#### CITY OF MANHATTAN BEACH DEPARTMENT OF COMMUNITY DEVELOPMENT

TO: Parking and Public Improvements Commission

FROM: Richard Thompson, Director of Community Development

Nhung Madrid, Management Analyst

BY: Jason Masters, Assistant Planner

**DATE:** September 25, 2014

SUBJECT: Consideration of an Encroachment Permit Appeal to Allow a Water

Fountain Feature in the Public Right-of-Way to Remain – 130 41st Street

**RECOMMENDATION:** 

Staff recommends that the Commission DENY the request at 130 41st Street to permit a water fountain feature in the 41st Street public right of way (drive-street).

BACKGROUND:

A building permit was issued for an interior remodel on the subject property on August 9, 2012, without any proposed exterior or encroachment work. After construction the applicant altered the existing planter/retaining wall creating a water fountain feature in the private front yard and into the public right-of-way, which is not permitted. Subsequently, Code Enforcement contacted the applicant regarding filing an encroachment permit application to request approval for the improvements. Upon submitting the Encroachment Permit, Planning Department staff informed the applicant that such improvements cannot be permitted by staff. Thereafter the applicant submitted an Encroachment Permit appeal on October 2, 2013. In accordance with Section 7.36.080 of Manhattan Beach Municipal Code, the Parking and Public Improvements Commission (PPIC) must review the appeal request and forward its recommendation to the City Council. The first 2.5 feet of the water fountain feature is located in the public right-of-way, the remaining 4 feet is located on private property.

**DISCUSSION:** 

The submitted appeal plan shows modifications to the existing planter wall, creating a water fountain feature extending into the site's existing sloped encroachment area. Section 7.36.150 (D) of the Municipal Code permits fences and walls in encroachment areas at a maximum height of 36 inches in this area, but does not permit water fountain features or other improvements in drive-street encroachment areas. The plan does provide the required 2-foot clearance from the street improvements, and since there are no sidewalks in this area, this distance is measured from the back edge of the curb to the existing wall. The house was originally built in 1986 and the planter was approved at that time.

The subject portion of 41<sup>st</sup> Street is characterized as a very narrow street in the north Manhattan Beach – El Porto area without sidewalks or high-volume traffic. Several old unpermitted

encroachment fences, walls (mostly retaining) and planters exist in this area at the roadway curb, some of which appear to be nonconforming to the 2-foot clearance requirement established in 2003. The El Porto area was developed as an unincorporated area of Los Angeles County and accordingly these encroachments may not have been constructed under the purview of the City.

The Municipal Code Section 7.36.150 (D) states that only fences and walls up to 36" and landscaping are permitted on vehicular streets. Staff's understanding of the purpose of this requirement is to allow minimal private use of the public right-of-way with minor improvements and limited alteration of the natural grade. Raising the natural grade with retaining walls or planters is not currently allowed per code. Since the planter previously existed, it may remain. However, the water fountain feature intensifies the non-conforming condition, and may create a potential liability for the City due to accidental run-off on the adjacent street and driveways, and the presence as potentially an attractive nuisance.

Public Input

A notice of the Parking and Public Improvement Commission meeting was mailed to all property owners within a 300 feet radius from the subject encroachment property. Staff has received one letter in support of the appeal as of the writing of this report which is attached for your review.

#### **CONCLUSION:**

Staff does not support the request for the water fountain feature because it is not consistent with the encroachment standards described above, and staff recommends that the PPIC recommend denial of the Encroachment Permit Appeal request to the City Council.

#### Attachments:

- A. Vicinity Map
- B. Encroachment Code excerpts
- C. Encroachment Permit Appeal Application
- D. Letter in support of appeal
- E. Encroachment Appeal plans (separate)

cc:

Lucas Goettsche, Applicant/Architect Dr. Robert Rubin, Property Owner



# Vicinity Map 130 41st Street



September 25, 2014







#### Chapter 7.36 - PRIVATE USE OF THE PUBLIC RIGHT OF WAY

#### 7.36.010 - Scope and Intent.

The provisions of this chapter shall govern use of the public right of way by private parties. The intent of these standards is to allow private use and development of the public right of way with improvements that are functional, attractive and non-obtrusive to the public, consistent with building safety and public works standards, and compatible with public facilities and surrounding developments.

#### 7.36.150 - Encroachment standards.

#### (D) Vehicular Street Standards:

- Street improvements, including (but not necessarily limited to) sidewalks, curbs, gutters, parking
  pads and paving may be required by the Public Works Department for the purpose of
  maintaining or improving conditions related to drainage, visibility, access, maneuverability or
  public parking, and, if required, shall be constructed in compliance with City standards.
- 2. Fences and walls are permitted as follows:
  - Location. Compliance is required with Public Works Department standards established in MBMC 9.72.015. A minimum set back of two feet (2') is required behind existing or required street improvements.
  - b. Height. Fences and walls may not exceed a maximum height of forty-two inches (42"), measured from the existing public right of way grade at the fence or wall location. Open-design fences or guard rails required by the Building Official to exceed the forty-two inch (42") maximum height are allowed on top of retaining walls if necessary to retain a neighbor's grade at a side property line. Fences and walls located near the intersection of streets or driveways may be subject to lower height requirements to ensure traffic visibility.
- 3. Ground cover such as pavement (including brick or other decorative surfaces) and landscaping is permitted on the existing right of way grade. Decks or similar structures are prohibited.
- 4. Street Corner Visibility. To ensure visibility at street corners a thirty-six inch (36") maximum height is applicable to all fences, walls or landscape plantings within a distance of fifteen feet (15') from the street corner as per MBMC 3.40.010 (Traffic Sight Obstructions). A height less than thirty-six inches (36") may be applicable due to unusual slope conditions.
- 5. Significant alteration of the existing right of way grade is prohibited, unless determined to be necessary to accommodate a required public street improvement.
- 6. Loose gravel and similar material as determined by the Public Works Department is not permitted.
- 7. Drainage from a private collection system that discharges a concentrated flow shall be directed to a public vehicular street right of way location via a non-erosive device pursuant to Public Works Department standards subject to review and approval of the City Engineer.
- 8. Landscaping is permitted subject to approval of a landscape plan pursuant to Chapter 7.32.080 E and shall be submitted with an encroachment permit.



#### **MASTER APPLICATION FORM**

CITY OF MANHATTAN BEACH
COMMUNITY DEVELOPMENT DEPARTMENT

Office Use Only Date Submitted: 10/2/13 Received By: F&G Check Submitted: TRACT NO 4103 NW 45 PT PW Legal Description HDR General Plan Designation Zoning Designation For projects requiring a Coastal Development Permit, select one of the following determinations1; Project located in Appeal Jurisdiction Project not located in Appeal Jurisdiction Major Development (Public Hearing required) Public Hearing Required (due to UP, Var., Mind Development (Public Hearing, If requested)

Stricks of Common Commo Submitted Application (check all mat apply)
Appeal to PCIPPICIBBAICC 500 Use Permit (Residential) ) Coastal Development Permit Use Permit (Commercial) ) Environmental Assessment Use Permit Amendment ) Minor Exception Variance ) Subdivision (Map Deposit)4300 Public Notification Fee / \$85 ) Subdivision (Tentative Map) Park/Rec Quimby Fee 4425 ) Subdivision (Final) ) Lot Merger/Adjustment/\$15 rec. fee ) Subdivision (Lot Line Adjustment) ) Other Fee Summary: Account No. 4225 (calculate fees on reverse) Pre-Application Conference: Yes No Date: Fee: Amount Due: \$ \( \int 0 \cdot \cdot 0 \cdot \) (less Pre-Application Fee if submitted within past 3 months) Receipt Number: Date Paid: Cashier: Applicant(s)/Appellant(s) Information Mailing Address Applicant(s)/Appellant(s) Relationship to Property Contact Person (include relation to applicant/appellant) Phone number / e-mail Address, 18-920 Applicant(s)/Appellant(s) Signature Complete Project Description- including any demolition (attach additional pages if necessary) watere fenture in Roul ucuse golesignstulio com + bob\_rutin@hotmai

<sup>1</sup> An Application for a Coastal Development Permit shall be made prior to, or concurrent with, an application for any other permit or approvals required for the project by the City of Manhattan Beach Municipal Code. (Continued on reverse)

#### **OWNER'S AFFIDAVIT**

STATE OF CALIFORNIA COUNTY OF LOS ANGELES	
I/We <u>Robert Alan RUB/N</u> depose and say that I am/we are the owner(s) of the property involve the foregoing statements and answers herein contained and the inf	being duly sworn,
are in all respects true and correct to the best of my/our knowledge an	d belief(s).
Signature of Property Owner(s) - (Not Owner in Escrow or Lessee)	
Robert Alan RUBIN	te ves bound
Print Name	
P.O. Box 288, Redords Beach,	09. 90277-0288
310-970-2288	12
Telephone	
Subscribed and sworn to before me,	
uno day of Co Tober 2012	DEBBIE LANG
in and for the County of Los Angeles	MANGERS COUNTY
State of California M	Aletene Dublin
Verto /194	Notary Public
Fee Schedule Summary	
shown on this sheet may apply – refer to current City Fee Resolt Department for assistance.) Fees are subject to annual adjustment.  Submitted Application (circle applicable fees, apply total to Fee St. Coastal Development Permit  Filing Fee (public hearing – no other discretionary approval require Filing Fee (public hearing – other discretionary approvals require Filing Fee (no public hearing required – administrative):	ummary on application) uired): \$ 4,615
Use Permit	920 🚭
Use Permit Filing Fee:	\$ 5,200
Master Use Permit Filing Fee: Master Use Permit Amendment Filing Fee:	8,255 😂 4,740 😂
Master Use Permit Conversion:	4.075
Variance	
Filing Fee: Minor Exception	\$ 5,160
Filing Fee (without notice):	\$ 1,775
Filing Fee (with notice):	2,020
Subdivision Certificate of Compliance:	\$ 1.560
Final Parcel Map + mapping deposit:	\$ 1,560 515
Final Tract Map + mapping deposit:	595
Mapping Deposit (paid with Final Map application):	500
Merger of Parcels or Lot Line Adjustment:	1,155
Quimby (Parks & Recreation) fee (per unit/lot):	1,817
Tentative Parcel Map (4 or less lots / units) No Public Hearing:	915
Tentative Parcel Map (4 or less lots / units) Public Hearing:	3,325
Tentative Tract Map (5 or more lots / units):	4,080
Environmental Review (contact Planning Division for applicable fee)	
Environmental Assessment (no Initial Study prepared):	\$ 215
Environmental Assessment (if Initial Study is prepared):	2,260
Fish and Game/CEQA Exemption County Clerk Posting Fee <sup>2</sup> :	75
Public Notification Fee applies to all projects with public hearings	and \$ 85
covers the city's costs of envelopes, postage and handling the	Ways and the same of the same
mailing of public notices. Add this to filing fees above, as applica	able:

<sup>&</sup>lt;sup>2</sup>Make a separate \$75 check payable to LA County Clerk, (<u>DO NOT PUT DATE ON CHECK)</u>

#### **Jason Masters**

From: Sent:

Ted Randall <trandall001@gmail.com> Tuesday, September 16, 2014 10:17 PM

To:

Jason Masters

Subject:

Encroachment Permit Appeal- 130 41st St

> > Hello. My name is Ted Randall and I'm the resident and property owner of 209 41st St. My wife Wazhma, three year old daughter Nyla and I think the fountain is a fantastic addition to the neighborhood. It sounds wonderful when walking by it and the kids in the neighborhood love it (sometimes more than we'd like). To be honest, planter = litter box in our neighborhood (we have to clean ours every day) and this looks great and avoids those issues. The fountain is a great way to beautify the exterior of the house and it is enjoyed by all. I'll let the other neighbors speak for themselves, but i have never heard a complaint from anyone on the street about the fountain.

- > Please reconsider Mr Goettsche's appeal!
- >
- > Sincerely,
- > Ted, Wazhma, and Nyla
- > 213-445-5627



# FRONT YARD WATER FEATURE - 130 41st STREET



**GEOTECHNICAL** 

## POST-CONSTRUCTION ENCROACHMENT PERMIT APPLICATION SUBMITTAL

**CIVIL** 



STRUCTURAL





# IST BE NOTIFIED OF ANY VARIATIONS OR DISCREPANCIES IN T

**LUCAS GOETTSCHE, Architect** 130 41st Unit B Manhattan Beach, CA. 90266 T: (310) 920-0959 lucas@lgdesignstudio.com www.lgdesignstudio.com

# VICINITY MAP

SUBJECT PROPERTY

### PARCEL INFO

**SEE SURVEY SHEET A1.00** 

PARCEL APN: 4137-009-015

**ZONING INFO** 

SEE PARCEL PROFILE REPORT THIS SHEET

# CONTENTO

CONTENTS		
ARCHITECTURAL		
ID	SHEET NAME	
T1.00	TITLE SHEET	
A1.00	SURVEY (SCALED)	
A1.01	SURVEY (ENLARGED NTS)	
A1.02	SURVEY (ROTATED NTS)	
A1.03	SITE PLAN	
A2.00	ORIGINAL CONSTRUCTION PLANS	

A3.00 | ELEVATIONS / LONGITUDINAL SECTION

Zoning information is for reference only and must be verified through the Community

#### PARCEL PROFILE REPORT **CITY OF MANHATTAN BEACH** 4137-009-015 130 41ST ST Address **MANHATTAN BEACH CA 90266** Legal Description: TRACT NO 4103 NW 45 FT OF LOT 10 Max Units Per Lot 1 Area District Front Setback Rear Setback Coastal Zone Status Appealable Side Setback Max Bldg Floor Area 2288 Max Height 30 Corner Setback Max Stories LA COUNTY ASSESSOR INFORMATION Building Sq Footage 1588 345000 Bedrooms Date Recorded 04/08/1987 Bathrooms Improvement Value \$297,156.00 Number of Stories \$525,737.00 Number of Units 2 Taxable Value Lot Sq Footage 1346 Assessment Year 2011 \$228,581.00 DISCLAIMER: This map is a user-generated static output of the 'Manhattan Beach Mapping' site and is for general reference only. The City of Manhattan Beach makes no representation or warranties of any kind with respect to the accuracy of the information furnished herein.



CONTRACTOR

#### STANDARD NOTES

Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings in accordance with Section R303.1 or shall be provided with artificial light that is adequate to provide an average illumination of 6 foot-candles over the area of the room at a height of 30 inches above the floor level. (R303.1)

Provide 70 inch high non-absorbent wall adjacent to shower and approved shatterresistant materials for shower enclosure." (R308)

Water heater must be strapped to wall (Sec. 507.3, LAPC) Heater shall be capable of maintaining a minimum

room temperature of 68 degrees F at a point 3 ft.

above the floor and 2 ft. from exterior walls in all habitable rooms at the design temperature. (R303.8) Smoke detectors shall be provided for all dwelling units intended for human occupancy, upon the owner's application for

a permit for alterations, repairs, or additions, exceeding one thousand dollars (\$1,000). Provide ultra low flush water closets for all

new construction. Existing shower heads and toilets must be adapted for low water

The plumbing fixtures and plumbing fittings shall meet the standards noted below: Water Closets = 1.28 gallons per flush max. Where a permit is required for alterations, repairs or additions exceeding one thousand dollars (\$1,000), existing dwellings or sleeping units that have attached garages or fuel-burning appliances shall be provided with a carbon monoxide alarm in accordance with Section R315.1. Carbon monoxide alarms shall only be required in the specific dwelling unit or sleeping unit for

which the permit was obtained. (R315.2)

Lots shall be graded to drain surface water away from foundation walls with a minimum fall of 6 inches within the first 10 feet (R401.3).

Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. (R319)

Protection of wood and wood based products from decay shall be provided in the locations specified per Section R317.1 by the use of naturally durable wood or wood that is preservative-treated in accordance with AWPA U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of AWPA U1.

Bathtub and shower floors, walls above bathtubs with a showerhead, and shower compartments shall be finished with a nonabsorbent surface. Such wall surfaces shall extend to a height of not less than 6 feet above the floor (R307.2).

The construction shall not restrict a five-foot clear and unobstructed access to any water or power distribution facilities (Power poles, pull-boxes, transformers, vaults, pumps, valves, meters, appurtenances, etc.) or to the location of the hook-up. The construction shall not be within ten feet of any power lines-whether or not the lines are located on the property. Failure to comply may cause construction delays and/or additional expenses.

An approved Seismic Gas Shutoff Valve or Excess Flow Shutoff will be installed on the fuel gas line on the down stream side of the utility meter and be rigidly connected to the exterior of the building or structure containing the fuel gas piping." (Per Ordinance 170,158 and 180,670) (Includes Commercial additions and TI work over \$10,000.) A separate plumbing permit is required.

Plumbing fixtures are required to be connected to a sanitary sewer or to an approved sewage disposal system (R306.3)

Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs and washing machine outlets shall be provided with hot and cold water and connected to an approved water supply (R306.4).

Provide emergency exit door or window from all sleeping rooms. Net clear window opening area shall not be less than 5.7 sq. ft. (except at grade floor opening shall be min. 5.0 sq. ft.). Min. net window opening height dimension, 24" clear; min. net opening width dimension, 20" clear. Finished sill height max. 44" above floor. CRC R310.1

**FRONT YARD WATER FEATURE** 

**DESIGN STUDIO** 

90266 TEL: (310) 920-0959 lucas@lgdesignstudio.com www.lgdesignstudio.com

Lucas Goettsche, ARCHITECT 130 41st Street Unit B Manhattan Beach, CA.

130 41st Street Manhattan Beach, CA.

PARCEL APN: 4137-009-015

**DRAWING LOG** 

1 ENCROACHMENT SUBMITTAL

JOB NO.

004-13

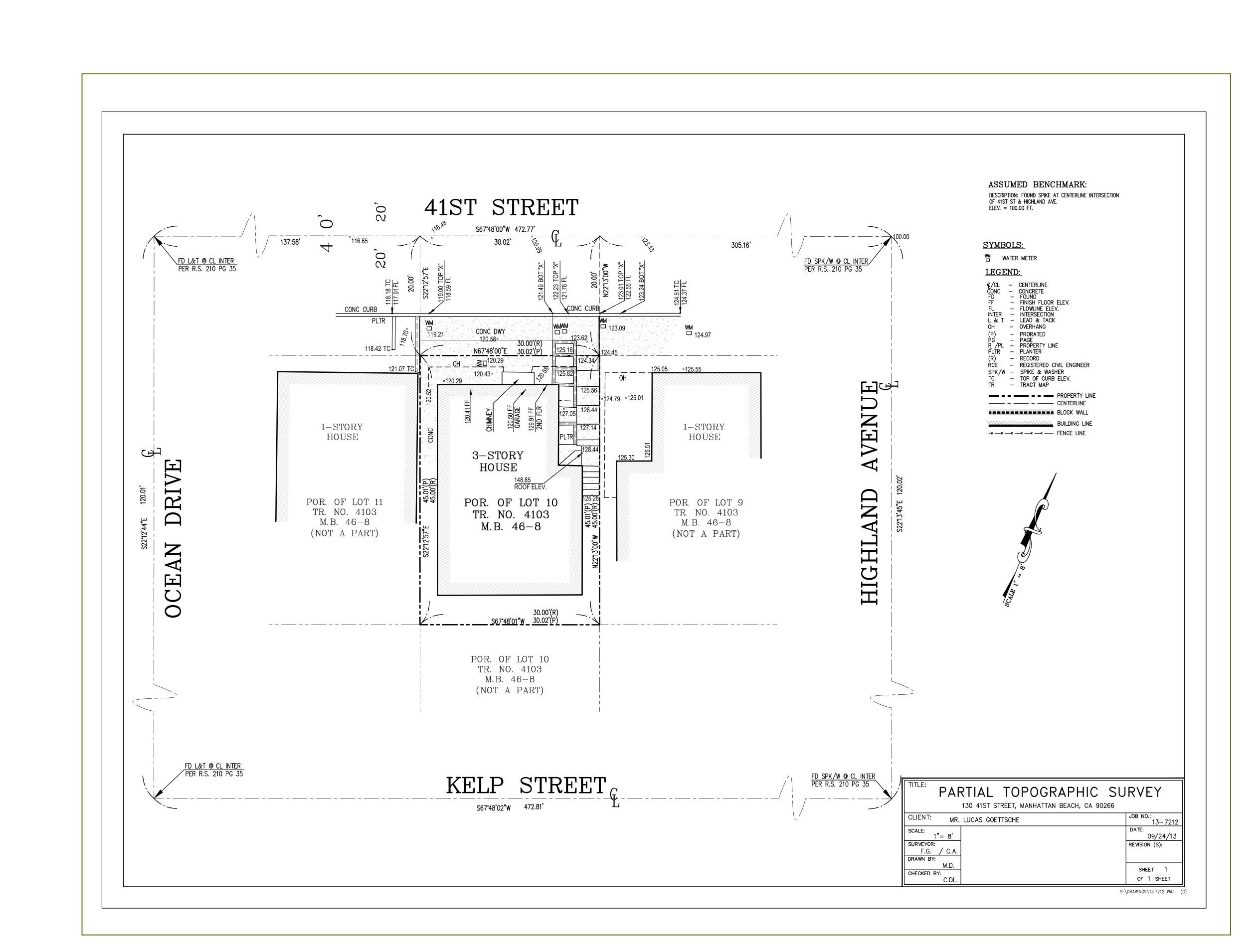
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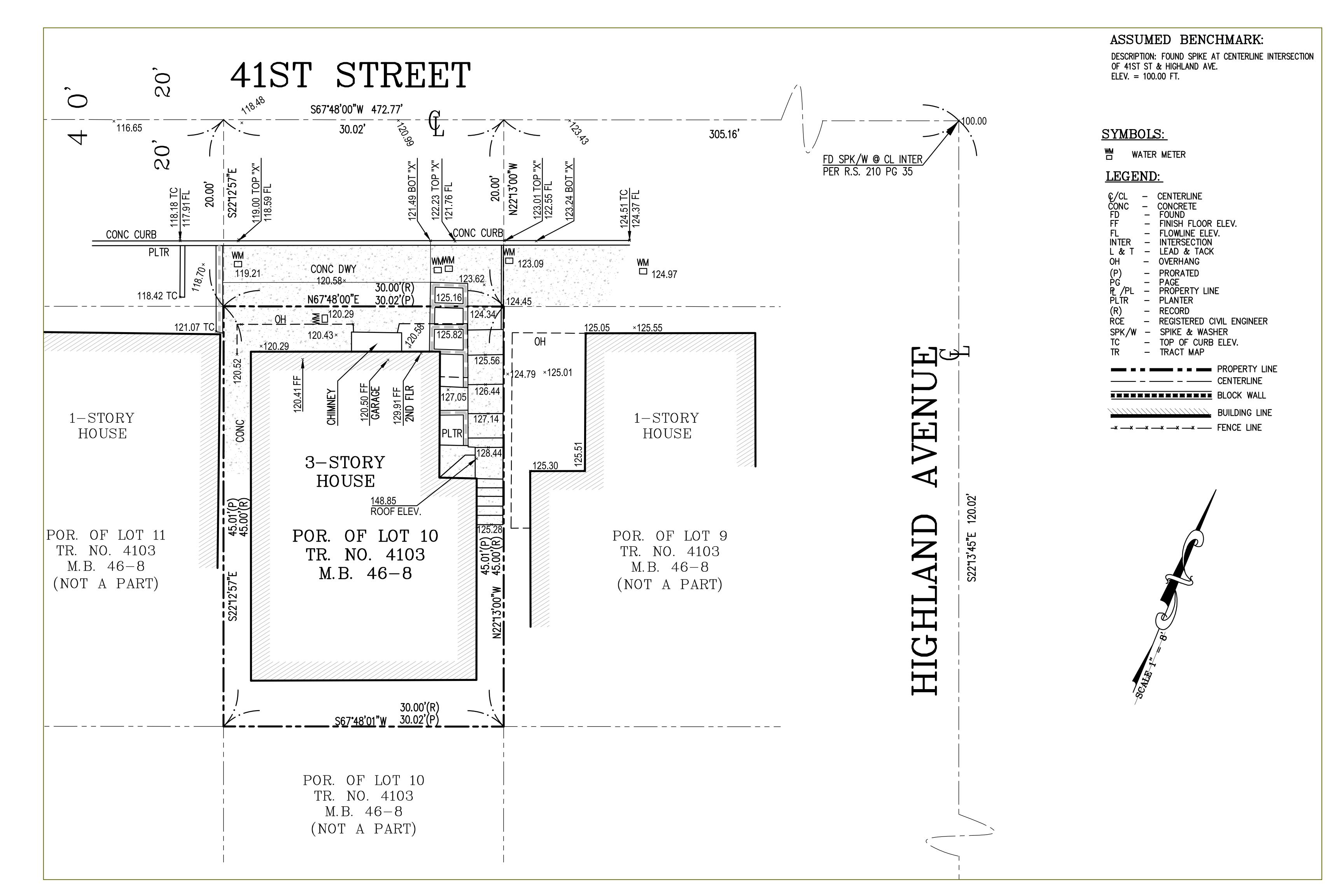
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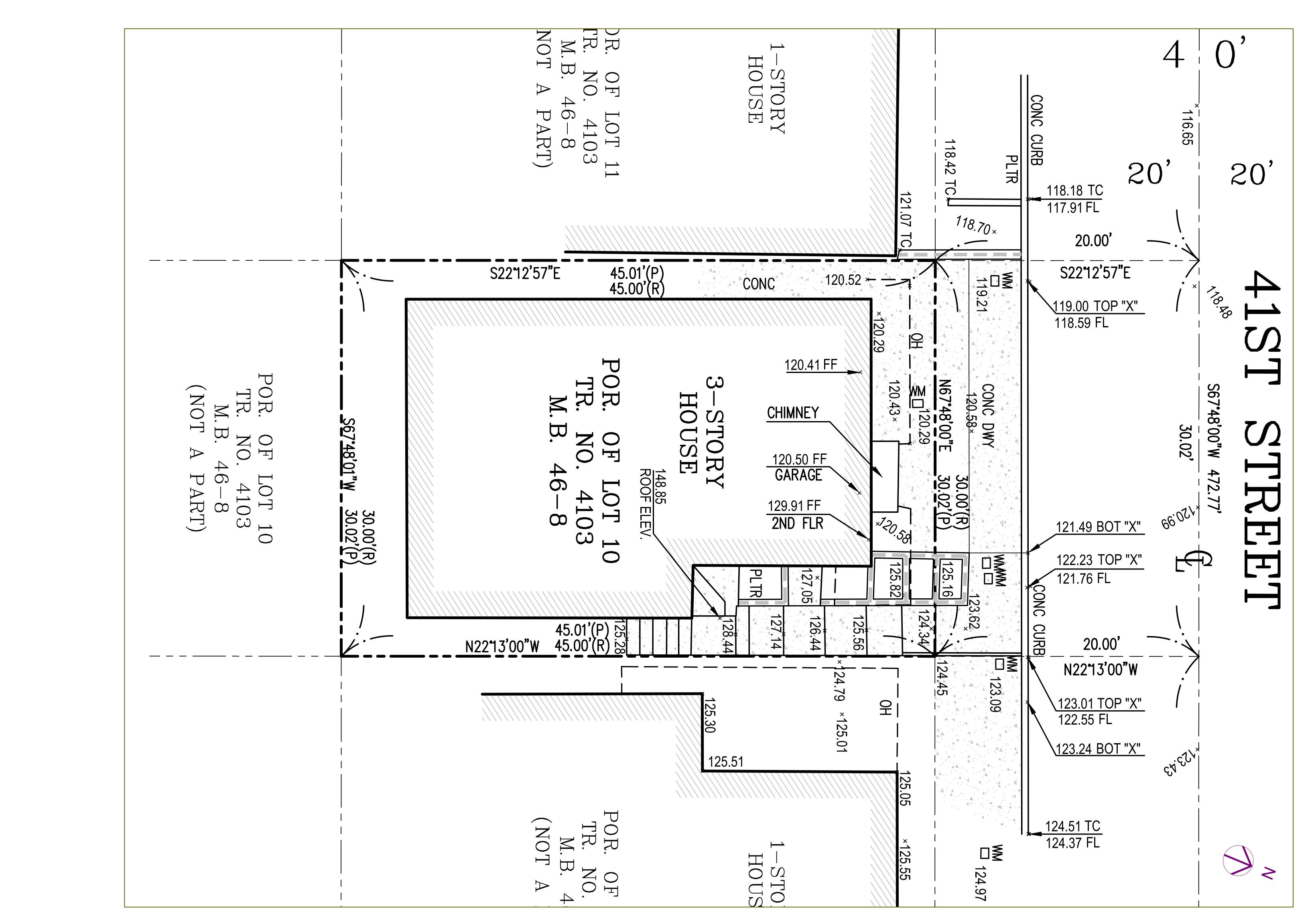
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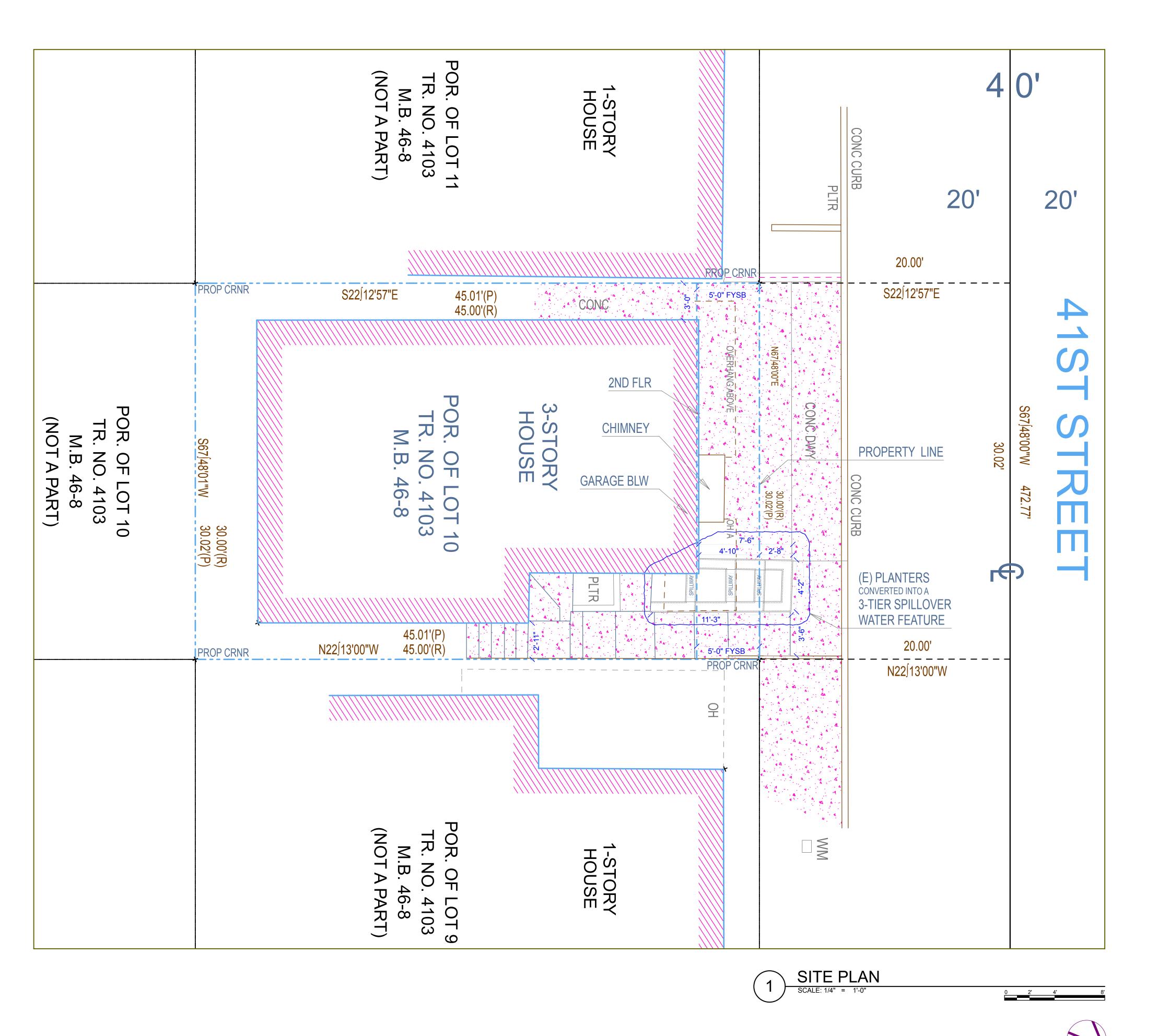
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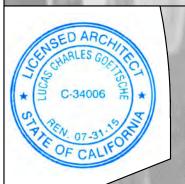






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ALL IDEAS, DESIGN ARRANGEMENTS, AND PLANS INDICATED OR REPRESENTED BY THESE DRAWINGS ARE OWNED BY AND ARE THE PROPERTY OF LUCAS GOETTSCHE, AND HAVE BEEN CREATED, EVOLVED, AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT ON THIS SHEET. NONE OF SUCH IDEAS, DESIGN ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF LUCAS GOETTSCHE, AND ARE PROTECTED BY U.S. COPYWRIGHT LAW. ALL WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS CONTAINED HEREIN. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS FOR CONSTRUCTION. THIS OFFICE MUST BE NOTIFIED OF ANY VARIATIONS OR DISCREPANCIES IN THE DIMENSIONS AND CONDITIONS SHOWN IN THESE DRAWINGS.



PROJECT

FRONT YARD WATER FEATURE

130 41st Street Manhattan Beach, CA. 90266

PARCEL APN: 4137-009-015

DRAWING LOG

1 ENCROACHMENT SUBMITTAL

JOB NO.

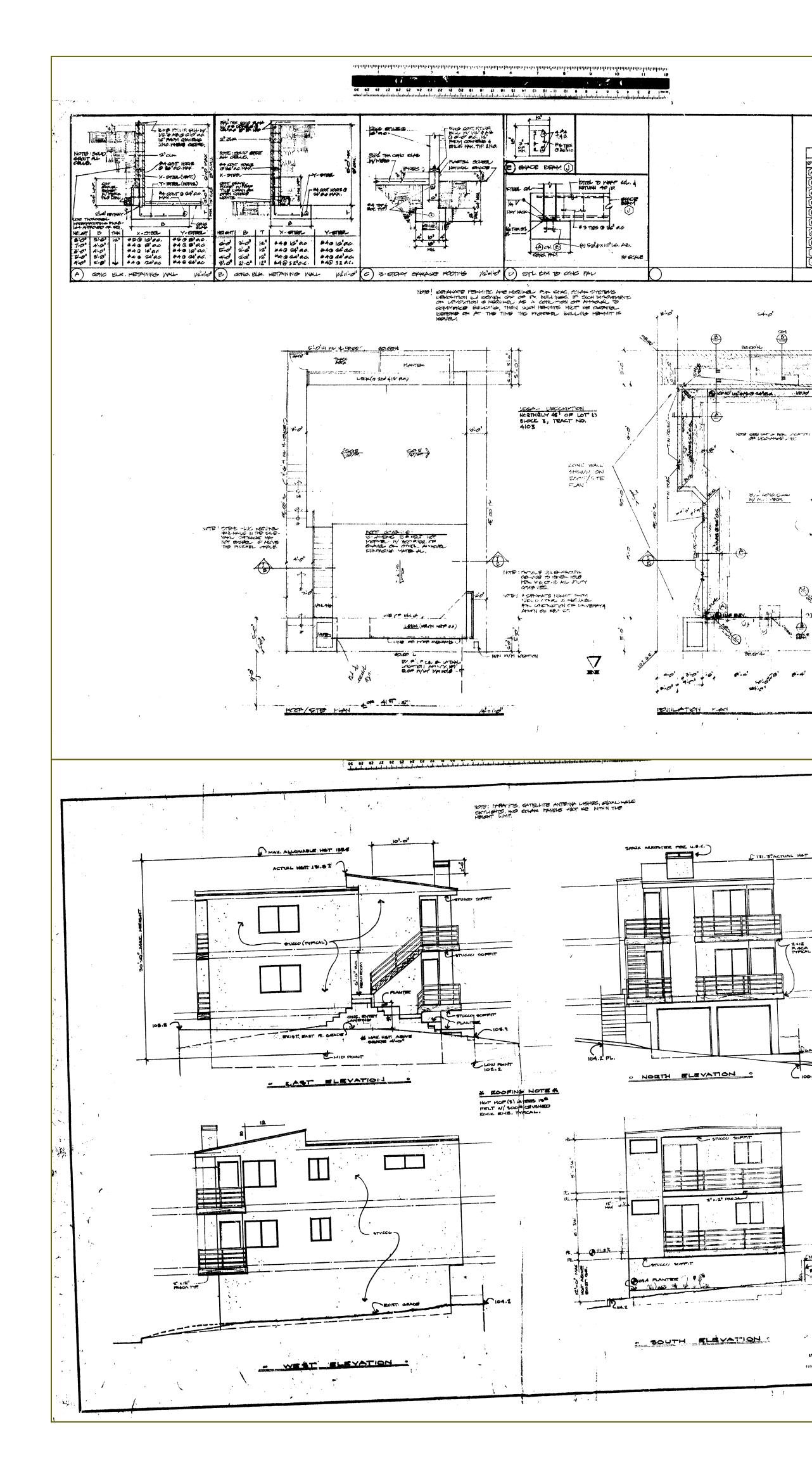
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DATE

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SITE PLAN

A1.03





**DESIGN STUDIO** 

CONCRETE IND SCHEDILE

CONCHETE PAD ECHECILE

OTM. 978 TH RUNRACINE CTL.

(A) 2'c' 52. 12'
(B) 2'c' 52. 12'
(C) 2'-9' 60. 12' #4 98'6C # WAY
(D) 5'-0' 60. 15'
(B) 2'3' 60.
(F) 3'6' 60
(G) 2'-9' 50.
(H) 4'0' 60.
(1) 4'3' 60.
(1) 12' 644 68 16' 4 - #4 of 1 607.

Lucas Goettsche, ARCHITECT 130 41st Street Unit B Manhattan Beach, CA. 90266 TEL: (310) 920-0959 lucas@lgdesignstudio.com www.lgdesignstudio.com

REPRESENTED BY THESE DRAWINGS ARE OWNED BY AND ARE THE PROPERTY OF LUCAS GOETTSCHE, AND HAVE BEEN CREATED VOLVED, AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT ON THIS SHEET. NONE OF SUCH IDEAS DESIGN ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF LUCAS GOETTSCHE, AND ARE PROTECTED BY U.S. COPYWRIGH AW. ALL WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAV PRECEDENCE OVER SCALED DIMENSIONS CONTAINED HEREIN CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR AL DIMENSIONS AND CONDITIONS FOR CONSTRUCTION. THIS OFFICE MUST BE NOTIFIED OF ANY VARIATIONS OR DISCREPANCIES IN THE DIMENSIONS AND CONDITIONS SHOWN IN THESE DRAWINGS.



PROJECT

1-14-86

FRONT YARD WATER FEATURE

130 41st Street Manhattan Beach, CA.

PARCEL APN: 4137-009-015

DRAWING LOG

1 ENCROACHMENT SUBMITTAL

JOB NO

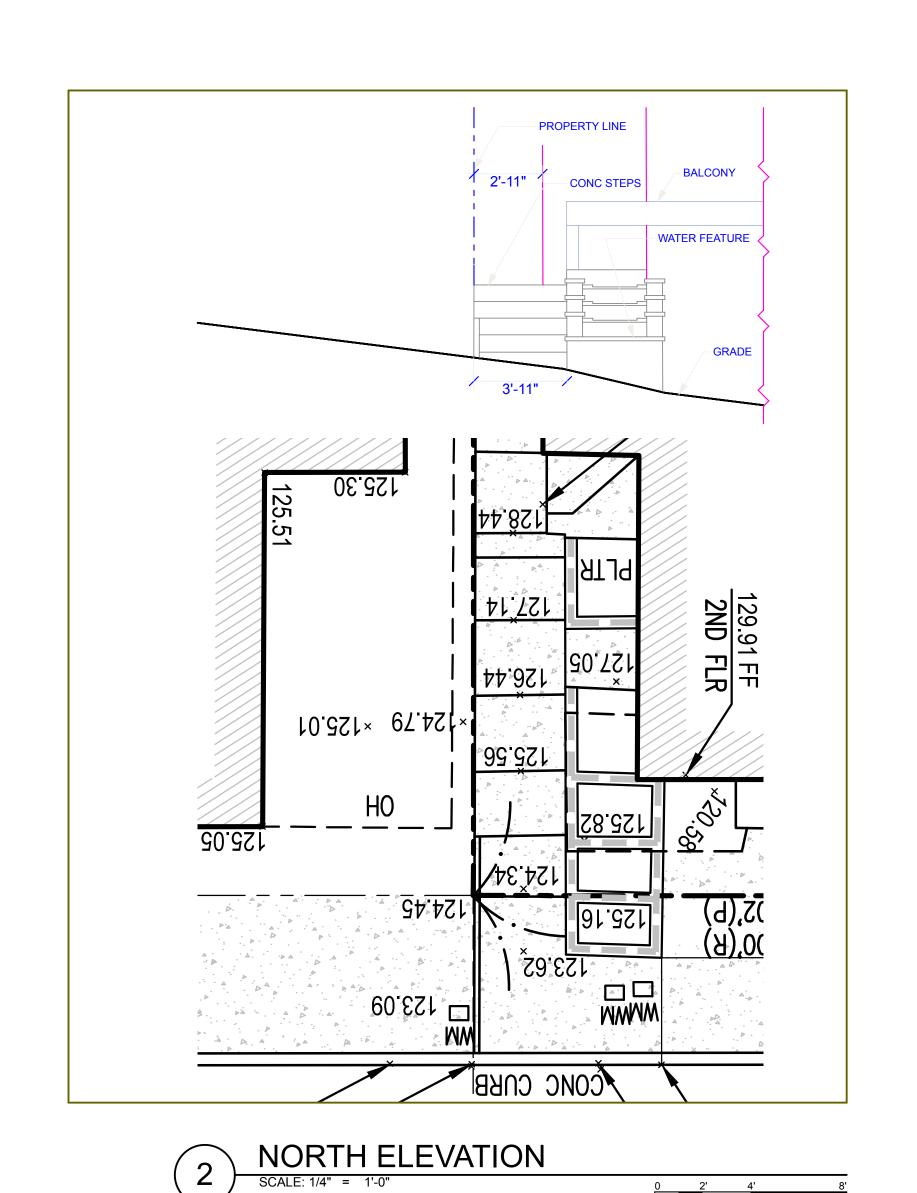
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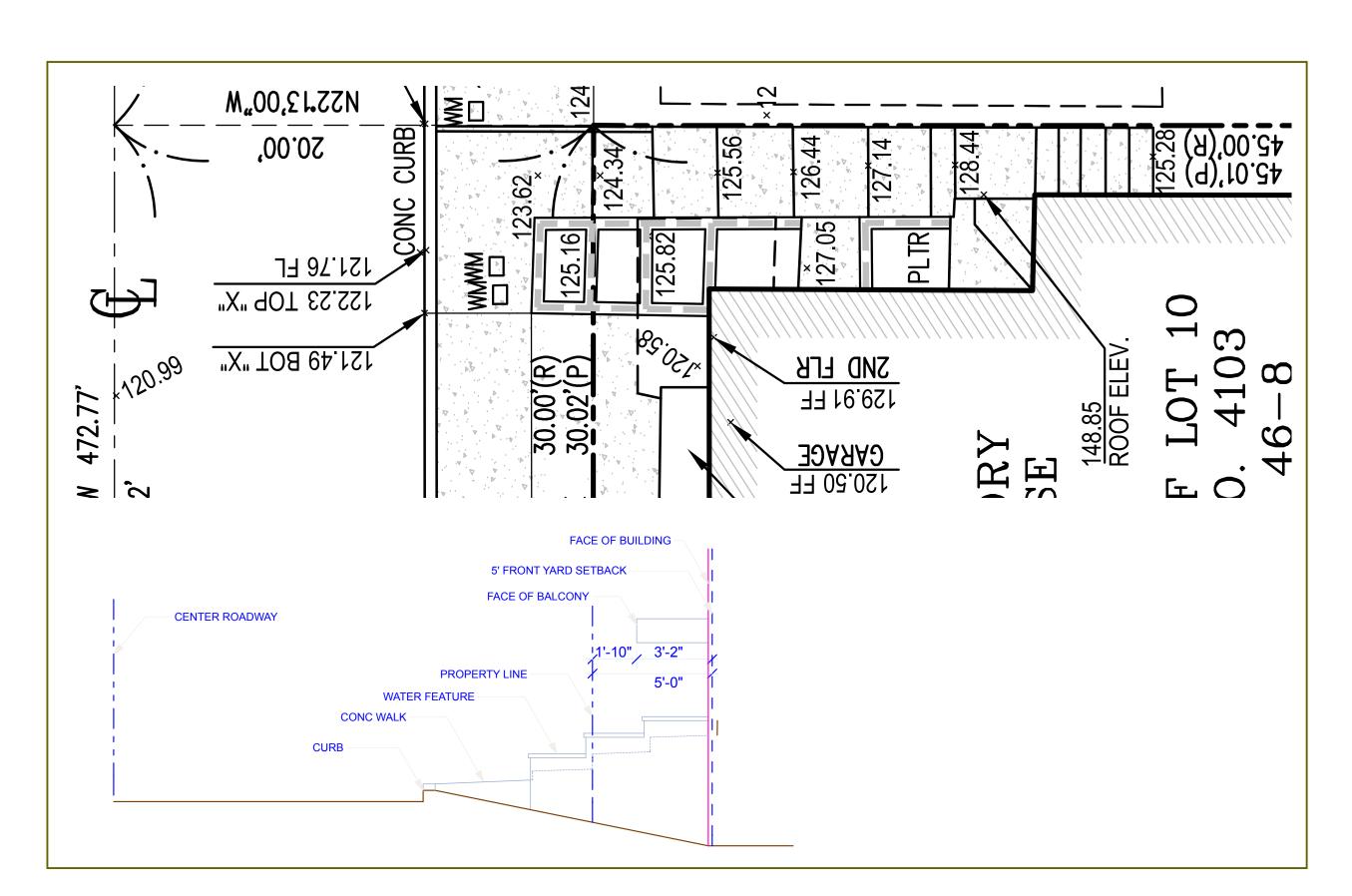
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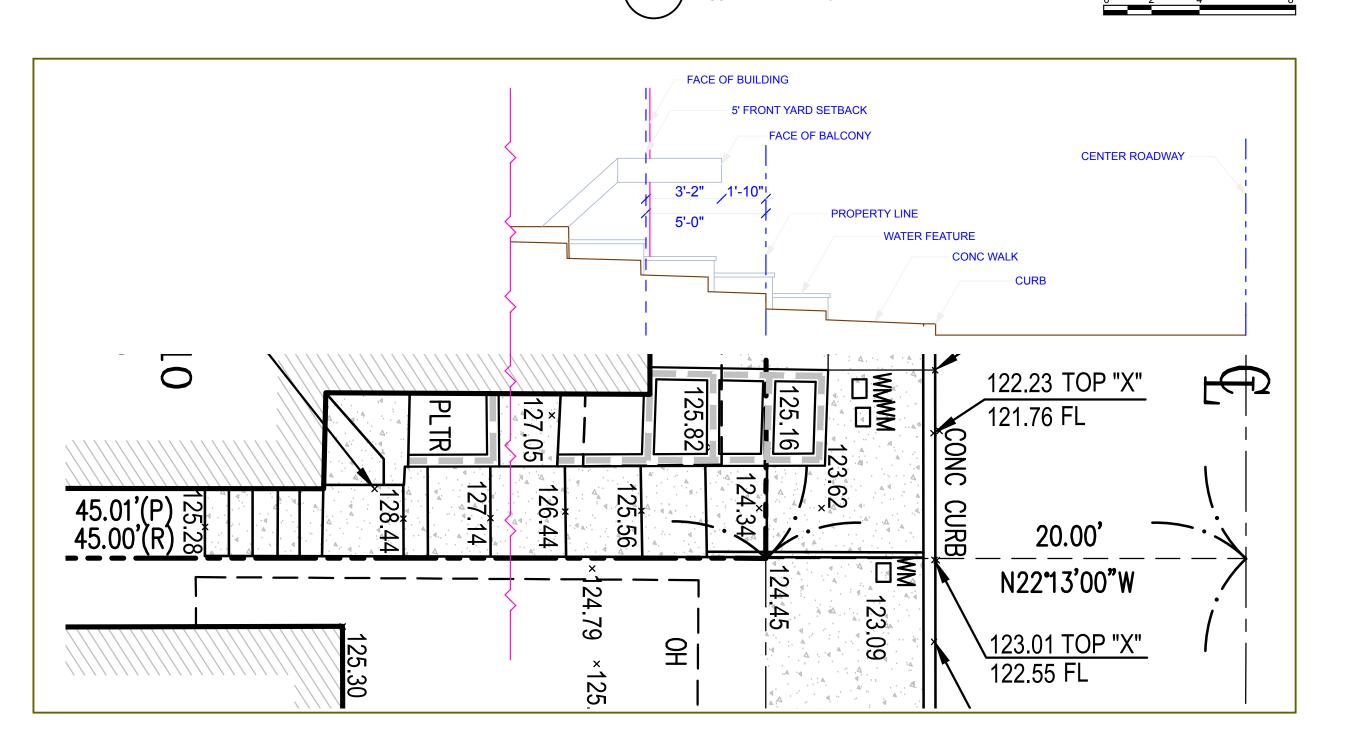
LAYOUT

ORIGINAL CONSTRUCTION PLANS









1 EAST ELEVATION

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



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FRONT YARD WATER FEATURE

130 41st Street Manhattan Beach, CA. 90266

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9/15/14

LAYOUT

ELEVATIONS / LONGITUDINAL SECTION

SHEET NO.

A3.00