



CITY OF CORONADO

CITY COUNCIL STAFF REPORT

Consideration of Amendment No. 1 to Encroachment Permit E2507-004 and Associated Encroachment Maintenance and Removal Agreement for Private Improvements at 417 B Avenue

RECOMMENDATION

Deny Amendment No. 1 to Encroachment Permit E2507-004 and associated Encroachment Maintenance and Removal Agreement for private improvements at 417 B Avenue.

BACKGROUND

In 2023, the property owner of 417 B Avenue, Mr. Bob Allen, hired a contractor to construct improvements in the front yard of his residence. Mr. Allen's contractor applied for and received approval of a Building Permit from the City's Community Development Department to construct a horizontal plank fence with stone veneer pilasters. Notes were included on the plans indicating separate permits would be required from the Public Services and Engineering Department for any work within the public right-of-way. City records indicate several inspections were conducted during the course of construction of the fence; however, the permit for the fence expired without a final inspection being requested by the contractor. See Attachment 1 for a portion of the approved Building Permit package.

In July 2025, Mr. Allen hired a different contractor to install artificial turf and a cemented flagstone walkway in the public parkway. This contractor applied for a right-of-way permit for the work along with an Encroachment Permit which is required before building permanent, private improvements within the public right-of-way (in this case, the artificial turf and cemented flagstone walkway). City staff conducted an onsite meeting with the contractor to review the proposed improvements. While at the site, staff noticed raised planters constructed along the back of the sidewalk and within the public right-of-way; the raised planters appeared to be constructed from concrete masonry block with a stone veneer matching the plank fence and a 12-inch-wide slate tile top cap (Attachment 2).

On September 11, an Encroachment Maintenance and Removal Agreement was approved by City staff which included the artificial turf but did not include the raised planters that were observed during the site visit (Attachment 3).

Staff confirmed the raised planters were unpermitted and contacted Mr. Allen to inform him of the apparent violation stating that he would have to remove the improvements from the public right-of-way. After additional discussion, Mr. Allen was told he could apply for an encroachment permit for the now-existing raised planters; if approved it would be documented in the form of an amendment to his Encroachment Maintenance and Removal Agreement for the artificial turf and flagstone; however, staff indicated they would likely recommend the City Council deny approval of the application for reasons discussed below.

ANALYSIS

The front property line for 417 B Avenue is located 4 feet behind the existing sidewalk. The improvements constructed at 417 B Avenue consist of two raised planters, 1 foot 2 inches in height with a combined width of 34 feet and a depth of approximately 4 feet 6 inches. The planters have stone veneer sides and a top cap consisting of 12-inch slate tiles which overhang each side of the planter by approximately 2 inches. Additionally, lighting is installed on the bottom of the slate tile overhang. Prior to the construction

Attachment 1

of the raised planters, the area between the sidewalk and the fence consisted of an at grade planting area with a stone perimeter set in concrete which would have required an encroachment permit prior to installation but no such permit could be found (Attachment 4).

City Council's consideration of Encroachment Permit applications for fences and other similar structural features has typically focused on two issues: 1) the need to construct the proposed improvements within the public right-of-way; and 2) the proximity of the improvement to the adjacent sidewalk and the potential hazard it may create for passing bicyclists or pedestrians. Staff has also raised the concern that in the event that the sidewalk needs to be replaced, the removal of the sidewalk may cause damage to the planter face, along with the inability to place a form to pour and finish the new sidewalk.

In this case there appears to be no clear "need" to construct the raised planters. In staff's discussions with Mr. Allen, he described a desire to provide a barrier between the proposed landscaping and the sidewalk to improve aesthetics of his property frontage and prevent passing pedestrians and animals from disturbing the landscaping.

City Council deliberations of encroachments have typically considered a two-foot separation between the improvement and the sidewalk as providing an adequate buffer that results in a safe pedestrian path of travel. This has been of particular interest when deliberating picket fences that can catch handlebars of passing bicyclists or bags carried by pedestrians. Examples of approved encroachments that feature a two-foot buffer include the following locations and year:

- 715 Ninth Street (2017) – The Council approved the encroachment of a low-rise vinyl fence along the frontage of Ninth Street with the condition that it be relocated to provide a two-foot clearance from the sidewalk.
- 1039 Olive Avenue (2017) – The Council approved the encroachment of a low-rise picket fence within the public right-of-way adjacent to 1039 Olive Avenue at a two-foot six-inch clearance from the sidewalk.
- 817 Olive Avenue (2023) – The Council approved the encroachment of a low-rise vinyl picket fence along the frontage of Olive Avenue with the condition that it provide two feet of clearance from the sidewalk.
- 1100 Isabella Avenue (2025) - The Council approved the encroachment of a low-rise vinyl picket fence along the frontage of 1100 Isabella Avenue with the condition that it provide two feet of clearance from the sidewalk.

There is currently at least one example of a raised planter bed built within the public right-of-way in close proximity to the subject property; the property located at 400 B Avenue consists of a low, raised planter formed by a concrete masonry block wall covered in stucco. The planter is built directly up against the back of sidewalk but does not have any features that extend into the sidewalk path of travel. Historical photos confirm the planter at 400 B Avenue has been in place since at least 2007 and staff was unable to locate any recorded encroachment permit for this structure.

Unlike the planter at 400 B Avenue, the planters built at 417 B Avenue are topped with a 12-inch slate tile which extends approximately 2-inches into the path of travel along the sidewalk. Staff considers this protrusion, along with its relatively sharp edge, to be a potential hazard to bicyclists and pedestrians on the sidewalk. Considering the potential hazard, the lack of the desired 2-foot buffer, and the lack of a "need" to construct the raised planters, staff recommends that the City Council deny Amendment No. 1 to Encroachment Permit E2507-004 and require that the planters be removed from the public right-of-way.

FISCAL IMPACT

There is no direct fiscal impact associated with this item.

ALTERNATIVE

1. The Council may elect to approve of the raised planters as constructed and authorize the execution of an amendment to Encroachment Permit E2507-004 to include said improvements in a format approved by the City Attorney and including indemnity and defense obligations in addition to insurance requirements associated with private structures in the public right-of-way.
2. The Council may elect to approve of the raised planters if certain design alterations are made (such as providing two feet of clearance from the sidewalk) and authorize the execution of an amendment to Encroachment Permit E2507-004 to include said improvements in a format approved by the City Attorney and including indemnity and defense obligations in addition to insurance requirements associated with private structures in the public right-of-way.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Not applicable.

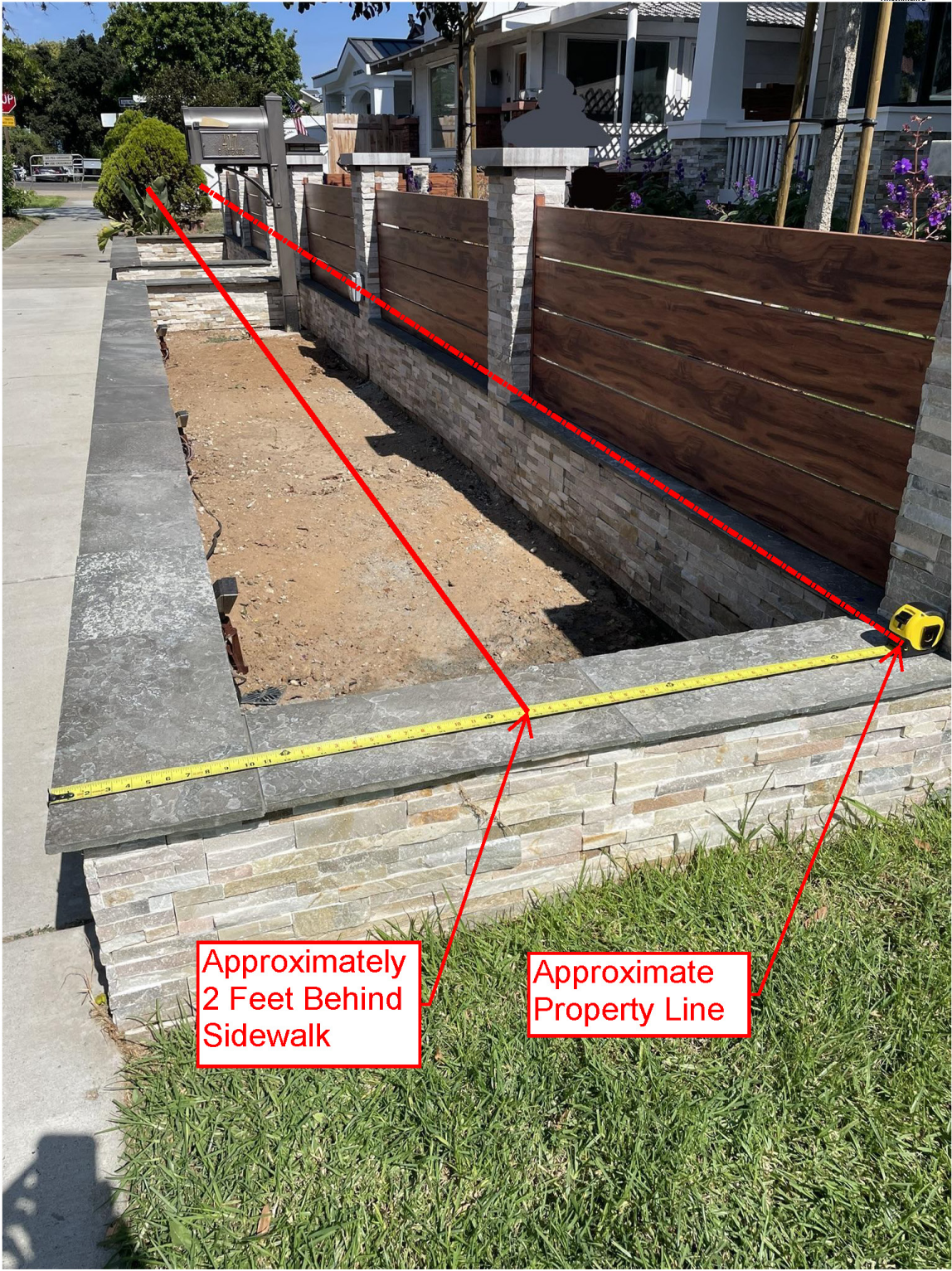
PUBLIC NOTICE

Property owners and residents within 300 feet of the constructed improvements were notified of this item.

ATTACHMENTS

1. Portion of approved building permit plan
2. Current raised planter
3. Encroachment Maintenance and Removal Agreement E2507-004
4. Previous planter bed

Submitted By: Public Services and Engineering / Dave Johnson and Katie Odiorne



PLEASE COMPLETE THIS INFORMATION.

Attachment 1

RECORDING REQUESTED BY:

DOC# 2025-0264135

City Clerk, City of Coronado



AND WHEN RECORDED MAIL TO:

Sep 23, 2025 10:35 AM

City of Coronado
1825 Strand Way
Coronado, CA 92118

OFFICIAL RECORDS
JORDAN Z. MARKS,
SAN DIEGO COUNTY RECORDER
FEES: \$35.00 (SB2 Atkins: \$0.00)

PAGES: 8

THIS SPACE FOR RECORDER'S USE ONLY

ENCROACHMENT PERMIT NO. E2507-004, APN: 536-321-04

(Please fill in document title(s) on this line)

ENCROACHMENT MAINTENANCE AGREEMENT

An encroachment permit is hereby granted to the Permittee designated in Paragraph One, Attachment A, as the owner of the Benefited Property described in Paragraph Two, Attachment A, to encroach as detailed in the diagrams included as Exhibit A. Attachment A and Exhibit A are hereby incorporated herein by this reference as though fully set forth at length. In consideration of the issuance of this encroachment permit, Permittee hereby covenants and agrees, for the benefit of the City of Coronado ("City"), as follows:

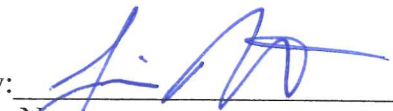
1. This covenant shall run with the land and be binding upon and inure to the benefit of the future owners, encumbrancers, successors, heirs, personal representatives, transferees, and assigns of the respective parties.
2. Permittee shall use and occupy the City Property only in the manner and for the purposes described in paragraph four, Attachment A.
3. By accepting the benefits herein, Permittee acknowledges title to the City Property to be in the City and waives all right to contest that title.
4. The term of this encroachment permit is indefinite and may be revoked by the City or abandoned by Permittee at any time. The City shall mail written notice of revocation to Permittee, addressed to the Benefited Property which shall set forth the date upon which the benefits of the encroachment permit are to cease.
5. City is entitled to remove all or a portion of the improvements constructed by Permittee in order to repair, replace, or install public improvements. City shall have no obligation to pay for or restore Permittee's improvements.
6. Permittee agrees to indemnify, defend (with counsel acceptable to City) and hold the City and its officials, employees, agents, representatives, and volunteers harmless from and

against all claims, demands, costs (including attorney fees and expert costs), losses, damages, injuries, litigation, and liability arising out of or related to this encroachment permit or any use, construction, encroachment, maintenance, act, or omission by the Permittee or Permittee's agents, employees, representatives, or contractors on City Property.

7. Upon abandonment or revocation, Permittee shall, unless otherwise directed by the City and at no cost to the City, return City property to its pre-permit condition within the time specified in the notice of revocation or prior to the date of abandonment.
8. If Permittee fails to restore the City property, the City shall have the right to enter upon the City Property and, after sending notice to the Permittee delivered at the Benefited Property, restore the City Property to its pre-permit condition, which includes, but is not limited to, the destruction and removal of any improvements. Permittee agrees to reimburse the City, within thirty (30) days of a request by City, for all costs (including attorney fees and staff time) incurred by the City to send notice and restore the City Property to its pre-permit condition.
9. If either party is required to incur costs to enforce the provisions of this covenant, the prevailing party shall be entitled to full reimbursement for all costs, including reasonable attorney's fees.
10. Permittee agrees that Permittee's duties and obligations under this covenant are a lien upon the Benefited Property. Upon 30-day notice, and an opportunity to respond, the City may add to the tax bill of the Benefited Property any past-due financial obligation owing to the City by way of this covenant.
11. Permittee waives the right to assert any claim or action against the City arising out of or resulting from the revocation of this permit or the removal of any improvement or any other action or omission by the City, its officers, agents, employees, representatives, or volunteers related to or arising out of this permit, except for willful misconduct.
12. Permittee recognizes and understands that this permit may create a possessory interest subject to property taxation and that the Permittee may be subject to the payment of property taxes levied on such interest.
13. As a condition precedent to Permittee's right to go upon the City Property, this permit must first be signed by the Permittee, notarized, executed by the City and recorded with the County Recorder of the County of San Diego. The recording fee shall be paid by Permittee.
14. Permittee will maintain the encroachment at Permittee's sole expense for as long as the encroachment remains in existence.

15. Permittee shall keep the sidewalks around this improvement safe, clear and unobstructed for pedestrian traffic.
16. If any portion of the improvement is determined to be a pedestrian hazard, public nuisance or a public safety hazard in any way, as determined by the City Engineer in his/her sole discretion, then all or any portion of the improvement shall be removed, at the City's option, by Permittee at the Permittee's sole expense or by the City at the Permittee's expense.
17. Any design changes to the encroachment area require the prior written approval of the City Engineer.
18. Should the Permittee or the Permittee's contractor or agent add improvements to the public right-of-way where there is an existing street tree or a new or replacement tree is planted, approval of the work by the City's Arborist is required. The Permittee and contractor or agent performing the work shall assume any responsibility for repair and/or replacement of those private improvements, should those improvements be damaged by root intrusion, or for any other cause, by a City street tree.
19. The encroachment consisting of artificial turf shall be spaced 24" from the trunks of any City tree and the installation of irrigation bubblers is also required at least 15" from the base of tree within said spacing to provide proper oxygen and moisture for surface roots for the health of the tree. Approval of the work by the City's Arborist is required.
20. Permittee shall comply with all applicable laws related to the construction, maintenance, or removal of the encroachment or any action or omission in connection with any rights or obligations under this permit. If the Benefitted Property or the encroachment has been designated as a historical resource under the City's Historic Resource Code, any construction or removal of the encroachment shall comply with the Secretary of the Interior's Standards for Treatment of Historical Properties and other applicable rules, regulations, and law, including the Historic Alteration Permit, if any, referenced in Paragraph Three of Attachment A.

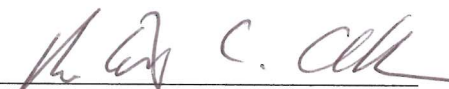
APPROVED AS TO FORM AND CONTENT

By: 
Jim Newton
City of Coronado
City Engineer

Date: 9/11/25

-NOTARIZATION REQUIRED-

AGREED AND ACCEPTED:

By: 
Robert C. Allen
Owner
Permittee

Date: 9/2/25
(Signature of owner, owners or
authorized representative)

-NOTARIZATION REQUIRED-

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF San Diego

On Sep. 21, 2025, before me, Paulina Soto, Notary Public, personally appeared Robert C. Allen,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

[Handwritten Signature]
Signature of Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF San Diego

On September 11, 2015, before me, Kelsea Marie Holian, Notary Public, personally appeared Jim Newton,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

[Handwritten Signature]
Signature of Notary Public

**ATTACHMENT A TO ENCROACHMENT MAINTENANCE
AGREEMENT REGARDING
ENCROACHMENT PERMIT NO. E2507-004**

PARAGRAPH ONE:

Permittee

Robert C. Allen
417 B Avenue
Coronado, CA 92118

PARAGRAPH TWO:

Benefited Property

417 B Avenue
Coronado, CA. 92118
A.P.N.: 536-321-04

PARAGRAPH THREE:

This encroachment permit authorizes a private improvement consisting of artificial turf over a compacted base material in the public right-of-way. Said improvements will extend Thirty Four feet (34') along Six and a Half feet (6.5') wide parkway adjacent to the property along B Avenue. The total turf encroachment is estimated to be Two Hundred Five square feet (205 sq. ft.) of privately-enhanced and maintained public land. In addition to the artificial turf, this agreement will also cover the approximately 48 square feet of Blue stone walkway in the parkway which is set in concrete.

PARAGRAPH FOUR:

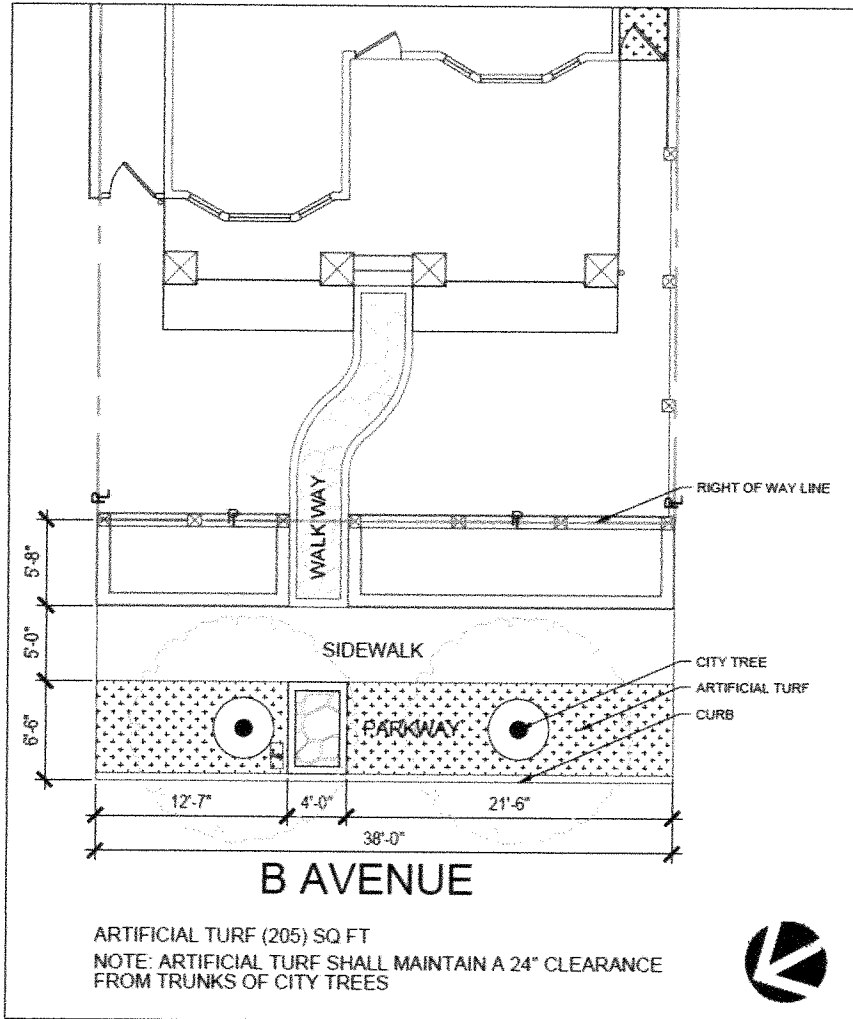
Purpose

The purpose of this permit is to allow the Permittee to construct, at his/her expense, the private improvements as shown in Exhibit A of the encroachment permit, within the public right-of-way adjacent to 417 B Avenue, Coronado CA 92118.

**EXHIBIT A TO COVENANT REGARDING
ENCROACHMENT PERMIT NO. E2507-004**

Attachment 1

**EXHIBIT A TO COVENANT REGARDING
ENCROACHMENT PERMIT NO. E2507-004**



TORREY PINES
LANDSCAPE COMPANY

5560 EASTGATE MALL | SAN DIEGO, CA, 92121 | 858 454 1433
TPLANDSCAPE.COM | STATE LICENSE # 437912 | EST. 1982

**417 B AVE.
CORONADO, CA**

PROPOSED ENCROACHMENT	
APN#	536-321-04-00
DATE:	7-9-25
DRAWN BY:	MAS
Scale: 1" = 10'-0"	







