

December 22, 2021

Via E-Mail:

Mr. Garrett Sauls (garrett.sauls@cityofpaloalto.org)
Mr. Jonathan Lait (pdsdirector@cityofpaloalto.org; Jonathan.Lait@CityofPaloAlto.org)
Commissioners Ms. Summa Doria; Ms. Roohparvar; Mr. Ed Lauing; Mr. Bart Hectman; Ms. Bryana Chang; (planning.commission@cityofpaloalto.org)
Ms. Carolyn Templeton (ptc@caritempleton.com)
Mr. Albert Yang (albert.yang@cityofpaloalto.org)

Re: City of Palo Alto California Planning & Transportation Commission Special Meeting Agenda: December 15, 2021 – 985 Channing Avenue Application for a “Preliminary Parcel Map to Remove Recorded Height Restrictions on Underlying Parcel Map”

Dear Mr. Sauls, Mr. Lait, Mr. Yang and Honorable Palo Alto Planning & Transportation Commissioners:

As I believe you are already aware, but for anyone new on this Agenda Item, I am retained counsel for Dr. David Rogosa, longtime resident and owner of 991 Channing Avenue, Dr. David Loftus, Mrs. Juanita Loftus, longtime residents and owners of 911 Lincoln Avenue, and Mr. James Weager, and Mrs. Beverly Weager, longtime residents and owners of 975 Channing Avenue, all of whom are adjacent and therefore adversely affected by the proposed Preliminary Parcel Map for Remove Recorded Height Restrictions at 985 Channing of the applicant owners but not residents of 985 Channing Avenue.

I wish to personally apologize for submitting my letter to you on December 15, 2021 for the above Agenda Action Item No. 2 on that date. As a former planning commissioner for 10 years, including time as chair, for the Town of Atherton, I completely understand the difficulty I caused by not submitting my letter earlier but it was not intentionally strategic nor unintentional lack of diligence. - During the two weeks preceding the meeting, my spouse was taken very seriously ill resulting in numerous hospitalizations so the blame can be placed entirely on me and not at all on my clients. As such, we greatly appreciate the thoughtfulness, courtesy and additional time the Commission and the Applicant have agreed to take to review the legal points raised. It is apparent from the Commissioners' remarks that the Commission wants to get it right the first time, so we sincerely thank you for your due consideration.

One of the key points I alluded to in my December 15 letter is that the duly recorded single Preliminary Map governing Parcel A (991 Channing Ave.) and Parcel B (985 Channing Ave.) and memorializing the covenant to limit height at 985 Channing was originally reached with the owner-developer Bill Cox of both undivided Parcels in consideration of the uniform opposition to what was at that time a substandard subdivision. (12/15/21 J. Acheson Ltr, page 6,

§2.) At the October 13, 2021 PTC Meeting, Commissioner Ed Lauing did raise the question of whether the Preliminary Map and/or its restrictions are also documented in the Grant Deeds for each Parcel. Dr. Rogosa's Grant Deed for 991 Channing indeed refers to the recorded Preliminary Parcel Map for both Parcel A and B. (A copy of the relevant pages is attached as **EXHIBIT 7**.¹) It states on the first page at the top "FOR VALUABLE CONSIDERATION, ...CONSTRUCTION SYSTEMS, INC., a California corporation, hereby grants to David Roth Rogosa, a single man, the real property in the City of Palo Alto, County of Santa Clara, State of California, described as: Parcel "A" as shown on that certain Parcel Map filed May 27, 1980, in Book 463 of Maps at page 51, Santa Clara County records." The same reference is stated on the second page of the Deed of Trust with Assignment of Rents. It is witnessed by David G. Hauser, First American Title Guaranty Co., and notarized. While we have not seen the Grant Deed for 985 Channing, we presume it also reflects the Parcel Map for Parcel A and Parcel B, if not the restrictions themselves.

As such, we are at a loss to understand how the PTC could ever make the "reverse finding" that the "modifications [of parcel map amendments] *do not impose any additional burden* on the present fee owner." (Municipal Code §21.16.280 (ii).) Here, the present fee owner of the existing Parcel Map includes Dr. Rogosa (Parcel A.) There is no question that the proposed action will impose additional burden on Dr. Rogosa's home with a towering two-story structure within a small set back (as highlighted by Mr. Mammarella in Exhibit 4, a document entitled Notice of Incomplete/Corrections Required Application No. 20PLN-00192 25-09-2020, part of the Public Comments section).

Similarly, we do not see how the PTC can possibly make a "reverse finding" that "the modifications do not alter any right, title, or interest *in the real property reflected on the recorded map*." (Municipal Code §21.16.280 (iii).) Certainly, any new parcel map will alter Dr. Rogosa's right, title and/or interest in Parcel A reflected on the operative Parcel Map and in his Grant Deed.

We also remain at a loss as to how the PTC can grant the request for a "new" Preliminary Parcel Map which takes into consideration *only one of the two Parcels (and Parcel owner) which are both governed by the single Parcel Map of record*. We fail to understand how an applicant "may [unilaterally] simply apply for a new parcel map, which would supersede an existing map for the property." (Staff Report ID #13692, Report Summary, page 1.) If the new parcel map is to supersede the existing Parcel Map, both equity and the law should require the consent of both Parcel owners, otherwise the PTC is agreeing to grant a new Parcel Map which will also supersede Dr. Rogosa's Parcel Map, without his consideration or consent, and voiding the covenant and/or equitable servitude restricting height.

Dr. Rogosa has raised this as the leading issue in each of the PTC Meetings in writing and during the Public Comment period:

¹ **EXHIBITS 1 – 6** are attached to the undersigned's letter to Garret Sauls dated December 30, 2020, and part of the record.

"The legally recorded restrictions that are the focus of this meeting actually appear on my parcel map. It is my parcel map that is subject to being gutted, and I believe I should have substantial standing in these proceedings.

"As your Planning Staff has confirmed, there appears to be no Palo Alto precedent for removal of this type of legally recorded Parcel Map restrictions in residential properties. An unprecedented (or even rare) action should be approached with great caution." (D. Rogosa Comments both submitted in advance in writing for, and orally at, 10/13/21 PTC Meeting.)

Dr. Rogosa feels deprived of procedural and substantive due process since the issue of his undisputed standing received no consideration in the PTC October 13, 2021 or subsequent Meetings. Nor has he been given the opportunity to personally participate individually at any meeting or process other than a 3-minute comment on the Zoom PTC Meetings. The gravamen of his comments are that, if granted, this proposed Preliminary Parcel Map based on "reversed finds" and planned 985 construction (evidenced by the Sept 2020 plans which he submitted to the Commissioners after October 13 discussion) will have a devastating impact on key criteria such as privacy, quality of life, daylight and property value, values which are to be protected as important elements of the Palo Alto Comprehensive Plan and vision.

Dr. Rogosa frames the entire 985 Channing issue quite differently than has been previously expressed by the applicant and the Commissioners. He sees this situation as a long-time absentee landlord seeking a large financial windfall from removal of the Parcel Map restrictions to the great detriment of long-time residents who have had the clearest possible legal protections. Removal of the Parcel Map restrictions would add at least \$500,000 to the property value of 985 Channing while destroying the quality of life of adjoining residents and significantly reducing their property values.

Again, we sincerely appreciate your due consideration and time given your other pressing items. We look forward to hearing from the you and the Applicant at the continued hearing.

Sincerely,

Ropers Majeski PC



Jennifer E. Acheson

JEA

Enclosure: Dr. David Rogosa's true and correct copy of the June 17, 1980 Notarized Grant Deed

CC:

Dr. David Rogosa;

Dr. David and Ms. Juanita Loftus;

Mr. Jim and Ms. Bev Weager;

Ms. Molly Stump (city.attorney@cityofpaloalto.org);

Mr. Arnold Mammerella (arnold@mammarellaarchitecture.com);

Ms. Rachel Tanner (Rachael.Tanner@CityofPaloAlto.org);

Ms. Madina Klicheva (madina.klicheva@cityofpaloalto.org);

Ms. Christina Thurman (christina.thurman@cityofpaloalto.org)

EXHIBIT 7

Order No. 2-8664
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:

David R. Rogosa
991 Channing St.
Palo Alto, Ca. 94301

MAIL TAX STATEMENTS TO:

same as above

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY TRANSFER TAX \$ 174.90
DOCUMENTARY TRANSFER TAX \$ 10.00
SURVEY MONUMENT PRESERVATION FUND \$
XX Computed on the consideration or value of property conveyed. OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale.
David G. Hauser
Signature of Declarant or Agent determining tax — Firm Name

First American Title Guaranty Company

A. P. # 3-26-17 (A.W.O.P.)
Area code: 6-014

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CONSTRUCTION SYSTEMS, INC., a California corporation

hereby GRANT(S) to

DAVID ROTH ROGOSA, a single man

the real property in the City of Palo Alto
County of Santa Clara

, State of California, described as

Parcel "A" as shown on that certain Parcel Map filed May 27, 1980, in Book 463 of
Maps at page 51, Santa Clara County records.

STATE OF CALIFORNIA

COUNTY OF Santa Clara

On June 17, 1980

said State, personally appeared William D. Cox, Jr.

known to me to be the President, and

and known to me to be the persons who executed the within
instrument on behalf of the corporation therein named, and ac-
knowledgeed to me that such corporation executed the within
instrument pursuant to its by-laws or a resolution of its board of
directors.

WITNESS my hand and official seal.

David G. Hauser
Signature David G. Hauser

Name (Typed or Printed)

Dated June 16, 1980

STATE OF CALIFORNIA
COUNTY OF

SANTA CLARA

On June 17, 1980

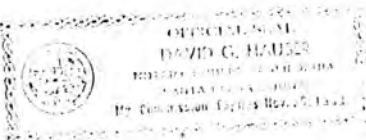
before me, the undersigned, a Notary Public in and for said
State, personally appeared

William D. Cox, Jr.

known to me to be the person whose name is
subscribed to the within instrument and acknowledged that
he executed the same.

WITNESS my hand and official seal

Signature



(This area for official notarial seal)

Construction Systems, Inc., a California
corporation

BY: William D. Cox, Jr.



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Order No.
Escrow No. 2-8664
Loan No.

WHEN RECORDED MAIL TO:

Construction Systems, Inc.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 3-26-17 A.W.O.P.

DEED OF TRUST WITH ASSIGNMENT OF RENTS

(This Deed of Trust contains an acceleration clause)

This DEED OF TRUST, made JUNE 16, 1980

, between

DAVID R. ROGOSA, a single man

herein called TRUSTOR,

whose address is 991 Channing St.,
(Number and Street)

Palo Alto, California 94301
(City)

(State)

FIRST AMERICAN TITLE INSURANCE COMPANY,

a California corporation, herein called TRUSTEE, and

CONSTRUCTION SYSTEMS, INC., a California corporation

, herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in Trust, with Power of Sale, that property in the

City of Palo Alto

County of Santa Clara

, State of California, described as:

Parcel "A" as shown on that certain Parcel Map filed May, 27, 1980 in Book 463 of Maps at page 51, Santa Clara County Records.

If the trustor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the beneficiary being first had and obtained, beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the Purpose of Securing (1) payment of the sum of \$13,000.00 with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, and (2) the performance of each agreement of Trustor incorporated by reference or contained herein (3) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County August 17, 1964, and in all other counties August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumas	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3778	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	5039	124	Sonoma	2067	427
Calaveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Del Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4778	175	Tuolumne	177	160
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego	SERIES 5 Book 1964, Page 149774				

shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivision A and B, (identical in all counties, and printed on the reverse side hereof) are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge therefor does not exceed the maximum allowed by law.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

STATE OF CALIFORNIA
COUNTY OF

ss.

Signature of Trustor

DAVID R. ROGOSA

On _____
before me, the undersigned, a Notary Public in and for said
State, personally appeared _____

known to me to be the person whose name _____
subscribed to the within instrument and acknowledged that
executed the same.

WITNESS my hand and official seal.

Signature _____

(This area for official notarial seal)

1192 (8/77)



First American Title Guaranty Company

550 Hamilton Ave., Palo Alto, Ca. 94301 (415)326-5050

ESCROW INSTRUCTIONS

☒ BUYERS ☐ BORROWER'S

DATE 6-17-80

Order Number 2-8664

To: FIRST AMERICAN TITLE GUARANTY COMPANY

I/We hand you herewith

- ☒ Executed loan documents—First loan
☒ Executed loan documents—Second loan
☒ Balance of funds to close

☐ _____
☐ _____
☐ _____

which you are authorized to deliver and/or record when you have received for my account the following:

☒ Grant Deed

☐ _____
☐ _____

and when you can issue your standard coverage form policy of title insurance with a liability of \$159,000.00 on the property described as in preliminary report No. 2-8664, commonly known as: 991 Channing St., Palo Alto, Ca., California, showing title vested in _____

David Roth Rogosa, a single man

Subject to:

1. Printed exceptions and conditions in said policy.
2. ☒ all ☐ 2nd half General and special taxes for fiscal year 19 80 19 81
3. Assessments and/or bonds not delinquent.
4. Exceptions numbered 1 as shown in your preliminary title report dated 5-28-1980 issued in connection with the above order number.
5. Deed/Trust, 19,000.00, to be recorded.
6. Deed/Trust, 86,000.00 to be recorded.

GENERAL PROVISIONS

All funds received in this escrow shall be deposited in one or more of your general escrow accounts with any bank or banks doing business in the State of California. All disbursements shall be made by your check.

The expression "close of escrow" means the date on which instruments referred to herein are filed for record. The letters "COE" wherever used in these instructions means Close of Escrow.

Where applicable, you are to request necessary endorsements to fire insurance policies from agent and deliver said policies and endorsements to the parties entitled thereto. In all acts in this escrow relating to fire insurance you shall be fully protected in assuming that each such policy is in force and that the necessary premium therefor has been paid.

You are also authorized to sign any documents which may be necessary or incidental to the carrying out of these instructions and particularly to endorse any checks or fire insurance policies.

You are to furnish a copy of these instructions, amendments thereto, closing statements and/or any other document deposited in this escrow to the lender or lenders and/or the real estate broker or brokers involved in this transaction upon request of such lenders or brokers.

The principals herein agree to pay any charges, billings, advances and expenses that are properly chargeable to them. At close of escrow you are to mail all documents, etc., to the persons entitled thereto.

Time is declared to be the essence of these instructions. Any amendment of and/or supplement to these instructions must be in writing.

These escrow instructions constitute the entire escrow between the escrow holder and the parties hereto.

In the event suit is brought by any party to this escrow, including buyer and seller, or any other party, as against each other, or others, including the title company, claiming any right they may have as against each other or against the title company, then in that event, the parties hereto agree to indemnify title company against any attorney's fee and costs incurred by it.

Upon consummation of this escrow, you are authorized to disburse in accordance with the following statement.

As of close of escrow est. 6/20/80 prorate on the basis of a 30 day month:

- ☒ Taxes (Based on the most recent information obtainable in the office of the proper taxing authorities.)
☐ Fire Insurance Premiums (If acceptable to Buyer) ☐ Interest on Existing Loan ☐ F.H.A. Mortgage Insurance.
☐ Credit Existing Loan Trust Funds, if any, to Seller. ☐ Rents ☐ Homeowners Assoc. Dues
☐

	DEBITS	CREDITS
Purchase Price	159,000 00	
Paid outside of Escrow to		
Deposit by Rogosa		14,000 00
Encumbrance of Record		
Loan Trust Fund		
LENDER'S FEE		
New Loan California Federal Savings/Loan		19,000 00
Deed of Trust <input checked="" type="checkbox"/> 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd		
Loan Charges: Loan Fee \$ 335.00 Tax Fee \$ 17.50		
Appsl. Fee \$ Ins. Res. \$		
Cred. Rept. \$ 35.00 FHA Prem. \$		
Int. Est. @ 6.60% Fr funding To 7/1/80 \$ 85.80		
Loan agents fee: \$150.00 TOTAL	623 30	
<input checked="" type="checkbox"/> Pay Fire Ins. Prem Travelers	313 00	
<input type="checkbox"/> Pay Tax Service		
<input type="checkbox"/> Pay Taxes		
<input type="checkbox"/> Pay Termite Inspection Fee		
<input type="checkbox"/> Pay Assessments or Bonds		
Pay demand of		
<input checked="" type="checkbox"/> County monument preservation fee	10 00	
<input type="checkbox"/> Prorate Homeowners Assoc. Due Fr. To on \$		
<input checked="" type="checkbox"/> Prorate Taxes Fr. C.O.E. To 7/1/80 on \$ 223.32	12 40	
<input type="checkbox"/> Prorate Fire Ins Fr. To on \$		
<input type="checkbox"/> Prorate Int. @ % To on \$		
<input type="checkbox"/> Prorate Rent Fr. To on \$		
<input type="checkbox"/> Prorate FHA Mtg. Ins. Prem. Fr. To on \$		
Re:conveyance fee		
Transfer Tax XXX 1/2 County 174.90	87 45	
Draw Doc.	30 00	
Notary Fee WAIVE		
Title Prem. Std. \$ 525.25 ALTA \$ 50.00 (short term rate)	575 25	
Escrow Fee	113 80	
Recording	18 00	
Balance Due <input type="checkbox"/> To Close <input type="checkbox"/> The Undersigned		41,783 20
TOTALS	160,783 20	160,783 20

These instructions are effective for _____ days from date hereof and thereafter unless revoked by written demand and authorization satisfactory to you. Incorporated herein and made a part hereof by reference are the "General Provisions" and any additional instructions appearing on the reverse side of this page.

To prevent delay in closing this transaction the balance of funds called for to close this transaction should be presented in the form of a CASHIERS OR CERTIFIED CHECK.

Signed _____ Signed _____
 Address _____ Address _____
 City _____ Phone _____ City _____ Phone _____

Signed _____ Signed _____
 Address _____ Address _____
 City _____ Phone _____ City _____ Phone _____

Received: _____, 19
 First American Title Guaranty Company

By _____

December 15, 2021

Via E-Mail:

Mr. Garrett Sauls (garrett.sauls@cityofpaloalto.org)
Mr. Jonathan Lait (pdsdirector@cityofpaloalto.org; Jonathan.Lait@CityofPaloAlto.org)
Commissioners Ms. Summa Doria; Ms. Roohparvar; Mr. Ed Lauing; Mr. Bart Hectman; Ms. Bryana Chang; Mr. Michael Alcheck (planning.commission@cityofpaloalto.org)
Ms. Carolyn Templeton (ptc@caritempleton.com)
Mr. Albert Yang (albert.yang@cityofpaloalto.org)

Re: City of Palo Alto California Planning & Transportation Commission Special Meeting Agenda: December 15, 2021 – 985 Channing Avenue Application for a “Preliminary Parcel Map to Remove Recorded Height Restrictions on Underlying Parcel Map”

Dear Mr. Sauls, Mr. Lait, Mr. Yang and Honorable Palo Alto Planning & Transportation Commissioners:

We represent Dr. David Rogosa, Dr. David and Ms. Juanita Loftus, Mr. Jim and Mrs. Beverly Weager on this matter. Respectfully, we ask the Commission to deny the “Preliminary Parcel Map to Remove Recorded Height Restrictions on Underlying Parcel Map” by the Applicant-Owners of 985 Channing Avenue, Palo Alto, CA. We do so because the Applicants have not carried their burden of showing why the subject height restrictions may be legally removed as requested.

This is the third time this application has come before the Commission. My clients attended the first meeting on October 13, 2021, and the second on November 10, 2021, which latter meeting was continued to December 15, 2021. They have made and will make their opposition to the Application through thoughtful, carefully prepared presentations both in writing and at the hearings. The undersigned also sent a letter on December 20, 2020 laying out some of the reasons why we believe denial is necessary. We ask that you give due consideration and weight to these viewpoints and those presented at this hearing which form a part of the administrative record.

Based on our review of the discussions by the Commissioners and Staff at the first meeting and the current Staff Report (ID# 13692), we believe that the following additional and critical reasons support denial of this Application.

1. The Request for the Approval of a Preliminary Parcel Map to Remove Recorded Height Restrictions Is Not Authorized Under the Government Code, Palo Alto Municipal Code or Planning and Transportation Commission Procedural Rules

A close review of the codes makes it clear that the request for a parcel map “for findings” to remove restrictions is not authorized by the law cited in the Staff Report. As the record reflects, the reason this matter was continued from October 13, 2021 was many, if not most, of the Commissioners wanted to make sure that the action proposed at that time – *amending the Parcel Map* - was legally proper. Commissioner Roohparvar stated that amending the parcel map seemed like the wrong mechanism. This concern was voiced by others, including Commissioners Lauing, Hectman and Templeton.

The Staff Report summarizes these concerns and Staff’s conclusions:

At the project’s first hearing on October 13, 2021, the PTC continued the hearing to enable staff to research the applicability of the process for an “amending map,” which is set forth in Palo alto Municipal Code Section 21.16.280. Upon further research, staff have determined that the process set forth in Section 21.16.280 is an available alternative method, but it is not mandatory. In other words, *an applicant may choose to pursue an amending map, or may simply apply for a new parcel map, which would supersede an existing map for the property. In this case, the applicant is seeking a new parcel map, [which] staff believes is the most appropriate process in these circumstances.* As a result, staff’s recommendation [for approval] and the majority of this reports remain unchanged. (Staff Report (ID # 13692), 11/10/2021, Packet Page 37; emp. added.)

The Commissioners were correct in their concerns. However, Staff conclusion that the most appropriate process is “simply to apply for a new parcel map, which would supersede an existing map,” is not supported by any authority to show that is a legally appropriate method. No authority is provided other than Government Codes Section 66469 and Municipal Code Section 21.16.280, which do *not* support Staff’s conclusions.

a. Government Code Sections 66469 and 66434.2

Government Code Section 66469 states in relevant part:

After a final map or parcel map is filed in the office of the county recorder, it may be amended by a certificate of correction or an amending map for any of the following purposes:

- (a) *To correct an error in any course or distance shown thereon.*
- (b) *To show any course or distance that was omitted therefrom.*

(c) *To correct an error in the description of the real property shown on the map.*

(d) *To indicate monuments set after the death, disability, retirement from practice, or replacement of the engineer or surveyor charged with responsibilities for setting monuments.*

(e) *To show the proper location or character of any monument which has been changed in location or character originally was shown at the wrong location or incorrectly as to its character.*

(f) To correct any additional information filed or recorded pursuant to Section 66434.2 [Final Maps], if the correction does not impose any additional burden on the present fee owners of the real property and does not alter any right, title, or interest in the real property reflected on the recorded map.

(g) *To correct any other type of map error or omission as approved by the county surveyor or city engineer that does not affect any property right, including, but not limited to, lot numbers, acreage, street names, and identification of adjacent record maps.*

As used in this section, “error” does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map. (Gov. Code §66469; emp. added.)

Subdivision (f), quoted above, the only applicable section and relied on by Staff, makes it perfectly clear that a parcel map may be amended ***to correct any additional information*** on the existing parcel map. ***It does not authorize adding or removing additional information such as removal of the subject height restrictions.***

Equally important, subdivision (f) permits correction of additional information “***filed or recorded pursuant to Government Code Section 66434.2 [Final Maps].*** This section states

(a) On or after January 1, 1987, a city or county may, by ordinance, require additional information to be filed or recorded simultaneously with a final or parcel map. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. The document or additional map sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the document or additional map sheet.

(b) Additional survey and map information may include, but need not be limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping, and archaeological sites. (*Gov. Code, Title 7, Art. 2. Final Maps, §66434.2.*)

Section 66434.2 also on its face applies to ***Final Maps*** which are not even within the Commission’s authority, as discussed below (see section 1.c). Neither Government Code Sections 66469 nor 66434.2 authorizes the recommended new parcel map to delete the duly recorded height restrictions. Section 66469 contemplates non-substantive corrections. Amending the Parcel Map to re-write agreed-to recorded height restrictions for 985 Channing Avenue does not fall within the above authorized permitted actions.

b. Palo Alto Municipal Code Section 21.16.280

Municipal Code Section 21.16.280 also does not provide authority for approving this Application. This section re-states Government Code Section 66469 subdivision (f), requiring that four (4) findings be made for a certificate of correction or amending map:

21.16.280 Final or parcel map amendments.

In addition to the amendments authorized by Government Code Section 66469, after a final map is filed in the office of the county recorder, the ***recorded map may be modified by a certificate of correction or an amending map if*** (i) there are ***changes in circumstances*** which make any or all of the conditions of such a map no longer appropriate or necessary, ***(ii) that the modifications do not imposed any additional burden on the present fee owner of the property, (iii) the modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and (iv)*** the map as modified conforms to the provisions of the Subdivision Map Act and Chapter 21 of this title....

The hearing [by the director of planning] shall be confined to consideration of and action on the proposed modification. The decision of the director on a modification of a parcel map is subject to the appeal procedures of this title. (*Palo Alto Municipal Code §21.16.280.*)

This Section does not apply because the Staff Report states that “the applicant is seeking a new parcel map[.]” the most appropriate process recommended by the Staff. (*Staff Report, ID # 13692, Packet Page 37.*) Even if it did, the Commissioners cannot make all findings required for approval because there has been no change in circumstances other than the desire by one parcel owner of a formerly undivided single parcel to add a second story, without taking into consideration the other negatively impacted owner. The proposed height restriction removal

imposes an additional burden on the fee owner of 991, and it will alter the right, title and interest of the real property – 985 and 991 – *both of which are reflected in the recorded Parcel Map.*

c. Palo Alto Rules and Regulations for Conduct of the Planning and Transportation Commission’s Procedural Rules

With due respect to Mr. Garrett Sauls and Planning Director Mr. Jonathan Lait, the request for a preliminary parcel map to remove duly recorded height restrictions on 985 Channing Avenue (21-PLN-00167), by the Owners-Applicants, is very clearly *not* within the Planning Commission’s legal authority under Palo Alto Rules and Regulations for Conduct of the Planning and Transportation Commission Procedural Rules. Those Rules state in important part:

B. General Requirements

1. Quasi-Judicial and Planned Community Zoning Proceedings Defined.

Proceedings subject to these procedural rules include hearings or preliminary review (including prescreenings or study sessions) involving the following matters:

- a) Conditional Use Permits
 - b) Variances
 - c) Home Improvements Exceptions
 - d) Design enhancement Exceptions
 - e) Subdivisions, other than final map approvals***
 - f) Site and Design Review
 - g) Planned Community Zoning
 - h) Other matters as determined by the Commission’s Attorney
 - i) Appeals related to any of the above
 - j) Environmental Review relating to any of the above.
- (Planning and Transportation Commission Procedural Rules, IV. Additional Requirements for Quasi-Judicial Hearings and Planned Community Zoning Applications, p. IV-1*
(cityofpaloalto.org/files/assets/public/planning) (emp. added).

This does not fall within e) since it is not an Application for a Subdivision. The Subdivision Map Act defines “subdivision” as “the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof...” (Gov. Code, § 66424.) (*Pac. Palisades Bowl Mobile Ests., LLC v. City of Los Angeles*, (2012) 55 Cal.4th 783, 795.) At the October 13, 2021 hearing, Deputy City Attorney Albert Yang indicated that the Application could be analogized to modification of a Conditional Use Permit (CUP). But this is *not* a CUP, or any other expressly authorized quasi-judicial function as set forth above. The Application is not supported by any legal authority, and should be denied for this reason alone.

2. The Duly Recorded Height Restrictions, of Which the Applicants Had Actual and Constructive Notice, Are Fully Enforceable Covenants and Require Consideration of the Whole of the Subdivided Parcel, i.e., 991 Channing Avenue and 985 Channing Avenue

The Staff Report and Application focus solely on 985 Channing Ave. However, as Dr. Rogosa has stated, both parcels must be considered since the previous owner of both undivided parcels was developer, Bill Cox, whose proposed subdivision in June 1980 was strongly opposed by many residents. This opposition led to the agreed height restrictions which were recorded and notarized the Parcel Map (J. Acheson’s Letter of 12/30/2020, Exhibit 2.) The recorded restrictions are *enforceable covenants* under the Civil Code which provides that where a promise is made by an owner of land to do or refrain from doing some act on his own land for the benefit of the other parcel, it is a covenant that runs with the land owned as specifically provided in the instrument. (Civil Code §§1466, 1468.)

Here, the covenant here to limit height restrictions is applicable, enforceable and specifically provided for in the recorded Parcel Map for both Parcels A (991 Channing) and Parcel B (985 Channing). Further, this has not been addressed by the Applicant or Staff.

3. The Commission Shall Deny Approval of a Preliminary Parcel Map If It Makes Any One of the Findings Under Government Code Section 66474; Attachment B to the Staff Report Fails to Include Multiple Relevant Comprehensive Plan Land Use Policies Requiring Denial

Attachment B to the Staff Report lists Preliminary Parcel Map findings. It states that *if* the Commission makes any one of the findings under Government Code Section 66474, it *shall deny approval* of the Parcel Map.

The Staff’s conclusion that, “on balance, the map is consistent with the Comprehensive Plan and specifically the following policies,” is faulty. Before policies come into play, the proposed action must be legally supported. Notwithstanding, Staff’s conclusion is *not* consistent with at least two of the stated policies, i.e., Program L-1.11 – Hold new development to the highest development standards in order to *maintain Palo Alto’s livability* and achieve the *highest quality with the least impacts*. It is not consistent with Program L-3.1 – *Ensure that new or remodeled structures are compatible with the neighborhood and adjacent structures*.

Staff’s conclusion also omits and fails to consider at all other highly relevant policies: Program L6.4 – In areas of the city having a historic or consistent design character, *encourage the design of new development to maintain and support the existing character*. Program L 6.8 – *Support existing regulations that preserve exposure to natural light for single family residences*.

Staff's conclusion is *at odds* with City Planner Arnold Mammarella's recognition of the problems with daylight planes between the two properties which would be created by any two-story structure:

The rear portion of the upper floor is set tight to the daylight plane, which generally is not well in keeping with this guideline when next to a one-story home, but that home is somewhat tall for a one-story home and there is stepped massing. The portion of the house near the daylight plane is also set back enough to not have a strong visual presence from the street. While it would be better to increase the clearance to the daylight plane the proposal could be said to be marginally in compliance with this aspect of site planning. (J. Acheson's Letter of 12/30/2020, Exhibit 4 - Third Reference A1.0.)

The Staff Report states in relevant part as follows:

Consistency with Application Findings

The necessary findings for approval of the Preliminary Parcel Map *Amendment* are contained in State law and incorporated into title of the Municipal Code. Under the subdivision Map Act, the director of Planning must make a series of "reverse" findings for the Preliminary Parcel Map to justify approval. The findings for the proposed map are included in Attachment B and the draft condition of approval of the proposed map are included in Attachment C.

Although no new lots are proposed to be created and the lot lines are to remain the same, the PTC and ultimately City Council are *required to make findings as if the lots were being created in their current configuration*. The most relevant question in these circumstances is *whether the findings can still be made in the absence of conditions* limiting height for 985 Channing.

Staff has provided no authority for "the series of reverse findings" it concludes this Commission must make. Our review has found no legal authority or precedent. It is our position that the findings cannot "be made in the absence of conditions limiting height for 985 Channing."

4. Applicants Have Not Carried Their Burden of Proof

The PTC's Procedural Rules expressly place the burden of proof for the legality and propriety of this Application on the Applicants, as follows:

8. Burden of Proof. The applicant and appellant shall bear the burden of proof on all aspects of the action or relief they seek. The person with the burden of proof must offer evidence to the Commission to support his or her position. (Planning and Transportation Commission Procedural Rules, §B.8, p.IV-4.)

The Applicants have not carried their burden of proof supporting their position that their application should be approved. They have not addressed the threshold, legal issues of whether this Commission even has legal authority to remove restrictions which were duly recorded, and even assuming it does, whether removal of restrictions running with the land that are not otherwise illegal, e.g., discriminatory under the Constitutions, is permissible here.

In the unlikely event that this Application is nevertheless approved, we will seek review as permitted by law through all permissible avenues.

For all these reasons as well as those set forth in the Administrative Record for this Application, we respectfully urge denial of the within Application.

Thank you for your time and due consideration.

Sincerely,

Ropers Majeski PC



Jennifer E. Acheson

JEA

cc:

Dr. David Rogosa;
Dr. David and Ms. Juanita Loftus;
Mr. Jim and Ms. Bev Weager;
Ms. Molly Stump (city.attorney@cityofpaloalto.org);
Mr. Arnold Mammerella (arnold@mammarellaarchitecture.com);
Ms. Rachel Tanner (Rachael.Tanner@CityofPaloAlto.org);
Ms. Madina Klicheva (madina.klicheva@cityofpaloalto.org);
Ms. Christina Thurman (christina.thurman@cityofpaloalto.org)

4859-0846-1830.2

Statement of David and Juanita Loftus
Before the Planning and Transportation Commission
Re: 985 Channing Avenue

Objective Facts/Timeline:

- Thank you to the PTC for allowing our voices to be heard. And thank you for the continuance of this matter from September 8.
- The subdivision of 991 Channing Avenue to create a new parcel, 985 Channing, was indeed an unusual step, because it allowed a new house to be “squeezed in” among long-existing older homes, more than 30 years after the last adjacent house was built.
- All of the houses next door to 985 Channing were built in 1950 or before (991 Channing was built in 1948; 975 Channing in 1950; and 911 Lincoln in 1934).
- There was a neighborhood outcry about this subdivision “event” back in 1980, which resulted in the decision by the PTC to place parcel restrictions on 985 Channing, including a height limit of 13 feet. In 1980, a house was built at 985 Channing, but just a 1-story house, consistent with the rules.
- The decision by the PTC, 41 years ago, to place restrictions was excellent, because it took into account the interests of the surrounding homeowners! The parcel restriction accomplished its purpose and it has been working well ever since it was put in place.
- Previous owners of 985 Channing have abided by the restrictions. Current owners should, too.
- We have owned our home, 911 Lincoln, for more than 30 years. We love it here, and we are dedicated to the neighborhood.
- When we added a 2nd-story to our home in 2005, we faced many restrictions. We abided by those restrictions! We did not try to change the rules!
- We appreciate that the applicants, Frank Dunlap and Pei-Min Lin, want to enlarge 985 Channing for the benefit of their family. But the current rules need to be followed, including the height limit of 13 feet.
- We expect the City of Palo Alto to support us and the other adjacent homeowners and not try to change the rules.
- Based on information provided to us by the City, there is no precedent for un-doing parcel restrictions of this type on a residential property. We say: “Let’s not start now!”

Subjective Statements:

- If the parcel restrictions on 985 Channing are removed, it will pull the rug out from under the adjacent homeowners who have benefitted from the parcel restrictions for many years.
- If the 2nd story is allowed to be built, it will further “bulk up” our local section of the neighborhood resulting in a large structure that looms over our backyard and negatively impacts our view and sense of privacy.

October 13, 2021

Final Statement:

We vehemently object to the removal of the long-standing parcel restrictions and we vehemently object to the building of a 2nd story at 985 Channing Avenue.

--David and Juanita Loftus and Boys

David Rogosa, I am the occupant/homeowner of 991 Channing, since June 1980.

I am at the home of my attorney, Jennifer Acheson, as I do not have zoom capabilities.

For the administrative record, previously submitted statements by me in September 2020 and by my attorney Jennifer Acheson in December 2020 appear in the addendum of the staff report.

A written version of these comments submitted today.

The legally recorded restrictions that are the focus of this meeting actually appear on my parcel map. It is my parcel map that is subject to being gutted, and I believe I should have substantial standing in these proceedings.

As your Planning Staff has confirmed, there appears to be no Palo Alto precedent for removal of this type of legally recorded Parcel Map restrictions in residential properties. An unprecedented (or even rare) action should be approached with great caution.

The 1980 subdivision of the original 11,000 sq ft lot upon which my residence was constructed in 1950, produced two residences in very close quarters. Along the 40ft length of each structure, there exists the most minimal and minimum 6ft setback on each side.

I was hired as Stanford faculty in June 1980, thus my first contact with the property as a potential purchaser was after the parcel map restrictions were put in place. I can recall Bill Cox the developer, standing with me in the residence showing me the plans for 985 Channing (structure being framed at the time) and with emphasis showing me parcel map with the restrictions. As a potential purchaser these restrictions were essential for the viability of my purchase, and I properly regarded such as a guarantee of the future privacy, livability of my residence.

Over the 41 years I have lived here, I have detrimentally relied on these specific height restrictions.

In early September 2020 a two story renovation of 985 Channing was improperly put out for review because the existing parcel map restrictions prohibited review. On September 23 2020 Dr Loftus informed staff of the Parcel Map restrictions as did my letter on September 25. In each instance the immediate staff response was solely to refer to a process for removal of the restrictions. It is my personal belief that much of the ardor staff demonstrates for the removal of my Parcel Map restrictions is an attempt to recover from those miscues.

I do not have a two-story structure.

991 Channing has two-levels: one below ground (unfinished) and one slightly above ground. Gutter height is 12.5 ft with roof peak about 6 feet higher. Residence is rated as 1186 sq ft, consistent with one-story structure. The two-story structure at 985 proposed in Sept 2020 would dominate, swamp (whatever word you like) my much smaller structure, and is inherently inconsistent with Palo Alto's relevant and overarching principles under its Guidelines for Single Family Residences, that is, (1) "neighborhood compatibility for height, mass;" (2) "resolution of massing and rooflines;" (3) "visual character of street facing" structures; and (4) "privacy from second floor windows and decks."

A rebuild of 985 Channing matching my gutter height and roof pitch along our border, I could not describe as catastrophic. Full removal of the height restrictions would be.

As a non-lawyer I would describe the removal of these valuable, essential restrictions as an eminent domain taking without compensation, or as advised, the better term, an inverse condemnation.

In purchasing my property 41 years ago, I relied on the height restrictions as legally recorded, and enforceable contract provisions. What contract or agreement with the City can be regarded as viable if the City can renege on such critical and clear legally recorded restrictions? I hope my reliance on your ordinances was not to my detriment or undue prejudice.

Before taking any action on this unprecedented application based on the papers before you, I would beseech you to physically visit the site at Channing, stand in the minimal setback between the two structures, and visualize the planned construction at 985 submitted in Sept 2020.
You will be aghast.

Addendum (no time to read in presentation)

Restrictions contained on the city/county Parcel Map for 991 Channing and 985 Channing dated May 8, 1980.

I have my original hardcopy from my purchase in June 1980;

I understand that this Parcel Map can be accessed from current file.

To copy those restrictions here (all caps on the document)

PARCEL "B" [985 Channing] IS SUBJECT TO THE FOLLOWING CONDITIONS

- 1) NO SECOND STORY SHALL BE ALLOWED ON ANY STRUCTURE
- 2) NO VARIANCES, INCLUDING, BUT NOT LIMITED TO, FENCE EXCEPTIONS SHALL BE ALLOWED
- 3) THE HEIGHT LIMIT FOR ALL STRUCTURES SHALL BE 13 FEET

I played no role in the formulation of these restrictions

From: [David Loftus](#)
To: [Sauls, Garrett](#)
Subject: Re: 985 Channing Update Requested
Date: Monday, August 9, 2021 1:44:32 PM

Hi Garrett,
Thanks for the info.

Just a couple of questions.

- 1) What is the PTC?
- 2) How can I and other interested parties have our opinion heard in the process?

Thanks!

David

Sent from my iPhone

On Aug 9, 2021, at 12:48 PM, Sauls, Garrett <Garrett.Sauls@cityofpaloalto.org> wrote:

Hi David,

Sorry for the delay. At the moment, the applicant has submitted a preliminary parcel map which will be processed through PTC and City Council to render a decision on whether they will allow the removal of the height restriction. Given that the decision was rendered through those bodies, we would need to go through a similar process to remove it. At the moment, we're trying to target 9/29 for the PTC meeting. If the date or time changes, I'll let you know.

Best regards,

<image001.jpg> Garrett Sauls | Associate Planner | Planning and Development Services
Development Center 285 Hamilton Avenue Palo Alto CA 94301
E: garrett.sauls@cityofpaloalto.org
T: (650) 329-2471
Development Center Business Hours: 9AM-4PM, M-F
*Please think of the environment before printing this email –
Thank you!*
[Online Parcel Report](#) | [Palo Alto Municipal Code](#)
[Planning Forms & Handouts](#) | [Planning Applications Mapped](#)
[Permit Tracking – Public Access](#)

From: David Loftus <loftusdjl1@aol.com>
Sent: Thursday, August 5, 2021 11:16 AM
To: David Loftus <loftusdjl1@aol.com>; Sauls, Garrett
<Garrett.Sauls@CityofPaloAlto.org>
Subject: Re: 985 Channing Update Requested

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hi Garrett,
Any updates available?
(See below). Thanks.
Cheers,
David

Sent from my iPhone

On Jul 28, 2021, at 9:52 PM, David Loftus <loftusdjl1@aol.com> wrote:

Hi Garrett,

I understand (from info relayed by a neighbor) that the current owners 985 Channing Avenue are intending to (try to) move ahead with their project (to put a second story on the house).

All of the immediately adjacent neighbors stand in firm opposition to the project. As has been mentioned, there is a current deed restriction on the property, which prevents such a second story from being constructed.

Could you please provide me with an update, and let me know how we (the immediately adjacent neighbors to 985 Channing) can voice our strident opposition to the project?

I understand, from one of my neighbors, that a process is shaping up that may attempt to remove the long-standing deed restriction.

If you can let me know what is going on, what the upcoming "process" is about (and what the timeframe is), I will relay the info to all interested parties.

Kind regards,

David Loftus
911 Lincoln Avenue
Palo Alto, CA 94301

December 30, 2020

Via E-Mail and U.S. Priority Mail

Garrett Sauls
Project Manager
Associate Planner
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

Re: PROPOSED DEVELOPMENT PROJECT AT 985 CHANNING AVENUE
FILE NO. 20PLN-00192

Dear Mr. Sauls:

We have been retained by Dr. David Rogosa, property owner of 991 Channing Avenue, in connection with the above-referenced Application (“Application”) by the owner of 985 Channing Avenue, Palo Alto, CA, APN 003-26-062 (“Subject Property”). **(EXHIBIT 1.)** The purpose of this letter is to underscore Dr. Rogosa’s objections to and request denial of the Application as received for review by the City of Palo Alto on August 24, 2020, and to request a status report.

We understand the Application is for approval (1) to construct a new second story addition, and (2) to convert the attached garage to an accessory dwelling structure (“ADU garage conversion”), increasing the overall floor area by roughly 60 percent from 1,845 square feet to 2,895 square feet, on the Subject Property. It is located in zoned Residential Estate R-1, or single-family residential pursuant to Palo Alto Zoning Regulations.

Dr. Rogosa has previously expressed his well-founded objections to the Application in his letter dated September 25, 2020 for the reasons reiterated below. We understand that David and Juanita Loftus, property owners of 911 Lincoln Avenue, also sent you an e-mail on September 17, 2020, making the same objections for the same reasons to the Application. Dr. Rogosa’s property is the corner lot located at 991 Channing Avenue (and Lincoln), and immediately adjacent to and east (or right) of the Subject Property; the Loftus’ home at 911 Lincoln is also adjacent to and shares a boundary across the entire rear yard of the Subject Property.

For the administrative record, Dr. Rogosa reiterates his strong objections to approval of the Application. His objections are based on the Parcel Map notarized on May 6, 1980, certified (by City of Palo Alto Director of Planning and Community Environment and City Engineer) on May 8, 1980, and recorded in the Santa Clara County Recorder's Office on May 27, 1980 (at Book 463 of Maps at Page 51 at the request of Jones-Tillson and Associates) ("Parcel Map"). The Parcel Map was recorded against the Subject Property with the following enumerated express restrictions and conditions:

PARCEL "B" [985 Channing] IS SUBJECT TO THE FOLLOWING CONDITIONS:

- 1) NO SECOND STORY SHALL BE ALLOWED ON ANY STRUCTURE.**
- 2) NO VARIANCES, INCLUDING, BUT NOT LIMITED TO, FENCE EXCEPTIONS SHALL BE ALLOWED.**
- 3) THE HEIGHT LIMIT FOR ALL STRUCTURES SHALL BE 13 FEET.**

(EXHIBIT 2 - Parcel Map of May 6, 1980; emphasis original.)

In his September 25, 2020 e-mail to you, Dr. Rogosa provided his detailed understanding of the history giving rise to the Parcel Map. (EXHIBIT 3.) In brief, prior to 1980, 985 and 991 Channing formed an undivided, 11,000 square foot single parcel owned by a Mitch Baras. The house at 991 Channing was centered on the full 11,000 square foot property. In/about 1979, developer Bill Cox purchased the 11,000 square foot parcel and sought to divide it into two lots. The City of Palo Alto ultimately approved the property division into two parcels, Parcel A (991 Channing) and Parcel B (985 Channing). However, as a result of significant opposition by other residents, the City granted approval expressly subject to the above three material restrictions/conditions. (EXHIBIT 2.)

After the May 1980 Parcel Map was recorded, but before any new construction on Parcel B (now 985 Channing Avenue), in June 1980, Dr. Rogosa was offered a faculty position at Stanford University, and in relocating from Chicago, became a potential purchaser of Parcel A – one of the now two subdivided lots and original house at 991 Channing. Significantly, before any new construction on Parcel B was started, the developers showed Dr. Rogosa, as a concerned, serious potential purchaser, the construction plans for a one-story structure at 985 Channing. Dr. Rogosa also reviewed the above recorded Parcel Map height restrictions. In deciding to purchase 991 Channing, Dr. Rogosa specifically relied on the construction plans and Parcel Map. The recorded Parcel Map height restrictions were crucial in his purchase decision because he understood that the side setback allowances permitted minimal distance between both properties, but, at the same time, the height restrictions prohibited construction of a two-story structure at 985 Channing. Without these restrictions, the construction of a two-story structure (and ADU)

would have seriously diminished Dr. Rogosa's privacy, noise buffer and daylight planes and Dr. Rogosa would not have purchased 991 Channing if a taller structure at 985 Channing had been a possibility. The restrictions/conditions were a crucial factor which Dr. Rogosa detrimentally relied on in making his decision to purchase 991 Channing, where he has resided for the past 40 years since 1980. (EXHIBIT 3.) The restrictions run with the land and since they were recorded serve as constructive notice to all subsequent purchasers of 985 Channing. (Civil Code §§ 1213, 1215.) Indeed, there has been at least one previous owner of 985 Channing who pursued a second story project in the mid-1990's which was quickly stopped. (EXHIBIT 3.) Here, the applicant had and has both constructive and actual notice of these restrictions.

The Application was submitted to the City of Palo Alto on August 24, 2020. In response, the City issued a "Notice of Incomplete/Corrections Required Application No. 20PLN-00192 25-09-2020," stating that based on the initial feedback from staff, the Application "cannot be deemed complete at this time. A revised set of plans incorporating the following information and requirements must be submitted for review" ("Notice"). (EXHIBIT 4.)

Dr. Rogosa's concerns are specifically called out under the Notice's "CORRECTIONS TABLE." Importantly, you specifically noted the Parcel Map height restrictions:

"Due to a previously approved Subdivision for the Parcel from 1980, City Council established conditions of approval recorded against 985 Channing Avenue that limited the height of the structure to 13 feet and one-story tall. As such, this project cannot be processed as it would violate those established conditions of approval. Staff has reached out to the applicant to provide direction on what next steps could occur. (EXHIBIT 4 - Fourth Reference A1.0; emphasis added.)

You also noted:

"This house is effectively a brand new structure. Any existing non-conforming walls must be replaced in a conforming condition per 18.70.100. In order to support the proposed additions what walls are claimed to "remain" will ultimately be modified to an extent that they are new. (EXHIBIT 4 - First Reference A6.1; emphasis added.)

City Planner Arnold Mammarella acknowledged the problems with daylight planes between the two properties which would be created by any two-story structure:

The rear portion of the upper floor is set tight to the daylight plane, which generally is not well in keeping with this guideline when next to a one-story home, but that home is somewhat tall for a one-story home and there is stepped massing. The portion of the house

near the daylight plane is also set back enough to not have a strong visual presence from the street. While it would be better to increase the clearance to the daylight plane the proposal could be said to be marginally in compliance with this aspect of site planning.
(EXHIBIT 4 - Third Reference A1.0.)”

The Notice also points out that there is minimal landscape screening between the two properties. However, even assuming the applicant added it, no amount of landscape screening will cure or buffer the sight line and daylight plane issues recognized by the City in the Notice.

On September 25, 2020, you acknowledged receipt of Dr. Rogosa’s September 25, 2020 letter, stating:

To our understanding, there are means with which the applicant could remove the conditions of approval from the Parcel Map, but this would require City Council review. I am awaiting to see what the applicant chooses to do. If that were to occur, the City has established Guidelines for two-story homes since 1980 which we would review the project for. I have attached them to this email.
(EXHIBIT 5.)

Unfortunately, you did not provide any information to Dr. Rogosa on the process for removing recorded restrictions but instead sent to him the brochure on 2-story homes (which does not address recorded restrictions) as if the restriction removal was a done deal. Please provide the authority and steps for that process, including review by the City Council.

For these reasons, Dr. Rogosa continues to vigorously oppose approval of the Application, and respectfully asks the City to deny the Application.

As of the date of this letter, the Accela Citizen Access site shows this Application as “under review.” (EXHIBIT 6.)¹ We ask that the City please advise us of the precise status of the Application, whether the Application is still pending, if so, how long it may remain pending, what further communications, if any, you have had in “reach[ing] out to the applicant to provide direction on what next steps could occur,” and whether further steps, if any, have been taken by the applicant.

¹ <https://aca-prod.accela.com/paloalto/Cap/CapDetail.aspx?Module=Planning&TabName=Planning&capID1=20PLN&capID2=00000&capID3=00192&agencyCode=PALOALTO&IsToShowInspection=no>

We appreciate and thank you for your time and attention.

Sincerely,

Ropers Majeski PC



Jennifer E. Acheson

JEA

Attachments

Cc: Arnold Mammerella (arnold@mammarellaarchitecture.com);
Christina Thurman (christina.thurman@cityofpaloalto.org)
David and Juanita Loftus (loftusdj11@aol.com)

4824-8262-2165.1

EXHIBIT 1



CITY OF
**PALO
ALTO**

Planning & Development Services

250 Hamilton Avenue
Palo Alto, CA 94301

Dear property owner or resident,

This is to notify you of a proposed development project adjacent to your property. The project proposed, submitted on 08/31/2020, is described below.

ADDRESS: 985 Channing Avenue AV

FILE NUMBER: 20PLN-00192

PROJECT DESCRIPTION:

Request for Individual Review Application for renovation of an Existing one-Story 1,845 Square Foot Home and Construction of a two-Story approximately 1,050 square foot home with attached ADU garage conversion. Existing curb cut and trees to remain.

Environmental Assessment: Pending. Zoning District: R-1 (Single Family Residential). For More Information Contact the Project Planner

You are invited to comment on this project. Comments on this application **will be accepted for 21 days following the mailing of this notice.** You may review more information on this project online at: bit.ly/PABuildingEye. If you require assistance viewing the online information, please visit the City's Development Center (285 Hamilton Avenue) weekdays between 9AM and 4PM. To comment on the project or to ask specific questions, contact the City's project planner.

PROJECT PLANNER: GARRETT SAULS

PHONE: 650-329-2471

EMAIL: garrett.sauls@cityofpaloalto.org

We appreciate your early input, to ensure that any potential problems are resolved early in the process. **The plans may be altered during the review process.** If you would like to be notified of any such modification please provide your contact information to the project planner.

EXHIBIT 2

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY, PURSUANT TO SECTION 66445 (F) OF THE SUBDIVISION MAP ACT; THAT WE DO CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE BLUE BORDER LINE.

BY: William D. Cox Jr.
PRESIDENT

BY: Mary S. Cox
TREASURER

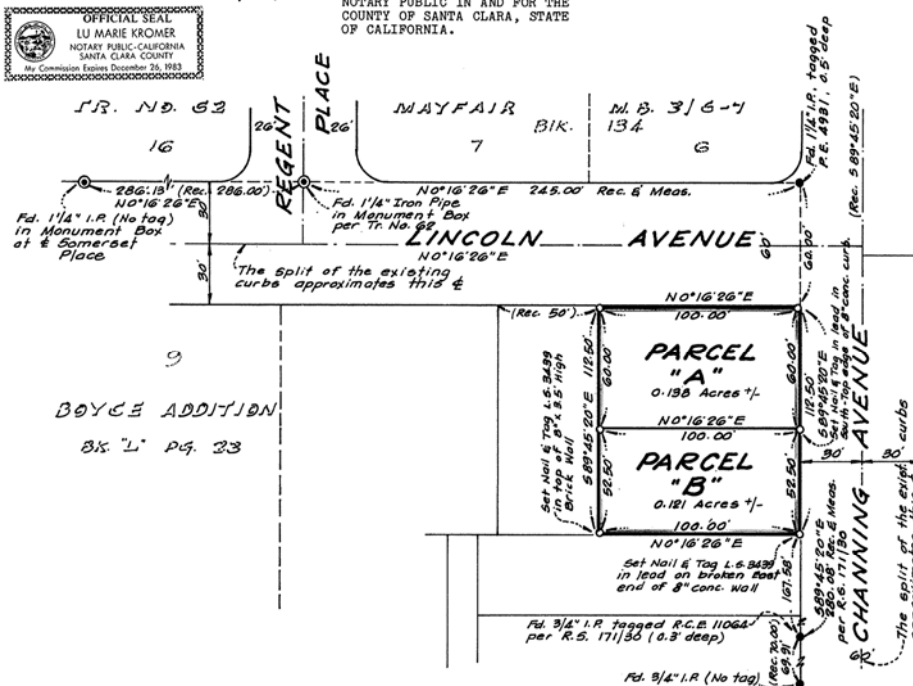
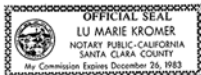
STATE OF CALIFORNIA) SS:
COUNTY OF SANTA CLARA)

ON THIS 6th DAY OF May, 1980, BEFORE ME
a NOTARY PUBLIC IN AND FOR THE COUNTY
OF SANTA CLARA, STATE OF CALIFORNIA, RESIDING THEREIN, DULY
COMMISSIONED AND SWORN, PERSONALLY APPEARED William D. Cox, Jr.
S. Cox Treasurer, RESPECTIVELY, OF CONSTRUCTION
SYSTEMS, INC., THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT
AND KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE WITHIN
INSTRUMENT AND ALL OF THE CORPORATION HERETOFORE MENTIONED,
AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY
OFFICIAL SEAL IN THE COUNTY AND STATE AFORESAID THE DAY AND YEAR
FIRST ABOVE WRITTEN.

MY COMMISSION EXPIRES 12/26/83

Lu Marie Kromer
NOTARY PUBLIC IN AND FOR THE
COUNTY OF SANTA CLARA, STATE
OF CALIFORNIA.



THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF JON SCHINK IN APRIL, 1980. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP.

DATED: May 1, 1980

JOHN C. NUSSMANN - L.S. 3439

1) BASIS OF BEARINGS: THE CENTER LINE OF LINCOLN AVENUE BEARING NORTH 00°16'26" EAST ACCORDING TO TRACT NO. 62, MAYFAIR, M.B. 3/6-7. WAS TAKEN AS THE BASIS OF BEARING FOR THIS MAP.

2) ~~O~~ INDICATES SET 3/4" IRON PIPE WITH TAG L.S. 3439, UNLESS OTHERWISE NOTED.

3)  INDICATES MONUMENT FOUND AS NOTED.

THIS MAP HAS BEEN EXAMINED THIS 8th DAY OF MAY, 1980,
AND FOUND TO CONFORM WITH THE APPROVED TENTATIVE MAP.

Naphtali H. Knox
NAPHTALI H. KNOX, DIRECTOR OF PLANNING
AND COMMUNITY ENVIRONMENT

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT
AND LOCAL ORDINANCE.

DAVID G. ADAMS, CITY ENGINEER

DATED: May 8 198

BY George J. Bagdon
GEORGE J. BAGDON, R.C.E. 23658
ASSISTANT CITY ENGINEER



FILE NO. 6739943 FEE \$5.00
FILED FOR RECORD THIS 27th DAY OF May, 1980,
AT 1:57 P.M. IN BOOK 463 OF MAPS AT PAGE 51 AT THE
REQUEST OF JONES-TILLSON AND ASSOCIATES.

GEORGE A. MANN, SANTA CLARA COUNTY RECORDER

BY: M. Elaine Duggen
DEPUTY RECORDER

BEING A SUBDIVISION OF A PORTION OF THE
PROPERTY SHOWN UPON THE MAP OF BOYCE ADDITION TO
THE CITY OF PALO ALTO, ACCORDING TO THAT CERTAIN MAP
FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF
THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON
FEBRUARY 27, 1906, IN BOOK "L" OF MAPS AT PAGE 23.

CITY OF PALO ALTO
SANTA CLARA COUNTY, CALIFORNIA

JONES-TILLSON & ASSOCIATES
Civil Engineers
Palo Alto, California

Scale 1" = 40' April 1980

Sheet 1 of 1 Sheets

EXHIBIT 3



985 Channing 20PLN-00192 Inbox



David Rogosa <ragxdrr@gmail.com>
to garrett.sauls

I am writing in response to the postcard notification regarding the proposed development project at 985 Channing.

I am the occupant/homeowner of the adjacent property, 991 Channing, since June 1980.

I have accessed the plans for 985 Channing indicated on your postcard notification.

I focus my remarks on the restrictions contained on the city/county Parcel Map for 991 Channing and 985 Channing dated May 8, 1980.

I have my original hardcopy from my purchase in June 1980; I understand that this Parcel Map can be accessed from current file.

To copy those restrictions here (all caps on the document)

PARCEL "B" [985 Channing] IS SUBJECT TO THE FOLLOWING CONDITIONS

- 1) NO SECOND STORY SHALL BE ALLOWED ON ANY STRUCTURE
- 2) NO VARIANCES, INCLUDING, BUT NOT LIMITED TO, FENCE EXCEPTIONS SHALL BE ALLOWED
- 3) THE HEIGHT LIMIT FOR ALL STRUCTURES SHALL BE 13 FEET

I played no role in the formulation of these restrictions (some history below).

My recollection is that there exist other documents indicating these restrictions (though I believe the height restriction may have been stated in other documents as 13ft 9inches).

A bit of history.

The original 991 Channing 11,000 square foot property and residence was put up for sale in 1979 (about) by Mitch Baras original owner.

Developer Bill Cox purchased the property and sought to divide it into two lots.

I do not have first hand knowledge, because I was still at University of Chicago,

but my understanding is that strong neighborhood opposition to dividing the property led to the restrictions on 985 Channing reflected on the May 8, 1980 Parcel Map.

Others involved can speak directly to that process.

In May 1980 I was offered a faculty position at Stanford and became a potential home purchaser.

My first familiarity with these restrictions on 985 Channing was in June 1980 as a potential purchaser of the 6,000 square foot remaining 991 Channing property.

I was shown the plans for 985 Channing construction by the developers, with the height restriction.

The height restriction was critical in my decision to purchase this property.

As the 991 Channing residence was approximately centered on the full 11,000 square foot property,

after the lot division the setbacks are minimal and a taller 985 Channing structure would have rendered purchase of 991 Channing not viable for me.

I can attest that over the years, various of the owners of 985 Channing have been aware (not from me) of the second story and height restriction.

At least once, an owner of 985 Channing did pursue a second story project (I believe it was mid-90's) and that initiative was quickly stopped

(I was not involved but other neighbors were) by invoking these restrictions.

In sum, I strongly oppose approval of the proposed development project, because the project greatly violates the restrictions on 985 Channing that have been in place for over 40 years.

Again, there is a reason that 985 Channing has remained a one-story structure for 40 years-- the height restriction, which has been known to owners.

David Rogosa
owner/occupant of 991 Channing since June 1980

Contact info

David Rogosa

991 Channing Ave

Palo Alto 94301

rag@stanford.edu

home landline 650 3267372

EXHIBIT 4

City of Palo Alto

250 Hamilton Avenue, Palo Alto, CA 94301



/

Notice of Incomplete/Corrections Required
Application No. 20PLN-00192
25-09-2020

Address : 985 Channing Avenue AV, Palo Alto, CA, 94301

Project Description: Request for Individual Review Application for renovation of an Existing one-Story 1,845 Square Foot Home and Construction of a two-Story approximately 1,050 square foot home with attached ADU garage conversion. Existing curb cut and trees to remain.

Environmental Assessment: Pending. Zoning District: R-1 (Single Family Residential). For More Information Contact the Project Planner

Record Type : Planning - Entitlement

Document Filename : C1_985Channing_PLANS.pdf Uploaded:08/24/20

Thank you for submitting your plans for the Planning Entitlement application described above. The application was reviewed to ensure conformance with applicable Zoning regulations and the City's Guidelines.

The plans were received on 08/24/20 for review by Planning Staff. Based on the initial feedback from staff, the application **cannot be deemed complete at this time**. A revised set of plans incorporating the following information and requirements must be submitted for review:

Reviewer Contact Information:

Reviewer Name	Reviewer Email
Arnold Mammarella	arnold@mammarellaarchitecture.com
Garrett Sauls	garrett.sauls@cityofpaloalto.org
Christina Thurman	christina.thurman@cityofpaloalto.org

Corrections Table

Page Reference	Annotation Type	Reviewer : Department	Review Comments
A1.0	Comment	Garrett Sauls : Planning	INCOMPLETE: Provide a signed copy of the Individual Review Statement of Understanding.
A1.0	Comment	Garrett Sauls : Planning	INCOMPLETE: Provide a contextual front yard setback diagram. See page 21 of the Zoning Technical Manual for an example of how to fulfil this requirement.

Page Reference	Annotation Type	Reviewer : Department	Review Comments
A1.0	Comment	Garrett Sauls : Planning	For clarity, it is understood that any existing square footage used for the garage contributes to the ADU in what is necessary to building an 800 sq ft unit as well as the total property's FAR. Currently, this square footage cannot be recaptured in a subsequent application. Staff is proposing to bring a new ordinance to Council that would treat the allowance the state afforded as a bonus, but until, or if, that is approved, the plans will need to recognize this issue and the project data will need to be clarified. Currently, only 2,292 FAR on the property is being used by the home when the existing garage needs to be calculated towards that number. Any remaining square feet shall be used by the ADU up to 800 sq ft to be exempted per state law. Update the plans to reflect this.
A1.0	Comment	Garrett Sauls : Planning	Due to a previously approved Subdivision for the Parcel from 1980, City Council established conditions of approval recorded against 985 Channing Avenue that limited the height of the structure to 13 feet and one-story tall. As such, this project cannot be processed as it would violate those established conditions of approval. Staff has reached out to the applicant to provide direction on what next steps could occur.
A3.0	Comment	Garrett Sauls : Planning	New fences that are shown to be in disrepair or overhanging on adjacent properties must be replaced. Update the plans to show a new fence will replace the existing one.
A4.0	Comment	Garrett Sauls : Planning	Per the IR checklist, the survey must include information on the Base Flood Elevation required to meet FEMA standards. It is unclear if this information is present. Update the survey and plans to include this information.
A5.0	Callout	Garrett Sauls : Planning	Any uncovered parking provided that is adjacent to a wall must provide an additional .5' of clearance space for door swing. Update the plans to provide this information.
A5.0	Callout	Garrett Sauls : Planning	INCOMPLETE: Update plans to include mechanical equipment to be used. Provide spec sheet and decibel rating of new unit.
A5.0	Callout	Garrett Sauls : Planning	Note driveway material
A5.0	Callout	Garrett Sauls : Planning	Update to show connection lines to house and any proposed utility connections (such as gas or other).
A5.0	Comment	Garrett Sauls : Planning	Per PAMC 18.54, maximum residential driveway widths are 20 feet. Reduce the driveway paving to comply with this requirement.
A5.0	Comment	Garrett Sauls : Planning	INCOMPLETE: Show footprints and overhangs of all existing and proposed buildings. Per PAMC 18.40.070, encroachments, including eaves of buildings, are not allowed within the special setback for the building. Update the plans to address this issue.
A5.0	Comment	Garrett Sauls : Planning	All trees to remain must have tree protection fencing provided for them. Update the plans to show this information.
A5.0	Comment	Garrett Sauls : Planning	The IR checklist requires that all trees species be identified on the plans, including those that overhang the site. Update the plans to correct this.
A5.0	Comment	Garrett Sauls : Planning	INCOMPLETE: Topographic elevation of the first floor level and spot elevations of existing and finished grade around property to determine daylight plane compliance and adjacent to building footprint for height measurement. See pages 26-28 of the Zoning Technical Manual. Additionally, the points provided around the site inaccurately reflect actual topographical elevations from the survey. Correct these.
A5.0	Comment	Garrett Sauls : Planning	Additional screening trees may be required along the left and rear sides of the property to conform with the IR Guidelines. Update plans following recommendations for IR Guidelines.
A5.0	Comment	Garrett Sauls : Planning	Provide a calculation that identifies at least 60% permeability within the front yard setback.
A6.1	Comment	Garrett Sauls : Planning	This house is effectively a brand new structure. Any existing non-conforming walls must be replaced in a conforming condition per 18.70.100. In order to support the proposed additions what walls are claimed to "remain" will ultimately be modified to an extent that they are new.
A6.2	Comment	Garrett Sauls : Planning	Update FAR diagram to provide dimensions for each area.
A7.1	Comment	Garrett Sauls : Planning	INCOMPLETE: Measure the distance under the daylight plane perpendicular to the daylight plane.
A7.1	Comment	Garrett Sauls : Planning	Update materials to identify color to be used for materials.
A7.2	Callout	Garrett Sauls : Planning	Sill must be 5'6" or apply glazing to lower portion of window to meet 5'6" glazing requirement.

Page Reference	Annotation Type	Reviewer : Department	Review Comments
A7.2	Comment	Garrett Sauls : Planning	Windows along this side of the building must utilize obscured glazing in order to comply with the IR Guidelines. This glazing cannot be a film applied to the window and must be applied to a minimum of 5'6" from the finished floor. Update the plans to include this information.
A8.0	Callout	Garrett Sauls : Planning	Clarify outline of drawing to identify top of roof and bottom of roof slope.
A1.0	Comment	Arnold Mammarella : Planning IR	<p>Individual Review Guidelines General Information:</p> <p>The Single-Family Individual Review process and the applicability of these guidelines were established by PAMC 18.12.110 to preserve the character of Palo Alto neighborhoods by placing specific requirements related to streetscape, massing, and privacy for new two-story homes and upper story additions.</p> <p>There are five Individual Review Guidelines: 1. Site planning for driveway, garage and house, 2. Neighborhood compatibility for height, mass, and scale, 3. Resolution of architectural form, massing, and rooflines, 4. Visual character of street facing facades and entries, and 5. Privacy from second floor windows and decks.</p> <p>For approval, a proposal needs to be consistent with all five guidelines. The review considers the proposal's response to each guideline's approval criterion statement including whether the "key points" associated with each guideline have been followed. Guideline illustrations are also used to inform determinations in the evaluation. Please see the City's illustrated guideline booklet for more information about these regulations.</p> <p>Individual Review Evaluation Comments:</p> <p>Review determinations and comments relate to plans filed August 31, 2020 for a whole house renovation with a new second story addition to an existing one-story house. The existing attached garage would be converted to space within a new attached ADU.</p> <p>Review comments may reference specific changes or clarifications needed to meet the guidelines, including those shown on specific plan sheets. No neighbor comments were available at the time of this review. Note: Evaluation for zoning compliance is provided separately.</p> <p>G1 — Site Planning: Placement of Driveway, Garage, and House</p> <p>Approval Criterion: The driveway, garage, and house shall be placed and configured to reinforce the neighborhood's existing site patterns (i.e. Building footprint, configuration and location, setbacks, and yard areas) and the garage and driveway shall be subordinate to the house, landscaping and pedestrian entry as seen from the street.</p> <p>[Guideline Key Points: 1. Minimize the driveway's presence and paving; 2. Locate the garage to be subordinate to the house; 3. Configure the house footprint to fit the neighborhood pattern; 4. Create landscaped open spaces between homes; 5. Locate the upper floor back from the front facade and/or away from side lot lines when next to one-story homes; and 6. Do not place the second floor so that it emphasizes the garage.]</p> <p>Comments: The property is a 52.5' wide by 99.6' deep interior lot on the north side of Channing Avenue one lot in from Lincoln Avenue. It abuts a similarly sized corner lot 991 Channing Avenue with a tall one-story house on its right (east) side, 975 Channing Avenue, a narrow deep interior lot with a stepped mass and fairly low two-story</p>

Page Reference	Annotation Type	Reviewer : Department	Review Comments
			<p>house on its left (west) side, and the rear yard of 911 Lincoln Avenue across the rear lot line. The lot is listed as being in the flood zone, but existing grade is shown on the survey to exceed the base flood elevation of 29.7' by at least one foot over the lot.</p> <p>The existing one-story shingle clad, hip roofed ranch style house has an attached one-car wide garage at the front. There are two large street trees at the front of the property and a few moderately sized screening trees along the rear brick and wood fence line.</p> <p>The proposed home maintains most of the existing home's footprint and existing large landscape. A second floor would be added, and the rooflines would be revised throughout the house to create new building forms and massing. As seen from the street it would appear to be a new house. The garage would be converted to an ADU with its entrance adjacent the open parking space near the left side yard.</p> <p>Regarding site planning there would be minor issues with the amount of driveway paving in the front yard and with landscape along interior lot lines.</p> <p>Key point one of this guideline states to locate driveways and minimize paving to diminish the driveway's presence and to highlight yards and pedestrian entryways. The existing driveway and walkway could be retained as the existing configuration would meet the intent of this guideline. Otherwise, a new driveway should leave at least 2 to 3 feet of planting strip area with landscape along the right interior lot line and be at most 20 feet wide. The material of the driveway should blend well with the landscape and not be standard concrete. The walkway should be distinct in material treatment from the driveway and not be treated as a parking extension. In general, the design should try to feature the yard area and building entry through the design and material treatments and not emphasize the parking pad (e.g. by adding a planting area along the front wall of the ADU given the setback is 24 feet deep from the front lot line which is more than enough for parking). Note: creating a new ADU has no bearing on the driveway paving regulation with this guideline.</p> <p>There is existing landscape along the rear lot line but with the creation of a two-story house landscape screening is also required between buildings with tall shrubs or trees. Typically, some should be evergreen, and fast-growing landscape should be used to buffer the building mass as seen from abutting properties. The left side lot line has some landscape on the neighbor's property so gaps in the landscape can be filled. The right-side lot line does not appear to have much landscape on either property.</p> <p>Site planning also considers the building footprint configuration and location of the second floor and use of one-story rooflines given the existing context. The proposal narrows the upper floor and uses one-story rooflines as noted under key point 5 of this guideline. The rear portion of the upper floor is set tight to the daylight plane, which generally is not well in keeping with this guideline when next to a one-story home, but that home is somewhat tall for a one-story home and there is stepped massing. The portion of the house near the daylight plane is also set back enough to not have a strong visual presence from the street. While it would be better to increase the clearance to the daylight plane the proposal could be said to be marginally in compliance with this aspect of site planning.</p> <p>(See changes or clarifications noted on the site plan).</p> <p>G2 — Neighborhood Compatibility for Height, Mass, and Scale</p>

Page Reference	Annotation Type	Reviewer : Department	Review Comments
			<p>Approval Criterion: The scale (perceived size), mass (bulk or volume) and height (vertical profile) of a new house or upper story addition shall be consistent with the existing neighborhood pattern with special attention to adapting to the height and massing of adjacent homes.</p> <p>[Guideline Key Points: 1. Do not overwhelm an adjacent one-story home; 2. Do not accentuate mass and scale with high first floor level relative to grade, tall wall planes, etc.; 3. Minimize height offsets to adjacent neighbors' roof edges, including adjacent one-story roof edges; 4. Place floor area within roof forms to mitigate mass and scale; 5. Locate smaller forms forward of larger forms to manage perceived height; and 6. Use roof volume rather than wall plate height to achieve interior volume.]</p> <p>Comments: The height, mass, and scale of the proposed home would generally fit with the existing context considering the height and massing profiles of nearby homes. The house is a little tall next to existing homes to each side, but the mass would not be substantial, and the second floor would be relatively narrow and set well back from the first floor and from the building corners to mitigate the sense of mass and scale. Variation in building materials would also help mitigate mass and provide scale.</p> <p>G3 — Resolution of Architectural Form, Massing, and Rooflines</p> <p>Approval Criterion: The architectural form and massing shall be carefully crafted to reduce visual mass and distinguish the house's architectural lines or style. Roof profiles shall enhance the form, scale, and proportion of primary and secondary house volumes, while rendering garage and entry forms subordinate in mass and scale to principal building forms. Upper floor additions shall also be balanced and integrated with the existing building.</p> <p>[Guideline Key Points: 1. Adjust floor plans to work for building form; 2. Use the vocabulary of a particular style to compose forms and rooflines; 3. Avoid awkwardly placed additions; 4. Use a few well-proportioned masses to avoid a cluttered appearance of too many elements; and 5. Adjust roof layouts, ridge orientations, eave lines, etc. to reduce mass and enhance form.]</p> <p>Comments: The architectural forms, massing, and rooflines are well resolved and recast the home from a ranch style home to a modern style home. Sheds at 2:12 pitch with overhangs and flat roof forms with short parapets are combined effectively for architectural profile and mass reduction.</p> <p>G4 — Visual Character of Street Facing Facades and Entries</p> <p>Approval Criterion: Publicly viewed facades shall be composed with a clear and cohesive architectural expression (i.e. The composition and articulation of walls, fenestration, and eave lines), and include visual focal point(s) and supportive use of materials and detailing. Entries shall be consistent with the existing neighborhood pattern and integrated with the home in composition, scale and design character. The carport or garage and garage door shall be consistent with the selected architectural style of the home.</p> <p>[Guideline Key Points: 1. Compose facades to have a unified/cohesive character; 2. Use stylistically consistent windows and proportion and adequate spacing between focal points; 3. Add visual character with architecturally distinctive eaves, window patterns and materials; 4. Do not use monumental entries/ relate entry type and scale to neighborhood patterns; and 5. Design garage openings and door panels to be modest in scale and architecturally consistent with the home.]</p>

Page Reference	Annotation Type	Reviewer : Department	Review Comments
			<p>Comments: Façades are composed with focal points including the entry. Materials and detailing seem of high quality with vertical siding used to define some volumes from stucco volumes, painted tube steel post and beam elements at the porch, dark bronze color windows, shaped rake details, etc.</p> <p>G5 — Placement of Second-Story Windows and Decks for Privacy</p> <p>Approval Criterion: The size, placement and orientation of second story windows and decks shall limit direct sight lines into windows and patios located at the rear and sides of adjacent properties in close proximity.</p> <p>[Guideline Key Points: 1. Gather information on neighbors' privacy sensitive windows, patios, yards; 2. Mitigate privacy impacts with obscure glazing, high sill windows, permanent architectural screens or by relocating/reorienting windows; 3. Avoid windowless/unarticulated building walls, especially where visible from the street; and 4. Limit upper story deck size and locate decks to result in minimal loss of privacy to side or rear facing property.]</p> <p>Comments: Privacy impacts appear minimal on the right side of the house facing 991 Channing Avenue and along the rear lot line existing landscape should help reduce impacts t the 911 Lincoln Avenue's rear yard.</p> <p>Along the left side of the house at middle bedroom there would be a wide three-panel window that would look directly down into the side courtyard/patio are and windows on the first floor of the 975 Channing Avenue house. The neighbor has some landscape, but the canopies of their trees appear high enough above the ground that second floor windows of a new second story would have direct sight lines as suggested by photo 2 on sheet A3.0 of the plan set. The master bedroom would also have a large side facing windows that would have views to this patio and some windows. Note: two side facing windows are shown on the second-floor plan but only one on the west elevation at the master bedroom.</p> <p>The impacts from these windows would require design modifications and mitigation beyond landscape. The middle bedroom would need to be limited to at most 2 windows, preferably spaced, not grouped and would need to have obscure glazing to at least 5 feet above floor level. If grouped the windows should be placed forward on the site. The windows should also be hinged on the left side to open towards the street.</p> <p>The master bedroom should limit side facing windows to one at the rear building corner and hinge the window at the right side so when open the view is towards the rear lot line, not the neighbor's side patio. This window would also need to have obscure glazing to at least 5 feet above the floor level. Provide a dimension to the sill height of these windows and indicate revised window operation on the elevations. Also revise the second-floor plan to match the revised elevations for privacy at the side facing windows.</p> <p>(See changes or clarifications noted on the elevations and second floor plan).</p>
A5.0	Callout	Arnold Mammarella : Planning IR	IR-1: To meet guideline one, revise the site plan to retain the existing driveway or provide a new driveway no more than 20 feet wide with at least 2 feet planting strip along the fence line with planting. Use alternatives to standard concrete and vary paving material for walkway with a design that integrates the driveway more with the landscape and yard/building entry. See guideline comments for additional discussion.
A5.0	Callout	Arnold Mammarella : Planning IR	IR-2: To meet guideline one and five, revise the site plan to provide landscape, such as medium sized screening trees or tall screening shrubs within side yards between this home and adjacent homes. Where existing landscape exists fill gaps in the landscape. Landscape can also be used to mitigate privacy, but it cannot be the primary means of privacy mitigation where direct sight lines exist to neighboring property. Provide plant choices with botanical names and quantities; indicate 24-inch box size and 8-foot minimum installed height for trees and 15-gallon size and 8-foot minimum installed height for screening shrubs.
A6.2	Callout	Arnold Mammarella : Planning IR	IR-5: To meet guideline five, revise the second-floor plan's window locations to match the revised left side elevation as required to meet privacy requirements at these side facing windows.

Page Reference	Annotation Type	Reviewer : Department	Review Comments
A7.2	Callout	Arnold Mammarella : Planning IR	IR-3: To meet guideline five, the middle bedroom would need to be limited to at most 2 windows, preferably spaced, not grouped and would need to have obscure glazing to at least 5 feet above floor level. If grouped the windows should be placed forward on the site. The windows should also be hinged on the left side to open towards the street.
A7.2	Callout	Arnold Mammarella : Planning IR	IR-4: To meet guideline five, the master bedroom should limit side facing windows to one at the rear building corner and hinge the window at the right side so when open the view is towards the rear lot line, not the neighbor's side patio. This window would also need to have obscure glazing to at least 5 feet above the floor level. Provide a dimension to the sill height of these windows and indicate revised window operation on the elevations.

The following conditions would be required as part of any Planning application approval and shall be addressed prior to any future related permit application such as a Building Permit, Excavation and Grading Permit, Certificate of Compliance, Street Work Permit, Encroachment Permit, etc. as further described below.

Conditions of Approval Table

Department	Conditions of Approval
Public Works Eng	<p>A. The following comments are required to be addressed prior to Planning entitlement approval:</p> <p>Show BFE (base flood elevation) and finished floor is at or above the BFE</p>
Public Works Eng	<p>1. PLEASE NOTE: Flood Zone Screening will be performed prior to intake of the Building set. Public Works will check your plans against the following Flood Zone Screening Checklist: https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=70319.22&BlobID=66043 If any of the items on the checklist are missing, the plans will not be accepted.</p> <p>2. Public Works Standard Conditions: The City's full-sized Standard Conditions sheet must be included in the plan set. The conditions noted on the sheet shall be adhered to for the full project duration until completion. Copies are available from the Public Works on our website. https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=67175.06&BlobID=66261 Site Inspection Directive sheet marked with an asterisk is required for this project and shall be scanned onto the plan set** Contact Public Works Engineering Inspectors @ 650-496-6929 to schedule a site visit.</p> <p>3. SUBSTANTIAL IMPROVEMENT: The existing structure is located within a Special Flood Hazard Area. If the construction cost of the improvements (remodeling and/or addition) is greater than 50% of the existing value of the structure, then the improvements will be classified as a "substantial improvement" and the existing structure and all new construction will be required to meet the City's Flood Hazard Regulations. In particular; the finished first floor must be at or above the base flood elevation (BFE). If the project is a "substantial improvement", then upon submittal for a building permit, the applicant must provide a copy of the FEMA Elevation Certificate showing that the existing finished first floor is at or above the BFE or, if the floor is below the BFE, the plans must show the floor being raised. The plans must include:</p> <ul style="list-style-type: none"> • The Elevation Certification Submittal Requirements for Construction in the Special Flood Hazard Area form • The BFE on sections, elevations and details • Flood vents, if there is a crawl space • A table calculating the flood vents required and provided • If the crawl space is subgrade, meaning that the bottom of the crawl space is below the adjacent exterior grade on all four sides of the house, then it must be filled in until it is either no longer subgrade or until it is 18" from the floor framing (to meet the minimum CBC requirement) • If the crawl space is still subgrade after filling, then include a sump, pump and outlet pipe to pump flood waters out • The garage slab can be below the BFE, but the garage will then need to be flood vented separately from the house • Notes that all materials and equipment below the BFE are water-resistant

Department	Conditions of Approval
	<p>Public Works will prepare a flood zone screening form, including a “substantial improvement” screening form, at the Development Center when plans are submitted for a building permit in order to determine if your project is a “substantial improvement” prior to submitting for a building permit, you can have a preliminary screening performed by Public Works’ staff at the Development Center. Flood zone comments below pertain to project being deemed “substantial”</p> <p>4. Provide the following note on the Site Plan and Structural plans to indicate, “The proposed project is a Substantial Improvement and shall comply with Palo Alto Municipal Code Chapter 16.52 Flood Hazard Regulations and FEMA’s requirements.”</p> <p>5. A/C units: Any proposed A/C units outside of the house must show that they are at or above the BFE.</p> <p>6. Construction in the Special Flood Hazard Insert: The “Survey Requirements for Construction in the Special Flood Hazard Area” shall be added/scanned onto the plan set. A pdf copy of the documents titled Plan Insert for Elevation Certification Requirements and Plan Insert for Elevation Certification is available on the City’s website under flood zone issues. Please note there are 2 pages to this insert.</p> <p>Slab on grade: https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=70144.14&BlobID=66041</p> <p>7. FLOOD ZONE CONSTRUCTION MATERIALS AND METHODS: Add a note on the Structural, Architectural and Mechanical plans to indicate that all new construction and substantial improved structures shall be constructed with flood-resistant materials and utility equipment shall be resistant to flood damage as specified in FEMA’s technical bulletins and Palo Alto Municipal Code Section 16.52.130. All mechanical equipment must be at or above the BFE (base flood elevation).</p> <p>8. FLOOD ZONE CERTIFICATION: An Elevation Certification shall be provided for all structure(s) and shall be prepared by a registered professional engineer or surveyor and verified by a community official to be properly elevated. Such certification and verification shall be provided to the floodplain administrator based on PAMC section 16.52.130, and shall be prepared at 3 stages of construction: with the construction documents, during construction, and prior to building permit final. The elevation certificate prepared based on the existing structure and the proposed construction, shall be scanned and attached with the building permit construction documents. Certificates shall be prepared on the NAVD 88. Please note that there are 2 pages to this document. https://www.cityofpaloalto.org/civicax/filebank/documents/2284</p> <p>9. Provide a note on the Site Plan and Grading and Drainage Plan that includes the FIRM panel number, flood zone designation, BFE elevation and the North American Vertical Datum (NAVD). You may access project specific information on Public Works Stormwater website. See Flood zone Lookup under the attached link. http://www.cityofpaloalto.org/gov/depts/pwd/stormwater/floodzones.asp</p> <p>10. GRADING PERMIT: Separate Excavation and Grading Permit will be required for grading activities on private property that fill, excavate, store or dispose of 100 cubic yards or more based on PAMC Section 16.28.060. Applicant shall prepare and submit an excavation and grading permit to Public Works separately from the building permit set. The permit application and instructions are available at the Development Center and on our website. http://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits.asp</p> <p>11. GRADING & DRAINAGE PLAN: The plan set must include a grading & drainage plan prepared by a licensed professional that includes existing and proposed spot elevations, earthwork volumes, finished floor elevations, area drain and bubbler locations, drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2% or 5% for 10-feet per 2013 CBC section 1804.3. Downspouts and splash blocks should be shown on this plan, as well as any site drainage features such as swales, area drains, bubblers, etc. Grading that increases drainage onto, or blocks existing drainage from neighboring properties, will not be allowed. Public Works generally does not allow rainwater to be collected and discharged into the street gutter but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences on the City’s website. http://www.cityofpaloalto.org/civicax/filebank/documents/2717</p>

Department	Conditions of Approval
	<p>elevations, earthwork volumes, finished floor elevations, area drain and bubbler locations, drainage flow arrows to demonstrate proper drainage of the site. Adjacent grades must slope away from the house a minimum of 2% or 5% for 10-feet per 2013 CBC section 1804.3. Downspouts and splash blocks should be shown on this plan, as well as any site drainage features such as swales, area drains, bubblers, etc. Grading that increases drainage onto, or blocks existing drainage from neighboring properties, will not be allowed. Public Works generally does not allow rainwater to be collected and discharged into the street gutter but encourages the developer to keep rainwater onsite as much as feasible by directing runoff to landscaped and other pervious areas of the site. See the Grading & Drainage Plan Guidelines for New Single Family Residences on the City's website. http://www.cityofpaloalto.org/civicax/filebank/documents/2717</p> <p>12. WORK IN THE RIGHT-OF-WAY: The plans must clearly indicate any work that is proposed in the public right-of-way, such as sidewalk replacement, driveway approach, or utility laterals. The plans must include notes that the work must be done per City standards and that the contractor performing this work must first obtain a Street Work Permit from Public Works at the Development Center. If a new driveway is in a different location than the existing driveway, then the sidewalk associated with the new driveway must be replaced with a thickened (6" thick instead of the standard 4" thick) section. Additionally, curb cuts and driveway approaches for abandoned driveways must be replaced with new curb, gutter and planter strip.</p> <p>13. IMPERVIOUS SURFACE AREA: The project will be creating or replacing 500 square feet or more of impervious surface. Accordingly, the applicant shall provide calculations of the existing and proposed impervious surface areas with the building permit application. The Impervious Area Worksheet for Land Developments form and instructions are available at the Development Center or on our website.</p> <p>14. STORM WATER POLLUTION PREVENTION: The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet must be included in the plan set. Copies are available from Public Works on our website http://www.cityofpaloalto.org/civicax/filebank/documents/2732</p> <p>15. This project may trigger the California Regional Water Quality Control Board's revised provision C.3 for storm water regulations (incorporated into the Palo Alto Municipal Code, Section 16.11) that apply to residential land development projects that create or replace between 2,500 and 10,000 square feet of impervious surface area. The applicant must implement one or more of the following site design measures on the grading and drainage plan:</p> <ul style="list-style-type: none"> • Direct roof runoff into cisterns or rain barrels for reuse. • Direct roof runoff onto vegetated areas. • Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas. • Direct runoff from driveways and/or uncovered parking lots onto vegetated areas. • Construct sidewalks, walkways, and/or patios with permeable surfaces. • Construct driveways, and/or uncovered parking lots with permeable surfaces



LINCOLN AVENUE

CHANNING AVENUE

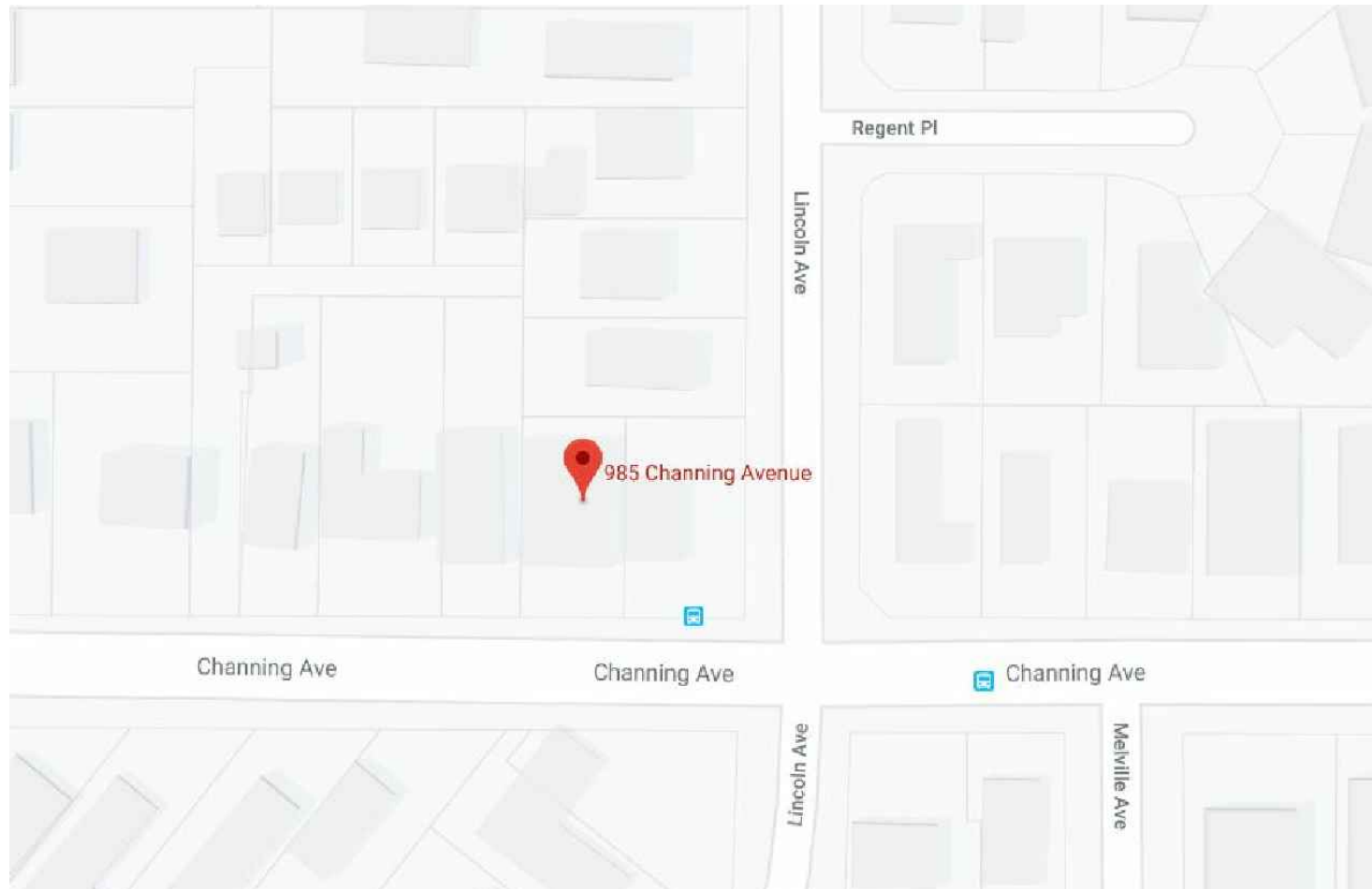
SITE CONTEXT DIAGRAM
SCALE: 3/32" = 1'-0"

ABV	ABOVE	EA	EACH	O.C.	ON CENTER
A.F.F.	ABOVE FINISHED FLOOR	ELEC	ELECTRIC(AL)	PNT	PAINTED
ALUM	ALUMINUM	ELEV	ELEVATION	PLY	PLYWOOD
APPX	APPROXIMATE(LY)	ENG	ENGINEER(ED), (ING)	P.T.	PRESSURE TREATED
AUTO	AUTOMATIC	EQ	EQUAL(VALENT)	REF	REFRIGERATOR
AWN	AWNING	EXH	EXHAUST	REINF	REINFORCE(D), (ING)
BM	BEAM	(E)	EXISTING	REV	REVISED(D), (ION)
BEL	BELOW	F.O.F.	FACE OF FINISH	R.O.	ROUGH OPENING
BTWN	BETWEEN	F.O.S.	FACE OF STUDS	SEC	SECTION
BLK	BLOCK	F.F.	FINISHED FLOOR	S.S.D.	SEE STRUCTURAL DRAWINGS
BLKG	BLOCKING	FLR	FLOOR	SHTH	SHEATHING
BD	BOARD	F.B.O.	FURNISHED BY OTHERS	SHT	SHEET
BLDG	BUILDING	FUT	FUTURE	SIM	SIMILAR
CAB	CABINET	GT	GROUT	S.C.	SOLID CORE
CL	CEILING	GWB	GYPSUM BOARD	SPEC	SPECIFICATION(S)
C.L.	CENTER LINE	HDW	HARDWARE	SQFT	SQUARE FOOT
CLR	CLEAR(ANCE)	HWD	HARDWOOD	SST	STAINLESS STEEL
C.A.R.	COLD AIR RETURN	HDR	HEADER	STD	STANDARD
COL	COLUMN	HT	HEIGHT	T.B.D.	TO BE DETERMINED
CONC	CONCRETE	INCL	INCLUDE(D), (ING)	T.O.P.	TOP OF PLATE
CONT	CONTINUE(OUS)	MFR	MANUFACTURER	T.O.S.	TOP OF SLAB
DEG	DEGREE	MAX	MAXIMUM	T.O.W.	TOP OF WALL
DTL	DETAIL	MECH	MECHANICAL	TYP	TYPICAL CONDITION
DIA	DIAMETER	MW	MICROWAVE	U.O.N.	UNLESS OTHERWISE NOTED
DIM	DIMENSION	MIN	MINIMUM	V.B.	VAPOR BARRIER
DW	DISHWASHER	MISC	MISCELLANEOUS	V.I.F.	VERIFY IN FIELD
DISP	DISPOSAL	(N)	NEW		
DR	DOOR	N.L.C.	NOT IN CONTRACT		
DWG	DRAWING	N.T.S.	NOT TO SCALE		

ABBREVIATIONS

- 2019 CALIFORNIA BUILDING CODE (CBC) WITH CITY OF PALO ALTO AMENDMENTS
- 2019 CALIFORNIA MECHANICAL CODE (CMC) CITY OF PALO ALTO AMENDMENTS
- 2019 CALIFORNIA PLUMBING CODE (CPC) CITY OF PALO ALTO AMENDMENTS
- 2019 CALIFORNIA ELECTRICAL CODE (CEC) CITY OF PALO ALTO AMENDMENTS
- 2019 CALIFORNIA FIRE CODE (CFC) CITY OF PALO ALTO AMENDMENTS
- 2019 CALIFORNIA ENERGY CODE

APPLICABLE CODES



VICINITY MAP
NTS



RENDERING OF THE PROPOSED PROJECT

PROJECT PROPOSES THE REMODEL AND ADDITION OF AN EXISTING SINGLE FAMILY RESIDENCE. THE SCOPE OF WORK INCLUDES A NEW SECOND FLOOR ADDITION AND GARAGE-TO-ADU CONVERSION. EXISTING CURB CUT AND TREES TO REMAIN.

PROJECT DESCRIPTION

PROJECT ADDRESS:	985 CHANNING AVENUE, PALO ALTO, CA 94301
ASSESSOR'S PARCEL NUMBER:	003-26-062
ZONING DISTRICT:	R-1
NET LOT AREA:	5,250 SF
FLOOD ZONE:	AH29.7

ALLOWABLE FLOOR AREA (FAR):	2,325 SF (45% OF FIRST 5,000 SF +30%> 5,000 SF)
	800 SF GARAGE-TO-ADU CONVERSION
TOTAL ALLOWABLE FAR:	3,125 SF

PROPOSED FLOOR AREA (FAR):	1,288 SF @ FIRST FLOOR, MAIN RESIDENCE
	798 SF @ FIRST FLOOR, ADU
	1,005 SF @ SECOND FLOOR, MAIN RESIDENCE
TOTAL PROPOSED FLOOR AREA:	3,091 SFPS

LOT COVERAGE:	2,389.5 SF MAX, FAR PERMISSIBLE FOR MAIN HOUSE & GARAGE-TO-ADU (800 SF MAX. FOR ADU)
	261.4 SF (5% OF LOT AREA) PERMITTED FOR COVERED PORCH

TOTAL ALLOWABLE LOT COVERAGE:	2,650.9 SF
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PROPOSED LOT COVERAGE:	2,085 SF (MAIN HOUSE + ADU)
	89 SF ENTRY FEATURE

TOTAL PROPOSED LOT COVERAGE:	2,174 SF
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CONTEXTUAL FRONT YARD SETBACK:	24'-0" SPECIAL SETBACK ALONG CHANNING AVENUE
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INTERIOR SIDE YARD SETBACK:	6'-0"
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REAR YARD SETBACK:	20'-0"
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ALLOWABLE ENCROACHMENT:	A PORTION OF THE MAIN DWELLING (NO WIDER THAN 20'-3" OR, HALF THE MAX. WIDTH OF THE DWELLING), MAY ENCROACH INTO THE REAR YARD SETBACK, AT THE GROUND FLOOR UP TO 6FT, PROVIDING A MINIMUM SETBACK OF 14FT IS MAINTAINED.
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PARKING REQUIREMENT:	TWO PARKING SPACES REQUIRED FOR MAIN RESIDENCE. ONE (1) EXISTING UNCOVERED PARKING SPACE WILL REMAIN AND ONE (1) NEW PARKING SPACE WILL BE PROVIDED IN THE FRONT YARD WHEN THE (E) SINGLE CAR GARAGE IS CONVERTED INTO A (N) ACCESSORY DWELLING UNIT (ADU). NO PARKING REQUIRED FOR THE ADU.
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PROJECT INFORMATION

A1.0 COVER SHEET	T-1 TREE PROTECTION SHEET
A2.1 NEIGHBORHOOD CONTEXT	A11.0 GREEN BUILDING PROGRAM SHEET
A3.1 PHOTOS	
A4.0 SURVEY	
A4.1 FEMA ELEVATION CERTIFICATE	
A5.0 EXISTING & PROPOSED SITE PLANS	
A6.1 EXISTING & PROPOSED FIRST FLOOR PLANS	
A6.2 PROPOSED SECOND FLOOR PLAN & FLOOR AREA DIAGRAM	
A7.1 EXISTING & PROPOSED EXTERIOR ELEVATIONS - SOUTH	
A7.2 EXISTING & PROPOSED EXTERIOR ELEVATIONS - WEST	
A7.3 EXISTING & PROPOSED EXTERIOR ELEVATIONS - NORTH	
A7.4 EXISTING & PROPOSED EXTERIOR ELEVATIONS - EAST	
A8.1 EXISTING & PROPOSED ROOF PLANS	
A9.0 PROPOSED BUILDING SECTIONS	

DRAWING INDEX

DUNLAP
RESIDENCE

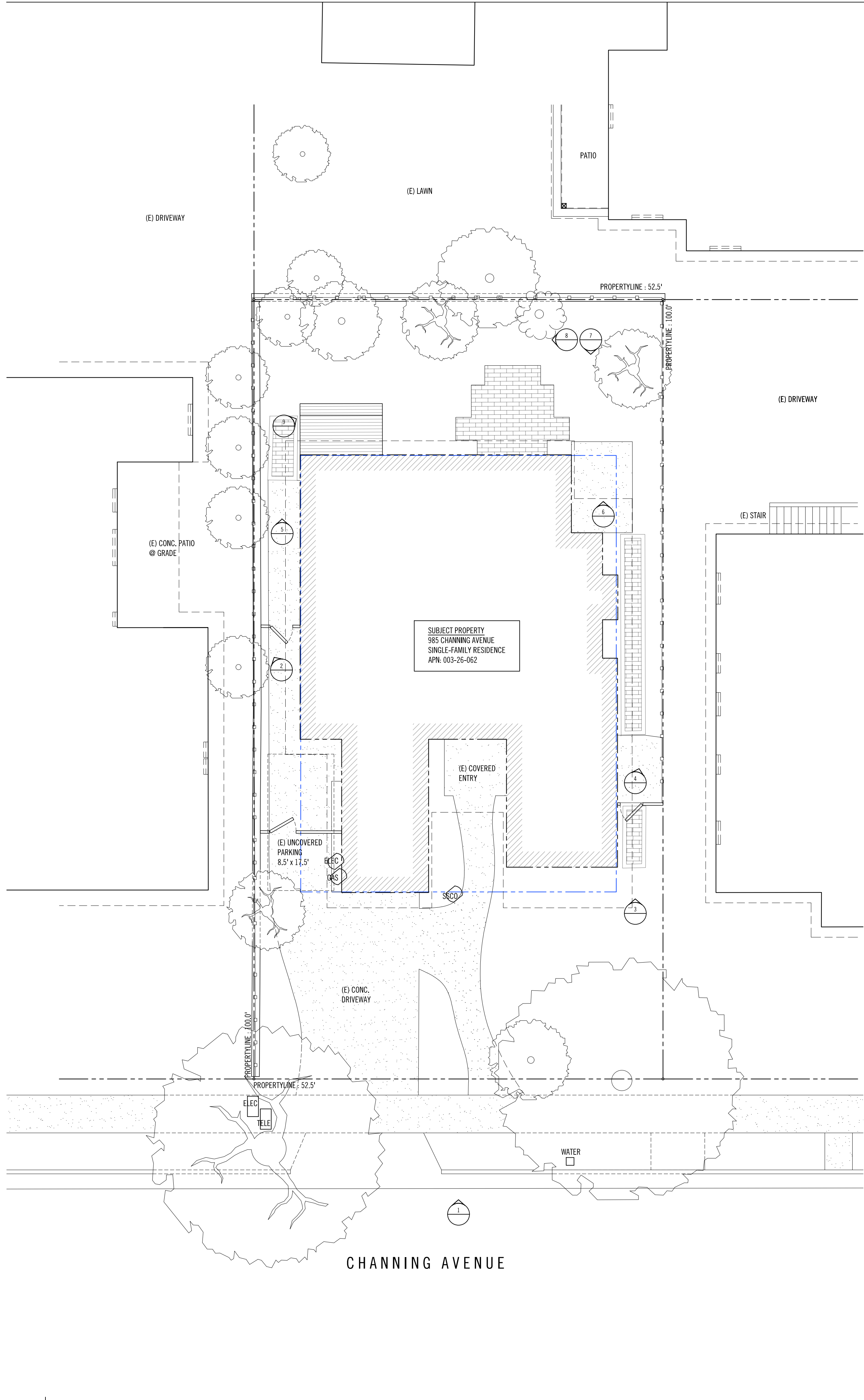
APN: 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

DRAWING INDEX,
PROJECT INFORMATION,
DESCRIPTION & RENDERING

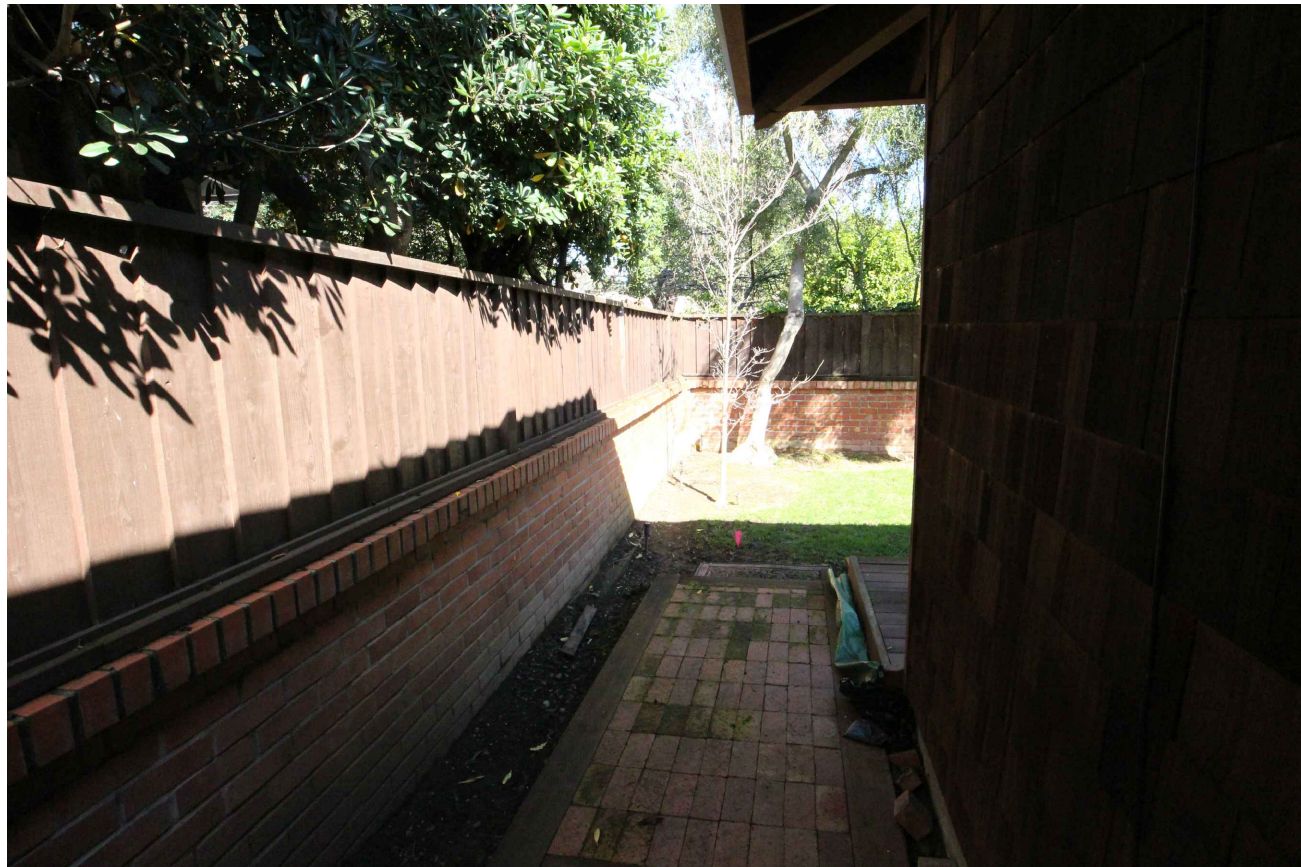
03 AUGUST 2020



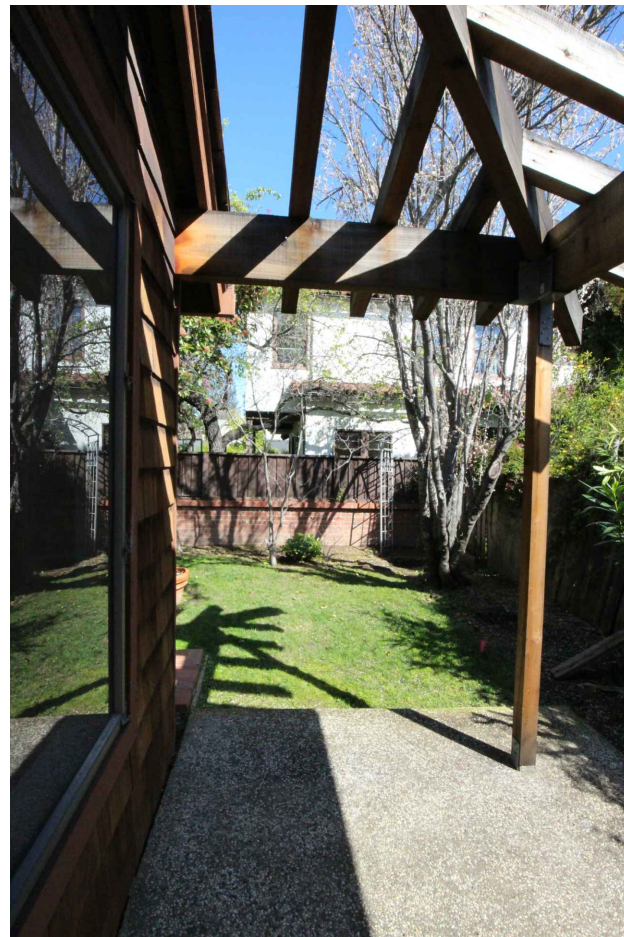
8 (E) DECK, TREES, BRICK WALL & FENCE IN NORTHWEST CORNER OF REAR YARD



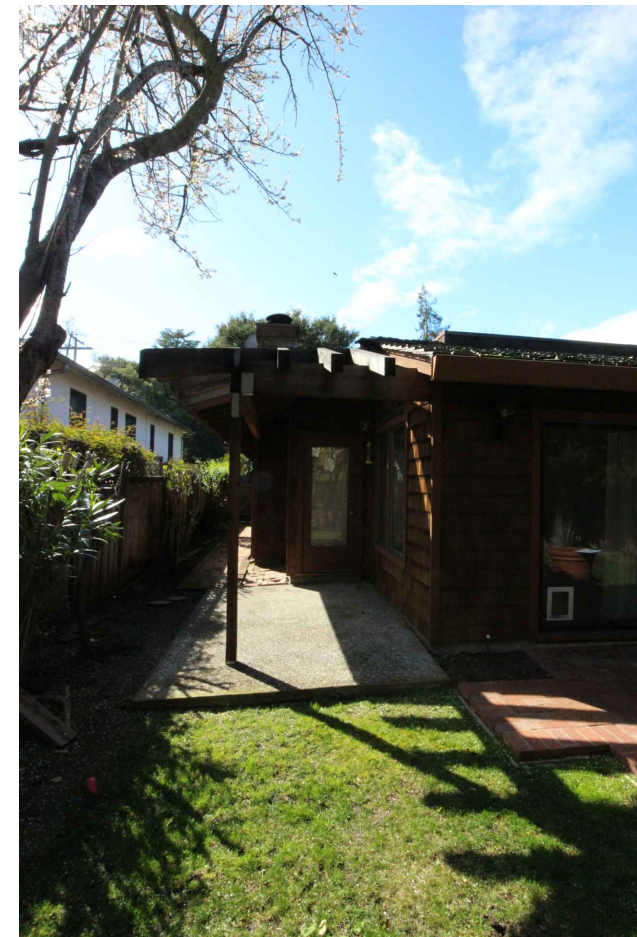
9 (E) BRICK WALL & FENCE AND TREES AT NORTH PROPERTY LINE



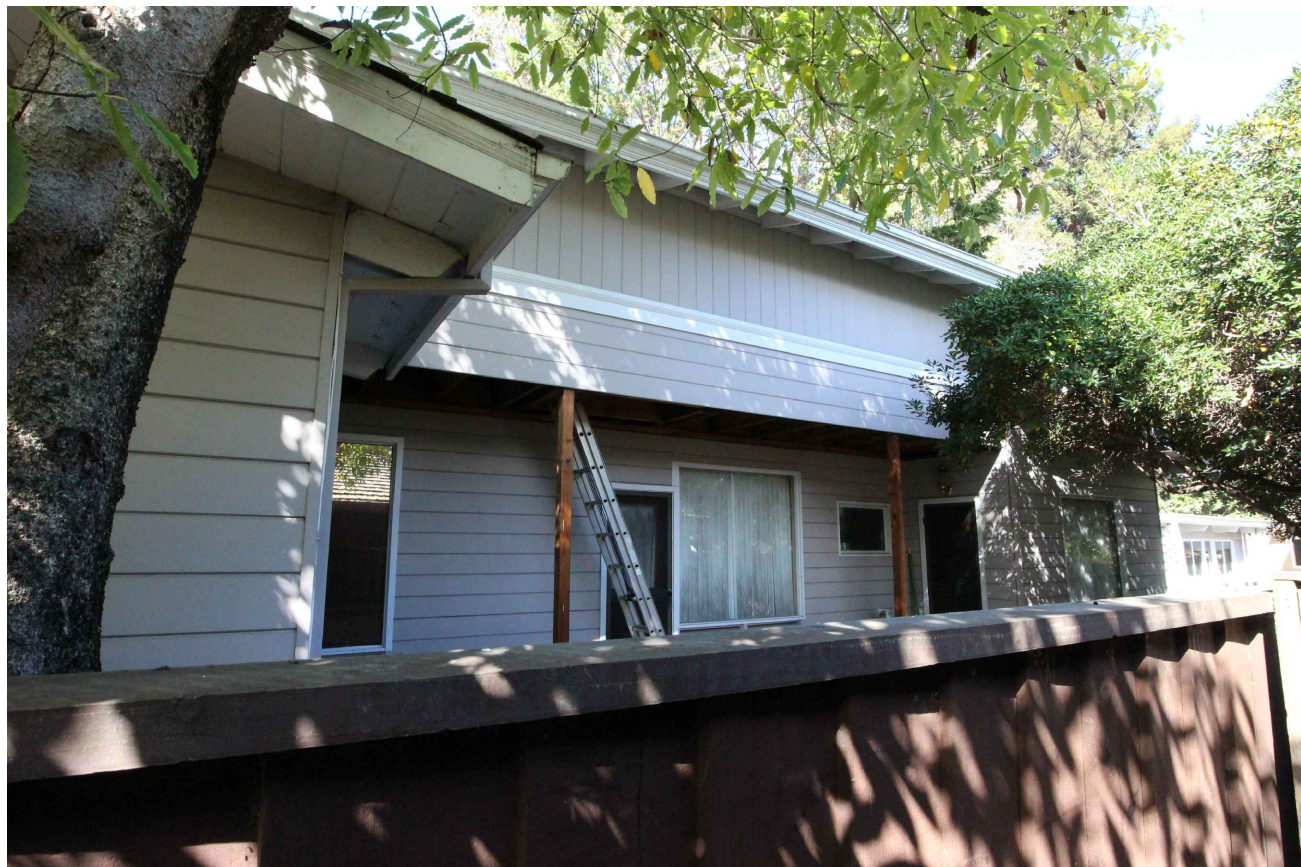
5 PATH TO NORTHWEST CORNER OF REAR YARD



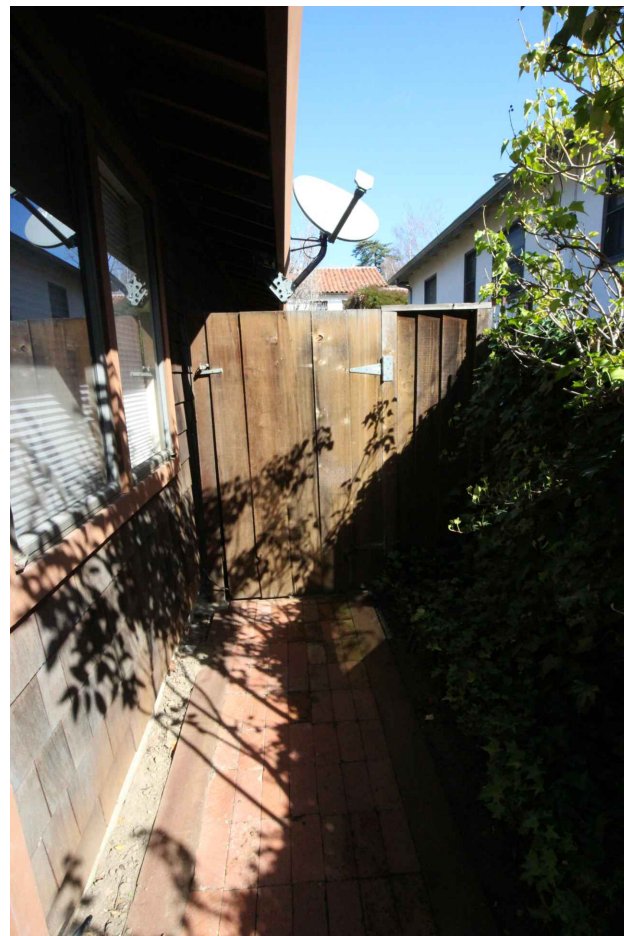
6 (E) PATIO AT AT NORTHEAST CORNER OF BUILDING



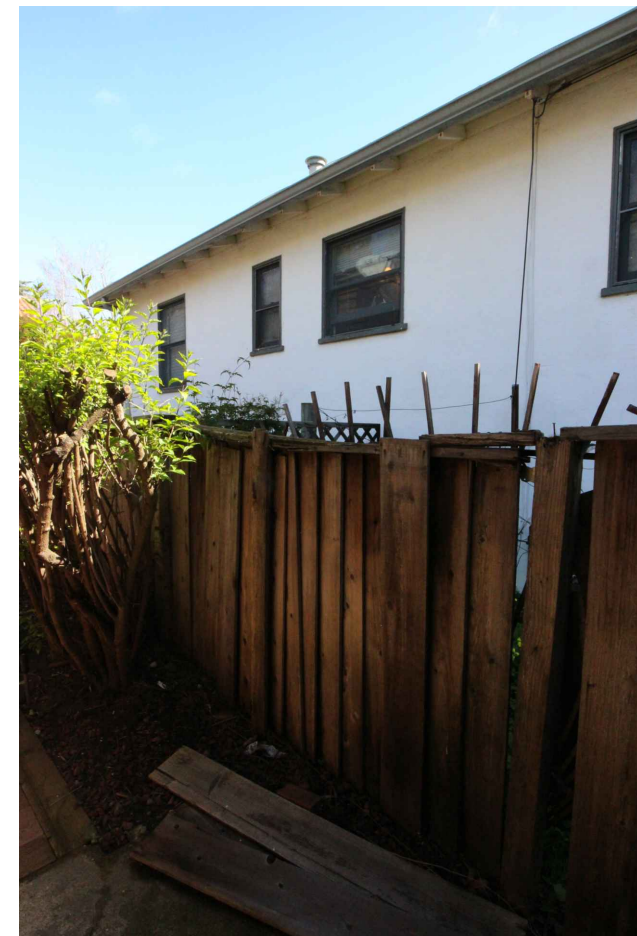
7 (E) PATIO AT AT NORTHEAST CORNER OF BUILDING



2 VIEW OF 975 CHANNING FROM WEST SIDE YARD



3 GATE TO EAST SIDE YARD



4 VIEW OF 991 CHANNING FROM EAST SIDE YARD



1 VIEW OF 985 CHANNING FROM CHANNING AVENUE

PHOTO MAP
1/8"=1'-0"



DUNLAP RESIDENCE

APN: 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

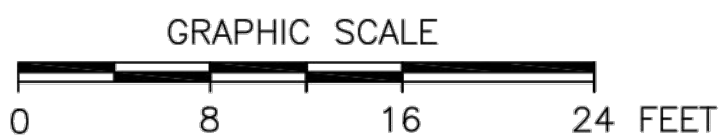
PHOTOS

DATE 03 AUGUST 2020

SCALE 1/8" = 1'-0"

REVISIONS

A3.0



SURVEYOR'S NOTES:

1. DATE OF SURVEY: JANUARY 20, 2019.
2. UTILITIES FOUND ARE BASED UPON SURFACE EVIDENT FINDINGS. RECORDS OF UTILITIES WERE NOT UTILIZED FOR THIS SURVEY
3. TREES SHOWN ARE THOSE OF SIZE SIGNIFICANCE. THE SITE CONTAINS OTHER TREES UNDER 6" AND ARE NOT SHOWN FOR MAP CLARITY. TREE CLASSIFICATIONS ARE TO THE BEST KNOWLEDGE OF THE SURVEYOR. AN ARBORIST MUST SPECIFY ACTUAL TREE TYPE. TREE TRUNK LOCATIONS ARE APPROXIMATE. TREES THAT CROSS A PROPERTY LINE AT GROUND LEVEL SHOULD BE CONSIDERED TO BE JOINTLY OWNED BY THE RESPECTIVE PROPERTY OWNERS. CONSULT AN ARBORIST FOR DETAILS.
4. MAIN STRUCTURE AND APPURTENANT STRUCTURES ARE BASED UPON THE BEST EFFORTS OF THE SURVEY CREW. SOME ELEMENTS MAY BE MISSING AND CHECKS BY THE ARCHITECTS OFFICE WILL BE NECESSARY BEFORE DESIGN WORK.
5. PHYSICAL ITEMS SHOWN ON THIS SURVEY ARE LIMITED TO THOSE SURFACE ITEMS VISIBLE AS OF THE DATE OF THIS SURVEY AND FROM AVAILABLE RECORD DATA. SUBSURFACE OBJECTS, IF ANY, MAY NOT BE SHOWN. SAID SUBSURFACE OBJECTS MAY INCLUDE, BUT ARE NOT LIMITED TO, UNDERGROUND UTILITY LINES, UTILITY VAULTS, CONCRETE FOOTINGS, SLABS, SHORING, STRUCTURAL PILES, PIPING, UNDERGROUND TANKS, AND ANY OTHER SUBSURFACE STRUCTURES NOT REVEALED BY A SURFACE INSPECTION.
6. DIMENSIONS SHOWN HEREON ARE GROUND DISTANCES IN FEET AND DECIMALS THEREOF.
7. PROPERTY CORNERS WERE NOT SET IN CONJUNCTION WITH THIS SURVEY.
8. TREE TRUNK LOCATIONS ARE APPROXIMATE. TREES THAT CROSS A PROPERTY LINE AT GROUND LEVEL SHOULD BE CONSIDERED TO BE JOINTLY OWNED BY THE RESPECTIVE PROPERTY OWNERS. CONSULT AN ARBORIST FOR DETAILS.
9. DIMENSIONS FROM HOUSE TO PROPERTY LINE ARE MEASURED FROM THE BUILDING FACE/CORNER OF THE STRUCTURE, PERPENDICULAR TO THE PROPERTY LINES.

LEGEND

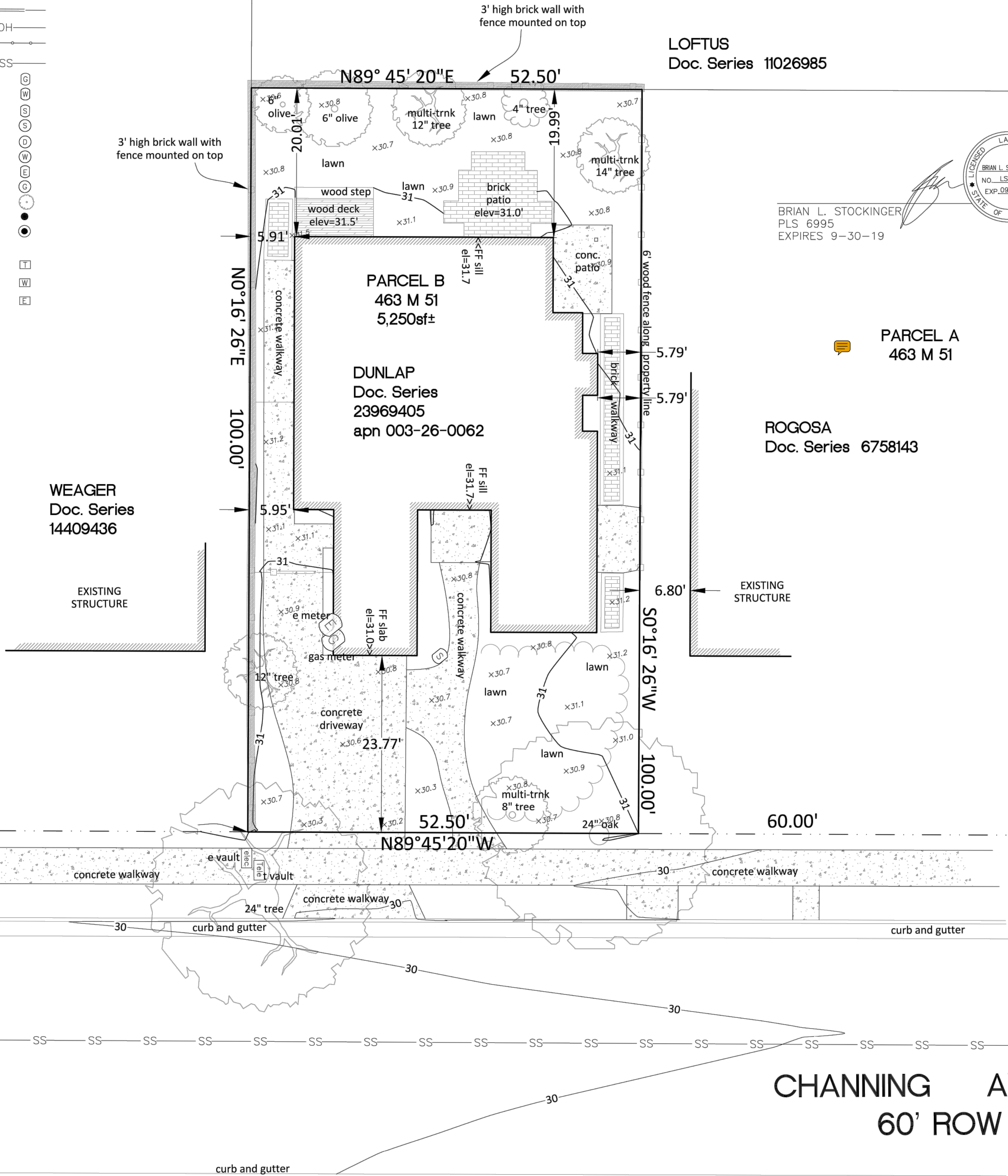
BOUNDARY	---
PROPERTY LINE	---
RIGHT OF WAY LINE	---
SETBACK LINE	---
FACE OF BUILDING LINE	---
WOODEN FENCE	---
OVERHEAD WIRE	OH
PICKET FENCE	---
SEWER MARKING	SS
GAS METER	G
WATER METER	W
SANITARY SEWER CLEANOUT	S
SANITARY SEWER MANHOLE	S
STORMDRAIN MANHOLE	D
WATER VALVE	W
ELECTRIC METER	E
GAS VALVE	G
TREE AS NOTED	●
FOUND MONUMENT AS NOTED	●
SET MONUMENT AS NOTED	●
VAULT, TELEPHONE	T
VAULT, WATER	W
VAULT, POWER	P

BASIS OF BEARINGS

BASIS OF BEARINGS ARE THE FOUND STREET MOUNUMENTS MARKING THE INTERSECTIONS OF SOMERSET PLACE AND REGENT PLACE AT THE RIGHT OF WAY OF LINCOLN AVENUE AS SAID STREETS ARE SHOWN ON THE PARCEL MAP FILED MAY 27TH 1980 IN BOOK 463 OF MAPS AT PAGE 51 RECORDS OF SANTA CLARA COUNTY

BENCHMARK

VERTICAL ELEVATIONS ARE BASED UPON A NGS HT1331 Y150 (NAVD88) VERTICAL BENCHMARK DISK SET IN THE TOP OF THE ABUTMENT OF THE BRIDGE OVER SAN FRANCISQUITO CREEK AT MIDDLEFIELD ROAD, NAVD88 ELEVATION IS TAKEN AS 58.5'

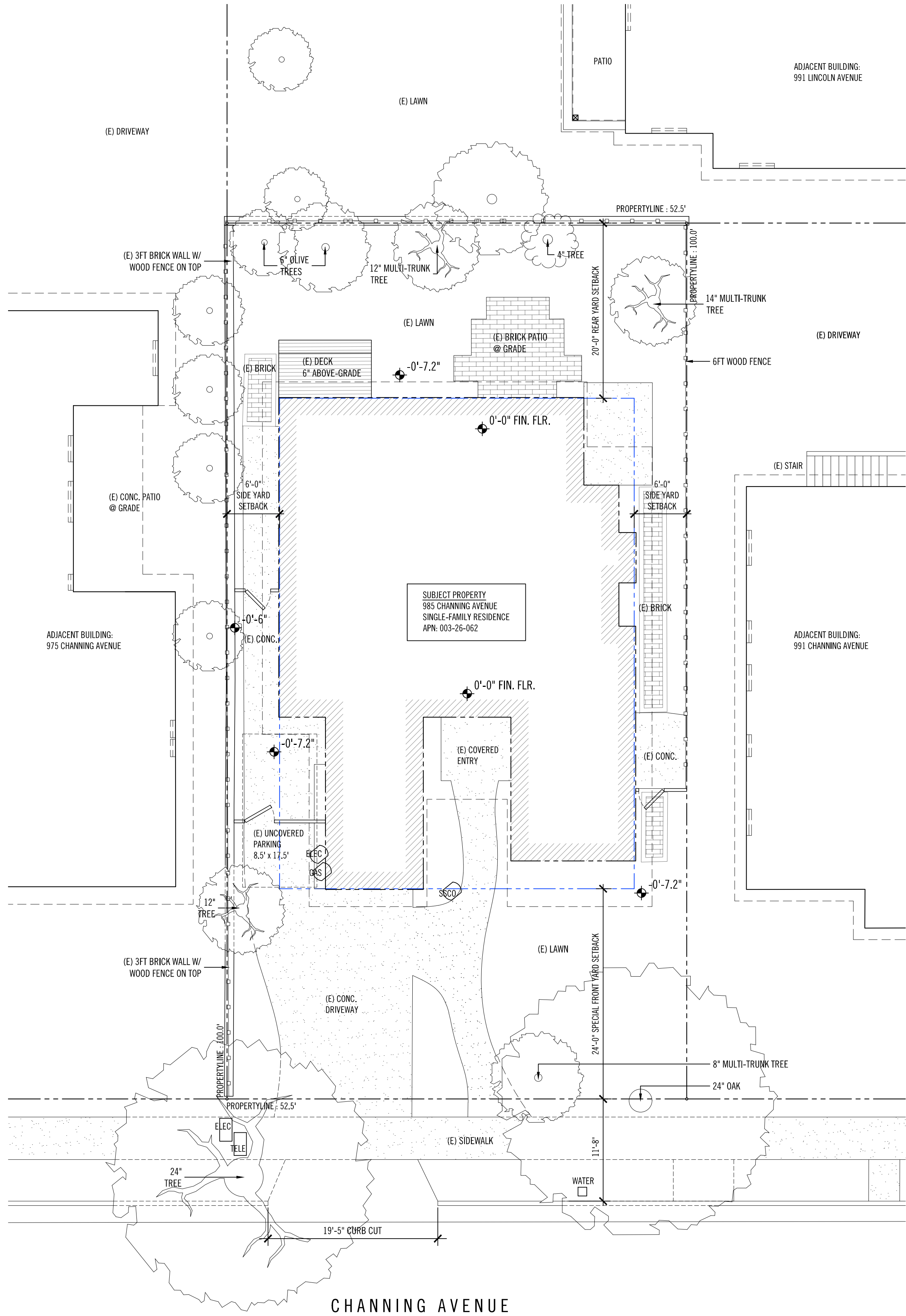


SS
SSMH
RIM=30.61

SSMH
RIM=29.81

CHANNING AVENUE
60' ROW

TOPOGRAPHICAL BOUNDARY SURVEY										BLS Mapping and Surveying									
										BRIAN L. STOCKINGER PLS 6995 BOX 24 (193) GRANDVIEW AVE., MARTINEZ, CA 94553 (925) 441-1644 (C) (925) 228-4949 (F) goodsurvey6995@pacbell.net									
										CALIFORNIA									
										SANTA CLARA COUNTY									
										PALO ALTO									
										985 CHANNING AVENUE									

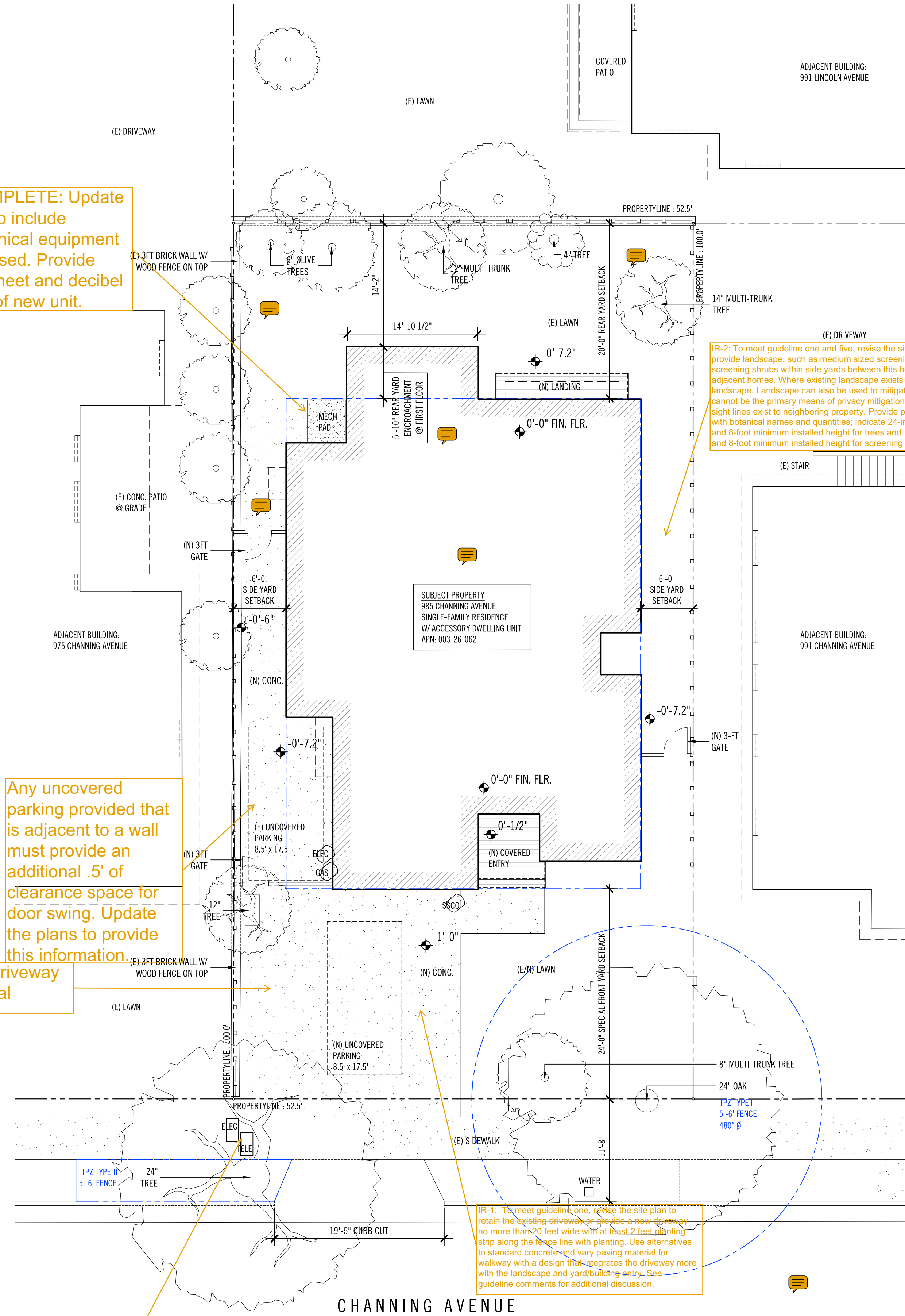


INCOMPLETE: Update plans to include mechanical equipment to be used. Provide spec sheet and decibel rating of new unit.

Any uncovered parking provided that is adjacent to a wall must provide an additional .5' of clearance space for door swing. Update the plans to provide this information.

Note driveway material

Update to show



IR-2: To meet guideline one and five, revise the site plan to provide landscape, such as medium sized screening trees or tall screening shrubs within side yards between this home and adjacent homes. Where existing landscape exists fill gaps in the landscape. Landscape can also be used to mitigate privacy, but it cannot be the primary means of privacy mitigation where direct sight lines exist to neighboring property. Provide plant choices with botanical names and quantities; indicate 24-inch box size and 8-foot minimum installed height for trees and 15-gallon size and 8-foot minimum installed height for screening shrubs.

IR-1: To meet guideline one, revise the site plan to retain the existing driveway or provide a new driveway no more than 20 feet wide with at least 2 foot planting strip along the fence line with planting. Use alternatives to standard concrete and vary paving material for walkway with a design that integrates the driveway more with the landscape and yard/building entry. See guideline comments for additional discussion.

GENERAL NOTES

1. SITE SURVEY PROVIDED ON SHEET 1
2. FEMA FLOOD PLANE ELEVATION CERTIFICATE PROVIDED ON SHEET A4.1

EXISTING LOT COVERAGE

FOOTPRINT OF STRUCTURES OVER 30"	1,843 SF
PORTION OF EAVES OVER 4'-0"	78 SF
TOTAL (E) LOT COVERAGE = 1,921 SF	

PROPOSED LOT COVERAGE

FOOTPRINT OF STRUCTURES OVER 30"	2,085 SF
PORTION OF EAVES OVER 4'-0"	0 SF
ENTRY PORCH OVER 12'-0" CEILING HEIGHT	89 SF
TOTAL PROPOSED LOT COVERAGE = 2,174 SF	

LEGEND

---	LINE ABOVE
---	PROPERTY LINE
---	HIDDEN LINE
---	FENCE



1305 INDIANA STREET
SAN FRANCISCO, CA 94107
415.890.4834
07STUDIOS.COM

DRAWN BY S. FARRELL

DUNLAP RESIDENCE

APN: 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

EXISTING & PROPOSED SITE PLANS

DATE 03 AUGUST 2020

SCALE 1/8" = 1'-0"

REVISIONS

A5.0

1

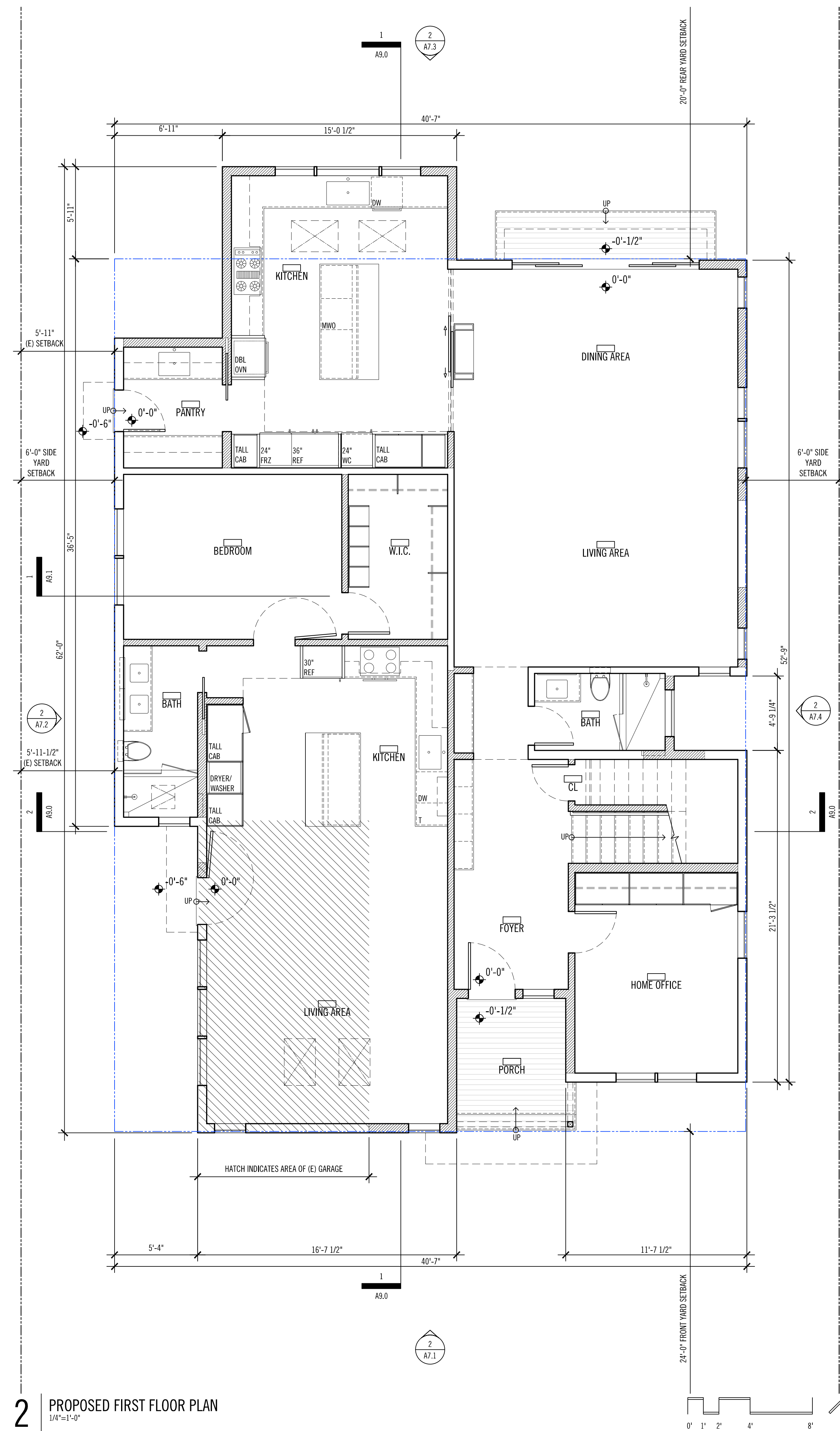
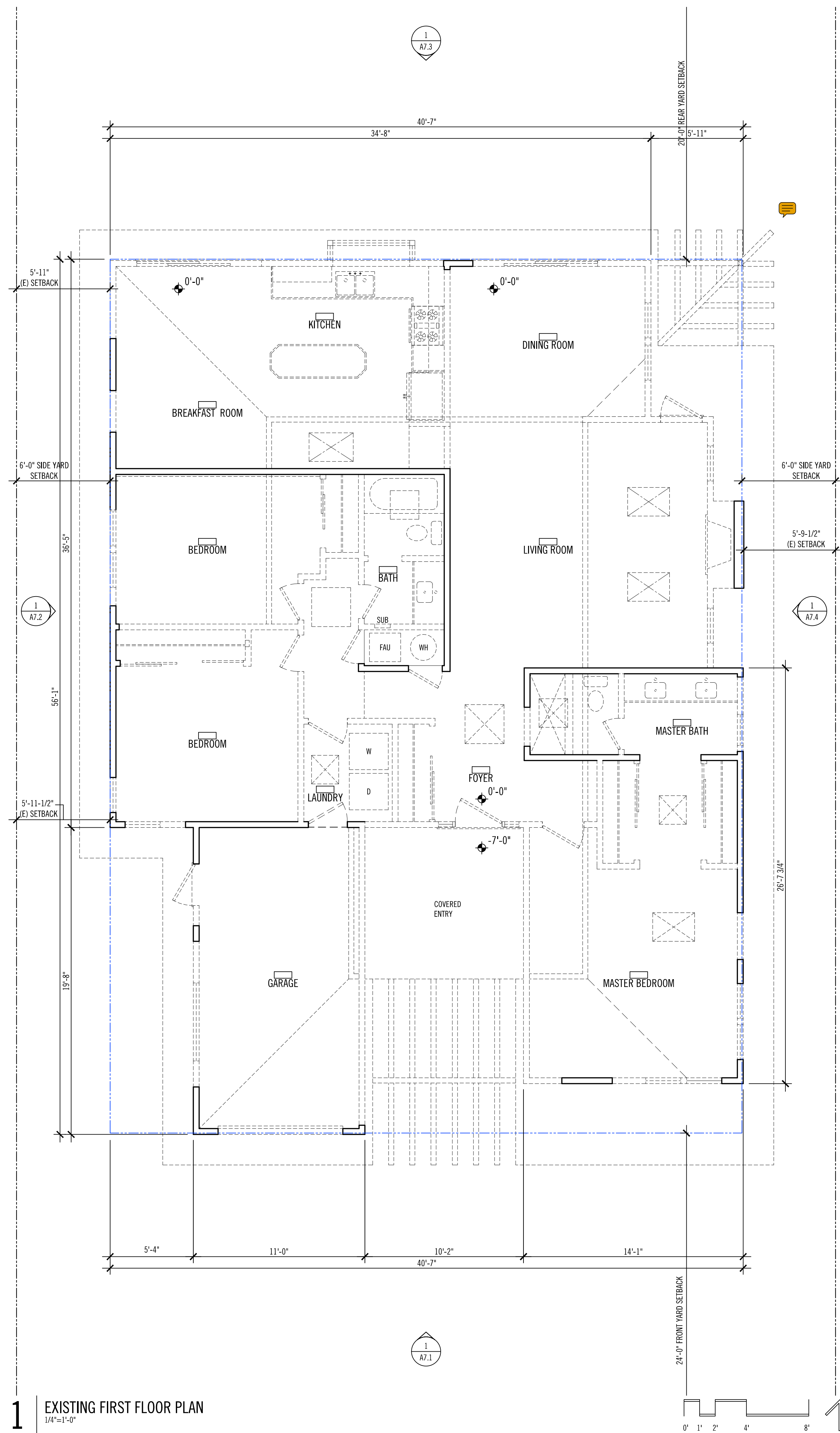
EXISTING SITE PLAN

1/8"=1'-0"

2

PROPOSED SITE PLAN

1/8"=1'-0"



- ## GENERAL NOTES

1. HATCHED AREA SHOWN ON PROPOSED FIRST FLOOR PLAN INDICATES EXISTING FLOOR AREA THAT WILL BE CONVERTED INTO A (N) ACCESSORY DWELLING UNIT
2. EXISTING SLAB ON GRADE TO REMAIN
3. REFER TO SITE SURVEY AND FEMA FLOOD CERTIFICATE FOR ELEVATION
4. ROOF PLAN PROVIDED ON SHEET A8.0



DUNLAP
RESIDENCE

MPN. 003-26-062

9985 CHANNING AVENUE
PALO ALTO, CA 94301

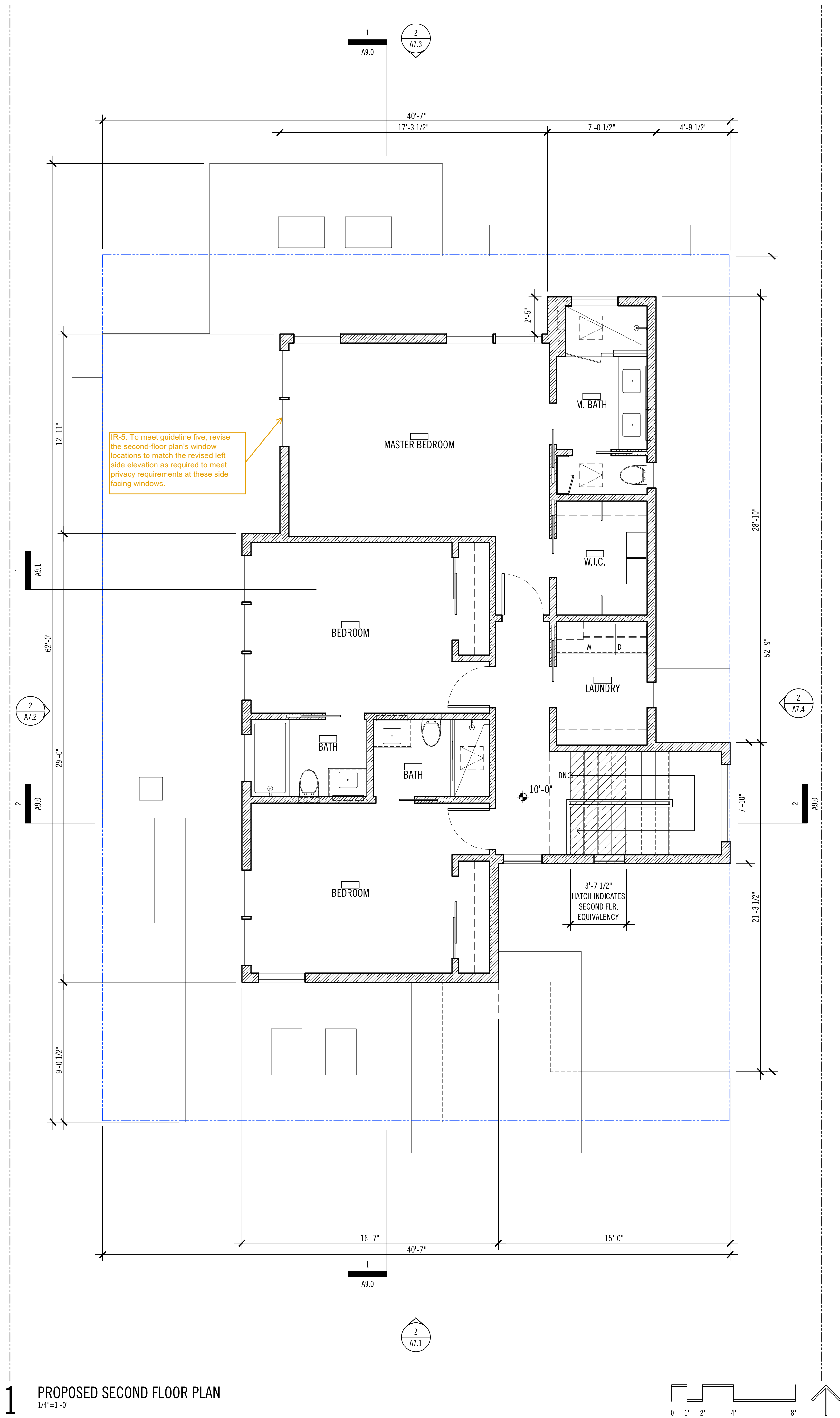
INDIVIDUAL REVIEW

EXISTING & PROPOSED FIRST FLOOR PLANS

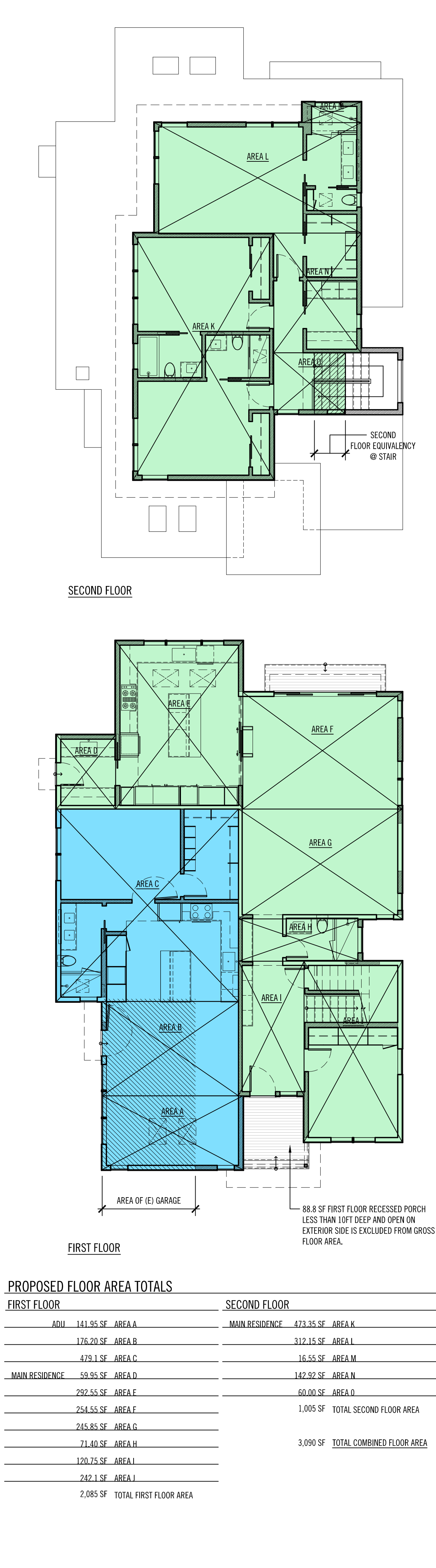
DATE	03 AUGUST 2020
SCALE	1/4" = 1'-0"
REVISIONS	

REVISIONS

A6.1



1 PROPOSED SECOND FLOOR PLAN
1/4"=1'-0"



2 FLOOR AREA DIAGRAMS
1/8"=1'-0"

GENERAL NOTES

1. HATCHED AREA SHOWN ON PROPOSED SECOND FLOOR PLAN INDICATES FLOOR AREA THAT IS CONSIDERED EQUIVALENT TO A SECOND FLOOR; THIS AREA SHALL BE COUNTED TWICE
2. REFER TO BUILDING SECTIONS ON SHEET A9.0
3. ROOF PLAN PROVIDED ON SHEET A8.0

1305 INDIANA STREET
SAN FRANCISCO CA 94107
415.890.4834
07STUDIOS.COM
DRAWN BY S FARRELL

DUNLAP
RESIDENCE

985 CHANNING AVENUE
PALO ALTO, CA 94301
APN: 003-26-462

INDIVIDUAL REVIEW

PROPOSED SECOND FLOOR
PLAN & FLOOR AREA
DIAGRAMS

DATE 03 AUGUST 2020

SCALE VARIES

REVISIONS

A6.2

1. REFER TO FLOOR AND ROOF PLANS
2. BUILDING SECTIONS PROVIDED ON SHEETS A9.0
3. DAYLIGHT PLANE AND MAXIMUM HEIGHT MEASURED FROM THE AVERAGE GRADE. SEE SITE SURVEY.

1	SMOOTH STUCCO CLADDING, PAINTED
2	CEMENTITIOUS CHANNEL SIDING, VERTICAL
3	SMOOTH COMPOSITE FASCIA BOARD, PAINTED
4	PARAPET CAP, PAINTED
5	IPE DECKING W/ CLEAR SEALANT
6	STEEL POST AND BEAMS, PAINTED
7	SOFFIT BOARD, PAINTED
8	NOT USED
9	STANDING SEAM METAL ROOF, COLOR TBD
10	NOT USED
11	24"-DEEP DOOR AWNING
12	NOT USED
13	DUAL-GLAZED WINDOW W/ DARK ANNOXIDIZED BRONZE FINISH
14	DUAL-GLAZED SLIDING DOOR W/ DARK ANNOXIDIZED BRONZE FINISH
15	EXTERIOR-GRADE DOOR, PAINTED

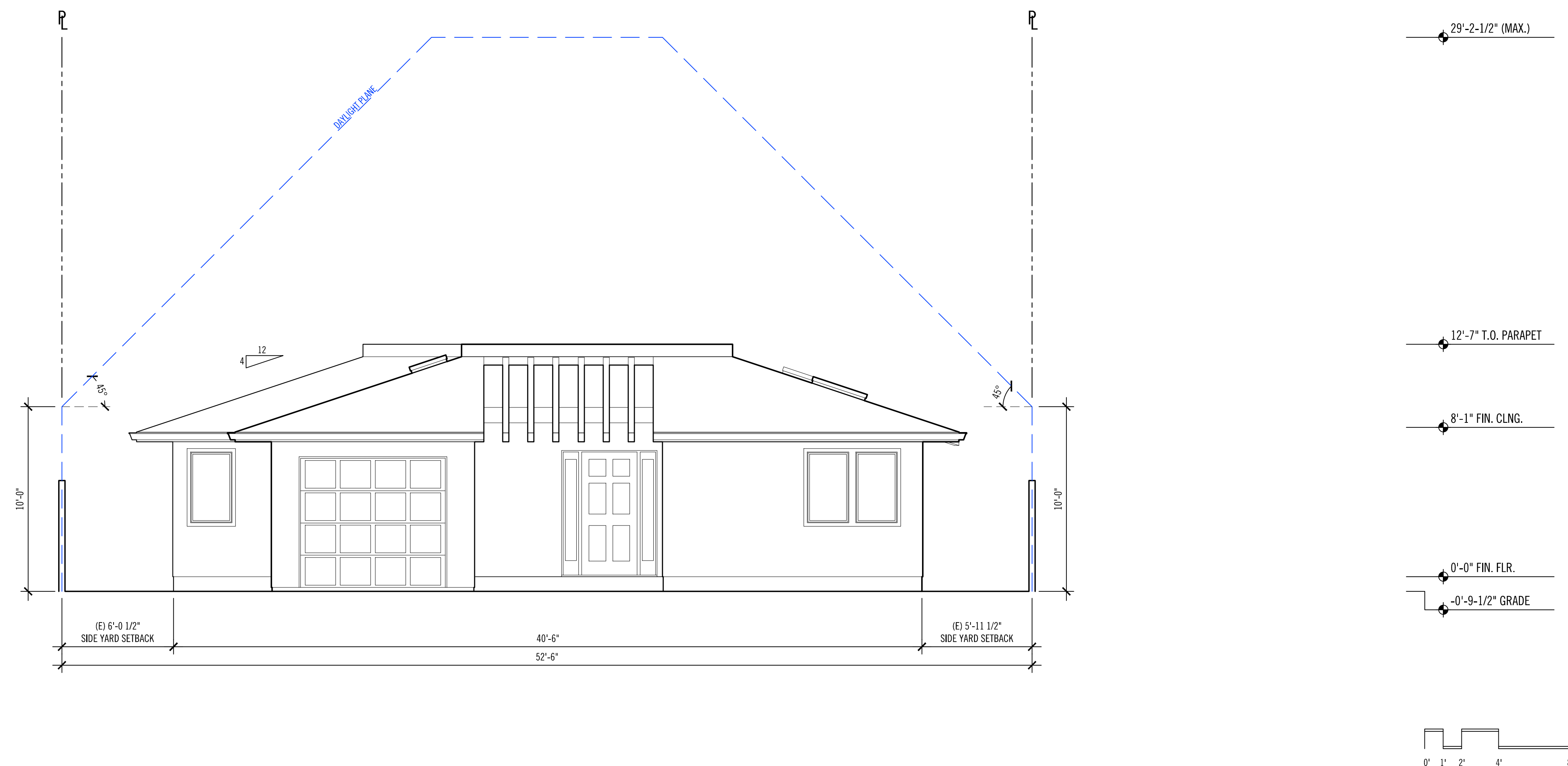
985 CHANNING AVENUE
PALO ALTO, CA 94301
APN: 003-26-062

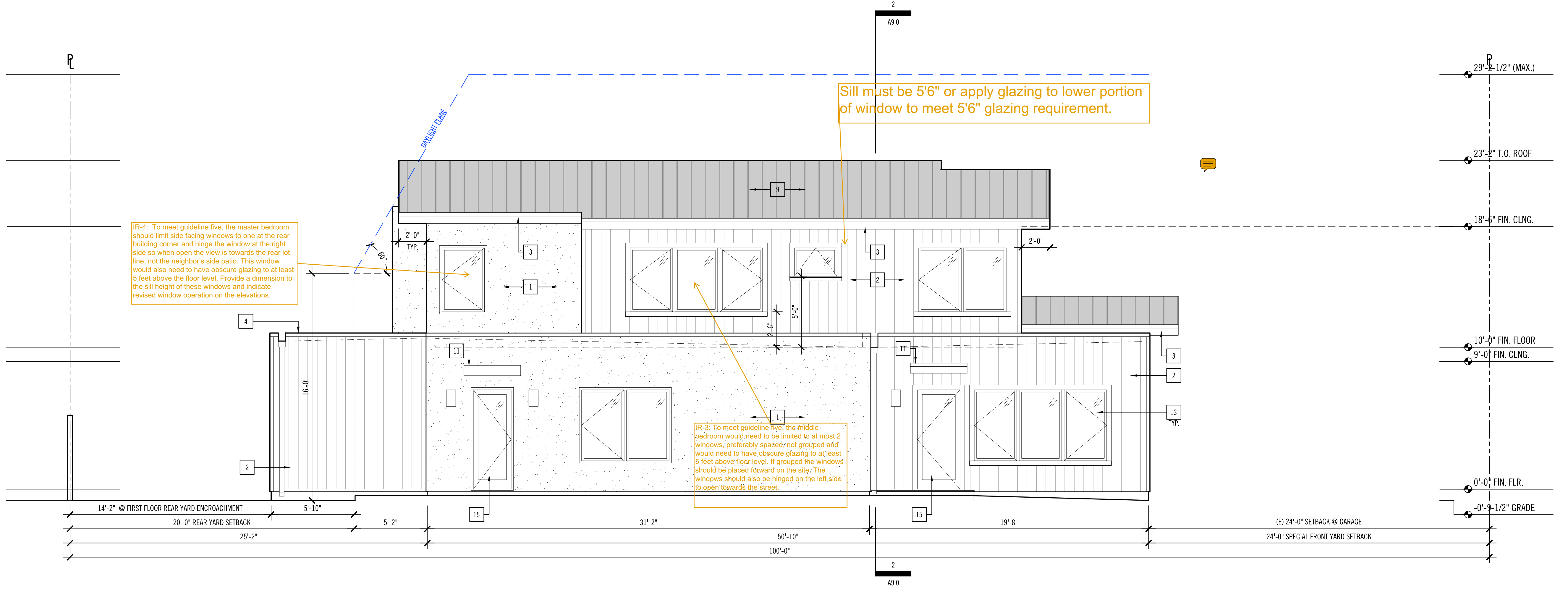
EXISTING & PROPOSED EXTERIOR ELEVATIONS - SOUTH

SCALE $1/4" = 1'-0"$

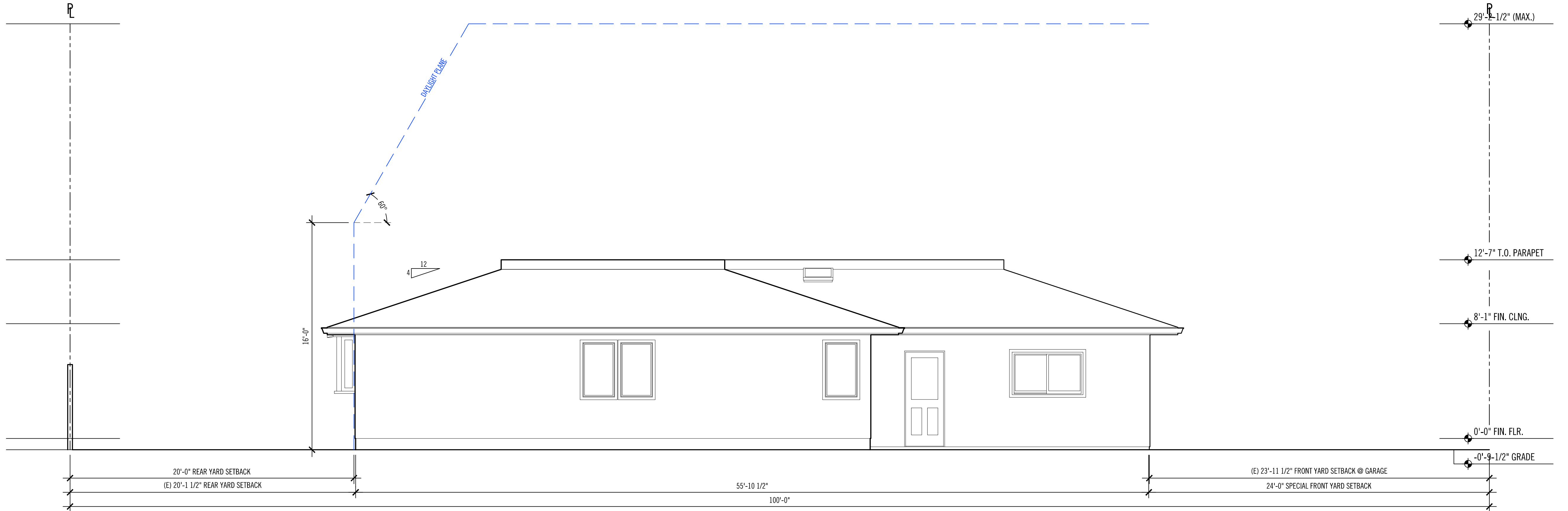
REVISIONS

A7.1





2 | PROPOSED EXTERIOR ELEVATION - WEST
1/4"=1'-0"



1 | EXISTING EXTERIOR ELEVATION - WEST
1/4"=1'-0"

GENERAL NOTES

1. REFER TO FLOOR AND ROOF PLANS
2. BUILDING SECTIONS PROVIDED ON SHEETS A9.0
3. DAYLIGHT PLANE AND MAXIMUM HEIGHT MEASURED FROM THE AVERAGE GRADE. SEE SITE SURVEY.

KEYNOTES

- | | |
|----|--|
| 1 | SMOOTH STUCCO CLADDING, PAINTED |
| 2 | CEMENTITIOUS CHANNEL SIDING, VERTICAL |
| 3 | SMOOTH COMPOSITE FASCIA BOARD, PAINTED |
| 4 | PARAPET CAP, PAINTED |
| 5 | IPE DECKING W/ CLEAR SEALANT |
| 6 | STEEL POST AND BEAMS, PAINTED |
| 7 | SOFFIT BOARD, PAINTED |
| 8 | NOT USED |
| 9 | STANDING SEAM METAL ROOF, COLOR TBD |
| 10 | NOT USED |
| 11 | 24"-DEEP DOOR AWNING |
| 12 | NOT USED |
| 13 | DUAL-GLAZED WINDOW W/ DARK ANNOXIDIZED BRONZE FINISH |
| 14 | DUAL-GLAZED SLIDING DOOR W/ DARK ANNOXIDIZED BRONZE FINISH |
| 15 | EXTERIOR-GRADE DOOR, PAINTED |



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SAN FRANCISCO CA 94107
415.890.4834
07STUDIOS.COM

DRAWN BY S FARRELL

DUNLAP
RESIDENCE

APR 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

EXISTING & PROPOSED EXTERIOR ELEVATIONS - WEST

DATE 03 AUGUST 2020

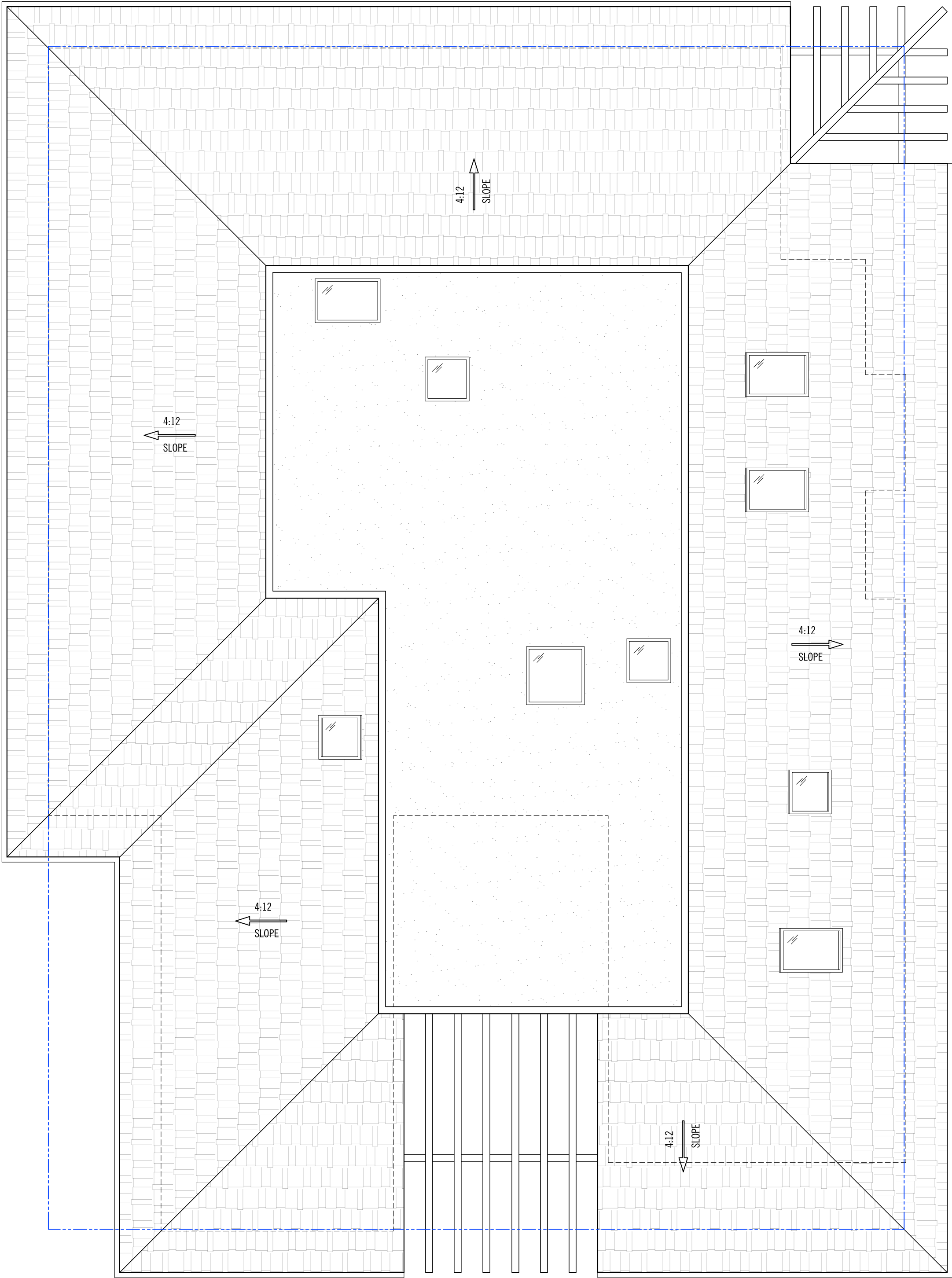
SCALE 1/4" = 1'-0"

REVISIONS

A7.2

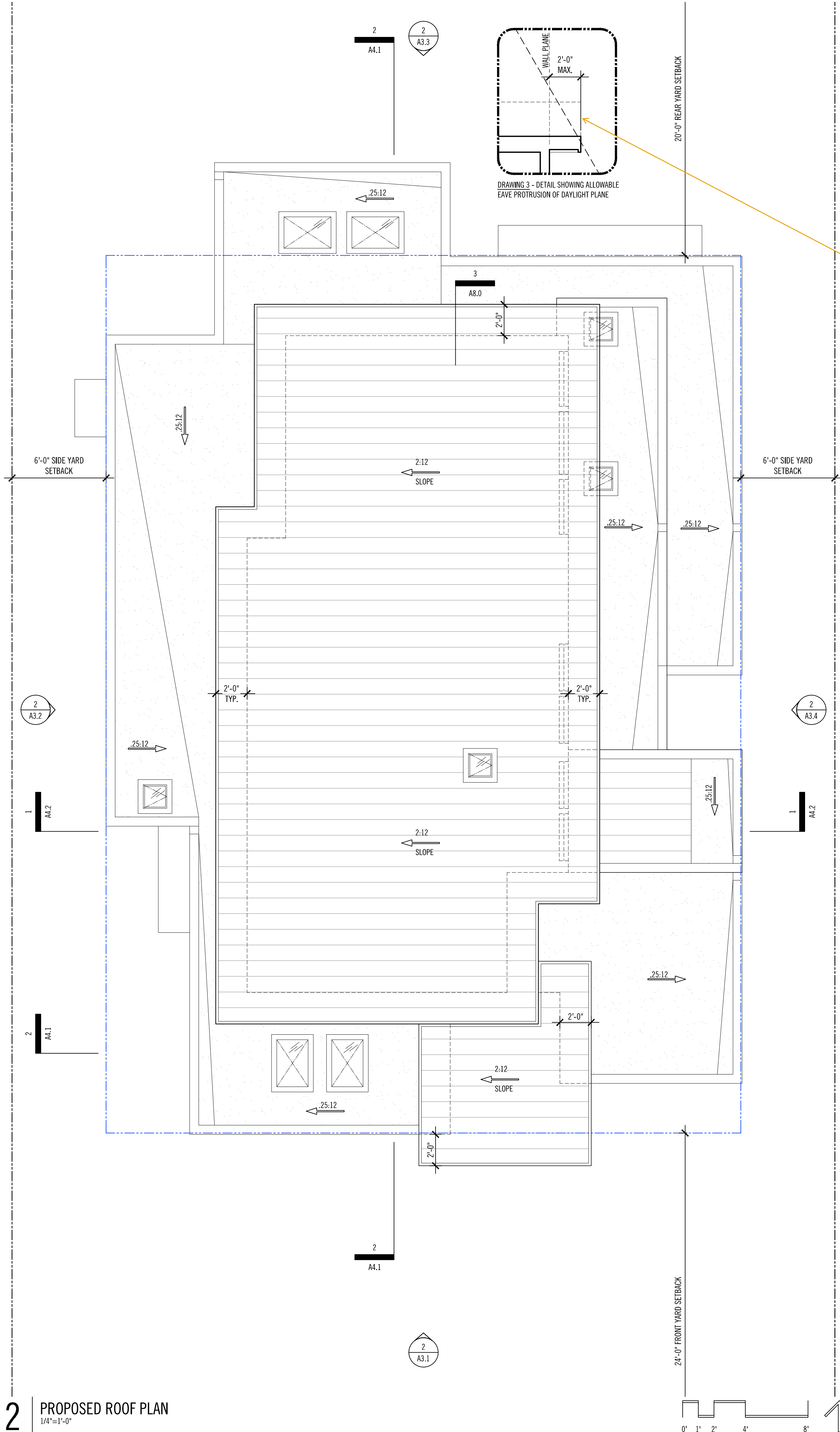
1

EXISTING ROOF PLAN
1/4"=1'-0"



2

PROPOSED ROOF PLAN
1/4"=1'-0"



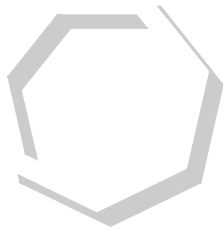
GENERAL NOTES

1. FLAT ROOFING TO SLOPE 1/4" PER FOOT (MIN.) CRICKET ROOF AND SKYLIGHTS TO DIRECT WATER TO SCUPPERS AND DOWNSPOUTS
2. GUTTERS AND DOWNSPOUTS WILL BE PAINTED
3. SLOPED ROOF STRUCTURE WILL BE ENGINEERED TO CARRY THE WEIGHT OF A (N) SOLAR PANEL ARRAY (NOT SHOWN)
4. OVERHANG OF EAVES AND DOOR AWNINGS IS 2'-0", UNLESS OTHERWISE NOTED.
5. SEE DRAWING 3 FOR DETAIL OF ALLOWABLE EAVE PROTRUSION OF REAR DAYLIGHT PLANE AT SECOND FLOOR

Clarify outline of drawing to identify top of roof and bottom of roof slope.

WALL TYPE LEGEND

- (E) WALL
- (N) WALL
- LINE OF DEMOLITION
- LINE ABOVE
- HIDDEN LINE



07 STUDIOS

1305 INDIANA STREET
SAN FRANCISCO CA 94107
415.890.4834
07STUDIOS.COM

DRAWN BY S FARRELL

DUNLAP
RESIDENCE

APN: 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

EXISTING & PROPOSED
ROOF PLANS

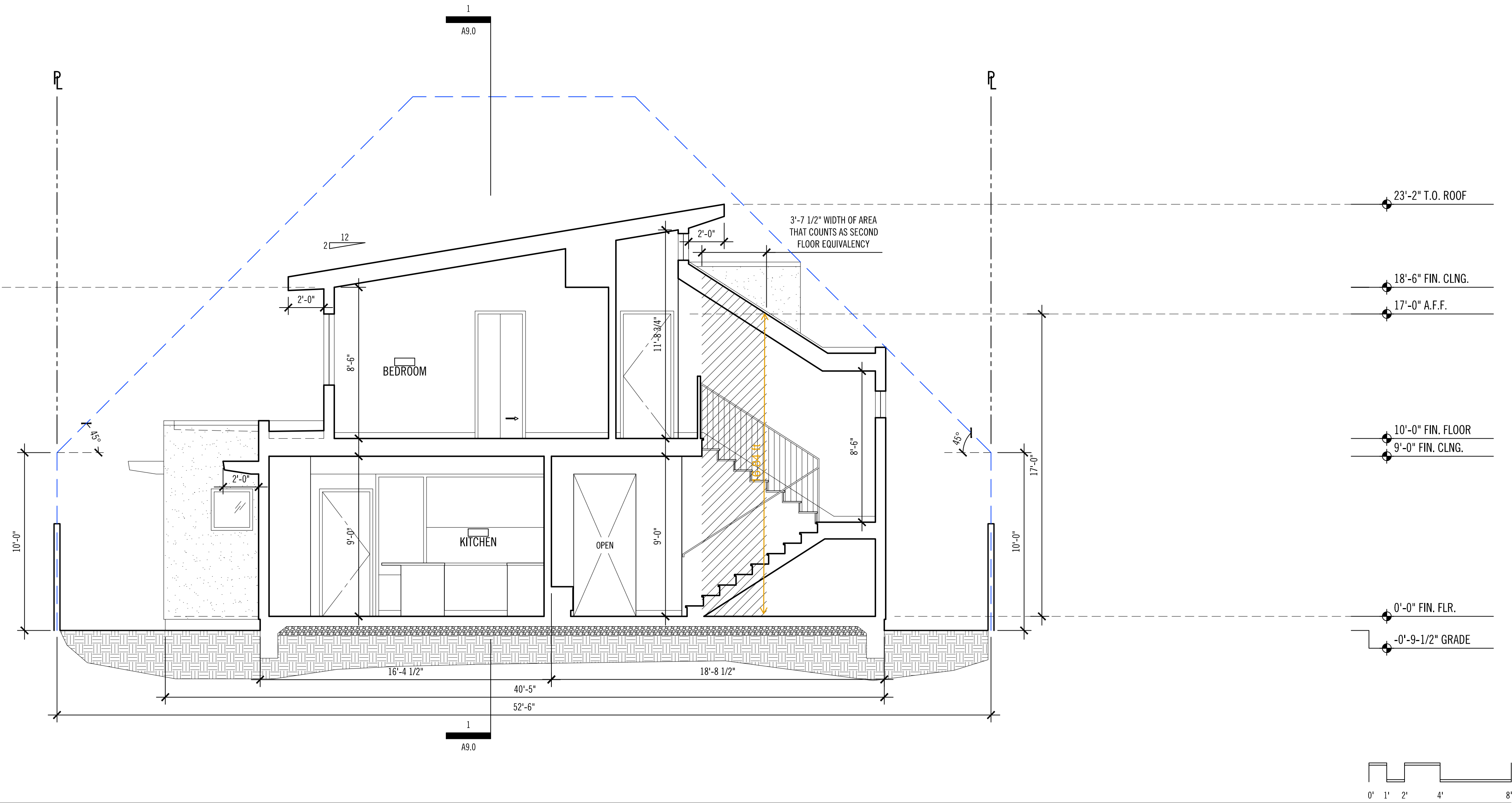
DATE 03 AUGUST 2020

SCALE 1/4" = 1'-0"

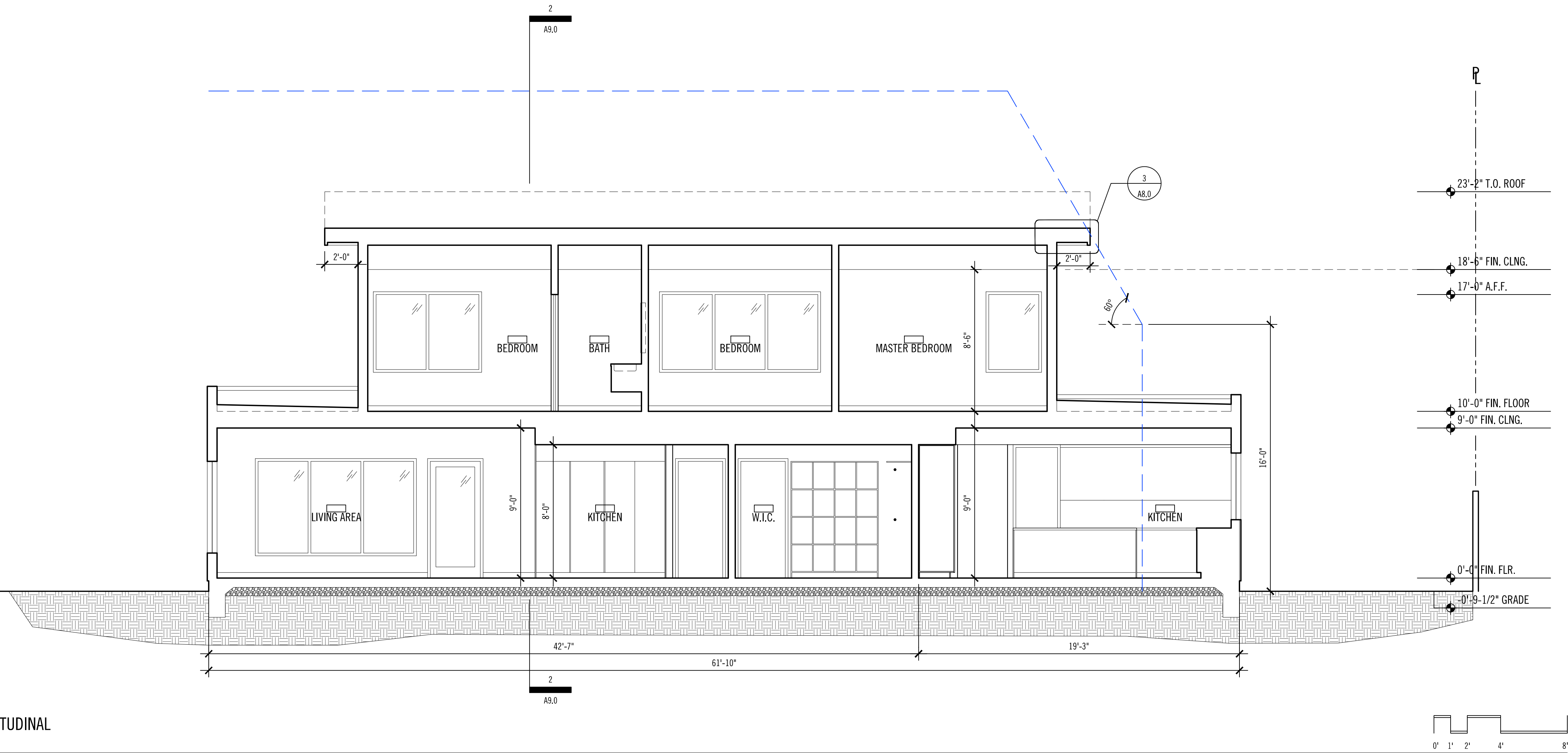
REVISIONS

A8.0

2 | PROPOSED BUILDING SECTION - TRANSVERSE
1/4"=1'-0"



1 | PROPOSED BUILDING SECTION - LONGITUDINAL
1/4"=1'-0"



GENERAL NOTES

- HATCHED AREA INDICATES FLOOR AREA AT THE NEW INTERIOR STAIR WHERE THE TOP OF THE ROOF IS MORE THAN 17'-0" ABOVE THE FINISHED FLOOR. THIS AREA IS CONSIDERED EQUIVALENT TO A SECOND FLOOR AND COUNTED TWICE. SEE FLOOR PLANS AND FLOOR AREA DIAGRAMS.



1305 INDIANA STREET
SAN FRANCISCO, CA 94107
415.880.4834
07STUDIOS.COM

DRAWN BY S. FARRELL

DUNLAP RESIDENCE

APN: 003-26-062

985 CHANNING AVENUE
PALO ALTO, CA 94301

INDIVIDUAL REVIEW

PROPOSED BUILDING SECTIONS

DATE 03 AUGUST 2020

SCALE 1/4" = 1'-0"

REVISIONS

A9.0

EXHIBIT 5

home landline 650 3267372

Sep 25, 2020, 10:27 AM

Hi David,

I am aware of all of this information, but I appreciate you sharing it with me. I have informed the applicant of the issue and am awaiting their response. To our understanding, there are means with which the applicant could remove the conditions of approval from the Parcel Map, but this would require City Council review. I am awaiting to see what the applicant chooses to do. If that were to occur, the City has established Guidelines for two-story homes since 1980 which we would review the project for. I have attached them to this email.

Best regards,



T: (650) 329-2471

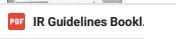
Development Center Business Hours: 9AM-4PM, M-F

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Subject: 985 Channing 20PLN-00192

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.



PDF IR Guidelines Bookl.

Reply

Forward

EXHIBIT 6

COVID-19 UPDATES:

We are continuing to provide services remotely including accepting Permit Pre-Applications Online. The Development Center is closed until further notice. Please call (650) 329-2496 for general questions or further assistance

 [Home](#) [Building](#) [Planning](#) [Fire](#) [Public Works](#) [Pre-Application](#)[Search Records](#)[Pay for IR Preliminary Meeting](#)

Record 20PLN-00192:

Planning - Entitlement

Record Status: Under Review

[Record Info](#) ▼[Payments](#) ▼

Click on **Record Info** tab above and select **Attachments** to view **project plans** and **related documents**

Select **Payments** tab above and select **Fees** to pay **application fees**

Processing Status



▶ Application Submittal

PCE Historic



▼ IR Guideline Review

Marked as **Routed** on 08/31/2020 by VAL PEREZ-IBARDOLASA-650-329-

Marked as **Rec Not Approved** on 09/22/2020 by ARNOLD MAMMARELLA-510-763-4332

Marked as **TBD** on **TBD** by **TBD**



▼ PCE Project Planner

Marked as **Routed** on 08/31/2020 by VAL PEREZ-IBARDOLASA-650-329-

Marked as **Notice of Incomplete Sent** on 09/25/2020 by GARRETT SAULS-650-329-2471

Public Hearings

Decision

Entitlement



City Hall

250 Hamilton Avenue
Palo Alto, CA 94301

General City Information
(650) 329-2100

From: [David Rogosa](#)
To: [Sauls, Garrett](#)
Subject: 985 Channing 20PLN-00192
Date: Friday, September 25, 2020 10:22:55 AM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

I am writing in response to the postcard notification regarding the proposed development project at 985 Channing.

I am the occupant/homeowner of the adjacent property, 991 Channing, since June 1980.

I have accessed the plans for 985 Channing indicated on your postcard notification.

I focus my remarks on the restrictions contained on the city/county Parcel Map for 991 Channing and 985 Channing dated May 8, 1980.

I have my original hardcopy from my purchase in June 1980; I understand that this Parcel Map can be accessed from current file.

To copy those restrictions here (all caps on the document)

PARCEL "B" [985 Channing] IS SUBJECT TO THE FOLLOWING CONDITIONS

- 1) NO SECOND STORY SHALL BE ALLOWED ON ANY STRUCTURE
- 2) NO VARIANCES, INCLUDING, BUT NOT LIMITED TO, FENCE EXCEPTIONS SHALL BE ALLOWED
- 3) THE HEIGHT LIMIT FOR ALL STRUCTURES SHALL BE 13 FEET

I played no role in the formulation of these restrictions (some history below).

My recollection is that there exist other documents indicating these restrictions (though I believe the height restriction may have been stated in other documents as 13ft 9inches).

A bit of history.

The original 991 Channing 11,000 square foot property and residence was put up for sale in 1979 (about) by Mitch Baras original owner.

Developer Bill Cox purchased the property and sought to divide it into two lots.

I do not have first hand knowledge, because I was still at University of Chicago, but my understanding is that strong neighborhood opposition to dividing the property led to the restrictions on 985 Channing reflected on the May 8, 1980 Parcel Map.

Others involved can speak directly to that process.

In May 1980 I was offered a faculty position at Stanford and became a potential home purchaser.

My first familiarity with these restrictions on 985 Channing was in June 1980 as a potential purchaser of the 6,000 square foot remaining 991 Channing property.

I was shown the plans for 985 Channing construction by the developers, with the height restriction.

The height restriction was critical in my decision to purchase this property.

As the 991 Channing residence was approximately centered on the full 11,000 square foot property, after the lot division the setbacks are minimal and a taller 985 Channing structure would have rendered purchase of 991 Channing not viable for me.

I can attest that over the years, various of the owners of 985 Channing have been aware (not from me) of the second story and height restriction.

At least once, an owner of 985 Channing did pursue a second story project (I believe it was mid-90's) and that initiative was quickly stopped

(I was not involved but other neighbors were) by invoking these restrictions.

In sum, I strongly oppose approval of the proposed development project, because the project greatly violates the restrictions on 985 Channing that have been in place for over 40 years.

Again, there is a reason that 985 Channing has remained a one-story structure for 40 years-- the height restriction,

which has been known to owners.

David Rogosa
owner/occupant of 991 Channing since June 1980

Contact info
David Rogosa
991 Channing Ave
Palo Alto 94301
rag@stanford.edu
home landline 650 3267372

From: [Bev Weager](#)
To: [Sauls, Garrett](#)
Subject: File Number: 20PLN-00192 for 985 Channing Avenue
Date: Wednesday, September 23, 2020 10:08:59 AM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hello Mr. Sauls,

It was nice of Ms. Jodie Gerhardt to introduce you and me via email on September 2. Her email was sent subsequent to my conversation with her that day. Jim and I looked at the documentation she sent us in that email. It was good to be brought up to speed with CPA's technical manual and IR guidelines. It helped to have them on hand when we received the Planning & Development Services proposal, of Sept 9, in the mail.

At the time I spoke to Ms. Gerhardt I expressed my concerns over the height restriction on that property. She explained the all of the city's project managers do thorough research on the full history of properties in question, and if there were restrictions they would find them. As you are the project manager for the file 20PLN-00192 we presume you are now, or will soon be, aware there is a height restriction of 13 feet 9 inches on the property at 985 Channing Avenue. That restriction dates back to 1980 when the property was created by subdividing the adjacent property at 991 Channing Avenue.

Should the project for 985 Channing Avenue go beyond the review application process, and if construction begins, it will violate the height restriction. It is a violation that we presume no party involved wishes to see happen.

Will you be so kind as to provide me a status update on the project at this time? The Individual Review Application is probably still in process, but if you might share with us any of your findings to date, it would be very much appreciated.

Thank you for your time, and we look forward to hearing from you.

Sincerely,

Bev and Jim Weager
975 Channing Avenue
Palo Alto, CA 94301

From: [Bev Weager](#)
To: [Sauls, Garrett](#)
Subject: Fw: File Number: 20PLN-00192 for 985 Channing Avenue
Date: Thursday, September 24, 2020 5:08:50 PM
Attachments: [991 Channing Avenue - Subdivision Map with Conditions.pdf](#)
[IR Guidelines Booklet.pdf](#)

Hello Mr. Sauls,

I do not understand how an application for another subdivision would change a height restriction. I read through the guidelines but see no reference to subdividing. But I will trust what you say.

If the applicant does take these measures I would appreciate being informed as soon as possible. Communicating with the City Council prior to their review, or attending the meeting in which they make the review, is something we would be interesting in doing.

Your continued communication is greatly appreciated.

Kind regards,
Bev Weager

----- Forwarded Message -----

From: Sauls, Garrett <garrett.sauls@cityofpaloalto.org>
To: busybev@yahoo.com <busybev@yahoo.com>
Sent: Thursday, September 24, 2020, 03:35:37 PM PDT
Subject: RE: File Number: 20PLN-00192 for 985 Channing Avenue

Hi Bev and Jim,

Looking at the history for the site, I was able to find the previous Parcel Map that you were referring too. It is our understanding that the height restriction is indeed enforceable, but the applicant could seek to remove them through applying for another Subdivision application. Staff would raise this application to a City Council level of review for them to decide whether to keep the conditions from the previous application. If Council removed them, the City has established additional measures since 1980 to limit the impacts of second story properties through the IR Guideline and we would review the application through those requirements. I have attached those here for your review.

If you have any questions, please let me know.

Best regards,

Garrett Sauls | Associate Planner | Planning and Development Services
Development Center 285 Hamilton Avenue Palo Alto CA 94301

E: garrett.sauls@cityofpaloalto.org

T: (650) 329-2471

Development Center Business Hours: 9AM-4PM, M-F

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Permit Tracking – Public Access

-----Original Message-----

From: Bev Weager <busybev@yahoo.com>

Sent: Wednesday, September 23, 2020 10:09 AM

To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>

Subject: File Number: 20PLN-00192 for 985 Channing Avenue

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hello Mr. Sauls,

It was nice of Ms. Jodie Gerhardt to introduce you and me via email on September 2. Her email was sent subsequent to my conversation with her that day. Jim and I looked at the documentation she sent us in that email. It was good to be brought up to speed with CPA's technical manual and IR guidelines. It helped to have them on hand when we received the Planning & Development Services proposal, of Sept 9, in the mail.

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Will you be so kind as to provide me a status update on the project at this time? The Individual Review Application is probably still in process, but if you might share with us any of your findings to date, it would be very much appreciated.

Thank you for your time, and we look forward to hearing from you.

Sincerely,

Bev and Jim Weager
975 Channing Avenue
Palo Alto, CA 94301

From: [Riedell, Roxana](#)
To: [arnold](#); [Thurman, Christina](#); [loftusdjl1@aol.com](#)
Cc: [ragxdrr@gmail.com](#); [Acheson, Jennifer E.](#); [Sauls, Garrett](#)
Subject: FW: Project at 985 Channing Avenue
Date: Wednesday, December 30, 2020 5:00:56 PM
Attachments: [image001.png](#)
[12-30-20 Ltr to Garrett Sauls.pdf](#)

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Attached is a copy of Ms. Acheson's December 30, 2020, letter to Mr. Sauls.

Roxana Riedell
Office Manager
ROPERS MAJESKI PC
(650) 780-1607

From: Riedell, Roxana
Sent: Wednesday, December 30, 2020 4:46 PM
To: 'Garrett.Sauls@CityofPaloAlto.org' <Garrett.Sauls@CityofPaloAlto.org>
Cc: Acheson, Jennifer E. <jennifer.acheson@ropers.com>
Subject: Project at 985 Channing Avenue

Attached please find Jennifer E. Acheson's letter dated December 30, 2020.

Roxana Riedell
Office Manager
Assistant to Jennifer E. Acheson
ROPERS MAJESKI PC
1001 Marshall Street, 5th Floor
Redwood City, CA 94063
d (650) 780-1607
roxana.riedell@ropers.com

ROPERS
MAJESKI

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February 9, 2021

Re: Project 20PLN-00192

Hello Mr. Sauls,

We have been thinking about the proposed project at 985 Channing Ave. Jim and I want to go on record as being strongly against the remodel. The addition of a 2nd story to that home will create a roofline higher than the limit allowed per the current restrictions placed on the home.

In 1980, when that home was built, it was placed on a subdivided property (reference 991 Channing Ave). At that time we petitioned for restrictions as the build was certainly going to become an encroachment on the adjacent properties, long-time established homes, and impose on the living conditions of those residents.

The homes on the adjacent properties were built in the 1930's, 1940's and 1950's. Their age and charm are complementary to the neighborhood. If the remodel of 985 Channing Avenue moves forward it will take away the identity of our community. During the recent virtual Palo Alto City Council annual retreat, when a council member was expressing his goals for the year he said we "don't want to lose the identity of our community."

Actually, during that retreat, we also heard councilmembers (Tanaka, Kuo and Stone to name only a few) state they should strive to assure Palo Alto remains a great place to live, and to preserve the quality of life for all. You already know preserving the character of Palo Alto neighborhoods is also one of the first items noted in the city's Single-Family Individual Review Guidelines. Jim and I agree with all of that said and published, thus our strong opposition to the remodel proposed to 985 Channing. We will continue to stand by our belief the restrictions that have been placed and upheld in the past should continue to hold steady and strong.

By the way, that (listening to the residents) is one of the messages that was strong during the City Council retreat and we feel they will pay attention to our solid stand on this matter.

Regards,

Bev and Jim Weager
975 Channing Ave
Palo Alto, CA 94301

From: [Bev Weager](#)
To: [Sauls, Garrett](#)
Cc: [Jim Weager](#)
Subject: Project 20PLN-00192
Date: Tuesday, February 9, 2021 12:24:26 PM
Attachments: [Letter to Garrett Sauls.docx](#)

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Hi again Garrett,

Jim and I have been mulling over the project next door to us (at 985 Channing Av). We felt it time to send a letter to you stating our feelings. Feel free to reply with your thoughts, if you like. We will continue to stay in touch with you.

Regards,
Bev and Jim Weager

From: loftusdjl1@aol.com
To: [Sauls, Garrett](#)
Subject: Re: 985 Channing Avenue - 20PLN-00192
Date: Monday, September 21, 2020 9:23:22 AM

Hi Garrett,
Thanks for getting back to me. Yes, I'll definitely keep you posted.
Have a good day and a good work week.
Cheers,
David

Sent from my iPhone

On Sep 21, 2020, at 8:59 AM, Sauls, Garrett <Garrett.Sauls@cityofpaloalto.org> wrote:

Hi David,

Thank you for sharing this with me. It would be interesting to see what you are able to find, could you pass it along once you have it? From my understanding, this lot is not within a single story overlay, nor is it substandard for the purposes of determining zoning compliance. Currently, those are the two City imposed limits to height and having a second floor. From what I've experienced, Covenants established separate from City regulations/ordinance are not ones that the City imposes or are responsible for imposing.

If you have any questions on the project otherwise, please let me know.

Best regards,

<image001.jpg> Garrett Sauls | Associate Planner | Planning and Development Services
Development Center 285 Hamilton Avenue Palo Alto CA 94301
E: garrett.sauls@cityofpaloalto.org
T: (650) 329-2471
Development Center Business Hours: 9AM-4PM, M-F
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Thank you!*
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From: David Loftus <loftusdjl1@aol.com>
Sent: Thursday, September 17, 2020 7:21 PM

To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>

Subject: 985 Channing Avenue - 20PLN-00192

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Dear Garrett,

Thanks for sending the post card notifying us of the proposed development project at 985 Channing Avenue (which is adjacent to our house).

We have reviewed the project information online.

It seems that the individual who has proposed this project is not aware of the fact that there is a **height restriction of 13 feet 9 inches** on this property, dating back to 1980, when the property was created by subdivision of the adjacent property at 991 Channing Avenue. The plans for a second story at 985 Channing Avenue violate this height restriction.

We believe that the height restriction is recorded with the County of Santa Clara. We have requested any and all documentation from the County of Santa Clara regarding the height restriction and we are waiting to hear back from them. It may take a while, since the County of Santa Clara procedures are disrupted due to the COVID-19 pandemic.

Thanks for your attention to this matter.

Sincerely,

David and Juanita Loftus
911 Lincoln Avenue
Palo Alto

From: [Bev Weager](#)
To: [Gerhardt, Jodie](#)
Cc: [Sauls, Garrett](#)
Subject: Re: 985 Channing
Date: Thursday, September 3, 2020 4:28:58 PM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hi Jodie,

I received both of your email messages. Thank you for sending them to me. I will review the documents and I look forward to hearing from Garrett regarding his analysis.

Thank you both for your time.

Kind Regards,
Bev (and Jim) Weager
975 Channing
650-400-8334

On Wednesday, September 2, 2020, 02:48:48 PM PDT, Gerhardt, Jodie
<jodie.gerhardt@cityofpaloalto.org> wrote:

Beverly,

I also wanted to let you know that staff will be reviewing this project for conformance with the R-1 Zoning standards and the City Individual Review (IR) Guidelines. I have attached these documents for your information:

R-1 Technical Manual – <https://www.cityofpaloalto.org/civicax/filebank/documents/8569>

IR Guidelines - <https://www.cityofpaloalto.org/civicax/filebank/documents/6479>

Sincerely,



Jodie Gerhardt, AICP | Manager of Current Planning | PDS
Department
250 Hamilton Avenue | Palo Alto, CA 94301
T: 650.329.2575 | E: jodie.gerhardt@cityofpaloalto.org

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The City of Palo Alto is doing its part to reduce the spread of COVID-19. We have successfully transitioned most of our employees to a remote work environment. We remain available to you via email, phone, and virtual meetings during our normal business hours.

From: Gerhardt, Jodie
Sent: Wednesday, September 2, 2020 2:40 PM
To: busybev@yahoo.com
Cc: Sauls, Garrett (Garrett.Sauls@CityofPaloAlto.org) <Garrett.Sauls@CityofPaloAlto.org>
Subject: 985 Channing

Beverly,

As we discussed, Garrett is the project planner for 20PLN-00192, which is the renovation of an existing home next to you. This application was officially submitted on August 31st. During the first 30 days of any project, staff will do an initial analysis. As you suggested and given this is a renovation project, Garrett will research the history of this property (as well as 991 Channing). Once our analysis is complete, Garrett can send you a copy and will keep you informed when revisions are submitted.

Please let him know if you have any additional questions.

Sincerely,



Jodie Gerhardt, AICP | Manager of Current Planning | PDS
Department
250 Hamilton Avenue | Palo Alto, CA 94301
T: 650.329.2575 | E: jodie.gerhardt@cityofpaloalto.org

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transitioned most of our employees to a remote work environment. We remain available to you via email, phone, and virtual meetings during our normal business hours.

From: [Bev Weager](#)
To: [Sauls, Garrett](#)
Subject: Re: File Number: 20PLN-00192 for 985 Channing Avenue
Date: Monday, October 19, 2020 8:31:33 AM

Thank you, Garrett.
Bev

[Sent from Yahoo Mail for iPad](#)

On Monday, October 19, 2020, 8:29 AM, Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org> wrote:

Hi Bev,

The applicant is still weighing their options at this moment. They haven't told me which way they intend to pursue.



Garrett Sauls | Associate Planner | Planning and Development Services

Development Center 285 Hamilton Avenue Palo Alto CA 94301

E: garrett.sauls@cityofpaloalto.org

T: (650) 329-2471

Development Center Business Hours: 9AM-4PM, M-F

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From: Bev Weager <busybev@yahoo.com>
Sent: Friday, October 16, 2020 12:24 PM
To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>
Cc: busybev@yahoo.com
Subject: Re: File Number: 20PLN-00192 for 985 Channing Avenue

Hello,

You may not have received my October 8 voice mail. I was calling to find out current status on File Number: 20PLN-00192 for 985 Channing Avenue. Will you please reply to this message with an update. I would appreciate knowing where the application is at this time.

Kind regards,

Bev Weager

On Thursday, September 24, 2020, 03:35:37 PM PDT, Sauls, Garrett
<garrett.sauls@cityofpaloalto.org> wrote:

Hi Bev and Jim,

Looking at the history for the site, I was able to find the previous Parcel Map that you were referring too. It is our understanding that the height restriction is indeed enforceable, but the applicant could seek to remove them through applying for another Subdivision application. Staff would raise this application to a City Council level of review for them to decide whether to keep the conditions from the previous application. If Council removed them, the City has established additional measures since 1980 to limit the impacts of second story properties through the IR Guideline and we would review the application through those requirements. I have attached those here for your review.

If you have any questions, please let me know.

Best regards,

Garrett Sauls | Associate Planner | Planning and Development Services
Development Center 285 Hamilton Avenue Palo Alto CA 94301

E: garrett.sauls@cityofpaloalto.org

T: (650) 329-2471

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-----Original Message-----

From: Bev Weager <busybev@yahoo.com>

Sent: Wednesday, September 23, 2020 10:09 AM

To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>
Subject: File Number: 20PLN-00192 for 985 Channing Avenue

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hello Mr. Sauls,

It was nice of Ms. Jodie Gerhardt to introduce you and me via email on September 2. Her email was sent subsequent to my conversation with her that day. Jim and I looked at the documentation she sent us in that email. It was good to be brought up to speed with CPA's technical manual and IR guidelines. It helped to have them on hand when we received the Planning & Development Services proposal, of Sept 9, in the mail.

At the time I spoke to Ms. Gerhardt I expressed my concerns over the height restriction on that property. She explained the all of the city's project managers do thorough research on the full history of properties in question, and if there were restrictions they would find them. As you are the project manager for the file 20PLN-00192 we presume you are now, or will soon be, aware there is a height restriction of 13 feet 9 inches on the property at 985 Channing Avenue. That restriction dates back to 1980 when the property was created by subdividing the adjacent property at 991 Channing Avenue.

Should the project for 985 Channing Avenue go beyond the review application process, and if construction begins, it will violate the height restriction. It is a violation that we presume no party involved wishes to see happen.

Will you be so kind as to provide me a status update on the project at this time? The Individual Review Application is probably still in process, but if you might share with us any of your findings to date, it would be very much appreciated.

Thank you for your time, and we look forward to hearing from you.

Sincerely,

Bev and Jim Weager
975 Channing Avenue
Palo Alto, CA 94301

From: [David Loftus](#)
To: [Sauls, Garrett](#)
Subject: Re: Proposed Development Project at 985 Channing Avenue (20PLN-00192)
Date: Friday, January 29, 2021 3:38:11 PM

Hi Garrett,

Thanks for your quick response.

I appreciate the information.

Thanks in advance for keeping me posted.

David Loftus

-----Original Message-----

From: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>
To: David Loftus <loftusdjl1@aol.com>
Sent: Fri, Jan 29, 2021 3:23 pm
Subject: RE: Proposed Development Project at 985 Channing Avenue (20PLN-00192)

Hi David,

Thank you for reaching out. I appreciate your continued interest in this project since you originally reached out back in September of last year and I am aware of the issues that you note. At the moment, the applicant is weighing what they want to do. There is a process afforded to them to remove the height limitation which includes a Preliminary Parcel Map application that is noticed to neighbors. Given the previous decision by City Council to enact this restriction, staff will elevate the decision to PTC and Council to decide if the applicant chooses to proceed down that route. However, they have not identified if they will continue with the project or withdraw it. I have not heard from them since last November. Once I do hear back from them, I'll let you know what they anticipate doing.

Best regards,



Garrett Sauls | Associate Planner | Planning and Development Services
Development Center 285 Hamilton Avenue Palo Alto CA 94301

E: garrett.sauls@cityofpaloalto.org

T: (650) 329-2471

Development Center Business Hours: 9AM-4PM, M-F

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From: David Loftus <loftusdjl1@aol.com>
Sent: Friday, January 29, 2021 3:05 PM
To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>

Subject: Proposed Development Project at 985 Channing Avenue (20PLN-00192)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Dear Mr. Sauls:

We are contacting you about the above referenced proposal at 985 Channing Avenue, to express our vigorous opposition to the project.

What has been proposed, in essence, is a comprehensive remodel of the home involving the construction of a second story that would be in clear violation of the existing parcel map restrictions that *prohibit a second story, prohibit variances and limit the height of any built structure to no more than 13 feet.*

The parcel map restrictions were established in 1980, when 985 Channing Avenue was created by subdividing 991 Channing Avenue. These legally recorded restrictions protect the surrounding property owners from overbuilding at 985 Channing. These restrictions are sensible, since the creation of 985 Channing resulted in a new home being “squeezed in” among well-established existing homes. 991 Channing was built in 1948. 975 Channing Avenue was built in 1950. 911 Lincoln Avenue was built in 1934. Further enlargement of the 1-story house at 985 Channing Avenue would result in privacy impacts and visual impacts to these surrounding homes that are unwanted.

The parcel map restrictions have been upheld in the past, when a previous owner of 985 Channing Avenue proposed a second story addition. We expect the City of Palo Alto to continue to abide by the parcel map restrictions at 985 Channing Avenue.

Please be advised that we are prepared to hire a lawyer, to protect our interests in this matter, if the above referenced development proposal is not withdrawn by the applicant or rejected by the City of Palo Alto.

Very truly yours,

David and Juanita Loftus
911 Lincoln Avenue
-->

From: [Bev Weager](#)
To: [Sauls, Garrett](#)
Subject: Re: Status on File #20PLN-00192, 985 Channing Ave
Date: Tuesday, January 19, 2021 9:29:37 AM

Thanks for the info. I may check back with you again in 2-3 months.

Regards,

Bev

[Sent from Yahoo Mail for iPad](#)

On Tuesday, January 19, 2021, 8:30 AM, Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org> wrote:

Hi Bev,

I haven't had correspondence with the applicant since last November. At that time, they had just reached out to inquire about the submittal requirements for a Preliminary Parcel Map application. To that extent, I can only guess that they are interested in pursuing this process, but that's just a guess at this point given that they asked about what is needed to submit to us. Whenever a project like that comes in, there is a noticing requirement on initial submittal, and when this one would get elevated to PTC/Council, staff will additionally notice the application so that the public can provide input on it and attend the meeting.

Best regards,



Garrett Sauls | Associate Planner | Planning and Development Services

Development Center 285 Hamilton Avenue Palo Alto CA 94301

E: garrett.sauls@cityofpaloalto.org

T: (650) 329-2471

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From: Bev Weager <busybev@yahoo.com>
Sent: Sunday, January 17, 2021 4:20 PM
To: Sauls, Garrett <Garrett.Sauls@CityofPaloAlto.org>
Cc: Bev yahoo Weager <busybev@yahoo.com>
Subject: Status on File #20PLN-00192, 985 Channing Ave

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Hello Mr. Sauls.

It has been some time since I checked in with you about the status on the proposed project which was submitted in August of last year.

Might you provide me with a update? Has the permit been approved? Has the project been submitted to City Council? What are the next steps the owner plans to take (if you can tell me)?

Sincerely,

Bev Weager

975 Channing Ave

650-400-8334