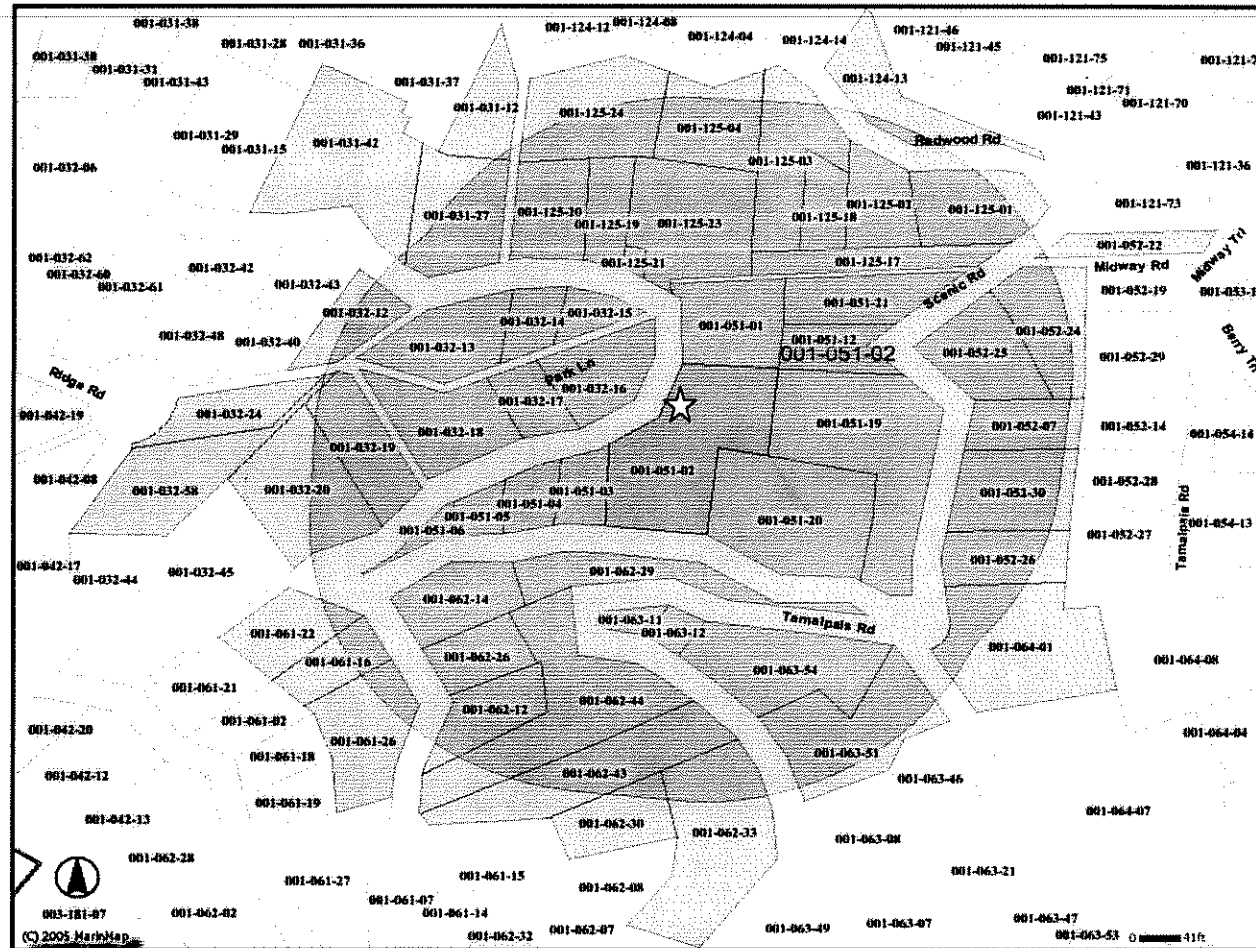


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: July 17, 2014
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 420 Scenic Road; Assessor's Parcel No. 001-051-02
PROJECT: 6 foot fence/hedge
ACTION: Encroachment permit and Fence/Hedge Height Variance;
Application # 14-25
APPLICANT: John Santori
OWNER: Same
CEQA STATUS: Categorically exempt, § 15303(e) and 15303(b)



420 SCENIC ROAD

BACKGROUND

The 11,927 square foot site is an irregularly shaped lot that slopes down front Scenic Road at an average rate of 43%.

In October of 1985 the Commission granted an encroachment permit and setback variance to allow the reconstruction of the existing parking deck and storage/workshop room subject to the area below the parking deck not being used for residential purposes.

The Commission then approved a Hill Area Residential Development permit and Variance to demolish the previously existing residence on the site and construct a new 4 bedroom, 3 1/2 bathroom, house in April of 1991.

The new 4,488 square foot residence was completed in August of 1992.

DISCUSSION

The applicant is applying for an encroachment permit and a fence height variance to legalize and complete the fence/hedge/tree landscaping project started along his property frontage.

A post and wire fence has been constructed that is 5 feet in height and is located 5 ½ feet into the public roadway easement. The applicant is also proposing to plant an alternating combination of shrubs and trees between the fence and the front wall which retains the hillside between the road and the front of the house and outdoor living spaces on either side of the house.

Town Code § 044.080(B)(1) limits the height of fences, walls and hedges along property frontages and anywhere within 6 feet of the front property line to 4 feet in height.

Town Code § 12.32.020 requires that any owner wanting to erect a structure within the public right-of-way must obtain an encroachment permit from the Planning Commission. Town Code § 17.008.020, Definitions, indicates that fences are structures and therefore require issuance of an encroachment permit to be located in the public easement.

Measurements in the field taken by staff revealed that the paved portion of Scenic Road that runs along the property frontage is very narrow and is only 11.5 feet in width at some points. Prior to the fence being constructed vehicles sometimes parked along the shoulder of the road which narrowed the road below the minimum 12 foot width fire trucks need to access houses further along Scenic Road. The rock wall below the road bed was built to retain the hillside above the house adjacent to the roadway but was not engineered to support vehicular parking. Parking in this area could potentially damage the rock wall and threaten the house and the public road stability.

The house is also set below the roadway so that the upstairs windows are at almost the same level as the roadway bed, just 10 to 12 feet from the vehicular pathway at a significant bend in Scenic Road. This results in the headlights of vehicles traveling north and south on Scenic Road shining directing into the upstairs bedroom windows of the residence.

The Ross Valley Fire Department has reviewed the plans and visited the site and has determined that the fence will not impact their ability to utilize the roadway. They also indicated the fence will eliminate the potential for vehicles to park along this very narrow stretch of road that is already below the minimum 12 foot width required for emergency vehicle access.

Staff has included a condition that if approved, regular maintenance of the shrubs and trees must occur so that the plant material does not exceed 6 feet in height and does not narrow the roadway but still provides some screening for the property from headlights and some privacy for the outdoor living areas located at the top of the property adjacent to the road.

Tree Committee

Prior to completing the landscaping installation the applicant must obtain approval of the proposal from the Fairfax Tree Committee per Town Code § 8.36.130.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 14-25 based on the following findings and subject to the following conditions of approval:

Recommended Findings

The site is very steep and some of the living areas of the home are located close to and at the same elevation as the Scenic Road roadway bed. These are the special circumstances applicable to the property that warrant an exception to the 4 foot fence height limitation.

Similar fence/hedge height variances and encroachment permits have been granted when homes are built below the road bed elevation where a 4 foot high fence will not address light pollution and privacy impacts of vehicles using the public right-of-way. Therefore, the variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other similar properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.

The strict application of 4 foot fence height limitation will result in excessive or unreasonable hardship for the property owners because they would be unable to limit headlight intrusion into their interior living spaces and have privacy screening for their outdoor living spaces.

The granting of the variance and the encroachment permit will be beneficial to the safety of this hillside neighborhood by ensuring that the minimum 12 foot clearance for emergency vehicles is maintained along this narrow portion of Scenic Road.

The portion of the right-of-way being encroached upon is not suitable for parking or a sidewalk in its current condition. Therefore, there is no current need for the area for the general public's use. The encroachment permit being granted is revocable should the area be needed for public use in the future.

Recommended Conditions of Approval

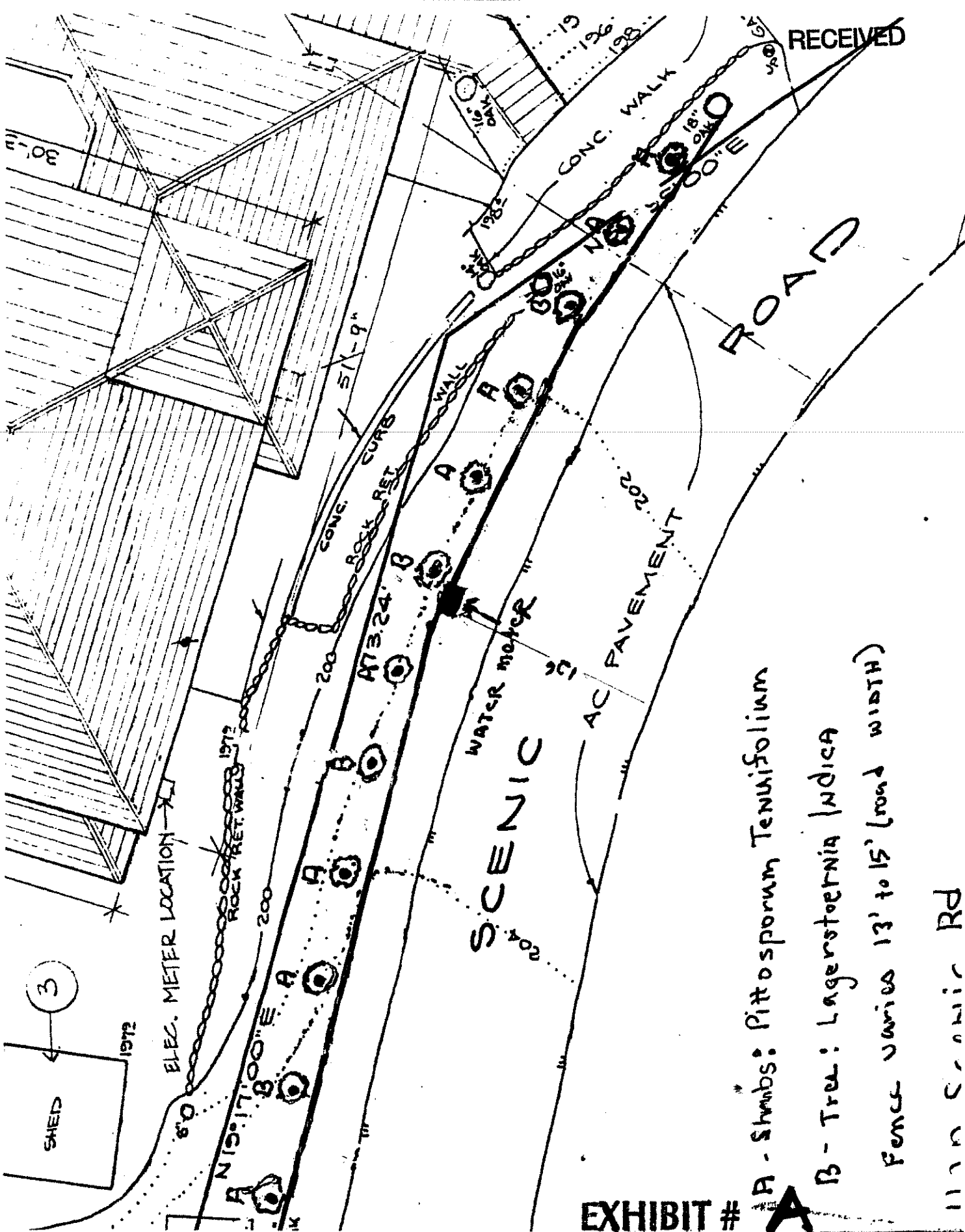
1. Prior to completing the fence and landscaping project the owner shall; a) complete and record the attached revocable encroachment permit at the Marin County Recorder's Office (Exhibit B); and b) obtain approval of the proposal from the Fairfax Tree Committee per Town Code § 8.36.130.
2. The shrub material along the fence shall be regularly maintained so that it does not exceed 6 feet in height and the trees shall be trimmed to maintain roadway clearances and to avoid any interference with power or other supply lines (if applicable).

ATTACHMENTS

- Exhibit A – applicant's supplemental information
- Exhibit B – revocable encroachment permit
- Exhibit C – original building permit plans

JUN 30 2014

RECEIVED



A - Shrubs: Pittosporum tenuifolium

B - Tree: Lagerstroemia indica

Fence varies 13' to 15' (road width)

1111 Scenic Rd

EXHIBIT #

SUPPLEMENTAL QUESTIONNAIRE

VARIANCE

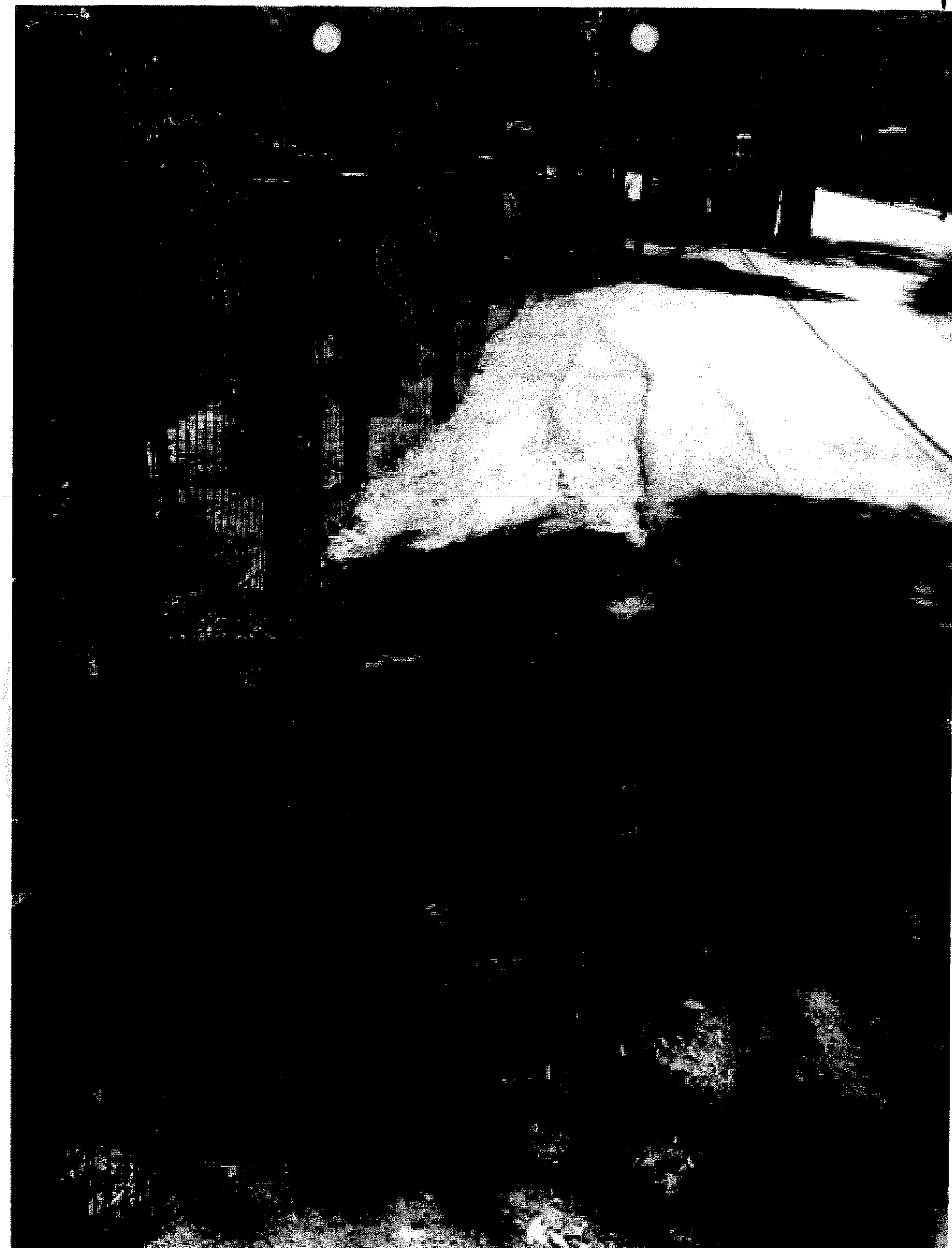
FINDINGS:

1. SPECIAL CIRCUMSTANCES:

- **LOCATION OF EXISTING WATER METER:** **IS 12’ 6” FROM THE OTHER SIDE OF THE ROAD OR APPROXIMATELY 5 FEET FROM THE PROPERTY LINE. THE WATER METER BECAUSE OF IT’S EXPOSURE HAS BEEN BROKEN TIMES OVER THE LAST 5 YEARS FROM CARS PARKED ALONG SIDE THE ROAD.**
 - See photos 3 & 5
- **LOCATION OF EXISTING 36” OAK TREE AT THE NORTH END:** **THE EXISTING OAK TREE IS 6’6” FROM THE PROPERTY LINE. THE FENCE BETWEEN THE OAK TREE AND THE PROPERTY LINE.**
 - See photos 2 & 4
- **LOCATION OF EXISTING 30” OAK TREE AT THE SOUTH END:** **THE EXISTING OAK TREE IS 1’ BEHIND THE PROPERTY LINE. THE FENCE IS AT THE OAK TREE BEHIND THE PROPERTY LINE.**
 - See photos 2,3 & 6

2. REASON FOR VARIANCES:

- **THE FIRE INSPECTOR, RUBIN MARTIN, INSPECTED AND APPROVED THE FENCE**
- **THE FENCE ELIMINATES 2-3 CARS THAT ILLEGALLY PARK ON THE SIDE AND ROAD. THESE CARS ARE REGULARLY TICKETED BECAUSE OF FIRE TRUCK ACCESS.**
 - See photos 1,3,4, &5

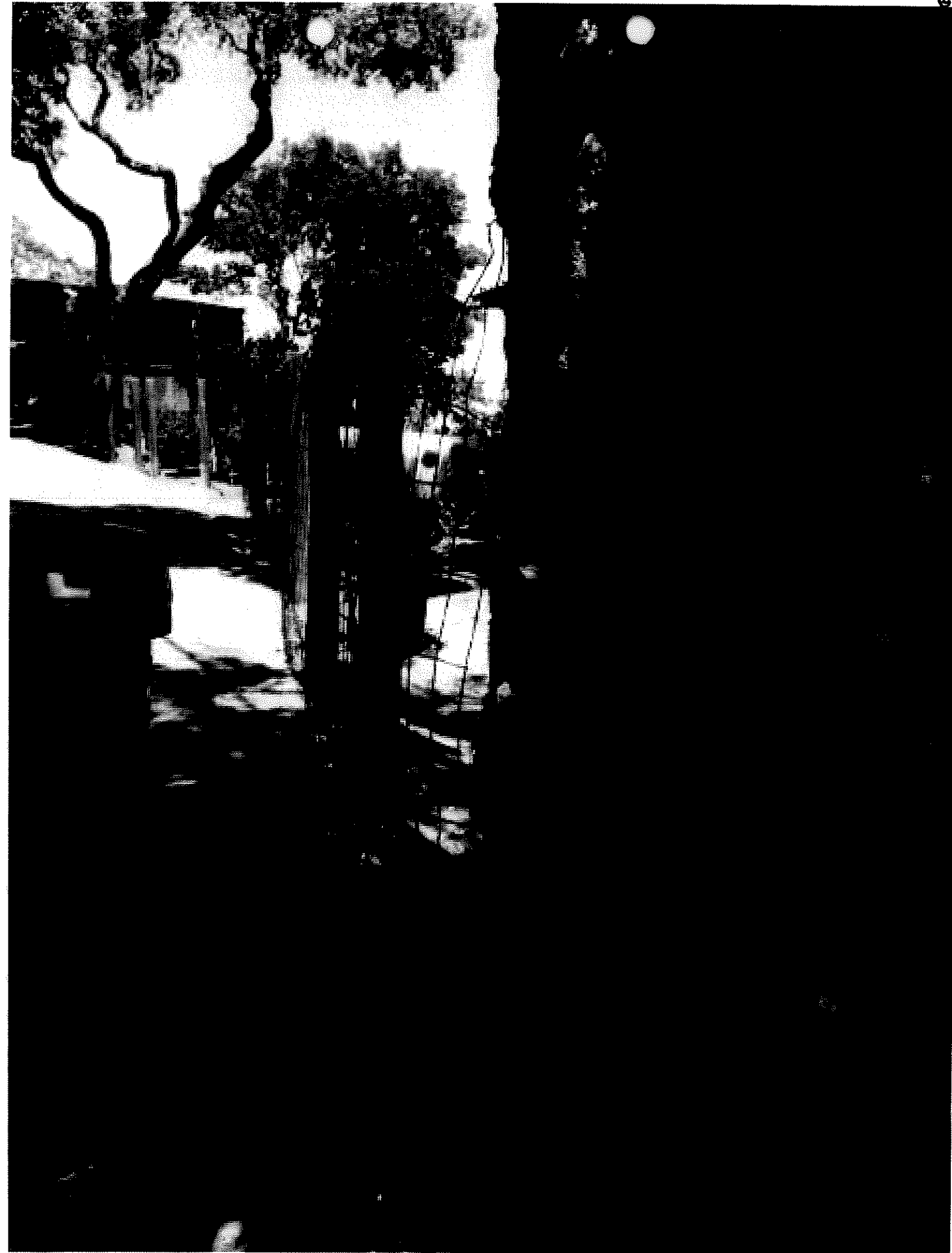












423 Scenic Rd
Fairfax, CA 94930 – approximate address
← Scenic Rd

Street View - May 2011

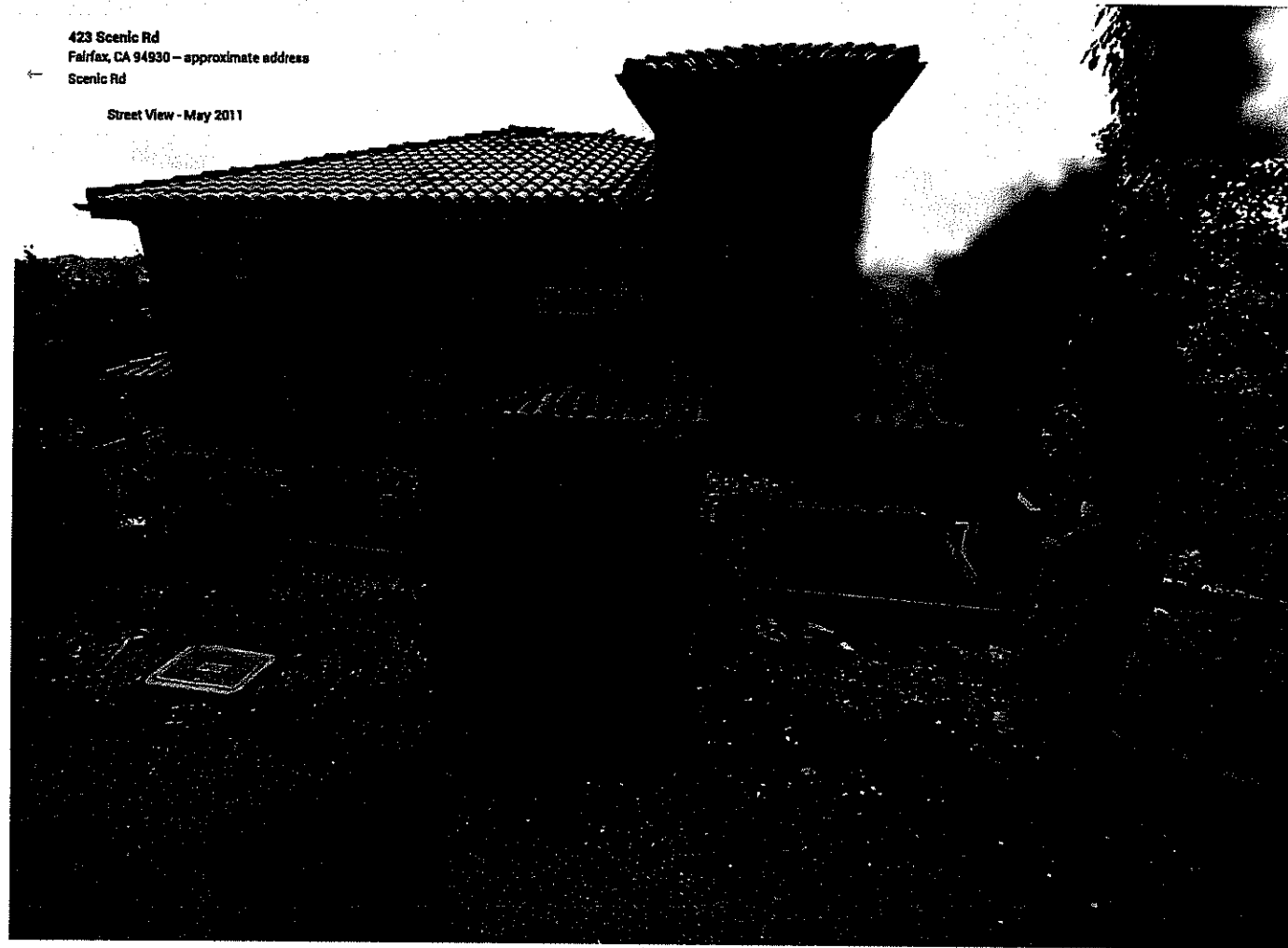


Image capture: May 2011 Scenic Rd © 2014 Google

COMPLETE THIS INFORMATION:
RECORDING REQUESTED BY:
AND WHEN RECORDED MAIL TO:

TOWN OF FAIRFAX
Planning Department
142 Bolinas Road
Fairfax, CA 94930

This Space for Recorder's Use Only

TOWN OF FAIRFAX
REVOCABLE ENCROACHMENT PERMIT

Owner:	Permit No.
Lot:	Date Issued:
Tract:	Date Terminates:
Address	Assessor's Parcel No:

The Town of Fairfax, a municipal corporation in the County of Marin, hereby authorizes and permits the owner of the above-described land (hereinafter referred to a "Permittee"), at his sole cost and expense, to encroach upon the adjoining street area owned by the Town of Fairfax for the specific purpose of: <insert project description>

The revocable Permit is granted subject to the following terms and conditions:

1. Permittee shall save and hold harmless the Town of Fairfax and its agents, officers, and employees, from any loss, damage or injury of any kind or character whatsoever that may arise from anything done, or omitted to be done, by Permittee, his agents, employees or contractors in connection with or in any way related to the matters authorized by this Permit.
2. The Permittee agrees to install the encroachment [structure/hedge] in accordance with plans and specifications approved by the [Building Official/Planning Commission] of the Town of Fairfax and further agrees to maintain the same at all times in good condition and repair, all at Permittee's sole cost and expense.
3. The Police Department is not responsible for enforcing parking restrictions in a preferential parking space. Enforcement is the responsibility of the property owner.
4. Anything herein to the contrary notwithstanding, this Permit shall be revocable without cause and at the pleasure of the Town Council of the Town of Fairfax. The decision to revoke this Permit may be exercised at any time by mailing or delivering to Permittee at the address hereinabove stated a notice of revocation and termination.

Within the time specified in said notice, Permittee shall, at his sole cost and expense, remove from the land of the Town of Fairfax the encroachment and all structures and facilities place thereon or therein by Permittee; or upon default thereof the Town of Fairfax may cause the same to be removed at the cost and expense of Permittee, and in such event Permittee, upon demand, shall forthwith pay such cost and expense to the Town of Fairfax.

5. The Permittee shall deliver this Permit to any successor in interest to the above-described land. The terms hereof shall be binding upon such successor in interest.
 6. It is further understood that this Permit is given without any warranty expressed or implied.
 7. This Permit shall be subject to all limitations and restrictions contained in all ordinances and regulations of the Town of Fairfax, including any future amendments thereto.
 8. This Revocable Encroachment Permit, upon execution by the Permittee, shall be recorded in the office of the County Recorder of the County of Marin, State of California.
-

Issued by direction of the Planning Commission of the Town of Fairfax pursuant to action taken at its meeting of _____.

Jim Moore, Director of Planning and Building Services

Date:

The foregoing permit is accepted and its terms and conditions agreed to:

Owner

Date

Owner

Date

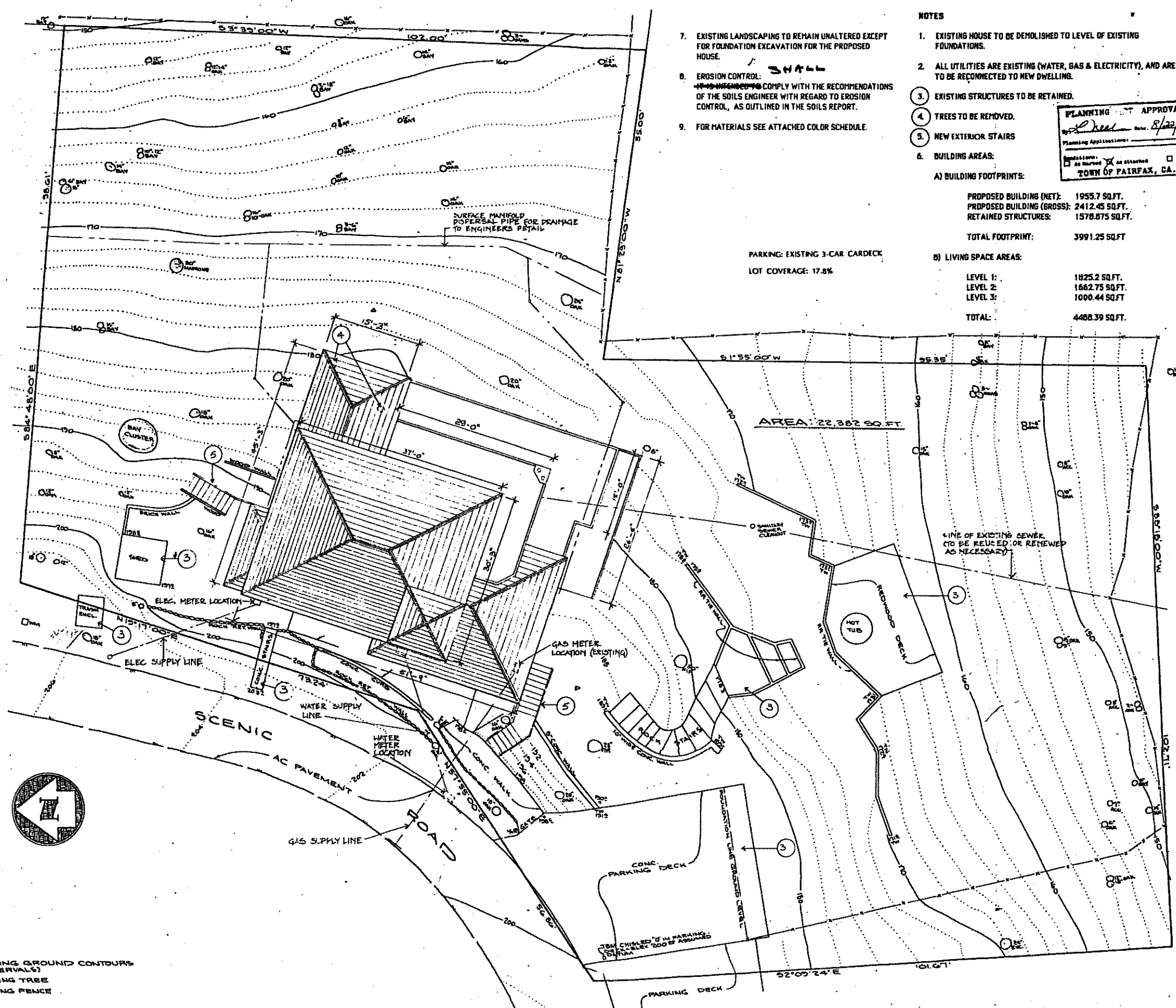
State of California)
County of Marin)
Town of Fairfax)
(Gov't Code 40814 & Civil Code 1181)

On _____ before me, Michele Gardner, Fairfax Town clerk,
personally appeared _____, who provided to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

*I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.*

WITNESS my hand and official seal.

Michele Gardner, Town Clerk



7. EXISTING LANDSCAPING TO REMAIN UNALTERED EXCEPT FOR FOUNDATION EXCAVATION FOR THE PROPOSED HOUSE.
8. EROSION CONTROL: **SHALL** ~~AND BE REQUIRED TO~~ COMPLY WITH THE RECOMMENDATIONS OF THE SOILS ENGINEER WITH REGARD TO EROSION CONTROL, AS OUTLINED IN THE SOILS REPORT.
9. FOR MATERIALS SEE ATTACHED COLOR SCHEDULE.

NOTES

1. EXISTING HOUSE TO BE DEMOLISHED TO LEVEL OF EXISTING FOUNDATIONS.
2. ALL UTILITIES ARE EXISTING (WATER, GAS & ELECTRICITY), AND ARE TO BE RECONNECTED TO NEW DWELLING.
3. EXISTING STRUCTURES TO BE RETAINED.
4. TREES TO BE REMOVED.
5. NEW EXTERIOR STAIRS
6. BUILDING AREAS:
 - A) BUILDING FOOTPRINTS:

PROPOSED BUILDING (NET): 1955.7 SQ.FT.
PROPOSED BUILDING (GROSS): 2412.45 SQ.FT.
RETAINED STRUCTURES: 1578.875 SQ.FT.
TOTAL FOOTPRINT: 3991.25 SQ.FT.
 - B) LIVING SPACE AREAS:

LEVEL 1: 1825.2 SQ.FT.
LEVEL 2: 1562.75 SQ.FT.
LEVEL 3: 1000.44 SQ.FT.
TOTAL: 4488.39 SQ.FT.

PLANNING DEPT. APPROVAL
By: *[Signature]* Date: 8/22/91
Planning Applications:
As Noted ☒ As Attached ☐ None
TOWN OF FAIRFAX, CA.

PARKING: EXISTING 3-CAR CARDECK
LOT COVERAGE: 17.8%

AREA: 22,362 SQ. FT.

LINE OF EXISTING SEWER
TO BE REUSED OR RENEWED
AS NECESSARY

- LEGEND:
- EXISTING GROUND CONTOURS (2' INTERVALS)
 - EXISTING TREE
 - EXISTING FENCE

SAN
RESID

420 Scc
Fairfax,
CA 940

ISSUE DESC

APPROVED BUILDING PERMIT
[Stamp with date and signature]

DRAWN/CHECKED
JOB NUMBER:
SCALE: 1/8"=1'-0"
ASSESSOR'S PARCEL

[Signature]
CAPT
DNV. P.

FILE
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FILE I

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EXHIBIT #

420 Scc
Fairfax,
CA 940

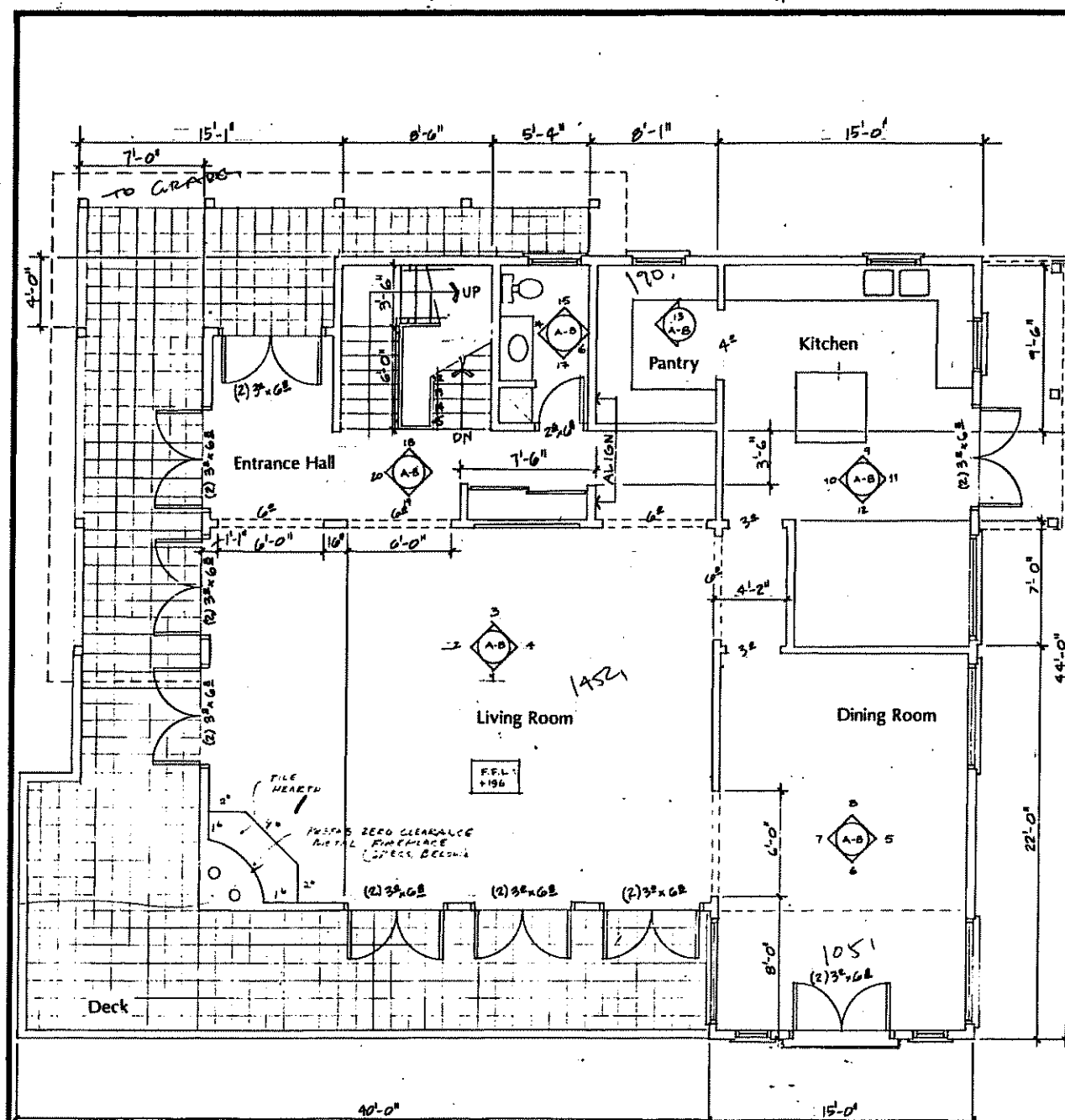
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ASSESSOR'S PARCEL

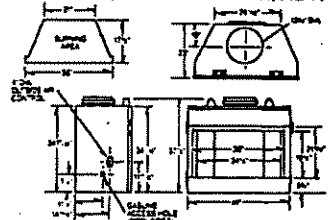
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PLAN
LEVEL

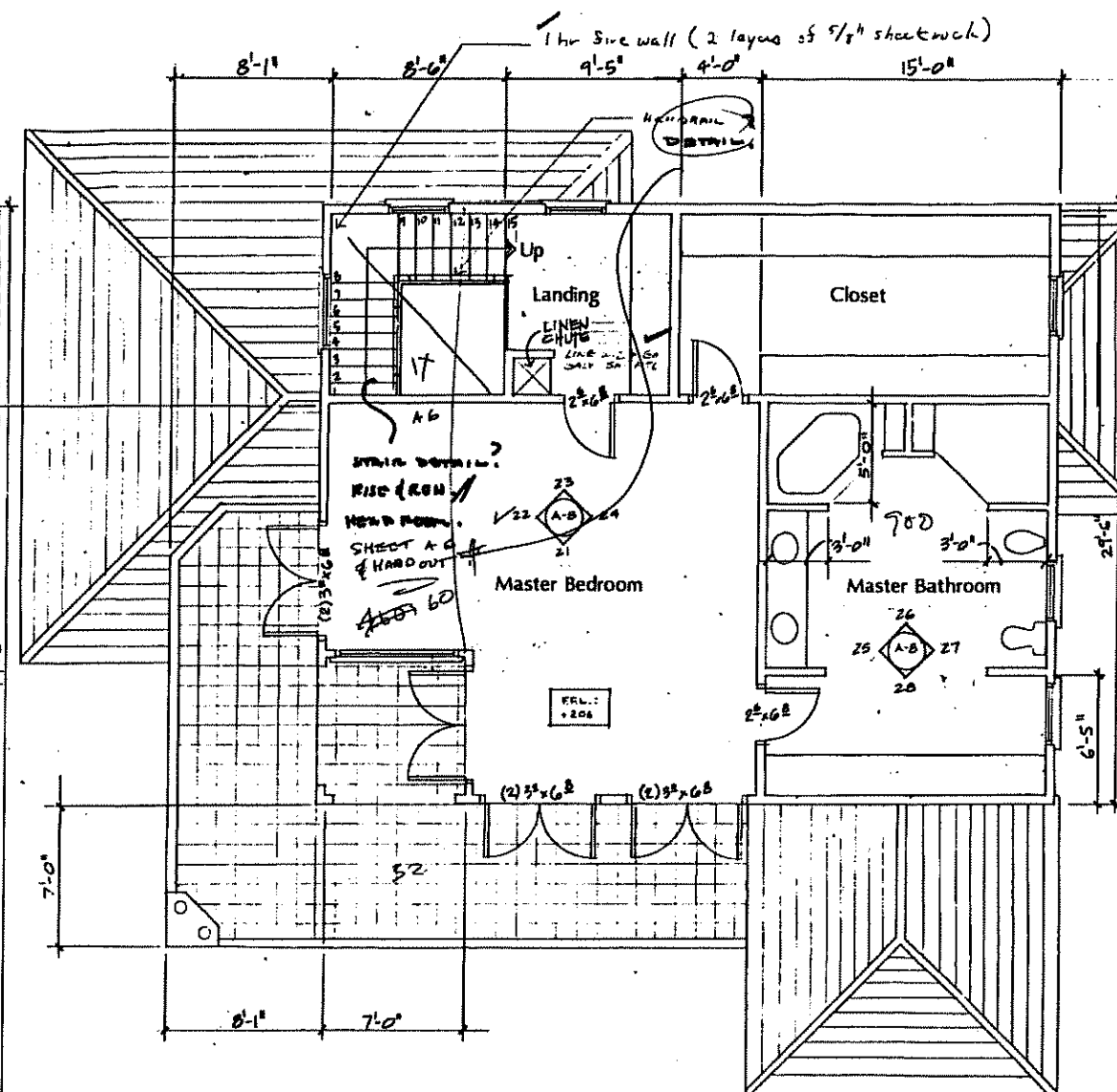
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PLAN LEVEL 2



DIMENSIONS	ACTUAL	FLAMING
WIDTH FRONT	41"	42"
WIDTH BACK	26 1/2"	27 1/2"
HEIGHT	37 1/4"	37 1/4"
DEPTH	23"	23 1/4"
SHIPPING WEIGHT	178 lbs.	NA
GLASS DOOR OPENING	21" x 36"	NA



PLAN LEVEL 3



JERRY LLOYD, CIVIL ENGINEER
P.O. BOX 2402
SAN ANSELMO, CA 94960
PHONE: (415) 453-8000



