



CITY COUNCIL MEETING AGENDA

7:00 PM - Tuesday, September 26, 2023
via Videoconference and In Person

Please Note: The City Council will meet in person as well as via Telephone/Video Conference

<https://losaltosca-gov.zoom.us/j/82931380168?pwd=NjlzSk5sYjRzWERIenlKVIJuTmRFQT09>

Webinar ID: 885 8752 5597

Passcode: 757756

Telephone: 1-669-444-9171

TO PARTICIPATE IN-PERSON: Members of the public may also participate in person by being present at the Los Altos Council Chamber at Los Altos City Hall located at 1 N. San Antonio Rd, Los Altos, CA.

TO PARTICIPATE VIA VIDEO: Follow the link above. Members of the public will need to have a working microphone on their device and **must have the latest version of ZOOM installed** (available at <https://zoom.us/download>). To request to speak, please use the “Raise hand” feature located at the bottom of the screen.

TO PARTICPATE VIA TELEPHONE: Members of the public may also participate via telephone by calling the number listed above. To request to speak, press *9 on your telephone.

TO SUBMIT WRITTEN COMMENTS: Prior to the meeting, comments on matters listed on the agenda may be emailed to PublicComment@losaltosca.gov. Emails sent to this email address are sent to/received immediately by the City Council. Please include a subject line in the following format:

PUBLIC COMMENT AGENDA ITEM ## - MEETING DATE

Correspondence submitted in hard copy/paper must be received by 2:00 PM on the day of the meeting to ensure distribution prior to the meeting. Correspondence received prior to the meeting will be included in the public record. .

Public testimony will be taken at the direction of the Mayor, and members of the public may only comment during times allotted for public comments.

AGENDA

CALL MEETING TO ORDER

ESTABLISH QUORUM

PLEDGE ALLEGIANCE TO THE FLAG**REPORT ON CLOSED SESSION****CHANGES TO THE ORDER OF THE AGENDA****PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

Members of the audience may bring to the Council's attention any item that is not on the agenda. Speakers are generally given two or three minutes, at the discretion of the Mayor. Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during the Public Comment Period. According to State Law (also known as "The Brown Act") items must first be noted on the agenda before any discussion or action.

[09-26-2023](#) Written Public Comments

CONSENT CALENDAR

These items will be considered by one motion unless any member of the Council or audience wishes to remove an item for discussion. Any item removed from the Consent Calendar for discussion will be handled at the discretion of the Mayor.

- [1.](#) Approve Meeting Minutes for the Regular Meeting of September 12, 2023
- [2.](#) Treasurer's Report – Month Ended June 30, 2023

PUBLIC HEARINGS

- [3.](#) Appeal of the Planning Commission's Decision on the Design Review and Variance Applications SC22-0029 & V23-0002 at 5790 Arboretum Drive
This item was continued from the Regular Meeting of June 27, 2023
- [4.](#) Introduce and Waive Further Reading of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 3.B: Modify building height in mixed-use zoning districts, Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza, Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family, Program 3.G: Amend Conditional Use Permits findings applicable to housing Developments, Program 3.N: Modify standards in the R3 zoning districts and consideration of the City of Los Altos Planning Commission's September 7, 2023 decisions; Action (1) on Program 3.C, PASSED (4-Yes, 1-No, 1-Rescue, 1-Absent); Action (2) on Program 3.B, 3.F, 3.G, 3.N, PASSED (6-Yes, 1-Absent) both recommendations approved the proposed amendments with minor modifications. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment

DISCUSSION ITEMS

- [5.](#) Confirmation of City Council Appointments to City Commissions and Committee

6. Council consideration of Vice Mayor Weinberg's request to discuss remedial action regarding Planning Commissioner Kate Disney's violation of the City's Norms and policies
7. Cities Association of Santa Clara County's request for approval of Joint Powers Agreement to establish the Cities Association of Santa Clara County Joint Powers Agency

INFORMATIONAL ITEMS ONLY

8. Tentative Council Calendar and Housing Element Update Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

ADJOURNMENT

(Council Norms: It will be the custom to have a recess at approximately 9:00 p.m. Prior to the recess, the Mayor shall announce whether any items will be carried over to the next meeting. The established hour after which no new items will be started is 11:00 p.m. Remaining items, however, may be considered by consensus of the Council.)

SPECIAL NOTICES TO THE PUBLIC

In compliance with the Americans with Disabilities Act, the City of Los Altos will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (650) 947-2610.

Agendas Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.losaltosca.gov/citycouncil/online/index.html>.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, and that are distributed to a majority of the legislative body, will be available for public inspection at the Office of the City Clerk's Office, City of Los Altos, located at One North San Antonio Road, Los Altos, California at the same time that the public records are distributed or made available to the legislative body.

If you wish to provide written materials, please provide the City Clerk with 10 copies of any document that you would like to submit to the City Council for the public record.

Melissa Thurman

From: Marie Young <marieyoung120@gmail.com>
Sent: Sunday, September 24, 2023 4:32 PM
To: City Council
Cc: Public Comment
Subject: re Item #4, 9/26/23 City Council Agenda

Dear Mayor Meadows and Members of the Los Altos City Council,

As a longtime resident and homeowner (since 1976) of Los Altos, I am increasingly concerned with misinformation circulating about the possible redevelopment of Rancho Shopping Center. Although I don't live in that neighborhood, I shop at businesses there regularly.

Apparently many people don't understand the powers and limitations the City Council has, nor, apparently is the role of the property owner well understood.

In this case, the Council is simply following the law, having committed to rezoning parts of the City through the Housing Element. If they were not to do so, we could face harsh penalties from the State. I commend you for herculean efforts to keep R-1 (single family housing in place).

The city does not build housing. The owner of Rancho is in the driver's seat in that regard and could, if he so desired, raze all of Rancho and replace it with housing now, regardless of Council decisions about zoning.

Some 34.2% of responses to The Town Crier's admittedly unscientific poll last week favor including both retail and housing at Rancho, which seems like a smart way to go especially given the age and condition of the current buildings.

Marie Young
Los Altos



September 24, 2023

Re: September 26, 2023, Meeting, Agenda Item #4
(Zone Text Amendments)

Dear Mayor Meadows and Members of the City Council:

The League of Women Voters (LWV) supports policies that encourage the development of housing, particularly affordable housing.

The LWV supports the staff recommendations and the proposed Zone Text Amendments as recommended by the Planning Commission on September 7, 2023.

These amendments should encourage housing development that will allow Los Altos to meet its Regional Housing Needs Allocation (RHNA) goals. While the current zoning allows for residential units in mixed-use development, the proposed Commercial Neighborhood (CN) would allow all residential development. Height limits in mixed-use zones were noted as a serious constraint to redevelopment, as were the floor-area-ratios (FARs) at Rancho Shopping Center and Woodland Plaza. Allowing residential mixed use in various districts and multi-family uses in appropriate areas of mixed-use districts as a permitted use rather than a conditional use will provide greater certainty to developers and reduce the permitting time.

Please send any questions about this email to Sue Russell, Co-Chair of the Housing Committee, at housing@lwvlamv.org.

Sincerely,

Katie Zoglin
President
LWV of Los Altos-Mountain View Area

C: Gabe Engeland, City Manager
Melissa Thurman, City Clerk
Nick Zornes, Development Services Director
PublicComment@losaltosca.gov

Melissa Thurman

From: Penny Lave <pennylave@me.com>
Sent: Monday, September 25, 2023 9:43 PM
To: Public Comment
Subject: Zoning Ordinance

I doubt any Los Altos resident is happy with the loss of local control that the State of California has appropriated in order to force cities to allow more housing to be built. The plain truth is we operate under the governance of the Federal System, the State, the County and lastly the City. The City has experienced in the past the futility of defying State housing laws. It has meant large fines and damages.

But, in addition to the fiscal penalties, it is important to recognize and follow the law. Council members can not be expected to defy the state when they disagree with it. Nor should they. City government has to have a legal foundation or it will not be respected on any level.

While the Council may, or may not, agree with State mandates, it must follow them.

Penny Lave

Sent from my iPad

Melissa Thurman

From: Jeanine Valadez <j9valadez@earthlink.net>
Sent: Monday, September 25, 2023 2:00 PM
To: Administration; Public Comment; City Council; Gabriel Engeland
Subject: Public Comment - Not on the Agenda: Opposition to 5g node on San Juan Ct

City Manager Gabe Engeland, Honorable Mayor Sally Meadows, and Esteemed Members of the City Council,

I am hereby submitting this public comment to outline the reasons for my opposition to the installation of a 5g small cellular node on my cul de sac, San Juan Court.

First, I want to mention that I appreciate past efforts by Staff and the City Council to draft standards by which such installations might occur. I supported these criteria and also supported the issuance of the Urgency Ordinance. I am also aware that in the time since, decisions were made determining that installations shall proceed. I itemize my concerns and objections below.

1. Deceptive Information

: Once again, we learned of this change by opening what looked like junk mail this past weekend. Notices of this kind should be labeled *on the envelope exterior* clearly with “Urgent: Need your input on <topic or change> by <deadline>!” Moreover, there was no real information in the letter to explain why our street was chosen, or whether other small cell nodes will be installed nearby now or in the near future. There should have been included in this letter a local map showing proposed node placement, say 1000ft around this proposed node location. Additionally, some of the pictures, specifically the large one on the back of the actual letter, show only the tall extension at the top of the current pole; this picture does not show the equipment hung on the body of the pole.

2. Fear and Health Concerns

: Despite federal prohibitions against using health concerns when installing 5g nodes; science should still rule the day. There remains a large body of data that supports more restraint when it come to exposing our brains, particularly young and very old brains, to electromagnetic waves, especially high-frequency ones. Egan is adjacent to our cul de sac. There is also the hum and whirring of fans; never good when it goes on 24-7.

3. Property Value, Visual and Auditory Blight

: Impact on property value will be negative, particularly if a resident on this cul de sac foresees selling their house in the next 10 years, which is likely how long it will take to really miniaturize 5g nodes and deploy a fully functional network. Whether allowed as a valid objection or not, the fears of potential buyers about health risks will lower buying interest in my home. The height of the pole extension is far taller than the picture ATT provided years ago. Additionally, this equipment is ugly and hangs too low on the pole (probably required else the pole would be top-heavy). The equipment is obtrusive and interferes with one’s regular line-of-site on our street. Our street wires are bad enough. Having this bulky equipment so visible is sure to sway buyers away. This is not a taller housing development with a

beautiful façade seen through tall trees across San Antonio (should LASD build teacher housing at Egan); this is right in our faces. If you look at the pictures in the letter, that big box and the other ancillary components just above my neighbors' mailboxes are in scale. They will be bigger and taller than their mailbox columns! They will be what my neighbors, Pat, Bonnie, Marie, and Al immediately see when they look out their windows and walk out their doors. The fans will be audible 24-7. The rest of us will all see and hear that bulky equipment every day. Clearly ATT lied, and what this really betrays is that 5g remains "not ready for prime time." It's still big, clunky and hot.

4. San Juan Court is too small

: Right in front of one's home is NOT the place for a 5g node - atop one's home is NOT the place - one's backyard is NOT the place. Our street is too small for this level of intrusion. There is no lack of AT&T coverage on our narrow cul de sac. We have no lights, no curbs, no sidewalks, and parking on the street prevents easy two-way traffic - as a result, maintenance trucks are a major negative impact for us. San Juan Ct is neither a main thoroughfare nor a collector street. Why, then, is our street's pole a target for a small cell node?

5. We Don't Need It

: The reason ATT and other telecom companies are so hyped up about 5g is because it will enable them to charge customers lots of money for advanced services like gaming, high-data-content transmissions, and more data processing-oriented services like surveillance, customer tracking, self-driving cars, etc. It will also allow ATT and other providers to charge people more money for different levels of access to the internet (keep in mind the internet (the web) was designed to be free and available to ALL; 5g likely kills that principle). There may be other residents or neighborhoods that want these nodes on their streets; the City should conduct surveys to ID these neighborhoods and put these small nodes there. But the most important reality here is that the 5g that ATT is currently deploying is not really 5g. It's a rebranded 4g. ATT continues to rush to install nodes in order to lay claim to the pole as theirs for future technology.

6. Risk Mitigation Fallacies

: ATT is also using bogus justifications like improving Public Safety (Police and Fire) communications during fires and natural disasters. That's poppycock. 5g waves are tiny and are easily disrupted by obstructions like trees, buildings, smoke, clouds, etc. Besides, our telephone poles are flammable. Say goodbye to those poles during a fire. In my house, we are totally satisfied with our cellular and satellite services. Our wifi routers and repeaters can sense almost all our neighbors' wifi networks (of course we have passwords!), so there is no service gap or hole we can see. We'd highly prefer fiber to the curb for more bandwidth, NOT 5g, which is unreliable. We also hope that someday, our street will agree to underground our ugly and dangerous sky wires. Undergrounding is the best way to maximize public safety during a natural disaster.

7. Environmental Waste

: For many people, they will need to buy a new phone to really get the services offered by true 5g. Studies have shown that transitioning to 5g-ready handheld devices will create an enormous world-wide amount of environmental waste.

8. Where ATT sits, other companies will follow

: Another reason this tech is not ready for prime time in neighborhoods is because the equipment is still all proprietary. So, when Verizon comes along, they'll need just as much pole real estate to attach their equipment. Then when T-Mobile comes along, same thing. We're a small street and this much intrusion is beyond reasonable. Please place this node elsewhere where it is wanted.

Respectfully,

Jeanine Valadez

15 San Juan Court (homeowner since 1989)

Disclosure: I am a PARC commissioner but am speaking as a member of the public.



September 25, 2023

Dear Mayor Meadows and Councilmembers,

We fully support the text amendments submitted by Staff to bring the city’s zoning ordinance into compliance with our adopted Housing Element. These changes to zoning will meaningfully encourage development in our mixed-use districts and will accommodate the potential for more housing in our CN and R3 districts. We also believe that removal of Conditional Use Permits in certain instances, as outlined by Staff, are important to remove barriers to development.

The Housing Element process has been a long journey towards approval, and we applaud the Council and Staff for working diligently to ensure that our City is in compliance. More importantly, the changes that we have already made and will make during this 6th Cycle will create the conditions so that more housing can be created. More homes—whether they are apartments, condominiums, single-family homes, or townhomes—create space for more neighbors so that we can continue to celebrate a vibrant community with people from all backgrounds and all incomes.

Respectfully,
Los Altos Affordable Housing Alliance

Los Altos Affordable Housing Alliance
Committed to educating and inspiring the Los Altos community to build housing that is affordable for those who live and work in Los Altos
<https://losaltosaffordablehousing.org/>

Melissa Thurman

From: Nancy Martin <nancy.martin@mac.com>
Sent: Tuesday, September 26, 2023 12:00 PM
To: Public Comment
Cc: Gabriel Engeland
Subject: Tonight's meeting - An urgent request to postpone approving removing the FAR and height restrictions for 90+ days

Dear City Council and City manager,

Now that Housing Element Plan has been approved and we are safe from the Builder's Remedy and potential fines (good job btw!) myself and others would like to ask that you NOT make any decisions on modifying the FAR ratio and building height restrictions at this time.

The residents are very upset over removing the existing FAR ratio, which would greatly contribute to unthinkable mass and bulk in the designated housing sites.

Since the city is not under a deadline to make these decisions at this time, the residents would like to request at least 90 days to evaluate the need for removing all these very important restrictions.

As you have probably noticed, the residents have just begun to understand what's happening with the state mandated housing program. The outreach didn't make the definition and scope of how drastic the changes would be.

At the last meeting, most residents were shocked and angry to learn that Rancho shopping center and five others are slated to be torn down and replaced with huge five story structures.

I'm speaking for a large group of people who would like the time to evaluate OTHER other potential sites for the 200+ units Rancho would serve, as well as Altos Oaks and our downtown.

I hope you will grant this request as representatives of the residents who elected you and now look to you for help on this massive intrusion by the state. It will help calm the anger and begin a positive step with residents working together.

Thank you,
Nancy Martin

Melissa Thurman

From: John Meaney <john.meaney@yahoo.com>
Sent: Tuesday, September 26, 2023 1:49 PM
To: Public Comment; City Council
Subject: Fwd: Public comment re: Draft Housing Element plan/ Concerns about Rancho site

Hi,

I am writing again with concerns about the housing element plan submittal as it impacts the re-development of the Rancho shopping center. We live in the residential area surrounding Rancho and foresee any development of this area that contributes to increased traffic and reduced shopping options would negatively affect our lifestyle and property values. Rancho is unique when compared to Woodland Plaza (Lucky) and Foothill Plaza (Trader Joes) in the proximity of single-family residential neighborhoods surrounding three sides of the property.

I understand the need to make hard choices in order to meet the state mandate for housing. Specifically, I would ask that mixed-use development, including commercial, be a requirement if housing is to be incorporated in the zoning for Rancho and Woodland Plaza, i.e. it could not be re-developed for housing only without retaining a commercial component. I would also ask that mixed-use (commercial and residential) be included at Foothill Plaza. I did not see Foothill Plaza included in the Housing Element plan and assume this is currently commercially zoned according to the Los Altos Zoning Map.

Thank you for considering my email as part of the public comments to city council.

John

John Meaney
650-823-3051

Begin forwarded message:

From: John Meaney <john.meaney@yahoo.com>
Subject: Public comment re: Draft Housing Element plan
Date: January 9, 2023 at 5:06:56 PM PST
To: PublicComment@losaltosca.gov

I would like to strongly recommend against rezoning the Rancho Shopping Center for housing to meet the draft Housing Element plan. There would be significant negative impacts to our community of this rezoning effort and other more attractive options exist.

I am a 28-year resident of Los Altos and have raised two children in the neighborhoods here. We love the community feel of our Loyola Corners / central Los Altos neighborhood and Rancho Shopping Center is the primary social gathering center here where people walk their dogs, meet at Starbucks for coffee, children stop for ice cream and snacks on their way home from Loyola school, and everyone stops at Andronicos on the way home for grocery shopping. Rancho is a place where we run into our neighbors and friends, and a place of community connection. Increasing housing density at that busy intersection would be a game-changer for our neighborhood in a negative sense and would destroy the village feel of Rancho.

Already, the intersection at the main entrance to Rancho Shopping Center is busy and sometimes dangerous with 2 lanes from Magdalena collapsing to a single lane at Springer at the traffic light where all the kids are trying to cross on their way to and from Loyola school. Anyone who lives in this neighborhood has experienced near-collisions many times as people try to beat the light from Fremont Ave to get onto Foothill Expressway at the same time shoppers are exiting from Rancho shopping center. I can hardly imagine how this all changes for the better when you increase density and multi-use of this shopping center.

I'm sure there is no shortage of developers that would love to re-develop the Rancho site, but what is in the best interest of our local residents that live and go to school here? What about alternative sites? How about the shopping center where Lucky market is located at Grant Rd and the intersection of Arboretum? Lucky market is on a underutilized site that gets much less traffic and is adjacent to other retail/ commercial zoning on both sides that could also be put to better and higher use. In fact, the Goodwill donation truck that sits in the corner of the parking lot is a sign that this site could use some re-imagining as a more central South Los Altos meeting place. It is on a public bus line and nearby both 280 and Hwy 85, is not nearby a school, has very little foot traffic, and has fewer direct residential neighbors. It's walking distance to many services at the Foothill Plaza and could easily absorb a higher density housing element without negatively impacting neighbors and traffic patterns.

Loyola Corners has already been negatively impacted by expansions of the post office and water company that have turned it into one large parking lot for mail delivery and repair trucks. A long-running multi-use development project that seems to have been abandoned for more than 5 years have turned it into an eye sore. My neighbors and I feel that the City of Los Altos has done a poor job in planning and development of this important part of our neighborhood and it is no longer representative of the characteristic charm and attractiveness of Los Altos.

Rancho is the only pedestrian accessible shopping and gathering spot in central Los Altos and it retains the village character that we all appreciate about Los Altos. We strongly stand against rezoning Rancho.

Respectfully,

John Meaney
650-823-3051



**CITY OF LOS ALTOS
CITY COUNCIL MEETING MINUTES
TUESDAY, SEPTEMBER 12, 2023
7:00 p.m.
1 N. San Antonio Rd. ~ Los Altos, CA**

*Sally Meadows, Mayor
Jonathan Weinberg, Vice Mayor
Pete Dailey, Councilmember
Neysa Fligor, Councilmember
Lynette Lee Eng, Councilmember*

CALL MEETING TO ORDER – Sally Meadows, Mayor, called the meeting to order at 7:00 p.m.

ESTABLISH QUORUM – All Councilmembers were present and in person.

PLEDGE ALLEGIANCE TO THE FLAG – **Neysa Fligor, Councilmember**, led the Pledge of Allegiance.

REPORT ON CLOSED SESSION – No reportable action was taken during the Closed Session meeting of September 12, 2023.

CHANGES TO THE ORDER OF THE AGENDA

There were no changes to the order of the agenda.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

The following members of the public spoke during Public Comment:

- Jacob Sterling-Silver
- Kim Mosley
- Jennifer Lantz
- Nancy Martin
- Roberta Phillips
- Shrikanth Shankar

SPECIAL ITEMS

Presentation from Silicon Valley Clean Energy on the Electric Showcase Awards

Justin Zagunis, SVCE's Director of Decarbonization Programs and Policy, announced the Electric Showcase Award Winner as Los Altos resident Tom Twiddell.

CONSENT CALENDAR

The following members of the public spoke regarding Item 9 of the Consent Calendar:

- Roberta Phillips

Lynette Lee Eng, Councilmember, requested to pull Item 9 from the Consent Calendar.

Neysa Fligor, Councilmember, requested to pull Item 4 and Item 10 from the Consent Calendar.

Sally Meadows, Mayor, announced that Items 9, 4 and 10 would be heard after Item 13 on the Discussion Item.

Motion by Dailey and Seconded by Weinberg to approve the Consent Calendar, excluding pulled Items 4, 9 and 10. **Motion carried unanimously by roll call vote for Items 1-6 and Items 8-**

11. Motion for Item 7 carried 3-2 with Councilmembers Fligor and Lee Eng opposed.

1. Approve the Special and Regular Meeting Minutes for the meetings of August 22, 2023
2. Quarterly Investment Portfolio Report – Quarter Ended June 30, 2023
3. Authorize the City Manager to execute a not-to-exceed contract with C2R Engineering, Inc., in the amount of \$100,000 to provide on-call sanitary sewer spot repairs and CCTV inspection services
4. Waive second reading and adopt Zoning Ordinance Text Amendments implementing programs identified in the adopted housing element, Program 4.C Allow Low Barrier Navigation Centers consistent with AB 101, Program 4.D Allow transitional and supportive housing consistent with State law, Program 4. E Allow employee/farmworker housing consistent with State law, Program 4.F Reasonably accommodate disabled persons’ housing needs. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment
5. Waive second reading and adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 12.72 Penalty for Expired Permits and amending Chapter 12.08 and 12.10 of the Los Altos Municipal Code and find that this action is Exempt from Environmental Review Pursuant to Section 15061(b)(3) of the State Guidelines Implementing the California Environmental Quality Act of 1970
6. Waive second reading and adopt an Ordinance of the City Council of the City of Los Altos Adding Chapter 11.14 Mechanical Equipment to Title 11 Miscellaneous Property Regulations of the Los Altos Municipal Code and find that this action is Exempt from Environmental Review Pursuant to Section 15061(b)(3) of the State Guidelines Implementing the California Environmental Quality Act of 1970
7. Authorize the City Manager to execute a five-year funding agreement with Community Services Agency in the amount of \$25,000 annually
8. Authorize the City Manager to Execute Amendment No. 1 to Joint Exercise Powers Agreement and Cooperation Agreement to undertake or to assist in the undertaking of essential activities pursuant to Title I of the Housing and Community Development Act of 1974, as amended, for the period of October 1, 2017 to September 30, 2020 and subsequent automatic renewals unless terminated

DISCUSSION ITEMS

9. Introduce and waive further reading of an ordinance of bidding procedures under the California Uniform Public Construction Cost Accounting Act; find that the adoption of the ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061

June Du, Finance Director, presented the report.

There were no speakers regarding the item.

Motion by Weinberg and Seconded by Dailey to waive the first reading and introduce an ordinance of bidding procedures under the California Uniform Public Construction Cost Accounting Act; find that the adoption of the ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061.

Motion carried unanimously by roll call vote.

- 10. Authorize the City Manager to sign a new contract with the Los Altos History Museum in the initial amount of \$120,000 annually for five years

Anthony Carnesecca, Assistant to the City Manager, and **Dr. Elizabeth Ward, Los Altos History Museum Director**, presented the report.

There were no speakers regarding the item.

Motion by Fligor and Seconded by Lee Eng to authorize the City Manager to sign a new contract with the Los Altos History Museum in the initial amount of \$120,000 annually for five years.

Motion carried unanimously by roll call vote.

- 11. Authorize the City Manager to sign a contract with the Los Altos Chamber of Commerce in the amount of \$67,500 annually for five years as previously directed during the budget process (*Previously Item 9 on the Consent Calendar*)

Motion by Dailey and Seconded by Weinberg to authorize the City Manager to sign a contract with the Los Altos Chamber of Commerce in the amount of \$67,500 annually for five years as previously directed during the budget process. **Motion carried unanimously by roll call vote.**

- 12. Authorize the City Manager to Execute a Professional Services Agreement for a Downtown Parking Strategy (*Previously Item 4 on the Consent Calendar*)

Motion by Weinberg and Seconded by Dailey to authorize the City Manager to execute a Professional Services Agreement for a Downtown Parking Strategy. **Motion carried unanimously by roll call vote.**

The City Council took a recess at 8:50 p.m.

The City Council reconvened at 9:02 p.m.

- 13. Approve amendments to the Commission Handbook sections on ad hoc subcommittees, Council liaisons, and conflicts of interest (*Previously Item 10 on the Consent Calendar*)

Neysa Fligor, Councilmember, requested an amendment to the Commission Handbook:

- In the event that a Commission is not able to select a Commission member as a liaison to another board, commission, or agency and a staff member cannot serve in that capacity, the Commission may recommend an individual resident to represent the Commission upon approval by the Commission and City Council.

Motion by Fligor and Seconded by Lee Eng to approve amendments to the Commission Handbook sections on ad hoc subcommittees, Council liaisons, and conflicts of interest, as amended.

14. Consider the Public Arts Commission recommendation to purchase and place three sculptures by artist Matthew Duffy at locations within the City

Jon Maginot, Assistant City Manager, presented the report.

The following members of the public spoke regarding the item:

- Eric Steinle
- Monica Waldman
- Roberta Phillips

Motion by Meadows and Seconded by Dailey to approve the purchase of one heart-art sculpture, and to direct the PARC to identify a location in Los Altos that is deficient of public art, to place the sculpture. **Motion carried 4-1 with Vice Mayor Weinberg opposed.**

15. Discuss the recommended appointment process and schedule and make changes as appropriate

Sally Meadows, Mayor, opened the item.

There were no speakers regarding this item.

The City Council provided the following direction regarding the Commission appointment process:

- Commission interviews will be held on September 19, 2023 at 5:00 p.m.
- Applicants will be given three questions prior to the meeting
- Applicants will be given three self-managed minutes to answer the three questions
- Council may ask additional questions, if necessary

16. Discuss the California Business Roundtable (CBRT) Measure and Provide Direction to the City of Los Altos Voting Delegate regarding potential petitioned resolutions at the CalCities Annual Conference in Sacramento, CA on September 20-22, 2023

Neysa Fligor, Councilmember, presented the report and announced she would abstain from voting on the item due to her position on CalCities

Motion by Meadows and Seconded by Weinberg to provide direction to the City of Los Altos Voting Delegate (Mayor Meadows) to oppose the California Business Roundtable Measure (CBRT) at any meeting the Voting Delegate would be taking a position. **Motion carried 3-0-2 by roll call vote with Councilmembers Lee Eng and Fligor abstained.**

Motion by Fligor and Seconded by Meadows to authorize the City of Los Altos Voting Delegate (Mayor Meadows), or future Voting Delegates, to vote in opposition to any measure that is similar to the 2022 CalCities Annual Conference resolution that was brought forth by petition. **Motion carried unanimously by roll call vote.**

17. Determine whether the City wishes to provide a donation to an organization in the wake of the wildfires in Maui

Lynette Lee Eng, Councilmember, presented the report and to announce an event held at the Los Altos History Museum raising funds for Lahaina and to rescind the request for city funds for a donation.

There were no speakers for this item.

Due to the item being rescinded, no motion was taken.

INFORMATIONAL ITEMS ONLY

18. Tentative Council Calendar and Housing Element Update Calendar

COUNCIL/STAFF REPORTS AND DIRECTIONS ON FUTURE AGENDA ITEMS

- **Jonathan Weinberg** – Requested a future agenda item for discussion regarding remedial action of Planning Commissioner Kate Disney for violation of the Commission Handbook pursuant to Council Norms and Procedures, Section 4.5. (Supported by Dailey and Meadows)

ADJOURNMENT – The meeting adjourned at 10:54 p.m.

The meeting minutes were prepared by Melissa Thurman, City Clerk, for approval at the regular meeting of September 26, 2023.

Sally Meadows,
Mayor

Melissa Thurman, MMC
City Clerk

The September 12, 2023 City Council meeting recording may be viewed via the following external website: <https://www.youtube.com/@CityofLosAltosCA>

The City of Los Altos does not own or operate YouTube. The video referenced on these minutes were live at the time the minutes were published.



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023

Subject Treasurer’s Report – Month Ended June 30, 2023

Prepared by: Minh Nguyen, Senior Accountant

Reviewed by: June Du, Finance Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

- 1. Change in Total Fund Balances by Fund
- 2. Cash Balances by Fund

Initiated by:

Staff.

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- None

Summary:

As indicated in the City’s response to the 2022 Civil Grand Jury Report, the City is providing this report as desired by the Grand Jury. The following attachment provides various financial transaction data for the City of Los Altos for the month of June 30, 2023.

Staff Recommendation:

Receive and accept the Treasurer’s Report through June 30, 2023.

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JD

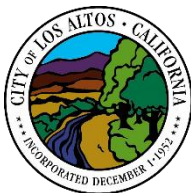
June 2023 Activities* (Unaudited)

FUND	Estimated Ending Balance 05/31/2023	Revenue	Expenditures	Capital Expenditures	Transfer In/(Out)	Estimated Ending Balance 06/30/2023
RESERVE FUND						
Grant Reimbursement Fund	324,063	92,229	-	-	-	416,292
Fiscal Policy Reserve	8,757,349	-	-	-	-	8,757,349
Vets Memorial	8,615	-	-	-	-	8,615
General Fund	16,768,738	8,291,536	(5,847,261)	-	-	19,213,013
Total General Fund:	25,858,766	8,383,764	(5,847,261)	-	-	28,395,269
ENTERPRISE FUNDS						
Sewer Fund ⁽¹⁾	25,694,296	3,378,065	(961,582)	(36,494)	-	28,074,285
Solid Waste Fund	4,990,329	153,308	(138,359)	-	-	5,005,277
Storm Drain Fund	-	-	-	-	-	-
Total Enterprise Funds:	30,684,625	3,531,373	(1,099,941)	(36,494)	-	33,079,563
CAPITAL IMPROVEMENT FUNDS						
Capital Projects Fund	4,788,571	92,285	-	(387,393)	-	4,493,463
Equipment Replacement Fund	634,775	-	-	-	-	634,775
Total Capital Improvement Funds:	5,423,346	92,285	-	(387,393)	-	5,128,238
INTERNAL SERVICE FUNDS						
PERS & OPEB Reserve	551,314	-	-	-	-	551,314
Technology Reserve	1,422,523	20,099	-	-	-	1,442,622
Dental/Vision Fund	(352,678)	-	(28,973)	-	-	(381,652)
Unemployment Fund	96,698	-	-	-	-	96,698
Workers Compensation Fund	1,846,789	-	(30,233)	-	-	1,816,556
Total Internal Service Funds:	3,564,646	20,099	(59,206)	-	-	3,525,538
SPECIAL REVENUE FUNDS						
Road Maintenance (SB1)	1,150,362	64,183	-	-	-	1,214,545
CDBG Fund	-	-	-	-	-	-
Grants Fund-ARP Act	-	-	-	-	-	-
Downtown Parking Fund	963,867	6,539	-	-	-	970,406
Estate Donation Fund	18,351	-	-	-	-	18,351
Gas Tax Fund	2,930,330	71,287	-	-	-	3,001,617
Prop 1B Road Maintenance	130	-	-	-	-	130
Measure B	1,690	757,011	-	-	-	758,701
In Lieu Park Fund	8,277,470	-	-	-	-	8,277,470
Supplemental Law Enforcement Fund	272,564	-	-	-	-	272,564
TDA Fund	88,600	-	-	-	-	88,600
Traffic Impact Fee Fund	(190,954)	-	-	-	-	(190,954)
Vehicle Registration Fund	1,385,042	-	-	-	-	1,385,042
PEG Fees	255,227	-	-	-	-	255,227
Public Art Fund	512,627	-	(1,500)	-	-	511,127
Storm Drain Deposits	56,086	-	-	-	-	56,086
AB-1379 CASP Fee	10,484	548	-	-	-	11,032
Vehicle Impound Fund	4,291	1,568	-	-	-	5,859
Total Special Revenue Funds:	15,736,165	901,135	(1,500)	-	-	16,635,801
DEBT SERVICE FUND						
General Obligation Bond	372,892	1,466	-	-	-	374,358
Community Center Lease	517,977	-	(517,976)	-	-	1
Total Debt Service Fund:	890,869	1,466	(517,976)	-	-	374,359
AGENCY FUND						
Blue Oaks Line Sewer	70,020	21,454	-	-	-	91,474
Total Debt Service Fund:	70,020	21,454	-	-	-	91,474
ALL FUNDS TOTAL	82,228,436	12,951,576	(7,525,884)	(423,887)	-	87,230,241

(1) Sewer Fund Balance includes \$15,335,666 in Nonspendable Capital Assets

June 2023 Activities* (Unaudited)

FUND	Estimated Ending Cash Balance 05/31/2023	Debit	Credit	Estimated Ending Cash Balance 06/30/2023
RESERVE FUNDS				
General Fund	25,671,886	9,095,385	(6,127,721)	28,639,551
Grant Reimbursement Fund	368,090	67,043	-	435,133
Payroll Liability Fund	-	1,630,677	(1,630,677)	-
Total General Fund:	26,039,976	10,793,105	(7,758,397)	29,074,684
ENTERPRISE FUNDS				
Sewer Fund	11,485,594	3,717,348	(297,273)	14,905,670
Solid Waste Fund	5,271,418	153,308	(184,659)	5,240,067
Storm Drain Fund	802	-	-	802
Total Enterprise Funds:	16,757,814	3,870,656	(481,931)	20,146,539
CAPITAL IMPROVEMENT FUNDS				
Capital Projects Fund	7,758,249	-	(2,924,442)	4,833,807
Equipment Replacement Fund	673,655	-	(38,880)	634,775
Total Capital Improvement Funds:	8,431,904	-	(2,963,322)	5,468,582
INTERNAL SERVICE FUNDS				
PERS & OPEB Reserve	551,314	-	-	551,314
Technology Reserve	1,422,523	20,099	(6,189)	1,436,432
Dental/Vision Fund	(352,678)	-	(28,973)	(381,652)
Unemployment Fund	96,698	-	-	96,698
Workers Compensation Fund	6,449,739	-	(20,364)	6,429,375
Total Internal Service Funds:	8,167,595	20,099	(55,527)	8,132,167
SPECIAL REVENUE FUNDS				
Road Maintenance (SB1)	1,154,571	64,183	-	1,218,754
CDBG Fund	-	-	-	-
Downtown Parking Fund	962,471	1,575	-	964,046
Estate Donation Fund	18,321	-	-	18,321
Gas Tax Fund	2,933,834	71,287	-	3,005,120
Prop 1B Road Maintenance	(98)	-	-	(98)
Measure B	(2,278)	757,011	-	754,733
In Lieu Park Fund	8,262,488	-	-	8,262,488
Supplemental Law Enforcement Fund	272,564	-	-	272,564
TDA Fund	36,207	-	-	36,207
Traffic Impact Fee Fund	(190,948)	-	-	(190,948)
Vehicle Registration Fund	1,383,658	-	-	1,383,658
PEG Fees	254,559	-	-	254,559
Public Art Fund	512,627	-	-	512,627
Storm Drain Deposits	56,086	-	-	56,086
AB-1379 CASP Fee	10,484	548	-	11,032
Vehicle Impound Fund	4,291	1,568	-	5,859
Total Special Revenue Funds:	15,668,835	896,171	-	16,565,006
DEBT SERVICE FUNDS				
General Obligation Bond	196,346	-	-	196,346
Community Center Lease	517,977	-	(517,976)	1
Total Debt Service Fund:	714,323	-	(517,976)	196,347
AGENCY FUND				
Blue Oaks Line Sewer	22,979	21,095	-	44,074
Total Debt Service Fund:	22,979	21,095	-	44,074
ALL FUNDS TOTAL	75,803,427	15,601,126	(11,777,153)	79,627,401



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023 *This item was continued from June 27, 2023*

Subject Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications SC22-0029 & V23-0002 at 5790 Arboretum Drive

Prepared by: Jia Liu, Associate Planner
Stephanie Williams, Planning Services Manager

Reviewed by: Nick Zornes, Development Services Director
Jolie Houston, City Attorney

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Draft Resolution
2. Project Plans
3. Appeal Application Form
4. May 18, 2023, Planning Commission Draft Meeting Minutes
5. May 18, 2023, Planning Commission Agenda Report
6. Appellant Request for Continuance
7. Letters from the Appellant for September 26, 2023 Meeting

Initiated by:
Marwan and Lisa Eways, Applicant

Previous Council Consideration:
None

Fiscal Impact:
None

Environmental Review:

If the City Council upholds the Planning Commission’s decision, then no environmental review is required under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270 (“Projects Which are Disapproved”) because CEQA does not apply to projects which are disapproved. If the City Council approves the appeal application, then it may find that the project is categorically exempt under Section 15301 (“Existing Facilities”) of the CEQA Guidelines because it involves an alteration and addition to an existing single-family dwelling in a residential zone within



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

size limits specified in Section 15301(e), and none of the circumstances stated in CEQA Guidelines Section 15300.2 apply.

Summary:

- The project applicant applied for a Design Review and Variance applications to allow an addition to an existing single-family residence consisting of an approximately 190 square-foot addition and 465 square-foot deck on the first story and an eight square-foot addition and 327 square-foot deck on the second story. The variance is requested for a 16-foot and six-inch, second-story side setback for the second-story deck, where a 25-foot side setback is required.
- The Planning Commission considered the project at a public hearing on May 18, 2023, and unanimously denied the request.
- The applicant appealed the Planning Commission’s “straw vote” decision and results.

Background

Property History and Existing Site Conditions

The 4,697 square foot home was originally approved in 2003 by the County of Santa Clara when the property was within the County’s jurisdiction. In 2006, the neighborhood, commonly known as Woodland Acres Neighborhood, was annexed into the City. As one of the properties in the annexed neighborhood, any new development on the property is subject to current City standards.

As the original development was subject to the County’s zoning regulations, which have less restrictive setbacks than current city regulations, the existing house is a legal non-conforming structure. The non-conformities include the two side setbacks that currently require 20-foot first story setback and 25-foot second story setback compared to the existing house’s 15-foot side setbacks for both the first and second stories (see Attachment 2 – Project Plans).

The property is a sloped lot with the home located on the more level portion of the property towards the street and the rear yard is sloped with an approximately 30-foot elevation difference within a 100-foot depth. The rear yard also appears to remain undisturbed with some existing vegetation including two trees that are close to the proposed deck areas.

Design Review Commission Meeting

On February 15, 2023, the Design Review Commission (DRC) discussed the proposed design review application in a public meeting. The staff report recommended approval to the DRC, subject to a specific condition that requires the revision of the second-story deck to comply with the required second-story setback resulting in a setback of 25 feet instead of the proposed sixteen feet and six inches. However, the applicant opposed this condition and expressed the intent to the DRC to seek a variance to allow the non-compliant side setback for the deck as proposed. The DRC subsequently continued the item to a meeting date uncertain and advised the applicant to apply for a concurrent variance application to proceed per the applicant’s request.



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

Planning Commission Meeting

Following the zoning code amendments to implement the City's 2023-2031 Housing, the Design Review Commission has since been dissolved and the review authority for design review applications for single-family residential developments has been delegated to the Zoning Administrator and the review for variance applications delegated to the Planning Commission. Because the variance request is subject to Planning Commission review, the design review request was bundled with the variance request and was considered by the Planning Commission at their meeting of May 18, 2023. It should be noted that there was one commissioner absent from the meeting for a total of six commissioners present at the meeting.

Staff recommended denial of the project to the Planning Commission due to the inability to make all three required variance findings codified in Los Altos Zoning Code (LAZC) Section 14.76.070 B. Because of the recommendation of denial for the variance, staff also recommended denial to the design review as the project does not meet the underlying zoning development standards and cannot meet the findings of the design review per LAMC Section 14.76.060.

During deliberation and discussion, three Commissioners verbally expressed support and three Commissioners expressed opposition to the requested variance. After consideration of staff’s recommendation, public testimony, and the applicant’s presentation which expressed their desire for their project to be heard by the City Council, the Planning Commission unanimously voted (6-0 vote with one commissioner absent) to deny the project.

Appeal

On May 31, 2023, the applicant appealed the Planning Commission’s decision to the City Council within the permissible 14-day appeal period. The application appeal form with the applicant’s reason for appeal can be found in Attachment 3.

Discussion/Analysis

Design Review Application

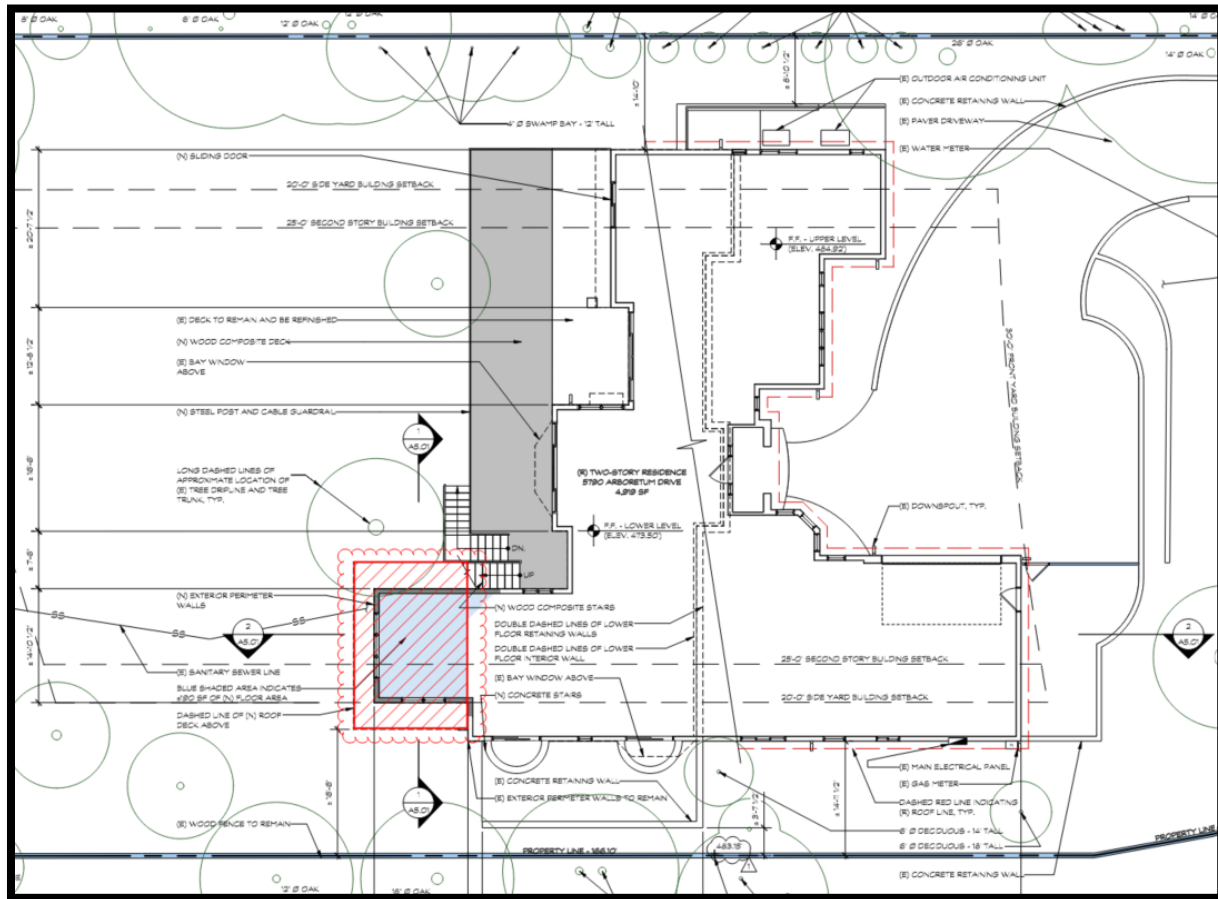
As discussed previously, the existing home is a nonconforming structure. The proposed 190 square-foot addition on the first floor and eight square-foot addition at the second floor are consistent with the current City development standards, including the side setbacks. The proposed first floor deck expansion along the rear elevation has a proposed 15-foot side setback, where the required minimum setback is 20 feet (shown as the area in red in Figure 1 below) which is allowed per Section 14.10.080 E. of the Zoning Code which allows limited nonconforming expansions without a variance as follows:

Where a building legally constructed according to existing yard and setback regulations at the time of construction encroaches upon currently required setbacks, the city planner may approve one encroaching setback to be extended by no more than twenty (20) feet or fifty (50) percent, whichever is less, along its existing building line without a variance, subject to the following provisions:



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

Figure 2



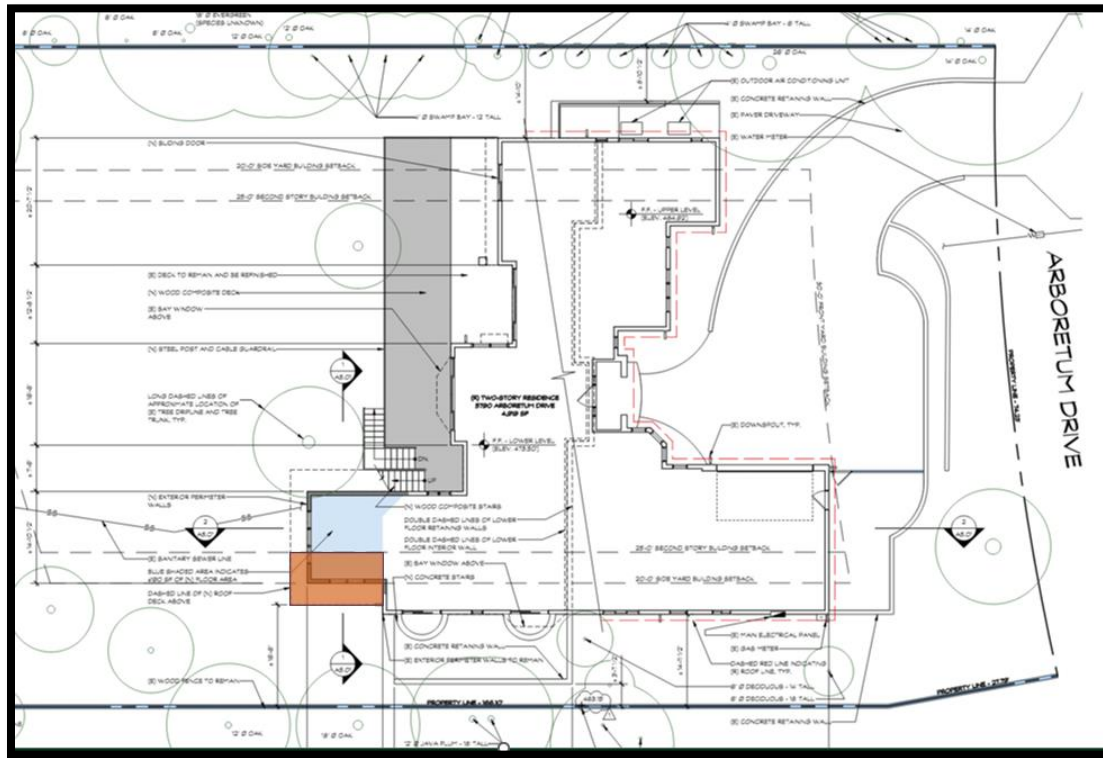
Variance Application

The variance being requested is for a reduction to the second story side setback. The proposed second story deck is proposed atop the first-story addition that will result in an eight-foot and six-inch encroachment into the required 25-foot setback. The encroachment is highlighted in yellow shown in Figure 3 below.



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

Figure 3



Pursuant to LAMC Section 14.76.070 B., a variance may be granted only when all three findings cited below can be made. The third criterion derives from state law (see Government Code Section 65906) and shall be strictly construed.

1. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02;
2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
3. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

As part of the variance application submittal requirements, the applicant provided a variance justification letter that is enclosed as part of the Planning Commission agenda report in Attachment 4. This letter outlines the applicant's explanation why they believe the requested variance should be granted by demonstrating how each finding is met.



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

Regarding Finding No. 1, the applicant believes the project meets two objectives set forth in LAMC Chapter 14.02 including Subsection F - To protect and enhance real property values within the city; and Subsection G - To conserve the city's natural beauty, to improve its appearance, and to preserve and enhance its distinctive physical character.

Based on the given statement, staff has found that this finding cannot be justified because it does not meet the objective of ensuring a harmonious and convenient relationship among land uses, as specified in Subsection B that will deviate the second story side setback standard from the city’s zoning regulations.

Furthermore, staff finds the granting of the variance is not necessary to allow the property owners the reasonable enjoyment of their property because there are alternative deck design options available that can achieve the same goal. For example, the proposed deck can be expanded towards the north to comply with the second-story side setback while still providing the same size deck in a slightly different configuration. Another option to consider is expanding the existing second-story terrace through the hallway. With the possibility of other design solutions, staff does not believe that this finding can be made.

Regarding Finding No. 2, the applicant felt the finding could be made for several reasons. First, the deck is located at the rear of the house, making it invisible from the street, and its small size and lower elevation than the street further contribute to its inconspicuousness. Second, there are no privacy concerns since the deck is not aligned with neighboring structures but is instead proposed to be built with a proposed privacy screening wall. The deck will also be screened by existing screening vegetation. Additionally, the neighbors have expressed support, and two adjacent properties already have non-compliant second-floor decks.

However, staff found that granting this variance could have negative impacts on the surrounding area because the project does not meet the zoning setback standards established to provide better ventilation, sound isolation, reduced lighting and glare, increased landscaping, and access to emergency services between properties and structures. Additionally, staff found that the two adjacent properties with non-compliant second-floor decks do not establish a pattern because:

- The property at 5810 Arboretum Drive, located to the south side, was developed prior to the annexation of the Woodland Acres Neighborhood. The existing non-compliant deck is a legal non-conforming structure, like the house.
- The property at 5770 Arboretum Drive, located to the north side, was granted a variance and design review application (12-V-11 and 12-SC-56) in 2013 by the Design Review Commission for construction of a new two-story house. The granted variance includes a reduction in the side setbacks at both stories. However, staff does not believe that this example is analagous since the property at 5770 Arboretum Drive has an average lot width that is less than 100 feet. In 2015, a zoning code amendment was adopted through Ordinance No. 2015-114 that allows properties with a lot width less than 100 feet in the R1-20 Zoning District to be subject to the R1-10 Zoning District's



Subject: Appeal of the Planning Commission’s Decision on the Design Review and Variance Applications (SC22-0029 & V23-0002) at 5790 Arboretum Drive

development standards. Therefore, the reduced side setbacks at both floors at 5770 Arboretum Drive are currently compliant.

Regarding Finding No. 3, the applicant believes that the property has several special circumstances that justify this variance application for approval. These circumstances include steeply sloping topography, the inability to comply with design guidelines without exception to the side yard setback, the existing legal non-conforming structure compared to the current City's setback requirements due to development prior to annexation, and the need to preserve a mature oak tree while designing an outdoor space.

Staff acknowledged the existence of the site’s conditions with a steep slope throughout the rear yard. Due to this topography, staff is supportive of the proposed idea of a second story deck with a larger size than other proposed second-story decks on relatively flat lots. However, the slope is not considered special circumstance that would deprive the property owners’ privileges because the owners have other options to achieve similar results for the enjoyment of their property by implementing a modified deck design as staff explained earlier in the report.

In addition, the non-conformity of the existing home due to its development under the County’s regulations does not justify further deviations from the current City setback requirements. The applicant has already utilized an administrative zoning code exception to align the expansion of the first-story deck with the existing non-conforming first-story side setback. Staff believes that the current zoning code recognizes the existence of non-conforming structures and acknowledges the homeowners' desire to align new developments with these structures in a limited manner, ensuring fairness for all residential property owners.

Recommendation

1. Uphold the Planning Commission’s denial of Design Review and Variance Applications SC22-0029 & V23-0002 at 5790 Arboretum Drive and find no environmental review is required under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270 (“Projects Which are Disapproved”) because CEQA does not apply to projects which are disapproved.
2. On June 17, 2023 the appellant notified staff that they would be unable to attend the Public Hearing scheduled for June 27, 2023 and requested a continuance of the item (Attachment 6). Staff’s recommendation is to continue the Public Hearing to date certain of September 26, 2023 at 7:00 p.m. based on the appellant’s request.

RESOLUTION NO. 2023-xx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
DENYING APPEAL NO. 23-0001 AND UPHOLDING THE PLANNING
COMMISSION'S DENIAL OF DESIGN REVIEW AND VARIANCE APPLICATIONS
FOR RESIDENTIAL IMPROVEMENTS TO AN EXSTING SINGLE-FAMILY
RESIDENCE AT 5790 ARBORETUM DRIVE**

WHEREAS, the City of Los Altos received applications for Design Review (File Number SC22-0009) and Variance (File Number V23-0002) from Marwan and Lisa Eways, (Applicant), for the construction of a 190 square-foot addition and a 465 square-foot deck expansion at the first story and an eight square-foot addition and a new 327 square-foot outdoor deck at the second story to the existing single-family residence, hereafter referred to as the “Project”;

WHEREAS, said Project is located in the R1-20 District, which allows single-family housing as a permitted use and shall be developed per Los Altos Municipal Code Chapter 14.10; and

WHEREAS, the variance is requested for a reduction in the required second story side setback from 25 feet to 16 feet and six inches for the second story deck; and

WHEREAS, the property owner submits that the property's unique topography, as well as the location of existing trees and structures, make it difficult to comply with the required second story side setback; and

WHEREAS, said Project is exempt from environmental review under Section 15270 of the California Environmental Quality Act (“CEQA”) Guidelines because CEQA does not apply to projects which are disapproved; and

WHEREAS, on February 15, 2023, the Design Review Commission held a public meeting to discuss the design review of said Project and continued to the project to a meeting date uncertain; and

WHEREAS, on February 28, 2023, upon the approval of the zoning code amendments to implement the adopted 2023-2031 Housing Element by the City Council, the Planning Commission is the approval authority for said Project; and

WHEREAS, on May 18, 2023, the Planning Commission conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Planning Commission denied said project; and

WHEREAS, the decision of the Planning Commission was appealed to the City Council by Marwan and Lisa Eways in a time and manner prescribed by the City of Los Altos Municipal Code Chapter 1.12; and

WHEREAS, on June 27, 2023, the City Council conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the appeal, and at the conclusion of the hearing, the City Council denied said appeal and upheld the decision of the Planning Commission; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby denies appeal No. 23-0001 and upholds the Planning Commission’s denial of design review and variance applications for residential improvements to an existing single-family residence at 5790 Arboretum Drive subject to the Findings in Exhibit A attached hereto and incorporated by reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 27th day of June 2023 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Sally Meadows, Mayor

Attest:

Melissa Thurman, City Clerk

EXHIBIT A

FINDINGS

SC22-0029 & V23-0002 at 5790 Arboretum Drive

Design Review

With regard to the improvements to the existing two-story residence, the Planning Commission finds the following in accordance with Section 14.76.060 of the Municipal Code:

- A. The proposed structure or alteration complies with all provisions of this chapter;

This finding cannot be made because:

The proposed second-story deck does not meet the objective side setback requirements set forth in LAMC Sections 14.10.080 and 14.66.210.

- B. The height, elevations and placement on the site of the proposed main or accessory structure or addition, when considered with reference to the nature and location of residential structures on adjacent lots, and will consider the topographic and geologic constraints imposed by particular building site conditions;

This finding cannot be made because:

The height, elevations, and placement on the site of the proposed addition to the existing house is found not compatible when considered with reference to the nature and location of residential structures on adjacent lots, and will not consider the topographic and geologic constraints imposed by particular building site conditions because the proposed project, specifically for the second-story deck does not comply with the objective setback requirement and is further found not compatible with the location of the residential structures on adjacent lots that are developed after annexation of the neighborhood.

- C. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized;

This finding cannot be made because:

The natural landscape will not be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized because the proposed project will disturb existing grading and conduct soil removal or soil filling in order to construct the first story addition situated on the natural slope.

- D. The orientation of the proposed main or accessory structure or addition in relation to the immediate neighborhood will minimize excessive bulk;

This finding cannot be made because:

The orientation of the house in relation to the immediate neighborhood will not minimize excessive bulk because the proposed second story deck with a five-foot and six-inch solid screening wall will encroach into the required side yard resulting a bulky appearance due to the close distance than allowed in the zoning code.

E. General architectural considerations, including the size and scale, the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site; and

This finding cannot be made because:

General architectural considerations, including the size and scale, the architectural relationship with the site and other buildings, building materials, and similar elements have not been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site because the proposed second story deck is eight feet and six inches less than the required second story setback will lead to an incompatible pattern with the character of adjacent buildings that are subject to the current city standards for development.

F. The proposed structures have been designed to follow the natural contours of the site with minimal grading, minimal impervious cover and maximum erosion protection. A stepped foundation shall be required where the average slope beneath the proposed structure is ten (10) percent or greater.

This finding cannot be made because:

The proposed house improvements have not been designed to follow the natural contours of the site with minimal grading, minimum impervious cover, and maximum erosion protection because of the proposed addition will alter the natural topography by placing the first story addition, the staircase to the second story deck, and the expansion of the first story deck.

Variance

With regard to the improvements to the existing two-story residence, the Planning Commission finds the following in accordance with Section 14.76.070 B. of the Municipal Code:

- A. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02.

This finding cannot be made because:

Granting of the variance will not be consistent with the objectives of the zoning plan because it does not meet the objective of ensuring a harmonious and convenient relationship among land uses, as specified in Section 14.02.020 B. of the Municipal Code that will deviate the second story side setback standard from the city’s zoning regulations. Furthermore, granting the variance is not necessary to meet other objectives. Staff found that there are alternative design options available for the proposed deck that can achieve the same goal.

- B. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity.

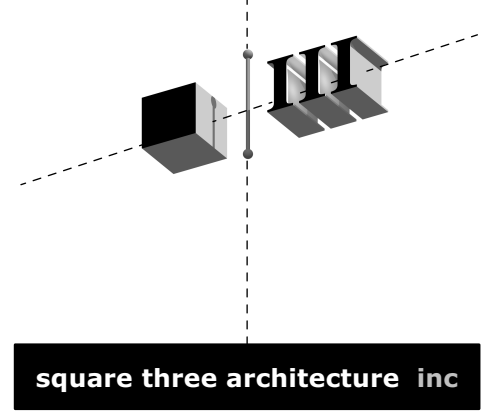
This finding cannot be made because:

Granting the variance could have negative impacts on the surrounding area because the project does not meet the zoning setback standards established to provide better ventilation, sound isolation, reduced lighting and glare, increased landscaping, and access to emergency services between properties and structures.

- C. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

This finding cannot be made because:

The steeply sloping topography is not considered special circumstance that would deprive the property owners’ privileges because the owners have other options to achieve similar results for the enjoyment of their property by implementing a modified deck design as staff explained earlier in the report. The non-conformity of the existing home due to its development under the County’s regulations does not justify further deviations from the current City setback requirements. The exception to allow the first-story deck’s expansion in the zoning code acknowledges a non-conforming structure’s existence and the desire from homeowners to align new development with the structure in a limited way.



900 high street suite 3
palo alto, ca 94301
650 • 326 • 3860

ARCHITECT:
SQUARE THREE ARCHITECTURE
800 HIGH STREET, SUITE 3
PALO ALTO, CA 94301
PH: 650.326.3860 X112, X115
EM: TOMC@SQUARETHREE.COM
CAMDEN@SQUARETHREE.COM
CONTACT: TOM CARRUBBA
CAMDEN SANTO

OWNER:
MARWAN EWAYS
5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024
PH: 415.806.7410
EM: MEWAYS@YAHOO.COM

PROJECT DIRECTORY 1

- THIS PROJECTS INVOLVES THE FOLLOWING:
1. NEW ± 188 SF EXTENSION ON THE LOWER FLOOR AND NEW ± 8 SF EXTENSION ON UPPER FLOOR.
 2. A ± 584 SF EXTENSION TO AN EXISTING LOWER FLOOR DECK.
 3. CONSTRUCTION OF A NEW ± 284 SF ROOF DECK ON THE UPPER FLOOR.

PROJECT DESCRIPTION 2

- A0.01 PROJECT INFORMATION, NEIGHBORHOOD CONTEXT, SHEET INDEX ZONING COMPLIANCE
- C-5 EXISTING PRELIMINARY GRADING & DRAINAGE PLAN
- C-6 EXISTING TOPOGRAPHIC SURVEY
- EC1 EXISTING SITE PLAN
- EC2 EXISTING LOWER FLOOR PLAN
- EC3 EXISTING UPPER FLOOR PLAN
- EC4 EXISTING ROOF PLAN
- EC5 - EC6 EXISTING EXTERIOR ELEVATIONS
- A1.01 PROPOSED SITE PLAN
- A1.02 EXISTING PRIVACY SCREENING PHOTOS
- A2.01 PROPOSED LOWER FLOOR PLAN
- A2.02 PROPOSED UPPER FLOOR PLAN
- A2.03 PROPOSED ROOF PLAN
- A2.04 FLOOR AREA AND COVERAGE CALCULATION DIAGRAM
- A3.01 PROPOSED EXTERIOR ELEVATIONS
- A3.02 PROPOSED EXTERIOR ELEVATIONS
- A3.03 EXISTING EXTERIOR VIEWS
- A5.01 PROPOSED BUILDING SECTIONS

SHEET INDEX 3

SITE DATA
A.P.N. 342-04-093
OCCUPANCY GROUP R, DIVISION 3
BUILDING TYPE V-B
ZONE R1-20

ZONING COMPLIANCE

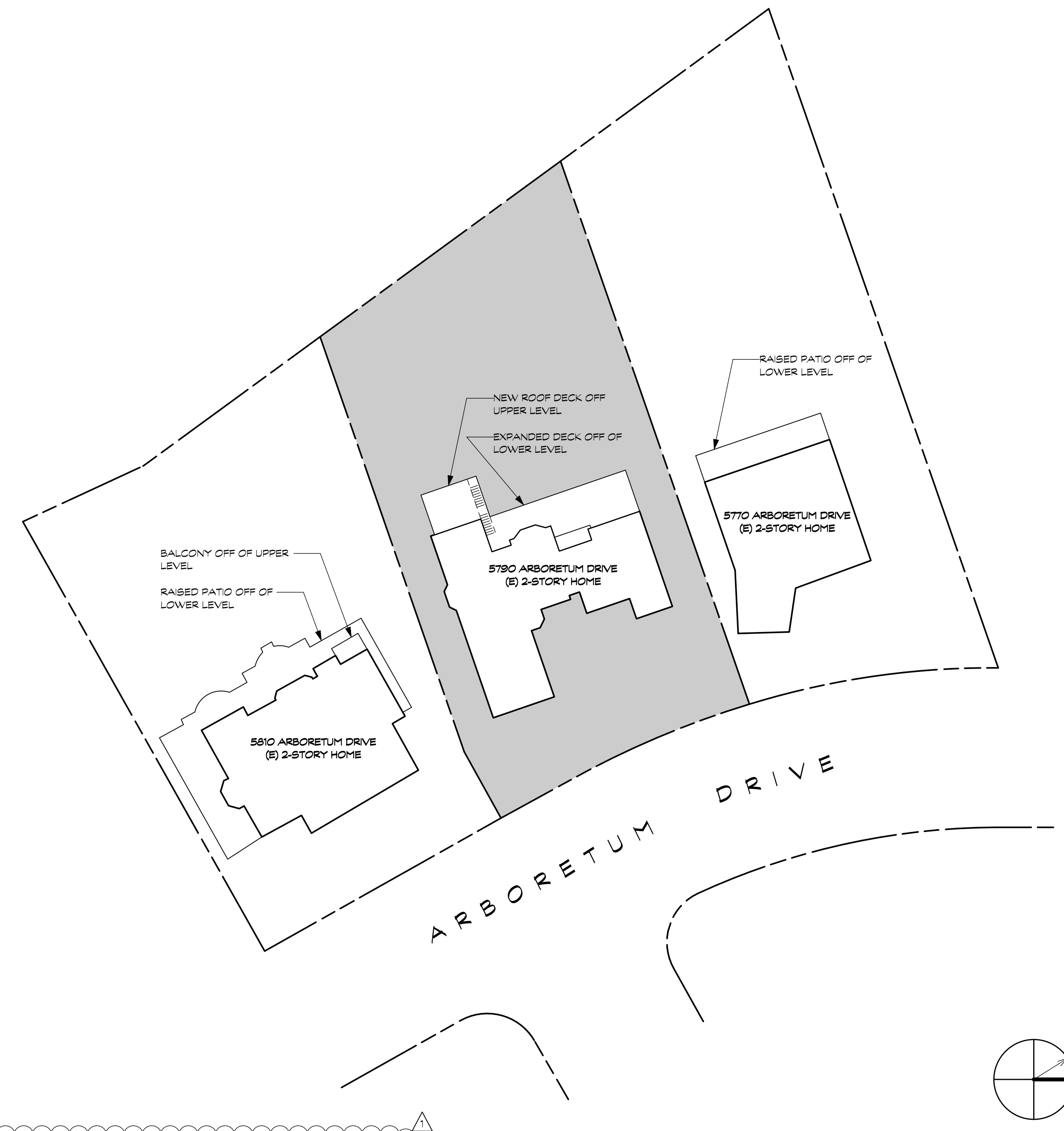
	EXISTING	PROPOSED	ALLOWED/REQUIRED
LOT COVERAGE: LAND AREA COVERED BY ALL STRUCTURES THAT ARE OVER 6 FEET IN HEIGHT	3,482.1 SQUARE FEET (16.05%)	4,764.2 SQUARE FEET (21.96%)	5,423 SQUARE FEET (25%)
FLOOR AREA: MEASURED TO THE OUTSIDE SURFACES OF EXTERIOR WALLS	1ST FLR: 1,494.5 SF 2ND FLR: 3,202.9 SF TOTAL: 4,697.4 SF (21.66%)	1ST FLR: 1,683.1 SF 2ND FLR: 3,210.6 SF TOTAL: 4,893.7 SF (22.56%)	4,919 SQUARE FEET (22.66%)
SETBACKS:			
FRONT	30 FT	30 FT	30 FT
REAR	35 FT	35 FT	35 FT
RIGHT SIDE (1ST/2ND)	20 FT/ 25 FT	20 FT/ 25 FT	20 FT/ 25 FT
LEFT SIDE (1ST/2ND)	20 FT/ 25 FT	20 FT/ 25 FT	20 FT/ 25 FT
HEIGHT:	± 25' - 7'	± 25' - 7'	± 27' - 0'

SQUARE FOOTAGE BREAKDOWN

	EXISTING	CHANGE IN	TOTAL PROPOSED
HABITABLE LIVING AREA: INCLUDES HABITABLE BASEMENT AREAS	4,203.1 SQUARE FEET	196.3 SQUARE FEET	4,399.4 SQUARE FEET
NON-HABITABLE AREA: DOES NOT INCLUDE COVERED PORCHES OR OPEN STRUCTURES	494.3 SQUARE FEET	0 SQUARE FEET	494.3 SQUARE FEET

LOT CALCULATIONS

NET LOT AREA:	21,690 SQUARE FEET
FRONT YARD HARDSCAPE AREA: HARDSCAPE AREA IN THE FRONT YARD SETBACK SHALL NOT EXCEED 50%	1,316.9 SQUARE FEET (41.61%)
LANDSCAPING BREAKDOWN:	TOTAL HARDSCAPE AREA (EXISTING AND PROPOSED): 6,163.6 SF EXISTING SOFTSCAPE (UNDISTURBED) AREA: 15,526.4 SF NEW SOFTSCAPE (NEW OR REPLACED LANDSCAPING) AREA: 0 SF SUM OF ALL THREE SHOULD EQUAL THE SITE'S NET LOT AREA



NOT USED 7

NEIGHBORHOOD CONTEXT MAP 1" = 30' 5



NOT USED 8

VICINITY MAP N.T.S. 6

PROJECT DATA 4

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sheet title

- PROJECT DIRECTORY
- SHEET INDEX
- PROJECT DESCRIPTION
- PROJECT DATA
- VICINITY MAP
- NEIGHBORHOOD CONTEXT

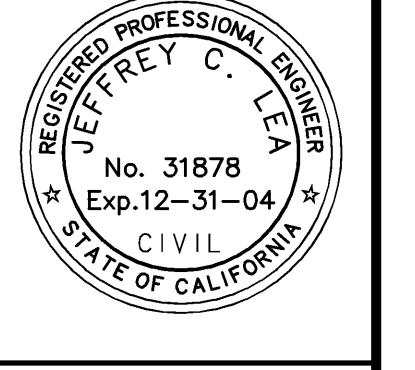
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A0.01

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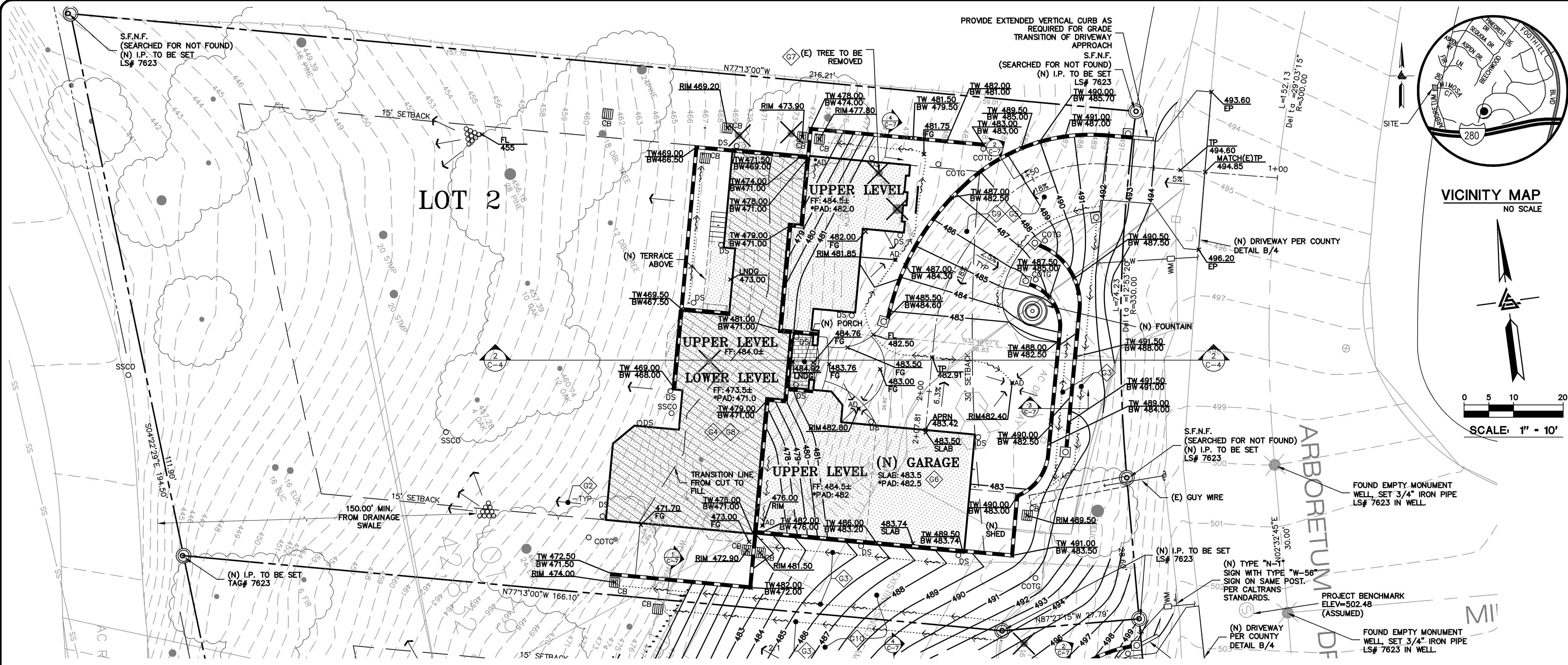
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 REGISTERED PROFESSIONAL ENGINEERS
 CIVIL ENGINEERS • LAND SURVEYORS
 2495 INDUSTRIAL PARKWAY WEST
 HAYWARD, CALIFORNIA 94545
 (510) 887-4086
 FAX (510) 887-3019

**LOT 79, TRACT NO. 856
 5800 ARBORETUM DR.
 LOS ALTOS, CA**

SANTA CLARA COUNTY
 APN: 342-04-018

**GRADING &
 DRAINAGE PLAN
 FOR LOT 2**

PLAN CHECK 8-1-03	PC
PLAN CHECK 7-21-03	PC
PLAN CHECK 6-20-03	PC
FINAL CONDITIONS 6-5-03	PC
ARCH. REVISION 1-15-02	PC
REVISIONS	BY
JOB NO: 2020278	
DATE: 10-16-02	
SCALE: 1" = 10'	
DESIGN BY: WC	
DRAWN BY: MYC	
SHEET NO: C-5	



TOP OF WALL ELEVATION - RETAINING WALLS:
 "TW" GRADES SHOWN ARE TO FINISH GRADE OF RETAINED EARTH. ACTUAL WALL HEIGHT SHALL BE EXTENDED WHERE APPROPRIATE TO PROVIDE CODE CLEARANCE FOR FRAMING. REFER TO STRUCTURAL PLANS FOR DETAILS.

- NOTES:**
- THIS PLAN AUTHORIZES THE REMOVAL OF ONLY THOSE TREES WITH TRUNK DIAMETERS LESS THAN 12 INCHES MEASURED 4.5 FEET ABOVE THE GROUND WHICH ARE SHOWN TO BE REMOVED. ANY OTHER SUCH TREES ARE NOT TO BE REMOVED UNLESS AN AMENDED PLAN IS APPROVED OR A SEPARATE TREE REMOVAL PERMIT IS OBTAINED FROM THE PLANNING OFFICE. IT IS THE CONTRACTOR'S RESPONSIBILITY TO ENSURE THAT REMOVAL OF ADDITIONAL TREES HAS BEEN PERMITTED.
 - NOTIFY THE SOILS ENGINEER TWO (2) DAYS PRIOR TO COMMENCEMENT OF ANY GRADING WORK TO COORDINATE THE WORK IN THE FIELD WITH THE CONTRACTOR.
 - SUBMIT A CERTIFICATION FROM THE SOILS ENGINEER CERTIFYING THAT THE WORK WAS COMPLETED IN ACCORDANCE WITH THE RECOMMENDATIONS IN THE SOILS REPORT PRIOR TO RELEASE OF BOND.
 - OBTAIN AN ENCROACHMENT PERMIT FROM COUNTY OF SANTA CLARA TRANSPORTATION AGENCY FOR INSTALLATION OF COUNTY STANDARD DRIVEWAY APPROACHES.

FIRE PROTECTION NOTES:
 PROVIDE 15 FT. MINIMUM VERTICAL CLEARANCE OVER ALL ACCESS ROADS AND DRIVEWAYS TO BUILDING SITE (REMOVE TREE LIMBS, ELECTRICAL WIRES OR STRUCTURES). WORK TO BE COMPLETED PRIOR TO RECORDING OF PARCEL MAP/ISSUANCE OF BUILDING PERMIT.

* BUILDING PAD NOTE:
 ADJUST PAD LEVEL AS REQUIRED. REFER TO STRUCTURAL PLANS FOR SLAB SECTION TO ESTABLISH PAD LEVEL.

- SITE NOTES:**
- G1 CONTRACTOR SHALL OBTAIN THE PROPER PERMITS PRIOR TO ANY GRADING.
 - G2 SLOPE FINISHED GRADES A MINIMUM OF 4%, FOR AT LEAST THE FIVE FEET (5') FROM BUILDING PERIMETER. DIRECT SURFACE DRAINAGE RUNOFF TO DISPERSE ON-SITE.
 - G3 CONSTRUCT EARTHEN SWALES AT 2% TYP. (1% MIN.) & BERMS AS REQUIRED TO DIRECT FLOWS TO DAYLITE. SLOPE FINISHED GRADES TO DAYLITE, TO ACCOMMODATE POSITIVE DRAINAGE AND AVOID PONDING. FOR FLOW LINES GREATER THAN 5%, PROVIDE LINED DITCH - TYP.
 - G4 CONTRACTOR SHALL PROVIDE AND MAINTAIN APPROVED EROSION AND SEDIMENTATION CONTROL MEASURES DURING RAINY SEASON PER TOWN AND A.B.A.G. STANDARDS - REFER TO EROSION AND SEDIMENTATION CONTROL PLAN.
 - G5 PROVIDE 2% SLOPE ACROSS FLAT WORK AND/OR PAVING AND SLOPE TO DAYLITE. REFER TO ARCHITECT'S PLANS FOR PAVEMENT TYPE, LAYOUT, AND FINISH - TYP.
 - G6 SLOPE GARAGE SLAB @ 1% MIN. (1/8" PER FT.) TO PROVIDE POSITIVE DRAINAGE.
 - G7 REMOVE TREE AS REQUIRED, PROVIDE TREE PROTECTION TO ALL REMAINING TREES - TYP.
 - G8 REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL INFORMATION, INCLUDING BUT NOT LIMITED TO: ADDITIONAL UTILITY SERVICES, DIMENSION CONTROL, DEMOLITION, DETAILS, TREE PROTECTION MEASURES, AND LANDSCAPING.
 - G9 (N) DRIVEWAY SHALL BE 4" CONCRETE WITH #3 BARS @ 16" O.C.E.W. OVER 6" AB (COMPACTED AT 95%) OVER COMPACTED SUBGRADE (COMPACTED AT 95%). BRUSH FINISH DRIVEWAY.
 - G10 DEMOLISH AND REMOVE THE (E) DRIVEWAY, (E) BROKEN FOUNDATION, AND (E) WALLS AND PIPES THAT ARE TO BE REPLACED BY THE SITE DEVELOPMENT - TYP.
 - G11 RETAINING WALLS TO BE CONSTRUCTED UNDER SEPARATE BUILDING PERMIT.

GENERAL NOTES

THIS GRADING AND DRAINAGE PLAN IS SUPPLEMENTAL TO:

- TOPOGRAPHIC INFORMATION PROVIDED BY DUNBAR & CRAIG LICENSED LAND SURVEYORS, DATED JANUARY 1999, ENTITLED: "TOPOGRAPHIC MAP" LOT 79, TRACT NO. 856 UNIT NO. 3 SUPPLEMENTAL INFORMATION PROVIDED BY LEA AND SUNG ENGINEERING, INC. JOB# 2020277
- ARCHITECTURAL SITE PLAN BY STOTLER DESIGN ARCHITECTURE, DATED 10-29-1999, ENTITLED: "PROPOSED NEW HOUSE" 5800 ARBORETUM DRIVE LOS ALTOS, CALIFORNIA

THE CONTRACTOR SHALL REFER TO THE ABOVE NOTED SURVEY AND PLAN, AND SHALL VERIFY BOTH EXISTING AND PROPOSED ITEMS ACCORDING TO THEM.

ESTIMATED EARTHWORK QUANTITIES LOT 2

CUT	850 C.Y.
FILL	290 C.Y.
TOTAL EXPORT	560 C.Y.
CONTRACTOR TO VERIFY QUANTITIES	

APPROVED FOR ISSUANCE
 REFER TO ENCROACHMENT AND/OR CONSTRUCTION PERMIT AND PLAN COVER SHEET FOR SPECIAL CONDITIONS AND PERMIT NUMBERS.

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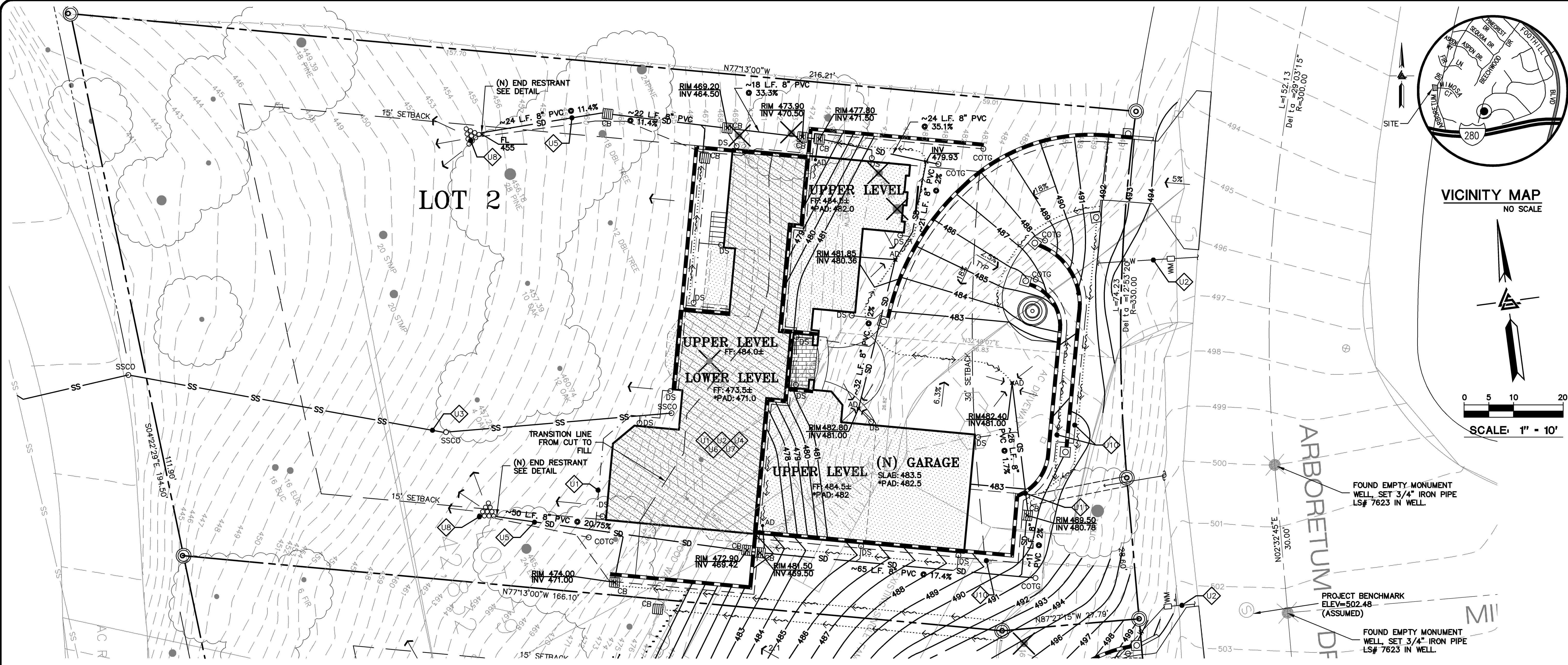


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LOT 79, TRACT NO. 856
5800 ARBORETUM DR.
LOS ALTOS, CA

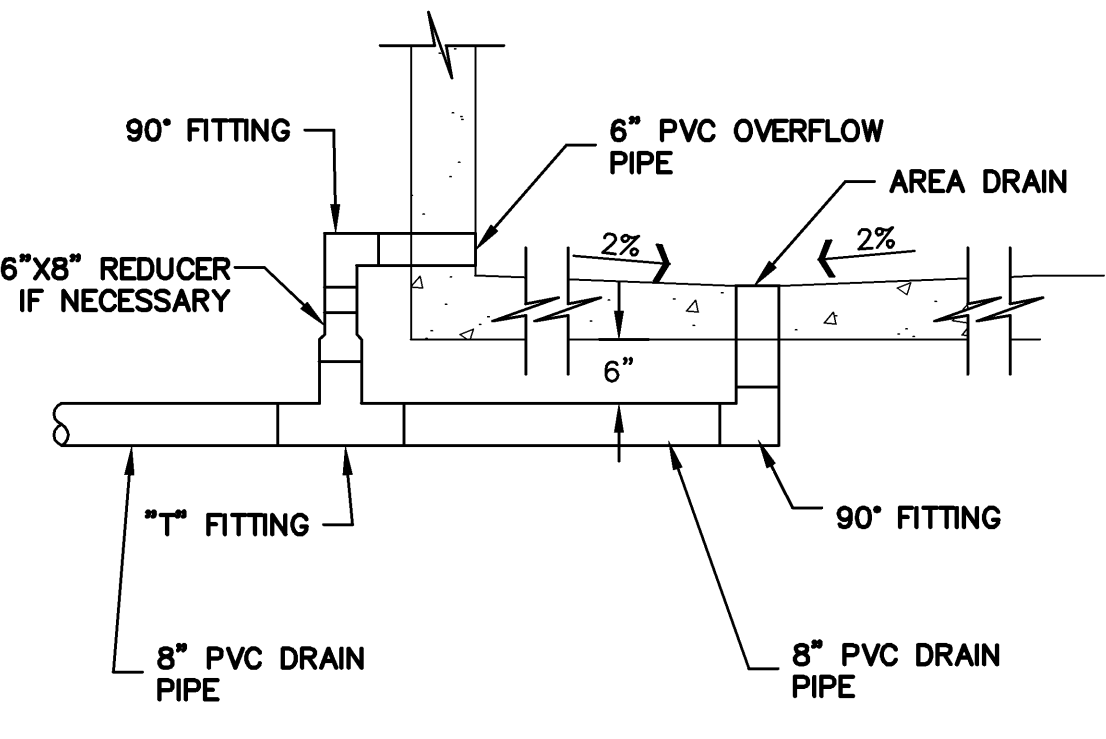
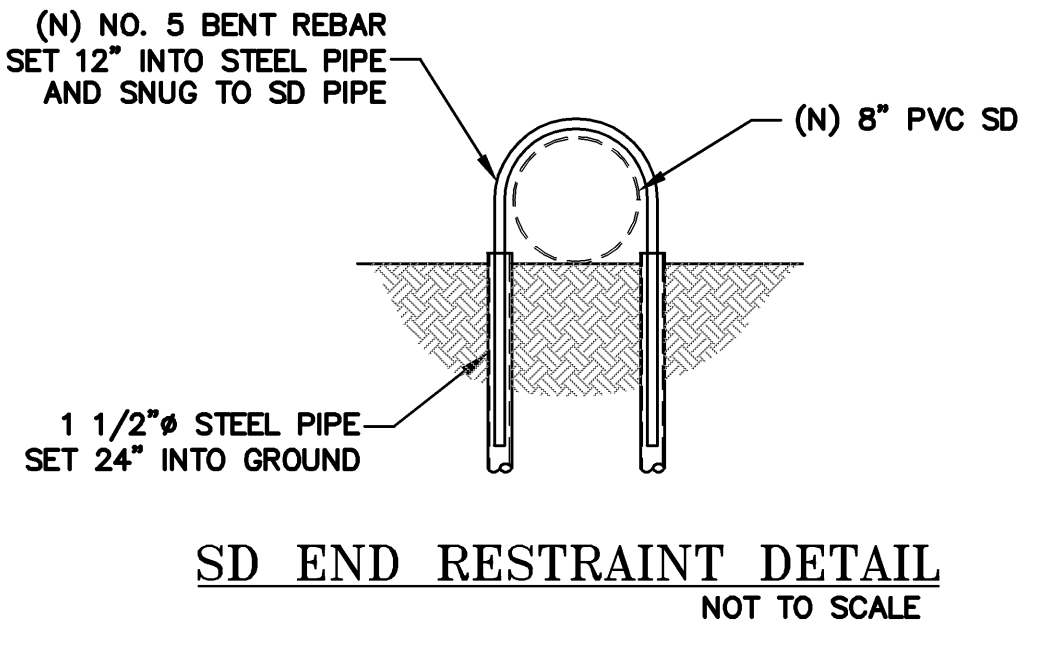
UTILITY PLAN FOR
LOT 2

PLAN CHECK	8-1-03	PC
PLAN CHECK	7-21-03	PC
PLAN CHECK	6-20-03	PC
FINAL CONDITIONS	5-5-03	PC
ARCH. REVISION	1-15-02	PC
REVISIONS	BY	
JOB NO:	2020278	
DATE:	10-16-02	
SCALE:	1" = 10'	
DESIGN BY:	WC	
DRAWN BY:	MYC	
SHEET NO:		



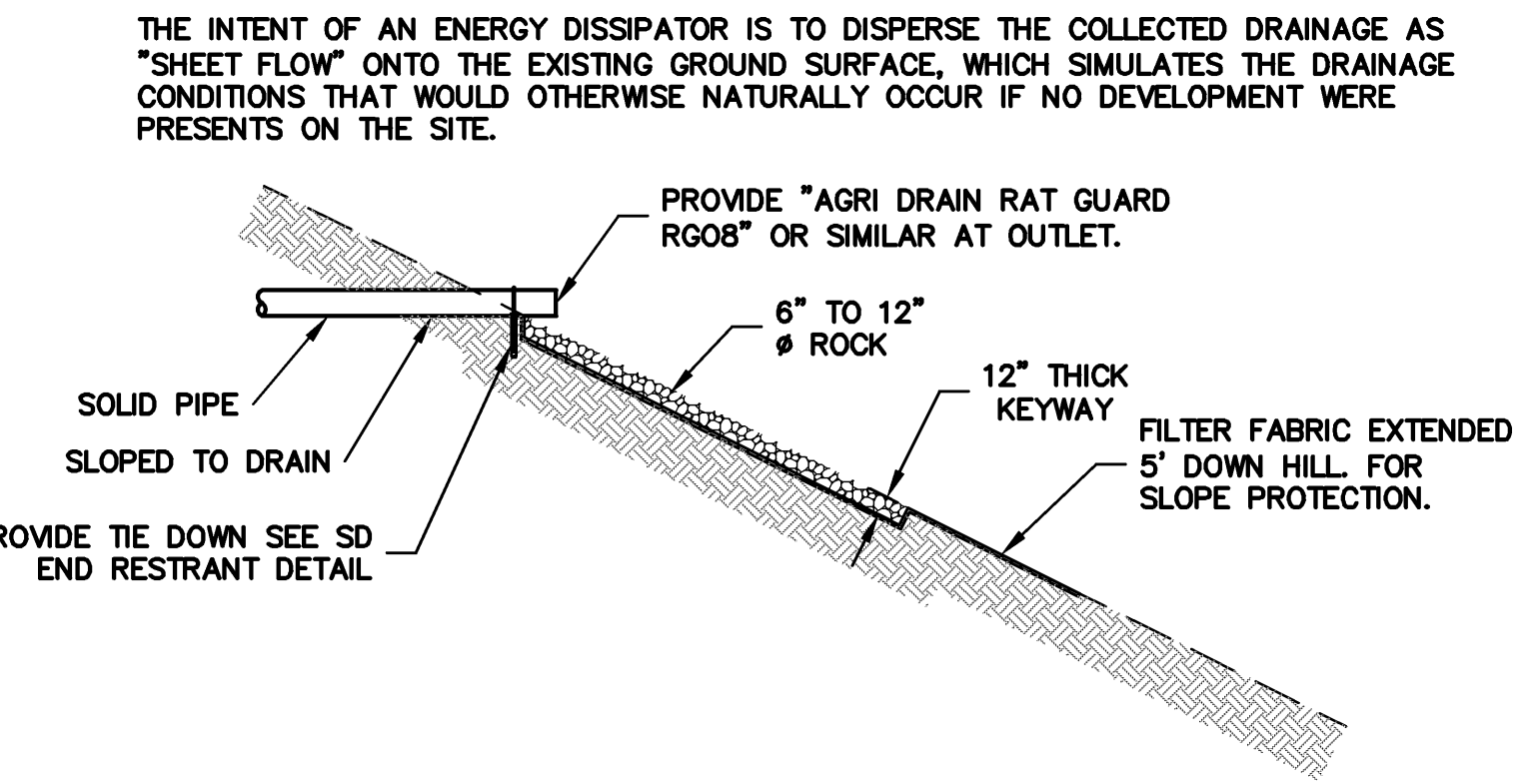
UTILITY NOTES:

- U1 DIRECT ROOF DOWNSPOUTS TO ON-SITE STORM DRAIN SYSTEM. USE 4" PVC (SDR-35 OR BETTER) SLOPED AT 2%
- U2 INSTALL (N) WATER SERVICE -TYP
- U3 INSTALL (SS) SANITARY SEWER LATERAL AT 2% MIN.-TYP
- U4 INSTALL (N) GAS SERVICE PER PG&E STANDARDS
- U5 INSTALL (N) ON-SITE STORM DRAIN SYSTEM 8" PVC @ 1% MIN. PROVIDE 2' OF COVER MIN.-TYP.
- U6 PLACES ALL NEW UTILITIES UNDERGROUND -TYP
- U7 REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL INFORMATION, INCLUDING BUT NOT LIMITED TO: ADDITIONAL UTILITY SERVICES, DIMENSION CONTROL, DEMOLITION, DETAILS, TREE PROTECTION MEASURES, AND LANDSCAPING.
- U8 PLACE ENERGY DISSIPATOR PER A.B.A.G., AND COUNTY STANDARDS. SEE DETAIL
- U9 DIRECT ALL SURFACE LEVEL DRAINAGE INTO ON-SITE STORM DRAIN SYSTEM.
- U10 (N) 4" PVC RETAINING WALL SUBDRAIN PLACED ON DRAIN ROCK. REFER TO SOILS REPORT FOR DETAILS.
- U11 EMERGENCY OVERLAND RELEASE THRU WALL DRAIN. SEE DETAIL
- U12 EMERGENCY OVERLAND RELEASE OVER WALL SEE DETAIL ON SHEET C-7

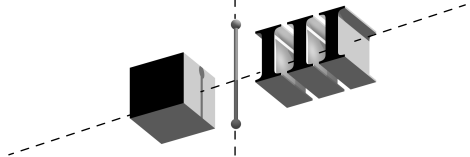


NOTES:

1. INSTALL 8" METAL GRATE AND 8" PVC OUTGOING PIPE IN AREAS INTENDED TO HAVE FOOT TRAFFIC.
2. INSTALL 6" PVC OVERFLOW PIPE AS SHOWN.
3. CONTRACTOR SHALL SUBMIT TO THE OWNER IN WRITING THE NEED FOR PERIODIC MAINTENANCE AND REMOVAL OF DEBRIS.
4. REFER TO STRUCTURAL PLAN FOR WALL CONSTRUCTION DETAIL.

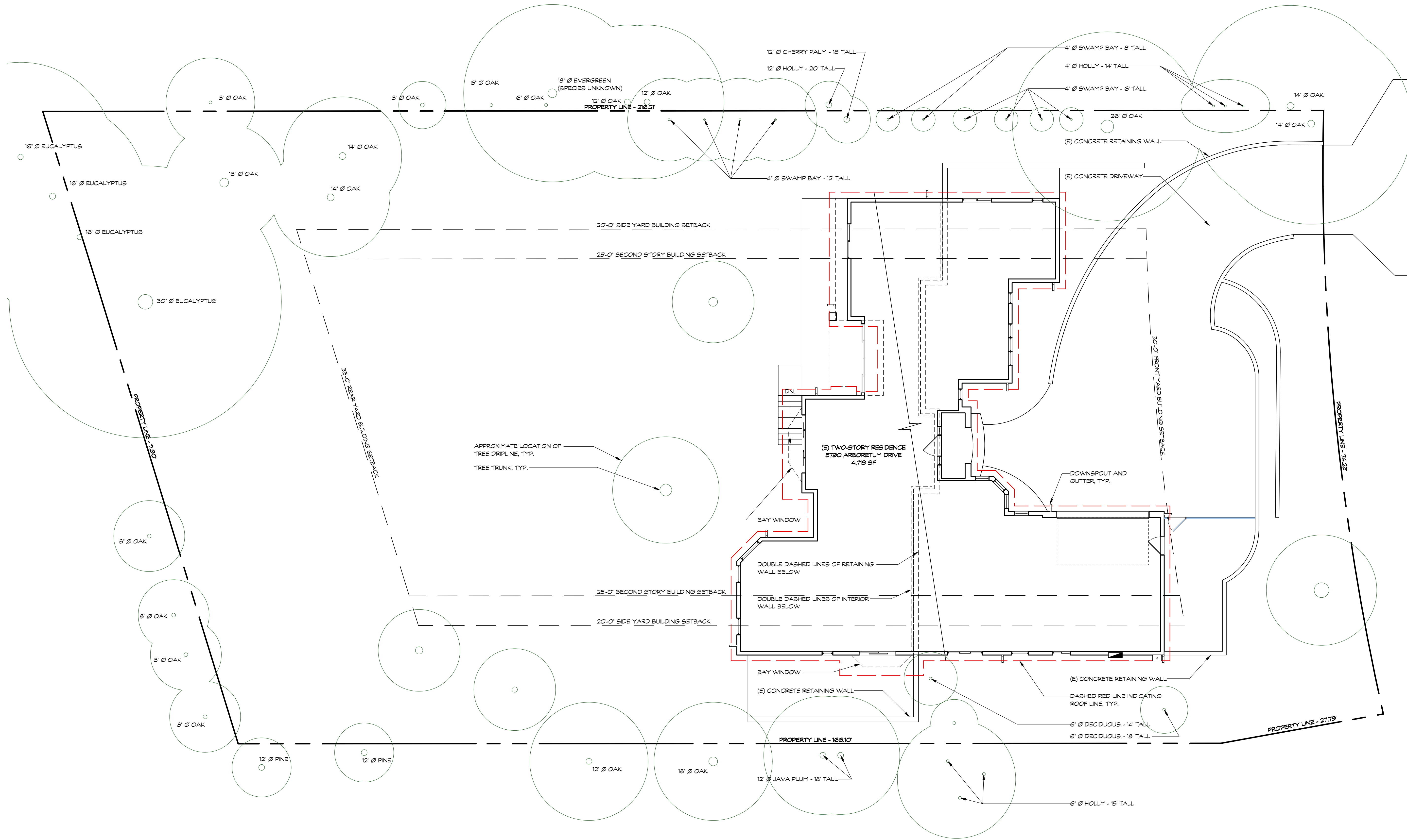


PLAN # _____ OF SHEET



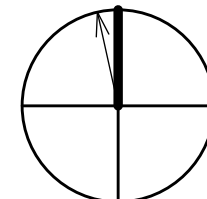
square three architecture inc

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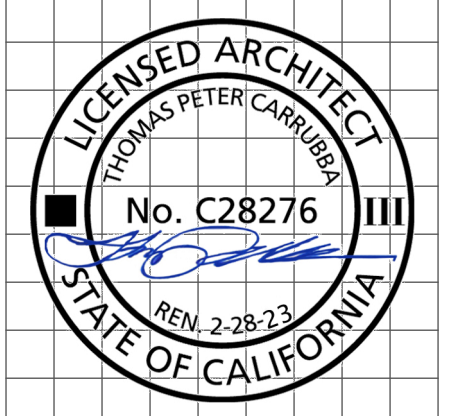
APPROXIMATE LOCATION OF TREE DRIPLINE, TYP.
TREE TRUNK, TYP.

'X' INDICATES TREES THAT WERE REMOVED AFTER CIVIL SURVEY BUT PRIOR TO THE CURRENT OWNERS PURCHASING THE PROPERTY. TREES WERE REMOVED PRIOR TO PROPERTY BEING ANNEXED INTO LOS ALTOS WHEN PROPERTY WAS STILL UNDER SANTA CLARA COUNTY JURISDICTION.



DESIGN REVIEW APPROVAL SET - NOT FOR CONSTRUCTION

A FEASIBILITY STUDY FOR:
EWAYS FAMILY
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LOS ALTOS, CA 94024



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revision date

1 R. COMMENTS 12/16/22

sheet title

EXISTING SITE PLAN

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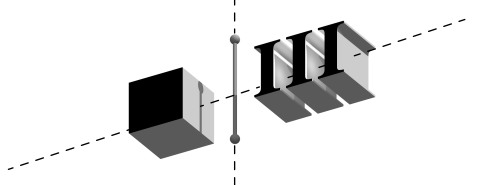
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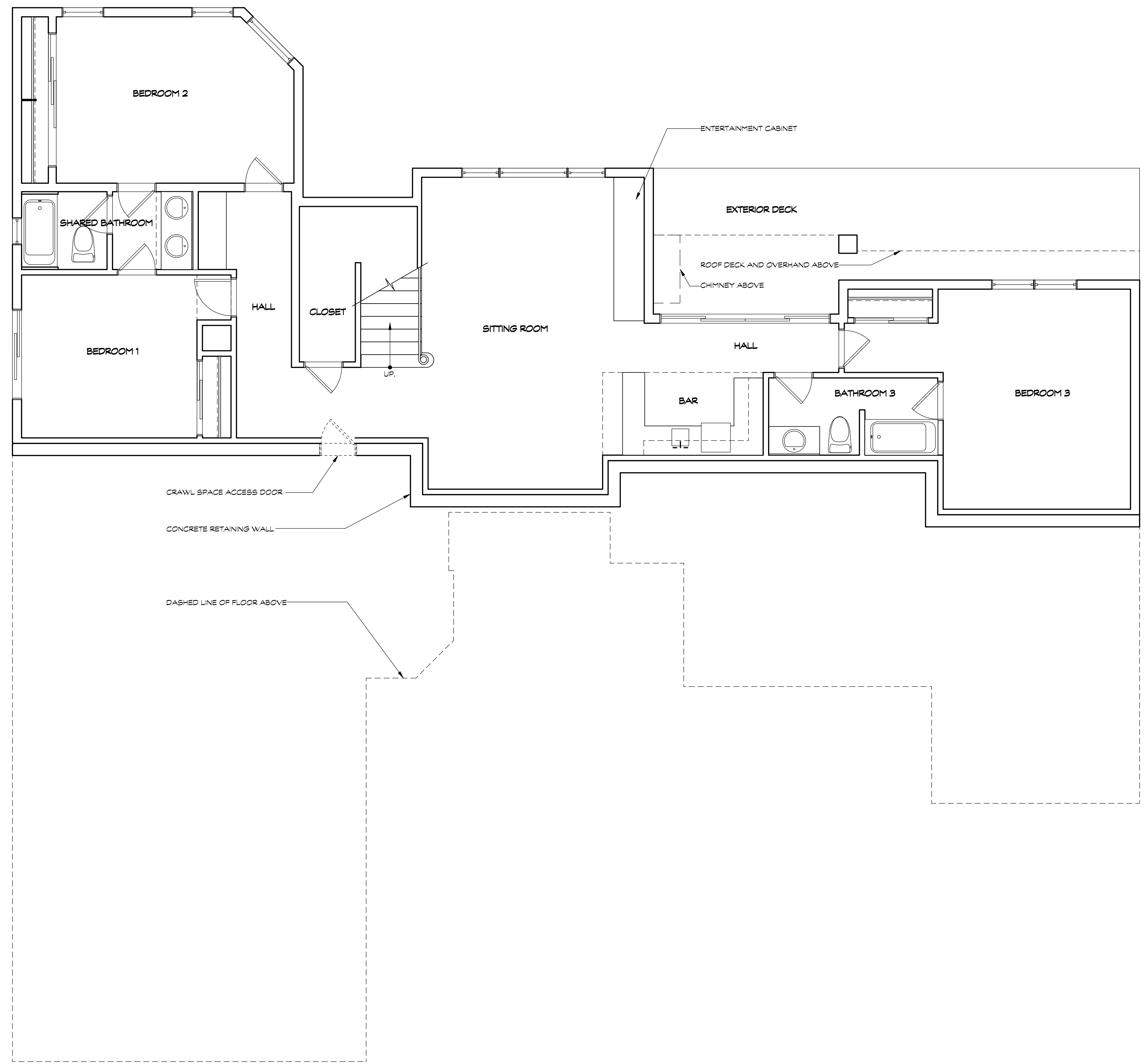
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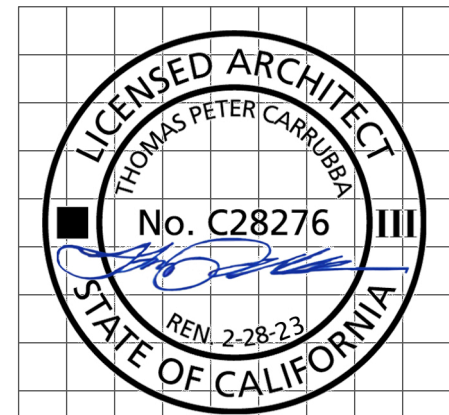
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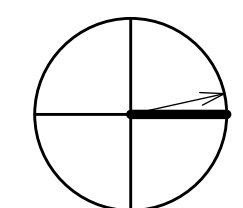
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EXISTING LOWER FLOOR PLAN
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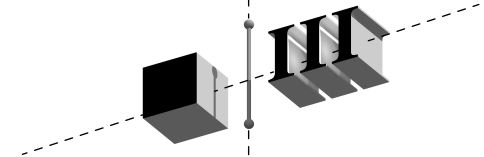
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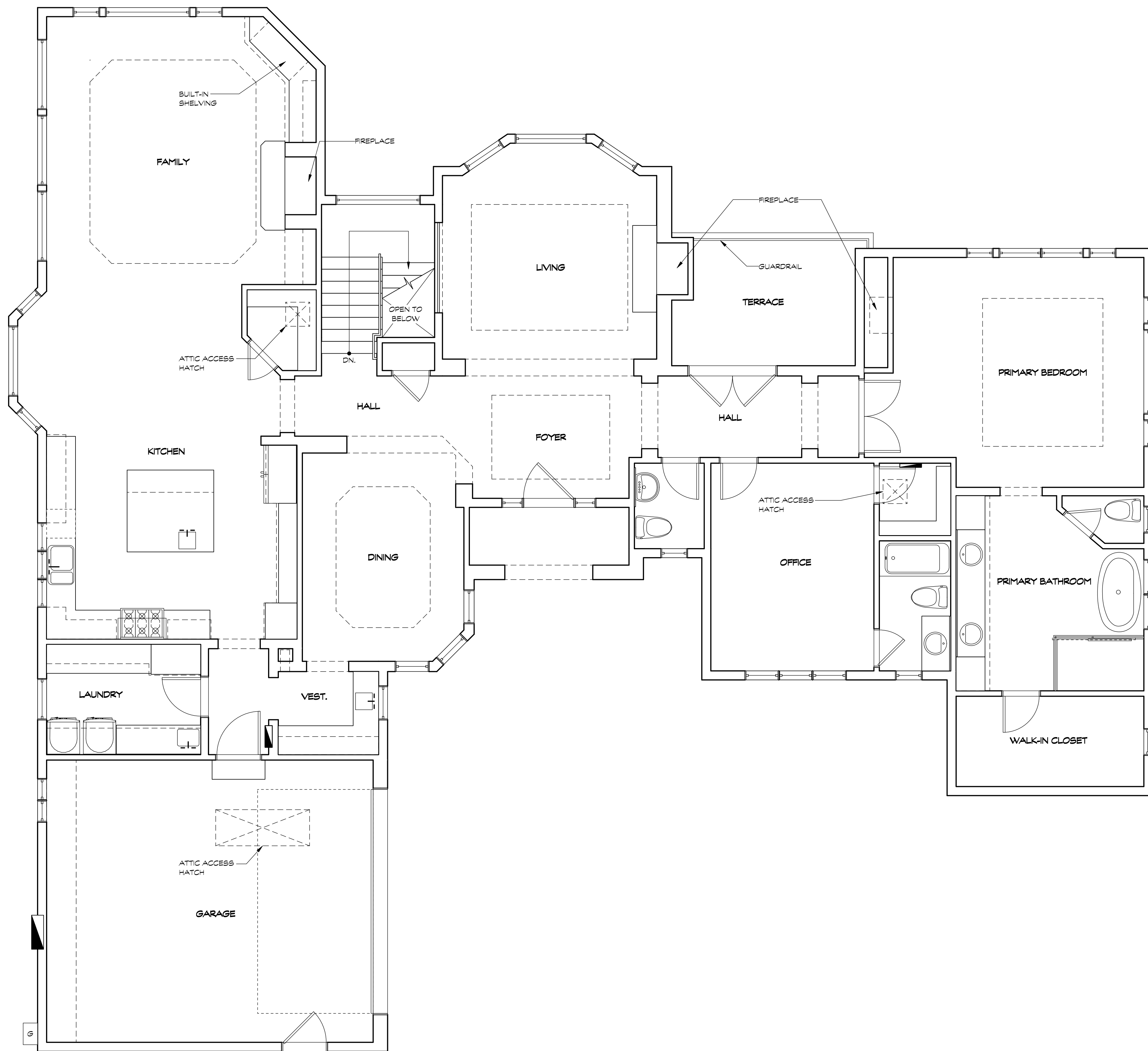
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EC2
FILE: 22101_DRR1_EC_sht.plans.v2022





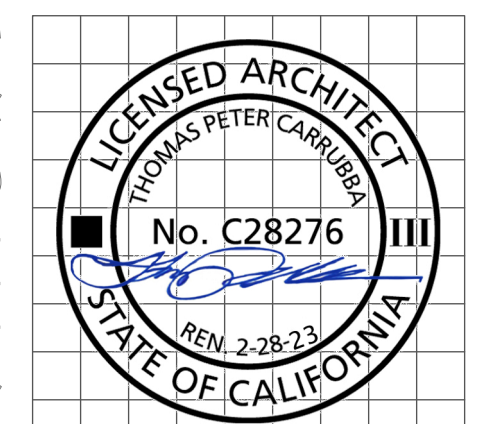
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revision	date
1	12/16/22

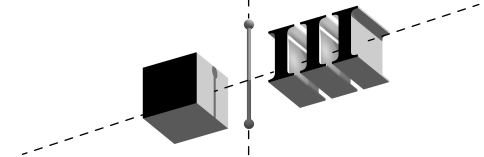
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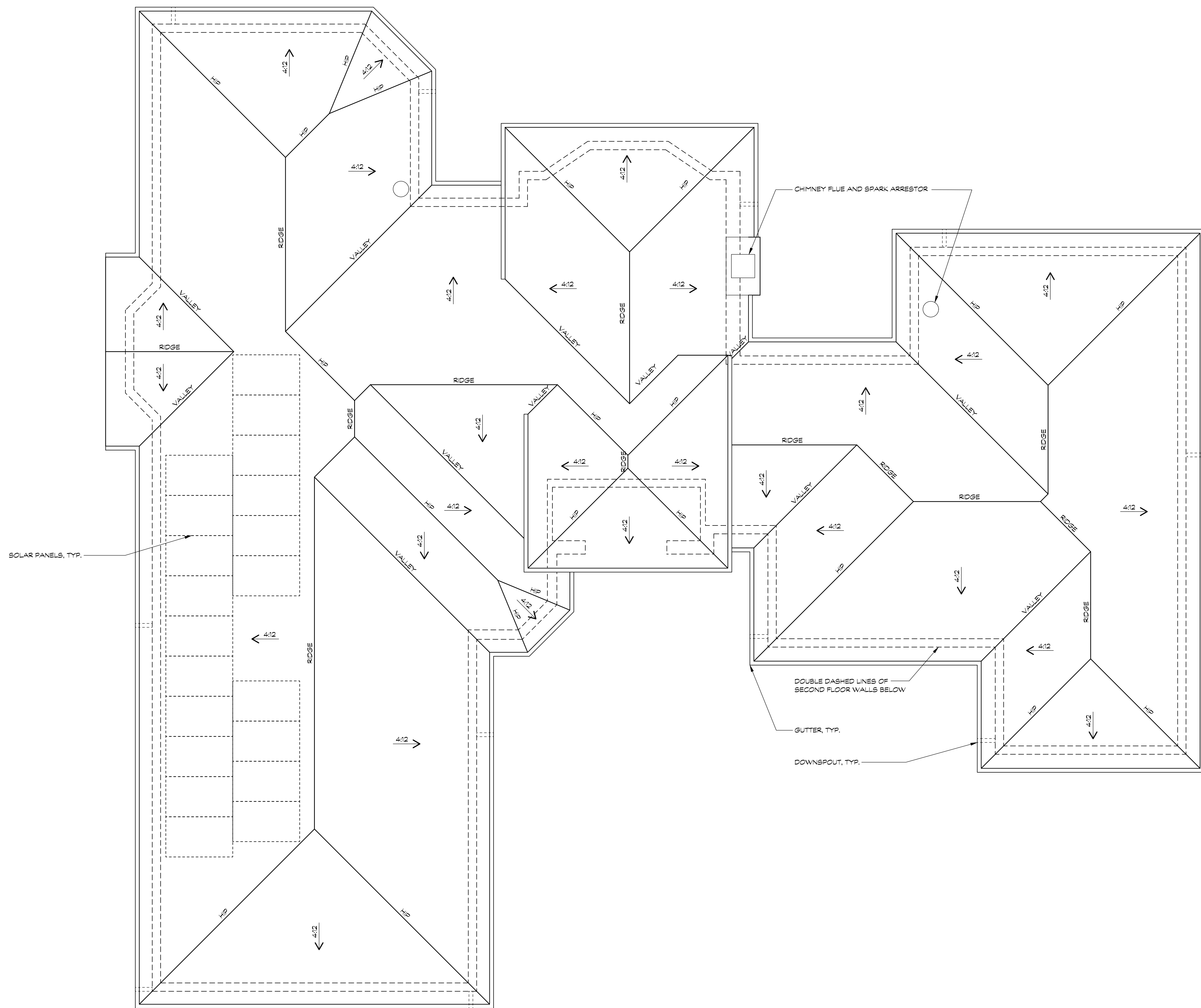
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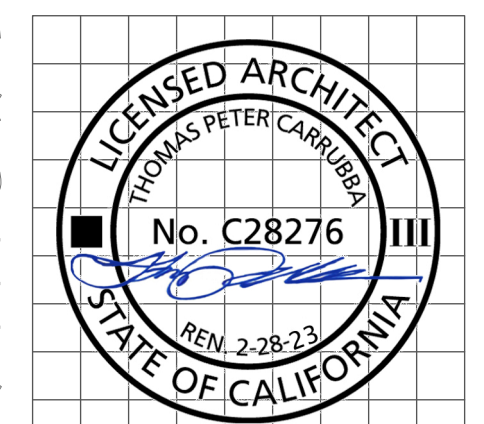
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revision date

1 12/16/22

sheet title

EXISTING ROOF PLAN

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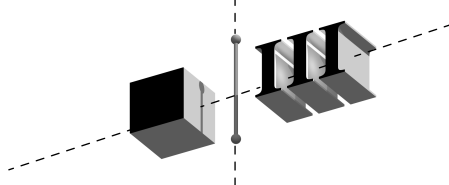
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EC4

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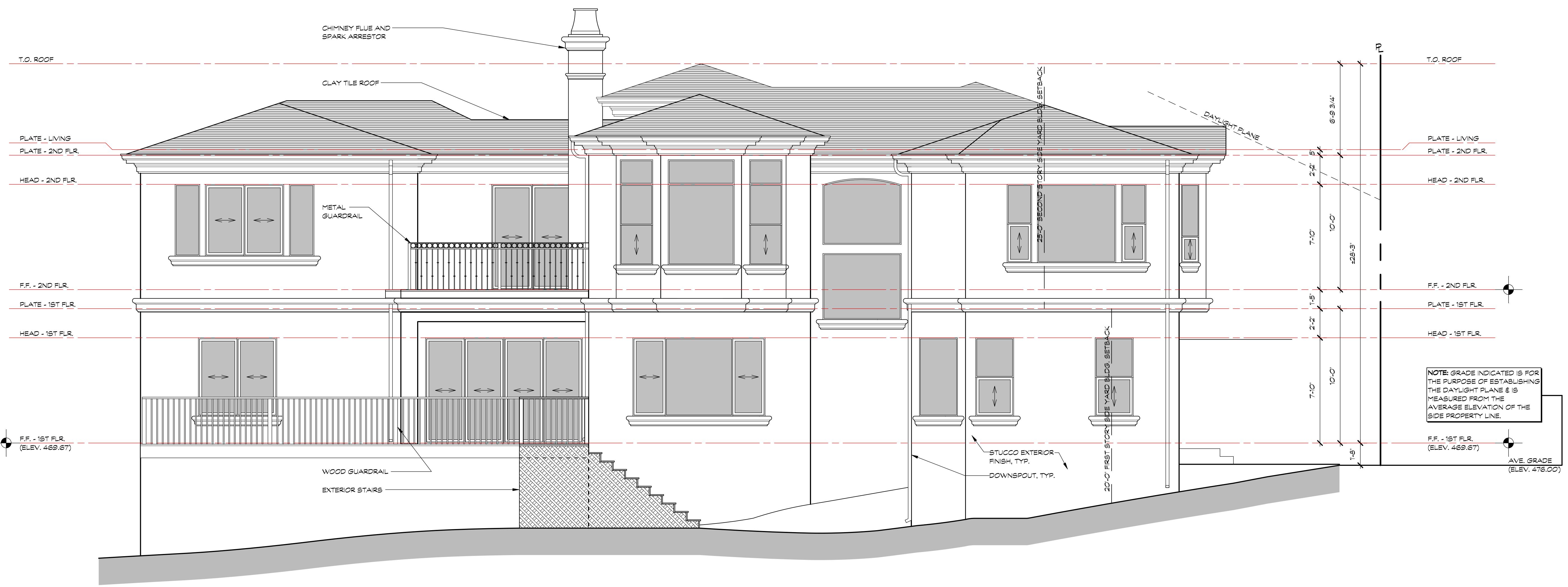


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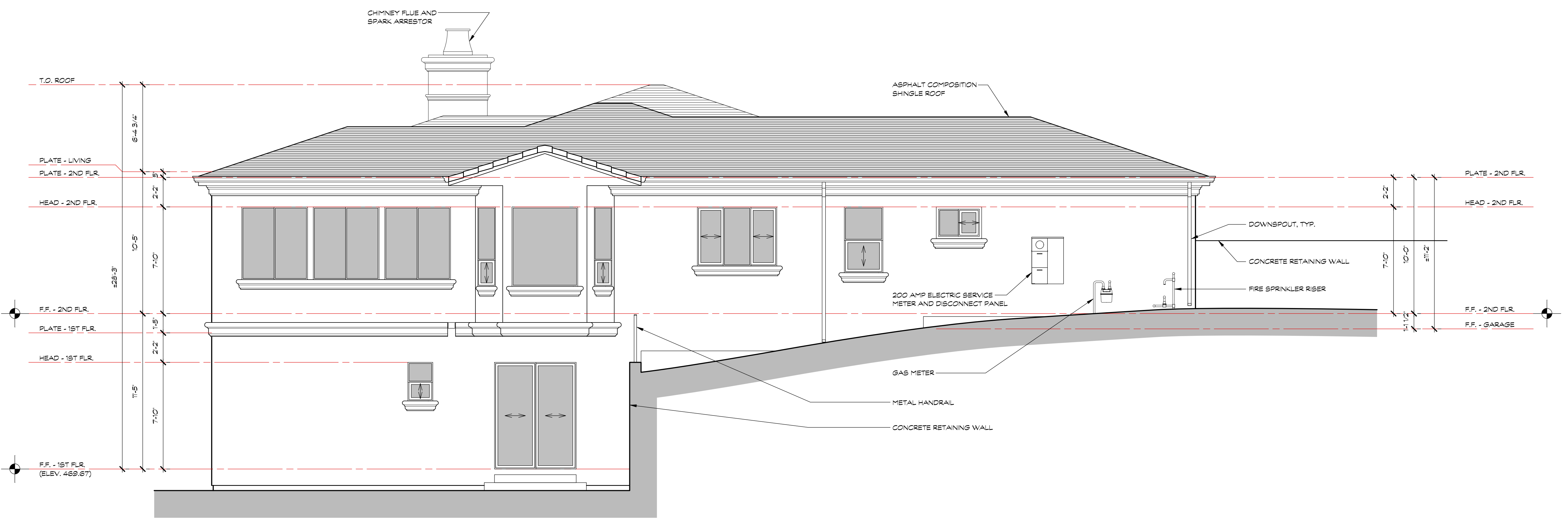
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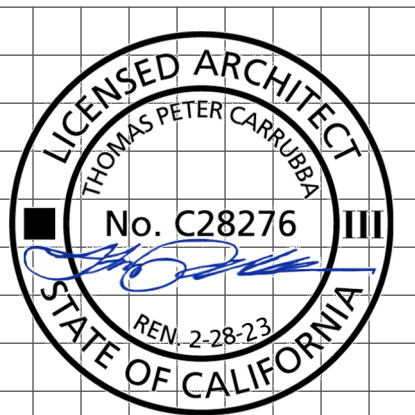
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EXISTING REAR (WEST) EXTERIOR ELEVATION 1/4" 1



EXISTING SIDE (SOUTH) EXTERIOR ELEVATION 1/4" 2



revision	date
1	12/16/22

sheet title
EXISTING EXTERIOR ELEVATIONS

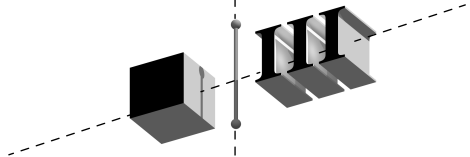
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date 12.20.22
job no. 22101
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P.D. 12.20.22

EC5

FILE: 22101_DRR1_EC_elevs.sects.v2022



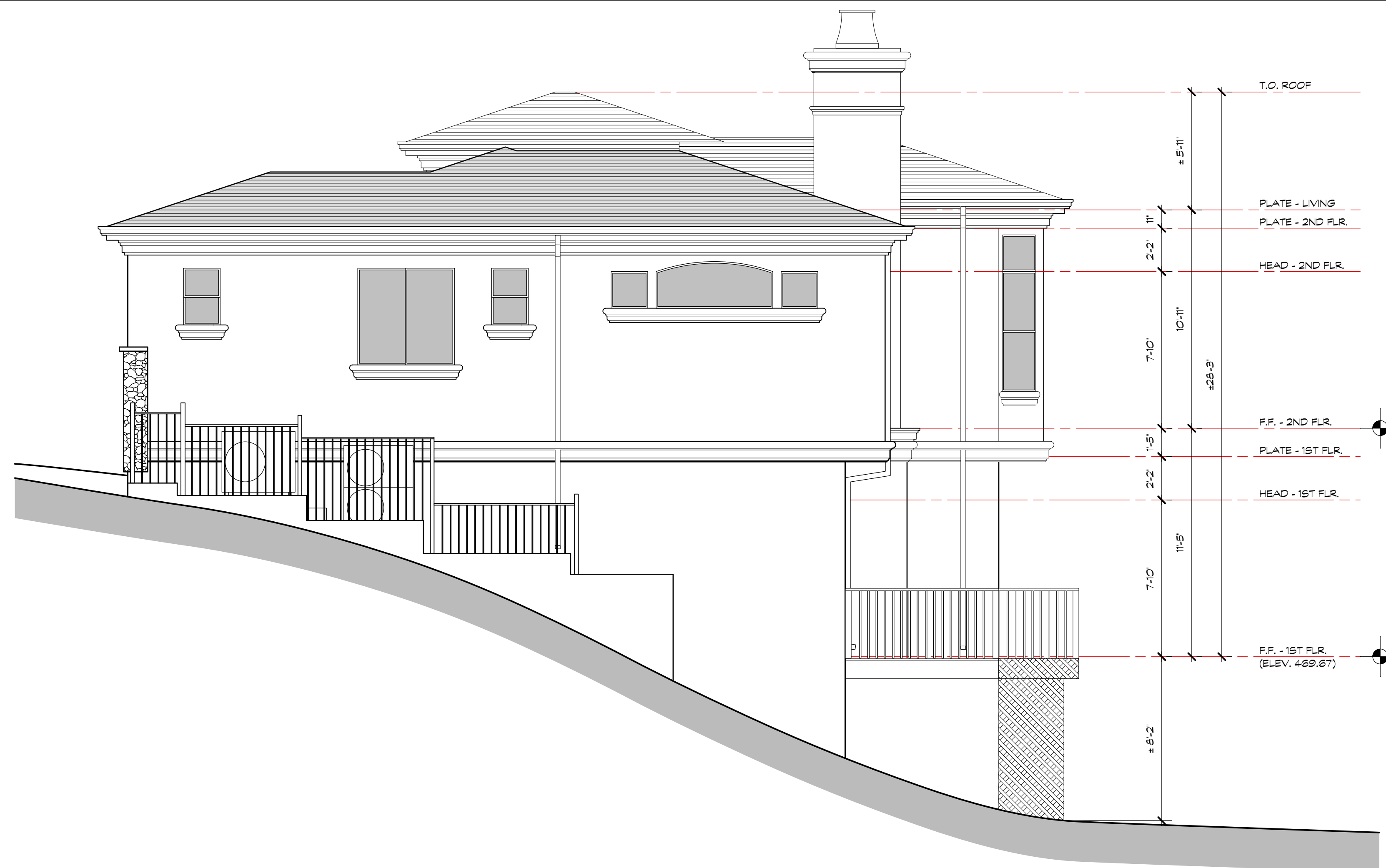
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EXISTING FRONT (EAST) EXTERIOR ELEVATION

1/4" 1

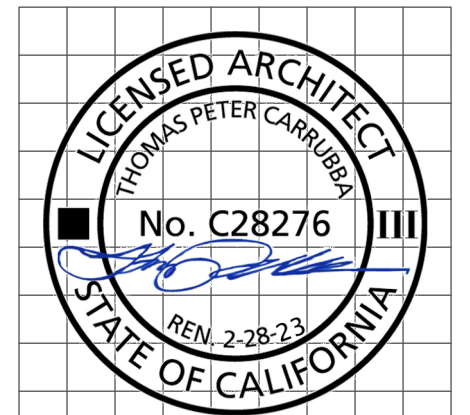


EXISTING SIDE (NORTH) EXTERIOR ELEVATION

1/4" 2

DESIGN REVIEW APPROVAL SET - NOT FOR CONSTRUCTION

A FEASIBILITY STUDY FOR
EWAYS FAMILY
5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024



revision	date
1	12/16/22

sheet title
EXISTING EXTERIOR ELEVATIONS

date 12.20.22

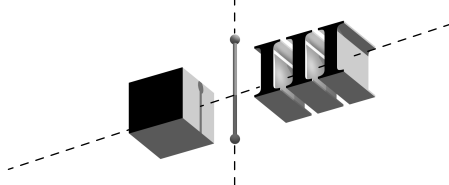
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P.D. 12.20.22

EC6

FILE: 22101_DRR1_EC_elevs.sectrs.v2022

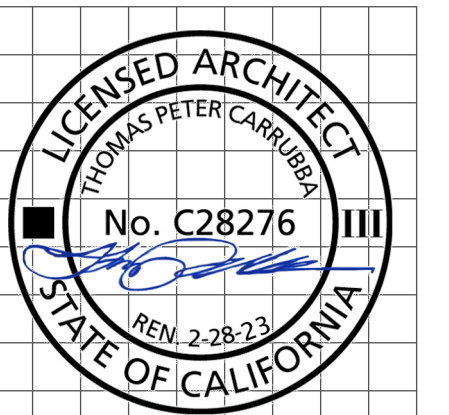


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A REMODEL/ADDITION FOR:
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5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024



revision	date
1	12/16/22

sheet title
PROPOSED SITE PLAN

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date 12.20.22

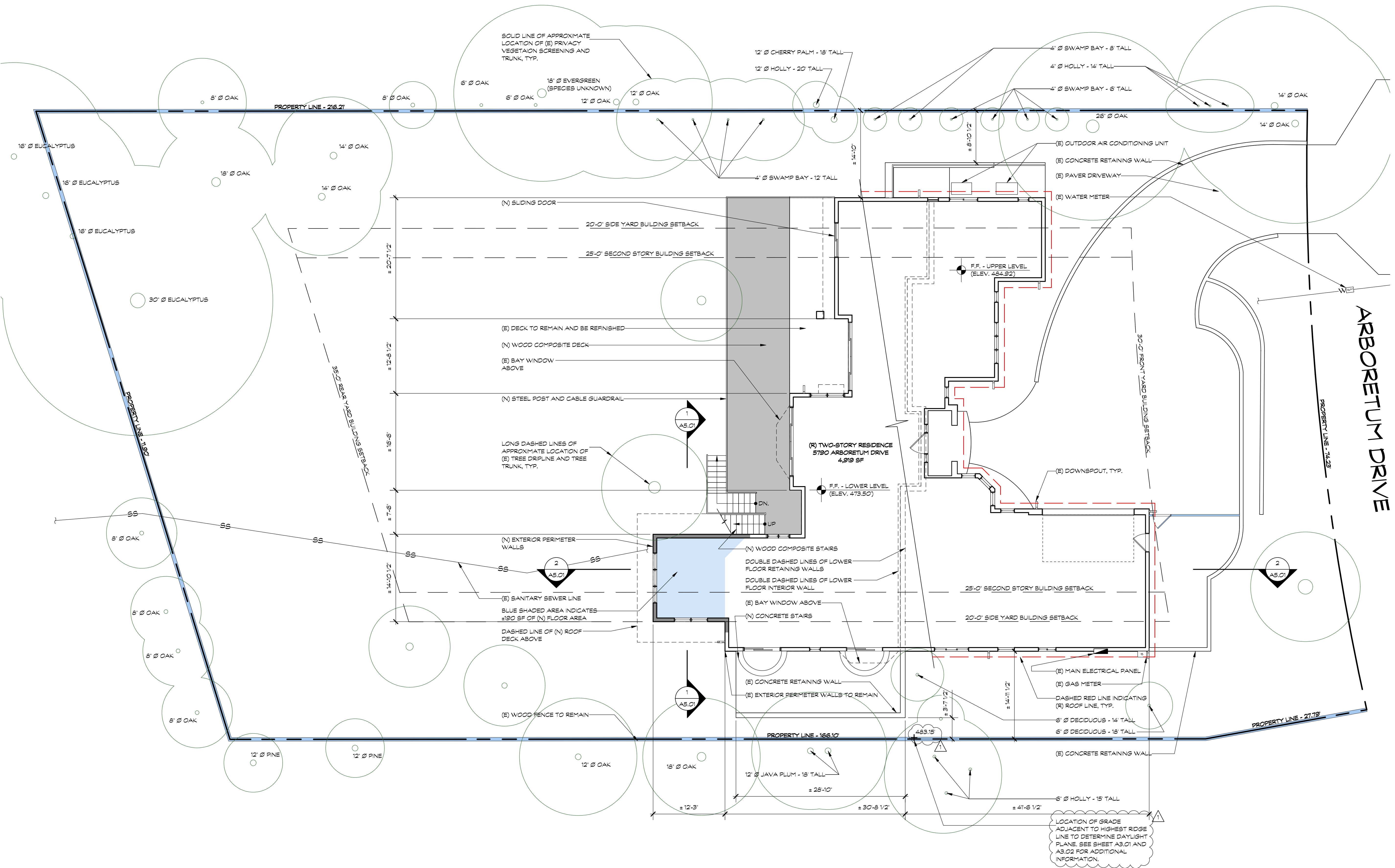
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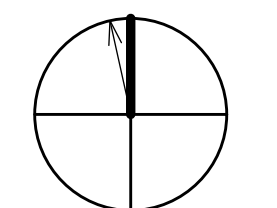
P.D. 12.20.22

A1.01

FILE: 22101_DRR_sht_plans.v2022

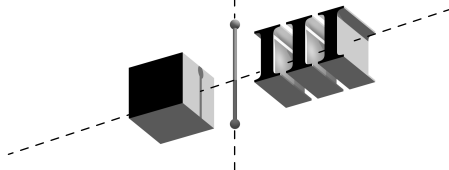
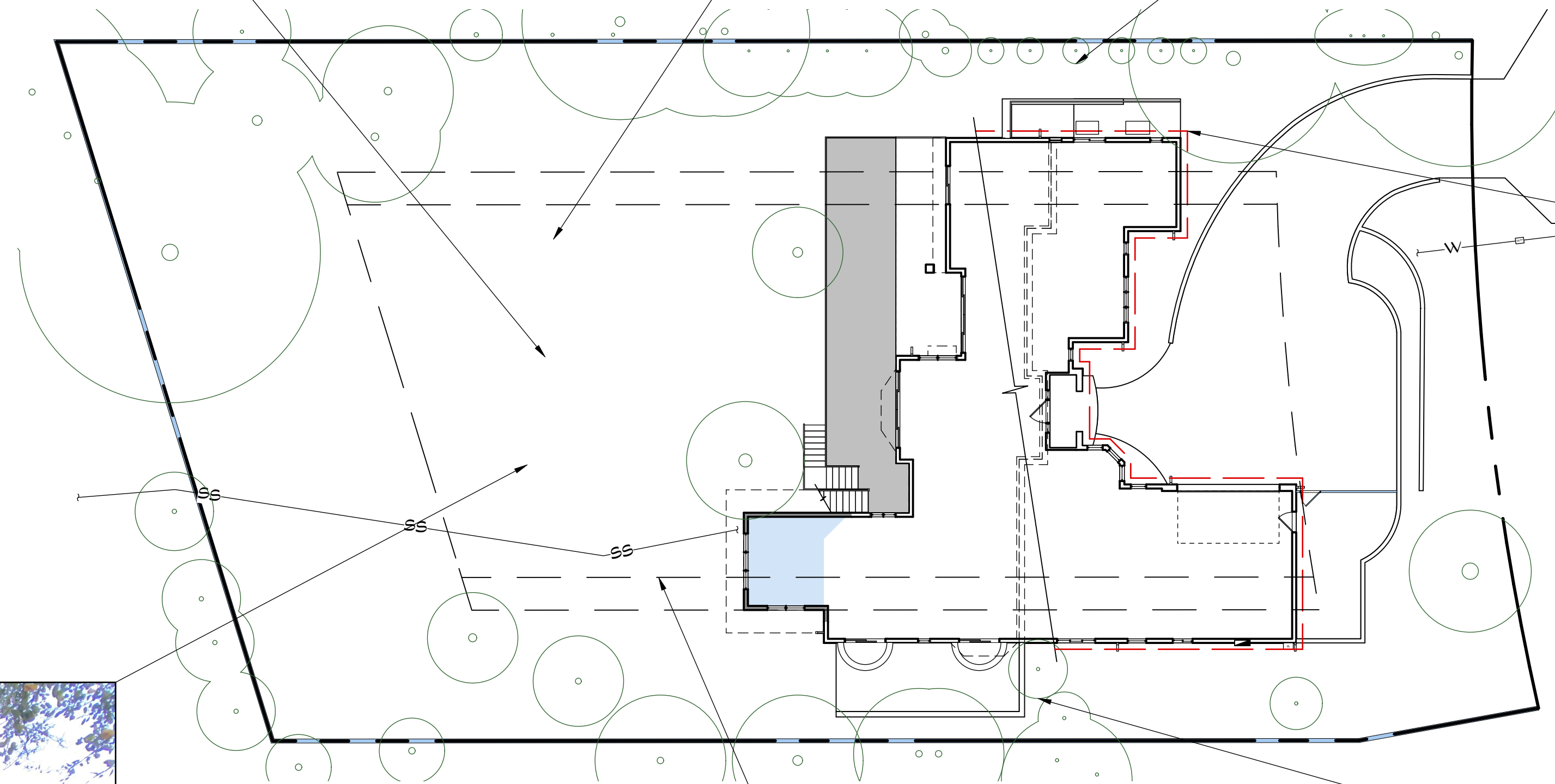


'X' INDICATES TREES THAT WERE REMOVED AFTER CIVIL SURVEY BUT PRIOR TO THE CURRENT OWNERS PURCHASING THE PROPERTY. TREES WERE REMOVED PRIOR TO PROPERTY BEING ANNEXED INTO LOS ALTOS WHEN PROPERTY WAS STILL UNDER SANTA CLARA COUNTY JURISDICTION.



PROPOSED SITE PLAN

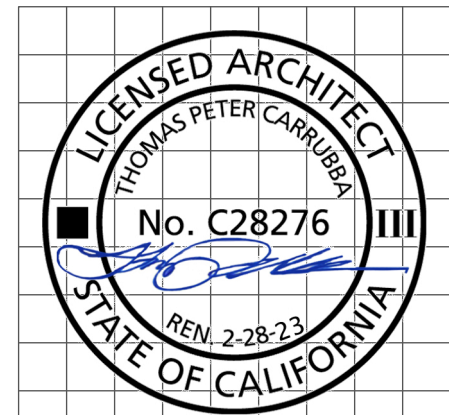
1/8" 1



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5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024



revision	date
1	12/16/22

revision date

1 12/16/22

IR COMMENTS

sheet title

PRIVACY SCREENING PHOTOS

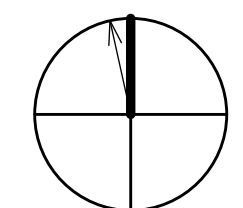
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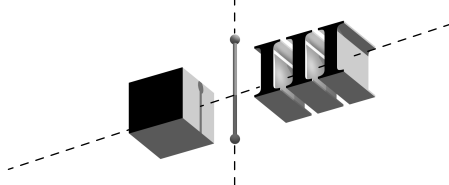
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X INDICATES TREES THAT WERE
REMOVED AFTER CIVIL SURVEY BUT PRIOR
TO THE CURRENT OWNERS PURCHASING
THE PROPERTY. TREES WERE REMOVED
PRIOR TO PROPERTY BEING ANNEXED
INTO LOS ALTOS WHEN PROPERTY WAS
STILL UNDER SANTA CLARA COUNTY
JURISDICTION.

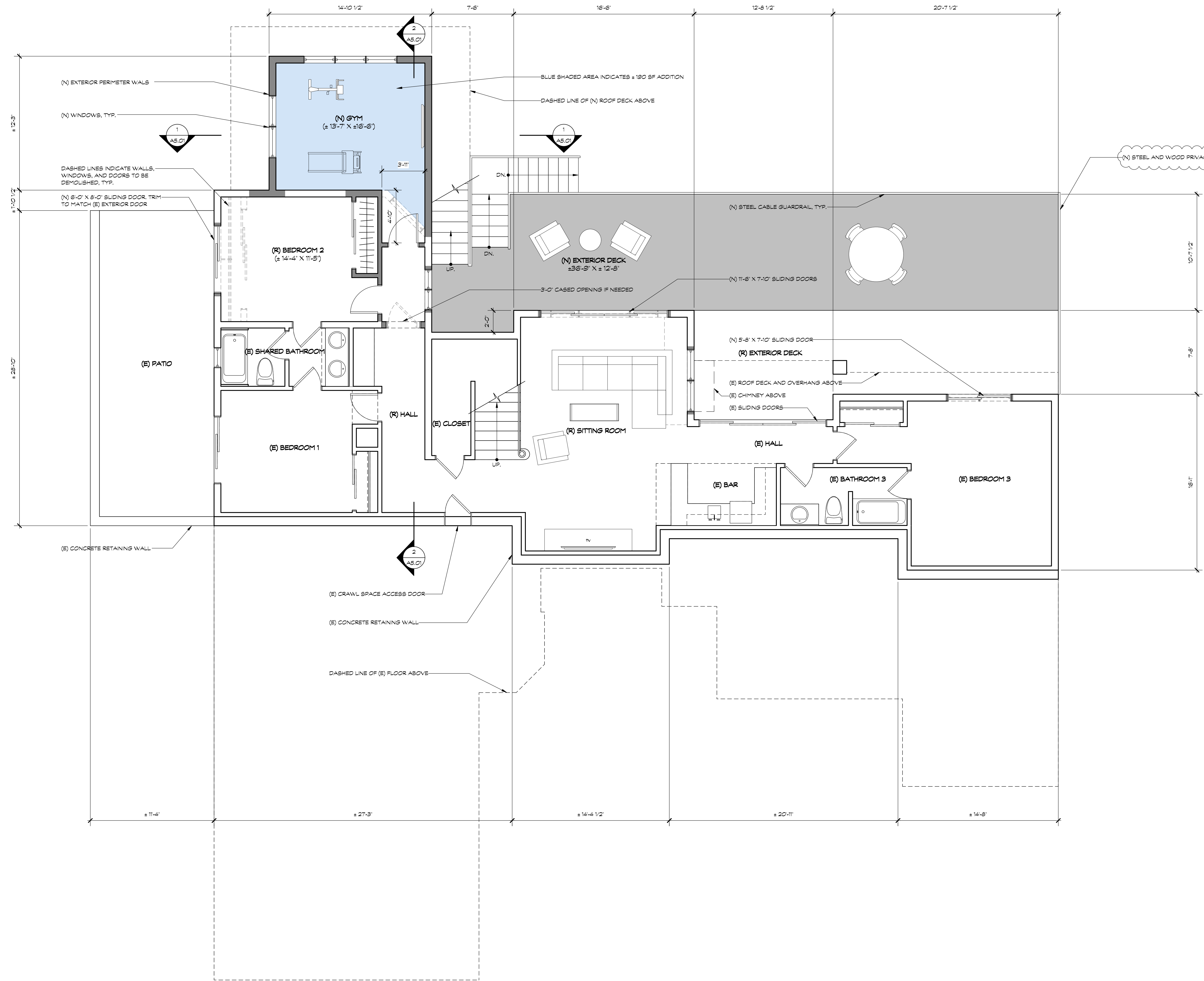


P.D. 12.20.22
A1.02



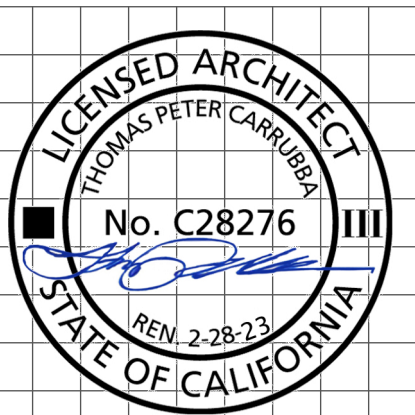
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A REMODEL/ADDITION FOR:
EWAYS FAMILY
5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024



revision	date
1	12/16/22

revision date

1 12/16/22

sheet title

PROPOSED LOWER FLOOR PLAN

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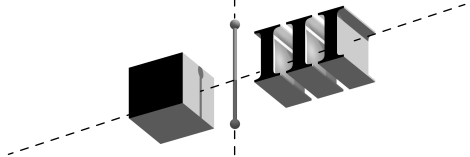
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P.D. 12.20.22

A2.01

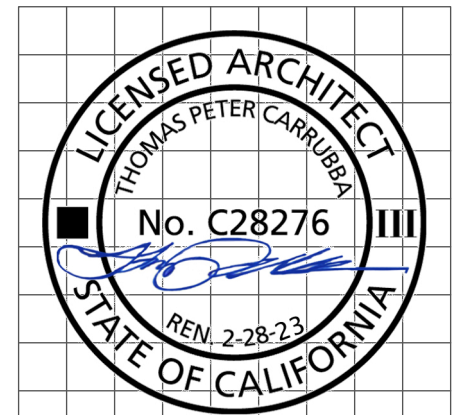
FILE: 22101_DRR_sht_plans.v2022



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A REMODEL/ADDITION FOR:
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1	12/16/22

sheet title

PROPOSED UPPER FLOOR PLAN

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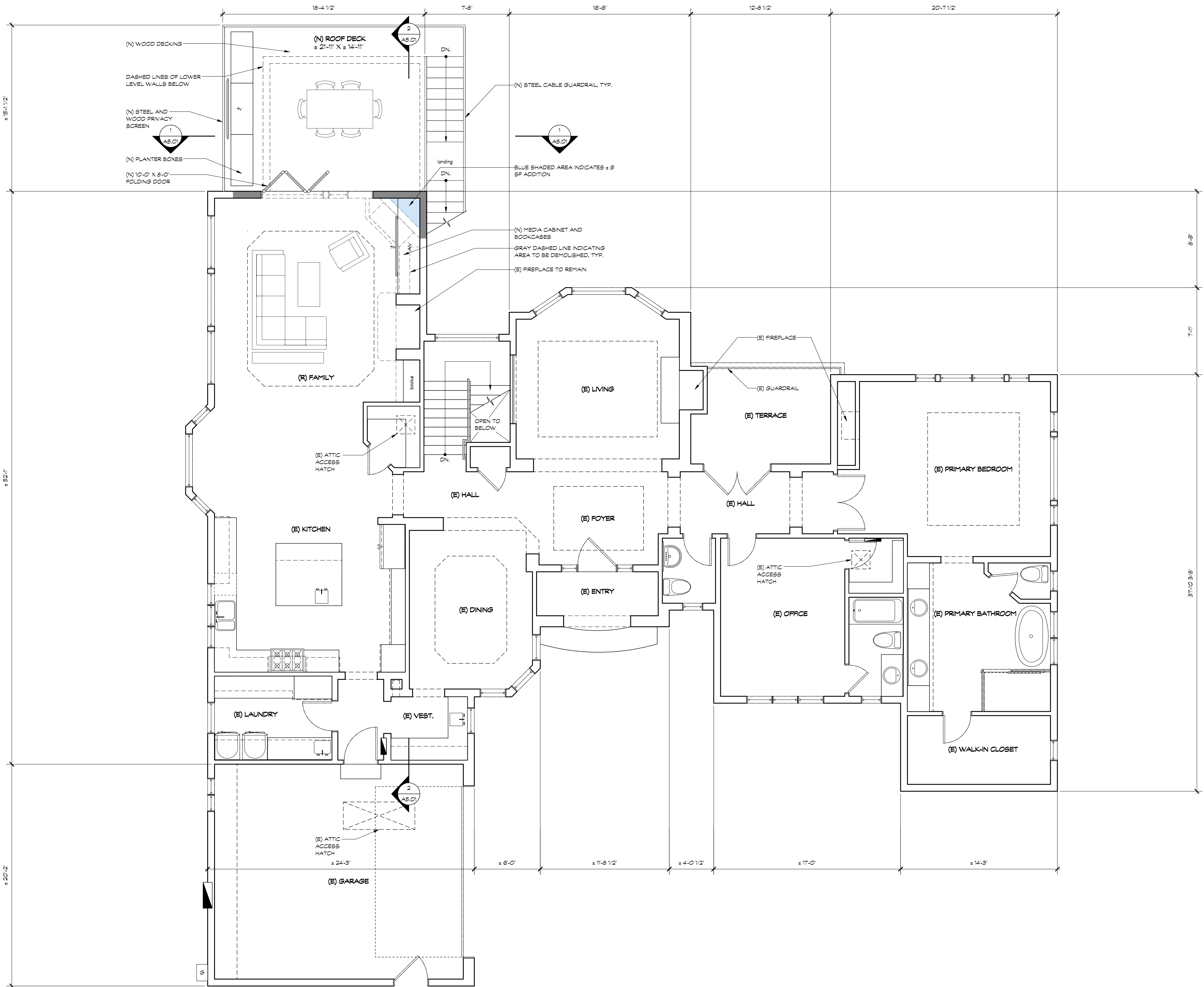
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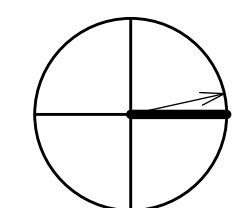
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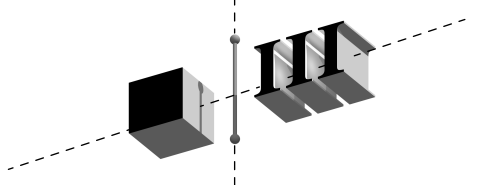
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PROPOSED UPPER FLOOR PLAN

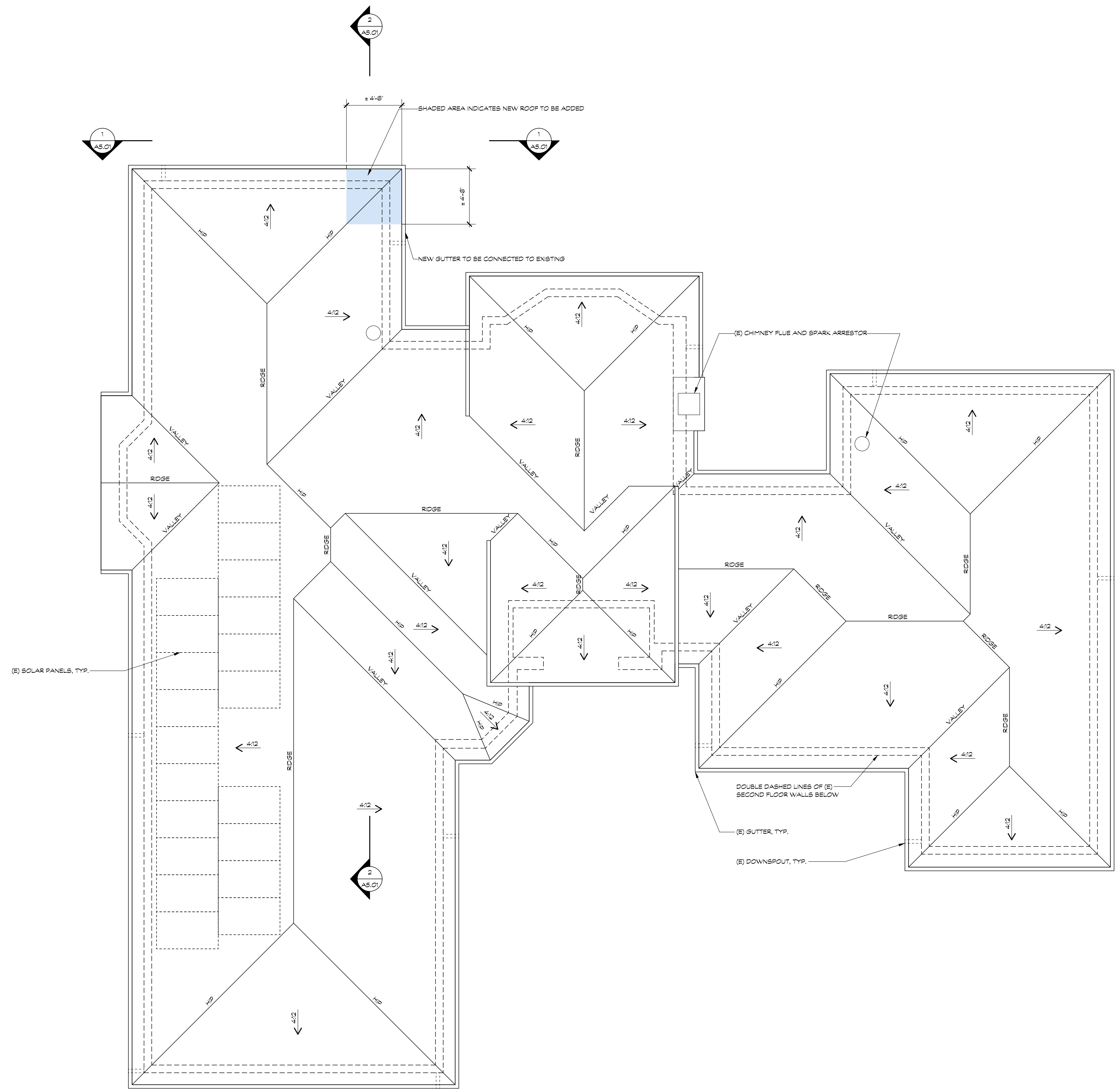
1/4" 1





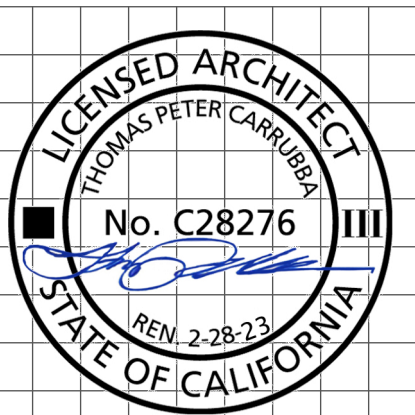
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A REMODEL/ADDITION FOR:
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5790 ARBORETUM DRIVE
LOS ALTOS, CA 94024



revision	date
1	12/16/22

revision date

1 12/16/22

sheet title

PROPOSED ROOF PLAN

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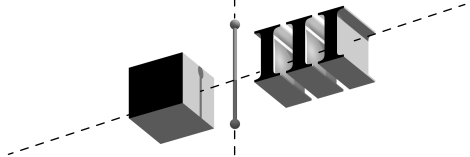
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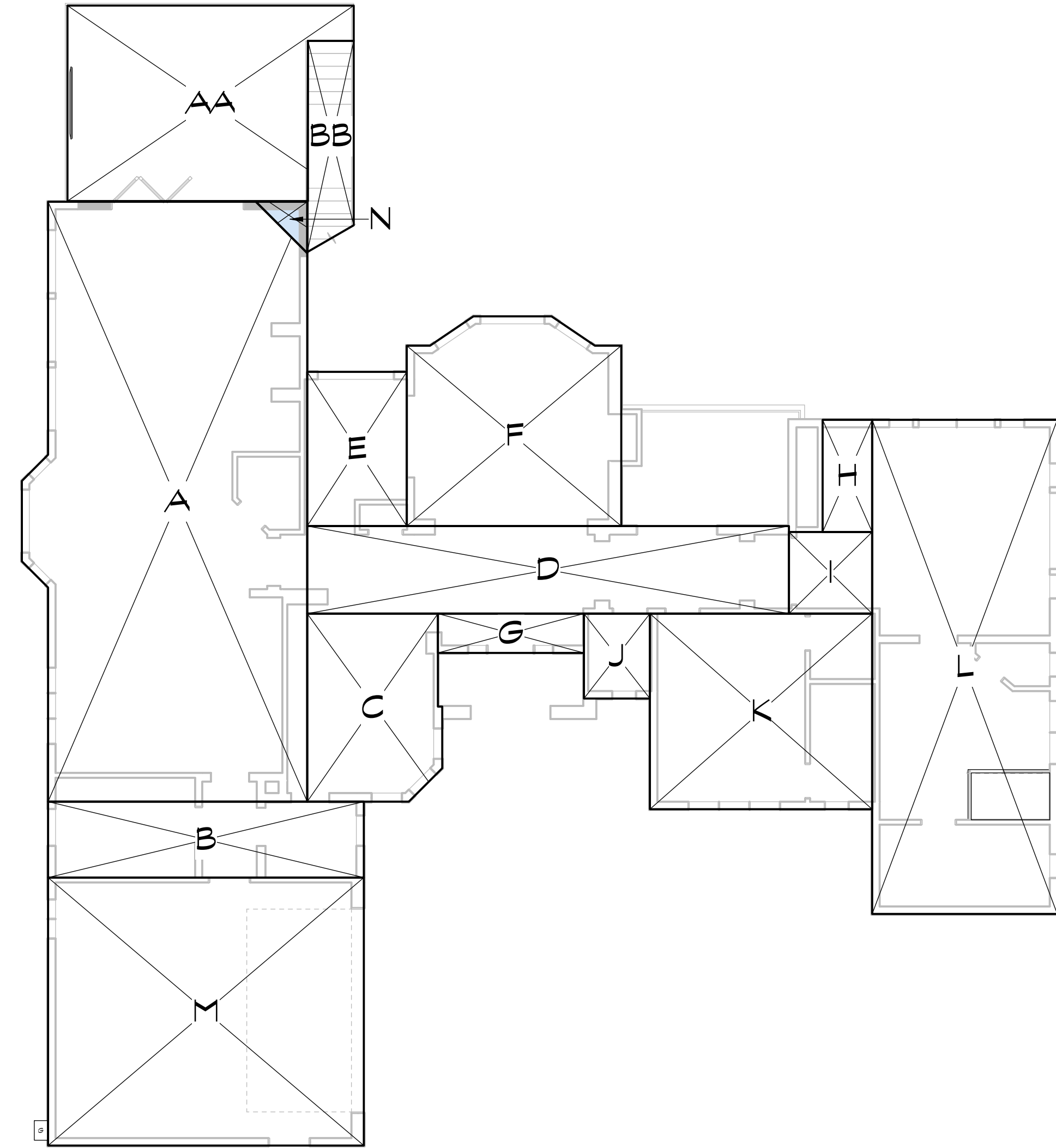
A2.03

FILE: 22101_DRR_sht_plans.v2022



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UPPER FLOOR AREA		
SECTION	DIMENSION	AREA
A	± 21'-10" x ± 45'-10"	916.7 SF
B	24'-2" x 5'-10"	140 SF
C	± 10'-4" x ± 14'-5"	142.6 SF
D	36'-10" x 6'-8"	246.4 SF
E	7'-7" x 11'-9"	89.6 SF
F	± 16'-5" x ± 16'-0"	246.8 SF
G	11'-2" x 3'-0"	33.5 SF
H	3'-9" x 8'-7"	32.5 SF
I	6'-4" x 6'-3"	39.7 SF
J	5'-0" x 6'-6"	32.7 SF
K	17'-0" x 14'-11"	253.9 SF
L	14'-2" x 13'-9"	534.2 SF
M	24'-2" x 20'-6"	494.3 SF

TOTAL EXISTING UPPER FLOOR AREA = 2,708.6 SF

GARAGE FLOOR AREA (M) = 494.3 SF

LOWER FLOOR AREA		
SECTION	DIMENSION	AREA
O	19'-10" x 29'-9"	581.6 SF
P	24'-0" x 16'-9"	402.1 SF
Q	16'-5" x 2'-0"	32.8 SF
R	15'-8" x 1'-2"	18.6 SF
S	12'-7" x 2'-4"	29.4 SF
T	12'-10" x 9'-11"	127.3 SF
U	6'-9" x 12'-3"	83.2 SF
V	13'-9" x 15'-12"	219.4 SF

TOTAL EXISTING LOWER FLOOR AREA = 1,494.5 SF

PROPOSED FLOOR AREA		
SECTION	DIMENSION	AREA
N	± 3'-11" x ± 3'-11"	7.7 SF
W	± 14'-9" x ± 16'-2"	188.6 SF

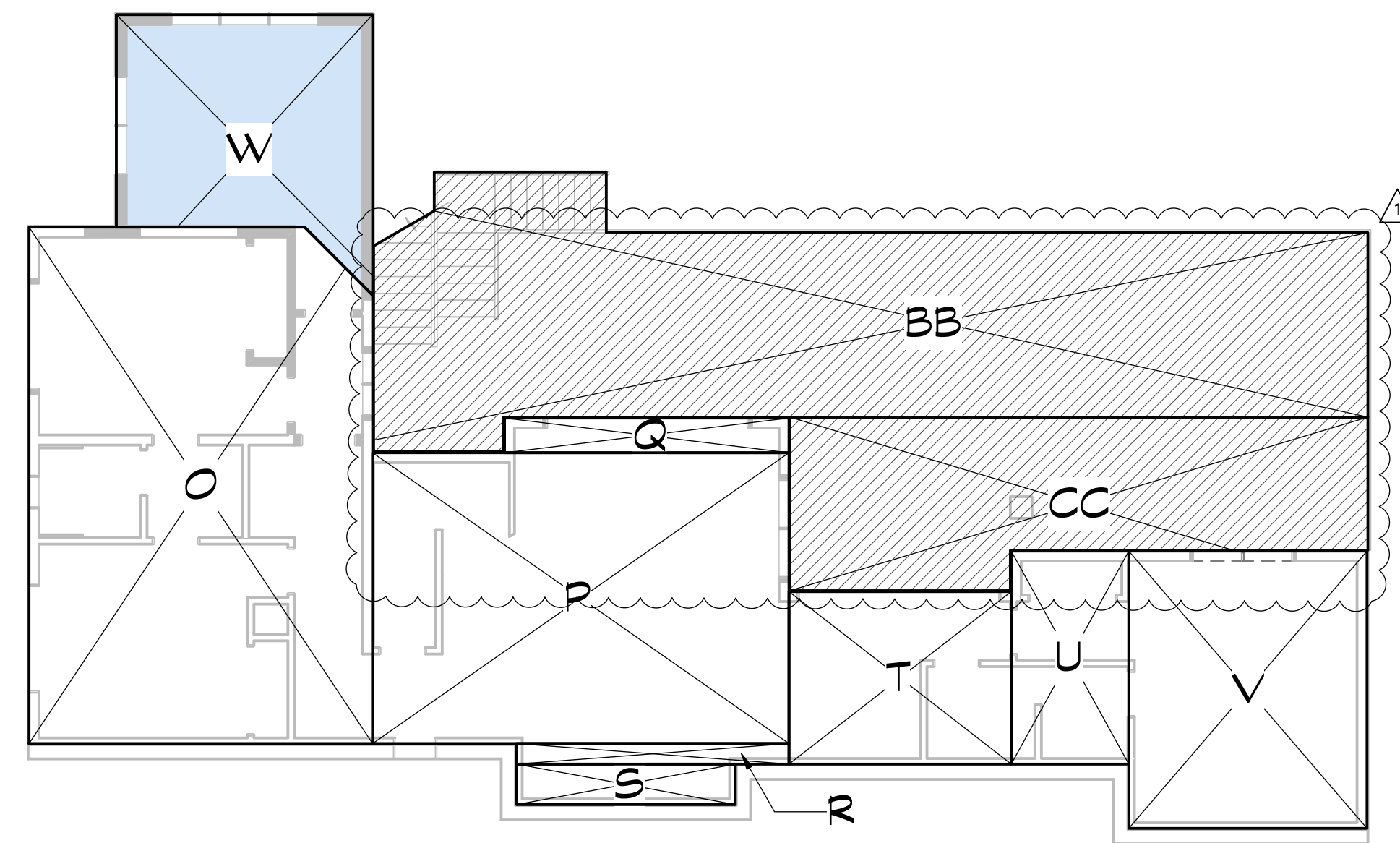
PROPOSED FLOOR AREA (N+W) = 196.3 SF

TOTAL FLOOR AREA = 4,893.7 SF

DECK FLOOR AREA*		
SECTION	DIMENSION	AREA
AA	± 21'-11" x ± 14'-11"	284 SF
BB	± 57'-4" x ± 12'-8"	713 SF
CC	± 33'-4" x ± 10'-0"	285.1 SF

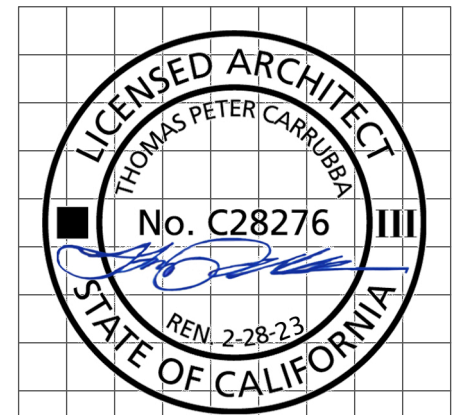
TOTAL DECK AREA (O+Y+Z) = 1,282.1 SF

*HATCHED AREA INDICATING AREA COUNTED FOR SITE COVERAGE. SEE PROJECT TABULATION 4/AO.01 FOR ADDITIONAL INFO



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A REMODEL/ADDITION FOR:
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LOS ALTOS, CA 94024



revision	date
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sheet title
FLOOR AREA COVERAGE AND CALCULATION DIAGRAM

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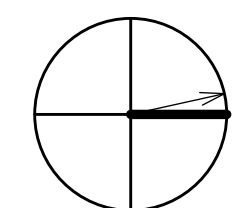
job no. 22101

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A2.04

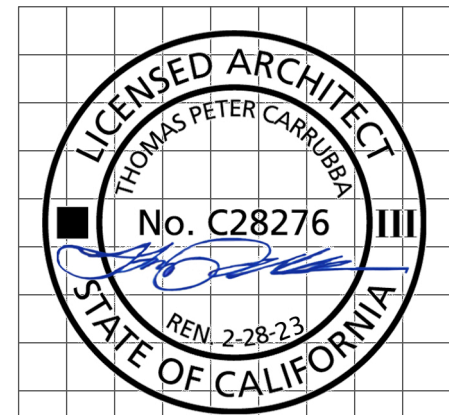
FILE: 22101_DRR_sht_plans_v2022



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LOS ALTOS, CA 94024



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1	12/16/22

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1 12/16/22

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12/16/22

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PROPOSED EXTERIOR ELEVATIONS

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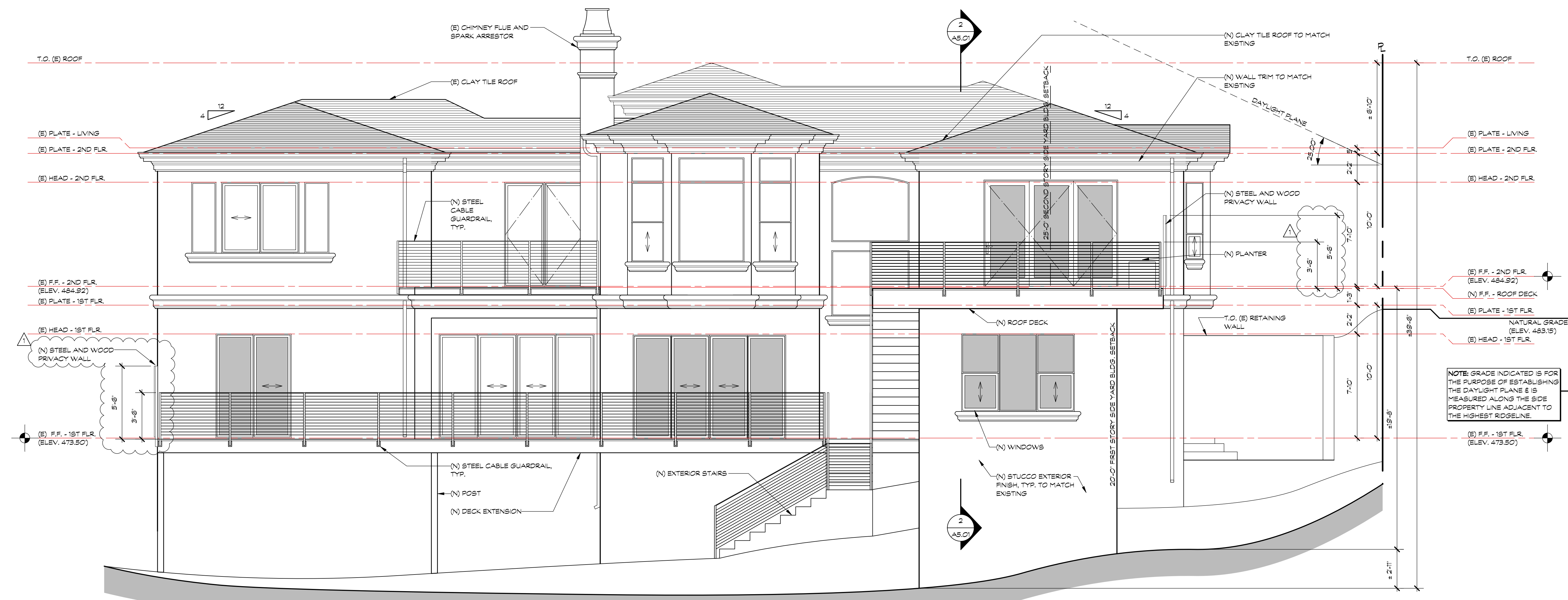
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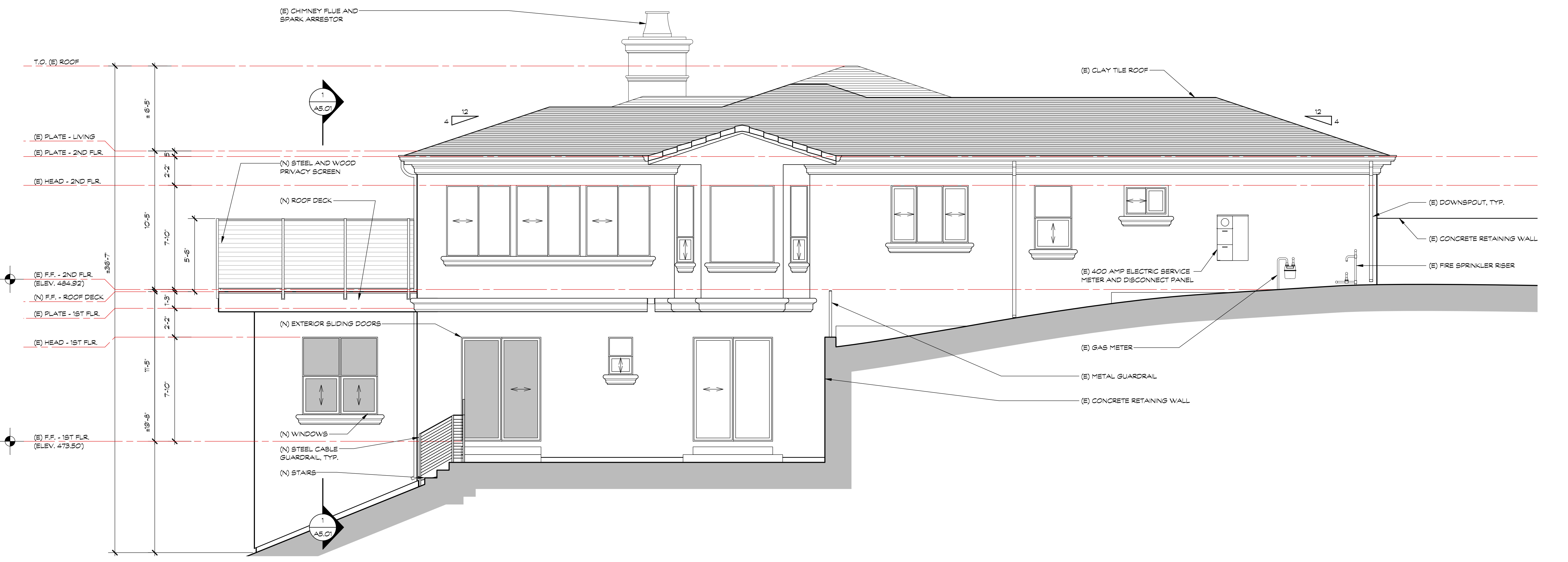
P.D. 12.20.22

A3.01

FILE: 22101_DRR1_elevs.sectrs.v2022



PROPOSED REAR (WEST) EXTERIOR ELEVATION 1/4" 1



PROPOSED SIDE (SOUTH) EXTERIOR ELEVATION 1/4" 2

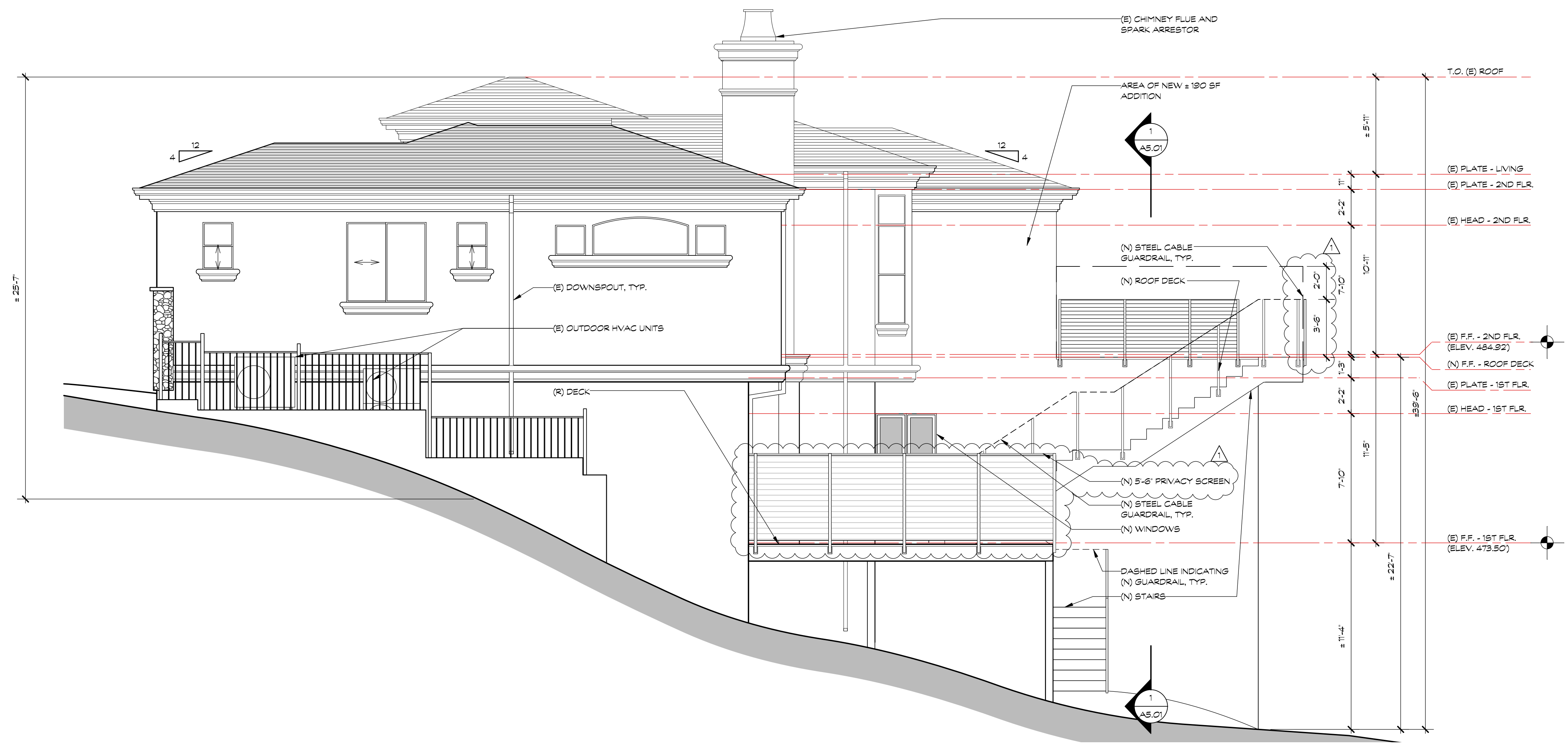
DESIGN APPROVAL SET - NOT FOR CONSTRUCTION

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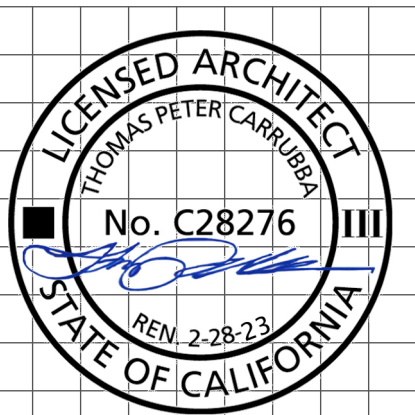
PROPOSED FRONT (EAST) EXTERIOR ELEVATION - NO NEW WORK PROPOSED 1/4" 1



PROPOSED SIDE (NORTH) EXTERIOR ELEVATION 1/4" 2

DESIGN APPROVAL SET - NOT FOR CONSTRUCTION

A REMODEL/ADDITION FOR:
EWAYS FAMILY
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revision date

sheet title

PROPOSED EXTERIOR ELEVATIONS

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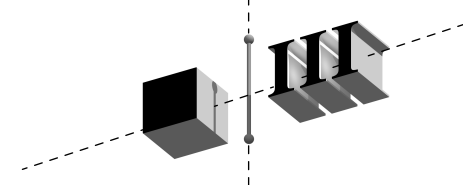
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A3.02

FILE: 22101_DRR1_elevs.sectrs.v2022



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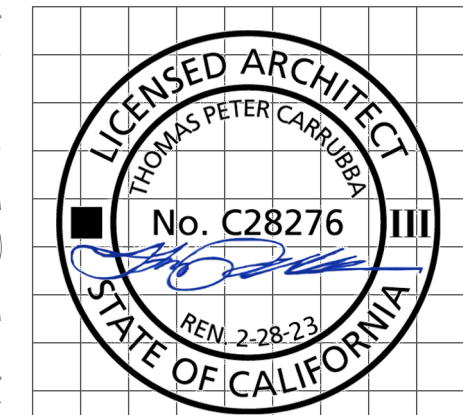
EXISTING VIEW TO WEST FROM EXISTING LOWER FLOOR DECK (SAME VANTAGE POINT AS NEW DECK AREA) 1/4" 1



EXISTING VIEW TO SOUTH WEST FROM UPPER FLOOR WINDOW (SAME VANTAGE POINT AS NEW ROOF DECK) 1/4" 2

DESIGN APPROVAL SET - NOT FOR CONSTRUCTION

A REMODEL/ADDITION FOR:
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LOS ALTOS, CA 94024



revision	date

sheet title
EXISTING EXTERIOR VIEWS
<small>COPYRIGHT 2022 SQUARE THREE ARCHITECTURE, INC</small>

date 12.20.22

job no. 22101

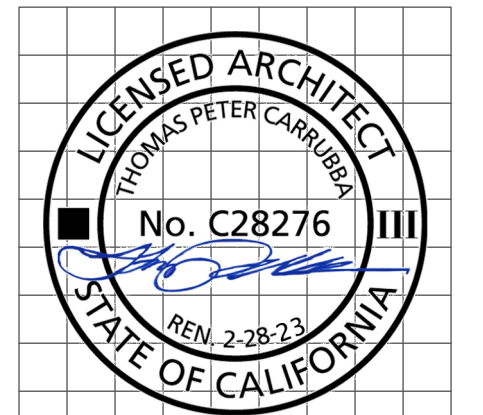
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A3.03

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sheet title

BUILDING SECTIONS

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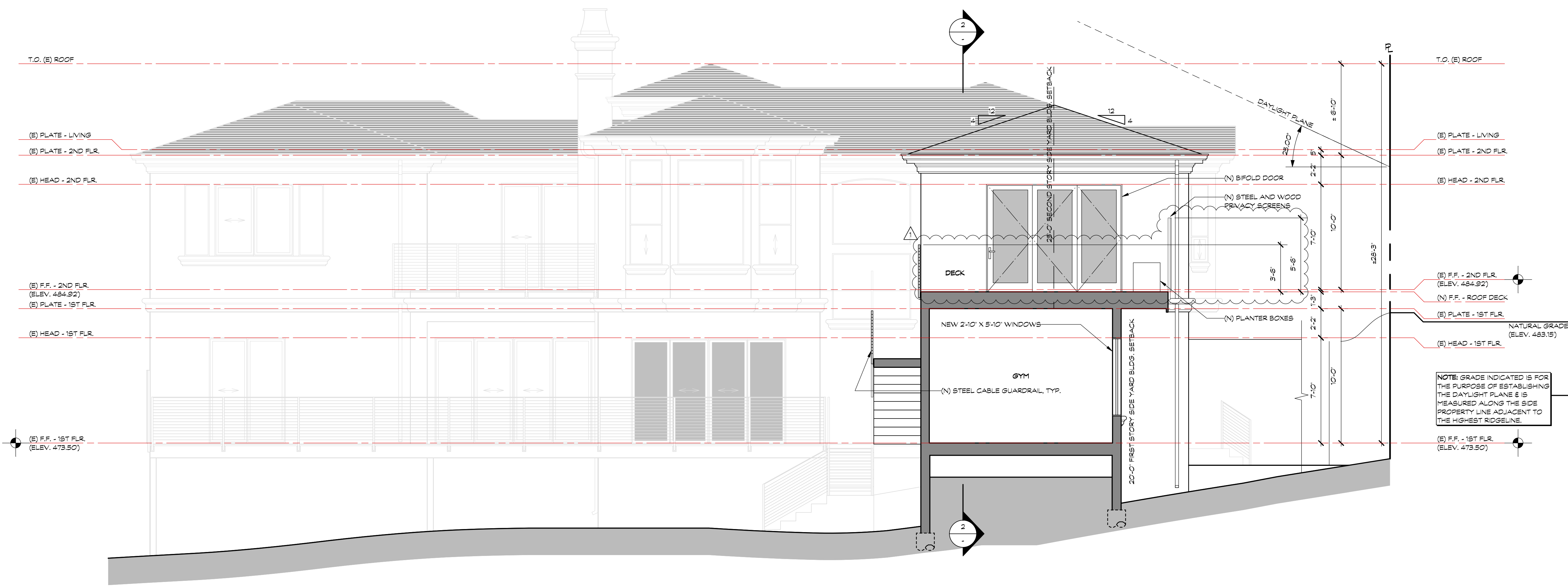
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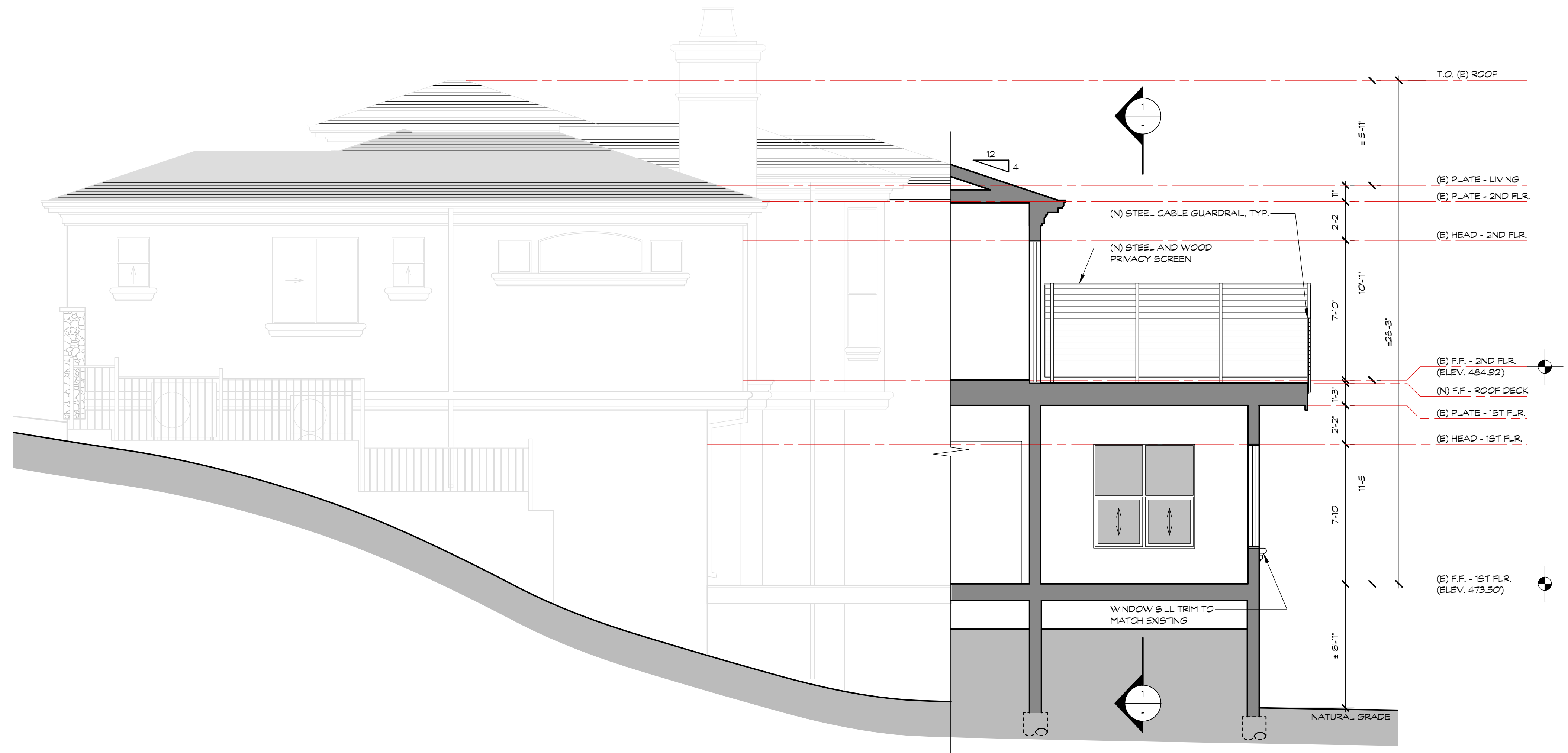
P.D. 12.20.22

A5.01

FILE: 22101_DRR1_elevs.sects.v2022



PROPOSED REAR (WEST) SECTION 1/4" 1



PROPOSED SIDE (SOUTH) SECTION 1/4" 2

DESIGN APPROVAL SET - NOT FOR CONSTRUCTION



CITY OF LOS ALTOS APPEAL FORM
 1 North San Antonio Road, Los Altos, CA 94022; (650) 947-2700

Agenda Item # 3.

CITY CLERK'S OFFICE

MAY 31 2023

NOTE TO APPLICANT:

Please attach any supplemental documents to this form as part of your appeal. **CITY OF LOS ALTOS**

Type of Appeal:

<input type="checkbox"/> Appeal of Administrative Determination	Fees – Please Refer to Master Fee Schedule: https://www.losaltosca.gov/communitydevelopment/page/forms-and-handouts-0
<input type="checkbox"/> Appeal of Development Review Commission Decision	
<input checked="" type="checkbox"/> Appeal of Planning Commission Decision	

Appellant Contact Information:

Name: Marwan and Lisa Eways Telephone Number: 415-806-7410
 Mailing Address: 5790 Arboretum Dr, Los Altos CA 94024
 Email Address meways@yahoo.com

Signature: _____

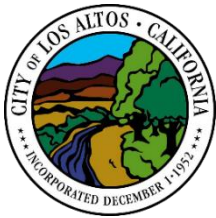
Project Information (about the project for which the appeal is being submitted):

Planning Commission/DRC Meeting Date: 5/18/2023
 Administrative Determination Date: 5/18/2023
 Planning Division File #: SC22-0029 and V23-0002
 Property Address: 5790 Arboretum Dr, Los Altos CA 94024
 Assessor's Parcel Number: 342-04-093 (Can be found on staff report)

Reason for Appeal / Explanation of Error or Abuse of Discretion.

Please describe the alleged error or abuse, or how the decision is not supported by substantial evidence in the record. Please identify if this appeal will be under Chapter 1.12 of the Municipal Code (Appeal Ordinance) or an appeal under Section 14.76.100 of the Municipal Code (Design Review Appeal). Attach additional pages if necessary.
At variance hearing on 5/18, we tied 3 - 3 in a straw vote because a commissioner was absent. As a result, the commission recommended we appeal to the City Council.

**The Los Altos Planning Department Counter is open Monday – Friday (closed alternate Fridays)
 From 7:30 p.m. – 5:00 p.m.
 Telephone: (650) 947-2700
 If you need assistance from the City Clerk's office, please call 650-947-2610.**



PLANNING COMMISSION MEETING MINUTES

7:00 PM - Thursday, May 18, 2023

*Telephone/Video Conference and In-Person
Community Meeting Chambers, Los Altos City Hall
1 North San Antonio Road, Los Altos, CA*

CALL MEETING TO ORDER

At 7:00 p.m. Vice-Chair Ahi called the meeting to order.

ESTABLISH QUORUM

PRESENT: Vice-Chair Ahi, Commissioners Beninato, Disney, Doran, Roche and Steinle

ABSENT: Chair Mensinger

STAFF: Development Services Director Zornes, Planning Services Manager Williams, and Associate Planner Liu

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Commissioner Doran made comments about bike electrification.

ITEMS FOR CONSIDERATION/ACTION

CONSENT CALENDAR

1. Planning Commission Minutes

Approve the minutes of the special Joint Planning Commission/Complete Streets Commission meeting of March 23, 2023.

Action: Upon motion by Commissioner Steinle, seconded by Commissioner Roche, the Commission recommended approval of the minutes of the special Joint Planning Commission/Complete Streets Commission meeting of March 23, 2023 as written.

The motion was approved (6-0) by the following vote:

AYES: Doran, Ahi, Beninato, Disney, Roche and Steinle

NOES: None

ABSENT: Mensinger

PUBLIC HEARING

2. SC22-0029 and V23-0002 - Bryan Lee - 5790 Arboretum Drive

Design Review for a 190 square-foot addition at the first story and a 327 square-foot second story deck to an existing single-family home. A variance is requested for a 16-foot and six-inch, second-story side setback for the second-story deck, where a 25-foot side setback is required in the R1-20 Zoning District. The project is exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (“Existing Facilities”). *Project Planner: Liu*

Associate Planner Liu gave the staff report presentation and answered Commissioner questions.

Project architect Bryan Lee provided a project presentation and went over the project details.

Vice-Chair Ahi opened the public comment period.

PUBLIC COMMENT

Resident Jerry Schoening and Evangeline provided public comments.

Vice-Chair Ahi closed the public comment period and Commission discussion proceeded.

Action: Upon a motion by Commissioner Beninato, seconded by Commissioner Steinle, the Commission recommended denial of the requested design review application (SC22-0029) and variance application (V23-0002) per the findings contained in the attached resolution and find the project exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15270 (“Projects Which are Disapproved”).

The motion was approved (6-0) by the following vote:

AYES: Ahi, Beninato, Doran, Disney, Roche and Steinle

NOES: None

ABSENT: Mensinger

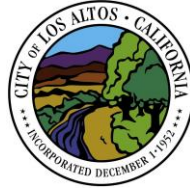
COMMISSIONERS' REPORTS AND COMMENTS

Commissioners Beninato made comments.

ADJOURNMENT

Vice-Chair Ahi adjourned the meeting at 8:25 PM.

Stephanie Williams
Planning Services Manager



**PLANNING COMMISSION
AGENDA REPORT**

Meeting Date: May 18, 2023

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

Prepared by: Jia Liu, Associate Planner

Initiated by: Marwan and Lisa Eways, Applicant

Attachments:

- A. Draft Resolution
- B. February 15, 2023 DRC Meeting Minutes
- C. Applicant Variance Justification Letter
- D. Project Plans

Recommendation

Deny the requested design review application (SC22-0029) and variance application (V23-0002) per the findings contained in the attached resolution and find the project exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15270 (“Projects Which are Disapproved”).

Summary

The proposed project is a request for design review and variance to allow an addition to an existing single-family residence consisting of an approximately 190 square-foot addition and 465 square-foot deck on the first story and an eight square-foot addition and 327 square-foot deck on the second story. The variance is requested for a 16-foot and six-inch, second-story side setback for the second-story deck, where a 25-foot side setback is required.

Background

Property History and Existing Site Conditions

The 4,697 square foot home was originally approved in 2003 by the County of Santa Clara when the property was within the County’s jurisdiction. In 2006, the neighborhood, commonly known as Woodland Acres Neighborhood, was annexed into the City. As one of the properties in the annexed neighborhood, any new development on the property is subject to current City standards.

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

As the original development was subject to the County’s zoning regulations, which have less restrictive setbacks than current city regulations, the existing house is a legal non-conforming structure. The non-conformities include the two side setbacks that currently require 20-foot first story setback and 25-foot second story setback compared to the existing house’s 15-foot side setbacks for both the first and second stories.

The property is a sloped lot with the home located on the more level portion of the property towards the street and the rear yard is sloped with an approximately 30-foot elevation difference within a 100-foot depth. The rear yard also appears to remain undisturbed with some existing vegetation including two trees that are close to the proposed deck areas.

Design Review Commission Meeting

On February 15, 2023, the Design Review Commission (DRC) discussed the proposed design review application in a public meeting. The staff report recommended approval to the DRC, subject to a specific condition that requires the revision of the second-story deck to comply with the required second-story setback resulting in a setback of 25 feet instead of the proposed sixteen feet and six inches. However, the applicant opposed this condition and expressed the intent to the DRC to seek a variance to allow the non-compliant side setback for the deck as proposed. The DRC subsequently continued the item to a meeting date uncertain and advised the applicant to apply for a concurrent variance application to proceed per the applicant’s request. The DRC Meeting Minutes for February 15, 2023 are available in Attachment B, and it should be noted that the proposal presented to the Planning Commission remains unchanged from the one discussed at the DRC meeting.

Following the zoning code amendments to implement the City's 2023-2031 Housing Element earlier this year, the Design Review Commission has since been dissolved and the review authority for design review applications for single-family residential developments has been delegated to the Zoning Administrator and the review for variance applications delegated to the Planning Commission. Because the variance request is subject to Planning Commission review, the design review request is being bundled with the variance request for the Commission’s consideration.

Analysis

Design Review Application

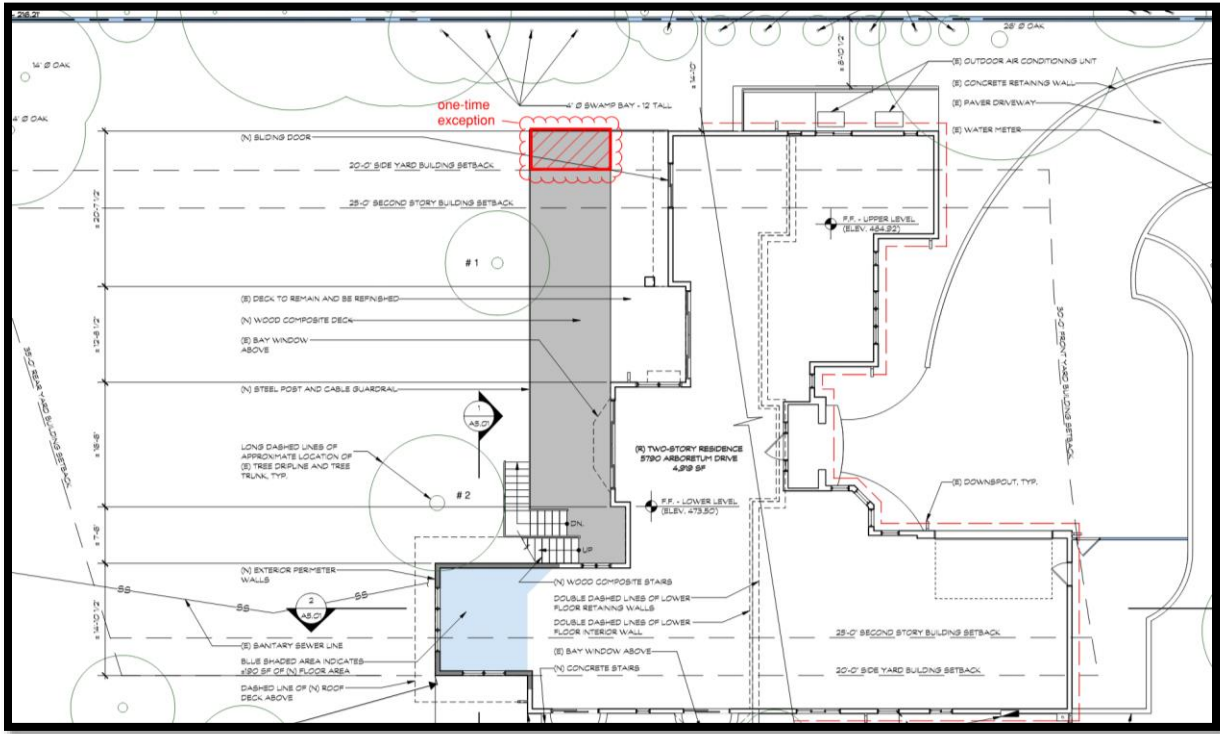
As discussed previously, the existing home is a nonconforming structure. The proposed 190 square-foot addition on the first floor and eight square-foot addition at the second floor are consistent with the current City development standards, including the side setbacks. The proposed first floor deck expansion along the rear elevation has a proposed 15-foot side setback, where the required minimum setback is 20 feet (shown as the area in red in Figure 1 below) which is allowed per Section 14.10.080 E. of the Zoning Code which allows limited nonconforming expansions without a variance as follows:

Where a building legally constructed according to existing yard and setback regulations at the time of construction encroaches upon currently required setbacks, the city planner may approve one encroaching setback to be extended by no more than twenty (20) feet or fifty (50) percent, whichever is less, along its existing building line without a variance, subject to the following provisions:

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

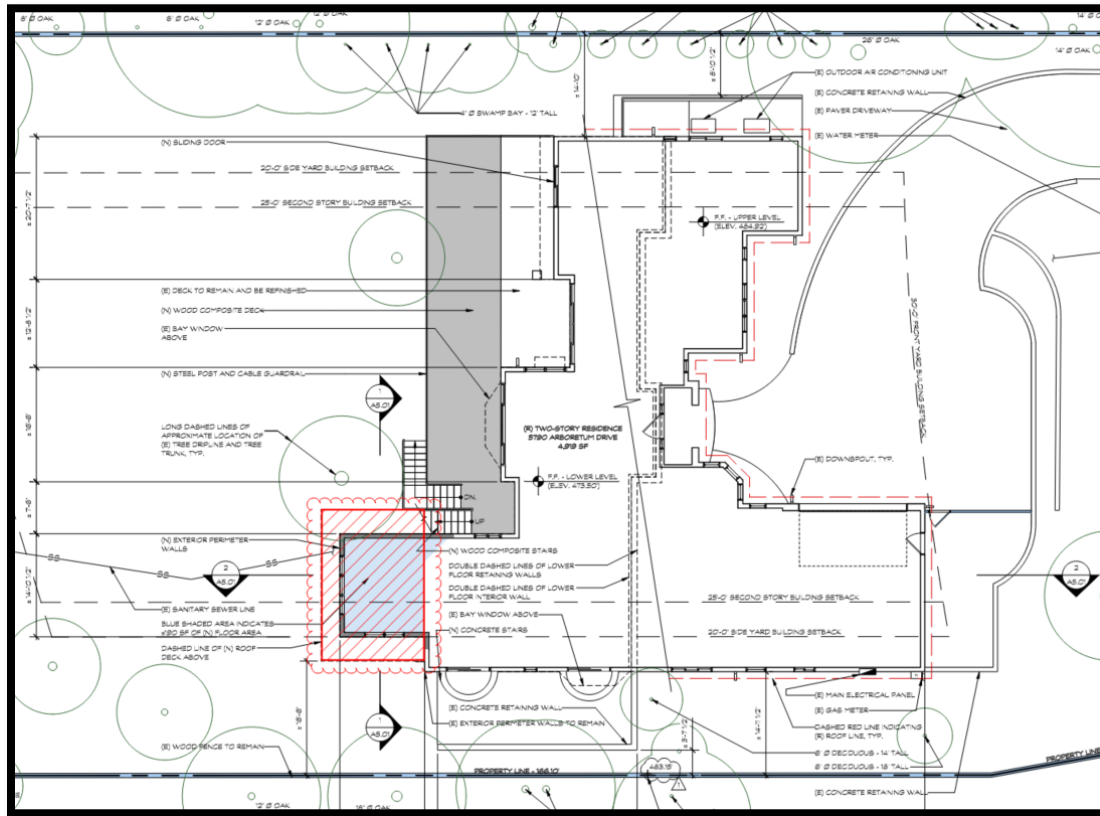
1. The extension may only be applied to the first story.
2. Only one such administrative extension may be permitted for the life of the building. Other extensions may be considered, subject to the filing of a variance application.
3. Extensions are only permitted for the main structure and cannot result in a further encroachment into any required setback area.

Figure 1



The second story deck (shown as the red area in Figure 2 below) is located on top of the proposed first story addition with a side setback of 16 feet and six inches where 25 feet is required and the allowance for limited nonconforming expansions without a variance only applies to the first story. To achieve the proposed design, the applicant is requesting a variance.

Figure 2



After thorough analysis of the requested variance, staff found that the variance findings cannot be made as will be further discussed in the next section. Due to the recommendation of denial to the Planning Commission for the variance, staff also recommends denial to the design review as the project does not meet the underlying zoning development standards and cannot meet the findings of the design review per LAMC Section 14.76.060. Alternatively, the Planning Commission can approve the design review permit conditioned on changes to the project to be consistent with the City's standards.

Variance Application

The variance being requested is for a reduction to the second story side setback. The proposed second story deck is proposed atop the first-story addition that will result in an eight-foot and six-inch encroachment into the required 25-foot setback.

Pursuant to LAMC Section 14.76.070 B., a variance may be granted only when all three findings cited below can be made. The third criterion derives from state law (see Government Code Section 65906) and shall be strictly construed.

1. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02;

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

2. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and
3. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

As part of the variance application submittal requirements, the applicant provided a variance justification letter enclosed in Attachment C for the Commission’s reference. This letter outlines the applicant's explanation why they believe the requested variance should be granted by demonstrating how each finding is met. Regarding Finding No. 1, the applicant believes the project meets two objectives set forth in LAMC Chapter 14.02 including Subsection F - To protect and enhance real property values within the city; and Subsection G - To conserve the city's natural beauty, to improve its appearance, and to preserve and enhance its distinctive physical character.

Based on the given statement, staff has found that this finding cannot be justified because it does not meet the objective of ensuring a harmonious and convenient relationship among land uses, as specified in Subsection B that will deviate the second story side setback standard from the city’s zoning regulations.

Furthermore, staff would like to raise the question of whether granting the variance is necessary to meet the two objectives that the applicant believes the project meets. Upon review, staff found that there are alternative design options available for the proposed deck that can achieve the same goal. For example, the proposed deck can be expanded towards the north to comply with the second-story side setback while still providing the same size deck in a slightly different configuration. Another option to consider is expanding the existing second-story terrace through the hallway. With the possibility of other design solutions, staff does not believe that this finding can be made.

Regarding Finding No. 2, the applicant felt the finding could be made for several reasons. First, the deck is located at the rear of the house, making it invisible from the street, and its small size and lower elevation than the street further contribute to its inconspicuousness. Second, there are no privacy concerns since the deck is not aligned with neighboring structures but is instead proposed to be built with a proposed privacy screening wall. The deck will also be screened by existing screening vegetation. Additionally, the neighbors have expressed support, and two adjacent properties already have non-compliant second-floor decks.

However, staff found that granting this variance could have negative impacts on the surrounding area by establishing a precedent, which could undermine the integrity of zoning regulations in the area. Also, staff found that the two adjacent properties with non-compliant second-floor decks are not existing precedents because:

- The property at 5810 Arboretum Drive, located to the south side, was developed prior to the annexation of the Woodland Acres Neighborhood. The existing non-compliant deck is a legal non-conforming structure, like the house.
- The property at 5770 Arboretum Drive, located to the north side, was granted a variance and design review application (12-V-11 and 12-SC-56) in 2013 by the Design Review Commission for construction of a new two-story house. The granted variance includes a reduction in the side

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

setbacks at both stories. However, staff does not believe that this example would be a precedent to the subject variance application since the property at 5770 Arboretum Drive has an average lot width that is less than 100 feet. In 2015, a zoning code amendment was adopted through Ordinance No. 2015-114 that allows properties with a lot width less than 100 feet in the R1-20 Zoning District to be subject to the R1-10 Zoning District's development standards. Therefore, the reduced side setbacks at both floors at 5770 Arboretum Drive are currently compliant.

Regarding Finding No. 3, the applicant believes that the property has several special circumstances that justify this variance application for approval. These circumstances include steeply sloping topography, the inability to comply with design guidelines without exception to the side yard setback, the existing legal non-conforming structure compared to the current City's setback requirements due to development prior to annexation, and the need to preserve a mature oak tree while designing an outdoor space.

Staff acknowledged the existence of the site's conditions with a steep slope throughout the rear yard. Due to this topography, staff is supportive of the proposed idea of a second story deck with a larger size than other proposed second-story decks on relatively flat lots. However, the slope is not considered special circumstance that would deprive the property owners' privileges because the owners have other options to achieve similar results for the enjoyment of their property by implementing a modified deck design as staff explained earlier in the report.

Additionally, the non-conformity of the existing home due to its development under the County's regulations does not justify further deviations from the current City setback requirements. The exception to allow the first-story deck's expansion in the zoning code acknowledges a non-conforming structure's existence and the desire from homeowners to align new development with the structure in a limited way.

Alternatives

The following alternatives to staff's recommendation may be considered by the Planning Commission:

1. Approve the project as proposed.
2. Deny the variance application and conditionally approve the design review application subject to a condition of approval requiring modifications to the project to be consistent with the City's standards.

Environmental Review

If the Planning Commission adopts the staff recommendation, then no environmental review is required under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15270 ("Projects Which are Disapproved") because CEQA does not apply to projects which are disapproved. If the Planning Commission approves the project, then it may find that the project is categorically exempt from environmental review under Section 15301 ("Existing Facilities") of the CEQA Guidelines because it involves an alteration and addition to an existing single-family dwelling in a residential zone within size limits specified in Section 15301(e), and none of the circumstances stated in CEQA Guidelines Section 15300.2 apply.

Subject: SC22-0029 & V23-0002 - 5790 Arboretum Drive

Public Notification and Community Outreach

A public meeting notice was posted on the property, mailed to property owners within a 300' radius, and published in the Town Crier. The applicant also posted the public notice sign (24" x 36") in conformance with the Planning Division posting requirements.

The applicant contacted the adjacent neighbors to the southside and northside in the immediate area for the community outreach. No comments from neighbors have been received by staff as of the writing of this report.

Melissa Thurman

From: Marwan Eways <meways@yahoo.com>
Sent: Wednesday, June 21, 2023 1:24 PM
To: Melissa Thurman
Subject: [External Sender]Re: Appeal Public Hearing - 5790 Arboretum Dr

Hi Melissa,

After checking with the team, we kindly request to be on the agenda for September 26th, 2023. Please let me know if you have any questions.

Thanks very much,

Marwan Eways | meways@yahoo.com | Cell: 415-806-7410

On Wednesday, June 21, 2023 at 10:08:54 AM PDT, Melissa Thurman <mthurman@losaltosca.gov> wrote:

Hello Mr. Eways,

The City Council does not meet on September 5th. They meet the second and fourth Tuesday of each month, except for the months of July (no second meeting), August (no first meeting), November (no second meeting) and December (no second meeting). The first meeting in September would be September 12th.

If September 12th works for you, please confirm as soon as possible. Please note the Council can continue your public hearing to one date certain; if after they continue the item you are unable to attend the next scheduled meeting, you will have to fund the next advertisement for another public hearing date.

Thank you and please confirm if September 12, 2023 at 7:00 p.m. works for your schedule.

Melissa Thurman, MMC

City Clerk

City of Los Altos

www.losaltosca.gov

1 N. San Antonio Road | Los Altos, CA 94022



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From: Marwan Eways <meways@yahoo.com>
Sent: Tuesday, June 20, 2023 7:03 PM
To: Melissa Thurman <mthurman@losaltosca.gov>
Subject: Re: Appeal Public Hearing - 5790 Arboretum Dr

Good evening Melissa,

I had a very full day today and apologize for the brief message. Thank you very much for your help!

After looking at the schedules, can we request to be on the Sept 5th agenda?

Regards,

Marwan Eways | meways@yahoo.com | Cell: 415-806-7410

On Tuesday, June 20, 2023 at 09:57:43 AM PDT, Marwan Eways <meways@yahoo.com> wrote:

Thank you

Sent from my iPhone

Marwan Eways - 415-806-7410

On Jun 20, 2023, at 9:48 AM, Melissa Thurman <mthurman@losaltosca.gov> wrote:

Hello Mr. Eways,

Thank you for your email. As the Public Hearing has already been noticed the item will be listed on the June 27th City Council agenda; however, staff will recommend to Council that they continue the item to a date certain of **Tuesday August 22, 2023 at 7:00 p.m. or shortly thereafter**. The City Council is taking a summer break and does not have any meetings scheduled between July 11 and August 22.

Please confirm receipt of this email. Thank you.

Melissa Thurman, MMC



City Clerk

City of Los Altos

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From: Marwan Eways <meways@yahoo.com>
Sent: Saturday, June 17, 2023 11:24 AM
To: Melissa Thurman <mthurman@losaltosca.gov>
Subject: Re: Appeal Public Hearing - 5790 Arboretum Dr

Good Morning Melisa,

Thanks for your note. My wife and I have a conflict on that day, my daughter is having surgery. Can we target the meeting on **July 25th**?

When speaking to Angel Rodriguez, I mentioned our conflicts: June 27, surgery for Ayden Eways, and July 11, Architect out, and asked if we could tentatively plan for late July or August.

Thanks,

Marwan Eways | meways@yahoo.com | Cell: 415-806-7410

On Saturday, June 17, 2023 at 07:25:42 AM PDT, Melissa Thurman <mthurman@losaltosca.gov> wrote:

Hello Mr. and Mrs. Eways,

The appeal of Planning Commission Decision for Planning Division File No. SC22-0029 and V23-0002 has been scheduled as a Public Hearing before the City Council on Tuesday June 27, 2023 at 7:00 p.m. or shortly thereafter.

The appeal you submitted to the City of Los Altos on May 31, 2023 is attached to this email, for reference, as is the Public Hearing notice which was advertised in the Daily Post on June 16, 2023. As we get closer to the meeting date, I will send another email to you with specifics for the appeal, including the length of time you will have to present your appeal to the City Council.

Should you have any questions please feel free to contact me. Please note the City of Los Altos will be closed on Monday June 19, 2023, in observance of Juneteenth.

Thank you.

Melissa Thurman, MMC

City Clerk

<image001.png> **City of Los Altos**

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Agenda Item # 3.

MARWAN & LISA EWAYS
5790 Arboretum Drive
Los Altos, CA

September 20, 2023

Honorable Mayor and esteemed Council Members:

I am Marwan Eways, a retired Technology Executive, and my wife, Dr. Lisa Eways, is a practicing Physician in our community. Our family has proudly called Los Altos home, actively participating in various community initiatives, schools, and our local Church since 2006.

As Los Altos residents, we are invested in the well-being of our city and are reaching out to address a matter of importance regarding our application for Variance V23-0002.

A meeting with the Planning Commission to consider our application on V23-0002 on 5/18 concluded with an informal split vote because a commissioner was absent. The Planning Commission recommended that we appeal. In order to allow our application to move forward with an appeal, the Commission voted 6 – 0 to deny our application.

Our application seeks approval to construct a second-story patio that is adjacent to the home's common area (family room and kitchen), above a small room addition on the first floor that serves as deck support and provides additional living space on the first floor. The design adheres to conventional construction, safety, and earthquake standards and is compatible with the design of our existing home.

Our proposed design aligns seamlessly with the existing hillside style of our home and remains within our allocated budget. The project includes an extension of our lower-level deck and establishes a connection to the upper patio with the addition of stairs, allowing access from the upper deck to the back yard. Our design objective is to create a safe and accessible inside-outside area that can accommodate our large extended family, including aging and disabled members. We aim to establish a space where our family can gather and enjoy quality time together.

We are grateful to have the support of our adjacent neighbors who live and own the properties at 5810 and 5770 Arboretum Drive, as well as the property owners behind our property at 2100 Woods Lane. All the surrounding neighbors have written letters or emails to the city supporting our design plans. Jerry Schoenig, who lives at 5810 Arboretum Dr and is our adjacent neighbor who was the builder of our home, spoke in favor of our project at a planning commission meeting.

We kindly request careful consideration of our Variance Appeal because our plans do not negatively impact the community and city as a whole, nor our neighbors. Attached are supporting materials for our appeal.

Thank you for your time and dedication to serving the citizens of Los Altos.

Sincerely,

Marwan and Lisa Eways

Overview



Our residence, located at 5790 Arboretum Dr, sits on one of the steepest lots in the Woodland area. Positioned downhill from the street, our home's entrance on the top (second) floor is accessed via a sloping driveway with a 12-foot elevation difference below the street. In total, our property spans a significant elevation change of 57 feet from top to bottom. Our house follows an inverted floor plan, with common areas (kitchen, family room, breakfast area and living room) on the top floor. Our bedrooms, a small media room, and the only access to the back yard are on the lower floor.

It is important to note that our home is a legally conforming property constructed in 2003 – 2004 in accordance with Santa Clara County standards with 15 foot side setbacks where 25 foot setbacks are required under current City code. We are in Woodland Acres, which was under Santa Clara county jurisdiction until it was annexed to the City of Los Altos in 2006.

Seeking to enhance our home, we are applying to build a deck **adjacent** to our family room and kitchen, extending along the existing nonstandard setback. This design aligns architecturally and aesthetically with our property and is similar to what is enjoyed by many of our neighbors.

The planning department expressed concern about a minor ~8 ft second-story setback difference. We firmly believe that the Los Altos setback code intends to address remodels where second-story additions may intrude upon neighboring homes, preventing privacy concerns. However, that is not the case with our neighbors. Our neighbors have two-story homes that are above and overlook our property and yard. Both neighbors support the addition of a second-story deck. Moreover, our proposed patio will be situated significantly lower down the hill, mitigating any potential privacy issues. The presence of trees and the incorporation of a partition to the south further ensure privacy (see above rendering).

The city did not support our design and variance application based on the following reasons:

1. Our lot is not considered “special” compared to others in the area.
2. Comparisons were made to homes built under county standards or legal construction following Los Altos standards.
3. Concerns were raised about setting a precedent with our request.
4. The city believes that we have other available options.

Background

We would like to provide background that supports our variance appeal by way of at least one example of the city applying inconsistent rulings and application of the zoning standards for the property at 5770 Arboretum next door to our property ([15-V-06 - 5770 Arboretum Drive - June 17, 2015](#)).

Specifically, we would like to address the city's lack of support for our variance application due to the perception that our lot does not qualify for “special circumstances”. However, our lot does qualify for special circumstances – development under County standards, location of common areas on the second floor, and the steepness of our lot.

The houses on both sides of our home have decks accessible from common areas – similar to what we are seeking and most all other homes in our neighborhood that are on flat lots have accessible outdoor areas adjacent to their common area. Our home is virtually the only home in the neighborhood with no useable outdoor space for entertainment adjacent to the home’s common area.

Variance application 15-V-06 for the adjacent property at 5770 Arboretum requested and received approval for a front yard setback and increased impervious surface for a paver driveway. The homeowners requested to deviate from the 50% impervious area limit to add pathways on their steep lot. In their application, the homeowners sought permission to use a nonstandard percentage of pavers for constructing walkways leading to their houses. Of note, the adjacent lots specifically referenced as precedents include our property at 5790 Arboretum Dr and 5810 Arboretum Dr, both of which were built under the county codes – not city codes with 15 foot side setbacks.

The city approved the variance for 5770 Arboretum Drive, accepting their justification based on the following factors:

- The topography of their lot was deemed "special," with a 10-foot difference between the street and their garage floor and a total elevation change from the front (high) to the rear (low) of 40 feet.
- They referenced other adjacent lots in the neighborhood that had similar features as justification for their request – notably lots developed under county codes.

In the Staff report for [15-V-06 - 5770 Arboretum Drive](#), Zachary Dahl, Senior Planner stated:

“There is a special circumstance applicable to the property due to the sloping topography of the lot. Strict application of the Zoning Code would deprive the subject property of privileges enjoyed by other property in the vicinity and under identical zoning classifications since many of the nearby properties have large driveways and impervious areas in their front yards.”

In contrast, 5770 Arboretum Dr has a **10-foot** drop from street and **40-feet** overall – the lot topography was deemed “**special.**” Our property at 5790 Arboretum Dr has a **12-foot** difference between the street and our garage floor and a total elevation change of front (high) to rear (low) of **57 feet**. However, our lot topography was deemed by staff as “**not special**”.

Only 7 homes in our neighborhood of over fifty homes have steeply sloping lots and only a very small percentage of lots in the entire City of Los Altos have steeply sloping lots. Of all the steeply sloping lots, very few have their common area located on the second floor. Very few lots in the City were developed under County codes.

We understand that the city has provided other design options in the staff report and during meetings. However, we would like to explain why the options are not viable alternatives for the following reasons.

- Moving the proposed patio to the north and suspending it 23 feet in the air: This approach would necessitate specialized engineering and the use of 23-foot pillars, which is uncommon in residential construction. It raises safety concerns and would also require the removal of one to two protected mature oak trees.
- The resulting design would create an odd addition, negatively impacting the flow and diminishing the overall value of our property - not aligning with commonly accepted home design nor the design of the house. Or it would require moving the kitchen and family room at infeasible expense and affecting the use and design of the first floor. In our interviews with several design professionals, all consistently proposed a deck adjacent to the existing common areas.
- Building a patio (with or without a pool) in the lower back yard for outdoor entertainment: This does not allow easy indoor/outdoor entertaining as the lower back yard is far away from the kitchen and is not readily accessible from the common areas on the second floor, nor is it accessible for elderly and disabled family members. [Lisa’s elderly mother fell going down the stairs to the lower floor since our variance hearing at the Planning Commission requiring hospitalization, surgery and recovery at an extended care facility.]
- The suggested options would not allow us to host gatherings where we can be in the common areas together, both inside and outside, as desired. The ideal flow would involve adjacent indoor and outdoor spaces for our guests to enjoy, like our neighbors’ properties and other properties in the neighborhood. Alternatives will also diminish the real property value of our home.

Precedent

We understand the city's concern about setting a precedent by approving our variance. However, we would like to provide some clarifications regarding this issue:

1. Unique lot: Our home is one of only seven properties in the area with steep lot topography zoned R1-20. It is part of Woodland Acres, a neighborhood that was annexed to the city of Los Altos in 2006.
2. Existing adjacent properties: Both of our adjacent neighbors already have decks and/or second-story patios adjacent to their common areas, deviating from the

standard setbacks. This indicates that a precedent already exists within our immediate vicinity.

3. Limited number of homes: In total, there are only seven homes with similar characteristics in our area, many if not all of which already have decks adjacent to their common areas. The number of properties that the city is concerned about setting a precedent for is exceedingly small.

We believe that the intent of the 25-foot second-story setback in the Los Altos code is to address privacy and daylight concerns and avoid mass and bulk when adding second-story space to older single-story homes. However, our home, like our neighboring properties at 5770 and 5810 Arboretum Dr, is relatively new. These properties are both nonstandard and located at higher elevations compared to ours. The proximity of these homes means that they can already overlook our common areas, and approving our variance would not significantly impact privacy concerns. Adding a deck to the roof of a legally permitted first floor addition does not add any bulk or mass the structure. [Note that the first floor addition meets all current setback requirements and is conforming and permitted – it is only the open deck on the second floor that requires a variance.]

It is worth noting that 5810 and 5790 Arboretum Dr were originally one lot that was split into two separate homes. Our home, which we purchased in 2006, has limited usable outdoor space due to the steepness of the lot and budget constraints. Access to our backyard is from the lower floor, away from the main common areas. In contrast, the Schoenig's at 5810 Arboretum Dr have a large deck accessible from the common areas (kitchen and family room) on the second floor, as well as an additional second-story deck overlooking our home -- all constructed according to the setback requirements of Santa Clara County (which do not appear to conform to current City setbacks). We aspire to enjoy similar outdoor spaces connected to our main living/common areas, providing better flow and gathering opportunities for our family.

In conclusion, we have provided specific responses to the main points raised in the city's staff report. Despite the city's assertion that our lot is not "special," we have demonstrated that our neighbor's lot, which was deemed special, had a less challenging topography than ours. We have also highlighted examples of homes built under county standards and legal construction, such as 5770 Arboretum Dr, which were allowed to deviate from standard setbacks.

Regarding the concern about setting a precedent, we argue that a precedent already exists based on the city's application of the code for 5770 Arboretum Dr, where homeowners were permitted to compare their property to any in the area, including legal non-conforming homes built under County standards. Moreover, we clarify that the alternatives proposed by staff are not feasible and would not achieve our objectives.

In presenting these examples, our intention is not to claim binding precedents, but rather to highlight the inconsistency in rulings considered for variance justifications. We believe it is crucial to ensure fair and equitable treatment for all homeowners when evaluating variance applications.

We believe that our proposed design and variance request align with our needs, preferences, and budget while respecting the existing aesthetics and functionality of our home and have no negative impacts on our neighbors or the City. Considering these arguments, we firmly believe that the information we have provided further justifies our design and variance findings, addresses the city's concerns, and warrants the approval of our appeal by the City Council.

JORGENSEN, SIEGEL, McCLURE & FLEGEL, LLP
ATTORNEYS AT LAW

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JENNIFER H. FRIEDMAN
MINDIE S. ROMANOWSKY
DAVID L. ACH
GREGORY K. KLINGSPORN
NICOLAS A. FLEGEL
KRISTINA A. FENTON
KIMBERLY J. BRUMMER
CAMAS J. STEINMETZ
PHILIP S. SOUSA

BRITTNEY L. STANDLEY
CHRISTIAN D. PETRANGELO
JOSEPH H. FELDMAN

September 19, 2023

Los Altos City Council
City of Los Altos
1 North San Antonio Road
Los Altos, CA 94022

Re: Variance Appeal – V23-0002 – 5790 Arboretum Drive

Honorable Mayor and City Council Members:

I represent Marwan and Lisa Eways, owners of 5790 Arboretum Drive, Los Altos in connection with their appeal of the denial of their variance application for a reduced side yard setback for a second story deck. We believe that staff and the Planning Commission have erred in their denial of the requested variance.

Based on my 27 years of experience as the City Attorney for the City of Menlo Park and reviewing similar applications, I can state unequivocally that there is more than ample evidence and precedent that the variance for the requested reduced side yard setback for the second story deck should be approved and the appeal should be granted. Based on the staff's recommendations/analysis, the City would never be able to approve a variance for a reduced side yard setback for a second story deck. If ever there ever was a circumstance in which a variance should be granted for a reduced side yard setback, this is it.

I urge you to grant the appeal and approve the variance based on the following proposed findings:

A. That the granting of the variance will be consistent with the objective of the zoning plan set forth in Article 1 of Chapter 14.02 of the Los Altos Zoning Code.

The design of the proposed modest size roof deck is consistent with the objectives of the zoning plan set forth in **Article 1 of Chapter 14.02**. The granting of the proposed variance is particularly consistent with the following objectives:

F. To protect and enhance real property values within the city; and

Adding an **accessible private outdoor space from the main upper level living space (family, breakfast, kitchen)** for enjoyment of the rear yard would be a tremendous enhancement to the real property value. It is currently very difficult to access the rear yard and requires traversing many stairs or inaccessible outdoor walkways.

G. To conserve the city's natural beauty, to improve its appearance, and to preserve and enhance its distinctive physical character.

Strict compliance with the required 25 ft side yard setback for the roof deck, would locate the start of the roof deck at the **mid-point of the family**, breakfast, kitchen space and shifting the deck toward the north interior of the property, off-set with the proposed lower level addition below intended to support the roof deck. This would require off-setting the addition on the lower level or it would require the addition of a steel support system for a portion of the deck, both of which would be functionally awkward and architecturally incongruous. Additionally, shifting the roof deck further north would interfere with an existing mature oak tree and would likely require its removal. Without the granting of an exception to the side yard setback, it would not be possible to sustainably design an outdoor deck directly accessible from the main living spaces on the main upper level of the residence to comply with the City's *Single-Family Residential Design Guidelines* for remodels and additions so that they "...look as if the original house design included the addition." (Sec. 5.2)

B. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity; and

The granting of this application will not be detrimental to health, safety, or welfare persons living or working in the vicinity or injurious to property or improvements in the vicinity. Due to the fact that the proposed roof deck is only 280 sf and is located entirely at the rear of the existing home, it will not be noticeable from the public view and will not negatively add to the bulk or mass of the existing structure. The elevation of the deck is also about 12 ft lower than the elevation of the street.

Additionally, the proposed roof deck poses no privacy issues with the only two affected side neighboring properties and the neighbors are supportive of the project. There are three primary reasons there are no privacy issues with the proposed roof deck. One, the proposed roof deck is not in alignment with the neighboring structure, two, there are existing mature trees and vegetation along the side yard between the roof deck and the neighboring property and three, we are proposing a 5'-6" high privacy wall on the side of the roof deck facing the neighboring property.

C. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.


There are several special circumstances applicable to this property, which justify a variance from the strict application the zoning code and they are outlined as follows:

1. The lot is very steeply sloping away from the street creating a significant challenge to access the private rear yard from the main interior living spaces of the home. While there are other sloping lots within the city, there are only a small percentage of lots with steeply sloping topography in this immediate neighborhood zoning district. This lot, by virtue of its topography, is generally inconsistent with the overall character of the neighborhood and the City at large. The vast majority of other properties in the neighborhood and City can simply walk out a few steps down from their residences to enjoy their private rear yard. Other homes with sloping lots have access to decks immediately adjacent to common areas (family room and kitchen).
2. Without the granting of an exception to the side yard setback, it would not be possible to design an outdoor deck directly accessible from the main living spaces on the main upper level of the residence to comply with the City's *Single-Family Residential Design Guidelines* for remodels and additions so that they "...look as if the original house design included the addition." (Sec. 5.2)
3. The home was built fairly recently, in 2005, yet because it was built to comply with the zoning standards of the County of Santa Clara, now that the property has been annexed to the City of Los Altos, the home is non-compliant for its side yard building setbacks. Both levels of the home have a side yard setback of 15 ft where the required setbacks are 20 ft for one story structures and 25 ft for two story structures. This particular circumstance is unique to the City and only a very small percentage of properties would have a similar situation.
4. Without the granting of an exception to the side yard setback, it would not be possible to design an outdoor space directly accessible from the main living areas on the upper level of the residence without removing a mature 24" diameter oak tree. The current proposed roof deck design preserves the tree.

Approval of the above findings and approval of the Eways' appeal and requested variance for a reduced side yard set back for a second story deck is within the City Council's discretion and authority and is amply supported by the application and the evidence submitted with their application and presented to the Planning Staff, the Planning Commission and the City Council.

We respectfully request you approve the appeal and approve the variance as requested. We will be available to answer any questions you may have.

Sincerely,


William L. McClure



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023
Subject: Housing Element Implementing Ordinance
Prepared by: Nick Zornes, Development Services Director
Reviewed by: Jon Maginot, Assistant City Manager
Reviewed by: Jolie Houston, City Attorney
Approved by: Gabe Engeland, City Manager

Attachment(s):

- 1. Draft Ordinance
- 2. Appendix A – Chapter 14.16
- 3. Appendix B – Chapter 14.18
- 4. Appendix C – Chapter 14.20
- 5. Appendix D – Chapter 14.22
- 6. Appendix E – Chapter 14.24
- 7. Appendix F – Chapter 14.40
- 8. Appendix G – Chapter 14.44
- 9. Appendix H – Chapter 14.48
- 10. Appendix I – Chapter 14.52
- 11. Appendix J – Chapter 14.54
- 12. Appendix K – Chapter 14.80

Initiated by:

City of Los Altos adopted 6th Cycle Housing Element, Program 3.B, 3.C, 3.F, 3.G, and 3.N.

Fiscal Impact:

No fiscal impacts are associated with the adoption of these implementing regulations.

Environmental Review:

This Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970.

Summary:

The draft ordinance incorporates regulations implementing Program 3.B: Modify building height in mixed-use zoning districts, Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza, Program 3.F: Reduce Conditional Use Permit

City Manager
GE

Reviewed By:
City Attorney
JH



Subject: Housing Element Implementing Ordinance

requirement for residential mixed-use and multi-family, Program 3.G: Amend Conditional Use Permits findings applicable to housing Developments, Program 3.N: Modify standards in the R3 zoning districts of the adopted Housing Element.

Staff Recommendation:

Introduce and Waive Further Reading of Zoning Ordinance Text Amendments which implement programs identified in the adopted housing element, Program 3.B: Modify building height in mixed-use zoning districts, Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza, Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family, Program 3.G: Amend Conditional Use Permits findings applicable to housing Developments, Program 3.N: Modify standards in the R3 zoning districts and consideration of the City of Los Altos Planning Commission’s September 7, 2023 decisions; Action (1) on Program 3.C, PASSED (4-Yes, 1-No, 1-Rescue, 1-Absent); Action (2) on Program 3.B, 3.F, 3.G, 3.N, PASSED (6-Yes, 1-Absent) both recommendations approved the proposed amendments with minor modifications. The proposed amendments are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines since there would be no possibility of a significant effect on the environment.

Background:

On January 24, 2023, the Los Altos City Council adopted the City’s 6th Cycle Housing Element 2023-2031. As required by law, the adopted housing element has several housing programs contained within. The City of Los Altos identified specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs must include specific action steps the City will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the city’s specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

Programs 3.B, 3.C, 3.F, 3.G, and 3.N are prescribed under Goal 3 in the adopted Housing Element which is intended to remove constraints to the development of housing. The proposed amendments contained in the draft ordinance help to further Policy 3.1 promote housing through city regulation, and Policy 3.2 modify zoning code to assist in meeting housing needs.

The draft ordinance under consideration implementing Programs 3.B, 3.C, 3.F, 3.G, and 3.N are required to be adopted at various times within the planning cycle. Due to the various requirements and deliverables of the 6th Cycle Housing Element the draft ordinance was prepared early to help ensure that ample time is available to execute several other adopted programs. By providing additional time in amending each chapter of the draft ordinance the city helps to provide additional buffer in creating the regulatory environment to allow for the approval and creation of housing units.



Subject: Housing Element Implementing Ordinance

Analysis:

The City’s adopted 6th Cycle Housing Element 2023-2031, included Program 3.B. The housing program requires the proposed ordinance amendments to *Modify building height in mixed-use zoning districts*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.B: Modify building height in mixed-use zoning districts.

Various mixed-use zoning districts limit development to 30 feet or no more than two stories. To facilitate housing development in mixed-use zoning districts, the City will amend the Zoning Code to increase allowed building heights as referenced in the Downtown Vision Plan height recommendation section, at minimum if not greater, than the following:

- *First Street and San Antonio District*
 - *Standalone Residential: 40 feet, 4-stories*
 - *Mixed-Use: 45 feet, 4-stories*
- *Edith District*
 - *Standalone Residential: 40 feet, 4-stories*
- *Main and State Street District*
 - *Mixed-Use: 36 feet, 3-stories*

The City will then evaluate and update allowed heights in the Commercial Neighborhood (CN) District at minimum allowing an additional 10 feet and one story to maintain first floor commercial uses and accommodate residential uses on upper floors to be provided as mixed-use development. This effort will include modifying existing objective design standards as necessary to accommodate anticipated housing capacity while addressing community design goals.

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *Amendments to Zoning Code for increased building heights in downtown by December 2023; zoning code amendments to increase allowed heights in Commercial Neighborhood (CN) District by December 2024*

The City’s adopted 6th Cycle Housing Element 2023-2031, included Program 3.C. The housing program requires the proposed ordinance amendments to *Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza.



Subject: Housing Element Implementing Ordinance

The City will remove the site-specific 0.35 floor-to-area ratio (FAR) limitation applicable to the Rancho Shopping Center and Woodland Plaza, as the FAR limit presents a constraint to housing and is more restrictive than the FAR standard in the Commercial Neighborhood (CN) District. The City will create new development standards reflective of a mixed-use zone that requires both commercial and residential uses for the Rancho Shopping Center and Woodland Plaza properties.

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *December 2024*

Objective: *Remove site-specific 0.35 floor-to-area ratio (FAR) and create development standards that require both commercial and residential uses for the Rancho Shopping Center and Woodland Plaza properties to incorporate needed housing units and preserve essential shopping services.*

The City’s adopted 6th Cycle Housing Element 2023-2031, included Program 3.F. The housing program requires the proposed ordinance amendments to *Reduce Conditional Use Permit requirement for residential mixed-use and multi-family*. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family.

To facilitate housing, the City will amend the Zoning Code to allow the following as permitted uses (and no longer requiring a conditional use permit):

- *Residential mixed-use in the CN, CD, CRS, CT, and CRS/OAD districts; and*
- *Multi-family in appropriate areas of mixed-use districts (e.g., not on the ground floor, etc.).*

Responsible Body: *Development Services Department, Planning Commission, City Council*

Funding Source: *General Fund*

Time Frame: *September 2024*

Objective: *By allowing the residential use by-right the time for City review of and action on residential mixed-use and multi-family developments will be shortened compared to typical processing times of a conditional use permit (see Appendix C, Table C-8).*

The City’s adopted 6th Cycle Housing Element 2023-2031, included Program 3.G. The housing program requires the proposed ordinance amendments to *Amend Conditional Use*



Subject: Housing Element Implementing Ordinance

Permits findings applicable to housing developments. The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.G: Amend Conditional Use Permits findings applicable to housing developments.

Conditional Use Permit (CUP) approval is subject to findings listed in Zoning Code Section 14.80.060. CUP findings will be amended so that only objective findings and standards are applicable to housing developments, including single-room occupancy units, consistent with State law. Additionally, the City will designate the review and approval of conditional use permits for housing developments to the Authority of the Development Services Director.

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: March 2024

The City’s adopted 6th Cycle Housing Element 2023-2031, included Program 3.N. The housing program requires the proposed ordinance amendments to *Modify standards in the R3 zoning districts.* The draft ordinance included in this agenda packet effectively completes these deliverables as explicitly called out within the housing program.

Program 3.N: Modify standards in the R3 zoning districts.

The City will amend its Zoning Ordinance to allow building heights of 35 feet and three stories in all R3 zoning districts. The City will also increase allowed site coverage in the R3 zoning districts to ensure maximum densities can be achieved.

Responsible Body: Development Services Department, Planning Commission, City Council

Funding Source: General Fund

Time Frame: December 2026

Discussion:

The actions included within the attached draft ordinance are requirements pursuant to the City’s adopted 6th Cycle Housing Element. Once a jurisdiction takes final action by adopting its housing element this requires immediate action in order to remain compliant with State housing law. The City of Los Altos Housing Element contains 26 major action items or milestones that must be completed within the first 12-months post adoption. The draft ordinance will effectively



Subject: Housing Element Implementing Ordinance

accomplish multiple components of the required housing programs within the adopted housing element.

Housing Element Noncompliance:

Should the Los Altos City Council vote not to proceed with the implementing actions discussed in this report the City will be vulnerable to penalties and consequences of housing element noncompliance. HCD is authorized to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. HCD may revoke housing element compliance if the local governments actions do not comply with state law. Examples of penalties and consequence of housing element noncompliance:

- **General Plan Inadequacy:** the housing element is a mandatory element of the General Plan. When a jurisdictions housing element is found to be out of compliance, its General Plan could be found inadequate, and therefore invalid. Local governments with an invalid General Plan can no longer make permitting decisions.
- **Legal Suites and Attorney Fees:** local governments with noncompliant housing elements are vulnerable to litigation from housing rights’ organization, developers, and HCD. If a jurisdiction faces a court action stemming from its lack of compliance and either loses or settles the case, it often must pay substantial attorney fees to the plaintiff’s attorneys in addition to the fees paid by its own attorneys. Potential consequences of lawsuits include: mandatory compliance within 120 days, suspension of local control on building matters, and court approval of housing developments.
- **Loss of Permitting Authority:** courts have authority to take local government residential and nonresidential permit authority to bring the jurisdiction’s General Plan and housing element into substantial compliance with State law. The court may suspend the locality’s authority to issue building permits or grant zoning changes, variances, or subdivision map approvals – giving local governments a strong incentive to bring its housing element into compliance.
- **Financial Penalties:** court-issued judgement directing the jurisdictions to bring its housing element into substantial compliance with state housing element law. If a jurisdictions housing element continues to be found out of compliance, courts can multiply financial penalties by a factor of six.
- **Court Receivership:** courts may appoint an agent with all powers necessary to remedy identified housing element deficiencies and bring the jurisdiction’s housing element into substantial compliance with housing element law.



Subject: Housing Element Implementing Ordinance

Petition for Writ of Mandate – California Housing Defense Fund, Yes In My Back Yard v. City of Cupertino.

So that the City Council and public are well-informed the City of Los Altos has included this information with this agenda item so that all circumstances are understood as housing law is rapidly evolving.

Early this year Californians for Homeownership, California Housing Defense Fund, and YIMBY Law had filed 12 lawsuits in Contra Costa, Santa Clara, Marin, and San Mateo County Superior Courts with the intention to file more in the coming weeks. The cities and counties sued include: Belvedere, Burlingame, Cupertino, Daly City, Fairfax, Martinez, Novato, Palo Alto, Pinole, Pleasant Hill, Richmond, and Santa Clara County. Each municipality has been sued by one or two of the non-profits.

With the Bay Area’s 109 cities and counties at widely varied stages in the process of Housing Element adoption and compliance, these twelve lawsuits mark the first round of what will likely be many rounds of judicial review for noncompliance with state housing law in the Bay Area. The initial lawsuits focus on cities with a long history of exclusionary housing practices, cities that adopted housing elements unlawfully, and localities that have made little progress in developing their draft housing elements. The organizations will continue to file suits in the coming weeks, prioritizing cities with the most egregious violations in each organization’s judgment.

A Petition for Writ of Mandate in the State of California is used by superior courts, courts of appeal and the Supreme Court to command lower bodies (such as lower level of government agencies, in this case a city) to do or not do specific actions. In this case, a Writ of Mandate can result in the city being directed to adopt a compliant housing element or other associated actions in order to comply with State law. A Writ of Mandate could also be petitioned for and direct a city to specifically implement programs that were included in their adopted housing element.

Given the current and ongoing legal climate around housing element law it is vital for the City of Los Altos to expeditiously implement the adopted 6th Cycle Housing Element 2023-2031. As noted above the potential legal risks associated with housing element noncompliance could be further enforced by similar legal actions.

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING CHAPTER 14.16, 14.18, 14.20, 14.22, 14.24, 14.40, 14.44, 14.48, 14.52, 14.54, 14.80 OF THE LOS ALTOS MUNICIPAL CODE TO IMPLEMENT PROGRAM 3.B, PROGRAM 3.C, PROGRAM 3.F, PROGRAM 3.G, AND PROGRAM 3.N OF THE SIXTH CYCLE HOUSING ELEMENT UPDATE

WHEREAS, the City Council is empowered pursuant to Article XI, Section 7 of the California Constitution to make and enforce within the City all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, the City Council held a duly noticed public hearing on September 26, 2023, and October 10, 2023; and

WHEREAS, Program 3.B of the Housing Element Update calls for Modify building height in mixed-use zoning districts; and

WHEREAS, Program 3.B of the Housing Element Update to facilitate housing development in mixed-use zoning districts, the City will amend the Zoning Code to increase allowed building heights as referenced in the Downtown Vision Plan height recommendation section at minimum if not greater; and

WHEREAS, Program 3.C of the Housing Element Update calls for Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza; and

WHEREAS, Program 3.C of the Housing Element Update expressly requires the removal of site-specific 0.35 floor-to-area ratio (FAR) limitation applicable to the Rancho Shopping Center and Woodland Plaza; and

WHEREAS, Program 3.F of the Housing Element Update calls for the reduction of Conditional Use Permit requirements for residential mixed-use and multi-family; and

WHEREAS, Program 3.F of the Housing Element Update expressly allows residential and mixed use zoning in the CN, CD, CRS, CT, and CRS/OAD districts; and

WHEREAS, Program 3.G of the Housing Element Update calls for amending the Conditional Use Permits findings applicable to housing developments; and

WHEREAS, Program 3.G of the Housing Element Update expressly requires CUP findings will be amended so that only objective findings and standards are applicable to housing developments; and

WHEREAS, Program 3.N of the Housing Element Update calls for Modifying standards in the R3 zoning districts; and

WHEREAS, Program 3.N of the Housing Element Update expressly requires the City to increase allowed site coverage in the R3 zoning districts to ensure maximum densities can be achieved; and

WHEREAS, having committed itself to implement Housing Element Update in its entirety, the City Council now desires to adopt this Ordinance; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended; and

NOW, THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CHAPTER 14.16 OF THE MUNICIPAL CODE. Chapter 14.16 of the Los Altos Municipal Code are hereby amended as set forth in Appendix A to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 2. AMENDMENT OF CHAPTER 14.18 OF THE MUNICIPAL CODE. Chapter 14.18 of the Los Altos Municipal Code are hereby amended as set forth in Appendix B to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 3. AMENDMENT OF CHAPTER 14.20 OF THE MUNICIPAL CODE. Chapter 14.20 of the Los Altos Municipal Code are hereby amended as set forth in Appendix C to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 4. AMENDMENT OF CHAPTER 14.22 OF THE MUNICIPAL CODE. Chapter 14.22 of the Los Altos Municipal Code are hereby amended as set forth in Appendix D to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 5. AMENDMENT OF CHAPTER 14.24 OF THE MUNICIPAL CODE. Chapter 14.24 of the Los Altos Municipal Code are hereby amended as set forth in Appendix E to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 6. AMENDMENT OF CHAPTER 14.40 OF THE MUNICIPAL CODE. Chapter 14.40 of the Los Altos Municipal Code are hereby amended as set forth in Appendix F to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 7. AMENDMENT OF CHAPTER 14.44 OF THE MUNICIPAL CODE. Chapter 14.44 of the Los Altos Municipal Code are hereby amended as set forth in Appendix G to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 8. AMENDMENT OF CHAPTER 14.48 OF THE MUNICIPAL CODE. Chapter 14.48 of the Los Altos Municipal Code are hereby amended as set forth in Appendix H to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 9. AMENDMENT OF CHAPTER 14.52 OF THE MUNICIPAL CODE. Chapter 14.52 of the Los Altos Municipal Code are hereby amended as set forth in Appendix I to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 10. AMENDMENT OF CHAPTER 14.54 OF THE MUNICIPAL CODE. Chapter 14.54 of the Los Altos Municipal Code are hereby amended as set forth in Appendix J to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 11. AMENDMENT OF CHAPTER 14.80 OF THE MUNICIPAL CODE. Chapter 14.80 of the Los Altos Municipal Code are hereby amended as set forth in Appendix K to this Ordinance, underline indicating addition, strikethrough indicating deletion.

SECTION 12. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 13. PUBLICATION. This Ordinance shall be published as provided in Government Code Section 36933.

SECTION 14. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption hereof.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on __, 2023, and was thereafter, at a regular meeting held on __, 2023, passed and adopted by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, MMC, CITY CLERK

**APPENDIX A
AMENDMENTS TO CHAPTER 14.29**

Chapter 14.16 R3-4.5 MULTIPLE-FAMILY DISTRICT¹

Sections:

14.16.010 R3-4.5 Districts.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the R3-4.5 District.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.020 Specific purpose.

The specific purpose of the R3-4.5 District is to retain and enhance the character of the Stevens Place and Marshall Court area ~~as a two-family dwelling unit neighborhood.~~

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.030 Permitted uses (R3-4.5).

The following uses shall be permitted in the R3-4.5 District:

- A. Two-family dwelling units, ~~with not more than one two-family dwelling unit for each nine thousand (9,000) square feet of lot area;~~
- B. ~~Home occupations~~
- C. ~~Animals as provided in Chapter 5.10 of this code; and~~
- D. ~~Small family day care.~~

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.040 Site area (R3-4.5).

The minimum site area shall be ~~nineseven~~ thousand (97,000) square feet ~~for each two-family dwelling unit.~~

(Ord. No. 2019-467 , § 1, 2-11-20)

¹Editor's note(s)—Ord. No. 2019-467 , § 1, adopted February 11, 2020, amended Chapter 14.16 its entirety to read as set out herein. Former Chapter 14.16, §§ 14.16.010—14.16.110 pertained to similar subject matter and derived from Prior Code § 10-2.701—10-2.709; Ord. No. 2015-414, § 12, adopted September 8, 2015 and Ord. No. 2018-440 , , § 3, March 13, 2018.

14.16.050 Coverage (R3-4.5).

- ~~A. The maximum coverage for all structures in excess of six feet in height shall be forty (40) percent of the total gross site area where the height of one-story development does not exceed twenty (20) feet.~~
- ~~B. On sites where the lot coverage exceeds thirty (35) percent, two-story structures shall not be allowed.~~
- A. The maximum coverage for all structures in excess of six feet in height shall be sixty (60) percent of the total gross site area.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.060 Floor area ratio (R3-4.5).

- ~~A. For lots with a gross site area not exceeding eleven thousand (11,000) square feet, the maximum floor area shall be thirfifty five (355) percent of the gross lot area.~~
- ~~B. For lots with a gross site area exceeding eleven thousand (11,000) square feet, the maximum floor area shall be three thousand eight hundred fifty (3,850) square feet plus ten (10) percent times the lot area minus eleven thousand (11,000) square feet.~~

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.070 Unit Size.

~~The floor area of the smaller of the two units can be no less than 900 square feet.~~

No minimum or maximum unit size shall be applicable, except for accessory dwelling units as allowed in Chapter 14.14 of the Los Altos Municipal Code.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.080 Setbacks (R3-4.5).

A. The minimum setbacks shall be as follows:

Property line abutting Fallen Leaf Lane	30 feet
Property line abutting Homestead Road, Stevens Place or Marshall Court frontage	20 feet
Property lines abutting to an R1-10 District	20 feet
Abutting to Stevens Creek property line (measured from top of creek bank)	20 feet
Other Interior property line not listed above	
First story	5 feet
Second story	10 feet

B. The second story setback shall be measured from the wall of the second story, or in the case of a sloping ceiling or roof where there is no exterior wall, from the point the second story ceiling has a height of five feet or greater from the finished floor.

- C. When a unit has an existing nonconforming setback and fifty (50) percent or more of the floor area of that unit is voluntarily being rebuilt or replaced, the entire unit shall be brought into conformance with current setback requirements. This threshold is applied to each unit within a two-family dwelling and does not require both units to be brought into conformance when only one unit is being modified under the threshold above. For the purposes of this section, the garage portion of the structure shall be considered a separate unit.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.090 Height of structures (R3-4.5).

- A. No structure shall exceed ~~one-three~~ one-three storyies or ~~twenty-thirty-six (236)~~ twenty-three (23) feet in height as measured from the existing natural grade immediately adjacent to the proposed structure. ~~from the natural grade, except for those structures indicated in Subsection B.~~

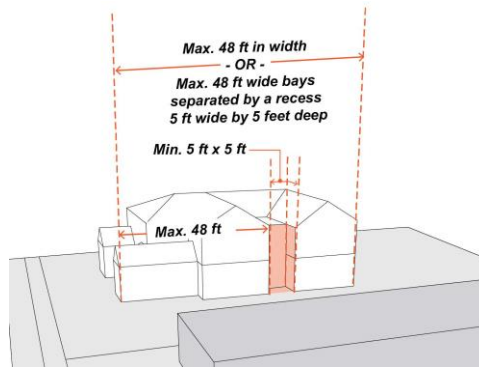
~~B. —On lots with two-story structures as of December 10, 2019, no structure shall exceed two stories or twenty-seven (27) feet in height from the natural grade.~~

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.100 Design control (R3-4.5).

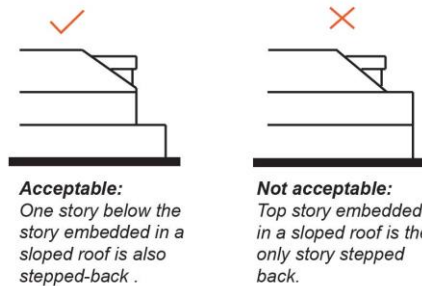
- A. Building Massing and Articulation.
 - 1. For buildings exceeding the height limit established in the applicable base and overlay zone, the right-of-way-facing façades of the uppermost floor must be embedded in a sloped roof form as allowed by Section 14.16.1100.A.4.
 - 2. Vertical Articulation.
 - a. Each building volume shall be defined according to one of the following classifications:
 - i. Main body (one per building): The widest volume of the structure, containing main entrances and the most public interior spaces.
 - ii. Wing (optional, multiple per main body allowed): A narrower volume attached to a main body volume.
 - b. Each main body volume shall contain at least one entrance.
 - c. Street-facing wings shall be recessed by no less than three feet relative to the front façade of the Main body.
 - d. The eave/roof of a wing shall be no higher than the corresponding elements of the main body.
 - 3. R-1 Adjacencies.
 - a. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
 - b. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess five feet wide and five feet deep.
 - c. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.

- d. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.



4. Roofline and Roof Design.

- a. Acceptable roof forms are limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Dormer.
- b. When the top story is stepped back and embedded in a sloped roof form, the floor below must (and other floors may) be stepped back to meet the slope of the top floor.

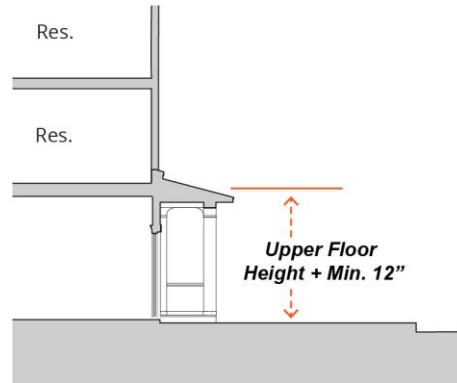


- c. Façade facing R-1 Zone must utilize a hipped or gable roof and may incorporate dormers.
- d. Roofline at corners shall not exceed roofline of adjacent wallplanes by more than twenty-four (24) inches.

B. Building Design.

- 1. Façade Composition. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
- 2. Building Entrances. Building entrances must incorporate one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - a. Stoop.

- b. Porch.
- c. Dooryard.
- 3. Primary Entrance Location(s). Locate primary entrance along the front right-of-way and/or interior courtyard.
- 4. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling height.



- C. Window Design.
 - 1. All windows must have a sill.
 - 2. Vinyl sliding windows are prohibited on façades visible from a right-of-way.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (watertable and building base only).

- d. Brick (watertable and building base only).
 - e. Tile.
 - f. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- E. Screening.
- 1. Service, trash, and utility areas must be screened from view of the right-of-way.
 - 2. Screening must be architecturally consistent with primary building in terms of materials, colors, and style.
- F. Topography and Grading.
- 1. A stepped foundation is required where the average slope beneath the proposed structure exceeds ten (10) percent.
 - 2. Terracing and plantings must reflect the shape of the natural terrain.
- G. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all multi-family development in the R3-4.5 District.
- (Ord. No. 2019-467 , § 1, 2-11-2020; Ord. No. 2021-478 , § 1, 9-14-2021)

14.16.110 Off-street parking (R3-4.5).

As provided in Chapter 14.74 of this title.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.06.120 Basements (R3-4.5).

Basements shall be regulated as follows:

- A. Basements shall not extend beyond the floor area of the first floor of the main or accessory structure above;
- B. Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required front or exterior side yard setback. These elements may be permitted within an interior side or rear yard setback, but in no event closer than five feet to a property line;
- C. Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.
- D. Light wells, ingress and egress wells, patio wells, and other similar elements shall be at least seventy-five (75) percent open in area to light and air above.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.130 Signs (R3-4.5).

As provided in Chapter 14.68 of this title.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.140 Fences (R3-4.5).

As provided in Chapter 14.72 of this title.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.150 Nonconforming use regulations (R3-4.5).

As provided in Chapter 14.66 of this title.

(Ord. No. 2019-467 , § 1, 2-11-20)

14.16.160 Accessory structures.

As provided in Chapter 14.15 of this title, and with the following parameters:

- A. Yard areas adjacent to Homestead Road or an R1 District shall be treated as the rear yards for the purposes of this section.
- B. Accessory structures will not be permitted in any other setback area.

(Ord. No. 2019-467 , § 1, 2-11-20)

Chapter 14.18 R3-5 MULTIPLE-FAMILY DISTRICT

Sections:

14.18.010 R3-5 District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the R3-5 District.

(Prior code § 10-2.801)

14.18.020 Permitted uses (R3-5).

The following uses shall be permitted in the R3-5 District:

- A. ~~Apartments, two family units or more per building with not more than one dwelling unit for each five thousand (5,000) square feet of lot area; provided, however, if after dividing the area of the site by five thousand (5,000), a remainder of less than five thousand (5,000) square feet but more than three thousand nine hundred ninety-nine (3,999) square feet is obtained, one additional dwelling unit may be located on the site~~ Residential Housing Developments with two (2) or more units; and
- B. ~~For affordable housing requirements, see Chapter 14.28 of this title;~~
- C. ~~For density bonus provisions, see Chapter 14.30 of this title; and~~
- D. Animals as provided in Chapter 5.10 of this code.

(Prior code § 10-2.802)

14.18.030 Maximum density development requirement.

The maximum density permitted shall be constructed unless it is determined by the city council that a less dense project would be in the best interests of the community. In approving a less dense project, the city council shall make at least one of the following findings:

- A. That a maximum density project would be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- B. That the development of fewer units would enhance opportunities for the development of affordable housing within the project.

(Prior code § 10-2.802.1)

14.18.040 Site area (R3-5).

The minimum site area shall be five thousand (5,000) square feet. ~~one acre. (See Section 14.18.020(A) of this chapter.)~~

(Prior code § 10-2.803)

14.18.050 Coverage (R3-5).

~~The maximum coverage for all structures shall be thirty (30) percent of the total area of the site.~~

- A. ~~The maximum coverage for all structures in excess of six feet in height shall be sixty (60) percent of the total gross site area.~~

(Prior code § 10-2.804)

14.18.060 Front yard (R3-5).

The minimum depth of front yards shall be forty (40) feet, ~~landscaped according to a plan approved by the building and planning department, and shall be permanently maintained by the property owner.~~

(Prior code § 10-2.805)

14.18.070 Side yards (R3-5).

- A. The minimum width of side yards shall be fifteen (15) feet, except that on a corner lot, the minimum width of the side yard adjoining the street shall be twenty-five (25) feet. ~~The five feet abutting the property line on all side yards shall be landscaped according to a plan approved by the building and planning department and shall be permanently maintained by the property owner. Five feet shall be added to each minimum side yard for each story above the first story or for each ten (10) feet of height, or fraction thereof, above the lowest twelve (12) feet of the structure, whichever requires the lesser addition.~~
- B. Where a side yard abuts on an R1-10 District, the minimum side yard shall be twenty-five (25) feet, of which the ten (10) feet abutting the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as required and approved by the Zoning Administrator ~~building and planning department, all of which shall be permanently maintained by the property owner. Such ten (10) foot planting strip shall be used exclusively for landscaping purposes.~~

(Prior code § 10-2.806)

14.18.080 Rear yard (R3-5).

The minimum depth of rear yards shall be thirty (30) feet. ~~The five feet abutting the rear property line shall be landscaped according to a plan approved by the building and planning department and shall be permanently maintained by the property owner. Where~~ ren ~~the rear yard abuts on an R1-10 District, the minimum depth shall be forty (40) feet, of which the first~~ ten (10) feet abutting the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as required and approved by the Zoning Administrator ~~building and planning department, all of which shall be permanently maintained by the property owner. Such ten (10) foot planting strip shall be used exclusively for landscaping purposes. No structure shall be placed within the required rear yard.~~

(Prior code § 10-2.807)

14.18.090 Distances between structures (R3-5).

The requirements set forth in Section 14.66.210 shall apply to this chapter.

(Prior code § 10-2.808)

14.18.100 Off-street parking (R3-5).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.809)

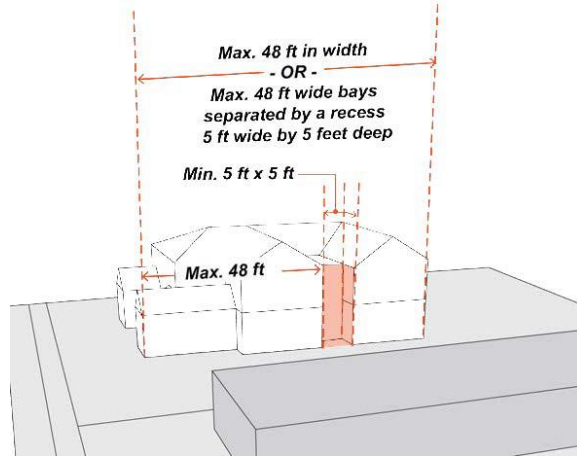
14.18.110 Height of structures (R3-5).

No structure shall exceed ~~two-three~~ stories or thirty-six (306) feet in height as measured from the existing natural grade immediately adjacent to the proposed structure, whichever is the lesser. ~~No structure shall exceed one story or fifteen (15) feet in height if located within one hundred (100) feet of the R-10 District. In no case shall this preclude a basement when used for parking and/or storage.~~

(Prior code § 10-2.810)

14.18.120 Design control (R3-5).

- A. Building Massing and Articulation.
 - 1. For buildings exceeding the height limit established in the applicable base and overlay zone, the right-of-way-facing façades of the uppermost floor must be embedded in a sloped roof form as allowed by Section 14.18.120.A.4.
 - 2. Vertical Articulation.
 - a. Each building volume shall be defined according to one of the following classifications:
 - i. Main body (one per building): The widest volumes of the structure, containing main entrances and the most public interior spaces.
 - ii. Wing (optional, multiple per main body allowed): A narrower volume attached to a main body volume.
 - b. Each main body volume shall contain at least one entrance.
 - c. Street-facing wings shall be recessed by no less than three feet relative to the front façade of the main body.
 - d. The eave/roof of a wing shall be no higher than the corresponding elements of the main body.
 - 3. R-1 Adjacencies.
 - a. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
 - b. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess five feet wide and five feet deep.
 - c. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.
 - d. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.

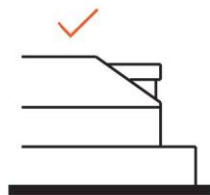


4. Roofline and Roof Design.

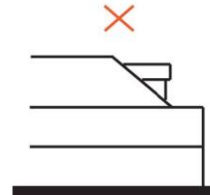
a. Acceptable roof forms:

- i. Hipped.
- ii. Gable.
- iii. Dormer.

b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



Acceptable:
One story below the story embedded in a sloped roof is also stepped-back .



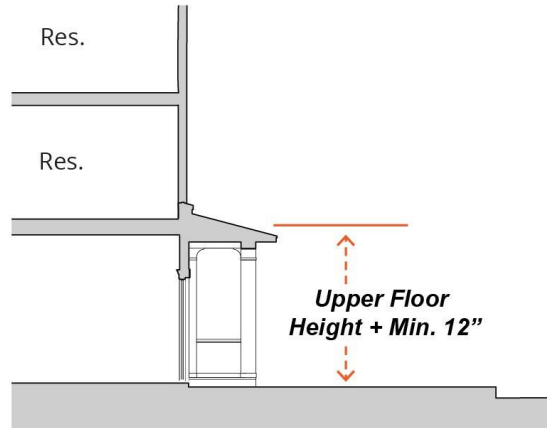
Not acceptable:
Top story embedded in a sloped roof is the only story stepped back.

- c. Façade facing R-1 Zone must utilize a hipped or gable roof and may incorporate dormers.
- d. Roofline at corners shall not exceed roofline of adjacent wallplanes by more than twenty-four (24) inches.

B. Building Design.

- 1. Façade Composition. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
- 2. Building Entrances. Building entrances must incorporate one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.

- a. Stoop.
 - b. Porch.
 - c. Dooryard.
3. Primary Entrance Location(s). Locate primary entrance on the front ROW and/or interior courtyard.
4. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling height.



- C. Window Design.
- 1. All windows must have a sill.
 - 2. Vinyl sliding windows are prohibited on façades visible from a right-of-way.
- D. Building Materials.
- 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.

- c. Stone (watertable and building base only).
 - d. Brick (watertable and building base only).
 - e. Tile.
 - f. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- E. Landscaping.
- 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. Low walls and/or hedges must screen the parking along the sidewalk. When walls are used, the materials and design must be compatible with and not obscure the architectural style of the building.
- F. Screening.
- 1. Service, trash, and utility areas must be screened from view of the right-of-way.
 - 2. Screening must be architecturally consistent with primary building in terms of materials, colors, and style.
- G. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all multi-family development in the R3-5 District.

(Amended during 2/06 supplement; prior code § 10-2.812)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.18.130 Signs (R3-5).

(As provided in Chapter 14.68 of this code.)

(Prior code § 10-2.813; Ord. No. 2015-414 , § 12, 9-8-2015)

14.18.140 Fences (R3-5).

(As provided in Chapter 14.72 of this title.)

(Prior code § 10-2.814)

14.18.150 Nonconforming use regulations (R3-5).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.815)

14.18.160 Accessory structures.

As provided in Chapter 14.15 of this title.

(Ord. No. 2018-440 , § 3, 3-13-2018)

Chapter 14.20 R3-3 MULTIPLE-FAMILY DISTRICT

Sections:

14.20.010 R3-3 District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in all R3-3 Districts.

(Prior code § 10-2.901)

14.20.020 Permitted uses (R3-3).

The following uses shall be permitted in R3-3 Districts:

- A. ~~Apartments, two-family or more, with not more than one dwelling unit for each three thousand (3,000) square feet of lot area; Residential Housing Developments with two (2) or more units; and~~
- B. ~~For affordable housing requirements, see Chapter 14.28 of this title;~~
- C. ~~For density bonus provisions, see Chapter 14.30 of this title; and~~
- D. ~~Animals as provided in Chapter 5.10 of this code.~~

(Prior code § 10-2.902)

14.20.030 Maximum density development requirement.

The maximum density permitted shall be constructed unless it is determined by the city council that a less dense project would be in the best interests of the community. In approving a less dense project, the city council shall make at least one of the following findings:

- A. That a maximum density project would be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- B. That the development of fewer units would enhance opportunities for the development of affordable housing within the project.

(Prior code § 10-2.902.1)

14.20.040 Site area (R3-3).

The minimum site area shall be ~~three thousand (3,000) square feet. twenty-one thousand (21,000) square feet.~~

(Prior code § 10-2.903)

14.20.050 Coverage (R3-3).

~~The maximum coverage for all structures shall be thirty (30) percent of the total area of the site.~~

- A. ~~The maximum coverage for all structures in excess of six feet in height shall be sixty (60) percent of the total gross site area.~~

(Prior code § 10-2.904)

14.20.060 Front yard (R3-3).

~~The minimum depth of front yards shall be forty (40) feet, landscaped according to a plan approved by the building and planning department, and shall be permanently maintained by the property owner.~~

(Prior code § 10-2.905)

14.20.070 Side yards (R3-3).

- A. The minimum width of side yards shall be fifteen (15) feet, except that on a corner lot, the minimum width of the side yard adjoining the street shall be twenty-five (25) feet. ~~The five feet abutting the property line on all side yards shall be landscaped according to a plan approved by the building and planning department and shall be permanently maintained by the property owner. Five feet shall be added to each minimum side yard for each story above the first story or for each ten (10) feet of height, or fraction thereof, above the lowest twelve (12) feet of the structure, whichever requires the lesser addition.~~
- B. Where a side yard abuts on an R1-10 District, the minimum side yard shall be twenty-five (25) feet, of which the ten (10) feet abutting the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as required and approved by the Zoning Administrator ~~building and planning department, all of which shall be permanently maintained by the property owner. Such ten (10) foot planting strip shall be used exclusively for landscaping purposes. No structure shall be placed within the required rear yard.~~

(Prior code § 10-2.906)

14.20.080 Rear yard (R3-3).

~~The minimum depth of rear yards shall be thirty (30) feet. The five feet abutting the rear property line shall be landscaped according to a plan approved by the building and planning department and shall be permanently maintained by the property owner. Where the rear yard abuts on an R1-10 District, the minimum depth shall be forty (40) feet, of which the first ten (10) feet abutting the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as required and approved by the Zoning Administrator ~~building and planning department, all of which shall be permanently maintained by the property owner. Such ten (10) foot planting strip shall be used exclusively for landscaping purposes. No structure shall be placed within the required rear yard.~~~~

(Prior code § 10-2.907)

14.20.090 Distances between structures (R3-3).

The requirements set forth in Section 14.66.210 shall apply to this chapter.

(Prior code § 10-2.908)

14.20.100 Off-street parking (R3-3).

(As provided in Chapter 14.74 of this title for the R3-5 District.)

(Prior code § 10-2.909)

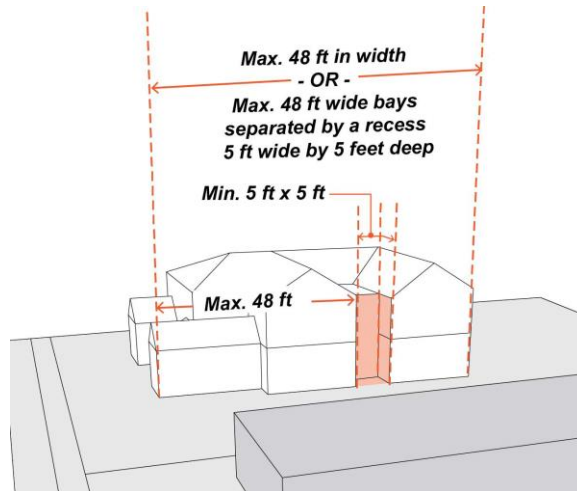
14.20.110 Height of structures (R3-3).

No structure shall exceed ~~two-three~~ stories or thirty-six (306) feet in height as measured from the existing natural grade immediately adjacent to the proposed structure, whichever is the lesser. ~~No structure shall exceed one story or fifteen (15) feet in height if located within one hundred (100) feet of an R1-10 District. In no case shall this preclude a basement when used for parking and/or storage.~~

(Prior code § 10-2.910)

14.20.120 Design control (R3-3).

- A. Building Massing and Articulation.
 - 1. For buildings exceeding the height limit established in the applicable base and overlay zone, the right-of-way-facing façades of the uppermost floor must be embedded in a sloped roof form as allowed by Section 14.20.120.A.4.
 - 2. Vertical Articulation.
 - a. Each building volume shall be defined according to one of the following classifications:
 - i. Main body (one per building): The widest volumes of the structure, containing main entrances and the most public interior spaces.
 - ii. Wing (optional, multiple per main body allowed): A narrower volume attached to a main body volume.
 - b. Each main body volume shall contain at least one entrance.
 - c. Street-facing wings shall be recessed by no less than three feet relative to the front façade of the main body.
 - d. The eave/roof of a wing shall be no higher than the corresponding elements of the main body.
 - 3. R-1 Adjacencies.
 - a. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
 - b. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess five feet wide and five feet deep.
 - c. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.
 - d. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.



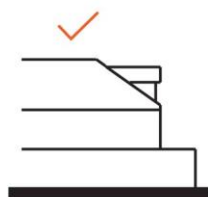
4. Roofline and Roof Design.

a. Acceptable roof forms:

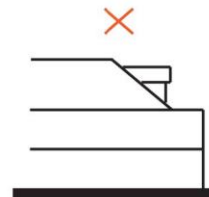
- i. Hipped.
- ii. Gable.
- iii. Dormer.

b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.

c. Façade facing R-1 Zone must utilize a hipped or gable roof and may incorporate dormers.



Acceptable:
One story below the story embedded in a sloped roof is also stepped-back .



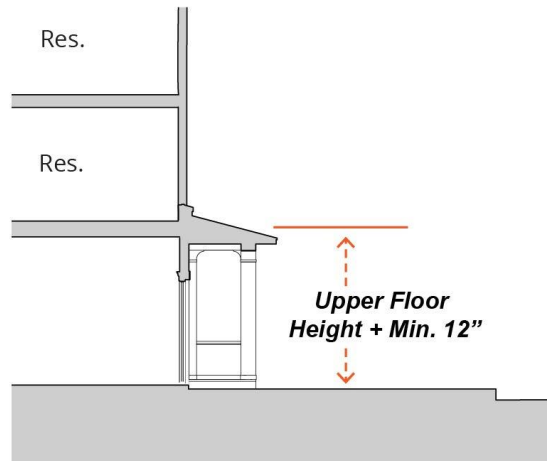
Not acceptable:
Top story embedded in a sloped roof is the only story stepped back.

d. Roofline at corners shall not exceed roofline of adjacent wallplanes by more than twenty-four (24) inches.

B. Building Design.

1. Façade Composition. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

- 2. Building Entrances. Building entrances must incorporate one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - a. Stoop.
 - b. Porch.
 - c. Dooryard.
- 3. Primary Entrance Location(s). Locate primary entrance along the front right-of-way and/or interior courtyard.
- 4. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling height.



- C. Window Design.
 - 1. All windows must have a sill.
 - 2. Vinyl sliding windows are prohibited on façades visible from a right-of-way.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).

- b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (watertable and building base only).
 - d. Brick (watertable and building base only).
 - e. Tile.
 - f. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- E. Landscaping.
- 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. Low walls and/or hedges must screen the parking along the sidewalk. When walls are used, the materials and design must be compatible with and not obscure the architectural style of the building.
- F. Screening.
- 1. Service, trash, and utility areas must be screened from view of the right-of-way.
 - 2. Screening must be architecturally consistent with primary building in terms of materials, colors, and style.
- G. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all multi-family development in the R3-3 District.

(Amended during 2/06 supplement; prior code § 10-2.912)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.20.130 Signs (R3-3).

(As provided in Chapter 14.68 of this code.)

(Prior code § 10-2.913; Ord. No. 2015-414 , § 12, 9-8-2015)

14.20.140 Fences (R3-3).

(As provided in Chapter 14.72 of this title.)

(Prior code § 10-2.914)

14.20.150 Nonconforming use regulations (R3-3).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.915)

14.20.160 Accessory structures.

As provided in Chapter 14.15 of this title.

(Ord. No. 2018-440 , § 3, 3-13-2018)

Chapter 14.22 R3-1.8 MULTIPLE-FAMILY DISTRICT

Sections:

14.22.010 R3-1.8 District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the R3-1.8 District.

(Prior code § 10-2.1001)

14.22.020 Permitted uses (R3-1.8).

The following uses shall be permitted in the R3-1.8 District:

- A. Multi-family residential dwelling units ~~with not more than one dwelling unit for each one thousand eight hundred (1,800) square feet of lot area; and~~
- B. ~~For affordable housing requirements, see Chapter 14.28 of this title;~~
- C. ~~For density bonus provisions, see Chapter 14.30 of this title; and~~
- D. ~~Animals as provided in Chapter 5.10 of this code.~~

(Ord. 02-410 § 2; prior code § 10-2.1002)

14.22.030 Maximum density development requirement.

The maximum density permitted shall be constructed unless it is determined by the city council that a less dense project would be in the best interests of the community. In approving a less dense project, the city council shall make at least one of the following findings:

- A. That a maximum density project would be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- B. That the development of fewer units would enhance opportunities for the development of affordable housing within the project.

(Prior code § 10-2.1002.1)

~~**14.22.040 Site area (R3-1.8).**~~

~~The minimum site area shall be seven thousand one hundred (7,100) square feet on vacant property and fourteen thousand (14,000) square feet on properties with existing structures.~~

(Prior code § 10-2.1003)

14.22.050040 Coverage (R3-1.8).

The maximum coverage for all structures shall be ~~fortysixty-five (4065)~~ percent of the total gross site area of the site, including garages (not including driveways or off street parking areas).

(Prior code § 10-2.1004)

14.22.060050 Front yard (R3-1.8).

The minimum depth of front yards shall be twenty (20) feet. ~~The minimum width on a public street shall be fifty (50) feet on vacant property and one hundred (100) feet on property with existing structures.~~

(Prior code § 10-2.1005)

14.22.070060 Side yards (R3-1.8).

The minimum width of side yards shall be seven and one-half feet, except that on a corner lot, the minimum width of the side yard adjoining the street shall be fifteen (15) feet. ~~Five feet shall be added to each side yard for each story above the first story or for each ten (10) feet of height, or fraction thereof, above the lowest twelve (12) feet of the height of the structure, whichever is the lesser, except on the secondary setback on a corner lot. When a garage or carport faces a side yard adjoining a street, the minimum setback to the face of the structure shall be twenty (20) feet. Where R3-1.8 District property abuts on R1-10 District property, the minimum side yard shall be twenty five (25) feet for one-story structures, of which the ten (10) feet abutting the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as approved by the building and planning department, all of which shall be permanently maintained by the property owner. Such ten-foot planting strip shall be used exclusively for landscaping purposes.~~

(Prior code § 10-2.1006)

(Ord. No. 2012-375, § 5, 1-24-2012)

14.22.080070 Rear yard (R3-1.8).

The minimum depth of rear yards shall be twenty-five (25) feet, ~~and no structure shall be placed within the required rear yard. When the rear yard~~ Where R3-1.8 District property abuts on R1-10 District property, the ~~minimum depth of rear yards shall be thirty (30) feet, of which the first~~ ten (10) feet abutting on the property in the R1-10 District shall have a six-foot solid fence or wall outside a planting screen of evergreen trees or bushes of a variety, height, and spacing as approved by the ~~Zoning Administrator, building and planning department, all of which shall be permanently maintained by the property owner. Such ten (10) foot planting strip shall be used exclusively for landscaping purposes.~~

(Prior code § 10-2.1007)

14.22.090080 Off-street parking (R3-1.8).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1008)

14.22.100090 Height of structures (R3-1.8).

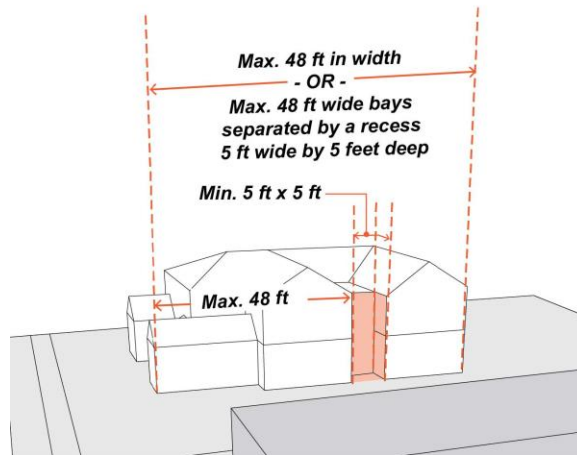
No structure shall exceed ~~twethree~~ stories or thirty-six (~~3036~~) feet in height as measured from the existing natural grade immediately adjacent to the proposed structure, whichever is the lesser. ~~No structure shall exceed one story or fifteen (15) feet in height if located within one hundred (100) feet of the R1-10 District. In no case shall this preclude a basement when used for parking and/or storage.~~

(Prior code § 10-2.1009)

14.22.110100 Design control (R3-1.8).

A. Building Massing and Articulation.

1. Upper-story step-backs.
 - a. Front: Minimum five feet from ground floor façade for third story and above for building façades fifty (50) feet or greater in width.
 - b. Street side: Minimum five feet from ground floor façade for third story and above for building façades fifty (50) feet or greater in width.
 - c. For buildings exceeding the height limit established in the applicable base and overlay zone, the right-of-way-facing façades of the uppermost floor must be embedded in a sloped roof form as allowed by Section 14.22.110.A.4.
2. Vertical Articulation.
 - a. Each building volume shall be defined according to one of the following classifications:
 - i. Main body (one per building): The widest volumes of the structure, containing main entrances and the most public interior spaces.
 - ii. Wing (optional, multiple per main body allowed): A narrower volume attached to a main body volume.
 - b. Each main body volume shall contain at least one entrance.
 - c. Street-facing wings shall be recessed by no less than three feet relative to the front façade of the main body.
 - d. The eave/roof of a wing shall be no higher than the corresponding elements of the main body.
3. R-1 Adjacencies.
 - a. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
 - b. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess five feet wide and five feet deep.
 - c. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.
 - d. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.

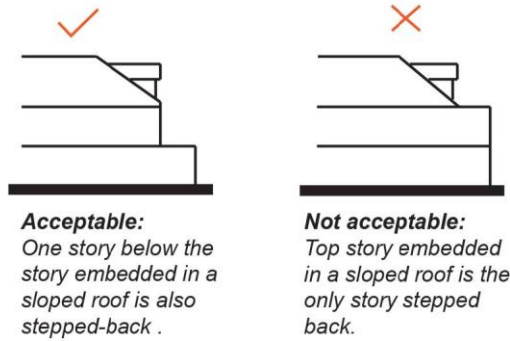


4. Roofline and Roof Design.

a. Acceptable roof forms:

- i. Hipped.
- ii. Gable.
- iii. Dormer.

b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



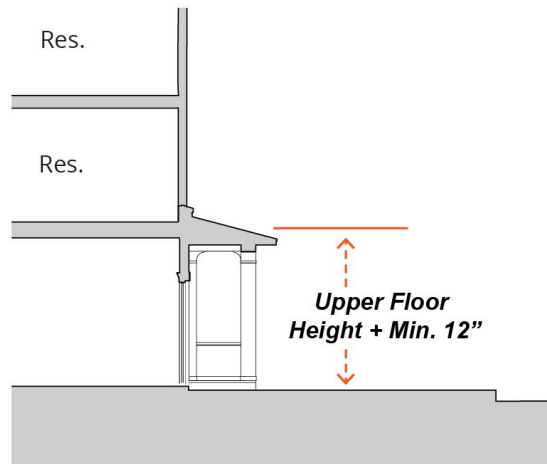
c. Façade facing R-1 Zone must utilize a hipped or gable roof and may incorporate dormers.

d. Roofline at corners shall not exceed roofline of adjacent wallplanes by more than twenty-four (24) inches.

B. Building Design.

1. Façade Composition. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.

- 2. Building Entrances. Building entrances must incorporate one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - a. Stoop.
 - b. Porch.
 - c. Dooryard.
- 3. Primary Entrance Location(s). Locate primary entrance on the front ROW and/or interior courtyard.
- 4. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling height.



- C. Storage. Each multi-family residential dwelling unit shall have a minimum of ninety-six (96) cubic feet of enclosed storage, excluding closet and garage areas.
- D. Window Design.
 - 1. All windows must have a sill.
 - 2. Vinyl sliding windows are prohibited on façades visible from a right-of-way.
- E. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:

- a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (watertable and building base only).
 - d. Brick (watertable and building base only).
 - e. Tile.
 - f. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- F. Landscaping.
- 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. Low walls and/or hedges must screen the parking along the sidewalk. When walls are used, the materials and design must be compatible with and not obscure the architectural style of the building.
- G. Screening.
- 1. Service, trash, and utility areas must be screened from view of the right-of-way.
 - 2. Screening must be architecturally consistent with primary building in terms of materials, colors, and style.
- H. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all multi-family development in the R3-1.8 District.

(Amended during 2/06 supplement; Ord. 02-410 § 3; prior code § 10-2.1011)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.22.120110 Exceptions (R3-1.8).

On lots facing on Gabilan Street and known as Lots 4 through 14 and Lot 24 of Block 34, Map No. 3, town of Los Altos, the side yard abutting the R1-10 District shall be not less than ten (10) feet for a one-story building, of which five feet shall be landscaped as provided in Section 14.22.070 of this chapter, and no structure shall exceed one story or fifteen (15) feet in height if located within fifty (50) feet of the R1-10 District.

(Prior code § 10-2.1012)

14.22.130120 Signs (R3-1.8).

(As provided in Chapter 14.68 of this code.)

(Prior code § 10-2.1013; Ord. No. 2015-414 , § 12, 9-8-2015)

14.22.140130 Fences (R3-1.8).

(As provided in Chapter 14.72 of this title.)

(Prior code § 10-2.1014)

14.22.150140 Nonconforming use regulations (R3-1.8).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.1015)

14.22.160150 Accessory structures.

As provided in Chapter 14.15 of this title.

(Ord. No. 2018-440 , § 3, 3-13-2018)

Chapter 14.24 R3-1 MULTIPLE-FAMILY DISTRICT

Sections:

14.24.010 R3-1 Districts.

The regulations, general provisions, and exceptions set forth in this chapter and Chapter 14.66 shall apply in all R3-1 Districts.

(Prior code § 10-2.1101)

14.24.020 Permitted uses (R3-1).

The following uses shall be permitted in R3-1 Districts:

~~A. Multi-family residential dwelling units, with not more than four dwelling units for the first seven thousand one hundred (7,100) square feet of lot area, plus six units for the next additional seven thousand one hundred (7,100) square feet of lot area and not more than one additional dwelling unit for each one thousand (1,000) square feet of lot area thereafter, not to exceed thirty-eight (38) units per acre. Lands within the Hetch Hetchy Aqueduct right-of-way shall not be counted as lot area for the purpose of determining the number of units allowed on a site;~~

~~B. For affordable housing requirements, see Chapter 14.28 of this title;~~

~~C. For density bonus provisions, see Chapter 14.30 of this title; and~~

A. Residential Only Development(s); and

~~D-B.~~ Animals as provided in Chapter 5.10 of this code.

(Prior code § 10-2.1102)

14.24.030 Maximum density development requirement.

The maximum density permitted shall be constructed unless it is determined by the city council that a less dense project would be in the best interests of the community. In approving a less dense project, the city council shall make at least one of the following findings:

A. That a maximum density project would be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;

B. That the development of fewer units would enhance opportunities for the development of affordable housing within the project.

(Prior code § 10-2.1102.1)

14.24.040 Site area (R3-1).

The minimum site area shall be ~~seven-five~~ thousand one hundred (~~7,100~~5,000) square feet.

(Prior code § 10-2.1103)

14.24.050 Coverage (R3-1).

The maximum coverage for all structures shall be ~~forty-sixty-five (4065)~~ percent of the total area of the site, including garages (not including driveways or off-street parking areas).

(Prior code § 10-2.1104)

14.24.060 Front yard (R3-1).

The minimum depth of front yards shall be twenty (20) feet. ~~The minimum width on a public street shall be fifty (50) feet.~~

(Prior code § 10-2.1105)

14.24.070 Side yards (R3-1).

The minimum width of side yards shall be seven and one-half feet, except that on a corner lot, the minimum width of the side yard adjoining the street shall be fifteen (15) feet. ~~Five feet shall be added to each side yard for each story above the first story or for each ten (10) feet of height, or fraction thereof, above the lowest twelve (12) feet of the height of the structure, whichever is the lesser, except on the secondary setback on a corner lot.~~

(Prior code § 10-2.1106)

14.24.080 Rear yard (R3-1).

The minimum depth of rear yards shall be twenty-five (25) feet, ~~and no structure shall be placed within the required rear yard.~~

(Prior code § 10-2.1107)

14.24.090 Off-street parking (R3-1).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1108)

14.24.100 Height of structures (R3-1).

~~No structure shall exceed three stories or thirty five (35) feet in height, whichever is the lesser. No structure located within one hundred (100) feet of an R1-10 District shall exceed two stories or thirty (30) feet in height. In no case shall this preclude a basement when used for parking and/or storage.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories as measured from the existing natural grade immediately adjacent to the proposed structure.

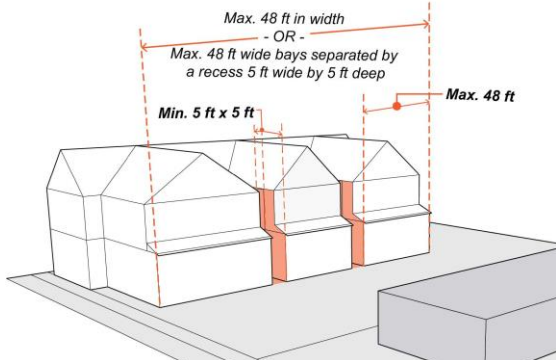
(Prior code § 10-2.1109)

14.24.110 Design control (R3-1).

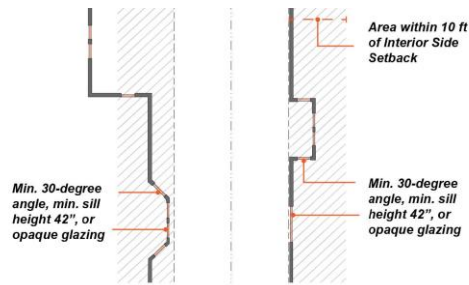
- A. Building Placement. A minimum eighty-five (85) percent of the building frontage must be built at the minimum setback line. This standard applies to the building frontage only (exclusive of side setbacks).
- B. Building Massing and Articulation.
 - 1. Upper-story step-backs.
 - a. Front: Minimum five feet from ground floor façade for fourth story and above for building façades fifty (50) feet or greater in width.
 - b. Street Side: Minimum five feet from ground floor façade for fourth story and above for building façades fifty (50) feet or greater in width.
 - c. Interior Side and Rear Abutting an R-1 District: Minimum five feet from ground floor façade for fourth story and above.
 - d. For buildings exceeding the height limit established in the applicable base and overlay zone, the right-of-way-facing façades of the uppermost floor must be embedded in a sloped roof form as allowed by Section 14.24.110.A.5.
 - 2. Vertical Articulation. When a building façade exceeds fifty (50) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.



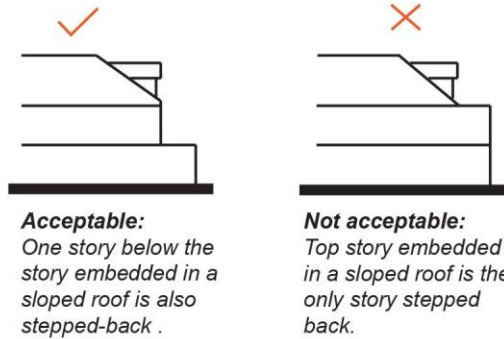
- 3. R-1 Adjacencies.
 - a. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
 - b. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess five feet wide and five feet deep.



- c. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.
 - d. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.
4. Privacy and Line of Sight.
- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
 - b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
 - c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.

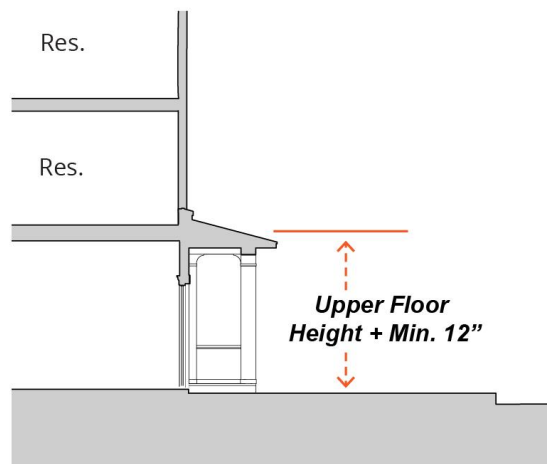


5. Roofline and Roof Design.
- a. Roof designs shall be limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Dormer.
 - iv. Parapet.
 - (a) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (b) Parapet limited to twenty-five (25) percent of cumulative roof perimeter on the third floor and above.
 - (c) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.
 - b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



- c. Façade facing R-1 Zone must utilize a hipped or gable roof and may incorporate dormers.
 - d. Corner Treatment. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.
- C. Building Design.
- 1. Façade Composition.
 - a. Building façades must continue the pattern established by existing buildings in Downtown Los Altos by reinforcing the underlying maximum twenty-five (25) foot module along all street frontages through the use of the following techniques:
 - i. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns.
 - ii. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
 - iii. Façades shall incorporate at least one element that signals habitation, such as porches, bay windows, or balconies.
 - iv. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
 - b. At least two of the following strategies must be used in a manner that reinforces the maximum twenty-five (25) foot module:
 - i. Change in roof parapet height or shape.
 - ii. Change in roof style.
 - iii. Change in materials palette.
 - iv. Change in building height, minimum eight-foot difference.
 - v. Change in frontage type or change in details of shopfront frontage type if used.
 - vi. Use of upper floor projections such as bay windows or balconies.
 - 2. Building Entrances. Building entrances must incorporate one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - a. Stoop.
 - b. Porch.
 - c. Dooryard.

- d. Gallery.
 - e. Arcade.
 - f. Forecourt.
 - i. Forecourts must feature at least one entry to a shop and/or second floor use.
 - ii. Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.
 - iii. The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).
 - iv. Forecourt must be enclosed on at least three sides by buildings.
 - v. Forecourt must remain open to the sky (arbors and trellises are allowed).
 - g. Terrace.
3. Primary Entrance Location(s). Locate primary entrance on the front ROW and/or interior courtyard.
 4. Individual Entries. Ground floor residential units facing a street must provide individual entries along the street frontage.
 5. Interior Courtyard. Interior courtyards must be:
 - a. Enclosed on at least two sides by buildings.
 - b. Open to the sky (arbors and trellises are allowed).
 - c. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
 6. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
 7. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling height.



D. Window Design.

1. All windows must have a sill.
 2. Vinyl sliding windows are prohibited on façades visible from a right-of-way.
- E. Building Materials.
1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.
 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (watertable and building base only).
 - d. Brick (watertable and building base only).
 - e. Tile.
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes not allowed.
 - g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- F. Landscaping and Paving.
1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 2. Low walls and/or hedges must screen the parking along the sidewalk. When walls are used, the materials and design must be compatible with and not obscure the architectural style of the building.
 3. A minimum seventy-five (75) percent of on-site paving material must be pervious/permeable.
- G. Screening.
1. Service areas must be located at the rear of lot or along a parking plaza.
 2. Screening must be architecturally consistent with primary building in terms of materials, colors, and style.

H. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all multi-family development in the R3-1 District.

(Amended during 2/06 supplement; prior code § 10-2.1110)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.24.120 Signs (R3-1).

(As provided in Chapter 14.68 of this code.)

(Prior code § 10-2.1111; Ord. No. 2015-414 , § 12, 9-8-2015)

14.24.130 Fences (R3-1).

(As provided in Chapter 14.72 of this title.)

(Prior code § 10-2.1112)

14.24.140 Nonconforming use regulations (R3-1).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.1113)

14.24.150 Conditional uses (R3-1).

Upon the granting of a use permit in accord with Chapter 14.80 of this title, hotels shall be permitted in the R3-1 District.

(Prior code § 10-2.1115)

14.24.160 Accessory structures.

As provided in Chapter 14.15 of this title.

(Ord. No. 2018-440 , § 3, 3-13-2018)

Chapter 14.40 CN COMMERCIAL NEIGHBORHOOD DISTRICT

Sections:

14.40.010 CN District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 shall apply in the CN District.

(Prior code § 10-2.1601)

14.40.020 Specific purposes (CN).

The specific purposes of the CN District are as follows:

- A. To retain and enhance the neighborhood convenience character;
- B. To preserve and improve the existing character by encouraging pedestrian-scale development and amenities, circulation, and landscaping;
- C. To retain an emphasis on retail uses, including service and limited office uses;
- D. To allow for mixed uses of commercial and residential; and
- E. To buffer the impacts of commercial development on neighboring residential properties.

(Ord. 03-256 § 1 (part): prior code § 10-2.1601.1)

14.40.030 Permitted uses (CN).

The following uses shall be permitted in the CN District:

- A. Office-administrative services located above the ground floor;
- B. Office-administrative services uses located on the ground floor on Sherwood Avenue within the Sherwood Gateway specific plan area, and in existing commercial buildings constructed before February 22, 2013, on Grant Road between Newcastle Drive and Farndon Avenue within the Woodland Plaza area, provided that any site with over five thousand (5,000) square feet of existing retail or restaurant space on the ground floor shall retain an equal or greater amount of its existing retail and/or restaurant space on the ground floor;
- C. Parking spaces and loading areas;
- D. Recycling facilities: (i) small collection facilities, and (ii) reverse vending machines, as provided for in Chapter 14.68 of this title;
- E. Restaurants, excluding drive-through services;
- F. Retail and personal service establishments; ~~and~~
- G. Medical and dental offices that are less than five thousand (5,000) gross square feet;
- H. Residential Only Development(s);

I. Mixed Use Development(s); and

- G. Uses which are determined by the Zoning Administrator ~~city planner~~ to be of the same general character.

(Ord. 07-306 § 3 (part); Ord. 05-280 § 4 (part): Ord. 03-256 § 1 (part): prior code § 10-2.1602)

(Ord. No. 2012-389, § 1, 1-22-2013; Ord. No. 2015-406 , § 2, 2-10-2015)

14.40.040 Conditional uses (CN).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CN District:

- A. Day care centers ~~that do not displace a retail business. If the space had been a retail business, but that use was vacated for a minimum of one hundred twenty (120) days, it would not be considered to be displacing a retail business;~~
- B. Office-administrative services uses ~~located on the ground floor as part of a new development constructed after February 22, 2013, on Grant Road between Newcastle Drive and Farndon Avenue within the Woodland Plaza area;~~
- ~~C. Housing located above the ground floor;~~
- ~~D. Medical and dental clinics;~~
- E.C. Medical and dental offices that are five thousand (5,000) gross square feet or more;
- ~~F. Mixed-use projects, including a combination of retail, service, office, and/or residential uses, which are found to be compatible with the intent of the CN District and surrounding uses and consistent with the provisions of Section 14.02.020 of Article 1 of Chapter 14.02;~~
- ~~G.D.~~ Nurseries or garden supplies provided all equipment, supplies, and merchandise, other than plants, shall be kept within an enclosed structure; and
- H.F. Uses which are determined by the planning commission ~~and the city council~~ to be of the same general character.

(Ord. 07-306 § 3 (part); Ord. 05-280 § 4 (part): Ord. 03-256 § 1 (part): prior code § 10-2.1603)

(Ord. No. 2012-389, § 2, 1-22-2013; Ord. No. 2015-406 , §§ 2—4, 2-10-2015)

14.40.050 Limited conditional uses (CN).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80, the following uses shall be permitted except within fifty (50) feet of an R1 District:

- A. Animal clinics;
- B. Cocktail lounges;
- C. Commercial recreation;
- D. Drive-through facilities, except car washes;
- E. Laundry and dry cleaning establishments, including self-serve dry cleaning;
- F. Printing shops;

- G. Recycling facilities: large collection facilities as provided for in Chapter 14.68;
- H. Service stations provided the site has at least one hundred (100) feet of frontage on a street with a minimum site area of twenty thousand (20,000) square feet. The setback of structures shall be determined by the [planning](#) commission; and
- I. Upholstery shops.

(Ord. 07-312 § 8: Ord. 03-256 § 1 (part): prior code § 10-2.1604)

14.40.060 Required conditions (CN).

The following conditions shall be required of all uses in the CN District:

- A. All businesses, services, and processes shall be conducted entirely within a completely enclosed structure, except for recycling facilities, parking and loading spaces, outdoor dining areas, nurseries, the sale of gasoline and oil at service stations, or as permitted under the terms of a permit issued pursuant to Section 4.24.020 of Chapter 4.24 of Title 4 of this code.
- B. All products produced on the site of any of the permitted uses shall be sold at retail only and on the site where produced.
- C. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.

No property owner, business owner and/or tenant shall suffer, permit, or allow the operation of a business on his or her property or on property upon which his or her business operates to violate the required conditions of this chapter. Enforcement shall be as provided for in Chapter 1.10 of this code.

- 1. General screening standard. Every development shall provide sufficient screening to reasonably protect the privacy, safety, and environment of neighboring residential properties and shield them from adverse external effects of that development.

Walls up to twelve (12) feet in height shall be required for the purpose of attenuating noise (as determined by an acoustical analysis), odor, air pollution, artificial light, mitigation for grade differential between properties and providing privacy and safety.

- 2. Sites for screening of refuse collection. Every development will be required to provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way.
- 3. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
- 4. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
- 5. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its

provisions shall be required except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority.

- 6. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
- 7. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.

In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height shall be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

- D. No building or structure designed for, or intended to be used, or which has been used, or which is presently being used as a dwelling shall be used for the conduct of any business, store, shop, or other permitted use in the CN District unless and until such structure and the property on which it is located comply with the applicable provisions of this chapter, the Uniform Building Code (Chapter 12.08 of this code), and the Fire Code (Chapter 12.24 of this code).
- E. No use shall be permitted in setbacks immediately adjacent to single-family residential land uses which can not adequately be mitigated.

(Prior code § 10-2.1605)

14.40.070 Floor area ratio (CN).

~~The maximum floor area ratio shall be as follows:~~

District	Maximum Floor Area Ratio
Foothill Plaza	None
Woodland Plaza	35 percent of total area of site
Rancho Shopping Center	35 percent of total area of site
Loyola Corners	None
Sherwood Triangle	None

~~No maximum floor area ratio shall be required for any development within the Commercial Neighborhood (CN) Zoning District.~~

(Prior code § 10-2.1605.1)

14.40.080 Front yard (CN).

~~No front yard shall be required, except where the front property line is across a street or alley from property in an R-District, in which instance the minimum depth of front yards shall be forty (40) feet, of which a five foot strip adjoining the public way, except at access driveways, shall be a landscaped strip. The required front yard may be used for parking spaces; provided, however, access to the street or alley may be by driveway only.~~

(Prior code § 10-2.1606)

14.40.090 Side yards (CN).

No side yards shall be required, ~~except where a side property line of the site is across a street or alley from property in an R-District, in which instance the minimum width of side yards shall be forty (40) feet, and where a side property line of the sites abuts on property in an R-District, in which instance the minimum width of side yard shall be fifty (50) feet, of which the ten (10) feet abutting on the property in the R-District shall be a landscaped strip. A required side yard may be used for parking, except for the area required to be planted.~~

(Prior code § 10-2.1607)

14.40.100 Rear yard (CN).

The minimum depth of rear yards shall be twenty (20) feet. ~~Where the rear property line abuts on property in an R-District, an appropriate buffer shall be provided, including a noise attenuating fence or wall.~~ The required rear yard may be used for off-street parking, except for the area required to be planted.

(Prior code § 10-2.1608)

14.40.110 Off-street parking (CN).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1609)

14.40.120 Common parking facilities (CN).

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1610)

14.40.130 Off-street loading.

(As provided in Chapter 14.74 of this title.)

(Prior code § 10-2.1611)

14.40.140 Height of structures (CN).

~~No structure shall exceed thirty (30) feet in height.~~

- a. ~~Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.~~
- b. ~~Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.~~
- c. ~~Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and three (3) stories.~~

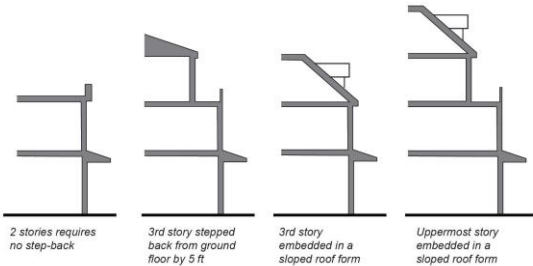
(Prior code § 10-2.1612)

(Ord. No. 10-349, § 1, 4-27-2010)

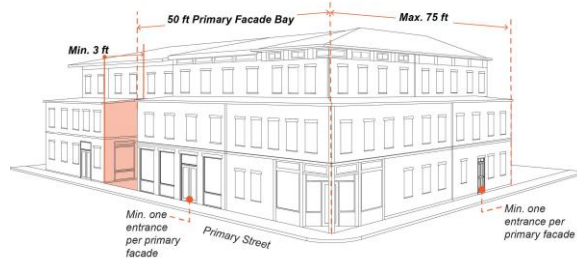
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14.40.150 Design control (CN).

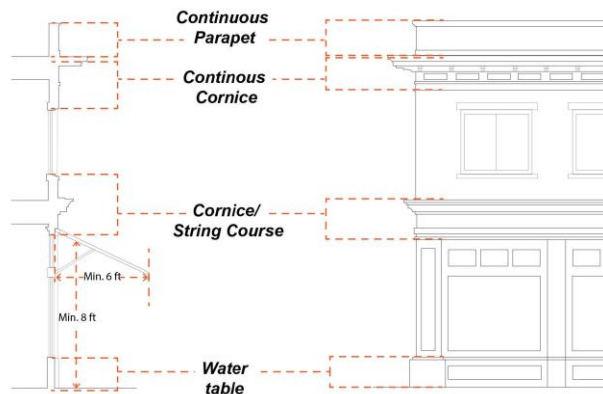
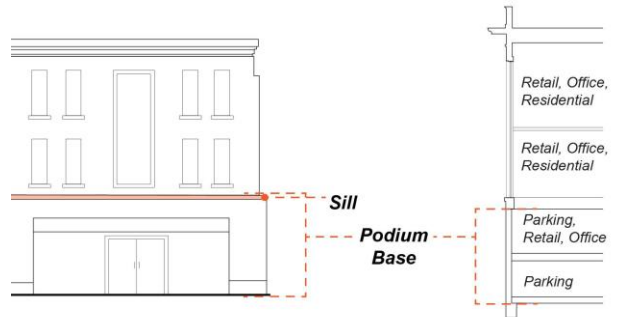
- A. Building Placement. A minimum seventy-five (75) percent of ground-floor building frontages facing El Camino Real must be built at the minimum setback line. This standard applies to the building frontage only (exclusive of side setbacks).
- B. Building Massing and Articulation.
 - 1. Upper-story Step-backs, Front and Street Side.
 - a. Along all frontages except El Camino Real, the third story must be either stepped back a minimum five feet from the ground floor façade or embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.40.150.B.7.
 - b. For buildings over three stories along all frontages except El Camino Real, the uppermost story must be embedded in a sloped roof form.



- c. There are no upper-story step-back requirements for building frontages along El Camino Real in the CN district.
 - 2. Upper Story Step-backs, Side Interior and Rear where Abutting an R-1 District.
 - a. The third story must be either stepped back a minimum ten (10) feet from ground floor façade or embedded in a sloped roof form.
 - b. For buildings over three stories, the uppermost story must be embedded in a sloped roof form.
 - 3. Vertical Articulation.
 - a. When a building façade exceeds seventy-five (75) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.
 - b. A minimum one entrance shall be provided per primary façade bay.
 - c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



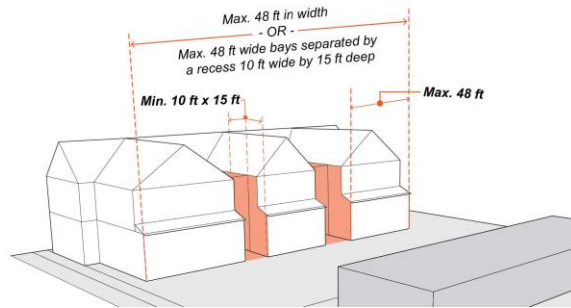
4. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
 - iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
 - b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.40.150.B.7. These elements shall be consistent with the overall architectural style of the building mass/bay.



5. Adjacencies.

a. Façades adjacent to an R-1 District.

- i. Building façade planes abutting an R-1 district may not exceed forty-eight (48) feet in width.
- ii. When a building façade abutting an R-1 district exceeds forty-eight (48) feet in width, it must be separated into façade bays no greater than forty-eight (48) feet by a recess ten (10) feet wide and fifteen (15) feet deep.
- iii. Balconies, roof decks and other habitable outdoor space is not allowed on upper-story façades abutting R-1 zones.
- iv. Sliding glass doors, French doors, and floor-to-ceiling windows are not allowed on upper-story façades abutting R-1 zones.



b. Storefront Façades Adjacent to Storefront Façades.

- i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
- ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
- iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.

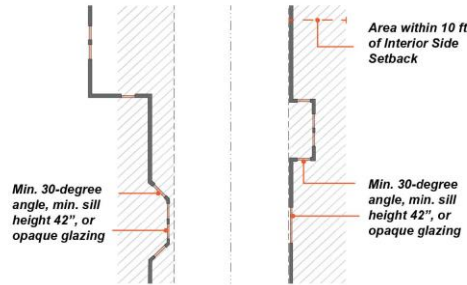


c. Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More. When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:

- i. Incorporate the uppermost floor into the roof form.
- ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
- iii. Match window heights and/or proportions.
- iv. Relate roof cornices and moldings at floor lines.

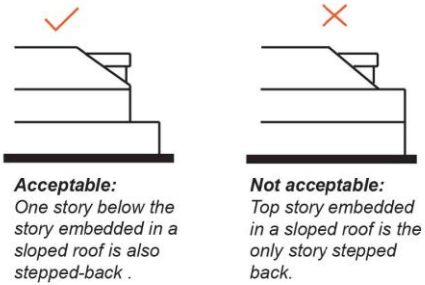
6. Privacy and Line of Sight.

- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
- b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
- c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.

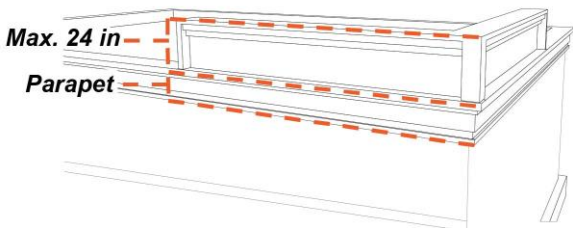


7. Roofline and Roof Design.

- a. Roof designs shall be limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Shed.
 - iv. Dormer.
 - v. Parapet.
 - (a) Not allowed on frontages facing Fremont Avenue.
 - (b) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (c) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.
- b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



- c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.
- d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.



C. Building Design.

1. Façade Design.

- a. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
- b. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
- c. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
- d. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.

2. Pedestrian-Scaled Entrances.

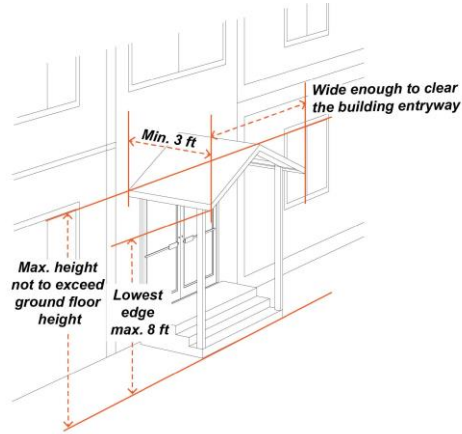
- a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Stoop.
 - ii. Dooryard.
 - iii. Shopfront.
 - (a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.

- iv. Gallery.
- v. Arcade.
- vi. Forecourt.
 - (a) Forecourts must feature at least one entry to a shop and/or second floor use.
 - (b) Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.
 - (c) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).
 - (d) Forecourt must be enclosed on at least three sides by buildings.
 - (e) Forecourt must remain open to the sky (arbors and trellises are allowed).

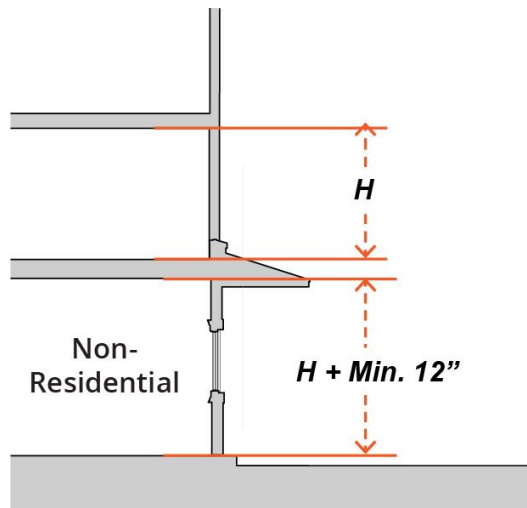


- b. Primary Entrance Location(s). The building entrance shall be located along the primary right-of-way.
- c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
 - i. Protection may be coterminous with an accent element.

- ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
- iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
- iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



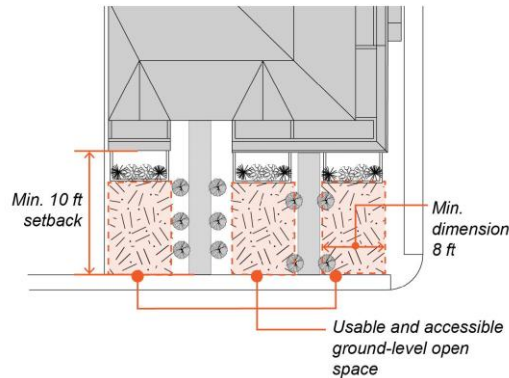
- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
3. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling.



4. Interior Courtyard. Interior courtyards must be:
- a. Partially visible from the street and linked to the street by a clear accessible path of travel.
 - b. Enclosed on at least two sides by buildings.
 - c. Open to the sky (arbors and trellises are allowed).

- d. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
- 5. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
- D. Window Design.
 - 1. Window frames, backbands, and sills.
 - a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.
 - 2. Vinyl windows are prohibited on façades visible from a right-of-way.
 - 3. Tinted glass is not allowed.
- E. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile (for bulkheads below display windows and decorative accents only).
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.

- g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- F. Ground Level Open Space. Where any required front, rear, or side yard setback is ten (10) feet or greater, on-site ground-level open space shall be provided within the setback.
- 1. The ground level open space shall be usable and accessible.
 - 2. The minimum dimension for ground level open space shall be eight feet.



- G. Landscaping, Paving and Pedestrian Amenities.
- 1. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.
 - 2. Within the Loyola Corners Specific Plan Overlay district, landscaping, paving and pedestrian amenities shall be as specified in the Loyola Corners Specific Plan.
 - 3. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.
- H. Site Circulation and Access.
- 1. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 - 2. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.
- I. Service Areas and Screening.
- 1. Service areas must be located at the rear of lot.
 - 2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.

J. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CN District.

(Amended during 2/06 supplement; prior code § 10-2.1613)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.40.160 Signs (CN).

(As provided in Chapter 14.68 of this code.)

(Prior code § 10-2.1614; Ord. No. 2015-414 , § 12, 9-8-2015)

14.40.170 Fences (CN).

(As provided in Chapter 14.72 of this title.)

(Prior code § 10-2.1615)

14.40.180 Nonconforming use regulations (CN).

(As provided in Chapter 14.66 of this title.)

(Prior code § 10-2.1616)

Chapter 14.44 CD COMMERCIAL DOWNTOWN DISTRICT*

Sections:

14.44.010 CD District.

The regulations, general provisions, and exceptions set forth in Chapter 14.66 of this title shall apply in the CD District.

(Ord. 06-295 § 1 (part))

14.44.020 Specific purposes (CD).

Specific purposes for CD Districts are as follows:

- A. Promote the implementation of the downtown urban design plan;
- B. Retain and enhance the downtown Los Altos village atmosphere;
- C. Allow latitude for creative design and architectural variety within limits established;
- D. Preserve and improve the character of the area immediately surrounding the existing downtown pedestrian district;
- E. Provide pedestrian amenities such as paseos, outdoor public spaces and outdoor seating;
- F. Establish a sense of entry into the downtown;
- G. Encourage historic preservation for those buildings listed on the city's historic resources inventory;
- H. Encourage the upgrading of building exteriors, signs, passageways and rear entries;
- I. Provide for a full range of retail, office, and service uses appropriate to downtown;
- J. Develop a landscaped strip along the back of properties that abut Foothill Expressway between Edith Avenue and San Antonio Road;
- K. Improve the visual appeal and pedestrian orientation of the downtown; and
- L. Encourage the use of solar, photovoltaic, and other energy conserving devices.

(Ord. 06-295 § 1 (part))

14.44.030 Permitted uses (CD).

The following uses shall be permitted in the CD District, provided that any site with over five thousand (5,000) square feet of existing retail or restaurant space on the ground floor shall retain an equal or greater amount of retail and/or restaurant space on the ground floor:

- A. Business, professional, and trade schools;
- ~~B. Maintenance and repair services;~~
- ~~C.B.~~ Office-administrative services, excluding drive-through facilities;

- ~~D.C.~~ Parking spaces and loading areas;
- ~~E.D.~~ Restaurants, excluding drive-through facilities;
- ~~F.E.~~ Retail and personal services; ~~and~~
- F. Residential Only Development(s);
- G. Mixed Use Development(s); and
- ~~G.H.~~ Uses which are determined by the Zoning Administrator ~~city planner~~ to be of the same general character.

(Ord. 06-295 § 1 (part))

(Ord. No. 10-349, § 2, 4-27-2010; Ord. No. 2015-406 , § 2, 2-10-2015)

14.44.040 Conditional uses (CD).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CD District:

- A. Animal clinics and hospitals;
- B. Cocktail lounges;
- C. Commercial recreation;
- D. Day care centers;
- ~~E. Housing located above the ground floor;~~
- ~~F.E.~~ Medical and dental offices ~~clinics~~;
- ~~G. Medical and dental offices that are five thousand (5,000) gross square feet or more;~~
- ~~H.F.~~ Service stations provided the site has at least one hundred (100) feet of frontage on a street with a minimum site area of twenty thousand (20,000) square feet; and
- ~~I.G.~~ Uses which are determined by the planning commission and the city council to be of the same general character.

(Ord. 06-295 § 1 (part))

(Ord. No. 2015-406 , §§ 3, 4, 2-10-2015)

14.44.050 Required conditions (CD).

The following conditions shall be required of all uses in the CD District:

- A. All businesses, services, and processes shall be conducted within a completely enclosed structure, except for parking and loading spaces, sale of gasoline and oil at service stations, incidental sales and display of plant materials and garden supplies occupying no more than one thousand five hundred (1,500) square feet of exterior sales and display area, outdoor eating areas operated incidental to permitted eating and drinking services.
- B. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, smoke, noise, vibration, illumination,

glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.

- C. No property owner, business owner and/or tenant shall permit or allow operation of a business which violates the required conditions of this chapter, including the following general criteria:
1. Refuse collection. Every development, including applications for tenant improvements, shall be required to provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way. Refuse collection areas are encouraged to be shared, centralized, facilities whenever possible.
 2. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if: (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
 3. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
 4. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, facilities, and public sidewalks adjacent to the subject property shall be required. In the case of public sidewalks, maintenance shall be limited to keeping the sidewalk clean and free of debris, markings, and food and drink stains by means of sweeping, cleaning with water and/or steam cleaning.
 5. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
 6. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.

In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height may be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

(Ord. 06-295 § 1 (part))

14.44.060 Front yard (CD).

The minimum depth of front yards shall be two feet and shall be landscaped.

(Ord. 06-295 § 1 (part))

14.44.070 Side yards (CD).

No side yards shall be required, except when the side property line of a site abuts a public street or a public parking plaza, in which case the minimum width of the side yard shall be two feet and shall be landscaped.

(Ord. 06-295 § 1 (part))

14.44.080 Rear yard (CD).

Structures above fifteen (15) feet in height must have a minimum rear yard of fifteen (15) feet. Otherwise, no rear yard shall be required except as follows:

- A. Where the rear property line of a site abuts a public parking plaza, the minimum depth of the rear yard shall be two feet and shall be landscaped.
- B. Where the rear property line of a site abuts a public street or alley, the minimum depth of the rear yard shall be ten (10) feet of which the rear two feet shall be landscaped.
- C. A required rear yard may be used for parking, except for the area required to be landscaped.

(Ord. 06-295 § 1 (part))

14.44.090 Off-street parking (CD).

Parking facilities shall be provided in accordance with Chapter 14.74 of this title. In addition, parking facilities shall:

- A. Reduce the visual impact of parking structures and parking lots by locating them at the rear or interior portions of building sites;
- B. Minimize the street frontage of the lot or structure by placing its shortest horizontal edge along the street;
- C. When parking structures must be located at street frontage because other locations are proven infeasible, the ground level frontage shall either be used for commercial space or shall provide a landscaped area not less than five feet in width between the parking area and the public right-of-way;
- D. Keep the number of direct entrances to parking facilities from streets to a minimum;
- E. Provide a landscaped buffer not less than five feet in width between a parking lot or structure and street frontage or buildings. Where the landscaped strip adjoins a public street or pedestrian walkway, the landscaped strip may be required to include a fence, wall, berm, or equivalent feature;
- F. Provide a minimum of interior landscaping for unenclosed parking facilities as follows: where the total parking provided is located on one site and is fourteen thousand nine hundred ninety-nine (14,999) square feet or less, five percent of total parking area; where the parking is fifteen thousand (15,000) through twenty-nine thousand nine hundred ninety-nine (29,999) square feet, seven and one-half percent of total parking area; and where the facility is thirty thousand (30,000) square feet or greater, ten (10) percent of total parking area.

Parking Area (in square feet)	Minimum Landscaping (% of Parking Area)
< 15,000	5
15,000 — 29,999	7.5

> 30,000	10
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- G. Trees in reasonable number shall be provided; ground cover alone is not acceptable. Interior landscaping shall be distributed throughout the paved area as evenly as possible. Provision shall be made for automatically irrigating all planted area. All landscaping shall be protected with concrete curbs or other acceptable barriers. All landscaping shall be continuously maintained.

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.100 Common parking facilities (CD).

(As provided in Chapter 14.74 of this title.)

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.110 Off-street loading and refuse collection (CD).

- A. Where buildings are served by alleys, all service-delivery entrances, loading docks, and refuse collection facilities shall be located to be accessed from the alley. No loading area shall be located at the street frontage or building façade.
- B. A minimum of thirty-two (32) square feet of covered refuse collection area shall be provided and shall not be located in any front or street side yard. Where an alley exists, the refuse collection area shall be accessed from the alley. Refuse collection areas shall be on site, but are encouraged to be shared, centralized, facilities whenever possible.
- C. On sites not served by an alley, service areas shall be located to the rear, side, or at an internal location where visibility from public streets, public parking plazas and neighboring properties will be minimized.
- D. Refuse collection areas shall be enclosed by a screen wall of durable material and planting as necessary to screen views from streets, public parking plazas and neighboring properties.

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.120 Height of structures (CD).

~~No commercial or mixed use structure shall exceed thirty (30) feet in height. The first story shall have a minimum interior ceiling height of twelve (12) feet to accommodate retail use, and the floor level of the first story shall be no more than one foot above sidewalk level.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.
- b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.
- c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and three (3) stories.

(Ord. 08-321 § 1: Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

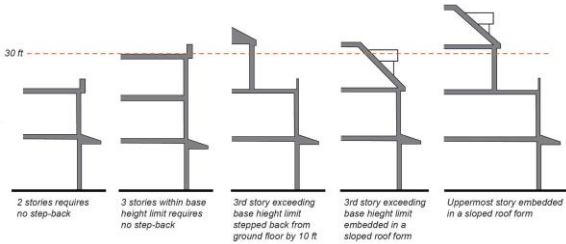
(Ord. No. 10-349, § 3, 4-27-2010; Ord. No. 2016-428 , § 1, 11-8-2016)

14.44.130 Design control (CD).

A. Building Massing and Articulation.

1. Upper-story Step-backs.

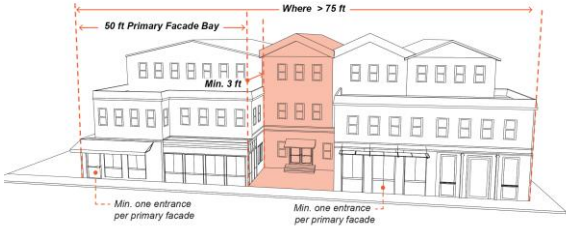
- a. Front: Minimum ten (10) feet from ground floor façade for stories above thirty (30) feet in height as shown in the diagram



- b. Street Side: Minimum ten (10) feet from ground floor façade for stories above thirty (30) feet in height, as shown in the diagram
- c. For buildings over three stories in height, the uppermost story must be embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.44.130.A.6.

2. Vertical Articulation.

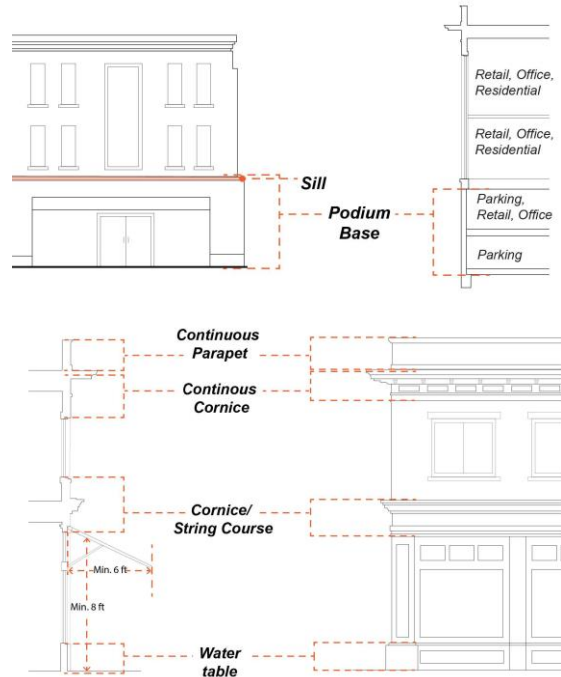
- a. When a building façade exceeds seventy-five (75) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.
- b. A minimum one entrance shall be provided per primary façade bay.
- c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



3. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

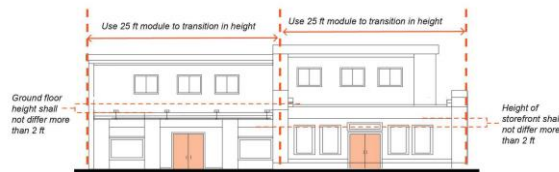
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).

- iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
- b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.44.130.A.6. These elements shall be consistent with the overall architectural style of the building mass/bay.



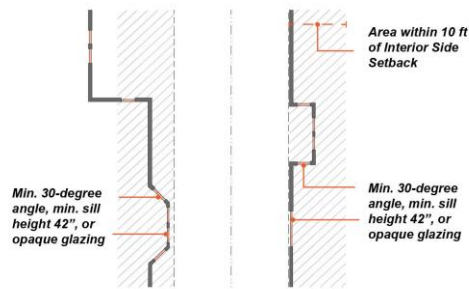
4. Adjacencies.

- a. Storefront Façades Adjacent to Storefront Façades.
 - i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
 - ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
 - iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.

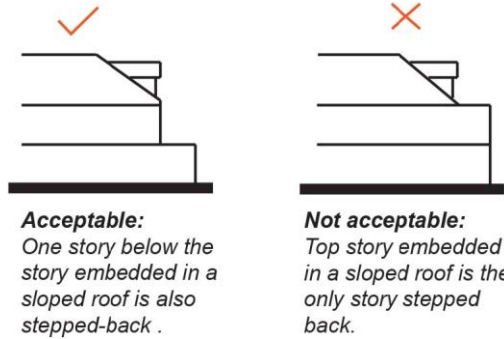


- b. Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More. When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:
 - i. Incorporate the uppermost floor into the roof form.

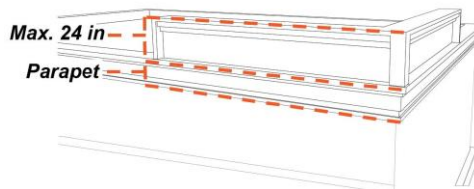
- ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
 - iii. Match window heights and/or proportions.
 - iv. Relate roof cornices and moldings at floor lines.
5. Privacy and Line of Sight.
- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
 - b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
 - c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.



6. Roofline and Roof Design.
- a. Roof designs shall be limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Mansard.
 - (a) Applicable for buildings three or more stories.
 - iv. Dormer.
 - v. Parapet.
 - (a) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (b) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.
 - b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



- c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.
- d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.

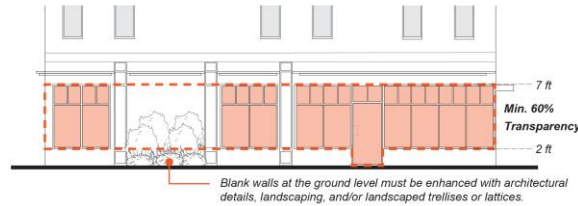


B. Building Design.

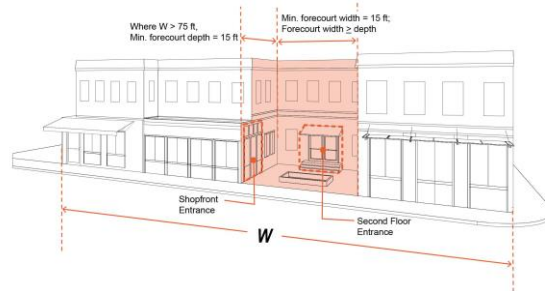
1. Façade Design.

- a. Building façades must continue the pattern established by existing buildings in Downtown Los Altos by reinforcing the underlying maximum fifty (50) foot module along all street frontages through the use of the following techniques:
 - i. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
 - ii. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
 - iii. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
 - iv. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
- b. At least two of the following strategies must be used in a manner that reinforces the maximum fifty (50) foot module:
 - i. Change in roof parapet height or shape.
 - ii. Change in roof style.
 - iii. Change in materials palette.
 - iv. Change in building height, minimum eight-foot difference.

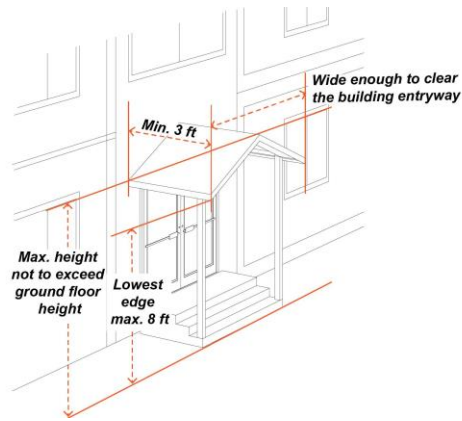
- v. Change in frontage type or change in details of shopfront frontage type if used.
 - vi. Use of upper floor projections such as bay windows or balconies.
2. Ground Level Transparency. A minimum sixty (60) percent of commercial ground floor street-facing façades between two and seven feet in height shall be transparent window surface. Opaque, reflective, or dark tinted glass is not allowed.



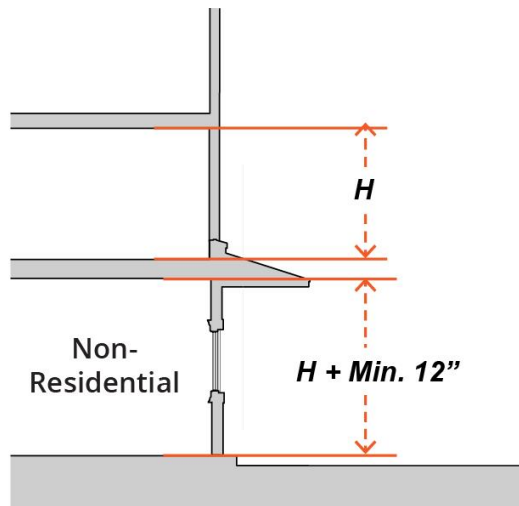
3. Pedestrian-Scaled Entrances.
- a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Stoop.
 - ii. Dooryard.
 - iii. Shopfront.
 - (a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.
 - iv. Gallery.
 - v. Arcade.
 - vi. Forecourt.
 - (a) Forecourts must feature at least one entry to a shop and/or second floor use.
 - (b) Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.
 - (c) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).
 - (d) Forecourt must be enclosed on at least three sides by buildings.
 - (e) Forecourt must remain open to the sky (arbors and trellises are allowed).



- vii. Terrace.
- b. Primary Entrance Location(s). Locate primary entrance on the front right-of-way and/or in the interior courtyard.
- c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
 - i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



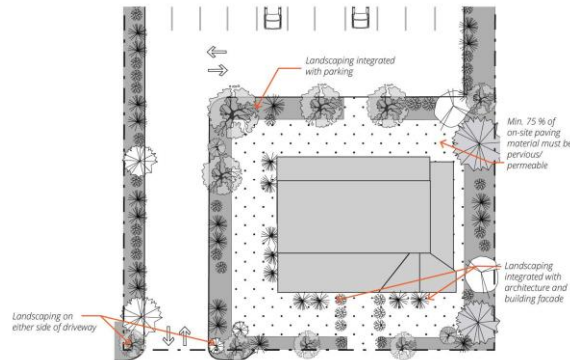
- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
- 4. Ground Floor Floor-to-Ceiling Height. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling.



- 5. Interior Courtyard. Interior courtyards must be:
 - a. Partially visible from the street and linked to the street by a clear accessible path of travel.
 - b. Enclosed on at least two sides by buildings.
 - c. Open to the sky (arbors and trellises are allowed)
 - d. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
 - 6. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
- C. Window Design.
- 1. Window frames, backbands, and sills.
 - a. All windows shall have a sill.

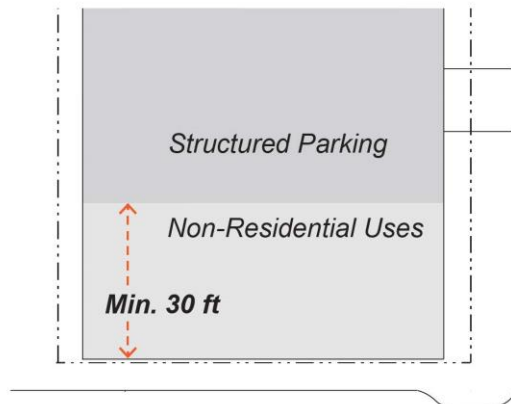
- i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.
 - 2. Vinyl windows are prohibited on façades visible from a right-of-way.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed)
 - b. Siding (lap, vertical, panelized, or shingle)
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not allowed.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile.
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete Masonry Units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- E. Landscaping, Paving, and Pedestrian Amenities.
 - 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. All paving located adjacent to a sidewalk must be textured (decorative or permeable).
 - 3. A minimum seventy-five (75) percent of on-site paving material must be pervious/permeable.
 - 4. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:

- a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks. A publicly visible and accessible pedestrian amenity such as benches, a fountain, a rain garden, decorative paving, and/or public art.
5. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

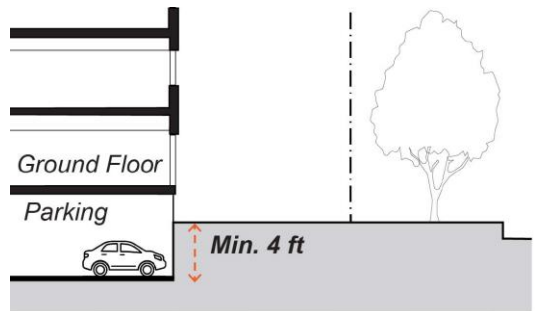


F. Parking Design and Access.

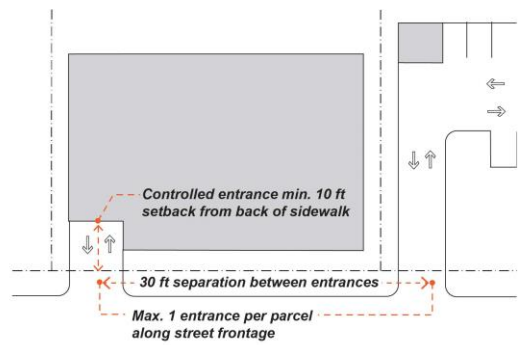
- 1. Where structured parking is provided, the parking area must be either:
 - a. "Lined" with ground-floor non-residential uses at least thirty (30) feet deep as measured from the front façade; or



- b. Designed such that the floor elevation is a minimum four vertical feet below the elevation of the adjacent sidewalk.



- 2. Visible structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular punched openings designed to resemble windows of habitable spaces.
 - b. Trellis/living wall.
 - c. Custom textured or decorative screening.
- 3. Entrances to Parking Facilities.
 - a. A maximum of two curb cuts for one-way traffic and one curb cut for two-way traffic may be permitted per street frontage per lot.
 - b. Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum ten (10) feet from the back of sidewalk.
 - c. Entrances to parking facilities along a street frontage shall be separated by a minimum of forty (40) feet, excluding access to parking plazas.
 - d. Where possible, curb cuts serving adjacent parking facilities shall be shared.



- G. Site Circulation and Access.
 - 1. A clearly defined, lighted and landscaped pedestrian route shall be provided between all parking areas and primary pedestrian entrance.
 - 2. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 - 3. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.

H. Service Areas and Screening.

1. Service areas must be located at the rear of lot or along a parking plaza.
2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.

I. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CD District.

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.44.140 Nonconforming use regulations (CD).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.150 Signs (CD).

(As provided in Chapter 14.68 of this code.)

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part); Ord. No. 2015-414 , § 12, 9-8-2015)

14.44.160 Fences (CD).

(As provided in Chapter 14.72 of this title.)

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.170 Restoration of nonconforming structures (CD).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

14.44.180 Exceptions for public benefit (CD).

A. To implement the downtown urban design plan, exceptions from the provisions of this chapter may be granted provided the following findings are made:

1. The granting of the exception will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;
2. The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
3. The project and mitigation will result in a public benefit to the downtown;
4. The resultant project and mitigation are consistent with the general plan and promote or accomplish objectives of the downtown urban design plan.

B. For the purposes of this chapter, exceptions may include, but are not limited to setbacks, on-site parking, and development or building standards.

(Ord. 08-320 § 1 (part); Ord. 06-295 § 1 (part))

(Ord. No. 10-349, § 4, 4-27-2010)

Chapter 14.48 CRS COMMERCIAL RETAIL SALES DISTRICT*

Sections:

14.48.010 CRS District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 of this title shall apply in the CRS District.

(Ord. 05-294 § 2 (part): Ord. 05-289 § 2 (part): prior code § 10-2.1901)

14.48.020 Vision statement and specific purposes (CRS).

The city shall retain and enhance the downtown Los Altos village atmosphere and shall seek to attract businesses to the village. The primary characteristics of the desired village atmosphere include:

- A. A mix of uses emphasizing retail businesses and services that meet the needs of community residents and visitors, and with housing located aboveground floor businesses;
- B. Buildings and streetscape elements that enhance the pedestrian experience, reflect quality design, present a diversity of appearances, and contribute to the architectural and historical interest of the village;
- C. An attractive, pedestrian-oriented shopping environment that encourages social interaction, with substantial landscaping and open space, and adequate public parking;
- D. Business and specialty stores that will attract customers from the local community and surrounding region; and
- E. Encouragement of activities that enhance and extend commercial vitality, including nighttime activities.

In addition to the vision statement, the specific purposes for the CRS District are as follows:

- A. Promote the implementation of the downtown urban design plan;
- B. Encourage pedestrian-scale design and minimize blank walls and other dead spaces at the ground level;
- C. Continue the pattern and scale established by existing buildings by requiring building designs that express the underlying twenty-five (25) foot frontages originally established, either by building structure or by architectural design;
- D. Create continuous building frontage without major interruption by disallowing driveways and parking lots on shopping street frontages;
- E. Allow latitude for creative design and architectural variety within limits established;
- F. Provide pedestrian amenities such as paseos, outdoor public spaces and outdoor seating;
- G. Establish a sense of entry into the downtown;
- H. Encourage historic preservation for those buildings listed on the city's historic resources inventory;
- I. Encourage the upgrading of building exteriors, signs, passageways, and rear entries; and

J. Encourage the use of solar, photovoltaic, and other energy conserving devices.
(Ord. 05-294 § 2 (part): Ord. 05-289 § 2 (part): Ord. 01-397 § 4: prior code § 10-2.1902)

14.48.030 Permitted uses (CRS).

The following uses shall be permitted in the CRS District:

- A. Business, professional, and trade schools located above the ground floor;
- B. Office-administrative services, which include medical and dental clinics or offices having less than 5,000 gross square feet of floor area and animal clinics having less than 5,000 gross square feet of floor area, except when located in a ground floor building space that fronts directly onto Main Street or State Street;
- C. Parking spaces and loading areas incidental to a permitted use;
- D. Personal services;
- E. Private clubs, lodges, or fraternal organizations located above the ground floor;
- F. Restaurants, excluding drive-through services;
- G. Retail; ~~and~~
- H. Residential Only Development(s) except when main building frontage is on Main Street and/or State Street;
- I. Mixed Use Development(s); and
- H. Uses which are determined by the Zoning Administrator ~~community development director~~ to be of the same general character;
- I. Cocktail lounges.

(Ord. 05-294 § 2 (part): Ord. 05-289 § 2 (part): Ord. 05-280 § 7 (part): Ord. 05-270 § 2: Ord. 04-268 § 1)

(Ord. No. 10-348, § 4, 4-13-2010; Ord. No. 2015-406 , § 2, 2-10-2015; Ord. No. 2019-462 , § 1, 9-10-19)

14.48.040 Conditional uses and structures (CRS).

Upon the granting of a conditional use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CRS District:

- A. Any new building that has an area greater than seven thousand (7,000) gross square feet, and any addition to an existing building which would result in the total building area exceeding seven thousand (7,000) gross square feet, including additions to buildings which presently exceed seven thousand (7,000) gross square feet in area;
- B. Commercial recreation;
- C. Day care centers, except when located in a ground floor building space that fronts directly onto Main Street or State Street;
- D. Hotels;
- E. ~~Housing located above the ground floor;~~

~~F.E.~~ Medical and dental clinics or offices having five thousand (5,000) gross square feet of floor area or more and animal clinics having five thousand (5,000) gross square feet of floor area or more, except when located in a ground floor building that fronts directly onto Main Street or State Street; and

~~G.F.~~ Uses which are determined by the planning commission to be of the same general character.

(Ord. 05-294 § 2 (part): Ord. 05-289 § 2 (part): Ord. 05-280 § 7 (part): Ord. 05-270 § 3: Ord. 04-268 § 3)

(Ord. No. 2012-375, § 6, 1-24-2012; Ord. No. 2015-406 , §§ 3, 4, 2-10-2015; Ord. No. 2015-414 , § 8, 9-8-2015; Ord. No. 2019-462 , § 1, 9-10-19)

14.48.050 Required conditions (CRS).

The following conditions shall be required of all uses in the CRS District:

- A. Any ground floor office that is voluntarily discontinued pursuant to Section 14.66.110 of this title shall be converted to a conforming use, or receive a conditional use permit to maintain an office at that location pursuant to Section 14.80.060(H) of this title.
- B. All businesses, services, and processes shall be conducted within a completely enclosed structure, except for parking and loading spaces, sale of gasoline and oil at service stations, incidental sales and display of plant materials and garden supplies occupying no more than one thousand five hundred (1,500) square feet of exterior sales and display area, outdoor eating areas operated incidental to permitted eating and drinking services, and as otherwise allowed upon the issuance of an outdoor display permit. Exterior storage is prohibited.
- C. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the commission to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- D. No property owner, business owner and/or tenant shall permit or allow operation of a business which violates the required conditions of this chapter, including the following general criteria:
 - 1. Refuse collection. Every development, including applications for tenant improvements, shall be required to provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way. Refuse collection areas are encouraged to be shared, centralized, facilities whenever possible.
 - 2. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if: (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
 - 3. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
 - 4. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, facilities, and public sidewalks adjacent to the subject property shall be required. In the case of public sidewalks, maintenance shall be limited to keeping the sidewalk clean and

free of debris, markings, and food and drink stains by means of sweeping, cleaning with water and/or steam cleaning.

5. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
6. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.

In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height may be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

(Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 05-287 § 3; Ord. 04-268 § 2 (part); prior code § 10-2.1905)

14.48.060 Front yard (CRS).

With the exception of landscaping, all development in the CRS District must be built to the back of the sidewalk.

(Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1907)

14.48.070 Side yards (CRS).

No side yards shall be required, and none shall be allowed, except where the side property line of a site abuts a public parking plaza, the minimum width of the side yard shall be two feet which shall be landscaped. A required side yard may be used for parking except for the area required to be landscaped.

(Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1908)

14.48.080 Rear yard (CRS).

No rear yard shall be required except as follows:

- A. Where the rear property line of a site abuts a public parking plaza, the minimum depth of the rear yard shall be two feet, which shall be landscaped.
- B. Where the rear property line of a site abuts an existing alley, the minimum depth of the rear yard shall be ten (10) feet, of which the rear two feet shall be landscaped. A required rear yard may be used for parking, except for the area required to be landscaped.

(Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1909)

14.48.090 Off-street parking (CRS).

Parking facilities shall be provided in accordance with Chapter 14.74 of this title. In addition, parking facilities shall:

- A. Reduce the visual impact of parking structures and parking lots by locating them at the rear or interior portions of building sites;
- B. Minimize the street frontage of the lot or structure by placing its shortest horizontal edge along the street;
- C. When parking structures must be located at street frontage because other locations are proven infeasible, the ground level frontage shall either be used for commercial space or shall provide a landscaped area not less than five feet in width between the parking area and the public right-of-way;
- D. Not be accessed from State or Main Streets unless no other access is feasible, in which case the number of direct entrances to parking facilities from streets shall be kept to a minimum;
- E. Provide a landscaped buffer not less than five feet in width between a parking lot or structure and street frontage or buildings. Where the landscaped strip adjoins a public street or pedestrian walkway, the landscaped strip may be required to include a fence, wall, berm, or equivalent feature;
- F. Provide a minimum of interior landscaping for unenclosed parking facilities as follows: where the total parking provided is located on one site and is fourteen thousand nine hundred ninety-nine (14,999) square feet or less, five percent of total parking area; where the parking is fifteen thousand (15,000) through twenty-nine thousand nine hundred ninety-nine (29,999) square feet, seven and one-half percent of total parking area; and where the facility is thirty thousand (30,000) square feet or greater, ten (10) percent of total parking area;

Parking Area (in square feet)	Minimum Landscaping (% of Parking Area)
< 15,000	5
15,000 — 29,999	7.5
> 30,000	10

- G. Trees in reasonable number shall be provided; ground cover alone is not acceptable. Interior landscaping shall be distributed throughout the paved area as evenly as possible. Provision shall be made for automatically irrigating all planted area. All landscaping shall be protected with concrete curbs or other acceptable barriers. All landscaping shall be continuously maintained.

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1910)

14.48.100 Common parking facilities (CRS).

(As provided in Chapter 14.74 of this title.)

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1911)

14.48.110 Off-street loading and refuse collection (CRS).

- A. Where buildings are served by alleys, all service-delivery entrances, loading docks, and refuse collection facilities shall be located to be accessed from the alley. No loading area shall be located at the street frontage or building façade.
- B. A minimum of thirty-two (32) square feet of covered refuse collection area shall be provided and shall not be located in any front or street side yard. Where an alley exists, the refuse collection area shall be accessed

from the alley. Refuse collection areas shall be on site, but are encouraged to be shared, centralized, facilities whenever possible.

- C. On sites not served by an alley, service areas shall be located to the rear, side, or at an internal location where visibility from public streets, public parking plazas and neighboring properties will be minimized.
- D. Refuse collection areas shall be enclosed by a screen wall of durable material and planting as necessary to screen views from streets, public parking plazas and neighboring properties.

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1912)

14.48.120 Height of structures (CRS).

~~No structure shall exceed thirty (30) feet in height. The first story shall have a minimum interior ceiling height of twelve (12) feet to accommodate retail use, and the floor level of the first story shall be no more than one foot above sidewalk level.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.
- b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.
- c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and three (3) stories.

(Ord. 08-331 § 1; Ord. 08-321 § 2; Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1913)

(Ord. No. 10-349, § 5, 4-27-2010)

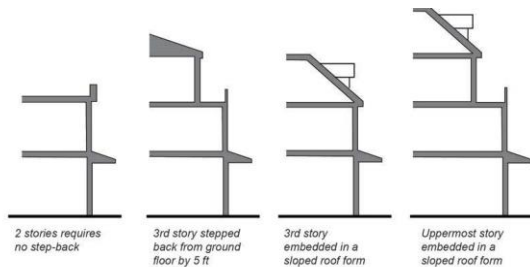
14.48.130 Design control (CRS).

A. Building Massing and Articulation.

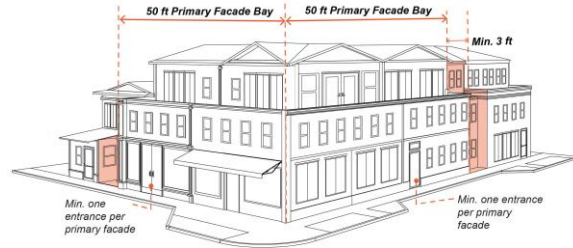
1. Upper-story Step-backs, Front and Street Side.

- a. The third story must be either stepped back a minimum five feet from the ground floor façade or embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.48.130.A.6.
- b. For buildings over three stories, the uppermost story must be embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.48.130.A.6.

2. Vertical Articulation.

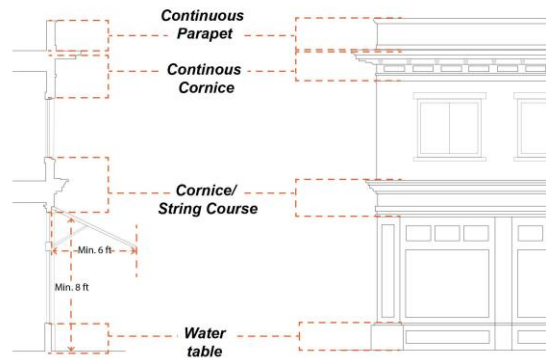


- a. When a building façade exceeds fifty (50) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum five feet deep and ten (10) feet wide.
- b. The building shall include at least one ground-floor entrance every twenty-five (25) feet.

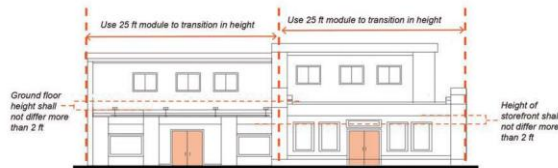


3. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

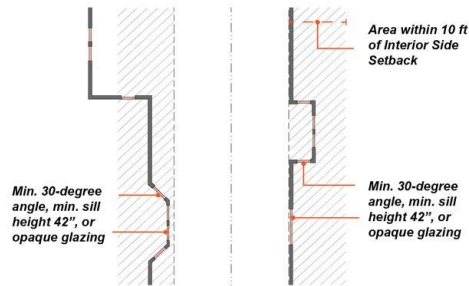
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
 - iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).



- b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.48.130.B.7. These elements shall be consistent with the overall architectural style of the building mass/bay.
4. Adjacencies.
- a. Storefront Façades Adjacent to Storefront Façades.
 - i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
 - ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
 - iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.



- b. Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More. When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:
 - i. Incorporate the uppermost floor into the roof form.
 - ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
 - iii. Match window heights and/or proportions.
 - iv. Relate roof cornices and moldings at floor lines.
5. Privacy and Line of Sight.
- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
 - b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
 - c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.



6. Roofline and Roof Design.

a. Roof designs shall be limited to:

- i. Hipped.
- ii. Gable.
- iii. Dormer.
- iv. Parapet.

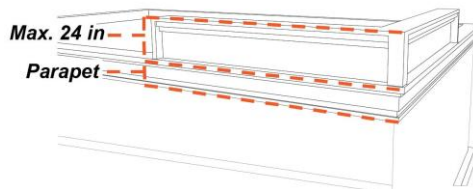
(a) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:

- (1) Steps.
- (2) Curves.
- (3) Angled surfaces.

(b) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.

b. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.

c. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.



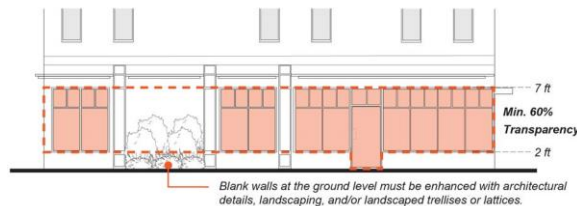
B. Building Design.

1. Façade Design.

a. Building façades must continue the pattern established by existing buildings in Downtown Los Altos by reinforcing the underlying maximum twenty-five (25) foot module along all street frontages through the use of the following techniques:

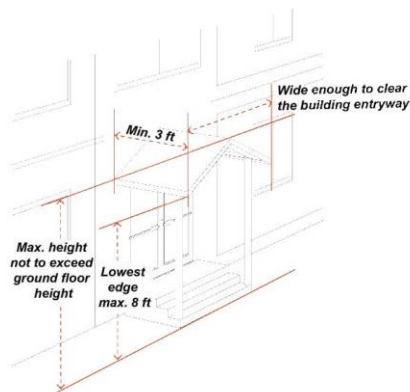
- i. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be

- visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
 - ii. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
 - iii. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
 - iv. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
- b. At least two of the following strategies must be used in a manner that reinforces the maximum twenty-five (25) foot module:
- i. Change in roof parapet height or shape.
 - ii. Change in roof style.
 - iii. Change in materials palette.
 - iv. Change in building height, minimum eight-foot difference.
 - v. Change in frontage type or change in details of shopfront frontage type if used.
 - vi. Use of upper floor projections such as bay windows or balconies.
2. Ground Level Transparency. A minimum sixty (60) percent of commercial ground floor street-facing façades between two and seven feet in height shall be transparent window surface. Opaque, reflective, or dark tinted glass is not allowed.

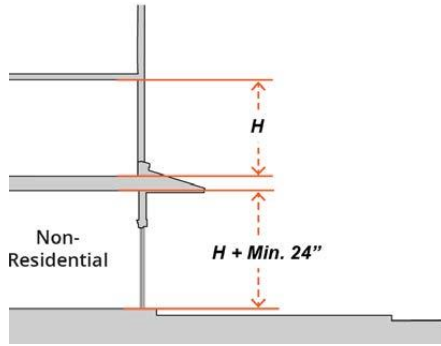


3. Pedestrian-Scaled Entrances.
- a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Stoop.
 - ii. Shopfront.
 - (a) The maximum width of single shopfront shall be twenty-five (25) feet.
 - iii. Gallery.
 - iv. Arcade with shopfront frontage.
 - b. Primary Entrance Location(s). Locate primary entrance on the front right-of-way.
 - c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.

- d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
 - i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



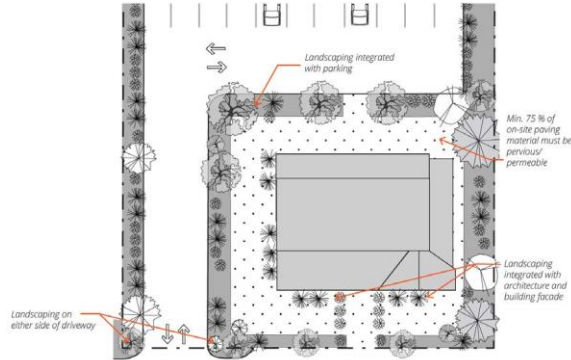
- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
4. Ground Floor Floor-to-Ceiling Height. Minimum twenty-four (24) inches taller than typical upper floor floor-to-ceiling height.



- 5. Interior Courtyard. Interior courtyards must be:
 - a. Partially visible from the street and linked to the street by a clear accessible path of travel.
 - b. Enclosed on at least two sides by buildings.
 - c. Open to the sky (arbors and trellises are allowed).
 - d. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
- 6. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
- C. Window Design.
 - 1. Window frames, backbands, and sills.
 - a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.
 - 2. Vinyl windows are prohibited on façades visible from a right-of-way.
 - 3. Tinted glass is not allowed.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.

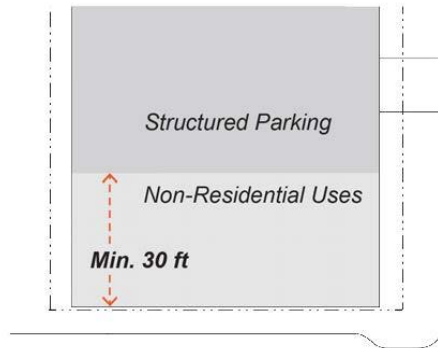
2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile (for bulkheads below display windows and decorative accents only).
 - f. Metal (Matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete Masonry Units (building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- E. Downtown Gateways. A downtown gateway is located at the intersection of Foothill Expressway at Main Street.
 1. Building design at gateway intersection shall include:
 - a. Façade lighting; and
 - b. Overhangs or sloped roof forms.
 2. Ground-floor design at gateway intersections must address both street frontages through:
 - a. Entrances that are visible and directly accessible from both streets;
 - b. Building transparency beyond the required minimum for the first fifteen (15) feet of building frontage from the corner;
 - c. Landscaped area with a minimum dimension of six feet; and
 - d. A usable public space with pedestrian-scaled features.
- F. Landscaping and Paving, and Pedestrian Amenities.
 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 2. All paving located adjacent to a sidewalk must be textured (decorative or permeable).
 3. A minimum seventy-five (75) percent of on-site paving material must be pervious/permeable.
 4. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.

- d. A publicly visible and accessible pedestrian amenity such as benches, a fountain, a rain garden, decorative paving, and/or public art.
- 5. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

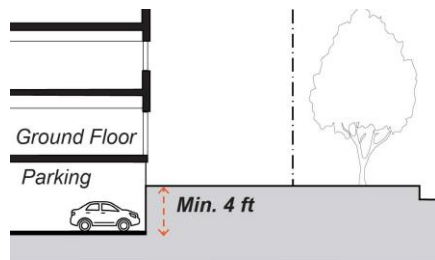


G. Parking Design and Access.

- 1. Where structured parking is provided, the parking area must be either:
 - a. "Lined" with ground-floor non-residential uses at least thirty (30) feet deep as measured from the front façade; or

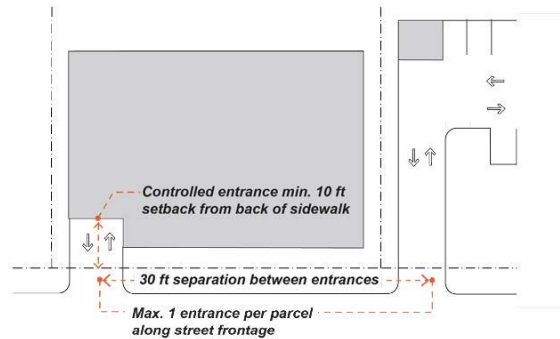


- b. Designed such that the floor elevation is a minimum four vertical feet below the elevation of the adjacent sidewalk.



- 2. Visible structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular punched openings designed to resemble windows of habitable spaces.
 - b. Trellis/living wall.

- c. Custom textured or decorative screening.
- 3. Entrances to Parking Facilities.
 - a. Curb cuts are not permitted along State Street and Main Street, except those providing direct access to parking plazas. On all other street frontages, a maximum of two curb cuts for one-way traffic and one curb cut for two-way traffic may be permitted per street frontage per lot.
 - b. Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum ten (10) feet from the back of sidewalk.
 - c. Entrances to parking facilities along a street frontage shall be separated by a minimum of forty (40) feet, excluding access to parking plazas.
 - d. Where possible, curb cuts serving adjacent parking facilities shall be shared.



- H. Site Circulation and Access.
 - 1. A clearly defined, lighted and landscaped pedestrian route shall be provided between all parking areas and primary pedestrian entrance.
 - 2. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 - 3. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.
- I. Service Areas and Screening.
 - 1. Service areas must be located at the rear of lot or along a parking plaza.
 - 2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.
- J. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CRS District.

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part): amended during 2/06 supplement; Ord. 04-268 § 2 (part); Ord. 01-397 §§ 10, 11, 12; prior code § 10-2.1914)

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.48.140 Nonconforming use regulations (CRS).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1915)

14.48.150 Signs (CRS).

(As provided in Chapter 11.04 of this code.)

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); Ord. 01-397 § 13; prior code § 10-2.1916; Ord. No. 2015-414 , § 12, 9-8-2015)

14.48.160 Fences (CRS).

(As provided in Chapter 14.72 of this title.)

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1917)

14.48.170 Restoration of nonconforming structures (CRS).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1918)

14.48.180 Exceptions for public benefit (CRS).

- A. To implement the downtown design plan, minor exceptions from the provisions of this chapter may be granted in the context of the project's benefit relative to its location. Since these are not required by law, they are to be allowed at the complete discretion of the city, provided the following findings are made:
 - 1. The benefits to the downtown will be significant;
 - 2. The benefits to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
 - 3. The project and mitigation will result in a public benefit to the downtown; and
 - 4. The resultant project and mitigation are consistent with the general plan and promote or accomplish objectives of the downtown design plan.
- B. For the purposes of this chapter, such exceptions may include, but are not limited to, setbacks, height of structure, height of the first floor, on-site parking, and other zoning regulations. "Height of structure" shall only apply to building height exceptions that support the project's architectural integrity.
- C. For the purposes of this section, significant public benefits identified in the downtown design plan, include, but are not limited to, projects that accomplish the following:
 - 1. Provide for additional public parking, beyond minimum code requirement project needs;

2. Provide additional public outdoor plazas and gathering and eating spaces, visible from the public right-of-way, to enhance the ambiance of the downtown;
3. Create prominent, recognizable, entry points into the downtown area;
4. Preserve the historic character of downtown by renovating existing historic buildings;
5. Create strong pedestrian linkages to the Civic Center and residential areas adjacent to downtown; and
6. Develop pedestrian walkways or "paseo" passage ways where they are needed, to better link rear parking plazas to the businesses along State and Main Streets.

(Ord. 08-320 § 3 (part); Ord. 05-294 § 2 (part); Ord. 05-289 § 2 (part); Ord. 04-268 § 2 (part); prior code § 10-2.1919)

(Ord. No. 10-348, § 5, 4-13-2010; Ord. No. 2012-388, § 1, 11-13-2012)

Chapter 14.52 CD/R3 COMMERCIAL DOWNTOWN/MULTIPLE FAMILY DISTRICT¹

Sections:

14.52.010 CD/R3 District.

The regulations, general provisions, and exceptions set forth in Chapter 14.66 of this title shall apply in the CD/R3 District.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.020 Specific purposes (CD/R3).

Specific purposes for CD/R3 Districts are as follows:

- A. Promote the implementation of the downtown urban design plan;
- B. Retain and enhance the downtown Los Altos village atmosphere;
- C. Allow latitude for creative design and architectural variety within limits established;
- D. Preserve and improve the character of the area immediately surrounding the existing downtown pedestrian district;
- E. Provide pedestrian amenities such as paseos, outdoor public spaces and outdoor seating;
- F. Establish a sense of entry into the downtown;
- G. Encourage historic preservation for those buildings listed on the city's historic resources inventory;
- H. Encourage the upgrading of building exteriors, signs, passageways and rear entries;
- I. Provide for a full range of retail, office, and service uses appropriate to downtown;
- J. Develop a landscaped strip along the back of properties that abut Foothill Expressway between Edith Avenue and San Antonio Road;
- K. Improve the visual appeal and pedestrian orientation of the downtown; and
- L. Encourage the use of solar, photovoltaic, and other energy conserving devices.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.030 Permitted uses (CD/R3).

The following uses shall be permitted in the CD/R3 District:

- A. Business, professional, and trade schools;

¹Editor's note(s)—Prior to the reenactment of ch. 14.52 by Ord. No. 10-346, Ord. No. 09-336, § 3, adopted April 28, 2009, repealed ch. 14.52, §§ 14.52.010—14.52.050, which pertained to the AH/MU affordable housing/mixed use overlay district and derived from §§ 10-20501—10-20505 of the prior code.

- B. ~~Housing Residential Only Development(s);~~
- C. ~~Maintenance and repair services-Mixed Use Development(s);~~
- D. Office-administrative services, excluding drive-through facilities;
- E. Parking spaces and loading areas;
- F. Restaurants, excluding drive-through facilities;
- G. Retail and personal services; and
- H. Uses which are determined by the ~~Zoning Administrator~~ ~~city planner~~ to be of the same general character.

(Ord. No. 10-346, § 2, 3-9-2010; Ord. No. 2015-406 , § 2, 2-10-2015)

14.52.040 Conditional uses (CD/R3).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CD/R3 District:

- A. Animal clinics and hospitals;
- B. Cocktail lounges;
- C. Commercial recreation;
- D. Day care centers;
- E. Medical and dental clinics;
- F. Medical and dental offices that are five thousand (5,000) gross square feet or more; and
- ~~G. Service stations provided the site has at least one hundred (100) feet of frontage on a street with a minimum site area of twenty thousand (20,000) square feet; and~~
- ~~H-G.~~ Uses which are determined by the planning commission and the city council to be of the same general character.

(Ord. No. 10-346, § 2, 3-9-2010; Ord. No. 2015-406 , §§ 3, 4, 2-10-2015)

14.52.050 Required conditions (CD/R3).

The following conditions shall be required of all uses in the CD/R3 District:

- A. All businesses, services, and processes shall be conducted within a completely enclosed structure, except for parking and loading spaces, sale of gasoline and oil at service stations, incidental sales and display of plant materials and garden supplies occupying no more than one thousand five hundred (1,500) square feet of exterior sales and display area, and outdoor eating and community facility play areas operated incidental to those services.
- B. No use shall be permitted and no process, equipment, or materials shall be employed which are found by the planning commission to be objectionable by reason of odor, dust, smoke, noise, vibration, illumination, glare, unsightliness, or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- C. No property owner, business owner and/or tenant shall permit or allow operation of a business which violates the required conditions of this chapter, including the following general criteria:

1. Refuse collection. Every development, including applications for tenant improvements, shall be required to provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way. Refuse collection areas are encouraged to be shared, centralized, facilities whenever possible.
2. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if: (1) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
3. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
4. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, facilities, and public sidewalks adjacent to the subject property shall be required. In the case of public sidewalks, maintenance shall be limited to keeping the sidewalk clean and free of debris, markings, and food and drink stains by means of sweeping, cleaning with water and/or steam cleaning.
5. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
6. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code.

In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height may be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

D. For affordable housing requirements, see Chapter 14.28 of this title.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.060 Required building setbacks (CD/R3).

For entirely residential projects:

- A. The minimum depth of the front yard shall be ten (10) feet, all of which shall be landscaped. For purposes of this section, "landscaped" shall mean any combination of plant material (soft surfaces) and decorative paving, seating, seat-walls, fountains, etc., (hard surfaces) where the soft surface comprises at least sixty (60) percent of the total landscaped area. Stair cases and building entry landings may be located in the required front yard.
- B. No side yards shall be required, except when the side property line of a site abuts a public street or a public parking plaza, in which case the minimum width of the side yard shall be two feet and shall be landscaped.
- C. The minimum depth of the rear yard shall be ten (10) feet, all of which shall be landscaped. For purposes of this section, "landscaped" shall mean any combination of plant material (soft surfaces) and decorative paving, seating, seat-walls, fountains, etc., (hard surfaces) where the soft surface comprises

at least sixty (60) percent of the total landscaped area. Stair cases and building entry landings may be located in the required rear yard.

For mixed-use and commercial projects:

- A. The minimum depth of front yards shall be two feet and shall be landscaped.
- B. No side yards shall be required, except when the side property line of a site abuts a public street or a public parking plaza, in which case the minimum width of the side yard shall be two feet and shall be landscaped.
- C. Where the rear property line of a site abuts a public parking plaza, public street, or alley, the minimum depth of the rear yard shall be two feet and shall be landscaped.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.070 Off-street parking (CD/R3).

Parking facilities shall be provided in accordance with Chapter 14.74 of this title. In addition, parking facilities shall:

- A. Reduce the visual impact of parking structures and parking lots by locating them at the rear or interior portions of building sites;
- B. Minimize the street frontage of the lot or structure by placing its shortest horizontal edge along the street;
- C. When parking structures must be located at street frontage because other locations are proven infeasible, the ground level frontage shall either be used for commercial space or shall provide a landscaped area not less than five feet in width between the parking area and the public right-of-way;
- D. Keep the number of direct entrances to parking facilities from streets to a minimum;
- E. Provide a landscaped buffer not less than five feet in width between a parking lot or structure and street frontage or buildings. Where the landscaped strip adjoins a public street or pedestrian walkway, the landscaped strip may be required to include a fence, wall, berm, or equivalent feature;
- F. Provide a minimum of interior landscaping for unenclosed parking facilities as follows: where the total parking provided is located on one site and is fourteen thousand nine hundred ninety-nine (14,999) square feet or less, five percent of total parking area; where the parking is fifteen thousand (15,000) through twenty-nine thousand nine hundred ninety-nine (29,999) square feet, seven and one-half percent of total parking area; and where the facility is thirty thousand (30,000) square feet or greater, ten (10) percent of total parking area.

Parking Area (in square feet)	Minimum Landscaping (% of Parking Area)
< 15,000	5
15,000 29,999	7.5
> 30,000	10

- G. Trees in reasonable number shall be provided; ground cover alone is not acceptable. Interior landscaping shall be distributed throughout the paved area as evenly as possible. Provision shall be made for automatically irrigating all planted area. All landscaping shall be protected with concrete curbs or other acceptable barriers. All landscaping shall be continuously maintained.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.080 Common parking facilities (CD/R3).

(As provided in Chapter 14.74 of this title.)

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.090 Off-street loading and refuse collection (CD/R3).

- A. Where buildings are served by alleys, all service-delivery entrances, loading docks, and refuse collection facilities shall be located to be accessed from the alley. No loading area shall be located at the street frontage or building façade.
- B. A minimum of thirty-two (32) square feet of covered refuse collection area shall be provided and shall not be located in any front or street side yard. Where an alley exists, the refuse collection area shall be accessed from the alley. Refuse collection areas shall be on site, but are encouraged to be shared, centralized, facilities whenever possible.
- C. On sites not served by an alley, service areas shall be located to the rear, side, or at an internal location where visibility from public streets, public parking plazas and neighboring properties will be minimized.
- D. Refuse collection areas shall be enclosed by a screen wall of durable material and planting as necessary to screen views from streets, public parking plazas and neighboring properties.

(Ord. No. 10-346, § 2, 3-9-2010)

14.52.100 Height of structures (CD/R3).

~~No commercial or mixed use structure shall exceed thirty (30) feet in height and no entirely residential structure shall exceed thirty five (35) feet in height. Commercial and mixed use projects that include ground floor commercial floor area shall provide a ground floor with a minimum interior ceiling height of twelve (12) feet.~~

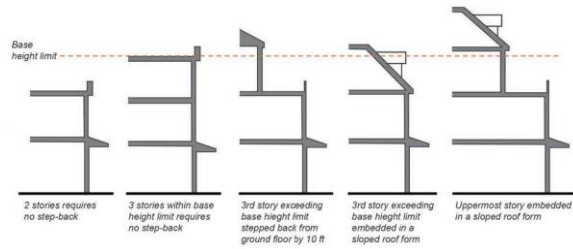
- ~~a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.~~
- ~~b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.~~
- ~~c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and three (3) stories.~~

(Ord. No. 10-346, § 2, 3-9-2010; Ord. No. 2016-428 , § 1, 11-8-2016)

14.52.110 Design control (CD/R3).

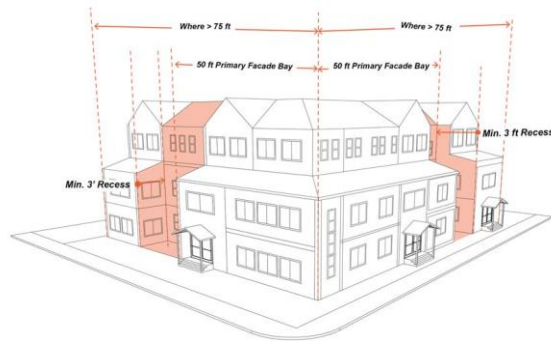
- A. Building Massing and Articulation.
 - 1. Upper-story Step-backs.
 - a. Front: Minimum ten (10) feet from ground floor façade for stories above thirty (30) feet in height (commercial or mixed use) or thirty-five (35) feet (residential only) as shown in the diagram.
 - b. Street Side: Minimum ten (10) feet from ground floor façade for stories above thirty (30) feet in height (commercial or mixed use) or thirty-five (35) feet (residential only) as shown in the diagram.

- c. For buildings over three stories, the uppermost story must be embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.52.110.A.6.



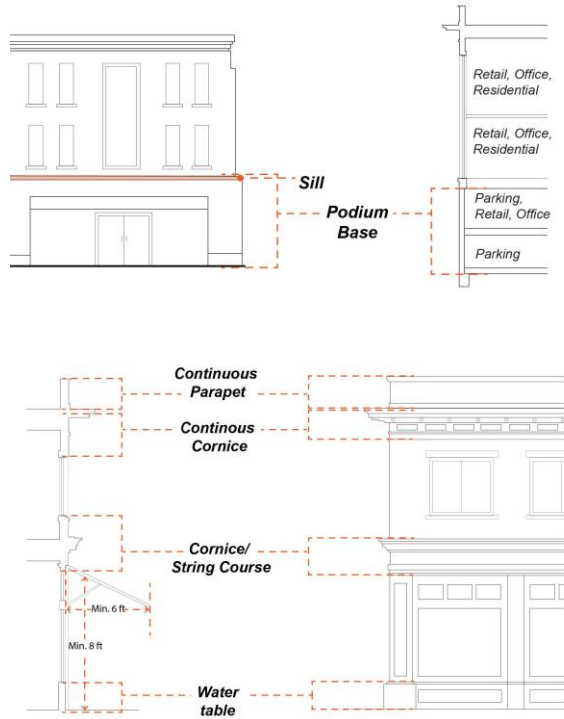
2. Vertical Articulation.

- a. When a building façade exceeds seventy-five (75) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.
- b. The building shall include at least one ground-floor entrance every twenty-five (25) feet.
- c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



3. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

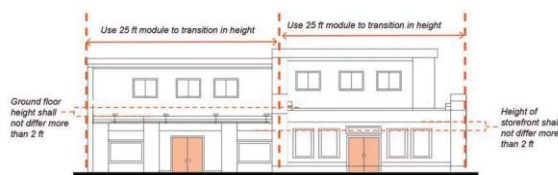
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).
 - iii. Watertable and Cornice/String Course: A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
- b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.52.110.A.6. These elements shall be consistent with the overall architectural style of the building mass/bay.



4. Adjacencies.

a. Storefront Façades Adjacent to Storefront Façades.

- i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
- ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
- iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.

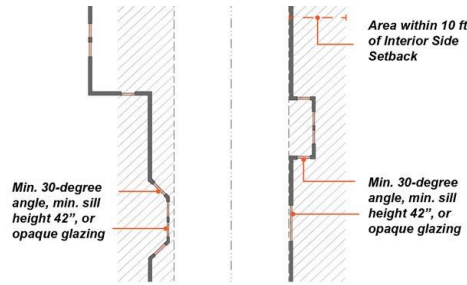


b. Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More. When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:

- i. Incorporate the uppermost floor into the roof form.
- ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
- iii. Match window heights and/or proportions.
- iv. Relate roof cornices and moldings at floor lines.

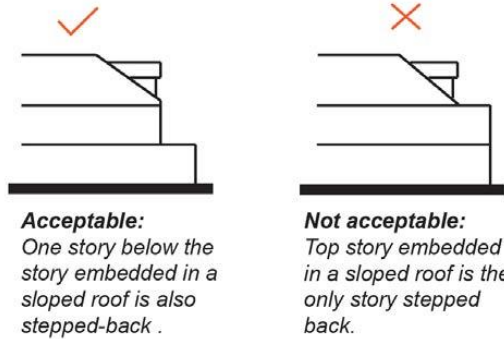
5. Privacy and Line of Sight.

- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
- b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
- c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.

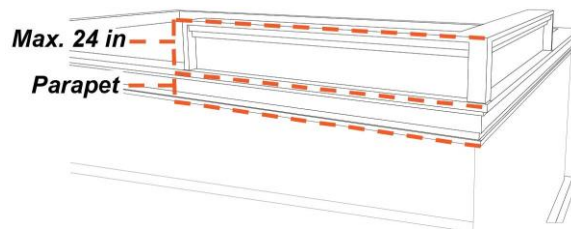


6. Roofline and Roof Design.

- a. Roof designs shall be limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Mansard.
 - (a) Applicable for buildings three or more stories.
 - iv. Dormer.
 - v. Parapet.
 - (a) Allowed only along First Street frontages.
 - (b) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (c) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.
- b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



- c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.
- d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.

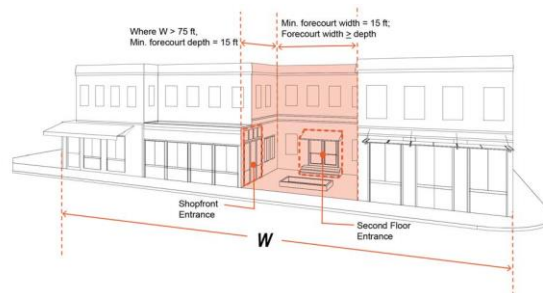


B. Building Design.

1. Façade Design.

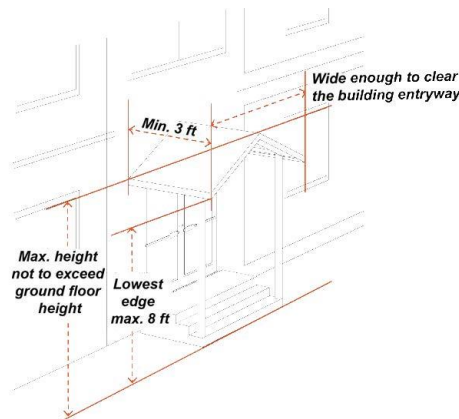
- a. Building façades must continue the pattern established by existing buildings in Downtown Los Altos by reinforcing the underlying maximum fifty (50) foot module along all street frontages through the use of the following techniques:
 - i. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls or columns. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
 - ii. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
 - iii. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
 - iv. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
- b. At least two of the following strategies must be used in a manner that reinforces the maximum fifty (50) foot module:
 - i. Change in roof parapet height or shape.
 - ii. Change in roof style
 - iii. Change in materials palette

- iv. Change in building height, minimum eight-foot difference.
 - v. Change in frontage type or change in details of shopfront frontage type if used.
 - vi. Use of upper floor projections such as bay windows or balconies.
2. Pedestrian-Scaled Entrances.
- a. Buildings more than seventy-five (75) feet in frontage length along a right-of-way and First Street must incorporate at least one forecourt with a minimum depth of twenty (20) feet from front façade. Required forecourts must also comply with the standards of Section 14.52.110.B.2.b.vi. below.
 - b. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Stoop.
 - ii. Dooryard.
 - iii. Shopfront.
 - (a) The maximum width of single shopfront shall be twenty-five (25) feet.
 - iv. Gallery.
 - v. Arcade.
 - vi. Forecourt
 - (a) Forecourts must feature at least one entry to a shop and/or second floor use.
 - (b) Forecourts for buildings more than seventy (70) feet in length along a right-of-way must have a minimum width and depth of fifteen (15) feet from front façade. Width of forecourt shall be equal to or greater than depth.
 - (c) The size of the forecourt must be appropriate relative to the size of the building. The maximum ratio of building height to forecourt is 2:1 (height < 2 x width).
 - (d) Forecourt must be enclosed on at least three sides by buildings.
 - (e) Forecourt must remain open to the sky (arbors and trellises are allowed).



- vii. Terrace.
- c. Primary Entrance Location(s). Locate primary entrance on the front right-of-way and/or in the interior courtyard.

- d. Individual Entries. Ground floor residential units facing a street must provide individual entries along the street frontage.
- e. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
- f. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
- g. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.
 - i. Protection may be coterminous with an accent element.
 - ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
 - iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
 - iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



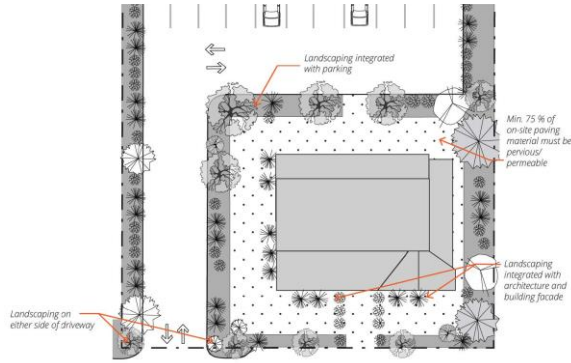
- h. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
3. Ground Floor Floor-to-Ceiling Height.
- a. Minimum twenty-four (24) inches taller than typical upper floor floor-to-ceiling height where ground floor is non-residential.

- b. Minimum twelve (12) inches taller than typical upper floor floor-to-ceiling where ground floor is residential.

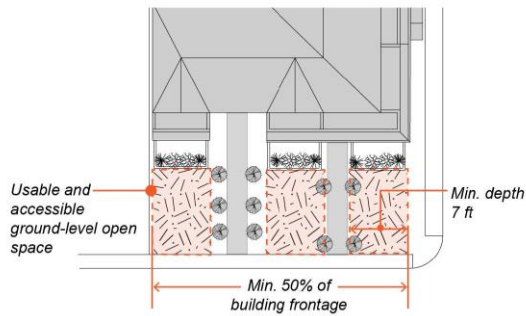


- 4. Interior Courtyard. Interior courtyards must be:
 - a. Partially visible from the street and linked to the street by a clear accessible path of travel.
 - b. Enclosed on at least two sides by buildings.
 - c. Open to the sky (arbors and trellises are allowed).
 - d. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
- 5. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
- C. Window Design.
 - 1. Window frames, backbands, and sills.
 - a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.
 - 2. Vinyl windows are prohibited on façades visible from a right-of-way.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:

- a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, panelized, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (building base only).
 - d. Brick (building base only).
 - e. Tile.
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes are not permitted.
 - g. Concrete masonry units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (building base only, board-form only, cast concrete not permitted).
- E. Downtown Gateways. Downtown gateways are located at the intersection of Foothill Expressway and Edith Avenue and the intersection of Foothill Expressway and San Antonio Road.
- 1. Building design at gateway intersection shall include:
 - a. Façade lighting; and
 - b. Overhangs or sloped roof forms.
 - 2. Ground-floor design at gateway intersections must address both street frontages through:
 - a. Entrances that are visible and directly accessible from both streets;
 - b. Building transparency beyond the required minimum for the first fifteen (15) feet of building frontage from the corner;
 - c. Landscaped area with a minimum dimension of six feet; and
 - d. A usable public space with pedestrian-scaled features.
- F. Landscaping and Paving.
- 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. All paving located adjacent to a sidewalk must be textured (decorative or permeable).
 - 3. A minimum seventy-five (75) percent of on-site paving material must be pervious or permeable.
 - 4. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.
 - 5. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

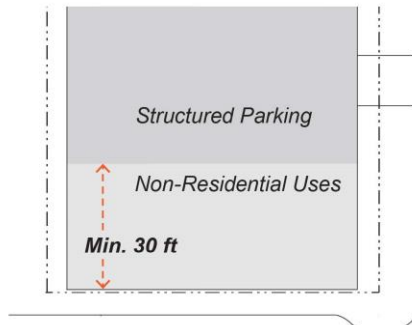


- G. Ground Level Open Space. The required front setback area for residential-only development must be improved with a usable open space a minimum of seven feet in depth for a minimum fifty (50) percent of the building frontage.

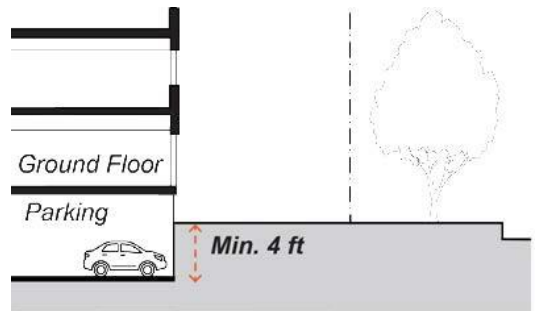


H. Parking Design and Access.

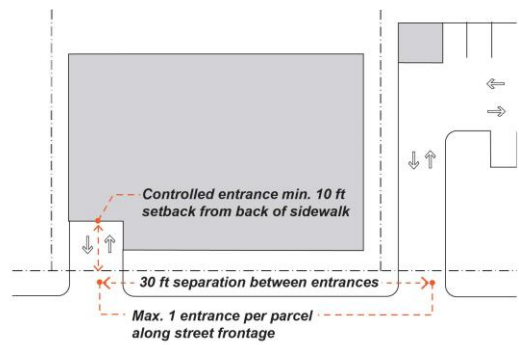
- 1. Where structured parking is provided, the parking area must be either:
 - a. "Lined" with ground floor non-residential uses at least thirty (30) feet deep as measured from the front façade; or



- b. Designed such that the floor elevation is a minimum four vertical feet below the elevation of the adjacent sidewalk.



- 2. Visible structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular punched openings designed to resemble windows of habitable spaces.
 - b. Trellis/living wall.
 - c. Custom textured or decorative screening.
- 3. Entrances to Parking Facilities.
 - a. A maximum of two curb cuts for one-way traffic and one curb cut for two-way traffic may be permitted per street frontage per lot.
 - b. Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum ten (10) feet from the back of sidewalk.
 - c. Entrances to parking facilities along a street frontage shall be separated by a minimum of thirty (30) feet.
 - d. Where possible, curb cuts serving adjacent parking facilities shall be shared.



- I. Site Circulation and Access.
 - 1. A clearly defined, lighted and landscaped pedestrian route shall be provided between all parking areas and primary pedestrian entrance.
 - 2. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
 - 3. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.

- J. Service Areas and Screening.
 - 1. Service areas must be located at the rear of lot or along a parking plaza.
 - 2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.
- K. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CD/R3 District.
(Ord. No. 10-346, § 2, 3-9-2010; Ord. No. 2021-478 , § 1, 9-14-2021)

14.52.120 Nonconforming use regulations (CD/R3).

(As provided in Chapter 14.66 of this title.)
(Ord. No. 10-346, § 2, 3-9-2010)

14.52.130 Signs (CD/R3).

(As provided in Chapter 14.68 of this code.)
(Ord. No. 10-346, § 2, 3-9-2010; Ord. No. 2015-414, § 12, 9-8-2015)

14.52.140 Fences (CD/R3).

(As provided in Chapter 14.72 of this title.)
(Ord. No. 10-346, § 2, 3-9-2010)

14.52.150 Restoration of nonconforming structures (CD/R3).

(As provided in Chapter 14.66 of this title.)
(Ord. No. 10-346, § 2, 3-9-2010)

14.52.160 Exceptions for public benefit (CD/R3).

- A. To implement the downtown urban design plan, exceptions from the provisions of this chapter may be granted provided the following findings are made:
 - 1. The granting of the exception will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;
 - 2. The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
 - 3. The project and mitigation will result in a public benefit to the downtown;
 - 4. The resultant project and mitigation are consistent with the general plan and promote or accomplish objectives of the downtown urban design plan.
- B. For the purposes of this chapter, exceptions may include, but are not limited to, setbacks, on-site parking, and development or building standards.

(Ord. No. 10-346, § 2, 3-9-2010)

(Supp. No. 40, Update 2)

Chapter 14.54 CRS/OAD COMMERCIAL RETAIL SALES/OFFICE-ADMINISTRATIVE DISTRICT¹

Sections:

14.54.010 CRS/OAD District.

The regulations, general provisions, and exceptions set forth in this chapter and in Chapter 14.66 of this title shall apply in the CRS/OAD District.

(Ord. 08-331 § 2 (part))

14.54.020 Specific purposes (CRS/OAD).

Specific purposes for CRS/OAD Districts are as follows:

- A. Provide for a full range of retail, office, and service uses appropriate to downtown;
- B. Promote the implementation of the downtown urban design plan;
- C. Encourage pedestrian-scale design and minimize blank walls and other dead spaces at the ground level;
- D. Create continuous building frontage without major interruption by disallowing driveways and parking lots on shopping street frontages;
- E. Allow latitude for creative design and architectural variety within limits established;
- F. Provide pedestrian amenities such as paseos, outdoor public spaces and outdoor seating;
- G. Establish a sense of entry into the downtown;
- H. Encourage the upgrading of building exteriors, signs, passageways, and rear entries; and
- I. Encourage the use of solar, photovoltaic, and other energy conserving devices.

(Ord. 08-331 § 2 (part))

14.54.030 Permitted uses (CRS/OAD).

The following uses shall be permitted in the CRS/OAD District:

- A. Business, professional, and trade schools located above the ground floor;
- B. Office-administrative services;
- C. Parking spaces and loading areas incidental to a permitted use;

¹Editor's note(s)—Ord. No. 10-346, § 4, adopted March 9, 2010, changed the title of ch. 14.54 from "CRS/OAD Commercial Office District" to "CRS/OAD Commercial Retail Sales/Office-Administrative District."
Prior code history: prior code §§ 10-2.2101—10-2.2106.

- D. Personal services;
- E. Private clubs, lodges, or fraternal organizations located above the ground floor;
- F. Restaurants, excluding drive-through services;
- G. Retail; ~~and~~
- H. Medical and dental offices that are less than five thousand (5,000) gross square feet;
- I. Residential Only Development(s);
- J. Mixed Use Development(s); and
- ~~H.K.~~ Uses which are determined by the Zoning Administrator ~~city planner~~ to be of the same general character.

(Ord. 08-331 § 2 (part))

(Ord. No. 2015-406 , § 2, 2-10-2015)

14.54.040 Conditional uses and structures (CRS/OAD).

Upon the granting of a use permit in accordance with the provisions of Chapter 14.80 of this title, the following uses shall be permitted in the CRS/OAD District:

- A. Any new building that has an area greater than seven thousand (7,000) gross square feet, and any addition to an existing building which would result in the total building area exceeding seven thousand (7,000) gross square feet, including additions to buildings which presently exceed seven thousand (7,000) gross square feet in area;
- B. Cocktail lounges;
- C. Commercial recreation;
- D. Hotels;
- ~~E. Housing located above the ground floor;~~
- ~~F.E.~~ Medical and dental offices ~~clinics~~; and
- ~~G. Medical and dental offices that are five thousand (5,000) gross square feet or more; and~~
- ~~H.F.~~ Uses which are determined by the planning commission to be of the same general character.

(Ord. 08-331 § 2 (part))

(Ord. No. 2015-406 , §§ 3, 4, 2-10-2015)

14.54.050 Required conditions (CRS/OAD).

The following conditions shall be required of all uses in the CRS/OAD District:

- A. All businesses, services, and processes shall be conducted within a completely enclosed structure, except for parking and loading spaces, incidental sales and display of plant materials and garden supplies occupying no more than one thousand five hundred (1,500) square feet of exterior sales and display area, outdoor eating areas operated incidental to permitted eating and drinking services, and as otherwise allowed upon the issuance of an outdoor display permit. Exterior storage is prohibited.

- B. No use shall be permitted and no process, equipment, or materials shall be employed which are found to be objectionable by reason of odor, dust, noise, vibration, illumination, glare, unsightliness or electrical disturbances which are manifested beyond the premises in which the permitted use is located.
- C. No property owner, business owner and/or tenant shall permit or allow operation of a business which violates the required conditions of this chapter, including the following general criteria:
 - 1. Refuse collection. Every development, including applications for tenant improvements, shall provide suitable space for solid waste separation, collection, and storage and shall provide sites for such that are located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way. Refuse collection areas are encouraged to be shared, centralized, facilities whenever possible.
 - 2. Lighting. Lighting within any lot that unnecessarily illuminates any other lot and/or substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if (i) it clearly exceeds the minimum illumination necessary to provide for security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities, or (ii) if the illumination could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
 - 3. Air pollution. Any use that emits any "air contaminant" as defined by the Bay Area air quality management district shall comply with applicable state standards concerning air pollution.
 - 4. Maintenance of common areas, improvements, and facilities. Maintenance of all common areas, improvements, facilities, and public sidewalks adjacent to the subject property shall be required. In the case of public sidewalks, maintenance shall be limited to keeping the sidewalk clean and free of debris, markings, and food and drink stains by means of sweeping, cleaning with water and/or steam cleaning.
 - 5. Odors. No use may generate any odor that may be found reasonably objectionable as determined by an appropriate agency such as the Santa Clara County health department and the Bay Area air quality management district beyond the boundary occupied by the enterprise generating the odor.
 - 6. Noise. No person shall operate, or cause to be operated, any source of sound at any location within the city or allow the creation of any noise on property owned, leased, occupied or otherwise controlled by such person, which causes the noise level when measured on any other property either incorporated or unincorporated, to exceed standards as set forth in Chapter 6.16 of the Los Altos Municipal Code. In order to attenuate noise associated with commercial development, walls up to twelve (12) feet in height may be required at a commercial/residential interface. Other conditions may be applied such as, but not limited to, muffling of exterior air conditioning facilities.

(Ord. 08-331 § 2 (part))

14.54.060 Front yard (CRS/OAD).

With the exception of landscaping, all development in the CRS/OAD District must be built to the back of the sidewalk.

(Ord. 08-331 § 2 (part))

14.54.070 Side yards (CRS/OAD).

No side yards shall be required, and none shall be allowed, except where the side property line of a site abuts a public parking plaza, the minimum width of the side yard shall be two feet which shall be landscaped. A required side yard may be used for parking except for the area required to be landscaped.

(Ord. 08-331 § 2 (part))

14.54.080 Rear yard (CRS/OAD).

No rear yard shall be required except as follows:

- A. Where the rear property line of a site abuts a public parking plaza, the minimum depth of the rear yard shall be two feet, which shall be landscaped.
- B. Where the rear property line of a site abuts an existing alley, the minimum depth of the rear yard shall be ten (10) feet, of which the rear two feet shall be landscaped. A required rear yard may be used for parking, except for the area required to be landscaped.

(Ord. 08-331 § 2 (part))

14.54.090 Off-street parking (CRS/OAD).

Parking facilities shall be provided in accordance with Chapter 14.74 of this title. In addition, parking facilities shall:

- A. Reduce the visual impact of parking structures and parking lots by locating them at the rear or interior portions of building sites;
- B. Minimize the street frontage of the lot or structure by placing its shortest horizontal edge along the street;
- C. When parking structures must be located at street frontage because other locations are proven infeasible, the ground level frontage shall either be used for commercial space or shall provide a landscaped area not less than five feet in width between the parking area and the public right-of-way;
- D. Not be accessed from state or Main Streets unless no other access is feasible, in which case the number of direct entrances to parking facilities from streets shall be kept to a minimum;
- E. Provide a landscaped buffer not less than five feet in width between a parking lot or structure and street frontage or buildings. Where the landscaped strip adjoins a public street or pedestrian walkway, the landscaped strip may be required to include a fence, wall, berm, or equivalent feature;
- F. Provide a minimum of interior landscaping for unenclosed parking facilities as follows: where the total parking provided is located on one site and is fourteen thousand nine hundred ninety-nine (14,999) square feet or less, five percent of total parking area; where the parking is fifteen thousand (15,000) through twenty-nine thousand nine hundred ninety-nine (29,999) square feet, seven and one-half percent of total parking area; and where the facility is thirty thousand (30,000) square feet or greater, ten (10) percent of total parking area;

Parking Area (in square feet)	Minimum Landscaping (% of Parking Area)
< 15,000	5
15,000 — 29,999	7.5

> 30,000	10
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- G. Trees in reasonable number shall be provided; ground cover alone is not acceptable. Interior landscaping shall be distributed throughout the paved area as evenly as possible. Provision shall be made for automatically irrigating all planted area. All landscaping shall be protected with concrete curbs or other acceptable barriers. All landscaping shall be continuously maintained.

(Ord. 08-331 § 2 (part))

14.54.100 Common parking facilities (CRS/OAD).

(As provided in Chapter 14.74 of this title.)

(Ord. 08-331 § 2 (part))

14.54.110 Off-street loading and refuse collection (CRS/OAD).

- A. Where buildings are served by alleys, all service-delivery entrances, loading docks, and refuse collection facilities shall be located to be accessed from the alley. No loading area shall be located at the street frontage or building façade.
- B. A minimum of thirty-two (32) square feet of covered refuse collection area shall be provided and shall not be located in any front or street side yard. Where an alley exists, the refuse collection area shall be accessed from the alley. Refuse collection areas shall be on site, but are encouraged to be shared, centralized, facilities whenever possible.
- C. On sites not served by an alley, service areas shall be located to the rear, side, or at an internal location where visibility from public streets, public parking plazas and neighboring properties will be minimized.
- D. Refuse collection areas shall be enclosed by a screen wall of durable material and planting as necessary to screen views from streets, public parking plazas and neighboring properties.

(Ord. 08-331 § 2 (part))

14.54.120 Height of structures (CRS/OAD).

~~No structure shall exceed thirty (30) feet in height. The first story shall have a minimum interior ceiling height of twelve (12) feet to accommodate retail use, and the floor level of the first story shall be no more than one foot above sidewalk level.~~

- a. Residential Only Development(s) building height shall be a maximum of forty (40) feet and four (4) stories.
- b. Mixed Use Development(s) building height shall be a maximum of forty-five (45) feet and four (4) stories.
- c. Non-Residential Use Only Development(s) building height shall be a maximum of thirty (30) feet and three (3) stories.

(Ord. 08-331 § 2 (part))

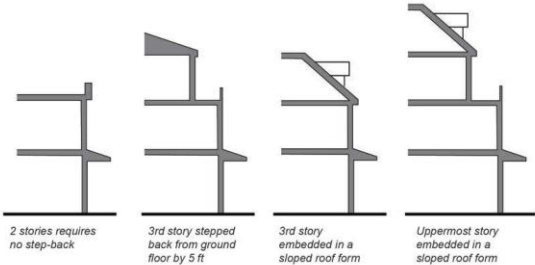
(Ord. No. 10-349, § 6, 4-27-2010)

14.54.130 Design control (CRS/OAD).

A. Building Massing and Articulation.

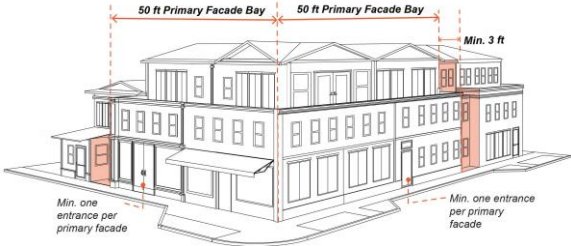
1. Upper-story Step-backs, Front and Street Side.

- a. The third story must be either stepped back a minimum five feet from the ground floor façade or embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.54.130.A.6.
- b. For buildings over three stories, the uppermost story must be embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, as allowed by standards in Section 14.54.130.A.6.



2. Vertical Articulation.

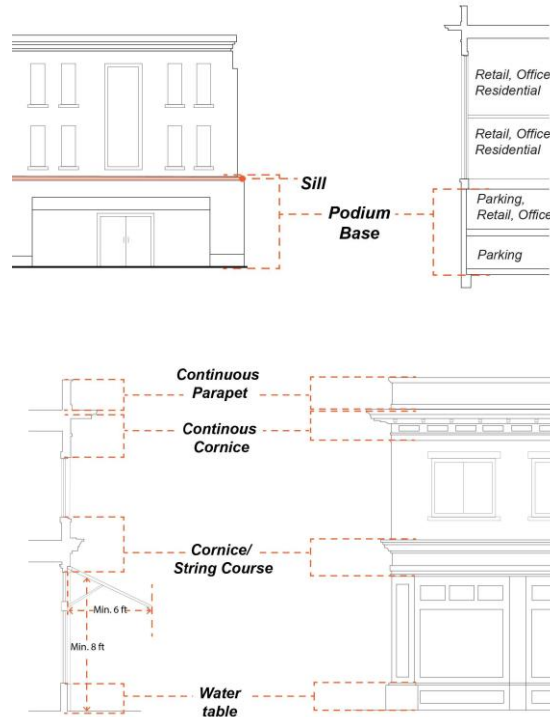
- a. When a building façade exceeds fifty (50) feet in length along a right-of-way, it must be separated into primary façade bays no greater than fifty (50) feet and secondary façade bays defined by a recess a minimum three feet deep and ten (10) feet wide.
- b. A minimum one entrance shall be provided per primary façade bay.
- c. The eave/roof of a secondary façade bay shall be no higher than the corresponding elements of the primary façade bay.



3. Horizontal Articulation. New façades and façade modifications along a street or civic space shall be designed to visually express a base, middle, and top.

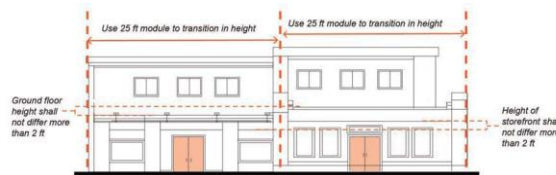
- a. One or more of the following patterns shall be used to define the base:
 - i. Watertable: Base material extends from grade to between eight and fifty-four (54) inches above grade.
 - ii. Podium: The base material encompasses the lowest story (or stories) of the building, with or without mezzanine(s), and terminates in a sill, string course, or cornice at its upper bound (multi-story buildings only).

- iii. **Watertable and Cornice/String Course:** A watertable using the base material is combined with a cornice or string course at the lowest story's upper bound, including any mezzanine (multi-story buildings only).
- b. The top of each building mass/bay shall be defined by elements spanning the full length of the façade of the mass/bay. Such elements may include a cornice, eave and/or gable(s), or other elements listed under Section 17.54.130.A.6. These elements shall be consistent with the overall architectural style of the building mass/bay.



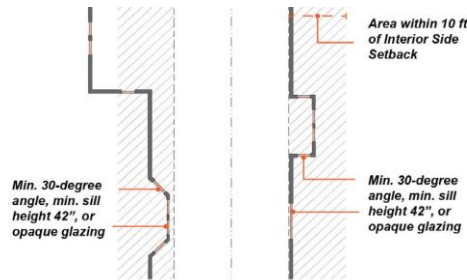
4. Adjacencies.

- a. **Storefront Façades Adjacent to Storefront Façades.**
 - i. The height of a storefront shall not differ from the height of any adjacent storefront by more than two feet.
 - ii. The height of ground story shall not differ from height of any adjacent ground story by more than two feet.
 - iii. Storefronts may transition in height using a module of twenty-five (25) feet in length along a right-of-way.



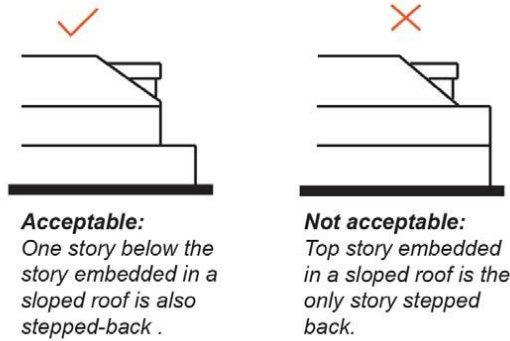
- b. **Compatibility with Adjacent Shorter Buildings with Height Difference of One Story or More.** When adjacent to an existing shorter building with a height difference of one story or more, a proposed building must utilize two or more of the following strategies:

- i. Incorporate the uppermost floor into the roof form.
 - ii. Break the mass of the building into smaller modules through changes in wall plane, setbacks, and/or height.
 - iii. Match window heights and/or proportions.
 - iv. Relate roof cornices and moldings at floor lines.
5. Privacy and Line of Sight.
- a. Primary living spaces and balconies located along a side setback shall orient principal windows and balconies toward the front and rear of the building.
 - b. Where windows are within ten (10) feet of and oriented toward an interior side setback, glazing shall either be a minimum thirty (30) degree angle measured perpendicular to the adjacent side setback line, have minimum sill height of forty-two (42) inches, or be opaque.
 - c. The maximum sill height for an ingress/egress window is forty-four (44) inches from finished floor.

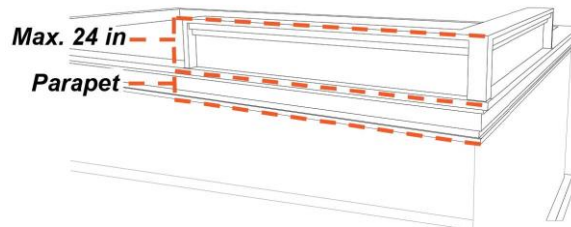


6. Roofline and Roof Design.
- a. Roof designs shall be limited to:
 - i. Hipped.
 - ii. Gable.
 - iii. Mansard.
 - (a) Applicable for buildings three or more stories.
 - iv. Dormer.
 - v. Parapet.
 - (a) When used on the first or second floor, a parapet longer than twenty-five (25) feet in length must include at least one but not more than two of the following design elements to break up the length of the parapet:
 - (1) Steps.
 - (2) Curves.
 - (3) Angled surfaces.
 - (b) The length of a parapet segment on the third floor and above may not exceed twenty-five (25) feet.

- b. When the top story is stepped back and embedded in a sloped roof form such as a mansard roof or a hipped and/or gabled roof with dormers, the floor below must (and other floors may) be stepped back to meet the slope of the top story.



- c. Building façades facing an R-1 district must have a hipped or gable roof and may incorporate dormers.
- d. Roofline/parapet at corners shall not exceed roofline/parapet of adjacent wallplanes by more than twenty-four (24) inches.

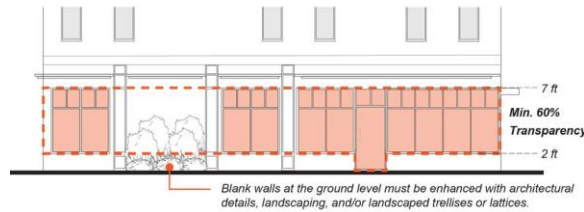


B. Building Design.

1. Façade Design.

- a. Building façade must continue the pattern established by existing buildings in Downtown Los Altos by reinforcing the underlying maximum twenty-five (25) foot module along all street frontages through the use of the following techniques:
 - i. Building façades shall be arranged in an orderly composition of bays, defined by vertically aligned openings alternating horizontally with solid walls, columns, or other structural elements. The pattern shall be visually expressed through the spacing of openings, recesses, eaves, inset panels, cornices, overhangs, trellises, exposed rafters, columns, or bay windows.
 - ii. The pattern may be shared between the ground floor and upper stories provided the ground floor exhibits enhanced detail or modulation.
 - iii. Residential façades shall incorporate at least one element that signals habitation, such as bay windows, or balconies.
 - iv. Non-glazed wall areas (blank walls) must be enhanced with architectural details, landscaping, and/or landscaped trellises or lattices.
- b. At least two of the following strategies must be used in a manner that reinforces the maximum twenty-five (25) foot module:

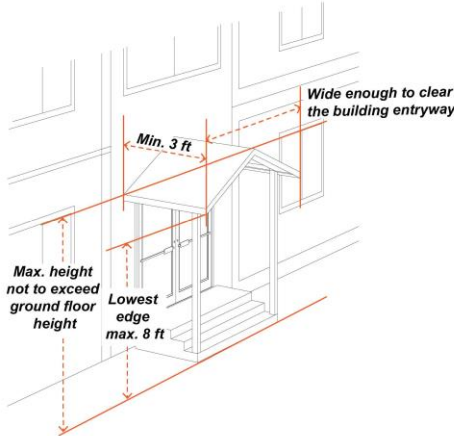
- i. Change in roof parapet height or shape.
 - ii. Change in roof style.
 - iii. Change in materials palette.
 - iv. Change in building height, minimum eight-foot difference.
 - v. Change in frontage type or change in details of shopfront frontage type if used.
 - vi. Use of upper floor projections such as bay windows or balconies.
2. Ground Level Transparency. A minimum sixty (60) percent of commercial ground floor street-facing façades between two and seven feet in height shall be transparent window surface. Opaque, reflective, or dark tinted glass is not allowed.



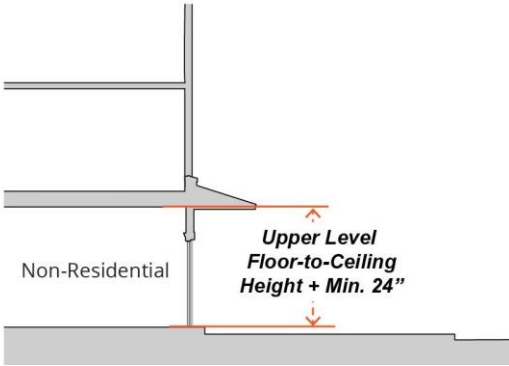
3. Pedestrian-Scaled Entrances.
- a. Building entrances must incorporate at least one of the following entry features. See Section 14.66.275 (Entrance Type Standards) for design standards applicable to each entrance type listed.
 - i. Shopfront
 - (a) Shopfronts more than twenty-five (25) feet in width must incorporate variations in bulkhead, awnings, materials and/or color to visually articulate the shopfront into modules not to exceed twenty-five (25) continuous feet.
 - ii. Gallery
 - iii. Arcade with shopfront frontage.
 - b. Primary Entrance Location(s). Locate primary entrance on the front right-of-way.
 - c. Corner Entrances. Chamfered corners must incorporate a building entrance. Any required entrances may be provided on the corner of the building assuming one of the intersecting sides is a primary frontage.
 - d. Street-facing Entries to Upper Floors. Street-facing entries to upper floors shall be equal in quality and detail to storefronts. This standard may be satisfied through two or more of the following:
 - i. Dedicated awning, canopy, or other roof element.
 - ii. Stairs with a single color applied to treads and a contrasting color or pattern applied to risers.
 - iii. Dedicated light fixture(s).
 - iv. Decorative street address numbers or tiles.
 - v. Plaque signs for upper-floor business tenants.
 - e. Entry Protection. Primary street-facing entrances shall be protected by a recess in the building frontage at least three feet deep or by a projection extending outward at least three feet

measured horizontally from the entrance, and wide enough to clear the building entryway on both sides.

- i. Protection may be coterminous with an accent element.
- ii. Protection may take the form of an extended eave, overhang, awning, door canopy, gallery, arcade frontage, or other element that provides shade and shelter from the elements.
- iii. The lowest edge of a projecting awning or door canopy shall have a vertical clearance of no more than eight feet.
- iv. Recessed entries shall differentiate pavement within the recess through the use of a dedicated paving material or pattern.



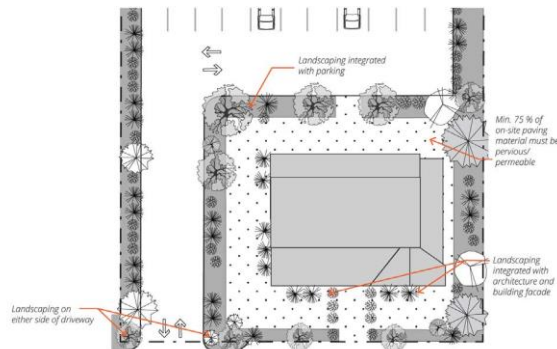
- f. Accent elements demarcating building frontage, entrance, and common open space areas shall not exceed the height of the ground floor story. Roof elements are excepted.
4. Ground Floor Floor-to-Ceiling Height. Minimum twenty-four (24) inches taller than typical upper floor floor-to-ceiling height.



5. Interior Courtyard. Interior courtyards must be:
- a. Partially visible from the street and linked to the street by a clear accessible path of travel.
 - b. Enclosed on at least two sides by buildings.
 - c. Open to the sky (arbors and trellises are allowed).

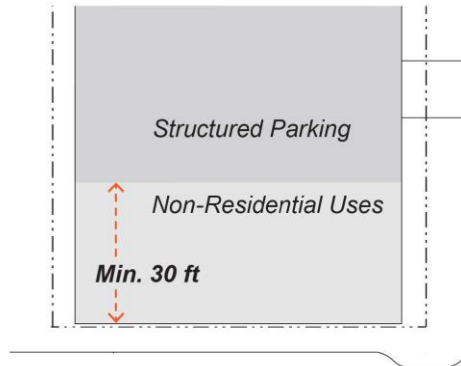
- d. A minimum width of twenty (20) feet and a minimum area of four hundred (400) square feet.
- 6. Paseos. Paseos must be:
 - a. A minimum width of ten (10) feet for through-block paseos.
 - b. A minimum width of four feet for entries to courtyards or individual single businesses.
- C. Window Design.
 - 1. Window frames, backbands, and sills.
 - a. All windows shall have a sill.
 - i. The sill shall extend horizontally beyond the window opening or frame/casing (if present) at each end.
 - ii. The sill shall be sloped toward the outside.
 - iii. The sill shall have a drip at its outer edge.
 - 2. Vinyl are prohibited on façades visible from a right-of-way.
 - 3. Tinted glass is not allowed.
- D. Building Materials.
 - 1. Primary shall mean fifty (50) percent or more of a façade surface area excluding transparent surfaces. Permitted primary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco or EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding shall be wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum are not permitted.
 - c. Stone.
 - d. Brick.
 - 2. Secondary shall mean less than fifty (50) percent of a façade surface area excluding transparent surfaces. Permitted secondary cladding materials are limited to:
 - a. Stucco (minimum two-coat stucco; synthetic stucco not allowed, EIFS not allowed).
 - b. Siding (lap, vertical, or shingle).
 - i. All siding wood, composite wood, or cement fiberboard.
 - ii. Wood siding shall be painted or stained.
 - iii. Vinyl and aluminum siding are not permitted.
 - c. Stone (watertable and building base only).
 - d. Brick (watertable and building base only).
 - e. Tile (for bulkheads below display windows and decorative accents only).
 - f. Metal (matte finish or Cor-ten).
 - i. Ribbed metal, titanium, and mirrored finishes not allowed.

- g. Concrete masonry units (watertable and building base only, and not allowed on any façade facing a right-of-way or a single-family zone).
 - h. Concrete (watertable and building base only, board-form only, cast concrete not permitted).
- E. Downtown Gateway. A downtown gateway is located at the intersection of Edith Avenue, State Street, and San Antonio Road.
- 1. Building design at gateway intersection shall include:
 - a. Façade lighting; and
 - b. Overhangs or sloped roof forms.
 - 2. Ground-floor design at gateway intersections must address both street frontages through:
 - a. Entrances that are visible and directly accessible from both streets;
 - b. Building transparency beyond the required minimum for the first fifteen (15) feet of building frontage from the corner;
 - c. Landscaped area with a minimum dimension of six feet; and
 - d. A usable public space with pedestrian-scaled features.
- F. Landscaping and Paving, and Pedestrian Amenities.
- 1. Landscaping must be placed on each side of a driveway at grade or in raised planters.
 - 2. All paving located adjacent to a sidewalk must be textured (decorative or permeable).
 - 3. A minimum seventy-five (75) percent of on-site paving material must be pervious/permeable.
 - 4. Landscape elements shall be integrated with the building architecture, parking, and streetscape. Recommended patterns shall include, but are not limited to:
 - a. Planters for flowers and shrubs within street frontage.
 - b. Landscape buffers between parking spaces and building façades.
 - c. Landscaping within and/or on walls adjacent to courtyards, open spaces, and setbacks.
 - d. A publicly visible and accessible pedestrian amenity such as benches, a fountain, a rain garden, decorative paving, and/or public art.
 - 5. See Sections 14.66.180 (Maintenance of Landscaped Areas) and 14.70.070 (Landscaped Strips) for additional landscaping standards.

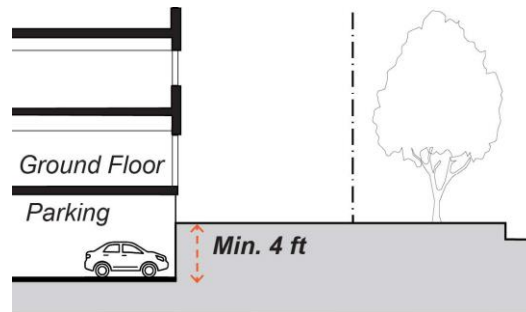


G. Parking Design and Access.

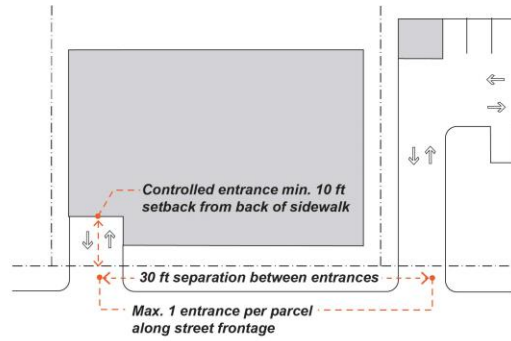
- 1. Where structured parking is provided, the parking area must be either:
 - a. "Lined" with ground floor non-residential uses at least thirty (30) feet deep as measured from the front façade; or



- b. Designed such that the floor elevation is a minimum four vertical feet below the elevation of the adjacent sidewalk.



- 2. Visible structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular punched openings designed to resemble windows of habitable spaces.
 - b. Trellis/living wall.
 - c. Custom textured or decorative screening.
- 3. Entrances to Parking Facilities.
 - a. Controlled entrances to parking facilities (gates, doors, etc.) shall be located a minimum ten (10) feet from the back of sidewalk.
 - b. Entrances to parking facilities along a street frontage shall be separated by a minimum of forty (40) feet, excluding access to parking plazas.
 - c. Where possible, curb cuts serving adjacent parking facilities shall be shared.



H. Site Circulation and Access.

1. A clearly defined, lighted and landscaped pedestrian route shall be provided between all parking areas and primary pedestrian entrance.
2. New development on abutting lots shall be designed to allow cross-access for internal pedestrian, bicycle, and vehicular circulation systems.
3. Bicycle racks shall be provided:
 - a. In or within fifty (50) feet of every parking area; and
 - b. Within twenty (20) feet of at least one building entrance.

I. Service Areas and Screening.

1. Service areas must be located at the rear of lot or along a parking plaza.
2. Service areas must be enclosed in enclosures that are architecturally consistent with primary building in terms of materials, colors, and style.

J. Additional Design Standards. See Section 14.66.280 for additional design standards applicable to all residential mixed-use development in the CRS/OAD District.

(Ord. 08-331 § 2 (part))

(Ord. No. 2021-478 , § 1, 9-14-2021)

14.54.140 Nonconforming use regulations (CRS/OAD).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-331 § 2 (part))

14.54.150 Signs (CRS/OAD).

(As provided in Chapter 14.68 of this code.)

(Ord. 08-331 § 2 (part); Ord. No. 2015-414, § 12, 9-8-2015)

14.54.160 Fences (CRS/OAD).

(As provided in Chapter 14.72 of this title.)

(Ord. 08-331 § 2 (part))

14.54.170 Restoration of nonconforming structures (CRS/OAD).

(As provided in Chapter 14.66 of this title.)

(Ord. 08-331 § 2 (part))

14.54.180 Exceptions for public benefit (CRS/OAD).

- A. To implement the downtown urban design plan, exceptions from the provisions of this chapter may be granted provided the following findings are made:
 - 1. The granting of the exception will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;
 - 2. The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
 - 3. The project and mitigation will result in a public benefit to the downtown; and
 - 4. The resultant project and mitigation are consistent with the general plan and promote or accomplish objectives of the downtown urban design plan.
- B. For the purposes of this chapter, exceptions may include, but are not limited to setbacks, on-site parking, and development or building standards.

(Ord. 08-331 § 2 (part))

(Ord. No. 10-349, § 7, 4-27-2010)

Chapter 14.80 USE PERMITS¹

Sections:

14.80.010 Conditional uses.

Uses which are permitted in certain districts upon the granting of a use permit shall be deemed conditional uses. Such uses, because of their unusual characteristics, shall be given special consideration to the end that they be located properly with respect to the objectives of the [zoning general plan](#), [and municipal code](#) and with respect to their effects upon surrounding properties. The specific conditions under which each such use is permitted shall be considered in the light of general public interests and the interests of persons residing or working in the vicinity of the use.

(Prior code § 10-2.2801)

14.80.020 Initial application review.

All applications filed with the [community development services](#) department in compliance with this zoning code shall be accompanied by the payment of a processing fee in such amount as established by resolution of the city council and initially processed as follows.

- A. Review for completeness. The [community development services](#) director or their designee shall review all applications for completeness and accuracy before accepting them as complete. The determination of completeness shall be based on the city's list of required application contents as proscribed in the "submittal requirements" documents provided by the [community development services](#) department.
- B. Notification of applicant. The [community development](#) director or their designee shall notify the applicant in writing within thirty (30) days of the filing of the application with the [community development services](#) department that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. If subsequent written comments from the [community development services](#) director or their designee identify deficiencies not initially raised within thirty (30) days of the filing of the application, then this subsequent letter will be considered the notification of incompleteness for the purposes of determining the application expiration date.
- C. ~~Appeals of administrative decisions. Determinations of incompleteness or denials of an extension request may be appealed to the city council pursuant to Chapter 1.12 (Appeals).~~
- ~~D.~~ Expiration of application. If the applicant does not provide the information and materials necessary for a complete application within one hundred eighty (180) days after notification of incompleteness, the application shall be deemed expired. After expiration of the application or extension, if granted, a new application, including fees, plans, exhibits, and other materials will be required to commence processing of any project on the same property.
- ~~E-D.~~ Extensions. The applicant may request, in writing, within the one hundred eighty (180) day time period, an extension of up to one hundred eighty (180) days to the [community development services](#) director

¹Editor's note(s)—Ord. No. 2012-383, § 3, adopted May 22, 2012, changed all references to the "planning commission" within Ch. 14.80 to the "planning and transportation commission."

or their designee. Approval of the extension is contingent on the applicant demonstrating that there are extenuating circumstances that have caused a delay in the submittal of the required information. An application may only be granted an extension of time once.

- F.E. Environmental information. After an application has been accepted as complete, the ~~community~~ development ~~services~~ director or their designee may require additional information as necessary for the project's environmental review.

(Ord. No. 2016-423 , § 11, 9-27-2016)

14.80.030 Public meeting notification requirements.

Notice of public meetings before the zoning administrator or planning commission ~~and/or city council~~ shall be given at least ten (10) days prior to the date of the meeting by all of the following methods:

- A. Mailing of notices via first-class mail to all property owners within ~~one thousand~~ three hundred (~~1,030~~) feet of the project site at the mailing address on record with the county assessor; and
- B. Mailing of notices via first-class mail to all commercial business tenants within ~~one thousand three hundred~~ (~~1,030~~) feet of the project site at the addresses shown on the latest city business license records; and
- C. Posting of a notice on the project site in accordance with the standards set by the ~~community~~ development ~~services~~ director or their designee; and
- D. All meetings before the planning commission ~~and/or city council conducted under this section, excluding study sessions,~~ shall be ~~noticed separately and~~ conducted as public hearings and shall satisfy all notification requirements applicable to public hearings, including a notice published in a newspaper of general circulation within the city.

(Ord. 00-382 § 4: prior code § 10-2.2803; Ord. No. 2019-457 , § 4, 1-28-2020)

14.80.040 Hearings—Procedure.

At the public hearing the planning commission shall review the application and statements, plans, and drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, and make the required findings particularly with respect to the issues set forth in Section 14.80.060 ~~of this chapter on which the commission is required to make findings prior to transmitting its report to the council.~~

(Prior code § 10-2.2804)

~~14.80.045 Authority of the Development Services Director. Hearings—Procedures for office and commercial districts.~~

~~In the event that a particular application or proposed use is determined to be sensitive in nature the development services director shall be authorized to require any application to be reviewed by the City Council.~~

~~Notwithstanding the provisions of Section 14.80.040 of this chapter, the planning commission shall be the decision-making body for conditional use permit applications in all OA and C districts for businesses proposed in existing structures. This section shall not apply to conditional use permit applications that are subject to the requirements of Chapter 14.78 of this title. All other applicable provisions of this chapter shall remain in effect. The~~

(Supp. No. 40, Update 2)

~~action of the planning commission shall be final unless it is appealed in writing to the city council, and the appropriate fee is paid, within fifteen (15) days of the date of the action.~~

~~(Ord. 07-312 § 11; Ord. 01-394 § 6; Ord. No. 2016-423, § 12, 9-27-2016; Ord. No. 2019-457, § 5, 1-28-2020)~~

14.80.050 Hearings—Procedures for personal wireless communication facilities.

- A. Notwithstanding the provisions of Section 14.80.040 of this chapter, hearings for personal wireless services and facilities shall be conducted in accordance with the provisions of this chapter, except as follows:
 - 1. Administrative review. The ~~community~~ development services director or their designee shall be the approving authority for all distributed, repeater, or microcell antenna systems and building-mounted antennas that comply with applicable zoning regulations.
 - 2. Planning commission review. The planning commission shall be the approving authority for all monopole antennas that comply with applicable zoning regulations.
 - 3. Planning commission ~~and city council~~ review. The planning commission ~~and city council~~ shall be the approving authority for all antennas that require a variance to the applicable zoning regulations.
- B. Notice of public hearings shall be in accord with Sections 14.80.030(C) and (D) of this chapter. The action of the ~~community~~ development services director or their designee may be appealed to the planning commission. The action of the planning commission may be appealed to the city council. Actions of the ~~community~~ development services director or their designee and planning commission are final unless appealed in writing within ~~fifteen-fourteen~~ (154) days of the date of action.

(Ord. 06-304 § 2; Ord. 05-277 § 2; prior code § 10-2.2804.1; Ord. No. 2016-423, § 1, 9-27-2016; Ord. No. 2019-457, § 5, 1-28-2020)

14.80.060 Findings ~~Commission and council action.~~

The ~~planning~~ commission ~~and council shall make a specific finding on each of the following issues may only approve a conditional use permit application upon making the following findings:~~

- A. That the proposed location of the conditional use is desirable or essential to the public health, safety, comfort, convenience, prosperity, or welfare;
- B. That the proposed location of the conditional use is in accordance with the objectives of the zoning plan as stated in Chapter 14.02 of this title;
- C. That the proposed location of the conditional use, under the circumstances of the particular case, will not be detrimental to the health, safety, comfort, convenience, prosperity, or welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- D. That the proposed conditional use will comply with the regulations prescribed for the district in which the site is located and the general provisions of Chapter 14.02;
- E. ~~When the proposed conditional use and/or structure is located in the CRS District, the commission and council shall make a specific finding on each of the following issues:~~
 - 1. ~~That the proposed use and/or structure is in scale with the existing development and it enhances the unique village character of the CRS District; and~~
 - 2. ~~That the proposed use and/or structure will not cause degradation in the level of service of the streets and intersections within the CRS District;~~

- F. When the proposed conditional use is a flag lot, the commission ~~and council~~ shall make a specific finding on each of the following issues. Any negative findings may result in denial of the use permit or in conditions of approval which alter the minimum development standards, e.g., height, floor area, and setbacks, for the district in which the property is located.
 - 1. That the size of the proposed flag lot is sufficient to mitigate development impacts and is compatible with the existing lots in the immediate neighborhood;
 - 2. That the proposed flag lot will not result in unreasonable noise impacts for neighbors adjoining the access corridor;
 - 3. That the proposed flag lot will not result in unreasonable privacy invasion or unreasonable massing as a result of building height;
 - 4. That the proposed flag lot will not result in incompatible setbacks from neighboring properties;
 - 5. That the allowed floor area ratio in accordance with district regulations will not result in adverse impacts on neighboring properties;

- G. ~~When the proposed conditional use is a large family day care home as defined by the California Health and Safety Code, the commission and council shall make a specific finding on each of the following issues:~~
 - ~~1. That the day care home provides a minimum of four off street parking spaces;~~
 - ~~2. That the day care home provides staggered drop-off and pick-up times in order to minimize traffic impacts;~~
 - ~~3. That the day care home provides noise mitigation measures in order to minimize the noise levels generated by outdoor play areas, and that children's outdoor play only occurs between the hours of 8:00 a.m. and 7:00 p.m.;~~
 - ~~4. That the day care home is not located within one thousand five hundred (1,500) feet of another large family day care home, as measured following the street, or within five hundred (500) feet of another large family day care home as measured from any property line;~~
 - ~~5. That the day care home is visually incidental and secondary to the residential use of the property;~~
 - ~~6. That the day care home is the principal residence of the child care provider;~~
 - ~~7. That if the day care home is located on a flag lot, that lot shall be a minimum of fifteen thousand (15,000) square feet;~~

- ~~H.F.~~ When the proposed conditional use is a nonconforming ground floor office use, the planning ~~and transportation~~ commission ~~and city council~~ shall make one or more of the following findings:
 - 1. That access to the space to be occupied can only be reached through another business;
 - 2. That there is no direct frontage to the space to be occupied from the street or parking plaza; and/or
 - 3. That the building to be occupied is constructed in such a manner that its conversion to retail is infeasible or would cause unreasonable economic hardship due to the type of construction, the structural remodeling required to convert to retail, lack of window display, or other constraint identified with the findings;

- ~~I.G.~~ When a conditional use permit is required ~~for a medical or dental office, or medical, dental or animal clinic or hospital~~, the planning ~~and transportation~~ commission shall make a specific finding that there is adequate on-site parking to support the facility, including staff, patients, visitors and other ancillary support services. This determination shall be based on a parking demand analysis prepared by a

qualified professional and presented to the planning ~~and transportation~~ commission at a public hearing;

- J. ~~When conditional expansion in the LC/SPZ District is requested as provided for in Section 14.42.040, the commission and council shall make a specific finding on each of the following issues:~~
 - 1. ~~That the proposed construction is found to meet the specific purposes of the district pursuant to Section 14.42.020 of the Los Altos Municipal Code;~~
 - 2. ~~That the proposed square footage contributes to expansion potential pursuant to Section 14.42.040 of the Los Altos Municipal Code in the following order:~~
 - i. ~~The square footage contributes to the permitted fifteen thousand (15,000) square foot new ground-level retail until such total square footage is achieved, at which time,~~
 - ii. ~~The square footage contributes to the permitted four thousand (4,000) square foot second-level retail services until such total square footage is achieved, at which time,~~
 - iii. ~~The square footage contributes to the permitted four thousand (4,000) square foot second-level office;~~
 - 3. ~~That the use occupying the proposed square footage builds upon the existing strengths of the Loyola Corners Neighborhood Commercial Center and adds business which is appropriate in terms of use, physical scale, and size of the site.~~

~~Notwithstanding the above findings, the planning and transportation commission and city council may find that a use which meets all code criteria may not be in the best interest of the Loyola Corners Commercial Neighborhood Center;~~

- K. ~~When an extension of time is requested for an office use in the LC/SPZ District as provided for in Section 14.42.030 of this chapter, the commission and council may in its sole discretion make a determination as to the length of the term, provided findings on each of the following issues can be made:~~
 - 1. ~~That there is a five percent or greater vacancy rate (excluding the space in question) in the LC/SPZ zoning district;~~
 - 2. ~~That the property owner has demonstrated to the satisfaction of the commission and council that the use has been economically beneficial to the Loyola Corners Neighborhood Commercial Center;~~
 - 3. ~~That the use has proven to be of a type that receives significant on-site clientele visitations;~~
 - 4. ~~That the use has maintained a pedestrian friendly exterior by maintaining visual access into the building interior through windows which are not permanently blocked during business hours; and~~
 - 5. ~~That continuance of the use would not further move the area from an ideal cost/benefit ratio of seventy (70) percent retail and thirty (30) percent office which is determined necessary to: (i) provide a retail center whose function it is to provide retail services to the surrounding community; (ii) provide a lively, active, and diversified shopping experience; and (iii) ensure that a reasonable portion of the commercial activities are generating taxable retail sales.~~

(Ord. 07-312 § 12; Ord. 05-294 § 4; Ord. 05-271 § 3; prior code § 10-2.2805)

(Ord. No. 2015-406 , § 6, 2-10-2015)

14.80.070 Appeals.

- A. Within ~~fifteen~~fourteen (14~~5~~) days of any action on a use permit by the planning commission, the decision may be appealed to the city council by any interested party.
- B. Within ~~fifteen~~fourteen (14~~5~~) days of any action (approval or denial) on a use permit by the planning commission may be called up for review by the city council if two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.

(Prior code § 10-2.2806; Ord. No. 2019-457 , § 6, 1-28-2020)

14.80.080 Revocation.

A use permit may be revoked by the planning commission ~~and/or city council~~, or whichever body initially approved the permit, based upon a determination by the ~~community~~ development services director or their designee that the holder of the permit has failed to comply with any condition thereof or has violated any applicable provision of this chapter. The revocation procedure shall be the same as prescribed in this chapter for the initial use permit.

(Prior code § 10-2.2807)

(Ord. No. 2011-368, § 3, 7-26-2011; Ord. No. 2016-423 , § 1, 9-27-2016; Ord. No. 2019-457 , § 7, 1-28-2020)

14.80.090 New applications.

Following the denial of a use permit application or the revocation of a use permit by the planning commission ~~or council~~, no application for a use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within six (6) months after the date of the denial or revocation of the use permit.

(Prior code § 10-2.2808; Ord. No. 2019-457 , § 8, 1-28-2020)

14.80.100 Expiration of use permit approval—Extensions.

- A. Use permit approvals granted pursuant to this chapter shall expire twenty-four (24) months from the date on which the approval became effective, unless prior to such expiration date, a building permit is issued for the improvements constituting the subject of the use permit approval, and construction thereof is commenced and prosecuted diligently toward completion.
- B. Use permit approvals may be extended for a period of time not exceeding twelve (12) months. The application for extension shall be filed prior to the expiration date and shall be accompanied by the payment of a fee in such amount as established from time to time by resolution of the city council. Extensions of use permit approval are contingent on the ~~community~~ development services director or their designee finding that the project complies with all current zoning ordinance regulations.

(Ord. 05-279 § 1: prior code § 10-2.2809; Ord. No. 2016-423 , § 1, 9-27-2016)

14.80.110 Modification of a use permit.

For modifications to an approved use permit, the planning commission shall be the decision-making body. The action of the planning commission shall be final unless:

(Supp. No. 40, Update 2)

A. It is appealed in writing to the city council, and the appropriate fee is paid, within ~~fifteen~~ fourteen (154) days of the date of the action;

~~B. Two members of the city council submit requests to the city clerk pursuant to Section 1.12.040.~~

(Ord. No. 2016-423 , § 13, 9-27-2016; Ord. No. 2019-457 , § 8, 1-28-2020)



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023

Subject: Confirmation of City Council Appointments to City Commissions and Committee

Prepared by: Melissa Thurman, City Clerk

Approved by: Gabriel Engeland, City Manager

Attachment(s):
None

Background:

From early July to September 2023, the City of Los Altos held a recruitment for vacancies on various city commissions and committees. The recruitment was very successful, with the City Clerk’s office receiving 63 qualified applications for consideration.

On September 19, 2023, the City Council held a Special Meeting to conduct interview sessions with the applicants. At the conclusion of the interview sessions, the City Council each voted on provided ballots their choice of appointments to the Commissions and Committee. The final list of interviewed applicants per Commission and Committee is listed below, with the Council’s final appointments detailed.

Complete Streets Commission

2 vacancies for one 1-year term and one 2-year term

Alon Golan	Scott J. Pietka
Wesley Helmholz	Michael Holmen
Tony Li	Robert Sutis
Joseph Luk	Lou Wolner (<i>written answers provided</i>)

The City Council appointed **Wesley Helmholz and Scott J. Pietka** to the Complete Streets Commission.

Financial Commission

4 vacancies for four-year terms

Patrick Dupuis	Jesse Zhang
Kristen Guggeis	Stephen Chu (<i>written answers provided</i>)
Deepak Jain	Francis Grillo (<i>written answers provided</i>)
Daniel Morris	Sujoy Sagar (<i>written answers provided</i>)
Michelle Morris	Ibrahim Bashir (<i>written answers provided</i>)
Scott Ottoes	

The City Council appointed **Deepak Jain, Patrick Dupuis, Scott Ottoes and Jesse Zhang** to the Financial Commission.



Subject: Confirmation of City Council Appointments to City Commissions and Committee

Library Commission

2 vacancies for four-year terms

Freddie Wheeler – Incumbent	Monica Waldman
Sumita Chandra	Jesse Zhang
Jennifer Martin	Maya Bronicki <i>(written answers provided)</i>
Michelle Morris	Denise Welsh <i>(written answers provided)</i>
Scott Ottoes	Lou Wolner <i>(written answers provided)</i>
Brian Treco	

The City Council appointed **Michelle Morris** to the Library Commission. *The Library Commission membership was recently changed by the City Council to move from a 7-member body to 5-members. With this appointment the Commission will have five members.*

Joint Community Volunteer Service Awards Committee

3 vacancies for four-year terms

Laurel Iverson – Incumbent	Sumita Chandra
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The City Council appointed **Laurel Iverson and Sumita Chandra** to the Joint Community Volunteer Service Awards Committee.

Parks, Arts, Recreation & Cultural Commission

1 vacancy for four-year term

Dana Tasic – Incumbent	Andrea Ramirez
Shradha Balakrishnan	Yong Yeh – Incumbent <i>(written answers provided)</i>
Daniel Morris	Jim Allen <i>(written answers provided)</i>
Michelle Morris	Ibrahim Bashir <i>(written answers provided)</i>
Scott Ottoes	Lou Wolner <i>(written answers provided)</i>
Kris Olson	Victoria Wong <i>(written answers provided)</i>
Cyndel Podich	

The City Council did not make an appointment to the Parks, Arts, Recreation & Cultural Commission. *The Parks, Arts, Recreation & Cultural Commission was recently created by merging the Parks & Recreation Commission with the Public Arts Commission. The membership of the Parks, Arts, Recreation & Cultural Commission was set to 7 members. Due to the merger of the Commissions there are currently 10 members on the Commission. With no appointment made to the Commission the total number of members is 7.*

Senior Commission

1 vacancy for a 2-year term

Tony Li – Incumbent	Robert Sutis
Artie Green	Denise Welsh <i>(written answers provided)</i>
Kris Olson	Lou Wolner <i>(written answers provided)</i>

The City Council appointed **Kris Olson** to the Senior Commission.

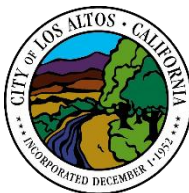


Subject: Confirmation of City Council Appointments to City Commissions and Committee

Fiscal Impact:
None

Environmental Review:
Not applicable

Staff Recommendation:
Approve the confirmation of the City Council appointments to City Commissions and Committee



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023

Subject Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

Prepared by: Jolie Houston, City Attorney
Reviewed by: Gabriel Engeland, City Manager
Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Email dated September 8, 2023, to the Council from Commissioner Disney

Initiated by:

Vice Mayor Weinberg, with Mayor Meadows and Councilmember Dailey supporting the agenda item.

Previous Council Consideration:

None

Fiscal Impact:

None

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

Does the Council wish to remove or discipline Commissioner Disney?

Summary/Background:

At the September 12, 2023, Council Meeting Councilmember Weinberg requested a future agenda item as follows:

“A discussion of remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies.”



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

It is at 3:59:07 at this link: <https://www.losaltosca.gov/citycouncil/page/city-council-meeting-170>. They directed the City Attorney to draft “some kind of memo outlining what the violations were and what Councils options are should they decide to take action.”

Commissioner Disney is currently in her first full term on the Planning Commission, which ends September 2026.

Discussion/Analysis:

On September 7, 2023, the Los Altos Planning Commission conducted a regular meeting. One of the items on the Commission’s agenda concerned the re-zoning of the City’s CN districts. The re-zoning is an obligation of the City pursuant to the Housing Element Update adopted by the Council in January. With respect to proposed amendments to section 14.40 of the City’s Municipal Code (“LAMC”), the Planning Commission voted 4-1-2 (one recusal, one absent) in favor of recommending that the Council approve the amendments. Commissioner Disney was the only dissenting vote.

On September 8, 2023, Commissioner Disney sent an email to the City Council (Attachment A). That email set forth the rationale for why Commissioner Disney opposed recommending that the Council approve the proposed amendments to § 14.40 of the LAMC. Commissioner Disney’s email appears to be written in her capacity as a Planning Commissioner since she expressly says that her goal is to explain her minority vote.

For the purposes of this report, her email may be problematic for the following reasons:

- Commissioner Disney (a) did not support the majority of the Commission; and (b) requested Council to disregard the recommendation of the majority of the Planning Commission; and
- Commissioner Disney formally and unilaterally requested that the Council task the Planning Commission with a new agenda item.

The Los Altos Commissions are governed by the Council Norms and Commission Handbook (CHB). The CHB and the LAMC, Chapter 2.08, provide that a commissioner is appointed by a majority of the Council and may be removed with, or without cause, by a majority of the Council. The Council has the discretion to remove, discipline or refer this matter to the Council Liaison (Council Norms, 4.5, 4.3).



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

For purposes of the Council’s discussion, the following Council Norms, CHB and LAMC sections may be relevant because they pertain to the appointment and/or removal of a Commissioner:

“4.3 Commission Liaisons. To facilitate the exchange of information between the Council and its Commissions, the Mayor will at least annually make liaison appointments to the Commissions. These appointments shall be ratified by the Council. Councilmembers shall respect the separation between policy making and advisory Commissions by: A) not attempting to lobby or influence Commissions on any item under their consideration; B) attending meetings of assigned Commissions, but not taking a position on an item before the Commission; C) not voting at the Commission’s meeting on any item; and D) assisting the Commission in scheduling recommendations to be heard by the Council.

If an issue arises regarding a member of any Commission, staff may work with the assigned Council Liaison to resolve the issue.” Council Norms, page 8.

“4.5 Discipline or Removal of a Commissioner. Commissioners serve at the pleasure of the City Council. The City Council may discipline or remove a Commissioner at any time solely at the discretion of the Council. Any proposed removal can be with or without cause. A Councilmember who wishes to discipline or remove a Commissioner shall indicate their desire to place the discipline or removal on a future agenda at the end of a regular Council meeting. If three or more Councilmembers wish to agendize the discipline or removal of a certain Commissioner, the item will be placed on a Council agenda.” Council Norms, page 8.

“Terms, appointments, and vacancies.

A. Commissioners, with the exception of senior and youth commissioners, shall serve for a term of four years and may be reappointed to one additional four-year term. Terms shall be staggered and expire on the last day of March or September. A commissioner shall be appointed by a majority vote of the Council and may be removed prior to the expiration of his or her term by a majority vote of the Council, and such removal may be with or without cause.” LAMC 2.08.030.



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

“Members are appointed by and serve at the pleasure of the City Council.” CHB, page 3.

“Members of Commissions serve at the pleasure of the City Council. The City Council shall review members’ performance and fulfillment of Commission member obligations and may remove a member from a Commission based upon that review. The City Council may discipline or remove a Commissioner at any time solely at the discretion of the Council. Any proposed removal can be with or without cause. A Councilmember who wishes to discipline or remove a Commissioner shall indicate their desire to place the discipline or removal on a future agenda at the end of a regular Council meeting. If three or more Councilmembers wish to agendize the discipline or removal of a certain Commissioner, the item will be placed on a future Council agenda.” CHB, page 5.

For purposes of the Council’s discussion, the following CHB and LAMC sections may be relevant because they pertain to a Commissioner and his/her conduct regarding a Commission action:

“As appointees of the City Council, members of Commissions are public officials and are appointed to represent all residents of the City, not individual organizations or special interest groups. Care should be taken to ensure that viewpoints expressed as public officials are consistent with City Council policy and the position of the majority of the Commission. Minority opinions are allowed but Commissioners acting in the role of a Commissioner should support actions taken by a majority of the Commission.” CHB, page 2.

“Unless speaking as the official spokesperson for the commission at a City Council or other public forum, commissioners should begin all written or verbal comments with ‘I am a commissioner for the [insert commission name here], but I am speaking on behalf of myself and my own personal beliefs.’” CHB, page 2.

The CHB describes how a future agenda item may be added.

“Adding items to a future agenda Commissioners may request that items be placed on a future agenda. This is done by requesting an item during the ‘Potential Future Agenda Items’ portion of the meeting or by emailing a request to the staff liaison. Requests must be for items that are under the purview of the Commission. One less than a majority of members is required to place an item on an agenda. The staff liaison will work with the



Subject: Council consideration of Vice Mayor Weinberg’s request to discuss remedial action regarding Planning Commissioner Kate Disney’s violation of the City’s Norms and policies

Chair to determine the best meeting to place an item on an agenda. Any background materials or information should be provided to the staff liaison for inclusion in the agenda packet. Future agenda items must be consistent with the Commission’s Approved Work Plan.” CHB, page 8.

Staff Recommendation:

Council may discuss and (a) determine whether to take remedial action against Commissioner Disney; and/or (b) give additional direction to staff (if any).

Sept. 8, 2023

Dear Council Members,

Last night the PC voted 4-1 to recommend that Council approve the zoning ordinance amendments to Chapter 14.40 of the Los Altos Municipal Code. The amendments approved by the PC were proposed by staff to ensure that the City of Los Altos will comply with its 6th Cycle Housing Element Update.

Since only one council member attended last night and meeting minutes often do not capture the essence of discussions, I wanted to email the rationale for my “no” vote.

First, I support the programs of the 6th Cycle Housing Element with the objective of providing more housing development opportunities within Los Altos. Concerning the proposed amendments of Chapter 14.40 (the CN zone), **I am concerned with the change that permits residential only developments.** CN stands for *commercial neighborhood* and the CN districts within the City currently offer a mix of commercial uses comprised of retail and service.

Some of the proposed amendments in Chapter 14.40 address the following programs from the 6th Cycle Housing Element:

Program 3B: Modify Building Heights in mixed-use zoning districts.
(...) The City will then evaluate and update the allowed heights in the commercial neighborhood (CN) District at minimum allowing an additional 10 feet and one story to maintain first floor commercial uses and accommodate residential uses on upper floors to be provided as mixed-use developments.

Program 3C: Remove the floor-to-area (FAR) restriction at Rancho Shopping Center and the Woodland Plaza.
(...) The City will create new development standards reflective of a mixed-use zone that requires both commercial and residential uses for the Rancho Shopping Center and the Woodland Plaza properties.

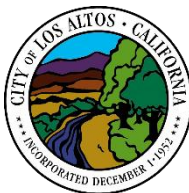
Rancho Shopping Center and the Woodland Plaza (Lucky) are very large lots compared to other CN parcels. It is unknown to me why a prior council placed a 35% FAR on these parcels but clearly the council in 1989 recognized these two parcels as different from other CN parcels.

Permitting residential only developments on these two very large parcels could obliterate all commercial uses within the district and could violate Programs 3B and 3C of our Housing Element, which state that the City will maintain mixed use with first floor commercial uses.

Finally, I am requesting that the City Council authorize the Planning Commission to study other ordinances, such as those concerning noise, light, fencing, and landscape/trees to ensure those ordinances are appropriate for the much more intensive developments that will now be allowed (pending the changes).



Kate Disney



AGENDA REPORT SUMMARY

Meeting Date: September 26, 2023

Subject CITIES ASSOCIATION OF SANTA CLARA COUNTY’S REQUEST FOR APPROVAL OF JOINT POWERS AGREEMENT TO ESTABLISH THE CITIES ASSOCIATION OF SANTA CLARA COUNTY JOINT POWERS AGENCY

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Cities Association of Santa Clara County (CASCC) Memo on Joint Powers Agreement Establishment
2. CASCC Proposed JPA
3. CASCC Proposed JPA Redlined Version
4. CASCC Responses to City Manager Questions

Initiated by:

Cities Association of Santa Clara County

Previous Council Consideration:

N/A

Fiscal Impact:

There is no current fiscal impact for this item. Fees (dues) for membership in the Cities Association of Santa Clara County were included in the current fiscal year budget.

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the City Council wish to establish the Cities Association of Santa Clara County as Joint Powers Authority?

Summary:

- The Board of the Santa Clara County Cities Association voted to send the attached request to form a JPA to each member City for consideration.

Staff Recommendation:



Subject: CITIES ASSOCIATION OF SANTA CLARA COUNTY’S REQUEST FOR APPROVAL OF JOINT POWERS AGREEMENT TO ESTABLISH THE CITIES ASSOCIATION OF SANTA CLARA COUNTY JOINT POWERS AGENCY

Staff recommends the City Council discuss the proposal from the Cities Association and take the following actions:

1. Approve the proposed Joint Powers Agreement (“JPA”);
2. Delegate authority to the City Council’s Cities Association of Santa Clara County (“CASCC”) Board representative to report approval of the JPA at the CASCC Board of Directors (“CASCC Board”) Meeting and approve any non-substantive changes made at that Board Meeting without having to bring it back to Council for further action; and
3. Authorize the City Manager to execute the JPA.

Purpose

The CASCC has asked each member agency to consider the establishment of the Association as a Joint Powers Agreement.

Background

Please see attachment 1.

Discussion/Analysis

The discussion of the formation of the Cities Association as a JPA has been on-going for some time. Representatives from CASCC have met formally with the City Manager’s group during these discussions. The proposed JPA (attachment #2) has undergone many iterations (attachment #3) since initially being reviewed by the City Manager’s group on August 9, 2023. The questions asked by the City Manager’s group and responses from CASCC are included in attachment #4.

The City Council should consider the background information provided in attachment #1 from CASCC and determine if the establishment of a JPA is appropriate.

Recommendation

Staff recommends the City Council discuss the proposal from the Cities Association and take the following actions:

1. Approve the proposed Joint Powers Agreement (“JPA”);
2. Delegate authority to the City Council’s Cities Association of Santa Clara County (“CASCC”) Board representative to report approval of the JPA at the CASCC Board of Directors (“CASCC Board”) Meeting and approve any non-substantive changes made at that Board Meeting without having to bring it back to Council for further action; and
3. Authorize the City Manager to execute the JPA.

SUBJECT: CITIES ASSOCIATION OF SANTA CLARA COUNTY’S REQUEST FOR APPROVAL OF JOINT POWERS AGREEMENT TO ESTABLISH THE CITIES ASSOCIATION OF SANTA CLARA COUNTY JOINT POWERS AGENCY

BACKGROUND:

History of CASCC and JPA Discussions

Over thirty years ago, the cities and towns in Santa Clara County (“Member Agencies”) established the CASCC to improve cooperation on issues of common interest. The CASCC was intended to consolidate and maintain the functions and purposes of the Inter-City Council, the Santa Clara County Mayor’s Conference, and the City Selection Committee for Santa Clara County. In 1990, the cities and towns entered into an agreement to provide some structure and outline the purpose and function of the CASCC. In 2010, the CASCC adopted its bylaws. Currently, the CASCC is an unincorporated association.

As early as 2017, the CASCC began reviewing and considering the appropriate organizational structure for the CASCC. In August 2020, its Board of Directors unanimously voted to take the steps necessary to form a joint powers authority because it would provide a more formal and recognized structure for CASCC and clarity regarding tax status, governmental immunities, and potential liability of the Members. To form a joint powers authority, a JPA must be approved by the CASCC Board of Directors and then executed by each Member Agency that wishes to join the joint powers authority, which would be called the Cities Association of Santa Clara County Joint Powers Agency (“Agency”).

The CASCC conducted outreach and solicited input on the proposed draft JPA over the past two years. The CASCC circulated a draft JPA to all City and Town Attorneys in the County for their review and input and incorporated significant changes into the agreement. The Acting Executive Director and the General Counsel at the time attended two virtual meetings with most of the Town or City Attorneys or Assistant City Attorneys on September 14 and September 28, 2022. The entire JPA was reviewed each time. A separate and additional meeting was held by the Santa Clara City Attorneys Roundtable on September 16, 2022, where the JPA was again reviewed.

CASCC representatives presented a draft JPA at the Santa Clara County City Managers Association (“SCCMA”) meeting on October 12, 2022. Following that meeting, the City Managers submitted a list of 17 questions regarding the JPA to CASCC representatives. Due to changes in CASCC over the last year, including a new General Counsel and the rotation of new City Council Board representatives, the answers to those questions were not completed until August 2023. These responses were circulated to the SCCMA members (see Attachment 2). On August 9, 2023, CASCC representatives again met with the SCCMA to discuss the responses to the October 12, 2022, questions, and answers document, review the proposed JPA, and receive additional input. At the August 9, 2023, meeting, the CASCC representatives responded to the concerns raised by the City Managers and further edits were made to the draft JPA.

On September 14, 2023, the CASCC Board received the updated draft JPA that included edits that responded to comments of the City/Town Attorneys and City Managers. At the meeting, the CASCC Board heard the concerns raised by Board members and City Managers who attended the meeting, and it was confirmed that those concerns would be addressed in the JPA. The CASCC Board directed some additional changes be made to the draft JPA to clarify that the Agency would not hire employees and to provide some language permitting but not requiring the CASCC Board to appoint a working committee to review new initiatives and provide input. With these changes, the CASCC Board unanimously approved transmittal of the draft JPA to the City Councils for each of the proposed Member Agencies for their consideration.

BYLAWS:

The CASCC currently has bylaws that have governed its operations for several years. Upon formation of a JPA, the governing board would update these existing bylaws. In conjunction with the future bylaws for the Agency, the CASCC plans to prepare a personnel policy handbook which would include policies that apply to the organization’s independent contractors and Board members such as safety-related policies and a policy prohibiting discrimination, harassment, and retaliation. As part of this policy development, the Agency would identify which entity or resources would administer these rules (for example, General Counsel or a third-party entity).

OTHER ORGANIZATIONAL STRUCTURES CONSIDERED:

The CASCC previously considered both a 501(c)(4) nonprofit organization and a joint powers authority. In 2020, the CASCC Board voted unanimously to create a joint powers authority based on factors such as time and cost of forming the new entity and the compatibility of the joint powers authority government structure with the goals and purpose of the CASCC. Between 2020 and 2022, events have transpired that have underscored the need for the indemnification, access to insurance and structure a joint powers authority can afford its members.

OVERVIEW OF THE PROPOSED AGREEMENT:

The JPA restates the same purposes expressed for the creation of the CASCC. Consistent with the Joint Exercise of Powers Act (Government Code section 6500 et seq.), the agreement defines the power and authority of the Agency. To address concerns raised by Member Agencies, the Agency would be specifically prohibited from acquiring real property, levying taxes, hiring employees or exercising any eminent domain power. The proposed JPA has also been modified to further restrict the authority of the Agency. (See Sections 6 and 7). The CASCC Executive Board would be replaced by an Executive Committee. The Executive Committee may only take on those powers approved by the Agency’s Board of Directors. For example, the Executive Committee is not permitted to authorize any investigations into the business of the Agency without the Board's approval.

Like the CASCC, the Agency would also be charged with administering the City Selection Committee (“CSC”), which involves establishment of the application process, scheduling and holding meetings for appointments to be made, keeping track of committee and board appointments, terms, and

resignations, coordinating with the County Clerk and disseminating meeting minutes, and troubleshooting where necessary. The CSC is a state-mandated entity charged with making appointments to various regional and local boards and committees. Each city and town in Santa Clara County will continue to participate in the CSC even if the city or town is not a member of CASCC. Appointments to the local boards and committees will be based on majority votes of the city/town CSC representatives.

Of note, the CASCC provides more benefits to its members beyond administering the CSC. The CASCC allows all 15 cities and towns in Santa Clara County to work together on regional issues, advocate at the county, regional and state levels, and provide a significant voice in policymaking in Sacramento. The solid work of the CASCC has resulted in some notable achievements and benefits to our cities and towns. The single-use plastic bag ban ordinances passed by all 15 cities and towns originated with the CASCC, as did the Healthy Cities Dashboard in conjunction with Santa Clara County Department of Public Health. Other examples include delivery of county-wide symposia on timely and important topics such as housing and sustainability, providing technical assistance to city staff for Housing Element Updates through the Planning Collaborative, and providing feedback and endorsements for legislative bills under consideration. The CASCC is also a great way for representatives from the different cities to share ideas, create professional connections and collaborate on similar issues affecting all the cities and towns.

ADVANTAGES OF FORMING THE AGENCY:

1. As a governmental agency, the Agency would have access to insurance and risk pools that are not available to an unincorporated association.
2. The Agency may be a more attractive recipient of sponsorships and donations, potentially easing pressure on the budget and therefore on the Members (see Fiscal Impact section below).
3. The JPA clarifies liability issues and is drafted so that the entity indemnifies the members of the Agency.
4. The formation of the Agency would clarify the tax status of the organization.

FISCAL IMPACT:

Budget

FY24 covers the period from July 1, 2023, to June 30, 2024.

FY25 covers the period from July 1, 2024, to June 30, 2025.

1. The budget for FY25 has not yet been developed and therefore has not been presented to the CASCC Board for consideration. Under the current CASCC bylaws, the Executive Director will develop the FY25 budget for adoption by the Board at its April 11, 2024, board meeting. This budget will be developed with the same parameters as the FY24 budget, which are:
 - a) The CASCC budget is an operational budget-there are no separate line items for programs other than the Annual Membership Meeting and the Annual Holiday Party. The major expense in the budget is the payment of independent contractors, currently the Executive Director and the General Counsel (on an as-needed basis).

- b) The Executive Director will present a responsible budget in line with the current CASCC finances that would not exceed its resources.
- 2. There is no indication that the CASCC budget will increase solely because CASCC becomes the Agency.
 - a) Approval of any new programs or projects with budget impacts of \$10,000 or greater requires approval of 2/3 of the Board of Directors and the financial resources to fund such a program or project. If there is not enough budget for said programs/projects, the Executive Director will advise the Board of such and will give the Board all relevant information to make an informed decision. Ultimately, the Board decides how to proceed financially. (See item 1.b above.)
 - b) It is anticipated that CASCC legal costs would be reduced after the adoption of a JPA. Formation of the JPA was calculated as part of the FY24 budget and once the JPA formation is complete, the need for legal services would decrease.
 - c) As a JPA, the CASCC will be eligible to receive sponsorships and donations to underwrite costs of programs and events. Every effort will be made to seek sponsorships and donations as this relieves the pressure on the budget.

Membership Dues

As has been the case over the past few years, the FY24 dues are based on the size of each Member Agency and the plan is to continue with this same approach. In addition, the Board has expressed a desire not to increase the membership dues in light of current economic conditions. Therefore, for the FY25 membership dues, the Executive Director intends to propose a budget to the CASCC Board (or Agency Board of Directors) that preserves the same dues structure as FY24 whereby each Member Agency will be asked to pay the same amount in dues as in FY24.

In the event not all 15 cities join the Agency, the budget proposal would preserve the same dues, but the Agency Board would be required to make some budget adjustments. The Executive Director would advise the Board on how the CASCC or Agency budget may be revised, providing all relevant information and data. Also, after FY25, it is anticipated that an annual CPI adjustment would be recommended.

JOINT POWERS AGENCY AGREEMENT FOR CITIES ASSOCIATION OF SANTA CLARA COUNTY

This Joint Powers Agreement (“Agreement” or “JPA”) for the Cities Association of Santa Clara County is entered into by and among the cities (“Members”), which are organized and existing under the Constitution and laws of the State of California in which public agencies are located in the County of Santa Clara, and upon approval and full execution of the Agreement, creates the Cities Association of Santa Clara County Joint Powers Agency (“Agency”).

RECITALS

WHEREAS, Articles 1 and 2, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 *et seq.*) permit two or more public agencies by agreement to jointly exercise powers common to the Members; and

WHEREAS, the public agency Members executing this JPA are cities or towns within the jurisdiction of the County of Santa Clara (“County”); and

WHEREAS, the Cities Association of Santa Clara County has existed as an unincorporated association since 1990 and desires to formalize the relationship between its City and Town members and form a Joint Powers Agency in order to carry out activities for the good of all its Members; and

WHEREAS, the Members executing this Agreement, desire to join together to create a separate Joint Powers Agency for the purpose of promoting cooperation among the Members; advocating for positive action; enhancing the quality of life for the residents of the County and their individual cities; and encouraging other joint and cooperative endeavors among the public agencies for their mutual benefit.

NOW, THEREFORE, the Parties agree to the following:

AGREEMENT

ARTICLE 1 - DEFINITIONS

- 1.1 “Associate Member” shall mean any non-city local agency, located within jurisdictional authority of the County of Santa Clara, and shall have duly executed and delivered to the Agency an Associate Membership Agreement in the form of and as further provided in the Bylaws of the Agency, as further provided in Article 32 herein.
- 1.2 “Agency” shall mean the Cities Association of Santa Clara County Joint Powers Agency created by this Agreement.
- 1.3 “Board of Directors” or “Board” shall mean the governing body of the Agency.
- 1.4 “Executive Committee” shall mean the Executive Committee of the Board of Directors of the Agency.

- 1.5 “Fiscal Year” shall mean that period of twelve (12) months which is established by the Board of Directors or the Bylaws as the fiscal year of the Agency, which shall run from July 1 to June 30 of each year.
- 1.6 “Government Code” shall mean the California Government Code, as amended.
- 1.7 “Joint Powers Law” shall mean Articles 1 and 2, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code, known as the Joint Exercise of Powers Act, as amended.
- 1.8 “Legislative Body” shall mean the legislative board of each Public Agency that is a Member of the Agency.
- 1.9 “Member” shall mean any city which has executed this Agreement and has become a member of the Agency. The complete list of Members is set forth in Exhibit “A” attached hereto and incorporated herein by this reference.
- 1.10 “Parties” shall mean Members or Associate Members who are party to this Agreement.
- 1.11 “Public Agency” shall mean public agency as defined in Government Code Section 6500, as amended.
- 1.12 Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neutral gender shall be construed to include each other gender, when appropriate, and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions herein shall be construed to effectuate the purposes set forth and to sustain the validity of those purposes.

ARTICLE 2 - CREATION AND PURPOSES

- 2.1 This Agreement is entered into by the Members in order to:
 - 2.1.1 Review, study, develop consensus positions, and take action on issues of interest to Members;
 - 2.1.2 Focus on local and regional matters that are important to our future;
 - 2.1.3 Develop a common agenda for Santa Clara County cities;
 - 2.1.4 Serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government;
 - 2.1.5 Establish and administer the City Selection Committee pursuant to Government Code Section 50270 *et seq.*, as amended and make appointments to regional and local bodies as provided by law;
 - 2.1.6 Serve as a source of education, information, and networking for officials from all cities in Santa Clara County;

- 2.1.7 Provide a forum for non-city individuals, groups and organizations and the private sector to address items of interest to Santa Clara County cities;
- 2.1.8 Reduce duplication of effort by sharing information and provide a unified voice and strong advocacy on legislation and other important issues that affect its Members;
- 2.1.9 Strengthen the Members’ and Agency’s standing at the regional, State and Federal level;
- 2.1.10 Strive to respect local control, provide regional perspective, and make a difference to elevate the quality of life throughout the County;
- 2.1.11 Provide a forum for discussion and study of problems common to the Members and to assist in the development and implementation of solutions to such problems;
- 2.1.12 Provide a method for the Members to collaborate and jointly develop policies that benefit the region; and
- 2.1.13 Collaborate in such a way that is efficient, saves the jurisdictions the expense of individual effort, and creates positive outcomes.

ARTICLE 3 - PARTIES TO AGREEMENT

Each Member, as a Party to this Agreement, intends to and does contract with all other Members as Parties to this Agreement and, with other Public Agencies as may later be added as Parties to this Agreement pursuant to the Joint Powers Law. The withdrawal of any party from this Agreement, pursuant to Article 20, shall not affect this Agreement or the remaining Members’ obligations.

ARTICLE 4 – FORMATION; TERM

This Agreement shall become effective when fully executed and returned to the Agency by at least eight (8) Members, but only as to those Members that have executed the Agreement. The Agency shall promptly notify all Members in writing of the effective date. After one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least one (1) year and a similar joint powers authority, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency. Notwithstanding the name change, this Agreement shall continue in effect until terminated as provided herein. The termination of this Agreement with respect to an individual Member upon its withdrawal from membership in the Agency shall not operate to terminate this Agreement with respect to the remaining Members.

ARTICLE 5 - CREATION OF THE AGENCY

Pursuant to the Joint Powers Law, there is hereby created a public entity, separate and apart from the Parties hereto, to be known as the “Cities Association of Santa Clara County Joint Powers

Agency” with powers as are set forth herein. Upon formation of the Agency as described in Article 4, the Cities Association of Santa Clara County, an unincorporated association shall follow the process of dissolution and cease to exist.

ARTICLE 6 - POWERS OF THE AGENCY

6.1 Subject to the terms of this agreement, the Agency shall have all of the powers of a public agency as defined in the Government Code Section 6500 as amended and all additional powers set forth in the Joint Powers Law and other statutes applicable to the Joint Powers Agency created hereby and is authorized to do all acts necessary for the exercise of these powers on behalf of its Members. Powers include, but are not limited to, the following, in the Agency’s own name:

- 6.1.1 To make and enter into contracts;
- 6.1.2 To incur debts, liabilities, and obligations and to encumber personal property;
- 6.1.3 To acquire, hold, or dispose of personal property, contributions, and donations of personal property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities;
- 6.1.4 To sue and be sued in its own name, and to settle any claim against it;
- 6.1.5 To receive and use contributions and advances from Members as provided in Government Code Section 6504, as amended including contributions or advances of personnel and equipment;
- 6.1.6 To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5, as amended;
- 6.1.7 To acquire, construct, manage, maintain, or operate title to personal property, or rights, or any interest therein;
- 6.1.8 To retain the services of agents, contractors, and consultants;
- 6.1.9 To receive, collect, and disburse monies;
- 6.1.10 To conduct studies, tests, evaluations, and similar activities;
- 6.1.11 To contract for services from Members, including in-kind services;
- 6.1.12 To conduct public outreach and education;
- 6.1.13 To participate in pilot and demonstration projects;
- 6.1.14 To charge for services, programs, and/or systems;
- 6.1.15 To work with elected officials and local, regional, state, and federal agencies, including other joint powers agencies and unincorporated associations to pursue funding, enter agreements and otherwise carry out the purposes of the Agency; and

6.1.16 Subject to this Agreement or the Bylaws of the Agency, and only as authorized by the Joint Powers Law, to exercise other reasonable and necessary powers in furtherance or support of any purpose of the Agency.

ARTICLE 7 - RESTRICTIONS ON POWERS

- 7.1 Pursuant to and to the extent required by Government Code Section 6509, as amended, the Agency shall be restricted in the exercise of its powers and shall exercise its powers in the same manner as the Town of Los Gatos is restricted in its exercise of similar powers; provided that, if the Town of Los Gatos shall cease to be a Member, then the Agency shall be restricted in the exercise of its power in the same manner as another Member agreed to by the majority of the Board of Directors. Unless expressly provided for, the Agency does not, by virtue of this Section or this Agreement, subject itself to the internal policies or ordinances of any Member.
- 7.2 The Agency shall not have the power of eminent domain.
- 7.3 The Agency shall not have the power of taxation. The Agency may not impose taxes but may receive the proceeds of taxes imposed by other entities or public funds from other entities.
- 7.4 The Agency shall not have the power to acquire, purchase, hold or dispose of real property.
- 7.5 The Agency shall not have the power to hire employees.
- 7.6 The Agency shall not have the power to issue debt.

ARTICLE 8 - BOARD OF DIRECTORS

- 8.1 The Agency shall be governed by the Board of Directors, which shall be composed of one Director representing each Member. Each Member’s Legislative Body, according to its own procedures, shall appoint a Member of the Legislative Body as a Director to represent the Member on the Board of Directors. The Director shall serve at the pleasure of their respective Legislative Body. The Legislative Body of each Member shall also appoint one alternate Director (“Alternate”) who shall participate in and vote at any meeting of the Board when the primary Director is absent. Any vacancy in a Director or Alternate position shall be filled by the appointing Member’s Legislative Body, subject to the provisions of this Article. Immediately upon admission of a new Member, the new Member shall be entitled and required to appoint a Director and one alternate Director. Every Director or Alternate shall be a Council Member or Mayor of their individual Member city.
- 8.2 A Director and/or Alternate shall be removed from the Board of Directors upon the occurrence of any one of the following events: (1) the Agency receives written notice from the appointing Member of the removal and/or replacement of the Director or Alternate; (2) the withdrawal of the Member from this Agreement; (3) the death or resignation of the Director or Alternate; (4) the Agency receives written notice from the Member that the Director or Alternate is no longer qualified as provided in the first paragraph of this Article 8; or as set forth in Article 21.

- 8.3 The Board of Directors shall have the following powers and functions:
 - 8.3.1 Except as otherwise provided in this Agreement, the Board shall exercise all powers and conduct all business of the Agency, either directly or by delegation to other bodies or persons;
 - 8.3.2 The Board shall elect an Executive Committee, as provided in Article 11;
 - 8.3.3 The Board shall be the policy setting body of the Agency;
 - 8.3.4 The Board shall appoint or retain the services of necessary agents, consultants, or independent contractors in accordance with Article 14;
 - 8.3.5 The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of the Agency. Adoption of the budget may not be delegated. The Board shall adopt their budget no later than the first April 30th following formation and then subsequently by April 30th of each successive year. The Board shall review, set, and adopt annual dues to be funded by Agency Members;
 - 8.3.6 The Board shall receive, review and act upon periodic reports and audits of the funds of the Agency, as required under Article 16 of this Agreement;
 - 8.3.7 The Board may adopt policies regarding personnel, conflicts of interest and other matters necessary or convenient for the efficient operation of the Agency;
 - 8.3.8 The Board shall adopt a set of priorities and work plan for each fiscal year; and
 - 8.3.9 Subject to the terms of this Agreement, the Board shall have such other powers and duties as are reasonably necessary to carry out the purposes of the Agency.

ARTICLE 9 – MEETINGS OF THE BOARD OF DIRECTORS

- 9.1 The Board of Directors shall hold at least one regular meeting each year. The Board of Directors shall fix by resolution, or in the Bylaws, the date, time, and location of each regular meeting. The Board or Executive Director, in consultation with the President of the Board as provided in Article 10 below, may call special meetings.
- 9.2 Each meeting of the Board of Directors, including without limitation, regular, adjourned regular and special meetings shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.
- 9.3 The Agency shall require the Secretary/Treasurer or designee to take and maintain minutes of all regular, adjourned regular and special meetings. As soon as practicable after each meeting, the Secretary/Treasurer or designee shall forward to each Board Member, a copy of the minutes of the meeting.
- 9.4 A majority of the Members of the Board shall constitute a quorum for the transaction of business. Unless otherwise required by law, a vote of the majority of a quorum of the members

present at a meeting is sufficient to take any action, unless otherwise specified in this Agreement. However, less than a quorum may adjourn the meeting to a future date.

9.5 Each Member of the Board shall have one vote.

ARTICLE 10 - OFFICERS

The Board shall elect as Officers of the Agency President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President at its first meeting. Thereafter, except as may be otherwise provided in the Bylaws of the Agency, the Board shall elect the President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President, at the November Board of Directors meeting, or the first meeting held on or after November 1 of each year. Of the Officers, the President, and at least two other Officers, must also be members of the Board of Directors. The remaining Officers may be the elected or appointed Mayor or Council Member of any Member of the Agency regardless of whether they are on the Board of Directors. Each Officer shall assume the duties of his or her office upon election. If the President ceases to be a Member of the Board, the resulting vacancy shall be filled at the next meeting of the Board held after the vacancy occurs, or at a special meeting of the Board called to fill the vacancy. The President shall preside at and conduct all meetings of the Board. Should the Board President not be available then the highest-level Officer, who is a member of the Board of Directors, shall preside. If that individual is unavailable, then any Director appointed by the President may preside. The Board may appoint other officers as it considers necessary. The duties of the Secretary/Treasurer are set forth in Articles 16 and 17 of this Agreement. The Secretary/Treasurer shall be appointed by the Board of Directors and shall be eligible to serve as Secretary/Treasurer, as provided in the Joint Powers Law.

ARTICLE 11 - EXECUTIVE COMMITTEE

At such time as there are nine Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of three (3) Officers consisting of the President, First Vice President, and Secretary/Treasurer, which shall exist thereafter. At such time as there are 11 Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of five (5) Officers, with the addition of the Immediate Past President, which shall exist thereafter. Should the Immediate Past President no longer hold elected office then a Member at Large may be appointed by the Board to serve on the Executive Committee. The qualifications of the Member at Large are that they must be an elected or appointed Mayor or Council Member of a Member of the Agency but need not be on the Board of Directors. The terms of office of the Members of the Executive Committee shall be one year. The Executive Committee shall conduct the business of the Agency between meetings of the Board, exercising all those powers as provided for in this Article, or as otherwise delegated to it by the Board.

The Executive Committee, subject to approval by the Board of Directors, shall exercise all powers or duties of the Board relating to the entering, approval and execution of agreements, leases, and other instruments of or relating to the finances of the Joint Powers Agency within the previously

approved annual budget or amended budget. The Executive Committee may have additional powers delegated to it by the Board, except for the adoption of the Agency’s annual budget. Any additional powers and duties delegated shall be specified in a Resolution adopted by the Board. The Executive Committee shall obtain approval from the Board before authorizing or conducting any investigations into the business of the Agency and before taking personnel action. These actions must be authorized by a majority vote of the Executive Committee. Each meeting of the Executive Committee shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

ARTICLE 12 - COMMITTEES

The Board may establish committees, as it deems appropriate to conduct the business of the Agency or it may, in the Bylaws or by resolution, delegate this power to the Executive Committee by Resolution. Members of committees, except as otherwise stated in this Agreement, shall be appointed by the President. Each committee shall have those duties as determined by whichever Agency body created it or as otherwise set forth in the Bylaws. Each committee shall meet on the call of its chairperson and shall report to and be directed by whichever entity created it. No more than one representative from each jurisdiction shall serve on each committee. Membership of any committee may consist in whole or in part of persons who are not members of the Board; provided that the Board may delegate decision-making powers and duties only to a committee, a majority of the members of which are Board Members. Any committee, except the City Selection Committee, in which a majority of the members are not Board Members may function only in an advisory capacity. The Legislative Action Committee shall be a permanent Committee of the Agency chaired by the Second Vice President and whose members shall be appointed by the Agency Members. Should there be no Second Vice President, the Legislative Action Committee shall be chaired by the First Vice President. All standing committees shall abide by the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

ARTICLE 13 – CITY SELECTION COMMITTEE

The City Selection Committee is established pursuant to State law and the Agency shall administer the City Selection Committee as follows: The City Selection Committee shall be a permanent committee of the Agency, consisting of the Mayor of each City or Town, consistent with Government Code 50270, as amended. The Agency shall allow all cities in the County to participate in the City Selection Committee, whether or not they are members of the Agency.

ARTICLE 14 – PROFESSIONAL SERVICES

14.1 The Board of Directors may contract with individuals or companies to provide the following services at the pleasure of the Board of Directors:

- 14.1.1 Executive Director. The Board shall contract with a consultant or independent contractor to fulfill the following duties of an Executive Director: manage the affairs of the Agency, subject to the general supervision and policy direction of the Board and the Executive Committee; oversee the day-to-day activities of the Agency; select and manage the activities of all consultants and independent contractors to the Agency; be responsible for required filings by the Agency with the State of California; prepare or delegate the preparation of all meeting notices, minutes, and required documentation of the Agency; prepare and propose an annual budget; prepare reports and recommendations for consideration by the Executive Committee or Board; be responsible for billing and collection of annual dues; maintain the records of the Agency; assist Local Agencies in the preparation and filing of applications for participation in the financing programs of the Agency; expedite the processing of these applications; pay all invoices, taxes and amounts due; and perform other duties as are assigned by the Board and Executive Committee. The Executive Director may have the authority to sign agreements, applications, and other documents on behalf the Agency, if authorized by the Board or Executive Committee. The Executive Director shall have the Authority to enter into individual Agreements with a single vendor over the course of a fiscal year, on behalf of the Agency, up to the amount set by the Bylaws.
- 14.1.2 General Counsel. The Board shall contract with a consultant, independent contractor, or law firm to fulfill the duties of General Legal Counsel. The General Counsel shall take direction from the majority of the Board of Directors. The General Counsel shall be a member in good standing of the California State Bar. The General Counsel shall be responsible for the legal affairs of the Agency;
- 14.1.3 Auditor. The Auditor shall be a Certified Public Accountant licensed to practice in the State of California. The Auditor will conduct annual financial audits of the Agency;
- 14.1.4 Other services. The Executive Director may hire additional consultants and independent contractors, as appropriate, based upon a previously approved budget;
- 14.1.5 The Agency shall not contract with or become a member of the California Public Employees Retirement System (“PERS”), nor shall any agent, consultant or independent contractor of the Agency become a member of PERS or be entitled to a pension or retirement from PERS as a result of service to the Agency; and
- 14.1.6 The consultants and independent contractors fulfilling the duties of Executive Director, the Auditor, the General Counsel and any other consultants or independent contractors who provide services to the Agency shall be compensated in such manner as shall be approved by the Board and as permitted by applicable law.

ARTICLE 15 - SIGNIFICANT PROGRAMS

If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. If the Board deems it necessary, it may

appoint a working committee to study the significant program or activity and provide input to the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring \$10,000 or more in annual expenditures; this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into a specific program or project Agreement that includes relevant terms regarding the particular affected Members, and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These limited scope Agreements shall be subject to approval by the Board by a two-thirds vote of the Members.

ARTICLE 16 - ACCOUNTS AND RECORDS

- 16.1 The Agency shall adopt an operating budget pursuant to Section 8.3.5 of Article 8 of this Agreement.
- 16.2 The Secretary/Treasurer of the Agency or the Executive Director shall establish and maintain funds and accounts as may be required by good accounting practices and by the Board. Books and records of the Agency shall be open to and made available for inspection at all reasonable times upon request by authorized representatives of the Members.
- 16.3 The Agency shall adhere to the standard of strict accountability for funds and report all receipts and disbursements as set forth in the Joint Powers Law.
- 16.4 Auditor’s Report. The Auditor, within one hundred and twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for the prior Fiscal Year to the Board.
- 16.5 The Agency shall either make or contract with a Certified Public Accountant to make an annual Fiscal Year audit of all accounts and records of the Agency, conforming in all respects with the requirements of the Joint Powers Law. A report of the audit shall be filed as a public record and be provided to each of the Members, and with the County Auditor of the County of Santa Clara. Costs of the audit shall be considered a general expense of the Agency. Any costs of the audit shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for this purpose.

ARTICLE 17 - RESPONSIBILITIES FOR FUNDS AND PROPERTY

- 17.1 The Secretary/Treasurer, or his or her designee, shall have the custody of and disburse the Agency’s funds. Proceeds of similar obligations of the Agency may be deposited with a trustee, agent or other depository and shall not be considered the Agency’s funds for purposes of this Article. The Secretary/Treasurer may delegate disbursements to persons as may be authorized by the Board or the Executive Committee to perform that function, subject to the requirements of Section 17.2 below.

- 17.2 The Secretary/Treasurer or designee shall perform all functions then required to be performed by the Treasurer under the Joint Powers Law. The Secretary/Treasurer shall review the financial statements and the annual audit of the Agency.
- 17.3 Pursuant to Government Code Section 6505.1, as amended, the Executive Director, the Secretary/Treasurer, and other persons as the Board may designate, shall have charge of, handle, and have access to the property of the Agency. The Agency shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in a form specified by the Board of Directors, covering any officers or agents of the Agency who are authorized to hold or disburse funds of the Agency and any officers or agents who are authorized to have charge of, handle and have access to property of the Agency.

ARTICLE 18 - MEMBER RESPONSIBILITIES

- 18.1 Each Member shall have the following responsibilities:
 - 18.1.1 To appoint its Director and Alternate to, or remove its Director and Alternate, from the Board, as set forth in Article 8;
 - 18.1.2 To consider proposed amendments to this Agreement as set forth in Article 29;
 - 18.1.3 To make contributions in the form of annual membership assessments and fees, if any, determined by the Board for the purpose of defraying the costs of providing the annual benefits accruing directly to each party from this Agreement; and
 - 18.1.4 If a Member provides written notice to the Agency of its election to relinquish its status as a Member, or if a Member fails to be represented at four (4) or more consecutive regular meetings of the Board of Directors, then that Member may be deemed to be a suspended Member, with all the rights and duties of an Associate Member, upon action of the Board of Directors duly adopted. Prior to the suspension, the President shall contact the Mayor and request that another Council Member be appointed or that reinstatement for the current Member be requested. The suspension shall be approved by the Board of Directors. Promptly following that action by the Board of Directors, the Member may be reinstated by informing the Board of its intent to be reinstated within thirty (30) days and to attend all future meetings either via the Director or Alternate. Removal of a Member for failure of the Director to attend meetings shall not relieve the Member from its obligations under any outstanding agreements relating to the Agency's financial obligations, except in accordance with this Agreement.

ARTICLE 19 - NEW MEMBERS

With the approval of the Board, any city located within the County of Santa Clara may become a party as a Member to this Agreement. A city requesting membership shall apply by presenting to the Agency, a resolution of the Legislative Body of the City, evidencing its approval of this Agreement. The date that the applying city will become a Member will be determined by the Board. The Agency shall

accept new Members upon a majority affirmative vote of the entire Board and upon payment of any Board determined assessments and fees.

ARTICLE 20 - WITHDRAWAL

A Member may terminate its membership in the Agency at any time upon giving one hundred and eighty (180) days written notice of withdrawal to the Agency. The notice shall be given to the Board of Directors. The effective date shall be the conclusion of the first Board Meeting which occurs after the one hundred and eighty (180) day notice period has passed. Any Member who withdraws shall remain obligated to pay its share of all debts, liabilities, and obligations incurred or accrued through the end of the current fiscal year of the Agency. The withdrawal does not in any way impair any contracts, resolutions, indentures, or other obligations of the Agency then in effect. In the event of a disagreement between the Agency and the withdrawing Member as to whether the withdrawal shall cause the impairment of any contracts, resolutions, indentures, or other obligations of the Agency, the determination shall be made by a majority vote of the Board of Directors. Any Member that withdraws and later seeks reinstatement to the Agency shall provide funds to the Agency, proportionate to their responsibility for the current fiscal year, as if the Member had never left the Agency. A withdrawing Member shall, in all events, remain liable for its proportionate share of: (i) its full amount of its proportionate share of the adopted fiscal year budget; (ii) any call for funds or assessment levied by the Agency prior to the date it provides its notice of withdrawal; (iii) any contribution in existence at the time of the notice of withdrawal.

ARTICLE 21 - REMOVAL

If the Board of Directors determines that reasonable cause exists to remove a Director from the Board, it can remove the Director and request that the Member who appointed the Director appoint a new Director. The Board may, by two-thirds majority vote of the entire Board, remove a Member based on a Member's breach of any material term of this Agreement, and the failure to cure that breach within sixty (60) days written notice. A terminated Member shall remain liable for any obligation under this Agreement as described above. Failure to pay dues within 60 days following notice shall result in a Member becoming suspended with all the rights of an Associate Member. A suspended Member shall immediately have its voting rights restored upon full payment of dues.

ARTICLE 22 - OBLIGATIONS OF AGENCY

The debts, liabilities, and obligations of the Agency shall not be the debts, liabilities, and obligations of the Members. Any Member may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the Agency. Nothing in this Agreement shall be interpreted to limit the applicability of the provisions of Government Code Section 895.6.

ARTICLE 23 - TERMINATION AND DISTRIBUTION OF ASSETS

This Agreement may be terminated at any time that no financial obligations of the Agency are outstanding, with the approval of two-thirds of the Members. Upon termination of this Agreement, all assets of the Agency shall, after payment of all unpaid costs, expenses and charges incurred under this Agreement, be distributed among the parties to this Agreement, in accordance with the respective contributions of each of the Parties.

ARTICLE 24 - LIABILITY OF BOARD OF DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS

- 24.1 The Members of the Board of Directors, Officers, and Committee Members of the Agency shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be individually liable for any mistake of judgment, or any other action made, taken, or omitted by them in good faith, nor for any act or omission by any agent, consultant or independent contractor selected with reasonable care, nor for loss incurred, resulting from any action made, taken, or omitted by them in good faith and with reasonable care through investment of Agency funds, or failure to invest.
- 24.2 No Director, Officer, or Committee Member shall be responsible for any act or omission of any other Director, Officer, or Committee Member. Unless otherwise required by law, no Director, Officer, or Committee Member shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement.
- 24.3 The funds of the Agency shall be used to defend, indemnify, and hold harmless the Agency for any Director, Officer, or Committee Member, for their actions taken within the scope of the Agency. Nothing herein shall limit the right of the Agency to purchase insurance to provide coverage for these types of losses.
- 24.4 These indemnification and defense obligations shall survive the termination of the Agreement as to any acts or omissions occurring before such termination.

ARTICLE 25 - INDEMNIFICATION

To the fullest extent allowed by law, the Agency shall defend, indemnify, and save harmless the Members and their governing bodies, officers, agents and employees from all claims, losses, damages, costs, injury, and liability of every kind, nature, and description directly or indirectly arising from the performance of any of the activities of the Agency or the activities undertaken pursuant to this Agreement.

ARTICLE 26 - BYLAWS

The Board shall adopt Bylaws consistent with this Agreement which shall provide for the administration and management of the Agency. The provisions of the Bylaws, as modified from time to time, shall establish the operating procedures and standards for the Agency.

ARTICLE 27 - NOTICES

The Agency shall address notices, billings, and other communications to a Member as directed by that Member. Each Member shall provide the Agency with the email and physical address to which communications are to be sent. Members shall address notices and other communications to the Agency, at the office address of the Agency, or the email address of the Agency as directed by the Member and as set forth in the Bylaws.

ARTICLE 28 - CODES

The Agency shall adopt and observe a Code of Conduct and Conflict of Interest Policy. The Agency shall comply with all requirements of the Fair Political Practices Commission as required by law or regulation.

ARTICLE 29 - AMENDMENT

This Agreement may be amended at any time by vote of the Members, acting through their Legislative Bodies. Any amendment of this Agreement shall become effective upon receipt by the Agency of notice of the approval of the amendment by two thirds of the Legislative Bodies of the Members.

ARTICLE 30 - SEVERABILITY

Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions shall not be affected.

ARTICLE 31 - PROHIBITION AGAINST ASSIGNMENT

No Member may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim, or title to any part, share, interest, fund, or asset of the Agency. This Agreement shall be binding upon and shall inure to the benefit of successors of the Members. This Agreement is intended solely for the benefit of the

Agency and its Members. No third party shall be deemed a beneficiary of this Agreement or have any rights against the Agency or its Members.

ARTICLE 32 - ASSOCIATE MEMBERS

Any Public Agency located within the jurisdictional authority of the County of Santa Clara may, with the approval of the Board of Directors, become an Associate Member of the Agency by executing and delivering to the Agency an Associate Membership Agreement and providing an Associate Membership fee and as further provided in the Bylaws. An Associate Member shall not be entitled to representation on the Board of Directors, or to vote on any matter coming before the Board of Directors or the Agency, unless a separate written agreement is entered into between the Associate Member and the Agency.

ARTICLE 33 - LIBERAL CONSTRUCTION

The provisions of this Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of the Agency.

ARTICLE 34 - NON-WAIVER

No waiver of the breach of default of any of the covenants, agreements, restrictions, or conditions of this Agreement by any Member shall be construed to be a waiver of any succeeding breach of the same or other covenants, restrictions, or conditions of this Agreement. No delay or omission of exercising any right, power, or remedy in the event of a breach or default shall be construed as a waiver or a variation of any of the terms of this Agreement or any applicable agreement.

ARTICLE 35 - REMEDIES FOR BREACH

If any Member shall default on any obligation contained in this Agreement, the default shall not excuse any other Member from fulfilling its respective obligations under this Agreement. Any Member shall be entitled to pursue all legal and equitable remedies against another Member in response to any alleged default under this Agreement. Any and all of the remedies provided to the Members, hereunder or by law now or hereafter enacted, are cumulative and the exercise of one right or remedy shall not impair the Members to any other remedy.

ARTICLE 36 - ARTICLE HEADINGS

All article headings are for reference only and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 37 - DISPUTE RESOLUTION

- 37.1 The Members agree that any dispute regarding the enforcement or interpretation of any term, covenant, or condition of this Agreement (“Dispute”) may first, for a period of not less than thirty (30) days, be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation, or any other binding arbitration or adjudicative dispute resolution process. The Members shall: (i) mediate in good faith; (ii) exchange all documents which each believes to be relevant and material to the issue(s) in the Dispute; (iii) exchange written position papers stating their position on the Dispute and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the Dispute; and (iv) engage and cooperate in such further discovery as the Members agree or mediator suggests may be necessary to facilitate effective mediation.
- 37.2 Each Member shall bear its own costs, attorney’s fees, and expenses of the mediation. Venue of the mediation shall be a mutually agreeable city within Santa Clara County, California.

ARTICLE 38 – INSURANCE

If available, the Agency shall obtain insurance for all Members, appointed Members, and Committee Members, including, but not limited to, Directors and Officers liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall deem will be necessary to adequately insure against the risks of liability that may be incurred by the Agency. Insurance under this provision may include an insurance pool program.

ARTICLE 39 - FILING WITH SECRETARY OF STATE

The Executive Director of the Agency shall file a notice of this Agreement with the office of the California Secretary of State within thirty (30) days of its effective date, as required by Government Code Section 6503.5, as amended and within seventy (70) days of its effective date as required by Government Code Section 53051, as amended.

ARTICLE 40 - COUNTERPARTS

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the Members hereto. Facsimile and electronic signatures shall be binding.

ARTICLE 41 - AGREEMENT COMPLETE

This Agreement constitutes the full and complete Agreement of the parties and supersedes any prior written Agreement between the Members on the same topic.

JOINT POWERS AGENCY AGREEMENT ~~DRAFT~~ FOR CITIES ASSOCIATION OF _____ SANTA CLARA COUNTY

This Joint Powers Agreement (“Agreement” or “JPA”) for the Cities Association of Santa Clara County is entered into by and among the cities (“Members”), which are organized and existing under the Constitution and laws of the State of California in which public agencies are located in the County of Santa Clara, and upon approval and full execution of the Agreement, creates the Cities Association of Santa Clara County Joint Powers Agency (“Agency”).

RECITALS

WHEREAS, Articles 1 and 2, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 *et seq.*) permit two or more public agencies by agreement to jointly exercise powers common to the Members; and

WHEREAS, the public agency Members executing this JPA are cities or towns within the jurisdiction of the County of Santa Clara (“County”); and

WHEREAS, the Cities Association of Santa Clara County has existed as an unincorporated association since 1990 and desires to formalize the relationship between its City and Town members and form a Joint Powers Agency in order to carry out activities for the good of all its Members; and

WHEREAS, the Members executing this Agreement, desire to join together to create a separate Joint Powers Agency for the purpose of promoting cooperation among the Members; advocating for positive action; enhancing the quality of life for the residents of the County and their individual cities; and encouraging other joint and cooperative endeavors among the public agencies for their mutual benefit.

NOW, THEREFORE, the Parties agree to the following:

AGREEMENT

ARTICLE 1 - DEFINITIONS

- 1.1 “Associate Member” shall mean any non-city local agency, located within jurisdictional authority of the County of Santa Clara, and shall have duly executed and delivered to the Agency an Associate Membership Agreement in the form of and as further provided in the Bylaws of the Agency, as further provided in Article 32 herein.
- 1.2 “Agency” shall mean the Cities Association of Santa Clara County Joint Powers Agency created by this Agreement.
- 1.3 “Board of Directors” or “Board” shall mean the governing body of the Agency.
- 1.4 “Executive Committee” shall mean the Executive Committee of the Board of Directors of the Agency.

- 1.5 “Fiscal Year” shall mean that period of twelve (12) months which is established by the Board of Directors or the Bylaws as the fiscal year of the Agency, which shall run from July 1 to June 30 of each year.
- 1.6 “Government Code” shall mean the California Government Code, as amended.
- 1.7 “Joint Powers Law” shall mean Articles 1 and 2, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code, known as the Joint Exercise of Powers Act, as amended.
- 1.8 “Legislative Body” shall mean the legislative board of each Public Agency that is a Member of the Agency.
- 1.9 “Member” shall mean any city which has executed this Agreement and has become a member of the Agency. The complete list of Members is set forth in Exhibit “A” attached hereto and incorporated herein by this reference.
- 1.10 “Parties” shall mean Members or Associate Members who are party to this Agreement.
- 1.11 “Public Agency” shall mean public agency as defined in Government Code Section 6500, as amended.
- 1.12 Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neutral gender shall be construed to include each other gender, when appropriate, and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions herein shall be construed to effectuate the purposes set forth and to sustain the validity of those purposes.

ARTICLE 2 - CREATION AND PURPOSES

- 2.1 This Agreement is entered into by the Members in order to:
 - 2.1.1 Review, study, develop consensus positions, and take action on issues of interest to Members;
 - 2.1.2 Focus on local and regional matters that are important to our future;
 - 2.1.3 Develop a common agenda for Santa Clara County cities;
 - 2.1.4 Serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government;
 - 2.1.5 Establish and administer the City Selection Committee pursuant to Government Code Section 50270 *et seq.*, as amended and make appointments to regional and local bodies as provided by law;
 - 2.1.6 Serve as a source of education, information, and networking for officials from all cities in Santa Clara County;

- 2.1.7 Provide a forum for non-city individuals, groups and organizations and the private sector to address items of interest to Santa Clara County cities;
- 2.1.8 Reduce duplication of effort by sharing information and provide a unified voice and strong advocacy on legislation and other important issues that affect its Members;
- 2.1.9 Strengthen the Members’ and Agency’s standing at the regional, State and Federal level;
- 2.1.10 Strive to respect local control, provide regional perspective, and make a difference to elevate the quality of life throughout the County;
- 2.1.11 Provide a forum for discussion and study of problems common to the Members and to assist in the development and implementation of solutions to such problems;
- 2.1.12 Provide a method for the Members to collaborate and jointly develop policies that benefit the region; and
- 2.1.13 Collaborate in such a way that is efficient, saves the jurisdictions the expense of individual effort, and creates positive outcomes.

ARTICLE 3 - PARTIES TO AGREEMENT

Each Member, as a Party to this Agreement, intends to and does contract with all other Members as Parties to this Agreement and, with other Public Agencies as may later be added as Parties to this Agreement pursuant to the Joint Powers Law. The withdrawal of any party from this Agreement, pursuant to Article 20, shall not affect this Agreement or the remaining Members’ obligations.

ARTICLE 4 – FORMATION; TERM

This Agreement shall become effective when fully executed and returned to the Agency by at least eight (8) Members, but only as to those Members that have executed the Agreement. The Agency shall promptly notify all Members in writing of the effective date. After one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least one (1) year and a similar joint powers authority, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency. Notwithstanding the name change, this Agreement shall continue in effect until terminated as provided herein. The termination of this Agreement with respect to an individual Member upon its withdrawal from membership in the Agency shall not operate to terminate this Agreement with respect to the remaining Members.

ARTICLE 5 - CREATION OF THE AGENCY

Pursuant to the Joint Powers Law, there is hereby created a public entity, separate and apart from the Parties hereto, to be known as the “Cities Association of Santa Clara County Joint Powers

Agency” with powers as are set forth herein. Upon formation of the Agency as described in Article 4, the Cities Association of Santa Clara County, an unincorporated association shall follow the process of dissolution and cease to exist.

ARTICLE 6 - POWERS OF THE AGENCY

6.1 Subject to the terms of this agreement, the Agency shall have all of the powers of a public agency as defined in the Government Code Section 6500 as amended and all additional powers set forth in the Joint Powers Law and other statutes applicable to the Joint Powers Agency created hereby and is authorized to do all acts necessary for the exercise of these powers on behalf of its Members. Powers include, but are not limited to, the following, in the Agency’s own name:

- 6.1.1 To make and enter into contracts;
- 6.1.2 To incur debts, liabilities, and obligations and to encumber personal property;
- 6.1.3 To acquire, hold, or dispose of personal property, contributions, and donations of personal property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities;
- 6.1.4 To sue and be sued in its own name, and to settle any claim against it;
- 6.1.5 To receive and use contributions and advances from Members as provided in Government Code Section 6504, as amended including contributions or advances of personnel and equipment;
- 6.1.6 To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code Section 6509.5, as amended;
- 6.1.7 To acquire, construct, manage, maintain, or operate title to personal property, or rights, or any interest therein;
- 6.1.8 To retain the services of agents, contractors, and consultants;
- 6.1.9 To receive, collect, and disburse monies;
- 6.1.10 To conduct studies, tests, evaluations, and similar activities;
- 6.1.11 To contract for services from Members, including in-kind services;
- 6.1.12 To conduct public outreach and education;
- 6.1.13 To participate in pilot and demonstration projects;
- 6.1.14 To charge for services, programs, and/or systems;
- 6.1.15 To work with elected officials and local, regional, state, and federal agencies, including other joint powers agencies and unincorporated associations to pursue funding, enter agreements and otherwise carry out the purposes of the Agency; and

~~6.1.16 In addition to the other powers provided herein, the Agency shall have any powers authorized by law to each of the Parties and separately to the Agency created herein relating to economic development, including, without limitation, the promotion of opportunities for the creation and retention of employment, the stimulation of economic activity, and the increase of the tax base, within the jurisdictions of the Parties; and~~

6.1.16 Subject to this Agreement or the Bylaws of the Agency, and only as authorized by the Joint Powers Law, to exercise other reasonable and necessary powers in furtherance or support of any purpose of the Agency.

ARTICLE 7 - RESTRICTIONS ON POWERS

- 7.1 Pursuant to and to the extent required by Government Code Section 6509, as amended, the Agency shall be restricted in the exercise of its powers and shall exercise its powers in the same manner as the Town of Los Gatos is restricted in its exercise of similar powers; provided that, if the Town of Los Gatos shall cease to be a Member, then the Agency shall be restricted in the exercise of its power in the same manner as another Member agreed to by the majority of the Board of Directors. Unless expressly provided for, the Agency does not, by virtue of this Section or this Agreement, subject itself to the internal policies or ordinances of any Member.
- 7.2 The Agency shall not have the power of eminent domain.
- 7.3 The Agency shall not have the power of taxation. The Agency may not impose taxes but may receive the proceeds of taxes imposed by other entities or public funds from other entities.
- 7.4 The Agency shall not have the power to acquire, purchase, hold or dispose of real property.
- 7.5 The Agency shall not have the power to hire employees.
- 7.6 The Agency shall not have the power to issue debt.

ARTICLE 8 - BOARD OF DIRECTORS

- 8.1 The Agency shall be governed by the Board of Directors, which shall be composed of one Director representing each Member. Each Member’s Legislative Body, according to its own procedures, shall appoint a Member of the Legislative Body as a Director to represent the Member on the Board of Directors. The Director shall serve at the pleasure of their respective Legislative Body. The Legislative Body of each Member shall also appoint one alternate Director (“Alternate”) who shall participate in and vote at any meeting of the Board when the primary Director is absent. Any vacancy in a Director or Alternate position shall be filled by the appointing Member’s Legislative Body, subject to the provisions of this Article. Immediately upon admission of a new Member, the new Member shall be entitled and required to appoint a

Director and one alternate Director. Every Director or Alternate shall be a Council Member or Mayor of their individual Member city.

- 8.2 A Director and/or Alternate shall be removed from the Board of Directors upon the occurrence of any one of the following events: (1) the Agency receives written notice from the appointing Member of the removal and/or replacement of the Director or Alternate; (2) the withdrawal of the Member from this Agreement; (3) the death or resignation of the Director or Alternate; (4) the Agency receives written notice from the Member that the Director or Alternate is no longer qualified as provided in the first paragraph of this Article [8](#); or as set forth in Article 21.
- 8.3 The Board of Directors shall have the following powers and functions:
- 8.3.1 Except as otherwise provided in this Agreement, the Board shall exercise all powers and conduct all business of the Agency, either directly or by delegation to other bodies or persons;
- 8.3.2 The Board shall elect an Executive Committee, as provided in Article 11;
- 8.3.3 The Board shall be the policy setting body of the Agency;
- 8.3.4 The Board shall appoint or retain the services of necessary agents, consultants, or independent contractors in accordance with Article 14;
- 8.3.5 The Board shall cause to be prepared, and shall review, modify as necessary, and adopt the annual operating budget of the Agency. Adoption of the budget may not be delegated. The Board shall adopt their budget no later than the first April 30th following formation and then subsequently by April 30th of each successive year. The Board shall review, set, and adopt annual dues to be funded by Agency Members;
- 8.3.6 The Board shall receive, review and act upon periodic reports and audits of the funds of the Agency, as required under Article 16 of this Agreement;
- 8.3.7 The Board may adopt policies regarding personnel, conflicts of interest and other matters necessary or convenient for the efficient operation of the Agency;
- 8.3.8 The Board shall adopt a set of priorities and work plan for each fiscal year; and
- 8.3.9 Subject to the terms of this Agreement, the Board shall have such other powers and duties as are reasonably necessary to carry out the purposes of the Agency.

ARTICLE 9 – MEETINGS OF THE BOARD OF DIRECTORS

- 9.1 The Board of Directors shall hold at least one regular meeting each year. The Board of Directors shall fix by resolution, or in the Bylaws, the date, time, and location of each regular meeting. The Board or Executive Director, in consultation with the President of the Board as provided in Article 10 below, may call special meetings.

- 9.2 Each meeting of the Board of Directors, including without limitation, regular, adjourned regular and special meetings shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.
- 9.3 The Agency shall require the Secretary/Treasurer or designee to take and maintain minutes of all regular, adjourned regular and special meetings. As soon as practicable after each meeting, the Secretary/Treasurer or designee shall forward to each Board Member, a copy of the minutes of the meeting.
- 9.4 A majority of the Members of the Board shall constitute a quorum for the transaction of business. Unless otherwise required by law, a vote of the majority of a quorum of the members present at a meeting is sufficient to take any action, unless otherwise specified in this Agreement. However, less than a quorum may adjourn the meeting to a future date.
- 9.5 Each Member of the Board shall have one vote.

ARTICLE 10 - OFFICERS

The Board shall elect as Officers of the Agency President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President at its first meeting. Thereafter, except as may be otherwise provided in the Bylaws of the Agency, the Board shall elect the President, First Vice President, Second Vice President, Secretary/Treasurer, and Immediate Past President, at the November Board of Directors meeting, or the first meeting held on or after November 1 of each year. Of the Officers, the President, and at least two other Officers, must also be members of the Board of Directors. The remaining Officers may be the elected or appointed Mayor or Council Member of any Member of the Agency regardless of whether they are on the Board of Directors. Each Officer shall assume the duties of his or her office upon election. If the President ceases to be a Member of the Board, the resulting vacancy shall be filled at the next meeting of the Board held after the vacancy occurs, or at a special meeting of the Board called to fill the vacancy. The President shall preside at and conduct all meetings of the Board. Should the Board President not be available then the highest-level Officer, who is a member of the Board of Directors, shall preside. If that individual is unavailable, then any Director appointed by the President may preside. The Board may appoint other officers as it considers necessary. The duties of the Secretary/Treasurer are set forth in Articles [16 and 17](#) of this Agreement. The Secretary/Treasurer shall be appointed by the Board of Directors and shall be eligible to serve as Secretary/Treasurer, as provided in the Joint Powers Law.

ARTICLE 11 - EXECUTIVE COMMITTEE

At such time as there are nine Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of three (3) Officers consisting of the President, First Vice President, and Secretary/Treasurer, which shall exist thereafter. At such time as there are 11 Members, the Board shall establish and elect an Executive Committee of the Board which shall consist solely of five (5) Officers, with the addition of the Immediate Past President, which shall exist thereafter. Should the Immediate Past President no longer hold elected office then a Member at Large

may be appointed by the Board to serve on the Executive Committee. The qualifications of the Member at Large are that they must be an elected or appointed Mayor or Council Member of a Member of the Agency but need not be on the Board of Directors. The terms of office of the Members of the Executive Committee shall be one year. The Executive Committee shall conduct the business of the Agency between meetings of the Board, exercising all those powers as provided for in this Article, or as otherwise delegated to it by the Board.

The Executive Committee, subject to approval by the Board of Directors, shall exercise all powers or duties of the Board relating to the entering, approval and execution of agreements, leases, and other instruments of or relating to the finances of the Joint Powers Agency within the previously approved annual budget or amended budget. The Executive Committee may have additional powers delegated to it by the Board, except for the adoption of the Agency's annual budget. Any additional powers and duties delegated shall be specified in a Resolution adopted by the Board. The Executive Committee shall obtain approval from the Board before authorizing or conducting any investigations into the business of the Agency and before taking personnel action. These actions must be authorized by a majority vote of the Executive Committee. Each meeting of the Executive Committee shall be called, noticed, held, and conducted in accordance with the Ralph M. Brown Act, Government Code Section 54950 *et seq.*, as amended.

ARTICLE 12 - COMMITTEES

The Board may establish committees, as it deems appropriate to conduct the business of the Agency or it may, in the Bylaws or by resolution, delegate this power to the Executive Committee by Resolution. Members of committees, except as otherwise stated in this Agreement, shall be appointed by the President. Each committee shall have those duties as determined by whichever Agency body created it or as otherwise set forth in the Bylaws. Each committee shall meet on the call of its chairperson and shall report to and be directed by whichever entity created it. No more than one representative from each jurisdiction shall serve on each committee. Membership of any committee may consist in whole or in part of persons who are not members of the Board; provided that the Board may delegate decision-making powers and duties only to a committee, a majority of the members of which are Board Members. Any committee, except the City Selection Committee, in which a majority of the members are not Board Members may function only in an advisory capacity. The Legislative Action Committee shall be a permanent Committee of the Agency chaired by the Second Vice President and whose members shall be appointed by the Agency Members. Should there be no Second Vice President, the Legislative Action Committee shall be chaired by the First Vice President. All standing committees shall abide by the Ralph M. Brown Act, Government Code Section 54950 et seq., as amended.

ARTICLE 13 – CITY SELECTION COMMITTEE

The City Selection Committee is established pursuant to State law and the Agency shall administer the City Selection Committee as follows: The City Selection Committee shall be a permanent committee of the Agency, consisting of the Mayor of each City or Town, consistent with Government

Code 50270, as amended. The Agency shall allow all cities in the County to participate in the City Selection Committee, whether or not they are members of the Agency.

ARTICLE 14 – PROFESSIONAL SERVICES

14.1 The Board of Directors may contract with individuals or companies to provide the following services at the pleasure of the Board of Directors:

14.1.1 Executive Director. The Board shall contract with a consultant or independent contractor to fulfill the following duties of an Executive Director: manage the affairs of the Agency, subject to the general supervision and policy direction of the Board and the Executive Committee; oversee the day-to-day activities of the Agency; select and manage the activities of all consultants and independent contractors to the Agency; be responsible for required filings by the Agency with the State of California; prepare or delegate the preparation of all meeting notices, minutes, and required documentation of the Agency; prepare and propose an annual budget; prepare reports and recommendations for consideration by the Executive Committee or Board; be responsible for billing and collection of annual dues; maintain the records of the Agency; assist Local Agencies in the preparation and filing of applications for participation in the financing programs of the Agency; expedite the processing of these applications; pay all invoices, taxes and amounts due; and perform other duties as are assigned by the Board and Executive Committee. The Executive Director may have the authority to sign agreements, applications, and other documents on behalf the Agency, if authorized by the Board or Executive Committee. The Executive Director shall have the Authority to enter into individual Agreements with a single vendor over the course of a fiscal year, on behalf of the Agency, up to the amount set by the Bylaws.

14.1.2 General Counsel. The Board shall contract with a consultant, independent contractor, or law firm to fulfill the duties of General Legal Counsel. The General Counsel shall take direction from the majority of the Board of Directors. The General Counsel shall be a member in good standing of the California State Bar. The General Counsel shall be responsible for the legal affairs of the Agency;

14.1.3 Auditor. The Auditor shall be a Certified Public Accountant licensed to practice in the State of California. The Auditor will conduct annual financial audits of the Agency;

14.1.4 Other services. The Executive Director may hire additional consultants and independent contractors, as appropriate, based upon a previously approved budget;

14.1.5 The Agency shall not contract with or become a member of the California Public Employees Retirement System (“PERS”), nor shall any agent, consultant or independent contractor of the Agency become a member of PERS or be entitled to a pension or retirement from PERS as a result of service to the Agency; and

14.1.6 The consultants and independent contractors fulfilling the duties of Executive Director, the Auditor, the General Counsel and any other consultants or independent contractors

who provide services to the Agency shall be compensated in such manner as shall be approved by the Board and as permitted by applicable law.

ARTICLE 15 - SIGNIFICANT PROGRAMS

If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. If the Board deems it necessary, it may appoint a working committee to study the significant program or activity and provide input to the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring \$10,000 or more in annual expenditures; this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into a specific program or project Agreement that includes relevant terms regarding the particular affected Members, and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These limited scope Agreements shall be subject to approval by the Board by a two-thirds vote of the Members.

ARTICLE 16 - ACCOUNTS AND RECORDS

- 16.1 The Agency shall adopt an operating budget pursuant to Section 8.3.5 of Article 8 of this Agreement.
- 16.2 The Secretary/Treasurer of the Agency or the Executive Director shall establish and maintain funds and accounts as may be required by good accounting practices and by the Board. Books and records of the Agency shall be open to and made available for inspection at all reasonable times upon request by authorized representatives of the Members.
- 16.3 The Agency shall adhere to the standard of strict accountability for funds and report all receipts and disbursements as set forth in the Joint Powers Law.
- 16.4 Auditor's Report. The Auditor, within one hundred and twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for the prior Fiscal Year to the Board.
- 16.5 The Agency shall either make or contract with a Certified Public Accountant to make an annual Fiscal Year audit of all accounts and records of the Agency, conforming in all respects with the requirements of the Joint Powers Law. A report of the audit shall be filed as a public record and be provided to each of the Members, and with the County Auditor of the County of Santa Clara. Costs of the audit shall be considered a general expense of the Agency. Any costs of the audit shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for this purpose.

ARTICLE 17 - RESPONSIBILITIES FOR FUNDS AND PROPERTY

- 17.1 The Secretary/Treasurer, or his or her designee, shall have the custody of and disburse the Agency's funds. Proceeds of similar obligations of the Agency may be deposited with a trustee, agent or other depository and shall not be considered the Agency's funds for purposes of this Article. The Secretary/Treasurer may delegate disbursements to persons as may be authorized by the Board or the Executive Committee to perform that function, subject to the requirements of Section 17.2 below.
- 17.2 The Secretary/Treasurer or designee shall perform all functions then required to be performed by the Treasurer under the Joint Powers Law. The Secretary/Treasurer shall review the financial statements and the annual audit of the Agency.
- 17.3 Pursuant to Government Code Section 6505.1, as amended, the Executive Director, the Secretary/Treasurer, and other persons as the Board may designate, shall have charge of, handle, and have access to the property of the Agency. The Agency shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in a form specified by the Board of Directors, covering any officers or agents of the Agency who are authorized to hold or disburse funds of the Agency and any officers or agents who are authorized to have charge of, handle and have access to property of the Agency.

ARTICLE 18 - MEMBER RESPONSIBILITIES

- 18.1 Each Member shall have the following responsibilities:
 - 18.1.1 To appoint its Director and Alternate to, or remove its Director and Alternate, from the Board, as set forth in Article 8;
 - 18.1.2 To consider proposed amendments to this Agreement as set forth in Article 29;
 - 18.1.3 To make contributions in the form of annual membership assessments and fees, if any, determined by the Board for the purpose of defraying the costs of providing the annual benefits accruing directly to each party from this Agreement; and
 - 18.1.4 If a Member provides written notice to the Agency of its election to relinquish its status as a Member, or if a Member fails to be represented at four (4) or more consecutive regular meetings of the Board of Directors, then that Member may be deemed to be a suspended Member, with all the rights and duties of an Associate Member, upon action of the Board of Directors duly adopted. Prior to the suspension, the President shall contact the Mayor and request that another Council Member be appointed or that reinstatement for the current Member be requested. The suspension shall be approved by the Board of Directors. Promptly following that action by the Board of Directors, the Member may be reinstated by informing the Board of its intent to be reinstated within thirty (30) days and to attend all future meetings either via the Director or Alternate. Removal of a Member for failure of the Director to attend meetings shall not relieve the

Member from its obligations under any outstanding agreements relating to the Agency's financial obligations, except in accordance with this Agreement.

ARTICLE 19 - NEW MEMBERS

With the approval of the Board, any city located within the County of Santa Clara may become a party as a Member to this Agreement. A city requesting membership shall apply by presenting to the Agency, a resolution of the Legislative Body of the City, evidencing its approval of this Agreement. The date that the applying city will become a Member will be determined by the Board. The Agency shall accept new Members upon a majority affirmative vote of the entire Board and upon payment of any Board determined assessments and fees.

ARTICLE 20 - WITHDRAWAL

A Member may terminate its membership in the Agency at any time upon giving one hundred and eighty (180) days written notice of withdrawal to the Agency. The notice shall be given to the Board of Directors. The effective date shall be the conclusion of the first Board Meeting which occurs after the one hundred and eighty (180) day notice period has passed. Any Member who withdraws shall remain obligated to pay its share of all debts, liabilities, and obligations incurred or accrued through the end of the current fiscal year of the Agency. The withdrawal does not in any way impair any contracts, resolutions, indentures, or other obligations of the Agency then in effect. In the event of a disagreement between the Agency and the withdrawing Member as to whether the withdrawal shall cause the impairment of any contracts, resolutions, indentures, or other obligations of the Agency, the determination shall be made by a majority vote of the Board of Directors. Any Member that withdraws and later seeks reinstatement to the Agency shall provide funds to the Agency, proportionate to their responsibility for the current fiscal year, as if the Member had never left the Agency. A withdrawing Member shall, in all events, remain liable for its proportionate share of: (i) its full amount of its proportionate share of the adopted fiscal year budget; (ii) any call for funds or assessment levied by the Agency prior to the date it provides its notice of withdrawal; (iii) any contribution in existence at the time of the notice of withdrawal.

ARTICLE 21 - REMOVAL

If the Board of Directors determines that reasonable cause exists to remove a Director from the Board, it can remove the Director and request that the Member who appointed the Director appoint a new Director. The Board may, by two-thirds majority vote of the entire Board, remove a Member based on a Member's breach of any material term of this Agreement, and the failure to cure that breach within sixty (60) days written notice. A terminated Member shall remain liable for any obligation under this Agreement as described above. Failure to pay dues within 60 days following notice shall result in a Member becoming suspended with all the rights of an Associate Member. A suspended Member shall immediately have its voting rights restored upon full payment of dues.

ARTICLE 22 - OBLIGATIONS OF AGENCY

The debts, liabilities, and obligations of the Agency shall not be the debts, liabilities, and obligations of the Members. Any Member may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the Agency. Nothing in this Agreement shall be interpreted to limit the applicability of the provisions of Government Code Section 895.6.

ARTICLE 23 - TERMINATION AND DISTRIBUTION OF ASSETS

This Agreement may be terminated at any time that no financial obligations of the Agency are outstanding, with the approval of two-thirds of the Members. Upon termination of this Agreement, all assets of the Agency shall, after payment of all unpaid costs, expenses and charges incurred under this Agreement, be distributed among the parties to this Agreement, in accordance with the respective contributions of each of the Parties.

ARTICLE 24 - LIABILITY OF BOARD OF DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS

- 24.1 The Members of the Board of Directors, Officers, and Committee Members of the Agency shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be individually liable for any mistake of judgment, or any other action made, taken, or omitted by them in good faith, nor for any act or omission by any agent, consultant or independent contractor selected with reasonable care, nor for loss incurred, resulting from any action made, taken, or omitted by them in good faith and with reasonable care through investment of Agency funds, or failure to invest.
- 24.2 No Director, Officer, or Committee Member shall be responsible for any act or omission of any other Director, Officer, or Committee Member. Unless otherwise required by law, no Director, Officer, or Committee Member shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement.
- 24.3 The funds of the Agency shall be used to defend, indemnify, and hold harmless the Agency for any Director, Officer, or Committee Member, for their actions taken within the scope of the Agency. Nothing herein shall limit the right of the Agency to purchase insurance to provide coverage for these types of losses.
- 24.4 These indemnification and defense obligations shall survive the termination of the Agreement as to any acts or omissions occurring before such termination.

ARTICLE 25 - INDEMNIFICATION

To the fullest extent allowed by law, the Agency shall defend, indemnify, and save harmless the Members and their governing bodies, officers, agents and employees from all claims, losses, damages, costs, injury, and liability of every kind, nature, and description directly or indirectly arising from the

performance of any of the activities of the Agency or the activities undertaken pursuant to this Agreement.

ARTICLE 26 - BYLAWS

The Board shall adopt Bylaws consistent with this Agreement which shall provide for the administration and management of the Agency. The provisions of the Bylaws, as modified from time to time, shall establish the operating procedures and standards for the Agency.

ARTICLE 27 - NOTICES

The Agency shall address notices, billings, and other communications to a Member as directed by that Member. Each Member shall provide the Agency with the email and physical address to which communications are to be sent. Members shall address notices and other communications to the Agency, at the office address of the Agency, or the email address of the Agency as directed by the Member and as set forth in the Bylaws.

ARTICLE 28 - CODES

The Agency shall adopt and observe a Code of Conduct and Conflict of Interest Policy. The Agency shall comply with all requirements of the Fair Political Practices Commission as required by law or regulation.

ARTICLE 29 - AMENDMENT

This Agreement may be amended at any time by vote of the Members, acting through their Legislative Bodies. Any amendment of this Agreement shall become effective upon receipt by the Agency of notice of the approval of the amendment by two thirds of the Legislative Bodies of the Members.

ARTICLE 30 - SEVERABILITY

Should any portion, term, condition, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms, conditions, and provisions shall not be affected.

ARTICLE 31 - PROHIBITION AGAINST ASSIGNMENT

No Member may assign any right, claim, or interest it may have under this Agreement, and no creditor, assignee or third-party beneficiary of any Member shall have any right, claim, or title to any part, share, interest, fund, or asset of the Agency. This Agreement shall be binding upon and shall inure to the benefit of successors of the Members. This Agreement is intended solely for the benefit of the Agency and its Members. No third party shall be deemed a beneficiary of this Agreement or have any rights against the Agency or its Members.

ARTICLE 32 - ASSOCIATE MEMBERS

Any Public Agency located within the jurisdictional authority of the County of Santa Clara may, with the approval of the Board of Directors, become an Associate Member of the Agency by executing and delivering to the Agency an Associate Membership Agreement and providing an Associate Membership fee and as further provided in the Bylaws. An Associate Member shall not be entitled to representation on the Board of Directors, or to vote on any matter coming before the Board of Directors or the Agency, unless a separate written agreement is entered into between the Associate Member and the Agency.

ARTICLE 33 - LIBERAL CONSTRUCTION

The provisions of this Agreement shall be liberally construed as necessary or reasonably convenient to achieve the purposes of the Agency.

ARTICLE 34 - NON-WAIVER

No waiver of the breach of default of any of the covenants, agreements, restrictions, or conditions of this Agreement by any Member shall be construed to be a waiver of any succeeding breach of the same or other covenants, restrictions, or conditions of this Agreement. No delay or omission of exercising any right, power, or remedy in the event of a breach or default shall be construed as a waiver or a variation of any of the terms of this Agreement or any applicable agreement.

ARTICLE 35 - REMEDIES FOR BREACH

If any Member shall default on any obligation contained in this Agreement, the default shall not excuse any other Member from fulfilling its respective obligations under this Agreement. Any Member shall be entitled to pursue all legal and equitable remedies against another Member in response to any alleged default under this Agreement. Any and all of the remedies provided to the Members, hereunder or by law now or hereafter enacted, are cumulative and the exercise of one right or remedy shall not impair the Members to any other remedy.

ARTICLE 36 - ARTICLE HEADINGS

All article headings are for reference only and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 37 - DISPUTE RESOLUTION

- 37.1** The Members agree that any dispute regarding the enforcement or interpretation of any term, covenant, or condition of this Agreement (“Dispute”) may first, for a period of not less than thirty (30) days, be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation, or any other binding arbitration or adjudicative dispute resolution process. The Members shall: (i) mediate in good faith; (ii) exchange all documents which each believes to be relevant and material to the issue(s) in the Dispute; (iii) exchange written position papers stating their position on the Dispute and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the Dispute; and (iv) engage and cooperate in such further discovery as the Members agree or mediator suggests may be necessary to facilitate effective mediation.
- 37.2** Each Member shall bear its own costs, attorney’s fees, and expenses of the mediation. Venue of the mediation shall be a mutually agreeable city within Santa Clara County, California.

ARTICLE 38 – INSURANCE

If available, the Agency shall obtain insurance for all Members, appointed Members, and Committee Members, including, but not limited to, Directors and Officers liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall deem will be necessary to adequately insure against the risks of liability that may be incurred by the Agency. Insurance under this provision may include an insurance pool program.

ARTICLE 39 - FILING WITH SECRETARY OF STATE

The Executive Director of the Agency shall file a notice of this Agreement with the office of the California Secretary of State within thirty (30) days of its effective date, as required by Government Code Section 6503.5, as amended and within seventy (70) days of its effective date as required by Government Code Section 53051, as amended.

ARTICLE 40 - COUNTERPARTS

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as

constituting one complete original and may be attached together when executed by the Members hereto. Facsimile and electronic signatures shall be binding.

ARTICLE 41 - AGREEMENT COMPLETE

This Agreement constitutes the full and complete Agreement of the parties and supersedes any prior written Agreement between the Members on the same topic.

DRAFT

Answers to City Managers Questions re: Cities Association of Santa Clara County (“CASCC”) and Proposed Joint Powers Authority (“JPA”) August 7, 2023

GENERAL

Question #1. a.: What do we want this organization to be?

Answer #1. a.: The goals and purposes of the organization will not change. Here are the stated goals of the CASCC:

- To review, study, develop consensus positions, and recommend on issues of interest to Santa Clara County cities;
- To develop a common agenda for Santa Clara County cities;
- To serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government, including the Peninsula Division of the League of California Cities;
- To serve as the City Selection Committee pursuant to Government Code section 50270 et seq. and make appointments to regional and local bodies as provided by law;
- To assist in the development of state-wide legislative policy through the structure of the League of California Cities;
- To serve as a source of education, information, and networking for officials from all cities in Santa Clara County;
- To provide a forum for non-city individuals, groups and organizations, and the private sector to address items of interest to Santa Clara County cities.

And here are the stated purposes of the proposed JPA:

1. Review, study, develop consensus positions, and take action on issues of interest to Members;
2. Focus on local and regional matters that are important to our future;
3. Develop a common agenda for Santa Clara County cities;
4. Serve as a unified voice for Santa Clara County cities in relationship to other agencies, organizations, and levels of government;
5. Establish the City Selection Committee pursuant to Government Code Section 50270 *et seq.*, as amended and make appointments to regional and local bodies as provided by law;
6. Serve as a source of education, information, and networking for officials from all cities in Santa Clara County;
7. Provide a forum for non-city individuals, groups and organizations and the private sector to address items of interest to Santa Clara County cities;
8. Reduce duplication of effort by sharing information and provide a unified voice and strong advocacy on legislation and other important issues that affect its Members;
9. Strengthen the Members’ and Agency’s standing at the regional, State and Federal level;
10. Strive to respect local control, provide regional perspective, and make a difference to elevate the quality of life throughout the County;

- 11. Provide a forum for discussion and study of problems common to the Members and to assist in the development and implementation of solutions to such problems;
- 12. Provide a method for the Members to collaborate and jointly develop policies that benefit the region; and
- 13. Collaborate in such a way that is efficient, saves the jurisdictions the expense of individual effort, and creates positive outcomes.

Question #1. b.: What are the goals in forming this separate JPA as opposed to something less structured?

Answer #1. b.: Currently, the CASCC is an unincorporated association under the California Corporations Code. Since its creation, the member agencies have executed some agreements to provide a bit more structure to the association. In 1990, the CASCC’s member cities also entered into an agreement governing the operation of the organization, later amended on June 30, 1995. A copy of that Agreement is attached. As authorized by this Agreement, the CASCC has also adopted bylaws, available on the organization’s website. The existing Agreements set forth a structure that is similar to what a Joint Powers Agreement would establish for a JPA.

If the Cities Association becomes a JPA, neither the purpose nor the budget process would change. However, the JPA structure addresses concerns that have been raised about the CASCC such as liability and insurance. The JPA would have access to insurance that is not currently available. Governmental immunities would apply to the JPA that do not apply to an unincorporated association. A JPA would also clarify the tax status of the organization. The governance and organizational structure are also familiar to the members.

Question #1. c. How is forming the JPA furthering those goals.

Answer #1. c.: The most effective CASCC is one that is permanent, has governmental immunities to liabilities and employs an organizational structure that is both equitable and highly functional. Also, it will insulate the individual city/town members from future individual liability that an unincorporated association would arguably not do. The CASCC has accomplished much in the past and can accomplish many of the same programs and should the Board of Directors wish to, additional tasks with the new, permanent structure. In addition, the formation of a JPA eliminates potential tax issues as governmental entities are generally not subject to federal and State tax-related requirements.

Question #2: Are there better organizational forms such as public benefits corporation or nonprofit organization?

CASCC previously considered both a 501 (c) (4) non-profit social welfare organization and a JPA. In 2020, the Board of Directors chose to pursue a JPA based on factors, such as the time and cost of forming the new entity and the compatibility of the JPA structure and membership of

the association. Considering the events that have transpired since the Board of Directors made the decision in 2020, we are even more convinced the JPA structure is best suited to the needs of the CASCC for the reasons stated above and the fact that the CASCC members are elected Council members appointed by their respective agencies and the CASCC administers the Cities Selection Committee.

Question #3: What models/example joint powers agreements were used to develop the proposed CASCC JPA?

Answer #3: The proposed JPA was developed by the two prior General Counsels, including Gary Baum, and he utilized the following examples: Silicon Valley Regional Interoperability Authority JPA (click on JPA document link) <https://svria.org/resources/documents/> Silicon Valley Animal Control Authority JPA (click on JPA link) <https://www.svaca.com/about-us>

Question #4: What issues, structural or otherwise, is the association facing that can only or uniquely be solved by the formation of a JPA?

The JPA would provide a governmental structure for the CASCC. As a JPA, the CASCC would have governmental immunities and the liability of its members would be clarified. The JPA would have also access to some risk pools that insure governmental entities. The JPA structure itself would create a backbone of organization by clearing setting forth the scope of the JPA’s authority.

See answer to Question 1c above.

Question #5: Are there examples of issues that the JPA can address, particularly that cannot be accomplished through a less formal structure?

See answers to Questions #3 and #4.

Collaboration amongst our cities is one of the key advantages of the CASCC, which helps to strengthen our region. It is noteworthy, that in a county as populous and diverse as Santa Clara County, our cities have been able to come together and have some notable successes that could only have happened through CASCC. For example, the work of the CASCC during the COVID-19 pandemic resulted in a stronger partnership with our County, paving the way for greater trust and collaboration in the future. In recognition of their hard work, the CASCC was awarded the President’s Medal for Exemplary Service During the COVID-19 Pandemic by the SCC Board of Supervisors. Also, our cities collectively implemented ordinances to ban single-use plastic bags in each of our cities. Perhaps one of the most timely advantages of the CASCC and JPA membership would be the ability to apply for regional and statewide grants, such as the

ANSWERS TO CITY MANAGER’S QUESTIONS RE: CASCC JPA

August 7, 2023

multi-year Regional Early Action Planning (REAP) Grant from ABAG. CASCC contracts with Community Planning Collaborative to lead this effort. Currently, all of our cities benefit from the technical assistance provided by the Planning Collaborative. Formed in October of 2019, the Santa Clara County Planning Collaborative is a shared effort among the county's jurisdictions to help address the region's housing challenges. The jurisdictions, by working together collaboratively, save money, time, and resources by sharing information and capacity; maintain & facilitate relationships with non-profits, affordable housing advocates, and key governmental organizations.

For cities that are part of the JPA, they would be able to participate in sessions with legislators and other councilmembers to benchmark and share ideas. They would also have the opportunity to vote and advocate on issues together with their fellow cities. During COVID, different groups were able to reach out to the Cities Association knowing they would be able to reach all 15 cities. Also, having a group with all 15 cities participating would complement the SCC City Managers and City Attorneys groups.

Question #6: The primary purpose or goal of the formation described today (10/12/22), was for all cities to continue to participate. If that is the case will the final document be able to be ratified without each of the cities consenting?

The CASCC functions best when all cities and towns within the County are members. Each of the individual Council members who serve on the CASCC board will present the JPA to their respective agencies for approval with the goal of having all the current members cities and towns participate in the JPA. It is important to note that all cities and towns would continue to participate in the City Selection Committee (CSC) even if they are not members of the JPA. Government Code Section 50270 designates the mayors of all cities and towns within the County to serve on the CSC. The purpose of the CSC is to appoint city representatives to boards, commissions, and agencies as required by law. In Santa Clara County, CASCC houses the CSC and takes responsibility for all the administrative tasks related to the CSC.

While it is the goal of the CASCC and the JPA process that all cities and towns become members, the JPA is drafted so that it becomes effective once eight members join. Should the number of members fall below 7 then Article 4 of the JPA would apply:

After one full year after the initial formation of the Agency, should the membership fall below seven (7) Members due to the withdrawal of Members and the membership level remains at below seven (7) Members for a period of at least one (1) year and a similar JPA, with the same or similar powers and functions is formed containing a majority of cities in the County of Santa Clara, the Agency shall change its name and permit the new organization to take on the name of the Agency. Notwithstanding

ANSWERS TO CITY MANAGER'S QUESTIONS RE: CASCC JPA

August 7, 2023

the name change, this Agreement shall continue in effect until terminated as provided herein. The termination of this Agreement with respect to an individual Member upon its withdrawal from membership in the Agency shall not operate to terminate this Agreement with respect to the remaining Members.

Note, this provision was added at the request of the City/Town Attorneys all of which provided input into the final draft of the JPA.

FISCAL MANAGEMENT

Question #1: How will member agencies be able to review proposed annual budget and proposed assessments in advance of adoption by the JPA board?

Answer: #1: Like the process set forth in the bylaws and the process followed by the SVRIA, section 8.3.5 of the JPA requires the Board of Directors to adopt its budget by April 30 of each year. This process is designed to ensure that city/town members can consider and incorporate any increase or decrease in their dues into their budget planning before they are required to adopt their own budgets. Only the Board of Directors may adopt the budget at a publicly noticed meeting, the Executive Committee may not adopt the budget. Notice of proposed budget figures will be sent to the City Managers in advance of any budget adoption meeting. If April 30 is too late for city/town budget planning, an alternative date of March 30 could be considered.

Question #2: Is it assumed that the dues structure/formula will be determined after approval of the JPA, or will this be established in advance of approval?

Answer: #2: While the dues will be established after approval of the JPA, no significant increases are anticipated. The adoption of any dues structure or formula would need to be considered as part of the annual budget process. The dues' structure and related provisions will be incorporated into the bylaws for the JPA. The CASCC will share information regarding its proposed budget and dues as soon as possible in each budget cycle, and will share with its member cities and towns, their elected officials, and city managers in a transparent manner. The goal is to submit next year's fiscal year budget, with the final Joint Powers Agreement, in December 2023.

Question #3: How will the JPA address disagreements on the dues structure, particularly if dues will increase with a JPA?

Answer #3: It is neither assumed nor anticipated that the dues will increase because of the change in organizational structure. It is anticipated that annual dues will increase to reflect cost

of living increases. As set forth in the current bylaws, the Board adopts a budget every year in the same timeline as its member agencies and a majority vote is required to adopt a budget.

Question #4: Has the association considered CalPERS costs in a potential JPA?

Answer#4: Yes, CASCC has considered this matter. CASSC obtains services from independent contractors and does not have employees. CalPERS membership is not mandatory for a JPA. The JPA has been drafted to address this issue and specifically states the JPA will not contract with CalPERS. See JPA provision 14.1.5:

14.1.5 The Agency shall not contract with or become a member of the California Public Employees Retirement System (“PERS”), nor shall any employee of the Agency become a member of PERS or be entitled to a pension or retirement from PERS because of service to the Agency; and

In addition, the following change will be made to the JPA to address the issue:

14.1.6 The Agency shall not contract with or provide any pension to any employee of the Agency, nor shall any employee of the Agency be entitled to a pension or retirement Benefits, aside from Social Security as a result of service to the Agency.

Question #5: What is the extent of the Dissolution Plan and Tax Liability and who will be responsible?

Answer #5: The Dissolution Plan for CASCC has been discussed by the City/Town Attorney’s group and researched by a few of its members. A consensus on the approach to dissolution has been reached with the City/Town Attorney’s Group. Article 5 of the JPA it states: “Upon formation of the Agency as described in Article 4, the Cities Association of Santa Clara County, an unincorporated association shall follow the process of dissolution and cease to exist.” The CASCC will follow the procedure for dissolution set forth in California Corporations Code Section 18410. Upon approval of the JPA by eight Members, the current CASCC Board of Directors will pass a resolution following the Corporations Code procedure and transfer the assets and liabilities of CASCC. The City/Town Attorneys discussed the possibility of only transferring the assets and not the liabilities of CASCC. However, the consensus of this group was that this approach may be rejected by the courts so that path is not recommended and will not be followed.

PERSONNEL MANAGEMENT

Question #1: Who is responsible for evaluating the performance of the Executive Director, and taking any associated personnel action?

Statement #1: Difficult personnel issues can occur in any organization. It is in everyone’s interest to establish a structure for handling such issues in advance of actual situations.

Response to Statement #1: Agreed.

Answer#1: The Executive Director provides services to CASCC as an independent contractor. Only a majority of the Board of Directors may take action regarding the contract of the Executive Director or any performance evaluation process. The JPA will be modified to clarify this issue.

Just to reiterate from Question 4 above, all services provided to CASCC will be through independent contractors, not salaried employees.

DECISIONMAKING

Question #1: How will the JPA determine whether to pursue new initiatives, such as grants, that may not clearly exceed the \$50,000 Significant Programs threshold? How will the JPA determine its ability to perform its associated responsibilities?

Answer #1: The JPA at Article 15 Substantial Programs states:

If the Board desires to create significant programs or activities which will utilize substantial resources of the Agency, it shall do so by a vote of the Board. Substantial resources and significant program or activity shall be defined as any program or activity requiring \$50,000 or more in annual expenditures, this amount shall be increased by the annual cost of living CPI index. Any new significant program or activity shall require a work plan and a two-thirds vote of the Members in order to be initiated. When a new significant program is intentionally designed to be limited in scope, such that it only provides benefits to particular Members, the Agency may enter into specific program or project Agreement that includes relevant terms, by the particular affected Members and any such Agreement shall be approved by the Board prior to or at the same time as formation of the significant program. These Agreements shall be subject to approval by the Board of Directors by a two-thirds vote of the Members.

First and foremost, the JPA’s programs and activities will be limited to its available budget. If a new initiative or grant becomes available, the Board would discuss the level of interest at a public meeting and whether it should pursue it.

Second, the CASCC also intends to amend this JPA provision to define a Substantial Program as any program or activity requiring \$10,000 or more (subject to CPI adjustments) - rather than \$50,000 or more - in annual expenditures, in order to exercise greater fiscal oversight.

Statement #1: For example, the SVRIA JPA establishes a Working Committee with specified composition, that is responsible for recommending a budget, accepting grants, and awarding contracts, as well as recommending an Executive Director.

Response to Statement #1: The Executive Committee performs a similar role to that of SVRIA’s Working Committee, but its powers have been limited based upon input from the City Managers and City/Town Attorneys. Should the CASCC Board of Directors wish to create a new committee, such as the Working Committee with significant powers, the concept, scope, staffing and resources implications would need to be considered by the Board of Directors.

While SVRIA is a JPA model that was considered in the formation of the CASCC JPA, it should be noted that SVRIA’s annual budget exceeds \$5 million (for FY 23 and beyond). By comparison, the CASCC annual budget is currently under \$300K. Currently, it is sufficient for the Executive Committee to perform some, not all, functions of the SVRIA Working Committee. At some point in the future, the CASCC Board of Directors may consider formation of a Working Committee, and may choose to do so with input from the City Managers and/or the City Attorneys.

Question #2: How will the JPA determine its position and activities related to legislative advocacy? How will individual Director’s responsibility to the JPA be reconciled with positions of their respective agencies?

Answer #2:

Role of the Legislative Action Committee (“LAC”)

LAC advocates on behalf of all 15 cities on issues of mutual interest, provides legislative updates to cities, and organizes emergency responses to urgent issues. LAC acts as the convening body for all 15 cities to discuss and take positions on legislative bills, and local and state measures (“Bills/Measures”). The LAC meetings allow for collaboration, advocacy, and education. It allows the cities to delve into an issue and discuss how the issue may affect their cities. LAC is also guided by the Legislative Guiding Principles and the Housing Position Paper, which were both adopted by the Cities Association Board and aim to be representative of all 15 cities.

Benefit to cities from LAC

Cities benefit from the LAC in many ways. An organization consisting of 15 cities with over 1.9 million residents has a louder and more impactful and effective voice compared to each city advocating on its own behalf, especially smaller cities. Legislators have said repeatedly that they pay attention to the positions taken by the Cities Association. Legislators and local groups

seek the Cities Association’s endorsement because they understand the importance and influence of an endorsement from the Cities Association.

LAC also provides an opportunity for legislators to present an idea for a potential Bill/Measure and solicit feedback on how such a Bill/Measure may impact cities, or what provisions would cities support/oppose. This is also a great opportunity for Cities to weigh in and give feedback to help shape a bill before it moves forward. Legislators/groups have also shared that it is much easier for them to come to Cities Association and reach all 15 cities at the same time than try to reach each Council individually. For many of the presentations, the legislators will attend the LAC meeting, which gives the cities face to face time with legislators.

Another benefit is LAC provides a forum for cities to learn from each other, hear different perspectives, and better understand the potential impact of a Bill/Measure. Often, this results in the cities being better informed on the pressing issues happening at the state and local levels.

Decision-making process for LAC

The LAC agenda normally consists of (1) an educational item whereby a legislator or group presents on a potential or new Bill/Measure, the intent being to educate and answer any questions representatives may have, or (2) a few Bills/Measures for discussion and action, to recommend a position to the Cities Association Board. It is the Board that makes the final decision on the Cities Association’s position on a particular Bill/Measure. Some cities have the same Councilmember serve on LAC and the Board, while others will have different Councilmembers serve on each body. Therefore, although the discussion and presentation at the Board level is not as in depth as the LAC meeting, sometimes the discussion and vote at the Board level are different from what happened at the LAC meeting.

LAC’s recommendation to the Board is based on what majority of the cities support. The practice is for the LAC Chair to communicate the recommended position to the full Board and include the minority position(s) or any concerns expressed during the discussion at the LAC meeting.

One of the ways the CASCC communicates its position on a particular Bill/Measure is to send a letter to the applicable body. In recent years, the CASCC has made an effort to include the concerns of the “minority position” in the letter, and advocate that certain bills carve out an exemption for smaller cities, recognizing that all 15 cities are unique, diverse and range from populations of a few thousand to one million people.

Every city has its own approach to how it votes on a Bill/Measure at a LAC meeting. Some cities will only vote on a Bill/Measure if their full Council has taken a position on the particular item. Other cities will vote on the item if it aligns with a position taken on a similar issue by its Council. If an item is not controversial like housing, then most cities will vote on the item, even if their full Councils have not considered the item.

How to make LAC even better

The CASCC Executive Committee has continued to identify ways to improve LAC because of the value it provides to the cities. Here are some things we are already considering, and we welcome any suggestions you may have:

- Need staff support to be better prepared for LAC meetings. This work can be time consuming as it requires analyzing bills, researching the support and oppose positions and legislative history, and tracking the status of the Bill/Measure. To date, this work has fallen to the LAC Chair, CASCC Executive Director, and/or the Board President’s staff. If cities, like San Jose, are willing to share their legislative staff with the CASCC, at no cost, it is worth exploring, provided the work is objective and does not reflect the position of that city.
- Continue to do a better job of including the minority voices in our advocacy and any unique impacts to smaller cities.
- Provide a LAC calendar at the beginning of the year that gives dates when LAC will be considering certain bills to give cities an opportunity to have their Councils take a position on the bill before it goes to LAC.
- Have cities suggest bills they want LAC to consider.
- Continue to have the Board members report back to their Councils and City Managers on the impactful and valuable work the CASCC is doing.

Question #3: How does the organization work if/when not all cities join? If not all or enough members join, how does the association act as the appointing body for various regional commissions.

Answer #3: The Agency will be formed once eight cities/towns approve the JPA (See JPA Article 8). The participating members would meet and operate as a JPA. Given Government Code provisions governing the CSC, all cities are permitted to participate in these Committee meetings and the appointment process even if they are not members of the JPA (See JPA Article 13). The JPA would continue to administer the CSC.

At the request of the City/Town Attorneys provisions were added to Article 8 that after one year of formation should membership fall to less than seven members for a period of one year that the Agency is required to release the CASCC name to a new JPA should one be formed. On a related note, the Executive Committee is not activated until there are nine members, and it will then consist of three members, in order to address any potential ties in voting. If the JPA

has eleven or more members, the Executive Committee would then consist of five members (See JPA Article 11). The CASCC intends to amend JPA Article 11 to capture this approach.

For cities that are part of the JPA, they would be able to participate in sessions with legislators and other councilmembers to benchmark and share ideas. They would also have the opportunity to vote and advocate on issues together with their fellow cities. During COVID, different groups were able to reach out to the Cities Association knowing they would be able to reach all 15 cities. Also, having a group with all 15 cities participating would complement the SCC City Managers and City Attorneys groups.

Question #4: Does the proposed power of the executive committee have the potential to allow the executive board to make decisions at the expense of some or all of the members?

Answer #4: The proposed JPA has been drafted to address concerns regarding the authority of the Executive Committee (formerly known as the “Executive Board”). Additional changes will be made to the JPA to clarify that the Executive Committee cannot make personnel decisions and that new powers can only be vested in the Executive Committee following a vote of the Board of Directors on the issue. The Executive Committee will not have the authority to make personnel decisions or decisions related to the contract for the Executive Director.

The JPA currently reads as follows: at Article 11: “The Executive Committee may have additional powers delegated to it by the Board, except for the adoption of the Agency’s annual budget. Any additional powers and duties delegated shall be specified in a Resolution adopted by the Board. The Executive Committee shall provide notice to the Board before authorizing or conducting any investigations into the business of the Agency and before taking personnel action. These actions must be authorized by a majority vote of the Executive Committee.”

The reference to personnel action will be removed and the Executive Committee will be prohibited from taking any personnel actions.

Question #5 What is a situation where the association would need to issue debt, purchase land, or hire or terminate multiple employees?

Answer#5: The provisions authorizing the JPA to issue debt or purchase land will be removed. It is unknown whether the Agency would ever need to hire or terminate an employee, but those decisions would be made by the Board of Directors and memorialized in a budget adopted by the Board of Directors, not the Executive Committee. (See answer to PERSONNEL MANAGEMENT #1)



City of Los Altos 2023 Tentative Council Agenda Calendar

October 10, 2023 Closed Session: TBD Study Session: TBD	
AGENDA TITLE:	DEPARTMENT:
<u>SPECIAL ITEMS:</u>	
Recognition of Outgoing Commissioners	Clerk
Swearing-In of Incoming Commissioners	Clerk
<u>CONSENT:</u>	
Record the Parcel Map of 705 Vista Grande Ave	Dev. Svcs.
<u>PUBLIC HEARING:</u>	
<u>DISCUSSION ITEMS:</u>	
Special Event Ordinance	CM

October 24, 2023 Closed Session: TBD Study Session: TBD	
AGENDA TITLE:	DEPARTMENT:
<u>CONSENT:</u>	
Treasury Report	Finance
Award a Contractor Service Agreement for Annual Street Sweeping	PW
Root Foaming Purchase	PW
<u>PUBLIC HEARING:</u>	
<u>DISCUSSION ITEMS:</u>	

Remaining 2023 City Council agenda calendar items are pending and will be published at a later date.

All items and dates are tentative and subject to change unless a specific date has been noticed for a legally required Public Hearing. Items may be added or removed from the shown date at any time and for any reason prior to the publication of the agenda.

PROGRAM	SUB PROJECT	INITIATION DATE	HEU COMPLETION DATE	STATUS
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Budget & Hire Planning Technician		December 31, 2022	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Amend ADU Ordinance based upon HCD's letter		6 months or less	
Program 3.H: Amend design review process and requirements.	Eliminate 3rd Party Architectural Review		February 28, 2023	COMPLETED
Program 3.H: Amend design review process and requirements.	Dismiss Design Review Commission		February 28, 2023	COMPLETED
Program 3.L: Eliminate the requirement of story poles.			March 31, 2023	COMPLETED
Program 2.E: Conduct annual ADU rental income surveys.	Budget & Hire Housing Manager	March 31, 2023		IN-PROGRESS
Program 4.J: Facilitate alternate modes of transportation for	Adopt VMT Policy &		June 30, 2023	COMPLETED
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	RFP-Permit Ready ADU Plans		July 31, 2023	PLANS IN DEVELOPMENT
Program 1.H: Facilitate housing on City-owned sites.	Financial Analysis	July 1, 2023	December 31, 2023	DEVELOPING RFP
Program 3.D: Evaluate and adjust impact fees.		August 1, 2023	December 31, 2024	IN-PROGRESS
Program 1.H: Facilitate housing on City-owned sites.	Release RFP	December 31, 2023		
Program 6.C: Target housing development in highest resource areas.	Initial Outreach		September 31, 2023	
Program 6.D: Promote Housing Choice (Section 8) rental assistance program.			September 31, 2023	
Program 2.A: Continue to implement and enhance inclusionary housing requirements.			December 31, 2023	IN-PROGRESS
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Housing in-lieu fee.		December 31, 2023	IN-PROGRESS
Program 2.F: Water and Sewer Service Providers.			December 31, 2023	COMPLETED
Program 3.B: Modify building height in mixed-use zoning districts.	Downtown Districts		December 31, 2023	IN-PROGRESS
Program 3.E: Ensure that the density bonus ordinance remains consistent with State law.			December 31, 2023	ONGOING
Program 3.H: Amend design review process and requirements.	Code Amendments		December 31, 2023	COMPLETED

Program 3.K: Standardize multimodal transportation requirements.	Bicycle Storage and Charging Regulations		December 31, 2023	COMPLETED
Program 3.K: Standardize multimodal transportation requirements.	Remove CSC Review of Housing Developments		December 31, 2023	COMPLETED
Program 4.C: Allow Low Barrier Navigation Centers consistent with AB 101.			December 31, 2023	COMPLETED
Program 4.D: Allow transitional and supportive housing consistent with State law.			December 31, 2023	COMPLETED
Program 4.E: Allow employee/farmworker housing consistent with State law.			December 31, 2023	COMPLETED
Program 4.F: Reasonably accommodate disabled persons' housing needs.			December 31, 2023	COMPLETED
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Prepare Inventory.		December 31, 2023	
Program 6.E: Prepare and distribute anti-displacement information.			December 31, 2023	
Program 1.A: Rezone for RHNA shortfall.			January 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 1.G: Rezone housing sites from previous Housing Elements.			January 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 3.G: Amend Conditional Use Permits findings applicable to housing developments.			March 31, 2024	IN-PROGRESS
Program 3.I: Allow residential care facilities consistent with State law.			March 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 3.J: Explicitly allow manufactured homes consistent with State law.			March 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 3.F: Reduce Conditional Use Permit requirement for residential mixed-use and multi-family.			September 31, 2024	IN-PROGRESS
Program 1.B: Facilitate higher density housing in the Commercial Thoroughfare (CT) District.			December 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 1.C: Allow housing in the Office Administrative (OA) District.			December 31, 2024	TO BE COMPLETED BY 1/31/2024

Program 1.E: Update the Loyola Corners Specific Plan.			December 31, 2024	TO BE COMPLETED BY 1/31/2024
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).	Adopt-Permit Ready ADU Plans		December 31, 2024	
Program 3.A: Prepare a Downtown parking plan and update citywide parking requirements.			December 31, 2024	CONTRACT SIGNED
Program 3.B: Modify building height in mixed-use zoning districts.	Neighborhood (CN) District		December 31, 2024	IN-PROGRESS
Program 3.C: Remove floor-to-area ratio (FAR) restriction at Rancho Shopping Center and Woodland Plaza.			December 31, 2024	IN-PROGRESS
Program 3.M: Modify parking requirements for emergency shelters consistent with State law.			December 31, 2024	
Program 2.B: Establish an affordable housing in-lieu fee and commercial linkage fee.	Commercial linkage fee.	December 31, 2025		
Program 1.D: Allow housing on certain Public and Community Facilities District sites and facilitate housing on religious institution properties.			December 31, 2025	
Program 1.F: Rezone Village Court parcel.			December 31, 2025	TO BE COMPLETED BY 1/31/2024
Program 4.H: Provide additional density bonuses and incentives for housing that accommodates special needs groups.			December 31, 2025	
Program 4.I: Allow senior housing with extended care facilities in multi-family and mixed-use zoning districts.			December 31, 2025	
Program 1.I: Incentivize Downtown lot consolidation.			July 31, 2026	
Program 4.G: Assist seniors to maintain and rehabilitate their homes.			July 31, 2026	
Program 6.C: Target housing development in highest resource areas.	Follow-up Outreach		September 31, 2026	
Program 1.H: Facilitate housing on City-owned sites.	Entitlement Review		December 31, 2026	

Program 3.N: Modify standards in the R3 zoning districts.			December 31, 2026	IN-PROGRESS
Program 4.J: Facilitate alternate modes of transportation for residents.	Capital Improvement Project for above head pedestrian crossing signals on San Antonio Road near Downtown Los Altos		December 31, 2027	
Program 5.F: Incentivize the creation of play areas for multi-family housing projects.			December 31, 2027	
Program 1.K: Participate in regional housing needs planning efforts.			Ongoing	
Program 1.L: General Plan amendments.			Ongoing	
Program 1.M: SB 9 implementation.			Ongoing	
Program 1.N: Facilitate and monitor pipeline housing projects.			Ongoing	
Program 2.C: Assist in securing funding for affordable housing projects.			Ongoing	
Program 2.D: Encourage and streamline Accessory Dwelling Units (ADUs).			Ongoing	
Program 2.E: Conduct annual ADU rental income surveys.	Annual Survey		Annually	
Program 4.A: Support efforts to fund homeless services.			Ongoing	
Program 4.B: Continue to participate in local and regional forums for homelessness, supportive, and transitional housing.			Ongoing	
Program 5.A: Monitor condominium conversions.			Ongoing	
Program 5.B: Continue to administer the City's affordable housing programs.			Ongoing	
Program 5.C: Restrict commercial uses from displacing residential neighborhoods.			Ongoing	
Program 5.D: Implement voluntary code inspection program.			Ongoing	

Program 5.E: Help secure funding for housing rehabilitation and assistance programs.			Ongoing	
Program 6.A: Assist residents with housing discrimination and landlord-tenant complaints.			Ongoing	
Program 6.B: Maintain and expand an inventory of affordable housing funding sources.	Inform, Evaluate Apply/Submit		Ongoing	
Program 6.F: Affirmatively market physically accessible units.			Ongoing	
Program 7.A: Promote energy and water conservation and greenhouse gas reduction through education and awareness campaigns.			Ongoing	
Program 7.B: Monitor and implement thresholds and statutory requirements of climate change legislation.			Ongoing	