN: THANK YOU.

I AGREE WITH YOU ON EVERY POINT.

YOU TOOK THE WORDS OUT OF MY MOUTH.

I SEE DOHEE AND IGOR.

>> D. KIM: I WANTED TO BRIEFLY COMMENT TO YOU AS WELL BECAUSE I'M NOT AN ARCHITECT, I OFTEN KIND OF AM ON THE LISTENING END OF ARCHITECTS AND EXPERTS ON THIS WORD.

AND I APPRECIATE THE CLARITY THAT GAVE WITH YOUR KNOWLEDGE AND EXPERTISE.

I REALLY APPRECIATED THAT.

>> C. KAHN: IGOR.

>> I. TREGUB: I'D LIKE TO THANK ALL THE NEIGHBORS THAT CAME OUT WHETHER IT'S FOR SUPPORT OR OPPOSITION.

I THINK YOUR INPUT HAS COLLECTIVELY MADE THIS PROJECT BETTER. AND SO, WHAT MATTERS TO ME AS A BOARD MEMBER IS FIRST OF ALL, WE AS BOARD MEMBERS CAN'T MAKE DECISIONS AND SHOULD NOT MAKE DECISIONS BASED ON ALLEGED PREVIOUS HISTORY OF EITHER AN APPLICANT OR ARCHITECT.

I MEAN, WE CAN ONLY MAKE A DECISION BASED ON WHAT IS IN FRONT OF US.

HOWEVER, IT DOES GIVE ME CONFIDENCE THAT I DO REMEMBER THAT FEELING BACK IN DECEMBER OF LAST YEAR.

AND AT THE TIME I BELIEVE THAT THE APPLICANT ACTUALLY MADE DESIGN CHANGES BASED ON THOSE RECOMMENDATIONS AS BOARD MEMBER DUFFY POINTS OUT.

AND I ALSO APPRECIATE THE PRESENTATION WHICH DETAILS THE OTHER MODIFICATIONS THAT HAVE BEEN MADE OVER THE COURSE OF THIS PROJECT TO REDUCE THE MASSING TO STRIVE TO REDUCE THE IMPACT ON THE NEIGHBORS.

UNFORTUNATELY, THERE WILL ALWAYS BE IMPACTS.

HOWEVER, AND I LIVE NOT TOO FAR FROM THERE.

JUST DOWN THE STREET ON VIRGINIA.

THAT IS KIND OF THE DOMINANT SETTING IS THAT ONE TO TWO-STOREY
EVEN THREE STOREY BUILDINGS.

I THINK IT WAS A THOUGHTFUL DESIGN CHOICE TO ACTUALLY REDUCE
MASSING TO PROPOSE THAT PART OF THE LARGER UNIT BE IN THE
BASEMENT.

LASTLY, JUST YOU KNOW, AS A TENANT IN A QUADRUPLEX, I THINK MY
UNIT AT MOST IS 500 FEET.

IT MIGHT BE LESS.

THERE ARE GOING TO BE ALL SORTS OF DIFFERENT NEEDS FOR UNIT
SIZE.

FOR DIFFERENT STAGES IN SOMEONE'S LIFE.

SOUNDS LIKE RIGHT NOW THEY ACTUALLY HAVE NO PLANS TO RENT IT
OUT, BUT IF THEY DID AND THEY CERTAINLY HAVE THE OPTION DO IN
THE FUTURE, I'M QUITE CONFIDENT THAT THEY WILL FIND A TENANT
THAT MIGHT ACTUALLY NEED THAT KIND OF FLOOR PLAN FOR EITHER ONE
OF THE UNITS BEING PROPOSED.

LASTLY, I KNOW THAT NOT EVERY SIDE IS GOING TO BE HAPPY HERE.
BUT I WANT TO THANK, AGAIN, BOTH SIDES.

IN PARTICULAR, I WANT TO THANK THOSE WHO RAISED CONCERNS FOR
SUGGESTING THAT THE RENT BOARD BE CONSULTED.

I THOUGHT THAT WAS A USEFUL DATA POINT.

I OBVIOUSLY PAY CLOSE ATTENTION TO THE RENT BOARD REPORTS WHEN
THEY ARE PROVIDED.

AND THEY TOO SAID THAT THERE HAS BEEN NO HISTORY OF UNTOWARD
ACTIVITY ON THE PART OF THE OWNERS.

I WILL BE SUPPORTING THIS STAFF RECOMMENDATION WITH A DEEP
APPRECIATION FOR EVERYONE THAT CAME OUT TONIGHT.

>> C. KAHN: THANK YOU IGOR.

MICHAEL.

>> SO, REALLY, I THOUGHT THE NEIGHBORHOOD WAS A CHARMING ONE.

I GOT TO WALK AROUND THE NEIGHBORHOOD AND IT'S FABULOUS AND I
UNDERSTAND THE CONCERN THAT EVERYONE HAS.

THOSE IN SUPPORT AND OPPOSITION.

YOU HAVE A GREAT SET UP.

I THOUGHT THE PROJECT WAS IN LINE WITH WHAT IS IN THE
NEIGHBORHOOD.

ACROSS THE STREET, AROUND THE CORNER YOU SEE THOSE UNITS.

SOMEONE MENTIONED 50% OF THE HOMES ON THE BLOCK.

YOU KNOW, I THINK THE PROJECT WILL BE AN IMPROVEMENT TO THE
NEIGHBORHOOD.

I THINK SOME UPGRADES WOULD BE A NICE THING FOR THE
NEIGHBORHOOD.

AND I'M LIKEWISE IN SUPPORT OF IT.

THE FAMILY HAS BEEN THERE A LONG TIME.

THIS DOESN'T SOUND LIKE INVESTORS COMING IN TO GET THE MONEY OUT
OF A COLLEGE TOWN.

THIS IS FOLKS WHO LIVE IN THE HOME AND HAVE BEEN THERE FOR A

REALLY LONG TIME.

SO I SUPPORT THE PROJECT AS WELL.

THANKS FOR LISTENING.

>> C. KAHN: THANK YOU, MICHAEL.

IF THERE ARE NO FURTHER COMMENTS, I HAVE NO FURTHER COMMENTS
MYSELF.

COULD WE HAVE A VOTE SAMANTHA.

>> YES.

SO THIS IS TO APPROVE THE USE PERMIT FOR 1643-1647 CALIFORNIA.
BOARD MEMBER TREGUB.

>> C. KAHN: IT'S NOT A REJECTION APPEAL, IT'S A NEW APPROVAL.

>> SORRY.

IT'S TO APPROVE THE USE.

>> C. KAHN: IT'S REMANDED TO US, IT IS APPROVAL AND USE PERMIT.

>> AND THIS IS THE APPEAL.

THANK YOU FOR THAT CLARIFICATION.

BOARD MEMBER TREGUB.

>> I. TREGUB: YES.

>> DUFFY.

>> YES.

>> GAFFNEY.

>> YES.

>> THOMPSON.

>> YES.

>> OLSON AND O'KEEFE ARE ABSENT.

CHAIRPERSON KAHN.

>> YES.

>> KIM.

>> YES.

>> AND SANDERSON.

>> YES.

>> C. KAHN: SO YOU HAVE YOUR USE PERMIT ON THE APPEAL.

SO THERE WILL BE NO APPEAL OF THIS HEARING.

IS IT NEEDS TO BE REGISTERED BY THE CLERK.

AND THEN OF COURSE, THE BUILDING DEPARTMENT AND FEAR DEPARTMENT
WILL NEED TO APPROVE THE PLANS BEFORE YOU CAN BE ASSURED A
PERMIT FOR CONSTRUCTION.

SO I JUST WANT TO ADD, I APPRECIATE EVERYONE WHO CAME OUT
TONIGHT AND WHO SPOKE.

YOU WERE ALL ARTICULATE, AND I APPRECIATE THAT VERY MUCH.

I KNOW THE CONCERNS ARE GENUINE.

THE APPELLANTS WHO WERE NOT APPROVED TONIGHT, I'M SURE YOU'RE
DISMAYED BY THAT.

EVEN WITHOUT HAA PROTECTION.

WE ENJOY THE PROTECTION OF THE BERKELEY ZONING CODE WHICH DOES
ENTITLES OWNERS TO BE ABLE TO DEVELOP THEIR PROPERTIES AND
IMPROVE THEIR PROPERTIES.

IF WE DON'T ALLOW THEM TO DO THAT WE'RE DENYING THEM A LEGAL

ENTITLEMENT AND WE NEED A PREPONDERANCE OF EVIDENCE TO DENY AN APPLICATION LIGHTS THIS WITHIN.

NOT JUST A PRESUMED ARGUMENT ABOUT AFFECTING AFFORDABILITY.

WE'RE ALL WORKING HARD TO ADDRESS.

THIS IS NOT THE VENUE FOR DOING THAT.

THAT'S WHY I ADDED MY VOTE AND ALL OF YES' COMMENTS ADD TO THAT.

I KNOW YOUR THOUGHTS AND CONCERNS ARE SINCERE.

THAT'S THE WAY THE SYSTEM WORKS.

NOT ONLY IN BERKELEY, BUT THROUGHOUT THE COUNTRY.

THANKS AGAIN AND WE'LL HOPEFULLY SEE YOU AGAIN SOMETIME IN THE FUTURE AS AN APPELLANT ON THE.

IS THAT IT FOR OUR HEARING?

>> THERE ARE NO OTHER ITEMS ON THE ACTION CALENDAR.

IS THERE A SUBCOMMITTEE REPORT?

>> C. KAHN: WE ARE MEETING NEXT WEEK.

WE HAVE NOTHING TO REPORT.

BUT WE'LL BE AIL TO REPORT IF THERE A REPORT AT THE FOLLOWING ZAB HEARING.

OKAY.

>> AND THERE ARE NO COMMUNICATIONS OTHER THAN TO SAY OUR NEXT MEETING IS THE AUGUST 11TH.

>> IT IS THE SECOND.

>> IT'S THE SECOND THURSDAY BECAUSE OF THE SUMMER RECESS.

THAT WAS ONE OF THE REASONS WHY WE REALIGNED THIS ONE.

>> C. KAHN: THANK YOU ALL OF YOU FOR COMING TONIGHT BOTH ON THE BOARD AND PUBLIC.

I HOPE YOU HAVE A WONDERFUL REST OF THE EVENING.

DO WE NEED A MOTION TO ADJOURN?

I SO MOVE.

>> SECOND.

>> C. KAHN: DEBBIE SECONDS THE MOTION TO ADJOURN.

TAKE A VOTE.

>> BOARD MEMBER TREGUB.

>> YES.

>> DUFFY.

>> YES.

>> GAFFNEY.

>> YES.

>> VICE CHAIR THOMPSON.

>> YES.

>> OLSON AND O'KEEFE ARE ABSENT.

CHAIRPERSON KAHN.

>> YES.

>> KIM.

>> YES.

>> AND SANDERSON.

>> YES.

>> C. KAHN: IT'S UNANIMOUS.

ENJOY THE REST OF YOUR EVENING, EVERYONE.

>> HAVE A GOOD NIGHT.



Planning and Development Department
Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

CITY COUNCIL NOTICE OF PUBLIC HEARING

**SUBJECT: City Council Consideration of
Zoning Adjustments Board
Use Permit #ZP2021-0001
1643-1647 California Street**

**WHEN: Tuesday, April 26, 2022.
Meeting starts at 6:00 p.m.**

**WHERE: Berkeley Unified School District Board Room
1231 Addison Street**

PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY

«NAME1»

«NAME2»

«ADDRESS1» «ADDRESS2»



**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY
ZAB APPEAL: USE PERMIT #ZP2021-0001, 1643-1647 CALIFORNIA STREET**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, APRIL 26, 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 #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **April 14, 2022. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Allison Riemer, at (510) 981-7433, or ariemer@cityofberkeley.info. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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.

PLEASE NOTE: 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.

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Cedar Street Neighborhood Association	1814 CEDAR ST	BERKELEY CA 94703	
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA 94703	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000,	SOUTH SAN FRANCISCO CA 94080	
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONEILL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703

Internal

SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703
MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740

Internal

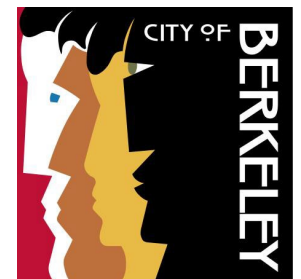
YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
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Occupant(s)	1606 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1608 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
Occupant(s)	1613 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1613 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1614 VIRGINIA ST	BERKELEY CA	94703
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Occupant(s)	1615 VIRGINIA ST 2	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 3	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 4	BERKELEY CA	94703
Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1616 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1617 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1618 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COM	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703
Sundeep Grewal, Studio+GS Architects	2223 Fifth Street	Berkeley CA	94710

ZAB Appeal: 1643-1647 California Street

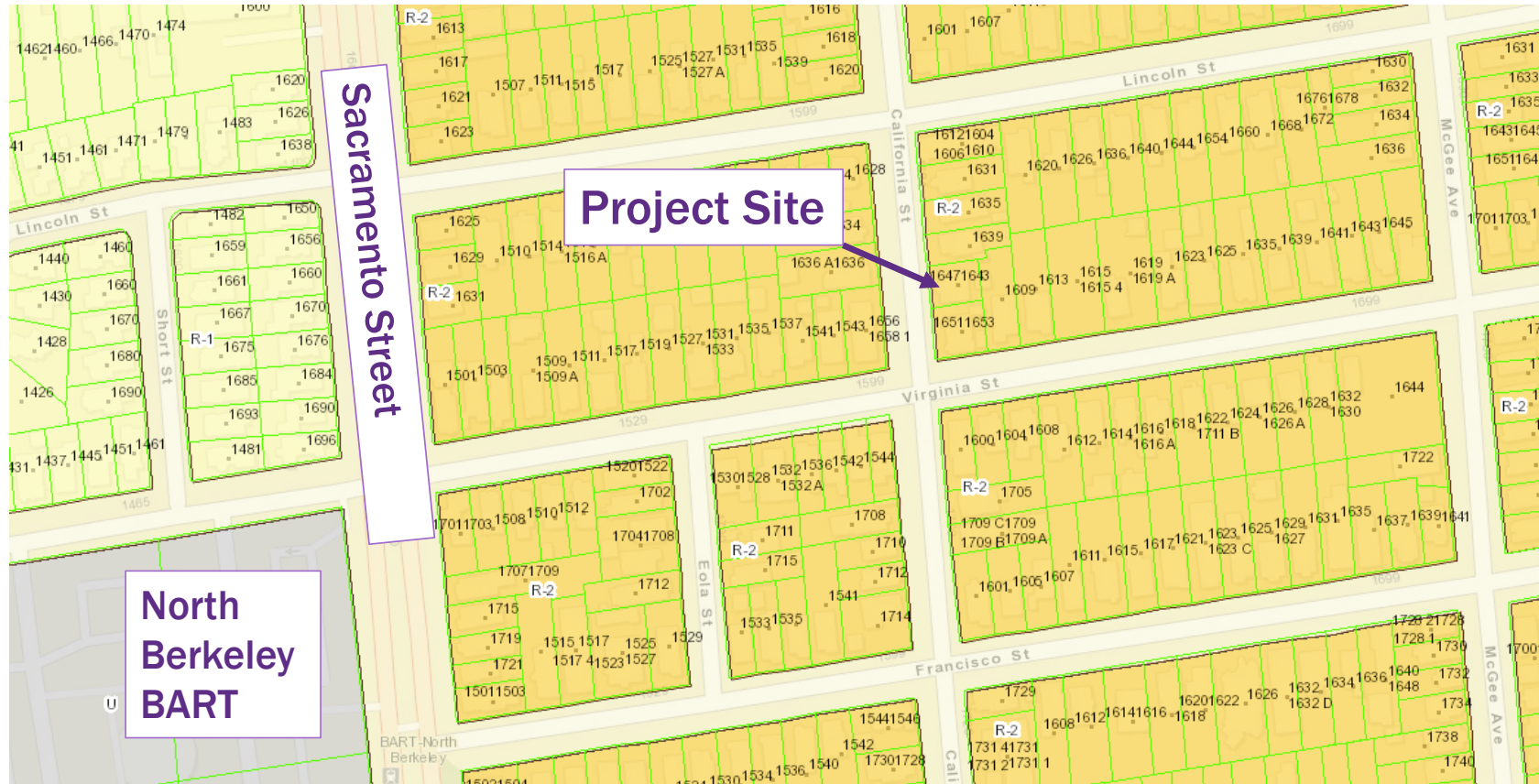
April 26, 2022

Use Permit #ZP2021-0001

Allison Riemer, Associate Planner, Land Use Planning Division

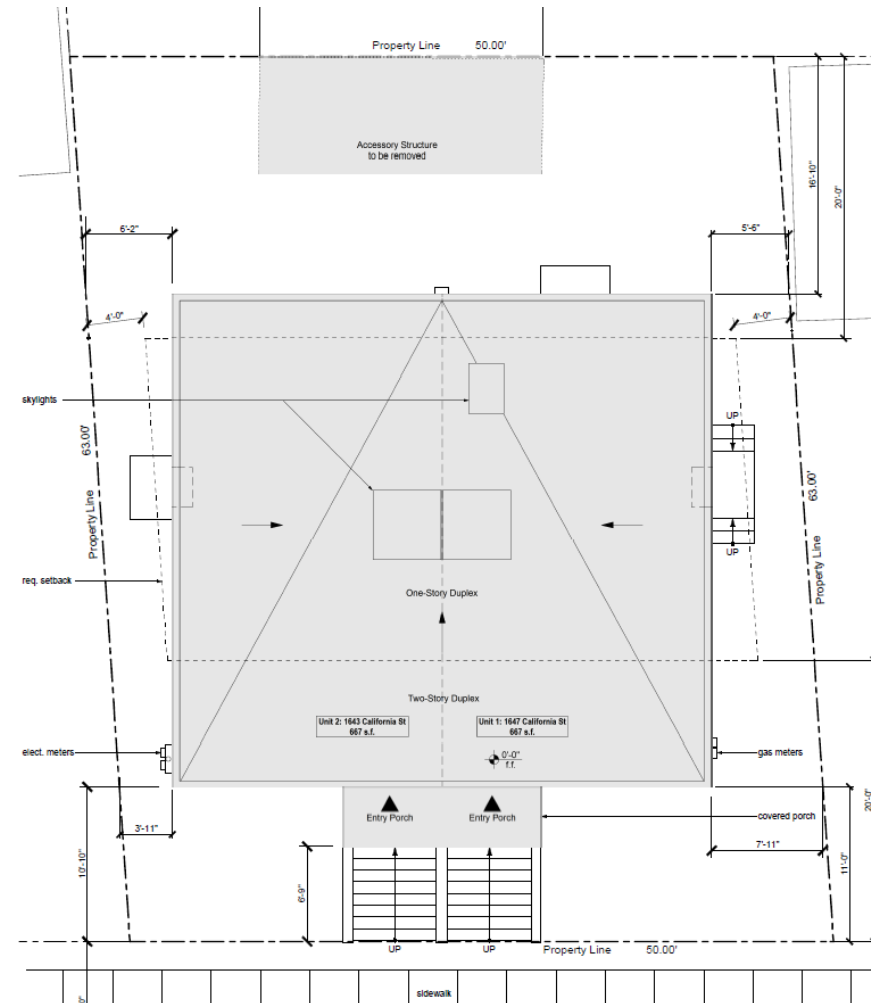


Vicinity Map



Existing Non-Conformities: Lot Coverage

- Exceeds allowable lot coverage by 5%



Existing Non-Conformities: Density

- 2 units, where only 1 is allowed for a lot less than 4,500 sq. ft.

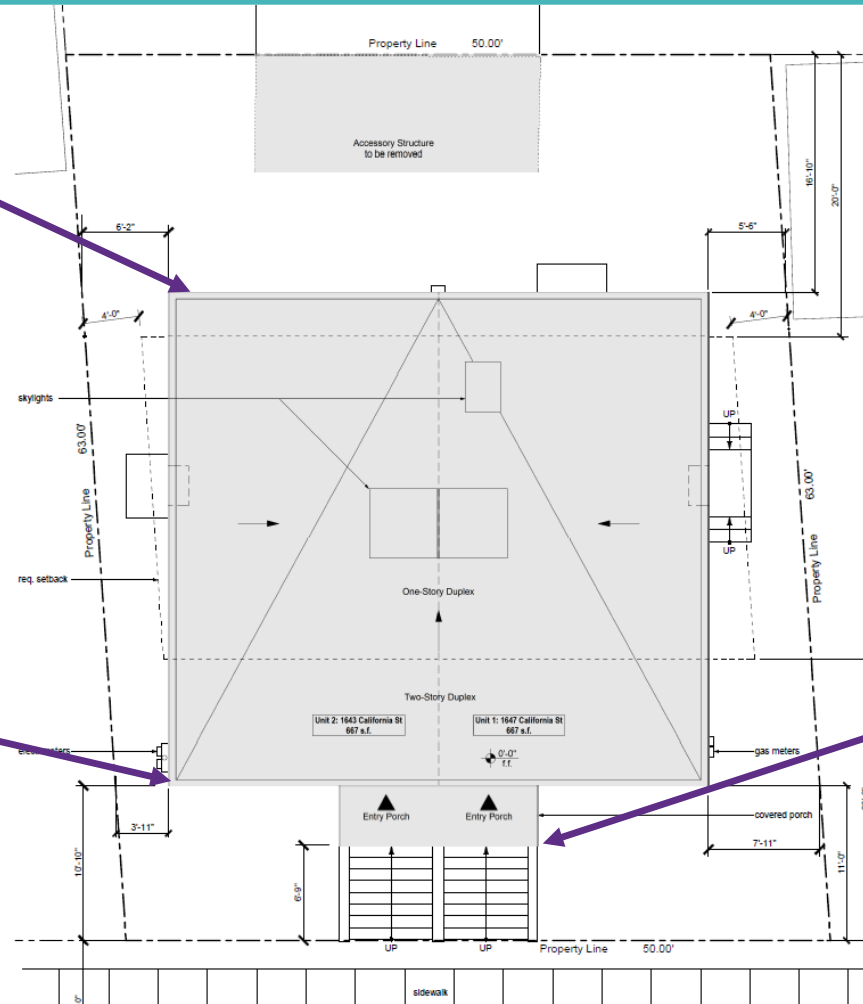


Existing Non-Conformities: Setbacks

Rear setback: 16'-10"
(20' required)

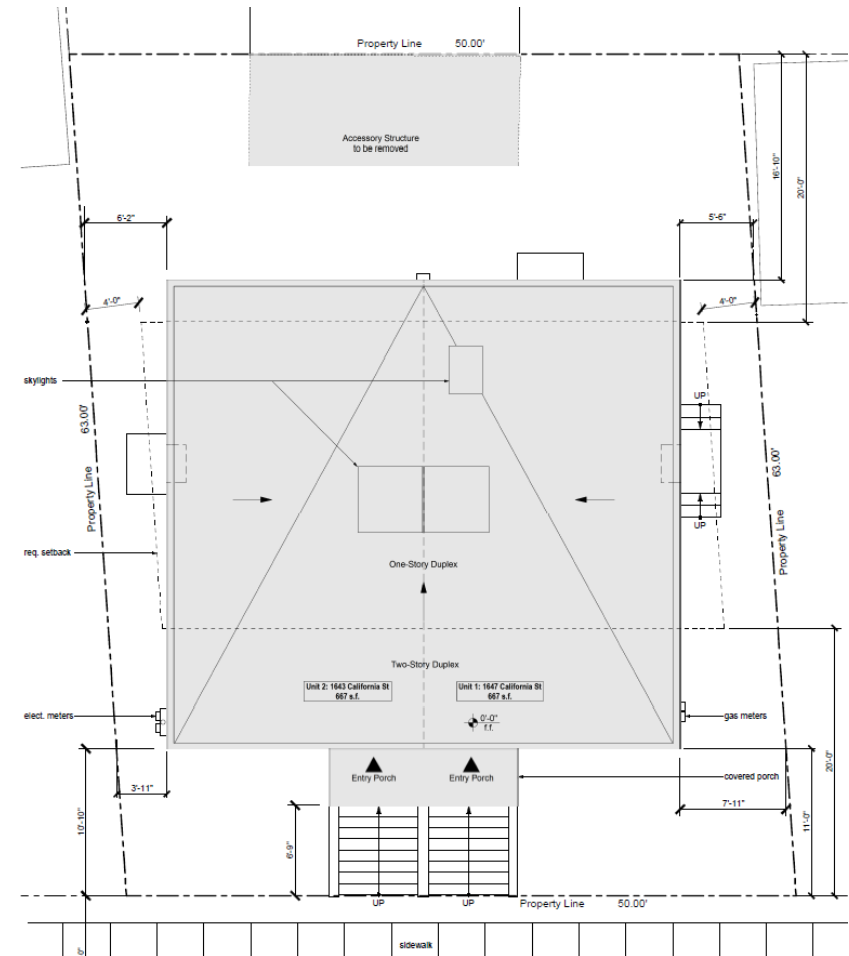
Left setback: 3'-11"
(4' required)

Front setback: 6'-9" to
porch, 10'-10" to
building
(20' required)



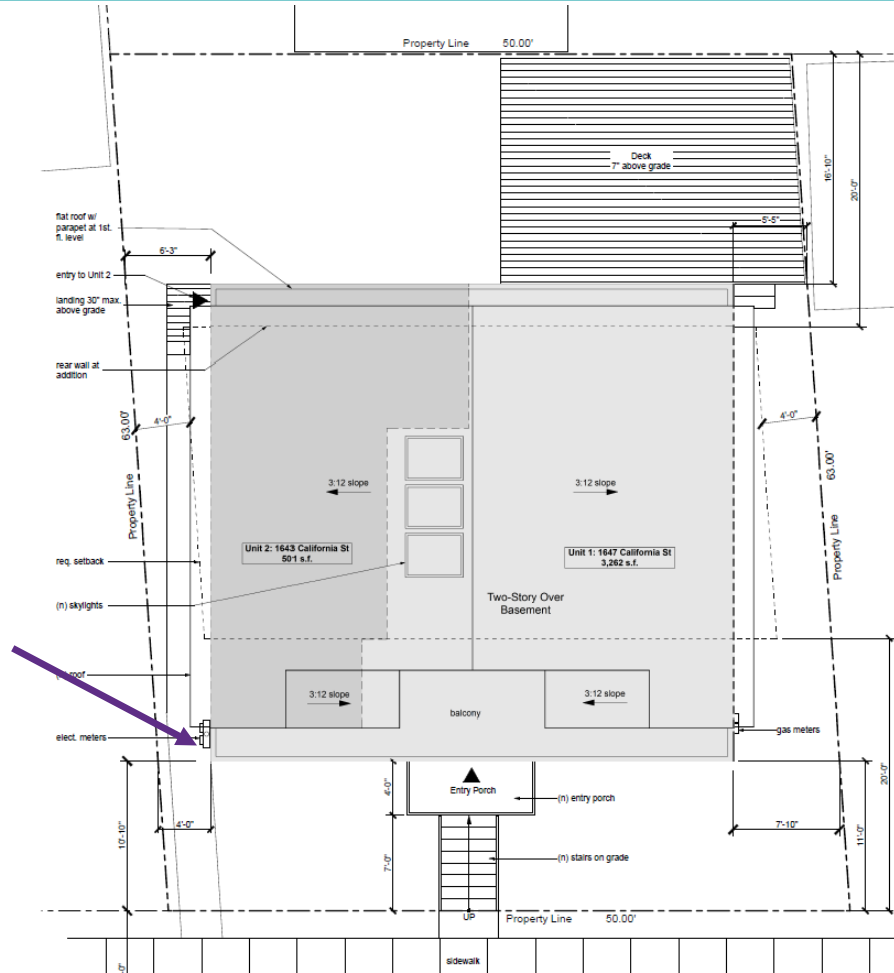
Zoning Permits Required

- Use Permit to enlarge a structure that is non-conforming for lot coverage
- Use Permit to enlarge a structure that is non-conforming for density
- Administrative Use Permit to extend two non-conforming setbacks (front and rear)
- AUP to permit a major residential addition
- AUP to allow an addition over 14 feet in height
- AUP to construct a fifth bedroom



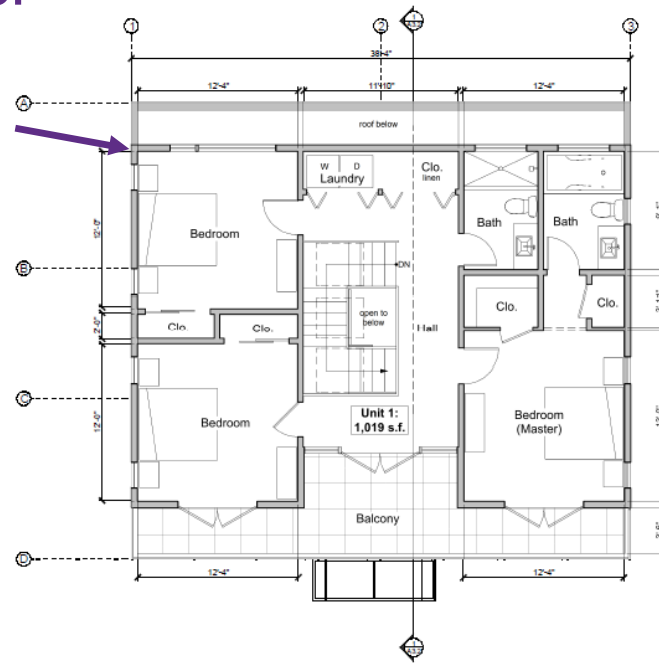
Proposed Project: Site Plan

Compliant 4'
left setback

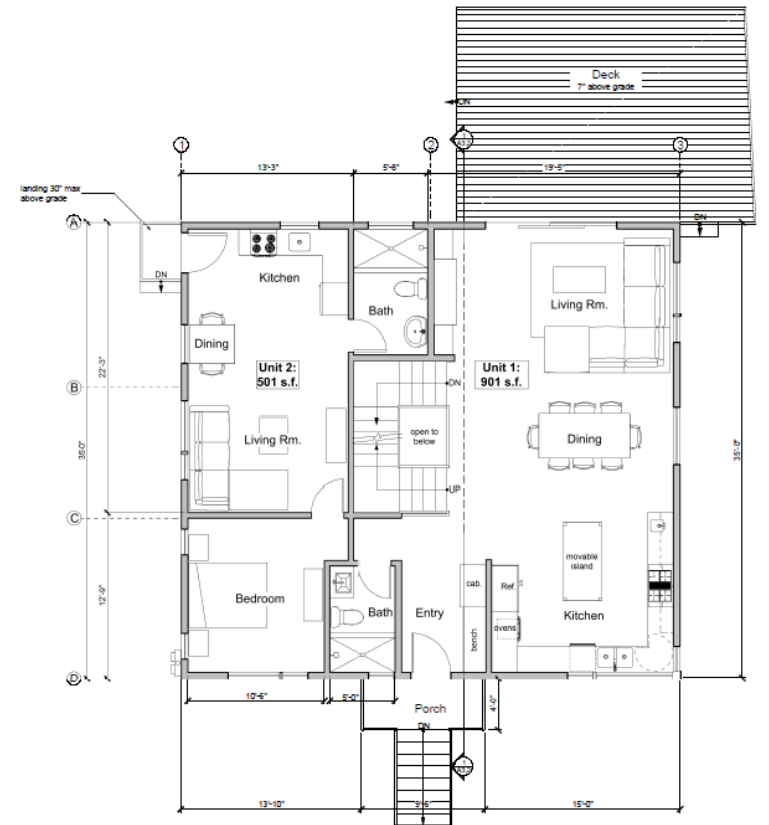


Proposed Project: Floor Plan

New second floor
complies w/
20' setback
at rear



② Proposed Second Floor Plan



① Proposed First Floor Plan

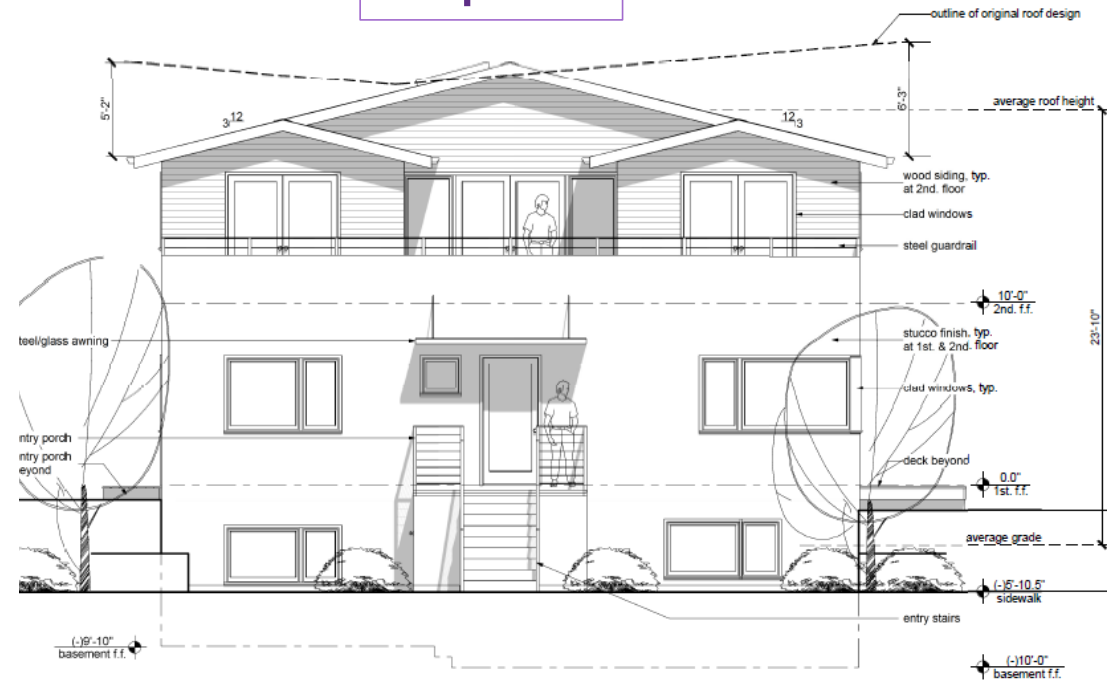


Proposed Project: Front Elevation

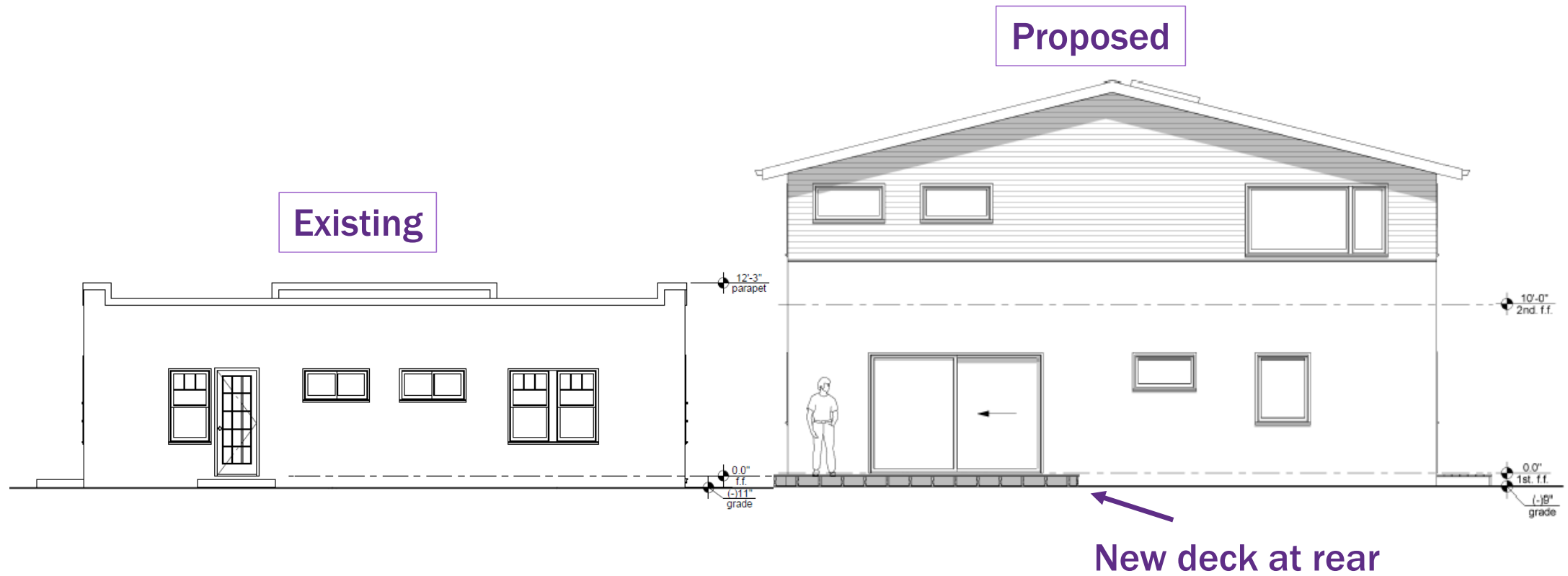
Existing



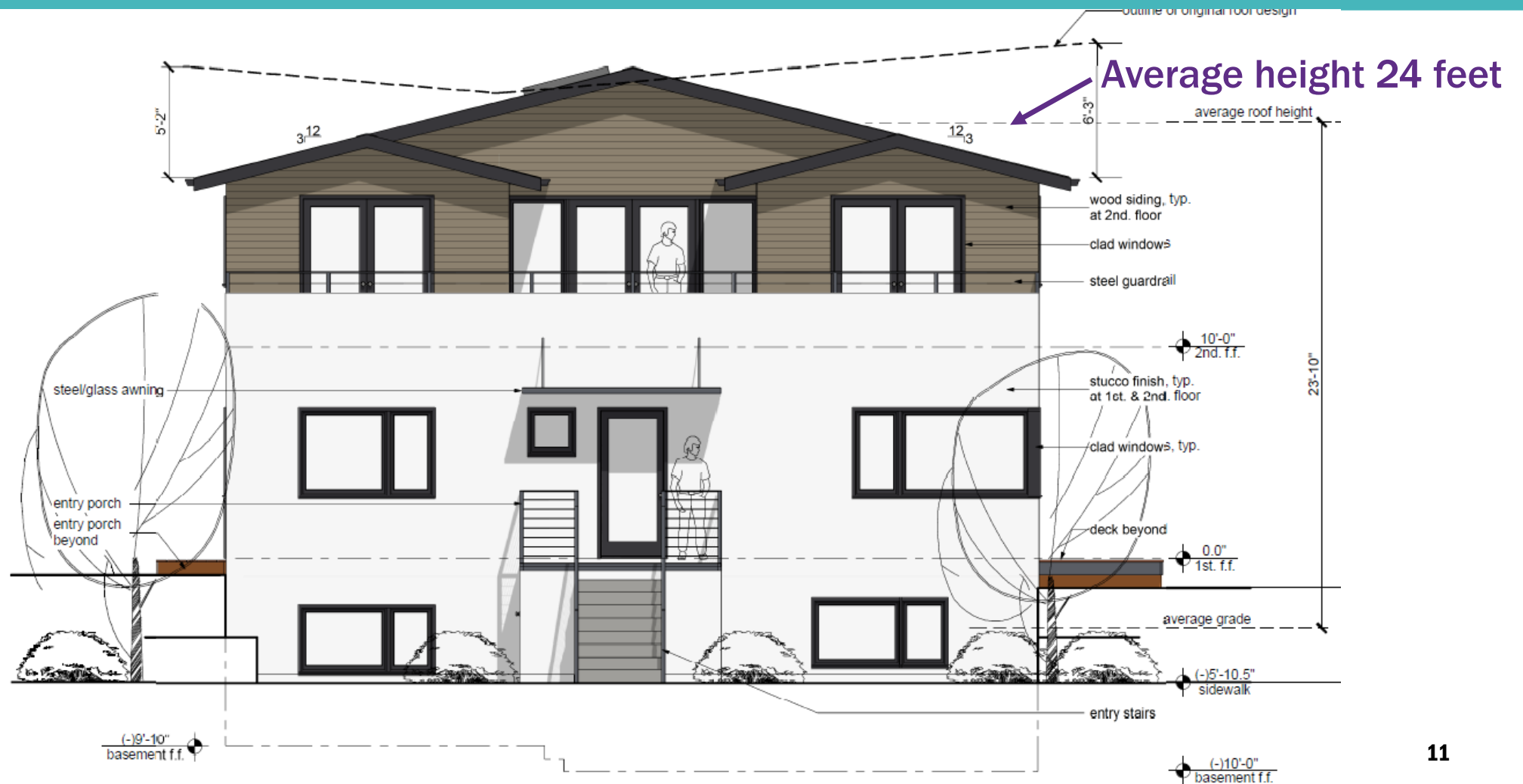
Proposed



Proposed Project: Rear Elevation



Proposed Project: Average Height



Timeline

- **January 2021:** Application submitted
- **May 2021:** Revised
- **September 2021:** Application complete
- **December 2021:** Approved by ZAB
- **January 2022:** Appealed by 1609 Virginia and 1651-1653 California



Appeal Issues

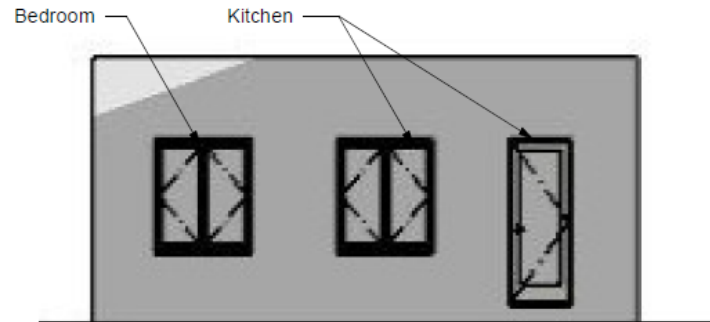
- **Interpretation of Housing Accountability Act (HAA)**
- **Lack of adjustments by ZAB**
- **Procedural requirements not met: story poles and yellow poster not installed; staff report not available far enough in advance**

Appeal Issue: HAA shouldn't apply

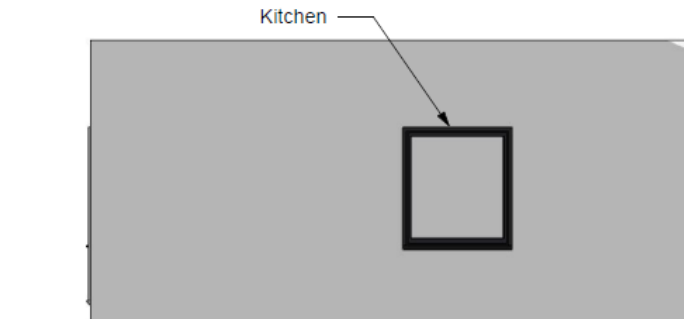
- **Appeal Points:**
 - HAA shouldn't apply because no units were added.
 - Applying HAA limited ZAB's ability to modify the project.
- ***Response:***
 - The project includes two units, but no new units will be added, so the HAA should not apply to the project.
 - The project must meet the objective zoning standards from the BMC.
 - The addition can be modified, without lowering the density.

Neighbors' Concerns

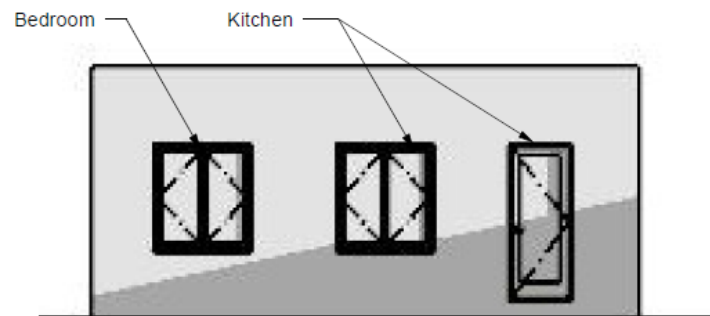
1609 Virginia



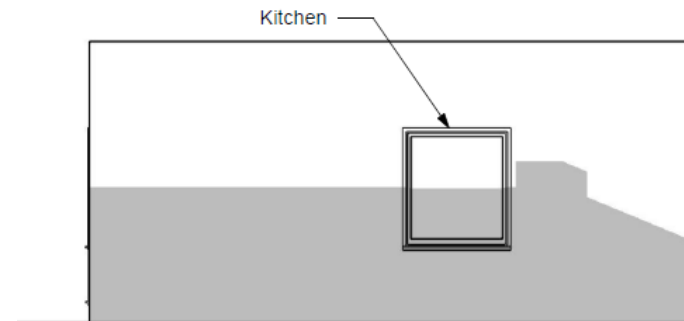
Proposed North Wall



Proposed West Wall



Existing North Wall



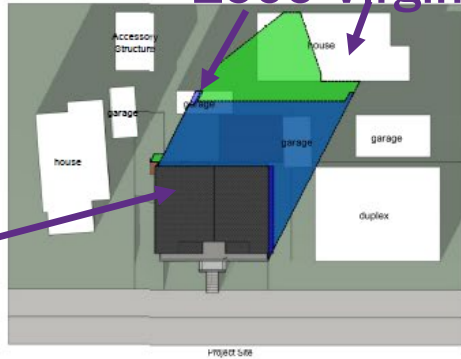
Existing West Wall

6-21-2021 / 6:35 pm

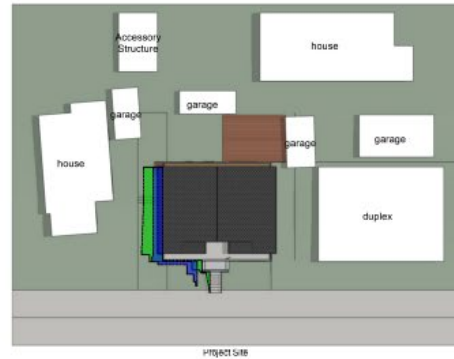
6-21-2021 / 6:35 pm

ZAB decision: Summer Solstice Shadows

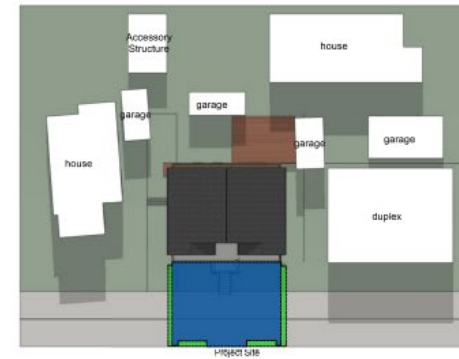
1609 Virginia
Subject building



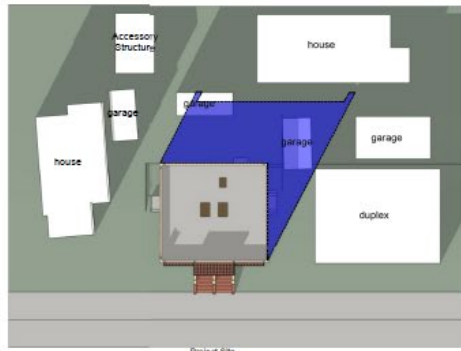
Proposed
6-21-2021 / 6:35 pm



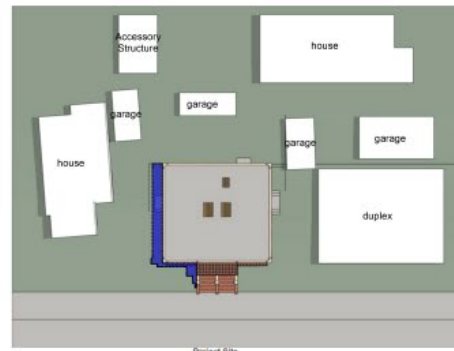
Proposed
6-21-2021 / 12:00 pm



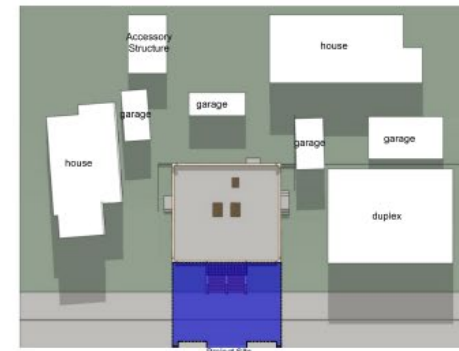
Proposed
6-21-2021 / 7:47 am



Existing
6-21-2021 / 6:35 pm



Existing
6-21-2021 / 12:00 pm

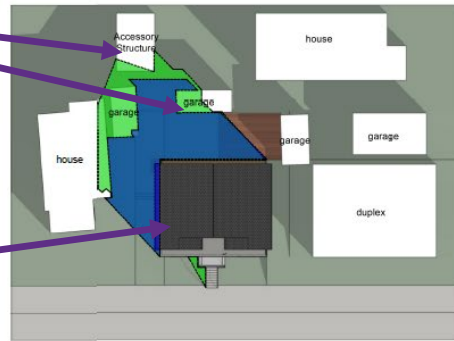


Existing
6-21-2021 / 7:47 am

ZAB decision: Winter Solstice Shadows

1609 Virginia

Subject building



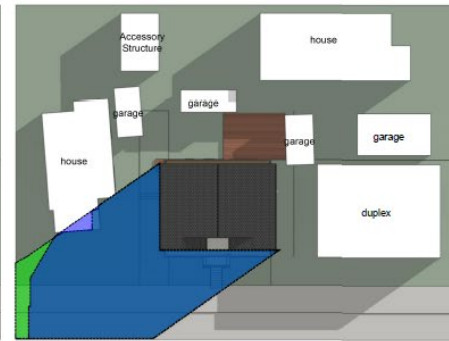
Proposed

12-21-2021 / 2:54 pm



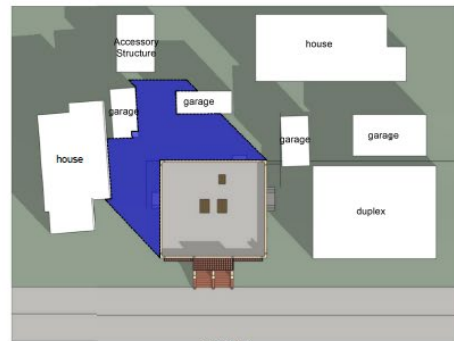
Proposed

12-21-2021 / 12:00 pm



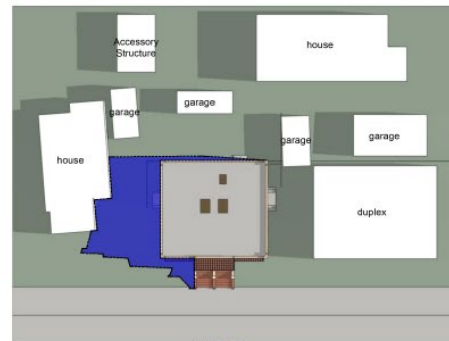
Proposed

12-21-2021 / 9:21 am



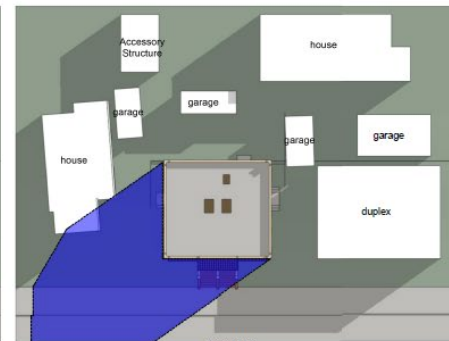
Existing

12-21-2021 / 2:54 pm



Existing

12-21-2021 / 12:00 pm



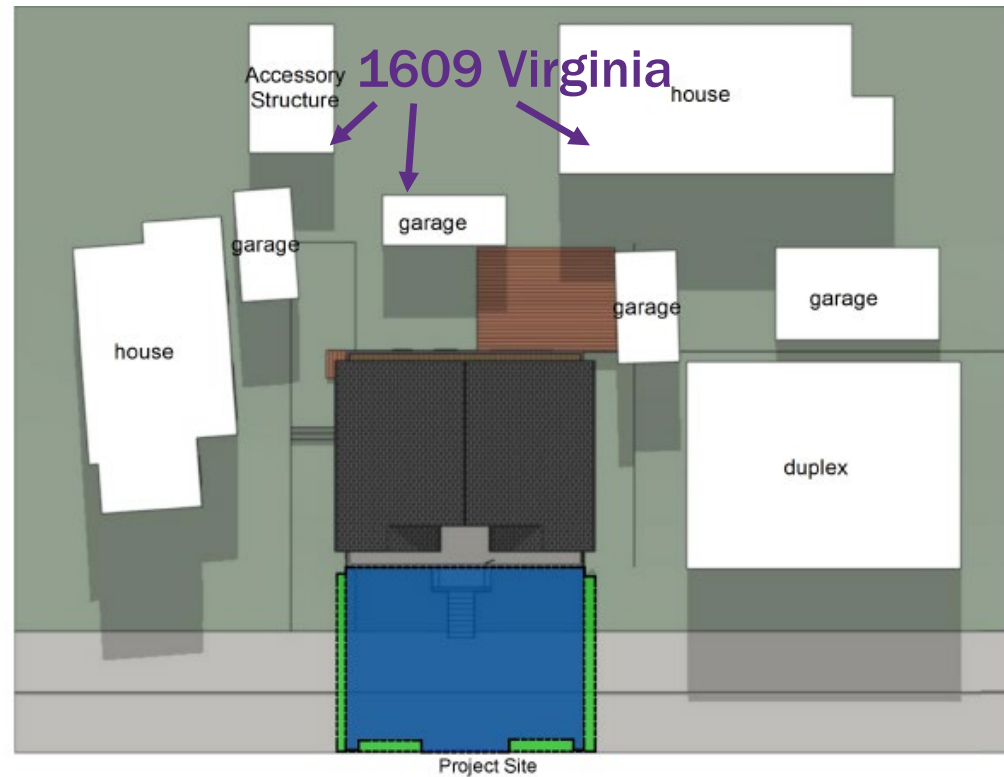
Existing

12-21-2021 / 9:21 am



Neighbors' Concerns

1609 Virginia: views from the addition to their deck, yard, kitchen, and bedroom.



Proposed



Neighbors' Concerns

**1651-1653
California: views
from the addition to
their yard, and
kitchen.**

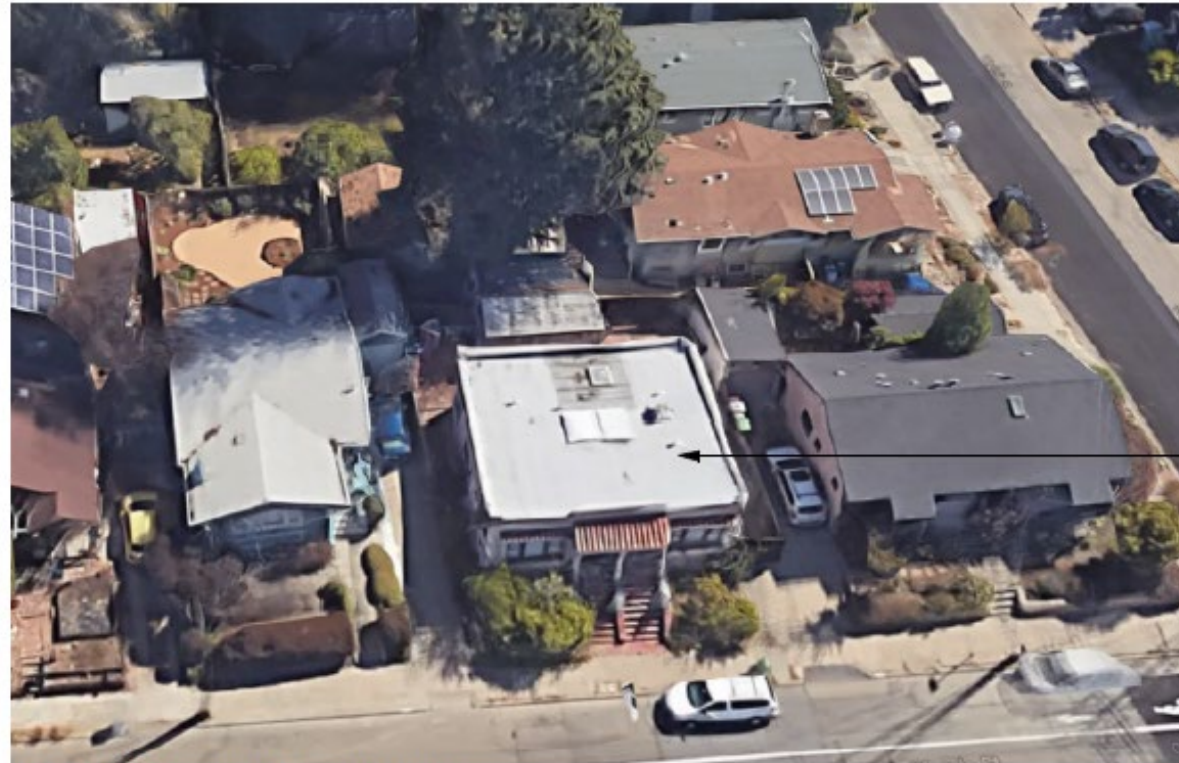


Proposed



ZAB decision: Distance between

Driveways
separate the
project site
from adjacent
lots.



PROJECT SITE

Aerial of existing duplex

ZAB decision: Privacy

Elevations show existing and proposed windows.



④ Proposed South Elevation - Right Side



③ Proposed East Elevation - Rear



② Proposed North Elevation - Left Side



① Proposed West Elevation - Front

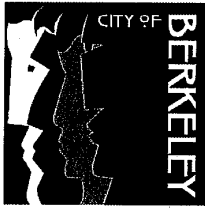


Staff Recommendation

Staff recommends upholding ZAB approval and dismissing the appeal: Use Permit ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.

Alternate City Council Action

- **Continue the public hearing**
- **Modify the ZAB decision and approve the Use Permits**
- **Reverse the ZAB decision and deny the Use Permits**
- **Remand to ZAB for consideration of specified issues**



City Clerk Department

May 27, 2022

Adam Safir
1609 Virginia Street
Berkeley, CA 94703

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

On April 26, 2022, the Berkeley City Council voted to adopt the enclosed Resolution No. 70,331–N.S., remanding the Use Permit to the Zoning Adjustments Board (ZAB) for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

Berkeley Municipal Code 23.410.040.G.3 states that the Council may remand the matter to the Board to reconsider the application, and/or any revisions to the application submitted after the review authority's action.

Berkeley Municipal Code 23.410.040.J.1 and 23.410.040.J.2 state that a ZAB decision on an appeal remanded by the City Council may be appealed in the normal manner unless otherwise directed by the City Council. If the ZAB does not act within 90 days after an appeal is remanded by the City Council, the original appeal of the ZAB's decision shall be placed back on the City Council agenda in the same manner as a new appeal.

If you have any questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville
City Clerk

Enclosures:

Resolution No. 70,331–N.S.
Proof of Service

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Page 2

cc: Alene Pearson, Acting Director of Planning
Steven Buckley, Land Use Planning Manager
Allison Riemer, Staff Planner
Farimah Brown, City Attorney
Sundeep Grewal, Applicant
Ido and Tamar Oppenheimer, Owner

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

PROOF OF SERVICE

Rose Thomsen, an employee of the City Clerk Department, City of Berkeley, declares under penalty of perjury, that on May 27, 2022, I served the following documents:

Letter of Decision and Resolution 70,331–N.S. by forwarding true copies to

Adam Safir
1609 Virginia Street
Berkeley, CA 94703

Sundeep Grewal
Studio G+S Architects
2223 Fifth Street
Berkeley, CA 94710

Ido and Tamar Oppenheimer
1643 & 1647 California Street
Berkeley, CA 94703

addressed as shown by the following means of service:

By Certified Registered Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with Certified Registered thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.


By First Class Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with first class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

By Facsimile - I caused transmission of the document(s) described above to each addressee following ordinary business practices in compliance with applicable rules of civil procedure and rules of court.

By Electronic Service - I caused the document(s) described above to be sent to the electronic service address of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 27, 2022, at Berkeley, California.



Signature

Enc: Letter of Decision
Resolution 70,331–N.S.

RESOLUTION NO. 70,331-N.S.

REMANDING THE USE PERMIT TO THE ZONING ADJUSTMENTS BOARD (ZAB), TO RECONSIDER THE APPLICATION OF THE HOUSING ACCOUNTABILITY ACT, AND VERIFY WHETHER THE RENT STABILIZATION ORDINANCE APPLIES TO USE PERMIT #ZP2021-0001.

WHEREAS, on January 8, 2021, Sundeep Grewel (“Applicant”) submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street; and

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

WHEREAS, on December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022; and

WHEREAS, on or before April 12, 2022, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area; and

WHEREAS, on April 26, 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 remanding the project for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby remands the Use Permit to the Zoning Adjustments Board for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

The foregoing Resolution was adopted by the Berkeley City Council on April 26, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest: 
Mark Numainville, City Clerk



Rent Stabilization Board

June 6, 2022

To: Allison Riemer, Associate Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner
Be Tran, Associate Planner

Subject: **1643-47 California Street**

On April 28, 2022, you wrote to Jen Fabish to inform her of the project at 1643-47 California Street. The owners planned to reduce the size of 1643 California by 150 square feet and to increase the size of 1647 California with a second story addition and a below-grade basement. The Zoning Adjustments Board (ZAB) approved the project and the ZAB decision was appealed to City Council. Council remanded the project to ZAB and requested clarification on whether the Rent Stabilization and Eviction for Good Cause Ordinance (“Ordinance”) applied to the property.

Property History

Alameda County records show that Ido and Tamar Oppenheimer have owned the property since December 1989. City of Berkeley records indicate that the building was constructed in 1924 as a one-story duplex.

Rent Stabilization Board records and microfiche records also indicate that 1643-47 California is a duplex. A homeowner’s exemption was not claimed in the 1979 tax rolls; therefore, there is no evidence that property qualifies for the owner-occupied duplex exemption (also known as the “golden duplex” exemption) under Berkeley Municipal Code (BMC) Section 13.76.050 F.

Rental History

Both units at 1643-47 California St. are registered with the Rent Board. The Initial Registration Statement indicates that both units were rented as of May 26, 1981. Rent Stabilization Board records reflect the two units at 1643-47 California Street are claimed as “owner-occupied” since 1998 and 1993, respectively.

Ellis Act

The building at 1643-47 California has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

Harassment or Illegal Eviction

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 1643-47 California.

Rent Control Status

While the both units at 1643 and 1647 California Street were previously registered and under rent control, the property is currently exempt from the Ordinance since both units are claimed as owner-occupied. Owner occupancy does not grant a permanent exemption from the Ordinance and both rent control and eviction protections apply to any future tenancies.

Project Analysis

Since there are currently no tenants at the property, the project as approved by ZAB is not currently affected by the Rent Ordinance. However, both BMC Chapter 23.326 (formerly BMC 23C.08) and the Housing Crisis Act of 2019 Senate Bill (SB) 330 would apply to this project if a dwelling unit was eliminated regardless of whether the units are rented or owner-occupied. BMC 23.326 controls the elimination of any dwelling unit. Under SB 330, both units are considered as “protected units” because both are subject to rent control when rented.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Matt Brown".

Matt Brown
General Counsel



Planning and Development Department
Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704


ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

SUBJECT: 1643-1647 California Street – Remand
Use Permit #ZP2021-0001

WHEN: Thursday, July 14, 2022.
Meeting starts at 7:00 pm.

WHERE: *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see link to agenda at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf for details.*

«NAME1»
«NAME2»
«ADDRESS1» «ADDRESS2»

	<p>SUBJECT: 1643-1647 California Street. Use Permit #ZP2021-0001 to 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.</p> <p>CEQA RECOMMENDATION: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").</p>
<p>NOTICE CONCERNING YOUR LEGAL RIGHTS: If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing.</p> <p>Post and Mail Date: June 29, 2022</p>	<p>All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.</p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via e-mail to: zab@cityofberkeley.info. For further information, see the Agenda at: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf or call the Land Use Planning division (510) 981-7410.</p> <p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date.</p> <p>PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record and will be accessible on the City Website.</p>
	<p>All application materials are available at the Land Use Planning Division online at: https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx</p> <p>The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board</p>

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Cedar Street Neighborhood Association	1814 CEDAR ST	BERKELEY CA 94703	
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA 94703	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000,	SOUTH SAN FRANCISCO CA 94080	
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONEILL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703

Internal

SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703
MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740

Internal

YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1605 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1606 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1608 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
Occupant(s)	1613 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1613 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1614 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 1	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 2	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 3	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 4	BERKELEY CA	94703
Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1616 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1617 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1618 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COM	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703
Sundeep Grewal, Studio+GS Architects	2223 Fifth Street	Berkeley CA	94710

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Testimony at ZAB

From: Kay Bristol (via Google Docs) <drive-shares-noreply@google.com>
Sent: Wednesday, July 20, 2022 3:43 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Cc: areimer@cityofberkeley.info; jalmuth@aol.com; idoopp@gmail.com; cederfir@hotmail.com; acederstav@gmail.com
Subject: Testimony at ZAB

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

Kay Bristol attached a document



Kay Bristol (kbristol@berkeley.edu) has attached the following document:



 Testimony at ZAB

Snapshot of the item below:

Regarding a Testimony at the July 14, 2022 ZAB Meeting

From Kay Bristol
1651 California Street
Berkeley, CA 94703

This email concerns the proposed remodel at 1643/1647 California Street. At the review of this remodel the neighbor at 1636 California, the house across the street, attacked the other appellants, Adam and Anna, and insulted me by name. He inferred that I am incompetent to form my own opinion and that I am being manipulated. I am very upset and angry at this. I raised my virtual hand at the meeting to correct remarks and defend myself, but I was not recognized by the Chairman.

I have always been opposed to this remodel as currently presented. The Uppenheimers need to say that I initially supported it, so they won't appear to have misrepresented me. In November 2021 when I found out that I was shown on their project as a neighbor that supported it, I wrote an email to Mr. Nicholas Armour, the City Project Planner at the time. It was a 2 page statement as to

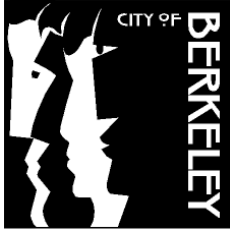
why I oppose this project. At no time did Anna or Adam, the other appellants, influence me on anything that I did not want, but I was happy to consult with them. Also, I have never submitted a written statement supporting this remodel project.

The neighbor at 1636 California Street who spoke about me at the meeting does not know me. We have never met that I can recall. We have never talked about the proposed remodel at 1643/1647 California Street. He doesn't know anything about my interactions with the other appellants, Adam and Anna, or about my side of the exchanges with the Oppenheims. Why would he speak about me in such an antagonistic way? His opinion should not be pertinent to the outcome of this proposed remodel. His household is not affected in any way, except that they would no longer look out at a very rundown house. I support a very needed remodel, but only for a large 2 level structure, not for a huge 3 level one.

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA

You have received this email because kbristol@berkeley.edu shared a document with you from Google Docs.

Google Workspace



Planning and Development Department
Land Use Planning Division

PROOF OF SERVICE

DATE: July 21, 2022
TO: Whom It May Concern
FROM: Melinda Jacob, OSII
SUBJECT: **USE PERMIT #ZP2021-0001 – 1643 & 1647 CALIFORNIA STREET**

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 1947 Center Street, Berkeley, California 94704. On this date, I served the following documents:

ZONING ADJUSTMENTS BOARD NOTICE OF DECISION

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

Sundeep Grewal
G+S Architects
2223 Fifth Street
Berkeley, CA 94710

Ido & Tamar Oppenheimer
1643 & 1647 California Street
Berkeley, CA 94703

Adam Safir & Anna Cederstav
1609 Virginia Street
Berkeley, CA 94703

Kay Bristol
1651 California Street
Berkeley, CA 94703

- By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.
- By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 21, 2022 at Berkeley, California.

Melinda Jacob, OSII



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

DATE OF BOARD DECISION: July 14, 2022
DATE NOTICE MAILED: July 21, 2022
APPEAL PERIOD EXPIRATION: August 3, 2022
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)¹: September 20, 2022

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.

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

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B, to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit, under BMC section 23D.28.030, to permit a major residential addition;
- Administrative Use Permit, under BMC Section 23D.28.070.C, to allow an addition over 14 feet in height; and
- Administrative Use Permit, under BMC Section 23D.28.050, to construct a fifth bedroom.

ZONING: R-2 – Restricted Two-Family Residential District

APPLICANT: Sundeep Grewal, Studio G+S Architects, 2223 Fifth Street, Berkeley CA 94710

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

ZONING ADJUSTMENTS BOARD
July 14, 2022

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PROPERTY OWNER: Ido and Tamar Oppenheimer, 1643 & 1647 California Street, Berkeley CA 94703

APPELLANTS: Adam Safir and Anna Cederstav, 1609 Virginia Street, Berkeley CA 94703
Kay Bristol, 1651 California Street, Berkeley CA 94703

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

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

	Yes	No	Abstain	Absent	Recused
DUFFY	x				
KAHN	x				
KIM	x				
O'KEEFE				x	
OLSON				x	
SANDERSON	x				
THOMPSON	x				
GAFFNEY	x				
TREGUB	x				
BOARD VOTE:	7	0	0	2	0


ATTEST:
 Samantha Updegrave, Zoning Adjustments Board
 Secretary

PUBLICATION OF NOTICE:

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

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or ariemer@cityofberkeley.info. All project application materials, including full-size plans, may be viewed online at: <https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>, or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

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

To appeal a decision of the Zoning Adjustments Board to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
 - A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
 - B. The fee for all appeals by Applicants is \$2,500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown on page 1 (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

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

NOTICE CONCERNING YOUR LEGAL RIGHTS:

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

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

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

ATTACHMENT 1

FINDINGS AND CONDITIONS

JULY 14, 2022

1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create a new lower basement level, 2) construct a new, second story and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.

PERMITS REQUIRED

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B, to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit, under BMC section 23D.28.030, to permit a major residential addition;
- Administrative Use Permit, under BMC Section 23D.28.070.C, to allow an addition over 14 feet in height; and
- Administrative Use Permit, under BMC Section 23D.28.050, to construct a fifth bedroom

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 project will add a second level to the home, of which there are several examples in the neighborhood.
 - B. The second story addition will step in and comply with the required front and rear yard setbacks.

- C. A basement is proposed to be added. While adding additional square footage to the building, the basement will not create any new impacts to the surrounding neighbors due to its placement partially below grade, maintaining the existing first floor level.
- D. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories; and
- E. The project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

III. OTHER FINDINGS FOR APPROVAL

2. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition will remove an existing shed in the rear yard, which will reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure will still be non-conforming to the allowable lot coverage, the project will reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.
3. Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, therefore, it does not increase the density. As described in Section V.C of the Staff Report, the addition will comply with the allowable average height limit in the district
4. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement will not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As described in the Staff Report, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house will correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback will be vertically extended both up (with the second story) and down (with the basement), while the rear setback will be vertically extended down with the expansion of the basement. The second story at the rear will comply with the required 20-foot rear yard setback. As the enlargement of the building will comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks will not further reduce the non-conformity, these expansions are permissible.
5. Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase

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July 14, 2022

FINDINGS & CONDITIONS
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the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom will not add density to the site, or intensify the use of the residential property.

IV. 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.

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

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

9. Indemnification Agreement

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

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison _____
Name Phone #

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

11. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
 - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
 - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
- C. Building Materials Survey:
- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous

materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

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. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
 - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk

screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

16. 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.
17. 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.
18. 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.

19. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
20. 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.
- 21. 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.
- 22. 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.
- 23. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
- B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff.

- When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 24.** 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.
- 25.** 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.
- 26.** 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.

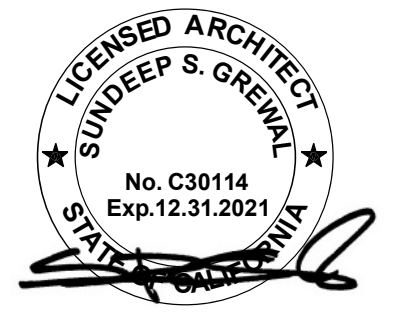
27. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
28. 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.
29. 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:

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. 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 August 26, 2021, except as modified by conditions of approval.

At All Times:

32. 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.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
35. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



OPPENHEIMER RESIDENCE
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Sheet Index
 Applicable Codes
 Abbreviations
 Vicinity Map
 Project Data
 Scope of Work
 Project Directory
 Photos

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:

Use Permit Set: 12-10-2020

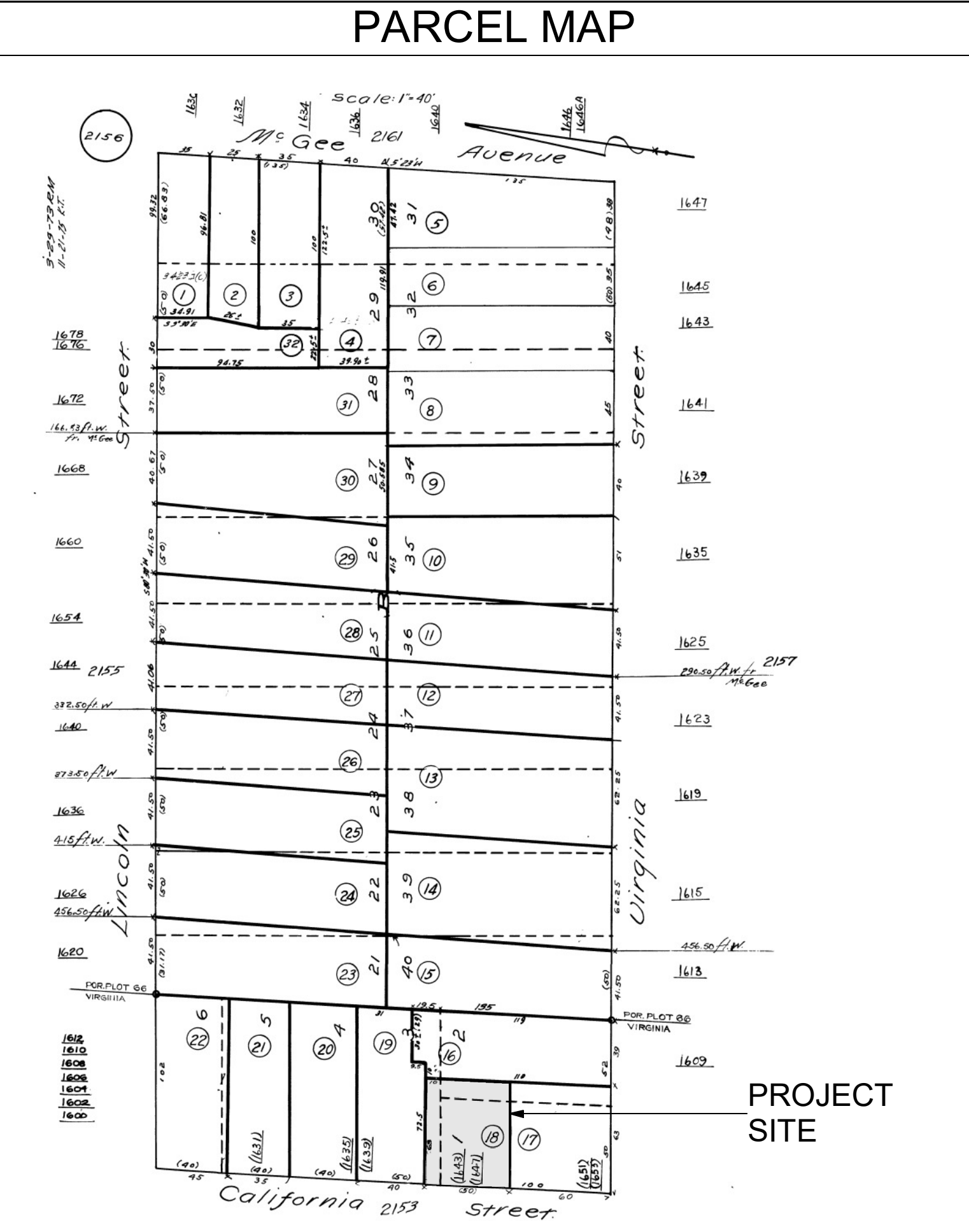
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet **A0.0**



OPPENHEIMER RESIDENCE

1643 & 1647 California St. CA 94703

SHEET INDEX

- Architectural:**
- A0.0 Scope Of Work, Vicinity Map, Parcel Map, Project Data Sheet Index, Abbreviations, Applicable Codes Project Directory, Photos
 - A0.1 Existing Site Plan, Proposed Site Plans
 - A0.2 Site Survey
 - A1.1 Existing Floor Plan
Existing Exterior Elevations
 - A2.1 Proposed Floor Plan
 - A2.2 Proposed Floor Plans
 - A3.1 Front Elevation Comparison, Exterior Renderings
 - A3.2 Proposed Exterior Elevations
 - A3.3 Building Section, Renderings
 - A4.1 Shadow Study
 - A4.2 Shadow Study
 - A4.3 Shadow Study
 - A5.1 Demolition Diagram

SCOPE OF WORK

The proposed project includes an addition to and remodel of an existing, one-story, two-family residence (duplex). Components of the project include:

Reconfigure existing duplex to create one larger unit and one smaller apartment. All work shall be within the building footprint. The building shall remain as a duplex. The preliminary program includes the following:

Basement/First floor:

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

Second floor:

- Reconfigure layout as needed to create a larger unit with one smaller apartment
- Rebuild/reconfigure existing porch and entry stairs as required
- Create new stairs to basement floor and second floor addition

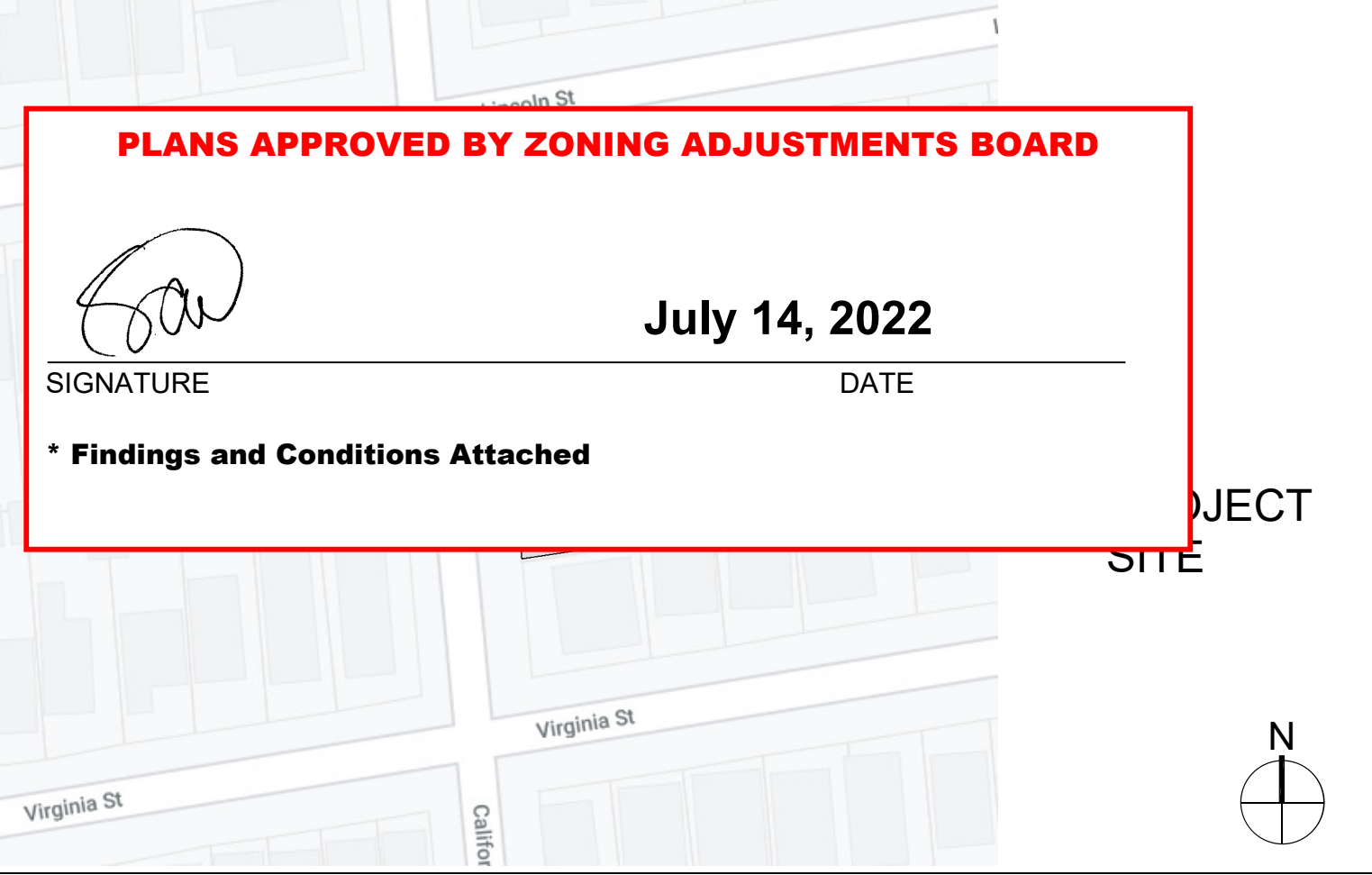
Third floor:

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

Miscellaneous:

- Update all mechanical, electrical and plumbing systems as required for new work
- Reconfigure and rebuild front stairs per new design

VICINITY MAP



PROJECT DIRECTORY

Owner:
 Ido and Tamar Oppenheimer
 1643 & 1647 California St.
 Berkeley, CA 94703
 Tel: 510 486-8387

Project Address:
 1643 & 1647 California St.
 Berkeley, CA 94703
 APN: 58-2156-18

Architect:
 Sundeep Grewal
 Studio G+S, Architects
 2223 5th St.
 Berkeley, CA 94710
 Tel: 510-548-7448
 sunny@sgsarch.com

PROJECT DATA

Occupancy: R-3 Duplex
 Proposed Construction: Type V-B
 Fire Sprinkler System: No

Zoning/General Plan Regulation
 Zoning District: R-2 (Restricted Two-Family Residential)
 General Plan Area: LMDR
 Downtown Arts District Overlay: No
 Commercial District With Use Quotas: No

Seismic Safety
 Earthquake Fault Rupture(Alquist-Priolo) Zone: No
 Landslide (Seismic Hazards Mapping Act): No
 Liquefaction (Seismic Hazards Mapping Act): No
 Un-reinforced Masonry Building Inventory: No

Historic Preservation
 Landmarks or Structure of Merit: No

Environmental Safety
 Creek Buffer: None
 Fire Zone: 1
 Flood Zone(100-year or 1%): No

Wildlife Urban Interface
 No

APPLICABLE CODES

2019 California Building Code (CBC) Volume 1
 2019 California Building Code (CBC) Volume 2
 2019 California Residential Code (CRC)
 2019 California Energy Code (CBEES)
 2019 California Green Building Standards Code (CALGreen)
 2019 California Electrical Code (CEC)
 2019 California Plumbing Code (CPC)
 2019 California Mechanical Code (CMC)

This project shall conform to all the above codes and any local and state laws and regulations adopted by the City of Berkeley, CA.

ABBREVIATIONS

&	and	fdn.	foundation	pr.	pair
@	at	fin.	finish	p.s.	plumbing stack
perpen.	perpendicular	fl.	floor	pl.	point
#	pound or number	flash.	flashing	p.t.	pressure treated
(e)	existing	fluor.	fluorescent	pld.	painted
(n)	new	f.o.c.	face of concrete	r.	riser
(r)	renovated	f.o.f.	face of finish	r.a.	return air
a.f.f.	above finished floor	f.o.s.	face of studs	ref.	reference
acous.	acoustical	ft.	foot or feet	refr.	refrigerator
adj.	adjacent/ adjustable	ftg.	footing	rgtr.	register
alum.	aluminum	furn.	furnace	reinf.	reinforced
approx.	approximate	g.a.	gauge	req.	required
arch.	architectural	gallon	gallon	rm.	room
asph.	asphalt	gal.	galvanized sheet metal	r.o.	rough opening
bd.	board	g.s.m.	glass	nwd.	redwood
bdg.	building	gl.	ground	r.w.l.	rain water leader
bldg.	block	gr.	grade	s.	south
blk.	blocking	gyp. bd.	gypsum board	s.c.	solid core
bm.	beam	h.b.	hose bibb	sched.	schedule
bot.	bottom	hdwd.	hardwood	sect.	section
b.p.	building paper	h.f.	hem fir	sh.	shelf
b/w	between	horiz.	horizontal	shr.	shower
cab.	cabinet	hgt.	height	sim.	similar
cem.	cement	hgt.	height	s.mech.	see mechanical drawings
cer.	ceramic	i.d.	inside diameter (dia.)	s.o.	sash opening
cl.	center line	insul.	insulation	spec.	specification
clg.	ceiling	int.	interior	sq.	square
clkg.	caulking	jt.	joint	s.s.d.	see structural drawings
c.o.	cleanout	kit.	kitchen	sst.	stainless steel
clo.	closet	lav.	lavatory	std.	standard
clr.	clear	loc.	location	std.	standard
col.	column	lt.	light	stl.	steel
comp.	composition	lt.	light	stor.	storage
conc.	concrete	max.	maximum	struct.	structure
concr.	concrete	m.c.	mechanics cabinet	sym.	symmetrical
cont.	construction	memb.	membrane	t.	tread or tempered
det.	detail	mfr.	manufacturer	t.b.	towel bar
d.f.	douglas fir	min.	minimum	tel.	telephone
dia.	diameter	mir.	mirror	t. & g.	tongue & groove
dim.	dimension	misc.	miscellaneous	thk.	thick
dir.	direction	mtd.	mounted	t.b.r.	to be removed
dir.	direction	ntl.	metal	t.o.	top of
disp.	disposal	n.	north	t.p.d.	toilet paper dispenser
d.w.	dishwasher	nat.	natural	t.v.	television
dr.	door	nece.	necessary	typ.	typical
drw.	drawer	neo.	neoprene	unf.	unfinished
drg.	drawing	n.i.c.	not in contract	u.o.n.	unless otherwise noted
drgs.	drawings	no.	number	vert.	vertical
e.	east	nom.	nominal	v.g.	vertical grain
ea.	each	n.t.s.	not to scale	v.i.f.	verify in field
el.	elevation	o.a.	overall	w.h.	water heater
elec.	electrical	o.c.	on center	w.	west
encd.	enclosure	o.d.	outside diameter (dim.)	w/	with
eq.	equal	opng.	opening	wd.	wood
eqpt.	equipment	opp.	opposite	w/o	without
ext.	exterior	pl.	property line	w.o.	where occurs
f.	frosted	p.lam.	plastic laminate	wp.	waterproof
f.d.c.	fire dept. connection	plywd.	plywood	wt.	weight

SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

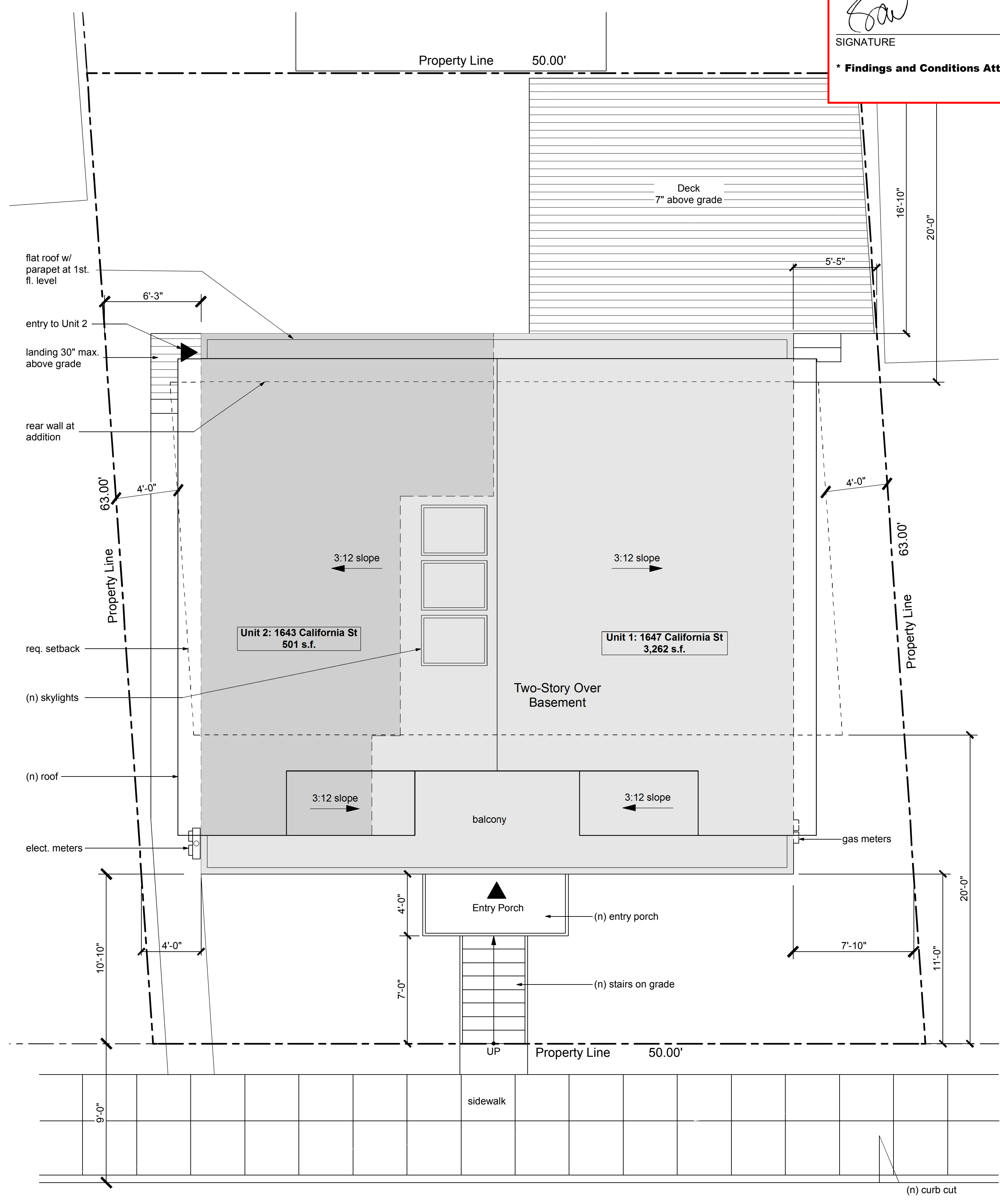
Tabulations

	Required/Allowed	Existing	Proposed
Set Backs:			
Front	20'-0"	10'-10"	10'-10" no change
Rear	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
Habitable Floor Area:			
Unit 1:			
Basement floor:		0 s.f.	1,342 s.f.
First floor:		667 s.f.	901 s.f.
Second floor:		0 s.f.	1,019 s.f.
Total Area Unit 1:		667 s.f.	3,262 s.f. (2,595 s.f. new)
Unit 2:			
Basement floor:		0 s.f.	0 s.f.
First floor:		667 s.f.	501 s.f.
Second floor:		0 s.f.	0 s.f.
Total Area Unit 2:		667 s.f.	501 s.f.
Total Area:		1,334 s.f.	3,763 s.f. (2,229 s.f. new)
Bedroom Count:		3 total	5 total
Non-Habitable Area:			
Accessory Structure:		167 s.f.	0 s.f.
Building Height:			
Main Building:	28'-0" 35'-0" w/ AUP	13'-6" 13'-6"	23'-10"
Parking:	2	0	0
Lot Size:	4,500 s.f.	3,142 s.f.	3,142 s.f.
Total Foot Print:			
House:		1,342 s.f.	1,342 s.f.
Covered Porch:		60 s.f.	0 s.f.
Accessory Structure:		167 s.f.	0 s.f.
Total:	1,085 for 3 stories	1,569 s.f.	1,382 s.f.
Lot Coverage:	45% (1 story) 40% (2 story) 35% (3 story)	49.94%	43.98% (5.96% reduction)
Usable Open Space:	400 s.f./unit	500 s.f.	1,029 s.f.

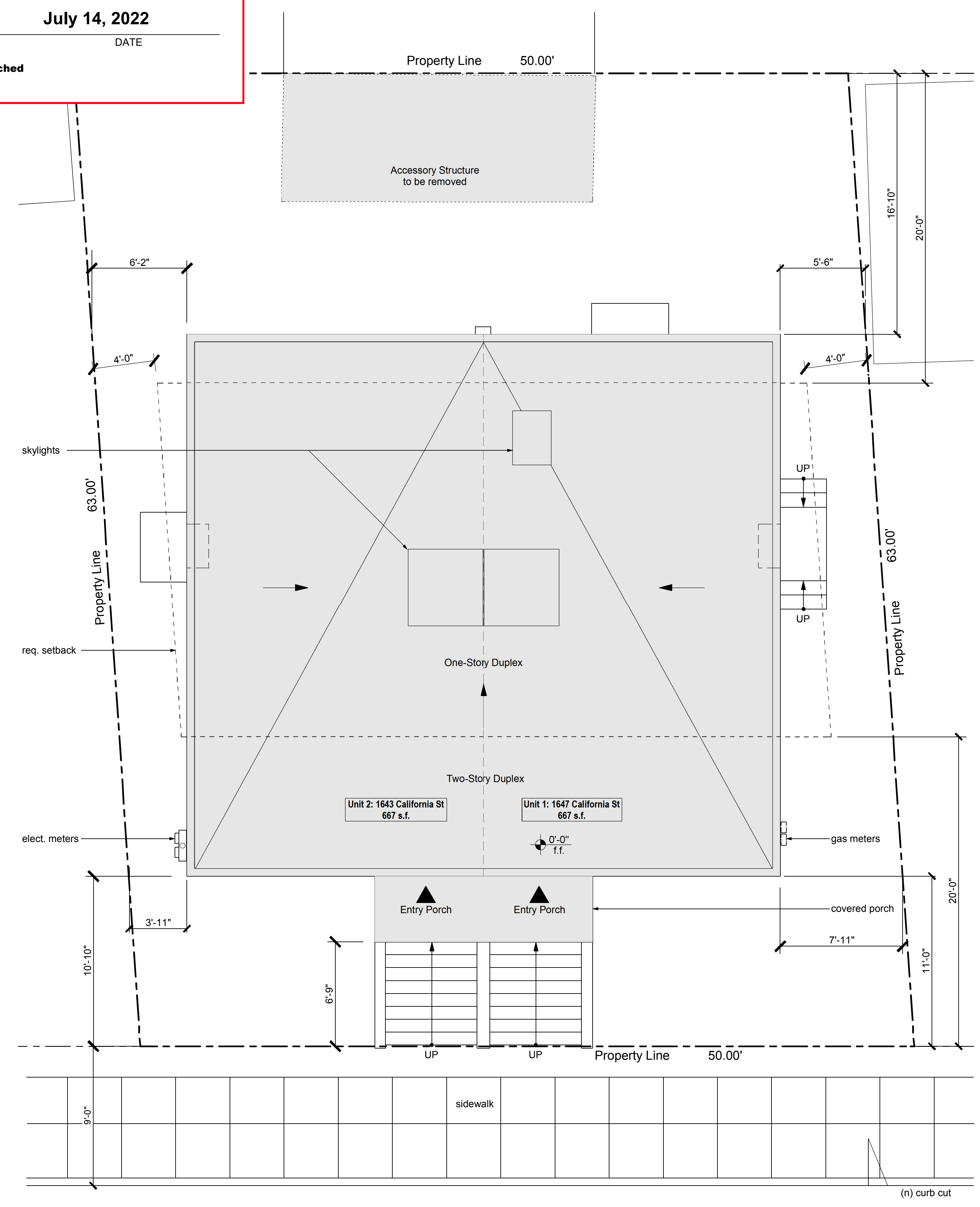
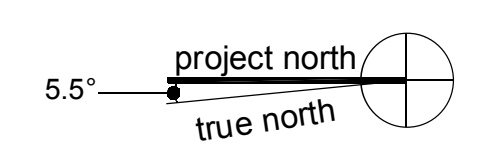
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[Signature]
 SIGNATURE
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 DATE

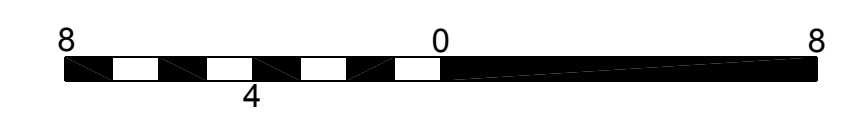
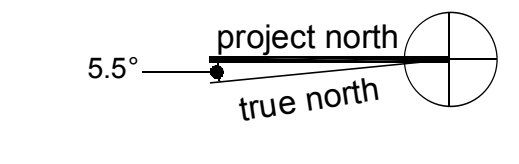
* Findings and Conditions Attached



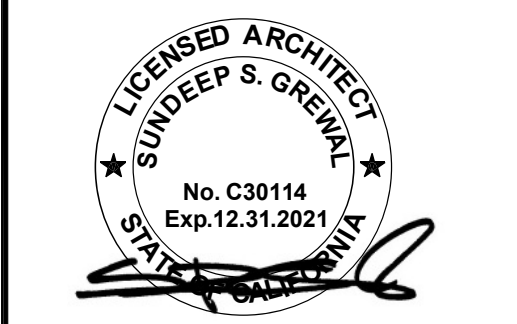
2 Proposed Site Plan



1 Existing Site Plan



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 www.sgsarch.com



OPPENHEIMER RESIDENCE
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 Berkeley, CA 94703
 APN: 58-2156-18

Sheet Contents:
 Existing Site Plan
 Proposed Site Plan

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020

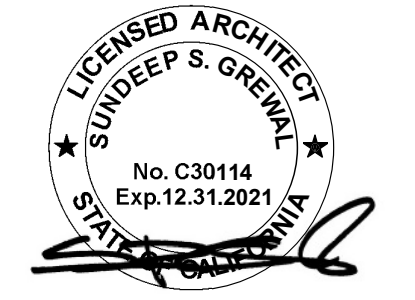
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021



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 Site Survey

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Scale:
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 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet
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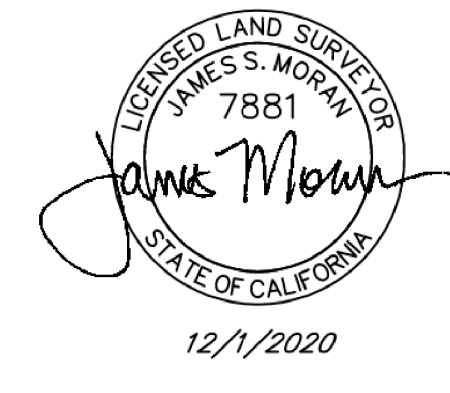
July 14, 2022
 DATE

* Findings and Conditions Attached

HOUSE LOCATION SURVEY
 PORTION OF LOTS 1, 2 AND 3, MAP OF VIRGINIA TRACT, FILED OCTOBER 4, 1890 (8 M 43)
 LOCATED AT 1643-1647 CALIFORNIA STREET
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

NOVEMBER 17, 2020 SCALE: 1" = 8'

MORAN ENGINEERING, INC.
 CIVIL ENGINEERS \ LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 848-1930



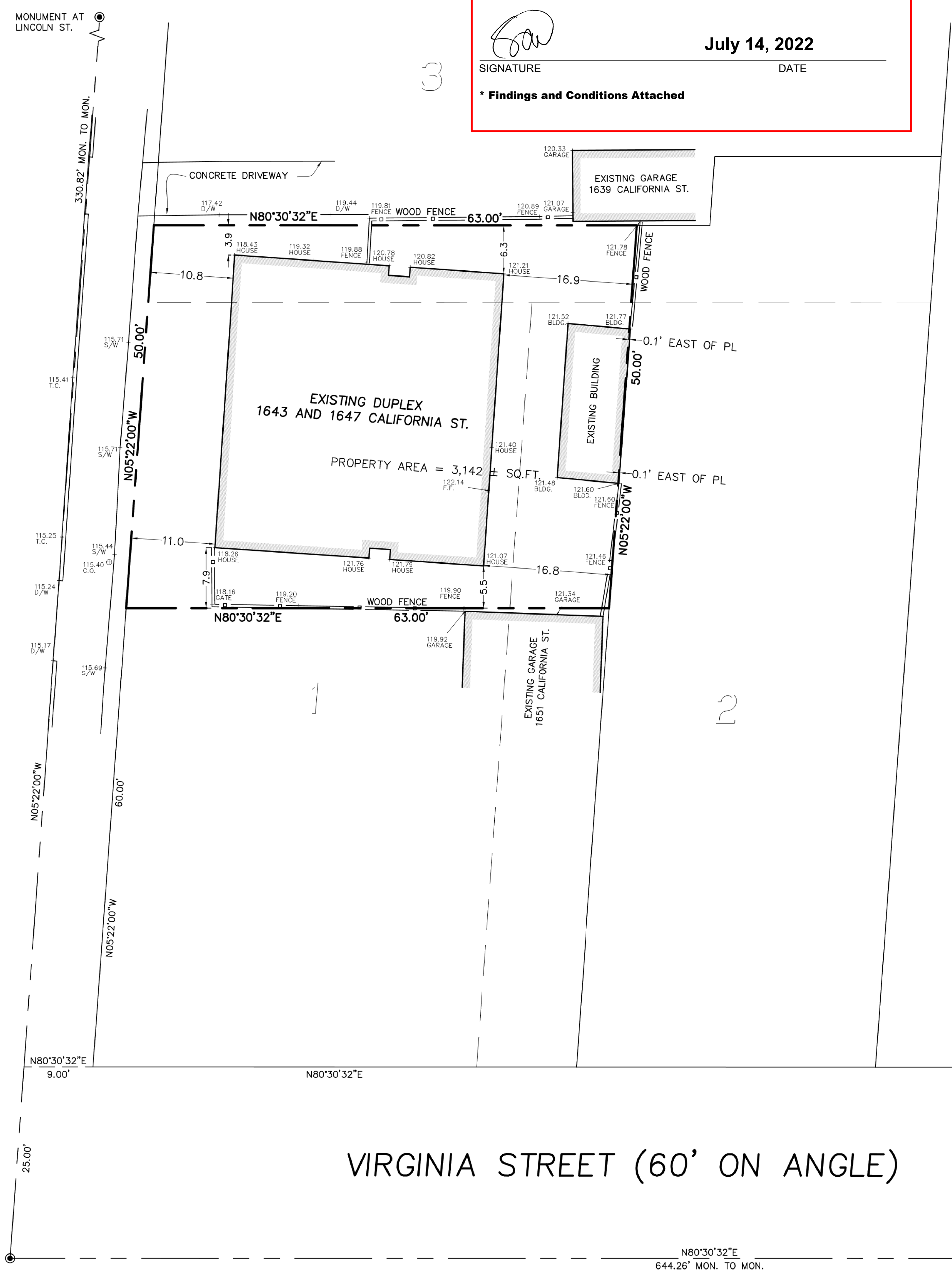
- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
 - BLDG. BUILDING
 - C.O. CLEAN-OUT
 - D/W DRIVEWAY
 - F.H. FIRE HYDRANT
 - J.P. JOINT POLE
 - M.H. MAN HOLE
 - S/W SIDEWALK
 - T.C. TOP OF CURB

GENERAL NOTES

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

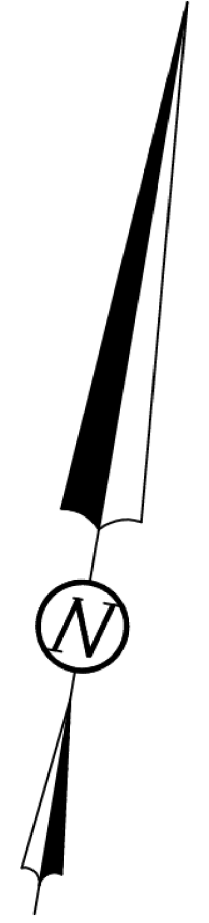
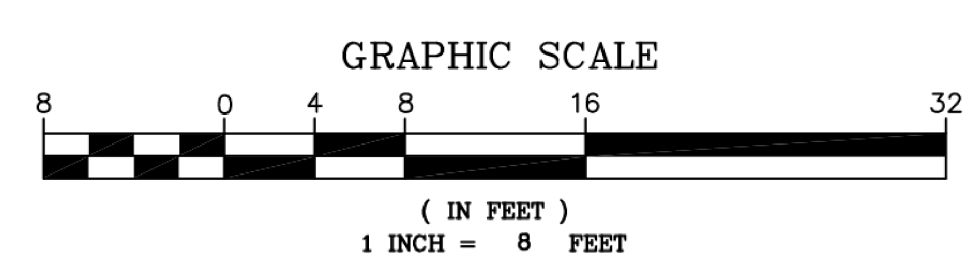
THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.




CALIFORNIA STREET (60' ON ANGLE)

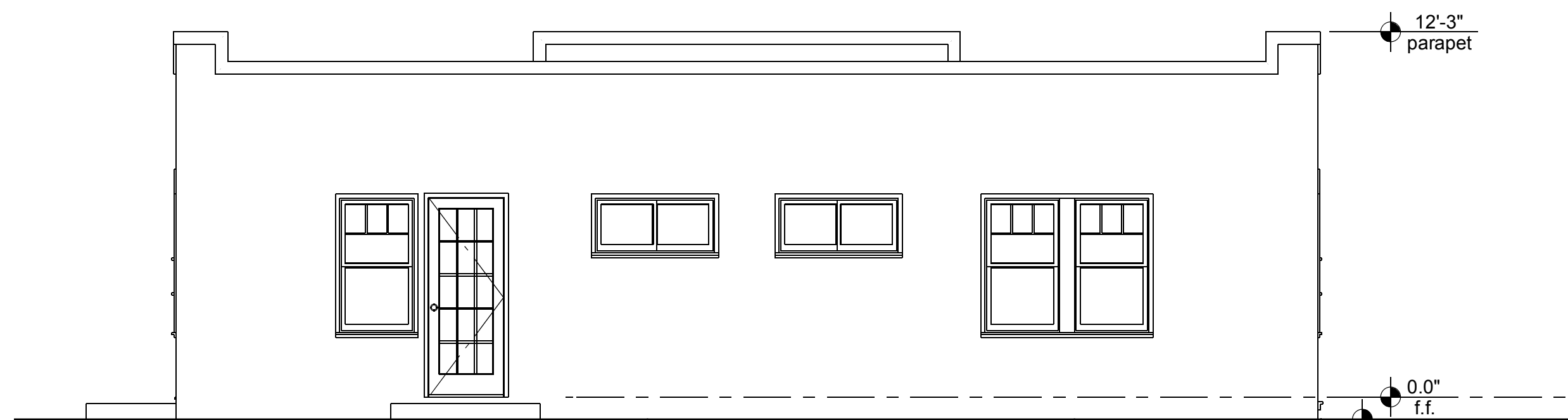
VIRGINIA STREET (60' ON ANGLE)



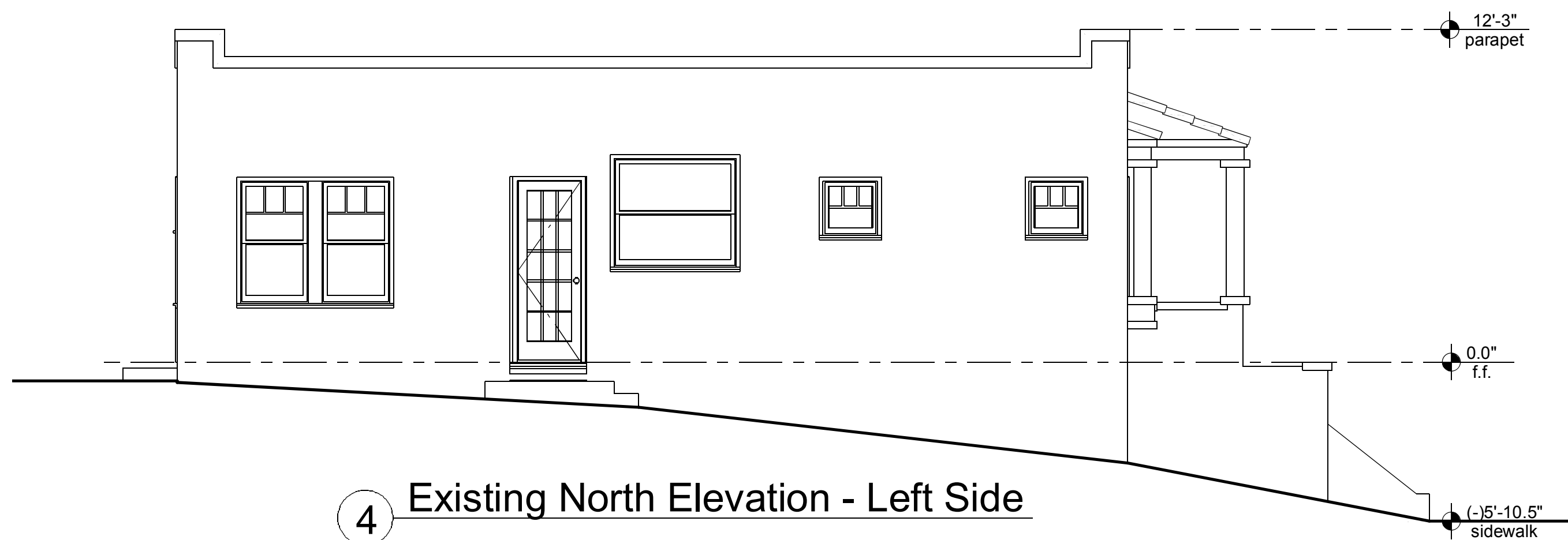
PLANS APPROVED BY ZONING ADJUSTMENTS BOARD


 SIGNATURE _____ DATE **July 14, 2022**

 * Findings and Conditions Attached



5 Existing East Elevation - Rear



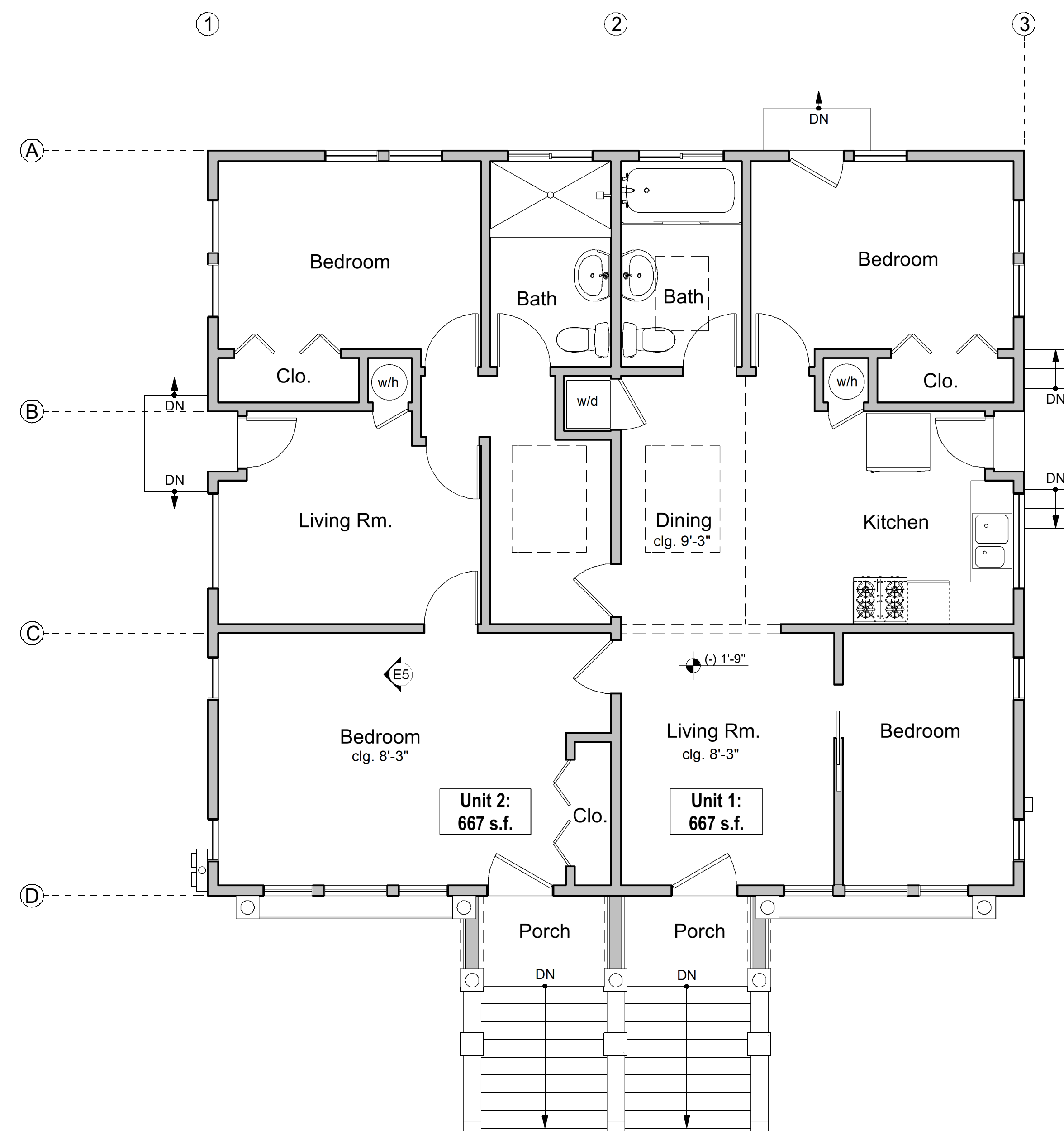
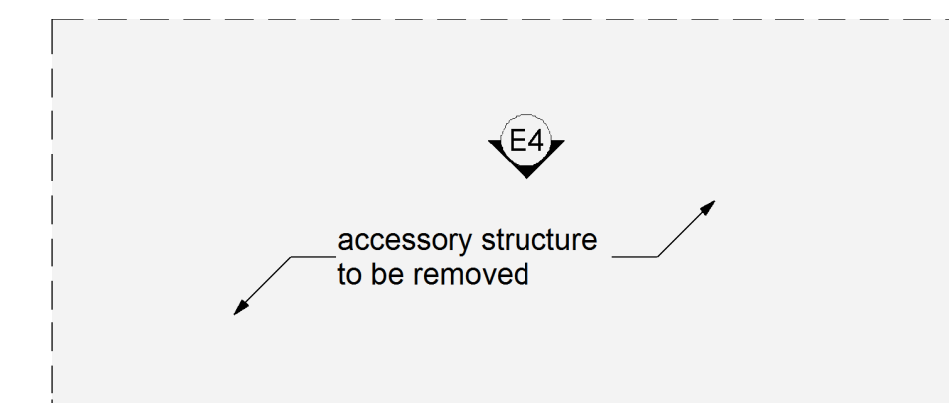
4 Existing North Elevation - Left Side



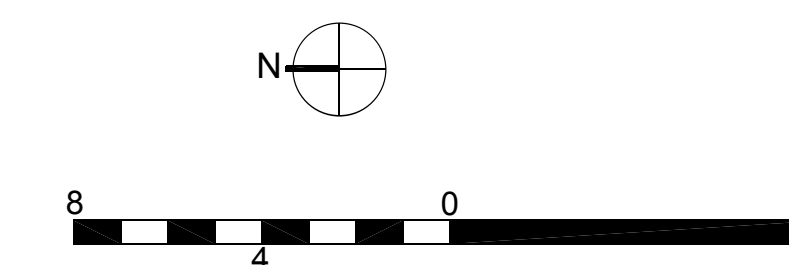
3 Existing South Elevation - Right Side



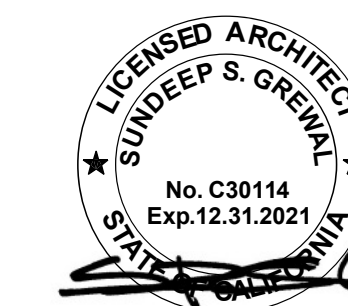
2 Existing West Elevation - Front



1 Existing First Floor Plan



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**OPPENHEIMER
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 Berkeley, CA 94703
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Sheet Contents:
 Existing Floor Plans
 Existing Exterior Elevations

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Project No: 20-13-420

Drawn By: SSG


Checked By: SSG

Scale: 1/4" = 1'-0"

Revisions:
 Use Permit Set: 12-10-2020
 Redesign: 5-25-2021
 Planning Review: 6-29-2021
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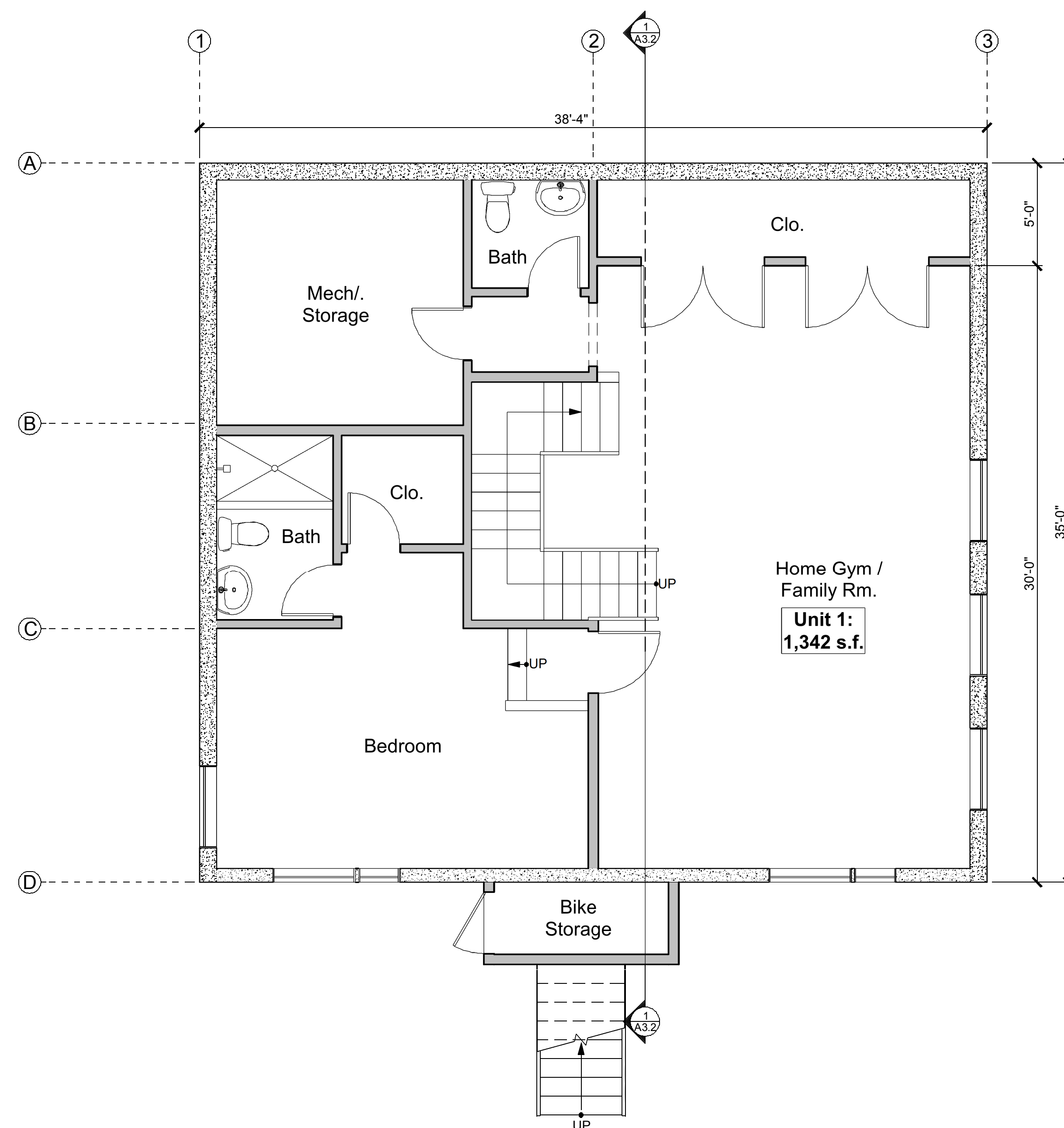
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PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

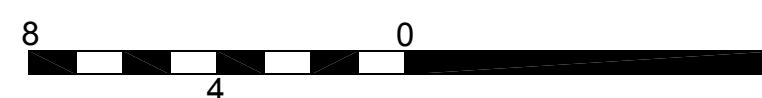

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July 14, 2022
 DATE

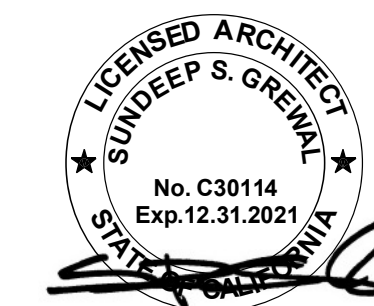
* Findings and Conditions Attached



1 Proposed Basement Floor Plan



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**OPPENHEIMER
RESIDENCE**
1643 & 1647 California St.
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Sheet Contents:
Proposed Floor Plan
Proposed Site Plan

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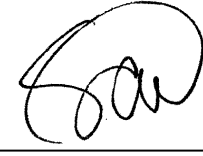
Checked By: SSG

Scale: 1/4" = 1'-0"

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Use Permit Set: 12-10-2020
Redesign: 5-25-2021
Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet **A2.1**

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 SIGNATURE DATE
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 * Findings and Conditions Attached



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Sheet Contents:
 Proposed Floor Plans

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Project No: 20-13-420

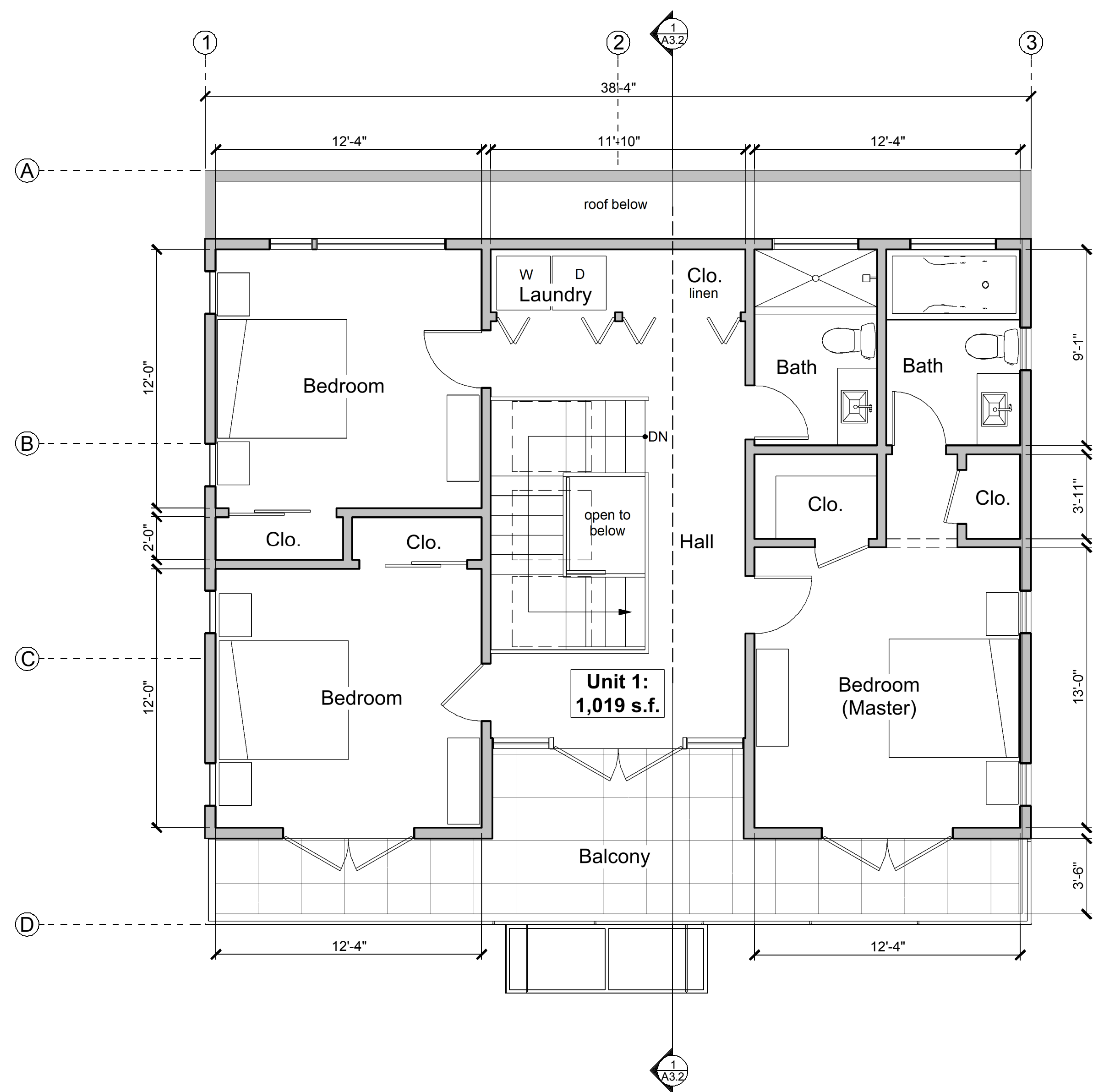
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Checked By: SSG

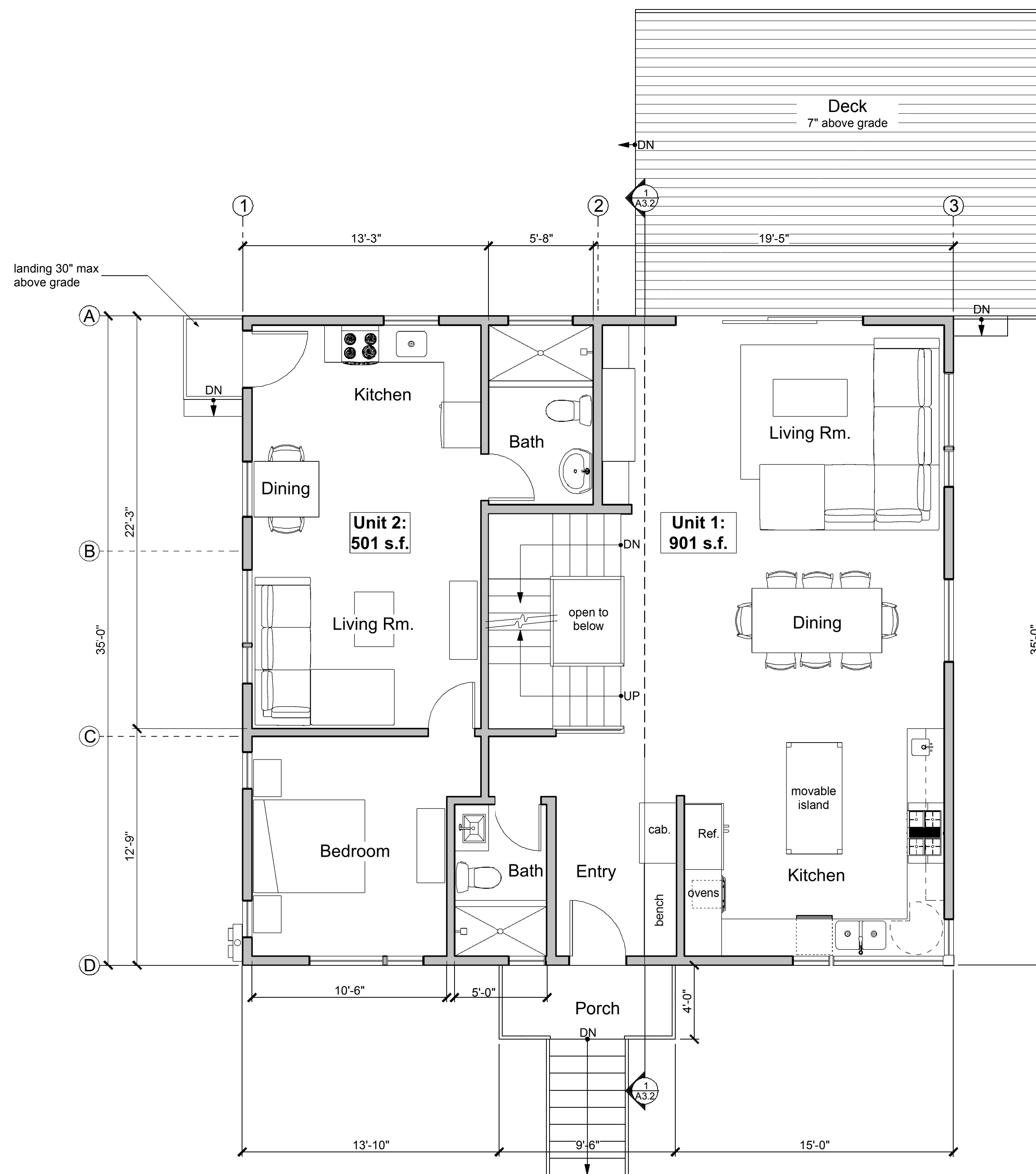
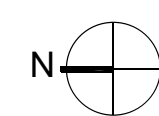
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 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

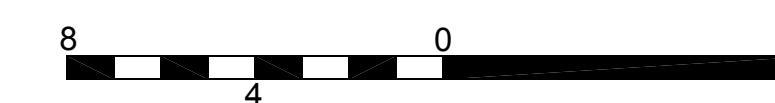
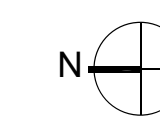
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2 Proposed Second Floor Plan

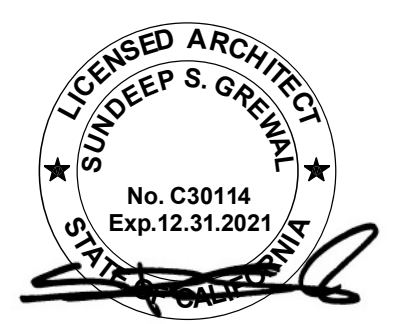


1 Proposed First Floor Plan



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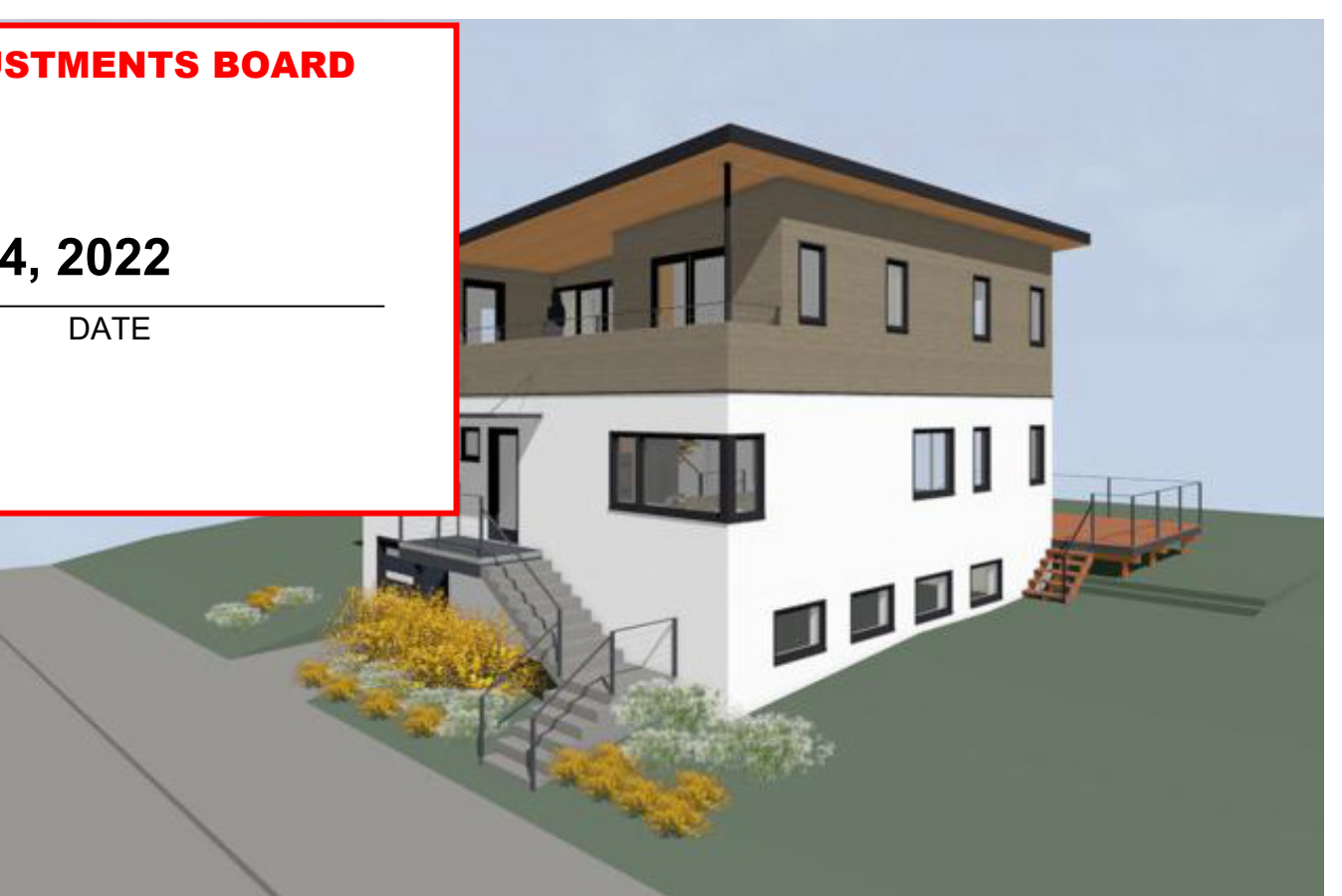
Previous Proposal

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July 14, 2022
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Previous Proposal



Previous Proposal



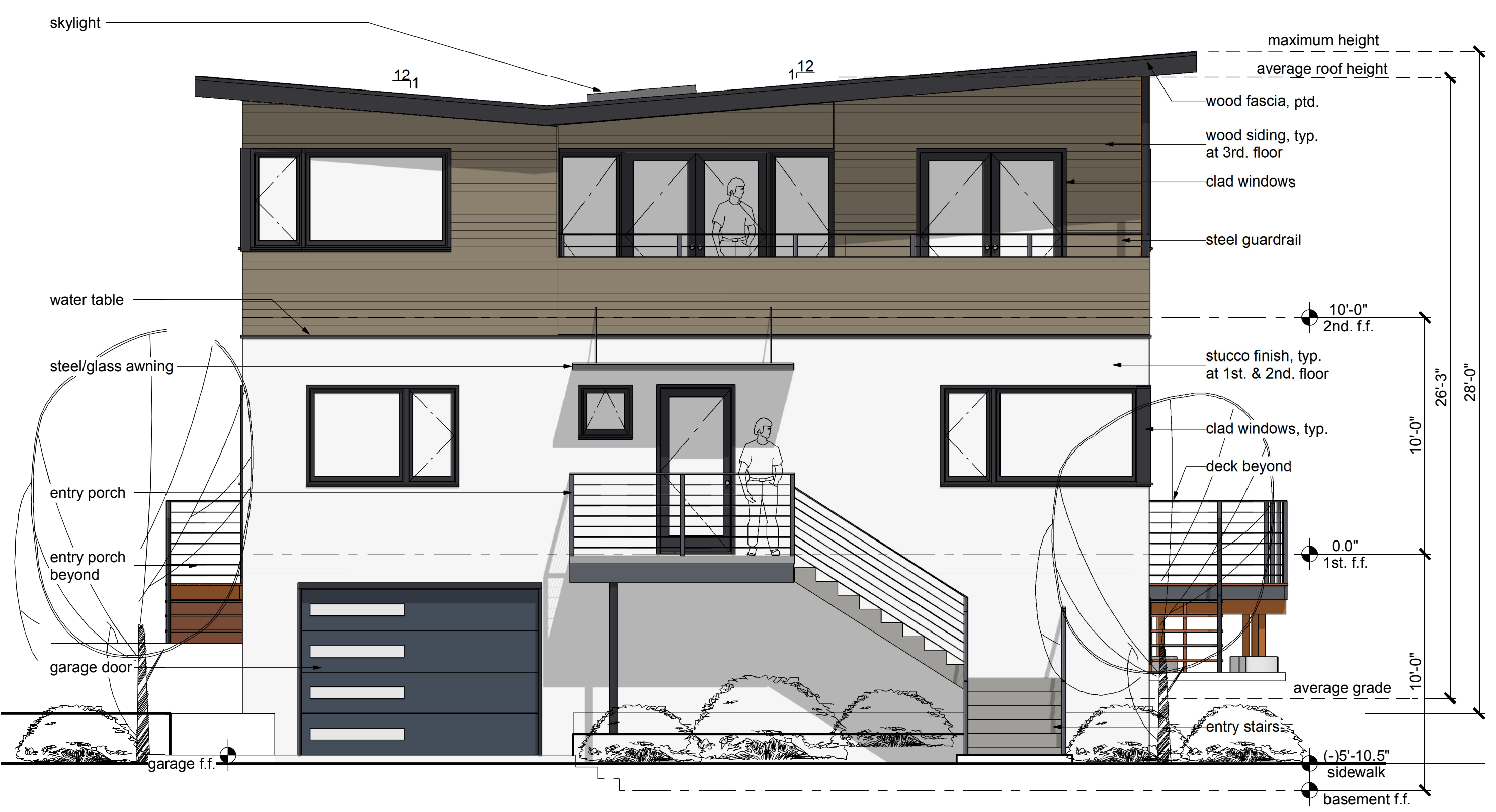
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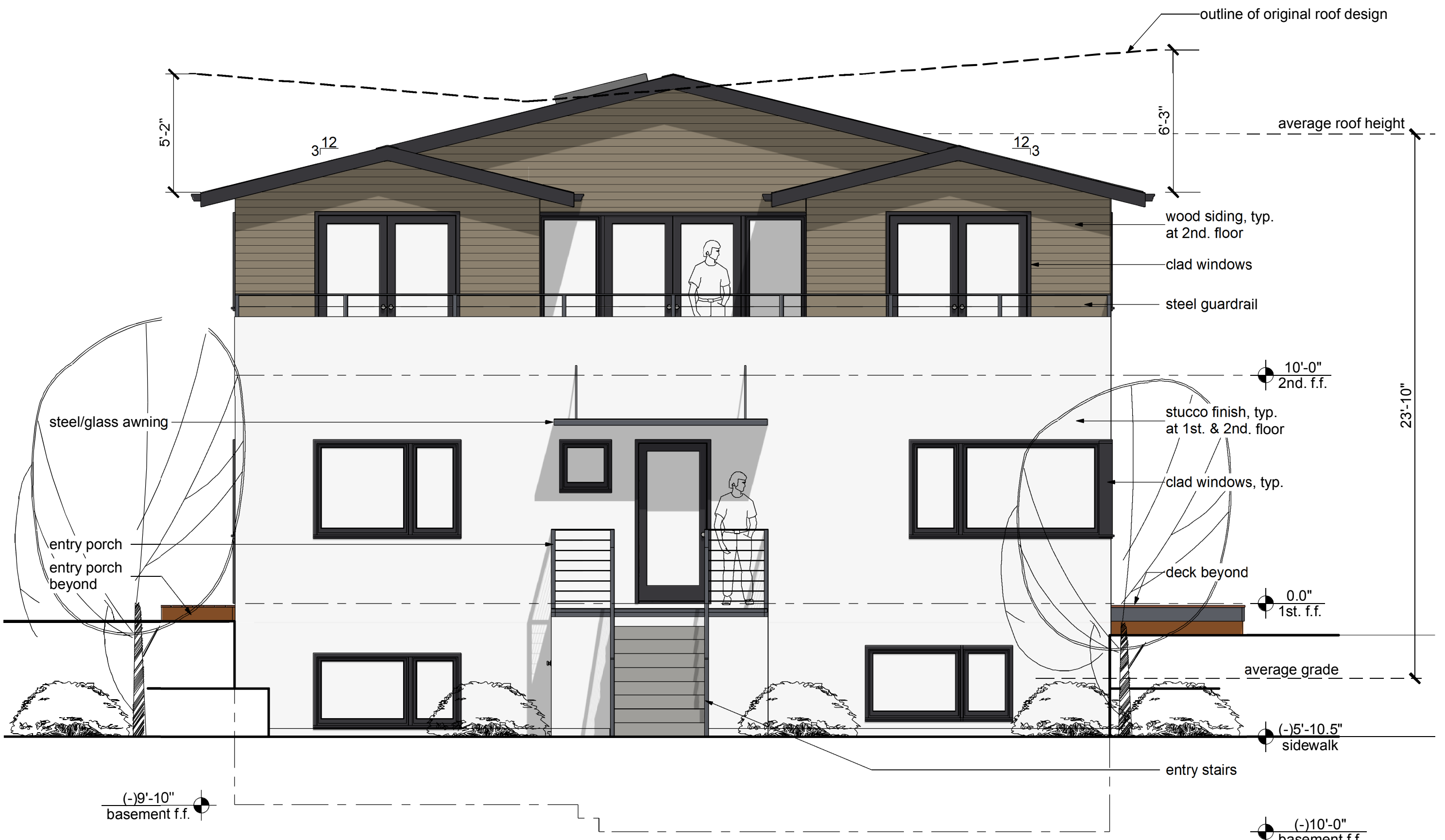
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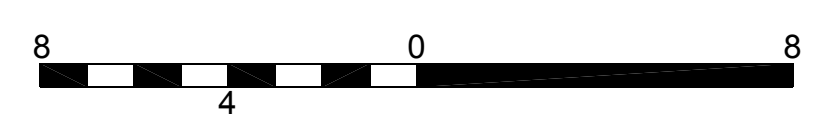
Current Proposal



2 Proposed West Elevation - Front Original Proposal



1 Proposed West Elevation - Front Current Proposal



Sheet Contents:
 Front Elevation Comparison

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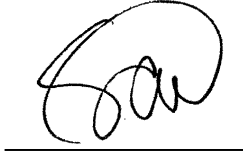
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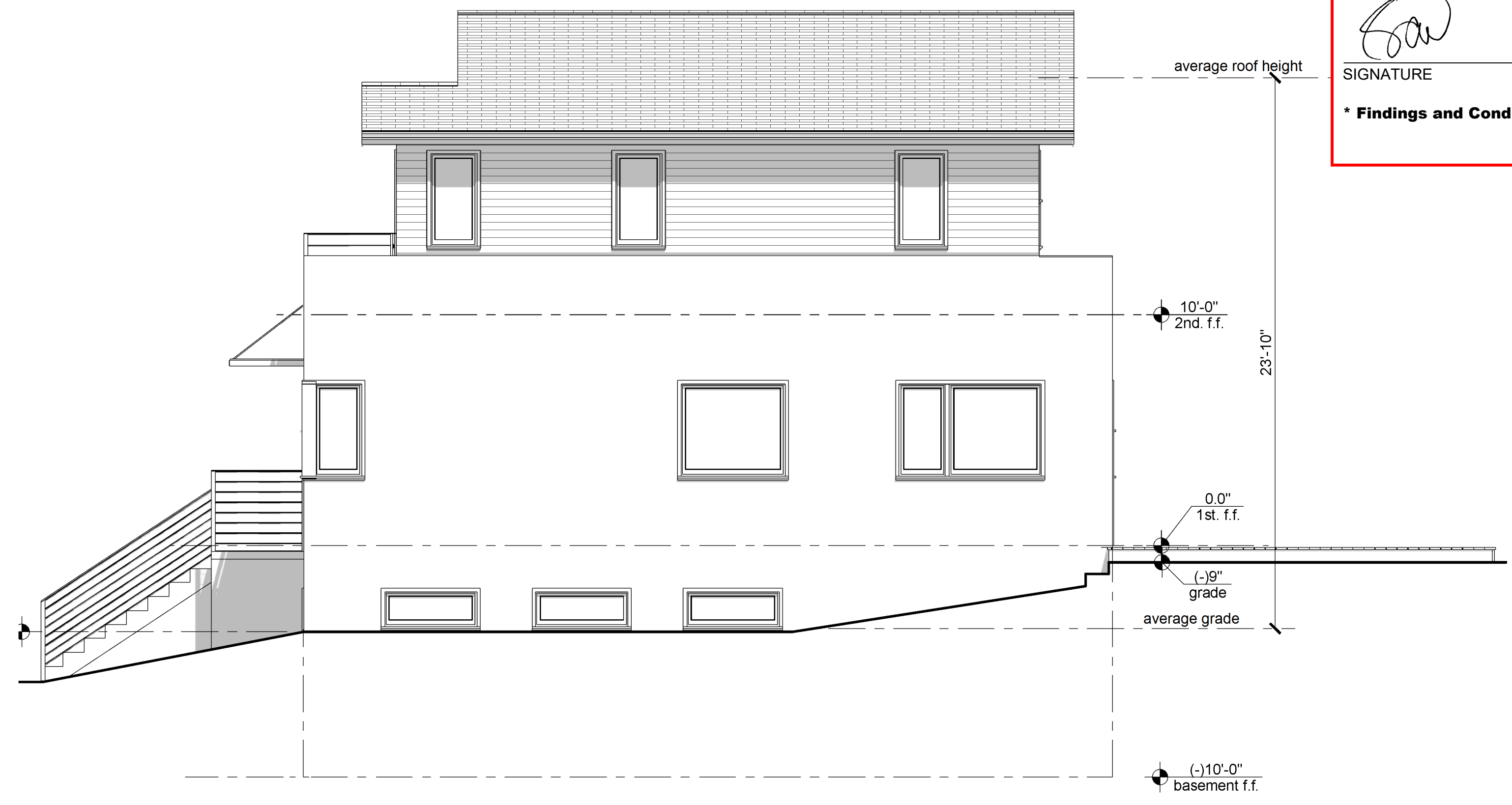
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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

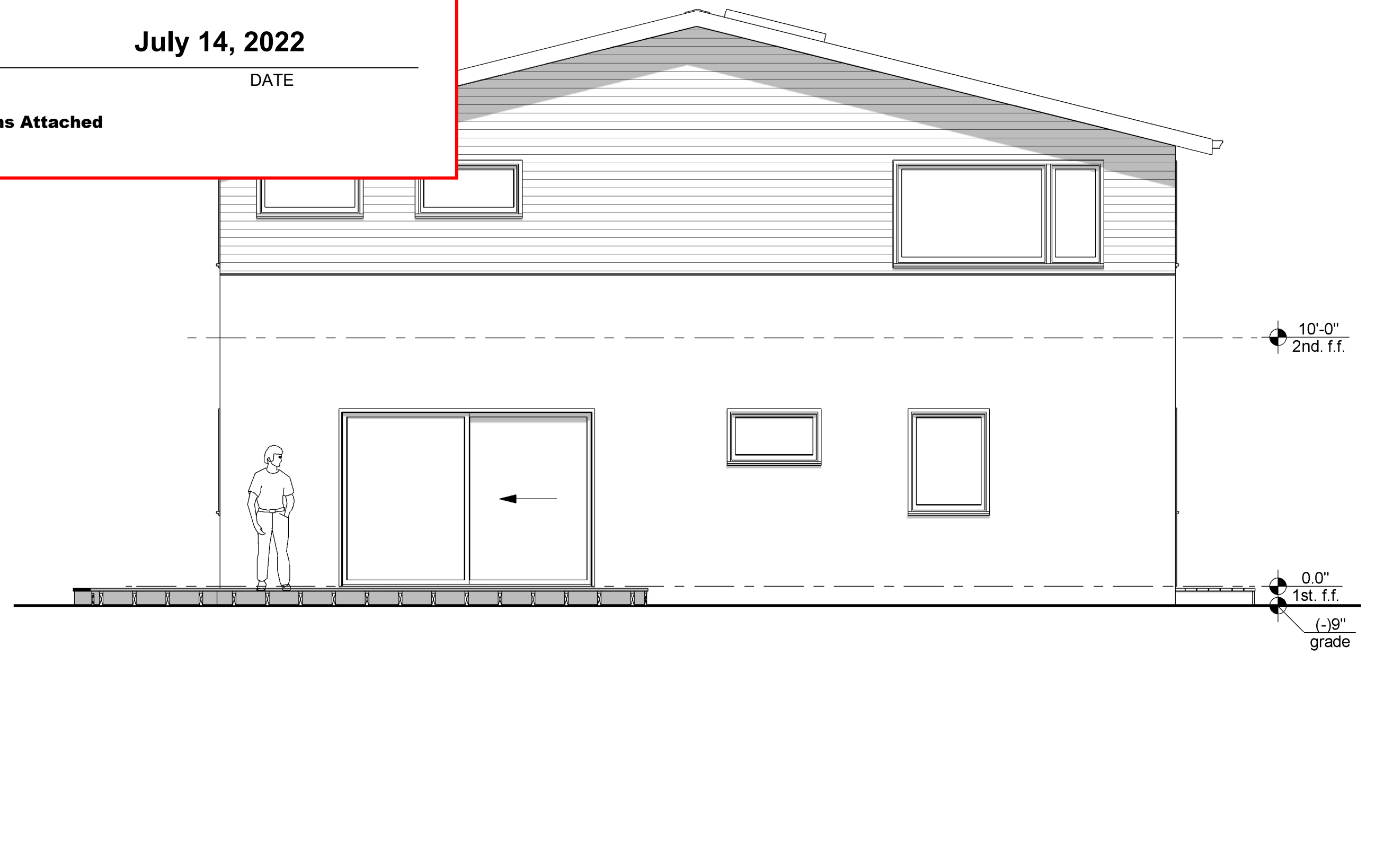
Sheet A3.1

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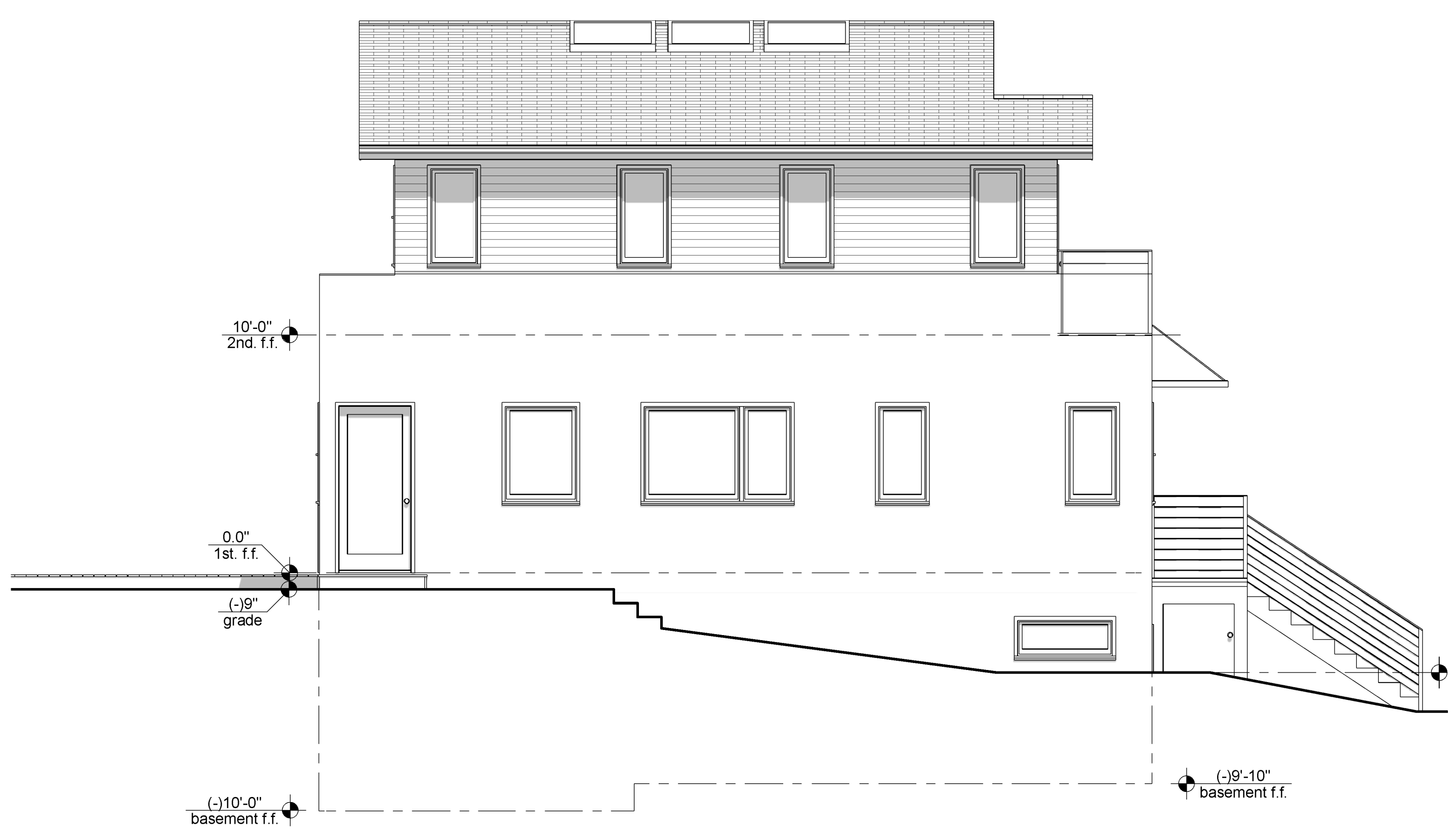

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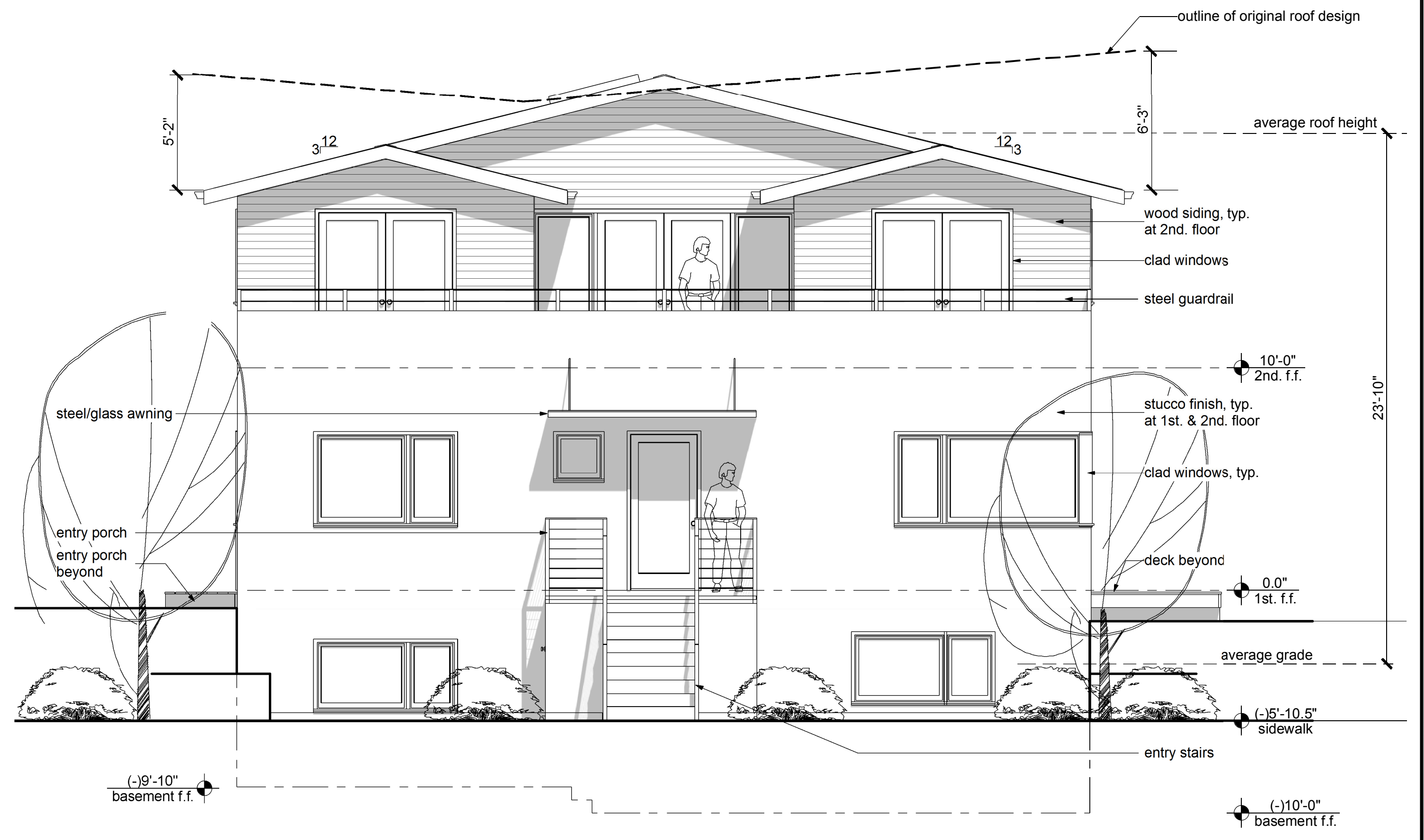
4 Proposed South Elevation - Right Side



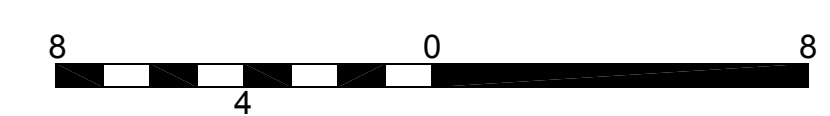
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



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Sheet Contents:
 Proposed Exterior Elevations

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Scale: 1/4" = 1'-0"

Revisions:
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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet **A3.2**



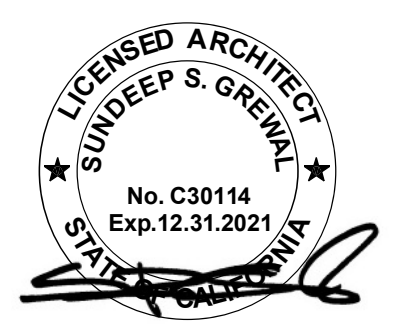
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2 Renderings

Sheet Contents:
 Building Section
 Renderings

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Scale: 1/4" = 1'-0"


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 Planning Review: 7-15-2021





1 Proposed Building Section

Sheet **A3.3**

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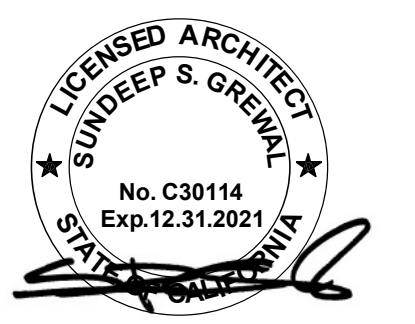

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 Existing Shadow Line
 New Shadow Line



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Sheet Contents:
 Shadows Studies

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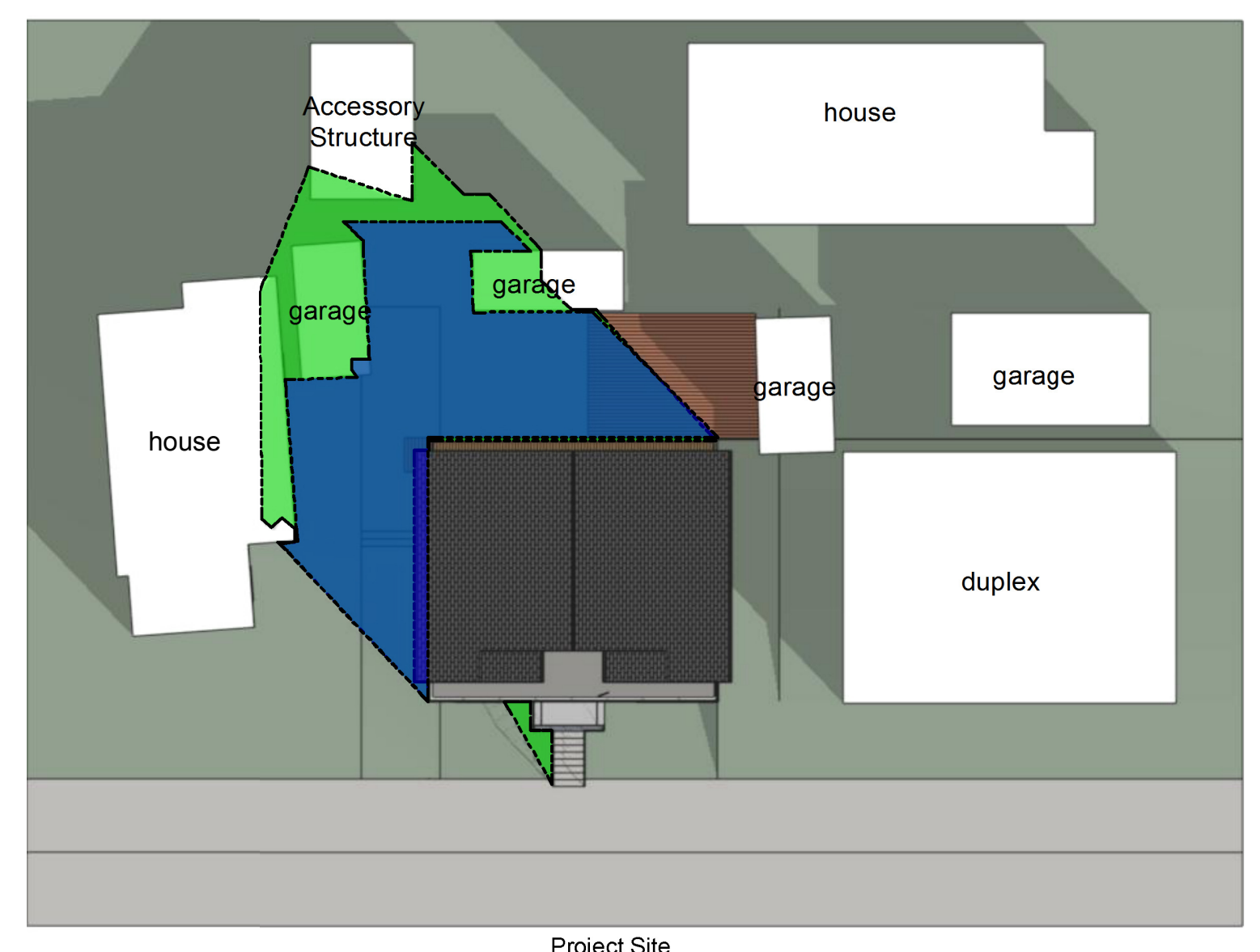
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 Redesign: 5-25-2021
 Planning Review: 6-29-2021
 Planning Review: 7-15-2021

Sheet **A4.1**



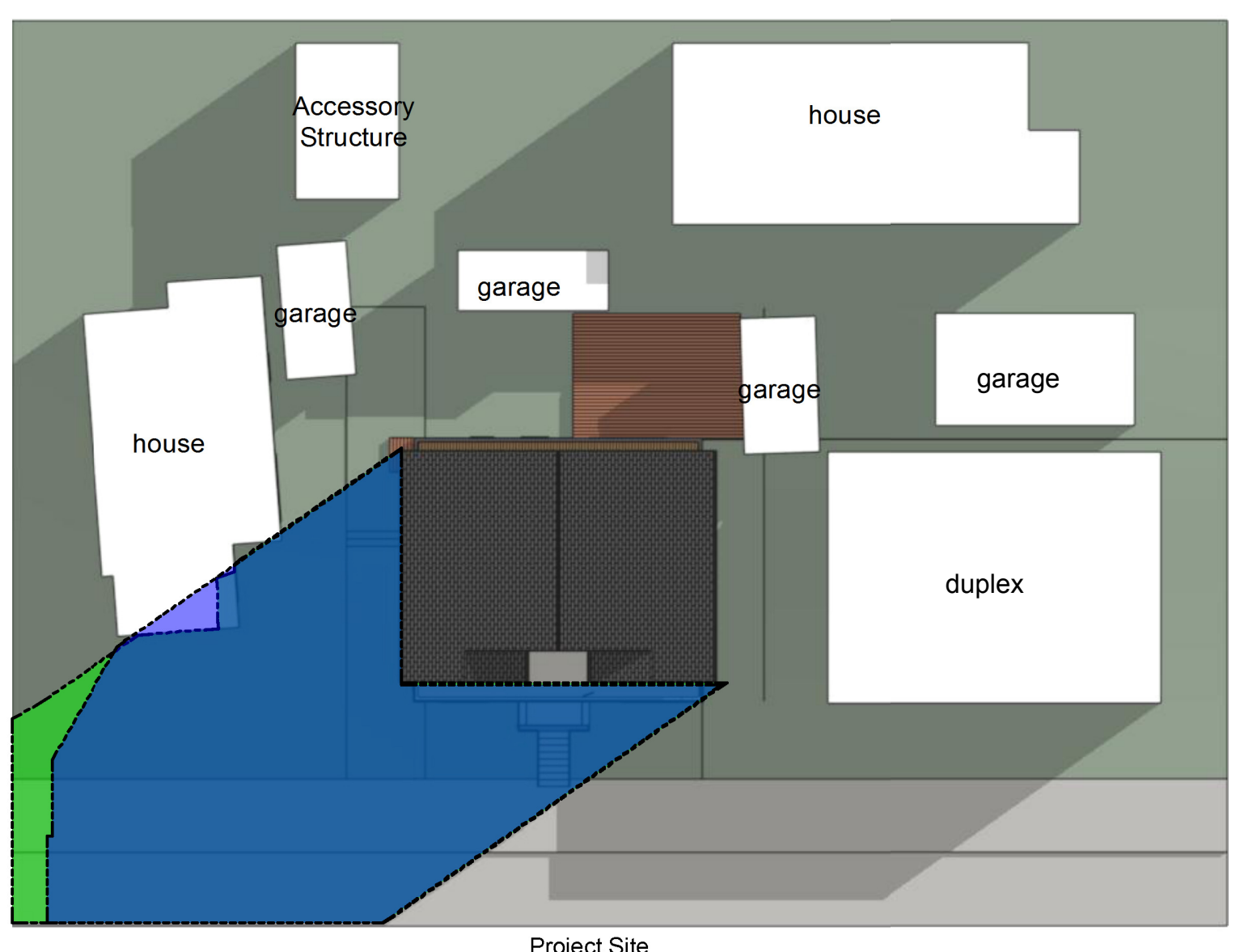
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12-21-2021 / 2:54 pm



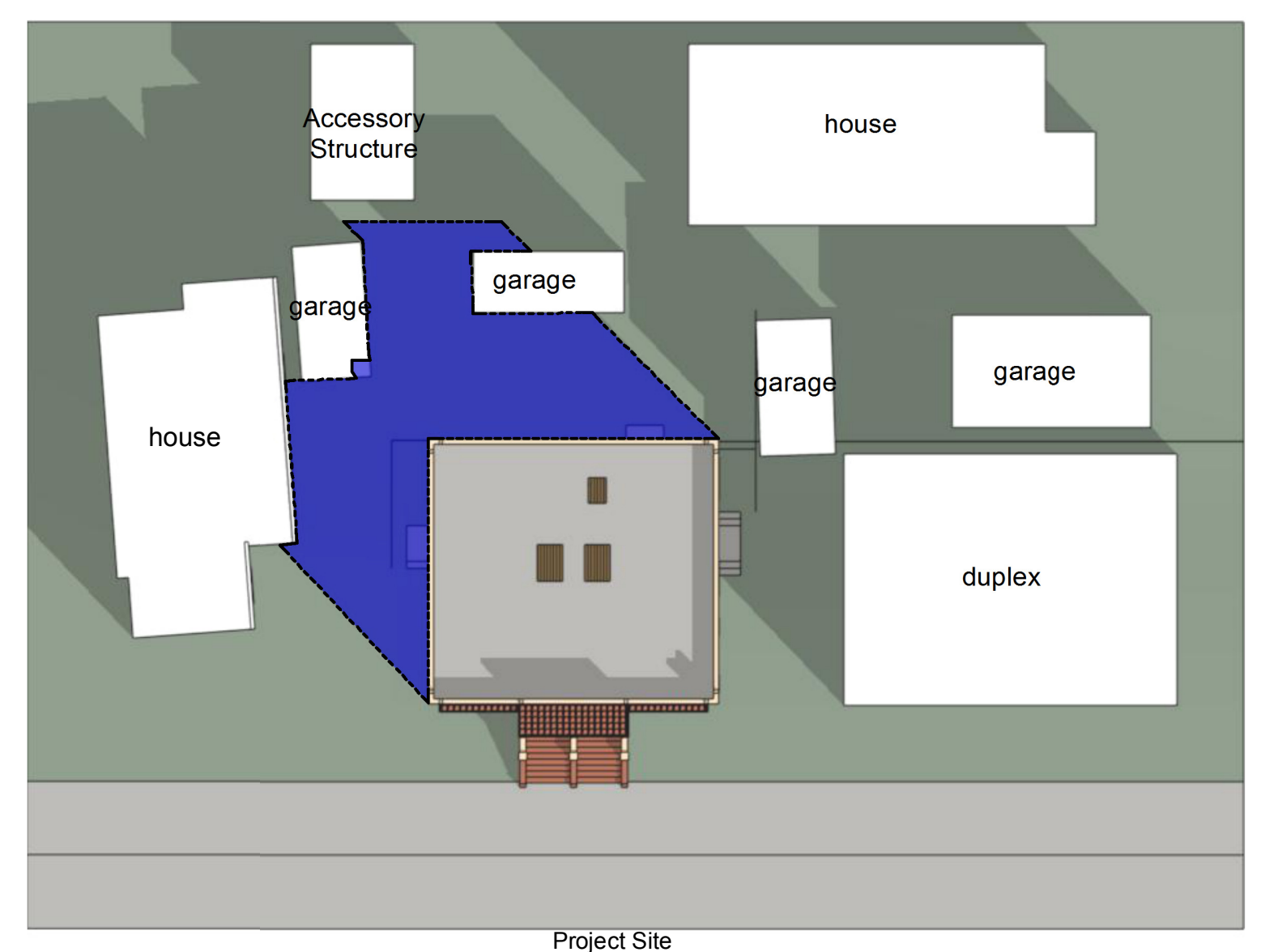
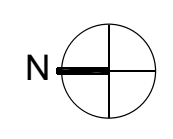
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12-21-2021 / 12:00 pm



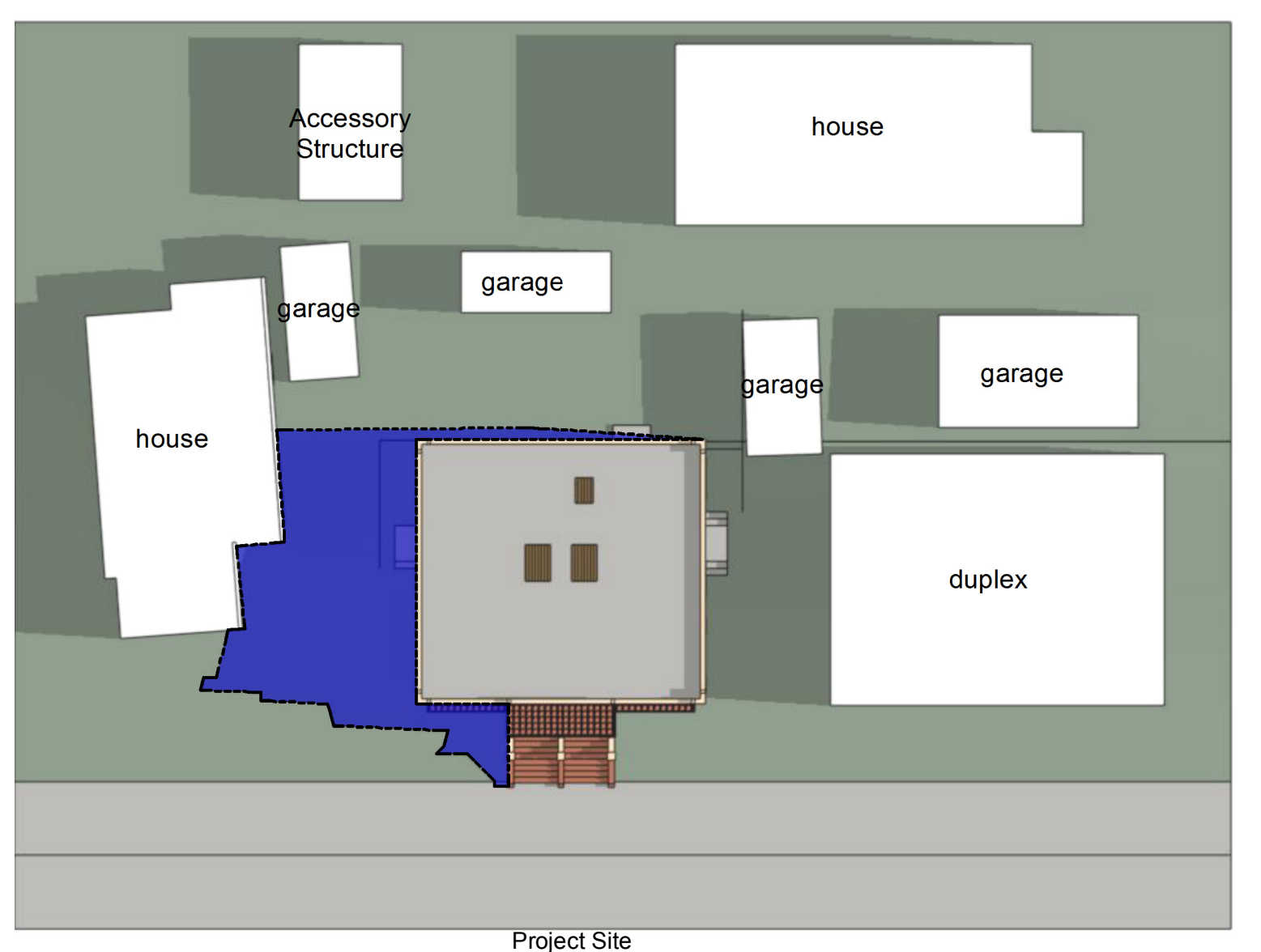
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12-21-2021 / 9:21 am



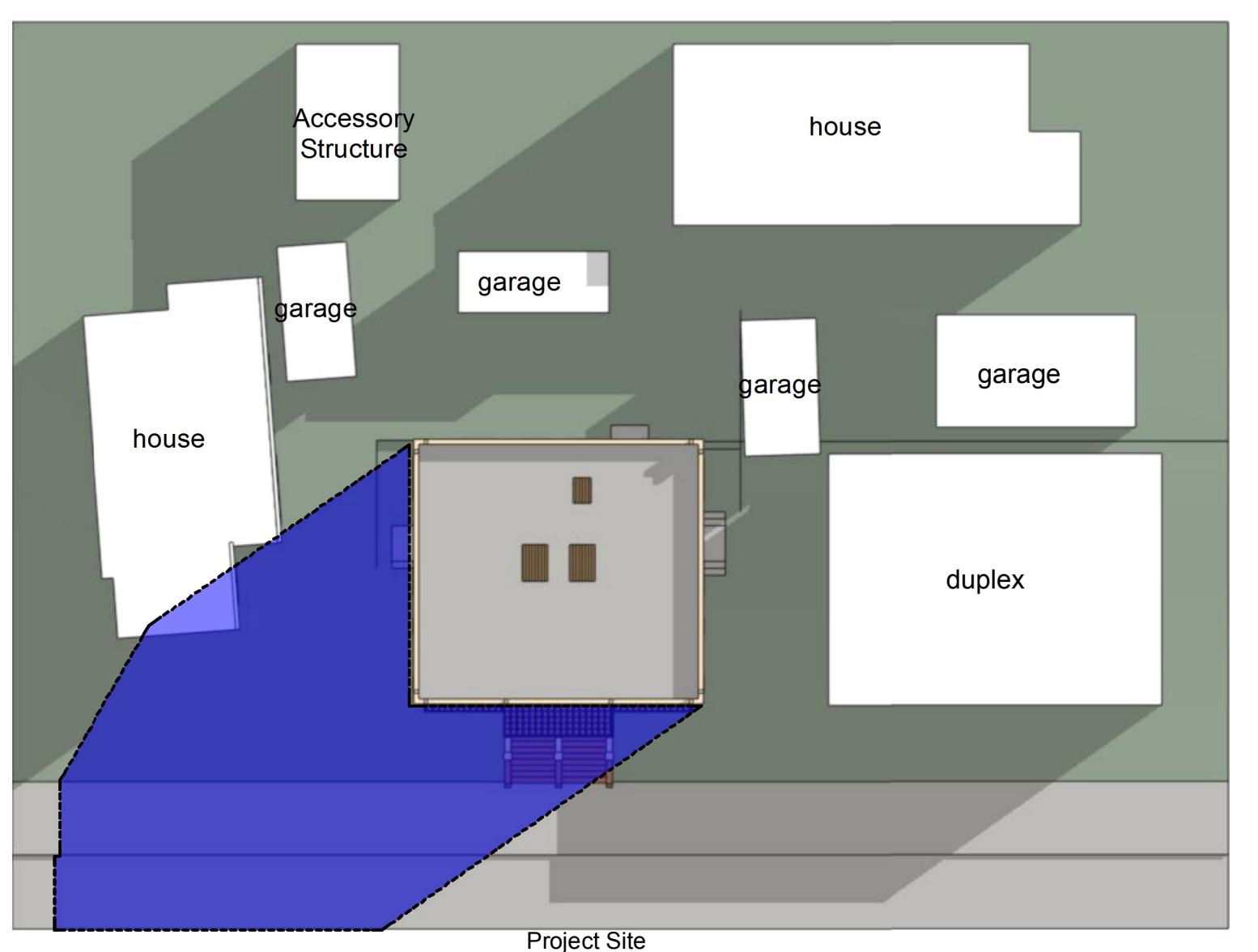
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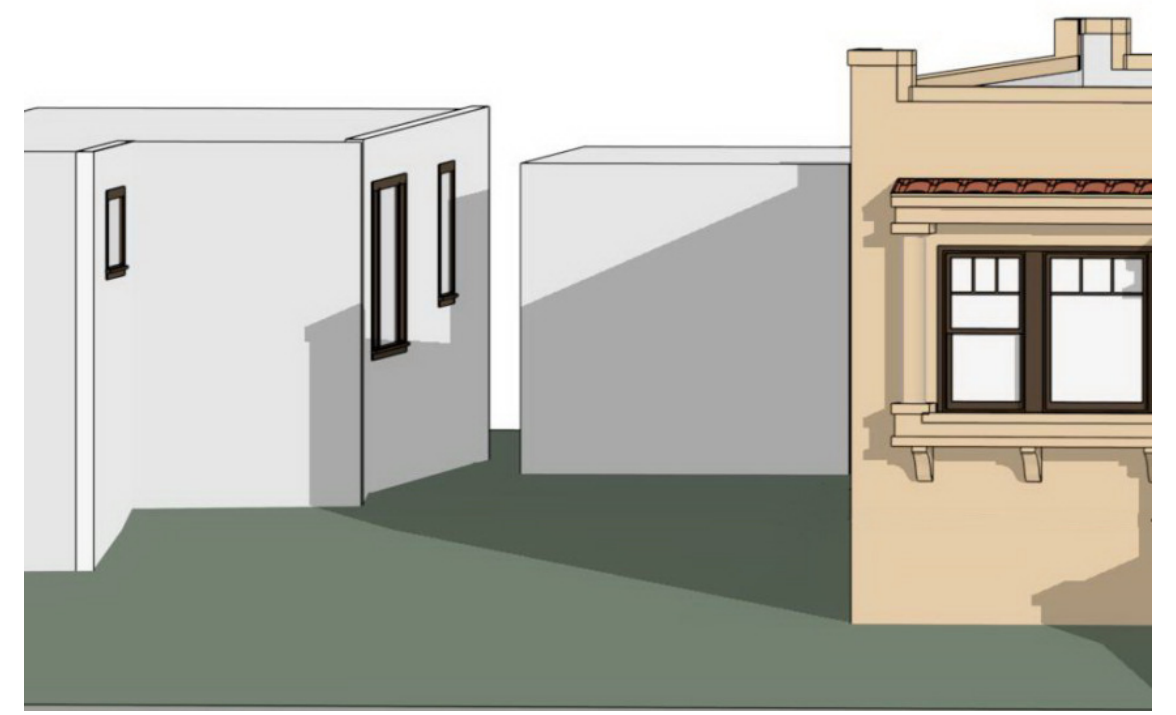
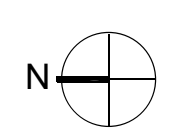
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12-21-2021 / 12:00 pm



Existing

12-21-2021 / 9:21 am



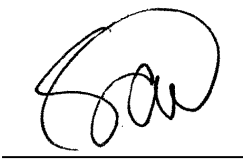
Shadow Accuracy Simulation
 12-08-2020 / 3:00 pm



Actual
 12-08-2020 / 3:00 pm


Shadow Accuracy Simulation


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DATE

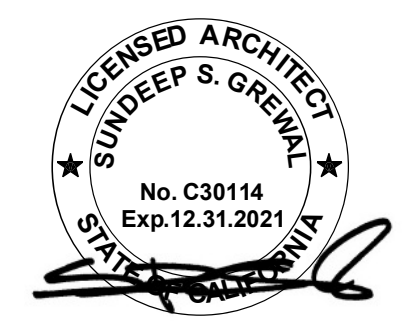
* Findings and Conditions Attached

 Existing Shadow Line

 New Shadow Line



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Shadows Studies

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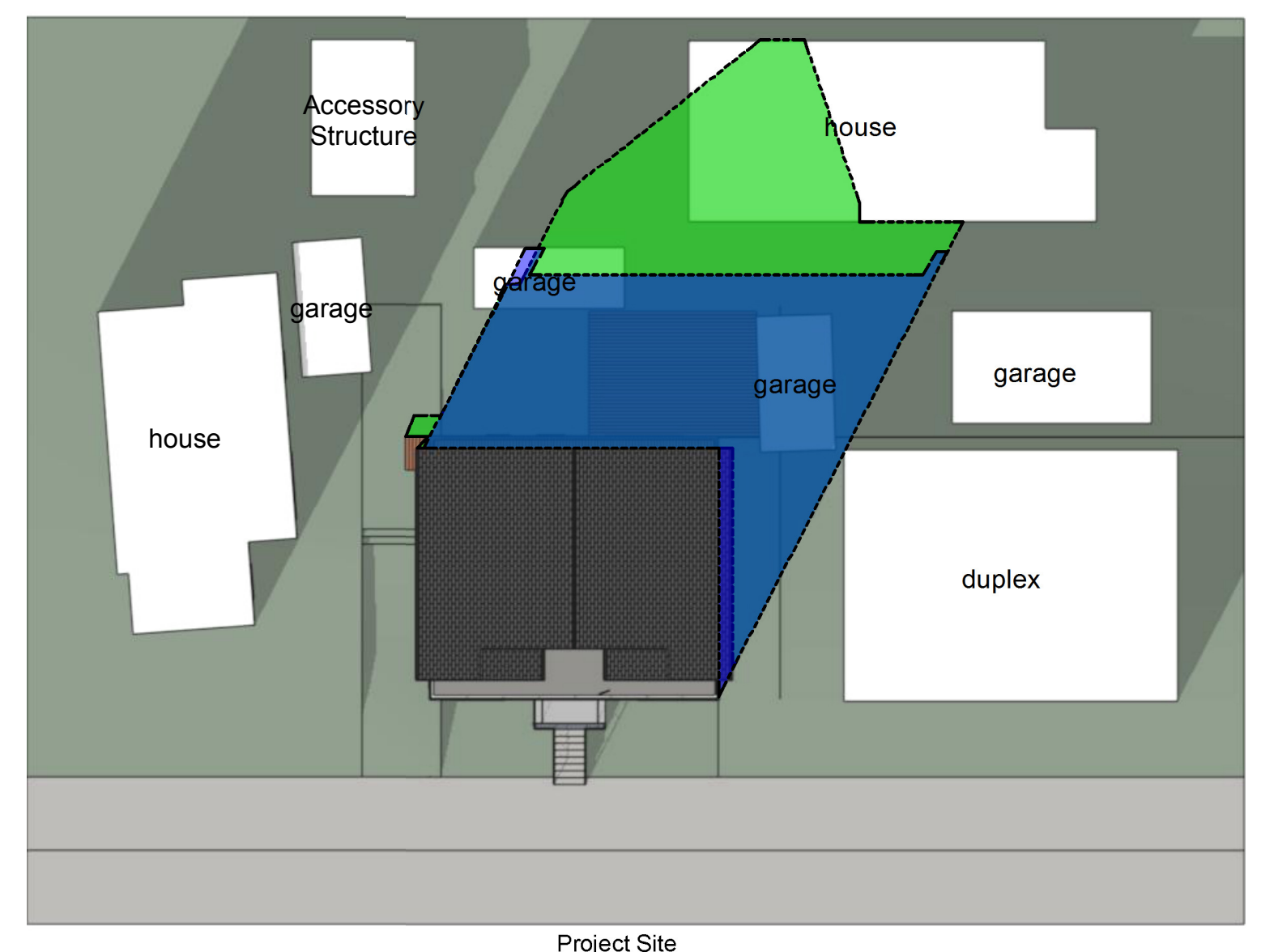
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Checked By: SSG

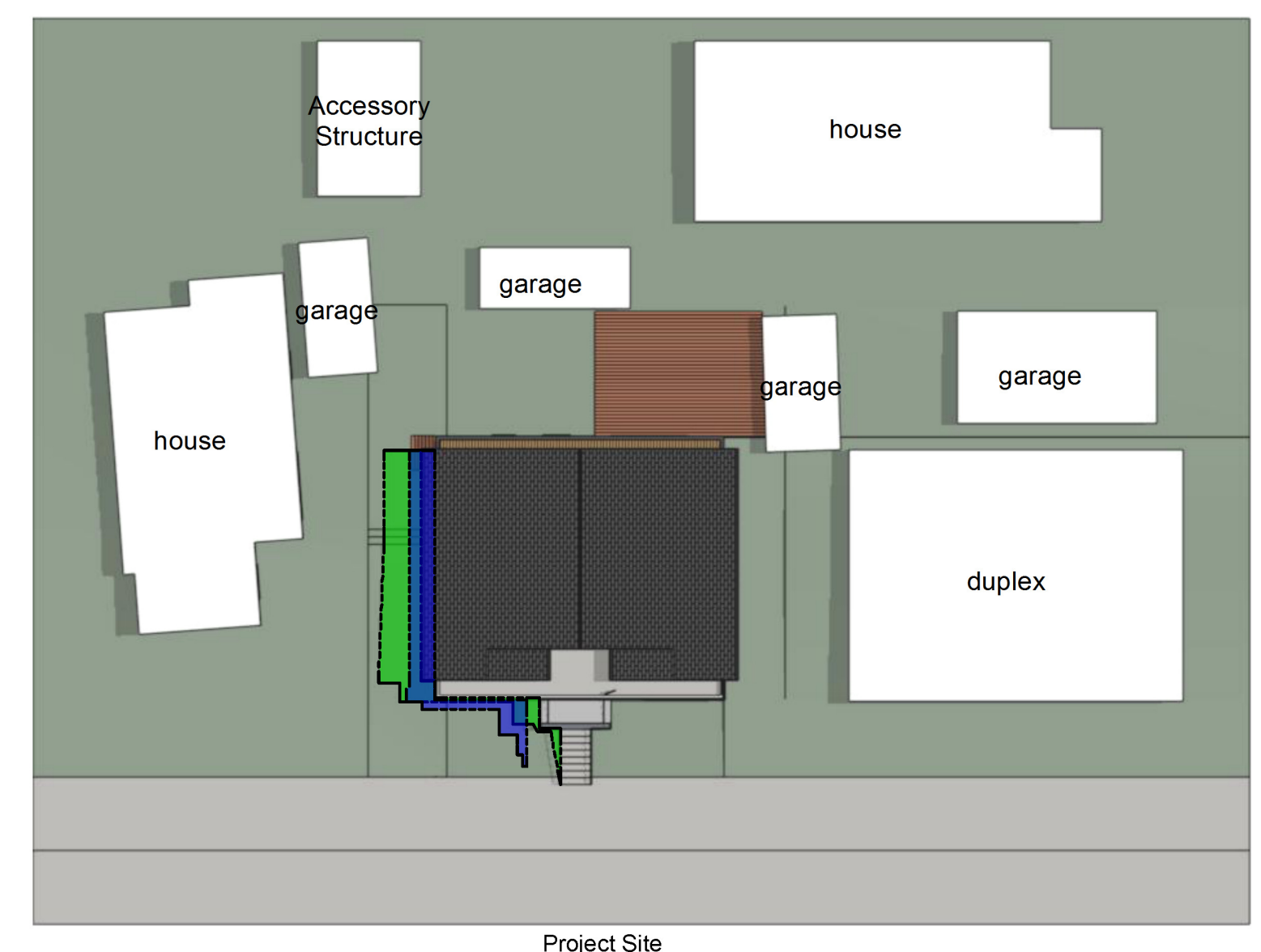
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Planning Review: 6-29-2021
Planning Review: 7-15-2021

Sheet **A4.2**



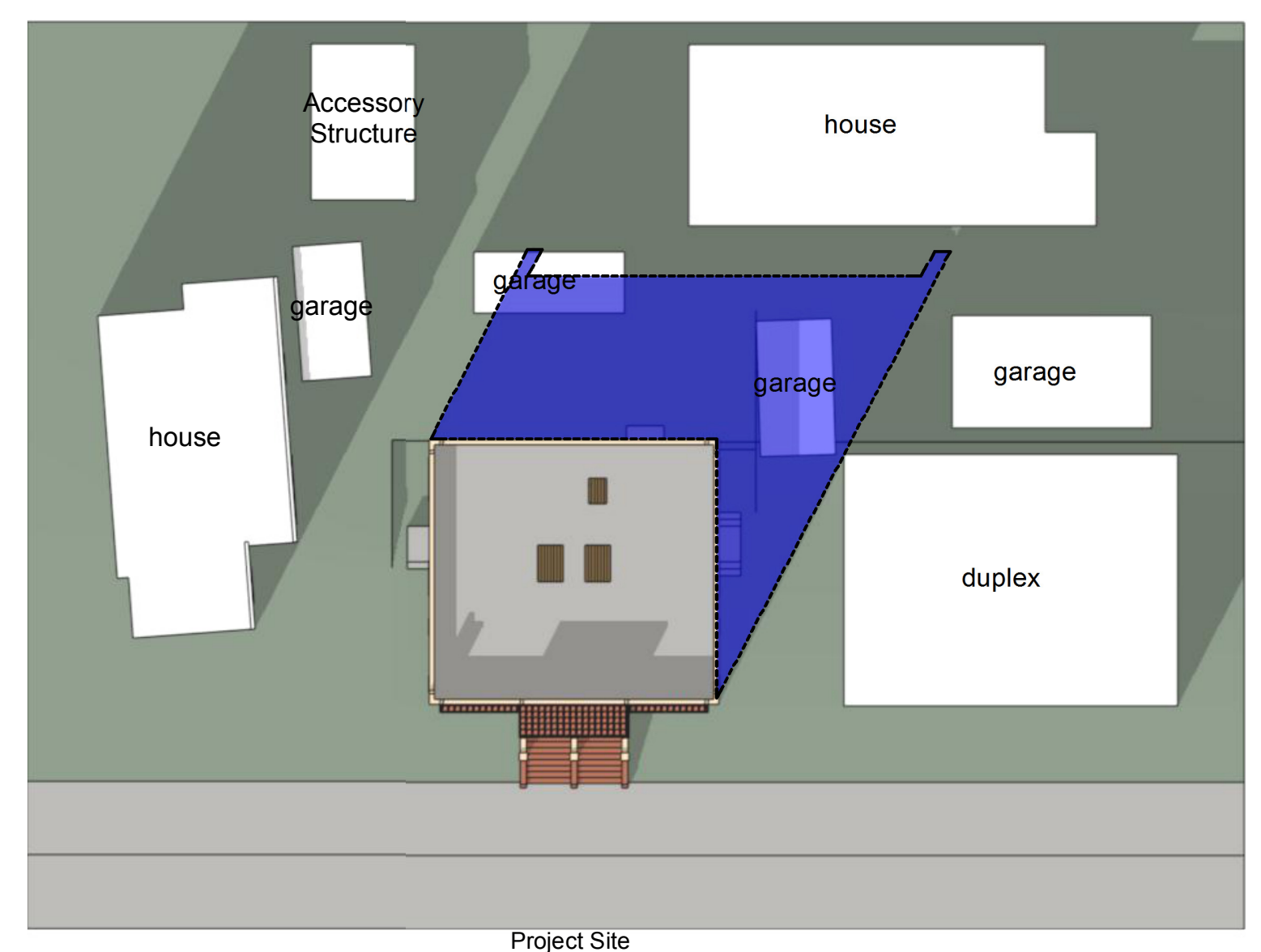
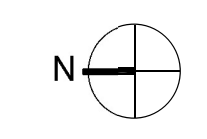
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6-21-2021 / 6:35 pm



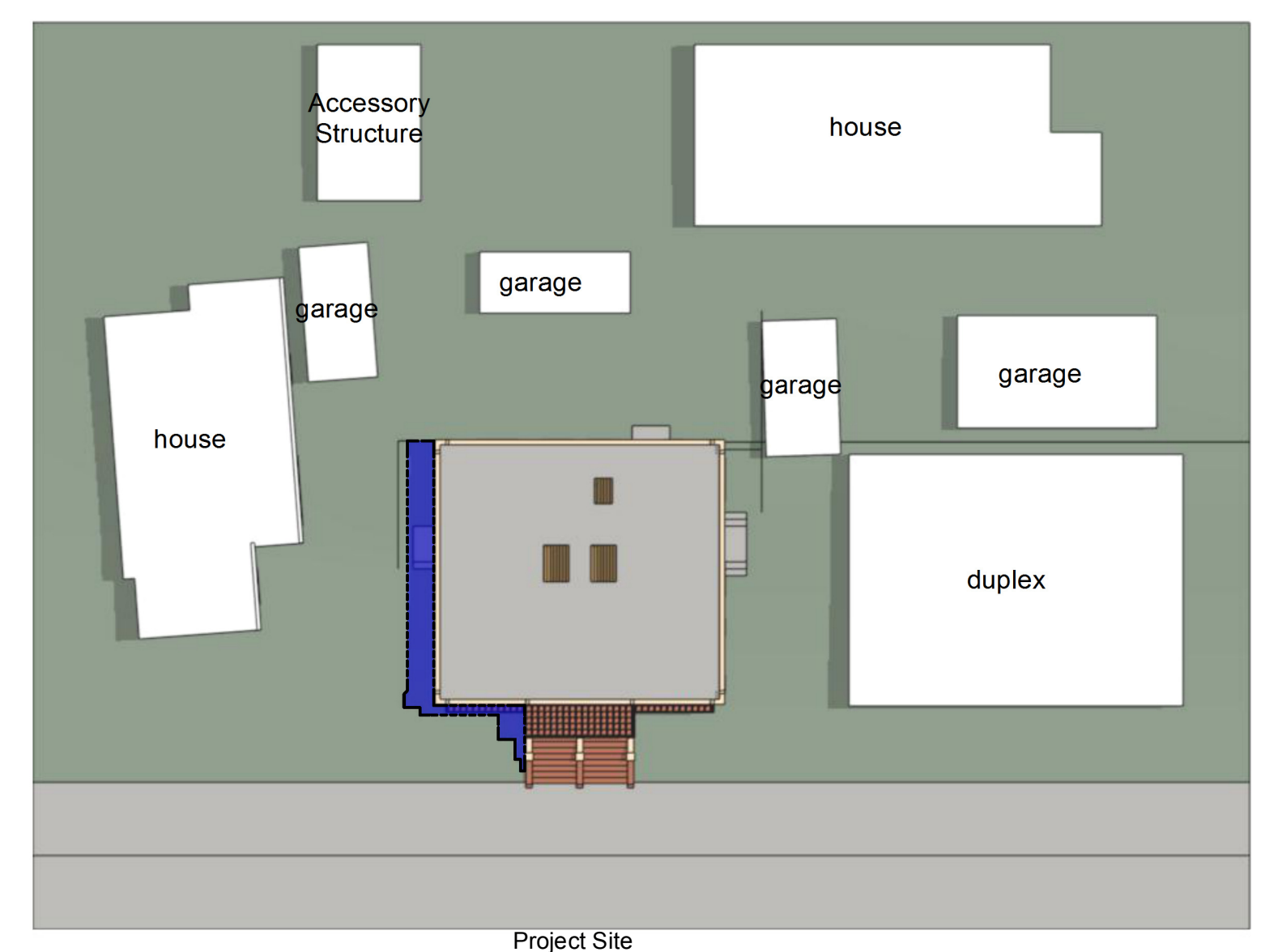
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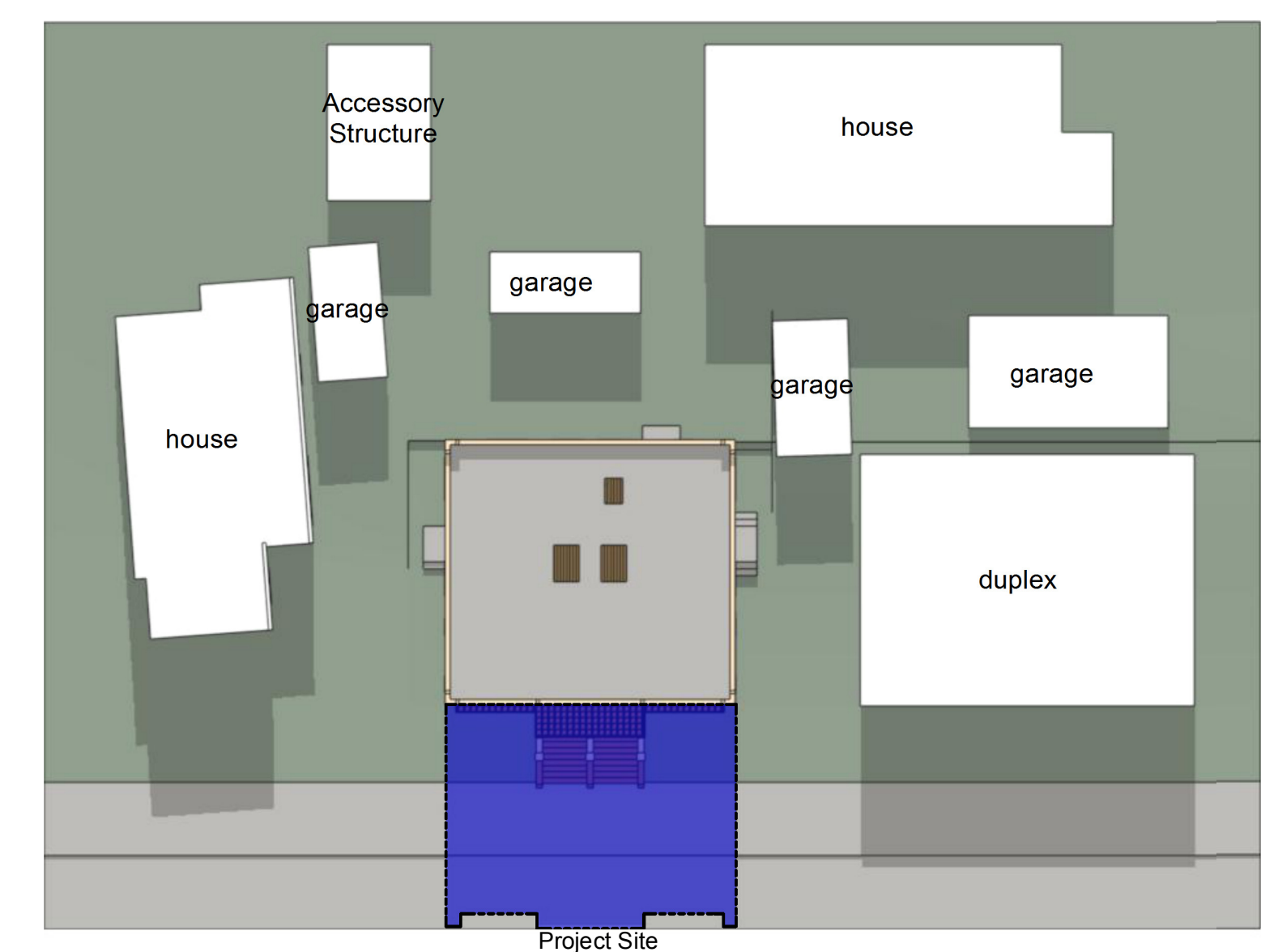
Proposed
6-21-2021 / 7:47 am



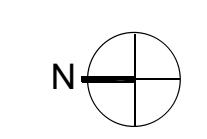
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Existing
6-21-2021 / 12:00 pm

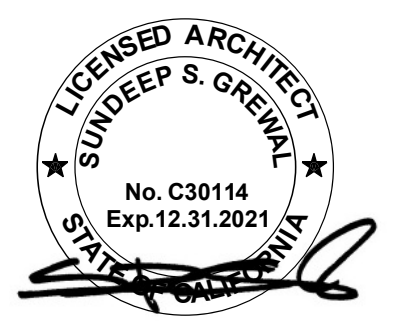


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6-21-2021 / 7:47 am



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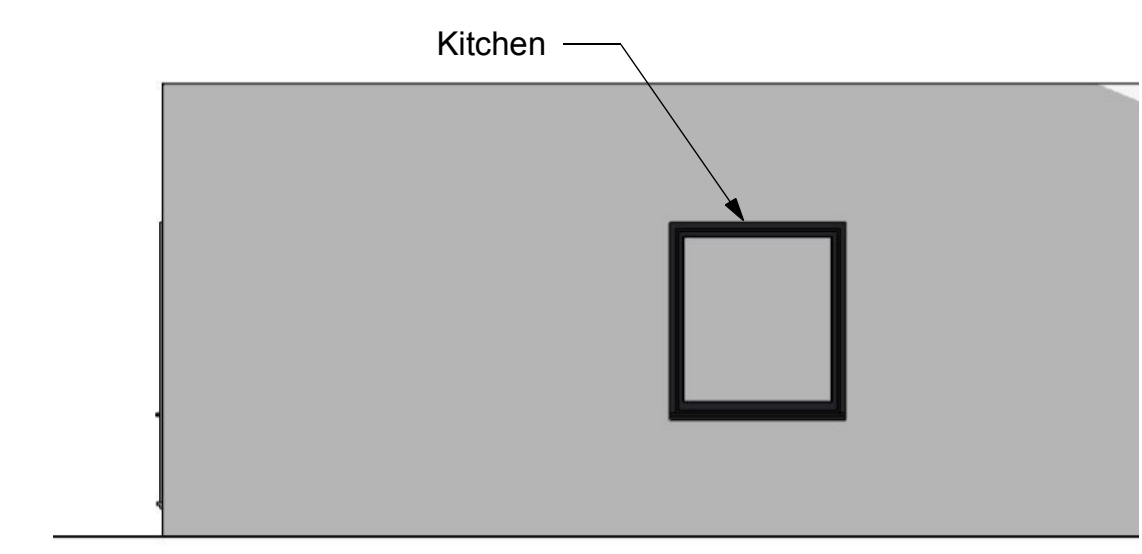
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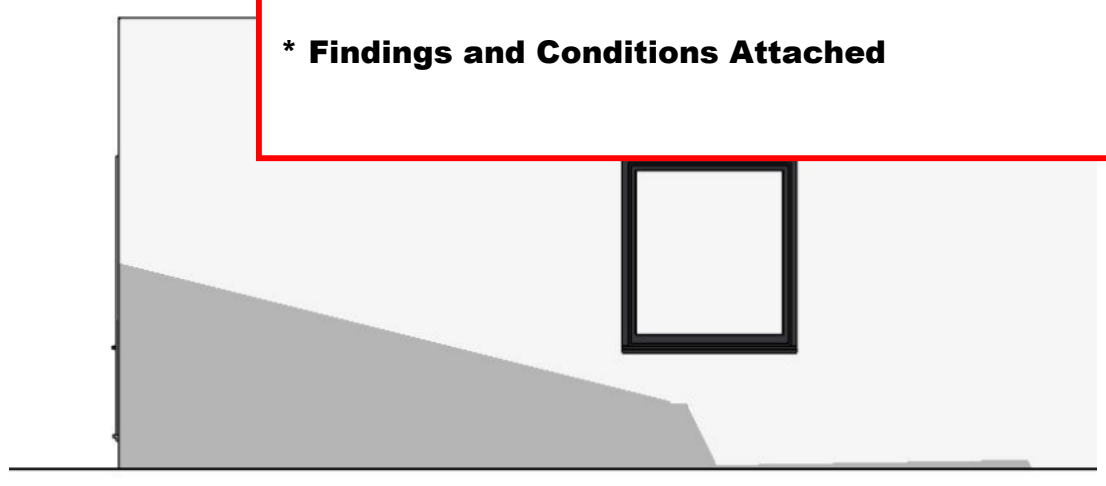
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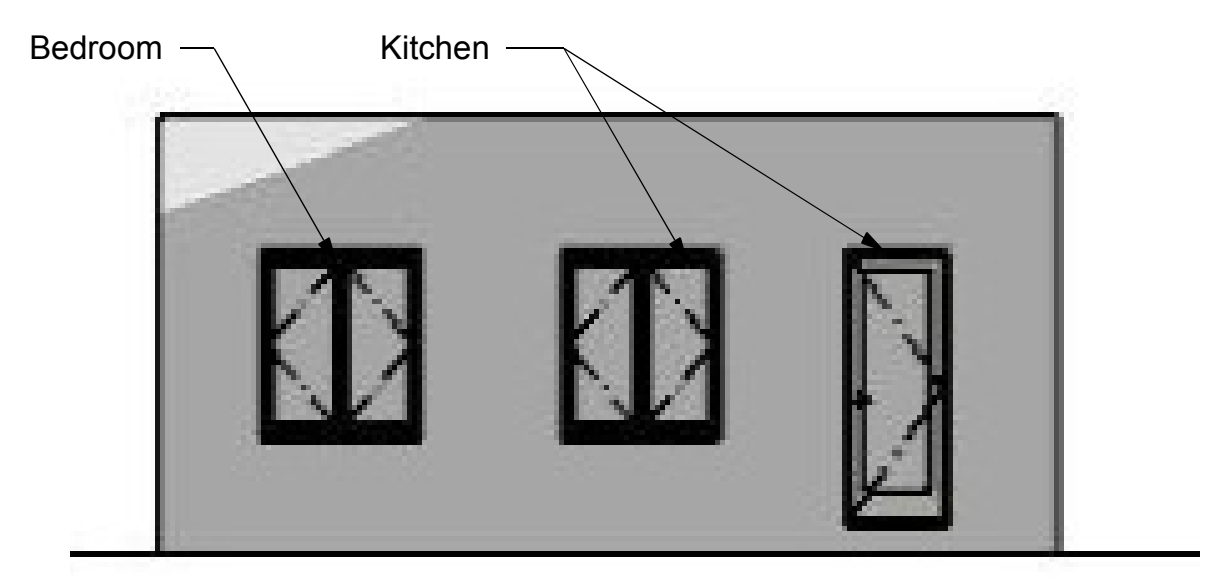
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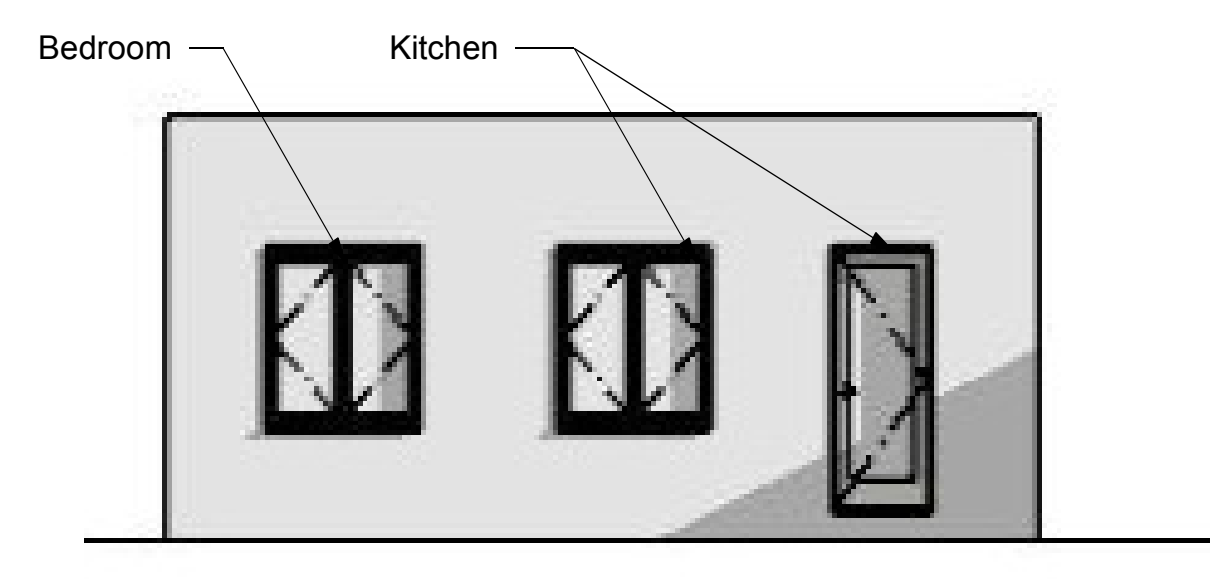
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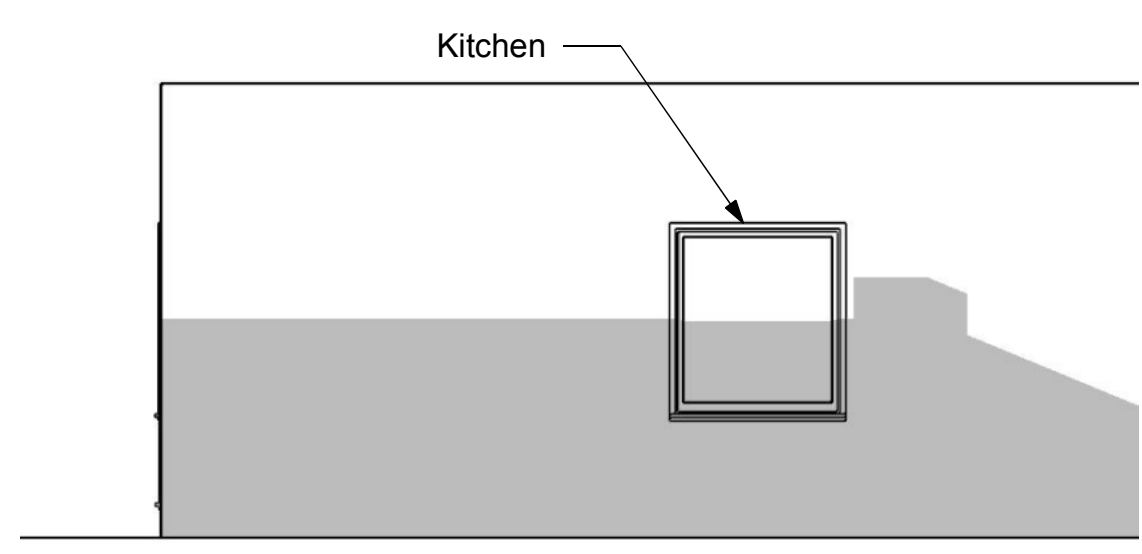
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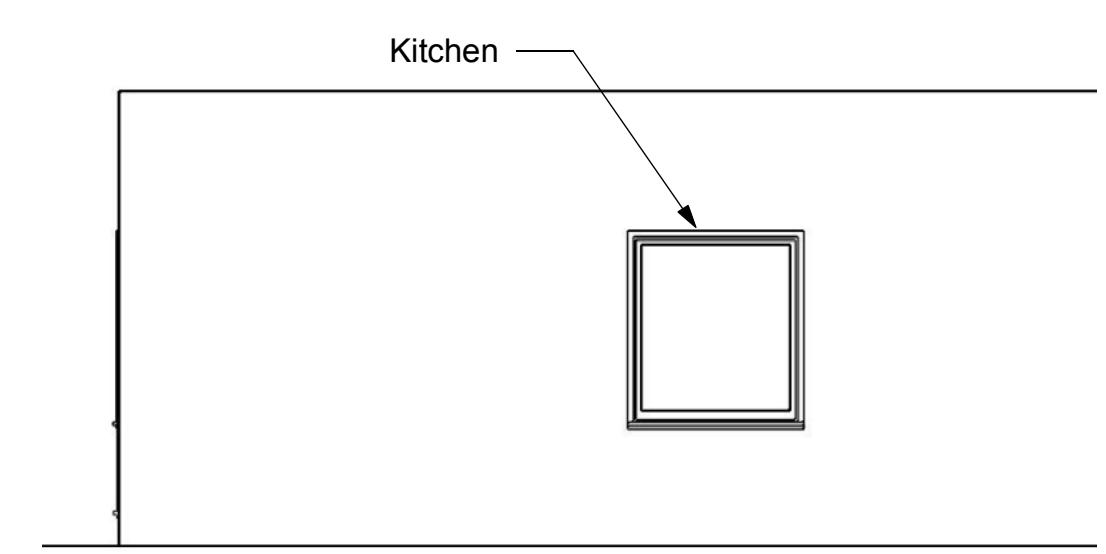
Proposed North Wall



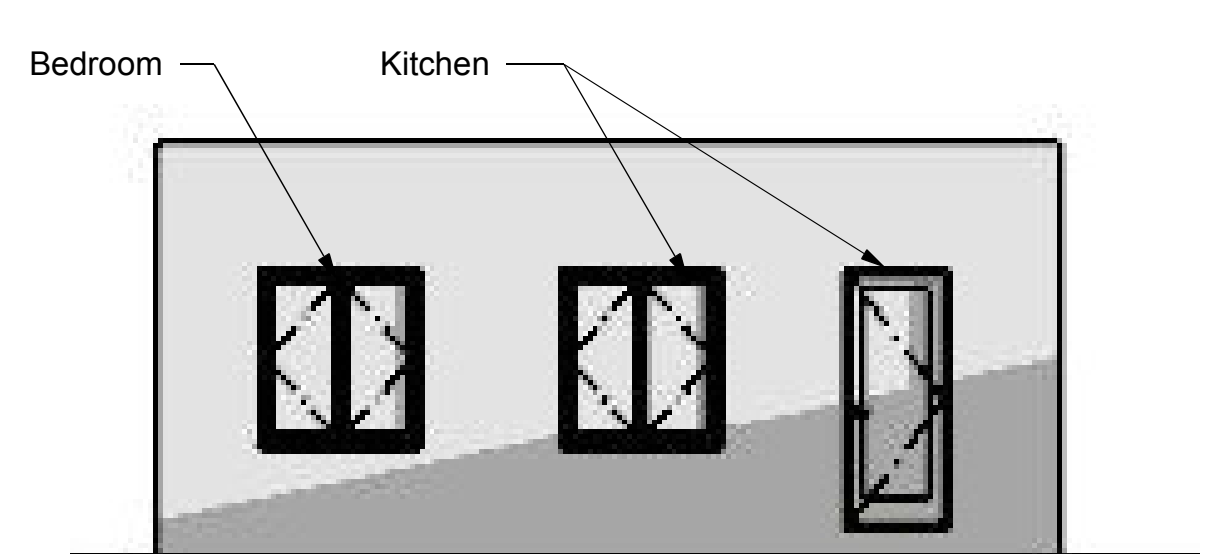
Proposed North Wall



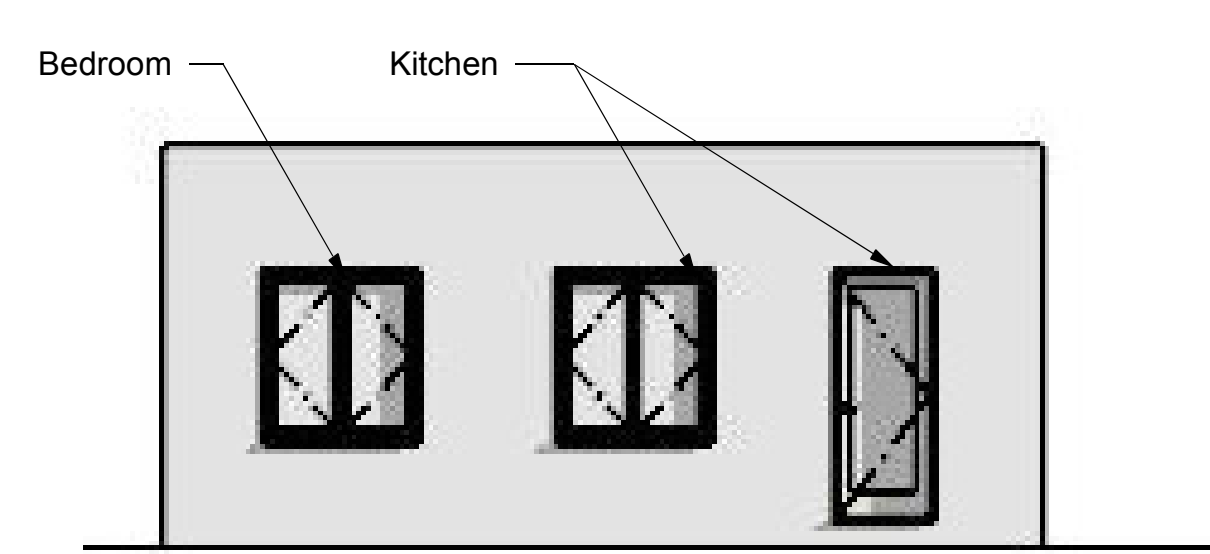
Existing West Wall



Existing West Wall



Existing North Wall



Existing North Wall

6-21-2021 / 6:35 pm

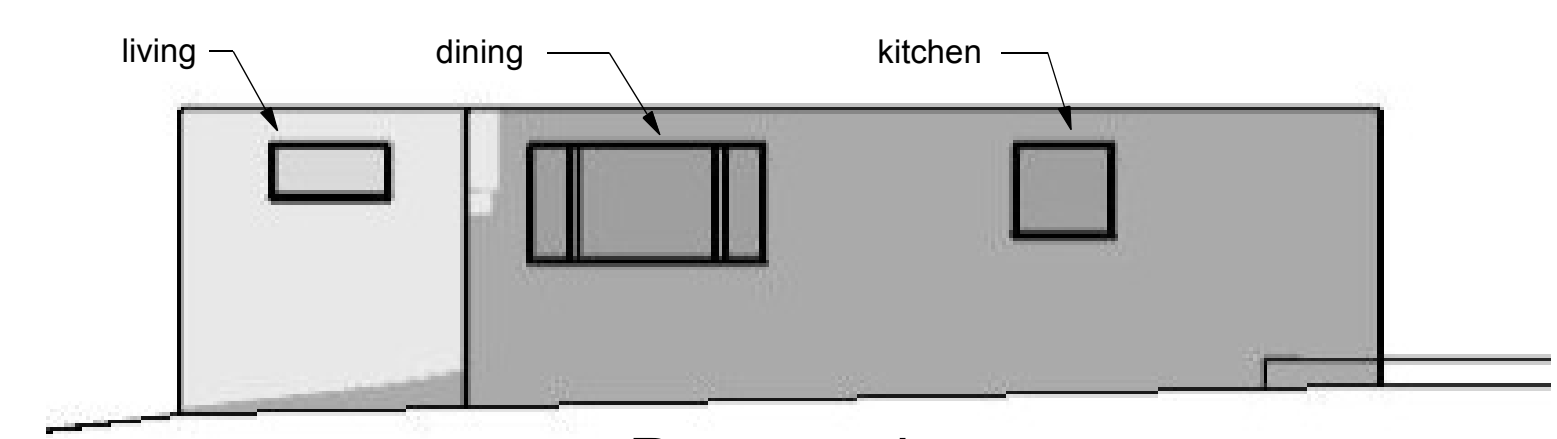
6-21-2021 / 5:00 pm

6-21-2021 / 6:35 pm

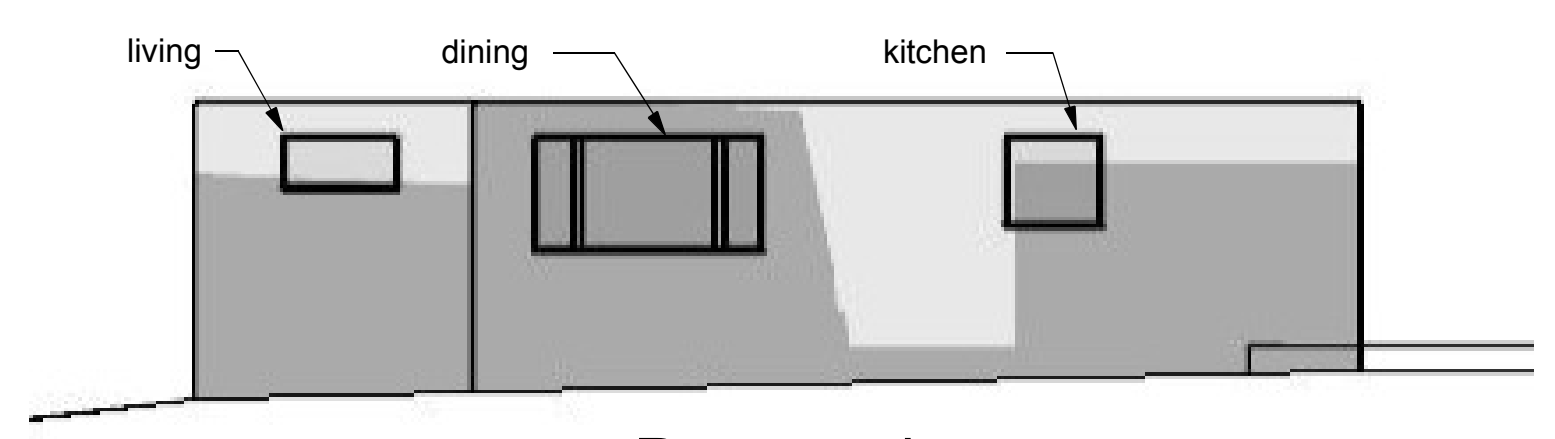
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1609 Virginia St. Shadow Impact Study

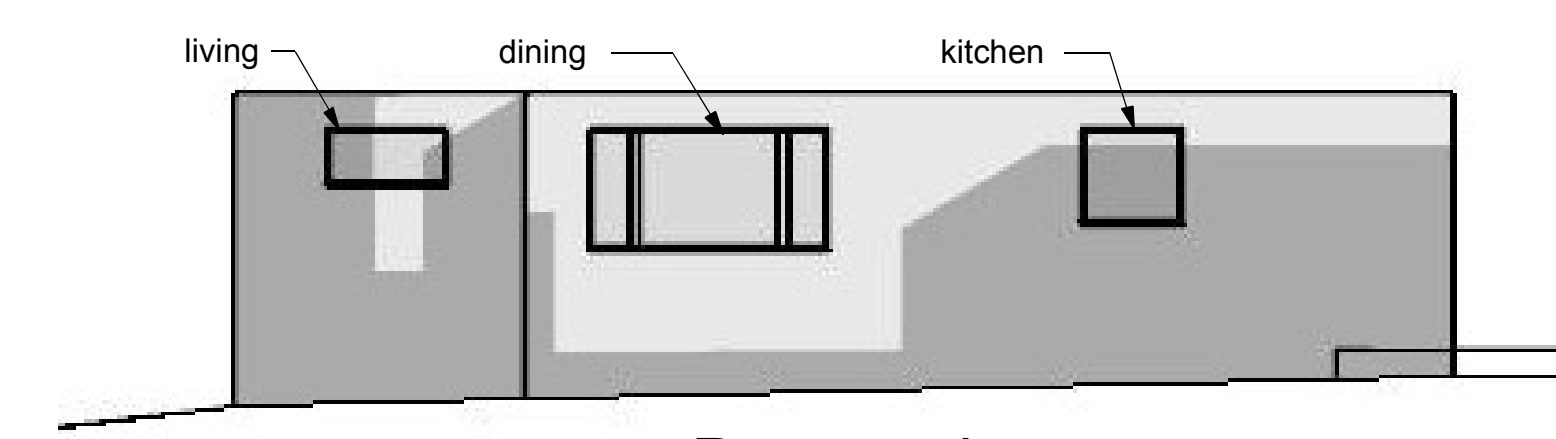
Sheet Contents:
 Shadows Studies



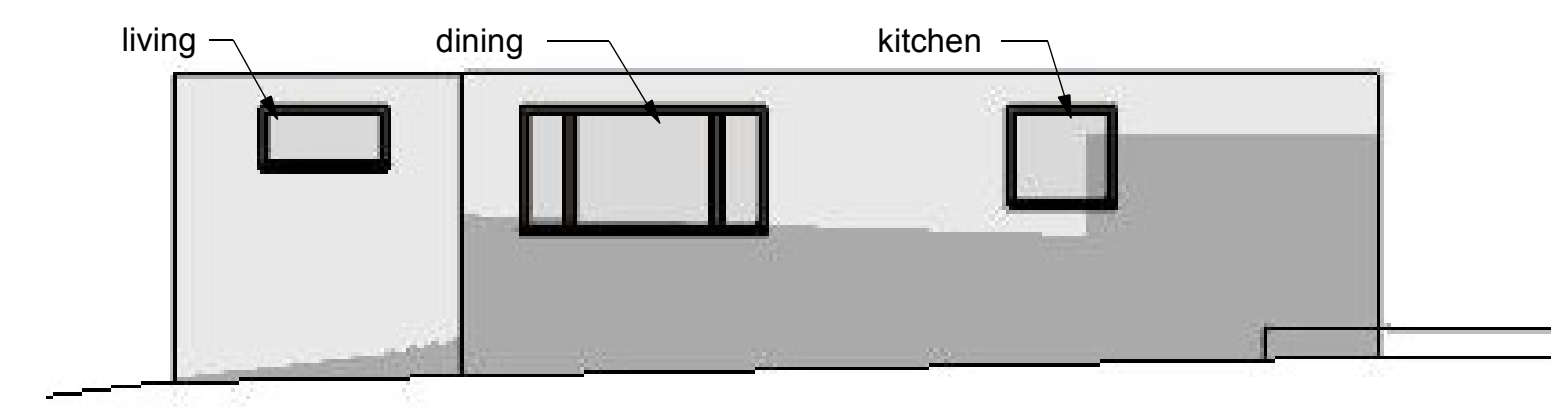
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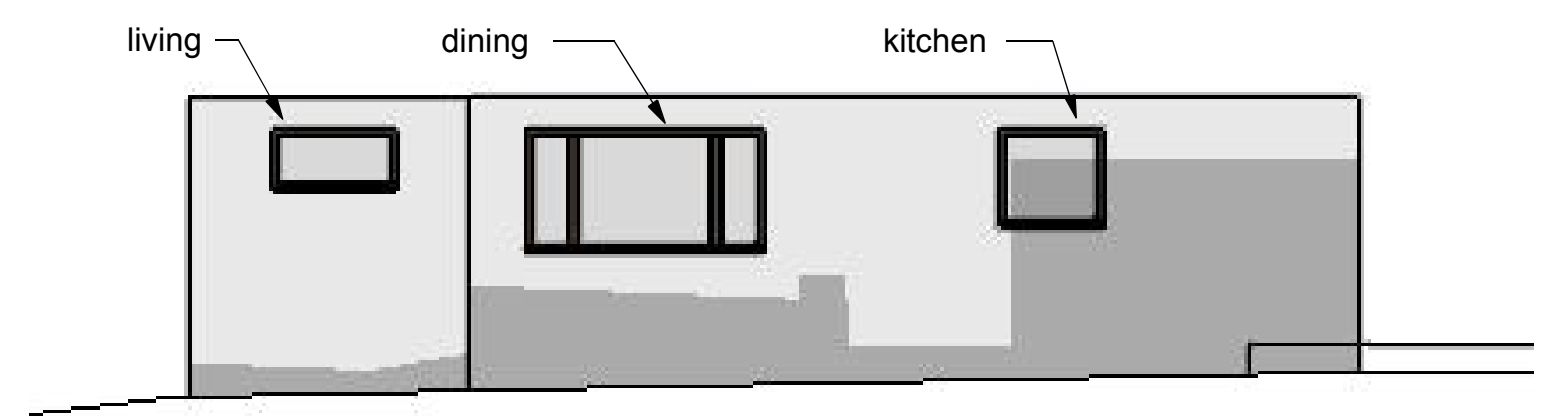
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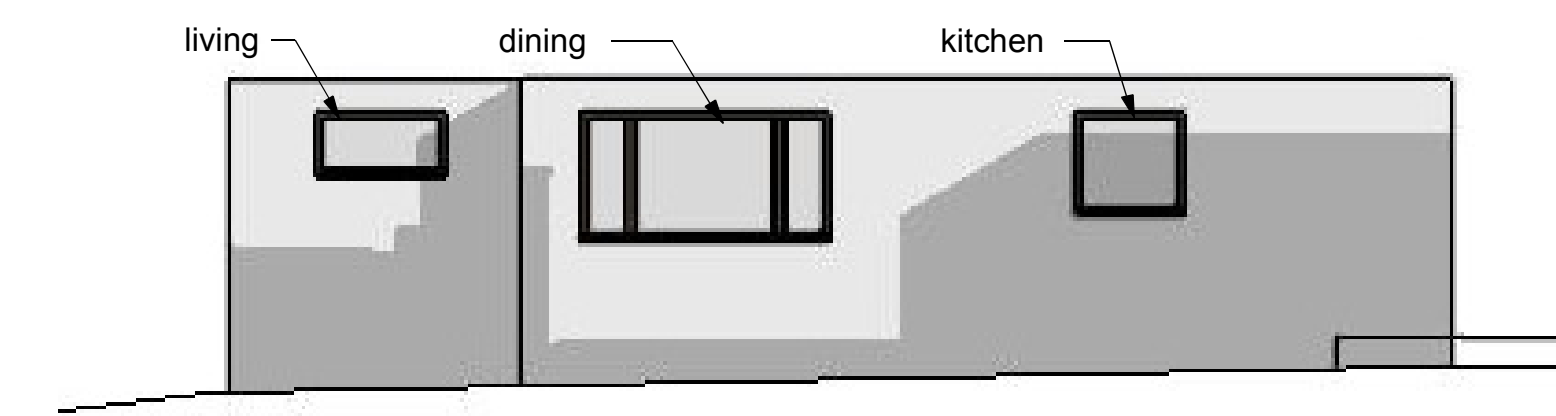
Proposed



Existing



Existing



Existing

12-21-2021 / 2:54 pm

12-21-2021 / 12:00 pm

12-21-2021 / 9:21 am

1639 California St. Shadow Impact Study

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Scale: NTS

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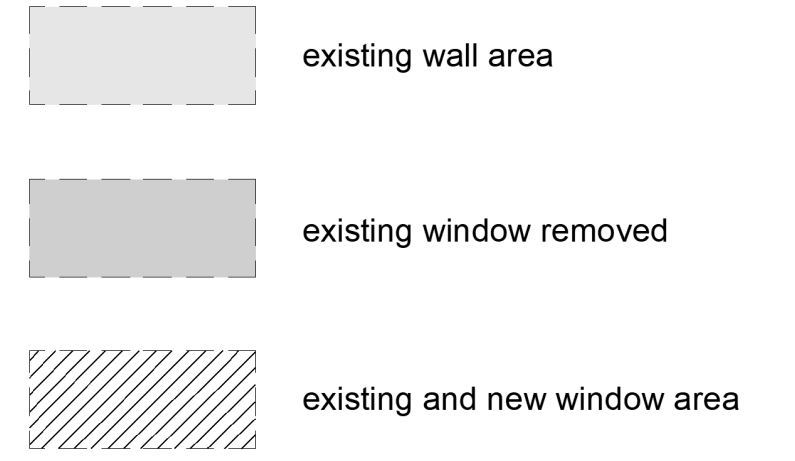
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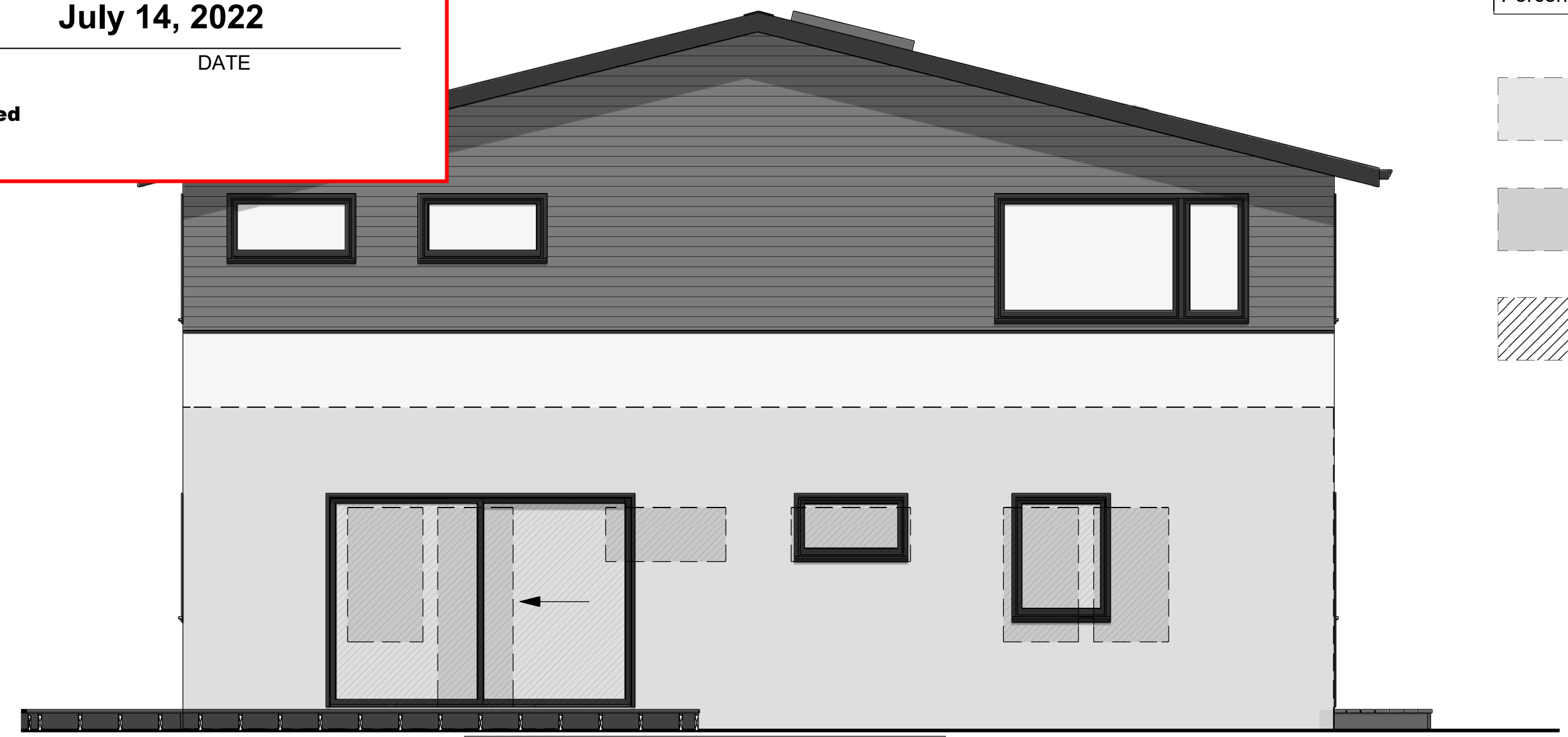
July 14, 2022
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Wall demolition Notes:
 Total wall area: 1,921 s.f.
 Total wall removed: 520 s.f. (existing and new openings)
 Percentage removed: 27.1%



4 Proposed South Elevation - Right Side



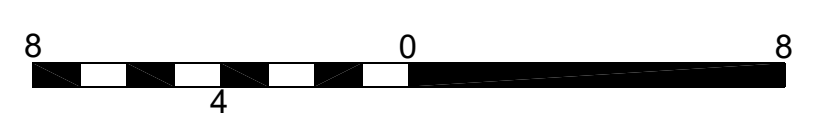
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side

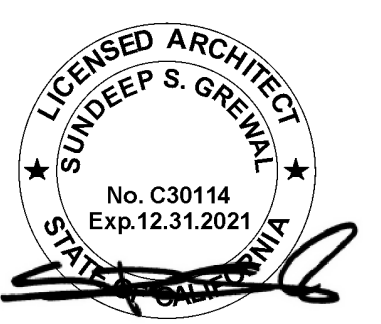


1 Proposed West Elevation - Front



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Sheet Contents:
 Demolition Diagram

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Checked By:
 SSG

Scale:
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Revisions:
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 Planning Review: 7-15-2021
 Planning Review: 8-26-2021

CITY OF BERKELEY - CITY CLERK
2022 AUG 2 PM 2:37

August 2nd, 2022

To: The Berkeley City Council

Re: ZAB decision to approve ZP2021-0001

We are filing this appeal for the below reasons:

- 1) Even after this matter being reverted for another hearing by ZAB after our successful appeal to the Council, the ZAB did not address the specific changes we had requested for this project to reduce impacts on neighbors, not even the most basic request for conditioning the permit to prevent post-permit modification of the upper floor exterior of the building.
- 2) The City Planner's decision to support and the ZAB's decision to approve this project seems entirely counter to policy and statements made by the City Council regarding the need to promote diversification of neighborhoods by preventing gentrification, and to protect small, more affordable and in this case rent-controlled housing units in Berkeley.
- 3) The City Planners have repeatedly affirmed that this project does not comply with the applicable, objective zoning standards. The project requires issuance of a total of seven different Administrative Use and Use Permits. The ZAB is supposed to consider and approve permits if doing so will not be detrimental to the peace, comfort, or general welfare of persons residing in the area and if doing so does not injure adjacent properties or the general welfare of the City. In the absence of objective standards regarding privacy and light, as well as in the absence of clear guidance regarding how to handle rent-controlled properties, the ZAB is using entirely subjective standards regarding what constitutes harm to neighbors and the city in making its decision to approve this project.

When this project was proposed, two of three adjacent neighbors independently opposed it. Before the ZAB hearing, we discussed with the city planner varied potential project modifications, ranging from reducing window sizes to eliminating the whole upper floor. He suggested we ask ZAB for "major modifications" by citing his initial recommendation to eliminate the top floor. That is what we did at the December 9, 2021 ZAB hearing.

At that meeting, the ZAB began to discuss reducing the square footage and number of bedrooms of the project, but the chairman cut that conversation short by citing a Planning department memo suggesting that ZAB could not consider options for reducing the size of projects. One ZAB member raised the possibility of other minor changes like window configuration to minimize privacy impacts but the chairman said he didn't want to discuss ideas from ZAB members that he had not heard voiced by the opponents. Since we were not allowed to speak at that time even though we raised our hand to try to say that we had indeed discussed such proposals with planning, the ZAB moved forward and eventually voted to approve the project.

We appealed to the city with the central argument that the Planning Department memo incorrectly interpreted the HAA and imposed restrictions on ZAB and the City that do not exist legally. Prior to the council meeting, the City Attorney clarified that indeed the memo from Planning was incorrect, and that the City can in fact limit the size or otherwise modify proposed projects such as this one. Our appeal

was successful with the Council reverting the matter to ZAB. Mayor Arreguin also noted that this property might be rent controlled, potentially requiring additional protections.

The City determined that both units of this duplex (not a Golden Duplex) are subject to rent control if rented. This is so even though the project proponents have been living in the structure as a single-family home for decades, after having -- without obtaining the necessary permits -- turned two units into one by removing a kitchen and opening the wall between the original units. (See original project submission where the proponents include an inaccurate floorplan showing two separate units, as compared to a later submission required by the City Planner that shows the actual current floor plan for their single-family home.)

In preparing for the second ZAB hearing we considered the ZAB's comments about the lack of specific modification proposals. Accordingly, we presented a detailed set of ideas, ranging from fully protecting the small rent-controlled units by not issuing the permits for the project as proposed, to a short list of minor modifications requested if the City was going to allow the full expansion. We also included options for restricting the square footage in ways that would still allow significant expansion, but with much lower impact to neighbors. One of these options is for construction to the maximum allowed size for new construction on this lot (2700 sq. ft.), much less than the 3763 sq ft currently being proposed.

Unfortunately, at the July 14th ZAB meeting, most of the ZAB members didn't discuss or comment on our specific proposed modifications, making us question whether they had seen our submission or supplemental materials. The ZAB member who said he had reviewed all the materials stated that he supported the project because modifications proposed by neighbors had already been implemented by the proponents, a statement that is incorrect. In fact, the current project plan is identical to the very first plan the proponents ever informed us about, after their May 25, 2021 resubmission to planning. At no point has planning, ZAB or the proponents considered or commented on the specific modifications regarding window height and size reduction or guarantees to prevent creation of a rear deck that we have requested, and which would reduce impacts to neighbors. The only changes to design that have been made are those initially required by the Planning department before it was willing to support the project at all.

Unlike the first ZAB hearing where potential and minor modifications were starting to be discussed by ZAB, the second meeting focused on whether the proposed final structure seems in line with other homes in the neighborhood, without considering whether those homes (on much larger properties) also exceed zoning standards, required Use Permits, or contained rent-controlled units. The ZAB Chairman stated that according to the Municipal Code, Berkeley homeowners are entitled to develop and improve their properties (in the first ZAB hearing the chairman stated that all owners have a right to a second story), and that the ZAB will permit them to do so unless there is a preponderance of evidence that weighs against approving a project, not just a presumed argument reflecting affordability. The ZAB chairman also stated that the ZAB is not the appropriate venue for addressing matters like this. If these statements are true, and the ZAB will not use city zoning standards or the requirements for public hearings and obtention of Use Permits to protect smaller and thus more affordable rent-controlled housing, then it seems a matter for the City Council to make this determination.

On the rent control issue, we raised the concern that this project permits the conversion of two 670 square foot rent-controlled units into one smaller unit and one massive 5-BR, 5-bath home, and that

although both units will indeed be rent-controlled if rented, it is extremely unlikely that the owner of a multi-million dollar home will ever opt to rent that larger unit out subject to rent-control. Thus, the project in effect removes a small rent-controlled unit from the Berkeley rental market. In response, one ZAB member suggested that the city might benefit from having large 5-bed, 5-bath units like the one that would be created here under rent control because it could provide rent-controlled housing for five different people living together. This rationalization ignores the reality of how rent-control works and the reluctance of owners to rent to multiple tenants, especially under rent-control. Meanwhile, the City Planner stated that while the project proponents may have converted the rent-controlled duplex into a single-family home without obtaining the permit to do so many years ago, that change does not matter because removal of a kitchen and opening up a wall between two units is simply an "internal" modification and both rent controlled units were owner occupied at the time.

It is worth noting that on the very same night, the ZAB also approved the conversion of another rent-controlled North Berkeley duplex (on Milvia street) from two moderately sized units to a conformation with one much smaller and one much larger unit. Again, the project required multiple permits yet the ZAB approved with barely any discussion. Again, a moderately sized, rent-controlled unit will be converted into a massive home that is unlikely to ever be rented, and a Use Permit for exceeding lot coverage was being awarded to allow this conversion. There thus seems to be a trend in which the City mounts no opposition, even when zoning standards are being exceeded and Use Permits are required, to property owners effectively converting rental properties subject to rent control into massive owner-occupied homes with accompanying much smaller rental units.

Thus, together, Planning and Zoning seem to be setting a policy that is extremely developer friendly, favors gentrification, and leads to conversion of the City's existing, smaller/lower-income, rent-controlled units into large luxury homes. This seems entirely at odds with things this mayor and council have been reported to say over the past few years as part of discussions about how Berkeley might address its housing crisis.

We therefore ask the City Council to review its stance on the City's rent-controlled duplexes and decide whether it is in the City's best interest and in line with the current City General Plan, to support gentrification projects in cases like this where the owner does not have the legal right to expand without being pro-actively issued Use Permits for exceeding the zoning standards. We strongly believe the City both can and should use existing zoning standards and permit requirements to impose conditions on development that will force owners to preserve the nature of and purpose of the rent-controlled properties they purchased. Owners who have purchased rent-controlled duplexes should not be "entitled" to modify these into massive homes unlikely to be rented. Allowing this project and others like it to proceed sets a precedent that creates such an expectation among property owners.

If the Council believes it is important to safeguard Berkeley's stock of smaller, more affordable rent-controlled units, then projects like this should not be approved and we ask that the permits afforded in this case be denied for the current application plans. By doing so, the Council would signal to City Planning and ZAB that it is important to balance City Policies seeking to protect more affordable rental units and prevent gentrification so as to promote diversity in neighborhoods -- especially in North Berkeley -- with the "entitlement" of owners to develop their properties.

If the mayor and the City Council decide that even with the existing affordability and housing crisis, permits for conversions like this should nevertheless be issued, we ask that the Council still review the minor modifications we requested to ZAB (identical to those presented in our initial appeal to Council).

Specifically, we request that the Council at a minimum make a condition to this permit that would hold the project proponents to their word about their plans, such that the agreements that the project proponents made with Planning to get their support in the ZAB hearings cannot later be modified. Such a condition to the permit would restrict the applicants from making any changes to the exterior windows and doors on the South and East sides of the upper floor through post-permitting modification requests to the Building Department. This would include (i) not adding an entrance to convert the parapet structure on the east side upper floor into a shallow deck, and (ii) not increasing the size or changing the location of any windows on the upper floor's east and south sides.

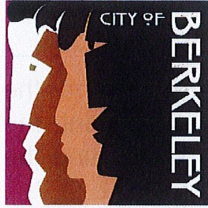
We request this permit condition in part because of a precedent with this very same architect in Berkeley having made concessions to planning and neighbors to obtain a building permit and then immediately proceeding to request and obtain post-permit modifications undoing those concessions (this was brought up by a member of the public who spoke at both the December Council meeting and the July ZAB meeting). We imagine that such a condition to the permit would be supported by Planning since it would only hold the applicants to their agreement with Planning. This condition should also be supported by the project proponents if they are in fact happy with their current designs and have no plans to request post-permit modifications. Finally, we request that the windows on the upper floor east and south sides be converted to high-awning windows to minimize impact on appellants.

Thank you for your consideration,

Adam Safir (1609 Virginia St)
Anna Cederstav (1609 Virginia St)
Kay Bristol (1651/1653 California St)

Communication regarding this appeal should be directed to:

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cederfir@hotmail.com**



City Clerk Department

August 23, 2022

Adam Safir
1609 Virginia St
Berkeley, CA 94703

RE: 1643 & 1647 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

This will acknowledge receipt of your appeal of the Zoning Adjustments Board decision of July 14, 2022, approving the following permits:

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B, to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit, under BMC section 23D.28.030, to permit a major residential addition;
- Administrative Use Permit, under BMC Section 23D.28.070.C, to allow an addition over 14 feet in height; and
- Administrative Use Permit, under BMC Section 23D.28.050, to construct a fifth bedroom.

Your appeal has been referred to the Planning Department.

The Planning Department will transmit to Council a statement setting forth the reasons for the Zoning Adjustments Board decision. This report, as well as a copy of the appeal, will appear on the Council agenda of **November 3, 2022**.

This meeting of the Council will commence at 6:00 p.m. and will be held in the School District Board Room located at 1231 Addison Street. However, depending on future conditions, this meeting may be held exclusively through videoconference and teleconference to ensure the health and safety of the public.

Pursuant to the City Council Rules of Procedure, this appeal will appear on the City Council's agenda as a public hearing. Time shall be provided for five-minute presentations each by the appellant and applicant. Where the appellant is not the