



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Meeting Notice and Agenda Board of Adjustment

*Chair Hope Ozer  
Boardmember Ken Barnes  
Boardmember Robert Brown  
Boardmember Priti Kaur  
Boardmember James Kuykendall  
Boardmember Eric Leibsohn  
Boardmember Quinn Williams*

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Wednesday, May 3, 2023

5:30 PM

Council Chambers

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### 1. CALL TO ORDER

### 2. ROLL CALL

*Notice is hereby given that members of the Public Body will attend either in person or by telephone conference call, pursuant to A.R.S. §38-431(4).*

### 3. EXECUTIVE SESSION

*The Public Body may convene into an executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03.A.3.*

### 4. STUDY SESSION ITEMS

*Work/Study is open to the public however the following items are scheduled for discussion only. The Public Body will be briefed by staff and other Town representatives. There will be no votes and no final action taken on discussion items. The Public Body may give direction to staff and request that items be scheduled for consideration and final action at a later date. The order of discussion items and the estimated time scheduled to hear each item is subject to change.*

### 5. PUBLIC HEARINGS

*The Public Body may take action on this item.*

- A. [23-147](#) **Pavio/Meyer Variance to allow an addition to the primary residence to exceed the allowable floor area ratio limit**  
**Case No. BA-23-02. 4502 E. Moonlight Way (APN 169-11-932)**

Staff Contact: George Burton, 480-348-3525

Attachments: [A. Staff Report](#)  
[B. Application](#)  
[C. Vicinity Map & Aerial Photo](#)  
[D. Narrative & Plans](#)  
[E. Notification Materials](#)

- B. [23-152](#) **UR Project Variance - 7941 N 55th Street (APN 169-06-076B).**  
**Case No. BA-22-06**

Staff Contact: Jose Mendez, 480-348-3519

Attachments: [A. Staff Report](#)  
[B. Vicinity Map & Aerial Photo](#)  
[C. Application](#)  
[D. Narrative](#)  
[E. Plans](#)  
[F. Presentation Book](#)  
[G. Notification Materials](#)

## 6. ACTION ITEMS

*The Public Body may take action on this item.*

- A. [23-151](#) **Discussion and Possible Action to amend the Board of Adjustment Code of Conduct**

Staff Contact: Lisa Collins, 480-348-3522

Attachments: [A. Staff Report](#)  
[B. Current Board of Adjustment Code of Conduct](#)  
[C. Resolution 2022-12 Rules of Procedure for the Board of Adjustment](#)

## 7. CONSENT AGENDA

*All items on the Consent Agenda are considered by the Public Body to be routine and will be enacted by a single motion. There will be no separate discussion of these items. If a Commissioner or member of the public desires discussion on any item it will be removed from the Consent Agenda and considered separately.*

## 8. STAFF REPORTS



**9. PUBLIC BODY REPORTS****10. FUTURE AGENDA ITEMS****11. ADJOURNMENT***AGENDA IS SUBJECT TO CHANGE*

*\*Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Planning Commission are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.*

*The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in the Planning Commission meeting.*



## Action Report

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**File #:** 23-147

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**AGENDA TITLE:**

Pavio/Meyer Variance - Variance to allow an addition to the primary residence to exceed the allowable floor area ratio limit

Case No. BA-23-02. 4502 E. Moonlight Way (APN 169-11-932)

STAFF CONTACT:

# TOWN *Of* PARADISE VALLEY



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## STAFF REPORT

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**TO:** Chair and Board of Adjustment

**FROM:** Lisa Collins, Community Development Director  
Paul Michaud, Planning Manager  
George Burton, Senior Planner

**DATE:** May 3, 2023

**DEPARTMENT:** Community Development Department/Planning Division  
George Burton, 480-348-3525

**AGENDA TITLE:**

**Pavio/Meyer Variance - Variance to allow an addition to the primary residence to exceed the allowable floor area ratio limit**

**Case No. BA-23-02. 4502 E. Moonlight Way (APN 169-11-932)**

This application is a variance request to allow a guest suite addition to the main house to exceed the 25% maximum allowable floor area ratio limit.

**RECOMMENDATION**

Motion For Denial

It is recommended that the Board of Adjustment **[deny]** Case No. BA-23-02, a request by property owners Laynie Pavio and Patrick Meyer; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow an addition to the primary residence to exceed the 25% maximum floor area ratio limit.

Reasons For Denial:

Staff finds that there are no property hardships that warrant the request for floor area ratio encroachment and staff believes that the request does not meet all three variance criteria.

**BACKGROUND/DISCUSSION**

Scope of Request

Section 1001 of the Zoning Ordinance allows a maximum floor area ratio (FAR) of 25% of the net lot size. The applicant is proposing to add a guest suite addition to the home with a proposed FAR of 26.4% (11,937 square feet). The home is currently under construction and has an existing FAR of 25% (11,297 square feet). The guest suite addition will meet all setbacks, height, and hillside requirements.

Below is a comparison of the Zoning Ordinance requirements and proposed addition.

<b>Zoning Ordinance</b>	<b>Proposed Addition</b>
25% Maximum FAR (11, 297 sq ft)	26.4% FAR (11,937 sq ft)

#### Lot History

The subject property is uniquely situated in which the owners have two abutting lots, one lot in the Town of Paradise Valley and the adjoining lot in Maricopa County. The house is located on the Town of Paradise property and is accessible via the Maricopa County lot (which has the driveway and auto court).

On October 7, 2020, the Board of Adjustment granted the following three variances:

1. Article X, Height and Area Regulations, to allow a new single-family residence to encroach into the front setback.
2. Article XXII, Hillside Development Regulations, to allow a new single-family residence to encroach into Mountain Top Ridge Line limits.
3. Article XXIV, Walls and Fences, to allow retaining walls to encroach into setbacks.

Historically, the subject property was originally an un-platted property located in Maricopa County and then annexed into the Town in 1963. After receiving the variances in 2020, the owners combined the property with a remanent parcel to the north of the subject lot in 2021 (both lots are in the Town of Paradise Valley). The subject property is currently Lot 1 of Clearwater Hills 3 subdivision and the southern property which provides access to the home is still located in Maricopa County. The new home is currently under construction in accordance with the previously approved variances. The applicant is now requesting another variance to allow a guest suite addition to exceed the 25% FAR limitation. The following is a chronological history of the property:

December 17, 1980	Building permit for a single-family residence
April 27, 1981	Building permit for a pool and spa
April 18, 1986	Building permit for addition to residence
February 10, 1997	Building permit for detached storage building
September 30, 2021	Demo permit to remove house and pool
November 10, 2021	Building permit for new single-family residence
March 22, 2022	Building permit for pool

#### Lot Conditions

The property is zoned R-43 Hillside and is 45,186 square feet in size (1.04 acres). The property is rectangular in shape, is accessible from an adjoining property to the south (the adjoining/southern parcel is located in Maricopa County), and has an approximate building pad slope of 12.74%.

## DISCUSSION ITEMS

### Variance Criteria:

Town Code and Arizona Revised Statutes set criteria an applicant must meet before a Board of Adjustment may grant a variance request. If the Board finds an applicant meets all of these criteria, the Board may grant the variance. However, if the Board finds the applicant does not meet all of the criteria, the Board may not grant the variance. The following are staff's analysis with regard to the variance criteria:

1. *"That there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and"* (Town Code Section 2-5-3(C)4).

### Staff Analysis:

There are no property hardships that warrant the request for FAR encroachment. The property is not undersized for its zoning classification and is slightly over one acre in size at 45,186 square feet. Also, the new home which is currently under construction has utilized the maximum allowable amount of FAR (at 11,297 square feet).

2. *"That the special circumstances applicable to the property were not self-imposed or created by the property owner; and"* (Town Code Section 2-5-3(C)4).

### Staff Analysis:

The request to exceed the 25% floor area ratio limit is self-imposed since there are no property hardships that warrant the request. The property is zoned R-43, which identifies that the lot should have a minimum size of one net acre. The subject property is over one acre in size and the request for additional square footage appears to be design hardship. The lot is not undersized for its zoning classification and the shape and topography of the lot do not affect floor area ratio.

3. *"That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district"* (Town Code Section 2-5-3(C)4).

### Staff Analysis:

There are no property hardships that warrant the variance request and the Zoning Ordinance does not deprive this lot of privileges enjoyed by other R43 zoned properties. The R-43 zoning district limits lots to a maximum floor area ratio of 25% and all other properties in the area must meet requirements outlined in the Town Zoning Ordinance.

The subject home is not undersized and is utilizing the maximum allowable floor area ratio limit of 25%. According to the building permit, the subject home will have approximately 8,300 square feet of livable space. Per the Maricopa County website, the neighboring homes in the Town have a livable space which varies in size from 3,974 square feet to 9,999 square feet (with an approximate/average livable space of 7,000 square feet).

**REQUIRED ACTION**

The Board of Adjustment must consider the facts and determine if the variance request meets all three variance criteria. The Board of Adjustment may take the following action:

1. Deny the variance request.
2. Approve the variance request, subject to the following stipulations:
  - a. The improvement shall be in compliance with the submitted plans and documents:
    - i. 4502 E Moonlight Way Variance Request Plan Sheet 4 -12 prepared by Cosan Studio.
  - b. The applicant must obtain the required building permits and inspections from the Building Department.
3. Continue the application for further review.

**COMMENTS**

Staff received two inquiries about the request, but neither neighbor identify support or opposition to the requested variance.

**COMMUNITY IMPACT:** None.

**CODE VIOLATION:** None.

**ATTACHMENTS**

- A. Staff Report
- B. Application
- C. Vicinity Map & Aerial Photo
- D. Narrative & Plans
- E. Notification Materials



## COMMUNITY DEVELOPMENT DEPARTMENT VARIANCE APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

### APPLICANT & CONTACT INFORMATION

Project Name: Meyer Pavo - Guest House

Date: 3.9.23 Zoning: R-43 Acreage (Net Acres): 1.03

Property Address: 4502 E. Moonlight Way, Paradise Valley, Az. 85253

Assessor's Parcel Number: 169-11-932, 169-16-005B (Maricopa County portion)

Name of Subdivision & Lot Number: Clearwater Hills 3, Lot # 1

Owner: DANIEL MEYER & LAYNIE PAVIO

Address: 6818 East Valley Vista Lane, Paradise Valley, AZ 85253

Phone number: \_\_\_\_\_

E-mail address: paviola1@yahoo.com, dmeyer4000@gmail.com

Signature: \_\_\_\_\_

(Or provide a separate letter of authorization)

Applicant/Representative: NICK PETERSON

Company Name (if Applicable): COSAN STUDIO

Address: 4300 North Miller Road, Suite 123 Scottsdale, Arizona 85251

Phone number: 480.930.4410

E-mail address: nick@cosanstudio.com

Signature: \_\_\_\_\_

THE ABOVE APPLICANT HEREBY APPLIES FOR A VARIANCE AS INDICATED IN THE SUBMITTED NARRATIVE, PLANS, AND DOCUMENTS IN ACCORDANCE WITH SECTION 2-5-3 OF THE TOWN CODE AND IN ACCORDANCE WITH THE TOWN ZONING ORDINANCE.

#### FOR DEPARTMENTAL USE ONLY

Variance-App.#: \_\_\_\_\_ Submittal Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_





## COMMUNITY DEVELOPMENT DEPARTMENT VARIANCE APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

### SUBMITTAL REQUIREMENTS

- ☐ Application form with proof of ownership (warranty deed or current title report)
- ☐ Filing Fee:
  - ☐ Application for Variance \$1,765.00
  - ☐ Application for Variance for non-livable detached structures \$1,615.00  
Having less than 10% impact on setback or disturbed area
- ☐ Narrative describing the request and addressing all three variance criteria. Narrative Format – Identify the request at the beginning of the narrative and identify each variance criteria with the response below it explaining how that criteria has been met or addressed (1 paper copy upon staff request).
- ☐ Site plan and all other applicable plans/documents for staff to review for completeness (1 paper copy upon staff request).
- ☐ Electronic copy of the narrative, site plan, and all other applicable plans/documents (in PDF format) on a USB flash drive/memory stick for staff to review for completeness.

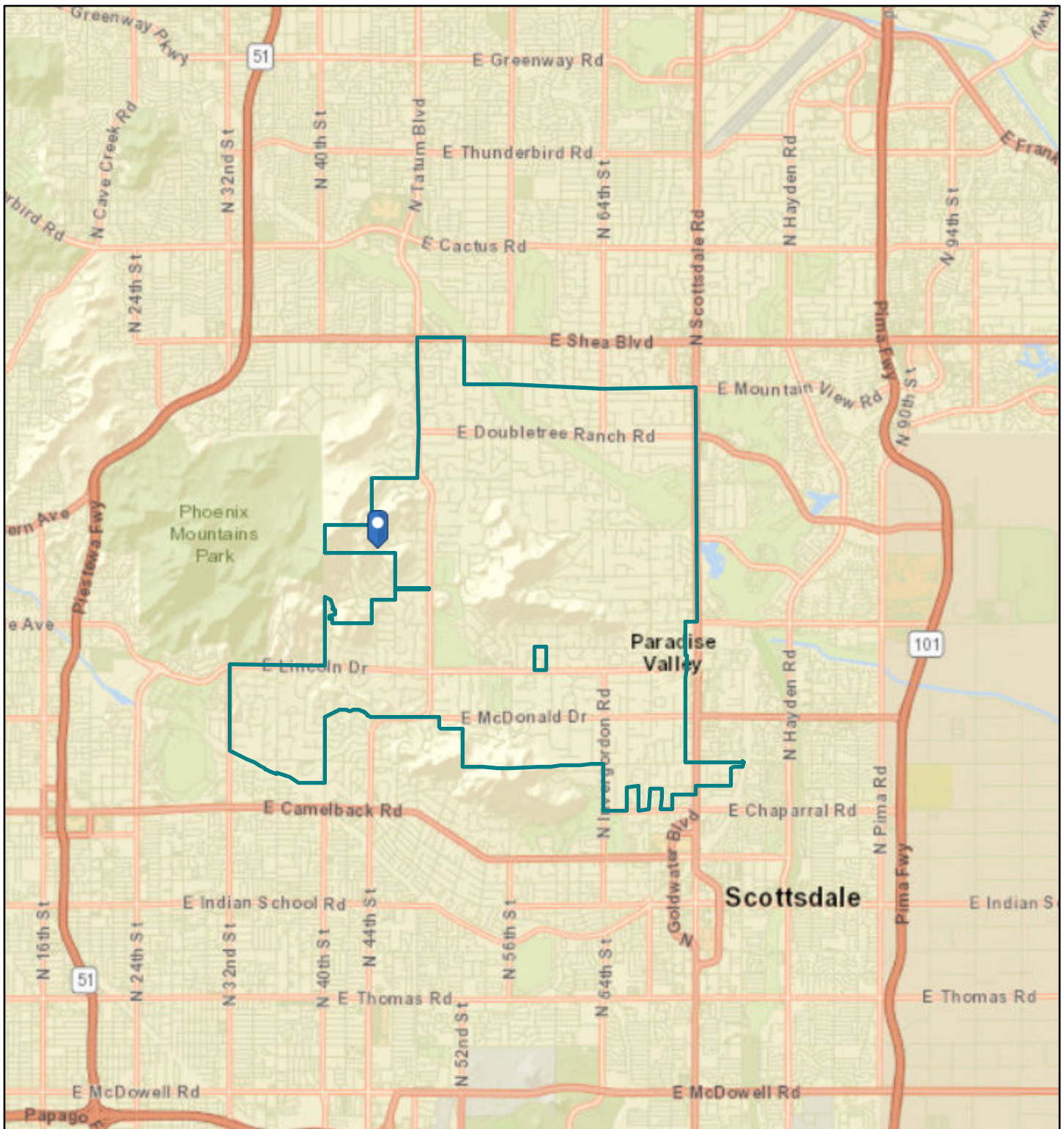
After the application is reviewed and deemed complete by staff:

- ☐ Electronic copy of the narrative, site plan, and all other applicable plans/documents (in PDF format) on a USB flash drive/memory stick for the hearing.
- ☐ Noticing Materials (An electronic copy in PDF format on a USB flash drive/memory stick):
  - a. List of all property owners with respective Maricopa County Tax Parcel Number for all properties within the notice area. Notice area is 1,500 feet from perimeter of subject property, or as specified by the Town.
  - b. Completed Neighborhood Notice Form (identifying scope of the request and the Sections of the Town Zoning Ordinance that you are requesting a variance from – see page 7 of this application).
  - c. The completed set of envelopes for each property owner within the notice area must include the following:
    - i. Town return address:  
Town of Paradise Valley  
Planning Division  
6401 E. Lincoln Drive  
Paradise Valley, AZ 85253



## Vicinity Map

### 4502 E Moonlight Way

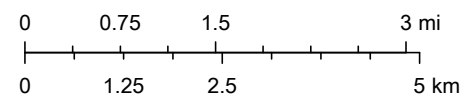


10/11/2022, 9:25:48 AM

1:114,827



Municipal Boundary



City of Phoenix, Bureau of Land Management, Esri, HERE, Garmin, NGA, USGS, NPS





# Aerial Photo

Subject Property

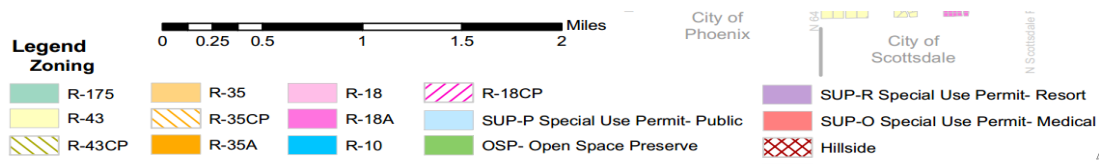
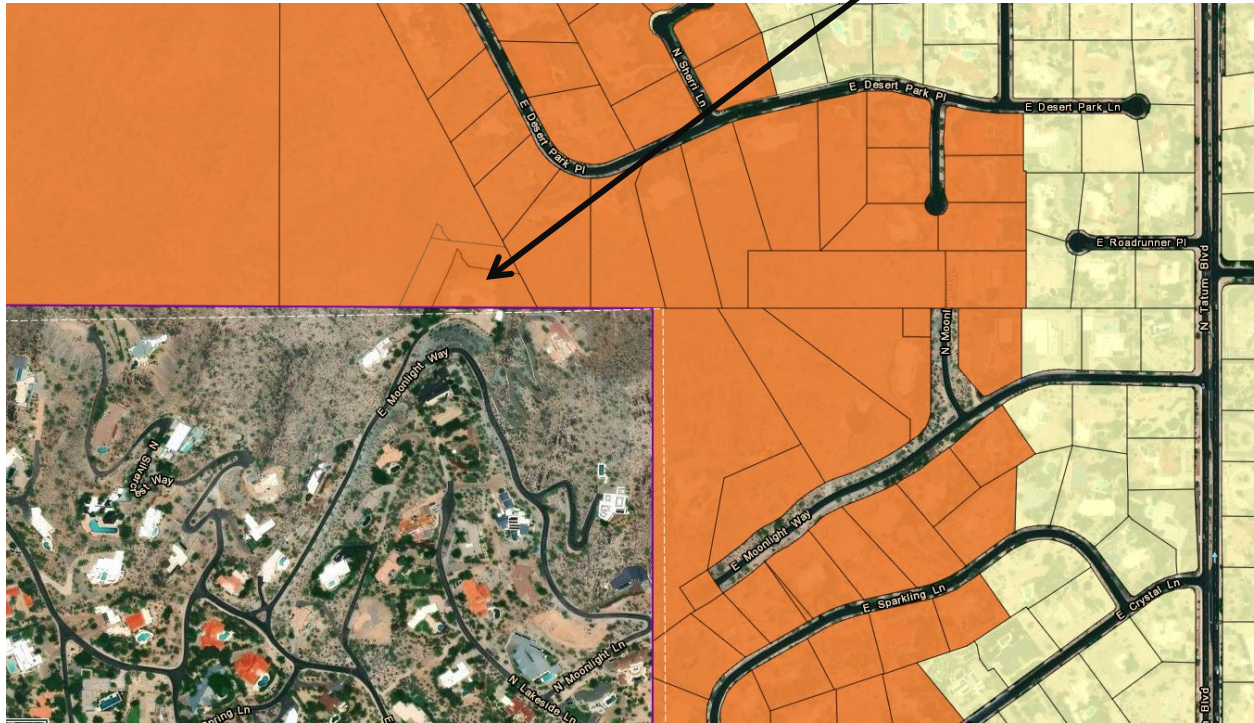


4502 E Moonlight Way



# ZONING

**Subject Property**

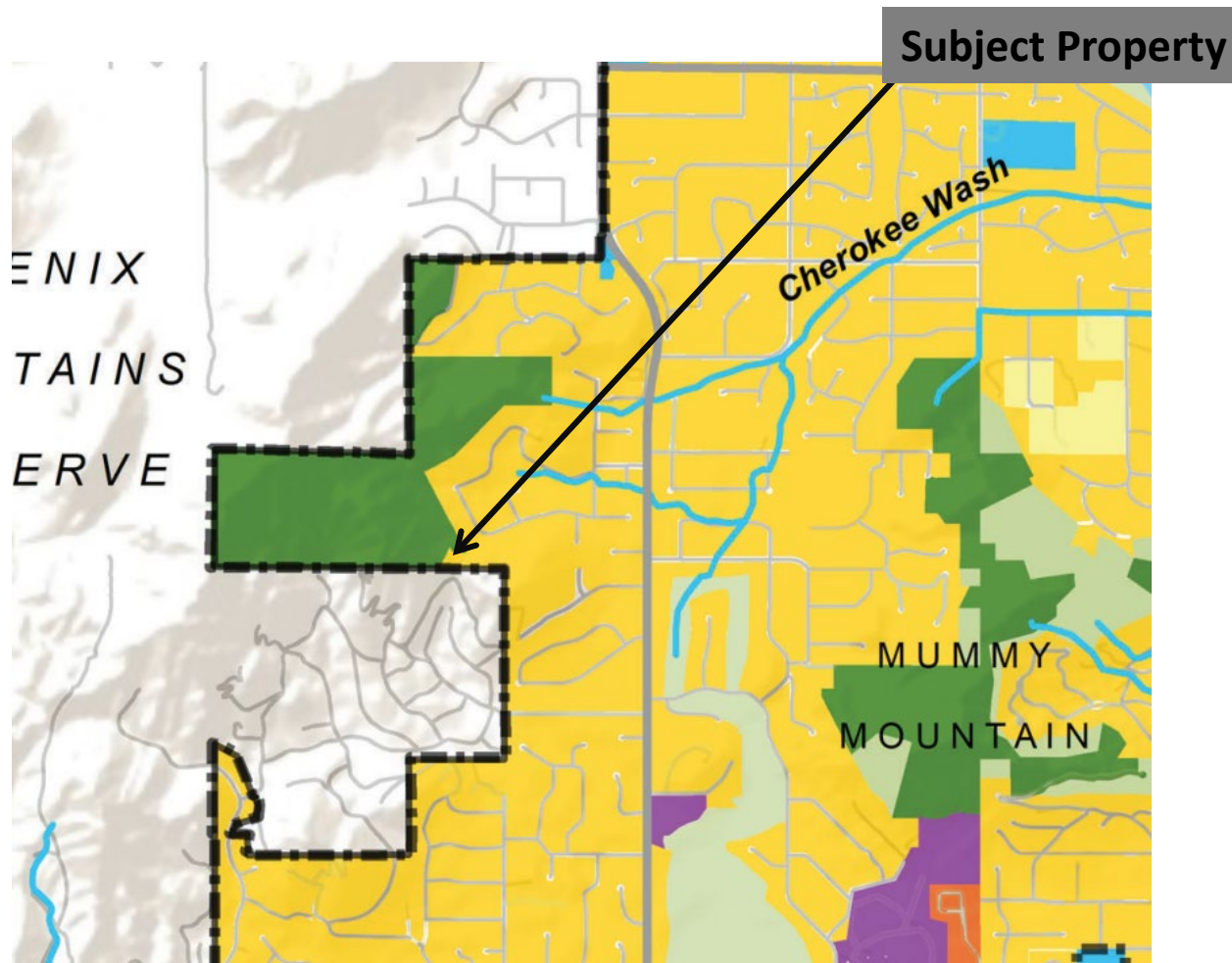


4502 E Moonlight Way





# GENERAL PLAN



## Legend

- Planning Area
- Municipal Limits
- Roads
- Indian Bend Wash
- Arizona Canal
- Major Washes

## Land Use Classifications

- |                              |                     |
|------------------------------|---------------------|
| Very Low Density Residential | Public Open Space   |
| Low Density Residential      | Medical Office      |
| Medium Density Residential   | Public/Quasi Public |
| Private Open Space           | Resort/Country Club |

*NOTE: All public right-of-ways shall be considered Public Open Space.*

4502 E Moonlight Way



4502 east moonlight way  
paradise valley, arizona



variance request



# site location





# existing north slope conditions



FAR NORTHWEST CORNER,  
LOOKING EAST



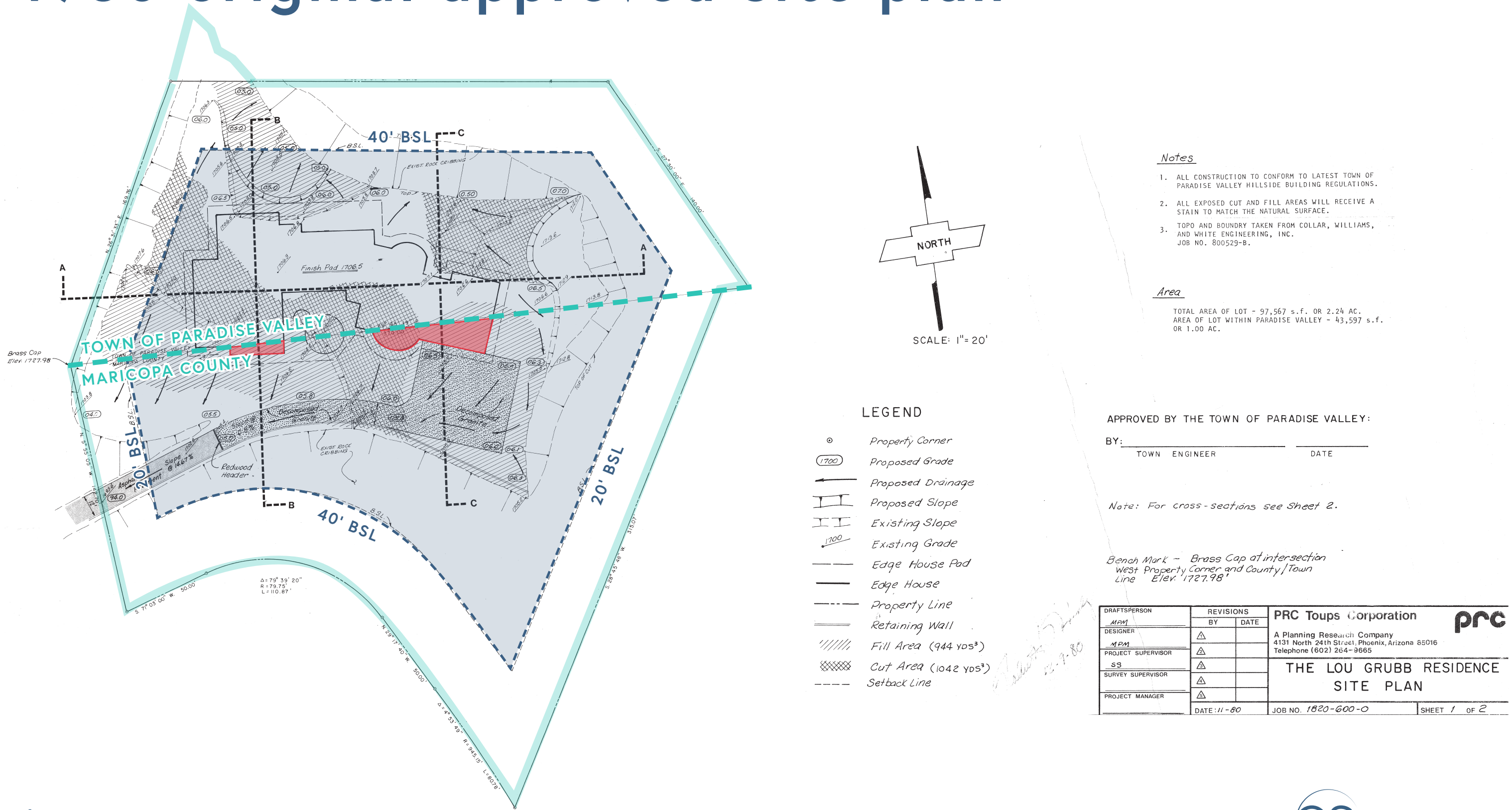
NORTH SIDE OF PROPERTY,  
LOOKING EAST



NORTHWEST CORNER,  
LOOKING NORTH



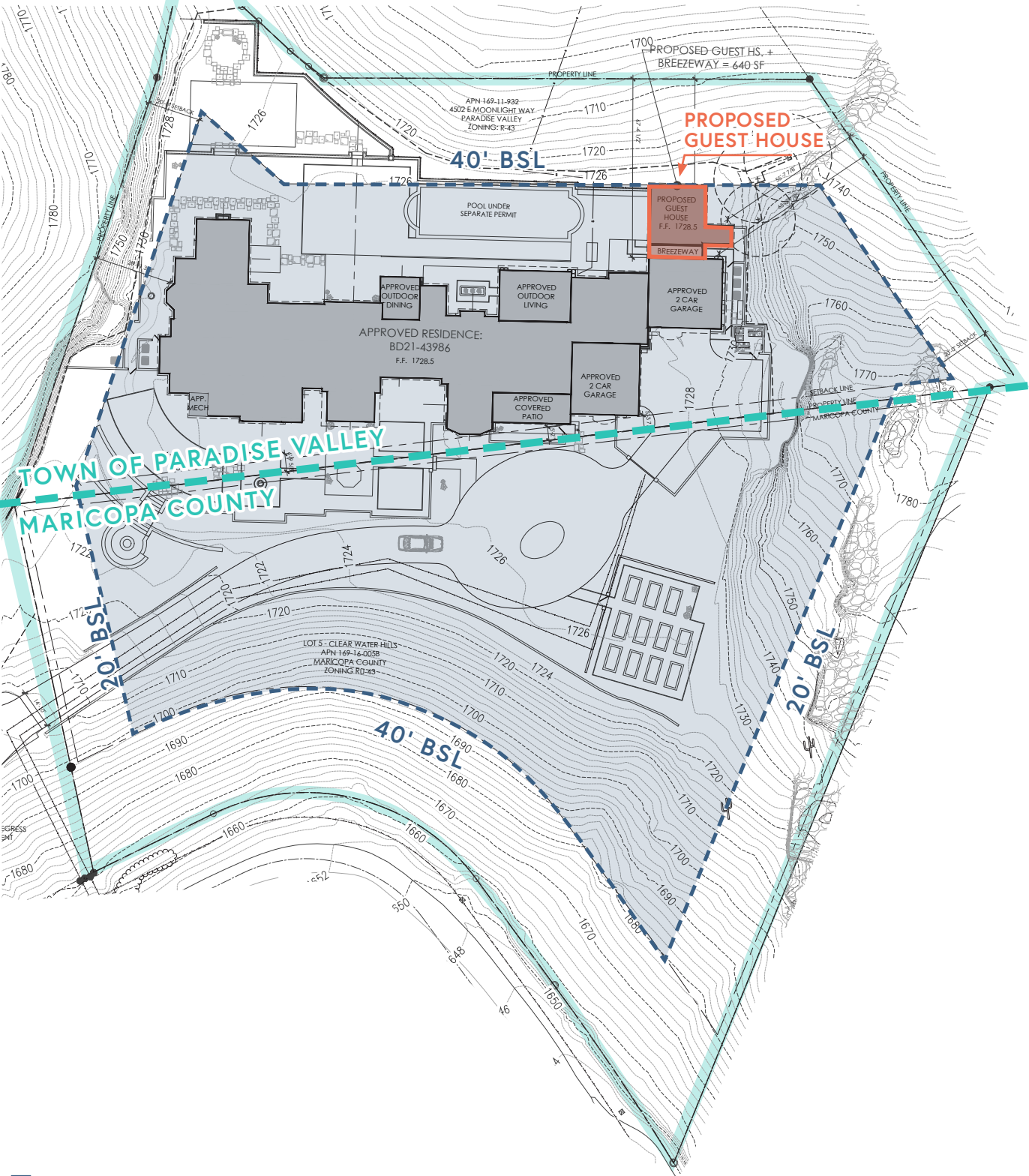
# 1980 original approved site plan



4 variance request • 4502 east moonlight way • paradise valley, arizona



# proposed site plan



## APPROVED / PERMITTED SITE INFO. BD21-43986

PROJECT DESCRIPTION:  
PROPERTY INCLUDES 2 LOTS, 1 OF WHICH IS IN PARADISE VALLEY. REPLACE EXISTING HOME THAT SPANS 2 LOTS. NEW HOME TO SIT ENTIRELY ON P.V. LOT (169-11-932). ACCESSORY BUILDING, ON MARICOPA COUNTY LOT (169-16-005B), TO REMAIN.

SITE ADDRESS: 4502 E MOONLIGHT WAY  
PARADISE VALLEY, AZ 85253

PV LOTS APN: 169-11-932  
MC LOT APN: 169-16-005B

PV ZONING: R-43  
PV HILLSIDE: YES, APPROVED 4.14.21

PV LOT SIZES: 45,186 SF

EXISTING FLOOR AREA: 10,300 SF  
PROPOSED FLOOR AREA: 11,297 SF

PV LOT SIZES: 45,186 SF  
ALLOWABLE FLOOR AREA: 11,297 SF (25%)  
EXISTING FLOOR AREA RATIO: 23.6%  
PROPOSED FLR AREA RATIO: 25.0%

EXISTING DISTURBED AREA: 35,870 SF  
PROPOSED DISTURBED AREA: 31,585 SF  
NO NEW DISTURBANCE IS PROPOSED WITH THIS PLAN

SETBACKS FOR 169-11-003D:  
BACK 40'  
SIDE 20'  
FRONT 5' PER PV VARIANCE 10.07.20

## PERMITTED BLDG AREA

	LVL 1	LVL 2
LIVABLE	7,070	1,240
GARAGE	1,390	
MECHANICAL	60	40
COVERED PATIO	1,270	
WALLED COURTYARD	180	
TRELLIS		47
TOTAL	9,970	1,327
TOTAL APPROVED FLOOR AREA	11,297	

## PROPOSED BLDG AREA

	LVL 1	LVL 2	TOTAL
GUEST HOUSE	538	0	538
BREEZEWAY	102	0	102
TOTAL	640	0	640
TOTAL PROPOSED FLOOR AREA	640		
TOTAL FLOOR AREA PERMITTED + PROPOSED	= 11,920		

## PROPOSED SITE INFO GUEST HS. ON P.V. LOT

PROJECT DESCRIPTION:  
PROPERTY INCLUDES 2 LOTS, 1 OF WHICH IS IN PARADISE VALLEY.

SITE ADDRESS: 4502 E MOONLIGHT WAY  
PARADISE VALLEY, AZ 85253

PV LOT (A) APN: 169-11-932  
MC LOT (B) APN: 169-16-005B

PV ZONING: R-43  
PV HILLSIDE: -

PV LOT SIZE (A): 45,186 SF

PERMITTED FLOOR AREA: 11,297 SF  
GUEST HOUSE + BREEZEWAY: 640 SF  
TOTAL PERMITTED + NEW: 11,937 SF

PV LOT SIZE: 45,186 SF  
ALLOWABLE FLOOR AREA: 11,297 SF (25%)  
PERMITTED FLR AREA RATIO: 25.0%  
PROPOSED FLR AREA RATIO: 26.4%

EXISTING DISTURBED AREA: 35,870 SF  
PROPOSED DISTURBED AREA: 31,585 SF  
NO NEW DISTURBANCE IS PROPOSED WITH THIS PLAN

## FUTURE ANNEX SITE INFO COMBINE LOT A+B

PROJECT DESCRIPTION:  
PROPERTY INCLUDES 2 LOTS, 1 OF WHICH IS IN PARADISE VALLEY.

SITE ADDRESS: 4502 E MOONLIGHT WAY  
PARADISE VALLEY, AZ 85253

PV LOT (A) APN: 169-11-932  
MC LOT (B) APN: 169-16-005B

PV ZONING: R-43  
PV HILLSIDE: -

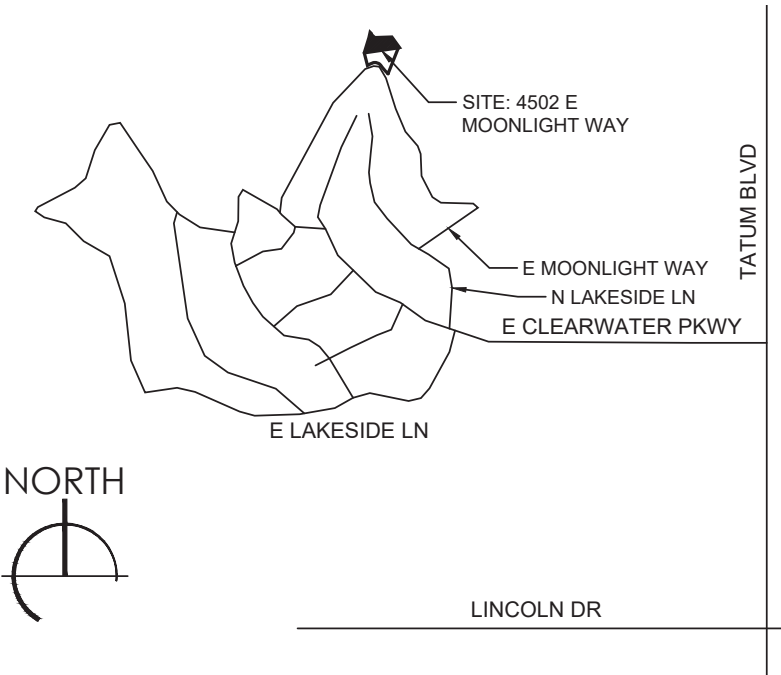
PV LOT SIZE (A): 45,186 SF  
MC LOT SIZE (B): 54,132 SF

COMBINED ANNEXED LOTS: 99,318 SF

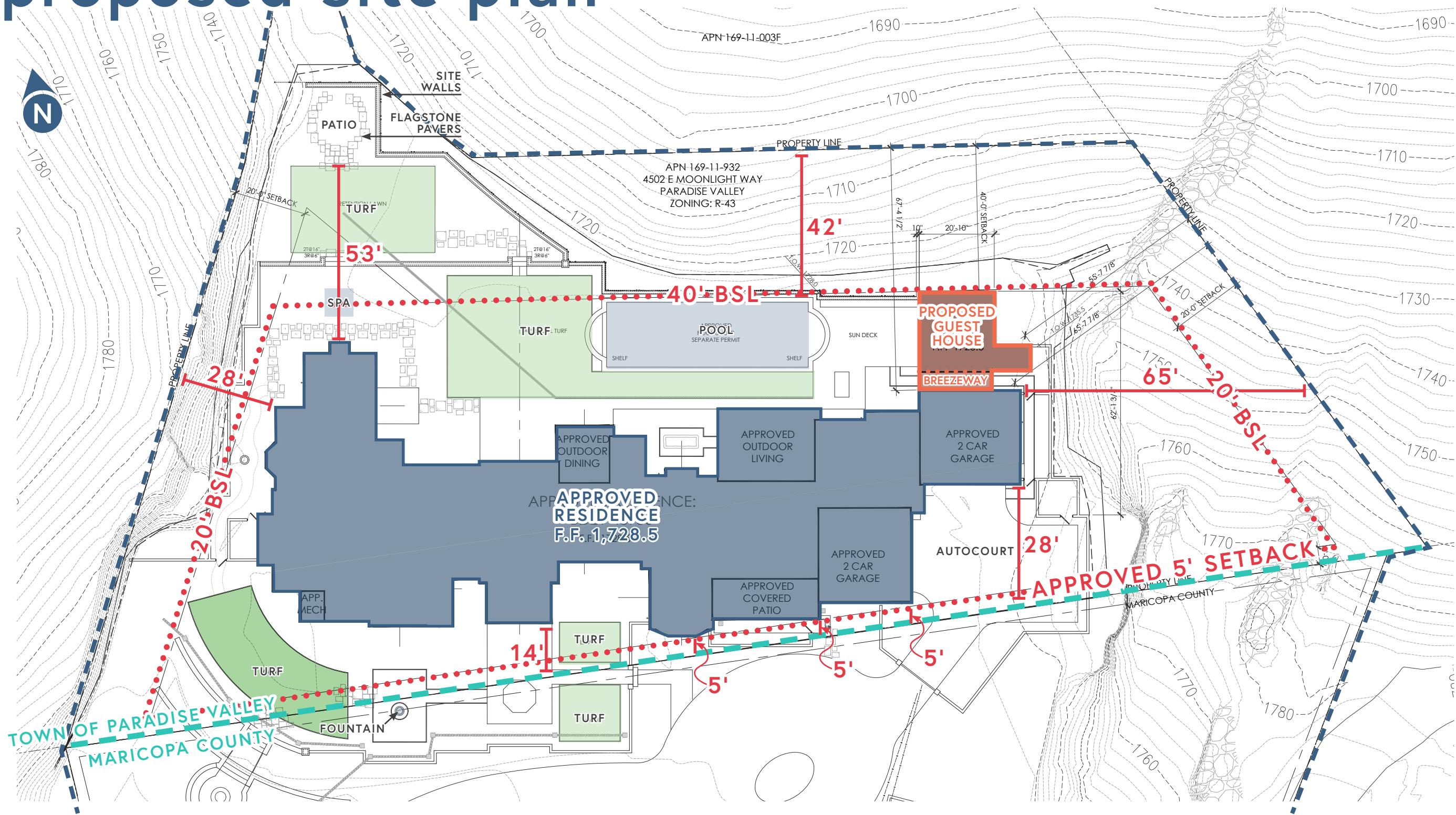
PERMITTED FLOOR AREA: 11,297 SF  
GUEST HOUSE + BREEZEWAY: 640 SF  
TOTAL PERMITTED + NEW: 11,937 SF

ADJUSTED TOTAL LOT SIZE: 99,318 SF  
ALLOWABLE FLOOR AREA: 24,829 SF (25%)  
PERMITTED FLR AREA RATIO: 25.0%  
PROPOSED FLR AREA RATIO: 12.0%

EXISTING DISTURBED AREA: 35,870 SF  
PROPOSED DISTURBED AREA: 31,585 SF  
NO NEW DISTURBANCE IS PROPOSED WITH THIS PLAN

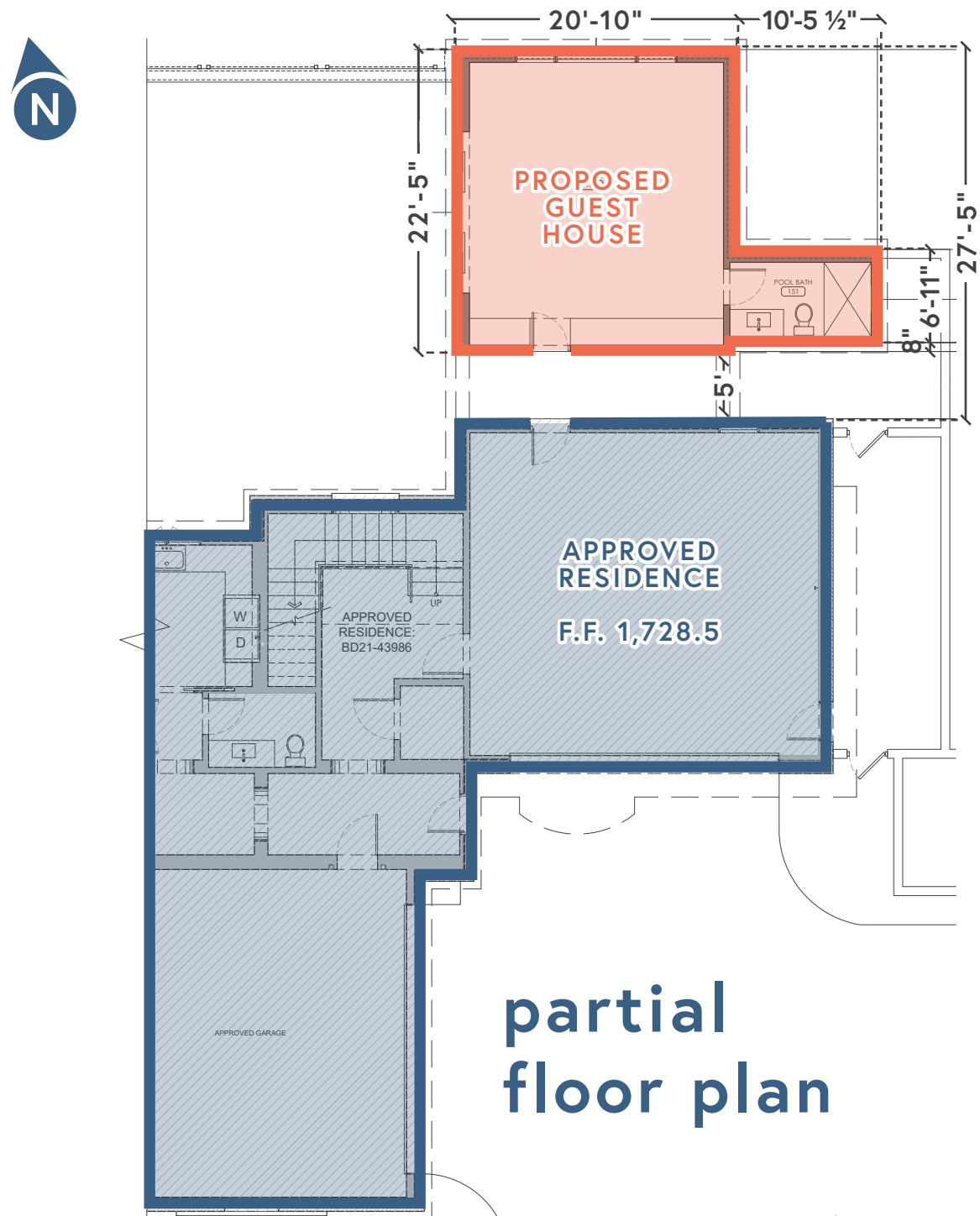


# proposed site plan

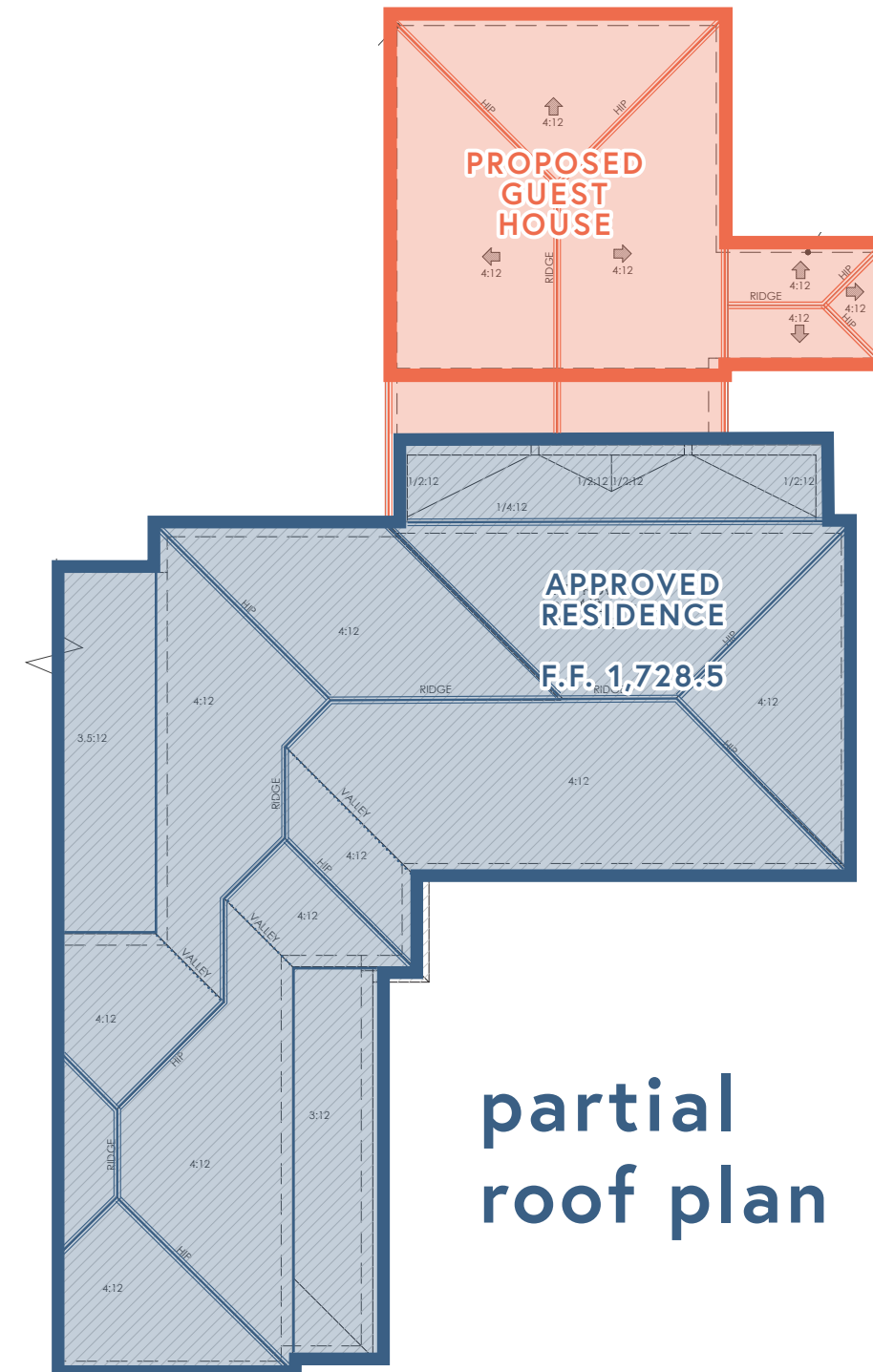




# proposed addition — guest house

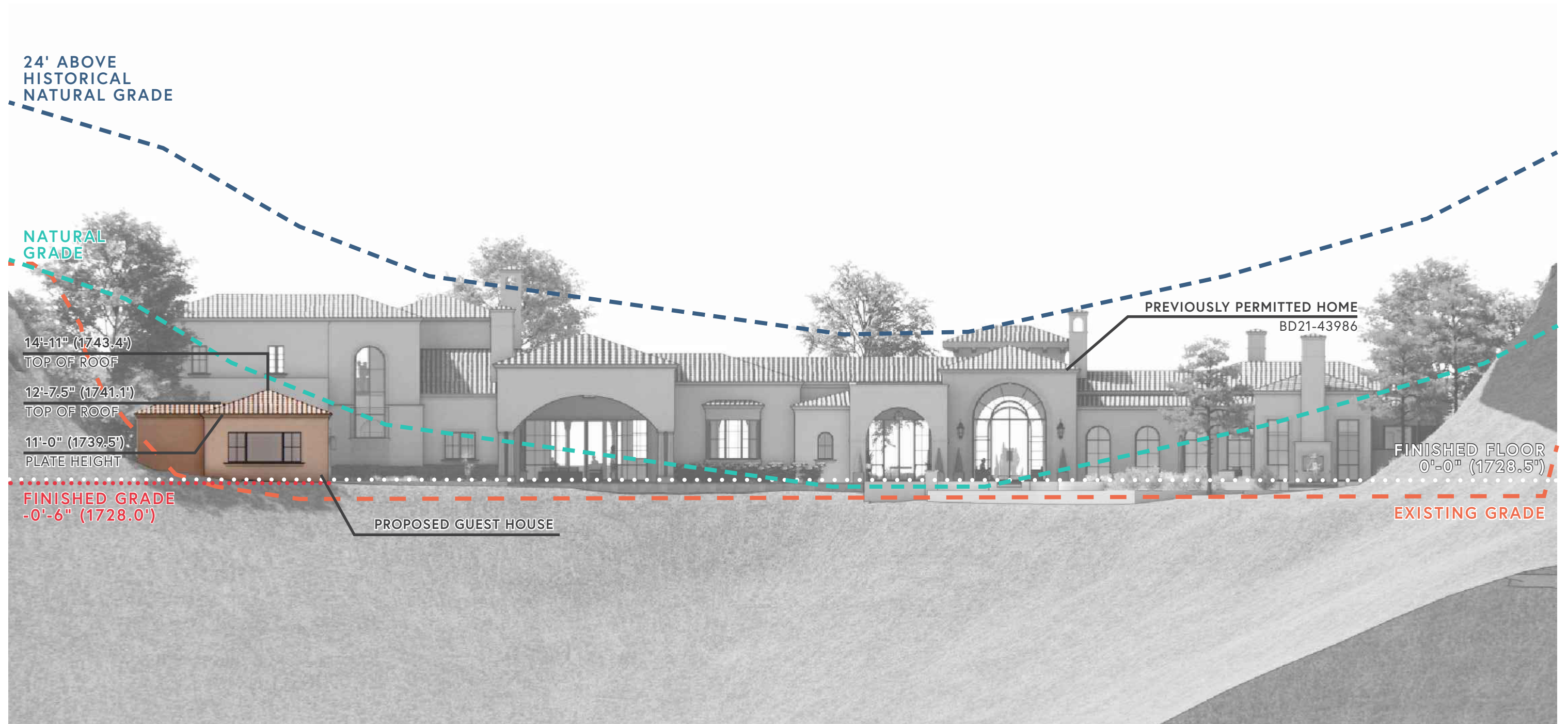


partial  
floor plan

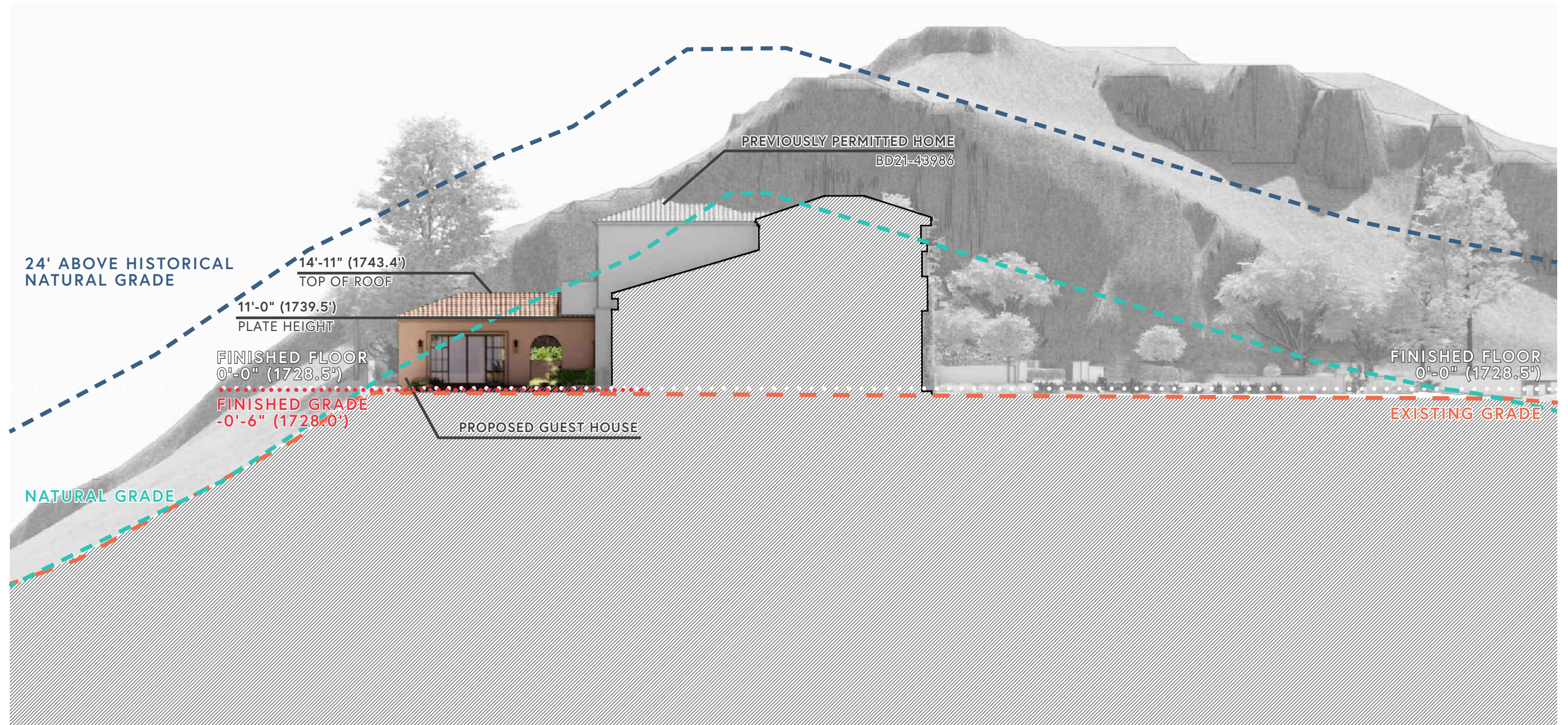


partial  
roof plan

# north conceptual elevation

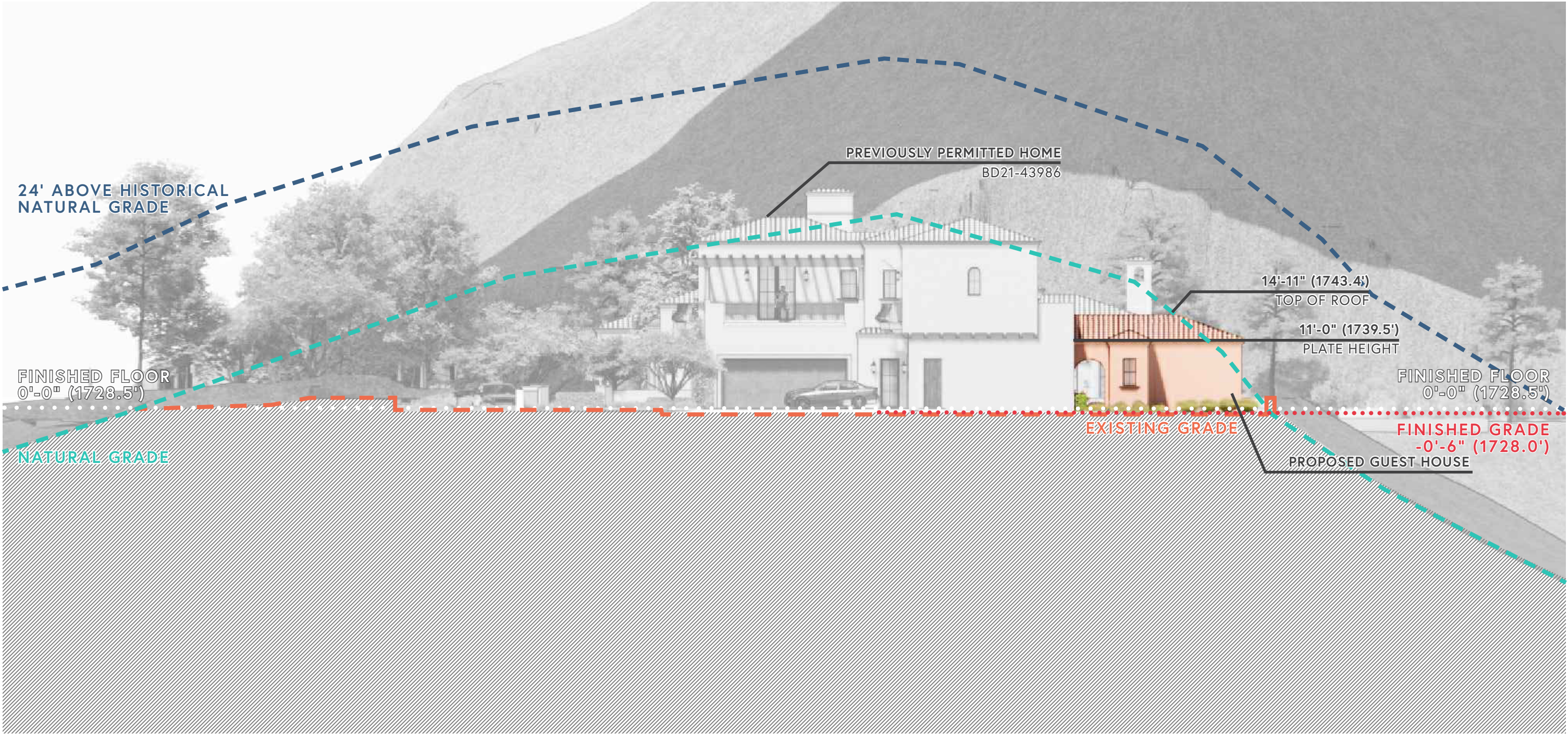


# west conceptual elevation





# east conceptual elevation



# variance criteria

- 1 • “That there are special circumstances applicable to the property, which may include circumstances related to the property’s size, shape, topography, location, or surroundings: and” (Town Code Section 2-5-3(C)4)**

Since the property currently consists of two parcels in two separate jurisdictions—one in the Town of Paradise Valley and one in Maricopa County—it cannot be developed like similar properties. Due to a covenant made in 1978 with the then owner of the property and any successors, the property must be treated as one property per the covenant. The Town of Paradise Valley however can only look at the property in Paradise Valley and the County can only consider the Maricopa County property. This creates a hardship because it only allows for a true FAR of 12% on the combined property instead of the allowable 25% if the properties are considered as one as the covenant requires. Maricopa County cannot allow for an accessory structure on their property without a Main House. Considering only one home and a guest house can be built on the property—per the covenant—the client is unable to build a guest house, depriving the owner from being able to develop the property like other properties in the same zoning district and surrounding neighborhood.

- 2 • “That the special circumstances applicable to the property were not self-imposed or created by the property owner: and” (Town Code Section 2-5-3(C)4).**

The hardship was not self-imposed or created by the property owner, it is the direct result of the existing pad that creates a logical homesite which straddles two different jurisdictions. Current ordinances make utilization of the current property difficult without the requested variance. The town allowed a structure to be constructed on the two properties in the 1980's and the property was developed legally, at the time, prior to the current codes and ordinances. The home under construction is also being constructed legally with all necessary approvals and permits on the Paradise Valley parcel. Considering only one of the parcels is in Paradise Valley, the owners are unable to build a home with a FAR of 25% for the entire parcel.

- 3 • “That the strict application of the zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district” (Town Code Section 2-5-3(C)4).**

Since the Town cannot recognize the parcel that is within the jurisdiction of Maricopa County, the homeowner cannot utilize the full allowable 25% FAR if the property were in the same jurisdiction and combined. Due to the fact that they are not in the same jurisdiction, they cannot be combined thus they are currently relegated to only being able to use 12% of the allowable FAR if the parcels were under the same jurisdiction and able to be combined into one lot.

The variance will in fact not grant any special privilege, but would only allow for the owner to build a home like others in the area. If the variance were not granted, the property owner would be allowed less than half the allowable FAR that would exist on a similar parcel. This does not allow the owner to take full advantage of their property, like other homeowners with similar size properties.

# proposed variance

## SITE HISTORY

The property located at 4502 E. Moonlight Way currently consists of two parcels, but had previously consisted of three parcels. The original three parcels included the South parcel APN 169-16-005B (Lot 1) under the jurisdiction of Maricopa County, while the two North parcels APN 169-11-003D (Lot 2) and 169-11-003E (Lot 3) are under the jurisdiction of the Town of Paradise Valley. Prior to 1980, the two North parcels were annexed into the Town of Paradise Valley and as required under the Town approval process for the new construction, were combined. The South Parcel remains in Maricopa County. In 1978, the owner of the parcels entered into a covenant with Clearwater Hills, that required the owner (and any successor owners) to treat the South parcel and the adjoining North parcel as a single lot. A copy of this recorded covenant is included at the back of this application. The two parcels can never be separated and only one single dwelling (and guest house) can ever be built on the combined parcels. A home was permitted and built on the original three parcels in the 1980's. This home was designed and built over the boundary line between the two jurisdictions (see original approved site plan on page 4). The previous home, which straddled the property line, did not meet current Hillside standards. That home has subsequently been removed from the lot and a new permitted home is currently under construction after obtaining several variances, hillside building approval, as well as a building permit from the Town of Paradise Valley.

## PROPERTY HARDSHIPS

During construction of the new permitted residence the homeowners decided they would like to add an attached cabana to serve as a fitness room and future guest bedroom, as needed. Due to the fact that the parcels are in separate jurisdictions it has been deemed by the Town that the entire lot cannot be used in the FAR calculations. With this hardship, it is not possible to add any expansions or structures to the property. The current approved FAR is 25% and would increase to a total of 26.4% with the addition of the guest house to the Paradise Valley lot. If the properties were in the same jurisdiction the home would only have an FAR of 12% total, including the previously permitted residence and proposed guest house addition.

## PROPOSED VARIANCE

### ***Allow FAR of 26.4% on the Paradise Valley lot (12% on entire property)***

If the variance is granted, it will allow for the owner to enjoy the same privileges on their entire property as any other homeowner with a similar lot, with the same zoning. Our variance request is to exceed the 25% FAR limit on the Paradise Valley lot, with a proposed total of 26.4% FAR. As the parcels cannot be divided or separated due to property deed restrictions, the entire property should be treated as a single, 99,318 square foot lot.



# lots 5 & 5a, clearwater covenant

NOT RECORDED MAIL TO:  
John McLoone, Jr., Esq.,  
2627 E. Thomas Rd., Suite 2A  
Phoenix, Arizona 85016

Unofficial Document  
232256

COVENANTS AND AGREEMENTS  
AFFECTING REAL PROPERTY

MOD RSTR

RECITALS:  

WHEREAS, the undersigned ("Owner") owns certain real property located in Maricopa County, Arizona, which real property is more particularly described in Exhibit "A" attached hereto and which consists of two adjacent parcels of land, respectively referred to herein (and as described in said Exhibit "A") as "Parcel No. 1" and "Parcel No. 2", and collectively as the "Subject Property"; and

WHEREAS, Parcel No. 1 is presently situated in Clearwater Hills, a subdivision in Maricopa County, Arizona, according to plats recorded at Book 64 of Maps, page 42, and in Book 84 of Maps, page 25, records of the County Recorder of Maricopa County, Arizona (hereinafter called the "Subdivision"); and

WHEREAS, by virtue of a Declaration of Covenants, Conditions and Restrictions recorded in Docket 9444, page 467, records of the County Recorder of Maricopa County, Arizona (hereinafter the "Declaration"), all real property located in the Subdivision is subject to such Declaration and to the control, operation and assessment of the Clearwater Hills Improvement Association, an Arizona corporation (hereinafter the "Association"); and

WHEREAS, Parcel No. 2 is not presently subject to said Declaration, nor is it presently a part of said Subdivision, nor subject to the jurisdiction of said Association; and

WHEREAS, Owner, on behalf of itself, its assigns and each of its successors in interest to all or any portion of the Subject Property wishes Parcel No. 2 to be brought within and annexed to said Subdivision, and subject to the aforesaid Declaration and to the control, operation and assessment of the Association; and

STATE OF ARIZONA } ss  
County of Maricopa }  
I hereby certify that the within instrument was filed and recorded by request of  
Mt. Genevieve  
in Docket 13010  
on page 457-458  
Witness my hand and official seal the day and year aforesaid.  
JUL 6 - 1978 4 00  
1301061438  
County Recorder  
J. O.

1301061438

WHEREAS, in consideration of the recitals stated herein and the covenants and representations of Owner set forth below, the Association is prepared to accept Owner's Parcel No. 2 into said Subdivision, therefore permitting Owner, and its successors in interest to the Subject Property, to enjoy the privileges and rights associated with such property being a part of the Subdivision;

NOW, THEREFORE, the undersigned Owner, on behalf of itself, its assigns, and each and every one of its successors in interest to all or any portion or interest in or with respect to the Subject Property, covenants and represents as follows:

1. Owner represents and warrants that it is the lawful owner of the Subject Property, a true description of which appears in Exhibit "A" hereto, and that it holds fee title thereto subject only to that certain construction mortgage to Continental Bank recorded at Docket 12829, page 692, in the office of the County Recorder of Maricopa County, Arizona, and represents and warrants that it is duly authorized and empowered to execute this instrument and to subject said Property to the provisions, agreements and covenants contained herein and in the aforesaid Declaration.

2. With respect to Parcel No. 1, Owner confirms, and with respect to Parcel No. 2, Owner covenants and agrees, that said property is and will be in all respects subject to the provisions of the aforesaid Declaration, as the same may be properly amended from time to time, and is also subject to the control, operation and assessment of the Association, all in accordance with the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations of said Association, as the same may be amended from time to time. By referring to the Declaration, Articles, By-Laws and Rules and Regulations of

-2-

1301061439

the Association, the same are in all respects incorporated herein as though set forth in haec verba, and Owner hereby acknowledges having read and understood said documents and confirms that its signature and acknowledgment to this instrument shall have the same legal effect as if said signature and acknowledgment were affixed to the Declaration.

3. In addition to the foregoing, Owner further covenants and agrees to the following, each of which shall apply to the Subject Property as though specifically and expressly stated with respect thereto in the Declaration:

(a) Parcel No. 2 will be subjected to Association assessments as a separate lot within the Subdivision, so that the total annual assessment (and any other assessments provided for by the Declaration) for Parcels No. 1 and 2 will be equal to twice the assessment for any single improved lot within said Subdivision;

(b) Agrees that any assessment or other obligation imposed against the Subject Property will also be the personal obligation of the owner of said property to the extent such obligation accrues or is due during any such owner's ownership of such property;

(c) Agrees that the subject property will always be subject to the same common ownership, so that the ownership of either parcel will never be severed from ownership of the other;

(d) Agrees that there will never be more than one residential dwelling unit constructed on or across both parcels (exclusive of a guest house and other customary amenities associated with or ancillary to a single primary dwelling unit);

(e) Agrees that, without first having obtained prior written approval from the Association, the only roadway

-3-

# lots 5 & 5a, clearwater covenant

or other means of providing ingress or egress to any portion of the Subject Property will be that roadway passing through the Subdivision (as described in the plat of record for Clearwater Hills No. 2, recorded in Book 84 of Maps, page 25, records of Maricopa County, Arizona), access to which roadway is monitored by and under the control of the Association through its common entrance gatehouse.

4. Each of the covenants and representations herein set forth are acknowledged by Owner to run with all the Subject Property, for all purposes, and shall be binding upon the undersigned Owner, its assigns and successors in interest with respect to all or any portion of the Subject Property and shall inure to the benefit of the Association and all other lots and all other owners of property located within the Subdivision, and their respective assigns, transferees and successors in interest. Without limiting any of the foregoing but in furtherance thereof, the undersigned agrees that, by affixing its signature to this instrument, it, on behalf of itself, successors in interest, transferees and assigns, binds itself and said representatives, transferees, assigns and successors in interest to the Subject Property to the provisions and covenants of this instrument and to the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Declaration and any amendments thereto. In addition, the undersigned, on behalf of itself and each such person, hereby acknowledges that the Declaration sets forth a general scheme for the improvement and development of the real property covered thereby, and hereby evidences its interest that the provisions of this instrument, and that the restrictions, conditions, covenants, rules and regulations contained in the Declaration, shall run with the Subject Property and be binding on all subsequent and future owners, grantees, purchasers, assignees and transferees thereof.

-4-

IN WITNESS WHEREOF the undersigned has executed this instrument as of this 22 day of June, 1978.

"Owner"  
FLECK CONSTRUCTION, LTD.,  
a corporation  
By [Signature]  
its President

APPROVED AND ACCEPTED AND AGREED TO:  
[Signature]  
Thomas G. Fleck  
[Signature]  
Darlene C. Fleck

ACCEPTED:  
CLEARWATER HILLS IMPROVEMENT  
ASSOCIATION, a corporation  
By [Signature]  
its President

CONSENT OF MORTGAGEE:  
The undersigned Bank presently holds a construction loan secured by a mortgage (or deed of trust) against the above described Subject Property. By signing this instrument, said lender, on behalf of itself, assigns, and successors in interest with respect to said loan and/or the Subject Property, consents to the annexation of the above described Parcel No. 2 into the Clearwater Hills Subdivision, and consents to all of said Subject Property being made subject to the aforesaid Declaration, the covenants and agreements contained herein, and to the control, operation and assessment of the Clearwater Hills Improvement Association. Said lender further agrees that its lien against the Subject Property is subordinate and subject to the Declaration, and to the covenants and agreements made by Owner herein, all of which shall be binding upon said lender, and any person claiming an interest in the Subject Property by or through said lender (including any purchaser at a foreclosure or trustee's sale) if and when said lender and/or any such persons should become an owner of an interest in the Subject Property, provided, however, that said lender's lien against the Subject Property shall not be subordinate to any lien in favor of said Association which relates to assessments accruing prior to the date of any such foreclosure or trustee's sale, all as is more particularly set forth in Section 5.5 of the aforesaid Declaration.

CONTINENTAL BANK, an Arizona corporation  
By [Signature]  
Its Vice President

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STATE OF ARIZONA ) ss.  
County of Maricopa ) ss.  
The foregoing instrument was acknowledged before me this 27th day of June, 1978, by Thomas G. Fleck  
as President of Fleck Construction, Ltd., a corporation.

My Commission Expires: Aug. 17, 1979  
[Signature]  
Notary Public

STATE OF ARIZONA ) ss.  
County of Maricopa ) ss.  
The foregoing instrument was acknowledged before me this 27th day of June, 1978, by Thomas G. Fleck and Darlene C. Fleck, individually.

My Commission Expires: Aug. 17, 1979  
[Signature]  
Notary Public

STATE OF ARIZONA ) ss.  
County of Maricopa ) ss.  
The foregoing instrument was acknowledged before me this 22d day of June, 1978, by THOMAS J. TRIMBLE  
as President of Clearwater Hills Improvement Association, a corporation.

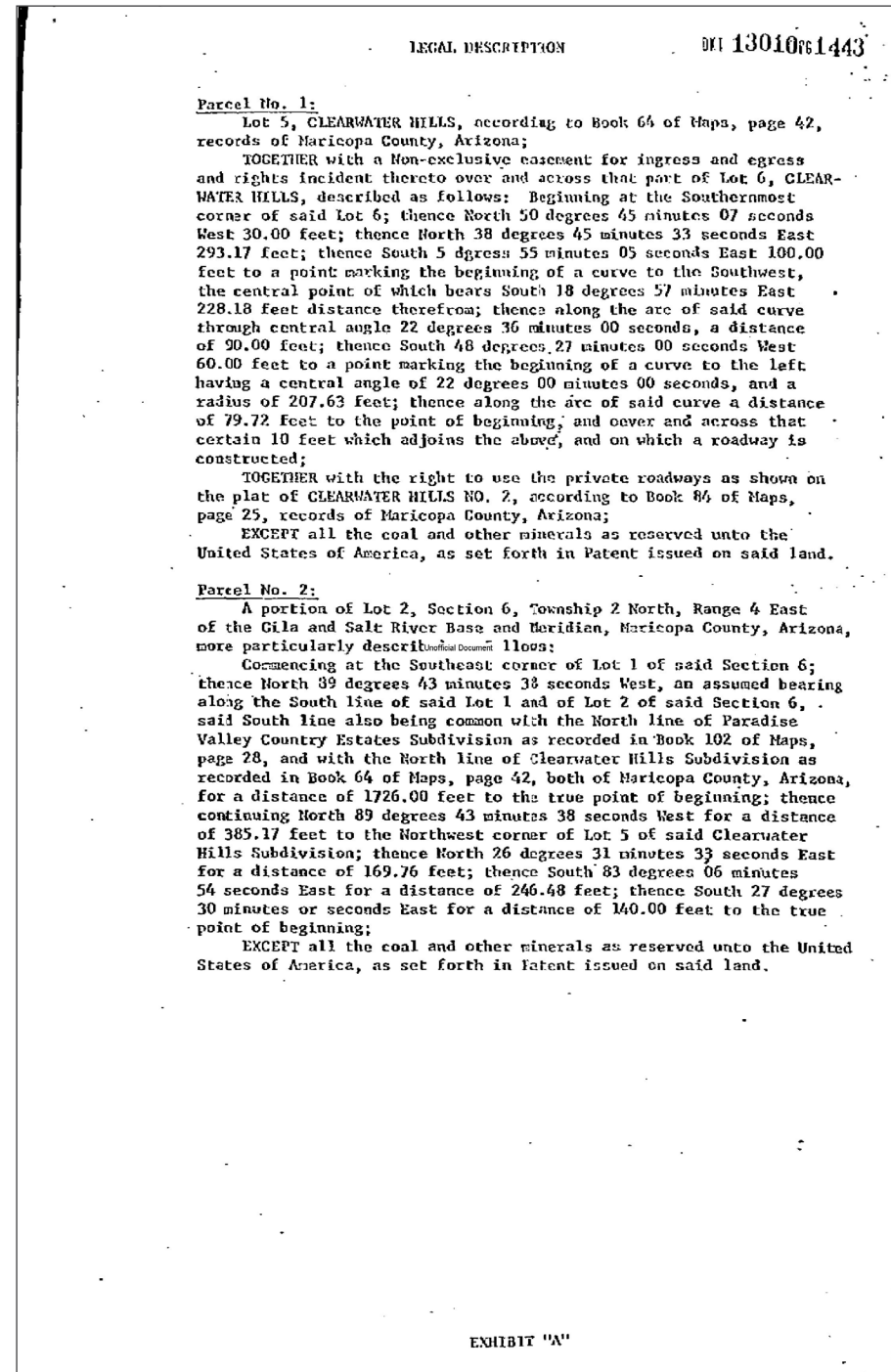
My Commission Expires: Aug. 17, 1979  
[Signature]  
Notary Public

STATE OF ARIZONA ) ss.  
County of Maricopa ) ss.  
The foregoing instrument was acknowledged before me this 28th day of June, 1978, by Donald L. Link, as Assistant Vice President  
of Continental Bank, an Arizona corporation.

My Commission Expires: June 16, 1980  
[Signature]  
Notary Public

-6-

# lots 5 & 5a, clearwater covenant







## COMMUNITY DEVELOPMENT DEPARTMENT VARIANCE APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN THAT THE TOWN OF PARADISE VALLEY BOARD OF ADJUSTMENT WILL HOLD A HEARING ON THE FOLLOWING PROPOSED PROJECT. IF YOU HAVE QUESTIONS ABOUT THIS APPLICATION, PLEASE CALL THE PLANNING DIVISION AT (480) 348-3692.**

Applicant/Representative: \_\_\_\_\_

Applicant's Company Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Project/Property Address: \_\_\_\_\_

Zoning: \_\_\_\_\_ Acreage: \_\_\_\_\_

Project Narrative:

### MEETING DATE/ TIME/PLACE

Meeting Date: \_\_\_\_\_ Meeting Time: \_\_\_\_\_

Meeting Place: Town of Paradise Valley Town Hall Building. 6401 E. Lincoln Drive. Paradise Valley, AZ 85253

Planning Division: 480-348-3692



# COMMUNITY DEVELOPMENT DEPARTMENT

## AFFIDAVIT OF MAILING NOTIFICATION

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

STATE OF ARIZONA )  
 ) ss:  
 County of Maricopa )

4502 E. MOONLIGHT WAY

In accordance with the requirements of the Town of Paradise Valley, the undersigned hereby certifies that all the property owners within 1,500 feet of the property, as obtained from the Maricopa County Assessor's Office on April 4, 2023, for the proposed variance has been mailed on the following date April 11th, 20 23.

(This property list shall not be older than thirty (30) days at the time of filing of the application).

[Signature]  
Nick M. PETERSON

The foregoing instrument was acknowledged by me this 11th day of April, 20 23, by Nick Peterson.  
 Name

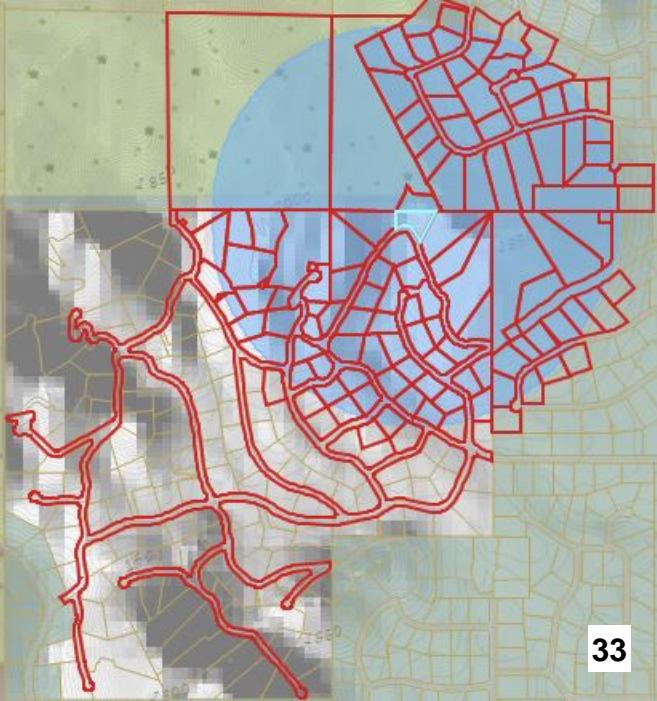
[Signature]  
 NOTARY PUBLIC

My commission expires:

6/27/2025







AFFIDAVIT OF POSTING

STATE OF ARIZONA )

) ss:

County of Maricopa )

4502 E. MOONLIGHT WAY.

I, NICHOLAS M. PETERSON, depose and state that the attached notice, of proposed application VARIANCE APPROVAL located at 4502 E. MOONLIGHT WAY for the (Planning Commission/Town Council/Board of Adjustment/Hillside Committee) meeting date of MAY 3<sup>RD</sup>, 2023 is a true and correct copy of a notice which I cause to be posted by the following day of the week FRIDAY, and on the following date APRIL 7<sup>TH</sup>, 2023 in the following location(s):

All in the Town of Paradise Valley, Arizona and County and State aforesaid, the same being public places in said County and in the following locations:

All to the Town of Paradise Valley, Arizona and County and State aforesaid.

DATED this 7<sup>TH</sup> day of APRIL, 2023.

[Signature]  
Signature

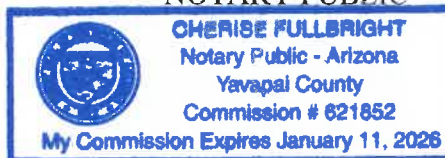
This affidavit was SUBSCRIBED AND SWORN to before me this 7<sup>TH</sup> day of April, 2023

[Signature]

NOTARY PUBLIC

My commission expires:

January 11, 2026











NOTICE OF  
HEARING





## Action Report

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**File #:** 23-152

---

**AGENDA TITLE:**

**UR Project Variance - 7941 N 55th Street (APN 169-06-076B).  
Case No. BA-22-06**

**STAFF CONTACT:**

Jose Mendez, 480-348-3519



## **STAFF REPORT**

**TO:** Chair and Board of Adjustment

**FROM:** Lisa Collins, Community Development  
Director Paul Michaud, Planning Manager  
Jose Mendez, Hillside Development Planner

**DATE:** May 3<sup>rd</sup>, 2023

**DEPARTMENT:** Community Development Department/Planning Division  
Jose Mendez, 480-348-3519

**AGENDA TITLE:**  
**UR Project Variance – 7941 N 55th Street (APN 169-06-076B)**  
**Case No. BA-22-06**

This application includes variance requests from the Zoning Ordinance, Article XXII, Hillside Development Regulations to allow development for a new single-family residence to exceed allowable development standards.

### **RECOMMENDATION**

#### Motion For Approval

It is recommended that the Board of Adjustment [**approve**] Case No. BA-22-06, a request by applicant/ representative Drew Bausom (The Construction Zone, LTD.), on behalf of property owners of 7941 N 55th Street; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow a new single-family residence and the development of the property to exceed allowable development standards which include: 1.) Allow a gross disturbed area of 20,950 S.F. with a final net disturbance of 18,388 square feet (S.F.) (41.6%) from the allowed 4,241 S.F. (9.60%). 2.) Allow a max cut height of 38 feet from the allowed 30 feet.

#### Reasons For Approval:

Staff finds that there are special circumstances, applicable to only the subject lot, meeting the variance criteria.

### **BACKGROUND**

#### Previous Requests

The applicants previously presented the Board of Adjustment with a request for multiple Variances (8) on October 19, 2022. The Board took action to continue the application for further review.

The applicant submitted a new design and met with staff on multiple occasions to create a

design that requires the least number of variance requests. During this time the applicant made several requests for **Continuance** to the Board of Adjustment:

November 2, 2022

February 1, 2023

March 1, 2023

#### Lot Conditions

The property is zoned R-43 Hillside and is approximately 44,180 SF or 1.014 acres in size. The property is semi-rectangular in shape and measures between approximately 150 feet and 169 feet wide and a length of 264 feet on the south property line and 240 feet on the north property line with a median depth of approximately 252 feet. The property is very steep towards the rear. The slope of the lot on average is over 43% and most of the lot is steeper.

This property has remained vacant/undeveloped while all adjacent parcels have been developed. The road that was created in the 1970's to access the lots cut through a portion of the frontage of the lot creating 2,200 S.F. of existing disturbance. The street cut created a slope that ranges from 45%-75% grade from the street level resulting in a steep and difficult access on the frontage of the lot.

#### Residence/Design

The building has been positioned within building setbacks in an area with an approximate building pad slope of 44.4%. The proposed home will fit and conform to the twenty-four foot height limit that parallels the existing predevelopment Natural Grade. The applicant proposes a direct cut to enter the property from 55<sup>th</sup> Street with a diagonal driveway. The driveway leads to a garage at the base of the home.

#### **DISTURBANCE CALCULATIONS:**

Permitted Disturbance: Slope Category 44.4% allows for 9.60%  
Lot size 44,180 S.F. the allowed disturbance is **4,241 S.F.**

**Proposed Disturbance of 18,388 SF (41.6%) S.F.**

Gross Proposed Disturbance: **20,950 S.F.**

Restored and revegetated area:

Area adjacent to home to be restored **1,000 S.F.**

Building Footprint Area: **3,762 SF**

+ Pre-Existing Disturbance:

Slope cut from street **+2,200SF**

**Total Net Disturbance: 18,388 S.F. (41.6%)**

#### Request

The applicant requests variances from the Zoning Ordinance, Article XXII, Hillside Development Regulations, which include the following:

Allow a net disturbance of 18,388 SF (41.6%) to exceed the allowed 4,241 SF (9.60%).  
*Section 2207.III.F: The total Disturbed Area shall not exceed the allowed percentage of the Lot area as shown in TABLE 1 (Building Site Slope 44%; Allows Land Disturbance of 9.60% of lot).*

Allow a max cut height of 38 feet. *Section 2207.III.C: The maximum height of any Cut used to establish a Building Site shall not exceed 30 feet.*

## DISCUSSION ITEMS

### Variance criteria:

Town Code and Arizona Revised Statutes set criteria an applicant must meet before a Board of Adjustment may grant a variance request. If the Board finds an applicant meets all of these criteria, the Board may grant the variance. However, if the Board finds the applicant does not meet all of the criteria, the Board may not grant the variance. The following are staff's analysis with regard to the variance criteria.

***Request: Allow a gross disturbed area of 20,950 SF with a final net disturbance of 18,388 SF (41.6%).***

*"That there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and" (Town Code Section 2-5-3(C)4).*

### Staff Analysis:

The applicant has indicated that the hardship is the result of the lot size, rugged terrain, and steep slope of the lot (averaging approximately 43%) which limits the amount of disturbance permitted. The property was platted in 1974 through Maricopa County and annexed into Paradise Valley before Hillside Development Regulations were adopted, hence the lot is undersized in comparison to today's standard. In order to meet the current regulations, the subdivision would be required to have a lot size of 365,900 S.F. (8.4 acres) based on the slope. This means the current lot is only 12% of the size required by code. In addition, there is 2,200 S.F. of existing disturbance that was created when the right-of-way was cut. This further limits the amount of new disturbance allowed by about half (total allowed 4,241 S.F.). Building an entry and driveway onto the property is challenging due to the cut slope left on the frontage of the right-of-way. Furthermore, the steep grade on the property requires a longer driveway. These site conditions prevent building a driveway at a grade that can be deducted from the disturbance calculations as is possible in other properties with lower grades and/or larger lots.

*"That the special circumstances applicable to the property were not self-imposed or created by the property owner; and" (Town Code Section 2-5-3(C)4).*

### Staff Analysis:

The hardship is not self-imposed, nor created by the property owner. The size of the property, steepness of the lot, and the existing disturbance are the result of how the property was originally platted and the right-of-way (R.O.W.) construction cut.

*“That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district” (Town Code Section 2-5-3(C)4).*

Staff Analysis:

It is typical that similar properties with steep slopes need a variance from disturbance requirements to develop. The difficulties on this site are further exacerbated by the pre-existing disturbance and the steep right-of-way cut. Properties on this street have similar driveway lengths and similar or larger homes and outdoor living areas. The strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other similar properties.

**Request: Allow a max cut height of 38 feet 0 inches**

*“That there are special circumstances applicable to the property, which may include circumstances related to the property’s size, shape, topography, location, or surroundings; and” (Town Code Section 2-5-3(C)4).*

Staff Analysis:

The hardship is the result of the width of the lot and the steep slope (averaging 43%) which limits the placement and orientation of the home. The property is zoned R-43 and has a width of approximately 169 feet. The zoning side setbacks for this property are 20 feet which limits the building envelope width to approximately 128 feet 6 inches. The outdoor areas are limited to the front or rear, hence the need to cut behind the home further into the terrain. The steep slope also requires retention and boulder roll area which raises the amount of cut height needed. The sunken placement of the home lowers the visible volume and lowers the base elevation into the terrain which reduces visibility of the home, but in doing so the cut height is increased.

*“That the special circumstances applicable to the property were not self-imposed or created by the property owner; and” (Town Code Section 2-5-3(C)4).*

Staff Analysis:

The hardship is not self-imposed nor created by the property owner. The property was platted before Hillside Development Regulations were created. The current size of the lot would not be in compliance with the code. A lot with this slope would need to be approximately 10 times larger. The width of that size lot would allow for a larger horizontal envelope on which to build on.

*“That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district” (Town Code Section 2-5-3(C)4).*

Staff Analysis:

This type of request is not atypical given the grade of the lot and the existing site conditions. Raising the home/base level closer to grade would potentially reduce the height of the cut; albeit this would raise the home above the natural grade and increase its visibility. Adjacent properties in this zoning designation and with similar slope have rear outdoor living areas that cut into the hillside. In addition,

the steep aspect of the lot requires a large cut for rock cut stability and bolder roll area which is typical of other similar properties.

**REQUIRED ACTION**

The Board must consider the facts and determine if the variance requests meet all three (3) variance criteria. The Board may take the following actions:

1. Deny the variance request.
2. Approve the variance requests, subject to the following stipulations:
  - a. The improvements shall be in compliance with submitted plans & documents:
    - i. Architecture Plans, prepared by Construction Zone; dated February 17<sup>th</sup>, 2023 received on March 21<sup>st</sup>, 2023.
  - b. The applicant must obtain the required Hillside Development permits and Building permits & inspections from the Building Department.
3. Continue the application for further review.

**COMMENTS:** Staff received several comments on the original project submittal that went to the Board of Adjustment October 19<sup>th</sup> 2022. The comments and inquiries were due to the unusual multiple number of Variance requests (8) the project proposed.

On this proposal staff received no comments regarding this request.

**COMMUNITY IMPACT:** None

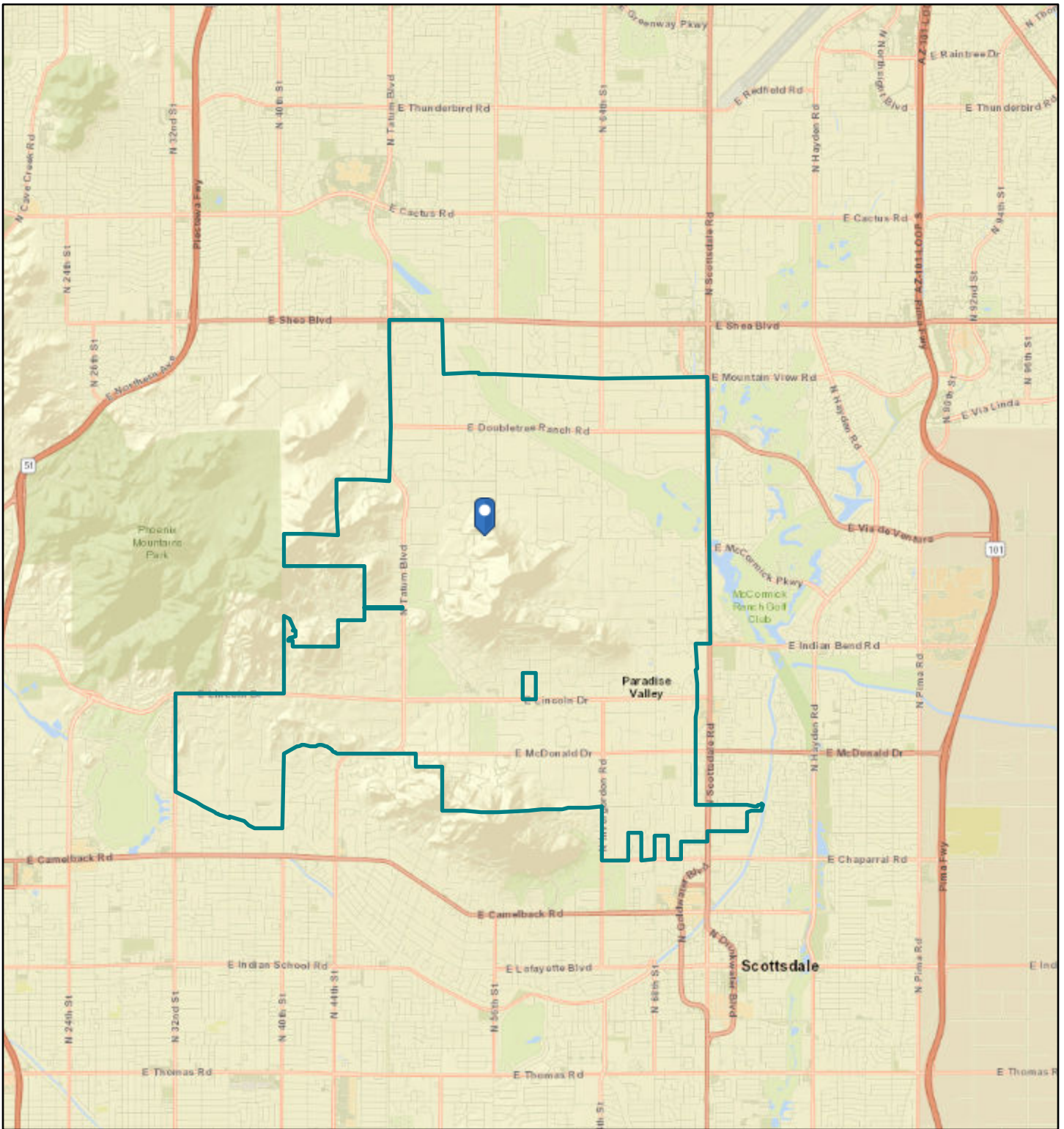
**CODE VIOLATIONS:** None

**ATTACHMENTS:**

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative
- E. Plans
- F. Presentation Book
- G. Notification Materials



# Vicinity Map - 7941 N 55th St



10/11/2022, 9:32:15 AM

 Municipal Boundary

1:100,509



City of Phoenix, Bureau of Land Management, Esri, HERE, Garmin, GeoTechnologies, Inc., NGA, USGS





# Aerial Photo

Subject Property

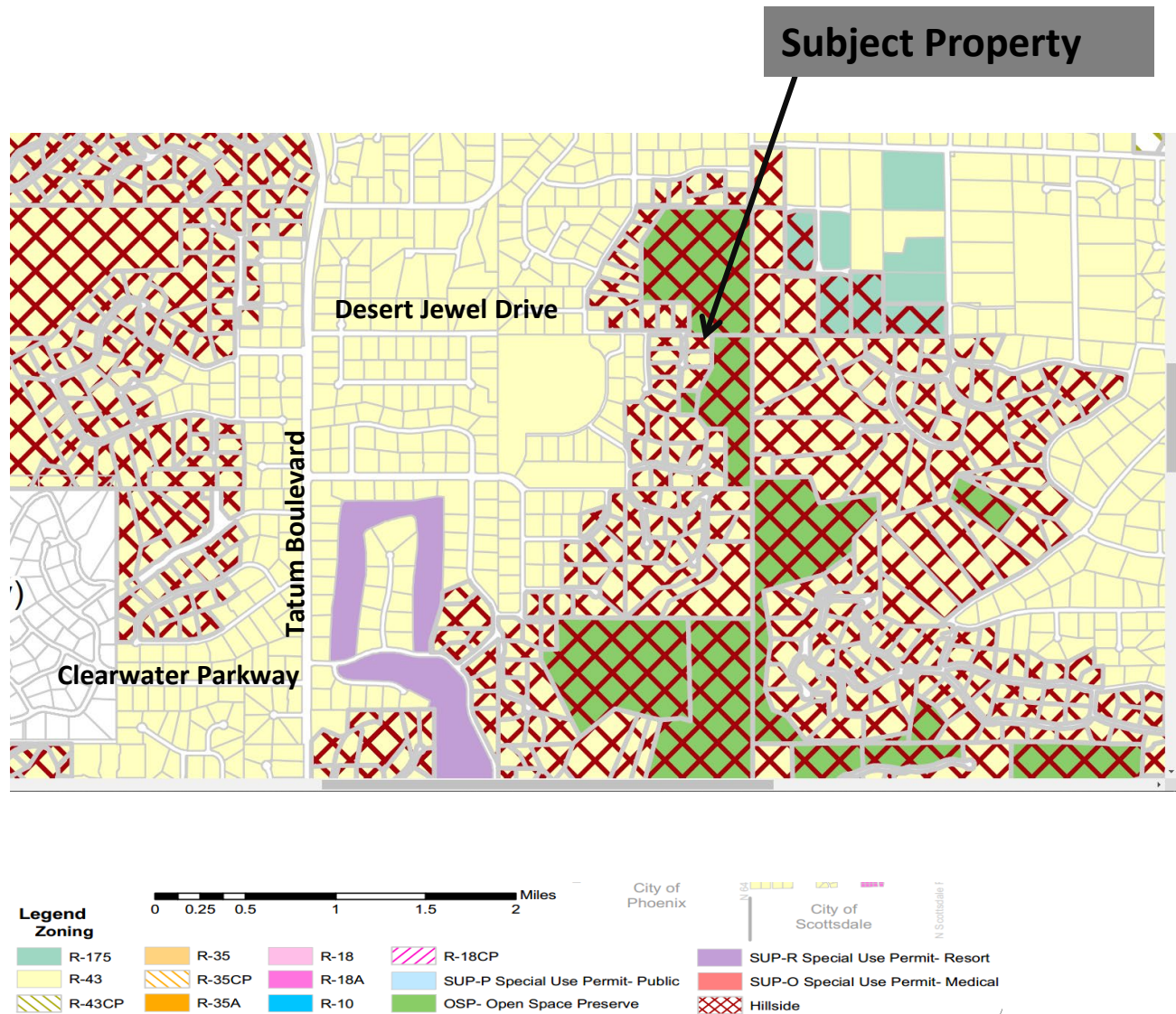


7941 N 55<sup>th</sup> St





# ZONING



7941 N 55<sup>th</sup> St



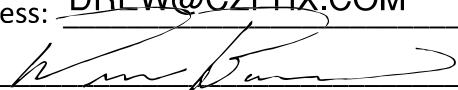
## COMMUNITY DEVELOPMENT DEPARTMENT VARIANCE APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

### APPLICANT & CONTACT INFORMATION

Project Name: UR Project  
Date: 8.4.22 Zoning: R-43 Acreage (Net Acres): 1.014  
Property Address: 7941 NORTH 55TH STREET  
Assessor's Parcel Number: 169-06-076B  
Name of Subdivision & Lot Number: LOT 25 OF THE EL DORADO ESTATES

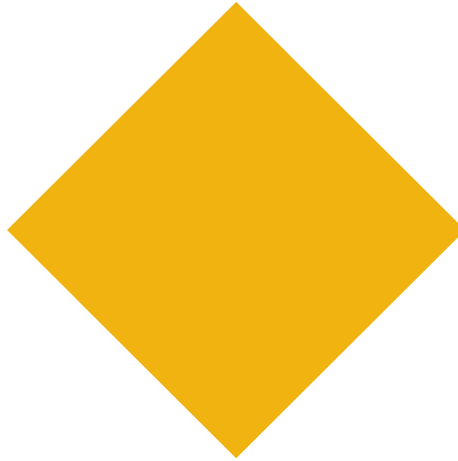
Owner: UR PROJECT20 LLC  
Address: 2720 NORTH VAL VISTA DRIVE, MESA, AZ 852  
Phone number: 480.459.7341  
E-mail address: jdlowery@unwiredrevolution.com  
Signature: \_\_\_\_\_  
(Or provide a separate letter of authorization)

Applicant/Representative: DREW BAUSOM  
Company Name (if Applicable): THE CONSTRUCTION ZONE, LTD  
Address: 1729 EAST OSBORN ROAD, PHOENIX, AZ 85016  
Phone number: 602.230.0383  
E-mail address: DREW@CZPHX.COM  
Signature: 

THE ABOVE APPLICANT HEREBY APPLIES FOR A VARIANCE AS INDICATED IN THE SUBMITTED NARRATIVE,  
PLANS, AND DOCUMENTS IN ACCORDANCE WITH SECTION 2-5-3 OF THE TOWN CODE AND IN  
ACCORDANCE WITH THE TOWN ZONING ORDINANCE.

### FOR DEPARTMENTAL USE ONLY

Variance-App.#: \_\_\_\_\_ Submittal Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_



## **Zoning Adjustment Case Narrative**

**Address:** 7941 north 55<sup>th</sup> street, paradise valley, Arizona 85253

**Parcel:** 169-06-076B

**Zoning:** R-43 [Hillside]

### **Variance Requests:**

1. Allow a gross disturbed area of 20,950 sf with a final net disturbance of 18,388 sf [41.6%]  
*Section 2207.III.F: The total Disturbed Area shall not exceed the allowed percentage of the Lot area as shown in TABLE 1 below.*
2. Allow a max cut height of 38'-0"  
*Section 2207.III.C: The maximum height of any Cut used to establish a Building Site shall not exceed 30 feet.*

### **Site Analysis:**

The property is zoned R-43 [hillside] and is 44,180 sf [1.014 acres]. The property is semi-rectangular shape approximately  $\pm 169'$  wide and  $\pm 264'$  deep and is oriented in an east – west direction. The lot is boarded by the Mummy Mountain Preserve to the north and east and residential properties to the south and west.

### **Lot conditions / hardships:**

- The property is Lot 25 of the “El Dorado Estates” subdivision which was created in 1974 in Maricopa County and annexed into Paradise Valley in 1982. The lot was created before Paradise Valley implemented the Hillside Ordinance in 1984, with further restrictions increasing in 2018. The property cannot be created today under the current Hillside Ordinance. The average lot slope of over 43% would require the lot to be a minimum of 365,900 sf [8.4 acres] vs the current lot size of only 44,180 sf [1.014 acres]

**the construction zone, ltd**  
1729 east osborn road  
phoenix, arizona 85016  
p 602.230.0383 f 602.230.0535

- The slope of the lot on average is over 43% and most of the lot is steeper.
- The lot has approximately 2,200 sf of existing disturbance from the creation of 55<sup>th</sup> street in the mid 1970's. The street cut created an unnatural slope that ranges from 45%-75% grade from the street level resulting in a steep and difficult access on the frontage of the lot.

The existing lot conditions are special circumstances applicable to the property that are not self-imposed and do warrant the requested variance. Without the variances the strict application of the Zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district.

### **Request # 1 (Disturbance):**

Allow a gross disturbed area of 20,950 sf with a final net disturbance of 18,388 sf [41.6%]

*Section 2207.III.F: The total Disturbed Area shall not exceed the allowed percentage of the Lot area as shown in TABLE 1 below.*

#### **Hillside calculations:**

building pad slope	44.4% (54'-0" vert. / 121'-6" horiz.)
allowable disturbed area	4,241 sf [44,180 sf x 9.6%]
driveway/ auto court reduction	0 sf [3,730 sf x 0%]
	exceeds 18" from natural grade
building footprint	3,675 sf
existing disturbed area	2,200 sf [from construction of 55 <sup>th</sup> street]
<b><u>proposed disturbed area:</u></b>	
gross area	20,950 sf
existing disturbed area	+ 2,200 sf [existing not included in gross area]
building footprint	- 3,762 sf
driveway reduction	- 0 sf
restoration	- 1,000 sf
net disturbance	18,388 sf [41.6%]

#### **Variance criteria:**

- ***"that there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and"* [town code section 2-5-3(C)4].**

The property was platted in 1974 in Maricopa County and annexed into Paradise Valley before Hillside regulations were adopted as a result the lot is undersized and cannot be created under the current hillside ordinance. If the lot was the correct size of 365,900 sf [8.4 acres] the proposed net disturbance of 18,388 sf would be well under the allowed disturbance of 35,126 sf.



Lot has an average lot slope of over 43% which limits the amount of disturbance permitted under the current hillside ordinance.

There is an existing 2,200 sf of disturbance from the road cut when 55<sup>th</sup> street was built in the mid 1970's

- **"That the special circumstances applicable to the property were not self-imposed or created by the property owner; and" [town code section 2-5-3(C)4].**

The lot size and site conditions are not self-imposed nor created by the property owner. The steepness of the lot, size and the existing disturbance are the result of how the property was originally platted and the existing road cut.

- ***"That the strict application of the Zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district"* [town code section 2-5-3(C)4].**

The property is unbuildable without variance under the current zoning ordinance. The lot slope, size and existing disturbance creates a hardship that with the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other similar properties.

#### **Request # 2 (Overall cut):**

Allow a max cut height of 38'-0"

*Section 2207.III.C: The maximum height of any Cut used to establish a Building Site shall not exceed 30 feet.*

#### **Variance criteria:**

- ***"that there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and"* [town code section 2-5-3(C)4].**

Lot has an average lot slope of over 43% which limits the cut height. The proposed residence is designed to balance the height of the driveway retaining wall height and the overall cut height without burring the entire building below natural grade.

- **"That the special circumstances applicable to the property were not self-imposed or created by the property owner; and" [town code section 2-5-3(C)4].**

The slope of the lot is the natural site condition and is not self-imposed nor created by the property owner.

- ***"That the strict application of the Zoning ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district"* [town code section 2-5-3(C)4].**

The property is unbuildable without variance under the current zoning ordinance. The lot slope, size and existing disturbance creates a hardship that with the strict application of the zoning ordinance will deprive the property of privileges enjoyed by other similar properties.

### **Design Narrative:**

The property owners hired The Construction Zone to design their home on this lot due to our extensive experience designing and building on hillside lots throughout the valley. We understand that each hillside lot is unique, and that the hillside ordinance cannot be applied to every lot equally.

This lot, due to the combination of all the site hardships, is the most challenging hillside lot to date.

The Construction Zone's design philosophy is to always work within the intent of the hillside ordinance.

- Preserving and protecting the hillside environment
- Reducing the scarring effects of roads and drives
- Minimizing the impact of the development from viewpoints on the valley floor and adjacent slopes
- Preventing unnecessary grading or stripping of vegetation
- Preserving visual open space

### **Design Challenge:** Vehicle access & driveway:

The primary challenge with this site is vehicle access. The existing cut along 55<sup>th</sup> street in conjunction with the steep lot slope creates a significant hardship. The most logical place to access the site is towards the south where 55<sup>th</sup> street is higher in elevation and the cut is less steep.

After extensive studies we determined that there are only two options for getting vehicles onto this site and both options require multiple variances.

#### Option 1: [required too many variances]

Driving directly off 55<sup>th</sup> street into a garage that is buried into the mountain side. This option had the proposed residence located on the front setback, allowing the house to sit at a lower elevation on the lot. This reduces the visibility of the house off site and allowed for a smaller disturbance limit. This option, however, resulted in a "three story" residence that required over eight variances.

This was the first design that was presented. Even though we strongly believed that this design meets the "intent" of the hillside ordinance the sheer number of variance required prevented us from moving forward.

#### **Option 2: [proposed design]**

The only other way of getting a vehicle onto this lot is by having a driveway that starts towards the south that cuts to the north across the site to have the

distance to gain the elevation necessary to gain access to a garage at the lower level of the residence.

This proposed driveway requires retaining walls and large footings that will need to be located at safe distance from the existing road cut. This pushes the driveway and proposed residence towards the east, further up the hill which will require a larger proposed disturbance. This option however only requires two variances.

### **Building Design:**

The proposed residence is a two-story linear house that will meet all the height requirements. This allows the building to touch the ground with as minimal footprint as possible, creating less visible roof area and physical disturbance. Stacking the floor levels allows for an efficient use of space and makes the entire house accessible with the use of an elevator. Accessibility is one of the primary requirements for this house.

The Hillside Ordinance is written to discourage two story homes. The Ordinance only allows for the "footprint" of the building to be subtracted from the gross disturbance area and does not allow for the second story to be deducted. Even though the second story is required to be included in the Floor Area Ratio, it can not be used to reduce the Net Disturbance. This, in our opinion, goes against the intent of the ordinance. A larger house that touches and disturbs more desert, creating physically more disturbance would result in a smaller net disturbance on paper only.

As stated, our goal has always been to touch the natural desert floor as little as possible. Even though, on multiple occasions, Paradise Valley staff provided suggestions to stagger the building to minimize / eliminate variances we were able to find other solutions that allowed us to eliminate the variances that were in question and still maintain a building that is completely accessible. Staggering the building would require stairs or increased area for ramps that is not feasible for this site.

The building placement on the site is dictated by vehicle access. The house is set as close to the front property line as possible while maintain the minimum required distance for a car to back out of the garage.

The proposed driveway and residence is located as close to the property line, downhill, as possible to reduce the driveway slope and visual appearance of the house off site, while maintaining a safe distance from the unusually steep existing road cut.

Even though a significant retaining wall would be required to allow for the only viable vehicle access onto the site, the proposed design will meet the retaining wall requirements through extensive natural boulder work on the west side of the driveway. Even though the retaining wall is in conformance landscaping will be used to help screen the wall.

The house will be oriented parallel with the topography vs the property line to utilize the natural conures to minimize the overall cut and disturbance.



The finish floor of the house is set as low into the grade as possible to reduce the building height / visual appearance, while still allowing for egress out of the lower level bedrooms.

The main roof will be sloped downhill, with the grade to keep the house under the 24 feet from finish grade and well below the 24 feet from natural grade. The building height, at the garage is set to meet the 24 feet from finish grade. Any shifting forward / staggering the building will push the building over the maximum height limit requiring an additional variance.

Due to the orientation & steep site slope, the main outdoor living area is located to the east side of the house. During the summer, a west facing outdoor space is nearly unusable due to the harsh sun conditions. The main living area would be required to be located at the lower level of the home bring it closer to the driveway, and in full view of the surrounding properties. It would most likely also result in additional variance for over height retaining walls and overall height. Locating the outdoor space to the east allows for the building to protect the space from the late afternoon sun and also screen the public spaces from view from neighboring properties. It also allows for the main living space to be located on the upper level maximizing the views.

Locating the outdoor space to the east also allows us to classify the space as a "courtyard" This allows us to eliminate several variance requests that are necessary for the site retaining walls that are protecting the house from stormwater and debris from the mountain. All equipment, such as HVAC units and pool equipment will be located in this space, out of view from neighboring properties.

Surface retention on a hillside lot, especially one that has a lot slope of over 43%, is impossible without creating a series of retaining walls to create a "flat area" for the retention basin. Due to our extremely limited allowed disturbance having any surface retention will only increase the variance request for additional disturbance. We are proposing to capture the required stormwater and pipe it to an underground detention system under the driveway. This eliminates visible retaining walls and places the system in an area that is already disturbed.

A rock cut / swale located behind the house, east side, is required to allow for proper drainage around the house and to protect it from any debris that can roll down from up the mountain. The cut height will vary, but is a result of the cut required to build the retaining walls that will protect the house. A minimum 4 foot zone is required behind the wall to build and waterproof the wall. Per the Geotech report a 1:2.5 cut is allowed. During construction we will have ACS [Geotech engineer] inspect the actual conditions to see if we can create a more vertical cut to reduce the disturbance.

### **Variance process:**

During the design & variance process the Construction Zone and the owners have worked in tandem with the town staff to design a residence that meets the owner's requirements while reducing / eliminating variance requests to gain staff support.

After many meetings and design iterations our proposed design for this challenging lot only has two variances.

1. Increased disturbance: which is unavoidable since the lot is significantly undersized.
2. Increased overall cut: which is a typical request for a lot that has a slope of over 43%

We hope that the board members understand how difficult this site is and the effort the design team, owners and town staff has made to refine the design to only require the two variances.





PROJECT TEAM

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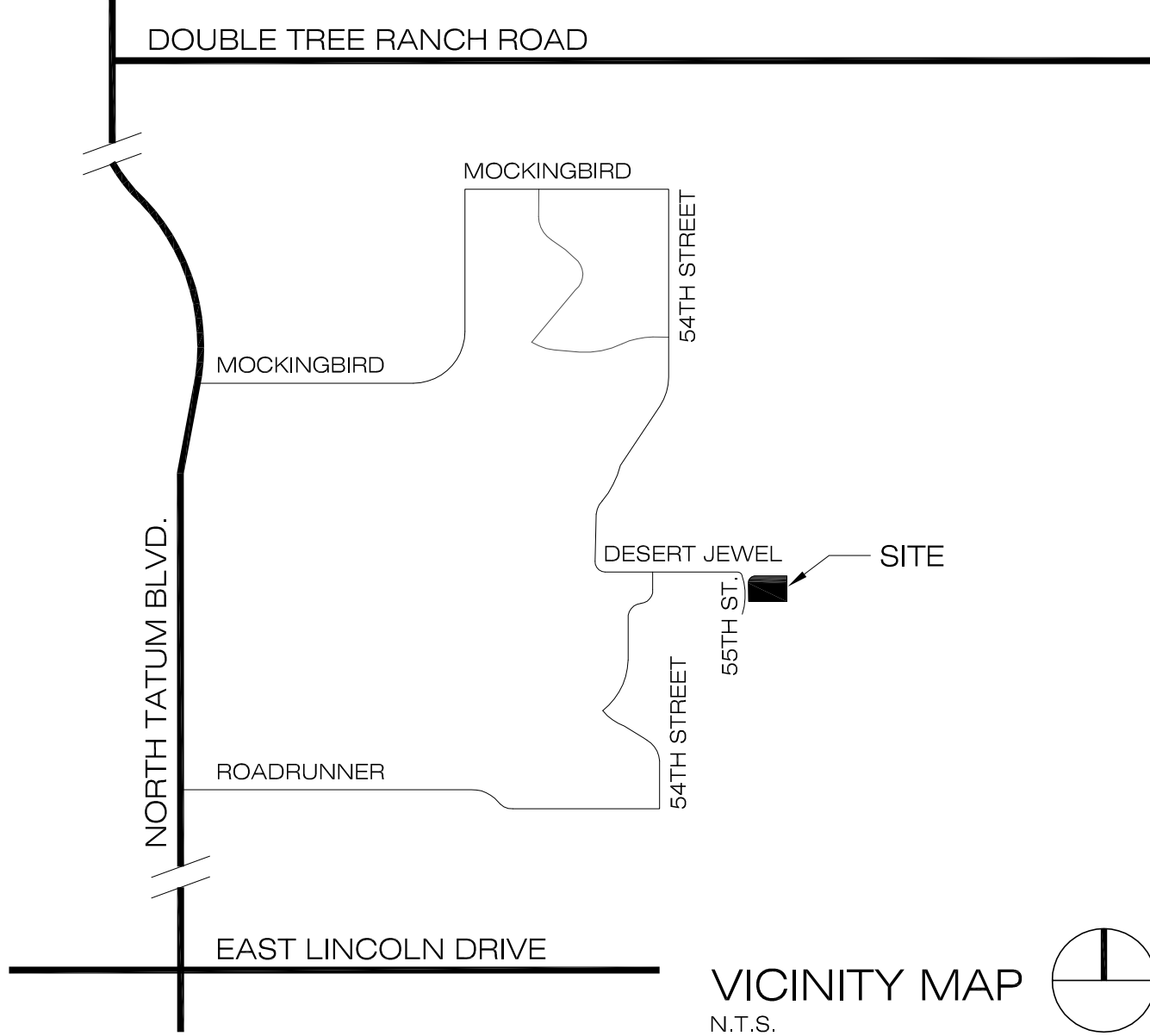
CIVIL  
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the construction zone  
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VARIANCE



URproject 20

7941 north 55th street, paradise valley, arizona, 85253

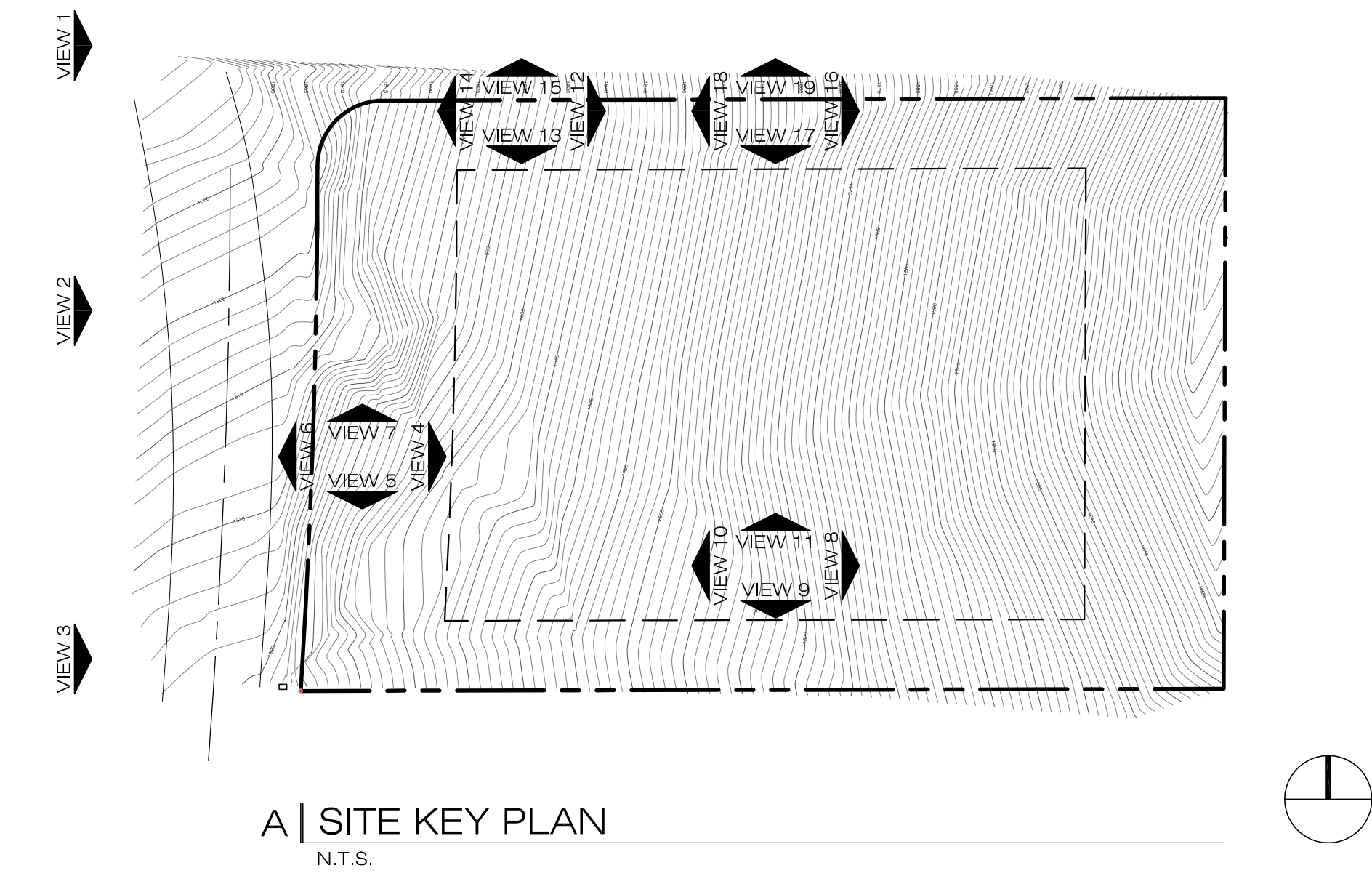
PROJECT TEAM & RENDERING

02.17.23

G100

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VIEW 11



VIEW 6



VIEW 1



VIEW 12



VIEW 7



VIEW 2



VIEW 21



VIEW 18



VIEW 13



VIEW 8



VIEW 3



VIEW 19



VIEW 14



VIEW 9



VIEW 4



VIEW 20



VIEW 15



VIEW 10



VIEW 5

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## VARIANCE

## URproject 20

7941 north 55th street, paradise valley, arizona, 85253

## SITE PHOTOS

02.17.23  
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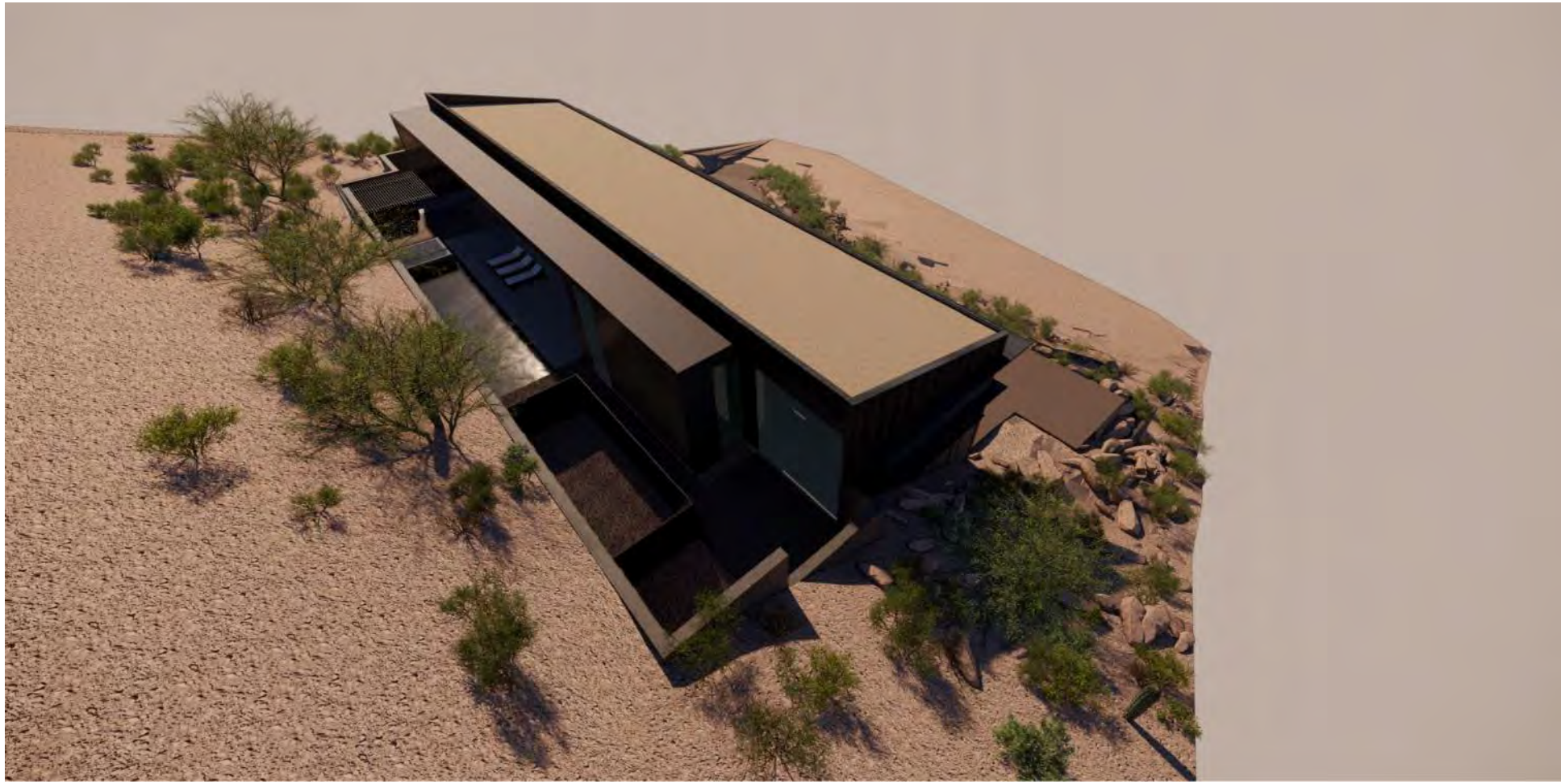
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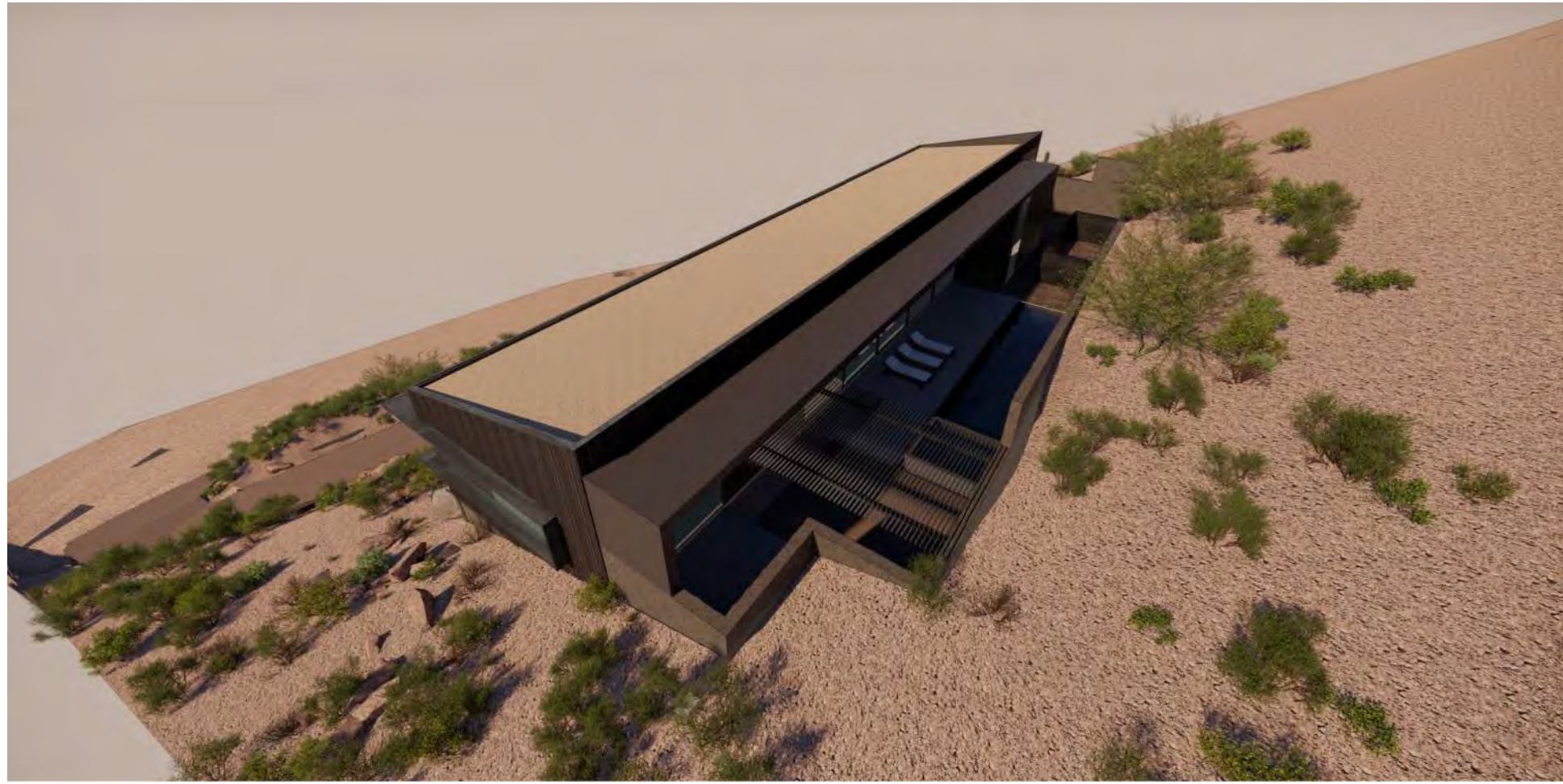
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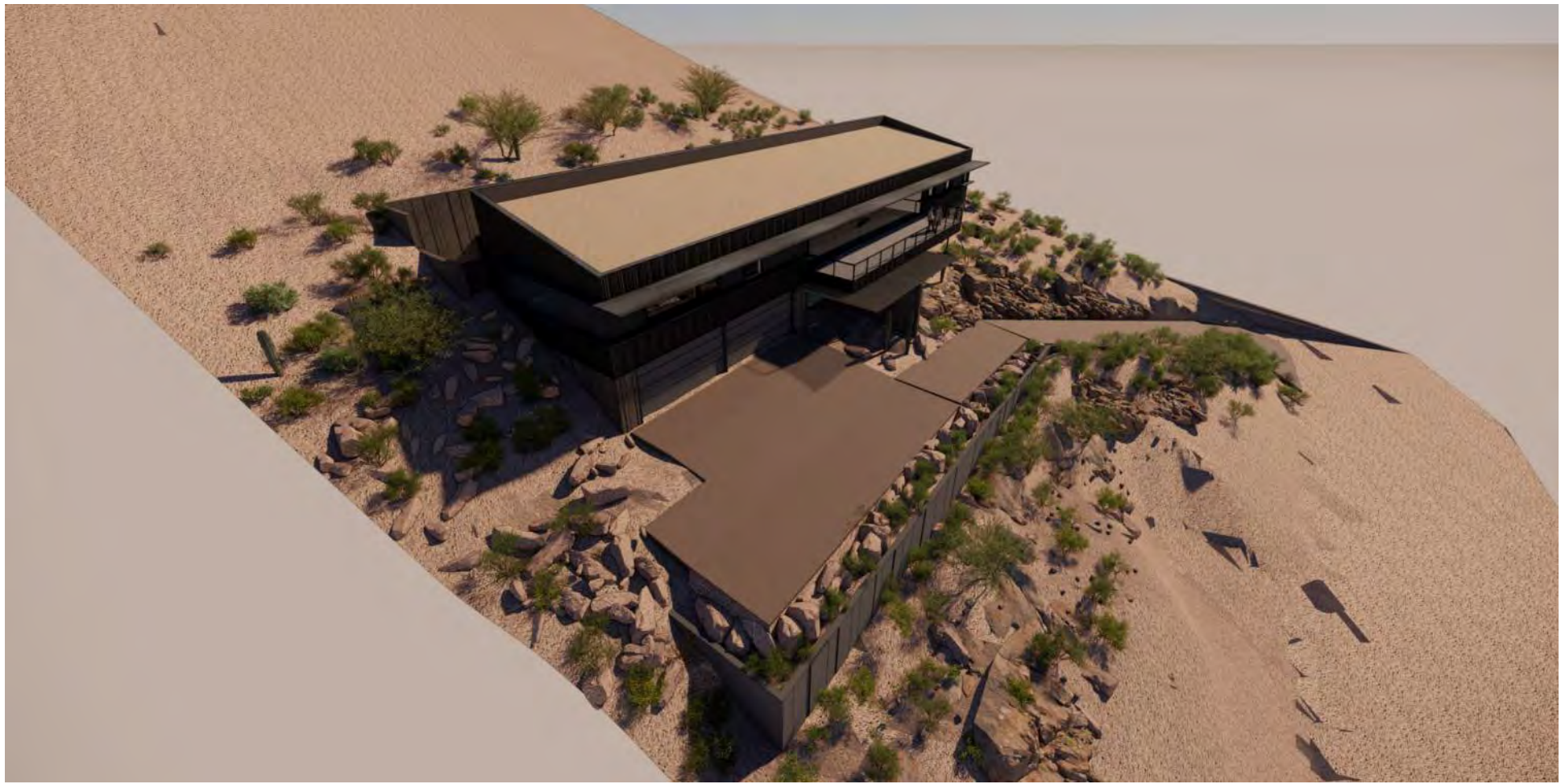
6 | VIEW 6  
N.T.S.



2 | VIEW 2  
N.T.S.



5 | VIEW 5  
N.T.S.



8 | VIEW 8  
N.T.S.



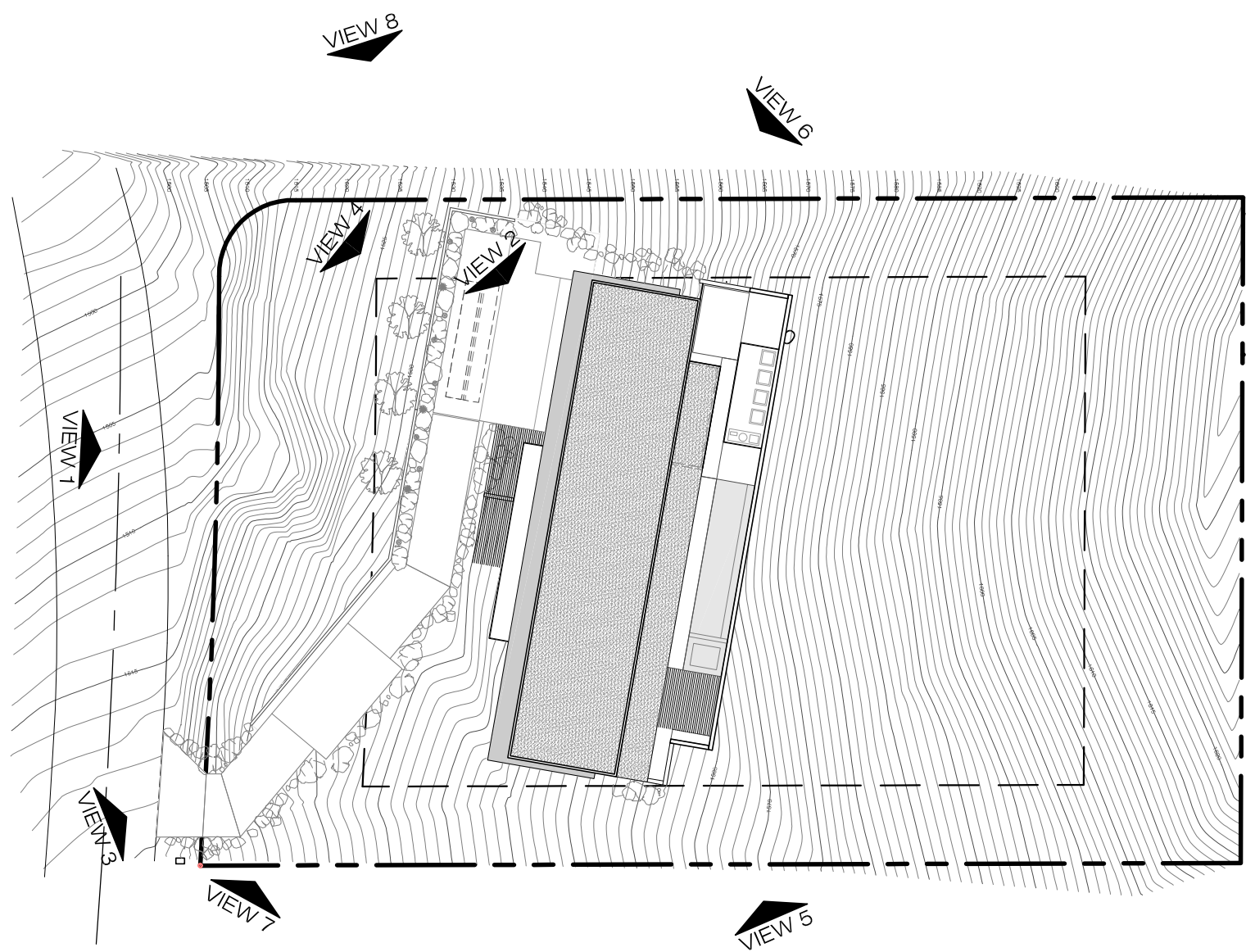
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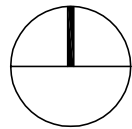
4 | VIEW 4  
N.T.S.



7 | VIEW 7  
N.T.S.



A | SITE KEY PLAN  
N.T.S.



# URproject 20

## G102

7941 north 55th street, paradise valley, arizona, 85253

02.17.23  
PERSPECTIVES

## VARIANCE

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 PROPOSED DISTURBED AREA  
 INDICATES PATH OF WATER FLOW (DRAINAGE)

PROJECT DESCRIPTION	NEW TWO STORY SINGLE FAMILY RESIDENCE. THE SCOPE OF WORK SHALL ALSO INCLUDE FULL SITE WORK AND AFFURTENANCES, INCLUDING A POOL AND LANDSCAPING.
PROJECT ADDRESS	7941 NORTH 55TH STREET PARADISE VALLEY, ARIZONA 85253
LEGAL DESCRIPTION	LOT 25, OF EL DORADO ESTATES, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA RECORDED IN BOOK 174 OF MAPS, PAGE 26.
APN	169-06-076B
ZONING	R-43 (HILLSIDE)
AREA OF LOT (NET)	44,180 SF (1.014 ACRES±)
BUILDING SETBACKS	FRONT 40 FT REAR 40 FT SIDE 20 FT

BUILDING / SITE AREA	CONDITIONED:	
	LOWER LEVEL	2,340 SF
	MAIN LEVEL	3,685 SF
	TOTAL GROSS LIVABLE	6,025 SF
	UNCONDITIONED:	
	GARAGE	1,422 SF
	TRELLIS:	300 SF (125 SF @ 50% OPEN)
	DECK	510 SF
	DRIVEWAY	3,730 SF
	POOL & SPA	490 SF
FLOOR AREA	UNDER ROOF	
	LOWER LEVEL	2,340 SF
	MAIN LEVEL	3,685 SF
	GARAGE	1,422 SF
	COURTYARD	2,615 SF
	COVERED DECK	510 SF
	TRELLIS	125 SF
TOTAL FLOOR AREA	10,697 SF	
FLOOR AREA RATIO	24.2%	
	(TOTAL FLOOR AREA / AREA OF LOT) (25% (11,045 SF) ALLOWED F.A.R.)	

LOWER LEVEL F.F. = (+0'-0") 1544'  
MAIN LEVEL F.F. = (+11'-3") 1555.25

BUILDING PAD SLOPE	44.4% (54'-0" VERT. / 121'-6" HORIZ.)
ALLOWABLE DISTURBED AREA	4,241 SF (44,180 SF x 9.6%)
DRIVEWAY/ AUTO COURT REDUCTION	0 SF (3,730 SF x 0%) EXCEEDS 18" FROM NATURAL GRADE
BUILDING FOOTPRINT	3,762 SF
EXISTING DISTURBED AREA	2,200 SF (EXISTING ROAD CUT)
<b>PROPOSED DISTURBED AREA</b>	
GROSS AREA	20,950 SF
EXISTING DISTURBED AREA	2,200 SF (EXISTING ROAD CUT)
BUILDING FOOTPRINT	- 3,762 SF
DRIVEWAY REDUCTION	- 0 SF
RESTORATION	-1,000 SF

\*NOTE: HATCHED AREAS THAT ARE MARKED FOR RESTORATION SHALL RESTORE NATURAL GRADE AND NATIVE VEGETATION.

THE SITE WITH IN THE PROPOSED DISTURBANCE NOT LABELED AS RESTORED WILL BE RE-VEGETATED, TO MATCH THE SURROUND HILLSIDE BACK TO THE HOUSE. NO CREDIT TO REDUCE THE DISTURBANCE CAN BE GIVEN SINCE THE NATURAL GRADE CAN NOT BE RESTORED.

CASE NO. BA-00-00



# VARIANCE

# URproject 20

7941 north 55th street, paradise valley, arizona, 85253

# SITE PLAN



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# WILLIAMSON

# LOWER LEVEL FLOOR PLAN

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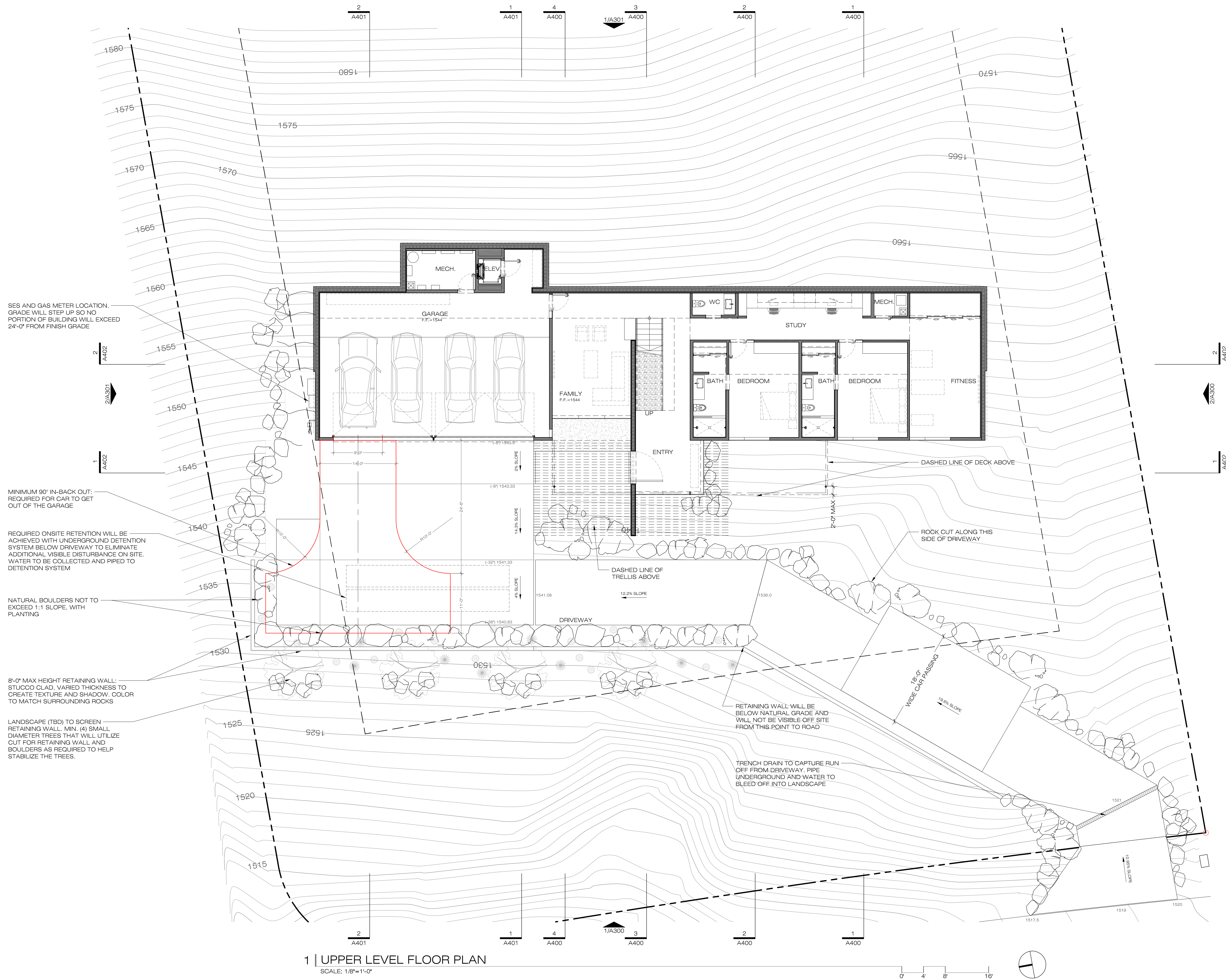
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58





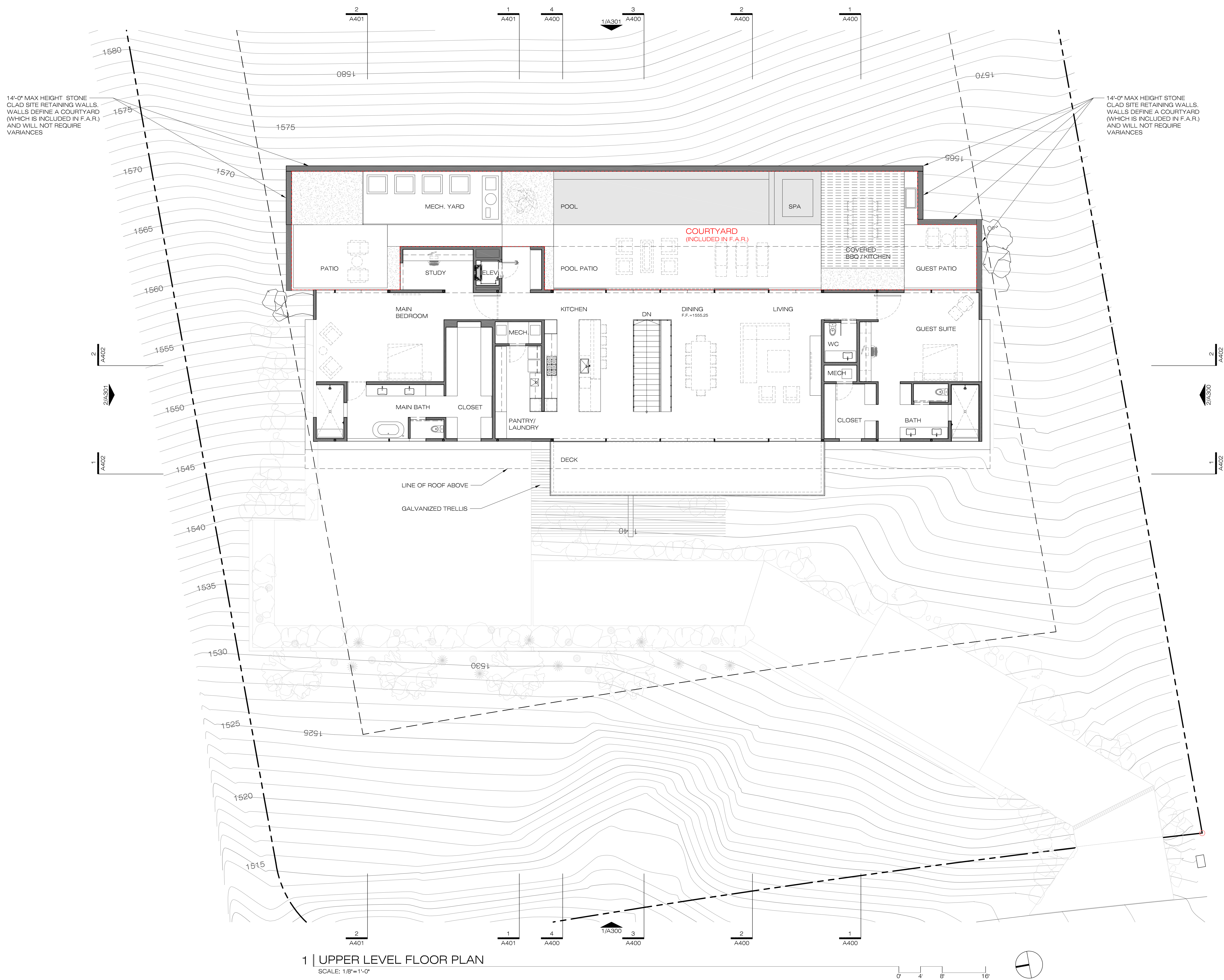
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fax 602.230.0535

VARIANCE

URproject 20  
7941 north 55th street, paradise valley, arizona, 85253  
02.17.23  
MAIN LEVEL FLOOR PLAN

A201

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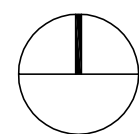






1 | AERIAL CONTEXT SITE PLAN  
SCALE: 1"=30'

0' 15' 30' 60'



# URproject 20

7941 north 55th street, paradise valley, arizona, 85253

## AERIAL CONTEXT PLAN

## VARIANCE

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G103

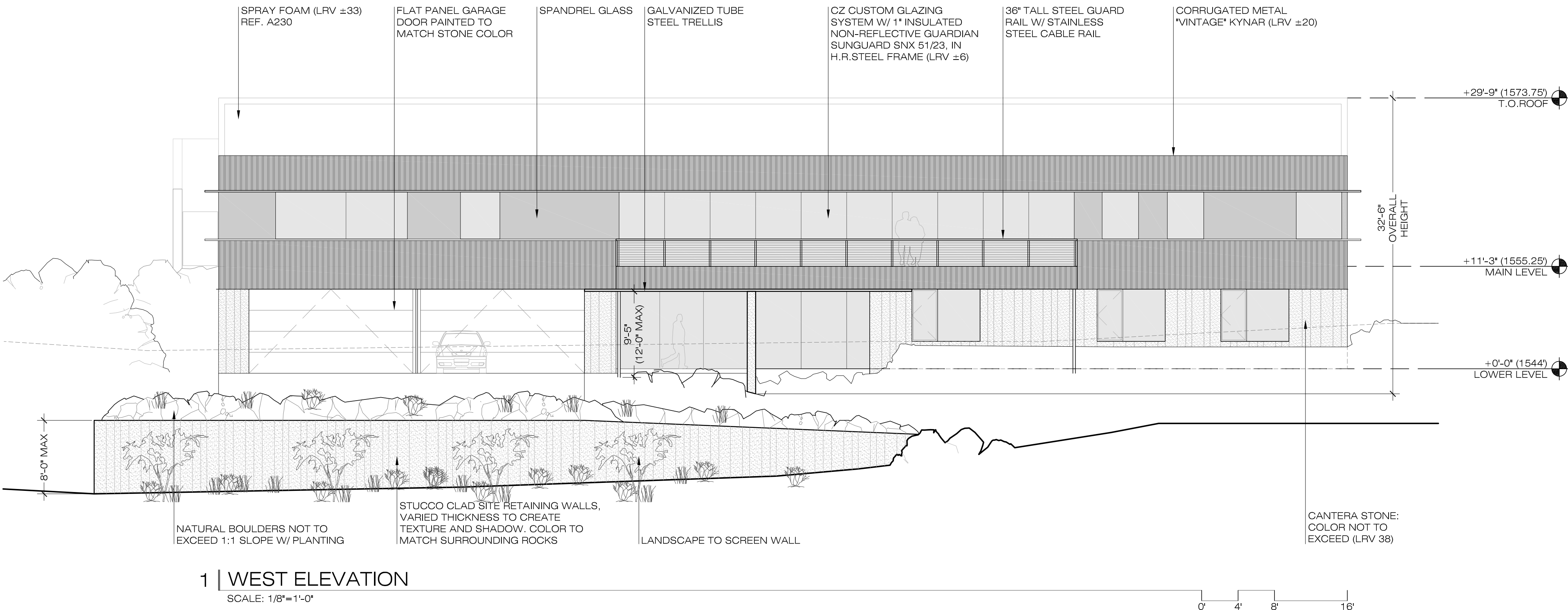
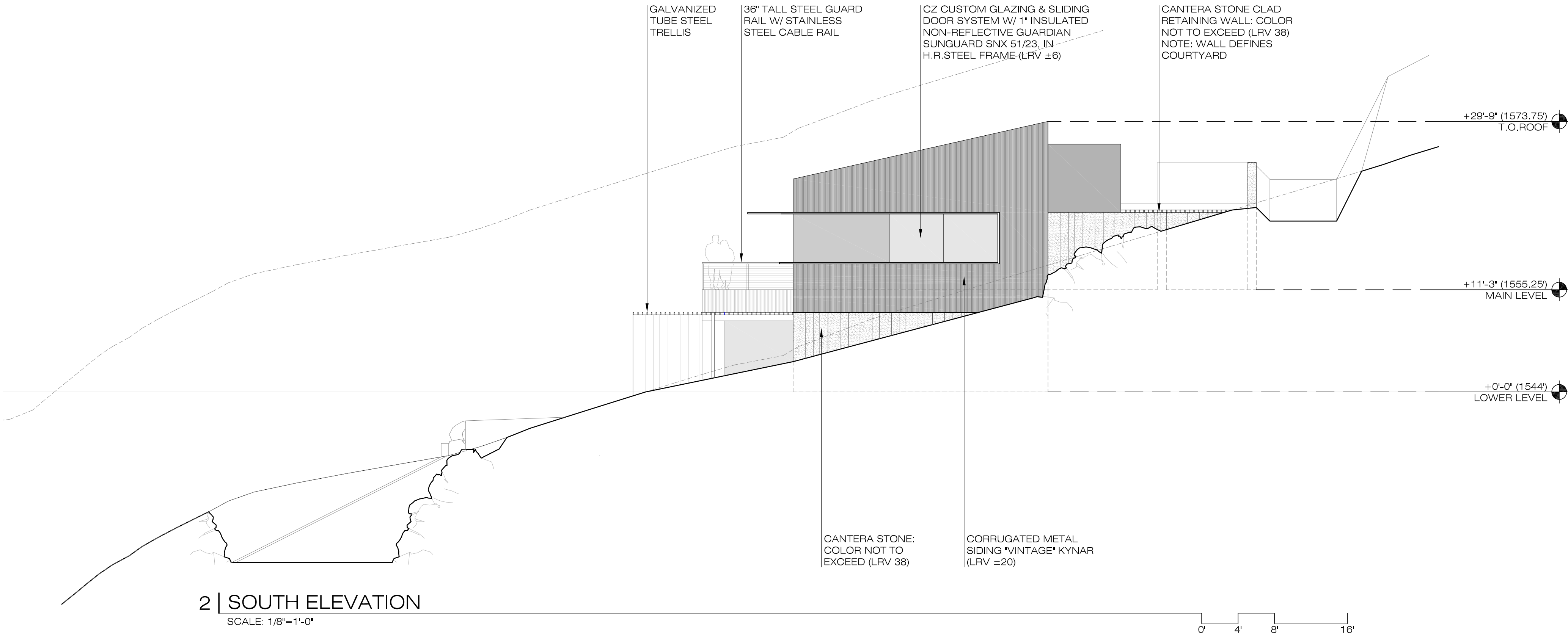


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phoenix, arizona 85016  
office 602.230.0383  
fax 602.230.0535

GENERAL NOTES

1. MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 24'-0" FROM NATURAL GRADE & FINISH GRADE.

VARIANCE



URproject 20

7941 north 55th street, paradise valley, arizona, 85253

WEST & SOUTH ELEVATIONS

02.17.23

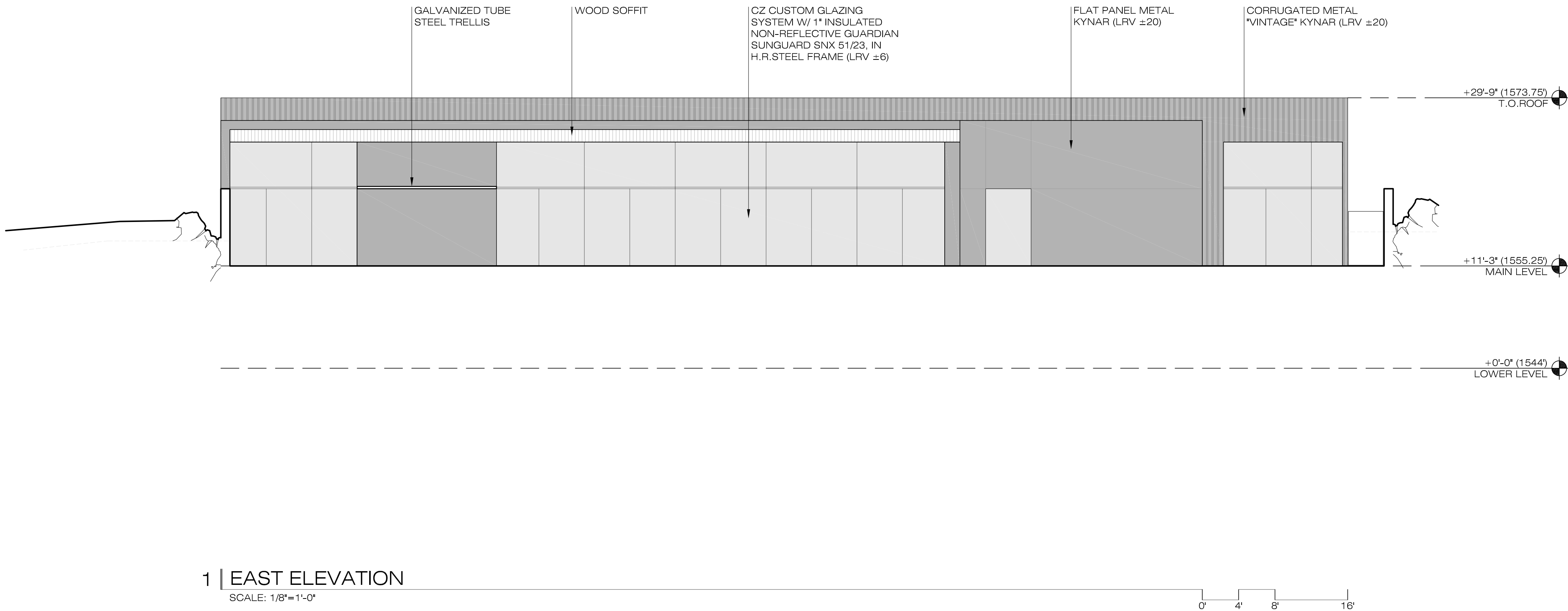
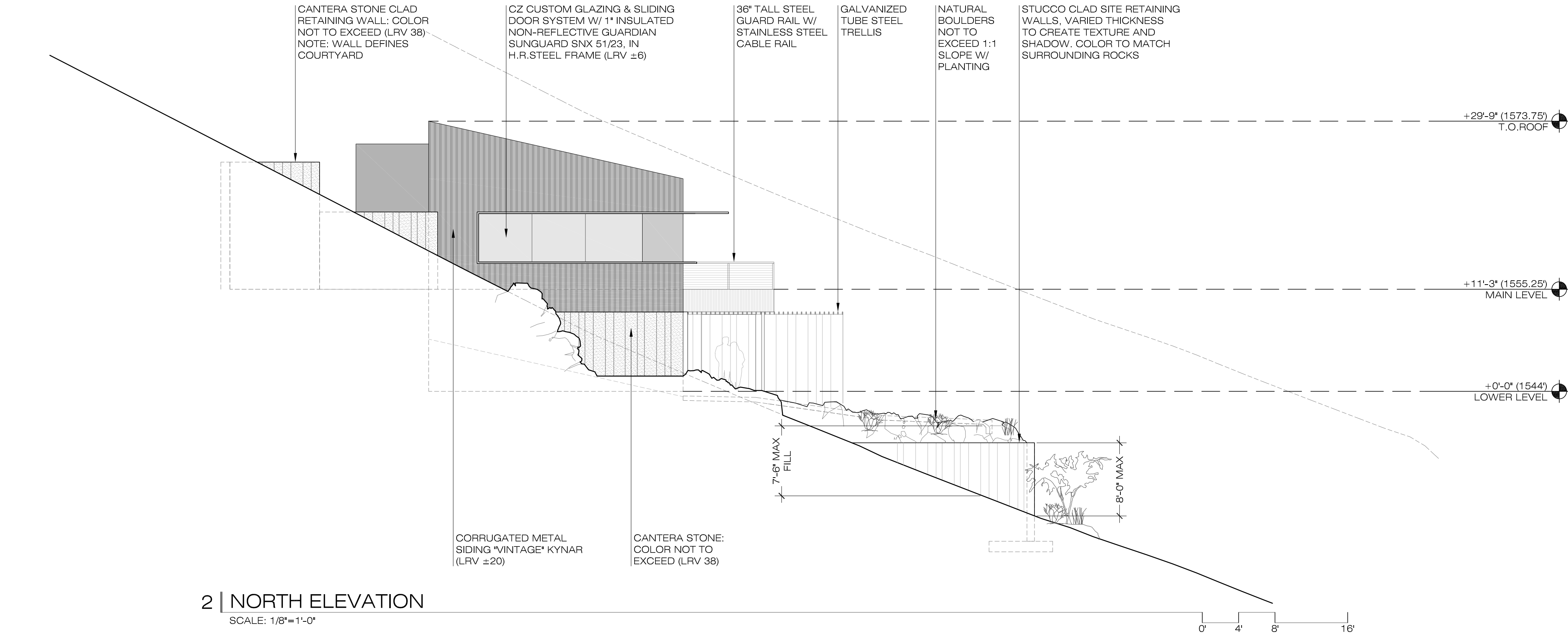
A300

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GENERAL NOTES  
1. MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 24'-0" FROM NATURAL GRADE.

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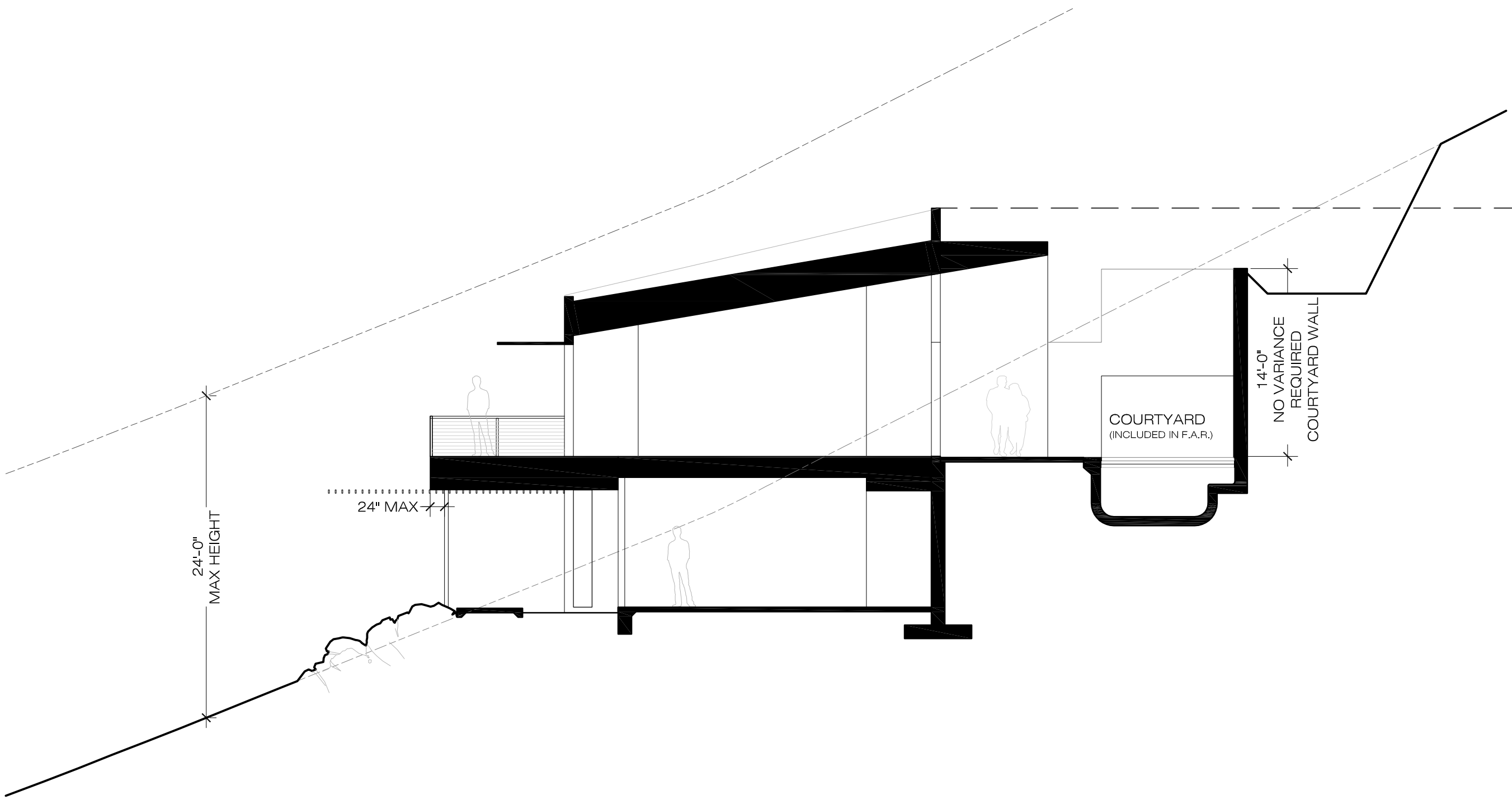
VARIANCE



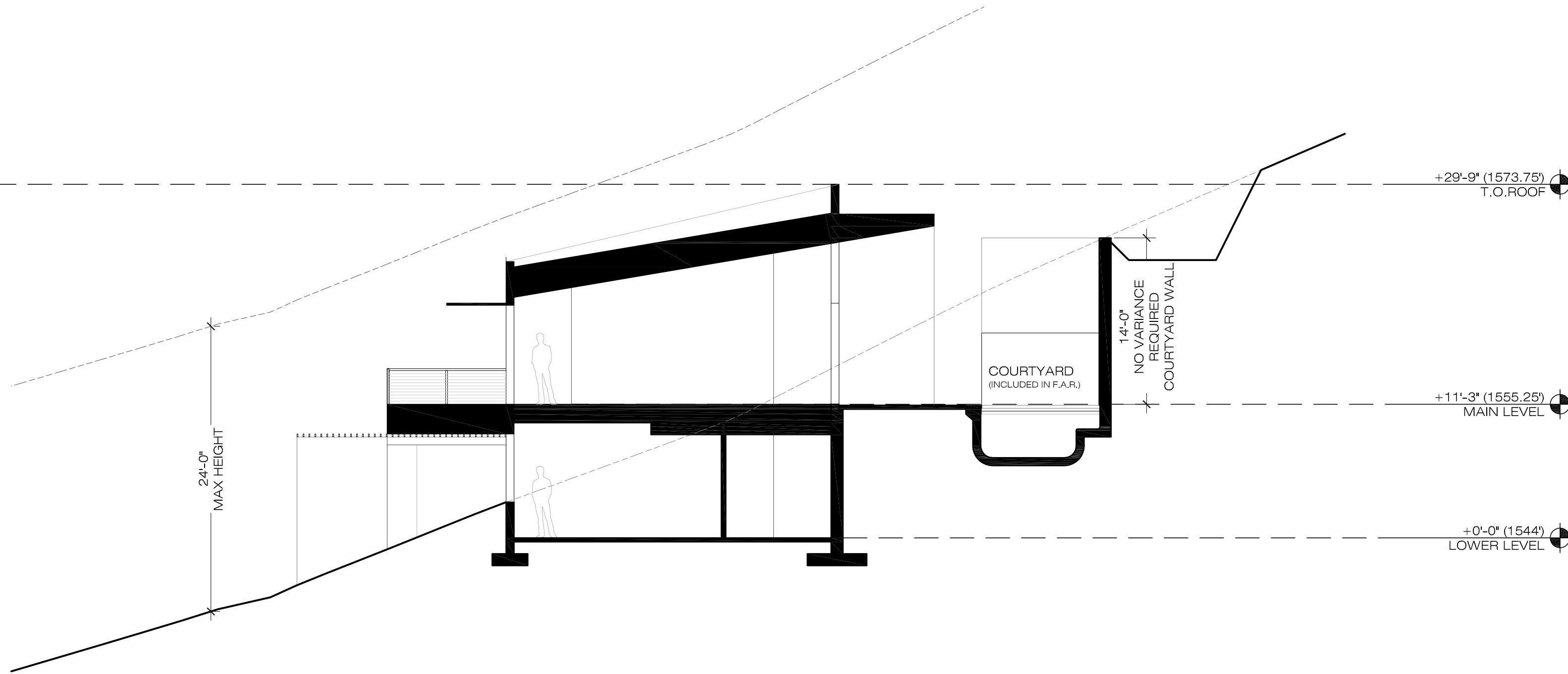
URproject 20  
7941 north 55th street, paradise valley, arizona, 85253  
02.17.23  
A301  
EAST & NORTH ELEVATIONS

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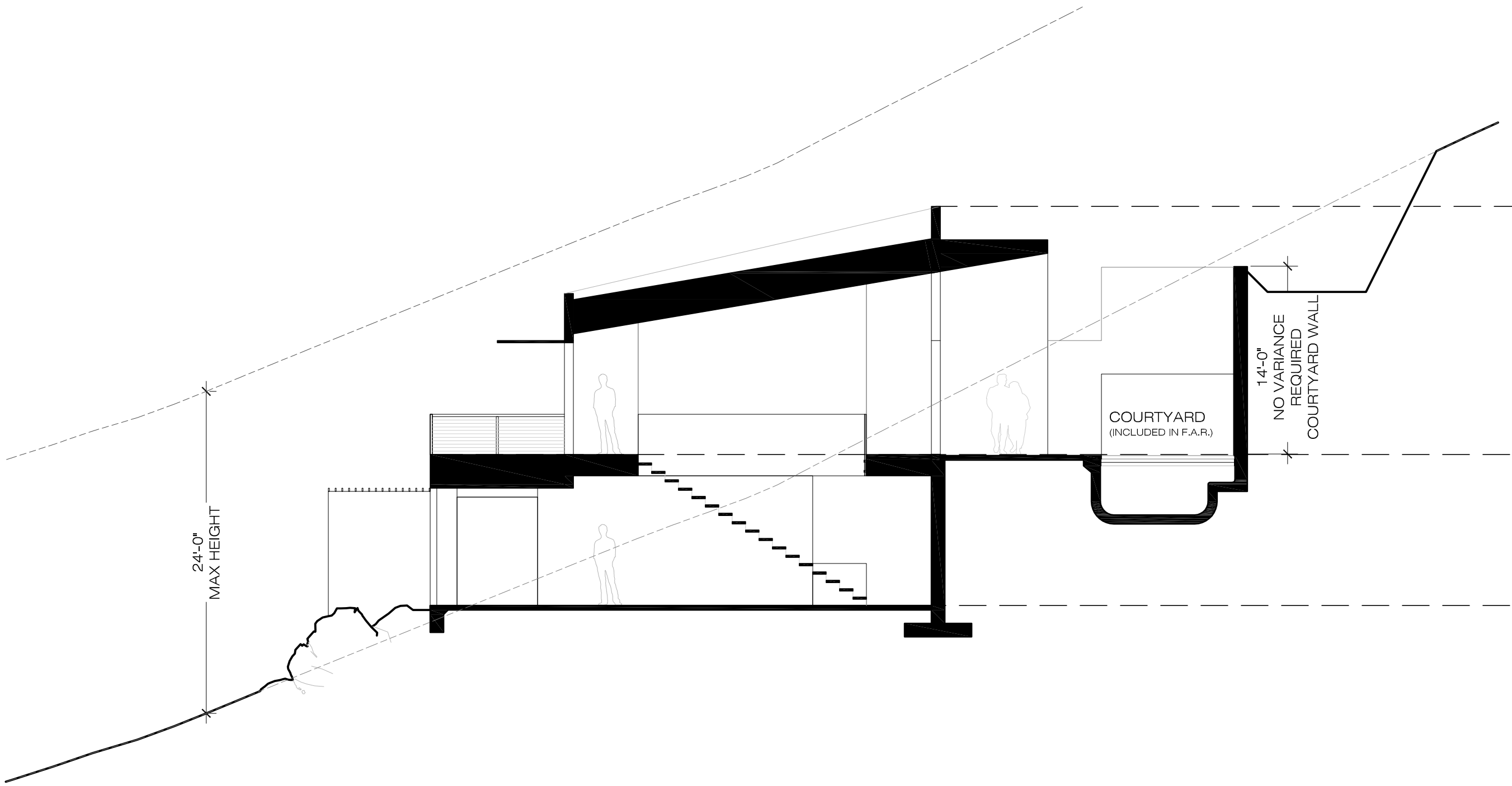




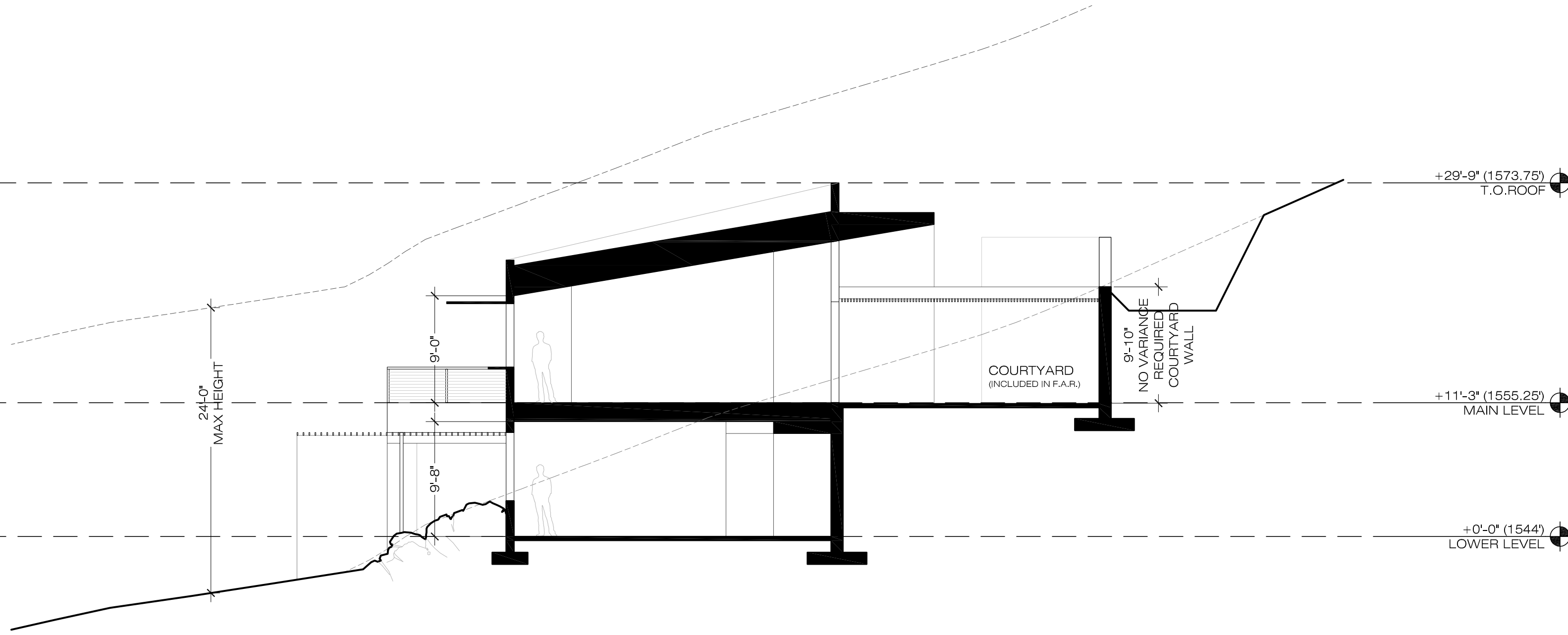
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SCALE: 1/8"=1'-0"



2 | SECTION  
SCALE: 1/8"=1'-0"



3 | SECTION  
SCALE: 1/8"=1'-0"



1 | SECTION  
SCALE: 1/8"=1'-0"

## GENERAL NOTES

1. MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 24'-0" FROM NATURAL GRADE.
2. OVERALL HEIGHT OF BUILDING SHALL NOT EXCEED 40'-0".
3. THE MAXIMUM HEIGHT OF ALL RETAINING WALLS SHALL BE 8'-0".
4. ALL HOUSE RETAINING WALLS BELOW GRADE SHALL BE FULLY WATERPROOFED FROM TOP OF FOOTING TO THE FINISHED GRADE ON THE RETAINING (NON-VISIBLE SIDE) WITH 'BITUTHENE 4000 WATERPROOFING WITH DOW 1/4" HPU FAN BOARD PROTECTION' OR APPROVED EQUAL PER MANUFACTURER'S RECOMMENDED INSTALLATION.
5. ALL SITE RETAINING WALLS VISIBLE FROM ONE SIDE, SHALL BE FULLY DAMP PROOFED FROM TOP OF FOOTING TO THE FINISHED GRADE ON THE RETAINING (NON-VISIBLE SIDE) WITH 'HENRY SEALER AND DAMP PROOFER' OR APPROVED EQUAL PER MANUFACTURER'S RECOMMENDED INSTALLATION.

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## VARIANCE

# URproject 20

7941 north 55th street, paradise valley, arizona, 85253

## SECTIONS

02.17.23

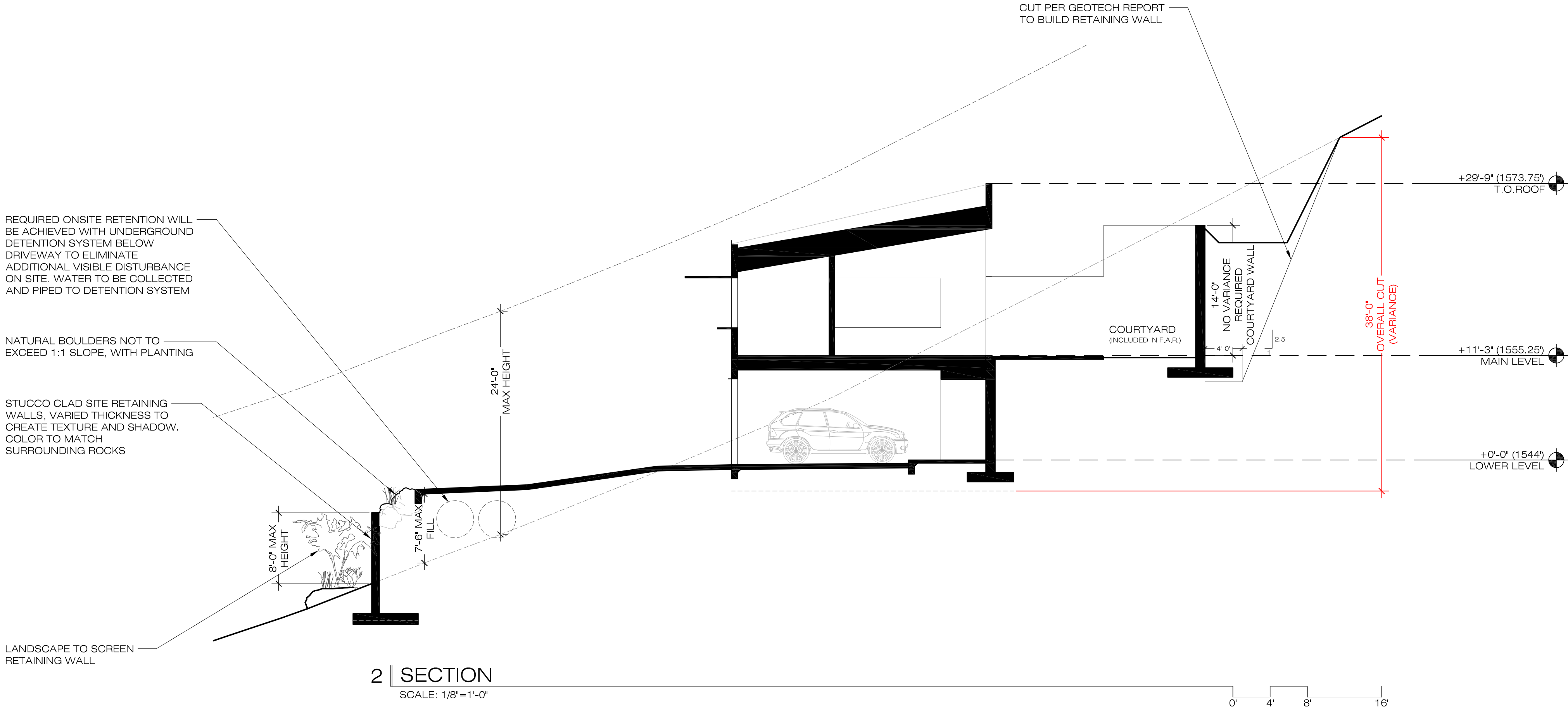
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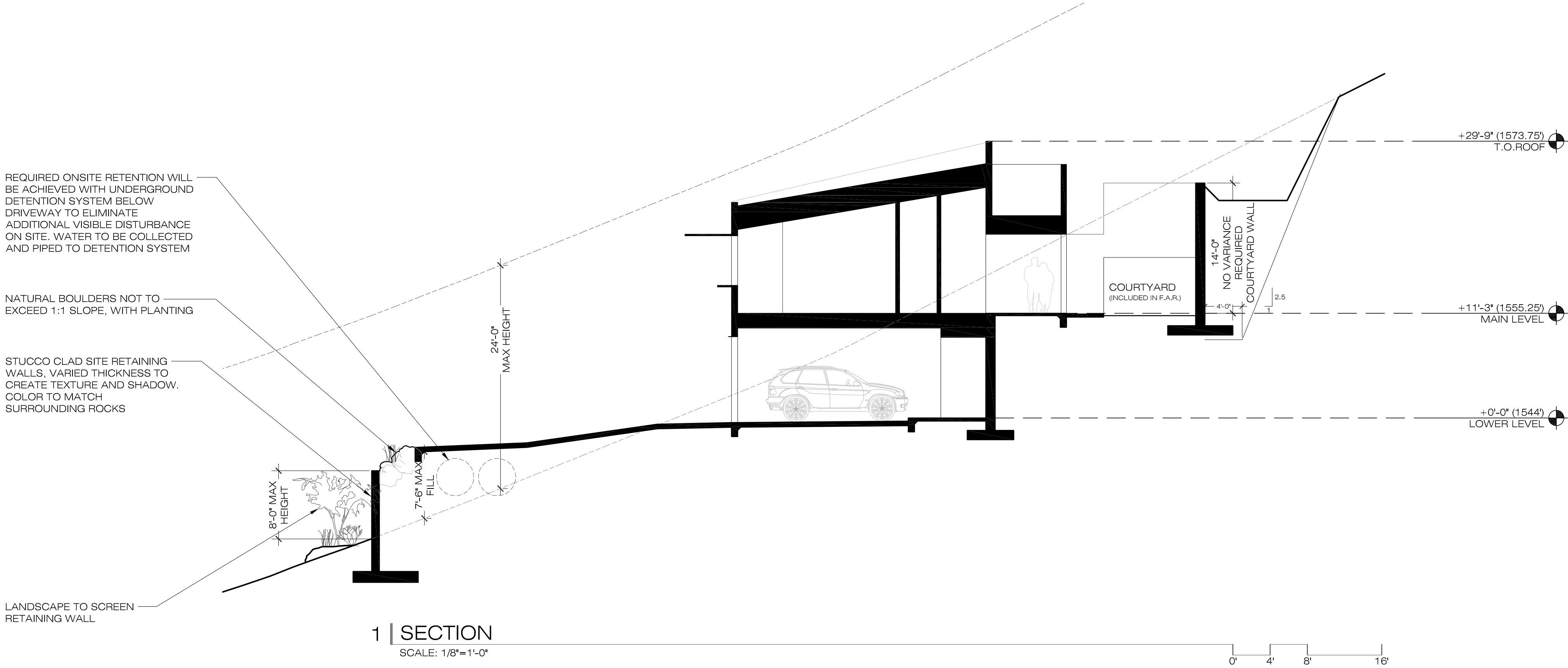
the construction zone  
1729 east osborn road  
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GENERAL NOTES

1. MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 24'-0" FROM NATURAL GRADE.
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VARIANCE



URproject 20

7941 north 55th street, paradise valley, arizona, 85253

SECTIONS

02.17.23

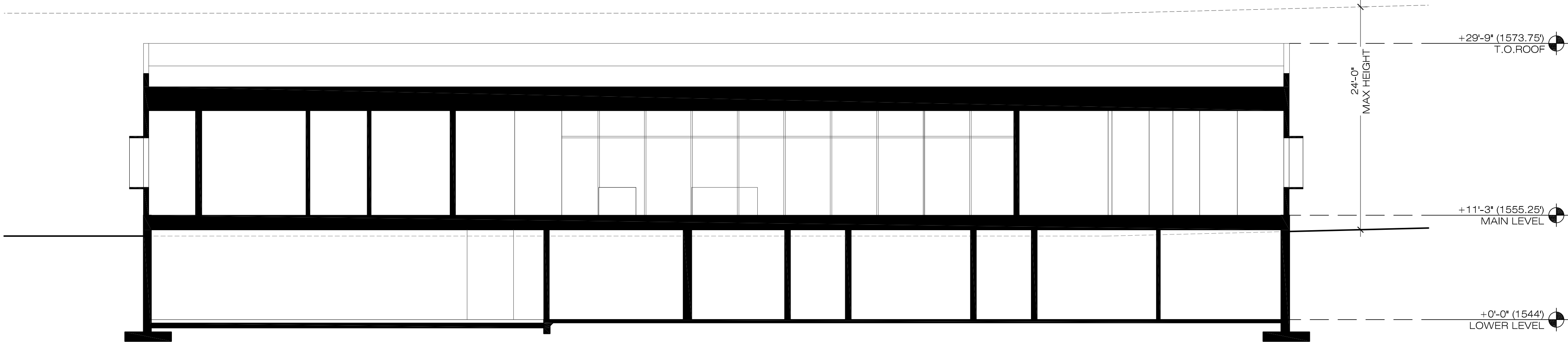
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the construction zone  
1729 east osborn road  
phoenix, arizona 85016  
office 602.230.0383  
fax 602.230.0535

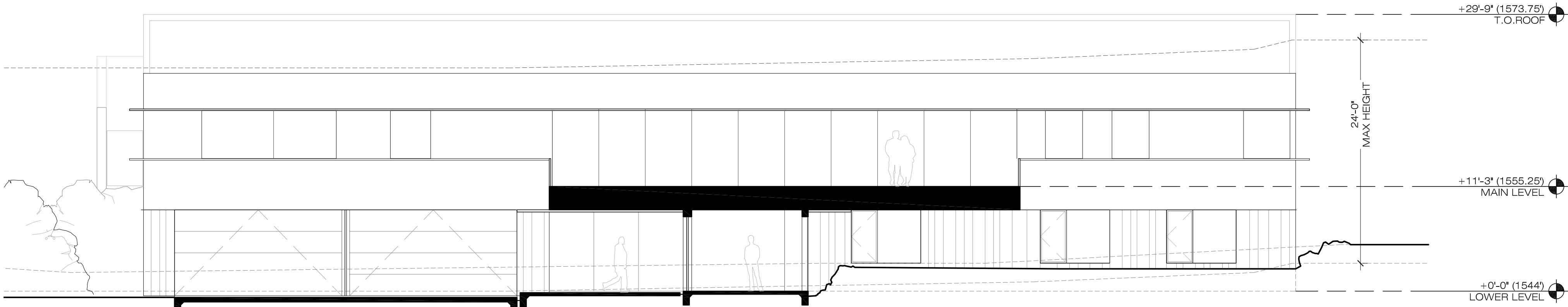
GENERAL NOTES

- 1. MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 24'-0" FROM NATURAL GRADE.
- 2. OVERALL HEIGHT OF BUILDING SHALL NOT EXCEED 40'-0".
- 3. THE MAXIMUM HEIGHT OF ALL RETAINING WALLS SHALL BE 8'-0".
- 4. ALL HOUSE RETAINING WALLS BELOW GRADE SHALL BE FULLY WATERPROOFED FROM TOP OF FOOTING TO THE FINISHED GRADE ON THE RETAINING (NON=VISIBLE SIDE) WITH 'BITUTHENE 4000 WATERPROOFING WITH DOW 1/4" HPU FAN BOARD PROTECTION' OR APPROVED EQUAL PER MANUFACTURER'S RECOMMENDED INSTALLATION.
- 5. ALL SITE RETAINING WALLS VISIBLE FROM ONE SIDE, SHALL BE FULLY DAMP PROOFED FROM TOP OF FOOTING TO THE FINISHED GRADE ON THE RETAINING (NON=VISIBLE SIDE) WITH 'HENRY SEALER AND DAMP PROOFER' OR APPROVED EQUAL PER MANUFACTURER'S RECOMMENDED INSTALLATION.



2 | SECTION  
SCALE: 1/8"=1'-0"

0' 4' 8' 16'



1 | SECTION  
SCALE: 1/8"=1'-0"

0' 4' 8' 16'

VARIANCE

URproject 20

7941 north 55th street, paradise valley, arizona, 85253

SECTIONS

02.17.23

A402

THIS DRAWING IS AN INSTRUMENT OF SERVICE AND PROPERTY OF THE CONSTRUCTION ZONE. THIS DRAWING MAY NOT BE REPRODUCED, OR REPRODUCTIONS HERE OF USED, WITHOUT WRITTEN PERMISSION.







# 7941 north 55th street

# project team

**owner**  
ur project20 llc  
2720 north val vista drive  
mesa, arizona 85213  
e: rlowery@unwiredrevolution.com  
m: 602.469.5750

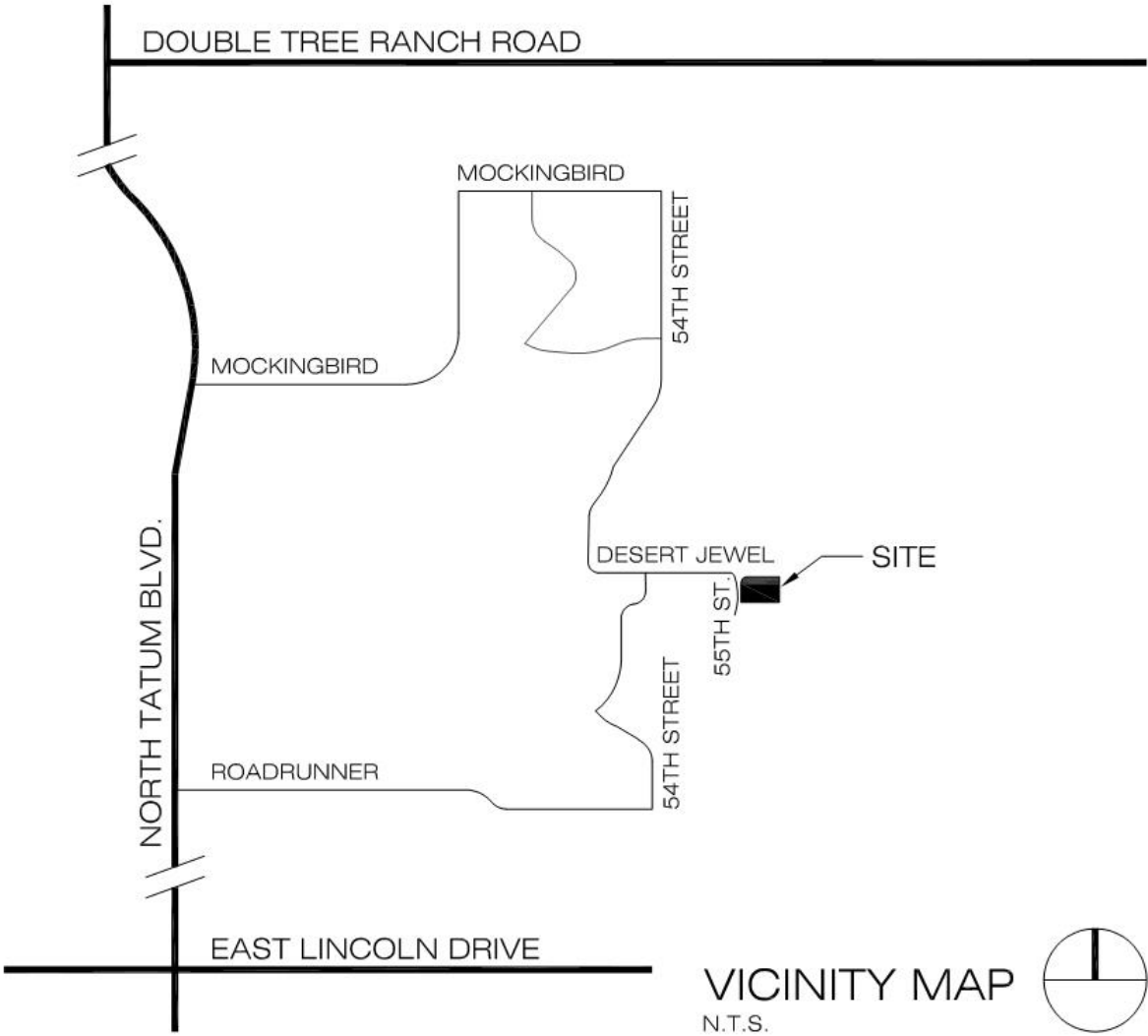
**architect**  
andy byrnes, aia  
the construction zone, ltd  
1729 east osborn road  
phoenix, arizona 85016  
e: andy@czphx.com  
p: 602.230.0383

**project manager**  
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queen creek, arizona 85142  
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p: 602.368.8489

**geotech**  
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mesa, arizona 85202  
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p: 480.968.0190

**attorney**  
doug jorden  
jorden law firm, p.c.  
6122 east quartz mountain road  
paradise valley, arizona 85283  
e: doug@jordenlaw.com  
p: 480.505.3909







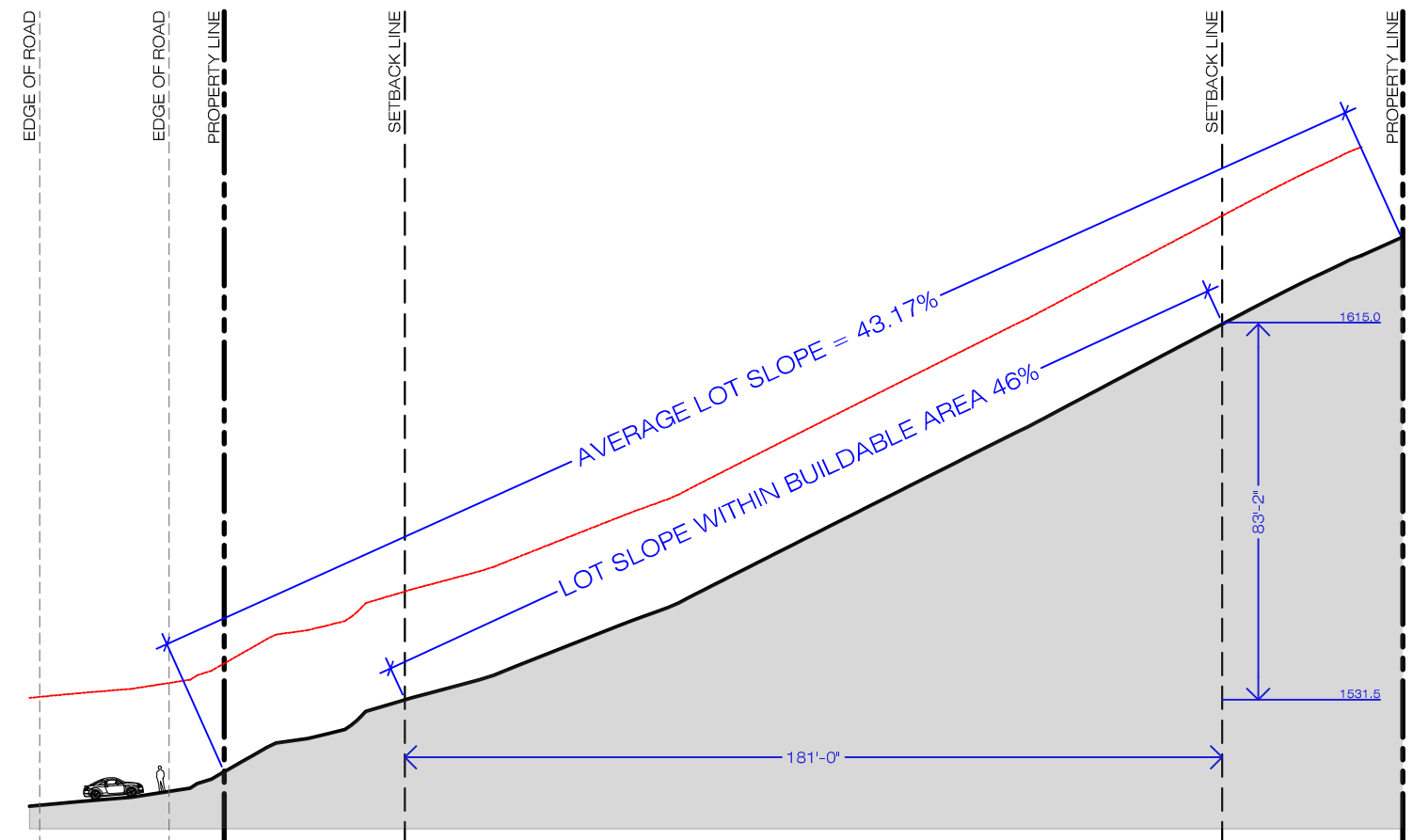


- Subdivision created in 1974 in Maricopa County
- Annexed into Paradise Valley in 1982
- Hillside regulation began in 1984, with restrictions increasing through 2018
- Restrictions have resulted in this lot being unbuildable without variances
- Homeowner working with an architect experienced in hillside design
- Goal is to build an appropriate home for the area, while minimizing hillside impact



## site hardships: lot slope

- Paradise Valley Hillside development regulations apply to lots with a slope of 10% or more
- **The average slope of the lot in the buildable envelope is approximately 46%, creating a severe natural hardship.** hardship is not self-imposed



SITE SECTION  
1" = 40'



## site hardships: undersized lot

- Paradise Valley Hillside development regulations require a lot with an average slope of 43% to have a minimum lot size of 365,904 sf [8.4 acres]
- **This lot is only 44,180 sf, resulting in a site that is unbuildable without variances due to its original platting.** hardship is not self-imposed



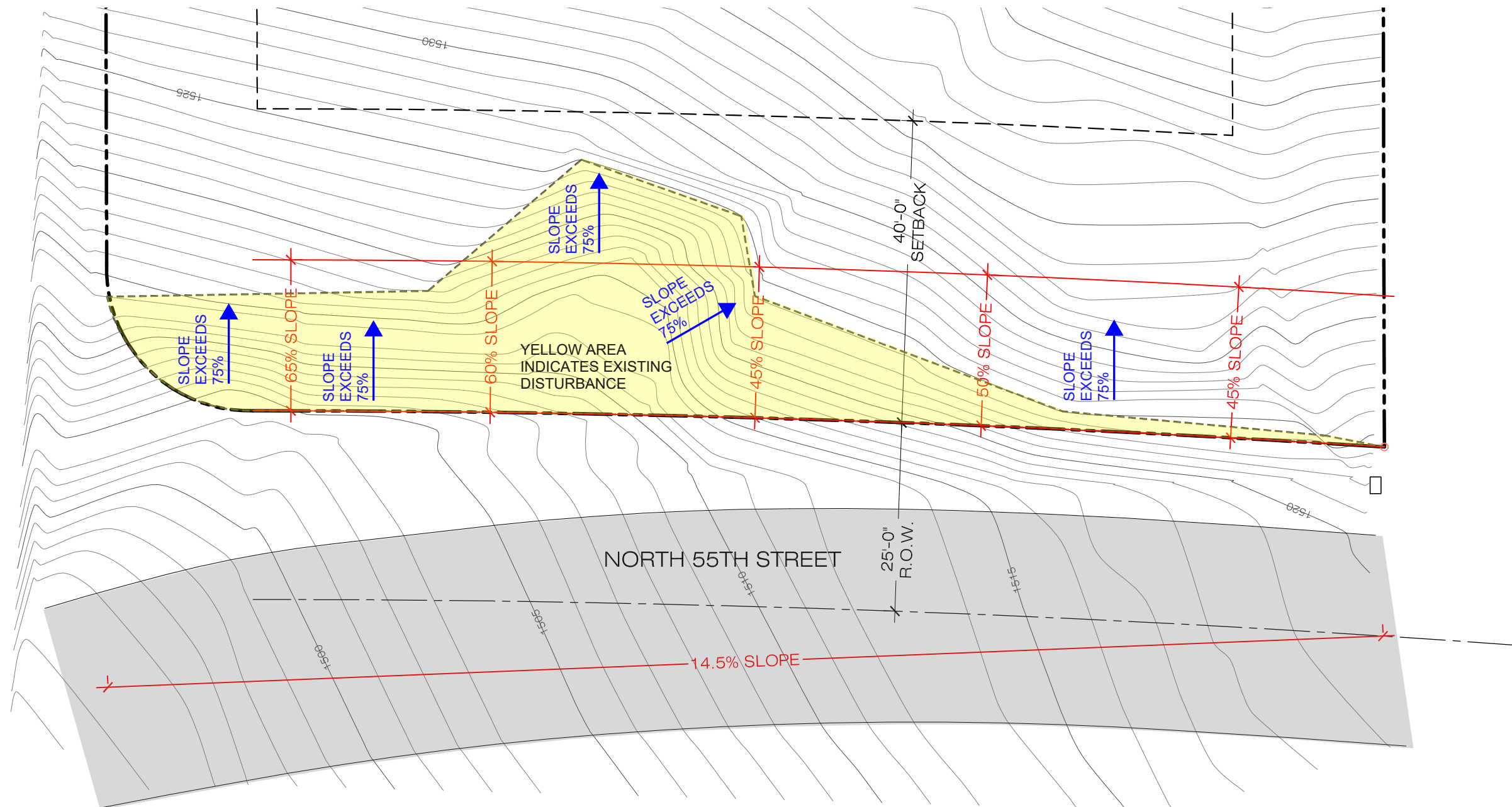
SITE: LOT SIZE COMPARISON  
1" = 80'





## site hardships: existing road cut

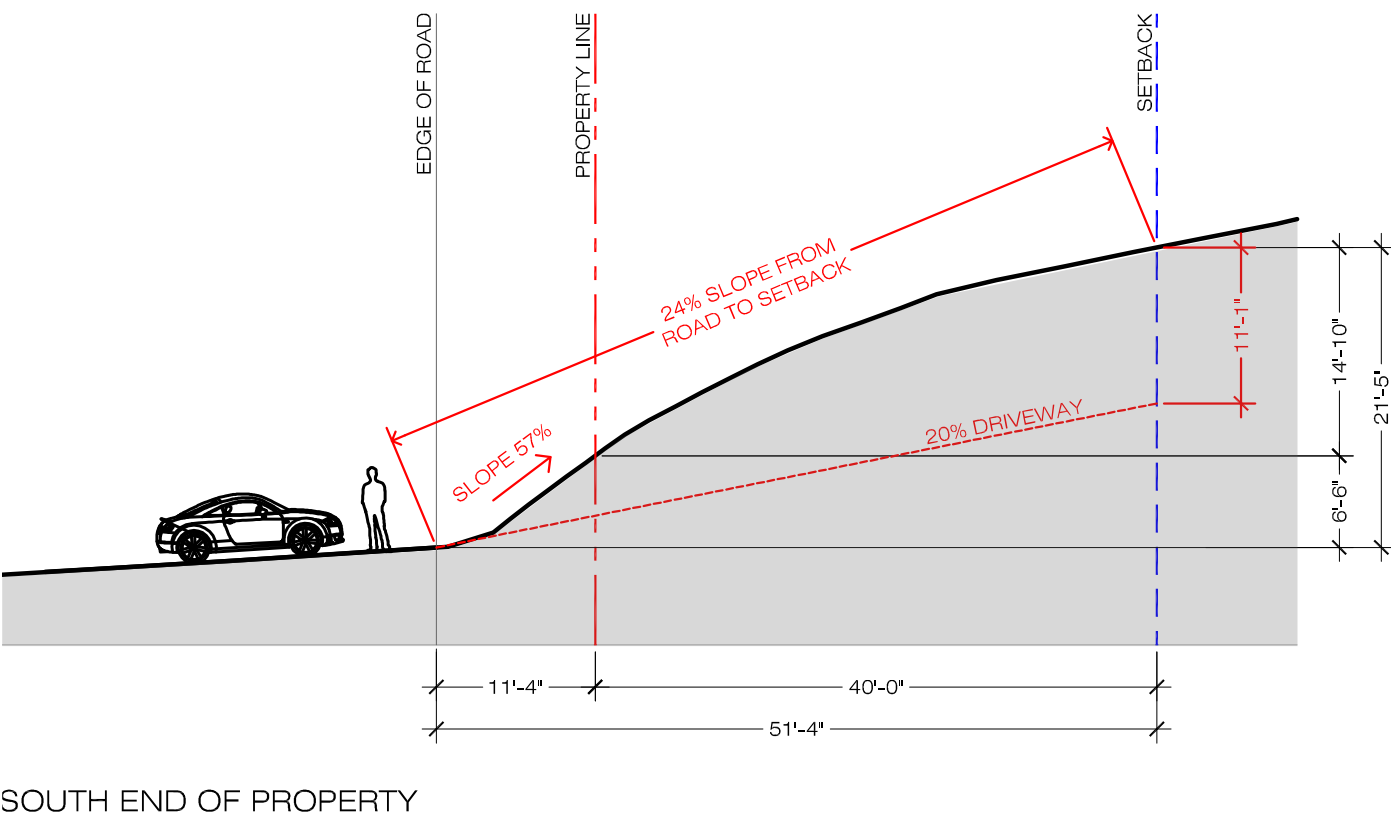
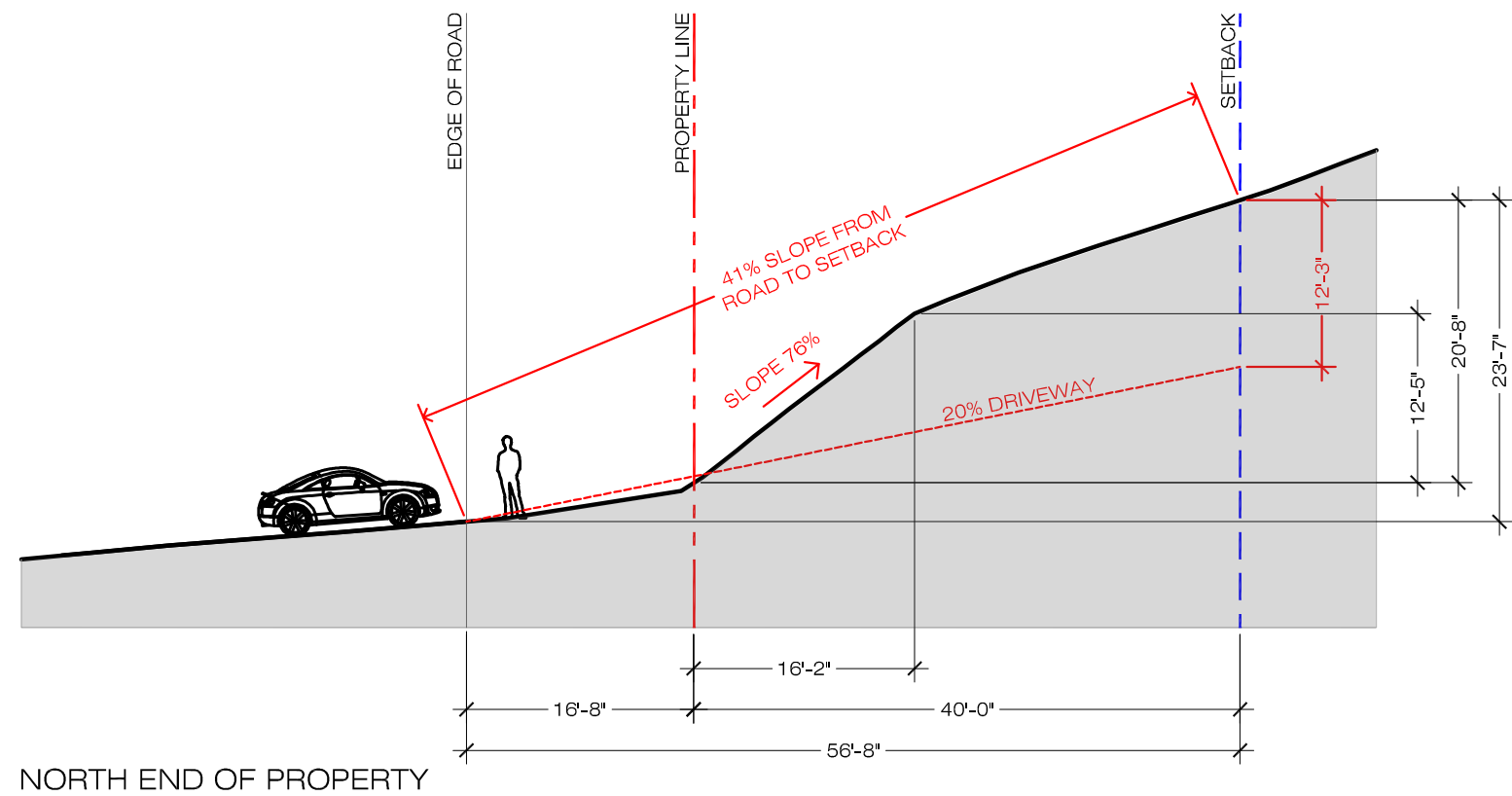
- Creation of 55th Street in the 1970s created a slope that ranges from 45%-75% grade from the street level resulting in a steep and difficult access on the frontage of the lot.
- **A driveway cannot be constructed to a home without variances due to existing hardships including access past this steep frontage.** hardship is not self-imposed





site hardships: existing road cut

- Vehicle access to site creates the first hardship, on which everything else is dependent
- Access limited by the exceedingly steep slope from road to setback





## 1. Disturbance Area

Allow a gross disturbed area of 20,950 sf with a final net disturbance of 18,388 sf [41.6%].

*Section 2207.III.F: allows a total disturbed area of 4,241 sf.*

## 2. Overall Cut

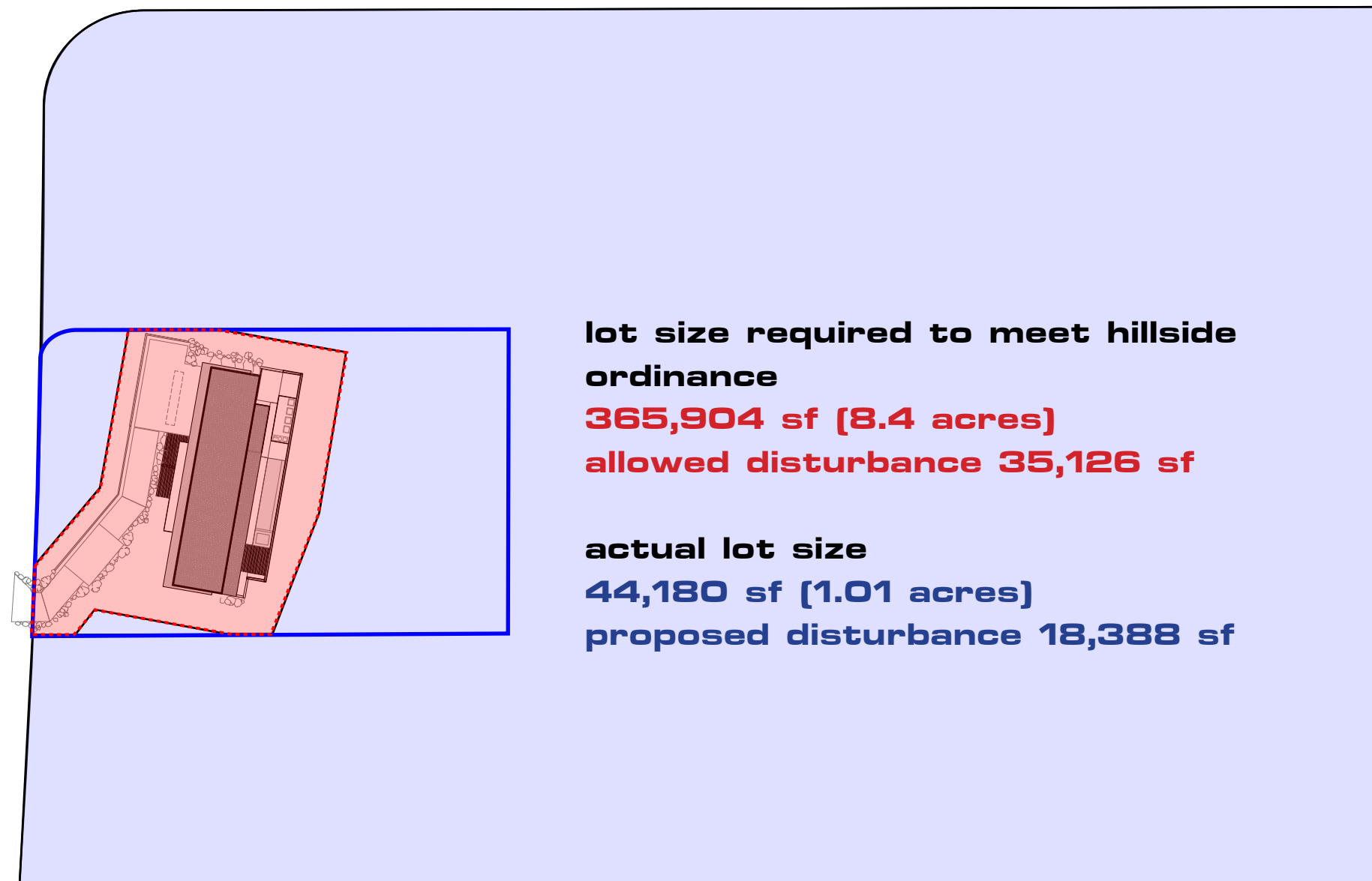
Allow a max cut of 38'-0"

*Section 2207.III.C: The maximum height of any Cut used to establish a Building Site shall not exceed 30 feet.*



# variance request: disturbance

- under sized lot based on current hillside ordinance. if lot was the correct size no variance would be required.



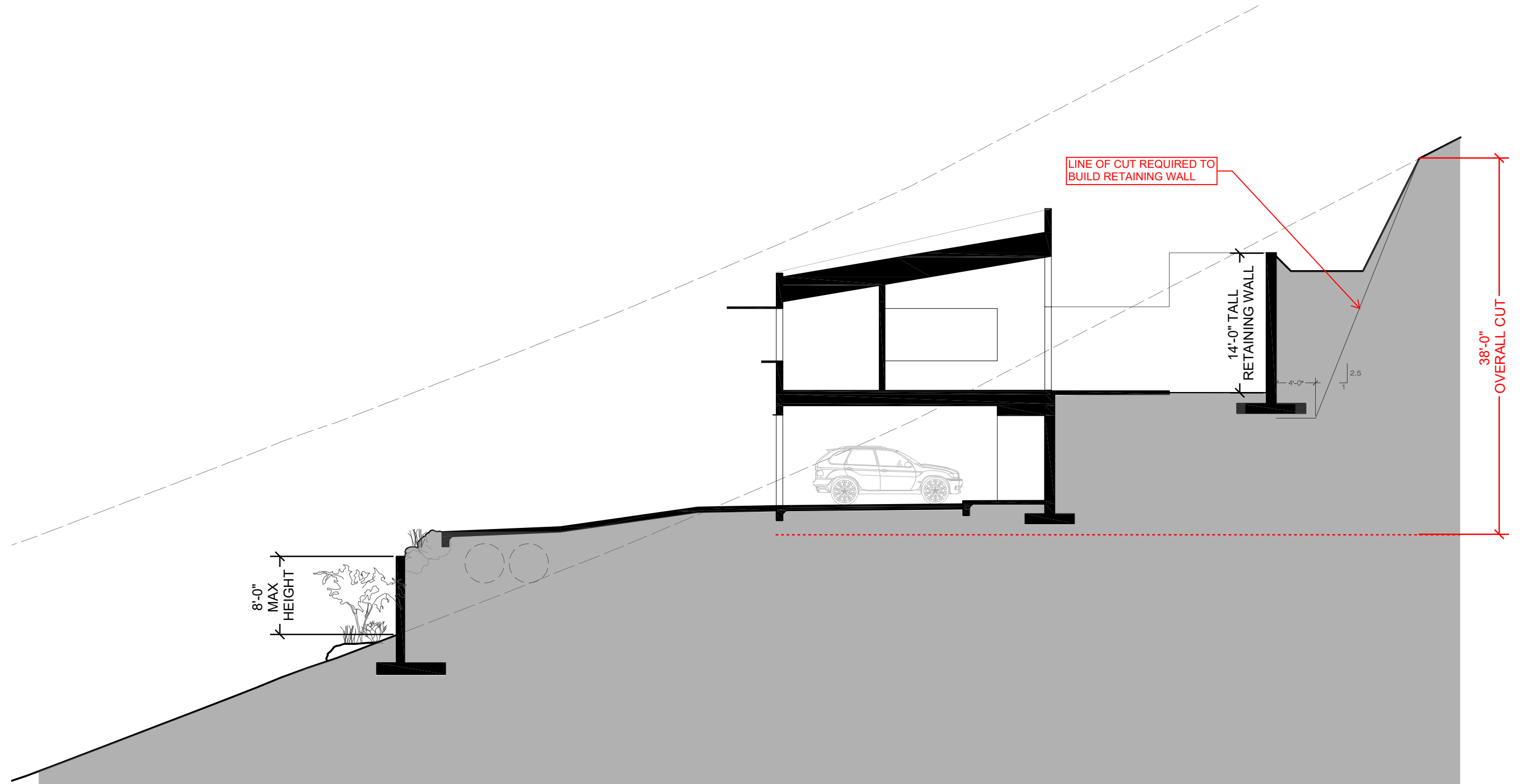
SITE: DISTURBANCE  
1" = 80'





# variance request: cut height

- Lot has an average lot slope of over 43% which limits the overall cut height.



SECTION  
1" = 10'





**1. That there are special circumstances applicable to the property, which may include circumstances related to the property size, shape, topography,location, or surroundings, and**

The property was platted in 1974 in Maricopa County and annexed into Paradise Valley before Hillside regulations were adopted as a result the lot is undersized and cannot be created under the current hillside ordinance. If the lot was the correct size of 365,900 sf [8.4 acres] the proposed net disturbance of 18,388 sf would be well under the allowed disturbance of 35,126 sf.

There is an existing 2,200 sf of disturbance from the road cut when 55th street was built in the mid 1970’s

Lot has an average lot slope of over 43%:

- Limits the amount of disturbance permitted under the current hillside ordinance.
- Limits overall cut: The proposed residence is designed to balance the height of the driveway retaining wall height and the overall cut height without burring the entire building below natural grade.

**2. That the special circumstances applicable to the property were not self-imposed or created by the property owner; and**

The lot size, lot slope and existing disturbance are not self-imposed nor created by the property owner. They are the result of how the property was originally platted and how 55th street was created.

**3. That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification the same zoning district.**

The property suffers from pre-existing conditions that makes this lot unbuildable without variance under the current zoning ordinance.

The lot slope, size and existing disturbance are hardships that:

- does not allow for an adequate allowable disturbance
- does not allow cars to access the site
- limits overall cut

The variance requests do not constitute a grant of special privilege but allows this property similar privileges enjoyed by other property of the same classification the same zoning district



- The creation of this lot and its annexation into the town pre-dated the implementation of the hillside development regulations, creating a mismatch between the regulations and the realities of this lot
- Site hardships cause variances to be necessary to construct a home on this lot Vehicle access significantly reduces the ways in which a home may be placed on this lot
- Significant efforts have been made to reduce and/or eliminate variance requests for this challenging site, resulting in this thoughtful, staff-supported design



# THE ARIZONA REPUBLIC

PO Box 194, Phoenix, Arizona 85001-0194

Phone 1-602-444-7315

Fax 1-877-943-0443

This is not an invoice

PNI-Scottsdale North Z8

## AFFIDAVIT OF PUBLICATION

TOWN OF PARADISE VAL  
6401 E LINCOLN DR  
PARADISE VALLEY, AZ 85253-4328

**This is not an invoice**

Order # 0005660180 # of Affidavits 1

P.O #

Issues Dated:

04/15/23

STATE OF WISCONSIN }  
COUNTY OF BROWN } SS.

I, being first duly sworn, upon oath deposes and says: That I am the legal clerk of the Arizona Republic, a newspaper of general circulation in the counties of Maricopa, Coconino, Pima and Pinal, in the State of Arizona, published weekly at Phoenix, Arizona, and that the copy hereto attached is a true copy of the advertisement published in the said paper in the issue(s) dated indicated.

Sworn to before me this

15 TH day of  
APRIL 2023

Notary Public

My Commission expires:

NOTICE OF PUBLIC HEARING  
TOWN OF PARADISE VALLEY  
Notice is hereby given that the Town of Paradise Valley Board of Adjustment will hold a public hearing at 5:30 p.m. on Wednesday, May 3rd, 2023, at Town Hall, 6401 East Lincoln Drive, Paradise Valley, Arizona, 85253 for:  
PUBLIC HEARING: Discussion and possible action on a request for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow development for a new single-family residence to exceed allowable development standards which include:  
Exceed the allowable disturbance.  
Exceed the allowable cut height.  
The property is located at 7941 N 55th Street (Assessor's Parcel Number APN 169-06-076B).  
If you have questions about this application, please call Hillside Development Planner Jose Mendez with the Planning Department at (480) 348-3519.  
The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 483-1811 (TDD) to request accommodation.  
For further information about any of these matters, please contact the Community Development Department, 6401 E. Lincoln Drive, Paradise Valley, Arizona, 480-348-3592.  
All agendas are subject to change. You can view the agenda, find application material, and provide your input via eComment approximately 4-6 days prior to the meeting date at <https://paradisevalleyaz.legistar.com/Calendar.aspx>. You may also contact the staff liaison, Jose Mendez on this application at [JMendez@paradisevalleyaz.gov](mailto:JMendez@paradisevalleyaz.gov) or 480-348-3519 at any time before the scheduled meeting date.  
Pub: Apr 15, 2023

VICKY FELTY  
Notary Public  
State of Wisconsin





## COMMUNITY DEVELOPMENT DEPARTMENT AFFIDAVIT OF MAILING NOTIFICATION

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

STATE OF ARIZONA       )  
  ) ss:  
County of Maricopa       )

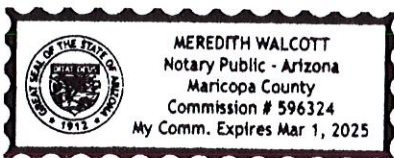
In accordance with the requirements of the Town of Paradise Valley, the undersigned hereby certifies that all the property owners within 1,500 feet of the property, as obtained from the Maricopa County Assessor's Office on 4.7.2023, for the proposed variance has been mailed on the following date 4.10, 20 23.

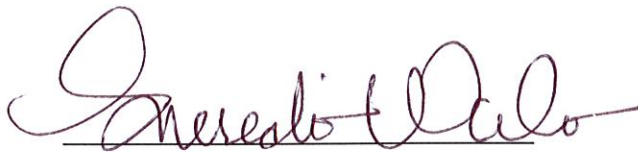
(This property list shall not be older than thirty (30) days at the time of filing of the application).

7941 NORTH 55TH ST.

PARADISE VALLEY, AZ 85253

The foregoing instrument was acknowledged by me this 10 day of April,  
20 23, by Drew Bausom.  
Name



  
NOTARY PUBLIC

My commission expires:

March 1, 2025





## COMMUNITY DEVELOPMENT DEPARTMENT VARIANCE APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN THAT THE TOWN OF PARADISE VALLEY BOARD OF ADJUSTMENT WILL HOLD A HEARING ON THE FOLLOWING PROPOSED PROJECT. IF YOU HAVE QUESTIONS ABOUT THIS APPLICATION, PLEASE CALL THE PLANNING DIVISION AT (480) 348-3692.**

Applicant/Representative: Drew Bausom

Applicant's Company Name: the construction zone, ltd

Phone Number: 602-230-0383

E-mail Address: drew@czphx.com

Project/Property Address: 7941 north 55th Street

Zoning: R-43 Acreage: 1.014

#### Project Narrative:

Consideration of a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations to allow development for a new single-family residence to exceed allowable development standards which include:

- Exceed the allowable disturbance.
- Exceed the allowable cut height.

The property is located at 7941 North 55th Street (Assessor's Parcel Number APN 169-06-076B).

#### MEETING DATE/ TIME/PLACE

Meeting Date: May 3, 2023 Meeting Time: 5:30 p.m.

Meeting Place: Town of Paradise Valley Town Hall Building. 6401 E. Lincoln Drive. Paradise Valley, AZ 85253  
*Language regarding remote participation requirements on next page (as determined by staff)*

Planning Division: 480-348-3692



169-06-069	LEVINE KYLE B/PEPIN CRAIG	1108 LAKESIDE AVE SOUTH SEATTLE WA USA 98144
168-65-027	DANADIN LLC	1130 S BARDEAUX AVE YUMA AZ USA 85364
169-06-101	PHOENIX ASSETS LLC	1450 WYNKOOP ST APT 1F DENVER CO USA 80202
168-77-007	ULRICK GRANT H/KREBS DONNA M	1513 FAIRFIELD BEACH RD FAIRFIELD CT USA 06824
169-04-034	MUMMY ESTATES LLC	2001 E CAMPBELL AVE STE 103 PHOENIX AZ USA 85016
169-04-037	MUMMY ESTATES LLC	2001 E CAMPBELL AVE STE 103 PHOENIX AZ USA 85016
169-04-038	MUMMY ESTATES LLC	2001 E CAMPBELL AVE STE 103 PHOENIX AZ USA 85016
169-06-064	MORRISON LANE LLC	2121 E CRAWFORD PL SALINA KS USA 67401
168-75-035	SUSAN A STEVINSON REVOCABLE TRUST	22 COVINGTON DR CHERRY HILLS VILLAGE CO USA 80113
169-06-043	RUNNING ANDREW R/LAURA A	22 S COUNTY LINE RD HINSDALE IL USA 60521
169-06-048	WAGENER FAMILY INVESTMENTS LLC	2605 W WAYZATA BLVD LONG LAKE MN USA 55356
168-65-001A	CHARLES J SLACK JR & ELIZABETH JOINT REV	2710 S RURAL RD TEMPE AZ USA 85282
169-06-076B	UR PROJECT20 LLC	2720 N VAL VISTA DR MESA AZ USA 85213
169-06-002B	VISIONARY INVESTORS LP	3219 E CAMELBACK RD STE 844 PHOENIX AZ USA 85018
169-06-054	WOLFF ROBERT W/MARGARET A	400 COUNTRY CLUB RD SCHOFIELD WI USA 54476
168-65-029	ARIEL GLOBAL INVESTMENTS LLC	4408 N 12TH ST STE 200 PHOENIX AZ USA 85014
169-06-059	MARINANGELI FAMILY TRUST	5-124 STONECREEK RD CANMORE AB CAN T1W3A5
168-75-036	SINGER NANCY P	5301 E SAGUARO PL PARADISE VALLEY AZ USA 85253
168-75-008	HARRISON NATHAN L/ASHLEY R	5301 E VISTA RICA ST PARADISE VALLEY AZ USA 85253
168-75-019	LANGBEIN FAMILY REVOCABLE TRUST	5301 E VISTA RICA ST PARADISE VALLEY AZ USA 85253
169-06-049	TEETS NANCY G/HEIDI JAYNE TR	5303 E DESERT PARK LN PARADISE VALLEY AZ USA 85253
168-75-040	DALTON FAMILY TRUST	5304 E SAGUARO PL PARADISE VALLEY AZ USA 85253
168-75-016	LAWRENCE AND JONI FINKEL FAMILY TRUST	5316 E VISTA RICA ST PARADISE VALLEY AZ USA 85253
168-75-009	AZOULAY REVOCABLE TRUST 1918	5319 E VISTA RICA ST PARADISE VALLEY AZ USA 85253
168-75-041	WADE ROBERT J/KATHELEN R TR	5320 E SAGUARO PL PARADISE VALLEY AZ USA 85253
168-75-034	SOUTH CATBIRD LLC	5335 E SAGUARO PL PARADISE VALLEY AZ USA 85253
168-75-042	CARR MARGARET J	5338 E SAGUARO PL PARADISE VALLEY AZ USA 85253
168-65-032	SCHULTZ MILLER TRUST	5347 E ROYAL PALM RD PARADISE VALLEY AZ USA 85253
168-75-028	AHEARN GREGORY S	5400 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
168-65-031	TROCCOLI FAMILY REVOCABLE TRUST	5401 E ROYAL PALM RD PARADISE VALLEY AZ USA 85253
169-54-026A	BRIAN AND CLARA FRANKIE FAMILY TRUST	5410 E ROADRUNNER RD PARADISE VALLEY AZ USA 85253
169-06-061	BRYAN JOSEPH S III/LEISA J	5412 E MORRISON LN PARADISE VALLEY AZ USA 85253
168-75-029	DON DADY LIVING TRUST	5416 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
169-54-027A	HAROLD A SCHIFMAN TRUST	5422 E ROAD RUNNER RD PARADISE VALLEY AZ USA 85253
169-06-060	FORD B HOWELL 2006 TRUST/WILLIAM R AULWES REVOCABLE TRUST	5426 E MORRISON LN PARADISE VALLEY AZ USA 85253
169-06-053	ROSE DWANE L/DEBRA R TR	5429 E MORRISON LN PARADISE VALLEY AZ USA 85253
168-75-030	MCLAUGHLIN DAVID J/CRAWFORDMCLAUGHLIN P BRAD	5432 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
169-06-063	VRLA REVOCABLE FAMILY TRUST	5432 E MORRISON LN PARADISE VALLEY AZ USA 85253
168-65-028	PASQUALE CAMPANILE REVOCABLE TRUST	5437 E ROYAL PALM RD PARADISE VALLEY AZ USA 85253
168-75-031	BARNETT BRADLEY JOSEPH/KAREN MARIE	5446 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
168-75-032	HIRSCHEY VIRGINIA/JOSHUA	5460 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
168-75-033	VERMA AVTAR C/SATYA P	5474 E DESERT JEWEL DR PARADISE VALLEY AZ USA 85253
169-54-044	LAS BRISAS HOMEOWNERS ASSN INC	5501 E ROAD RUNNER RD PARADISE VALLEY AZ USA 852533330
169-06-058	PRYOR JAMI/FRED H	5506 E MORRISON LN PARADISE VLY AZ USA 85253
169-06-055	HENNESSY-CESAL FAMILY TRUST	5513 E MORRISON LN PARADISE VALLEY AZ USA 85253
169-54-029A	DESERT TRAILS LLC	5514 E ROADRUNNER RD PARADISE VALLEY AZ USA 85253
169-06-056	SILHASEK FAMILY TRUST	5520 E MORRISON LN PARADISE VALLEY AZ USA 852533048
168-64-007	CHIDA TSE PARADISE VALLEY QUALIFIED PERSONAL RESIDENCE TRUST ETAL	5611 E MOCKINGBIRD LN PARADISE VALLEY AZ USA 85253
168-77-008	BLUE 888 LLC	6037 E DONNA CIR PARADISE VALLEY AZ USA 85253
168-76-001B	MUMMY MOUNTAIN PRESERVE TRUST	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-02-022B	PLENGE ROBERT W/DORRANCE BENNETT ETAL TR	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-04-029B	MUMMY MOUNTAIN PRESERVE TRUST	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-04-030A	MUMMY MOUNTAIN PRESERVE TRUST	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-06-004E	PLENGE ROBERT W/DORRANCE BENNETT ETAL TR	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-06-102	MUMMY MOUNTAIN PRESERVE TRUST	6401 E LINCOLN DR PARADISE VALLEY AZ USA 85253
169-06-073	MUMMY MOUNTAIN PRESERVE TRUST	6401 E LINCOLN DR PARADISE VALLEY AZ USA 852534399
169-06-110	RINGEL JEREMY/RAFAL	6401 N 48TH PL PARADISE VALLEY AZ USA 85253
169-06-068	BARRY HANDWERKER TRUST NUMBER ONE/LYNNE HANDWERKER TRUST NUMBER O	6720 N SCOTTSDALE RD STE 305 PARADISE VALLEY AZ USA 85253
168-77-004	DESERTVIEW HAVEN LLC	7320 E BUTHERUS DR SCOTTSDALE AZ USA 85260
169-04-036	DANIEL E HARKINS TRUST	7511 E MCDONALD DR SCOTTSDALE AZ USA 85250
169-06-052	LEVINSON LIVING TRUST	7701 N 54TH ST PARADISE VALLEY AZ USA 85253
169-54-028A	LEVINSON LIVING TRUST	7701 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-046	FSCM TRUST	7738 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-047	REESE CALEB F TR	7748 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-062	LANC FAMILY TRUST	7801 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-045	UNDERWOOD JON OWEN /TAMSINN LEE TR	7811 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-044	SMITA S BAILEY TRUST	7823 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-065	MOORE JONATHAN L/KIMBERLY K	7838 N 54TH PL PARADISE VALLEY AZ USA 85253
169-06-071	KRUEGER LIVING TRUST	7903 N 54TH PL PARADISE VALLEY AZ USA 85253
169-06-066	TRUST FBO MICHAEL AND GENEVIEVE HOGAN	7914 N 54TH PL PARADISE VALLEY AZ USA 85253
169-06-070	PERINI SEAN/HAYDEN HEIDI D	7915 N 54TH PL PARADISE VALLEY AZ USA 85253
169-06-041	BEACH JAMES L/SUZANNE TR	7932 N 54TH ST PARADISE VALLEY AZ USA 85253
169-06-067	LERONA PETRONIO T/TERSITA E TR	7934 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-027	JOHN AND DAWN REVOCABLE TRUST	8015 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-010	SALTICH 2019 IRREVOCABLE TRUST	8030 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-017	ANDREW J ONDRACEK AND JACQUELINE ONDRACEK LIVING TRUST	8100 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-007	KEITH AND NORALANE LINDOR REVOCABLE TRUST	8101 N 53RD PL PARADISE VALLEY AZ USA 85253
168-75-025	FOWLS FAMILY TRUST	8101 N 54TH ST PARADISE VALLEY AZ USA 85253
168-77-002	HANLON CECILIA M	8101 N MUMMY MTN RD PARADISE VALLEY AZ USA 85253
168-77-003A	MIDDLETON JAMIE	8102 MUMMY MOUNTAIN RD PARADISE VALLEY AZ USA 852532242
168-77-010	JAMIE I MIDDLETON 2002 TRUST	8102 N MUMMY MOUNTAIN ROAD PARADISE VALLEY AZ USA 85253
168-75-024	MAMOLEN MARCUS P/SUSAN M	8113 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-018	COOK GLENN C/ROSILENE R TR	8114 N 54TH ST PARADISE VALLEY AZ USA 85253
168-75-022	GHEBLEH FARID/PUNE TR	8201 N 54TH ST PARADISE AZ USA 85253
168-75-015	DORA E WHITE TRUST	8213 N LOMA LN PARADISE VALLEY AZ USA 85253
168-75-021	BEBBINGTON FAMILY TRUST	8215 54TH ST PARADISE VALLEY AZ USA 85253
168-75-020	BRIDGE BOWL LLC	8216 N 54TH ST PARADISE VALLEY AZ USA 85253
168-65-030	DESIGN FORUM LLC	8229 N 54TH ST PARADISE VALLEY AZ USA 85253
169-04-029A	KRAEMER RICHARD C/CAROLE A TR	8236 PECAN GROVE CIRCLE TEMPE AZ USA 85284
168-75-026	54TH STREET PARADISE VALLEY LLC	885 WOODSTOCK RD NO 430-248 ROSWELL GA USA 30075
169-06-042	CARLSON HENRY/TUTTLE JENNIFER	9109 E MADISON ST SIOUX FALLS SD USA 57110
169-06-111	DAHDAH JUAN PABLO/ERIN WAVE	9527 E VERDE GROVE VIEW SCOTTSDALE AZ USA 85255
168-77-009	8060 N MUMMY ROAD LLC	9878 N 79TH PL SCOTTSDALE AZ USA 85258
169-06-057	ANDERSON CARL B III TR	PO BOX 22235 OKLAHOMA CITY OK USA 73123
168-75-023	HALL GERALD M/PAMELA J	PO BOX 4905 TYLER TX USA 757124905
169-06-072	KMP LIVING TRUST	PO BOX 6364 SCOTTSDALE AZ USA 85261
168-65-026		





# COMMUNITY DEVELOPMENT DEPARTMENT

## AFFIDAVIT OF POSTING

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

STATE OF ARIZONA )  
 ) ss:  
County of Maricopa )

I, Drew Bausom, depose and state that the attached notice,  
of proposed application Variance located at  
7941 north 55th street for the Board of Adjustment meeting date of  
May 3rd, 20 23 is

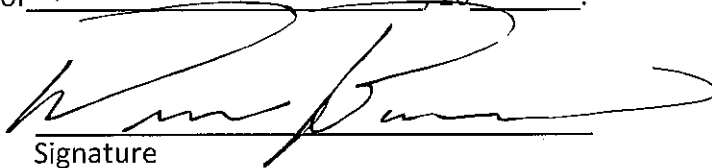
a true and correct copy of a notice which I cause to be posted by the following day of the  
week wednesday,

and on the following date April 12th, 20 23 in the following location(s):

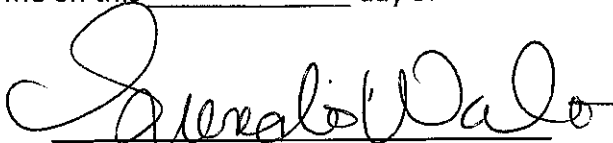
All in the Town of Paradise Valley, Arizona and County and State aforesaid, the same being public  
places in said County and in the following locations:

All to the Town of Paradise Valley, Arizona and County and State aforesaid.

DATED this 12th day of April, 20 23.

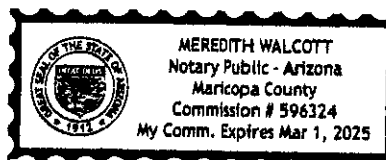
  
Signature

This affidavit was Subscribed and sworn to before me on this 12 day of  
April, 20 23.

  
NOTARY PUBLIC

My commission expires:

March 1, 2025





**NOTICE OF HEARING**

**TOWN OF PARADISE VALLEY**  
**Board of Adjustment and Appeals**  
**6401 E. Lincoln Drive, Paradise Valley, AZ**  
**5:30 O'CLOCK 3RD DAY OF MAY, 2023**

Notice is hereby given that the Town of Paradise Valley Board of Adjustment will hold a public hearing at 5:30 p.m. on Wednesday, May 3, 2023, at Town Hall, 6401 East Lincoln Drive, Paradise Valley, AZ 85253 for:

**PUBLIC HEARING**

Discussion and Possible Action of a variance from the Zoning Ordinance, Article XXII, Unified Development Regulations, to allow development for a single-family residence to exceed the development standards which include:

- Exceed the minimum lot size
- Exceed the allowable lot height

The property is located at 141 N 55th Street (Assessor's Parcel Number 141-050-045780).

If you have questions about the application, please call City Planner, Jennifer Smith at 480-368-5525 or email her at [jennifer.smith@paradisevalleyaz.gov](mailto:jennifer.smith@paradisevalleyaz.gov).  
**PENALTY FOR REMOVAL OF THIS NOTICE: \$500 PER DAY OF VIOLATION.**  
PLACING DOWNSIDE OF 17,500 sq. ft. PLACED NO. 16-22-208





## Action Report

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**File #:** 23-151

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**AGENDA TITLE:**

**Discussion and Possible Action to amend the Board of Adjustment Code of Conduct**

**STAFF CONTACT:**



# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Chair and Board of Adjustment

**FROM:** Lisa Collins, Community Development  
Director

**DATE:** May 3, 2023

**DEPARTMENT:** Community Development, Lisa Collins 480-348-3522

**AGENDA TITLE:**

**Discussion and Possible Action to amend the Board of Adjustment Code of Conduct**

**RECOMMENDATION:**

It is recommended that the Board of Adjustment discuss and determine whether modifications to the Code of Conduct are desired.

**SUMMARY STATEMENT:**

On June 9, 2022, the Town Council adopted Resolution 2022-12 Rules of Procedure for the Board of Adjustment. In that Resolution, the Board was given the authority to adopt a code of conduct to govern the responsibilities of its members, its method of holding meetings and other matters. On February 1, 2023, the Board of Adjustment voted to approve the Board of Adjustment Handbook which included the Code of Conduct.

At the April 12, 2023, Board of Adjustment meeting, during an agendaized orientation and training, Board members discussed the Code of Conduct and requested the item be placed on an agenda to discuss possible amendments.

**ATTACHMENT(S):**

- A. Staff Report
- B. Current Board of Adjustment Code of Conduct
- C. Resolution 2022-12 Rules of Procedure for the Board of Adjustment



## **Town of Paradise Valley Board of Adjustment**

### **Board Members Code of Conduct**

- I. Board members must attend a training session.
- II. In order to assure a quorum, Board members are requested to advise staff within two (2) days of receipt of packet of their intention to attend or not attend.
- III. Board members are to attend meetings in person.
- IV. Board members must visit the property in the time period between when the agenda is published and the hearing date.
- V. Board members are to be familiar with the order of procedure, including having the “Variance Hearing Procedure” document with them at meetings.
- VI. Board members are to be respectful of applicants and the public.
- VII. As rulings made by the Board may be appealed to the Superior Court of the State of Arizona, it is vital that procedures are beyond reproach.







**RESOLUTION NUMBER 2022-12**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF  
PARADISE VALLEY, ARIZONA, ADOPTING AMENDED RULES OF  
PROCEDURE FOR THE BOARD OF ADJUSTMENT.**

**WHEREAS**, pursuant to the provisions of Section 2-5-3 of the Town Code, the Town Council is empowered to make and publish, from time to time, rules and regulations to govern the proceedings of the Board of Adjustment (the “Board”); and

**WHEREAS**, the Town Council, working together with the Board, has identified certain areas for improvement in the Board’s Rules of Procedure.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Town of Paradise Valley, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. Pursuant to Section 2-5-3 of the Town Code, the Town Council hereby approves and adopts the Rules of Procedure for the Board of Adjustment of the Town of Paradise Valley, in the form attached hereto as Exhibit A and incorporated herein by this reference, to supersede and replace any previous version thereof.

Section 3. The Mayor, the Town Manager, the Town Clerk, and the Town Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Resolution.

**PASSED AND ADOPTED** by the Town Council of the Town of Paradise Valley this 9th day of June, 2022.

\_\_\_\_\_  
Jerry Bien-Willner, Mayor

ATTEST:

\_\_\_\_\_  
Duncan Miller, Town Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Andrew J. McGuire, Town Attorney



EXHIBIT A  
TO  
RESOLUTION 2022-12

[Rules of Procedure]

See following pages.



**Town of Paradise Valley  
Rules of Procedure for the Board of  
Adjustment**

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**Requirements of Application for Variance**

A. Who may apply?

The owner or agent.

B. Requirements for application:

Completed application form and payment of required fee.

**Scheduling and Advertising of Hearing**

A. Scheduled Date. When an applicant has submitted a complete application, a hearing shall be scheduled. The scheduled hearing shall be no later than 60 days after receipt of the complete application.

B. Publication and Posting. Fifteen days prior to the scheduled hearing, the Town shall:

1. Publish one notice of the time, place, and date of such hearing in an official newspaper of the Town, or in a newspaper of general circulation in the Town; and
2. Post a notice of the time, place, and date of such hearing on the affected property; such notice shall remain posted for the entire 15-day period.

C. Materials Provided to the Board by Town Staff or Applicant. All materials (including electronic materials such as a PowerPoint presentation that the applicant would like to use at the public meeting) must be submitted before the first date on which an



advertisement for the hearing is published in a newspaper of general circulation (the “Cut-off Date”).

1. Materials submitted by the applicant after the Cut-off Date shall not be distributed to the Board and shall not be considered at the public meeting or hearing.
2. If an applicant believes that additional materials not submitted before the Cut-off Date need to be placed before the Board, then the applicant may request that the hearing be continued to another suitable date, in which case the applicant shall pay the costs of re-advertising and re-posting the required notices of public hearing.
3. The Community Development Director may make an exception to the requirements of this Section for materials that do not substantially change the application, or are de minimis in nature, at the discretion of the Director.

D. Statements or Materials by Members of the Public. Members of the public may either:

1. Submit statements or materials at least 24 hours prior to the posted hearing time; or
2. Submit a minimum of 10 hard copies of a statement or material at the time of the hearing.

**Chair and Acting Chair**

- A. Presiding Officer. The Chair shall preside at all Board meetings.
- B. Absence of the Chair. In the absence of the Chair, the members present at any meeting shall elect a member to be Acting Chair, and such Acting Chair shall exercise all powers and prerogatives of the Chair until such time as the Chair is present.

**Procedure for Board Meetings**

- A. Location of Meetings: Unless otherwise specified by the Chair, all meetings of the Board shall be held at the Paradise Valley Town Hall, 6401 E. Lincoln Drive.
- B. Time for meetings:
  1. Regular Meetings:

The Board shall hold regular meetings on the first Wednesday of each month at 6:00 p.m., as needed. When the first Wednesday of the month falls upon a legal holiday recognized by the Town, the regular meeting may be scheduled for the following Wednesday.



2. Special Meetings:

Special meetings of the Board may be called by the Chair, provided that each member receives notice of such meeting at least 48 hours prior to such meeting in person, by telephone, or in writing.

3. Work Sessions:

At the discretion of the Chair, the Board may hold a work session to discuss agenda items in advance of a regular or special meeting,

4. Site Visits:

With the agreement of an applicant, members of the Board may visit the site for which an application has been submitted. Site visits must occur within a pre-established period of time, and the Board shall issue a Notice of Possible Quorum at least 24 hours before the commencement of such period. Members of the Board are not required to visit the site simultaneously.

During a site visit, members of the Board shall not communicate with each other, with the applicant, or with any other person regarding the details or merits of the relevant application.

C. Quorum Requirements:

A Quorum of the Board shall be four members.

D. Decisions and Actions by Majority Vote:

1. All decisions and actions of the Board shall be by an affirmative vote of a majority of those members present and voting.
2. The vote or abstention from voting, of every individual member, on all matters voted upon, shall be recorded in the minutes of the meeting by the Board Secretary. A member shall vote “yes” or “no,” or expressly abstain from voting.
3. No member who is present at a meeting of the Board shall abstain from voting unless:
  - a. The member was not present for all or a portion of the hearing on the subject to be voted upon; or
  - b. The member has a conflict of interest as provided by law.



4. When a member of the Board abstains from voting, he or she shall publicly state the reason for such abstention prior to the consideration of the item by the Board.
  5. If a member declines to vote on any grounds that do not satisfy the requirements for abstention, that member shall be deemed to have voted “no.”
  6. The Board may consider multiple motions on a single item.
  7. A tie vote shall be treated as a failure of the motion.
- E. Addressing the Board: Any person recognized by the Chair may speak and address the Board to express an opinion on any matter before the Board. The Chair may require any person who wishes to speak or present evidence to the Board to take an oath, which shall be administered by the Chair or the Clerk. If the Chair reasonably believes it is necessary to expedite the Board’s action on a matter, the Chair may impose reasonable time limits upon the oral statements of any person. If a spokesperson for an identified group of residents (such as an HOA officer or an attorney, the “Spokesperson”) desires to speak on behalf of that group, a larger amount of time will be allotted, but not in excess of 15 minutes unless the Chair finds that there are particularly detailed and difficult matters involved in the case. The Chair shall advise the members of a group that has selected a Spokesperson that if the members desire to speak individually at the meeting, the members shall limit their time and avoid any repetition of matters already addressed by the Spokesperson.
- F. Transcription: Upon the request of any party, and at that party’s expense, a certified court reporter may record the proceedings of all or any portion of a meeting. If a transcript of all or any portion of the Board proceedings is prepared, a copy shall be furnished to the Board by and at the expense of the party ordering or causing the transcript to be prepared and completed.
- G. Motion to Reconsider: A motion to reconsider an action taken by the Board may be made only at the same meeting, or at the next regular meeting of the Board.
1. A motion to reconsider must be made by a Member of the Board who voted on the prevailing side of the motion but may be seconded by any other Member. A question failing by virtue of a tie vote may be reconsidered by motion of any Member of the Board.
  2. If a Member of the Board desires to make a motion to reconsider after the meeting at which the matter was decided, then the Member shall contact the Chair and the Community Development Director within 15 days of the meeting indicating that they would like to have a motion to reconsider the matter placed on the next Board meeting agenda.



3. If the motion to reconsider passes, then the Board shall then take the matter up for discussion and possible action at the same meeting at which the motion to reconsider passed.
- H. Recording: All or any part of a Board meeting may be recorded by any person in attendance, provided that there is no active interference with the conduct of the meeting.
- I. Order of Business: The Order of Business of all regular Board meetings shall be:
  1. Call to Order
  2. Roll Call
  3. Regular Business of the Board
  4. Approval or Amendment of Minutes of Previous Meeting
  5. Adjournment
- J. Presumption. When an applicant for a variance is denied or disapproved by the Board and the reason for such denial or disapproval is not stated in the motion, the reason for denial shall be that the applicant has failed to establish facts justifying a variance.

### **Board Code of Conduct**

The Board may adopt a code of conduct to govern the responsibilities of its members, its method of holding meetings, and other matters.

### **Assistance from Town Staff**

- A. The Community Development Director shall attend all meetings of the Board and may comment on any matter before the Board.
- B. Upon request from the Chair of the Board, the Town Manager shall endeavor to provide any information or assistance which may assist the Board or any member of the Board.



APPENDIX A  
TO  
RULES OF PROCEDURE FOR THE BOARD OF ADJUSTMENT

Variance Hearing Procedure

- I. Chair states the name of the case and asks for the staff report.
- II. Staff presents its report and recommendation; Board is invited to ask questions.
- III. Applicant/representative presents case; Board is invited to ask questions.
- IV. Chair opens the public hearing, invites speakers in favor of or against the proposal, and asks speakers to state name and whether they are resident of the Town. (Board is invited to ask questions of each speaker after they conclude their remarks.)
- V. Chair closes public hearing.
- VI. Applicant/representative is invited to rebut/clarify/conclude.
- VII. Board members are invited by the Chair to ask questions of the applicant/representative and/or Town Staff.
- VIII. Board deliberates.
- IX. Chair calls for a motion, and a second.
- X. Chair asks for discussion on the motion, if any.
- XI. Voting, either by roll call or voice vote.
- XII. The results of the voting are declared by the Secretary.
- XIII. Board moves to next item of business.



APPENDIX B  
TO  
RULES OF PROCEDURE FOR THE BOARD OF ADJUSTMENT

Appeal Hearing Procedure

- I. Chair states the name of the case and invites the staff to present the facts related to the appeal.
- II. Chair invites the appellant, or appellant's attorney, to step to the podium, make an introduction, and present the witnesses to be sworn in.
- III. Chair invites witnesses to step forward and face the staff table for swearing-in.
- IV. Chair or clerk rises, asks witnesses to raise their right hands and repeat swearing-in statement after them.
- V. Chair invites applicant/attorney to present argument and invite witnesses to speak as needed.
- VI. Chair opens public hearing and invites interested citizens who wish to speak to be sworn in.
- VII. Chair invites interested citizens to speak.
- VIII. Chair closes public hearing.
- IX. Board members are invited by the Chair to ask questions of the attorney, witnesses, and/or staff.
- X. Board deliberates.
- XI. Chair calls for a motion, and a second.
- XII. Chair asks for discussion on the motion, if any.
- XIII. Voting, either by roll call, hand signal, or voice vote.
- XIV. The results of the voting are declared by the Secretary.
- XV. Board moves to next item of business.