



Planning and Development Department
Land Use Planning Division

A D M I N I S T R A T I V E U S E P E R M I T

2440 Grant Street

Administrative Use Permit #ZP2015-0181

Project Description: To construct a new, approximately 550-SF, third story on an existing two-story, approximately 960-SF, single-family residence with an existing average height of 24 ft. for a new total of approximately 1,510 SF and maximum building height of 32 ft. in the R-2A district; and to legalize the previous installation of an entry gate that exceeds 6 ft. in height within the front yard setback.

- Section 23C.04.070 Paragraph B to vertically extend non-conforming front yard and side (south) yard setbacks
- Section 23D.08.060 Paragraph A.2 to legalize the previous installation of an unenclosed accessory structure (i.e. a gate) within the front yard setback that exceeds 6 ft. in height
- Section 23D.32.070 Paragraph C to allow a residential addition to exceeds 14 ft. in average height in the R-2A district
- Section 23D.32.070 Paragraph C to allow a main building to exceed 28 ft. in average height in the R-2A district

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

Following the expiration of the mandatory appeal period set forth in Section 23B.28.040 of the Berkeley Municipal Code, with no timely appeal being filed, the Administrative Use Permit described herein has been duly granted by the Zoning Officer on September 13, 2016.

Attest: Carol Johnson
Carol Johnson, Land Use Planning Manger

September 13, 2016
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

AUGUST 23, 2016

2440 Grant Street

Administrative Use Permit #ZP2015-0181

To construct a new, approximately 550-SF, third story on an existing two-story, approximately 960-SF, single-family residence with an existing average height of 24 ft. for a new total of approximately 1,510 SF and maximum building height of 32 ft. in the R-2A district; and to legalize the previous installation of an entry gate that exceeds 6 ft. in height within the front yard setback.

PERMITS REQUIRED

- Administrative Use Permit in accordance with Berkeley Municipal Code 23C.04.070 Paragraph B to vertically extend non-conforming front yard and side (south) yard setbacks
- Administrative Use Permit in accordance with Berkeley Municipal Code 23D.08.060 Paragraph A.2 to legalize the previous installation of an unenclosed accessory structure (i.e. a gate) within the front yard setback that exceeds 6 ft. in height
- Administrative Use Permit in accordance with Berkeley Municipal Code 23D.32.070 Paragraph C to allow a residential addition to exceeds 14 ft. in average height in the R-2A district
- Administrative Use Permit in accordance with Berkeley Municipal Code 23D.32.070 Paragraph C to allow a main building to exceed 28 ft. in average height in the R-2A district

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 would 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, 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 for the following reasons:

- The proposed addition is designed to match the architectural style and residential character of the subject building and, in this way, will also remain consistent with the residential context of this neighborhood.
 - With the proposed three-story building height, this development will add to the existing mix of one-, two- and three- story residential developments in this low/medium density neighborhood as designed in the City of Berkeley General Plan Land Use Element (2002).
 - The proposal to legalize the installation of an entry gate of approximately 7 ft. in height is permissible because this feature is limited to a width of approximately 5.5 ft. and serves as an effective human-scaled feature to highlight the entrance of the subject residential development.
 - The proposed third story building addition will increase shadowing on the residential developments immediately adjacent to the project site: most notably at 2432 Grant Street, directly north. Shadow studies submitted on November 18, 2015 indicate that the proposed third story addition will cast shadows on the residence at 2432 Grant in morning and mid-day hours during winter months, and this effect would likely begin in late fall and last until mid-spring. These potential impacts are found to be reasonable and non-detrimental given their limited duration, and because of urban in-fill context of this development project where such impacts are expected due to the orientation and close proximity of the subject main building in relation to its abutting developments.
 - The subject parcel is split zoned R-2 and R-2A, and the subject main building is located completely within the R-2A portion of the parcel. As prescribed under Sections 23D.32.070 (Development Standards) and Section 23D.32.080 (Parking), the proposed building addition is found to be permissible because it meets the R-2A district minimum standards for side (north) and rear setbacks, usable open space and off-street parking, and adheres to the maximum standards for residential density, building heights (calculated in feet and story levels) and lot coverage.
 - As described above, this proposal satisfies the R-2A development standards and, thereby, will achieve the appropriate building-to-building separations (or air) prescribed for this district.
3. The proposal to create a new a second story parapet-style enclosure for the proposed third story deck on the front (west) elevation will occur within the sub-standard front and (south) side yard setbacks. As required under Section 23C.04.070 Paragraph B (Expansions of Non-conforming Buildings and Structures), the proposal to vertically extend the existing, non-conforming front and (south) side yard setbacks in this manner is permissible because: (1) the single-family use of the subject property conforms to the R-2A district standards for Uses Permitted; (2) the extensions will not further reduce the affected setbacks; and (3) this portion of the project is approximately 24 ft. in height and will not exceed the R-2A district limit of 28 ft. in average height.
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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 attorney’s 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. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage 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.

Project Liaison

_____ Name

_____ Phone #

Prior to Issuance of Any Building Permit:

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

During Construction:

- 12. 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 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 relevant
- 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, 3rd floor, 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 2120 Milvia 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.

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. Construction noise and sound disturbance shall be controlled at all times and shall not exceed the limits and requirements of the Berkeley Noise Ordinance, Berkeley Municipal Code 13.40.
15. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
16. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
17. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.
18. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.

22. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

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 November 18, 2015.

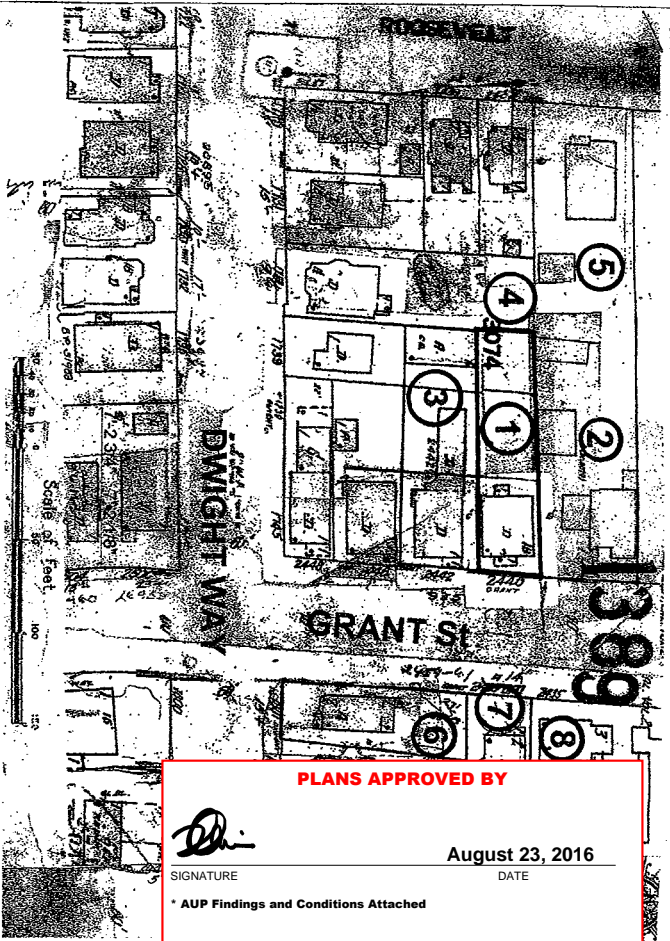
At All Times (Operation):

25. 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



Prepared by: Fatema Crane, Senior Planner
For City of Berkeley Zoning Officer

Reviewed by Leslie Mendez, Senior Planner



Sanborn Map - Project Location

Project Statement This 2440 Grant St. project is a third story addition on an existing two story home in Berkeley. It is a continuing project which was permitted as a two story renovation in 2007. The original AUP #062000061 was approved on August 3, 2006 and included a third story in the attic.

The property is zoned R2A and R2 which allows third stories. The house is located in the front R2A portion. To satisfy the requirements of the Zoning Ordinance the walls of the addition will be located according to the required setbacks - 20 feet in the front and not less than 5 feet on the sides as allowed for a lot which is less than 40 feet wide. We are requesting that the zoning officer issue an Administrative Use Permit to allow the building to exceed 28 feet in average height. The proposed average height is 32 feet, which is less than the 35' limit (Sec. 22D.32.070C). Several buildings on the 2400 block of Grant St. exceed the 32' high which includes apartment buildings and large single family residences. The existing roof, which is lawful non-conforming because it encroaches within the 3' story setbacks, will be removed. The eave on the South elevation, which encroaches above the neighbor's property, will also be removed (see A7, East and West Elevations). We are requesting that the zoning officer issue an Administrative Use Permit to allow a small portion (17% of the south side) of this encroachment to be extended 3 foot higher to allow for head room above the stairs going up to the third floor (Sec. 23C.04.070B), see note #1 sheets A6 and A8. We are also requesting that the parapet railing at the front deck, which is within the front yard setback, also be included in the AUP. We are also requesting that that the beam above the 6 foot fence, which is within the front yard setback, be legalized. This beam exceeds the 6 foot height.

PLANS APPROVED BY

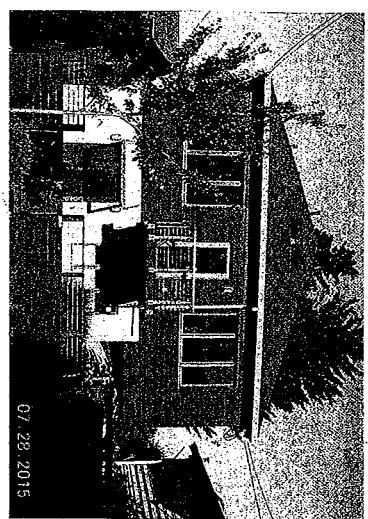
August 23, 2016

SIGNATURE DATE

* AUP Findings and Conditions Attached

	SACRAMENTO ST.	UNIVERSITY AVE	
DWIGHT WAY	GRANT ST.	MARTIN LUTHER KING JR WAY	
		SHATTUCK AV.	

- PROJECT ADDRESS**
- 1- 2440 GRANT ST.
- Abutting and Confronting Lots**
- 2- 2432 Grant St
 - 3- 2442 Grant St
 - 4- 1733 Dwight Way
 - 5- 1435 Roosevelt St
 - 6- 1801 Dwight Way
 - 7 - 2439 Grant St
 - 8 - 2435 Grant St.



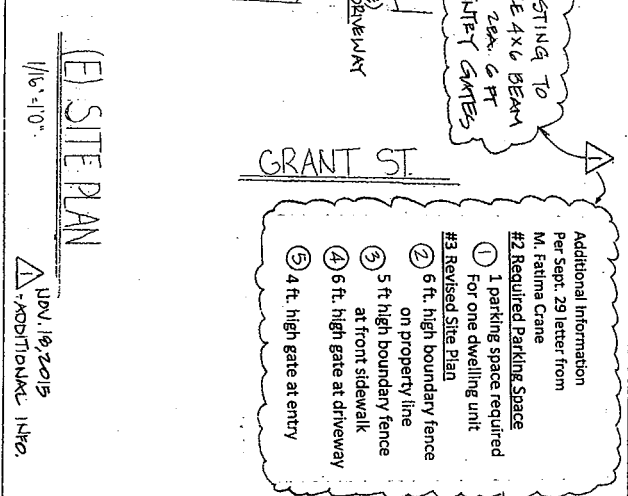
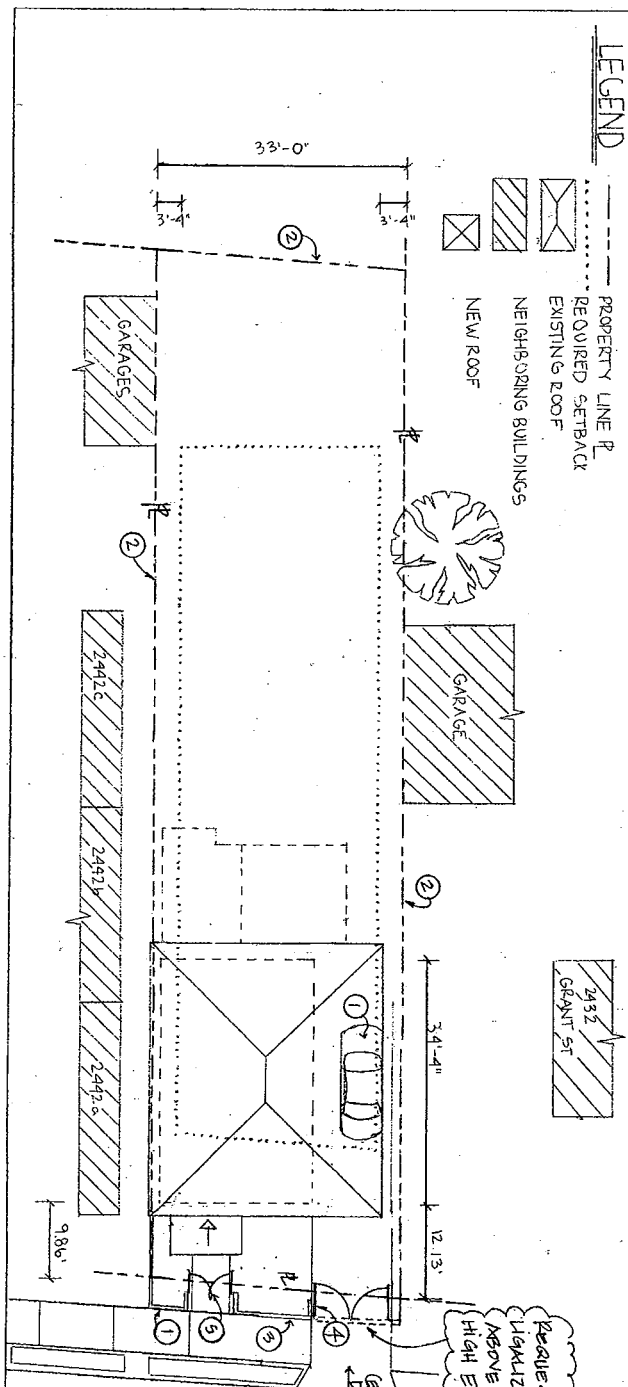
1 - 2440 Grant St. Street Elevation
SEE PAGE A1 FOR NEIGHBORS SIGNATURES

2440 Grant St. was remodeled in 2007. At the time it was the first remodel in the United States which was performed according to the Passive House Standard, which is a stringent energy efficient standard. I am attaching an article describing 2440 Grant St. which was published by Home Energy Magazine in 2008. As a result, Passive House California, a non-profit organization was established in Berkeley and is playing a major nationwide role to spread this strategy for energy efficiency. Due to this remodel, the Passive House Standard was added as a Green Building Rating System to Berkeley's Energy Saving Ordinance. BESO intends to accelerate greenhouse gas emissions reductions to help us meet our Climate Action goals, save money on utility bills and improve occupant health and comfort. This third story addition intends to continue demonstrating energy efficiency strategies and aims to be one of the first Zero Net Energy homes in Berkeley, meeting California's goals for new construction by 2020.

Nov. 16, 2015
ADDITIONAL INFO

ZONING NOTES	DRAWING INDEX
ZONING: R2 and R2A	A0 COVER PAGE
LOT SIZE: 33' x 135'-5" = 4570 SF	A1 NEIGHBOR'S SIGNATURES
SIZE OF EXISTING HOUSE: 28'-2" x 34'-4" = 965 SF	A2 SITE PHOTOGRAPHS
SCOPE OF WORK: ADD A THIRD STORY	A3 SITE SURVEY
TOTAL ADDED SF: 23'-0" x 24'-2" = 556 SF	A4 SITE PLAN
PARKING: 1 EXISTING OFF STREET PARKING SPOT	A5 1st and 2nd FLOOR PLANS
	A6 3rd FLOOR AND ROOF PLANS
	A7 EXISTING ELEVATIONS
	A8 NEW ELEVATIONS
	A9 EXISTING SHADOW STUDIES
	A10 EXISTING SHADOW STUDIES
	A11 PROPOSED SHADOW STUDIES
	A12 PROPOSED SHADOW STUDIES

AD	THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED COVER PAGE	TAHAN RESIDENCE 2440 GRANT STREET BERKELEY CA 94703	OWNERS: NABIH TAHAN MARGARITHA TAHAN 510-848-5211
			PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC #20121 DRAWN BY LMT



(E) SITE PLAN
1/16" = 1'-0"

(N) SITE PLAN
1/16" = 1'-0"

UDN 18-22015
ADDITIONAL INFO

GRANT ST

2440 GRANT ST

Additional Information
Per Sept. 29 letter from
M. Fatima Crane

#1 Required Parking Space
1 parking space required
for one dwelling unit

#2 Revised Site Plan

#3 6 ft. high boundary fence
on property line

#4 5 ft. high boundary fence
at front sidewalk

#5 6 ft. high gate at driveway

#6 4 ft. high gate at entry

REQUESTING TO
LIGHTENIZE 4X6 BEAM
ABOVE 28X6 FT
HIGH ENTRY GATES

PLANS APPROVED BY

[Signature]
SIGNATURE

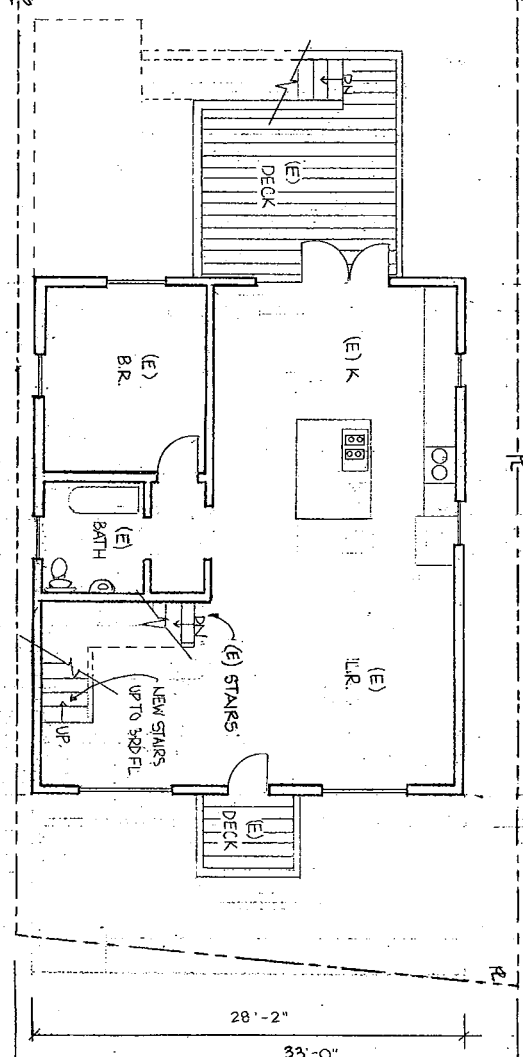
August 23, 2016
DATE

* AUP Findings and Conditions Attached

A4	THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED (E) (N) SITE PLANS	TAHAN RESIDENCE 2440 GRANT STREET BERKELEY CA 94703	OWNERS: NABIH TAHAN MARGARITHA TAHAN 510-848-6311	PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC # 20121 DRAWN BY LMT.
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PLANS APPROVED BY

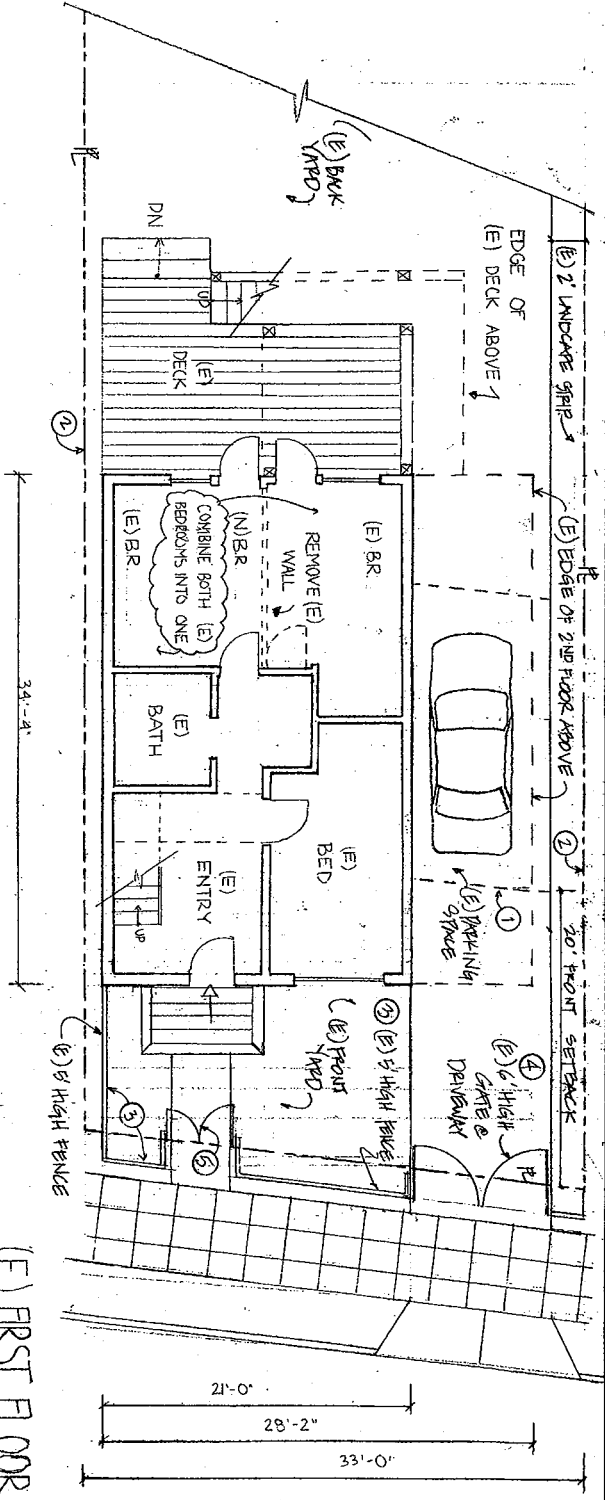

 SIGNATURE
 August 23, 2016
 DATE
 * AUP Findings and Conditions Attached



▲ NOV. 18, 2015
ADDITIONAL INFO.

(E) SECOND FLOOR PLAN

1/8" = 1'-0"



(E) FIRST FLOOR PLAN

1/8" = 1'-0"

ABBREVIATIONS

BR - BEDROOM
 B - BATH
 K - KITCHEN
 LR - LIVING ROOM

Additional Information
 Per Sept. 29 letter from
 M. Fatma Crane

#1 Required Parking Space
 1 parking space required
 For one dwelling unit

#3 Revised Site Plan

- ① 6 ft. on property line
- ② 5 ft. high boundary fence at front sidewalk
- ③ 6 ft. high gate at driveway
- ④ 4 ft. high gate at entry

A5

THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED 1ST & 2ND FLOOR PLANS	TAHAR RESIDENCE 2440 GRANT STREET BERKELEY CA 94703	OWNERS: NABIH TAHAN MARGARITA TAHAN 510.848-9311	PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC # 20121 DRAWN BY LMT
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PLANS APPROVED BY

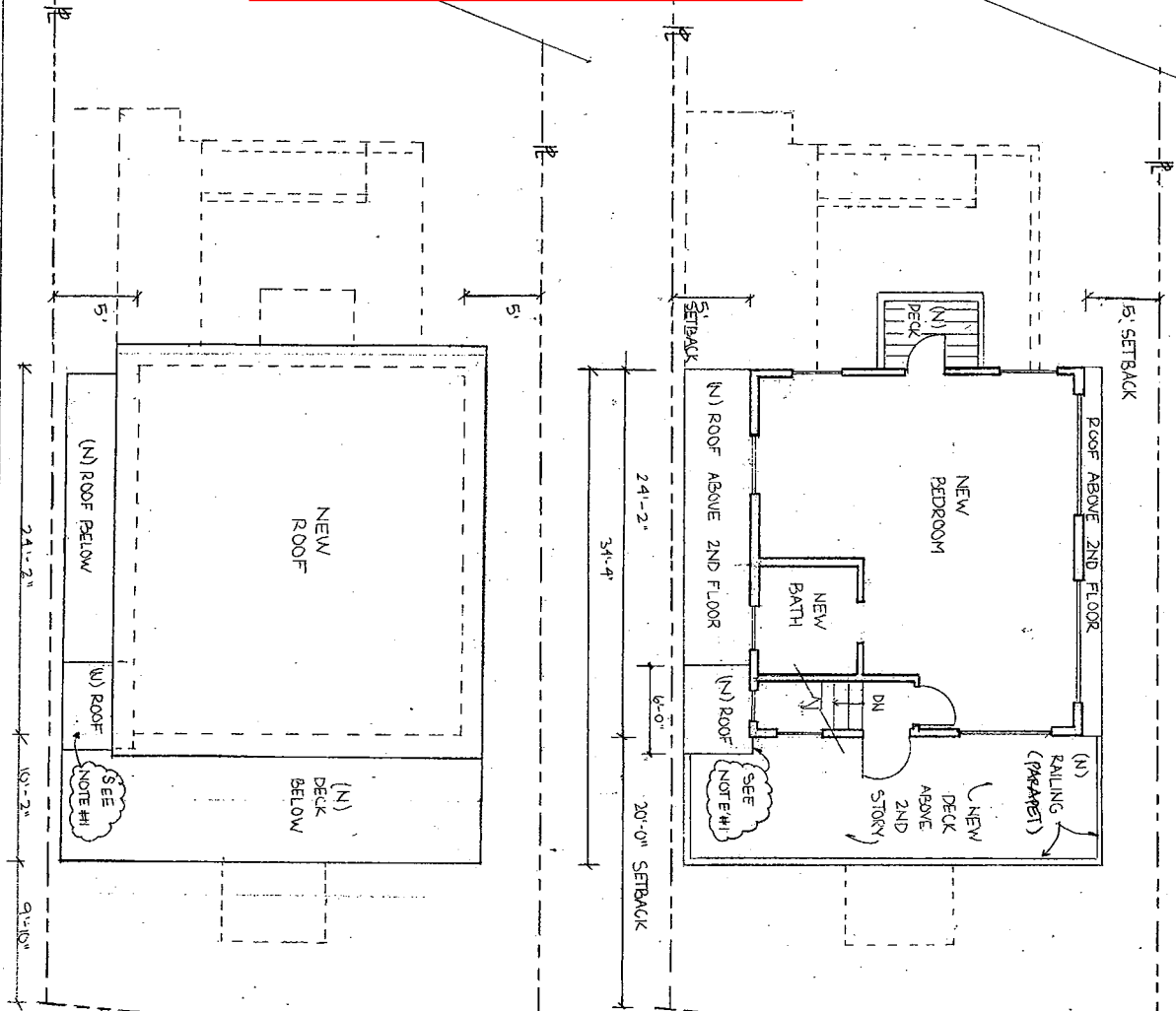
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August 23, 2016

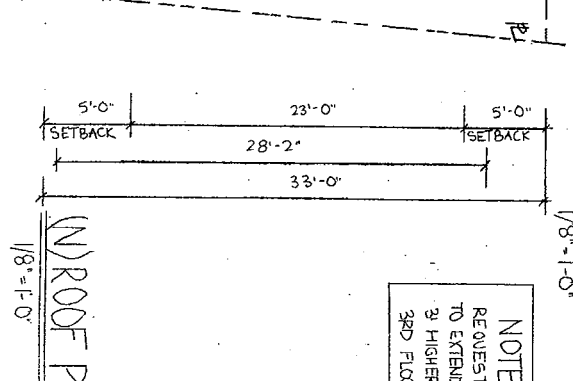
SIGNATURE

DATE

* AUP Findings and Conditions Attached

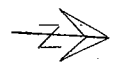


(N) THIRD FLOOR PLAN

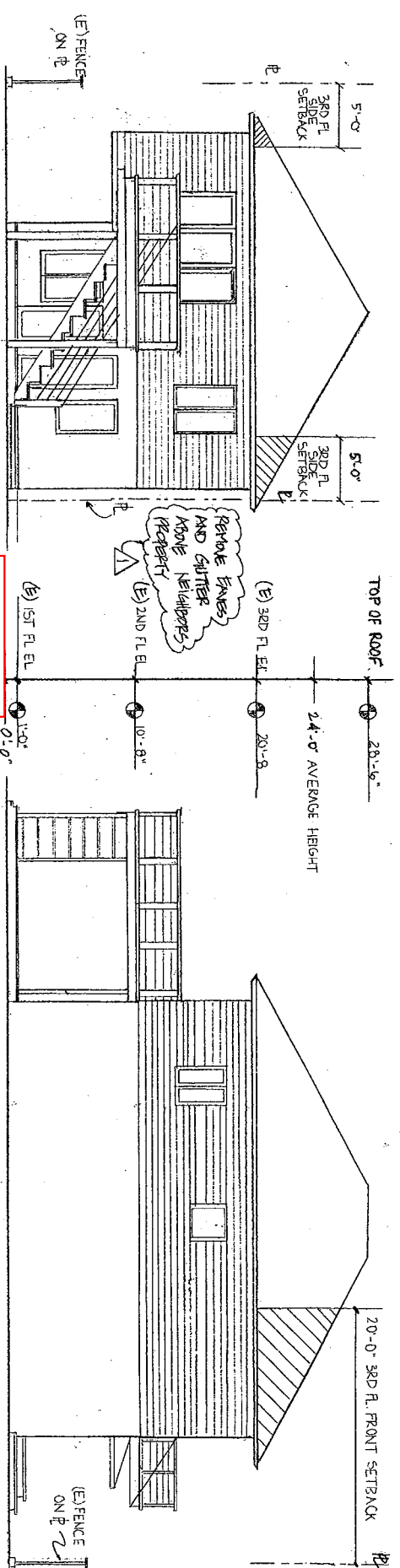


(N) ROOF PLAN

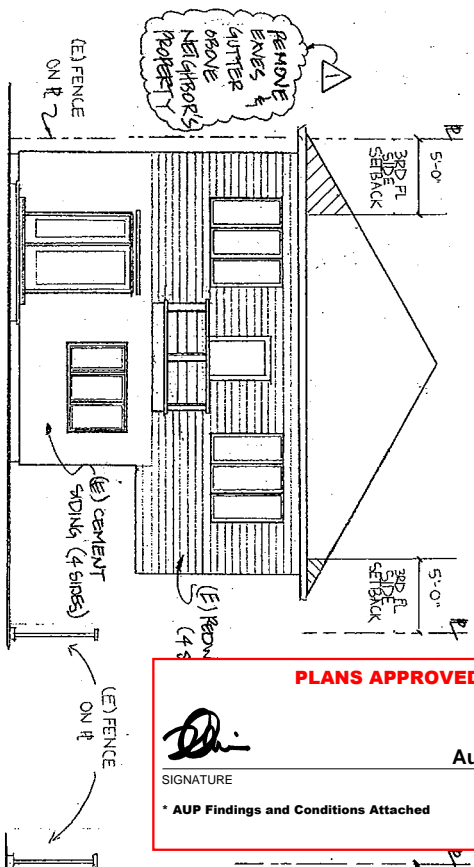
NOTE #1
REQUESTING AUP
TO EXTEND ROOF
3' HIGHER WITHIN
3RD FLOOR SETBACK



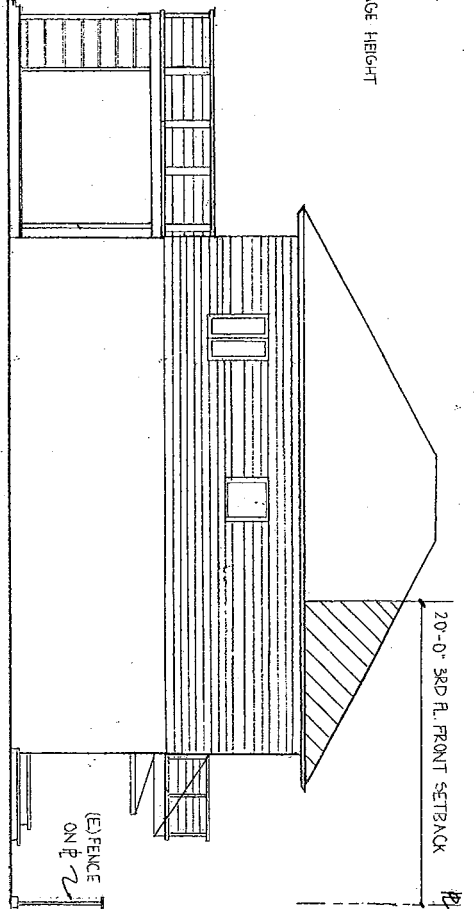
<p>A6</p>	<p>THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED 3RD FLOOR & ROOF PLANS</p>	<p>TAHAN RESIDENCE 2440 GRANT STREET BERKELEY CA 94703</p>	<p>OWNERS NABIH TAHAN MARGARITHA TAHAN 510-948-5311</p>	<p>PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC #20121 DRAWN BY LMT</p>
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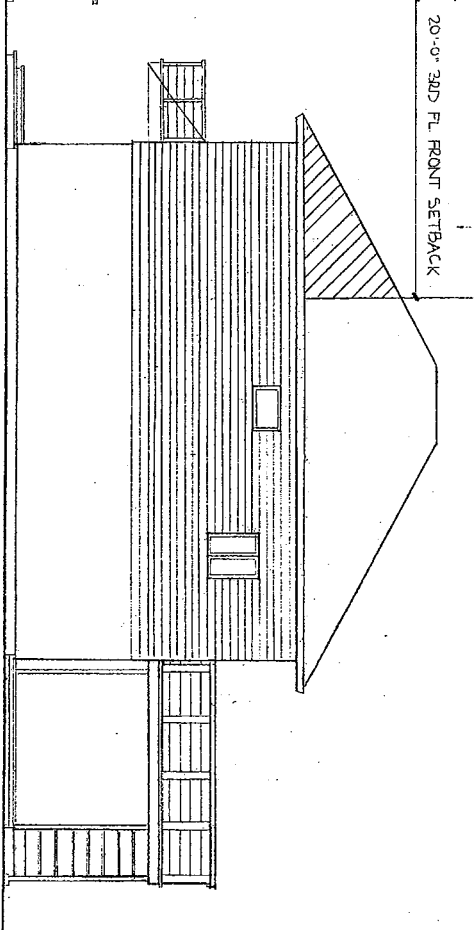
(E) WEST ELEVATION
SCALE: 1/8" = 1'-0"



(E) EAST ELEVATION
SCALE: 1/8" = 1'-0"



(E) SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



(E) NORTH ELEVATION
SCALE: 1/8" = 1'-0"

PLANS APPROVED BY

[Signature]

SIGNATURE

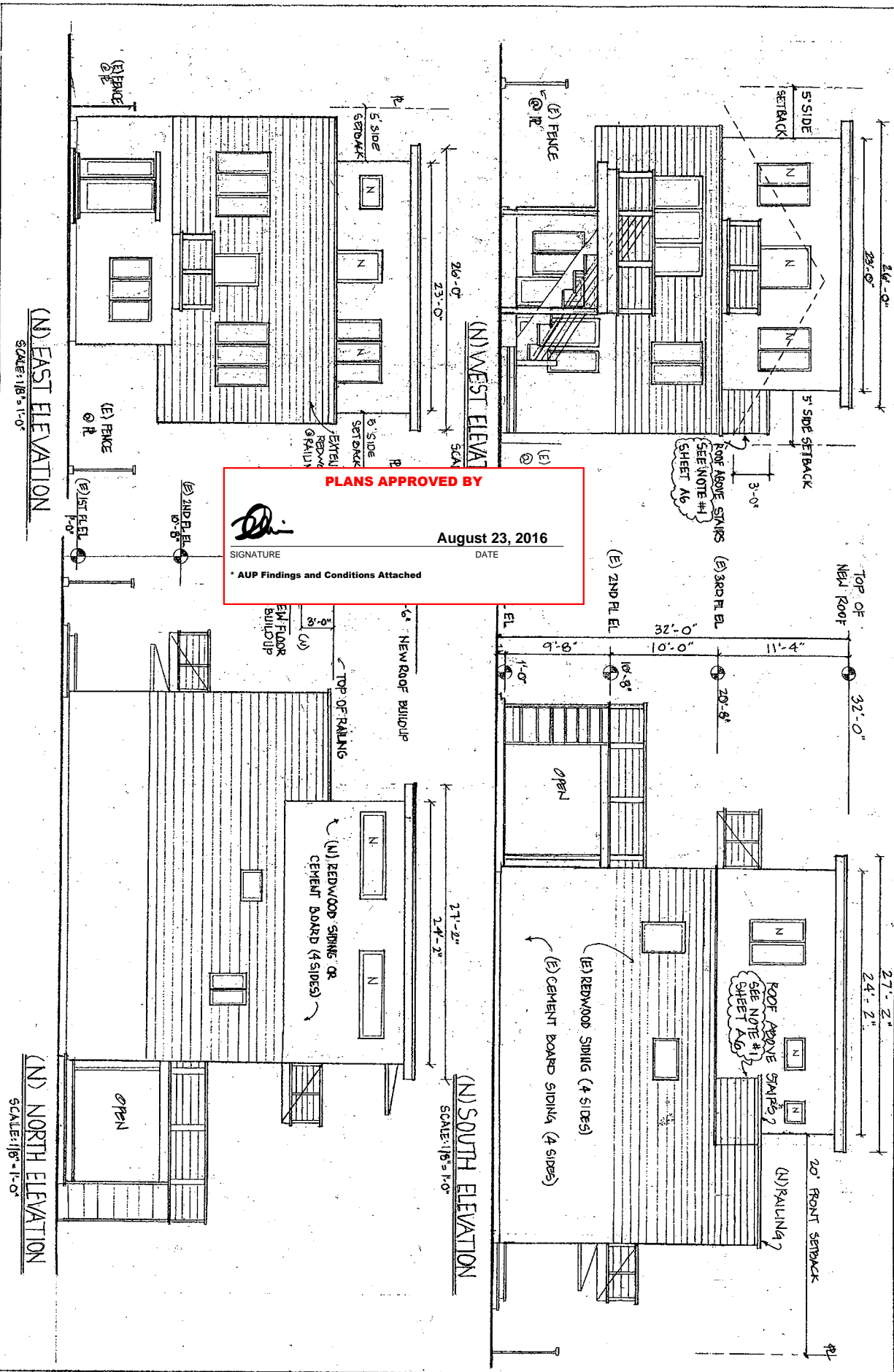
August 23, 2016

DATE

* AUP Findings and Conditions Attached

▲ NOV. 18, 2015
ADDITIONAL INFORMATION

A7	THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED (E) ELEVATIONS	TAHAN RESIDENCE 2440 GRANT STREET BERKELEY CA 94703	OWNERS: NABIH TAHAN MARGARITHA TAHAN 510-848-5311	PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC. # 20121 DRAWN BY LMT
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PLANS APPROVED BY

[Signature]

August 23, 2016

SIGNATURE DATE

* AUP Findings and Conditions Attached

(N) EAST ELEVATION
SCALE: 1/8" = 1'-0"

(N) WEST ELEVATION
SCALE: 1/8" = 1'-0"

(N) NORTH ELEVATION
SCALE: 1/8" = 1'-0"

(N) SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

A8	THIRD FLOOR ADDITION DATE: AUG 17, 2015 SCALE: AS NOTED (N) ELEVATION	TAHAN RESIDENCE 2110 GRANT STREET BERKELEY CA 94703	OWNERS: NABIH TAHAN MARGARITHA TAHAN 510-848-5311	PLANS PREPARED BY NABIH TAHAN, AIA LICENSED ARCHITECT, LIC # 20121 DRAWN BY: LMT
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