



**AGENDA**  
**CAPITOLA PLANNING COMMISSION**  
**THURSDAY, SEPTEMBER 1, 2011**  
**7:00 P.M. – CITY HALL COUNCIL CHAMBERS**

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Commissioners: Graves, Newman, Routh, Smith and Chairperson Ortiz  
Staff: Community Development Director Johnson  
Senior Planner Bane  
Minute Clerk Uharriet

**2. ORAL COMMUNICATIONS**

**A.** Additions and Deletions to Agenda

**B.** Public Comments

*Short communications from the public concerning matters not on the Agenda.*

**All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes.**

**C.** Commission Comments

**D.** Staff Comments

**3. APPROVAL OF MINUTES**

**A.** August 4, 2011 Regular Planning Commission Meeting

**4. CONSENT CALENDAR**

*All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.*

**A. 1545 LINCOLN AVENUE**

**#11-071**

**APN: 034-041-14**

Design Permit to demolish a single-family residence and construct a new two-story single-family residence in the R-1 (Single-Family Residence) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Santa Cruz Capital, LLC/ Peter Tiemann, filed 6/29/11

Representative: Frank Ho

**5. PUBLIC HEARINGS**

*Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.*

**A. 1066 41<sup>st</sup> AVENUE, A105 #11-062 APN: 034-071-01**

Sign Permit for a take-out restaurant use (Amazon Juice) with outdoor seating in the CC (Community Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Joao Luiz Freta, filed 6/7/11  
Representative: Steve Elmore

**B. 104 FAIRVIEW AVENUE #11-085 APN: 036-111-13**

Design Permit to construct a new deck and retaining wall for a single-family residence in the R-1 (Single-Family Residence) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: John Gachina, filed 8/11/11  
Representative: Jerry Allison

**C. 421-B CAPITOLA AVENUE #11-088 APN: 035-131-27**

Conditional Use Permit and Sign Permit for a take-out restaurant in the CN (Neighborhood Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: John Gryspas, owner/filed: 8/16/11  
Representative: Edwardo Martinez Architects

**D. 1575 38<sup>th</sup> AVENUE #11-060 APN: 034-181-17**

Preliminary Development Plan for a proposed Planned Development Rezoning to construct a four story, 67-unit senior housing project in the CN (Neighborhood Commercial) Zoning District.  
Property Owner: Maureen A. Romac, filed 6/3/11  
Representative: Steve Thomas

**6. ZONING ORDINANCE DISCUSSION**

- A. Chapter 17.15 R-1 Single-Family Residence District
- B. Chapter 17.18 R-M Multiple-Family District
- C. Chapter 17.19 TRO Transient Rental Use Overlay District
- D. Chapter 17.21 C-V Central Village District
- E. Chapter 17.22 C-R Commercial/Residential

**7. DIRECTOR'S REPORT**

**8. COMMISSION COMMUNICATIONS**

**9. ADJOURNMENT**

Adjourn to a Regular Meeting of the Planning Commission to be held on Thursday, October 6, 2011 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**APPEALS:** The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a one hundred forty two dollar (\$142.00) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

**Notice regarding Planning Commission meetings:** The Planning Commission meets regularly on the 1<sup>st</sup> Thursday of each month at 7:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us). Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the Community Development Department at (831) 475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the Community Development Department at least 24 hours in advance of the meeting at (831) 475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings can also be viewed from the City's website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us)



**A MOTION WAS MADE BY COMMISSIONER GRAVES AND SECONDED BY COMMISSIONER ROUTH TO APPROVE PROJECT APPLICATION #11-076 WITH THE FOLLOWING CONDITIONS AND FINDINGS:**

**CONDITIONS**

1. The project approval consists of a monument sign for the *Capitola Station* located at 1820 41<sup>st</sup> Avenue.
2. A landscape plan for the area surrounding the monument sign shall be submitted with the building permit plans for Community Development staff to review and approve.
3. If minor modifications to the signs are desired by the applicant (i.e. lettering, materials, colors, illumination, etc.), the changes may be approved by the Community Development Department. Any significant changes shall require Planning Commission approval.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

**FINDINGS**

**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

The Planning Commission finds that the proposed monument sign complies with the Sign Ordinance regulations in terms of size and design.

**B. The application will maintain the character and integrity of the neighborhood.**

The Community Development Department Staff and Planning Commission have reviewed the plans to ensure that the sign maintains the character and integrity of the neighborhood.

**C. This project is categorically exempt under the Section 15311(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves the installation of a monument sign for an existing commercial retail building. Section 15311(a) exempts on-premise signs appurtenant to existing commercial facilities.

**THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS GRAVES, NEWMAN, ROUTH, SMITH, AND CHAIRPERSON ORTIZ. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.**

**B. 429 CAPITOLA AVENUE**

**#11-073**

**APN: 035-093-14**

Design Permit and a setback Variance to expand an existing second floor deck for a single-family residence in the CN (Neighborhood Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Jeanne Seeley, filed 6/30/11

Representative: TD Construction/ Ted Egner

Commissioner Graves recused, stating he lived within 500 feet of the subject parcel.

Commissioner Routh removed this item from the Consent Agenda.

Senior Planner Bane presented the staff report.

Commissioner Routh presented the history of the staircase and landing area, and clarified the location of the proposed deck area.

Commissioner Smith clarified that the staircase does not exist.

Commissioner Newman stated that the staff recommendation to approve the project is inconsistent due to non-conforming nature of the proposal. He questioned why staff is considering extending a non-conforming situation.

Senior Planner Bane responded that the entire property is non-conforming in numerous ways. There is no way to remodel this property without continuing a non-conforming situation.

The public hearing was opened.

Jeanne Sealy, property owner, stated that she is trying to create a useful outdoor space on the property and is limited by the existing building layout.

The public hearing was closed.

Chairperson Ortiz stated that this property presents an unusual circumstance, and supports the variance request.

**A MOTION WAS MADE BY COMMISSIONER ROUTH AND SECONDED BY COMMISSIONER SMITH TO APPROVE PROJECT APPLICATION #11-073 WITH THE FOLLOWING CONDITIONS AND FINDINGS:**

**CONDITIONS**

1. The project approval consists of a Design Permit to extend a legal nonconforming second story deck for a single-family house at 429 Capitola Avenue.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. Hours of construction shall be Monday to Friday 7:30 a.m. – 9:00 p.m., and Saturday 9:00 a.m. – 4:00 p.m., per city ordinance.
4. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
5. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

**FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Department Staff and the Planning Commission have reviewed the project. The project as presented will carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff and the Planning Commission have reviewed the project. The project as presented will maintain the character and integrity of the neighborhood.

**C. The Variance to the side setback will better serve the intent of the Zoning Ordinance than will the literal enforcement of the requirements of the Ordinance.**

The constraints of the existing lot and its surroundings are special circumstances that exist, making it difficult to improve the subject building. In addition, the granting of the variance would not constitute the granting of a special privilege as many of the buildings in the vicinity are zero lot line and do not meet current setback requirements.

**D. This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves construction of a new deck for an existing single-family residence in the CN (Neighborhood Commercial) Zoning District. Section 15303 of the CEQA Guidelines exempts additions to single-family residences.

**THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, ROUTH, SMITH, AND CHAIRPERSON ORTIZ. NOES: NONE. ABSENT: NONE. ABSTAIN: GRAVES.**

**5. PUBLIC HEARINGS**

**A. 1066 41<sup>st</sup> AVENUE, A105 #11-062 APN: 035-0711-01**

Sign Permit for a take-out restaurant use (Amazon Juice) with outdoor seating in the CC (Community Commercial) Zoning District.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Joao Luiz Freta, filed 6/7/11  
 Representative: Steve Elmore

**A MOTION WAS MADE BY COMMISSIONER NEWMAN AND SECONDED BY COMMISSIONER ROUTH TO CONTINUE THE ITEM TO THE SEPTEMBER 1, 2011 MEETING.**

**THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS GRAVES, NEWMAN, ROUTH, SMITH, AND CHAIRPERSON ORTIZ. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.**

**B. 1750 41<sup>st</sup> AVENUE #11-077 APN: 034-131-16**

Amendment to a Conditional Use Permit to allow an existing retail store and drive-thru pharmacy to operate 24 hours a day, 7 days a week in the CC (Community Commercial) Zoning District.  
 Environmental Determination: Categorical Exemption

Property Owner: Longs Drug Stores California LLC, filed 4/28/11  
Representative: Fancher Development Services/ Nina Raey

Senior Planner Bane presented the staff report.

Commissioner Newman questioned the percentage of drive-thru use to store use and if staff had received any complaints about the drive-thru? He also asked if it was the intention of CVS to keep the drive-thru open 24 hours.

Commissioner Smith ascertained that the CMU wall will be constructed in the same manner as the Whole Foods wall and replace all of the wooden fencing along the back of the commercial lots. She clarified the Municipal Code does not limit 24-hour operations, and inquired if a pharmacist would be on duty 24 hours and the total number of employees on the later shift.

Chairperson Ortiz clarified the drive-thru access is from the rear of the building.

Senior Planner Bane responded to the Commission's questions: Staff has not received any complaints regarding the drive-thru; a portion of the wood fence behind McDonald's will remain; the access for the drive-thru was designed to discourage vehicles between CVS and McDonald's.

The public hearing was opened.

Nina Raey, representative for CVS, spoke in support of the application. She stated the drive-thru pharmacy sales represent approximately 5% of store's total business. CVS has not received any complaints to date. CVS intends on keeping the pharmacy open 24 hours, with a pharmacist, for customer convenience, and there will be five employees during the later shift.

The public hearing was closed.

Commissioner Graves stated that there are too many signs and the traffic plan for the shopping center was not well designed. He suggested limiting the number of drive-thru directional signs. The drive-thru should not be accessed from the McDonald's side of the building. He supported the 24 hour operation and the CMU wall, and suggested an additional condition to limit excessive outdoor displays.

Commissioner Routh was supportive of the application and concurred with Commissioner Graves that the parking lot/circulation plan was poorly designed.

Commissioner Smith was supportive of the application and proposed conditions of approval.

Chairperson Ortiz was supportive of the application and suggested additional conditions that limit the ingress and egress at the rear of the building after midnight, and requiring irrigation in the landscaping.

**A MOTION WAS MADE BY COMMISSIONER GRAVES AND SECONDED BY COMMISSIONER SMITH TO APPROVE PROJECT APPLICATION #11-073 WITH THE FOLLOWING CONDITIONS AND FINDINGS:**

**CONDITIONS**

1. The project approval consists of an amendment to an existing retail store (CVS) Conditional Use Permit to allow the store to be open 24 hours a day, 7 days a week at 1750 41<sup>st</sup> Avenue.



2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. Prior to building permit sign off, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.
5. “Back of house” operations (trash compaction, breaking down of boxes, etc.) shall be limited to 8AM – 8PM to minimize noise impacts to neighboring residents. There shall be no employee ingress or egress from the back door from midnight to 6AM.
6. The applicant shall design and install an 8' split face block wall with graffiti coating along the rear (eastern) property line.
7. The applicant shall install drought tolerant ground cover and trees along the rear property line. Irrigation shall comply with all requirements of the Santa Cruz Water District.
8. All outdoor displays shall be maintained within the square footage approved in Application #07-32 and shown on the design plans dated 4/30/08.

Previous Conditions from Application #07-32:

9. Delivery hours shall be limited to 8AM – 8PM to minimize noise impacts to neighboring residents. Delivery vehicles shall not be permitted to remain at idle during non-delivery hours.
10. Air-conditioning equipment and other roof top equipment shall be screened from view and fall within the allowable city permitted decibel levels.
11. Trash enclosures shall be covered, gated and maintained to provide a clean and sanitary area.
12. Security lighting in the rear of the store shall be shielded to prevent light from shining on to neighboring properties.
13. No roof equipment is to be visible to the general public. Any necessary roof screening is to match the color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with, building permit submittal.
14. The applicant shall comply with all requirements of the Santa Cruz Water District with regard to the required landscape irrigation and any other new water fixture requirements.
15. The applicant shall develop, submit, and enact a plan for the use and control of their carts, including a plan to collect carts removed from their property.

**FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Community Development Staff and the Planning Commission have reviewed the project and determined that the proposed use is permitted in the CC (Community Commercial) Zoning District with a Conditional Use Permit. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance and General Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Community Development Staff and the Planning Commission have reviewed the project and determined that the proposed sale of alcohol within the confines of the hotel use will not have a negative impact on the character and integrity of the neighborhood. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

**C. This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

The proposed project involves an amendment to an existing use permit with no expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS GRAVES, NEWMAN, ROUTH, SMITH, AND CHAIRPERSON ORTIZ. NOES: NONE. ABSENT: NONE. ABSTAIN: NONE.**

**6. ZONING ORDINANCE DISCUSSION**

- A. Chapter 17.03 DEFINITIONS
- B. Chapter 17.06 ESTABLISHMENT AND DESIGNATION OF DISTRICTS
- C. Chapter 17.09 ZONING MAPS
- D. Chapter 17.11 ARCHAEOLOGICAL/PALEONTOLOGICAL RESOURCES DISTRICT
- E. Chapter 17.12 MHE MOBILE HOME EXCLUSIVE DISTRICT

Community Development Director Johnson presented the staff report.

Commissioner Graves stated that reviewing the Zoning Ordinance is an important process, but is too early in the process as the new general plan will determine the new zoning ordinance.

Commissioner Newman stated that beginning with the definitions section is difficult as the new ordinance will layout what will need to be defined.

Commissioner Smith requested a schedule of the upcoming review of the code sections.

A section by section discussion ensued:

**Chapter 17.03 DEFINITIONS**

**17.03.010 Generally.**

Words used in the present tense include the future, words in the singular number include the plural; the word “building” includes the word “structure” and the word “shall” is mandatory, not directory. In the coastal zone the word “structure” shall be defined as provided in Section 17.03.650 of this chapter. The term “city council” when used means the city council of the city of Capitola, and “planning commission” means the city planning commission of the city of Capitola. The word “city” when used shall mean the incorporated city of Capitola. (Ord. 677 § 12(A), 1989; Ord. 388 Art. 1 (part), 1975)

17.03.020 Accessory building.

“Accessory building” means a portion of the main building or a detached subordinate building located on the same lot, the use of which is purely incidental to that of the main building structure, or to the use of the land, and which shall not contain living or sleeping quarters, except as provided by Chapter 17.99 for secondary dwelling units. (Ord. 873 § 6, 2004; Ord. 388 Art. 1 (part), 1975)

17.03.030 Accessory structures.

“Accessory structures” means portable buildings, storage sheds, arbors, covered patios and similar buildings and structures constructed and installed as secondary uses to existing principal buildings on a parcel. (Ord. 388 Art. 1 (part), 1975)

17.03.040 Accessory use.

“Accessory use” means a land use which is permitted on a building site as a secondary use to an existing principal permitted use. (Ord. 388 Art. 1 (part), 1975)

17.03.050 Agency.

“Agency” means an office or commercial establishment in which goods, material, or equipment is received for servicing, treatment or processing elsewhere. (Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz suggested expanding the definition.**17.03.060 Alley.

“Alley” means a public or permanent private way twenty feet or less in width which affords a secondary means of access to abutting property. (Ord. 388 Art. 1 (part), 1975)

17.03.067 Amusement center.

“Amusement center” means any business, or portion of a business, that operates five or more coin-operated machines for amusement purposes (i.e., pinball machines, electronic games, etc.). (Ord. 536 § 1 (part), 1983)

17.03.068 Assumed ground surface.

“Assumed ground surface” means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade, subject to the following exception: if there has been grading or filling on the property within five years preceding the time of the application, or proposed as part of the application, and that grading or filling has or would increase the height of the finished grade at one or more points where it would meet the perimeter of the proposed structure, the planning commission may measure heights from where it estimates the grade is or was before the grading or filling, if the commission determines that such an action is necessary to keep the height of the proposed structure in reasonable relationship to the heights in the neighborhood. (Ord. 642 § 1, 1987)

17.03.070 Automobile wrecking.

“Automobile wrecking” means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or parts thereof. (Ord. 388 Art. 1 (part), 1975)

17.03.075 Back flow prevention device.

“Back flow prevention device” means a safety device used to prevent pollution or contamination of water supply due to the reverse flow of water from the irrigation system. (Ord. 744 § 2 (part), 1992)

**Commissioner Graves suggested this definition be eliminated due to different requirements of the two water districts.**

17.03.080 Basement.

“Basement” means that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (Ord. 388 Art. 1 (part), 1975)

**Commissioner Smith and Commissioner Newman recommended thorough review of this definition with consideration of floor area ratio.**

17.03.082 Bay window.

“Bay window” means a window or series of windows serving as an important element of the building’s architecture; forming an alcove in a room and projecting outward from the wall in a rectangular, polygonal or curved form. (Ord. 776 § 1, 1995)

17.03.085 Bed and breakfast.

“Bed and breakfast” means a home occupation in which there are guests as defined in Section 17.03.280. In addition the requirements of Section 17.03.310, bed and breakfast home occupations must meet the following requirements:

- A. The room(s) are rented for transient (less than thirty days) occupancy;
- B. The total number of persons staying within the rented portion of a bed and breakfast premises shall at no time exceed four, regardless of the number of rooms utilized by those four persons;
- C. In addition to the regular parking requirements for the premises, one parking space must be provided for each bedroom available to bed and breakfast guests. (Ord. 533 § 1, 1983)

**Commissioner Graves suggested this definition be rewritten.**

17.03.086 Bench.

“Bench” means a seat located upon, or adjacent to, public property for the accommodation of the public. (Ord. 775 § 1 (part), 1995)

17.03.090 Block.

“Block” means all property fronting upon one side of a street between intersecting and intercepting streets or between a street and right-of-way, waterway, end of dead-end street or city boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts. (Ord. 388 Art. 1 (part), 1975)

17.03.093 Bluff or cliff.

“Bluff” or “cliff” means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what we commonly know as “cliffs.” (Ord. 628 § 1 (part), 1987)

17.03.110 Building..

“Building” means any structure used or intended for supporting or sheltering any use or occupancy. (Ord. 388 Art. 1 (part), 1975)

17.03.120 Building coverage.

“Building coverage” means the land area covered by all buildings and accessory structures on a lot. (Ord. 388 Art. 1 (part), 1975)

17.03.125 Building face.

“Building face” means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces. (Ord. 775 § 1 (part), 1995)

17.03.130 Building height.

“Building height” means the vertical distance measured from the assumed ground surface of the building to the highest point of the roof, ridge or parapet wall. (Ord. 642 § 2 (part), 1987: Ord. 455, 1979: Ord. 388 Art. 1 (part), 1975)

17.03.135 Building line.

“Building line” means a line established by ordinance beyond which no building may extend. A building line may be a property line. See curblines. (Ord. 775 § 1 (part), 1995)

17.03.140 Building site.

“Building site” means the ground area occupied or capable of being occupied under this title by a building or group of buildings together with all open spaces as required by this title. (Ord. 388 Art. 1 (part), 1975)

17.03.150 Carport.

“Carport” means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the convenient loading or unloading of passengers or the storage of an automobile. (Ord. 873 § 7, 2004: Ord. 388 Art. 1 (part), 1975)

**Commissioner Newman and Chairperson Ortiz recommended thorough review of this definition along with consideration for creating a definition for covered parking.**

17.03.160 Club.

“Club” means an association of persons for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business. (Ord. 388 Art. 1 (part), 1975)

17.03.164 Community care facility.

A “community care facility” is any building which is maintained and operated to provide nonmedical residential care, or day-care services for children, adults or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons. All community care facilities shall be appropriately licensed or registered pursuant to state law, unless exempted therefrom by state law. This definition and all other definitions relating to community care facilities shall be interpreted so as to be consistent with definitions found in state law or state administrative regulations. (Ord. 608 § 2 (part), 1986)

**Chairperson Ortiz commented that this definition does not incorporate any type of medical use.**

17.03.166 Community care residential facility.

A. A “community care residential facility” is a community care facility, providing twenty-four-hour nonmedical care of persons in need of personal service, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individuals. It does not include “child day care facility” as that term is defined in Welfare and Institutions Code § 1596.750.

B. A small community care residential facility is one which serves six or fewer persons, not counting the operators.

C. A large community care residential facility has seven or more residents (not counting operators), including retirement homes and boarding homes for the aged but not including nursing homes. (Ord. 608 § 2 (part), 1986)

**Chairperson Ortiz commented that this definition does not incorporate any type of medical use.**

**Commissioner Grave suggested a more current definition for an assisted living facility.**

17.03.170 Convalescent hospital.

A “convalescent hospital” is a type of hospital which provides bed care for persons suffering chronic illness, or convalescent care for patients who, by reason of illness or physical infirmity, are unable to care for themselves properly. (Ord. 608 § 2 (part), 1986; Ord. 388 Art. 1 (part), 1975)

17.03.180 Court.

“Court” means an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two or more sides by such buildings. (Ord. 388 Art. 1 (part), 1975)

**Commissioner Newman suggested consideration of the use of the property when rewriting this definition.**

**Chairperson Ortiz stated that the intention of this definition was to encourage the incorporation of a front porch or patio into the design of residences to encourage a community/neighborhood interaction, but the implementation has not worked well.**

17.03.181 Curblineline.

“Curblineline” means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curblineline shall be established by the city engineer. See building line. (Ord. 775 § 1 (part), 1995)

**Chairperson Ortiz recommended replacing the term city engineer with Public Work Director.**

17.03.182 Drip or bubble irrigation.

“Drip or bubble irrigation” means a network of narrow tubes or porous tubing that deliver small amounts of water to individual plants above or below the ground. (Ord. 744 § 2 (part), 1992)

**Chairperson Ortiz recommend deleting this definition.**

17.03.185 Drought resistant.

“Drought resistant” means a plant that can survive with little or no water once established. (Ord. 744 § 2 (part), 1992)

17.03.190 Dwelling.

“Dwelling” means a building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels and lodging facilities. (Ord. 661 § 2 (part), 1988; Ord. 388 Art. I (part), 1975)

17.03.200 Dwelling multiple-family.

A. “Multiple family dwelling” when used in the context of, or with reference to, the design, development, construction of, or remodeling of a building or portion thereof, means a building designed as a residence to house two or more families, living independently of each other and doing their own cooking in said building, including all necessary employees of each such family, including apartment and group dwellings.

B. When used in the context of, or with reference to the use of buildings, “multiple-family dwelling” means using buildings or portions thereof as a residence to house two or more families, living independently of each other, and doing their own cooking in said building, including all necessary employees of each such family. “Residence,” as used in this subsection does not include “transient rental use” as defined in Section 17.03.686. (Ord. 687 § 3, 1990: Ord. 388 Art. 1 (part), 1975)

#### 17.03.210 Dwelling, one-family.

A. One-family dwelling” when used in the context of, or with reference to, design, development, construction, or remodeling means a detached building, containing one kitchen, designed exclusively to house not more than one family, including all necessary employees of such family.

B. When used in the context of, or with reference to, the use of a building or portion thereof, “one family dwelling” means used exclusively for residential occupancy by not more than one family, including all necessary employees of such family. “Residential occupancy” as used in this subsection does not include “transient rental use” as defined in Section 17.03.686. (Ord. 687 § 2, 1990: Ord. 388 Art. 1 (part), 1975)

#### 17.03.220 Dwelling unit.

“Dwelling unit” means one or more rooms in a dwelling designed for occupancy by one family for living or sleeping purposes and having only one kitchen. (Ord. 388 Art. 1 (part), 1975)

#### 17.03.223 Energy facility.

“Energy facility” means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy. (Ord. 677 § 12(B), 1989)

#### 17.03.225 External appearance.

“External appearance” means the architectural style, design, general arrangement, and components of all of the outer surfaces of an improvement, including, but not limited to, color and texture of building material and type and style of all windows, doors, lights, signs, and other fixtures appurtenant to the improvement. (Ord. 515 § 3 (part), 1982)

#### 17.03.230 Factory-built housing.

“Factory-built housing” means any residential building, dwelling unit or habitable room thereof which is either wholly manufactured or is in a substantial part manufactured at an off-site location to be wholly or partially assembled on another site for residential or dwelling purposes. (Ord. 388 Art. 1 (part), 1975)

#### 17.03.240 Family.

“Family” means a group of persons who live together, whether at one or more addresses, on a relatively permanent basis. However, “single family” or “multiple family” should not be interpreted to prohibit a person, living alone, from residing in R-1 or R-M zones. (Ord. 690 § 1, 1990: Ord. 388 Art. 1 (part), 1975)

#### 17.03.242 Family day care home.

“Family day care home” means a home that regularly provides care, protection, and supervision for fourteen or fewer children, in the provider’s own home, for periods of less than twenty-four hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home. (See Section 1596.78 of the California Health and Safety Code.)

A. “Large family day care home” means a home that that provides family day care for up to twelve children, or for up to fourteen children if certain criteria are met, as set forth in California

Health and Safety Code Section 1597.465 and as defined in state regulations (see 22 California Administrative Code Sections 102352(f)(1)(B) and 102416.5(c)). These capacities include children under age ten who live in the licensee's home and the assistant provider's children under age ten.

B. "Small family day care home" means a home that provides family day care for up to six children, or for up to eight children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.44 and as defined in regulations (see 22 California Administrative Code Sections 102352(f)(1)(A) and 102416.5(b)). These capacities include children under age ten who live in the licensee's home. (Ord. 878 § 1, 2004; Ord. 608 § 2 (part), 1986)

**Chairperson Ortiz suggested this definition incorporate any new rules and be more specific.**

**Community Development Director Johnson stated that this definition is standard language from State regulations.**

17.03.245 Floodplain.

"Floodplain" means the land on either side of the creek or other watercourse which may be subject to flooding, and includes but is not necessarily limited to any one-hundred-year floodplain as determined by the Federal Flood Insurance Program. (Ord. 628 § 1 (part), 1987)

**Chairperson Ortiz suggested addition other FEMA terms, such as Flood Way.**

17.03.246 Floor area.

"Floor area" means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage, except as permitted for one and one-half story single family residences pursuant to Section 17.15.100(B). It also includes covered or uncovered upper-floor decks; and porches and covered exterior open space in excess of one hundred fifty square feet, including eaves greater than eighteen inches in length. For commercial uses the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related businesses, its customers, or its employees, as opposed to the general public. "Floor area ratio" means the gross floor area of all of the buildings on the lot divided by the net lot area. (Ord. 882 § 1 (part), 2005; Ord. 873 § 8, 2004; Ord. 775 § 1 (part), 1995)

**Commissioner Smith stated that courtyard is included in this definition but not "court."**

**Chairperson Ortiz stated that accessory structures are not included in floor area. The commercial use portion of the definition should be rewritten.**

**Commissioner Newman recommended thorough review of this definition.**

17.03.247 Floor area, available for dining.

"Floor area, available for dining" means floor area in a restaurant which may be used for the placement of seating for the consumption of food or beverages. (Ord. 947 § 4, 2010)

17.03.248 Freeway.

"Freeway" means a highway or expressway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which owners have only limited or restricted right or easement of access. (Ord. 947 § 4, 2010; Ord. 775 § 1 (part), 1995)

17.03.250 Frontage.

"Frontage" means that portion of all property abutting on a side of a street between two intersecting or terminating streets, or the end of such street if it does not meet another. (Ord. 388 Art. 1 (part), 1975)



**Commissioner Graves suggested this definition clarify the yard areas for a corner lot and determine the front door location in relationship to the yard.**

17.03.260 Garage, parking.

“Parking garage” means any building or premises, except those described as a private garage, designed and/or used by the general public on a commercial basis for the storage only of motor vehicles. (Ord. 388 Art. 1 (part), 1975)

17.03.270 Garage, private.

“Private garage” means a detached accessory building or portion of a main building with capacity for not more than three motor vehicles designed and/or used for the shelter, parking or storage of vehicles owned or operated by the occupants of the main dwelling, including covered parking space or carport; provided, however, a private garage may exceed a three-vehicle capacity if the lot whereupon such garage is located contains, in area, not less than one thousand five hundred square feet for each vehicle stored. (See definition of accessory building.) (Ord. 388 Art. 1 (part), 1975)

17.03.275 Geological hazard.

“Geological hazard” means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation. (Ord. 628 § 1 (part), 1987)

17.03.280 Guest.

“Guest” means any person who rents a room for sleeping purposes. (Ord. 388 Art. I (part), 1975)

17.03.285 Historic feature.

Any improvement, or group of improvements on a single site, of historic significance because of special aesthetic, cultural, architectural, archaeological, paleontological characteristic which has been so designated by the city council upon the recommendation of the planning commission. (Ord. 515 § 3 (part), 1982)

**Chairperson Ortiz recommended consulting with Carolyn Swift to rewrite this definition.**

**Commissioner Newman recommended the entire historical ordinance be rewritten, not just definitions.**

17.03.310 Home occupations.

“Home occupations” means any secondary activity conducted on the premises by the occupant of the dwelling where the home occupation is the applicant’s only place of business; where there are no advertising signs (except a nameplate not to exceed one square foot in size); no display or outside storage; no employee or assistant who is not a resident of the dwelling; no objectionable equipment, noise or odors; no excessive pedestrian, automobile or truck traffic introduced to the neighborhood; normally no goods or commodity sold on the premises; and does not provide a service which normally involves the purchaser being present when a significant portion of the services are performed. (Ord. 747, 1993: Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz recommended that the nameplate be eliminated.**

**Commissioner Graves stated that home occupations are not enforced.**

**Commissioner Routh stated that on-line marketing has changed the meaning of home occupation.**

**Commissioner Newman suggested that this definition be rewritten to incorporate current conditions.**

17.03.320 Hotel.

“Hotel” means any building or portion containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests with no provision for cooking in any individual room or suite, with access to units primarily from interior lobbies, courts or halls (including hotels, public and private clubs and any such buildings of any nature whatsoever so designed or intended to be occupied), except that jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed or detained under legal restraint, are specifically not included. (Ord. 608 § 2 (part), 1986; Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz recommended this definition be revised and updated.**

17.03.322 Irrigation audit.

“Irrigation audit” means a process to perform site inspections, evaluate irrigation systems, and develop efficient irrigation schedules. (Ord. 744 § 2 (part), 1992)

17.03.325 Irrigation system.

“Irrigation system” means a system designed to distribute water to plants artificially. (Ord. 744 § 2 (part), 1992)

17.03.330 Junkyard.

“Junkyard” means an area of more than three hundred square feet of any lot or of any portion of the front half of any lot for the storage of junk including scrap metals or other scrap materials, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery. (Ord. 388 Art. 1 (part), 1975)

17.03.340 Kitchen.

“Kitchen” means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a “mini-bar/convenience area” which is intended as a supplemental food preparation area within a single-family home. Such an area is limited to a small refrigerator, a microwave oven and a small sink with a drain size less than one and one-half inches. No gas line or two hundred twenty electric service is permitted within this area. Only one such area is permitted within a dwelling in addition to the kitchen, and internal access within the dwelling must be maintained. (Ord. 873 § 9, 2004; Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz suggested that this definition be revised, updated and mini-bar be a separate definition.**

17.03.345 Landscaped area.

“Landscaped area” means the entire parcel less the building footprint, driveways, nonirrigated portions of parking lots, and hardscapes. Water features are included in the calculation of the landscaped area. (Ord. 744 § 2 (part), 1992)

**Commissioner Newman suggested that pervious surfaces be incorporated into a new definition.**

17.03.350 Lodging facility.

“Lodging facility” means a business which rents rooms to the general public for sleeping purposes, but which is neither a hotel nor motel. Lodging facilities may not do any of the following:

- A. Rent rooms in which there are cooking facilities;
- B. Rent to persons who intend to make it their domicile or residence;
- C. Offer leases with terms greater than twenty-nine days;
- D. Provide the following services to its guests: (1) medical care, (2) convalescent care, or (3) care, protection or supervision for minors. (Ord. 661 § 1, 1988: Ord. 608 § 2 (part), 1986: Ord. 388 Art. 1 (part), 1975)

17.03.360 Lot.

“Lot” means a parcel of land under one ownership occupied or capable of being occupied by a building and its accessory buildings, together with such open spaces as are required under the regulations of this title, and having its principal frontage upon a street or place, but not including an alley. (Ord. 388 Art. 1 (part), 1975)

17.03.370 Lot area.

“Lot area” means the total horizontal area included within the lot lines of the lot, including one-half the width of any alley or portion thereof abutting any such lot line. (Ord. 388 Art. 1 (part), 1975)

17.03.380 Lot, corner.

“Corner lot” means a lot situated at the junction of two or more intersecting streets, with a lot line thereof bordering on each of the two or more streets. (Ord. 388 Art. 1 (part), 1975)

17.03.390 Lot depth.

“Lot depth” means the horizontal distance from the street line or front line of the lot to the rear line, measured in the mean direction of the side lines of the lot. (Ord. 388 Art. 1 (part), 1975)

17.03.400 Lot line.

“Lot line” means the lines bounding a lot as defined in this chapter. (Ord. 388 Art. 1 (part), 1975)

17.03.410 Lot line, front.

“Front lot line” means that dimension of a lot or portion of a lot, abutting on a street except the side of a corner lot. (Ord. 388 Art. 1 (part), 1975)

17.03.420 Lot line, rear.

“Rear-lot line” means ordinarily, the line of a lot which is generally opposite the line along the frontage of said lot. In cases in which this definition is not applicable, the planning commission shall designate the rear lot line. (Ord. 388 Art. 1 (part), 1975)

17.03.430 Lot line, side.

“Side lot line” means any boundary line not a front line or a rear line. (Ord. 388 Art. 1 (part), 1975)

17.03.440 Lot, reversed corner.

“Reversed corner lot” means a corner lot, the side street line of which is substantially a continuation of the front line of the lot upon which it rears. (Ord. 388 Art. 1 (part), 1975)

17.03.450 Lot width.

“Lot width” means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines. (Ord. 388 Art. 1 (part), 1975)

17.03.455 Material change.

“Material change” means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit. (Ord. 515 § 3 (part), 1982)

17.03.460 Modular built housing.

“Modular built housing” means any mass-produced or manufactured housing in modules or sections that are intended to be reassembled at a housing site. (Ord. 388 Art. 1 (part), 1975)

17.03.470 Motels.

“Motels” means a building or group of buildings containing individual sleeping or living units, designed for or used by automobile tourists or transient guests, with parking space conveniently located to each unit, including auto courts, motels or motor lodges. (Ord. 608 § 2 (part), 1986: Ord. 388 Art. 1 (part), 1975)

17.03.475 Mulch.

“Mulch” means any material such as leaves, bark, straw or other materials left loose and applied to the soil surface to reduce evaporation. (Ord. 744 § 2 (part), 1992)

17.03.480 Nonconforming structure.

“Nonconforming structure” is defined as a structure which does not meet the current development standards for the district in which the structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the district, but do not include standards contained in the Uniform Codes, such as the Building Code, adopted in Section 15.04.010 because those codes contain their own specific regulations regarding structures that do not meet current regulations. (Ord. 761 § 2 (part), 1993: Ord. 388 Art. 1 (part), 1975)

**Commissioner Graves recommended clarification about the useful life of a non-conforming situation.**

**Commissioner Newman recommended thorough review of this definition as currently different circumstances allow for different interpretations and implementation.**

17.03.490 Nonconforming activity.

“Nonconforming activity” is defined as an activity, business or enterprise which was legal at the time it was established but which is not presently a permitted or conditional use in the zoning district where the activity, business or enterprise is located, or does not conform to current parking requirements. In residential zones it also means having a greater density of dwelling units than is presently allowed in the district. (Ord. 761 § 2 (part), 1993: Ord. 388 Art. 1 (part), 1975)

17.03.500 Nursing home.

“Nursing home” is deemed to include any occupancy for the reception and care of persons both ambulatory and nonambulatory which has been duly licensed by the State Health Department and the State Fire Marshal’s Office. (Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz suggested this definition be combined with Community Care Facility.**

17.03.510 Parking lot.

“Parking lot” means an open area of land, a yard or other open space on a lot other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers. (Ord. 388 Art. 1 (part), 1975)

**17.03.520 Parking space.**

“Parking space” means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles. (Ord. 388 Art. 1 (part), 1975)

**Commissioner Routh recommended this definition be redefined.**

**Commissioner Graves suggested specifying the actual dimensions for standard and compact spaces.**

**Chairperson Ortiz suggested that residential and commercial parking spaces be separately defined.**

**Commissioner Smith suggested that covered and uncovered parking spaces be defined separately.**

**17.03.525 Public works.**

“Public works” means the following:

A. All production, storage, transmission, and recovery facilities for water, sewerage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities;

B. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires and other related facilities;

C. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district;

D. All community college districts. (Ord. 677 § 12(C), 1989)

**17.03.526 Rain-sensing override device.**

“Rain-sensing override device” means a system which automatically shuts off the irrigation system when it rains. (Ord. 744 § 2 (part), 1992)

**17.03.527 Residence.**

“Residence” as used in this title means a dwelling unit, inhabited by an individual or a family, on a non-transient basis. (Ord. 690 § 2, 1990)

**17.03.530 Residential care home.**

“Residential care home” means a family residence in which room, board, and non-medical personal care services including supervision of and assistance with dressing, eating, personal hygiene, daily activity, health maintenance, transportation and protective safeguards for one to six adults are provided. (Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz suggested this definition be combined with Community Care Facility.**

**17.03.535 Restaurant.**

“Restaurant” means a retail food service establishment in which food or beverage is prepared and sold for on-site consumption. (Ord. 947 § 5, 2010)

**Chairperson Ortiz recommended defining different types of food service.**

17.03.550 Schools, elementary, junior, and senior high.

“Elementary, junior and senior high schools” means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the state. (Ord. 388 Art. I (part), 1975)

**Commissioner Routh suggested redefining this definition.**17.03.570 Service stations.

“Service stations” means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. (Ord. 388 Art. I (part), 1975)

17.03.575 Sprinkler head.

“Sprinkler head” means a device which sprays water through a nozzle. (Ord. 744 § 2 (part), 1992)

17.03.580 Stable, private.

“Private stable” means an accessory building with capacity for not more than two horses; provided, however, that the capacity of a private stable may be increased if the lot whereon such stable is located contains area of not less than twenty thousand square feet for each horse stabled, and to be used exclusively by the owners thereof and not kept for remuneration, hire or sale. (Ord. 388 Art. 1 (part), 1975)

17.03.600 Story.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six feet above grade as defined in this chapter for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined in this chapter at any point, such basement, cellar or unused under-floor space shall be considered as a story. (Ord. 388 Art. I (part), 1975)

**Chairperson Ortiz suggested redefining this definition.**17.03.610 Story, half.

“Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than one-third of the length of the wall upon which they are located, whether as a single unit or multiple dormers. (Ord. 882 § 1 (part), 2005; Ord. 873 § 10, 2004; Ord. 388 Art. I (part), 1975)

17.03.620 Street.

“Street” means a public way more than twenty feet in width which affords a primary or principal means of access to abutting property. (Ord. 388 Art. 1 (part), 1975)

17.03.630 Street, side.

“Side street” means that street bounding a corner lot and which extends in the same general direction as the line determining the length of the lot. (Ord. 388 Art. I (part), 1975)

17.03.640 Structural alterations.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof

exterior lines which would prolong the life of the supporting members of a building. (Ord. 388 Art. 1 (part), 1975)

17.03.650 Structure.

“Structure” means anything constructed or erected, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground. Pipelines, poles, wires and similar installations erected or installed by public utility districts or companies shall not be construed as structures requiring a permit under this title.

B. In the coastal zone, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. These structures do require a coastal development permit except as exempted under Section 17.46.050 of this title. (Ord. 677 § 12(D), 1989; Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz suggested redefining this definition.**

17.03.660 Supermarket.

“Supermarket” means a retail food store with a gross floor area exceeding five thousand square feet. (Ord. 388 Art. I (part), 1975)

17.03.670 Trailer, automobile.

“Automobile trailer” means a vehicle with or without motor power, designed to be drawn by a motor vehicle when necessary and to be used for human habitation and for carrying persons and property, including trailer coach or house trailer. (Ord. 388 Art. 1 (part), 1975)

17.03.680 Trailer park.

“Trailer park” means any area or tract of land intended, maintained or designed for the purpose of supplying a location for accommodation for one or more automobile trailers or mobile homes for human habitation, including trailer camps or trailer parks, whether or not a charge is made for the use of the trailer space and park facilities. (Ord. 388 Art. 1 (part), 1975)

17.03.686 Transient rental use.

“Transient rental use” means, in R-1 or R-M district, the occupancy for hire of real property or portion thereof for a period of less than thirty consecutive calendar days. “For hire,” for purposes of this section, does not include:

A. The owner or long term lessee of the property, without consideration, allowing family or friends to use the property;

B. An arrangement whereby the owner or long term lessee of the property agrees to a short term trade with another property owner or long term lessee whereby the sole consideration is each concurrently using the other’s property. (Ord. 687 § 1, 1990)

**Commissioner Routh commented that this definition conflicts with the CV/TRO Zoning District regulations.**

17.03.690 Use.

“Use,” when utilized in reference to a proposal to create or modify a building, means the kinds of intended occupancies for which the building is arranged or designed. In other contexts, “use” refers to the predominant activity or class of activities that will be allowed within a building, or upon a parcel or collection of adjacent parcels. Where it is relevant to distinguish, the phrase “design-use” will be utilized to refer to the first meaning above; and “activity-use” will be utilized for the second above-stated meaning. (Ord. 817 § 1, 2000; Ord. 388 Art 1 (part), 1975)

EN-DETAIL DEFINITION

17.03.692 Valve.

“Valve” means a device used to control the flow of water in the irrigation system. (Ord. 744 § 2 (part), 1992)

17.03.695 Vista.

“Vista” means a long view, or prospect, especially one through or along an avenue, as between rows of trees; also, the trees, structures, or other forming the avenue or view. (Ord. 515 § 3 (part), 1982)

**Chairperson Ortiz recommended utilizing the term "view shed" instead of vista.**

17.03.700 Warehouse.

“Warehouse” means a building used primarily for the more or less temporary storage of commercial goods to be sold elsewhere. (Ord. 388 Art. 1 (part), 1975)

**Chairperson Ortiz commented that this definition is vague and suggested redefining this definition.**

17.03.710 Yard.

“Yard” means an open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except for such encroachments as provided in the district regulations of this title. (Ord. 388 Art. 1 (part), 1975)

17.03.720 Yard, front.

“Front yard” means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front line of the lot and the nearest line of the main building or enclosed or covered porch. On a corner lot the front line of the lot shall ordinarily be construed as the least dimension of the lot fronting on a street. (Ord. 388 Art. 1 (part), 1975)

17.03.730 Yard, rear.

“Rear yard” means a yard extending across the full width of the lot, and measured between the rear line of the main building or enclosed or covered porch nearest the rear line of the lot; the depth of the required rear yard shall be measured horizontally. (Ord. 388 Art. 1 (part), 1975)

17.03.740 Yard, side.

“Side yard” means a yard on each side of the main building extending from the front yard to the rear yard, the width of each yard being measured between the side line of the lot and the nearest part of the main building or enclosed or covered porch. (Ord. 388 Art. 1 (part), 1975)

17.03.750 Wrecking yard.

See “Junkyard.” (Ord. 388 Art. 1 (part), 1975)

## **Chapter 17.06 ESTABLISHMENT AND DESIGNATION OF DISTRICTS**

17.06.010 Purpose.

The purpose of this title is to designate such land use regulations and a zoning plan for the city as are deemed necessary to encourage the most appropriate use of land; to enhance and stabilize the value of property; to provide open space for light and air and to prevent and fight fires; to prevent undue concentration of population; to promote orderly community development; to lessen congestion on streets; to facilitate adequate provisions for community utilities, such as transportation, schools, parks and other public requirements; and to promote health, safety and the general welfare, all in accordance with a comprehensive plan. (Ord. 388 § 2.01, 1977)



17.06.020 Establishment of land use regulations and city districts.

In order to classify land within the city, to regulate and restrict the location and use of buildings, or other purposes, to regulate and limit the height, number of stories, exterior design, size of buildings and other structures hereafter erected or altered; to regulate and determine the size of yards and other open spaces; and to regulate and limit the density of population, and for said purpose to divide the city into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement, the city creates the following districts:

- A-P — Archaeological/paleontological resource district
- R-1 — Single-family residence district
- R-M — Multiple-family residence district
- C-V — Central village district
- RRO — Riverview Avenue residential overlay district (See Section 17.21.100(B))
- CAO — Cherry Avenue overlay district (See Section 17.21.100(B))
- C-R — Commercial/residential district
- C-N — Neighborhood commercial district (See Ordinance 658 which amends Chapter 17.24)
- C-C — Community commercial district
- P/OS — Parks and open space district
- V-S — Visitor serving
- P-O — Professional office district
- I-P — Industrial park district
- P-D — Planned development district
- P-F — Public facilities district
- C-Z — Coastal zone combining district
- A-R — Automatic review district
- G-H — Geologic hazard district
- F-P — Floodplain combining district
- TRO — Transient rental use overlay district (See municipal code Chapter 17.19)  
(Ord. 708 § 1, 1991; Ord. 696 § 1, 1990; Ord. 677 § 13(A), 1989; Ord. 388 § 2.02, 1975)

17.06.030 District boundaries.

Districts aforesaid and the boundaries of such districts for the regulation of the uses of land and buildings are shown upon the zoning map as set forth in Chapter 17.09 of this title. (Ord. 677 § 13(B), 1989; Ord. 388 § 2.03, 1975)

17.06.040 Regulations applicable by districts.

Except as provided in Chapter 9.36 regarding temporary activities, no land shall be used, and no building or structure shall be erected, constructed, reconstructed, enlarged, structurally altered, moved or used for any purpose other than is permitted in the district in which such building or land is located, as shown upon the zoning map, except in accordance with the regulations established by this title for said district and in accordance with the general regulations of Chapter 17.81, and nonconforming use provisions of Chapter 17.72. Adjustment and variation of regulations and provisions in this title may be applied for as provided in Chapter 17.66. (Ord. 507 (part), 1981; Ord. 388 § 2.04, 1975)

**Chapter 17.09 ZONING MAPS**17.09.010 Zoning map of the city of Capitola.

A. From and after April 27, 1989, the zoning map (see Section 17.06.030) of the city shall be that certain “City of Capitola Zoning Map” which the community development director has filed with the city clerk and the city clerk has certified and dated April 7, 1989.

B. An amendment of the zoning map or of any part, extension, or amendment thereof may be made, and changes in symbols, legends, classifications, notations, references or other matters shown thereon may be made, by the preparation and adoption of a new zoning map or part thereof. Within the coastal zone, revisions of the zoning map shall be subject to the provisions of Section 17.69.120 of this title.

C. Each amendment of the zoning map shall be dated and shall be identified as an amendment to this section of the municipal code.

D. The zoning map, including all amendments hereafter adopted, shall govern the administration and enforcement of all regulations contained in this title and issuance of permits. (Ord. 677 § 14, 1989; Ord. 388 Art. 3, 1975)

**Commissioner Graves commented that there needs to be a clearer interpretation of the zoning maps.**

**Commissioner Smith commented that the zoning map colors need to be more distinct to better define the zones.**

## **Chapter 17.11 ARCHAEOLOGICAL/PALEONTOLOGICAL RESOURCES DISTRICT**

### 17.11.010 Intent.

The purpose of this section is to provide development standards which assure the maintenance and protection of Capitola archaeological/paleontological resources. New land uses and development, both public and private, shall be considered compatible with this purpose only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological resources. (Ord. 677 § 5 (part), 1989)

### 17.11.020 Coastal development permit requirements.

Development proposed within seven hundred fifty feet of a known archaeological/paleontological resource, as identified through the survey report, or as shown on current Capitola resource maps or other available information, shall be required to obtain a coastal development permit. (Ord. 677 § 5 (part), 1989)

### 17.11.030 Archaeological survey report requirement.

- A. An archaeological survey report shall be required for any development located within:
1. “Archaeological/Paleontological Sensitivity Areas” as mapped on city of Capitola resource map (LUP p. 19, Map I-1);
  2. Seven hundred fifty feet of a known archaeological resource; or
  3. An area with a probability of containing archaeological resources, as determined through the planner’s onsite investigation or other available information.
- B. The survey report shall be required by, submitted to and approved by the city prior to the application being considered complete. Two copies of the report shall be submitted
- C. The survey report shall be prepared, at the applicant’s expense, by a qualified archaeologist, as included on the city’s list of archaeological consultants or by a member of the Society of Professional Archaeologists.
- D. Where construction on, or construction impacts to, an identified archaeological or paleontological site cannot be avoided, as verified in the archaeological report prepared for the project, a mitigation plan shall be required for the project. Prior to the application being considered complete, the plan shall be required by, submitted to and approved by the city. The plan shall be prepared at the applicant’s expense by a qualified archaeologist, either on the city’s list of archaeological consultants or as a member of the Society of Professional Archaeologists. Included in the plan shall be recommended preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission. The

consulting archaeologist shall file the report with the State Office of Historic Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the city attorney, binding the property's owner to the restrictions or requirements, shall be recorded. Such agreement shall list the official file number of the report and the location of the document.

E. The recommended mitigation measures contained in the archaeological survey report prepared for the site shall be made condition(s) of approval.

F. Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:

1. The preservation measures shall be undertaken and completed prior to the issuance of building or grading permits; or

2. Where appropriate according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading or building permit; and

3. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the city prior to the issuance of building or grading permits. Two copies of the report shall be submitted.

G. The report shall be prepared according to the report standards of the Society of Professional Archaeologists and must include, at a minimum, a field survey by the archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity and any identified archaeological resources, appropriate levels of development on the site, and recommended mitigation measures. The report may be required to include additional information, according to the circumstances of the particular site.

H. An archaeological survey report may be waived by the director of planning under the following circumstances:

1. A previous report was prepared for the site by a qualified archaeologist, as included on the city's list of archaeological consultants or as a member of the Society of Professional Archaeologists; and

2. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or

3. The proposed development does not involve land clearing or land disturbance. (Ord. 677 § 5 (part), 1989)

#### 17.11.040 Environmental assessment requirement.

All development proposed on parcels with known archaeological resources, as identified through the survey report, shall be subject to environmental assessment under the CEQA guidelines. (Ord. 677 § 5 (part), 1989)

#### 17.11.050 Development standards.

A. Development proposed on parcels with an identified archeological site shall be designed and located so as to avoid development on or impacts to the site. Alternative siting or location, reduction of project size, and other techniques shall be utilized where that will result in reduced impact to or nondisturbance of the archaeological site.

B. Development on parcels with an archaeological site, as identified through an archaeological report prepared for the site, shall be subject to the mitigation measures of the archaeological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits. (Ord. 685 § 13, 1989; Ord. 677 § 5 (part), 1989)

**Commissioner Newman commented that the section is well written, but noted that a coastal permit is required for inland areas, which seems to be poorly worded and needs clarification. He suggested a thorough review of the code section and clarification in the definition.**

**Chapter 17.12 MHE MOBILE HOME EXCLUSIVE DISTRICT**Note

\* Prior history: Ord. 476.

17.12.010 Applicability.

The regulations in this chapter shall apply in all MHE districts. (Ord. 576 § 1 (part), 1984)

17.12.020 Principal permitted uses.

The following are principal permitted uses in an MHE district: mobile home parks. (Ord. 576 § 1 (part), 1984)

17.12.030 Accessory uses.

The following are accessory uses permitted in an MHE district: accessory uses in buildings customarily appurtenant to any principally permitted use. (Ord. 576 § 1 (part), 1984)

17.12.040 Conditional uses.

The following are conditional uses in an MHE district, subject in each case to the securing of a use permit as provided in Chapter 17.60:

- A. Home occupation;
- B. Offices incidental and necessary to conduct of a mobile home park use, including single-family dwellings;
- C. Public facilities and utilities;
- D. Single-family dwellings which are located on the mobile home park parcel or on separate parcels of no less than five thousand one hundred square feet;
- E. One sign for each public street upon which the property abuts for purposes of identifying the principal use therein conducted. (Ord. 648, 1988; Ord. 576 § 1 (part), 1984)

17.12.050 Minimum lot area.

For vacant property hereafter rezoned to MHE, the minimum lot shall be five acres. For mobile home parks existing at the time of rezoning to MHE the minimum lot size shall be five acres or the existing lot size, whichever is less. (Ord. 576 § 1 (part), 1984)

17.12.060 Architectural and site review.

Architectural and site review approval shall be secured for any use in an MHE district. (Ord. 576 § 1 (part), 1984)

**7. DIRECTOR'S REPORT**

Community Development Director Johnson provided the Commission a status update on the following items: The GPAC held a community workshop pertaining to 41<sup>st</sup> Avenue. The next meeting will be held on August 7<sup>th</sup> to discuss the Bay Avenue corridor. The Planning Commission will be reviewing some Housing Element action items; the Police Department has moved into the remodeled offices; the status of the RDA will be discussed at the 8/11/11 meeting; code enforcement will be actively enforcing banners and signs.

**8. COMMISSION COMMUNICATIONS**

Commissioner Smith and Commissioner Routh will be absent from the October meeting.

## **9. ADJOURNMENT**

The Planning Commission adjourned the meeting at 8:46 p.m. to a Regular Meeting of the Planning Commission to be held on Thursday, September 1, 2011 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Approved by the Planning Commission on September 1, 2011

---

Danielle Uharriet, Minute Clerk



**STAFF REPORT**

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: AUGUST 23, 2011 (AGENDA: SEPTEMBER 1, 2011)

SUBJECT: **1545 LINCOLN AVENUE** **#11-071** **APN: 034-041-14**  
 Design Permit to demolish a single-family residence and construct a new two-story single-family residence in the R-1 (Single-Family Residence) Zoning District.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Santa Cruz Capital, LLC/ Peter Tiemann, filed 6/29/11  
 Representative: Frank Ho

APPLICANT'S PROPOSAL

The applicant is proposing to demolish an existing one-story single-family residence and construct a new 1,819 square foot two-story single-family structure with an attached garage at 1545 Lincoln in the R-1 (Single Family Residence) zoning district. The use is consistent with the General Plan, Zoning Ordinance and Local Coastal Plan.

<b><u>STRUCTURAL DATA</u></b>				
<b><u>SETBACKS</u></b>		<b>Required</b>	<b>Proposed</b>	
<b>Front Yard</b>	Driveway	20'	20'	
	1 <sup>st</sup> Story	15'	15'	
	2 <sup>nd</sup> Story	20'	20'	
<b>Rear Yard</b>	1 <sup>st</sup> Story	16'	16'	
	2 <sup>nd</sup> Story	16'	21'-11"	
<b>Side Yard</b>	1 <sup>st</sup> Story	10' (l) & 4' (r)	10' (l) & 5' (r)	
	2 <sup>nd</sup> Story	10' (l) & 6' (r)	12' (l) & 6' (r)	
<b><u>HEIGHT</u></b>		25'	24'-8"	
<b><u>FLOOR AREA RATIO</u></b>	<b>Lot Size</b>	<b>MAX (57%)</b>	<b>Proposed (57%)</b>	
	3,200 sq. ft	1,824 sq. ft.	1,819 sq. ft	

	<b>Habitable Space</b>	<b>Garage</b>	<b>Covered Porch</b>	<b>Total</b>
Proposed First Story	946 sq. ft.	233 sq. ft.	0 sq. ft.**	1,179 sq. ft.
Proposed Second Story	640 sq. ft.	-	-	640 sq. ft.
Proposed TOTAL	1,586 sq. ft.	233 sq. ft.	0 sq. ft.**	1,819 sq. ft.
<b>PARKING</b>				
	<b>Required</b>	<b>Proposed</b>		
	1 covered space	1 covered space		
	1 uncovered space	1 uncovered space		
Total	2 spaces	2 spaces		

\*\* There is a credit of 150 sq. ft. for first floor covered porches. Therefore, the 90 sq. ft. does not count towards the projects FAR.

### **ARCHITECTURAL AND SITE REVIEW COMMITTEE**

On July 27, 2011, the Architectural and Site Review Committee reviewed the application.

- City Architect Frank Phanton complimented the design of the house.
- Public Works Director Steve Jesberg conditioned that the development implement at least one low impact development BMP from the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County.
- Historian Carolyn Swift explained that she had reviewed the historic report prepared for the structure, and concluded that the structure was not historically significant to Capitola.
- Building Official Mark Wheeler informed the applicants of the building permit process, including green building, fire sprinkler and survey requirements.
- Senior Planner Bane requested details for the new fence, and noted that utilities would need to be undergrounded, and that the applicant should contact PG&E and the Soquel Creek Water District to begin approvals through those entities.

### **DISCUSSION**

The subject property is a flat 3,200 square foot lot within a developed single-family neighborhood. The existing single story single-family home is proposed to be demolished, and a new two-story home constructed. The new home will consist of 1,586 square feet of living space and a 233 square foot one-car garage.

The proposed home is of a fairly contemporary style, employing a mix of materials including stucco walls, tile roof, and wood trim. A color and materials board will be available for review at the Planning Commission meeting. No trees are proposed for removal, and all new landscaping is proposed for the front of the home, as indicated on the landscape plan provided. Curb and gutter currently exists along a portion of the site, but no sidewalk will be required as the site is located in a curb, gutter and sidewalk exempt area.

The project conforms to the R-1 district development standards, including height, setbacks, parking and FAR requirements.

## Historical

The existing house proposed for demolition is a small one-story wood-frame structure that appears to have been constructed in the late nineteenth or early twentieth century. It was moved to the lot sometime between 1910 and 1927 and subsequently enlarged and altered. The house is in poor to fair condition, having lost its physical integrity to numerous alterations over the years.

An historic evaluation (Attachment B) was prepared by Anthony Kirk and peer reviewed by City Historian Carolyn Swift. It was concluded that the house would not meet the criteria for qualification into the California Register of Historical Resources, and would not be a significant historic resource under CEQA. The house is therefore not subject to CEQA, and staff can support the demolition of the house.

## **RECOMMENDATION**

Staff recommends that the Planning Commission **approve** project application #11-071 based on the following Conditions and Findings for Approval.

## **CONDITIONS**

1. The project approval consists of demolition of a one-story single-family house and construction a new two-story 1,819 square foot single-family residence at 5040 Garnet Street.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. Hours of construction shall be Monday to Friday 7:30 a.m. – 9:00 p.m., and Saturday 9:00 a.m. – 4:00 p.m., per city ordinance.
4. The utilities shall be underground to the nearest utility pole in accordance with PG&E and Public Works Department requirements. A note shall be placed on the final building plans indicating this requirement.
5. Curb and gutter that is currently deteriorated or is damaged during construction shall be repaired or replaced, as determined by and to the satisfaction of the Public Works Director.
6. An encroachment permit shall be acquired for any work performed in the right-of-way.
7. A drainage plan or design shall be submitted with the final building plans, to the satisfaction of the Public Works Director.
8. The project shall implement at least one low impact development BMP from the *Slow it. Spread it. Sink it. Homeowner's Guide to Greening Stormwater Runoff* by the Resource Conservation District of Santa Cruz County.
9. The final landscape plan shall be submitted with the building permit application and will include the specific number of plants of each type and their size, as well as the irrigation system to be utilized. Front yard landscaping shall be installed prior to final building occupancy.
10. Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance. Any appropriate fees shall be paid prior to building permit issuance.



11. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

## **FINDINGS**

**A. The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

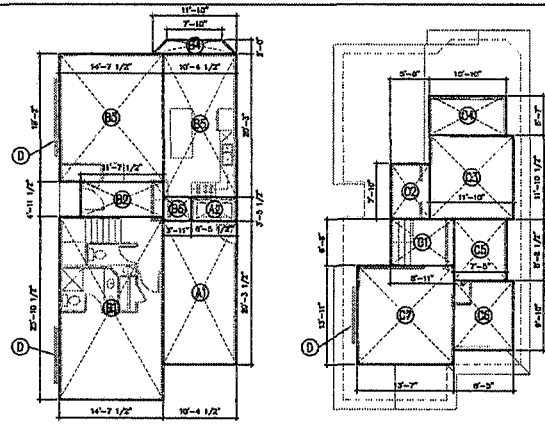
**C. This project is categorically exempt under Section 15303(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves construction of a new single-family residence in the R-1 (single family residence) Zoning District. Section 15303 of the CEQA Guidelines exempts the construction of a single-family residence in a residential zone.

**Report Prepared By:** Ryan Bane  
Senior Planner

Attachment A - Project Plans  
Attachment B – Historic Evaluation





**C FIRST AND SECOND FLOOR AREA DIAGRAM CALCULATION**  
1/8" = 1'-0"

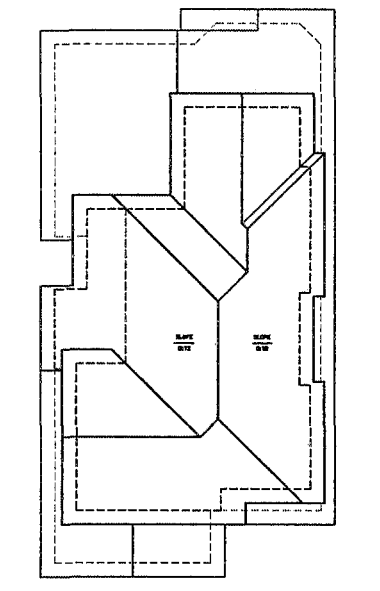
**FIRST FLOOR:**

GARAGE	
①	15'-4" x 20'-3" = 210.525F
②	8'-9" x 5'-9" = 22.345F
<b>TOTAL</b>	<b>232.870F = 23339F</b>
LIVING AREA	
③	14'-7" x 25'-10" = 378.425F
④	11'-7" x 4'-11" = 57.845F
⑤	14'-7" x 18'-2" = 280.885F
⑥	11'-10" x 7'-10" = 18.475F
⑦	10'-4" x 20'-3" = 210.105F
⑧	5'-11" x 5'-5" = 13.505F
<b>TOTAL</b>	<b>= 945.075F = 94659F</b>

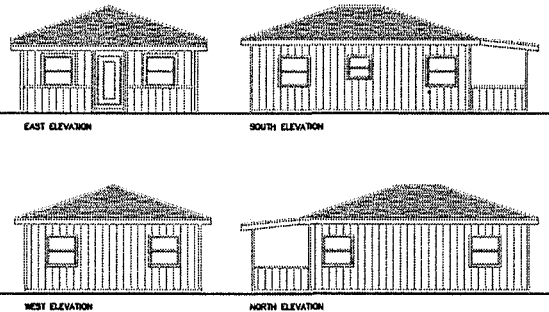
**SECOND FLOOR:**

LIVING AREA	
⑨	8'-11" x 8'-8" = 88.405F
⑩	5'-8" x 7'-10" = 43.065F
⑪	11'-10" x 11'-10" = 140.525F
⑫	10'-10" x 5'-7" = 60.485F
⑬	7'-5" x 6'-8" = 64.565F
⑭	8'-5" x 6'-10" = 82.775F
⑮	12'-7" x 12'-11" = 186.045F
<b>TOTAL</b>	<b>= 636.935F = 64059F</b>

⑯ WINDOW PROJECT < 12", NOT COUNT



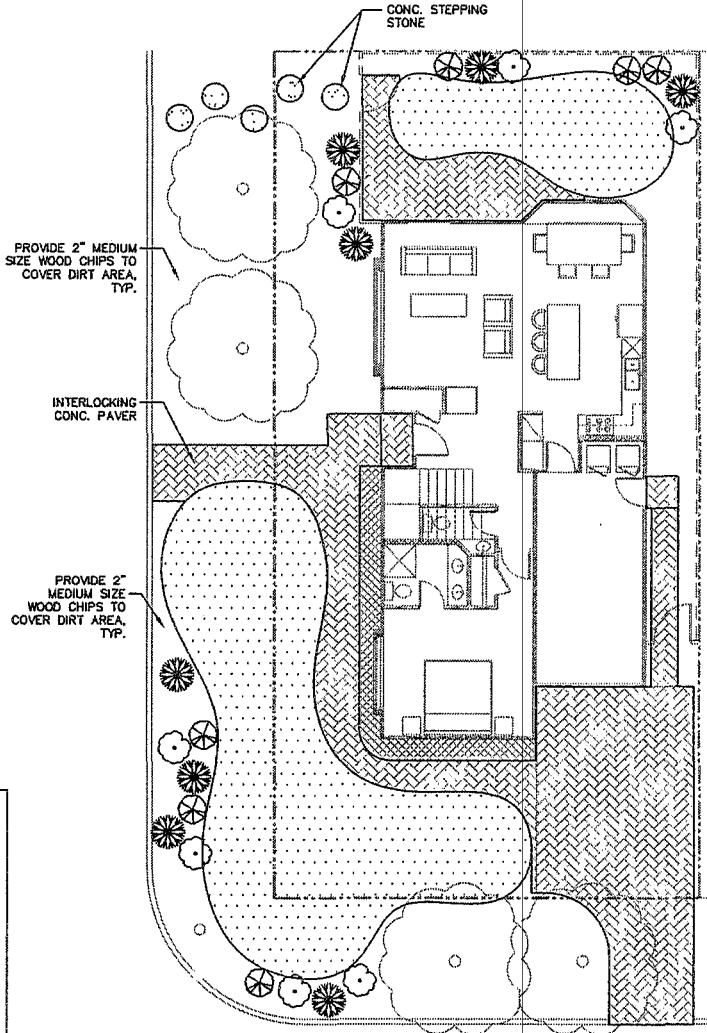
**B ROOF PLAN**  
3/16" = 1'-0"



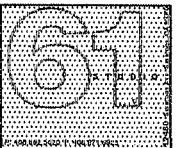
**D EXISTING EXTERIOR ELEVATION**  
1/8" = 1'-0"

**LOW WATER USAGE LANDSCAPE**

- CARRISSA MACRO CARPA - NATAL PLUM
- PHORMIUM TENAX - NEW ZEALAND FLAX
- PRUNUS CAROLINA LAUREL CHEERY
- BUCHLOE DACTYLOIDES - BUFFALO GRASS
- GROUND COVER BACCHARIS THM PEAK - DWARF COYOTE BRUSH, THM PEAK



**A LANDSCAPE PLAN**  
3/16" = 1'-0"



Project:  
Santa Cruz Capital  
Mr. Peter Tsamann  
Mrs. Pia Jürg  
New Custom Homes  
1543 Lincoln Avenue  
Capitola, CA 95010

Applicant/Owner:  
Santa Cruz Capital  
Mr. Peter Tsamann  
Mrs. Pia Jürg  
New Custom Homes  
1880 43rd Avenue  
Capitola, CA 95010

Architect:  
STUDIO d1 ARCHITECTS, Inc  
12482 Saratoga Ave  
Saratoga, CA 95070  
T: (408) 892-5023  
F: (408) 871-0623  
Email: P@STUDIOd1.COM



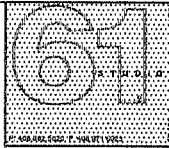
STRUCTURE ENGINEER

NO. _____	Revision _____	Date _____
Drawn By _____	Date _____	
File _____		
Issue _____		
Date _____	5/24/11	

Sheet Title:  
1ST & 2ND FLR AREA DIAGRAM  
LANDSCAPE AREA DIAGRAM  
PRIVACY PROTECTION DIAGRAM

Sheet No

**A0.2**



Project:  
 Santa Cruz Capital  
 Mr. Peter Ternant  
 Mrs. Hui Jiang  
 New Custom Homes  
 1800 Lincoln Avenue  
 Capitola, CA 95010

Applicant/Owner:  
 Santa Cruz Capital  
 Mr. Peter Ternant  
 Mrs. Hui Jiang  
 New Custom Homes  
 1800 43rd Avenue  
 Capitola, CA 95010

Architect:  
 STUDIO 61 ARCHITECTS, Inc.  
 12480 Saratoga Ave.  
 Saratoga, CA 95070  
 T. (408) 892-9833  
 F. (408) 871-6222  
 Email: FRANKLING@YAHOO.COM



STRUCTURE ENGINEER

NO.	Revision	Date

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 Date: \_\_\_\_\_

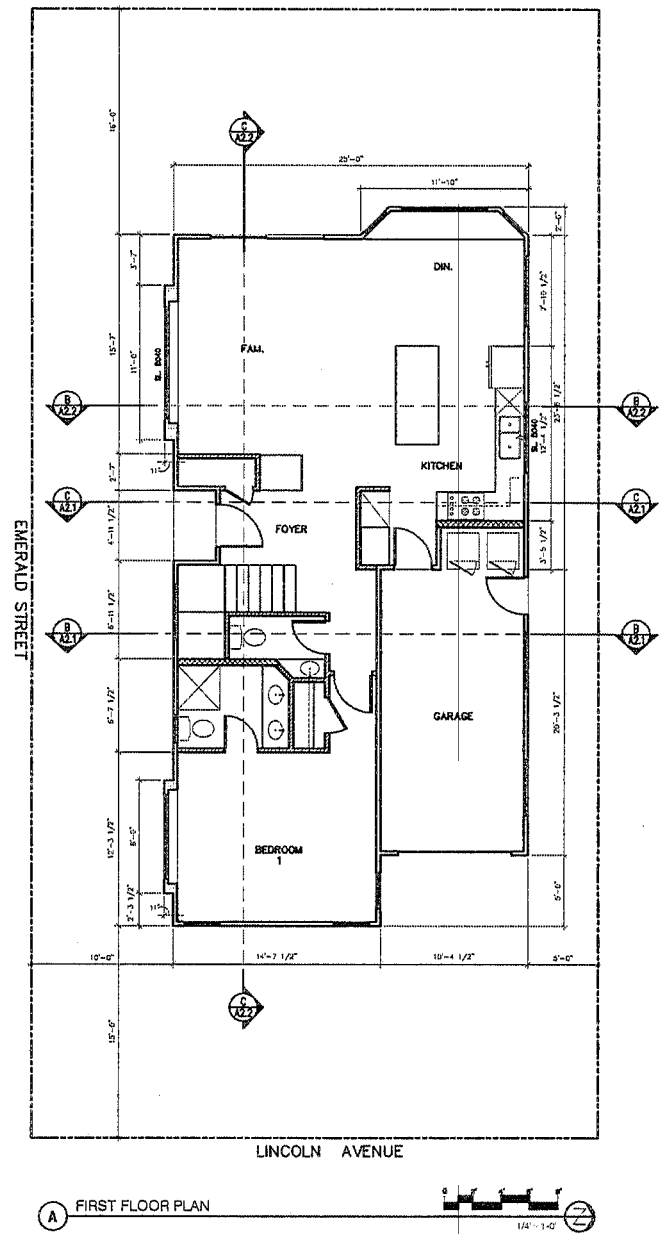
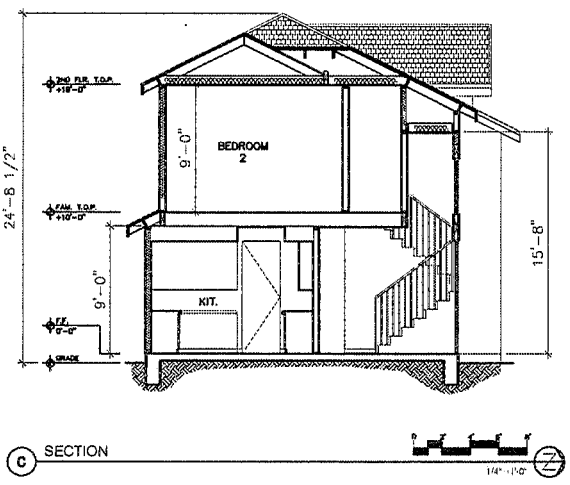
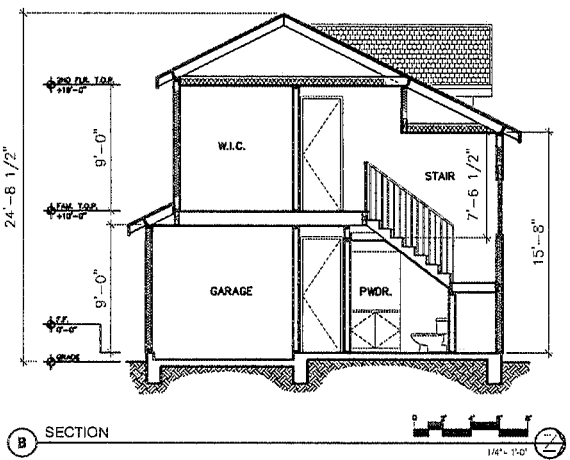
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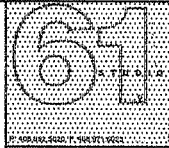
ISSUE: \_\_\_\_\_

DATE: 5/24/2011

Sheet Title:  
 FIRST FLOOR PLAN  
 SECTIONS

Sheet No.





Project:  
 Santa Cruz Capital  
 Mr. Peter Tamam  
 Mrs. Hui Jiang  
 New Custom Homes  
 1248 Saratoga Avenue  
 Capitola, CA 95010

Applicant/Owner:  
 Santa Cruz Capital  
 Mr. Peter Tamam  
 Mrs. Hui Jiang  
 New Custom Homes  
 1800 43rd Avenue  
 Capitola, CA 95010

Architect:  
 STUDIO 61 ARCHITECTS, Inc.  
 1248 Saratoga Ave  
 Saratoga, CA 95070  
 T: (408) 852-5633  
 F: (408) 871-6623  
 Email: FRANKLHO@YAHOO.COM



STRUCTURE ENGINEER

NO. Revision Date  
 Drawn By: DDD

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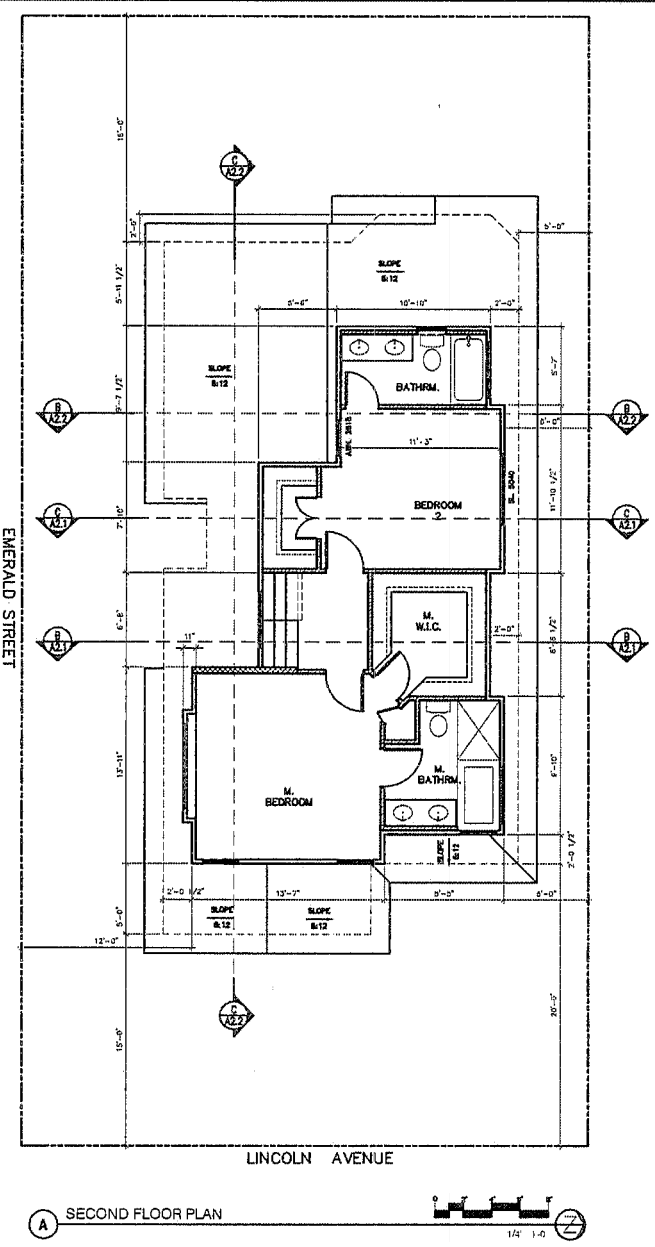
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Date: 5.24.2011

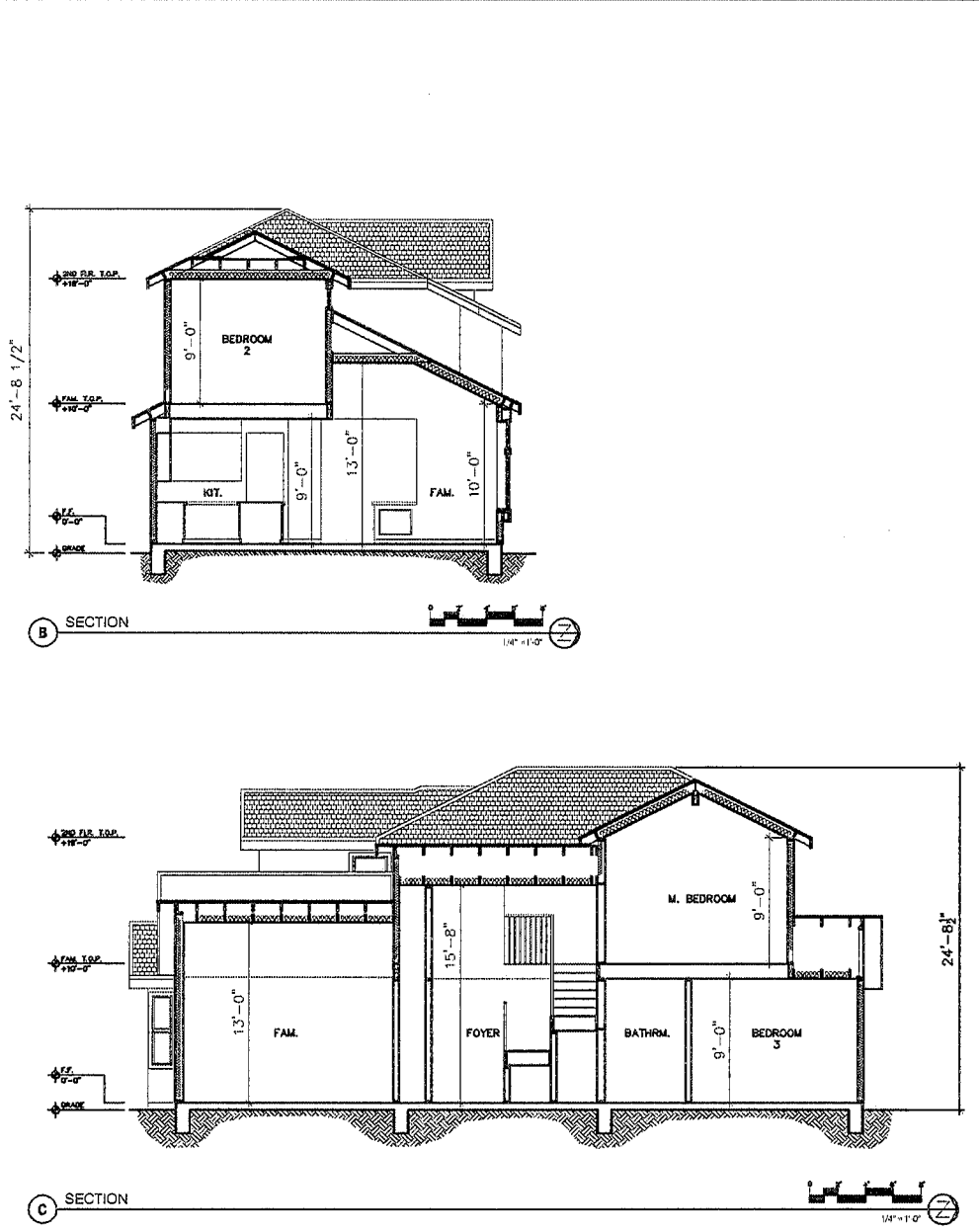
Sheet Title:  
 SECOND FLOOR PLAN SECTIONS

Sheet No.:

A2.2



A SECOND FLOOR PLAN



B SECTION

C SECTION

State of California -- The Resources Agency DEPARTMENT OF PARKS AND RECREATION <b>PRIMARY RECORD</b>	Primary # _____ HRI # _____ Trinomial _____ NRHP Status Code _____
Other Listings _____ Review Code _____	Reviewer _____ Date _____

Page 1 of 4

\*Resource Name or #: (Assigned by recorder) 1545 Lincoln Avenue

**P1. Other Identifier:**

\*P2. Location:  Not for Publication  Unrestricted \*a. County Santa Cruz

and (P2b and P2c or P2d. Attach a Location Map as necessary)

\*b. USGS 7.5' Quad Soquel Date T ; R ; 1/4 of 1/4 of Sec ; B.M.

c. Address 1545 Lincoln Avenue City Capitola Zip 95010

d. UTM: (Give more than one for large and/or linear resources) Zone ; mE/ mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)

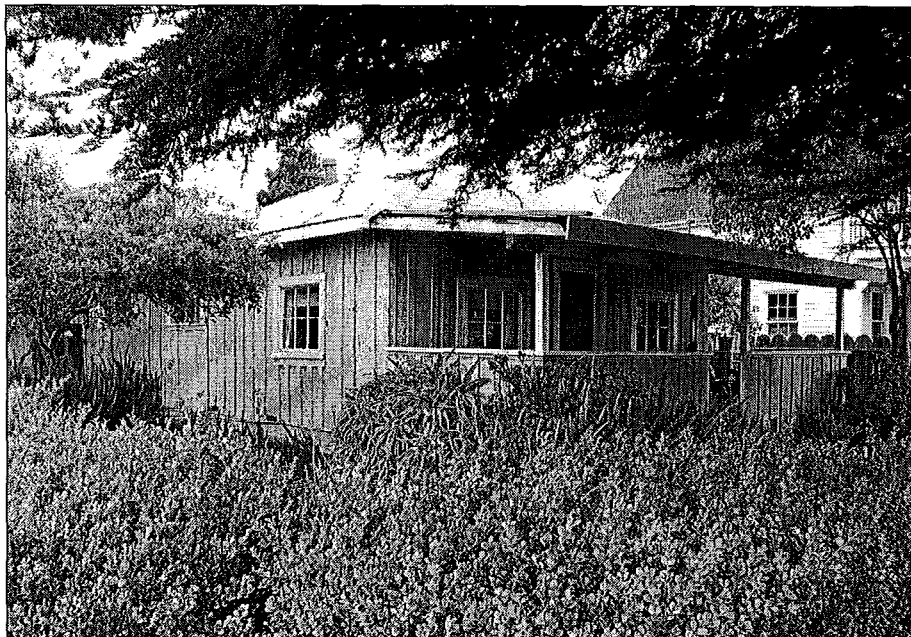
Santa Cruz County APN 034-041-14

\*P3a. **Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting and boundaries)

The single-family residence at 1545 Lincoln Avenue, Capitola, (DPR 523A Photo and figures 1 and 2) is a small one-story wood-frame house that appears to have been constructed in the late nineteenth or the early twentieth century. It was moved to the lot on which it now stands sometime between 1910 and 1927 and subsequently enlarged and altered. It is rectangular in plan, with a small addition extending along the back of the house, and rests on a concrete perimeter foundation. On the east side, facing Lincoln Avenue, a short straight-flight stairway leads to a full-width front porch with a closed board-and-batten railing. The walls of the original block are clad with rough-sawn board-and-batten siding, the boards cut to a wide range of widths, the largest measuring more than twice the dimension of the smallest. The addition is clad with flush vertical boards on the south side, plywood sheets on the west, and board-and-batten siding on the north. Fenestration is symmetrical on the façade and asymmetrical on the other sides, consisting chiefly of fixed six-light wood-sash windows. Two paired four-light casements are located high on the south wall near the west end, close to a sliding aluminum-sash window in the addition. The moderately pitched pyramidal roof covering the original block of the house is characterized by closed eaves with little overhang. It is finished with composition sheets, as are (continued on page 3)

\*P3b. **Resource Attributes:** (List attributes and codes) HP2 - Single Family Property

\*P4. **Resources Present:**  Building  Structure  Object  Site  District  Element of District  Other (Isolates, etc.)



P5b. Description of Photo: (View, date, accession #) Looking northwest at south and east elevations, 6/9/11

\*P6. **Date Constructed/Age and Sources:**

Historic  Prehistoric  Both

ca. 1890-1920

\*P7. **Owner and Address:**

Santa Cruz Capital, LLC

1860 43rd Avenue

Capitola, CA 95010

\*P8. **Recorded by:** (Name, affiliation, and address)

Anthony Kirk, Ph.D.

134 McCornick Street

Santa Cruz, CA 95062

\*P9. **Date Recorded:** 6/17/11

\*P10. **Survey Type:** (Describe)

CEQA Review

\*P11. **Report Citation:** (cite survey report and other sources, or enter "none.") None

\*Attachments:  NONE  Location Map  Sketch Map  Continuation Sheet  Building, Structure and Object Record

Archaeological Record  District Record  Linear Feature Record  Milling Station Record  Rock Art Record

Artifact Record  Photograph Record  Other (List)

**BUILDING, STRUCTURE, AND OBJECT RECORD**

Page 2 of 4

\*NRHP Status Code

\*Resource Name or # (Assigned by recorder) 1545 Lincoln Avenue

B1. Historic Name: None

B2. Common Name: None

B3. Original Use: Residence

B4. Present Use: Residence

\*B5. Architectural Style: None

\*B6. Construction History: (Construction date, alteration, and date of alterations) Constructed ca 1890-1910; moved to current lot ca. 1910-27; addition to west side ca 1928-48; moved to front of lot, placed on concrete perimeter foundation, and new front porch built 1975; plywood siding added to west side ca. 1999-2000.

\*B7. Moved?  No  Yes  Unknown Date: ca. 1910-27 Original Location: Unknown

\*B8. Related Features: none

B9a. Architect: None

b. Builder: Unknown

\*B10. Significance: Theme n/a

Area n/a

Period of Significance n/a

Property Type n/a

Applicable Criteria n/a

(Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Address integrity.)

Nothing is known about the early history of the house. It was moved from an unknown location in the vicinity of Capitola-by-the Sea between 1910 and 1927 by John Nicol. A native of Scotland, Nicol had come to Capitola by way of Palo Alto about 1910 with his wife, Margaret, also a Scot. At an early date Nicol acquired three lots at the northeast corner of Lincoln Avenue and 1st Street (now Emerald Street) and five lots on the other side of 1st, comprising the entire north half of the block. By turns a stabler, a baker, and a postal transfer driver, John Nicol was, as well, a sometime house mover, and it was he who brought the cottage to the corner lot. As he did with other houses he moved to his various lots, Nicol rented it out, occasionally to family members, including his son, John "Jack" Nicol Jr., a plumber, who, along with his wife, resided in the cottage during the war years. The property later came into the hands of the elder Nicol's married daughter, Jean Hunter, and then passed through a series of owners, including Don Bewley, who in 1975 moved it to the front of the lot. During these years, the house continued to serve as a rental, chiefly, if not exclusively, to long-term tenants rather than vacationers. (continued on page 3)

B11. Additional Resource Attributes (List attributes and codes):

\*B12. References:

Residential Building Record: 1545 Lincoln Avenue, Office of the Santa Cruz County Assessor.

Building Permits, City of Capitola Planning Department.

"Camp Fairview and Vicinity" subdivision map, annotated by

George Washington, Capitola Historical Museum.

Sanborn Map Co., *Capitola, California* (1927).

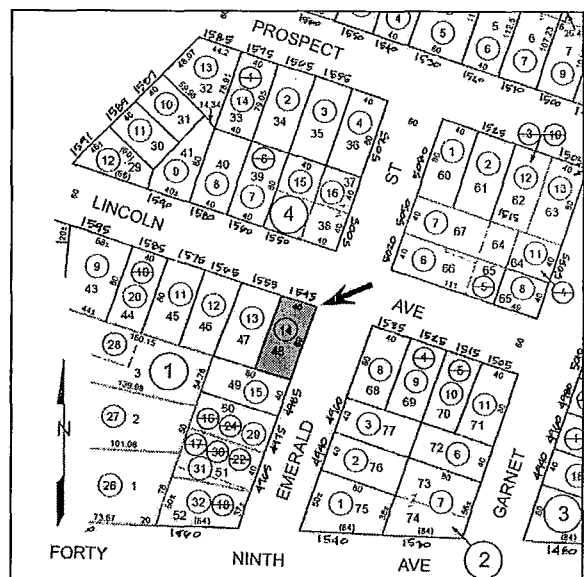
John K. Nicol, telephone interview, 6/10/11.

B13. Remarks:

\*B14. Evaluator: Anthony Kirk, Ph.D.

\*Date of Evaluation: 6/17/11

(This space reserved for official comments.)



\*Required Information

Page 3 of 4                      \*Resource Name or # (Assigned by recorder) 1545 Lincoln Avenue  
 \*Recorded by Anthony Kirk, Ph.D.                      \*Date 6/17/11                       Continuation     Update

**P3a. Description:**

the shed roofs covering the porch and the addition, both of which form extensions of the principal roof.

As originally constructed, the house was nearly square in plan, possibly with a shed-roofed entry porch, and rested on a mudsill. The walls were clad with board-and-batten siding; the pyramidal roof was characterized by narrow, open eaves and finished with wood shingles. Fenestration possibly consisted of a combination of fixed and casement windows. Probably in the second decade of the twentieth century, and certainly no later than 1927, the house was moved to the corner of 1st Street (present-day Emerald Street) and Lincoln Avenue and placed on a mudsill. The earliest Sanborn map to cover this section of the Camp Fairview subdivision, published in November 1927, shows it situated at the rear of the lot, with an entry porch on the south side, facing 1st Street. At an unknown date but likely sometime in the following decade, a small board-and-batten shed-roofed addition was constructed along the back of the house.

In December 1975 work was begun on a major improvement project that included moving the house to the front of the lot, rotating it ninety degrees, and placing it on a concrete perimeter foundation. It was at this time that a new and considerably larger porch was constructed, the eaves closed with soffit boards, and the entire house roofed with composition sheets. At a later date, probably within the last dozen years, the back of the addition was covered with plywood sheets.

The house, which appears to be in poor to fair condition, is set back moderately from Lincoln Avenue, a built-out residential street lined with a mix of newer and older houses, several of which appear to date back to the early days of the subdivision. The grounds, which suffer from a lack of maintenance, are dominated by two massive Monterey cypress at the front of the property and enclosed by a low picket fence.

**B10. Significance:**

The property is not associated with events that have made a significant contribution to the broad patterns of national, state, or local history; nor is it associated with individuals significant in the annals of the United States, California, or Capitola. Architecturally, the house is an extremely simple structure, entirely lacking in decorative detailing and without a pattern of physical features, or attributes, associated with a particular style. It is, generally speaking, an example of the pyramidal family of folk housing, the term folk housing comprising a broadly inclusive category encompassing numerous other types of modest dwellings built from the mid-nineteenth century through the early twentieth century and not infrequently designated as vernacular. There is no evidence, however, that the house is significant within the context of this type of construction, which it should be observed, does not appear in the *Historic Context Statement for the City of Capitola* (2004).

Under the criteria set forth in Section 17.87.030(A) of the City of Capitola Municipal Code, the property does not appear to be eligible for listing in the Capitola Register of Historic Features; and under the criteria set forth in Section 5024.1(c) of the California Public Resources Code, and expanded in Section 4852(b) of the California Code of Regulations, the property does not appear to be eligible for listing in the California Register of Historical Resources.



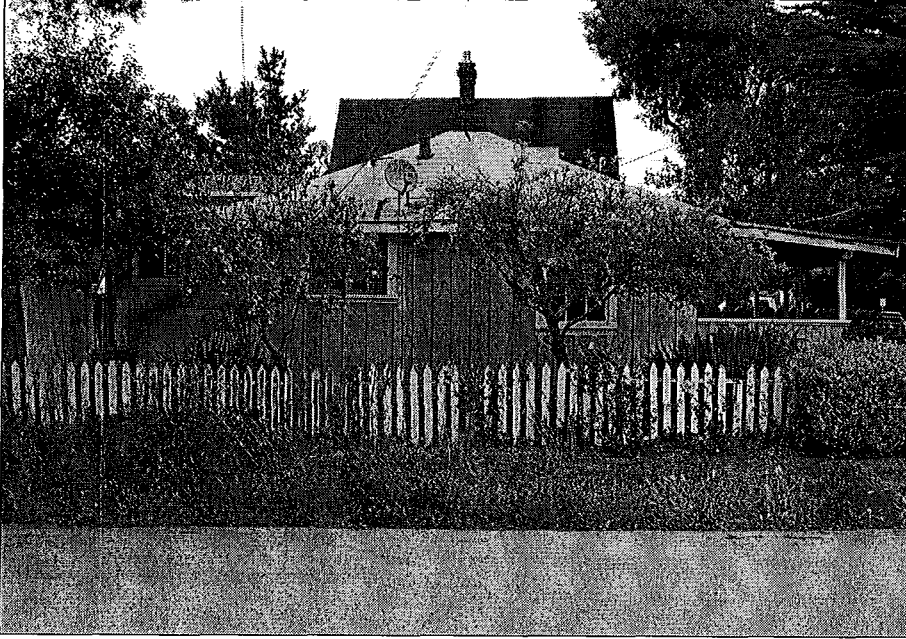
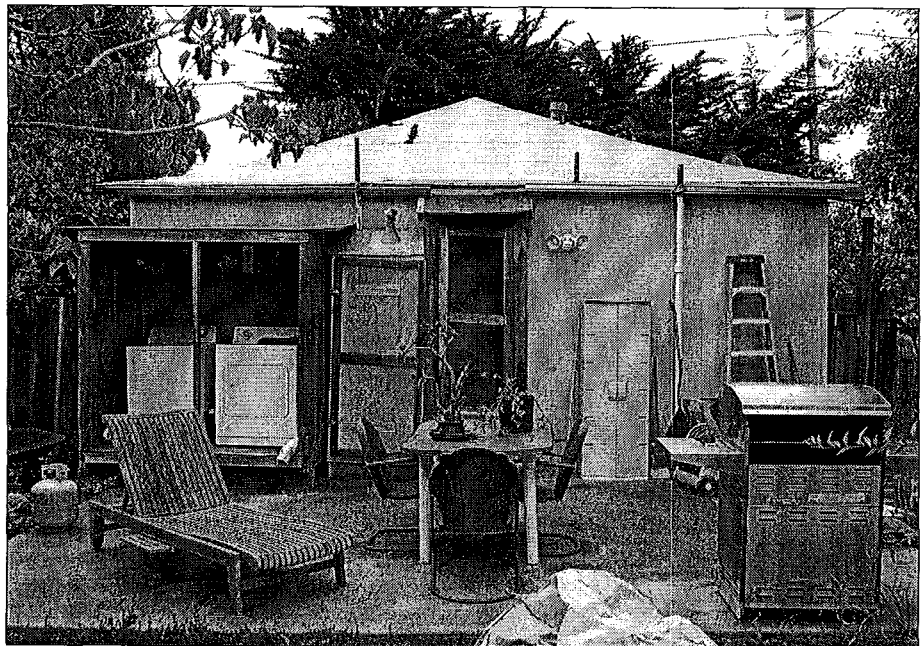


Figure 1. Looking north at south elevation, 6/9/11.

Figure 2. Looking east at west elevation, 6/9/11.





## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: AUGUST 24, 2011 (AGENDA: SEPTEMBER 1, 2011)

SUBJECT: **104 FAIRVIEW AVENUE** **#11-085** **APN: 036-111-13**  
 Design Permit to construct a new deck and retaining wall for a single-family residence in the R-1 (Single-Family Residence) Zoning District.  
 Environmental Determination: Categorical Exemption  
 Property Owner: John Gachina, filed 8/11/11  
 Representative: Jerry Allison

### APPLICANT'S PROPOSAL

As part of a landscaping project, the applicant is proposing a deck and a series of retaining walls for a single-family house at 104 Fairview Avenue in the R-1 (Single Family Residence) zoning district. The use is consistent with the General Plan, Zoning Ordinance and Local Coastal Plan.

### BACKGROUND

- **September 2010** – The current owners purchased the property and met with city staff to lay out improvements to the property. They proposed to first concentrate on rehabilitation to the main structure, and then follow with improvements to the yard area.
- **January 2011** – A building permit was issued for the main house which included an interior remodel, in addition to new windows and repairs to the front porch.
- **March 2011** – Planning staff met with the owners to discuss the planned yard landscaping, which included repairing an existing deck attached to the western side of the house, as well as a lower expansion of that deck in the yard area. A new lower deck was proposed that was a 13'x15' wood structure that at its highest point was 6-7' tall due to the sloped grade of the yard. Staff indicated that due to the height of the structure, it would need to meet the rear setback requirement for a detached structure which is 8'. Staff also expressed concern about the visual impacts of a deck on this slope and the apparent height from Porter Path.
- **June 2011** – The applicants submitted plans to repair and replace portions of the deck attached to the western side of the house. The plan set also included plans for the new lower deck, which presented a new 36" retaining wall with a 30" high wood deck above that retaining wall. The 13'x15' deck was located in the same location as previously discussed with staff. While the main focus of the plans was the repair and replacement of the original deck, a building permit was issued for both decks without planning staff review.
- **July 2011** – With construction of the yard improvements underway, building staff inspected the site and found trenches for gas and electrical lines being dug. A stop work order was issued on the project and planning staff was asked to review the proposed landscape plans.

Unaware of the issuance of the retaining wall and lower deck, planning and building staff inspected the site and found the retaining wall to be built at approximately 5' in height, 2' greater than approved. A stop work order was issued for the retaining wall and lower deck work.

- **August 2011** – Planning and building staff met with the owners and their consultants at the site to discuss the improvements. It was determined that the building permit for the lower deck and retaining wall was issued in error, and that approval of the structures would require a design permit per Zoning Code Section 17.15.035(B)(5) which authorizes the Planning Commission to approve or deny design permit applications referred by the Community Development Director.

## **DISCUSSION**

The subject property is an approximately 7,100 square foot lot with a single-family house and a detached secondary dwelling unit within the developed Depot Hill single-family neighborhood. With the residential structures on the upper portion of the lot, the yard to the west of the house has a gradual slope for approximately 36' and then steeply drops off toward the public "Porter Path" which connects Cliff Way and Monterey Avenue. The scope for the project includes:

- A series of stucco retaining walls to terrace the yard to make it more useable;
- A new 15'x13' lower wood deck for a dining area;
- A mix of concrete and decomposed granite walkways;
- A 24'x8' decomposed granite patio with a natural gas fire pit;
- Drystack rock wall with drainage dissipation behind it, and a cobblestone dissipater below to control drainage;
- A mix of perennial plantings throughout, including heartland native grass sod on the existing steep slope that drops to the public "Porter Path".

No permit is required for landscaping a private yard. The reason the Planning Commission is considering this application is due to the deck structure, which with its height and location the Community Development Director has referred review to the Planning Commission for approval. A landscape plan has been included as part of the review in order for the Commission to see the overall yard project. The landscape plan demonstrates how the landscaping softens the retaining walls and deck structure, as well as addresses drainage and slope stability.

The most notable of the improvements is the combination of the new retaining wall and new lower deck. As proposed, the new retaining wall will be 2.93' in height (as measured from the lower decomposed granite patio), with the wood deck approximately 10" above the top of the wall, for a total height of 3.73' above the lower patio. It should be noted that based on height concerns expressed by staff, the applicant has reduced the overall height of the retaining wall and deck by 1.87' from the building permit that had been previously issued. In addition, landscaping has been added around the deck to soften it visually.

## **RECOMMENDATION**

It is recommended that the Planning Commission evaluate the proposed deck structure and determine if any design changes need to be made in order to address staff concerns, such as softening the visibility of the structure, and slope stability. If the Commission chooses to approve project application #11-085, it is recommended that the following Conditions and Findings for approval be included.

## **CONDITIONS**

1. The project approval consists of a landscape project at 104 Fairview Avenue that includes the following:
  - A series of stucco retaining walls to terrace the yard to make it more useable;
  - A new 15'x13' lower wood deck for a dining area;
  - A mix of concrete and decomposed granite walkways;
  - A 24'x8' decomposed granite patio with a natural gas fire pit;
  - Drystack rock wall with drainage dissipation behind it, and a cobblestone dissipater below to control drainage;
  - A mix of perennial plantings throughout, including heartland native grass sod on the existing steep slope that drops to the public "Porter Path".
2. Irrigation systems on slopes greater than 20% shall not be utilized between November 1<sup>st</sup> and April 1<sup>st</sup>.
3. Landscape lighting shall be fully shielded.
4. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
5. Hours of construction shall be Monday to Friday 7:30 a.m. – 9:00 p.m., and Saturday 9:00 a.m. – 4:00 p.m., per city ordinance.
6. An encroachment permit shall be acquired for any work performed in the right-of-way.
7. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

## **FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Planning Department Staff and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff and the Planning Commission have all reviewed the project. The project conforms to the development standards of the R-1 (Single Family Residence) Zoning District. Conditions of approval have been included to ensure that the project maintains the character and integrity of the neighborhood.

- C. **This project is categorically exempt under Section 15304 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

This project involves new gardening or landscaping for an existing single-family residence. Section 15304 of the CEQA Guidelines exempts minor alterations of land.

**Report Prepared By:** Ryan Bane  
Senior Planner

Attachment A - Project Plans (Full Size)

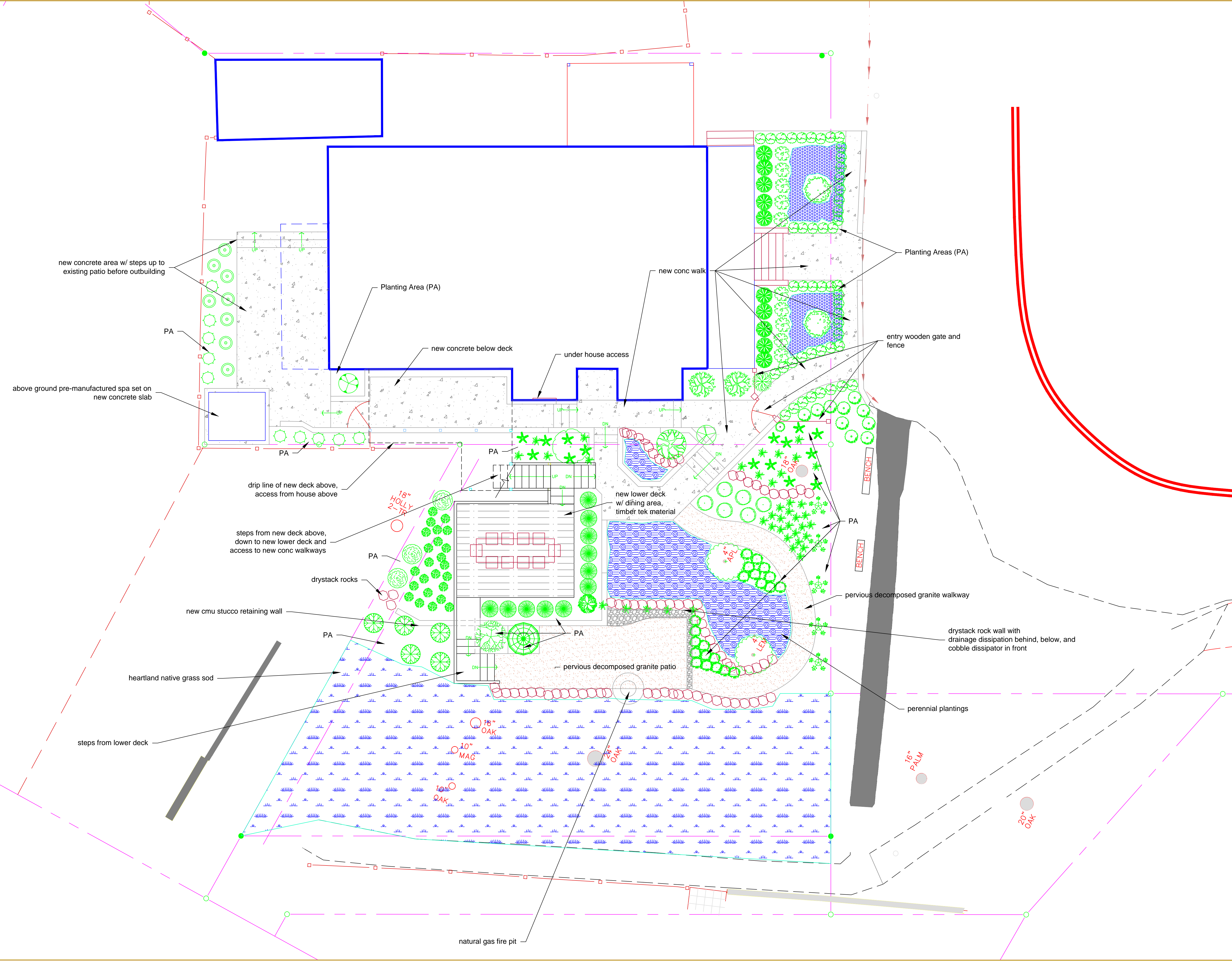
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13-Apr-11	01-Aug-11
14-Apr-11	05-Aug-11
05-May-11	
20-Jun-11	
06-Jul-11	

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Jaclyn Ishimaru - John Gachina Residence  
 104 Fairview Avenue  
 Capitola, Ca 95010

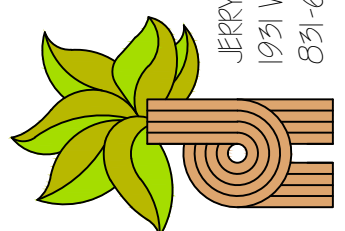
Landscape Overview

Scale 3/16" = 1 ft  
 Concept Six





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13-Apr-11	01-Aug-11
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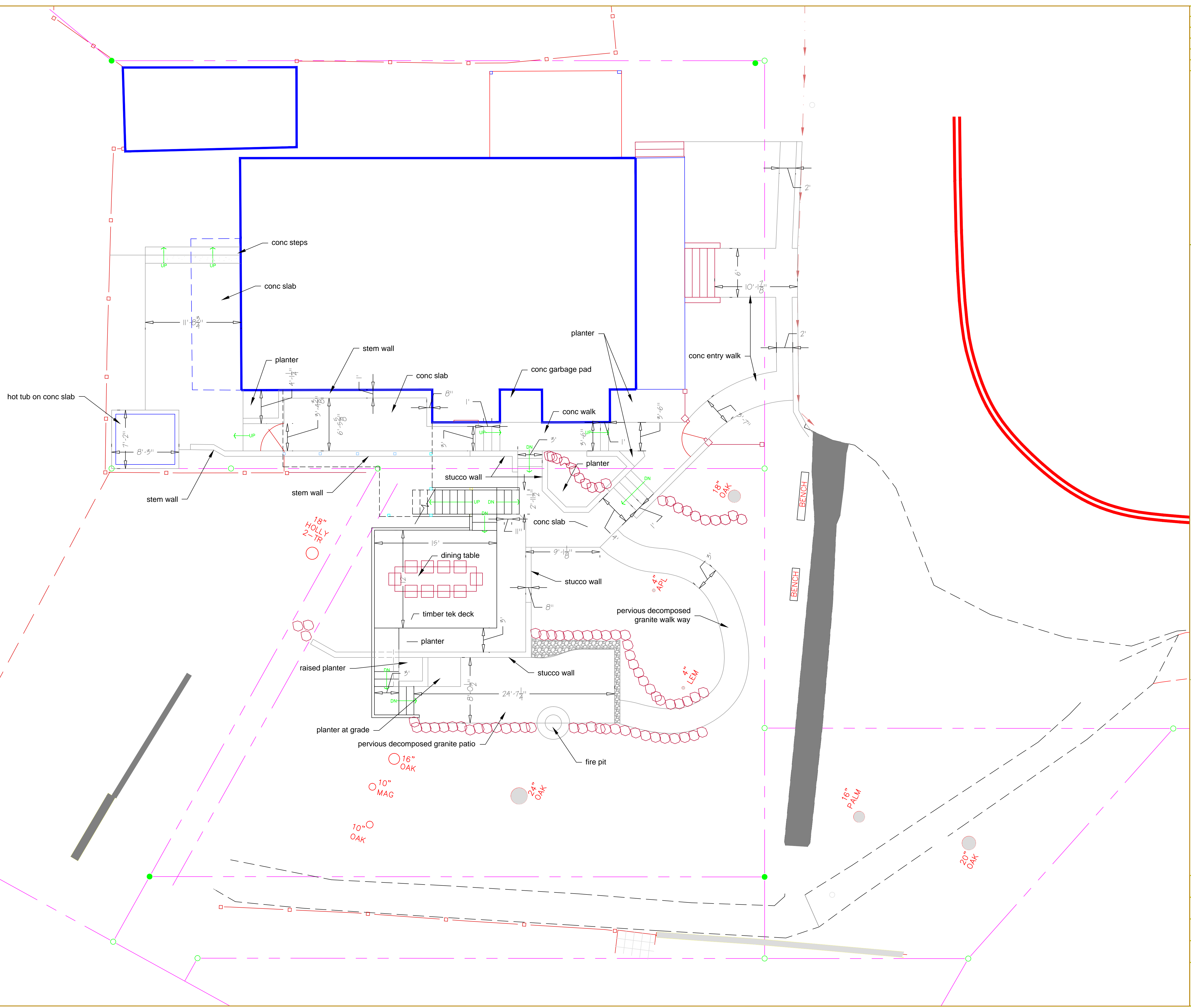
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Layout

Scale 3/16" = 1 ft

Layout Six

L1.3



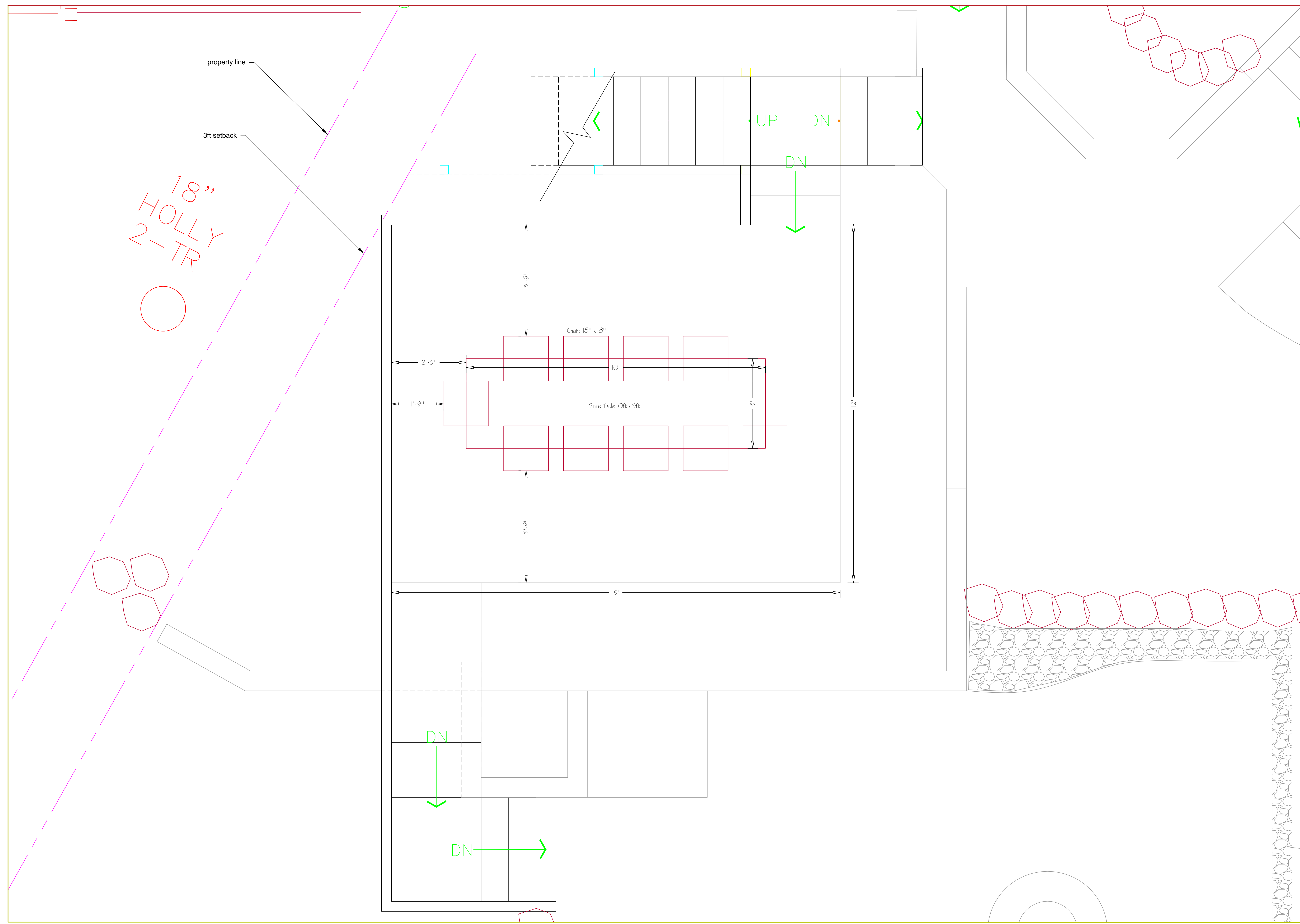


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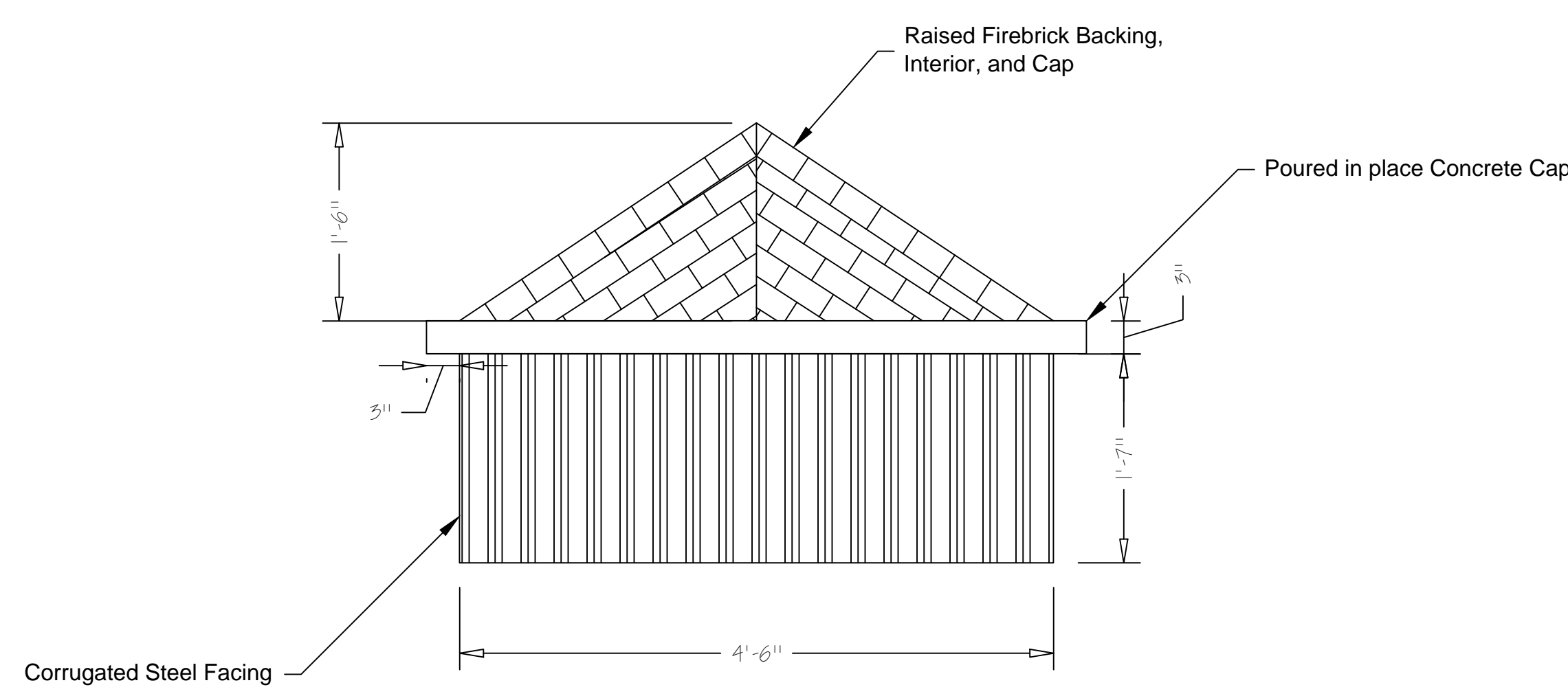
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Table & Deck Layout  
 Scale 3/4" = 1 ft  
 Table Layout Six  
 L1.4

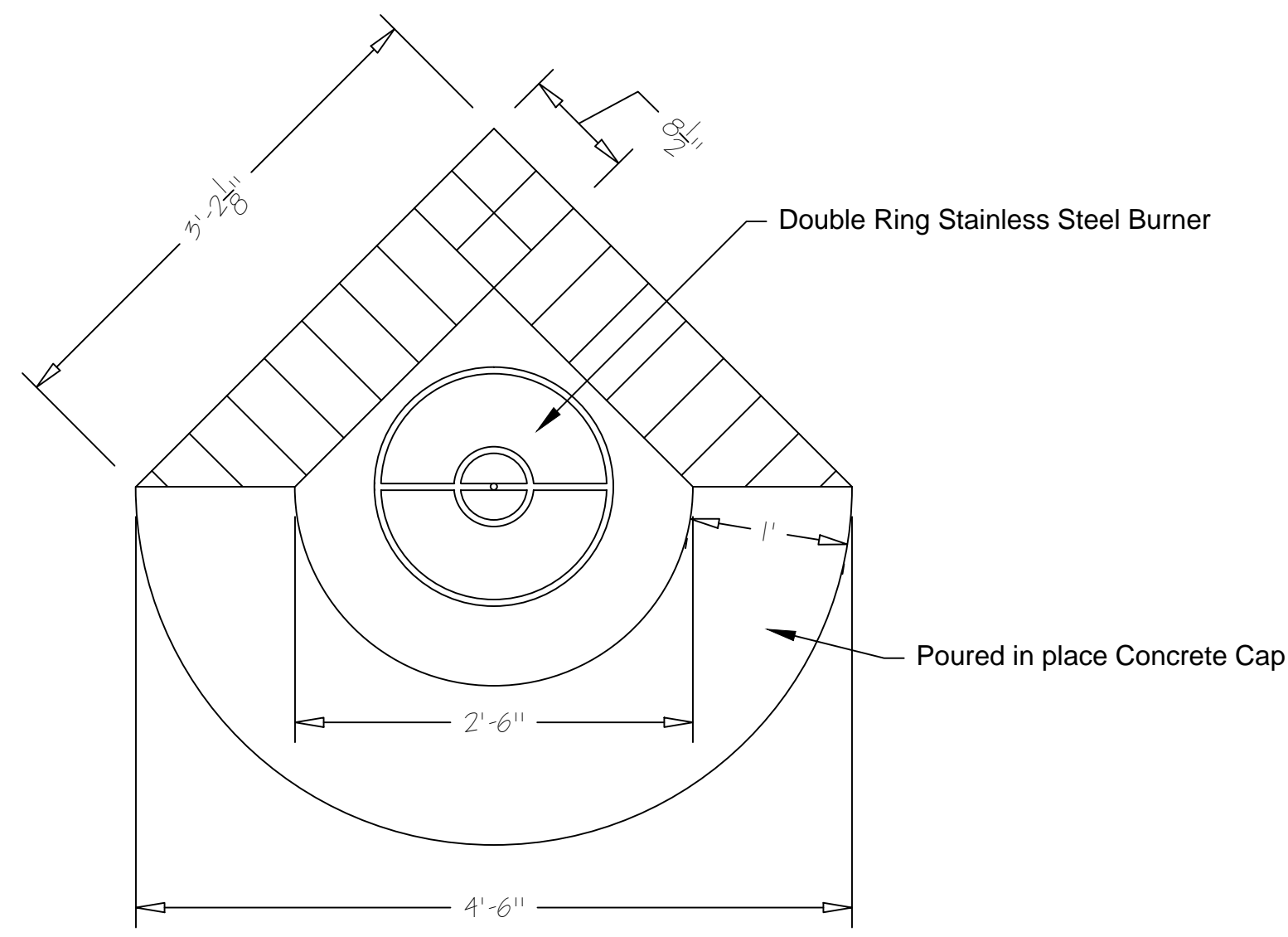


Drawing / Revision	Date
15-Aug-11	

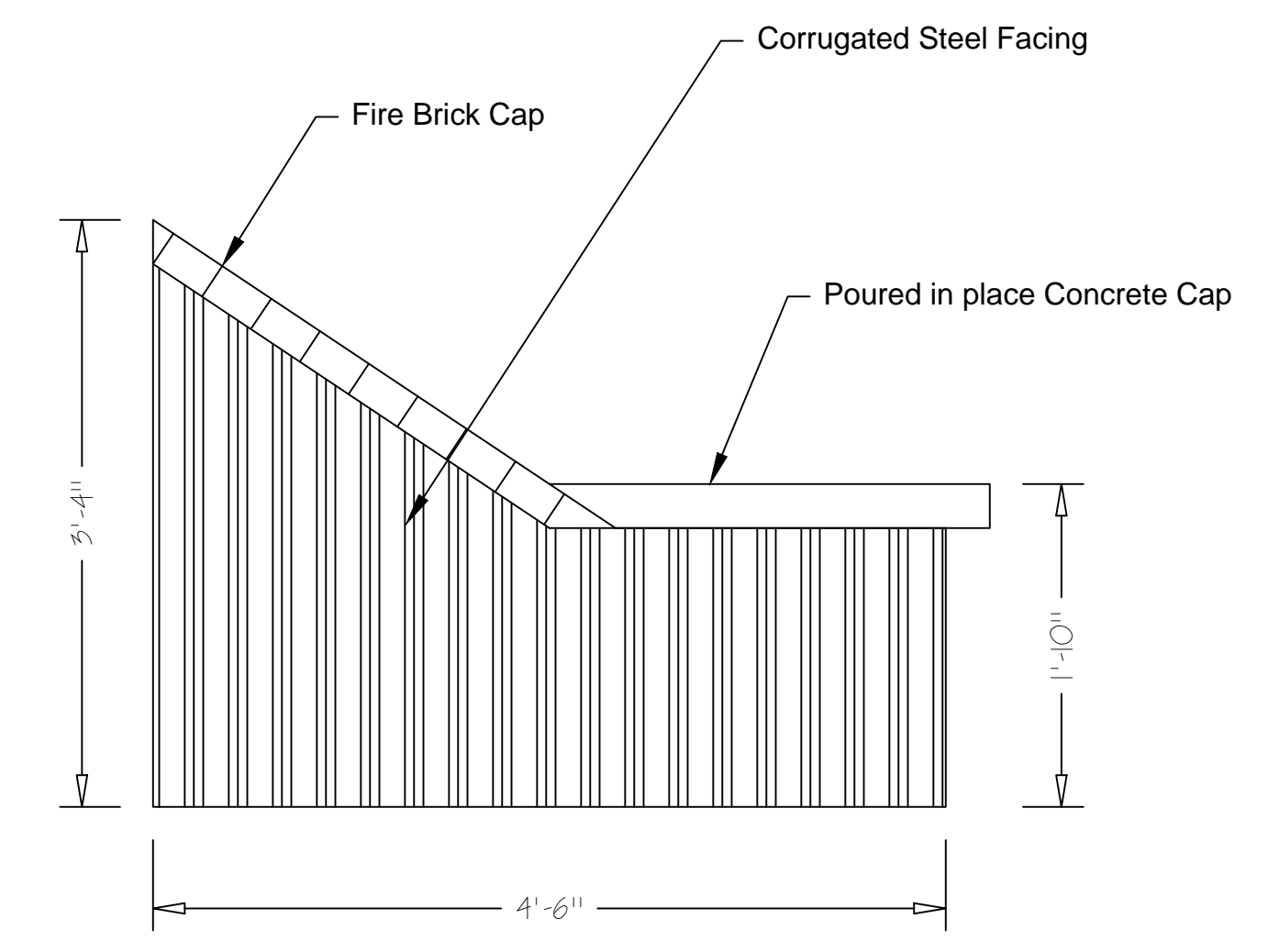

  
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**1** Front View Fire Pit  
 Scale: 1" = 1 ft



**2** Top View Fire Pit  
 Scale: 1" = 1 ft



**3** Side View Fire Pit  
 Scale: 1" = 1 ft

Jaclyn Ishimaru - John Gachina Residence  
 104 Fairview Avenue  
 Capitola, Ca 95010

Fire Pit Details

Scale: 1" = 1 ft

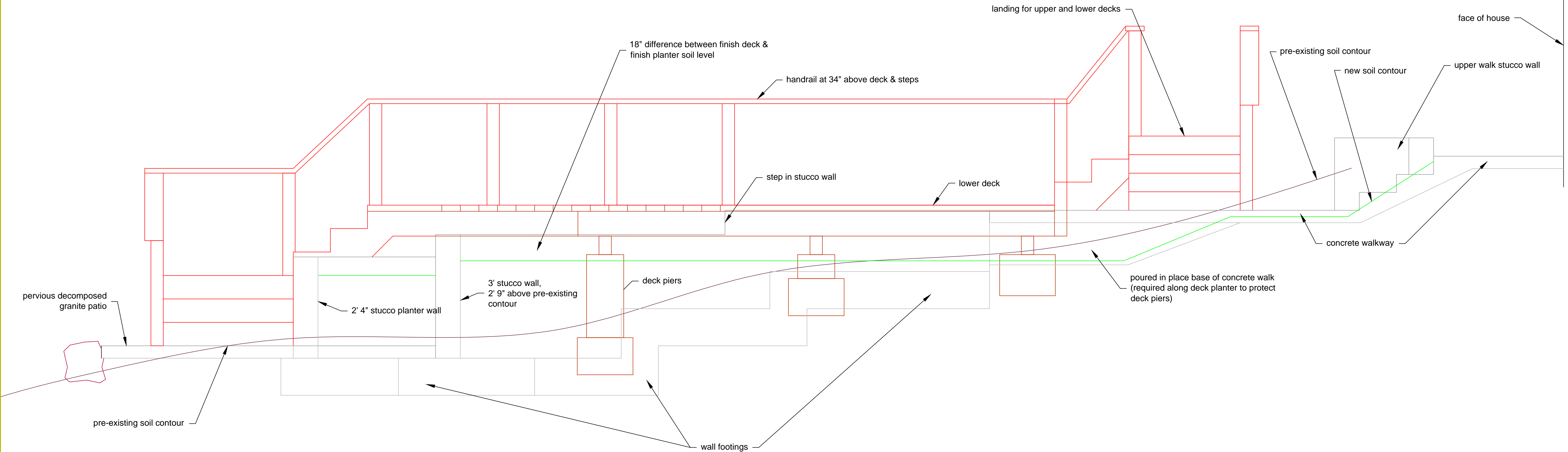
Fire Pit Six

L1.5

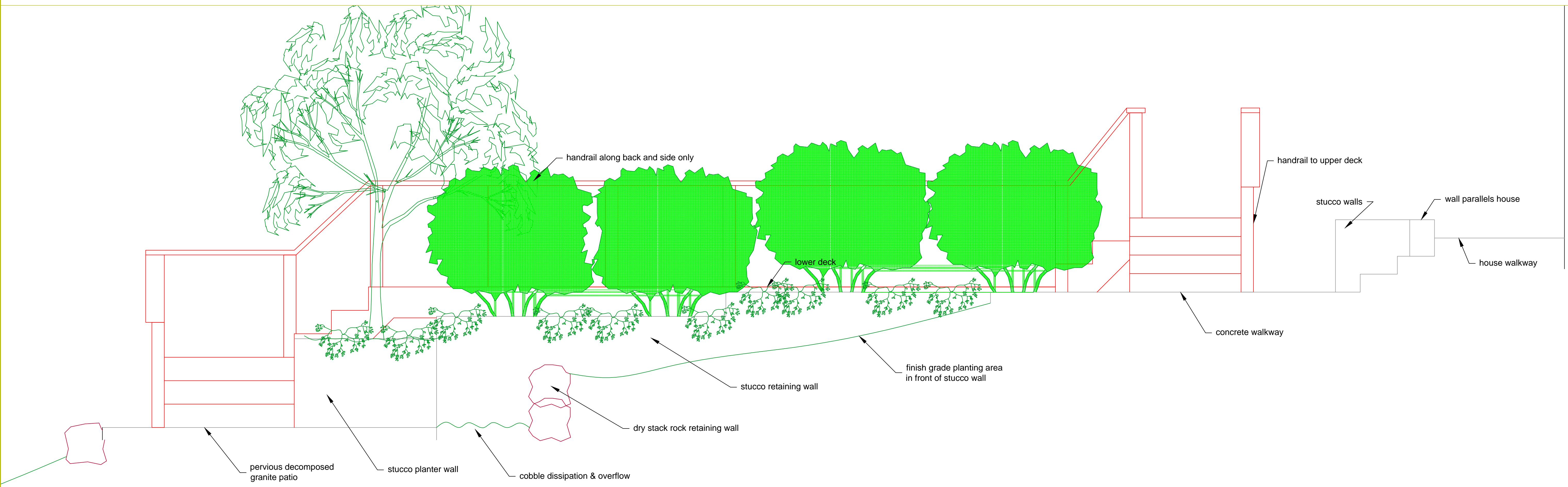


Drawing / Revision	Date
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19-May-11	
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09-Aug-11	


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For Elevations see Stair Sections L2.3



Jaclyn Ishimaru - John Gachina Residence  
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Deck Sections

Scale 3/4" = 1 ft

Deck Section

L2.2

Drawing / Revision Date
08-Aug-11



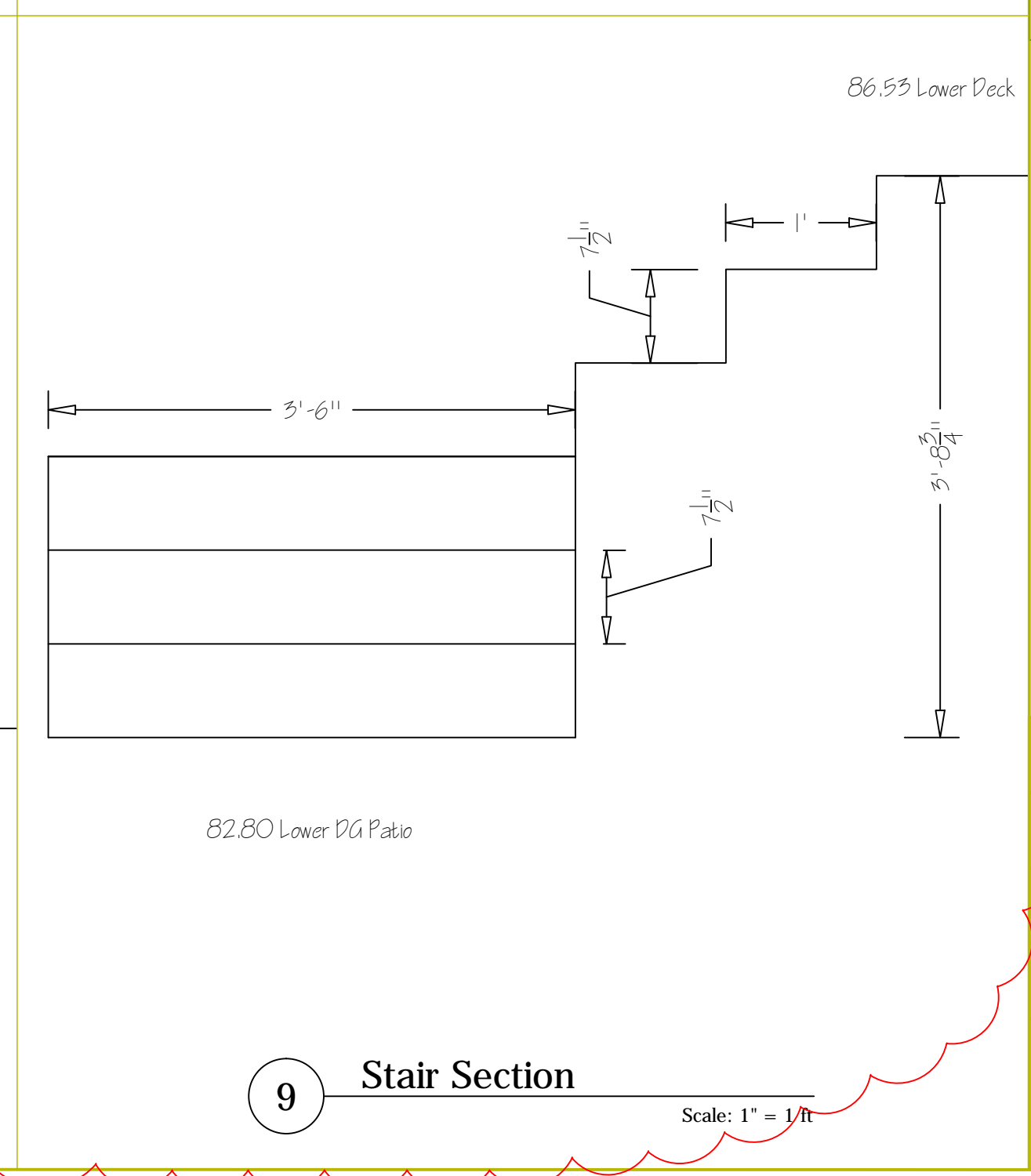
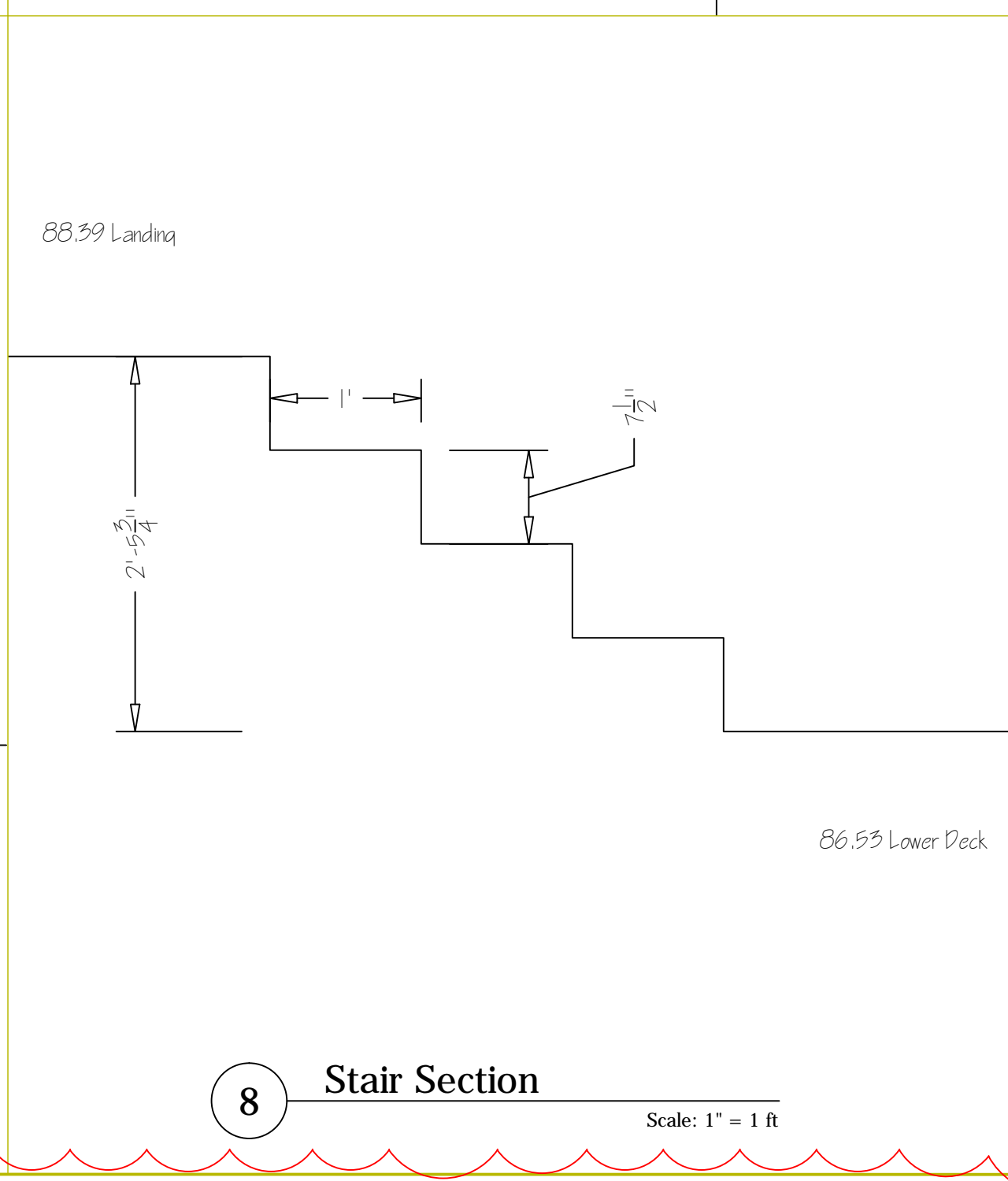
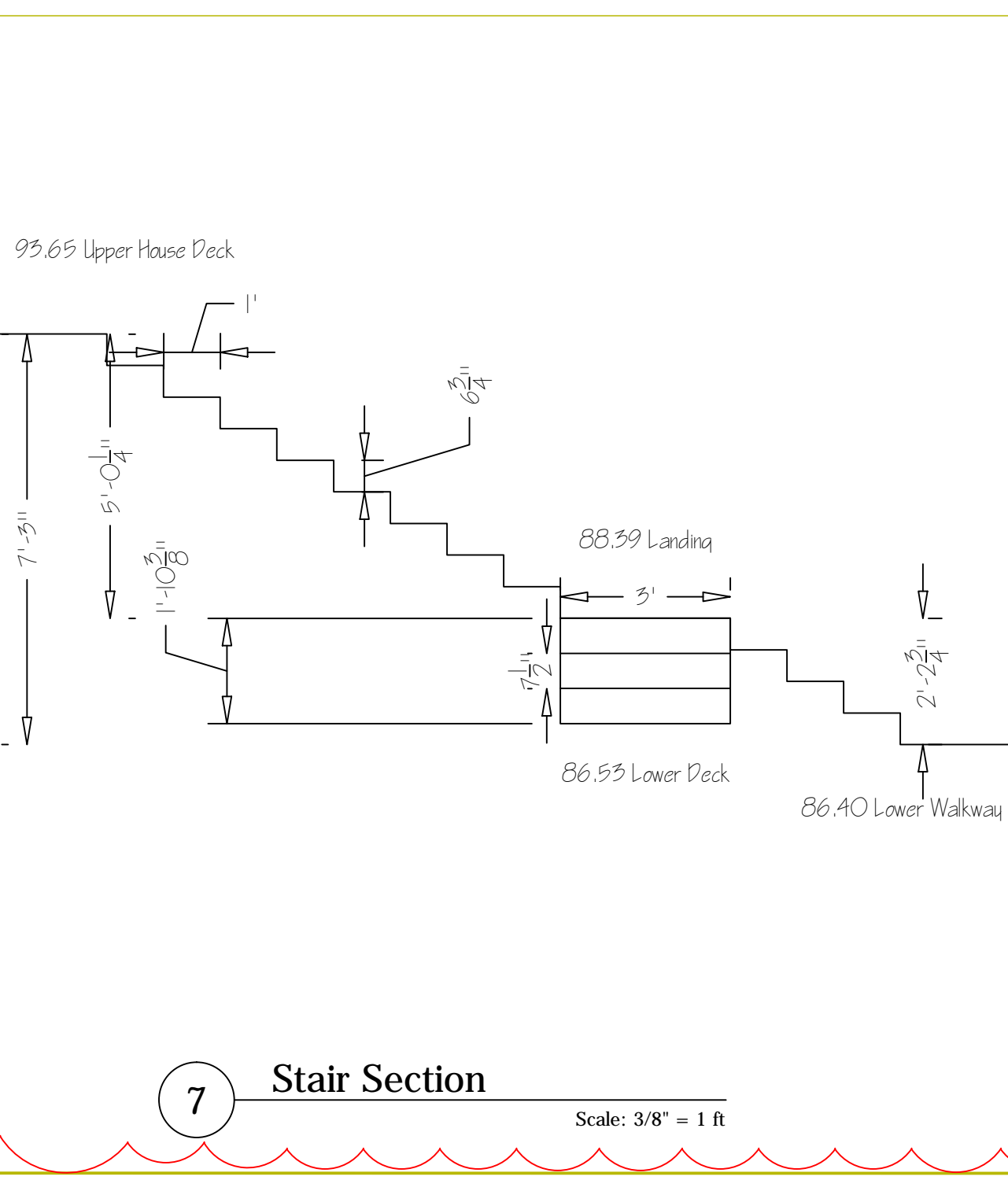
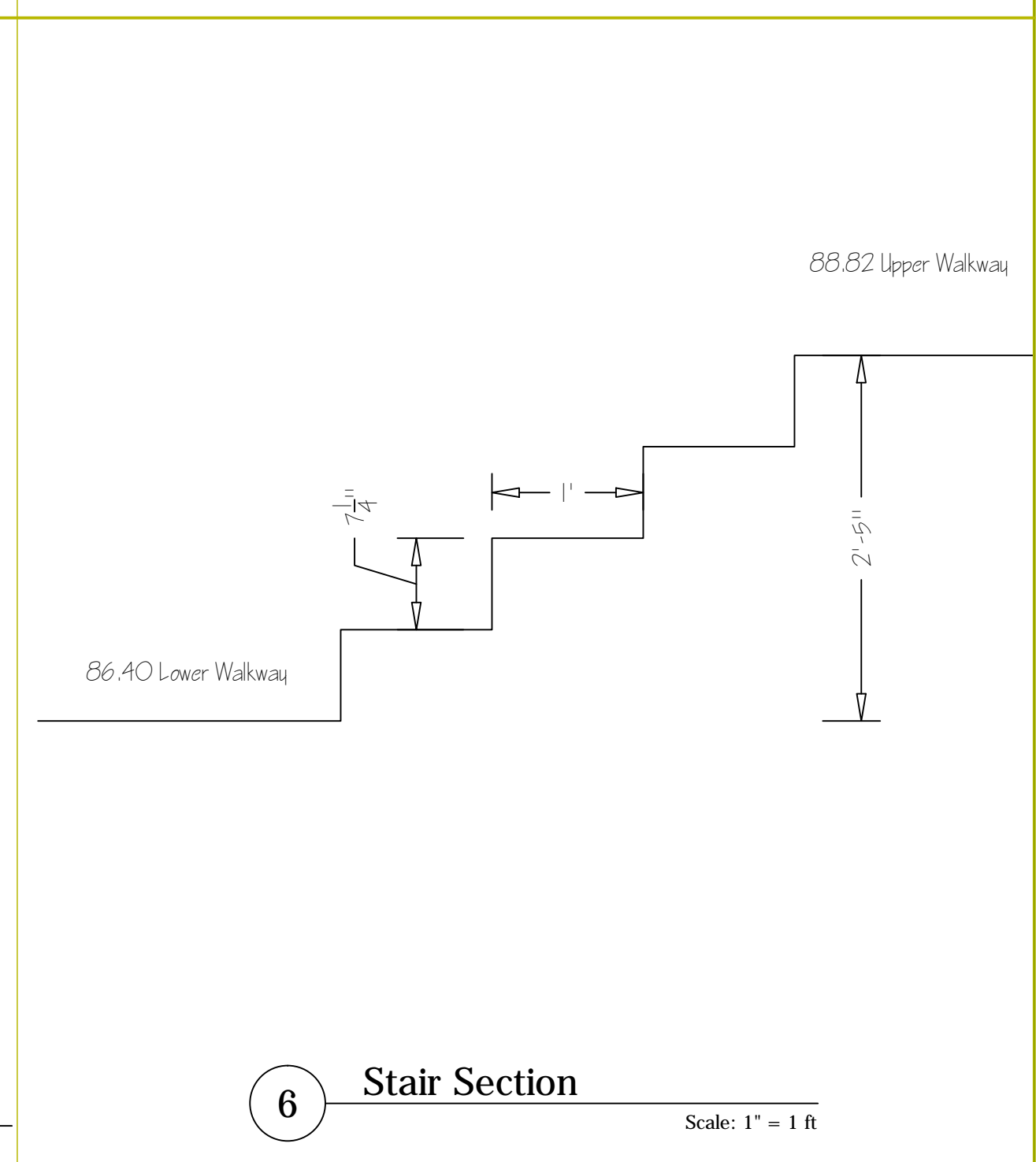
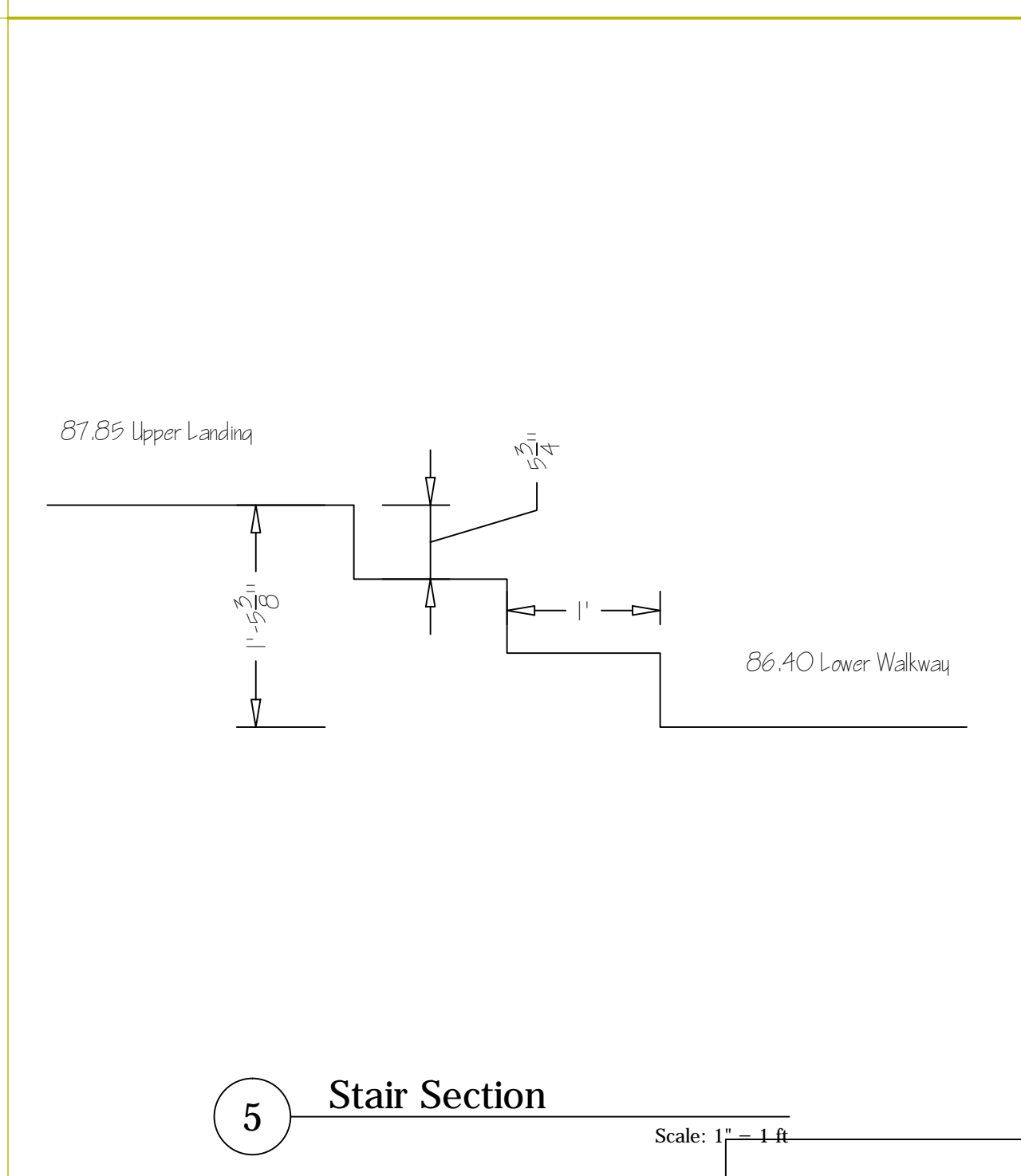
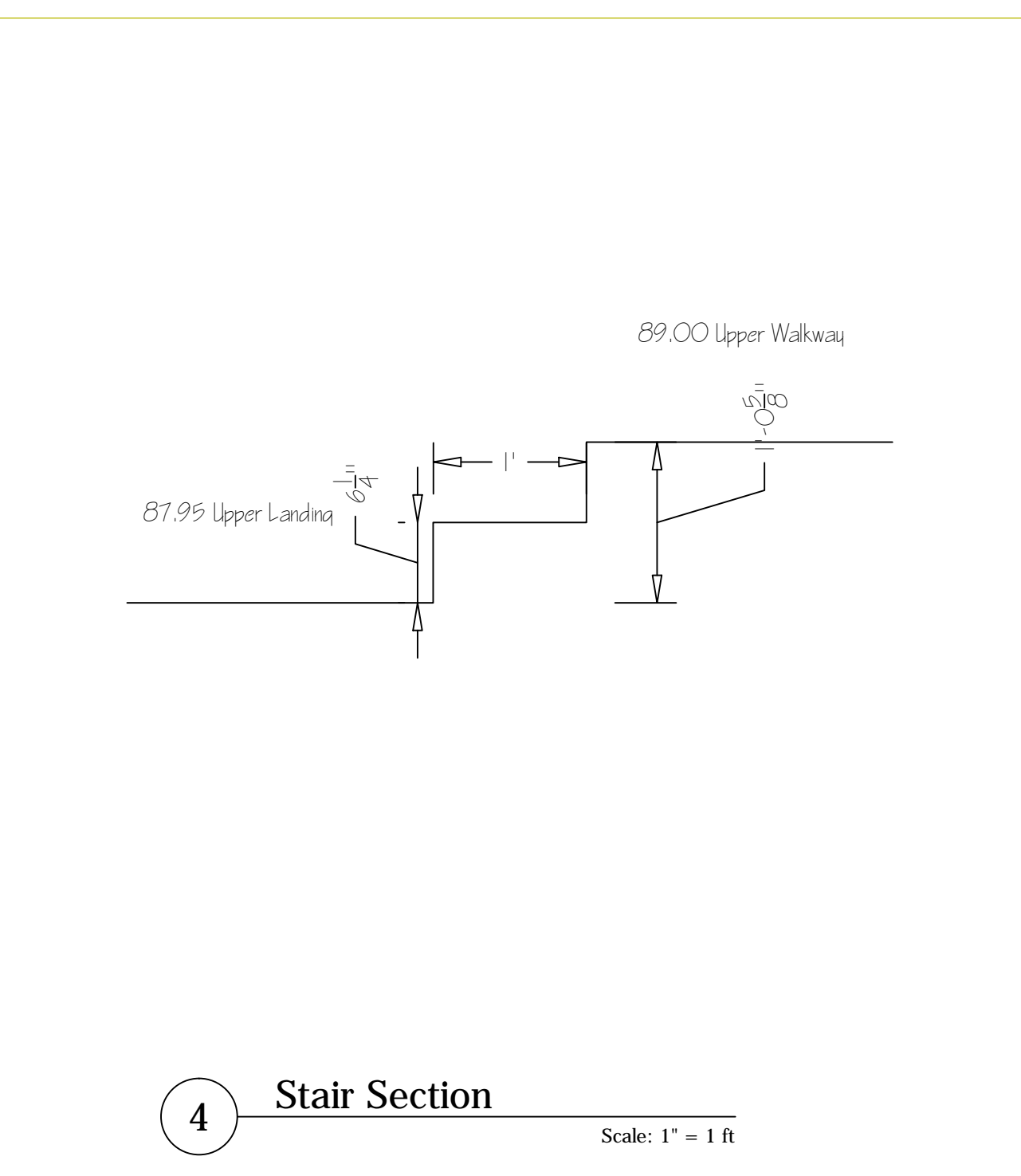
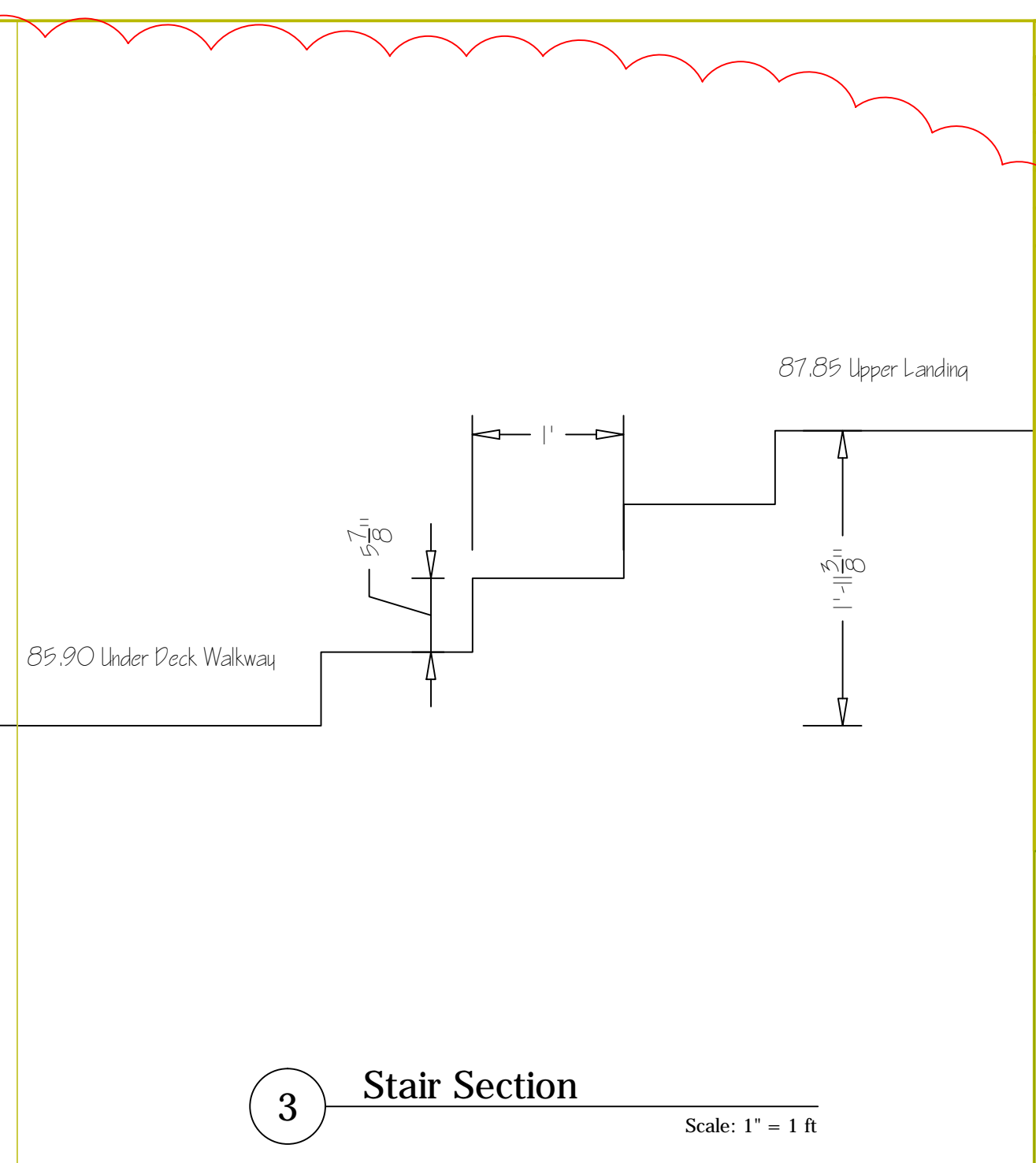
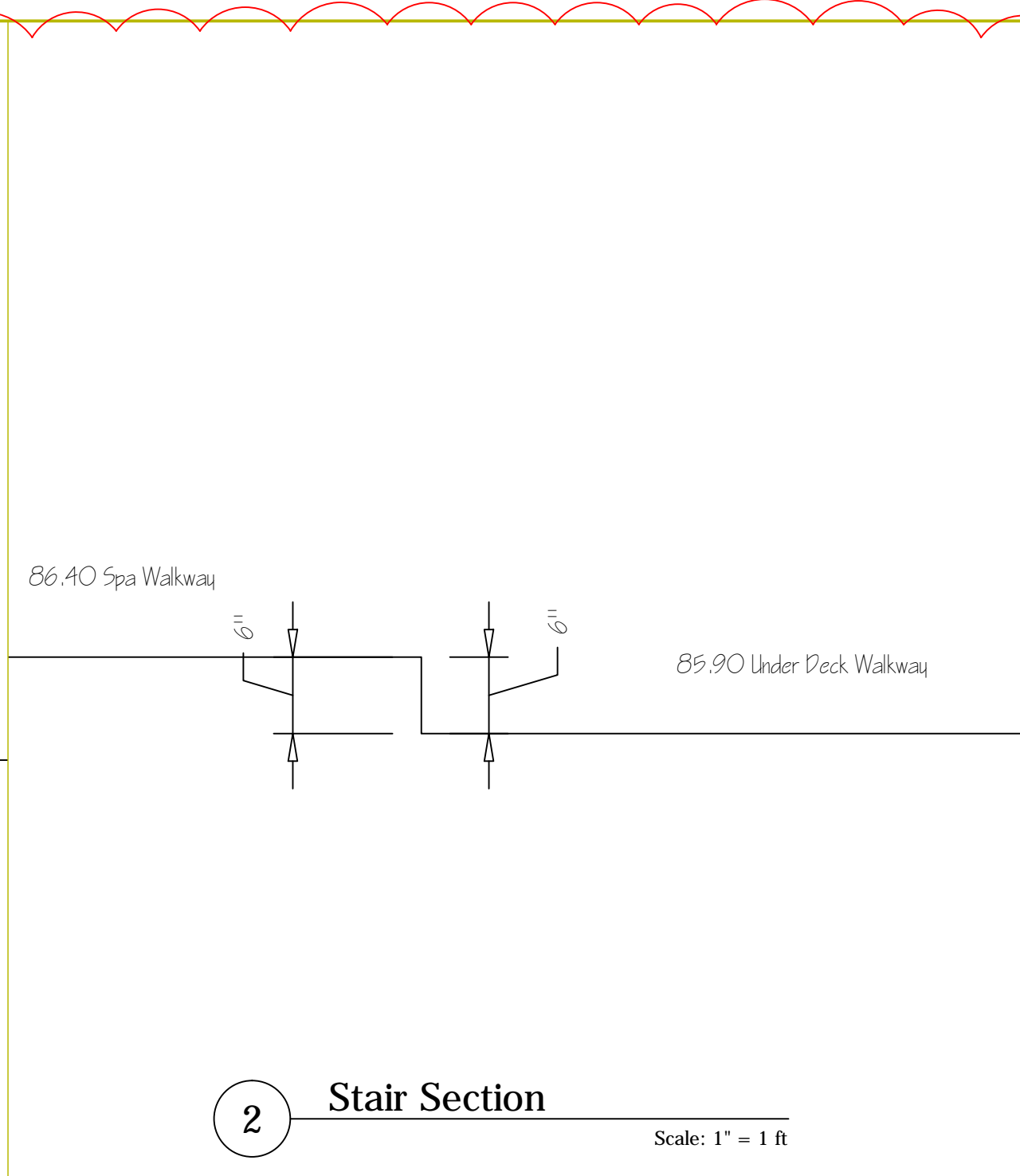
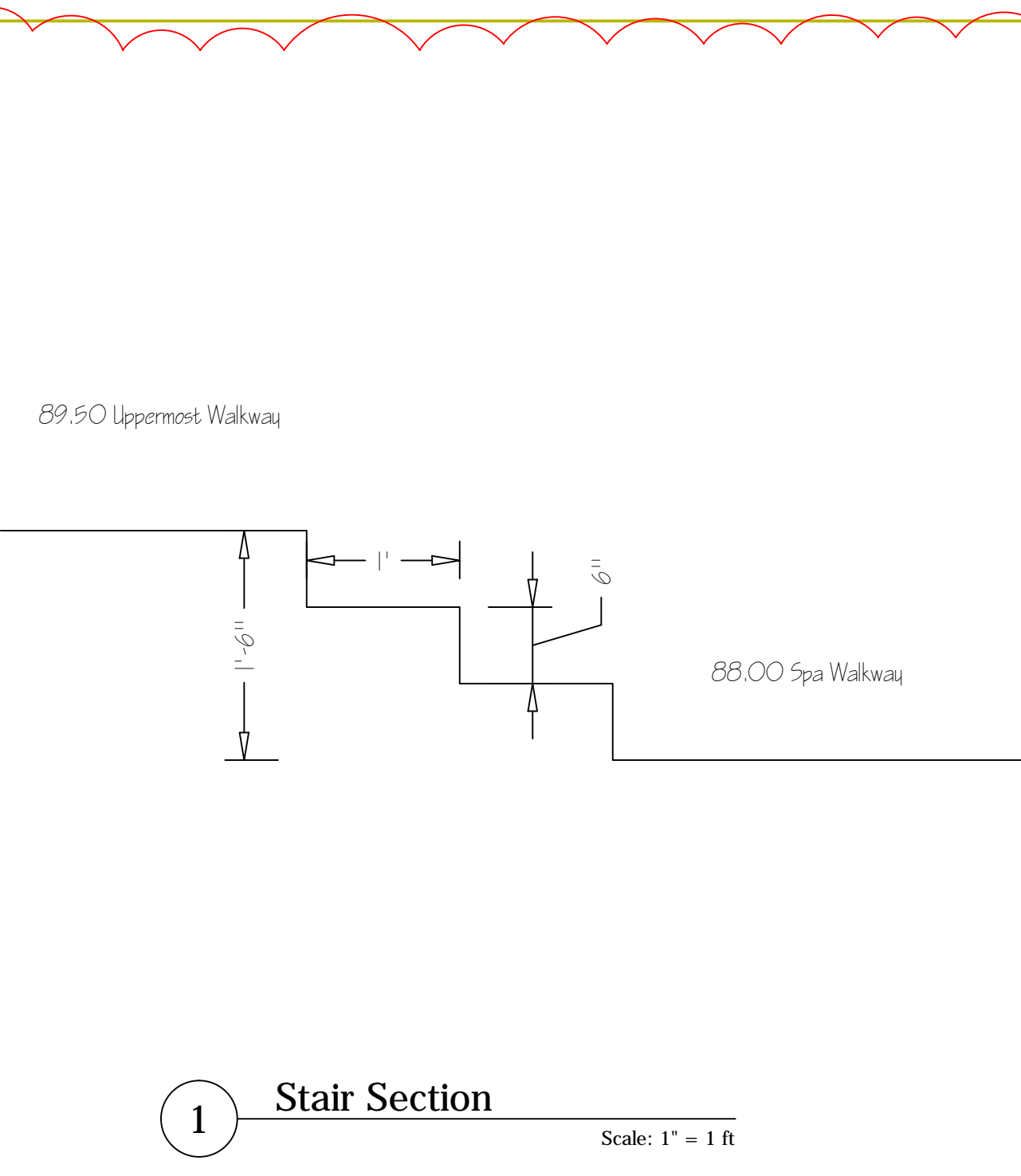
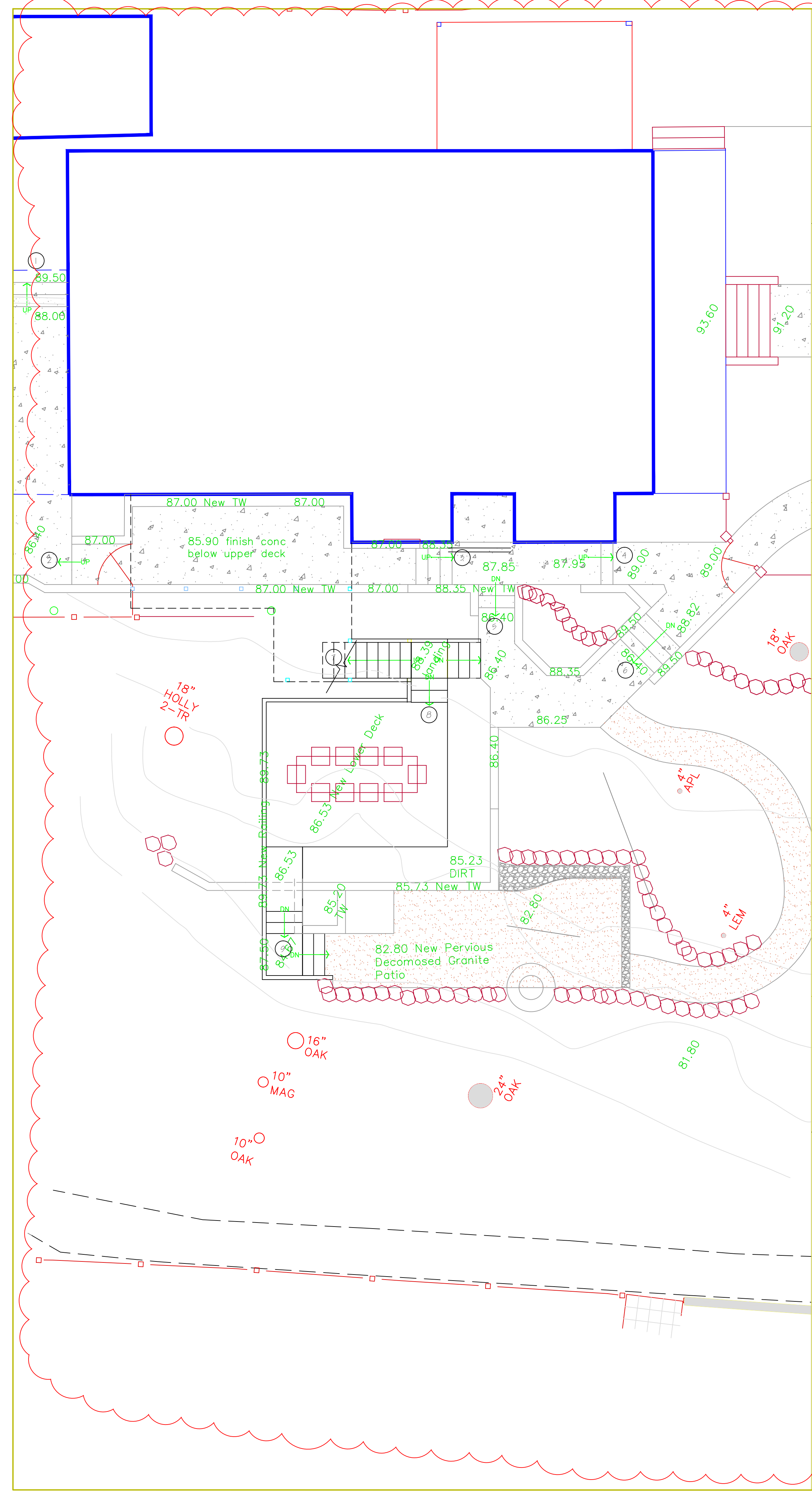
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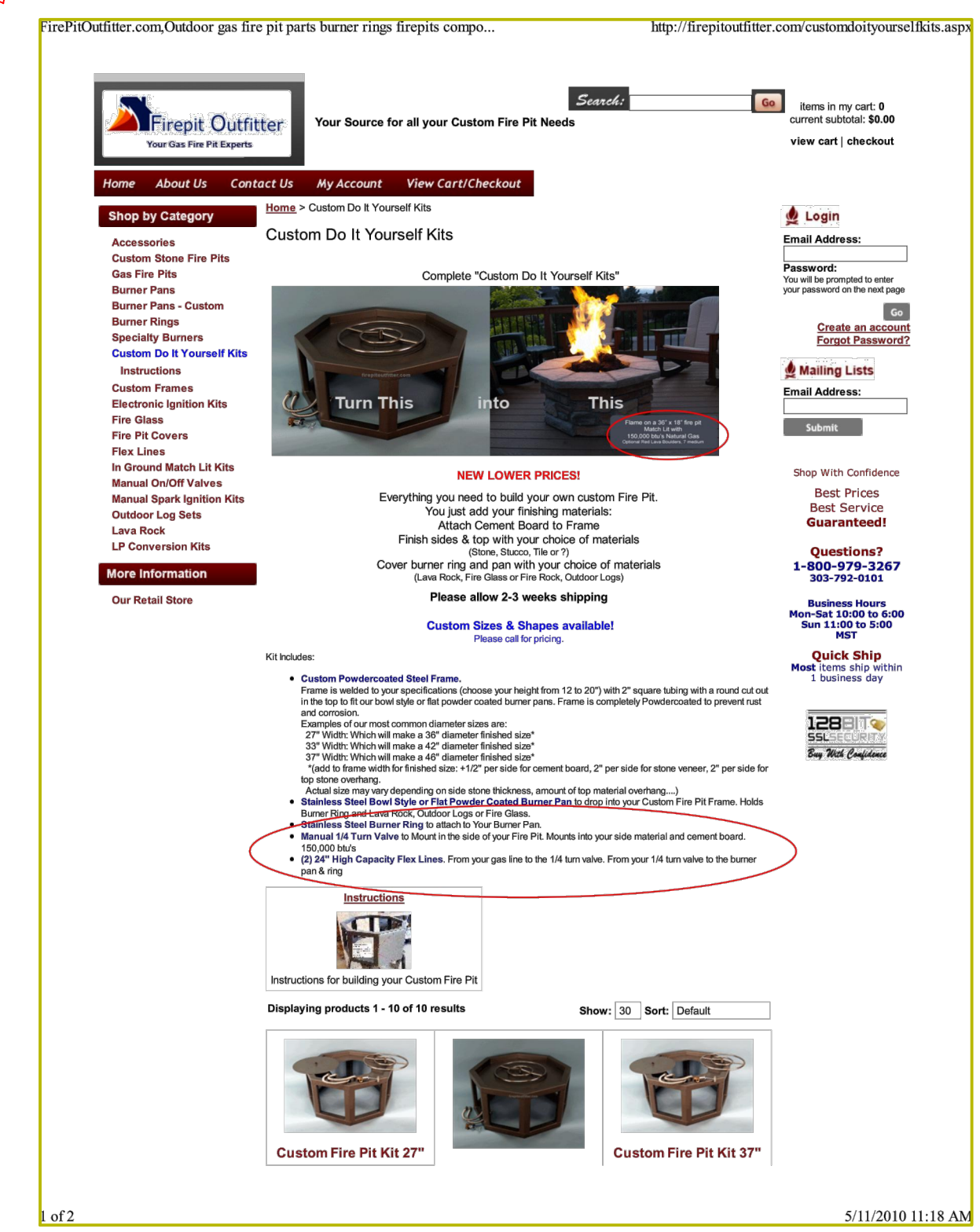
Stair Sections

Scale 3/16" = 1 ft

Stair Sections

L2.3





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20	138	277	499	805	1310	2390
30	111	222	401	655	1050	1980
40	85	190	342	564	900	1610
50	84	189	304	527	796	1430
60	76	153	276	477	721	1300
70	70	140	254	439	663	1190
80	65	131	236	409	617	1110
90	61	123	221	383	579	1040
100	58	116	209	362	547	983
125	51	103	182	321	485	871
150	46	93	168	291	439	789
175	43	86	154	268	404	726
200	40	80	144	249	378	675
250	36	71	127	211	333	598
300	32	64	115	200	302	542
350	29	59	106	184	279	499
400	27	55	98	171	258	464
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Pressure Drop: 5 in. w.c. Spacing: 4 ft

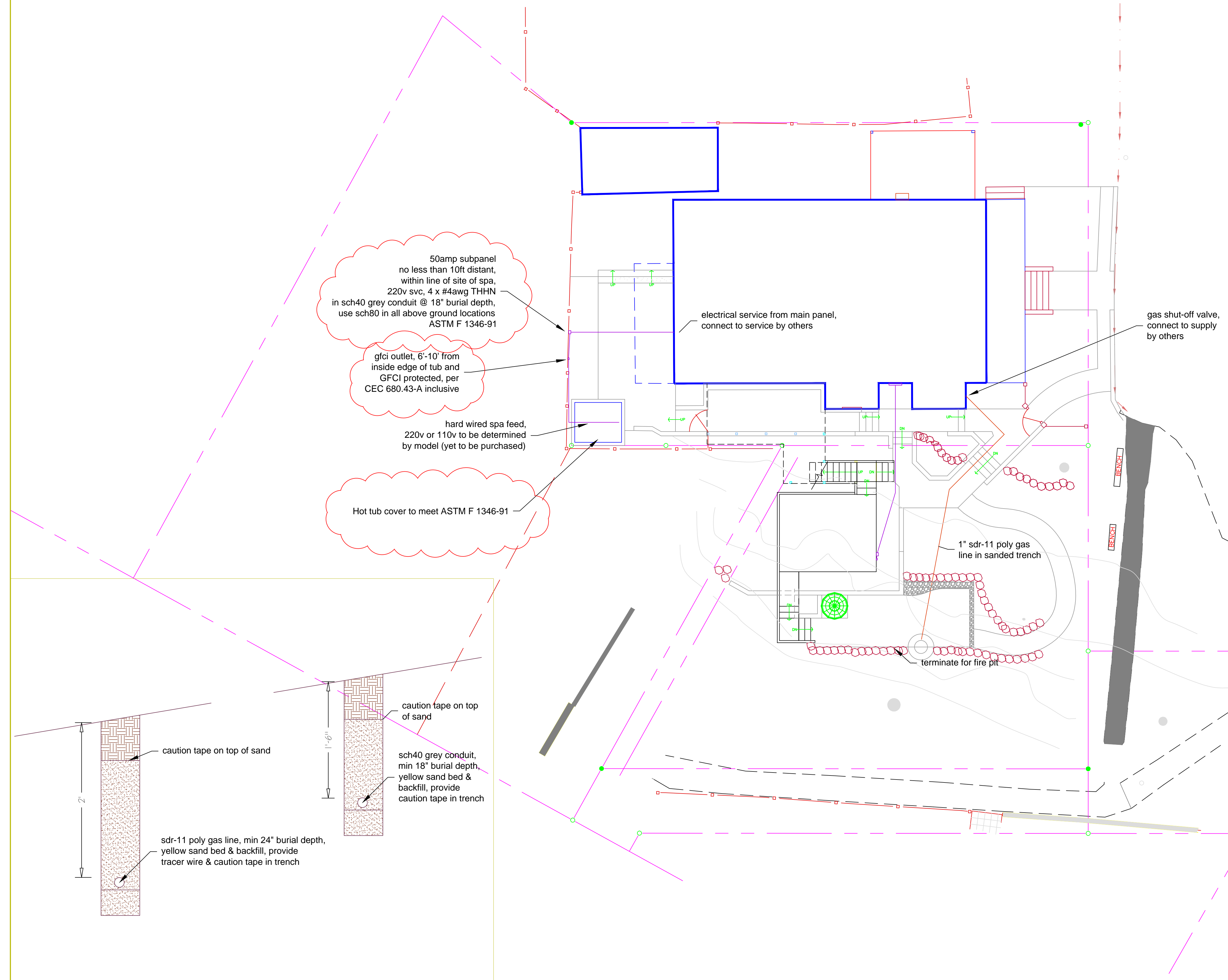
Values listed are in cubic feet per hour (cfh). To calculate BTU, multiply by 1000.

Pressure Drop: 5 in. w.c. Spacing: 4 ft

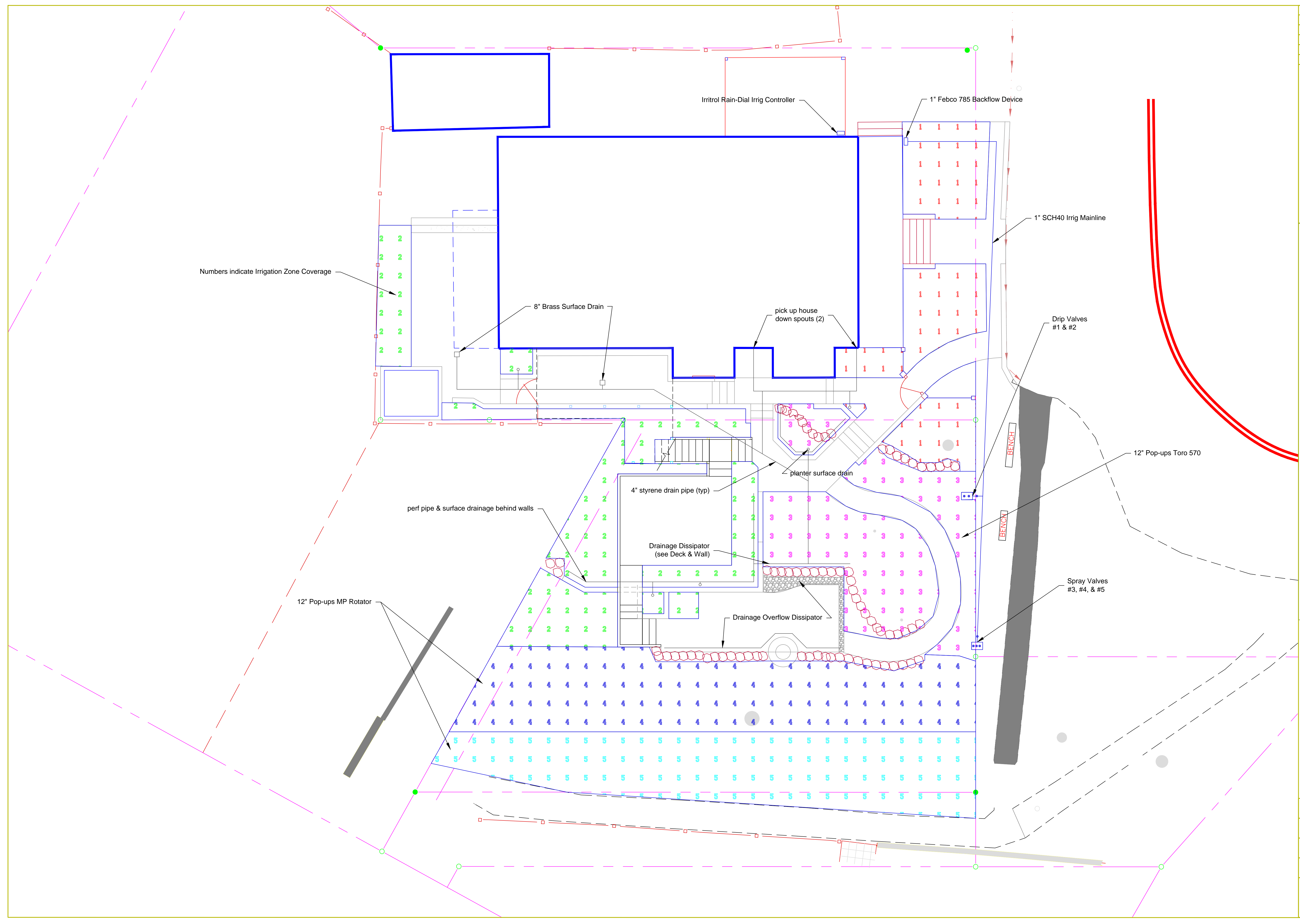
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pick up house down spouts (2)

Drip Valves #1 & #2

12" Pop-ups Toro 570

4" styrene drain pipe (typ)

planter surface drain

Spray Valves #3, #4, & #5

perf pipe & surface drainage behind walls

Drainage Dissipator (see Deck & Wall)

Drainage Overflow Dissipator

12" Pop-ups MP Rotator

Drawing / Revision Date
13-Jul-11
05-Aug-11



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Irrigation, Coverage, & Drainage

Scale 3/16" = 1 ft

Irrig & Drain Concept Six

L3.2

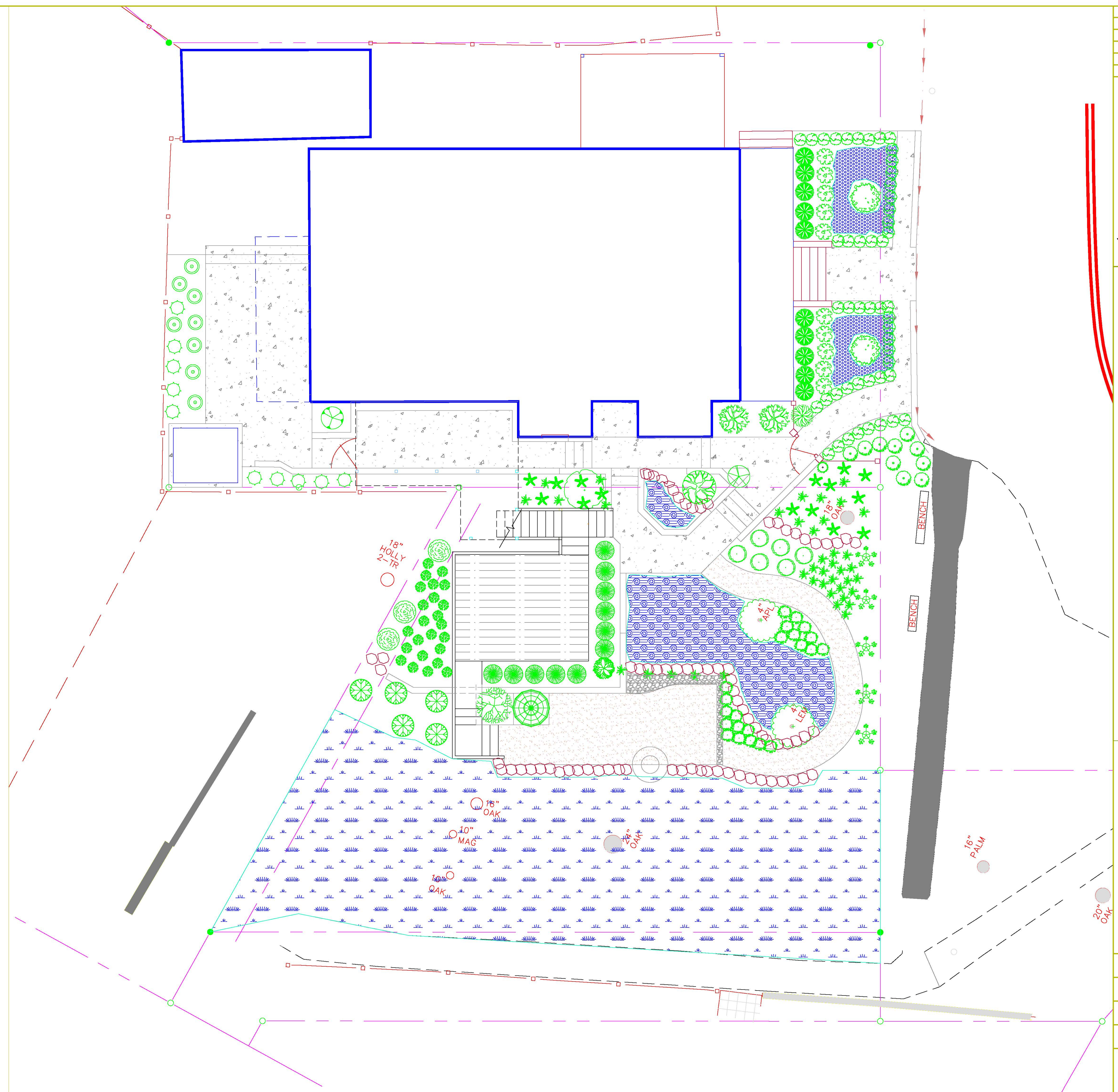
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Planting  
 Scale 3/16" = 1 ft  
 Planting  
 4.1

PLANTING SCHEDULE							
LEGEND	KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE COND	REMARKS	HEIGHT SPREAD
	MYRC	3	Myrica californica	Pacific Waxmyrtle (California Bayberry)	24" Box	Evergreen	30' 10'
	COREW	1	Cornus 'Eddie's White Wonder'	Eddie's White Wonder Dogwood	24" Box	Deciduous Large White Flowers	25' 20'
	PRSK	3	Prunus serrulata 'Kwanzan'	Kwanzan Oriental Cherry	24" Box	Deciduous Pink Flw	15' 10'
	ROWM	2	Rosa 'Iceberg'	Iceberg Standard Rose	15gal Cont.	Deciduous	6' 3'
	ROSOY	10	Rosmarinus officinalis 'Tuscan Blue'	Tuscan Blue Rosemary	5gal Cont.	Evergreen	5' 3'
	LAVLST	49	Lavandula stoechas	Spanish Lavender	1gal Cont.	Evergreen	2'-3' 2'-3'
	ROR	10	Rosa rugosa	Rugosa Rose	5gal Cont.	Deciduous	4'-6' 4'-6'
	VOL	400	Viola odorata	Royal Robe	4" Pot	Evergreen Prostrate Habit	2" 12"
	SAL	10	Salvia leucantha	Mexican Bush Sage	1gal Cont.	Evergreen	2' - 3' 4' - 5'
	VPSS	2	Viburnum plicatum 'Summer Snowflake'	Summer Snowflake Doublefile Viburnum	5gal Cont.	Deciduous White Flws	4-6' 4-5'
	RHLM	1	Rhododendron 'Lema Monarch'	Rhododendron	15gal Cont.	Evergreen Rose Flowers	6-8' 6-8'
	CAMSS	1	Camellia sasanqua 'Setsugekka'	Setsugekka Camellia	15gal Cont.	Evergreen White Flowers	8'-10' 5'
	LONJ	1	Lonicera japonica	Japanese Honeysuckle	5gal Cont.	Evergreen	6'-10' 6'-10'
	SOLJA	1	Solanum japonica	Japanese Potato Vine	5gal Cont.	Evergreen White Flowers	6-8' 6-8'
	LAUN	11	Laurus nobilis	Grecian Laurel	15gal Cont.	Evergreen trim to 4ft	20'-35' 15'
	RODA	0	Rosa	David Austin English Rose	5gal Cont.	Various Colors English	4' 3'
	HYDLC	6	Hydrangea macrophylla 'Lace Cap'	Lace Cap Hydrangea	5gal Cont.	Semi-Deciduous Variable Colors	3'-4' 3'-4'
	SALBB	0	Salvia bees bliss	Sanoma Bee's Bliss	1gal Cont.	Evergreen	2' - 3' 4' - 5'
	ERIGI	5	Eriogonum giganteum	Saint Catherine's Lace	5gal Cont.		3' 3'
	IRIS	40	Iris reticulata	Bearded Iris	1gal Cont.	Var. Flws	2-3' 2'
	PERCC	60	Perennial cut flowers	perennials	1gal Cont.	Herbaceous Per. Year Round	10-12" 2'
	LIRIM	22	Liriope muscari	Bigblue Lilyturf	1gal Cont.		12"-15" 2'
	NATMIX	1350	Native Preservation Mix	Delta Bluegrass Co. Native Pres. Mix	Sod sq	native grass blend	12"-15"
	HETARB	5	Heteromeles arbutifolia	Native Toyon	5gal Cont.	Evergreen	8'-10' 8'-10'
	ARCTO	24	Arctostaphylos densiflora	Monterey Carpet	1gal Cont.	Evergreen	18"-24" 2'-4'
	LEUC	1	Leucodendron 'Safari Sunset'		15gal Cont.	Evergreen	3'-5' 3'-5'
	POLY	15	Polystichum munitum	Western Sword Fern	1gal Cont.	Evergreen	4' 5'
	PITT	10	Pittosporum tenuifolium	Japanese pittosporum	5gal Cont.	Evergreen	8'-10' 10'-12'
	SOLRR	1	Solanum rantonnetii 'Royal Robe'	Royal Robe Blue Petalovine (Nightshade)	15gal Cont.	Evergreen	6' - 8' 6' - 8'
	HISRP	8	Hibiscus syriacus 'Royal Purple'	Royal Purple Shrubalthea	5gal Cont.	Deciduous	6'-8' 6'-7'
	QITBL	1	Citrus latifolia	Bears Lime	24" Box	Delicious	8' 3-4'







## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: AUGUST 24, 2011 (AGENDA: SEPTEMBER 1, 2011)

SUBJECT: **421-B CAPITOLA AVENUE** #11-088 APN: 035-131-27  
Conditional Use Permit and Sign Permit for a take-out restaurant in the CN (Neighborhood Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: John Gryspos, owner/filed: 8/16/11  
Representative: Edwardo Martinez Architects

### APPLICANT'S PROPOSAL

The applicant is requesting a Conditional Use Permit for a take-out restaurant to be located at 421-B Capitola Avenue in the CN (Neighborhood Commercial) Zoning District. The use is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

### DISCUSSION

The subject 336 square commercial space is currently vacant, but was previously a retail carpet shop. Under the CN (Neighborhood Commercial) zoning district, a Conditional Use Permit is required for a take-out restaurant use. The business will serve a variety of Greek gyro sandwiches and associated sandwich items. The meats will be cooked, prepared and seasoned from scratch. Due to the small size of the space, no seating will be provided and the business will be strictly "to go" orders. The business is expected to have approximately eight employees, with two to three employees at any one time. The proposed hours of operation are from 11:00am to 11:00pm, seven days a week. Due to the close proximity of single-family residences, staff has some concerns with the proposed late night hours. It is recommended that the hours be limited to 10:00pm, similar to the nearby *Agave Taqueria*.

Tenant improvements to the space include new interior finishes, kitchen equipment including a new exhaust hood, bathroom, and new electrical and plumbing. Exterior changes will be limited to a 4' high roof parapet wall to screen the proposed rooftop equipment, as well as a new wall sign.

#### Parking

A restaurant/take-out food establishment with six or fewer seats has the same requirement as a standard retail or office use, requiring a minimum of one space for every 240 square feet of gross floor area. With the previous retail use having the same parking requirement (1 space), there is no intensification of use and the existing parking is not affected.

### Signage

A new wall sign is proposed along the new roof parapet. The sign will be located along the side of the building so as to be more visible to cars and pedestrians coming down Capitola Avenue toward the village. The Sign Ordinance requires that the size of wall signs be no greater than one square foot of sign area for each foot of linear business frontage. With approximately 16' of linear frontage along Capitola Avenue, the 15 square foot sign falls within the Sign Ordinance requirements in terms of size. The non-illuminated sign will be made up of lightweight aluminum composite and read "*Heavenly Gyros*" (Attachment C).

### **RECOMMENDATION**

Staff recommends the Planning Commission **approve** application #11-088, subject to the following conditions and findings:

### **CONDITIONS**

1. The project approval consists of a Conditional Use Permit for a take-out restaurant and a wall sign at 421-B Capitola Avenue.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission. Similarly, any significant change to the use itself, or the site, must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. Business hours will be limited to 11:00AM – 10:00PM.
5. Outdoor displays, sandwich board and other movable freestanding signs are prohibited.
6. Roof top equipment shall be screened from public view and fall within the allowable city permitted decibel levels. Any necessary roof screening is to match the material and color of the building as closely as possible. Plans for any necessary screening shall be submitted to the Community Development Department prior to, or in conjunction with, building permit submittal.
7. The applicant shall obtain a business license prior to operating the business.
8. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

### **FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Planning Staff and the Planning Commission have reviewed the project and determined that the proposed business is an allowable use in the CN (Neighborhood Commercial) Zoning District with a Conditional Use Permit. Conditions of approval have been included to carry out the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

**B. The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff and the Planning Commission have reviewed the project and determined that the proposed business will provide a much-needed service to Capitola and will not have a negative impact on the character and integrity of the neighborhood. Conditions of approval have been included to ensure that the project maintains the character and integrity of the area.

**C. This project is categorically exempt under Section 15301 and 15311(a) of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

The proposed project involves leasing of a portion of an existing commercial space with no expansion of use beyond what has currently existed. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**Report Prepared By:** Ryan Bane  
Senior Planner

Attachment A – Project Plans  
Attachment B – Project Description provided by John Gryspas  
Attachment C – Sign Plan

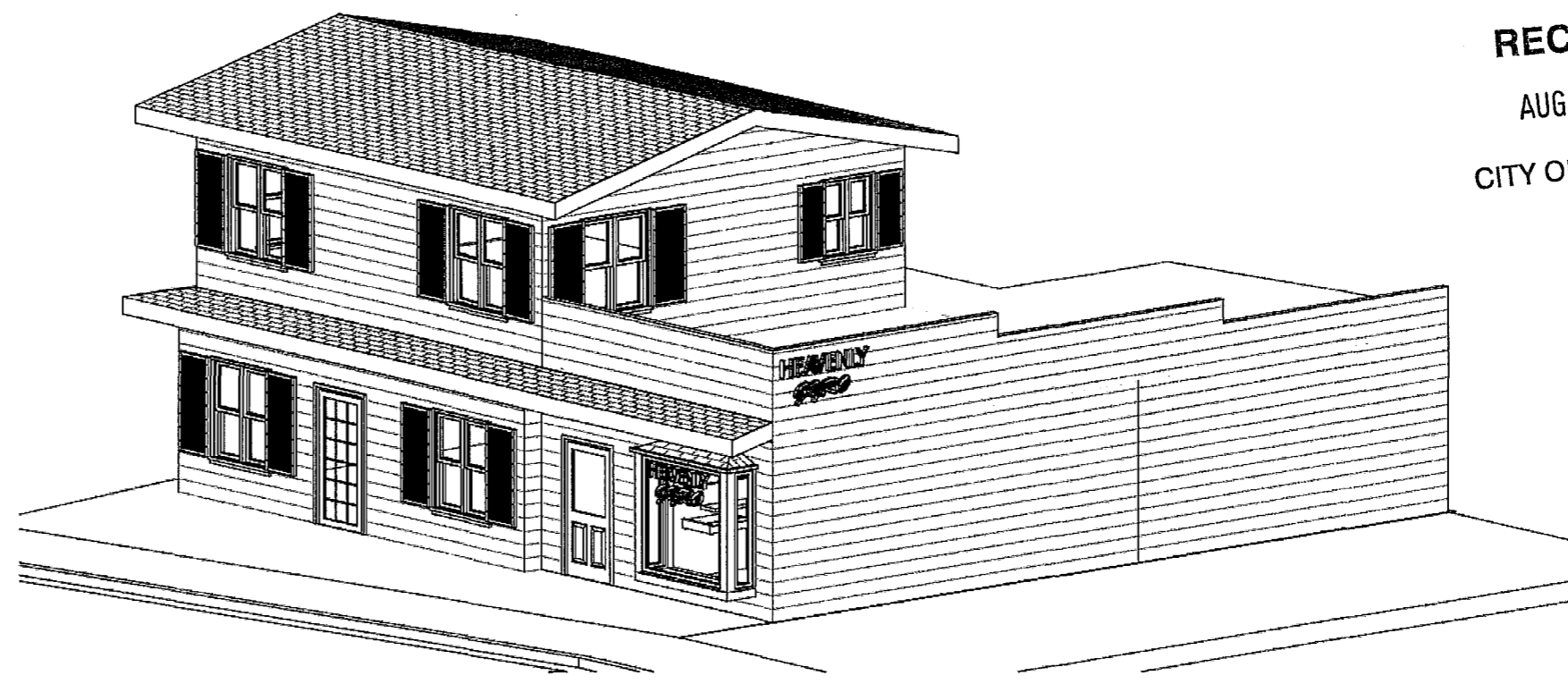
# SANDWICH SHOP REMODEL

421B CAPITOLA AVENUE

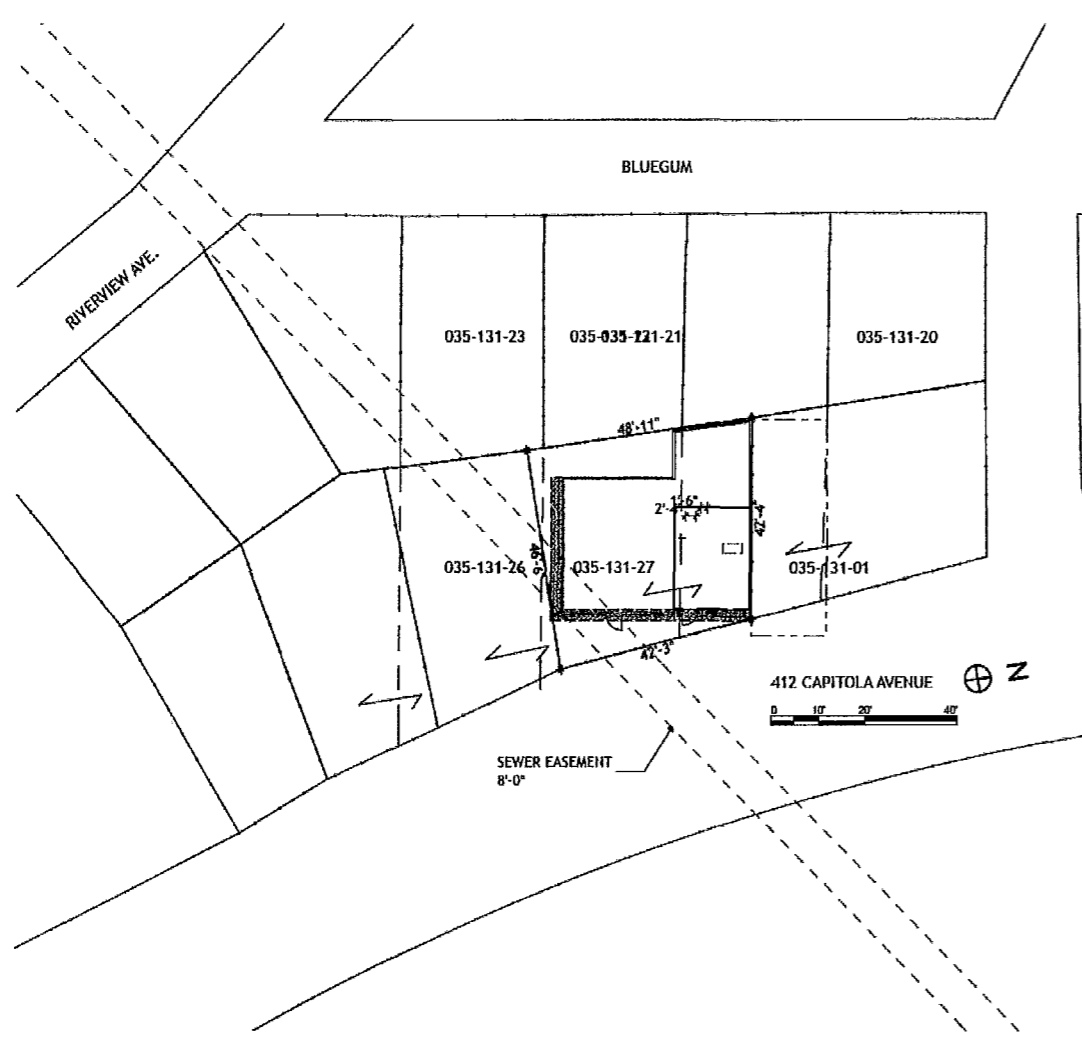


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eduardo@ema-sj.com

RECEIVED  
AUG 16 2011  
CITY OF CAPITOLA



412B CAPITOLA AVENUE



1 SITE PLAN  
T.1 SCALE: 1" = 20'

<p><b>PROJECT DATA</b></p> <p>A.P.N.: 035-131-27 ZONING: C-2 RESEX SITE AREA: .046 ACRE/ 2,002 SQ FT</p>	<p><b>PROJECT TEAM</b></p> <p><b>OWNER:</b> JOHN GRYSPOS 226 MORISSEY BLVD. SANTA CRUZ, CA 95060 831.345.6969</p> <p><b>ARCHITECT:</b> EDUARDO MARTINEZ ARCHITECTS 579 CLYDE AVENUE, SUITE 300 MOUNTAIN VIEW, CA 94043 650.950.0502 eduardo@ema-sj.com</p>	<p><b>VICINITY MAP</b></p>
<p><b>SCOPE OF WORK</b></p> <p>RENOVATION OF EXISTING COMMERCIAL INTERIOR TO REPAIR FLOOD DAMAGE, CONSTRUCT NEW INTERIOR FINISHES, INSTALL COMMERCIAL KITCHEN EQUIPMENT AND EXHAUST HOOD, UPGRADE EXISTING ELECTRICAL AND PLUMBING SERVICE AND CONSTRUCT 4' HIGH ROOF PARAPET TO SCREEN ROOFTOP EQUIPMENT.</p>	<p><b>STRUCTURAL ENGINEER:</b> #####</p> <p><b>CONTRACTOR:</b> ###</p>	<p><b>SITE DATA</b></p> <p>Site Data SITE .046 ACRE/ 2,002 SQ FT TOTAL EXISTING BUILDING COVERAGE</p>
<p><b>APPLICABLE CODES</b></p>	<p><b>TITLE 24 ENGINEER:</b></p>	<p><b>SHEET INDEX</b></p>
<p>ALL CODES REFERENCED ARE TO BE USED AS AMENDED BY THE STATE OF CALIFORNIA AND LOCAL JURISDICTION.</p> <p><b>APPLICABLE CODES AND REGULATIONS</b></p> <p>CALIFORNIA STATE BUILDING CODE (SBC), 2010 CALIFORNIA STATE PLUMBING CODE, 2010 CALIFORNIA STATE ELECTRICAL CODE, 2010 CALIFORNIA STATE MECHANICAL CODE, 2010 CALIFORNIA STATE ENERGY CODE, 2010</p>	<p>BAER TITLE 24 ENERGY COMPLIANCE SERVICE 1761 BRIDGE CREEK SCOTT'S VALLEY, CA 95066 831.335.4802</p> <p>###</p>	<p>INDEX OF DRAWINGS</p> <p>T-1 COVER SHEET T-24 ENERGY CALCULATIONS A.1 FLOOR PLAN</p>

11-080



SANDWICH SHOP REMODEL  
10/11/2011

REVISIONS

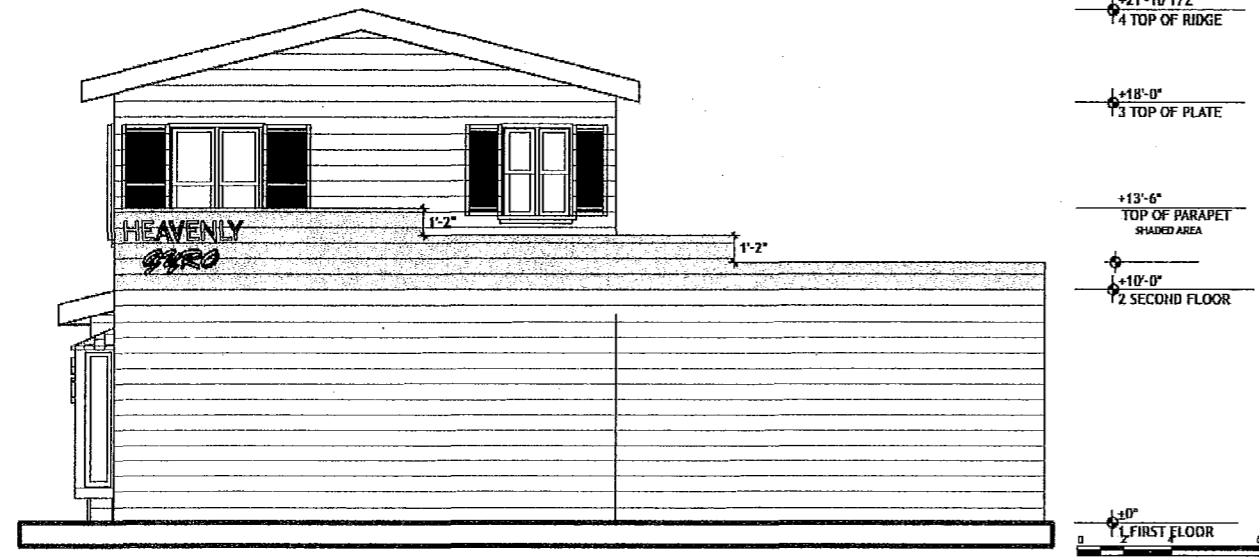
MARK	DATE	DESCRIPTION
1	1/11/2011	BUILDING PERMIT APPLICATION

JOHN GRYSPOS, OWNER  
831.335.7311

APH: 035-131-27

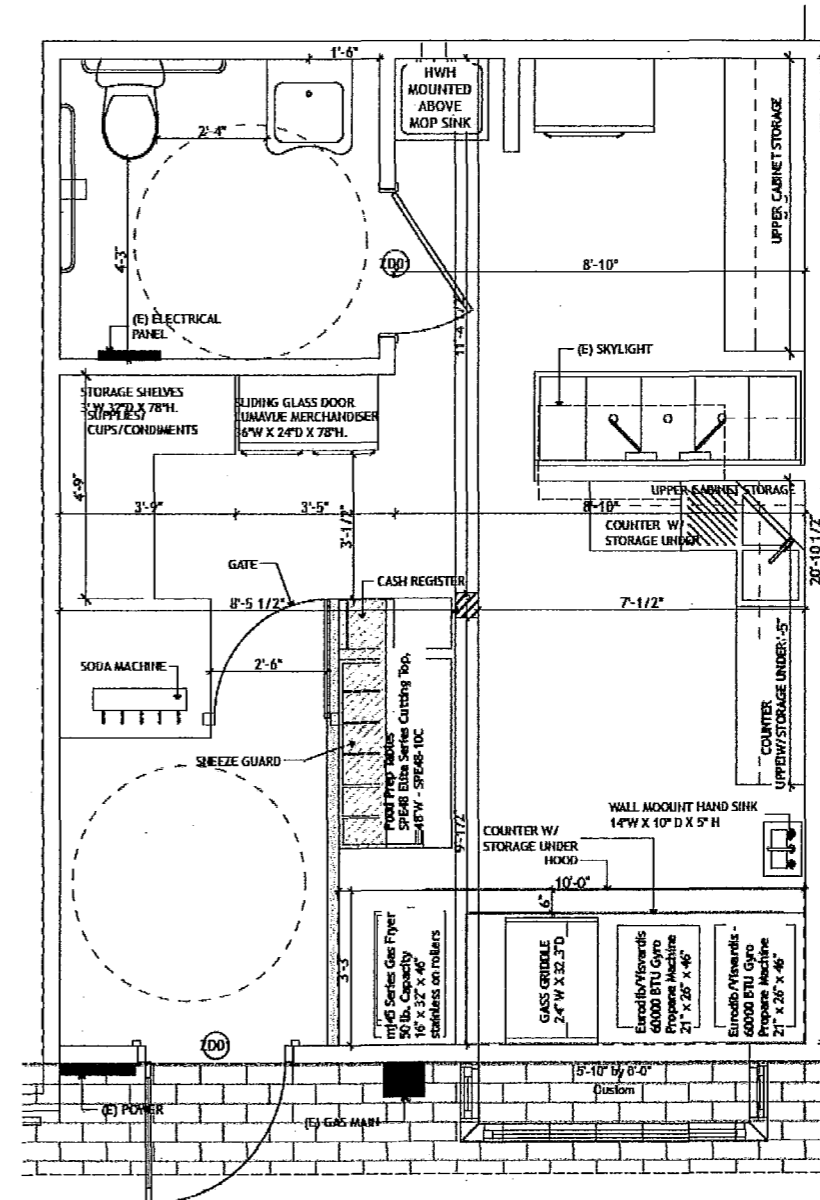
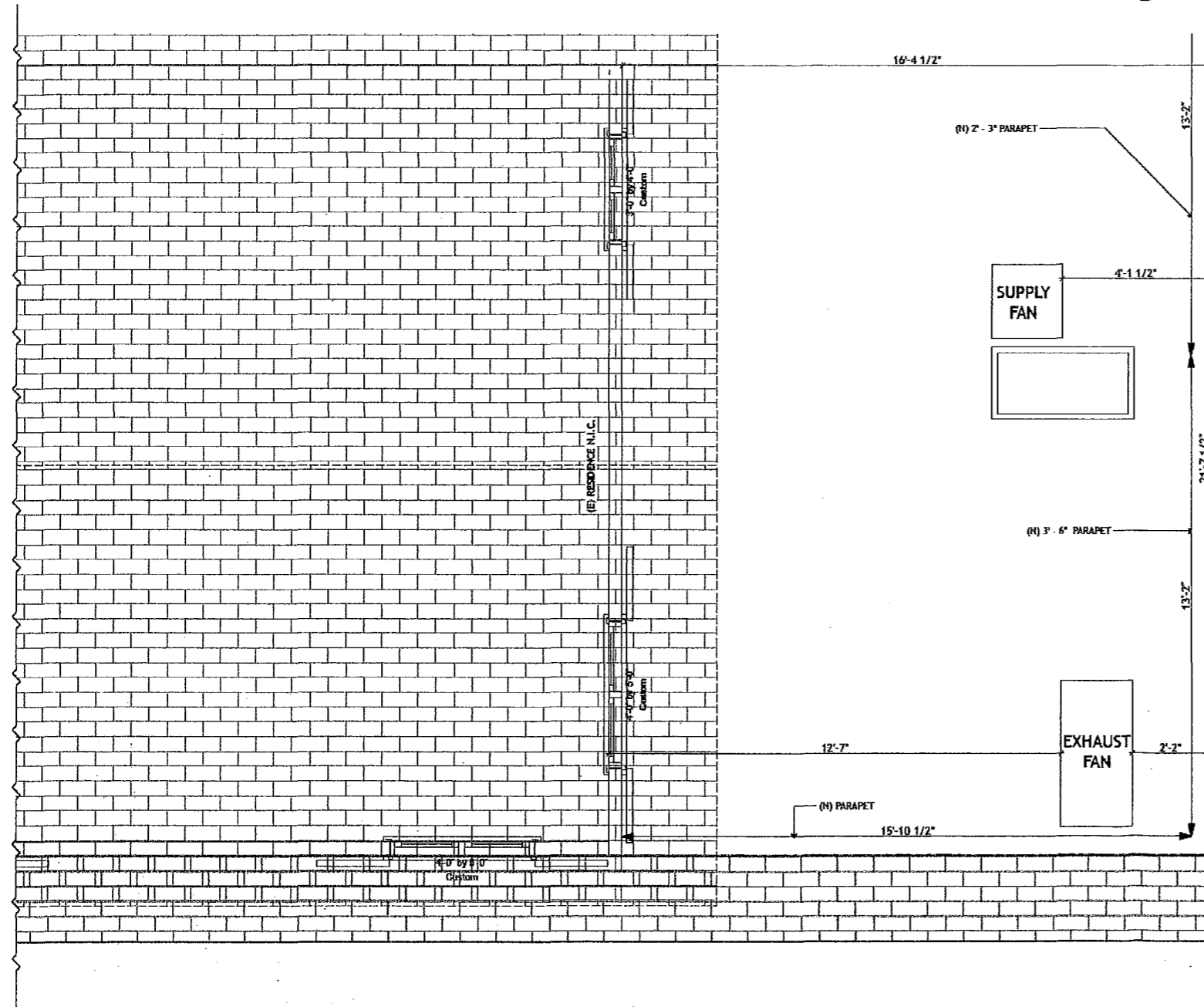
GENERAL INFORMATION

T.1  
57  
DATE: 7/27 /11



4 EAST ELEVATION  
A.1.0 SCALE: 1/4" = 1'-0"

3 SOUTH ELEVATION  
A.1.0 SCALE: 1/4" = 1'-0"



2 ROOF PLAN  
A.1.0 SCALE: 1/2" = 1'-0"

1 FIRST FLOOR PLAN  
A.1.0 SCALE: 1/2" = 1'-0"



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SANDWICH SHOP REMODEL  
JOHN GRYSPOS

REVISIONS		
MARK	DATE	DESCRIPTION
1	1/11/2011	BUILDING PERMIT APPLICATION

JOHN GRYSPOS, OWNER  
831.335.7311

APH: 035-131-27

FLOOR PLAN

A.1.0

58  
DATE: 7/27/11





My name is John Grypos. I was born in Zanesville, Ohio, in 1937. At the time, my father, after being a chef at the Waldorf-Astoria, decided to go into his own restaurant business. He and his partners opened restaurants throughout the Ohio area and Buffalo, New York.

At around the time I was born, he decided that he wanted to retire, and we moved to Greece. Shortly after moving to Greece, Europe became involved in the start of World War II. We endured many hardships, many of which were life-threatening.

In 1946, we returned to the United States and started a new life. We moved to Cambridge, Ohio, where my father opened two restaurants, and a third restaurant was established on Highway U.S. 40 and was called Beverly Hills, with a seating capacity of 1,200 people. It was an incredible place to say the least. Three years later, he opened another restaurant in Zanesville, Ohio, making our own ice cream.

At the time, at the age of 15, I started to work in the restaurants, and one of the happiest times of my life, I started to work in the soda fountain, in which we made our own ice cream and also became a short-order cook and learned how to bake homemade pies.

It was a happy time of our lives, and unfortunately, my father became ill and passed away. Grief-stricken, I decided to join the

U.S navy at the age of 17 and after my tour ended I decided to move to the San Francisco bay area.

I decided to become a wholesale wine salesman and after that I decided to become a wholesale liquor salesman. At the time I opened a sandwich shop which was called the green pepper sandwich shop.

Winning several scholarships I decided to take several courses in the California school of fine art. Going to school developed my ability to do successful painting.

I opened a new liquor delicatessen store in San Francisco and was doing well for a period of time.

At the time the United States economy took a turn for the worse and decided to move to Santa Cruz and purchased an assisted living facility of 26 beds. I renovated the facility and brought it up to 34 beds. Remembering back to those days we heard other administrators say we would only last six months in the assistant living business. We proved them wrong and we opened another twelve-bed facility in Santa Cruz and shortly after that we opened a third ten-bed facility that is still in operation to this day.

My two sons were always active in the assistant living business and also liked the idea of owning a restaurant of their own. We opened a pizzeria in our building in Hollister. After that we realized that closer to home was a better option and five years ago we decided to purchase a then failing restaurant known as the heavenly café in Scotts Valley.

My two sons Nicko, John JR. And my nephew Jr. Rodriguez started the building of the restaurant. Through their hard work, today it is a popular and successful restaurant.

My younger son John Jr. had always liked Capitola village and was eager to open a little restaurant there. After a few years we decided that now is the time to make that dream come true and open a sandwich shop in our building across from the city hall. In closing, with the background of our family in the food

industry business for so many years, I believe that this move to open this sandwich shop is going to be exciting and fun for our family and the community thank you sincerely John Gryspos.

#### BUSINESS DESCRIPTION -

A variety of Greek gyro sandwiches, prepared in the same traditional process as they do Athens Greece. The meats will be cooked, prepared and seasoned from scratch, not pre packaged. Other sandwich related items would be available as well.

At this time we plan to open from 11:00am to 11:00pm 7 days a week

We believe that this operation will require 8 employees.

A handwritten signature in black ink, appearing to read "John Gryspos". The signature is stylized with large loops and a long horizontal stroke at the end.





Design is 5' x 3'  
lightweight alum. composite  
material



## STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: AUGUST 25, 2011 (AGENDA: SEPTEMBER 1, 2011)

SUBJECT: **1575 38<sup>th</sup> AVENUE** **#11-060** **APN: 034-181-17**  
 Preliminary Development Plan for a proposed Planned Development Rezoning to construct a four story, 67-unit senior housing project in the CN (Neighborhood Commercial) Zoning District.  
 Property Owner: Maureen A. Romac, filed 6/3/11  
 Representative: Steve Thomas

### APPLICANT'S PROPOSAL

The applicant is presenting a preliminary development plan for a planned development rezoning at 1575 38th Avenue in the CN (Neighborhood Commercial) zoning district. The project site currently contains a commercial salvage yard which is proposed to be removed as part of the project. The applicant is proposing a 67-unit market rate senior housing development on the 31,365 square foot (.72 acre). As this is a planned development proposal, this is the first step in the approval process. This plan is to be reviewed and considered in principle by the Planning Commission before a formal application is submitted.

### ARCHITECTURAL AND SITE REVIEW

The Architectural and Site Review Committee considered this project on July 27, 2011. The following issues were raised by various members of the Committee:

#### Ryan Bane, Senior Planner

- Staff has concerns with the mass, scale and height of the proposed building. With the reduced setbacks and four-story height, the scale of the building may be too great for the 38<sup>th</sup> Avenue corridor.
- Front and side setbacks can be flexible due to adjacent uses, however, the rear of the site abuts single-family residential uses and the building will need to be appropriately setback and stepped back to minimize impacts.
- While the front elevation provides architectural interest from the street, the other three sides lack articulation. Design of the building needs to be consistent on all four sides. With the redevelopment of the 38<sup>th</sup> Avenue corridor, this project will be setting a standard for the area.
- Staff would encourage the incorporation of commercial space on the first floor, fronting the street.
- For a project of this size, it is recommended that you contact the Santa Cruz County Public Works Drainage Department in order to identify any drainage improvements that will be required as part of the development.

- Staff recommends that you begin work with the Santa Cruz City Water District to determine what will be required to create new water meters for the proposed units.
- Landscaping shall cover five percent of the lot area to insure harmony with adjacent development, in accordance with architectural and site approval standards. A preliminary landscape will be required as part of the formal application. Landscaping shall comply with all requirements of the Santa Cruz City Water District regarding landscape irrigation and/or water fixture requirements, as well as any infrastructure improvements. Final building plans shall be reviewed and approved by the District prior to issuance of building permits.
- The current parking requirement for a multiple-family residential use is one covered space for each unit plus 1.5 parking spaces/unit on-site, or 2.5 parking spaces/unit. Based on the proposed 67 residential units, a total of 168 parking spaces would be required. The preliminary plan calls for providing 60 spaces. Considering the fact that this is a senior complex, it is anticipated that the parking demand and traffic generation will be far less than a standard market rate apartment complex. Therefore, as part of the project analysis, a parking and traffic analysis will be required as part of your formal submittal.
- Overall lighting will need to be directed down and shielded from adjacent properties. The guidelines also require light to be contained on the property. An exterior lighting plan which delineates the type, height and location of the proposed lighting will be required as part of the formal submittal.
- A minimum 6' high concrete block wall (measured from project finished grade) will be required along the western property line adjacent to residential properties. In addition to the block wall, it is recommended that trees be planted between the new structure and the property line to provide screening for the residential neighbors.
- The project will be required to comply with the Inclusionary Housing Ordinance. This will require that affordable housing in-lieu fees be paid to the city's housing trust fund in accordance with the requirements of Section 18.02.050. The current fee is \$6.00 per square foot.
- Based on the proposed project, it is likely that an Initial Study and Negative Declaration will need to be prepared. In addition to the previously mentioned parking and traffic analysis, it is anticipated that a noise study will also be required.
- A sign permit will be required for any proposed signage. A detailed sign plan will be required as part of the formal submittal.
- New curb, gutter and sidewalk will be required along the 38<sup>th</sup> Avenue frontage. All utilities will be required to be undergrounded. Improvements to nearby intersections may be required depending upon the results of the traffic study.

Frank Phanton, City Architect

- Expressed concerns with the mass, scale and height of the proposed building.
- He suggested that the upper floors be setback more, especially in the rear of the structure where there were impacts to single-family residences.
- He complimented the front elevation, but agreed that the design and articulation needed to be on all four sides of the building.

Steve Jesberg, Public Works Director

- He recommended working with the County Zone 5 Drainage Dept., County Sanitation Dept., and Santa Cruz City Water early on in the process.
- He indicated that a traffic study would be required, and that the impacts to the Capitola Road/38<sup>th</sup> Avenue intersection would need to be studied.
- Installation of public sidewalk would be required along 38<sup>th</sup> Avenue.

Susan Suddjian, City Landscape Architect

- Expressed that she like the project, and encouraged that that minimal landscape areas be well utilized for seniors. She recommended that the setback area surrounding the structure have level pathways with gardens for seniors to walk through.
- She also recommended additional potted plants throughout the project.

**DISCUSSION**

The 31,365 square foot (.72 acre) project site is located on 38<sup>th</sup> Avenue between Capitola Road and Brommer Street. The relatively flat site currently contains a commercial salvage yard which is proposed to be removed as part of the project. Abutting the west property line are single-family homes located in the County, while to the south of the property is a self storage facility. Across the street is the King’s Plaza shopping center, while to the north is a combination of office and commercial properties.



**1575 38<sup>th</sup> Avenue – APN 034-181-17**

General Plan

The General Plan Designation for the site is C-LC (Commercial – Shopping Local). The designation is described as “Commercial areas that serve local neighborhoods.” The Housing Element lists the site as a Mixed-Use Residential/Commercial opportunity site. The following is an excerpt from the Housing Element:

*The current use of this parcel (APN # 034-181-17) (not in the coastal zone) is the “Capitola Freight and Salvage”, a used building materials operation. The site is approximately 0.7 acres in size and is in the Neighborhood Commercial (CN) zoning district and is close to public transit, shopping and other amenities. The CN zone allows residential-commercial mixed-use development as a*

*principally permitted or “by-right” use. The current use of the site is not seen as a barrier to future development as it significantly underutilizes the site, and will not be continued when redeveloped. Currently there are several dilapidated buildings on the site that are used for the Capitola Freight and Salvage business. The buildings do not contain residential units and cover approximately 20% of the site.*

*It is anticipated that due to the age and poor condition of the existing structures, that the site will be redeveloped in the current planning period. Given current zoning and proximity to public services the site is appropriate for a future mixed residential/commercial development project. Taking into consideration the setbacks, parking, and other design requirements of the CN district, it is possible to build 17 residential units above commercial on this site or 25 dwelling units per acre. Going by the standards set by the California State Department of Housing and Community Development, a density of 20 dwelling units/acre equates to low and very low income affordability. Although this site qualifies under State Housing Element requirements for the development of low-income housing units, the City of Capitola is choosing to show this site as being developed for moderate and above moderate income households. While a net of 17 units are possible on this site, the City has anticipated development at about 50% of the net new units, for a total of eight units.*

Though it is stated that a net of 17 units are possible on the site, it is certainly possible to develop more. The CN zoning district does not have a specific maximum lot coverage or minimum lot area per unit. Therefore, density is indirectly controlled by the need to meet parking requirements.

#### Zoning District

The parcel is currently zoned CN (Neighborhood Commercial). The purpose of the existing CN districts is “to accommodate, at convenient locations, those limited commercial uses which are necessary to meet frequently occurring basic shopping and service needs of persons residing in adjacent areas and to implement the harmonious intermingling of pedestrian, commercial and residential activities. The style and scale of development should be consistent with the foregoing and the intensity of uses should have low impact on the neighborhood.”

This is a neighborhood commercial district that permits single family residential and residential/commercial mixed use development as principal permitted uses. Multifamily residential is permitted with a conditional use permit. This district has permissive development standards: there is no specific maximum lot coverage or minimum lot area per unit, density is indirectly controlled by the need to meet parking requirements. Required setbacks are 15 feet at the front, 10% of lot width for the first floor side, and 15% of the lot width for the second floor side yards. The rear set back requirement is 10 feet for commercial developments and 20% of lot depth for residential projects.

<b>Development Standard</b>	<b>CN Minimum Requirement</b>	<b>Proposed</b>
Front Yard Setback	15'	10'
Rear Yard Setback(Residential)	48'	10'
Rear Yard Setback (Commercial)	10'	10'
First Floor Side Yard Setback	13'	5'
Second Floor Side Yard Setback	19'-7"	5'
Maximum Height	27'	51'

#### **PD Rezoning Process**

As proposed, it is clear to see that the development does not meet the current CN zoning district development standards. Thus a preliminary Planned Development (PD) application has been submitted. Section 17.39.010 of the Zoning Ordinance states that the purpose of the Planned Development District is “to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation, and conservation in the city, which features variation in siting, mixed

land uses, and/or varied dwelling types. The amenities and compatibility of PD districts is to be insured through adoption of a general development plan, showing proper orientation, desirable design character and compatible land uses.” This would allow some flexibility to the development standards in order to achieve the desired result.

The PD process requires that the applicant submit a preliminary development plan to the Planning Commission for an approval in principle, prior to submission of a PD rezoning, subdivision, and architectural and site review application. The PD ordinance provides that “approval in principle is to be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility.” For a proposed PD of less than four acres, the Planning Commission must also find that the PD District is appropriate, by virtue of its unique historical character, topography, land use or landscaping features.

Though the preliminary development process is mainly for review of land use and conceptual site design, the Planning Commission is welcome to make architectural comments and give direction to the applicant. A more thorough architectural review will be done at the formal PD Rezoning and architectural review stage of the process. This project will come back to the Commission as part of that process, so the Commission will have more opportunity to comment on the architecture at that time.

Requested Exceptions

The PD district provides that standards for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the zoning district most similar in nature and function to the proposed PD district use as determined by the Planning Commission. In this case, we are looking at the CN zoning. Per the PD ordinance, exceptions to standards are allowed when it is found that the exceptions “encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.” The following is a summary of the CN exceptions requested as part of the PD rezoning.

<b>Development Standard</b>	<b>CN Minimum Requirement</b>	<b>Proposed</b>
Front Yard Setback	15’	10’
Rear Yard Setback(Residential)	48’	10’
Rear Yard Setback (Commercial)	10’	10’
First Floor Side Yard Setback	13’	5’
Second Floor Side Yard Setback	19’-7”	5’
Maximum Height	27’	51’
Parking	168	60

Landscaping

With the proposed structure covering the majority of the site, there are limited opportunities for landscaping. However, the applicant has included a “smell the roses” trail around the perimeter of the building, as well as incorporated trellises and potted plants throughout the development. Per the Zoning Ordinance, landscaping is to cover five percent of the lot area to insure harmony with adjacent development, in accordance with architectural and site approval standards. A preliminary landscape plan will be required as part of the formal application and landscaping shall comply with all requirements of the Santa Cruz City Water District regarding landscape irrigation and/or water fixture requirements, as well as any infrastructure improvements.

### Parking/Traffic

The current parking requirement for a multiple-family residential use is one covered space for each unit plus 1.5 parking spaces/unit on-site, or 2.5 parking spaces/unit. Based on the proposed 67 residential units, a total of 168 parking spaces would be required. The preliminary plan calls for providing 60 spaces. Considering the fact that this is a senior complex, it is anticipated that the parking demand and traffic generation will be far less than a standard market rate apartment complex. Therefore, as part of the project analysis, a parking and traffic analysis will be required as part of your formal submittal.

### Lighting

Overall lighting will need to be directed down and shielded from adjacent properties. The guidelines also require light to be contained on the property. An exterior lighting plan which delineates the type, height and location of the proposed lighting will be required as part of the formal submittal.

### Screening Walls

A minimum 6' high concrete block wall (measured from project finished grade) will be required along the western property line adjacent to residential properties. In addition to the block wall, it is recommended that trees be planted between the new structure and the property line to provide screening for the residential neighbors.

### Public Improvements

New curb, gutter and sidewalk will be required along the 38<sup>th</sup> Avenue frontage. All utilities will be required to be undergrounded. Improvements to nearby intersections may be required depending upon the results of the traffic study.

### Signage

A sign permit will be required for any proposed signage. A detailed sign plan will be required as part of the formal submittal.

### Environmental Review

Based on the proposed project, an Initial Study and likely a Negative Declaration will need to be prepared as part of the formal submittal. In addition to the previously mentioned parking and traffic analysis, it is anticipated that a noise study will also be required. If the Planning Commission and Council approve, in principle, the preliminary development plan, staff will prepare these documents in accordance with the California Environmental Quality Act, which will address project impacts.

## **RECOMMENDATION**

Staff is generally supportive of the senior housing use. The site's central location adjacent to a mix of commercial uses is convenient for seniors, including a movie theatre, several restaurants, drug store, and grocery store, as well as the Capitola Mall.

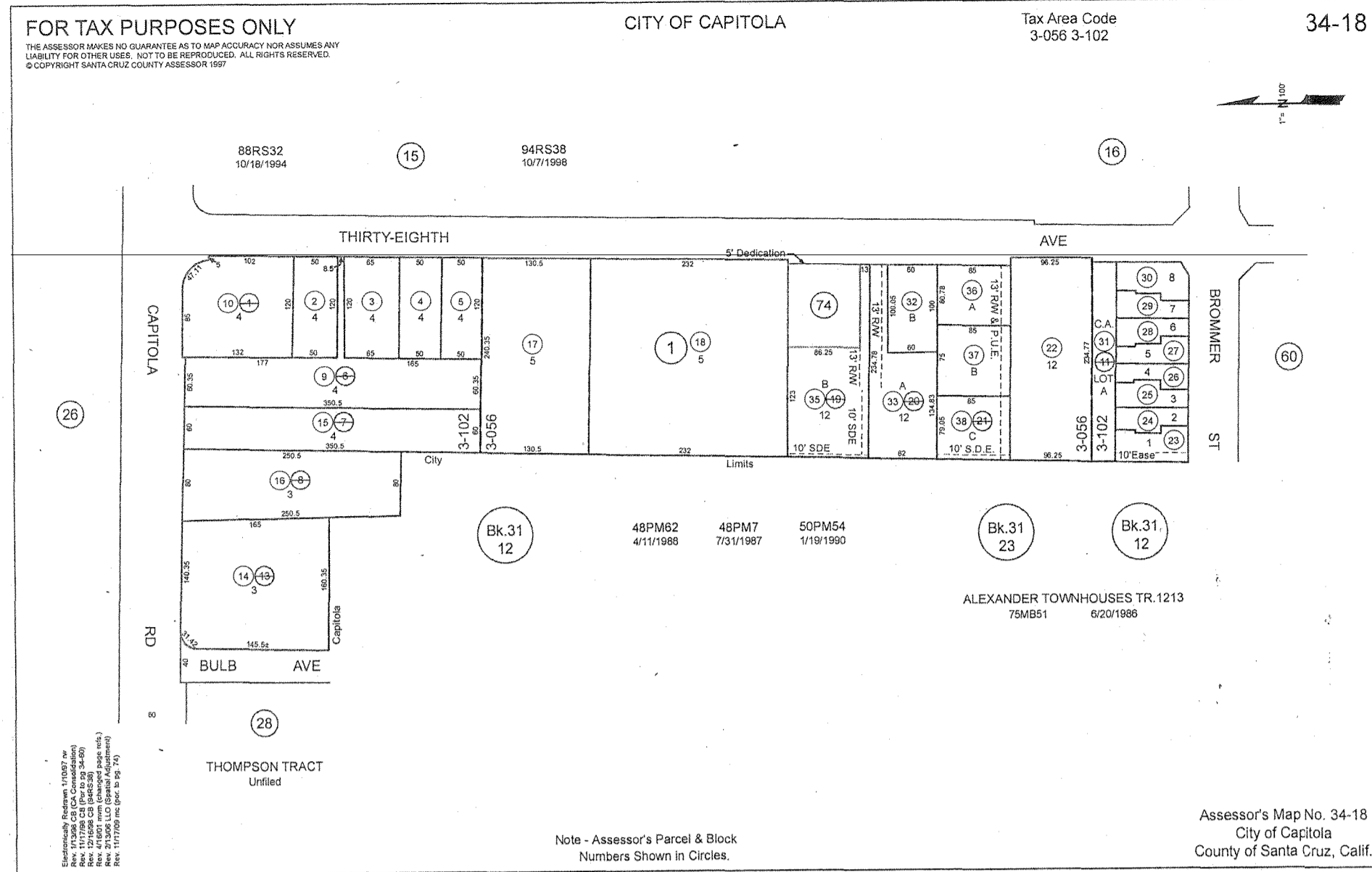
In regards to the preliminary plans provided, there are some concerns with the mass, scale and height of the building. With the reduced setbacks and four-story height, the scale of the building may be too great for the area. While there would be some flexibility with the front and side setbacks due to adjacent uses, the rear of the site abuts single-family residential uses and the building will need to be appropriately setback and stepped back to minimize impacts. Also, with the four story height and minimal setbacks, care will need to be taken in the architectural design to provide articulation and control the mass and scale of the structure. While the front elevation provides architectural interest from the street, the other three sides lack articulation, and design of the building will need to be consistent on all four sides. With the redevelopment of the 38<sup>th</sup> Avenue corridor, this project will be setting a standard for the area.

The Planning Commission should consider the project in concept, and provide input and recommendations to address any potential concerns for the formal application process. The Commission should focus on the appropriateness of the proposed use and its relation with other surrounding uses, as well as density, circulation, and building design. While many of the detailed building design issues will be dealt with at the formal PD rezoning and architectural review phase, the Planning Commission is encouraged to express any concerns or recommended revisions as part of the preliminary review.

**Report Prepared By:** Ryan Bane  
Senior Planner

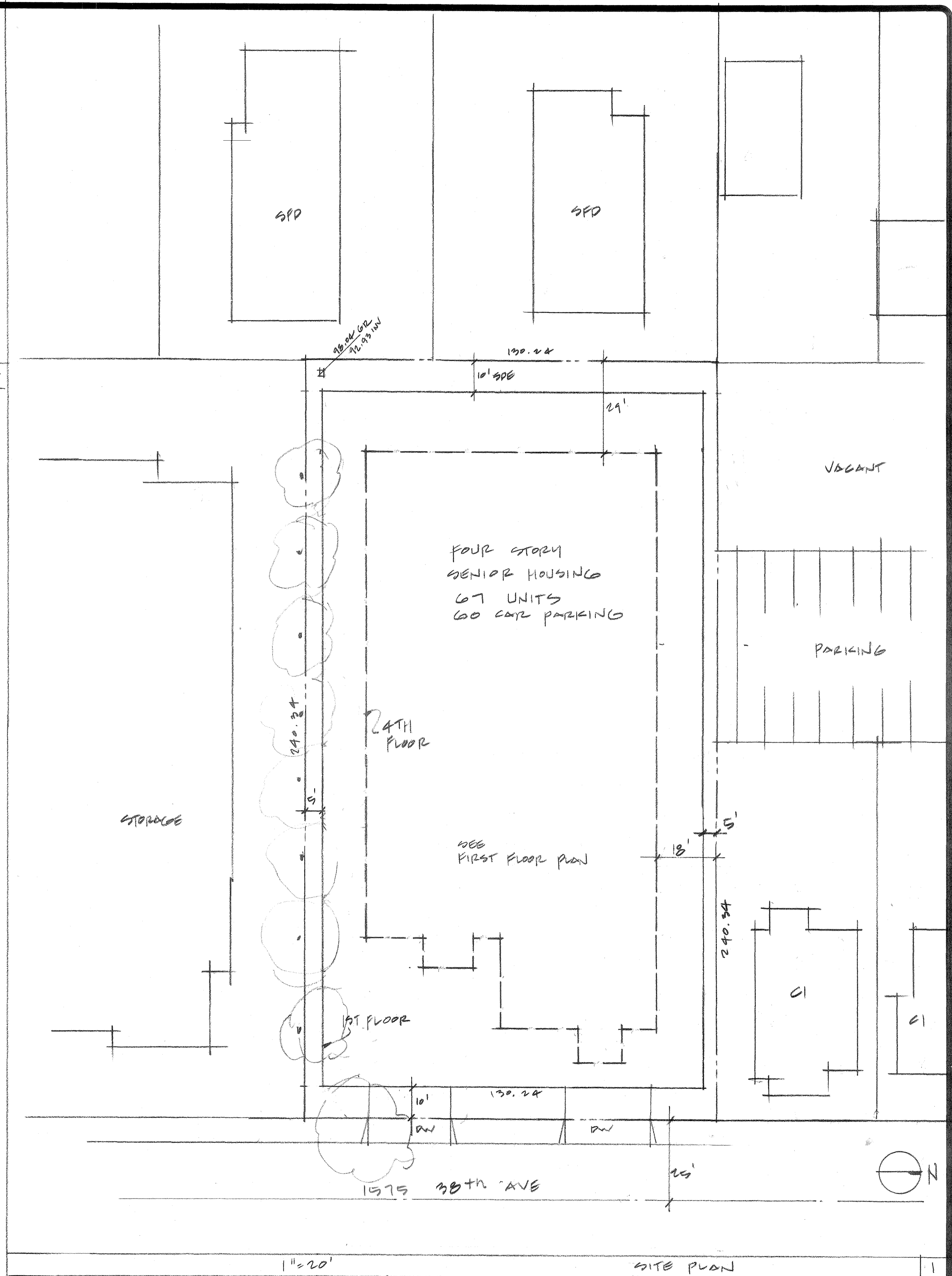
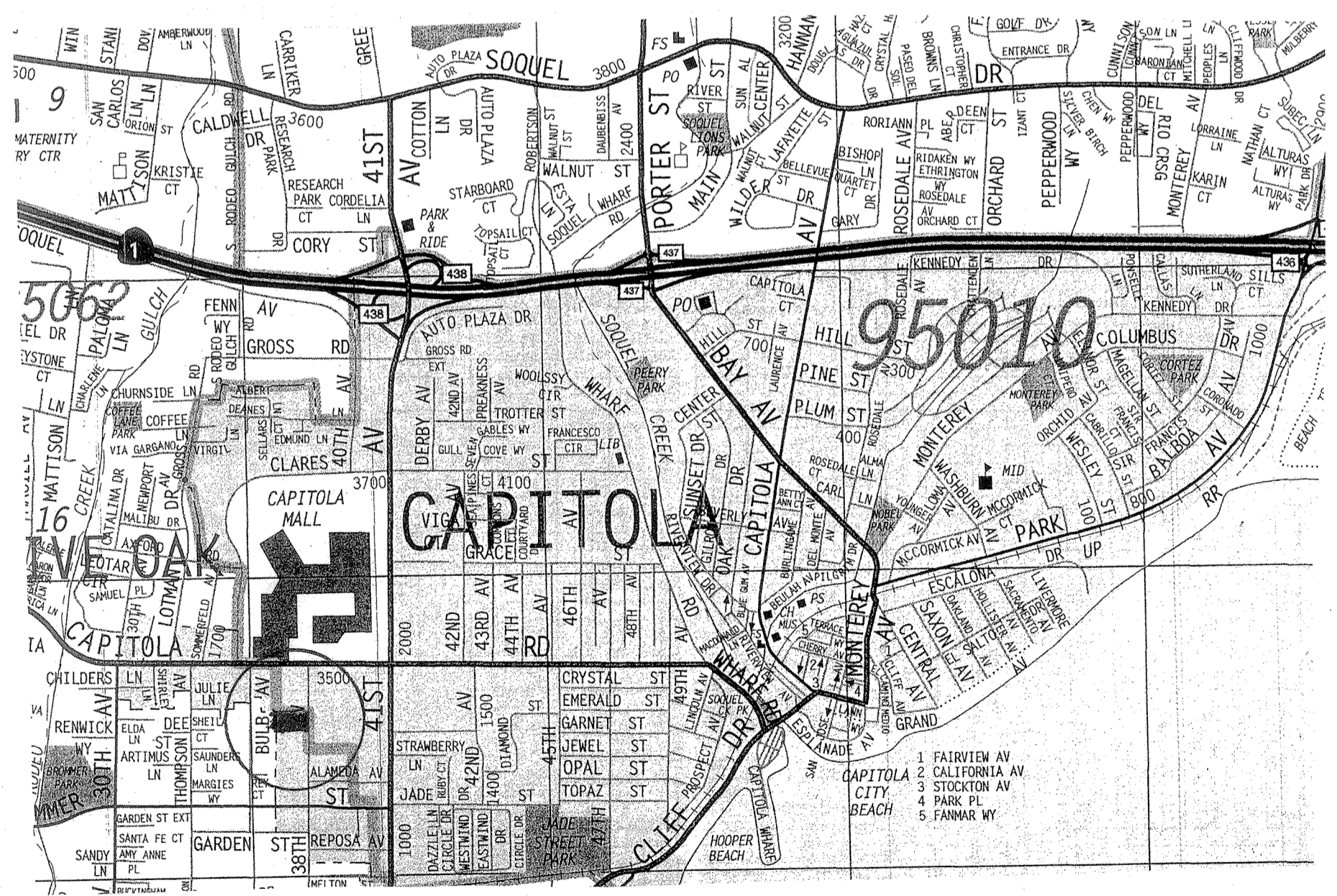
Attachment A - Project Plans (Full Size)  
Attachment B – Project Description provided by the Applicant  
Attachment C – Letter from George Ow, Jr.





LOT SIZE 31,200 sq ft  
 FIRST FLOOR 20,400 sq ft  
 SECOND FLOOR 22,170 sq ft  
 THIRD FLOOR 20,040 sq ft  
 FOURTH FLOOR 15,100 sq ft  
 TOTAL BUILDING 88,710 sq ft  
 UNITS 67  
 CARS 60  
 STD. 49  
 COMP. 11  
 STORIES 4, HEIGHT 51'  
 ZONING REQUEST: PD

PROJECT DATA 2



REVISIONS	BY

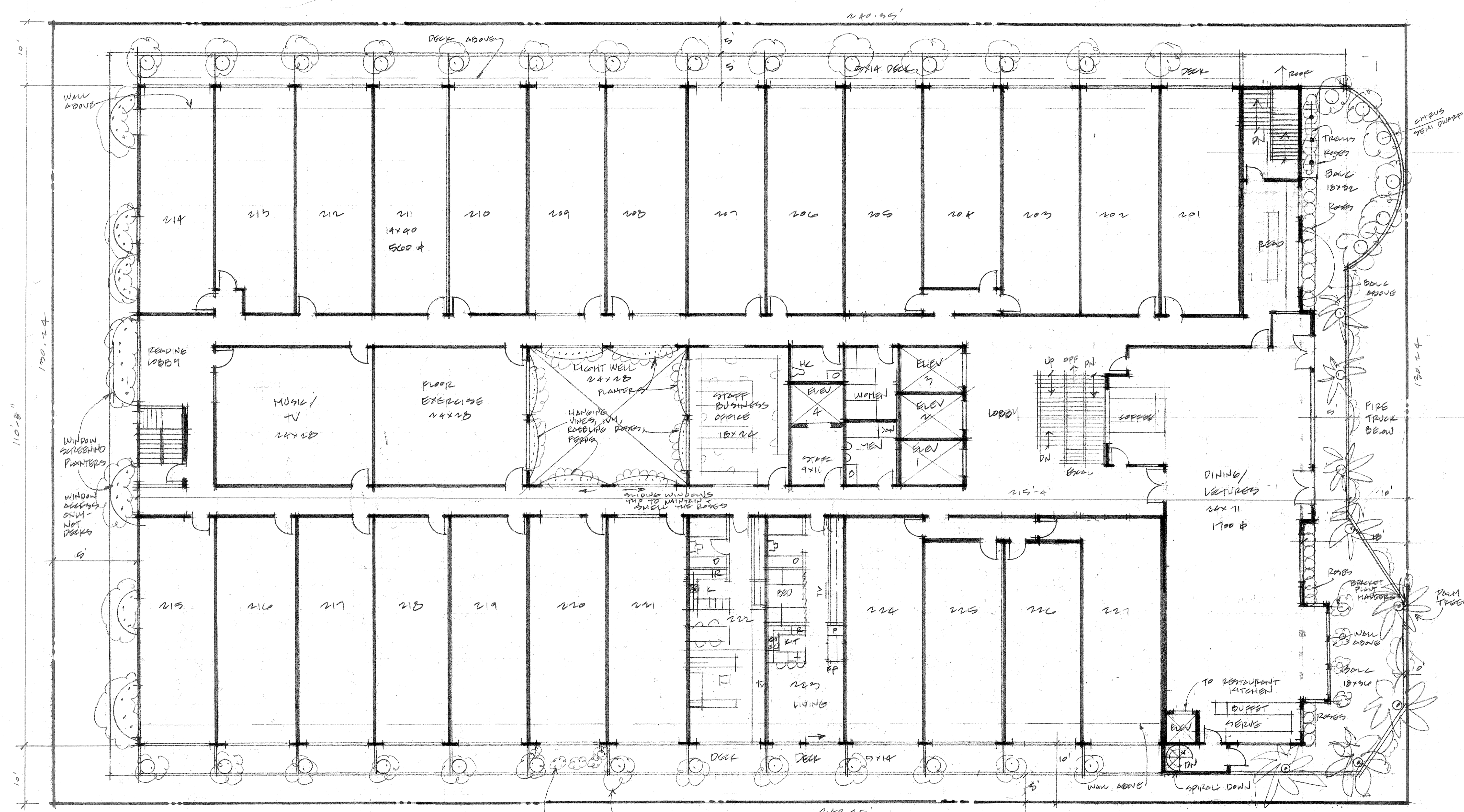
**Daryl Fazekas**  
 Architecture,  
 Structural,  
 Energy  
 15621 Loma  
 Vista Ave.  
 Los Gatos, CA 95032  
 DarylFazekas@gmail.com  
 408 395 9400

SITE PLAN

VILLA ROMA  
 1575 38TH AVE, CAPITOLA

DRAWN
CHECKED
DATE
SCALE
JOB NO.
VILLA ROMA
SHEET
AO
OF SHEETS





HANGING + BRACKET PLANTS ENCOURAGED. BIG FEEDERS OK

ALL BALCONIES HAVE ONE SHRUB - ROSE OR WINDING OR CHOICE OF TENANT - MAINTAINED BY STAFF - AUTO IRRIGATION TYP.

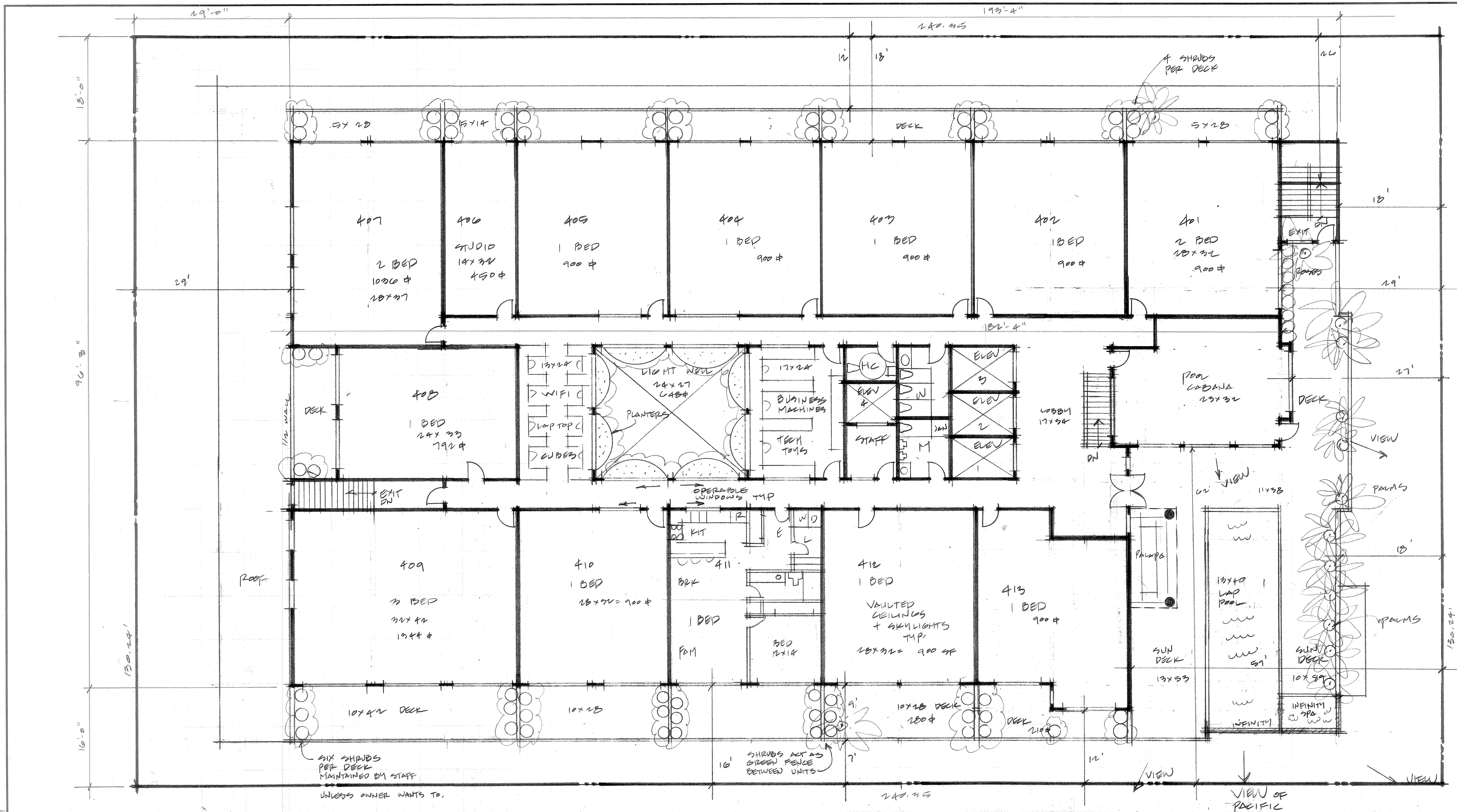
	# UNITS
STUDIO	55
1 BED	9
2 BED	2
3 BED	1
<b>TOTAL UNITS</b>	<b>67</b>

SECOND FLOOR  
 27 STUDIOS

SECOND FLOOR PLAN		
SCALE 1/8"=1'-0"	APPROVED BY	DRAWN BY
DATE 5.3.11		REVISED
VILLA ROMA		
DRAWING NUMBER A272		



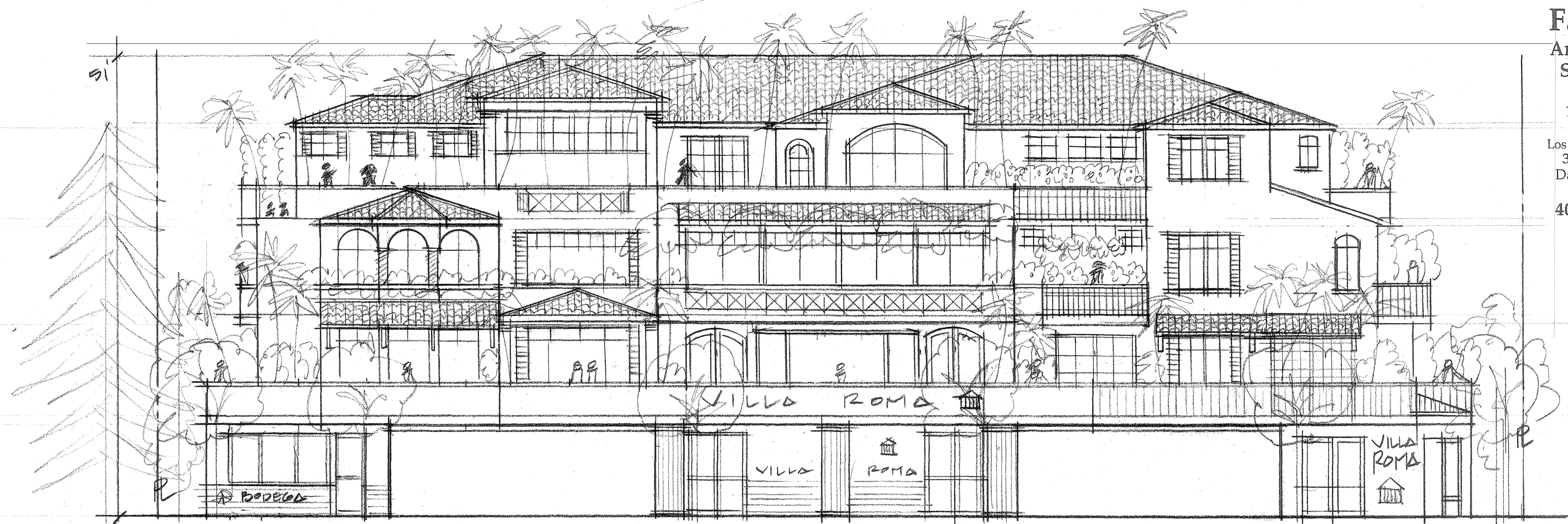
**Daryl Fazekas**  
 Architecture,  
 Structural,  
 Energy  
 15621 Loma  
 Vista Ave.  
 Los Gatos, CA 95032  
 356 2190 fax,  
 DarylFazekas@  
 gmail.com  
 408 395 9400



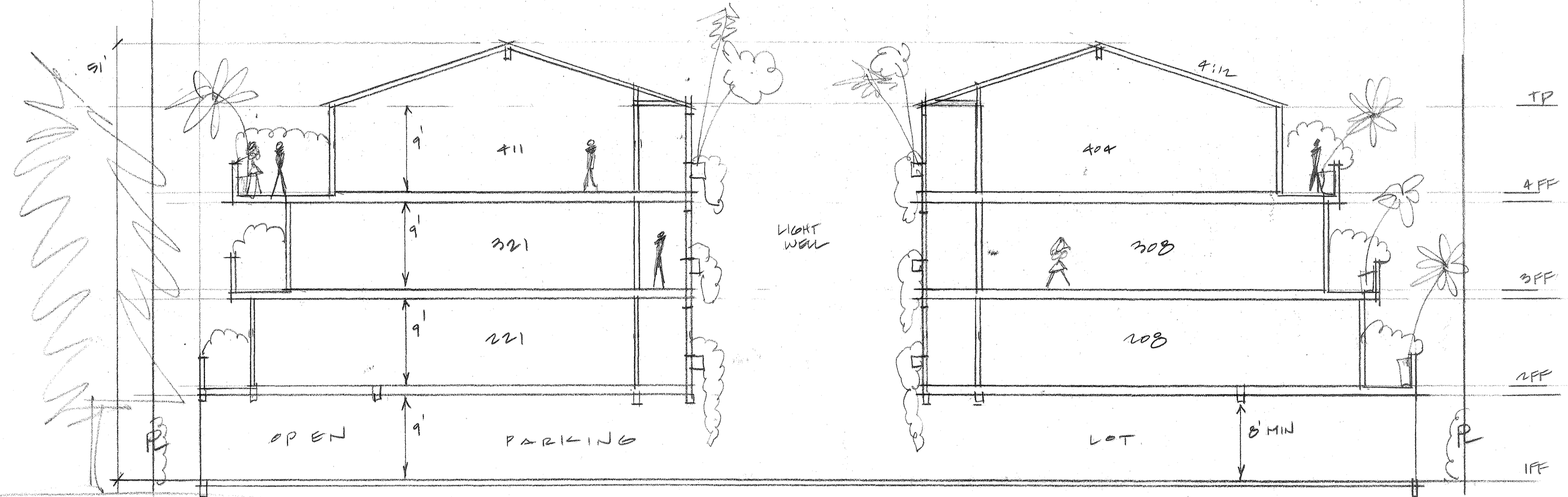
FOURTH FLOOR  
 1 studio  
 9-1 BED  
 2-2 BED  
 1-3 BED  
 13 UNITS

FOURTH FLOOR PLAN

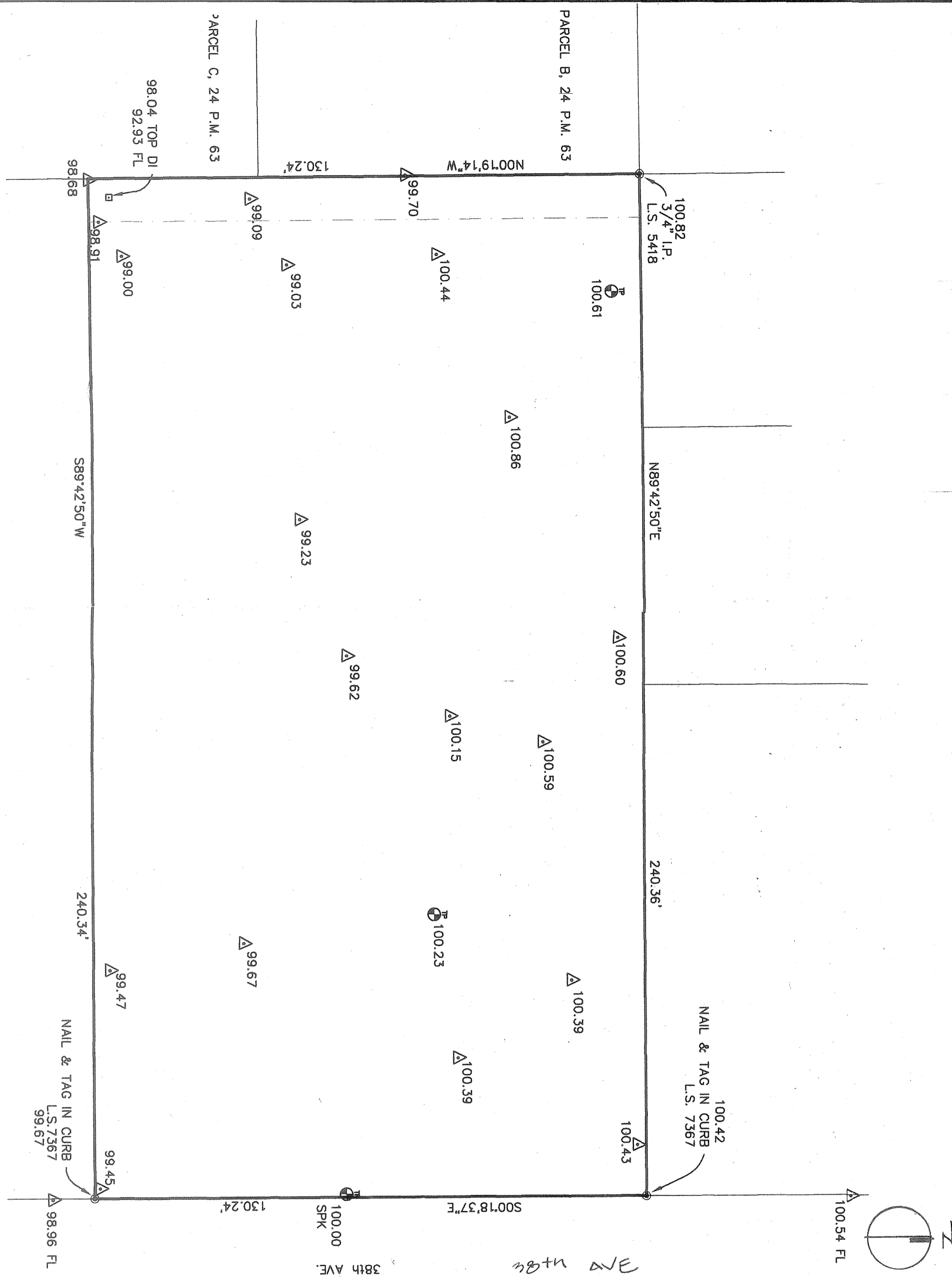
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 8.1.11		REVISED
VILLO ROMA		DRAWING NUMBER
		A4



FRONT ELEVATION



SECTION

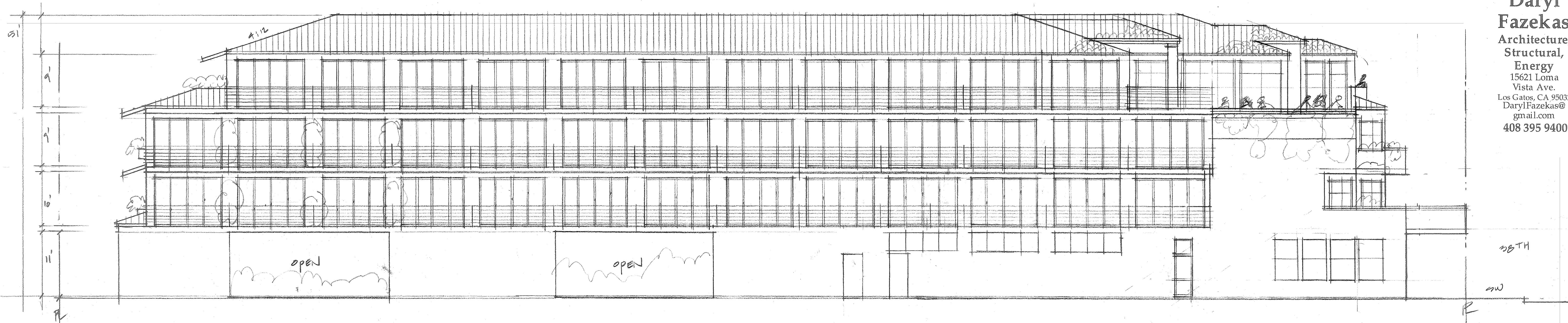


EXISTING SURVEY

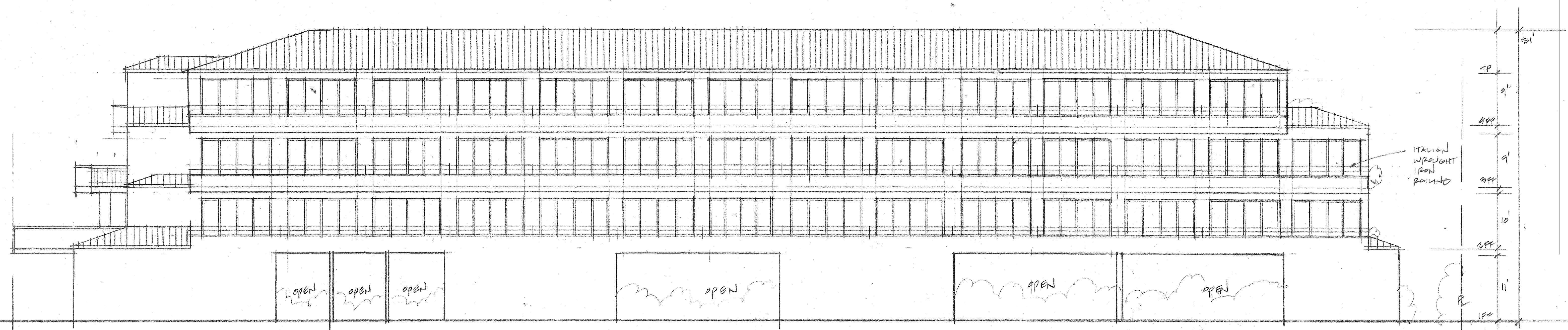


AERIAL

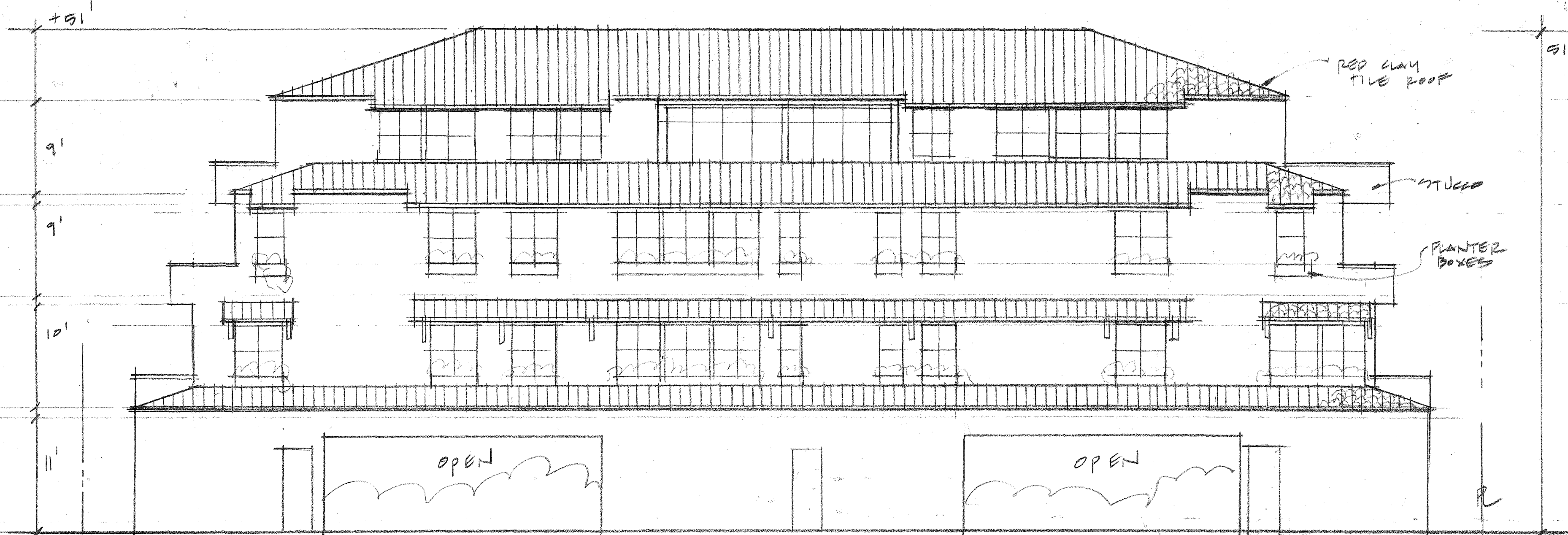
ELEVATION		SECTION
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 5.1.11		REVISED
VILLA ROMA		DRAWING NUMBER
		AS



SOUTH / LEFT ELEVATION



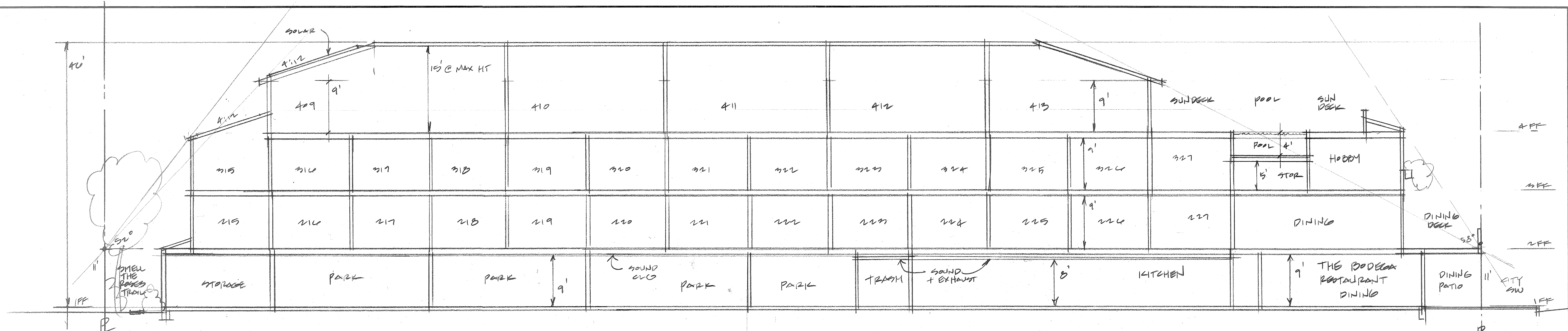
NORTH / RIGHT ELEVATION



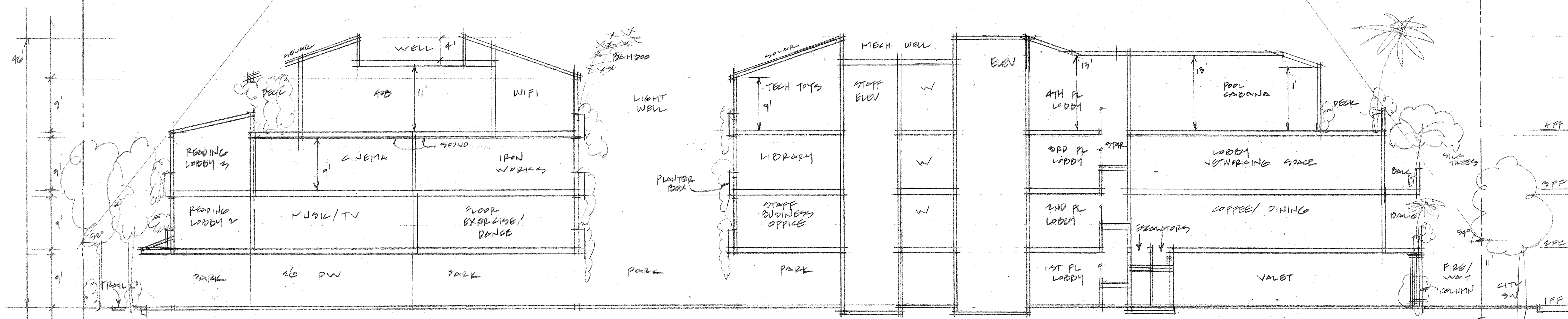
WEST / REAR ELEVATION

ELEVATIONS			
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DATE 01.11		REVISED	
		VILLA ROMA	
		DRAWING NUMBER	
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3



SECTION B

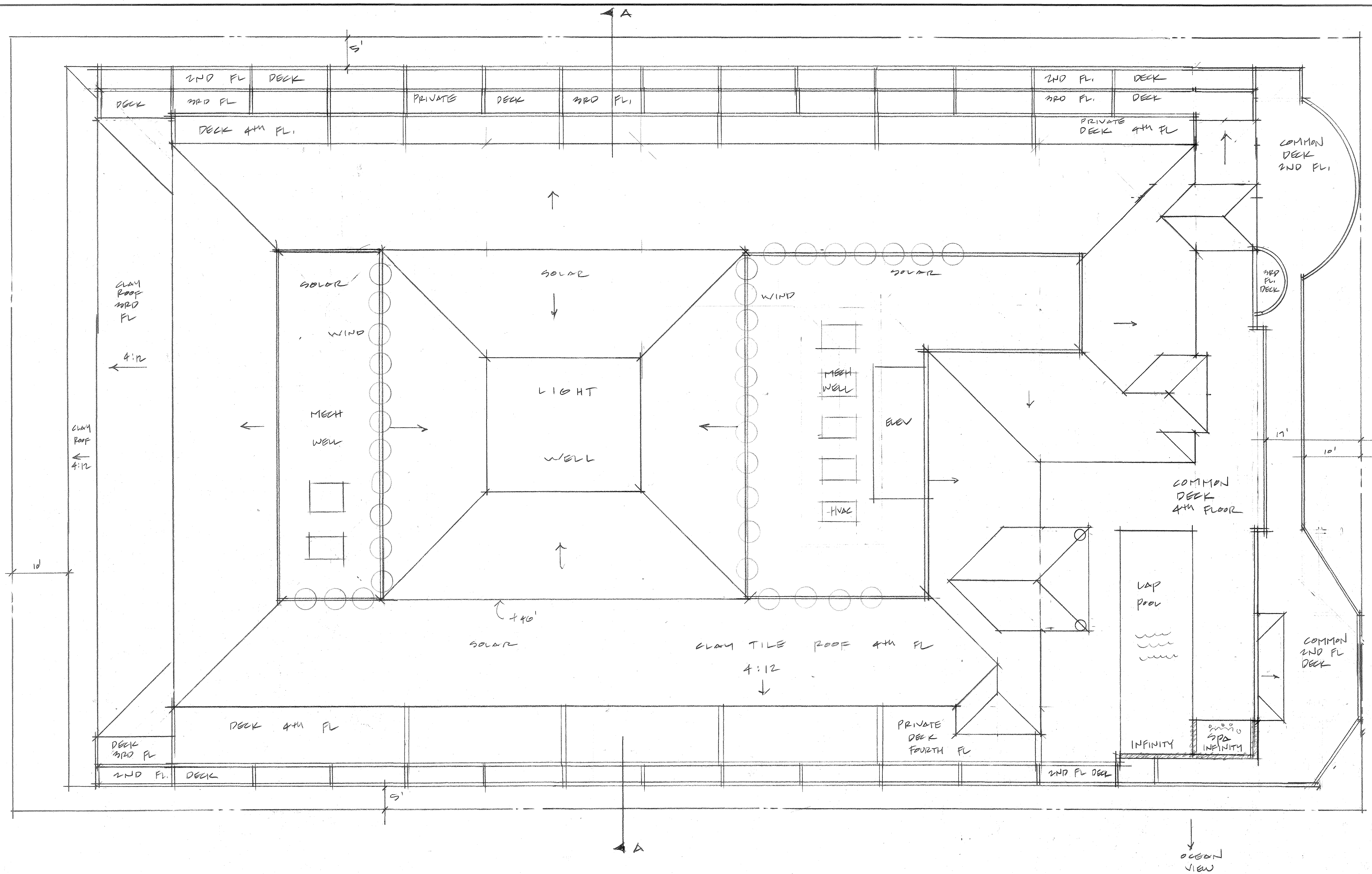


SECTION C

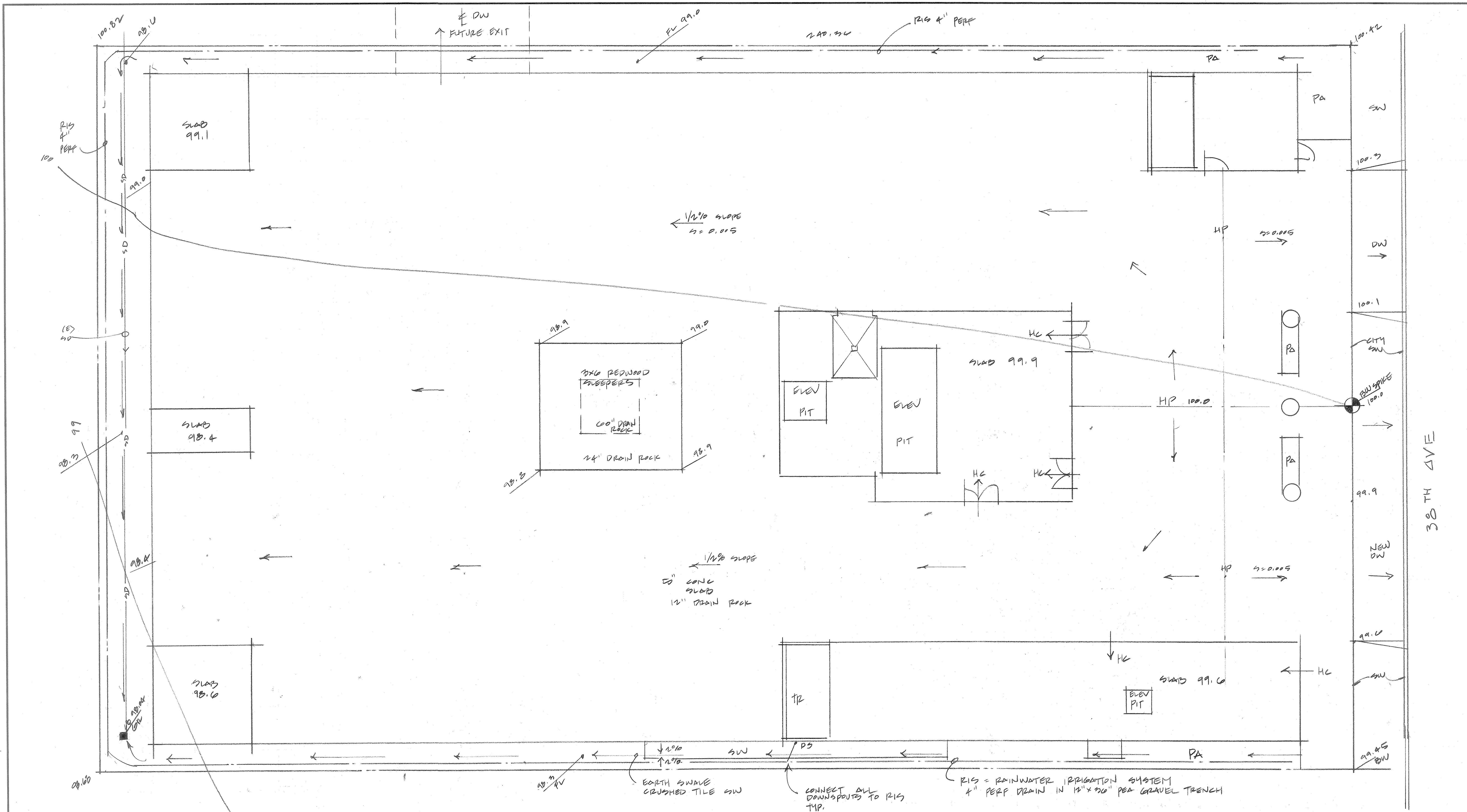
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 Energy  
 15621 Loma  
 Vista Ave.  
 Los Gatos, CA 95032  
 DarylFazekas@  
 gmail.com  
 408 395 9400

SECTIONS		
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 5.10.11		REVISED
VILLA ROMA		DRAWING NUMBER
		A7





ROOF PLAN			
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY	
DATE 5.11.11		REVISED	
		VILLA ROMA	
		DRAWING NUMBER	
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 15621 Loma Vista Ave., Los Gatos CA 95032  
 DarylFazekas@gmail.com  
 Phone 408 395 9400

PRELIM. GRADING PLAN		
SCALE 1/8" = 1'-0"	APPROVED BY	DRAWN BY
DATE 5.11.11		REVISED
VILLA ROMA		DRAWING NUMBER
		AG

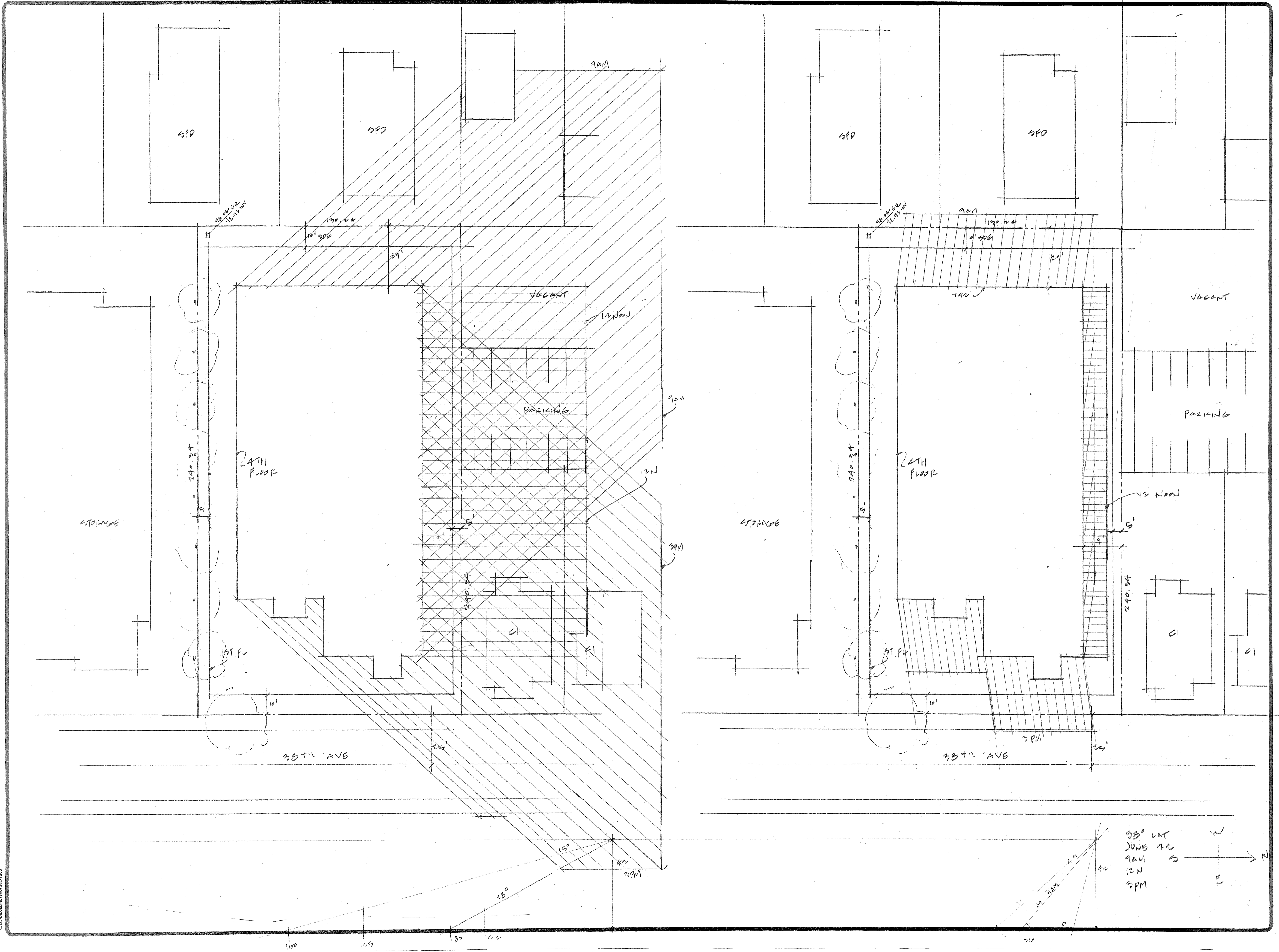
REVISIONS	BY

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 DarylFazekas@gmail.com  
 408 395 9400

VILLA  
 ROMA

SOLAR  
 STUDY

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OF SHEETS



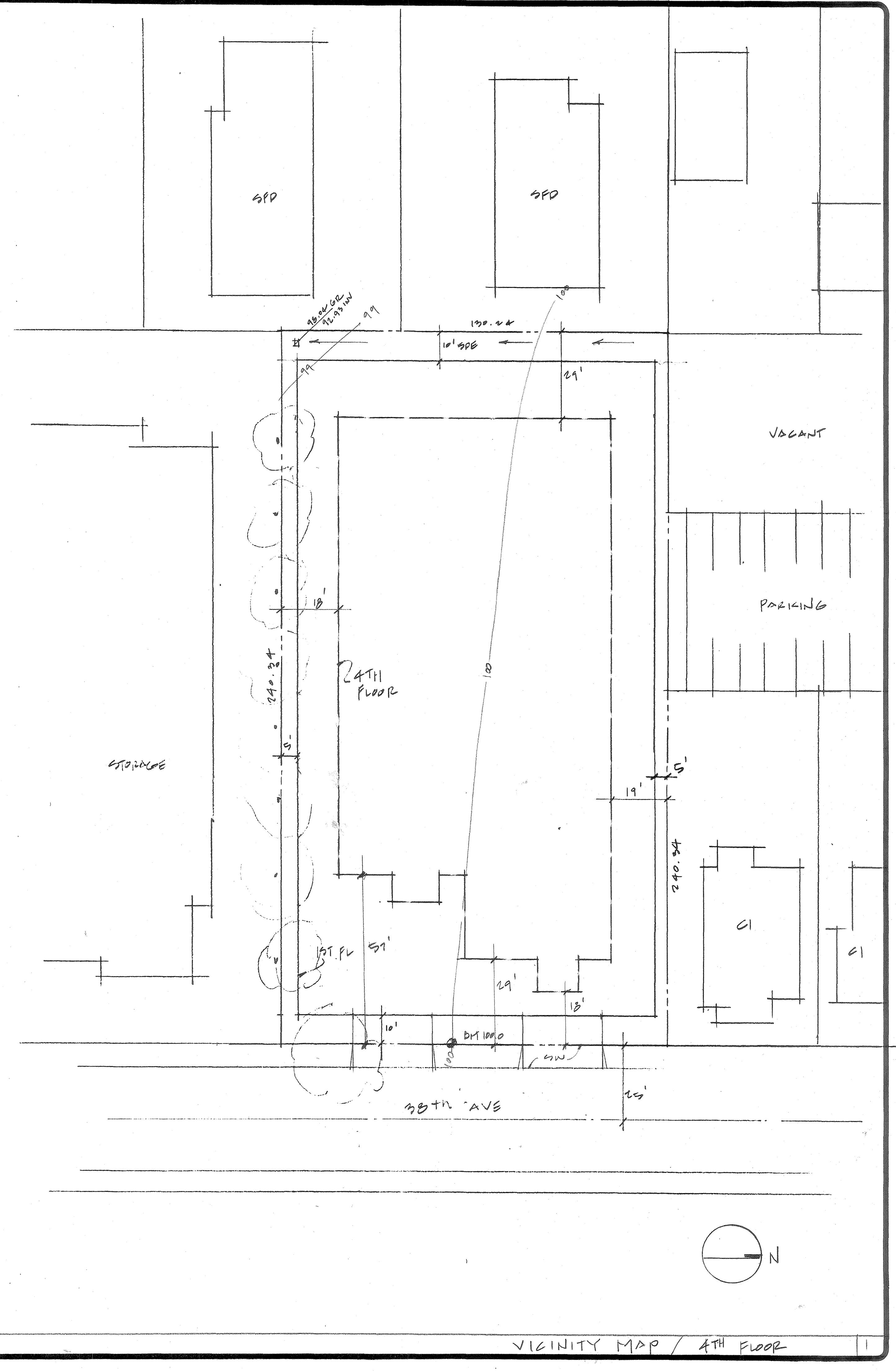
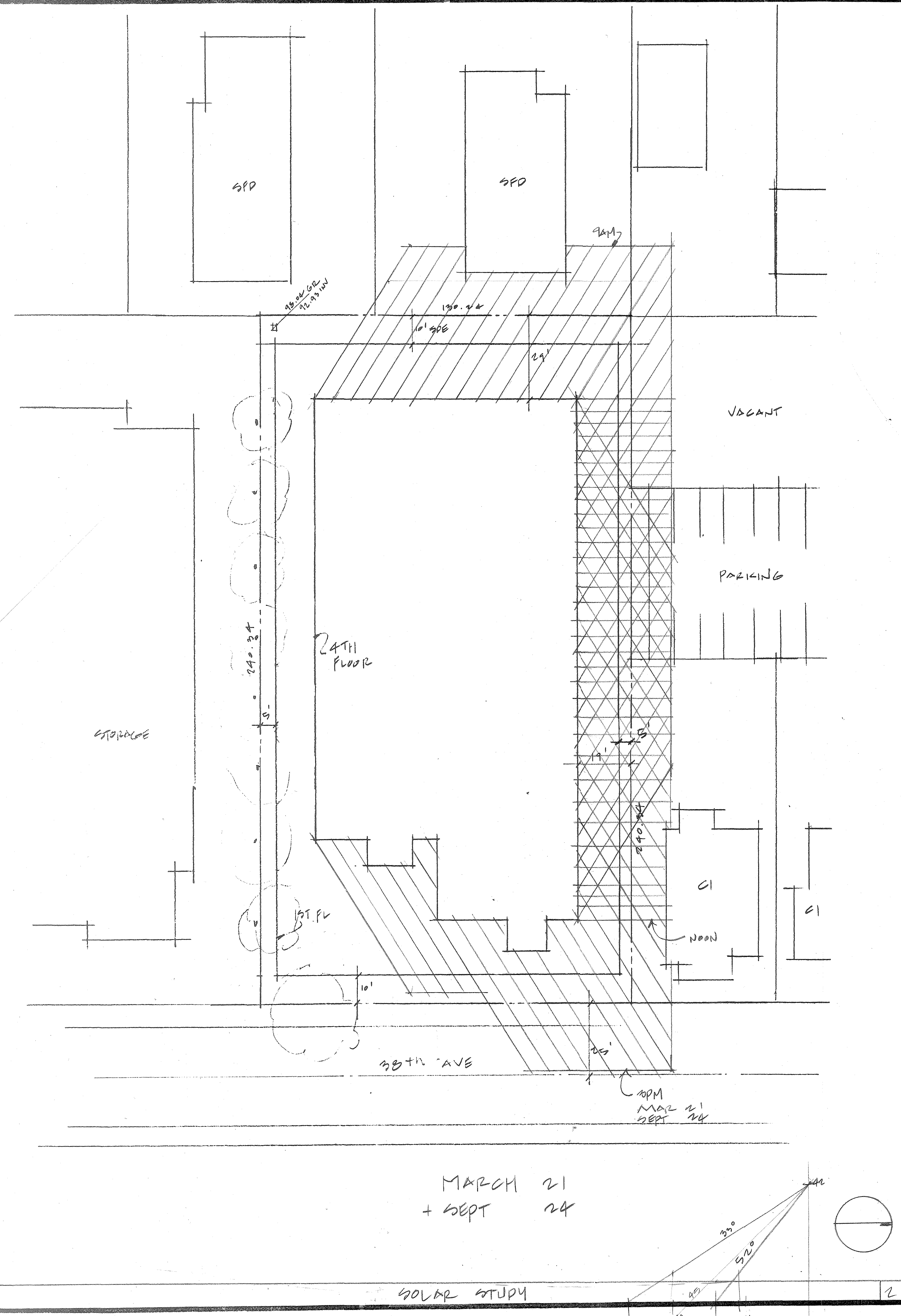
REVISIONS	BY

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 Los Gatos, CA 95032  
 DarylFazekas@  
 gmail.com  
 408 395 9400

VILLA ROMA

SOLAR STUDY

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DATE
SCALE
JOB NO.
SHEET
A11
OF SHEETS



# VILLA ROMA

At Villa Roma, we offer a complete retirement community which exists in the midst of a thriving neighborhood. An enchanting, Mediterranean-style residence for seniors, state-of-the-art architecture coupled with beautiful flora and fauna, complimenting the scenic vistas and vital lifestyle of Santa Cruz County, Villa Roma is resort-style living at its finest. Residents can stay within the complex and enjoy any type of activity imaginable – swimming, entertainment, games, spiritual enhancement, exercise, etc. – or they can cross the street to cinemas, book store, and many other shopping opportunities. Our shuttle service will provide transportation whenever necessary – doctor appointments, airport, train station, or pleasure outing.

In addition to transportation services, we offer housekeeping, fitness programs, concierge services and a trained staff 24 hours a day. We will have daily programs, outings and events as well as in house activities.

Our gourmet restaurant will serve incredible meals all day long in a variety of settings – restaurant, coffee bar, poolside, etc.

Capitola is living at its best – ocean, redwoods, and parks – everything one could want to flourish both spiritually and physically in a small town community with all the benefits of a big city.

Villa Roma offers retirement living at its best for the active senior.

*1575 38<sup>th</sup> Avenue, Capitola, CA 95010*

**RECEIVED**

**AUG 25 2011**

George Ow, Jr.  
King's Plaza Shopping Center  
1601 41<sup>st</sup> Avenue, Suite 202 CITY OF CAPITOLA  
Capitola, CA, 95010  
831-475-9042 Capitola Office. 831-423-0128 Home Office. 831-426-5772 Fax.  
[GeorgeOwJr@aol.com](mailto:GeorgeOwJr@aol.com)

August 24, 2011.

Sent via Email and Regular Mail.

Capitola Planning Commission  
Capitola Planning Department  
420 Capitola Ave,  
Capitola, CA 95010

RE: 1575 38<sup>th</sup> Avenue – Proposed Planned Development Rezoning

Dear City of Capitola Planning Commissioners:

My name is George Ow, Jr. and my family and I own King's Plaza Shopping Center, which is located directly across the street from 1575 38<sup>th</sup> Avenue, the site of the proposed planned development rezoning to construct a four story, 67-unit senior housing project in the existing neighborhood commercial zoning district. My parents built and operated King's Market grocery store (now OSH) on our property in 1963 and my family and I developed the second phase of King's Plaza shopping center in 1972. King's Plaza Shopping Center has been an extremely successful retail shopping center for 48 years. In order to successfully operate their businesses, the tenants of King's Plaza need the ability to load and unload products into their stores, have easily accessible trash enclosures, and maintain operating hours that can go late into the evening. I am concerned that if 1575 38<sup>th</sup> Avenue is rezoned to allow a 4-story senior housing complex to be developed, it will lead to problems that are inevitable when residential uses are placed within close proximity to commercial uses.

I will use what has transpired with the Best Western Hotel next to King's Plaza Shopping Center as an example of some of the problems that arise when people live and sleep within close proximity to commercial uses. The Best Western Hotel was built in 2000, over 28 years after the neighboring commercial building (that houses O'Reilly Autoparts, Save Mart, and Rite Aid) was constructed. After choosing to locate directly next to the garbage enclosures and loading docks of these businesses that have been operating for decades, the Best Western manager complained incessantly and tried to impose limitations on the times when the businesses could load and unload their shipments of merchandise. This has not been good for the hotel owners or King's Plaza and its

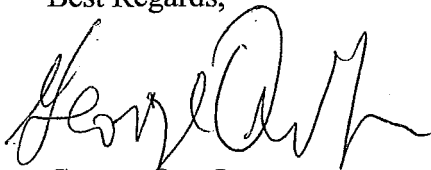
tenants. These problems could have been avoided if the Best Western would have chosen to locate elsewhere or changed the layout of its hotel or had well planned screening plants or further sound proofed their building. I want to protect against future problems like these arising with future residents of the proposed senior house project at 1575 38<sup>th</sup> Street.

It is important to keep zoning districts consistent because deviating from existing zoning districts can lead incompatible uses being located next to each other. If a four story senior housing project is built at 1575 38<sup>th</sup> Avenue, there is a high likelihood that the residents would object to looking at the back of the King's Plaza Shopping Center (the buildings that house Tony & Alba's, Palace Art Supply, OSH's garden department, and CineLux Theatres), the delivery hours of the tenants, the location of the garbage enclosures, and the noise that is associated with businesses at King's Plaza Shopping Center. Why create future problems?

If the Capitola Planning Commission deems the rezoning of 1575 38<sup>th</sup> Ave appropriate, then it should make the applicant aware that it will be locating a housing complex next to an active commercial site that will often create noise in the early mornings and late at night. Moreover, I ask that you impose as a condition of approval, that a sound wall, sound proof rooms and very high shielding landscaping like tall bamboo be installed to provide a physical barrier between 1575 38<sup>th</sup> Avenue and King's Plaza Shopping Center. Lastly I would like the Planning Commission to ensure that the construction of a senior housing complex at 1575 38<sup>th</sup> Ave will not cause any additional costs or have future limitations to be put on my family's land or our tenants operations (such as limited loading hours, limited trash pickup hours, changing the location or style of the trash enclosures, etc).

Thank you very much for your consideration of my requests. As long as the Planning Commission ensures that no limitations are ever put on any tenants of King's Plaza Shopping Center due to being located next to a senior housing complex and the applicant constructs its project in a manner so as to prevent its residents from being awakened or be any way bothered by operations at King's Plaza Shopping Center, my family and I are open to the idea.

Best Regards,

A handwritten signature in black ink, appearing to read "George Ow, Jr.", with a stylized flourish at the end.

George Ow, Jr.  
Ow Family Trusts



## STAFF REPORT

TO: PLANNING COMMISSION  
FROM: COMMUNITY DEVELOPMENT DEPARTMENT  
DATE: August 24, 2011 (AGENDA: September 1, 2011)  
SUBJECT: ZONING ORDINANCE DISCUSSION

### **BACKGROUND**

At the last Planning Commission hearing, the Planning Commission discussed the following zoning ordinance sections.

- A. Chapter 17.03 Definitions
- B. Chapter 17.06 Establishment and Designation of Districts
- C. Chapter 17.09 Zoning Maps
- D. Chapter 17.11 Archaeological/Paleontological Resources District
- E. Chapter 17.12 MHE Mobile Home Exclusive District

Staff took notes on suggested modifications and areas for improvement. The Planning Commission and Staff's suggestions are reflected in the meeting minutes. These notes will be compiled and provided to the City's General Plan Consultant. City Staff and Consultants are maintaining a comprehensive list of all suggested changes and ideas for the General Plan and Zoning Ordinance update. This list is constantly updated to incorporate comments made by the Public, GPAC, Planning Commission, and City Council.

It is anticipated that that staff and consultants will begin writing the Zoning Ordinance in late spring 2012. There are 10 Planning Commission meetings between now and late spring, and 40 chapters contained Title 17, the Zoning Ordinance. Given the substantive differences between each chapter, Staff will bring forward different chapter in sequence at each of the next 10 Planning Commission meetings. Some will go quickly and others may take more time and the pace can be shortened or increased.

### **DISCUSSION**

Staff recommends that the following sections be discussed at this meeting:

- A. Chapter 17.15 R-1 Single-Family Residence District
- B. Chapter 17.18 R-M Multiple-Family District
- C. Chapter 17.19 TRO Transient Rental Use Overlay District
- D. Chapter 17.21 C-V Central Village District
- E. Chapter 17.22 C-R Commercial/Residential



Staff will provide a presentation at the meeting of proposed additions and or deletions to sections noted in this report. Please come prepared with areas of these Chapters that Commissioner's feel warrant amendments.

**Report Prepared By:** Derek Johnson  
Community Development Director

Attachment A – Chapters 17.15, 17.18, 17.19, 17.21, 17.22

**Chapter 17.15 R-1 SINGLE-FAMILY RESIDENCE DISTRICT****17.15.010 Applicability.**

The regulations set forth in this chapter apply to all R-1 districts. (Ord. 873 § 1 (part), 2004)

**17.15.020 Purpose.**

The purpose of the R-1 district is to maintain an area which provides the traditional qualities of privacy, landscaping, parking, and character associated with single-family residential neighborhoods. Each of the neighborhoods in Capitola is unique in its physical design. Special consideration shall be given to development to insure that it is compatible in size, mass, setbacks, and open space, with existing residential designs in the area. (Ord. 873 § 1 (part), 2004)

**17.15.030 Design permit and architectural and site review.**

A design permit shall be required for the following improvements:

- A. All new single-family dwelling units, but not for secondary dwelling units;
- B. All improvements to existing single-family structures which are not exempt pursuant to

subsection C of this section;

C. Exemptions from the requirement for a design permit include:

1. First floor additions of up to four hundred square feet at the rear of the property or structure, which is not visible to the general public, does not exceed fifteen feet in height (eight feet to the top of the plate), and which uses similar, compatible or upgraded quality building materials;
2. A single accessory structure on the property of eighty square feet in size or less, eight feet or less in height, and with no plumbing or electrical fixtures. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004)

**17.15.035 Design permit approval.**

Design permits identified in Section 17.15.030 of this chapter shall be considered at a public hearing as outlined in Section 17.63.080; following review and consideration by the architectural and site review committee as determined necessary by the community development director/zoning administrator.

A. The community development director/ zoning administrator shall be authorized to approve or deny design permit applications for:

1. First-floor additions up to four hundred square feet are exempt under Section 17.15.030(C)(1);
2. Minor repairs, changes and improvements to existing structures which use similar, compatible or upgraded quality building materials, on residences which are not historic resources;
3. Additional accessory structures beyond the single eighty square-foot or less in size accessory structure which is exempt as per Section 17.15.030 (C)(2) of this chapter.

B. The planning commission shall be authorized to approve or deny design permit applications for:

1. All new residential dwelling unit construction;
2. Upper floor additions;
3. Additions of more than four hundred square feet;
4. Design permits accompanied by a request for conditional use permit, variance, or minor land division;

5. All design permit applications referred by the community development director or appealed from the community development director/zoning administrator's decision. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004)

**17.15.040 Principal permitted uses.**

The following are principal permitted uses in an R-1 district:

- A. One-family dwellings including secondary dwelling units pursuant to Chapter 17.99;
- B. Agriculture, horticulture, gardening, but not including commercial nurseries, or the raising of rabbits, dogs, fowl or other animals for commercial purposes or the sale of any products on the premises. See Section 17.81.050 for more specific regulations;
- C. Small community care residential facilities;

- D. Small family day care homes. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004)

**17.15.050 Accessory uses.**

The following are accessory uses permitted in an R-1 district:

- A. Signs in compliance with the municipal sign code, identifying residences and advertising property as being for sale, lease, or rent;
- B. Accessory uses, structures and buildings customarily appurtenant to a permitted use such as private garages. See Section 17.81.110 for additional regulations. (Ord. 873 § 1 (part), 2004)

**17.15.060 Conditional uses.**

The following are conditional uses in an R-1 district and, with the exception of large family day care homes, are subject to the securing of a use permit as provided in Chapter 17.60:

- A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Education Code of the state of California, nursery schools, day care centers, and private nonprofit recreation areas;
- B. Churches and religious institutions;
- C. Golf courses and country clubs;
- D. Temporary real estate offices, construction yards and sheds;
- E. (Reserved);
- F. Large Family Day Care Homes. No person shall operate a large family day care home without obtaining a large family day care home permit in compliance with the standards set forth within this subsection.

1. Any person seeking a large family day care home permit shall submit an application for such permit to the community development director, including a site plan, setting forth any such reasonably required information that the community development director shall request, on application forms created by the community development director that reflect the standards in subsections (F)(4) and (5) of this section and encourage the applicant to hold an informational neighborhood meeting prior to the submittal of the application. The community development director shall process the permit as economically as possible, and fees charged for review shall not exceed the costs of the review and permit process.

The community development director shall act on the application within forty-five days of the date it is received and deemed complete. If a public hearing is requested pursuant to subsection (F)(3) of this section, the community development director may postpone decision on the application for up to ninety days from the date the application is deemed complete.

2. At least ten days prior to the date on which the community development director will make a decision on an application for a large family day care home, the community development director shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a one hundred foot radius of the exterior boundaries of the proposed large family day care home and all households within a one hundred foot radius of the exterior boundaries of the proposed large family day care home.

3. No hearing shall be held before a decision is made on the application, unless a hearing is requested by the applicant or other affected person. (For purposes of this subsection, "affected person" means a person who owns property or lives or works within a one hundred foot radius of the proposed large family day care home.) If a public hearing is requested, it shall be conducted by the planning commission, and the community development director shall give notice of the hearing by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a one hundred foot radius of the exterior boundaries of the proposed large family day care home and all households within a one hundred foot radius of the exterior boundaries of the proposed large family day care home.

4. The community development director, planning commission, or the city council shall grant a large family day care home permit to the applicant upon finding that the proposed large family day care home:

- a. Conforms with all applicable city restrictions and regulations on yards, building height, setback, and lot coverage standards in the zone in which the residence is located. Legally nonconforming structures and uses shall be deemed to conform for purposes of this finding,

b. Is either situated on a lot zoned for single family dwellings or meets a minimum standard of seventy-five square feet of outdoor activity space for each child. The outdoor area must be owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. This space requirement can be waived if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large family day care home (for purposes of this subsection, “close proximity” means within two blocks),

c. Is not located within a five hundred foot radius of the exterior boundaries of any existing large family day care home or child day care center,

d. Provides at least two parking spaces for customers during the family day care home’s hours of operation, and provides parking for any employees as required by Section 17.51.130(P) (one off-street parking space required for each employee not permanently residing at the house). The parking spaces shall be located in a manner to be readily and safely utilized by the customer(s). The required parking spaces may be located on the street along the property frontage (off-site) or on the driveway (on-site). The following are examples of acceptable parking areas:

i. On-street parking areas along the property frontage,

ii. Guest parking spaces reserved for the use of the dwelling unit, or

iii. A private driveway exclusively serving a single dwelling unit such as a single family home,

e. Complies with the following limitations when the dwelling unit is provided with a private driveway and/or garage:

i. If the driveway is specified as the parking area for the use of the large family day care home, the driveway shall remain clear and available for the customer(s) during the hours of operation; the parking spaces shall not be used by the property owner or day care home operator or employees during the hours of operation,

ii. The garage shall be utilized for the parking of the property owner’s and/or day care home operator’s vehicles. Use of the garage for the day care home function, such as for a play area, shall not be allowed,

f. Provides procedures for safely loading and unloading children from vehicles without blocking the public sidewalk and/or right-of-way with vehicles. Double-parking in the street to pickup or dropoff children shall be prohibited. The applicant shall distribute a notice of loading and unloading procedures to all persons that utilize the services of the large family day care home,

g. Provides adequate access to the facility with minimal disruption to local traffic and circulation, including safe and adequate drop-off/pick-up areas, such as curb spaces and driveway areas that are of sufficient size and are located to avoid interference with traffic and to insure the safety of children,

h. Seeks, by design and layout of the site and considerate operational plans, to avoid noise which may be a nuisance to neighbors, consistent with local noise ordinances (see Chapter 9.12) implementing the noise element of the general plan and taking into consideration the noise levels generated by children. Use of the outdoor play area for the day care operation shall be limited to the hours between nine a.m. and six p.m. Site plan revisions may be required by the community development director to minimize noise impacts, such as location of outside play areas, height and location of fences, and similar measures.

5. As conditions of approval, the applicant shall be required to:

a. Comply with applicable building codes,

b. Comply with any standards promulgated by the State Fire Marshal pursuant to subdivision (d) of Section 1597.46 of the California Health and Safety Code related to large family day care homes and dwelling units, and submit a letter from the city fire department approving the safety of the structure for use as a large family day care home pursuant to these standards,

c. Be licensed or deemed to be exempt from licensure by the state of California as a large family day care home,

d. Comply with any conditions imposed by the community development director deemed necessary to satisfy the requirements of subsection (F)(4) of this section,

6. The applicant or other affected person may appeal the decision. The procedures for appealing the decision shall be as provided for in Sections 17.60.100 and 17.60.110. The appellant shall pay the cost, if any, of the appeal.

7. If not used, a large family day care home permit may expire pursuant to the standards and procedures provided in Section 17.60.090.
8. Large family day care home permits may be revoked pursuant to Section 17.60.120;
- G. Large community care residential facility, provided, that in addition to Chapter 17.60 requirements, the following requirements are met:
  1. The applicant shall submit the following:
    - a. A letter or certification of final approval from the state or county licensing authority,
    - b. A site plan of the property showing parking, outdoor exercise area, and fencing,
    - c. A letter from the fire department approving the safety of the structure for the use,
    - d. A letter of application describing the type of use, number of residents, age of residents, any special resident care that is provided, and a daily work schedule showing the number of employees at the facility, and
    - e. Landscaping and other information as required by the community development director,
  2. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.080. In addition, not less than ten days prior to the meeting, all property owners within three hundred feet of the outermost boundary of the parcel should be notified of the nature of the application, the name of the applicant, and the time and place of the public hearing before the planning commission;
  - H. Any activity which includes any significant alteration of an historic feature;
  - I. Bed and breakfasts, subject to the requirements of Section 17.03.085;
  - J. TRO: transient rental use overlay district (see Chapter 17.19 of this code.) (Ord. 878 § 2, 2004; Ord. 873 § 1 (part), 2004)

#### **17.15.070 (Reserved)**

#### **17.15.080 Height regulations.**

No structure shall exceed twenty-five feet in height to the highest point of the roof, ridge or parapet wall, although a twenty-seven foot height limit may be permitted by the planning commission for half-story designs and buildings that use historic design elements which meet the applicable side and rear setback standards. No detached accessory structure, including second dwelling units shall exceed fifteen feet, with a nine-foot ground to top-of-wall plate height, unless an exception is granted by the planning commission based on compatible building and roof design on a site with an architecturally or historically significant building. "Building height" means the vertical distance measured from the assumed ground surface of the building. The height of the structure is measured from the assumed ground surface, as specified below:

A. Assumed Ground Surface. "Assumed ground surface" means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade, subject to the following exception:

1. If there has been grading or fill on the property within five years preceding the time of the application, and that grading or filling has or would increase the height of the finished grade at one or more points where it would meet the perimeter of the proposed structure, the planning commission may measure heights from where it estimates the grade is or was before the grading or filling, if the commission determines that such an action is necessary to keep the height of the proposed structure in reasonable relationship to the heights in the neighborhood. (Ord. 873 § 1 (part), 2004)

#### **17.15.090 Lot area.**

Each single-family residence together with its accessory buildings shall be located on a legal building lot. The lot area requirements are as follows:

- A. The minimum lot area for any lot hereafter created by any "subdivision" (defined in Government Code Section 66424) shall be five thousand square feet;
- B. The lot area may be less than five thousand square feet for any existing legally created lot;
- C. Except as otherwise provided, there shall be no more than one dwelling on any lot. (Ord. 873 § 1 (part), 2004)

**17.15.100 Floor area ratio.**

Building size shall be regulated by the relationship of the building to the lot size, a measurement identified as floor area ratio (FAR). Maximum FAR shall be determined as follows:

A. Lots less than 2,650 sf	58%
Lots 2,651 to 3,250 sf	57%
Lots 3,251 to 3,500 sf	56%
Lots 3,501 to 3,750 sf	55%
Lots 3,751 to 4,000 sf	54%
Lots 4,001 to 4,250 sf	53%
Lots 4,251 to 4,500 sf	52%
Lots 4,501 to 4,750 sf	51%
Lots 4,751 to 5,000 sf	50%
Lots 5,001 to 6,000 sf	49%
Lots more than 6,000 sf	48%

Lots of five thousand or more square feet with approved second dwelling units are permitted a maximum FAR of sixty percent for all structures, in accordance with Chapter 17.99 Secondary Dwelling Units.

This calculation includes the gross building area, including covered parking, as further described in subsections B through D of this section:

B. The following building elements shall be included in the floor area ratio calculation:

1. That portion of the basement which exceeds the first two hundred fifty gross square feet of a basement, including the measurements of the access stairway;
2. All open area below the ceiling or angled walls, greater than sixteen feet in height;
3. All upper floor area greater than four feet in height, measured between the bottom of the upper floor and the top of the ceiling;
4. For one and one-half story structures, the area of the stairwell shall be counted on the first floor only;
5. Windows projecting more than twelve inches from the wall;
6. Covered or uncovered upper floor decks, and covered exterior open space in excess of one hundred fifty square feet, including eaves greater than eighteen inches in length;
7. All accessory structures other than a single building of eighty square feet or less in size, eight feet or less in height, and without plumbing or electrical fixtures.

C. The following shall not be included in the floor area ratio calculation:

1. All vehicular rights of way which allow others to use the surface of the property, shall be excluded from the lot area for purposes of this section;
2. The first two hundred fifty square feet of basement area including the stairway serving that area;
3. The stairway serving the upper floor in a one and one-half story home;
4. Chimneys and projecting windows less than twelve inches deep;
5. First level decks thirty inches or less in height;
6. One hundred square feet of ancillary area in a detached garage;
7. The area between the bottom of the floor and the top of the ceiling which is four feet or less in height, on the second level of a one and one-half- or two-story home;
8. All open area between the bottom of the floor and the top of the ceiling or angled wall, which is sixteen feet or less in height;
9. Unroofed (permeable) trellis structures, including porte-cocheres, which are open on at least three sides and not higher than ten feet to the top of the highest portion. Such structures are not permitted in the front setback and must have a two-foot setback from side or rear property lines.

D. The footprint of all structures, except a trellis structure consistent with subsection (C)(9) of this section and one accessory building of eighty or fewer square feet, eight feet or less in height, and without electrical or plumbing fixtures, shall conform to all applicable setback requirements, i.e., for a secondary dwelling unit, detached garage, or principal residential structure. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004)

**17.15.110 Yards.**

A. The front yard setback shall be measured from the edge of the public right-of-way. The setback established in accordance to this section shall be the minimum for any part of the structure, with the exception of permitted encroachments. The front setback shall not be measured as the average setback across the front of the building.

B. Front yards for the first floor shall be not less than fifteen feet in depth, except as provided in subsection (B) (1) of this section.

1. In those special areas specified in subsection (B) (2) of this section, the front yard setback may be the average of those lots on the same side of the street within five hundred feet of the subject property; provided, that the front setback is at least ten feet, subject to planning commission approval.

2. The special areas mentioned above shall include the following areas:  
Sunset/Riverview area consisting of the following streets: Beverly Avenue; Oak Drive; Gilroy Drive; Center Street; Sunset Drive; Riverview Drive to Riverview Avenue, and Riverview Avenue to the north side of the Southern Pacific Railroad trestle.

C. Front yard setback for the second floor and attached covered parking shall be twenty feet from the front property line, although the setback to covered parking may be reduced to eighteen feet in sidewalk exempt areas. The front yard setback for detached garages or carports shall be forty feet.

D. Front yards area not required for parking shall be landscaped to achieve a fifteen percent tree canopy in accordance with Chapter 12.12 of this code; and including a two-foot planter strip between uncovered parking in the front setback and the side property line, and that landscape area maintained in good condition.

E. Side yards shall be at least ten percent of the property width although not more than seven feet shall be required, and in no case shall less than three feet be permitted, except in the following cases:

1. On a corner lot, the side yard setback on the street side shall be a minimum of ten feet (adjacent to the neighboring front yards); and the minimum rear yard shall be the minimum side yard of the adjacent property, but no less than four feet;

2. When a garage obtains access from a side yard, on a corner parcel, the garage shall be set back twenty feet, although this setback may be reduced to eighteen feet in sidewalk exempt areas;

3. For levels above the first floor, setback shall be at least fifteen percent of the side yard although not more than ten feet shall be required. For half-stories, projected building area under/from the roof (e.g., shed or dormer areas) shall also meet the second floor setback requirements. Up to twenty percent of a second floor wall may be at the same setback as a first floor wall with a setback of at least four feet;

4. For detached, covered parking the minimum side setback is three feet;

5. For portions of the structure with setbacks between three and four feet, the maximum wall plate height shall be twelve feet.

F. Rear yards shall have a depth equal to not less than twenty percent of the depth of the lot to a maximum required depth of twenty-five feet for such rear yard, with the exception of rear yards associated with detached, covered parking for which the minimum rear setback is eight feet. The minimum setback between the main structure or other detached accessory structures, with or without a breezeway, shall be three feet, or as required by the Uniform Building Code.

G. Lot Dimension Determination. For the purpose of chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an oddly-shaped lot, the city planner shall determine the lot depth and width using the criteria for normally-shaped lots as a guideline. Anyone affected by the city planner's determination may file, within ten days of the determination, a written appeal with the planning commission, which shall consider and decide the matter. No fee shall be required. (Ord. 873 § 1 (part), 2004)

**17.15.120 Yard encroachments.**

A. Cornices, eaves, canopies, fireplaces and similar architectural features, but not including any flat wall or projecting closet, may extend into any required side yard a distance not exceeding two feet or into any required front or rear yard a distance not exceeding four feet; provided, that these features do not come

within three feet of the property side yard boundaries for chimneys and projecting windows with no floor area, and two feet for fire-safe cornices, eaves, canopies, and rain gutters on the first floor.

B. Main entry porches, stairways, fire escapes, or landing places may extend into any required front yard on the ground floor for a distance not to exceed four feet; and into any required rear yard on the ground floor for a distance not to exceed six feet, and into any required side yard on the ground floor for a distance not to exceed one-half the width of the required side yard, provided that these features do not come within three feet of the side property boundaries and ten feet of the front property boundary.

C. Single-story additions to existing single-story residential units which do not exceed fifty percent of the length of the average of the two sides of the structure may be constructed at the same setback as the existing structure, as long as a minimum four-foot setback remains.

D. Second story additions must meet setback requirements, except that up to twenty percent of the length of the upper story wall may be constructed at the same setback as the first-floor wall, if that wall is at least four feet from the side property line.

E. Projecting bay windows may extend into any required front or rear yard for a distance not to exceed two feet. The width of the opening required for a bay window which encroaches into any required front or rear yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than twelve inches from the wall will be included in the floor area ratio calculation.

F. Projecting bay windows may extend into any required side yard for a distance not to exceed two feet provided that the bay window is set back at least three feet from the side property lines on the first floor. The width of the opening required for a bay window which encroaches into any required side yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than twelve inches from the wall will be included in the floor area ratio calculation.

G. Rear and side yard decks on the ground level which are thirty inches or less above grade may encroach into the required setbacks; provided, that these features are setback at least three feet from the property line. (Ord. 873 § 1 (part), 2004)

#### **17.15.130 Parking.**

A. The minimum parking requirement for a single-family residence of one thousand five hundred square feet or less of floor area shall be two parking spaces, neither of which must be covered.

B. For single-family residences one thousand five hundred one to two thousand square feet, two spaces are required, one of which must be covered; for residences two thousand one to two thousand six hundred square feet three spaces are required, one of which must be covered; for residences two thousand six hundred one to four thousand square feet four spaces are required, one of which must be covered. Residences greater than four thousand one square feet may require additional parking at the discretion of the planning commission beyond the three uncovered and one covered space required for residences up to four thousand square feet, as per subsection D of this section.

C. Interior (covered) parking spaces shall be a minimum of ten feet by twenty feet clear, as measured from the interior finished wall surfaces.

D. The planning commission may require more parking spaces for residential units over four thousand square feet, or if a finding can be made that there is a parking problem in the neighborhood.

E. No additional square footage which exceeds ten percent of the existing gross floor area may be added to an existing single-family residence, unless minimum parking requirements are met.

F. Parking spaces required by this section may not be located in any public or private right-of-way.

G. No parking space which is utilized to meet the parking requirements of this chapter, nor the path of access of any such parking space, may, without planning commission approval, be modified in any manner which decreases the utility of the space for parking purposes. All areas shown on architectural and site plans utilized by the property owner are subject to this section, and must be maintained as parking spaces.

H. Tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space for a single garage. (Ord. 873 § 1 (part), 2004)



**17.15.140 Garage and accessory buildings.**

The following development standards shall apply for garages and accessory buildings:

A. Garages and accessory buildings other than approved second dwelling units may not be used for human habitation;

B. In the case of a corner lot, no detached accessory building or detached garage shall be erected, altered or moved so as to occupy any part of the front half of such lot;

C. The minimum side setback for detached accessory buildings is three feet. The minimum rear setback is eight feet. The minimum front setback is forty feet for detached garages;

D. Detached garages, carports and other accessory buildings must be set back from the primary residential structure by three feet but may be connected to the main building by a breezeway which shall be located in accordance with the yard regulations and uniform building code for detached buildings;

E. A single accessory structure of eighty square feet or less and eight feet or less in height, with no plumbing or electrical fixtures, may be allowed in side and rear setback areas;

F. If a garage is in a rear yard, a driveway of not less than twelve feet in width (which may include side yard or easement and which can consist of ten feet in a paved driveway and two feet of landscaping along the side property line in the front setback) shall be provided and maintained. However, a driveway width of eleven feet may be permitted by the planning commission for additions and remodels, where the paved driveway is nine feet with two feet of landscaping in the front setback.

Driveway width for residential uses shall not exceed twenty feet unless an exception is granted by the planning commission due to unusual lot configuration, landscaping or site design considerations. Permeable paving materials, and/or paving strips are encouraged for parking and driveway areas.

G. The width of detached garages or carports in the rear yard is limited to twenty-one feet. The height is limited to fifteen feet (nine feet to the top of the wall plate) however the planning commission may approve an exception to allow additional height if necessary to match the architectural style of the existing primary structure.

H. Attached garages which constitute less than fifty percent of the building frontage are encouraged, as are divided garage doors for double garages.

I. Trellis structures intended to provide support for plants and shade for cars, hot tubs, etc., will not be permitted in the front setback and will not count toward the covered parking requirement. Such structures may be permitted in the side or rear setback as long as the height is limited to ten feet at the top of the highest portion, the structure roof remains permeable (roof members at least twelve inches apart), and the structure is open on at least three sides. (Ord. 882 § 2, 2005; Ord. 873 § 1 (part), 2004)

## **Chapter 17.18 R-M MULTIPLE-FAMILY DISTRICT**

### **17.18.010 Applicability.**

The regulations set forth in this chapter apply in all R-M districts, and for multiple-residential uses in other districts. (Ord. 388 § 6.01, 1975)

### **17.18.020 Purpose.**

The purpose of the R-M districts is to stabilize the residential area, to encourage urban densities in specific areas, to promote an environment suitable for family life within such densities, and to insure sufficient open space for residential uses of all types. (Ord. 388 § 6.02, 1975)

### **17.18.030 Architectural and site review.**

A design permit for architectural and site review approval shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in all R-M districts as provided in Chapter 17.63. (Ord. 873 § 2, 2004; Ord. 448 § 4, 1979; Ord. 436, 1978; Ord. 388 § 6.03, 1975)

### **17.18.040 Principal permitted uses.**

The following are principal permitted uses in an R-M district:

- A. Multiple-family residential dwellings;
- B. Single-family dwellings, subject to the development standards contained in Chapter 17.15, R-1 Single-family Residence District including secondary dwelling units as allowed in the R-1 district pursuant to Chapter 17.99;
- C. Small family day care homes;
- D. Small community care residential facilities. (Ord. 882 § 1 (part), 2005; Ord. 873 § 3, 2004; Ord. 608 § 5, 1986; Ord. 388 § 6.04, 1975)

### **17.18.050 Accessory uses.**

The following are accessory uses permitted in an R-M district:

- A. Signs complying with the applicable regulations set forth in the municipal sign ordinance;
- B. Accessory uses and buildings customarily appurtenant to a permitted use such as private garages. (Ord. 388 § 6.05, 1975)

### **17.18.060 Conditional use permits.**

The following are conditional uses in an R-M district and, with the exception of large family day care homes, are subject to the securing of a use permit as provided in Chapter 17.60. Large family day care homes are subject to the securing of a use permit as provided in Section 17.15.060(F):

- A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Educational Code of the state of California, exclusive of vocational and trade subjects; nursery schools; day care centers and private, nonprofit recreation areas. The total number of occupants shall be established by the conditional use permit;
- B. Churches and religious institutions;
- C. Lodging facilities;
- D. Convalescent hospitals, nursing homes;
- E. Large family day care homes subject to the securing of a permit as provided in Section 17.15.060(F), large community care residential facilities (subject to the special conditions in Section 17.15.060(G));
- F. Children's nursery schools;
- G. Social halls;
- H. Mobile home parks subject to the following special conditions, in addition to those standards specified in Chapter 17.60:
  - 1. The application fee for conditional use permit for a mobile home park may be determined by resolution of the city council.

2. The application for a use permit shall be accompanied by a map of the property to be developed at a scale of one inch equals one hundred feet, or similar appropriate scale, and showing and giving the following information and data:

- a. Name and address of applicant,
- b. Graphic scale, north point and date,
- c. A line circumscribed three hundred feet beyond the outermost boundaries of the parcel in question,
- d. Property lines, area and assessment number of all parcels of land which lie within this area,
- e. Public rights-of-way and public or private easements that lie within this area,
- f. To this map shall be attached a list of the names and addresses of the property owners whose property, or any part or portion thereof, lies within this area, such names and addresses to be keyed to the parcel assessment numbers shown on this map.

3. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.070, and in addition, a postal card notice shall be mailed no less than ten days prior to the date of such hearing to the owner or owners of all property, or portions thereof, within a radius of three hundred feet of the outermost boundaries of the parcel in question as above described. Such notices shall consist of the words "NOTICE OF PUBLIC HEARING ON APPLICATION FOR USE PERMIT TO ESTABLISH A MOBILE HOME PARK" and shall set forth the description of the property to be so developed, with the name of the applicant and the time and place of the hearing before the planning commission. Upon completion shall submit its recommendation to the city council that the use permit be granted or denied;

- I. Reserved;
- J. Reserved;
- K. Any activity which includes any significant alteration of an historic feature;
- L. Bed and breakfasts, subject to Section 17.03.085 requirements.
- M. "Transient rental use," as defined in Section 17.03.686, on properties located within the TRO transient rental use overlay district, subject to the standard conditions set forth in Chapter 17.19 of this code and any additional conditions as determined by the planning commission:

1. The maximum number of persons that may occupy the unit shall be determined by the planning commission and may not be exceeded.

2. Providing adequate parking (as determined by the planning commission), whether on site or by Pacific Cove parking permit.

3. The conditional use permit holder must designate a person who has authority to control the property and represent the landlord. This "responsible person" must be available at all reasonable times to receive and act on complaints about the activities of the tenants.

4. A business license and transient occupancy tax registration are obtained.

5. Only one sign per unit, not to exceed one square foot in size, shall be permitted to advertise the transient rental.

N. Large community care residential facilities, subject to the special conditions in Section 17.15.060(G). (Ord. 882 § 1 (part), 2005; Ord. 878 § 3, 2004; Ord. 873 § 4, 2004; Ord. 708 § 2 (part), 1991; Ord. 696 § 2 (part), 1990; Ord. 608 § 6, 1986; Ord. 553 (part), 1983; Ord. 515 § 5 (part), 1982; Ord. 421 (part), 1977; Ord. 388 § 6.06, 1975)

#### **17.18.070 Development standards.**

The development standards set forth in Sections 17.18.080 through 17.18.210 shall apply for the development of multiple units on a single site in an R-M district. The development of a single-family home on a site in the R-M district shall be governed by the process and standards contained in Chapter 17.15, "R-1 Single-Family Residence District." (Ord. 873 § 5, 2004; Ord. 388 § 6.07 (part), 1975)

#### **17.18.080 Height regulations.**

- A. RM-LM. No structure shall exceed thirty feet in height.
- B. RM-M. No structure shall exceed thirty feet in height.
- C. RM-H. No structure shall exceed thirty-five feet in height.

D. Any structure in excess of three stories or forty feet in height shall be a conditional use in an R-M district subject, in each case, to the securing of a use permit as provided in Chapter 17.60. (Ord. 642 § 2 (part), 1987; Ord. 388 § 6.07(a), 1975)

**17.18.090 Lot area and dimensions.**

A. Except as hereafter provided, the minimum lot area for a structure containing one or more dwelling units shall be five thousand one hundred square feet; the minimum lot width fifty feet; the minimum lot depth one hundred feet.

B. Lots legally formed prior to June 26, 1969 shall not be subject to the requirements of subsection A of this section. However, such lots shall nevertheless be subject to all other regulations in this title and especially subject to subsection A of this section. Nothing contained in this subsection shall affect state law or Capitola ordinances dealing with the merger of contiguously owned lots. (Ord. 420 (part), 1977; Ord. 388 § 6.07(b), 1975)

**17.18.100 Site area per dwelling unit.**

The minimum site area per dwelling unit for each district shall be as follows:

- A. RM-LM. Four thousand four hundred square feet (low-medium density);
- B. RM-M. Two thousand nine hundred square feet (medium density) formerly RM-3000 district;
- C. RM-H. Two thousand two hundred square feet (high density) formerly RM-2000 and RM-1000 district. (Ord. 388 § 6.07(c), 1975)

**17.18.110 Lot coverage.**

Maximum lot coverage including accessory buildings and other structures shall be forty percent. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 2, 1995; Ord. 388 § 6.07(d), 1975)

**17.18.120 Front yards.**

A. Front yard for a one-story structure, except as otherwise specified, shall not be less than fifteen feet. For each additional story, the minimum front yard shall be increased two percent of the lot depth to a maximum of twenty percent of the lot depth or twenty feet, whichever is less.

B. In cases where proposed building line for the street(s) upon which any lot faces is established by ordinance, then the front yard(s) shall be measured from the proposed building line.

C. The minimum front yard, except as otherwise specified, shall not be less than twenty feet in depth for the width of a garage or covered carport. (Ord. 388 § 6.07(e) (1, 2, 3), 1975)

**17.18.130 Side yards.**

Side yards for a one-story structure shall each be not less than ten percent of the lot width. For each additional story, the minimum side yards shall be increased two percent of the lot width to a maximum of twenty percent of the lot width or ten feet, whichever is less. (Ord. 388 § 6.07(e)(4), 1975)

**17.18.140 Rear yard.**

Rear yard for a one-story structure shall be not less than fifteen percent of the lot depth. For each additional story, the minimum rear yard shall be increased two percent of the lot depth to a maximum of twenty-five percent of the lot depth or twenty feet, whichever is less. (Ord. 388 § 6.07(e)(5), 1975)

**17.18.150 Landscaping.**

Screen planting and additional landscaping shall be encouraged in all yard areas to insure privacy for all residents. (Ord. 388 § 6.07(e)(6), 1975)

**17.18.160 Open space.**

A. Usable Open Space. Not less than fifty percent of the required rear yard shall be developed as usable open space, fully landscaped and accessible to the residents of the structure(s) on the site. The least dimension of this usable open space shall be fifteen feet. Fully developed roof terraces and roof gardens shall be allowed to provide up to one-half of the area of usable open space.

B. Private Open Space. In addition to yard requirement and usable open space requirements as provided in this chapter, minimum private open space in the form of screened terraces, decks or balconies shall be provided as follows:

1. Not less than fifty percent of dwelling units shall be provided with individual open space;
2. Each private open space shall have a minimum area of forty-eight square feet, with a least dimension of four feet. (Ord. 388 § 6.07(e)(7), 1975)

**17.18.170 Lot dimension determination.**

For the purposes of this chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an odd-shaped lot, the city planner shall determine the lot depth and width using the criteria for normally-shaped lots as a guide-line. Anyone affected by the city planner's determination may file within ten days of the determination a written appeal the planning commission, which shall consider and decide the matter. No fee shall be required. (Ord. 388 § 6.07(e)(8), 1975)

**17.18.180 Yard encroachments.**

Nothing permitted in yard encroachments shall allow an increase in coverage or a decrease in required open space.

A. Cornices, eaves, fireplaces, stairways, decks, and fire escapes, balconies and similar architectural features, but not including any flat wall or window surface such as bay windows or project closets, may extend into any required side yard a distance not exceeding two feet, or into any required front or rear yard a distance not exceeding four feet.

B. The development standards set forth in Section 17.18.190 shall apply for detached garages and accessory buildings. (Ord. 388 § 6.07(f), 1975)

**17.18.190 Garages and accessory buildings.**

Garages and accessory buildings may not be used for human habitation. (Ord. 388 § 6.07(g), 1975)

**17.18.200 Parking.**

Parking standards shall be as provided in Chapter 17.51. (Ord. 388 § 6.07(h), 1975)

**17.18.210 Loading areas.**

Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 6.07(i), 1975)

## **Chapter 17.19 TRO—TRANSIENT RENTAL USE OVERLAY DISTRICT**

### **17.19.010 Purpose and definition.**

The TRO—transient rental use overlay district is an overlay district. This means that all regulations of the underlying basic zoning district (R-1 or R-M) are applicable to any property located in the TRO district, except that transient rental use, as defined in Section 17.03.686 may be allowed pursuant to Section 17.19.020. (Ord. 708 § 3 (part), 1991)

### **17.19.020 Use permits.**

Properties in TRO districts may apply for conditional use permits to operate as a transient rental use. In addition to such conditions as may be imposed pursuant to Chapter 17.60 (conditional use permits), all such permits shall be subject to the following standard conditions:

A. The maximum number of persons that may occupy the unit shall be determined by the planning commission and may not be exceeded.

B. Adequate parking (as determined by the planning commission), whether on site or by Pacific Cove parking permit, must be provided.

C. The conditional use permit holder must designate a person who has authority to control the property and represent the landlord. This “responsible person” must be available at all reasonable times to receive and act on complaints about the activities of the tenants.

D. A business license and transient occupancy tax registration must be obtained.

E. Only one sign per unit, not to exceed one square foot in size, shall be permitted to advertise the transient rental.

F. No unit may be rented unless the renter is provided, in writing, with a statement of the conditions (such as is provided in subsection A of this section) which are applicable to the renter and his or her guests, and the renter agrees, in writing, to comply with those conditions.

G. Permits issued under this section shall expire within one year. No permit holder shall have a vested right to a renewal permit.

H. If there is a history of the permit holder or his or her tenants violating the permit’s conditions, the permit shall not be reissued for a least one year following its expiration date, unless good cause is shown. The revoking authority may establish a longer period before which another application may be filed. (Ord. 708 § 3 (part), 1991)

## **Chapter 17.21 C-V CENTRAL VILLAGE DISTRICT**

### **Note**

\* Prior ordinance history: Ord. 388, §§ 7.01—7.07, as amended by 447, 515, 533 and 608.

### **17.21.010 Applicability.**

The regulations set forth in this chapter apply in all C-V districts. (Ord. 622 Exhibit A (part), 1987)

### **17.21.020 Purpose.**

The purpose of the C-V zoning district is to promote the family-oriented residential/commercial mix which has created the unique qualities of the village. Commercial activity should serve both Capitola residents and visitors. The balance of coastal visitor-related uses and services with those that serve the permanent residents is critical to maintaining the village as it presently exists. (Ord. 685 § 16, 1989; Ord. 622 Exhibit A (part), 1987)

### **17.21.030 Architectural and site review.**

Architectural and site approval shall be secured for the establishment and conduct of any principal permitted, accessory, or conditional use in C-V districts, as provided in Chapter 17.63, and in the Central Village District Guidelines dated July, 1986, a copy of which are on file with the community development director. (Ord. 671, 1988; Ord. 622 Exhibit A (part), 1987)

### **17.21.035 Location of business activities.**

There shall be no business activities such as the display of merchandise, selling of food, or placing tables and chairs outside the enclosed premises of the business unless a conditional use permit for the outdoor display of merchandise, take-out window or outdoor seating has been obtained from the city. (Ord. 740 § 1, 1992)

### **17.21.040 Principal permitted uses.**

The following are principal permitted uses in the C-V district, not including residential overlay areas:

- A. Residential uses on first or second floor;
- B. Professional, general administrative and business offices on the first or second floor;
- C. New retail business establishment, and small personal service establishment, such as small retail shops and stores, including retail bakeries and beach equipment rental businesses conducted indoors, on the first floor only;
- D. New art galleries on the first floor only;
- E. Vacation rentals of residential units. (Ord. 740 § 2, 1992; Ord. 622 Exhibit A (part), 1987)

### **17.21.045 Principal permitted uses—Residential overlay district.**

The following are principal permitted uses in the residential overlay district:

- A. Six Sisters District:
  1. Residential uses (including weekly vacation rental) only.
- B. Venetian Court district:
  1. Residential uses (including weekly vacation rental) only with the exception of the existing motel which may not be expanded or intensified.
- C. Lawn Way:
  1. Residential uses (including weekly vacation rentals) only.
- D. Riverview Avenue District:
  1. Residential uses (including weekly vacation rentals) only.
- E. Cliff Drive District:
  1. Residential uses (including weekly vacation rental) only, with the exception of the existing motel which may not be expanded or intensified.
- F. Cherry Avenue District:

1. Residential uses (including weekly vacation rental) only. (Ord. 740 § 3, 1992; Ord. 622 Exhibit A (part), 1987)

**17.21.050 Accessory uses.**

The following are accessory uses permitted in a C-V district:

A. Signs complying with the applicable regulations set forth in this chapter and the Central Village Design Guidelines;

B. Accessory uses and buildings customarily appurtenant to a permitted use, provided that no accessory use shall be offensive or objectionable because of odor, dust, smoke, noise or vibration. (Ord. 740 § 4, 1992; Ord. 622 Exhibit A (part), 1987)

**17.21.060 Conditional uses.**

The following are conditional uses in a C-V district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:

A. Restaurants, including take-out restaurants or adding a take-out window to an existing restaurant use;

B. Motels and hotels;

C. Commercial entertainment establishments, such as theaters and amusement centers conducted within a closed building;

D. Business establishments that sell or dispense alcoholic beverages;

E. Beach equipment rental businesses conducted outdoors;

F. Any activity which includes any significant alteration of a historic feature;

G. Bed-and-breakfast home occupations;

H. Home occupations;

I. New limited repair services conducted entirely within enclosed buildings, primarily to serve family needs, on the second floor;

J. New retail business establishments and small personal service establishments, such as small retail shops and stores, including retail bakeries and beach equipment rental businesses conducted indoors, on the second floor;

K. New art galleries on the second floor;

L. Display of merchandise or other outdoor activity such as outdoor seating for a restaurant or other food establishment located in this district. (Ord. 740 § 6, 1992; Ord. 677 § 6(A), 1989; Ord. 622 Exhibit A (part), 1987)

**17.21.061 Conditional uses in the residential overlay district.**

The following are conditional uses in the Riverview Avenue and Cherry Avenue overlay districts (see Section 17.21.100(B):

A. Home occupations subject to Section 17.03.310; B. Bed and breakfast use. subject to Section 17.03.085. (Ord. 677 § 6(B), 1989)

**17.21.070 Development standards.**

Development standards shall be set forth in the Central Village Design Guidelines adopted by the city council on January 22, 1987, for the district. Structures destroyed by fire or natural disaster; provided, that the replacement structure is of the same size and in the same location, shall be given special consideration and may be exempted from Design Guideline requirements. To carry out the purposes of the zoning district first floor commercial uses shall not be converted to residential uses. (Ord. 691 § 2, 1990; Ord. 622 Exhibit A (part), 1987)

**17.21.080 Height regulations.**

No structure shall exceed twenty-seven feet in height in the C-V zone, except when a restoration of a historic building of Capitola exceeding the height limitation is proposed and has been recommended for approval by the planning commission. In any case, such structures shall provide for adequate light and air, and



shall provide for considerations of view from adjacent properties. (Ord. 740 § 7, 1992; Ord. 622 Exhibit A (part), 1987)

**17.21.090 Lot area.**

There shall be no specific minimum lot area required in the C-V zone, except that there shall be sufficient area to satisfy any off-street parking and loading area requirements as established in the city's parking ordinance. (Ord. 622 Exhibit A (part), 1987)

**17.21.100 Lot coverage.**

There shall be no specific maximum lot coverage in the C-V zone, except as follows:

A. Sufficient space shall be provided to satisfy offstreet parking and loading area requirements, notwithstanding that all parking may be provided within a structure or structures.

B. In the Riverview Avenue residential overlay district:

1. The small lots on the north side of Riverview Avenue shall allow ninety percent development of the lot without any specific setback requirements. The ten percent open space shall be located in the front part of the lot.

2. Lots on the south side of Riverview Avenue which are smaller than one thousand two hundred square feet shall be allowed eighty percent lot coverage. Lots which are greater than one thousand two hundred square feet shall be allowed seventy percent lot coverage. When calculating square footage for development, lot size shall not include parcels on the river side of the pathway.

“Lot coverage” shall be defined as the footprint of the building and area used to meet the parking requirements of the use. Garages, carports, the portion of any basement that exceeds two hundred fifty gross square feet excluding the access stairway, or open parking spaces used to meet the parking requirements are included as the actual square footage. Driveway approaches and sidewalks are not included in the lot coverage. For example: A thirty-foot by one-hundred-foot lot is three thousand square feet. A seventy percent lot coverage means a two thousand one hundred square foot footprint would be allowed. This typically would provide three-foot side yard setbacks (six hundred square feet) and a ten-foot front yard setback (three hundred square feet). However, flexibility is allowed in locating the structure.

C. In the Cherry Avenue residential overlay area:

1. Lots of less than one thousand square feet shall be allowed ninety percent lot coverage. Lots between one thousand one and two thousand square feet shall be allowed eighty percent lot coverage. Lots over two thousand square feet shall be allowed seventy-five percent lot coverage. For example, a thirty-foot by seventy-foot lot is two thousand one hundred square feet, which allows seventy-five percent lot coverage. A building footprint of one thousand five hundred seventy-five square feet may be developed, which provides three-foot side yard setbacks (four hundred twenty square feet), and a front yard setback of 5.1 feet (one hundred fifty-five square feet)

The definition of lot coverage is the footprint of the building and area used to meet the parking requirements of the use. Garages, carports or open space parking used to meet the parking requirements are included as the actual square footage. Driveway approaches and sidewalks are not included in lot coverage. (Ord. 774 § 3, 1995; Ord. 677 § 6(C), 1989; Ord. 622 Exhibit A (part), 1987)

**17.21.110 Yards.**

There shall be no yard requirements in the C-V zone, except that: (1) ten percent of lot area shall be developed as landscaped open area, at least partially fronting on, and open to, the street. No portion of this landscaped area shall be used for off-street parking, and (2) a minimum front open space for the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road, shall be ten feet. (Ord. 757 § 2, 1993; Ord. 622 Exhibit A (part), 1987)

**17.21.120 Parking.**

Parking requirements for buildings in the C-V zone shall be as provided in Chapter 17.51, and Section 17.21.140 and as required by this chapter:

A. Parking shall be provided for any change in use from residential to commercial, for the full amount required by the commercial operation. No space credit for the previous use will be granted.

B. When a substantial remodel or reconstruction of a building is done for reasons other than fire or natural disaster, parking requirements for the entire structure shall be provided.

C. Required parking for new users shall be provided at sites outside the village area, but within walking distance or at remote sites served by a shuttle system; exceptions to permit on site parking may be made for:

1. Nonhistoric structures in residential areas bounding the central commercial district of the village; and

2. For the Capitola Theater site and mercantile site as shown on the village residential overlay zone addendum map and providing that site designs shall provide for minimizing driveway cuts and for ground floor street frontage commercial development with parking areas/structures on the interior of the sites; and

3. If mandated under Federal Emergency Management Agency regulations and as consistent with the certified LCP. (Ord. 941 § 1, 2009; Ord. 677 § 6(D), 1989; Ord. 622 Exhibit A (part), 1987)

**17.21.130 Loading areas.**

Loading areas in the C-V zone shall be as provided in Chapter 17.51. (Ord. 622 Exhibit A (part), 1987)

**17.21.140 Valet Parking.**

The city may designate two village metered parking spaces, or similar space to allow for the operation of a valet parking program. (Ord. 941 § 2, 2009)

## **Chapter 17.22 C-R COMMERCIAL/RESIDENTIAL DISTRICT**

### **17.22.010 Applicability.**

The regulations set forth in this chapter apply to all commercial/residential (C-R) districts. (Ord. 579 (part), 1985)

### **17.22.020 Purpose.**

The purpose of C-R districts is to implement the harmonious intermingling of pedestrian, commercial and residential activities. The style and scale of development should enhance pedestrian usage of the areas. Mixing residential with commercial in a single development will ordinarily be encouraged. (Ord. 579 (part), 1985)

### **17.22.030 Architectural and site review required.**

Architectural and site approval as provided in Chapter 17.63 of this code shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in C-R districts. (Ord. 579 (part), 1985)

### **17.22.040 Principal permitted uses.**

The following are permitted uses in a C-R district: residential uses (single-family and duplexes). (Ord. 579 (part), 1985)

### **17.22.050 Conditional uses.**

The following are conditional uses in a C-R district, subject in each case to securing a use permit as provided in Chapter 17.60 of this code:

- A. Art galleries;
- B. Restaurants;
- C. Clothing stores;
- D. Antique stores;
- E. Medical and dental offices;
- F. Motels and hotels;
- G. Professional, general, administrative and business offices;
- H. Banks;
- I. Personal service establishments entirely within enclosed buildings, such as barbershops, beauty shops, shoe repair shops, tailor shops, clothes cleaning and laundry agencies and self-service laundrettes; retail drycleaning establishments, provided that the solvents used in the cleaning process shall be nonflammable and nonexplosive and are in fluid-tight cleaning units approved by the State Fire Marshal. No drycleaning is permitted of clothes other than those delivered to the establishment by consumers;
- J. Limited repair services conducted entirely within enclosed buildings, such as jewelry, domestic appliance, typewriter and business machine repair shops, primarily to serve family needs; retail business establishments, such as small shops and stores, including retail bakeries, and beach equipment rental businesses conducted indoors;
- K. Lodging facilities, clubs, and indoor restaurants;
- L. Insurance and real estate agencies;
- M. Business establishments that sell or dispense alcoholic beverages for consumption on the premises;
- N. Projects which are in part commercial and also contain at least one dwelling (defined in Section 17.03.190);
- O. Large and small community care residential facilities, subject to the special conditions in Section 17.15.060(G), and large and small family day care homes subject to the special conditions in Section 17.15.060(F);
- P. Other uses similar to the permitted and conditional uses above, not inconsistent with the general purposes of this chapter and the general

plan, subject to approval by the city council upon the recommendation of the planning commission;

- Q. Conversion from residential to commercial or commercial to residential;
- R. Bed and breakfasts, subject to Section 17.03.085 requirements;
- S. Reverse vending machines for beverage containers and small collection facilities of five

hundred square feet or less, are subject to the requirements of subsections D and E of Section 17.60.030. (Ord. 878 § 4, 2004; Ord. 661 § 2 (part), 1988; Ord. 644 § 1, 1987; Ord. 608 § 8, 1986; Ord. 579 (part), 1985)

**17.22.060 Development standards.**

A. Character. Individual character shall promote a harmonious mix of pedestrian commercial usage and urban residential environment.

B. Height Regulations. No structure shall exceed twenty-seven feet in height.

C. Lot Coverage. There shall be no specific maximum lot coverage except as follows:

1. Sufficient space shall be provided to satisfy off-street parking and loading area requirements, except that all parking may be provided within a structure(s).

2. Front yard and open space requirements shall be satisfied.

3. The first two hundred fifty gross square feet of any basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations.

D. Yards.

1. Front yard setback: both new buildings and conversions of existing dwellings are encouraged with design emphasis placed on provision of adequate sidewalk width, street trees, potted plants and front-yard landscaping and pedestrian-scaled signs. The scale of the building shall determine the required setback.

2. Where a proposed building line for the street(s) upon which any lot faces is established by the street and highway plan of the master plan or is specified by the provisions of this code, then the front yard(s) shall be measured from the proposed building line.

3. Side and rear yards may be required through architectural and site approval in order to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development, except that where a rear yard is provided, it shall be at least ten feet wide.

E. Parking. Parking standards shall be as provided in Chapter 17.51.

F. Loading Areas. As provided in Chapter 17.51.

G. Landscaping. Landscaping should further the creation of a harmonious pedestrian, commercial atmosphere. (Ord. 774 § 4, 1995; Ord. 642 § 2 (part), 1987; Ord. 579 (part), 1985)

**17.22.070 Accessory uses.**

The following are accessory uses permitted in a C-R district:

A. Signs complying with the applicable regulations set forth in this code;

B. Accessory uses and buildings customarily appurtenant to a permitted use, provided that no accessory use shall be offensive or objectionable because of odor, dust, smoke, noise or vibration. (Ord. 579 (part), 1985)