



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

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FOR BOARD ACTION  
JANUARY 12, 2023

## 573 Santa Rosa Avenue

**Use Permit #ZP2022-0094 to construct a third-story major residential addition exceeding 14 feet in average height and 20 feet in maximum height, add a seventh bedroom, and convert an existing detached garage to a habitable accessory building.**

### I. Background

#### A. Land Use Designations:

- General Plan: Low-Density Residential
- Zoning: R-1H Single Family Residential in the Hillside Overlay

#### B. Zoning Permits Required:

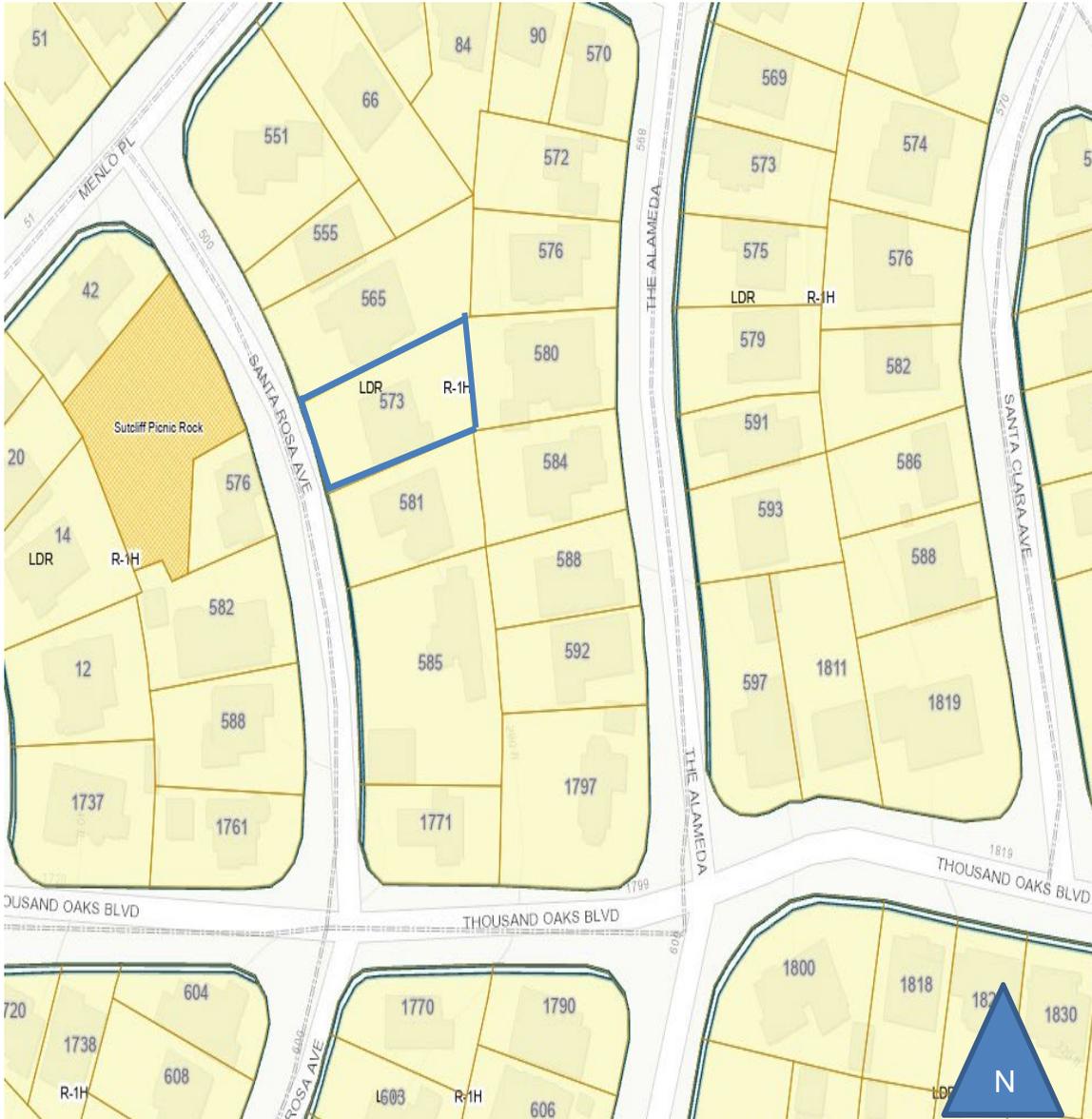
- Use Permit per Berkeley Municipal Code (BMC) Section [23.202.030\(B\)](#) to add a bedroom to the lot beyond the fifth
- Administrative Use Permit per BMC Section [23.202.030\(A\)\(1\)](#) for major a residential addition
- Administrative Use Permit per BMC Section 23.202.050(D) for an addition over 14 feet in average height
- Administrative Use Permit per BMC Section [23.210.020\(C\)\(2\)\(a\)](#) for an addition over 20 feet in maximum height in the Hillside Overlay
- Administrative Use Permit per BMC Section [23.304.060\(C\)\(1\)](#) to convert an existing garage to an accessory building

**C. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines (existing facilities). The determination is made by ZAB.

#### D. Parties Involved:

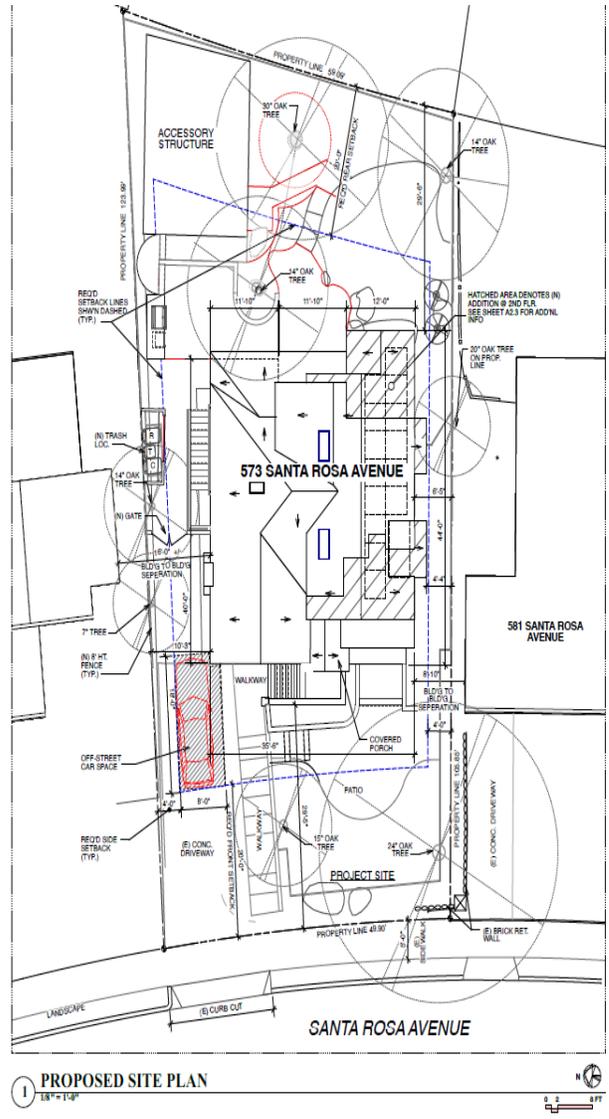
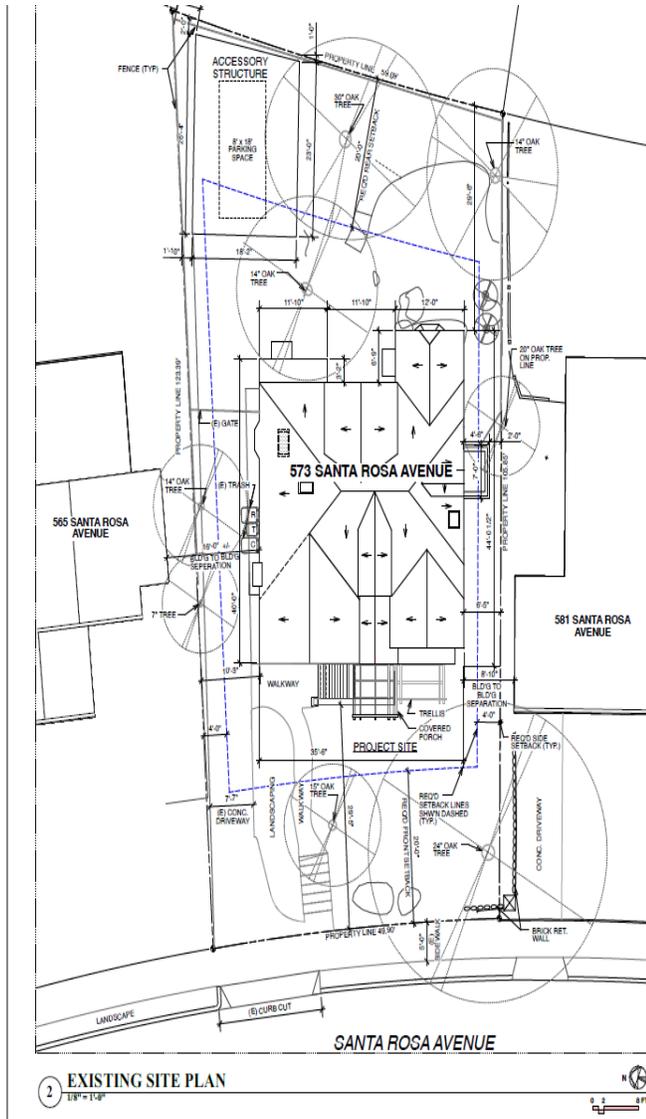
- Applicant Mark Topetcher, 828 Divisadero Street, San Francisco
- Property Owner Kathleen Garrity and David Cleary, 573 Santa Rosa Avenue, Berkeley

Figure 1: Vicinity Map



R-1H Single-Family Residential Zoning District, Hillside Overlay

Figure 2: Site Plan



**Table 1: Land Use Information**

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

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net new nonresidential floor area over 7,500 square feet. The proposed project is a single-family addition and is not subject to this requirement.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	These ordinances do not apply to this application which is a residential development of less than five units.
Density Bonus	No	This project is not requesting a density bonus.
Housing Accountability Act (Gov't Code Section 65589.5(j))	No	The project is an addition to a single-family dwelling and does not include any new dwelling units, therefore, it is not a "housing development project <sup>1</sup> " and the Housing Accountability Act does not apply.
Housing Crisis Act of 2019 (SB330)	No	The project is an addition to a single-family dwelling and does not include any new dwelling units, therefore, it is not a "housing development project <sup>2</sup> " therefore SB330 does not apply.
Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is not a new development or dwelling and therefore, not subject to the natural gas prohibition.
Oak  Trees	Yes	There are 8 Coast Live Oaks in total located on the parcel. 6 of the 8 Coast Live Oak Trees are within the development envelope. An arborist reported submitted by the applicant was reviewed by City Arborist, Darya Barar. Darya Barra issued a memo on November 1, 2022 recommending the removal of one Coast Live Oak in declining health and outlined mitigation measures for preserving the remaining Coast

<sup>1</sup> Government Code Section 65589.5(h)(2) "Housing development project" means a use consisting of any of the following: (A) residential units only, (B) mixed-use developments consisting of residential and nonresidential uses in which at least two-thirds of the square footage is designated for residential use, and (C) transitional or supportive housing.

<sup>2</sup> See footnote 1

		Live Oaks in good health. These measures have been added as condition of this permit.
Residential Preferred Parking (RPP)	No	The neighborhood surrounding the subject site is not located in an RPP Zone.
Seismic Hazards (SHMA)	No	The project site is not located within an area susceptible to liquefaction as shown on the State Seismic Hazard Map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites), and not located within the City's Environmental Management Area. Standard Toxics Conditions of Approval apply.
Transit	Yes	There are two AC Transit bus stops within a half-mile distance from the residence, the 79 and the G. The #79 bus line provides service to Rockridge Bart while the G provides service to San Francisco.

Date	Action
July 8, 2022	Application submitted
October 20, 2022	Application deemed complete
December 22, 2022	Public hearing notices mailed/posted
January 13, 2023	ZAB hearing

**Table 4: Development Standards**

Standard		Existing	Addition/ (Reduction)	Proposed Total	Permitted/ Required
BMC Sections 23.202.050(D) and 23.210.020(C)(2)					
Lot Area (sq. ft.)		6,141	No change	6,141	5,000
Gross Floor Area (sq. ft.)		2,348	1,328	3,676	max
Dwelling Units		1	No change	1	1
Building Height	Average (ft.)	21'-4"	3'-6"	25'-3'	35'-0"
	Maximum (ft.)	25'-4"	2'-6"	28'-0"	35'-0"
Building Setbacks (ft.)	Stories	3	No change	3	3
	Front	29'-5"	No change	29'-5"	20'-0"
	Rear	29'-6"	No change	29'-6"	20'-0"
Lot Coverage (%) Usable Open Space (sq. ft.)	Left Side	10'-3"	No change	10'-3"	4'-0"
	Right Side	6'-5"	-2.1	4'-4"	4'-0"
	31	32	+9	40	40
	2,144	2,144	-239	1,905	400
Parking		Automobile	1	1	1

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located roughly a half-block from Thousand Oaks Boulevard to the south and a half-block to the north of Menlo Place, in a low-density residential neighborhood comprised of two-to three-story, single-family dwellings on large sloping lots. Santa Rosa Avenue slopes slightly uphill towards the northeast. Due to the minimal increase in grade upwards from south to north, houses on this block do not have access to views of the Berkeley Hills or Golden Gate Bridge.

**Site Conditions:** 573 Santa Rosa Avenue is a rectangular, 6,141 square-foot, interior uphill sloping lot with an east-west orientation. The property is screened by several large Coast Live Oak trees and mature vegetation on the northern and southern property lines. There is a 414 square-foot accessory structure, 7 feet, 11 inches in height, located on the northeastern property line, and contains one off-street parking space.

## III. Project Description

The proposed project is a major residential addition of 1,328 square feet that includes excavation of the crawl space to expand the habitable basement and an addition to the third floor. The addition is located outside of all required setbacks. A dormer will be removed from the third floor, where the roof line will be reconfigured to accommodate an expansion of the second floor to add a primary bedroom and bath. The average height will increase by approximately 4 feet, and the maximum height will increase by approximately 3 feet so that it is 28 feet. The third-floor balcony will be removed from the southern elevation, a dormer will be added on the left-hand side of the façade, and the number of openings will increase from eight to 11. In addition, the accessory structure currently being used as a garage will be converted to a habitable structure that will serve as a gym and extra storage space for the main dwelling unit. Parking will be relocated to the northwest of the structure, outside the front setback. The project will result in seven rooms that meet the definition of a bedroom (23.502.020(B))<sup>3</sup>, three of which are the result of additions to the structure and one located within the converted accessory building.

## IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application, a pre-application poster was erected by the applicant on July 8, 2022. On December 22, 2022, the City mailed public hearing notices to property owners and occupants within a 300-foot radius of the project site, and to interested neighborhood organizations. The City also posted notices within the neighborhood in three locations. At the time of writing this report, staff has received two letters regarding the review timeline, but no communications in opposition or in support of the project. (Attachment 5).

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<sup>3</sup>*Bedroom.* Any habitable space in a dwelling unit or habitable accessory structure other than a kitchen or living room that is intended for or capable of being used for sleeping with a door that closes the room off from other common space such as living and kitchen areas that is at least 70 square feet in area, exclusive of closets and other appurtenant space, and meets Building Code standards for egress, light and ventilation. A room identified as a den, library, study, loft, dining room, or other extra room that satisfies this definition will be considered a bedroom for the purposes of applying this requirement. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

- B. Committee Review:** This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because it is not located in a commercial or manufacturing district, and does not involve the demolition of a non-residential building.

## V. Issues and Analysis

**A. Major Residential Addition Findings.** Pursuant to BMC 23.202.030(A)(2) (Basis for AUP Decision), ZAB must find that the proposed major residential addition would not unreasonably obstruct sunlight, air, or views.

1. **Sunlight:** Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. The studies show that the addition will create an incremental increase in shadows to the northern side of the property itself and will not result in a significant loss of direct sunlight on abutting residences. It will not unreasonably obstruct sunlight.
2. **Air:** The addition is found to be consistent with the existing development and building-to-building separation pattern in this R-1H neighborhood because the addition will be outside of all required setbacks and will not exceed height or story limits. Therefore, there will be no impacts to air circulation.
3. **Views:** The addition will increase the height of the third floor by 2 feet. Two 5-foot, 6-inch sections of the second floor will extend outward on the southern façade by 2 feet, 2 inches. The increase in height and expansion of the footprint is minimal to the existing scale of the dwelling unit and those on neighboring properties. Due to the addition's location on the southern façade, and the lot's upward slope to the east, it would not block views of the Golden Gate or Berkeley Hills. Additionally, this deviation in height, allowed with an Administrative Use Permit (AUP), would not block views to neighboring properties of the Golden Gate or Berkeley Hills.

### **B. Residential Addition over 20 feet maximum height in the Hillside Overlay**

In the Hillside Overlay, an AUP to exceed the residential height limit can be approved upon the finding the project is consistent with the hillside overlay zone as stated in the BMC 23.210.020(A)(2). The proposed project would meet the following purposes of the District:

The proposed project would not change the single-family residential character of the area. Due to the steep topography of the lot, the addition is appropriately located and still affords reasonable protection of views. Furthermore, it would allow the property's development and not conflict with the principles of the district's purpose.

**C. Coast Live Oak Trees:** There are currently 8 Coast Live Oaks on the property. Two are outside of the development envelope, while the other six have the potential to be impacted by the project. One has been recommended for removal, which would require a separate permit and approval from the Parks Division and cannot be authorized through a zoning permit. The applicant would need to apply for the removal permit prior to submitting the building permit (condition #11). Tree protection measures during construction are required to preserve all of the

Oaks trees, with the exception of a tree that's been approved for removal as noted above, within the development envelope. The City's consulting arborist reviewed the arborist report and recommended that the pathways and fencing piers be as far from the impacted trees as possible, root pruning, clearance pruning, and monitoring of the tree's health throughout the project, which are included as conditions of approval (#12 and #28).

**D. General Non-Detriment Finding:** BMC Section 23.406.040(E) states that before the ZAB approves an application for a Use Permit, it must find that 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. This project will not be detrimental because:

1. The proposed addition will expand the footprint and height within limits set forth by the R1-H zoning district and is located outside of all required setbacks.
2. There are no additional findings for number of bedrooms, however, while the project increases the number of bedrooms on this parcel, they would provide more room for the existing residents within the single-family residence and would not result in an increase in density or intensity of the parcel.
3. The proposed conversion of the accessory building will remain at 7 feet, 11 inches in height. Because the accessory building will meet height and setback limits. Because the proposed addition meets development standards, no additional findings need to be made.
4. The Coast Live Oak trees would be subject to tree protection measures throughout all phases of site work and construction, as recommended by the City's consulting arborist (Conditions #11 and #28).



## VI. Other Considerations

A. 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.
5. 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 proposed development aligns with the purposes of the District and is within the scale of the existing patterns of development, and is compatible with intensity of use.

As discussed in detail previously, the proposed project would respond to these policy directives. In summary, this project would:

- While the project increases the number of bedrooms on this parcel, as defined in BMC Section 13.24.020 (Definitions), from five to seven, the addition of a seventh bedroom would provide more room for the existing residents within the single-family residence and would not result in an increase in density or intensity of the parcel;
- Adhere to the R1-H district development standards;
- Reflect the existing development context that features a mix of two- and three-story residential buildings;
- Represent a well-designed project with an architectural style that matches its residential context;

A. APPROVE ZP2022-0094 pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (Attachment 1).

**Attachments:**

1. Findings and Conditions
2. Project Plans, October 11, 2022
3. Arborist Memo Re: City Review, dated November 1, 2022
4. Notice of Public Hearing
5. Correspondence Received

**Staff Planner:** Cecelia Mariscal, [cmariscal@cityofberkeley.info](mailto:cmariscal@cityofberkeley.info), (510) 981-7439

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

JANUARY 12, 2023

### 573 Santa Rosa Avenue

**Use Permit #ZP2022-0094 to construct a third-story major residential addition exceeding 14 feet in average height and 20 feet maximum height, add a sixth and seventh bedroom to a single-family dwelling, and convert an existing detached garage to a habitable accessory building.**

#### **PERMITS REQUIRED**

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- Use Permit (UP) per Berkeley Municipal Code (BMC) [23.202.030\(B\)](#) to add a bedroom to the lot beyond the fifth;
  - Administrative Use Permit (AUP) per [23.202.030\(A\)\(1\)](#) for major a residential addition;
  - Administrative Use Permit per BMC Section 23.202.050(D) for an addition over 14 feet in average height;
  - Administrative Use Permit per BMC Section [23.210.020\(C\)\(2\)\(a\)](#) for an addition 20 feet in maximum height in the Hillside Overlay; and
  - Administrative Use Permit per BMC Section [23.304.060\(C\)\(1\)](#) to convert an existing garage to an Accessory building
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#### **I. CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (existing facilities).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### **II. FINDINGS FOR APPROVAL**

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1. As required by Section 23.406.040(E) of the BMC, 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:

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- A. The proposed project maintains conformance to the to the Single-Family Residential District in the Hillside Overlay (R1-H) district standards (BMC Section 23.202.050(D) and (BMC Section 23.210.020(C)(2)). The residential addition will be outside of setbacks and is within the allowable height.
  - B. The project will result in a total of seven bedrooms on the lot, and will provide more room for the existing residents within the single-family residence and would not result in an increase in density or intensity of the parcel and will not be detrimental.
  - C. The Coast Live Oak trees are subject to tree protection measures throughout all phases of site work and construction, as recommended by the City's consulting arborist.
  - D. Adding a bedroom beyond the fifth, converting an accessory structure to an accessory building, and constructing a major residential addition that exceeds 14 feet in average height and 20 feet maximum height in the Hillside Overlay, is allowed with a use permit and therefore, this project would not be detrimental.
2. Pursuant to BMC Section 23.202.030(A)(2), Basis for Decision, the major residential addition will not unreasonably obstruct sunlight air, or views because the addition is increasing the average and maximum height within allowable height limits for the R1-H and is outside of all required setbacks. The addition will not unreasonably obstruct sunlight, air, or views.
  3. Pursuant to BMC Section 23.210.020.C(2) (Development Standards), the addition over 20 feet maximum in height in the Hillside Overlay District is permissible as the addition is consistent with the purposes of the H District, including protecting the character of Berkeley's hill Districts and their immediate environs, and giving reasonable protection to views while allowing appropriate development of all property, as this addition on the lower level of the house would not expand the footprint, and would not create any new impacts to views from surrounding properties.

### 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. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

#### 3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

#### 4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

#### 5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

**Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)**

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

**7. Permit Modifications (BMC Section 23.404.070)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

**8. Permit Revocation (BMC Section 23.404.080)**

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

**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.



b. Branches extending into the work area that can remain shall be tied back. Where construction will occur close to trees, install temporary branch protection devices such as winding silt sock wattle around the branch.

**13. Geotechnical Measures**-All measures must be shown on applicable plan sheets.

- A. The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building and grading plans (i.e., site preparation and grading, shoring design, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and retaining walls) to ensure that their recommendations have been properly incorporated. Temporary shoring plans should be reviewed by the applicant's Consultant, as applicable.
- B. The Project Geotechnical Consultant should review proposed plans to convert the existing garage to an additional dwelling unit, and provided updated recommendations for the project, as necessary.
- C. The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.
- D. Geotechnical Construction Inspections - The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete. The Consultant should approve of temporary shoring measures, as applicable.
- E. The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

**Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)**

**14. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street 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 2 years 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](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 2 years 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/>

**During Construction:**

15. 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 Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

- 16. 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:
- A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. 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.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. 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.
  - F. 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.
  - G. 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.
  - H. 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.
- 17. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 18. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 19. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or

- Significant truck activity.

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

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

20. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
21. 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.
- 22. 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.
- 23. 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.
- 24. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).**
- A. *Qualified Paleontologist.* The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
  - B. *Paleontological Worker Environmental Awareness Program (WEAP).* Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and

Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of micro screening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
  - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

**24.** 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.

**25.** 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 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. Approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- H. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

**30. 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.

**31. 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.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

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**32. 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

**33. 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 October 11, 2022, except as modified by conditions of approval.

**34. 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.

**35.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

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**GENERAL NOTES:**

1. CODE COMPLIANCE: All work is to be performed in accordance with all governing Codes, Ordinances and Regulations. The designs herein are based on the 2019 C.B.C., 2019 C.M.C., 2019 C.E.C., 2019 C.P.C., 2019 C.F.C., 2019 C. Energy C.

2. JOB COORDINATION & SAFETY: Contractor shall be responsible for the development, coordination and execution of construction methods and procedures. The Contractor shall also be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with his work.

3. JOB CLEANLINESS: Contractor shall on a daily basis leave the construction site "broom clean" at the end of the work day. At substantial completion, the Contractor shall turn to the Owner a spotlessly clean house, including clean mirrors, glass, light bulbs, walls, floors, cabinetry inside and out, bathroom fixtures, tiles and appliances.

4. CONSTRUCTION QUALITY: No guarantee of quality of construction is implied or intended by the architectural documents, and the Contractor shall assume full responsibility for any or all construction deficiencies.

5. CONTRACT DOCUMENT REVIEW: Contractor shall review all Contract Documents. If fifteen days elapse from the time the Contractor receives the plans and signs to perform the work, and the Owners have not been notified of any errors, omissions or objections, the Owners will consider the documents approved by the Contractor for the performance of his/her work.

6. DISCREPANCIES: In case of any discrepancy notify the Owners before proceeding. Contractor shall be responsible for correction of work at his/her own expense for work installed in conflict with the Contract Documents.

7. DIMENSIONS: All dimensions shown on plans are to face of stud, unless otherwise noted. All dimensions shown on interior elevations are finish dimensions. No dimensions shall be taken by measuring from the drawings. Details take precedence over general sections or plans. Written dimensions take precedence over scale. All dimensions shall be verified in the field for coordination with existing and new conditions.

8. SUBSTITUTIONS: The Contractor will be held to furnish under his Proposal all work described herein. All materials and articles of any kind necessary for this work are subject to the approval of the Owners.

9. MANUFACTURED ITEMS: Transport, handle, store, protect and install manufactured items in strict accordance with manufacturer's recommendations. Should conflict exist between construction documents and manufacturer's instructions, consult with Designer.

10. ASBESTOS: Asbestos removal is not intended to be covered by this contract. If Asbestos is suspected, a testing agency must be hired to verify, and special procedures must be used for removal and disposal. Friable asbestos is the dangerous type and was used extensively for pipe insulation, fireproofing and certain building materials up to 1970.

11. CUTTING AND PATCHING: Cut and fit components as required; patch disturbed areas to match adjacent materials and finishes.

12. ATTIC VENTILATION: Ventilating area shall not be less than 1/150th of the net area of the space ventilated. If at least 50% of required ventilation is provided in the upper portion of the space, then ventilating area may be 1/300th of the attic space per 2016 CBC 1203.2.

13. BLOCKING: Provide solid blocking as necessary for all wall mounted shelves, fixtures and fittings. See interior elevations, where applicable.

14. WATER TIGHTNESS: Contractor shall verify that all work on the exterior of the project is watertight. All joints and surfaces exposed to the elements shall be tested for water tightness prior to substantial completion.

15. WATERPROOF MEMBRANE: Install a waterproof membrane under the Master Shower floor @ the Master Bath. Wrap the membrane up a minimum of 8" on all surrounding surfaces.

16. GLAZING: Tempered glazing is required as per 2016 CBC. Glazing to be tempered includes but is not limited to: glazing that is less than 18" above finish floor; within 24" radius of doors; Glass door and panels of shower and bathtub enclosures and adjacent glazed openings within 60" above a standing surface and drain inlet shall be fully tempered, laminated safety glass as per 2016 CBC; skylights; etc...

17. DRYWALL: All drywall to be 5/8" thick. Install metal corner beads at all outside corners. Fasten drywall to framing with drywall screws. All drywall is to be sanded three times to produce a smooth finish for all walls and ceilings. All drywall shall be finished so that it is smooth, with no bumps or craters. All joints to be taped and sanded so that there is no distinguishable transition. Contractor shall deliver all new or repaired walls perfectly even. The owners' and designer's criteria will be the sole measure for approval of the finished work.

18. HANDRAILS AND GUARDRAILS: All handrails at stairs are 34" above tread nosing. All guardrails are 42" minimum to finish floor, U.O.N. See interior elevations or details, as applicable, for guardrail design.

19. SHOWER AND TUB W/ SHOWER: Provide ceramic tile or stone finish at all shower and tub w/ shower areas to a minimum height of 72" above the drain inlet as per 2016 CBC 1210.2.2; over a moisture resistant underlayment (typical). Shower compartments and walls above bathtubs with installed shower heads shall be finished with smooth, nonabsorbant surface. Verify with interior elevations, if applicable. All showers & shower/tub combinations to have pressure balance mixing valves as per UPC section 410.7

20. PLUMBING: All work is design/build by the Plumbing contractor and is to meet required codes and Title 24 requirements. Low flow plumbing fixtures & fittings will be used in all bathrooms, etc... Toilets to have a max. allowable flush of 1.28 gal. When there are fixtures @ three levels, cast iron or other approved non-plastic materials for drain, waste, & vents is to be used.  
Per Cal Green Chpt. 4:  
3.1. Showerheads flow rate max. 1.8gpm  
3.3. Lavatory and kitchen faucets flow rate maximum 1.2 gpm

**21. TITLE 24 RESIDENTIAL LIGHTING REQUIREMENTS**

- A) All residential lighting to be high efficacy as per Table 150.0-A
- B) At least one fixture in bathrooms, garages laundry room and utility rooms must be controlled by a vacancy sensor.
- C) Lighting in kitchens, bathrooms, garages, laundry room and utility rooms shall be high efficacy or either controlled by a dimmer switch or vacancy sensor.
- D) Recessed lights in insulated ceilings must be ic and air(tight) rated. recessed lights within 5'-0" of a common prop. line to have 1hr rated enclosure.
- E) Exterior building mounted lighting must be high efficacy and must include manual on/off switch and one of the following: photocontrol & motion sensor - photocontrol & automatic time switch control - astronomical time switch control or energy management control system.
- F) Common areas of low-rise residential buildings with four or more units must be high efficacy or controlled by a title 24 compliant occupant sensor.
- G) Under cabinet lighting (including kitchen) must be switched separately from other lighting systems.
- H) All nonlocking-type 125 volt, 15- and 20-ampere receptacle outlets shall be listed tamper-resistant receptacles, as per Electrical Code 406.12 (A)
- I) All 120-volt, single phase, 15- and 20-ampere outlets or devices installed in dwelling unit kitchens, family rooms, dining rooms, living rooms, bedrooms, closets, hallways, laundry or similar rooms or areas shall be arc-fault circuit-interrupter protected as per Electrical Code 210.12 (A).

**ABBREVIATIONS**

<	ANGLE	H	HEIGHT or HIGH
@	AT	H.B.	HOSE BIBB
CL	CENTERLINE	H.C.	HOLLOW CORE
L	CHANNEL	HDCP	HANDICAPPED
Ø	DIAMETER OR ROUND	HDWD	HARDWOOD
(E)	EXISTING	HDWE	HARDWARE
#	NUMBER OR POUND	H.M.	HOLLOW METAL
+	PLUS OR MINUS	HORIZ.	HORIZONTAL
<	LESS THAN	HR.	HOUR
>	GREATER THAN	JAN.	JANITOR
>=	GREATER THAN OR EQUAL TO	J.B.	JUNCTION BOX
Z	GREATER THAN OR EQUAL TO	J.O.W.	JAMB OPENING WIDTH
ACOUS.	ACOUSTICAL	JT.	JOINT
ACC.	ACCESSORY	KIT.	KITCHEN
A.D.	AREA DRAIN	LAB.	LABORATORY
ADJ.	ADJUSTABLE	LAM.	LAMINATE
A.F.F.	ABOVE FINISHED FLOOR	LAV.	LAVATORY
AGGR.	AGGREGATE	LKR.	LOCKER
AL.	ALUMINUM	LT.	LIGHT
APPROX.	APPROXIMATE	MAX.	MAXIMUM
ARCH.	ARCHITECTURAL	M.C.	MEDICINE CABINET
ASPH.	ASPHALT	MECH.	MECHANICAL
BD.	BOARD	MEMB.	MEMBRANE
BITUM.	BITUMINOUS	MET.	METAL
BLDG.	BUILDING	MFR.	MANUFACTURER MH. MANHOLE
BLK.	BLOCK	MIN.	MINIMUM
BLK.	BLOCKING	MIR.	MIRROR
BM	BEAM	MISC.	MISCELLANEOUS
BOT.	BOTTOM	M.O.	MASONRY OPENING
CAB	CABINET	MTD.	MOUNTED
C.B.	CATCH BASIN	MUL.	MULLION
CEM.	CEMENT	N.	NORTH
CER.	CERAMIC	N.I.C.	NOT IN CONTRACT
C.I.P.	CAST IRON	NO. or #	NUMBER
C.J.	CAST IN PLACE	NOM.	NOMINAL
C.O.	CONTROL JOINT	N.T.S.	NOT TO SCALE
CLO.	CLOSET	O.A.	OVERALL
CLG.	CEILING	OBS.	OBSCURE
CLK.	CAULKING	OC.	ON CENTER
CLR.	CLEAR	O.D.	OUTSIDE DIAMETER
C.M.U.	CONCRETE MASONRY UNIT	OFF.	OFFICE
CNTR.	COUNTER	OPP.	OPPOSITE
COL.	COLUMN	OSB.	OSB
CONC.	CONCRETE	PART.	PARTICLE BOARD PC. PRECAST
CONR.	CONCRETE	PL.	PLATE
CONN.	CONNECTION	PLAM.	PLASTIC LAMINATE
CONST.	CONSTRUCTION	PLAS.	PLASTER
CONT.	CONTINUOUS	PLYWD.	PLYWOOD
CORR.	CORRIDOR	POL.	POLISHED
CTR.	CENTER	PR.	PAIR
CPT.	CARPET	PT.	PAINT
CTS.K.	COUNTERSINK	P.T.D.	PAPER TOWEL DISP.
D.	DEPTH	TOWEL	TOWEL
DBL	DOUBLE	DISP. & RECEPTACLE	
DEPT.	DEPARTMENT	PTN.	PARTITION
DET.	DETAIL	P.T.R.	PAPER TOWEL RECEPTACLE
D.F.	DRINKING FOUNTAIN	Q.	QUARRY TILE
DIA.	DIAMETER	R.	RISER
DIM.	DIMENSION	RAD.	RADIUS
DISP.	DISPENSER	R.D.	ROOF DRAIN
DN.	DOWN	REF.	REFERENCE
D.O.	DOOR OPENER	REFR.	REFRIGERATOR
DR.	DOOR	REINF.	REINFORCED
DS.	DOWNSPOUT	REQ.	REQUIRED
D.S.P.	DRY STANDPIPE	RESIL.	RESILIENT
DWG.	DRAWING	RGTR.	REGISTER
DWR.	DRAWER	RM.	ROOM
E.	EAST	R.O.	ROUGH OPENING
E.A.	EACH	RWD.	REDWOOD
E.J.	EXPANSION JOINT	R.W.L.	RAIN WATER LEADER
ELC.	ELEVATION	S.C.	SOLID CORE
ELEC.	ELECTRICAL	S.C.D.	SEAT COVER DISP.
ELEV.	ELEVATOR	SCHED.	SCHEDULE
EMER.	EMERGENCY	S.D.	SOAP DISPENSER
ENCL.	ENCLOSURE	SECT.	SECTION
E.P.	ELECTRICAL PANELBOARD	SH.	SHelf
EQ.	EQUAL	SHR.	SHOWER
EQPT.	EQUIPMENT	SHT.	SHEET
E.W.C.	ELECTRIC WATER COOLER	SIM.	SIMILAR
EXP.	EXPANSION	S.M.	SHEET METAL
EXPO.	EXPOSED	S.N.D.	SANITARY NAPKIN DISPENSER
EXST.	EXISTING	S.N.R.	SANITARY NAPKIN RECEPTACLE
EXT.	EXTERIOR	SPEC.	SPECIFICATION
F.A.	FIRE ALARM	SO.	SQUARE
FB.	FLAT BAR	S.STL.	STAINLESS STEEL
F.D.	FLOOR DRAIN	STD.	STANDARD
FDN.	FOUNDATION	STA.	STATION
FE.	FIRE EXTINGUISHER	STB.	STANDARD
F.E.C.	FIRE EXT CAB	STL.	STEEL
FHV.	FIRE HOSE VALVE	STOR.	STORAGE
FIN.	FINISH	STR.	STRUCTURAL
FL.	FLOOR	SUSP.	SUSPENDED
FLASH.	FLASHING	SYM.	SYMMETRICAL
FLOOR.	FLOOR	T.	TREAD
F.LUC.	FLUORESCENT	TB.	TOWEL BAR
F.O.C.	FACE OF CONCRETE	TEL.	TELEPHONE
F.O.F.	FACE OF FINISH	TER.	TERRAZZO
F.O.S.	FACE OF STUDS	T&G.	TONGUE AND GROOVE
FFRF.	FIREPROOF	THK.	THICK
F.S.	FULL SIZE	TOC.	TOP OF CURB
FT.	FOOT OR FEET	TOP.	TOP OF PAVEMENT
FTG.	FOOTING	TOS.	TOP OF SLAB
FURR.	FURRING	TOW.	TOP OF WALL
FUT.	FUTURE	T.P.D.	TOILET PAPER DISP.
GA.	GAUGE	TV.	TELEVISION
GALV.	GALVANIZED	TYP.	TYPICAL
G.B.	GRAB BAR	UNF.	UNFINISHED
GFR.C.	GLASS FIBER REINFORCED CONC.	U.O.N.	UNLESS OTHERWISE NOTED
GL.	GLASS	UR.	URNAL
GND.	GROUND	VERT.	VERTICAL
GR.	GRADE	VEST.	VESTIBULE
GYP.	GYPSUM	W.	WEST
		W/D.	WASHER DRYER
		W.	WITH
		W.C.	WATER CLOSET

**ARCHITECTURAL SHEETS:**

- A1.0 PROJECT INFO. & LEGENDS
- A1.1 PROP. SITE PLAN, EXIST. SITE PLAN
- A1.2 LOT COVERAGE DIAGRAM
- A2.0 PROP. BASEMENT PLAN, EXIST. BASEMENT PLAN
- A2.1 PROP. FIRST FLOOR PLAN, EXIST. FIRST FLOOR PLAN
- A2.2 PROP. SECOND FLOOR PLAN, EXIST. SECOND FLOOR PLAN
- A2.3 PROP. ROOF PLAN, EXIST. ROOF PLAN
- A2.4 PROP. ACCESSORY STRUCTURE, EXIST. ACCESSORY STRUCTURE
- A3.0 PROP. & EXIST. BUILDING SECTIONS
- A3.1 PROP. BUILDING SECTION
- A4.0 EXIST. & PROP. SOUTH & WEST ELEVATIONS
- A4.1 EXIST. & PROP. NORTH & EAST ELEVATIONS

**SUPPORTING DRAWINGS :**

- SD1.0 SITE SURVEY
- SD1.1 LANDSCAPE PLAN

**STRUCTURAL SHEETS: [N/A -future submittal]**

- ~~S1.0 GENERAL NOTES~~
- ~~S2.0 BASEMENT FRAMING & FOUNDATION PLAN~~
- ~~S3.1 FIRST FLOOR FRAMING PLAN~~
- ~~S3.2 SECOND FLOOR FRAMING PLAN~~
- ~~S3.3 ROOF FRAMING PLAN~~
- ~~S3.0 CUSTOM DETAILS~~
- ~~S3.1 CUSTOM DETAILS~~
- ~~S3.2 CUSTOM DETAILS~~

TOTAL NO. OF SHEETS: 14

**PROJECT DESCRIPTION:**

THE SCOPE OF WORK INCLUDES THE EXPANSION OF CONDITIONED LIVING SPACE TO THE EXPANDED BASEMENT TO INCLUDE A NEW BEDROOM AND BATH, FAMILY ROOM, OFFICE & MEDIA ROOM; RENOVATIONS AT THE FIRST FLOOR TO ADD A HALF BATH, RECONFIGURED KITCHEN AND RENOVATED BATH; NEW INTERNAL STAIR TO CONNECT ALL FLOORS; EXPANSION OF THE SECOND FLOOR TO RECONFIGURE THE PRIMARY BEDROOM SUITE AND BATH WITH NEW GABLE ROOF AND BAYS; AND THE CONVERSION OF THE EXISTING ACCESSORY GARAGE STRUCTURE INTO AN EXERCISE STUDIO WITH BATH.

**PROJECT DATA:** APPLICATION # ZP2022-0094

ZONING:	R-1H
LOT AREA:	6,141 sq. ft.
OCCUPANCY:	R-3
CONSTRUCTION TYPE:	5B / non-sprinklered
EXISTING:	PROPOSED
LOT COVERAGE:	1,926 sq. ft. / 31%      1,985 sq. ft. / 32%
STORIES:	2 o/ Basement      2 o/ Basement
AVG. BUILDING HEIGHT:	21'-4"      25'-3"
PARKING SPACES:	1      1
GROSS AREA:	2,348 sq.ft.      3,676 sq.ft.

**PROJECT AREA / MAIN HOUSE**

FLOORS	EXISTING BUILDING AREA	PROPOSED BUILDING AREA	REMODELED AREA	ADDED CONDITIONED AREA
BASEMENT	536 sq.ft.	1473 sq.ft.	1473 sq.ft.	1314 sq.ft.
1ST FLOOR	1392 sq.ft.	1392 sq.ft.	556 sq.ft.	0 sq.ft.
2ND FLOOR	413 sq.ft.	811 sq.ft.	811 sq.ft.	398 sq.ft.
<b>TOTAL</b>	<b>2341 sq.ft.</b>	<b>3676 sq.ft.</b>	<b>2840 sq.ft.</b>	<b>1712 sq.ft.</b>

**PROJECT AREA/ ACCESSORY STRUCTURE**

EXISTING BUILDING AREA	PROPOSED BUILDING AREA	REMODELED AREA	ADDED CONDITIONED AREA
446 sq.ft.	446 sq.ft.	446 sq.ft.	344 sq.ft.



VIEW FROM STREET

**DRAWING SYMBOL LEGEND**

	New Partition/wall		Overhead Ceiling Feature
	Existing Partition/wall		Window Type
	Partition/wall to be demolished		Door Number
	Fittings/fixtures to be removed		Keynote Note number (typical)
	Floor/Roof plane to be removed		Dimension Line
	Detail		Center Line
	Detail Number (typical)		Elevation Level
	Sheet Number (typical)		Revision: Clouded area indicates revised area
	Interior Elevation/multiple elevations		Revision symbol/see title block
	Elevation Number (typical)		Wall Section
	Indicates walls elevated		Section Number (typical)
	Elevation		Sheet Number (typical)
	Elevation Number (typical)		
	Sheet Number (typical)		
	Building Section		
	Section Number (typical)		
	Sheet Number (typical)		

**TOPETCHER ARCHITECTURE INC**

828 DIVISADERO  
SAN FRANCISCO  
CALIFORNIA 94117  
TEL 415 359 9997  
FAX 415 359 9986  
project @ toparchitectur.com

**DOCUMENT RECORD**

DATE	ACTION
MAR. 25, 2022	NEIGHBORHOOD OUTREACH
JUNE 3, 2022	AUP PERMIT SUBMITTAL
JUNE 13, 2022	PROGRESS /PRICING SET
SEPT. 23, 2022	AUP PERMIT /PLN CHK REVS.

All drawings and written material submitted herewith constitute the original and complete work of TOPETCHER ARCHITECTURE, INC. and the same may not be duplicated, used or disclosed without written consent.

**CLEARY RESIDENCE**

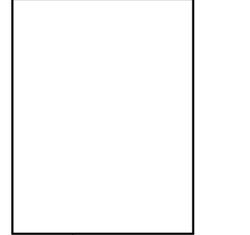
573 SANTA ROSA AVENUE  
BERKELEY, CA. 94707

APN: 062 289501700 LOT#14

PERMIT APP. NO.

**SHEET TITLE**  
PROJECT INFO,  
LEGENDS, GENERAL  
NOTES

SCALE: N/A      JOB NO. 21.11



**A 1.0**

TOTAL PAGES:



**TOPETCHER**  
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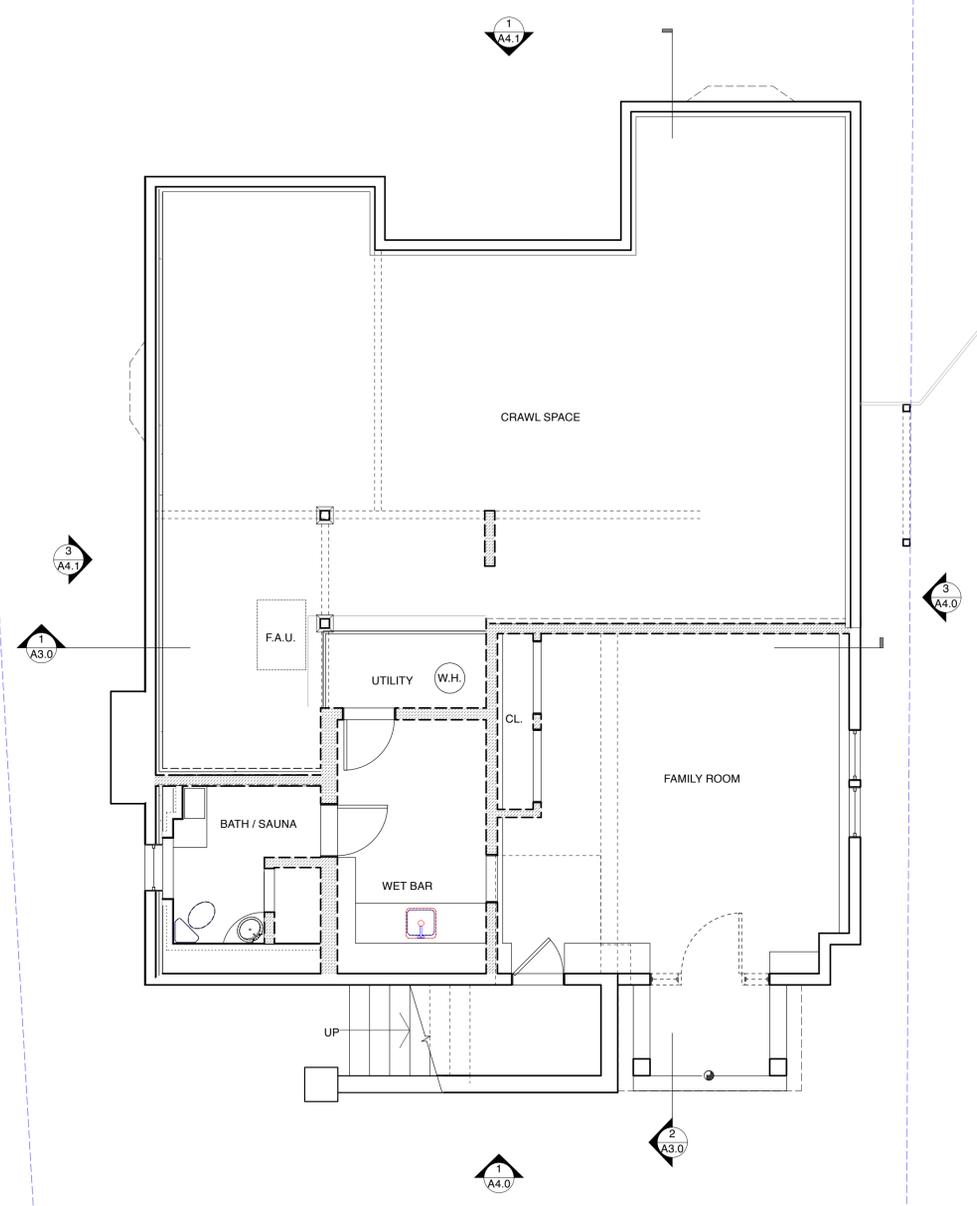
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(E)/DEMO BASEMENT  
(P) BASEMENT PLAN

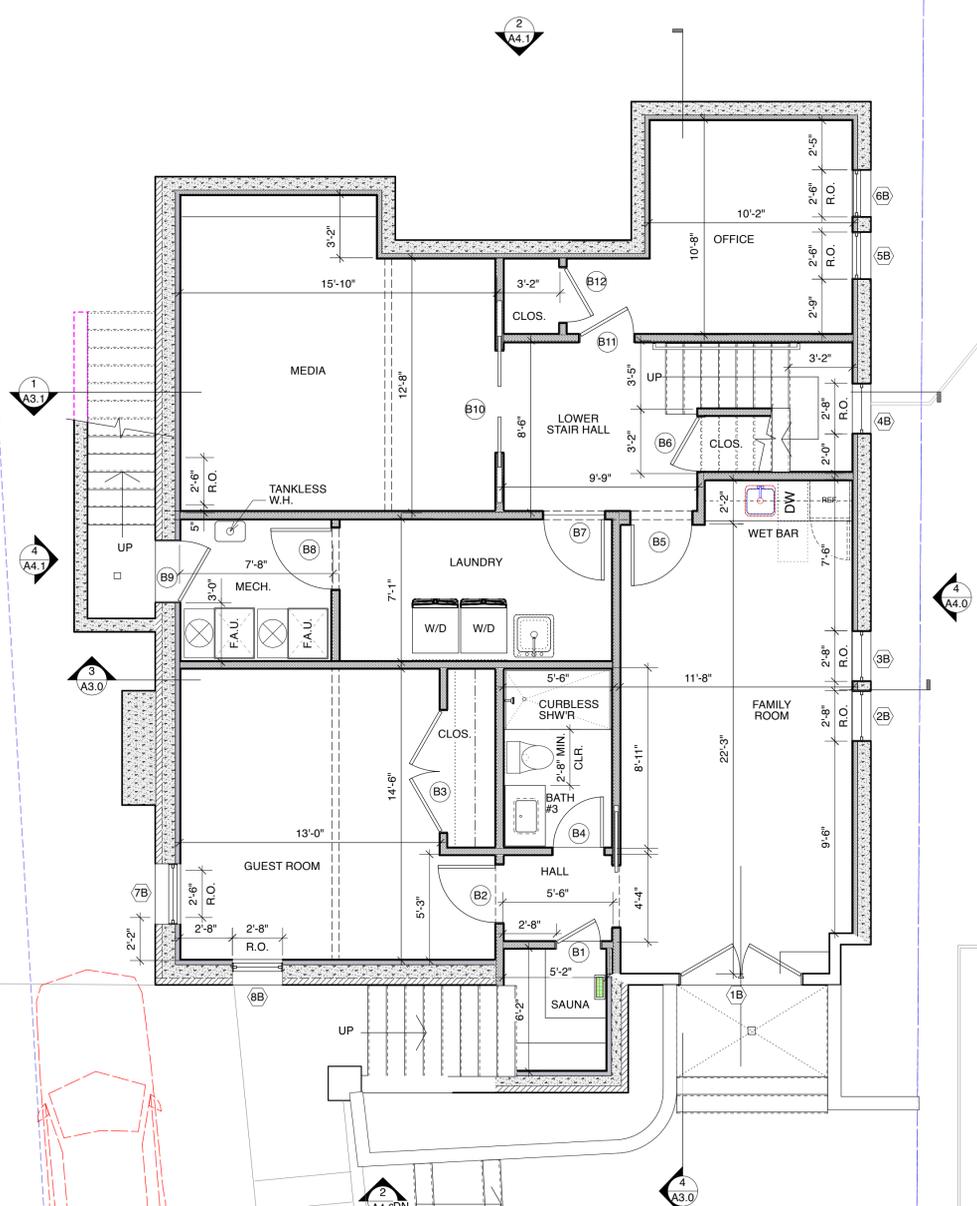
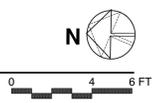
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JOB NO. 21.11



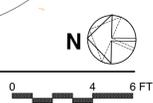
SHEET **A**  
**2.0**  
TOTAL PAGES:



**EXISTING/DEMO BASEMENT PLAN**  
1/4" = 1'-0"



**PROPOSED BASEMENT PLAN**  
1/4" = 1'-0"



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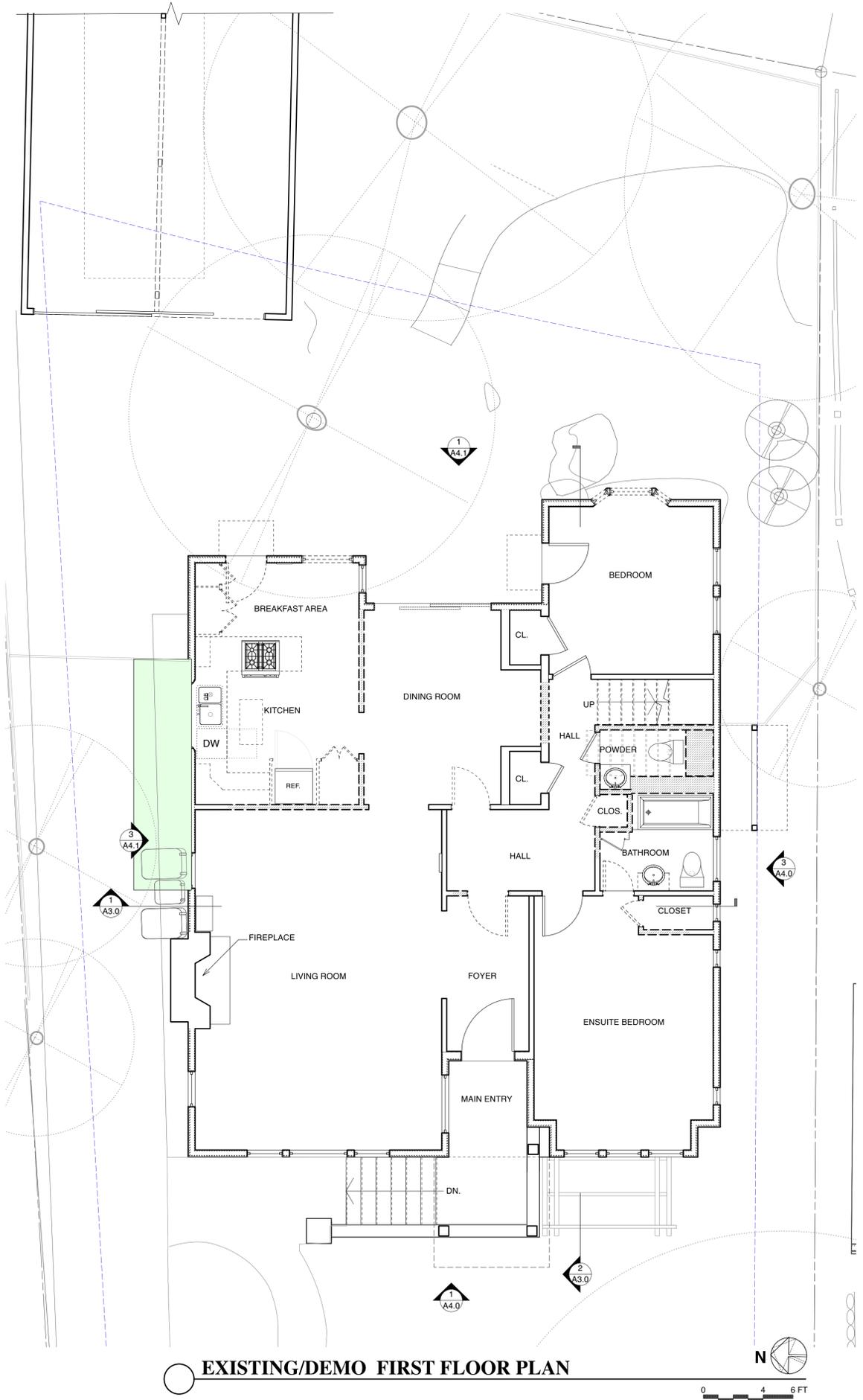
**CLEARY RESIDENCE**  
 573 SANTA ROSA AVENUE  
 BERKELEY, CA. 94707  
 APN: 062 289501700 LOT#14  
 PERMIT APP. NO.

**SHEET TITLE**  
 (P) FIRST FLR. PLAN  
 (E)/DEMO FIRST FLR

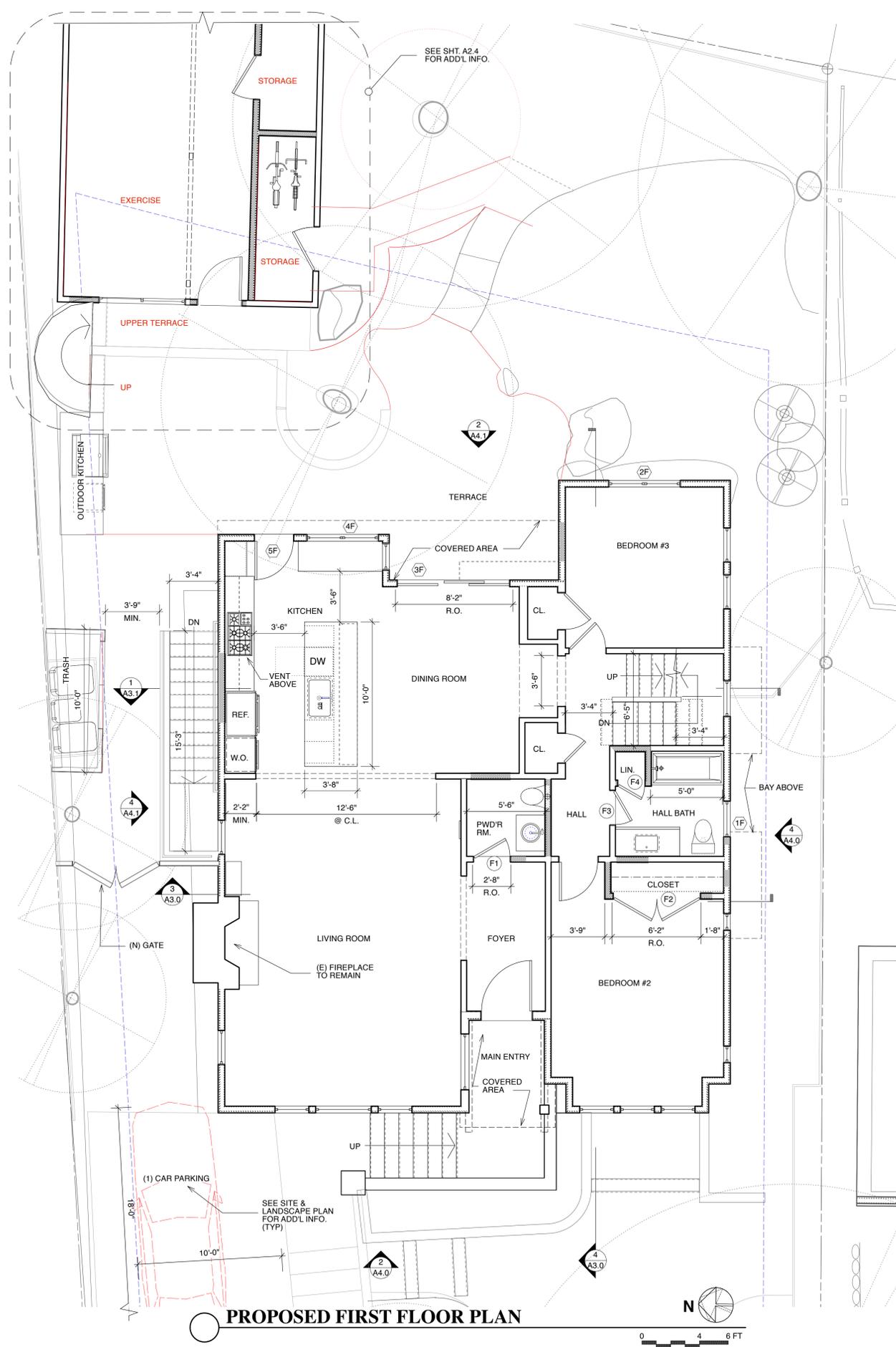
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 JOB NO. 21.11

*Topetcher*  
 MARK J. TOPETCHER ARCHITECT, CA LIC. # 21478 - EXP. MAY 2023

REGISTERED ARCHITECT  
 MARK J. TOPETCHER  
 5723  
 STATE OF CALIFORNIA  
**A 2.1**  
 TOTAL PAGES:



**EXISTING/DEMO FIRST FLOOR PLAN**



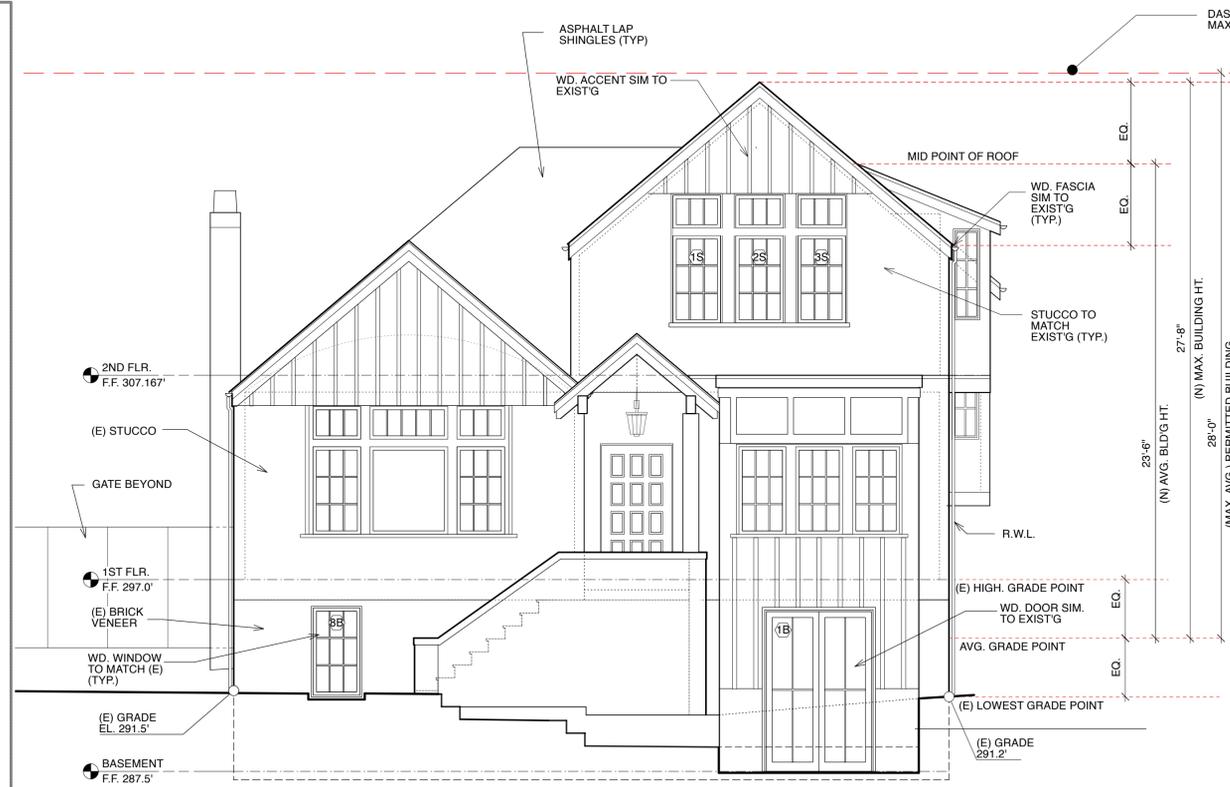
**PROPOSED FIRST FLOOR PLAN**



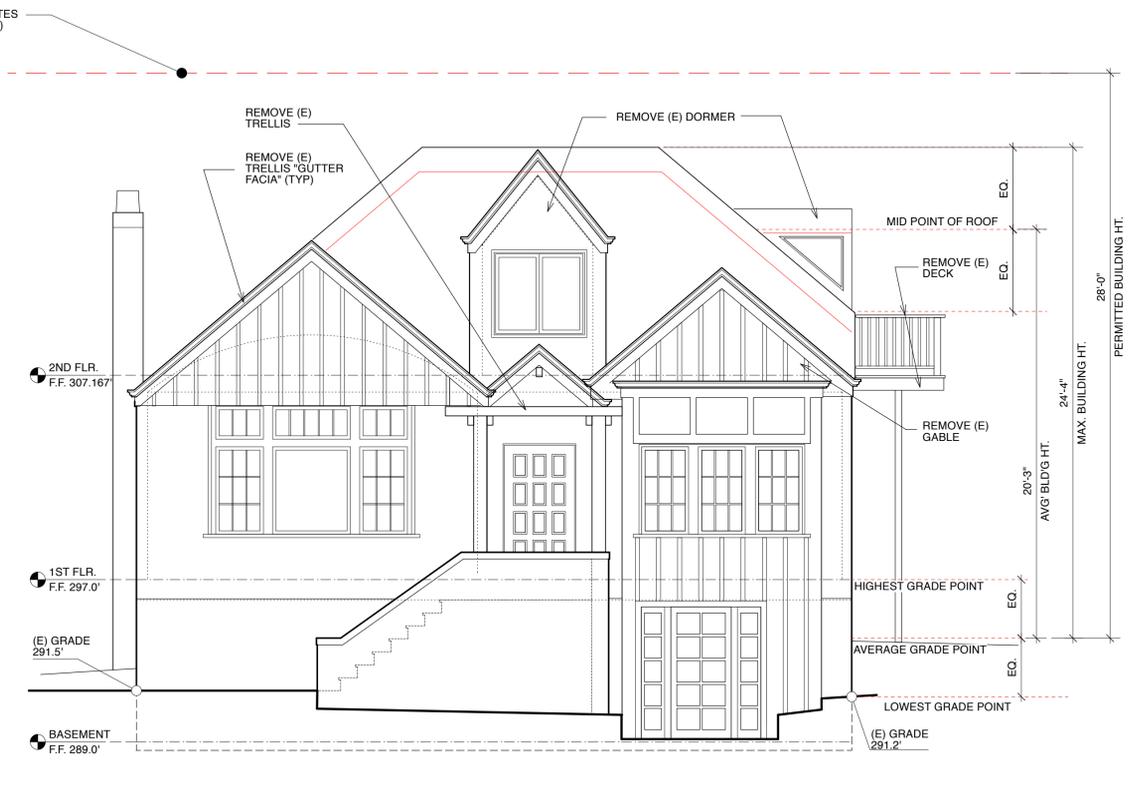




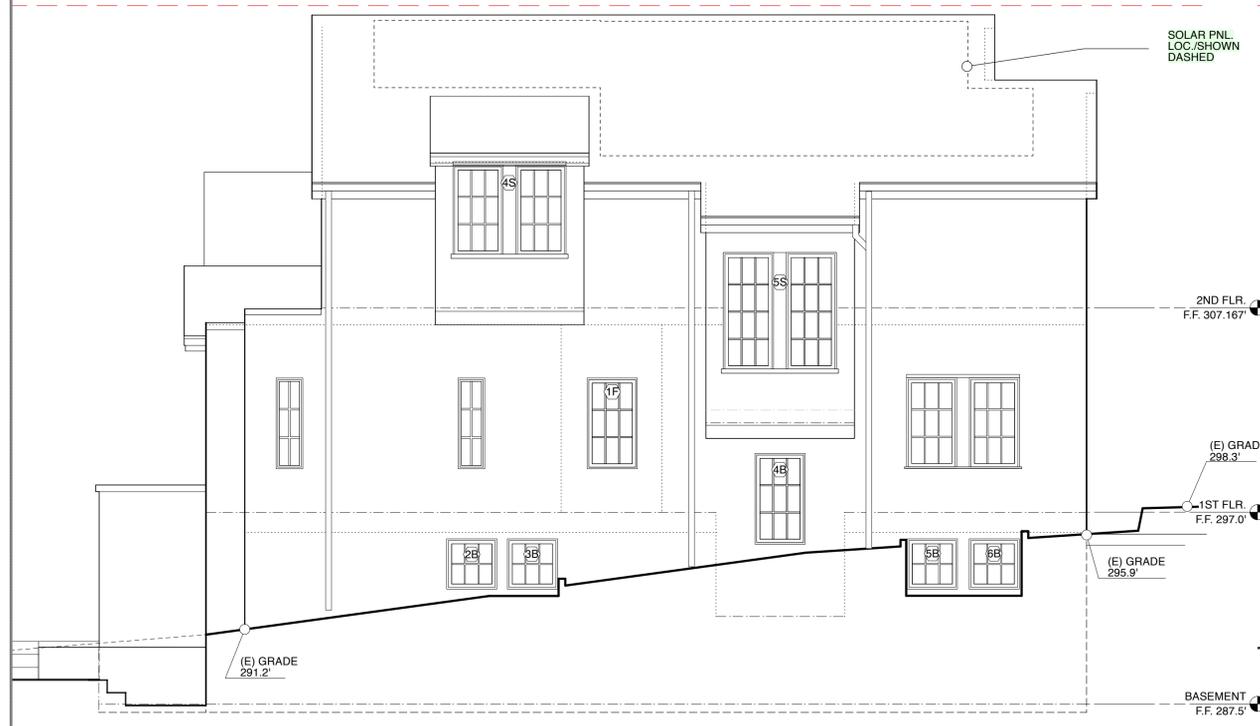




2 PROPOSED WEST [FRONT] ELEVATION



1 EXISTING WEST [FRONT] ELEVATION



4 PROPOSED SOUTH ELEVATION



3 EXISTING SOUTH ELEVATION

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573 SANTA ROSA AVENUE  
BERKELEY, CA. 94707  
APN: 062 289501700 LOT#14  
PERMIT APP. NO.

**SHEET TITLE**  
P) & (E) WEST & SOUTH ELEVATIONS

SCALE: 1/4" = 1'-0"  
JOB NO. 21.11



MARK J. TOPATCHER ARCHITECT CA, LIC. # C 521678, EXP. MAY 2025

**A 4.0**  
TOTAL PAGES:

**TOPATCHER**  
ARCHITECTURE INC

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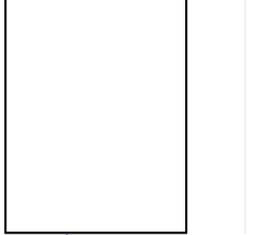
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APN: 062 289501700 LOT#14

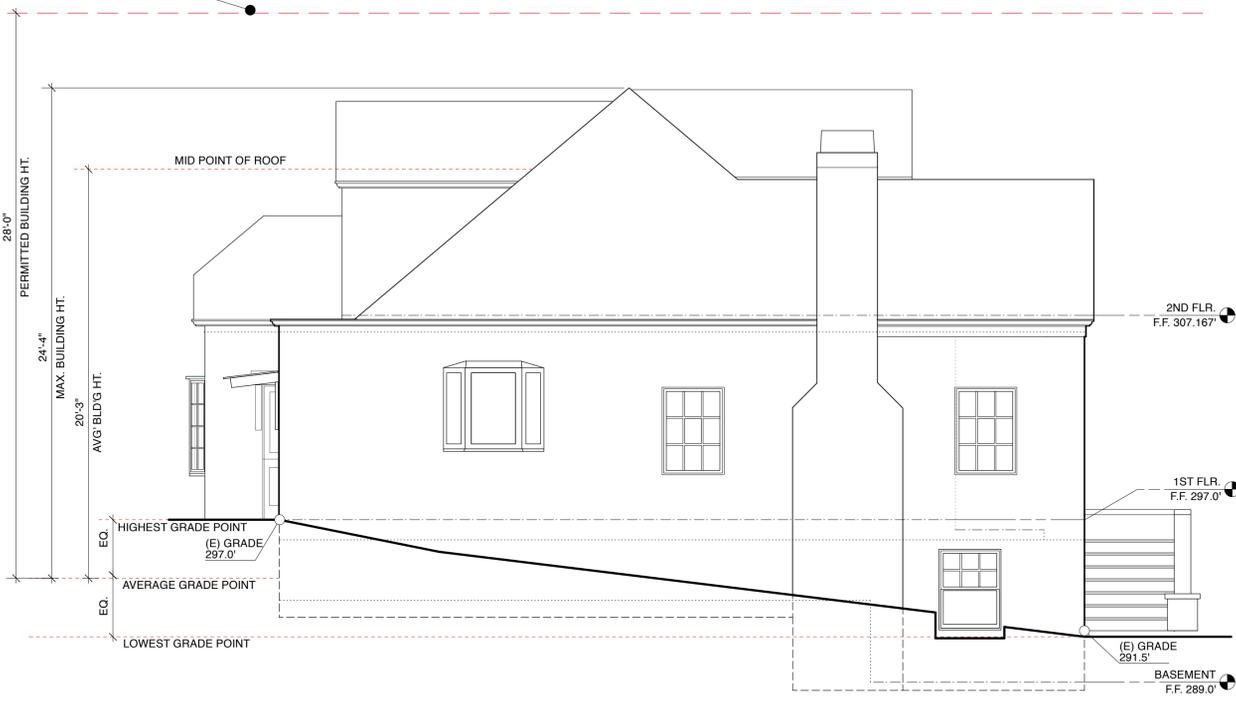
PERMIT APP. NO.

**SHEET TITLE**  
P) & (E) EAST & NORTH ELEVATIONS

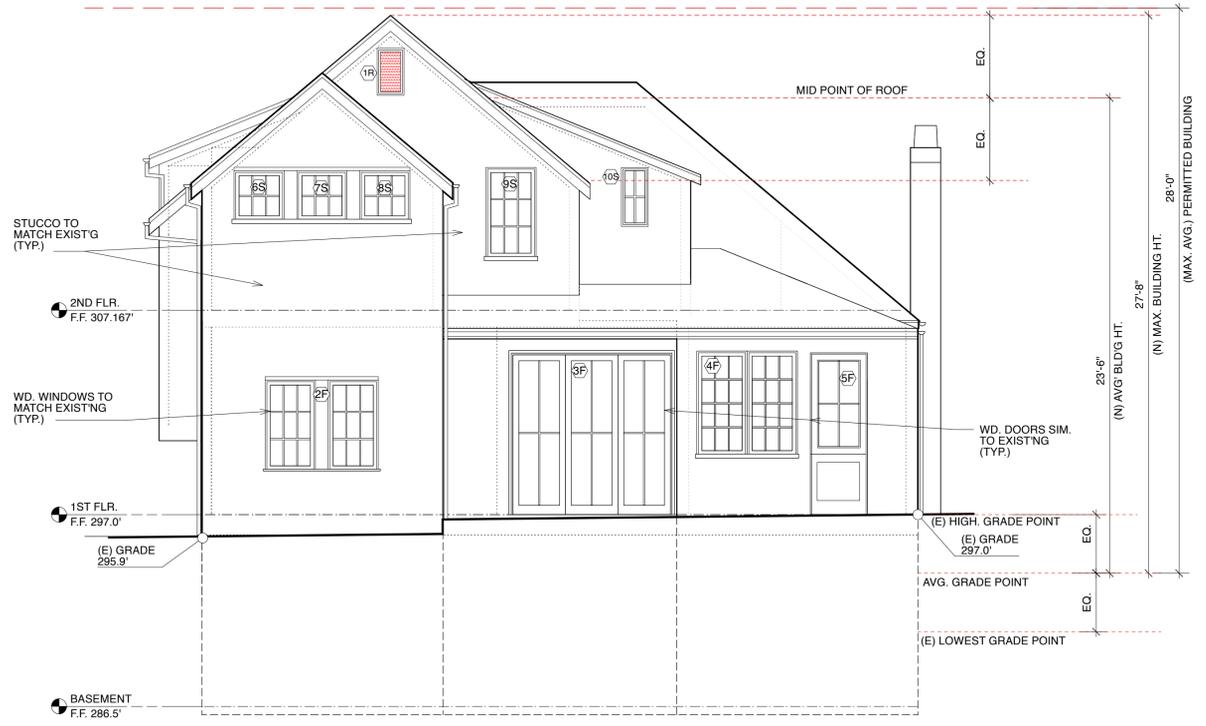
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JOB NO. 21.11



**4 PROPOSED NORTH ELEVATION**



**3 EXISTING NORTH ELEVATION**



**2 PROPOSED EAST ELEVATION**



**1 EXISTING EAST ELEVATION**

DASHED LINE DENOTES MAX. BLDG HT. (TYP.)

MARK J. TOPATCHER ARCHITECT, CA, INC. # C 21979 EXP. MAY 2025

SEAL: 521678

**A 4.1**

TOTAL PAGES:











## MEMORANDUM

Planning and Development Department

**DATE:** November 1, 2022

**TO:** Cecelia Mariscal, Associate Planner

**FROM:** Darya Barar, Consulting Urban Forester

**SUBJECT:** Review of Plans and Arborist Report – 573 Santa Rosa Ave.

---

I reviewed Woodreeve Consulting LLC. Arborist Report dated July 2022 and Topetcher Architecture Inc.'s Plan dated June 2022. Project plans propose to add additional square footage in the basement, replace a portion of the driveway, construct decomposed granite (DG) pathways, and replace existing fences along the northern, eastern, and southern boundaries.

Appropriate tree retention is a practical match between the location and intensity of construction activities with the quality and health of trees. Of the eight coast live oaks (*Quercus agrifolia*) at the site, seven were noted in fair condition while tree #294 was poor. Two trees were recommended for removal: #294 (in poor condition) and #292 which had bleeding along the trunk and basal decay. Impacts were listed to be minimal for tree #292 and beyond the tolerance of tree #294. I would support the removal of coast live oak #294 in poor condition. Please have the Arborist provide a removal [application](#). For coast live oak #292 please have the applicant work with the arborist to draft specifications for preservation of the tree. If the design needs modification to preserve the tree I recommend making the necessary modifications.

In my evaluation of impacts, the proposed construction will have moderate impacts on remaining six trees. I recommend the following actions be taken to limit impacts:

1. Move the pathway north of tree #290 away from the base.
2. Place the DG path at least 3 or 4 ft. from the base the base of tree #291.
3. Demolition of the driveway and garage will likely require root pruning trees #291, 293, and 296. Roots should be cut with a saw to provide a flat and smooth cut. Removal of roots larger than 2 inches in diameter should be avoided.
4. If roots 2 inches and greater in diameter are encountered during site work and must be cut to complete the construction, the Consulting Arborist must be consulted to evaluate effects on the health and stability of the tree and recommend treatment.
5. Minimize excavation for the basement retaining wall adjacent to tree #295.
6. Design the fence along the property lines so piers are placed as far from trees as possible.
7. Clearance pruning for tree #293 shall follow the specifications below:
  - a. Where clearance pruning is required trees pruning must be completed by a Certified Arborist or Certified Tree Worker in accordance with the most recent editions of the Best Management Practices for Pruning (International Society of Arboriculture) and the American National Standard for Tree Care Operations (Z133.1) and Pruning (A300).

- b. Branches extending into the work area that can remain shall be tied back. Where construction will occur close to trees, install temporary branch protection devices such as winding silt sock wattle around the branch.

---

Darya Barar  
ISA Certified Arborist WE-6757A

(925)750-4109  
dbarar@bartlett.com



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

---

NOTICE OF PUBLIC HEARING

## 573 Santa Rosa Avenue

**Use Permit #ZP2022-0094 to construct a third-story major residential addition exceeding 14 feet in average height and 20 feet maximum height, add a sixth bedroom to a single-family dwelling, and convert an existing detached garage to a habitable accessory building.**

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on January 12, 2023, **conducted via Zoom**, see the **Agenda for details at: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-01-12\\_ZAB\\_Agenda.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-01-12_ZAB_Agenda.pdf)**. The meeting starts at 7:00 p.m.

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Zoning Adjustments Board (ZAB) will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.**

### A. Land Use Designations

- General Plan: General Plan: Low-density Residential
- Zoning: R-1H Single-Family Residential District in the Hillside Overlay

### B. Zoning Permits Required:

- Use Permit per Berkeley Municipal Code (BMC) Section [23.202.030\(B\)](#) to add a bedroom to the lot beyond the fifth;
- Administrative Use Permit per BMC Section [23.202.030\(A\)\(1\)](#) for major a residential addition;
- Administrative Use Permit per BMC Section [23.202.050\(D\)](#) for an addition over 14 feet in average height;
- Administrative Use Permit per BMC Section [23.210.020\(C\)\(2\)\(a\)](#) for an addition 20 feet in maximum height in the Hillside Overlay; and
- Administrative Use Permit per BMC Section [23.304.060\(C\)\(1\)](#) to convert an existing garage to an accessory building.

**C. Parties Involved:**

- Applicant: Mark Topetcher, 828 Divisadero Street, San Francisco
- Property Owner: David Cleary and Kathleen Garrity, 573 Santa Rosa Avenue, Berkeley

**D. CEQA Recommendation:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (existing facilities).

**E. Further Information:**

All application materials are available online at:

<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Cecelia Mariscal, at (510) 981-7439 or [cmariscal@cityofberkeley.info](mailto:cmariscal@cityofberkeley.info).

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

**Communication Disclaimer:**

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

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

**Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



**Accessibility Information / ADA Disclaimer:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division ([zab@cityofberkeley.info](mailto:zab@cityofberkeley.info)) to request hard-copies or electronic copies.

**Notice Concerning Your Legal Rights:**

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

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

- A. That this belief is a basis of your appeal.
- B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
- C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

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

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