



Community and Economic Development Department – Planning Division

Memorandum

MEMO: February 28, 2024
TO: Zoning Administrator
FROM: Alison Hodgkin, Associate Planner
RE: 1398 Sanctuary Street - Fence Height Exception, AP-24-0002 (FHE)

ORIGINATED BY: Mark Currington, (925) 768-8338, mcurrington@taylormorrison.com

SUBJECT: This is a public hearing on a request for Zoning Administrator approval of a permit for a Fence Height Exception to construct a six-foot-tall, tube steel fence with self-closing gate between the open space area and the public sidewalk adjacent to West Leland Road within the Vista Del Mar (Retreat) Subdivision located at 1398 Sanctuary Street in the PD-1470 (Planned Development, Ordinance No. 19-1470) Zoning District. Assessor's Parcel No. 093-560-067.

Pursuant to Ordinance No. 19-1470, development regulations follow those of the RM (Medium Density Residential) District. Pittsburg Municipal Code (PMC) Section 18.84.205 (B)(1) states that the allowable fence height within this Zoning Designation is four-and-one-half-feet. The Fence Height Exception request has been filed to provide residents of the 13 lots facing West Leland Road with additional buffer and added security.

RECOMMENDATION: Staff recommends the Zoning Administrator adopt a Resolution (Attachment 1) approving Fence Height Exception Application No. 24-0002, subject to conditions.

BACKGROUND:

This application was filed on January 3, 2024. The Notice of Intent to Conduct a Zoning Administrator Public Hearing for this item was provided to the Planning Commission on January 23, 2024.

PROJECT DESCRIPTION:

Existing Conditions: The project site is one of many parcels that comprise the 346-unit, single-family residential subdivision known as the “Alves Ranch Development” approved by the Planning Commission on May 28, 2018 (Resolution No. 10121) The subject parcel (Lot C) is comprised of a landscaped, open space area and decomposed granite trail adjacent to the public sidewalk along the north side of West Leland Road. To the north of the parcel are 13 individual lots with occupied, single-family residences. The front yards of these 13 residences do not include fencing.

Proposed Project: The subject parcel (Lot C) is owned by the Vista Del Mar Phase II Home Owner's Association (HOA). The approximately 0.45 acre parcel measures approximately 35-feet wide by 500-feet long. The north half of the parcel, closest to the front yards of the 13 residences, is planted with drought-tolerant landscaping. The south half of the parcel, closest to the public

sidewalk along West Leland Road, contains a separated Class I trail that connects to the existing sidewalks. In addition to acting as a visual buffer between traffic on West Leland Road and the front yards of 13, occupied, single-family residences, the trail is intended to allow for pedestrian connections between neighborhoods within the subdivision.

Following occupancy of the single-family residences within this subdivision, residents expressed concern to the HOA that their security and privacy were being compromised by the proximity of the trail to the front yards of the residences. The Fence Height Exception request has been filed to allow for an increase in height for installation of a 6-foot fence to provide residents of the 13 lots facing West Leland Road with additional buffer and added security.

CODE COMPLIANCE:

The project site is located in the PD-1470 (Planned Development, Ordinance No. 19-1470) Zoning District. Pursuant to Ordinance No. 19-1470, development regulations for this parcel follow those of the RM (Medium Density Residential) District. Pittsburg Municipal Code (PMC) Section 18.84.205 (B)(1) states that the allowable fence height within this Zoning Designation is four-and-one-half-feet.

Required Findings: In order to approve a fence height exception, the Zoning Administrator must make findings pursuant to PMC section 18.84.205 (F)(2) that the proposed fence:

- A. will not infringe upon the light, air circulation, or visual openness of surrounding properties;
- B. will not detract, impair, or destroy the characteristics of the established area; and,
- C. will not be detrimental to the health, safety or welfare of persons residing or working in or adjacent to the area or neighborhood of such structure.

Environmental: This item is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 3, "New Construction or Conversion of Small Structures" of the State CEQA Guidelines, section 15303.

Public Noticing: On or prior to February 9, 2024, notice of the February 21, 2024, public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the city's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on Next Door.

The hearing for this item was postponed by the Zoning Administrator and rescheduled to a date specific of February 28, 2024.

STAFF ANALYSIS:

The proposed increase in fence height from four-and-one-half-feet to six feet would not infringe upon the light, air circulation, or visual openness of the subject property or surrounding properties, given the single-family homes throughout the subdivision average 20-feet in height and the proposed fence would be constructed using tube steel fencing allowing for openness through the project area. Adequate light, air and openness would continue to exist between adjacent properties.

The proposed increase in fence height from four-and-one-half-feet to six feet would not detract, impair or destroy the characteristics of the area, given the fencing materials would be high-quality with a modern design. Additionally, the purpose of the fence would be to provide residences with additional privacy, thereby improving the characteristics of the area.

The proposed increase in fence height from four-and-one-half-feet to six feet would not be detrimental to the health, safety, or welfare of persons residing or working in or adjacent to the area or neighborhood, rather, the increased fence height will deter crime in the area and increase both privacy and safety which is a benefit to the general public welfare.

Therefore, staff supports the applicant's request for a fence height exception, subject to the conditions.

REQUIRED ACTION:

Move to adopt a Resolution, approving Fence Height Exception Application No. AP-24-0002, subject to conditions.

ATTACHMENTS:

1. Proposed Resolution
2. Project Plans, dated January 3, 2024
3. Public Hearing Notice/Vicinity Map
4. Comments

BEFORE THE ZONING ADMINISTRATOR OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving a Fence Height)	
Exception for a Six-Foot-Tall Security)	Resolution No. 418
Fence Between Open Space Area and)	
Class I Trail located at 1398 Sanctuary)	
Street, AP-23-0072 (FHE). Assessor's)	
Parcel Number: 093-560-067.)	

The Zoning Administrator DOES RESOLVE as follows:

Section 1. Background

- A. On January 3, 2024, Mark Currington, of Taylor Morrison, filed Fence Height Exception Application No. 24-0002, requesting Zoning Administrator approval to install a six-foot-tall, tube steel fence with self-closing gate between the open space area and the public sidewalk adjacent to West Leland Road within the Vista Del Mar (Retreat) Subdivision due to privacy and security concerns from residents.
- B. On January 23, 2024, the Zoning Administrator submitted to the Planning Commission a Notice of Intent to exercise delegated authority for the subject application pursuant to Pittsburg Municipal Code (PMC) section 18.32.010(B)(3).
- C. The fence height exception request is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 3, "New Construction or Conversion of Small Structures" of the State CEQA Guidelines, section 15303.
- D. On or prior to February 9, 2024, notice of the February 21, 2024, public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the city's website; was delivered for posting at the Pittsburg Library; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091.
- E. PMC section 18.84.205(F), *Exceptions to Fence Height Regulations*, allows for the maximum allowable fence height to be increased through the issuance of a fence height exception approved by the Zoning Administrator. In order to approve a fence height exception, the Zoning Administrator must make findings (PMC section 18.84.205.F.2) that the proposed fence structures:
 - 1. will not infringe upon the light, air circulation, or visual openness of surrounding properties;

2. will not detract, impair or destroy the characteristics of the established area; and,
 3. will not be detrimental to the health, safety or welfare of persons residing or working in or adjacent to the area or neighborhood of such structure.
- F. On February 21, 2024, the Zoning Administrator postponed the public hearing on Fence Height Exception Application No. 24-0002 to a date specific of February 28, 2024.
- G. On February 28, 2024, the Zoning Administrator held a public hearing on Fence Height Exception Application No. 24-0002, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on all the information contained in the Planning Division files on this project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburgh, and based on all oral and written testimony presented at the public hearing, the Zoning Administrator finds that:
1. All recitals above are true and correct and are incorporated herein by reference.
 2. The proposed fence would not infringe upon the light, air circulation, or visual openness of the subject property or surrounding properties, in that the fence would be located along the south perimeter of the property between an open space area and Class I trail and the fence would be constructed using tube steel fencing allowing for openness through the project area.
 3. The proposed fence does not detract, impair or destroy the characteristics of the established area, in that the fencing materials would be high-quality with a modern design and the purpose of the fence would be to provide residences with additional privacy, thereby improving the characteristics of the area.
 4. The proposed fence would not be detrimental to the health, safety, or welfare of persons residing or working in or adjacent to the area or neighborhood, rather, the increased fence height will actually deter crime in the area and increase both privacy and safety which is a benefit to the general public welfare.

Section 3. Decision

- A. Based on the findings set forth above, the Zoning Administrator hereby approves Fence Height Exception Application No. 24-0002, subject to the following conditions.

1. Site Plan. The existing fence shall remain substantially as presented in the approved site plan and photos dated January 3, 2024, except as may be modified by the conditions below.
2. Fence Maintenance. The fence shall be maintained erect and in a state of good repair. A dilapidated, dangerous, or unsightly fence or wall shall be repaired, replaced, or removed, as the situation may warrant.
3. Encroachment Permit. The applicant shall provide the City of Pittsburg Engineering Division with a sight distance analysis within 30 days of this approval.
4. Property Maintenance. The entire site including paved, unpaved, and landscaped areas must be kept in a neat and orderly manner, free of weeds loose trash, debris, and other litter.

Standard Conditions:

5. Construction. All site development shall comply with Title 15 (Building and Construction) of the Pittsburg Municipal Code.
6. Other Agency Requirements. The applicant shall comply with all requirements of the Pittsburg Building and Engineering Divisions, the Contra Costa County Fire Protection District, and all other applicable local, state and federal agencies. It is the responsibility of the business owner to contact each local, state, or federal agency for requirements that may pertain to this project.
7. Standard Conditions. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project as applicable. Where there is a conflict between this resolution and the Standard Conditions of Development, this Zoning Administrator resolution shall govern.
8. Indemnification. Applicant agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be

limited to, all court costs and attorney's fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.

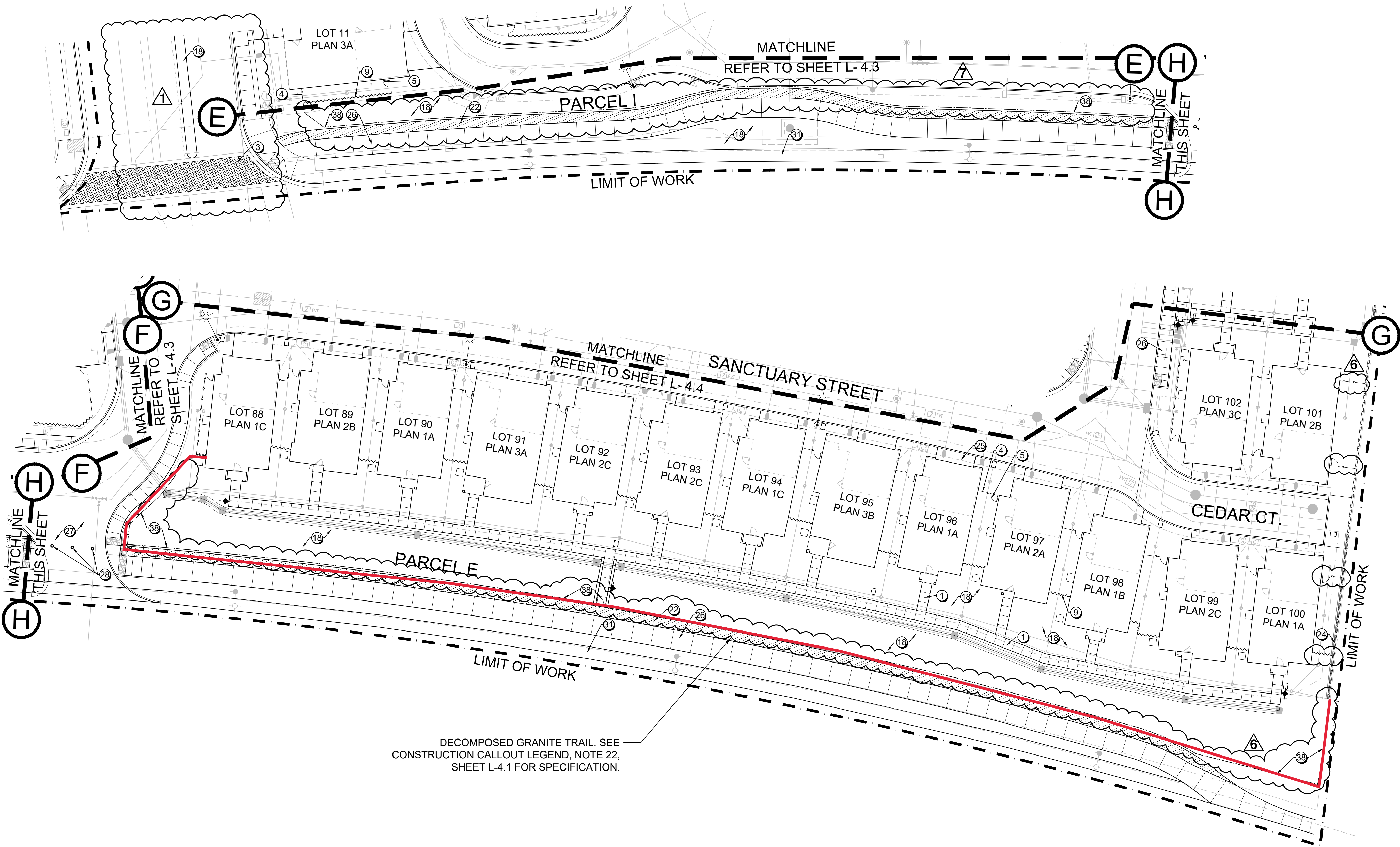
9. Expiration. This approval will expire on February 21, 2025, unless a written request for extension is filed with the Planning Division prior to the expiration date and subsequently approved by the Zoning Administrator. The approval shall be valid for no more than six months from the date of permit issuance, unless work is commenced and diligently pursued prior to the expiration of the permit.

Section 4. Effective Date

This resolution shall take effect immediately upon adoption of this resolution.

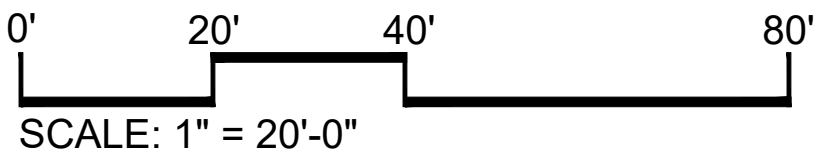
The foregoing resolution was passed and adopted the 28th day of February, 2024, by the Zoning Administrator of the City of Pittsburg, California.

JOHN FUNDERBURG
ZONING ADMINISTRATOR



NOTES:

1. SOUND WALL HEIGHTS TO BE DETERMINED BY APPROVED SOUND WALL STUDY.



- REFER TO SHEET L-4.1 FOR CONSTRUCTION CALLOUT LEGEND.
- REFER TO SHEET L-1.1 FOR GENERAL CONSTRUCTION NOTES.
- REFER TO SHEETS L-9.1 THRU L-9.3 FOR CONSTRUCTION DETAILS.

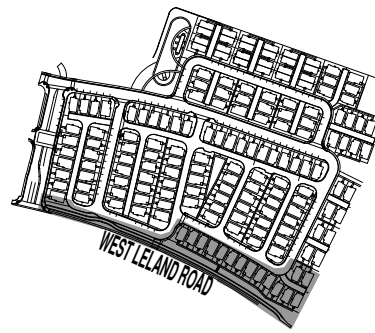
ALVES
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PHASE 1

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KEY MAP N.T.S. ⊕

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REVISION:	DATE:
△ MEDIAN REVISION	11/3/20
△ SIDE YARD FENCE/	3/13/23
△ GATE ADDITION, TUBE	
△ STEEL FENCE AT WEST	
△ LEILAND RD., PARCEL D	
△ UPDATES	
△ FENCE & PARCEL D REV.	5/25/23

DATE: JUNE 18, 2020

SCALE: 1" = 20'-0"

DRAWN BY: MG
CHECKED: RB

SHEET TITLE:

CONSTRUCTION
CALLOUT PLAN

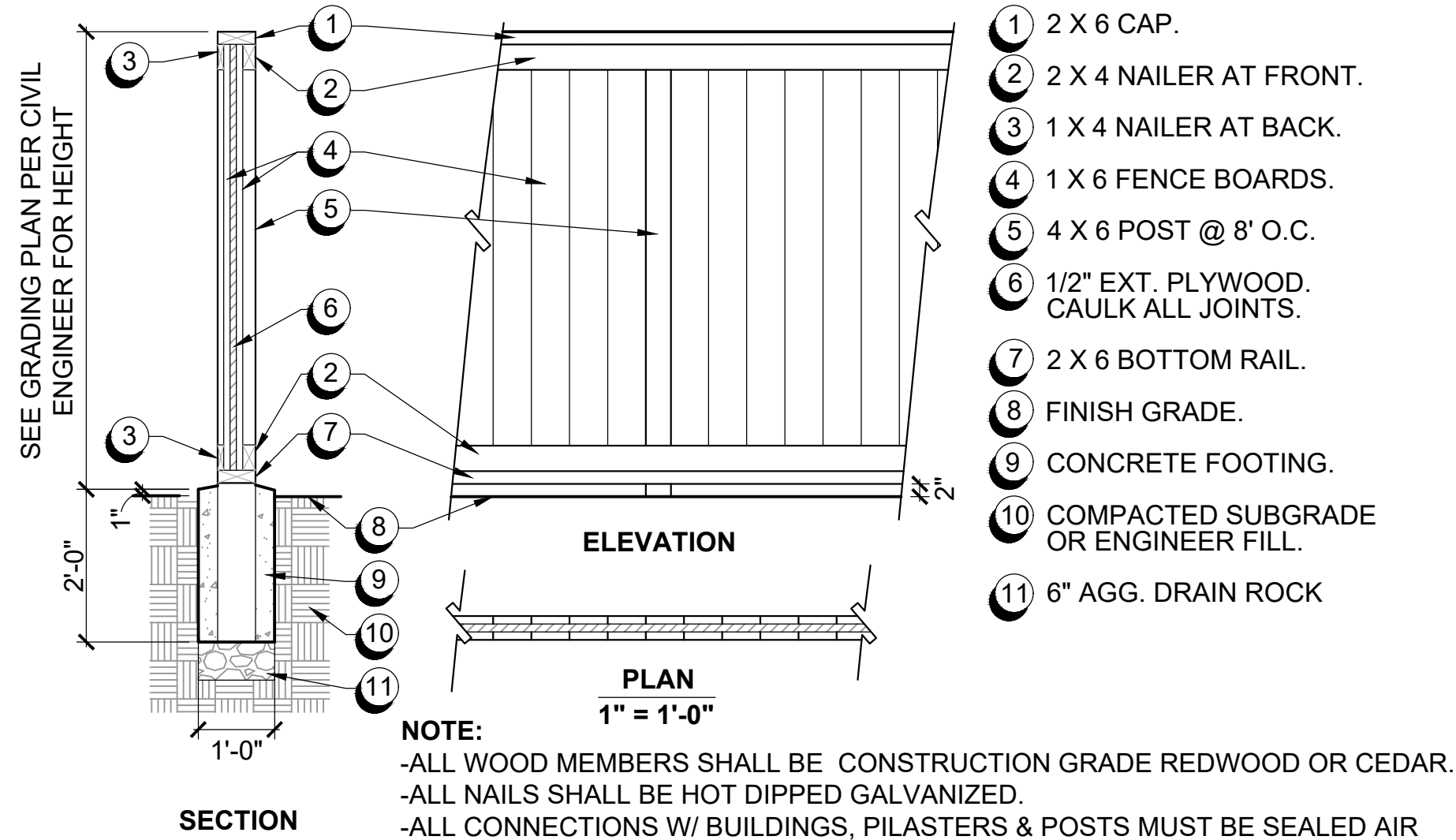
SHEET NO.

L-4.5

PROJECT NO. 06518

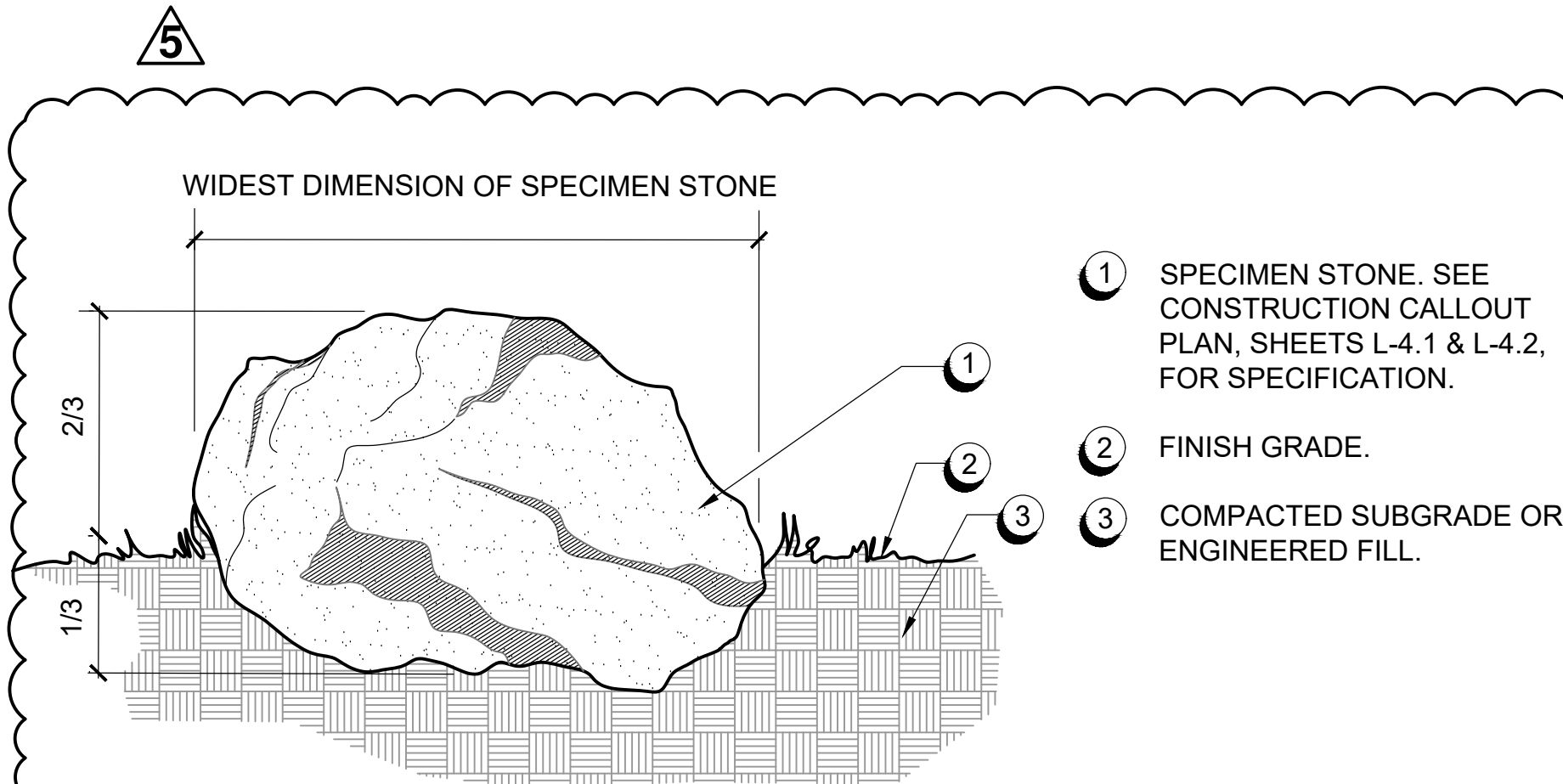
NOTE:

- FENCE DESIGN IN DETAIL A FOR REFERENCE ONLY. FENCE DESIGN TO BE APPROVED THROUGH BUILDING PERMIT REVIEW ONLY.



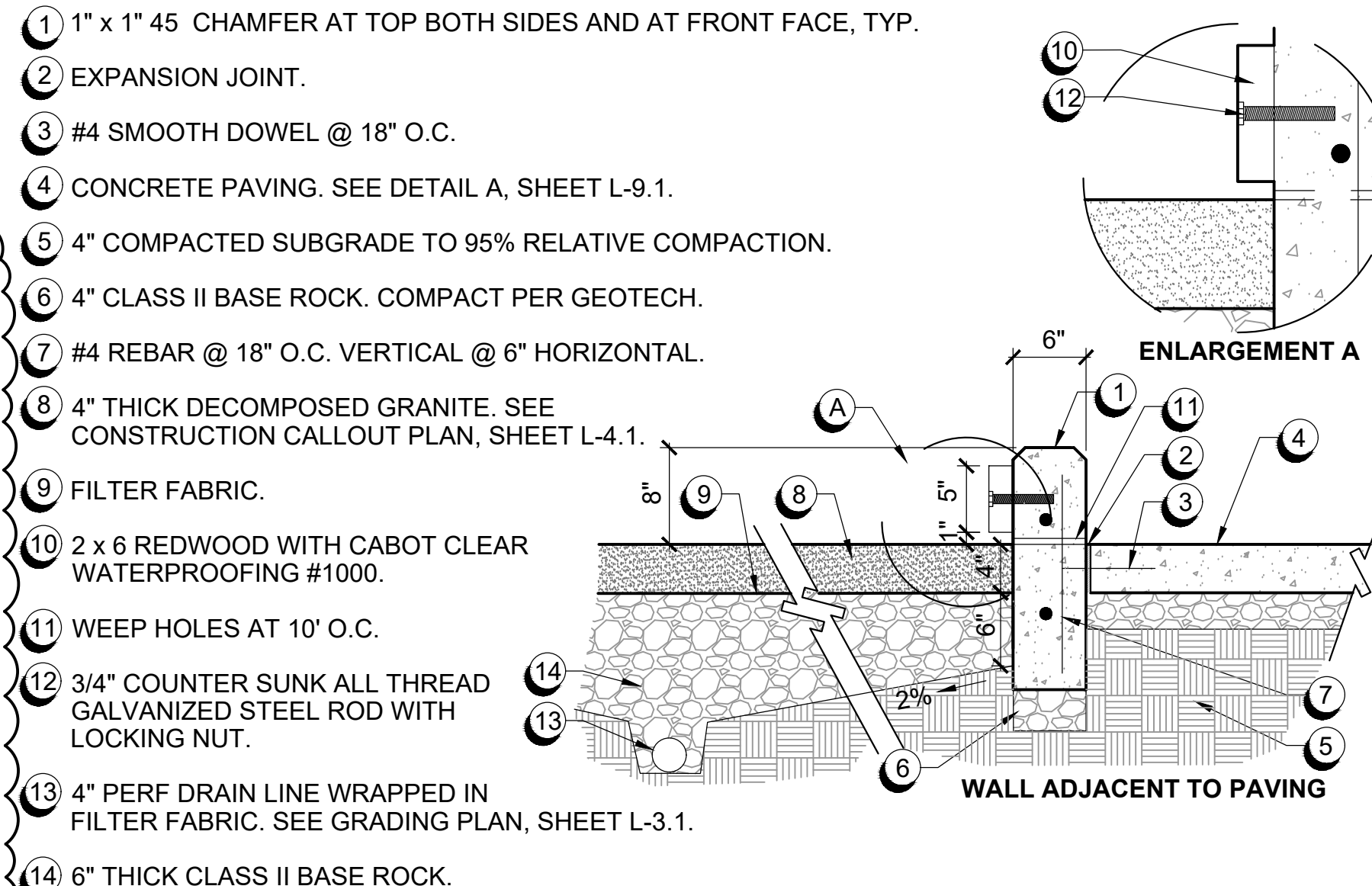
A WOOD SOUND FENCE

SCALE: 1/2" = 1'-0"



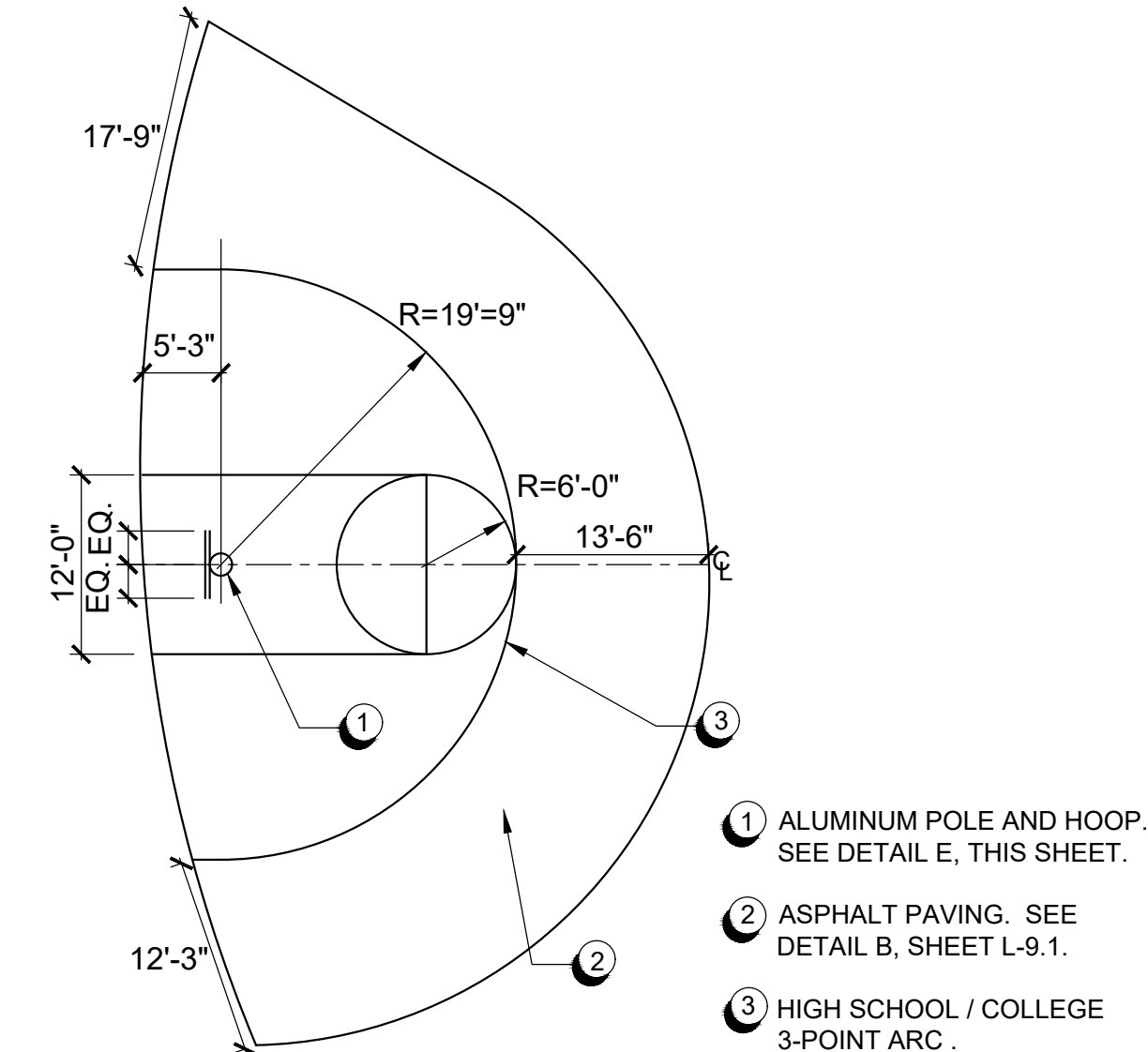
B BOULDER INSTALLATION

SCALE: 1/2" = 1'-0"



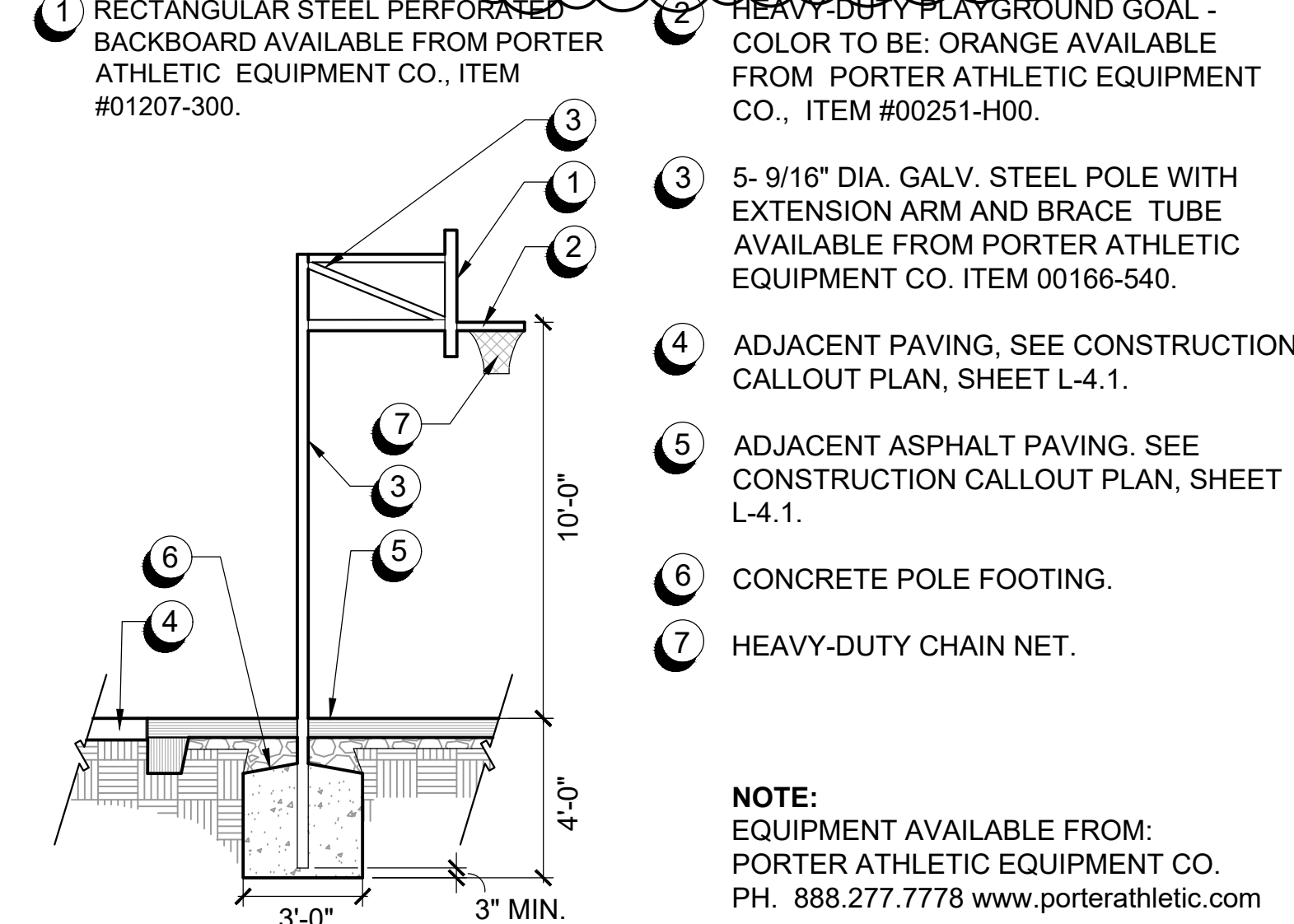
C CONCRETE CURB AT BOCCIE COURT

SCALE: 1" = 1'-0"



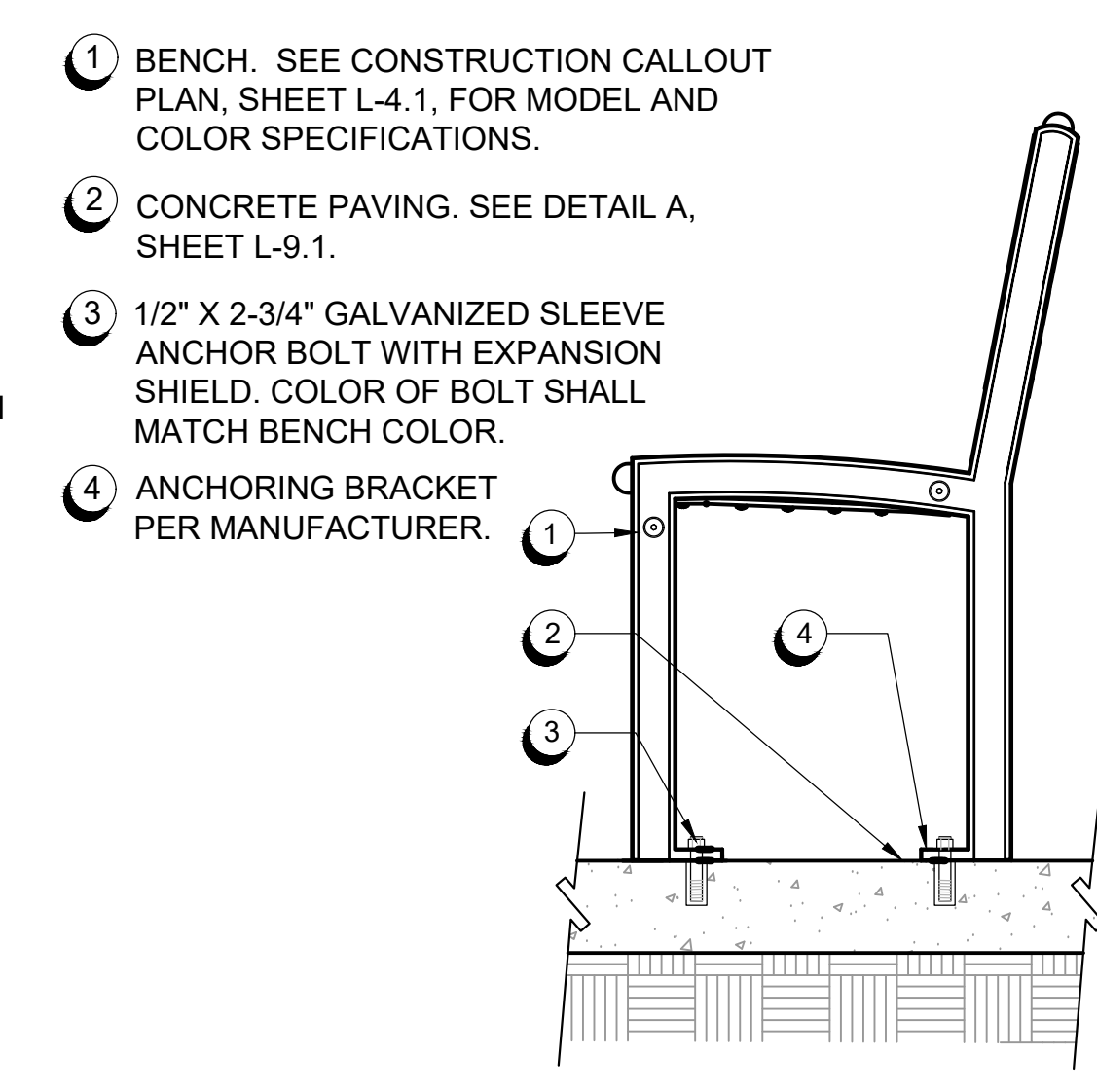
D BASKETBALL HALF-COURT MARKINGS

SCALE: 1" = 1'-0"



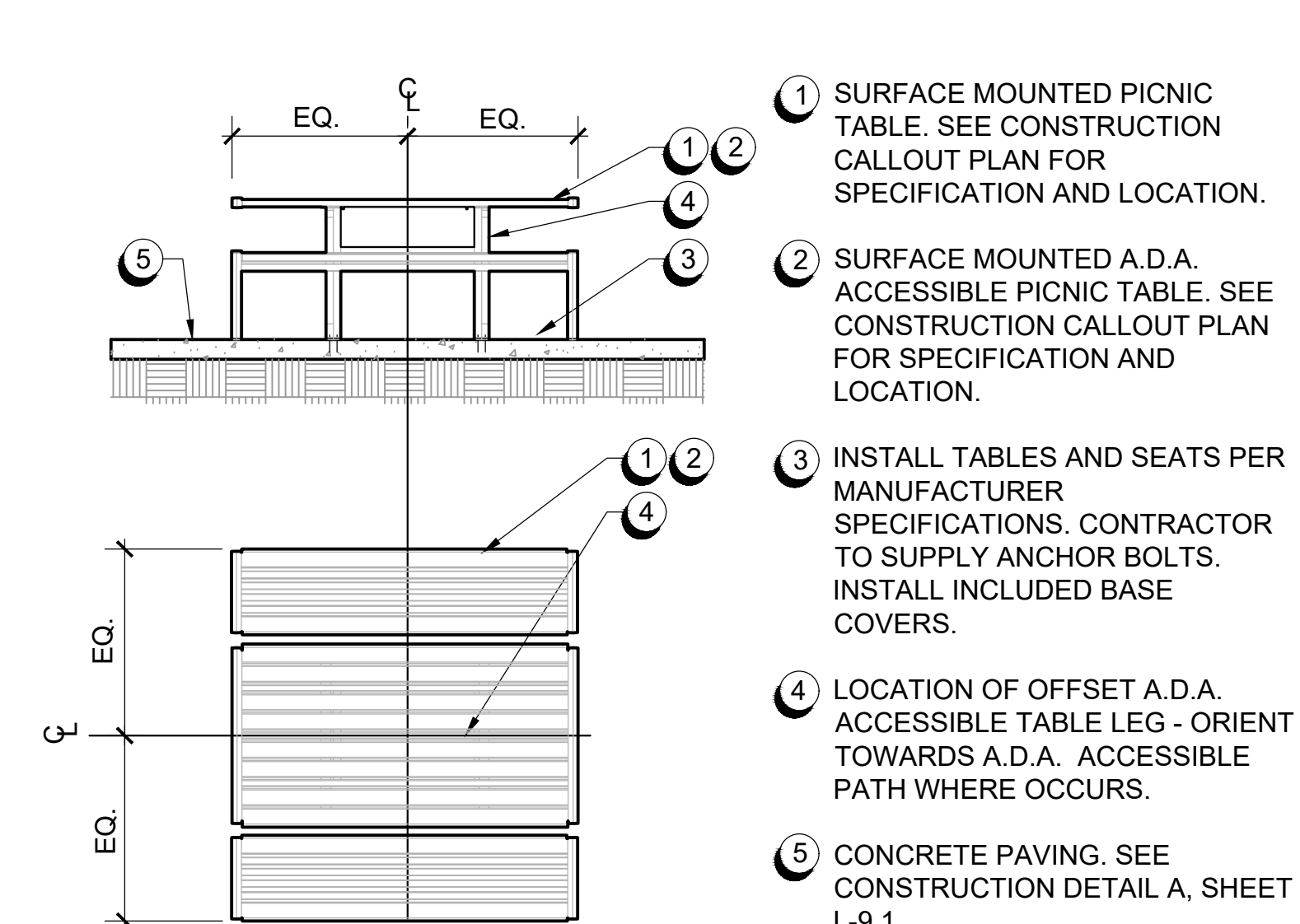
E BASKETBALL HOOP AND POLE

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



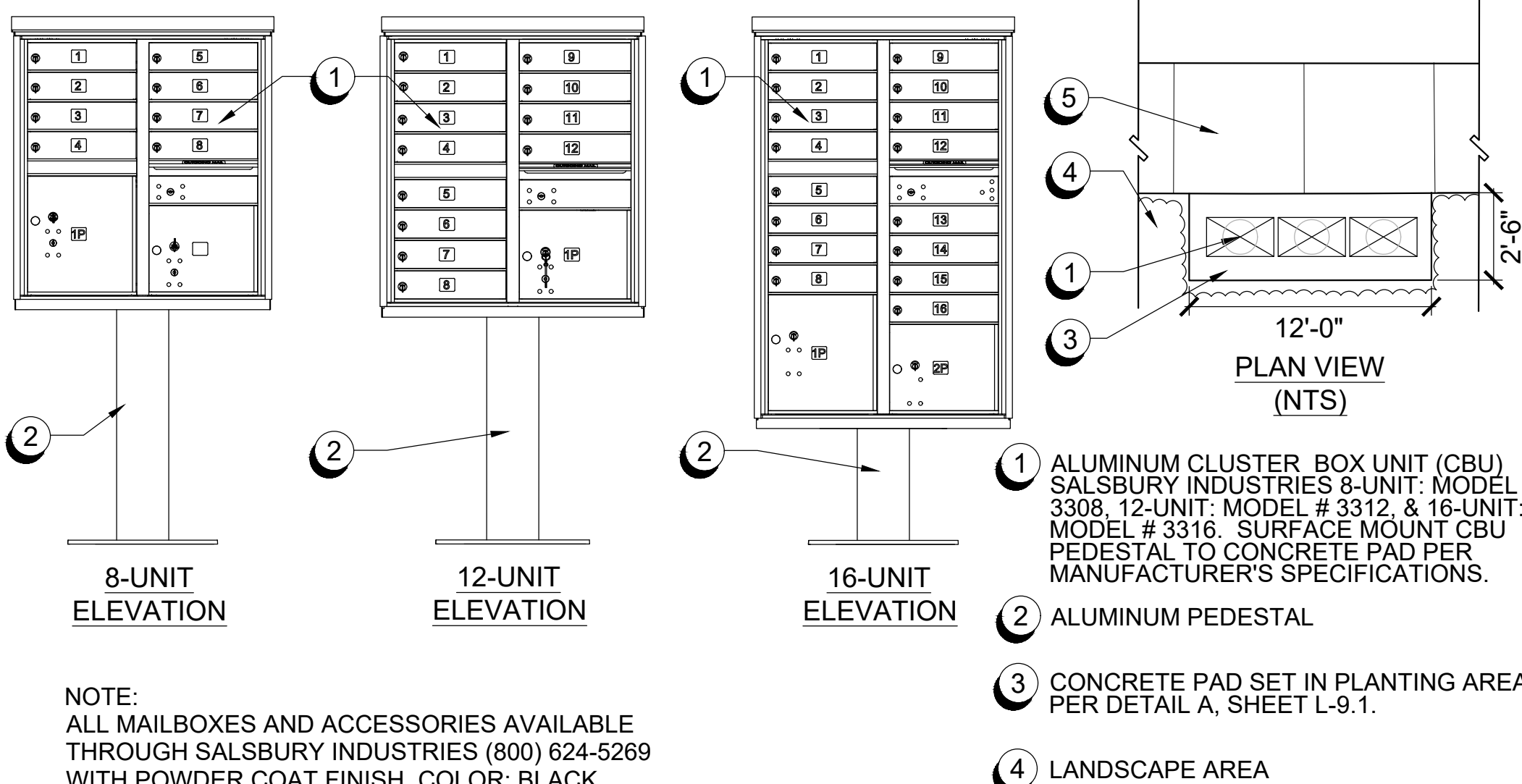
F BENCH INSTALLATION

SCALE: 1-1/2" = 1'-0"



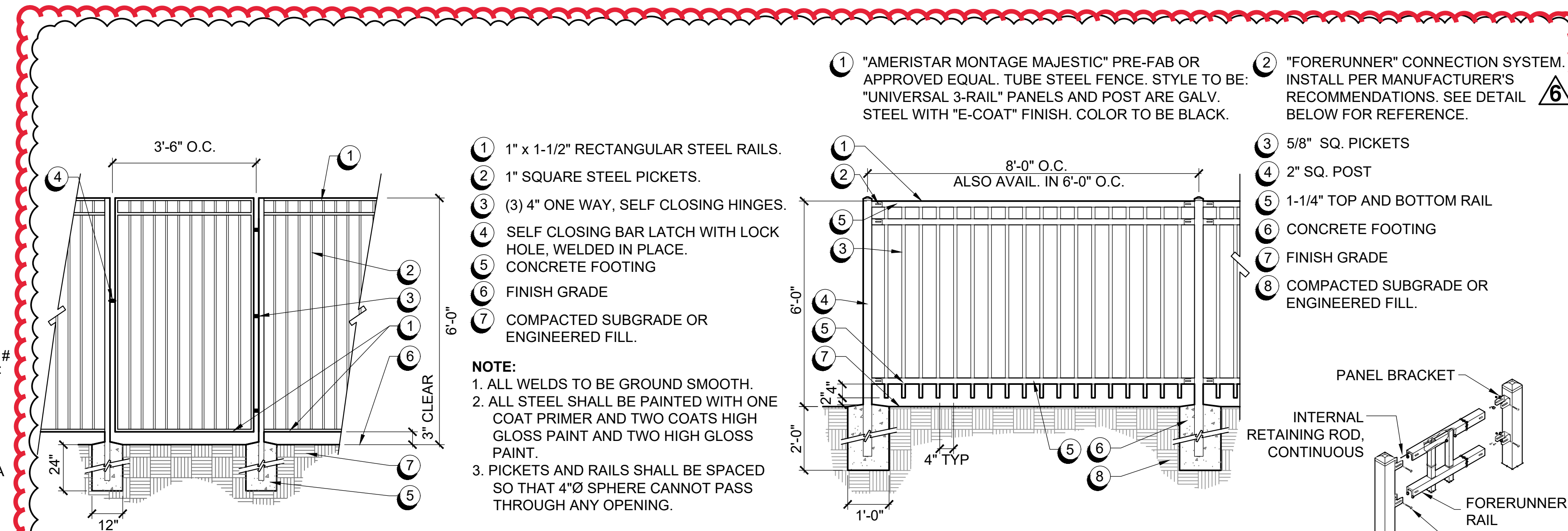
G PICNIC TABLE

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



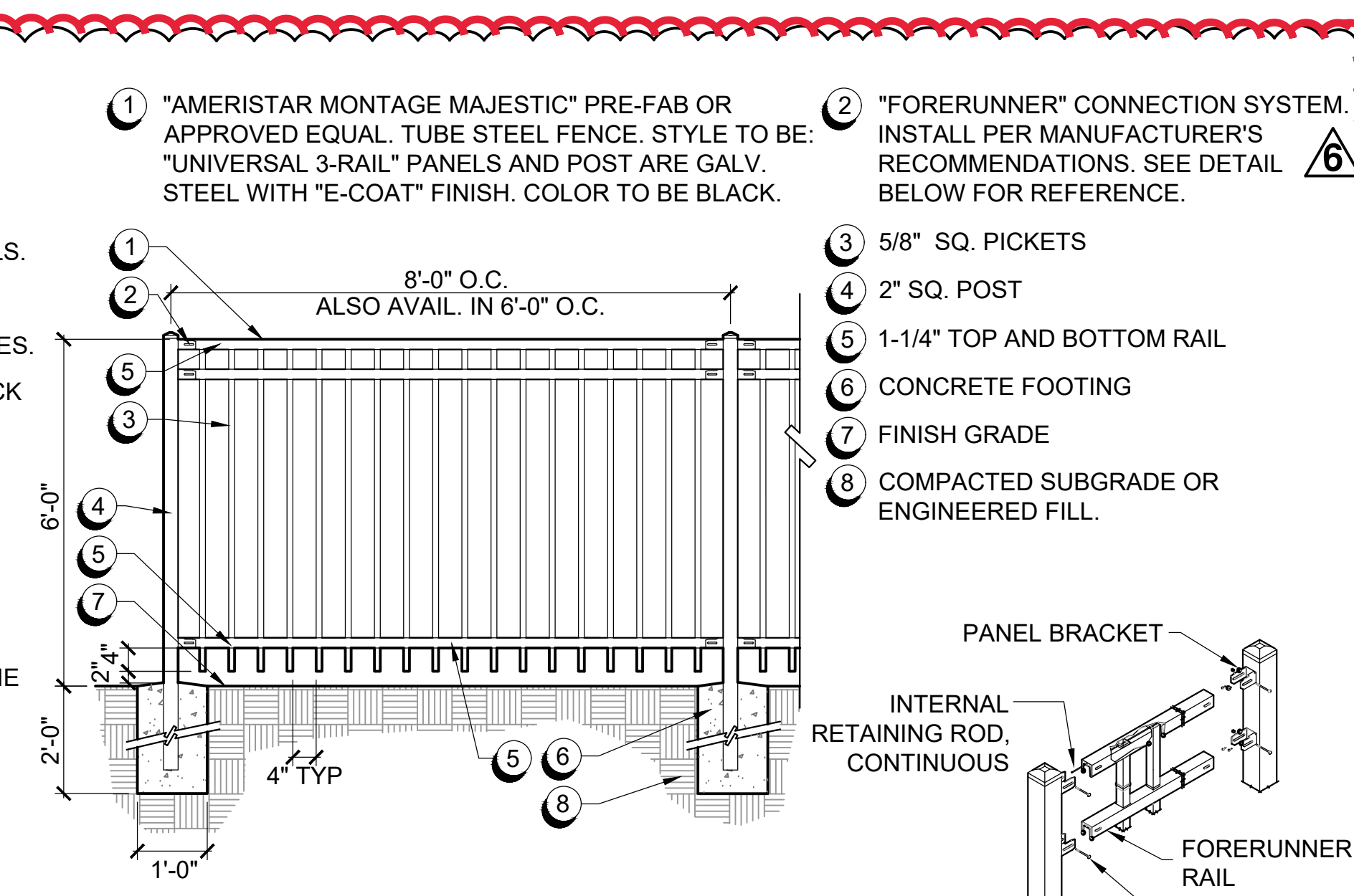
H CBU MAILBOX

SCALE: 3/4" = 1'-0"



I SELF CLOSING GATE

SCALE: 1/2" = 1'-0"



J TUBE STEEL FENCE

SCALE: 1/2" = 1'-0"

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REVISION: DATE:

5 GARDEN BOULDER ADDITION	1/12/23
6 SIDE YARD FENCE/ GATE ADDITION, TUBE STEEL FENCE AT WEST LEILAND RD., PARCEL D	3/13/23
7 UPDATES	

DATE: JUNE 18, 2020

SCALE: AS SHOWN

DRAWN BY: MG CHECKED: RB

SHEET TITLE:

CONSTRUCTION
DETAILS

SHEET NO.

L-9.2

PROJECT NO. 06518

From: [Mia Andrews](#)
To: [Alison Hodgkin](#)
Subject: City Planning - Vista Retreat Del Mar II
Date: Wednesday, February 21, 2024 5:11:04 PM

****External Sender: Use caution before opening links or attachments****

Hi Alison,

I'm Mia Andrews - I'm a resident at Vista Retreat Del Mar and one of my neighbors mentioned you are managing the building of a safety structure on Leland that is currently slated to be a barred fence.

There is a desire to create more safety in our neighborhood, and apparently our options have been limited based on the building permits initially obtained by Taylor Morrison when requesting a permit.

When the vote for the gate arrived, it didn't go to all of the residents. Additionally, it was described as being something that sectioned off an inner part of our neighborhood. Lastly, it was not drawn to proper scale and there was no real view of what it would look like once installed. The only thing that was clear was that it would be a barred fence which me and most all of my neighbors I've talked to about this are opposed to.

We have asked several times internally for a wall to be built similar to every single other neighborhood on this side of Leland road. Additionally, a gate/fence will not provide safety to our residents in that it won't be as effective in keeping dangerous non-residents out who are entering via car and on foot.

I understand we are not necessarily required to put a gate up, and I am hoping you can help us with installing something that provides both safety and consistently beautiful aesthetic which would also keep our home values up. The general consensus is that a gate would cheapen the look of our community and we absolutely do not want that.

Please let me know - is it possible for us to work together to ensure a gate/fence is not installed and we can find another option that provides both safety and privacy in our neighborhood?

Mia (Maia) Andrews | 650.504.6841 c

DISC: Id - Influencer | **Myers-Briggs:** ENTP | **Enneagram Tri-Type:** 8-3-6



From: [Michelle M. Heller](#)
To: [Alison Hodgkin](#)
Subject: Vista Del Mar Subdivision - Fence Height Exception
Date: Wednesday, February 21, 2024 9:04:28 PM
Attachments: [fence exhibit.pdf](#)
[IMG_1208.jpg](#)

****External Sender: Use caution before opening links or attachments****

Hi Alison,

We spoke on the phone earlier today. I am the HOA President of the Vista Del Mar Subdivision that has a hearing planned for a fence height exception.

I am at 476 Hearth Way. I am directly across from the emergency vehicle access and my front door faces West Leland. We have had people come to our house, on foot, off of West Leland. One used our outside faucet to bathe himself. The other stole shoes and a pillow from our porch.

I lobbied for Taylor Morrison to install a wall because of the issues we have had with us being "open" to foot and vehicular traffic from West Leland. I saw 2 men run through the emergency vehicle access to a waiting car parked across West Leland - they had just stolen a catalytic converter from within our community. We also installed the Flock System a month ago and I have videos of vehicles climbing onto the sidewalk to go around the bollards blocking the emergency vehicle access, to avoid being captured on the Flock cameras. There has been an accident that ended with the car on the community landscaping. If the vehicle was traveling at a higher speed, it would have landed in someone's home. There are also issues with unhoused people banging on doors of the homes that directly face West Leland.

As a way to provide a buffer and some security, Taylor Morrison proposed to install the fence along West Leland (at their cost). They said that a solid wall, even half a wall, would not be approved by the City because we are supposed to be an "open" community. Is that correct? We surveyed the community back in late August/September and there was 80% support for the fence (believing that as our only option).

1. Attached is the plan showing where the fence would be. Is this not what was applied for? Basically the fence would continue on the other side of the emergency vehicle access down to the home at the corner of West Leland and Alves Ranch Road.
2. Is there any way there would be approval to have the fence run along West Leland and a gate installed at the emergency vehicle access with a universal code for emergency vehicles to open the gate?
 1. Selfishly, fencing off West Leland but having a break in the fence at the emergency vehicle access feels like it would funnel all foot traffic directly to my house/front door.
 2. Aesthetically, it would look so much better as one fence running along, as opposed to one or two sections.

I had inquired with Taylor Morrison about the attached half brick/half metal fence option but was told a solid half wall would not be approved.

I am aware that since Taylor Morrison is paying for the fence, they have likely chosen the

cheapest option. But if indeed any kind of solid wall (6 ft. or 3 ft.) would not be approved, it would help minimize all of the contentious conversations amongst residents. The very vocal opposition from the minority (the 20% who didn't support the fence) may just force Taylor Morrison to drop the project - they don't need to spend the money to help us. But if the City of Pittsburg would only permit a fence of some sort and not any kind of wall, then there would be more support as the "only" option.

Unfortunately, my work schedule will not allow me to attend next week's rescheduled hearing.

Thank you,
Michelle

Michelle Mendoza Heller
Cell: 415-465-4427
mheller830@gmail.com

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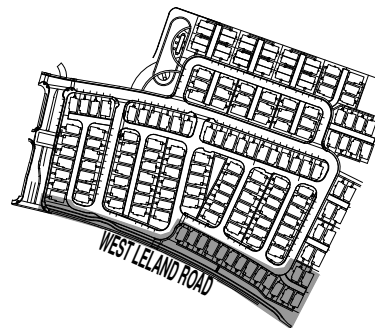
PITTSBURG, CA



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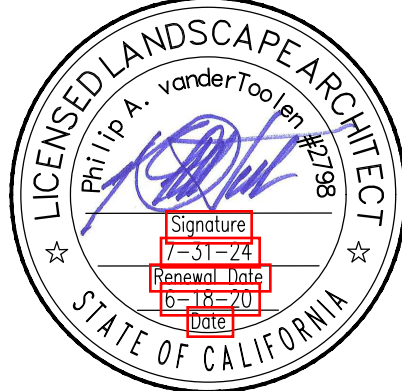
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KEY MAP N.T.S.

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△ FENCE & PARCEL D REV.	5/25/23

DATE: JUNE 18, 2020

SCALE: 1" = 20'-0"

DRAWN BY: MG
CHECKED: RB

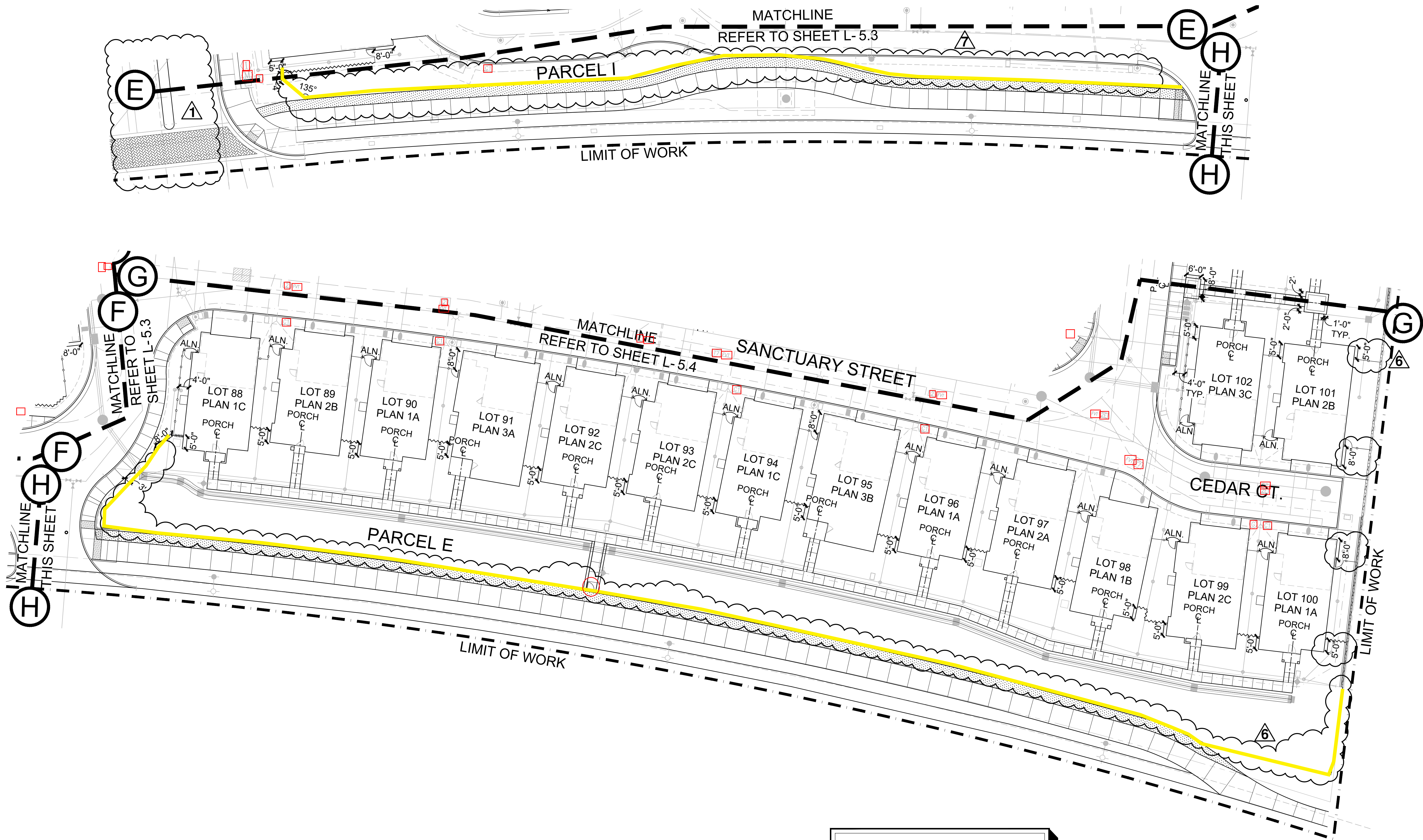
SHEET TITLE:

LAYOUT PLAN

SHEET NO.

L-5.5

PROJECT NO. 06518



LAYOUT LEGEND

ALN.	ALIGN
CL	CENTERLINE
R	RADIUS
E.C.R.	END OF CURVE RADIUS
EQ.	EQUALLY SPACED
F.O.C.	FACE OF CURB
TYP.	TYPICAL
P.O.B.	POINT OF BEGINNING
P.L.	PROPERTY LINE
CLR.	CLEAR

0' 20' 40' 80'
SCALE: 1" = 20'-0"

- REFER TO SHEET L-1.1 FOR GENERAL CONSTRUCTION NOTES.
- REFER TO SHEETS L-9.1 THRU L-9.3 FOR CONSTRUCTION DETAILS.

