



Staff Report

PLANNING DIVISION

DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission
From: Caitlyn Miller, Principal Planner, caitlyn.miller@slcgov.com or 385-315-8115
Date: October 28, 2020
Re: Attached Accessory Dwelling Unit – Conditional Use (PLNPCM2020-00620) and Variance (PLNZAD2020-00490)

Accessory Dwelling Unit - Conditional Use and Variance

PROPERTY ADDRESS: 1977 South Scenic Drive

PARCEL ID: 16-14-353-006-0000

MASTER PLAN: East Bench

ZONING DISTRICT: FR-3/12,000 (Foothills Residential District)

JOINT APPEALS HEARING AND PLANNING COMMISSION PUBLIC HEARING:

As provided by City Code, a conditional use that includes a requested variance, may be heard simultaneously. This staff report serves as Staff's analysis of the requested Conditional Use (PLNPCM2020-00620) and Variance (PLNZAD2020-00490).

REQUEST: Tim and Cathy Chambliss, the property owners, are requesting Conditional Use approval for a 1,313-square foot accessory dwelling unit (ADU) to be located at the rear of their home at approximately 1977 S Scenic Drive. The property is zoned FR-3/12,000 (Foothills Residential District), where ADUs must be processed as a conditional use. The proposed ADU would be attached at the rear of the primary dwelling. As proposed the ADU would encroach into the required 35' rear setback by 13'10" at the northern point and 15'0" at the southern end of the addition. The Applicant has requested a variance from the Appeals Hearing Officer to allow the construction within this setback.

CONDITIONAL USE RECOMMENDATION: Planning Staff finds the project generally meets the applicable standards of approval with the exception of the proposed construction within a required setback. Staff therefore recommends the Planning Commission approve the Conditional Use for the ADU with the conditions of approval below. Final approval of the details noted in the following conditions shall be delegated to Planning Staff:

1. The applicant shall comply with the registration process outlined in section 21A.40.200.F of the Salt Lake City zoning ordinance.
2. No grading, excavation, building, removal of vegetation or other site work shall be allowed without specific authorization of the building official in accordance with section 21a.24.040(H) of the city's land use ordinances.
3. The applicant shall obtain a building permit prior to the construction of the Accessory Dwelling Unit and shall comply with all adopted standards and ordinances.

4. That this approval is contingent on the granting of a variance to allow the proposed ADU to be constructed within the required rear setback. If a variance is not granted any Planning Commission approval of the proposed ADU shall become null and void.

VARIANCE RECOMMENDATION: Planning staff finds the project generally meets the applicable standards of approval for a variance and recommends the Appeals Hearing Officer approve the requested variance.

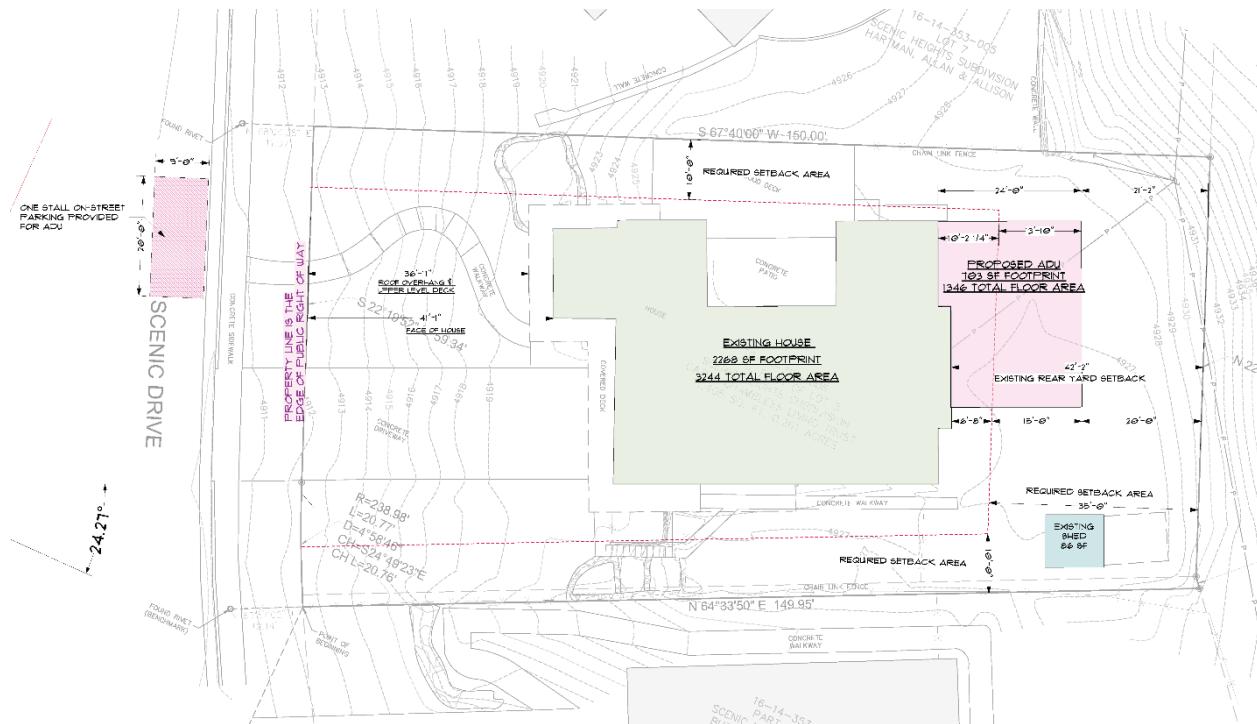
ATTACHMENTS:

- A. [Vicinity Map](#)
 - B. [Site Photos](#)
 - C. [Application Materials](#)
 - D. [Zoning Standards for ADUs](#)
 - E. [Conditional Use Standards](#)
 - F. [Variance Standards](#)
 - G. [Public Process & Comments](#)
 - H. [Department Review Comments](#)

PROJECT DESCRIPTION:

The proposed project is an attached accessory dwelling unit (ADU) located at the rear, eastern side, of an existing single family home located at approximately 1977 S Scenic Drive. The ADU will be 1,313 square feet in total area. It features a flat roof and is approximately 20' in height. Parking will be accommodated on the public street.

The primary exterior building material is stucco accented with metal fascia at the roofline. The front door will face the south property line. The ADU itself sits 11 feet from the side (north) property line, 30 feet from the side (south) property line and 20 feet from the rear (east) property line. The subject property is located in an established detached single-family neighborhood at the base of the foothills. Single-family homes are located to the north, south, and west of the subject property. The eastern side of the subject property abuts open space which includes portions of the Bonneville Shoreline Trail and the H Rock. This open area is zoned Foothills Protect (FP) and Open Space (OS).



The proposed ADU addition would be constructed at the rear of the home in the applicants' existing backyard. There are no residences directly east of the proposed addition and the additional height of the proposed ADU is stepped back far from the public street. There is an existing walkway along the southern side of the home which accesses the backyard; the ADU would be accessed from this walkway.



Figure 1: View of Chambliss Residence with proposed ADU addition highlighted in red.

Accessory dwelling units are allowed as conditional uses in the FR-3/12,000 zoning district and must be reviewed by the Planning Commission prior to the issuance of a decision. While attached and detached ADUs must adhere to the same parking and occupancy standards, attached ADUs may be built up to 50% of the total floor area of the primary dwelling while detached units may be built up to 50% of the footprint of the primary dwelling or 650 square feet, whichever is less. The proposed ADU would be 1,313 square feet in size, or approximately 40.5% of the primary dwelling's floor area. The addition housing the proposed ADU would be approximately 20 feet in height as measured from the grade of the lot and would include a second story.

The property is in the FR-3/12,000 zoning district, which is a single-family zoning district. Conditional use approval is required for any ADU located in a single-family zone which necessitated the public hearing with the Planning Commission. Additionally, due to alleged hardships the applicants have requested a variance to allow the proposed addition to encroach between 13 feet 10 inches and 15 feet into the required 35 foot rear yard setback area. This request must be reviewed by the Appeals Hearing Officer following a public hearing, thus necessitating the joint meeting of the Planning Commission and Appeals Hearing Officer.

Notice of the ADU proposal was sent to property owners and tenants within 300 feet of the site on August 19, 2020 and to the East Bench Community Council. Staff and the applicants attended the electronic meeting of the East Bench Community Council on the evening of September 16, 2020 where the neighbors generally supported the proposal. A notice of public hearing before the Planning Commission and the Appeals Hearing Officer was sent on October 15, 2020 and two signs were posted on the subject property on October 16, 2020.

KEY ISSUES FOR ADU REQUEST:

- Encroachment into rear setback: The proposed accessory dwelling unit addition complies with all standards and requirements as set forth in the ordinance except for the proposed encroachment into the required rear yard setback. If the Appeals Hearing Officer finds the applicants have met their burden of proof and grants the variance this encroachment into the rear yard will be permitted.

KEY ISSUES FOR VARIANCE REQUEST:

The standards required for granting a variance are set forth in Utah Code Section 10-9-707 and Salt Lake City Zoning Ordinance, Section 21A.18.060. The Hearing Officer may grant a variance if all of the conditions described in Attachment F are found to exist. The applicants shall bear the burden of demonstrating that the standars have been met and the variance is justified. The key issues listed below have been identified through the analysis of the project. The applicants are requesting a variance to allow the proposed addition to encroach into the required 35 foot rear yard setback between 13 feet 10 inches and 15 feet.

Measured From	Proposed Setback	Required Setback	Proposed Reduction
Northeast Corner	13' 10"	35'	39.5%
Southeast Corner	15'	35'	42.9%

- ADU as a substantial property right: Variances may only be granted for requests related to substantial property rights which meet all requirements set forth in the ordinance. While an accessory dwelling unit is accessory to a primary dwelling and cannot be established without the presence of a primary dwelling it is still an allowed use in the zoning district. The purpose statemet of the ADU chapter of the zoning ordinance defines the ADU as a means to achieve greater housing choice, allow intergenerational living, fulfill sustainability objectives, etc. An ADU can therefore be considered a substantial property right.
- Applicants' alleged hardships: The applicants have cited the topography of their lot as well as the presence of large rocks and boulders underneath the ground level as their hardships. The applicants have stated they have attempted excavation of their back yard in the past and the rocks were very difficult to excavate around. The subject property also slopes upwards toward the foothills to the east and the applicants represent the most level portion of their backyard at the rear wall of their home.
- Siting of existing home: The existing dwelling is set back approximately 41 feet from the front property line; the FR-3/12,000 zoning district lists the minimum front setback as "the average of the front yards of existing buildings within the block face." The other existing dwellings along Scenic Drive have front yards between approximately 14 and 35 feet in depth. With the applicants' home being sited farther back from the size of their rear yard, particularly the area outside of the 35 foot setback is diminished. With the home's siting, there is only 6 feet 8 inches of space between the home and the rear setback line. The home was constructed in 1958 and the applicants are not the original owners or builders.
- Requirements of FR-3/12,000 zoning district: Section 21A.24.40E5 prohibits accessory structures in side or rear yards in the FR-3/12,000 zoning district. There is a 6 foot 8 inch space between the existing home and the rear setback line currently and all accessory structures must be built a minimum of 10 feet from the primary dwelling (section 21A.36.020B). If the applicants are unable to construct their addition they would have no ability to construct a detached structure to house a proposed ADU.

PLANNING COMMISSION NEXT STEPS:

Approval of Conditional Use

If the request is approved, the applicant will need to comply with the conditions of approval, including any of the conditions required by other City departments and any added by the Planning Commission. The applicant will be able to submit plans for building permits and certificates of occupancy for the buildings will only be issued once all the conditions of approval are met including the registration process requirements outlined in 21A.40.200.F of the zoning ordinance.

Denial of Conditional Use

State and City code require that a Conditional Use be approved if reasonable conditions can be imposed on the use to mitigate any reasonably anticipated detrimental effects of the use. A conditional use can only be denied if the Planning Commission finds that reasonably anticipated detrimental effects cannot be mitigated with the imposition of reasonable conditions.

If the Planning requests are denied, the applicant would not be able to construct an ADU. The applicants could still construct an addition onto the rear of their home subject to meeting zoning requirements; however, it could not be used as an accessory dwelling. The applicants could also construct a detached accessory structure subject to meeting zoning requirements, but similarly to the addition, the accessory structure could not be used as an ADU. Accessory structures in the FR-3/12,000 zoning district must be located a minimum of 10 FT from the primary dwelling and cannot be located within the required side or rear yard, and meet the lot coverage requirements. The size of a detached ADU cannot exceed 50% of a home's footprint or can be up to a maximum of 650 square feet, whichever is less.

APPEALS HEARING OFFICER NEXT STEPS:

Granting of Variance

If the requested variance is granted the ADU will comply with all adopted standards. The Applicant will need to comply with any conditions of approval, including any standards required by other City departments and any added by the Appeals Hearing Officer.

Denial of Variance

If the requested variance is denied the proposed ADU will not comply with all adopted standards and requirements and cannot be approved per Salt Lake City's land use ordinances. If the variance is not granted any ADU approval by the Planning Commission would become null and void.

ATTACHMENT A – VICINITY MAP

Vicinity Zoning Map



Salt Lake City Planning Division, 7/27/2020

ATTACHMENT B – SITE PHOTOS



Figure 2: View of subject property from Scenic Drive



Figure 3: View of neighboring property to the south



Figure 4: View of neighboring property to the north



Figure 5: View of hillside to the west of the subject property, overlooking Salt Lake City

ATTACHMENT C – APPLICATION MATERIALS

Design Firm	June 10, 2013
Drawn By	
Checked By	
Project ID	Revision
Submitted By	Drawing Date
Project Manager	CAD File Name
	Permit Date
	Permit No.

ZONING ANALYSIS

FR-3 12,000 ZONE
10' SIDE YARD
35' REAR YARD
35% BUILDING COVERAGE

ADU IS A CONDITIONAL USE

ATTACHED ADU

YOU CAN BUILD A MAXIMUM OF ONE ADU IF YOUR PROPERTY HAS A SINGLE-FAMILY DWELLING.

SIZE
THE SIZE OF YOUR ADU CANNOT EXCEED 50% OF YOUR HOME'S GROSS SQUARE FOOTAGE.

THE SQUARE FOOTAGE OF YOUR DETACHED GARAGE CANNOT BE INCLUDED IN YOUR HOME'S FOOTPRINT.

PARKING
PROVIDE A MINIMUM OF ONE PARKING SPACE IN ADDITION TO EXISTING PARKING ON YOUR PROPERTY. PARKING REQUIREMENTS CAN BE WAIVED IF A LEGAL ON-STREET PARKING SPACE IS LOCATED IN FRONT OF YOUR PROPERTY OR IF YOU LIVE WITHIN A 1/4 MILE OF A TRANSIT STOP.

SETBACKS
ADDITIONS TO YOUR HOME MUST COMPLY WITH THE FRONT, SIDE AND REAR YARD SETBACKS FOR YOUR ZONING DISTRICT.

FR-3 12,000 ZONE
10' SIDE YARD
35' REAR YARD
35% BUILDING COVERAGE

BUILDING HEIGHT
THE HEIGHT OF YOUR ADU MUST BE THE HEIGHT ALLOWED IN YOUR ZONING DISTRICT.

"IN THE FR-2, FR-3 AND FF DISTRICTS, THE MAXIMUM BUILDING HEIGHT SHALL BE TWENTY EIGHT FEET (28') MEASURED FROM ESTABLISHED GRADE. THE FRONT AND REAR VERTICAL BUILDING WALLS SHALL NOT EXCEED TWENTY FIVE FEET (25') MEASURED FROM FINISHED GRADE ON A CORNER LOT, ROOF GABLE ENDS WHICH FACE ONTO EITHER THE FRONT OR CORNER SIDE YARD, BUT NOT BOTH, ARE PERMITTED TO A HEIGHT OF TWENTY EIGHT FEET (28').

ENTRANCE LOCATIONS
AN ADU PROVIDES COMPLETELY INDEPENDENT LIVING SPACE, INCLUDING A SEPARATE ENTRYWAY. ENTRANCES ARE PERMITTED IN THE FOLLOWING LOCATIONS:

AN EXISTING ENTRANCE TO THE DWELLING. REAR FAÇADE OF DWELLING.

CORNER SIDE YARD: SETBACK MUST BE AT LEAST 20 FT FROM FRONT BUILDING FAÇADE.

EXTERIOR STAIRS LEADING TO A SECOND STORY: THESE CAN ONLY BE LOCATED ON THE REAR BUILDING ELEVATION.

SIDE YARD: PROVIDED THE SIDE YARD IS AT LEAST 8 FT IN WIDTH, EXEMPT FROM SIDE ENTRY BUILDING REQUIREMENTS.

DETACHED ADU
650 SF MAXIMUM GROSS FLOOR AREA
MAX. 50% REAR YARD COVERAGE

SETBACKS
10' FROM YOUR HOME
10' FROM NEIGHOR'S HOME
4' REAR AND SIDE YARD

THE HEIGHT OF YOUR ADU CANNOT EXCEED THE HEIGHT OF YOUR HOME OR 11 FT, WHICHEVER IS LESS.

FOR HOMES OVER 11 FT THE ADU MAY BE EQUAL TO THE HEIGHT OF THE SINGLE-FAMILY DWELLING UP TO 24 FT FOR A PITCHED ROOF OR 20 FT FOR A FLAT ROOF, IF YOUR REAR AND SIDE YARD SETBACKS ARE 10 FT.

FIRE DEPARTMENT
FIRE DEPARTMENT ACCESS: 150 FEET MAXIMUM FROM PUBLIC RIGHT OF WAY TO ANY POINT ALONG ANY WALL OF THE PROPOSED NEW DWELLING

LOT COVERAGE ANALYSIS

LOT SIZE = 11,405 SF

EXISTING HOUSE

FOOTPRINT = 2268 SF
LOT COVERAGE = 19.88%

EXISTING SHED

FOOTPRINT = 86 SF
LOT COVERAGE = .75%

PROPOSED ATTACHED ADU

FOOTPRINT = 103 SF
LOT COVERAGE = 6.20%

TOTAL LOT COVERAGE
HOUSE + ADU = 26.08%

ALLOWABLE LOT COVERAGE = 35%

FLOOR AREA ANALYSIS

EXISTING HOUSE

LOWER LEVEL	= 916 SF
UPPER LEVEL	= 2268 SF
TOTAL AREA	= 3244 SF

GARAGE	= 556 SF
STORAGE/UNFINISHED	= 901 SF

PROPOSED ATTACHED ADU	= 103 SF
LOWER LEVEL	= 610 SF
TOTAL FLOOR AREA	= 1313 SF

RATIO OF ADU TO HOUSE SIZE
 $1313 / 3244 = 40.5\%$

ALLOWABLE RATIO ADU/HOUSE SIZE = 50%

LOT COVERAGE ANALYSIS

LOT SIZE = 11,405 SF

EXISTING HOUSE

FOOTPRINT = 2268 SF
LOT COVERAGE = 19.88%

EXISTING SHED

FOOTPRINT = 86 SF
LOT COVERAGE = .75%

PROPOSED ATTACHED ADU

FOOTPRINT = 103 SF
LOT COVERAGE = 6.20%

TOTAL LOT COVERAGE

HOUSE + ADU = 26.08%

ALLOWABLE LOT COVERAGE

= 35%

REAR YARD SIZE = 3,212 SF

PROPOSED ATTACHED ADU

FOOTPRINT = 103 SF

EXISTING SHED

FOOTPRINT = 86 SF

TOTAL AREA ADU + SHED

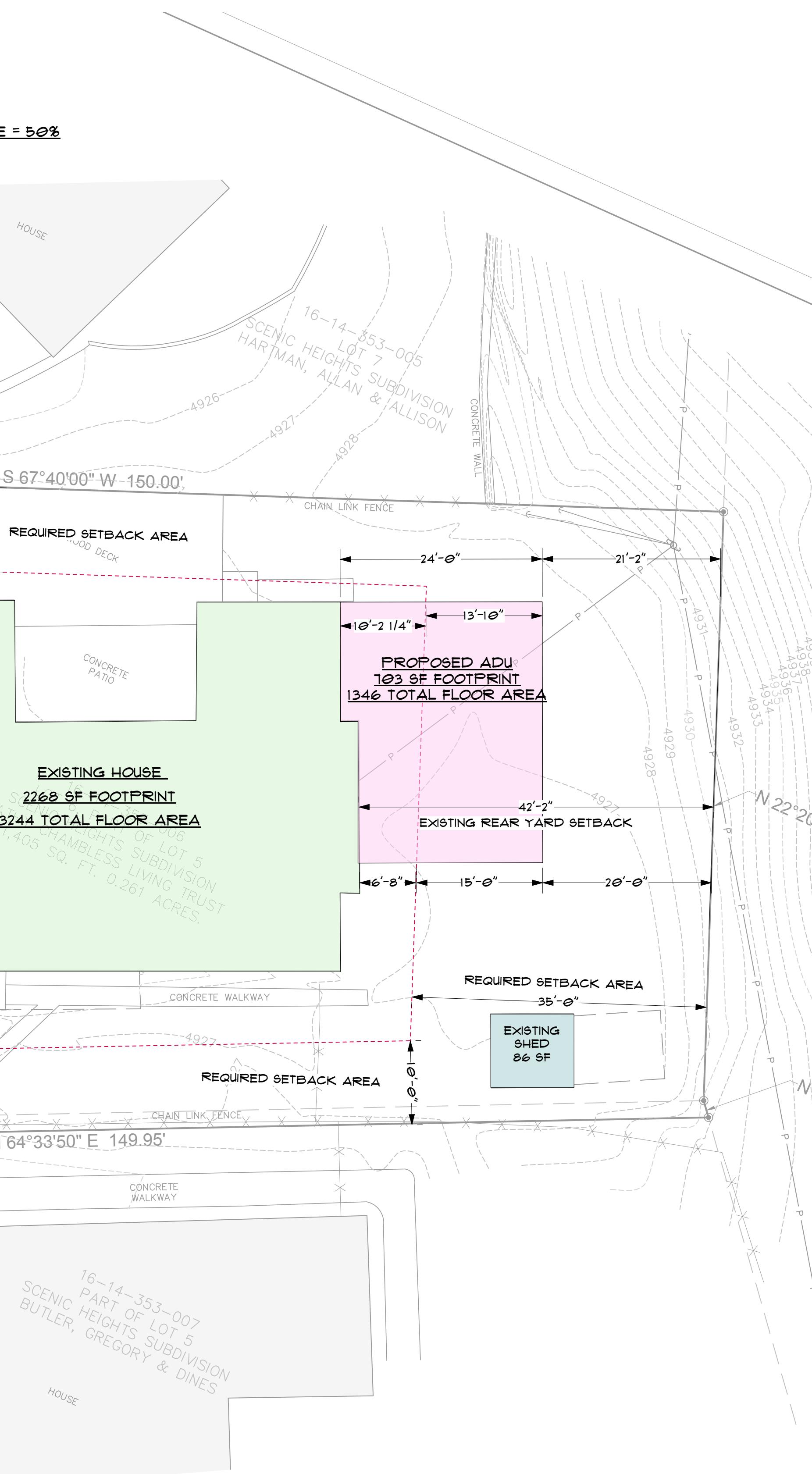
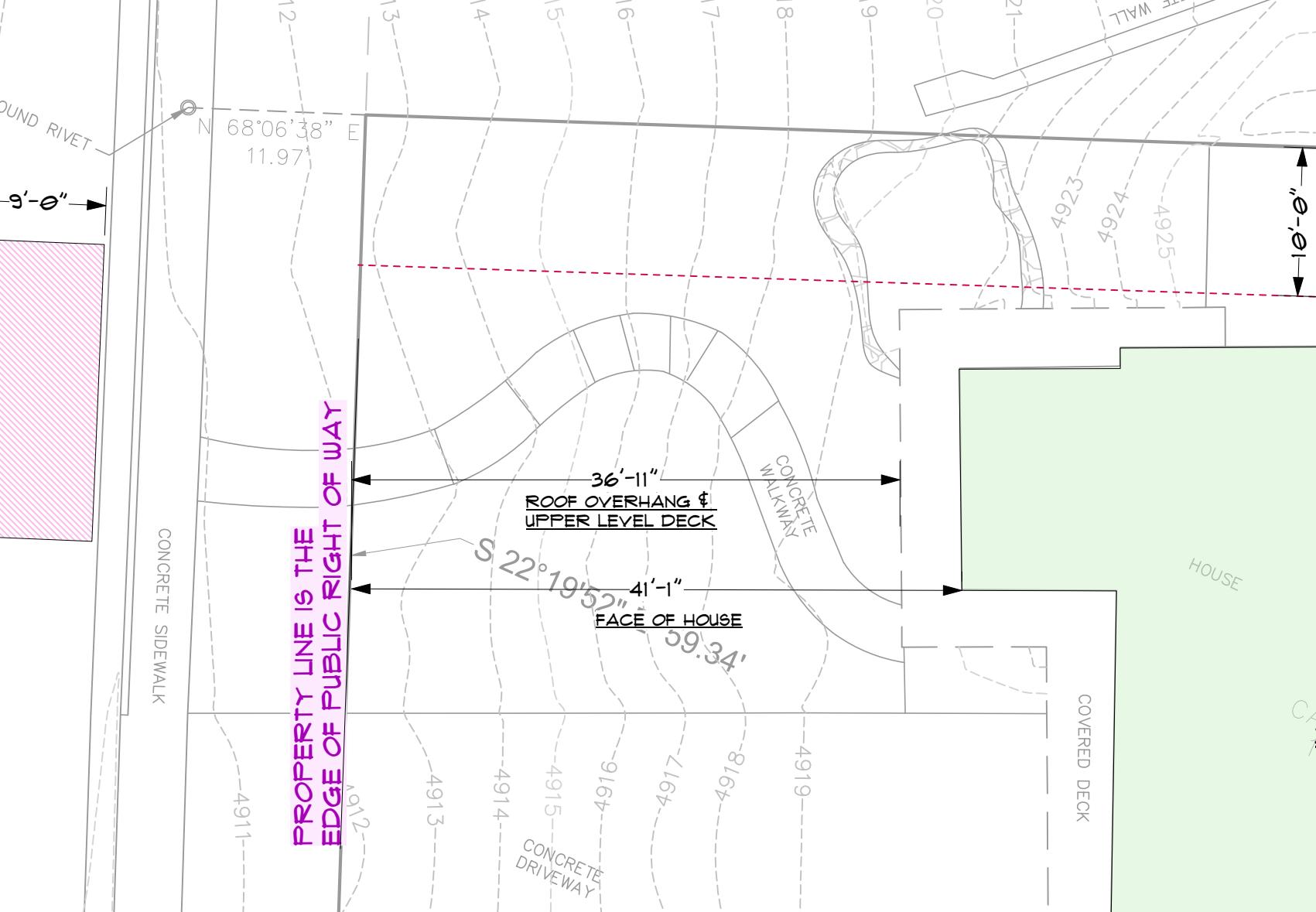
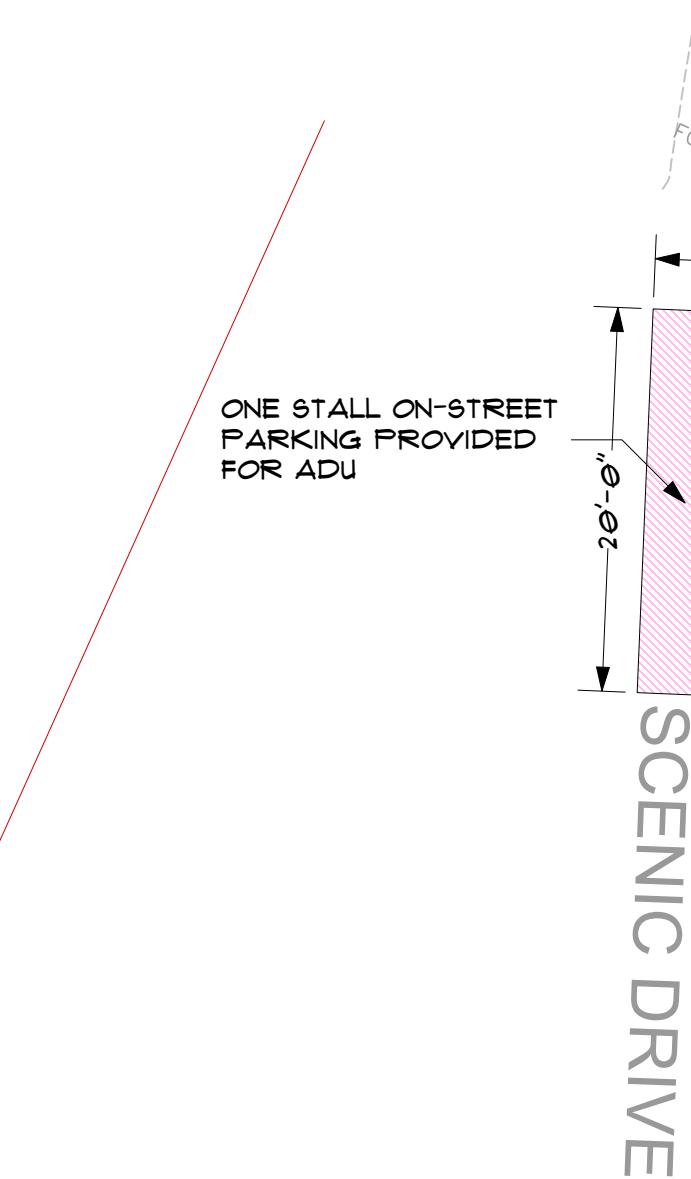
= 189 SF

TOTAL REAR YARD COVERAGE

ADU + SHED = 24.68%

ALLOWABLE REAR YARD COVERAGE

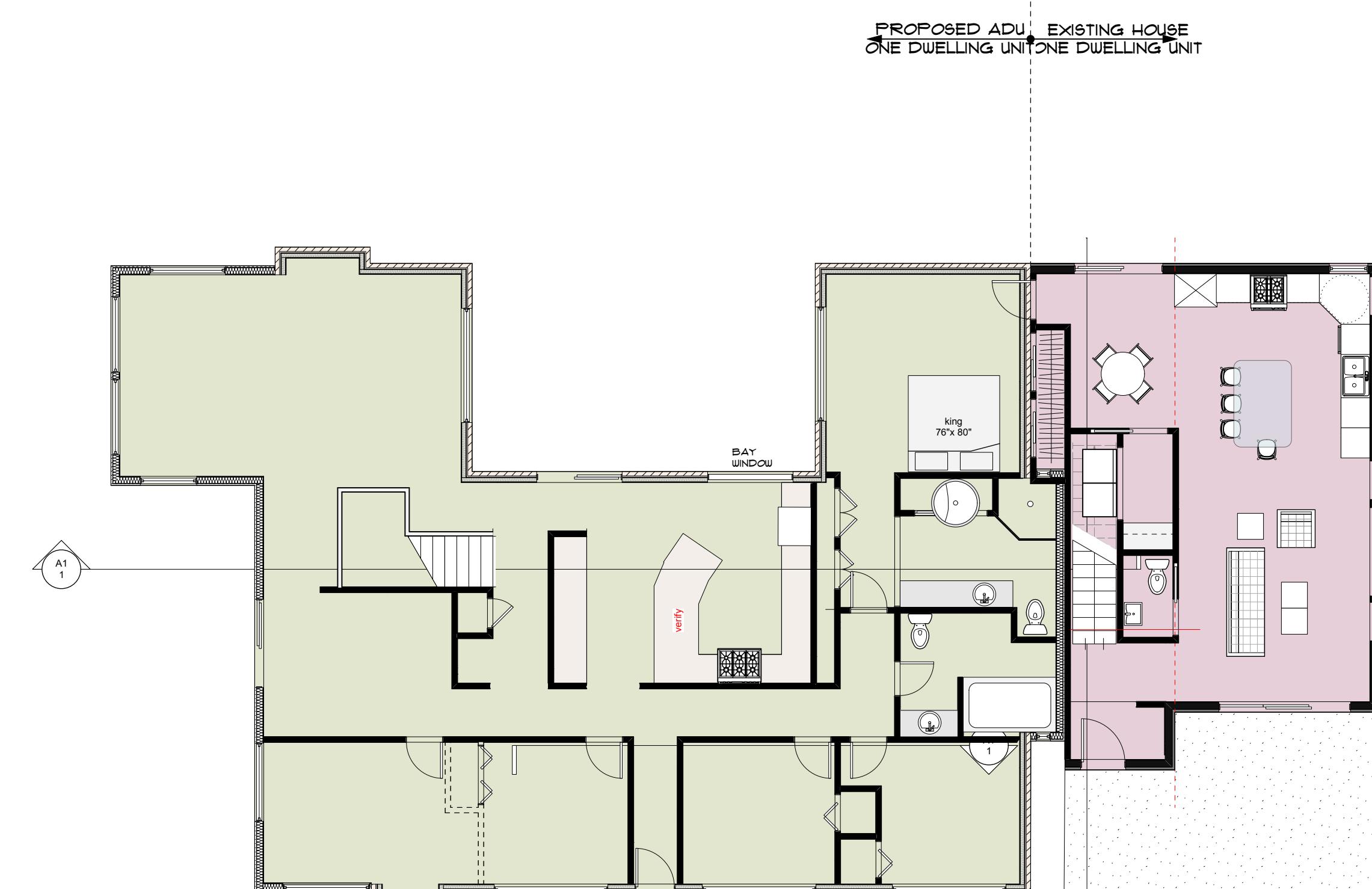
= 50%



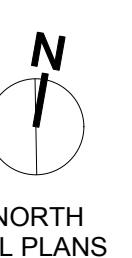
1 SITE PLAN
SCALE: 1" = 10'-0"



4 ROOF EXST'G HOUSE / ADU UPPER LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



1 UPPER LEVEL EXST'G HOUSE / GROUND LEVEL ADU FLOOR PLANS
SCALE: 1/8" = 1'-0"

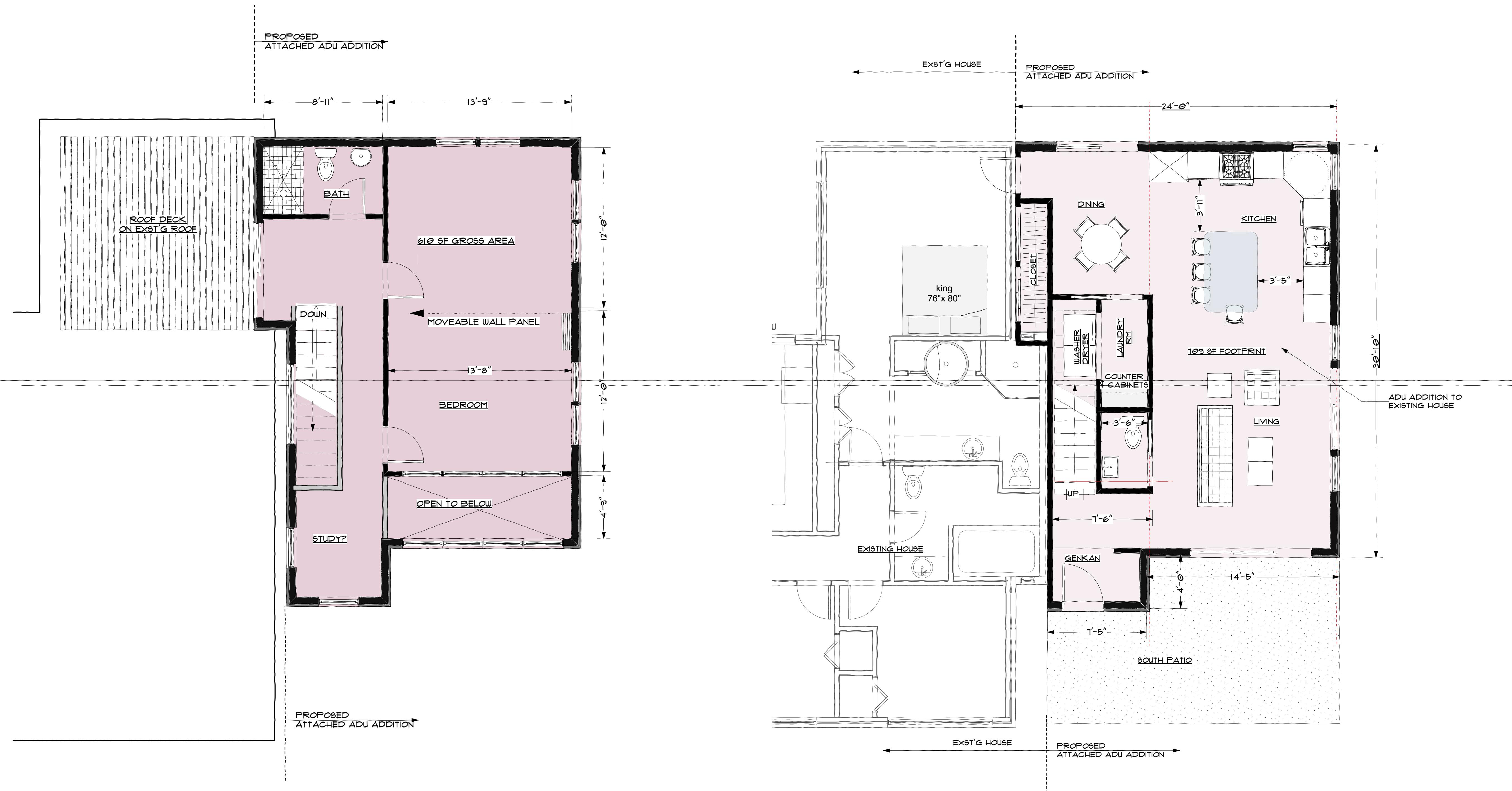


Project Title	Design Firm	Date
Floor plans 1/8"		June 10, 2013
Sheet Title	Revision	Revision
Sheet No.	Project ID	Project ID
		Checked By
		Revised By
		Submitted By
		Project Manager
		Drawing Date
		CAD File Name
		Drawing Code
		Permit No.
		Permit Date
		Permit Status

Chamblee House

1977 Scenic Dr.

**1977 Scenic Dr.
Salt Lake City, Utah**



ADU GROSS AREA
GROUN D LEVEL = 103 SF
UPPER LEVEL = 610 SF

TOTAL GROSS AREA = 1313 SF



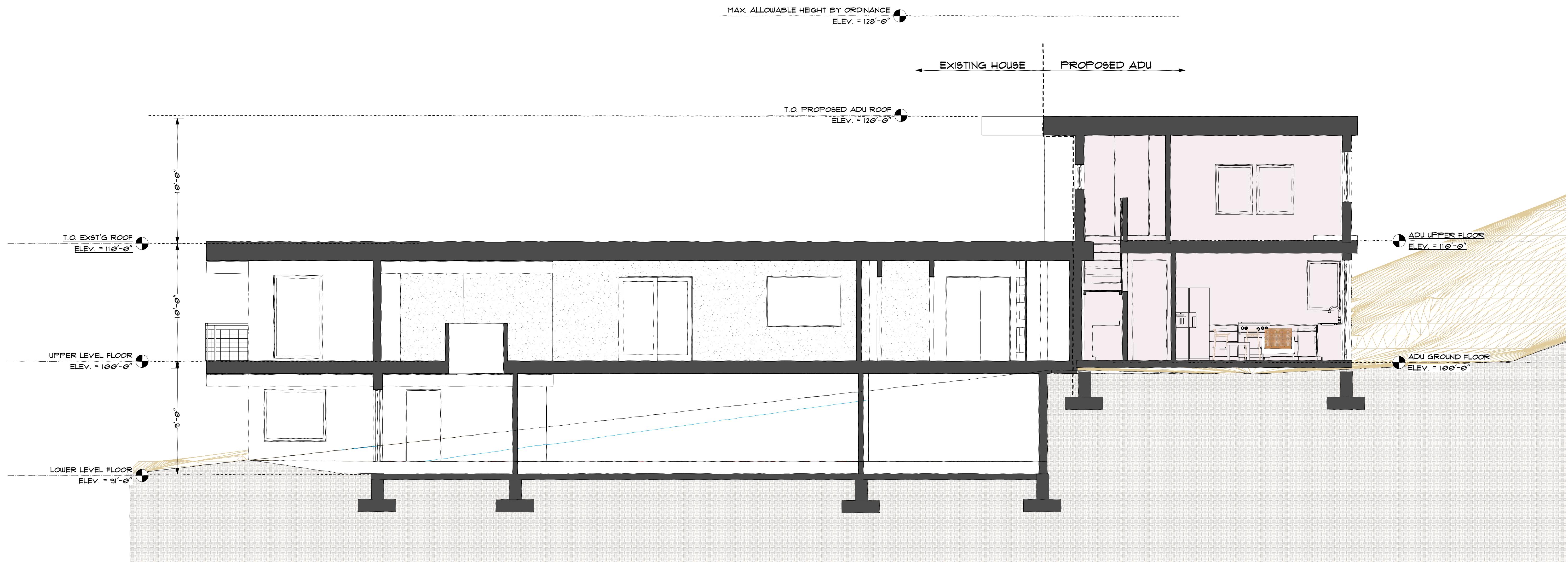
4 ADU SCHEME 4 - UPPER LEVEL
SCALE: $1/4"$ = $1'-0"$

ADU SCHEME 4 - GROUND LEVEL

SCALE: $1/4" = 1'-0"$

Project Title	Design Firm		
Scale			
Sheet No.			
ADU Scheme 4 PREFERRED Sht-9 <hr/> <i>of</i> <hr/>			
Designed By	Date	June 10, 2013	
Drawn By	Revision	Revision	
Checked By	Project ID		
Reviewed By	Drawing Code	Drawing Code	
Submitted By	CAD File Name		
Project Manager	Plot Date	00/00/00	

Rowland-Rice House
Teasdale, Utah



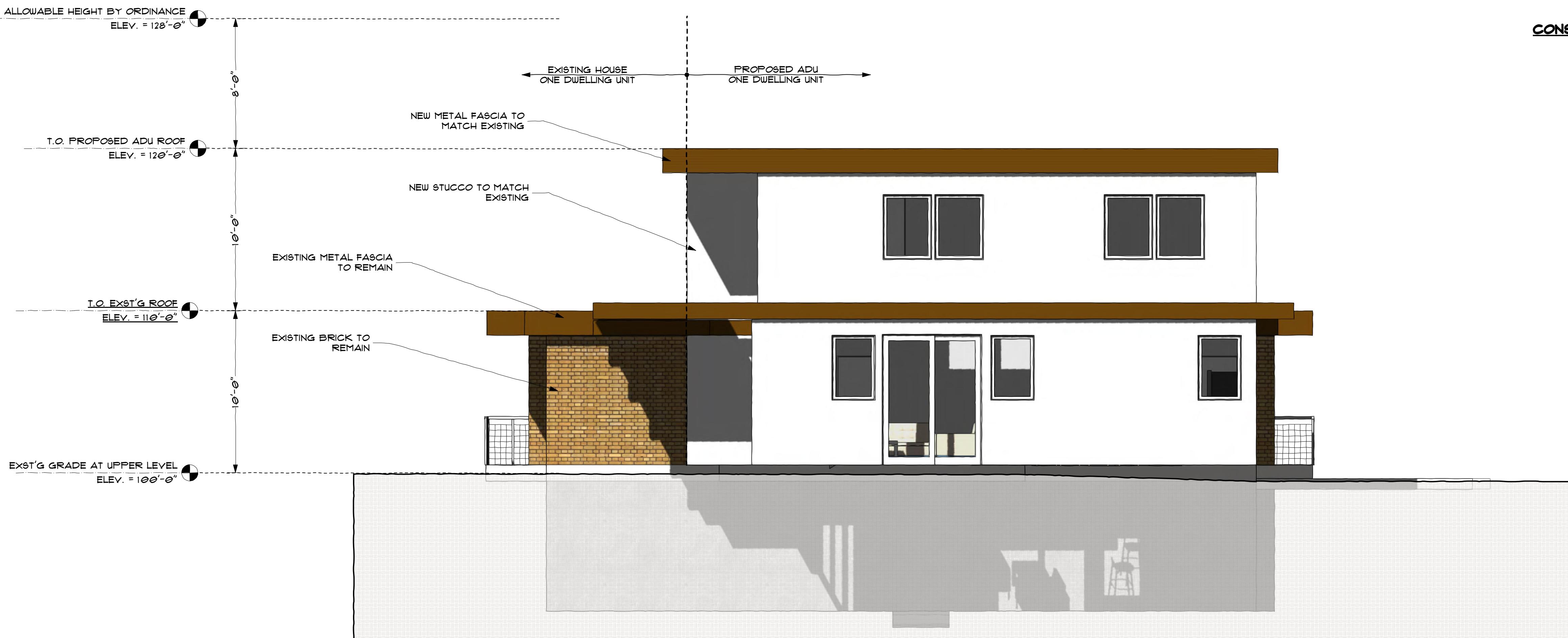
1 EAST/WEST SECTION
SCALE: 1/4" = 1'-0"

Project Title	Design Firm	Date	June 10, 2013
Sheet Title	Consultant	Drawn By	
Sheet No.	Building Sections	Checked By	
A-301		Revised By	
		Submitted By	
		Project Manager	
		Permittee	000.00

Chamblee's House
1977 Scenic Dr.
Salt Lake City, Utah

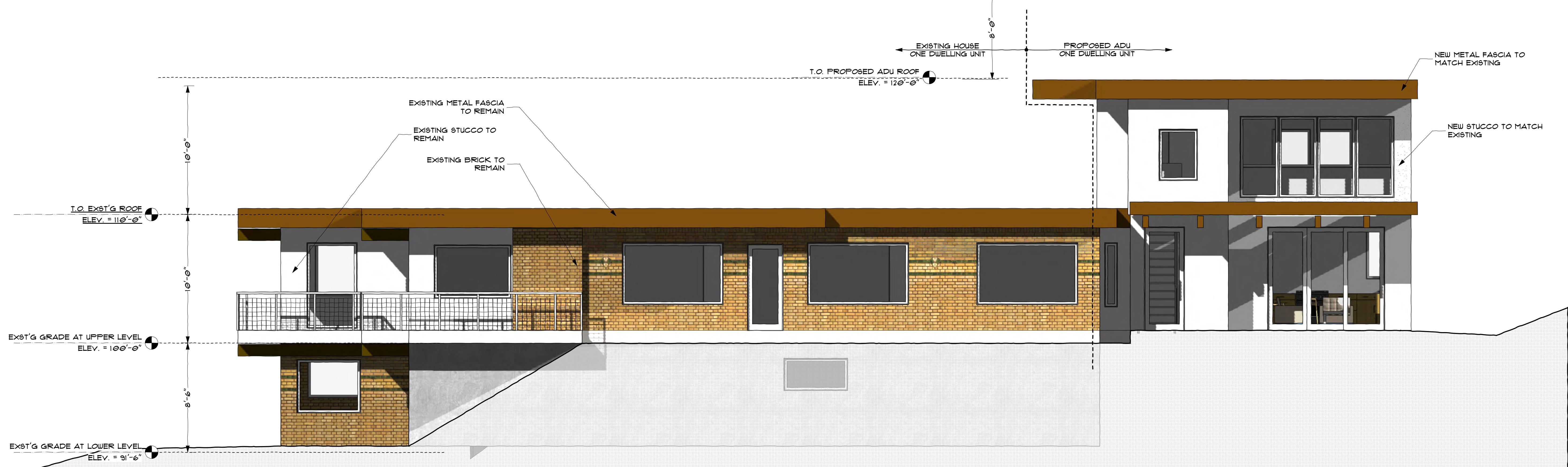
kpo2
architects

CONSTRUCTION OF ATTACHED ADU TO BE TYPE V-B



MAX ALLOWABLE HEIGHT BY ORDINANCE
ELEV. = 128'-0"

2 EAST ELEVATION
SCALE: 1/4" = 1'-0"



1 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

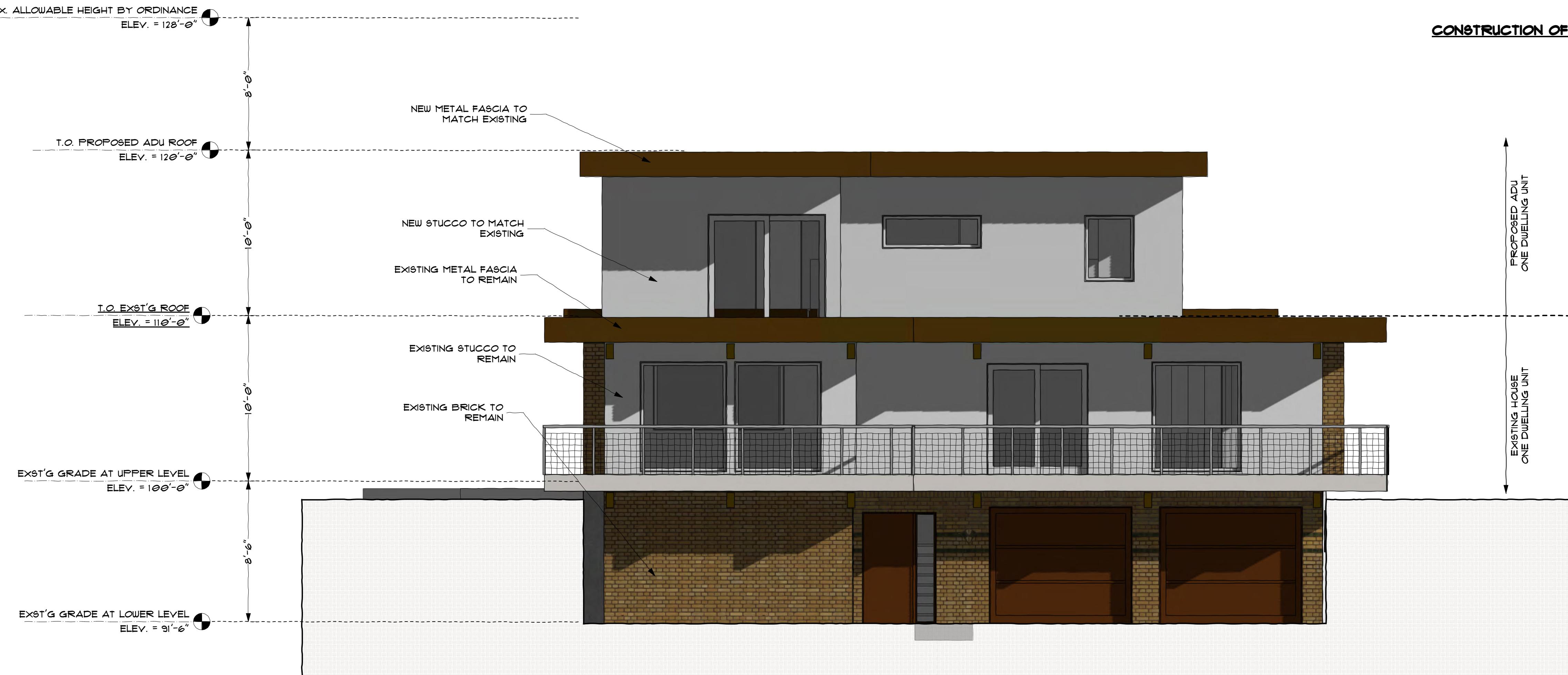
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Exterior Elevations 1	Drawn By	June 10, 2013
	Checked By	Revision
	Project ID	
	Submitted By	Drawing Date
	Project Manager	CAD File Name
		Drawing Code
		Fee Estimate
		Prepared
		000.00

A-201

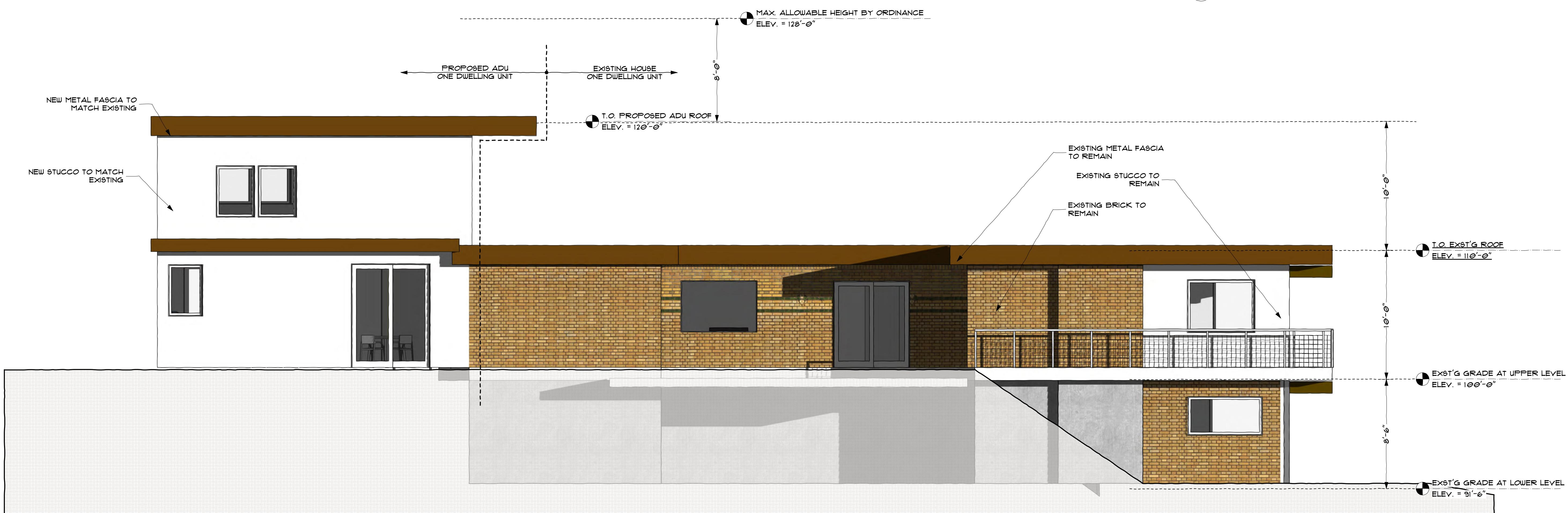
of

Chamblee House
1977 Scenic Dr.
Salt Lake City, Utah

CONSTRUCTION OF ATTACHED ADU TO BE TYPE V-B



1 WEST ELEVATION
SCALE: 1/4" = 1'-0"



2 NORTH ELEVATION
SCALE: 1/4" = 1'-0"

Project Title	Design Firm	Designed By	Date
Exterior Elevations 2			June 10, 2013
Sheet Title	Drawn By	Checked By	Reviewed By
Scale	Revised	Approved	Submitted By
Sheet No.	Drawing Code	Code or Name	Project Manager
			0000000

Part 1. Project Description.

1977 Scenic Dr. - Variance Request Submittal Project Description

This proposal is to construct a 1313 SF Accessory Dwelling Unit that will be attached to a 3244 SF existing house. The purpose of the ADU is to create a second independent living space on the lot that will allow a grown son and his family to live adjacent to parents / grandparents.

The ADU will be a two-story addition with the living spaces on the ground level and two bedrooms on the upper level. It will have its own outside entrance on the south side of the ADU and it will also be connected to the existing house via a door into an existing room.

The design and materials of the attached ADU will match that of the existing house.

Assessor's Parcel Number / Sidwell map number
16-14-353-006-0000

Legal Description - 16-14-353-006-0000
N'LY 2 FT OF LOT 5 & ALL LOT 6 SCENIC HEIGHTS SUB
5685-2832 6412-0756 8183-2133 8546-8822 8562-5930
8762-6956 08762-6962

Part 2. Variance Information for 1977 Scenic Dr., Salt Lake City 84108

- a. Describe proposed construction and specifically how it would not meet the zoning ordinance.

The proposed ADU attachment to our 1958 home would intrude between 13-15 feet into the 35-foot rear yard setback.

- b. Cite the zoning ordinance that prevents your proposal from meeting the zoning requirements.

FR- 3/12,000 Foothill Residential District requires a 35-foot rear yard setback.

- c. What special circumstances associated with the subject property prevent you from meeting the zoning requirement. (Reasons may not be economic.)

Our .24 acre lot has unique topography. Our front yard driveway is the steepest of the other nine homes built on Scenic Drive (north of 2100 South). The home footprint is situated back further from the street and sidewalk. Our home is closer to the east side rear yard property line – in relationship to our immediate neighbors north and south. Beyond the rear yard property line is a very steep hillside. The site of the proposed ADU is a nearly level piece of ground which would not require blasting to lay a foundation.

We are second owners. The first owners, who built the home, told us in 1985 that the foundation had to be adjusted around large unmovable rocks. Blasting with dynamite shattered some rocks that allowed removal. Other large rocks remain. The ground floor rear room is unfinished with very large rocks – obstacles that prevent us today from making any interior improvements. (Our family has always called this unfinished space “The Rock Room” – and the name is justified.)

An alternative to the proposed ADU addition, a separate structure ADU, would violate fire code by exceeding the 150-foot maximum distance from the street right of way. Thus, there is no acceptable alternative ADU design to the proposed addition.

Mother Nature has given us a hardship. We are not the first owners. We did not design the home or determine its footprint. Nevertheless, 35 years after we bought our home, we are requesting a variance that we believe would be a reasonable solution to this hardship.

- d. Explain how the literal enforcement of this Zoning Ordinance causes an unreasonable hardship that is not necessary in carrying out the general purpose of this Zoning Ordinance.

Literal enforcement of a 35-foot rear yard setback is not necessary because there are no private property owners at our rear yard property line. The land east of our Scenic Drive property is

public open space on a steep hillside. The H Rock and the Bonneville Shoreline Trail are approximately a half-mile upslope and out-of-sight from our rear yard.

Our immediate neighbors to the north and south would not be impacted or harmed by our proposal for an attached ADU. The side yard setbacks would be in full compliance with zoning standards in the FR-3/12,000 FDR.

- e. Explain what special circumstances exist on the subject property, which do not generally apply to other properties in the same zoning district. (The law requires that a property-related hardship be identified before granting a variance. For example, size, grade of lot, etc.)

Our Architect Kenton Peters conducted an analysis of rear-yard space comparing all homes on the 1900 block of South Scenic Drive. This analysis (Exhibit X) shows 1977 Scenic Drive is the only property on the block that does not have adequate rear yard space for an attached ADU.

A unique feature of homes on Scenic Drive north of 2100 South is the steepness of the hillside and the granite bedrock that underlies all the homes. Each home on the east side of Scenic Drive north of 2100 South was custom-built around the bedrock because of the difficulty in moving or blasting the granite hillside to make suitable buildable surfaces. There are no homes on the west side of the block because of a huge drop-off down to the next street to the west (Wasatch Drive).

- f. Explain how this variance will be essential to the enjoyment of a substantial property right possessed by other properties in the same zoning district.

We are a married couple in our 70's who desire to live in our home for as long as possible. We would like to create space for our adult son, daughter-in-law, and 5-year old granddaughter to live on the property. This arrangement would benefit all of us to care for each other in a multi-generational household.

Building an attached ADU is a conditional use for homes in this FR-3/12,000 zoning district. The other nine homes in the immediate neighborhood have adequate space in the rear yard to comply with a 35-foot setback requirement -- should the owners of the existing homes desire to build an ADU. We do not enjoy that right due to the current setback requirement.

- g. Would the variance uphold the general zoning plan and not negatively affect the public interest? Please explain your reasoning.

The variance would uphold the general zoning plan for the FR- 3/12,000 FDR and would not harm the public interest. The proposed ADU would not intrude into preserved public open space, nor harm the aesthetic beauty of the hillside. There is no harm to any private property owners. The hardship is unique to this property due to the hillside topography and placement of the home.

h. Explain how this variance will observe the spirit of this Zoning Ordinance and City Master Plan.

The current Master Plan encourages greater density and more affordable housing options. ADUs are among many options for increasing affordable housing in the City. A variance would observe the spirit of Title 21A Zoning Ordinance by furthering the stated intents of the Title:

- Lessen congestion in the streets or roads;
- Secure safety from fire and other dangers;
- Protect the tax base;
- Foster residential development, and
- Protect the natural environment.

i. Any other information deemed necessary by the Zoning Administrator.

On April 9, 2018, Planning Division Director Nick Norris spoke these words during a meeting of the Salt Lake City Council: "We've been taking what I would call an enforcement approach instead of a goal-oriented approach."

During this April 9, 2018 meeting, City Council Chair Erin Mendenhall said: "That while the City wants to encourage more affordable housing, increasing the housing stock through ADUs helps address citywide housing affordability."

This summer of 2020 the Utah State House of Representatives will consider a proposed bill that reads as follows:

"Utah could increase the supply of housing by allowing a broader adoption of Accessory Dwelling Units in pre-existing housing. Building codes for older homes often make it prohibitively expensive for a homeowner to retrofit their home to rent a portion of the home. Many homes that used to have seven or eight inhabitants (all of a single family) now only have an older couple. If they were more easily able to rent a portion of their home, they would be able to have income and stay in the home longer, and the increase in housing 'supply' would slow the increase of the cost of housings."

The goals and intentions of these current policymakers appear to support the granting of this variance in the spirit of the Zoning Ordinance and City Master Plan.

--Tim and Cathy Chambliss

Documents in separate attachment:

3. Minimum Plan Requirements - plan and elevation drawing
4. Site Plan
5. Elevation Drawing

ATTACHMENT D – ZONING STANDARDS FOR ADUs

21A.24.040 – FR-3/12,000 ZONING DISTRICT

UNDERLYING ZONING STANDARDS	PROPOSED	COMPLIES ?
MINIMUM LOT AREA: 12,000 square feet	The subject lot is approximately 11,405 square feet in size. While the subject lot is smaller than the ordinance minimum it is still a legal lot of record and a single family dwelling has been constructed as allowed in the zone. The proposed ADU addition would not affect the overall size or the legality of the lot.	N/A
MINIMUM LOT WIDTH: 80 feet	The subject lot is approximately 83 feet wide.	Complies
MAXIMUM BUILDING HEIGHT: 28 feet measured from established grade	The proposed ADU addition would be built to 20 feet in height from the established grade.	Complies
MINIMUM YARD REQUIREMENTS: <ul style="list-style-type: none"> • Front Yard: average of front yards of existing buildings along the block face • Side Yard: 10 feet • Rear Yard: 35 feet 	The proposed addition would not encroach into the required front or side yard setbacks. The applicants have requested the granting of a variance to allow the ADU addition to encroach between 13 and 15 feet into the required rear yard setback.	Complies with Condition of Approval, Granting of Variance
MAXIMUM BUILDING COVERAGE: Surface coverage of all principal and accessory buildings cannot exceed 35%	<p>The existing home has a footprint of 2,268 square feet and the existing shed has a footprint of 86 square feet. The proposed addition would have a footprint of 703 square feet.</p> <p>In total there would be 3,057 square feet of building coverage on the 11,405 square foot lot, which equates to approximately 26.8% lot coverage.</p>	Complies
SLOPE RESTRICTIONS: For lots subdivided after November 4, 1994, no building shall be constructed on any portion of the site that exceeds a 30% slope.	The home was built in 1958 and the subject property existed before November 4, 1994 – Not Applicable	N/A

21A.40.200 – ACCESSORY DWELLING UNITS:

ADU STANDARDS	PROPOSED	COMPLIES ?
SIZE: ADU footprint shall not exceed 50% of floor area of principal dwelling.	The existing home is approximately 3,244 square feet in size and the proposed ADU addition is 1,313 square feet in size – which equates to 40.5% of the floor area of the primary dwelling.	Complies
BULK, HEIGHT AND YARD: Any addition shall comply with the building height, yard requirements, and building coverage requirements of the underlying zoning district or applicable overlay district unless modified by the Historic Landmark Commission for a property located within an H Historic Preservation Overlay District.	The proposed ADU complies with all bulk, height and yard requirements EXCEPT the encroachment into the required rear yard setback.	Complies with Condition of Approval/Granting of Variance
ENTRANCE LOCATIONS: The entrance to an ADU attached to a primary building or structure shall be located: 6) Located in a side yard provided the side yard is at least eight feet (8') in width.	The proposed entry for the ADU is located on the southern face of the addition, in the side yard of the primary structure which is greater than 8' in width.	Complies
PARKING: Minimum of one parking space on site *This requirement may be waived if there is legal on-street parking along the street frontage of the property OR if the property is within 1/4 mile of a transit stop.	Scenic Drive is a public street and there is legal on-street parking available.	Complies

ATTACHMENT E – CONDITIONAL USE STANDARDS

21A.54.080 Standards for Conditional Use

Approval Standards: A conditional use shall be approved unless the planning commission, or in the case of administrative conditional uses, the planning director or designee, concludes that the following standards cannot be met:

1. The use complies with applicable provisions of this title;

Analysis: The proposed use is allowed in the underlying zone. The proposed design of the accessory unit is compliant with the ADU standards set forth in section 21A.40.200. The East Bench Master Plan encourages low-intensity development in the foothills residential zones and the preservation of foothills open space. The proposed ADU is a low-intensity use and is stepped far back from the front of the house and the public street. It does not impede access to the foothills open space nor the view of the open space from the public right of way.

The ADU complies with the majority of the requirements of the underlying zone (FR-3/12,000) with the exception of the proposed encroachment into the required rear yard setback. This encroachment will be compliant if the Appeals Hearing Officer finds the standards for variance approval have been met and grants the variance request.

Finding: The proposed use complies with applicable provisions of this title.

2. The use is compatible, or with conditions of approval can be made compatible, with surrounding uses;

Analysis: The applicants are looking to establish an attached ADU in an established single family neighborhood. ADUs are permitted as conditional uses; the applicants have proposed the construction of a new addition onto the rear of their home. The lot is deeper than it is wide and the location of the proposed ADU minimizes any anticipated impact on the neighboring homes to the north and south of the subject property. The proposed unit has two floors; the upper floor is stepped far back from the front of the home and the public street to minimize the visual impact of the addition.

Finding: The use is compatible with surrounding uses.

3. The use is consistent with applicable adopted city planning policies, documents, and master plans; and

Analysis:

The purpose of accessory dwelling units are to:

- 1) Create new housing units while respecting the appearance and scale of single-family residential development;
- 2) Provide more housing choices in residential districts;
- 3) Allow more efficient use of existing housing stock, public infrastructure, and the embodied energy contained within existing structures;
- 4) Provide housing options for family caregivers, adult children, aging parents, and families seeking smaller households;
- 5) Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;
- 6) Broaden the range of affordable housing throughout the City;

- 7) Support sustainability objectives by increasing housing close to jobs, schools, and services, thereby reducing greenhouse gas emissions and fossil fuel consumption;
- 8) Support transit oriented development and reduce auto usage by increasing density near transit; and
- 9) Support the economic viability of historic properties and the City's historic preservation goals by allowing accessory dwellings in historic structures.

The proposal is also consistent with the goals and policies outlined in *Growing SLC: A Five Year Housing Plan* which aims to increase housing options, promote diverse housing stock, and allow for additional units while minimizing neighborhood impacts.

The *East Bench Master Plan*'s principle PR-03 indicated "development should be limited to single-family land uses or other low intensity uses that serve the neighborhood, and should minimize impacts to the natural environment and views of the foothills." The proposed ADU is a low-intensity proposal for the established single-family neighborhood in which the subject property is located.

Finding: The proposed use is consistent with applicable adopted city planning policies, documents, and master plans.

4. The anticipated detrimental effects of a proposed use can be mitigated by the imposition of reasonable conditions (refer to Detrimental Impacts Chart below for details).

21a.54.080B Detrimental Effects Determination

In analyzing the anticipated detrimental effects of a proposed use, the Planning Commission shall determine compliance with each of the following:

Criteria	Finding	Rationale
1. This title specifically authorizes the use where it is located	Complies	The proposed ADU is an accessory residential use and is allowed as a conditional use within the FR-3/12,000 zoning district. The proposed ADU complies with all specific regulations for an ADU including size, height, setbacks, distance to other houses, etc. as outlined in <u>Attachment D</u> with the exception of the encroachment into the rear yard setback for which the applicants are seeking a variance.
2. The use is consistent with applicable policies set forth in adopted citywide, community, and small area master plans and future land use maps	Complies	<p>The use is located in an area zoned for low density residential. Low-density includes single-family attached and detached dwellings as permissible on a single residential lot subject to zoning.</p> <p>As discussed under Conditional Use standard 3 above, the proposed ADU is consistent with the purpose of the ADU ordinance and supports goals outlined in <i>Growing SLC: A Five Year Housing Plan</i> by providing more housing options, and</p>

		creating a new housing unit that respects the scale of the neighborhood.
3. The use is well-suited to the character of the site, and adjacent uses as shown by an analysis of the intensity, size, and scale of the use compared to existing uses in the surrounding area	Complies	An ADU is residential in nature and the subject property is in a single-family residential neighborhood. While the unit is 1,313 square feet in overall size it would be constructed to the rear of a large home located within a neighborhood of large homes.
4. The mass, scale, style, design, and architectural detailing of the surrounding structures as they relate to the proposed have been considered	Complies	The scale of the proposal will be compatible with the main house on the property and meets the footprint and height requirements for an ADU. It does not exceed the building height limit within the FR-3/12,000 zoning district. Its location on the site minimizes impacts to adjacent properties.
5. Access points and driveways are designed to minimize grading of natural topography, direct vehicular traffic onto major streets, and not impede traffic flows	Complies	The main house has regular access from Scenic Drive and the ADU on the subject property will be accessed from the public street as well. No new access points are proposed and the proposal will not impede traffic flows.
6. The internal circulation system is designed to mitigate adverse impacts on adjacent property from motorized, non-motorized, and pedestrian traffic	Complies	It's not anticipated that the addition of the accessory unit will create any adverse impacts in terms of motorized, non-motorized and pedestrian traffic.
7. The site is designed to enable access and circulation for pedestrian and bicycles	Complies	The proposed ADU will not affect circulation for pedestrians and bicycles in the area.
8. Access to the site does not unreasonably impact the service level of any abutting or adjacent street	Complies	The proposed ADU proposed an on-street parking space where legal on-street parking is available with no anticipated impacts on the use of the street.
9. The location and design of off-street parking complies with applicable standards of this code	N/A	The proposal does not include off-street parking.
10. Utility capacity is sufficient to support the use at normal service levels	Complies	Public utilities are already in place to support the proposed conditional use.
11. The use is appropriately screened, buffered, or separated from adjoining dissimilar uses to mitigate potential use conflicts	Complies	The surrounding properties are all residential uses and the proposed use is also residential.
12. The use meets City sustainability plans, does not significantly impact the quality of surrounding air and water, encroach into a river or	Complies	The use does not significantly impact sustainability plans. Environmental

stream, or introduce any hazard or environmental damage to any adjacent property, including cigarette smoke		impacts are not anticipated to be associated with the proposal.
13. The hours of operation and delivery of the use are compatible with surrounding uses	Complies	The proposed use is an accessory residential structure and is compatible with the surrounding uses as they are also residential.
14. Signs and lighting are compatible with, and do not negatively impact surrounding uses	Complies	Signs are not associated with this proposal. Any lighting on the accessory structure is not expected to have a negative impact on the surrounding uses or otherwise cause a nuisance.
15. The proposed use does not undermine preservation of historic resources and structures	Complies	The property is not located within a Local Historic District and the proposal does not involve removal or any historic resources or structures.

Finding: In analyzing the anticipated detrimental effects of the proposed use, Staff finds that with the conditions identified in the analysis, the request complies with the criteria listed above.

ATTACHMENT F – VARIANCE STANDARDS

21A.18.050 Prohibited Variances: Subject to the prohibitions set forth in section [21A.18.050](#) of this chapter, and subject to the other provisions of this chapter, the Appeals Hearing Officer may grant a variance from the terms of this title only if:

Standard	Finding	Rationale
A. It is not intended as a temporary measure only;	Complies	The proposed ADU would be located in a new addition to the primary structure which is permanent in nature.
B. It is not greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant; or	Complies	The rear of the applicants' home is approximately 6'8" from the required rear yard setback which would severely limit the buildable size of the proposed ADU addition. The applicants are unable to construct a detached accessory dwelling unit due to the total prohibition of construction of accessory buildings within the required setbacks in the FR-3/12,000 zoning district per section 21A.24.040(E) of the City's land use ordinances. The proposed addition would encroach between 13 and 15 feet into the required 35-foot rear yard setback.
C. It does not authorize uses not allowed by law (i.e., a "use variance").	Complies	The proposed ADU is allowed as a Conditional Use in the underlying zone. This request is not a use variance.

21A.18.060: Standards for Variances: Subject to the prohibitions set forth in section [21A.18.050](#) of this chapter, and subject to the other provisions of this chapter, the Appeals Hearing Officer may grant a variance from the terms of this title only if:

Standard	Finding	Rationale
A. General Standards		
1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;	Complies	The literal enforcement of the rear yard setback would not allow the Applicants to establish an ADU up to 50% of the size of the home. This prohibition would not be necessary to uphold the general purpose of the City's land use ordinances to provide for the health, safety, morals, convenience, order, prosperity and welfare of the present or future inhabitants of Salt Lake City.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;	Complies	The Applicants have indicated their rear yard has multiple large rocks and boulders beneath the ground which makes excavation difficult and their lot slopes upward toward the foothills at the eastern end. The Applicants allege the combination of this topography and the presence of these boulders constitutes a special circumstance unique to their property. Other properties in the FR-3/12,000 zoning

		<p>district are built on lots which have varying amounts of slope but it is not apparent whether they have boulders or other large rocks underneath the ground within the buildable area.</p> <p>Additionally, other properties in the surrounding neighborhood are sited much closer to their front property lines than the applicants' property is. While many of their neighbors' homes are sited approximately 14 and 35 feet from the front property line the applicants' home is sited 41 feet and 1 inch from the property line. This large front yard area diminishes the size of the buildable rear yard to between 6 feet 8 inches and 10 feet 2 1/4 inches.</p>
<p>3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;</p>	Complies	<p>Accessory dwelling units are permitted as conditional uses in this zoning district. The purpose statement of the ADU chapter of the zoning ordinance defines the ADU as a means to achieve greater housing choice, allow intergenerational living, fulfill sustainability objectives, etc. An ADU can therefore be considered a substantial property right.</p> <p>Accessory structures cannot be built in the required side and rear setbacks in the FR-3/12,000 zoning district so any ADU the Applicants establish must be attached to the primary dwelling.</p> <p>Without the granting of the variance the Applicants would be limited to an addition between 6' and 10' wide which would limit the amount of available space for an ADU, particularly when attached ADUs may be constructed to 50% of the overall size of the home.</p>
<p>4. The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and</p>	Complies	<p>The East Bench General Plan's guiding principle PR-03 is to protect the foothills. It states "development should be limited to single-family land uses or other low intensity uses that serve the neighborhood, and should minimize impacts to the natural environment and views of the foothills." The granting of a variance would allow the Applicants to establish an ADU at their property which is a similarly "low intensity use". Furthermore, the granting of the variance does not harm the public interest in that there is no construction proposed in publicly-owned open space.</p>
<p>5. The spirit of this title is observed and substantial justice done.</p>	Complies	<p>The proposed variance supports the spirit of the City's land use ordinances by implementing the adopted plan of the City,</p>

		namely the East Bench Master Plan. Additionally, it does not detract from the health, safety, morals, convenience, order, prosperity and welfare of the present or future inhabitants of Salt Lake City.
B. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the appeals hearing officer may not find an unreasonable hardship unless:		
1. The alleged hardship is related to the size, shape or topography of the property for which the variance is sought.	Complies	The alleged hardship is related to the topography of the site and the presence of large rocks and boulders underneath the surface of the ground. It also relates to the size of the buildable area between the rear of the existing home and the rear setback line that is less than 7 feet in depth.
2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.	Complies	The alleged hardship is related to the topography of the site and the presence of large rocks and boulders underneath the surface of the ground. While many lots in the neighborhood and remainder of the FR-3/12,000 zoning district have some element of slope it is not apparent whether these large rocks and boulders are present elsewhere in the zoning district and/or neighborhood. Additionally, the subject property is set over 40 feet back from the front property line which diminished the backyard space between the home and the rear setback line. Other homes in the neighborhood were setback between approximately 14 to 35 feet from the front property line.
C. Self-Imposed Or Economic Hardship: In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the Appeals Hearing Officer may not find an unreasonable hardship if the hardship is self-imposed or economic.		
The hardship is not self-imposed or economic.	Complies	The Applicants are the second owners of the home at 1977 South Scenic Drive and did not decide the location of the home 6 feet 8 inches from the required setback line. Additionally, the lot's slope and the presence of the underground boulders are not the result of the Applicants' actions.
D. Special Circumstances: In determining whether or not there are special circumstances attached to the property under subsection A of this section, the Appeals Hearing Officer may find that special circumstances exist only if:		
1. The special circumstances relate to the alleged hardship; and	Complies	While the applicants allege the hardship and the special circumstances of the lot center around the presence of large rocks and boulders underneath the surface of the

		ground and the lot's topography, the siting of the home just over 6 feet from the rear setback line can also be considered a special circumstance.
2. The special circumstances deprive the property of privileges granted to other properties in the same zoning district.	Complies	While other lots in the FR-3/12,000 zoning district and the Applicants' neighborhood have varying amounts of slope it is unclear whether the other lots have large rocks and boulders underneath the soil. Additionally, the neighboring homes were not set so far back from their front property lines as the applicants' home was which left only 6 feet 8 inches between the rear wall of the home and the setback line.

ATTACHMENT G – PUBLIC PROCESS & COMMENTS

Public Notice, Meetings, Comments

The following is a list of public meetings that have been held, and other public input opportunities, related to the proposed project since the applications were submitted:

- August 19, 2020 – Notice of the proposed ADU was provided to the East Bench Community Council as well as property owners and residents within 300 FT of the project.
- September 16, 2020 – Items discussed at the electronic meeting of the East Bench Community Council; neighbors are generally in favor of the proposal.

Notice of the public hearing for the proposal included:

Early notification mailed August 19, 2020.

Public hearing notice mailed on October 16, 2020.

Public notice posted on City and State websites and Planning Division list serve on October 15, 2020.

Public hearing notice sign posted on October 16, 2020.

Public Input:

Staff has only received one email from a neighbor to date asking if the proposed ADU would be utilized as a short-term rental. Staff informed the neighbor of the applicants' intent to allow their adult son and his family to reside in the proposed ADU and she had no further concerns. This email has been included in the following pages.

The Applicants and Staff met with the East Bench Community Council at their remote electronic meeting on September 16, 2020. The neighbors in attendance were generally in favor of the proposal.

From: [Cara Dziuda](#)
To: [Miller, Caitlyn](#)
Subject: Re: (EXTERNAL) 1977 S Scenic Drive
Date: Monday, August 31, 2020 2:52:50 PM

Hi Caitlyn,

That eases a bit of concern. Thank you for the quick response.

Cara

On Mon, Aug 31, 2020 at 2:48 PM Miller, Caitlyn <Caitlyn.Miller@slcgov.com> wrote:

Hi Cara,

I'm happy to answer any questions you have about the proposed ADU. The owners have told me they intend to have their son and his family live in the ADU and that they won't be using it as a short-term rental. Is there anything else I can help with?

Best regards,

CAITLYN MILLER, AICP

Principal Planner

PLANNING DIVISION

DEPARTMENT of COMMUNITY and NEIGHBORHOODS

SALT LAKE CITY CORPORATION

TEL 385-202-4689

FAX 801-535-6174

caitlyn.miller@slcgov.com

WWW.SLCGOV.COM

From: Cara Dziuda <[REDACTED]>

Sent: Monday, August 31, 2020 2:46 PM
To: Miller, Caitlyn <Caitlyn.Miller@slcgov.com>
Subject: (EXTERNAL) 1977 S Scenic Drive

Hi Caitlyn,

I live on Scenic drive just down the street from 1977 Scenic Drive. Is it ok for me to ask what this ADU will be used for? Do the owners have the intent to rent it out like on airbnb/VRBO etc.?

Thanks in advance,

Cara Dziuda

ATTACHMENT H – DEPARTMENT REVIEW COMMENTS

Zoning Review – Scott Browning: Being that the ADU structure is attached to the main dwelling, it does not meet the required rear yard setback of 35' according to section 21A.24.040.E.4.

o Any accessory structure must be built within the buildable area of the lot in the FR – 3 zoning district according to section 21A.24.040.E.5 & section 21A.36.020, table 21A.36.020B.

**I am unaware of any special exceptions that would allow for an accessory structure, in this zone, to be built outside of the buildable area.

Building Review – Jason Rogers: Smoke and CO detectors are to be in accordance with 2015 IRC chapter 3. Verification with building code review to ensure correct type of fire separation is obtained between occupancies.

Fire Review – Douglas Bateman: Fire hydrants shall be located within 600-feet of all first story exterior portions of structures on the property. Measurements are made from the hydrant and around the building following the drive route and path firefighters would deploy the hoses; and using straight lines and right angles. Provide the location and distances of hydrants.

Smoke and CO detectors are to be in accordance with 2015 IRC chapter 3

Verification with building code review to ensure correct type of fire separation is obtained between occupancies