

Attachment A

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**ATTACHMENT A
DRAFT RESOLUTION**

**Before the Board of Supervisors in and for
the County of Monterey, State of California**

In the matter of the application of:

BERLIN ANDREW T TR (PLN110257-AMD1)

RESOLUTION NO. 26--

Resolution by the County of Monterey Board of Supervisors:

- 1) Grant the appeal of Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust from the April 9, 2026, decision of the Zoning Administrator to deny a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257);
- 2) Find the project Categorical Exempt pursuant to CEQA Guidelines section 15302 and no exceptions to section 15300.2 apply; and
- 3) Approve a Combined Development Permit consisting of:
 - a) A Design Approval to allow replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate;
 - b) A Coastal Development Permit to allow development within the Big Sur Critical Viewshed; and
 - c) A Coastal Development Permit for development within 750 feet of an archaeological resource.

[BERLIN ANDREW T TR, 35986 HWY 1, Big Sur Coast Land Use Plan, APN: 243-231-027-000].

The Appeal by Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust from the decision by the County of Monterey Zoning Administrator came for a public hearing before the County of Monterey Board of Supervisors on June 9, 2026. Having considered all the written and documentary evidence, the administrative record, the staff report, written and oral testimony, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS REQUIREMENTS** – The County received and processed a Minor and Trivial Amendment to previously approved Combined Development Permit (HCD Planning File No. PLN110257; Planning

Commission Resolution No. 11-048). It was determined that this Minor and Trivial Amendment was processed incorrectly – a procedural error – and should have been processed as a Combined Development Permit. By way of this appeal to the correct final decision making body, those procedural errors are resolved.

- EVIDENCE:**
- a) Application. An application was filed with the County on August 18, 2025 to allow the replacement of a wood fence and gate at 35986 Highway 1, Big Sur (County File No. PLN110257-AMD1).
 - b) Background. On December 14, 2011, the Monterey County Planning Commission approved PLN110257 for a Combined Development Permit consisting of: 1) Coastal Administrative Permit to allow the demolition of an existing 1,960 square foot one-story single-family dwelling and 66 square foot guest unit and the construction of a 9,255 square foot two-story single-family dwelling, new retaining walls, perimeter fencing, and associated grading (2,573 cubic yards cut, 2,573 cubic yards fill); 2) Coastal Development Permit for development within 750 feet of an archaeological resource; 3) Coastal Development Permit for development within 50 feet of a coastal bluff; 4) Coastal Development Permit for a Lot Line Adjustment to merge two parcels into one parcel; and 5) Design Approval. Approval of this permit included 31 conditions of approval.

On April 9, 2012, the previously approved Coastal Development Permit for a Lot Line Adjustment (HCD-Planning File No. PLN110257) was granted an Unconditional Certificate of Compliance (Document No. 2012021134) to reflect the Lot Line Adjustment to merge two parcels into one parcel.

On November 3, 2014, the associated Construction Permits (Building Permit No. 12CP00985) were granted for the project, and the project had undergone a final inspection.

On August 18, 2025, an application for a Minor and Trivial Amendment (PLN110257-AMD1) was submitted to HCD-Planning staff. This application was submitted in accordance with Title 20 section 20.76.115.

On December 3, 2025, pursuant to the provisions of Section 20.76.115, the project was scheduled to be heard for consideration by the Chief of Planning as a Minor and Trivial Amendment to a Coastal Development Permit. However, on November 20, 2025 a member of the public raised concerns with the proposed design, potential impacts on nearby public vistas, and requested that the project be referred to a public hearing. The project was referred to the Zoning Administrator, pursuant to Title 20 section 20.76.060.

On March 26, 2026, the Monterey County Zoning Administrator considered a revised scope of work, which included allowing the replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate. On

March 26, 2026, at a duly-noticed public hearing at which all persons had the opportunity to be heard, the Zoning Administrator determined that the proposed Minor and Trivial Amendment had procedural errors and should have been considered by the Planning Commission in accordance with Title 20 section 20.44.040.E. The Zoning Administrator also determined that the proposed Minor and Trivial Amendment was substantive due to the project's location within a scenic highway (Highway 1). Therefore, the Zoning Administrator continued the item to a date certain (April 6, 2026) and directed staff to prepare a resolution with an intent to deny due to procedural inconsistencies.

On April 9, 2026, the Monterey County Zoning Administrator considered a resolution denying the revised scope of work, which included allowing the replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate. On April 9, 2026, at a duly-noticed public hearing at which all persons had the opportunity to be heard, the Zoning Administrator denied the Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257).

On April 15, 2026, Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust (The Law Office of Aengus L. Jeffers representing Appellant), timely appealed the April 9, 2026 decision of the Zoning Administrator, pursuant to Title 20 section 20.86.030.A of Monterey County Code (MCC). Appellant's contentions related to the Zoning Administrator's determination that the Planning Commission was the Appropriate Authority to consider the project and that the proposed Minor and Trivial Amendment was not substantively flawed due to the project's location within a scenic highway (Highway 1), see further discussion in Finding No. 8.

Pursuant to MCC Title 20 sections 20.86.030.C and E, an appeal shall be filed with the Clerk of the Board of Supervisors within 10 days after written notice of the decision of the Appropriate Authority (i.e., Zoning Administrator Resolution No. 26-024) has been mailed to the Applicant. The County emailed the written notice of the decision on April 9, 2025, and said appeal was filed with the Clerk of the Board of Supervisors on April 15, 2025, within the 10-day timeframe prescribed by MCC Title 20 section 20.86.030.C. The appeal hearing is de novo. A complete copy of the appeal is on file with the Clerk of the Board, and is attached to the June 9, 2026 staff report to the Board of Supervisors as **Attachment B**.

On April 28, 2026 the project applicant submitted revised plans that were responsive to some of the concerns raised by a community member during the Zoning Administrator hearing. The revised plans include rough-cut rocks, rather than neatly arranged straight cut rocks. These rough-cut rocks, consisting of locally sourced natural stones, are more reflective of the rural setting of Big Sur and use natural materials consistent with materials found in the area, see discussion in Finding

- No. 4. This resolution contains findings and evidence that reflect the design as proposed in the April 28, 2026 plans.
- c) The appeal was timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on June 9, 2026. Notice of the hearing was published on May 28, 2026 in the Monterey County Weekly; notices were mailed on May 28, 2026 to all property owners and occupants within 300 feet of the project site, and to persons who requested notice; and at least three notices were posted at and near the project site on May 28, 2026.
 - d) The Board of Supervisors is the appropriate authority to consider appeals of the Zoning Administrator and Planning Commission decisions. Additionally, the Board hearing and action on the appeal is de novo, meaning from the beginning or anew. Therefore, the Board has the authority to act on the project and appeal without being constrained by prior decisions. The appeal inherently corrects procedural errors regarding the “appropriate authority” to consider the permit. The project description has also been revised to exclude amendments to the long completed prior work authorized in 2014 and focus on the proposed fence and gate.
 - e) The application, plans, and supporting materials submitted by the project applicant to Monterey County HCD-Planning for the proposed Combined Development Permit are found in project file PLN110257-AMD1.

2. FINDING: CONSISTENCY – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

- EVIDENCE:**
- a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
 - 1982 Monterey County General Plan;
 - Big Sur Coast Land Use Plan (BSC LUP);
 - Monterey County Coastal Implementation Plan – Part 3; and
 - Monterey County Zoning Ordinance - Coastal (Title 20).

No conflicts were found to exist. Communications were received during the course of review of the project indicating potential inconsistencies with the text, policies, and regulations in these documents. The Zoning Administrator interpretation of the Code as applies to this project found that project was not processed in accordance with the requirements of Title 20 Chapter 20.44. Comments have been reviewed and addressed. As proposed, the project is consistent with the applicable text, policies and regulations. A more thorough analysis of the zoning code as it applies to this project is provided in the findings and evidence that follows.

- b) Project. The Project includes demolishing 53.5 linear feet of the existing front property line fencing and gate and constructing a replacement stone wall (32 linear feet) and entrance gate (21.5 linear feet). The proposed stone wall would replace a portion of an existing louvered wood fence. The proposed dark bronze entrance gate would replace the existing wood entrance gate. A wood and metal side gate would be

installed perpendicular to the entrance gate, but behind the proposed stone wall. The remainder of the property line would continue to be improved with the existing louvered wood fence, which would be repaired as needed.

- c) Allowed Use. The property is located at 35986 HWY 1, Big Sur Coast Land Use Plan, APN: 243-231-027-000. The parcel is zoned Rural Density Residential, 40 acres per unit, Design Control overlay, with a 14-foot height limit, in the Coastal Zone or “RDR/40-D(14’)(CZ)”, which allows for construction of accessory structures to any permitted use. The proposed project includes replacing 53.5 feet of an existing front property line fence and entrance gate. This Combined Development Permit incorporates colors and materials to match the existing structures.
- d) Lot Legality. The subject property (APN: 243-231-027-000) is recognized by the County of Monterey as a legal lot of record per recordation of a Certificate of Compliance (Document #2012021134).
- e) Critical Viewshed/Design. The project is consistent with the Big Sur Coast Land Use Plan (BSC LUP) policies protecting scenic resources and their implementing regulations in the related CIP, as detailed in Finding No. 4.
- f) Development Standards. The development standards for the RDR zoning district are identified in Title section 20.16.060. The proposed fence and entry gate are located along the front property line. However, because the proposed development does not exceed 6 feet in height, it is not considered a structure and thus is not subject to setback requirements for accessory structures. Therefore, as proposed, the project conforms with the applicable development standards of the zoning district.
- g) Cultural Resources. According to County resource maps, the subject property is located within 750 feet of a known archaeological resource. Therefore, the subject property is required to have archaeological report, pursuant to Coastal Implementation Plan (CIP) section 20.145.120.A.1 of the Coastal Implementation Plan, Part 3. However, pursuant to CIP section 20.145.120.B.1, an archaeological survey was previously prepared for the site. The report identified small quantities of shellfish and abalone found near the bluff, and a positive archaeological site located on an adjacent property. However, no evidence of cultural resources was found in the area proposed for development. The proposed development is located within the previously disturbed portions of the property. Minimal ground disturbance is required for the fence posts. As the project is within the developed area, involves no land clearance and minimal land disturbance, and has an archaeological survey that was previously prepared, the proposed project is eligible for an archaeological survey waiver pursuant to CIP section 20.145.120.B.5.

The potential for inadvertent impacts on cultural resources is limited and will be further controlled by application of the County’s standard project condition (Condition No. 3), which requires the contractor to stop work if previously unidentified resources are discovered during construction.

Thus, as proposed, designed, and conditioned, the proposed project minimizes and avoids potential impacts to archaeological resources.

- h) Land Use Advisory Committee (LUAC) Review. The project was not referred to the Big Sur LUAC. As a Minor and Trivial Amendment, it was determined that the project did not require LUAC review pursuant to the Board adopted LUAC Guidelines. The decision to refer the matter to the Big Sur LUAC was not revised following the Zoning Administrator decision and appeal given that the County has a limited time to process the appeal.
- i) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257-AMD1.

3. FINDING: SITE SUITABILITY – The site is physically suitable for the proposed development and/or use.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, HCD-Engineering Services, HCD-Environmental Services, CalFire (Big Sur), and the Environmental Health Bureau. County staff reviewed the application materials and plans to verify that the project on the site conforms to the applicable plans and regulations, and there has been no indication from these departments/agencies that the site is not suitable for the development. Conditions recommended have been incorporated.
 - b) The following technical reports were previously prepared for this property and are applicable to the proposed development:
 - Archaeological Analysis and Testing (LIB110286) prepared by Gary Breschini of Archaeological Consulting, Salinas, CA, June 16, 2011
 - Archaeological Analysis and Testing (LIB110287) prepared by Gary Breschini of Archaeological Consulting, Salinas, CA, June 21, 2010

Upon independent review, staff concurs with the conclusions of the report. There are no physical or environmental constraints that render the site unsuitable for the proposed project.

- c) Staff conducted a site inspection on November 12, 2025 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257-AMD1.

4. FINDING: CRITICAL VIEWSHED AND DESIGN – The project preserves Big Sur’s scenic resources and minimizes impacts to the Critical Viewshed in accordance with the applicable goals and policies of the Big Sur Coast Land Use Plan (BSC LUP) and Coastal Implementation Plan (CIP). The project assures protection of the public viewshed and neighborhood character in accordance with the Design Control “D” Overlay Zoning District.

- EVIDENCE:**
- a) Relevant Policies. The property is subject to the Scenic Resources Policies of the BSC LUP for visual resources and their implementing regulations in the CIP. The property is located along Highway 1 and

pursuant to BSC LUP Policy 3.2.2 everything within sight of Highway 1 is considered within the Critical Viewshed.

Policy 3.2.1 prohibits all public and private development in the Big Sur Critical Viewshed, which includes everything within sight of Highway 1. However, while development within the Critical Viewshed is prohibited, replacement of existing structures is allowed subject to the requirements of BSC LUP Policy 3.2.3.A.7, which is implemented by CIP section 20.145.030.A.2.f.

Finally, due to the project's location within a scenic highway (Highway 1), the Zoning Administrator's determination that the fence and gate were substantive, and public comment on the project's potential impact on the Critical Viewshed, the project was analyzed as a replacement structure within the Critical Viewshed.

- b) Setting. The project site is located between Highway 1 and the Pacific Ocean in the Rocky Point subdivision. Highway 1 in Big Sur was the first designated scenic highway in California, recognizing its unique and picturesque setting. Along the subject portion of Highway 1, the visual character is views of Monterey Cypress trees, with limited views of the Pacific Ocean to the west and the Santa Lucia Mountains to the east. The viewshed is partially degraded by the presence of telephone poles and electricity lines east of Highway 1 and various types of development west of Highway 1, as well as a few single-family dwellings and associated site improvements, such as fences, driveway entrances, and mailboxes, which are visible traveling along this portion of the highway. These structures are required to comply with BSC LUP Policy 3.2.3, as well as the underlying Design Control zoning district.
- c) Critical Viewshed Determination. The replacement gate and fence are not exempt from the Critical Viewshed policies in the BSC LUP and are required to comply with the replacement structure policies in the BSC LUP and CIP.

Although the parcel is located between the “*southernmost existing residential parcel on Rocky Point, to the northernmost developed residential parcel on Kasler Point and from the southernmost developed parcel north of Abalone Cove to the northernmost developed parcel south of Garrapata Creek,*” it does not qualify for an exception under BSC LUP Policy 3.2.5.F. The Zoning Administrator determined that the parcel is not exempt from Critical Viewshed policies because it is visible from Highway 1 and is in close proximity to the popular scenic viewpoint at Abalone Cove. Further, public comments indicated that the replacement fence and gate could have a substantive impact on the Critical Viewshed.

BSC LUP Policy 3.2.5.C.2 exempts roadside fences and private driveway gates from Critical Viewshed policies but requires that they shall be designed to complement the rural settings and character of Big Sur, with a preference for natural materials. While the Zoning Administrator determined that the fence and gate are not exempt from

the Critical Viewshed policies, the proposed design complements the rural setting and character of Big Sur. The fence, as designed, consists of rough-cut locally sourced stones that mirror the natural Salinian Block Granitic and Metamorphic rocks which form the Santa Lucia Range. The gate is designed with dark earth tone materials (dark bronze) and continues the visual continuity of the fence by mirroring the pre-existing second gate on the property. These materials are natural and in keeping with Big Sur's rural setting and character.

- d) CIP Criteria. The BSC CIP section 20.145.030 provides the specific criteria for development to ensure compliance with the BSC LUP Visual Resources Policies. BSC CIP section 20.145.030.A.2.f includes criteria for allowing replacement structures within the Critical Viewshed.

“Replacement...of existing structures... shall be permitted in the original location on the site...”. The proposed fence and gate are in a similar location to the existing fence and gate on the property and connect to the existing sections of fence. The fence and gate are shifted slightly deeper into the parcel and further away from the scenic highway (Highway 1). Shifting the fence and gate deeper into the property further minimizes their impact on the Critical Viewshed.

“Replacement...of existing structures... shall be permitted provided no other less visible portion of the site is acceptable to the property owner...”. The existing fence and gate are situated slightly deeper into the parcel, a location proposed to further minimize visual impacts. The property owner reviewed and accepted this deeper placement to reduce visibility of the replacement fence and gate.

“Replacement...of existing structures...shall be permitted provided the replacement does not increase the visibility of the structure.” The replacement fence and gate have been designed to reduce the visual impact of the development by using natural, dark earth-tone materials. The replacement gate and fence will be set back further from Highway 1 than the existing gate and fence to further minimize visual impacts. The replacement gate will be the same height, in almost the same location, and will not change the visibility of ocean views or views of the single-family dwelling from the existing gate. The replacement fence will be in almost the same location, and a small portion of the fence, approximately 12 linear feet, will be approximately six inches taller, while the remainder of the replacement will not be changing in height. The existing wooden louvered fence provides virtually no pass-through visibility, as the overlapping wooden slats are intended to screen the single-family dwelling from Highway 1. Therefore, the replacement fence, built of rough-cut locally sourced stones, will not change the visibility of ocean views or increase the visibility of the single-family dwelling from Highway 1 compared to the existing fence.

The replacement fence and gate have been designed with appropriate materials and colors to blend with and be subordinate to the surrounding environment. The proposed project is subordinate to the surrounding

environment by using natural stone and dark colors, which ensures that the replacement gate and fence provide visual consistency along the Highway 1 frontage of the property. See Evidence “e” for additional design discussion.

Therefore, as proposed, the replacement fence and gate satisfy the requirements for replacing structures within the Critical Viewshed.

- e) Design Control. Pursuant to MCC Title 20 Chapter 20.44, the proposed project and surrounding area are designated as a Design Control Zoning District (“D” zoning overlay), which regulates the location, size, configuration, materials, and colors of structures and fences to assure the protection of the public viewshed and neighborhood character.

The proposed replacement fence and gate will incorporate natural materials (stone) and natural, dark earth-tone materials (dark bronze and natural stone), which are in keeping with the rural setting and character of Big Sur. Additionally, the proposed fence replacement project only modifies a limited portion of the front property fence line. The remainder of the front property line will continue to be developed with a louvered wood fence, which will be repaired as needed. The proposed fence will transition into the existing fenceline. As proposed, the entire front property fenceline will consist of natural materials and be of a bulk and mass that does not detract from the scenic beauty of Highway 1, and will not block ocean views. The project protects the public viewshed, is consistent with the surrounding rural character, and ensures public access and visual integrity. Therefore, the design of the proposed project ensures the protection of the public viewshed, neighborhood character, and the visual integrity of the property and the surrounding environment.

- f) Staff conducted a site inspection on November 12, 2025 to verify that the site is suitable for this use.
- g) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257-AMD1.

5. FINDING: HEALTH AND SAFETY – The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: a) The project was reviewed by HCD-Planning, HCD-Developmental Services, HCD-Environmental Services, CalFire (Big Sur), and the Environmental Health Bureau. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

- b) Necessary facilities are provided. This Combined Development Permit would not alter these facilities. The Environmental Health Bureau has reviewed the project and made no comments.
- c) Staff conducted a site inspection on November 12, 2025 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to Monterey County HCD-Planning are found in Project File PLN110257-AMD1.

6. FINDING: NO VIOLATIONS – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed County of Monterey HCD-Planning and HCD-Building Services records and is not aware of any violations existing on subject property.
 - b) The application, project plans, and related support materials submitted by the project applicant to County of Monterey HCD-Planning found in Project File PLN110257-AMD1.

7. FINDING: PUBLIC ACCESS – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) Figure 2 – Shoreline Access Plan, Northern Section, of the BSC LUP indicates that the subject property is in an area where public access is required (Priority 2 area). As detailed in the preceding Finding No. 2 and supporting evidence, BSC LUP Chapter 3.2 and CIP section 20.145.030.B.3.b allow for private highway improvements like fences. Big Sur Coast LUP Policy 6.1.5.F.1 states, *“Future land use planning shall be compatible to provide visual access. To this end, all new structures and ancillary facilities should be located outside of the public viewshed as defined in Chapter 3.”* Public Access policies (Chapter 6.1 of the Big Sur Coast LUP), specifically visual access policies, need to be taken into consideration when reviewing the proposed fence design. Visual Access is access for scenic viewing of the shoreline and/or ocean from either a vista point or public road, or trail. Section 20.145.150 of the Big Sur Coast CIP (Public Access Development Standards) states *“[T]he protection of visual access should be emphasized ...[and] Visual access shall be maintained by directing all future development out of the viewshed.”* The proposed replacement fence was designed to ensure existing ocean views (heavily filtered and screened by mature trees) will remain. See subsequent evidence “c”.
 - b) Figure 3 – Trails Plan, North Section, of the Big Sur Coast LUP indicates that the subject property neither contains an inland trail corridor, a through coastal access corridor, public trail, private trail, access to Ventana Wilderness, nor is identified as an area for future public acquisition or a proposed trail.

- c) Although the subject property is shown in an area where the applicable Local Coastal Program requires public access (Figure 2), no evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property. Additionally, the proposed development allows for visual access and will not affect the access of the shoreline. Consequently, no access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in section 20.146.130 of the Monterey County Coastal Implementation Plan can be demonstrated.
- d) Staff conducted a site inspection November 12, 2025. No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
- e) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN110257-AMD1.

8. FINDING: CEQA (Exempt) – The project is categorically exempt from environmental review, and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines section 15302 categorically exempts replacement structures where the new structures will be located on the same site and have substantially the same purpose and capacity as the structure replaced.
 - b) The project includes construction of a replacement fence and gate. The replacement fence and gate will be located in the same area as the existing fence and gate and serve the same purpose. Therefore, the project is consistent with the categorical exemption requirements of CEQA guidelines section 15302.
 - c) No adverse environmental effects were identified during staff review of the development application or during a site visit on November 12, 2025.
 - d) None of the exceptions under CEQA Guidelines section 15300.2 apply to this project. The project does not involve alterations to a designated historical resource, a hazardous waste site, nor development that would result in a cumulatively significant impact. Although the project is visible from Highway 1 and constitutes development within the Critical Viewshed, as demonstrated in Finding Nos. 2 and 6, supporting evidence, the development is rural in design, compatible with the surrounding environment, and will not have an adverse impact on public or visual access. There are no unusual circumstances associated with undertaking the project that would create a reasonable possibility that the project would have a significant effect on the environment.
 - e) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN110257-AMD1.

9. FINDING: APPEAL – The Appellant contends that the Zoning Administrator’s decision was not supported by the evidence. Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony, all other evidence presented before the Board of Supervisors,

and the administrative record as a whole, the Board responds as follows to the Appellant's contentions:

- EVIDENCE:** a) Appellant (Andrew T. Berlin), pursuant to Monterey County Code (MCC) Title 20 section 20.86.030.C, timely appealed the April 9, 2026, decision of the Zoning Administrator. The appeal challenges the Zoning Administrator's denial of the Minor and Trivial Amendment, on the contention that the findings are not supported by the evidence and that the decision is contrary to law. See also Finding No. 1, Evidence "b". The text of the Appellant's contentions and the County's responses to those contentions are set forth in Evidence "b" through "c" below.
- b) *Appellant Contention No. 1. "Monterey County Code § 20.44.040.E states that the Planning Commission shall be the Appropriate Authority to consider Design Approval applicants for those structures which have the greatest potential to impact public views, such as structures along scenic highway or road corridors, in areas designed critical viewshed, or which may be prominent from common public viewing areas. Because the proposed development does not exceed 6 feet in height, it is not considered a structure under Monterey County Code §20.06.1200. Therefore, the Zoning Administrator was the Appropriate authority to consider the Minor and Trivial Amendment Design Approval applicant under Monterey County Code §20.44.040.C."*
- Response No. 1 The fence, as designed, is under six feet in height; therefore, pursuant to Title 20 section 20.06.1200, it is not a structure; However, the fence would be improved within an area designated as a critical viewshed which can be interpreted to require consideration by the Planning Commission even if it is not defined as a structure.

As detailed in Finding No. 1 Evidence "b," the project was originally referred to the Chief of Planning pursuant to Title 20 section 20.76.115. As the project was considered a Minor and Trivial Amendment to a Combined Development Permit. However, an objection was received, and the Chief of Planning referred the project to a public hearing pursuant to Title 20 section 20.76.060 (see Finding No. Evidence "b"). However, after the Zoning Administrator's review of the project, the Zoning Administrator determined that the project's Appropriate Authority was the Planning Commission, pursuant to Title 20 section 20.44.040.E.

While a fence under 6 feet is not considered a "structure", pursuant to Title 20 section 20.06.1200, the project is substantive (Title 20 section 20.44.040.E) as it includes development within the Critical Viewshed (Title 20 section 20.16.060.B), and therefore, the project's Appropriate Authority is the Planning Commission.

However, while the Planning Commission was the Appropriate Authority to hear and consider the project, due to procedural issues and to ensure a timely decision was rendered on the application, the Zoning Administrator recommended that it be considered by the County of Monterey Board of Supervisors.

- c) Appellant Contention No. 2. “While the project site is located along Highway 1, it is expressly exempt from Big Sur’s Critical Viewshed as it is located in the Rocky Point Exception Area established pursuant to Big Sur LCP Policy 3.2.4 such that development on the Property is expressly subject to the standards of Big Sur LCP Policy 3.2.4”

Response No. 2 As detailed in Finding No. 4, the project is not exempt from the requirements of the Critical Viewshed policies, as the project is a replacement fence and gate within the Critical Viewshed. The project is sited along a scenic highway, and, due to public comments and the Zoning Administrator’s determination, the project is within the Critical Viewshed and does not qualify for an exemption from the Critical Viewshed policies. However, as the project is the replacement of an existing fence and gate in the Critical Viewshed, where impacts to the Critical Viewshed are reduced, the project complies with BSC LUP Policy 3.2.3.A.7 and CIP section 20.145.030.A.2.f.

10. FINDING: APPEALABILITY – The decision on this project may be appealed to the California Coastal Commission.

EVIDENCE: a) California Coastal Commission. Pursuant to section 20.86.080.A of the Monterey County Zoning Ordinance (Title 20), the project is subject to appeal by/to the California Coastal Commission because it involves development between the first public road and the sea.

DECISION

NOW, THEREFORE, based on the above findings and evidence, and the administrative record as a whole, that the Board of Supervisors does hereby:

- 1) Grant the appeal of Andrew T. Berlin, Trustee of the Andrew T. Berlin Revocable Trust from the April 9, 2026, decision of the Zoning Administrator to deny a Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN110257);
- 2) Find the project Categorical Exempt pursuant to CEQA Guidelines section 15302 and no exceptions to section 15300.2 apply; and
- 3) Approve a Combined Development Permit consisting of:
 - a) A Design Approval to allow replacement of 53.5 feet of the existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate.
 - b) A Coastal Development Permit to allow development within the Big Sur Critical Viewshed; and
 - c) A Coastal Development Permit for development within 750 feet of an archaeological resource.

All of which are in general conformance with the attached plans and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____, and carried this 9th day of June 2026, by the following vote to wit:

AYES:

NOES:
ABSENT:
ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book _____ for the meeting on June 9, 2026.

Date:

File Number: PLN110257-AMD1

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from County of Monterey HCD-Planning and HCD-Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

County of Monterey HCD Planning

DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN110257-AMD1

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: This is a Combined Development Permit allows replacement of 53.5 feet of existing wood fence and the main entrance gate with a stone wall and dark bronze entrance gate within the Big Sur Critical Viewshed and within 750 feet of an archaeological resource. The project is located at 35986 & 36000 Highway 1, Monterey (Assessor's Parcel Numbers 243-231-025-000 and 243-231-026-000), Big Sur Coast Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an on-going basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"A Combined Development Permit (Resolution Number 26-) was approved by the County of Monterey Board of Supervisors for Assessor's Parcel Number 243-231-025-000 and 243-231-026-000 on June 9, 2026. The permit was granted subject to 4 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County HCD - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.

Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD011 - TREE AND ROOT PROTECTION

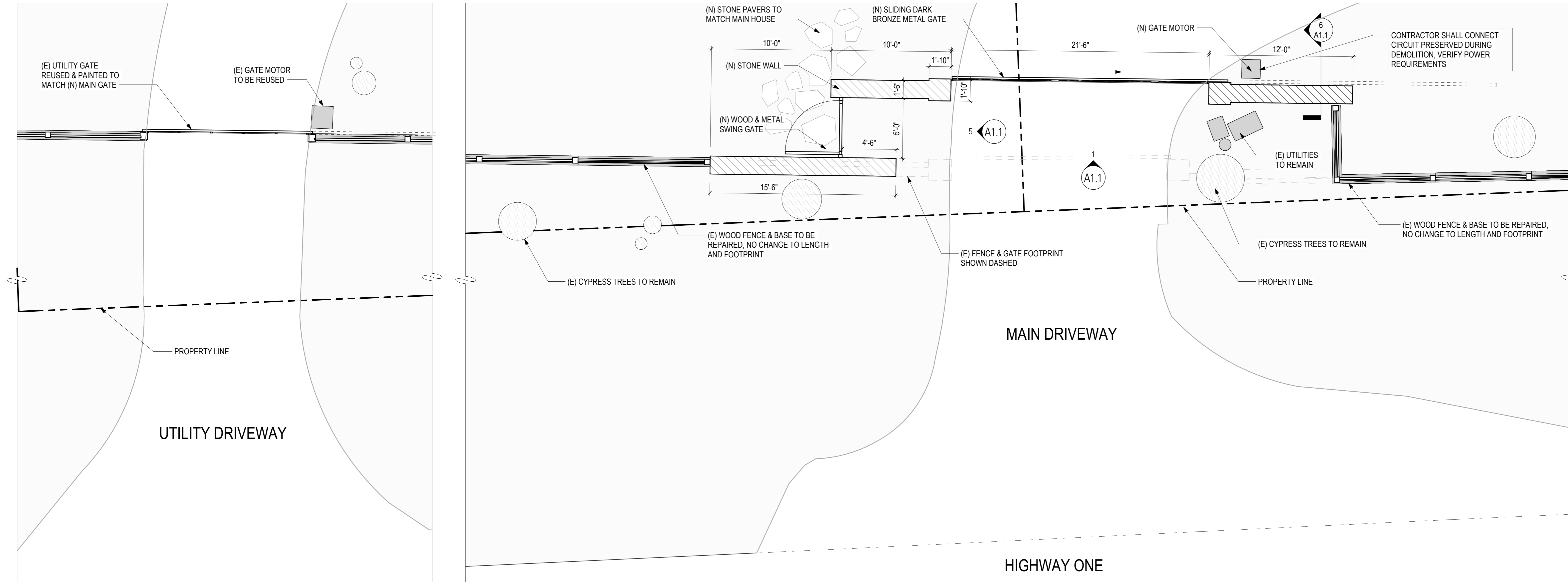
Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Trees which are located close to construction site(s) shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip-line of the retained trees. Said protection, approved by certified arborist, shall be demonstrated prior to issuance of building permits subject to the approval of HCD - Director of Planning. If there is any potential for damage, all work must stop in the area and a report, with mitigation measures, shall be submitted by certified arborist. Should any additional trees not included in this permit be harmed, during grading or construction activities, in such a way where removal is required, the owner/applicant shall obtain required permits. (HCD - Planning)

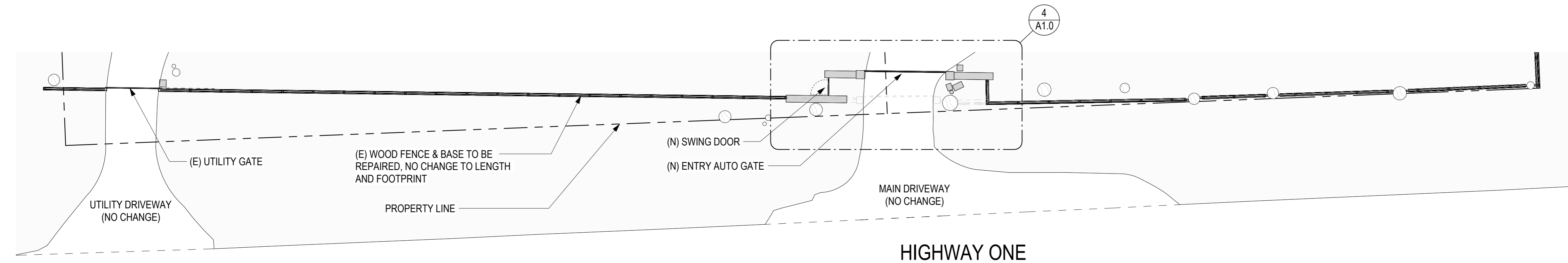
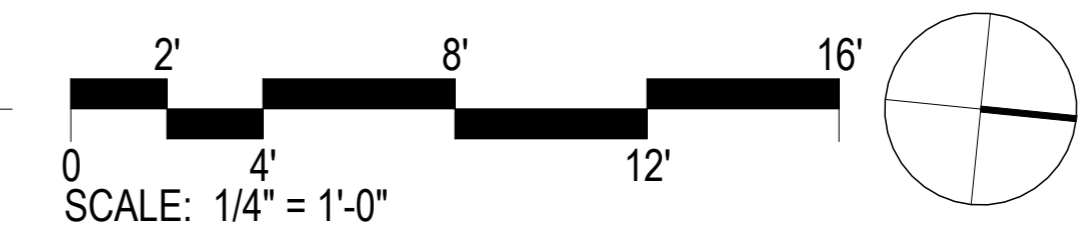
Compliance or Monitoring Action to be Performed: Prior to issuance of grading and/or building permits, the Owner/Applicant shall submit evidence of tree protection to HCD - Planning for review and approval.

During construction, the Owner/Applicant/Arborist shall submit on-going evidence that tree protection measures are in place through out grading and construction phases. If damage is possible, submit an interim report prepared by a certified arborist.

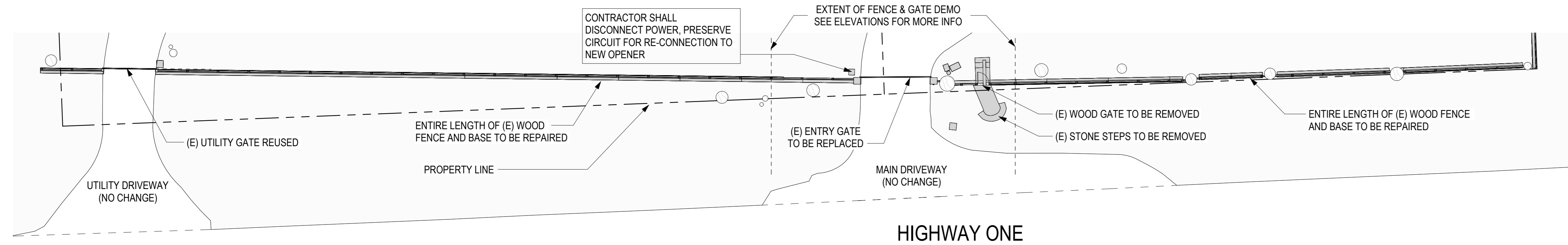
Prior to final inspection, the Owner/Applicant shall submit photos of the trees on the property to HCD-Planning after construction to document that tree protection has been successful or if follow-up remediation or additional permits are required.



4 ENTRY GATE & FENCE PLAN - PROPOSED
A1.0 1/4" = 1'-0"



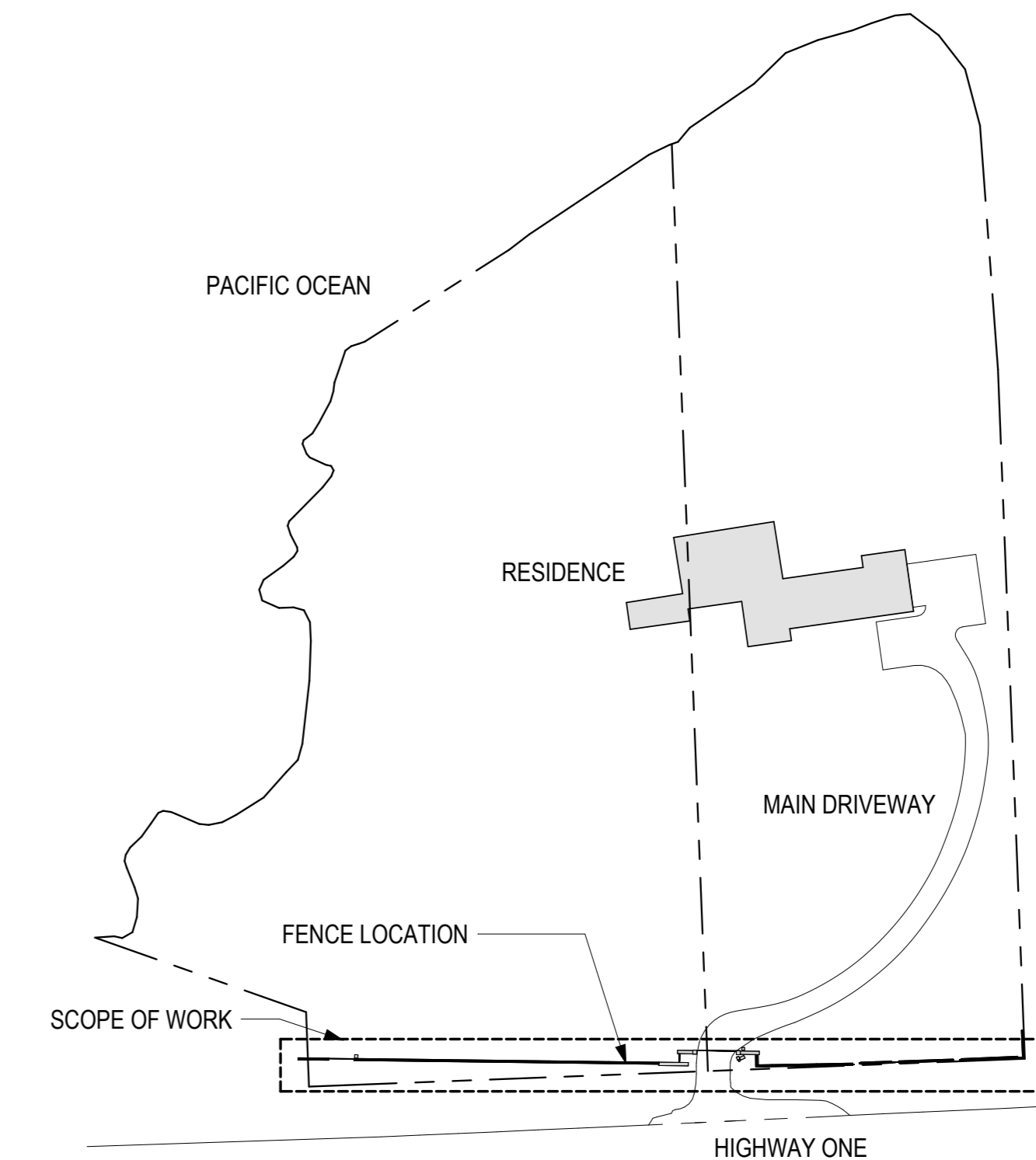
1 ENTRY GATE & FENCE PLAN - OVERALL PROPOSED
A1.0 1/16" = 1'-0"



3 ENTRY GATE & FENCE PLAN - OVERALL EXISTING/DEMO
A1.0 1/16" = 1'-0"

NOTES

- SCOPE OF WORK TO INCLUDE:
 - REPAIR AND REPLACEMENT OF (E) WOOD FENCE
 - REPLACEMENT OF (E) SLIDING METAL GATE AT MAIN ENTRY
 - ADDITION OF ASHLAR STONE WALLS TO EITHER SIDE OF (N) GATE
- NO TREE REMOVAL PROPOSED



2 CONTEXT PLAN
A1.0 1" = 80'-0"



ENLARGED PLANS & SITE PLAN

SCALE: As indicated
Project Status

EXISTING FENCE IMAGES



SECONDARY GATE



OVERALL FENCE



MAIN ENTRY GATE

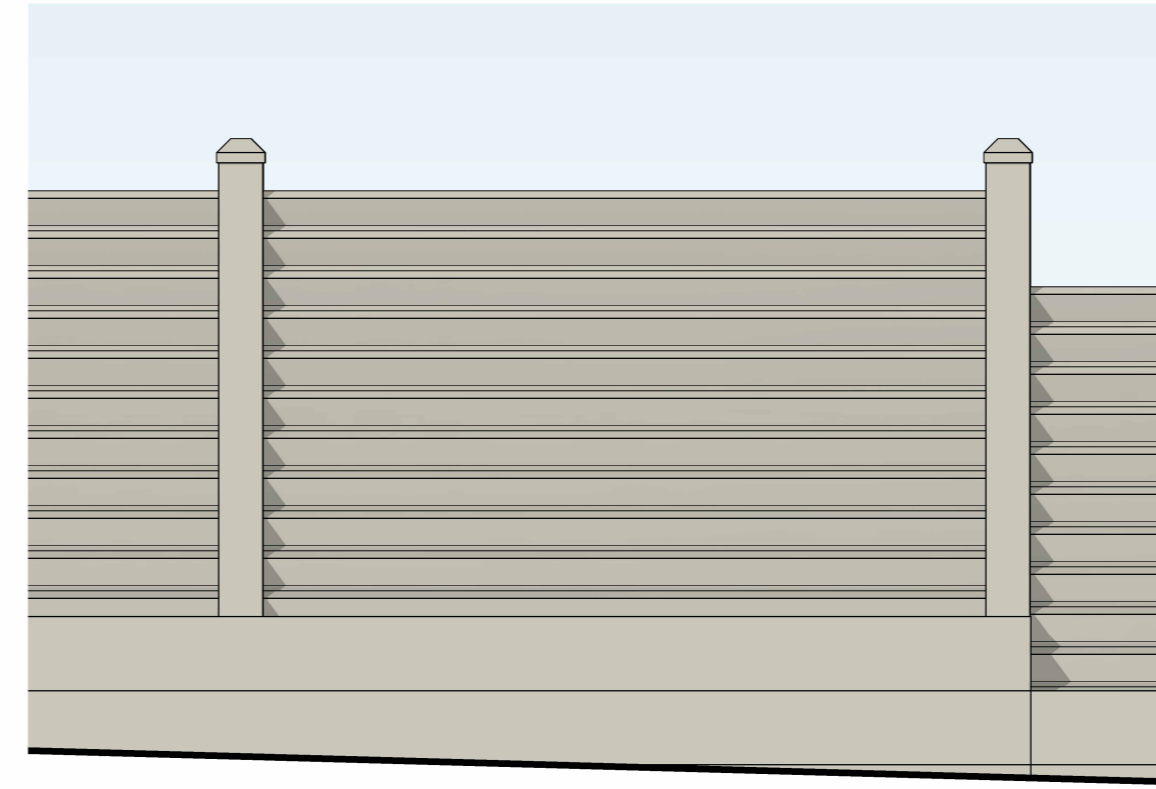


ACCESS DOOR AT MAIN ENTRY GATE

PROPOSED MATERIAL IMAGES



LOCALLY SOURCED, UNCOURSED RANDOM ASHLAR STONE WALLS



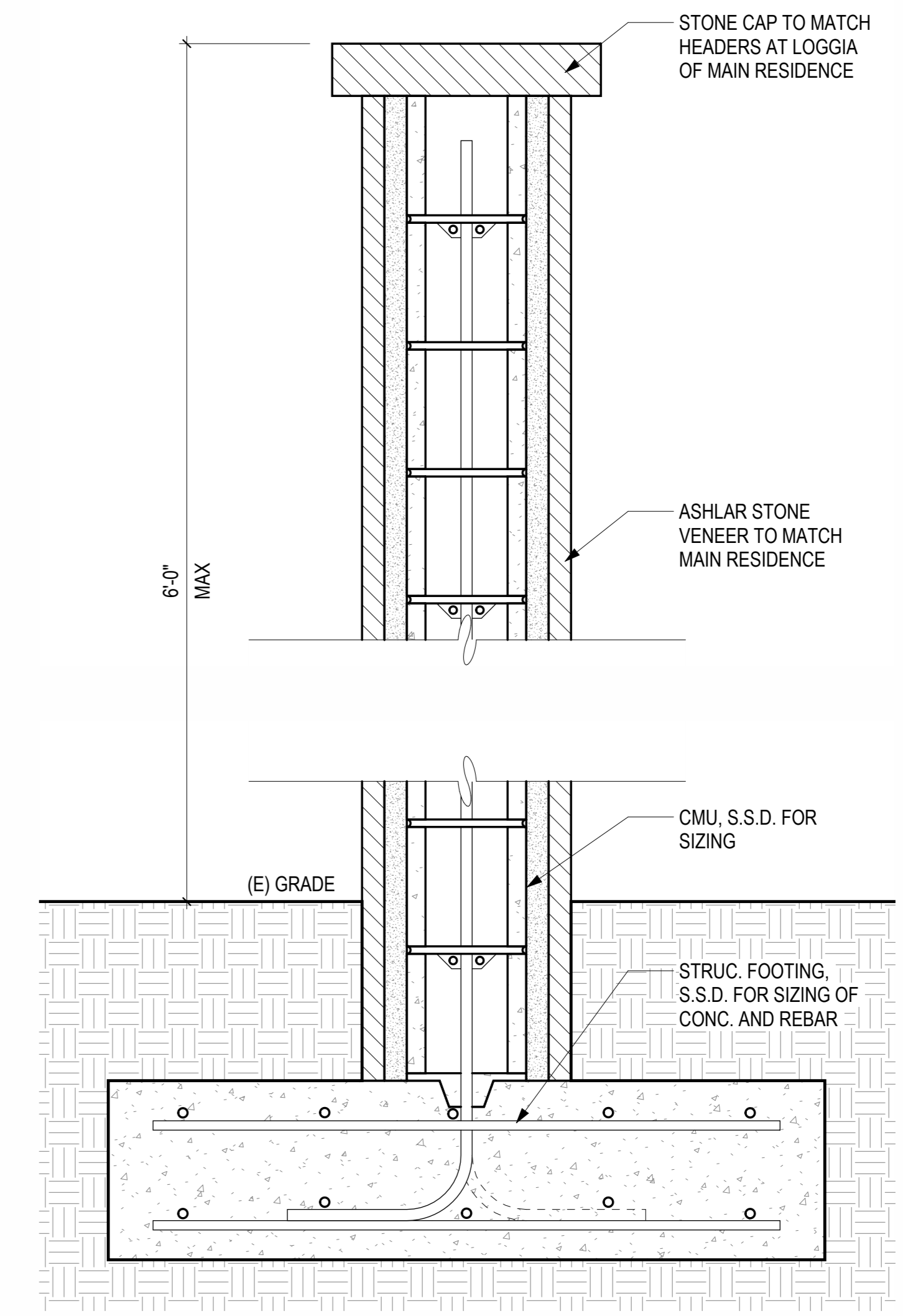
ALL WOOD STAINED AND ACID WASHED TO MATCH (E) FENCE



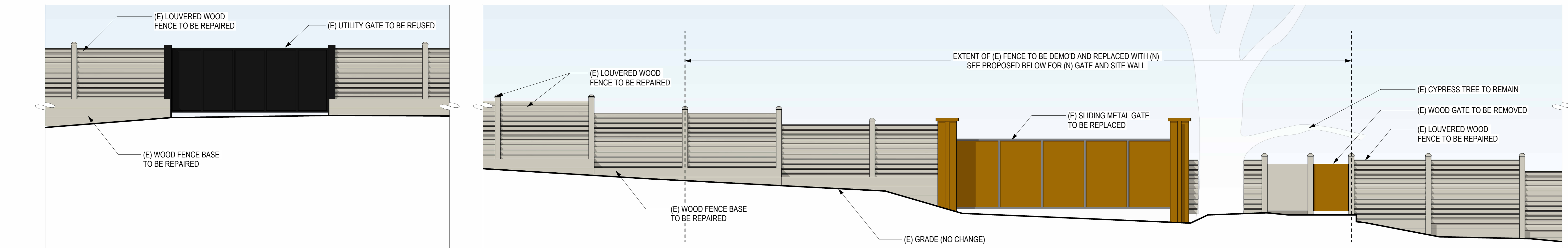
AGED BRONZE METAL TO MATCH DOORS & WINDOWS OF MAIN RESIDENCE



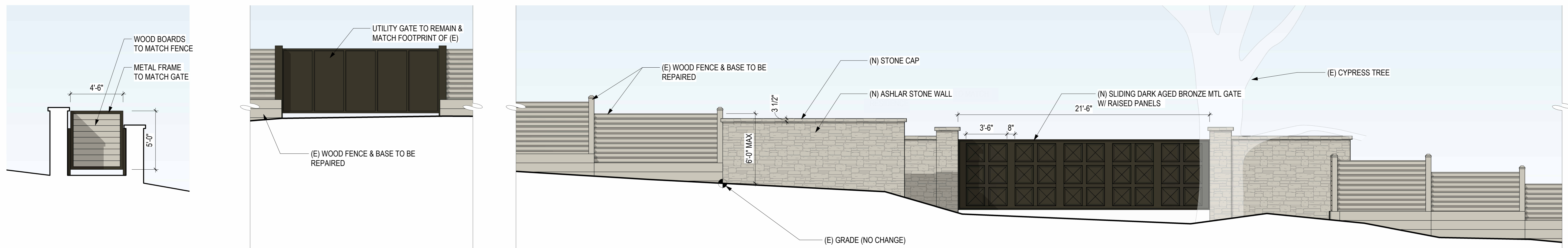
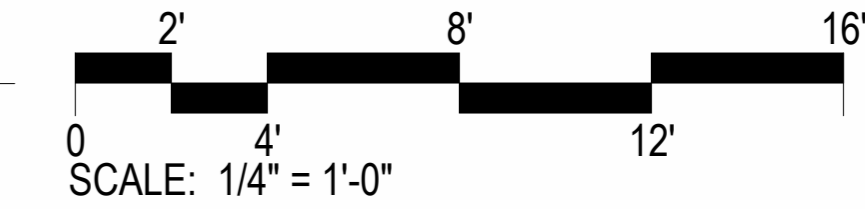
(E) WOOD FENCE



6 FENCE SECTION - PROPOSED
A1.1 1 1/2" = 1'-0"

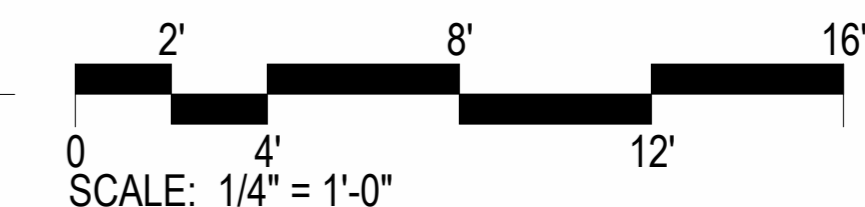


1 ENTRY GATE & FENCE ELEVATION - EXISTING / DEMO
A1.1 1/4" = 1'-0"



5 SIDE DOOR - PROPOSED
A1.1 1/4" = 1'-0"

2 ENTRY GATE & FENCE ELEVATION - PROPOSED
A1.1 1/4" = 1'-0"



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