



Office of the City Manager

PUBLIC HEARING

January 29, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Timothy Burroughs, Director, Department of Planning & Development
Subject: ZAB Appeal: 1155-1173 Hearst Street

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution to affirm the Zoning Adjustments Board decision to approve Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units; and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On August 23, 2018, the Zoning Adjustments Board (ZAB) held a public hearing and approved Use Permit #ZP2016-0028 by an 8-0-1-0 vote (Yes: O’Keefe, Kahn, Olson, Hauser, Simon-Weisberg, Kim, Zaneri, Clarke; No: None; Abstain: M. Poblet; Absent: None). On August 30, 2018, staff issued the notice of the ZAB decision. On September 12, 2018, Hussein Saffouri, on behalf of Rain Sussman, owner and resident of 1824 Curtis Street (“Appellant”), filed an appeal with the City Clerk. Twenty-nine additional individuals signed a petition in support of the appeal. The Clerk set the matter for review by the Council on January 29, 2019.

BACKGROUND

The project site consists of two separate parcels located on the north side of Hearst Avenue on the block bound by San Pablo Avenue to the west and Curtis Street to the east. The parcel to the west (1155-63 Hearst) is developed with a two-story duplex towards the rear of the lot and two single-story duplexes situated towards the front of the lot, separated by a paved parking area. All six of these units are subject to rent control. The parcel to the east (1173 Hearst) is developed with a two-story single family dwelling with an attached tandem car garage. All seven units are currently occupied by renters.

The project site, which lies within the Strawberry Creek Watershed, is located in a topographic depression roughly bounded to the south by Hearst Avenue, to the north by Delaware Street, to the east by Curtis Avenue and to the west approximately 100-200

feet west of the site. Recurrent ponding and flooding occurs in the topographic depression during the rains.

On February 2, 2016, Mark Rhoades (“Applicant”) submitted a Use Permit application for a project that requested to merge the two lots, substantially rehabilitate the existing dwelling units, and construct eleven additional units employing State Density Bonus Law, for a total of 18 units. Due to the provision of Density Bonus Law requiring replacement of units under rent control, which, according to the Applicant, rendered the project infeasible, the Applicant chose to revise the project in response to comments received by the ZAB during the project hearing on September 28, 2017.

On March 6, 2018, the Applicant resubmitted the revised project, which did not include a request for Density Bonus. The revised project contains the following main components:

- Construction of one duplex on the western parcel in the middle of the lot;
- Construction of two duplexes on the eastern parcel behind the single-family dwelling;
- Uncovered parking for both properties located in the middle of the western lot; and
- Rehabilitation of all seven existing units, plus expansion of the three duplexes after all current residents voluntarily vacate.

The applicant has committed to, and the project is conditioned (condition of approval #15) that prior to building permit issuance for any interior improvements, renovations, or addition to the existing dwelling units, the property owner shall provide proof that all tenants have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for relocation. To provide clarity, staff recommends the condition be modified as follows:

Tenant Relocation. Prior to building permit issuance for any interior improvements, renovations or addition to any the existing dwelling units building (1955-57 Hearst, 1959 A & B Hearst, 1961-63 Hearst, and 1973 Hearst), the property owner shall provide proof that all tenants within the building have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for relocation. This shall not apply to issuance of building permits for general renovation or repair within these units.

Due to the voluntary participation by existing tenants, the timeframe of work on these buildings cannot be anticipated.

The ZAB approved the project at the August 23, 2018 meeting.

ENVIRONMENTAL SUSTAINABILITY

The project approved by ZAB is in compliance with all state and local environmental requirements.

RATIONALE FOR RECOMMENDATION

The issues raised in the Appellant's letter, and staff's responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the attached appeal letter for full text.

Issue A: "ZAB erred in finding the project exempt from CEQA." [p. 1 of attached appeal letter]

Issue A1: "The project does not qualify for a categorical exemption because there is substantial evidence that it will not be adequately served by the existing utility infrastructure." [p. 1-2]

Response A1: The ZAB approved the project with the CEQA determination that the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines, "Class 32 In-Fill Development Projects. Class 32 consists of projects characterized as in-fill development meeting the following conditions: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) The project site has no value, as habitat for endangered, rare or threatened species; (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) The site can be adequately served by all required utilities and public services.

The Appellant has claimed that the project fails to qualify for this CEQA exemption as it does not meet condition (e) above. The Appellant's reasoning behind the assertion is that the site is located over a non-engineered buried branch of Strawberry Creek, that the site is prone to flooding, that the storm drain system is unable to address the runoff, and that the proposed impervious surfaces and foundations would exacerbate existing flooding conditions.

Due to the hydrology conditions on the project site, the Applicant proactively submitted a stormwater and flooding assessment (Assessment) and mitigation design for the proposed project prepared by Clearwater Hydrology. The objective of the Assessment was twofold: 1) to develop a storm drainage system design for the proposed project that would have the ability to provide proper drainage without on-site flooding during the 10-year design rainstorm; and 2) to improve, even marginally, the flooding conditions that occur along the neighboring Curtis Street properties for rainstorms exceeding roughly the five-year recurrence interval. The City hired Balance Hydrologics to peer review the Assessment, provide comment, and review comments provided on

the Assessment by Terraphase, a consultant hired by the Appellant. Balance Hydrologics concurred with the findings of the Assessment that the selected drainage design—which includes a drainage channel inset within the main driveway to the northern edge of the parking lot and a grassed swale extending eastward from the parking lot to the eastern project boundary—would meet the Assessment objectives. Balance Hydrologics recommended that additional information be provided prior to Building Permit submittal to ensure the projects meets the requirements of the California Water Boards Municipal Regional Permit (MRP). The requested information includes changes to time of concentration, revised modeling of overflow from Curtis Street, and inclusion of information on changes in peak flow, and C.3 compliance. Project approval is conditioned with this recommendation. Although drainage conditions on the private property are not part of the public drainage infrastructure, the project would not exacerbate existing conditions on the project site or the neighboring site, and is actually expected to improve drainage conditions in the area.

The public service to which the appeal point refers is the City's storm drain system (curbs, gutters, catchment basins, street crossing swales, etc.) on the public right-of-way. There is no evidence in the record that the storm drain system is inadequate for the site area; that water flow ponds on the street or sidewalk. To the contrary, during a field visit in the rain on November 29, 2018, after heavy rains during the previous night, the water flowed freely through the gutters in front of the project site and on both sides of the block (see Figure 1 below). The water flow follows the topography from east to west and enters the catchment basin located just east of San Pablo Avenue. At the catchment basin (i.e. storm drain) the water enters a 2' x 3' sewer pipe that runs under San Pablo Avenue to the south and connects to a 5'-2" x 7'-9" sewage pipe that runs under University Avenue to the west. Public Works engineering staff stated that they had no concerns as to whether the storm drain system could accommodate any additional flow from the proposed six-unit infill project. The Appellant's claim that the existing utility infrastructure cannot adequately service the development project is, therefore, unfounded; the project qualifies for a Class 32 In-Fill exemption.

Figure 1: Water Flow at Project Site Frontage (1173 Hearst looking southwest)



Issue A1a: “CEQA Guidelines are clear that the proposed categorical exemption is not applicable in cases when a proposed project is located in a sensitive site” [p. 1]

Response A1a: The Appellant is referencing, and proceeds to quote the Location exception to a CEQA categorical exemption (14 CCR § 15300.2(a)). The location-based exception applies only to Class 3, 4, 5, 6, and 11 categorical exceptions, and any references to sensitive location throughout this appeal point does not apply to Class 32 In-Fill Development Projects. The exception does not apply to this project and the appeal point is without merit.

Issue A1b: “The buried creek alignment is also associated with the potential presence of cultural and/or historic resources. Testimony was given that a portion of the property on which the project is proposed was the site of the original Chez Panisse garden” [p. 2]

Response A1b: Even if there was an original Chez Panisse garden and it was located at this site, the City of Berkeley has never determined it to be a significant or historical resource. The former presence of a garden would not constitute a sensitive location for environmental purposes. This appeal point is without merit.

No known cultural resources have been identified on the site, however, project approval is subject to the City’s standard conditions regarding

tribal cultural resources, archaeological resources, human remains, and paleontological resources (COAs 34 – 37).

Issue A1c: “[T]he area proposed for development forms a “lake” seasonally, indicat[ing] that the area may qualify as a potential jurisdictional wetland subject to additional review and permitting requirements.” [p. 2]

Response A1c: The area of proposed development is not listed in the National Wetlands Inventory (www.fws.gov/wetlands/) and there is no evidence in the record that the back yard area of these lots has the required soil, plant life, and fish and/or wildlife communities (i.e. aquatic resources) required to meet the definition of wetland.

Issue A2: “Even if the project qualifies for a categorical exemption, it is subject to the unusual circumstances exception because there is substantial evidence of an unusual circumstance and of a fair argument that there may be a significant effect on the environment” [p. 2-3]

Response A2: A project is ineligible for a categorical exemption if it falls under one of six exceptions listed in §15300.2 of the CEQA Guidelines. The Appellant asserts the project falls under §15300.2(c)'s Significant Effect exception: “*A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*”

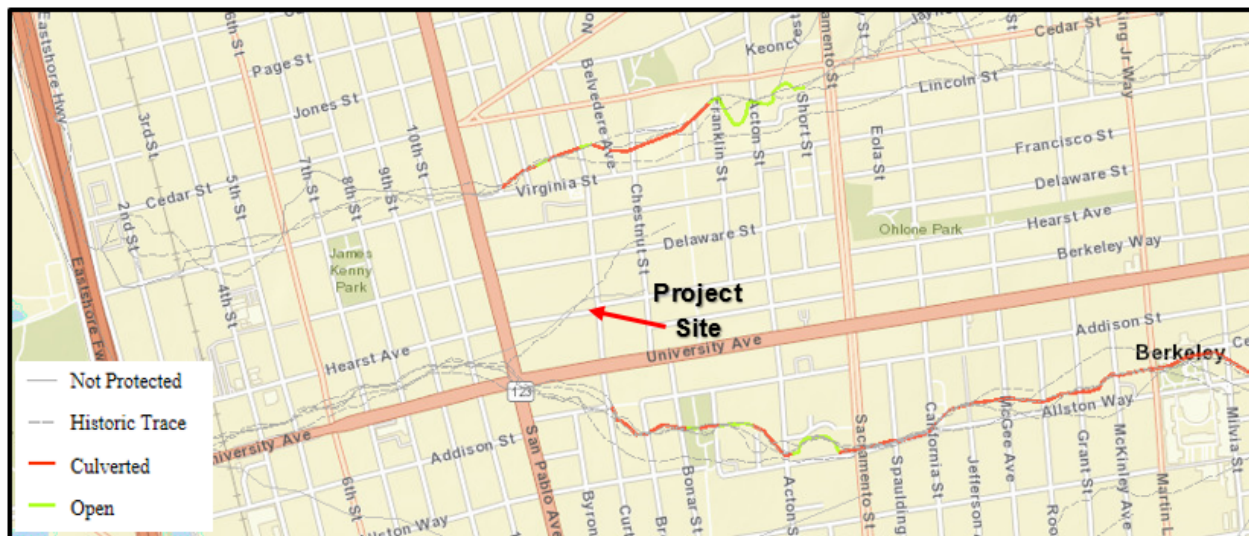
In *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal. 4th 1086, the California Supreme Court held that for the exception to apply, “[i]t is not alone enough that there is a reasonable possibility that the activity will have a significant effect.” Rather, the effect must be “due to unusual circumstances.” *Id.* at 1097-98.

The Appellant claims the fact that the site sits on an underground branch of the historic Strawberry Creek, which is filled with non-engineered soils and has been subject to significant historical flooding, constitutes an “Unusual Circumstance.” As evidenced in the record—a hydrology Assessment prepared by a licensed engineer, Peer Reviewed by a licensed engineer, with recommendations incorporated as project conditions of approval—there is substantial evidence in the record that the project would *not* have a significant environmental impact, thereby negating any fair argument that it could. As such, the exception does not apply as the Appellant fails the “significant effect” prong of the test.

The Appellant also fails the “unusual circumstances” prong of the test. In *Berkeley Hillside Preservation v. City of Berkeley*, the Court determined that without evidence of an environmental effect, a party

invoking the exception may establish an unusual circumstance “[b]y showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location.” *Id.* at 1105. Though the project area is above a former creek and though there is evidence of flooding in the backyards of the neighborhood, this is not unique to this project, or in fact to this neighborhood. In questioning different members of Public Works field staff, several areas of the City were listed as experiencing seasonal flooding including the northwest corner of University and San Pablo Avenues; Derby Street near Martin Luther King Jr. Way; Derby Street between Shattuck and Telegraph Avenues; and the area around Malcolm X Elementary School south of Ashby Avenue and west of the Ashby BART station, among others. It is not a coincidence that all these areas are over either historic traces of streams or underground creek beds, labeled “Not Protected” on the City’s GIS maps (<http://cobmapv2/planning/>). As can be seen in Figure 2 below, which represents a small portion of the City, underground and historic traces of streams striate the city running from east to west. Ponding and flooding conditions vary, but are not uncommon or otherwise unusual on the numerous properties overlaying these hydrologic features.

Figure 2: GIS Creek Layer on Area Including Project Site

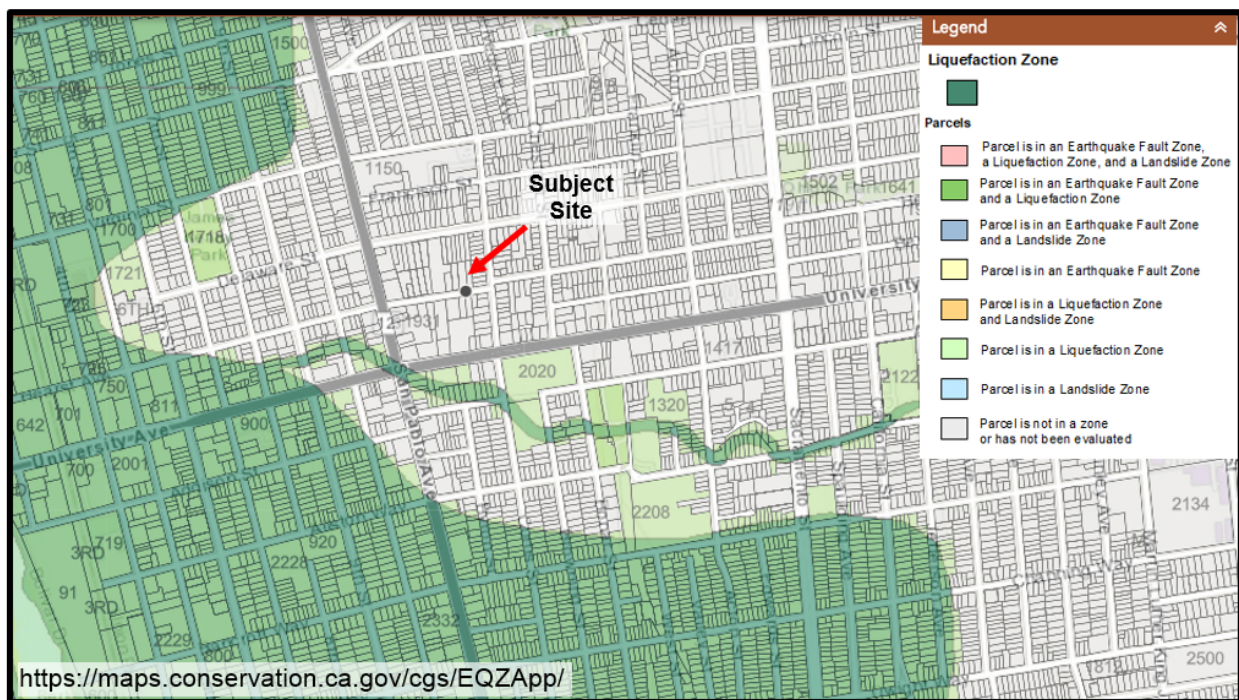


Additionally, in response to the Appellant’s point, the Public Works Engineer has stated in the record that although the Urban Creek Council—a Bay Area non-profit organization working to preserve, protect, and restore urban streams and their riparian habitats (urbancreeks.org)—may have classified this area as “filled wetlands” and as “seismically unstable and subject to liquefaction,” that is not the

viewpoint of Public Works staff or the U.S. Geological Survey (USGS), who have not designated this area as a site with high potential for liquefaction. See figure 3 below.

Available information belies the Appellant’s claim that an unusual circumstance exists as the project does not have some feature, such as size or location, which distinguishes it from others in the exempt class. Accordingly, the project is exempt from CEQA under the Class 32 In-Fill categorical exemption.

Figure 3: Earthquake Zones of Required Investigation (USGS)



Issue A2a: “City of Berkeley Zoning Department Staff recognized and agreed that the “Level of water in the area” constitutes an unusual circumstance.” [p. 3]

Response A2a: The project planner did state towards the beginning of the ZAB hearing on this project that the level of water in the area was an unusual circumstance. The comment was based on a layman’s definition of what is typical and not upon the investigation of what legally constitutes an unusual circumstance as discussed in Issue A above. A statement by staff does not constitute the required substantial evidence to designate an unusual circumstance. In addition, the ZAB secretary clarified later in

the hearing that staff reviewed this application and determined it meets the infill exemption.

Issue B: “If the project is exempt from CEQA[,] appropriate conditions must be imposed under BMC §23B.32.040 to ensure the project is not detrimental to the health, safety, comfort or general welfare of the neighborhood or injurious to the adjacent properties, the surrounding area or neighborhood.” [p. 3-5]

Response B: Staff concurs that appropriate conditions must be imposed on any project to ensure non-detriment. Staff believes, as did ZAB upon granting of the Use Permit, that the appropriate conditions of approval (COA) were so imposed and, thereby, made the non-detriment finding pursuant to BMC §23B.32.040.A. As the Appellant’s issue is specifically related to hydrology impacts, staff is limiting the discussion of detriment to hydrology as well.

In addition to the standard Toxics condition of approval regarding a Soil and Groundwater Management Plan (COA 28B), Stormwater Requirements (COA 40), and Public Works conditions regarding sub- and surface waters (COAs 42-45, 48), the project is conditioned to incorporate the Drainage Plan as presented in the Applicant’s revised Hydrology Assessment of July 12, 2017 and to submit additional design documentation as requested by the Peer Review (COA 21).

Specifically, in order to provide proper drainage without on-site flooding during the 10-year design rainstorm and to improve the flooding conditions that occur along the neighboring Curtis Street properties for rainstorms exceeding roughly the two-year recurrence interval, the project will incorporate a drainage design that includes the following components:

- A 2.5-foot wide, 0.4-foot deep rectangular channel with a slope of 0.8% inset within the Project main driveway, extending north to the northern edge of the new parking lot; and
- A trapezoidal grassed swale with side slopes 3:1, channel slope of 1.0% and a minimum depth of 0.3 feet extending eastward from the parking lot to the eastern Project boundary.

Although a geotechnical report would have been required regardless by the Building and Safety Division prior to issuance of the building permit, ZAB added a condition of approval to emphasize the requirement (COA 13): “*The applicant shall submit to the Building and Safety Division a geotechnical report that addresses the subsurface water conditions in*

and in the immediate vicinity of the project site. A civil engineer shall be employed to draft plans in conformance with all recommendations of the Geotechnical and Hydrology reports.” For clarity, the reports referenced are those submitted by the Applicant that are prepared by a licensed engineer, and the peer review by a licensed engineer commissioned by the City.

Contrary to the Appellant’s statements that ZAB intended certain conditions be met prior to issuance of the Use Permit, the vote conducted by ZAB at the end of the hearing approved the Use Permit. Conditions added to the project by ZAB during the motion to approve a project are subsequent to issuance of the Use Permit. If ZAB had intended otherwise it would have continued the project.

Despite the evidence in the record that the project will not have a detrimental impact to the surrounding neighborhood, the project conditions of approval, both standard and additional, will further ensure the health, safety, comfort and general welfare of the neighborhood and that the project will not be injurious to the adjacent properties, the surrounding area or neighborhood.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB’s decision, or (3) remand the matter to the ZAB.

ACTION DEADLINE:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437
Leslie Mendez, Senior Planner, Planning & Development Department, (510) 981-7426

Attachments:

- 1: Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans dated June 8, 2018
- 2: Appeal Letter, dated September 12, 2018
- 3: ZAB Staff Report, dated August 23, 2018
- 4: Index to Administrative Record

ZAB Appeal: 1155-73 Hearst Street

PUBLIC HEARING
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5: Administrative Record

6: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

APPROVING USE PERMIT #ZP2016-0028 TO DEVELOP TWO PARCELS, INCLUDING THE SUBSTANTIAL REHABILITATION OF THE EXISTING SEVEN DWELLING UNITS AND CONSTRUCTION OF SIX NEW DWELLING UNITS IN THE RESTRICTED MULTIPLE-FAMILY RESIDENTIAL (R-2A) ZONING DISTRICT

WHEREAS, on February 2, 2016, Mark Rhoades of Rhoades Planning Group filed an application on behalf of Hearst Avenue Cottages, LLC (“applicant”) to substantially rehabilitate seven existing dwelling units, and construct eleven new dwelling units employing State Density Bonus Law on two parcels located at 1155 – 1173 Hearst Avenue (“project”); and

WHEREAS, on May 17, 2017, staff deemed this application complete; and

WHEREAS, on August 10, 2017, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on August 24, 2017, the ZAB continued the item to September 28, 2017 to allow the applicant time to address tenant protections; and

WHEREAS, on September 28, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and continued the project off calendar to allow the applicant further time to address tenant protections; and

WHEREAS, on March 6, 2018, the applicant submitted a revised project that reduced the proposed new construction of dwelling units to seven; and

WHEREAS, on July 3, 2018 staff deemed the revised application complete; and

WHEREAS, on August 8, 2018, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on August 23, 2018, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on August 30, 2018, staff issued the notice of the ZAB decision; and

WHEREAS, on September 12, 2018, Hussein Saffouri, on behalf of Rain Sussman, owner and resident of 1824 Curtis Street (“Appellant”), filed an appeal with the City Clerk; and

WHEREAS, on January 15, 2019, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on January 29, 2019, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the

public record, including comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP 2016-0028, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeals.

Exhibits

A: Findings and Conditions

B: Project Plans, dated June 8, 2018

ATTACHMENT 1, EXHIBIT A

FINDINGS AND CONDITIONS

AUGUST 23, 2018

1155-1173 Hearst Street

Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and constructing six new dwelling units.

PERMITS REQUIRED

- Use Permit for construction of dwelling units, under BMC Section 23D.32.030
- Use Permit for the addition of a sixth or greater bedroom in existing dwellings on a parcel, under BMC 23D.32.050.A
- Administrative Use Permit to construct residential additions greater than 14' in average height, BMC Section 23D.32.070.C
- Administrative Use Permit to allow an extension of a non-conforming front and side yard, BMC Section 23C.04.070.B
- Administrative Use Permit to reduce the building separation from 8' on the first floor and 12' on the second floor to 6'-1", BMC Section 23D.32.070.D.4

I. CEQA FINDING

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 15332 of the CEQA Guidelines ("In-Fill Development"). 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 Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
 - The project will add six new housing units to the City's housing stock and will comply with the City's Inclusionary Ordinance by either providing one below market rate unit for a Low Income Household and payment into the Affordable Housing Trust Fund of the remainder 0.2 unit fee, or payment of the in-lieu fee.
 - The project's proposed massing contributes to the continued evolution of the City's development landscape. The project design was modified in several ways to respect the lower density single-family dwellings fronting Curtis Street. The final development

plan will renovate and rehabilitate the existing dwellings to match the style and materials of the new construction for a cohesive and attractive street presence that fits well with the surrounding mix of architectural styles.

- As the properties to the east of the subject site front Curtis Street and have rear yards abutting the subject site, the building separation between the Curtis Street Neighbors and the new construction ranges from approximately 36 feet to 42 feet. The properties abutting to the north and fronting Delaware Street have more substantial rear yard areas, resulting in a proposed main building separation of approximately 175 feet and more. Buildings to the west are closest due to the abutting side yard orientation to the subject lot. But with building separation ranging from approximately 8.5 feet to 18 feet, the project's proposed massing will be compatible with the four neighboring two-story buildings to the west.
 - Shadow impacts from the project are expected to affect direct sunlight on certain residential windows. However, these areas will still experience indirect lighting during these hours, as well as have direct light from other windows. At no time of year will the proposed project cause adjacent properties to lose access to direct sunlight from all the windows throughout the whole day at any time of the year. Such shading impacts are to be expected in an infill urbanized area and are not deemed detrimental.
 - The project site is located one block east of San Pablo Avenue and one block north of University Avenue, two major transit thoroughfares. The project will add eleven additional residential units located within one quarter mile of the San Pablo/University intersection that is served by the following AC Transit bus lines: 72 Rapid, 49, 51B, 52, FS, G, 72, 72M, 800 and 802. The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, jobs, basic goods and services.
 - The project meets the purposes of the Restricted Multiple-family Residential District as it will provide smaller multiple-family garden-type apartment structures with the maximum feasible amount of useable open space on the property. The buildings will be constructed with sufficient separation on the subject lot, and with ample distance with abutting single-family neighbors. Light and air, therefore, will not be unreasonably obstructed. Based on the proposed two-story height of the building, the existing structures around the site, and the generally flat topography of the neighborhood, the project will not affect significant views enjoyed by neighboring residents. The project will further not be detrimental to the neighborhood as it would be subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.
2. Pursuant to BMC 23C.04.070.C, the proposed vertical extensions of the non-conforming front and side yard setbacks of Azalea and Begonia are permissible as they will not further reduce existing non-conforming yards.
 3. Pursuant to BMC Section 23D.32.050, the project, when completed, would change the existing configuration of the duplexes to four two-bedroom dwelling units and two four-

bedroom dwelling units. Both the two-unit layout and the four-unit layout are designed to be occupied by single households within a development of six other newly constructed two-bedroom units. The renovated dwellings are designed to provide for a range of family composition and is not expected to lead to formation of a mini-dorm.

4. Pursuant to BMC 23D.070.D.4 the project the reduction in the building to building separation between Freesia and Geranium from the District minimum of 8' on the first floor and 12' on the second floor down to 6'-1" is permissible as the minimum distance is only at one horizontal plane between the buildings; otherwise the separation ranges from 8 feet to 13 feet. The current building layout and juxtaposition provides adequate air and light between the buildings. With the proposed added condition that the north facing window of the northeast bedroom in Geranium be a minimum of 68 inches from finished floor level, privacy between residents of the two opposing units will be ensured.
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III. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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

1. Conditions Shall be Printed on Plans

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

2. Applicant Responsible for Compliance with Conditions

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

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold 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.

IV. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC 23B.32.040.D, the following additional conditions are added 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 #

- 11. Plan Set Revisions.** The plan set shall be revised to reflect the following changes:
- The north facing window of the northeast bedroom in **Geranium** be a minimum of 68 inches from finished floor level to ensure privacy between residents of the two opposing units.

- The roof deck on **Geranium** shall be moved to the east side of the roof and the roof access shall not include any windows and shall be reduced in massing (i.e. sloped) to limit impacts to the western neighbors.
- All west facing windows on **Freesia** and **Geranium** shall, subject to review and approval by the Zoning Officer, be redesigned to ensure privacy for the residents of the building to the west. This may include, but is not limited to, frosted glass and/or clerestory design.
- A maximum of three full bathrooms are permitted in the two **Freesia** dwelling units.

12. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City’s database prior to the applicant’s submittal of a building permit application for that unit.

Prior to Issuance of Any Building Permit:

- 13. Geotechnical Report.** The applicant shall submit to the Building and Safety Division a geotechnical report that addresses the subsurface water conditions in and in the immediate vicinity of the project site. A civil engineer shall be employed to draft plans in conformance with all recommendations of the Geotechnical and Hydrology reports.
- 14. Demolition Schematic.** The applicant shall include a sheet within the plan set for each existing building (Azalea, Begonia, Camellia, and Freesia) that clearly shows the surface area of each exterior wall and the roof that is to be removed and that is to remain. A percentage calculation for the sum of the exterior walls to be removed and for the roof shall be included. A building permit will not be issued unless it is confirmed that the project would not result in a demolition as defined in BMC 23F.04.010.
- 15. Tenant Relocation.** Prior to building permit issuance for any interior improvements, renovations or addition to the existing dwelling units (1955-57 Hearst, 1959 A & B Hearst, 1961-63 Hearst, and 1973 Hearst) the property owner shall provide proof that all tenants have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for relocation.
- 16. Parcel Merger.** The applicant shall secure approval of any parcel merger and/or lot line adjustment associated with this Use Permit.
- 17. Percent for Art:** Consistent with BMC §23C.23, prior to issuance of a building permit the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
- 18. Construction Noise Management - Public Notice Required.** At least thirty calendar days prior to initiating any construction activities at the site, the applicant shall provide notice to existing residents on the project site, including (1) description of construction activities, (2) daily construction schedule (i.e., time of day) and expected duration (number of months), (3) the name and phone number of the Noise Management Individual for the project, and (4) designate a “construction liaison” that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to

correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

The public notice shall also state that the applicant will hold a community meeting every six months from the start of construction to the conclusion of construction for all active building permits related to this Use Permit pursuant Condition of Approval number 32; that the existing tenants have the option to temporarily relocate during construction for all active building permits related to this Use Permit pursuant to Condition of Approval number 31; and that parking shall be provided on or off site during all construction in compliance with Condition of Approval number 30.

19. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
- Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - Prohibit unnecessary idling of internal combustion engines.
 - If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
 - Route construction related traffic along major roadways and away from sensitive receptors where feasible.

20. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
21. Drainage Plan. Unless modified by the City's Building & safety Division and/or Department of Public Works, plans submitted for building permit shall include the drainage design as presented in Stormwater and Flooding Assessment and Mitigation Design for the Hearst Avenue Project, prepared by Clearwater Hydrology, dated January 7, 2016 as revised July 12, 2017, and all recommendations of the peer review prepared by Balance Hydrologics.
22. Electric Vehicle (EV) Charging. At least 10% of the project parking spaces for residential parking shall be pre-wired to allow for future Level 2 (240 Volt/40 amp) plug-in electric vehicle (EV) charging system installation, as specified by the Office of Energy and Sustainable Development. Any Level 2 EV charging systems installed at parking spaces will be counted toward the applicable pre-wiring requirement. Pre-wiring for EV charging and EV charging station installations shall be noted on site plans.
23. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
24. Water Efficient Landscaping. Applicant shall provide an updated Bay-Friendly Basics Landscape Checklist that includes detailed notes of any measures that will not be fully met at the project. Landscape improvements shall be consistent with the current versions of the State's Water Efficient Landscape Ordinance (WELO) and the East Bay Municipal Utility District's Section 31: Water Efficiency Requirements.
25. Construction and Demolition. Applicant shall submit a Waste Diversion Form and Waste Diversion Plan that meet the diversion requirements of BMC Chapters 19.24 and 19.37.
26. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
27. First Source Agreement. The applicant and/or end user(s) shall enter into a First Source Agreement with the City of Berkeley. First Source promotes the hiring of local residents on local projects. The agreement requires contractors/employers to engage in good faith efforts to hire locally, including utilizing graduates of local job training programs. Please call (510) 981-4970 for further information, or visit the City's Employment Programs office at 2180 Milvia, 1st Floor.
28. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 2120 Milvia, 3rd Floor or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at:
 - http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality

Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Construction:

29. Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these conditions and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the conditions of approval.

During Construction:

30. Tenant Parking. During any construction related to this Use Permit, the applicant/property owner shall ensure that parking is provided to existing tenants per their lease agreement either on-site or in an alternative location within the area bounded by San Pablo Avenue to the west, Francisco Street to the north, Chestnut Street to the east, and University Avenue to the south.
31. Temporary Relocation. During any construction related to this Use Permit, existing tenants may choose to temporary relocate and the applicant/property owner shall accommodate the request and provide the same benefits and protections as in the Relocation Ordinance, BMC Section 13.84.
32. Neighborhood Construction Meetings. The applicant will hold a community meeting every six months from the start of construction to the conclusion of construction for all active building permits related to this Use Permit.
33. Existing Perimeter Vegetation. The applicant shall retain all perimeter vegetation on the property during all phases of construction.
34. 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.
35. 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.

36. 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 Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, 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.

37. 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.

38. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 12:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
39. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks or pedestrian paths
 - Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
 - Storage of building materials, dumpsters, debris anywhere in the public ROW
 - Provision of exclusive contractor parking on-street relevant
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

40. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff.

When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.

- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.
- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- F. All on-site storm drain inlets/catch basins **must** be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
- G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J. All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

41. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
42. Public Works. 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 thick and secured to the ground.
43. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
44. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
45. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

46. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
47. Public Works. 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.
48. Public Works. The applicant shall inform the contractor of the potential for high groundwater and that a temporary de-watering method during construction may become necessary. Temporary construction dewatering methods may include sumps and pumps placed in a low spot within the excavations. Several sumps and pumps may be required depending on the magnitude of water encountered. The design and implementation of temporary construction de-watering is considered the responsibility of the contractor. Caution should be exercised to prevent softening of the subgrade soils exposed within the excavations. Equipment operated upon saturated subgrade soils tends to cause rutting and weakening, which will require over-excavation of the weakened subgrade. Standing water within the excavation can also cause weakening of the subgrade soils. A temporary mud slab or gravel pad may be needed at the base of the garage and/or parking lifts excavations to provide a clean, dry working area.

Prior to Final Inspection or Issuance of Occupancy Permit:

49. Access Agreement. Subject to review and approval by the Zoning Officer, an access agreement shall be recorded with the title of the properties with the County and a copy shall be provided to the planner that provides for the following:
- Parking access for dwelling units in Edelweiss and Daffodil on 1155-63 Hearst (current APN 057-2086-014-00); and
 - Cross access for all units for all common Useable Open Space Areas on both parcels (current APNs 057-2086-014-00 and 057-2086-0130-00).
50. Regulatory Agreement for Ownership Units. Prior to the issuance of a certificate of occupancy, the applicant shall enter into an inclusionary housing agreement providing for compliance with the requirements of Berkeley Municipal Code (BMC) Chapter 23C.12. The inclusionary housing agreement shall include, but not be limited to, the following conditions:
- A. Sales prices of inclusionary units. If inclusionary housing units (i.e. condominiums) are provided on site, the sales price shall not exceed three (3) times eighty percent (80%) of the Area Median Income (hereinafter referred to as "AMI") as of the date of the sale the unit. Allowable sale prices shall be determined in accordance with BMC 23C.12.090.
- B. In-Lieu Fee. Instead of providing the 1.2 inclusionary (i.e. 2 ownership) units on site, the applicant may pay an in-lieu fee for any or all portion of the 1.2 required inclusionary units in accordance with BMC Section 23C.12.035 and 23C.12.040.E.1.

51. Determination of Area Median Income (AMI).

The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.

The applicable AMI for the purpose of determining the allowable rent or sale price for each unit (but not for the purpose of determining eligibility for occupancy of a BMR unit) shall be determined in accordance with the following table:

Unit Size	AMI Standard
Studio unit	AMI for a one person household
One-bedroom unit	AMI for a two person household
Two-bedroom unit	AMI for a three person household
Three-bedroom unit	AMI for a four person household

52. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

53. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

54. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated June 8, 2018, except as modified by conditions of approval, including:

- The north facing window of the northeast bedroom in **Geranium** be a minimum of 68 inches from finished floor level to ensure privacy between residents of the two opposing units.
- The roof deck on **Geranium** shall be moved to the east side of the roof and the roof access shall not include any windows and shall be reduced in massing (i.e. sloped) to limit impacts to the western neighbors.
- All west facing windows on **Freesia** and **Geranium** shall, subject to review and approval by the Zoning Officer, be redesigned to ensure privacy for the residents of the building to the west. This may include, but is not limited to, frosted glass and/or clerestory design.
- A maximum of three full bathrooms are permitted in the two **Freesia** dwelling units.

55. Construction and Demolition Diversion. A Waste Diversion Report, with receipts or weigh slips documenting debris disposal or recycling during all phases of the project, must be completed and submitted for approval to the City’s Building and Safety Division. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement. A copy of the Waste Diversion Plan shall be available at all times at the construction site for review by City Staff.

At All Times:

56. Exterior Lighting. 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.
 57. 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.
 58. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
 59. Parking to be Leased or Sold Separately. The seven existing units are guaranteed one parking space per unit as part of the lease or future sale. For the eleven newly constructed units, parking spaces shall be leased or sold separately.
 60. Bike Parking. Secure and on-site bike parking for a minimum of 19 bicycles shall be provided for the life of the building.
 61. Geranium and Freesia Windows. The north facing window of the northeast bedroom in Geranium shall be a minimum of 68 inches from finished floor level to ensure privacy between residents of the two opposing units. The west facing windows of both Geranium and Freesia shall retain the location and treatment as approved by the Zoning Officer pursuant to Condition of Approval number 54 to ensure privacy for the residents of the dwellings to the west.
-



PROJECT:

**HEARST GARDENS
BERKELEY, CA 94702**

DESCRIPTION:

DEVELOPMENT OF TWO EXISTING LOTS AT HEARST STREET BETWEEN SAN PABLO & CURTIS STREET. THE EXISTING LOTS ARE OVER 21,000 SF, AND CURRENTLY HAVE 7 RESIDENCES ON SITE. ALL OF THESE ARE TO BE MAINTAINED AND RENOVATED. THERE WILL BE 6 HOMES ADDED TO THE SITE. UNITS ARE ARRANGED AROUND A CENTRAL PASEO THAT PROVIDES ACCESS TO ALL UNITS AND AMPLE OPEN SPACE.

SITE ADDRESS:

1155, 1157, 1159, 1161, 1163 & 1173 HEARST AVE.
BERKELEY, CA 94704

ASSESSOR'S PARCEL #:

LOT @ 1173: 057 208601300
LOT @ 1157: 057 208601400



ZONING INFORMATION:

GENERAL PLAN:	MDR
ZONING DISTRICT:	R-2A
FLOOD ZONE:	NO
FIRE ZONE:	1
ENV. MGMT. AREA:	NO
LANDMARK STRUCT. MERIT:	NO
LOT AREA 1173:	8,204 SF
LOT AREA: 1157	13,469 SF
TOTAL:	21,673 SF

APPLICANT:

RHOADES PLANNING GROUP
46 SHATTUCK SQUARE, SUITE 11
BERKELEY, CA 94704
info@rhodesplanninggroup.com

ARCHITECT:

DEVI DUTTA-CHOUDHURY, AIA
DEVI DUTTA ARCHITECTURE INC.
928 CARLETON STREET
BERKELEY, CA 94710
[510] 705-1937
hello@devidutta.com

OWNER:

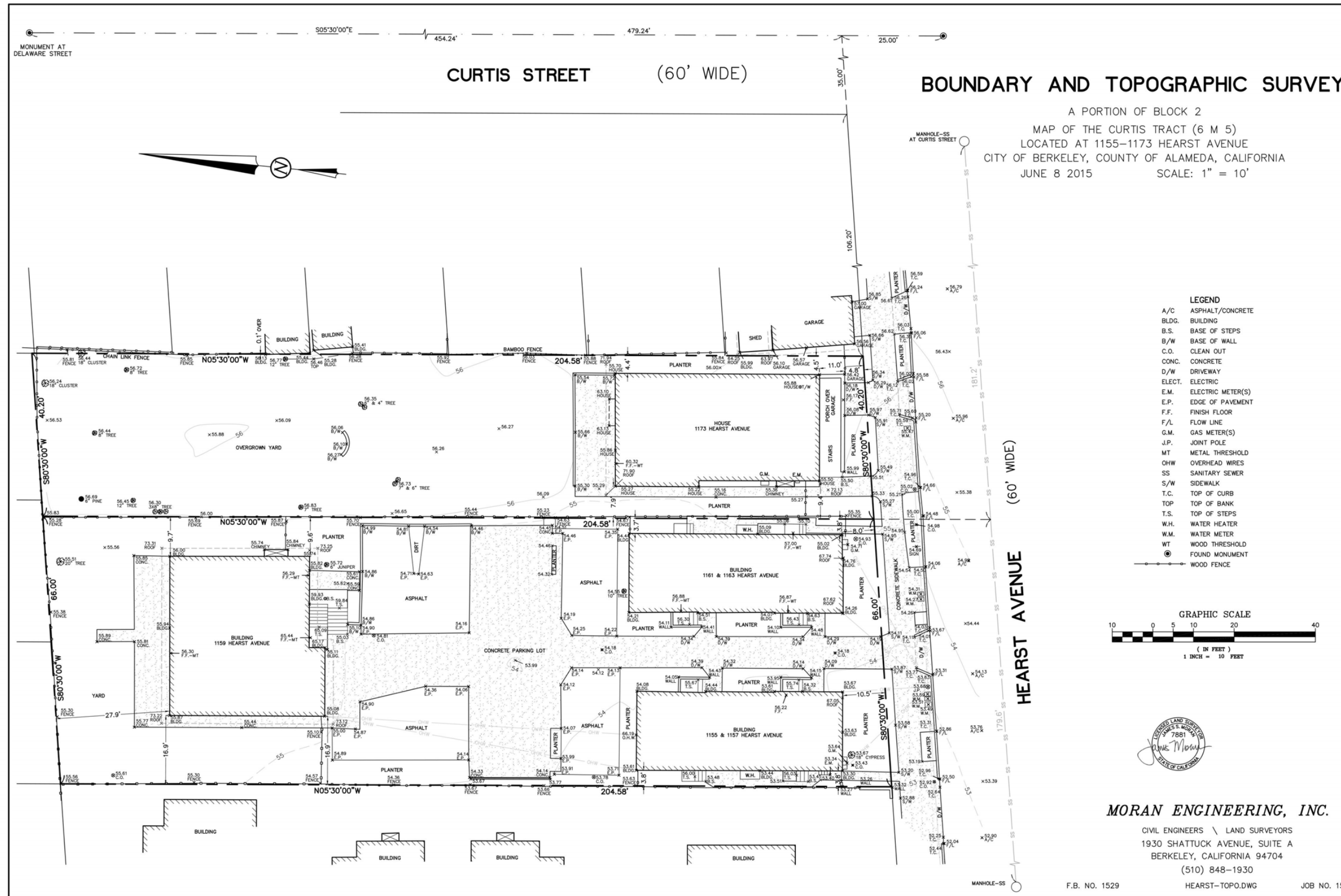
HEARST AVE COTTAGES, LLC
46 SHATTUCK SQUARE, SUITE 11
BERKELEY, CA 94704

SHEET INDEX

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A0.00	SURVEY
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A1.1	EXISTING PLANS & ELEVATIONS
A1.2	EXISTING PLANS & ELEVATIONS
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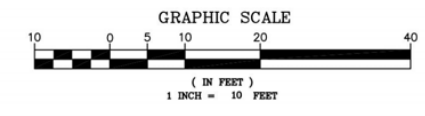
A4.0	AZALEA & BEGONIA PLANS
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BOUNDARY AND TOPOGRAPHIC SURVEY

A PORTION OF BLOCK 2
MAP OF THE CURTIS TRACT (6 M 5)
LOCATED AT 1155-1173 HEARST AVENUE
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
JUNE 8 2015 SCALE: 1" = 10'

- LEGEND**
- A/C ASPHALT/CONCRETE
 - BLDG. BUILDING
 - B.S. BASE OF STEPS
 - B/W BASE OF WALL
 - C.O. CLEAN OUT
 - CONC. CONCRETE
 - D/W DRIVEWAY
 - ELECT. ELECTRIC
 - E.M. ELECTRIC METER(S)
 - E.P. EDGE OF PAVEMENT
 - F.F. FINISH FLOOR
 - F/L FLOW LINE
 - G.M. GAS METER(S)
 - J.P. JOINT POLE
 - MT METAL THRESHOLD
 - OHW OVERHEAD WIRES
 - SS SANITARY SEWER
 - S/W SIDEWALK
 - T.C. TOP OF CURB
 - TOP TOP OF BANK
 - T.S. TOP OF STEPS
 - W.H. WATER HEATER
 - W.M. WATER METER
 - WT WOOD THRESHOLD
 - FOUND MONUMENT
 - WOOD FENCE



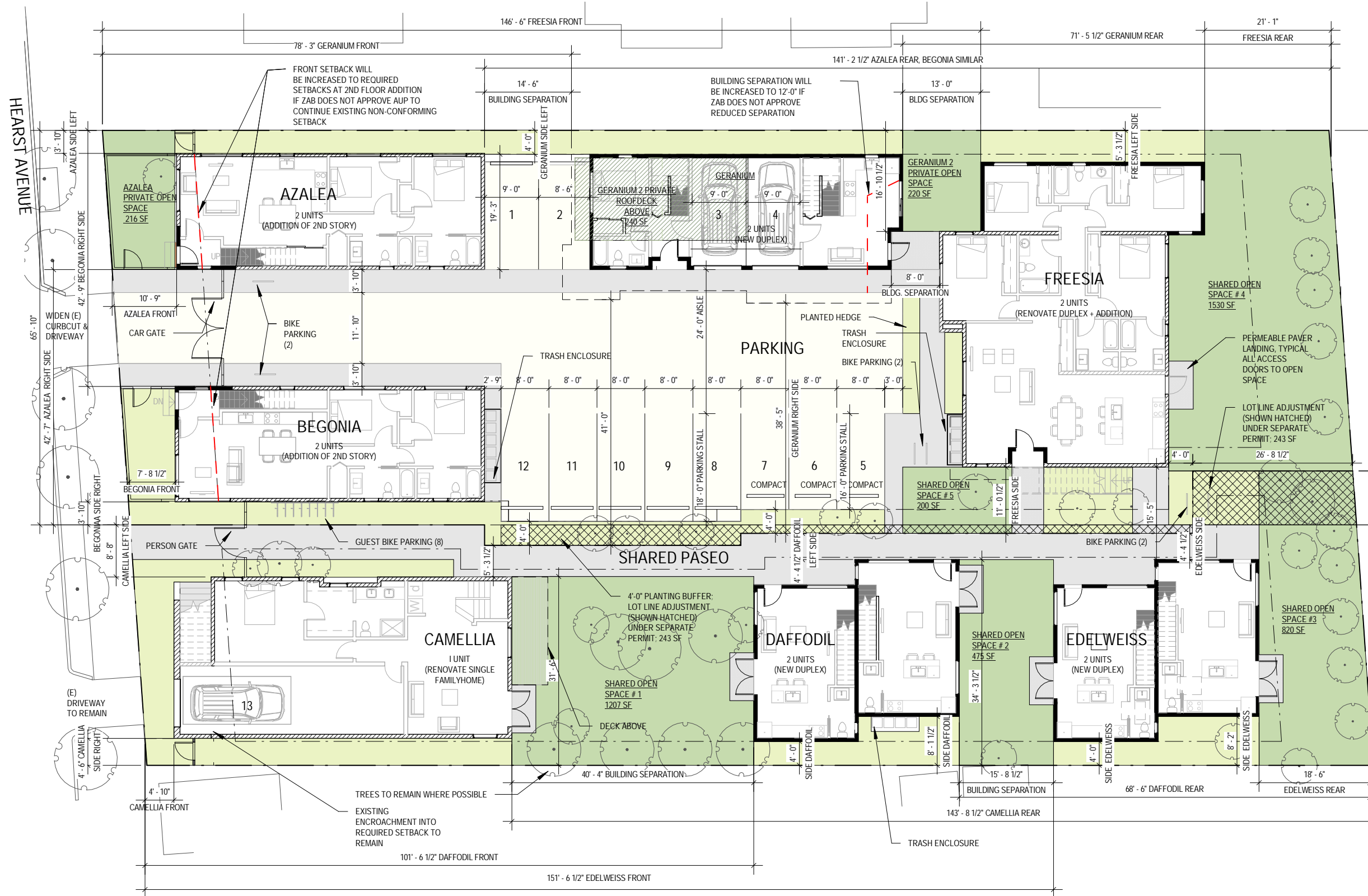
MORAN ENGINEERING, INC.
CIVIL ENGINEERS \ LAND SURVEYORS
1930 SHATTUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

F.B. NO. 1529 HEARST-TOP0.DWG JOB NO. 15-9090



HEIGHT & STORIES	ZONING:	EXISTING:	PROPOSED:
STORIES:	2 ALLOWED	2	2
HEIGHT:	28' AVG	23' MAX	28' MAX
SETBACKS (MIN. DIMENSIONS SHOWN - SEE SETBACK DIAGRAM, A0.3)			
FRONT	15'	4'-10" - 10'-5.5"	4' - 9" - 7'-10" ADDITION CONTINUE EXIST. SETBACK
SIDE	4' @ 1ST STORY 4' @ 2ND STORY	3'-10" @ WEST 4'- 6" @ EAST	3'-10" - 5'-3.5"
BACK	15'	28'-8" - 143'-8"	16'-3" - 21'-1"
BUILDING SEPARATION	8' @ 1ST STORY 12' @ 2ND STORY	13'- 3"	A - B: 19' - 4" B - C: 12' - 5" C - D: 40' - 4" D - E: 15' - 8 1/2" E - F: 15' - 5" F - G: 8' - 0" AUP REQ. A - G: 14' - 6"
LOT AREA			
	@ 1173 @ 1157	8,204 SF 13,469 SF	8,204 SF 13,469 SF
LOT COVERAGE	2 - STORY: 40%	@ 1173: 17.5% @1157: 26%	@ 1173: 3,275 SF: 39.9% @ 1157: 5,170 SF: 38.9%
PARKING: CARS			
RESIDENTIAL	1/UNIT 13 REQUIRED	7 (1 COVERED @ CAMELLIA; 6 @ SURFACE LOT)	13 10 UNCOVERED @ SURFACE LOT 2 COVERED @ GERANIUM 1 COVERED @ CAMELLIA
PARKING: BIKE			
RESIDENTIAL	NONE REQUIRED	0	13

DENSITY:	ZONING:	EXISTING:	PROPOSED:
* NOTE: SEE SHEET A0.8 FOR UNIT MIX AND SIZES			
ALLOWED 1173 HEARST: 1157 HEARST:	1 / 1650 SF LOT AREA 8,204/1650 = 5 UNITS 13,469/1650 = 8 UNITS	1 UNIT 6 UNITS	4 NEW UNITS = 5 TOTAL 2 NEW UNITS = 8 TOTAL
OPEN SPACE (SEE OPEN SPACE DIAGRAM, A0.3)			
	300 SF / UNIT X 13 = 3900 SF @ 1173: 5 X 300 = 1500 SF @ 1157: 8 X 300 = 2400 SF	@ 1173: 5,599 SF @ 1157: 2,560 SF	SEE A0.3
BUILDING OCCUPANCY PER CBC.			
R-3 (SINGLE FAMILY RESIDENTIAL DUPLEXES)			
PROPOSED CONSTRUCTION TYPE			
TYPE VB CONSTRUCTION THROUGHOUT - WOOD FRAMING, NON-RATED PER CALIFORNIA RESIDENTIAL CODE			
EXCAVATION			
APPROXIMATELY 55 CUBIC YARDS, FOR NEW FOUNDATIONS ONLY.			



- LEGEND**
- PEDESTRIAN WALKWAY, PERMEABLE
 - PLANTING (NOT COUNTING TOWARDS OPEN SPACE)
 - OPEN SPACE
 - NON-CONFORMING SETBACKS & BUILDING SEPARATION
 - DRIVEWAY AND PARKING
 - PROPERTY LINE
 - REQUIRED SETBACK
 - OPEN SPACE ABOVE
 - LOT AREA CHANGE

PROVIDED OPEN SPACE

1157 HEARST

AZALEA 1: 216 SF PRIVATE OPEN SPACE
84 SF COMMON OPEN SPACE PROVIDED AT OPEN SPACE #4 & #5

AZALEA 2: 300 SF COMMON AT #4 & #5

BEGONIA 1: 300 SF COMMON AT #4 & #5

BEGONIA 2: 300 SF COMMON AT #4 & #5

FRESIA 1: 300 SF COMMON AT #4 & #5

FRESIA 2: 300 SF COMMON AT #4 & #5

GERANIUM 1: 240 SF PRIVATE
60 SF COMMON OPEN SPACE PROVIDED AT OPEN SPACE #4 & #5

GERANIUM 2: 220 SF PRIVATE
80 SF COMMON OPEN SPACE PROVIDED AT OPEN SPACE #4 & #5

1173 HEARST

CAMELLIA: 300 SF COMMON AT OPEN SPACE #1, #2 & #3

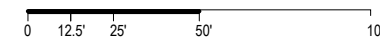
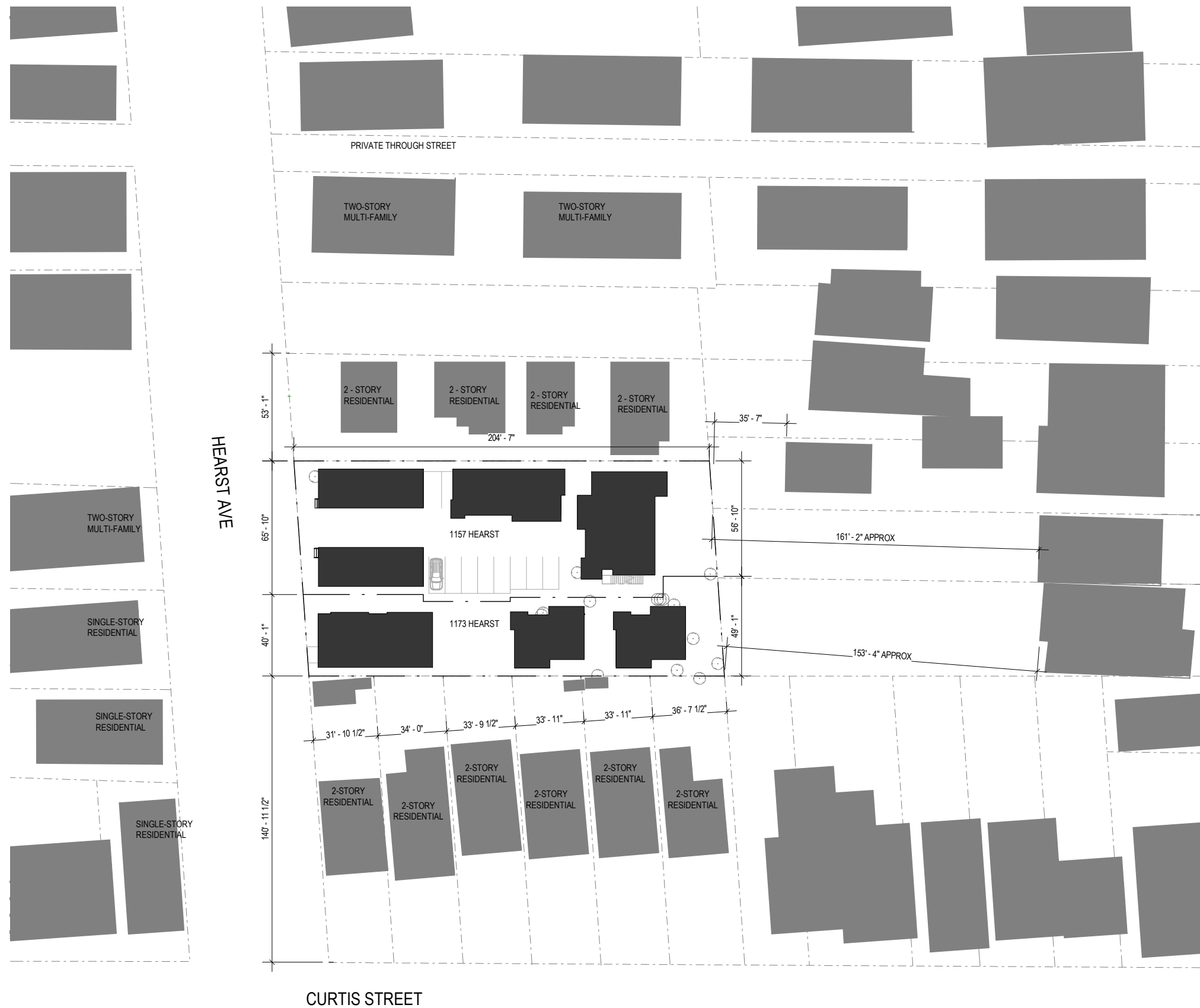
DAFFODIL 1: 300 SF COMMON AT #1, #2 & #3

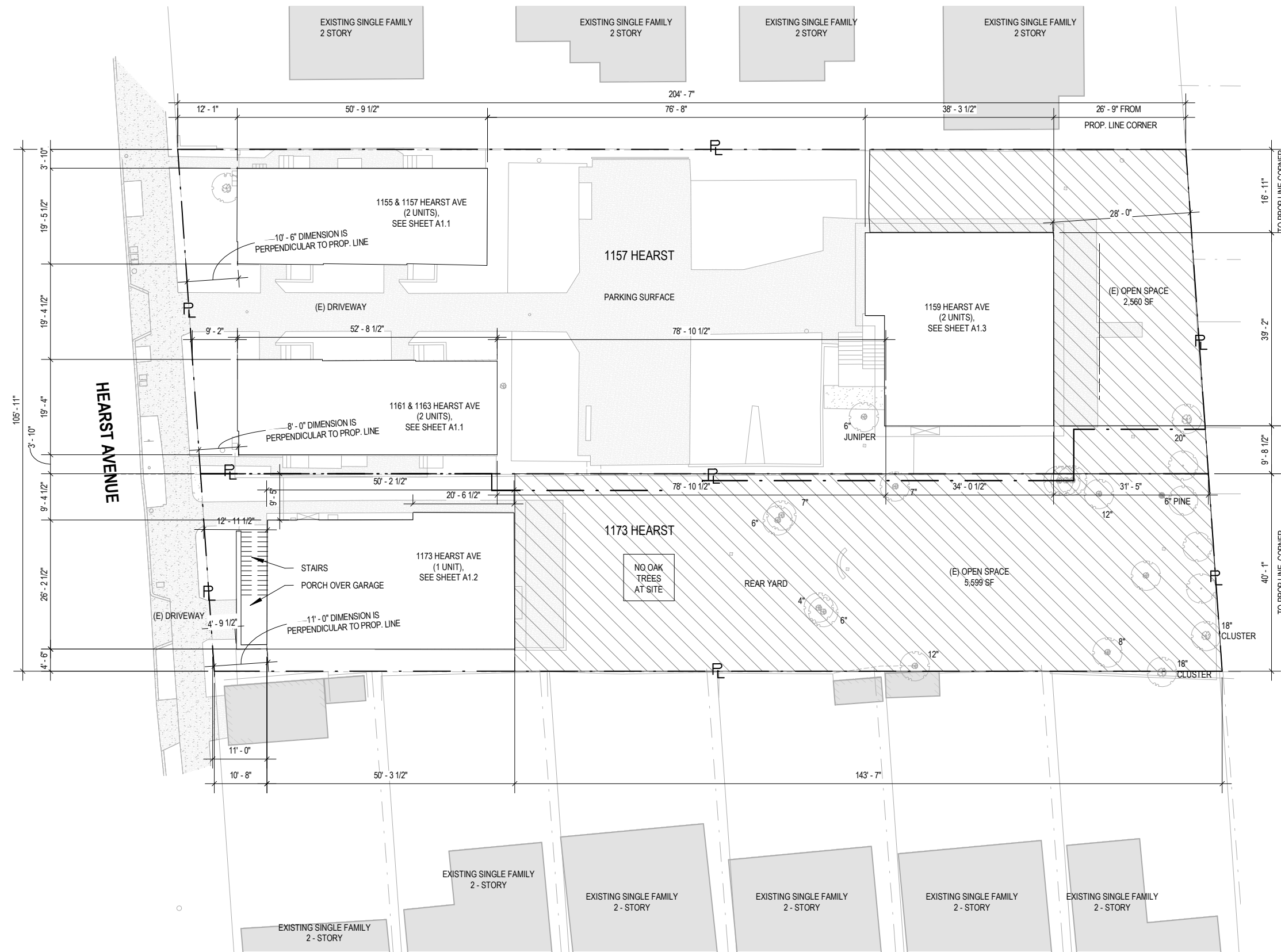
DAFFODIL 2: 300 SF COMMON AT #1, #2 & #3

EDELWEISS 1: 300 SF COMMON AT #1, #2 & #3

EDELWEISS 2: 300 SF COMMON AT #1, #2 & #3

TOTAL PRIVATE O.S.	1157	1173
TOTAL COMMON O.S.	679	0
TOTAL OPEN SPACE PROVIDED	2409 SF	2502 SF
TOTAL OPEN SPACE REQUIRED	2400 SF	1500 SF

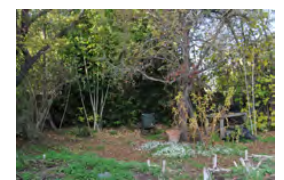




BACKYARD OF 1159 HEARST AVE.



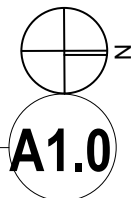
BACKYARD OF 1173 HEARST AVE.

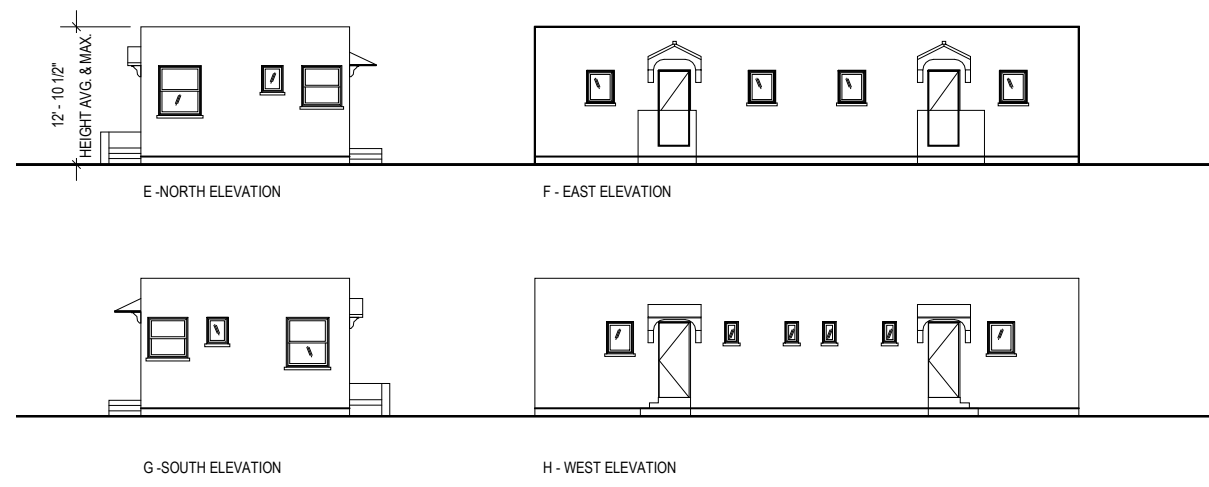
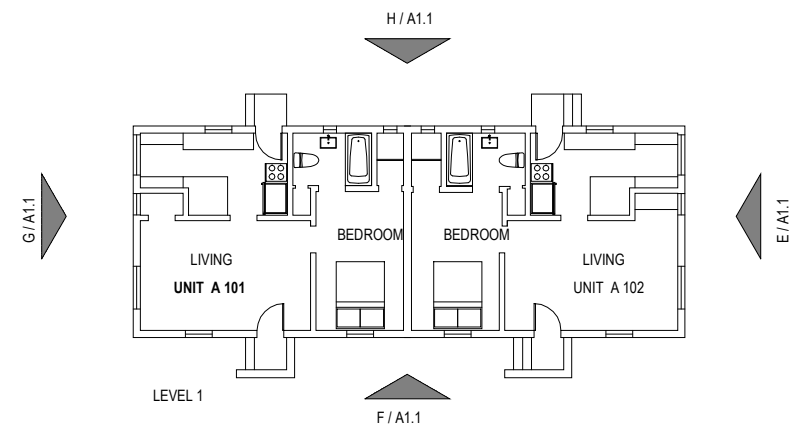


BACKYARD OF 1173 HEARST AVE.

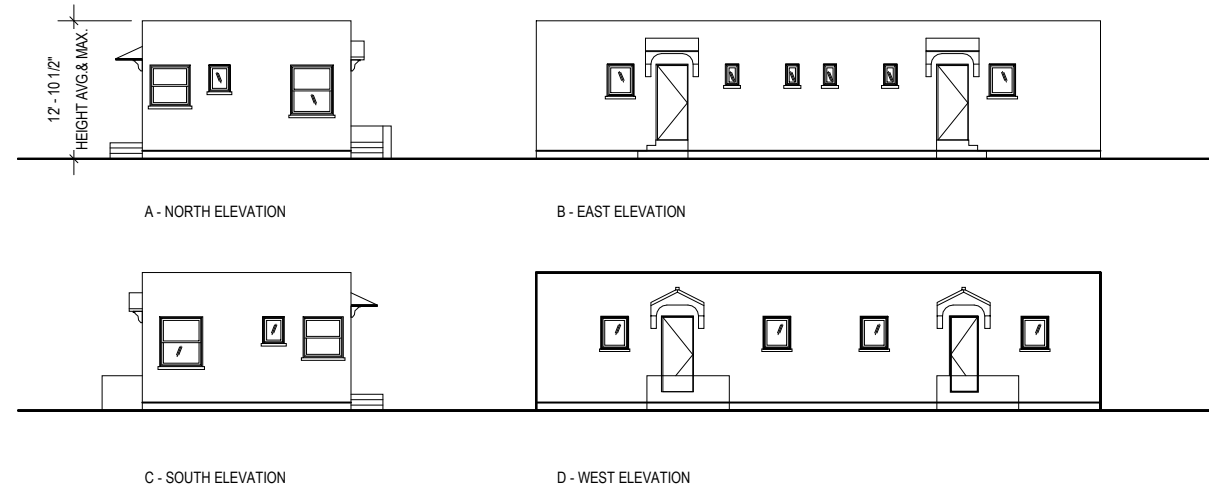
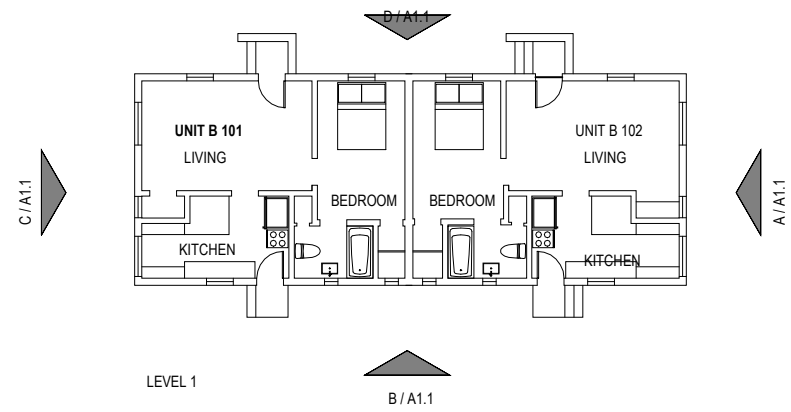


BACKYARD OF 1173 HEARST AVE.

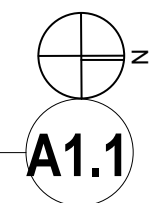
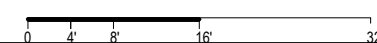


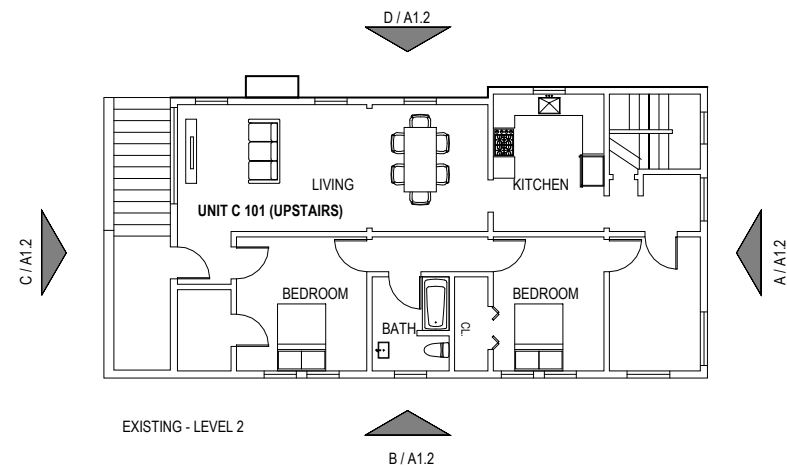


2 AZALEA 1155 & 1157 HEARST
1/16" = 1'-0"

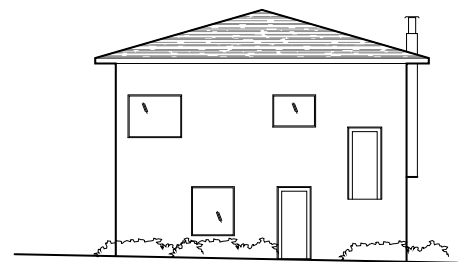


1 BEGONIA 1161 & 1163 HEARST
1/16" = 1'-0"

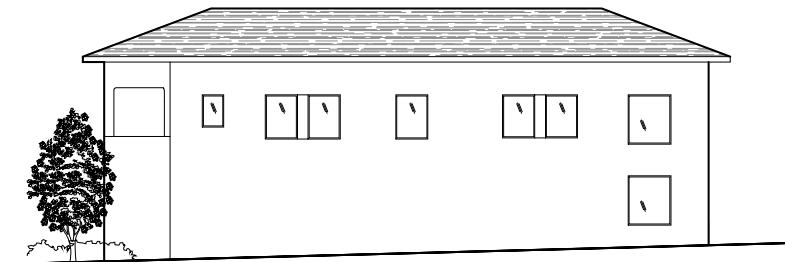




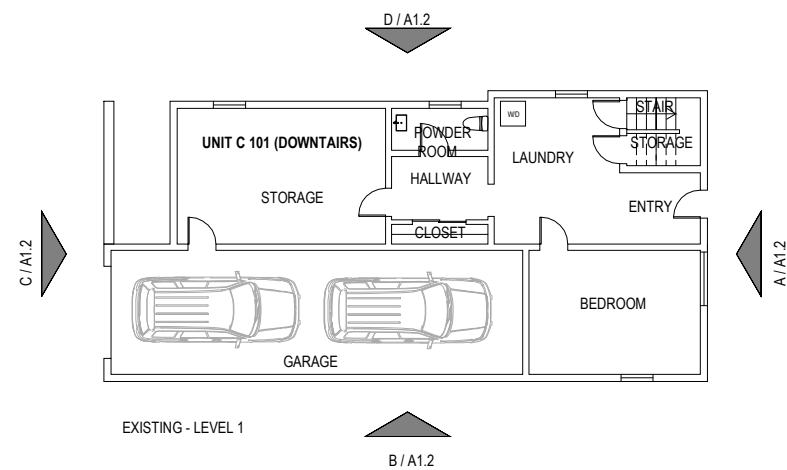
EXISTING - LEVEL 2



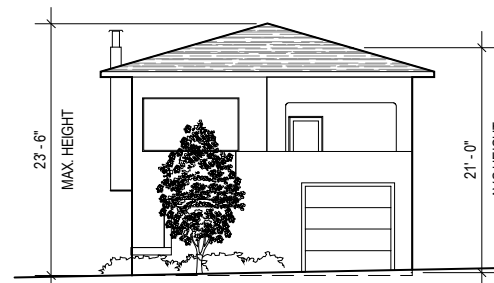
A - EXISTING NORTH ELEVATION



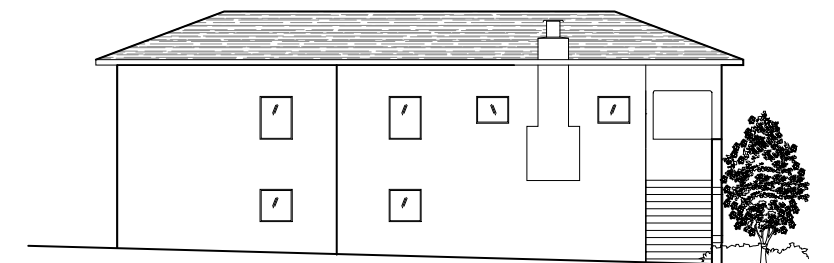
B - EXISTING EAST ELEVATION



EXISTING - LEVEL 1

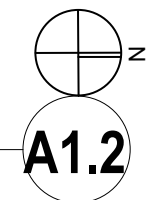
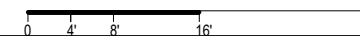


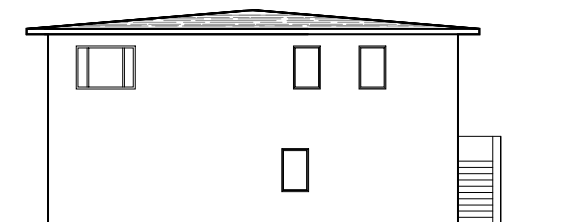
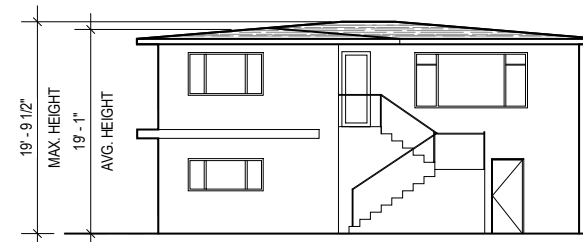
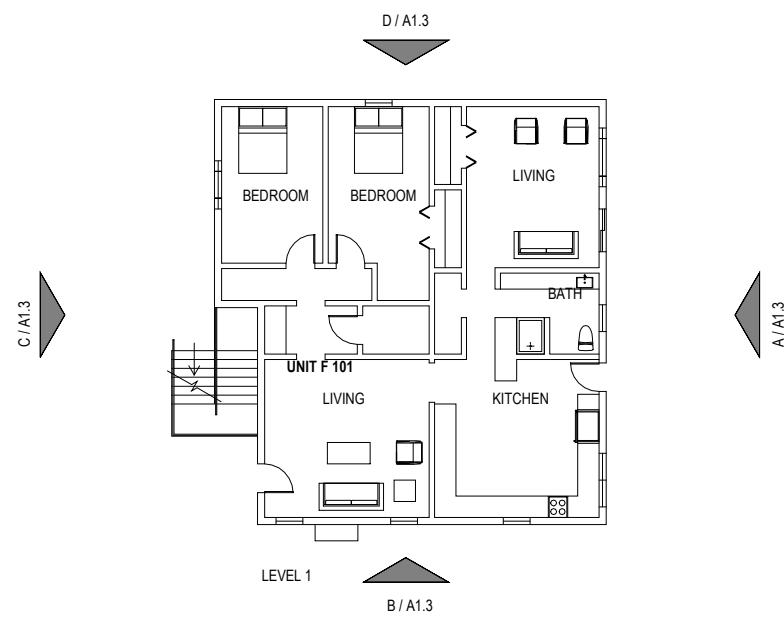
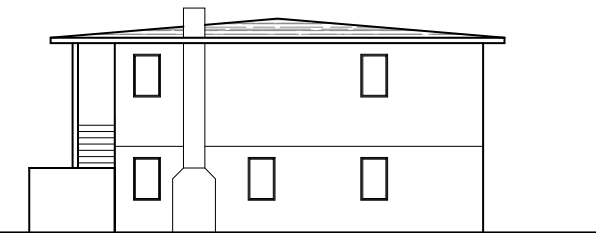
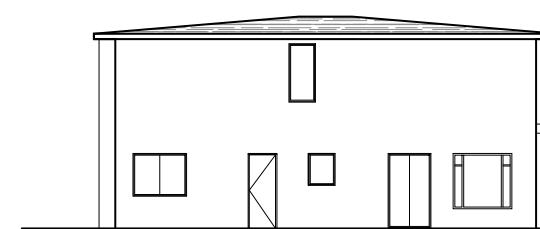
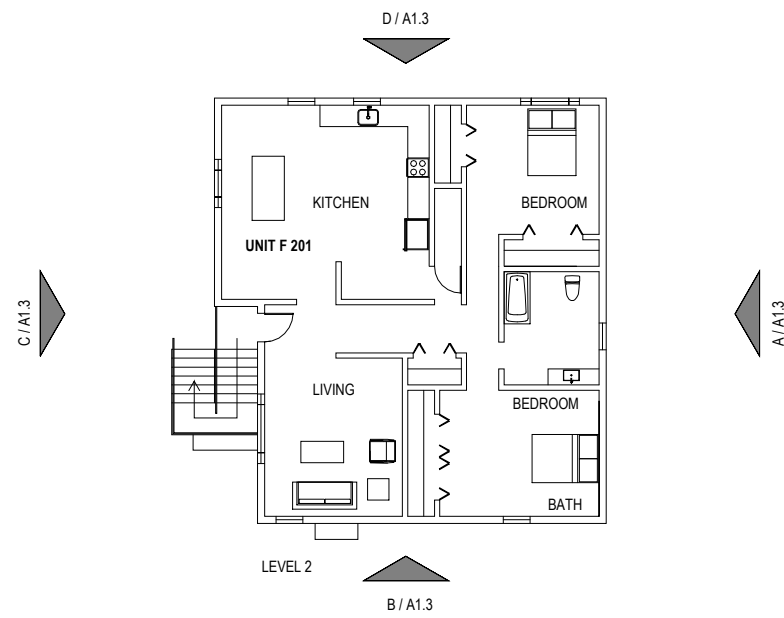
C - EXISTING SOUTH ELEVATION



D - EXISTING WEST ELEVATION

**EXISTING PLANS & ELEVATIONS - CAMELIA / 1173
HEARST**
1
1/16" = 1'-0"

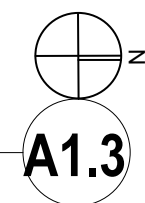


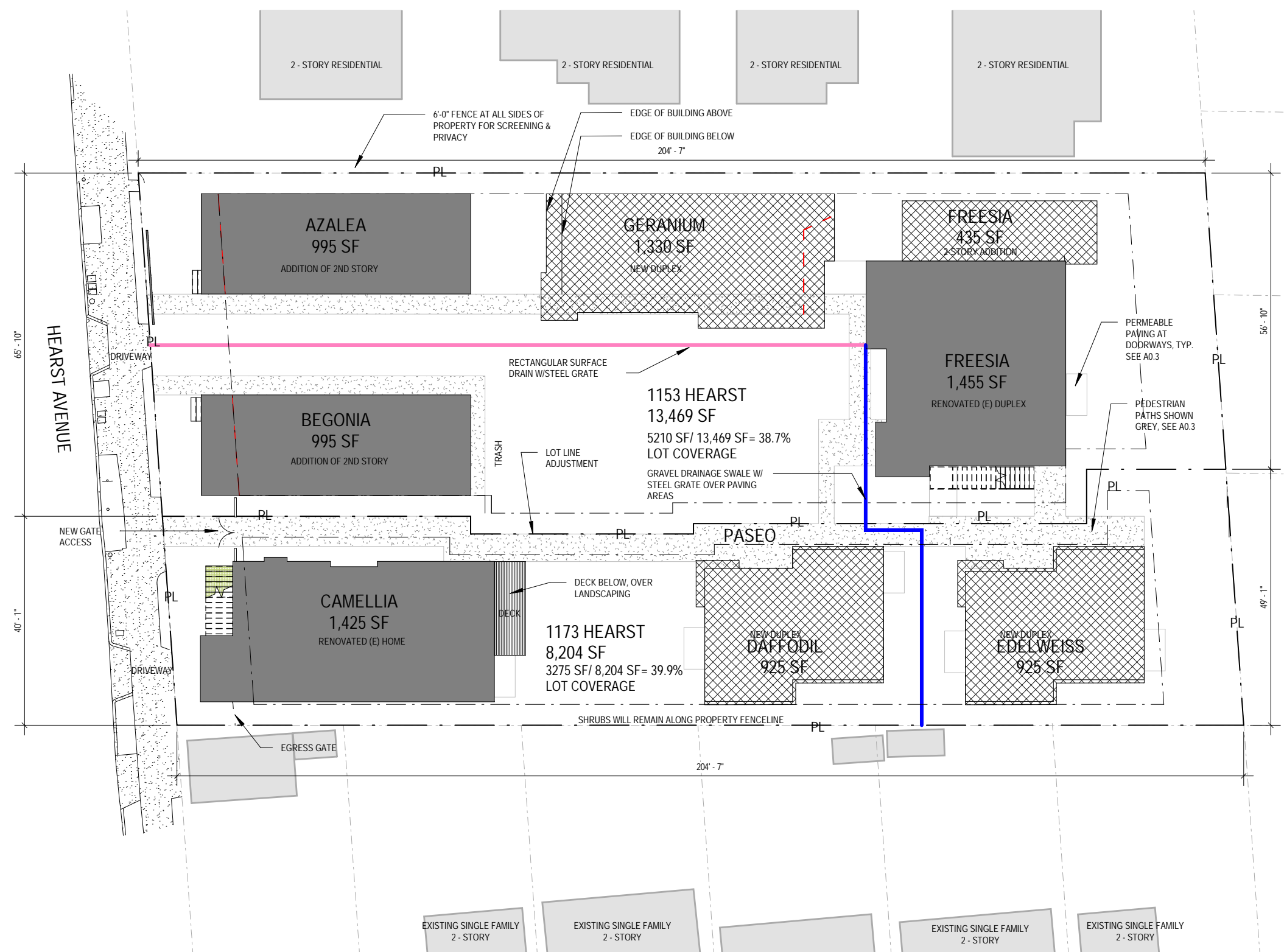


EXISTING PLANS & ELEVATIONS - FREESIA / 1179

HEARST

1
1/16" = 1'-0"





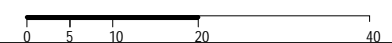
- LEGEND**
- NEW BUILDING AREA
 - RENOVATED (E) BUILDING
 - PEDESTRIAN PATHS
 - NON-CONFORMING SETBACKS & BUILDING SEPARATION
 - PROPERTY LINE
 - REQUIRED SETBACK

HYDROLOGY NOTES

Unless modified by the City's Building & Safety Division and/or Department of Public Works, the drainage system shall be designed and installed as presented in the Stormwater and Flooding Assessment and Mitigation Design prepared by Clearwater Hydrology, dated January 7, 2016 and as well as all recommendations of the peer review prepared by Balance Hydrologics on March 16, 2017.

HEARST GARDENS

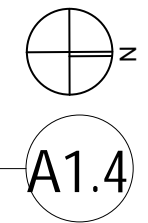
DEVI DUTTA ARCHITECTURE

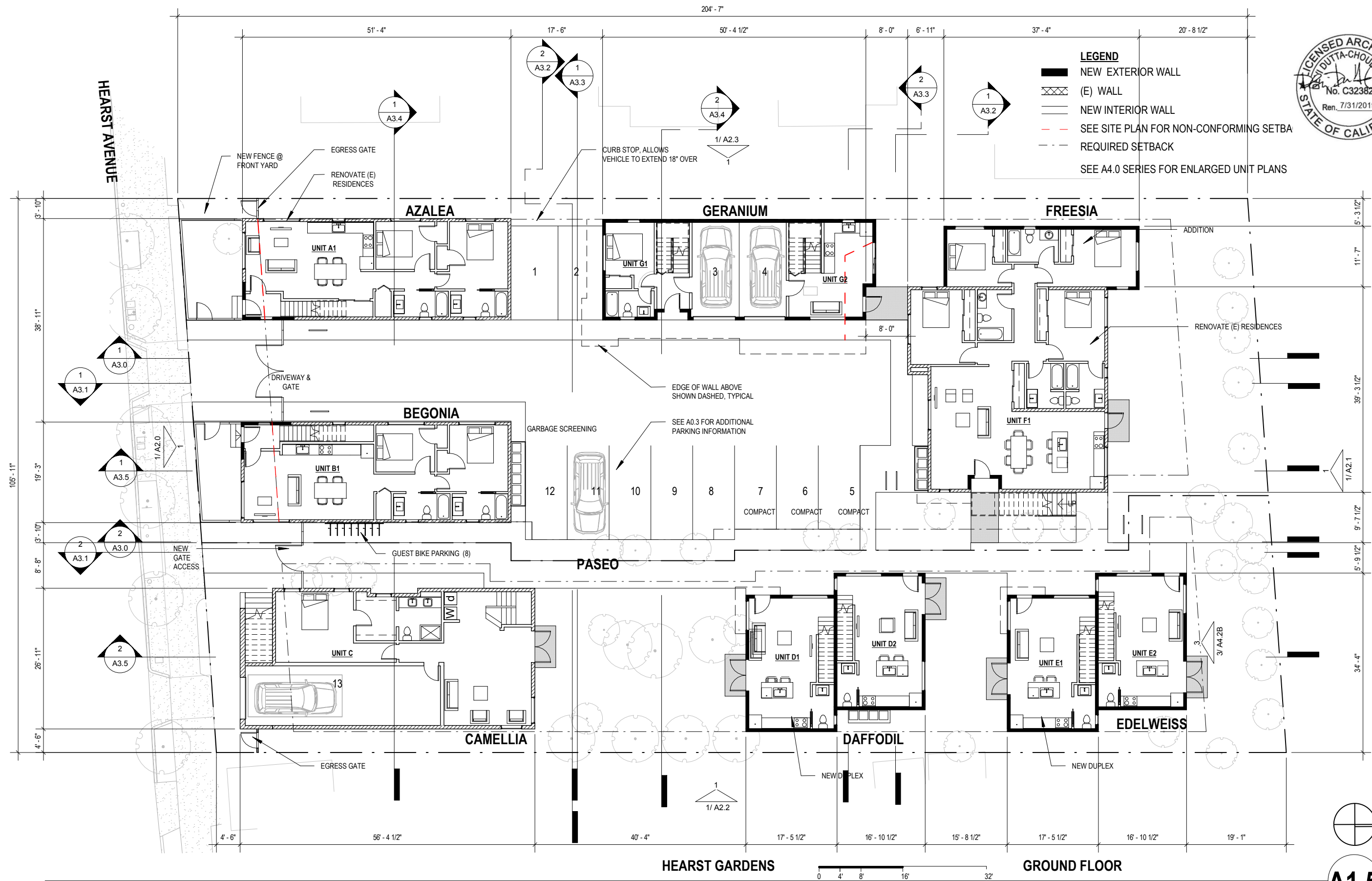


LOT COVERAGE & HYDROLOGY

SCALE: As indicated

ZAB 6.8.2018



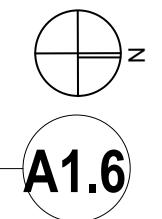


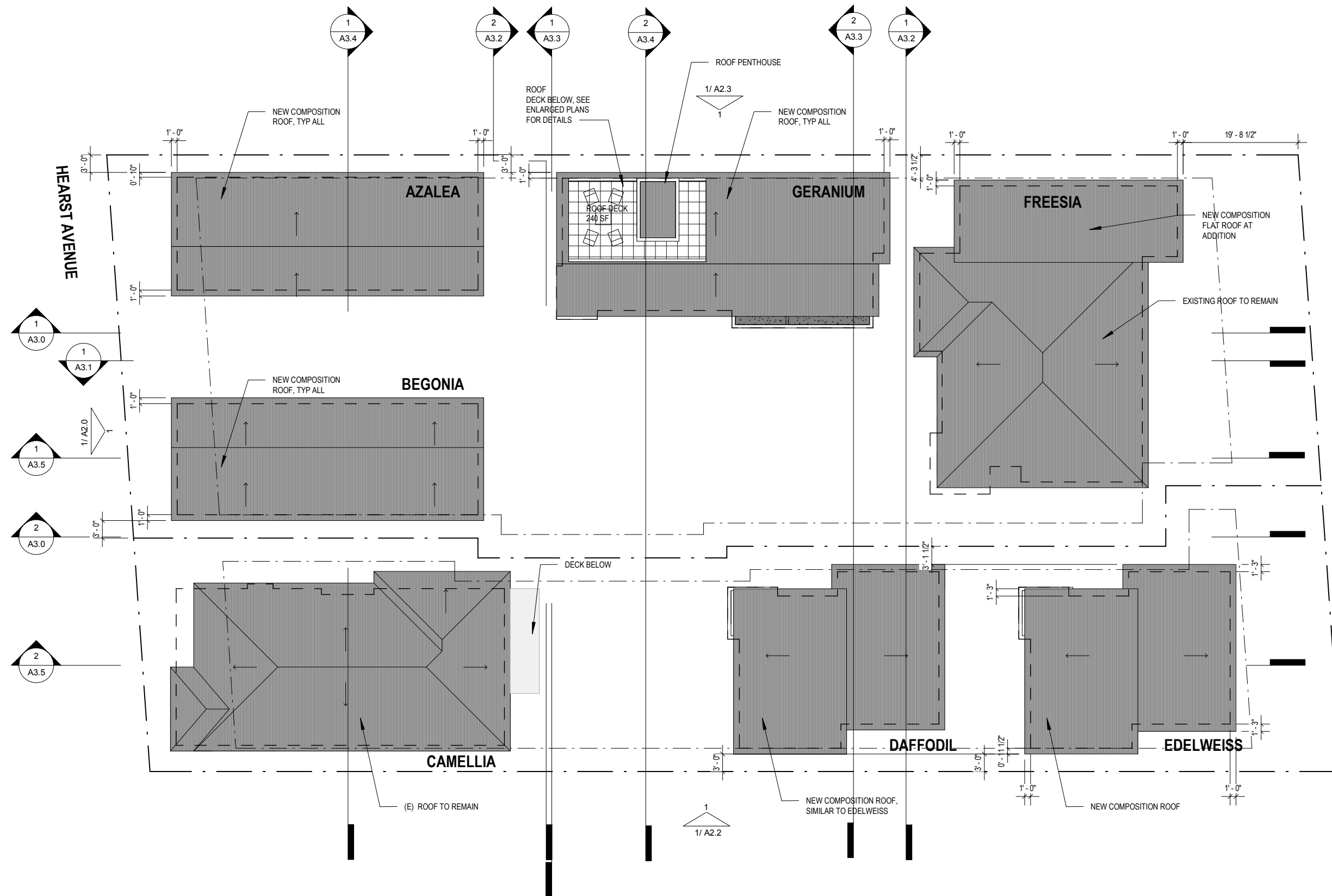
LEGEND

- NEW EXTERIOR WALL
- ▨ (E) WALL
- NEW INTERIOR WALL
- - - SEE SITE PLAN FOR NON-CONFORMING SETBA
- REQUIRED SETBACK
- SEE A4.0 SERIES FOR ENLARGED UNIT PLANS



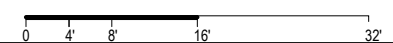
- LEGEND**
- NEW EXTERIOR WALL
 - (E) WALL
 - NEW INTERIOR WALL
 - SEE SITE PLAN FOR NON-CONFORMING SETBACKS
 - REQUIRED SETBACK
- SEE A4.0 SERIES FOR ENLARGED UNIT PLANS





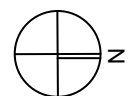
HEARST GARDENS

DEVI DUTTA ARCHITECTURE



ROOF PLAN

SCALE: 1/16" = 1'-0"

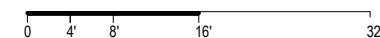
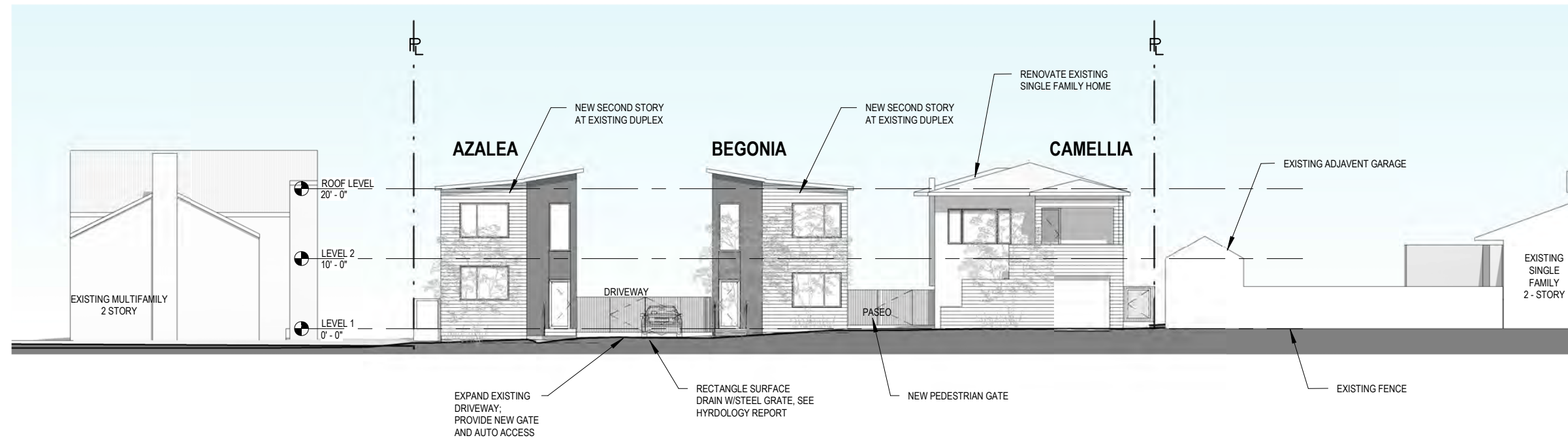


A1.8







- MATERIAL LEGEND**
- PAINTED WOOD SIDING
 - WOOD PATTERNED FIBER CEMENT
 - CEMENT PLASTER
 - CEMENT PLASTER

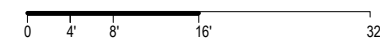
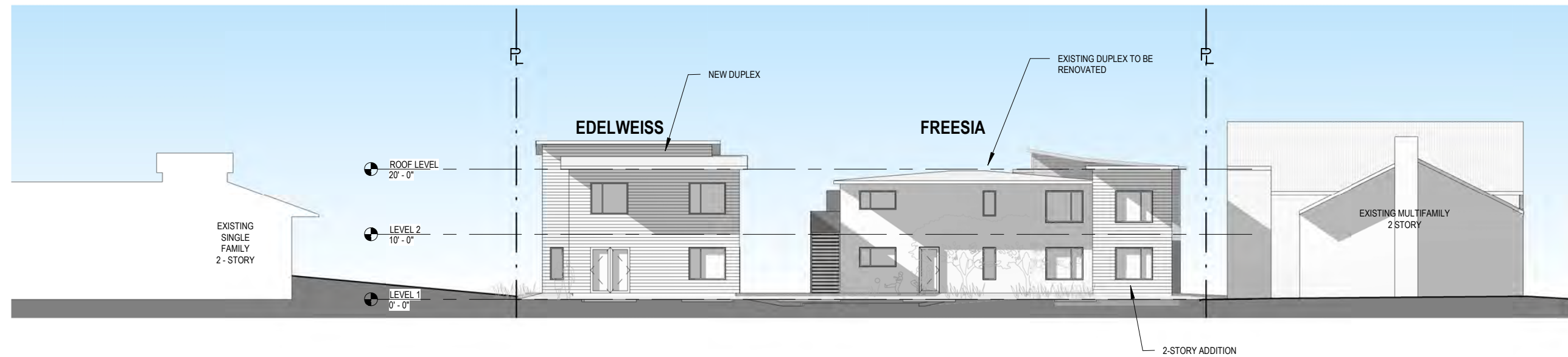
SEE A4.0 SERIES FOR ENLARGED ELEVATIONS





- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER

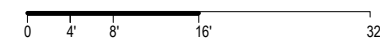
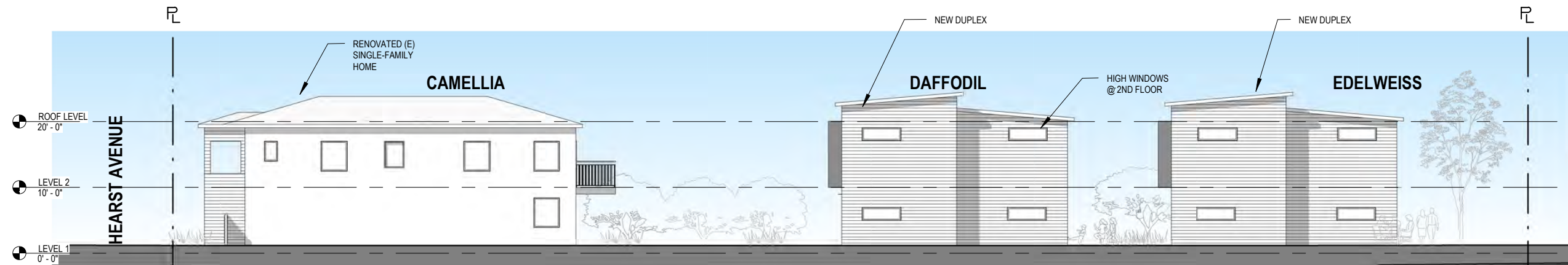
SEE A4.0 SERIES FOR ENLARGED ELEVATIONS









- MATERIAL LEGEND**
- PAINTED WOOD SIDING
 - WOOD PATTERNED FIBER CEMENT
 - CEMENT PLASTER
 - CEMENT PLASTER

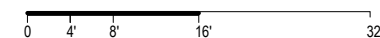
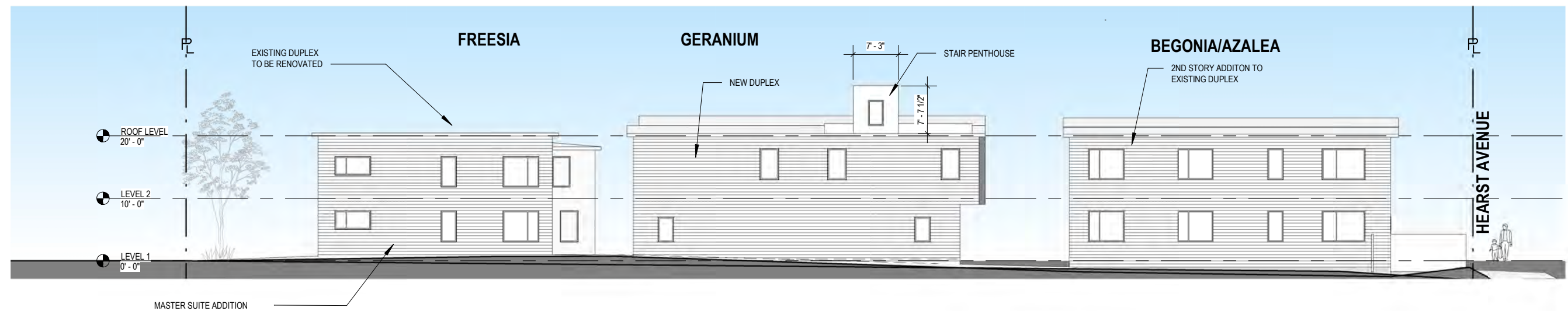
SEE A4.0 SERIES FOR ENLARGED ELEVATIONS

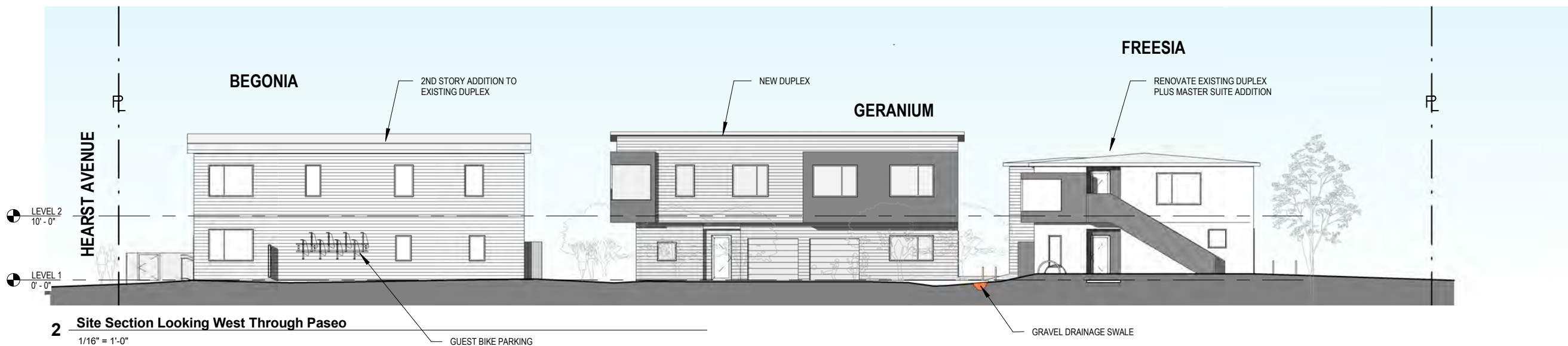
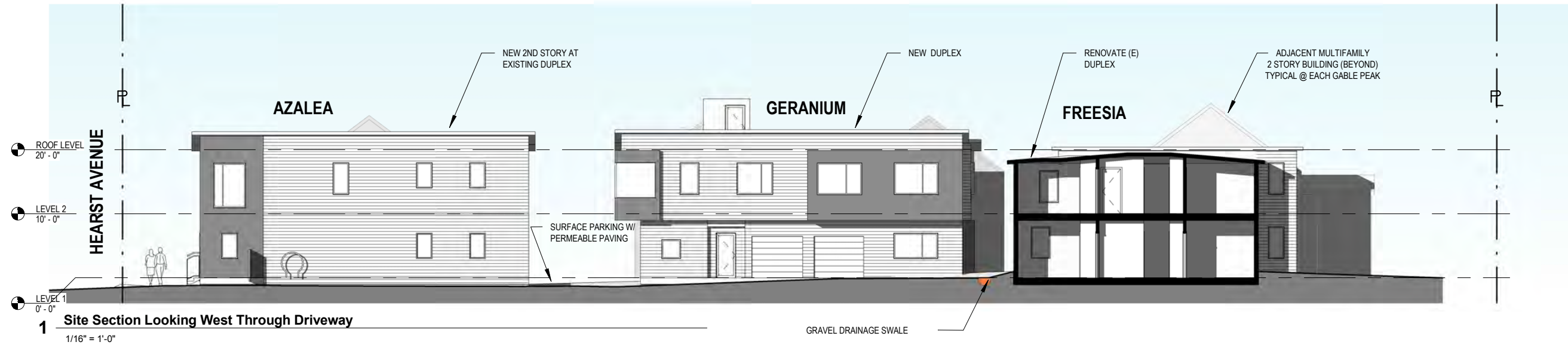




- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER

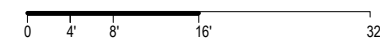
SEE A4.0 SERIES FOR ENLARGED ELEVATIONS





HEARST GARDENS

DEVI DUTTA ARCHITECTURE

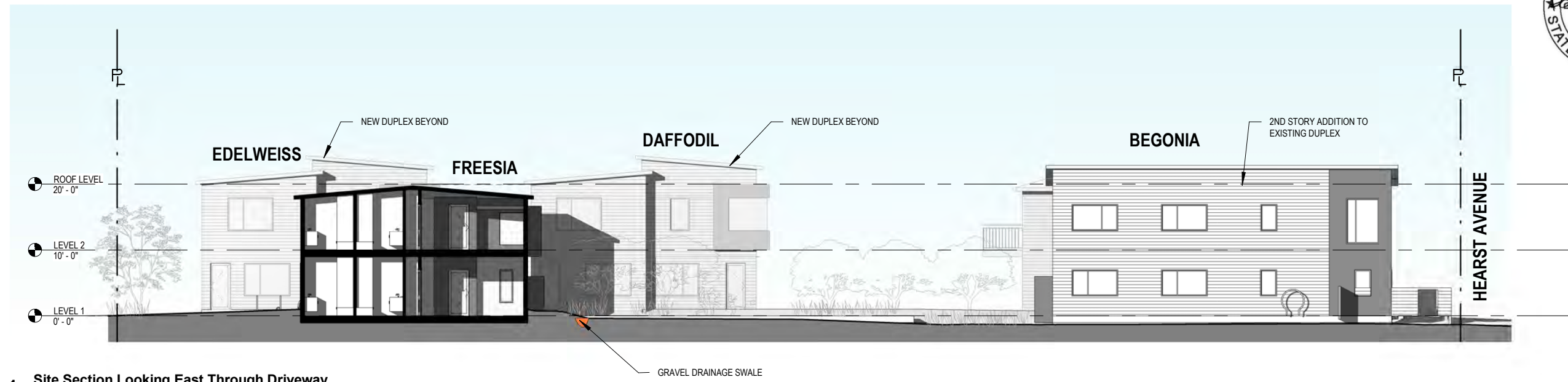


SITE SECTIONS LOOKING WEST

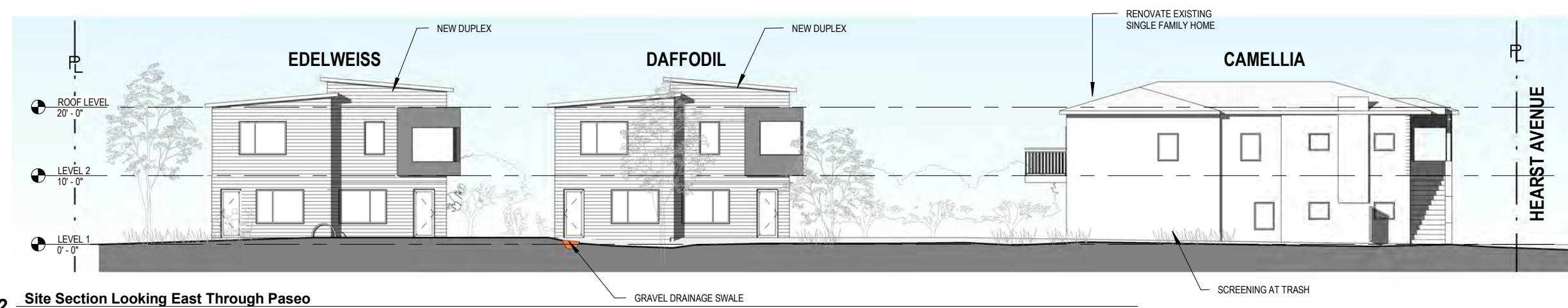
SCALE: 1/16" = 1'-0"

ZAB 6.8.2018

A3.0



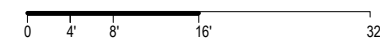
1 Site Section Looking East Through Driveway
1/16" = 1'-0"



2 Site Section Looking East Through Paseo
1/16" = 1'-0"

HEARST GARDENS

DEVI DUTTA ARCHITECTURE

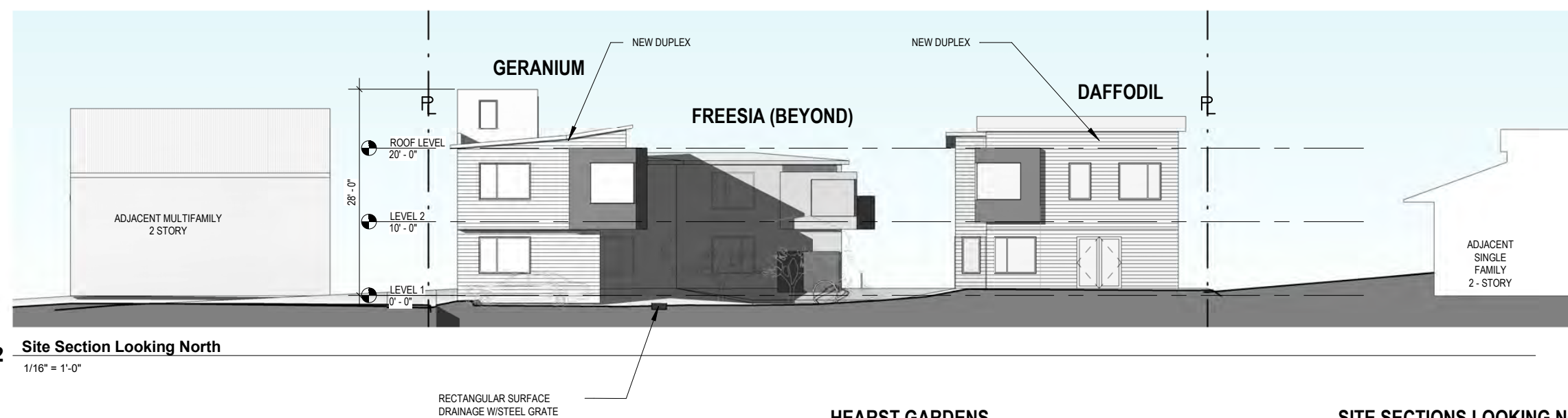
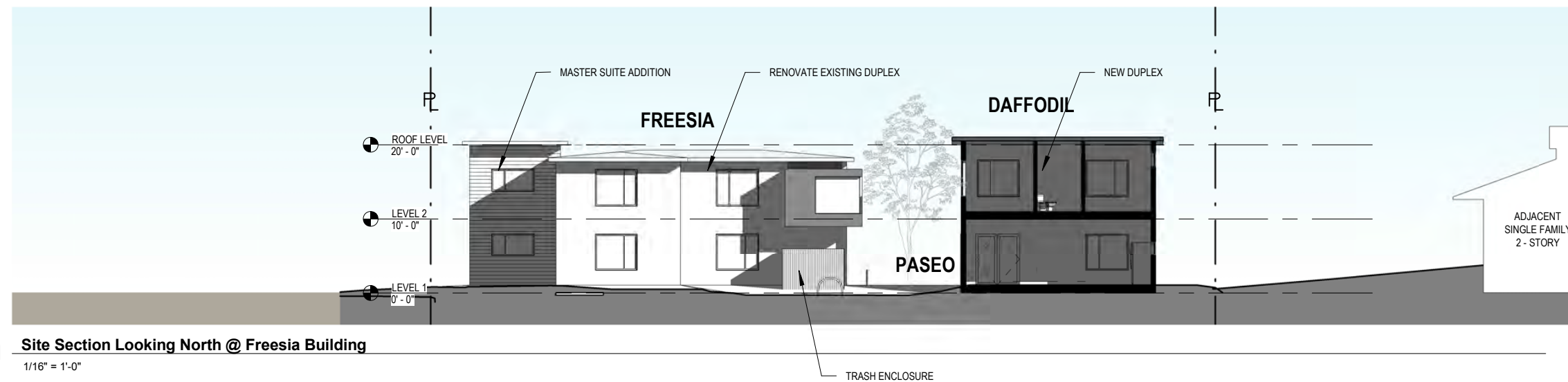


SITE SECTIONS LOOKING EAST

SCALE: 1/16" = 1'-0"

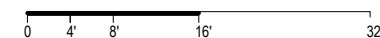
ZAB 6.8.2018

A3.1



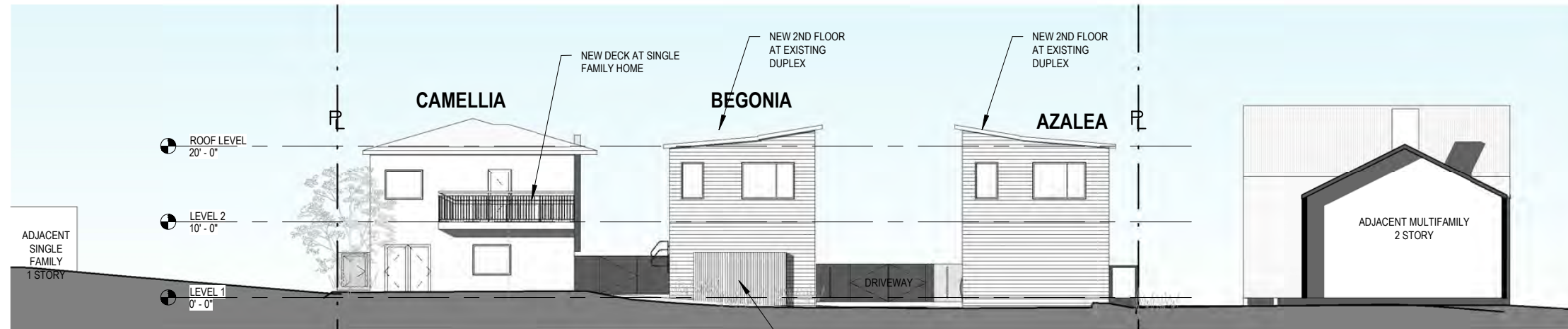
HEARST GARDENS

DEVI DUTTA ARCHITECTURE



SITE SECTIONS LOOKING NORTH

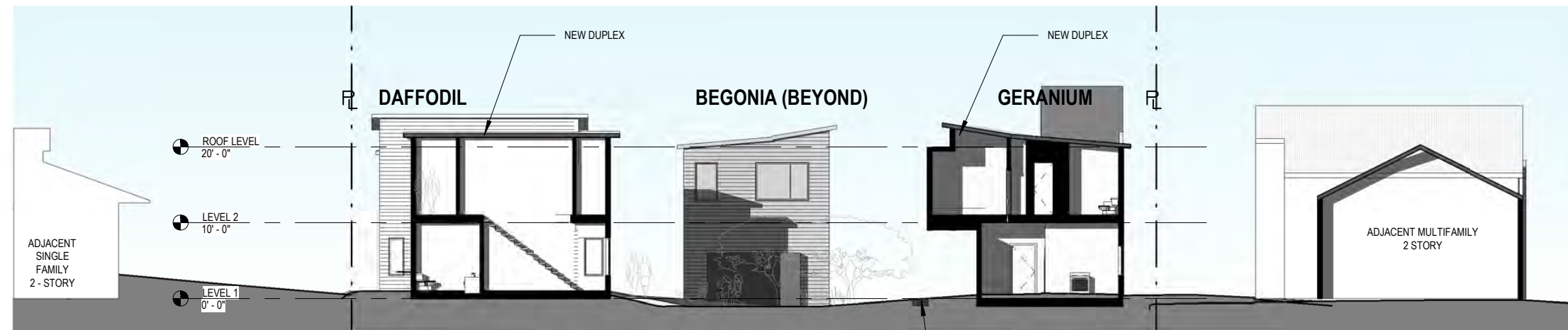
SCALE: 1/16" = 1'-0"



1 Site Section Looking South

1/16" = 1'-0"

SCREENED, SHARED
TRASH & RECYCLING
ENCLOSURE



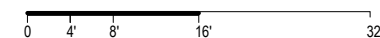
2 Site Section Looking South @ Parking Lot

1/16" = 1'-0"

RECTANGULAR SURFACE
DRAIN W/ STEEL GRATE

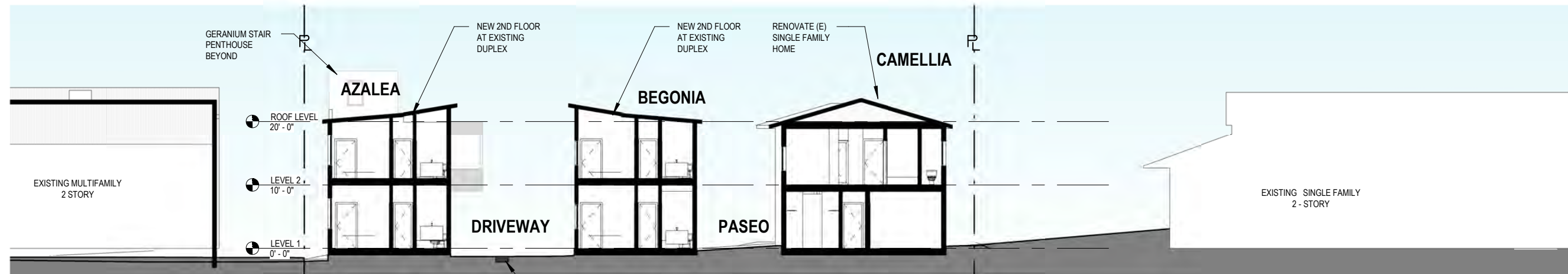
HEARST GARDENS

DEVI DUTTA ARCHITECTURE



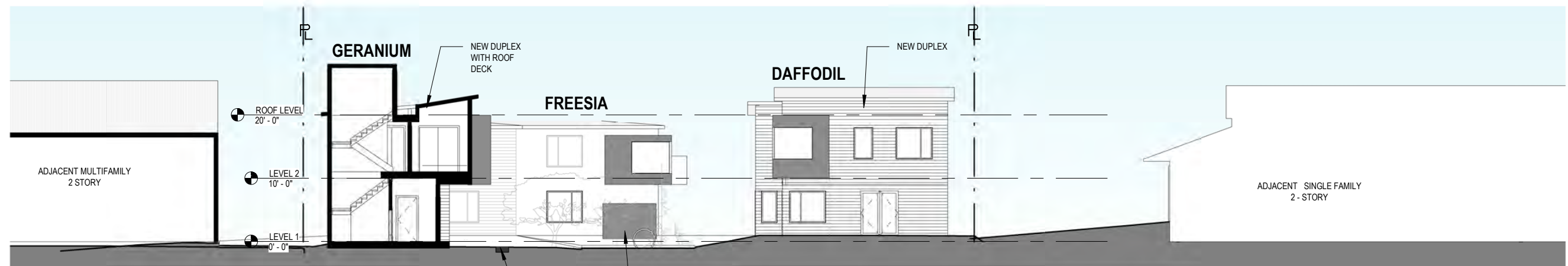
SITE SECTIONS LOOKING SOUTH

SCALE: 1/16" = 1'-0"



1 Building Section Looking North Through Stair
1/16" = 1'-0"

RECTANGULAR SURFACE DRAINAGE W/STEEL GRATE



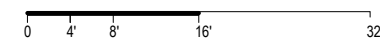
2 Building Section Through Covered Parking Looking North
1/16" = 1'-0"

RECTANGULAR SURFACE DRAINAGE W/STEEL GRATE

SHARED SCREENED TRASH/RY ENCLOSURE

HEARST GARDENS

DEVI DUTTA ARCHITECTURE

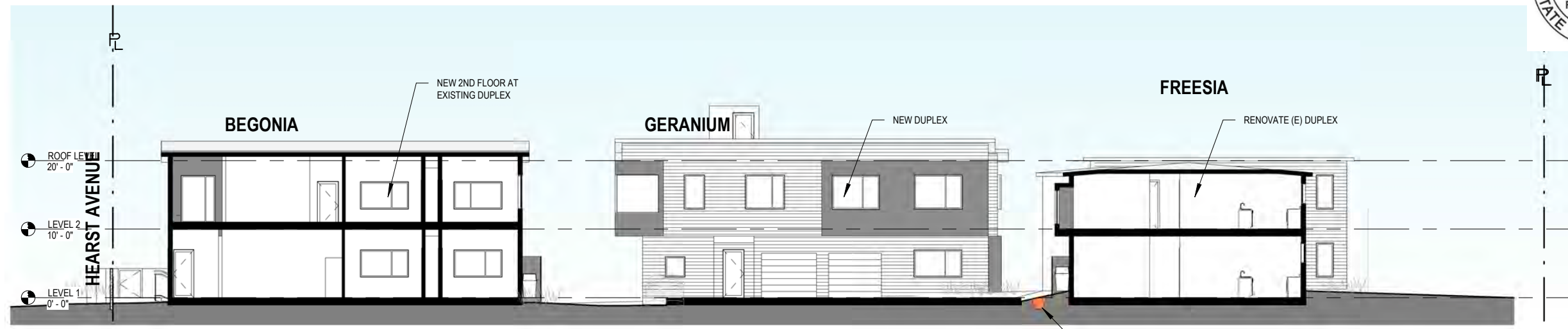


BUILDING SITE SECTIONS

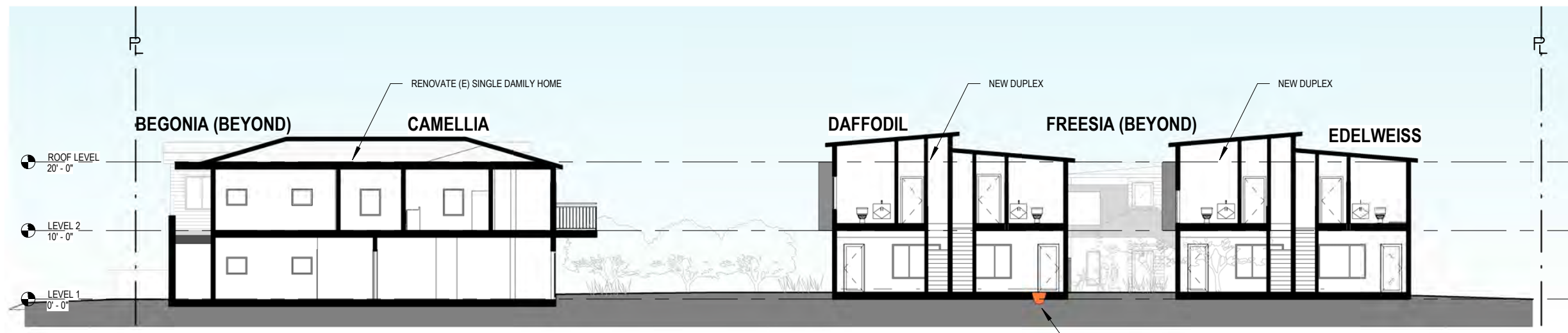
SCALE: 1/16" = 1'-0"

ZAB 6.8.2018

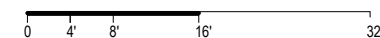
A3.4



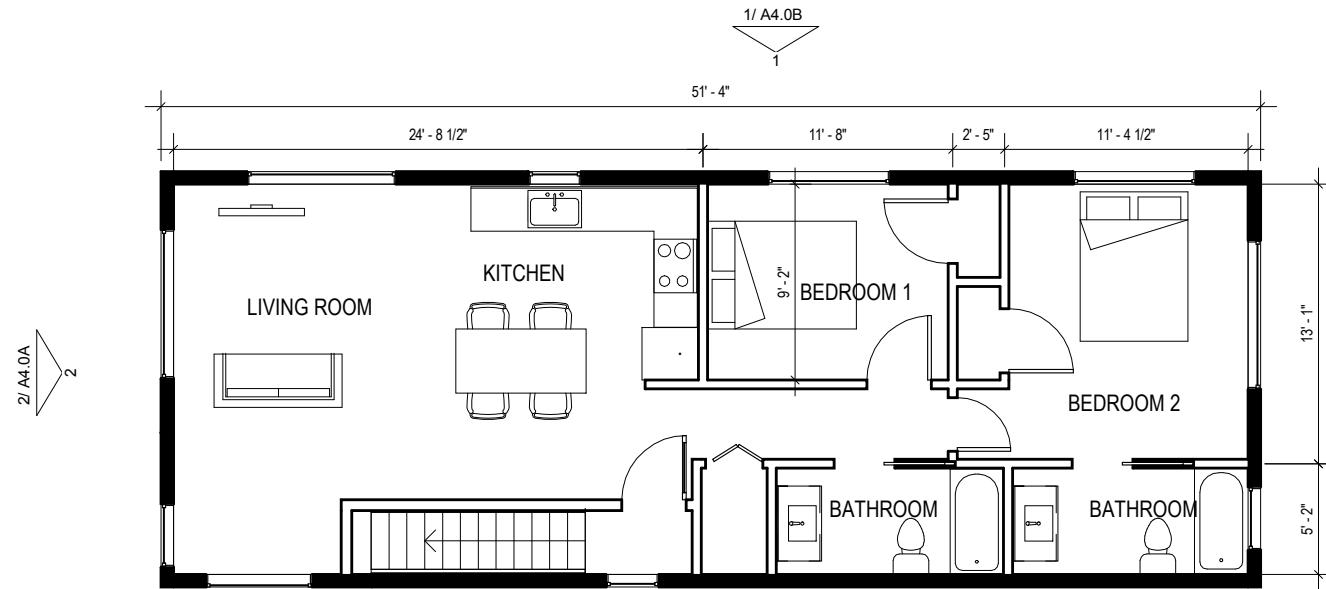
1 Building Section Looking West Through Parking
1/16" = 1'-0"



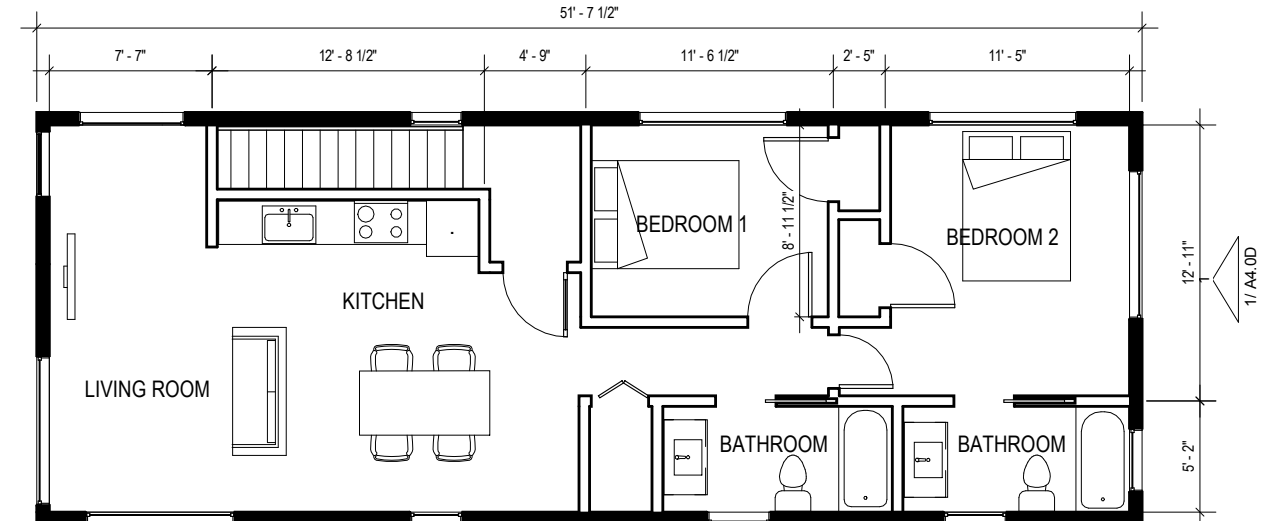
2 Building Section Looking West
1/16" = 1'-0"



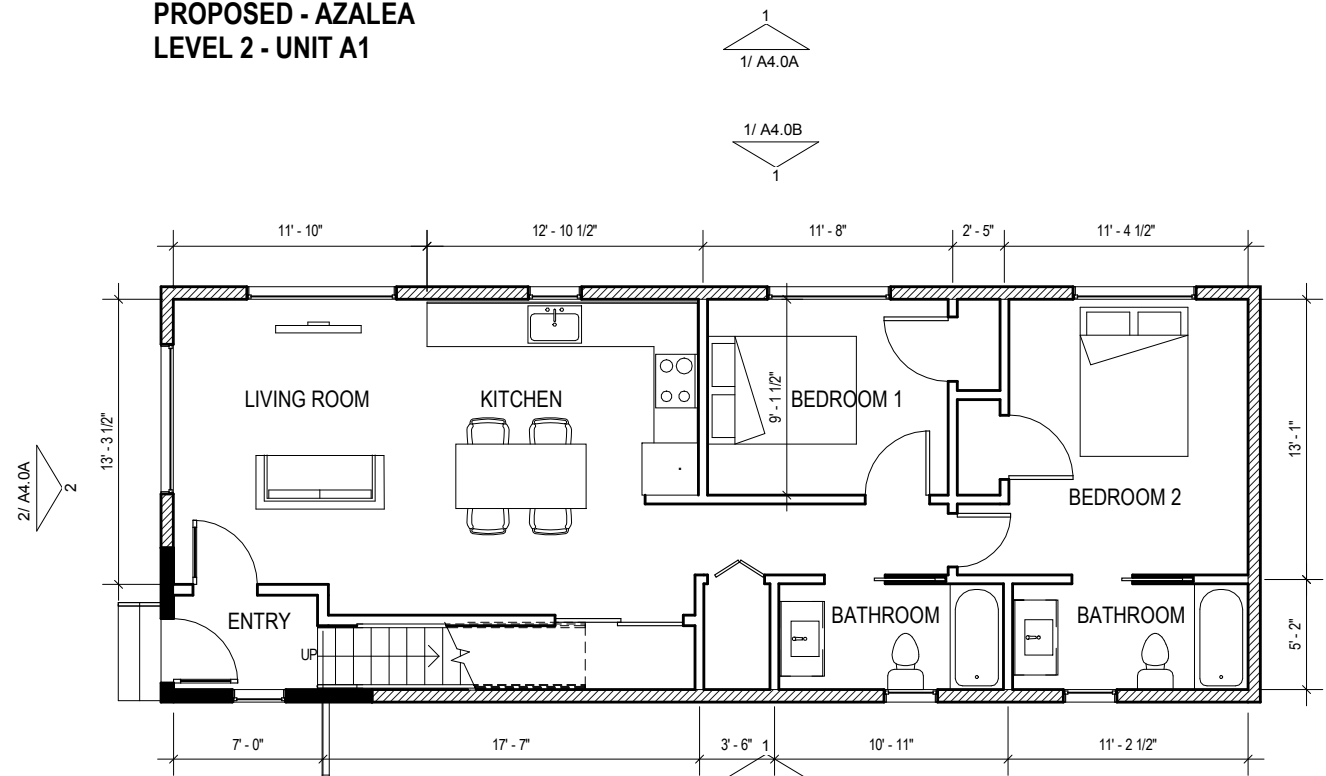
- LEGEND**
- NEW EXTERIOR WALL
 - ▨ (E) WALL
 - NEW INTERIOR WALL
 - - - SEE SITE PLAN FOR NON-CONFORMING SETBACK
 - - - REQUIRED SETBACK
- 2/ A4.0D A4.0 SERIES FOR ENLARGED UNIT PLANS



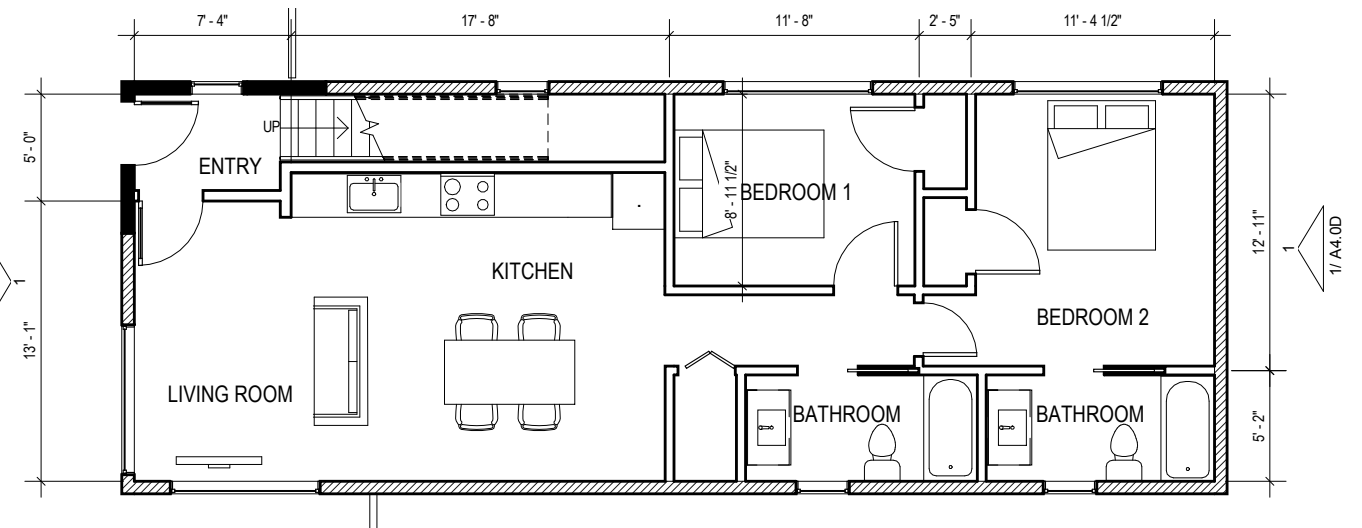
PROPOSED - AZALEA
LEVEL 2 - UNIT A1



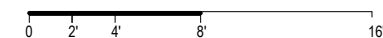
PROPOSED - BEGONIA
LEVEL 2 - UNIT B2







PROPOSED - AZALEA
LEVEL 1 - UNIT A1

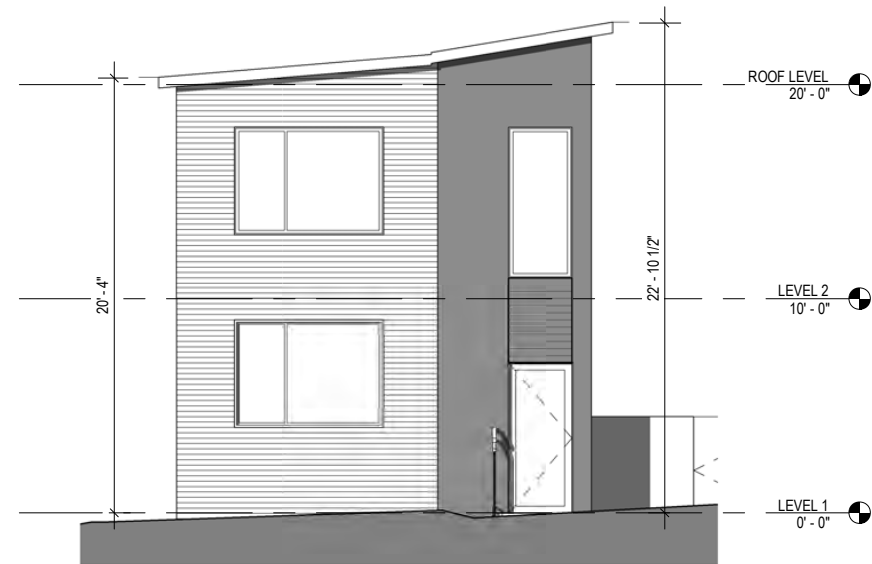


PROPOSED - BEGONIA
LEVEL 1 - UNIT B1

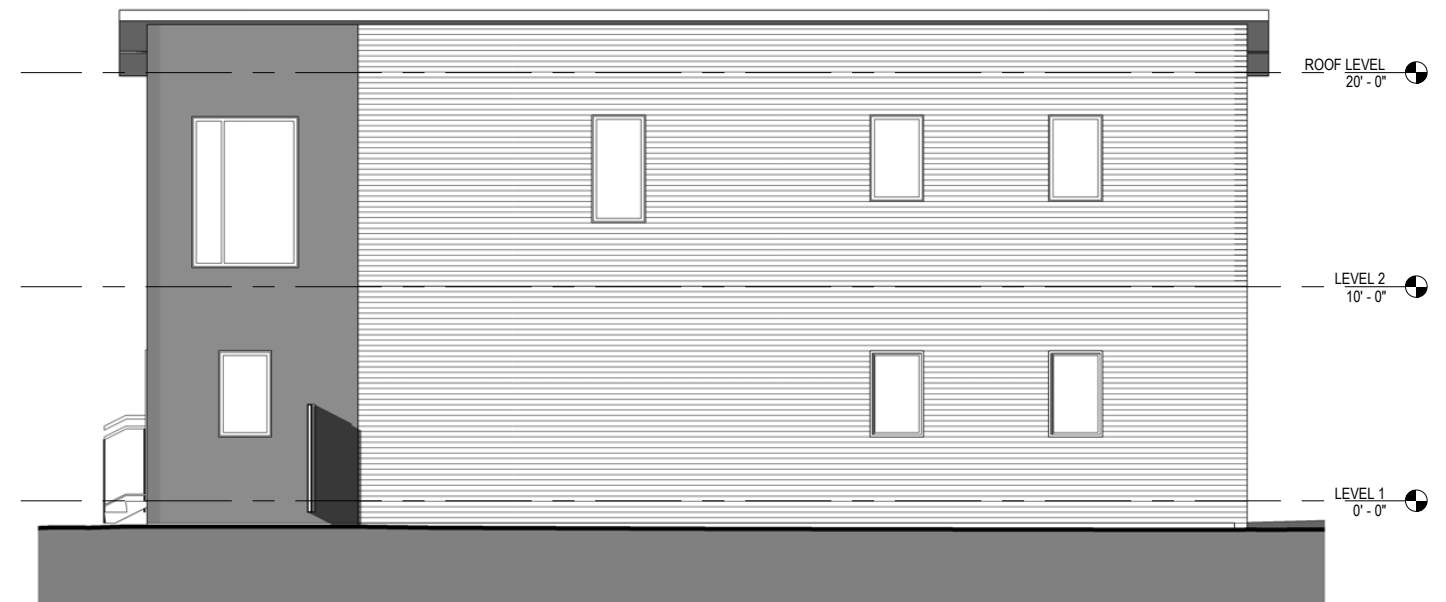




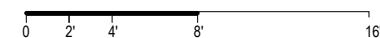
- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER







2 AZALEA SOUTH ELEVATION
1/8" = 1'-0"

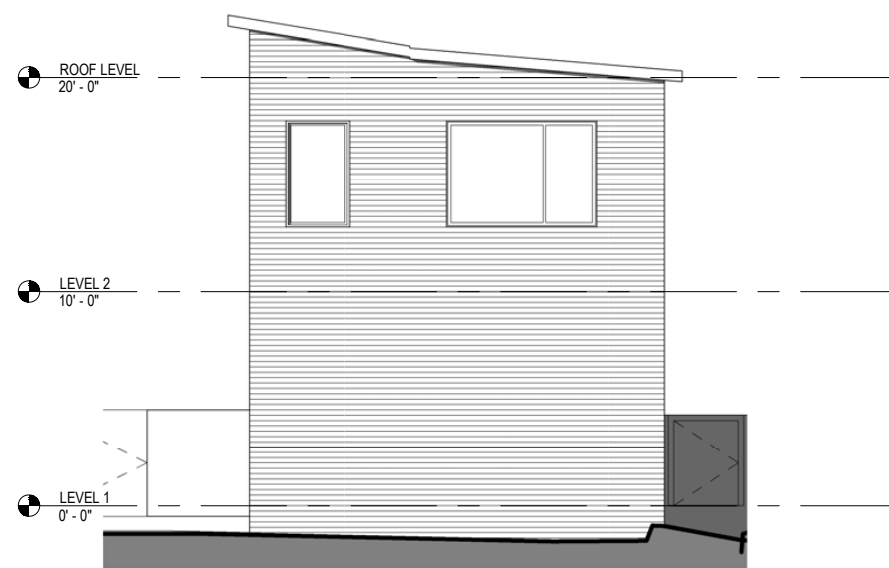


1 AZALEA EAST ELEVATION
1/8" = 1'-0"





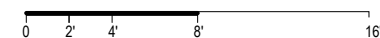
- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER







2 AZALEA NORTH ELEVATION
1/8" = 1'-0"

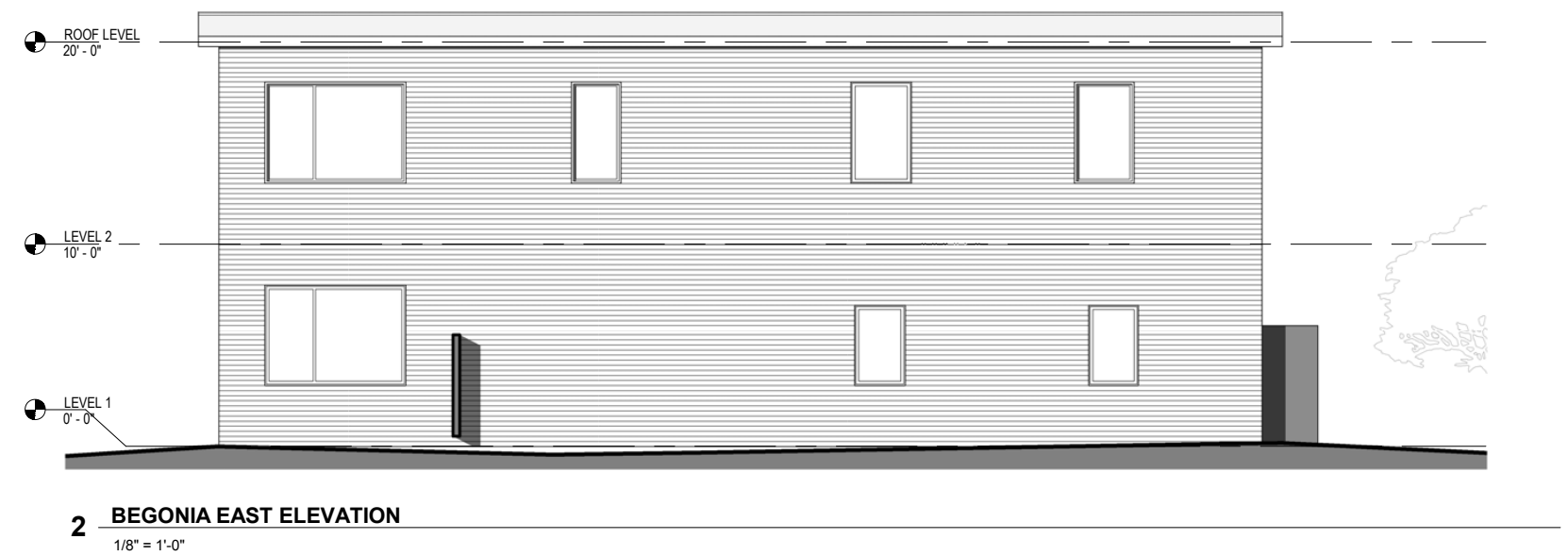
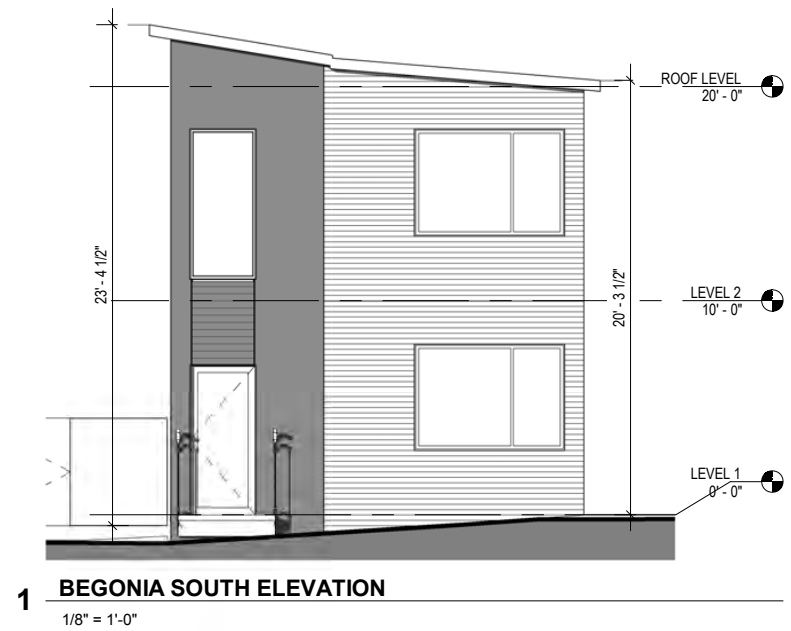


1 AZALEA WEST ELEVATION
1/8" = 1'-0"







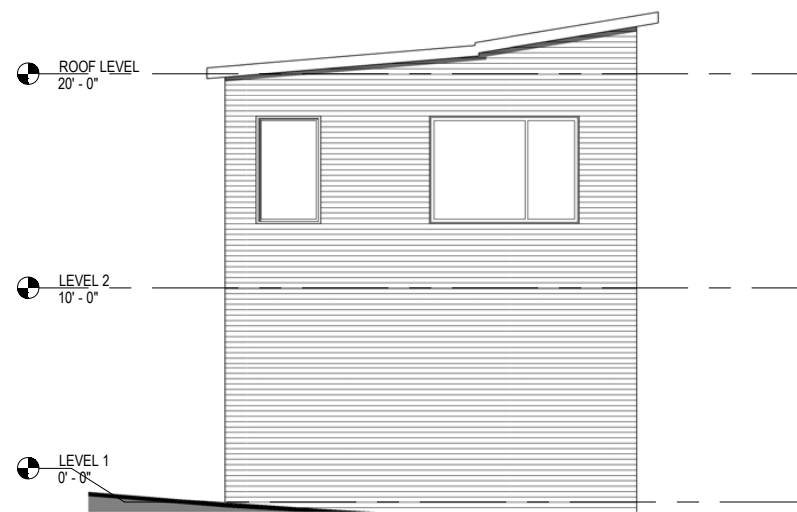


- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER

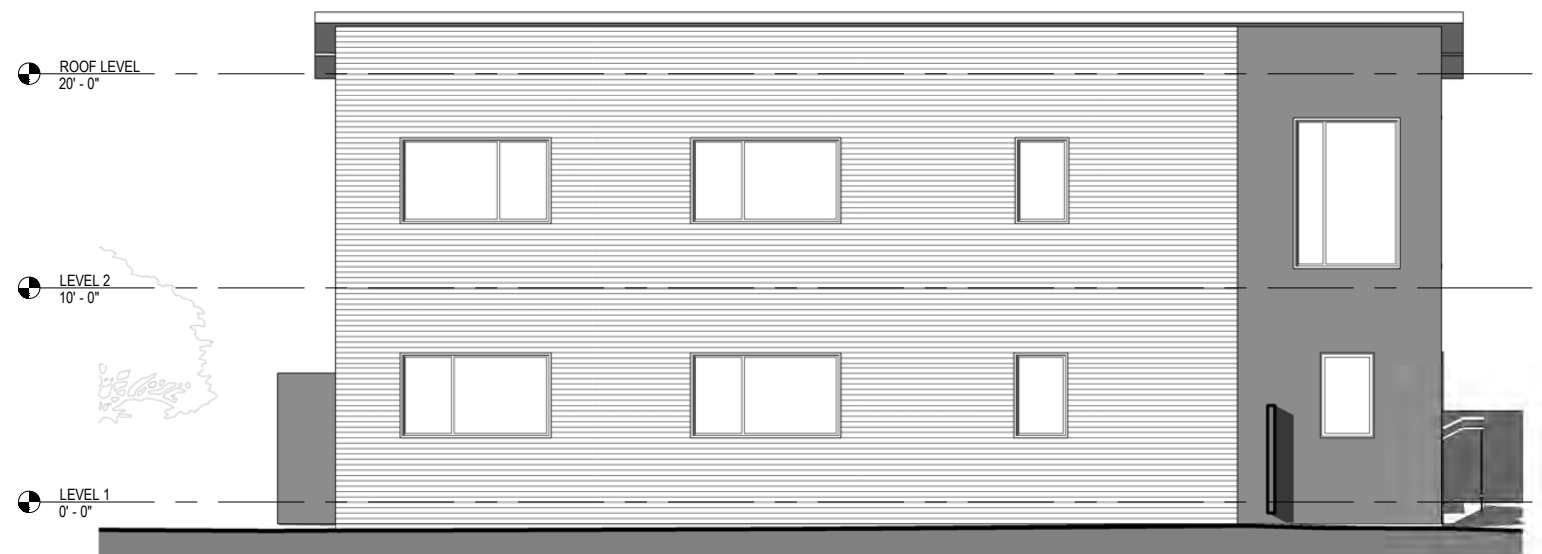




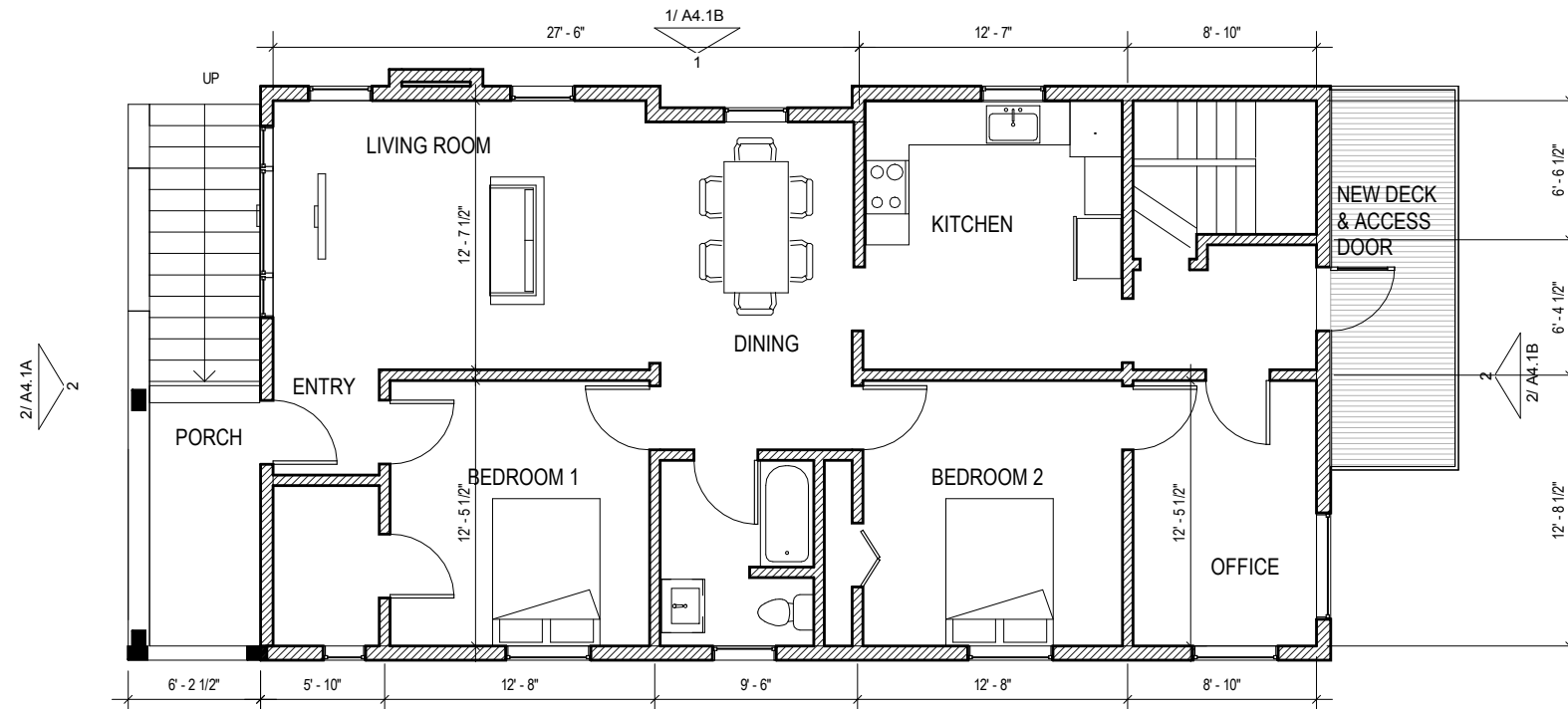
- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER



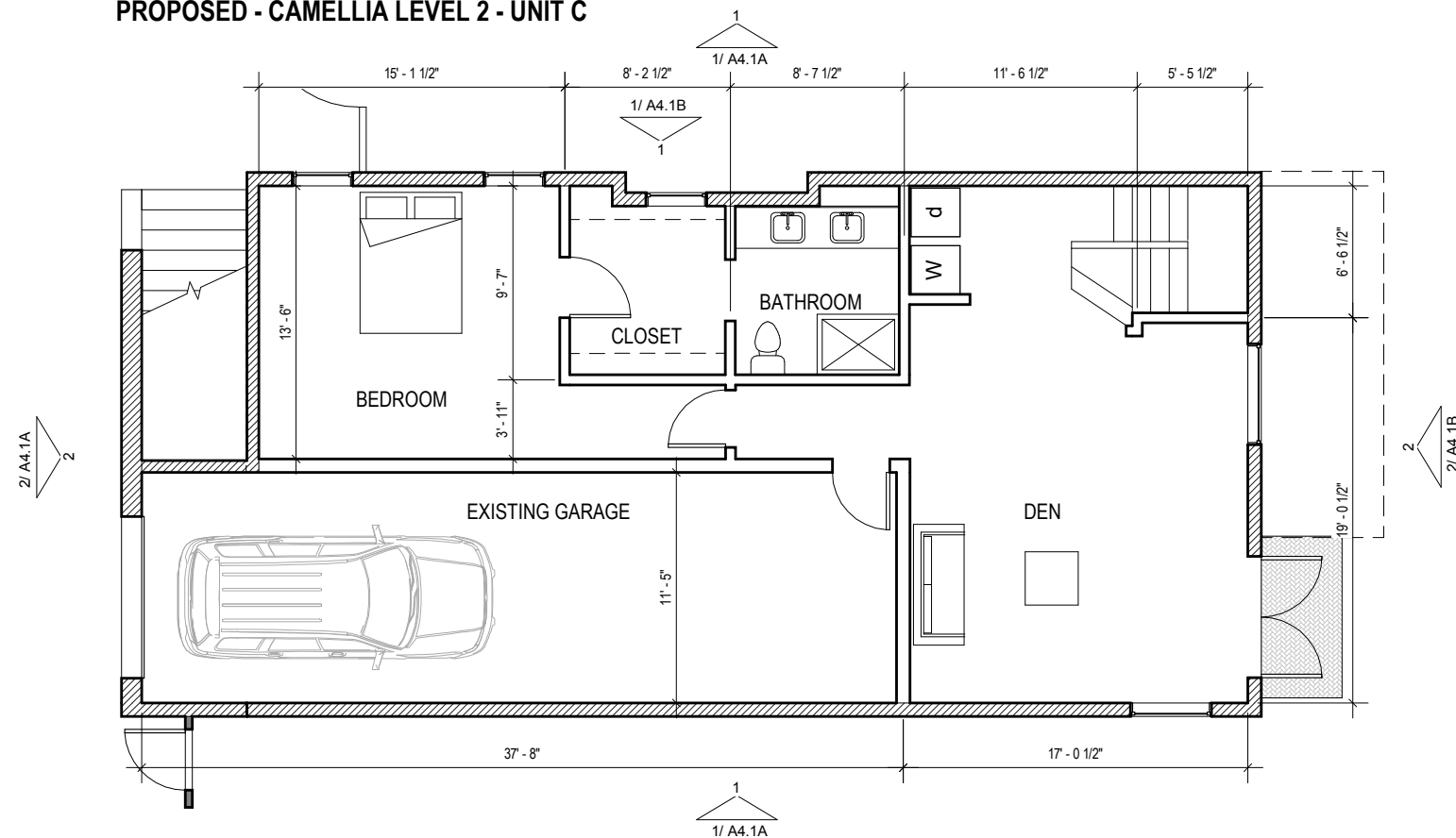
1 BEGONIA NORTH ELEVATION
1/8" = 1'-0"



2 BEGONIA WEST ELEVATION
1/8" = 1'-0"



PROPOSED - CAMELLIA LEVEL 2 - UNIT C







PROPOSED - CAMELLIA BASEMENT PLAN

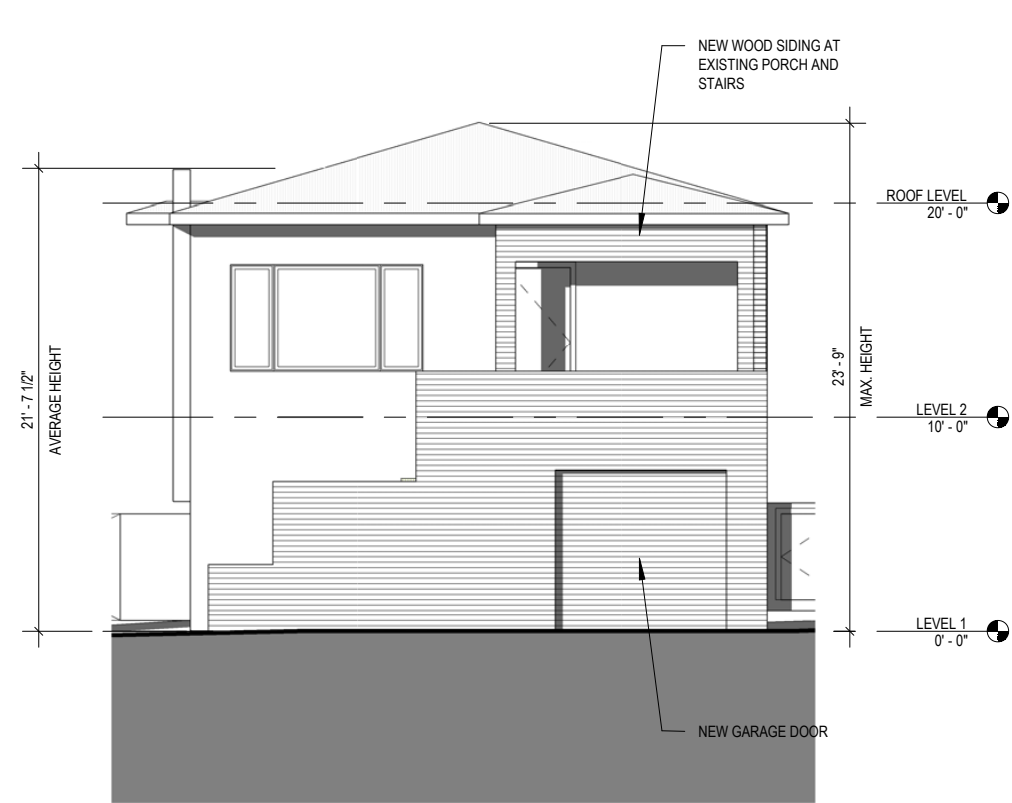
- LEGEND**
- NEW EXTERIOR WALL
 - ▨ (E) WALL
 - NEW INTERIOR WALL
 - - - SEE SITE PLAN FOR NON-CONFORMING SETBACK
 - - - REQUIRED SETBACK
- SEE A4.0 SERIES FOR ENLARGED UNIT PLANS



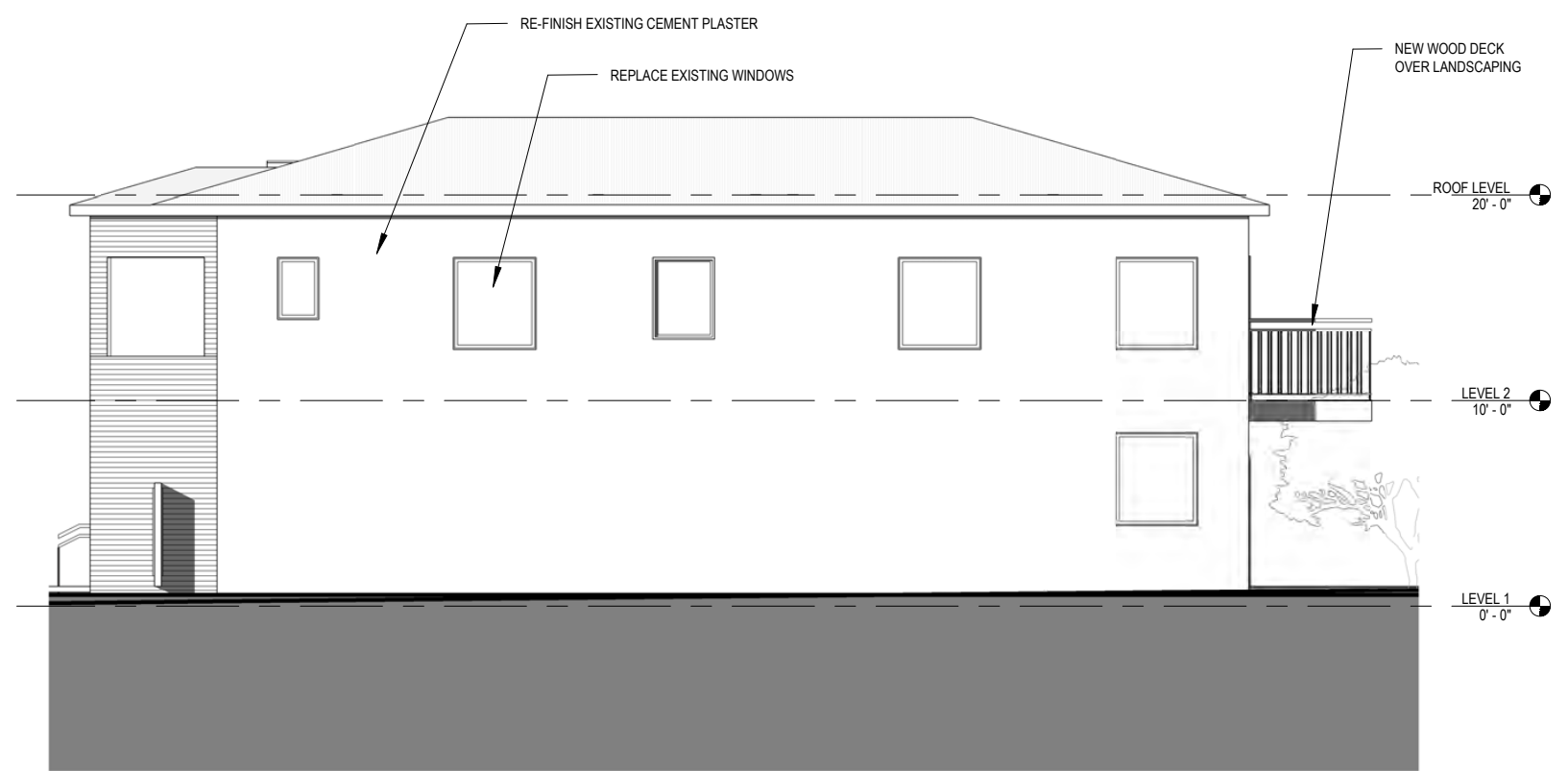


MATERIAL LEGEND

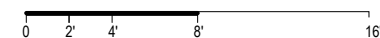
	PAINTED WOOD SIDING
	WOOD PATTERNED FIBER CEMENT
	CEMENT PLASTER
	CEMENT PLASTER



2 CAMELLIA SOUTH ELEVATION
1/8" = 1'-0"



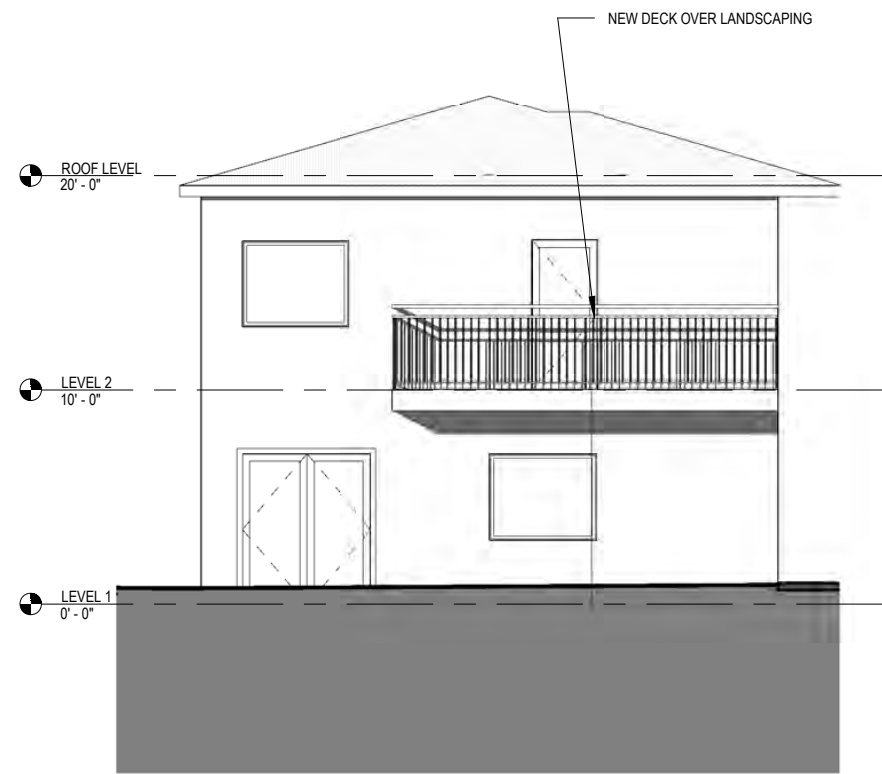
1 CAMELLIA EAST ELEVATION
1/8" = 1'-0"



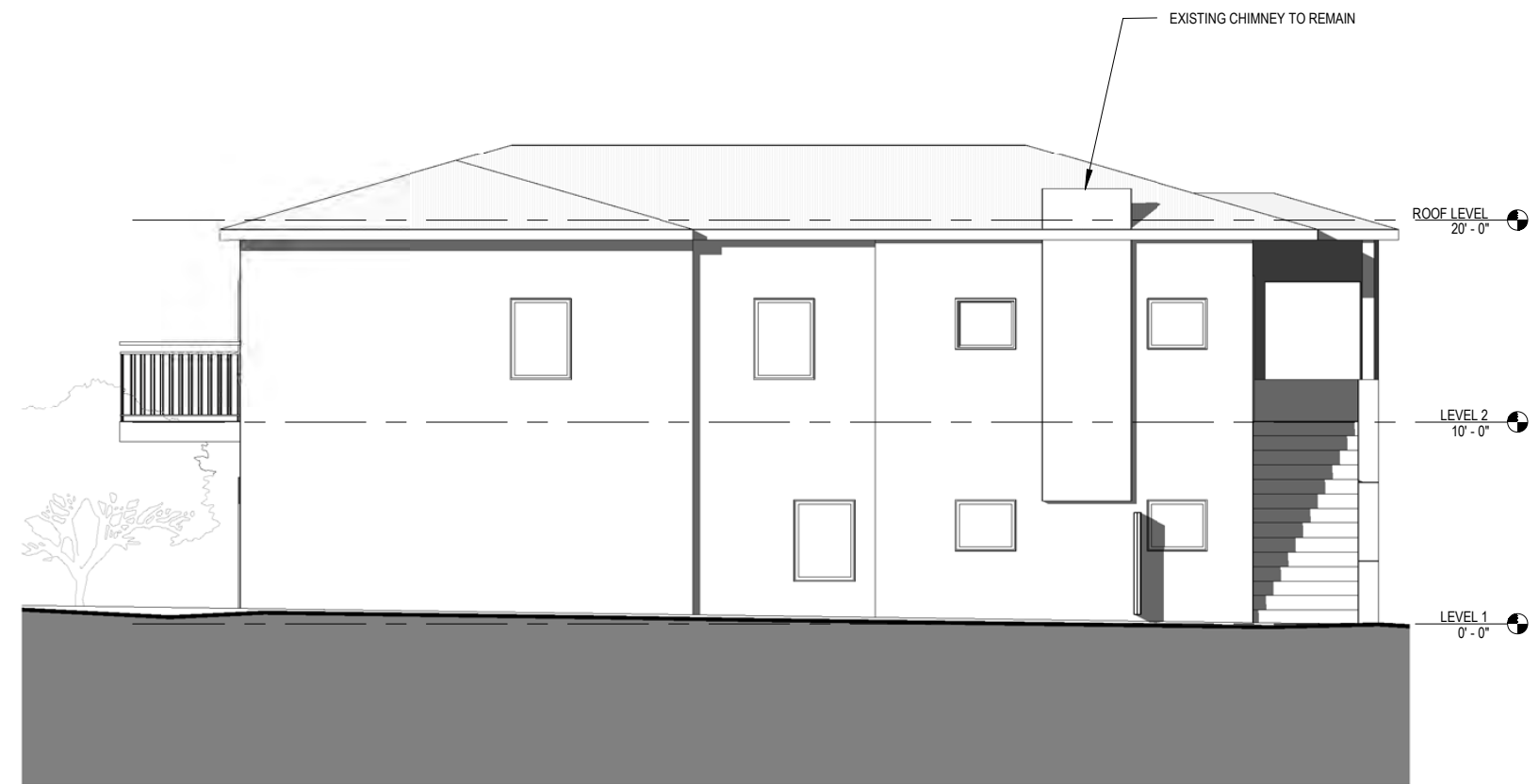


- MATERIAL LEGEND**
- PAINTED WOOD SIDING
 - WOOD PATTERNED FIBER CEMENT
 - CEMENT PLASTER
 - CEMENT PLASTER

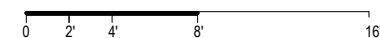
SEE A4.0 SERIES FOR ENLARGED ELEVATIONS

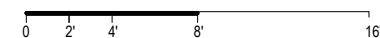
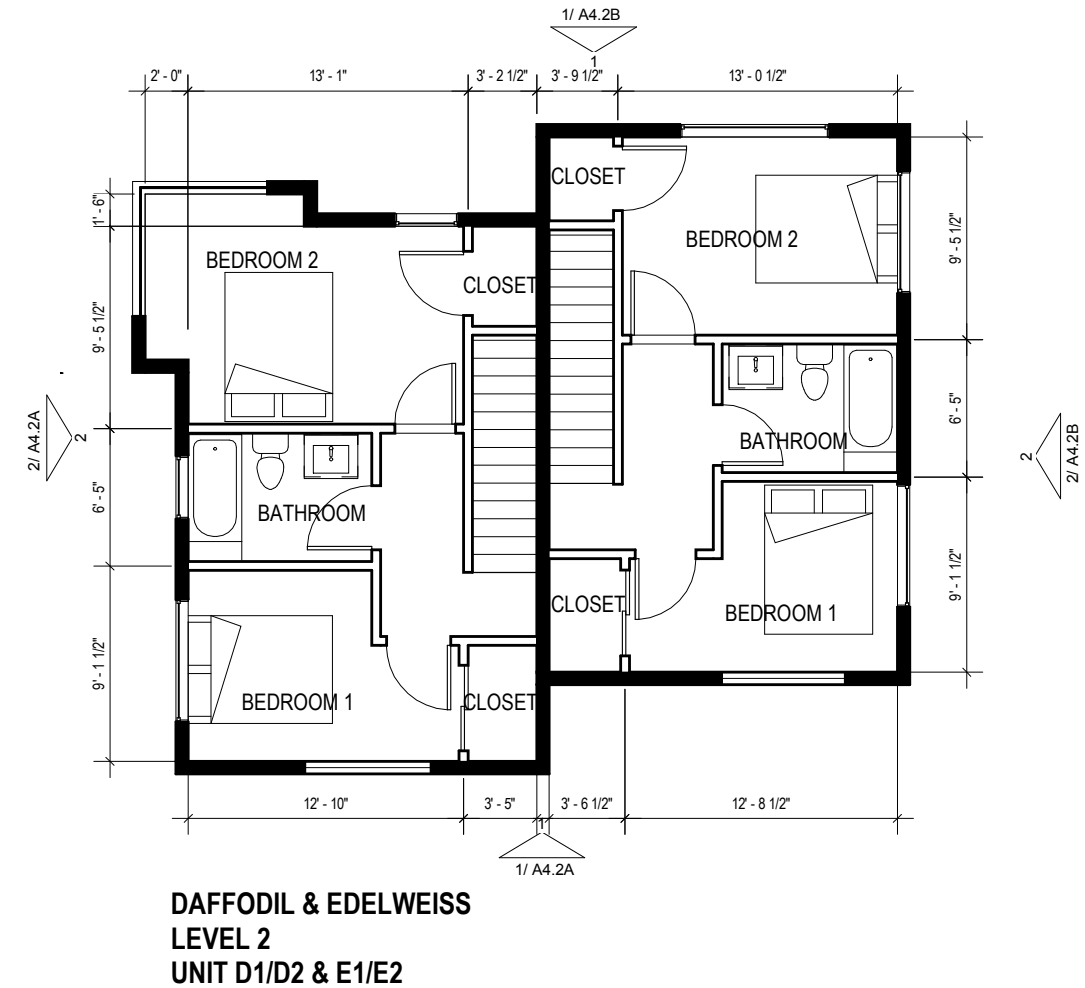
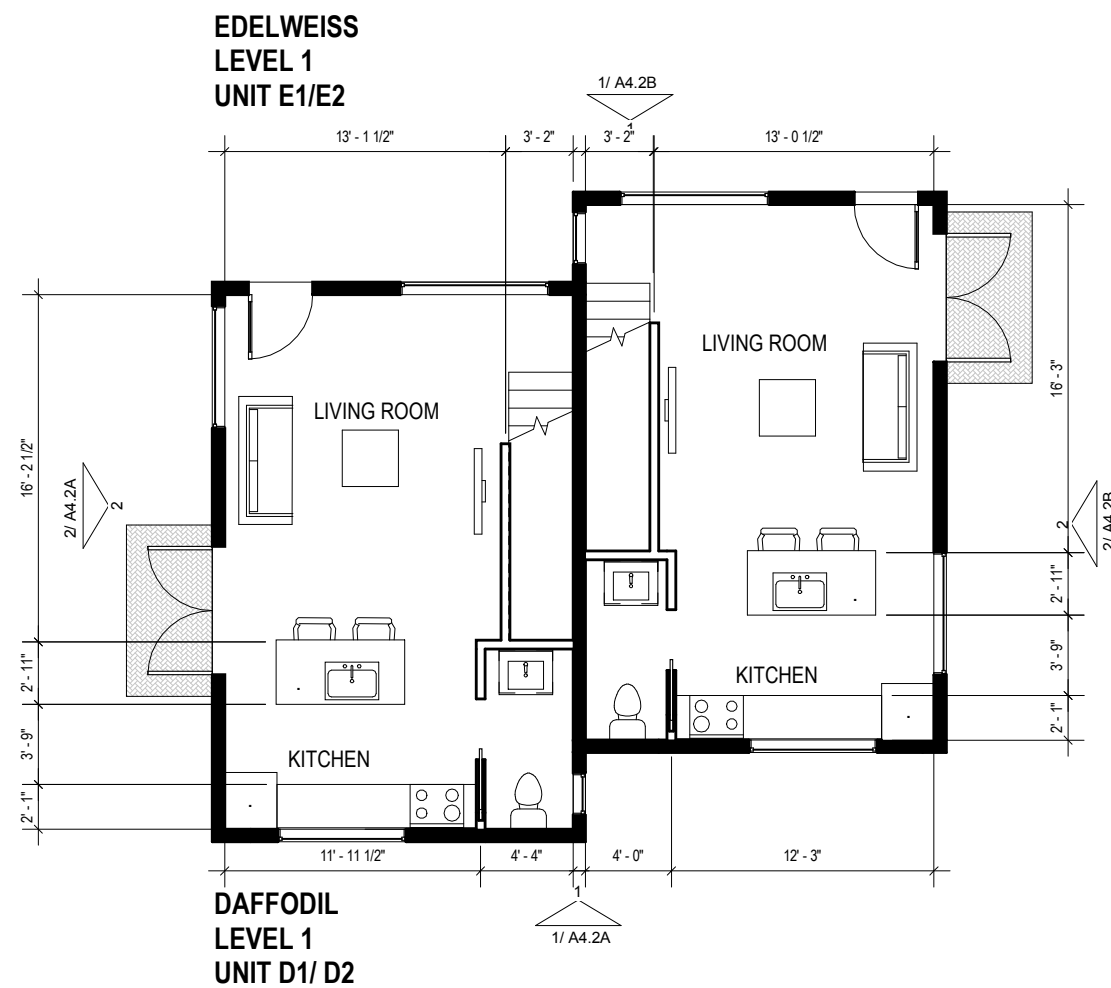
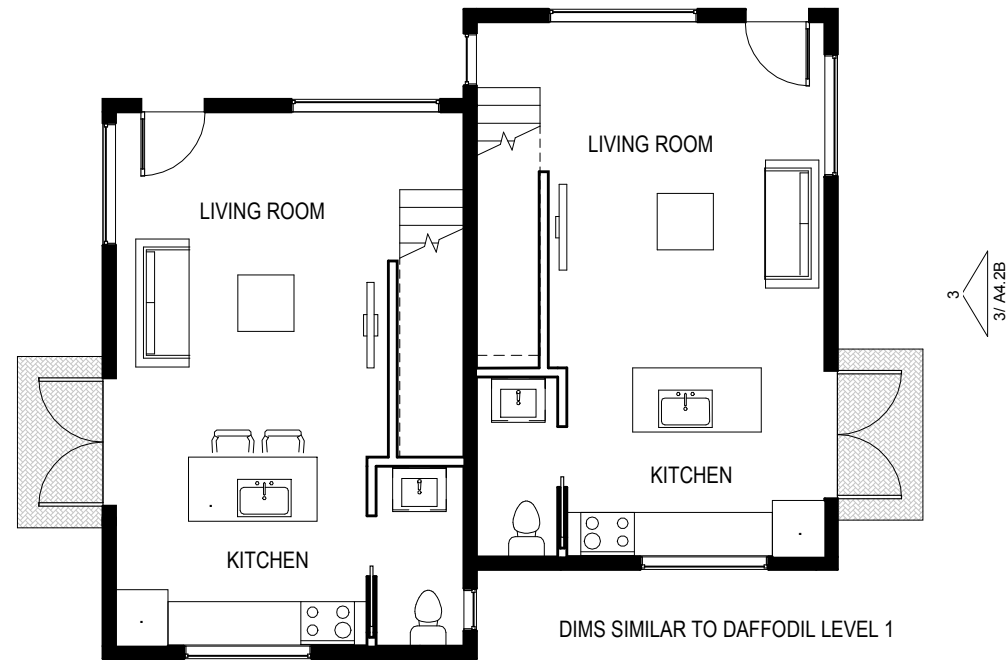


2 CAMELLIA NORTH ELEVATION
1/8" = 1'-0"







1 CAMELLIA WEST ELEVATION
1/8" = 1'-0"







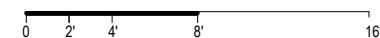
- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER







2 DAFFODIL & EDELWEISS SOUTH ELEVATION
1/8" = 1'-0"

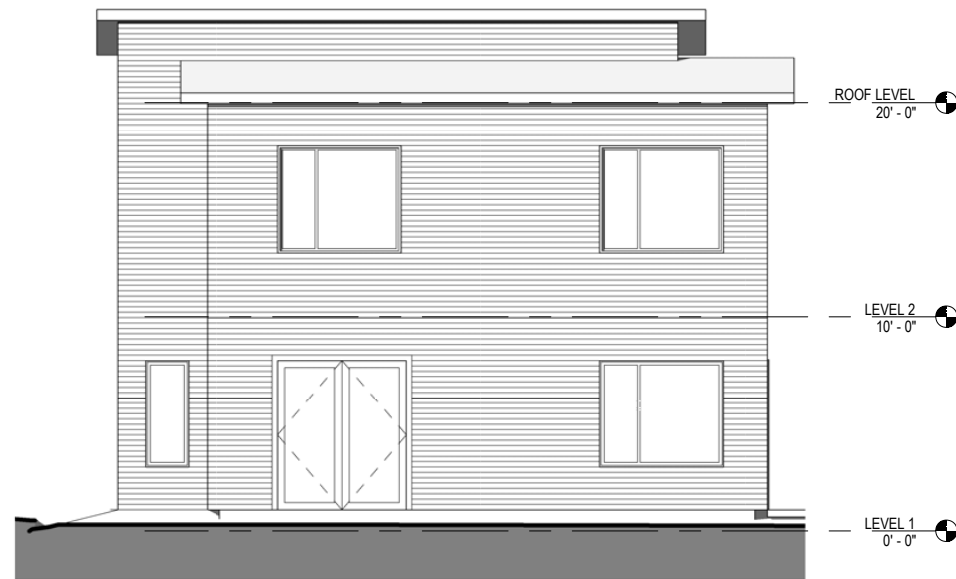


1 DAFFODIL & EDELWEISS EAST ELEVATION
1/8" = 1'-0"





- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER



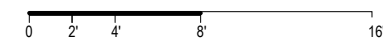
3 EDELWEISS NORTH ELEVATION
1/8" = 1'-0"

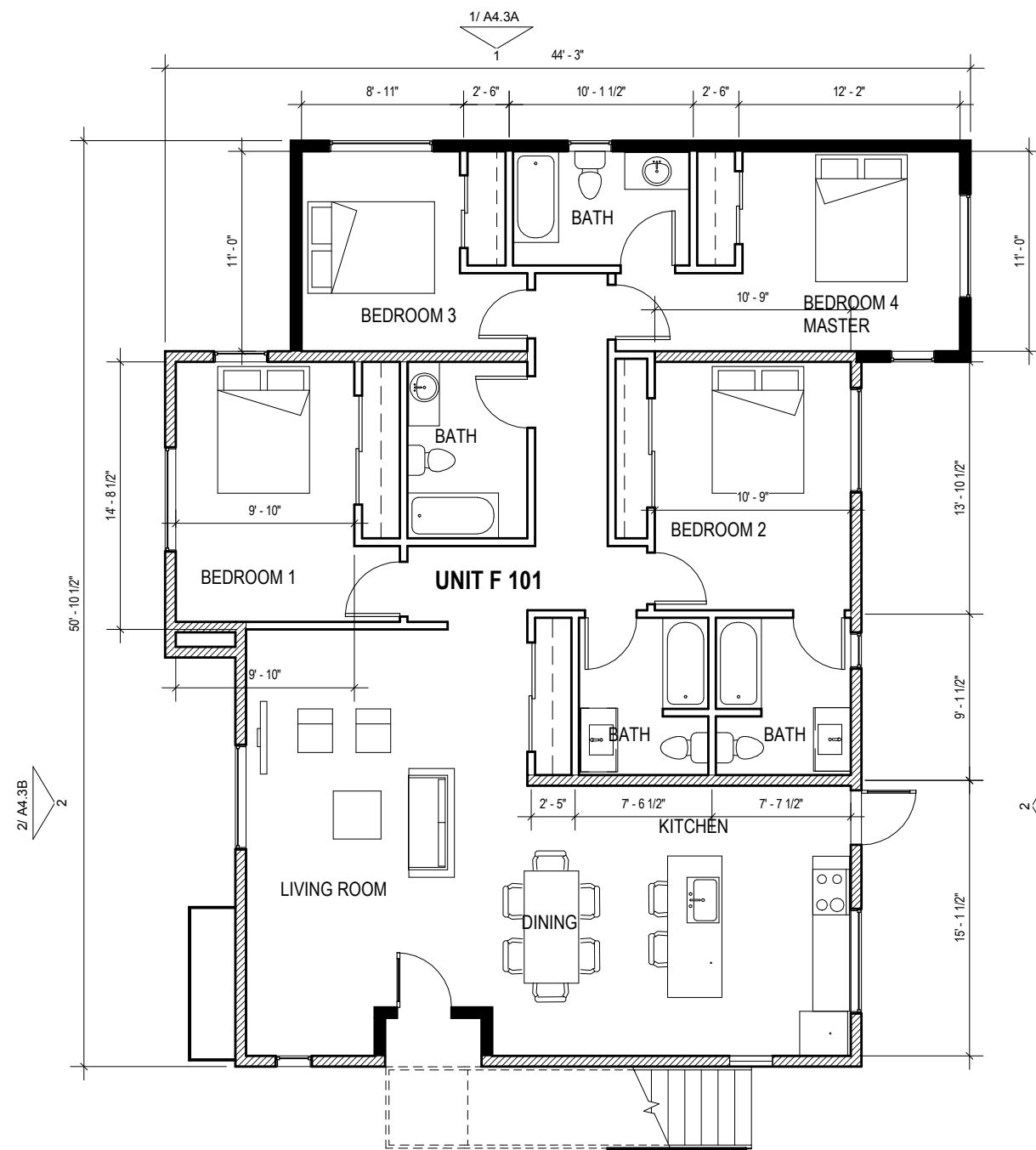


2 DAFFODIL NORTH ELEVATION
1/8" = 1'-0"

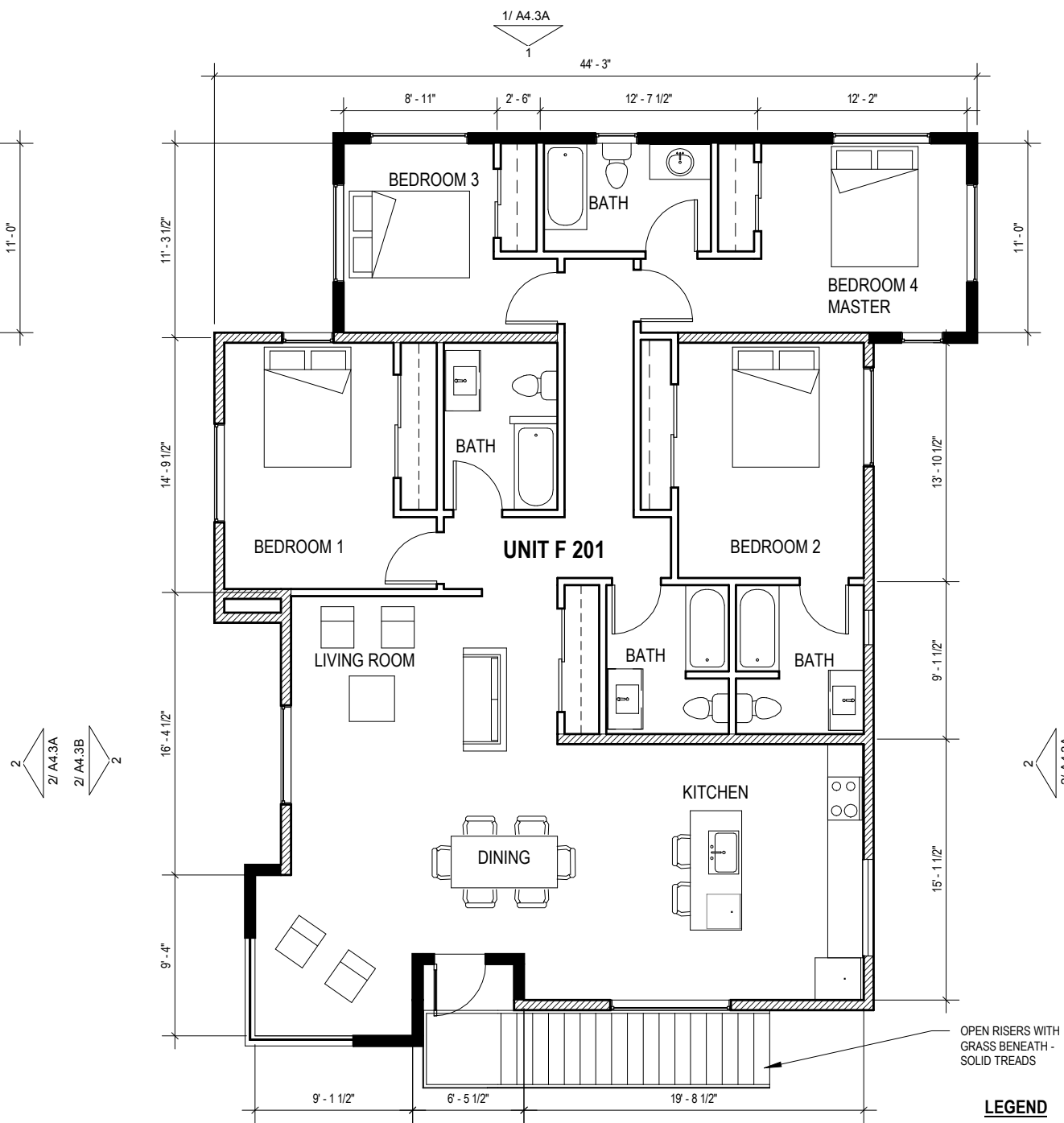


1 DAFFODIL & EDELWEISS WEST ELEVATION
1/8" = 1'-0"





FRESIA
LEVEL 1 - UNIT F1

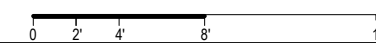


FRESIA
LEVEL 2 - UNIT F2







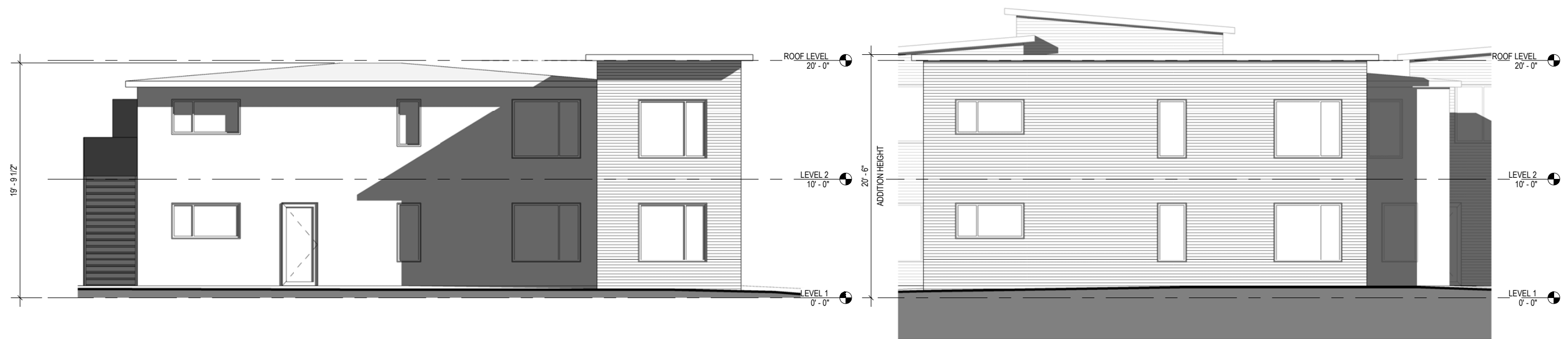
- LEGEND**
- NEW EXTERIOR WALL
 - (E) WALL
 - NEW INTERIOR WALL
 - SEE SITE PLAN FOR NON-CONFORMING SETBACKS
 - REQUIRED SETBACK

OPEN RISERS WITH
GRASS BENEATH -
SOLID TREADS



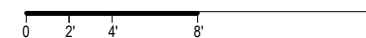


- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER







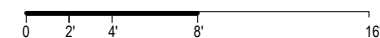
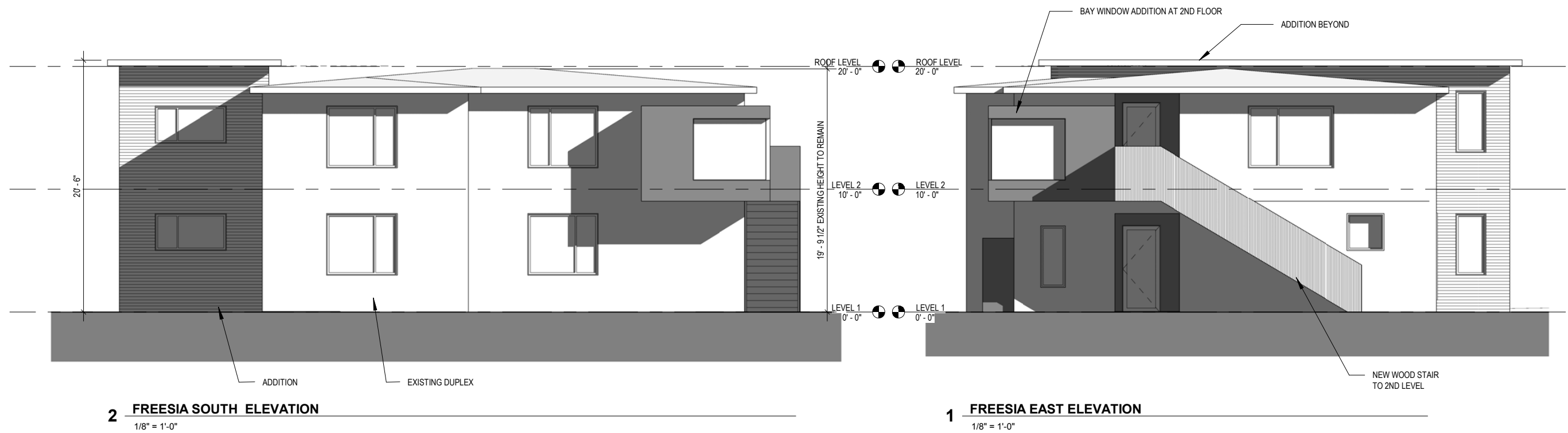
2 FREESIA NORTH ELEVATION
1/8" = 1'-0"

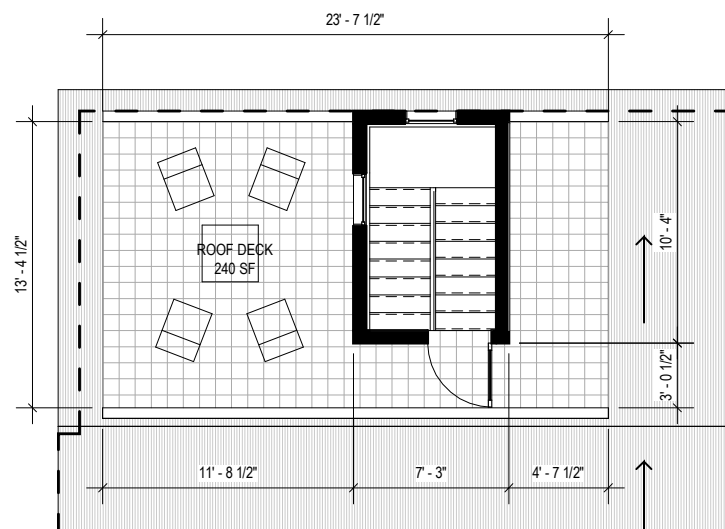
1 FREESIA WEST ELEVATION
1/8" = 1'-0"



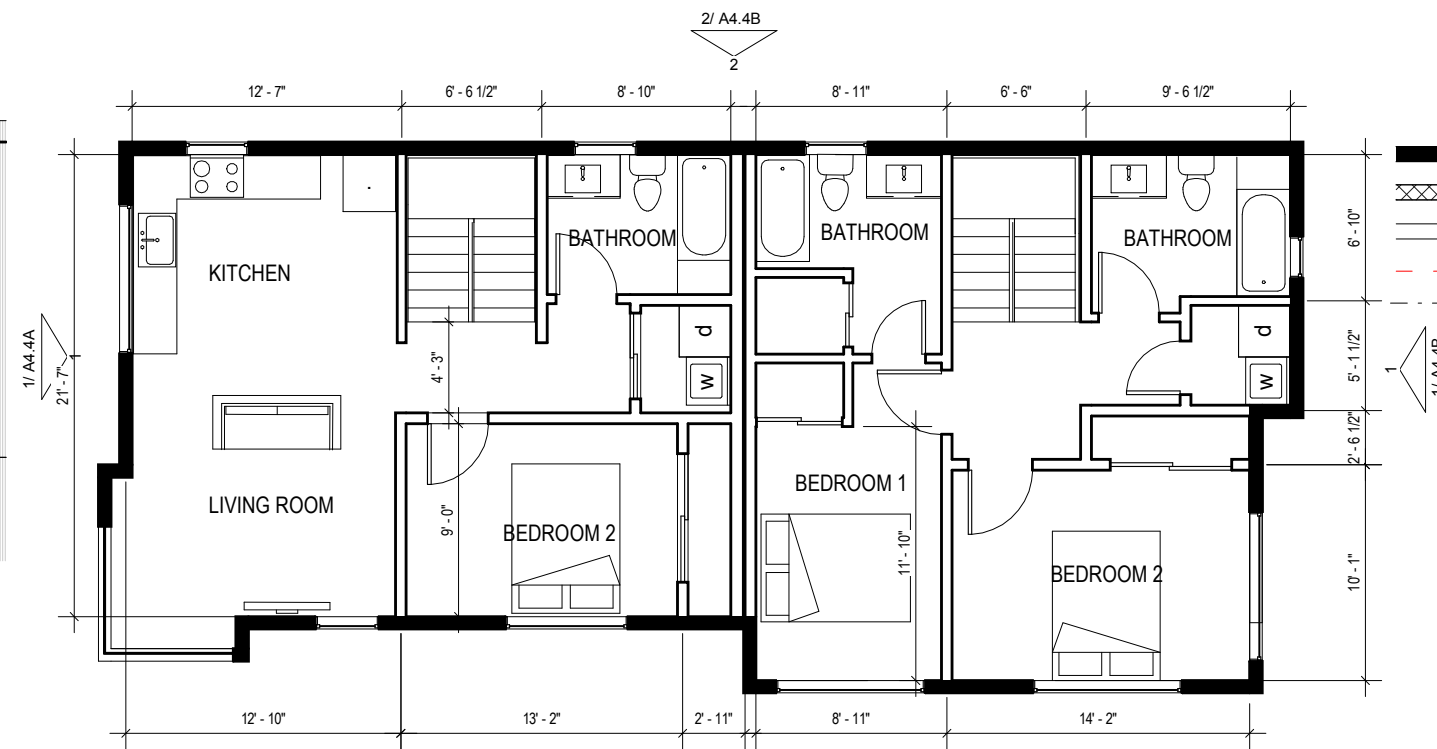


- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER

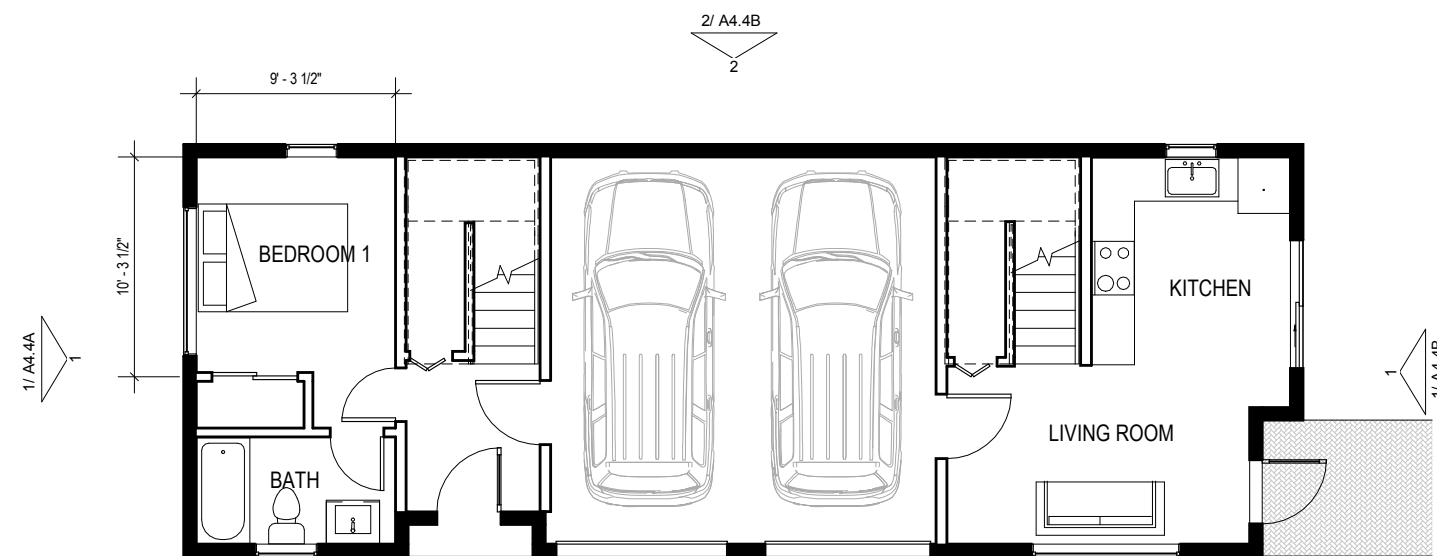




3 ROOF DECK - PARTIAL PLAN
1/8" = 1'-0"



2 GERANIUM LEVEL 2
1/8" = 1'-0"







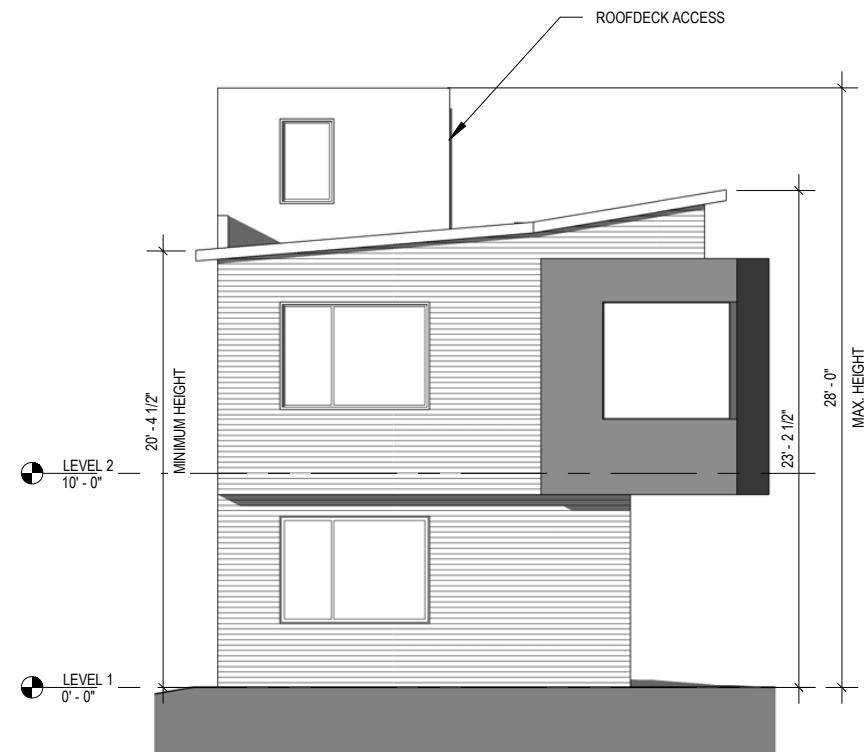
1 GERANIUM LEVEL 1
1/8" = 1'-0"

- LEGEND**
- NEW EXTERIOR WALL
 - (E) WALL
 - NEW INTERIOR WALL
 - SEE SITE PLAN FOR NON-CONFORMING SETBACKS
 - REQUIRED SETBACK



MATERIAL LEGEND

-  PAINTED WOOD SIDING
-  WOOD PATTERNED FIBER CEMENT
-  CEMENT PLASTER
-  CEMENT PLASTER







1 GERANIUM SOUTH ELEVATION
1/8" = 1'-0"



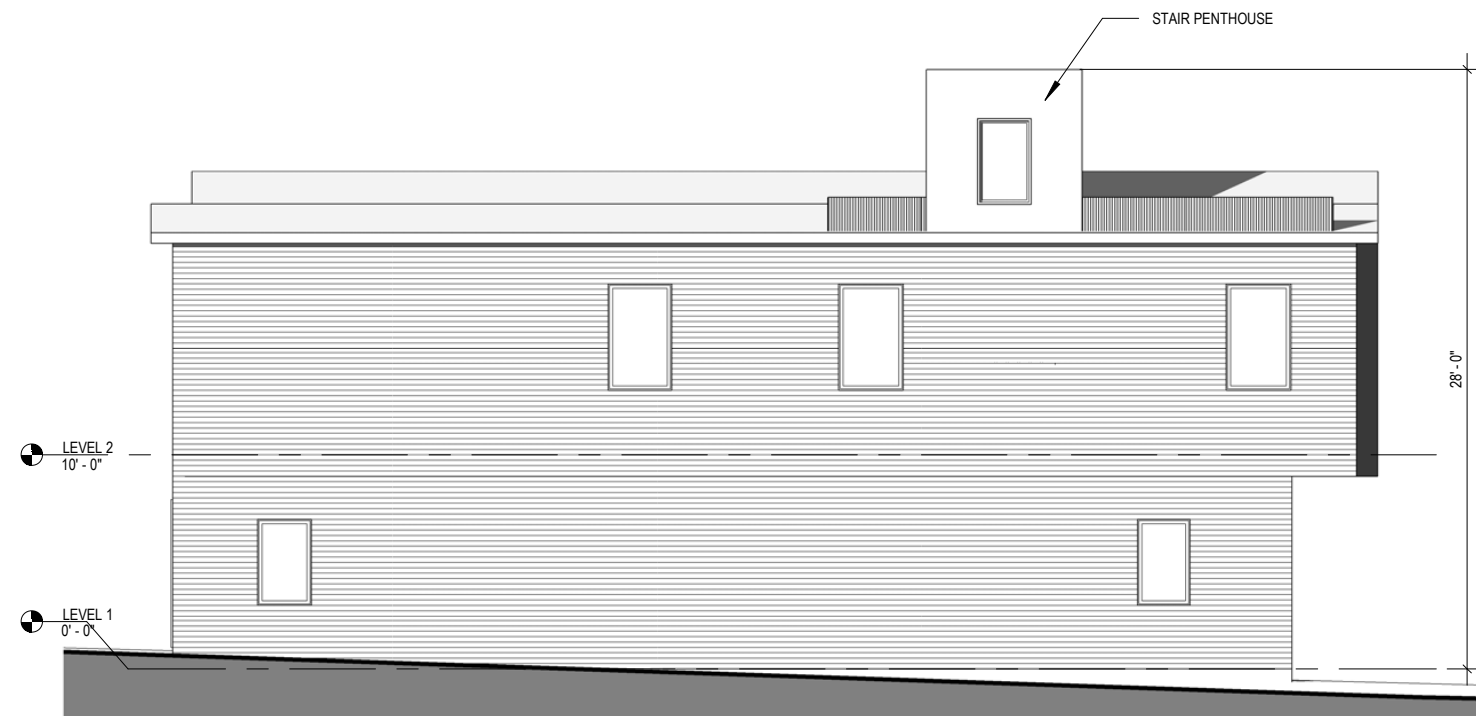
2 GERANIUM EAST ELEVATION
1/8" = 1'-0"



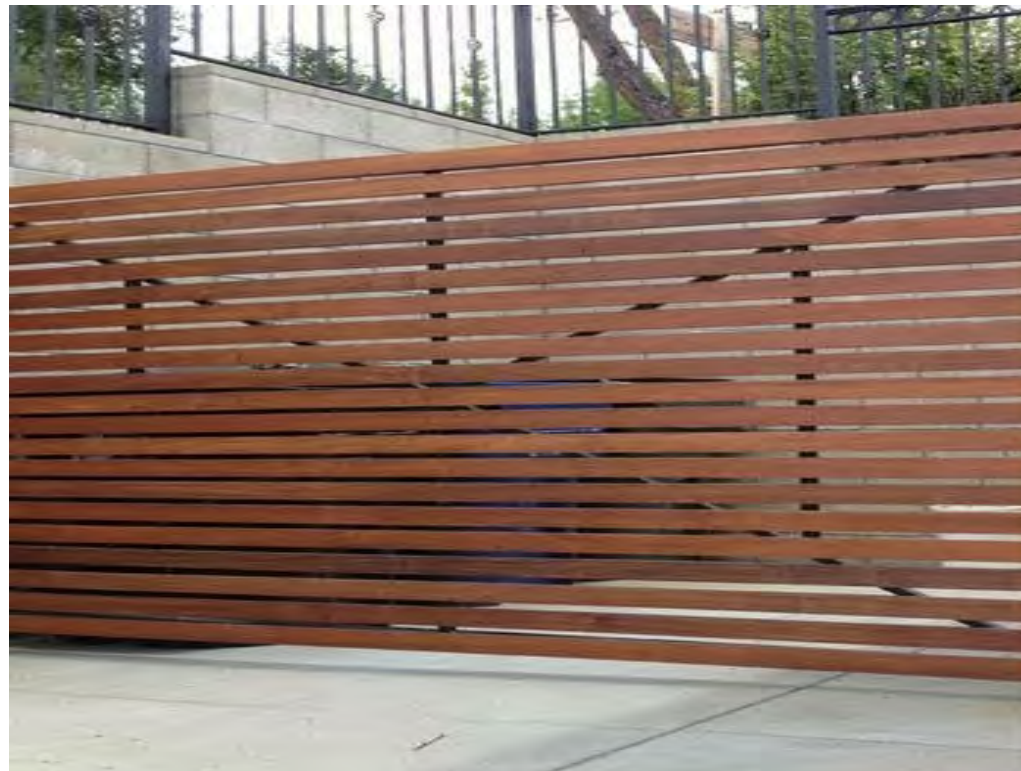
- MATERIAL LEGEND**
-  PAINTED WOOD SIDING
 -  WOOD PATTERNED FIBER CEMENT
 -  CEMENT PLASTER
 -  CEMENT PLASTER



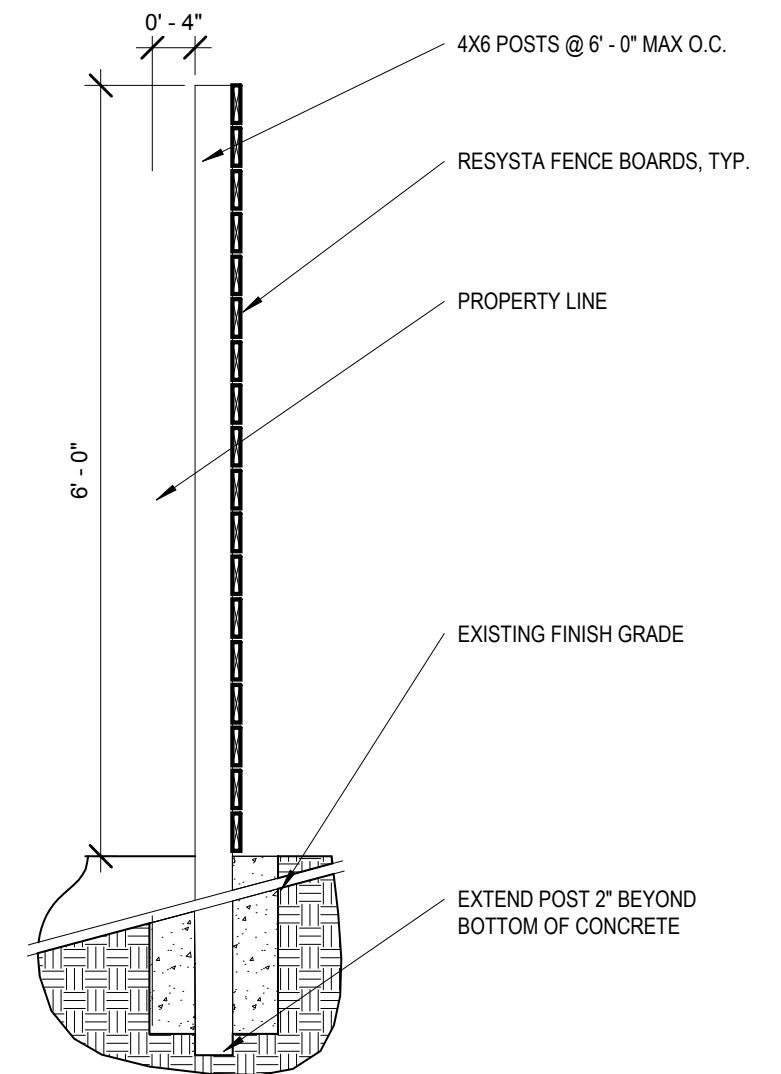
1 GERANIUM NORTH ELEVATION
1/8" = 1'-0"



2 GERANIUM WEST ELEVATION
1/8" = 1'-0"



CEDAR FENCE ALONG PROPERTY LINE

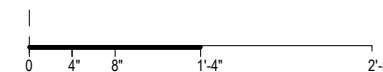


1 CEDAR FENCE DETAIL

3/4" = 1'-0"

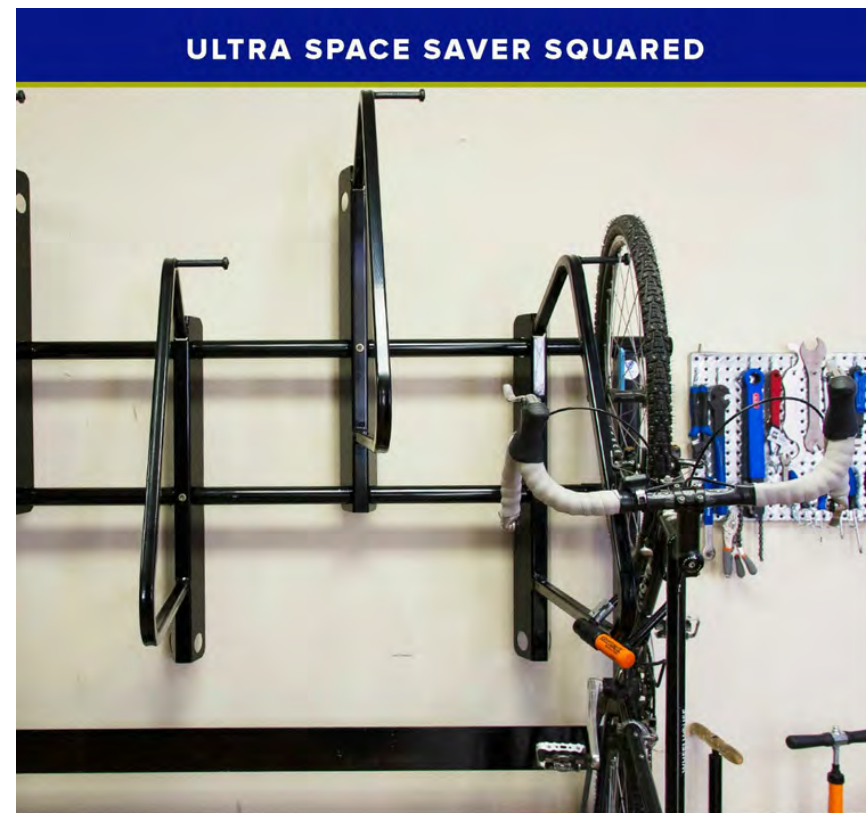
HEARST GARDENS

DEVI DUTTA ARCHITECTURE



FENCE DETAIL

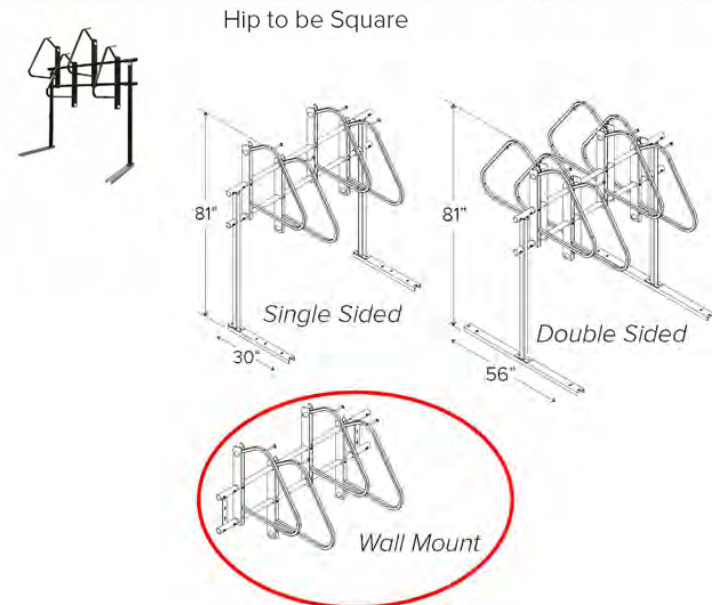
SCALE: 3/4" = 1'-0"



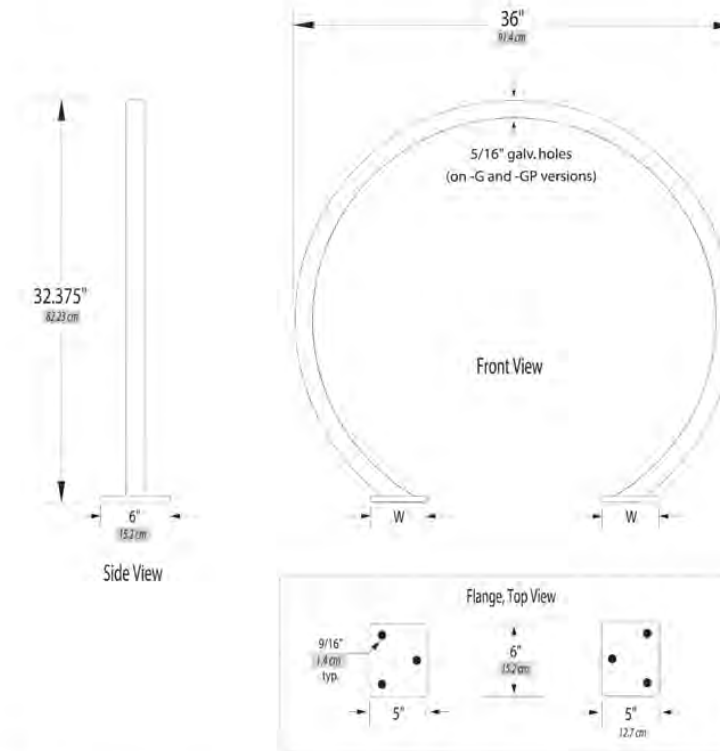
ULTRA SPACE SAVER SQUARED



DARK GREY POWDERCOAT FINISH AT BIKE STORAGE



WALL MOUNT, SQUARE PROFILE BIKE STORAGE. LOCATED ON EAST WALL OF BEGONIA BUILDING.



Welle™ Circular Rack Square Tube Surface Flange						
Tubing	Model	Weight	Finish Options	Hoop	Surface Mount Flanges <small>(Same material as Hoop)</small>	Anchors <small>(Not Provided)</small>
Square Tube	WC02-SQ-SF	38 lbs 17.1 kg	-G Hot Dipped Galvanized -P Powder Coated (color) -GP Hot Dipped Galvanized with Powder Coat (color) Top-Coat -SS Stainless #4 Brush Finish	-G, -P, -GP 2" x 2" x 0.188" Square Tube (Regular Steel) 127mm 5.1cm x 5.1cm x 5mm -SS 2" x 2" x 0.188" Square Tube (304 SS Alloy) 51cm x 5.1cm x 3mm	(2) 5" x 6" x 3/8" Plates, 127mm x 152mm x 10mm each with (3) 9/16" Holes 14mm	(2) 1/2" x 2.75" 13mm x 7cm Rawl Spike (4) 1/2" x 3.75" 13mm x 81mm Wedge Anchor Bolt

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2012.04.11

GROUND ANCHORED, SQUARE PROFILE BIKE STORAGE CIRCULAR RACK. 2 BIKES PER RACK. LOCATED ALONG THE PASEO, AND FLANKING THE DRIVEWAY BETWEEN AZALEA AND BEGONIA.





	OCCUPANCY	SPRINKLERED?	CONST. TYPE	HEIGHT & NUMBER OF STORIES
AZALEA	R-3	SPRINKLERED	V-B	2-STORIES
BEGONIA	R-3	SPRINKLERED	V-B	2-STORIES
CAMELLIA	R-3	SPRINKLERED	V-B	2-STORIES
DAFFODILE	R-3	SPRINKLERED	V-B	2-STORIES
EDELWEISS	R-3	SPRINKLERED	V-B	2-STORIES
FREESIA	R-3	SPRINKLERED	V-B	2-STORIES
GERANIUM	R-3	SPRINKLERED	V-B	2-STORIES + STAIR PENTHOUSE

ALL HOMES SUBJECT TO 2016 CALIFORNIA BUILDING CODE
ALL HOMES TO BE EQUIPPED WITH RESIDENTIAL SPRINKLER SYSTEM

— EXIT PATH
- - - ASSUMED PROPERTY LINE

1 GROUND PLAN BUILDING CODE & EXITING
3/64" = 1'-0"

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Attorney

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RAMSEY LAW GROUP
A Professional Corporation



September 10, 2018

Berkeley City Council
2180 Milvia Street
First Floor
Berkeley, CA 94704

2018 SEP 12 PM 1:26
CITY OF BERKELEY

**Re: Appeal of Decision of Zoning Adjustments Board Dated August 23, 2018
Concerning Use Permit #ZP2016-0028;
Property Address: 1155-1173 Hearst Avenue**

Dear Members of the Berkeley City Council:

I am submitting this appeal of the decision of the Berkeley Zoning Adjustments Board (“ZAB”) concerning Use Permit #ZP2016-0028 pertaining to the property at 1155-1173 Hearst Avenue in Berkeley, on behalf of Rain Sussman who owns the home located at 1842 Curtis Street in Berkeley which is directly next door to the development project. As you can see from the signatures on this letter, most of the neighbors support this appeal. Many other neighbors will be submitting letters opposing the development project because the ZAB decision does not protect the neighborhood, its residents, and their property from the negative impact of this development project.

A. ZAB erred in finding the project exempt from CEQA

1. The project does not qualify for a categorical exemption because there is substantial evidence that it will not be adequately served by the existing utility infrastructure

CEQA Guidelines are clear that the proposed categorical exemption is not applicable in cases when a proposed project is located in a sensitive site or is subject to unusual circumstances: “...a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant”. (14 CCR § 15300.2.)

This proposed development site is located over a non-engineered buried branch of Strawberry Creek. There is a high likelihood that the fill placed in the channel was or still is unconsolidated. There is also significant evidence from the testimony of neighbors at the ZAB hearings held regarding the project, as well as video footage of flooding submitted to ZAB, that the site is prone to flooding and that the storm drain system is

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unable to address the runoff. The buried creek alignment is also associated with the potential presence of cultural and/or historic resources. Testimony was given that a portion of the property on which the project is proposed was the site of the original Chez Panisse garden.

As a result, the project does not satisfy requirement (e) of 14 CCR § 15332 for a CEQA categorical exemption as an urban infill project because there is substantial evidence that the Project is located in a sensitive location and approval of the project without further study could result in significant drainage and flooding impacts and will not be adequately served by existing utility infrastructure.

In this case, the historical flooding at the site and in the surrounding neighborhood reflects that the existing storm drain system would not adequately cope with the added runoff anticipated as a result of the additional hardscape included in the Project. Existing hydrology studies substantiate this concern.

Those studies establish that the project would increase in impervious cover and result in a significant loss of existing permeable areas, and associated detention/sub-surface storage (current plan includes loss of large vegetated open space area and creation of significant additional roof area, driveways, parking areas, walkways). The site runoff co-efficient would increase. Proposed impervious surfaces and foundations would exacerbate existing flooding conditions.

Previous mapping and records the City maintains demonstrate that a historic tributary/northern fork of Strawberry Creek underlies the proposed development site. The creek was subject to uncontrolled fill when the area was originally developed. However, there are no records of engineered fill, culvert, or storm drain installation. The current existing curb and gutter street drainage system serving this area is subject to frequent flooding. Surface flooding occurs during even modest storm conditions as the subsurface is saturated.

Furthermore, the testimony of neighbors, as well as of the developer-applicant himself, at the ZAB hearings that the area proposed for development forms a "lake" seasonally, indicates that the area may qualify as a potential jurisdictional wetland subject to additional review and permitting requirements.

In sum, there is significant evidence that the project will not be adequately served by the existing storm drain infrastructure. As a result, it does not qualify for the in-fill development categorical exemption of 14 CCR § 15332.

2. *Even if the project qualifies for a categorical exemption, it is subject to the unusual circumstances exception because there is substantial evidence of an unusual circumstance and of a fair argument that there may be a significant effect on the environment*

Even if the project were exempt under 14 CCR § 15332, it falls under the unusual circumstances exception under 14 CCR § 15300.2(c). The unusual circumstances exception to the categorical exemption applies if 1) there is substantial evidence of an unusual circumstance; and 2) there is substantial evidence in the record of a fair argument that there may be a significant effect on the environment. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105; see also *World Bus. Acad. v. California State Lands Comm'n*, (2015) 24 Cal.App.5th 476, 499.) In this case there is ample evidence of both an unusual circumstance and of a fair argument that there may be a significant effect on the environment.

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Moreover, because there is substantial evidence of an unusual circumstance, and there is substantial evidence supporting the conclusion that there may be an impact on the environment, the City must apply the exception to the categorical exemption even if there may be evidence in the record that the project will not have a significant environmental effect. “Under [the “fair argument”] standard, “ ‘an agency is merely supposed to look to see if the record shows substantial evidence of a fair argument that there may be a significant effect. ... In other words, the agency is not to weigh the evidence to come to its own conclusion about whether there will be a significant effect.’ ” (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th. at p. 1104.) An agency must find a “fair argument” if there is any substantial evidence to support that conclusion, even if there is competing substantial evidence in the record that the project will not have a significant environmental effect. (*Id.* at p. 1111.)” (*World Bus. Acad. v. California State Lands Comm'n*, (2018) 24 Cal.App.5th 476, 499.)

The Project is proposed on a site that sits on an undergrounded branch of historic Strawberry Creek, and has been subject to significant historical flooding. Existing studies and direct observations by existing residents in the area reflect that as a result of this location, the project would be subject to flooding, soil instability and subsidence risks. The Urban Creeks Council previously determined that this particular northern branch of Strawberry Creek was filled with non-engineered soil and debris prior to development in the area. They classified the area as “filled wetlands” and as “seismically unstable and subject to liquefaction”. Site-specific soils and groundwater data have not been collected and a comprehensive geotechnical investigation is warranted. This evidence suggests that the proposed project and the increased impervious surfaces would increase the runoff coefficient and have potentially adverse impacts on sub-surface drainage which would exacerbate existing flooding conditions.

This evidence, which was submitted to ZAB in connection with the two hearings it held relating to this project, constitutes substantial evidence of an unusual circumstance at the site due to the known and unknown sub-surface and associated hydrologic conditions. In fact, at the second hearing, City of Berkeley Zoning Department Staff recognized and agreed that the “level of water in the area” constitutes an unusual circumstance. The evidence, moreover, is more than adequate to reflect a fair argument that, as a result of the unusual hydrologic circumstances of the site, the anticipated impacts of the increased impervious surfaces and the unknown sub-surface conditions associated with the buried creek, there may be a significant effect on the environment.

Because there is substantial evidence that the site is subject to unusual circumstances, and may have a significant effect on the environment, the City must find that it does not qualify for the categorical exemption as a result of the applicable unusual circumstances exception. ZAB erred in not doing so.

B. If the project is exempt from CEQA appropriate conditions must be imposed under BMC § 23B.32.040 to ensure the project is not detrimental to the health, safety, comfort or general welfare of the neighborhood or injurious to the adjacent properties, the surrounding area or neighborhood

Even if the Project were exempt from CEQA’s environmental impact reporting requirements, the City has the authority and the obligation under the Berkeley Municipal Code (the BMC) to require additional testing and engineering consistent with the recommendations of that testing, as a result of the evidence reflecting that the project will have an adverse effect on the neighborhood and surrounding properties, and more generally on health and safety.

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BMC § 23B.32.040 provides that a use permit may be approved as submitted or modified only if the proposed project will not be detrimental to the health, safety, comfort or general welfare of the neighborhood or injurious to the adjacent properties, the surrounding area or neighborhood. In this case there is substantial evidence that the project will have a detrimental impact on safety and will be injurious to the neighboring properties due to flooding. As a result, unless these impacts are mitigated, the project does not satisfy the zoning requirements of the BMC. The City must therefore impose requirements to address these concerns. This includes the following studies, and engineering consistent with recommendations drawn from those studies.

A focused geotechnical and groundwater investigation is necessary to address the following:

- A detailed geotechnical and groundwater evaluation is necessary to determine subsurface drainage conditions so that existing groundwater release preferential pathways are not impacted during construction of the project. A geotechnical and groundwater evaluation would allow for a proper evaluation of the surface and subsurface conditions of the site to determine impacts of the proposed development on the surrounding properties and to establish additional engineering controls necessary to avoid future risks. Additional information on site soil properties and depth to groundwater is also needed to support design of proposed site facilities as previously noted.
- Characterize on-site soil conditions to support site-specific geotechnical structural design and storm-water management/low impact development (LID) measures.
- Identify the precise location of the filled former creek channel alignment in order to design the project accordingly in order to avoid placing structures directly over the historic creek or to design engineering controls to mitigate future risks of building over the former creek channel.
- Characterize local groundwater/subsurface conditions and associated wet weather flow paths.
- Develop geotechnical site-specific design recommendations to support structural stability of the proposed development and proper foundation design.

ZAB acknowledged these concerns during the hearing on the use permit application for this project, and acknowledged that the developer should conduct appropriate geotechnical studies and engineering consistent with the recommendations of such studies as a condition of, and thus prior to the issuance of, a use permit. This condition would exceed the typical requirement for such studies and engineering for the issuance of a building permit. However, condition number 13 of the ZAB Decision only requires the geotechnical study and engineering prior to issuance of a building permit, as would be typical, and in conflict with the ZAB decision expressed at the hearing. Additionally, the Decision contains a further condition inconsistent with the intent to require a comprehensive geotechnical study and further engineering. Condition 21 provides that the developer's drainage plan shall be as presented in the current design the developer has submitted, unless modified by the City's Building and Safety Decision. However, agreed by ZAB at the hearing, the study and engineering are to precede issuance of a use permit for the project. Thus, the drainage plan may have to be modified in accordance with the study and engineering prior to issuance of the use permit – and therefore prior to submission to the Building and Safety Division.

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Conditions numbers 13 and 20 are inconsistent with the actual conditions required by ZAB and voted on at the hearing. Moreover, those two conditions are internally inconsistent. Finally, as drafted, the Decision would not protect the neighborhood and neighboring properties from detrimental health and safety impacts because it does not require an adequate level of geotechnical review and scrutiny.

As a result, appellant appeals to the City Council to properly apply CEQA to this project and subject the project to appropriate environmental impact reporting requirements. In the alternative, and at a minimum the City Council should require further testing, and engineering consistent with the recommendations of the testing reports, as a condition of approval pursuant to its authority under the BMC.

Very truly yours,



Hussein Saffouri

Very truly yours,



Rain Sussman

Signatures in Support on Following Page.

September 10, 2018
Page 6

Signatures in Support:

No. 1

Signed: [Signature]

Name: Pete Pan

Address: 1155 Hearst Ave

Date: 09/10/2018

No. 2

Signed: [Signature]

Name: Sandra Hrdlicka

Address: 1827 Curtis St.

Date: 9/10/18

No. 3

Signed: [Signature]

Name: Teal Major

Address: 1814 Curtis St

Date: 9/10/18

No. 4

Signed: [Signature]

Name: Wayne Cory

Address: 1159B Hearst Ave

Date: 9-10-18

September 10, 2018
Page 7

No. 5

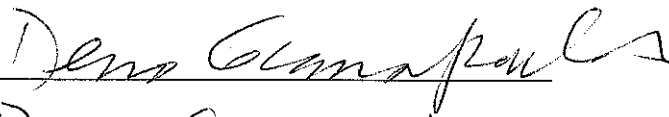
Signed: 

Name: Joseph Chen

Address: 1159 Hearst Ave B

Date: 9/10/18

No. 6

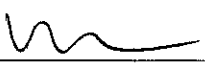
Signed: 

Name: Demo Giannopoulos

Address: 1151 Hearst Ave

Date: 9-10-18

No. 7

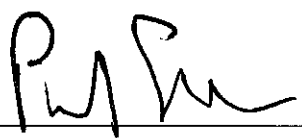
Signed: 

Name: Yashu Jiang

Address: 1163 Hearst Ave

Date: 9/10/18

No. 8

Signed: 

Name: PAUL STRAIN

Address: 1146 DELAWARE ST

Date: 9/10/18

September 10, 2018
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No. 9

Signed: Tracey Emerson

Name: Tracey Emerson

Address: 1157 Hearst Ave.

Date: 9/10/18

No. 10

Signed: Barbara Getz

Name: Barbara Getz

Address: 1146 Delaware St

Date: 09/10/18

No. 11

Signed: Bill Oies

Name: Bill Oies

Address: 1143 HEARST ave

Date: 9/10/18

No. 12

Signed: Jonathan Redden

Name: Jonathan Redden

Address: 1139 Hearst Ave apt A

Date: 9/10/18

September 10, 2018
Page ~~11~~ 9

No. 13

Signed: Blaze Woodley

Name: Blaze Woodley

Address: 1812 CURTIS STREET

Date: 9-10-18

No. 14

Signed: Madison Williams

Name: Madison Williams

Address: 1814 Curtis St

Date: 9/10/18

No. 15

Signed: Rolf Williams

Name: Rolf Williams

Address: 1814 Curtis St

Date: 9/10/18

No. 16

Signed: Alma Parris

Name: Alma Parris

Address: 1812 Curtis St.

Date: 9/10/18

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Page 10

No. 17

Signed: Stacey Shulman

Name: Stacey Shulman

Address: 1818 Curtis St.

Date: 9/10/18

No. 18

Signed: Alan Specter

Name: Alan Specter

Address: 1818 Curtis St.

Date: 9/10/18

No. 19

Signed: Damien Curry

Name: Damien Curry

Address: 1815 Curtis St

Date: 9/10/18

No. 20

Signed: Amy Billstrom

Name: Amy Billstrom

Address: 1815 Curtis St.

Date: 9/10/18

September 10, 2018
Page No 11

No. 21

Signed: A. Stukin

Name: ANIA STUKIN

Address: 1145 HEARST

Date: 9/10/2018

No. 22

Signed: MA

Name: MALGORZATA KACPRZAK

Address: 1147 HEARST AV.

Date: 9/10/2018

No. 23

Signed: Masanori Oba

Name: MASANORI OBA

Address: 1159 HEARST AV APT A, Berkeley

Date: 09/10/2018.

No. 24

Signed: Pam Ormsby

Name: Pam Ormsby

Address: 1148 Delaware St.

Date: 9/10/18

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No. 25

Signed: VijayName: VIJAY VENUGOPALAddress: 1826 CURTIS ST, BERKELEY, CA 94702Date: 9/11/18

No. 26

Signed: Joseph MichaelName: Joseph MichaelAddress: 1819 1/2 Curtis St, Berkeley, Ca. 94702Date: 9/11/18

No. 27

Signed: Sylvie WoogName: Sylvie WoogAddress: 1210 Hearst Ave.Date: Sept. 11, 2018

No. 28

Signed: Claude SpragueName: Claude SpragueAddress: 1210 Hearst AveDate: Sept 11 2018

September 10, 2018
Page 13

No. 29

Signed: Dale Ananici

Name: Dale Ananici

Address: 1819 Curt's St Berkeley 94702

Date: 9/11/18

No.

Signed: _____

Name: _____

Address: _____

Date: _____

No.

Signed: _____

Name: _____

Address: _____

Date: _____

No.

Signed: _____

Name: _____

Address: _____

Date: _____



Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION
AUGUST 23, 2018

1155-1173 Hearst Avenue

Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new dwelling units.

I. Background

A. Land Use Designations:

- General Plan: HDR – High Density Residential
- Zoning: R-2A – Restricted Multiple-Family Residential

B. Zoning Permits Required:

- Use Permit for construction of dwelling units, under BMC Section 23D.32.030
- Use Permit for the addition of a sixth or greater bedroom in existing dwellings on a parcel, under BMC 23D.32.050.A
- Administrative Use Permit to construct residential additions greater than 14' in average height, BMC Section 23D.32.070.C
- Administrative Use Permit to allow an extension of a non-conforming front and side yard, BMC Section 23C.04.070.B
- Administrative Use Permit to reduce the building separation from 8' on the first floor and 12' on the second floor to 6'-1", BMC Section 23D.32.070.D.4

C. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("In-Fill Development Projects").

D. Parties Involved:

- Applicant / Property Owner Hearst Avenue Cottages, LLC c/o Rhoades Planning Group, 46 Shattuck Square, Suite 11, Berkeley, CA 94704

Figure 1: Vicinity and Zoning Map

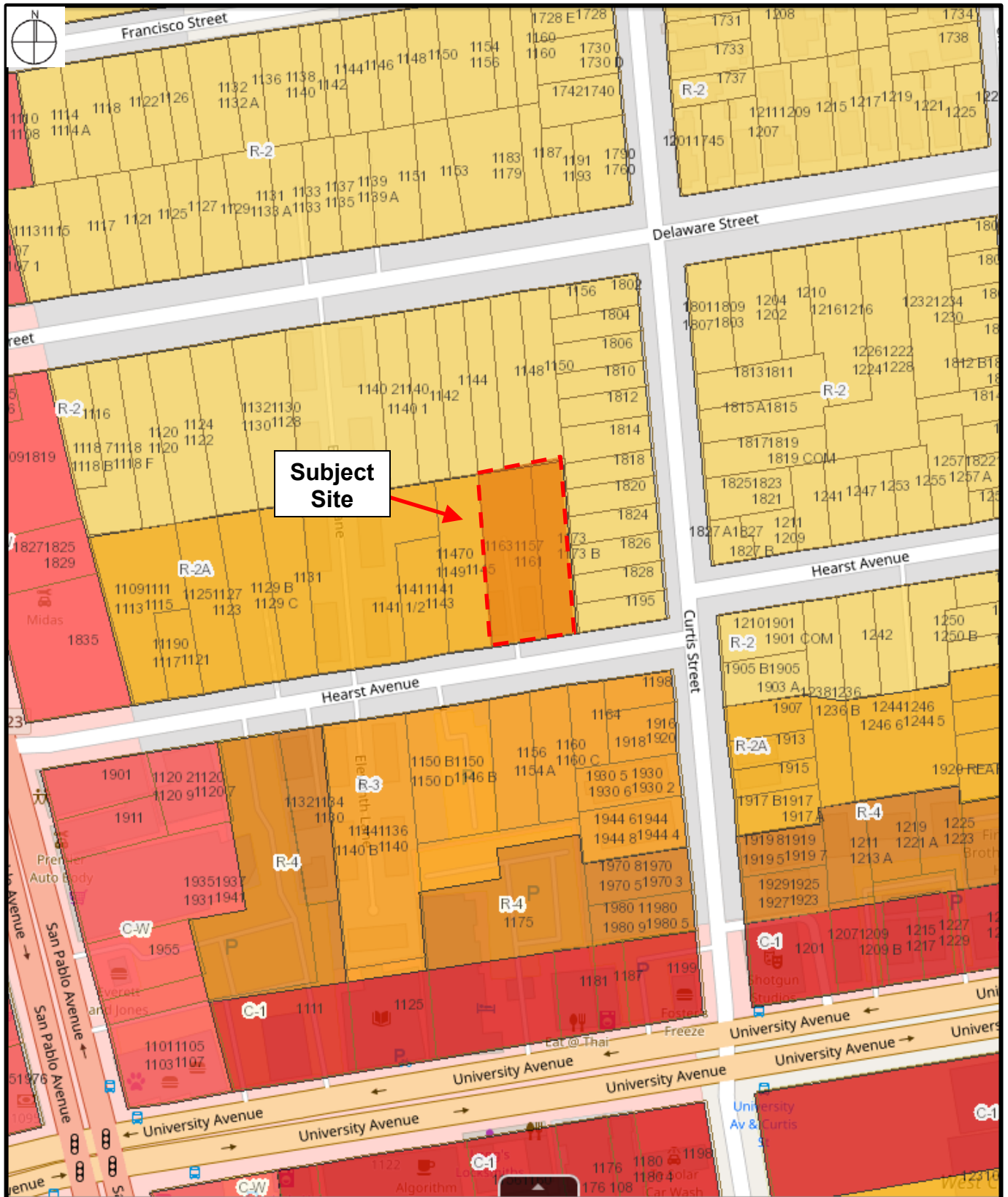


Figure 2: Proposed Site Plan

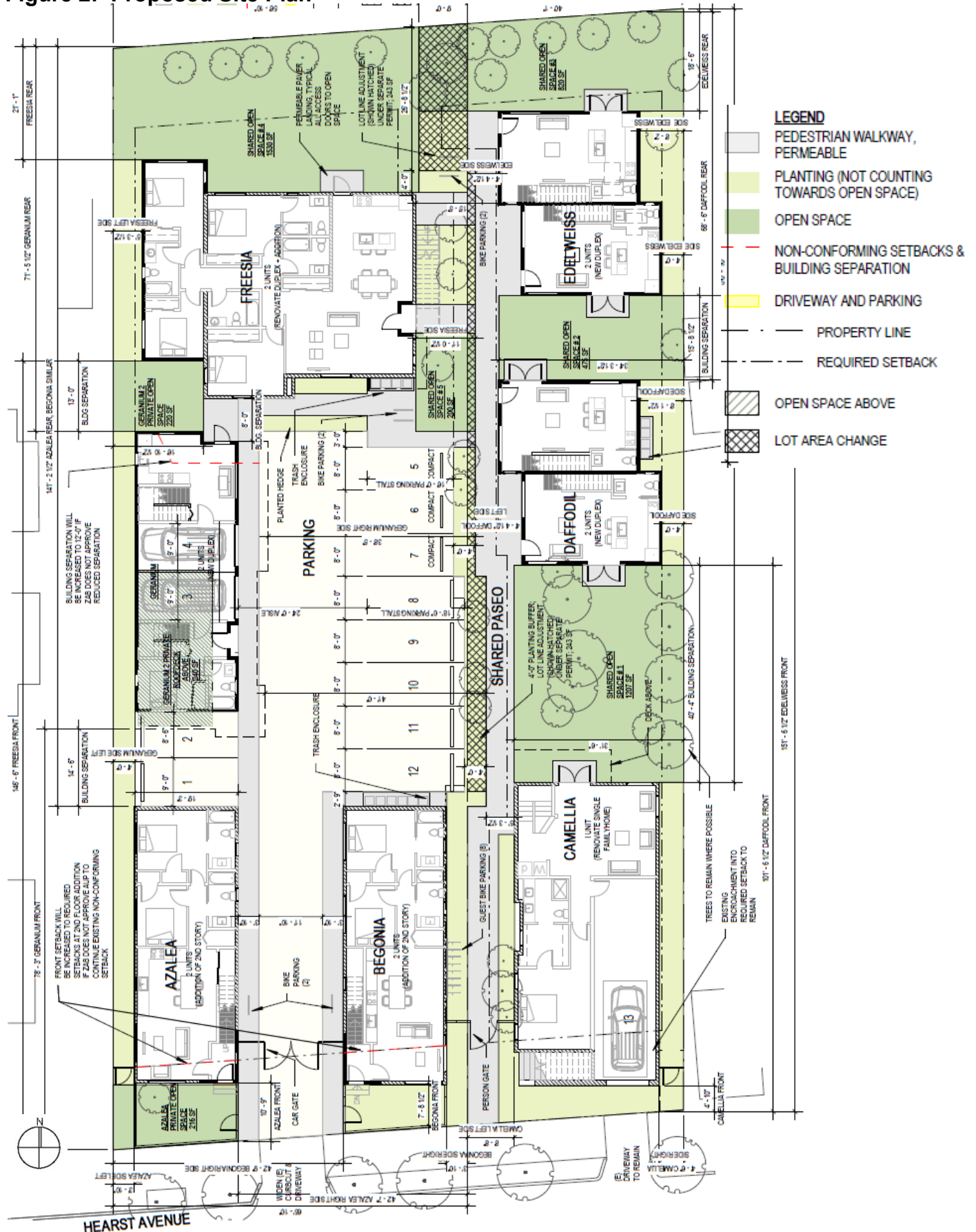


Table 1: Land Use Information

Location		Existing Use	Zoning Districts	General Plan Designations
Subject Property		three duplexes, one single family dwelling	R-2A	High Density Residential
Surrounding Properties	North	single family dwellings	R-2	Medium Density Residential
	South	multi-family dwellings	R-3	High Density Residential
	East	single family dwellings	R-2	Medium Density Residential
	West	multi-family dwelling	R-2A	High Density Residential

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care and Affordable Housing Fee for non-residential projects (Per Resolution 66,617-N.S. and 66,618-N.S.)	No	Proposed project includes 1,500 square feet of commercial space, which is less than the 7,500 square feet requirement.
Affordable Housing Mitigations for rental housing projects (Per BMC Section 22.20.065)	No	The project is not subject to the affordable housing provisions of BMC 22.20.065.
Inclusionary Housing Requirements (BMC Chapter 23C.12)	Yes	The project is subject to the inclusionary housing provisions of BMC Chapter 23C.12.
Housing Accountability Act [Gov't Code Section 65589.5.(j)]	No	Project is a "Housing development project" consisting of dwelling units only. However, there are elements which do not meet the regulatory standards of the BMC. See Section V.G.
Creeks	No	The property does not fall within a creek buffer zone. See Hydrology in Key Issues below.
Density Bonus	No	No density bonus is being proposed.
Historic Resources	No	There are no historic resources on the site.
Oak Trees	No	There are no Coast Live Oaks on or adjacent to the property.
Rent Controlled Units	Yes	The six dwelling on the western parcel are under rent control. See discussion in Key Issues below.
Seismic Hazards (SHMA)	No	Project site is not in a landslide, liquefaction or earthquake fault rupture zone.
Soil/Groundwater Contamination	No	Project site is not in an Environmental Management Area. There is no record of soil/ground water contamination on the site.

Table 3: Project Chronology

Date	Action
February 2, 2016	Application submitted
May 17, 2017	Application deemed complete
August 10, 2017	ZAB Public hearing notices mailed/posted
August 24, 2017	ZAB hearing continued item to September 28, 2017
September 28, 2017	ZAB hearing, item continued off calendar
March 6, 2018	Revised Application submitted
July 3, 2018	Revised Application deemed complete
August 8, 2018	ZAB Public hearing notices mailed/posted
August 23, 2018	ZAB hearing

Table 4: Lot Development Standards 1155-1163 Hearst (APN 057 208601400)

R-2A Standard BMC Sections 23D.32.070-080	Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)	13,469	13,469	5,000 min.
Gross Floor Area (sq. ft.)	5,300	9,665	---
Dwelling Units	6	8	8 max.
Lot Coverage (%)	32.8	38.7	40 max. for 2-story main bldg.
Usable Open Space (sq. ft.)	2,560	2,409	300 per d.u. 2,400 min.
Automobile Parking	6	12	8 (@ 1 per d.u.)

Table 5: Lot Development Standards 1173 Hearst (APN 057 208601300)

R-2A Standard BMC Sections 23D.32.070-080	Existing	Proposed	Permitted/ Required
Lot Area (sq. ft.)	8,204	8,204	5,000 min.
Gross Floor Area (sq. ft.)	3,323	6,042	---
Dwelling Units	1	5	5 max.
Lot Coverage (%)	17.5	39.9	40 max. for 2-story main bldg.
Usable Open Space (sq. ft.)	5,599	2,502	300 per d.u. 2,400 min.
Automobile Parking	1	1	5 (@ 1 per d.u.)

Table 6: Building Development Standards

AZALEA 1555-57 HEARST AVE.	Existing	Proposed	Permitted/Required
Building Height (#) Stories	1	2	3 max.
Average (ft.)	12'-11"	21'-6"	28 max. (35 w/AUP)
Maximum (ft.)	12'-11"	22'-10.5"	n/a
Font Yard Setback (ft.)	10'-6"	no change	15 min.
Left (ft.)	3'-10"	no change	4 min. @ 1 st & 2 nd story
Right (ft.)	42'-7"	no change	
Rear yard setback (ft.)	141'-2.5"	no change	15 min.
BEGONIA 1161-63 HEARST AVE.	Existing	Proposed	Permitted/Required
Building Height (#) Stories	1	2	3 max.
Average (ft.)	12'-11"	21'-9"	28 max. (35 w/AUP)
Maximum (ft.)	12'-11"	23'-4.5"	n/a
Font Yard Setback (ft.)	7'-8.5"	no change	15 min.
Left (ft.)	42'-9"	no change	4 min. @ 1 st & 2 nd story
Right (ft.)	3'-10"	no change	
Rear yard setback (ft.)	145'-2"	141'-8"	15 min.
CAMELLIA 1173 HEARST AVE.	Existing	Proposed	Permitted/Required
Building Height (#) Stories	2	no change	33 max.
Average (ft.)	21'	21'-3.5"	28 max. (35 w/AUP)
Maximum (ft.)	23'-6"	no change	n/a
Font Yard Setback (ft.)	11' to House 4'-10" to Stair	no change	15 min.
Left (ft.)	8'-8"	5'-3.5"	4 min. @ 1 st & 2 nd story
Right (ft.)	4'-6"	no change	
Rear yard setback (ft.)	143'-8"	no change	15 min.
DAFFODIL	Existing	Proposed	Permitted/Required
Building Height (#) Stories	N/A	2	3 max.
Average (ft.)	N/A	21'-5"	28 max. (35 w/AUP)
Maximum (ft.)	N/A	23'-4.5"	n/a
Font Yard Setback (ft.)	N/A	101'-6.5"	15 min.
Left (ft.)	N/A	4'-4.5"	4 min. @ 1 st & 2 nd story
Right (ft.)	N/A	4'	
Rear yard setback (ft.)	N/A	68'-6"	15 min.

EDELWEISS	Existing	Proposed	Permitted/Required
Building Height (#) Stories	N/A	2	3 max.
Average (ft.)	N/A	24'-6"	28 max. (35 w/AUP)
Maximum (ft.)	N/A	24'-6"	n/a
Font Yard Setback (ft.)	N/A	151'-6.5"	15 min.
Left (ft.)	N/A	4'-4.5"	4 min. @ 1 st & 2 nd story
Right (ft.)	N/A	4'	
Rear yard setback (ft.)	N/A	16'-8"	15 min.
FREESIA 1159 A & B HEARST AVE.	Existing	Proposed	Permitted/Required
Building Height (#) Stories	2	2	3 max.
Average (ft.)	19'-1"	20'	28 max. (35 w/AUP)
Maximum (ft.)	19'-9"	20'-6"	n/a
Font Yard Setback (ft.)	136'-11"	no change	15 min.
Left (ft.)	16'-11"	5'-3.5"	4 min. @ 1 st & 2 nd story
Right (ft.)	10'-6"	11'-0.5"	
Rear yard setback (ft.)	27'-10"	21'-1"	15 min.
GERANIUM	Existing	Proposed	Permitted/Required
Building Height (#) Stories	N/A	2 + roof patio	3 max.
Average (ft.)	N/A	23'-6"	28 max. (35 w/AUP)
Maximum (ft.)	N/A	28'	n/a
Font Yard Setback (ft.)	N/A	78'-3"	15 min.
Left (ft.)	N/A	4'	4 min. @ 1 st & 2 nd story
Right (ft.)	N/A	38'-5"	
Rear yard setback (ft.)	N/A	71'-5.5"	15 min.

II. Project Setting

A. Neighborhood/Area Description: The property is located in a West Berkeley neighborhood; University Avenue is located one block to the south and San Pablo Avenue (State Highway 123) is located one block to the west. The neighborhood consists predominantly of modest one- to two-story single and multi-family dwellings, with a few three- and four-story structures located towards the west/San Pablo Avenue. As can be seen from the Vicinity Map in Figure 1 above, the neighborhood is comprised by a mix of zoning districts ranging in residential density from R-2, R-2A, R-3 and R-4, with the neighboring commercial C-1 and C-W Districts to the south and west. The neighborhood is in close proximity to several bus transit lines, commercial businesses, and the West Berkeley library.

B. Site Conditions: The site consists of two separate parcels located on the north side of Hearst Avenue on the block bound by San Pablo Avenue to the west and Curtis Street to the east. The parcel to the west (1155-63 Hearst, APN 057 208601400) is a 66' x 204.58' slight parallelogram shaped lot with one two-story duplex towards the

rear of the lot and two single-story duplexes situated towards the front of the lot, separated by a paved parking area. The parcel to the east (1173 Hearst, APN 057 208601300) is narrower ($\approx 40' \times 204'$) and is developed with a two story single family dwelling with an attached tandem car garage. The single family dwelling is currently vacant; the six units in the duplexes are occupied by renters.

III. Project Description

The project proposes to rehabilitate the seven existing dwelling units (three duplexes and one single-family dwelling) and add three two-story duplexes as a common interest development (i.e. condominiums) for a total of seven buildings and 13 dwellings as configured in Table 7 below.

Table 7: Existing and Proposed Buildings and Dwellings

Building	Unit #	Unit Type		Unit Gross Floor Area	
		Existing	Proposed	Existing	Proposed
Azalea	A1	1 Bed, 1 Bath	2 Bed, 2 Bath	499	995
Azalea	A2	1 Bed, 1 Bath	2 Bed, 2 Bath	496	995
Begonia	B1	1 Bed, 1 Bath	2 Bed, 2 Bath	499	995
Begonia	B2	1 Bed, 1 Bath	2 Bed, 2 Bath	496	995
Camelia	C	2 Bed, 1.5 Bath	3 Bed, 2 Bath	2,293*	2,293*
Daffodil	D1	n/a	2 Bed, 1.5 Bath	n/a	940
Daffodil	D2	n/a	2 Bed, 1.5 Bath	n/a	883
Edelweiss	E1	n/a	2 Bed, 1.5 Bath	n/a	940
Edelweiss	E2	n/a	2 Bed, 1.5 Bath	n/a	883
Freesia	F1	2 Bed, 1 Bath	4 Bed, 4 Bath	1,372	1,837
Freesia	F2	2 Bed, 1 Bath	4 Bed, 4 Bath	1,372	1,877
Geranium	G1	n/a	2 Bed, 2 Bath	n/a	1,001*
Geranium	G2	n/a	2 Bed, 2 Bath	n/a	966*

*Does not include garage area

The applicant revised the project in response to comments received by the ZAB in September 2017. The main project revisions are summarized below:

- The overall project unit count was reduced from 18 units to 13; there is no Density Bonus request.
- The two parcels would not be merged. 1157 Hearst and 1173 Hearst would remain as separate parcels. However, to accommodate the required four-foot side yard landscape screening for uncovered parking, the project proposed a lot line adjustment that would provide for this while retaining the net square footage of each lot. An access agreement for parking will be provided for the units in Daffodil and Edelweiss.

- All three story elements have been removed; all buildings are proposed with two stories and a maximum height of 28 feet (Geranium).
- All current residents can remain in their homes for as long as they wish, with rehabilitation and/or sale of condominium units occurring only when current residents voluntarily vacate, subject to BMC Section 13.76 and the Berkeley Rent Stabilization Board regulations.
- Azalea and Begonia, the two existing duplexes on the 1157 Hearst parcel, would be renovated into two-flat duplexes with front entries (after existing residents voluntarily vacate).
- Camelia, the single family home on the 1173 parcel, would be renovated (instead of demolished) within the existing footprint, with the addition of a back deck.
- Daffodil and Edelweiss, the two new duplexes at the rear yard of the 1173 parcel, have been located further back in the yard and have been slightly reduced in size. The rooflines have been adjusted to provide a more residential-scale feature.
- Freesia, the existing duplex at the rear of the 1157 Hearst parcel, would be renovated within its existing footprint and would also have an addition of two bedrooms to create large, family-friendly units with a large back yard (after existing residents voluntarily vacate).
- Geranium, a new duplex, was moved from the east side along the paseo, to the west side, to create a larger central space.
- Parking is now located internal to the development and is accessed from the paseo. A total of 13 spaces would be provided, one per unit.
- All units now feature a complementary color and materials palette of deep blues, browns and whites in siding and cement plaster. Bay windows are design features in almost every unit.
- A total of 4,911 square feet of Useable Open Space would be provided and a minimum of 13 secure bicycle parking spaces.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the City, the applicant erected a yellow pre-application poster at the site. The project team has held numerous meetings with neighbors, including a large community meeting. A series of meetings has been held with individual neighbors to the north and the east of the project site to address issues of massing, parking, and hydrology. The proposed site plan responds to those meetings and issues.

The large community meeting was held on November 30, 2015. Prior to the meeting, notices were sent to all property owners and occupants within 300 feet of the site based on a list of addresses provided by the City of Berkeley. The meeting was held in the driveway at the project site. About 25 area residents stopped by the site during the meeting time. To each of these neighbors, the project applicant and the architect presented the project. Draft floor plans and renderings were posted for attendees to view and the project team answered questions and discussed the proposal with the attendees. The sign in sheet and flier that was mailed are included in this application. A couple of neighbors expressed enthusiasm about the redevelopment of this

historically troublesome property. Other neighbors expressed concerns about massing and parking. A second community meeting was held on August 3, 2017 at 1173 Hearst Avenue to provide a project status and process update to the neighbors. Subsequent to the feedback received at the September 28, 2017 Zoning Adjustments Board Meeting, a third neighborhood meeting was held on November 15, 2017 at the Berkeley Public Library West Branch to present the revised 13 unit project. About 14 people attended the meeting and the proposed revisions, such as reduction in unit count and building heights, were well received by the neighbors. Some neighbors still have concerns primarily regarding hydrology and existing tenants. All correspondence received since the September 28 ZAB meeting can be found in Attachment 7.

On August 8, 2017, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations.

B. Committee Review: This project is not subject to committee review.

V. Issues and Analysis

A. Housing Accountability Act Analysis: The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density;¹ and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The following elements of the project do not comply with the objective general plan and zoning standards:

- Vertical extension of existing non-conforming front and side yard setbacks (for Azalea and Begonia);
- Reduction of the building to building separation (between Geranium and Freesia);
- Construct an addition greater than 14 feet in average height (for Azalea, Begonia, and Geranium); and
- Add a fifth or greater bedroom to existing dwellings on a parcel (in Azalea, Begonia and Geranium).

Therefore, §65589.5(j) does not apply to this project as proposed.

B. District Purposes: The proposed project would meet the purposes of the Restricted Multiple-family Residential District as it would provide smaller multiple-family garden-type apartment structures with the maximum feasible amount of useable open space

¹ As used in the Act, a "specific, adverse impact" means a "significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.

on the property. The buildings would be constructed with sufficient separation on the subject lot, and with ample distance with abutting single-family neighbors. Light and air, therefore, would not be unreasonably obstructed, as described in greater detail below.

- C. Tenant Protections:** As of the writing of this staff report, the single-family dwelling is vacant and all six rent controlled units have existing tenants that have been there since the before the date of application. The applicant has met with the tenants on several occasions and informed them that the development plan is to construct the new buildings first and leave the existing units as they are until such time that the owners decide to renovate and add on to the existing buildings. The applicant has stated that the existing rental units would remain as rent controlled rental units after renovation and as would be required for units constructed prior to 1985. The applicant has committed to providing notice in advance of the City's noticing requirements both before construction commences on the new buildings as well as before tenants might be relocated for construction on their units (see Condition of Approval 15, below), and has confirmed that all tenants would be relocated voluntarily or temporarily as provided for in Condition of Approval 12 below, as recommended by the Rent Control Board (see RSB Memorandum in Attachment 5).

12. Tenant Relocation. *Prior to building permit issuance for any interior improvements, renovations or addition to the three existing duplexes (1955-57 Hearst, 1959 A & B Hearst, 1961-63 Hearst) the property owner shall provide proof that all tenants have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for relocation.*

15. Construction Noise Management - Public Notice Required. *At least thirty calendar days prior to initiating any construction activities at the site, the applicant shall provide notice to existing residents on the project site, including (1) description of construction activities, (2) daily construction schedule (i.e., time of day) and expected duration (number of months), (3) the name and phone number of the Noise Management Individual for the project, and (4) designate a "construction liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.*

The applicant has mentioned that the owner may wish to convert the existing units to condominiums but has stated that similar to rehabilitation, condominium conversion of existing units would only occur when current residents voluntarily vacate. Staff is not proposing a condition of approval related to condominium conversion, as if it were to occur during occupancy, tenants are protected under BMC 21.28, which states that tenants have the right to continue to occupy the unit as their principal residence both during and after the completion of the conversion process. Neither the current owner nor the new owner, if the unit is sold, can evict the tenant as long as the unit remains the tenant's principal place of residence and remain a tenant in good standing. In addition, the units will stay under rent control.

D. Creek/Hydrology: As discussed in the ZAB staff report of September 2017, although the creek ordinance does not apply to this application, there is recurrent flooding in the area. The applicant submitted a stormwater and flooding assessment and mitigation design for the proposed project prepared by Clearwater Hydrology. The storm drainage system design proposed and analyzed would still be applicable to the reduced intensity and density of the current project. Balance Hydrologics peer reviewed the hydrology analysis for the City and concurred with the findings in the report. The hydrology report summarized that, the capacity of the system would likely be greater than that of a 25-yr. storm and that the proposed design would also reduce the severity of flooding on the neighboring properties to the east along Curtis Street. Staff has conditioned the project to include all recommendations of the hydrology analysis and the subsequent peer review including the drainage design as presented in the report, allowing modifications if required by the City's Building & Safety Division and Department of Public Works. A copy of the hydrology report and peer review can be found on the project webpage:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1155-1173_Hearst.aspx

A neighbor submitted a separate hydrology study from Terraphase Engineering and discussed its conclusions with the City's Associate Civil Engineer, Vincent Chen, who reviews developments requiring creek permits. Mr. Chen did not concur with several of Terraphase Engineering conclusions, but did express his belief that a soils report (i.e. geotechnical report) be prepared for the project (see correspondence in Attachment 6). This project, however, is not required to provide a geotechnical report as it is not located in the Earthquake Fault Rupture (Alquist-Priolo) Zone or within a Landslide or Liquefaction Zone as identified by the Seismic Hazards Mapping Act. If a geotechnical report is to be required prior to issuance of a building permit, it would be upon assessment of the Building Official, where the classification, strength or compressibility of the soil is in doubt or where a load-bearing value superior to that specified in this CBC is claimed (CBC 1803.5.2).

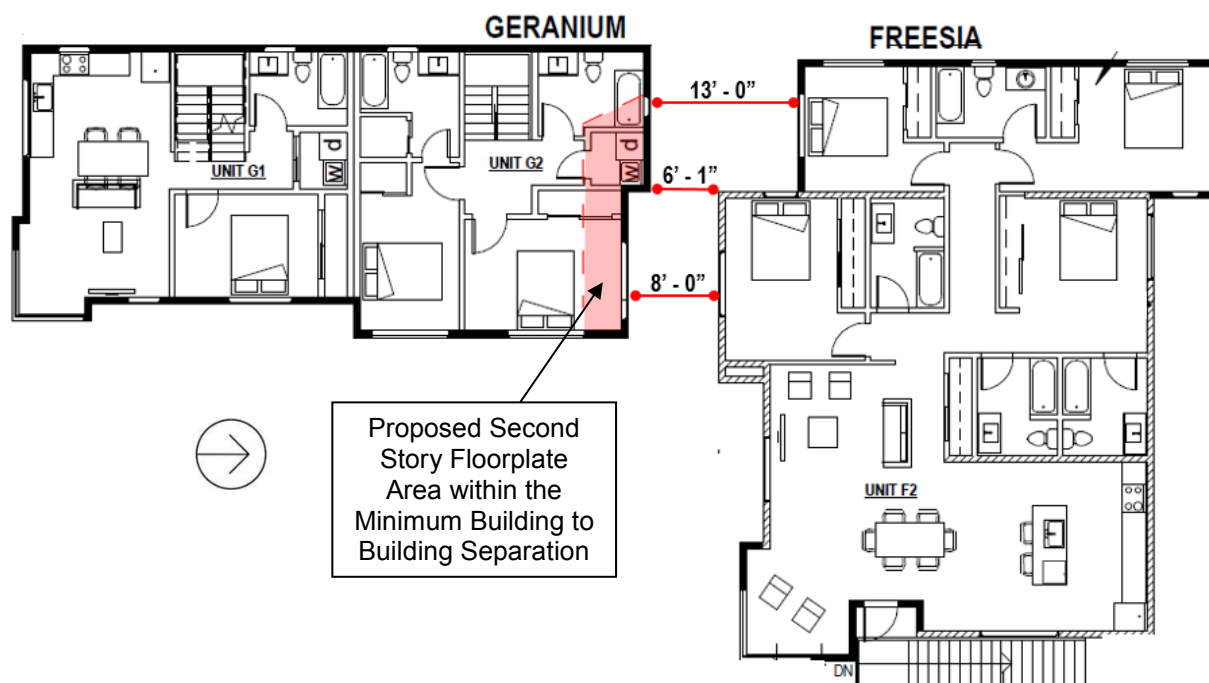
E. Sunlight/Shadows: The project would result in three new two-story buildings and second stories on three existing one-story buildings. As such, it would create greater shadowing impacts compared to existing conditions. The applicant has submitted the required shadow studies to assess the anticipated impacts of the project.

The shadow studies illustrate that the four dwellings on the abutting property to the west (1145-1151 Hearst Avenue), would be the most impacted by new shadows in the morning hours throughout the year. The six abutting properties fronting Curtis Street (1195 Hearst Avenue and 1818-1828 Curtis Street), would be subject to new shadows during the evening hours throughout the year. However, due to the orientation of the Curtis Street neighbors, the majority of new shading will fall on the rear yard areas of these abutting properties. Only during the spring and fall would the shadows reach the windows on the rear facades of these homes, and only during the evening hours.

Although shadow impacts from the project are expected to affect direct sunlight on certain residential windows, these areas would still experience indirect lighting during these hours, as well as have direct light from other windows. At no time of year would

the proposed project cause adjacent properties to lose access to direct sunlight from all windows at any time of the year. Such shading impacts are to be expected from infill development within an urbanized area.

- F. **Views**: Based on the proposed two-story heights of the buildings, the existing structures around the site, mature vegetation, and the generally flat topography of the neighborhood, the project would not affect significant views enjoyed by neighboring residents.
- G. **Vertical Extension of Non-Conforming Setbacks**: The existing duplexes Azalea (1155-57 Hearst) and Begonia (1161-63 Hearst) are both 995-square-foot, one-story duplexes constructed with non-conforming front yard setbacks (10'-9" and 7'-8.5" respectively, where 15' minimum is the District standard) and non-conforming side yard setbacks (3'-10" left side for Azalea, and 3'-10" right side for Begonia, where a minimum of 4' is the District standard). The project involves renovation and construction of a second story addition that would vertically extend the existing non-conforming setbacks and create two two-story flats. Pursuant to BMC 23C.04.070.C, the proposed vertical extensions of the non-conforming setbacks are permissible as they would not further reduce existing non-conforming yards.
- H. **Addition of Bedrooms to a Parcel**: The western parcel (1155-1163 Hearst) is developed with three duplexes that have a total of eight bedrooms (four one-bedroom units and two two-bedroom units). The project proposes renovations and additions to the three buildings that would result in the addition of eight more bedrooms to the existing dwelling units on the property. Pursuant to BMC Section 23D.32.050, the addition of any bedroom beyond the fifth bedroom to a parcel within in existing dwelling units requires Use Permit approval. The Bedroom Ordinance, as it is referred to, allows the City to assess the potential detriment to the surrounding neighborhood in increasing the potential of unrelated adults residing on a parcel. The project, when completed, would change the existing configuration of the duplexes to four two-bedroom dwelling units and two four-bedroom dwelling units. Both the two-unit layout and the four-unit layout are designed to be occupied by single households within a development of six other newly constructed two-bedroom units. The renovated dwellings are designed to provide for a range of family composition and is not expected to lead to formation of a mini-dorm.
- I. **Reduction in Building to Building Separation**: Pursuant to BMC 23D.070.D.4 the project is requesting Administrative Use Permit approval to reduce the building to building separation between Freesia and Geranium from the District minimum of 8' on the first floor and 12' on the second floor down to 6'-1". As can be seen in Figure 3 below, although the building to building separation is 6' – 1", this minimum distance is only at one horizontal plane between the buildings; otherwise the separation ranges from 8 feet to 13 feet. Staff believes that as proposed, the building separation provides adequate air and light between the buildings. With the proposed added condition that the north facing window of the northeast bedroom in Geranium be a minimum of 68 inches from finished floor level, privacy between residents of the two opposing units would be ensured.

Figure 3: Second Floor Building to Building Separation: Geranium and Freesia

J. General Non-Detriment: The project would further not be detrimental to the neighborhood as it would be subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.

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

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. 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.
3. 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.

4. 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.

Staff Analysis: The project's proposed massing contributes to the continued evolution of the City's development landscape. The project design was modified in several ways (see Project Description above) to respect the lower density single-family dwellings fronting Curtis Street. The final development plan would renovate and rehabilitate the existing dwellings to match the style and materials of the new construction for a cohesive street presence that fits well with the surrounding mix of architectural styles

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

Staff Analysis: Shadow impacts from the project are expected to affect direct sunlight on certain residential windows. However, these areas would still experience indirect lighting during these hours, as well as have direct light from other windows. At no time of year would the proposed project cause adjacent properties to lose access to direct sunlight from all the windows throughout the whole day at any time of the year. Such shading impacts are to be expected in an infill urbanized area.

6. Policy LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

7. Policy H-12 Transit-Oriented New Construction: Encourage construction of new medium and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

8. Policy T-16 Access by Proximity, Action B: Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.

Staff Analysis: The project site is located one block east of San Pablo Avenue and one block north of University Avenue, two major transit thoroughfares. The project would add six residential units located within one quarter mile of the San Pablo/University intersection that is served by the following AC Transit bus lines: 72 Rapid, 49, 51B, 52, FS, G, 72, 72M, 800 and 802.

9. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City's share of regional housing needs.

Staff Analysis: The project will add six new housing units to the City's housing stock and will comply with the City's Inclusionary Ordinance by either providing one below market rate unit for a Low Income Household and payment into the

Affordable Housing Trust Fund of the remainder 0.2 unit fee, or payment of the in-lieu fee.

10. Policy H-8–Maintain Housing: Maintain and preserve the existing supply of housing in the City.

Staff Analysis: Upon vacancy of the existing buildings, the project will rehabilitate and upgrade the existing seven dwelling units.

11. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

12. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project proposes a score of 133 on the GreenPoint Rated Checklist, New Home Multifamily Checklist with a Gold certification level.

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 Use Permit ZP2016-0028 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, dated June 8, 2018
3. Shadow Studies, dated April 18, 2018
4. Notice of Public Hearing
5. Memorandum from the Rent Stabilization Board, dated July 3, 2018
6. Stormwater and Flooding Assessment Correspondence (Hydrology Assessments and Peer Review available online:
https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1155-1173_Hearst.aspx)
7. Correspondence Received after September 28, 2017 ZAB meeting

Staff Planner: Leslie Mendez, LMendez@cityofberkeley.info, (510) 981-7426



Administrative Record
ZAB Appeal:
1155-1173 Hearst Ave.

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley, City Council's Web site
<http://www.cityofberkeley.info/citycouncil/>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,
1231 ADDISON STREET**

ZAB APPEAL: USE PERMIT #ZP 2016-0028, 1155-73 HEARST STREET

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JANUARY 29, 2019 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Use Permit #2016-0028, to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **January 17, 2019**

For further information, please contact Leslie Mendez, Project Planner at (510) 981-7426. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council 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 the City Council, 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 City Clerk. 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 City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mark Numainville, City Clerk

Mailed: January 15, 2019

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above 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 City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.