



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT # 13-2000062

Property Address: **48 OAKVALE AVENUE**

Permittee Name: **LORIN HILL, Architect**

Use and/or Construction Permitted: to construct an 897 sq. ft. second story addition.

- Administrative Use Permit to allow a major residential addition exceeding 600 sq. ft.;
- Administrative Use Permit to construct a residential addition exceeding 14' in height; and
- Administrative Use Permit to vertically extend a non-conforming front yard setback of 14'4" where 20' is required.

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on October 17, 2013.

ATTACHMENT 1

FINDINGS AND CONDITIONS

JULY 16, 2013

48 Oakvale Avenue

Administrative Use Permit #13-20000062

To enlarge an existing 2,308 sq. ft. single family dwelling by excavating 296 sq. ft. to create a mechanical room and interior hallway and stairs in the basement level, constructing a 897 sq. ft. second story addition for a new laundry, hallway and stairs, bathroom, and three new bedrooms for a total 1,193 sq. ft. addition, resulting in a new 3,501 sq. ft. residence, maintaining the existing 26'10" average height, and to vertically extend the non-conforming 14'4" front yard setback where 20' is required.

CEQA FINDINGS

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

FINDINGS FOR APPROVAL

2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - As required under Section 23D.16.030 (Uses Permitted), 23D.16.090 (Findings), the proposed addition may exceed 14' in average height, and the addition may exceed 600 sq. ft. because the addition and the building's height are found to be non-detrimental. The height of the proposed addition does not create significant impacts to sunlight, air, or views for the following reasons:

1. Sunlight – An approximately 500 sq. ft. second story addition was constructed at the subject property in 1999. The proposed addition will maintain the existing 26'10" average height. Because of the mass of the existing structure and existing vegetation, shadows currently occur to the properties to the east and west at 52 Oakvale and 44 Oakvale. The proposed addition is expected to cast shadows towards the adjacent properties, however this loss will not be an unreasonable obstruction of sunlight and is found to be non-detrimental because the loss of sunlight will occur for a small portion of the day. At the property to the east at 52 Oakvale, new shadows may occur during the summer months for a few hours before sunset and are expected to fall at the eastern side of the lot at the side yard driveway. At the property to the west at 48 Oakvale, new shadows may occur during the summer months for a few hours after sunrise at the western side of the lot at the downstairs library & storage windows and the side yard driveway;
2. Air – Existing conditions between the adjacent property to the east at 52 Oakvale and the subject property includes vegetation which border the lots, creating the appearance of a much narrower lot line (see Exhibit A below), however, because the proposal satisfies the District standards for minimum rear and side yard setbacks and the distances to neighboring properties exceeds the District requirement for building separation, the addition is expected to provide adequate spatial separations between developments on abutting properties, thereby allowing for adequate air circulation;



3. Views – The abutting structures are on relatively flat lots, the dwelling to the east at 44 Oakvale may have partial views to the east from one small window at the second story bathroom and two small second story bedroom windows of Oakvale Avenue and possibly dwellings on Domingo (see Exhibit B below). The proposed addition is not expected to unreasonably obstruct adjacent neighbors' views of any significant features. The proposed addition will not extend to the full height limit in the R-1 District and the addition will not exceed the maximum number of stories allowed;



4. Privacy –The proposed addition includes new windows however these features are not expected to create privacy impacts to the immediate neighbors given that:

- The proposed bedroom windows are separated from the adjacent dwelling at 52 Oakvale by 12’ and from adjacent dwelling at 44 Oakvale by approximately 17’.
- As required by Section 23D.16.070 (Development Standards), this project is permissible because the subject property satisfies the development standards for lot coverage, maximum residential density, and maximum building height. The addition is an appropriate development of the lot and includes converting the first floor bedroom to a family room which opens up to the kitchen, converting the first floor office to a hallway and stairs, and adding three new bedrooms to the second floor.
- As required under Section 23C.04.070.B.1 (Expansions of Non-conforming Buildings and Structures), the vertical extension of the non-conforming front (north) which has an existing and proposed 14’4” front yard setback (where 20’ is required), does not further encroach into the setback.

STANDARD CONDITIONS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

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

Prior to Submittal of Any Building Permit:

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

Name: _____ Phone: _____

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

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

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

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

Prior to Issuance of Any Building Permit:

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

During Construction:

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

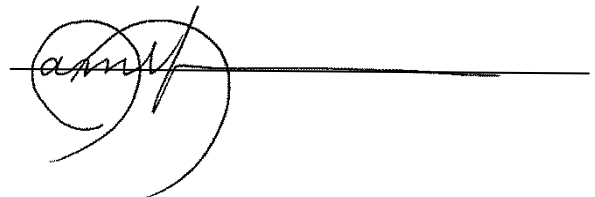
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

Prior to Issuance of Occupancy Permit or Final Inspection:

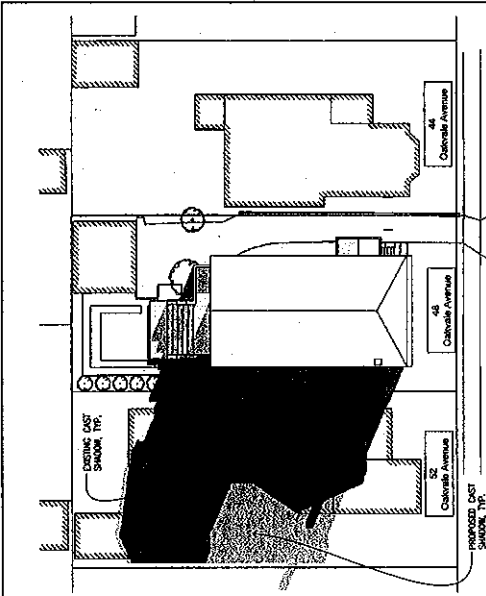
23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **JUNE 25, 2013**.

At All Times (Operation):

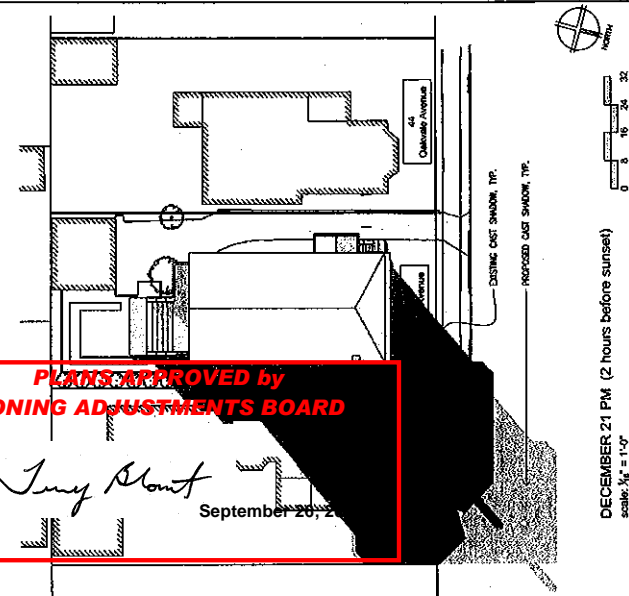
25. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
26. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the 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.
27. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.

A handwritten signature in black ink, appearing to read 'Pamela Johnson', is written over a horizontal line. The signature is stylized and somewhat cursive.

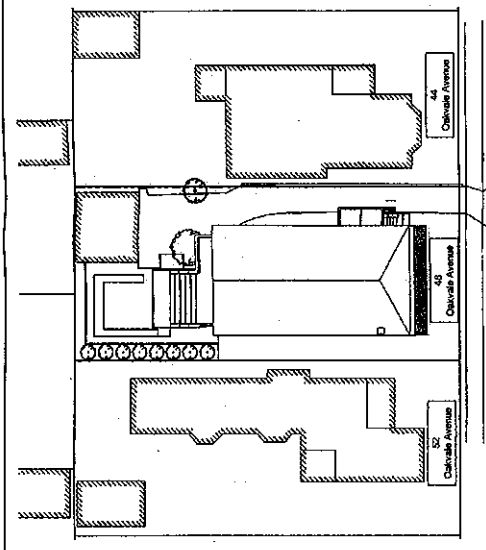
Pamela Johnson, Assistant Planner for
Debra Sanderson, Zoning Officer



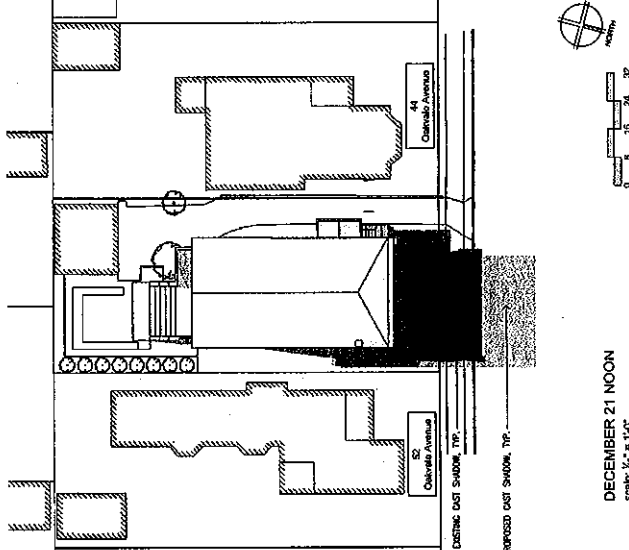
JUNE 21 PM (2 hours before sunset)
scale: 1/8" = 1'-0"



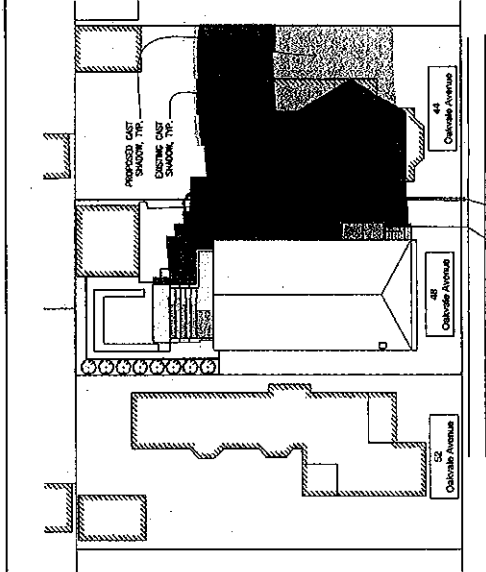
DECEMBER 21 PM (2 hours before sunset)
scale: 1/8" = 1'-0"



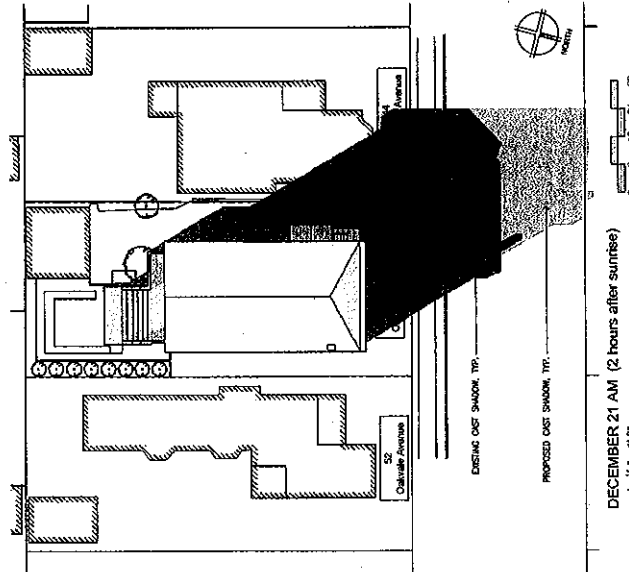
JUNE 21 NOON
scale: 1/8" = 1'-0"



DECEMBER 21 NOON
scale: 1/8" = 1'-0"



JUNE 21 AM (2 hours after sunrise)
scale: 1/8" = 1'-0"



DECEMBER 21 AM (2 hours after sunrise)
scale: 1/8" = 1'-0"

PLANS APPROVED by
ZONING ADJUSTMENTS BOARD
Jerry Stout
September 28, 2012

APPROVED PLAN **7-11-13**
DATE
PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



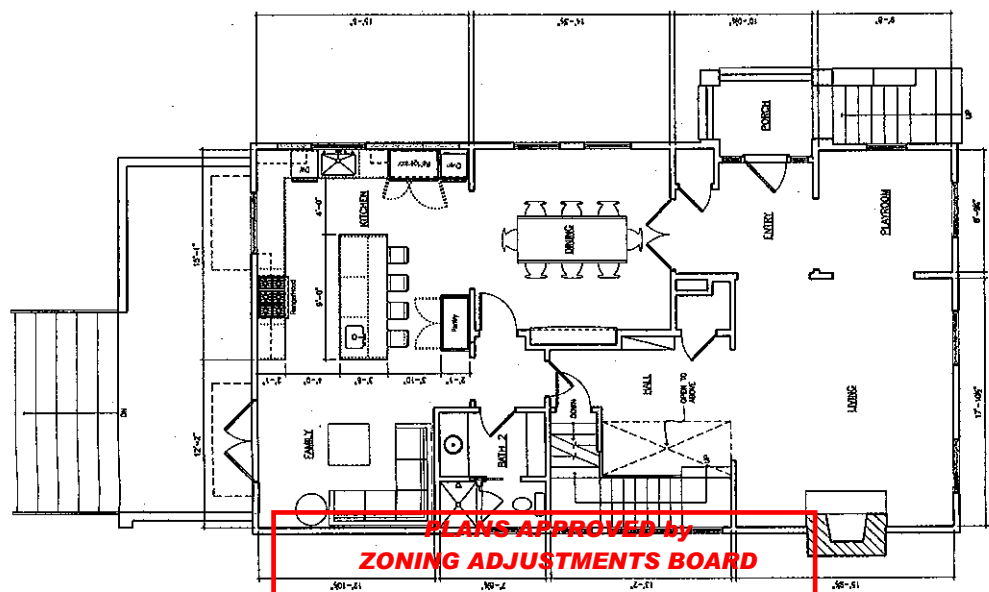
LEGEND

	EXISTING FOUNDATION TO BE DEMOLISHED
	EXISTING MASONRY
	EXISTING DOOR
	NEW DOOR

SHEET NOTES

- ALL DIMENSIONS ARE TO FACE OF FINISH WALL.
- ALL NEW WALLS SHALL BE CONCRETE ON 4" RIGID INSULATION.
- ALL EXISTING WALLS REMAINING ARE 2" RIGID INSULATION.
- DOOR AND WINDOW SIZES, UNITS AND WEIGHTS SHALL BE AS SHOWN ON MANUFACTURER'S LITERATURE.

APPROVED PLAN
 DATE 7.11.13
 PLANNING
 D.M.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

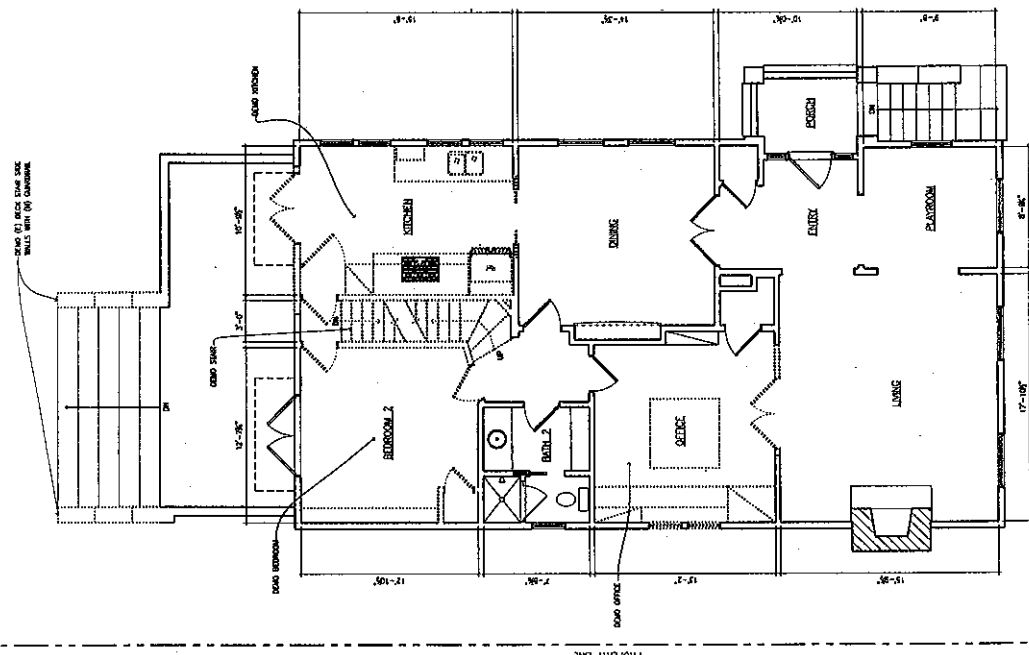


PLANS APPROVED BY
ZONING ADJUSTMENTS BOARD
Jury Stout
 September 26, 2013



PROPOSED FIRST FLOOR PLAN

2



FIRST FLOOR DEMOLITION PLAN

1

PROPERTY LINE

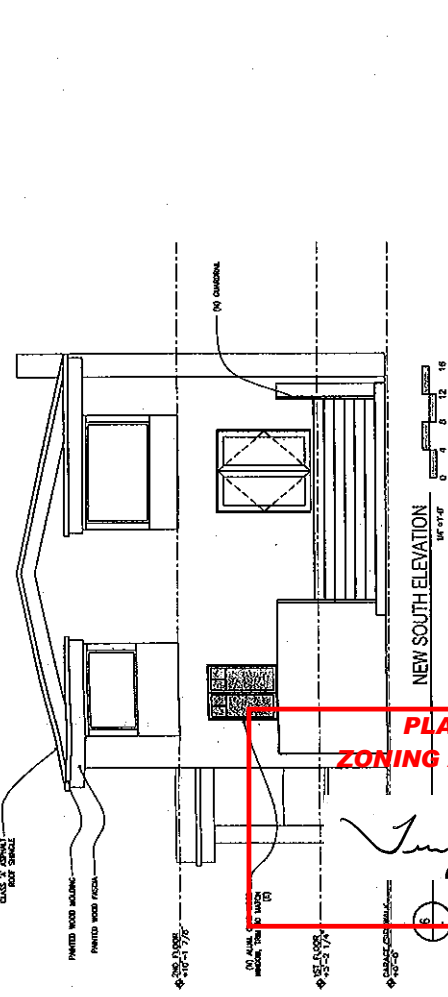


APPROVED PLAN
pm
DATE
7-11-13
PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

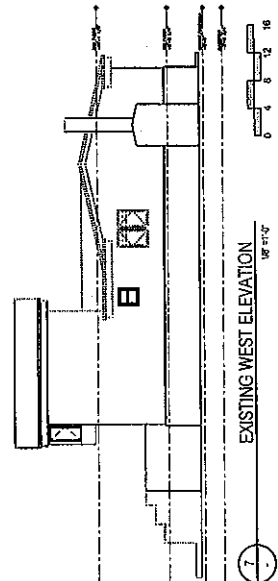
**PLANS APPROVED by
ZONING ADJUSTMENTS BOARD**

Judy Stout

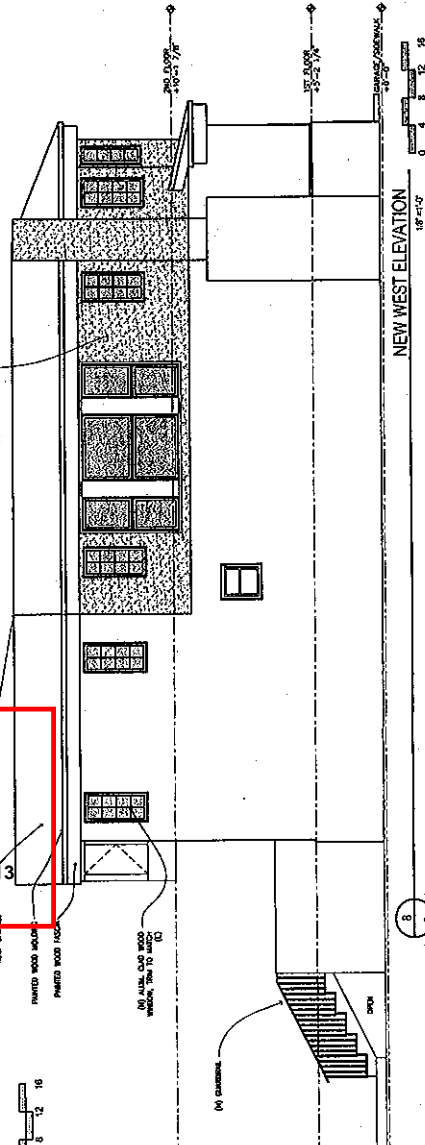
September 26, 2013



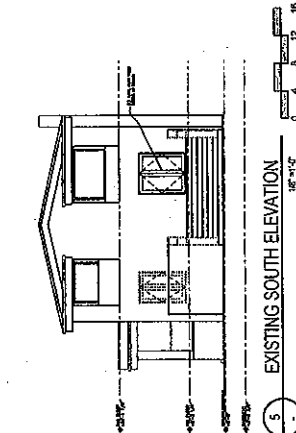
NEW SOUTH ELEVATION
1/8" = 1'-0"



EXISTING WEST ELEVATION
1/8" = 1'-0"



NEW WEST ELEVATION
1/8" = 1'-0"



EXISTING SOUTH ELEVATION
1/8" = 1'-0"