ZONING ADJUSTMENTS BOARD

STAFF REPORT

FOR BOARD ACTION
JANUARY 13, 2022

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

I. Background

A. Land Use Designations:

- General Plan: LDR - Low Density Residential
- Zoning: R-1(H) - Single-Family Residential District, Hillside Overlay

B. Zoning Permits Required:

- Administrative Use Permit (AUP) to construct accessory buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

C. CEQA Recommendation:

It is staff's recommendation that the project is categorically exempt pursuant to Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by Zoning Adjustments Board (ZAB).

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

A. Parties Involved:

- Applicant & Property Owner: Jeana Arabzadeh & Matt Jacobs,
  1151 Grizzly Peak Boulevard, Berkeley

Figure 1: Vicinity Map

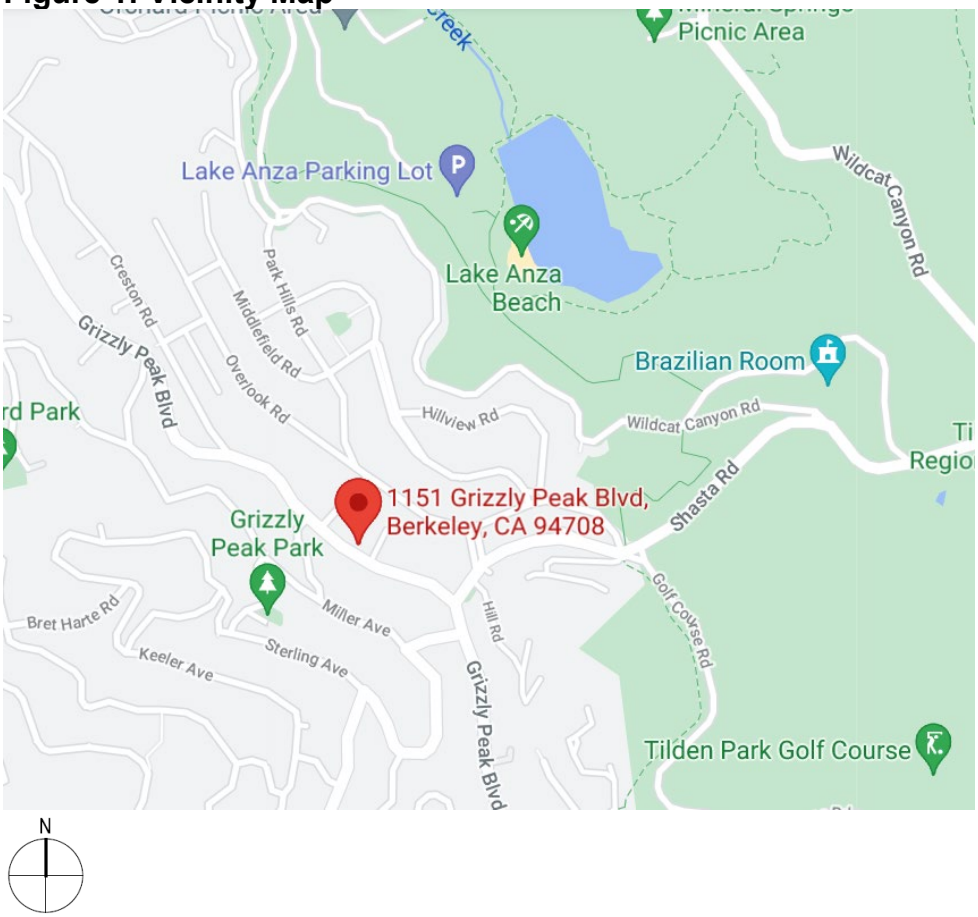


Figure 2: Area Map

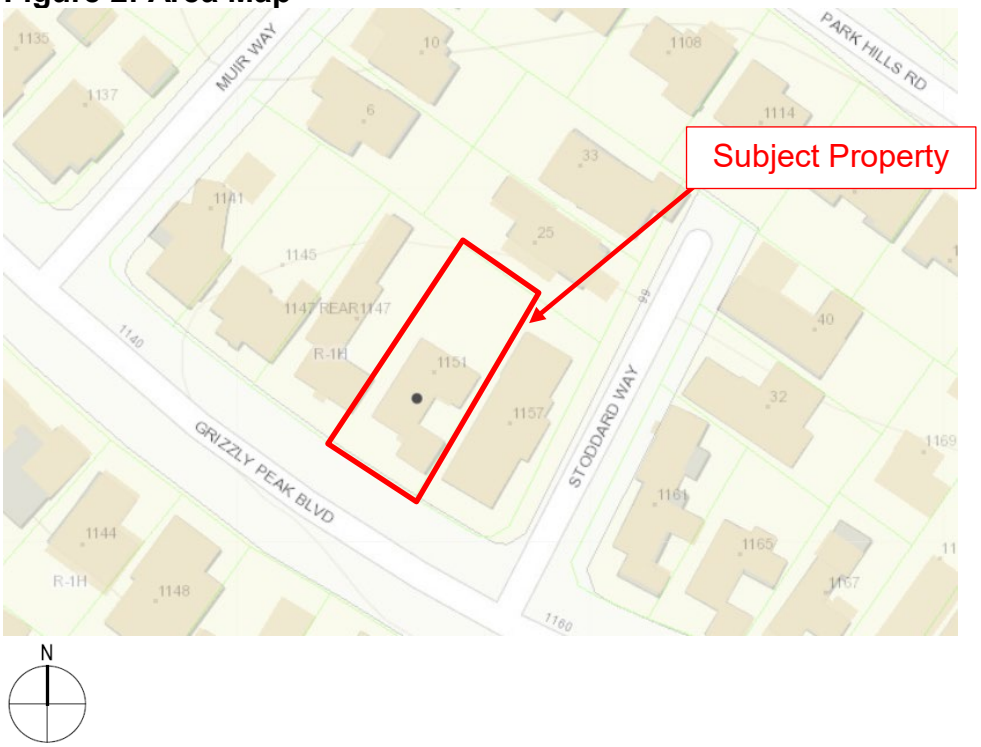


Figure 3: Site Plan – revised site plan

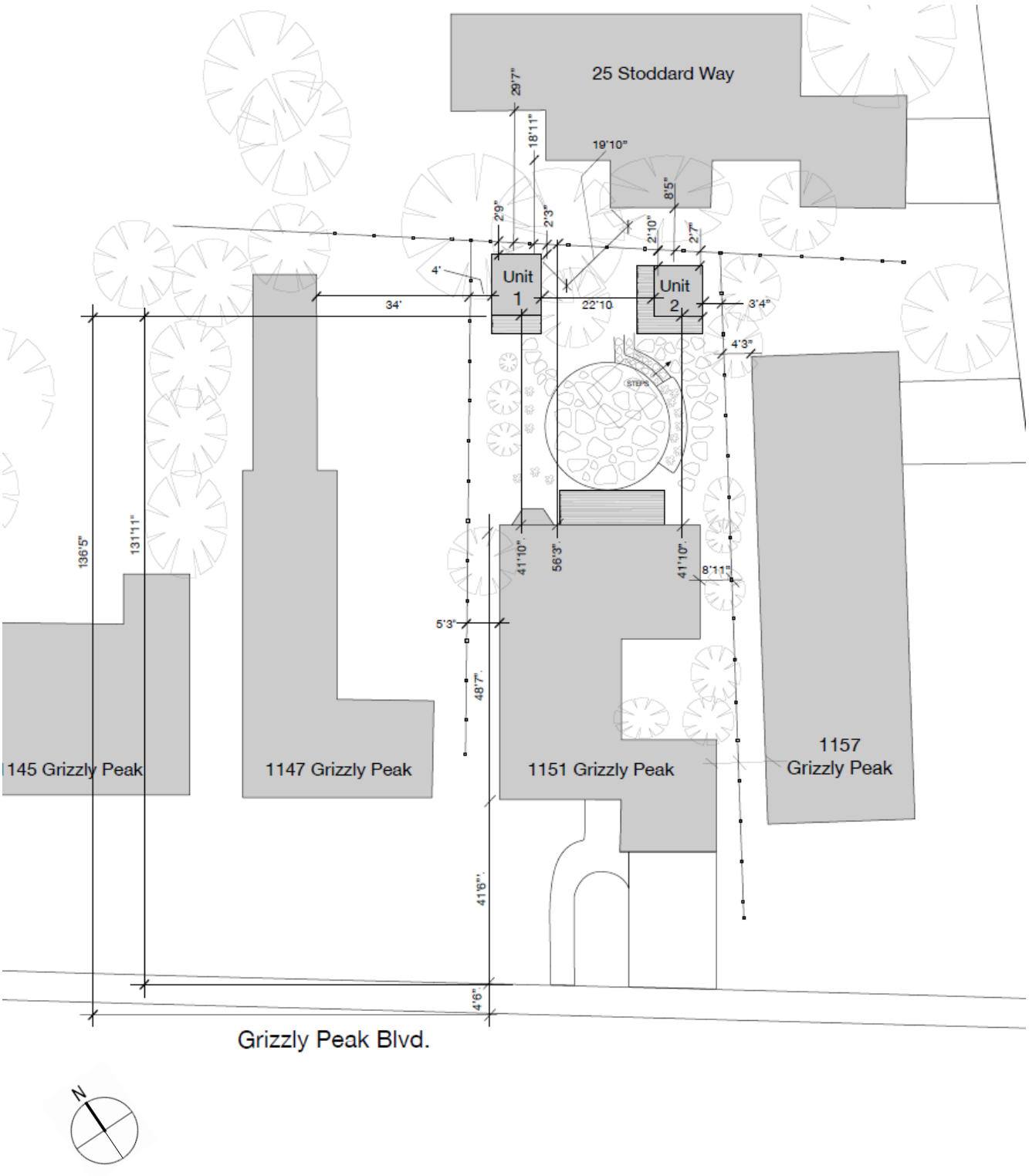


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	R-1(H)	LDR, Low Density Residential
Surrounding Properties	North	Single-Family Dwellings	R-1(H)	LDR, Low Density Residential
	South			
	East			
	West			

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	The project would not include non-residential floor area and therefore the Affordable Housing and Childcare Mitigation Fees do not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	This fee applies to projects that involve five or more dwelling units on the same lot. The applicant does not propose to create any new dwelling units, and thus is not subject to the Affordable Housing Mitigation Fee.
Creeks	No	There are no creeks on the site.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This project includes the legalization of two new accessory buildings, however, natural gas is not proposed.
Historic Resources	No	There are no historic resources on the site.
Oak Trees	No	There are no Oak Trees on the project site.
Seismic Hazards (SHMA)	No	The site not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	There is no history of contamination on the project site and is not located within the City's Environmental Management Area, and is a not on a state Cortese List.

Table 3: Project Chronology

Date	Action
June 23, 2021	Application fees paid and deemed submitted
July 23, 2021	Application deemed complete
August 26, 2021	Public hearing notices mailed/posted
September 9, 2021	ZAB hearing, item continued
November 13, 2021	SEEDS meeting
November 29, 2021	Applicant resubmittal
December 9, 2021	Item continued
January 13, 2022	ZAB hearing

Table 4: Development Standards

Standard BMC Sections 23D.16.070-080; 23E.96.070-080; 23D.08.020; and 23.08.030		Existing	Proposed (Total)	Permitted/Required
Lot				
Lot Area (sq. ft.)		7,315	No Change	5,000 min
Gross Floor Area (sq. ft.)		1,713	1,936 (+223)	n/a
Dwelling Units		1	1	1 max
Lot Coverage (%)		23.4	26.5	40% max
Usable Open Space (sq. ft.)		> 400	> 400	400 sq. ft. min
Parking (Automobile)		2	No Change	1 min
Accessory Building #1 (ceramics studio)				
Average Building Height		-	9’ 8”	10’ max. (may be exceeded w/ AUP per 23D.08.010.B)
Building Setbacks	Front	-	> 130’	75’ min. (may be decreased w/ AUP per 23D.08.010.B)
	Rear	-	2’ 6”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Left Side	-	4’ 1”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Right Side	-	> 36’	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
Accessory Building #2 (home office and exercise space)				
Average Building Height		-	9’5”	10’ max. (may be exceeded w/ AUP per 23D.08.010.B)
Building Setbacks	Front	-	> 130’	75’ min (may be decreased w/ AUP per 23D.08.010.B)
	Rear	-	2’ 8”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Left Side	-	> 36’	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Right Side	-	3’ 4”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)

II. Project Setting

A. Neighborhood/Area Description: The project site is in the North Berkeley hills in an area that is a mix of one-, two-, and three-story single-family dwellings. Lots in the neighborhood are generally rectangular with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards towards the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain and limited availability of on-street parking, the dwellings in the neighborhood tend to include attached one- or two-car garages within front yards

B. Site Conditions: The project site is generally rectangular, with its front property line along Grizzly Peak Boulevard, and is approximately 55 feet in width and approximately 142 feet in depth. The site slopes slightly upward from Grizzly Peak Boulevard to the rear of the property. There are no protected oak trees on the site. The lot conforms to the development standards for the zoning district, including density, height, yards, lot coverage, and useable open space.

III. Project Description and Background

A. Project Description: The applicants are proposing to legalize two new detached Accessory Buildings in the rear yard that were fabricated off-site and installed without receiving the applicable use permit and Zoning approval. The applicants were invoiced double fees as the request is to legalize Accessory Buildings constructed without permits.

The Accessory Buildings would be used as a ceramics studio, and a home office and exercise space for the owner-occupants of the residence. Because the project originated as a Code Enforcement case to legalize these buildings and the neighbor to the rear of the subject property (25 Stoddard Way) raised concerns about the project, Land Use staff preemptively referred this AUP request to the Zoning Adjustments Board on September 29, 2021.

B. Project Background: In May 2021, the applicants installed two pre-fabricated custom-built Accessory Buildings within the rear yard of the subject property. Accessory Building #1 is 120 square feet in area, used as a ceramics studio and is located on the northeast corner of the rear yard of the property. Accessory Building #2 is 103 square feet in area, used as a home office and exercise space and is located on the southeast corner of the rear yard. The applicants stated that they installed both pre-fabricated buildings following the closure of their previously used ceramics studio, workplace office and gym in Berkeley due to the COVID-19 Pandemic.

A neighbor contacted the City regarding the installation of the Accessory Buildings on the subject lot. Code Enforcement staff investigated the subject property in March 2021 and found that the structures are *habitable,* and therefore considered to be Accessory Buildings.

BMC Section 23F (Definitions) differentiates between *Accessory Buildings* and *Accessory Structures*, based on the use of the structure and whether it is considered

habitable or non-habitable space:

> **Accessory Building:** A detached building containing habitable space, which is smaller in size than the main building on the same lot, and the use of which is incidental to the primary use of the lot.
>
> **Accessory Structure:** A detached structure, other than an Accessory Building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential Accessory Structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential Accessory Structures may include, but are not limited to, storage buildings, garages, sheds and other outbuildings.

Accessory Buildings, regardless of whether they meet the standards for size, location, and height, require zoning review and AUP approval[1], while Accessory Structures meeting those same standards are allowed outright. Based on the determination that these were Accessory Buildings, Code Enforcement staff directed the Applicants to submit an AUP to the Land Use Division. An application was submitted and accepted in June 2021.

In researching the project, Land Use staff found that the applicants had requested information from the Zoning Counter in August 2020 regarding the installation and construction of Accessory *Structures*, each under 120 square feet in area, and were directed to review and follow the development standards for Accessory Buildings and Structures in residential districts (BMC Sections 23D.08.020-030). However, it was not clear that the applicants were intending to install *habitable* structures that would meet the land use definition for Accessory *Buildings*, and the applicants were not informed that the issuance of an AUP by the Zoning Officer would be required to proceed.

The applicant is not requesting any additional AUP's to exceed the stated development standards of the Accessory Buildings and Structures. Additionally, as the subject property is not non-confirming due to lot coverage or density, a Use Permit application is not required.

C. Additional information: At the September 9, 2021 ZAB meeting, staff presented the proposed project followed by the applicant's presentation. After the ZAB heard public comment and discussed the project, and the item was continued to the December 9, 2021 hearing. The Board directed the applicant and neighbor at 25 Stoddard Way to meet with a mediator to find a resolution to the issues discussed during public comment. The Board also directed the applicant to provide clarification of the relationship of the accessory buildings with the neighboring property and submit revised plans. Following the ZAB hearing on September 9, 2021 the applicants reached out to SEEDS to schedule a meeting and met with their neighbor, Joan Wager, who resides at 25 Stoddard Way at her residence, and they met on September 25, 2021. The applicants also consulted with an architect regarding potential

[1] Additional AUPs may be granted to exceed these standards pursuant to BMC 23.08.010.B.

alterations to the buildings (see Attachment 2). Additionally, they visited lumber and paint stores to consider aesthetic changes such as a fence and painting the roof.

The applicant scheduled two meetings with SEEDS which were both canceled by SEEDS. The third scheduled meeting took place on November 13, 2021. Staff received updated materials and plans from the applicant on November 29, 2021 (see Attachment 2).

Following the November 13th 2021 SEEDS meeting, the applicants presented proposed adjustments to help improve the aesthetics of the buildings that face Joan Wager's property at 25 Stoddard Way. The applicants discussed the potential of constructing a fence, painting the roof of one of the buildings to decrease glare; Ms. Wager did not agree to these changes. The applicant statement includes an option of planting additional landscaping to improve their neighbors view. According to the revised applicant statement submitted on November 19, 2021, no additional changes to the buildings are proposed. The revised applicant statement includes photos and a revised site plan (see Figure 3 above) which shows the subject property and neighboring property at 25 Stoddard Way more accurately per the ZAB's request.

IV. Community Discussion

A. Neighbor/Community Concerns: On August 26, 2021, the City mailed 126 public hearing notices for the September 9, 2021 Zoning Adjustments Board (ZAB) meeting to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. Between the date of the public hearing notice and the hearing, staff had received one email communication regarding the project from the property owner of the property to the rear located at 25 Stoddard Way, and 12 additional email communications from other neighbors were included as supplemental to ZAB on September 9, 2021 (See Attachment 4).

After the September 9, 2021 ZAB hearing and the date of writing this report, staff received a revised applicant statement and plans from the applicant (See Attachment 2) as well as an additional correspondence from Rena Rickles on behalf of Joan Wager of 25 Stoddard Way (See attachment 6).

B. Committee Review: The project is located in a residential district; therefore, Design Review is not applicable to the project.

V. Issues and Analysis

A. Administrative Use Permit Approval for Accessory Buildings in Residential Districts: Pursuant to BMC Section 23D.08.005.A.1, the two recently installed Accessory Buildings in the rear yard of the subject property without approval of a Zoning Permit must be authorized by an Administrative Use Permit.

B. Development Standards for Accessory Buildings in Residential Districts: BMC Sections 23D.08.020 and 23D.08.030 establish standards for the height and location of Accessory Buildings and Structures.

Per Table 4 above, the Accessory Buildings would meet or exceed all development standards required by BMC Sections 23D.08.020 and 23.08.030 including height limits and minimum setback distances. The Accessory Buildings would meet the required side setbacks which allow an Accessory Structure or Building up to 10 feet in average height within 4 feet of the side and rear property lines. They are setback 4 feet 2 inches and 3 feet 4 inches from the left- and right-side lot lines, respectively, and between 2 feet 6 inches – 2 feet 8 inches from the rear lot line. The Accessory Buildings are setback from the front property line by more than 75 feet.

The Accessory Buildings would meet the average height limit of 10-feet from grade. Accessory Building #1 would be used as a personal ceramic studio, and Accessory Building #2 would be used as a home office and exercise space. Neither contains bathroom facilities, and would not be used as dwelling units. Given the minimal windows facing the neighboring property, mature vegetation including trees, an existing wood fence, and the shadow studies provided by the applicant (See Attachment 3, Applicant Statement), it is not anticipated that the Accessory Buildings would be detrimental to the neighborhood or create significant impacts to light, air, views, or privacy.

Additionally, the Accessory Buildings also adhere to all site location and maximum length requirements (12 feet, 2 inches and 10 feet, 6 inches parallel to the side lot line where 24 feet is the maximum).

C. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.

3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

4. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

   Staff Analysis: The impacts to neighboring properties would occur on limited areas, and would be further reduced by the existing vegetation that currently creates shading and shadows. The Accessory Buildings would only partially shade a neighboring property to the west (1147 Grizzly Peak) for a few hours in the morning

during the summer solstice, and the neighboring property to the north (25 Stoddard Way) for a few hours in the afternoon during the winter solstice, and will not result in a significant loss of direct sunlight on abutting residences. The Accessory Buildings are not expected to create significant privacy impacts to the immediate neighbors given that the average height is below 10 feet and the Accessory Building' windows do not face directly into the adjacent properties.

The existing Accessory Buildings to be legalized would meet or exceed all Zoning development standards. The design, scale and placement of windows and lighting do not cause impacts on the adjacent properties or neighborhood and would not impact quality of life or area character. The proposed uses (ceramic studio, home office and exercise space) are consistent with the type of low intensity residential use typically found in accessory buildings, will function as extensions of the main dwelling, and will not generate excessive noise, dust, odors, or other similar impacts

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: APPROVE ZP#2021-0088 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:
1. Findings and Conditions
2. Revised Applicant Statement and Project Plans, received November 29, 2021
3. Previous September 9, 2021 Staff Report and attachments
4. Supplemental Communications for September 9, 2021 ZAB hearing
5. Applicant Presentation on September 9, 2021 ZAB hearing
6. Correspondence Received following September 9, 2021 ZAB hearing
7. Notice of Public Hearing
8. Continuance memo, Dated December 9, 2021

Staff Planner: Layal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424

FINDINGS AND CONDITIONS
JANUARY 13, 2022

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

PERMITS REQUIRED

- Administrative Use Permit (AUP) to construct Accessory Buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures").

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The subject property will continue to conform to the applicable provisions of the Single-Family Residential District, Hillside Overly, R-1(H) standards (BMC Section 23D.28.070) for maximum residential density (one dwelling unit, where only one is allowed), height (10 feet average height without approval of an AUP), lot coverage (26.5 percent lot coverage, where the maximum allowed is 40 percent), usable open space (in excess of 1,000 square feet provided where a minimum of 400 square feet is required), and parking (two off-street parking spaces where one is required). No changes will be made to the existing single-family dwelling; setbacks and building height will remain the same;

B. The proposed legalized Accessory Buildings will meet the height limits per BMC Section 23D.08.020.A (9 feet, 8 inches and 9 feet, 5 inches respectively in average height proposed where no accessory building may exceed 10 feet in average height when any portion of the building or structure is within 4 feet of a lot line). They also will also meet the setback requirements per BMC Section 23D.08.030 as the Accessory

Buildings will not encroach on the front half of the lot depth and are more than 75 feet from the front lot line. Additionally, the Accessory Buildings height (9 feet, 8 inches and 9 feet, 5 inches respectively), will not create new sightlines into abutting neighboring dwellings, and are adjacent to mature vegetation. For the reasons stated above, the proposed project will not have substantial impacts on sunlight or air, or views (as defined by BMC Section 23F.04.010 (Definitions) of adjacent properties;

C. The proposed uses (ceramic studio, home office and gym) will be consistent with the type of low intensity residential use typically found in accessory buildings, will function as extensions of the main dwelling, and will not generate excessive noise, dust, odors, or other similar impacts;
D. Per Condition of Approval #11, a “Notice of Limitation on Use of Property” will be signed and recorded with the County which will stipulate that no part of the Accessory Buildings shall be used or converted to use as a dwelling unit, and that a kitchen (as defined under BMC Section 23F.04.010 (Definitions)), will not be installed; and
E. The proposed project is required to meet current Building and Safety Code and therefore, would not present a safety hazard to the residents on site, on adjacent properties or within the neighborhood.

STANDARD CONDITIONS

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

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

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

3. **Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)**
   A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
   B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. **Modification of Permits (BMC Section 23B.56.020)**
   No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

5. **Plans and Representations Become Conditions (BMC Section 23B.56.030)**
   Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. **Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)**
   The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. **Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)**
   Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. **Exercise and Lapse of Permits (BMC Section 23B.56.100)**
   A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
   B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or,(2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

ADDITIONAL CONDITIONS IMPOSED BY ZAB

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

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

☐ **Project Liaison** _____

Name Phone #

Prior to Issuance of Any Building Permit:

11. Accessory Building: All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this accessory building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC Section

23F.04.010 (Definitions). This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

Standard Construction-related Conditions Applicable to all Projects:

12. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

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

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.

17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.

18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

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

22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

23. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

24. Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

25. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all

work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

26. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Prior to Issuance of Occupancy Permit or Final Inspection:

27. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.

28. All landscape, site and architectural improvements shall be completed per the attached approved drawings submitted with the revised applicant statement received November 29, 2021.

At All Times (Operation):

29. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

30. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

31. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

32. Screening Required for Garbage Cans and Utility Meters. All garbage cans must be effectively screened from view from the public right-of-way and surrounding properties.

1151 Grizzly Peak Blvd., Berkeley - ZAB Hearing 2

View of Our Backyard Before Units Were Placed

View of Our Backyard After Units Were Placed
(Image shows trees removed in preparation)

August 2020

- Jeana went to the planning department and it was closed due to COVID. She wanted to talk about what permitting was required for two accessory structures because she had not heard of accessory buildings.

- Jeana emailed permits@cityofberkeley.info asking about the requirements, determined to have permits if needed. Leslie Mendez replied with Berkeley Municipal Codes for Height Limits and Setbacks. BMC 23D.08 and BMC 23D.08.020. We then proceeded looking for ways to build within these codes believing we were legal.

Planning & Construction of Prefabricated Structures 2020

- Unit 1, Jeana's art studio, is 120sq.ft. and is the prefab company's signature prefab model. We modified it by opting out of a full glass back wall for privacy. We also reduced the standard height by 6 inches just to be in the safe side in case it arrived even an inch higher than code. The builder has let us know that of the 60 signature prefabs sold in the US, ours is the only one that was built 6 inches shorter. We really did make every effort to meet code in this way.

- Unit 2 is 103 sq. ft. and Matt's full-time office. We modified the design in every way as to not hinder its design on 25 Stoddard Way. We completely redesigned the prefab company's signature prefab model so the height is below the roof line of our home's roof line as seen from 25 Stoddard Way. **Photo Below.**

- Due to this customization of the structure for this purpose, there were months of delay and additional costs.

- This is a view of our house roof line above Unit 2's roof line from 25 Stoddard Way.

March 2021

- We informed our surrounding neighbors that two structures would be craned into our backyard the morning of March 19th by placing a typed letter in their mailbox providing the crane company's information and what the use of our structures were intended for.

- The day of delivery, both of our next-door neighbors showed excitement with our design and use of prefab as well as neighbors across the street.

- The same day, Joan Wager, our neighbor at 25 Stoddard Way, wrote a complaint letter to the city and associate planner.

- Jim Frank emailed Matt asking if the units were for storage or for our use and we wrote him our intentions. That's when we learned that our accessory units were considered Accessory Buildings and potentially illegal because they had not been permitted.

- Despite having done everything we could to avoid any permitting issues we learned that we were not legal because our units were Accessory Buildings. To make things right, on April 15th, 2021, we submitted our applicant statement and payment of $4,190.

September 2021

- At the ZAB meeting Joan presented a photo of glare coming from Unit 1, Jeana's art studio, and Charles Kahn mentioned a paint that may work as a solution.

- The ZAB meeting ended with the Board's recommendation for us to seek mediation. Jeana emailed SEED's and let Joan know that she had reached out to SEED's.

- SEED's response to Jeana's request for mediation took around two weeks. Do to our concern of the timeline and not being able to schedule with SEED's quickly, we accepted Joan's invitation to have us over to see our units from her side of the fence. We asked if neighbors who have experience mediating for neighbors in our area could join and Joan did not agree. She had her friend over who rents a home on Grizzly Peak instead.

- Since we weren't sure if SEED's would return Jeana's correspondence, we emailed Joan letting her know we would present our adjustment ideas by the end of October. Joan replied letting us know her preference was sooner than that.

- Matt went to Truitt & White in Berkeley, Ashby Lumber and Home Depot to look for wood slats that he thought would blend Unit 2's

back side into the existing environment, as seen by Joan from her side of the fence.

(cedar slats proposed as a facade on Unit 2)

As recommended by ZAB, Matt had an architect over. (The architect has been a substitute for ZAB). His comments were:

- The structures are within city codes.
- The units met the required set backs as laid out by the city.
- He recommended we hire a land use attorney as California State Law is in favor of these types of units to create additional space.
- Suggested converting Unit 1 to an ADU and installing a bathroom to create permanent habitable rental space.

- Jeana researched glare from metal roofs and learned it's a common problem. She did this because at the first hearing, the photo of the glare from Unit 1's roof, taken from Joan's living room, was a point of concern. Sherwin Williams explained how the non-glare (super matte) paint works and she planned to buy it and apply it herself as an adjustment.

October 2021

- SEED's mediation was scheduled and cancelled twice by SEED's.

November 2021 - Mediation

- November 13th, we had our Mediation with SEED's and it was the first time we were invited to share our feelings and efforts in this process. For the first two hours of the three hour meeting, there were important shares and common ground made.

- We presented two adjustments to Joan. The first was for Unit 2, Matt's full-time office, to blend into the environment by placing cedar boards in between the slats at the back of his unit. Joan did not accept the proposed adjustment. It was determined that she is not as bothered by Unit 2 as she is by Unit 1 and wanted to move on to discuss our proposed adjustment(s) to Unit 1; however, it was made clear that Joan would like the overhang of Unit 2 reduced in size. As we have already created more light for her view by removing two trees, we did not agree to this adjustment.

- Joan expressed her dislike of the the glare from the roof of Unit 1 at the first ZAB meeting. We proposed glare reducing paint from Sherwin Williams be applied to the side of Unit 1's roof. Joan did not agree to that adjustment.
    - This is Unit 1 from Joan's living room window.

- This is the view of our home from Joan's living room window

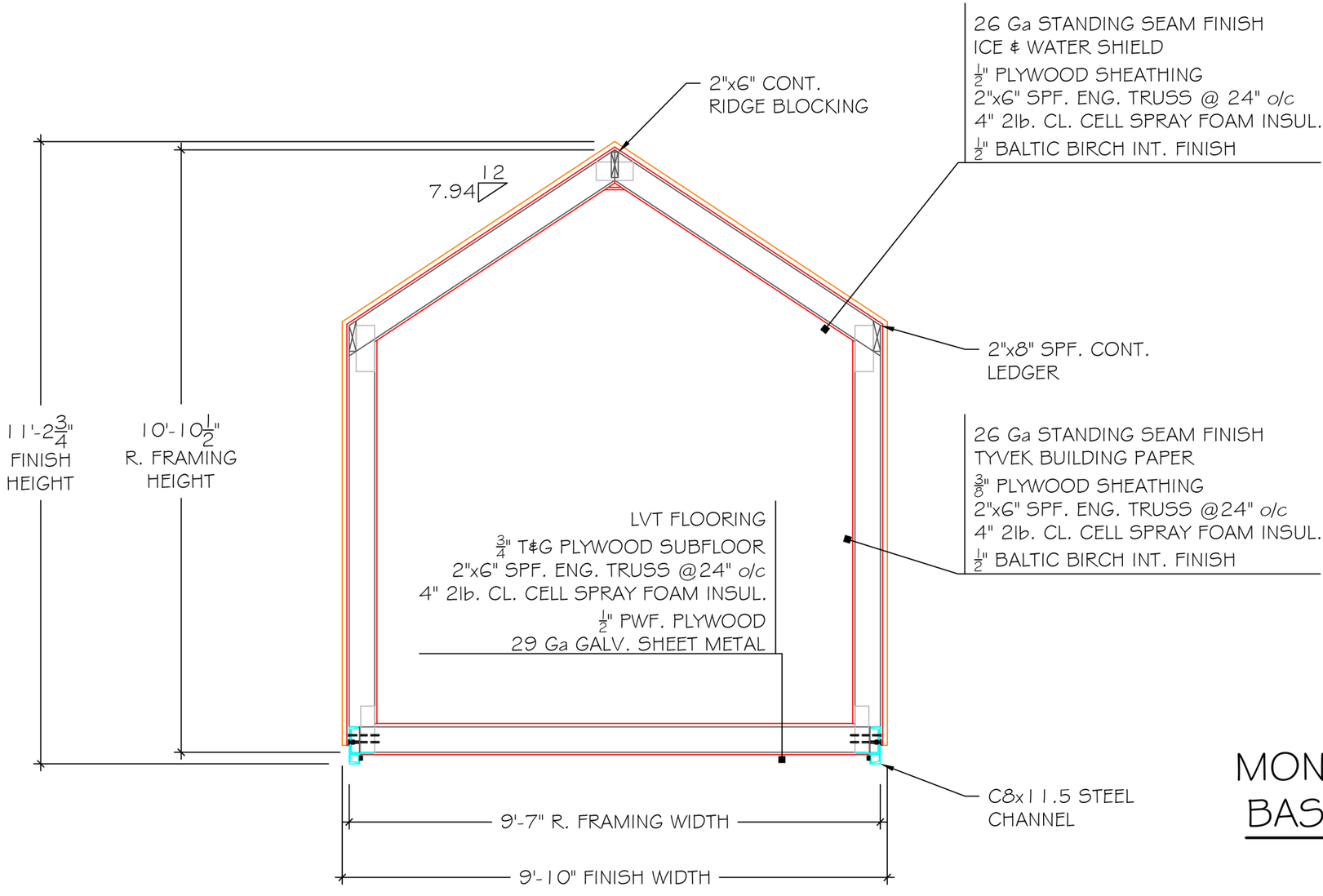
Additional Adjustment Proposal

Our third adjustment proposal is planting plants that offer a screen between our homes on our side of the fence. Our thoughts are camellias and evergreen shrubs. We have planted four so far.

Floor Plans and Building Elevations

for

Accessory Building 1



1 / AP-2 CROSS SECTION
1/2" = 1'0"

MONO
BASE

NOTE: ALL CONSTRUCTION TO ADHERE TO A.B.C. 2019

DROP
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#3 3320 18 AVE N
LETHBRIDGE, AB

Ph. 587.787.1656
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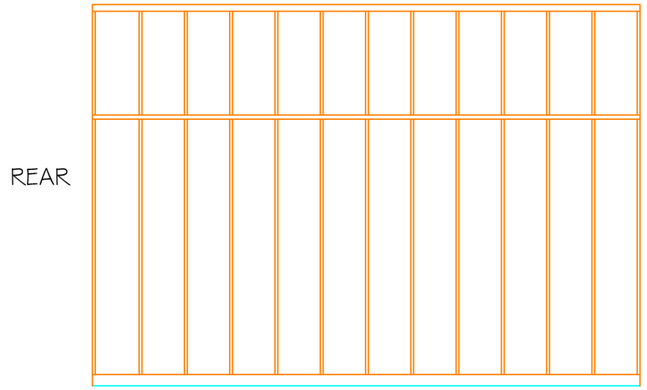
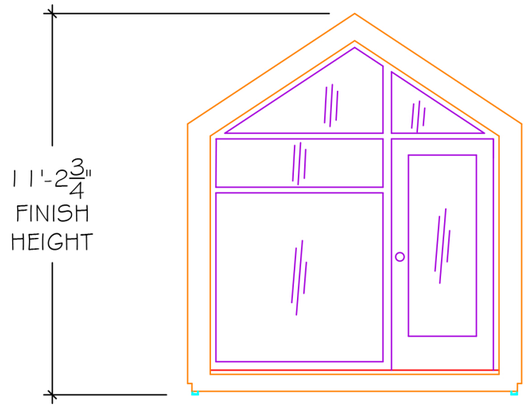
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	3/4/2021

SHEET NAME
CROSS SECTION

SHEET NO.
AP-2

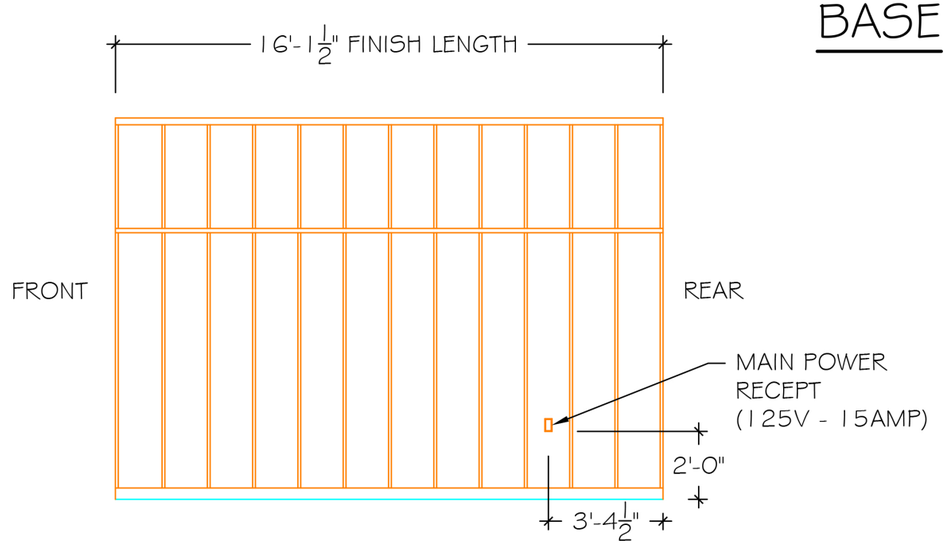


1 AP-5 **LEFT ELEVATION**
1/4" = 1'0"

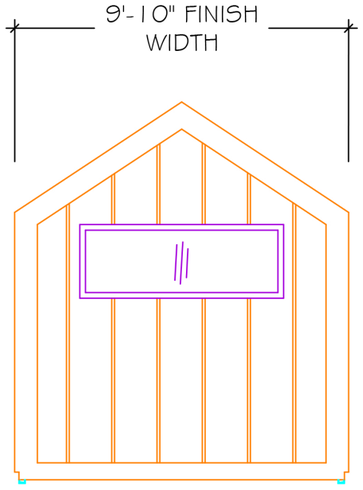


2 AP-5 **FRONT ELEVATION**
1/4" = 1'0"

MONO BASE



3 AP-5 **RIGHT ELEVATION**
1/4" = 1'0"



4 AP-5 **REAR ELEVATION**
1/4" = 1'0"

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PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1/0"
DRWN BY	CDH
DATE	3/5/2021

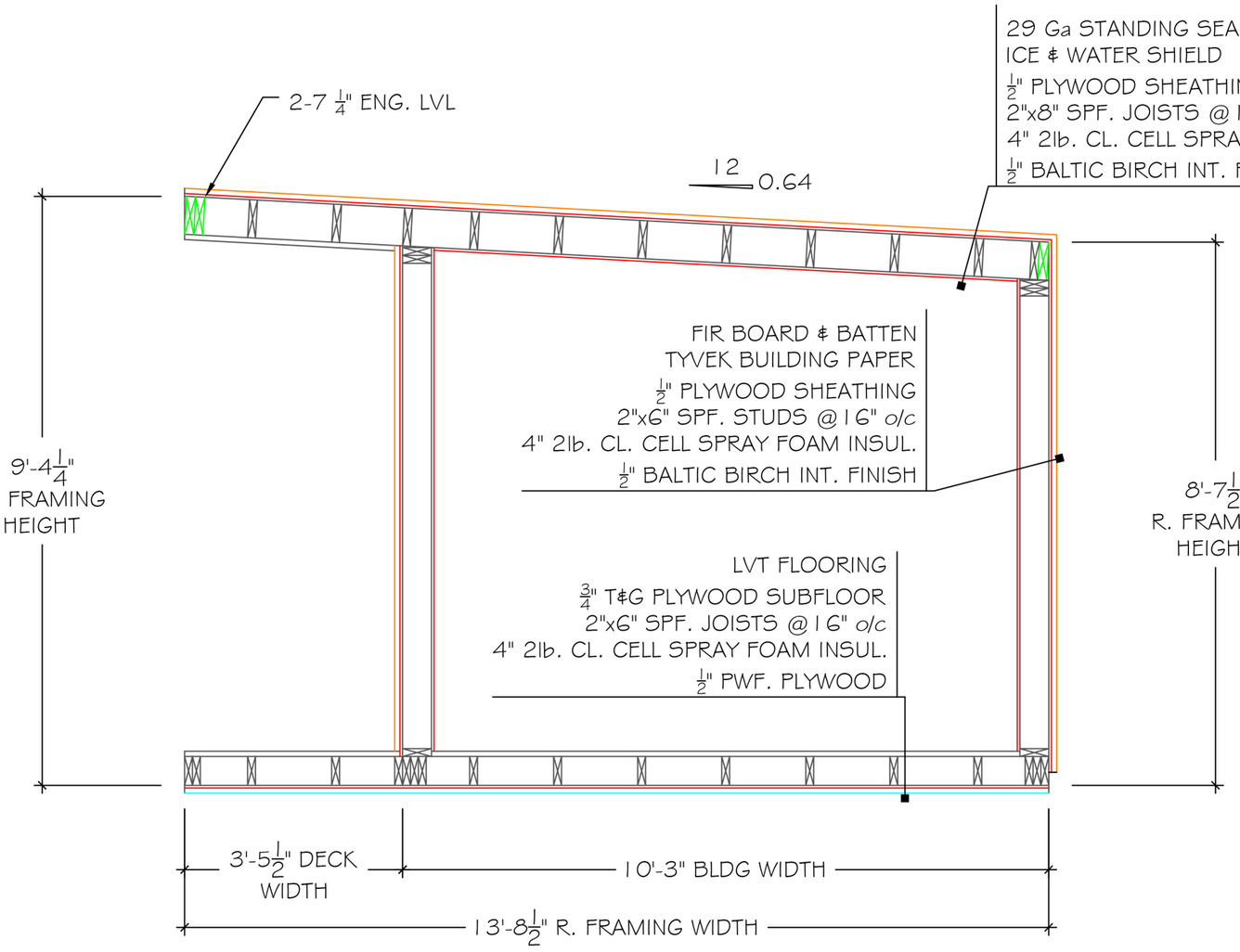
SHEET NAME
EXTERIOR ELEVATIONS

SHEET NO.
AP-5

Floor Plans and Building Elevations

for

Accessory Building 2



CUSTOM

1 / A-4 CROSS SECTION
1/2" = 1'0"

NOTE: ALL CONSTRUCTION TO ADHERE TO A.B.C. 2019

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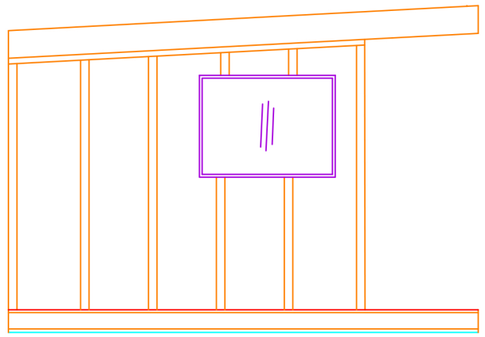
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	1/14/2021

SHEET NAME
CROSS SECTION

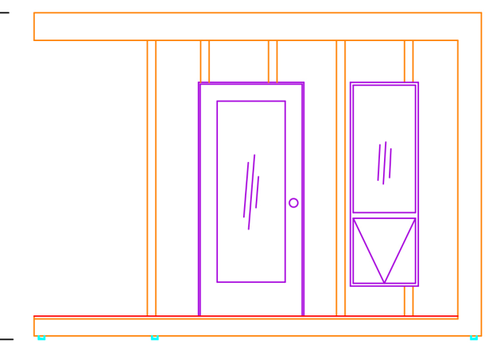
SHEET NO.
A-4

REAR



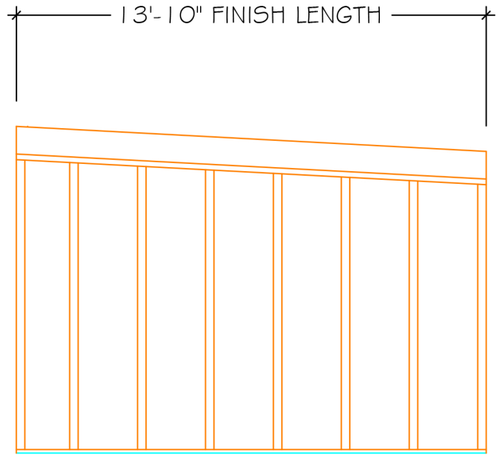
1 / A-9 LEFT ELEVATION
1/4" = 1'0"

FRONT

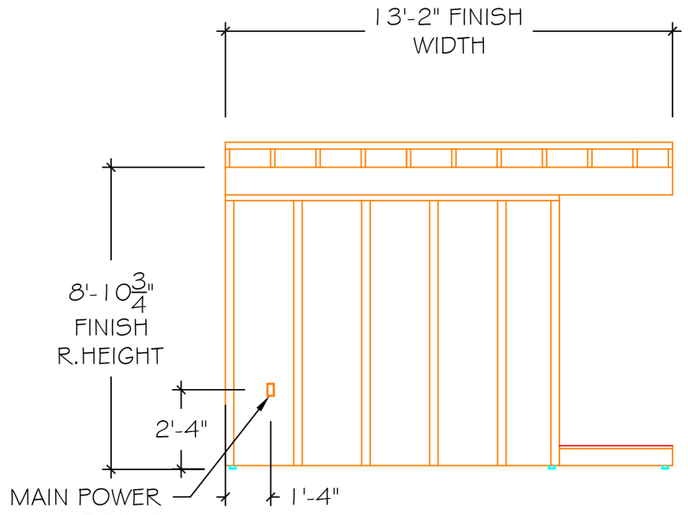


2 / A-9 FRONT ELEVATION
1/4" = 1'0"

CUSTOM



3 / A-9 RIGHT ELEVATION
1/4" = 1'0"



4 / A-9 REAR ELEVATION
1/4" = 1'0"

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PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/4" = 1'0"
DRWN BY	CDH
DATE	2/8/2021

SHEET NAME
EXTERIOR ELEVATIONS

SHEET NO.
A-9

25 Stoddard Way

Unit 1

Unit 2

STEPS

29'7"

18'11"

19'10"

8'5"

2'9"

2'3"

2'10"

2'7"

4'

34'

22'10

3'4"

4'3"

136'5"

131'11"

41'10"

56'3"

41'10"

8'11"

5'3"

48'7"

41'6"

4'6"

1145 Grizzly Peak

1147 Grizzly Peak

1151 Grizzly Peak

1157
Grizzly Peak

Stoddard Way

Grizzly Peak Blvd.

Google Earth Reference

ACCESSORY BUILDINGS

-

1151 Grizzly Peak Blvd
Berkeley CA 94708

N

ZONING ADJUSTMENTS BOARD

STAFF REPORT

FOR BOARD ACTION
SEPTEMBER 9, 2021

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

I. Background

A. Land Use Designations:

- General Plan: LDR - Low Density Residential
- Zoning: R-1(H) - Single-Family Residential District, Hillside Overlay

B. Zoning Permits Required:

- Administrative Use Permit (AUP) to construct accessory buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

C. CEQA Recommendation:

It is staff's recommendation that the project is categorically exempt pursuant to Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by Zoning Adjustments Board (ZAB).

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

A. Parties Involved:

- Applicant & Property Owner: Jeana Arabzadeh & Matt Jacobs,
  1151 Grizzly Peak Boulevard, Berkeley

Figure 1: Vicinity Map

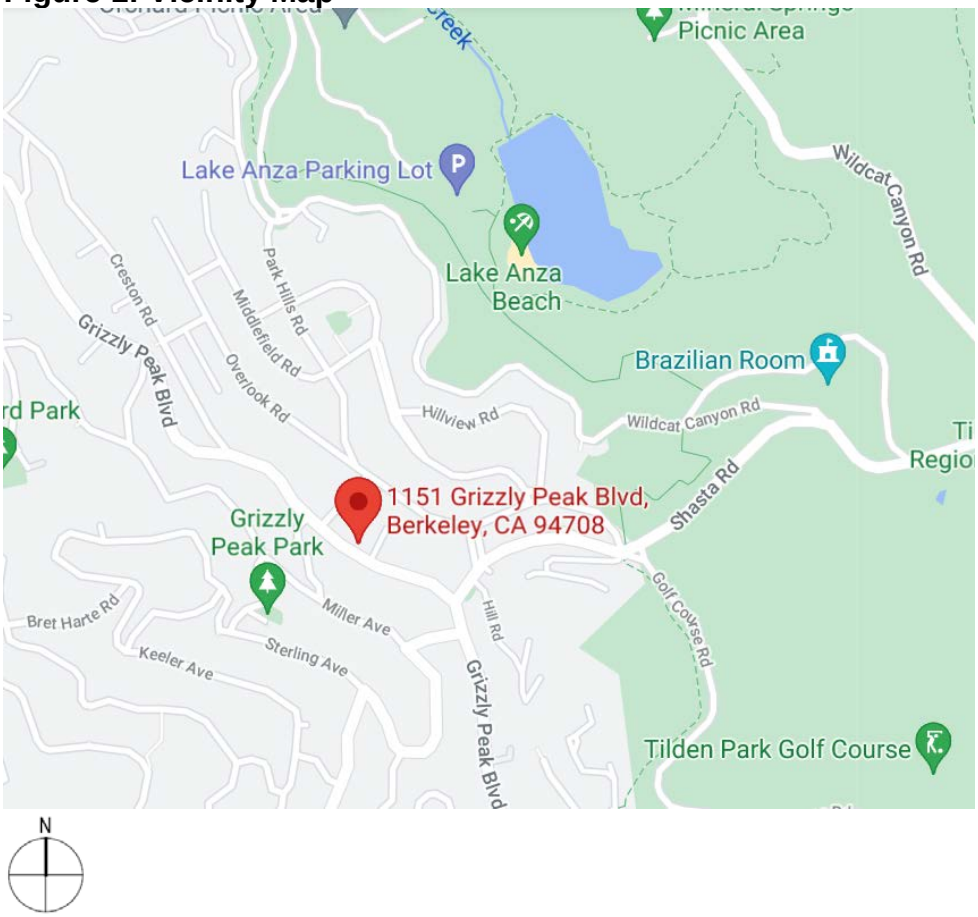


Figure 2: Area Map

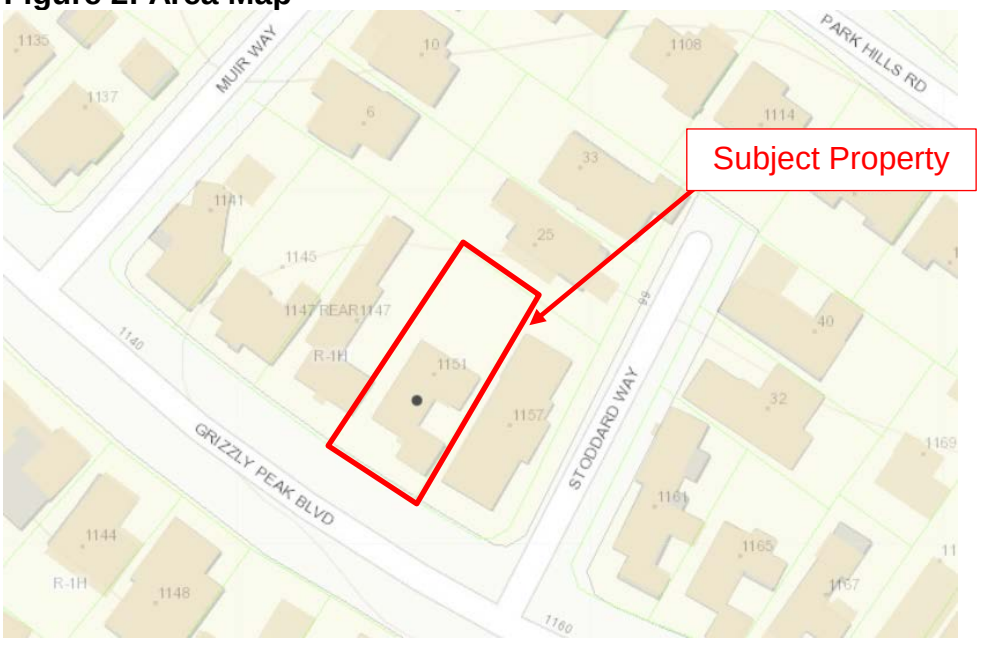


Figure 3: Site Plan

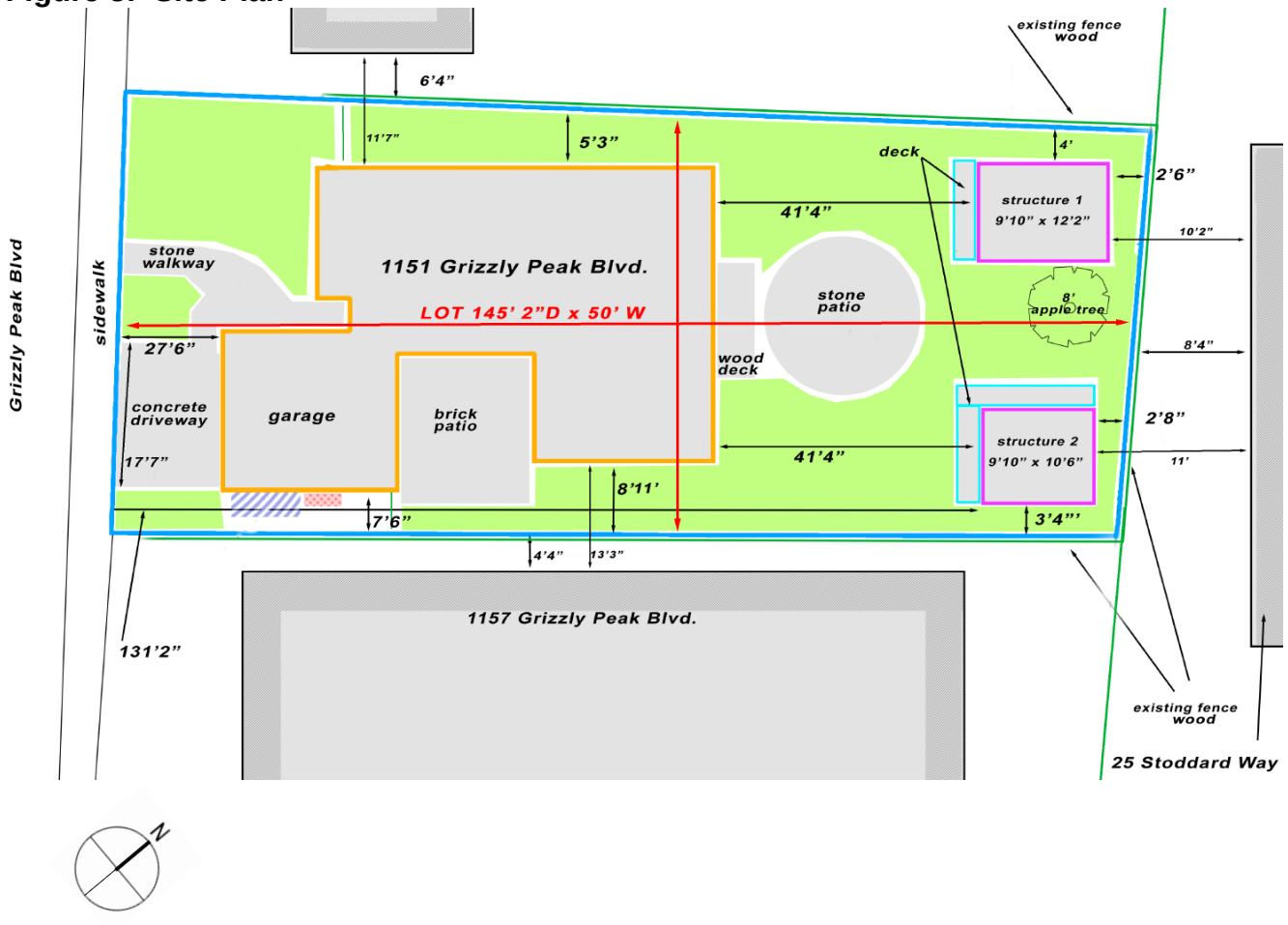


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-Family Dwelling	R-1(H)	LDR, Low Density Residential
Surrounding Properties	North	Single-Family Dwellings	R-1(H)	LDR, Low Density Residential
	South			
	East			
	West			

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	The project would not include non-residential floor area and therefore the Affordable Housing and Childcare Mitigation Fees do not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)		
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	This fee applies to projects that involve five or more dwelling units on the same lot. The applicant does not propose to create any new dwelling units, and thus is not subject to the Affordable Housing Mitigation Fee.
Creeks	No	There are no creeks on the site.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	This project includes the legalization of two new accessory buildings, however, natural gas is not proposed.
Historic Resources	No	There are no historic resources on the site.
Oak Trees	No	There are no Oak Trees on the project site.
Seismic Hazards (SHMA)	No	The site not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	There is no history of contamination on the project site and is not located within the City's Environmental Management Area, and is a not on a state Cortese List.

Table 3: Project Chronology

Date	Action
June 23, 2021	Application fees paid and deemed submitted
July 23, 2021	Application deemed complete
August 26, 2021	Public hearing notices mailed/posted
September 9, 2021	ZAB hearing

Table 4: Development Standards

Standard BMC Sections 23D.16.070-080; 23E.96.070-080; 23D.08.020; and 23.08.030		Existing	Proposed (Total)	Permitted/Required
Lot				
Lot Area (sq. ft.)		7,315	No Change	5,000 min
Gross Floor Area (sq. ft.)		1,713	1,936 (+223)	n/a
Dwelling Units		1	1	1 max
Lot Coverage (%)		23.4	26.5	40% max
Usable Open Space (sq. ft.)		> 400	> 400	400 sq. ft. min
Parking (Automobile)		2	No Change	1 min
Accessory Building #1 (ceramics studio)				
Average Building Height		-	9’ 8”	10’ max. (may be exceeded w/ AUP per 23D.08.010.B)
Building Setbacks	Front	-	> 130’	75’ min. (may be decreased w/ AUP per 23D.08.010.B)
	Rear	-	2’ 6”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Left Side	-	4’ 1”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Right Side	-	> 36’	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
Accessory Building #2 (home office and gym)				
Average Building Height		-	9’5”	10’ max. (may be exceeded w/ AUP per 23D.08.010.B)
Building Setbacks	Front	-	> 130’	75’ min (may be decreased w/ AUP per 23D.08.010.B)
	Rear	-	2’ 8”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Left Side	-	> 36’	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)
	Right Side	-	3’ 4”	0’ – 4’ min. if average height of building less than 10’ (may be exceeded w/ AUP per 23D.08.010.B)

II. Project Setting

A. Neighborhood/Area Description: The project site is in the North Berkeley hills in an area that is a mix of one-, two-, and three-story single-family dwellings. Lots in the neighborhood are generally rectangular with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards towards the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain and limited availability of on-street parking, the dwellings in the neighborhood tend to include attached one- or two-car garages within front yards

B. Site Conditions: The project site is generally rectangular, with its front property line along Grizzly Peak Boulevard, and is approximately 55 feet in width and approximately 142 feet in depth. The site slopes slightly upward from Grizzly Peak Boulevard to the rear of the property. There are no protected oak trees on the site. The lot conforms to the development standards for the zoning district, including density, height, yards, lot coverage, and useable open space.

III. Project Description and Background

A. Project Description: The applicants are proposing to legalize two new detached Accessory Buildings in the rear yard that were fabricated off-site and installed without receiving the applicable use permit and Zoning approval.

The Accessory Buildings would be used as a ceramics studio, and a home office and exercise space for the owner-occupants of the residence. Because the project originated as a Code Enforcement case to legalize these buildings and the neighbor to the rear of the subject property (25 Stoddard Way) has raised concerns about the project, Land Use staff is preemptively referring this AUP request to the Zoning Adjustments Board. The applicants were invoiced double fees as the request is to legalize Accessory Buildings constructed without permits.

B. Project Background: In May 2021, the applicants installed two pre-fabricated custom-built Accessory Buildings within the rear yard of the subject property. Accessory Building #1 is 120 square feet in area, used as a ceramics studio and is located on the northeast corner of the rear yard of the property. Accessory Building #2 is 103 square feet in area, used as a home office and exercise space and is located on the southeast corner of the rear yard. The applicants stated that they installed both pre-fabricated buildings following the closure of their previously used ceramics studio, workplace office and gym in Berkeley due to the COVID-19 Pandemic.

A neighbor contacted the City regarding the installation of the Accessory Buildings on the subject lot. Code Enforcement staff investigated the subject property in March 2021 and found that the structures are *habitable,* and therefore considered to be Accessory Buildings.

BMC Section 23F (Definitions) differentiates between *Accessory Buildings* and *Accessory Structures*, based on the use of the structure and whether it is considered habitable or non-habitable space:

Accessory Building: A detached building containing habitable space, which is smaller in size than the main building on the same lot, and the use of which is incidental to the primary use of the lot.

Accessory Structure: A detached structure, other than an Accessory Building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential Accessory Structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential Accessory Structures may include, but are not limited to, storage buildings, garages, sheds and other outbuildings.

Accessory Buildings, regardless of whether they meet the standards for size, location, and height, require zoning review and AUP approval[1], while Accessory Structures meeting those same standards are allowed outright. Based on the determination that these were Accessory Buildings, Code Enforcement staff directed the Applicants to submit an AUP to the Land Use Division. An application was submitted and accepted in June 2021.

In researching the project, Land Use staff found that the applicants had requested information from the Zoning Counter in August 2020 regarding the installation and construction of Accessory *Structures*, each under 120 square feet in area, and were directed to review and follow the development standards for Accessory Buildings and Structures in residential districts (BMC Sections 23D.08.020-030). However, it was not clear that the applicants were intending to install *habitable* structures that would meet the land use definition for Accessory *Buildings*, and the applicants were not informed that the issuance of an AUP by the Zoning Officer would be required to proceed.

The applicant is not requesting any additional AUP's to exceed the stated development standards of the Accessory Buildings and Structures. Additionally, as the subject property is not non-confirming due to lot coverage or density, a Use Permit application is not required.

IV. Community Discussion

A. Neighbor/Community Concerns: On August 26, 2021, the City mailed 126 public hearing notices to property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has received one email communication regarding the project from the property owner of the property to the rear located at 25 Stoddard Way. See Attachment 5.

[1] Additional AUPs may be granted to exceed these standards pursuant to BMC 23.08.010.B.

B. Committee Review: The project is located in a residential district; therefore, Design Review is not applicable to the project.

V. Issues and Analysis

A. Administrative Use Permit Approval for Accessory Buildings in Residential Districts: Pursuant to BMC Section 23D.08.005.A.1, the two recently installed Accessory Buildings in the rear yard of the subject property without approval of a Zoning Permit must be authorized by an Administrative Use Permit.

B. Development Standards for Accessory Buildings in Residential Districts: BMC Sections 23D.08.020 and 23D.08.030 establish standards for the height and location of Accessory Buildings and Structures.

Per Table 4 above, the Accessory Buildings would meet or exceed all development standards required by BMC Sections 23D.08.020 and 23.08.030 including height limits and minimum setback distances. The Accessory Buildings would meet the required side setbacks which allow an Accessory Structure or Building up to 10 feet in average height within 4 feet of the side and rear property lines. They are setback 4 feet 2 inches and 3 feet 4 inches from the left- and right-side lot lines, respectively, and between 2 feet 6 inches – 2 feet 8 inches from the rear lot line. The Accessory Buildings are setback from the front property line by more than 75 feet.

The Accessory Buildings would meet the average height limit of 10-feet from grade. Accessory Building #1 would be used as a personal ceramic studio, and Accessory Building #2 would be used as a home office and gym. Neither contains bathroom facilities, and would not be used as dwelling units. Given the minimal windows facing the neighboring property, mature vegetation including trees, an existing wood fence, and the shadow studies provided by the applicant (See Attachment 3, Applicant Statement), it is not anticipated that the Accessory Buildings would be detrimental to the neighborhood or create significant impacts to light, air, views, or privacy.

Additionally, the Accessory Buildings also adhere to all site location and maximum length requirements (12 feet, 2 inches and 10 feet, 6 inches parallel to the side lot line where 24 feet is the maximum).

C. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.

2. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.

3. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

4. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

   Staff Analysis: The impacts to neighboring properties would occur on limited areas, and would be further reduced by the existing vegetation that currently creates shading and shadows. The Accessory Buildings would only partially shade a neighboring property to the west (1147 Grizzly Peak) for a few hours in the morning during the summer solstice, and the neighboring property to the north (25 Stoddard Way) for a few hours in the afternoon during the winter solstice, and will not result in a significant loss of direct sunlight on abutting residences. The Accessory Buildings are not expected to create significant privacy impacts to the immediate neighbors given that the average height is below 10 feet and the Accessory Building' windows do not face directly into the adjacent properties.

   The existing Accessory Buildings to be legalized would meet or exceed all Zoning development standards. The design, scale and placement of windows and lighting do not cause impacts on the adjacent properties or neighborhood and would not impact quality of life or area character. The proposed uses (ceramic studio, home office and gym) are consistent with the type of low intensity residential use typically found in accessory buildings, will function as extensions of the main dwelling, and will not generate excessive noise, dust, odors, or other similar impacts

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: APPROVE ZP#2021-0088 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:
1. Findings and Conditions
2. Project Plans, received June 23, 2021
3. Applicant Statement, received July 19, 2021
4. Notice of Public Hearing
5. Correspondence Received

Staff Planner: Layal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424

ATTACHMENT 1

FINDINGS AND CONDITIONS
SEPTEMBER 9, 2021

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

PERMITS REQUIRED

- Administrative Use Permit (AUP) to construct Accessory Buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures").

2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by BMC Section 23B.28.050.A, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

A. The subject property will continue to conform to the applicable provisions of the Single-Family Residential District, Hillside Overly, R-1(H) standards (BMC Section 23D.28.070) for maximum residential density (one dwelling unit, where only one is allowed), height (10 feet average height without approval of an AUP), lot coverage (26.5 percent lot coverage, where the maximum allowed is 40 percent), usable open space (in excess of 1,000 square feet provided where a minimum of 400 square feet is required), and parking (two off-street parking spaces where one is required). No changes will be made to the existing single-family dwelling; setbacks and building height will remain the same;

B. The proposed legalized Accessory Buildings will meet the height limits per BMC Section 23D.08.020.A (9 feet, 8 inches and 9 feet, 5 inches respectively in average height proposed where no accessory building may exceed 10 feet in average height when any portion of the building or structure is within 4 feet of a lot line). They also will also meet the setback requirements per BMC Section 23D.08.030 as the Accessory

Buildings will not encroach on the front half of the lot depth and are more than 75 feet from the front lot line. Additionally, the Accessory Buildings height (9 feet, 8 inches and 9 feet, 5 inches respectively), will not create new sightlines into abutting neighboring dwellings, and are adjacent to mature vegetation. For the reasons stated above, the proposed project will not have substantial impacts on sunlight or air, or views (as defined by BMC Section 23F.04.010 (Definitions) of adjacent properties;

C. The proposed uses (ceramic studio, home office and gym) will be consistent with the type of low intensity residential use typically found in accessory buildings, will function as extensions of the main dwelling, and will not generate excessive noise, dust, odors, or other similar impacts;

D. Per Condition of Approval #11, a "Notice of Limitation on Use of Property" will be signed and recorded with the County which will stipulate that no part of the Accessory Buildings shall be used or converted to use as a dwelling unit, and that a kitchen (as defined under BMC Section 23F.04.010 (Definitions)), will not be installed; and

E. The proposed project is required to meet current Building and Safety Code and therefore, would not present a safety hazard to the residents on site, on adjacent properties or within the neighborhood.

STANDARD CONDITIONS

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

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

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

3. **Uses Approved Deemed to Exclude Other Uses (BMC Section 23B.56.010)**
   A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
   B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. **Modification of Permits (BMC Section 23B.56.020)**
   No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer.

5. **Plans and Representations Become Conditions (BMC Section 23B.56.030)**
   Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. **Subject to All Applicable Laws and Regulations (BMC Section 23B.56.040)**
   The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. **Exercised Permit for Use Survives Vacancy of Property (BMC Section 23B.56.080)**
   Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. **Exercise and Lapse of Permits (BMC Section 23B.56.100)**
   A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
   B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or,(2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

ADDITIONAL CONDITIONS IMPOSED BY ZAB

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

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

☐ **Project Liaison** _____

Name Phone #

Prior to Issuance of Any Building Permit:

11. Accessory Building: All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this accessory building shall be used or converted to use as a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that a full bathroom and cooking facilities may be installed, as long as the cooking facilities do not constitute a Kitchen per BMC Section 23F.04.010 (Definitions). This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.

Standard Construction-related Conditions Applicable to all Projects:

12. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

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

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

13. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.

14. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

15. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.

16. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter in thickness and secured to the ground.

17. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.

18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

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

22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

23. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.

24. Archaeological Resources (*Ongoing throughout demolition, grading, and/or construction*). Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.

B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

25. Human Remains (*Ongoing throughout demolition, grading, and/or construction*). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to CEQA Guidelines Section 15064.5 (e)(1). If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

26. Paleontological Resources (*Ongoing throughout demolition, grading, and/or construction*). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Prior to Issuance of Occupancy Permit or Final Inspection:

27. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.

28. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated 4/7/2021.

At All Times (Operation):

29. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

30. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

31. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.

32. Screening Required for Garbage Cans and Utility Meters. All garbage cans must be effectively screened from view from the public right-of-way and surrounding properties.

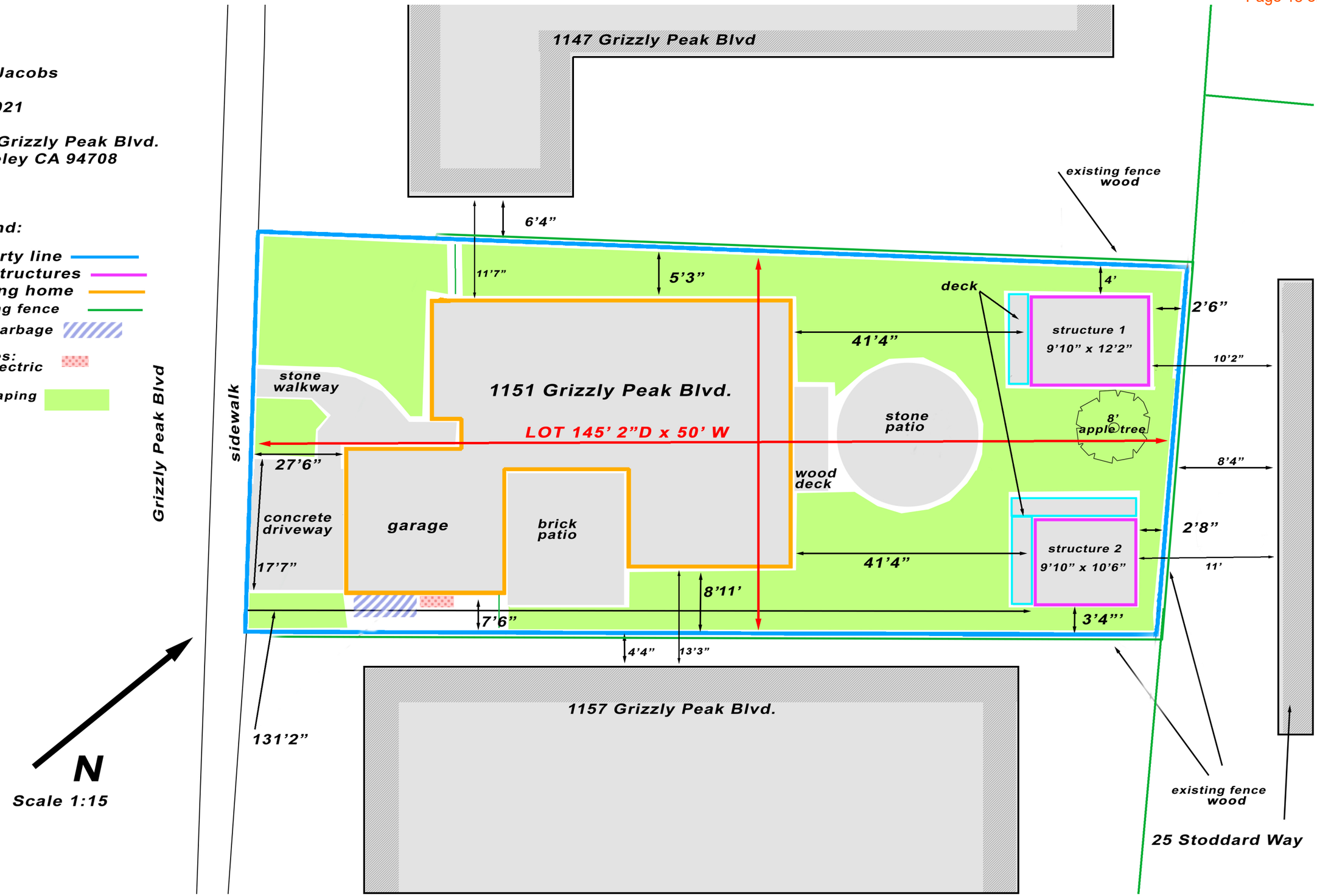
Matt Jacobs

4/7/2021

1151 Grizzly Peak Blvd.
Berkeley CA 94708

Legend:

property line
new structures
existing home
existing fence
waste/garbage
utilities: gas/electric
landscaping



Matt Jacobs

4/7/2021

1151 Grizzly Peak Blvd.
Berkeley CA 94708

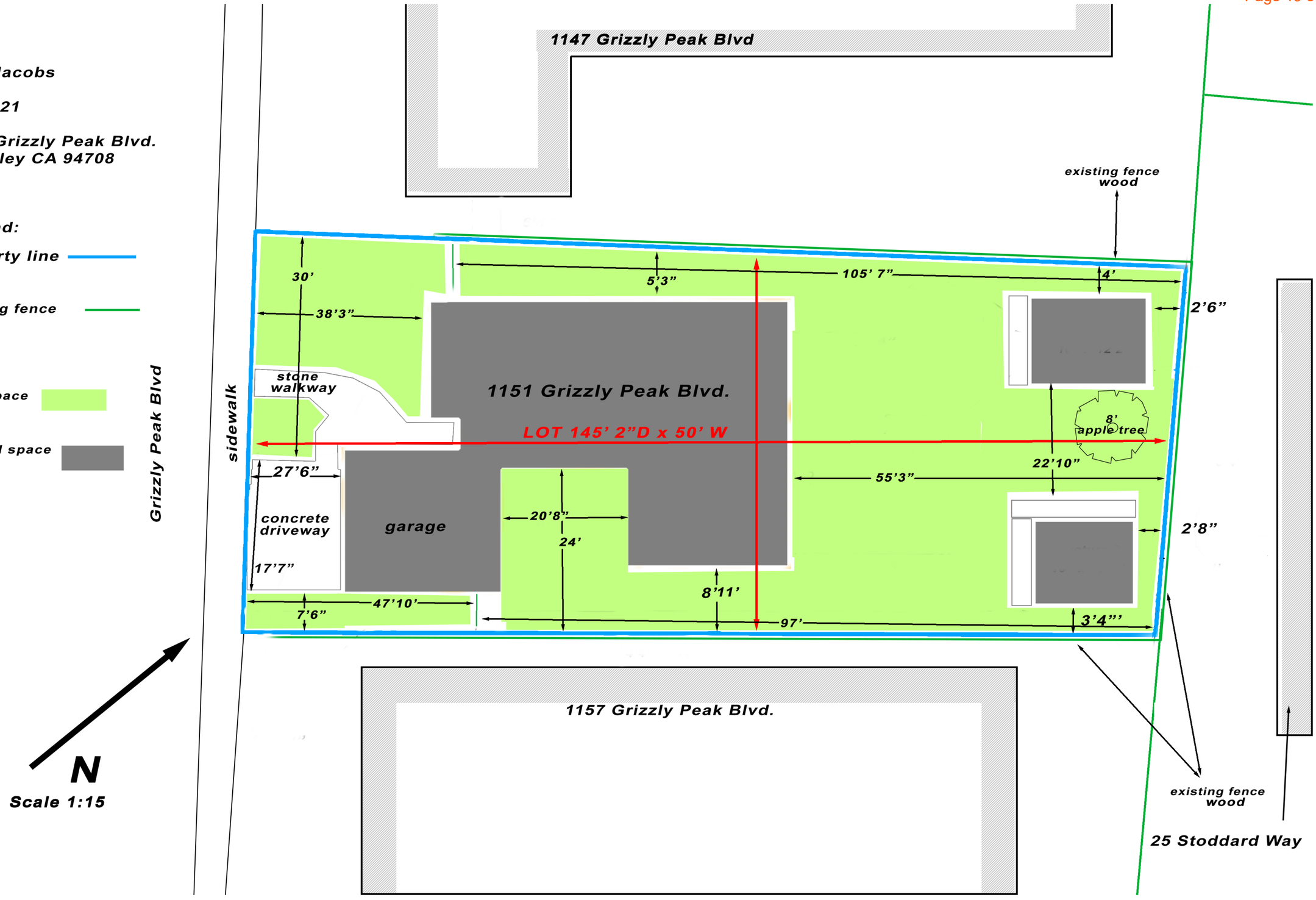
Legend:

property line

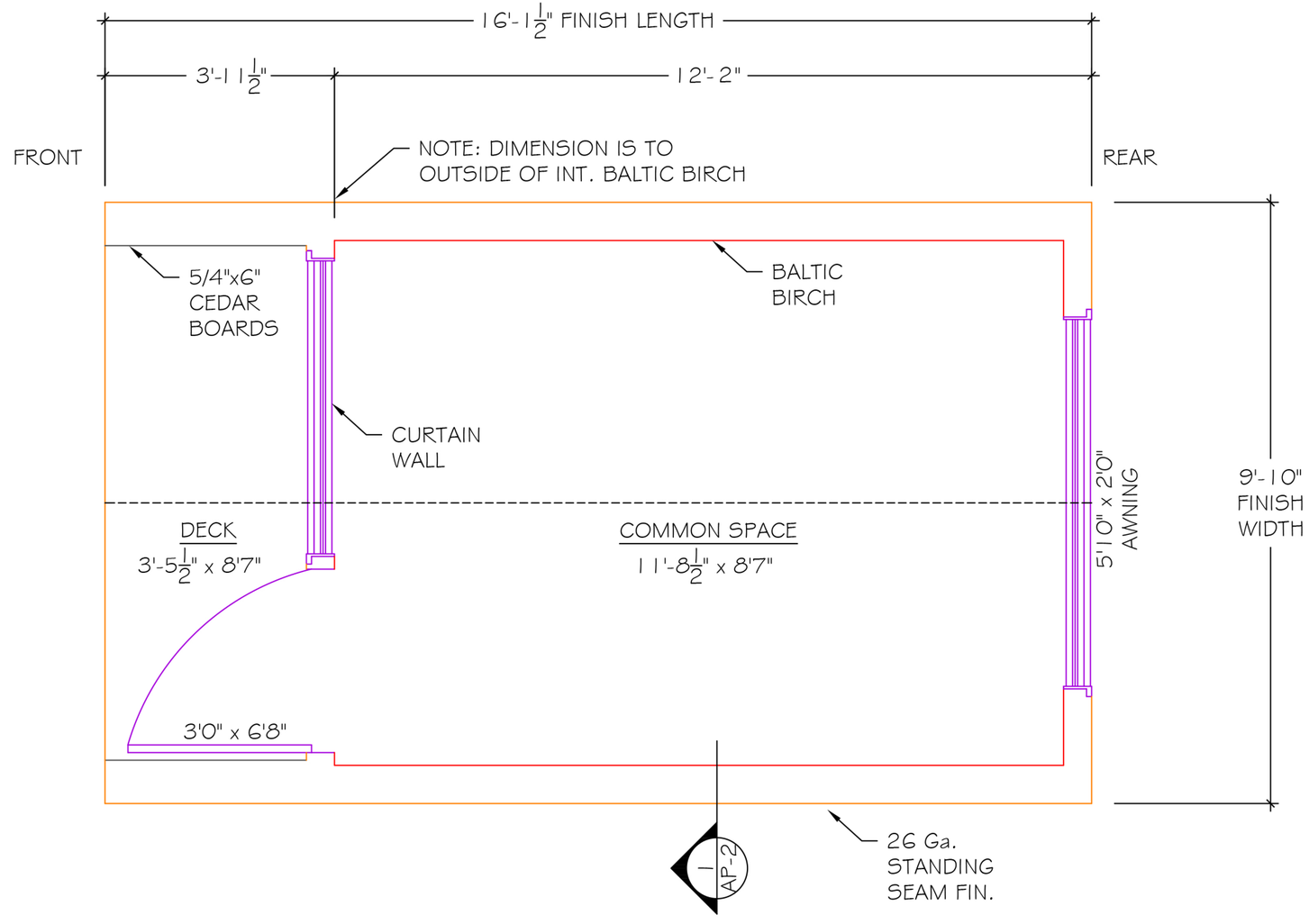
existing fence

open space

covered space



MONO
BASE



1 / AP-1 FLOORPLAN
1/2" = 1'0"

DROP
STRUCTURES
#3 3320 18 AVE N
LETHBRIDGE, AB
Ph. 587.787.1656
www.dropstructures.ca

REV.

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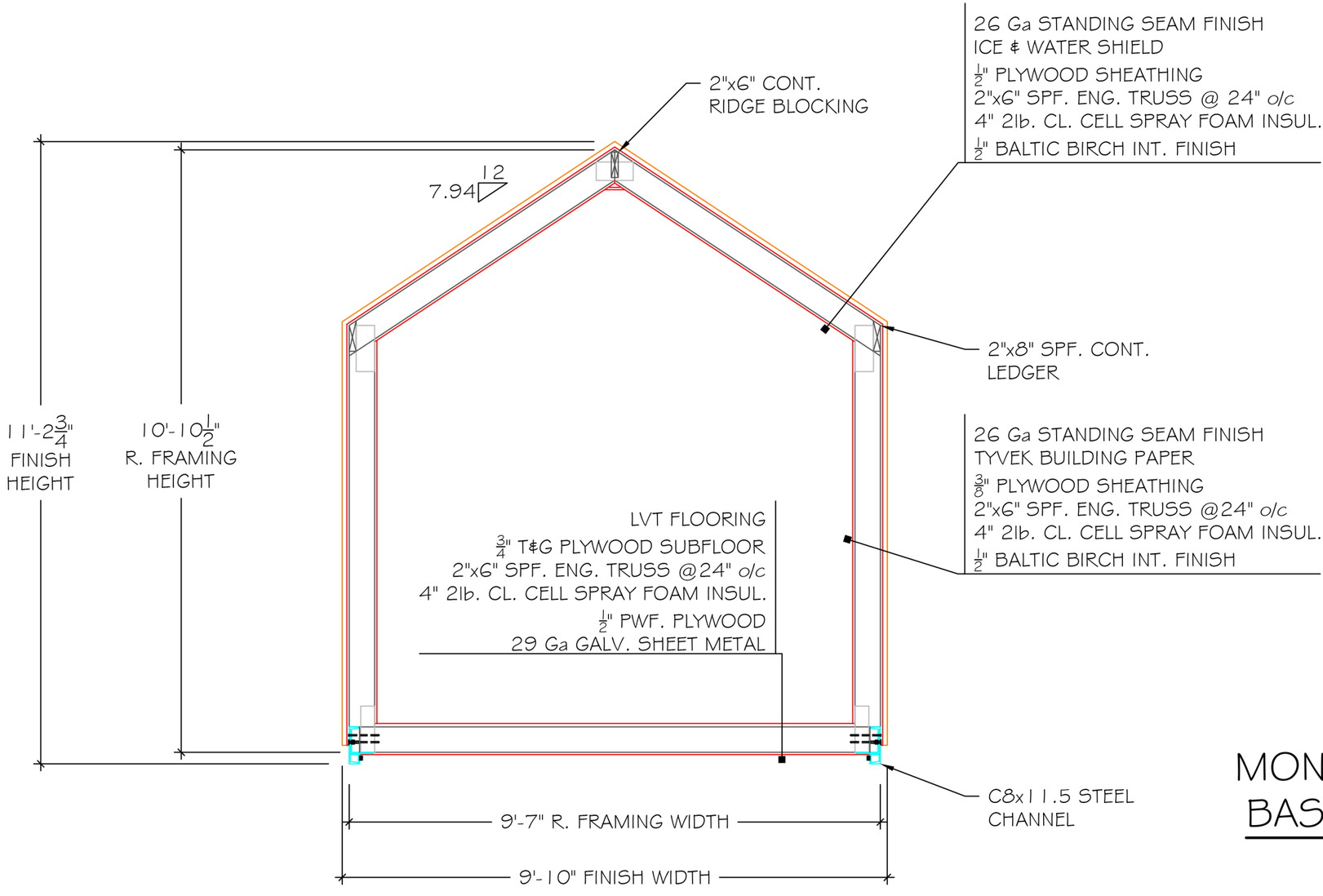
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1/0"
DRWN BY	CDH
DATE	3/4/2021

SHEET NAME
FLOOR PLAN

SHEET NO.
AP-1



1 / AP-2 CROSS SECTION
1/2" = 1'0"

MONO
BASE

NOTE: ALL CONSTRUCTION TO ADHERE TO A.B.C. 2019

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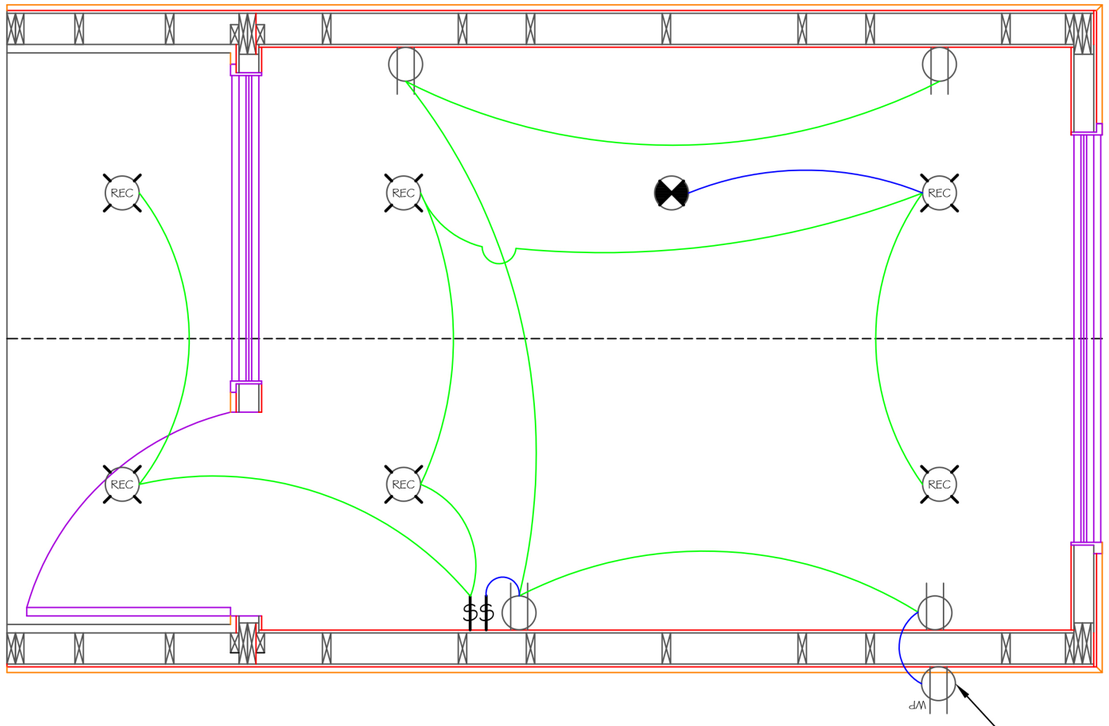
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	3/4/2021

SHEET NAME
CROSS SECTION

SHEET NO.
AP-2

MONO BASE



ELECTRICAL LEGEND

$	SINGLE SWITCH	SMOKE ALARM	
$3	3-WAY SWITCH	BATH FAN	FAN
	DUPLEX OUTLET	TV/COMM. OUTLET	
GFI	GROUND FAULT OUTLET	RECESSED POT-LIGHTT	REC
WP	WEATHER PROOF OUTLET		

1 / AP-3 ELECTRICAL PLAN
1/2" = 1'0"

NOTE: ALL ELECTRICAL TO ADHERE TO C.E.C 2018

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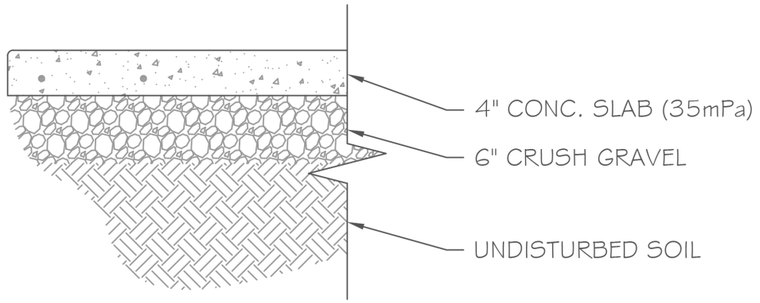
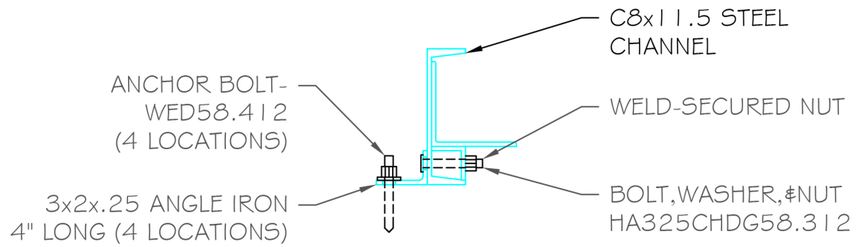
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1/0"
DRWN BY	CDH
DATE	3/4/2021

SHEET NAME
ELECTRICAL PLAN

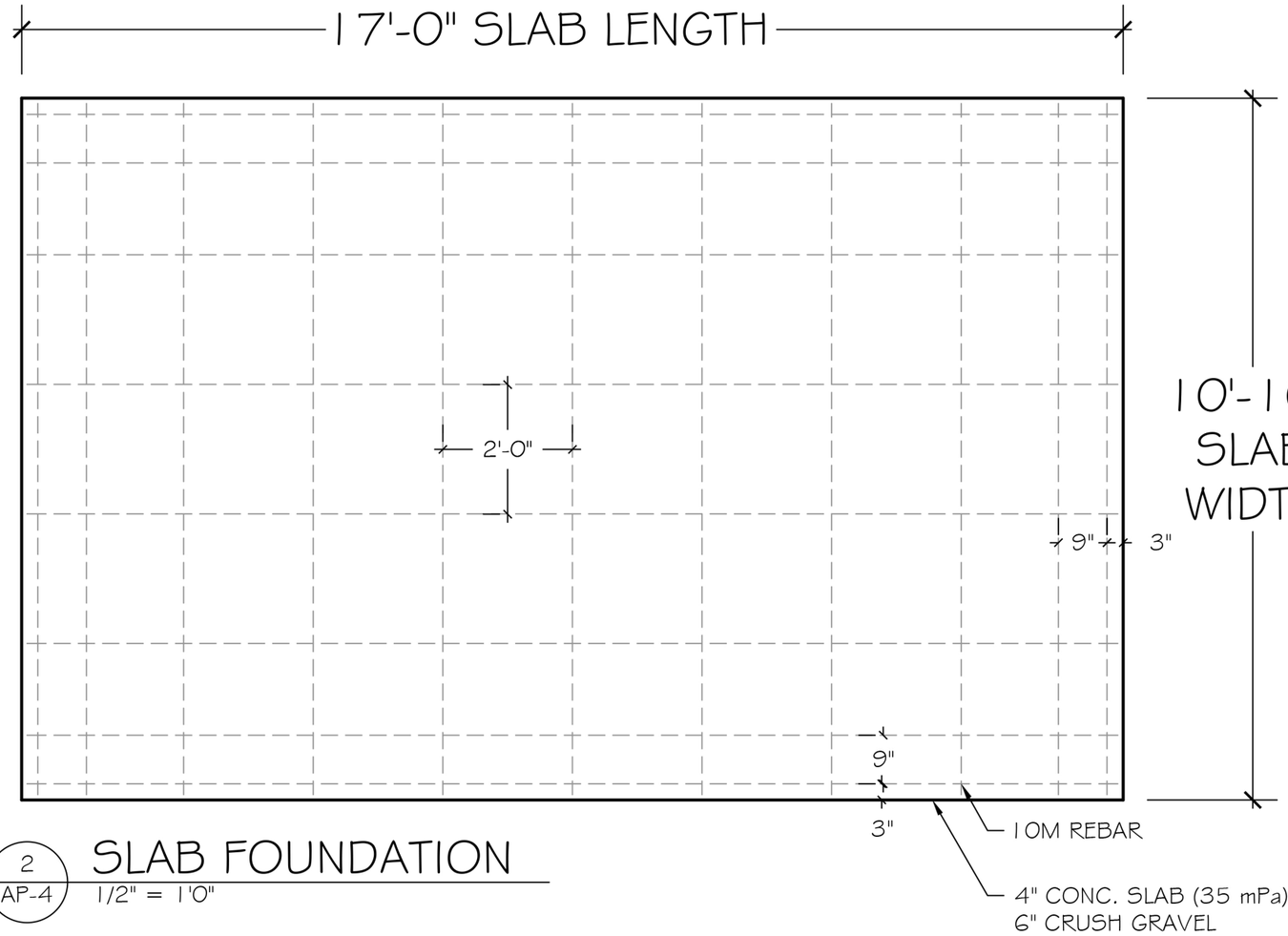
SHEET NO.
AP-3



1 / AP-4 SLAB FOUNDATION
1" = 1'0"



3 / AP-4 ACHORAGE DETAIL
1 1/2 = 1'0"



MONO
BASE

2 / AP-4 SLAB FOUNDATION
1/2" = 1'0"

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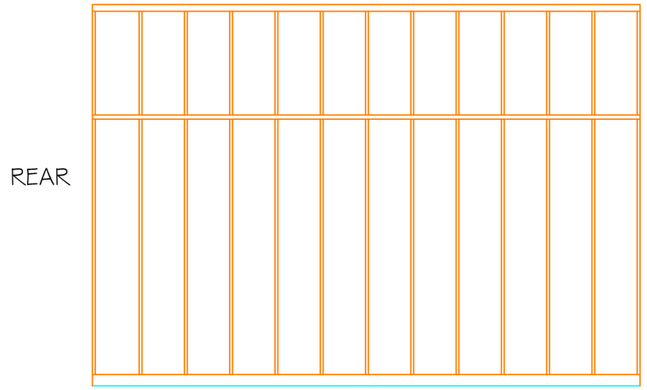
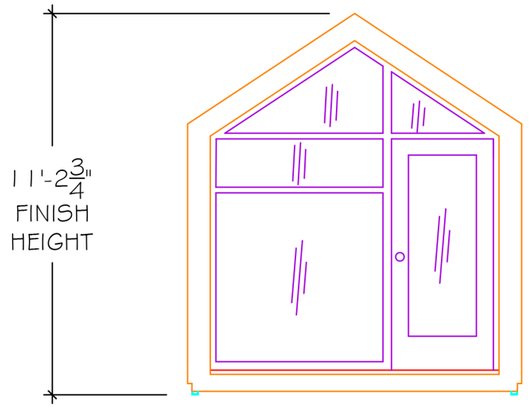
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1/0"
DRWN BY	CDH
DATE	3/4/2021

SHEET NAME
FOUNDATION PLAN

SHEET NO.
AP-4

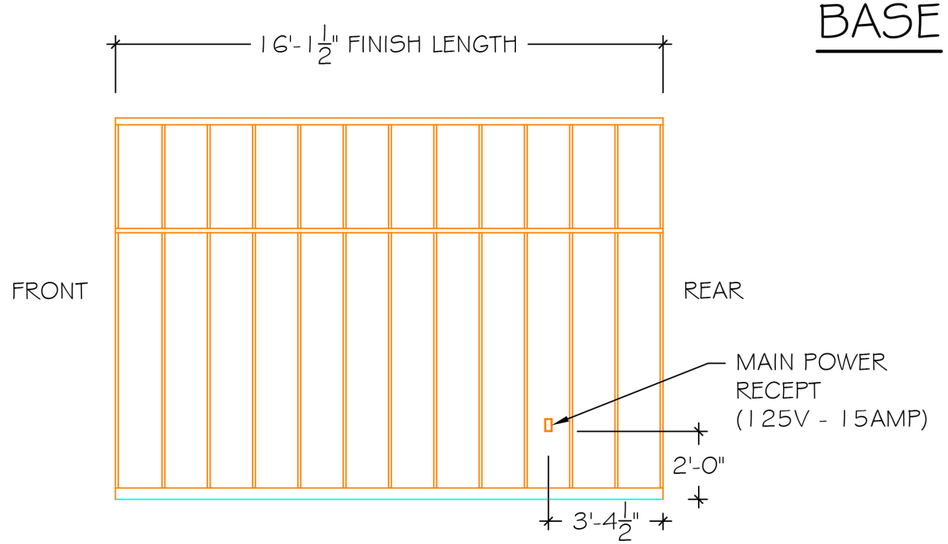


1 AP-5 **LEFT ELEVATION**
1/4" = 1'0"

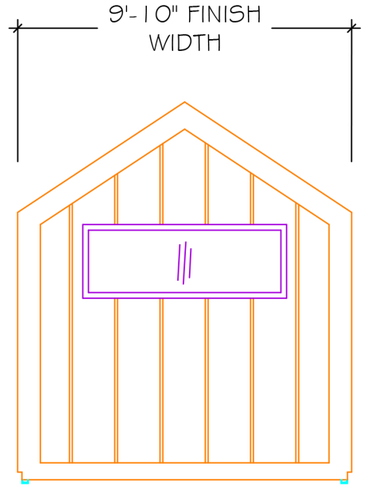


2 AP-5 **FRONT ELEVATION**
1/4" = 1'0"

MONO BASE



3 AP-5 **RIGHT ELEVATION**
1/4" = 1'0"



4 AP-5 **REAR ELEVATION**
1/4" = 1'0"

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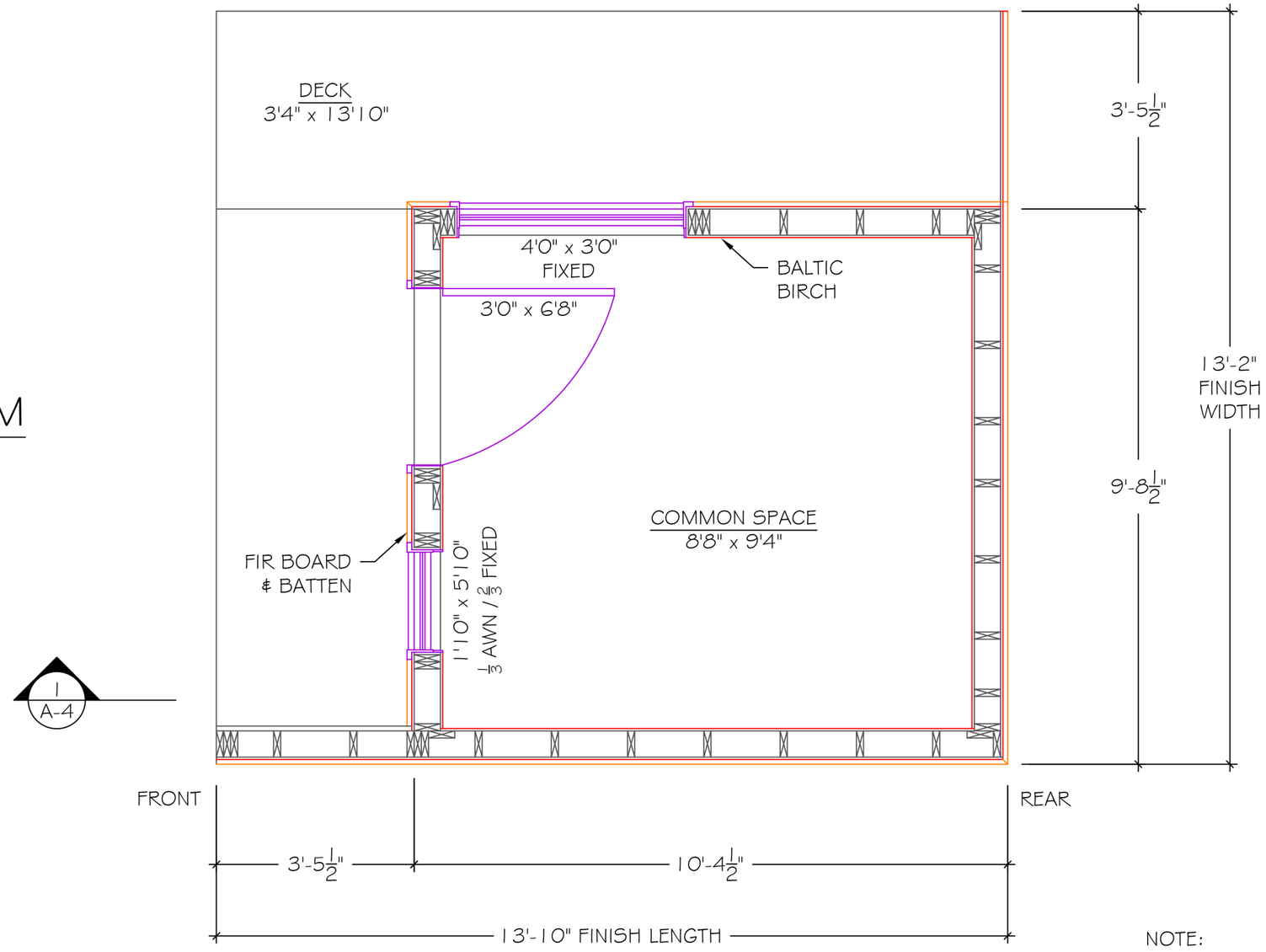
PROJECT NO.	MONO
CLIENT	ARABZADEH
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1/0"
DRWN BY	CDH
DATE	3/5/2021

SHEET NAME
EXTERIOR ELEVATIONS

SHEET NO.
AP-5

CUSTOM



NOTE:
ALL EXTERIOR
WALLS ARE SPF.
2"x6" @ 16" o/c

1 / A-1 FLOORPLAN
1/2" = 1'0"

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PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY, CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	2/8/2021

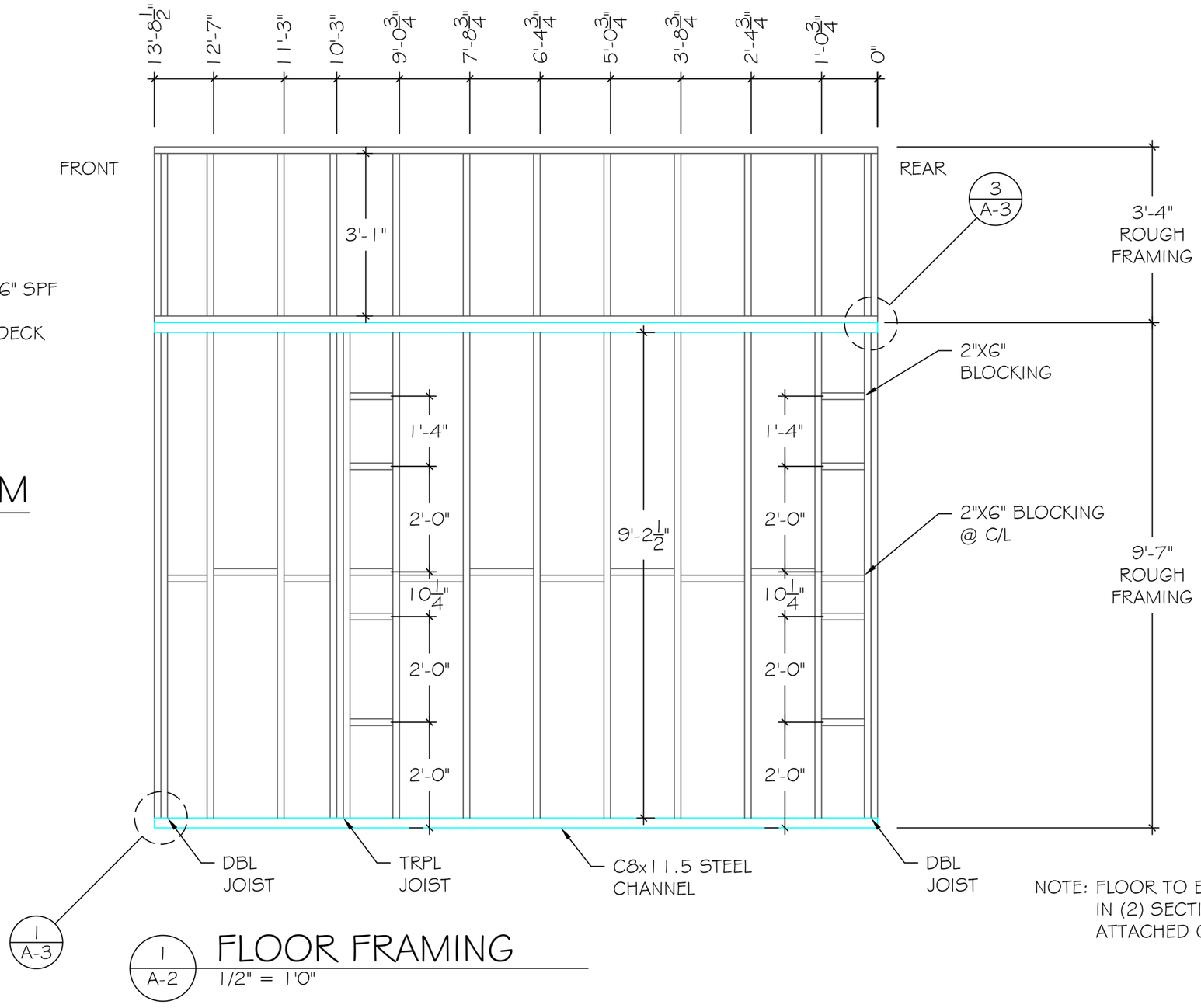
SHEET NAME
FLOOR PLAN

SHEET NO.
A-1

NOTE: DIMENSIONS ARE TO EDGE OF JOIST

NOTE: JOISTS - 2"X6" SPF No.2
USE PWF IN DECK LOCATIONS

CUSTOM



1/A-2 FLOOR FRAMING
1/2" = 1'0"

NOTE: FLOOR TO BE BUILT IN (2) SECTIONS AND ATTACHED ON SITE

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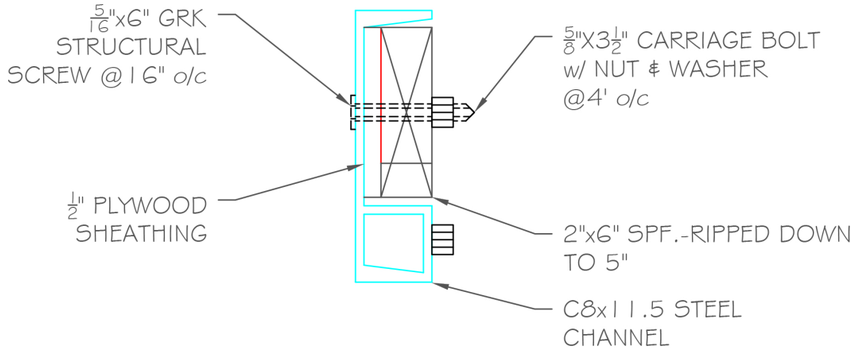
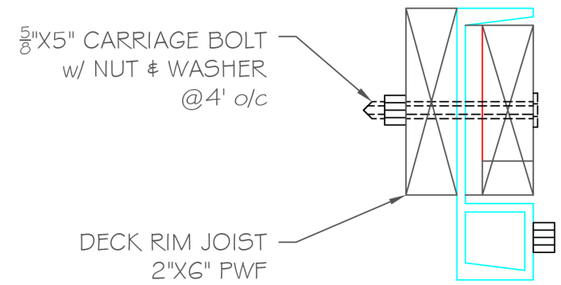
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	2/4/2021

SHEET NAME
FLOOR FRAMING

SHEET NO.
A-2



1 / A-3 STEEL DETAIL
3" = 1'0"

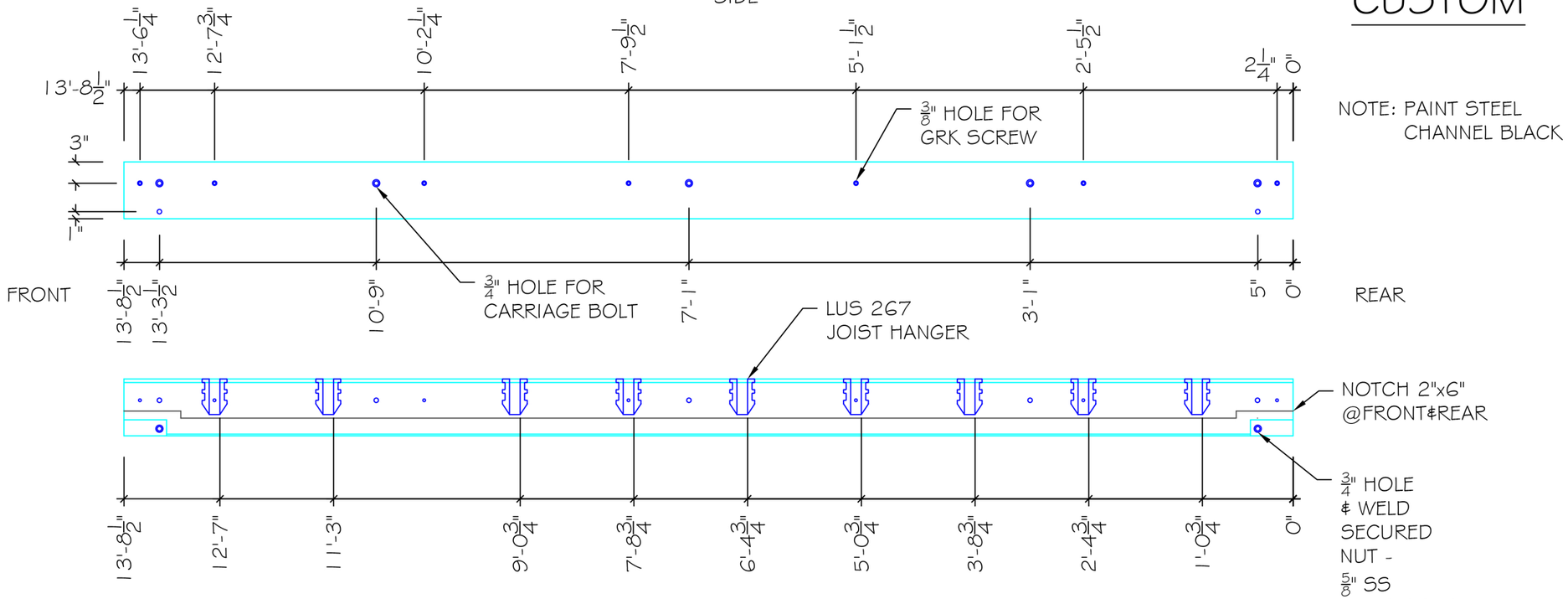


NOTE: ATTACH UPPER PORTION OF DECK ON SITE

3 / A-3 STEEL DETAIL
3" = 1'0"

NOTE: ALL MEASUREMENTS START @ REAR MIRROR FOR OPPOSITE SIDE

CUSTOM



NOTE: PAINT STEEL CHANNEL BLACK

2 / A-3 STEEL ELEVATION
3/4" = 1'0"

NOTE: DIMENSIONS FOR JOIST HANGER ARE TO INSIDE MEASUREMENT

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1/5/2021	ADDED DIMS FOR WELDED ON NUT (CDH)

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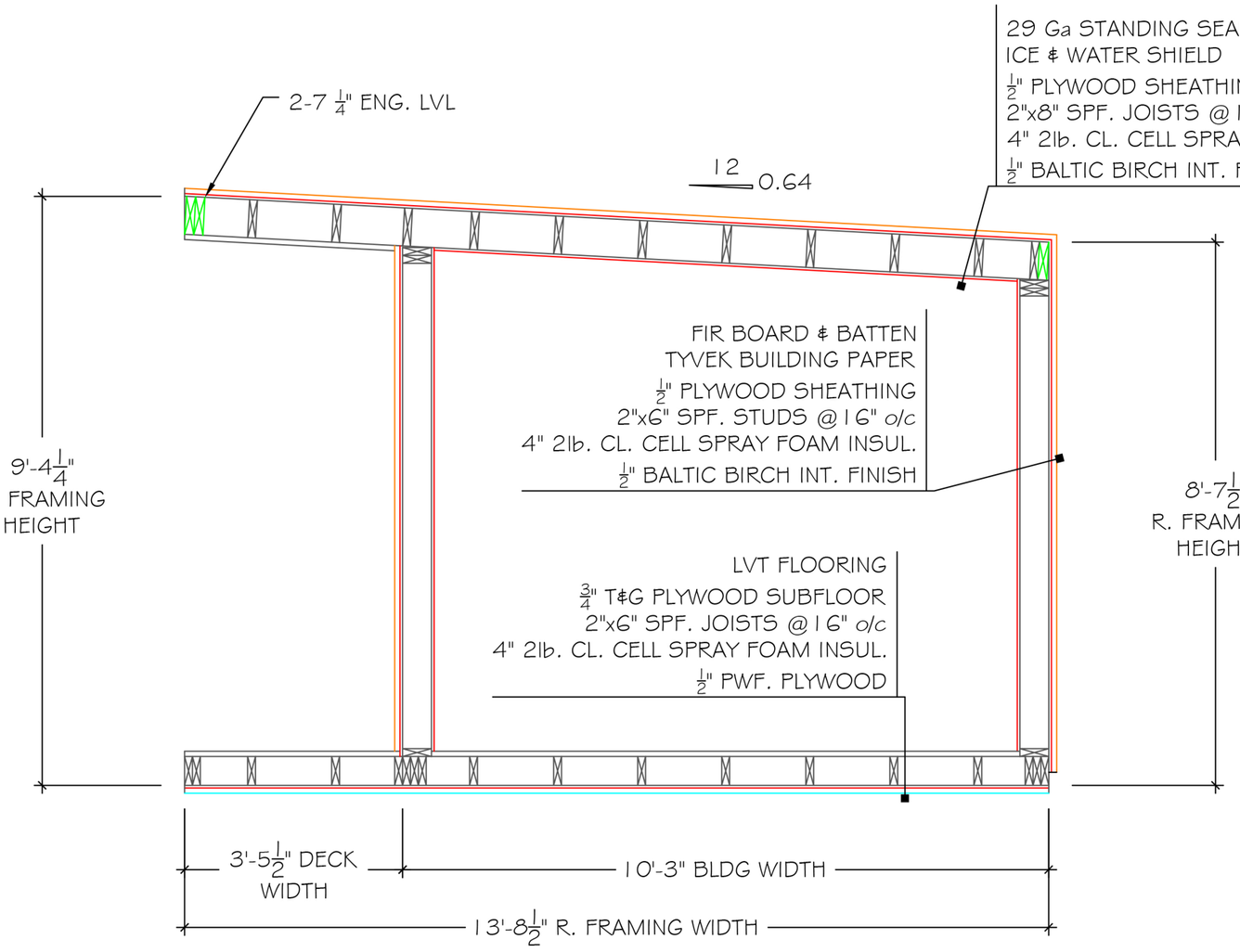
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	AS SHOWN
DRWN BY	CDH
DATE	2/4/2021

SHEET NAME
STEEL DETAIL

SHEET NO.
A-3



CUSTOM

1 / A-4 CROSS SECTION
1/2" = 1'0"

NOTE: ALL CONSTRUCTION TO ADHERE TO A.B.C. 2019

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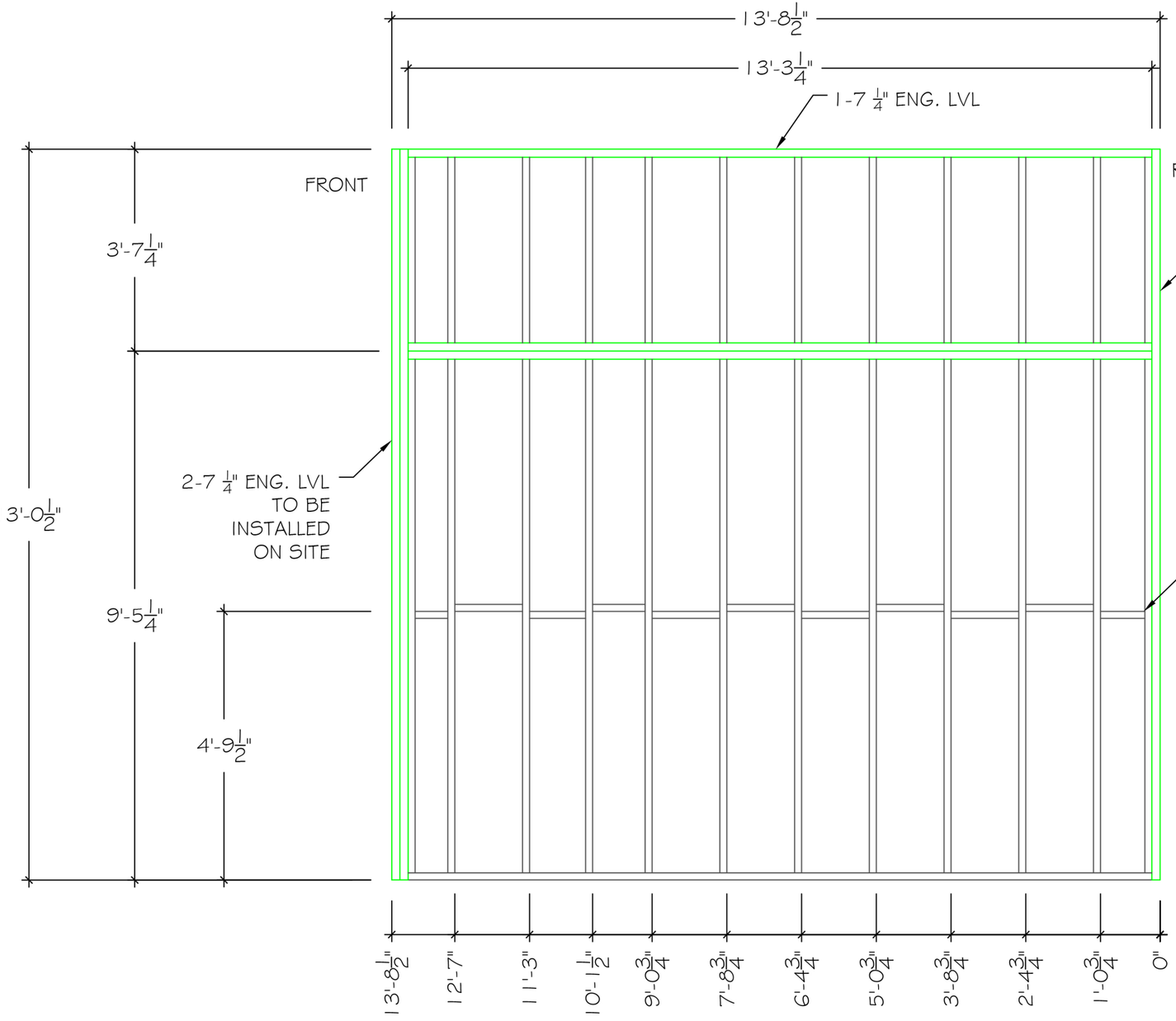
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	1/14/2021

SHEET NAME
CROSS SECTION

SHEET NO.
A-4



NOTE:
ROOF JOISTS
2"x8"@16" o/c

NOTE:
ROOF TO BE BUILT IN (2) SECTIONS AND ASSEMBLED ON SITE

CUSTOM

1 / A-5 ROOF JOIST PLAN

1/2" = 1'0"

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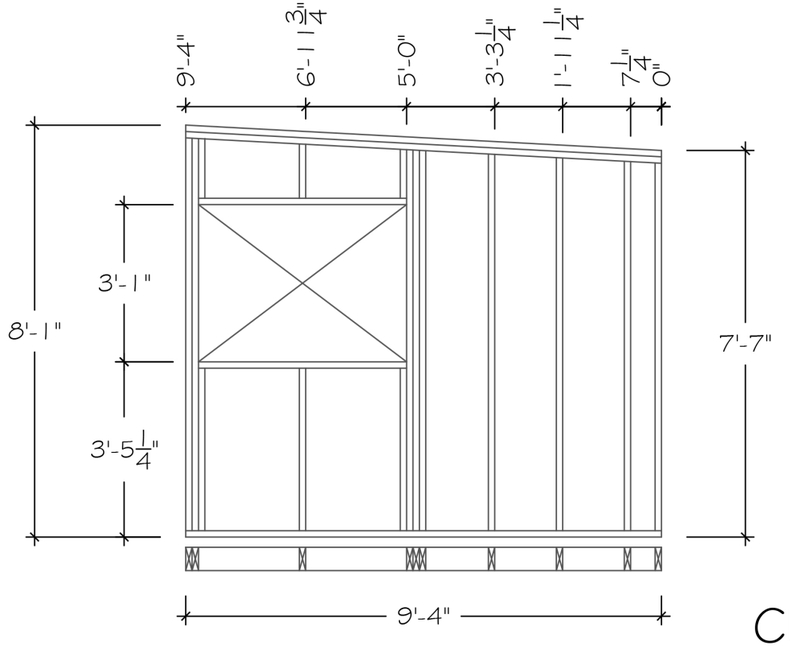
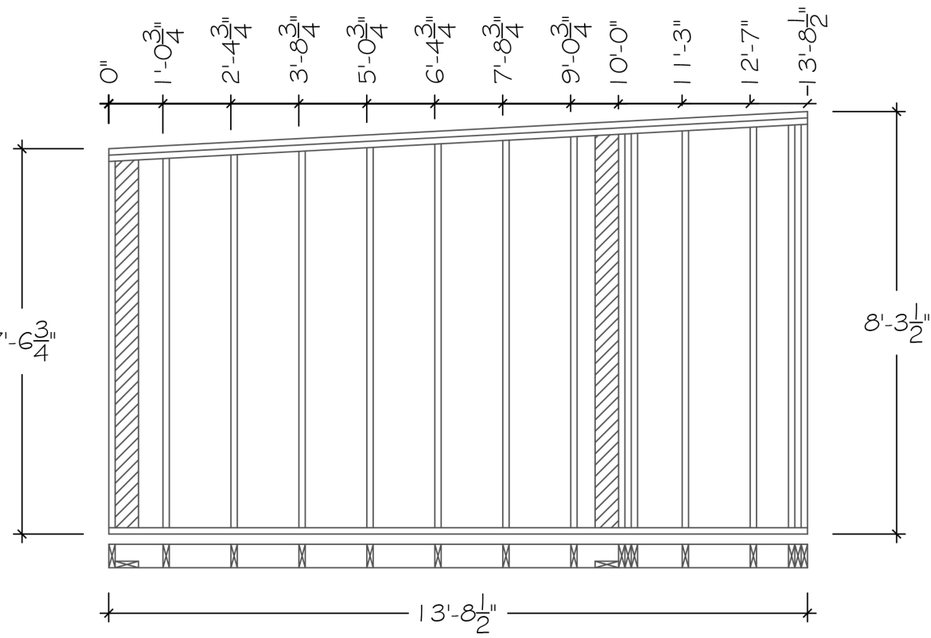
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	2/2/2021

SHEET NAME
ROOF JOIST PLAN

SHEET NO.
A-5



1 A-6 LEFT INT. ELEV
3/8" = 1'0"

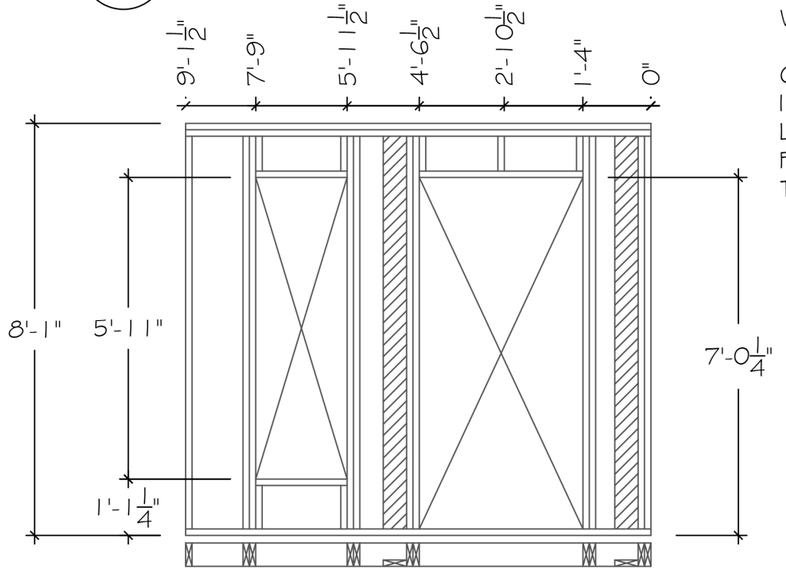


2 A-6 RIGHT INT. ELEV
3/8" = 1'0"

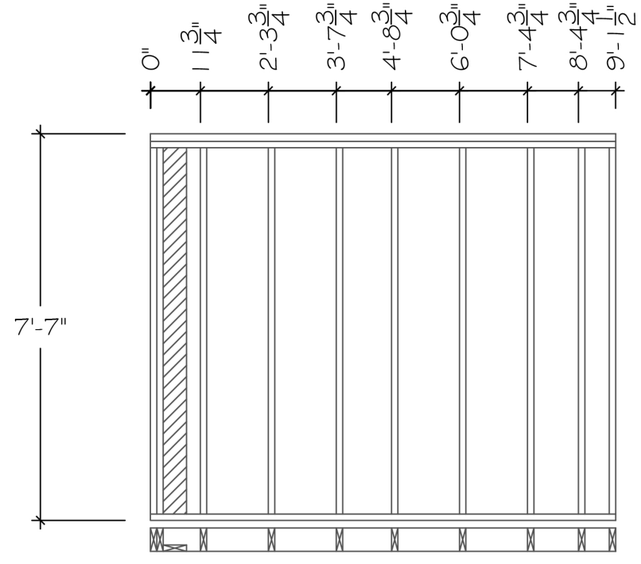
CUSTOM

NOTE:
DO NOT SHEATH WALLS

CROSS BRACE INTERIOR ONLY AND LEAVE ALLOWANCE FOR WALLS TO BE TIED TOGETHER



3 A-6 FRONT INT. ELEV
3/8" = 1'0"



4 A-6 REAR INT. ELEV
3/8" = 1'0"

NOTE:
ALL WALLS TO BE CONSTRUCTED OF SPF No. 2 or better

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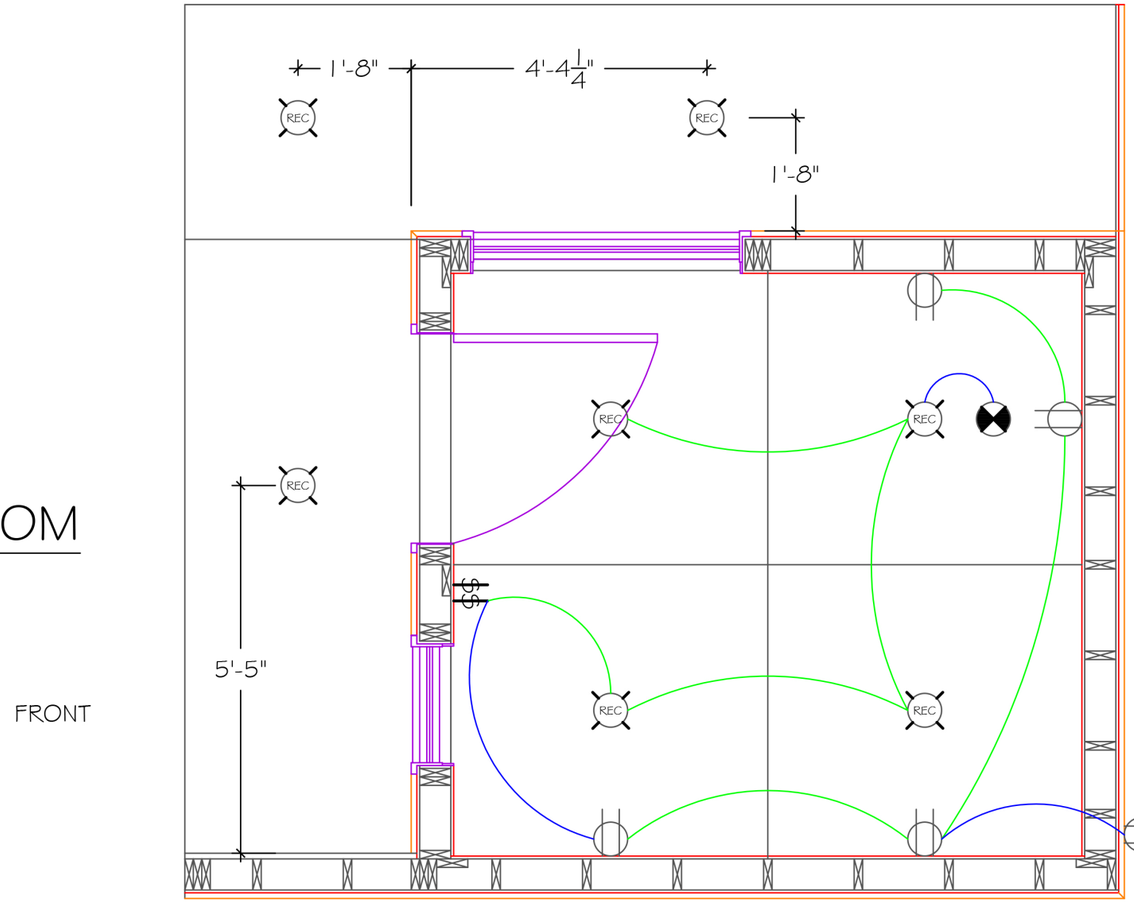
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	3/8" = 1'0"
DRWN BY	CDH
DATE	2/2/2021

SHEET NAME
INTERIOR WALL LAYOUTS

SHEET NO.
A-6

CUSTOM



ELECTRICAL LEGEND

$	SINGLE SWITCH	SMOKE ALARM	
$3	3-WAY SWITCH	BATH FAN	FAN
GFI	DUPLEX OUTLET	TV/COMM. OUTLET	
	GROUND FAULT OUTLET	RECESSED POT-LIGHTT	REC
WP	WEATHER PROOF OUTLET		

1 / A-7 ELECTRICAL PLAN
1/2" = 1'0"

NOTE: ALL ELECTRICAL TO ADHERE TO C.E.C 2018

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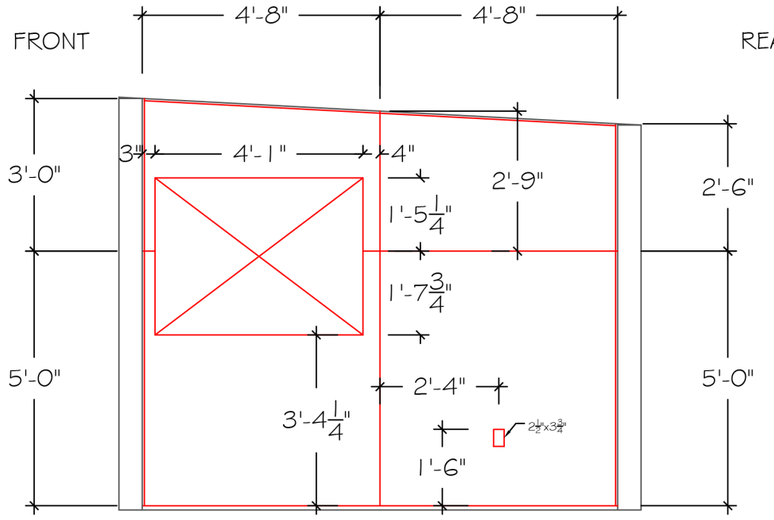
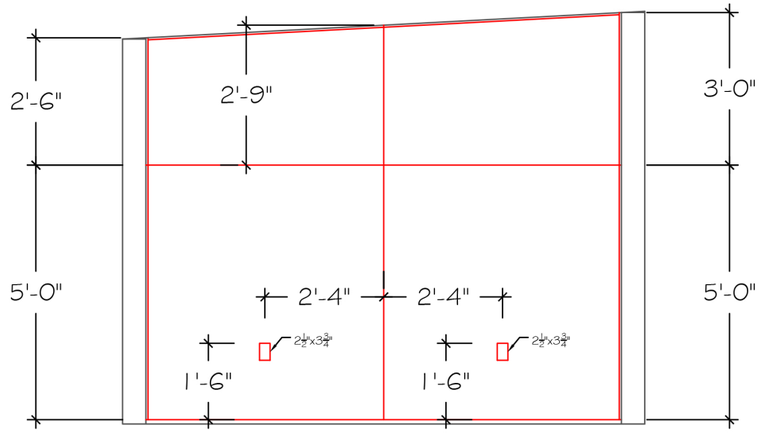
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/2" = 1'0"
DRWN BY	CDH
DATE	2/8/2021

SHEET NAME
ELECTRICAL PLAN

SHEET NO.
A-7



1 / A-8 **LFT. INT. ELEVATION**
3/8" = 1'0"

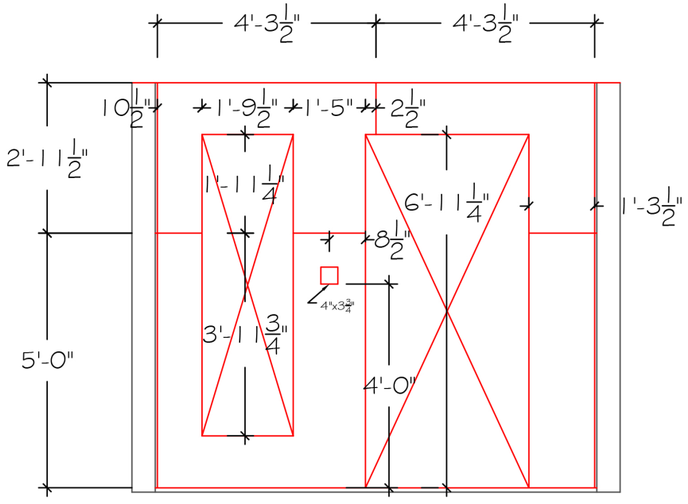


3 / A-8 **RT. INT. ELEVATION**
3/8" = 1'0"

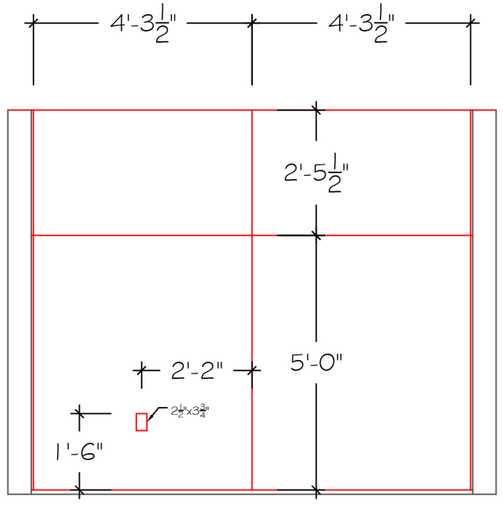
CUSTOM

NOTE: INSTALL SIDE WALL BIRCH FIRST, FOLLOED BY REAR & FRONT WALLS. FINISHING WITH CEILING

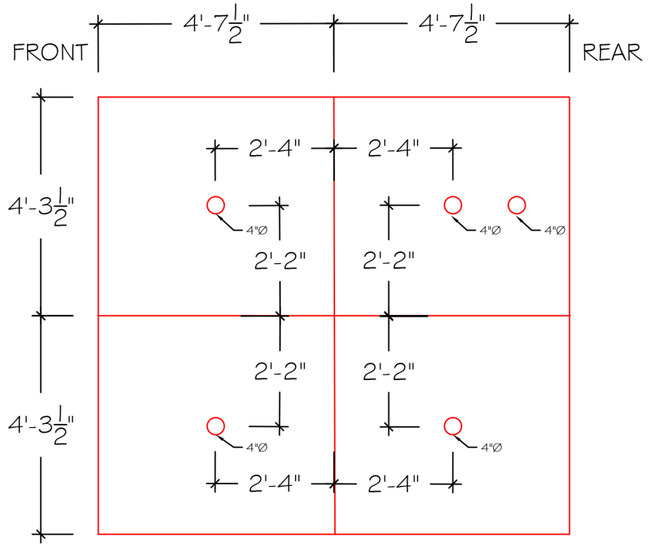
REAR & FRONT WALLS TO INCLUDE 1" TRIM ALL-AROUND



2 / A-8 **F. INT. ELEVATION**
3/8" = 1'0"



4 / A-8 **R. INT. ELEVATION**
3/8" = 1'0"



5 / A-8 **RC PLAN**
3/8" = 1'0"

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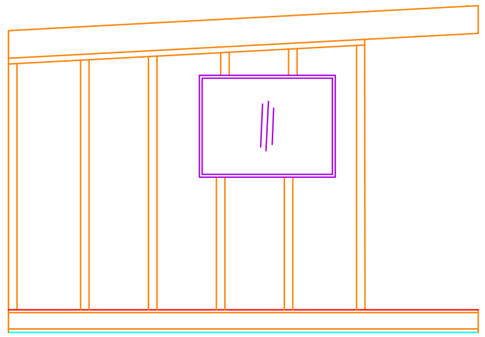
PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	3/8" = 1'0"
DRWN BY	CDH
DATE	2/8/2021

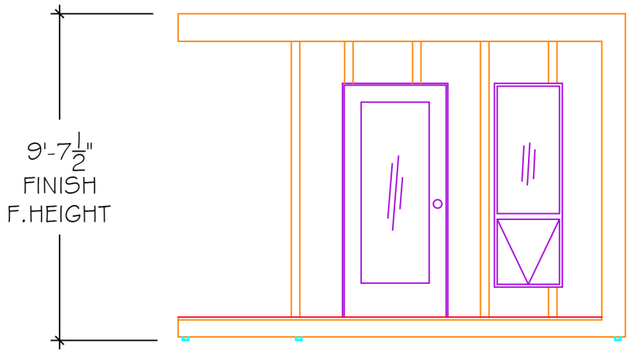
SHEET NAME
INTERIOR ELEVATION

SHEET NO.
A-8

REAR



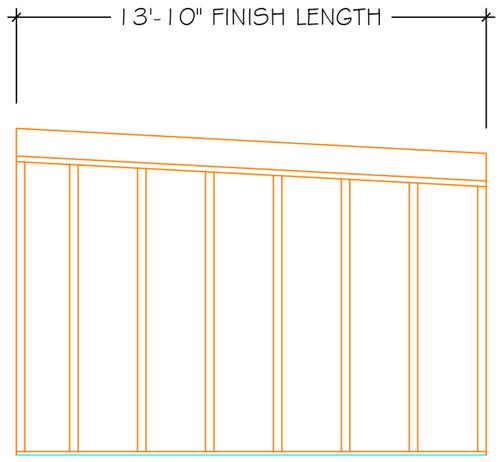
FRONT

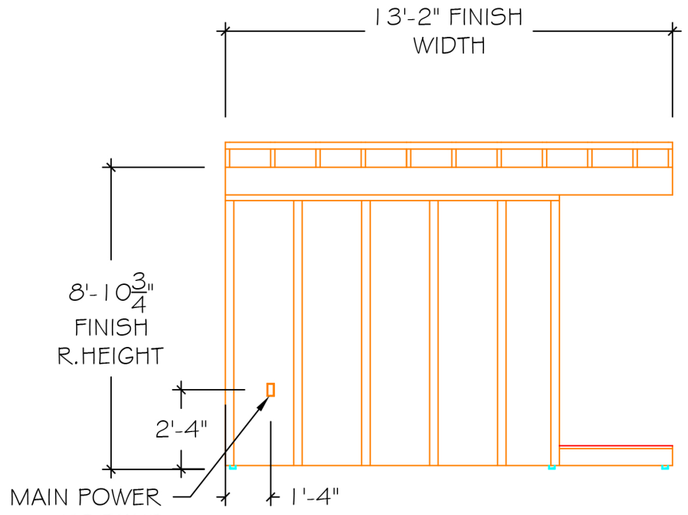


1 / A-9 LEFT ELEVATION
1/4" = 1'0"

2 / A-9 FRONT ELEVATION
1/4" = 1'0"

CUSTOM





3 / A-9 RIGHT ELEVATION
1/4" = 1'0"

4 / A-9 REAR ELEVATION
1/4" = 1'0"

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PROJECT NO.	CUSTOM
CLIENT	JACOBS
ADDRESS	BERKELEY,CA
SCALE	1/4" = 1'0"
DRWN BY	CDH
DATE	2/8/2021

SHEET NAME
EXTERIOR ELEVATIONS

SHEET NO.
A-9

Introduction

In May 2020, due to the COVID-19 Pandemic we decided to look into placing two Accessory Structures in our backyard. The units were to serve several functions.

1. Home Office for Matt Jacobs as his office closed to on-site work.
2. Jeana Arabzadeh lost use of The Potter's Studio, a ceramics co-op she was a member of for 3 years.
3. A space for exercise due to the closing of Ironworks Gym in Berkeley.

Permits

In August 2020, Jeana, researching the project went to the planning department to determine if we needed permits or not. Jeana emailed permits@cityofberkeley.info and when she received Leslie Mendez's following email with the information regarding set-backs and height requirements, we believed we had all the information we needed to legally proceed.

Our general understanding from the department was that if a backyard structure was 120 square feet or less, permits were not required.

For example, were Tuff Shed's from Home Depot under 120 square feet placed on the property, they would be legal Accessory Structures.

This was our simple and honest understanding then.

From: **Mendez, Leslie** <LMendez@cityofberkeley.info>
Date: Wed, Aug 19, 2020 at 12:52 PM
Subject: FW: 1151 Grizzly Peak Blvd. Electrical and plumbing permit request
To: jeanajoon@gmail.com <jeanajoon@gmail.com>

Hello Jeana,

The standards for accessory structures, can be found in BMC 23D.08. Setbacks are set by height of structure as well as other citing requirements. In addition, all covered areas (including covered porches et. al.) may not exceed 40% of the lot size.

23D.08.020 Height Limits for Accessory Buildings or Structures

A. No accessory building or enclosed accessory structure may exceed ten feet in average height when any portion of the building or structure is within four feet of a lot line.

B. No accessory building or enclosed accessory structure may exceed 12 feet in average height when any portion of the building or structure is between four and ten feet of a lot line.

C. No accessory building or enclosed accessory structure may exceed 24 feet in average height, unless a Variance is obtained. (Ord. 6478-NS § 4 (part), 1999)

23D.08.030 Setback Requirements for Accessory Building or Structures

A. No accessory building or enclosed accessory structure located on an interior lot may be erected or expanded in a manner which encroaches upon the front half of the lot depth.

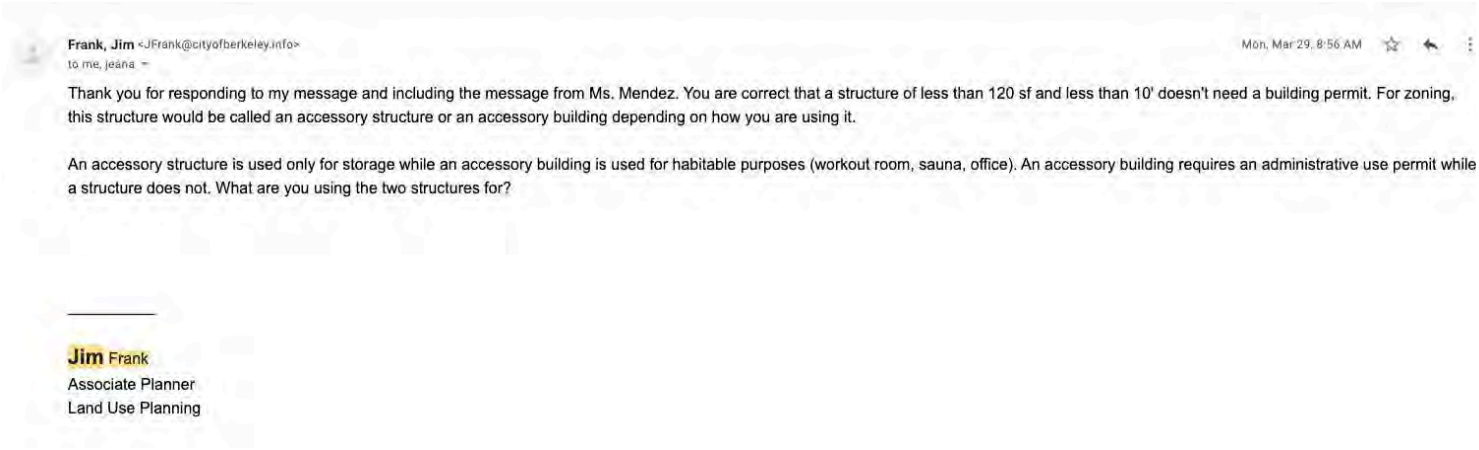
B. No accessory building or enclosed accessory structure located on a through lot shall be erected or expanded so as to encroach upon that 25% of the lot portion that is nearest to either abutting street.

C. No accessory building or enclosed accessory structure on a corner lot may be erected or expanded so as to project into the existing or required front yard to a greater extent than the setback existing or required on the adjacent lot, whichever is smaller; nor may it be located closer to either street line than the main building constructed on the subject lot.

D. No accessory building or enclosed accessory structure that is within 75 feet of the front lot line may be erected or expanded so as to encroach closer than four feet to the side lot line, when abutting another lot. Any such building or structure which is located in excess of 75 feet from the front lot line such a building or structure may encroach closer than four feet to the side lot line subject to the fire isolation requirements, including setbacks and/or fire resistance wall requirements, of the Berkeley Building Code.

E. No detached accessory building or enclosed accessory structure may be erected or expanded to be within five feet of an alley. (Ord. 6478-NS § 4 (part), 1999)

What we did not understand from Leslie Mendez's email, or any time between inception, construction and installation that there was a distinction based on use, differentiating an ACCESSORY STRUCTURE from an ACCESSORY BUILDING.



Frank, Jim <JFrank@cityofberkeley.info>
to me, jeana

Mon, Mar 29, 8:56 AM

Thank you for responding to my message and including the message from Ms. Mendez. You are correct that a structure of less than 120 sf and less than 10' doesn't need a building permit. For zoning, this structure would be called an accessory structure or an accessory building depending on how you are using it.

An accessory structure is used only for storage while an accessory building is used for habitable purposes (workout room, sauna, office). An accessory building requires an administrative use permit while a structure does not. What are you using the two structures for?

Jim Frank
Associate Planner
Land Use Planning

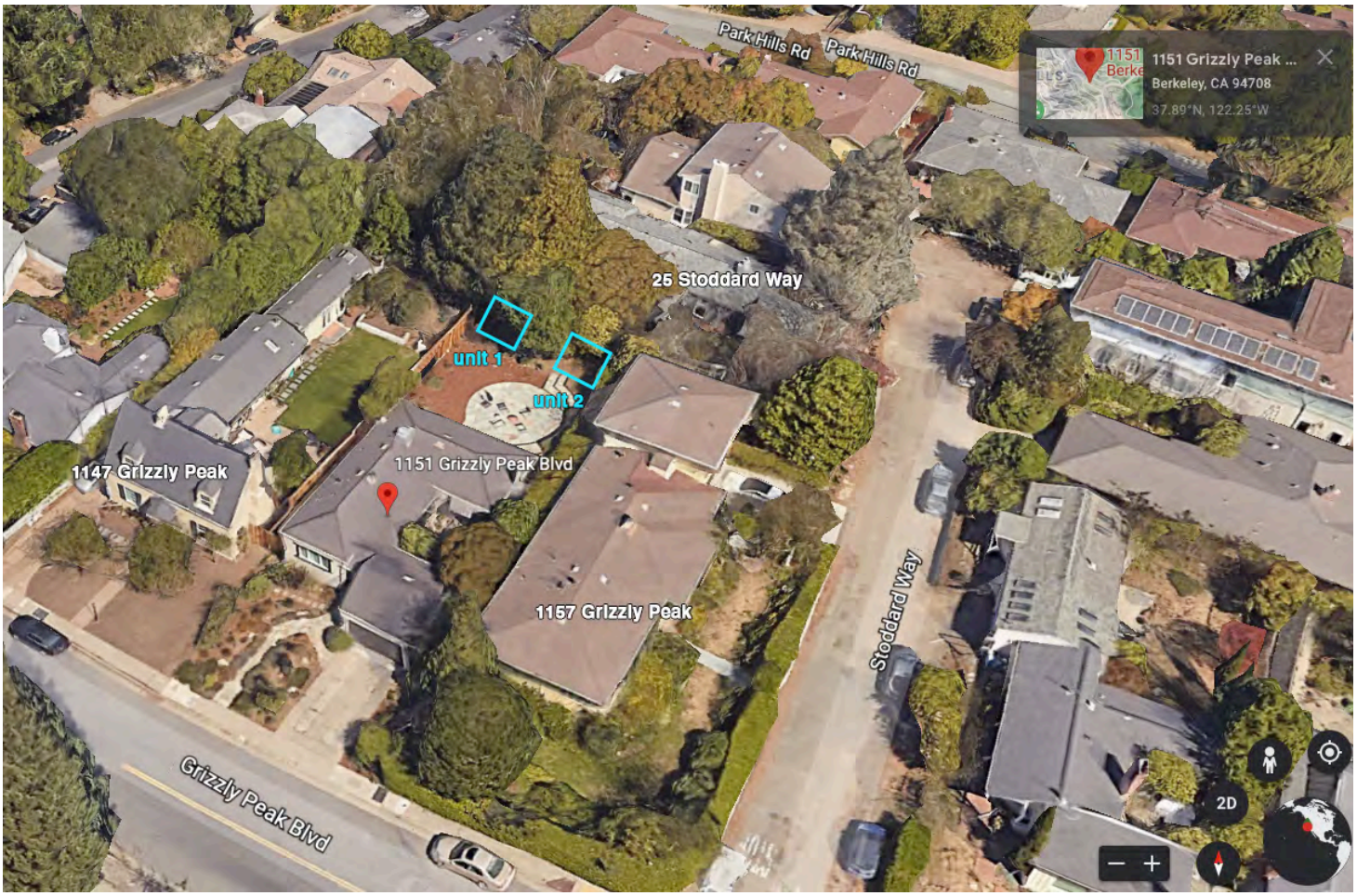
Upon receiving Jim Frank's email we began the Application process. Applying on April 15, 2021 we submitted plan views of the site, complete construction drawings for both units, and the application payment in the amount of $4190.

Construction

Originally, we planned to build the outdoor structures ourselves, purchasing plans and determining material costs. Ultimately, we realized we did not have the time to execute the structures to the level of quality, attention to detail and design that we wished. As a result, we decided to look into prefabricated options.

In August, 2020, we contracted with Drop Structures to build one of their prefab 120 sq.ft. Mono units and a smaller custom structure 103 sq.ft. in size.

The 120 sq.ft. Mono Mini will be referred to as Unit 1 and is placed in the North corner of the yard.
The 103 sq.ft. custom unit will be referred to as Unit 2 and is placed in the North East corner of the yard.



UNIT 1

UNIT 2

Considerations

Noise Reduction
By using a crane to place the units in a four hour time frame on a single day we would be able to reduce the amount of noise that would be caused by an extended on-site construction period.

Design
Overall, Drop Structures was willing to work with us to address our desires regarding customization. Our final designs were based on Berkeley building codes, privacy, footprint, size, height and relationship to adjacent properties.

Unit 1 Design
Drop Structures Mono design comes standard with large glass windows going from floor to roof on two sides. We felt from that design privacy would be an issue between ourselves and the property to our back, 25 Stoddard Way. As a result we chose to have the entire back wall of the unit enclosed. To allow some light in the unit we opted for a 21" wide window running top to bottom toward the back of the unit on the East facing wall, perpendicular to 25 Stoddard.

Unit 2 Design
The first thing we decided regarding Unit 2 was to reduce it's height. Unit 2 would be at a higher elevation than Unit 1. We felt the pitched roof design of the Unit 1 Mono would not work as the maximum height of the that design would be too intrusive and block our neighbor's views at 25 Stoddard Way.

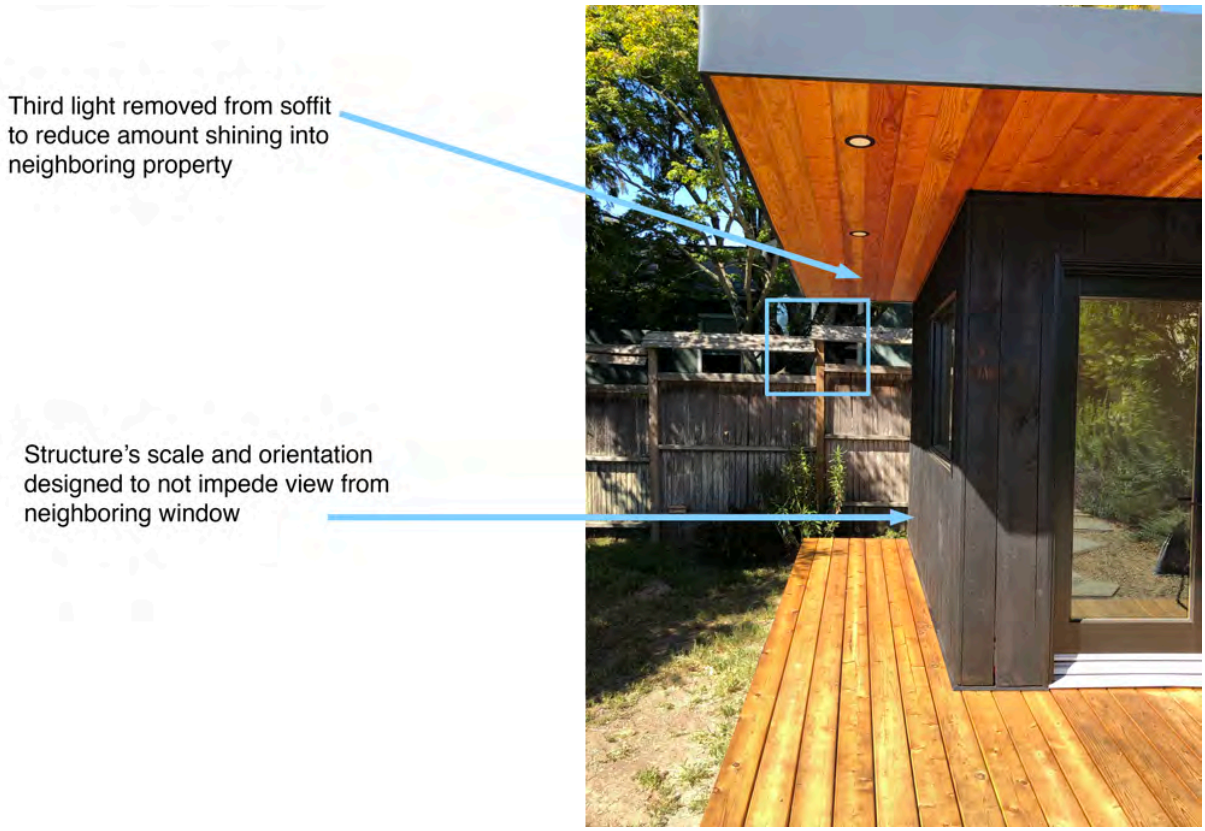
To address the issue we designed the building to have a roof with a very shallow pitch, roughly 2.75 degrees.

The interior ceiling height was reduced. The front interior wall measuring 8'. The rear wall measures 7'6"

An exterior soffit light closest to the back of unit was removed to reduce light spilling onto 25 Stoddard Way.

The square footage was reduced by 14% from 120 sq. ft. to 103 sq. ft.

25 Stoddard way has a wall directly behind the unit with one set of windows. The trunk and branches from a large maple tree on that property occlude much of that windows views. Unit 2 was specifically placed to avoid further blocking any views from that window.

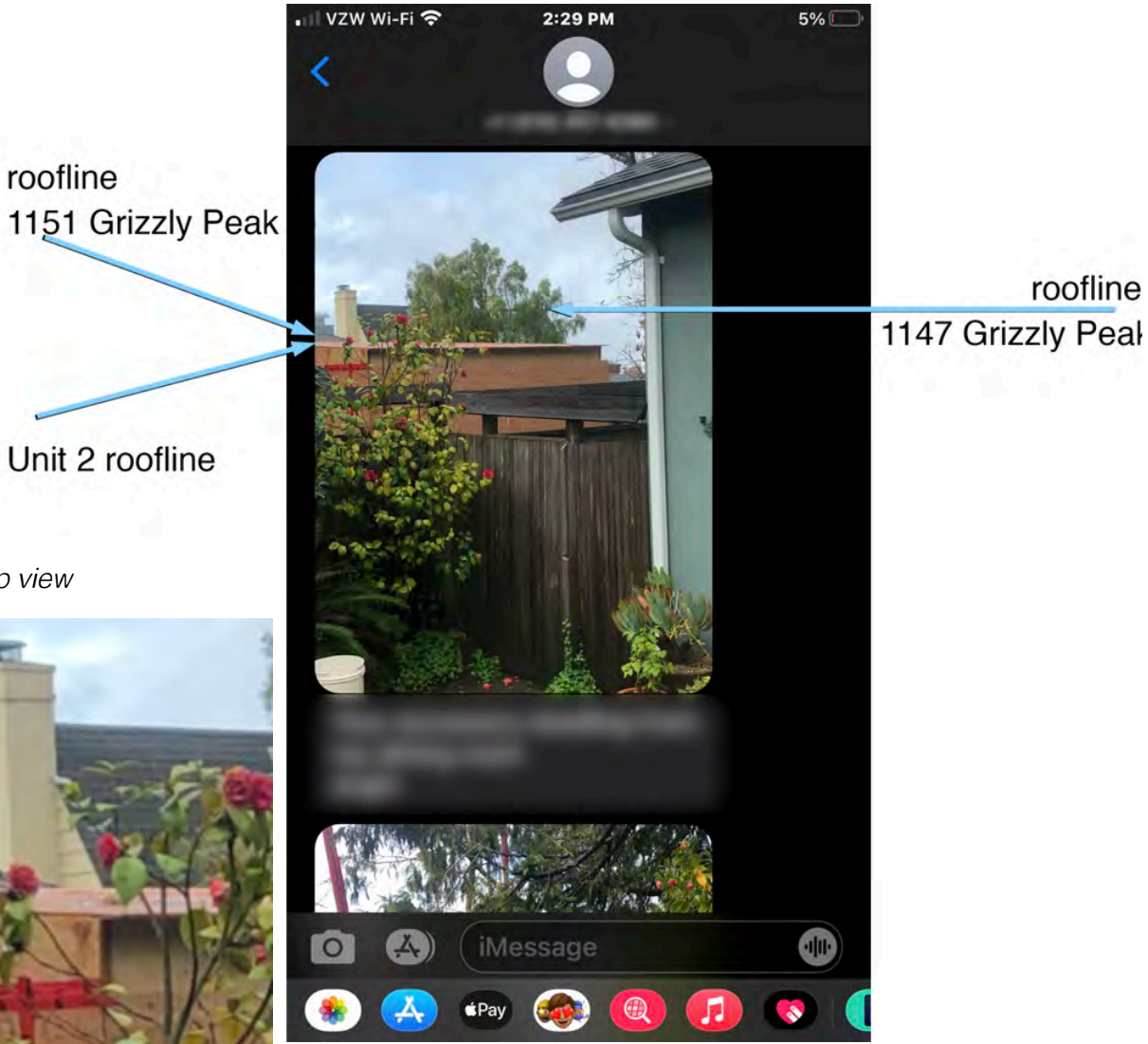


By lowering the pitch and ceiling heights of Unit 2, the view of the horizon from within 25 Stoddard Way was not occluded.

Unit 2's roofline is lower than the roofline's of existing homes at 1151 and 1147 Grizzly Peak Blvd.

Photo taken by neighbor from the dining room at 25 Stoddard Way. The photo was sent to us via text. Phone number and comments have been redacted.

When we saw this photo we were very happy to see that, as planned, Unit 2 had not obstructed the skyline view.



close up view

To Whom it May Concern,

Our company, Drop Structures, specializes in designing and building prefabricated structures and delivering them across North America. In August of 2020 our clients, Matt Jacobs and Jeana Arabzadeh, contracted us to build for them our most popular model, the Mono. The structure was ordered and built with as requested with a framed wall in place of the standard rear glass curtain wall. This configuration greatly decreases the natural light potential within the structure; however, it was communicated by the clients that this change was to be made in consideration of their neighbors' privacy.

We were also asked to create a second, completely custom structure for Matt and Jeana. The configuration is completely unique and distinct from any of our standard models in that the structure has: 1. a significantly reduced ceiling height; 2. a significantly reduced roof pitch; 3. reduced interior square footage compared to our smallest standard structure and; 4. omitted deck lighting.

The pandemic and the accompanying shift to working at home for many people had the effect of creating a huge influx of new business for us in 2020, and the extra time and work to fit in a completely custom design was not what we were necessarily prepared for. We are primarily in the business of making prefabricated structures according to our own pre-designed blueprints. With this in mind, we let Matt and Jeana know that while we were willing to undertake the project, that level of customization would require considerably more time to design and build than one of our standard structures, with a corresponding increase in cost.

It was communicated clearly to us from the beginning that the clients' willingness to wait several months longer for the build to be completed and delivered, to accept additional cost, and to compromise on the available interior space and potential natural light in the structures was all due to their concern for the privacy of their neighbors and the visual impact that the structures might have on the adjacent properties. In addition, elements of the exterior lighting on the structures were omitted once they arrived on site; this was also done with consideration for the impact that the lights might have upon the neighbor's enjoyment of their own property.

In summary, the entire design, build, and delivery process for this project was undertaken with neighbors' comfort and potential concerns in mind at considerable expense to our clients regarding the cost, convenience, and functionality of the two structures that were built for and delivered to them.

We hope that this information has been helpful.

Thank you,

July 14, 2021

Luke Thiessen

Logistics and Quality Control, Drop Structures

SAFETY

Each unit has a 10 year smoke detector installed

Each unit is equipped with a UL rated Fire Extinguisher.

Power is supplied by NEMA (National Electrical Manufacturers Association) 5-15 UL rated 12 guage extension cords. Given permission by the city, ultimately we would prefer to run underground dedicated 15 amp service to each unit.

Based on documentation we found on-line, the understanding was we could build directly against the fence line to any and all sides of the property. However, we decided that would not be a good idea in the event of a fire, possibly limiting fire department access to any surrounding properties.

SITE PREPPARATION

These structures are designed with a 2"x2" steel beam under them running the length of the unit. This design allows them to be placed on concrete blocks, slabs or directly on the ground.

For foundations, each unit received 1' wide slabs of concrete running the same length as the 2x2 steel beams. A 4" deep layer of gravel was compacted and 3.5" of rebar reinforced concrete was poured.

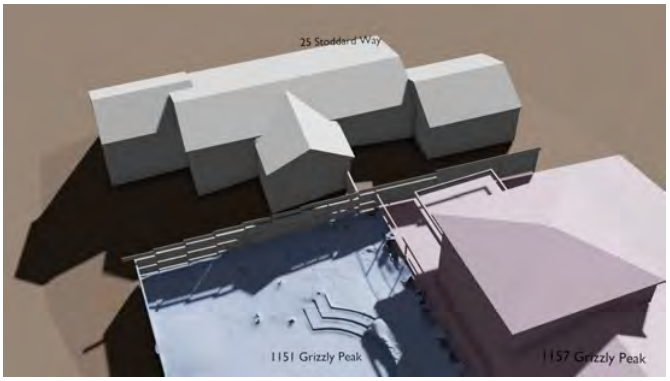
Where Unit 2 was placed, two Camellia trees were removed.

One roughly 21' tall
One roughly 16' tall

The base of these trees were both 5' from our back property line. Both trees were roughly 8-10' in diamteter.

SUN STUDY : WITHOUT VEGETATION
Summer Solstice

BEFORE



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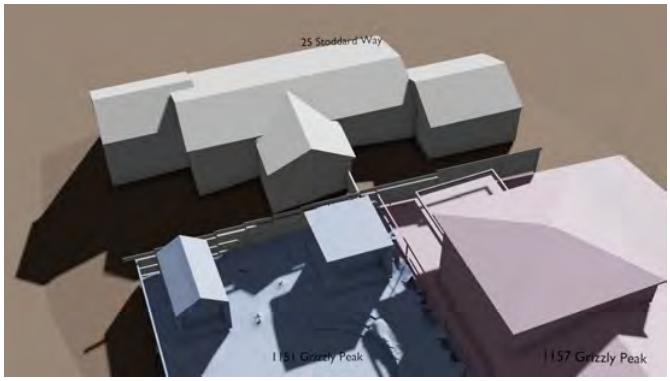
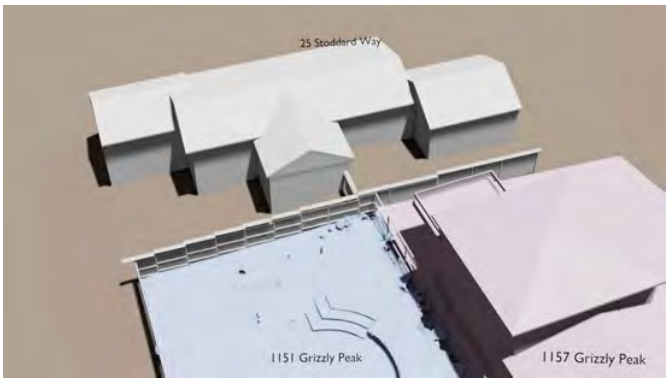
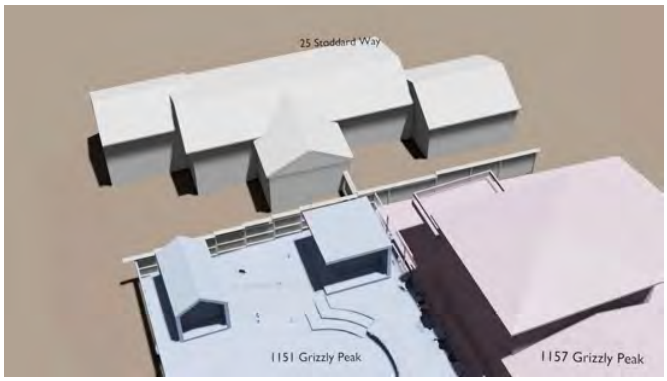
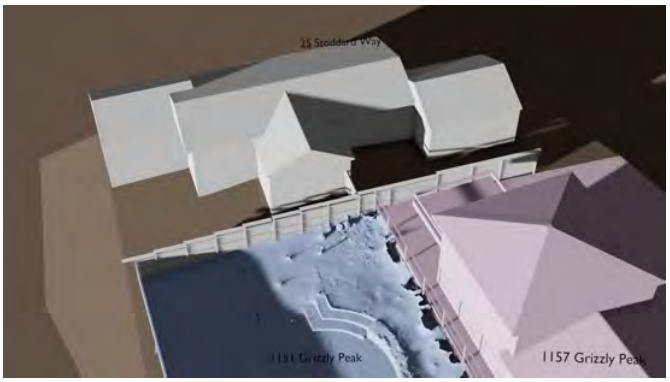


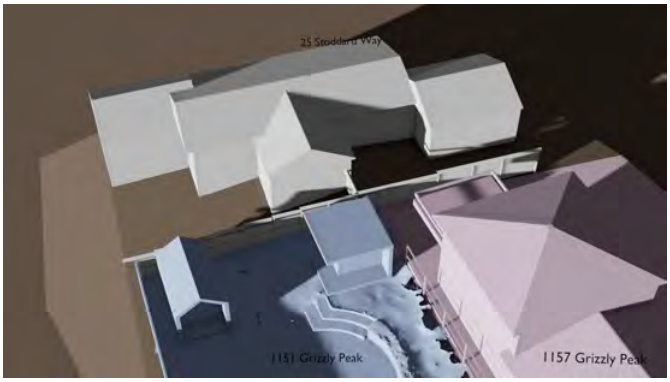
July 21 7:47 AM





July 21 Noon

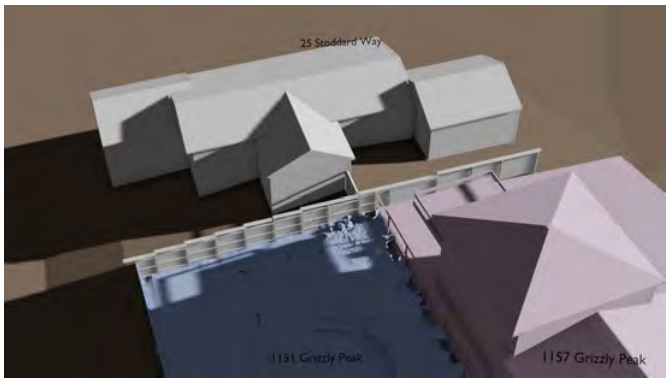


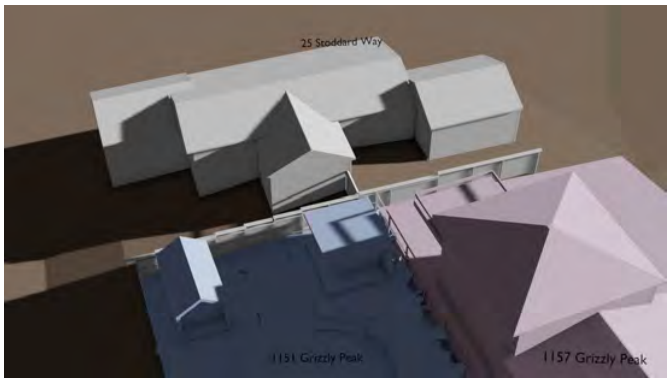


July 21 6:36 PM

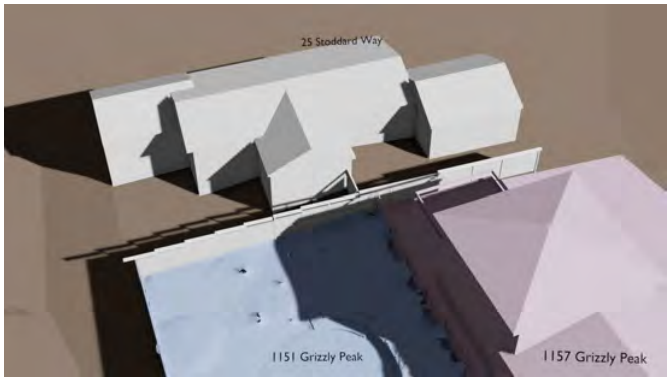
SUN STUDY : WITHOUT VEGETATION
Winter Solstice

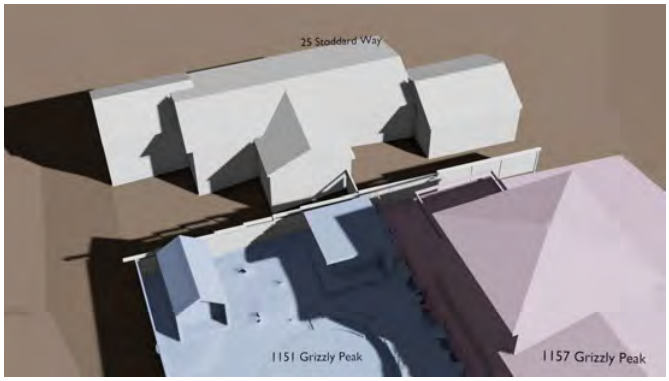
BEFORE AFTER



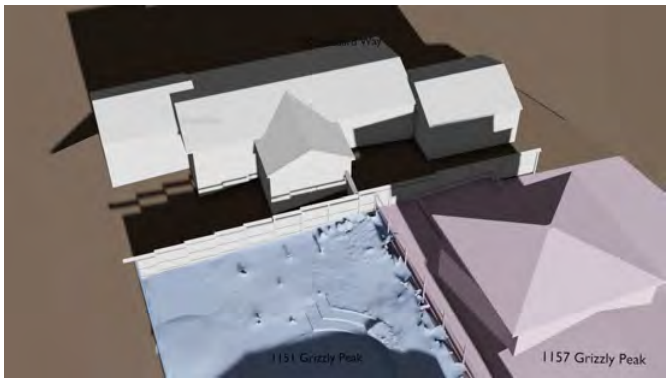


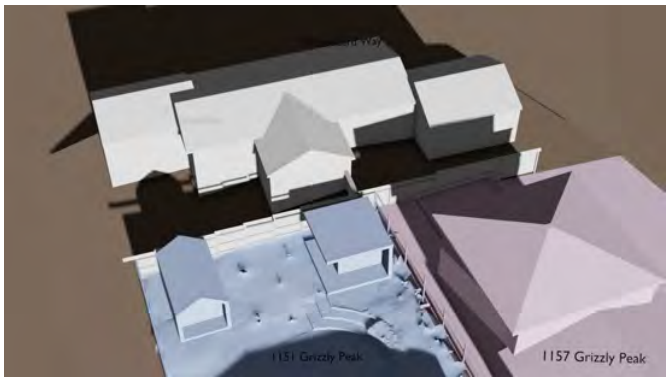
December 21 9:21 AM





December 21 Noon





December 21 2:53 PM

VEGETATION

We understand there is a complaint from the resident at 25 Stoddard Way regarding the loss of light created by the addition of our Additional Building Structures. We think that if that is the case, a broader look at the existing vegetation on that property and the surrounding properties needs to be taken into consideration to reflect how surrounding trees are the main contributors to lack of sun exposure at 25 Stoddard Way.

In removing the two Camellia trees (see page 10 image), we reduced the overall height of shadow casting objects by roughly 8-12 feet from site prep to final installation. The Camelllia's used to cast shadows year-round. Camellia trees are non-deciduous evergreen trees. They do not lose their leaves in winter.

Presently, on the North side of 1151 Grizzly Peak Blvd, there is only one Apple tree next to Unit 1 measuring roughly 22' high and a 15' Pittosporum hedge along the fence line at 1157 Grizzly Peak.

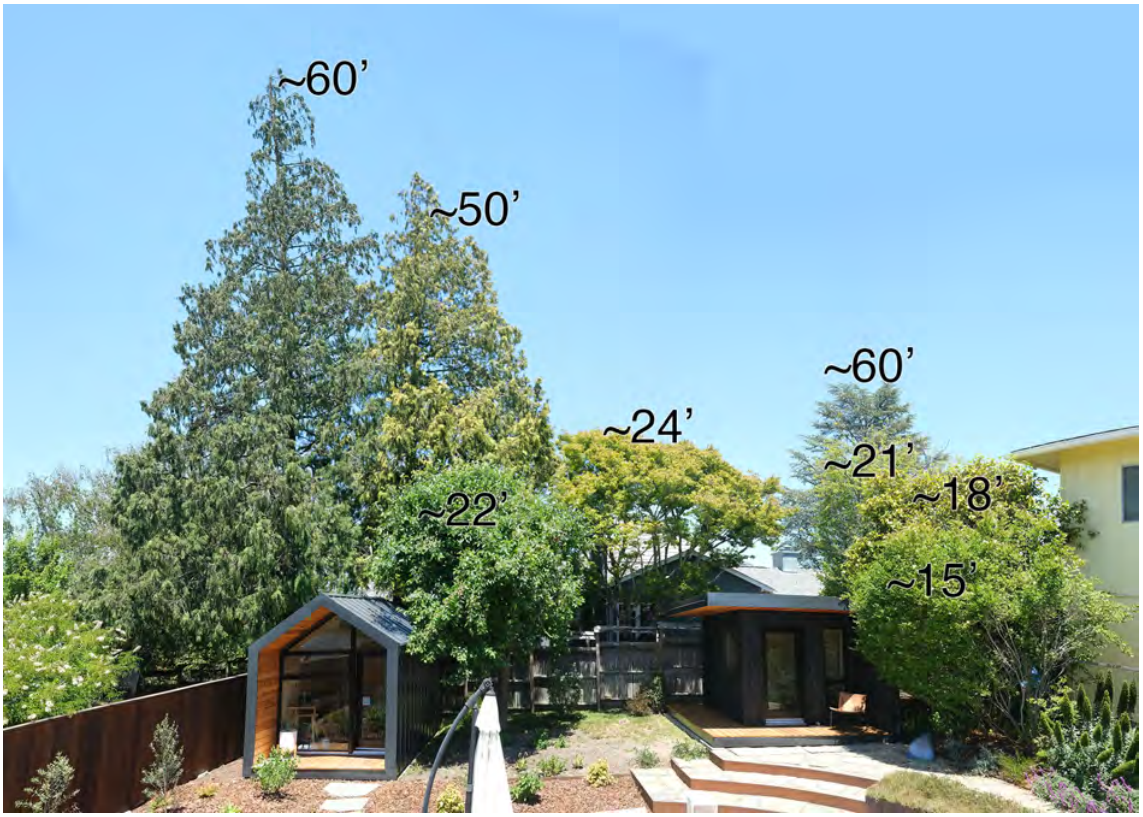
At 25 Stoddard Way, four very large trees cause an abundance of shadows all times of year for that and surrounding properties including ours.

On the North East side

1. One evergreen tree roughly 60' tall.

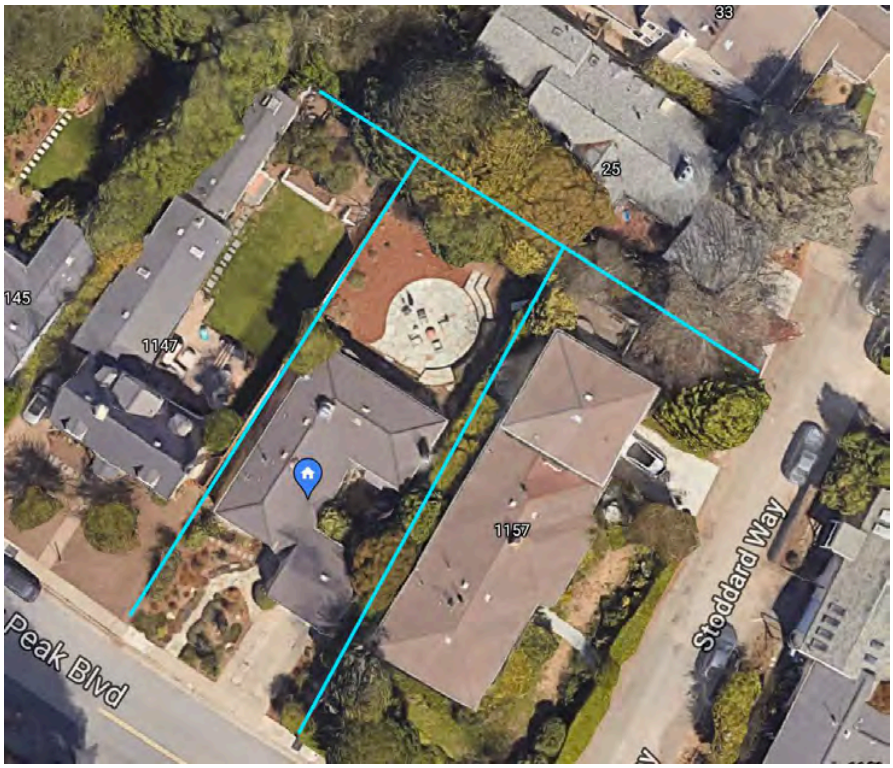
On the Southwest side

2. One evergreen (Sycamore?) roughly 60' tall
3. One evergreen roughly (Sycamore?) 50' tall
4. One Maple tree roughly 24' tall



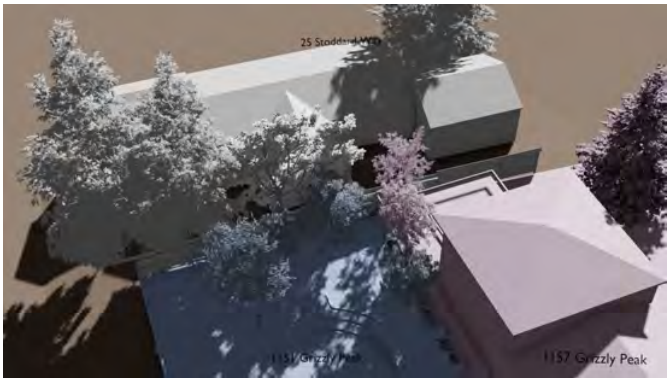
The Maple trunk on the South side of the 25 Stoddard property blocks several windows on that property.

The trees on the South side of 25 Stoddard Way encroach onto our property and 1147 by anywhere from 6-12'



SUN STUDY : WITH VEGETATION
Summer Solstice

BEFORE



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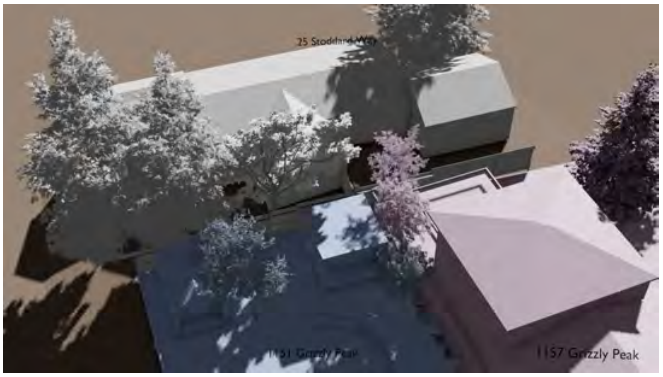

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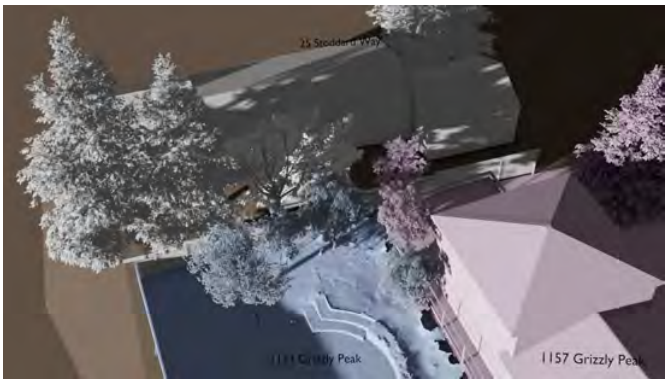

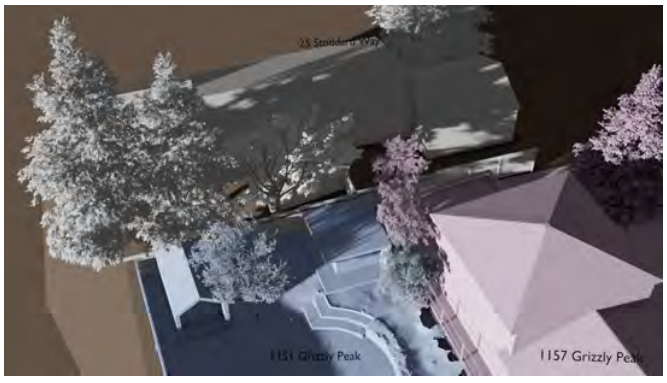

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SUN STUDY : WITH VEGETATION
Winter Solstice

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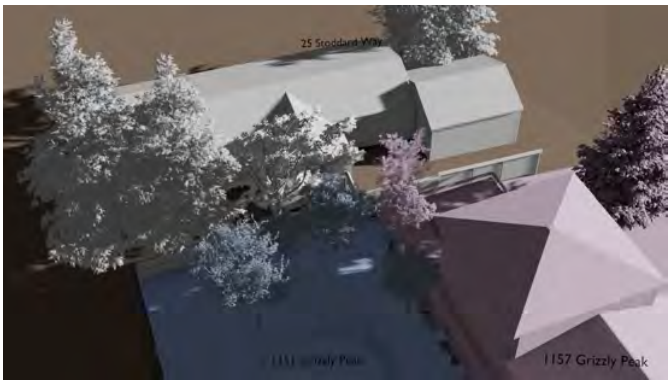

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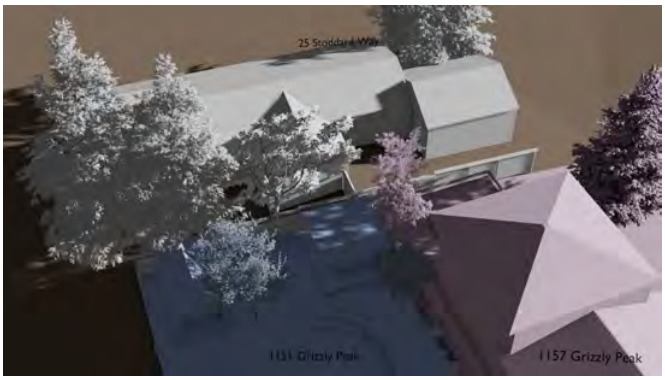

December 21 9:21 AM

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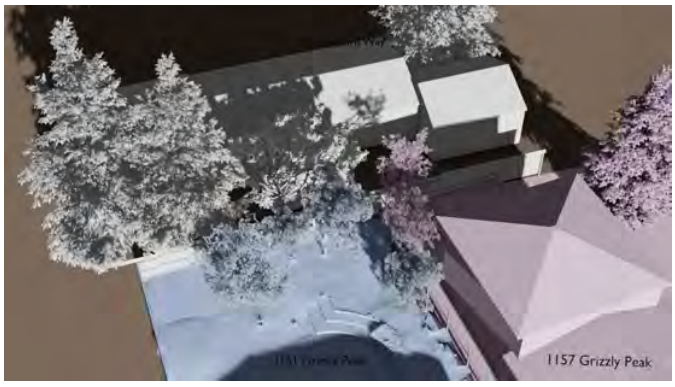

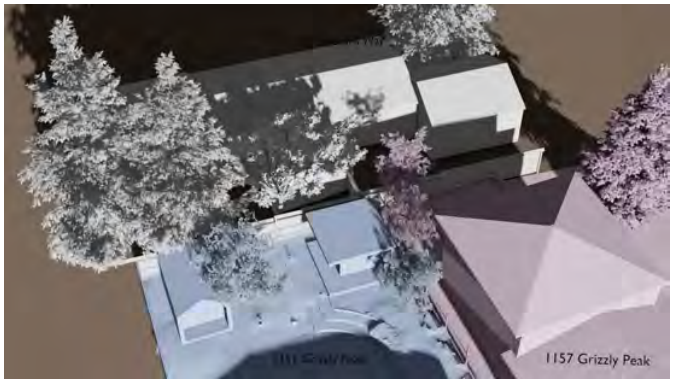

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ZONING ADJUSTMENTS BOARD

NOTICE OF PUBLIC HEARING

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on September 9, 2021**, conducted via Zoom, see the Agenda for details:** *https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-09-09_ZAB_Agenda.pdf*. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

A. Land Use Designations:
- General Plan: LDR - Low Density Residential
- Zoning: R-1(H) - Single-Family Residential District, Hillside Overlay

B. Zoning Permits Required:
- Administrative Use Permit (AUP) to construct accessory buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

C. CEQA Determination: It is staff's recommendation that the project is categorically exempt pursuant to Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by Zoning Adjustments Board (ZAB).

D. Parties Involved:
- Applicant & Property Owner: Jeana Arabzadeh & Matt Jacobs, 1151 Grizzly Peak Boulevard, Berkeley

Further Information:
All application materials are available at the Land Use Planning Division, during normal office hours or online at: http://www.cityofberkeley.info/zoningapplications. The Zoning Adjustments Board agenda and all agenda materials regarding this project will be available online 6 days prior to this meeting at: http://www.cityofberkeley.info/zoningadjustmentsboard.

Questions about the project should be directed to the project planner, Layal Nawfal, at (510) 981-7424 or lnawfal@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

Communication Disclaimer:
Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Communications and Reports:
Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: https://www.cityofberkeley.info/zoningadjustmentboard/.

Correspondence received by 8:00 AM, on the Thursday before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by Noon Tuesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #1, which is released the end of the day Tuesday, two days before the public hearing;
- **Correspondence received by Noon Wednesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #2, which is released the end of the day Wednesday, one day before the public hearing; or
- **Correspondence received by 3 PM Thursday** will be given to the Zoning Adjustment Board just prior to the public hearing.

Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.

Accessibility Information / ADA Disclaimer:
This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer:
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Land Use Planning Division, during regular business hours.

Notice Concerning Your Legal Rights:
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
   A. That this belief is a basis of your appeal.
   B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
   C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

   If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

Nawfal, Layal

Subject: FW: Letter to the city about the new structures at 1151 Grizzly Peak

-----Original Message-----
From: Joan Wager <joanwager2004@comcast.net>
Sent: Thursday, June 17, 2021 10:40 AM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Subject: Letter to the city about the new structures at 1151 Grizzly Peak

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To the City of Berkeley,

I was shocked when my neighbors on March 19 at 1151 Grizzly Peak had a crane deliver two large structures that were installed against the fence line blocking my space, light and small horizon sunset view. They informed me five days prior on a scrap of paper deposited inside my mailbox, that a crane would deliver two accessory buildings for an art studio and workout studio, approved by the city of Berkeley .

There was no prior consultation with me about the placement of these structures and their impact on me and my property. There are also other places on their property where these buildings could have been placed without impacting me.
When I saw the large size of these buildings I cried out in disbelief “these are horrible” and their reply was “approved by the city of Berkeley”.

I cannot believe that the city of Berkeley would have approved this encroachment on not only my property, space, light and view but also my well being in my home.

Thank you for reviewing this egregious situation and restoring my space light and view allowing me continue living in my home at 25 Stoddard Way unmolested..

Sincerely,
Joan Wager

Sent from my iPad

Nawfal, Layal

Subject: FW: ZP2021-0088, 1151 Grizzly Peak Blvd

-----Original Message-----
From: gary navo <garynavo@mac.com>
Sent: Tuesday, September 7, 2021 3:10 PM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Subject: ZP2021-0088, 1151 Grizzly Peak Blvd

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Mr. Nawfal,
I live at 40 Stoddard Way, and support the approval of this permit.
If you have questions, please call me.
Gary Navo
40 Stoddard Way
Berkeley
510 316-9226

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: ZAB meeting 09/09 Supplemental packet submission 1511 Grizzly Peak by opponent Joan Wager
Attachments: ZAB_PACKET_ DRAFT4.0.pdf

From: Rena Rickles <rena@rickleslaw.com>
Sent: Tuesday, September 7, 2021 11:50 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Cc: jklein@cityofberkeley.com; JOAN Wager <joanwager2004@comcast.net>; Rena Rickles <rena@rickleslaw.com>
Subject: ZAB meeting 09/09 Supplemental packet submission 1511 Grizzly Peak by opponent Joan Wager

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Please include this material in tonight's Supplemental package to all ZAB members

Please also upload this material to the ZAB Secretary for our use during the presentation
Please advise of anything else I need to do to assure this material will be available for our presentation

Thank you in advance for your time and courtesy

Rena Rickles
Sent from Rena Rickles I Phone. All mistakes are the fault of a hyperactive autocorrect or failure to proofread dictated message

Sent from my iPhone

1151 Grizzly Peak: Facts, Law and Letters in Opposition

"Art Studio" from 25 Stoddard Living Room 2:00 PM, standing

1151 Grizzly Peak: Facts, Law and Letters in Opposition

A. **Personal Statement of Joan Wager**.....Page 3

"In mid-March, a scrap of paper was put into my mailbox stating that on March 19, 2021, a crane would deliver 2 accessory buildings on Friday at 8am to the backyard of 1151 Grizzly Peak for a workout studio and an art studio approved by the city of Berkeley, signed Matt and Gina.

"They did not take the time to ask what their structures looked like to me and what obstacles they presented from my side.

"Instead, they thought for me and made decisions about me and my property from their 180 degree view, which was only half the story.

"The peaked roof of the dark colored art studio immediately blocked out light, space, and air and a distance view of sky, horizon, and sunset to the West from all major rooms in my house, the living room, dining room/office and entry room. It visually occupies the entire 4 windows."

B. **Floor Plan 25 Stoddard** , not to scale.....Page 5

C. **Photographs: Impact of Unpermitted Structures on 25 Stoddard**.....Page 6

View from:
Foyer and Living Room
Living Room looking onto "art studio"
(Same view, showing afternoon glare)
Dining Room
Kitchen Dinette
Second bedroom

D. **Letters Opposing the Application**.....Page 11

"When I went to Joan's house to see the uninvited structures, I instantly understood her reaction. The structures do indeed impact her view of space and nature in her most commonly used rooms, her entryway, living room, dining room and dinette. The normally light and open feeling was totally compromised!
"It would have taken a degree of sensitivity, consideration and respect for you, Matt and Gina, to communicate with Joan about your desire to place these structures."

-Patricia LaCocque

"This project does not serve a city benefit such as providing housing, but is to augment the Applicant's personal pleasure in having both an exercise studio and art studio. As such, the unreasonable detriment to Joan Wager's home is not offsetby any benefit to the neighborhood or the general welfare of the city"

-Teri Gerritz

"Now you walk in and are confronted with two sets of dark walls that block all immediate light and view creating a cramped shut-in feeling.
"Unfortunately, [since Applicants will not allow Joan to phone, email nor visit them] it falls on you, the ZAB, to rectify the harm those huge ugly structures impose upon their neighbor by cutting off the view and light in the main rooms in her home."

-*Sylvia Conant*

E. **Offer of Compromise Letter**……Page 14

F. **Under 23B.32.040 Findings in Support Cannot Be Made (Letter, Rena Rickles)**……Page 16

A. Personal Statement of Joan Wager

Chair Charles Kahn and Zoning Adjustments Board Members
Via email: ZAB@cityofberkeley.info

I'm Joan Wager and have lived in Berkeley, my city of choice, for 40 of the last 50 years that I've been in California. I'm 77 years old and moved into 25 Stoddard Way 3 years ago from a house that was up 43 stairs to the front door which became onerous after 31 years there and several orthopedic surgeries. My current house is flat and near Tilden Park and open space which I love, having grown up in New York City.

I'm a big supporter of Berkeley civic life and was head of my former neighborhood's area association. I like attending local neighborhood meetings and functions and want to know my neighbors and nourish the community in which I live.
I also volunteer at the City of Berkeley's Animal Shelter several days a week for the past 10 years and have advocated for them at City Council meetings.

Background to this Application
Before this, I had limited but lovely light, air, and sunset views from my main rooms—a feeling of openness which I cherished.
In mid-March, a scrap of paper was put into my mailbox stating that on March 19, 2021, a crane would deliver 2 accessory buildings on Friday at 8am to the backyard of 1151 Grizzly Peak for a workout studio and an art studio approved by the city of Berkeley, signed Matt and Gina.
I didn't think much about this assuming they were some kind of sheds, and I also didn't and still don't know Matt and Gina. I've only met them walking the neighborhood a few times and said hello.

The arrival and appearance of the two structures at issue; Applicant response to my reaction
To my surprise and shock, the buildings were large and dark and were both put within just a few feet of one another along the same fence line.

When the first structure, the workout studio was dropped in I screamed "this is awful". A male voice from beyond the fence replied, "approved by the City of Berkeley".

It got worse. Description of the impact on my already limited access to light and view. Later that evening a crew added a thick roof with a large overhang obscuring what little southwestern view that had remained, visible from the eat in kitchen and outdoor patio. Later siding and electrical cords were added to this structure bringing it even closer to the fence line.
The peaked roof of the dark colored art studio immediately blocked out light, space, and air and a distance view of sky, horizon, and sunset to the West from all major rooms in my house, the living room, dining room/office and entry room. It visually occupies the entire 4 windows.

Description of the impact on me. I have been living with these imposing structures for the last 6 months. Unfortunately, during this time I've been disabled with a severe hamstring tear and lying on my living room couch icing and elevating and staring at the dark looming art studio rather than the healing horizon which. Is very depressing.

This all would have been avoidable had only Matt and Gina spoken with me and visited my back yard and home to get a 360degree view of the situation. Instead, they thought for me and made decisions about me and my property from their 180degree view, which was only half the story. They did not take the time to ask what their structures looked like to me and what obstacles they presented from my side. I reached out to these Applicants three years ago before I made changes on my property which I thought might affect them. When I first moved in 3 years ago, I wanted to trim my trees and knocked on Matt and Gina's door to let them know and find out their needs if any, They were out of town and their Air B&B occupants phoned them and they said they didn't care.

CONCLUSION

Matt and Gina (Applicants) have cut off all direct communication with me. I asked a friend to obtain their phone number so I could discuss a compromise; Matt and Gina refused. I emailed my offer of compromise; they then changed and/or blocked emails.

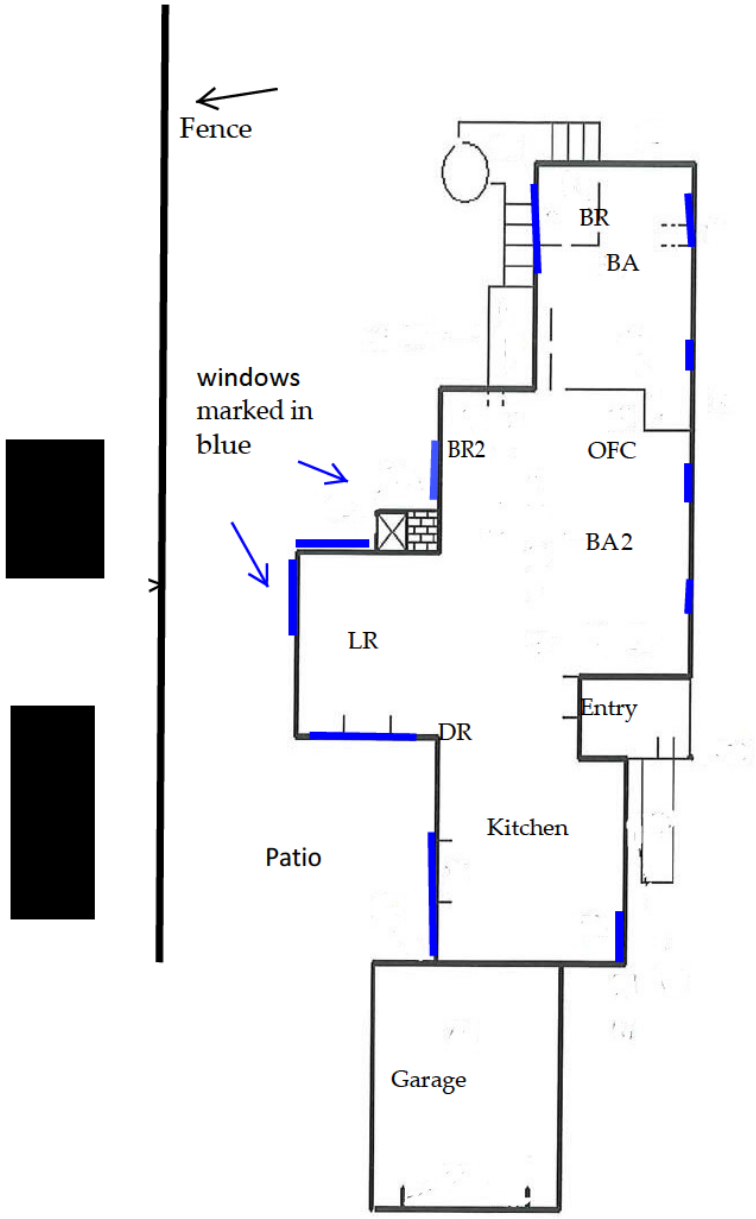
Therefore, I need this ZAB's support and vote to prevent this utterly unreasonable, and avoidable detriment imposed upon me to continue.

Please vote to deny this application, or require the location and design to be modified as set out in my offer of settlement which I sent to applicants and ZAB (under separate cover)
I hope this troubling situation can still be resolved and that Matt and Gina can have their buildings altered to restore most of my light, air and view returned.

Thank you
Joan Wager

Sent from my iPad

25 STODDARD WAY, BERKELEY
FLOOR PLAN AND PROPERTY LAYOUT
(not to scale)



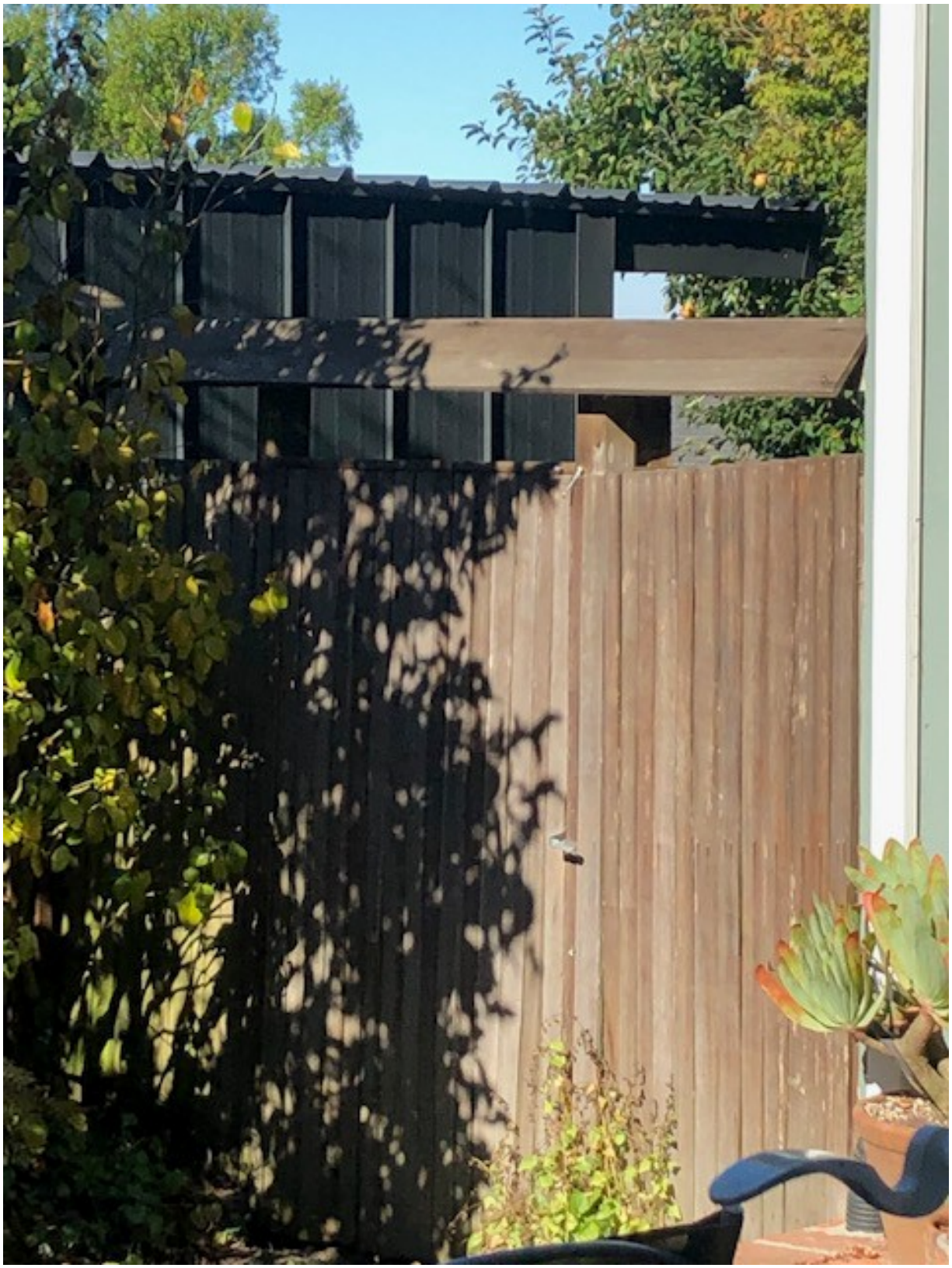
1.

View upon entering the house, late afternoon

"Art Studio" from 25 Stoddard Living Room 2:00 PM, standing

"Art Studio" as viewed from 25 Stoddard Living Room, 4:00 PM, shows glare, standing

View from Dining Room of Art Studio, early evening



"Workout room" from 25 Stoddard kitchen, dinette, standing

View of Workout studio from Second Bedroom, afternoon.

Patricia A. LaCocque, LCSW29228

1173 Grizzly Peak Blvd.

Berkeley, CA 94708

September 4, 2021

Re: Letter of Support for Joan Wager

Dear Matt and Gina, Planning Staff and Zoning Adjustments Board,

I am providing this letter of support for my good friend and neighbor Joan Wager. In mid-March, I visited Joan after she called me, very upset about the structures behind her house that appeared overnight. I went to her house to console her and to see for myself what she was reacting to. I am providing this letter because I would have a very similar negative reaction if my neighbor's yard suddenly was filled with structures which blocked my views and filled up precious space which I would normally enjoy. And living in Berkeley, I would have assumed that my neighbor would have talked with me about such a change. Fortunately, we do have neighbors who would be sensitive to the effects of such a massive change.

When I went to Joan's house to see the uninvited structures, I instantly understood her reaction. The structures do indeed impact her view of space and nature in her most commonly used rooms, her entryway, living room, dining room and dinette. The normally light and open feeling was totally compromised!

It would have taken a degree of sensitivity, consideration and respect for you, Matt and Gina, to communicate with Joan about your desire to place these structures. We live in community with others and it is my sincere hope that this process may take place now, even at this late date. What is needed is a conversation between the three adults involved to repair the harm and create a compromise that all can live with. It certainly seems that alternate placements of the structures can be made, given the large size of your yard. Joan would then have, to some greater degree, the view she enjoyed prior to the placement of the structures.

It is my sincere hope that this matter may be settled amicably.

Sincerely,

Patricia LaCocque, LCSW
lacocqpa@gmail.com
510-813-3575

From: Teri Gerritz <tgerritz@yahoo.com>
Date: September 5, 2021 at 4:20:17 PM PDT
To: zab@cityofberkeley.info
Subject: 1151 Grizzly Peak- Opposed

To: Zoning Adjustments Board
Re: ZAB Meeting 09/09/2021—1151 Grizzly Peak, Request to Deny or significantly modify Application as currently designed and located

"Dear Chairperson Kahn and Berkeley Adjustments Board Members,

I am writing in general opposition to the application to legalize the two accessory buildings at 1151 Grizzly Peak before you on the grounds that, as located and as designed, they present unreasonable detriment to Joan Wager, their immediate neighbor. I became aware of this project because I am a friend of Joan Wager and visit with her at her home on Stoddard Way, allowing me to appreciate the impact these structures have on her home. They block almost the entirety of light, sun and view from the main rooms of her home, significantly impacting both her enjoyment of her home and the market value of her property.

As such, they pose an unreasonable detriment.

I have lived in Berkeley for over 50 years, and am a Berkeley homeowner and retired Berkeley teacher. My neighbors have done projects, but they have never done so without letting me know, posting a notice, or putting up poles to show proposed heights. One was even kind enough to send the architect over to see what the view was from my back deck that has a view of the hills and not the bay, to incorporate that information into the design process. Most have held neighborhood meetings to discuss issues like this.

This project does not serve a city benefit such as providing housing, but is to augment the Applicant's personal pleasure in having both an exercise studio and art studio. As such, the unreasonable detriment to Joan Wager's home is not offset by any benefit to the neighborhood or the general welfare of the city

The pleasure of enjoying your own art studio space and /or workout studio should not come at the cost of blocking almost the entirety of light and view to the main rooms of a neighbor's house.

I hope that you will recommend changes to the building to achieve a better, fairer solution. My friend is not asking them to tear it down, but to make modifications.

Sincerely,

Teri Gerritz
1335 Bonita Ave.
Berkeley CA 94709

From: sylvia conant <sylviaconant@comcast.net>
Date: September 5, 2021 at 1:44:57 PM PDT
To: zab@cityofberkeley.info
Subject: Fwd: 1151 Grizzly Peak Letter Of Opposition

---------- Original Message ----------
From: sylvia conant <sylviaconant@comcast.net>
To: "joanwager2004@comcast.net" <joanwager2004@comcast.net>
Date: 09/04/2021 12:52 PM
Subject: Structures blocking view

Attention Zoning Board:

I have been to Joan Wager's house at 25 Stoddard a number of times over the past few years and have personal knowledge of the views from her living room and dining room. After her neighbors dropped large structures in the yard close to Joan's fence a few feet from her property blocking her view, the loss of view was dramatic from the living room and dining room. There is a loss of view of horizon, sunsets over Marin County and a sense of space and light. Now you walk in and are confronted with two sets of dark walls that block all immediate light and view creating a cramped shut-in feeling.
These neighbors are so rudely un-Berkeley in their approach to considering those around them that they never consulted Joan Wager and have since refused to talk with her or let her call them.
Unfortunately, it falls on you, the ZAB to rectify the harm those huge ugly structures impose upon their neighbor by cutting off the view and light in the main rooms in her home. I ask that you either deny their application or approve only if modified as set out in Joan's generous offer to compromise.

Thank you for your time and consideration. Please review the situation, the photos, and all of the information and consider acting to protect property of Joan Wager.

Sylvia Conant
1055 Park Hills Road

Joan Wager, L.C.S.W

25 Stoddard Way

Berkeley, CA 94708

September 3, 2021

Re: Offer of Compromise

Dear Matt and Gina,

You surely know from my screams of disbelief, when last March I was shocked to see two large accessory buildings dropped from a crane to within 2-3' of our shared north and northeast property lines, that I am very unhappy with their proximity and massing.

I do not dispute your want and/or need of these structures, and, had you consulted with me beforehand, I am sure we could have agreed on a solution to their placement. Instead, they are literally in my face and block all light, air, and view that I have from the most important rooms in my house.

Instead of months of controversy and hearings over which we have no control, I would like to propose the following solution that lets you keep your buildings where they are and restores most of my light air and view which is now practically obliterated:

1. Building 1, work-out studio/office: (SE corner of our fence line) Remove the large overhand/covered deck and patio which blocks all the light and southwest view which I now have; and,
2. Building 2, art studio,(NW corner and less than 3', prior to adding the siding, of our fence line) reduce the (approximately) 5' steep roof peak to a flat roof. This will restore my view of the sunset over Marin County and airy vs. cramped view from my living room, foyer, and dining room.

While I will still feel very hemmed in by these buildings, these changes would be an acceptable compromise and would not require that your remove or move these structures.

Please let me know (via email) in order that we can present this compromise to the Zoning Adjustments Board instead of undergoing a contentious hearing, which could end in a result that either of us would not like and have to appeal.[1]

I am hoping that we can resolve this by end of day tomorrow, September 4th, as I will be out of town and email/telephone range until September 9th.

Best,

/s/

Joan

Cc: Planning Staff; Zoning Adjustments Board

[1] Of course, we would need a Condition added to the approval stating that alterations to either of these structures at a later time would require prior approval of the owner of my property and City Planning.

RENA RICKLES
Attorney at Law

1970 BROADWAY, SUITE 1200
OAKLAND, CA 94612
TEL: (510) 452-1600 ~ FAX: (510) 451-4115
EMAIL: rena@rickleslaw.com

September 7, 2021

Charles Kahn, Chairperson
Zoning Adjustments Board ("ZAB")
Attn: ZAB Secretary, 1947 Center Street, Second Floor, Berkeley CA 94704.
1947 Center Street
Berkeley, CA 94704
Via email: ZAB@CityofBerkeley.info

Re: 1151 Grizzly Peak; Deny as designed or Approve with design modification to significantly reduce detriment to air light and view to 25 Stoddard; Findings in Support

Dear Chair Kahn and ZAB Members:

Last March at around 10:00 AM, Joan Wager, a 77-year-old retiree, looked out in horror from her living room window as a crane lowered what would be the first of two large accessory buildings into her neighbor's yard, less than three feet from their common property line. That first building and the one that came next, block what had been Joan's main source of air, light, and view from her foyer, living room, dining room and kitchen. (See C, Photographs, in packet)

Joan rushed out screaming, "This is awful!" From the other side of the fence, a male voice responded, "We have permission." (See A, Joan Wager statement)

Before you tonight is the application to legalize those two buildings which, considering the size of Applicants' lot, could be re-located and/or reduced in size in a way to eliminate or significantly reduce their detriment.[1] Here, Applicants not only did not have the requisite City permits ("permission") but also, they did not consult Joan Wager about their plans. Had they done so, this entire matter could have been resolved without the need for the ZAB's intervention. But it is needed, and, because of the unreasonable detriment caused by these buildings' current configuration and location, we ask that you deny the application.[2]

WHERE, AS HERE, THE REQUESTED ACCESSORY BUILDINGS BLOCK THE MAIN SOURCE OF AIR, LIGHT AND VIEW FROM THE FOYER, LIVING ROOM, DINING ROOM AND KITCHEN OF 25 STODDARD, AND WHERE THEIR RELOCATION IS FEASIBLE AND WOULD ELIMINATE THE DETRIMENT, THE FINDING OF NON-DETRIMENT FOR THIS APPLICATION CANNOT BE MADE.

This Board can approve this application only if it can make the finding that under the circumstances of this case, a project will not be detrimental to property of the adjacent properties. (23B.32.040). This standard is intentionally a subjective one, it requires a balancing of the scales. In some cases, the additional two accessory buildings that allegedly meet Zoning code, may indeed satisfy the non-detriment standard. That

[1] It was Applicants' conscious decision not to consult Joan Wager before installing these structures next to the property line and in front of her main windows. The difficultly of moving them is a problem they could have avoided.
[2] We also allege that the Staff Report's stated height and setback measurements (evidence) do not support the findings of fact that the buildings meet Zoning Developments Requirements but will not detail that point at this time as the arguments for detriment are sufficient to deny the application. However, we wish to preserve this argument in the event of an appeal.

is not the case here. The buildings before you, assuming they meet the Zoning Code requirements, can only be seen as unreasonably detrimental to the adjacent property at 25 Stoddard, Joan Wager's home. Joan's home before the intrusion of the accessory buildings had light and views from all the main rooms. Now she has nearly none.

The photographs, along with the floor plan provided in this submittal, tell the entire story; Staff's determination that these structures "should not be detrimental" flies in the face of the physical facts of this particular case and must be rejected.

The evidence in the Staff packet shows only Applicants' view of their buildings and of Joan's home. There are no photos taken from 25 Stoddard. This is true even though Staff visited 25 Stoddard, and on entering Joan's home, looked out the windows and stated, "This is awful." Whether one relies on photographs, Staff's or Joan's personal observations, there is no way that the impact on Joan's home is not just detrimental, but it is significantly and unreasonably detrimental.

The evidence in this packet (B and C) floor plans and photographs) shows the location of the impacted windows in Joan's main living areas and the fact that the Accessory Buildings, notwithstanding Applicants' statement to the contrary, do indeed block the majority of Joan's main access to air light and view. Staff's conclusion is at odds with the language of the statute, and facts of this case, thus cannot be upheld.

- Taken together, both structures deprive Joan Wager of most of her southwest views which include the southern sun, horizon, and sunset to the west. (See C, photos taken from foyer, living room, kitchen, and dinette)[3]
- Instead of an open and airy feeling; the view from her windows now approximates that of a view from inside a closet. (See C, Photos in packet)

There are no objective or subjective facts that mitigate to balance the scale in favor of justifiable detriment:

- The site plan and lot size of 1551 Grizzly Peak show several alternate locations which would accommodate these structures, locations which would not be detrimental to 25 Stoddard.(See Staff Report)
- The intended use of these structures is not of a social value to justify the significant harm they cause.(See D in packet, Letter Terri Gerritz)

Because of Applicants' attitude and treatment of Joan Wager before determining the size and location of their personal amenity accessory structures, during their installation, after knowing of her opposition, or in response to her offer to compromise (also in packet), Joan Wager is dependent upon the ZAB to act to reverse the detriment caused by these buildings.

Applicants did not consult with their neighbor in making their decisions regarding the size and locations of the buildings. When their neighbor screamed about how awful they were, the response, "We have permission." In the last two weeks, they ignored her letter containing her offer of compromise, refused a request to give her their phone number, and when she tried to hand deliver the letters, came out of their house screaming at her and threw the letters at her feet.

Even if the ZAB finds the location of these buildings insufficient detriment to deny the application, we

[3] Joan Wager had no reason to think that her then existing south and southwestern views would change, thus we cannot provide photographic evidence of the views and light pre-accessory buildings. However, the letters in the packet describe eye-witness verification of the views prior to the accessory building blockage. And the photo from the less impacted 2nd bedroom some evidence of the prior views and light.

ask that the ZAB condition/reduce their size down to that at least that set out in her offer of compromise. (E, in packet)

In a valiant and generous (too generous to this writer) offer to resolve this matter, Joan Wager made an offer of compromise. There, she states she will accept flattening the 5' height extension roof peak on Building 2; and removal of added overhang, deck patio to Building 1.These modifications will restore some of the views and light that are now almost entirely blocked by these buildings.

CONCLUSION. Where there is a loss of most of the air, light, and view from the main rooms in a home, that is a major detriment. When there are modest and feasible modifications that can mitigate those losses yet allows Applicants to retain these buildings, then that impact, constitutes "unreasonable detriment'. As such, under the requirements for Findings for Issuance of Use Permits combined with the circumstances/facts of this case, this Use Permit must be DENIED.

Very truly yours,

RENA RICKLES

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Use Permit for 1151 Grizzly Peak Blvd.

From: Marionnet <marionnet@aol.com>
Sent: Tuesday, September 7, 2021 3:23 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Use Permit for 1151 Grizzly Peak Blvd.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To whom it may concern -

We support the application to keep the two accessory buildings on the property, and hope the ZAB will approve the application.

Marian and Desmond Simpson
33 Stoddard Way
Berkeley CA 94708
510-849-2986

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Zoning support for Jacobs and Arabzadeh

From: ERIN MEADOWS <erin@meadows.org>
Sent: Tuesday, September 7, 2021 5:25:43 PM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Subject: Zoning support for Jacobs and Arabzadeh

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Layal Nawfal and the Zoning Adjustments Board:

I am Matt (John) Jacobs and Jeana Arabzadeh's neighbor, across the road at 1148 Grizzly Peak Blvd. in Berkeley. I wanted to let you know that my husband and I fully support their application legalizing two Accessory Buildings in the rear of their property and hope the ZAB approves it.

Having known Matt and Jeana for many years now, I can say that they are extremely conscientious neighbors and fellow citizens. They are also very thorough when it comes to researching and planning for project they do one their property (e.g. beautiful gardeners!) They are the kind of neighbors that will always be there for you if you need them, and we are there for them too. I hope you approve this project.

Kind regards,

Erin Meadows & Anthony Barrueta

Nawfal, Layal

Subject: FW: Subject: Use permit #ZP2021-0088 for 1151 Grizzly Peak Blvd.

From: Margareta Sequin <msequin@sfsu.edu>
Sent: Tuesday, September 07, 2021 3:43 PM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Cc: Carlo H. SEQUIN <sequin@berkeley.edu>
Subject: Subject: Use permit #ZP2021-0088 for 1151 Grizzly Peak Blvd.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Layal Nawfal and the Zoning Adjustments Board:

I am the neighbor across the street from Matt Jacobs and Jeana Arabzadeh's. We live at 1152 Grizzly Peak Blvd. in Berkeley. I'd like you to know that I fully support their application legalizing two Accessory Buildings in the rear of their property and hope the ZAB approves it.

Matt and Jeana have been our neighbors for many years , and I would like to let you know that they are the most responsible neighbors I know. They are helpful and cordial, and always do their homework before beginning any project on their property that might impact their neighbors. Their new structures do not affect us at all.
Their front yard of which they take outstanding care is a pleasure to the neighborhood.

Sincerely,
Margareta Sequin.

Nawfal, Layal

Subject: FW: Use permit #ZP2021-0088

From: Mona Halaby <monahal@hotmail.com>
Sent: Tuesday, September 07, 2021 3:03 PM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Subject: Use permit #ZP2021-0088

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Layal Nawfal and the Zoning Adjustments Board:

I am Matt (John) Jacobs and Jeana Arabzadeh's next-door neighbor at 1157 Grizzly Peak Blvd. in Berkeley. I'd like you to know that I fully support their application legalizing two Accessory Buildings in the rear of their property and hope the ZAB approves it.

I have been Matt and Jeana's neighbor for many years now and can tell you that they are the most responsible and ethical people I know. They are helpful and cordial, and always do their homework before beginning any project on their property that might impact their neighbors.

Kind regards,
Mona Halaby

Nawfal, Layal

Subject: FW: 1151 Grizzly Peak Blvd., Jacobs, Shed/ADUs

-----Original Message-----
From: David Van Woert <david@tipstrinc.com>
Sent: Tuesday, September 07, 2021 2:35 PM
To: Nawfal, Layal <LNawfal@cityofberkeley.info>
Cc: Tana Scott <tana@tipstrinc.com>
Subject: 1151 Grizzly Peak Blvd., Jacobs, Shed/ADUs

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To the Zoning Adjustments Board,

We are neighbors directly to the northwest of 1151 Grizzly Peak Blvd., share a fence line, and support the Jacob's application for adding these structures to their property.
In our opinion, they do not obstruct any views or sight lines, and are well crafted and aesthetically pleasing. We have no issue with the structures and feel that the application should be approved.

Thank you,

David + Tana Scott
1147 Grizzly Peak Blvd.
Berkeley, CA 94708
(650) 576-6714

Joan Wager, L.C.S.W

25 Stoddard Way

Berkeley, CA 94708

September 3, 2021

Re: Offer of Compromise

Dear Matt and Gina,

You surely know from my screams of disbelief, when last March I was shocked to see two large accessory buildings dropped from a crane to within 2-3' of our shared north and northeast property lines, that I am very unhappy with their proximity and massing.

I do not dispute your want and/or need of these structures, and, had you consulted with me beforehand, I am sure we could have agreed on a solution to their placement. Instead, they are literally in my face and block all light, air, and view that I have from the most important rooms in my house.

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1. Building 1, work-out studio/office: (SE corner of our fence line) Remove the large overhand/covered deck and patio which blocks all the light and southwest view which I now have; and,
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While I will still feel very hemmed in by these buildings, these changes would be an acceptable compromise and would not require that your remove or move theses structures.

Please let me know (via email) in order that we can present this compromise to the Zoning Adjustments Board instead of undergoing a contentious hearing, which could end in a result that either of us would not like and have to appeal.[1]

I am hoping that we can resolve this by end of day tomorrow, September 4th, as I will be out of town and email/telephone range until September 9th.

Best,

/s/

Joan

Cc: Planning Staff; Zoning Adjustments Board

[1] Of course, we would need a Condition added to the approval stating that alterations to either of these structures at a later time would require prior approval of the owner of my property and City Planning.

Patricia A. LaCocque, LCSW29228

1173 Grizzly Peak Blvd.

Berkeley, CA 94708

September 4, 2021

Re: Letter of Support for Joan Wager

Dear Matt and Gina, Planning Staff and Zoning Adjustments Board,

I am providing this letter of support for my good friend and neighbor Joan Wager. In mid-March, I visited Joan after she called me, very upset about the structures behind her house that appeared overnight. I went to her house to console her and to see for myself what she was reacting to. I am providing this letter because I would have a very similar negative reaction if my neighbor's yard suddenly was filled with structures which blocked my views and filled up precious space which I would normally enjoy. And living in Berkeley, I would have assumed that my neighbor would have talked with me about such a change. Fortunately, we do have neighbors who would be sensitive to the effects of such a massive change.

When I went to Joan's house to see the uninvited structures, I instantly understood her reaction. The structures do indeed impact her view of space and nature in her most commonly used rooms, her entryway, living room, dining room and dinette. The normally light and open feeling was totally compromised!

It would have taken a degree of sensitivity, consideration and respect for you, Matt and Gina, to communicate with Joan about your desire to place these structures. We live in community with others and it is my sincere hope that this process may take place now, even at this late date. What is needed is a conversation between the three adults involved to repair the harm and create a compromise that all can live with. It certainly seems that alternate placements of the structures can be made, given the large size of your yard. Joan would then have, to some greater degree, the view she enjoyed prior to the placement of the structures.

It is my sincere hope that this matter may be settled amicably.

Sincerely,

Patricia LaCocque, LCSW
lacocqpa@gmail.com
510-813-3575

Chair Charles Kahn and Zoning Adjustments Board Members
Via email: ZAB@cityofberkeley.info

I'm Joan Wager and have lived in Berkeley, my city of choice, for 40 of the last 50 years that I've been in California. I'm 77 years old and moved into 25 Stoddard Way 3 years ago from a house that was up 43 stairs to the front door which became onerous after 31 years there and several orthopedic surgeries. My current house is flat and near Tilden Park and open space which I love, having grown up in New York City.

I'm a big supporter of Berkeley civic life and was head of my former neighborhood's area association. I like attending local neighborhood meetings and functions and want to know my neighbors and nourish the community in which I live.
I also volunteer at the City of Berkeley's Animal Shelter several days a week for the past 10 years and have advocated for them at City Council meetings.

Background to this Application
Before this, I had limited but lovely light, air, and sunset views from my main rooms—a feeling of openness which I cherished.
In mid-March, a scrap of paper was put into my mailbox stating that on March 19, 2021, a crane would deliver 2 accessory buildings on Friday at 8am to the backyard of 1151 Grizzly Peak for a workout studio and an art studio approved by the city of Berkeley, signed Matt and Gina.
I didn't think much about this assuming they were some kind of sheds, and I also didn't and still don't know Matt and Gina. I've only met them walking the neighborhood a few times and said hello.

The arrival and appearance of the two structures at issue; Applicant response to my reaction
To my surprise and shock, the buildings were large and dark and were both put within just a few feet of one another along the same fence line.

When the first structure, the workout studio was dropped in I screamed "this is awful". A male voice from beyond the fence replied, "approved by the City of Berkeley".

It got worse. Description of the impact on my already limited access to light and view. Later that evening a crew added a thick roof with a large overhang obscuring what little southwestern view that had remained, visible from the eat in kitchen and outdoor patio. Later siding and electrical cords were added to this structure bringing it even closer to the fence line.
The peaked roof of the dark colored art studio immediately blocked out light, space, and air and a distance view of sky, horizon, and sunset to the West from all major rooms in my house, the living room, dining room/office and entry room. It visually occupies the entire 4 windows.

Description of the impact on me. I have been living with these imposing structures for the last 6 months. Unfortunately, during this time I've been disabled with a severe hamstring tear and lying on my living room couch icing and elevating and staring at the dark looming art studio rather than the healing horizon which. Is very depressing.

This all would have been avoidable had only Matt and Gina spoken with me and visited my back yard and home to get a 360degree view of the situation. Instead, they thought for me and made decisions about me and my property from their 180degree view, which was only half the story. They did not take the time to ask what their structures looked like to me and what obstacles they presented from my side. I reached out to these Applicants three years ago before I made changes on my property which I thought might affect them. When I first moved in 3 years ago, I wanted to trim my trees and knocked on Matt and Gina's door to let them know and find out their needs if any, They were out of town and their Air B&B occupants phoned them and they said they didn't care.

CONCLUSION

Matt and Gina (Applicants) have cut off all direct communication with me. I asked a friend to obtain their phone number so I could discuss a compromise; Matt and Gina refused. I emailed my offer of compromise; they then changed and/or blocked emails.

Therefore, I need this ZAB's support and vote to prevent this utterly unreasonable, and avoidable detriment imposed upon me to continue.

Please vote to deny this application, or require the location and design to be modified as set out in my offer of settlement which I sent to applicants and ZAB (under separate cover)
I hope this troubling situation can still be resolved and that Matt and Gina can have their buildings altered to restore most of my light, air and view returned.

Thank you
Joan Wager

Sent from my iPad

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1151 Grizzly Peak Letter Of Opposition

From: sylvia conant <sylviaconant@comcast.net>
Sent: Sunday, September 5, 2021 1:45 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: Fwd: 1151 Grizzly Peak Letter Of Opposition

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

---------- Original Message ----------
From: sylvia conant <sylviaconant@comcast.net>
To: "joanwager2004@comcast.net" <joanwager2004@comcast.net>
Date: 09/04/2021 12:52 PM
Subject: Structures blocking view

Attention Zoning Board:

I have been to Joan Wager's house at 25 Stoddard a number of times over the past few years and have personal knowledge of the views from her living room and dining room. After her neighbors dropped large structures in the yard close to Joan's fence a few feet from her property blocking her view, the loss of view was dramatic from the living room and dining room. There is a loss of view of horizon, sunsets over Marin County and a sense of space and light. Now you walk in and are confronted with two sets of dark walls that block all immediate light and view creating a cramped shut-in feeling.
These neighbors are so rudely un-Berkeley in their approach to considering those around them that they never consulted Joan Wager and have since refused to talk with her or let her call them.
Unfortunately, it falls on you, the ZAB to rectify the harm those huge ugly structures impose upon their neighbor by cutting off the view and light in the main rooms in her home. I ask that you either deny their application or approve only if modified as set out in Joan's generous offer to compromise.

Thank you for your time and consideration. Please review the situation, the photos, and all of the information and consider acting to protect property of Joan Wager.

Sylvia Conant
1055 Park Hills Road

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1151 Grizzly Peak- Opposed

From: Teri Gerritz <tgerritz@yahoo.com>
Sent: Sunday, September 5, 2021 4:20 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>
Subject: 1151 Grizzly Peak- Opposed

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To: Zoning Adjustments Board
Re: ZAB Meeting 09/09/2021—1151 Grizzly Peak, Request to Deny or significantly modify Application as currently designed and located

"Dear Chairperson Kahn and Berkeley Adjustments Board Members,

I am writing in general opposition to the application to legalize the two accessory buildings at 1151 Grizzly Peak before you on the grounds that, as located and as designed, they present unreasonable detriment to Joan Wager, their immediate neighbor. I became aware of this project because I am a friend of Joan Wager and visit with her at her home on Stoddard Way, allowing me to appreciate the impact these structures have on her home. They block almost the entirety of light, sun and view from the main rooms of her home, significantly impacting both her enjoyment of her home and the market value of her property.

As such, they pose an unreasonable detriment.

I have lived in Berkeley for over 50 years, and am a Berkeley homeowner and retired Berkeley teacher . My neighbors have done projects, but they have never done so without letting me know, posting a notice, or putting up poles to show proposed heights. One was even kind enough to send the architect over to see what the view was from my back deck, that has a view of the hills and not the bay, to incorporate that information into the design process. Most have held neighborhood meetings to discuss issues like this.

This project does not serve a city benefit such as providing housing, but is to augment the Applicant's personal pleasure in having both an exercise studio and art studio. As such, the unreasonable detriment to Joan Wager's home is not offset by any benefit to the neighborhood or the general welfare of the city.

The pleasure of enjoying your own art studio space and /or workout studio should not come at the cost of blocking almost the entirety of light and view to the main rooms of a neighbor's house.

I hope that you will recommend changes to the building to achieve a better, fairer solution. My friend is not asking them to tear it down, but to make modifications.

Sincerely,

Teri Gerritz
1335 Bonita Ave.
Berkeley CA 94709

Introduction

In May 2020, due to the COVID-19 Pandemic we decided to look into placing two Accessory Structures in our backyard. The units were to serve several functions.

1. Home Office for Matt Jacobs as his office closed to on-site work.
2. Jeana Arabzadeh lost use of The Potter's Studio, a ceramics co-op she was a member of for 3 years.
3. A space for exercise due to the closing of Ironworks Gym in Berkeley.

Permits

In August 2020, Jeana, researching the project went to the planning department to determine if we needed permits or not. Jeana emailed permits@cityofberkeley.info and when she received Leslie Mendez's following email with the information regarding set-backs and height requirements, we believed we had all the information we needed to legally proceed.

Our general understanding from the department was that if a backyard structure was 120 square feet or less, permits were not required.

For example, were Tuff Shed's from Home Depot under 120 square feet placed on the property, they would be legal Accessory Structures.

This was our simple and honest understanding then.

From: **Mendez, Leslie** <LMendez@cityofberkeley.info>
Date: Wed, Aug 19, 2020 at 12:52 PM
Subject: FW: 1151 Grizzly Peak Blvd. Electrical and plumbing permit request
To: jeanajoon@gmail.com <jeanajoon@gmail.com>

Hello Jeana,

The standards for accessory structures, can be found in BMC 23D.08. Setbacks are set by height of structure as well as other citing requirements. In addition, all covered areas (including covered porches et. al.) may not exceed 40% of the lot size.

23D.08.020 Height Limits for Accessory Buildings or Structures

A. No accessory building or enclosed accessory structure may exceed ten feet in average height when any portion of the building or structure is within four feet of a lot line.

B. No accessory building or enclosed accessory structure may exceed 12 feet in average height when any portion of the building or structure is between four and ten feet of a lot line.

C. No accessory building or enclosed accessory structure may exceed 24 feet in average height, unless a Variance is obtained. (Ord. 6478-NS § 4 (part), 1999)

23D.08.030 Setback Requirements for Accessory Building or Structures

A. No accessory building or enclosed accessory structure located on an interior lot may be erected or expanded in a manner which encroaches upon the front half of the lot depth.

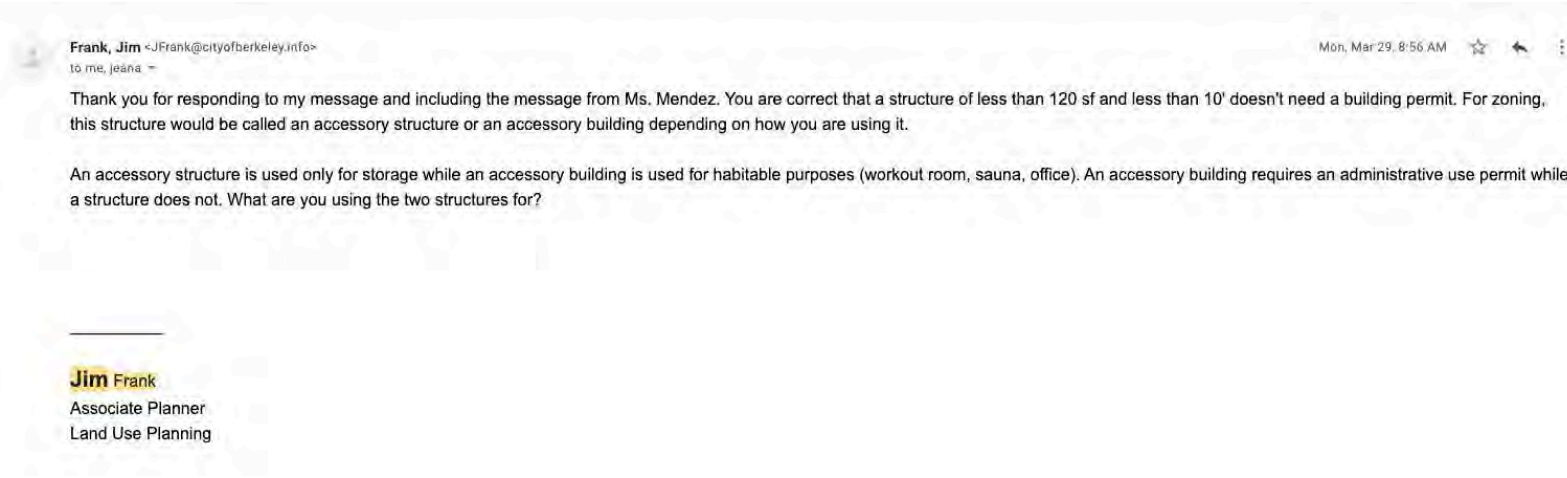
B. No accessory building or enclosed accessory structure located on a through lot shall be erected or expanded so as to encroach upon that 25% of the lot portion that is nearest to either abutting street.

C. No accessory building or enclosed accessory structure on a corner lot may be erected or expanded so as to project into the existing or required front yard to a greater extent than the setback existing or required on the adjacent lot, whichever is smaller; nor may it be located closer to either street line than the main building constructed on the subject lot.

D. No accessory building or enclosed accessory structure that is within 75 feet of the front lot line may be erected or expanded so as to encroach closer than four feet to the side lot line, when abutting another lot. Any such building or structure which is located in excess of 75 feet from the front lot line such a building or structure may encroach closer than four feet to the side lot line subject to the fire isolation requirements, including setbacks and/or fire resistance wall requirements, of the Berkeley Building Code.

E. No detached accessory building or enclosed accessory structure may be erected or expanded to be within five feet of an alley. (Ord. 6478-NS § 4 (part), 1999)

What we did not understand from Leslie Mendez's email, or any time between inception, construction and installation that there was a distinction based on use, differentiating an ACCESSORY STRUCTURE from an ACCESSORY BUILDING.



Frank, Jim <JFrank@cityofberkeley.info> Mon, Mar 29, 8:56 AM
to me, jeana

Thank you for responding to my message and including the message from Ms. Mendez. You are correct that a structure of less than 120 sf and less than 10' doesn't need a building permit. For zoning, this structure would be called an accessory structure or an accessory building depending on how you are using it.

An accessory structure is used only for storage while an accessory building is used for habitable purposes (workout room, sauna, office). An accessory building requires an administrative use permit while a structure does not. What are you using the two structures for?

Jim Frank
Associate Planner
Land Use Planning

Upon receiving Jim Frank's email we began the Application process. Applying on April 15, 2021 we submitted plan views of the site, complete construction drawings for both units, and the application payment in the amount of $4190.

Construction

Originally, we planned to build the outdoor structures ourselves, purchasing plans and determining material costs. Ultimately, we realized we did not have the time to execute the structures to the level of quality, attention to detail and design that we wished. As a result, we decided to look into prefabricated options.

In August, 2020, we contracted with Drop Structures to build one of their prefab 120 sq.ft. Mono units and a smaller custom structure 103 sq.ft. in size.

The 120 sq.ft. Mono Mini will be referred to as Unit 1 and is placed in the North corner of the yard.
The 103 sq.ft. custom unit will be referred to as Unit 2 and is placed in the North East corner of the yard.

UNIT 1

UNIT 2

Considerations

Noise Reduction
By using a crane to place the units in a four hour time frame on a single day we would be able to reduce the amount of noise that would be caused by an extended on-site construction period.

Design
Overall, Drop Structures was willing to work with us to address our desires regarding customization. Our final designs were based on Berkeley building codes, privacy, footprint, size, height and relationship to adjacent properties.

Unit 1 Design
Drop Structures Mono design comes standard with large glass windows going from floor to roof on two sides. We felt from that design privacy would be an issue between ourselves and the property to our back, 25 Stoddard Way. As a result we chose to have the entire back wall of the unit enclosed. To allow some light in the unit we opted for a 21" wide window running top to bottom toward the back of the unit on the East facing wall, perpendicular to 25 Stoddard.

Unit 2 Design
The first thing we decided regarding Unit 2 was to reduce it's height. Unit 2 would be at a higher elevation than Unit 1. We felt the pitched roof design of the Unit 1 Mono would not work as the maximum height of the that design would be too intrusive and block our neighbor's views at 25 Stoddard Way.

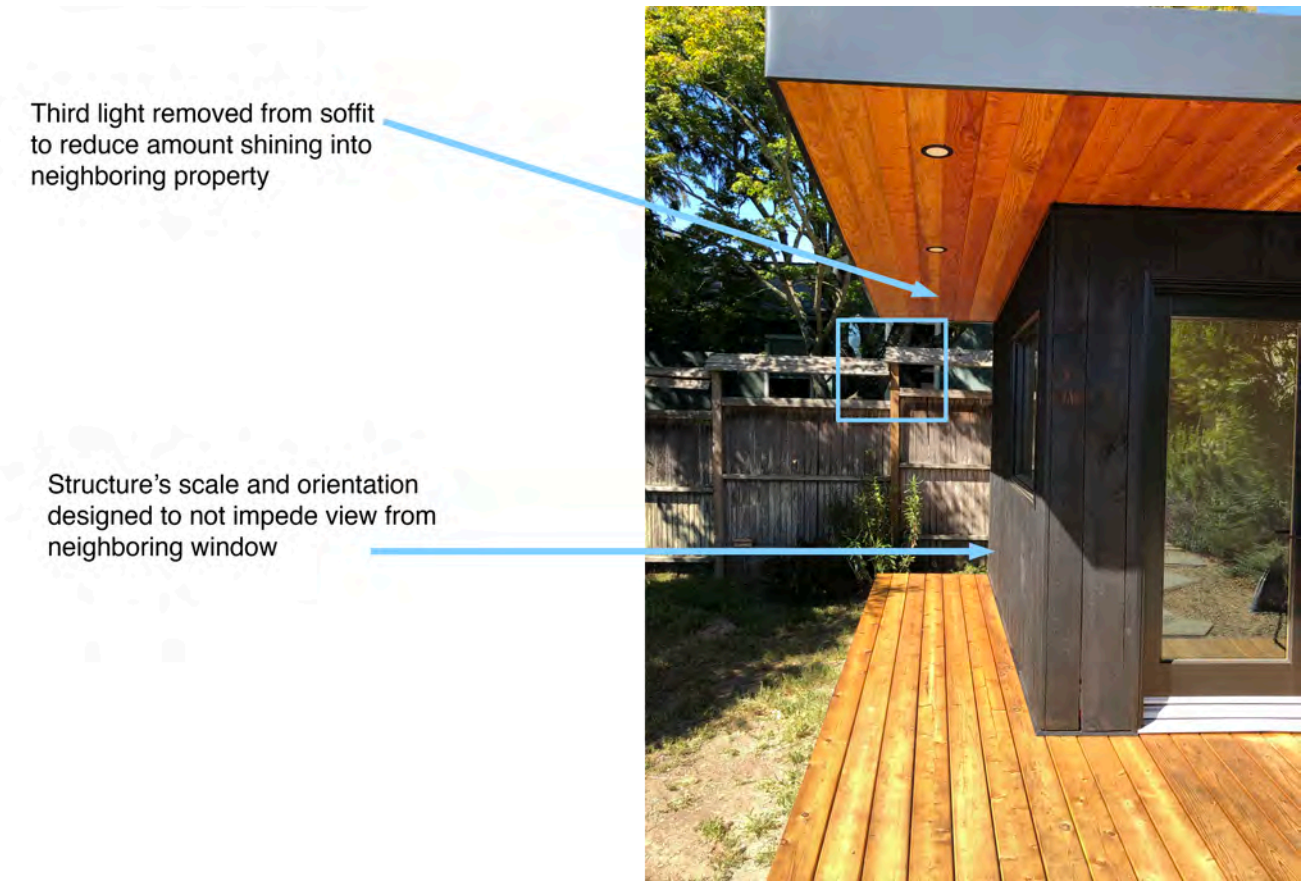
To address the issue we designed the building to have a roof with a very shallow pitch, roughly 2.75 degrees.

The interior ceiling height was reduced. The front interior wall measuring 8'. The rear wall measures 7'6"

An exterior soffit light closest to the back of unit was removed to reduce light spilling onto 25 Stoddard Way.

The square footage was reduced by 14% from 120 sq. ft. to 103 sq. ft.

25 Stoddard way has a wall directly behind the unit with one set of windows. The trunk and branches from a large maple tree on that property occlude much of that windows views. Unit 2 was specifically placed to avoid further blocking any views from that window.

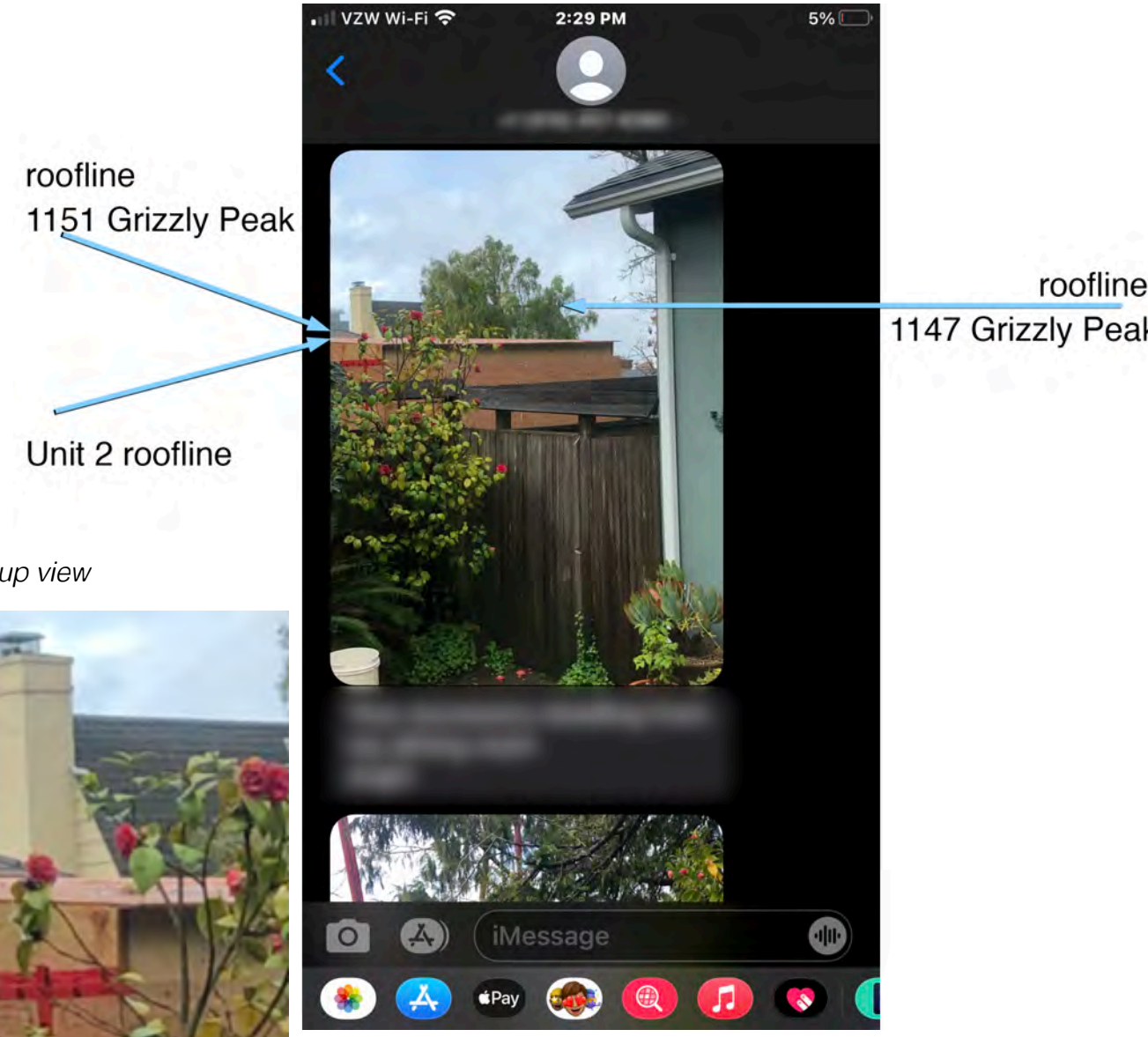


By lowering the pitch and ceiling heights of Unit 2, the view of the horizon from within 25 Stoddard Way was not occluded.

Unit 2's roofline is lower than the roofline's of existing homes at 1151 and 1147 Grizzly Peak Blvd.

Photo taken by neighbor from the dining room at 25 Stoddard Way. The photo was sent to us via text. Phone number and comments have been redacted.

When we saw this photo we were very happy to see that, as planned, Unit 2 had not obstructed the skyline view.



close up view

3 – 3320 18 Avenue N
Lethbridge, Alberta
T1H 5J3

877.205.9124

www.dropstructures.ca

To Whom it May Concern,

Our company, Drop Structures, specializes in designing and building prefabricated structures and delivering them across North America. In August of 2020 our clients, Matt Jacobs and Jeana Arabzadeh, contracted us to build for them our most popular model, the Mono. The structure was ordered and built with as requested with a framed wall in place of the standard rear glass curtain wall. This configuration greatly decreases the natural light potential within the structure; however, it was communicated by the clients that this change was to be made in consideration of their neighbors' privacy.

We were also asked to create a second, completely custom structure for Matt and Jeana. The configuration is completely unique and distinct from any of our standard models in that the structure has: 1. a significantly reduced ceiling height; 2. a significantly reduced roof pitch; 3. reduced interior square footage compared to our smallest standard structure and; 4. omitted deck lighting.

The pandemic and the accompanying shift to working at home for many people had the effect of creating a huge influx of new business for us in 2020, and the extra time and work to fit in a completely custom design was not what we were necessarily prepared for. We are primarily in the business of making prefabricated structures according to our own pre-designed blueprints. With this in mind, we let Matt and Jeana know that while we were willing to undertake the project, that level of customization would require considerably more time to design and build than one of our standard structures, with a corresponding increase in cost.

It was communicated clearly to us from the beginning that the clients' willingness to wait several months longer for the build to be completed and delivered, to accept additional cost, and to compromise on the available interior space and potential natural light in the structures was all due to their concern for the privacy of their neighbors and the visual impact that the structures might have on the adjacent properties. In addition, elements of the exterior lighting on the structures were omitted once they arrived on site; this was also done with consideration for the impact that the lights might have upon the neighbor's enjoyment of their own property.

In summary, the entire design, build, and delivery process for this project was undertaken with neighbors' comfort and potential concerns in mind at considerable expense to our clients regarding the cost, convenience, and functionality of the two structures that were built for and delivered to them.

We hope that this information has been helpful.

Thank you,

July 14, 2021

Luke Thiessen

Logistics and Quality Control, Drop Structures

SAFETY

Each unit has a 10 year smoke detector installed

Each unit is equipped with a UL rated Fire Extinguisher.

Power is supplied by NEMA (National Electrical Manufacturers Association) 5-15 UL rated 12 guage extension cords. Given permission by the city, ultimately we would prefer to run underground dedicated 15 amp service to each unit.

Based on documentation we found on-line, the understanding was we could build directly against the fence line to any and all sides of the property. However, we decided that would not be a good idea in the event of a fire, possibly limiting fire department access to any surrounding properties.

SITE PREPPARATION

These structures are designed with a 2"x2" steel beam under them running the length of the unit. This design allows them to be placed on concrete blocks, slabs or directly on the ground.

For foundations, each unit received 1' wide slabs of concrete running the same length as the 2x2 steel beams. A 4" deep layer of gravel was compacted and 3.5" of rebar reinforced concrete was poured.

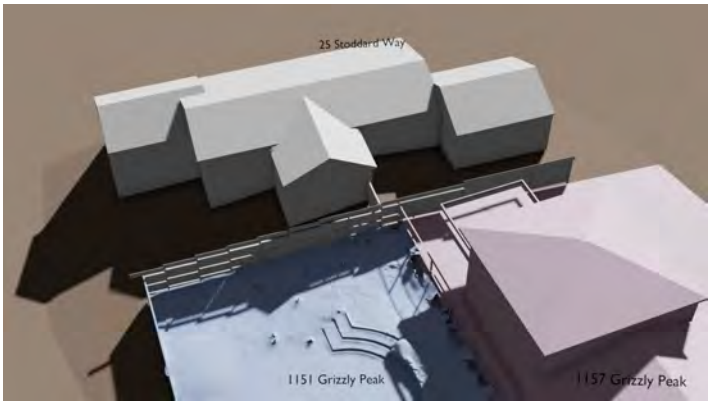
Where Unit 2 was placed, two Camellia trees were removed.

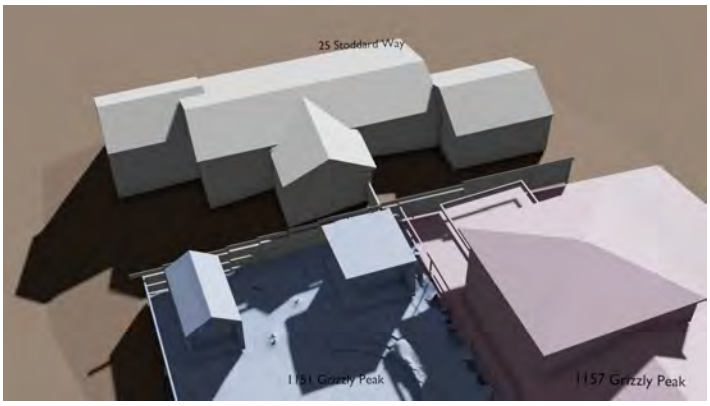
One roughly 21' tall
One roughly 16' tall

The base of these trees were both 5' from our back property line. Both trees were roughly 8-10' in diamteter.

SUN STUDY : WITHOUT VEGETATION
Summer Solstice

BEFORE AFTER





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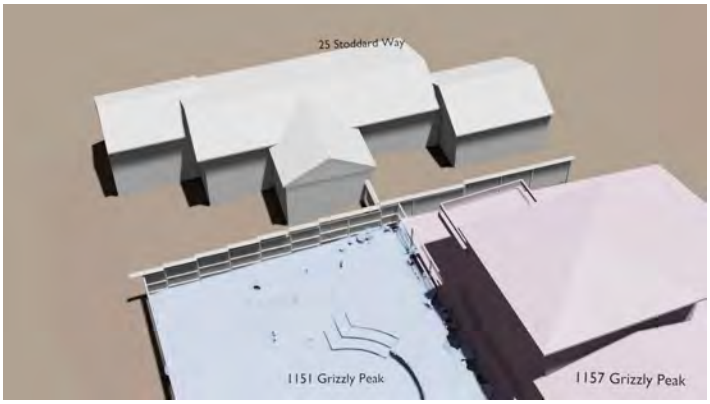
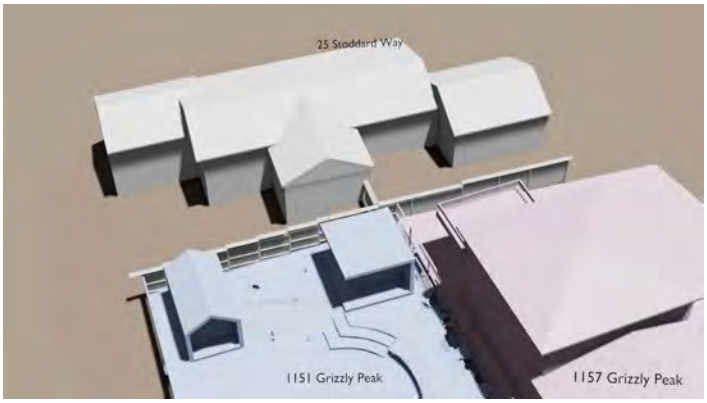
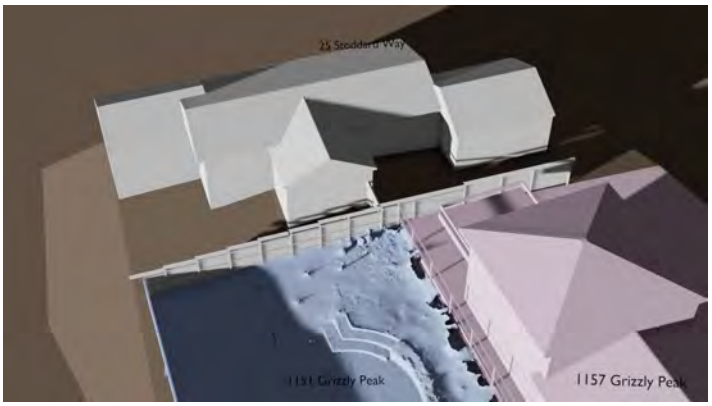
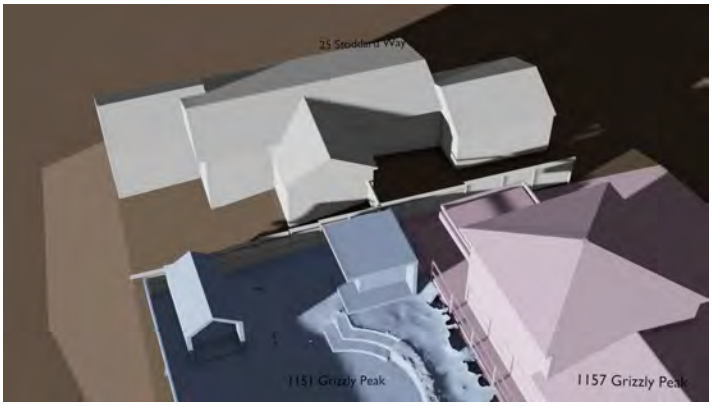




July 21 Noon





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SUN STUDY : WITHOUT VEGETATION
Winter Solstice

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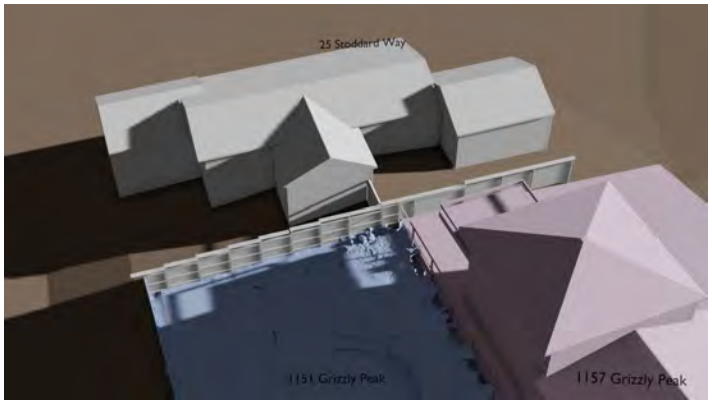

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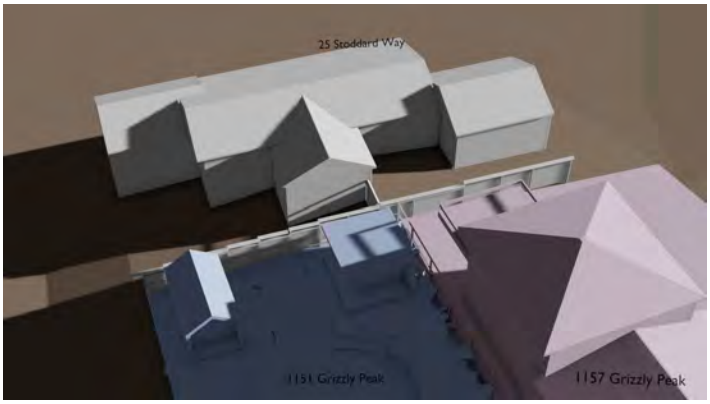

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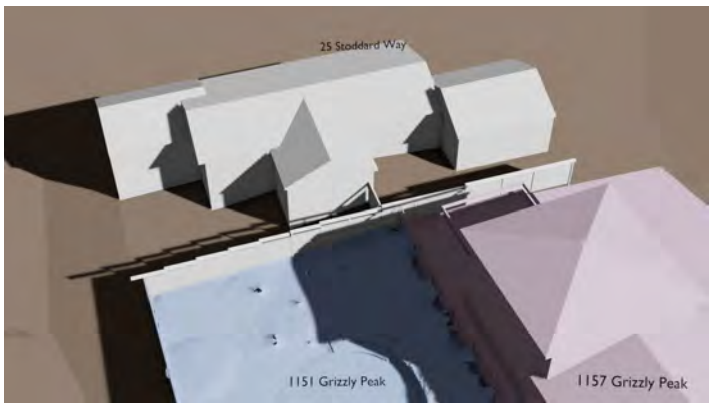
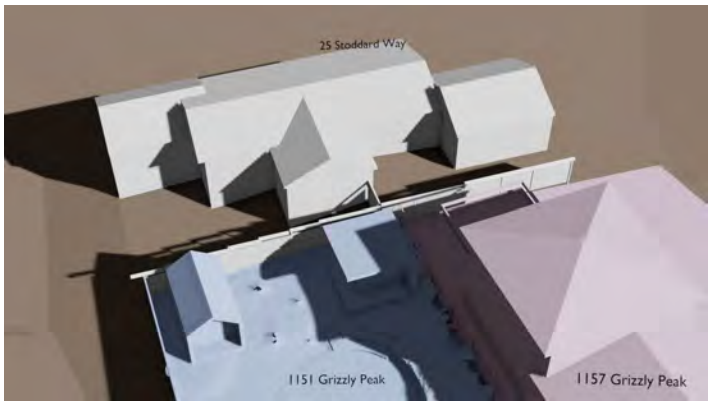
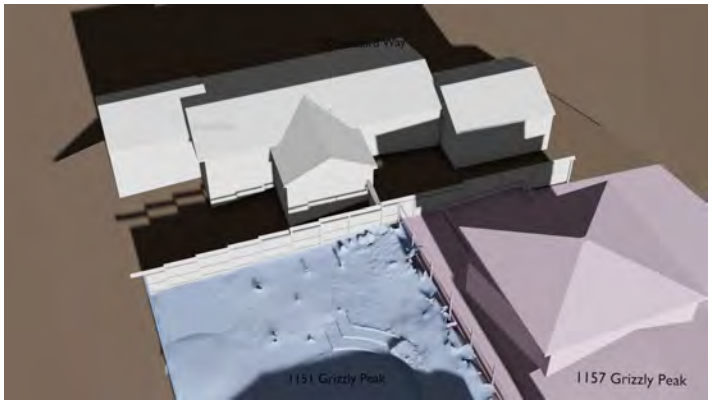
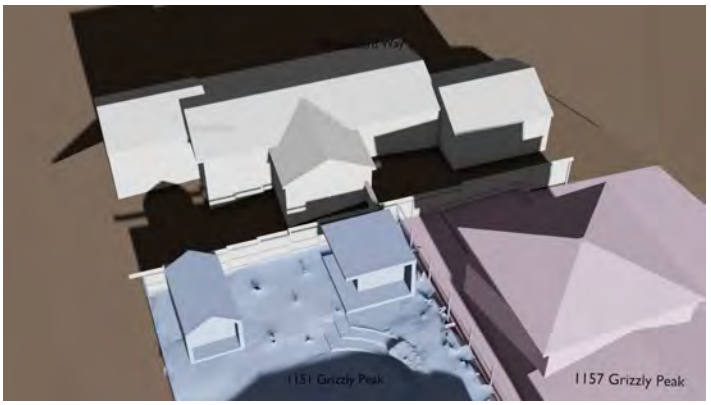




December 21 Noon





December 21 2:53 PM

VEGETATION

We understand there is a complaint from the resident at 25 Stoddard Way regarding the loss of light created by the addition of our Additional Building Structures. We think that if that is the case, a broader look at the existing vegetation on that property and the surrounding properties needs to be taken into consideration to reflect how surrounding trees are the main contributors to lack of sun exposure at 25 Stoddard Way.

In removing the two Camellia trees (see page 10 image), we reduced the overall height of shadow casting objects by roughly 8-12 feet from site prep to final installation. The Camelllia's used to cast shadows year-round. Camellia trees are non-deciduous evergreen trees. They do not lose their leaves in winter.

Presently, on the North side of 1151 Grizzly Peak Blvd, there is only one Apple tree next to Unit 1 measuring roughly 22' high and a 15' Pittosporum hedge along the fence line at 1157 Grizzly Peak.

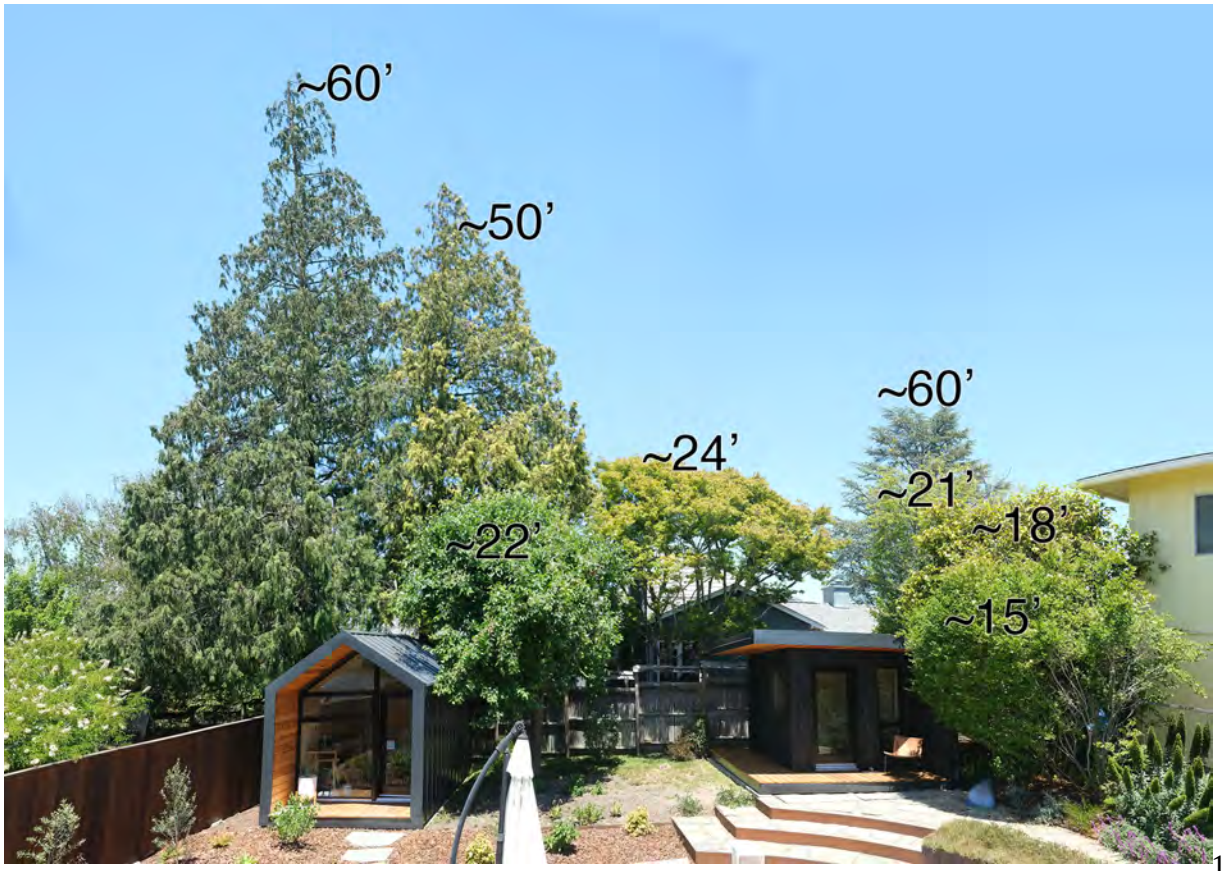
At 25 Stoddard Way, four very large trees cause an abundance of shadows all times of year for that and surrounding properties including ours.

On the North East side

1. One evergreen tree roughly 60' tall.

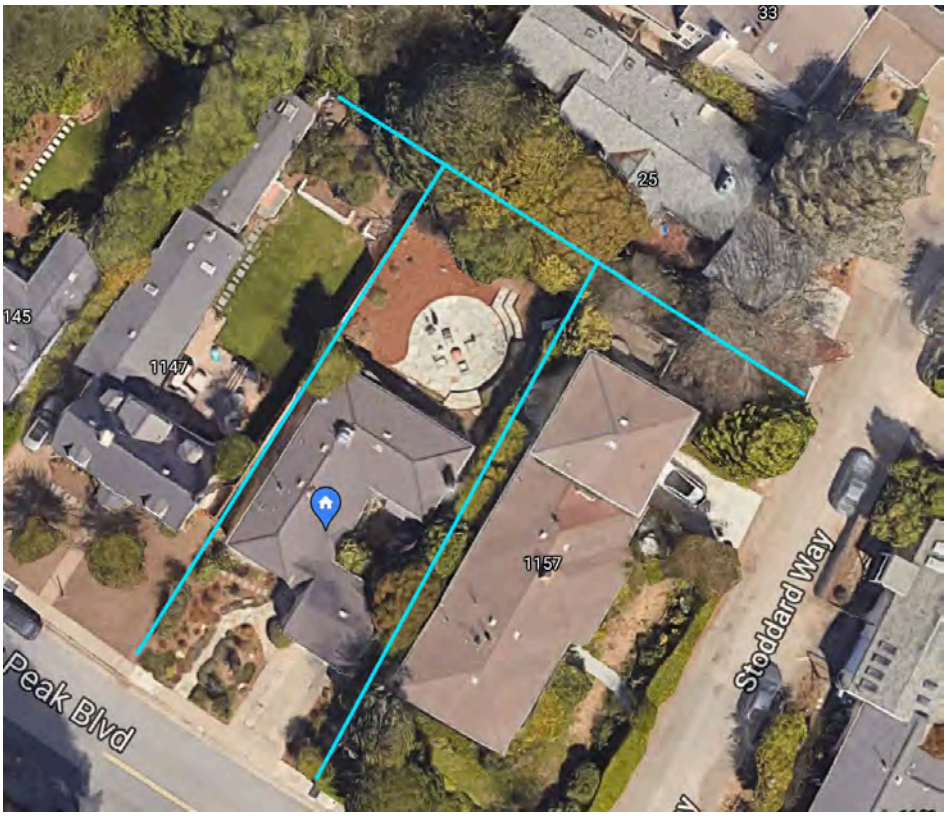
On the Southwest side

2. One evergreen (Sycamore?) roughly 60' tall
3. One evergreen roughly (Sycamore?) 50' tall
4. One Maple tree roughly 24' tall



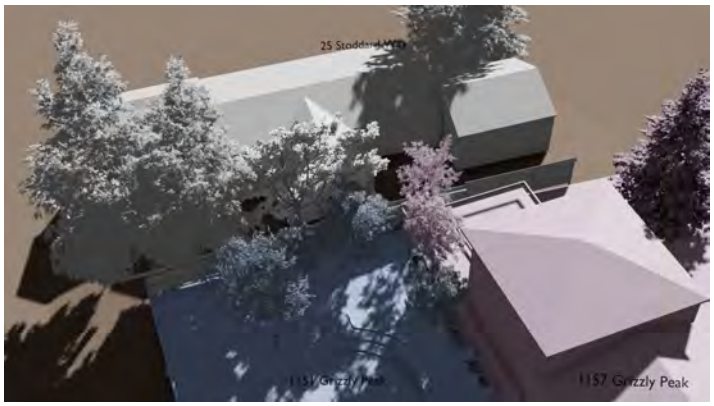
The Maple trunk on the South side of the 25 Stoddard property blocks several windows on that property.

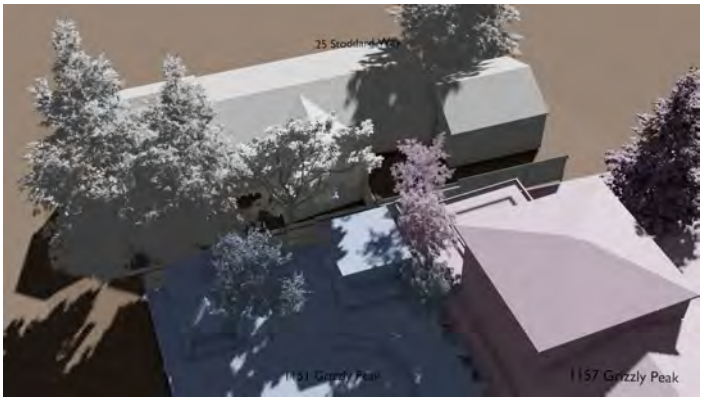
The trees on the South side of 25 Stoddard Way encroach onto our property and 1147 by anywhere from 6-12'



SUN STUDY : WITH VEGETATION
Summer Solstice

BEFORE AFTER





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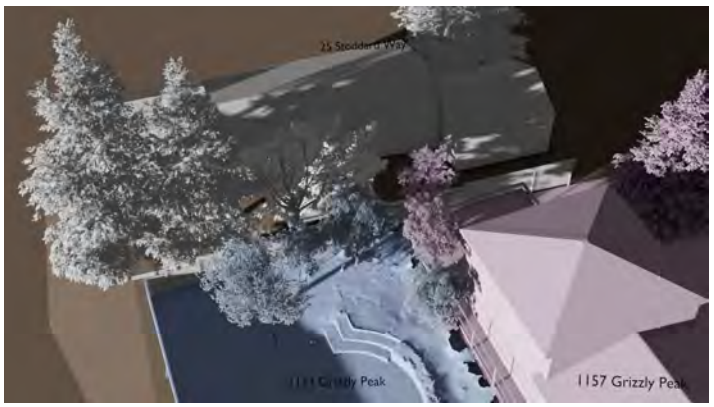
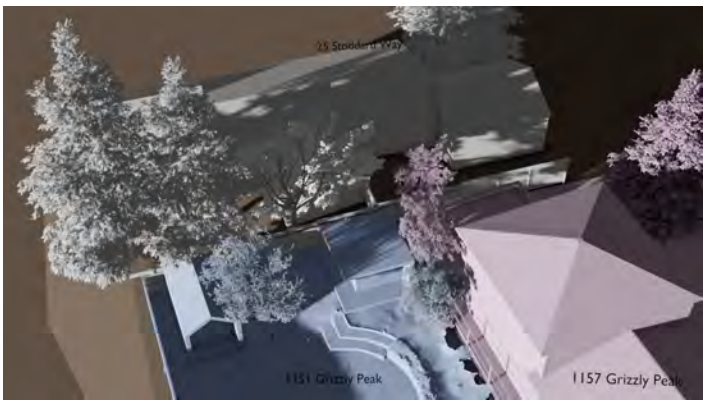
July 21 Noon

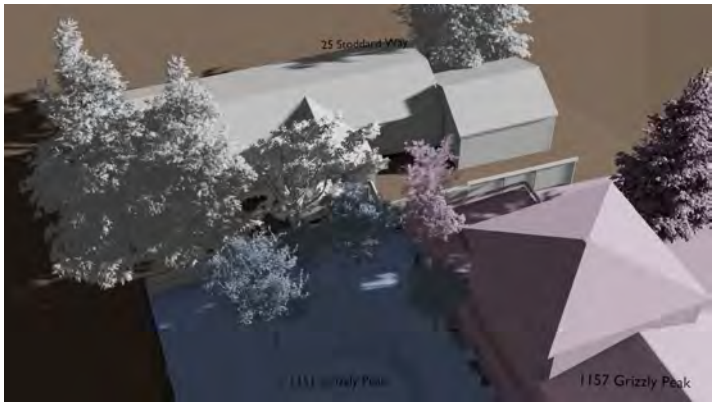




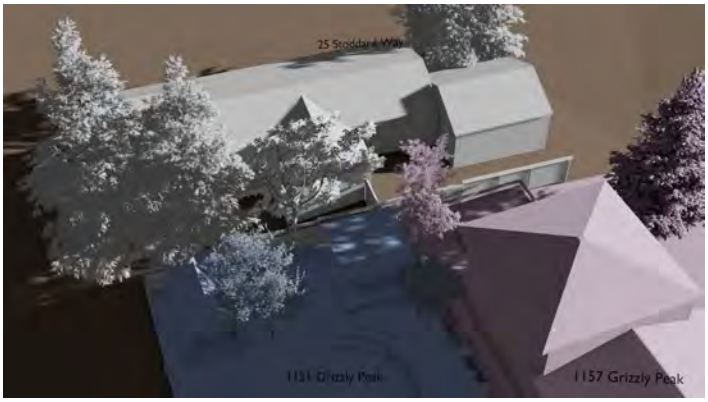
July 21 6:36 PM

SUN STUDY : WITH VEGETATION
Winter Solstice

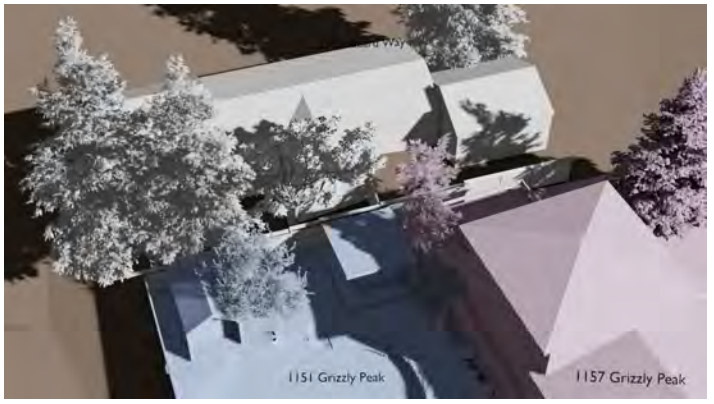
BEFORE



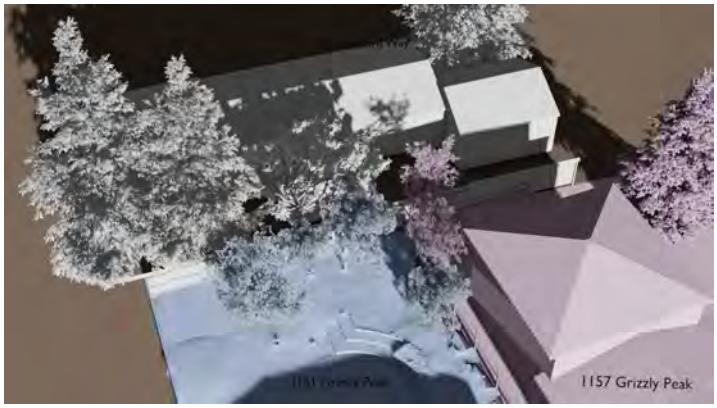
AFTER

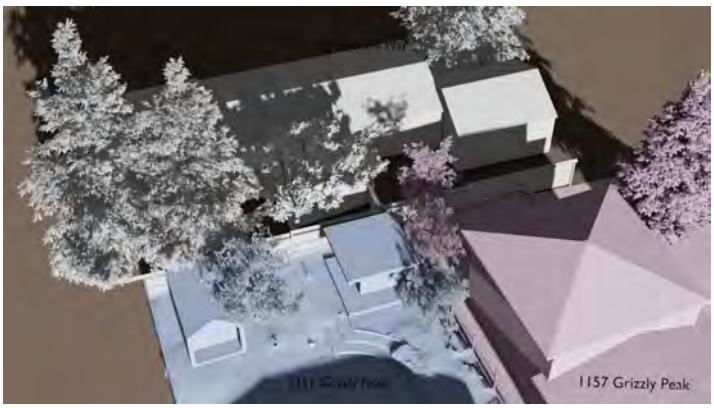


December 21 9:21 AM



December 21 Noon





December 21 2:53 PM

Nawfal, Layal

From: Rena Rickles <rena@rickleslaw.com>
Sent: Wednesday, December 01, 2021 4:06 PM
To: Nawfal, Layal; Buckley, Steven
Cc: joanwager2004@comcast.net
Subject: 1151 Grizzley Peak--Procedural Questions
Attachments: Chronology of Communication and Status to Staff.pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Layal and Steve,

I just found out this morning that the above captioned matter has been moved from December 9, 2021 to January 13, 2022, because of the late date set for the Mediation.

As you can see in the attached chronology, Applicants have cut off communication and have made no offers to reduce height, size or location of either building.

In light of this, can you please provide direction as to how the January 13, 2022 hearing will proceed? Will each side be offered time to present, after Staff presents? If so, how much time. If Joan Wager is not considered a "party", then how much time will she be allowed? Is this a Staff or ZAB determination? If Staff's please let me know your determination as soon as possible.

Best,

Rena (If you wish to discuss, please call me at the below listed mobile number.

RENA RICKLES
Law offices of Rena Rickles
1970 Broadway, Suite 1200
Oakland, CA 94612
Phone: (510) 452-1600
Mobile: (510) 326-4899
Fax: (510) 451-4115
Rena@RicklesLaw.com

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1151 Grizzley Peak
Communication and Chronology of Communication Since 09/09 ZAB : Meeting

History through September 9, 2021ZAB hearing
At the initial ZAB hearing on this matter, the ZAB requested the parties to meet to discuss ways that the impacts—almost total blockage of light and sun on all of the main rooms of Joan Wager's main room caused by two accessory structures, with significant roof and feature augmentation—one a pottery studio; the other, a workout gym—installed without permits or any discussion with the only impacted neighbor, Joan Wager, could be mitigated. At the hearing, ZAB members discussed various alternatives including Ms. Wagers' generous offer of settlement, as well as alternative sites for each building and/or modifications to each building. To assure that the parties would move forward with discussions, the ZAB set a date certain, December 9, 2021, for the matter to come back for final determination.

[Note: Prior to the September 9 ZAB meeting, Applicants had cut off all communication with Joan Wager; i.e., blocked her from emailing, refusing to provide their phone number. Consequently, Joan had no way prior to the ZAB meeting to provide them with her offer of settlement, except to tape it to their front door. Also it appears that Applicants did not provide Joan Wager with any offer to mitigate.]

Actions/Communications since the ZAB meeting
After the 9/9/21 ZAB meeting, Applicants wrote to Joan providing her with an email address to use to communicate with them. Joan wrote back immediately, inviting them to her house to see the impact of their buildings to her light and view.
09/25/21: Applicants come to Joan's home. 1-1/2 hour meeting at which they took photographs from every window. Joan asked for their ideas on mitigation. None were forthcoming. Joan added, "We had better decide, or else the ZAB will make a decision that neither of us would necessarily like."
09/25-10/01: Joan emails asking for suggestions; Applicants respond they will go to SEEDS
10/01/21: Joan acknowledges receiving SEEDS intake information and asks, "Would you like to suggest some solutions from your perspective, and we can discuss those directly first?"
10/05/21: Applicant response, "We only want to work through mediation per ZAB recommendation to have experienced help in this matter."
10/23/21: SEEDS postpones mediation to 11/13/2021 because of lack of mediators.
11/13/21: SEEDS mediation: Applicants do not offer any mitigation which would reduce size, height, or location of either structure.
After mediation: Applicants state to Joan that she is not to reach out to them, period. If they want to make any modifications, they will contact her.

CITY OF BERKELEY

ZONING ADJUSTMENTS BOARD

NOTICE OF PUBLIC HEARING

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on September 9, 2021**, conducted via Zoom, see the Agenda for details:** *https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-09-09_ZAB_Agenda.pdf*. The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

A. Land Use Designations:
- General Plan: LDR - Low Density Residential
- Zoning: R-1(H) - Single-Family Residential District, Hillside Overlay

B. Zoning Permits Required:
- Administrative Use Permit (AUP) to construct accessory buildings, under Berkeley Municipal Code (BMC) Section 23D.08.005.

C. CEQA Determination: It is staff's recommendation that the project is categorically exempt pursuant to Section 15303 ("New Construction or Conversion of Small Structures") of the CEQA Guidelines. The determination is made by Zoning Adjustments Board (ZAB).

D. Parties Involved:
- Applicant & Property Owner: Jeana Arabzadeh & Matt Jacobs, 1151 Grizzly Peak Boulevard, Berkeley

Further Information:
All application materials are available at the Land Use Planning Division, during normal office hours or online at: http://www.cityofberkeley.info/zoningapplications. The Zoning Adjustments Board agenda and all agenda materials regarding this project will be available online 6 days prior to this meeting at: http://www.cityofberkeley.info/zoningadjustmentsboard.

Questions about the project should be directed to the project planner, Layal Nawfal, at (510) 981-7424 or lnawfal@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

Communication Disclaimer:
Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Communications and Reports:
Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: https://www.cityofberkeley.info/zoningadjustmentboard/.

Correspondence received by 8:00 AM, on the Thursday before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by Noon Tuesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #1, which is released the end of the day Tuesday, two days before the public hearing;
- **Correspondence received by Noon Wednesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #2, which is released the end of the day Wednesday, one day before the public hearing; or
- **Correspondence received by 3 PM Thursday** will be given to the Zoning Adjustment Board just prior to the public hearing.

Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.

Accessibility Information / ADA Disclaimer:
This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer:
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Land Use Planning Division, during regular business hours.

Notice Concerning Your Legal Rights:
If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
   A. That this belief is a basis of your appeal.
   B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
   C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

   If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

ZONING ADJUSTMENTS BOARD

MEMORANDUM

FOR BOARD ACTION
DECEMBER 9, 2021

1151 Grizzly Peak Boulevard

Administrative Use Permit ZP#2021-0088 to legalize two Accessory Buildings in the rear yard of a Single-Family Dwelling.

At the September 9, 2021 Zoning Adjustments Board (ZAB) meeting, Staff presented the propsed project followed by the applicant's presentation. After the ZAB heard public comment and discussed the project, and the item was continued to the December 9, 2021 hearing.

The Board directed the applicant and neighbor at 25 Stoddard Way to meet with a mediator to find a resolution to the issues discussed during public comment. The Board also directed the applicant to provide clarification of the relationship of the accessory buildings with the neighboring property and submit revised plans.

The applicant scheduled two meetings with SEEDS which were both canceled by SEEDS. The third scheduled meeting took place on November 13, 2021. Staff received updated materials and plans from the applicant on November 29, 2021.

Staff recommends continuing the public hearing to the January 13, 2022 ZAB meeting to allow time to review the resubmittal of application materials and prepare a staff report following the SEEDS meeting..

Attachments:
1. Staff Report with attachments, dated September 9, 2021

Staff Planner: Layal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424