



Cannon Beach Planning Commission

Staff Report Addendum (10:00 AM February 24, 2022)

PUBLIC HEARING AND CONSIDERATION OF **AA 22-01**, GREG HATHAWAY'S, ON BEHALF OF JEFF AND JENNIFER HARRISON, APPEAL OF THE CITY'S ADMINISTRATIVE APPROVAL OF A BUILDING/DEVELOPMENT PERMIT FOR 534 NORTH LAUREL STREET. THE PROPERTY IS LOCATED AT 544 N. LAUREL STREET (TAX LOT 07002, MAP 51019AD), AND IN A RESIDENTIAL MEDIUM DENSITY (R2) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, SECTION 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE, CONDITIONS OF APPROVAL OF THE CANNON BEACH PRESERVATION PLANNED DEVELOPMENT SUBDIVISION AND APPROVED PLAT.

Agenda Date: February 24, 2022

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on January 25, 2022 unless otherwise noted.

"A" Exhibits – Application Materials

- A-1** Administrative Appeal Application, dated January 25, 2022, including Hathaway letter of appeal, on behalf of Jeff and Jennifer Harrison;
- A-2** Amended Notice of Appeal, dated February 22, 2022, Greg Hathaway, on behalf of Jeff and Jennifer Harrison;
- A-3** Proposed Findings of Fact and Conclusions of Law, dated February 23, 2022, Greg Hathaway, on behalf of Jeff and Jennifer Harrison;

"B" Exhibits – Agency Comments

None received as of this writing;

"C" Exhibits – Cannon Beach Supplements

- C-1** Cannon Beach Preservation Planned Development Subdivision Conditions of Approval;, from LUBA Record 2016-033;
- C-2** Cannon Beach Preservation Planned Development Subdivision Plat, Recorded November 21, 2016;, Recorded November 21, 2016;
- C-3** Building Permit #164-20-000055-DWL, with Plan Attachments, excluding Structural Calculations; issued January 11, 2022;

C-4 Initial House Plans for Harding-Bouvet Residence, by Tolovna Architects, with requested revisions, dated May 31, 2021;

C-5 Alternative House Plans for Harding-Bouvet Residence, by Tolovna Architects, undated, received February 4, 2022;

C-6 Staff Report Addendum, November 12, 2021

“D” Exhibits – Public Comment

D-1 Dean Alterman letter, on behalf of the applicant, Paul Bouvet, dated and received February 24, 2022;

D-2 Betty Ayers, Email correspondence, received February 23, 2022;

D-3 Darrell Clukey, letter received via email, dated February 23, 2022;

D-4 Kent Suter, Email correspondence, received February 23, 2022;



CITY OF CANNON BEACH

NOTICE OF APPEAL - ADMINISTRATIVE DECISION

Appellant's Name: Gregory Hathaway

Email Address: greg@hathawaylarsen.com

Mailing Address: 1331 NW Lovejoy St. Suite 950
Portland, OR 97209

Telephone: 503-303-3103

1. Appeal of Administrative Decision by _____, regarding:

as stated in letter dated _____.

2. Specific grounds relied upon for the appeal, including any Zoning Ordinance criteria or standards that you consider to be relevant:

Please attach additional pages, if needed, and any other relevant information.

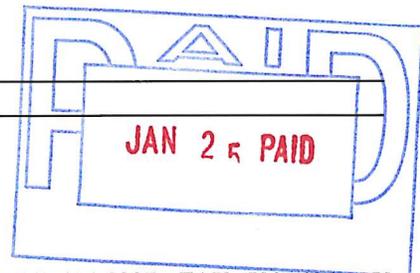
FEE: \$600.00

Appellant Signature: _____ Date: _____

For Staff Use Only:

Date Appeal Received: _____ By: _____
Appeal Fee Paid: _____ Receipt No.: _____

Fee:
803 - Planning \$600
(Last revised March 2021)



012 11 201

BEFORE THE CITY OF CANNON BEACH, OREGON

In the Matter of the Appeal of the)
Issuance of Building Permit No.)
164-20-000055-DWL for Property) Notice of Appeal
located at 534 N. Laurel Street)
by Petitioners Jeff and Jennifer)
Harrison.)

Petitioners Jeff and Jennifer Harrison (“Petitioners”) file this Notice of Appeal regarding the issuance of Building Permit No 164-20-000055-DWL (the “Building Permit”) for property located at 534 N. Laurel Street (“Property”) that was issued by the City of Cannon Beach on January 11, 2022. This Notice of Appeal addresses the requirements of Cannon Beach Municipal Code (“CBMC”) 17.88.150. As explained below, the Building Permit must be revoked based on this Notice of Appeal.

A. An identification of the Decision sought to be reviewed, including the date of the Decision.

The City approved the Building Permit on January 11, 2022. Petitioners timely filed this Notice of Appeal with the City and paid the \$600.00 filing fee on January 25, 2022 in compliance with CBMC 17.88.150.

B. A statement of the interest of the person seeking the review.

Petitioners' home is directly across from the City-approved Nicholson PUD ("PUD") and from the Property which was issued the Building Permit (the subject matter of this Notice of Appeal). Petitioners have participated in the City's land use process regarding the PUD and have objected to the overbuilding of this Property.

C. The specific grounds relied upon for review.

Petitioners rely on the following grounds for appeal of the Building Permit:¹

1. The Building Permit violates PUD Condition #16.

The submitted Building Plan approved by the City proposes two new buildings: a new two-story house and a new two-story, two-car

¹ While not directly challenged in this appeal, for clarity we note that PUD approval Condition #3 imposes a 9,000 sq. ft. cap of habitable space for the entire PUD, split amongst the four lots. Through various deed restriction amendments, essentially trading allocatable square footage of habitable space from one lot to another, the subject lot for this appeal (NE lot, Lot #4) is allocated 600 sq. ft. of habitable space. The maximum allowed Floor Area Ratio (FAR) for Lot #4 (and all lots on the PUD) is limited by CMBC 17.14.040(D) at 60% of lot size and is also not specifically challenged in this appeal. However, based on the small amount of allowed habitable space, and prior attempts to skirt code and conditions to convert required unhabitable space to habitable on this PUD, we believe caution is warranted regarding what is ultimately approved.

detached garage. The PUD's approval Condition #16 unambiguously prohibits two-story garages. Although neither structure is identified as two-story structures by the Building Plans or staff, Petitioners contend that both structures qualify as two-story structures per CBMC, Oregon Residential Specialty Code (which is recognized by Clatsop County, Oregon as, "Code in Effect"), as well as pertinent determinations made by City Planner Jeffrey Adams as part of the record for the approval of the Building Permit.

Materially, the proposed new house is allowed two stories, but the proposed new garage is not. Thus, the submitted building plans, incorrectly approved by the City, violate PUD approval Condition #16. As a result, the Building Permit must be revoked.

2. The Building Permit violates the Cannon Beach Comprehensive Plan.

The Building Permit violates the City's Comprehensive Plan which acknowledges that the City will foster and promote the characteristics of a village that honors the City's physical setting and allows buildings which are generally small in scale and appropriate to their setting.

In the Cannon Beach Comprehensive Plan, on page 5, the City's Vision Statement includes the following:

“Cannon Beach will continue to be a small town where the characteristics of a village are fostered and promoted. Both the physical and social dimensions associated with a village will be integral to Cannon Beach's evolution during the next two decades. The elements of the town's physical form which the plan will foster are: Development that honors the city's physical setting. A compact development pattern where various land uses are readily accessible to residents and visitors. A distinct edge to the town which defines the separation of urban from rural and natural resource uses. Mixed land uses which promote the livability of the town. Buildings that are generally small in scale and appropriate to their setting.” (emphasis added).

The proposed two-story garage is not small in scale nor appropriate to the setting on this Property and is in violation of the City's Vision Statement. As a result, the Building Permit must be revoked.

3. **The Building Permit violates the PUD's Shared Access and Maintenance Agreement (“SAMA”) in Violation of PUD Condition #2.**

PUD Condition #2 required the adoption of a SAMA for the PUD. The Building Permit allows the installation of a drywell system in one of the “Common Open Space Easement” areas identified on Lot #4 of the PUD and the SAMA. The only specifically allowed activities in the identified shared/common open spaces of the PUD and SAMA are limited to, “removing non-native vegetation”, and are not to be non-exclusionary improvements serving only the burdened lot.

The proposed drywell system does not qualify for use as “removing non-native vegetation” and is clearly exclusionary because it serves only Lot #4 and not any other PUD lot. As a result, the Building Permit must be revoked.

D. For a review of a decision by the design review board or planning commission, if a de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.88.180. (Ord. 94-08 § 20; Ord. 90-3 § 18; Ord. 89-3 § 1; Ord. 79-4 § 1 (10.081)).

This provision is not applicable to this Notice of Appeal since it is an appeal of a Development Permit. The City’s review of Petitioners’ Notice of Appeal shall be heard De Novo pursuant to CBMC 17.88.160.

Respectfully submitted.

DATED this 25th day of January 2022.

HATHAWAY LARSON LLP

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*Of Attorneys for Appellants Jeff and
Jennifer Harrison*

BEFORE THE CITY OF CANNON BEACH, OREGON

<p>In the Matter of the Appeal of the Issuance of Building Permit No. 164-20-000055-DWL for Property located at 534 N. Laurel Street by Petitioners Jeff and Jennifer Harrison.</p>	<p>))))))</p>	<p>Amended Notice of Appeal</p>
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Petitioners Jeff and Jennifer Harrison (“Petitioners”) filed a Notice of Appeal regarding the issuance of Building Permit No. 164-20-000055-DWL for Property located at 534 N. Laurel Street on January 25, 2022. A public hearing regarding Petitioners’ Appeal is scheduled before the Planning Commission on February 24, 2022. Petitioners are filing an Amended Notice of Appeal regarding the above-entitled matter to include an additional specific ground for appeal.

A. Additional specific ground relied upon for review.

Petitioners rely on the specific grounds for appeal as set forth in their Notice of Appeal filed on January 25, 2022, and the following additional ground pursuant to this Amended Notice of Appeal:

1. The subject property is located within the Nicholson PUD. The PUD is in violation of Approval Condition #17 regarding the Living

Wall. The City wrongfully approved the Building Permit without requiring that all PUD conditions of approval be satisfied; or that the Building Permit be conditioned on compliance with the PUD Conditions of Approval. Condition #17 required the Living Wall to be a “living wall” installed and maintained by a landscape professional. To date, there is no contract with a landscape professional and no timeline as to when the Living Wall will be installed in compliance with Condition #17. The Building Permit cannot be issued until Condition #17 is satisfied or conditioned to require compliance with Condition #17.

Precedent argument for the City’s legal obligation to review an application’s conformance to imposed conditions can be found in *MJ Najimi v. City of Cannon Beach, LUBA No. 202-118*. Respondent attorney for the City, William Kabeiseman argued, “Under CBMC 92.010(C)(1), a Type 1 permit requires an administrative review in which the City reviews the work proposed in an application to find if the work “conform[s] to the requirements of this [Title 17 - the City’s land use regulations], and *any conditions imposed by the reviewing authority*”. (emphasis added).

Petitioners agree with Mr. Kabeiseman. The Planning Commission has the authority and obligation to review any building permit

against any approval condition imposed by a reviewing authority, as is the case here with approval condition #17 (unsatisfied requirements for the “living wall”). In this instance, the relevance of this legal obligation is underscored by the fact that the “living wall” is installed almost entirely on the subject lot (Lot #4).

The Planning Commission is not afforded the capacity to review and consider some approval conditions but not others. All approval conditions are required equal consideration and any deviance or non-compliance is sufficient grounds for denial of any building permit where any approval condition remains unsatisfied. PUD Approval condition #17 remains indisputably unsatisfied and is subject to review of any building permit by the Planning Commission.

Respectfully submitted.

DATED this 22nd day of February 2022.

HATHAWAY LARSON LLP

By: /s/ Gregory S. Hathaway

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Portland, OR 97209

*Of Attorneys for Appellants Jeff and Jennifer
Harrison*

**BEFORE THE PLANNING COMMISSION
OF
THE CITY OF CANNON BEACH, OREGON**

In the Matter of the Appeal of the Issuance of Building Permit No. 164-20-000055-DWL for Property located at 534 N. Laurel Street by Petitioners Jeff and Jennifer Harrison.

Proposed Findings of Fact and Conclusions of Law

I. Introduction.

Based on Petitioners' Notice of Appeal and Amended Notice of Appeal, Petitioners submit the following Proposed Findings of Fact and Conclusions of Law for the Planning Commission's consideration regarding Petitioners Appeal of the City's issuance of the above-entitled Building Permit No. 164-20-000055-DWL.

II. Proposed Findings of Fact and Conclusions of Law.

Petitioners respectfully request your Planning Commission's consideration of the following Proposed Findings of Fact and Conclusions of Law. These Proposed Findings of Fact and Conclusion of Law can be adopted by the Planning Commission in granting the Harrison's Appeal.

PROPOSED REVISED FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDING NO. 1: The proposed detached garage is a two-story garage in violation of PUD Condition No. 16.

The Nicholson PUD Approval Condition No. 16 prohibits 2-story detached garages: "... if the garage is detached, then the garage may not include a second story...". Here, the proposed detached garage is a two-story garage in violation of PUD Condition No. 16.

The Planning Commission finds that all applicable definitions of a structure "story" rely solely on the "physical element" of distance between floors. For "stories above grade", the average grade and finished ground surface are key measuring points to determine a structural "story".

The Planning Commission finds that none of the applicable definitions of a structure "story" or "story above grade" reference the habitability or livable status of an area as a factor in determining whether or not the area qualifies as a "story".

The Planning Commission therefore finds staff's statement, "*the City's decision found that the garage did not contain a second story because all other livable space had been removed*" irrelevant because the question of livable space

is not included in any applicable definition of “story” or “story above grade”.

The submitted and approved building plans for the detached two-story garage show two distinct areas: (1) an upper space for parking two vehicles and (2) a lower space that is substantially above grade. In particular, the lower space:

1. Measures 8’8” in height between the average grade and the finished surface of the floor of the parking area above for more than 50% of the total area of the lower space.
2. Appears to measure greater than 12 ft. above finished ground level at its lowest point (exact measurement not shown).

As Staff points out, the CBMC does not define “story”. However, the Planning Commission acknowledges applicable definitions from two different “code in effect” sources, both of which confirm this lower space qualifies as a story, making this a prohibited 2-story detached garage in the following manner:

A. The **2021 Oregon Residential Specialty Code** contains the following definitions:

Story:

*That portion of a building included between the upper surface of a floor and the upper surface of the floor next above... If the finished floor level directly above a usable or **unused underfloor space is more than 6 ft above grade, as defined herein, for more than 50 % of the total perimeter** or is more than 12 ft above grade, as defined herein, at any point, such usable or **unusable underfloor space shall be considered a story.** (emphasis added)*

Story above grade plane.

A basement shall be considered a story above grade plane where the finished surface of the floor above the basement is:

- 1. **More than 6 feet above grade plane; or***
- 2. **More than 12 feet above the finished ground level at any point.** (emphasis added).*

Because the height of the lower area between the average grade and finished surface of the floor of the parking area above measures over 6 feet for more than 50% of the total area, and the finished floor of the parking area appears to measure more than 12 feet above the finished ground at the tallest point, the Planning Commission finds the lower area of the proposed detached garage qualifies as a story and a story above grade plane.

Therefore, the proposed garage is a detached 2-story garage and violates PUD Condition No. 16.

B. The **2018 International Building Code**, contains the following definitions:

Story:

That portion of a building included between the upper surface of a floor and the upper surface of the floor ... next above.

Story above grade plane. Any story ... *in which the finished surface of the floor next above is:*

- 1. More than 6 feet above grade plane; or*
- 2. More than 12 feet above the finished ground level at any point. (emphasis added).*

Because height of the lower area between the average grade and finished surface of the floor of the parking area above measures over 6 feet, and the finished floor of the parking area appears to measure more than 12 feet above the finished ground at the tallest point, the Planning Commission finds the lower area of the proposed detached garage qualifies as a story and story above grade plane. Therefore, the proposed garage is a detached 2-story garage and violates PUD Condition No. 16.

Therefore, the Planning Commission concludes that the issued Building Permit violates PUD Condition No. 16 since the proposed detached garage is a two-story garage.

FINDING NO. 2: The Building Permit violates the PUD's Shared Access and Maintenance Agreement ("SAMA") in Violation of PUD Condition #2.

The Planning Commission finds that PUD Condition No. 2 required the preparation and recordation of a Shared Access and Maintenance Agreement ("SAMA"). The Planning Commission further finds that the City approved the "content" of the SAMA during its Stage 3 approval of the PUD application and the SAMA was then recorded with Clatsop County. The content of the SAMA is part of the PUD approval and can be found in the LUBA record regarding *Harrison v. City of Cannon Beach 2016-033, page 73.*

The Planning Commission further finds that the City adopted SAMA specifically limited allowed activity in the identified shared/common open spaces to, "removing non-native vegetation" and does not allow exclusionary improvements that would only serve the lot

burdened with a shared/common open space. The submitted plans for Lot 4 include a proposed drywell system that would be installed in an area labelled “COMMON OPEN SPACE EASEMENT” on the plat approved by the City and recorded with Clatsop County. This drywell system does not qualify as an activity of “removing non-native vegetation” and is clearly exclusionary because it serves only Lot 4 and no other PUD lot. The system is not an approved use or improvement and does not benefit all lots and is therefore in violation of the PUD Shared Access and Maintenance Agreement (SAMA).

In his Respondent Brief for *MJ Najimi v. City of Cannon Beach*, LUBA No. 202-118, page 10, line 13, Mr. Kabeiseman argued on behalf of the City and stated:

*“Under CBMC 92.010(C)(1), a Type 1 permit requires an administrative review in which the City reviews the work proposed in an application to find if the work “conform[s] to the requirements of this [Title 17 – the City’s land use regulations], and **any conditions imposed by the reviewing authority**”.* (Emphasis added)

For this appeal, Staff erroneously states, “*the City does not review proposals for consistency with real estate agreements, such as easements or CC&Rs. Enforcing those provisions are typically beyond the authority of the City and should be resolved in circuit court.*” The Planning Commission disagrees, as this statement makes no sense within the context of this case considering the City itself imposed the condition to record the agreement **and** approved the content. The City has an obligation to ensure approval conditions it imposes are followed and certainly cannot approve building permits that unambiguously violate language it specifically approved.

The Planning Commission recognizes that while it does not have general authority or responsibility for code enforcement per se it is required under CBMC 92.010(C)(1) to review a Type 1 permit to find if the proposed work conforms to the requirements of Title 17 and **any** conditions imposed by the reviewing authority. The Planning Commission does not have the option where some approval conditions are reviewed while others are not.

The SAMA was a required condition imposed by the City Council and the issued Building Permit must conform to the provisions contained therein. The City must ensure compliance with all approval conditions, including this one, when it issues a building/development permit and not in some other unrelated proceeding. As a result, the Building Permit was issued in error and must be revoked.

FINDING NO. 3: The Planning Commission finds that PUD Condition No. 17 regarding the Living Wall has not been satisfied.

The Planning Commission finds there is no evidence in this record that Condition No. 17 has been satisfied and that there is an executed contract with a landscape professional responsible for the installation and maintenance of plant material on the living wall with a timeline for the establishment of planting on the wall. There is evidence in the record, however, that Mr. Harrison has raised this issue previously with the City and that the City has not provided any evidence that would demonstrate that Condition No. 17 has been satisfied. The only evidence regarding Condition No. 17 is an unsigned “estimate” from Vasquez Yard and Tree

Work, Inc. that does not constitute substantial evidence demonstrating compliance with PUD Condition No. 17.

Similar to the conclusions in Finding No. 2, the Planning Commission acknowledges that all approval conditions must be met prior to issuance of building permits, as per CBMC 92.010(C)(1) as argued by Mr. Kabeiseman. The unsatisfied requirements of Condition No. 17 are particularly relevant to this permit application given the large majority of the “living wall” is installed on Lot 4.

Therefore, the Planning Commission concludes that the Building Permit was unlawfully issued and cannot be issued until PUD Condition No. 17 is satisfied.

III. Conclusion.

Petitioners respectfully request the Planning Commission to adopt the above Proposed Findings and Conclusions of Law and revoke the City’s issuance of the Building Permit.

DATED this 23rd day of February 2022.

HATHAWAY LARSON LLP

By: /s/Gregory S. Hathaway
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Portland, OR 97209
Of Attorneys for Petitioners

**BEFORE THE CITY COUNCIL
OF THE CITY OF CANNON BEACH**

IN THE MATTER OF PLANNED DEVELOPMENT STAGE 3 APPROVAL REQUEST FOR THE FOLLOWING PROPERTY:

Map 51019AD, Tax Lot 7000
532 N Laurel Street

FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER NO. PD 15-01

IN ZONE: R2

Applicant: Jeffrey Nicholson
4190 SW Council Crest Drive
Portland OR 97239

The above-named applicant applied to the City for final approval (stage three) for PD 14-01, planned development application, and approval of a final subdivision plat. The property is located at 532 N Laurel Street (Tax Lot 7000, Map 51019AD) and is in a Residential Medium Density (R2) zone. The property is owned by Lucie's Cottages LLC. The planned development request was reviewed against the criteria of the Municipal Code, Section 17.40.040.C, Planned Development (PD) Zone, Planned development procedures, Final Approval (Stage Three), and 16.04, Subdivisions.

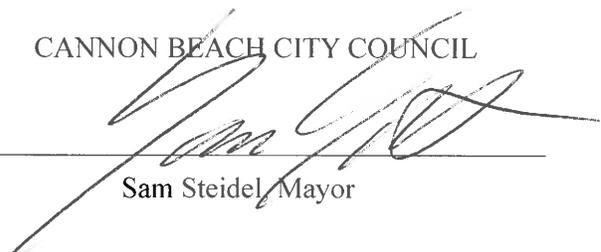
The public hearing on the above-entitled matter was opened before the Planning Commission on 12/21/15; the Planning Commission closed the public hearing at recommended denial to the City Council at the 01/28/16 meeting. The public hearing on the above-entitled matter was opened before the City Council and a tentative decision of approval was made on 03/01/16 subject to preparation of final findings of fact and an order; a final decision was made at the 03/08/16 meeting.

THE CITY COUNCIL ORDERS that the request be GRANTED and adopts the findings of fact, conclusions and conditions contained in Attachment "A".

This decision may be appealed to the Land Use Board of Appeals by an affected party within 21 days of this date.

DATED: 3-8-16

CANNON BEACH CITY COUNCIL



Sam Steidel, Mayor

FINDINGS

**PD15-01, A REQUEST BY JEFF NICHOLSON FOR FINAL PLAN (STAGE THREE)
APPROVAL OF A FOUR-LOT RESIDENTIAL PLANNED DEVELOPMENT AT 532
NORTH LAUREL STREET**

BACKGROUND

This matter came before the Cannon Beach City Council for public hearing and consideration on March 1, 2016. The City Council conducted a public hearing and received oral and written testimony. At the conclusion of the hearing, the Mayor closed the record and the City Council voted to tentatively approve the request, subject to conditions, pending adoption of findings on March 8, 2016. At a meeting on March 8, 2016, the City Council voted to adopt these findings of fact in support of their decision and approved the request subject to conditions.

This decision approves a four-lot residential planned development at 532 North Laurel Street, tax lot 51019AD-7000. The City previously approved preliminary plans for this project on March 5, 2015, in Final Order PD 14-01. The subject property is located as shown on the aerial photograph on the top of page 2 of the March 1, 2016 staff report.

The property is in the Residential Medium Density (R2) zone, with a Planned Development (PD) overlay. Cannon Beach's planned development review process has three steps: pre-application, preliminary approval, and final approval; also described as stages one, two and three. Stages one and two were previously completed and approved; the subject decision governs final/stage three plan approval for the project.

A planned development is a modified subdivision. Planned developments are intended to “...*provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision.*” (Cannon Beach Municipal Code 17.40.010.A) A conventional subdivision is unsuited for some of this planned development's features, such as the 9,000 square foot building limit, increased setbacks from Laurel Street, and the preservation of certain trees on the site.

This planned development is the subject of an approved variance to slope-density requirements in CBMC 16.04.310. Pursuant to Final Order No. V14-06, the City Council approved that variance on March 5, 2015, and the Land Use Board of Appeals (LUBA) affirmed the City's decision on September 30, 2015. The variance remains in effect (CBMC 17.84.090 and 17.40.020.E). Likewise, the City's decision to place a Planned Development (PD) overlay zone designation on this property remains in effect.

This application was submitted on October 20, 2015, and determined to be complete on November 18, 2015. It is subject to ORS 227.178, requiring the City to take final action within 120 days after the application is deemed complete. The City's final decision on this was made on March 8, 2016. The 120-day deadline is March 17, 2016.

REVIEW CRITERIA AND PROCEDURE

This request is subject to approval criteria in CBMC 17.40.040.C. These criteria are excerpted in these findings, and in the March 1, 2016 staff report.

At the March 1, 2016 public hearing Jeff Harrison, a nearby property owner, challenged the City Council's jurisdiction to hear this matter. Mr. Harrison asserted that that CBMC 17.40.040.C.4 does not allow this matter to come before the City Council unless the Planning Commission approves the final concept and that the City Council's hearing of this matter "usurped the Planning Commission's authority." Since the Planning Commission voted to recommend that the City Council deny this application, Mr. Harrison argues, the matter is not properly before the City Council as no Planning Commission approval has been given and no appeal was filed.

The City Council rejects this assertion and interprets its code to provide the City Council with the authority to make this decision. Reading CBMC 17.40.040.C.3 and 4 in context, the Planning Commission is not required to hold a hearing, nor is it empowered to make a final decision. The Council notes that other code provisions, such as 17.80.020 explicitly authorize the Planning Commission to approve or deny applications, but the PUD stage three procedure is not structured in the same manner. Under CBMC 17.40.040.C.4, the City Council is required to hold a hearing and is the body that has the ultimate authority to "approve or disapprove" the application. The Council acknowledges that the provision is inartfully drafted, but interprets the text and context to allow the Council to hear this matter.

This conclusion is supported by the City's previous decision and other context in the code and plan. First, the City Council directed that this procedure be followed. Approval condition 6, part of the March 5, 2015, preliminary approval, reads in part: "...*The final plan will be reviewed by the Planning Commission, who will make a recommendation to City Council regarding compliance of the final plan with this preliminary approval. Council will make the final decision on the final plan...*" This Condition of Approval was never contested in the stage two approval this development, which was appealed to LUBA and affirmed. As a final land use decision, it is not subject to collateral attack in this subsequent stage of development.

Second, the language in CBMC 17.40.040.C.4 supports this procedure:

4. After final concept approval by the planning commission, the planned development application will be sent to the city council for consideration for final approval. A public hearing as specified in Chapter 17.88 shall be held on each such application. After such hearing, the city council shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050 and to the planned development regulations, and may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. The decision of the city council shall be final.

Nearly all of subsection 4 can be read as requiring a City Council hearing on each final plan application. The only potentially conflicting language is in the first sentence: “*After final concept approval by the planning commission, the planned development application will be sent to the city council...*” Reading this sentence as giving the Planning Commission final decision-making authority conflicts with the rest of the paragraph. The text is silent as to what happens if the Planning Commission votes to deny a stage three request; or even if the Planning Commission has the authority to do anything other than approve the request. The City Council's interpretation of this text -- that the Planning Commission makes a recommendation and forwards it to the City Council for a final decision – avoids some of the procedural problems associated with the interpretation urged by Mr. Harrison.

Further, any error in this process would have been procedural and not jurisdictional in nature. Mr. Harrison appears to acknowledge that if the Planning Commission had in fact denied the subject application, the appeal route was to the City Council. This appeal process is specified in CBMC 17.88.150 when the Planning Commission makes a decision, as opposed to a recommendation. Whether the specified appeal form was completed is procedural in nature, not jurisdictional, and given his robust participation before City Council, Mr. Harrison was able to participate and make his case.

Finally, Cannon Beach’s land use regulatory program involves a high degree of public participation; in many cases much more than the statutory minimum. The City’s Comprehensive Plan takes note of this in the Vision Statement, which describes several unique characteristics, including ... “*a community spiritedness which results in a high level of community participation and the development of innovative solutions to problems*”. When ordinance interpretation deals with public processes, staff has generally leaned in the direction of more public input. In this case, that supports an interpretation of CBMC 17.40.040.C.4 along the lines followed here: public hearings at both the Planning Commission and City Council.

For these reasons the city Council rejects the jurisdiction objection and takes jurisdiction to make the final City decision in this matter.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission recommended denial of this application to the City Council. The Planning Commission considered the proposed final plan at a public hearing on December 21, 2015. That hearing was continued to January 28, 2016. Testimony received at these hearings is documented in the minutes. At the conclusion of the January 28 hearing, the Planning Commission voted 6-0 to recommend denial of the final plan. Reasons given for the denial recommendation are included in the minutes, and are summarized in the March 1, 2016 staff report. The City Council considered the Planning Commission's recommendation, but ultimately decided to approve this request.

CRITERIA

Final plan review for this project is subject to approval criteria in CBMC 17.40.040.C. These criteria are excerpted below, followed by the City Council's findings and conclusions.

CBMC 17.40.040.C.1. *Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file with the planning department a final plan for the entire development or, when submission in stages has been authorized, for the first unit of development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan, plus the following: the location of water, sewerage and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of the legal documents required by the commission for dedication or reservation of public facilities, or for the creation of a nonprofit homes association, shall also be submitted.*

Subsection C.1 establishes several substantive requirements and several submittal requirements for the stage three approval. First, final approval must be requested within one year of preliminary approval: *Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file with the planning department a final plan for the entire development...* The City approved the preliminary development plan on March 5, 2015. This final plan approval request was submitted on October 20, 2015, within the one-year timeframe established in C.1.

Subsection C.1 recognizes the possibility of a development plan submitted in phases. The current proposal is not a phased development, so these provisions are not applicable. The City Council approved the preliminary plan without phases; the proposed final plan is unchanged in this respect.

Subsection C.1 requires conformance with the preliminary plan: *The final plan shall conform in all major respects with the approved preliminary development plan.* Staff reviewed the proposed final plan against the approved preliminary plan and found it conforming in all major respects. This is outlined in tabular form in the 12/21/15 Planning Commission staff report. The final plan diverges from the original preliminary plan drawings with respect to building setbacks from Laurel Street, which were increased as a result of a condition imposed by the City Council. Applicant submitted several conceptual photos and sketches as part of stage two review (PD14-01) and stage three review (PD 15-01) that do not look identical. These non-mandatory conceptual materials do not constitute a change in approved plans. Also, applicant reallocated its use of the 9,000 habitable square feet in the final plan through Condition of Approval three in a way that made some houses a little bigger and some houses a little smaller than the square footage estimates that were contemplated in stage two review. This minor revision in square footage allocation between houses does not constitute a major non-conformance. Similarly, the change in tree removal

plans identified on page three of the December 21, 2015, staff report is minor. In the subject application, the final plan conforms in all major respects with the approved preliminary development plan.

Subsection C.1 calls for additional submittal requirements beyond that supplied with the preliminary plan: *The final plan shall include all information included in the preliminary plan, plus the following: the location of water, sewerage and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans.* This additional submittal information is included with the applicant's final approval submission. Water, sewer and drainage facilities are on sheets C5.1 and C5.2. Detailed building plans are on sheet C8.1 (Retaining Wall Details), and sheets C2.3 and EX1.0 (Detailed Building Plans), as well as in the other plans submitted by applicant. Landscaping plans are on sheets L1.0 (Planting Plan) and C3.3 (Tree Retention and Revegetation Plan). Elevations are on sheets C7.2 and C7.3 in the form of cross-sections, sheet C3.1 for site elevations, and on sheet C8.1 for the retaining wall. Sheet EX1.0 includes a table with maximum and minimum building elevations for the four dwellings. No signs are proposed, so information on the "character and location of signs" is not applicable. Street improvement plans are not included because no public street improvements are proposed or needed for this project. Improvement plans for a shared driveway are on sheets C5.1 and C8.1. Grading and earth-moving plans are on sheet C3.1. The City Council finds that applicant submitted materials to meet this submittal requirement portion of C.1.

Subsection C.1 further requires that ... *the final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development ...* The proposed final plan provides operational details: the configuration and size of a shared driveway, the location and size of all utilities, the location of a pedestrian amenity on the west side of the site, the location of common open space, and building envelopes for up to four single-family residences. The proposed final plan includes details about the development's ultimate appearance: the location and size of trees to be retained, building envelopes for up to four residences, maximum height information for the residences, a habitable space square footage cap, and a detailed plan for the driveway retaining wall. A conceptual sketch submitted by the applicants at the 1/28/16 Planning Commission hearing shows four residences on the property. Although the City Council understands that it could interpret this provision to require a greater level of detail, the City Council believes that, with the information that it has, as well as the conditions that it is placing on the plan, the proposed final plan is sufficiently detailed to indicate fully the development's ultimate operation and appearance.

Finally, subsection C.1 requires that the applicant submit ... *Copies of the legal documents required by the commission for dedication or reservation of public facilities, or for the creation of a nonprofit homes association.* This subsection is a submittal requirement. The first part of this requirement is not applicable because there are no dedications or reservations of public facilities. The proposed driveway will be a private shared facility, not a public street. Municipal utilities (water and sanitary sewer) will be public within the Laurel Street right-of-way, and private on the subject property. The second part of this requirement is also not applicable because there is no required nonprofit homes association for this project. The applicant has indicated that they will

not be creating a homeowners association because the functions of a homeowners association can be met by deed restrictions and easements. The City's code does not require the creation of a homeowners' association. Documents submitted by the applicant at the City Council's March 1, 2016 hearing are sufficient to meet the City's needs.

CBMC17.40.040.C.1 establishes the major substantive approval criteria for final approval of a planned development and some submittal requirements. Based on the City's previous stage 2 approval, on information provided by the applicant, on the City's staff reports, and on the reasoning in the preceding paragraphs, the City Council finds that the applicant's final plan submittal, subject to conditions, meets all of the requirements of CBMC 17.40.040.C1. This criterion is met.

***CBMC 17.40.040.C.2.** Within thirty days after the filing of the final development plan, the commission shall forward such development plan and the original application to the public works department for review of public improvements, including streets, sewers and drainage. The commission shall not act on a development plan until it has first received a report from the public works department, or until more than thirty days have elapsed since the plan and application were sent to the public works department, whichever is the shorter period.*

The final development plan was submitted on October 20, 2015, and was forwarded to the Public Works Department for review and comment. The Public Works Department's review, dated November 25, 2015 is provided in the December 21, 2015 staff report. The Council finds that the items mentioned in the Public Works Department's review can be addressed during the normal course of building permit review, and implemented via approval conditions. Based on this, and on the Public Works Department's review, the City Council finds the proposed stage three approval consistent with CBMC 17.40.040.C.2. This procedural requirement is met.

***CBMC 17.40.040.C.3.** Upon receipt of the final development plan the planning commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved planned development permit, or require such changes in the proposed development, or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the commission may permit the applicant to revise the plan within thirty days.*

The Planning Commission conducted public hearings on the proposed final development plan on December 21, 2015 and January 28, 2016; and determined that it did not meet applicable criteria for the reasons listed on pages 3 and 4 of the March 1, 2016 staff report. The City has met the procedural requirements of CBMC 17.40.040.C.3. Some public comments suggested that the text of CBMC 17.40.040.C.3 which calls for a determination of compliance with "all applicable criteria and standards" contemplates the City re-opening and re-considering the decision and ap-

proval criteria that were addressed in the stage two review of PD 14-01. The City rejects such an interpretation as being against the text and context of this procedural requirement and as contradicting state law mandating that final land use decisions remain final and not be subject to collateral attack.

CBMC 17.40.040.C.4. After final concept approval by the planning commission, the planned development application will be sent to the city council for consideration for final approval. A public hearing as specified in Chapter 17.88 shall be held on each such application. After such hearing, the city council shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050 and to the planned development regulations, and may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. The decision of the city council shall be final.

Subsection C.4 describes the procedure at the City Council for review of planned developments at the final stage. The City Council has followed this procedure.

Subsection C.4 further requires that... *After such hearing, the city council shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050 and to the planned development regulations...* The criteria in CBMC 17.40.050 are:

A. That the location, design, size and uses are consistent with the comprehensive plan, development map or ordinance adopted by the council;

B. That the location, design and size are such that the development can be well integrated with its surroundings, and in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development;

C. That the location, design and size and uses are such that traffic generated by the development, except in single-family density, can be accommodated safely and without congestion on existing or planned arterial or collector streets and will, in the case of commercial developments, avoid traversing local streets;

D. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or planned facilities and services;

E. That the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for living, shopping or working.

These criteria were addressed by the City Council at the preliminary plan approval stage in March 2015. The Council determined that the proposal met these criteria and that decision was upheld on appeal by the Oregon Land Use Board of Appeals. The proposed final plan before the Council now is in all material respects the same as the preliminary plan with even greater detail;

so the City Council's earlier findings at pages nine through eleven of Order No. PD 14-01 are still applicable and are incorporated here by reference. None of the new information received during the proceedings of PD 15-01 alters the Council's assessment that these criteria are met. The detailed development plans submitted by KPFF in the record and the conditions of approval attached to this decision governing building envelope, maximum habitable space, building height, and design will further ensure compliance with the location, design, and size requirements of CBMC 17.40.050. These criteria are met.

Subsection C.4 also refers to "planned development regulations," in addition to the criteria in CBMC 17.40.050. Those regulations are CBMC 17.40.020, Standards and requirements; CBMC 17.40.030 Development standards; and CBMC 17.40.060 Mapping. These requirements were fully addressed in the findings adopted by the City Council upon approval of the preliminary plan in Order No. PD 14-01 from March 2015. The proposed final plan before the Council now is in all material respects the same as the preliminary plan; so the City Council's earlier findings are still applicable and are incorporated here by reference. None of the new information received during the proceedings of PD 15-01 alters the Council's assessment that these criteria are met, or enables a collateral attack of the findings in PD 14-01. The City also supplements those findings with the following:

- CBMC 17.40.020.D (General Information) provides submittal requirements and the provisions contained therein are not approval criteria.
- CBMC 17.40.020.E and CBMC 17.40.030.D (Density Guidelines) specifies that the density of a planned development shall not exceed the density of the parent zone. The development site is 25,000 square feet and the R-2 base zone in which it is located sets a 5,000 square foot minimum lot size density. Each of the four proposed lots exceeds 5,000 square feet. The subject development obtained a variance to the slope-density requirement of CBMC 16.04.310 in Final Order No. V14-06. Alternatively, and distinctly from Final Order No. V14-06, the City finds that the four-dwelling density proposed as part of this application is independently authorized under CBMC 17.40.020.E and CBMC 17.40.030.D and approved as part of this decision in PD 15-01.
- CBMC 17.40.030.F allows for flexibility in yard and other dimensional requirements. The yard setbacks for the development specified on Sheet C2.2 from KPFF Consulting Engineers, submitted on October 20, 2015, complies with Condition of Approval one in PD 14-01. These yard setbacks will ensure that the project will be in harmony with the character of the surrounding area.
- CBMC 17.40.030.G.2 requires a home owners type association "[w]henver private outdoor living area is provided * * *." CBMC 17.40.030.A makes clear that there are two types of outdoor living areas—those that are private and those that are common. As is shown on the final plat submitted by applicant, all of the outdoor living areas for the site will be subject to a common space easement and are therefore not private. Because no

private outdoor living areas are provided as part of this proposal, no home owners type association is required by CBMC 17.40.030.G.2.

- CBMC 17.40.040.A (Stage One) and CBMC 17.40.040.B (Stage Two) do not apply for purposes of this stage three review. As explained in Final Order PD 14-01, even if these subsections of Code applied to this stage three review, the provisions of CBMC 17.40.040.B are mere submittal requirements and not approval criteria because they only describe materials to be included with the application and not substantive standards by which the application is to be judged.

Finally, subsection C.4 states that the City Council *may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations.* The Council finds the conditions at the end of this document to be necessary to ensure conformity with the applicable criteria.

Based on (1) the City's previous stage 2 approval, (2) the information provided by the applicant (including but not limited to information submitted by applicant's professional team of Matt Dolan, Will Rasmussen, and Don Rondema), (3) the approval conditions at the end of this document, and (4) the reasoning in the preceding paragraphs, the City Council finds the proposed stage three final plan approval consistent with CBMC 17.40.040.C.4.

Schedule

Several Code provisions reference a "stage development schedule." For example, two of the submittal requirements CBMC 17.40.040.B.1 provide:

- c. A stage development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion;*
- d. If it is proposed that the final development plan will be executed in stages, a schedule thereof will be required.*

CBMC 17.40.040.B.2 provides:

... The commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule...

CBMC 17.40.080.A provides:

... The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the code enforcement officer if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revi-

sions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

The text and context of these provisions indicate that a planned development schedule is only required for multi-stage developments. Every quoted passage section above that includes the phrase “development schedule” is preceded by the word “stage” with the exception of CBMC 17.40.040.B.1.d, which states explicitly that if the development is proposed in stages, then a development schedule will be required. The text of CBMC 17.40.040.B.1.d would be meaningless if a development schedule was required for single stage developments by other provisions in the Planned Development Code. Because the subject application is a single stage development, no development schedule is required.

Even if the referenced “stage development schedule” were a requirement for planned developments, it would be a submittal requirement as part of the stage two review. In the Planned development procedures section of CBMC 17.40.040, the “stage development schedule” is discussed exclusively in the stage two portion of the code found in CBMC 17.40.040.B and not at all in the stage three portion of the code found in CBMC 17.40.040.C. This planned development was found to comply with CBMC 17.40.040.B as part of its stage two review on page 9 of Order No. PD 14-01. Order No. PD 14-01 is a final land use decision and therefore not subject to collateral attack in PD 15-01.

Even if these provisions required a development schedule for single stage developments and even if the findings of compliance with CBMC 17.40.040.B in Order No. PD 14-01 could be collaterally attacked in the current land use process, a development schedule exists for this development and is enforced through conditions of approval specifying that utilities and the shared drive commence construction within a year and proceed with diligence until completion.

Because the purpose section of the Planned Development Code provides for flexibility and these schedule provisions does not provide any specific timeline for development, no specific timeline necessarily needs to be set for single stage planned developments. The Council took testimony on the appropriate schedule in PD 14-01. In response to testimony from applicant and the public, the Council determined that forcing the four dwellings to be built on this site in a set time frame was unnecessary. This is the reason the Council adopted Condition of Approval #6 in PD 14-01, providing that “[t]here is no time limit for construction of the four homes authorized by this approval * * *.” Because this issue was addressed in PD 14-01 and because the Code does not require a specific timeframe, the Council determines that the appropriate schedule for building the four homes is any time.

GEOLOGIC SITE INVESTIGATION REPORT

A geologic site investigative report must be obtained prior to the issuance of building permits in areas with an average slope of twenty percent or greater, pursuant to CBMC 17.50.020, CBMC 17.50.030, and CBMC 17.50.040. These Code Provisions are not approval criteria for this stage three review and can be addressed prior to issuance of building permits. Pursuant to reports and communications in the record from Don Rondema at Geotech Solutions, Inc., it is feasible for

applicant to provide a geologic site investigation report. This approval is conditioned on applicant providing such a report by condition of approval 15. This building permit application requirement is met.

FINAL PLAT

A planned development is a modified subdivision. Approved subdivision plats must be recorded with the County Surveyor. The plat cannot be recorded until the City's review is completed. Cannon Beach Municipal Code section 16.04.210 establishes procedures for final plat review:

A. If the city determines that the final plat for either a subdivision or partition conforms to the tentative plan and applicable conditions have been met, the chairman of the planning commission shall sign and date the final plat.

B. If the city determines that the final plat does not conform to the tentative plan, the plat will be forwarded to the planning commission for its review. The planning commission shall approve or deny the modifications to the final plan.

The final plat submittal by applicant on March 1, 2016 conforms to the tentative plan and meets all conditions. Approval condition 12 implements this requirement.

SUPPLEMENTAL FINDINGS: The staff reports, including but not limited to those dated December 21, 2015 and March 1, 2016, and the applicant submittals, including but not limited to those dated October 20, 2015, December 21, 2015, January 21, 2016, January 27, 2016, February 25, 2016, and March 1, 2016. Address all of the approval criteria and other requirements thoroughly. Those reports and materials are incorporated and adopted herein as findings, except to the extent any portions of those reports or materials are contradicted by the express findings in this document.

APPROVAL CONDITIONS FROM PRELIMINARY APPROVAL

The City Council's March 2015 preliminary approval was subject to seven conditions. Those conditions are listed here:

- 1. The lot configuration and building envelope for this approval shall substantially comply with Exhibit C7.4, except that the building envelopes for Lot 3 and Lot 4 will each be shifted five feet to the west.*
- 2. Any damage to Laurel Street resulting from construction on the subject property will be repaired at the owner's expense, and the street will be restored to its current condition. Applicant shall not pave Laurel Street.*
- 3. Applicant will prepare and record a shared access and maintenance easement for the shared drive serving the four lots contemporaneous with or within three months following recordation of the final plat for this development. The proposed retaining wall for the access drive will be a*

“living wall” design as shown in the documents submitted by the applicant. Maintenance of wall vegetation will be addressed as part of the shared access and maintenance agreement required by this condition.

4. The total square footage of habitable space on the site shall not exceed 9,000 square feet. Habitable space includes the enclosed areas in residences including all floors of living space and excludes driveways, decks, porches, garages, and uninhabitable accessory buildings.

5. Applicant will retain a certified arborist prior to beginning construction of the driveway to make recommendations on measures to reduce the likelihood of damage to the two large spruce trees on the site. The arborist will prepare a report with his or her recommendations—those recommendations will be incorporated into the relevant design documents, and applicant will follow those recommendations.

6. Within one year after the date of this preliminary approval, applicant will submit a final plan for development indicating the location of water facilities, sewer facilities, drainage facilities, building envelopes in compliance with Condition 1 above, landscaping plans, and grading plans. The final plan will be reviewed by the Planning Commission, who will make a recommendation to City Council regarding compliance of the final plan with this preliminary approval. Council will make the final decision on the final plan. There is no time limit for construction of the four homes authorized by this approval, and there is no minimum time requirement in which these four homes must be built by applicant or another owner.

7. Only one driveway/access point shall be allowed off Laurel Street.

The City Council finds that the proposed final plan conforms to these conditions. Several of these conditions are carried forward in modified form as final plan conditions.

CITY COUNCIL ACTION

The City Council approves the proposed final plan as submitted subject to the following conditions:

1. Any damage to Laurel Street resulting from construction on the subject property will be repaired at the Applicant’s expense, and the street will be restored to its current condition. Applicant shall not pave Laurel Street. Before commencing construction, applicant will provide the City photos of the existing condition of Laurel Street.

2. Applicant will prepare and record a shared access and maintenance easement for the shared drive serving the four lots contemporaneous with or within three months following recordation of the final plat for this development. The proposed retaining wall for the access drive will be a “living wall” design as shown in the documents submitted by the applicant. Maintenance of wall vegetation will be addressed as part of the shared access and maintenance agreement required by

this condition. The agreement will identify the City as a benefitted party and allow for City enforcement of the maintenance requirements, including maintenance of the living wall.

3. The total square footage of habitable space on the site shall not exceed 9,000 square feet. Habitable space includes the enclosed areas in residences including all floors of living space and excludes driveways, decks, porches, garages, and uninhabitable accessory buildings. Unfinished attics, crawl spaces, storage areas and similar spaces are not habitable space. Sleeping lofts, detached accessory sleeping quarters, fully enclosed sun rooms, and hallways are habitable space. The habitable spaces shall be distributed initially to allow 2,000 square feet to Lot 1, 3,300 square feet to Lot 2, 2,700 square feet to Lot 3 and 1,000 square feet to Lot 4. Those allocations may be amended by future owners of the lots, but in no case may any amendment allow the total square footage of habitable space on the site exceed 9,000 square feet.

4. Applicant will retain a certified arborist prior to beginning construction of the driveway to make recommendations on measures to reduce the likelihood of damage to the two large spruce trees on the site. The arborist will prepare a report with his or her recommendations. Those recommendations will be incorporated into the relevant design documents, and applicant will follow those recommendations. The arborist will be on-site during any construction related tree removal or pruning to advise contractors. Minor realignments, modifications, or other changes to the driveway or buried utilities needed to avoid damaging trees may be approved by the code enforcement officer (Planning Director) based on the arborist's recommendations pursuant to CBMC 17.40.080. Violations of this condition may be subject to the penalties in CBMC 17.70.030.N, as well as any other remedies available to the City.

5. There is no time limit for construction of the four homes authorized by this approval, and there is no minimum time requirement in which these four homes must be built by applicant or another owner.

6. For this project, given the larger size of the sewer extension to the interior of the parcel, the developer's contractor will coordinate all work with the City Public Works Department for the sewer extension.

7. The water services will be extended to the property line by City crews. Installation and maintenance of water lines on the subject property will be the responsibility of the developer.

8. Maximum building height shall be calculated using applicable requirements in the city's municipal code.

9. No impact or vibratory hammer installation will be used. Any piles that may be used will consist of either helical, augured, drilled, or hydraulically advanced systems.

10. Applicant shall provide the City with a bond equal to \$140,000 to secure the construction of utilities and driveway improvements prior to beginning of construction of these improvements.

11. Prior to recording the final plat applicant shall provide the City with copies of legal documents necessary for the maintenance and use of the planned development. These documents shall address, at a minimum, the requirements of conditions 2 and 3.

12. Applicant shall record a final plat with the County Surveyor. If it is substantially the same as the final plat approved by the City Council, the Chairman of the City Planning commission shall sign it in accordance with CBMC 16.04.210.

13. Development schedule: Applicant will commence installation of utilities and construction of the shared drive within one year after this approval in PD 15-01 becomes a final land use decision and proceed diligently with the installation of utilities and construction of the shared drive until their completion.

14. All development on the site shall follow the recommendations contained in the July 1, 2015, geotechnical report prepared by Geotechnical Solutions Inc., and signed and stamped by Don Rondema, unless modified by subsequent, more detailed investigations and analysis by a similarly qualified person. A qualified geotechnical engineer (PE and GE) geologist shall be on-call during construction to observe representative portions of cut slopes, structural fills and wall foundation subgrades. The GE must also provide a final stamped letter regarding geotechnical compliance when construction of the driveway retaining wall is complete.

15. A final geotechnical site investigation report shall be prepared for each lot prior to the approval of building permits. Recommendations in the geotechnical site investigation report shall be incorporated into the house design documents and building permit. The geotechnical site investigation report shall comply with the specifications of CBMC 17.50.040 and meet the following requirements of the Cannon Beach Geologic Site Investigation Report Checklist:

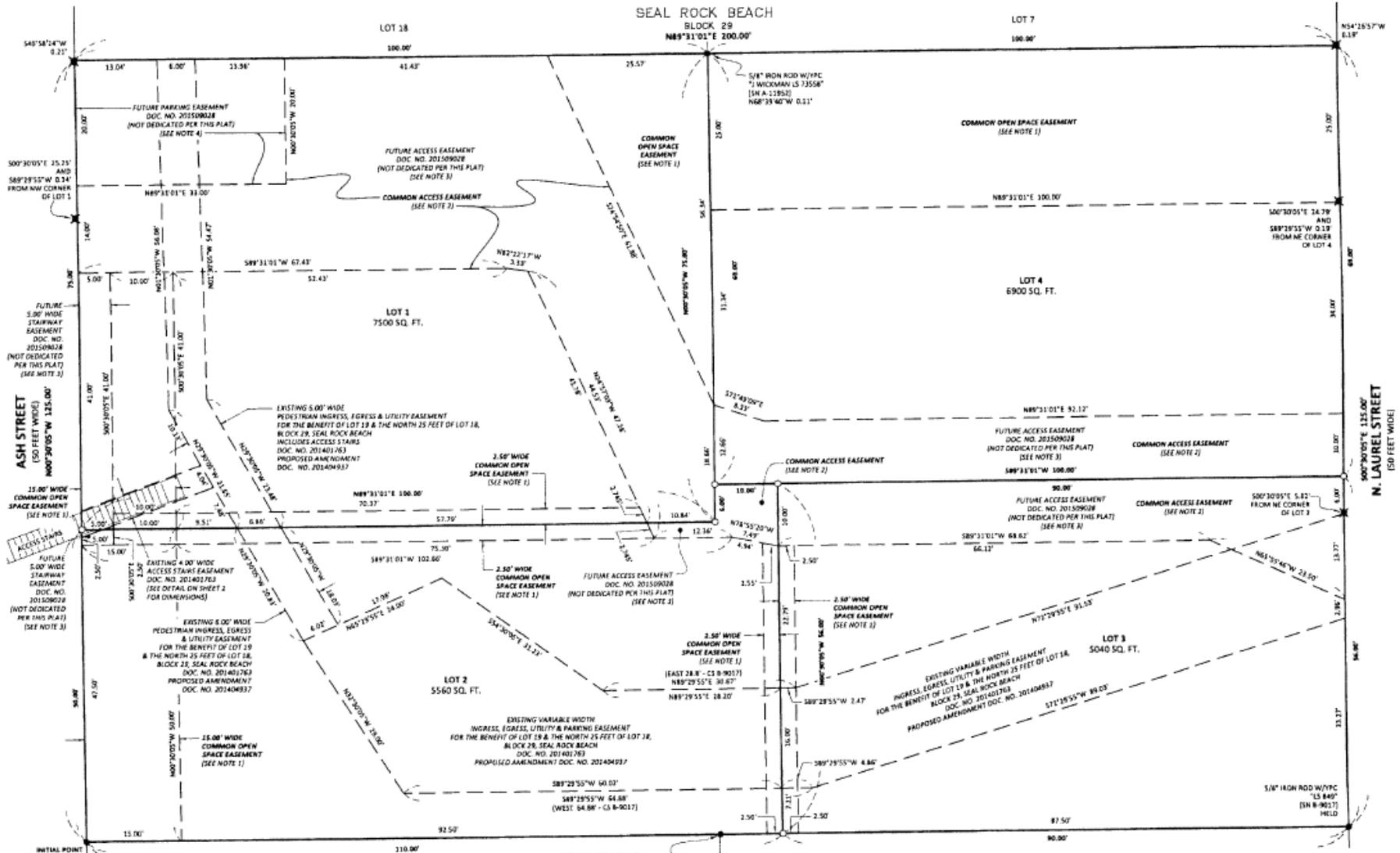
- Be prepared by a registered geologist or engineering professional (“GOEP”),
- Be in writing and signed by the GOEP,
- Consider and describe any known landslides on or influencing the site,
- Describe the existing condition of the site,
- Describe the site investigation, including any subsurface explorations performed by the GEOP on or in the vicinity of the site, and
- Provide any recommendations and findings from the GOEP as contemplated by CBMC 17.50.040.A.2 and CBMC 17.50.040.A.3.

16. The homes to be built on the site shall all comply with the following design requirements:

- The exterior of all structures shall be wood siding or wood shingles. The material may be natural or stained. No exterior surface shall be concrete or masonry, except for concrete or masonry that is part of a foundation, house trim, or fireplace chimney.
- The roof of dwellings on Lots 1, 2, 3, and 4 shall be composition, wood shake, or shingle with a pitch.
- The main front entrance of the house on Lot 1 shall face southerly. The main front entrance of the house on Lot 2 shall face northerly or southerly. The main front entrance of the house on Lot 3 shall face easterly. The main front entrance of the house on Lot 4 shall face easterly or southerly.
- The yard setbacks for the development will be as specified on Sheet C2.2 from KPFF Consulting Engineers, submitted on October 20, 2015, regardless of the orientation of the main front entrance or street to front, side, and rear yards. Should any lot contain a garage or carport, it shall be no larger than a two car garage. Garages or carports may be located under a house due to the natural topography, but if the garage is detached, then the garage may not include a second story or livable space. The exterior of any garage must be the same as the house.

17. Before permits for the driveway retaining wall are approved the applicant shall provide to the City an executed contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and shall provide a timeline for the establishment of plantings on the wall. If plants are not successfully established within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met.

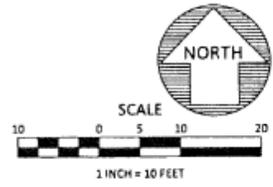
18. Only one driveway/access point shall be allowed off Laurel Street.



- LEGEND:**
- || ORIGIN OF MONUMENT
 - SM SURVEY NUMBER, CLATSOP COUNTY SURVEY RECORDS
 - FD FOUND
 - W/PLC WITH YELLOW PLASTIC CAP
 - || RECORD DATA PER REFERENCE NOTED
 - || FOUND MONUMENT AS NOTED
 - FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "K.P.F.F. INC. 15 849"
 - FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "K.P.F.F. INC." TO BE POST MONUMENTED

REGISTERED PROFESSIONAL LAND SURVEYOR
 Oregon
 JUNE 30, 1987
 TROY T. TETSUKA
 2841
 EXPIRES 6/30/16

CANNON BEACH PRESERVATION
 A REPLAT OF LOTS 8, 9, 16, 17 AND A PORTION OF LOTS 7 AND 18, BLOCK 29, SEAL ROCK BEACH
 LOCATED IN THE NE QUARTER OF SECTION 19
 TOWNSHIP 5 NORTH, RANGE 10 WEST, WILLAMETTE MERIDIAN
 CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON
 DATE: FEBRUARY 23, 2016



kpff

SHEET 1 OF 2
 JOB NO. 314239.10
 111 SW Fish Ave., Suite 2400
 Portland, OR 97204
 O: 503.227.3251
 F: 503.224.4681
 www.kpff.com

CANNON BEACH PRESERVATION

A REPLAT OF LOTS 8, 9, 16, 17 AND A PORTION OF LOTS 7 AND 18, BLOCK 28, SEAL ROCK BEACH
 LOCATED IN THE NE QUARTER OF SECTION 19
 TOWNSHIP 5 NORTH, RANGE 10 WEST, WILLAMETTE MERIDIAN
 CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON
 DATE: FEBRUARY 13, 2016

DECLARATION:

KNOW ALL PEOPLE BY THESE PRESENTS THAT LUCE'S COTTAGES LLC, OWNER OF THE LANDS SHOWN ON THE ANNEXED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, HAS CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS, AS SHOWN ON SAID MAP. THE DECLARANT DOES HEREBY GRANT ALL EASEMENTS AS SHOWN, NOTED OR STATED ON SAID MAP FOR THE LINES INDICATED, ALL IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92 OF THE OREGON REVISED STATUTES. THE DECLARANT MAKES NO CLAIM TO ANY LANDS BEYOND THAT DESCRIBED IN THE SURVEYOR'S CERTIFICATE WITH RESTRICTIONS AS NOTED HEREON.

[Signature]
 JEFFREY NICHOLSON
 PRESIDENT, LUCE'S COTTAGES LLC

ACKNOWLEDGEMENT:

STATE OF OREGON
 COUNTY OF ~~Cannon Beach~~ **Multnomah** | 55
 I, Jeffrey Nicholson, Notary Public for the State of Oregon, do hereby certify that on this 6 day of May, 2016, before me, a Notary Public in and for said County and State, personally appeared Jeffrey Nicholson as President and that they acknowledged said instrument to be of their own free act.

[Signature]
 NOTARY PUBLIC FOR THE STATE OF OREGON
Brennan Rebecca Dwyer
 PRINTED NAME

COMMISSION NUMBER 920606
 MY COMMISSION EXPIRES ON THE 14 DAY OF October, 2017.

CONSENT AFFIDAVIT:

A SUBDIVISION PLAT (CONSENT AFFIDAVIT) FROM CLATSOP COMMUNITY BANK, TRUST DEED BENEFICIARY, IS RECORDED AS DOCUMENT NO. 201609086 CLATSOP COUNTY DEED RECORDS.

CITY OF CANNON BEACH APPROVALS:

APPROVED THIS 24 DAY OF April, 2016
[Signature]
 CITY OF CANNON BEACH PLANNING COMMISSION CHAIR

APPROVED THIS 26 DAY OF April, 2016
[Signature]
 CITY OF CANNON BEACH DIRECTOR OF PUBLIC WORKS

APPROVED THIS 26 DAY OF April, 2016
[Signature]
 CITY OF CANNON BEACH, MAYOR

CLATSOP COUNTY APPROVALS:

APPROVED THIS 14 DAY OF November, 2016
[Signature]
 CLATSOP COUNTY SURVEYOR

APPROVED THIS _____ DAY OF _____, 20____
 CLATSOP COUNTY PLANNING COMMISSION CHAIR

ALL TAXES, FEES, ASSESSMENTS AND OTHER CHARGES AS PROVIDED BY ORS 92.095 HAVE BEEN PAID THROUGH Nov 14 2016
[Signature]
 CLATSOP COUNTY ASSESSOR/TAX COLLECTOR

APPROVED THIS 19 DAY OF NOV 2016
[Signature]
 CLATSOP COUNTY BOARD OF COMMISSIONERS

CERTIFICATE OF COUNTY CLERK

STATE OF OREGON | 55
 COUNTY OF CLATSOP
 I DO HEREBY CERTIFY THAT THIS SUBDIVISION PLAT WAS RECEIVED FOR RECORD ON November 21, 2016 AT 9:00am AND RECORDED AS INSTRUMENT NO. 201609088 CLATSOP COUNTY RECORDS.
 BY *[Signature]*
 CLATSOP COUNTY CLERK

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO SUBDIVIDE THE SUBJECT PROPERTY INTO LOTS AS SHOWN HEREON. THE SUBJECT PROPERTY IS DESCRIBED IN DEED TO LUCE'S COTTAGES LLC IN INSTRUMENT NO. 201406117, CLATSOP COUNTY DEED RECORDS. SAID INSTRUMENT DEFINES THE SUBJECT PROPERTY AS LOTS 8, 9, 16 AND 17, AND THE SOUTH 25 FEET OF LOTS 7 AND 18, BLOCK 28, SEAL ROCK BEACH, IN THE CITY OF CANNON BEACH, COUNTY OF CLATSOP, STATE OF OREGON.

THE BASIS OF BEARINGS AND THE SUBJECT BOUNDARY SHOWN HEREON WERE ESTABLISHED BY RECORD OF SURVEY CS 9-13088, CLATSOP COUNTY SURVEY RECORDS.

THE EXISTING INGRESS, EGRESS, UTILITY AND PARKING EASEMENTS SHOWN HEREON AND REFERENCED TO DOCUMENT NO. 201401783 WERE ESTABLISHED PER RECORD DATA FROM RECORD OF SURVEY CS 9-9617. CLATSOP COUNTY SURVEY RECORDS. SAID RECORD DATA WAS ADJUSTED BY 3020" TO MATCH THE WESTERLY RIGHT-OF-WAY LINE OF N. LAUREL STREET. THE SEGMENT SHOWN HEREON AS NORTH 87°28'51" EAST 30.01 FEET, WAS ASSUMED TO BE INCORRECTLY STATED AS 28.8 FEET ON SAID SURVEY 9-9617 AND SAID DOCUMENT NO. 201401783.

THE EXISTING ACCESS STAIR EASEMENT SHOWN HEREON AND REFERENCED TO DOCUMENT NO. 201481783 WAS ESTABLISHED BY MEASUREMENT OF THE EXISTING STAIRWAY.

CLIENT: JEFFREY NICHOLSON

SURVEYOR'S CERTIFICATE:

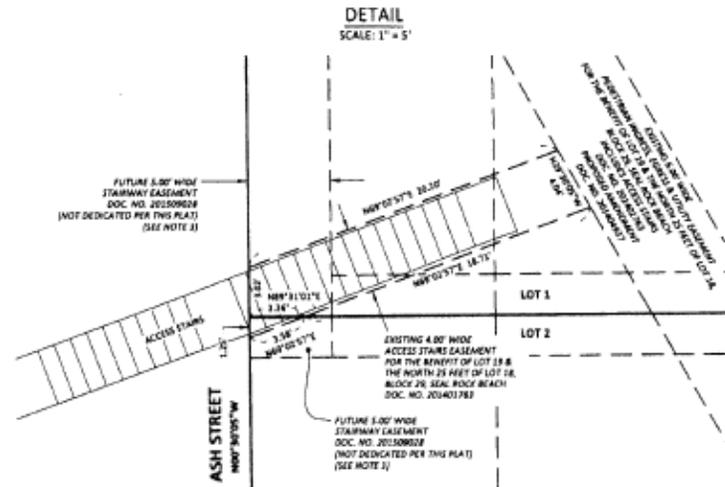
I, TROY T. TETSUKA, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER INSTRUMENTATION THE LAND REPRESENTED ON THE ATTACHED SUBDIVISION PLAT. SAID LAND BEING A REPLAT OF LOTS 8, 9, 16 AND 17, AND THE SOUTH 25 FEET OF LOTS 7 AND 18, BLOCK 28, SEAL ROCK BEACH, LOCATED IN THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 5 NORTH, RANGE 10 WEST, WILLAMETTE MERIDIAN, IN THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 16, BLOCK 28, SAID POINT BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF ASH STREET (50 FEET WIDE) AND SAID POINT BEING MARKED BY A 5/8" IRON ROD MARKED "TTPFF INC."; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 00°30'00" WEST 125.00 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE NORTH 87°31'01" EAST 300.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF LAUREL STREET (50 FEET WIDE); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 00°30'00" EAST 125.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE ALONG THE SOUTHERLY LINE OF SAID LOTS 9 AND 16 SOUTH 87°31'01" WEST 200.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 25,000 SQUARE FEET OR 6,574 ACRES, MORE OR LESS.

NOTES:

- COMMON OPEN SPACE EASEMENTS ARE HEREBY GRANTED FOR THE BENEFIT OF LOTS 1 THROUGH 4 OF THIS PLAT OF CANNON BEACH PRESERVATION. RIGHTS AND RESPONSIBILITIES ARE SPECIFIED WITHIN THE EASEMENT DOCUMENT "COMMON OPEN SPACE & COMMON ACCESS EASEMENT," RECORDED AS DOCUMENT NO. 201609087 CLATSOP COUNTY DEED RECORDS.
- COMMON ACCESS EASEMENTS ARE HEREBY GRANTED FOR THE BENEFIT OF LOTS 1 THROUGH 4 OF THIS PLAT OF CANNON BEACH PRESERVATION. RIGHTS AND RESPONSIBILITIES ARE SPECIFIED WITHIN THE EASEMENT DOCUMENT "COMMON OPEN SPACE & COMMON ACCESS EASEMENT," RECORDED AS DOCUMENT NO. 201609087 CLATSOP COUNTY DEED RECORDS.
- FUTURE STAIRWAY AND FUTURE ACCESS EASEMENTS ARE FOR THE BENEFIT OF THE OWNERS OF LOTS 1 THROUGH 4 OF THIS PLAT OF CANNON BEACH PRESERVATION AND THE OWNER OF THAT TRACT OF LAND DESCRIBED AS LOT 18 AND THE NORTH 25 FEET OF LOT 18, BLOCK 28, SEAL ROCK BEACH. SAID STAIRWAY AND ACCESS EASEMENTS ARE SUBJECT TO THE TERMS AND CONDITIONS OF DOCUMENT NO. 201508038. NOT GRANTED ON THIS PLAT.
- FUTURE PARKING EASEMENT IS FOR THE EXCLUSIVE BENEFIT OF THE OWNER OF THAT TRACT OF LAND DESCRIBED AS LOT 19 AND THE NORTH 25 FEET OF LOT 18, BLOCK 28, SEAL ROCK BEACH AND IS SUBJECT TO THE TERMS AND CONDITIONS OF DOCUMENT NO. 201508038. NOT GRANTED ON THIS PLAT.



REGISTERED PROFESSIONAL LAND SURVEYOR
[Signature]
 OREGON
 JUNE 30, 1997
 TROY T. TETSUKA
 2841
 EXPIRES 6/30/16

kpff

SHEET 2 OF 2
 JOB NO. 314239.10
 111 SW Fish Ave., Suite 2400
 Portland, OR 97204
 O: 503.227.3251
 F: 503.224.4681
 www.kpff.com



Building Permit

Residential 1 & 2 Fam Dwelling (New Only) Limited

Permit Number: 164-20-000055-DWL

IVR Number: 164017305965

Web Address: www.ci.cannon-beach.or.us

Email Address: building@ci.cannon-beach.or.us

Permit Issued: January 11, 2022

Application Date: August 14, 2020

TYPE OF WORK

Residential Specialty Code Edition: 2017

Category of Construction: Single Family Dwelling

Type of Work: New

Submitted Job Value: \$300,000.00

Description of Work: New SFD / Harding Residence (Bovet)

JOB SITE INFORMATION

Worksite Address

534 N Laurel ST
Cannon Beach, OR 97110

Parcel

51019AD07002

Owner:

JEAN PAUL BOUVET

Address:

PO BOX 1386
CANNON BEACH, OR 97110

Owner:

JEAN PAUL BOUVET

Address:

PO BOX 1386
CANNON BEACH, OR 97110

LICENSED PROFESSIONAL INFORMATION

Business Name

CAPPER CONSTRUCTION LLC -
Primary

License

CCB

License Number

197706

Phone

503-436-2468

PENDING INSPECTIONS

Inspection

1999 Final Building

Inspection Group

1_2 Famdwell

Inspection Status

Pending

SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at www.buildingpermits.oregon.gov

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 164017305965

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

PERMIT FEES

Fee Description	Quantity	Fee Amount
Clothes dryer exhaust	1	\$41.00
Furnace - up to 100,000 BTU	1	\$56.00
Gas fuel piping outlets	1	\$23.00
Range hood/other kitchen equipment	1	\$41.00
Ventilation fan connected to single duct	1	\$28.00
Water heater	1	\$41.00
Clothes washer	1	\$28.00
Kitchens	1	\$0.00
Single Family Residence - Baths	1	\$360.00
Stormwater retention/detention tank/facility	1	\$94.00
Water heater	1	\$28.00
SDC - Water System Dev fee -- per dwelling unit equivalent, enter # dwl units	1	\$1,630.93
SDC - Storm Drain System Dev fee - per dwelling unit equivalent, enter # dwl units	1	\$944.37
SDC - Sewer System Dev fee - per dwelling unit equivalent, enter # dwl units	1	\$1,678.20
Structural building permit fee - New Res		\$3,929.75
Structural plan review fee		\$2,947.31
State of Oregon Surcharge - Plumb (12% of applicable fees)		\$61.20
State of Oregon Surcharge - Bldg (12% of applicable fees)		\$471.57
State of Oregon Surcharge - Mech (12% of applicable fees)		\$27.60
Planning plan review - Residential Structures - \$100,001 to \$200,000	1	\$159.00
Affordable Housing - Developer incentives (Res)		\$1,440.00
Affordable Housing Construction Excise Tax - Admin Fee (Res)		\$120.00
Affordable Housing - Programs and incentives (Res)		\$1,008.00
Affordable Housing - Housing and community services (Res)		\$432.00
Total Fees:		\$15,589.93

Note: This may not include all the fees required for this project.

VALUATION INFORMATION

Construction Type	Occupancy Type	Unit Amount	Unit	Unit Cost	Job Value
VB	R-3 1 & 2 family	600.00	Sq Ft	\$122.46	\$73,476.00
VB	U Utility, misc.	624.00	Sq Ft	\$48.30	\$30,139.20
VB	U Utility, misc. - half rate	794.00	Sq Ft	\$24.15	\$19,175.10
Total Job Value:					\$122,790.30

Electrical provided by Clatsop County Building Codes Division at 503-338-3697.

ADDITIONAL INFORMATION/CONDITIONS OF APPROVAL FOR PUBLIC WORKS**Date Applied:** 09/10/2020

Comments: General: Under 12.36.030 of the City Code, a Right-of-Way Use Permit is required for placement or removal of any improvement within the public domain. Work in ROW will not occur on Saturdays, Sundays and after 12:01 p.m. on Fridays without P.W. Director's approval. Traffic control is to comply with the traffic signing requirements of the "Manual on Uniform Traffic Control Devices." All work shall be done in accordance with all applicable provisions of federal, state and local law, ordinance and administrative rules. All work in public right-of-way and all work which is connected, directly or indirectly, to the City of Cannon Beach's water, sanitary sewer, or storm sewer lines shall be constructed in accordance with applicable current APWA Oregon Chapter Standards. The City requires all wire utilities to be run underground where the improvement value exceeds 25% of the existing structure value (12.16.010). Contractor is to secure separate Right-of-Way Use Permit prior to work and submit utility schematics. Natural gas is to be coordinated with NW Natural Gas. Conformance: Water service will not be initiated without conformance with the following terms.

Driveway: 1. Stop concrete driveway at property line. Continue with gravel or asphalt to match city street. Driveway width cannot exceed 20' width.

Drainage: 1. MC 8.84.140 C – No owner or person in charge of property shall allow overflow water from a building to drain onto the property of another (Ord. 85-7 § 14). Homeowner is responsible for all cost associated with storm drainage runoff.

Misc: 1. CONFORMANCE WITH EROSION CONTROL PLAN IS IMPERATIVE. 2. All wire utilities must be run underground. No exceptions. Contractor is responsible for any damage done to City Row during construction. Tree protection must be maintained for the duration of project.

On-site sanitation: On-site portable restroom facility required during construction. On-site portable restroom must be positioned on homeowners property.

Sanitary Sewer: 1. Install 2-way cleanout at property line. Contractor will be sensitive digging sewer line to protect tree root system for adjacent trees.

Water: 1. A customer shut-off ball valve must be installed within three feet of the meter box. Valve must have corrosion-resistant handle and be readily accessible via a traffic rated box. Contractor will be sensitive digging water line to protect tree root system for adjacent trees.

Street: 1. Access frontage lot line(s) must be clearly delineated by certified survey staking. 2. Construction detritus/disturbance to the street must be corrected at the end of each work day.

Water and Sewer Connections 1. Contractor shall call the Assistant Public Works Director at (503) 436-8066 when they are ready for the City's water service to be installed. Installation of water meter will commence utility billing. 2. When contractor calls the City for water service installation, sewer service will also be installed.

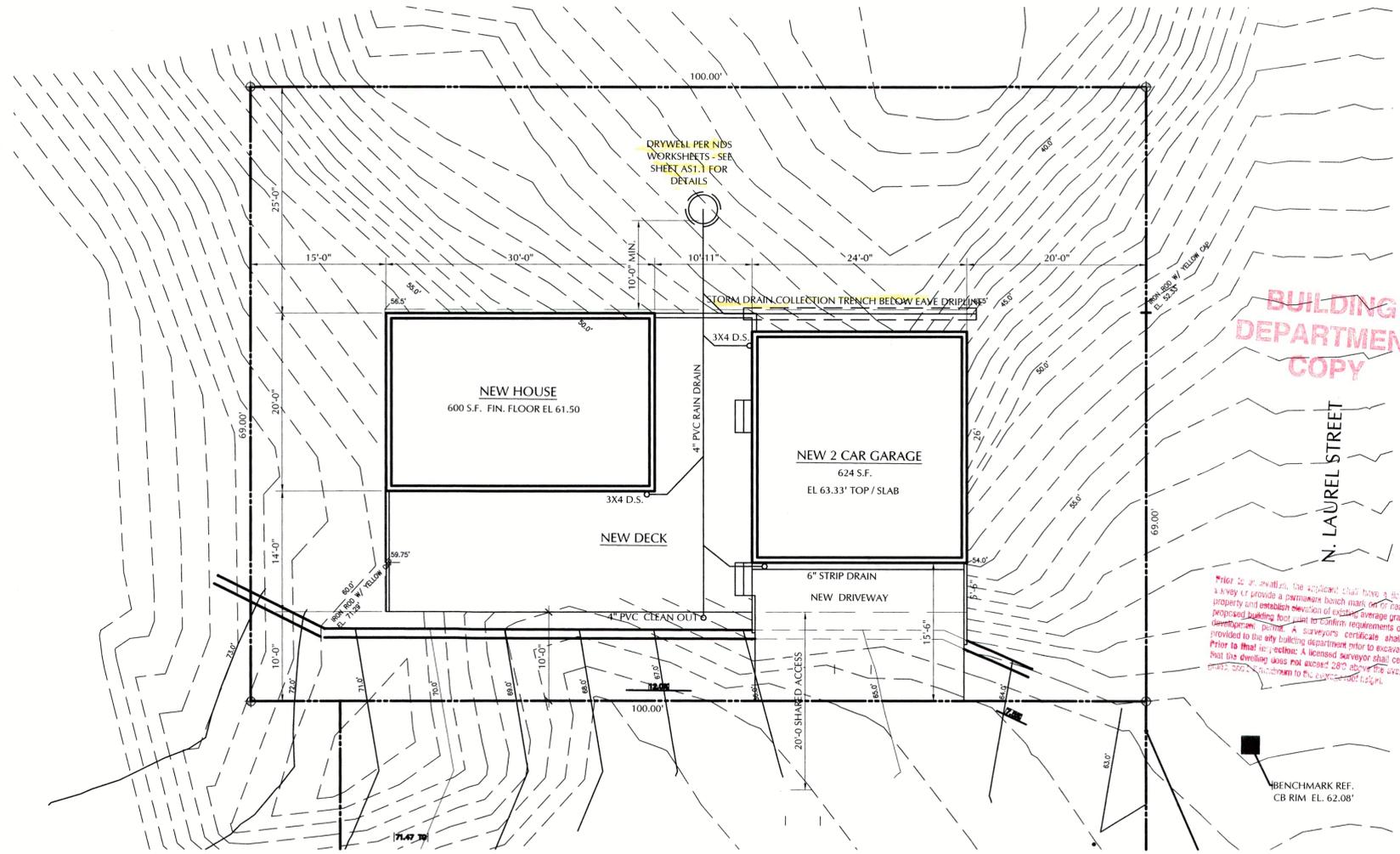
ADDITIONAL INFORMATION/CONDITIONS OF APPROVAL FOR PLANNING**Date Applied:** 01/10/2022

Comments: See Conditions & correspondence; elevation survey, setback survey
Arborist required on site during excavation, TPZ prior to building permit & hand excavation on north & east walls of garage.

ABBRV.

A.F.F.	Above Finish Floor	O.D.	Outside Diameter (Dim.)
ACOUST.	Acoustical	P.	Paint
A.C.T.	Acoustical Cfg. Tile	PR.	Pipe
ADJ.	Adjust, Adjustable	P.T.D.	Paper Towel Dispenser
AGG.	Aggregate	P.T.D./R	Paper Towel Disp & Recept
AL.	Aluminum	P.T.R.	Paper Towel Receptacle
A.B.	Anchor Bolt	PART.BD.	Particle Board
APPROX.	Approximately	PTN.	Partition
ARCH.	Architectural	PERF.	Perforated
A.D.	Area Drain	PLAS.	Plaster
ASPH.	Asphalt	P.LAM.	Plastic Laminate
A.C.	Asphaltic Concrete	PL.	Plate
BA.	Beam	PWD.	Plywood
BITUM.	Bituminous	PT	Point
BLK.	Block	P.P.	Power Pole
BLKG.	Blocking	PRCST.	Precast
BD.	Board	PREFIN.	Prefinished
BOT/BTM.	Bottom	P.T.	Pressure Treated
B.C.	Bottom of Curb	PL	Property Line
B.W.	Bottom of Wall	Q.T.	Quarry Tile
BLDG.	Building	R.O.RAD.	Radius
CAB.	Cabinet	REF.	Reference
C.P.T.	Carpet	REFR.	Refrigerator
C.I.	Cast Iron	REIN.	Reinforced
C.I.P.	Cast In Place	REQT.	Requirements
C.B.	Catch Basin	RES.	Resilient
CLG.	Ceiling	R.	Riser(s)
CEM.	Cement	R.D.	Roof Drain
CTR.	Center	RM.	Room
C.T.	Ceramic Tile	R.O.	Rough Opening
CLR.	Clear	S.G.	Safety Glass
CLO.	Closer	S.N.D.	Sanitary Napkin Dispenser
COL.	Column	SCHED.	Schedule
CONC.	Concrete	S.C.	Seat Cover Dispenser
CMU.	Conc. Masonry Units	SECT.	Section
COND.	Condition	SS	Service Sink
CONSTR.	Construction	SHG.	Sheathing
CONT.	Continuous	SHT.	Sheet
CONTR.	Contractor	SH.	Shelf
C.J.	Control Joint	SHR.	Shower
CORR.	Corridor	SHR.	Shower
CNTR.	Counter	S.O.G.	Slab on Grade
CTSK.	Countersink	S.D.	Soap Dispenser
DEPT.	Department	S.C.	Solid Core
DET.	Detail	SQ.	Square
DIA.	Diameter	S.F.	Square Feet
DIM.	Dimension	S.A.V.	Stain and Varnish
DW.	Dishwasher	S.STL.	Stainless Steel
DISP.	Disposal (Garbage)	STD.	Standard
DR.	Door	STL.	Steel
DBL.	Double	STOR.	Storage
DN.	Down	STRL.	Structural
DS.	Downspout	SYM.	Symmetrical
DWR.	Drawer	SYS.	System
DWG.	Drawing	TEL.	Telephone
D.F.	Drinking Fountain	T.V.	Television
EA.	Each	THK.	Thick
E.S.	Each Side	TOIL.	Toilet
E.W.C.	Electric Water Cooler	T.P.D.	Toilet Paper Dispenser
ELEC.	Electrical	T&G	Tongue and Groove
ELV.	Elevation	T.C.	Top of Curb
EMER.	Emergency	T.P.	Top of Pavement
ENCL.	Enclosure	T.P.L.	Top of Plate
EQPT.	Equipment	T.W.	Top of Wall
EXIST.	Existing	TYP.	Typical
EXP.	Expansion	UNF.	Unfinished
E.J.	Expansion Joint	U.O.N.	Unless Otherwise Noted
EXPO.	Exposed	UR.	Urinal
EXT.	Exterior	V.P.	Veneer Plaster
E.I.F.S.	Exterior Insulation & Finish System	VY.	Verify
F.O.C.	Face of Concrete	V.G.	Vertical Grain
F.O.F.	Face of Finish	VEST.	Vestibule
F.O.M.	Face of Masonry	V.C.T.	Vinyl Composition Tile
F.O.S.	Face of Studs	V.W.C.	Vinyl Wall Covering
F.FIN.	Factory Finish	WC.	Wallcovering
FIN.	Finish	WC.	Water Closet
F.F.	Finish Floor	W.H.	Water Heater
F.E.E.	Finish Floor Elevation	WP.	Waterproof
F.A.	Fire Alarm	WT.	Weight
F.E.	Fire Extinguisher	WDW.	Window
F.E.C.	Fire Extinguisher Cab	W.	With
F.H.C.	Fire Hose Cabinet	W/O	Without
F.R.T.	Fire Retardant Treated	W.	Wood
F.P.R.	Fireproof	W.W.F.	Woven Wire Fabric
FIXT.	Fixture	AND	And
F.B.	Flat Bar	ANG	Angle
F.H.	Flat Head	AT	At
FL.	Floor		
F.D.	Floor Drain		
F.F.H.B.	Freeze Proof Hose Bibb		
FT.	Foot or Feet		
FTG.	Footing		
FDN.	Foundation		
F.S.	Full Size, Scale		
F.O.I.C.	Furnished by Owner, Installed by Contractor		
FURR.	Furring		
FUT.	Future		
GALV.	Galvanized		
G.I.	Galvanized Iron		
G.D.	Garbage Disposal		
GA.	Gauge		
GLU-LAM.	Glu-Laminated		
GL.	Glass		
G.B.	Grab Bar		
GR.	Grade		
GND.	Ground		
GYP.BD.	Gypsum Wallboard		
GYP.BD./WR.	Water Resistant Gypsum		
HDWE.	Hardware		
HT.	Height		
H.C.	Hollow Core		
H.C.P.	Hollow Core Plank		
H.M.	Hollow Metal		
HORIZ.	Horizontal		
H.B.	Hose Bibb		
HR.	Hour		
IN.	Inches		
I.D.	Inside Diameter (Dim.)		
INSUL.	Insulation		
INT.	Interior		
JAN.	Janitor		
IT.	Joint		
K.D.	Kiln Dried		
KI.	Kitchen		
K.D.N.	Knock Down		
LAV.	Lavatory		
LT.	Light		
LKR.	Locker		
MACH.	Machine		
M.B.	Machine Bolt		
M.H.	Manhole		
MFR.	Manufacturer		
M.O.	Masonry Opening		
MAX.	Maximum		
MECH.	Mechanical		
M.C.	Medicine Cabinet		
MDO.	Medium Density Overlay		
MEMB.	Membrane		
MET.	Metal		
MIN.	Minimum		
MISC.	Miscellaneous		
MTD.	Mounted		
MUL.	Mullion		
NOM.	Nominal		
N.	North		
N.I.C.	Not in Contract		
N.T.S.	Not to Scale		
NO.	Number		
OBS.	Obscure		
O.C.	On Center		
OPNG.	Opening		
OPP.	Opposite		
O.H.	Opposite Hand		
OZ.	Ounce		

NEW HOUSE PLANS FOR: HARDING/BOUVET RESIDENCE CANNON BEACH, OREGON



1 SITE PLAN
1/8" = 1'-0"

GENERAL NOTES

- THE CONTRACTOR(S) SHALL PERFORM ALL DEMOLITION AND FURNISH/INSTALL ALL MATERIALS/SERVICES NECESSARY TO COMPLETE THE WORK SHOWN ON THE DRAWINGS UNLESS NOTED OTHERWISE.
- WORK SHALL BE IN ACCORDANCE WITH REQUIREMENTS OF CURRENT IBC, STATE OF OREGON STRUCTURAL SPECIALTY CODE AND FIRE AND LIFE SAFETY REGULATIONS, LAW OF THE STATE FIRE MARSHAL, APPLICABLE PLUMBING MECHANICAL, ELECTRICAL CODES AND OTHER APPLICABLE CODES AND ORDINANCES.
- THE CONTRACTOR(S) SHALL OBTAIN AND PAY FOR INSPECTIONS BY CITY OF CANNON BEACH BUILDING DEPARTMENT.
- NO FINAL PAYMENT SHALL BE ISSUED UNTIL THE CONTRACTOR DELIVERS TO OWNER A CERTIFICATE OF COMPLIANCE/OCCUPANCY.
- CONTRACTOR SHALL COORDINATE ALL SUBCONTRACTOR WORK.
- CONTRACTOR SHALL PROVIDE ON SITE SUPERVISION DURING ALL WORK.
- ALL EXISTING CONDITIONS SHALL BE VERIFIED DURING CONSTRUCTION.
- BEFORE ORDERING ANY MATERIAL OR DOING ANY WORK, THE CONTRACTOR SHALL VERIFY IN THE FIELD ALL DIMENSIONS AND ELEVATIONS WHICH ARE REQUIRED FOR CONNECTIONS TO, OR INSTALLATION IN, AREAS COVERED BY DOCUMENTS. CONTRACTOR SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCY ON THE PLANS OR THE SITE.

DRAWING INDEX

CS	COVER SHEET - SITE PLAN				
A0.0	SPECIFICATIONS				
AS1.1	SITE PLAN				
A1.1	MAIN FLOOR PLAN				
A2.1	ELEVATIONS				
A2.2	ELEVATIONS				
A3.1	SECTIONS				
A5.1	WINDOW SEQUENCE				
S1.1	FOUNDATION PLAN				
S2.1	FLOOR FRAMING PLAN				
S3.1	ROOF FRAMING PLAN				

Note: Special inspection or engineering observation required!
HAVE RCI package at underfloor Ins.

PROJECT TEAM

OWNER:
VICTOR & JANE HARDING / PAUL BOUVET
CANNON BEACH, OREGON

ARCHITECT:
TOLOVANA ARCHITECT LLC 503-436-0519
368 ELK CREEK ROAD, SUITE 408, CANNON BEACH, OREGON 97110
MAIL: P.O. BOX 648, TOLOVANA PARK, OREGON 97145
DAVID VONADA, A.I.A. DAVID@TOLOVANAARCHITECTS.COM

STRUCTURAL CONSULTANT:
TIM WOLDEN S.C.
34930 HWY 53 503-368-7962
NEHALEM, OREGON 97131 TIM@WOLDENSE.COM

CONTRACTOR:
CAPPER CONSTRUCTION, LLC 503-440-0194

BUILDING STATISTICS

JURISDICTIONS:	CITY OF CANNON BEACH OREGON
ZONING:	R2
OCCUPANCY GROUP:	R-3, SINGLE FAMILY RES
BUILDING CONSTRUCTION TYPE:	V-B
FIRE SPRINKLERS:	NO
BUILDING AREA:	
LIVING AREA:	APPROX. 600 S.F.
GARAGE AREA:	APPROX. 624 S.F.
TOTAL FLOOR AREA:	APPROX. 1,224 S.F.
TOTAL LOT AREA:	6,900 SQ. FT.
ALLOWABLE HEIGHT:	+ 28'-0"

SYMBOLS LEGEND

KEYNOTE	KEYNOTE NUMBER
ROOM TAG	ROOM NAME ROOM NUMBER
REVISION TAG	REVISION NUMBER
ELEVATION TAG	DETAIL NUMBER SHEET NUMBER
BUILDING SECTION TAG	SECTION NUMBER SHEET NUMBER
DETAIL TAG	DETAIL NUMBER SHEET NUMBER
TITLE LINE	DRAWING NUMBER DRAWING NAME DRAWING SCALE SHEET NUMBER

INSULATION TABLE

Per 2021 Oregon Residential Energy Code - Table N1101.1(1)

New Windows & Sliding Glass Doors	U = 0.27
Exterior Doors	U = 0.20
(Max. 28 s.f. of Exterior Door per Dwelling Unit can have U = 0.54 or less)	
Exterior Door w/ > 2.5 s.f. Glazing	U = 0.40
Wall Insulation - Above Grade	U = 0.059 / R-21
*Including Cripple Walls & Rim Joist Areas	Intermediate
Wall Insulation - Below Grade	C = 0.063 / R-15 c.i. / R-21
Underfloor Insulation	U = 0.033 / R-30
Flat Ceiling Insulation	U = 0.021 / R-49
Vaulted Ceiling Insulation	U = 0.033
(Vaulted ceiling surface area exceeding 50% of the total heated floor space shall have U = 0.026 or less / R-38)	R-30 Rafter or R-30A Scissor Truss
Forced Air Duct Insulation	R - 8
Skylights	U = 0.50
Slab Edge Perimeter	F = 0.520 / R-15
Heated Slab Interior	R-10
Acoustical Insulation	4" mineral wool

Note: All new insulation at perimeter of building envelope to have 1 perm vapor barrier on warm side.

REV. PERMIT SET 2021-12-13



Tolovana Architect LLC
368 Elk Creek Rd. Suite 408
Cannon Beach, Oregon 97110



REVISED PERMIT SET

PRINTED
DEC 16 2021
Tolovana Architect
HOUSE PLANS FOR:
HARDING
BOUVET RESIDENCE
CANNON BEACH OREGON

MARK	DATE	DESCRIPTION
1	12/16/21	MAX. HEIGHT

DATE: 2021-12-13
JOB:
FILE:
DRAWN:
CHECKED:

COPYRIGHT
TOLOVANA ARCHITECTS, LLC
2021

COVER PAGE
2-1
CS

NDS
We put water in its place

Home > Flo-well Calculator

NDS Flo-Well Calculator

Step 1:
Enter the Square Feet of Drainage Area 1: (Ex. Roof)
1786
Enter the Square Feet of Drainage Area 2: (Ex. Grass)
0

Step 2:
Choose the Coefficient of Runoff for Area 1:
1.0 (Concrete/Asp)
Choose the Coefficient of Runoff for Area 2:
0.35 (Grass)

Step 3:
Choose the 25 Year Rainfall: (see rainfall map) 1 in/hr

Step 4:
Enter the depth of the gravel backfill beneath the Flo-Well:
(Dimension A) 3 ft

Step 5:
Enter the thickness of the gravel backfill around the Flo-Well:
(Dimension B) 2.5 ft

Step 6:
Press the Calculate button for results:

Step 7: view results:

Runoff	18.56 GPM 0.05 CFS
Volume of water to be stored	556.80 Gallons 74.44 Cubic feet
# of Flo-Wells Needed	1
Amount of Gravel Needed	7.42 Cubic yards 200.34 Cubic feet

Download Installation Details

Stacked Flo-Well(TM) Installation Detail
Side-by-Side Flo-Well(TM) Installation Detail

NDS
WE PUT WATER IN ITS PLACE

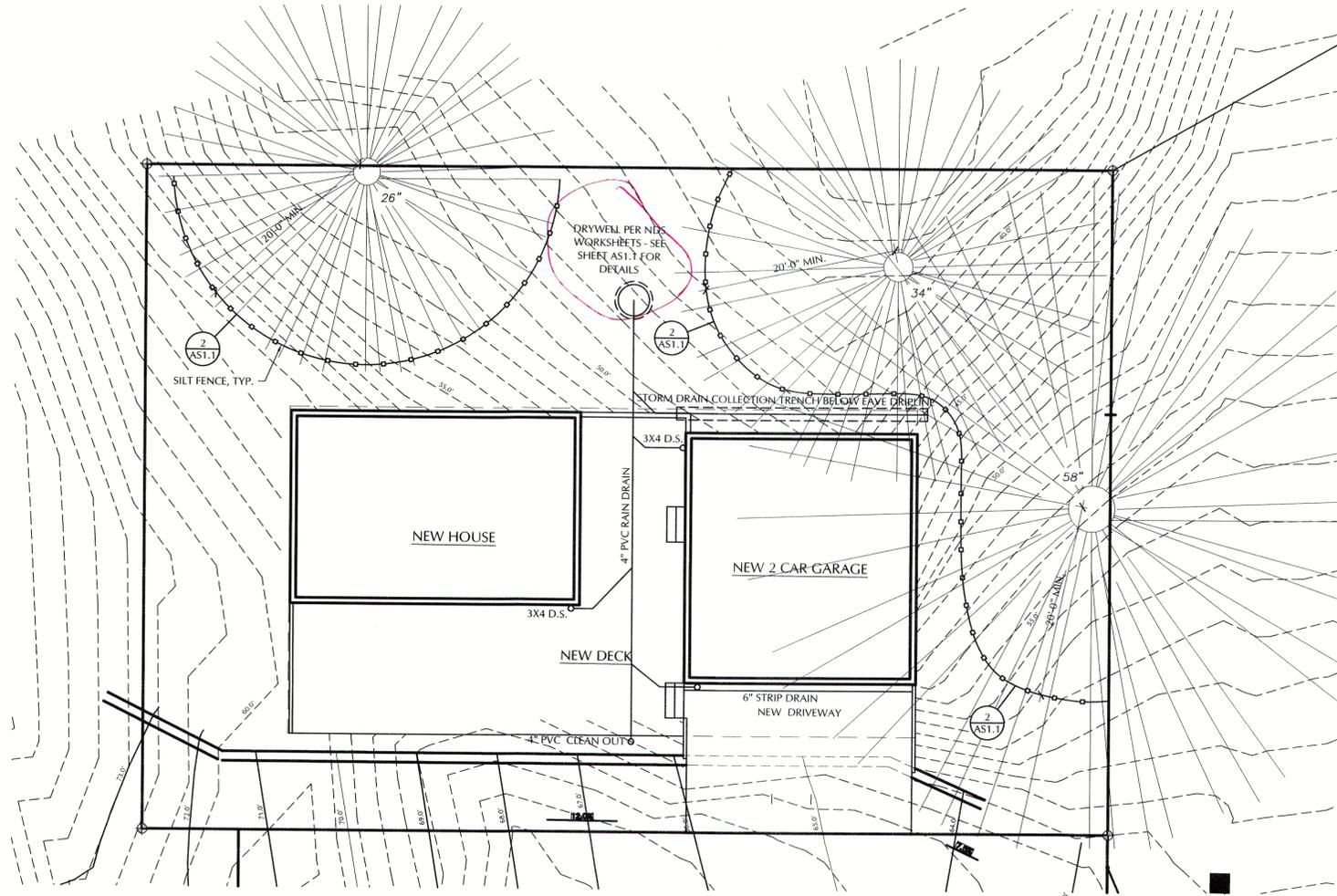
NDS, INC.
851 NORTH HARVARD AVE.
LINDSAY, CA 93247
TOLL FREE: 1-800-726-1994
PHONE: (559) 562-9888
FAX: (559) 562-4488
www.ndspro.com

4" SCH 40 PIPE CUT TO LENGTH PER DEPTH OF FLO-WELL
4" PVC INLET W/ 1/8" MIN. SLOPE
4" NDS GRATES OR APPLICABLE IN LINE LOW PROFILE ADAPTERS
4" SCH 40 COUPLING
FWAS24C 24" DIA. FLOW WELL COVER
FINISHED GRADE
8" MIN.
3'-2" MIN.
6" MIN.
FWFF67 POROUS FILTER FABRIC WRAP
1" DIA. PERCOLATION HOLE KNOCK OUTS SCORE AND KNOCK OUT ALL HOLES BEFORE WRAPPING THE FLOW WELL WITH LANDSCAPE FABRIC.
3/4" TO 1 1/2" CLEAN GRAVEL BACKFILL RECOMMENDED.
FWSPS3 (3) FLOW WELL SIDE PANELS.
FWBP24 24" DIA. FLOW WELL BOTTOM.
4" DIA. DRAINAGE CONNECTION HOLES. UTILIZE HOLES AS NEEDED FOR INLETS AND OUTLETS.

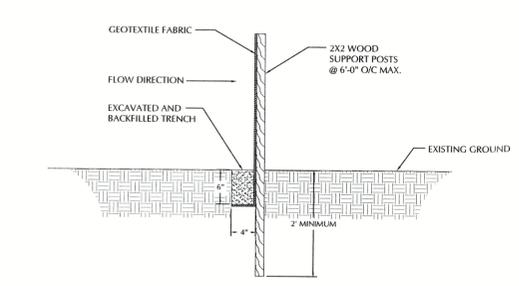
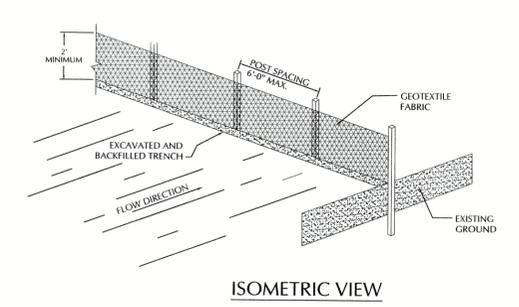
NOTES:
1. MUST BE INSTALLED 10' AWAY FROM STRUCTURE OR FOUNDATION.
2. FWAS24 KIT DOES NOT COME WITH FWBP24 BTM.
3. REFERENCE FLO-WELL CALCULATOR ON NDSPRO.COM
4. INSTALLATION TO BE COMPLETED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
5. DO NOT SCALE DRAWING.
6. THIS DRAWING IS INTENDED FOR USE BY ARCHITECTS, ENGINEERS, CONTRACTORS, CONSULTANTS AND DESIGN PROFESSIONALS FOR PLANNING PURPOSES ONLY.
7. ALL INFORMATION CONTAINED HEREIN WAS CURRENT AT THE TIME OF DEVELOPMENT BUT MUST BE REVIEWED AND APPROVED BY THE PRODUCT MANUFACTURER TO BE CONSIDERED ACCURATE.

FLO-WELL DRY WELL SYSTEM
FLO-WELL INSTALLATION DETAIL - LOAD CLASS "A" & "B" - GRAVEL INSTALLATION DETAIL.

REVISION DATE 3-6-2015



1 SITE PLAN
1/8" = 1'-0"



2 SILT FENCE DETAIL
NO SCALE



Tolovana Architect LLC
 368 Elk Creek Rd. Suite 408
 Cannon Beach, Oregon 97110



REVISED PERMIT SET

HOUSE PLANS FOR:
HARDING BOUVET RESIDENCE
 CANNON BEACH OREGON

MARK	DATE	DESCRIPTION
1	2021-12-13	MAX. 11' REV.

DATE: 2021-12-13
 JOB:
 FILE:
 DRAWN:
 CHECKED:

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 2021

TREE PROTECTION PLAN

Plotted on: Dec 16, 2021 1:48pm
 Xrefs: xr_24x35 title block xr_6_FPF DV_STAMP
 C:\Users\Joy\Tolovana Architects Dropbox\Projects\Active\Bouvet_2021\ACAD\PROJECT SETS\

ELECTRICAL LEGEND

	EXHAUST VENT TO OUT SIDE		GARBAGE DISPOSAL SWITCH
	ELECTRICAL WIRING		4 WAY SWITCH
	CARBON MONOXIDE & SMOKE DETECTOR		3 WAY SWITCH
	LIGHT & EXHAUST FAN VENTING TO OUT SIDE		SINGLE LIGHT SWITCH
	100 CFM FANET.		LED RECESSED LIGHT
	2 GANG WATER PROOF OUTLET (OUT SIDE)		LED PENDANT LIGHT
	2 GANG GFI OUTLET		LED CHANDELIER
	2 GANG OUTLET		LED SURFACE SCONCE
	4 GANG OUTLET		CEILING FAN & LED LIGHT COMBINATION
	220V APPLIANCE OUTLET		
	110V APPLIANCE OUTLET		
	TELEPHONE		
	CABLE OR SAT LOCATION		

HOLD DOWNS

① = HDU5 W/ SB5 / 8X24 ANCHOR @ (9) LOCATIONS
 ② = HDU8 W/ SB7 / 8X24 ANCHOR @ (2) LOCATIONS

VERT. STRAPPING

③ = MSTC52 VERT. STRAPS CENTER ON FLOOR RIM JOIST, NAIL TO DBL STUDS
 ④ = CMST 12 STRAP

STRAPPING @ WINDOWS

* = CMSTC16 STRAPS @ HDR. & SILL, EXTEND 24" PAST OPENING, NAIL TO FLAT BLOCKING BETWEEN STUDS

SHEAR WALLS

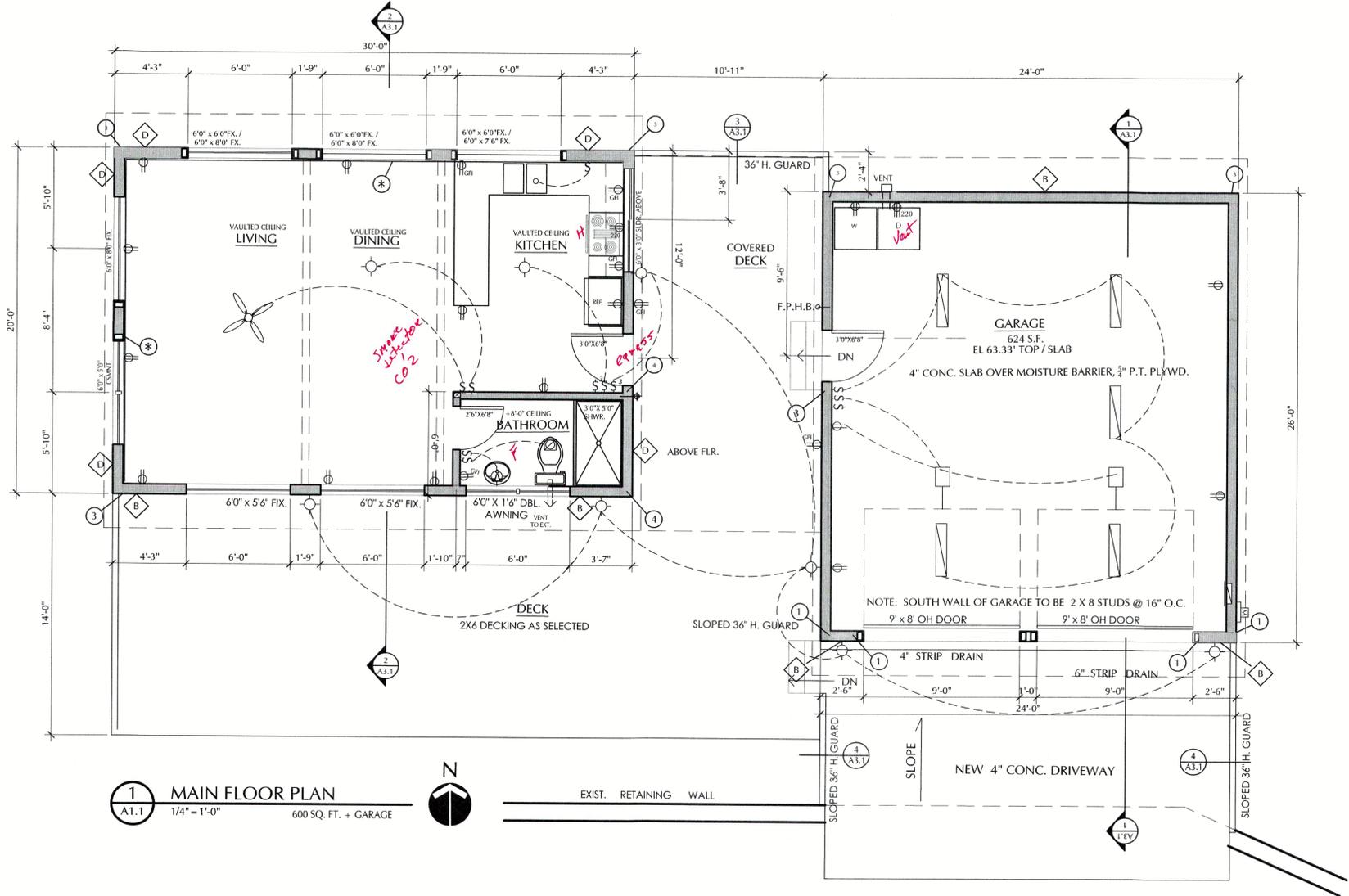
ALL WALLS FULLY BLOCKED @ PANEL EDGES. SHEARWALL NAILING: 8d @ 6" O.C. W/ #4 A. BOLTS @ 48" O.C. UNLESS OTHERWISE NOTED.

⬠ = SHEARWALL NAILING: 8d @ 4" O.C. @ PANEL EDGES #4 A. BOLTS @ 42" O.C.
 ⬠ = SHEARWALL NAILING: 8d @ 3" O.C. @ PANEL EDGES USE DBL. STUDS. #4 A. BOLTS @ 33" O.C.
 ⬠ (NOT USED)
 ⬠ = SHEAR WALL NAILING: 8d @ 2" O.C. @ PANEL EDGES USE DBL. STUDS. #4 A. BOLTS @ 24" O.C.

WALL LEGEND

NEW INTERIOR WALL: 2X4 @ 16" O.C.
 NEW EXTERIOR WALL: 2X6 @ 16" O.C. HT. < 14 FT. 1 1/2" X 5 1/2" LVL 2.0E @ 16" O.C. > 14 FT.

NOTE: AT ALL OPENINGS, PROVIDE SINGLE 2 X 6 TRIMMER & 2-2X6 KING STUDS U.O.N.



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HARDING BOUVET RESIDENCE
 CANNON BEACH OREGON

MARK	DATE	DESCRIPTION
1	7/16/21	MAX. F11 REV.

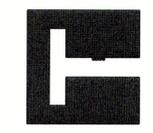
DATE: 2021-12-13
 JOB:
 FILE:
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MAIN FLOOR PLAN

A1.1

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REVISED PERMIT SET

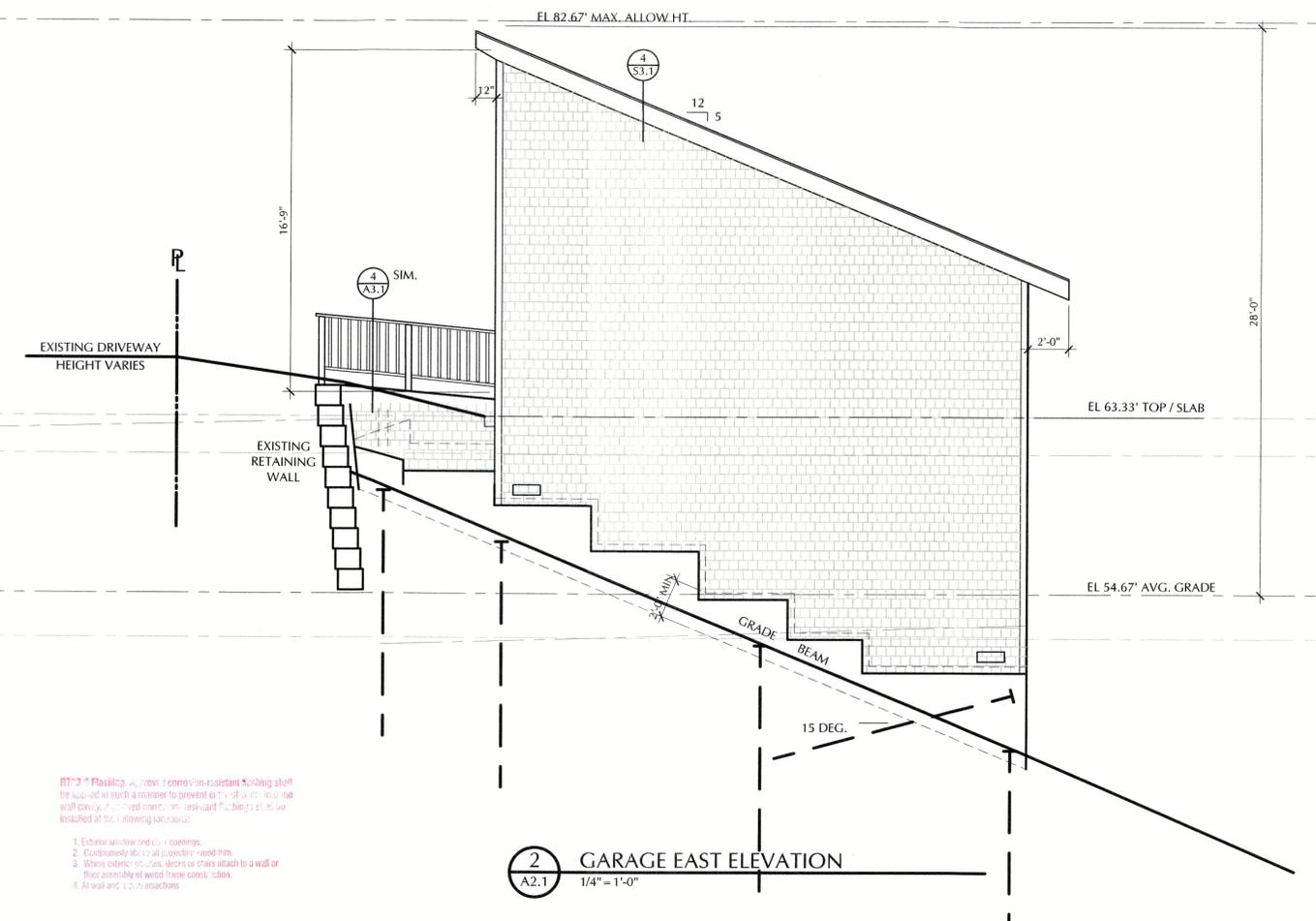
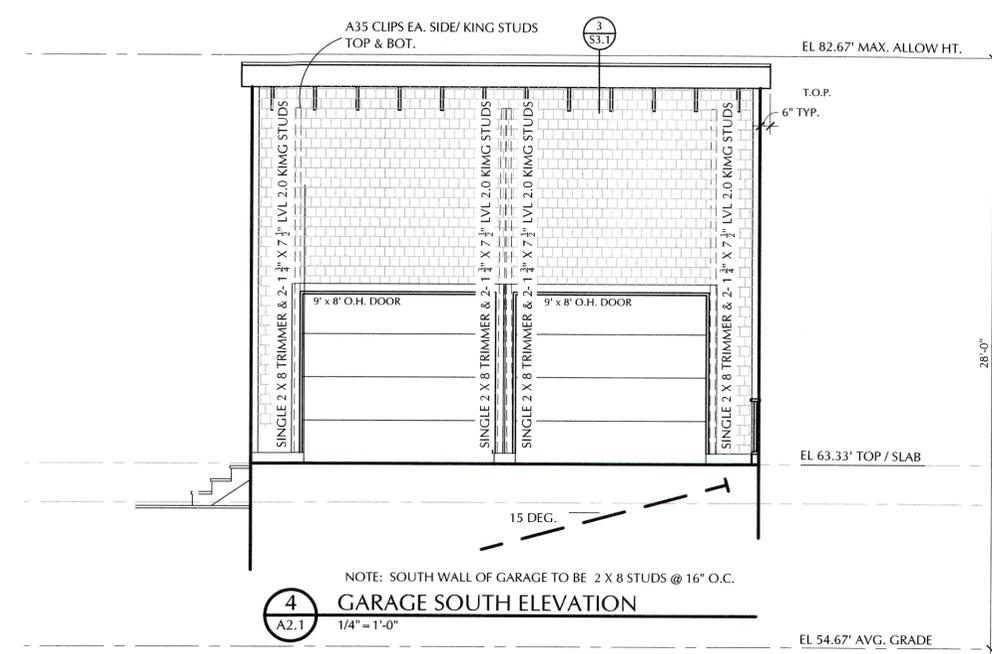
HOUSE PLANS FOR:
HARDING BOUVET RESIDENCE
 CANNON BEACH OREGON

MARK	DATE	DESCRIPTION
1	7/16/21	MAX. HT. REV.

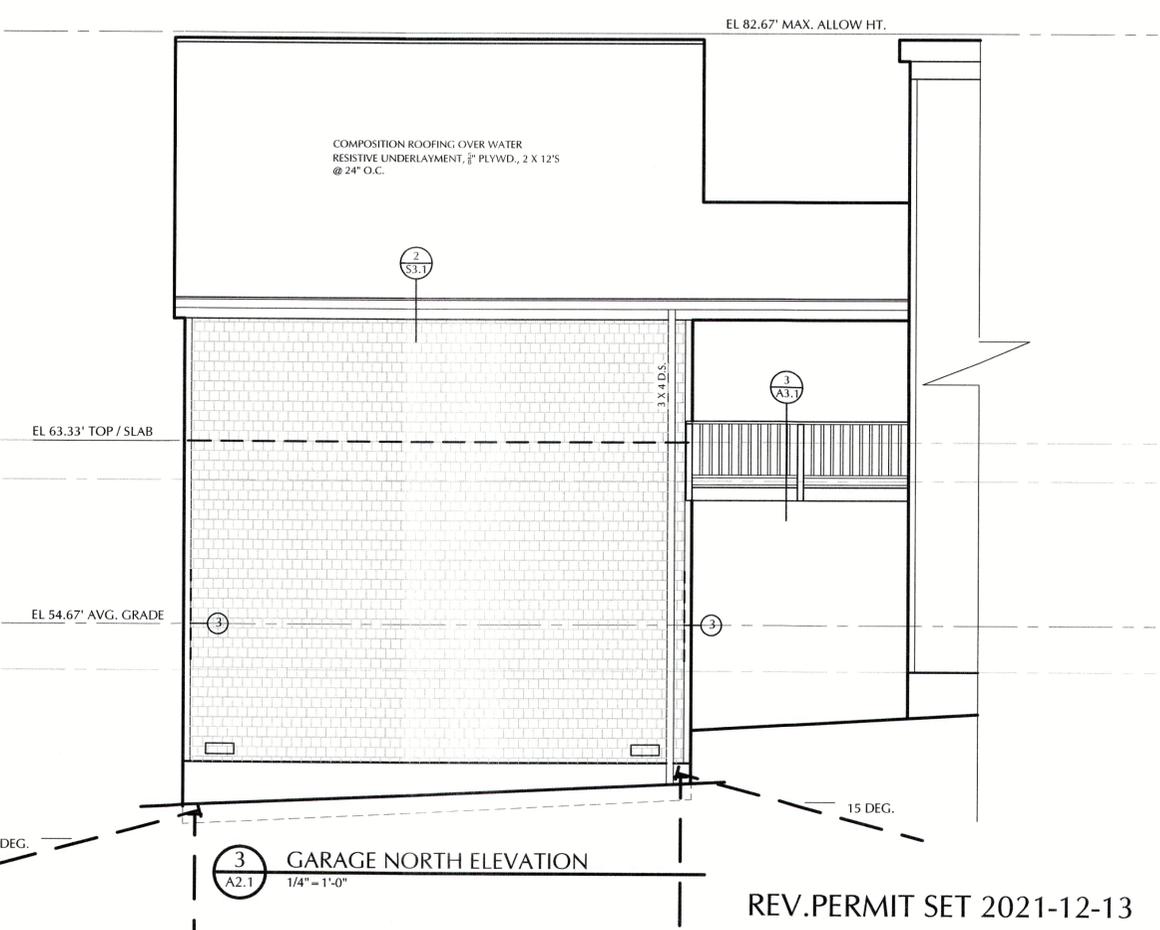
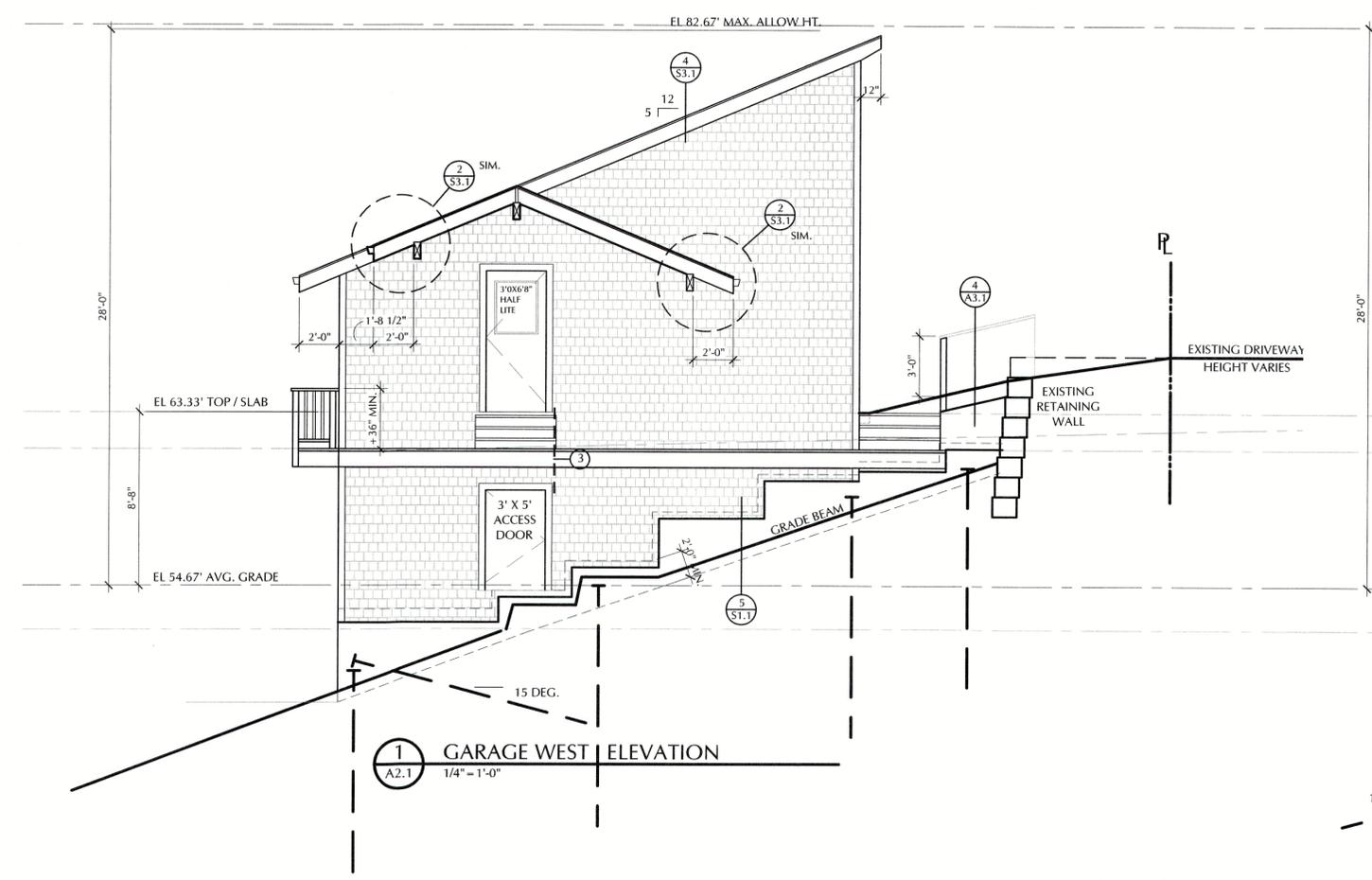
DATE: 2021-12-13
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GARAGE ELEVATIONS



1. Exterior window and door coverings shall be applied in such a manner to prevent air or rain from entering the building.
2. Conditionally allow all exterior wood trim.
3. Where exterior stairs, decks or stairs attach to a wall or floor assembly of wood frame construction.
4. All wall and floor connections.



REV. PERMIT SET 2021-12-13



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REVISED
 PERMIT SET

HOUSE PLANS FOR:
**HARDING
 BOUVET RESIDENCE**
 CANNON BEACH OREGON

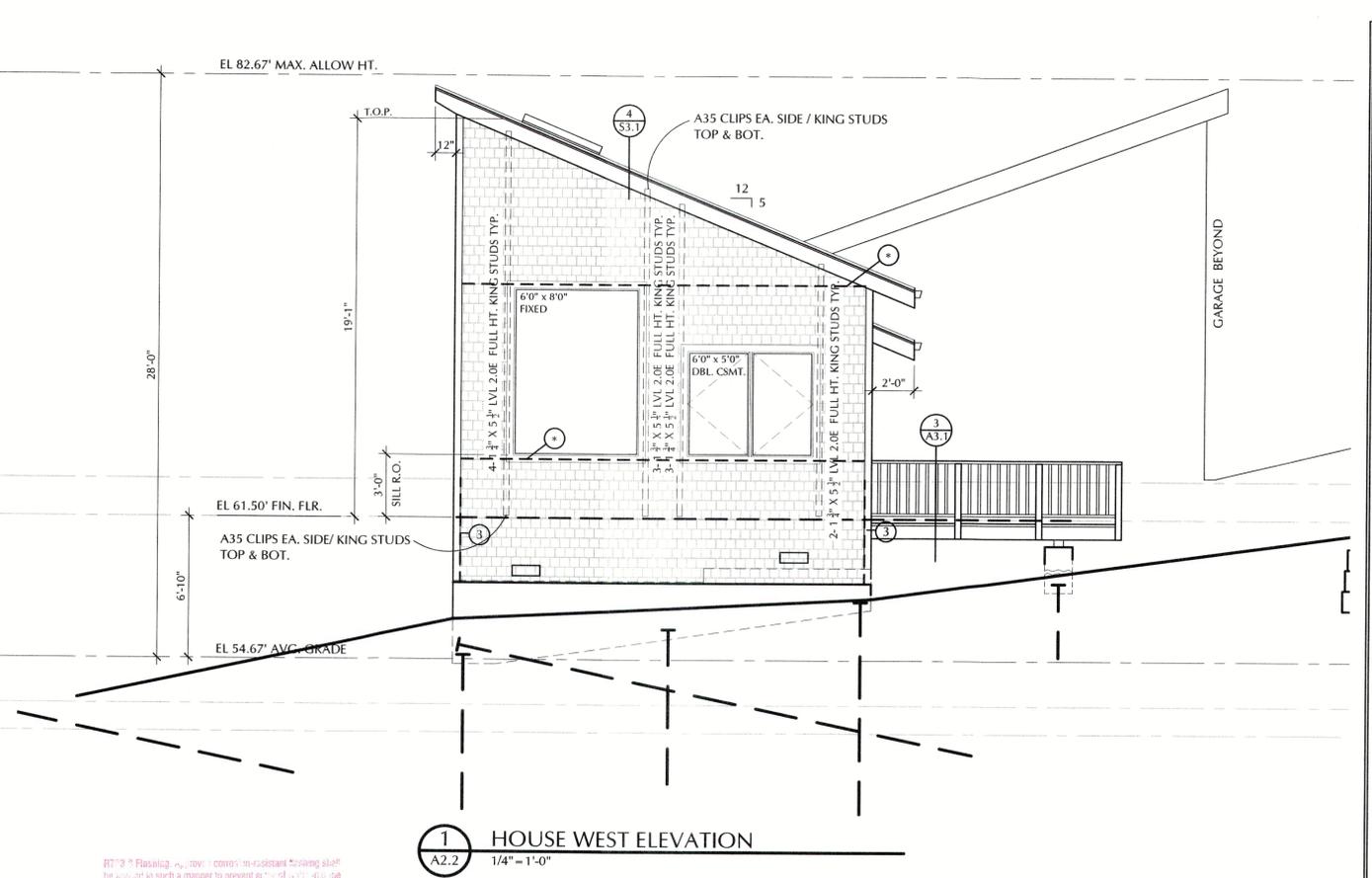
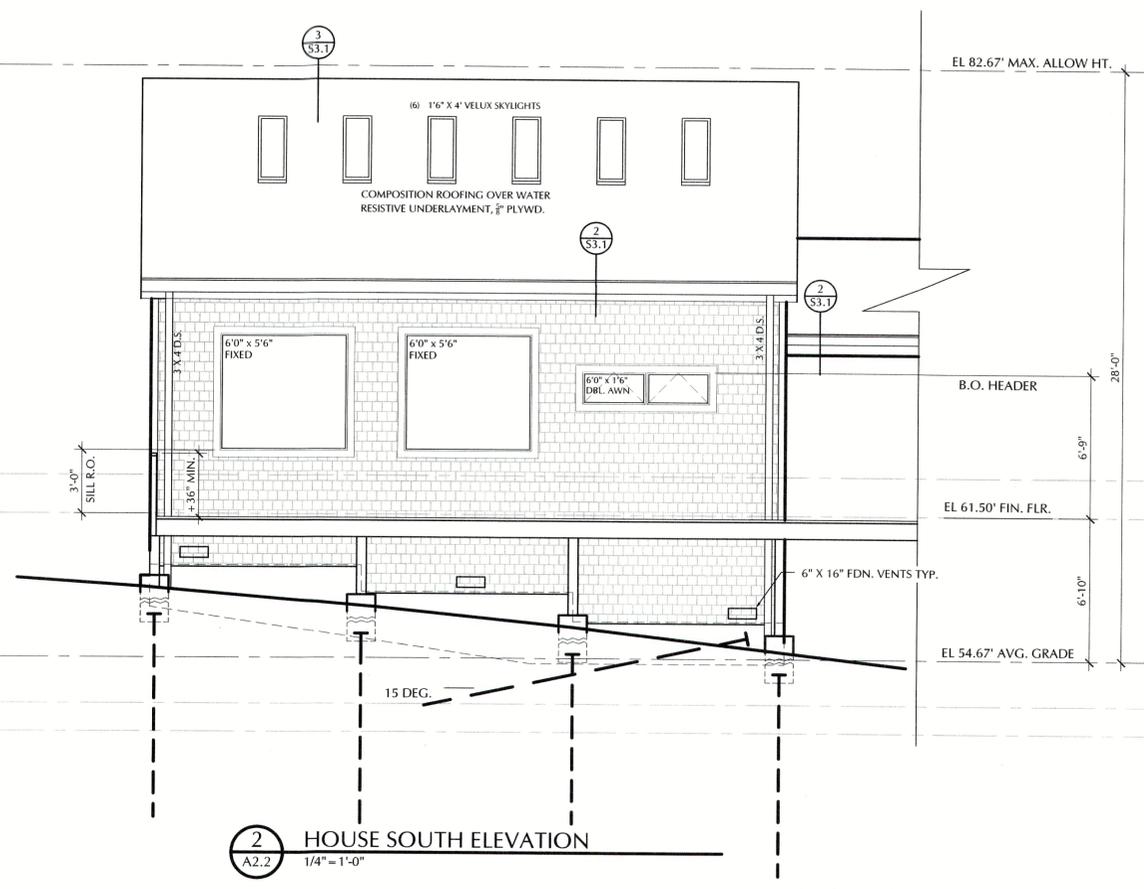
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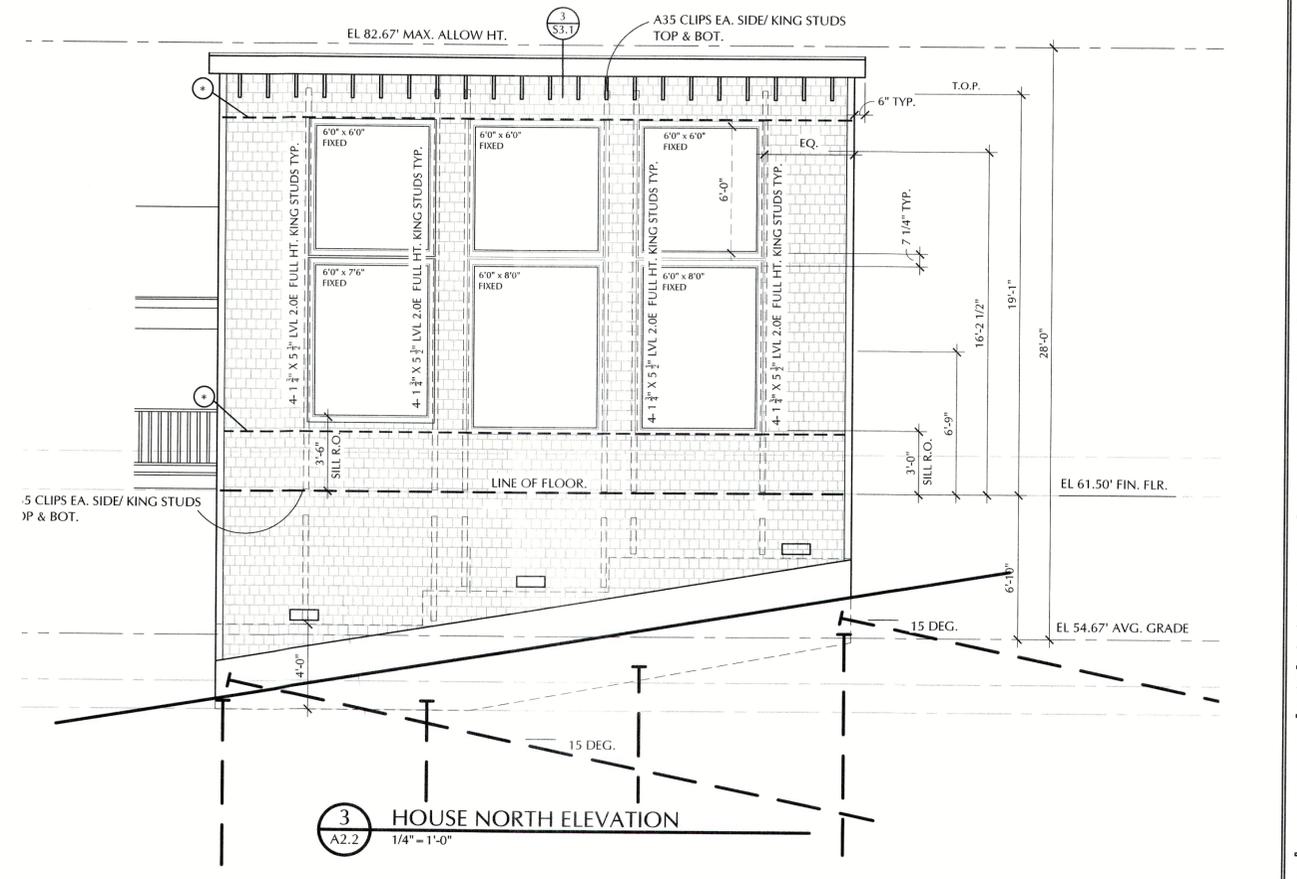
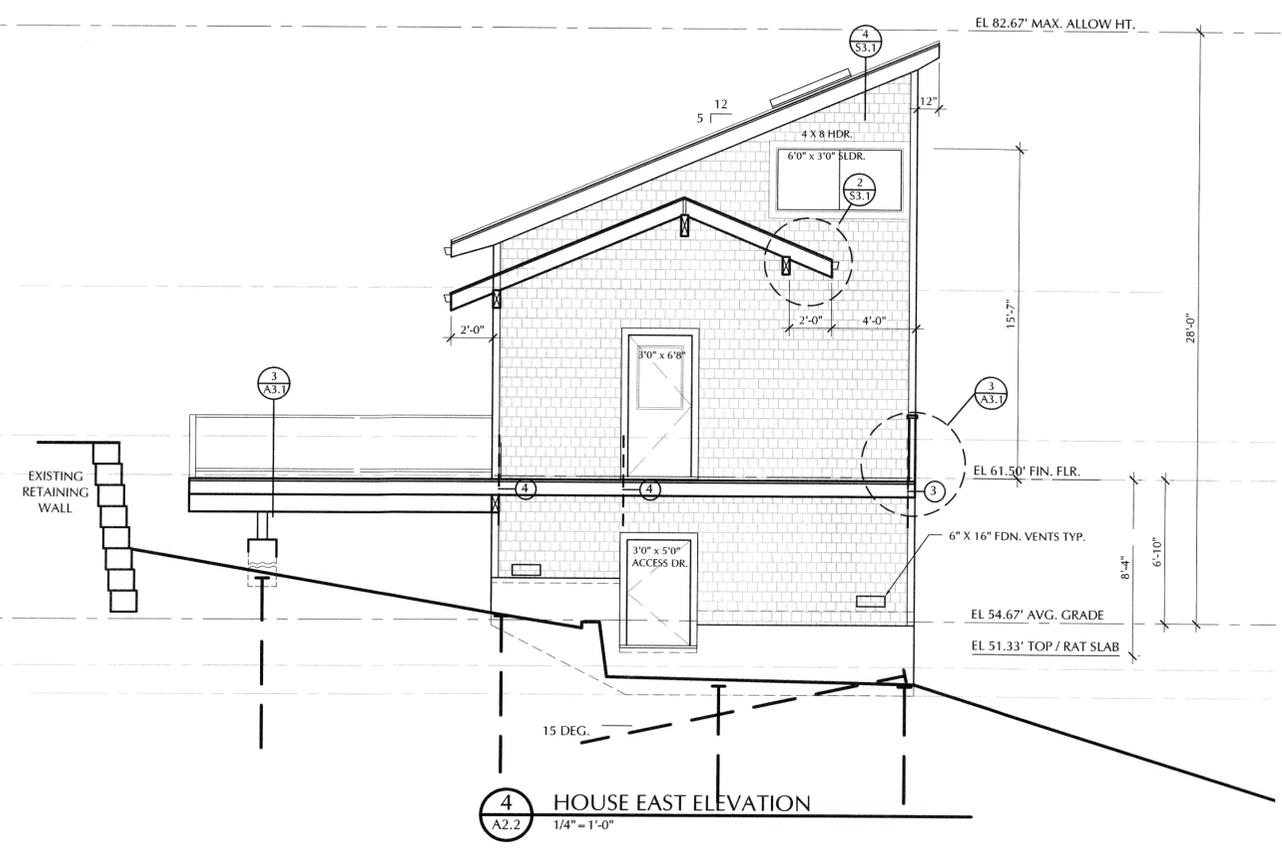
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HOUSE
 ELEVATIONS

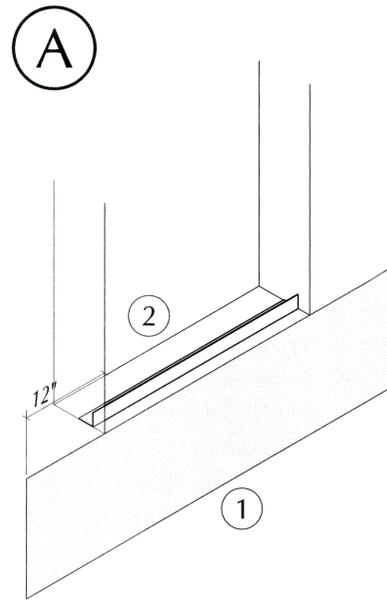
A2.2



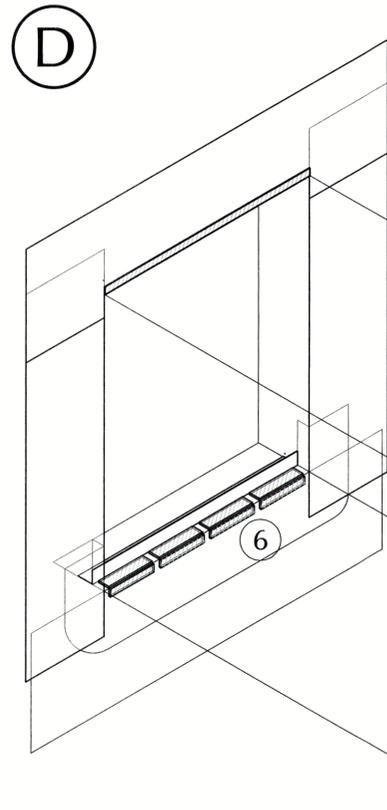
1. Exterior window and door openings.
 2. Continuously applied exterior wood trim.
 3. Where exterior trim, doors or stairs attach to a wall or floor assembly of wood-frame construction.
 4. At wall and ceiling intersections.



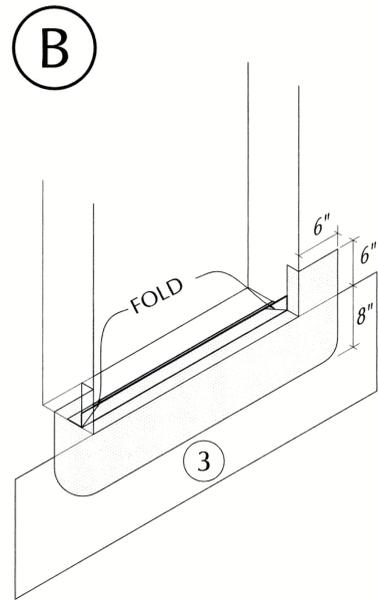
REV. PERMIT SET 2021-12-13



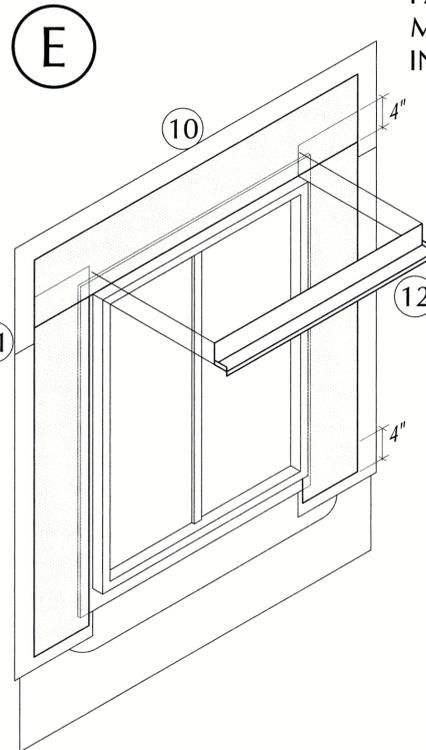
- 1) INSTALL 18-INCH WIDE BUILDING WRAP ACROSS SILL, LEAVE LOOSE AT BOTTOM EDGE (FASTEN BOTTOM CORNERS ONLY IF WINDY)
- 2) INSTALL SHEET METAL ANGLE ON SILL FRAMING. SET 1/4" INSIDE DEPTH OF WINDOW



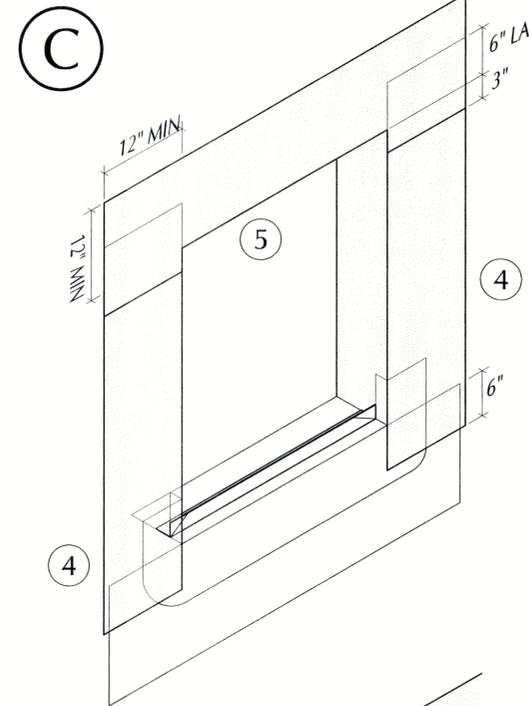
- 6) INSTALL MIN. 1/4" H. PLASTIC SHIMS AT +/-9" O.C. ON SILL FRAMING.
- 7) INSTALL WINDOW.
- 8) INSTALL HEAD FASTENERS AT TOP OF 1" LONG VERTICAL SLOTS IN NAIL FLANGE. DO NOT OVER TIGHTEN FASTENERS.
- 9) INSTALL jamb FASTENERS.



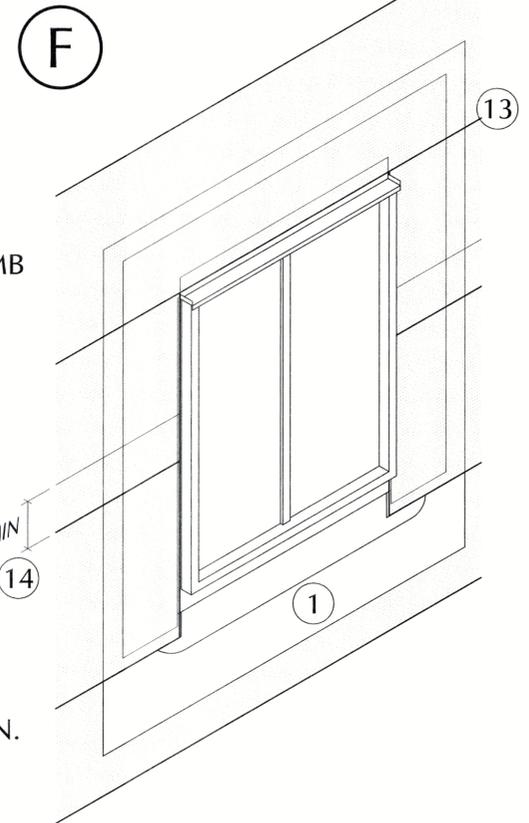
- 3) APPLY FLEXIBLE MEMBRANE FLASHING ON SILL AND EXTEND MEMBRANE UP SHEET METAL ANGLE. FOLD MEMBRANE AT CORNERS BETWEEN METAL ANGLE AND JAMB FRAMING. EXTEND MEMBRANE UP JAMB FRAMING, ONTO WALL SHEATHING AND DOWN OVER SILL BUILDING WRAP. FASTEN CORNERS PER MANUFACTURERS INSTRUCTIONS.



- 10) INSTALL 9-INCH WIDE MEMBRANE FLASHING LAPPED OVER WINDOW JAMB NAIL FLANGES.
- 11) INSTALL 9-INCH WIDE MEMBRANE FLASHING LAPPED OVER WINDOW HEAD NAIL FLANGE AND OVER JAMB MEMBRANE FLASHING STRIPS.
- 12) INSTALL S.S. SHEET METAL HEAD FLASHING WITH MIN. 1/2" H. END DAMS OVER MEMBRANE FLASHING.



- 4) INSTALL 18-INCH WIDE BUILDING WRAP EACH JAMB, FLUSH TO INSIDE FACE OF STUD
- 5) INSTALL 18-INCH WIDE BUILDING WRAP ACROSS HEADER, OVER JAMBS, AND ACROSS BOTTOM OF HEADER



- 13) INSTALL 2 LAYERS 60 MIN. BUILDING PAPER OVER CLEAN, DRY SURFACES. START AT BOTTOM OF WALL, AND EXTEND BUILDING WRAP UNDER STRIP INSTALLED IN STEP #1.
- 14) SHINGLE LAP BUILDING PAPER HORIZONTALLY 6 TO 12 INCHES.
- 15) INSTALL EXTERIOR FINISH SIDING

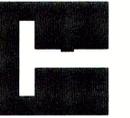
NOTE:
SIMILAR OPENING WRAP SEQUENCE APPLIES TO OTHER OPENINGS IN EXTERIOR WALLS. REFER TO DETAILS.

1 WINDOW INSTALLATION
A5.1 NOT TO SCALE

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Tolovana Architect LLC
368 Elk Creek Rd. Suite 408
Cannon Beach, Oregon 97110



REVISED PERMIT SET

HOUSE PLANS FOR:
HARDING BOUVET RESIDENCE
CANNON BEACH OREGON

MARK	DATE	DESCRIPTION
1	7/16/21	MAX. HT. REV.

DATE: 2021-12-13
JOB:
FILE:
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WINDOW
INSTALLATION
SEQUENCE
DIAGRAM

A5.1



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HOUSE PLANS FOR:
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CANNON BEACH OREGON

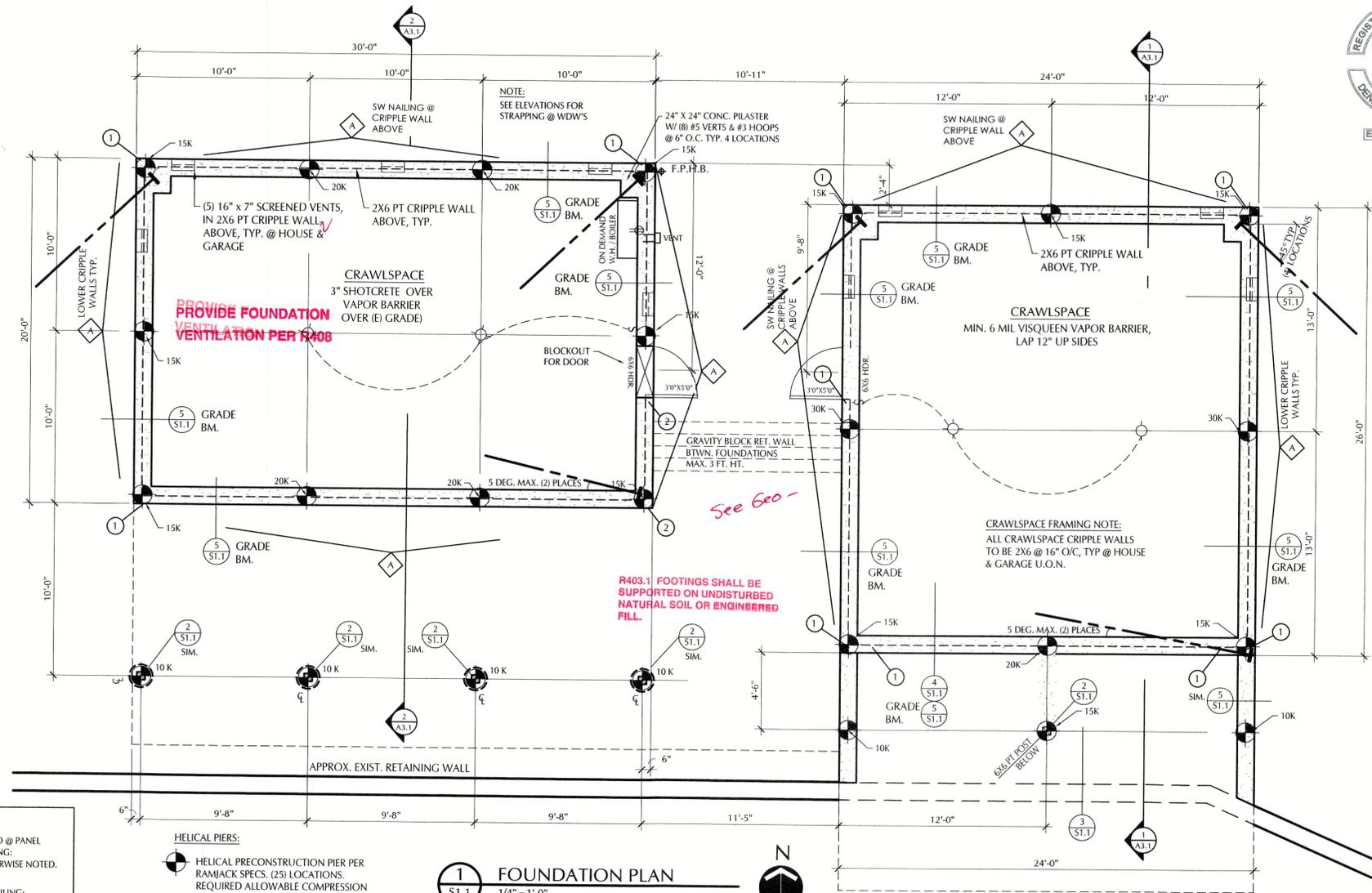
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FOUNDATION & FRAMING PLANS

S1.1



HOLD DOWNS

- 1 - HDU5 W/ SB5/8X24 ANCHOR @ (10) LOCATIONS
- 2 - HDU8 W/ SB7/8X24 ANCHOR @ (2) LOCATIONS

SHEAR WALLS

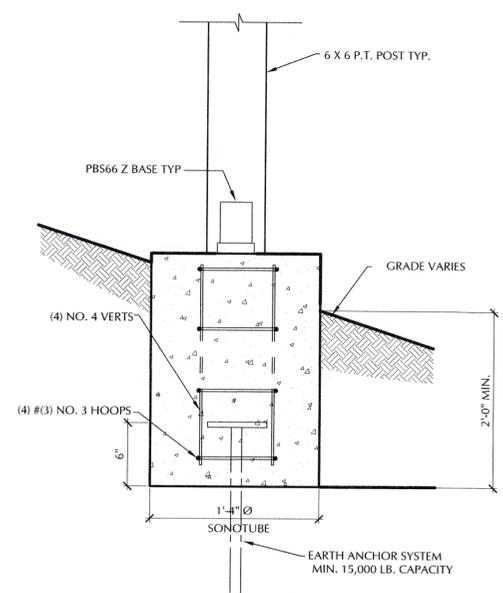
ALL WALLS FULLY BLOCKED @ PANEL EDGES. SHEARWALL NAILING: 8d @ 6" O.C. UNLESS OTHERWISE NOTED.

- A - SHEARWALL NAILING: 8d @ 4" O.C. @ PANEL EDGES
- C - SHEARWALL NAILING: 10d @ 3" O.C. @ PANEL EDGES

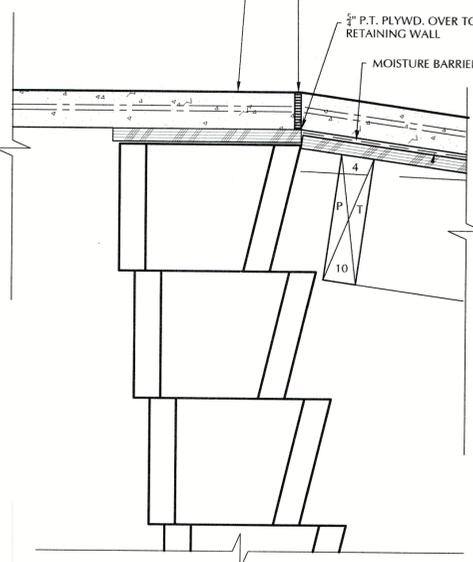
HELICAL PIERS:

- 1 - HELICAL PRECONSTRUCTION PIER PER RAMJACK SPECS. (25) LOCATIONS. REQUIRED ALLOWABLE COMPRESSION CAPACITY LISTED ON PLAN IN KIPS (K)
- 2 - TIE-BACK BY RAMJACK W/ ALLOWABLE COMPRESSION & TENSION OF 20 KIPS (K) SEE ALSO EXTERIOR ELEVATIONS

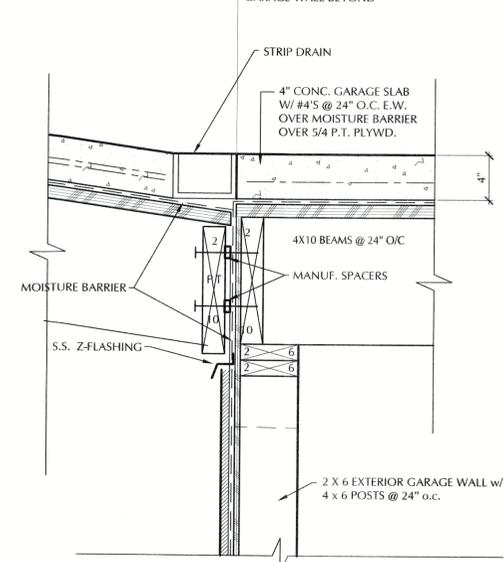
1 FOUNDATION PLAN
1/4" = 1'-0"



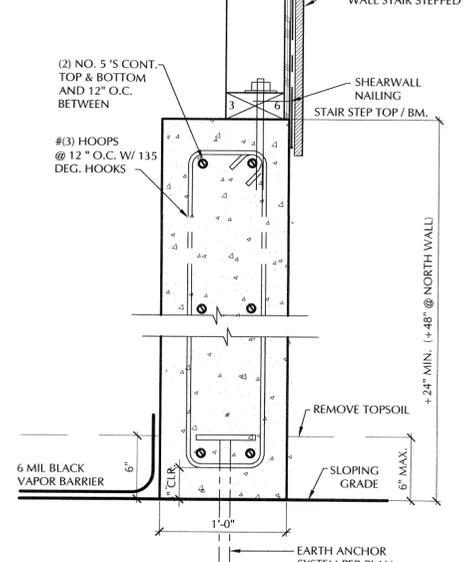
2 TYP. POST BASE & FTG.
1/12" = 1'-0"



3 DRIVEWAY TO WALL
1/12" = 1'-0"



4 DRIVEWAY TO GARAGE
1/12" = 1'-0"



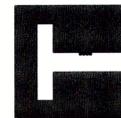
5 GRADE BEAM - TYP.
1/12" = 1'-0"

NOTE:
COORDINATE EXCAVATION FOR GARAGE FOUNDATION WITH ARBORCARE TREE ARBORISTS TO AVOID IMPACTING TREE ROOTS WITHIN EXCAVATED AREA.
CONTACT: austin@arborcarenw.com 503-791-0853

REV. PERMIT SET 2021-12-13



Tolovana Architect LLC
368 Elk Creek Rd. Suite 408
Cannon Beach, Oregon 97110



REVISED
PERMIT SET

HOUSE PLANS FOR:
**HARDING
BOUVET RESIDENCE**
CANNON BEACH OREGON

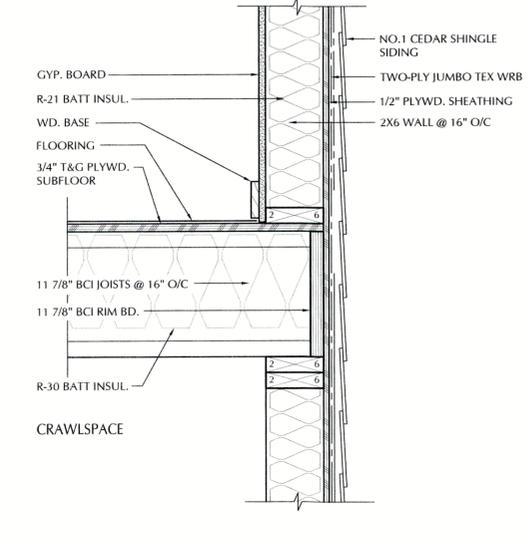
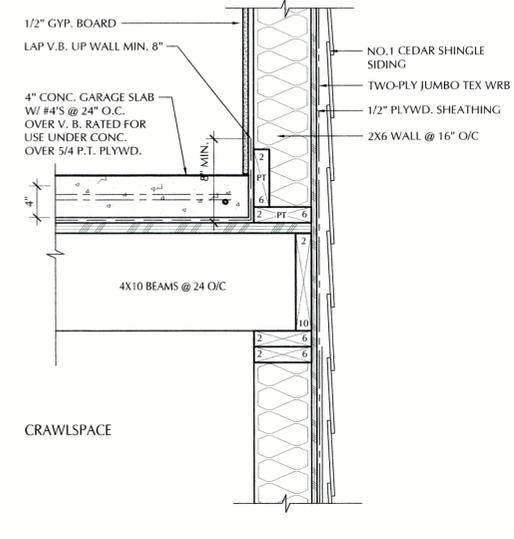
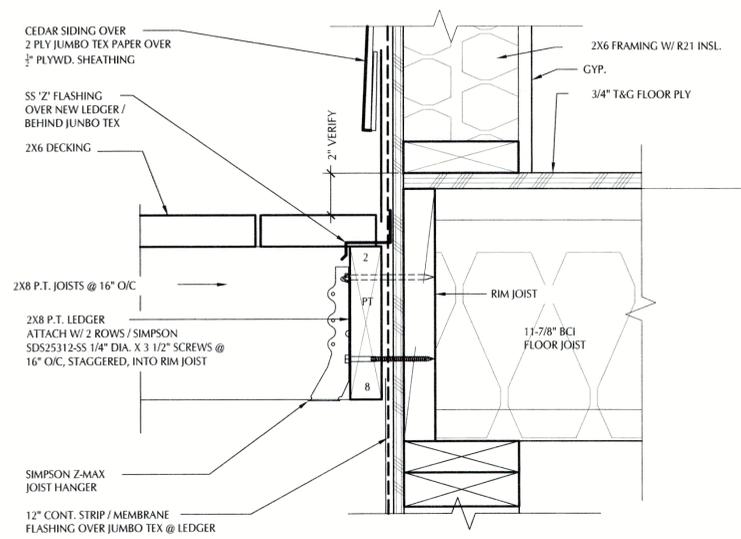
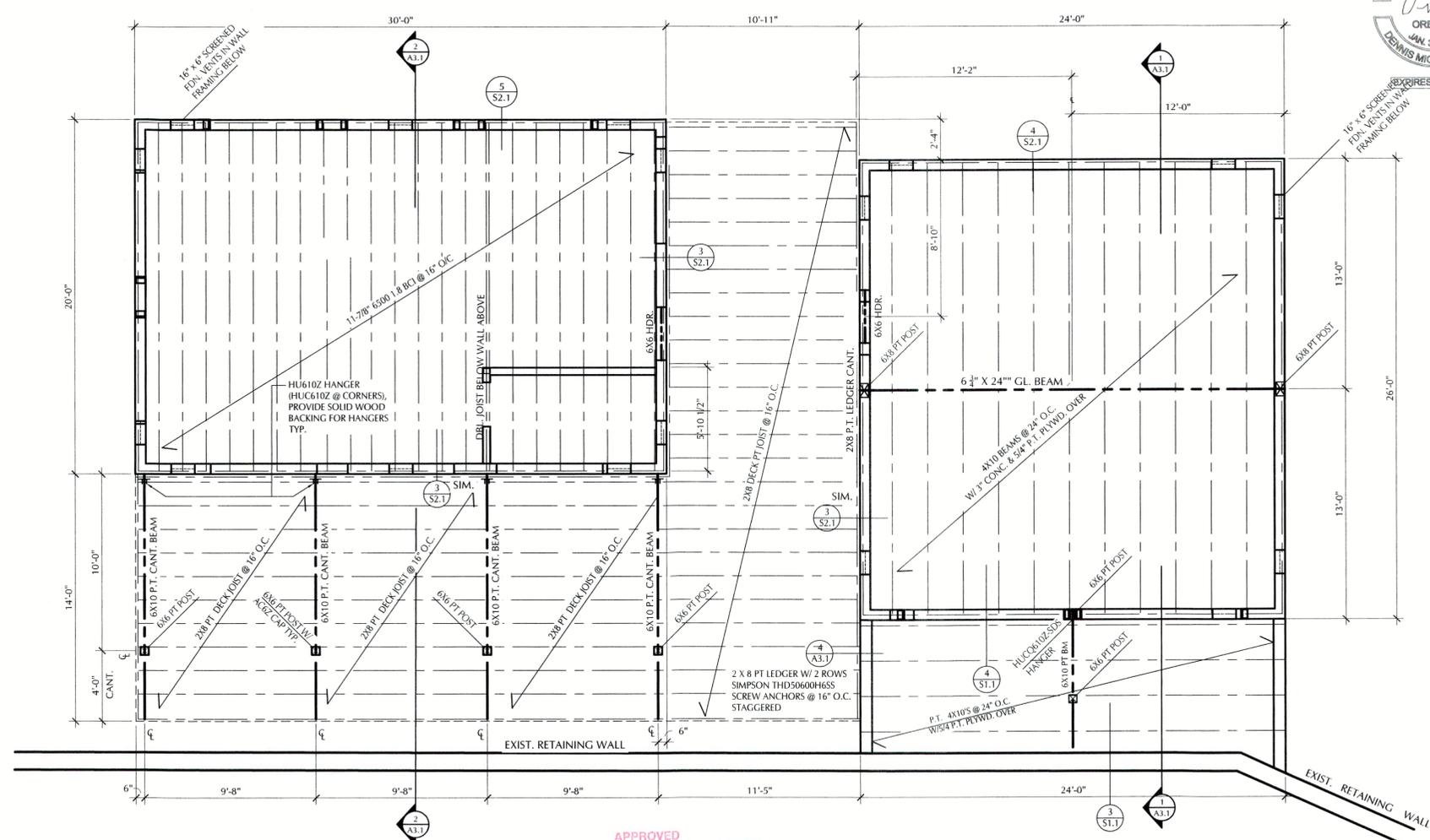
MARK	DATE	DESCRIPTION
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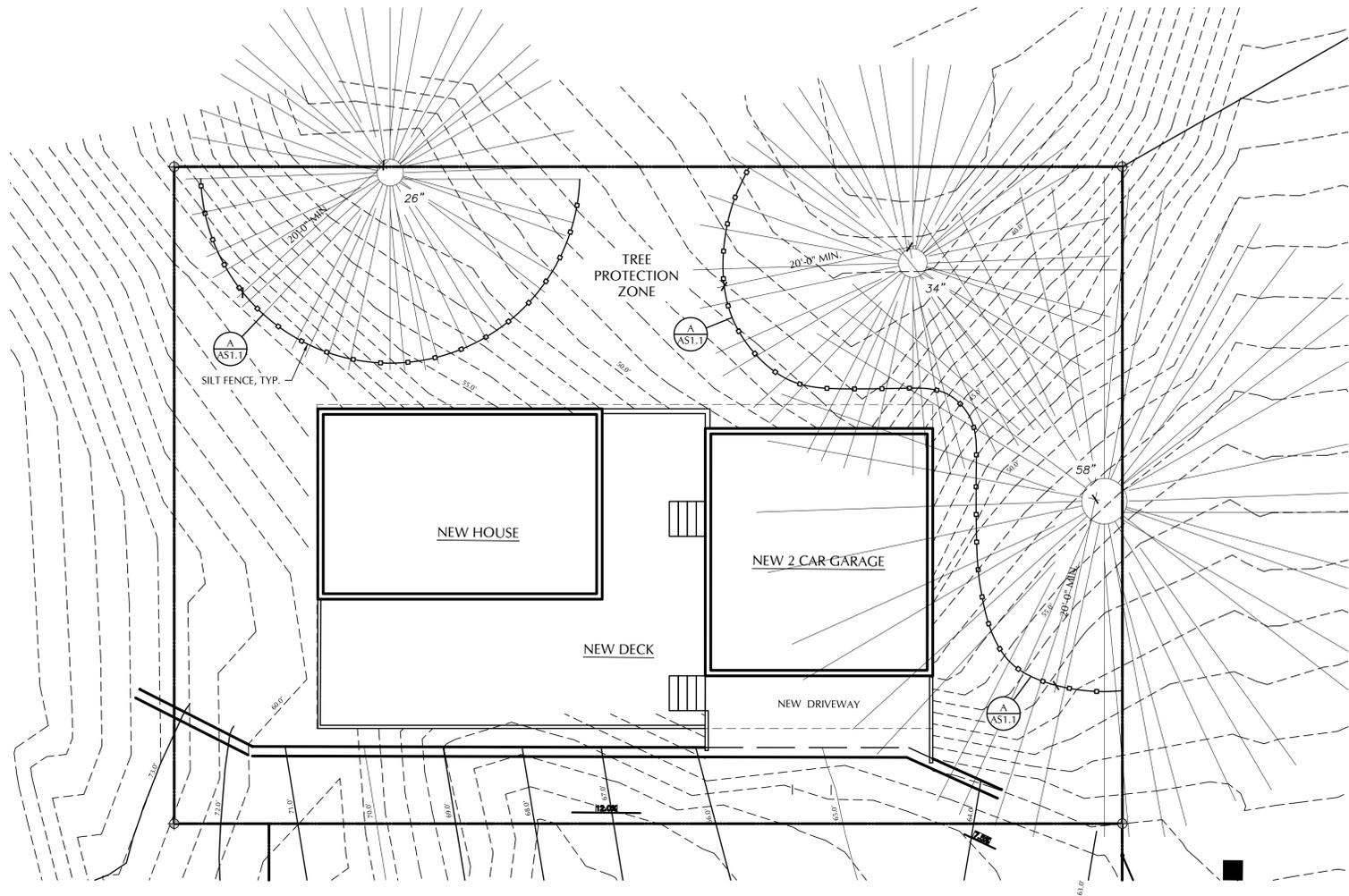
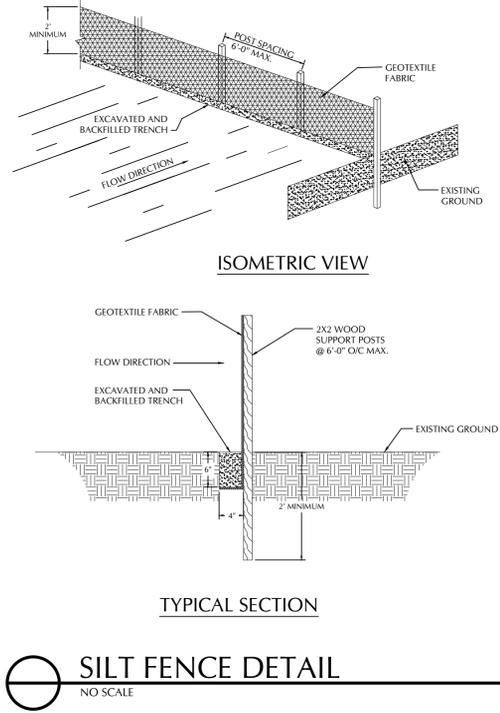
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2021

FRAMING
PLANS

S2.1



REV. PERMIT SET 2021-12-13



1 TREE PROTECTION PLAN
AS1.1 1/8" = 1'-0"



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PERMIT SET

HOUSE PLANS FOR:
HARDING BOVET RESIDENCE
CANNON BEACH OREGON

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TREE PROTECTION PLAN





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HOUSE PLANS FOR:
HARDING BOVET RESIDENCE
 CANNON BEACH OREGON

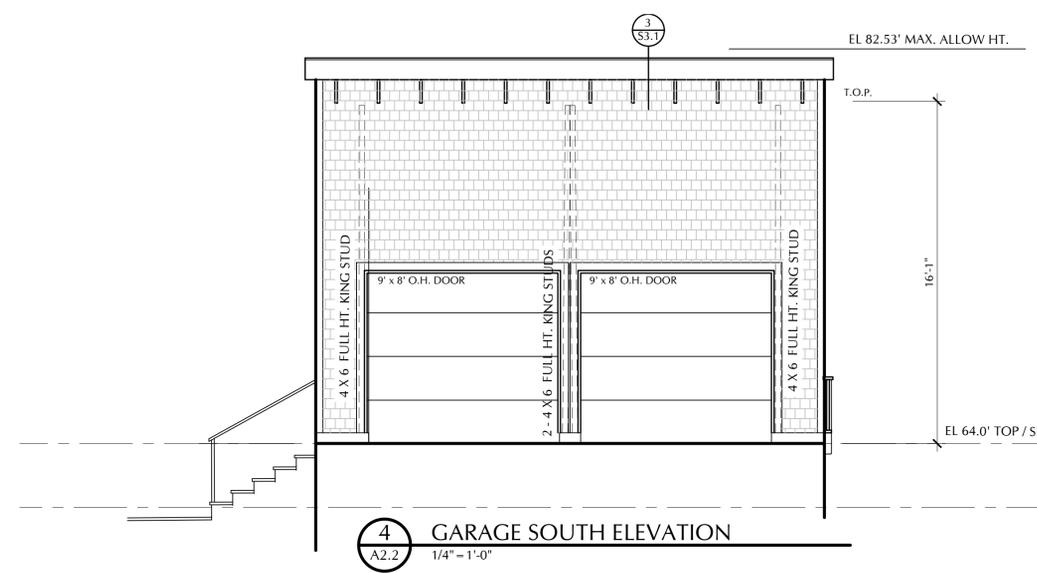
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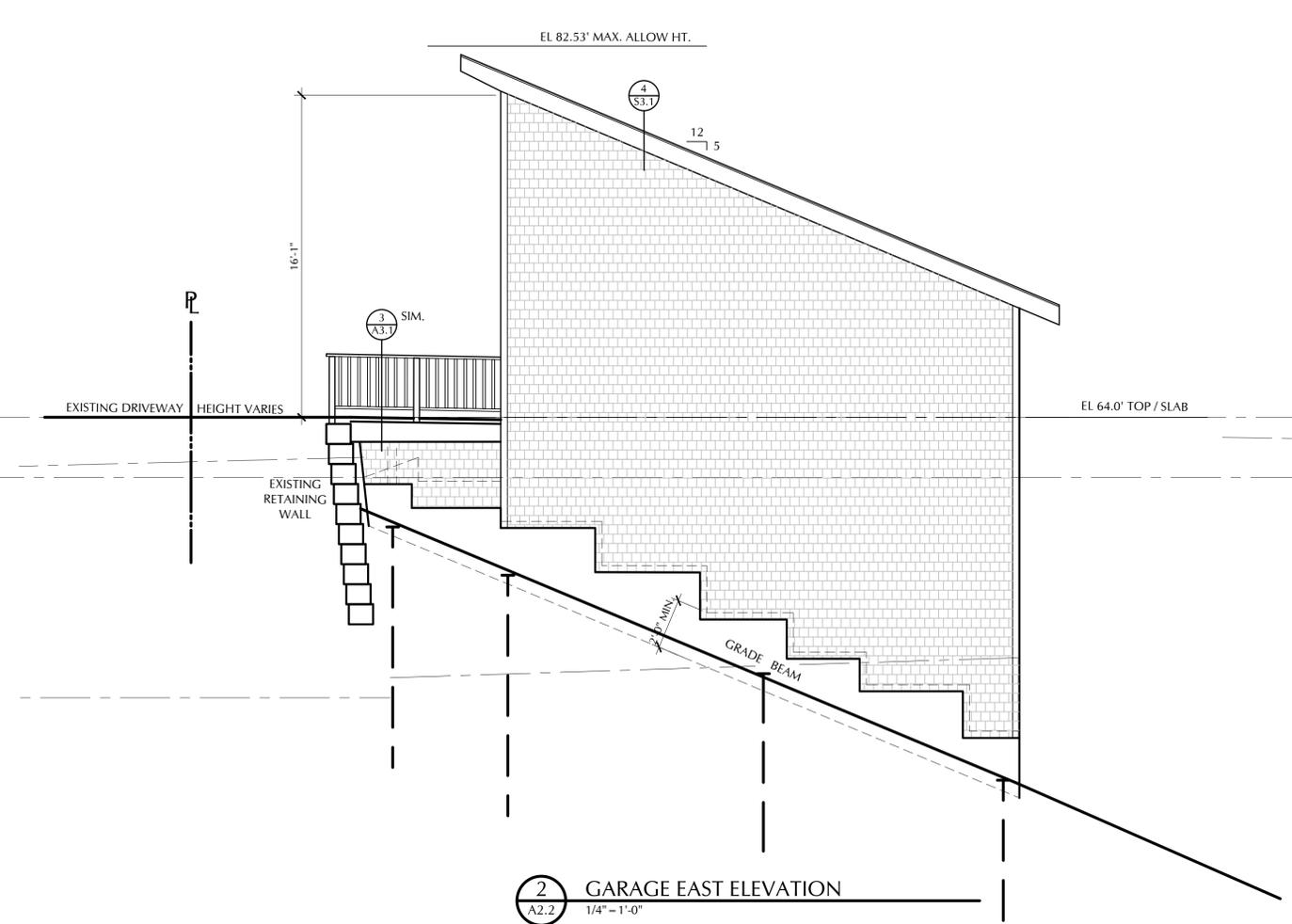
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GARAGE ELEVATIONS

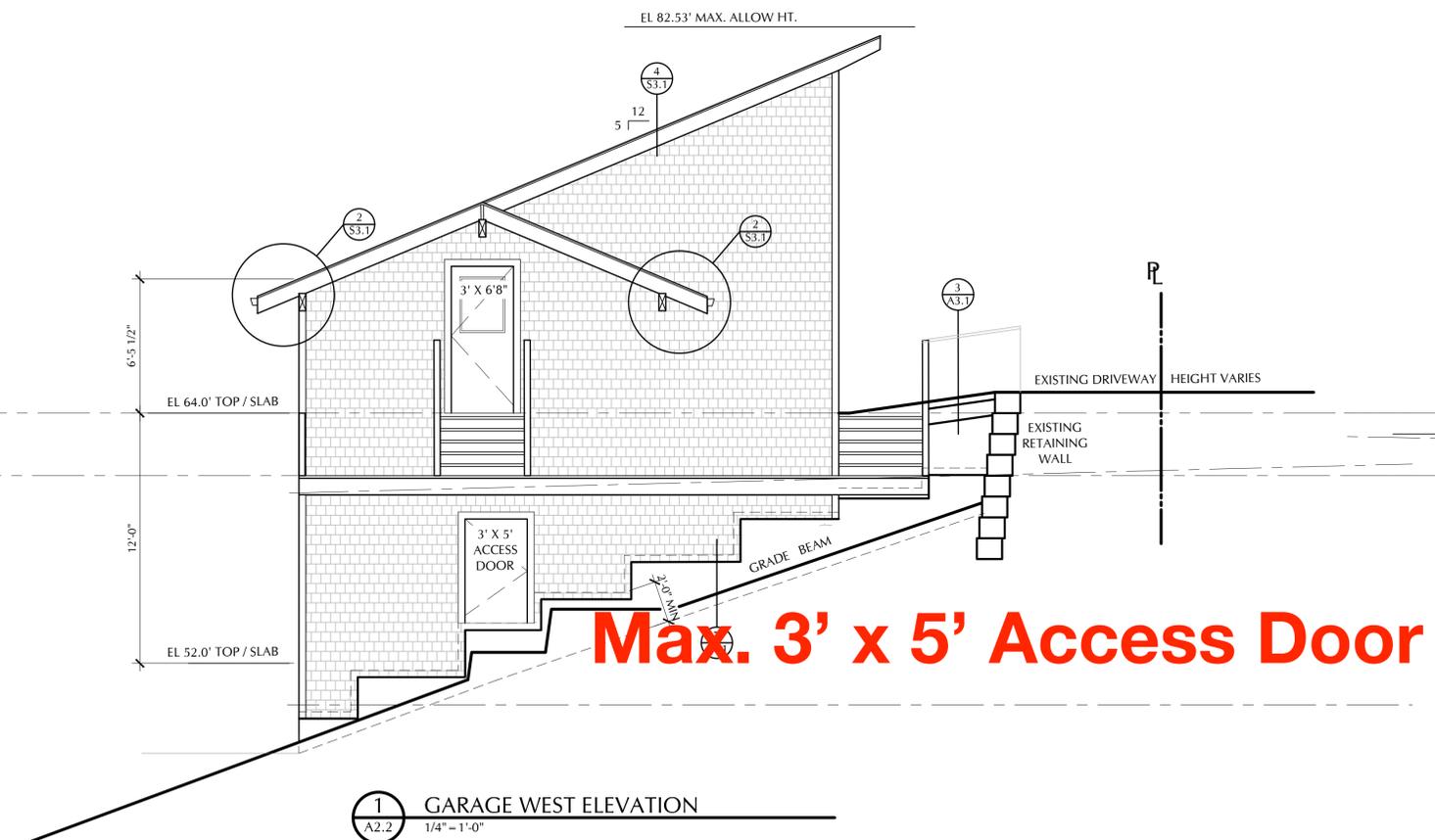
A2.1



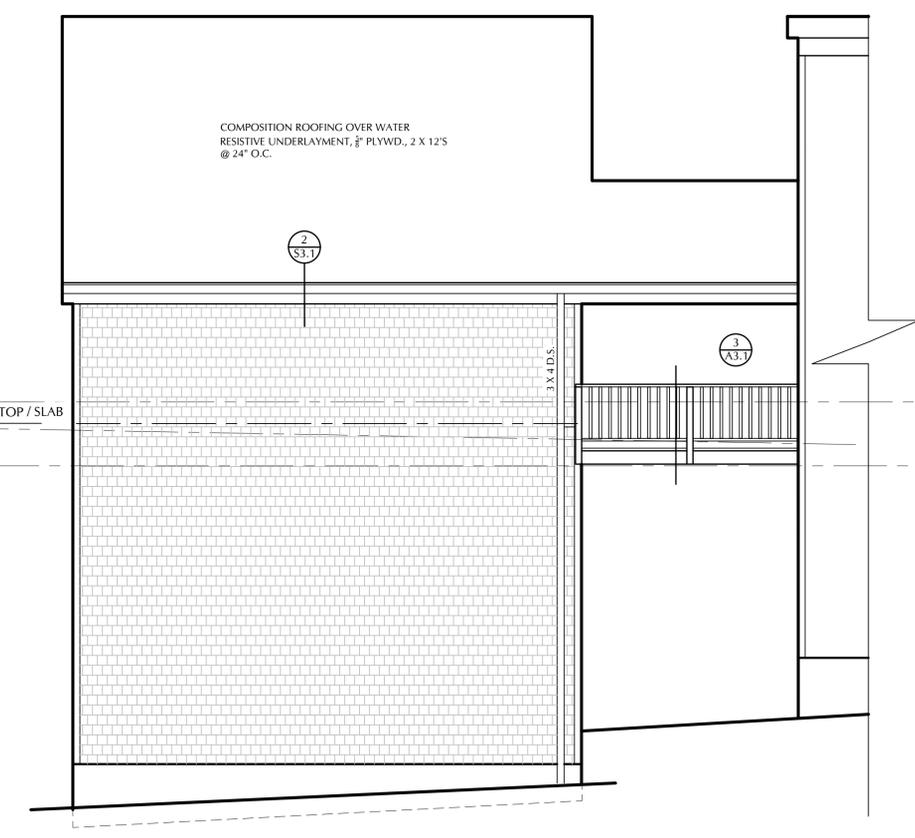
4 GARAGE SOUTH ELEVATION
 A2.2 1/4" = 1'-0"



2 GARAGE EAST ELEVATION
 A2.2 1/4" = 1'-0"

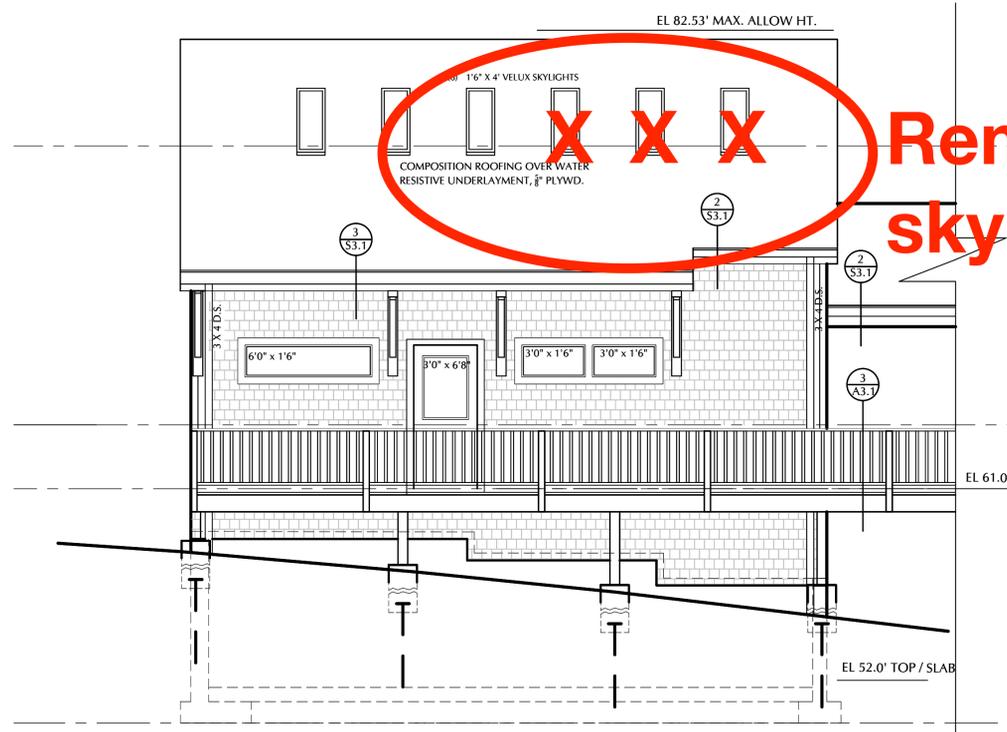


1 GARAGE WEST ELEVATION
 A2.2 1/4" = 1'-0"



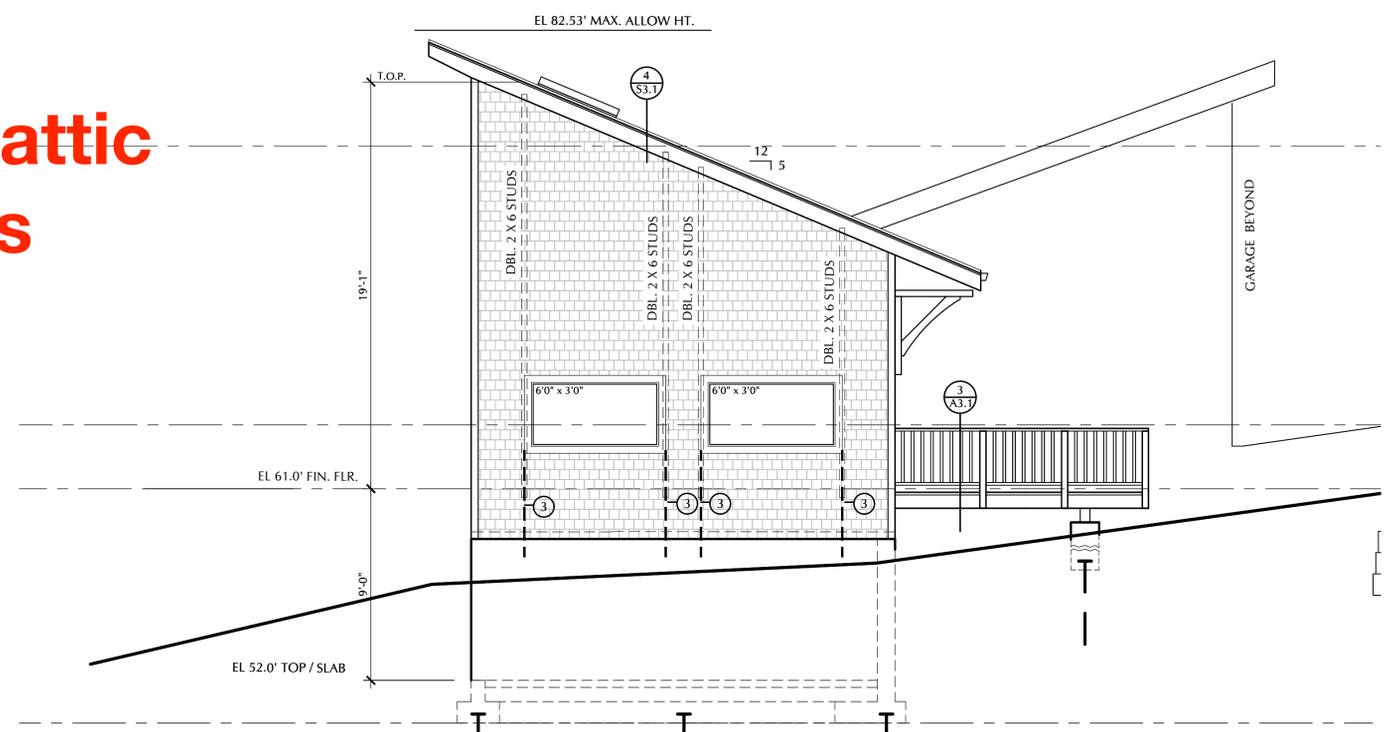
3 GARAGE NORTH ELEVATION
 A2.2 1/4" = 1'-0"

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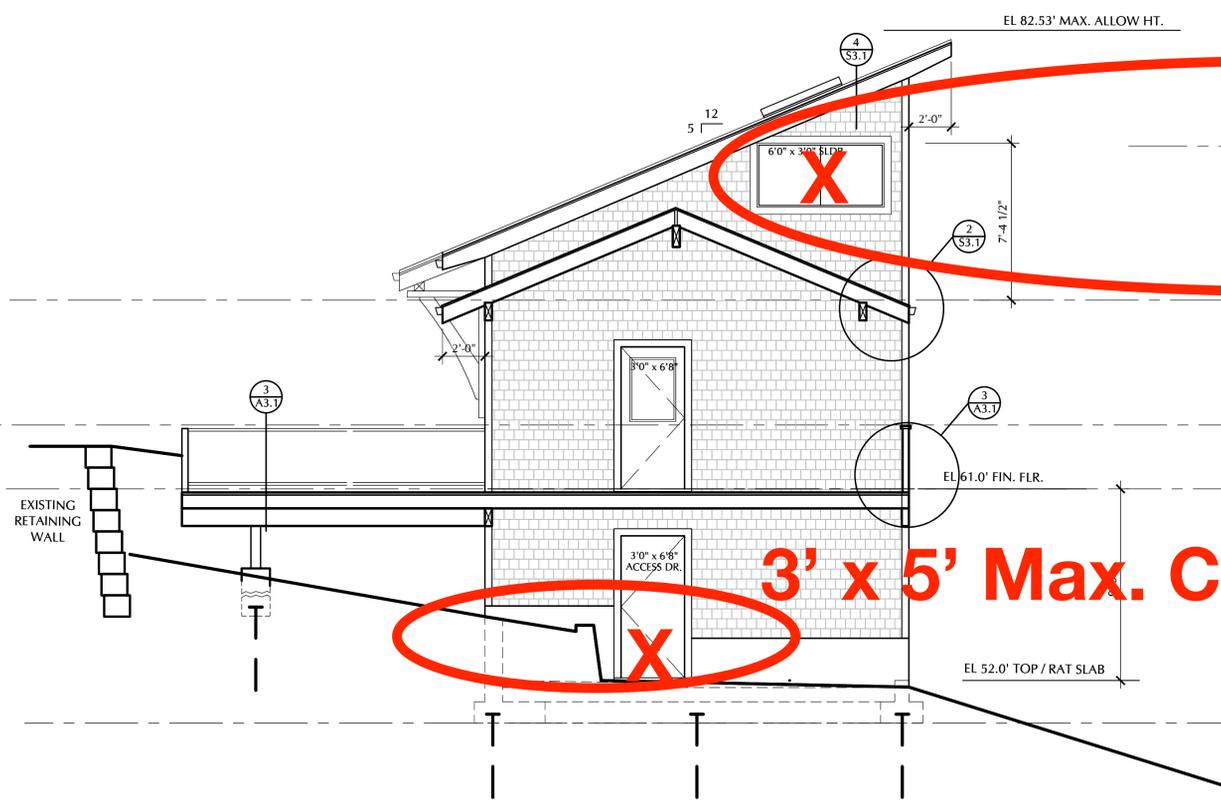
2 HOUSE SOUTH ELEVATION
A2.1 1/4" = 1'-0"

Remove attic sky-lights



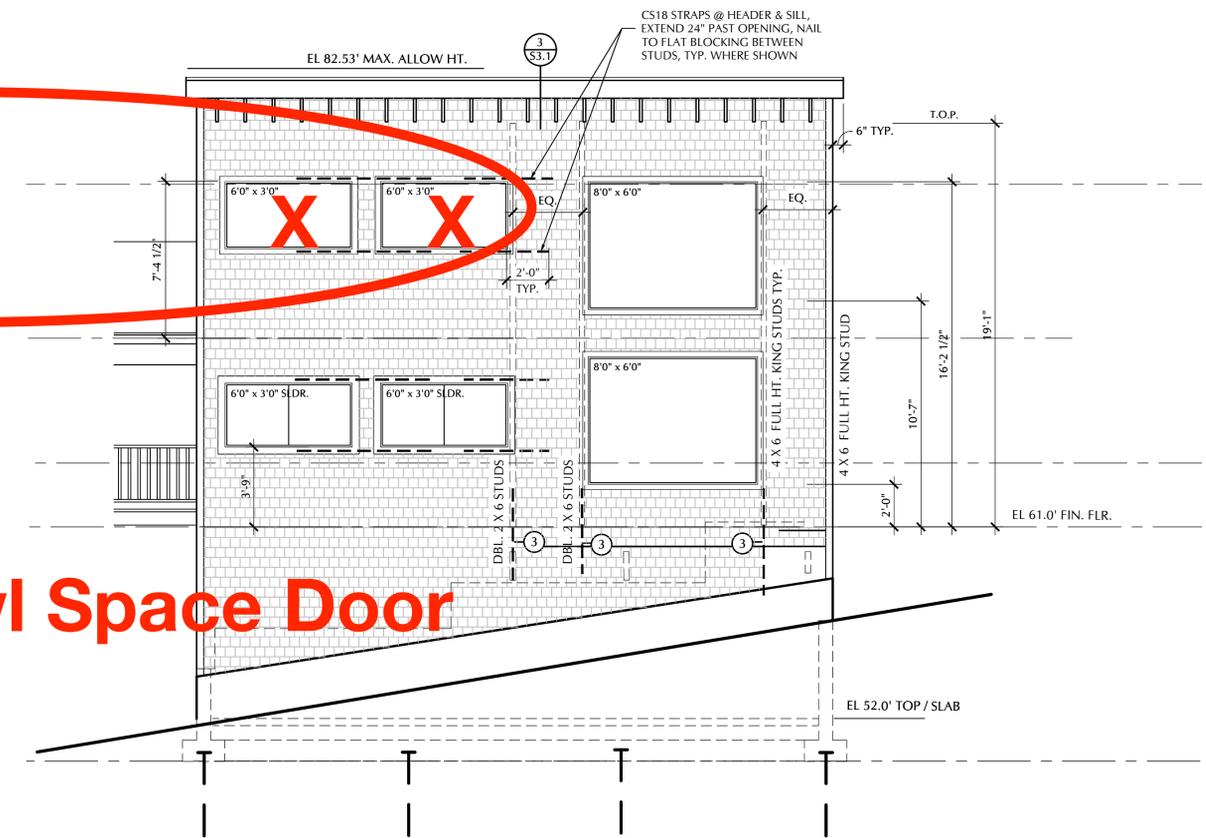
5 HOUSE WEST ELEVATION
A2.1 1/4" = 1'-0"

Remove attic windows



4 HOUSE EAST ELEVATION
A2.1 1/4" = 1'-0"

3' x 5' Max. Crawl Space Door



5 HOUSE NORTH ELEVATION
A2.1 1/4" = 1'-0"



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Cannon Beach, Oregon 97110



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HOUSE ELEVATIONS

A2.2

Project: 80 ELEVISIONS 2021 11.35.2021
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Tolovana Architect LLC
 368 Elk Creek Rd. Suite 408
 Cannon Beach, Oregon 97110



PERMIT SET

HOUSE PLANS FOR:
HARDING BOVET RESIDENCE
 CANNON BEACH OREGON

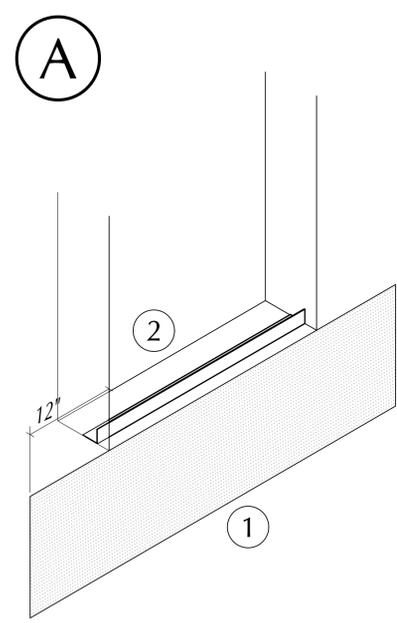
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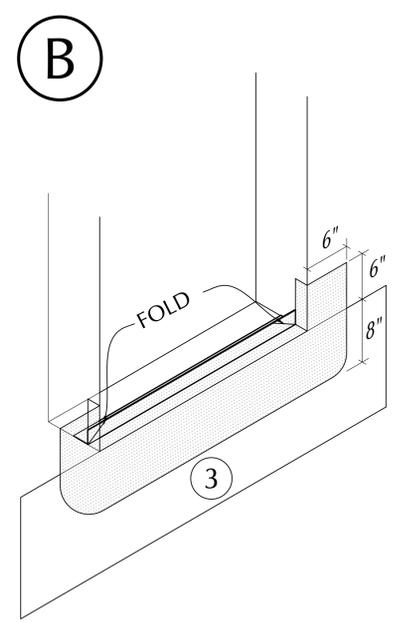
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WINDOW
 INSTALLATION
 SEQUENCE
 DIAGRAM

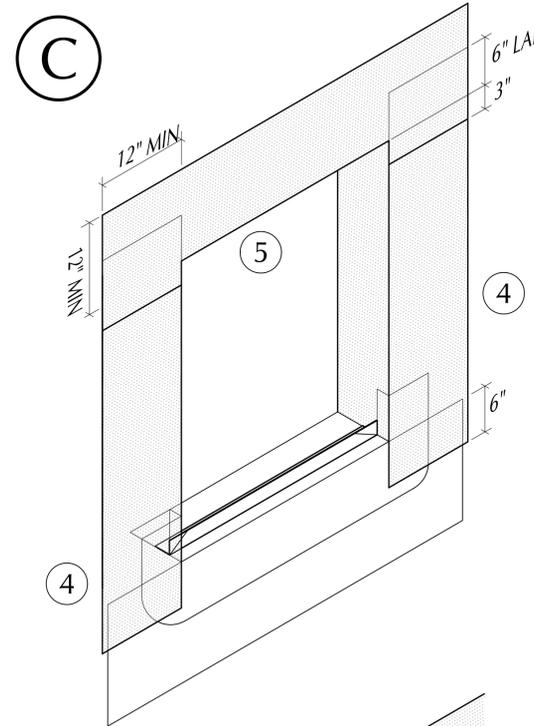
A5.1



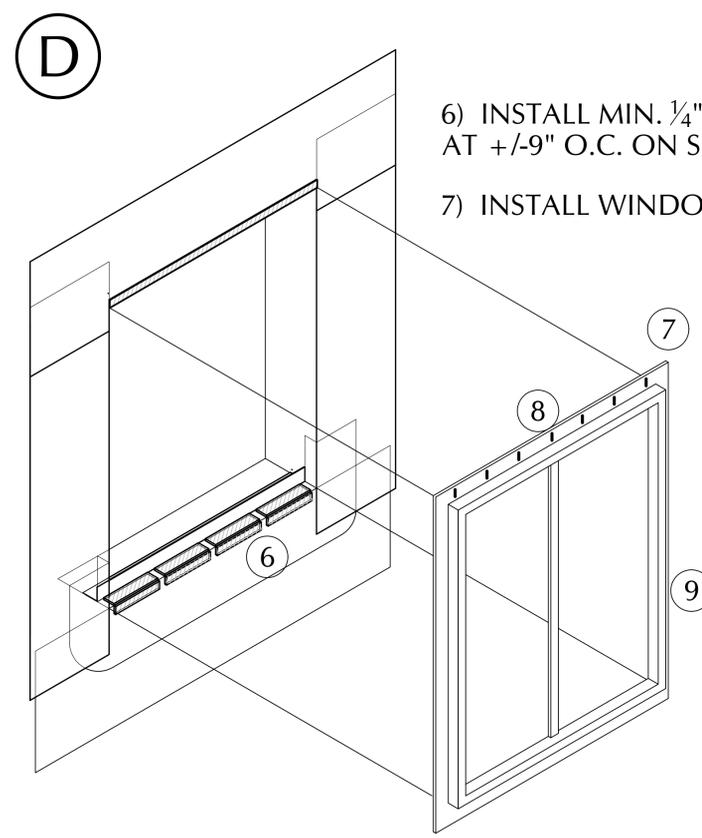
- 1) INSTALL 18-INCH WIDE BUILDING WRAP ACROSS SILL, LEAVE LOOSE AT BOTTOM EDGE (FASTEN BOTTOM CORNERS ONLY IF WINDY)
- 2) INSTALL SHEET METAL ANGLE ON SILL FRAMING. SET 1/4" INSIDE DEPTH OF WINDOW



- 3) APPLY FLEXIBLE MEMBRANE FLASHING ON SILL AND EXTEND MEMBRANE UP SHEET METAL ANGLE. FOLD MEMBRANE AT CORNERS BETWEEN METAL ANGLE AND JAMB FRAMING. EXTEND MEMBRANE UP JAMB FRAMING, ONTO WALL SHEATHING AND DOWN OVER SILL BUILDING WRAP. FASTEN CORNERS PER MANUFACTURERS INSTRUCTIONS.

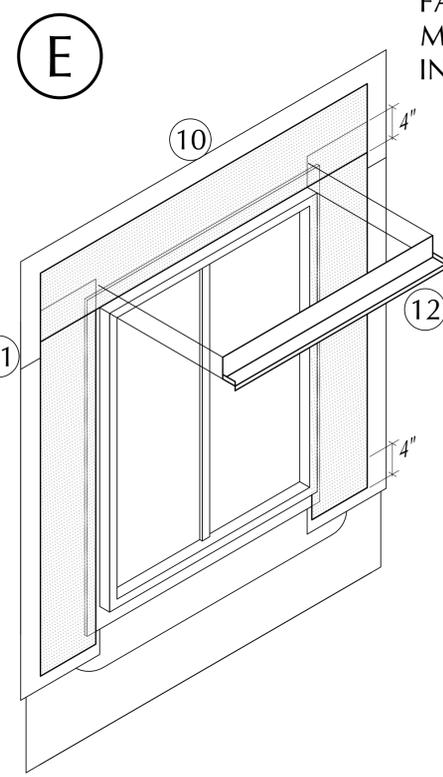


- 4) INSTALL 18-INCH WIDE BUILDING WRAP EACH JAMB, FLUSH TO INSIDE FACE OF STUD
- 5) INSTALL 18-INCH WIDE BUILDING WRAP ACROSS HEADER, OVER JAMBS, AND ACROSS BOTTOM OF HEADER

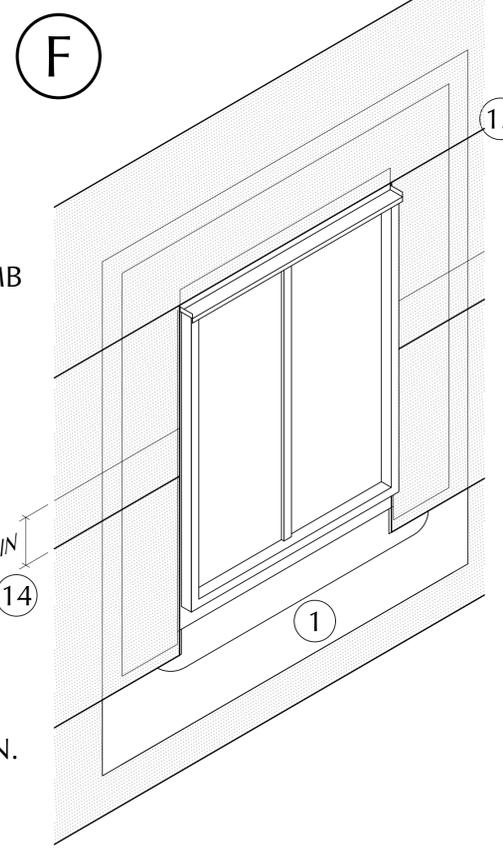


- 6) INSTALL MIN. 1/4" H. PLASTIC SHIMS AT +/-9" O.C. ON SILL FRAMING.
- 7) INSTALL WINDOW.

- 8) INSTALL HEAD FASTENERS AT TOP OF 1" LONG VERTICAL SLOTS IN NAIL FLANGE. DO NOT OVER TIGHTEN FASTENERS.
- 9) INSTALL JAMB FASTENERS.



- 10) INSTALL 9-INCH WIDE MEMBRANE FLASHING LAPPED OVER WINDOW JAMB NAIL FLANGES.
- 11) INSTALL 9-INCH WIDE MEMBRANE FLASHING LAPPED OVER WINDOW HEAD NAIL FLANGE AND OVER JAMB MEMBRANE FLASHING STRIPS.
- 12) INSTALL S.S. SHEET METAL HEAD FLASHING WITH MIN. 1/2" H. END DAMS OVER MEMBRANE FLASHING.



- 13) INSTALL 2 LAYERS 60 MIN. BUILDING PAPER OVER CLEAN, DRY SURFACES. START AT BOTTOM OF WALL, AND EXTEND BUILDING WRAP UNDER STRIP INSTALLED IN STEP #1.
- 14) SHINGLE LAP BUILDING PAPER HORIZONTALLY 6 TO 12 INCHES.
- 15) INSTALL EXTERIOR FINISH SIDING

NOTE:
 SIMILAR OPENING WRAP SEQUENCE APPLIES TO OTHER OPENINGS IN EXTERIOR WALLS. REFER TO DETAILS.

1 WINDOW INSTALLATION
 A5.1 NOT TO SCALE

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PERMIT SET

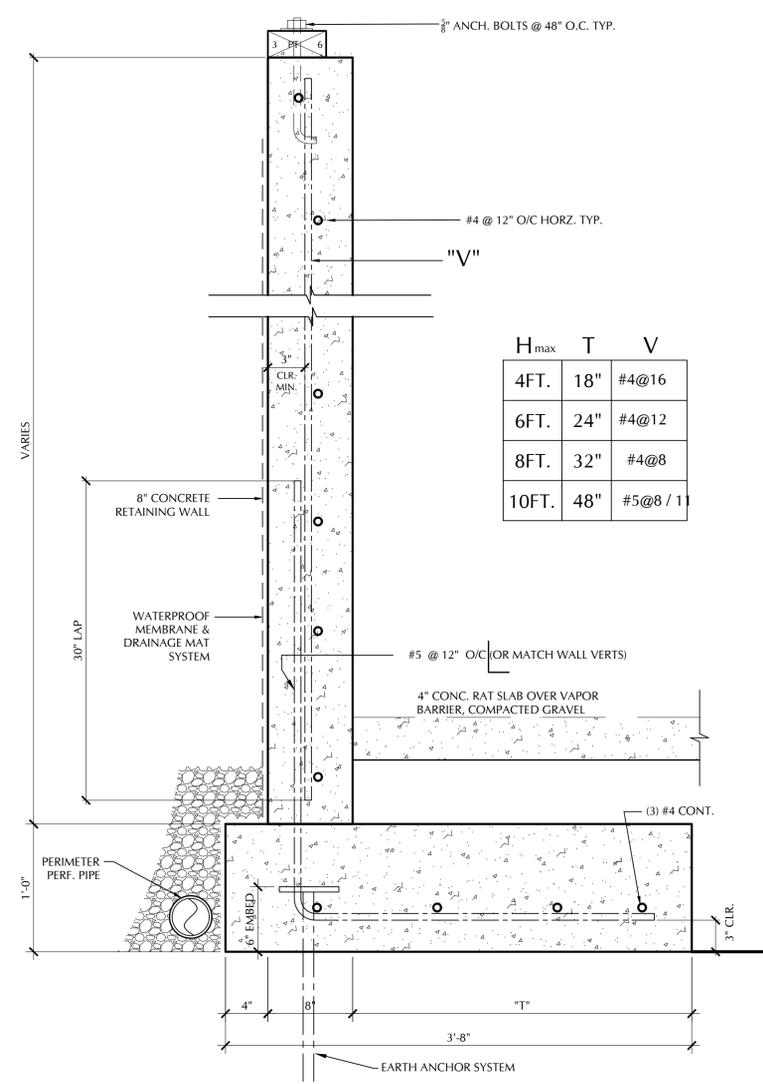
HOUSE PLANS FOR:
HARDING BOVET RESIDENCE
CANNON BEACH OREGON

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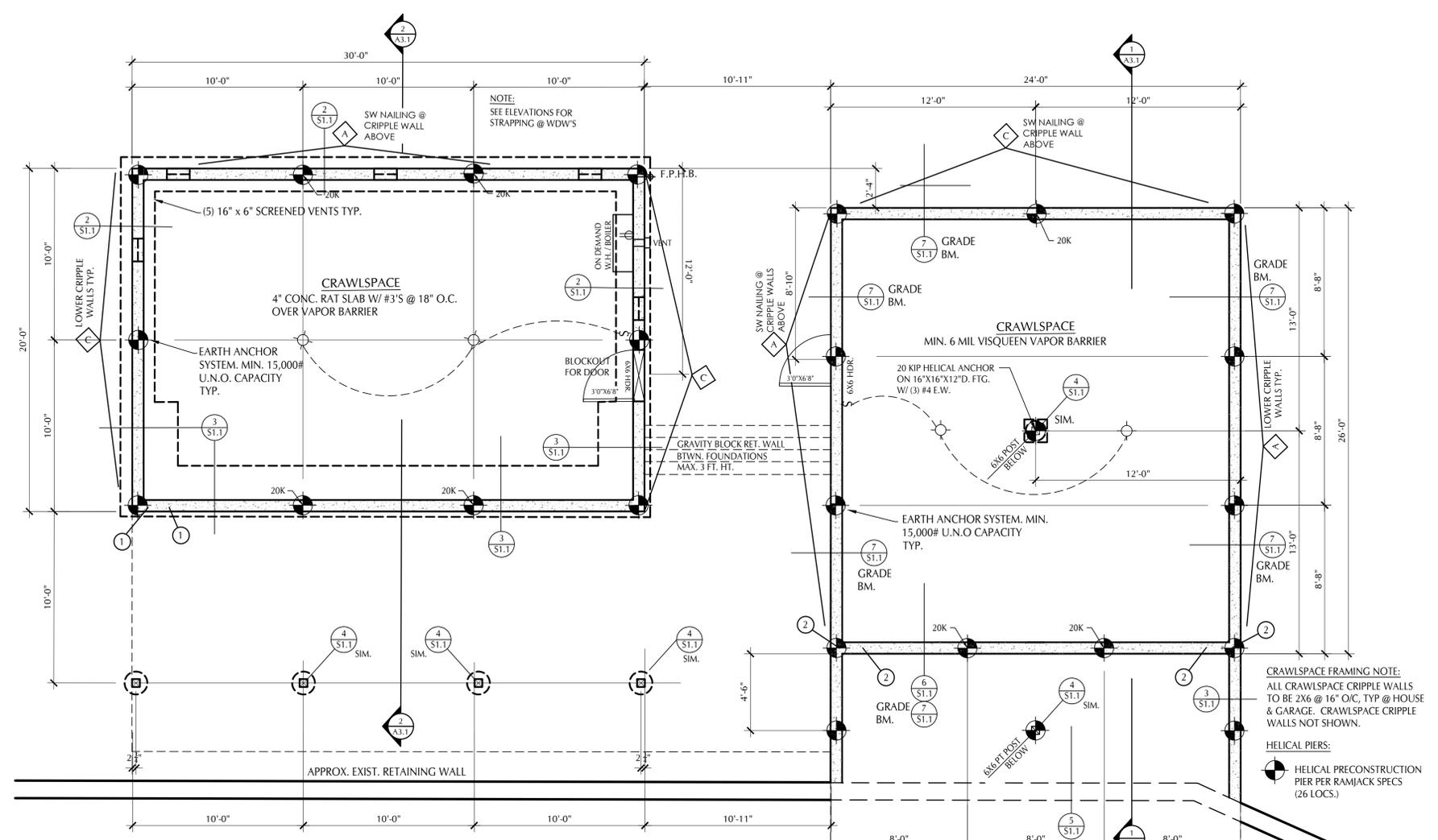
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2020

FOUNDATION
& FRAMING
PLANS
S1.1

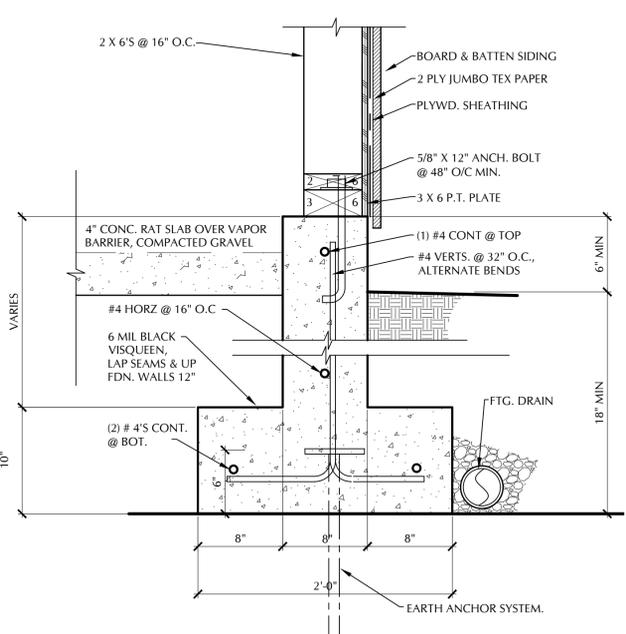


3 RETAINING WALL
S1.1 1/12" = 1'-0"

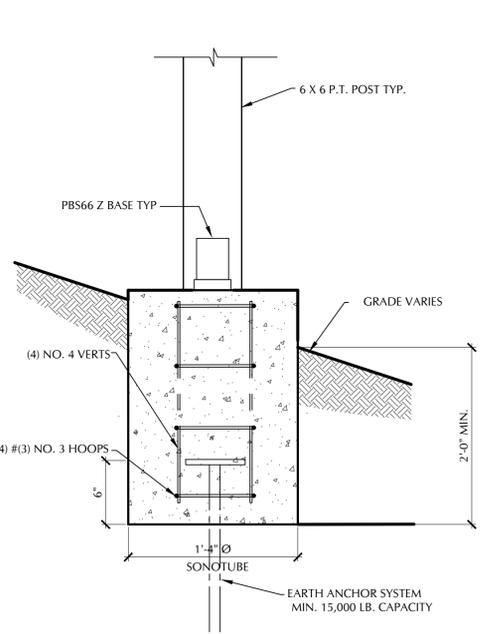


1 FOUNDATION PLAN
S1.1 1/4" = 1'-0"

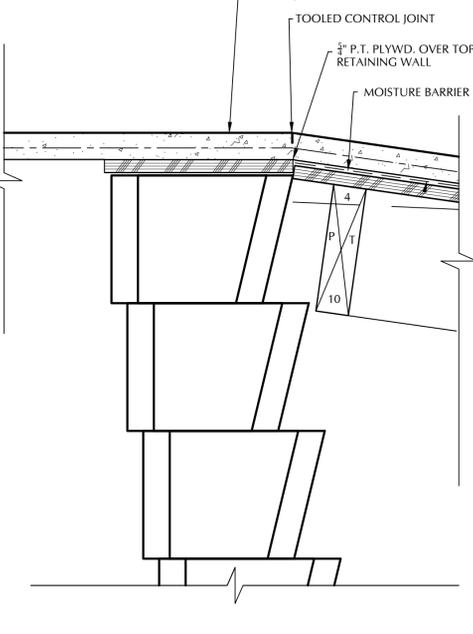
- HOLD DOWNS**
- ① - HDU5 W/ SSTB20 ANCHOR @ (2) LOCATIONS
 - ② - HDU8 W/ SSTB28 ANCHOR @ (4) LOCATIONS
- SHEAR WALLS**
ALL WALLS FULLY BLOCKED @ PANEL EDGES. SHEARWALL NAILING: 8d @ 6" O.C. UNLESS OTHERWISE NOTED.
- Ⓜ - SHEARWALL NAILING: 8d @ 4" O.C. @ PANEL EDGES
 - Ⓢ - SHEARWALL NAILING: 10d @ 3" O.C. @ PANEL EDGES



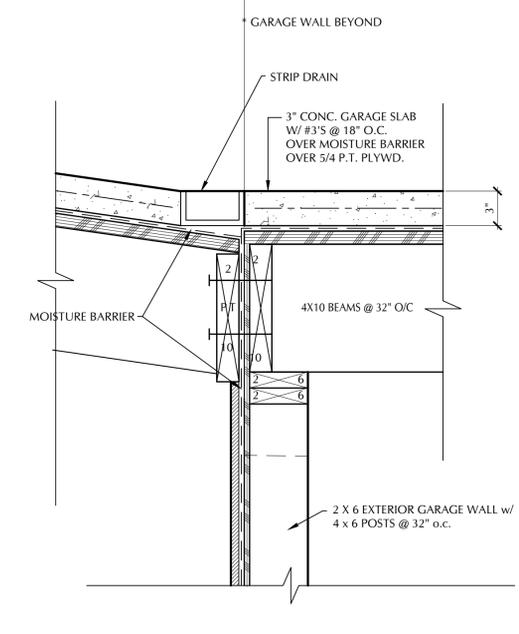
2 TYP. FOOTING @ HOUSE
S1.1 1/12" = 1'-0"



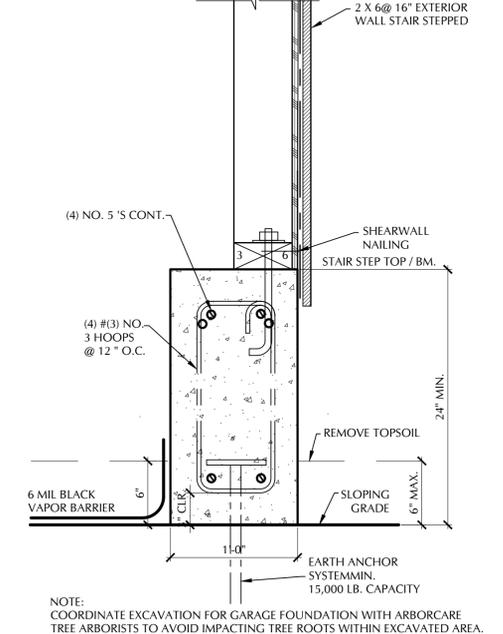
4 POST BASE & FTG. @ DRWY. BRIDGE
S1.1 1/12" = 1'-0"



5 DRIVEWAY TO WALL
S1.1 1/12" = 1'-0"



6 DRIVEWAY TO GARAGE
S1.1 1/12" = 1'-0"



7 GRADE BEAM AT GARAGE
S1.1 1/12" = 1'-0"

NOTE: COORDINATE EXCAVATION FOR GARAGE FOUNDATION WITH ARBORCARE TREE ARBORISTS TO AVOID IMPACTING TREE ROOTS WITHIN EXCAVATED AREA. CONTACT: austin@arborcarenw.com 503-791-0853

Plotted on 5/27/2021 11:35 AM
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 XR_ELEVATIONS.DWG XR_FP1 XR_FND-FRAMING
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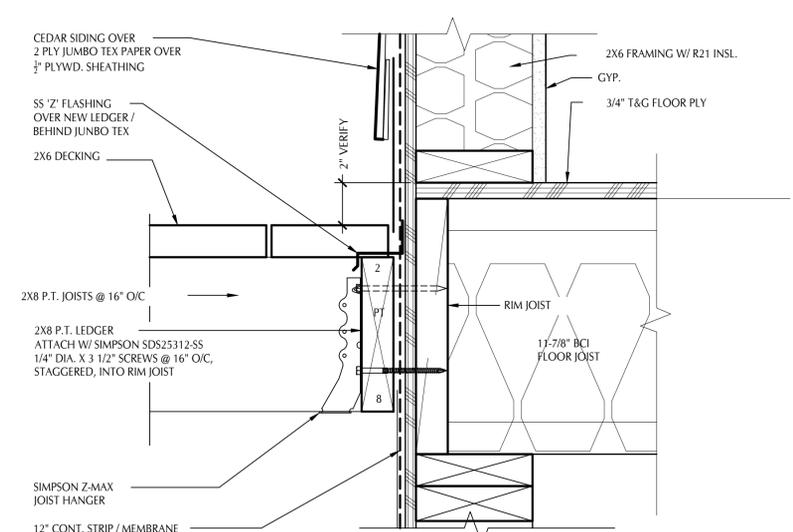
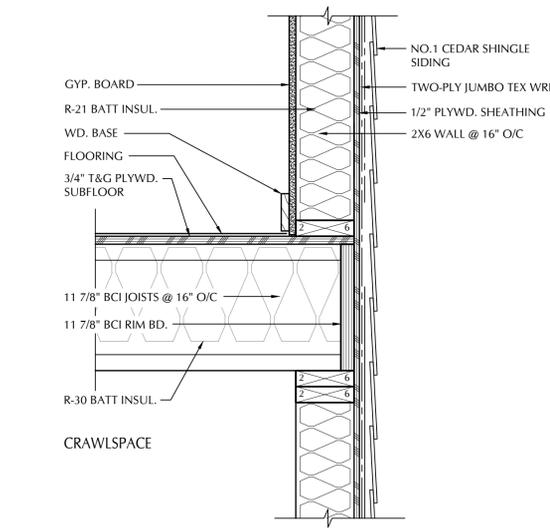
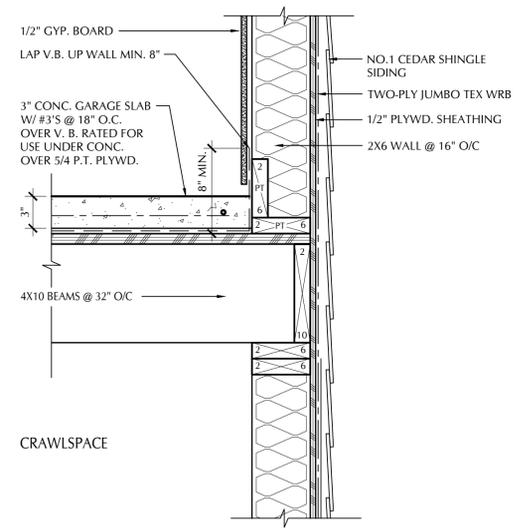
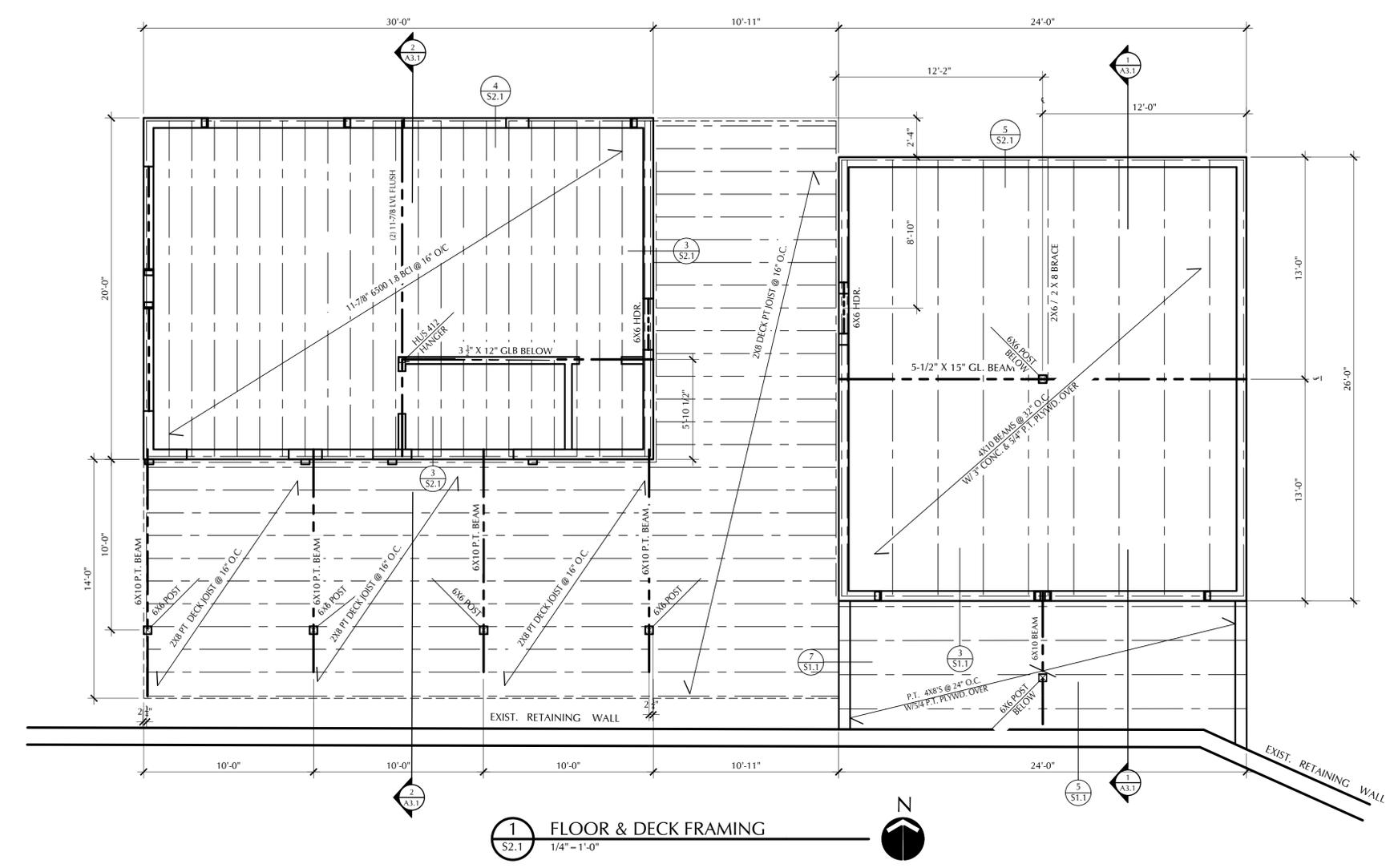
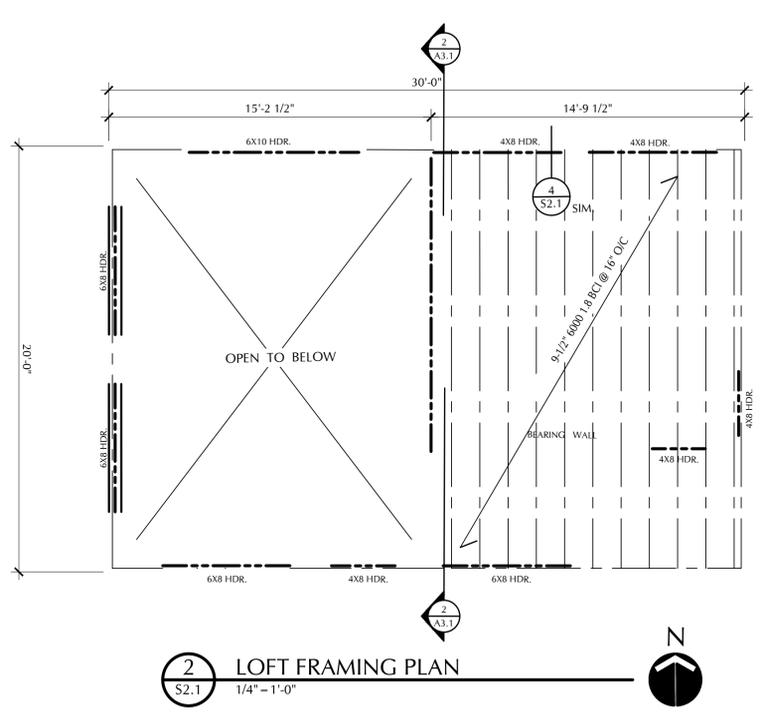
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FRAMING PLANS

S2.1

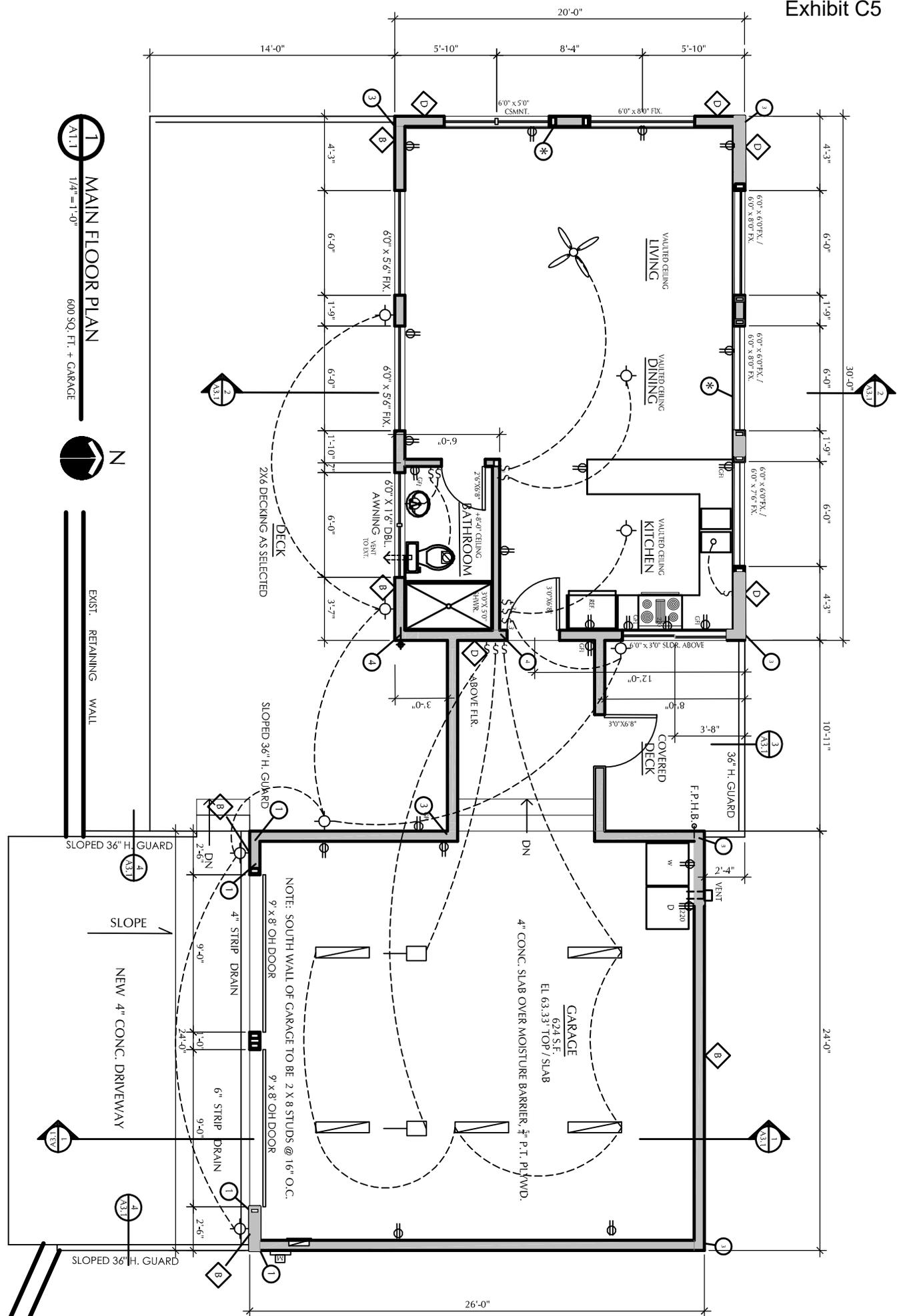


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1 MAIN FLOOR PLAN
 AT 1/1
 1/4" = 1'-0"
 600 SQ. FT. + GARAGE



EXIST. RETAINING WALL





Cannon Beach Planning Commission

Staff Report Addendum (November 12, 2021):

PUBLIC HEARING AND CONSIDERATION OF **AA 21-01**, JEFF AND JENNIFER HARRISON ADMINISTRATIVE APPEAL OF THE CITY'S APPROVAL OF A BUILDING/DEVELOPMENT PERMIT FOR 544 NORTH LAUREL STREET. THE PROPERTY IS LOCATED AT 544 N. LAUREL STREET (TAX LOT 07000, MAP 51019AD), AND IN A RESIDENTIAL MEDIUM DENSITY (R2) ZONE. THE REQUEST WILL BE REVIEWED PURSUANT TO MUNICIPAL CODE, SECTION 17.88.180, REVIEW CONSISTING OF ADDITIONAL EVIDENCE OR DE NOVO REVIEW AND APPLICABLE SECTIONS OF THE ZONING ORDINANCE, CONDITIONS OF APPROVAL OF THE CANNON BEACH PRESERVATION PLANNED DEVELOPMENT SUBDIVISION AND APPROVED PLAT.

Agenda Date: October 28, 2021

Prepared By: Jeffrey S. Adams, PhD

GENERAL INFORMATION

NOTICE

Public notice for this October 28th, 2021 Public Hearing is as follows:

A. Notice was mailed and posted at area Post Offices on October 6th, 2021;

DISCLOSURES

Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?

EXHIBITS

The following Exhibits are attached hereto as referenced. All application documents were received at the Cannon Beach Community Development office on October 20, 2021 unless otherwise noted.

"A" Exhibits – Application Materials

A-1 through 17 provided in October 28th packet

- A-18** EXHIBIT 17, Harrison Submittal: email re: including existing loft in FAR calc.;
- A-19** EXHIBIT 18, Harrison Submittal: 2nd floor of building plans, Harding garage/loft/studio;
- A-20** Harrison Prepared Statement for Oct. 28 Planning Commission Meeting;
- A-21** Written Argument & Proposed Findings & Conclusions of Law, dated Nov. 4, 2021;
- A-22** Harrison response to comments at Oct. 28 Planning Commission Meeting, dated Nov. 4, 2021;
- A-23** Harrison response to November 4 comments, dated November 11, 2021;

- A-24** Harrison letter to PC, regarding the living wall, dated June 25, 2020;
- A-25** Harrison prepared statement to City Council regarding the living wall, dated June 5, 2018;
- A-26** Proposed Revised findings of Fact and Conclusions of Law, Greg Hathaway, dated November 11, 2021;

“B” Exhibits – Agency Comments

None received as of this writing;

“C” Exhibits – Cannon Beach Supplements

C-1 through 26 provided in October 28th packet;

“D” Exhibits – Public Comment

D-1 provided in October 28th packet

- D-2** Judy & Jim Morton, Email correspondence, dated Oct. 26, 2021;
- D-3** Rex & Diane Amos, Email correspondence, dated Oct. 27, 2021;
- D-4** Dale & Linda Hintz, Email correspondence, dated Oct. 27, 2021;
- D-5** Tommy Huntington, Email correspondence, dated Oct. 27, 2021;
- D-6** Phil Morton, Email correspondence, dated Oct. 28, 2021;
- D-7** Kent Suter, Email correspondence, dated Oct. 27, 2021;
- D-8** Betty Gearen, Email correspondence, dated Nov. 3, 2021;
- D-9** Darrell Clukey & Susan Glarum, Email correspondence, dated Nov. 3, 2021;
- D-10** Dean Alterman, Email correspondence, dated Nov. 4, 2021;

Staff Comments:

There are a couple of issues that are brought up repeatedly by both the applicant, the Najimis, and the appellant, the Harrisons. This addendum is intended to respond to those issues and identify City staff's approach.

Calculating the FAR and the Discrepancy Between the City, Applicant, and Appellant.

The first issue raised by the appellant is that “the Floor Area Ratio worksheet calculation used to approve the Building Permit is in error.” This memorandum will explain how the Floor Area Ratio (FAR) is calculated and explain the misunderstanding embedded in this appeal issue.

The term FAR is defined in CBMC 17.04.245 as follows:

“‘Floor area ratio’ means the gross floor area divided by the lot area and is usually expressed as a decimal fraction.”

Thus, in calculating the FAR, you must begin with the “gross floor area” which is also defined by the code in CBMC 17.04.283:

“Gross floor area’ means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.
2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city’s building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building’s foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area.

In this case, the Cannon Beach Building Official reviewed the plans and made a determination under the state building code regarding what areas are “habitable,” consistent with CBMC 17.03.283(3), and that calculation was used to determine that the “gross floor area” of the structure is 4,384 square feet and the lot area is 7,500 SF, meaning the FAR is .58.

This is important because CBMC 17.14.040(D) provides that the maximum FAR in the R2 zone is .6 (or, expressed in a different way, the maximum amount of gross floor area cannot exceed 60% of the area of a lot). Thus, under the City’s code, using the definition from the code, the proposed residence fully complies with the FAR.

This straightforward application of the City’s FAR requirements becomes muddled because Condition 3 of the final approval of the Planned Development contains conflicting criteria for calculating the square-footage under consideration in relation to ‘habitable’ space. Condition 3 provides as follows:

“3. The total square footage of habitable space on the site shall not exceed 9,000 square feet. Habitable space includes enclosed areas in residences including all floors of living space and excludes driveways, decks, porches, garages, and uninhabitable accessory buildings. Unfinished attics, crawl spaces, storage areas and similar spaces are not habitable spaces. Sleeping lofts, detached accessory sleeping quarters, fully enclosed sun rooms, and hallways are habitable space. The habitable spaces shall be distributed initially to allow 2,000 square feet to Lot 1, 3,300 square feet to Lot 2, 2,700 square feet to Lot 3 and 1,000 square feet to Lot 4. Those allocations may be amended by future

owners of the lots, but in no case may any amendment allow total square footage of habitable space on the site to exceed 9,000 square feet.”

The argument presented by the appellants revolves around the 210 square-foot of ‘loft’ area of the Harding Garage (Shown in yellow in the diagram below), which, according to the Cannon Beach Building Official and the state building code, is ‘non-habitable.’ As the diagram below shows, the 210 SF in question has no stairs or other fixed forms of access. The diagram’s blue square, the vaulted space above the garage floor, has been double-counted under CBMC 17.04.283(4). The fact that the PUD conditions of approval provide for a different definition of “habitable space” in a limitation of overall square footage in the PUD does not change the requirement for the City to use the definitions in the code in calculating the FAR under CBMC 17.14.040(D).

This disjunction between the definition of “habitable space” in the Conditions of Approval and the code’s FAR requirements, both put limits on what can be built on the lot and, because the terms don’t align, there are ripple effects on other considerations. For instance, the Conditions of Approval exclude garages from habitable space calculations and yet, under the code, GFA and thus, FAR, include garages. For instance, if we are to take the maximum habitable space as defined by Condition 3, the habitable square footage for Lot 1 comes to 3,090 SF, while the GFA is calculated at 4,384 SF, leading to a FAR of .58 (or 58%).

In any event, as explained above, the ‘habitability’ determination for purposes of determining FAR is based on the state building code and under the jurisdiction of the Cannon Beach Building Official. The appellant’s argument that the area in the Harding Garage should be treated and calculated as ‘sleeping’ loft, or ‘habitable’ space simply because it is ‘finished,’ rather than a ‘storage’ loft, and ‘non-habitable,’ seems to run contrary to his concern that this accessory structure remain a garage and not a guest house or some form of ‘habitable’ space, which would require a certificate of occupancy and which would then be required to meet the Oregon Building Code for ‘habitable’ space. It appears the appellants would like the City to treat this as ‘habitable’ space so that it exceeds the ‘maximum’ habitable space allowed under Condition 3 for the lot and exceed the permitted FAR, and yet, not allow it to actually be habitable space. Should the City determine the loft area is, in fact, habitable, it would likely be difficult to prevent the owner from seeking a certificate of occupancy and then the City would have no grounds to prohibit someone from ‘occupying’ the space overnight.

As the Hardings stated at the previous hearing, the City has been asked to visit the property, to investigate just such complaints, and on December 8th, 2020, the City found no evidence that the storage loft was being utilized for any other purpose but storage. The ‘new evidence,’ or appellant’s pictures taken from inside the Harding garage, highlight what they claim to be the ‘finished’ nature of the accessory structure, pointing out electrical outlets, skylights, and other features; however, many accessory structures in Cannon Beach have electrical outlets, windows, and skylights. In fact, many accessory structures are utilized as secondary office spaces or workspaces for home occupations or hobbies. Garages across America have been the birthplace for companies ranging from Amazon to Apple, serving a wide range of needs and many are in some state of ‘finished’ space. When the appellant goes further to state that only one garage is permitted according to the zoning code, that simply is not consistent with the R2 Zoning district language, CBMC 17.14.020, which states under ‘uses permitted outright, that ‘In an R2 zone the following uses and their accessory uses are permitted outright,’ it doesn’t limit each unit to just one structure or one use, or one garage (emphasis added). In fact, the R2

district is for medium density residential uses, for up to eleven dwelling units per net acre, where two-family dwellings are permitted outright and thus, two or more accessory structures, including garages, can be found across the city.

The Effect of the LUBA Decision on the Previous Application.

Both the appellants and the applicants make arguments about the previous LUBA decision and its effect on the new application for the development of a house on this property. The Harrisons essentially argue that this is an entirely new application and the City is free to consider any issue and make any appropriate decision on this applicant. In opposition, the Najimis argue that the City already made a decision about an almost identical house (with a turret) and that any issue that was resolved in that decision and was not appealed was conclusively decided and cannot be revisited by the City in this decision. While both positions have some appeal, the correct position is likely somewhere in the middle.

There is one position that all parties appear to agree on. In the previous LUBA decision, LUBA was clear that the City was not to apply any standards from the PUD chapter and could not deny an application for failing to comply with those provisions:

“We conclude above that the city properly denied the building permit application because the turret failed to satisfy the height limitation in CBMC 17. I 4.040(E). That is a permissible basis for denial. However, we emphasize that, as explained in our resolution of the first and third assignments of error, the city has no authority to apply the PD standards to an application for a building permit for a lot in the Subdivision, and it may not deny a building permit application that otherwise complies with the applicable building permit standards for failure of the Subdivision or an individual lot in the Subdivision to provide common open space.”

Beyond that, the impact of LUBA decisions has been laid out in opinions from LUBA and the Court of Appeals.

In a case from this city, *Holland v. City of Cannon Beach*, 154 Or App 450, 962 P2d 701 (1998), the Oregon Court of Appeals laid out some limitations on the City’s ability to change its mind on how to apply a criteria from its code, but that case was significantly different from this one, and the facts of the case are important. The *Holland* case involved the application of certain “slope and density” design standards. Before Mr. Holland filed his application, the then city attorney had concluded that the slope/density provisions had been implicitly repealed and the city did not apply them to Mr. Holland’s application. Nonetheless, the city concluded the application violated other provisions of its plan and rejected it. The city’s decision was appealed to LUBA and the Court of Appeals, which remanded the city’s decision, concluding that the city was wrong in applying those other plan provisions.

When the matter came back to the city on remand, the city council concluded that, in fact, the slope/density standards had not been repealed, applied them to Mr. Holland’s application, and denied the application. Mr. Holland again appealed to LUBA and the Court of Appeals overturned the decision on remand. LUBA has explained the ruling as follows:

“With respect to ORS 227.178(3), we understand *Holland* to hold that, once a local government has taken a position in the course of a permit proceeding that a land use

regulation is not an approval criterion, the local government cannot change that position on remand, which the court viewed as part of the same permit proceeding and apply the regulation to approve or deny the permit application. To do so is a de facto 'shifting of the goal posts' contrary to the statute, because it effectively allows the local government to approve or deny a permit application based on standards that the local government deemed were not applicable at the time the permit application was filed." *Bemis v. City of Ashland*, 48 Or LUBA 42 (2004) (emphasis added).

In other words, the city cannot change its interpretation of the applicability of a criterion "in the course of a permit proceeding." However, the matter before the Planning Commission now is not part of the same "permit proceeding" as the Najimis' initial application. The city denied that application, the applicant appealed to LUBA, which affirmed the city, and LUBA's decision was not appealed further. Therefore, the city is not bound by any interpretation it may have made in the applicant's first application.

However, that does not mean that the City has free reign to make any interpretation it may like. The LUBA case cited above, *Bemis v. City of Ashland*, 48 Or LUBA 42 (2004), provides some additional limitations on the City adopting new interpretations. In *Bemis*, the city of Ashland had interpreted its code in one way, but changed its interpretation when a new application was submitted. LUBA first acknowledged the language in *Holland* that the Court of Appeals accepted "at least as an abstract proposition, the premise that a local government may 'correct' its earlier interpretations of its legislation." But LUBA then noted additional limitations on a city changing its interpretations:

"A local government may not change an existing interpretation where such reinterpretation is 'the product of a design to act arbitrarily or inconsistently from case to case[.]' *Alexanderson v. Clackamas County*, 126 Or App at 552. Finally, where a local government changes a pre-existing interpretation in the course of a permit proceeding, it must provide participants the opportunity to address the reinterpretation and, in some circumstances, must re-open the evidentiary record to allow the parties the opportunity to present new evidence with respect to whether the application complies with applicable approval standards, as reinterpreted. *Gutoski v. Lane County*, 155 Or App 369; *Wicks v. City of Reedsport*, 29 Or LUBA 8 (1995)."

In sum, except as explained by LUBA in its decision regarding the use of PUD criteria, the planning commission is not necessarily bound by any decision made in the prior proceeding by the city. However, to the extent the planning commission reaches a different conclusion than it did previously, it would be well served to provide an explanation of why the different conclusion is not adopted by design to frustrate this particular application.

The Living Wall.

The appellants continue to argue that this application must be rejected because of the living wall and the perceived violation of Condition 17 of the PUD. That condition provided as follows:

"17. Before permits for the driveway retaining wall are approved the applicant shall provide to the City an executed contract with a landscape professional responsible for the installation and maintenance of plant materials on the wall and shall provide a

timeline for the establishment of plantings on the wall. If plants are not established within those timelines, the City may take any necessary enforcement actions to assure that the requirements of the final plan and this condition are met”

As noted previously, City staff found this condition satisfied pursuant to the material from Mr. Vasquez, of Vasquez Yard & Tree Work, Inc. Whether that company qualifies as a ‘landscape professional,’ and whether Exhibit A-13 is an ‘executed contract,’ with timeline, is a question related to the installation of the driveway retaining wall, as the condition explicitly states that the condition must be satisfied “[b]efore permits for the driveway retaining wall are approved...” there is no authority to re-word this condition of approval related to driveway and retaining wall permits to apply to a different building permit. Staff would note, as provided in a previous staff report, ‘to the extent that the planting is not successful, Condition 17 authorizes the City to ‘take any necessary enforcement actions.’” The review of this building permit is limited to CBMC Title 15, and the applicable parts of CBMC Title 17, as well as the applicable parts of the PUD conditions of approval. None of those provisions authorize the City to refuse to issue a building permit on this basis. The City may take “enforcement action” under its code, but that does not extend to allowing it to refuse to issue a building permit that otherwise meets the requirements of its code and the PUD.

3. The total square footage of habitable space on the site shall not exceed 9,000 square feet. Habitable space includes the enclosed areas in residences including all floors of living space and excludes driveways, decks, porches, garages, and uninhabitable accessory buildings. Unfinished attics, crawl spaces, storage areas and similar spaces are not habitable space. Sleeping lofts, detached accessory sleeping quarters, fully enclosed sun rooms, and hallways are habitable space. The habitable spaces shall be distributed initially to allow 2,000 square feet to Lot 1, 3,300 square feet to Lot 2, 2,700 square feet to Lot 3 and 1,000 square feet to Lot 4. Those allocations may be amended by future owners of the lots, but in no case may any amendment allow the total square footage of habitable space on the site exceed 9,000 square feet.

Condition 3, of the Conditions of Approval, p. 13 of 15, Findings PD 15-01, March 8, 2016

17.04.283 Gross floor area.

“Gross floor area” means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

2. Entirely closed porches.
1. Garages and carports.
3. Basement or attic areas determined to be habitable by the city’s building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building’s foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area.

Gross Floor Area Definition, CBMC

NAJIMI LOT#1

2/18/20
7/15/2021

Appendix

Worksheet – Floor Area Ratio

- I. The maximum FAR in the R1, R2, RAM, R3 and RM zones is .6.
The maximum FAR in the RVL zone is .5.
The maximum FAR in the RL zone for a lot 5,000 square feet or less is .6.
The maximum FAR in the RL zone for a lot 5,000 square feet or more is .5.

II. Calculation of FAR

A. Lot Size: 7500 sq. ft. (A)

A. Gross Floor Area: (see definition below)

1. Basement	<u> </u> sq. ft.
2. 1 st Story	<u>1214</u> sq. ft.
3. 2 nd Story	<u>1876</u> sq. ft.
4. Loft	<u> </u> sq. ft.
5. Garage or Carport <i>ATTACHED</i>	<u>1604</u> sq. ft.
6. Habitable Accessory Structures <i>DETACHED GARAGE</i> (e.g. accessory dwelling)	<u>420</u> sq. ft. 630 SF DING GARAGE

TOTAL 4174 sq. ft. (B) **4384 SF**

C. Divide Total (B) by (A) = .56 FAR *OK* **.58**

Definition of Gross Floor Area

OK 7/15/2021

Gross Floor Area is the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings.

Gross floor area includes:

- ✦ Garages and carports
- ✦ Entirely enclosed porches
- ✦ Basement or attic areas determined to be habitable by the City's Building Official, based on the definitions in the building code.
- ✦ Uninhabitable basement areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the buildings foundation.
- ✦ All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than 15 feet shall be counted as 200% of that floor area.

Revised FAR Worksheet, dated July 15, 2021



DEAN N. ALTERMAN
ATTORNEY

D: (503) 517-8201
DEAN@ALTERMAN.LAW

Cannon Beach Planning Commission
PO Box 368
Cannon Beach, OR 97110

February 24, 2022

By E-mail only (planning@ci.cannon-beach.or.us)

Re: Application of Paul Bouvet / appeal of Jeff and Jennifer Harrison
Property address: 534 N. Laurel Street
Our client: Paul Bouvet
Your file no. AA# 22-01
Our file no. 5363.001

Ladies and Gentlemen:

I'm submitting this letter on behalf of our client Paul Bouvet in response to the appeal of his building permit submitted by Greg Hathaway on behalf of his clients Jeff and Jennifer Harrison. For the reasons that Planning Director Jeff Adams outlined in his staff report, and for the reasons I'll discuss in this letter, the planning commission should deny the appeal and affirm the building permit, either as is or with a slight modification to the building.

The Harrisons advanced three bases for their appeal. None of those bases is a ground for reversing the building permit approval. I'll take each up in turn, though in a slightly different order from how the Harrisons presented them to you.

1. The building permit does not violate the Comprehensive Plan, and the Comprehensive Plan is not a standard of approval for building permits.

The Harrisons assert that Mr. Bouvet's proposal to build a cottage of 600 square feet violates the portion of the Vision Statement of the Comprehensive Plan that reads in relevant part:

The elements of the town's physical form which the plan will foster are:

- Development that honors the city's physical setting.
- A compact development pattern where various land uses are readily accessible to residents and visitors.
- A distinct edge to the town which defines the separation of urban from rural and natural resource uses.
- Mixed land uses which promote the livability of the town.

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- Buildings that are generally small in scale and appropriate to their setting.

These are aspirational goals. They are not criteria for approval of a building permit. They are not the “clear and objective standards” for the development of housing that ORS 197.307(4) requires local governments to adopt and implement. Of those goals, the only one that could possibly relate to an application to build a single-family house is the last one: “Buildings that are generally small in scale and appropriate to their setting.”

Mr. Bouvet proposes to build a house that is small in scale. It will likely be the smallest house on the block. If these aspirational goals were criteria for approval – and they are not – then his house complies. It would be hard to make it any smaller in scale without causing it to vanish altogether.

When you consider the appellants’ implication that Mr. Bouvet’s house will not be small in scale, you should consider its size relative to the other houses in the neighborhood. The following plan shows Mr. Bouvet’s proposed house and garage in relation to the neighborhood. His lot is the one with the four green circles that represent tree canopy. Mr. Najimi’s proposed house, subject of an earlier appeal, is shown to the west of Mr. Bouvet’s lot. The two vacant lots to the south are the other two lots in Cannon Beach Preservation.



You will readily see that Mr. Bouvet’s proposed house and garage are small in scale relative to most of the neighborhood, especially when compared to the many nearby houses that use nearly the entire lot width or that are built nearly at the street line.

As your staff report points out on page 4, ORS 197.195(1) also requires the planning commission to reject this ground for appeal. Cannon Beach has not incorporated the aspirational goals of its comprehensive plan into its land use regulations, and the statute bars Cannon Beach from relying on those plan provisions as a basis for a limited land use decision such as this one.

The planning commission should reject the appellants’ argument and affirm the administrative decision.

2. The drywell does not violate Condition #2 of the City’s approval of the Cannon Beach Preservation planned development.

Mr. Bouvet intends to manage stormwater by directing the runoff from his lot and a portion of the common access easement to a drywell on his lot. The drywell will be located in a portion of the lot that is subject to a restrictive private covenant, the “Shared Access and Maintenance Easement,” that the developer imposed in order to comply with Condition 2 of the planned development approval. Mr. Bouvet identified this location for the drywell both to minimize disturbance to the roots of the significant spruce trees on his property, and to provide some additional natural irrigation to the same spruces.

Condition 2 required the developer to “prepare and record a shared access and maintenance agreement for the shared drive serving the four lots contemporaneous with or within three months following recordation of the final plat for the development.” The developer drafted and recorded the agreement.

The appellants do not argue that Mr. Bouvet’s house will violate Condition 2, nor do they argue that the proposed drywell will violate Condition 2 directly. Rather, they suggest that because the drywell will be in a portion of Mr. Bouvet’s lot that is included in the common open space under the agreement, the drywell will violate the agreement, and if it violates the agreement then they argue that it would indirectly violate Condition 2, because in their view “The only specifically allowed activities in the identified/shared common open spaces of the PUD and SAMA [the agreement] are limited to, ‘removing non-native vegetation’, and are not to be non-exclusionary improvements serving only the burdened lot.”

The problem is that the appellants are quoting only part of the agreement. Here is the entire section that creates the open space easement. I’ve underlined one important sentence:

2. Grant of Common Open Space Easement. Declarant hereby declares a nonexclusive and perpetual Common Open Space Easement on, over, under, and across the portion of the Grantor Property [the subdivision] labelled “Common Open Space Easement” on the Plat for the benefit of the Benefitted Parties. Benefitted parties may use the Common Open Space Easement areas only for purposes of removing non-native vegetation. If agreed upon by all owners of the Four Lots, the Common Open Space Easement Areas may also be used by Benefitted Parties for purposes of planting with additional native vegetation, improving with an access trail or other shared facilities, or using in conjunction with outdoor events. The owner of a lot burdened with a Common Open Space Easement area may not construct a building over the Common Open Space Easement area, or fence it, but may generally plant that area or improve it with a trail, patio, deck, or similar non-exclusionary improvement consistent with the terms of this Easement.

The appellants’ argument fails because the paragraph from which they quote allows the lot owners to use the Common Open Space for several other purposes, including:

- Planting with additional native vegetation
- Improving with an access trail or other shared facilities
- Using it in conjunction with outdoor events

The same paragraph allows Mr. Bouvet to build a trail, a patio, a deck, or other “non-exclusionary improvement” within the portion of the open space area that is on Lot 4. A subsurface drywell to dispose of runoff is a non-exclusionary improvement. Mr. Bouvet cannot construct a building in his portion of the open space easement area, but a subsurface drywell is not a building. The plain language of the easement agreement does not prohibit Mr. Bouvet from building a subsurface drywell on his property, whether the drywell is within or without his property’s portion of the common open space.

A more substantive reason that the appellants’ argument fails is that the appellants have no legal right to enforce the easement agreement. It is not for their benefit. Section 10 of the easement agreement includes this clear statement:

This Easement only benefits the Benefitted Parties [the lot owners] and creates no public dedication or rights or claims for third parties.

The appellants don’t own a lot in the subdivision. They are not “Benefitted Parties,” and in any case the agreement itself is not a standard of approval. As your planning director has stated, Condition 2 required the developer to record an agreement. The developer recorded the agreement and fully satisfied Condition 2.

Condition 2 is not relevant to an application to build a conforming house in this subdivision.

You may also consider the public policy that the city has expressed in CBMC §13.16.020.C: “Every person that uses property has an obligation to minimize or eliminate detrimental impacts on other persons or property that result from such use. If a user of property alters the property in any way that increases the flow of surface water from the property, the user must control the flow.”

In this subdivision, the original developer built a common driveway and a retaining wall, both of which increase the flow of surface water from the property. Mr. Bouvet’s proposed drywell complies with the policy of §13.16.020.C because it will collect stormwater both from his roof and driveway and to some extent from the common access easement including portions of the area north of the retaining wall. The drywell does not violate the code; rather, it implements the code.

The planning commission should deny this ground for appeal and uphold Mr. Bouvet’s building permit.

3. The condition of approval that prohibits detached garages in the subdivision from having “a second story” does not apply to Mr. Bouvet’s garage because it is not a detached garage. If you do believe that it requires more attachment to be an attached garage, then you should approve the alternate plan with continuous walls to connect the house and garage.

In support of the remaining ground for their appeal, the Harrisons rely on one sentence in Condition 16 of the city’s approval of the subdivision. It’s one of three sentences that govern garages in the subdivision. The three sentences read:

Should any lot contain a garage or carport, it shall be no larger than a two car garage. Garages or carports may be located under a house due to the natural topography, but if the garage is detached, then the garage may not include a second story or livable space. The exterior of any garage must be the same as the house.

This provision contains one restriction that applies to all garages and carports, one restriction that applies to all garages but not to carports, and one restriction that applies only to detached garages and not to carports and attached garages. Let’s take those in turn.

The first restriction is that no garage or carport may be larger than a two-car garage. Mr. Bouvet is proposing to build a two-car garage, not a three-car garage. His garage complies with this restriction.

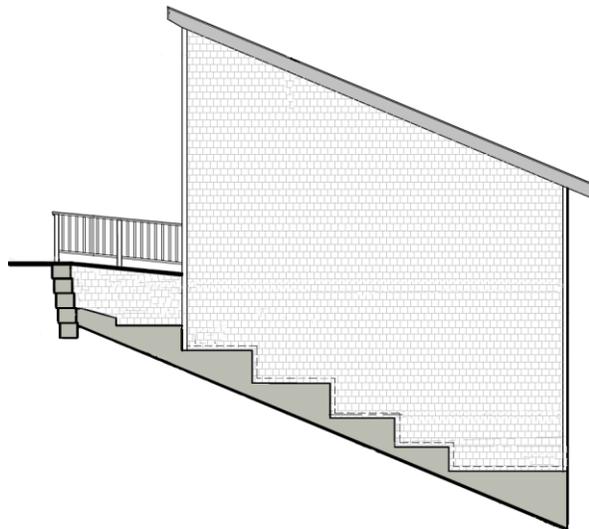
The third restriction is that the exterior of a garage (but not a carport) must be the same as the house. Mr. Bouvet’s garage complies with this restriction.

The only restriction at issue is the second restriction, which applies only to detached garages. Your code does not define “detached garage.” The house and the garage share a common roof and other structural elements. If you agree that the common roof and other structural elements that the house and garage share are enough to make the garage not “detached,” then you should deny the appeal and uphold Mr. Bouvet’s permit.

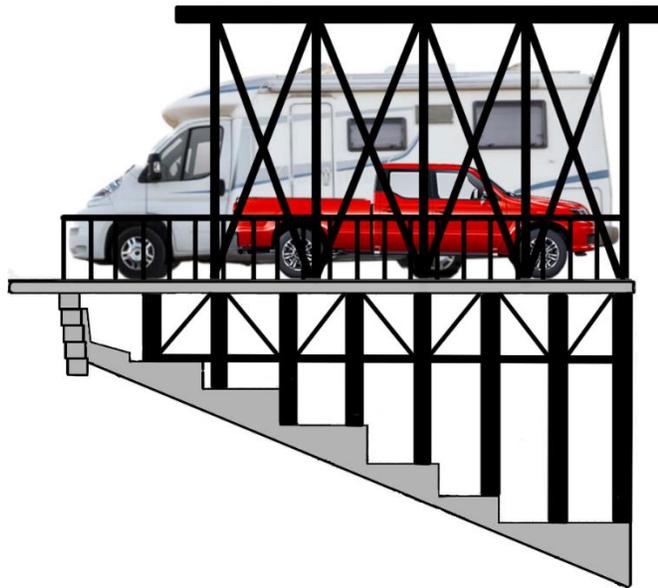
Only if you believe that the garage is nevertheless a “detached garage” do you have to determine whether it would violate the condition that a detached garage not include a second story. Mr. Bouvet and I invite you to consider two questions before you make that determination.

First, what was the purpose of Condition 16? Was it to prevent owners from building one-floor detached garages on the steeply-sloping portions of this subdivision, or was it to deter owners from turning detached garages into accessory dwelling units? If you agree that the purpose was to deter garages from becoming separate dwelling units, then you will agree that Mr. Bouvet’s garage complies with that purpose. It has no loft. It has no basement or underfloor. It has no second level.

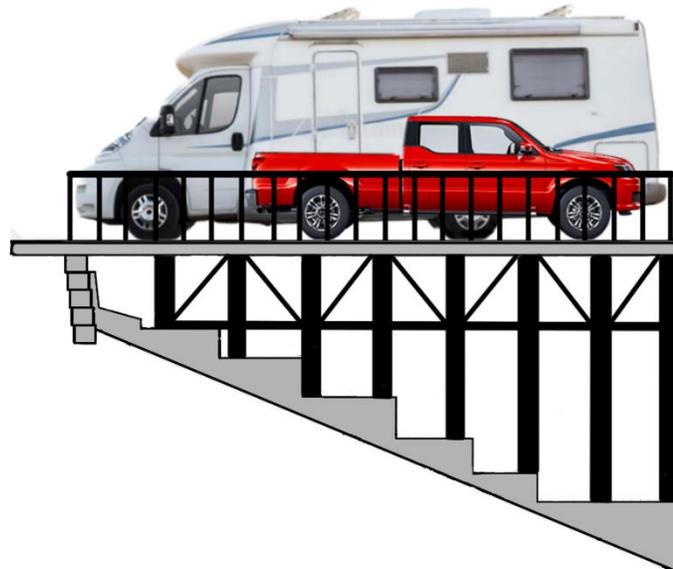
If on the other hand you determine that the purpose of Condition 16 was to encourage the lot owners to build detached garages only on the flattest portions of their property, then you are implicitly deciding that a detached garage on sloping ground is less desirable than a carport in the same location, which is not covered by the restriction against a second story. You’re also deciding that a detached garage on sloping ground, such as one which when viewed from the east would look like this:



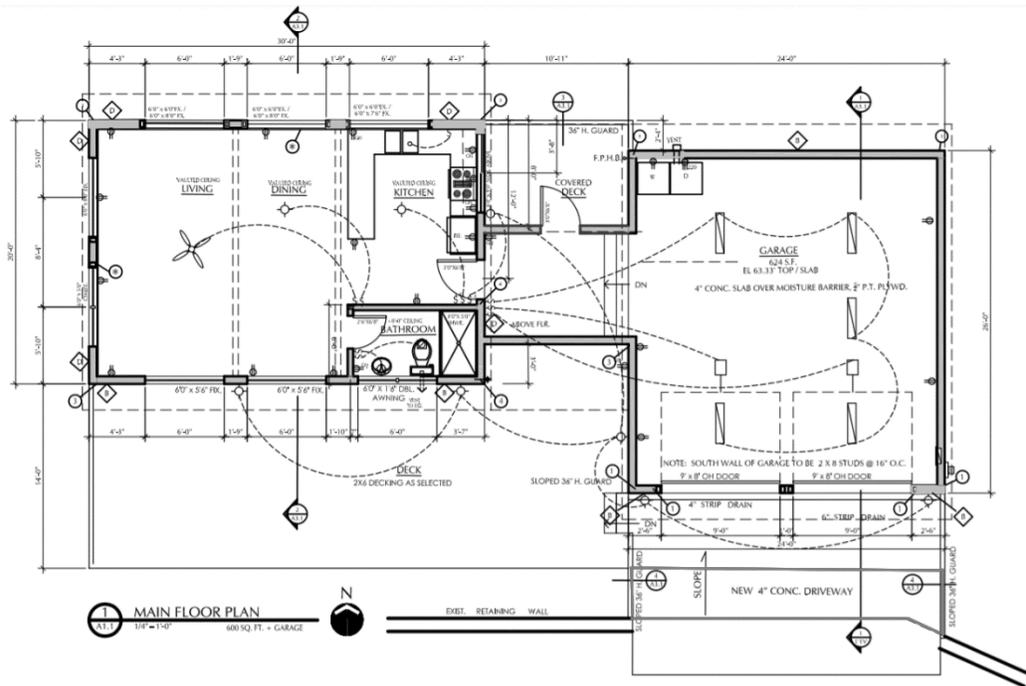
is less in keeping with the planned development than a carport such as this one, which when viewed from the east would look like this:



as well as an open-air parking deck, which is neither a garage or a carport and not restricted by Condition 16 at all.



If you do not agree that the common roof and other shared structural elements will qualify the garage as an attached garage, then Mr. Bouvet will adopt the staff suggestion to build north and south walls to further connect the garage and the house with a shared load-bearing wall, so that the garage will be attached to the house as follows:



The connection would not change how Mr. Bouvet’s house would appear as seen from the Harrison’s house; it would add some cost to the project; however, it would also give Mr. Bouvet a wind-sheltered outdoor deck area on the north side of the garage. Most importantly, the garage would then be an attached garage to which the restriction against a second story would not apply. Alternatively, he will redesign the garage to be a carport or a parking deck, either of which would completely resolve this last ground for the appeal.

To summarize the applicant’s response: The restriction against a second story applies only to detached garages. The proposed garage is attached to the house by a roof and other structural members and is not a detached garage; therefore, whether it is a one-story or a two-story structure is irrelevant. If you believe that it is nevertheless a detached garage, then it complies with Condition 16 because it does not have a second story: it contains only one floor surface. If, however, you find that the steeply sloping earth below the parking deck counts as a “story” then Mr. Bouvet will add a load-bearing wall shared by the garage and the house to definitively show that the garage is attached to the house, or he will remove enough of the garage superstructure to make it a carport or an open-air parking deck.

Conclusion

State law forbids the city from using the comprehensive plan as a standard of approval for building permits, and Mr. Bouvet’s house complies with the plan provision that the appellants are relying on.

The developer complied with Condition 2 by signing and recording the Shared Access and Maintenance Agreement; the proposed drywell on Mr. Bouvet's lot does not violate that agreement because it is similar to other improvements that Mr. Bouvet can build in his portion of the shared open space. Furthermore, the agreement is not even a criterion for this application.

Mr. Bouvet's garage as proposed is an attached garage and so whether it has a "second story" simply because it is above a steep slope is irrelevant, but if you find that it is not an attached garage as proposed, he will attach it to the house with north and south walls so that it will be an attached garage, in which case whether the code deems it to be a two-story building becomes irrelevant.

You should deny the appeal and uphold the city's administrative decision to issue the building permit.

Very truly yours,

Dean N. Alterman

Dean N. Alterman

Copy: Mr. Paul Bouvet (e-mail only)
Gregory Hathaway, Esq. (e-mail only)

Jeffrey Adams

From: Betsy Ayres <betsy.ayres@hotmail.com>
Sent: Wednesday, February 23, 2022 9:19 PM
To: Jeffrey Adams
Subject: PUD

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Jeff Adams and Planning Commissioners,

It's probably a good thing that PUDs are going the way of the dodo bird in Cannon Beach, but in the meantime, I realize you are stuck with the one that exists.

I urge you to very carefully consider what is and what is not allowed, and to rethink a building permit that was issued for a two-story garage. And to revisit what is and what is not allowed on shared property within the PUD.

Thank you so much for your consideration, Betsy Ayres PO Box 2 Cannon Beach, Oregon.

Sent from my iPhone

February 23, 2022

Planning Commission of Cannon Beach
PO Box 368
Cannon Beach, OR 97110

Dear Cannon Beach Planning Commission:

These matters should be settled by now, but again, I am asking you to evaluate the proposed development on the Nicholson site in our neighborhood vis-a-vis the city's approval specifications for this PUD.

I live at 563 N Laurel in Cannon Beach. Our neighbor, Jeff Harrison, who is president of Friends of Cannon Beach, alerted me to a building permit again being issued for a new, out-of-compliance structure. This time on Lot #4 (the NE lot). My neighbor, Paul, who is having the home built, has spoken with me about his plans. He said specifically that he wanted to do it right and had met the requirements laid out by the city. Unfortunately, a two-story garage is being allowed when, according to Jeff Harrison, the PUD approval condition #2 expressly prohibits 2-story detached garages. Paul may have been misinformed by the City that he could build such a structure.

I cannot believe that out-of-compliance permits keep being issued. Therefore, I trust that the City's planning commission will review this situation to ensure that the PUD requirements are being met. Paul is one of my neighbors and I like that he wishes to build a new home for himself across the street. The small home sounds like a charming place that will suit his needs. He wants it done right. I want it done right. And so do others who live here. Help us to ensure that this PUD's approval specifications are met.

Mr. Harrison has spoken often about these Nicholson PUD issues before the Planning Commission. I beseech you to carefully consider what Mr. Harrison has to say and then review this project to ensure that it meets our city's zoning codes and the requirements of the PUD. Full-time residents such as I who must live with the finished project are depending on you to ensure city building codes and PUD requirements are met in good faith.

Sincerely,
Darrell Clukey
563 N Laurel
PO Box 108
Cannon Beach, OR 97110

503-757-8248

cc: Friends of Cannon Beach

Jeffrey Adams

From: Kent Suter <Kent-Suter@comcast.net>
Sent: Wednesday, February 23, 2022 9:28 PM
To: Jeffrey Adams
Subject: Nicholson permit

Follow Up Flag: Follow up
Flag Status: Flagged

This letter is to urge rejection of the latest permit approval on the Nicholson property. A detached two-story garage is not allowed, plain and simple. Let alone a very same structure was just torn down on this debacle. Why was this new permit issued along with other irregularities out of code? Reject it and demand adherence to codes and land use laws. As the rest of us accept.

Thank you - The Suter Family

Sent from my iPhone