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November 17, 2020

Via E-mail (jonathan.lait@cityofpaloalto.org)

Jonathan Lait
Planning Director
250 Hamilton Avenue - Fifth Floor
Palo Alto, CA 94301

Re: Sobrato Portage Project – Transmittal of Qualifying Preliminary Application Pursuant to SB 330; Transmittal of State Density Bonus Law Letter of Intent; Applicability of Housing Accountability Act and Permit Streamlining Act Protections

Dear Mr. Lait:,

We represent the Sobrato Organization (“Sobrato”) in connection with its enclosed application to redevelop an approximately 4.65-acre site at 200 Portage Avenue (the “Project Site”), currently occupied by a portion of the former Fry’s Electronics building, with 85 ownership townhomes (the “Project”) in Palo Alto, California (the “City”). The entire 12.47 acre site at 340 Portage Avenue is considered a Housing Element housing inventory site with a capacity for 221 units¹ - redeveloping this 4.64-acre portion with 85 townhomes is consistent with and will assist in meeting the City’s housing goals (this Project would build approximately 38% of the capacity on approximately 37% of the larger Housing element site). Pursuant to the City’s inclusionary housing requirements for ownership projects, the Project will provide 15% of its units (13 units) at the moderate income affordability level. The purposes of this letter are to:

1. Transmit the enclosed qualifying Preliminary Application, which entitles the Project to the protections of the Housing Crisis Act of 2019 (“SB 330”);

¹ City of Palo Alto Housing Element 2015-2035, at Table B-1.

2. Note the eligibility of the Project as a qualifying “housing development project”² for protections under the Housing Accountability Act and Permit Streamlining Act, including (by virtue of submitting the enclosed qualifying Preliminary Application) as amended by SB 330; and
3. Transmit the enclosed State Density Bonus Law Letter of Intent, which documents and reserves certain rights under the State Density Bonus Law (and the City’s Zoning Code Chapter 18.15). Please see the enclosed Sobrato Portage Project – State Density Bonus Law Letter of Intent for further details.

Housing Accountability Act

The Housing Accountability Act requires that the City approve qualifying housing development projects. The Project is protected under the Housing Accountability Act because the Project consists of more than two-thirds residential uses and complies with the City’s objective standards and criteria (except to the extent modified by the State Density Bonus Law).

The City is only permitted to reject a project under these circumstances if there is a preponderance of evidence that the Project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.”³ The Legislature has affirmed its expectation that these types of conditions “arise infrequently.”⁴ There is no evidence, let alone a preponderance of evidence, that the Project would have any impact on public health and safety that cannot be feasibly mitigated.

A broad range of plaintiffs can sue to enforce the Housing Accountability Act, and the City would bear the burden of proof in any challenge. Gov. Code § 65589.5(k). As reformed in the 2017 legislative session, the Housing Accountability Act makes attorney’s fees and costs of suit presumptively available to prevailing plaintiffs, requires a minimum fine of \$10,000 per housing unit for jurisdictions that fail to comply with the act within 60 days, and authorizes fines to be multiplied by five times if a court concludes that a local jurisdiction acted in bad faith when rejecting a housing development.

² “Housing development project” includes either “(A) Residential units only, or (B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.” Gov. Code § 65589.5(h)(2). While the HAA does not provide further guidance to interpret this requirement, to clarify an analogous 2/3 residential requirement in SB 35, this year’s AB 831 explains that at least 2/3 of the square footage of the *development* must be residential, as opposed to the site or parcel on which it is located. The Project is 100% residential, and the relevant Project Site is the area being redeveloped with residential uses (rather than the remainder of the former Fry’s building, which is not being redeveloped at this time and is not a part of the Project Site or Project).

³ Gov. Code § 65589.5(j).

⁴ Ch. 243, Stats. 2018 (adding subdivision (a)(3) to Gov. Code § 65589.5).

SB 330 and Qualifying Preliminary Application

As California's housing supply and homelessness crisis continues, the State Legislature has for the past several years passed numerous pieces of housing legislation in each legislative session. In 2019, more than 30 individual pieces of housing legislation were enacted into law. In particular, SB 330 or the "Housing Crisis Act"⁵ created important new vesting rights for housing developments. As noted above, the Project is a qualifying "housing development" subject to the Housing Accountability Act and will therefore be subject to the provisions of SB 330. The applicability of several key protections that relate to the Project are discussed below.

Specifically and most immediately relevant to this Project, SB 330 amended the HAA to specify that effective January 1, 2020, an application is "deemed complete" as defined in the HAA (and fees and other requirements are frozen as of the date of such completeness) if a qualifying "preliminary application" has been submitted.⁶ Accordingly, the Project shall be deemed to have submitted a qualifying preliminary application, provided it has submitted the information specified in Gov. Code § 65941.1(a). Because the City has yet to prepare its own SB 330 application form, Sobrato has used the California Department of Housing and Community Development's eligibility form, which is enclosed and demonstrates that this application package provides all of the relevant items for a qualifying Preliminary Application.

SB 330 has also amended the Permit Streamlining Act to specify that in the event the City determines the Project has not complied with the preliminary application materials requirement and the application is incomplete, it must provide an "exhaustive list of items that were not complete" within 30 days; after that, no further requests can be made for items not on this initial list, and the Project would be deemed to comply.⁷

Thank you for your attention to this matter, we look forward to working with the City on bringing this project to fruition.

Sincerely yours,

HOLLAND & KNIGHT LLP



Tamsen Plume
Genna Yarkin

⁵ See https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330.

⁶ Gov. Code Section 65589.5(h)(5).

⁷ Gov. Code Section 65943.

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cc: Albert Yang - Deputy City Attorney
Tim Steele - The Sobrato Organization
Robert Tersini - The Sobrato Organization
Cindy Ma - KTGy
David Burton - KTGy
Jill Williams - KTGy
Erin Kamakawa - Kier & Wright
Nektarios Matheou - Kier & Wright
Ryan Amaya - Kier & Wright

HOUSING CRISIS ACT of 2019 – SB 330

PRELIMINARY APPLICATION FORM

PURPOSE

This form serves as the preliminary application for housing development projects seeking vesting rights pursuant to SB 330, the Housing Crisis Act of 2019.

GENERAL INFORMATION

An applicant for a housing development project that includes (1) residential units (2) a mix of commercial and residential uses with two-thirds of the project's square footage used for residential purposes; or (3) transitional or supportive housing, shall be deemed to have submitted a preliminary application upon provision of all of the information listed in this Preliminary Application form and payment of the permit processing fee to the agency from which approval for the project is being sought.

After submitting this Preliminary Application to the local agency, an applicant has 180 days to submit a full application or the Preliminary Application will expire.

Submittal Date Stamp^{*1,2}:

^{*1}Submittal of all the information listed and payment of the permit processing fee freezes fees and development standards as of this date, unless exceptions per Government Code § 65889.5(o) are triggered.

^{*2}Note: Record keeping pertaining to which standards and fees apply at date of submittal is imperative, as **penalties may apply for imposing incorrect standards**

Notes:

1. California Environmental Quality Act (CEQA) and Coastal Act standards apply.
2. After submittal of all of the information required, if the development proponent revises the project to change the number of residential units or square footage of construction changes by 20 percent or more, excluding any increase resulting from Density Bonus Law, the development proponent must resubmit the required information so that it reflects the revisions.

SITE INFORMATION

1. **PROJECT LOCATION** - The specific location, including parcel numbers, a legal description, and site address, if applicable.

Street Address _____ Unit/Space Number _____

Legal Description (Lot, Block, Tract)

Attached? YES ☐ NO ☐

Assessor Parcel Number(s) _____

2. **EXISTING USES** - The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

3. **SITE PLAN** - A site plan showing the building(s) location on the property and approximate square footage of each building that is to be occupied.

Attached? YES ☐ NO ☐

4. **ELEVATIONS** - Elevations showing design, color, material, and the massing and height of each building that is to be occupied.

Attached? YES ☐ NO ☐

5. **PROPOSED USES** - The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

a. **RESIDENTIAL DWELLING UNIT COUNT:**

Please indicate the number of dwelling units proposed, including a breakdown of levels by affordability, set by each income category.

	Number of Units
Market Rate	
Managers Unit(s) – Market Rate	
Extremely Low Income	
Very Low Income	
Low Income	
Moderate Income	
Total No. of Units	
Total No. of Affordable Units	
Total No. of Density Bonus Units	

Other notes on units:

6. **FLOOR AREA** - Provide the proposed floor area and square footage of residential and nonresidential development, by building (attach relevant information by building and totals here):

	Residential	Nonresidential	Total
Floor Area (Zoning)			
Square Footage of Construction			

7. **PARKING** - The proposed number of parking spaces:

8. **AFFORDABLE HOUSING INCENTIVES, WAIVERS, CONCESSIONS and PARKING REDUCTIONS** - Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?

YES ☐ NO ☐

If "YES," please describe:

--

9. **SUBDIVISION** – Will the project proponent seek any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a vesting or tentative map, or a condominium map?

YES ☐ NO ☐

If “YES,” please describe:

10. **POLLUTANTS** – Are there any proposed point sources of air or water pollutants?

YES ☐ NO ☐

If “YES,” please describe:

11. **EXISTING SITE CONDITIONS** – Provide the number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied. Provide attachment, if needed.

	Occupied Residential Units	Unoccupied Residential Units	Total Residential Units
Existing			
To Be Demolished			

12. **ADDITIONAL SITE CONDITIONS** –

- a. Whether a portion of the property is located within any of the following:

- i. A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, pursuant to Section 51178?

YES ☐ NO ☐

- ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)?

YES ☐ NO ☐

- iii. A hazardous waste site that is listed pursuant to Section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code?

YES ☐ NO ☐

- iv. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?

YES ☐ NO ☐

- v. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2?

YES ☐ NO ☐

- vi. A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?

YES ☐ NO ☐

If "YES" to any, please describe:

- b. Does the project site contain historic and/or cultural resources?

YES ☐ NO ☐

If "YES," please describe:

- c. Does the project site contain any species of special concern?

YES ☐ NO ☐

If "YES," please describe:

- d. Does the project site contain any recorded public easement, such as easements for storm drains, water lines, and other public rights of way?

YES ☐ NO ☐

If "YES," please describe:

- e. Does the project site contain a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code? Provide an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

YES ☐ NO ☐

If "YES," please describe and depict in attached site map:

13. COASTAL ZONE - For housing development projects proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

- a. Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

YES ☐ NO ☐

- b. Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

YES ☐ NO ☐

- c. A tsunami run-up zone.

YES ☐ NO ☐

- d. Use of the site for public access to or along the coast.

YES ☐ NO ☐

14. PROJECT TEAM INFORMATION - The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

Applicant's Name _____

Company/Firm _____

Address _____ **Unit/Space Number** _____

City _____ **State** _____ **Zip Code** _____

Telephone _____ **Email** _____

Are you in escrow to purchase the property? YES ☐ NO ☐

Property Owner of Record☐ Same as applicant☐ Different from applicant

Name (if different from applicant) _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Optional: Agent/Representative Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Optional: Other (Specify Architect, Engineer, CEQA Consultant, etc.) _____

Name _____

Company/Firm _____

Address _____ Unit/Space Number _____

City _____ State _____ Zip Code _____

Telephone _____ Email _____

Primary Contact for Project: ☐ Owner ☐ Applicant ☐ Agent/Representative ☐ Other

PROPERTY OWNER AFFIDAVIT

Before the application can be accepted, the owner of each property involved must provide a signature to verify the Preliminary Application is being filed with their knowledge. Staff will confirm ownership based on the records of the City Engineer or County Assessor. In the case of partnerships, corporations, LLCs or trusts, the agent for service of process or an officer of the ownership entity so authorized may sign as stipulated below.

- **Ownership Disclosure.** If the property is owned by a partnership, corporation, LLC or trust, a disclosure identifying the agent for service of process or an officer of the ownership entity must be submitted. The disclosure must list the names and addresses of the principal owners (25 percent interest or greater). The signatory must appear in this list of names. A letter of authorization, as described below, may be submitted provided the signatory of the letter is included in the Ownership Disclosure. Include a copy of the current partnership agreement, corporate articles, or trust document as applicable.
- **Letter of Authorization (LOA).** A LOA from a property owner granting someone else permission to sign the Preliminary Application form may be provided if the property is owned by a partnership, corporation, LLC or trust, or in rare circumstances when an individual property owner is unable to sign the Preliminary Application form. To be considered for acceptance, the LOA must indicate the name of the person being authorized to file, their relationship to the owner or project, the site address, a general description of the type of application being filed and must also include the language in items 1-3 below. In the case of partnerships, corporations, LLCs or trusts, the LOA must be signed by the authorized signatory as shown on the Ownership Disclosure or in the case of private ownership by the property owner. Proof of Ownership for the signatory of the LOA must be submitted with said letter.
- **Grant Deed.** Provide Copy of the Grant Deed if the ownership of the property does not match local records. The Deed must correspond exactly with the ownership listed on the application.
- **Multiple Owners.** If the property is owned by more than one individual (e.g., John and Jane Doe, or Mary Smith and Mark Jones) signatures are required of all owners.

1. I hereby certify that I am the owner of record of the herein previously described property located in _____ which is involved in this Preliminary Application, or have been empowered to sign as the owner on behalf of a partnership, corporation, LLC, or trust as evidenced by the documents attached hereto.
2. I hereby consent to the filing of this Preliminary Application on my property for processing by the Department of _____ for the sole purpose of vesting the proposed housing project subject to the Planning and Zoning ordinances, policies, and standards adopted and in effect on the date that this Preliminary Application is deemed complete.
3. Further, I understand that this Preliminary Application will be terminated and vesting will be forfeited if the housing development project is revised such that the number of residential units or square footage of construction increases or decreases by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, and/or an application requesting approval of an entitlement is not filed with _____ within 180 days of the date that the Preliminary Application is deemed complete.
4. By my signature below, I certify that the foregoing statements are true and correct.

Signature Tim Steele

Printed Name _____

Date _____

Signature _____

Printed Name _____

Date _____

PROJECT TEAM

APPLICANT

The Sobrato Organization
Tim Steele
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599 Castro Street, Suite 400
Mountain View, CA 94041
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rtersini@sobrato.com

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PROJECT SUMMARY

PROJECT SUMMARY

Address:	200 Portage Ave, Palo Alto, CA
Site Area:	4.653 acres net
	4.523 acres gross
APN:	Portions of 132-38-071, 132-32-042, &132-32-043
Existing use:	Commerical
Proposed use:	Residential
Zoning:	RM-30 Multi-family Residential (16-30 du/ac density range allowed)
General Plan:	Multi-family Residential

Residential Units Summary

Name	Description	SF (NET)	# of DU	%	Private Open Space	Total POS
Plan 1	2bd+Den+2.5 ba	1550 sf	15 du	18%	70 sf	1050 sf
Plan 2	3bd+Den+2.5 ba	1695 sf	55 du	65%	50 sf	2750 sf
Plan 3	3bd+Den+2.5 ba	1825 sf	15 du	18%	50 sf	750 sf
Sub-total			85 du	100%		4550 sf

Density18.3 du/ac net

FAR Calcuation

Required0.6:1

Provided Summary			
Name	Gross SF/Building	# of Buildings in Site	Total Gross SF
Building A (4-plex)	8740 sf	3 buildings	26220 sf
Building B (5-plex)	11150 sf	3 buildings	33450 sf
Buildng C (6-plex)	13170 sf	5 buildings	65850 sf
Building D (7-plex)	15340 sf	4 buildings	61360 sf
Sub-total	48400	15 buildings	186880 sf
FAR	0.92		
	0.32 over		
	14027 SF over*		

*Please see "State Density Bonus Law Letter of Intent" for waiver request

Parking Summary

Required (per Palo Alto Municipal Code 18.52.040)			
	Spaces Per DU	# of DU	Total Required
Plan 1	2 spaces	15 du	30 spaces
Plan 2	2 spaces	55 du	110 spaces
Plan 3	2 spaces	15 du	30 spaces
Sub-total			170 spaces
Provided			
In-garage	170 spaces		
Surface (guest)	15 spaces		
Sub-total	185 spaces		
Ratio	2.18 spaces		

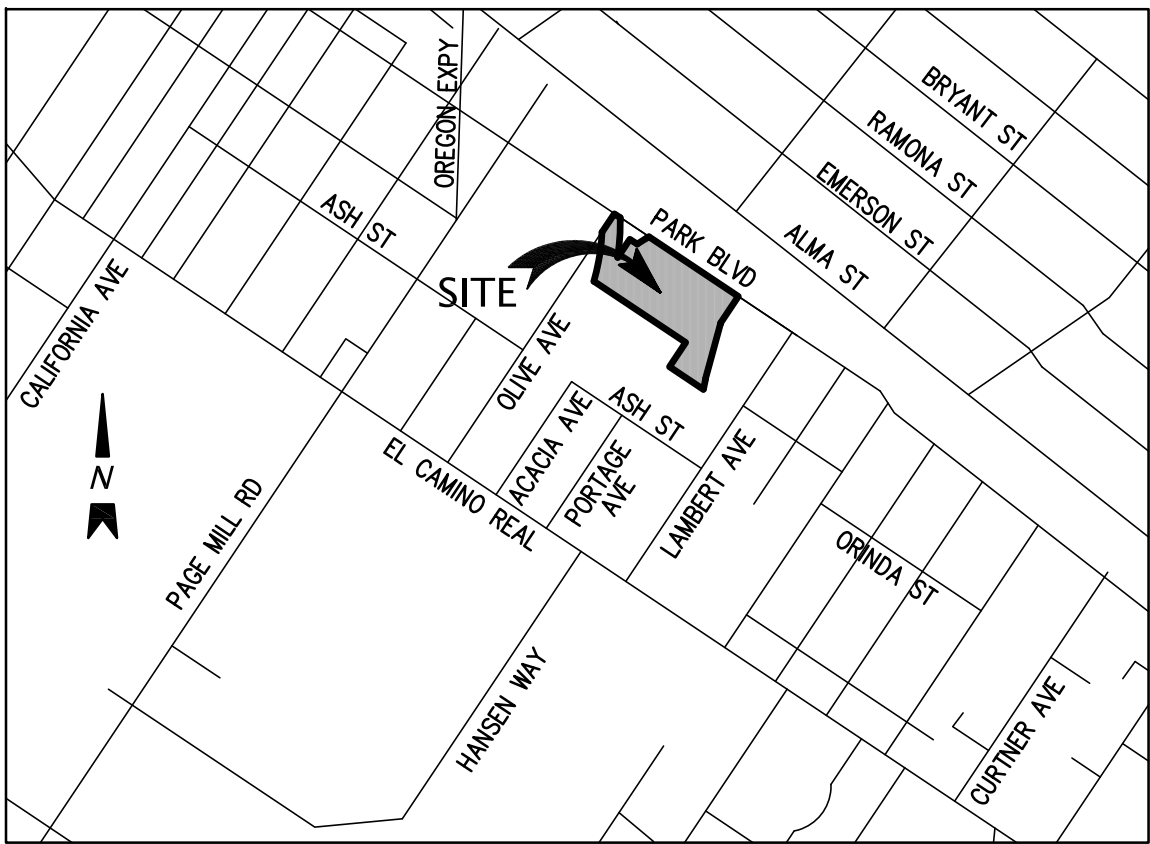
Open Space Summary

Required (per Palo Alto Municipal Code 18.18.010)		
	Total	Ratio
Common Open Space	6375 sf total required	75 sf/du min
Private Open Space	4250 sf total required	50 sf/du min
Useable Open Space*	12750 sf total required	150 sf/du min
Site Open Space**	60805 sf of site required	30 % min

*Useable Open Space includes Private and Common open space
**includes Useable Open Space, and can include landscaping after useable open space requirements are met

Provided	Total	Ratio
Common Open Space	17800 sf total provided	209 sf/du min
Private Open Space	4550 sf total provided	54 sf/du min
Sub-total (Useable Open Space)	22350 sf total provided	263 sf/du min

Landscape Area26652 sf total provided
Site Open Space
(Useable Open Space + Landscape Area)
49002 sf of site provided24% provided
11803 sf short*
*Please see "State Density Bonus Law Letter of Intent" for waiver request



VICINITY MAP

NOT TO SCALE

PROJECT DATA

- BENCHMARK:
FD BRASS DISK CAL. DIV. OF HWY #L-116 @ LITE POLE, #324 OPPOSITE 3255 EL CAMINO
REAL ELY OF HANSEN ST.
ELEVATION: 34.42' (NGVD 29 DATUM)
2. BASIS OF BEARINGS:
THE BEARING OF NORTH 16°03'00" EAST TAKEN ON THE CENTERLINE OF ACACIA AVENUE AS
SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD ON MAY 30, 2006 IN BOOK 801
OF MAPS AT PAGES 48 & 49, SANTA CLARA COUNTY RECORDS WAS TAKEN AS THE BASIS
OF ALL BEARINGS SHOWN HEREON.
3. FLOOD ZONE NOTE:
THE SUBJECT PROPERTY IS SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY
(FEMA) FLOOD INSURANCE RATE MAP (FIRM) FOR SAN MATEO COUNTY, CALIFORNIA, MAP
NUMBER 06085C0007H FOR COMMUNITY NUMBER 060348 (CITY OF PALO ALTO), WITH AN
EFFECTIVE DATE OF MAY 18, 2009, AS BEING LOCATED IN FLOOD ZONE "X" (SHADED)
AND FLOOD ZONE "A".
- FLOOD ZONE "X" (SHADED): AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL
CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS
LESS THAN 1 SQUARE MILE; AND AREAS OF PROTECTED LEVEES FROM 1% ANNUAL CHANCE
FLOOD.
- FLOOD ZONE "A": AREAS OF THE 1% ANNUAL FLOOD (100-YEAR FLOOD), ALSO KNOWN AS
THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALLED OR EXCEEDED
IN ANY GIVEN YEAR; NO BASE FLOOD ELEVATIONS DETERMINED.
4. THIS PLOT WAS PREPARED FROM INFORMATION FURNISHED IN A PRELIMINARY TITLE REPORT,
PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, DATED _____, 2020,
ORDER NUMBER NCS-_____, -SC. NO LIABILITY IS ASSUMED FOR MATTERS OF RECORD
NOT STATED IN SAID PRELIMINARY TITLE REPORT THAT MAY AFFECT THE TITLE LINES, OR
EXCEPTIONS, OR EASEMENTS OF THE PROPERTY.
5. ADDITIONAL EASEMENTS MAY BE NECESSARY. ANY ADDITIONAL EASEMENT REQUIREMENTS WILL
BE DETERMINED AS THE PROJECT EVOLVES.
6. UTILITIES:
- | | |
|----------------|-------------------|
| STORM DRAINAGE | CITY OF PALO ALTO |
| SANITARY SEWER | CITY OF PALO ALTO |
| WATER | CITY OF PALO ALTO |
| GAS | CITY OF PALO ALTO |
| ELECTRIC | CITY OF PALO ALTO |
| TELEPHONE | AT&T |
| CABLE | COMCAST |

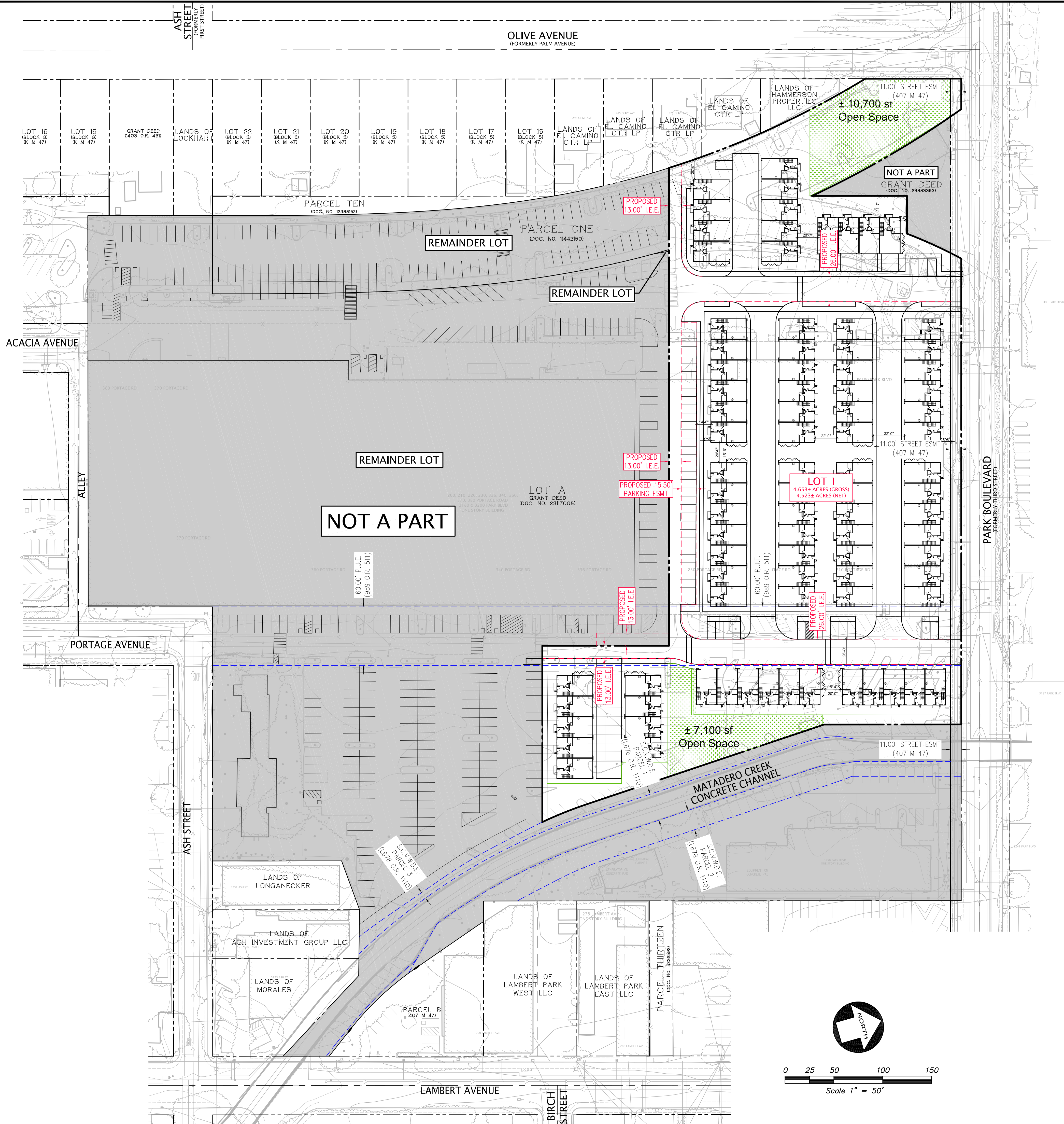
LEGEND & ABBREVIATIONS

—————	PROPERTY LINE
-----	ADJACENT PROPERTY LINE
-----	LOT LINE
-----	EXISTING EASEMENT LINE
-----	EASEMENT
ESMT	PUBLIC UTILITY EASEMENT
P.U.E.	SANTA CLARA VALLEY WATER
S.C.V.W.D.E.	DISTRICT EASEMENT

EXISTING CONDITIONS

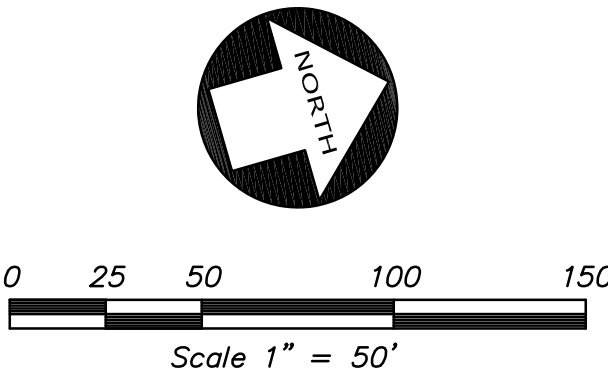
DATE NOV., 2020 SCALE 1" = 50' SURVEYOR RMA DRAWN BY EK JOB NO. A10128-5 SHEET C1.0		 KIER+WRIGHT 3350 Scott Boulevard, Building 22 Santa Clara, California 95054 Phone: (408) 727-6665 www.kierwright.com		PALO ALTO, CALIFORNIA	
NO.	△	NO.	△	REVISION	
BY	△	BY	△	REVISION	
	△		△		
	△		△		
	△		△		
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LEGEND & ABBREVIATIONS

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- REMAINDER LOT LINE
- EXISTING EASEMENT LINE
- PROPOSED EASEMENT LINE
- EASEMENT
- INGRESS & EGRESS EASEMENT
- PUBLIC UTILITY EASEMENT
- SANTA CLARA VALLEY WATER DISTRICT EASEMENT
- ESMT
- I.E.E.
- P.U.E.
- S.C.V.W.D.E.



PROPOSED CONDITIONS

SITE PLAN
OF
200 PORTAGE AVENUE
FOR
THE SOBRATO ORGANIZATION

DATE	NOV., 2020
SCALE	1" = 50'
SURVEYOR	RMA
DRAWN BY	EK
JOB NO.	A10128-5
SHEET	C1.1

CALIFORNIA
PALO ALTO,

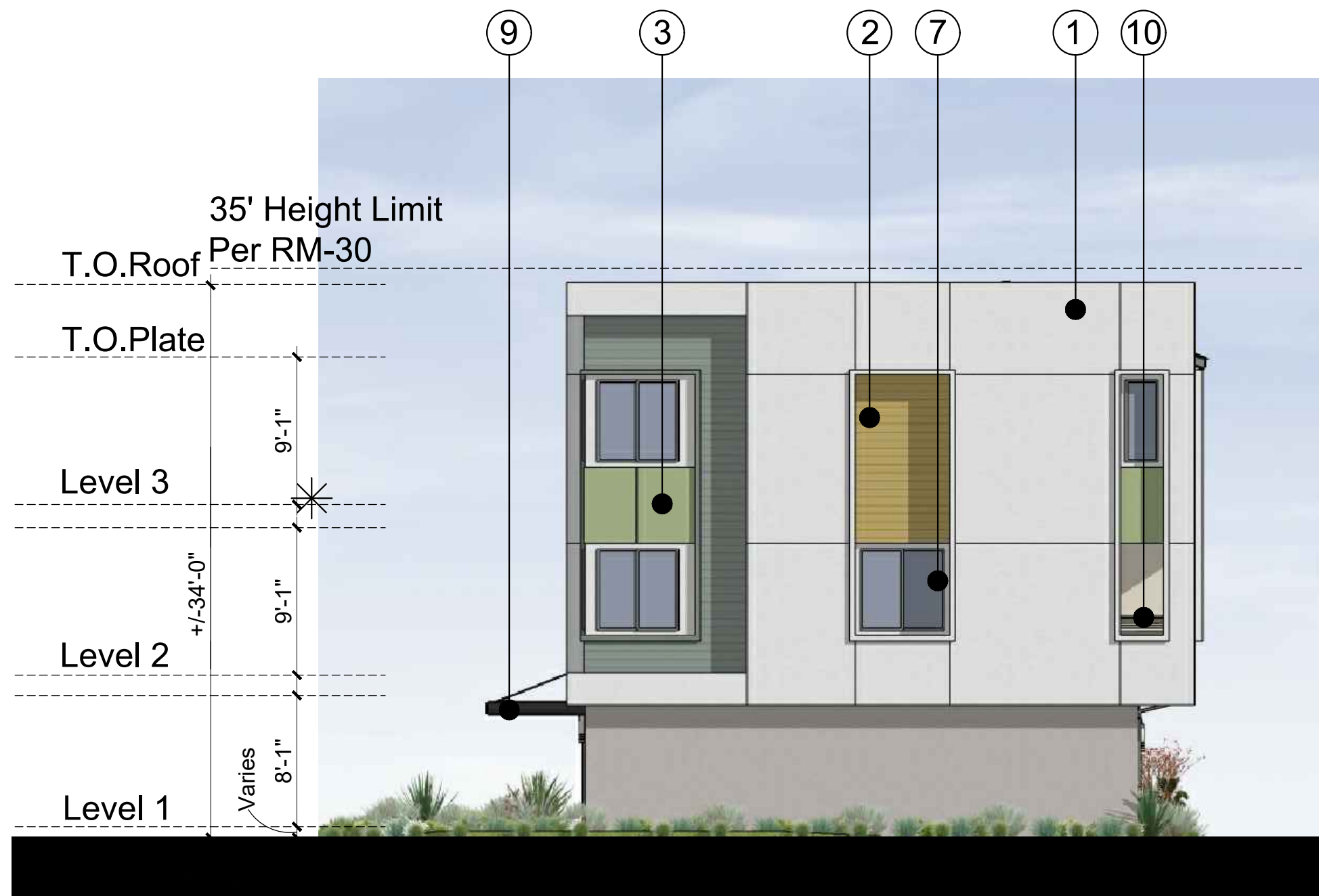
**KIER+WRIGHT**

3350 Scott Boulevard, Building 22
Santa Clara, California 95054
Phone: (408) 727-5665
www.kierwright.com

NO.	REVISION	BY	NO.	REVISION	BY

MATERIAL LEGEND

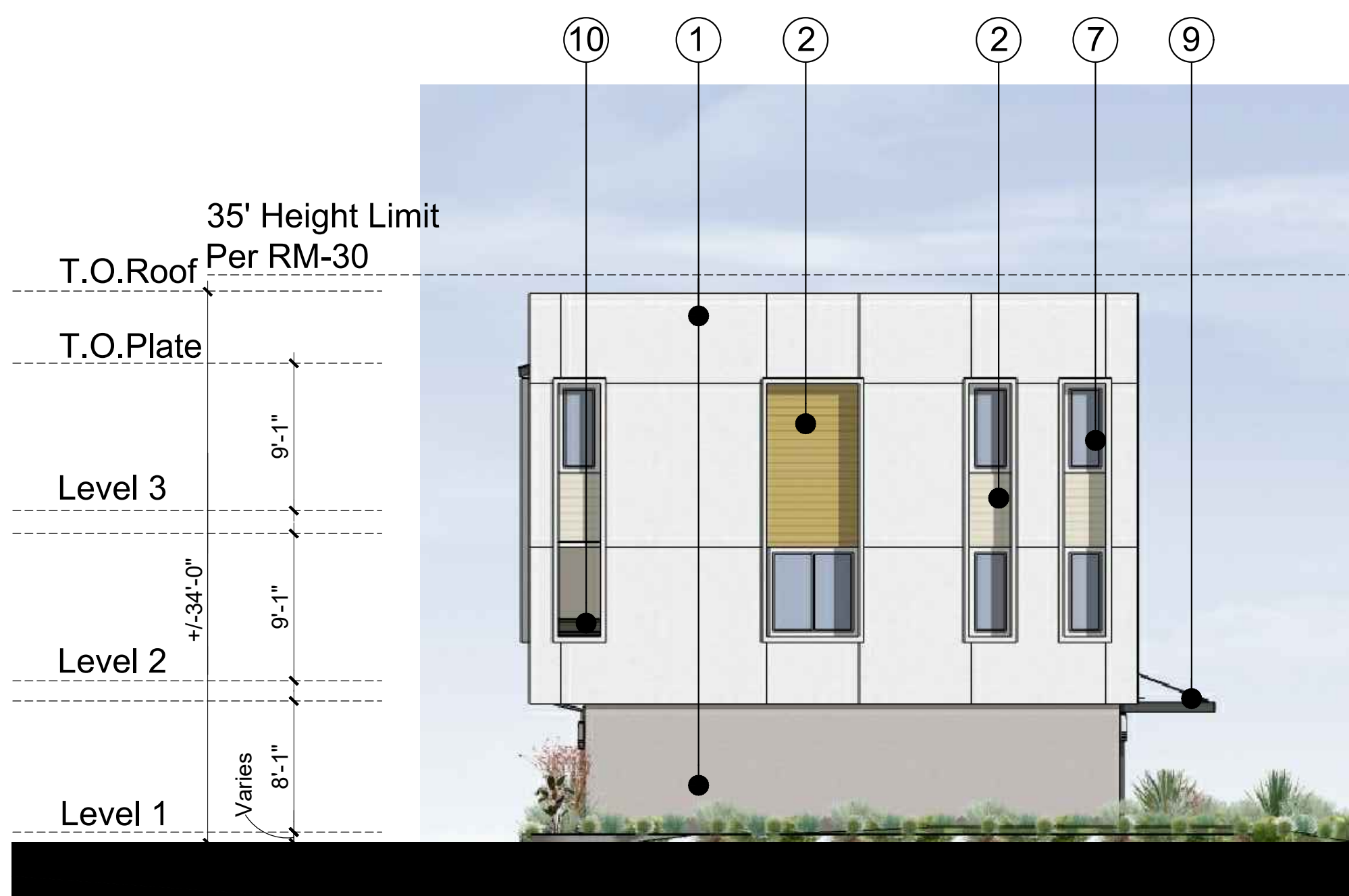
- | | | | |
|---------------------------------|----------------------------|---------------------------|--------------------------------------|
| ① Painted Stucco | ⑤ Composition Roof Shingle | ⑨ Painted Metal Awning | ✱ Egress Window For Emergency Escape |
| ② Painted Horizontal Lap siding | ⑥ Metal Garage Door | ⑩ Painted Metal Railing | |
| ③ Painted Fiber Cement Panel | ⑦ Vinyl Window | ⑪ Unit Light Fixture | |
| ④ Painted Wood Fascia | ⑧ Metal Door | ⑫ Painted Metal Downspout | |



RIGHT ELEVATION



REAR ELEVATION



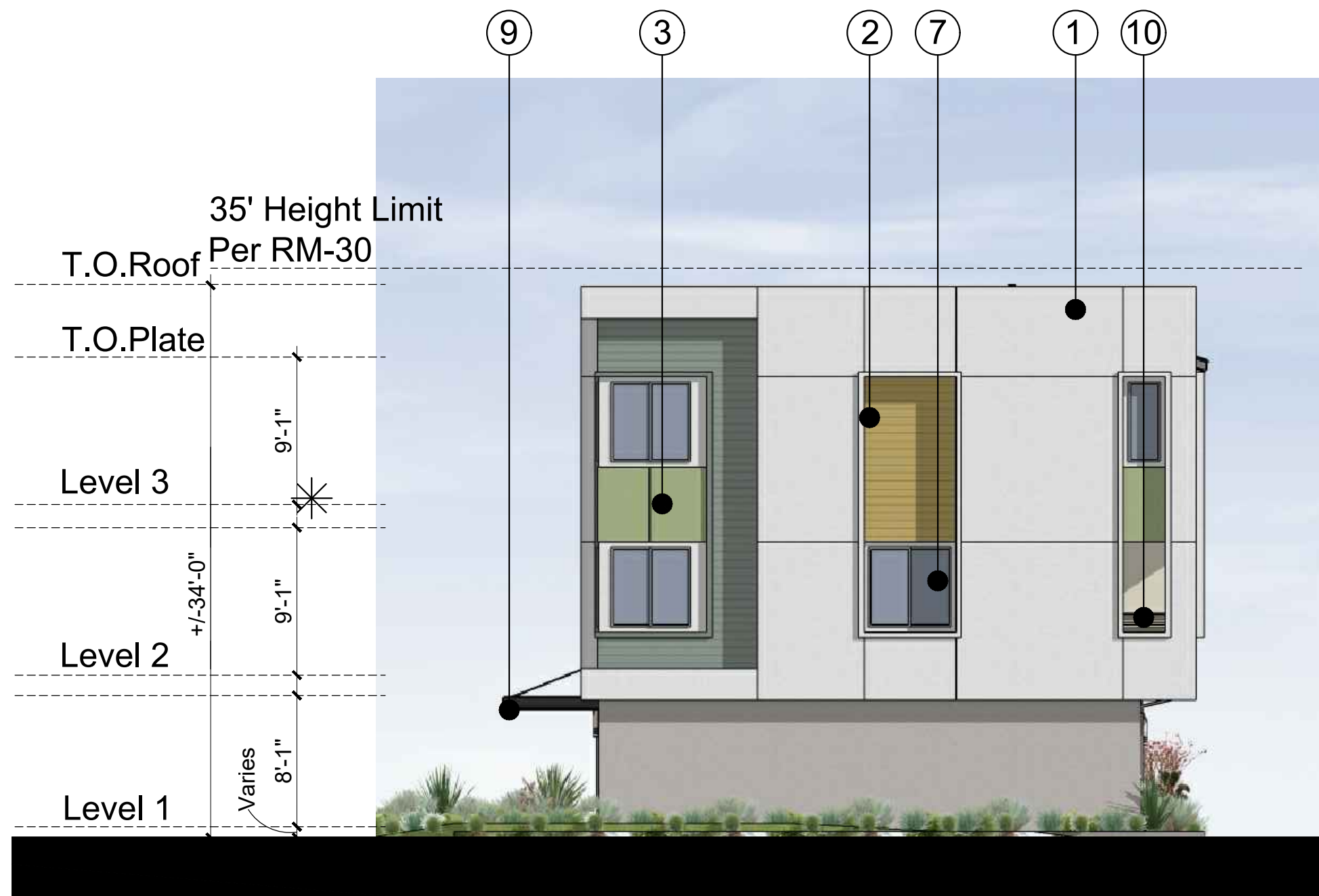
LEFT ELEVATION



FRONT ELEVATION

MATERIAL LEGEND

- | | | | |
|---------------------------------|----------------------------|---------------------------|--------------------------------------|
| ① Painted Stucco | ⑤ Composition Roof Shingle | ⑨ Painted Metal Awning | ✱ Egress Window For Emergency Escape |
| ② Painted Horizontal Lap siding | ⑥ Metal Garage Door | ⑩ Painted Metal Railing | |
| ③ Painted Fiber Cement Panel | ⑦ Vinyl Window | ⑪ Unit Light Fixture | |
| ④ Painted Wood Fascia | ⑧ Metal Door | ⑫ Painted Metal Downspout | |



RIGHT ELEVATION



REAR ELEVATION



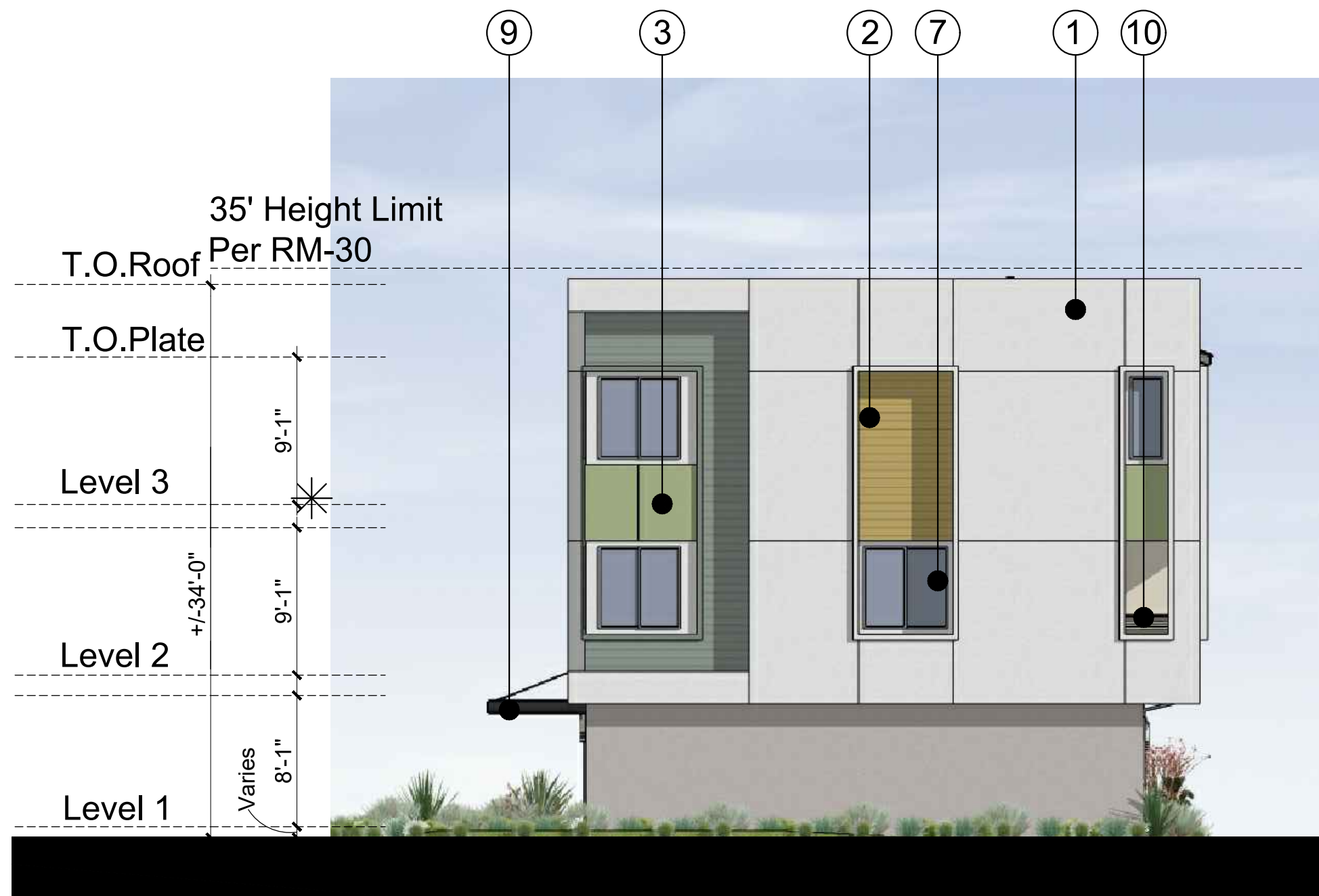
LEFT ELEVATION



FRONT ELEVATION

MATERIAL LEGEND

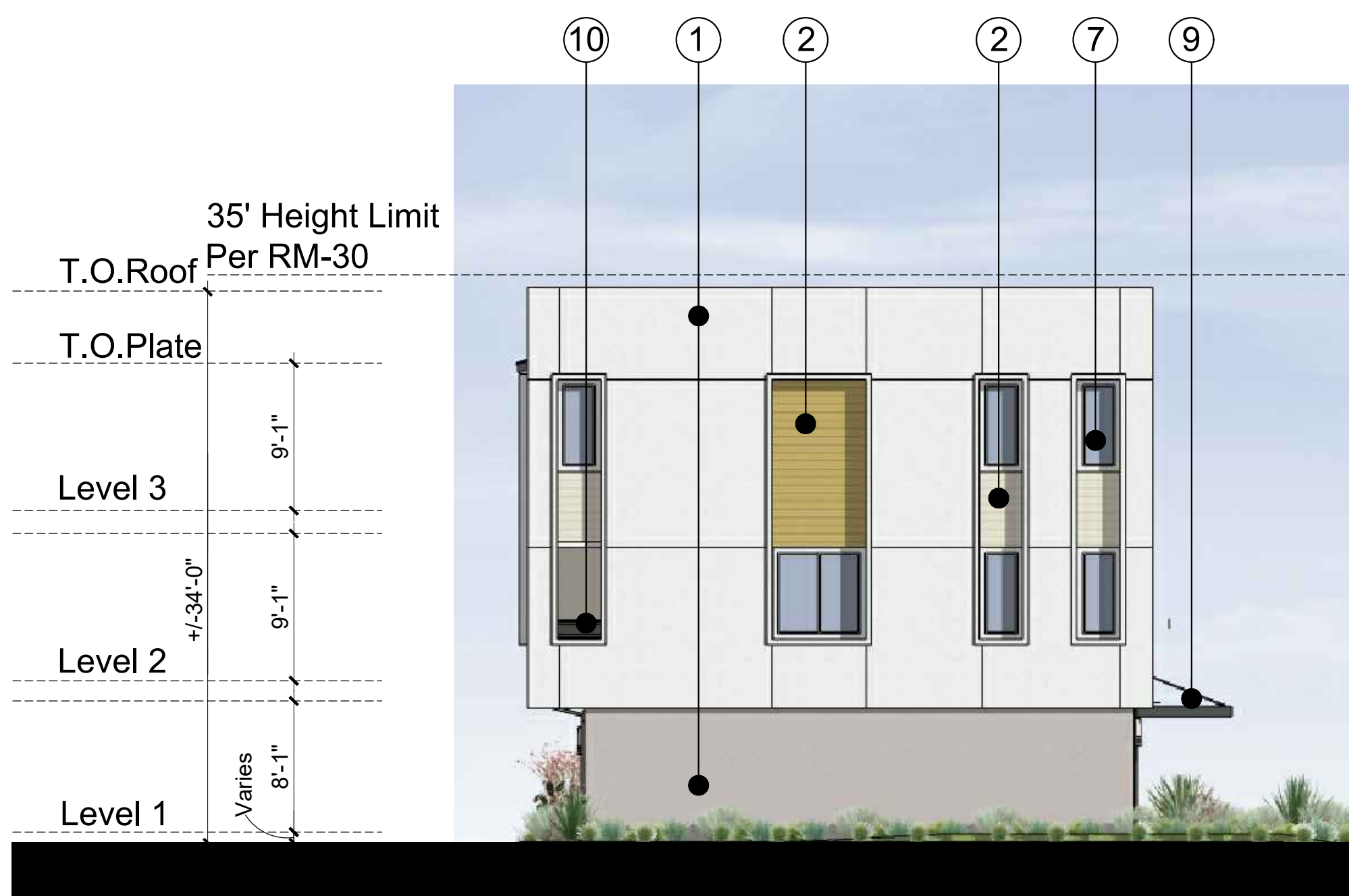
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|---------------------------------|----------------------------|---------------------------|--------------------------------------|
| ① Painted Stucco | ⑤ Composition Roof Shingle | ⑨ Painted Metal Awning | ✱ Egress Window For Emergency Escape |
| ② Painted Horizontal Lap siding | ⑥ Metal Garage Door | ⑩ Painted Metal Railing | |
| ③ Painted Fiber Cement Panel | ⑦ Vinyl Window | ⑪ Unit Light Fixture | |
| ④ Painted Wood Fascia | ⑧ Metal Door | ⑫ Painted Metal Downspout | |



RIGHT ELEVATION



REAR ELEVATION



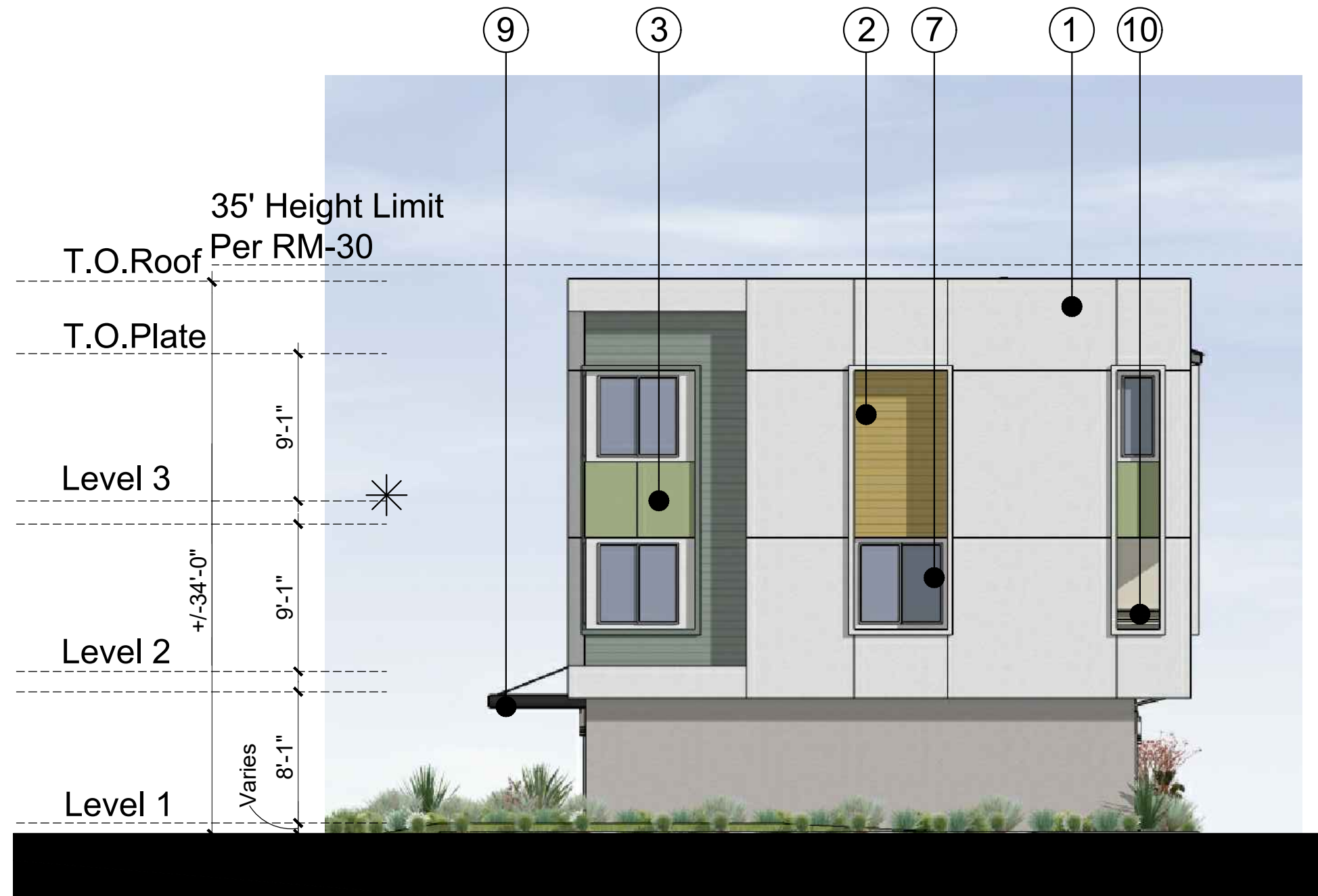
LEFT ELEVATION



FRONT ELEVATION

MATERIAL LEGEND

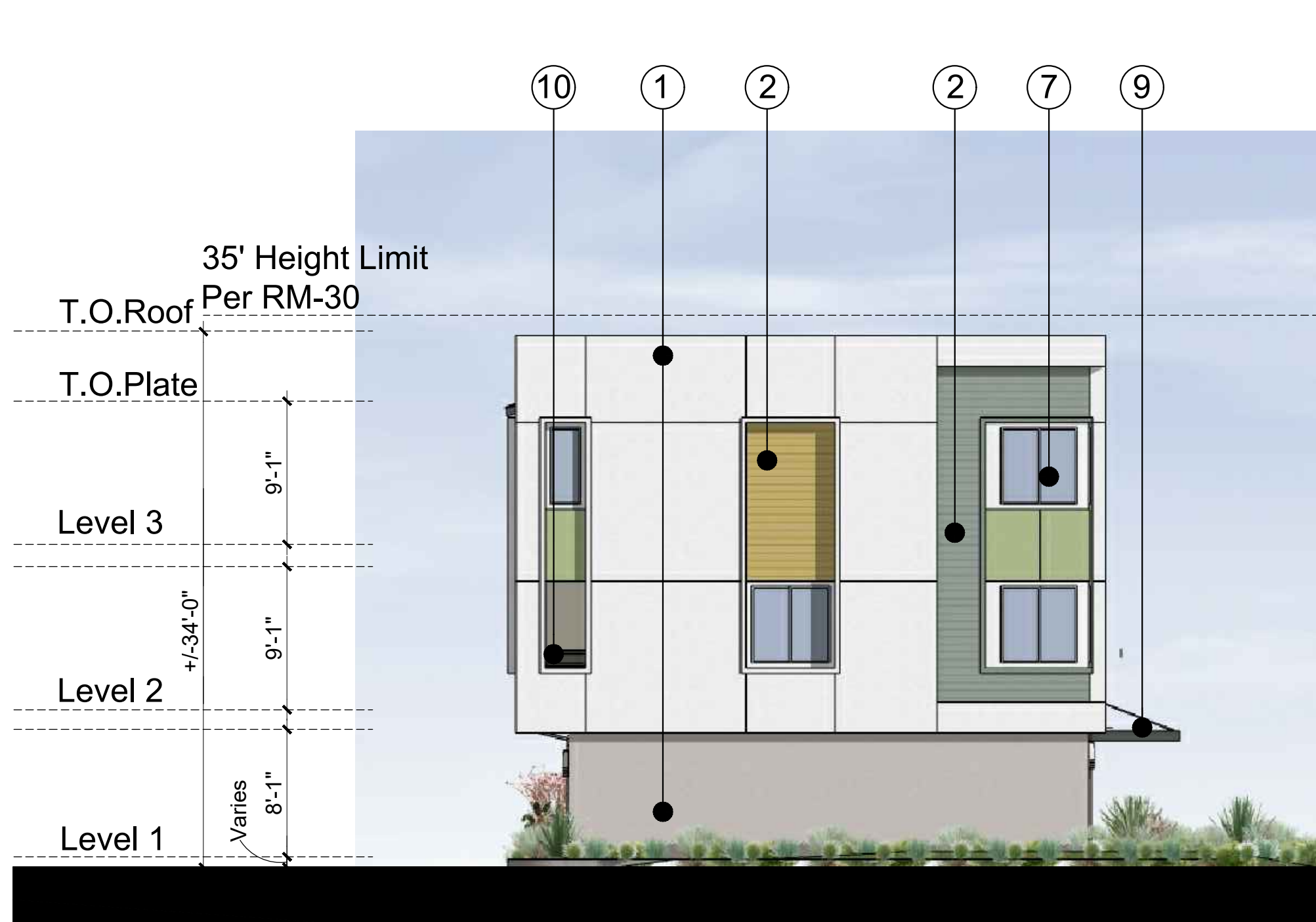
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|---------------------------------|----------------------------|---------------------------|--------------------------------------|
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RIGHT ELEVATION



REAR ELEVATION



LEFT ELEVATION



FRONT ELEVATION

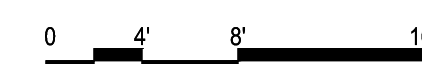


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The
SOBRATO
Organization

200 PORTAGE AVE
PALO ALTO, CA # 2020-0771

SB 330 PRE-APPLICATION
NOVEMBER 16, 2020



7-PLEX PRELIMINARY ELEVATIONS

A2.0.4

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November 17, 2020

Via E-mail (jonathan.lait@cityofpaloalto.org)

Jonathan Lait
Planning Director
250 Hamilton Avenue - Fifth Floor
Palo Alto, CA 94301

Re: Sobrato Portage Project - State Density Bonus Law Letter of Intent

Dear Mr. Lait:

We represent the Sobrato Organization (“Sobrato”) in connection with its application to redevelop an approximately 4.65-acre portion of the site at 200 Portage Avenue (the “Project Site”), currently occupied by the former Fry’s Electronics building, with 85 ownership townhomes (the “Project”) in Palo Alto, California (the “City”). Pursuant to the City’s inclusionary housing requirements for ownership projects, the Project will provide 15% of its units (13 units) at the moderate income affordability level.

The purpose of this letter is to document and reserve certain rights under the State Density Bonus Law for (1) An up to 10% density bonus over the base density; (2) one mandatory concession or incentive; (3) any required physical waivers of development standards to accommodate the Project; and (4) applicable mandatory maximum residential parking standards, all pursuant to the State Density Bonus Law and Zoning Code Chapter 18.15¹. Because it will provide 15% of its units at the moderate income affordability level, the Project is entitled to all of the following *separate* categories of incentives in the State Density Bonus Law:

1. Up to 10% Density Bonus

¹ We note that to the extent the City’s Zoning Code Chapter 18.15 has not been updated to reflect recent amendments to the State Density Bonus Law, State law controls in the event of any inconsistency.

The Project proposes 13 Moderate Income units (15% of 85 total units). The State Density Bonus Law provides that the base density used to calculate the affordable housing requirements do not include any bonus units under the State Density Bonus Law.² Because the Project provides 15% of its base density units as Moderate Income Units, the Project qualifies for a mandatory density bonus of up to 10%.³ The Project's density of 18.3 units/acre is within the permissible density under the General Plan and Zoning Code. There, the Project is electing *not to apply* additional units allowable under the State Density Bonus Law at this time.

Although not currently planned, Sobrato reserves the right to apply for density bonus units, up to the maximum, if determined necessary to make the Project financially feasible during the development of the Project.⁴ Sobrato notes that it is not required to take a density bonus in order to qualify for the below, additional incentives to which it is *separately* entitled under the State Density Bonus Law by virtue of providing the requisite minimum affordable housing units.

2. One Mandatory Concession or Incentive

Because the Project provides 15% of its base density units as Moderate Income Units, it is eligible for one (1) mandatory concession or incentive.⁵ A concession is defined to include, among other things, "reduction in site development standards or a modification of zoning code requirements or architectural design requirements," including a reduction in setbacks and square footage requirements, and "[o]ther regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs."⁶

Based on the attached Preliminary Application, Sobrato has not yet identified a specific need for a concession or incentive at this time, but hereby reserves the right to identify a concession or incentive through the City's application review and approval process prior to a formal determination of a complete application.

3. Waivers

In addition to a limited number of concessions/incentives, the State Density Bonus Law specifies that a project is entitled to a waiver from "*any* development standard that will have the effect of physically precluding the construction of a development... at the densities or with the concessions

² Gov. Code Section 65915(b)(3).

³ Gov. Code Section 65915(b)(1)(D), (f)(4).

⁴ Gov. Code Section 65915(a)(3)(D)(ii) "Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development."

⁵ Gov. Code Section 65915(d)(2)(A).

⁶ Gov. Code Section 65915(k).

or incentives permitted by this section.”⁷ Waivers are separate from and additional to concessions/incentives, are unlimited, and approval is mandatory if the standard would preclude development of the Project at its permitted density.

Based on the enclosed Preliminary Application, Sobrato has identified the need for two (2) waivers at this time.

- (1) *Waiver of Floor Area Ratio Maximum:*

The Project Site is subject to a maximum FAR of 0.6, whereas the current Project proposes an FAR of 0.92. Sobrato has determined that an increased FAR is necessary to provide appropriately sized features of a townhome development including home plans with variety that offer options to different people, provide adequate circulation, and meet all other City standards. Reducing the FAR to 0.6 would result in the loss of units and therefore, the maximum of 0.6 would preclude construction of the Project at the density permitted, and this requirement must be waived.

- (2) *Waiver of Open Space Requirement*

The Project is subject to a 30% minimum requirement for Open Space uses, whereas the current Project proposes 24% Open Space uses. Sobrato has determined that a decreased percentage of Open Space is necessary to provide appropriately sized features of a townhome development, respect existing easements, provide adequate circulation, and meet all other City standards including height maximums. Increasing the Open Space use would result in the loss of units and therefore, meeting the minimum would preclude construction of the Project at the density permitted, and this requirement must be waived.

Sobrato hereby reserves the right to identify any further necessary modifications/waivers through the City’s application review and approval process.

4. Mandatory Maximum Residential Parking Standards

Pursuant to the State Density Bonus Law as a density bonus-eligible project, and as further described in the enclosed submittal package, the Project has the right to meet mandatory maximum residential parking standards which are currently no more than:

- Zero to one bedroom: one onsite parking space.
- Two to three bedrooms: two onsite parking spaces.
- Four and more bedrooms: two and one-half parking spaces.⁸

Starting January 1, 2021, the mandatory maximums shall be no more than:

- Zero to one bedroom: one onsite parking space;

⁷ Gov. Code Section 65915(e)(1).

⁸ Gov. Code Section 65915(p)(1), as currently effective.

- Two to three bedrooms: one and one-half onsite parking spaces; and
- Four and more bedrooms: two and one-half parking spaces.⁹

As demonstrated in the enclosed Sheet A1.0, the Project proposes parking consistent with City's Zoning Code requirements at this time. However, Sobrato reserves the right to revise this proposal consistent with its rights under the State Density Bonus Law.

Thank you for your attention to this matter, we look forward to working with the City on bringing this project to fruition.

Sincerely yours,

HOLLAND & KNIGHT LLP



Tamsen Plume
Genna Yarkin

cc: Albert Yang - Deputy City Attorney
Tim Steele - The Sobrato Organization
Robert Tersini - The Sobrato Organization
Cindy Ma - KTG
David Burton - KTG
Jill Williams - KTG
Erin Kamakawa - Kier & Wright
Nektarios Matheou - Kier & Wright
Ryan Amaya - Kier & Wright

⁹ Gov. Code Section 65915(p)(1), as revised by AB 2345 effective January 1, 2021.