Item No. 13
Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

TO: **HONORABLE MAYOR AND CITY COUNCIL**
GEORGE RODERICKS, CITY MANAGER

THROUGH: **GEORGE RODERICKS, CITY MANAGER**

FROM: **MICHAEL GREENLEE, BUILDING OFFICIAL**

DATE: **JULY 21, 2021**

SUBJECT: **EXTENSION OF CONSTRUCTION TIME LIMIT FOR RESIDENTIAL PROJECT LOCATED AT 55 CAMINO POR LOS ARBOLES AND INTERPRETATION OF CONSTRUCTION TIME LIMIT ENFORCEMENT**

RECOMMENDATIONS

1. Adopt the Building Official's recommended action with respect to extending the Construction Time Limit for residential project located at 55 Camino Por Los Arboles and affirm the findings contained in the Building Official's recommendation.

2. Interpret AMC Chapter 15.40 to allow the Building Official to extend Construction Time Limit ("CTL") on a case-by-case basis where specified findings can be made to support the conclusion that compliance with the CTL is not possible due to reasons beyond the control of the property owner.

3. Recommend Staff prepare revisions to AMC Chapter 15.40 to clarify the circumstances where the CTL may be extended due to special circumstances such as delays outside of a property owner's control and to clarify the Building Official's authority to grant such extensions consistent with the Council's interpretation.

BACKGROUND

1. Residential Project at 55 Camino Por Los Arboles

The property owner of 55 Camino Por Los Arboles ("Owner") commissioned world-renowned architect, Frank Gehry, to design a 17,943 sq. ft. single-family residence. On December 5, 2017, the Owner obtained a Building Permit from the Town for construction of the residence. Based on the size of the residence and that date, the Construction Time Limit under Chapter 15.40 of the Atherton Municipal Code ("AMC") would have expired on December 5, 2020. Due to the 109-day extension to the CTL granted to all qualifying projects by the Town in the wake of the COVID-19 pandemic, the CTL for the property expired on April 23, 2021. The Owner is now seeking an

additional 12 month extension of the CTL on the basis that the delay in their project has been caused by reasons beyond their control.

The Owner has represented to the Town that construction of the residence was not completed by April 23, 2021 primarily due to the complex architecture of this Frank Gehry project. Mr. Gehry has designed dozens of world-famous buildings across the globe, including the Walt Disney Concert Hall in Los Angeles, the Dancing House in Prague, and the Guggenheim Museum in Bilbao. A hallmark of Mr. Gehry's designs are complex steel, masonry, and wood structures that are comprised of flowing, rounded, and irregular forms. Due to the architectural demands of the project, many components have to be produced by specialized manufacturers around the globe and the ongoing COVID-19 pandemic has stopped or delayed the production and transport of these specialized materials.

The property owner has deposited, under protest, $30,000 with the Town as required by Sections 15.40.200-A and 15.40.200-F of the AMC. The property owner has sought a twelve (12) month extension to the CTL for the single-family residence for the reasons detailed in a letter dated June 11, 2021, which is attached hereto as Attachment 1.

2. Construction Time Limit Ordinance – AMC Chapter 15.40

This item is before the City Council for a Council interpretation of the CTL Ordinance (Ch. 15.40 of the AMC) that provides guidance on the scope of the Building Official's authority to modify construction time limits on projects such as the one at 55 Camino Por Los Arboles. The goal of this interpretation would be to authorize modifications of the construction time limits under certain circumstances, such as with the property at [property address] where the AMC calls for a sizeable deposit, but does not afford a right of appeal until potentially many months in the future.

Under the AMC, construction of new buildings, additions, alterations, modifications, repairs, and improvements is subject to the time limits imposed by Section 15.40.080. The time for such improvements varies, based upon the square footage reflected on the building permit underlying the improvements, from 12 months to 36 months. (Section 15.40.080) Failure to complete improvements within the required amount of time is subject to the penalties described in Section 15.40.090, which are:

- $0/day for the first 30 days
- $200/day for 31st through 60th day
- $400/day for 61st through 120th day
- $1,000/day for every day thereafter

Where construction is not completed within the prescribed time period, property owners are required to pay a $30,000 deposit, which is a pre-payment on penalties. (Section 15.40.200-A) The Building Official shall issue a stop work order where a property owner fails to pay this deposit. (Section 15.40.200-B) Where construction has not been completed by the 120th day after the prescribed time period, property owners are required to pay an additional $200,000 deposit. (Section 15.40.200-D) Property owners have a right to protest the imposition of these penalties if they believe the delay was outside of their control, though to assert this defense, property owners are required to file a statement to that effect, alongside the payment of the penalty deposit. (Section 15.40.200-F) In other words, they must pay under protest, and later appeal the penalty after construction is completed. If construction is completed within 30 days of the payment of the penalty deposit and the Building Official concurs with the property owner's statement regarding the delay,

the penalty deposit will be returned to the property owner. If the building official denies the appeal, the property owner may further appeal their protest payment to the Planning Commission; however, that right does not accrue until construction has been completed. (Section 15.40.210-A)

Chapter 15.40 authorizes the Building Official to issue a stop work order "whenever work is being done contrary to the provisions of this chapter" (Section 15.40.230-D) and the authority to consider if delays in construction are outside the control of the property owner.

ANALYSIS

Instead of raising this issue as an appeal to the Planning Commission—which is not yet ripe under the requirements detailed in Section 15.40.210-A—Staff requests the City Council interpret the scope of authority the Building Official specifically the underlined language below, to mean that the building official may, upon receiving a written statement from the property owner, allow an extension that is reasonable in light of the basis for the delay. Section 15.40.200-F states:

> *F. If the owner believes that the failure to meet the applicable time limit was caused by circumstances beyond the owner's control, the owner may file a written statement to that effect with the building official at the time of making the deposit as described in subsections A and/or D of this section and provide any documentation substantiating such grounds of appeal and the effect on the construction. If the owner makes such filing, no part of the deposit shall be forfeited to the town and no demand shall be made against the bond if construction is completed within thirty days of the deposit. If construction is completed after the thirty days and the building official concurs with the owner's statement as to the cause of the failure to meet the deadline, the building official shall waive the penalty and return the cash deposit, certificate of deposit, or bond to the owner. If the building official does not concur with the owner's statement, it shall be treated as an appeal under Section 15.40.210 and all the provisions of that section shall apply.*

The specific questions for the City Council are as follows:

1. *Does the City Council interpret Section 15.40.200-F as providing the Building Official with the authority to determine that a property owner's statements and evidence of construction delay beyond their control may be the basis for the Building Official to grant an extension to the construction time limit deadline?*

2. *If YES, does the City Council interpret Section 15.40.200-F to allow the Building Official to determine whether the penalties should not be charged unless the property owner does not meet the extended deadline?*

3. *If YES, may the building official consider such question and allow an extension, prior to the completion and posting of a penalty deposit?*

The Gehry-designed project at 55 Camino Por Los Arboles is a unique project among construction projects within the Town. Though the square footage of the home is similar to other projects that are subject to the CTL ordinance, the complex design conceived by Frank Gehry sets the structure apart from other projects and makes it architecturally significant for the Town. While shipping delays caused by the COVID-19 pandemic have exacerbated the delays to this project, the Building

Official believes that the complex structure makes it highly unlikely that the project could reasonably be constructed within the time allocations set forth in the municipal code, even in the absence of the pandemic. For example, the steel construction alone took over a year, whereas it typically takes no more than a few months for a conventional project. The Building Official's Recommendation is attached hereto as Attachment 2.

For the foregoing reasons, Staff requests that the Council affirm the Building Official's authority to allow an extension of the CTL by twelve (12) months without the need for a prepayment penalty.

In seeking direction to prepare amendments to Chapter 15.40, Staff requests the Council provide guidance about factors that should and should not qualify as circumstances outside of the control of a property owner. For example, qualifying delays could include circumstances where events outside of a property owner's control lead to delays of a project that has architectural or historic valuable for the Town. Another qualifying delay could be a declared public emergency that makes construction impossible or impractical.

Conversely, factors not qualifying for an extension of the CTL should also be clarified. These could include routine delays in supplies, unavailability of construction labor, defective materials or faulty craftsmanship causing necessitating corrective work, or other reasonably foreseeable delays.

ALTERNATIVES

The Council could deny Staff's request and find that Ch. 15.40 cannot be interpreted to provide such authority to the Building Official.

The Council could approve Staff's recommended action, with modifications.

The Council could provide Staff with further direction, including changes to Ch. 15.40; however, such changes would need to be reconsidered by the Council at a duly noticed public hearing for consideration.

POLICY FOCUS

The purposed recommendation to Council and applicable authority granted to the Chief Building Official are found to be consistent with Atherton Municipal Code Section 15.40. Council is being asked to review and provide direction based on the recommendations made by staff as it relates to Atherton Municipal Code Section 15.40, which may include municipal code amendments to be heard at a future Council public hearing.

FISCAL IMPACT

Approximately $30,000 in funds deposited by the property owner would be returned if the Council approves the recommended action. No additional financial impacts are anticipated.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service provides (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ____ has or _X_ has not been before a Town Committee or Commission.

____ Audit/Finance Committee (meets every other month)
____ Bicycle/Pedestrian Committee (meets as needed)
____ Civic Center Advisory Committee (meets as needed)
____ Environmental Programs Committee (meets every other month)
____ Park and Recreation Committee (meets each month)
____ Planning Commission (meets each month)
____ Rail Committee (meets every other month)
____ Transportation Committee (meets every other month)

ATTACHMENTS

1. Letter Requesting Twelve (12) Month Extension of CTL Dated June 11, 2021
2. Building Official Recommendation Dated June 11, 2021
3. Resolution No. 21-XX

June 11, 2021

Mike Greenlee
Interwest Group
Contract Building Official
Town of Atherton
(650)752-0560 Main
(650)752-0518 Direct
mgreenlee@ci.atherton.ca.us

Re: Frank Gehry Atherton House Construction Schedule (55 Camino por los Arboles)

Dear Mr. Greenlee:

This letter serves as our request for a Town of Atherton Construction Time Limit (CTL) extension and provides details of the specifics of the Frank Gehry design "Massy House" project located at 55 Camino por los Arboles, which have prevented and continue to prevent the completion of the project within the CTL caused by circumstances beyond the owner's control as described in the Town of Atherton Municipal Code Section 15.40.200.

Given the enormous complexities of the design, the project has been unable to be completed within the CTL timeframe; however, it is progressing timely and estimated to be completed by June 30, 2022 and we hereby request a no-cost extension through such date based upon the numerous intricacies and particulars beyond our control as documented herein.

Based upon the magnitude of the scope, the request for a CTL extension should be viewed as equal treatment as it takes far longer to construct a highly involved and complicated 15,000+ square foot Frank Gehry-designed project with numerous structures than a traditional 5,000 square foot house with no curved lines and conventional construction methods.

Below is a summary of the many issues this extraordinarily unique project has faced, followed by additional details and many pictures to substantiate our inability to complete the project within the CTL timeframe despite concerted and extensive daily efforts to do so.

1) **Uniqueness of Architecture.**
   First and foremost, the architecture of this house is truly one-of-a-kind by the world-renowned master architect Frank Gehry, who is widely regarded as one of the greatest architects in history. Gehry's architecture is known for its exceedingly unique forms and shapes, all of which lead to a vastly more complex construction process. Indeed, Gehry's projects are primarily large-scale commercial projects such as elaborate museums. The "Massy House" project is in many ways a Frank Gehry museum in the form of a residential house in Atherton. Exhibit A provides additional details about the architecture.

2) Scale of Scope & Schedule Delays by Major Trades.

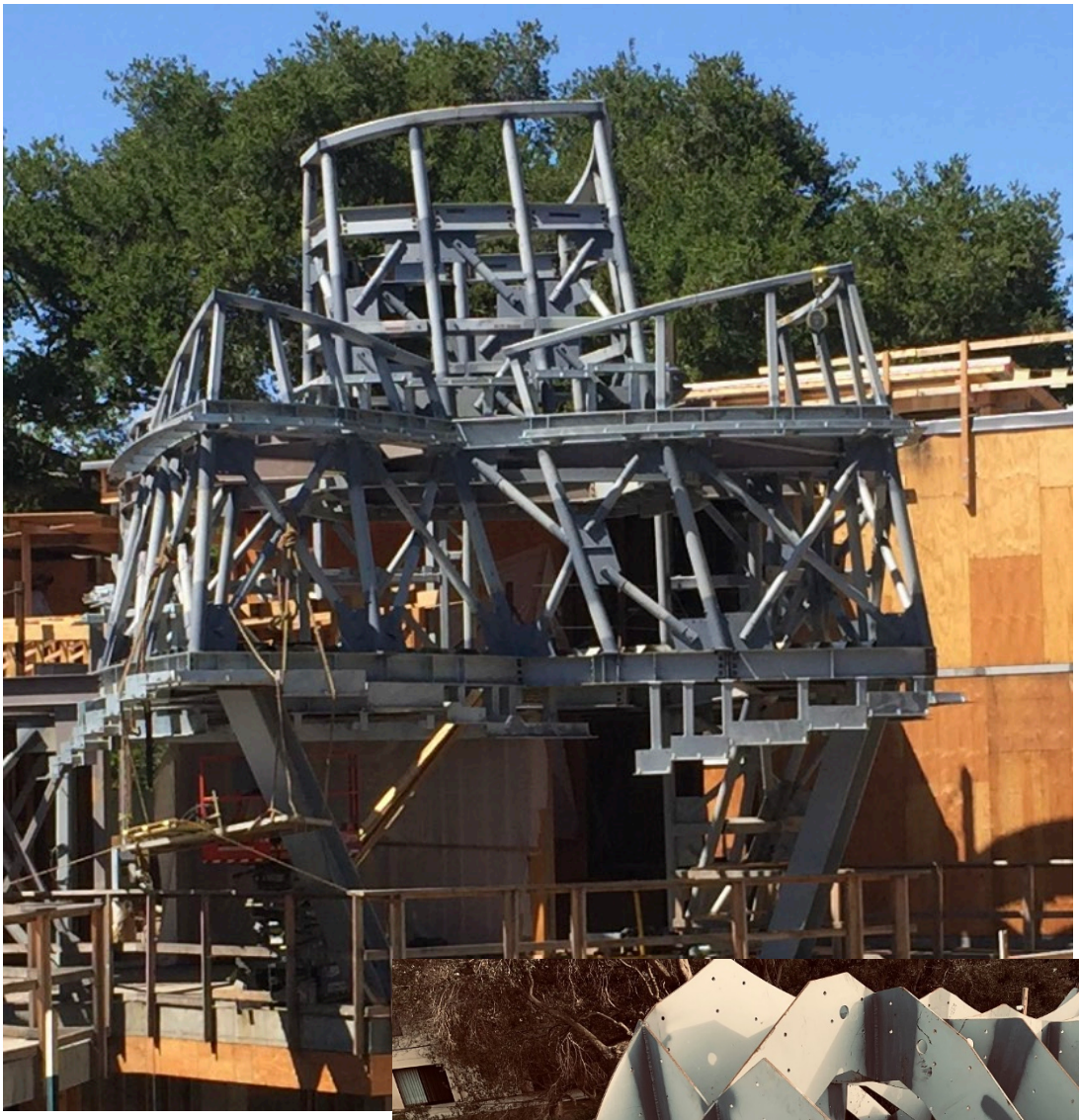
There have been numerous delays caused by the combination of the sheer volume of scope that it takes to execute the design and subcontractors' inability to meet their respective schedules due to the intricacies of the project. The following are summaries of some of the key trades, all of which have not only exceeded anticipated schedules but far surpassed what would be expected from a typical large-scale Atherton residential project.

- **Concrete.** To support the steel and masonry loads necessary given the unique design features such hanging brick walls, curved "lanterns", the "crinkle" roofs and more, the complexity of the rebar was far more complicated than anything all the premier local residential contractors have ever seen in over 30 years in business. The primary concrete phase took 13 months, whereas a 6-month schedule was anticipated and would be a comfortable schedule for other large custom homes.

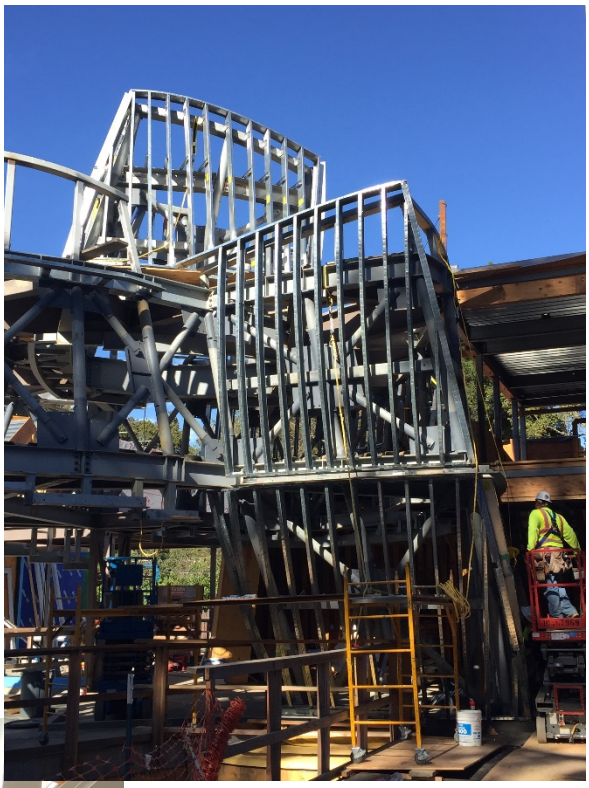
- **Structural Steel.** To support the curves and geometry of the extremely unique design, the house is structurally fully framed in steel, which is highly unusual for a residential project. The Structural steel installation took 14 months and included over 2,100 individual steel members. By comparison, a large-scale Atherton house with a traditional design might have 20 structural steel members and take a few months to frame. Simply put, the number of pieces of steel on this residential project is unprecedented. Please ee Exhibit B for additional details and 3D imagery of the steel.

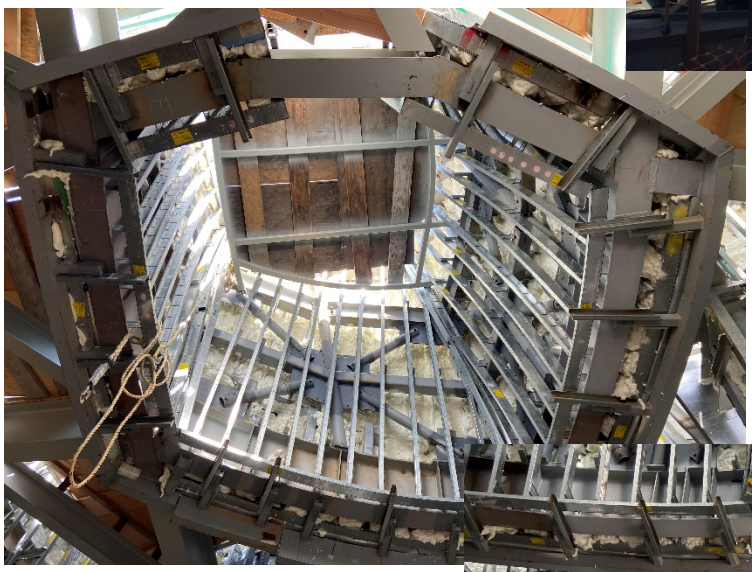
  To provide additional context into why so much time was needed it is important to note that there were over two thousand pages of steel shop drawings alone. As the steel fabricator noted:

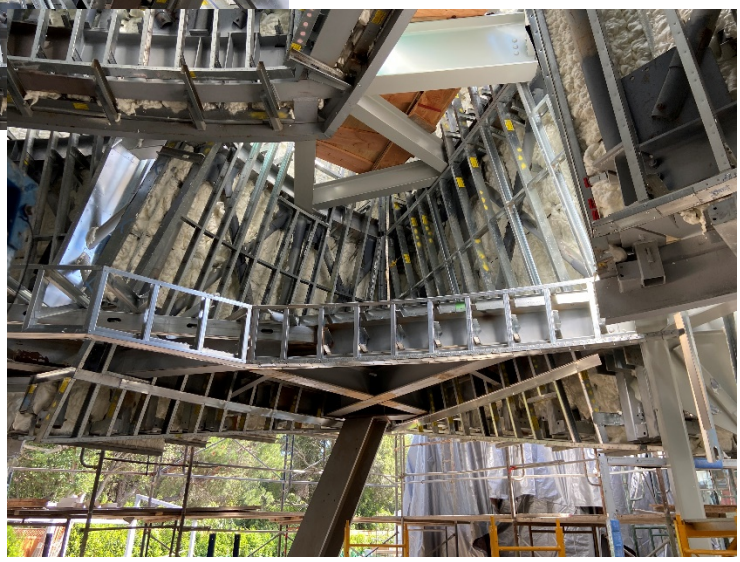
  "I have had only 2 other projects in my 33-year career that had more drawings than the Massy House Project: 1) The Philadelphia Phillies Citizens Bank Baseball Stadium and 2) The Washington DC Convention Center."



- **Metal Studs.** Curved metal studs are unheard of in residential construction, and extremely rare even in commercial projects, and there are over 2,500 metal stud & track members for this project. To accommodate the unique curves and geometry of the design, the Living Room, Great Room and Dining Rooms entail both exterior studs and interior studs (in addition to the structural steel described above), all of which are curved. The tracks and studs had to be formed by a specialty company in New York, as local metal stud installers did not have such fabrication capabilities. The installation of the curved metal studs for the Living Room and Great Room took over 9 months.







- **Masonry**. The masonry work on this house is truly one-of-a-kind and extraordinary in scale with over 150,000 individual pieces of brick which has taken over 18 months, with work still remaining. There are many unique features which our masonry subcontractor company had never seen in its history dating back four generations. Some of these features included hanging bricks required a custom engineered anchoring system, creases in the brick and elaborate brick protrusions. Please see Exhibit D for a letter from the masonry subcontractor providing additional details and insight into the complexities and schedule delays, borne largely out of a design Frank Gehry conceived specifically for this house.

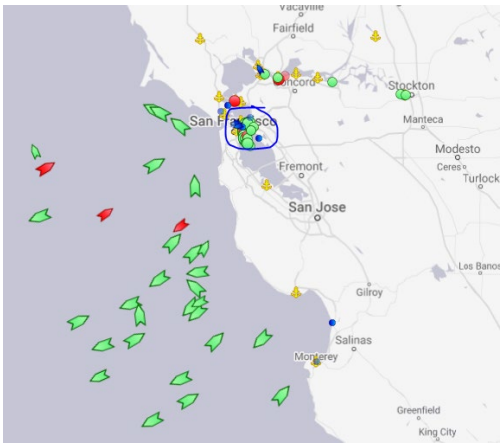
- **Flashing** The volume of flashing between the various systems in this unique house is almost incomprehensible. With so much varying geometry and intersecting points between glazing, masonry, timber siding, and more, we have deployed two full-time people for over 16 months, and the work is still ongoing. We cycled through several other individuals who were unable to perform the work. By comparison, flashing on a large custom is typically a brief and periodic work stream nowhere near what is required on this incredibly uniquely designed house.

- **Glazing.** This house has an inordinate amount of glass, a lot of which is curved. In total, eight 40-foot containers of glass will have been shipped to the site from overseas (Ireland and China). After sourcing all over the world, we finally found a fabricator in China who had the capability to produce double curved glass. Glazing installation has taken 24 months, and is still ongoing. Whereas most Atherton homes have glazing systems where the frames and glass are shipped and installed as one unit, every single piece of glass had to be installed individually on this project. As another indicator of the scope of the glazing, our glazing subcontractor has deployed a full construction trailer on the site for over 18 months. Other large projects typically have windows installed over the course of a few months.

- **Heavy Timber.** In addition to glass and brick, this house has a large amount of heavy timber as siding, steel wrapping, and in various other structures such as the many canopies. The project entails over 2,300 individual pieces of finish timber across the Dining Room, Siding, Mullions, Canopies, Grotto, Pavilion and Beam Wraps. The shop drawing reviews, fabrication, and installation of these has spanned over 36 months and continues.

3) Material Delays.

The materials for this house have come from all over the world, which has led to many delays, even though we have placed orders well in advance. Materials have come from Canada, Italy, Finland, Ireland, Germany, Belgium, Brazil, China, and Israel. In addition to international shipments, materials in the U.S. are likewise taking significantly longer than prior years, and certainly beyond our control and beyond any reasonable expectations. See screenshot of the current local port congestion, and these congestion levels are unprecedented and truly a historical aberration.



4) Continuous Work.

It is important to recognize that all of the above schedule delays have not been due to a lack of daily progress. Construction has occurred every single day construction has been allowed since the day the building permit was issued. The length of the schedule of the project has not been due to any project-related work stoppages (aside from the mandated COVID stoppage of course), nor due to any changes in design or similar issues. We have been working day in and day out to build the Frank Gehry design.

5) Limited Labor Pool.

The labor pool for this project has been extremely limited based upon the project's complexity and many aspects of the project being commercial in nature while in fact being a residential project. Many commercial subcontractors who were qualified to perform different scopes of the project were precluded from doing so because of their insurance requirements. And within high quality residential contractors, in many cases there have been only one or two individuals within a given organization skilled enough to perform the required work.

Because of the limited number of personnel within their respective firms that were qualified to handle the complex work, in several cases, we hired multiple subcontractors for the same trade in order to accelerate the schedule. We hired two different roofing companies. We also deployed two separate machine shops onsite each with their own large machinery in order to fabricate the roofing systems and flashing onsite in an effort to accelerate the schedule. This type of approach is unheard of even in commercial construction, let alone residential construction. We have utilized two different steel companies, and three different welding companies at various times. We have also had to utilize finish framers to perform rough framing work due to the complexity.

The lack of available construction personnel described herein is above and beyond the general local industry shortage currently impacting residential construction.

6) Creative Construction Sequencing.

In an effort to maintain an expedited schedule to meet the CTL, we have deployed numerous creative construction sequencing not typically found in a residential construction project. For example, the house was divided into sections such that we were able to progress to the floor build-up (rigid insulation, radiant tubing, gypcrete) for the outer wings well before the main section of the house was ready.

As another example, given the intricacies of the ceilings within the second floor, we started the finish framing even prior to a complete roofing system being in place. See below the interior of the "crinkle" roof which is finish work early on during the rough phase.

As another example, we have had over 12 separate independent mobilizations for spray foam insulation in order to continually progress the schedule within the constraints of building this unique house. There are numerous other examples of creative sequencing methods utilized in order to continually advance the project's schedule.

7) Site Logistics & Scaffolding.

The amount and degree of scaffolding alone for this project has caused significant schedule delays. The scale of scaffolding required for this house has been akin to building a mid-rise apartment complex because so much of the house commences from the sunken garden at the basement level. In addition, because of the uniqueness of these spaces in the interior with curved steel studs and sheathing, interior scaffolding towers could not be removed for a very long time, which has delayed our ability to complete the floor buildup during the time a typical project would have completed such work.

8) COVID-19 Delays.

In addition to the overall complexities of the design, and the limited pool of subcontractors with the expertise to construct this type of project, we have experienced numerous delays due to COVID-19 which were much more than the Town's standard COVID-based extension amount.

- **Re-Mobilization.** The act of re-mobilizing our limited pool of subcontractors led to months of schedule delays apart from the mandated shutdown period.

- **Labor Pool Reduction.** After COVID-19 there was a general reduction of the labor pool with many key individuals from our subcontractors who opted not to return to work. Again, our pool was limited to begin with given the challenges of this project.

- **Reduced Onsite Worked for Social Distancing.** The number of people working onsite was reduced significantly for many months due to maintaining social distancing across the site, both within a given trade and across trades so that there were no congested work areas.

- **Subcontractor Shut-downs.** Virtually every single subcontractor had an occasion where all of its workers had to be removed from the site for a period of time for either testing or quarantining due to either a COVID exposure or travel. In many instances, these shutdowns impacted the same subcontractor on multiple occasions. The subcontractors affected by such shutdowns included Light Gauge Steel, Masonry, Rough Framing, Finish Framing, Electrical, Shades, Flashing, Glazing, and Mechanical.

9) Value Add to Atherton of World-Renowned Architectural Design.

This project is exceptional in that it is a Frank Gehry residence that represents a unique and valuable cultural asset to the Town of Atherton.

The project is truly a one-of-its-kind residence destined to become recognized as an architectural masterpiece designed by the legendary and world-renowned architect Frank Gehry, "undoubtedly the most famous architect of our time," according to Vanity Fair.

In 2016, Gehry was awarded the Presidential Medal of Freedom at the White House for his career achievements. The award is the United States' highest civilian honor for pioneers of science, sports, public service, human rights, politics and the arts.

According to the Pulitzer Prize–winning architectural critic Paul Goldberger, Gehry has almost single-handedly transformed contemporary architecture in his innovative use of materials, design, and form, and who is among the very few architects in history to be both respected

by critics as a creative, cutting-edge force and embraced by the general public as a popular figure.

A number of his buildings have become worldwide attractions. His works are cited as being among the most important works of contemporary architecture in the 2010 World Architecture Survey.

Making this residence particularly meaningful, unique and historical is that Gehry rarely designs homes, having primarily built iconic museums and other large-scale buildings.

Gehry's best-known works include the titanium-clad Guggenheim Museum in Bilbao, Spain; Walt Disney Concert Hall in downtown Los Angeles; Louis Vuitton Foundation in Paris, France; MIT Ray and Maria Stata Center in Cambridge, Massachusetts; The Vontz Center for Molecular Studies on the University of Cincinnati campus; Museum of Pop Culture in Seattle; New World Center in Miami Beach; Weisman Art Museum at the University of Minnesota in Minneapolis; Dancing House in Prague; the Vitra Design Museum and the MARTa Herford museum in Germany; the Art Gallery of Ontario in Toronto; the Cinémathèque Française in Paris; and 8 Spruce Street in New York City. Gehry is also the designer of the future National Dwight D. Eisenhower Memorial.

We are extremely proud to bring forth this cultural asset to be enjoyed by many future generations to come, and greatly appreciate the partnership with the Town of Atherton in making this vision a reality.

Sincerely,

Massy Mehdipour
Camino Atherton, LLC

Exhibit A
Architectural Narrative

Residence as Art ***(55 Camino por los Arboles, Atherton, CA)***

This truly one-of-its-kind home that has been designed over a three-year period expresses the creative genius of Frank Gehry where the structures themselves represent fine art and sophisticated sculptures.

Situated on a beautiful lot in the prime location of Central Atherton, the house has been conceived and designed to accommodate either a conventional family or three generations of a family to live, work and entertain.

The form of the house represents the fusion of a series of volumes organically nested together between two large oak trees.

The house is set perpendicular to the street to maximize privacy and improve its engagement with the gardens and landscape. The desire for indoor-outdoor living is further enhanced by a sunken garden at the center of the property allowing light, air and activity to flow through the lower level where much of the entertaining will occur.

The volumes that make up the house are brick. The orthogonal volumes are of sand-colored brick walls, and the curved volumes are a white coated corbeled brick. The articulated roofs are a metal gold and silver corrugated metal in unique shapes. Second story bedroom volumes are clad in timber, lapped horizontal wood planking beneath windows that wrap the exterior walls of these rooms. The solid volumes of the house are connected by glass.

The building is laid out with the private residential spaces (bedroom suites) in the north and south wings and the more public entertaining spaces in the center of the building.

The building is entered from the western side of the house. From the drive way one has the option of crossing a bridge over the basement lap pool and entering the house at ground floor or descending into the landscape and entering into the lower level. The reception spaces on the ground and lower floors are envisaged as pre-function spaces for arriving guests with views out to the garden and through to the enticing geometry of rooms of the house.

From the ground floor entrance and reception, one can enter directly into the double height living room or turn right down the main space towards the dining room.

The living room is a white brick clad volume with curved plaster interior walls that nest together like the petals of a flower beginning its bloom. The petals and lid of the room are stitched together by glass so that California light is able to dance around the curves of the walls and bathe the room in light.

Midway down the main space is the dining room to your left and the main kitchen to your right.

The main kitchen is a bright contemporary space where timber cabinets and stone counters entice culinary magic. Beside the kitchen is a stair that leads up to the main office and its private patio.

The dining room is a glazed pavilion with a douglas fir timber structure, part lantern floating over the sunken garden, and part tree house amongst the canopies of the basement trees, the glowing warmth of the woven timbers leaning into the space eager to join the dinner party banter.

Beyond these two rooms one enters the family domain, the great room, a double height family room with its own full kitchen. This room has curved plaster walls on the interior, a white corbeled brick exterior, and glazed views out to the gardens and up to the sky through the lantern and between the curved wall elements. This is a room for family life. With space to do it all, chatting, board games, reading and having family meals.

Beyond the great room are the family's bedrooms. Three junior bedroom suites on the ground floor that open out on to the lawn and across to the garden pool and up above them the second master bedroom suite with timber walls and a vaulted timber ceiling whose expressive form reads through its framing on the interior and its silver metallic cladding on its exterior.

Across the south roof terrace from this bedroom suite is the second home office with another vaulted ceiling with a timber interior and a silver exterior cladding.

The lower level contains the large event space where the family will be entertaining. Served by a curved timber bar at one end and a kitchen at the other, the glazed wall that is the long side of the space opens up to allow guests to mingle amongst the trees of the sunken or wander across

the sunken garden to the grotto beneath a glazed roof on the far side of the garden and onward into the wine cellar beneath the ground floor pavilion. To the north of the event space is the lounge area and home cinema. To the south of the event space is the Game Room where the younger family members can be found way past their bedtimes.

The north wing of the house (beyond the living room) is the master living quarters with a guest room on the ground floor and the master bedroom suite on the second floor with timber walls, vaulted ceiling and gold metallic exterior. The windows are on three sides of this room.

From the master bathroom you can exit out to a private balcony with a hot tub overlooking the north garden.

To accommodate large-scale entertaining on the site the design provides for both private and public spaces. In response, the basement was designed so that it opens to a sunken garden with olive trees that create a verdant shade canopy over the heads of guests. Placing this space at the basement level not only satisfies the desire for privacy but also respects the privacy of the neighbors.

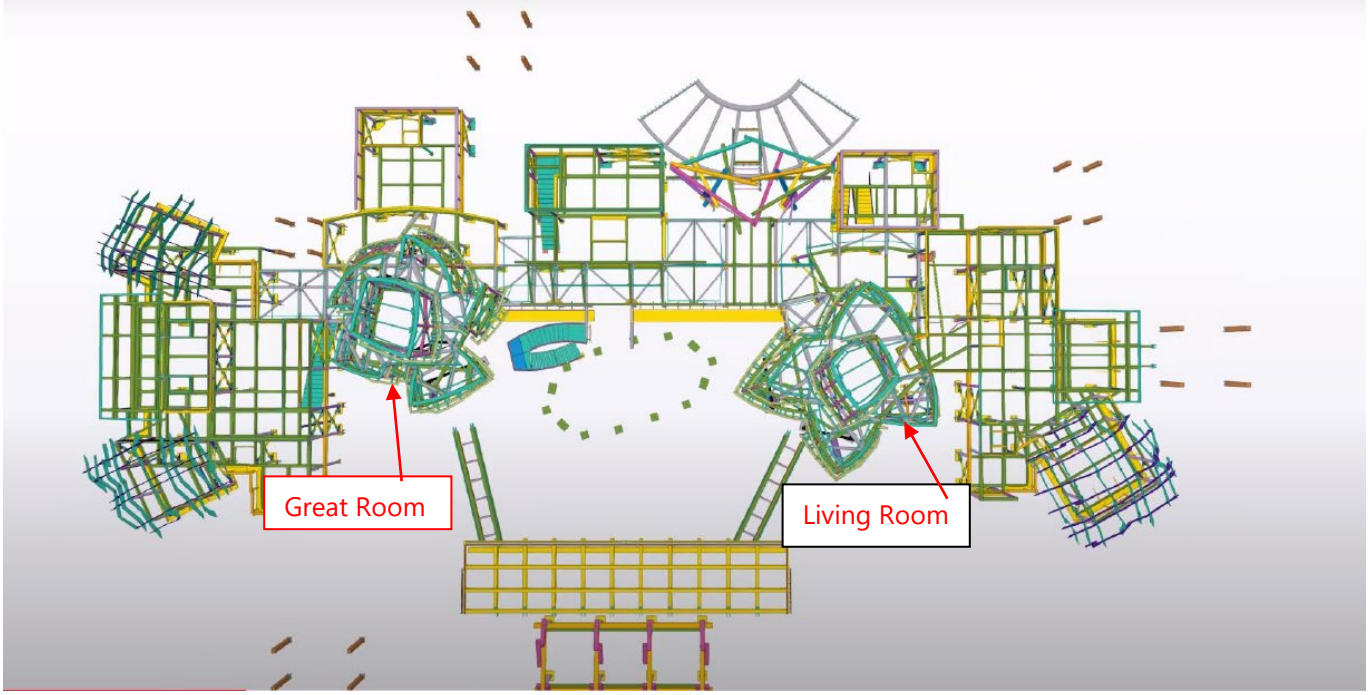
West of the sunken garden is a glass pavilion sitting on a terrace with glazed floor. Directly below this building is a wine cellar that opens up to a light well grotto that is directly accessible from the sunken garden. The light well faces west and away from the neighboring properties.

There are freestanding glazed canopies at both of the building's primary entries, over the path that connects the garage to the main house, over the guest parking and above the Outdoor Kitchen.

Exhibit B
Living Room & Great Room

Due to structural complexity of the "hanging bricks" which is a unique design and construction concept Frank Gehry conceived for this house, the main structure of the house is a concrete podium with all steel framing cantilevering out to the wings. The entire design of the house, including all structural components was built into the proprietary and very sophisticated 3D model. All dimensions were to be extracted from the model, which meant that key subcontractors such as the steel fabricator had to be fully 3D capable.

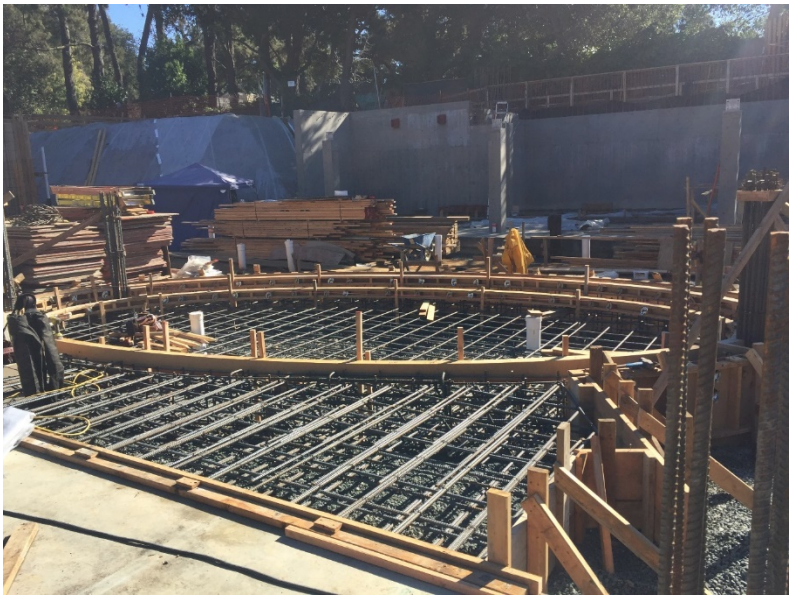
Below is a plan view screenshot of the steel of the house.



We hired the best concrete and steel contractors for such a complicated design. Olson Steel was hired as the steel subcontractor because of their commercial expertise, 3D capabilities and experience with the Frank Gehry 3D Model based upon their work on the Facebook buildings in Menlo Park.

However, we could not find any commercial concrete contractor with 3D capabilities who were willing to take on residential projects due to their insurance requirements. We hired Solid Concrete who has performed very well with residential projects in Atherton, but they lacked 3D capabilities as these capabilities are not required in residential construction.

It took three months just to build the basement 16" thick concrete slab ring. See photo of the Dining Room ring from February 2018.



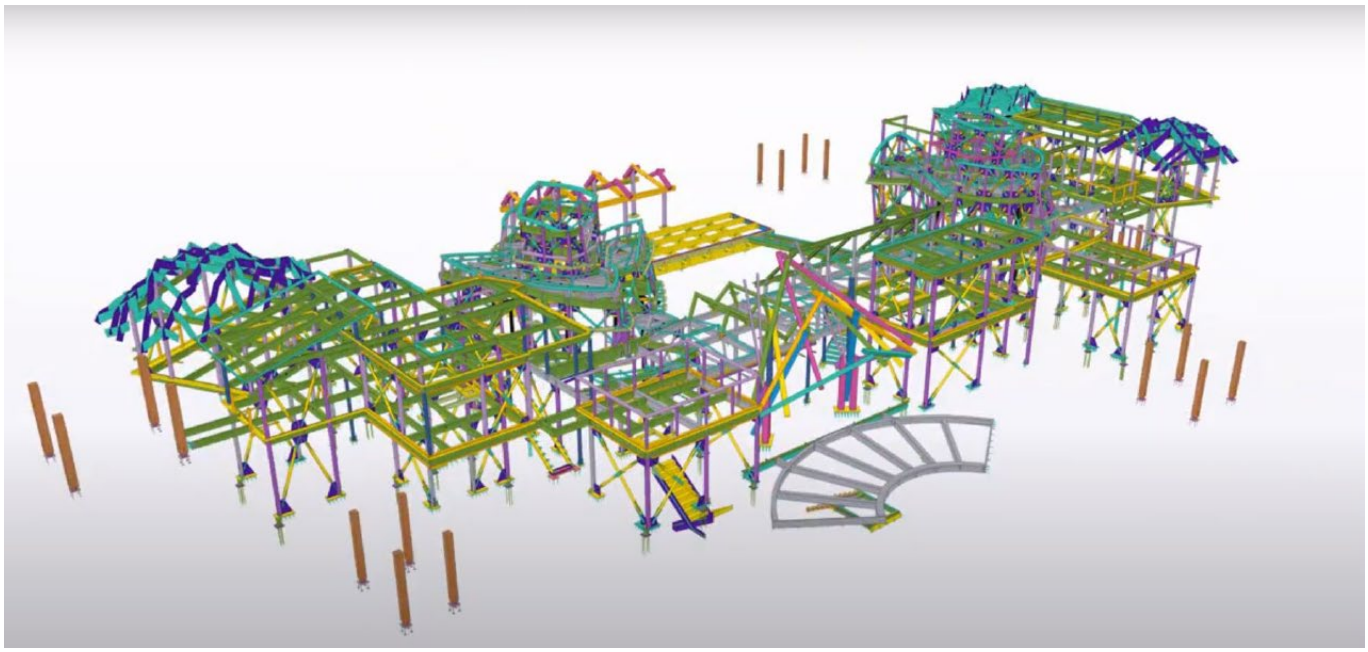
It took another ten months for the concrete contractor to complete the podium slab which delayed the start of the steel erection by three more months. The complexity of the rebar was far more complicated than anything any residential contractor had ever seen in over 30 years in business. See in-progress photo below.

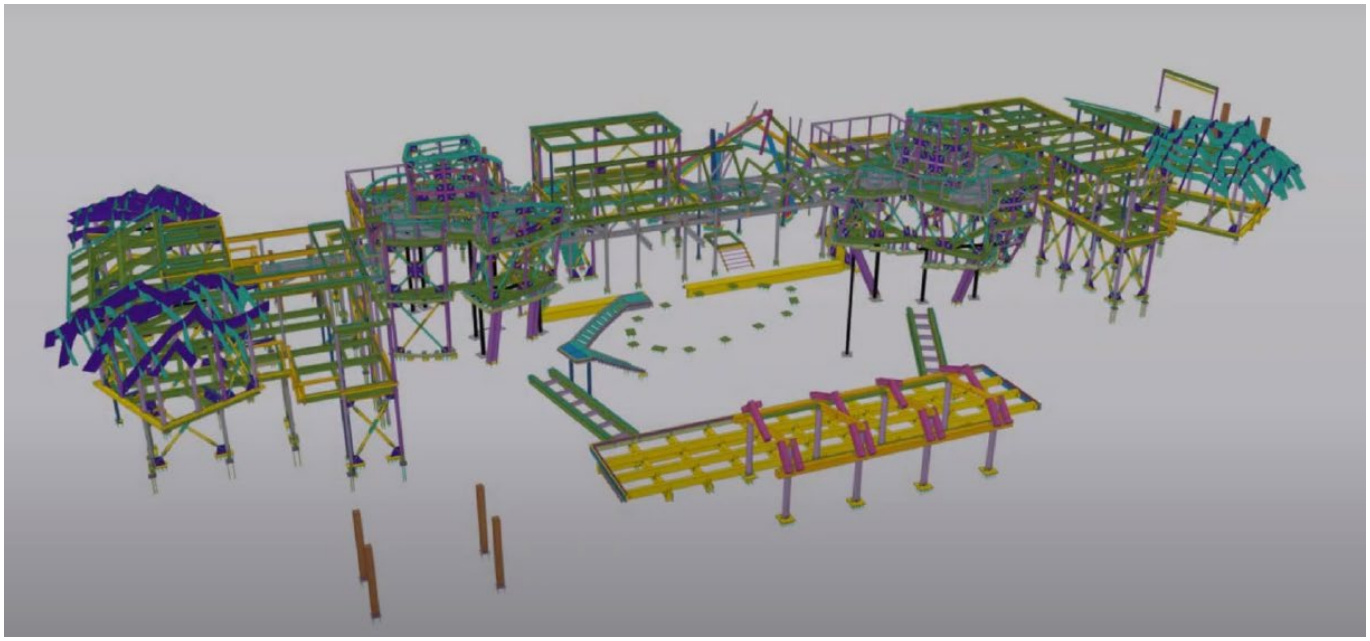
Steel erection was originally scheduled to begin in May 2018, but actually started four months behind schedule on September 5, 2018. This delay was a combination of the additional time needed by the concrete subcontractor to complete its work and then having to be re-scheduled in the steel fabricator's production schedule.

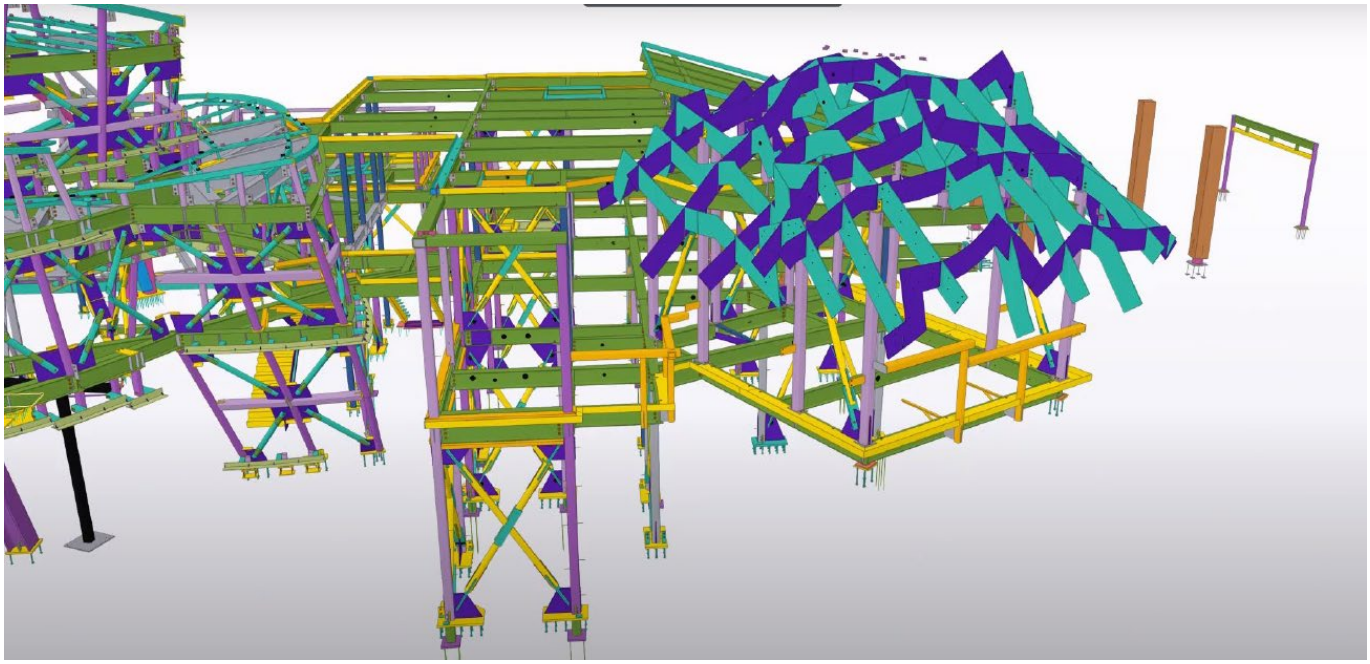
Olson Steel used all the means and methods available to it as a premier commercial steel subcontractor to accelerate the steel erection of the base building.

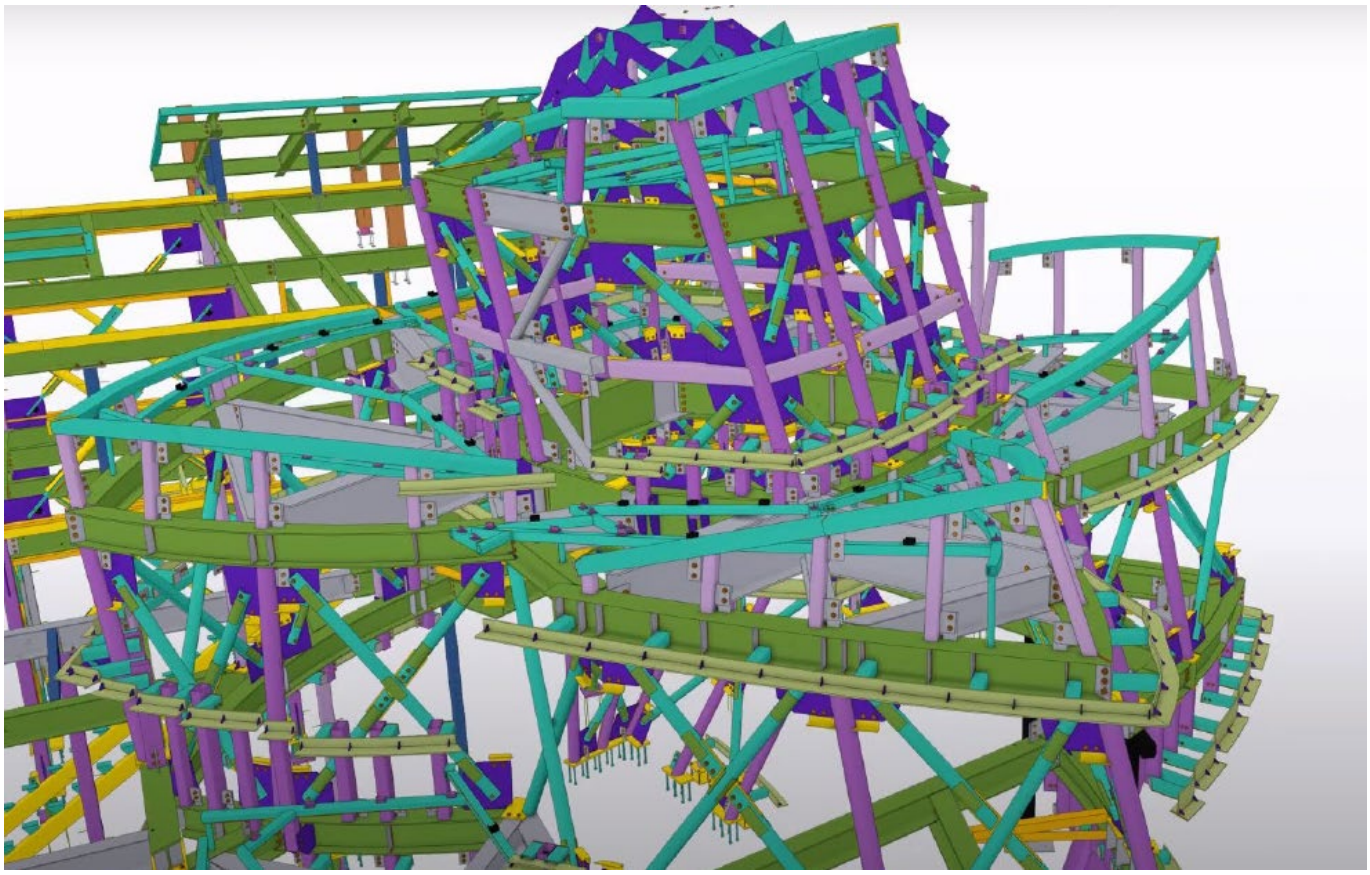
That said, however, given the complexity of the structure, the base building steel erection was not completed until November 15, 2019 with a complex steel roof structure for the crinkle roofs.

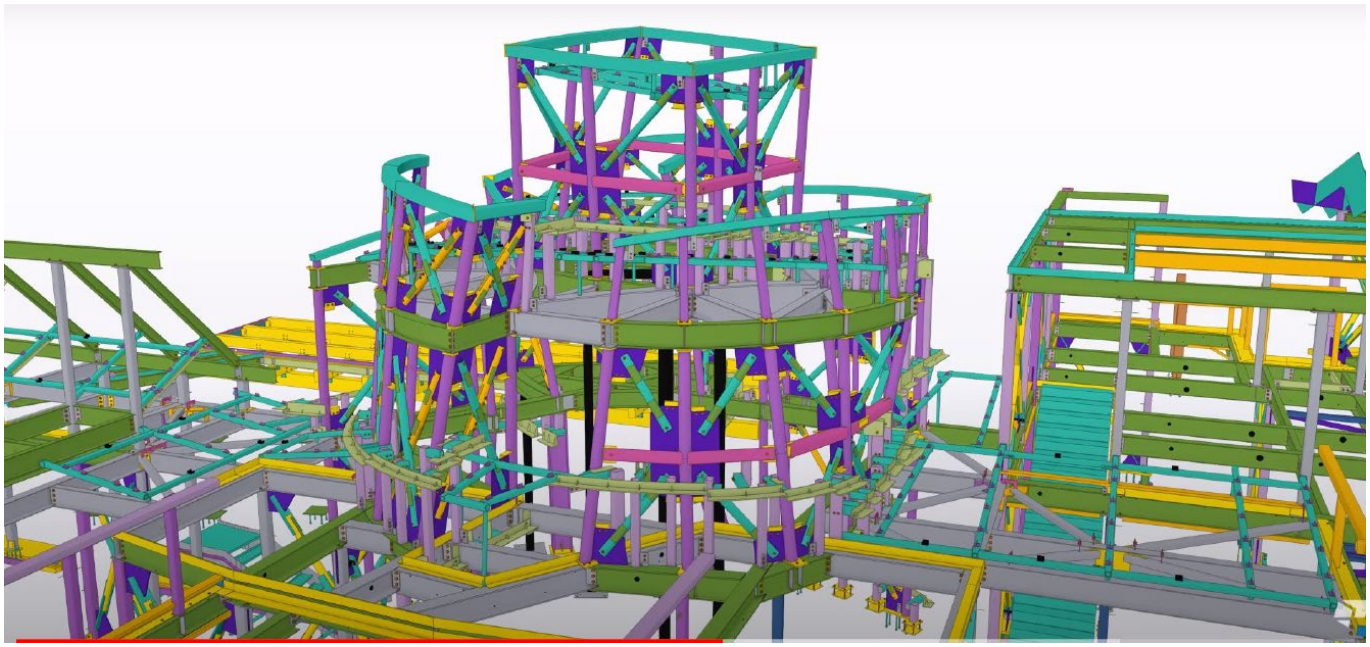
Due to the complexity of the Living Room steel structure, it took 15 months of 3d modeling before a single piece of steel could get fabricated and installed in the field. See 3D model screenshots below.

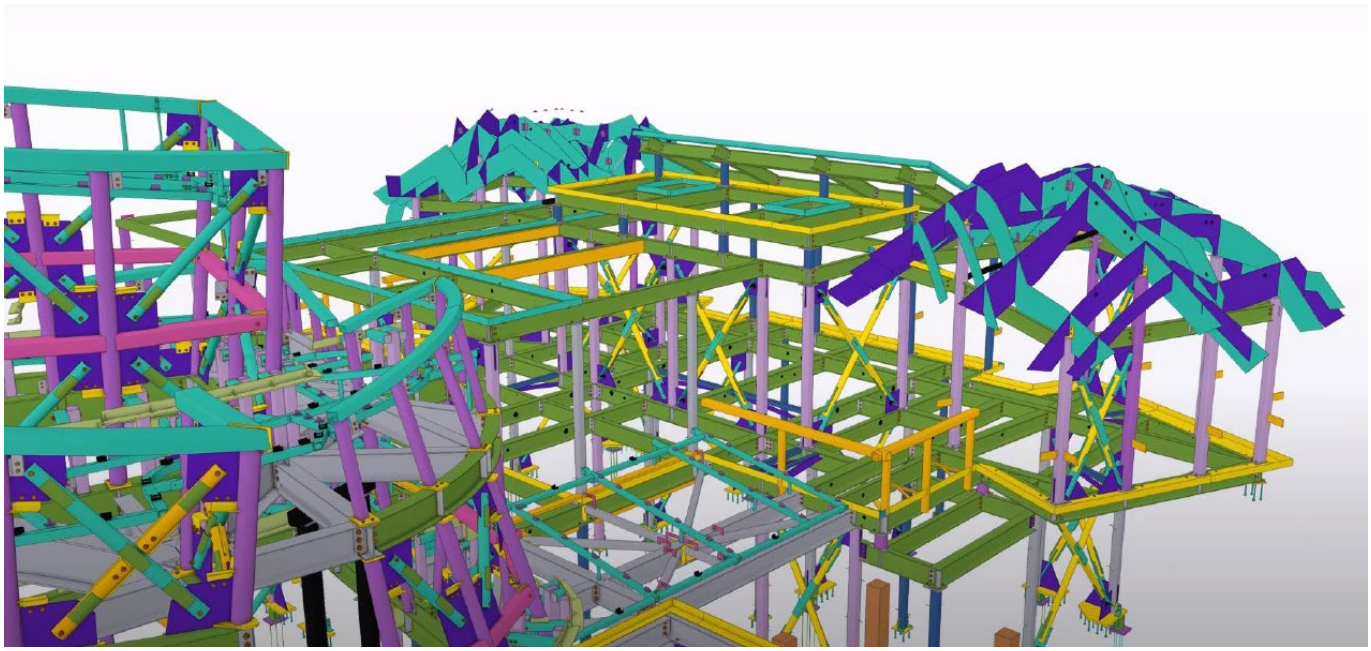




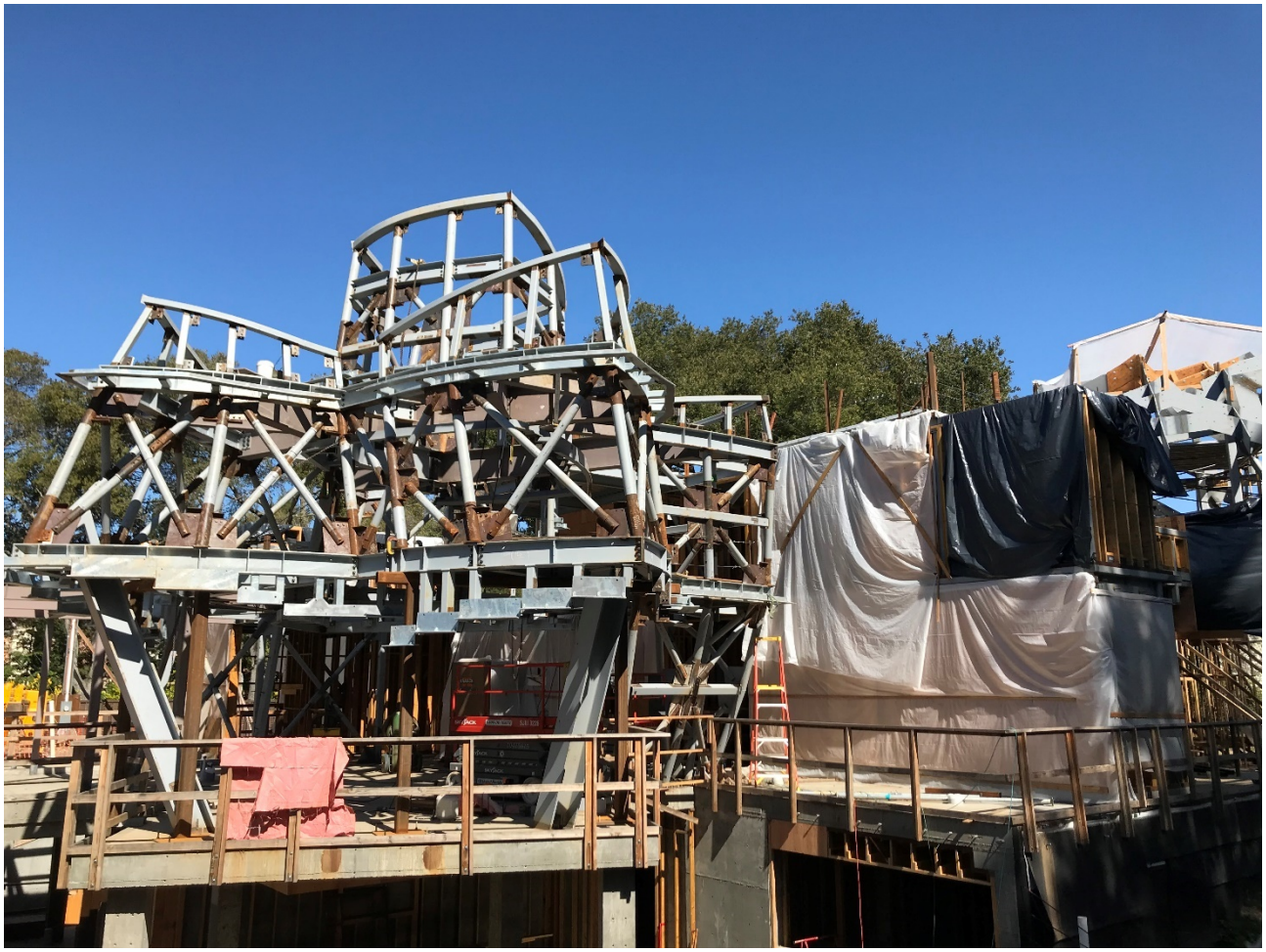


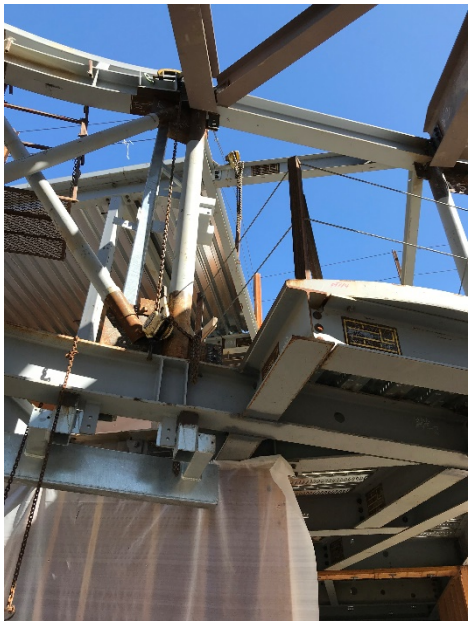






- Living room steel was not completed until end of April 2019, 17 months into construction.





- Great room steel was as complete as Living room and was completed by May 28, 2019.

- Rough timber framing started on July 21st 2019, 20 months into construction.

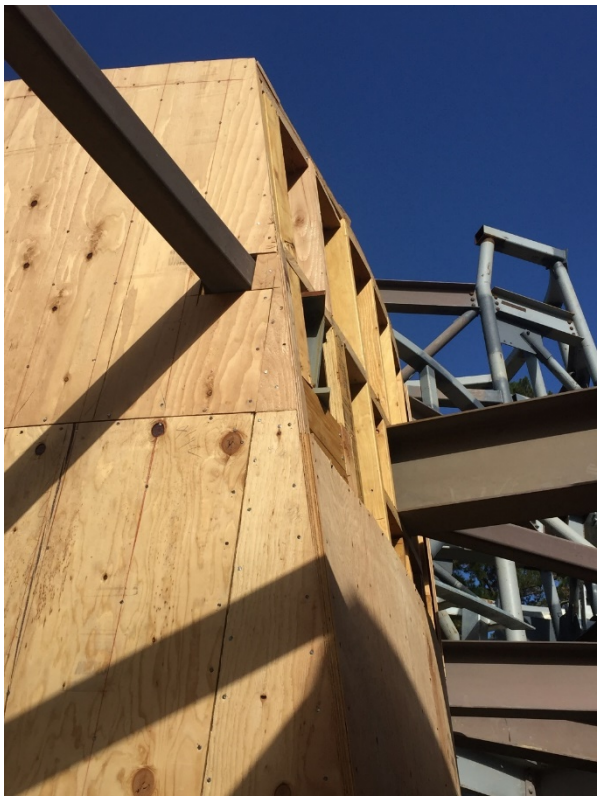
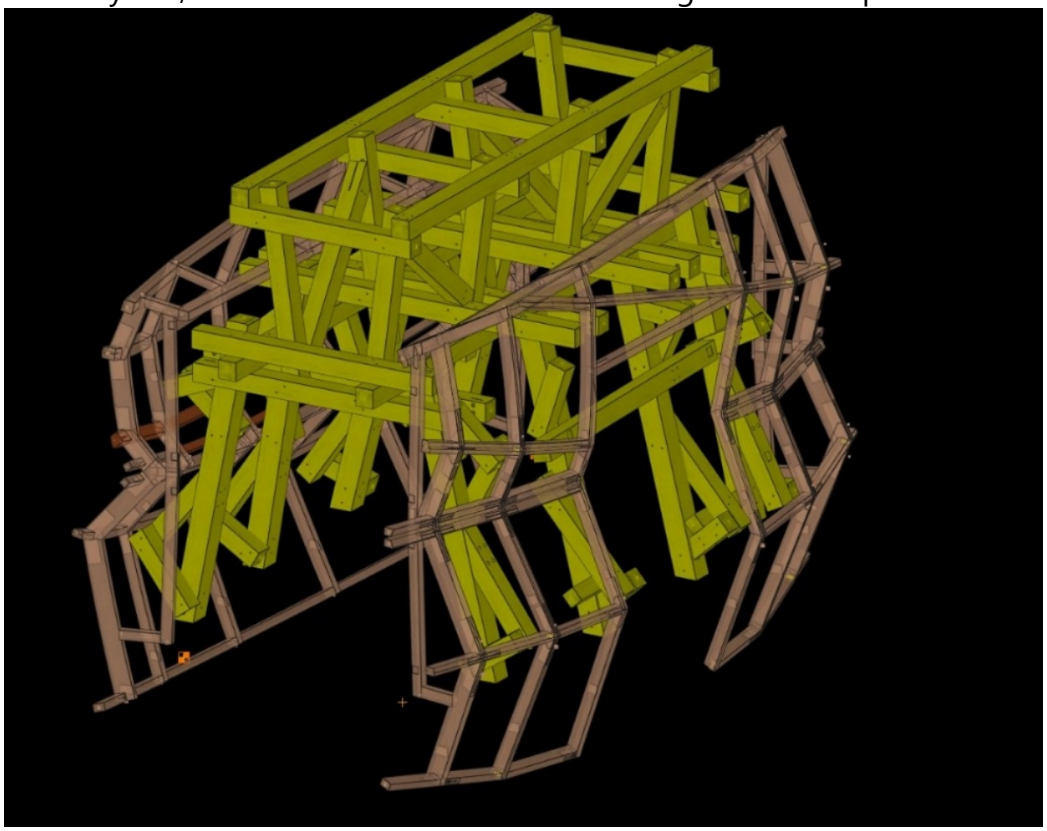


Exhibit C

Dining Room

The Dining Room in this house is, in and of itself, a massive undertaking with numerous intricacies and complexities. There were four structural engineers involved just for the Dining Room: the building engineer, the engineer for brick support shelves angles, timber engineer and glass engineer. The core of the Dining Room timber framing was installed in October 2019; see pictures below.

However, timber framing has proved to be the simple part in comparison to the mullions, which has taken 2 years of modeling and milling. The milling requires extensive CNC programming and a 5-axis machine. Given the complexity and in an effort to accelerate the schedule, we have three separate mill shops in Emeryville, Menlo Park and Canada all working to mill 166 pieces of individual timber. The diagram below shows the framing which has been in installed in yellow, and pieces that need to be individually missed with the 5-axis CNC machine in brown.



Each individual piece is unique and complicated, often times taking a machine days to complete one.

To date, only 36 pieces have been milled. The estimate to complete milling is October 2021. It will take a couple of months of installation for the Skirt / Mullions. By December 31 2021, the glass will be installed. The entire Dining Room scheduled to be completed by March 2022. The following is a summary of key dates, activities and milestones related to the Dining Room.

- June 2017 RFP issued.
- November 2017 FraserWoods of Canada was awarded the contract for Dining Room.
- Shop drawings for the Dining Room framing was completed in conjunction with the building structural steel in December 2018.
- Framing was erected in October 2019.
- Lantern glazing modeling commenced in November 2019.
- Dining Room Lantern glass and mullions fabrication was competed June 2019. Timber Mullions are warehoused in Canada and Glass are stored on site since October 2020.
- The modeling of the Dining Room skirt was completed in Feb 2021. There are 166 pieces to be milled with extreme precision.
- The brick support shelf angles were installed in June 2021.
- The metal Studs were fabricated in New York and will be installed in July 2021
- The glass for the Dining Room skirt was released on May 25, 2021 for fabrication in China and will be delivered by the end of November from the only company in the world we could locate that could fabricate multi planer curved glass for our project.

Exhibit D
Masonry Subcontractor Letter

Please see letter from the masonry subcontractor beginning on the following page.

R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

June 1, 2021

To Whom It May Concern,

I am the owner of Bob Mazza Masonry, a fourth-generation masonry company and I have been in the trade from a very young age. I have had the pleasure of being the masonry subcontractor for all of the brick on the incredible Frank Gehry-designed "Massy House" project in Atherton. In all my 30+ years in the masonry business, this project has involved the most unique and intricate brick work I have experienced, as anyone who has visited the site can attest. Please also see attached pictures.

We are extremely proud of the end product, but the schedule has been significantly delayed to no one's fault due to the complexity of the work. In both the Living Room and the Great Room in particular, there are many complexities which required an elongated scheduled. The following are some examples:

- "Creases" where the brick protrudes in different directions in very specific patterns, with each individual brick location specified by the architect via their 3D model.
- "Hanging brick" which utilized a uniquely engineered anchoring system by Hohmann & Barnard, Inc. This was an extremely time-consuming process whereby each brick was individually fastened with the masons having to essentially work upside down using the engineered system. Given how complicated this system was, at one point they had fully fabricated a large quantity of brackets, all of which had holes in the wrong locations, which itself lead to a six-week delay.
- Multi-planer curves which necessitated a very deliberate, methodical and time-consuming approach to brick laying.
- Significantly protruding brick that limited us to be to only lay one course per day to allow for the appropriate cure time.
- There was an inordinate amount of flashing that had to be coordinated with the brick work that led to an elongated schedule because the sequencing required for us to stop brick work at a specific point to then allow for the flashing to be completed, followed by the subsequent brick stages. This process occurred in numerous locations, including all of the twelve "petal" locations.

In addition, as can be expected COVID-19 had a major impact on the schedule of our work well beyond just from the work stoppage period. We are a union company, and we followed strict protocols when returning to work post-COVID which went even beyond the Town of Atherton imposed rules. Keeping our team members socially distanced both from each other and other trades meant we had to limit the number of masons working on the job at times. We also had two key employees who were intimately familiar with the project and all of the unique processes involved, who opted not to return to work for four months. We also lost time due to numerous quarantines, both after travel and due to exposers.

Even before COVID-19, our union has found it very challenging to have enough qualified personnel for high-end projects. Many people have retired, and the pool has not been replenished as in generations past. If you have any questions about any of the above, I am happy to discuss with you.

Sincerely,

Bob Mazza
Owner / President

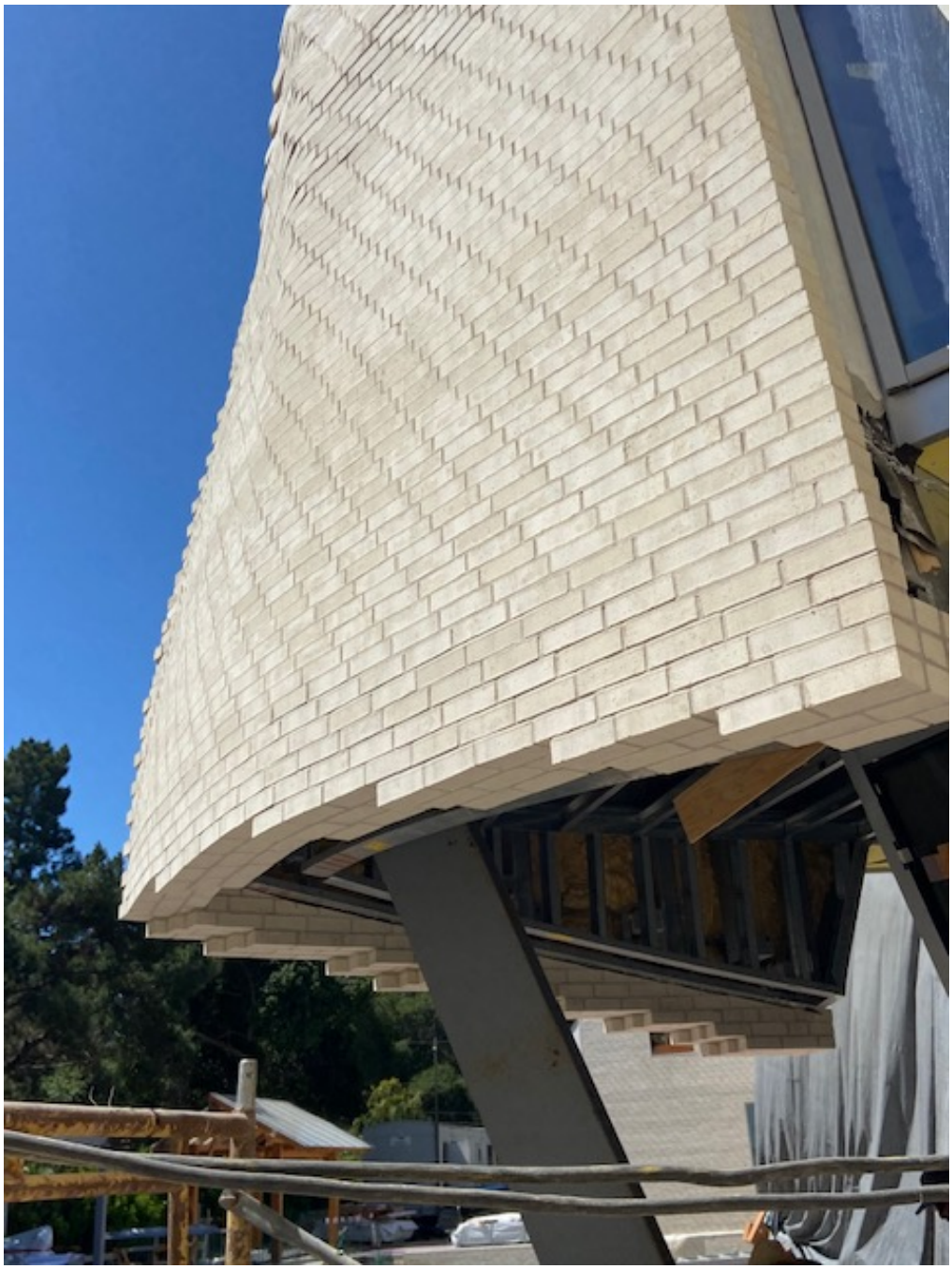
R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521



R Mazza Masonry, Inc.
5356 Clayton Rd., Suite 220-A
Concord, CA 94521

ATTACHMENT 2

Town of Atherton
Building Department

150 Watkins Ave.
Atherton, Ca. 94027
Phone: (650) 752-0560

June 11, 2021

Re: Letter of Recommendation for 55 Camino Por Los Arboles Construction Time Limit Extension

Dear Mayor / City Council,

I would like to recommend up to a 12-month extension of the Construction Time Limit for the property located at 55 Camino Por Los Arboles. This is a 17,943 sq. ft. 2 story residence with basement. The permit was issued on 12/5/2017 and the (3) year Construction Time Limit was 12/5/2020. They received an additional 90 days due to COVID and the adjusted Construction Time Limit was 4/23/2021.

This home is designed by a world known architect Frank Gehry. The design is quite unique, and along with the irregular geometry of this home makes the construction very complex to construct and would require more time to complete construction, compared to another home in Atherton that is equivalent in size. The structural steel took approx.. 14 months compared to 3 maybe 4 months for another home that is similar in size. The heavy timber framing and the specialty metal stud framing took considerably more time to construct due to the complexity of the design. Also, large amount of material and fabrication took place from outside of the United States. Please consider the effects of COVID-19 which created substantial delays in fabrication, delivery and supply of materials that come from the US and other parts of the world.

Please consider an extension of the Construction Time Limit for this property at 55 Camino Por Los Arboles.

Sincerely,

Mike Greenlee
Building Official
Town of Atherton

RESOLUTION 2021-___

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON RATIFYING THE BUILDING OFFICIAL'S INTERPRETATION OF THE CONSTRUCTION TIME LIMIT FOR THE RESIDENTIAL PROPERTY AT 55 CAMINO POR LOS ARBOLES

WHEREAS, the property owner of 55 Camino Por Los Arboles commissioned world-renowned architect Frank Gehry to design a 17,943 sq. ft. single-family residence. The property owner obtained a Building Permit from the Town on December 5, 2017 for construction of the residence; and

WHEREAS, including adjustments to account for the Town-wide extension of the Construction Time Limit ("CTL") due to the COVID-19 pandemic, the CTL for the project expired on April 23, 2021; and

WHEREAS, the property owner has not completed construction and the property owner has deposited $30,000 under protest pursuant to Sections 15.40.200-A and 15.40.200-F of the Atherton Municipal Code ("AMC") because construction was not complete by April 23, 2021; and

WHEREAS, pursuant to Section 15.40.210-A of the AMC, an appeal challenging the validity of this amount may normally be submitted after construction is complete; and

WHEREAS, Section 15.40.200-F of the AMC is susceptible to multiple interpretations regarding the scope of the Town's Building Official's ability to waive penalties for construction exceeding the CTL; and

WHEREAS, Staff is seeking an interpretation of the scope of the Building Official's authority under Section 15.40.200-F of the AMC; and

WHEREAS, the Building Official interprets that the application of the CTL ordinance for 55 Camino Por Los Arboles be construed to allow a reasonable accommodation of time to complete the construction, up to and not longer than twelve (12) months from April 23, 2021, based on the facts and circumstances detailed in the Building Official's Letter of Recommendation for Time Limit Extension dated June 11, 2021 (Exhibit A) and letter requesting CTL extension from the property owner of 55 Camino Por Los Arboles (Exhibit B).

THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES RESOLVE AND ORDER AS FOLLOWS:

1. The City Council finds the foregoing recitals are true and correct, and hereby incorporated as Findings hereto; and

2. With respect to the CTL extension for the home at 55 Camino Por Los Arboles, the City Council ratifies the Building Official's interpretation and further finds as follows:

    a. The property owner has demonstrated, through the letters in support of this request for a CTL extension from various contractors and through their own evidence as presented in Exhibit A, that the complex nature of the Frank Gehry designed home

at 55 Camino Por Los Arboles made it unfeasible to complete the home within three (3) years; and

b. The property owner has demonstrated that construction has been undertaken with diligent efforts to construct the home at 55 Camino Por Los Arboles as swiftly as is possible considering the complex design, available materials, and COVID-19 pandemic related restrictions on construction activity; and

c. The property owner has demonstrated that the project is of significant architectural value to the Town; and

d. The property owner has demonstrated that the complex nature of the design necessitated international fabrication of building materials that are not available in the United States and interruptions in global supply chains caused by the COVID-19 pandemic caused global shipping delays that uniquely affected this property in ways that construction projects of more traditionally designed single-family residences were not impacted; and

e. The Building Official's recommendation is supported by the substantial evidence presented.

3. The City Council received and considered all public comments and testimony regarding this matter; and

4. The City Council hereby approves the request for a twelve (12) month extension to the CTL for 55 Camino Por Los Arboles to April 23, 2022, after which time the penalty provisions described in Chapter 15.40 of the AMC shall apply to the property owner if construction is not completed; and

5. The City Council hereby determines that the Building Official has the authority to grant extensions to the CTL in the extraordinary and limits circumstances where the Building Official can support findings such as those outlined in Section 2, above, based on written evidence in the record.

PASSED and ADOPTED this 21st day of July 2021 by the City Council of the Town of Atherton.

Town of Atherton, a municipal corporation

MAYOR: _____
ELIZABETH LEWIS

ATTEST: _____
ANTHONY SUBER, CITY CLERK

STATE OF CALIFORNIA
COUNTY OF SAN MATEO SS:
TOWN OF ATHERTON

I, Anthony Suber, City Clerk of the Town of Atherton, do hereby certify that the foregoing Resolution was introduced and was adopted and passed during the public meeting of the City Council on the 21st day of July, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
ANTHONY SUBER
City Clerk

Exhibit A

[Building Official Recommendation]

Exhibit B

[Property Owner Letter of Support]