



City of Rockaway Beach

Planning Commission Meeting Agenda

Date: Thursday, January 18, 2024
Time: 5:00 P.M.
Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

Watch live stream here: <https://corb.us/live-stream>
View meeting later here: <https://corb.us/planning-commission/>

Join here to attend remotely:

Planning Commission Meeting

Meeting ID: 846 5663 7008

Passcode: 827333

Dial by your location

253 215 8782 US (Tacoma)

- 1. CALL TO ORDER** – Bill Hassell, Planning Commission President
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
President: Bill Hassell
Commissioners: Pat Olson, Zandra Umholtz, Sandra Johnson, Georgeanne Zedrick, Stephanie Winchester, and Nancy Lanyon
City Councilors: Charles McNeilly, Mayor; and Mary McGinnis, Planning Commission Liaison
- 4. APPROVAL OF MINUTES**
 - a.** November 16, 2023 Meeting Minutes
- 5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS** – None Scheduled
- 6. STAFF REPORTS**
- 7. PUBLIC HEARING**
 - a.** Variance #23-05: Consideration of an Application for Variance at Unimproved Real Property at Tillamook County Assessor's Map # 1N1005BA Lot #9900 to Increase the Building Height and Reduce the Front Yard Setback
- 8. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 9. OLD BUSINESS** – None Scheduled
- 10. NEW BUSINESS**
 - a.** Discussion of Planning Commission Ordinance
- 11. PLANNING COMMISSION COMMENTS & CONCERNS**
- 12. ADJOURNMENT**



City of Rockaway Beach

Planning Commission Meeting Minutes

Date: Thursday, November 16, 2023

Location: Rockaway Beach City Hall, 276 HWY 101 - Civic Facility

1. CALL TO ORDER

Planning Commission President Hassell called the meeting to order at 5:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Start time: [05:00:39 PM \(00:00:36\)](#)

[Position #2 - Stephanie Winchester: Present](#)

[Position #3 - Pat Olson: Present](#)

[Position #7 - Georgeanne Zedrick: Present](#)

[Position #5 - Bill Hassell: Present](#)

[Position #1 - Zandra Umholtz: Present](#)

[Position #4 - Sandra Johnson: Present](#)

[Position #6 - Nancy Lanyon: Present](#)

President: Bill Hassell

Commissioners: Pat Olson, Zandra Umholtz, Sandra Johnson, Georgeanne Zedrick, Stephanie Winchester, and Nancy Lanyon

Councilors Present: Mary McGinnis, Planning Commission Liaison

Staff Present: Luke Shepard, City Manager, Mary Johnson, City Planner; and Melissa Thompson, City Recorder

4. APPROVAL OF MINUTES

Start time: [05:01:15 PM \(00:01:12\)](#)

Commissioner Johnson noted a correction to the October 19, 2023 minutes.

Winchester made a **motion**, seconded by Johnson, to approve the October 19, 2023 minutes as corrected.

The **motion carried** by the following vote:

[Position #2 - Stephanie Winchester: Motion](#)

[Position #4 - Sandra Johnson: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)
[Position #1 - Zandra Umholtz: Approve](#)
[Position #4 - Sandra Johnson: Approve](#)
[Position #6 - Nancy Lanyon: Approve](#)

Zedrick made a **motion**, seconded by Olson, to approve the October 26, 2023 minutes as presented.

The **motion carried** by the following vote:

[Position #7 - Georgeanne Zedrick: Motion](#)
[Position #3 - Pat Olson: 2nd](#)
[Position #2 - Stephanie Winchester: Abstain](#)
[Position #3 - Pat Olson: Approve](#)
[Position #7 - Georgeanne Zedrick: Approve](#)
[Position #5 - Bill Hassell: Approve](#)
[Position #1 - Zandra Umholtz: Approve](#)
[Position #4 - Sandra Johnson: Approve](#)
[Position #6 - Nancy Lanyon: Approve](#)

5. PRESENTATIONS, GUESTS & ANNOUNCEMENTS

- a. Streets Capital Improvements Plan Projects - Matt Del Moro, HBH Engineering
Start time: [05:03:37 PM \(00:03:34\)](#)

Del Moro gave a presentation on the Streets Capital Improvements Plan Project and the preliminary list of roads to be included in the project. Del Moro noted that there was a public comment submission form on the City website. Hassell inquired about Miller Street. Shepard responded that some portions of Miller Street are owned by the City and some portions are part of the railroad right of way. Shepard clarified for McGinnis that the role of the Planning Commission was both to provide input and to receive public comment.

6. STAFF REPORTS

Start time: [05:14:55 PM \(00:14:52\)](#)

City Planner Johnson provided an update on Planning Department activities, including an overview of the land use and permit applications that had been approved in the past 6 months. She reported on recent grant application submissions, including an Oregon Parks and Recreation Department (OPRD) Land & Water Conservation Fund grant for Lake Lytle restrooms, a Tillamook County Visitors Association (TCVA) facilities grant for the Anchor Street project, and a Department of Land Conservation and Development (DLCD) planning assistance grant.

Johnson shared that the City will be contracting with TJ Fiorelli for the High-Grounds project. Fiorelli will assist with prep-work grants, a BRIC grant application, and community engagement. Johnson reported that at the request of the League of Oregon Cities, the City submitted to state legislators for potential funding six projects related to water, sewer, stormwater and transportation that will enable faster and more affordable housing development. Johnson shared that she attended

the Fall Coastal Planners Network meeting, and added that she was planning to coordinate a monthly local planners meeting. Johnson provided updates on the Anchor Street, Lake Lytle, and Salmonberry Trail projects. She noted that Ashley Schafer, of Empowering Access, would be assisting with an accessibility assessment of Lake Lytle. Johnson reported that the City will have its Federal Emergency Management Agency (FEMA) Community Assessment Visit (CAV) on December 8, 2023. She shared an update on the FEMA Biological Opinion (Biop), explaining that FEMA received over 1,000 comments on draft plan and all but 7 were negative. She said the Biop's draft implementation plan was expected to be out in early 2024, and there would be a 2-month comment period. Johnson shared that at the Fall Coastal Planners Network meeting, Lisa Phipps said she anticipated that the earliest implementation would be 2026.

Johnson noted that the next Planning Commission meeting was scheduled for December 21, 2023, close to the holidays. Johnson confirmed for the Commission that there were no hearings scheduled, in the event the Commission wanted to consider cancelling the December meeting.

Commissioner Johnson inquired about beach access at the Wayside. City Planner Johnson and Del Moro confirmed that designs for improvements were completed, and permits had been submitted to OPRD. Shepard added that construction could begin as early as Spring 2024. City Planner Johnson clarified for Lanyon that the City issued excavation fill permits for the necessary riprap repair work, but the state (OPRD) must also approve it.

7. PUBLIC HEARING

Start time: [05:26:36 PM \(00:26:33\)](#)

a. Streets Preliminary Capital Improvement Plan Projects

There were no guests who wished to comment.

8. CITIZEN INPUT ON NON-AGENDA ITEMS

Start time: [05:27:18 PM \(00:27:15\)](#)

Lydia Hess spoke in support of bikes. She said it would serve the City to encourage the use of bikes for transportation. Hess expressed a desire to have bike racks installed at City Hall, City parks, beach accesses, and the Post Office. Hess said that some cities require bike racks in their code, and shared the City of Corvallis bike rack ordinance and a handout on selecting a bike rack. She suggested that the City pursue grants to fund the installation of bike racks, and asked that it be made a priority.

Robbie McClaran commented that he had been biking here for 15 years and he was excited about the prospect of the Salmonberry Trail providing bicycling route connections.

9. OLD BUSINESS – None Scheduled

10. NEW BUSINESS

a. Senate Bill 406 (SB406) Updates

Start time: [05:31:41 PM \(00:31:38\)](#)

City Planner Johnson gave a presentation on Senate Bill 406 (SB406), providing background information on the bill and the housing crisis in Oregon. She reported on a meeting with Cascadia Partners, who will assist with drafting and implementing the code updates that SB406 requires. Johnson explained the process to review and adopt the code changes, which will include a town hall, planning commission review, public hearings, and adoption by the City Council. She answered clarifying questions from the Commission.

McGinnis shared that the City Council may be asking the Planning Commission to do a complete revision of the Comprehensive Plan. She added it that would be staff driven.

11. PLANNING COMMISSION COMMENTS & CONCERNS

Start time: [05:40:11 PM \(00:40:08\)](#)

Lanyon thanked staff for providing great information. She commented that short-term rentals (STRs) needed to be addressed. Lanyon made suggestions for public engagement and outreach regarding SB406 code updates. City Planner Johnson explained that information about the SB406 updates would likely be shared in a flyer with the newsletter and there would be opportunity for online input.

Winchester thanked Lydia Hess for her input regarding bike racks. She said she was looking forward to the future work of the Commission.

Olson made a **motion**, seconded by Umholtz, to cancel the December 21, 2023 Planning Commission meeting.

Commissioner Johnson commented that there was no action scheduled for the December meeting and she supported the motion.

The **motion carried** by the following vote:

[Position #3 - Pat Olson: Motion](#)

[Position #1 - Zandra Umholtz: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

Umholtz thanked guests for attending and thanked everyone for all their hard work the past year. She advocated for revisiting the STR ordinances, and adding caps to allow for more full-time residences.

Johnson concurred with making the review of STRs a priority to help address the housing crisis. She thanked staff for the Planning Department update.

Zedrick concurred with previous comments regarding STRs caps and City Planner Johnson's Planning Department update. She added that she appreciated all the work staff had been doing.

Hassell commented that he had heard Ashley Schafer's lecture on accessibility, noting that she was an expert in outdoor accessibility. Hassell shared that he had always had a goal to have Rockaway Beach be accessibility-centered.

12. ADJOURNMENT

Start time: [05:48:47 PM \(00:48:43\)](#)

Olson made a **motion**, seconded by Umholtz, to adjourn the meeting at 5:49 p.m.

The **motion carried** by the following vote:

[Position #3 - Pat Olson: Motion](#)

[Position #1 - Zandra Umholtz: 2nd](#)

[Position #2 - Stephanie Winchester: Approve](#)

[Position #3 - Pat Olson: Approve](#)

[Position #7 - Georgeanne Zedrick: Approve](#)

[Position #5 - Bill Hassell: Approve](#)

[Position #1 - Zandra Umholtz: Approve](#)

[Position #4 - Sandra Johnson: Approve](#)

[Position #6 - Nancy Lanyon: Approve](#)

MINUTES APPROVED THE
18TH DAY OF JANUARY 2024

William Hassell, President

ATTEST

Melissa Thompson, City Recorder



CITY OF ROCKAWAY BEACH

Notice of Public Hearing for Variance #23-05

NOTICE IS HEREBY GIVEN that the City of Rockaway Beach Planning Commission will hold a public hearing on **Thursday, January 18th at 5:00 p.m.** in City Hall located at 276 S. Highway 101, Rockaway Beach, Oregon. The purpose of the public hearing is for:

Public Hearing: Consideration of an approval for a variance at unimproved real property in Rockaway Beach (Tillamook County Assessor's Map # 1N1005BA Lot #9900). The Applicants, Stuart M. and Karen C. Hunt, are seeking a variance to build a new home. The Applicants seek a height variance and reduction of the front yard setback to construct the home. The lot is located in the R1 Zone and is approximately 37,170 square feet. Building height for this property is limited to 29'. The Applicants seek to construct home that is 39' in height. The front yard setback for this property is 15'. The Applicants seek to reduce the front yard setback to 11'7".

You are receiving this notification as you are a registered property owner within 200 feet of the applicant's property. Oral public testimony will be heard and written public comments will be accepted at or prior to the hearing. If submitting comments prior to the hearing, deliver to the City Hall at the address given above, or mail to Planning Department at P.O. Box 5, Rockaway Beach, OR 97136. Please use file number Variance #23-05 on written comments, and include your name, mailing address, and phone number. A staff report will be prepared not less than seven days prior to the hearing for review at City Hall. Hard copies will be available upon request to the City free of cost. All other documents and evidence related to this land use action shall be incorporated into an Official Record and made available for review at City Hall upon request.

Failure to raise an issue in person, in writing at or prior to the close of the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission and other interested parties an opportunity to respond to the issue constitutes forfeiture of the right to appeal the decision of the Planning Commission. Failure to specify as to which criteria the comments are directed precludes an appeal based on that criterion.

Use Criteria: Use criteria for this proposal include Rockaway Beach Zoning Ordinance, Section 8.020. Variance Review Criteria.

Responsible Official: Mary Johnson
City Planner
(503) 374-1752
cityplanner@corb.us

City of Rockaway Beach, Oregon
276 S. Highway 101, PO Box 5
Rockaway Beach, OR 97136
(503) 374-1752 FAX (503) 374-0601
www.corb.us • cityplanner@corb.us



VARIANCE APPLICATION

(# 23 - 05)

Non-Refundable Fee \$880.00

Property Owner(s) Name: Stuart M & Karen C Hunt
Full Mailing Address: 1442 NE 11th Avenue, Canby, OR 97013
Email: khunt@canby.com Phone Number: 503-702-3732

Location Information:

Situs Address: Lot 68 Pacific View AND/OR Map/Tax Lot: 1N100BA09900
Zoning: R-1 Estates

Description of Request: The lot has a steep slope of almost 45° creating a unique condition where the house appears to be a single story home from the street and a 3 story building from the rear. To be able to construct a home we are applying for a height variance. In an effort to minimize the overall height of the garage we encroached 3' into the setback. In light of this we are also applying for a minor setback variance.

Justification of variance request. Explain how the request meets each of the following criteria for granting a variance per Rockaway Beach Zoning Ordinance# 143, as amended, Article 8, Variances, Section 8.020, Criteria

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be consistent with the objectives of the Comprehensive Plan. In order to make the house work and reduce the overall height of the structure, the home follows the countours of the site. We believe this falls in line with THE EAST ROCKAWAY BEACH RESIDNETIAL AREA [R] #7. By following the contours we are minimizing the impact on sensitive areas.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone.

The steepness of the slope creates an extraordinary circumstance that majority of homes in Rockaway beach do not have.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the near vicinity.

With keeping the house height from street level towards the view of the ocean under the required 29', keeps in line with the goals of the comprehensive plan. This also ensures

That properties behind the house will maintain their views of the ocean.

4. That the granting of the variance would support policies contained within the Comprehensive Plan.

The Comprehensive plan outlines the issues with second homes. Karen and Stuart are planning on living in Rockaway Beach full time to enjoy and partake in the community.

Note: Use extra sheets or documents, if necessary, for answering the above questions.

Attach a scale drawing showing the dimensions of the property, adjacent street(s), dimensions of existing structure and dimensions of proposed development.

I hereby certify that the above information is correct and understand that issuance of a permit based on this application will not excuse me from complying with effective Ordinances and Resolutions of the City of Rockaway Beach and Statutes of Oregon, despite any errors on the part of the issuing authority in this application.

Property Owner Signature: Karen C Hunt Date: 11-13-2023

Hunt Hunt

OFFICE USE ONLY

Fee \$ 880.00 Date Received: _____ Receipt # _____ By: _____

Notes: _____

Notice Published: _____ Public Hearing Date: _____

Variance ☐ Granted ☐ Denied Date of Order: _____ Final Date to Appeal: _____ t _____

Planning approved by: _____ Date of Order: _____



1 SITE PLAN
1" = 10'-0"



SITE LEGEND

- SPOT ELEVATION
- CONTOUR
- CENTER LINE
- BUILDING SETBACK
- BUILDING FOOTPRINT
- WATER HELL HEAD
- STORM INLET
- PROPERTY LINE
- OVERHANG
- DOWNSPROUT
- MANHOLE
- BIOBAGS
- FENCE
- TEMPORARY SILT FENCE
- WATER LINE
- GAS LINE
- STORMWATER LINE
- SEWER LINE
- ELECTRICAL LINE

(27) Height of Building. On the oceanfront, building height means the vertical distance from the grade to the highest point of the roof, excluding chimneys, aerials and similar extensions. For all other uses, building height means the vertical distance measured from the average elevation of the grade to the highest point of the roof surface of a flat roof, to the top of a mansard roof, and the ridge of a pitched roof, excluding chimneys, aerials and similar extensions.

[Amended by Ordinance #235, June 25, 1985]

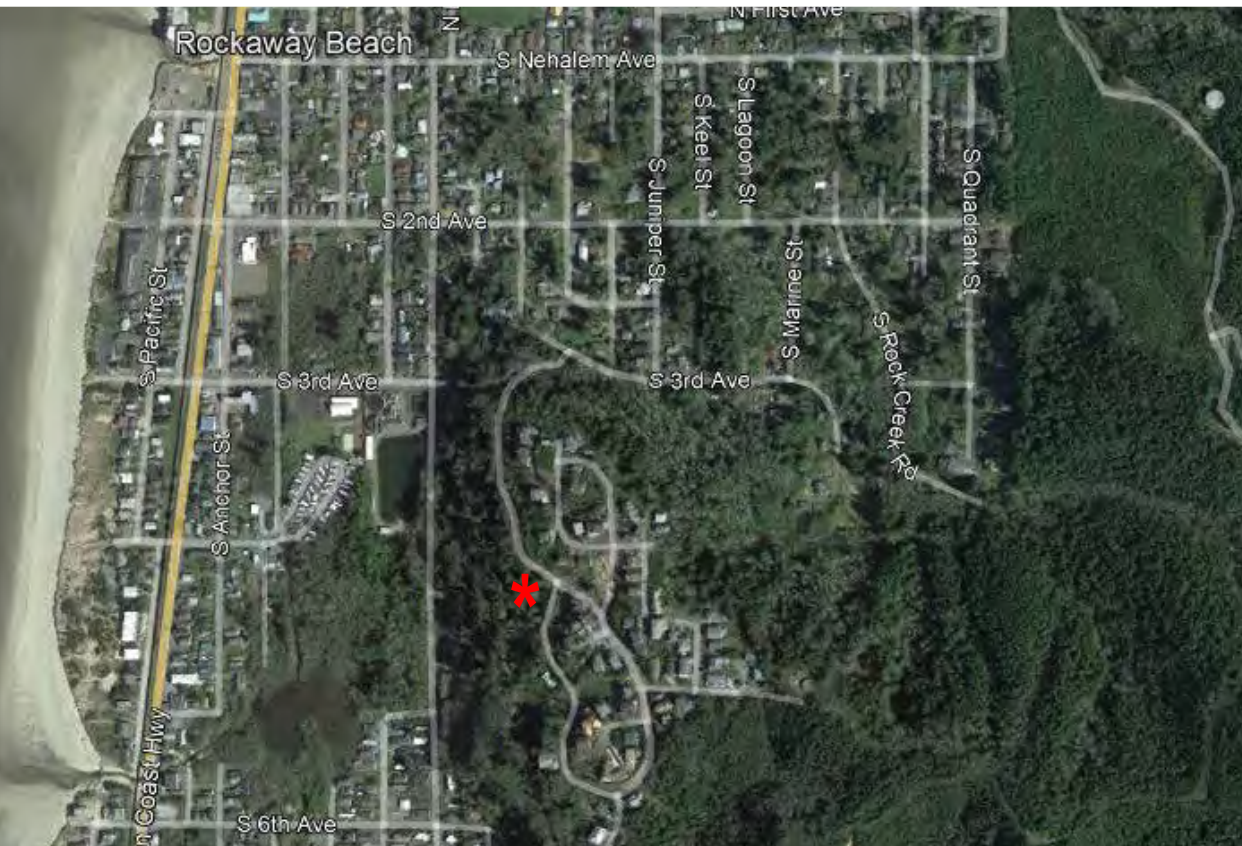
HIGHEST GRADE: 06'11"
LOWEST GRADE: 60'11"
AVERAGE: 78' 11"

HEIGHT FROM AVERAGE GRADE TO TALLEST POINT: 39'

NOTE: ALL GRADES ARE RELATING TO MAIN FLOOR LEVEL OF 100'

ARCHITECTURAL 100' = 242'

VICINITY MAP



**NOT FOR
CONSTRUCTION**

Project No. 2312

PACIFIC VIEW HOUSE

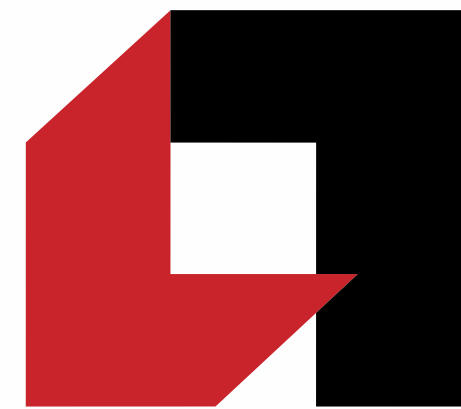
PACIFIC VIEW ESTATES, LOT 68

Date:	10/15/2023
Drawn by:	BRK
Set Issue:	DD
Revisions:	
No. Description	Date

Sheet Size: 30" x 42"

A0.2

SITE PLAN & PROJECT
DATA



LEWALLEN
ARCHITECTURE, LLC

319 NE CEDAR ST
CAMAS, WA 98607
360.844.6002
michael@lewallenarchitecture.com

**NOT FOR
CONSTRUCTION**

Project No. 2312

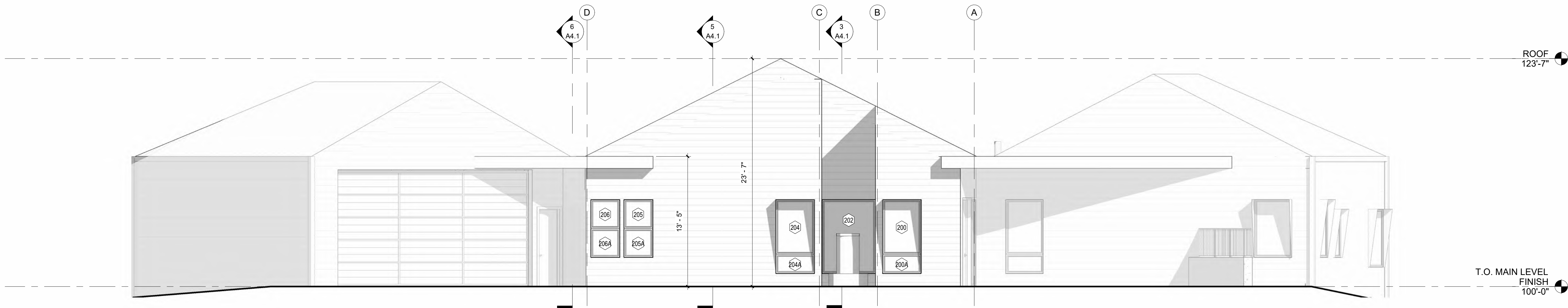
PACIFIC VIEW HOUSE
PACIFIC VIEW ESTATES, LOT 68

Date:	10/15/2023
Drawn by:	BRK
Set Issue:	DD
Revisions:	
No. Description	Date

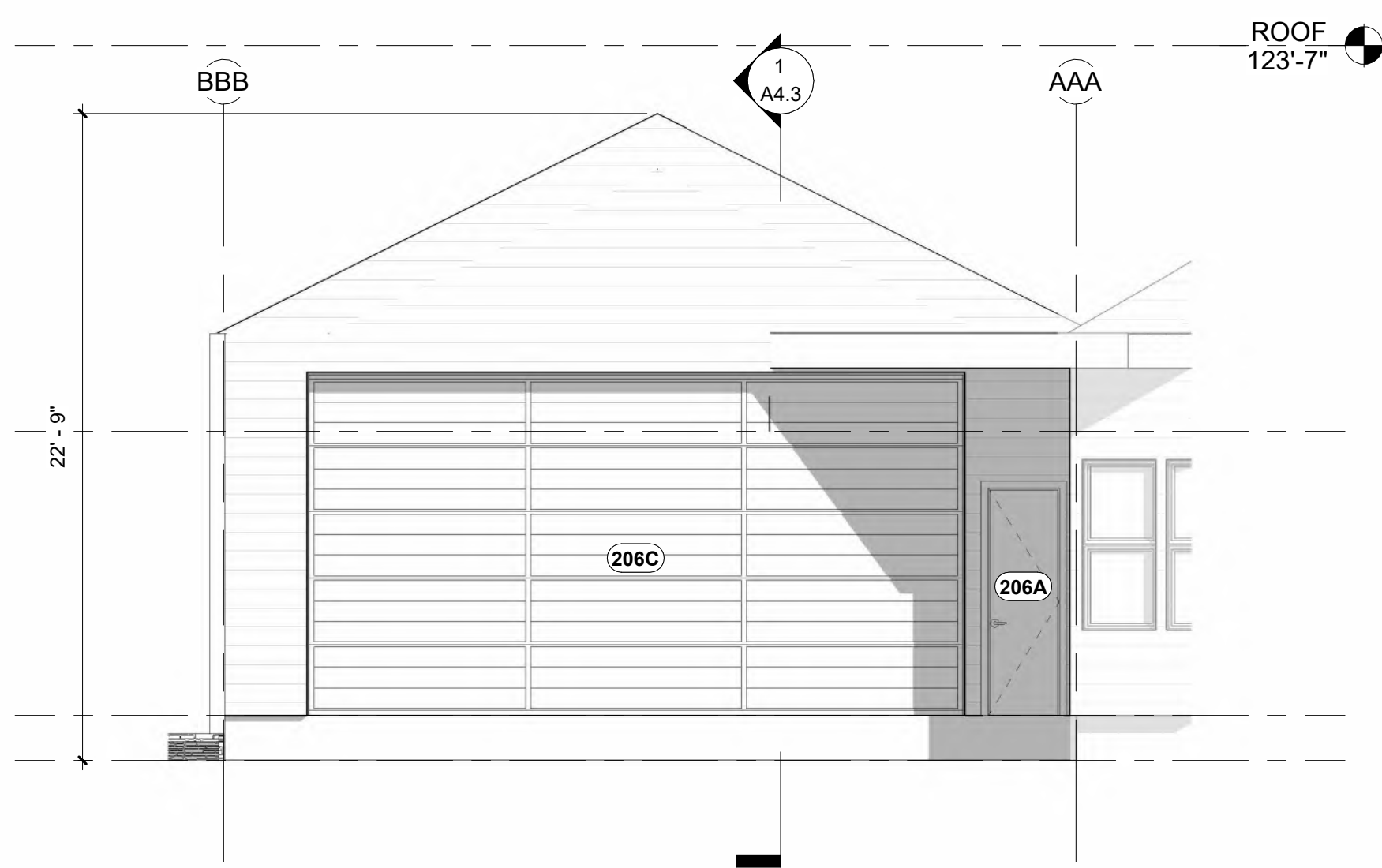
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A3.1

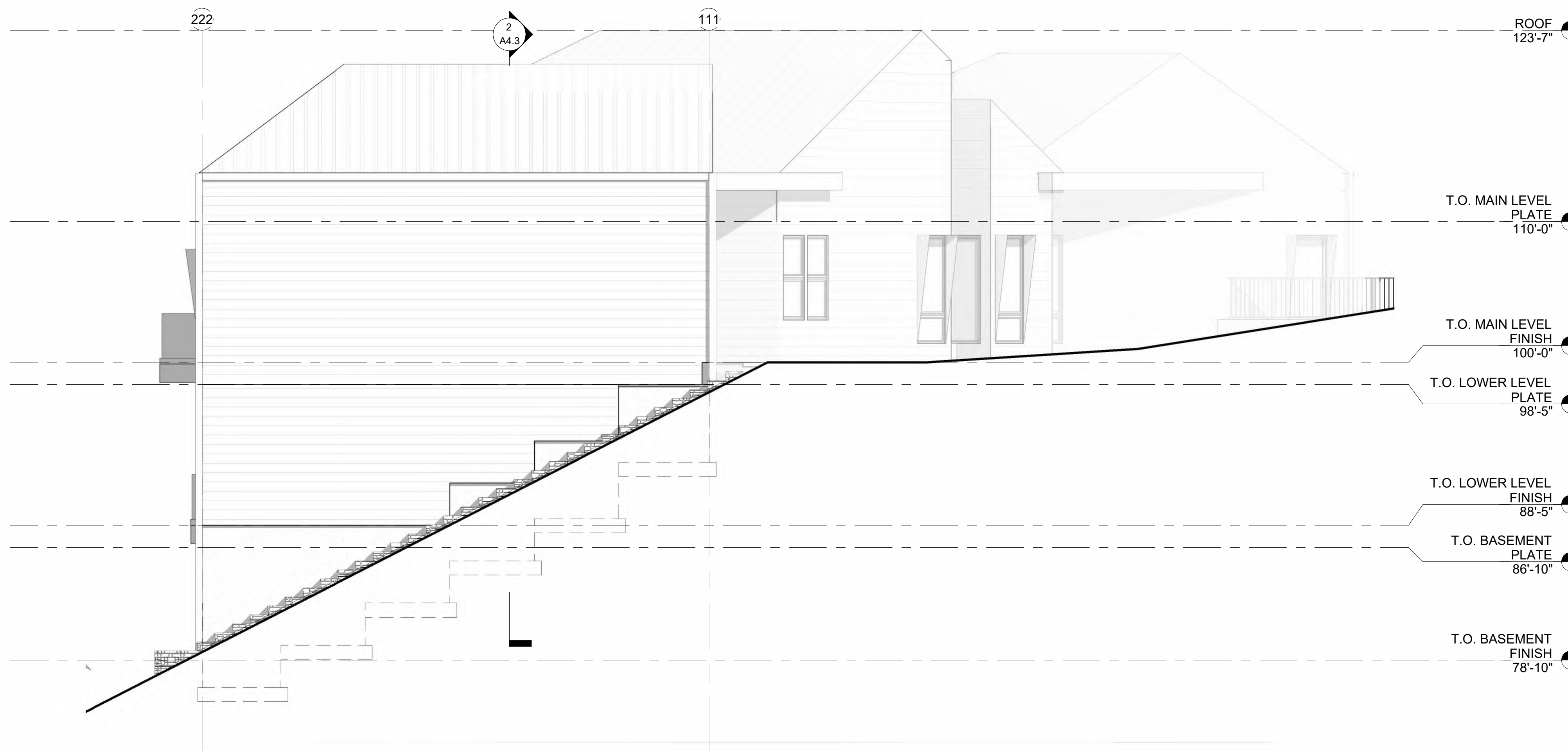
EXTERIOR
ELEVATIONS



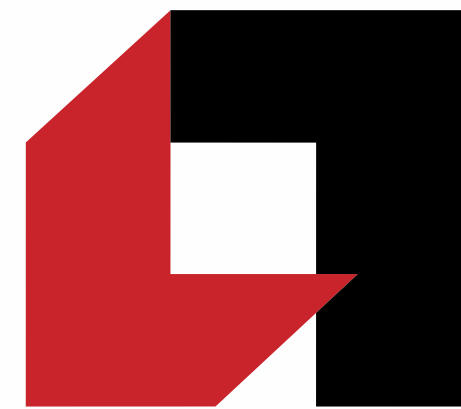
1 OVERALL BUILDING ELEVATION - EAST
3/16" = 1'-0"



2 OVERALL BUILDING ELEVATION - SE
3/16" = 1'-0"



3 OVERALL BUILDING ELEVATION - SOUTH
3/16" = 1'-0"



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michael@lewallenarchitecture.com

**NOT FOR
CONSTRUCTION**

Project No. 2312

PACIFIC VIEW HOUSE
PACIFIC VIEW ESTATES, LOT 68

Date:	10/15/2023
Drawn by:	BRK
Set Issue:	DD
Revisions:	
No. Description	Date

Sheet Size: 30" x 42"

A3.2

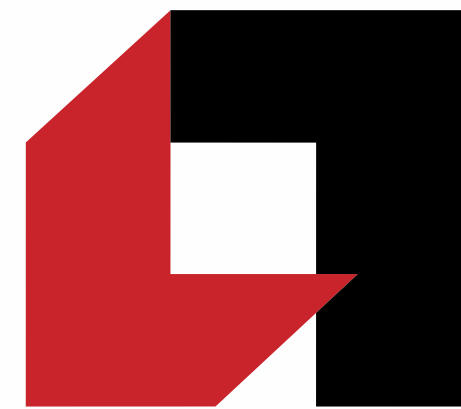
EXTERIOR
ELEVATIONS



1 OVERALL BUILDING ELEVATION - SW
3/16" = 1'-0"



2 OVERALL BUILDING ELEVATION - WEST
3/16" = 1'-0"



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michael@lewallenarchitecture.com

**NOT FOR
CONSTRUCTION**

Project No. 2312

PACIFIC VIEW HOUSE
PACIFIC VIEW ESTATES, LOT 68

Date:	10/15/2023
Drawn by:	BRK
Set Issue:	DD
Revisions:	
No. Description	Date

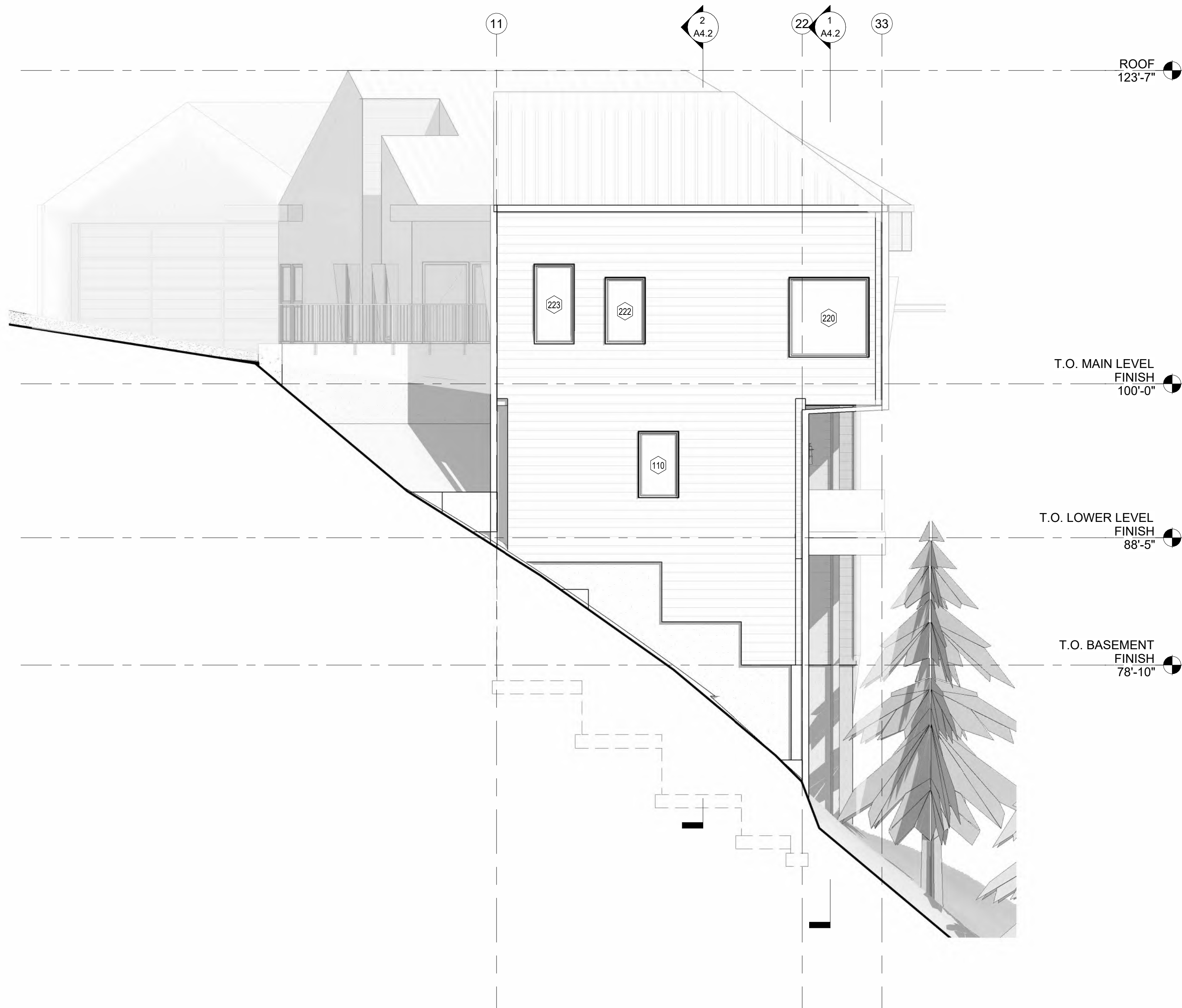
Sheet Size: 30" x 42"

A3.3

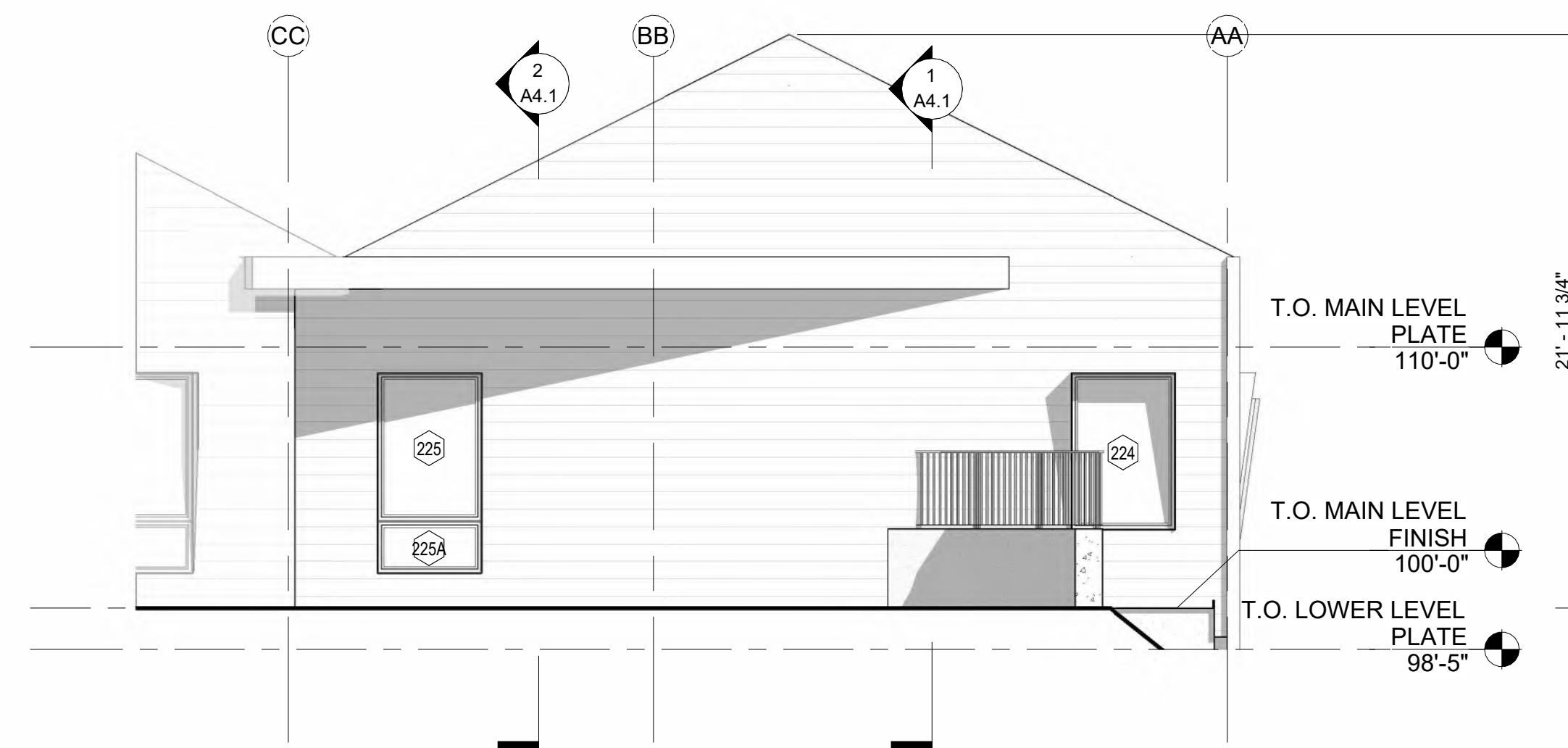
EXTERIOR
ELEVATIONS



1 OVERALL BUILDING ELEVATION - NW
3/16" = 1'-0"



2 OVERALL BUILDING ELEVATION - NORTH
3/16" = 1'-0"



3 OVERALL BUILDING ELEVATION - NE
3/16" = 1'-0"



**CITY OF ROCKAWAY BEACH
PLANNING COMMISSION ACTION**

STAFF REPORT

Case File #VAR-23-05
Date Filed: November 20, 2023
Hearing Date: January 18, 2023

APPLICANTS: Stuart M. and Karen C. Hunt

REQUEST: The Applicants are seeking a variance to build a new home. The Applicants seek a height variance and a reduction in the front yard setback to construct the home. The property is located in the R1 zone which has a 15-foot front yard setback. The Applicants are requesting the front yard setback be reduced 3'3", for an 11'7" front yard setback. Building height for this property is limited to 29'. The Applicants seek to construct a home that is 39' in height.

A. REPORT OF FACTS

1. Property Location: The property is unimproved vacant land in Rockaway Beach and is further identified on Tillamook County Assessor's Map # 1N1005BA Lot #9900.
2. Lot Size: approximately 37,170 square feet
3. Zoning Designation: R1 (Single Family Zoning).
4. Surrounding Land Use: The subject property is surrounded unimproved vacant lots on the North, South, and East and existing single-family dwellings on West.
5. Existing Structures: There are no existing structures on this property.
6. Utilities: The following utilities serve the subject property:
 - a. Sewer: City of Rockaway Beach
 - b. Water: City of Rockaway Beach
 - c. Electricity: Tillamook P.U.D.
7. Development Constraints: This lot is located on an exceptionally steep slope off Pacific View Drive and is further identified as an area of potential land slide.

B. EVALUATION OF THE REQUEST

1. General Description of the Proposal: The Applicants are requesting a variance for a reduction in the front yard setback and building height to construct a new home. This property is in the R1 zone, which has a 15' front yard setback and 29' building height. The Applicants seek to reduce the front yard setback 3'3", for a 11'7" front yard setback. The Applicants seek to build a 39' home, which is 10' above the 29' building height limit.
2. Background: The subject property currently is undeveloped and is approximately 37,170 square-feet.
3. Agency Comments:
 - a. None.
4. Ordinance Standards: The following ordinance standards apply to this request. To facilitate review, staff comments are in *italicized font*.



Rockaway Beach Zoning Ordinance

Article 3. Use Zones.

Section 3.010. Single Family (R-1) Zone In an R-1 zone the following regulations shall apply:

1. **Uses Permitted Outright.** In an R-1 zone the following uses and their accessory uses are permitted outright:

- a. Single family dwellings, including modular housing and manufactured homes. Manufactured homes shall be subject to the standards of Section 4.091.

The application is for a single-family home, which is a use permitted outright in the R-1 zone.

2. **Standards.** In an R-1 zone the following standards shall apply:

- a. The minimum lot size shall be 3,500 square feet for lots existing at the time of the adoption of Ordinance 235. Lots platted after the adoption of Ordinance 235 shall have a minimum lot size of 5,000 square feet.

The subject lot is 37,170 square feet; therefore this standard has been met.

- b. The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet, for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

A single-family dwelling is proposed; therefore this standard does not apply.

- c. Minimum lot width is 50 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

The subject lot exceeds 50 feet in width; therefore this standard has been met.

- d. Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

The subject lot exceeds 70 feet in depth; therefore this standard has been met.

- e. The minimum front yard shall be 15 feet, unless subsection 3.010(3)(h) applies.

The proposed single family dwelling encroaches three feet into the South-West corner of the front yard, therefore this standard has not been met. The Applicants are seeking a Variance to allow a three-foot encroachment into the front yard setback, allowing for a twelve-foot front yard setback.



- f. The minimum side yard shall be 5 feet, except that on the street side of a corner lot it shall be 15 feet.

The proposed side yard setbacks exceed the five-foot minimum. This standard has been met.

- g. The minimum rear yard shall be 20 feet, except that on a corner lot it may be a minimum of 5 feet unless subsection 3.010(3)(h) applies. Oceanfront structures shall conform to Section 5.060(1)(b).

The proposed rear yard setback exceeds the twenty-foot minimum. This requirement has been met.

- h. For lots of less than 5,000 square feet in size, but more than 3,500 square feet, the minimum front yard shall be 15 feet and the minimum rear yard shall be 10 feet, except that on a corner lot the rear yard may be a minimum of 5 feet. For lots of 3,500 square feet in size or less, the minimum front yard and rear yard shall be ten feet, except that on a corner lot the rear yard may be a minimum of 5 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

This subject property is more than 5,000 square feet; therefore this standard does not apply.

- i. The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere except east of Highway 101 it shall be 29 feet.

The subject property is located East of Highway 101, which allows for a maximum building height of twenty-nine feet. The proposed building height is thirty-nine feet; therefore this standard has not been met. The Applicants are seeking a Variance to allow them to build ten feet above the maximum building height.

- j. A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

The proposed lot would retain more than 30% natural vegetation; therefore this standard has been met.

Article 8. Variances.

Section 8.010. Purpose

1. The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships may result from the size, shape, or dimensions of a site, or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity or from population densities, street location, or traffic conditions in the immediate vicinity.



2. The power to grant variances does not extend to use regulations. In other words, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

Section 8.020. Criteria

1. Variances to a requirement of this chapter with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation, and evidence submitted by the applicant, that all four expressly written findings are made:

- a. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the Comprehensive Plan; and

As detailed in the Variance Application, the subject property is heavily sloped. The majority of the building's height is caused by the need to build down the grade of the hillside. Unlike the majority of the City, which is typically flat, this lot is sloped at a near 45 degree angle. As noted in the Variance Application, the Applicants propose to construct a single-family home. This type of home construction is in line with the Comprehensive Plan, which calls out single-family development in this area.

- b. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and

As noted above, the subject lot is exceptionally sloped, unlike the majority of the lots in the City.

- c. That the granting of the variance will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the near vicinity; and

It is not apparent that granting the requested height and front yard setback variances would be detrimental to public health, safety or welfare, nor does it appear that granting the variances would be materially injurious to properties or improvements in the near vicinity. It is important to note that the Applicant's have detailed through their application that the proposed home would appear as a single-family dwelling, from the street view, allowing the homes located above the subject property to preserve their view.

- d. That the granting of the variance would support policies contained within the Comprehensive Plan. Variances in accordance with this subsection should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner.

The Applicant's state that their request for the building height and front yard setback variances should be granted, as they intend to be full time residents. They have highlighted that the Comprehensive Plan outlines issues with second home ownership within the City.



As outlined previously in this report, the subject lots steep slope creates for a challenging build. While the material provided for this application do not include details of the proposed home size in number of rooms or square footage, from the architectural drawings, the home appears to be substantial in size. The question of whether a smaller home could be constructed on this lot, not requiring the requested variances, remains. However, again, due to the slope of the subject property, a variance in height may still be required for even a smaller home.

Section 8.030. Conditions. Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.

C. CONCLUSION

As outlined above, Staff conclude that the criteria required to approve the requested building height and front yard setback variances have substantially been met. However, Staff direct the Planning Commissioners to carefully consider Section 8.020. (d) and make a determination if this criterion has been met. The criteria specifically states that the variance should not be granted if the “special circumstances” for needed a variance are a “result of the actions of the applicant or owner”. Since the proposal and variance requests are for a home yet to be constructed, Staff question if the Applicants are creating the special circumstance. However, it cannot be overlooked that the subject lot is extremely sloped and that even a smaller home could possibly require a height variance.

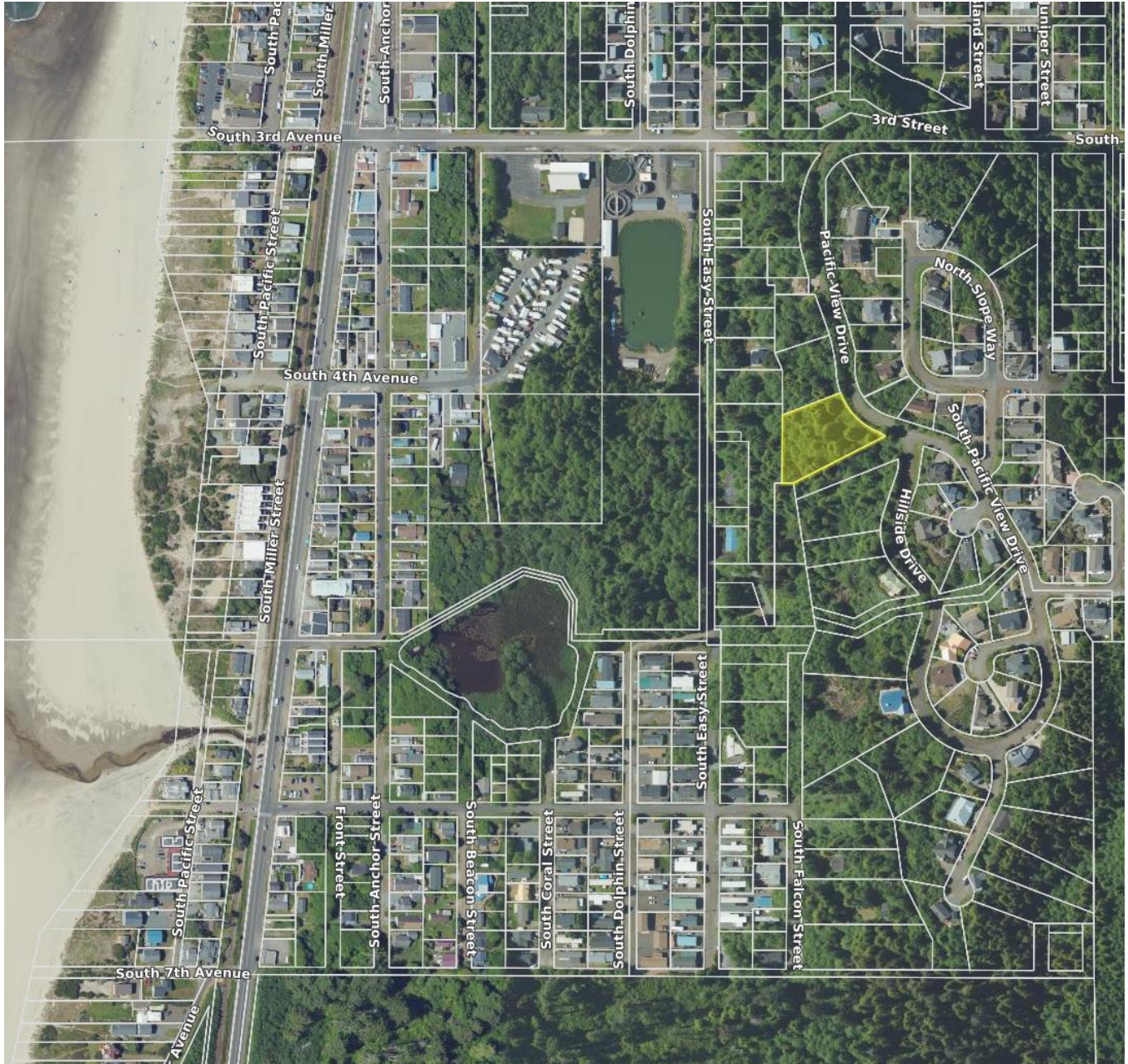
The Planning Commission should carefully consider the request, including all oral and written testimony on record and presented at the public hearing. After considering the testimony as it relates to the applicable criteria, the Planning Commission will need to make a decision on the request.

If the Commission determines that sufficient facts exist to grant the variance request and the standards of the Rockaway Beach Zoning Ordinance have been met, it can make a motion to approve the variance request, including a statement that generally reflects the facts and rationale relied upon to reach the decision. The motion should also direct staff to prepare findings, conclusions, and final order to implement the decision.

A motion to deny the variance request should set forth the general facts and rationale for the decision and direct staff to prepare the final order.

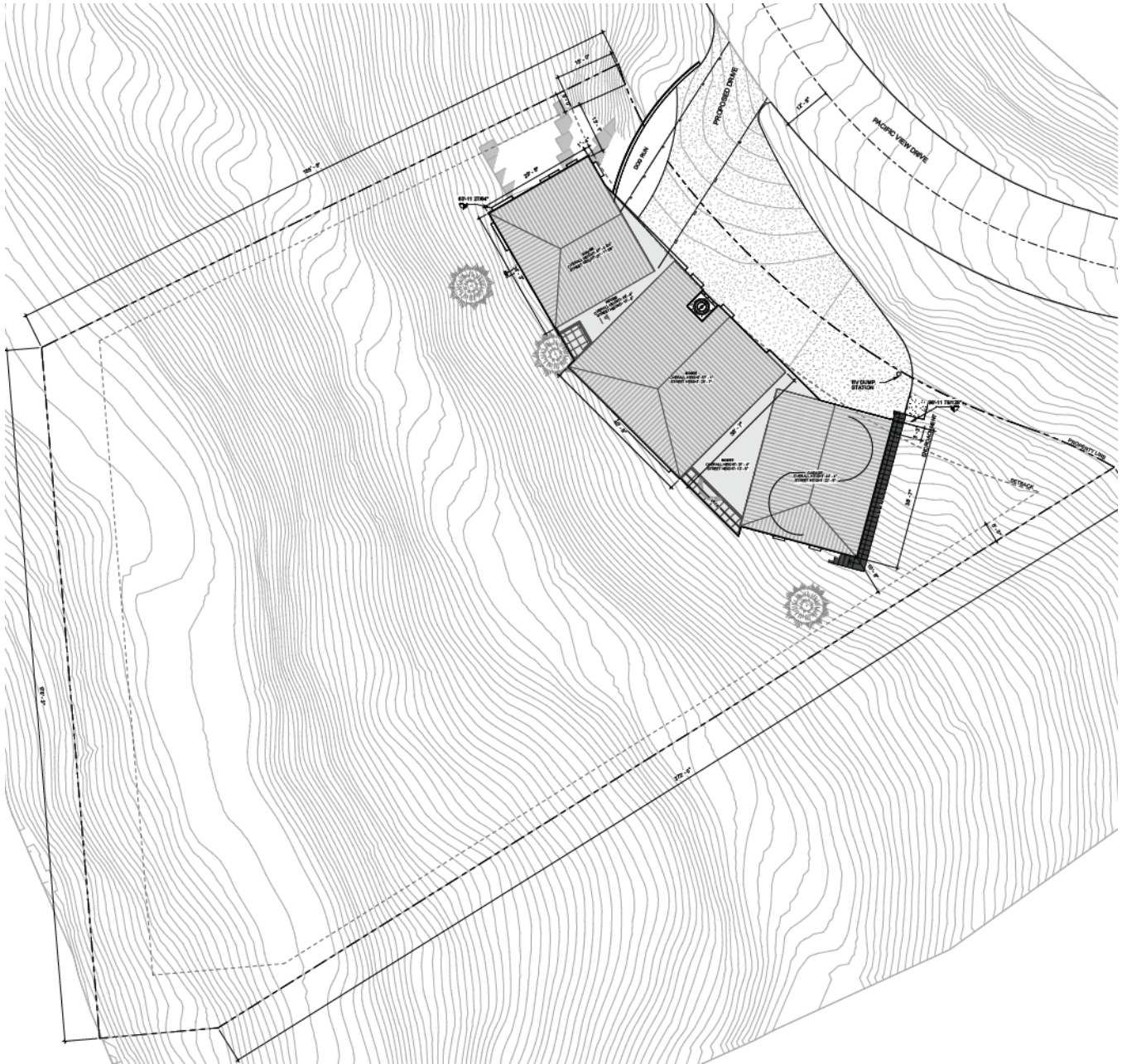


APPLICATION LOCATION:





SITE PLAN:





PROPERTY IMAGES:



Google Earth 3d image



Google Earth street view

**PUBLIC TESTIMONY
SUBMITTED FOR
JANUARY 18, 2024
PLANNING COMMISSION
HEARING**

Variance #23-05: Consideration of an Application for
Variance at Unimproved Real Property at Tillamook County
Assessor's Map # 1N1005BA Lot #9900 to Increase the Building
Height and Reduce the Front Yard Setback

Received as of 3:00 p.m.

01/11/2024

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From: Nirmala Dhar <[REDACTED]>
Sent: Tuesday, January 9, 2024 11:03 PM
To: City Planner
Cc: Sanjay Dhar
Subject: Opposition to Variance #23-05

Mary Johnson, City Planner
City of Rockaway Beach,
Oregon
January 2, 2024

Re: Dimensional Variance Request by Stuart and Karen Hunt for Variance #23-05

We are Nirmala and Sanjay Dhar, homeowners at 395 Long View Loop, Rockaway Beach, OR 97316. We have owned our property since 2013. Our home is adjacent to the property in Variance #23-05.

We are giving our written comments in opposition for variance # 23-05 as we are unable to attend in person on January 18th, 2024.

1. We have views of the ocean from our home to the West and Northwest that overlooks this property. Our ocean views will be blocked partially or wholly with any increase in the height of the proposed building, or in reducing the set-back. We primarily bought our home in 2013 for the ocean views and it has enhanced our quality of life.
2. This variance will also diminish our quality of life and loss of enjoyment as the ocean view is key and the primary reason why we bought this home. We are in our mid-sixties and hope to retire in the next two years –to be able to spend several days a week at our Rockaway Beach home and enjoy the sweeping ocean views.
3. The variance will reduce our home value significantly if the ocean views are compromised in any way. This requested variance will negatively and substantially impact our property value .
4. This requested variance deprives us of our rights commonly enjoyed by others in our housing development. The purpose of the Rockaway Zoning Ordinance is to promote the appropriate use of land; conserve and stabilize value of property and provide adequate light and air; protect and enhance the appearance of the city and promote public health, safety, and common and general welfare. Our rights will be violated if this variance request is granted.
5. Finally, the requesters for the variance have not established exceptional and extraordinary circumstances and conditions for increasing the height of the building significantly and for the substantial set-back . They are simply wanting to construct and build something that is clearly prohibited by physical zoning requirements. Besides the reasons mentioned earlier, will this new property be in “theme” with the rest of the neighborhood or is it setting a new precedence that will substantially change the character of the neighborhood.

In conclusion, the strongest argument against a zoning variance is that there is a reason why Rockaway Zoning Ordinance exists and so for those reasons no variance should be granted and if such a variance is granted in a specific area or jurisdiction then that opens a Pandora's Box for other variances in the future. We, therefore, want to express our strong opposition for this variance request and urge you to reject it.

Thank you for your consideration.

Sincerely,

Nirmala & Sanjay Dhar

A solid black rectangular box used to redact the signature of Nirmala & Sanjay Dhar.







To Mary Johnson
City Planner
City of Rockaway Beach

December 26, 2023

RE: Variance Request #23-05
Lot #9900 Pacific View Estates

Ms. Johnson,

I want to make it clear that I am not opposed to the development of any of the remaining lots in Pacific View Estates. I personally welcome additional neighbors.

I also wanted to make it clear that there are more restrictive requirements governing Pacific View Estates than just the City Zoning Ordinance. I have attached them to this letter and highlighted the most important parts. Please read the portions related to allowable heights. These requirements are legally binding on all home owners in Pacific View Estates and to protect the views of the other homeowners.

You have mentioned in one of your emails that the City does not enforce requirements that are not part of the zoning code, but it seems incorrect to approve something that that conflicts with other legally binding regulations and leave it up to the other homeowners to enforce a violation that the City has approved. This would be a confusing outcome and create potential legal issues among all parties. I do not think it is appropriate for a land owner to seek approval for a variance without also seeking approval from the other homeowners of Pacific View Estates and I do not think the Planning Commission should approve this variance without the approval of the other homeowners.

After reading the variance request you provided along with the drawings you provided, I cannot determine if the requirements of Pacific View Estates are met with this application. No dimensions are shown on the plans and no reference to Pacific View requirements. The building may be three stories of living area but the design makes it look like a four-story building on the ocean side because of the required foundation walls. The drawings show one story on the street side but it is not clear how tall it really is along the street. The application narrative states that the street level side is less than 29'. 29' on the street side would be a violation of the attached document. I understand the difficulty of building on a steeply sloping lot, but that shouldn't preclude coming up with a design that meets all Pacific View requirements. I am confident that would be possible.

Until information is provided that clearly shows the requirements of Pacific View Estates are met, I will have to oppose this variance. This issue is bigger than just this single lot, it would set an unwelcome precedent for the remaining undeveloped lots many of which are also steeply sloped or have the potential to block views if the regulations are not followed. I would hope that the Planning Commission can take into account that these regulations are important, have been in place since 1979 and should be respected.

Doug Circosta

████ North Slope Way
Rockaway Beach, OR 97136

████████████████████
Beaverton, OR 97007

DECLARATION OF CONDITIONS AND RESTRICTIONS

The undersigned, being the record owners and parties in interest of all of the following described real property located in the County of Tillamook, State of Oregon, to-wit:

All of PACIFIC VIEW ESTATES SUBDIVISION excepting Lots 72, 73, 74, 75, 76, 77, 78, 79 and 80 thereof

do hereby make the following Declaration of Conditions and Restrictions covering the above described real property, specifying that this Declaration shall constitute covenants to run with all of the land and shall be binding on all persons claiming under them and that these Conditions and Restrictions shall be for the benefit of and limitations upon all future owners of said real property:

1. No lot shall be divided so as to create an additional homesite. No residence shall have living area of less than one thousand (1,000) square feet.
2. No building, either residence or accessory building, shall be so constructed so that any part of the roof, excepting chimneys, shall extend vertically more than eighteen (18) feet from the highest point of the lot as it presently exists nor twenty-four (24) feet above the natural ground level at the uphill side of the building. No exterior FM or TV antennas shall be allowed so long as TV cable service is available. Other antennas shall not exceed the height of the building. No windbreak, hedge, any or all vegetation, or fence shall be planted, constructed or allowed to grow upon any part of the premises to a greater height than five (5) feet above the highest point of the lot as it presently exists.
3. The covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time these covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change these covenants in whole or in part.
4. Invalidity of any of these covenants shall in no wise affect any of the other provisions, which shall remain in full force and effect.
5. The foregoing Conditions and Restrictions shall bind and enure to the benefit of, and be enforceable by suit for injunction or for damages by the owner or owners of any of the above described lands, their and each of their legal representatives, heirs, successors or assigns; and a failure, either by the owners above named or their legal representatives, heirs, successors or assigns, to enforce any of such conditions or restrictions shall in no event be deemed a waiver of the right to do so thereafter.
6. Should suit or action be instituted to enforce any of the foregoing restrictions or covenants, after written demand for the discontinuance of a violation thereof and any failure so to do, then, whether said suit be reduced to decree or not, the owner seeking to enforce or to restrain any such violation shall be entitled to have and recover from such defendant or defendants, in addition to the costs and disbursements allowed by law, such sum as the Court may adjudge reasonable as an attorney fee in such suit or action and on any appeal thereof.

Done this November 5, 1979.

PACIFIC VIEW ESTATES, INC.

By Laurence L. Kesterson
Laurence L. Kesterson President

By Jean W. Hethaway
Jean W. Hethaway Secretary

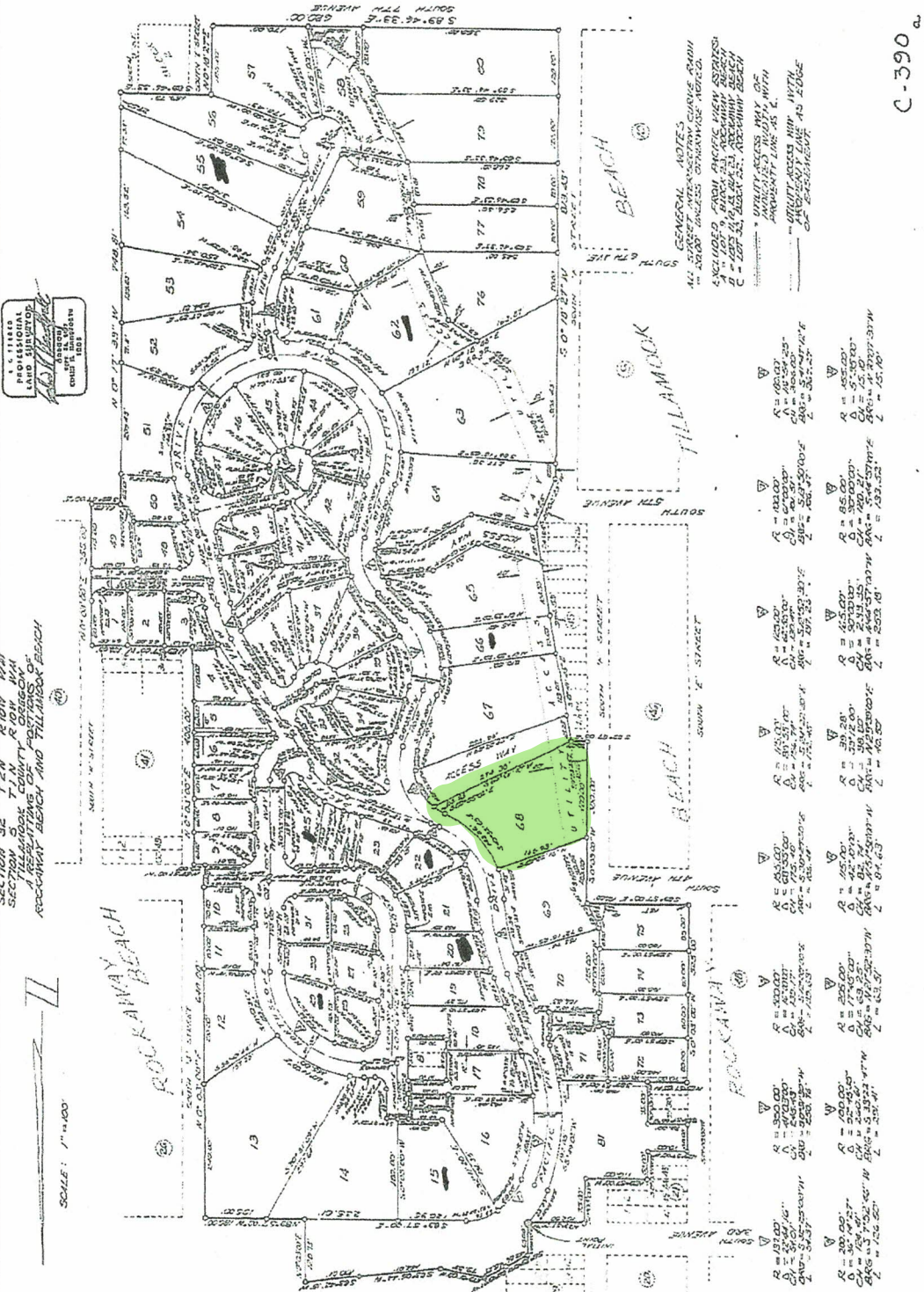
Steven J. Kesterson
Steven J. Kesterson
Sharon Kesterson
Sharon Kesterson
Laurence L. Kesterson
Laurence L. Kesterson

TILLAMOOK

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266/184
11-5-79

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SCALE: 1" = 100'





CITY OF ROCKAWAY BEACH

Notice of Public Hearing for Variance #23-05

NOTICE IS HEREBY GIVEN that the City of Rockaway Beach Planning Commission will hold a public hearing on **Thursday, January 18th at 5:00 p.m.** in City Hall located at 276 S. Highway 101, Rockaway Beach, Oregon. The purpose of the public hearing is for:

Public Hearing: Consideration of an approval for a variance at unimproved real property in Rockaway Beach (Tillamook County Assessor's Map # 1N1005BA Lot #9900). The Applicants, Stuart M. and Karen C. Hunt, are seeking a variance to build a new home. The Applicants seek a height variance and reduction of the front yard setback to construct the home. The lot is located in the R1 Zone and is approximately 37,170 square feet. Building height for this property is limited to 29'. The Applicants seek to construct home that is 39' in height. The front yard setback for this property is 15'. The Applicants seek to reduce the front yard setback to 11.7'.

You are receiving this notification as you are a registered property owner within 200 feet of the applicant's property. Oral public testimony will be heard and written public comments will be accepted at or prior to the hearing. If submitting comments prior to the hearing, deliver to the City Hall at the address given above, or mail to Planning Department at P.O. Box 5, Rockaway Beach, OR 97136. Please use file number Variance #23-05 on written comments, and include your name, mailing address, and phone number. A staff report will be prepared not less than seven days prior to the hearing for review at City Hall. Hard copies will be available upon request to the City free of cost. All other documents and evidence related to this land use action shall be incorporated into an Official Record and made available for review at City Hall upon request.

Failure to raise an issue in person, in writing at or prior to the close of the hearing, or failure to provide statements or evidence sufficient to afford the Planning Commission and other interested parties an opportunity to respond to the issue constitutes forfeiture of the right to appeal the decision of the Planning Commission. Failure to specify as to which criteria the comments are directed precludes an appeal based on that criterion.

Use Criteria: Use criteria for this proposal include Rockaway Beach Zoning Ordinance, Section 8.020. Variance Review Criteria.

Responsible Official: Mary Johnson
City Planner
(503) 374-1752
cityplanner@corb.us

§ 31.01 PLANNING COMMISSION.

A. Planning Commission established.

1. A city Planning Commission of the City of Rockaway Beach is hereby created. The Commission shall consist of 7 residents of the city, appointed by the City Council. At the first meeting of the Commission, the 7 appointed shall choose their term of office by lot as follows: one for 1 year, 2 for 2 years, two for 3 years, and 2 for 4 years. Immediately thereafter, the members shall notify the City Council in writing of the allotment. Their successors shall hold office for 4 years. Any vacancy shall be filled by the City Council for the unexpired term of the predecessor in office. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. One (and only one) citizen registered to vote in Tillamook County and living as a full time resident within the city's Urban Growth Boundary (UGB) may serve on the Planning Commission, in any seat prescribed above. The term of a person so appointed shall be for the term, or unexpired term, of the appointed seat.
2. Not more than 2 members of the Planning Commission may be city officers who, if appointed by the City Council, shall serve as ex-officio nonvoting members. No more than 2 voting members shall be engaged principally in the buying, selling or developing of real estate for profit as individuals or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than 2 voting members shall be engaged in the same kind of business, trade or profession.

B. *Officers; terms of office.* The Commission, at its first meeting, shall elect a President and Vice-President, who shall be voting members and who shall hold office until the following July 1, when election of new officers shall be held to serve for a term of 1 year. The Commission shall elect a Secretary, who need not be a member of the Commission. The Secretary shall keep an accurate record of all Commission proceedings. The Commission shall, on October 1 of each year, make and file a report of all its transactions with the City Council.

C. *Quorum; meetings.* Four members of the Commission shall constitute a quorum. The Commission may make and alter rules and regulations for its government and procedure consistent with the laws of Oregon and with the city charter and ordinances. It shall meet at least once a month. The City Council shall assign to the Commission an office or headquarters in the City Hall, if possible, in which to hold its meetings, transact its business and keep its records.

D. *Expenses and disbursements.* The Commission may employ consulting advice on municipal problems, a Secretary and the Clerks as may be necessary and pay for their services and for the other expenses as the Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Commission, out of funds at the disposal of the Commission, as authorized by the City Council.

- E. *Compensation.* The Commissioners shall receive no compensation for their services as the Commissioners but shall be reimbursed for duly authorized expenses.
- F. *Duties and powers.* The powers and duties of the Commission shall be as follows. Except as otherwise provided by law, the Commission may:
1. Recommend and make suggestions to the City Council and to all other public authorities concerning laying out, widening, extending, parking and locating of streets, sidewalks and boulevards, relief of traffic congestion, betterment of housing and sanitation conditions and establishment of zones of districts limiting the use, height, area and bulk of buildings and structures;
 2. Recommend to the City Council and all other public authorities plans for regulations of the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots; and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service of all public utilities, harbor, shipping and transportation facilities;
 3. Recommend to the City Council and all other public authorities plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged in industrial pursuits;
 4. Advertise the industrial advantages and opportunities of the municipality and availability of real estate within the municipality for industrial settlement;
 5. Encourage industrial settlement within the municipality;
 6. Make an economic survey of present and potential possibilities of the municipality with a view to ascertaining its industrial needs;
 7. Study needs of existing local industries with a view to strengthen and develop local industries and stabilizing employment conditions; and
 8. Study and propose in general the measures as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city and of the area 6 miles adjacent thereto.
- G. *Reporting.* The time within which the City Planning Commission shall report on any matter or class of matters referred to it in accordance with the provisions of the Rockaway zoning code shall be in accordance with the code; and in default of the report within the period, the Planning Commission shall forfeit the right further to suspend action with regard to the particular matter on which it has so defaulted. However, in any specific case, the City Council may grant the longer period as it may deem proper within which the Commission may make its report.
- H. *Subdivision; streets; public buildings.* All subdivision plats located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets, or plans for public buildings, shall first be submitted to the Commission by the

applicant or other proper municipal officer, and a report thereon from the Commission secured in writing before approval is given by the proper municipal official.

- I. *Recommendations and approval.* Whenever a copy of a plan, plat or description is filed with the City Planning Commission, the Commission shall, within 60 days, report to the City Council its recommendations in relation thereto. The City Council shall then consider the same and direct the City Planning Commission either to certify its approval thereof or to refuse to approve of the same; and the Commission shall act at once in accordance with the directions.

(Prior Code, Ord. 116, passed 11-25-1975; Am. Ord. 10-411, passed 10-27-2010)

1.20.030 Planning Commission.

A. *Powers and Duties.* The Bend Planning Commission is established, and shall have the authority and responsibility provided by this code and State law. The Planning Commission is the appointed citizen body that provides recommendations to the City Council on land use policies; makes land use decisions on planning applications; and provides a public forum for community values, visioning and strategic thinking in long range planning. The Commission shall have the following duties:

1. Review those land use applications within its jurisdiction pursuant to applicable laws.
2. Review and act on quasi-judicial decisions on land use applications and appeals of land use decisions pursuant to the City's land use procedures.
3. Periodically review the Comprehensive Plan, as prioritized in a work plan approved by the City Council through its goal setting process or as otherwise directed by the City Council.
4. Act as the Citizen Involvement Committee within the Bend Urban Growth Boundary and advise the City Council on citizen involvement programs. As directed by the City Council, this role may include working with stakeholder groups or citizen advisory committees, to help inform refinement and other land use plans, and/or facilitating community engagement on land use issues with groups such as neighborhood associations or coalitions.
5. Make recommendations to the City Council on Type IV legislative land use actions.

B. *Membership.*

1. The Bend Planning Commission consists of seven members who are not officials or employees of the City. All voting members shall be residents of the City.
2. No more than two voting members of the Commission may engage principally in buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that engages principally in the buying, selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.
3. No Commission member shall serve more than two full terms or 10 years if appointed mid-term, whichever is greater.
4. Consideration shall be given to including representatives of the various geographical parts of the City of Bend.
5. The Commission shall elect a chair and vice-chair to serve one-year terms. Election of the officers shall be held at the first meeting of the Commission in each calendar year, but failure to hold the election at the first meeting in a calendar year shall not invalidate any action by the Commission.

6. City planning staff shall perform administrative functions for the Planning Commission.
7. Four members of the Commission shall constitute a quorum. The Commission may act by a majority of those voting while a quorum is present. The Commission shall meet in accordance with its bylaws. The Commission may adopt and amend rules and regulations to govern the conduct of its business. [Ord. NS-2395, 2020; Ord. NS-2299, 2017; Ord. NS-2285, 2017; Ord. NS-2159, 2011]

The Bend Code is current through Ordinance NS-2481, passed June 21, 2023.

Disclaimer: The city recorder's office has the official version of the Bend Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.bendoregon.gov](http://www.bendoregon.gov)

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