



Office of the City Manager

PUBLIC HEARING
September 26, 2023

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning & Development Department
Subject: ZAB Appeal: 705 Euclid Avenue, Use Permit #ZP2022-0104

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution to modify and approve the project approved by the Zoning Adjustments Board (ZAB) for Use Permit (# ZP2022-0104) to construct a new three-story, 4,528 square foot single family dwelling with two parking spaces and associated retaining walls located in the setbacks, on a 6,024 square foot vacant lot, and dismiss the appeal.

The original project has been revised, as described in Response 1 of this report, to reduce the maximum building height by approximately two feet (from 41-feet, 11-inches to 39-feet, 5-inches).

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On August 9, 2022, John Newton submitted a Use Permit application on behalf of property owners Tarek and Michel Khoury to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and an associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot in the Single-Family Residential Zoning District in the Hillside Overlay (R-1H). Prior to submitting this application, the applicant posted a pre-application poster at the project site. The applicant also submitted drawings of the proposed plans to all adjacent and abutting neighbors. No comments in opposition were received at that time. Story poles were installed on the project site in December 2022. No public comments were received after the installation of the story poles.

On January 19, 2023 the application was deemed complete. On April 13, 2023, the City mailed public hearing notices to property owners and occupants, and to interested

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neighborhood organizations, and the City posted notices in three locations within the neighborhood. Staff received two public comments in opposition to the project.

On April 27, 2023, the ZAB conducted a public hearing for the use permit application (#ZP2022-0104). After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 6-0-1-2 (Ayes: Tregub, Duffy, Gaffney, Thompson, Yung, and Sanderson; Noes (none), Abstain: Lunaparra, Absent: O'Keefe, Hauser). The ZAB added conditions requiring the applicant to submit a transportation construction plan prior to issuance of a building permit, and conduct a geotechnical inspection during construction, as well as a recommendation to use bird-safe glass on all windows.

On May 9, 2023, staff issued a Notice of Decision of the ZAB decision, and on May 23, 2023, the matter was appealed to the City Council by Shona Armstrong, on behalf of Yoshika Wada, who resides at 696 Hilldale Avenue. The City Clerk set the public hearing date for September 26, 2023, and informed the appellants.

On or before September 12, 2023, staff posted the public hearing notice at the site and three nearby locations, and notices were mailed to property owners and occupants within 300 feet of the project site, and to all interested neighborhood organizations. The Council must conduct a public hearing to resolve the appeal.

BACKGROUND

The project site is located at 705 Euclid Avenue in the Berkeley Hills on steep terrain, within the Hillside Overlay Zone, in a residential area that includes a mix of one-, two-, and three-story single-family dwellings, with areas of open space in excess of that required, and mature vegetation. Residential lots in the neighborhood are generally rectangular in shape with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards from the northeast to the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain, the dwellings on the block tend to include attached one- or two-car garages, and/or uncovered parking spaces, within front setbacks. Access to dwellings is typically provided via exterior stairways.

The project site is an undeveloped upslope lot located on the east side of Euclid Avenue. It is bordered on the north by a public stairway (Halkin Walk, beyond which is a single-family home, 696 Hilldale Avenue), on the south by a three-story house at 713 Euclid Avenue, and to the east by a three-story house upslope at 702 Hilldale Avenue. To the west, across Euclid Avenue, houses are on downslope lots, typically with only their top stories and/or garages at street level. The subject lot, similar to neighboring properties, provides a significant view of San Francisco Bay. Much of the lot is bordered by trees of various species, including one coast live oak on the northern border.

The applicant proposes to construct a three-story single-family dwelling, with two off-street parking spaces located within the required front setback due to the steep terrain.

If approved, the project will include two front decks to compensate for minimal flat ground available for usable open space, and have a maximum height of 39-feet, 5.5-inches. The project approved by ZAB had a maximum height of 41-feet, 11-inches, and has been revised to reduce the maximum height by moving the stair and elevator penthouse toward the rear of the roof (*see Response 1 below for more information*). The proposed height is consistent with neighboring houses in the area.

The proposed first floor will be accessible by a lower entry porch and stairs, necessitated by the steep slope. This floor will contain two bedrooms and two bathrooms. The second floor will consist of two bedrooms, two bathrooms, and a laundry area. The top floor will be a mostly open floor plan with the kitchen, dining area, and family room, plus a half-bath, as well as access to a rear ground-level patio and an uncovered front deck. All floors and a rooftop deck will be accessible via an elevator and staircases. A stair and elevator “penthouse”¹ structure on the roof provides access to the roof deck. A portion of the roof deck is covered.

Off-street parking, accessible from Euclid Avenue, will consist of an uncovered parking pad protected by retaining walls, with planter boxes above the retaining walls. The backyard will consist of a patio area, garden, and retaining wall, located in the setback, with access above via exterior steps.

Some of the trees on the lot will be removed in preparation for construction. Others located along the northern border of the property will remain. The Coast Live Oak located on the northern border will remain and will not be encroached upon by any of the new structures.

RATIONALE FOR RECOMMENDATION

The issues raised in the appellant’s letter and staff responses are provided below. For the sake of brevity, the appeal issues are not restated in their entirety. Please refer to the appeal letter and its attachments (Attachment 3) for the full text.

Issue 1:

The appellant asserts that the proposed home is five stories high, in violation of the development standards for the district, which allow a maximum of three stories.

Response 1:

For purposes of applying the zoning code, the number of stories in a structure is a technical measurement based on Berkeley Municipal Code (BMC) Section 23.106.060, Rules of Measurement. A story is defined as “the portion of a building included between

¹ *Penthouse, Mechanical*. A room or enclosed structure, attached to the roof level for the uppermost story, for purposes of sheltering mechanical equipment, water tanks and/or vertical openings for stairwell and elevator shafts. Such a structure is considered a story if it contains usable floor area or habitable space (BMC 23.502.020).

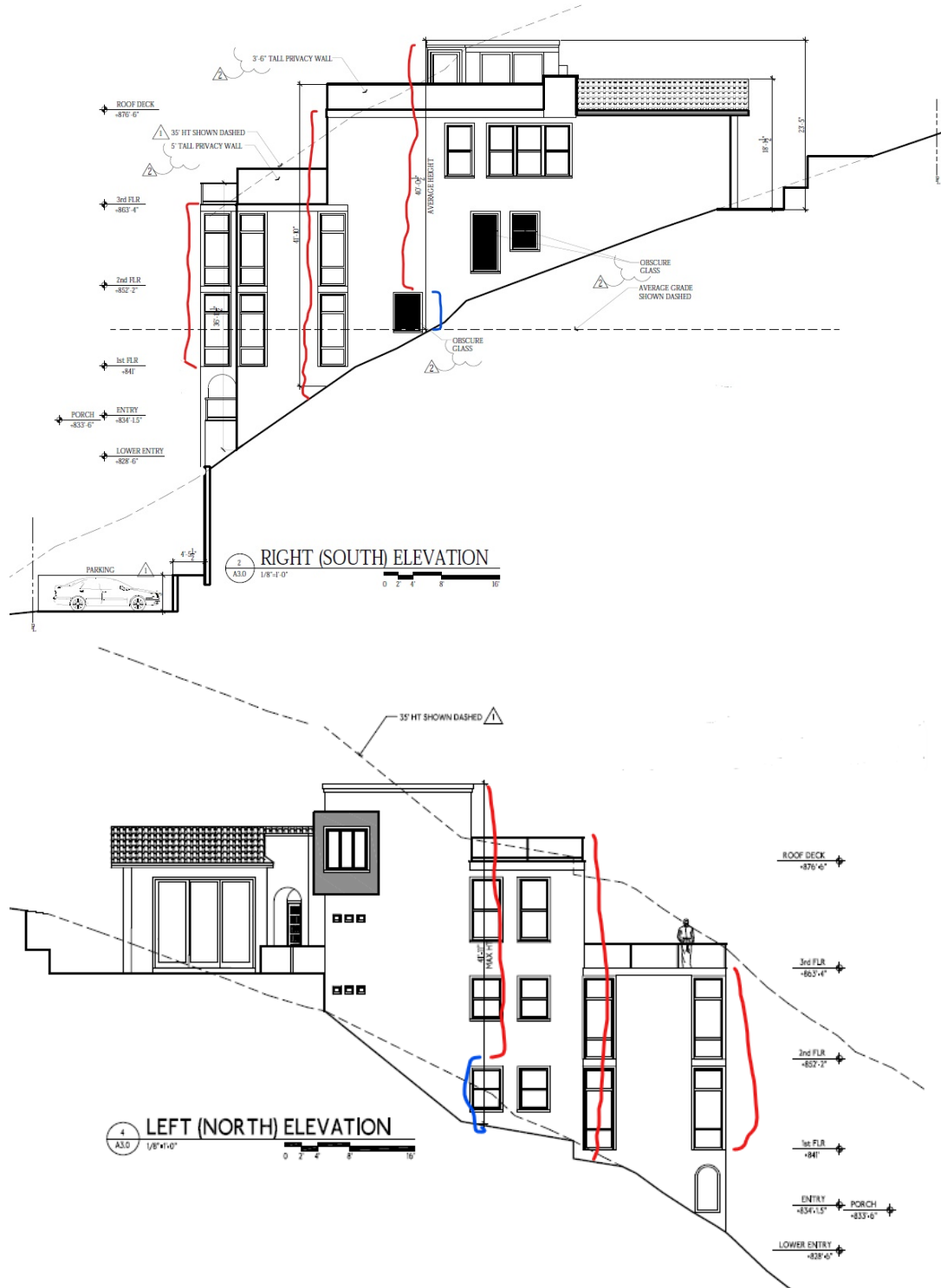
the upper surface of any floor and the upper surface of the floor next above.” For purposes of this measurement, it specifies how to treat below grade spaces and penthouses, which is particularly relevant for buildings on steeply-sloped lots with stepped stories that follow the grade.

- *Below Grade Spaces:* If the finished floor level directly above the ceiling of a basement, garage structure, cellar, or unused underfloor space is more than six feet above existing grade at any point, such basement, cellar, or unused underfloor space is considered a story.
- *Penthouses:* A penthouse used for purposes other than shelter of mechanical equipment or shelter of vertical shaft openings in the roof is considered a story.

Stepped stories are not uncommon in the Hillside Overlay, and are typically measured in sections, considering the floors that are directly above and below one another.

While the original proposal was not five stories as the appellant states, upon further review, staff determined that part of the building was four stories because a portion of the penthouse was located directly above a portion of the first floor that exceeded six feet above grade. This can be seen in the vertical measurement from either side of the house at the front of the elevator penthouse. At that point the house, as depicted in the ZAB-approved plan set, was more than three stories in height (Figure 1).

Figure 1: ZAB-Approved Proposal (Marked to show story-calculation error)

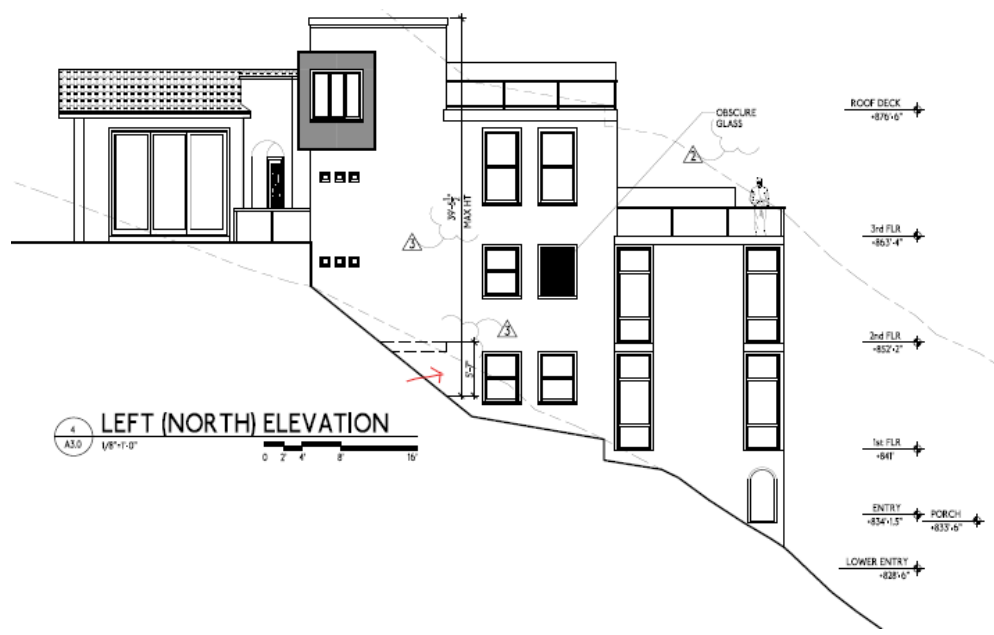
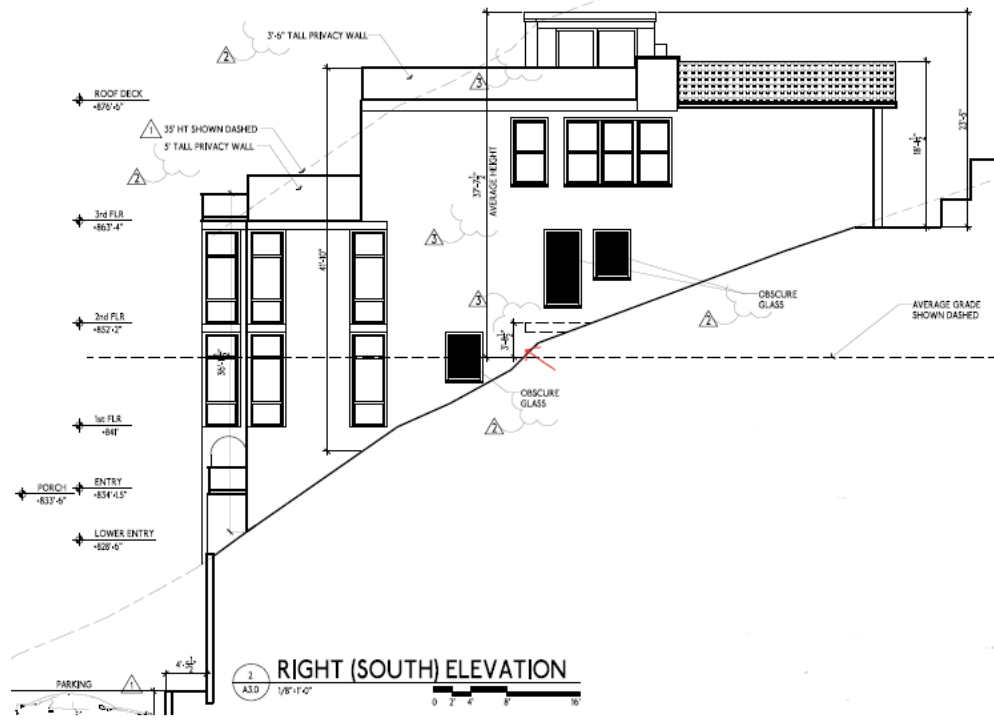


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In the weeks prior to the September 26, 2023 public hearing, staff alerted the applicants to this issue. In response, the applicants submitted new plans which involve moving the elevator shaft back four feet from its original location (see Attachment 1, Revised plans dated August 15, 2023). This change ensures that no portion of the first floor is more than six-feet above grade beneath the penthouse (Figure 2). This has resulted in a structure that is now compliant with the three-story maximum allowed by the BMC (Figure 2), and a reduced maximum height by approximately two feet.

Figure 2: Updated Proposal to correct story calculation (Elevator shaft moved back)



Issue 2:

The appellant asserts that the project does not serve the R-1 District purpose of “protecting adjacent properties from unreasonable obstruction of light and air,” and does not give reasonable protection to views, and that ZAB erred by finding that the project would not be detrimental to neighboring properties or the City’s general welfare.

Response 2:

In order to approve an Administrative Use Permit to exceed the 35-foot maximum building height in the Hillside Overlay Zone (HOZ), the reviewer (typically the Zoning Officer, or ZAB or City Council upon an appeal) must find that the project meets the general non-detriment findings (BMC 23.406.040(E)(1)) and that the project is consistent with the purposes of the Hillside Overlay District (BMC 23.210.020(A)).

One of the purposes of the Hillside Overlay Zone is to “give reasonable protection to views yet allow appropriate development of all property.” This provision does not state that no views can be affected; rather, the language of the purpose statement indicates that, in order to allow for new development, views might be affected to some extent. A single-family home is the primary allowed land use within the R-1H, and it is reasonable to expect that a vacant lot would be developed in this manner.

Another of the HOZ purpose statements is to “allow modifications in standard setback and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the hillside areas.” The subject lot slopes steeply upward from the street, with an approximately 54 percent grade change from the front lot line to the back of the proposed single-family residence, and modification of applicable development standards are considered in the overlay purposes to address such situations.

One of the purposes of the R-1 District is to “protect adjacent properties from unreasonable obstruction of light and air” (BMC 23.202.050(A)(3)). The Non-Detriment Findings (BMC 23.406.040(E)(1)) that are required to approve a Use Permit can be used to address these purposes. The required Non-Detriment Findings are:

- To approve a Use Permit, the ZAB shall find that the proposed project or use:
- a. Will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or visiting in the area or neighborhood of the proposed use; and
 - b. Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

In the present case, staff visited the site and examined the story poles, and also examined the shadow studies submitted by the applicant. The shadow studies did not demonstrate significant shadow effects on neighboring properties. In addition, photographic evidence provided by the applicant at the April 27, 2023 ZAB hearing revealed that, while there would be some obstruction of the view from the appellant's 696 Hilldale Avenue property when looking to the south, there would still be a wide and unobstructed panoramic view of San Francisco Bay.

Issue 3:

The appellant asserts that approval does not serve the R-1 District purpose of “recognizing and protecting the existing pattern of development in the low-density areas of the city.”

Response 3:

The development of a single-family home in the R-1H district on a lot that is over 6,000 square feet (where 5,000 square feet is required) is consistent with the pattern of low-density development that already exists in the area. Streetscape drawings provided by the applicant (Exhibit B), and staff observations of the story poles, reveal that the roofline of the proposed structure would be at roughly the same elevation as the neighboring homes' rooflines. Large three-story homes are the norm in the surrounding neighborhood. Staff's conclusion is that the proposed home is consistent with the existing pattern of development in the neighborhood.

Issue 4:

The appellant asserts that the project favors a private benefit over a potential negative impact on the neighbors and neighborhood.

Response 4:

The proposed project complies with the development standards of the district, except where Administrative Use Permits (AUPs) have been applied for to increase the allowed maximum building height, construct parking spaces in the front setback, and construct retaining walls in the setbacks, consistent with BMC sections 23.210.020, 23.322.080, and 23.304.070(B), respectively. The non-detriment findings as noted in Response 2 above, and the steep terrain, support the issuance of these AUPs. The assertion that the project favors an individual over a group of individuals in the neighborhood is subjective and not under ZAB's purview.

Issue 5:

ZAB's approval process was flawed in that they ignored neighbor concerns and denied one neighbor (Theodore Raphael) the right to speak.

Response 5:

There may have been an error during the April 27, 2023 ZAB hearing which prevented Mr. Raphael from speaking via Zoom teleconference during the public comment period

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for this item. However, a variety of concerns from other neighbors, including the appellant, were heard and considered by ZAB. In addition, the standard public notifications were mailed to all neighbors and posted on site prior to the hearing. Two public comments were received during this period: one from representatives of Yoshiko Wada of 696 Hilldale Avenue, and one from Mr. and Mrs. Raphael (see Attachment 4 for both). Subsequent to the ZAB hearing, Mr. and Mrs. Raphael submitted another letter, this one in support of the appeal, with comments in keeping with those heard by ZAB during the hearing (see Attachment 5).

ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is compliant with all applicable State and local environmental requirements and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23.410.040(G), the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

ACTION DEADLINE

Pursuant to BMC Section 23.410.040(I), if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, (510) 981-7534

Alene Pearson, Acting Land Use Planning Manager, Planning & Development Department (510) 981-7411

Russell Roe, Associate Planner, Planning & Development Department, (510) 981-7548

Attachments:

1: Resolution

Exhibit A: Revised Findings and Conditions

Exhibit B: Project Plans, revised August 15, 2023

2: April 27, 2023 ZAB hearing staff report with ZAB-approved Findings and Conditions and plans

3: Appeal letter, dated received May 23, 2023

4: Public Comments received prior to April 27, 2023 ZAB hearing

5: Public Comments received after the April 27, 2023 ZAB hearing

6. Index to Administrative Record

7. Administrative Record

8: Public Hearing Notice

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RESOLUTION NO. ##,###-N.S.

MODIFYING THE ZONING ADJUSTMENTS BOARD DECISION TO APPROVE USE PERMIT #ZP2022-0104 TO CONSTRUCT A NEW THREE-STORY (39 FEET AND 5.5 INCHES), 4,528 SQUARE FOOT SINGLE FAMILY DWELLING WITH TWO PARKING SPACES AND ASSOCIATED RETAINING WALLS LOCATED IN THE REQUIRED SETBACKS, ON A 6,024 SQUARE FOOT VACANT LOT, AND DISMISS THE APPEAL

WHEREAS, on August 9, 2022, John Newton submitted an application for Use Permit #ZP2022-0104 to construct a new three-story 4,528 square foot single-family dwelling with two parking spaces and an associated retaining wall located in the required front setback on a 6,026 square foot vacant lot; and

WHEREAS, on January 19, 2023 staff deemed this application complete; and

WHEREAS, on April 13, 2023, staff mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and posted notices within the neighborhood at three locations; and

WHEREAS, on April 27, 2023 the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 6-0-1-2, with added conditions for requiring a transportation construction plan to be submitted prior to issuance of a building permit, geotechnical construction inspections during construction, and encouraging the use of bird-safe glass; and

WHEREAS, on May 9, 2023, staff issued the notice of the ZAB decision; and

WHEREAS, on May 23, 2023, the City Clerk receive an appeal filing from Shona Armstrong on behalf of Yoshiko Wada, and the City Clerk set the public hearing date for September 26, 2023; and

WHEREAS, on August 15, 2023, the applicant submitted revised plans to move the elevator shaft back four feet, thereby reducing the maximum building height approximately two feet, to ensure that the project complies with development standards; and

WHEREAS, on or before September 12, 2023, staff posted public hearing notices near the site and mailed notices to property owners and occupants within 300 feet of the project site and to all registered neighborhood groups that cover this area; and

WHEREAS, on September 26, 2023, the Council held a public hearing to consider the ZAB's decision, and in the opinion of this Council, the facts stated in, or ascertainable

from, the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby adopts the findings and conditions in Exhibit A to modify the decision of the ZAB to approve Use Permit #ZP2022-0104, and adopts the project plans in Exhibit B; and dismisses the appeal.

Exhibits

Exhibit A: Findings and Conditions, September 26, 2023

Exhibit B: Project Plans, received August 15, 2023

Attachment 1, Exhibit A

Findings and Conditions

SEPTEMBER 26, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (39 feet and 5.5 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

ZONING PERMITS REQUIRED

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
(a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to

property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. Shadow studies submitted by the applicant show that new shadow effects would be minor due to the orientation of the new and existing structures, as well as the existence of tall trees along some of the property lines; and
- B. Privacy intrusions would be minimal because the proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 Hilldale and 713 Euclid Avenue, the applicant has proposed obscured glass for the windows that have the greatest potential for causing privacy concerns, and new and existing trees will act as visual obstructions between the properties; and
- C. Reduced availability of air will not be an issue because the proposed structure would be roughly 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor, and the project would exceed the usable open space requirement; and
- D. Story poles erected on the site show that significant views from neighboring properties will not be unreasonably affected.

III. OTHER FINDINGS FOR APPROVAL

- 2. As required by BMC 23.202.020(B), the Zoning Adjustments Board finds that:
 - A. The proposed project would meet all applicable development standards for the R-1 District except the height limits;
 - B. The proposed increased height limits are justifiable and approvable with an AUP because the proposed height is compatible with those of neighboring structures and story poles erected on the site did not reveal an unreasonable obstruction of significant views from neighboring properties; and
 - C. The proposed parking area, retaining walls, and exterior stairs are approvable in the front setback with an AUP because of the steep upward slope of the lot, and it would be consistent with many neighboring properties that have similar parking areas and stairs in their front setbacks; and
 - D. The proposed project would meet the purposes of the Single-Family Residential District and the Hillside Overlay Zone.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination

that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).

- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____

Name

Phone #

11. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City’s database prior to the applicant’s submittal of a building permit application.

12. Tree Preservation Conditions. The Arborist Report dated May 26, 2022 shall be included with any application for a building permit, and shall be with the approved set of plans on the job site at all times while work is taking place.

13. Tree Protection Fencing. To protect the Specified Tree Protection Zone will be shown on all applicable site, landscape, grading, and utility plans. Such fencing shall comply with the guidelines specified in the Arborist Report dated May 26, 2022.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

14. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
15. Prior to the issuance of any building or demolition permit, the applicant shall prepare and submit a transportation construction plan to the City Traffic Engineer for approval. Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.
16. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
 - A. Environmental Site Assessments:
 - 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third-party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
 - B. Soil and Groundwater Management Plan:
 - 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants

and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Issuance of Any Building (Construction) Permit

17. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

18. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.
19. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
20. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
21. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80). The building permit plan set submission shall both include a cover sheet declaration: 'Natural Gas-Free Design as required by BMC Chapter 12.80.
22. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
23. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
24. Geotechnical Plan Review. The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building a grading plans (i.e., site preparation and grading, shoring design, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and retaining walls) to ensure that their recommendations have been properly incorporated.

The Project Geotechnical Consultant should clarify anticipated depths to bedrock materials across the site for structural design (i.e., at what depth can bedrock skin friction be used).

The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

During Construction:

25. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
26. Tree Protection Fencing to protect the Specified Tree Protection Zone must be installed prior to any site or demolition work, in accordance with the approved plans, and remain during all stages of site work and construction.
27. Tree Monitoring. Trees identified for protection in the Arborist Report dated May 26, 2022 shall be monitored monthly during construction by the project arborist.
28. Geotechnical Report. The contractors shall implement the recommendations of the Geotechnical Soil Report, dated March 15, 2022, including site preparation and earthwork, surface and subsurface drainage, foundation reinforcements, retaining wall design, lateral lode resistance, and seismic reinforcements.
29. Geotechnical Construction Inspections. The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete. The Consultant should inspect and approve of temporary shoring measures, as applicable during grading for proposed parking areas and residential improvements.

The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

30. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.
31. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.

- E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District 's phone number shall also be visible to ensure compliance with applicable regulations.
- 32. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 33. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 34. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.
- Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of

construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 35. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 36. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
 - E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

37. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
38. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
39. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).
- A. *Qualified Paleontologist*. The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
- B. *Paleontological Worker Environmental Awareness Program (WEAP)*. Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial

training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.
- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report

describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

- 40. Halt Work/Unanticipated Discovery of Tribal Cultural Resources.** In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
- 41. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 42.** Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 43.** Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 44.** Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
- 45.** Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall

be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

46. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
47. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

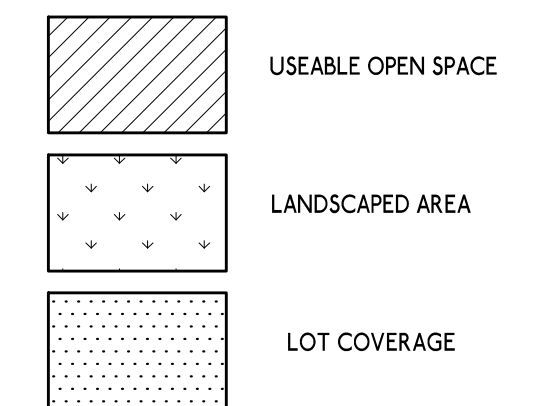
Prior to Final Inspection or Issuance of Occupancy Permit:

48. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
49. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 29, 2022, except as modified by conditions of approval.

At All Times:

50. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
51. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
52. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
53. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
54. Bird-Safe Glass. The use of bird-safe glass is encouraged for all windows.
55. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
-

LEGEND



OPEN SPACE
 PATIO - 568 SF OPEN SPACE
 231 SF LANDSCAPED (40.6%)
 DECK - 579 SF OPEN SPACE
 ROOF DECK - 1,005 SF OPEN SPACE
 2,152 SF TOTAL USEABLE OPEN SPACE

LOT COVERAGE
 FOOTPRINT 2,340 SF.
 LOT COVERAGE: 38.8%

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 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 847-4108
 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

CM Engineers
 (925)818-0570
 Cyrus Mashoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

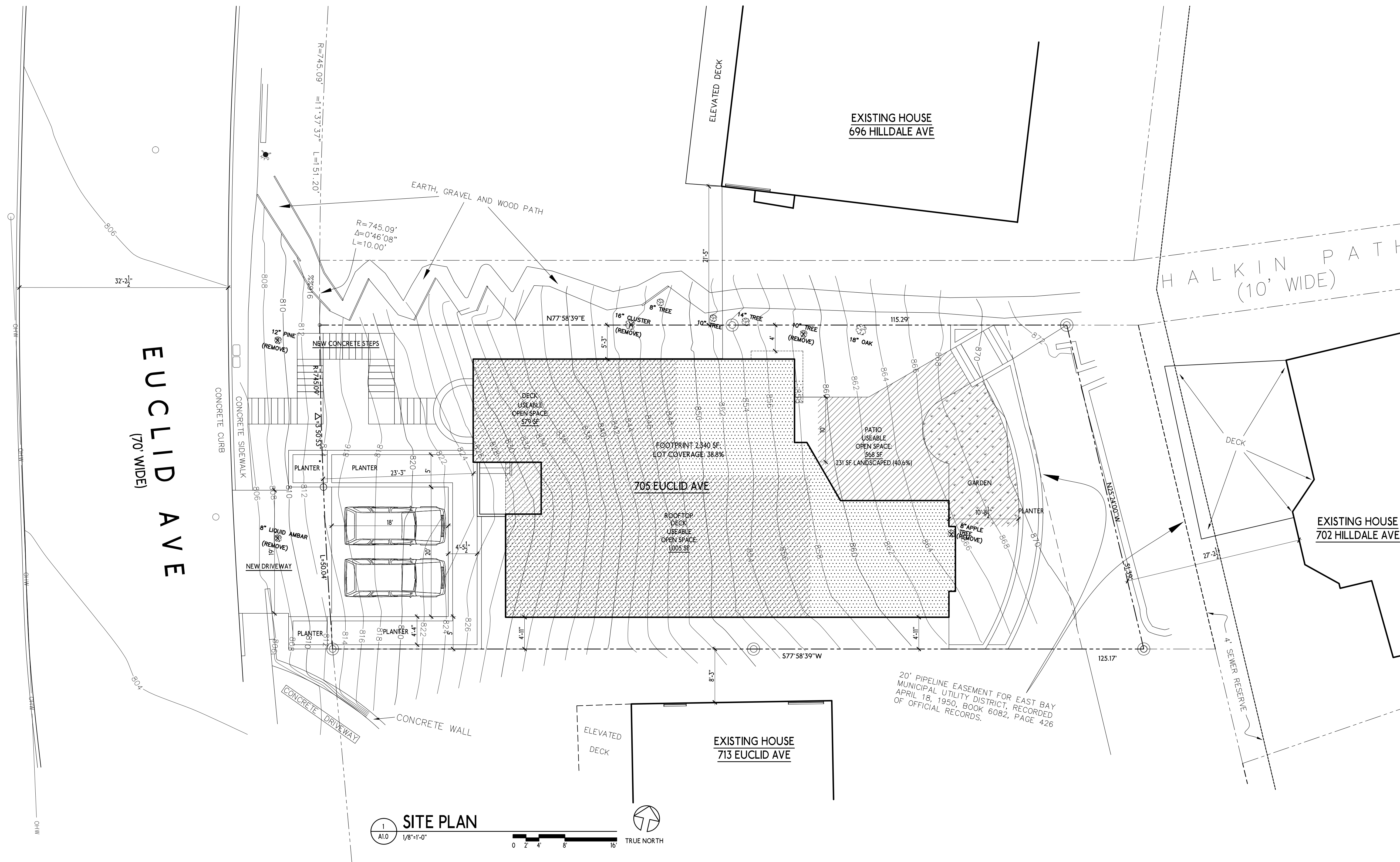
LOT COVERAGE & USEABLE OPEN SPACE DIAGRAM

REVISION

No.	Description	Date
1	DESIGN REV	9/21/22
2	PLAN CHECK	12/28/22
3	DESIGN REV	8/12/23

PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

A1.1



SITE PLAN
 1/8"=1'-0"
 TRUE NORTH

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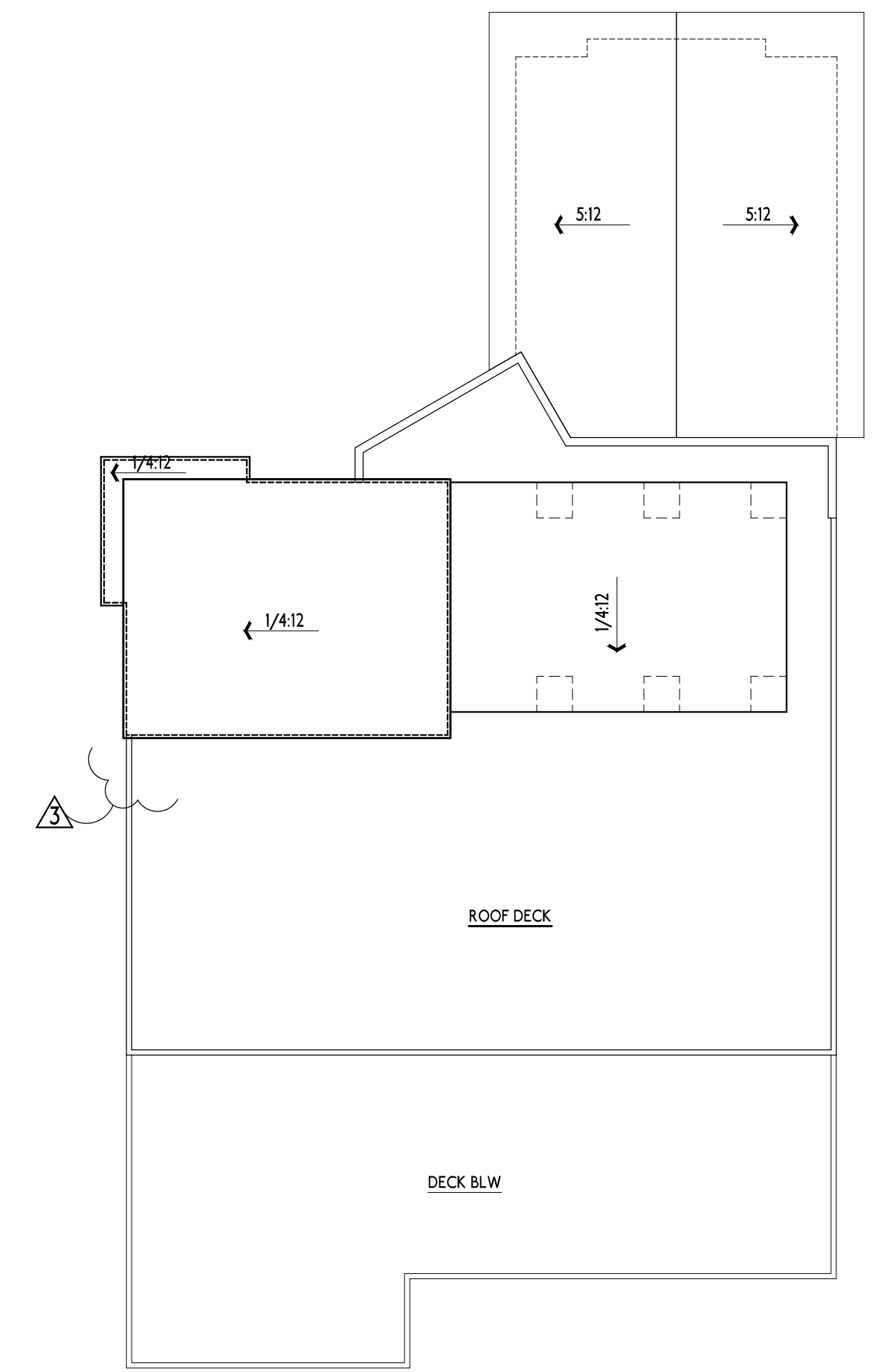
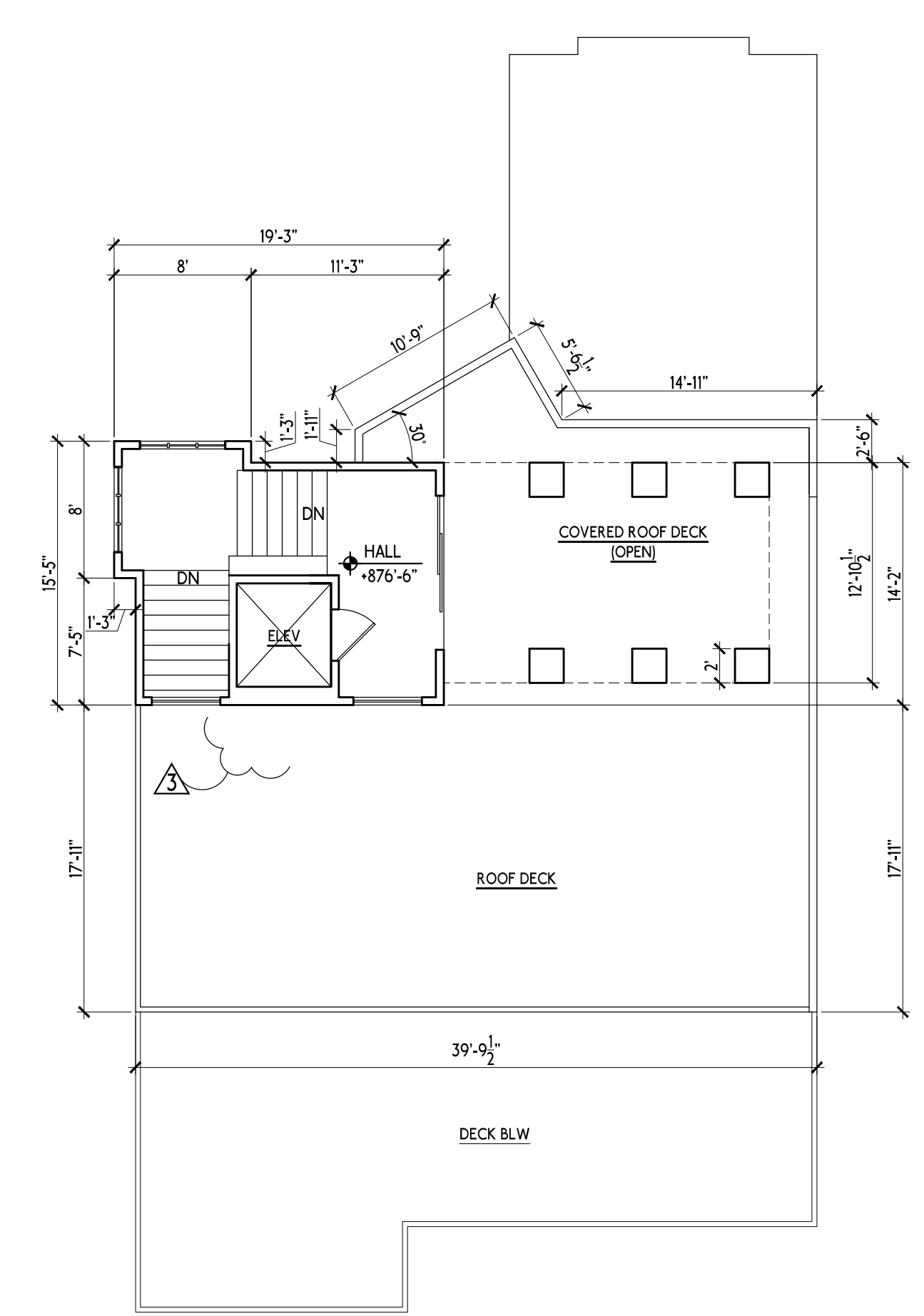
FLOOR PLANS

REVISION

No.	Description	Date
⚠	DESIGN REV	9/21/22
⚠	PLAN CHECK	12/28/22
⚠	DESIGN REV	8/12/23

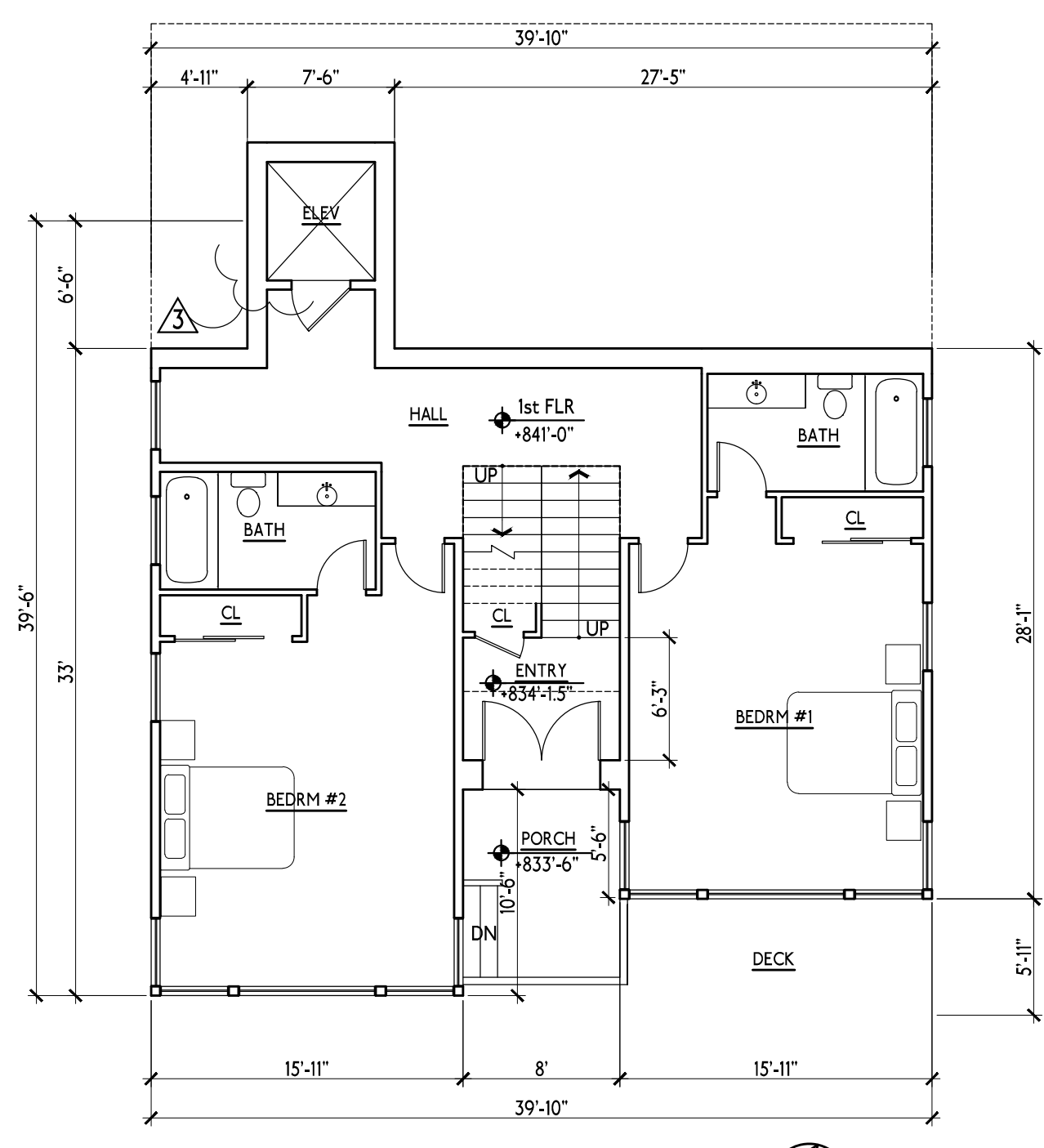
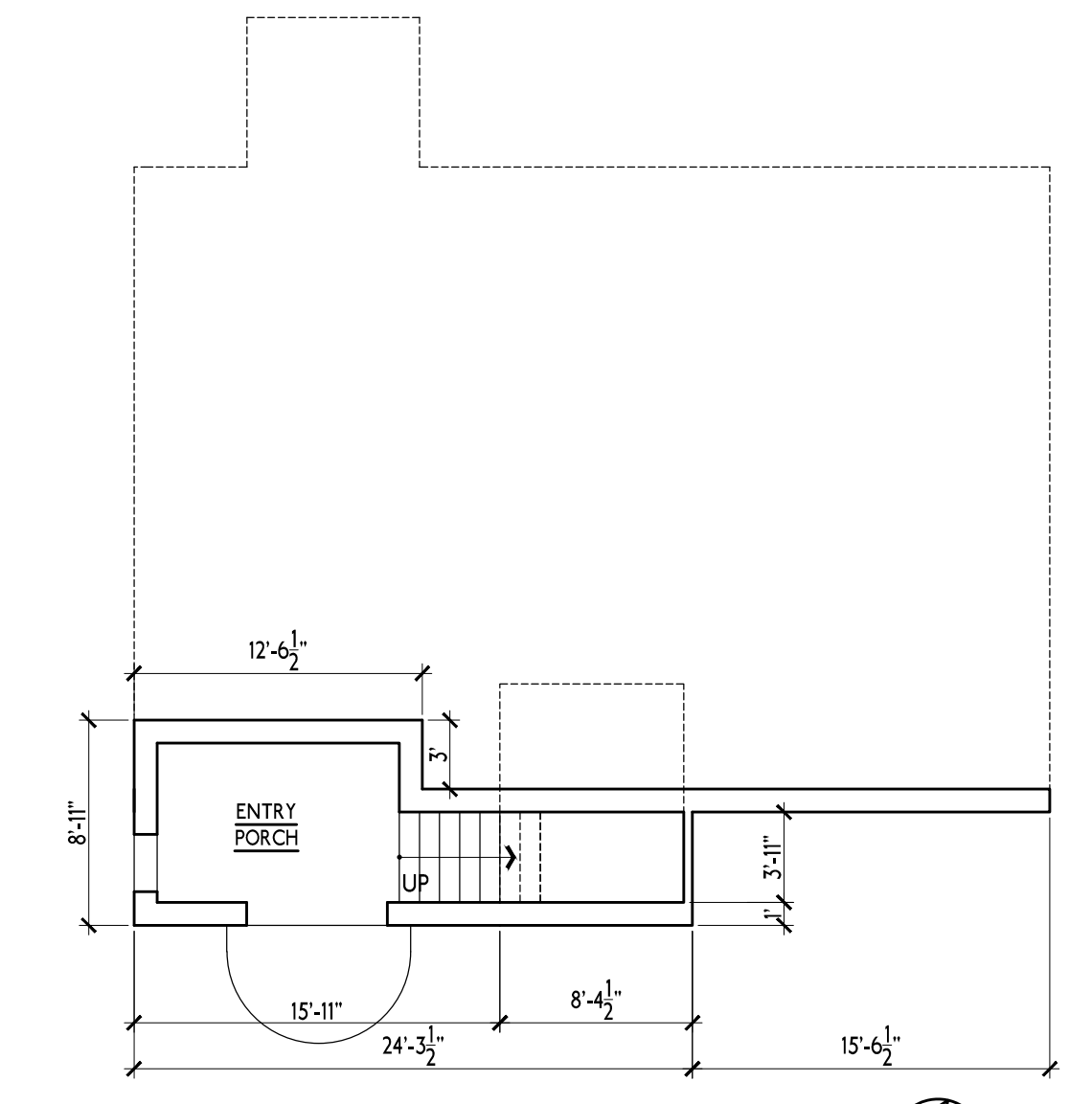
PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

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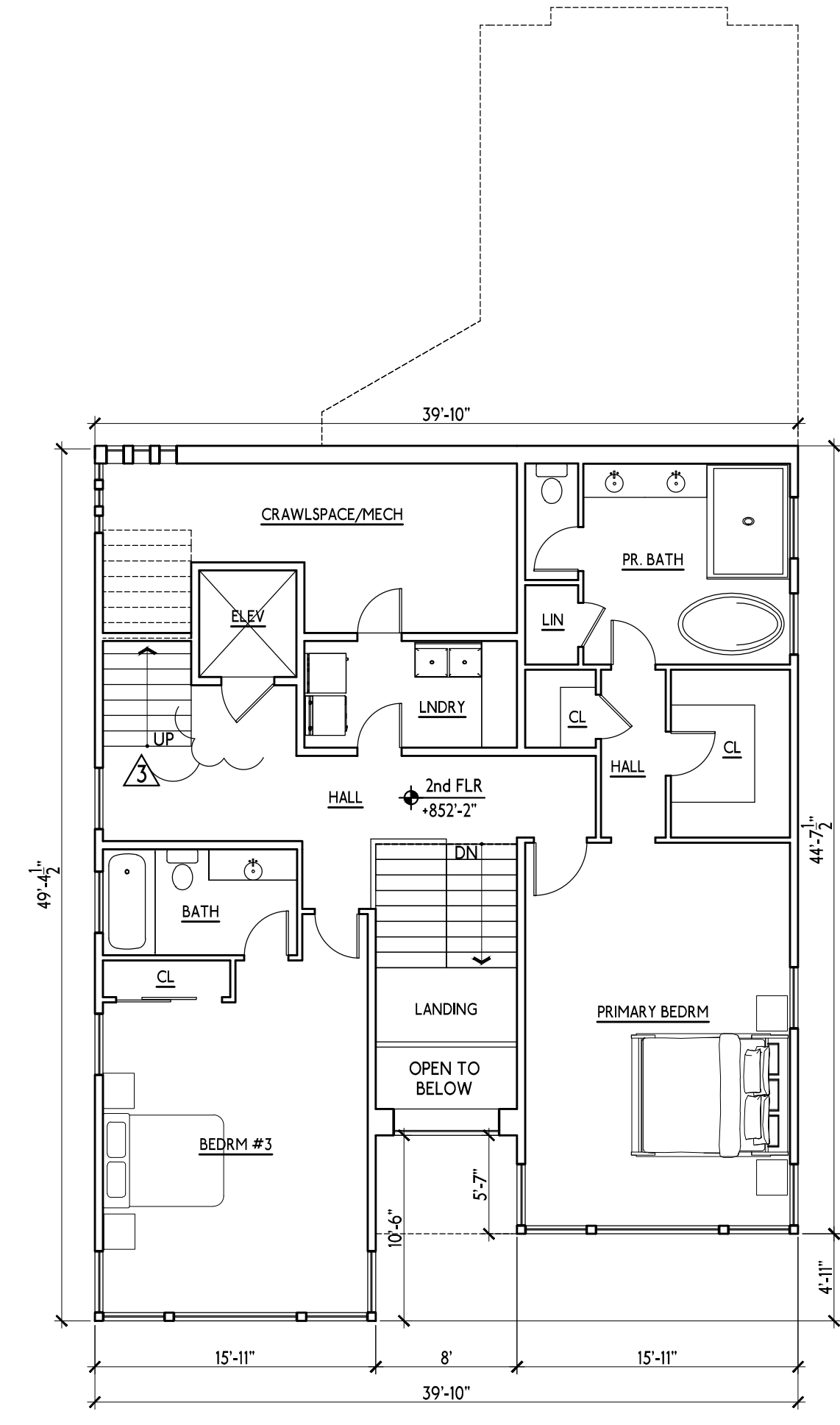


5 ROOF DECK FLOOR PLAN
 1/8"=1'-0"
 245 SF
 TRUE NORTH

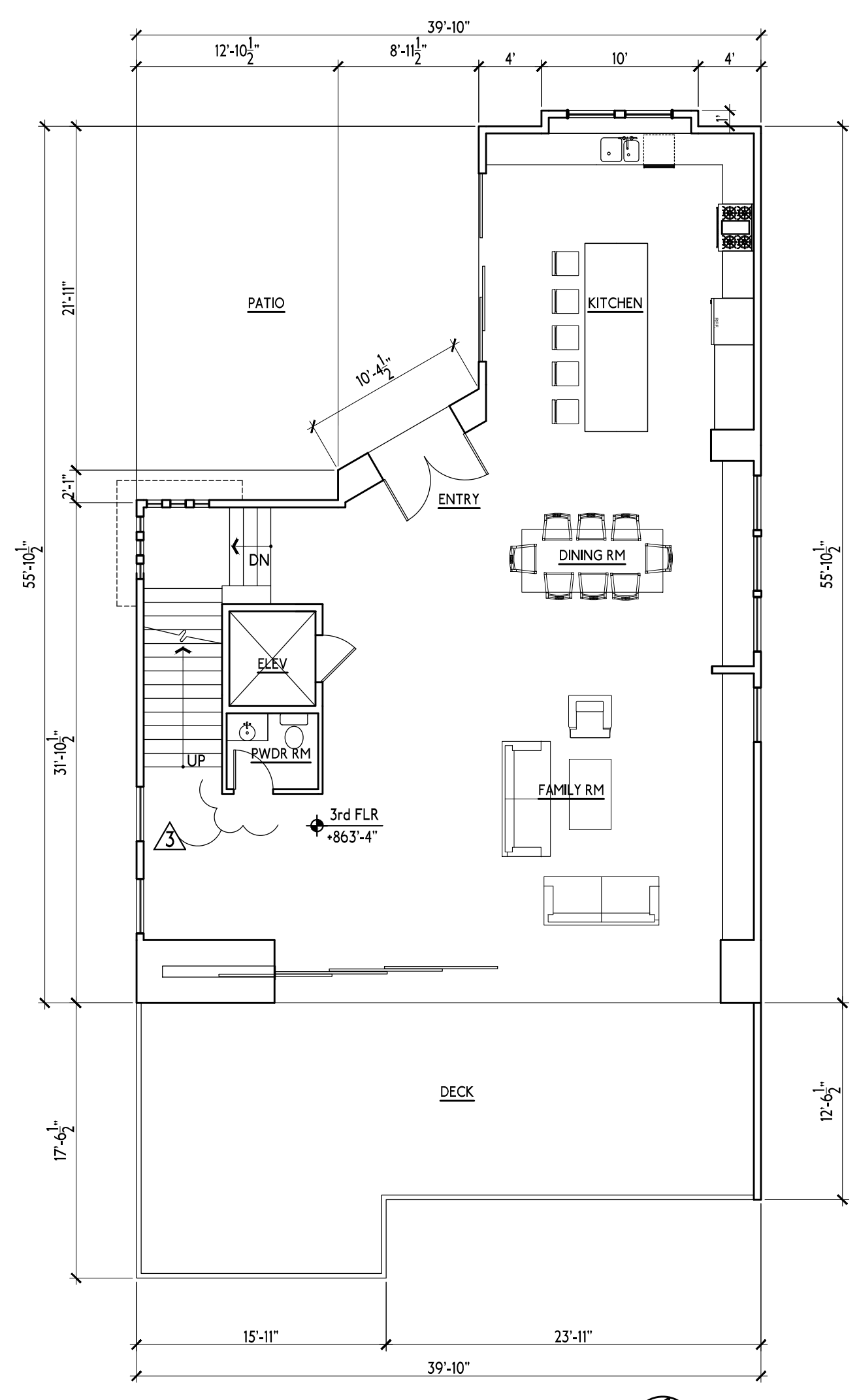
6 ROOF PLAN
 1/8"=1'-0"
 TRUE NORTH



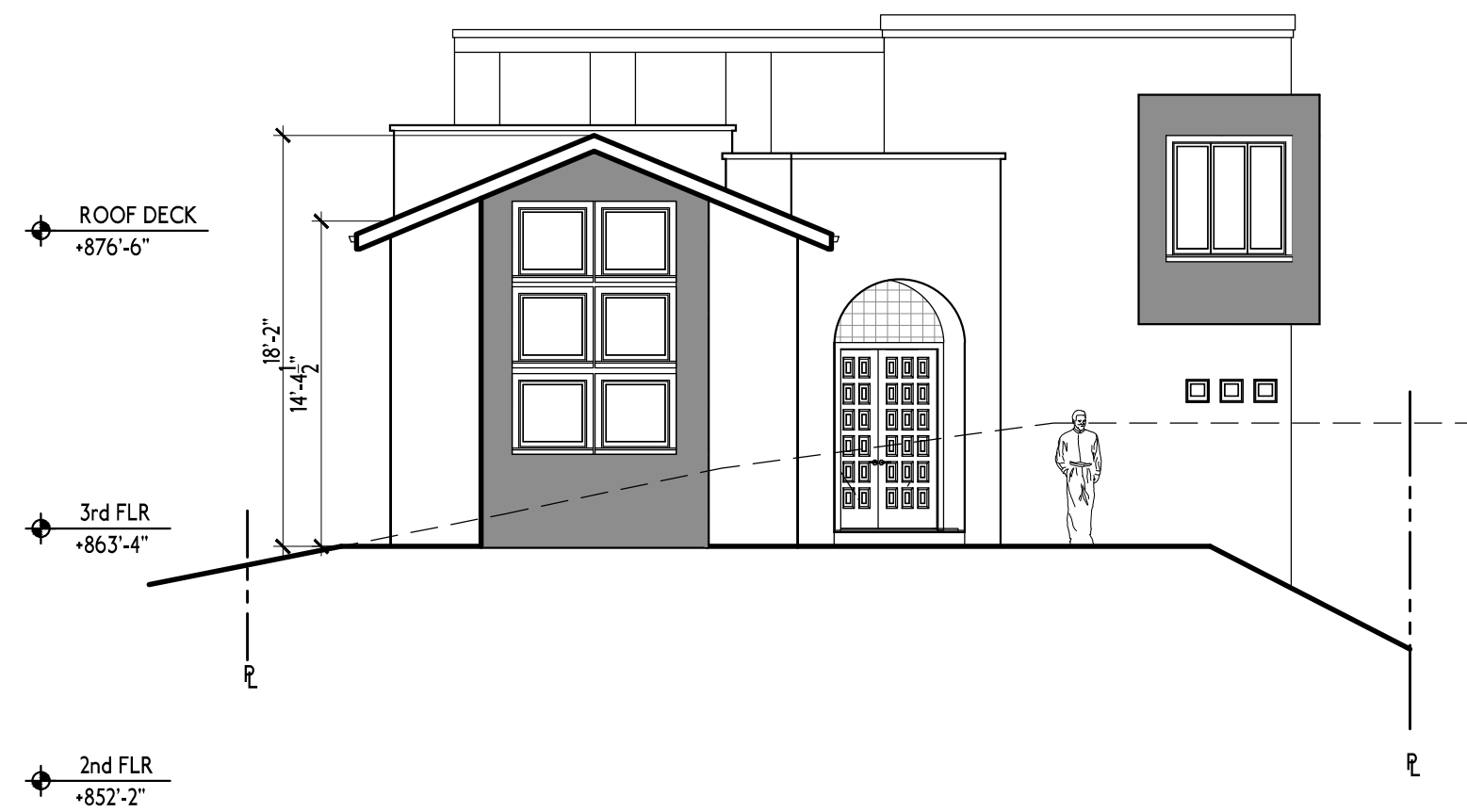
2 1st FLOOR PLAN
 1/8"=1'-0"
 1st FLR: 1,201 SF
 TRUE NORTH



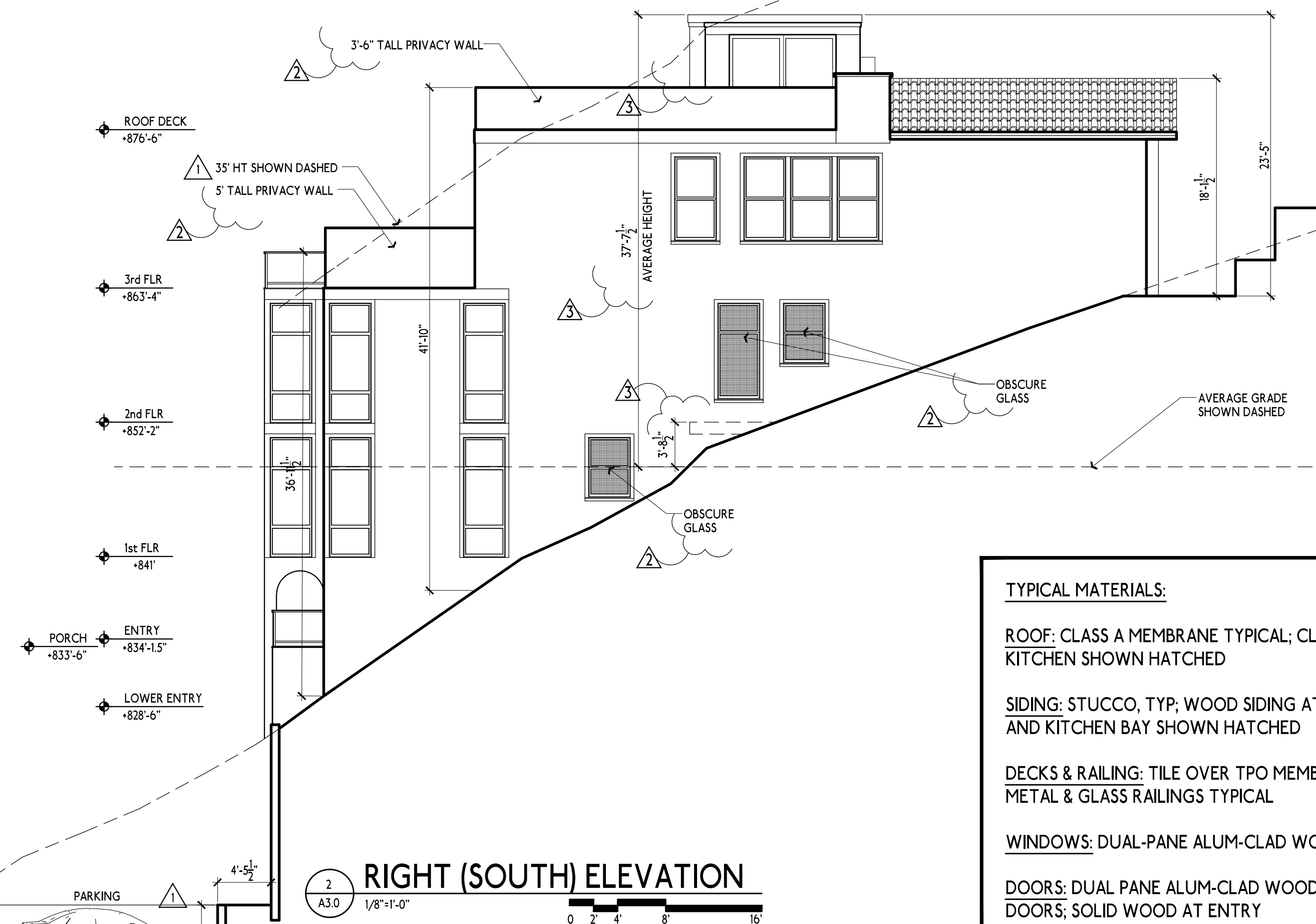
3 2nd FLOOR PLAN
 1/8"=1'-0"
 2nd FLR: 1,393 SF
 TRUE NORTH



4 3rd FLOOR PLAN
 1/8"=1'-0"
 3rd FLR: 1,689 SF
 TRUE NORTH

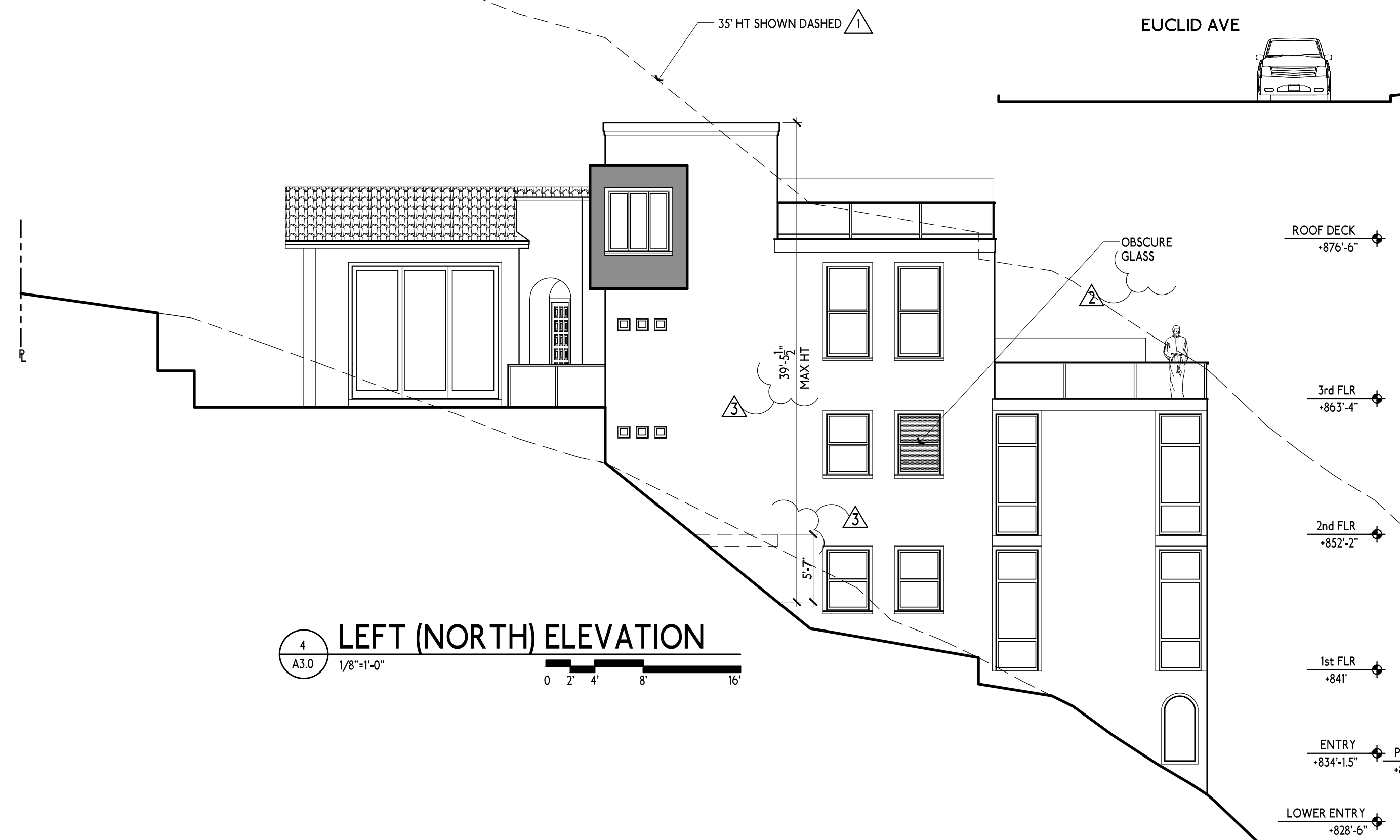


3 REAR (EAST) ELEVATION
A3.0 1/8"=1'-0"
0 2' 4' 8' 16'

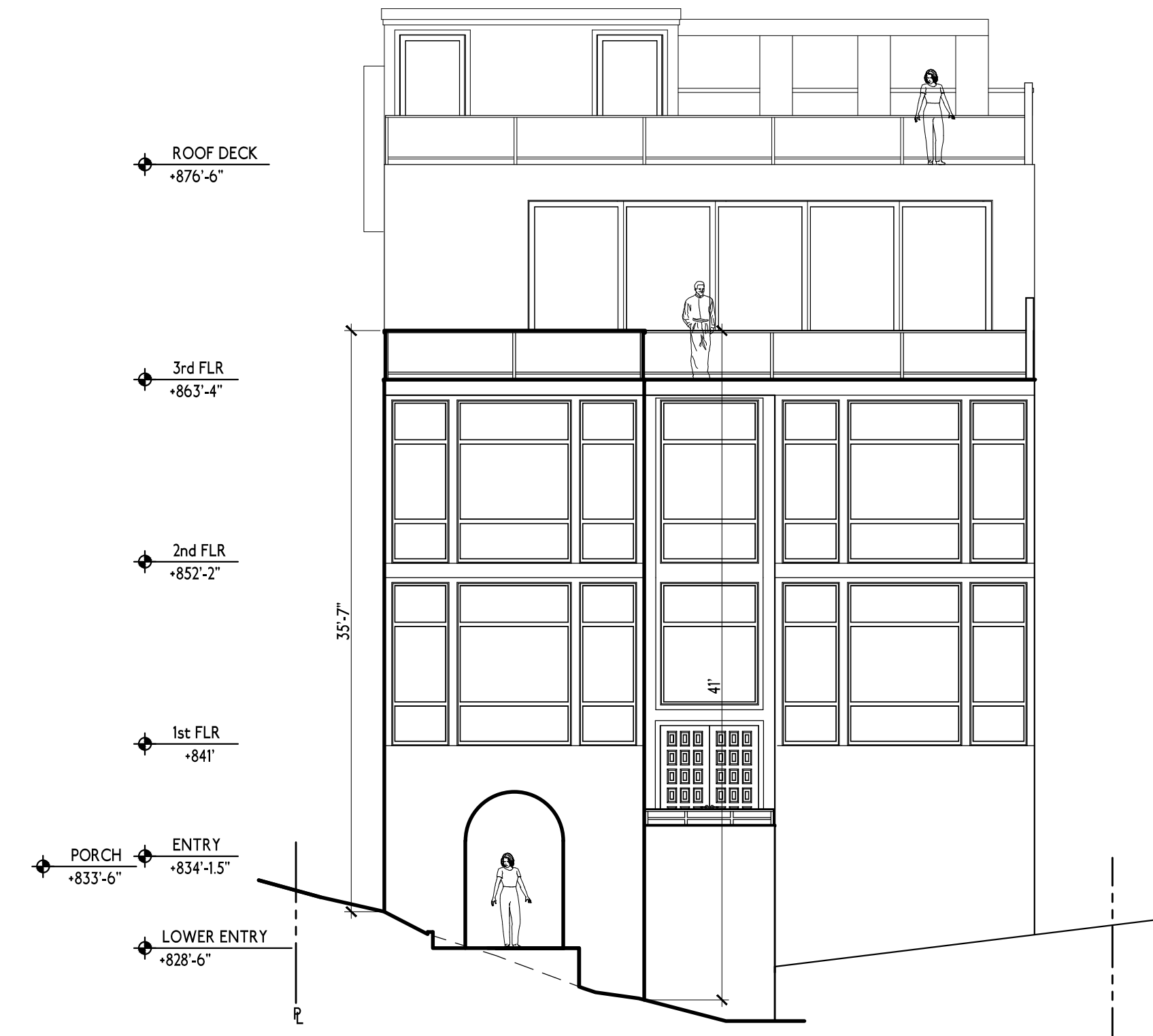


2 RIGHT (SOUTH) ELEVATION
A3.0 1/8"=1'-0"
0 2' 4' 8' 16'

TYPICAL MATERIALS:
 ROOF: CLASS A MEMBRANE TYPICAL; CLAY TILE AT KITCHEN SHOWN HATCHED
 SIDING: STUCCO, TYP; WOOD SIDING AT OVERHANG AND KITCHEN BAY SHOWN HATCHED
 DECKS & RAILING: TILE OVER TPO MEMBRANE TYP; METAL & GLASS RAILINGS TYPICAL
 WINDOWS: DUAL-PANE ALUM-CLAD WOOD
 DOORS: DUAL PANE ALUM-CLAD WOOD FRENCH DOORS; SOLID WOOD AT ENTRY



4 LEFT (NORTH) ELEVATION
A3.0 1/8"=1'-0"
0 2' 4' 8' 16'



1 FRONT (WEST) ELEVATION
A3.0 1/8"=1'-0"
0 2' 4' 8' 16'

John Newton
 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 847-4108
 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

CM Engineers
 (925)818-0570
 Cyrus Mashoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

PROPOSED ELEVATIONS

REVISION		
No.	Description	Date
1	DESIGN REV	9/21/22
2	PLAN CHECK	12/28/22
3	DESIGN REV	8/12/23

PROJECT No. :
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 12/28/22

A3.0

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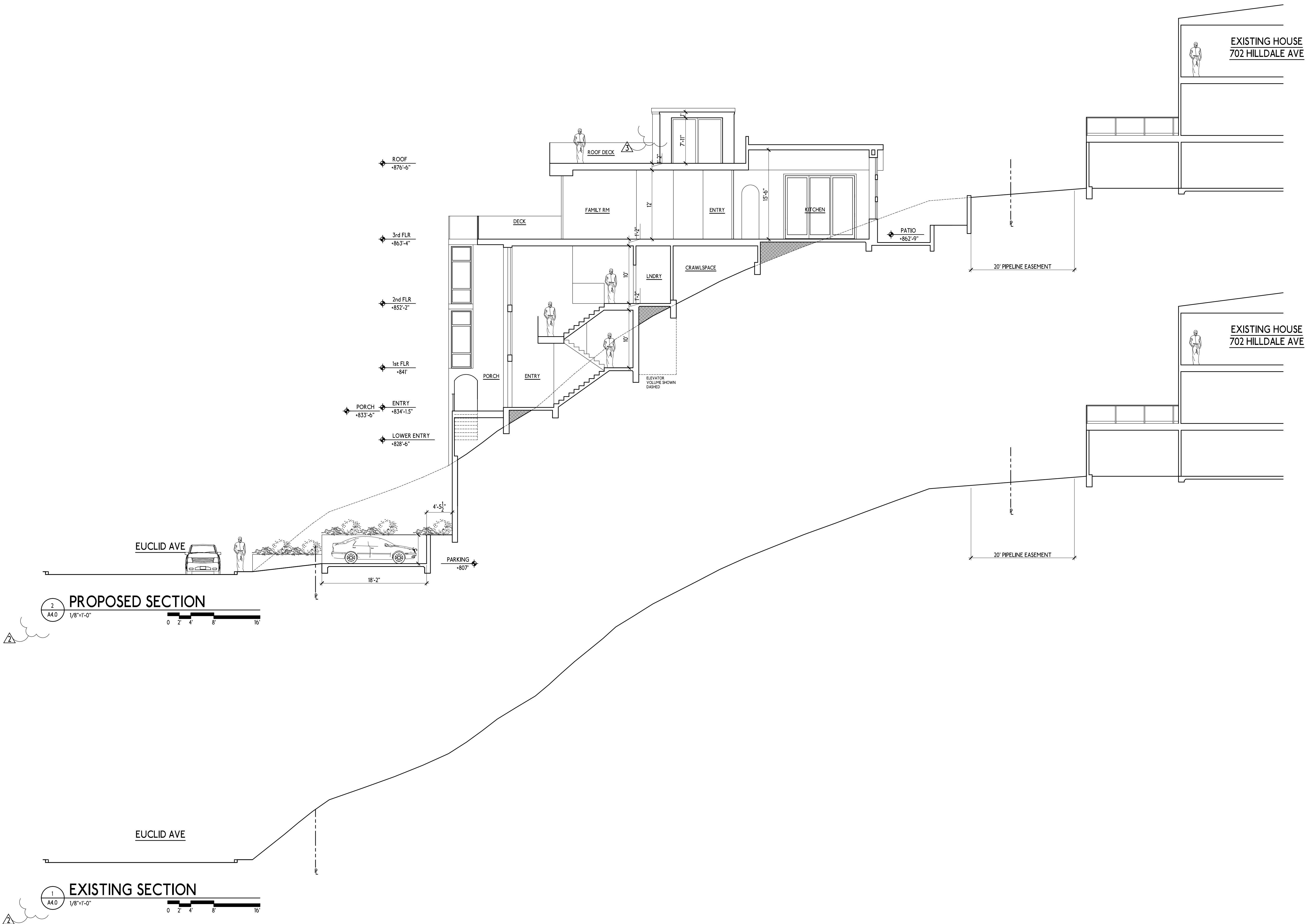
**EXISTING &
 PROPOSED
 SECTIONS**

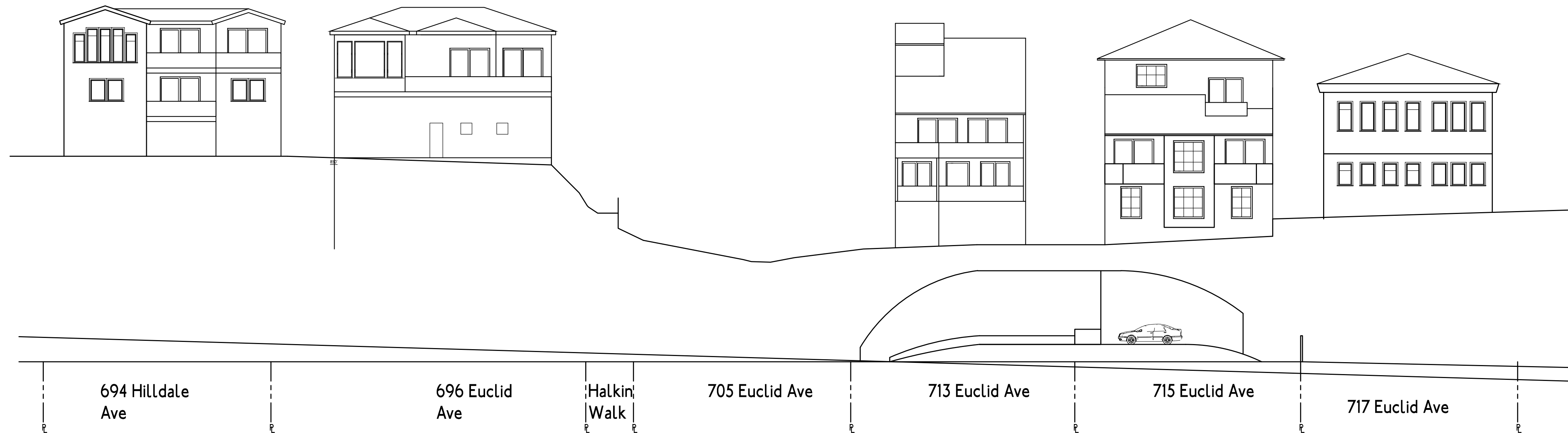
REVISION

No.	Description	Date
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△	PLAN CHECK	12/28/22
△	DESIGN REV	8/12/23

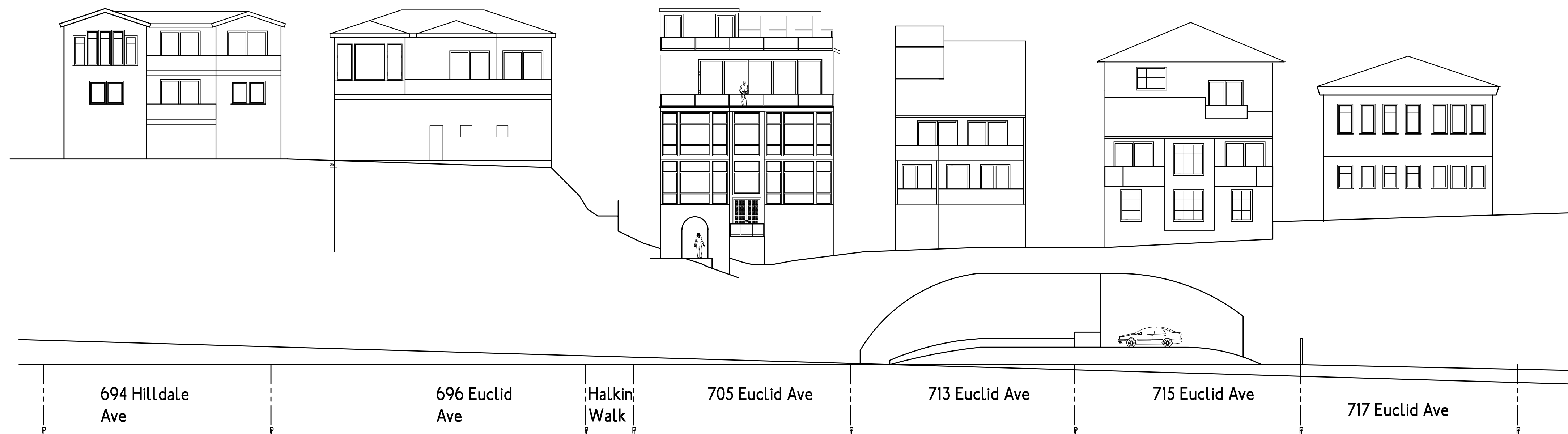
PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

A4.0





EXISTING STREETSCAPE
 2
 A5.0 1/16"=1'-0"



PROPOSED STREETSCAPE
 1
 A5.0 1/16"=1'-0"

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**EXISTING &
 PROPOSED
 STREETSCAPE**

REVISION

No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22
△	DESIGN REV	8/12/23

PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

A5.0

NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708

APN: 63-2955-40-1

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Oakland, CA 94609
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903 Ventura Ave.,
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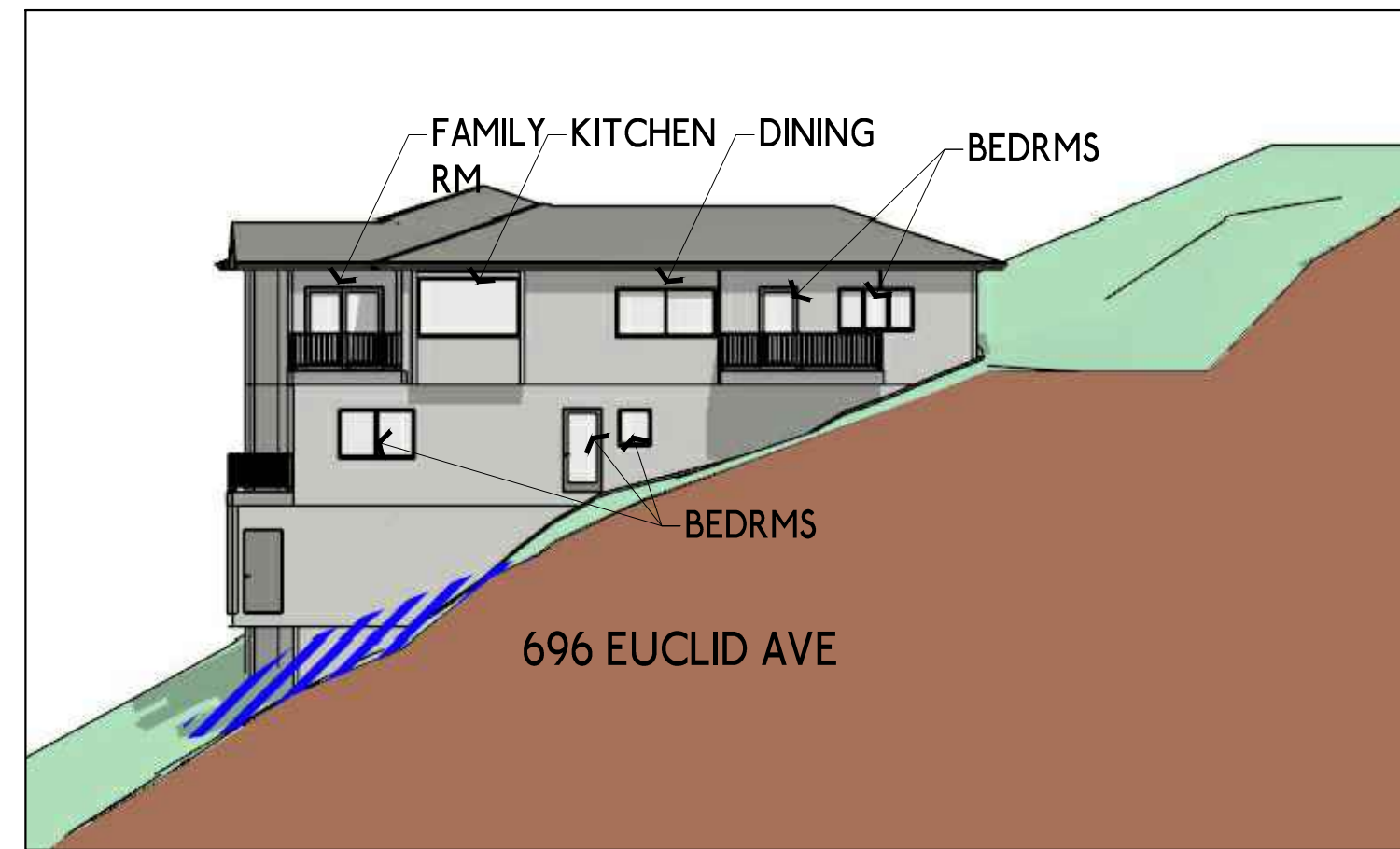
SHADOW STUDY
PART 1

REVISION

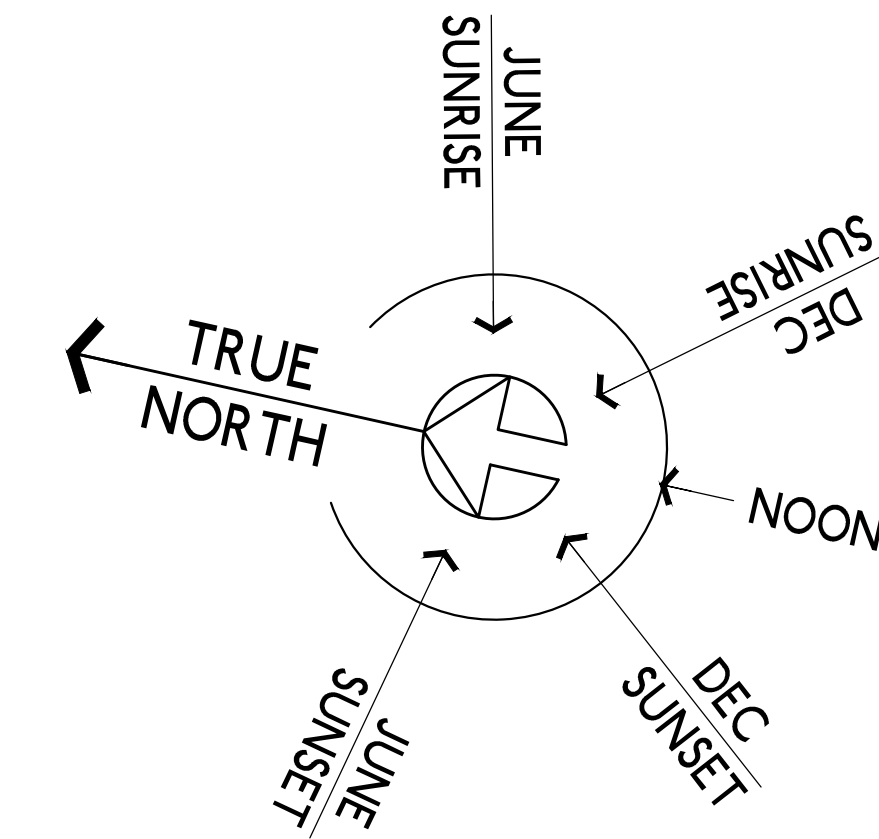
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2	PLAN CHECK	12/28/22
3	DESIGN REV	8/12/23

PROJECT No. :
DRAWN BY: ML
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DATE: 12/28/22

A6.0



FEBRUARY 26-NOON



LEGEND

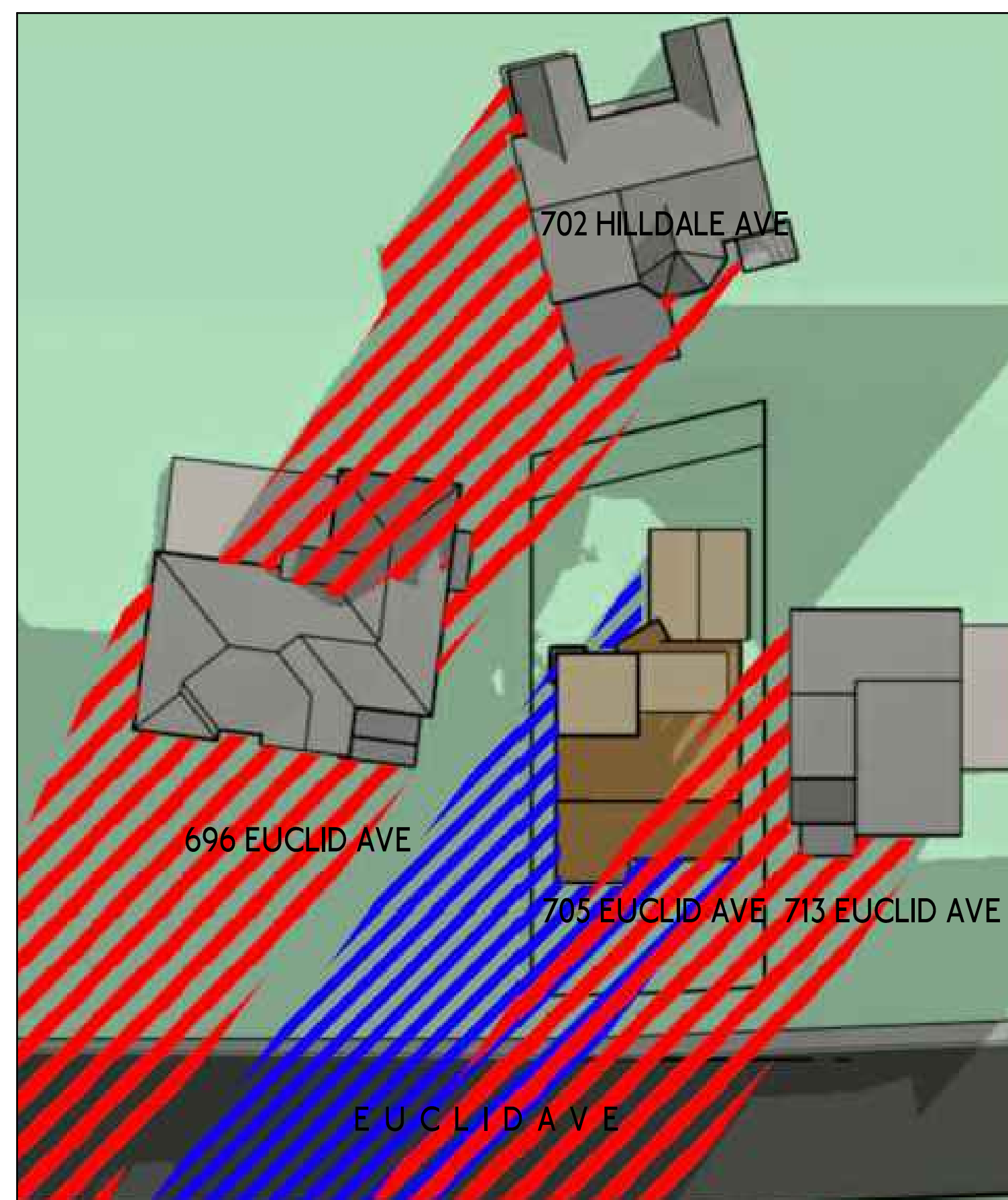


NEIGHBORING BUILDINGS
EXISTING SHADOW

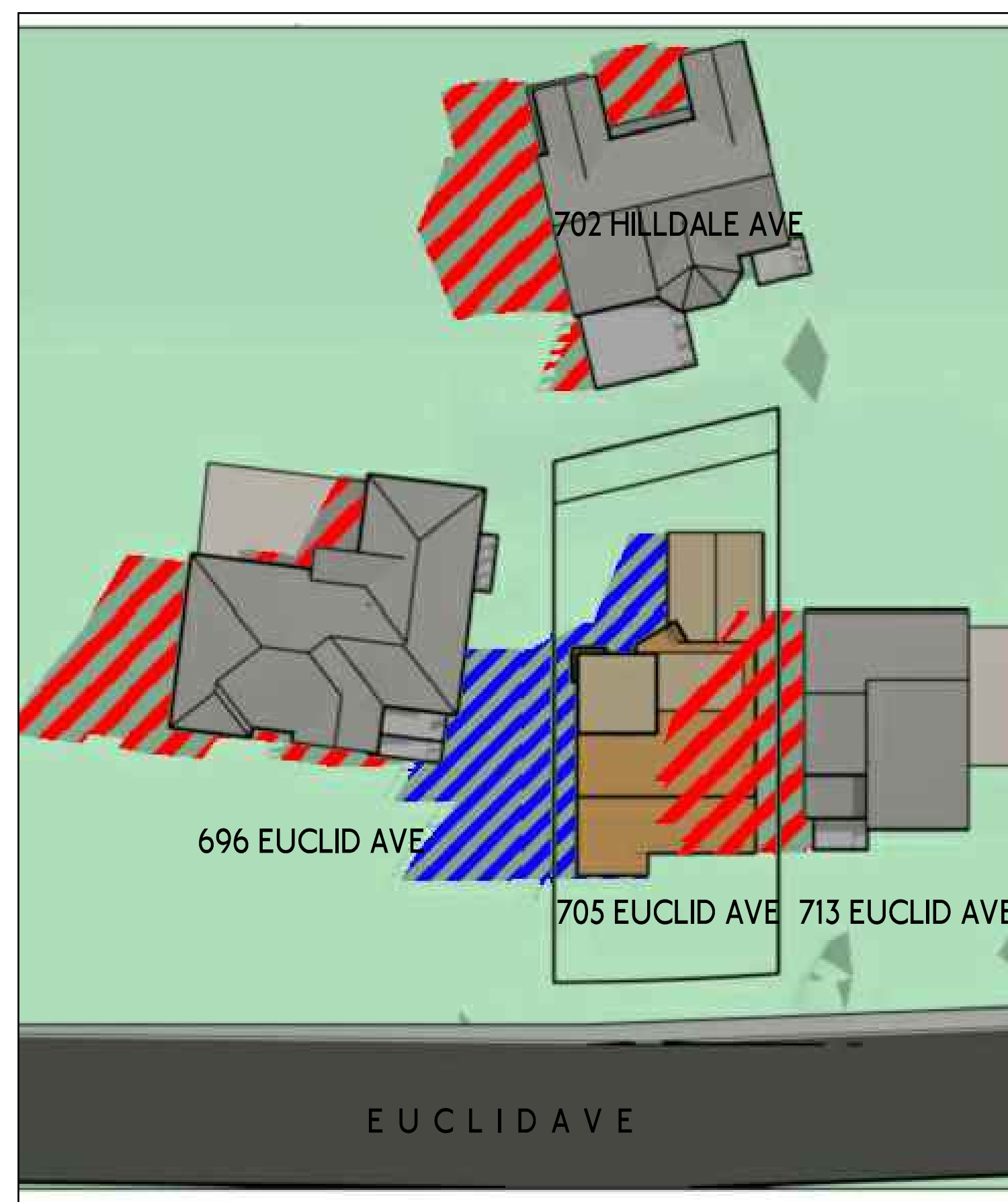


NEW SHADOW

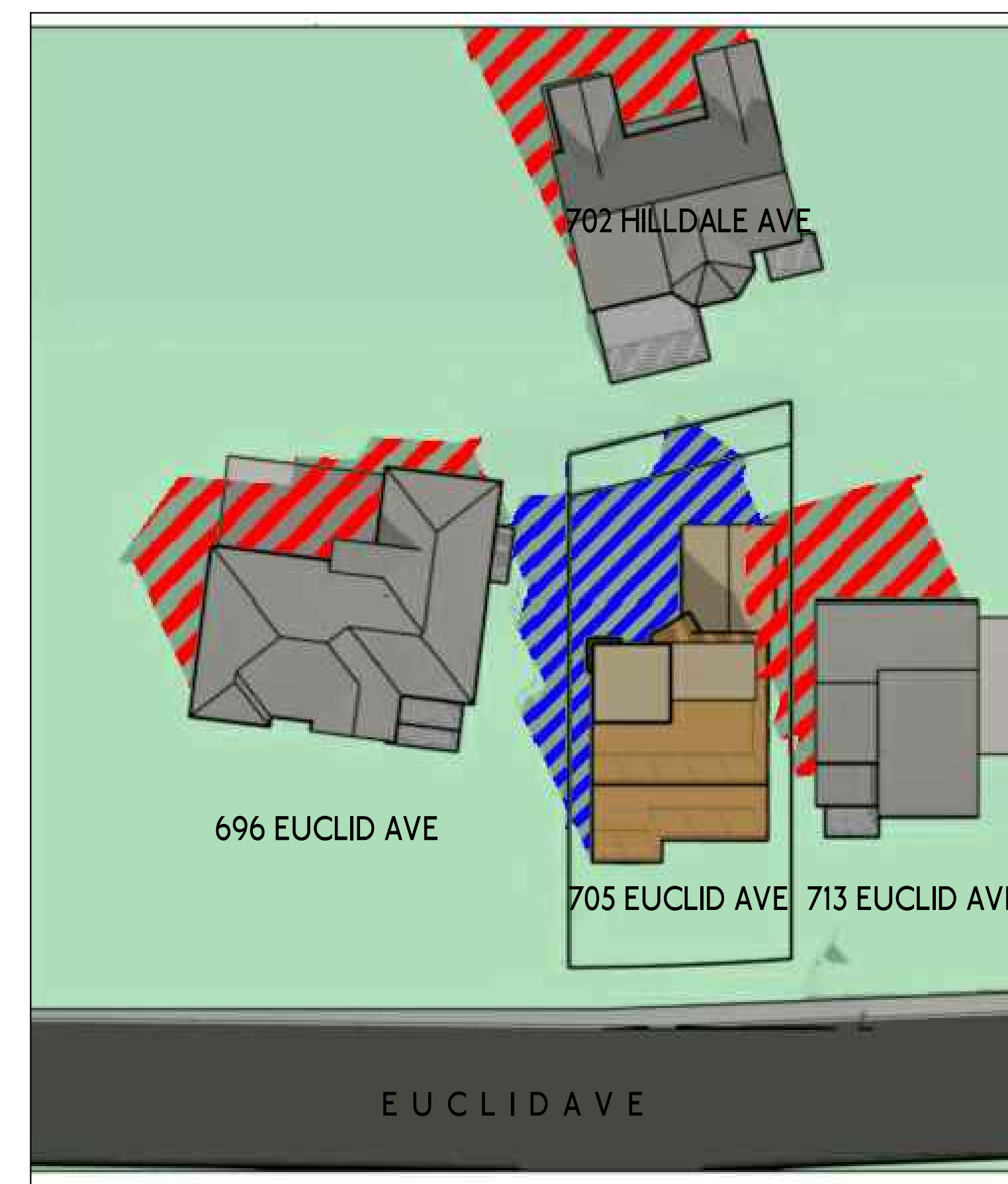
NOTE:
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ALL HABITABLE BUILDINGS AFFECTED BY
THE NEW SHADOWS CAST ARE SHOWN
IN ELEVATION.



1 FEBRUARY 26-8:45 AM



2 FEBRUARY 26-NOON



3 FEBRUARY 26-4:00 PM



NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708

APN: 63-2955-40-1

John Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
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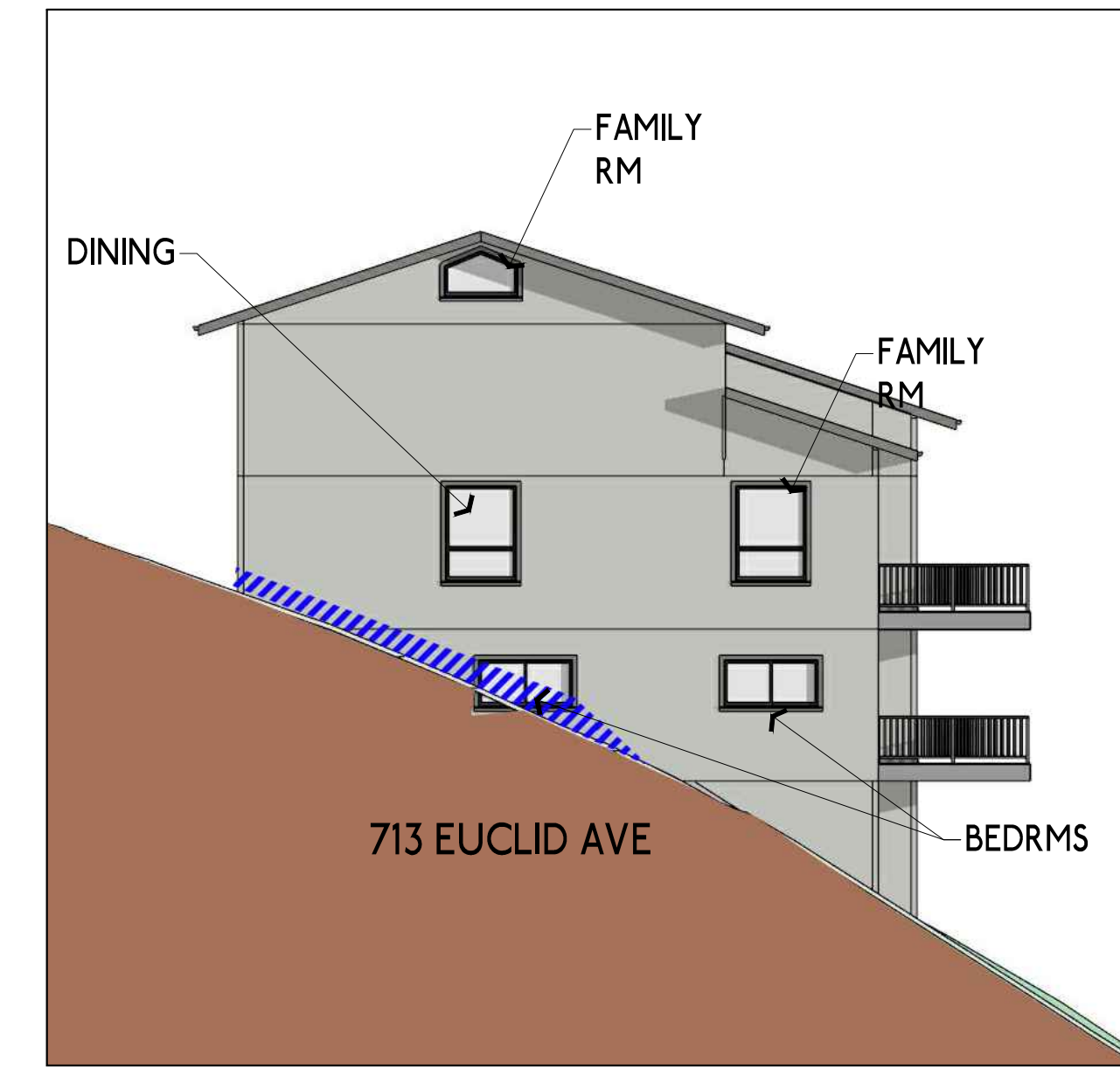
CM Engineers
(925)818-0570
Cyrus Mashhoodi, PE
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

NEW RESIDENCE

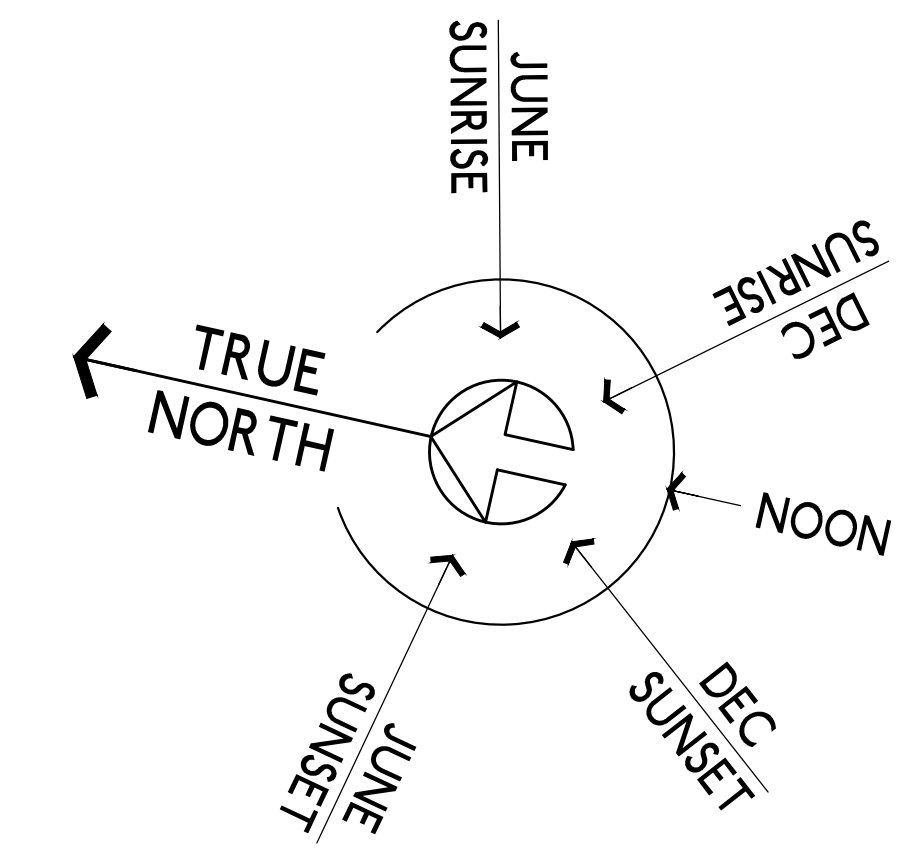
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Berkeley, CA 94708
APN: 63-2955-40-1

OWNER:
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903 Ventura Ave.,
Albany, CA 94707
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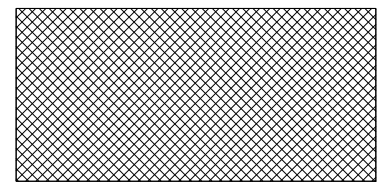
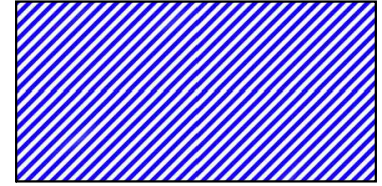
SHADOW STUDY PART 2



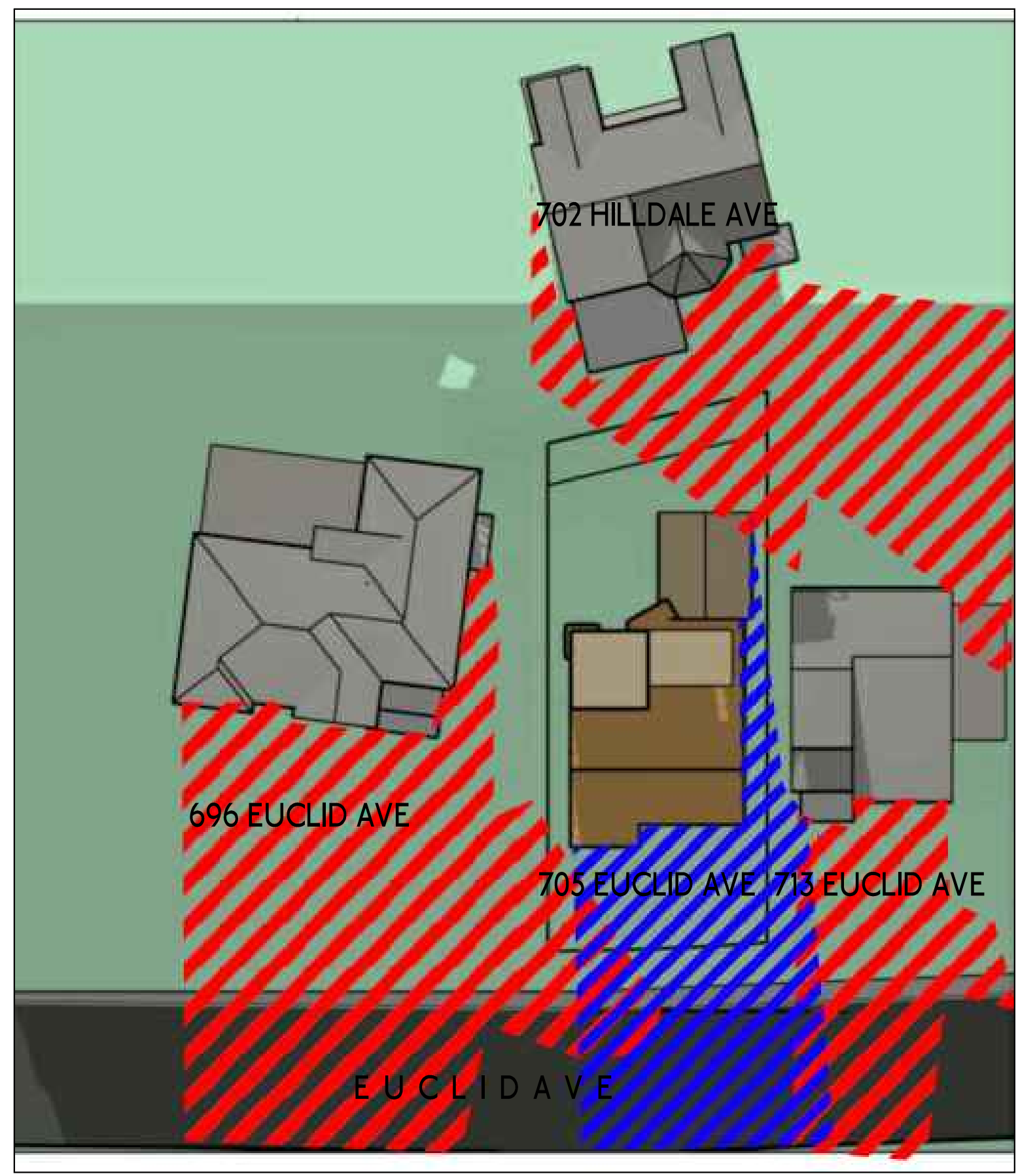
JUNE 21-6:35 PM



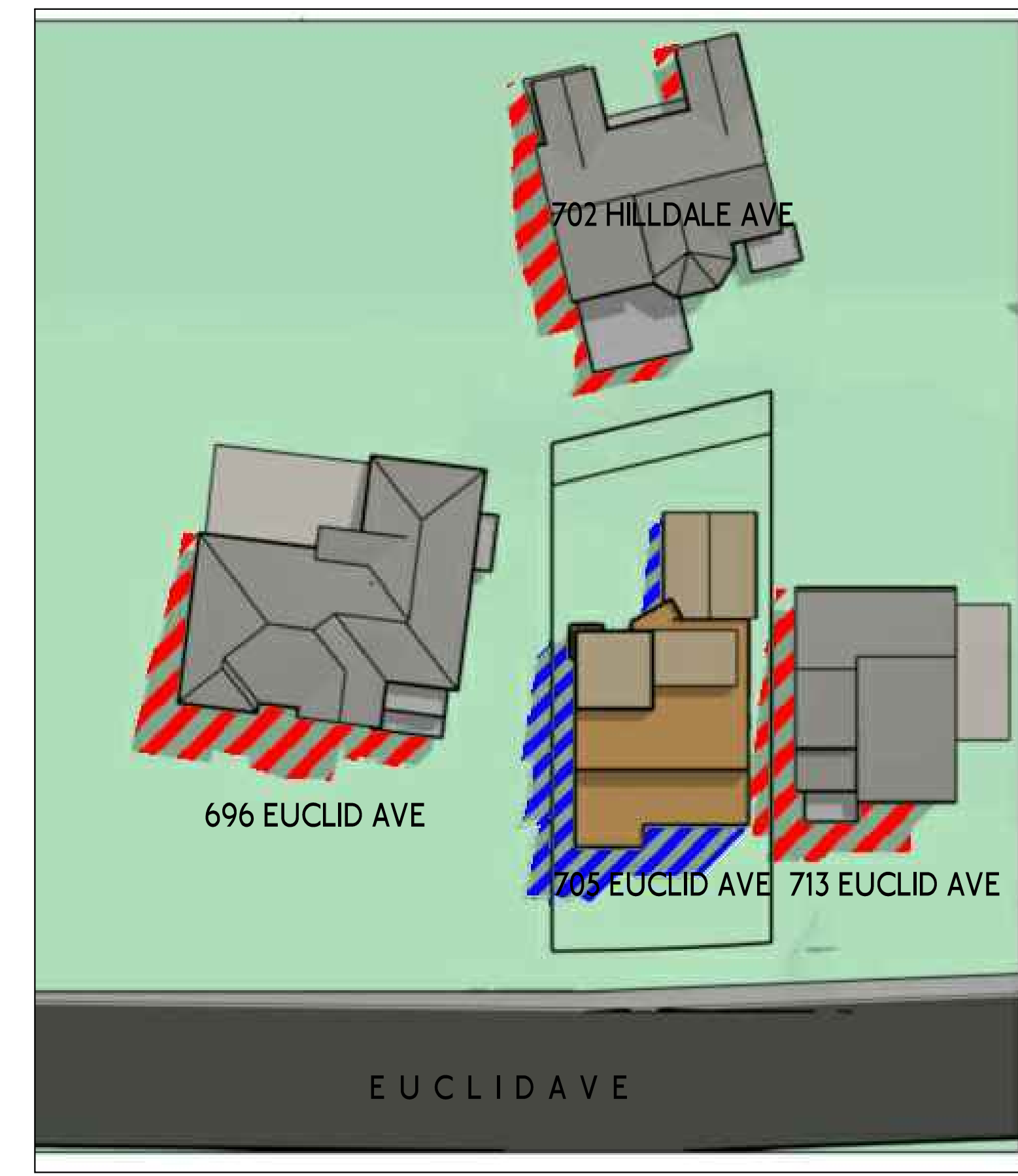
LEGEND

-  NEIGHBORING BUILDINGS EXISTING SHADOW
-  NEW SHADOW

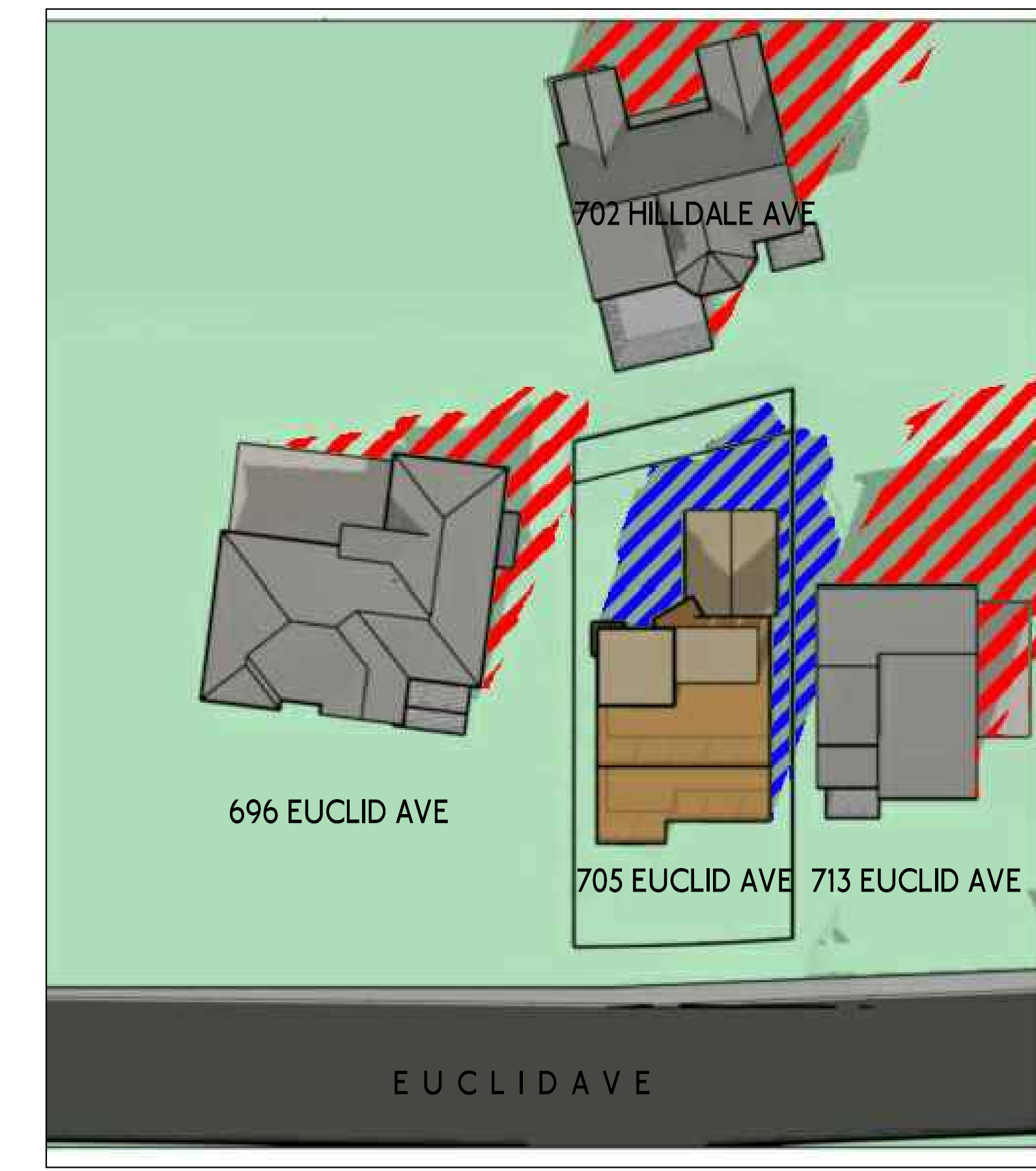
NOTE:
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1 A5.1 JUNE 21-7:47 AM



2 A5.1 JUNE 21-NOON



3 A5.1 JUNE 21-6:35 PM

REVISION		
No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22
△	DESIGN REV	8/12/23

PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 12/28/22

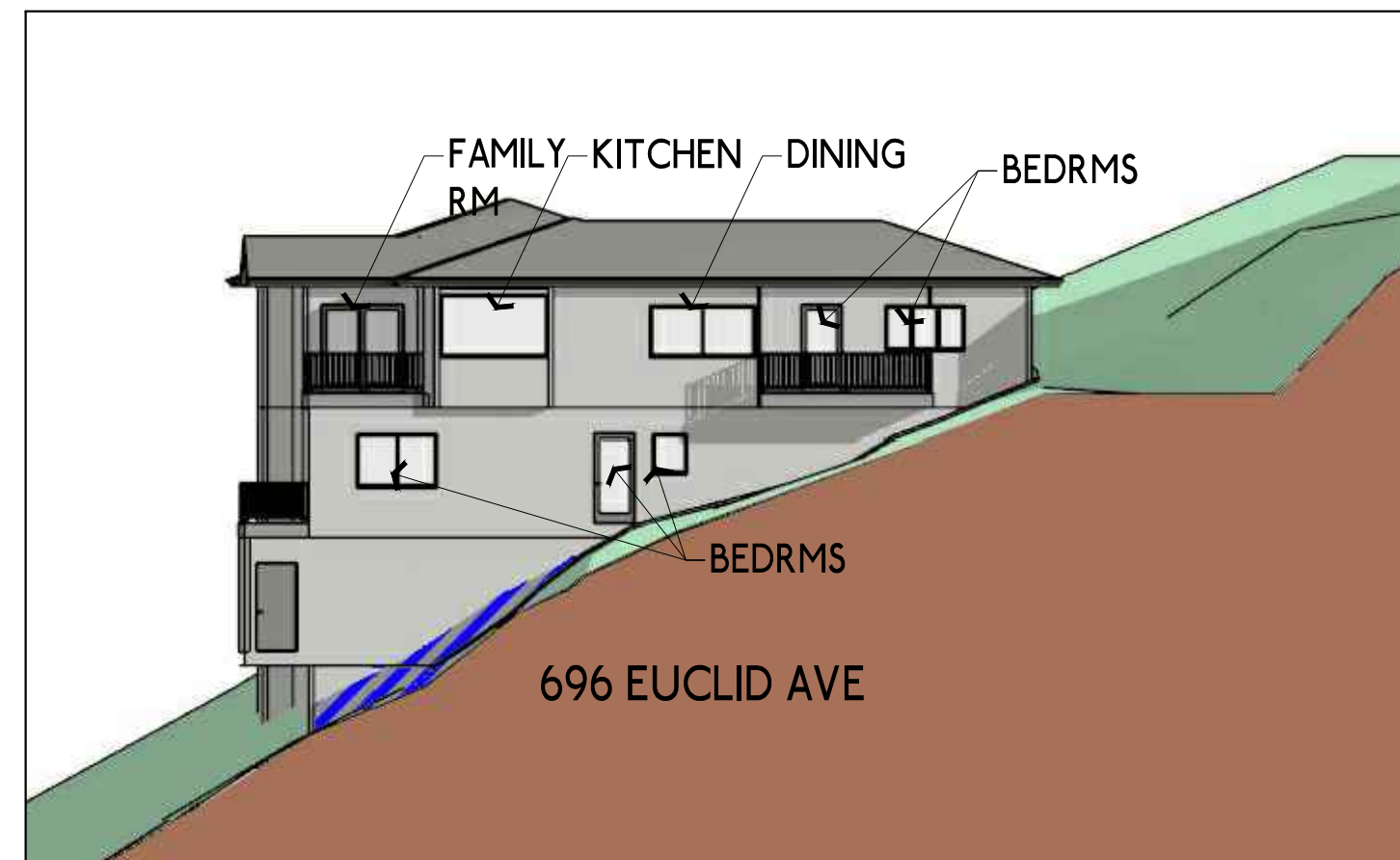
A6.1

NEW RESIDENCE

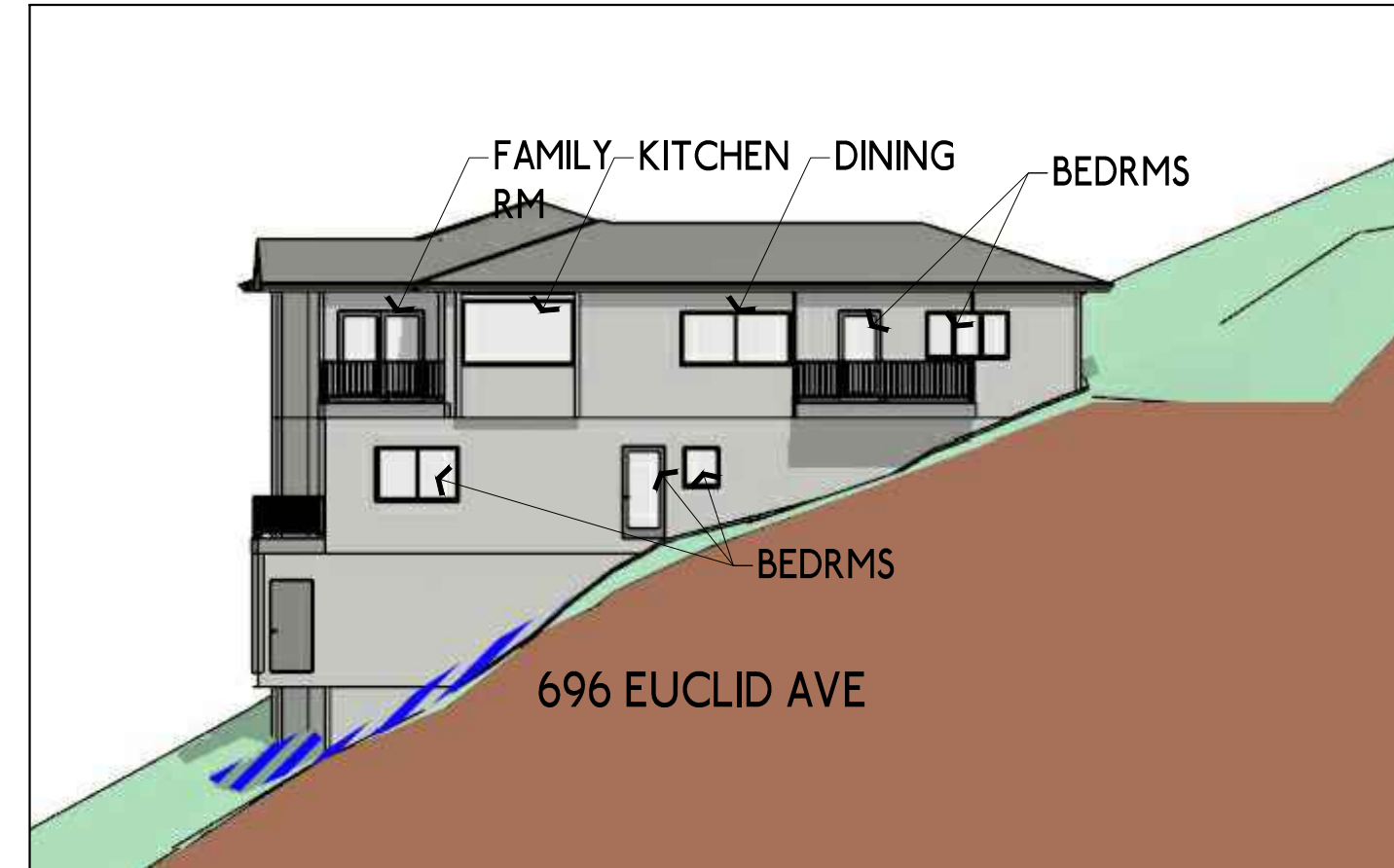
705 Euclid Ave, Berkeley, CA 94708
 APN: 63-2955-40-1

John Newton
 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 847-4108
 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

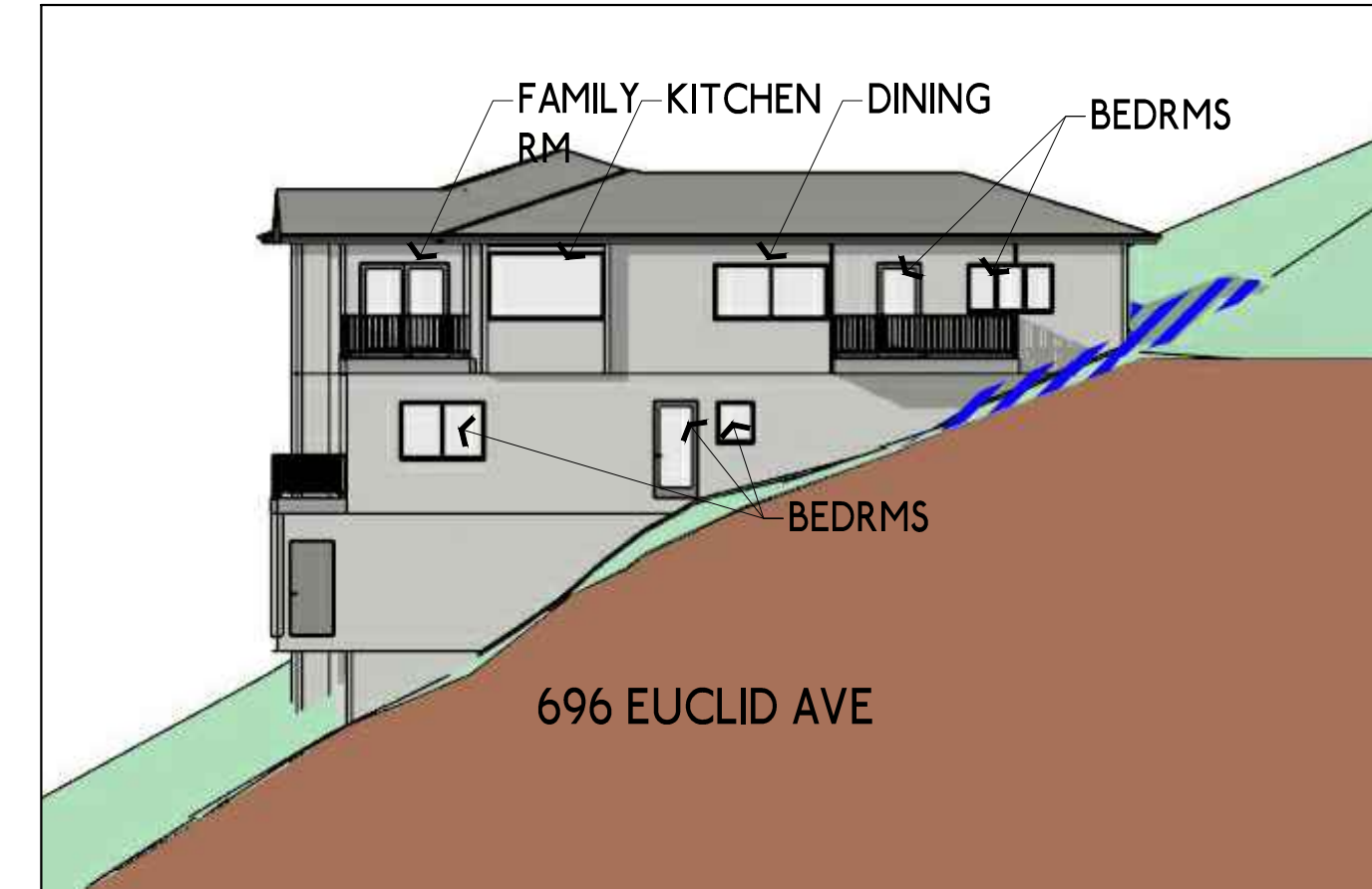
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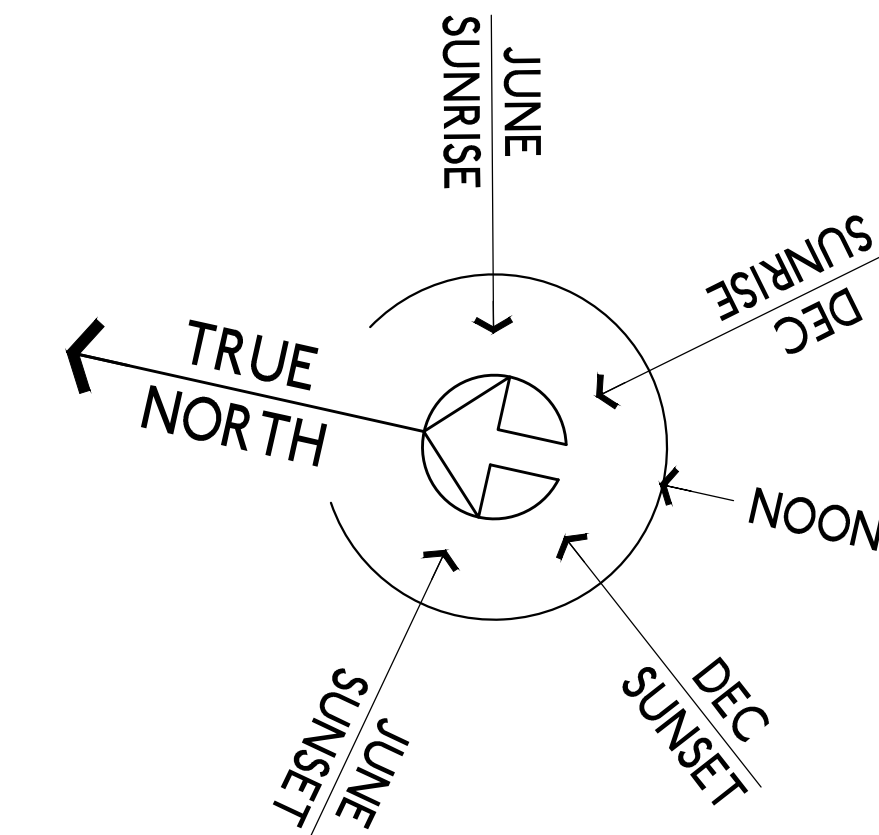
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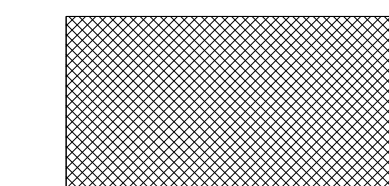
DECEMBER 21-NOON



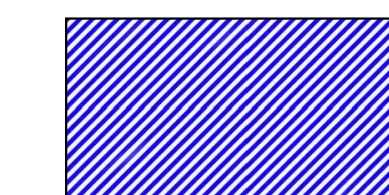
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LEGEND

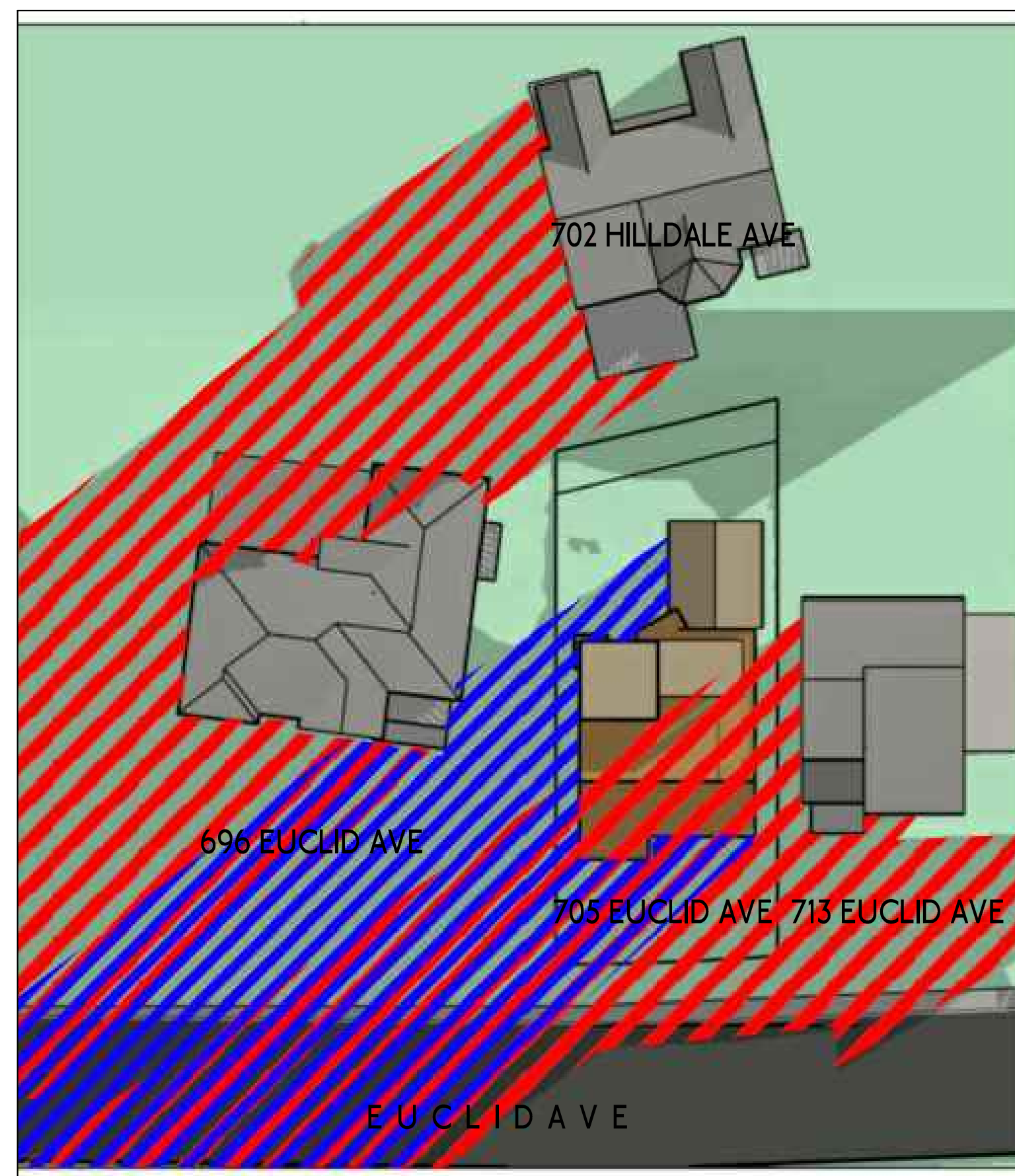


NEIGHBORING BUILDINGS
 EXISTING SHADOW

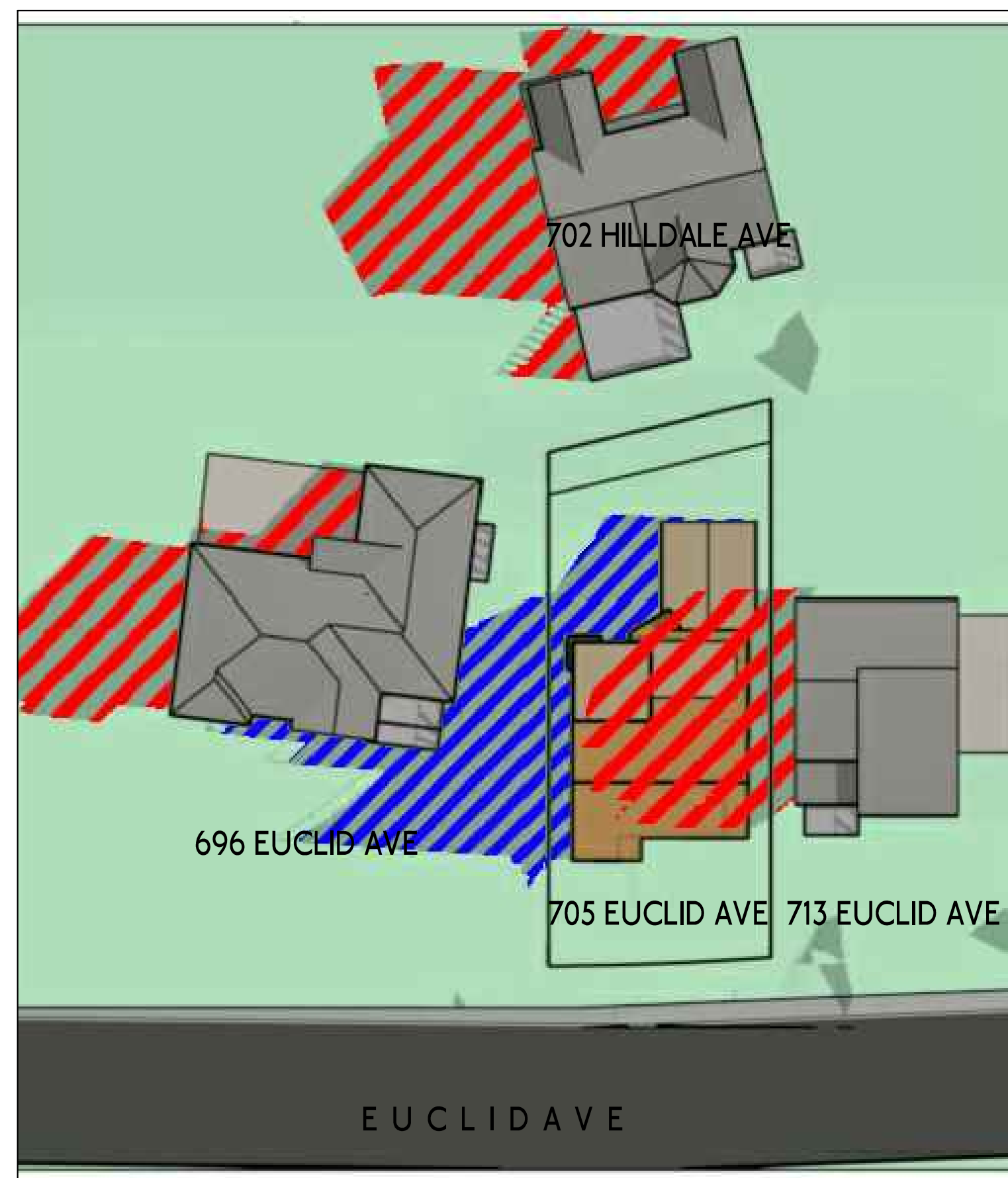


NEW SHADOW

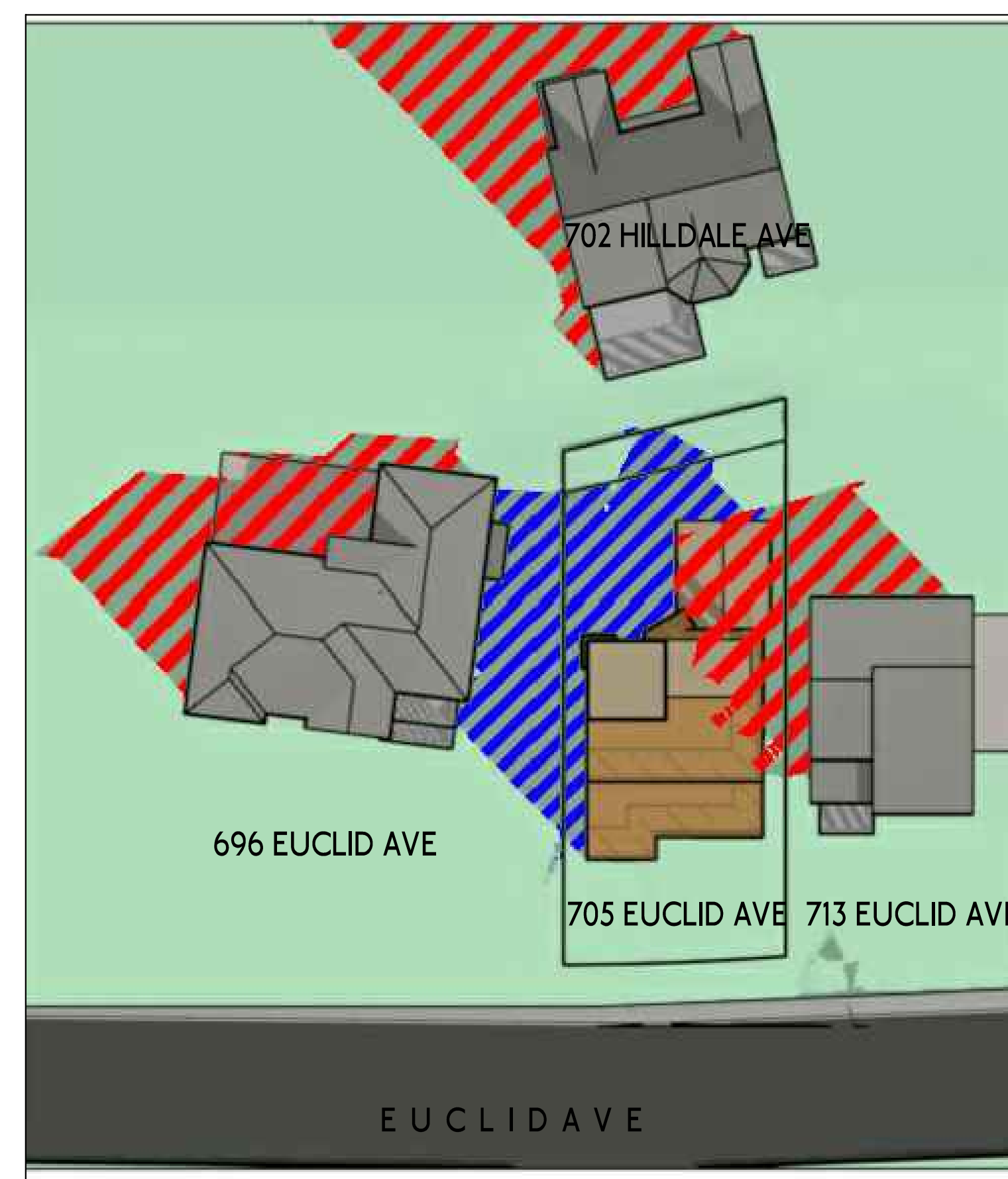
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 THE NEW SHADOWS CAST ARE SHOWN
 IN ELEVATION.



1 AS1 DECEMBER 21-9:21 AM



2 AS1 DECEMBER 21-NOON



3 AS1 DECEMBER 21-2:53 PM



NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

SHADOW STUDY PART 3

REVISION

No.	Description	Date
△	DESIGN REV	9/21/22
△	PLAN CHECK	12/28/22
△	DESIGN REV	8/12/23

PROJECT No. :
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 12/28/22

A6.2



Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T
FOR BOARD ACTION
APRIL 27, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

I. Background

A. Land Use Designations:

- General Plan: LDR- Low Density Residential
- Zoning: R-1H- Single Family Residential, Hillside Overlay Zone

B. Zoning Permits Required:

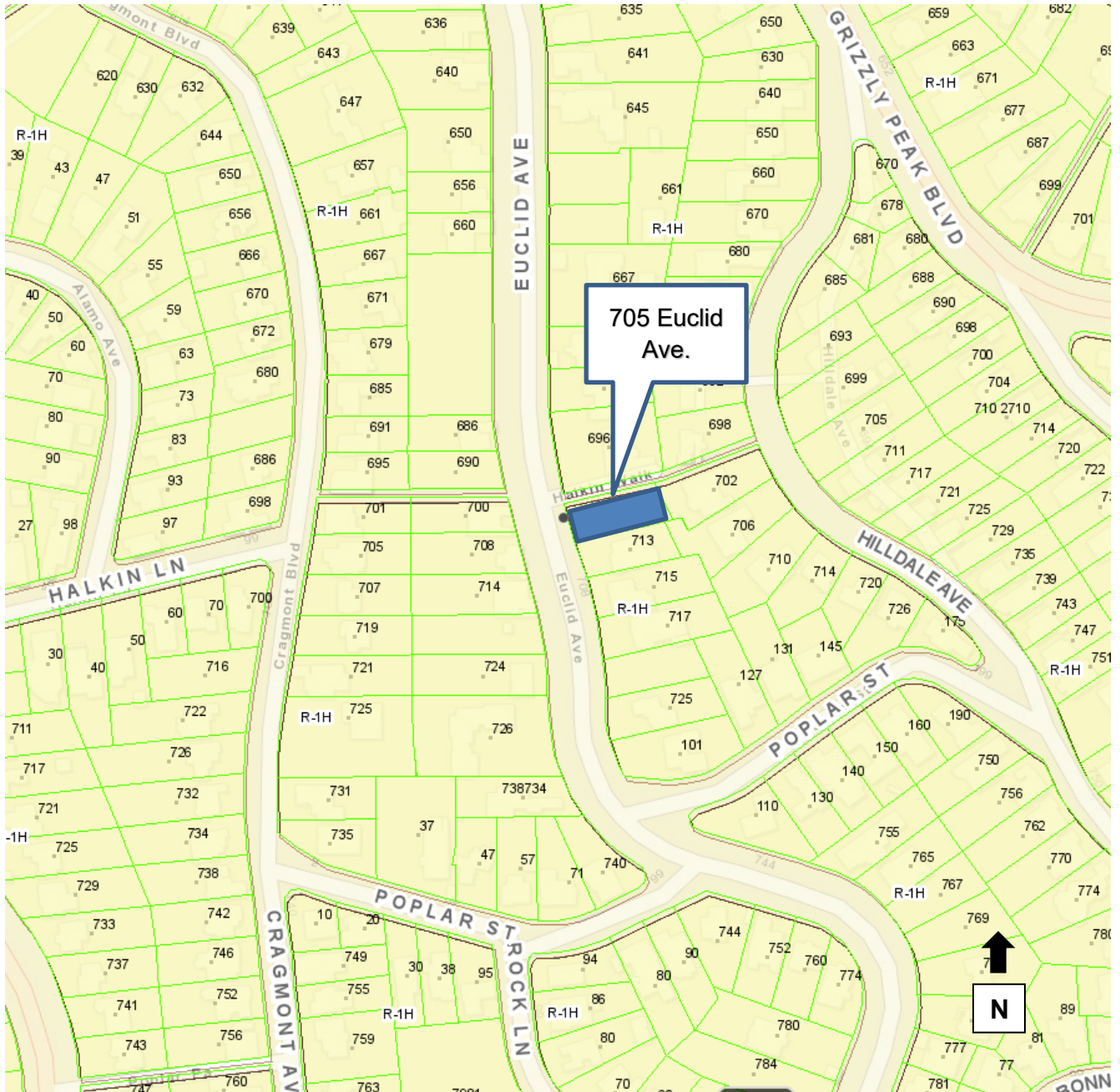
- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23.210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

C. CEQA Recommendation: It is staff's recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 1500, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures"). The determination is made by ZAB.

D. Parties Involved:

- Applicant John Newton, 5666 Telegraph Avenue, Oakland, CA
- Property Owner Tarek and Michel Khoury, 903 Ventura Avenue, Albany, CA

Figure 1: Vicinity Map



Legend

R-1H: Single-Family Residential District within the Hillside Overlay Zone

Figure 2: Site Plan

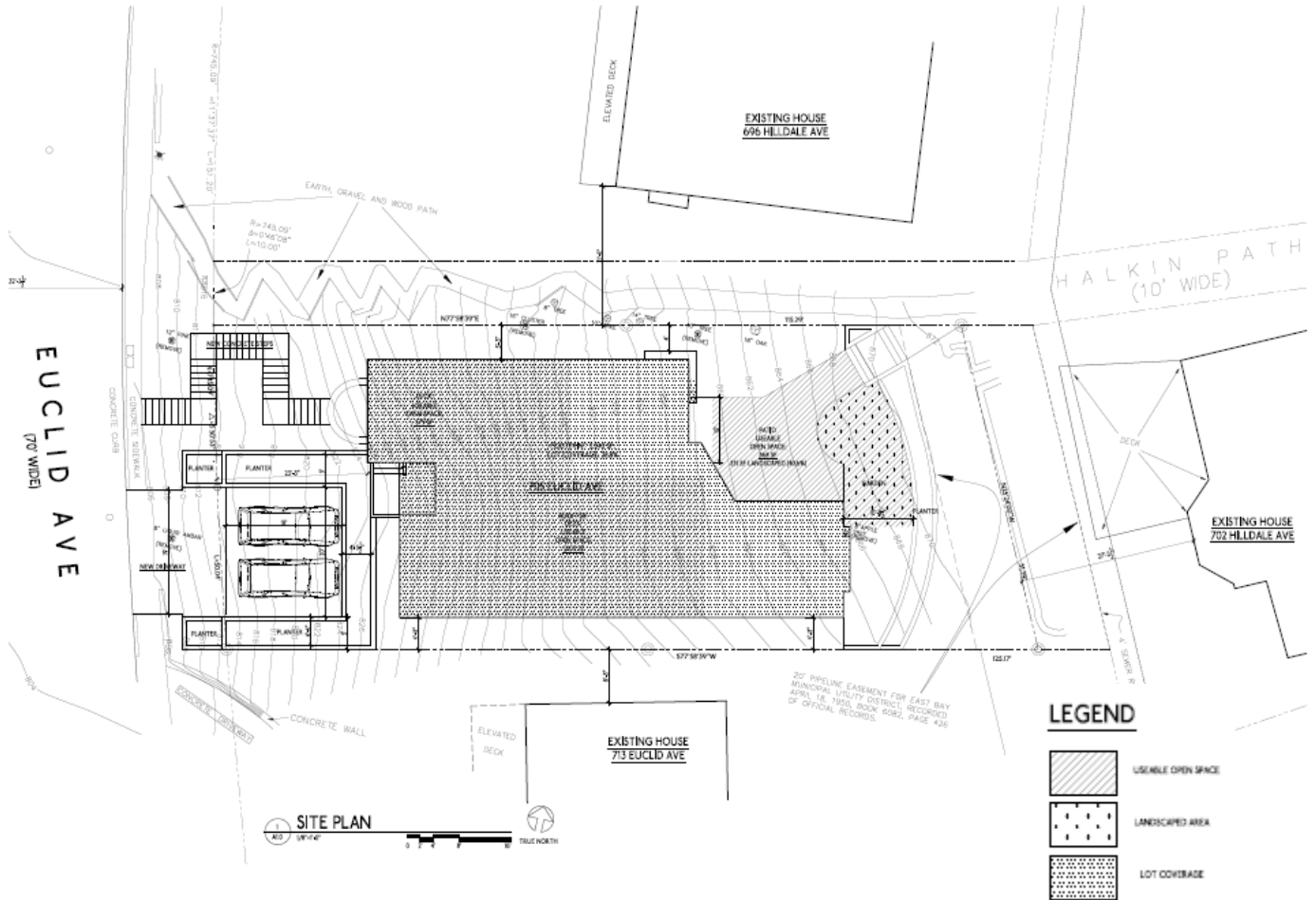


Figure 3: Front Elevation

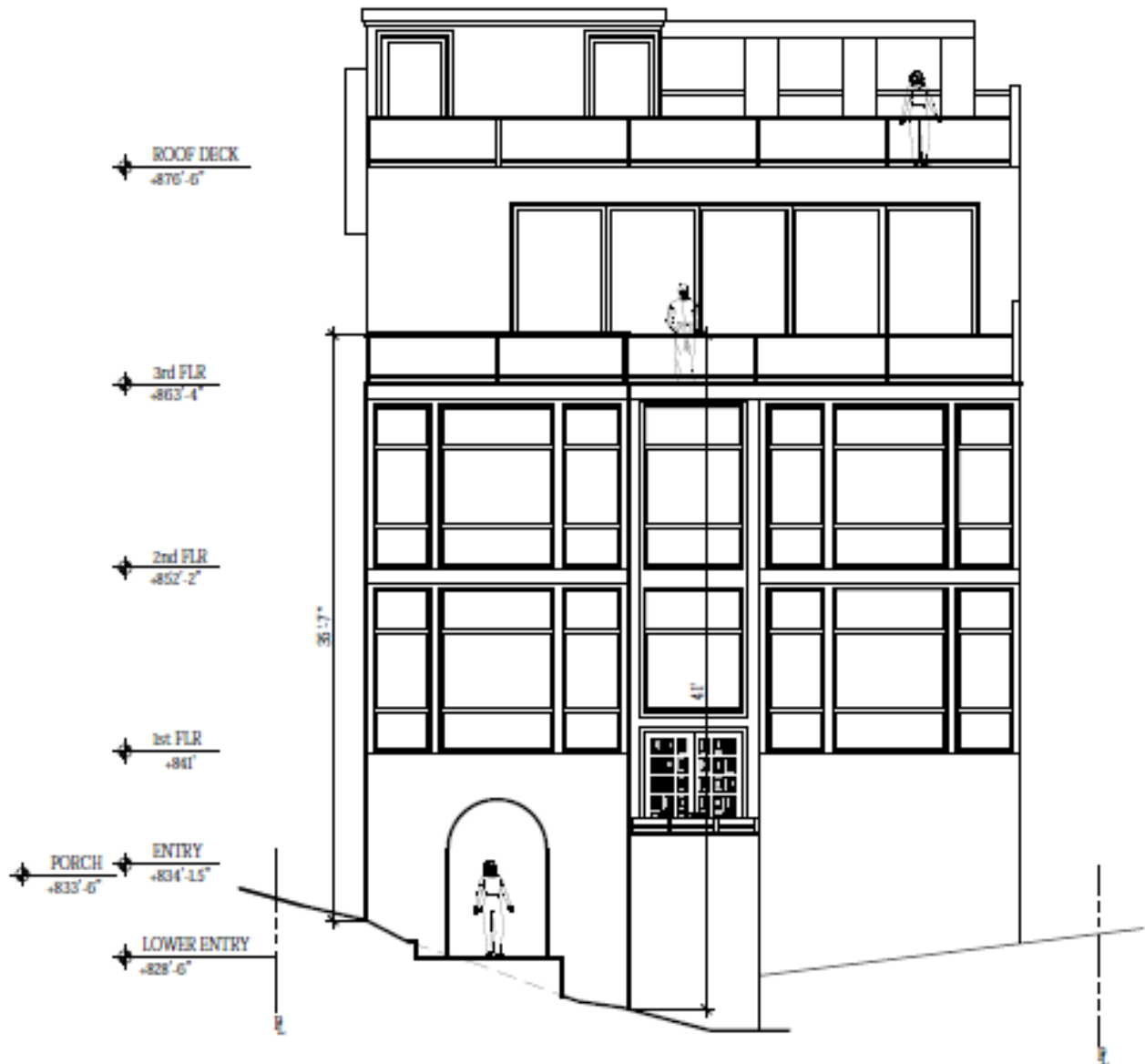


Figure 3: Side Elevations

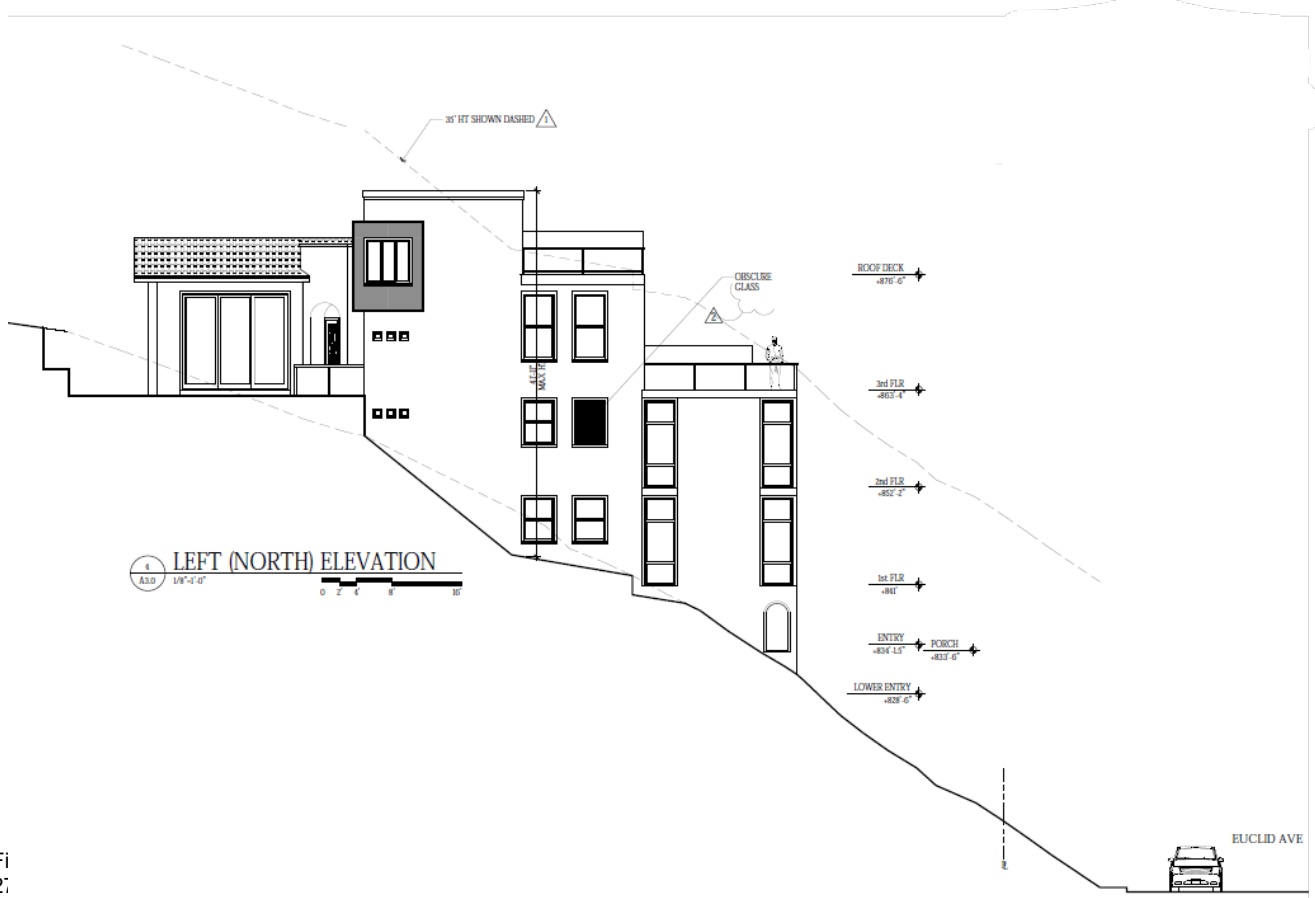
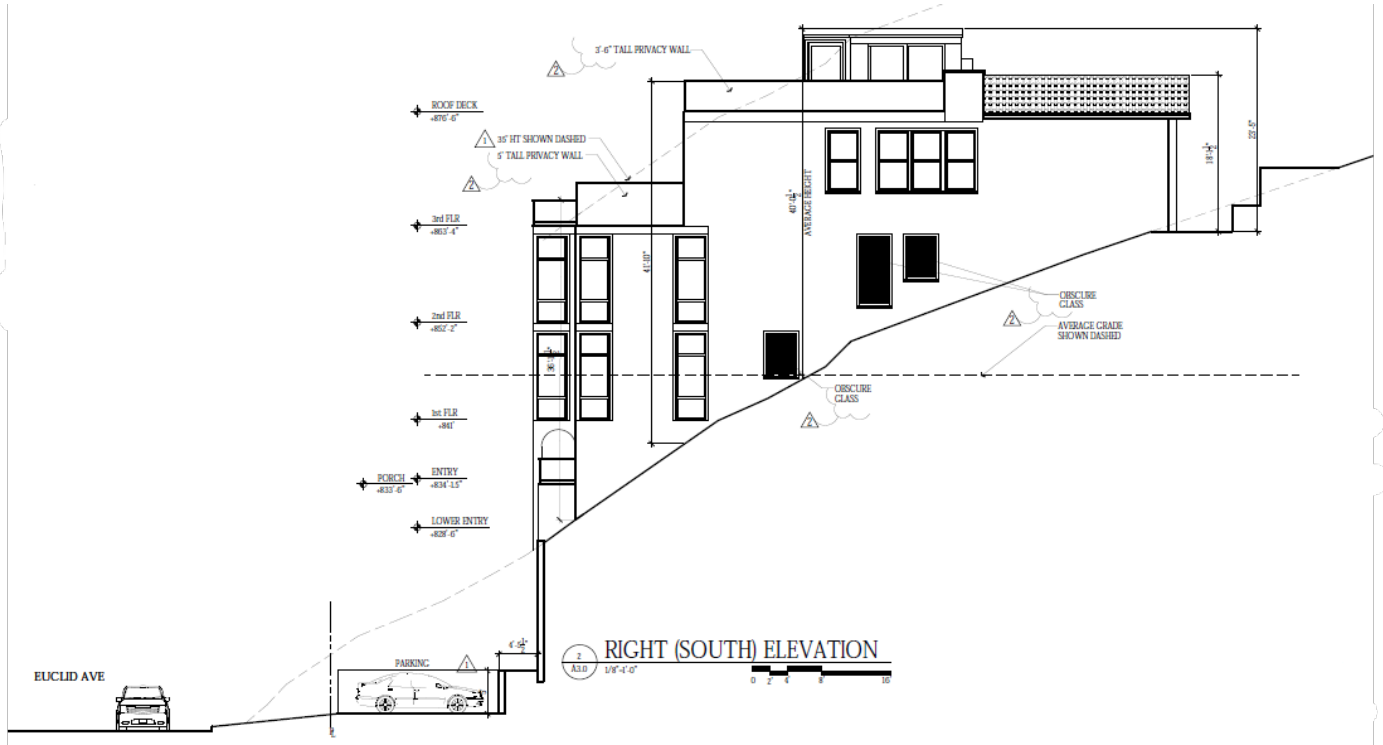


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant lot	R-1H	LDR- Low Density Residential
Surrounding Properties	North	Single-Family dwelling	R-1H	LDR- Low Density Residential
	South	Single-Family dwelling	R-1H	LDR- Low Density Residential
	East	Single-Family dwelling	R-1H	LDR- Low Density Residential
	West	Single-Family dwelling	R-1H	LDR- Low Density Residential

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	These fees apply to projects with net new 7,500 square feet of non-residential floor area. The project involves only new residential floor area; therefore, this requirement does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	
Creeks	No	The project site is not within a creek buffer zone.
Density Bonus	No	Pursuant to California Government Code Section 65917.2, a project must contain five or more residential units to qualify for state density bonus. This project would construct a single-family dwelling; therefore, this does not apply.
Natural Gas Prohibition (Per BMC 12.80.020)	Yes	The project is subject to the natural gas prohibition.
Historic Resources	No	The proposed project is located on a vacant lot.
Housing Accountability Act (California Government Code Section 65589.5(j))	No	A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the Housing Accountability Act (HAA) (California Government Code Section 65589.5, subdivision (h)(2)). Therefore, HAA does not apply to this project.
Housing Crisis Act of 2019 (SB330)	No	A development has to consist of more than one unit to qualify under the HAA. The proposed project includes a single-family dwelling, and does not meet the definition of a "Housing Development Project" per California Government Code Section

		65589.5(h)(2)1. Therefore, SB 330 does not apply.
Oak Trees	Yes	There is one protected Coast Live Oak on the project site. Three protection measures were provided by the City's Arborist as Conditions of Approval, refer to Attachment 3.
Rent Controlled Units	No	The proposed project is located on a vacant lot.
Residential Preferred Parking (RPP)	No	The project site is not located within the City of Berkeley RPP area
Seismic Hazards (SHMA)	Yes	The project site is located within the California Geological Survey Alquist Priolo Earthquake Fault Zone. The applicant submitted a geotechnical investigation for the project (insert name of report preparer and year), which was peer reviewed by the City's peer reviewer who recommended geotechnical approval of the subject land use permit application subject to specific geotechnical conditions of approval.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites pursuant to Government Code Section 65962.5), nor is it within the City's Environmental Management Area.
Transit	Yes	There is an AC Transit stop located approximately 260 feet south of the project site.

Table 3: Project Chronology

Date	Action
August 9, 2022	Application submitted
August 30, 2022	Application deemed incomplete
September 29, 2022	New plans submitted
October 21, 2022	Application deemed incomplete
December 29, 2022	New plans submitted
January 19, 2023	Application deemed complete
April 13, 2023	Public hearing notices mailed/posted
April 27, 2023	ZAB hearing

Table 4: Development Standards

Standard	Existing	Addition/ (Reduction)	Proposed Total	Permitted/ Required
BMC Sections 23.202.050 & 23.210.020				
Lot Area (sq. ft.)	6,024	0	6,024	5,000 min
Gross Floor Area (sq. ft.)	n/a	4,528	4,528	No maximum

Floor Area Ratio		n/a	n/a	n/a	No maximum
Dwelling Units	Total	n/a	1	1	1 max
	Affordable	n/a	n/a	n/a	n/a
Building Height	Average (ft.)	n/a	40' - .5"	40'-.5"	28 max ¹
	Maximum (ft.)	n/a	41'-11"	41'-11"	35 max ¹
	Stories	n/a	3	3	3 max
Building Setbacks (ft.)	Front	n/a	23'-3"	23'-3"	20 min ¹
	Rear	n/a	23'-11"	23'-11"	20 min ¹
	Left Side	n/a	4'	4'	4 min
	Right Side	n/a	4'-11"	4'-11"	4 min
Lot Coverage (%)		n/a	39.1%	39.1%	40 max
Usable Open Space (sq. ft.)		n/a	1,155	1,155	400 min
Parking	Automobile	n/a	2	2	1 min
	Bicycle	n/a	n/a	n/a	n/a

1. Threshold can be exceeded with an AUP
2. Abbreviations: sq.ft.= square feet; ft = feet; min.=minimum; max.=maximum; % = percent

II. Project Setting

A. Neighborhood/Area Description: The project site is located in a residential area with a mix of one-, two-, and three-story single-family dwellings, with areas of open space in excess of that required by the BMC, and mature vegetation. Lots in the neighborhood are generally rectangular in shape with some irregularities due to existing slopes and curved roadways. The neighborhood hills generally slope downwards from the northeast to the southwest and provide primary views westward towards the San Francisco Bay. Given the hilly terrain, the dwellings on the block tend to include attached one- or two-car garages, and/or uncovered parking spaces, within front setbacks. Access to dwellings is typically provided via exterior stairways.

B. Site Conditions: The project site is an undeveloped upslope lot on the east side of Euclid Avenue in the North Berkeley hills. It is bordered on the north by a public stairway (Halkin Walk), on the south by a three-story house at 713 Euclid Avenue, and to the east by a three-story house upslope at 702 Hilldale Avenue. To the west, across Euclid Avenue, houses are on downslope lots, typically with only their top stories and/or garages at street level. The lot, like it's neighbors, provides a significant view of San Francisco Bay. Much of the lot is bordered by trees of various species, including one coast live oak on the lot's northern border.

III. Project Description

The project would construct a three-story single-family dwelling, with two off-street parking spaces located within the required front setback (out of necessity because of the steep terrain). The project will include two front decks to compensate for minimal flat ground available for usable open space, and have a maximum height of 41-feet, 11-inches. The height is consistent neighboring houses in the area.

The proposed first floor will be accessible by a lower entry porch and stairs, necessitated by the steep slope. This floor will contain two bedrooms and two bathrooms. The second floor will consist of two more bedrooms, two more bathrooms, and a laundry area. The top floor will be a mostly open floor plan with the kitchen, dining area, and family room, plus a half-bath. There will be access to a rear ground-level patio and an uncovered front deck. All floors and a rooftop deck will be accessible via an elevator and staircases.

Off-street parking, accessible from Euclid Avenue, will consist of an uncovered parking pad protected by retaining walls, with planter boxes above the retaining walls. The backyard will consist of a patio area, garden, and retaining wall, located in the setback, with access above via exterior steps.

Some of the trees on the lot will be removed in preparation for construction. Others, located along the northern border of the property will remain. The Coast Live Oak located on the northern border will remain and will not be encroached upon by any of the new structures.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the city, the applicant posted a pre-application poster at the project site. The applicant also submitted drawings of the proposed plans to all adjacent and abutting neighbors (Attachment 2). No comments in opposition were received at that time.

Story poles were installed on the project site in December 2022. No public comments were received after the installation of the story poles.

On April 13, 2023, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has received one public comment, a letter in opposition to the project from the neighbor to the north at 696 Hilldale Avenue (which overlooks Euclid Avenue)(Attachment 5).

B. Committee Review: This project is not subject to review by the Design Review Committee or the Landmarks Preservation Commission because it is not a use located in a district subject to design review, commercial or manufacturing district, and does not involve the demolition of a non-residential building, respectively.

V. Issues and Analysis

A. Findings for Use Permit Approval in the R-1(H) District: Pursuant to BMC Section 23.202.020(B), a new single-family dwelling is allowed in the R-1 zoning district with a Use Permit, provided that its siting meets applicable development standards and subject to the non-detriment finding. As shown in Table 4, the proposed project would meet or exceed all development standards for the dwelling, with the exception of the height limits. The average and maximum heights within the Hillside Overlay Zone may be increased to above specified limits with an Administrative Use Permit (AUP) (BMC 23.210.020(C)(2)).

Staff believe that the increased height above the 35-foot maximum are justifiable with an AUP because the height of the proposed structure is compatible with those of neighboring structures. Further, installation of the story poles on the project site did not reveal an unreasonable obstruction of significant views from neighboring properties. As noted above, no public comments were received after the installation of the story poles.

In the Hillside Overlay District, an AUP to reduce required setbacks (BMC 23.210.020(C)(4)) can be approved upon finding the project is consistent with the purpose of the Hillside Overlay District as stated in BMC 23.210.020(A). While the main dwelling meets the 20-foot front setback, the proposed parking area, and its associated retaining walls, as well as the front exterior stairs, would be located within the front setback. This is necessary due to the steep upward slope of the lot. It is also consistent with many neighboring properties that have similar parking areas and stairs within their front setbacks.

The proposed project would meet the following purposes of the Hillside overlay zone pursuant to BMC 23.21.020(A):

1. Implement General Plan policies for Hillside Development;
2. Protect the safety and health of residents where steep topography, unusual street conditions and proximity to the wildland-urban interface create severe risk from wildfire;
3. Protect the character of Berkeley's Hillside Districts and their immediate environs;
4. Give reasonable protection to views yet allow appropriate development of all property; and
5. Allow modifications in standard yard and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the Hillside District area.

B. General Non-Detriment Finding: Per BMC 23.406.040(E)(1), staff believes the project would not be detrimental to the health, safety, peace, morals, comfort, or general welfare of residents or workers in the area because it would be consistent with the development pattern in the area. The applicant proposes to construct a single-family dwelling in a neighborhood comprised of single-family dwellings. with the siting/design of the proposed structure would also be compatible with the surrounding built environment. Staff believes that the proposed project would not unreasonably obstruct sunlight, privacy, air, or views as analyzed below:

1. Sunlight/Shadow: Shadow studies submitted by the applicant document the existing and proposed shadow effects at three times each day at the summer and winter solstices and on February 25. The studies reveal that shadow effects on neighboring properties would be minimal. The most significant potential effects would be on 696 Hilldale Avenue for a few hours a day in the winter months. However, these effects are mitigated by the fact that significant shadows are already cast on that lot by the existing row of tall trees along Halkin Walk. Staff recommends that the Board find that these potential impacts are non-detrimental.
2. Privacy: The proposed dwelling would have first, second, and third floor windows on both sides. Some of these windows could potentially be perceived by neighbors as affecting their privacy. However, the applicant has proposed obscured glass on the windows that have the greatest potential for causing privacy issues. Views from other windows would be obscured by existing and new trees along both sides of the lot.

The proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 Hilldale Avenue and 713 Euclid Avenue. Therefore, they would not pose a significant threat to privacy. Staff believes the proposed dwelling would not be detrimental regarding privacy.

3. Air: The proposed structure would be approximately 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor. The project would also exceed the usable open space requirement. Therefore, it is not expected to have an effect on available fresh air.
4. Views: Per BMC 23.502.020 (Defined Terms), a significant view is a view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property. As described above under Project Setting, dwellings in the immediate neighborhood of the proposed project have significant views of San Francisco Bay and the Golden Gate. The story poles installed on the project site revealed that these views will not be substantially affected by the new building.

VI. Other Considerations

A. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
4. Policy H-33–Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional housing needs.

Staff Analysis: The proposed project will be infill in a mostly developed neighborhood and will constitute an increase in the available housing units in the region. Its design is compatible with the surrounding houses in the neighborhood, and its effects on light and significant views will be minimal.

VI. Recommendation

Because of the project’s consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board: **APPROVE** use permit #ZP2022-0104 pursuant to Section 23.406.040.D and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received December 29, 2022
3. Arborist’s Report dated May 26, 2022
4. Notice of Public Hearing
5. Public Comment, received April 17, 2023

Staff Planner: Russell Roe, rroe@cityofberkeley.info, (510) 981-7548

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 27, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

ZONING PERMITS REQUIRED

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. Shadow studies submitted by the applicant show that new shadow effects would be minor due to the orientation of the new and existing structures, as well as the existence of tall trees along some of the property lines; and
- B. Privacy intrusions would be minimal because the proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 Hilldale and 713 Euclid Avenue, the applicant has proposed obscured glass for the windows that have the greatest potential for causing privacy concerns, and new and existing trees will act as visual obstructions between the properties; and
- C. Reduced availability of air will not be an issue because the proposed structure would be roughly 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor, and the project would exceed the usable open space requirement; and
- D. Story poles erected on the site show that significant views from neighboring properties will not be unreasonably affected.

III. OTHER FINDINGS FOR APPROVAL

- 2. As required by BMC 23.202.020(B), the Zoning Adjustments Board finds that:
 - A. The proposed project would meet all applicable development standards for the R-1 District except the height limits;
 - B. The proposed increased height limits are justifiable and approvable with an AUP because the proposed height is compatible with those of neighboring structures and story poles erected on the site did not reveal an unreasonable obstruction of significant views from neighboring properties; and
 - C. The proposed parking area, retaining walls, and exterior stairs are approvable in the front setback with an AUP because of the steep upward slope of the lot, and it would be consistent with many neighboring properties that have similar parking areas and stairs in their front setbacks; and
 - D. The proposed project would meet the purposes of the Single-Family Residential District and the Hillside Overlay Zone.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination

that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).

- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____

Name

Phone #

11. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City’s database prior to the applicant’s submittal of a building permit application.

12. Tree Preservation Conditions. The Arborist Report dated May 26, 2022 shall be included with any application for a building permit, and shall be with the approved set of plans on the job site at all times while work is taking place.

13. Tree Protection Fencing. To protect the Specified Tree Protection Zone will be shown on all applicable site, landscape, grading, and utility plans. Such fencing shall comply with the guidelines specified in the Arborist Report dated May 26, 2022.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

14. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
15. Prior to the issuance of any building or demolition permit, the applicant shall prepare and submit a transportation construction plan to the City Traffic Engineer for approval. Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.
16. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
 - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third-party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
 - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants

and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Issuance of Any Building (Construction) Permit

17. HVAC Noise Reduction. Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

18. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.
19. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
20. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELo). MWELo-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
21. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80). The building permit plan set submission shall both include a cover sheet declaration: 'Natural Gas-Free Design as required by BMC Chapter 12.80.
22. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
23. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
24. Geotechnical Plan Review. The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building a grading plans (i.e., site preparation and grading, shoring design, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and retaining walls) to ensure that their recommendations have been properly incorporated.

The Project Geotechnical Consultant should clarify anticipated depths to bedrock materials across the site for structural design (i.e., at what depth can bedrock skin friction be used).

The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

During Construction:

25. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
26. Tree Protection Fencing to protect the Specified Tree Protection Zone must be installed prior to any site or demolition work, in accordance with the approved plans, and remain during all stages of site work and construction.
27. Tree Monitoring. Trees identified for protection in the Arborist Report dated May 26, 2022 shall be monitored monthly during construction by the project arborist.
28. Geotechnical Report. The contractors shall implement the recommendations of the Geotechnical Soil Report, dated March 15, 2022, including site preparation and earthwork, surface and subsurface drainage, foundation reinforcements, retaining wall design, lateral lode resistance, and seismic reinforcements.
29. Geotechnical Construction Inspections. The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete. The Consultant should inspect and approve of temporary shoring measures, as applicable during grading for proposed parking areas and residential improvements.

The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

30. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.
31. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.

- E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District 's phone number shall also be visible to ensure compliance with applicable regulations.
- 32. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 33. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 34. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.
- Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of

construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 35. Avoid Disturbance of Nesting Birds.** Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
- 36. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).** Pursuant to CEQA Guidelines section 15064.5(f), “provisions for historical or unique archaeological resources accidentally discovered during construction” should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
37. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
38. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
39. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).
- A. *Qualified Paleontologist*. The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
- B. *Paleontological Worker Environmental Awareness Program (WEAP)*. Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall

WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.
40. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
41. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future

revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 42. Public Works.** All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 43. Public Works.** The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 44. Public Works.** The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

45. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
46. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
47. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

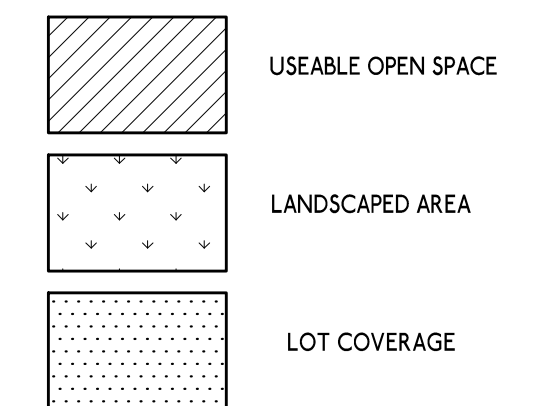
Prior to Final Inspection or Issuance of Occupancy Permit:

48. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
49. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 29, 2022, except as modified by conditions of approval.

At All Times:

50. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
51. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
52. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
53. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
54. Bird-Safe Glass. The use of bird-safe glass is encouraged for all windows.
55. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.

LEGEND



OPEN SPACE
 PATIO - 568 SF OPEN SPACE
 231 SF LANDSCAPED (40.6%)
 DECK - 579 SF OPEN SPACE
 ROOF DECK - 1,005 SF OPEN SPACE
 2,152 SF TOTAL USEABLE OPEN SPACE

LOT COVERAGE
 FOOTPRINT 2,340 SF.
 LOT COVERAGE: 38.8%

John Newton
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 (510) 847-4108
 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

CM Engineers
 (925)818-0570
 Cyrus Mashoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

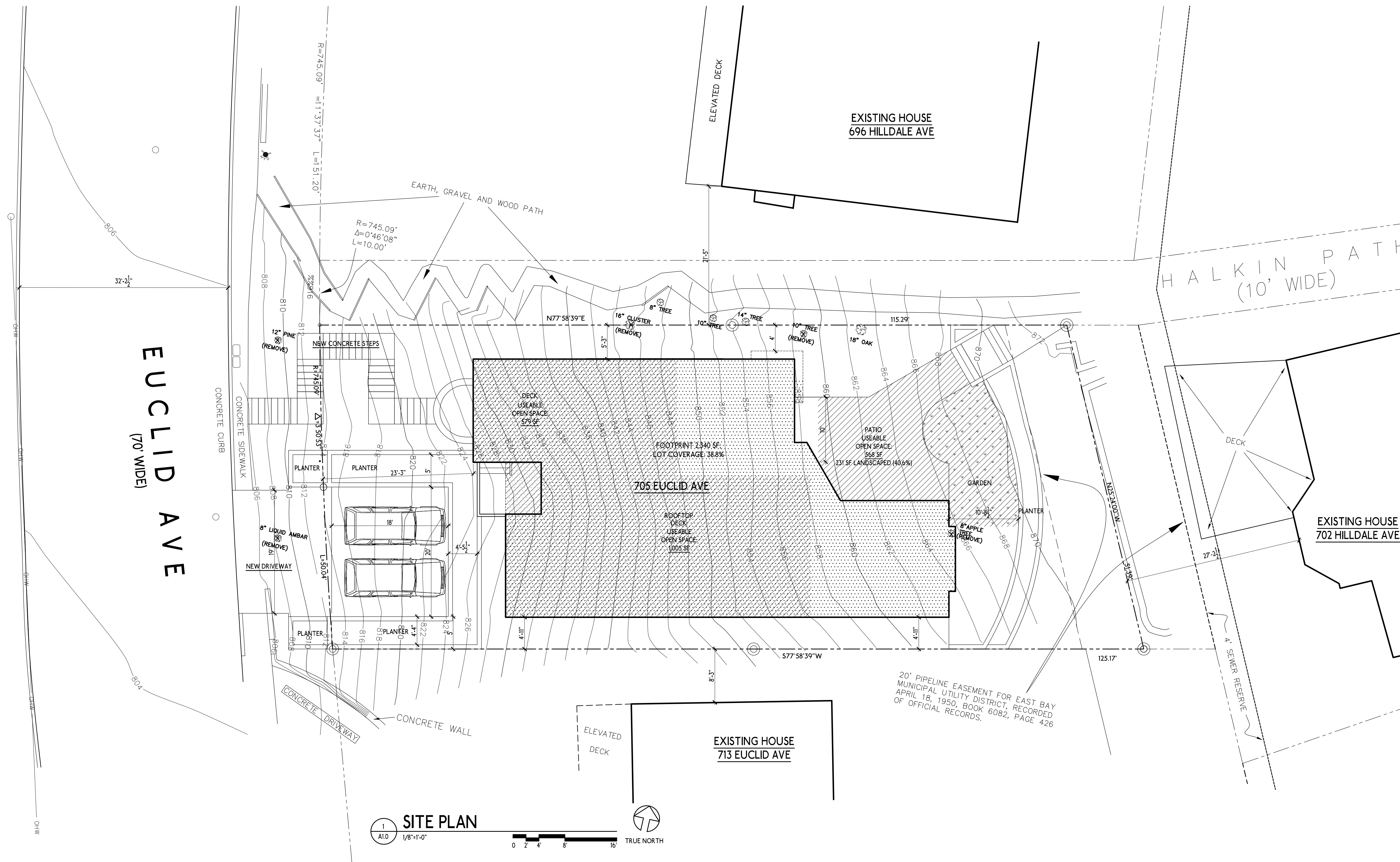
LOT COVERAGE & USEABLE OPEN SPACE DIAGRAM

REVISION

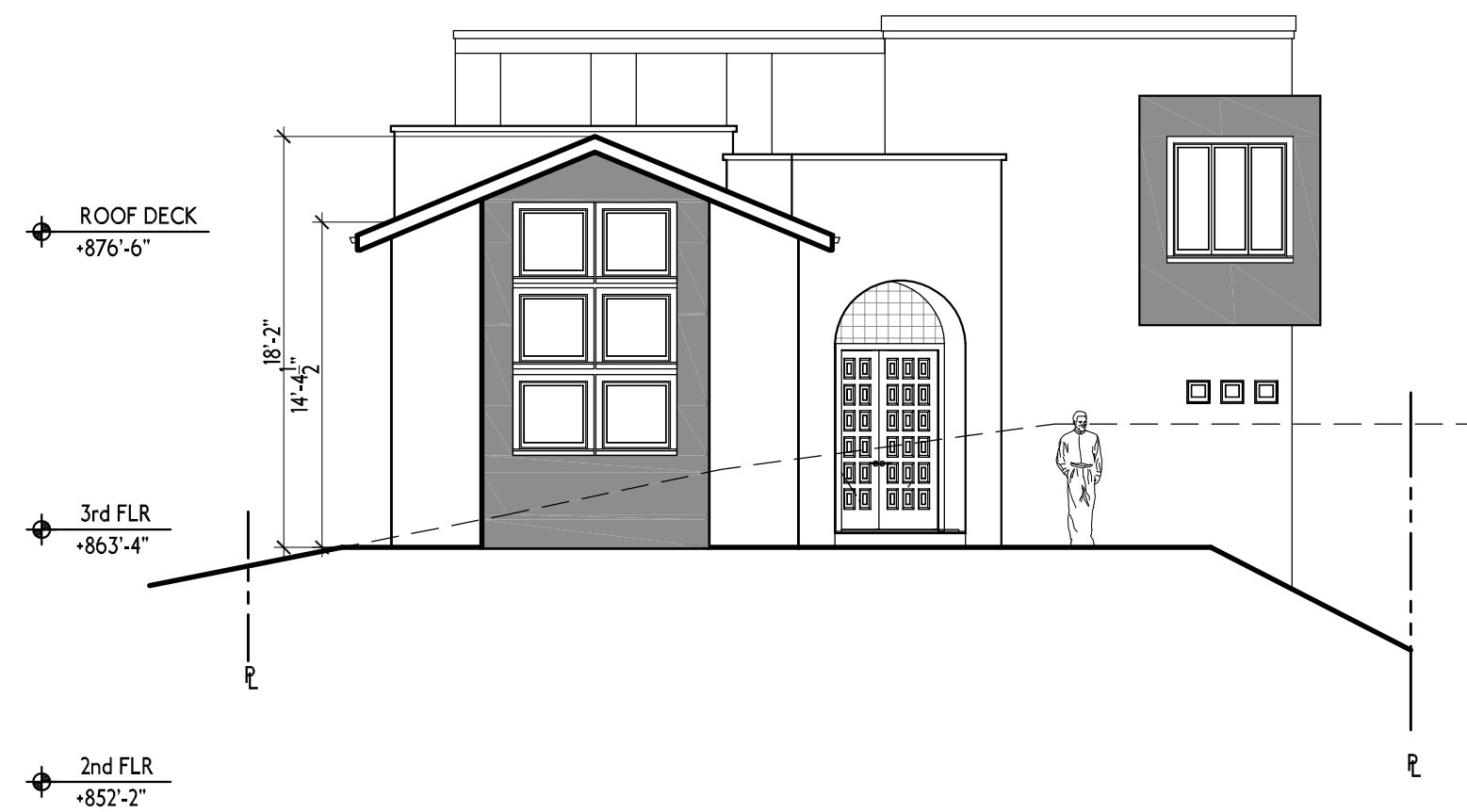
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No. :
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 9/28/22

A1.1

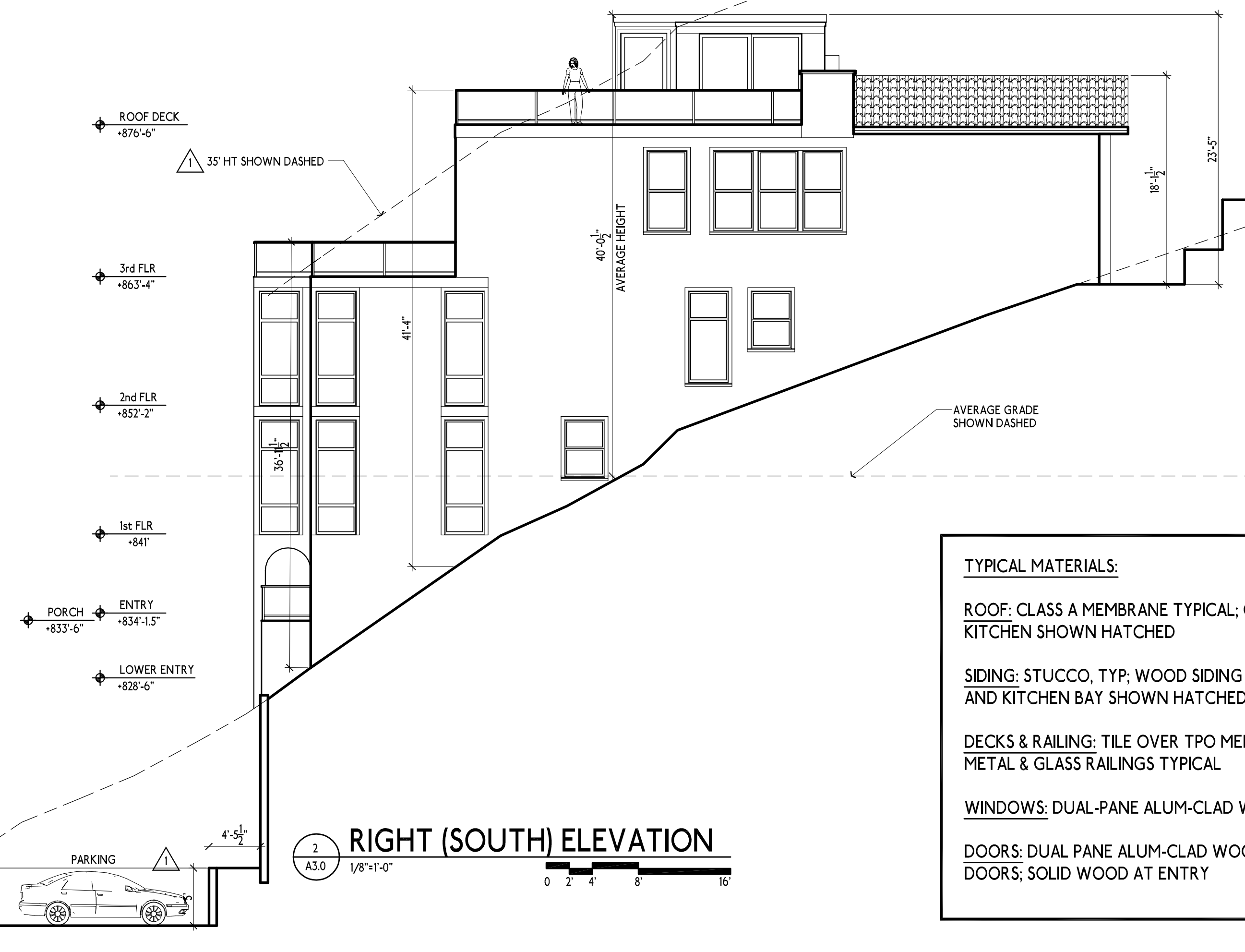


SITE PLAN
 1/8"=1'-0"
 TRUE NORTH



3
A3.0 1/8"=1'-0"
0 2 4 8 16

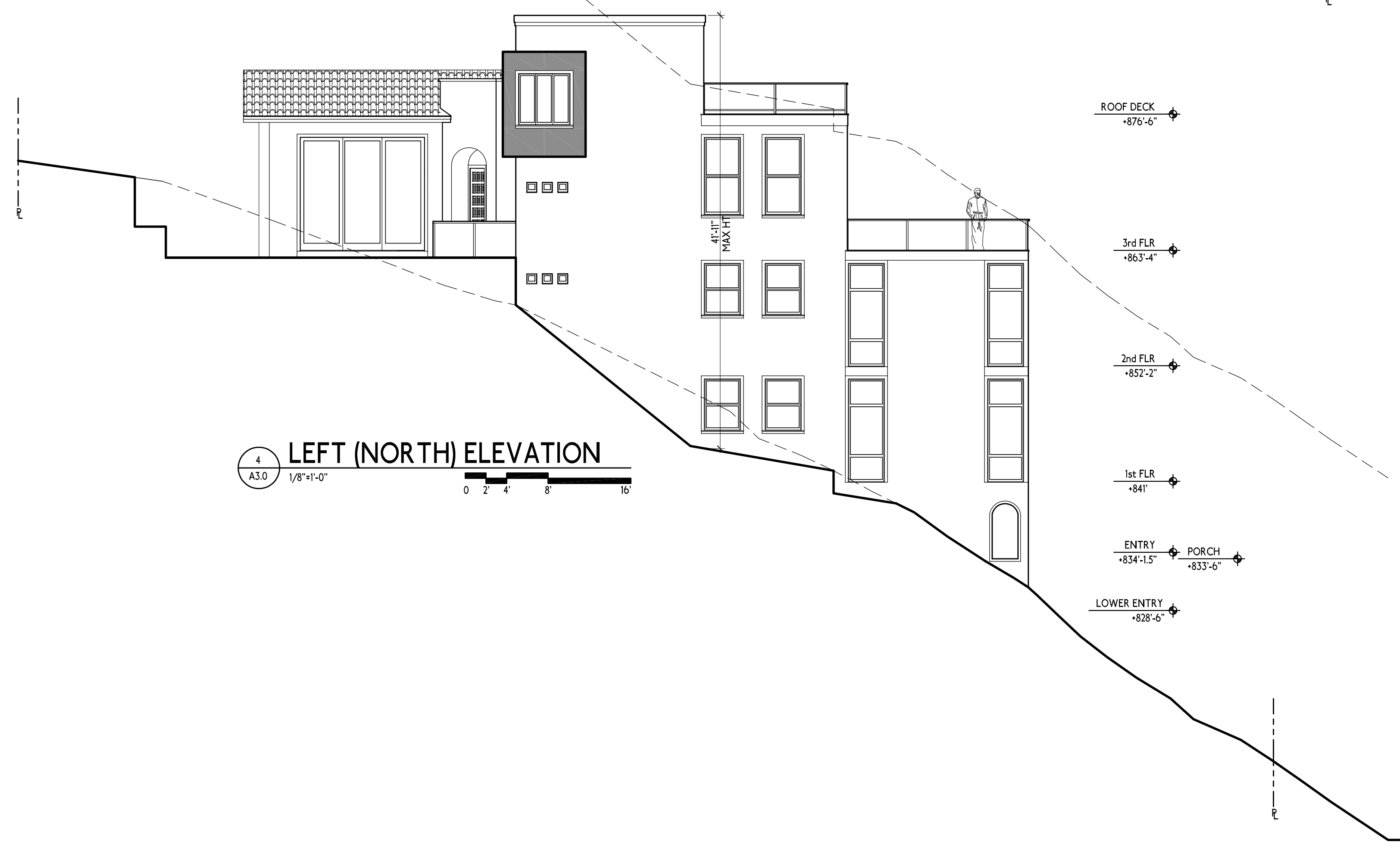
REAR (EAST) ELEVATION



2
A3.0 1/8"=1'-0"
0 2 4 8 16

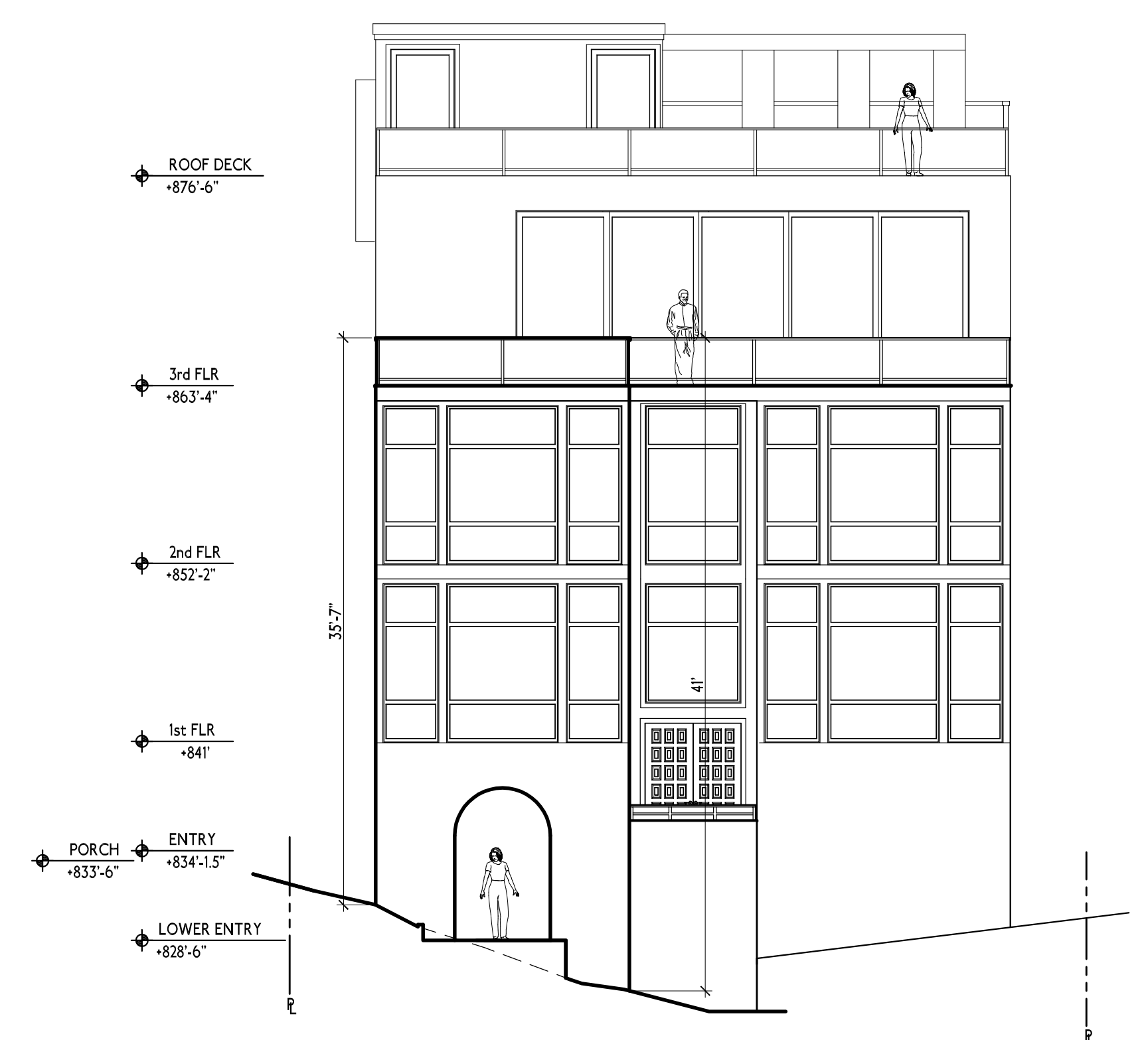
RIGHT (SOUTH) ELEVATION

TYPICAL MATERIALS:
 ROOF: CLASS A MEMBRANE TYPICAL; CLAY TILE AT KITCHEN SHOWN HATCHED
 SIDING: STUCCO, TYP; WOOD SIDING AT OVERHANG AND KITCHEN BAY SHOWN HATCHED
 DECKS & RAILING: TILE OVER TPO MEMBRANE TYP; METAL & GLASS RAILINGS TYPICAL
 WINDOWS: DUAL-PANE ALUM-CLAD WOOD
 DOORS: DUAL PANE ALUM-CLAD WOOD FRENCH DOORS; SOLID WOOD AT ENTRY



4
A3.0 1/8"=1'-0"
0 2 4 8 16

LEFT (NORTH) ELEVATION



1
A3.0 1/8"=1'-0"
0 2 4 8 16

FRONT (WEST) ELEVATION

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 & PROJECT MANAGEMENT

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 (925) 818-0570
 Cyrus Mashoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

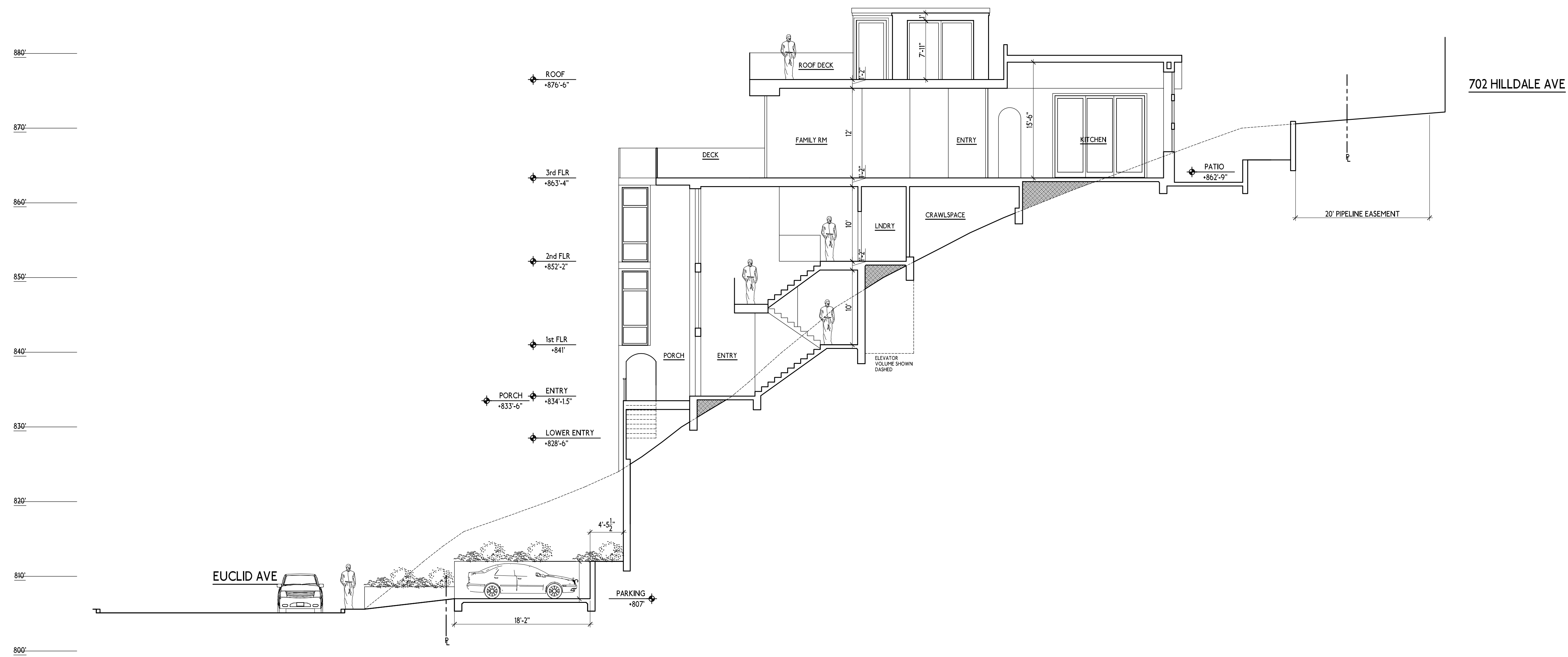
OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

PROPOSED ELEVATIONS

REVISION		
No.	Description	Date
△	DESIGN REV	9/21/22

PROJECT No. :
 DRAWN BY: ML
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 DATE: 3/21/22

A3.0



SECTION
 1/8"=1'-0"
 0 2 4 8 16

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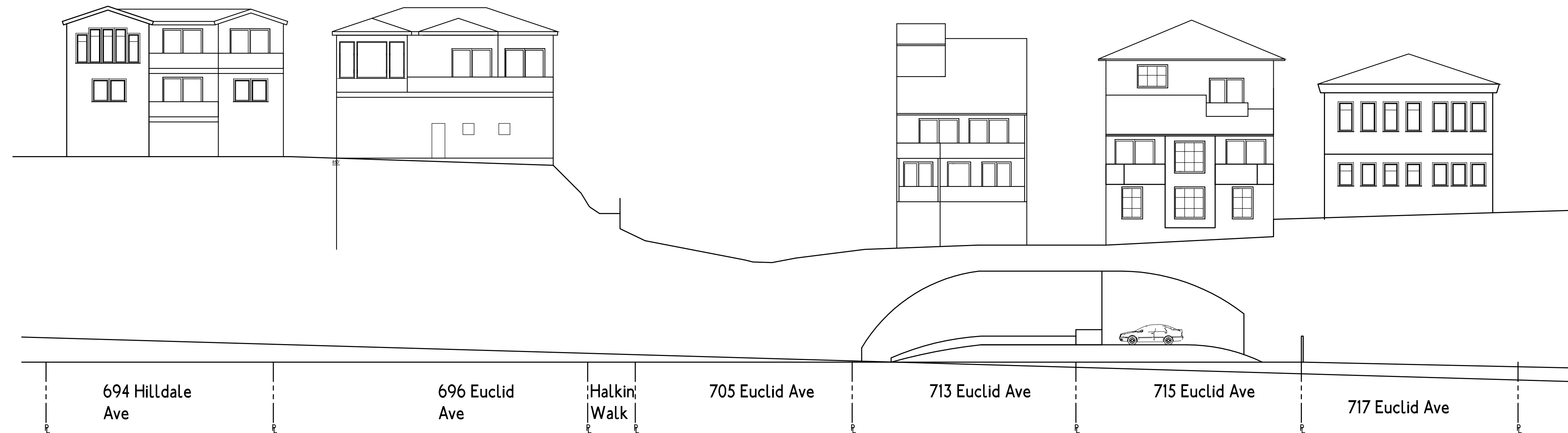
SECTION

REVISION

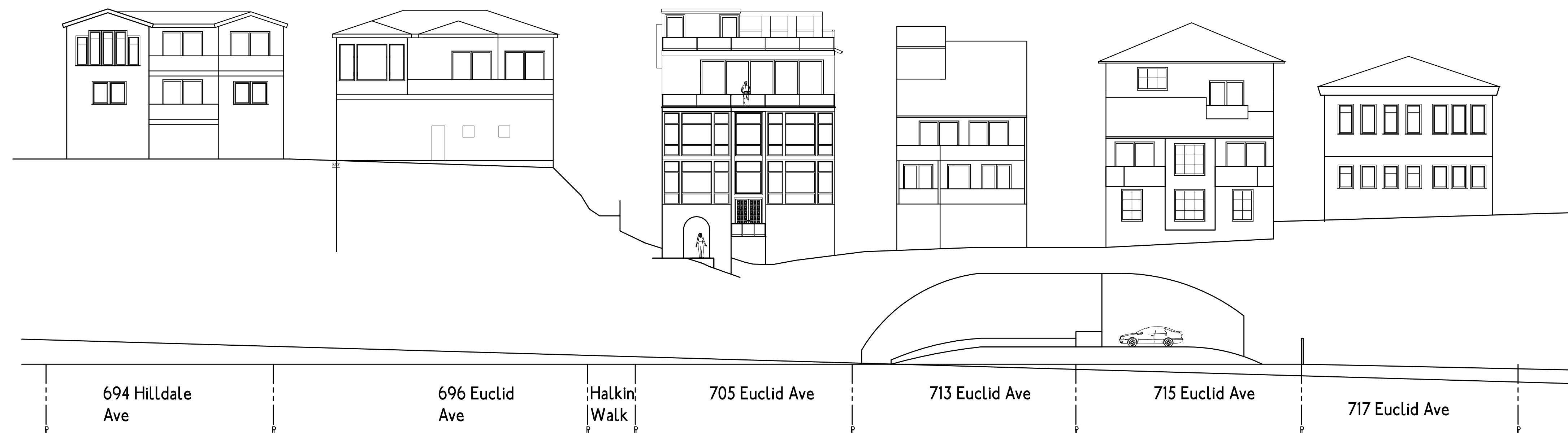
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No.:
DRAWN BY: ML
CHECKED BY: JMN
DATE: 3/21/22

A4.0



EXISTING STREETSCAPE
 2
 A5.0 1/16"=1'-0"



PROPOSED STREETSCAPE
 1
 A5.0 1/16"=1'-0"

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**EXISTING &
 PROPOSED
 STREETSCAPE**

REVISION

No.	Description	Date
△	DESIGN REV	9/21/22

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DATE: 3/21/22

A5.0

NEW RESIDENCE

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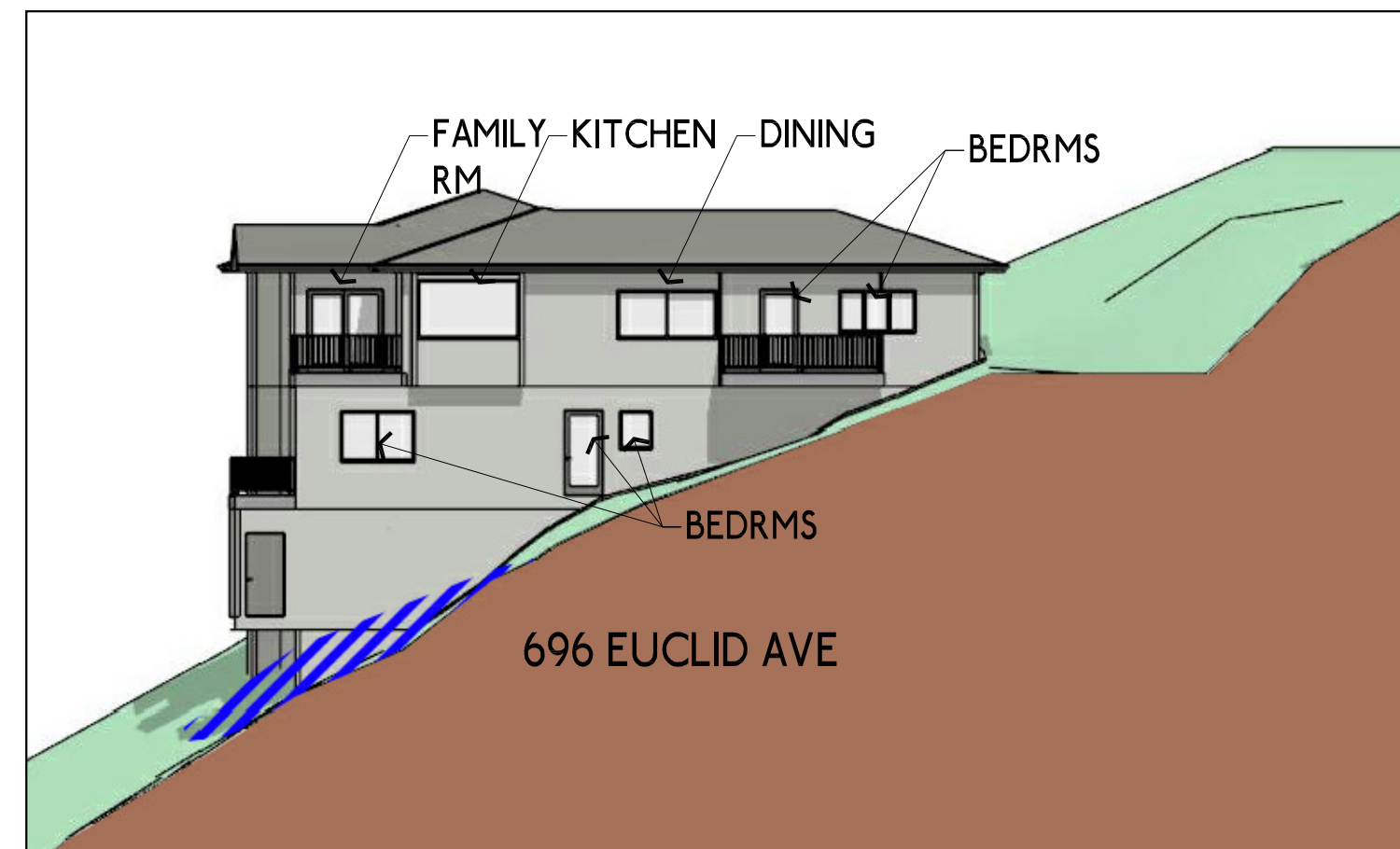
SHADOW STUDY
PART 1

REVISION

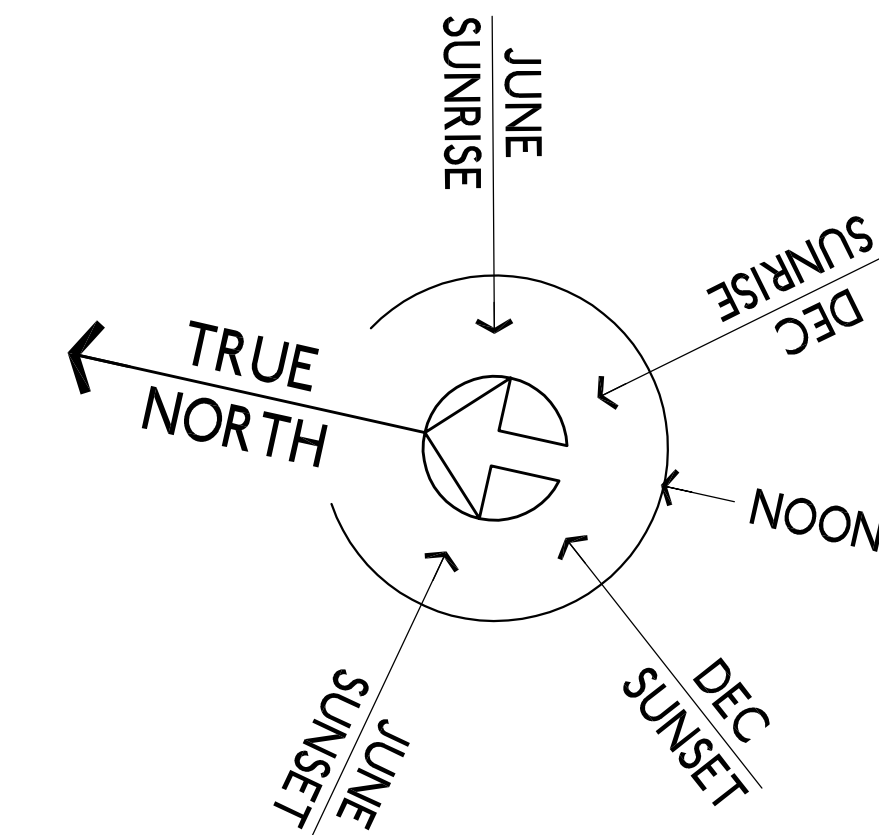
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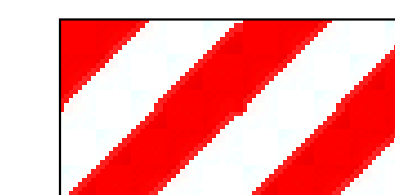
A6.0



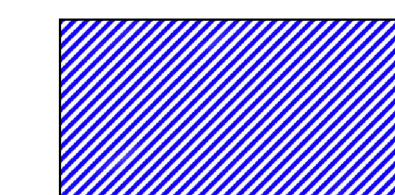
FEBRUARY 26-NOON



LEGEND

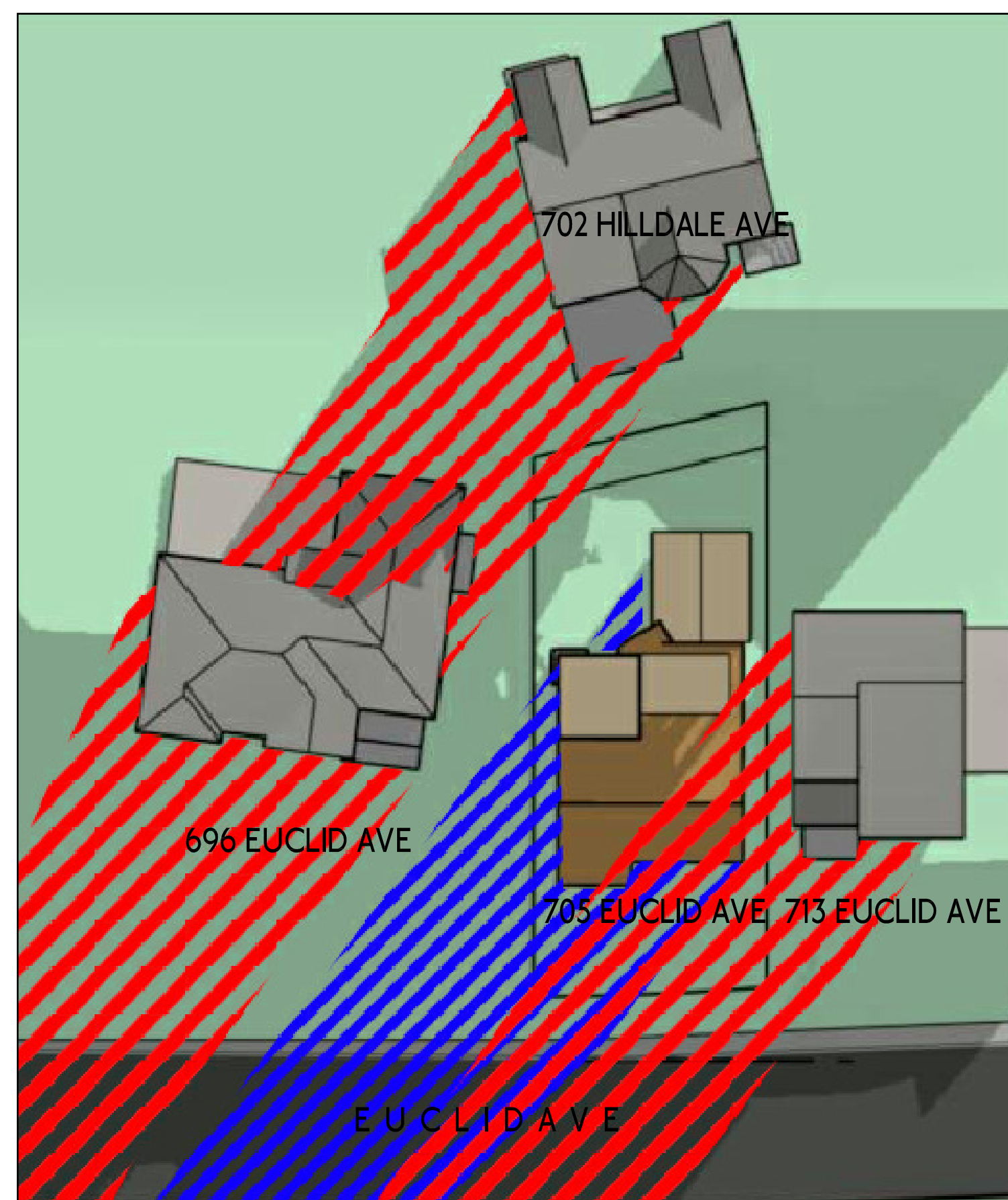


NEIGHBORING BUILDINGS
EXISTING SHADOW

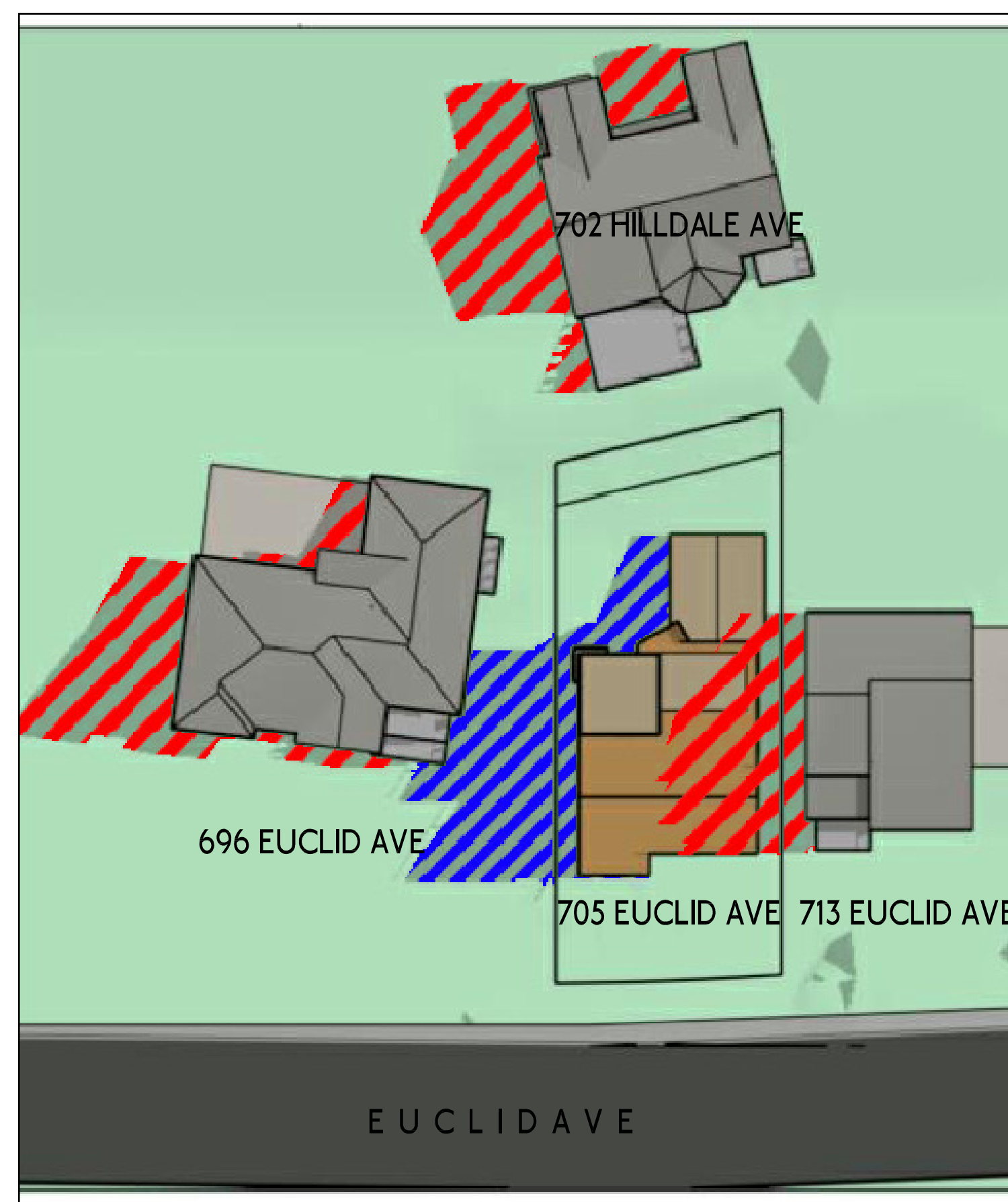


NEW SHADOW

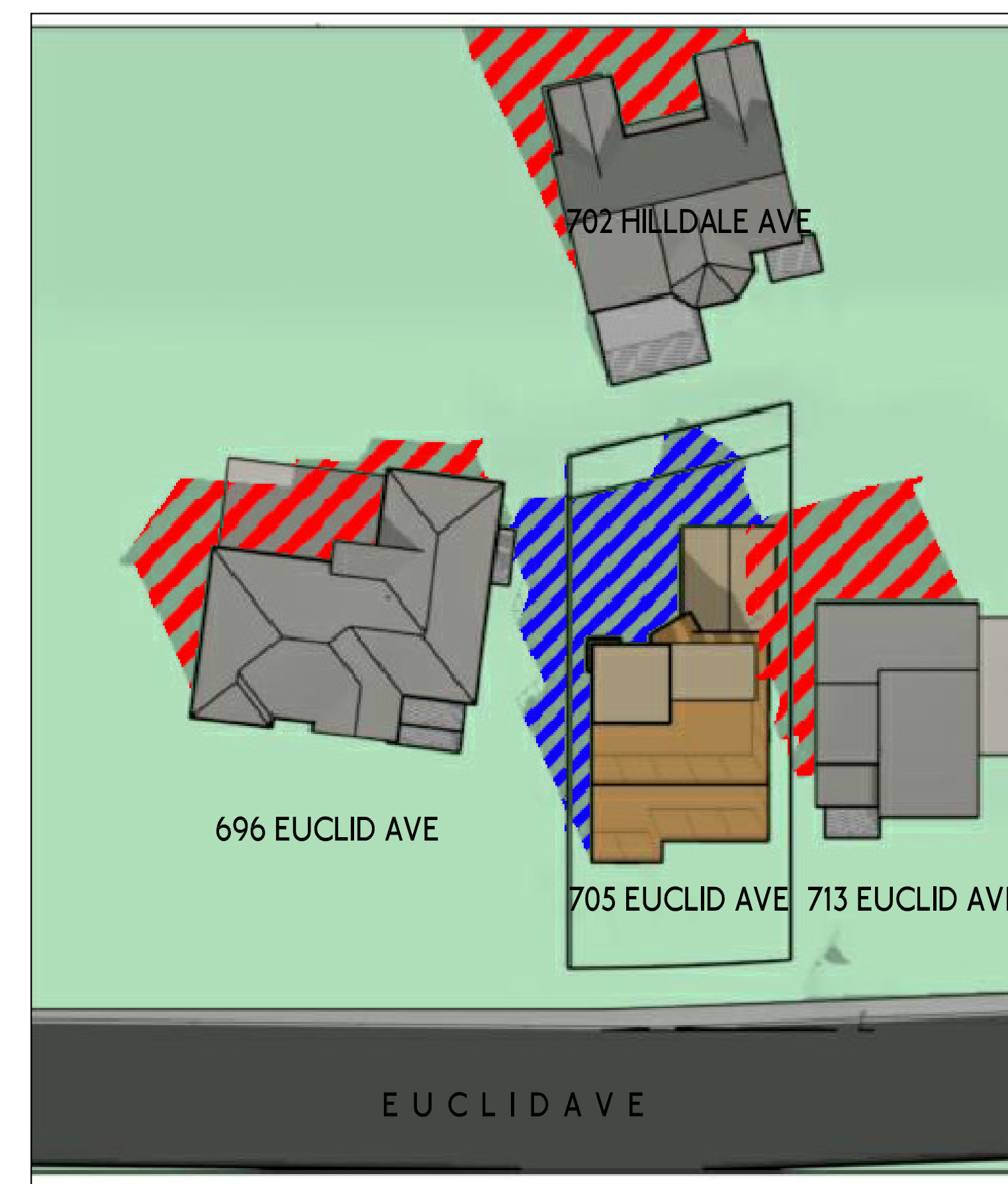
NOTE:
SHADOW STUDY PLAN VIEWS ANALYZE
WORST CASE SCENARIO AND DOES NOT
INDICATE THE MASS OF NEIGHBORING
BUILDINGS AND (E) TREES. THIS STUDY
ONLY GIVES MASS TO 705 EUCLID AVE.
ALL HABITABLE BUILDINGS AFFECTED BY
THE NEW SHADOWS CAST ARE SHOWN
IN ELEVATION.



1 FEBRUARY 26-8:45 AM



2 FEBRUARY 26-NOON



3 FEBRUARY 26-4:00 PM



NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708

APN: 63-2955-40-1

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NEW
RESIDENCE

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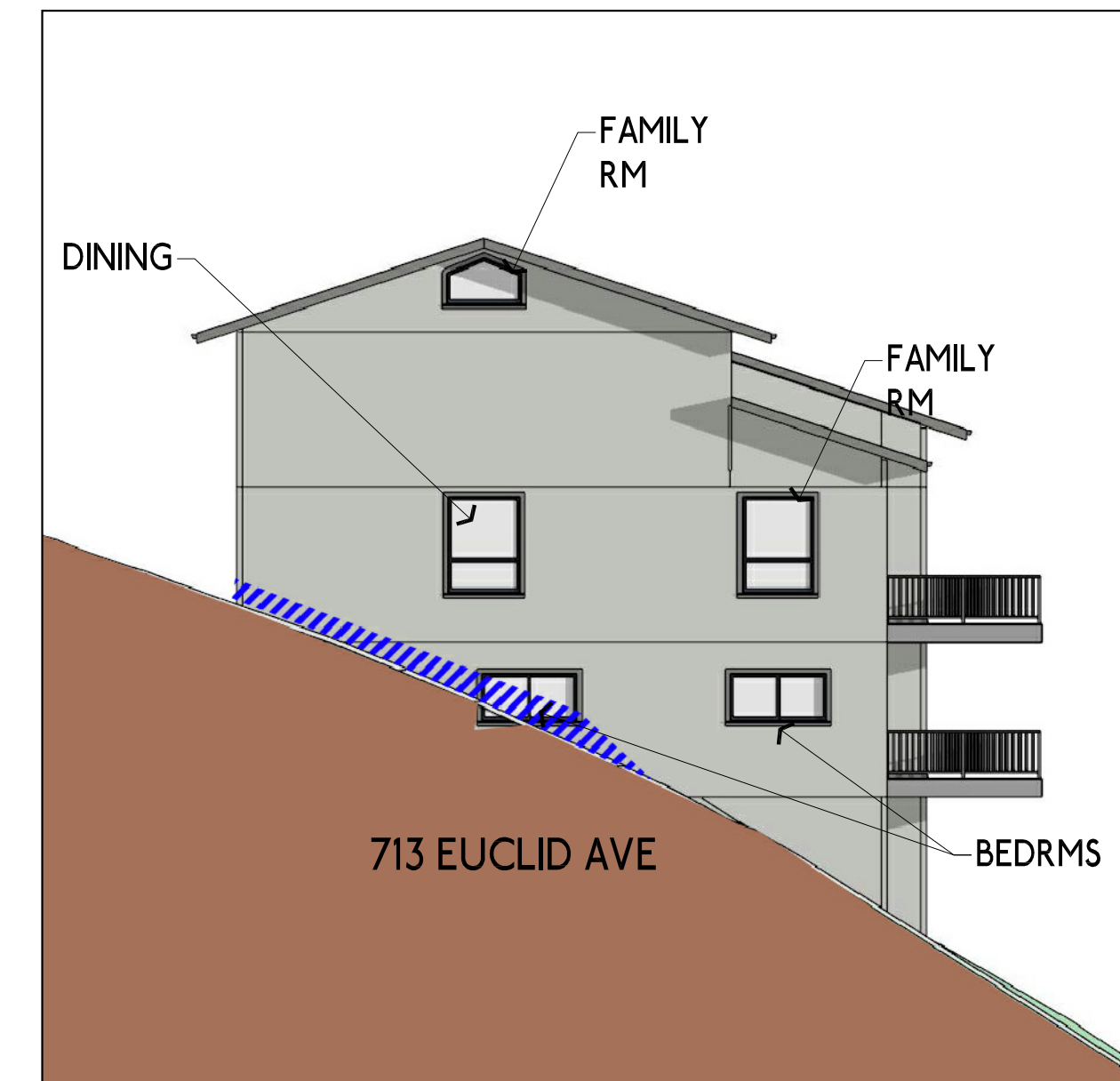
OWNER:
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903 Ventura Ave.,
Albany, CA 94707
(510)-387-7100

SHADOW STUDY
PART 2

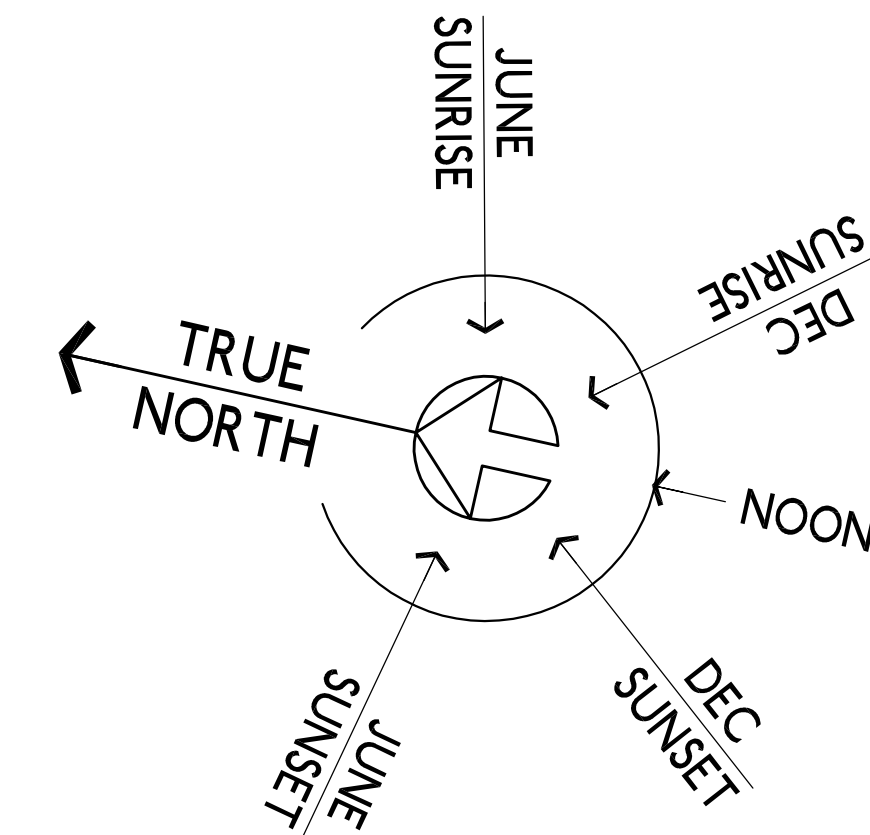
REVISION

No.	Description	Date
1	DESIGN REV	9/21/22
PROJECT No.:		
DRAWN BY:		ML
CHECKED BY:		JMN
DATE:		3/21/22

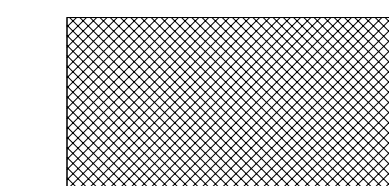
A6.1



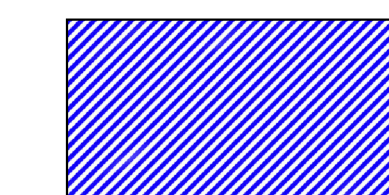
JUNE 21-6:35 PM



LEGEND



NEIGHBORING BUILDINGS
EXISTING SHADOW

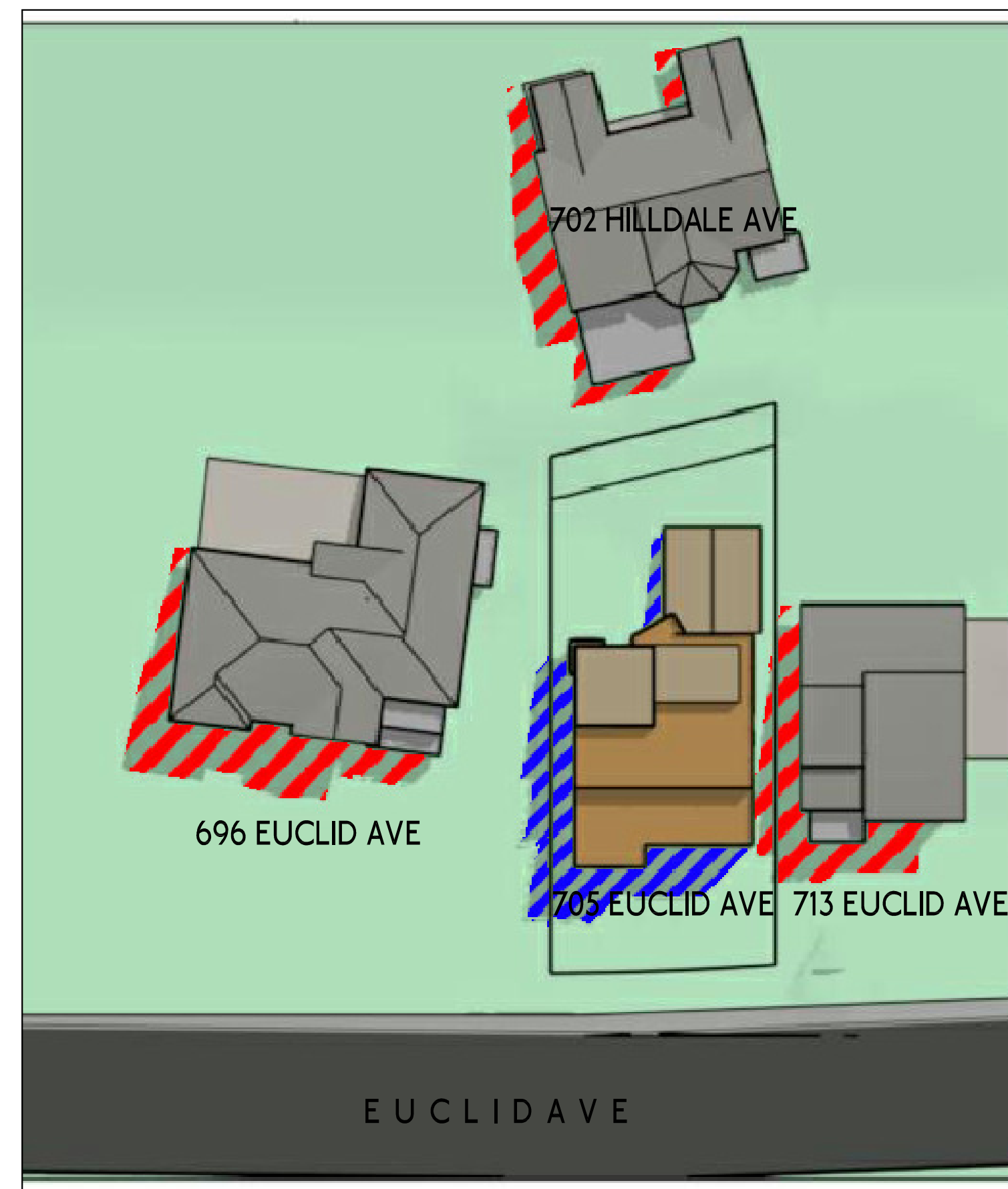


NEW SHADOW

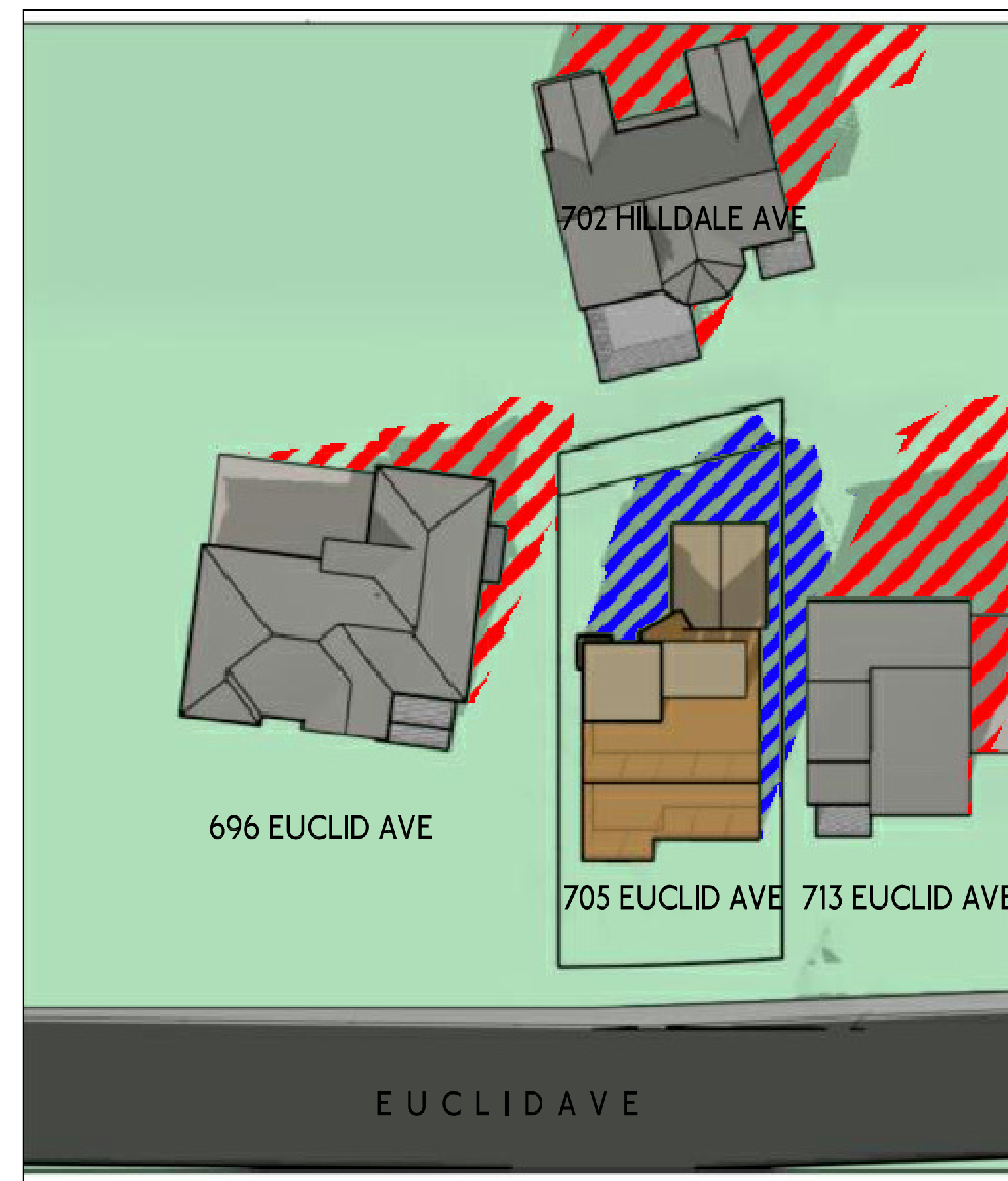
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THE NEW SHADOWS CAST ARE SHOWN
IN ELEVATION.



1
A5.1 JUNE 21-7:47 AM



2
A5.1 JUNE 21-NOON



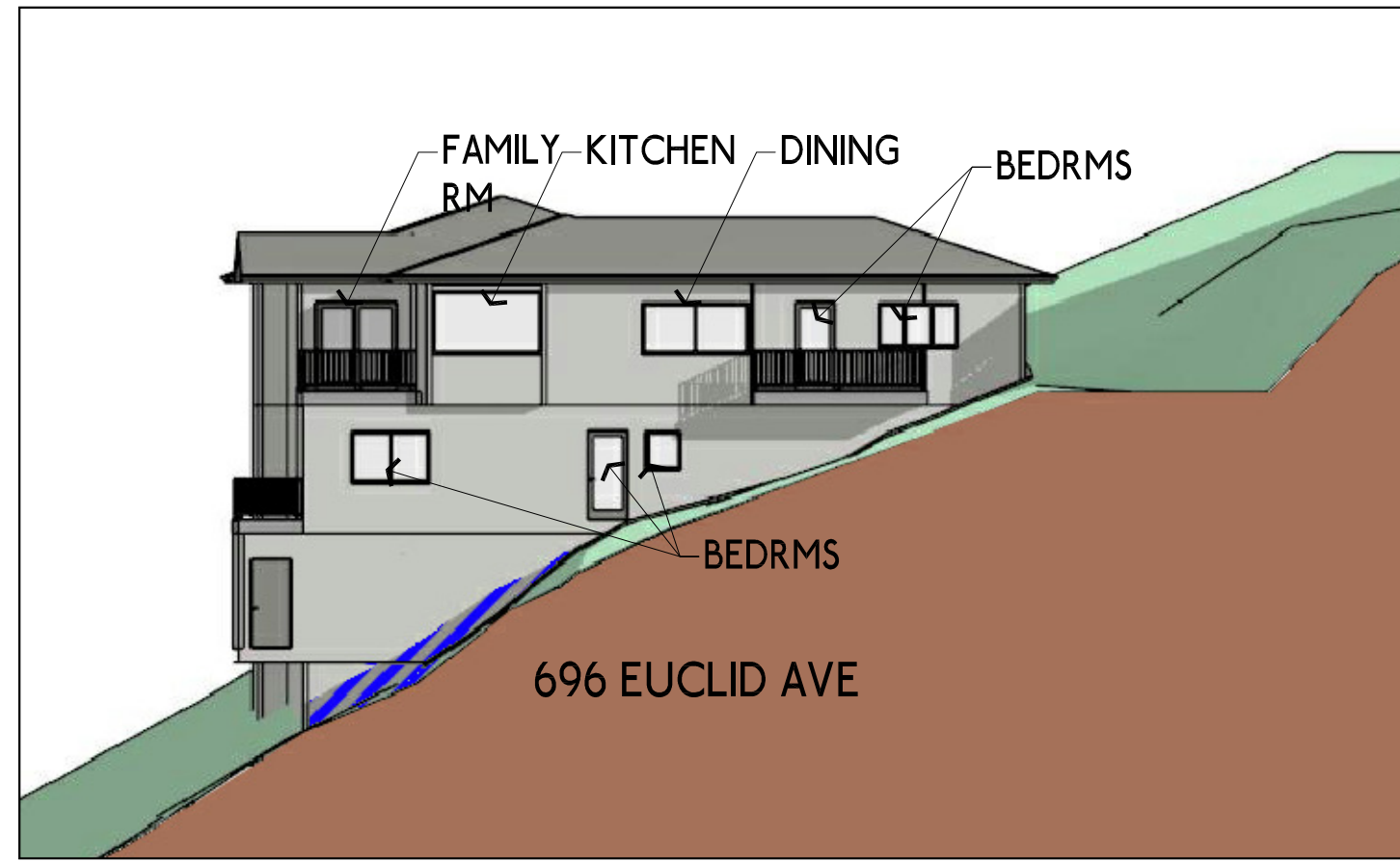
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A5.1 JUNE 21-6:35 PM

NEW RESIDENCE

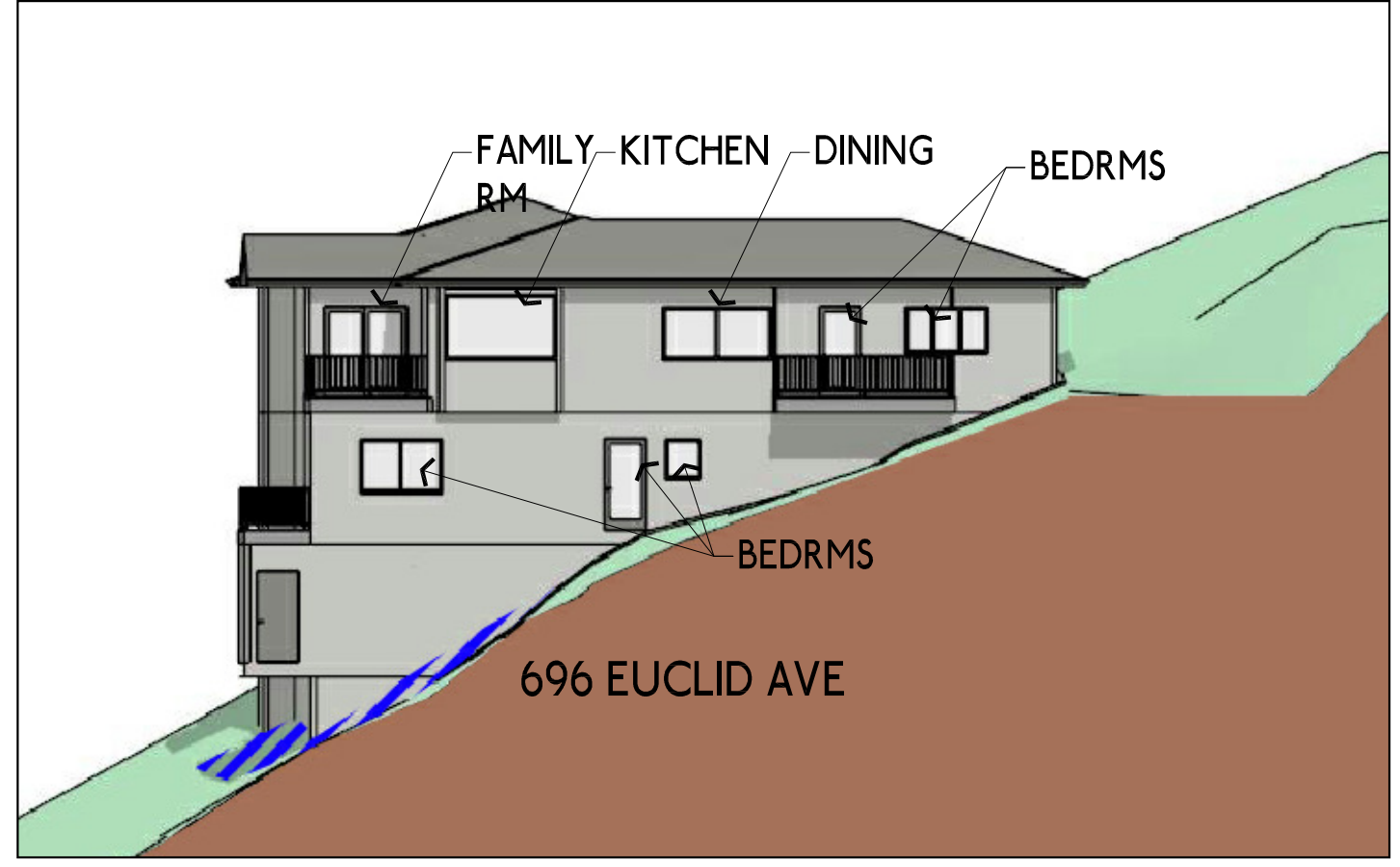
705 Euclid Ave, Berkeley, CA 94708
 APN: 63-2955-40-1

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 Design & Development
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 Oakland, CA 94609
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 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

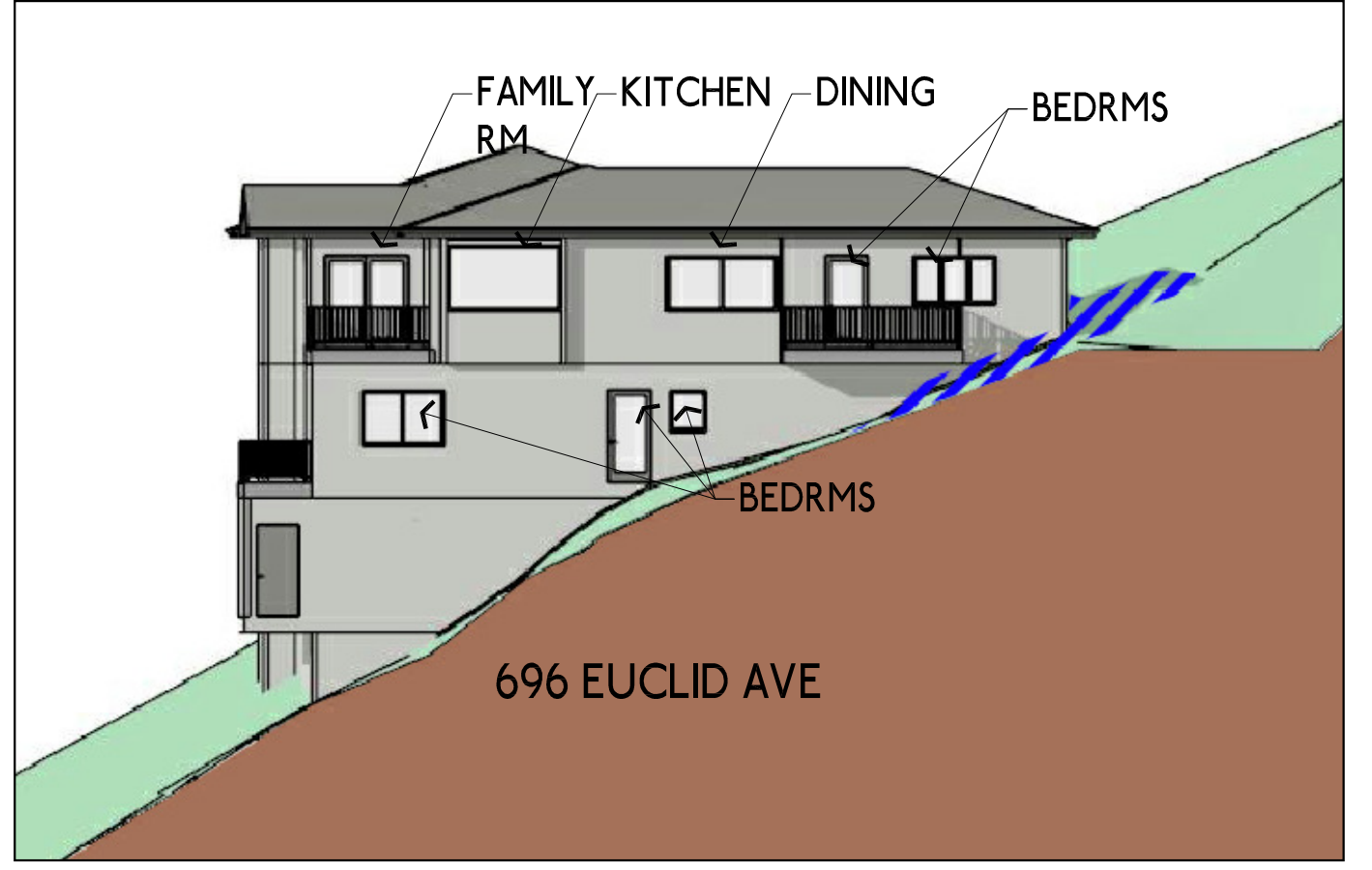
CM Engineers
 (925)818-0570
 Cyrus Mashhoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE



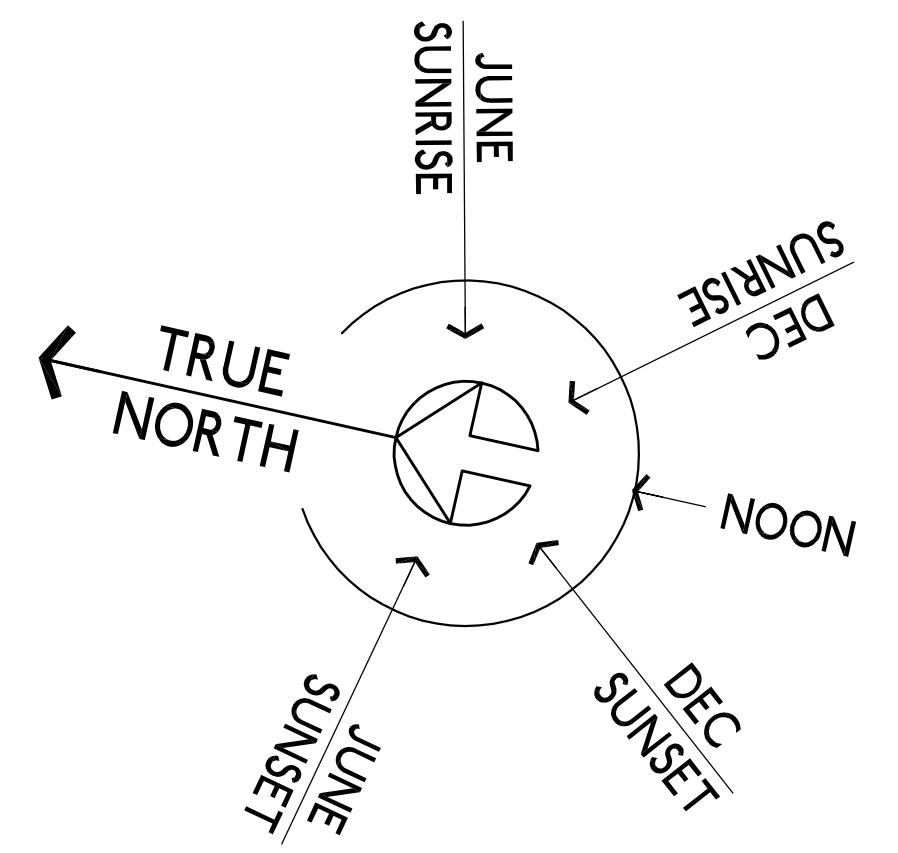
DECEMBER 21-9:21 AM



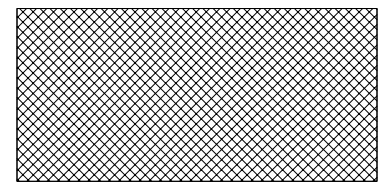
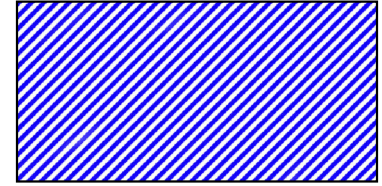
DECEMBER 21-NOON



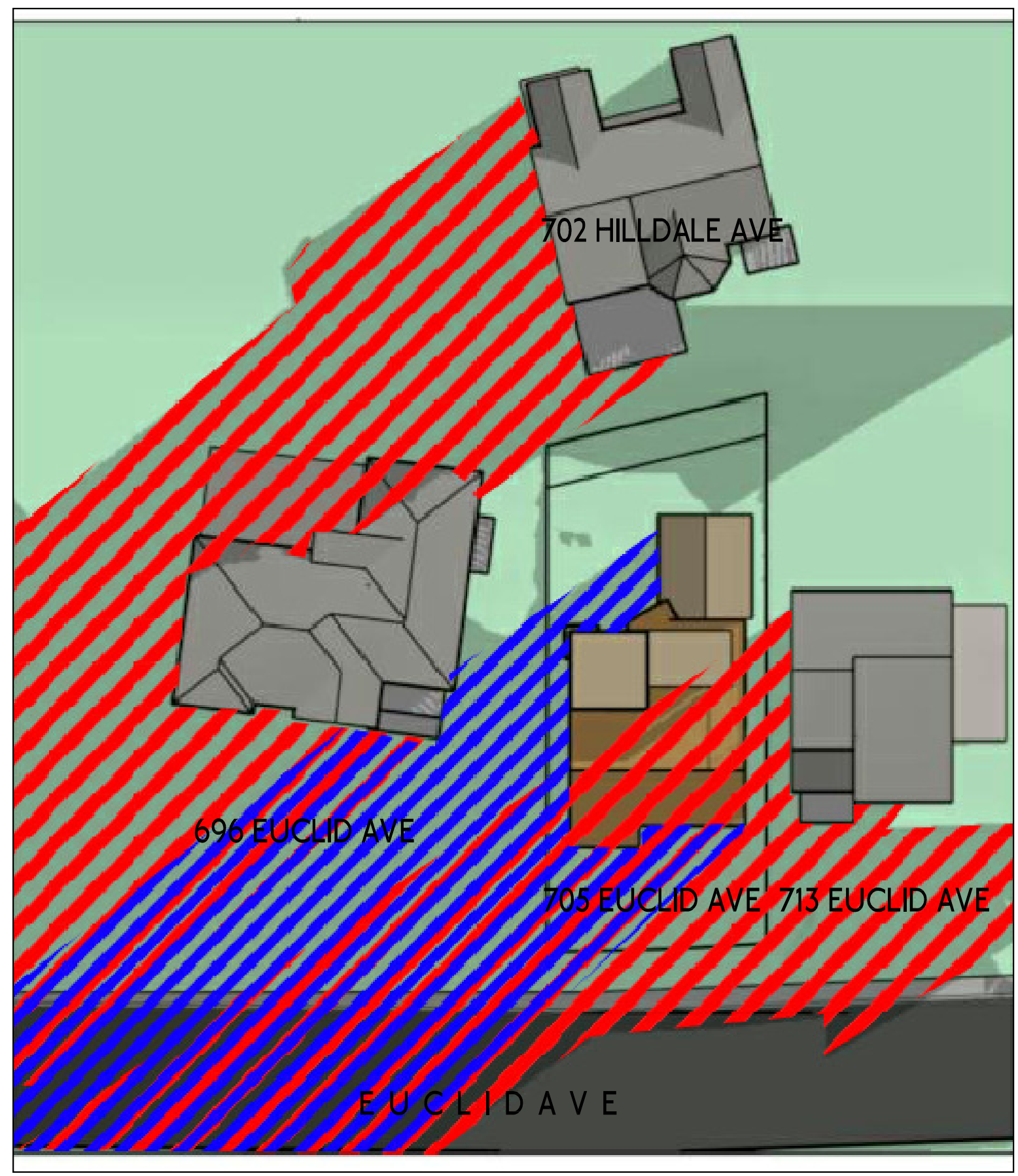
DECEMBER 21-2:53 PM



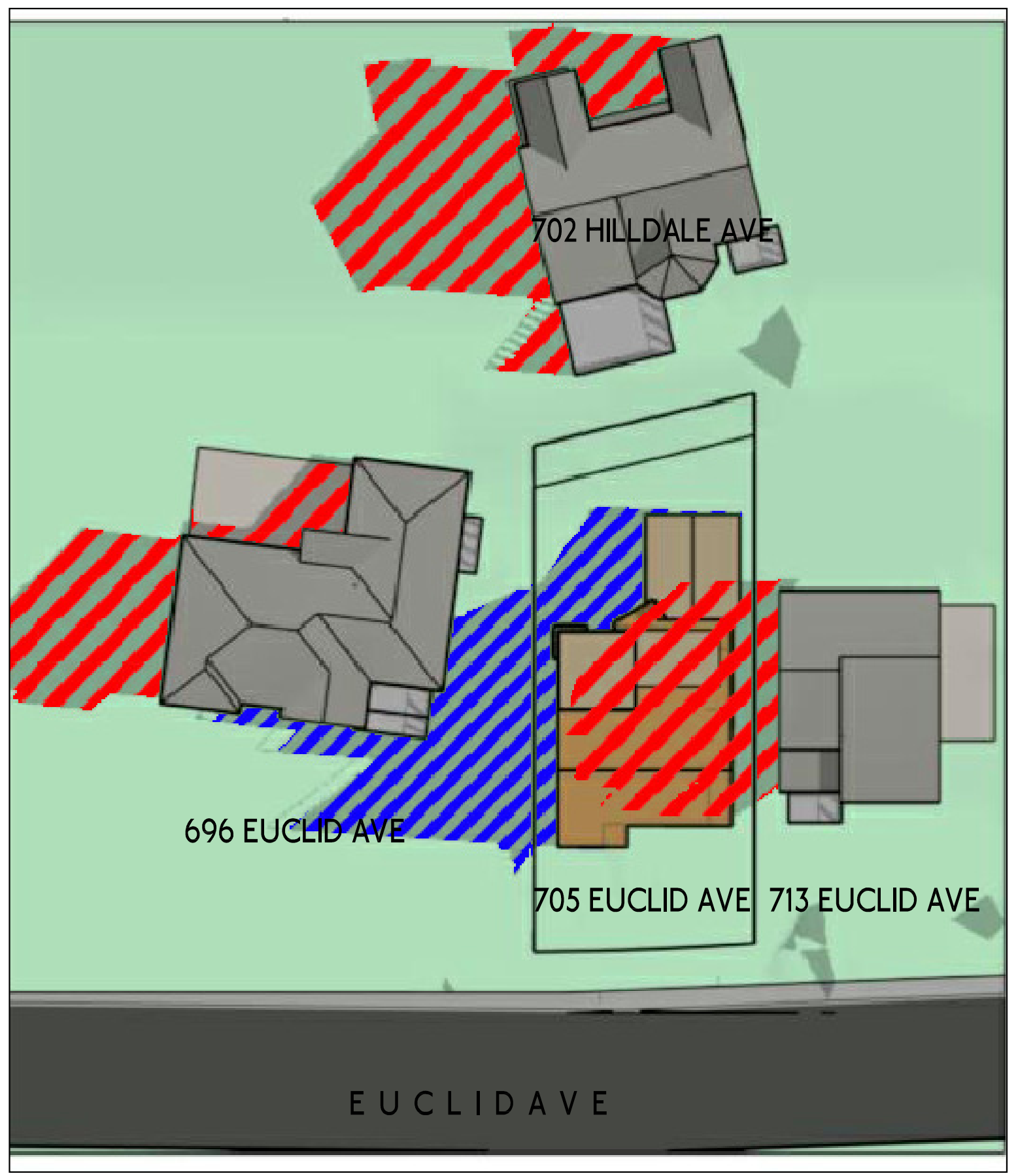
LEGEND

-  NEIGHBORING BUILDINGS EXISTING SHADOW
-  NEW SHADOW

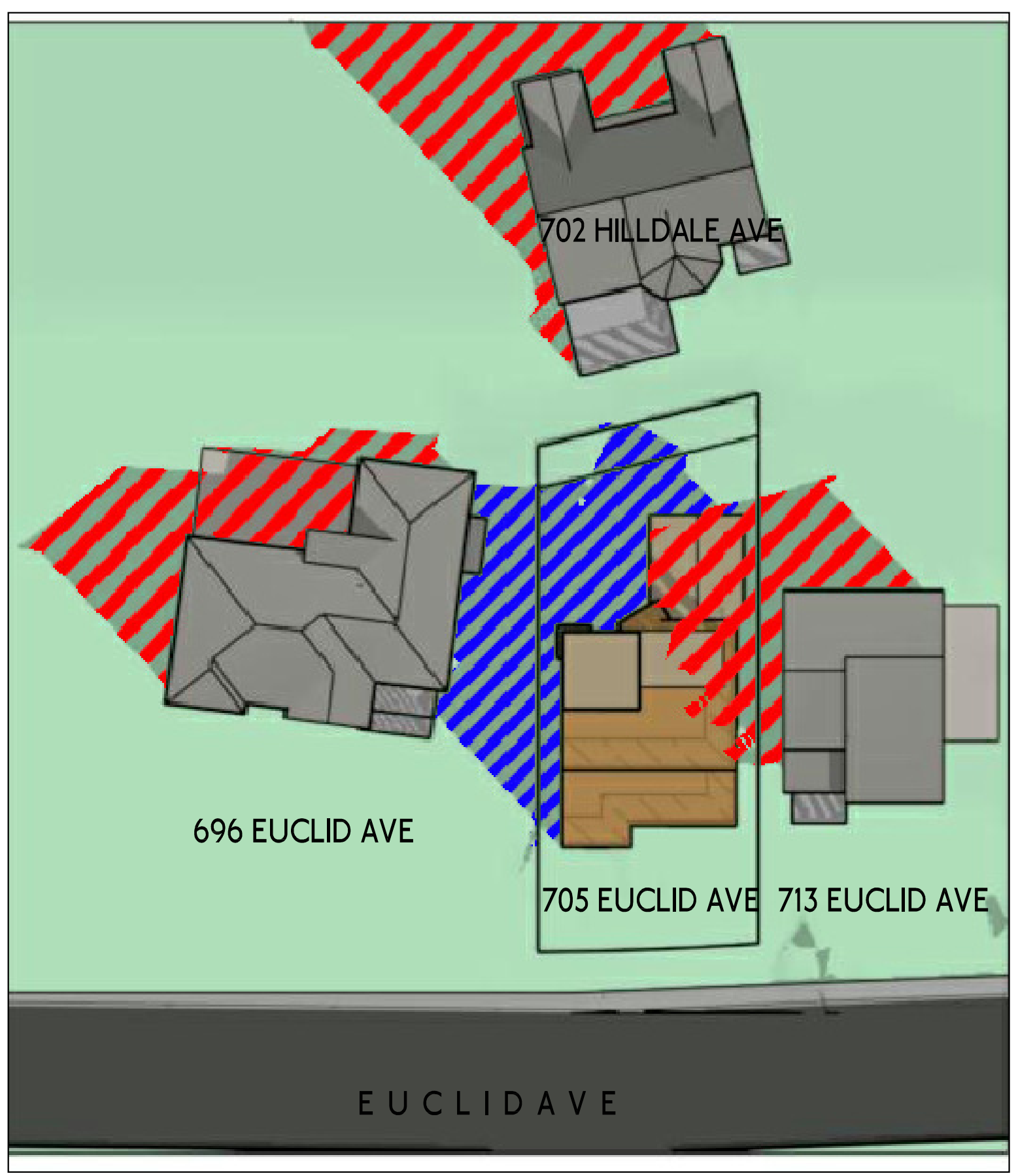
NOTE:
 SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 705 EUCLID AVE. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



1 AS1 DECEMBER 21-9:21 AM TRUE NORTH



2 AS1 DECEMBER 21-NOON TRUE NORTH



3 AS1 DECEMBER 21-2:53 PM TRUE NORTH

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

SHADOW STUDY PART 3

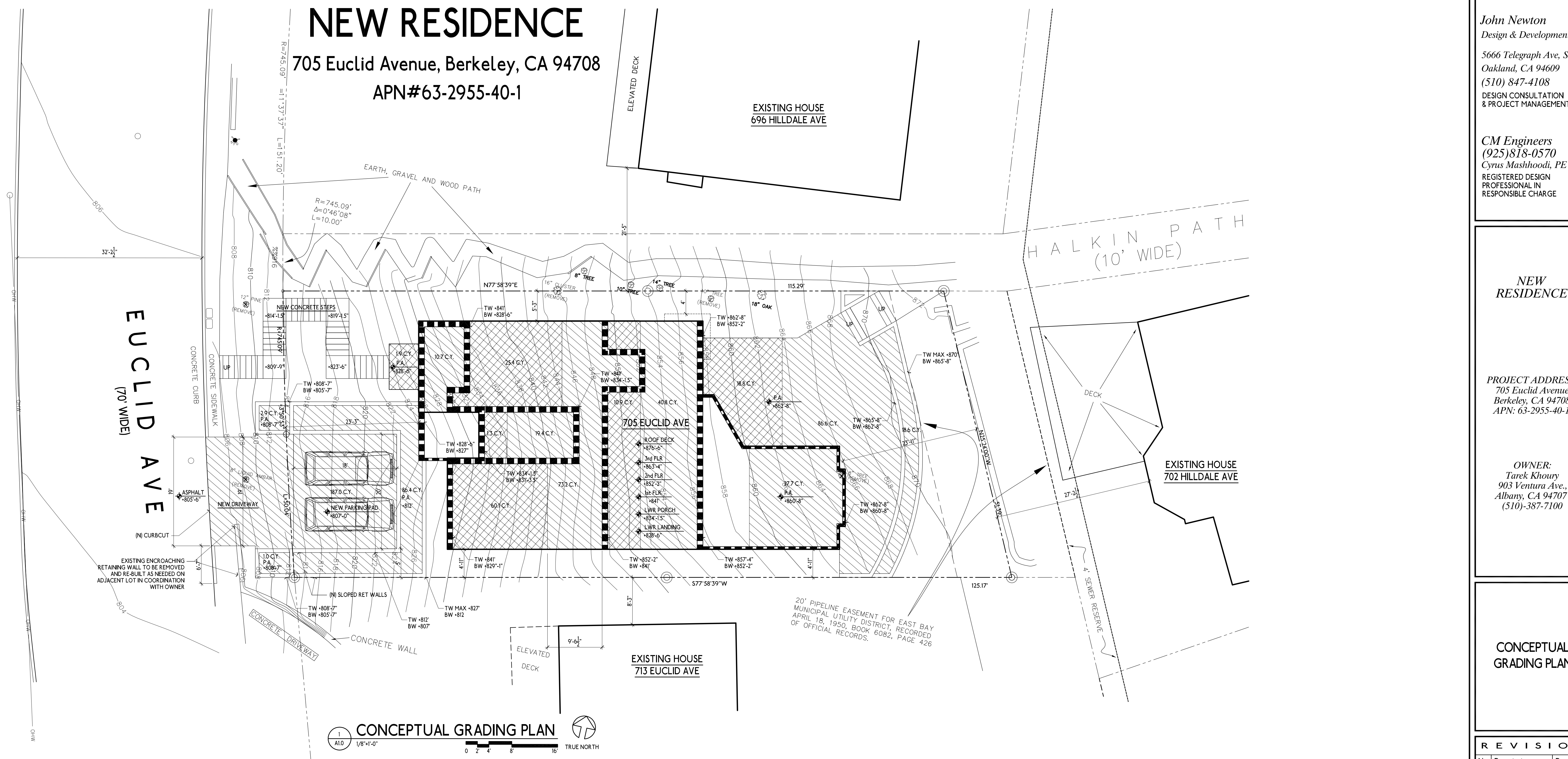
REVISION		
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No. :
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 3/21/22

A6.2

NEW RESIDENCE

705 Euclid Avenue, Berkeley, CA 94708
 APN#63-2955-40-1



CONCEPTUAL GRADING PLAN
 1/8"=1'-0" TRUE NORTH

ESTIMATED EARTHWORK QUANTITIES

CUT: 554.3 C.Y.
 FILL: 118.4 C.Y.
 EXPORT: 435.9 C.Y.

NOTE: GRADING QUANTITIES REPRESENT BANK YARDAGE. IT DOES NOT INCLUDE ANY SWELLING OR SHRINKAGE FACTORS AND IS INTENDED TO REPRESENT IN-SITU CONDITIONS. QUANTITIES DO NOT INCLUDE OVER-EXCAVATION (IF ANY). NOTE ADDITIONAL EARTHWORKS, SUCH AS KEYWAYS OR BENCHING MAY BE REQUIRED BY THE GEOTECHNICAL ENGINEER IN THE FIELD AT THE TIME OF CONSTRUCTION. CONTRACTOR TO VERIFY QUANTITIES

- CUT EARTH
- FILLED EARTH

John Newton
 Design & Development
 5666 Telegraph Ave, Ste A
 Oakland, CA 94609
 (510) 847-4108
 DESIGN CONSULTATION
 & PROJECT MANAGEMENT

CM Engineers
 (925)818-0570
 Cyrus Mashhoodi, PE
 REGISTERED DESIGN
 PROFESSIONAL IN
 RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
 705 Euclid Avenue
 Berkeley, CA 94708
 APN: 63-2955-40-1

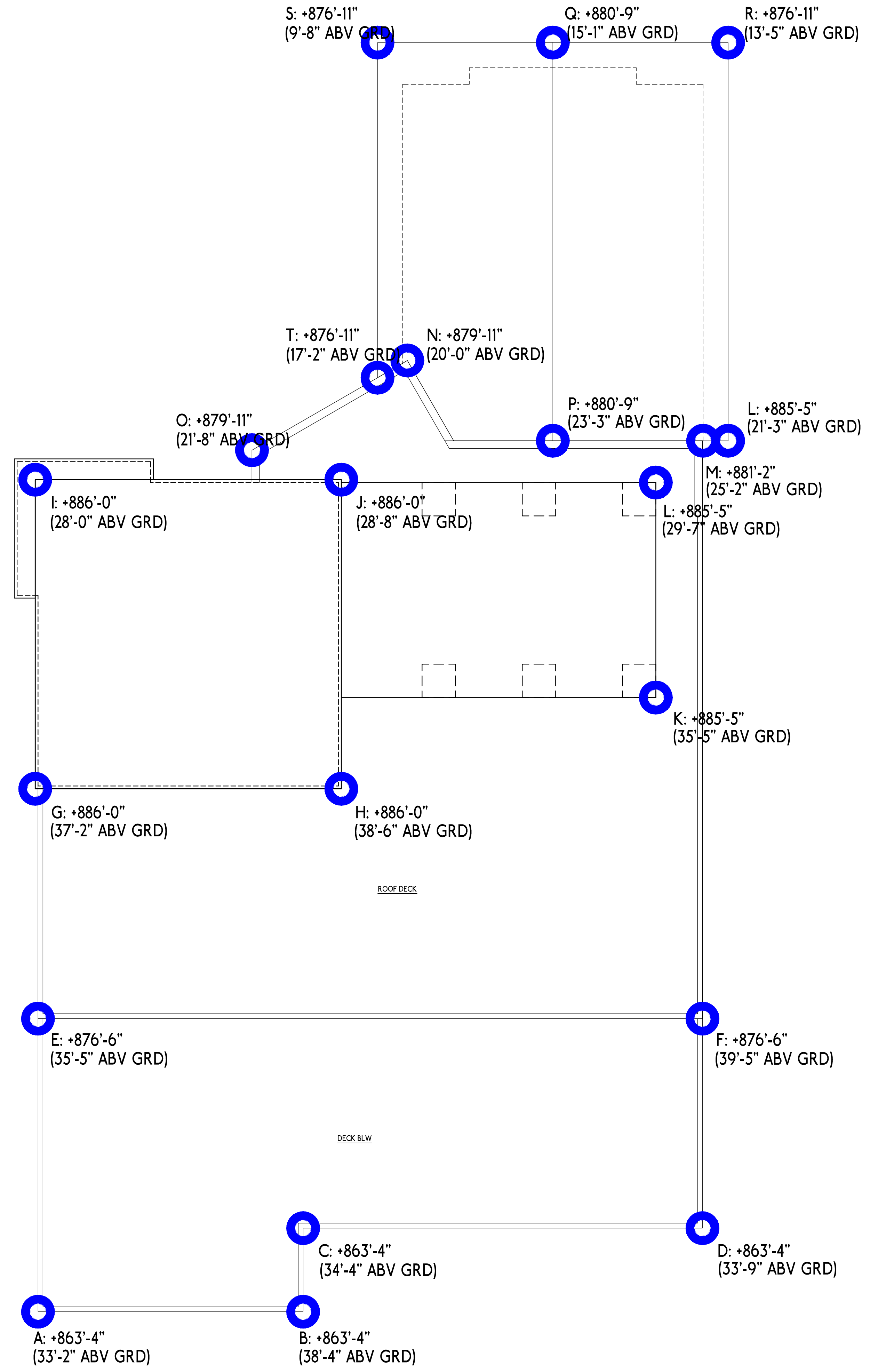
OWNER:
 Tarek Khoury
 903 Ventura Ave.,
 Albany, CA 94707
 (510)-387-7100

CONCEPTUAL GRADING PLAN

REVISION		
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No. :
 DRAWN BY: ML
 CHECKED BY: JMN
 DATE: 3/21/22

C1



1
SP.1
1/4"=1'-0"
0 1 2 4 8
TRUE NORTH

John Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
(925)818-0570
Cyrus Mashhoodi, PE
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2955-40-1

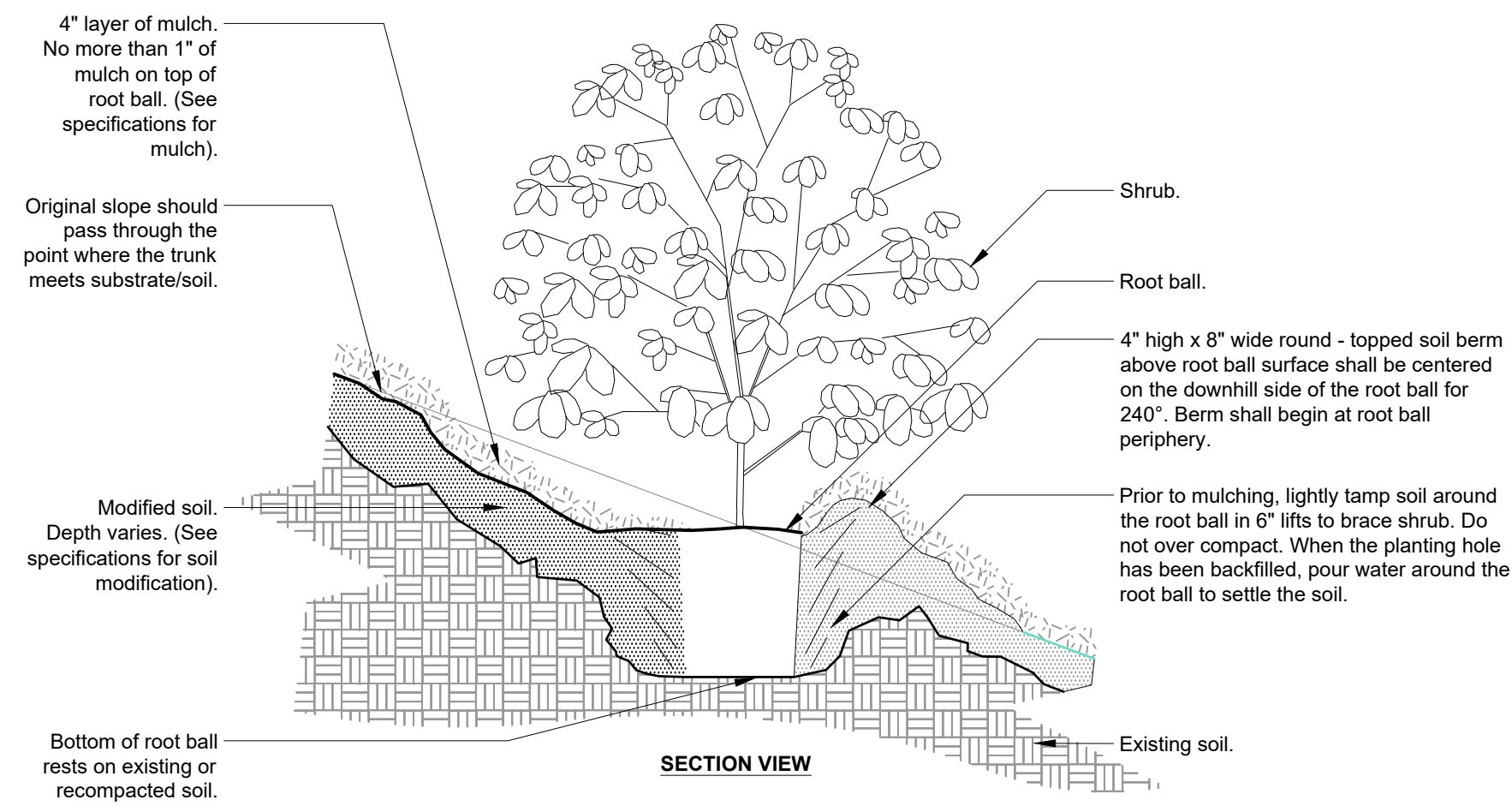
OWNER:
Tarek Khoury
903 Ventura Ave.,
Albany, CA 94707
(510)-387-7100

STORY POLE PLAN

REVISION		
No.	Description	Date
1	DESIGN REV	9/21/22

PROJECT No. :
DRAWN BY: ML
CHECKED BY: JMN
DATE: 9/28/22

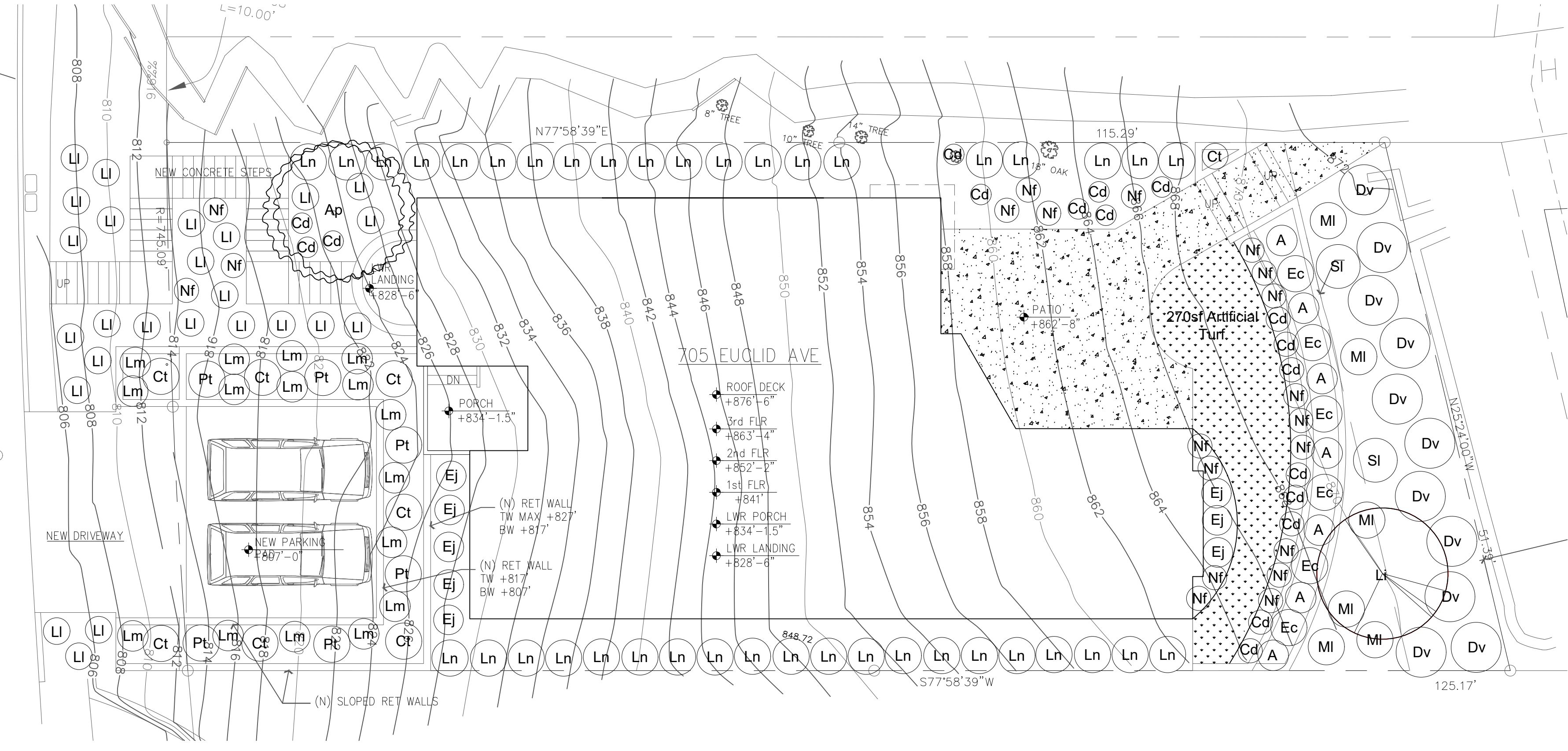
SP.1



SHRUB ON SLOPE 5% (20:1) TO 50% (2:1) - MODIFIED SOIL

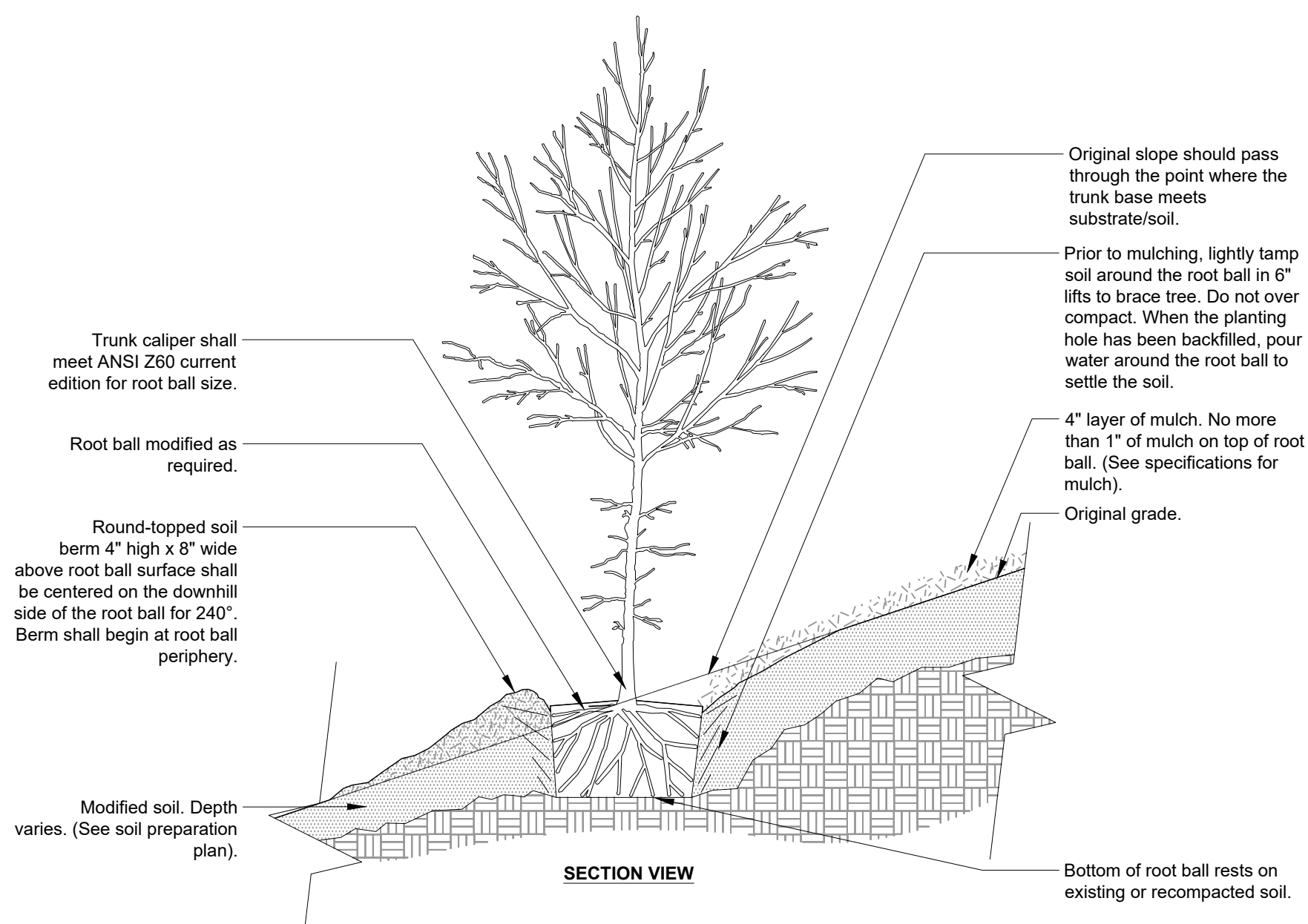
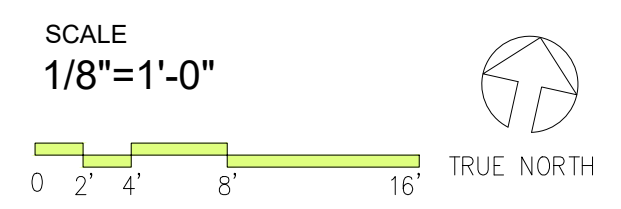
3/4" = 1'-0"

E U C L I D A V E
(70' WIDE)



PLANTING LEGEND

SYMBOLS	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY	WELO
A	Anigozanthus flavidus 'Bush Ranger'	Kangaroo Paw	1 gal	7	L
Cd	Carex divulsa	European gray sedge	1 gal	17	L
Ct	Chondropetalum tectorum	Dwarf Cape Rush	5 gal	5	L
Dv	Dodonea viscosa 'Purpurea'	Purple Hopseed Bush	15 gal	11	L
Ec	Euphorbia characias	Mediterranean spurge	1 gal	6	L
Ej	Euonymus japonicus	Evergreen Euonymus	5 gal	8	L
Ln	Laurus nobilis	Bay laurel	15 gal	39	L
Li	Lomandra longifolia 'breeze'	Dwarf Mat Rush	1 gal	21	L
Lm	Lantana montevidensis 'Trailing White'	White Trailing Lantana	1 gal	14	L
MI	Muhlenbergia lindheimeri	Lindheimer's Muhly	1 gal	6	L
Nf	Nepeta faassennii 'Walker's Low'	Catmint	1 gal	20	L
Pt	Phormium tenax 'Maori Queen'	New Zealand Flax	5 gal	6	L
SI	Salvia leucantha	Mexican Bush Sage	5 gal	2	L
TREES					
Ap	Acer palmatum 'Bloodgood'	Bloodgood Japanese Maple	15 gal	1	M
Li	Lagerstroemia indica 'Natchez' (Std)	Natchez Crape Myrtle	15 gal	1	L



TREE ON SLOPE 5% (20:1) TO 50% (2:1) (EXISTING SOIL MODIFIED)

1/2" = 1'-0"

Soil and Planting Notes:

1. A minimum of 8" of non-mechanically compacted soil shall be available for water absorption and root growth in planting areas.
2. Incorporate compost or natural fertilizer into the soil to a minimum depth of 8" at a minimum rate of 6 cubic yards per 1000 square feet or per specific amendment recommendations from a soils laboratory report.
3. A minimum 3" layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers or direct seeding applications.

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the planting design"

David Fowler Designs
 2475 BRUSH CREEK ROAD
 SANTA ROSA, CA 95404
 707.331.5199
 RLA# 6126
 www.davidfowledesigns.com
 dfowledesigns@gmail.com
 landscape architecture | arboriculture | sculpture



APN: 63-2955-40-1
 705 EUCLID AVE
 BERKELEY, CA 94708

PLANTING PLAN

REVISIONS:

DATE	BY	DESCRIPTION

SCALE 1/8"=1'-0"

DATE 06/23/22

L1

Maximum Applied Water Allowance Calculations for New and Rehabilitated Residential Landscapes		
Enter value in Pale Blue Cells		
Tan Cells Show Results		
Messages and Warnings		
Click on the blue cell on right to Pick City Name	Oakland	Name of City
ET _o of City from Appendix A	41.80	ET _o (inches/year)
	0	Overhead Landscape Area (ft ²)
	1955	Drip Landscape Area (ft ²)
	0	SLA (ft ²)
Total Landscape Area	1,955.00	
Results:		
(ET _o) x (0.62) x [(0.55 x LA) + (1.0 - 0.55) X SLA]		Gallons
		Cubic Feet
		HCF
		Acre-feet
		Millions of Gallons
MAWA calculation incorporating Effective Precipitation (Optional)		
Precipitation (Optional)		
ET _o of City from Appendix A	41.80	ET _o (inches/year)
Total Landscape Area	1,955.00	LA (ft ²)
Special Landscape Area	0.00	SLA (ft ²)
	24	Total annual precipitation (inches/year)
Enter Effective Precipitation	6.00	Eppt (in/yr)(25% of total annual precipitation)
Results:		
MAWA = [(ET _o - Eppt) x (0.62)] x [(0.55 x LA) + ((1.0 - 0.55) x SLA)]	23,870.55	Gallons
	3,191.04	Cubic Feet
	31.91	HCF
	0.07	Acre-feet
	0.02	Millions of Gallons



Estimated Total Water Use
Equation: ETWU = ET_o x 0.62 x [(PF x HA)/IE] + SLA; Considering precipitation ETWA = (ET_o - Eppt) x 0.62 x [(PF x HA)/IE] + SLA

Enter values in Pale Blue Cells
 Tan Cells Show Results
 Messages and Warnings

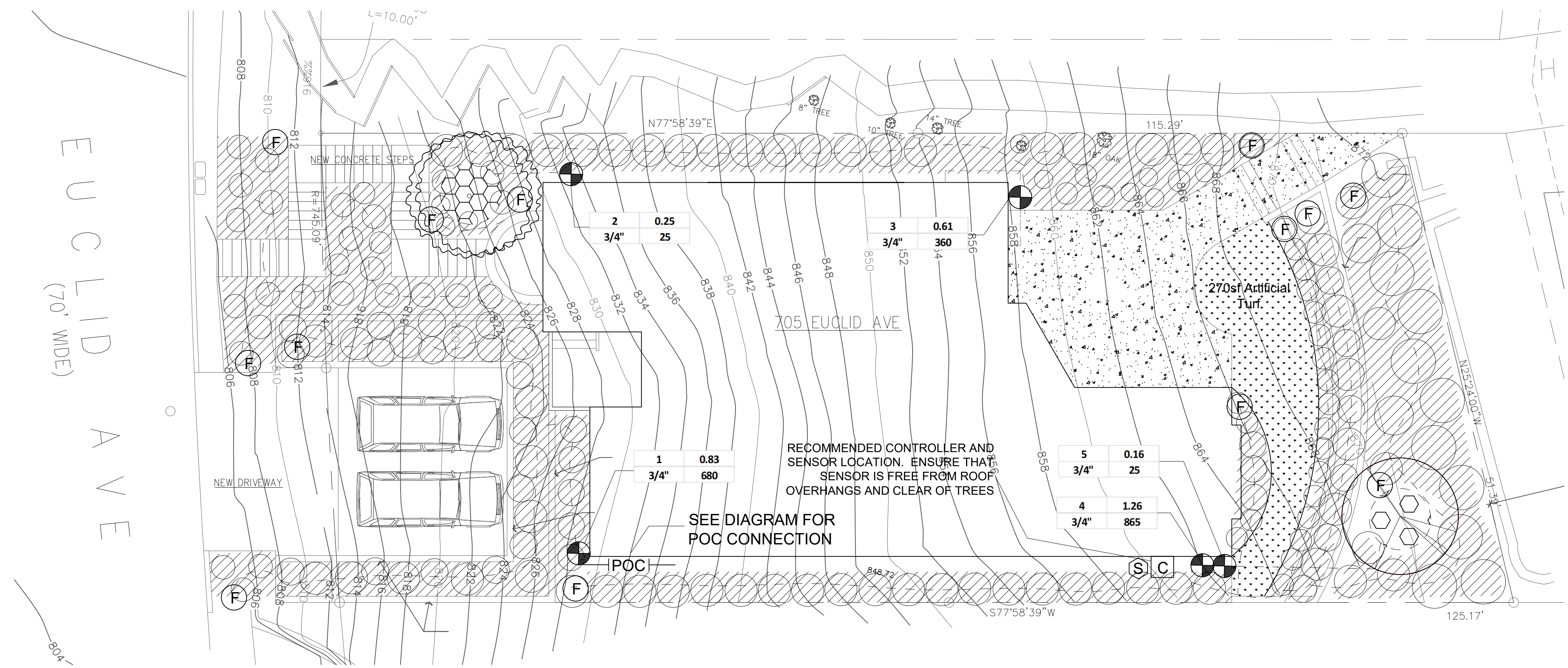
Plant Water Use Type	Plant Factor
Very Low	0 - 0.1
Low	0.2 - 0.3
Medium	0.4 - 0.6
High	0.7 - 1.0
SLA	1



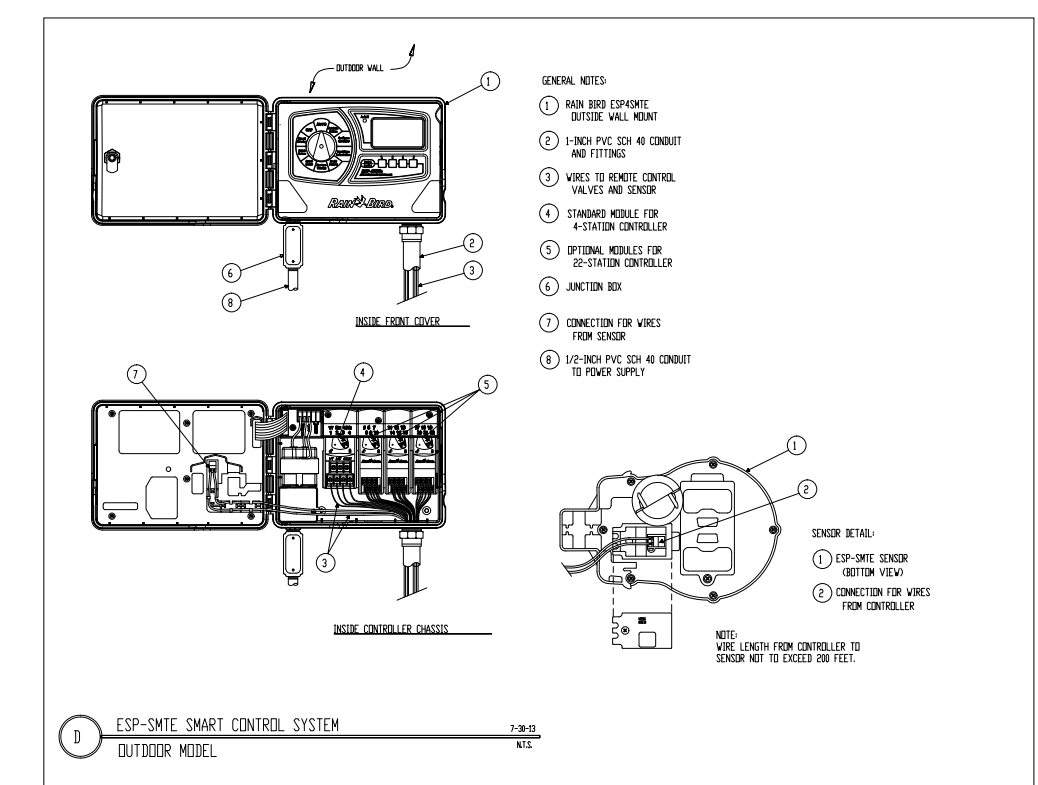
Hydrozone	Select System From the Dropdown List click on cell below	Plant Water Use Type (s) (low, medium, high)	Plant Factor (PF)	Hydrozone Area (HA) (ft ²) Without SLA	Irrigation Efficiency (IE)	(PF x HA (ft ²))/IE
Zone 1	Drip	Low	0.20	680	0.81	168
Zone 2	Drip	Medium	0.50	25	0.81	15
Zone 3	Drip	Low	0.20	360	0.81	89
Zone 4	Drip	Low	0.20	865	0.81	214
Zone 5	Drip	Low	0.20	25	0.81	6
						492
		SLA		0		0
		Sum		1,955		

Results		ETWU = 10,922 Gallons		ETWU complies with MAWA	
MAWA =	23,871				
		1,460	Cubic Feet		
		15	HCF		
		0	Acre-feet		
		0	Millions of Gallons		

ZONE #	FLOW RATE (GPM)	PLANT DESCRIPTION	HYDROZONE TYPE	IRRIGATION METHOD	AREA (SQ FT)
1	0.83	SHRUBS/GROUNDCOVER	LOW	POINT SOURCE DRIP	680
2	0.25	TREES	MOD	DRIP RING	25
3	0.61	SHRUBS/GROUNDCOVER	LOW	POINT SOURCE DRIP	360
4	1.26	SHRUBS/GROUNDCOVER	LOW	POINT SOURCE DRIP	865
5	0.16	TREES	LOW	DRIP RING	25
				TOTAL SF	1955

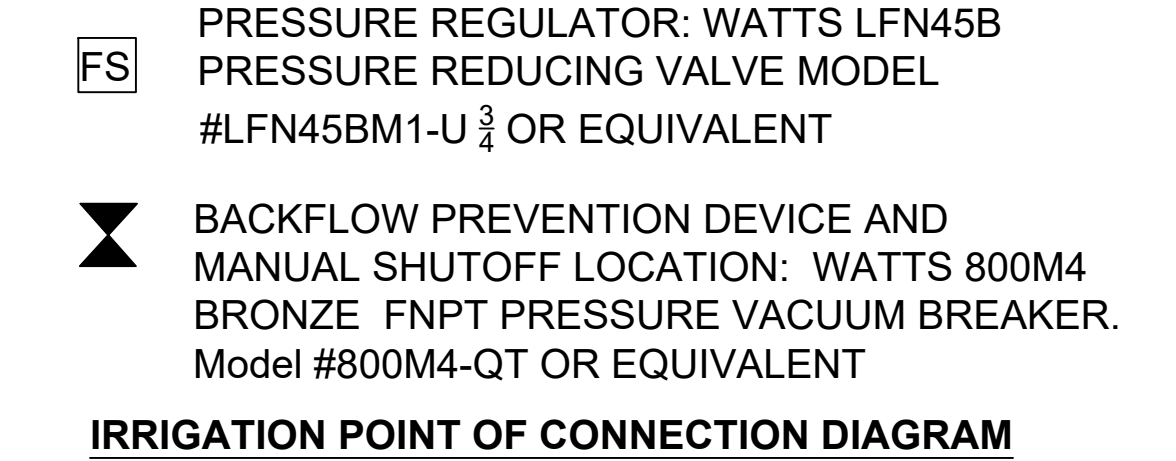


E U C L I D A V E
(70' WIDE)



Irrigation Legend

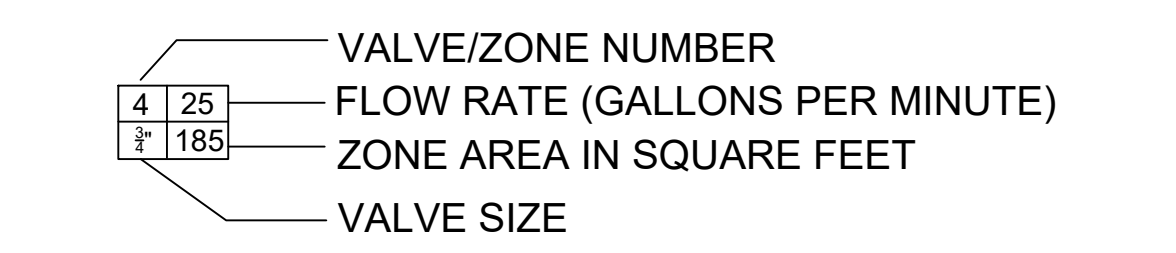
- C** RAINBIRD SMART IRRIGATION CONTROLLER- SEE SPECS ON THIS SHEET
- P** PRESSURE REGULATOR
- S** RECOMMENDED RAIN SENSOR LOCATION
- N** NEW VALVE LOCATION. ALL IRRIGATION VALVES FOR DRIP AND INLINE EMITTERS TO HAVE 30 PSI PRESSURE REDUCER
- F** FLUSH VALVE LOCATION
- POC** POINT OF CONNECTION
- SM** PRIVATE IRRIGATION SUBMETER (ONLY AS REQUIRED FOR LANDSCAPES OVER 5000 SF)
- MV** MASTER VALVE
- FS** PRESSURE REGULATOR: WATTS LFN45B PRESSURE REDUCING VALVE MODEL #LFN45BM1-U 3/4" OR EQUIVALENT
- B** BACKFLOW PREVENTION DEVICE AND MANUAL SHUTOFF LOCATION: WATTS 800M4 BRONZE FNPT PRESSURE VACUUM BREAKER. Model #800M4-QT OR EQUIVALENT



--- POC ---

--- MAIN LINE ---

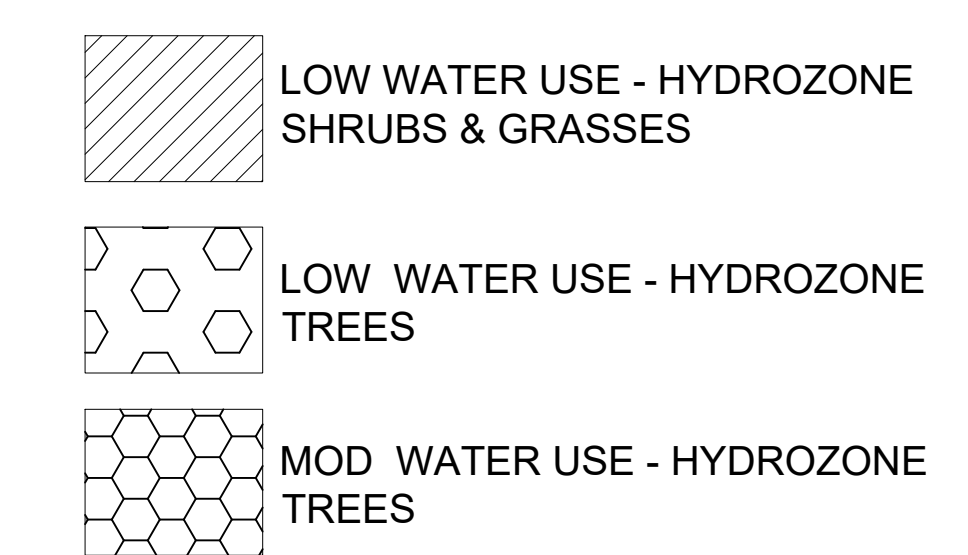
--- 5/8" POLY IRRIGATION LINE FROM VALVE. USE (1) RAINBIRD XB20PC 1.0 GPH XERI-BUG EMITTER AT BASE OF EACH PLANT. MODERATE WATER USE PLANTS TO HAVE (2) EMITTERS. TREES TO HAVE RING OF NETAFIM IN LINE EMITTERS (12" SPACING) 16" AWAY FROM TRUNK.



Irrigation Notes

- USE BELOW GROUND VALVES AND LOCATE IN AREAS HIDDEN FROM VIEW IF POSSIBLE.
- USE RAINBIRD SMART CONTROLLER WITH RAINSENSOR AND SEASONAL ADJUSTMENT
- ALL PLANTINGS TO USE DRIP IRRIGATION UNLESS OTHERWISE NOTED
- LAWN TO USE SUBSURFACE DRIP IRRIGATION SUCH AS NETAFIM TECHLINE
- BERM AROUND ALL TREES. PLACE MULTIPLE EMITTERS AT LEAST 6-12" AWAY FROM TRUNK OF TREE. TREES TO BE ON SEPARATE VALVE FROM LANDSCAPE PLANTS
- SEE PLANTING PLAN FOR EXACT NUMBER OF EMITTERS NECESSARY
- NO SPRINKLERS OR OVERHEAD SPRAY DEVICES ARE TO BE USED ON THIS PROJECT

Hydrozone Legend



Project Notes:

- Total landscaped area: 1955 sf
- 100% of landscaped area on drip irrigation (no spray heads)
- Low and moderate water use plants on separate valves
- Trees on separate valves
- Dedicated irrigation meter not required because landscaped area is less than 5000 sf
- Certificate of completion: applicant shall submit a landscape audit report verifying installation and irrigation efficiency per design on a form provided by the East Bay Municipal Utility District

"I have complied with the criteria of the ordinance and applied them for the efficient use of water in the irrigation design"

David Fowler Designs
 2475 BRUSH CREEK ROAD
 SANTA ROSA, CA 95404
 707.331.6199
 RLA# 61126
 www.davidfowledesigns.com
 dfowledesigns@gmail.com

landscape architecture | arboriculture | sculpture



APN: 63-2955-40-1
 705 EUCLID AVE
 BERKELEY, CA 94708

IRRIGATION PLAN

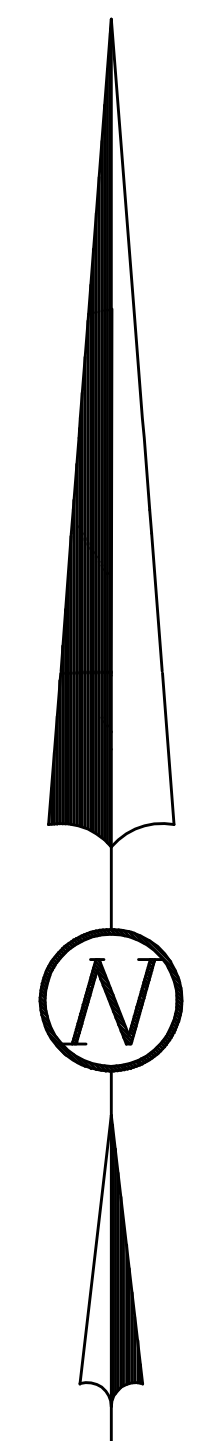
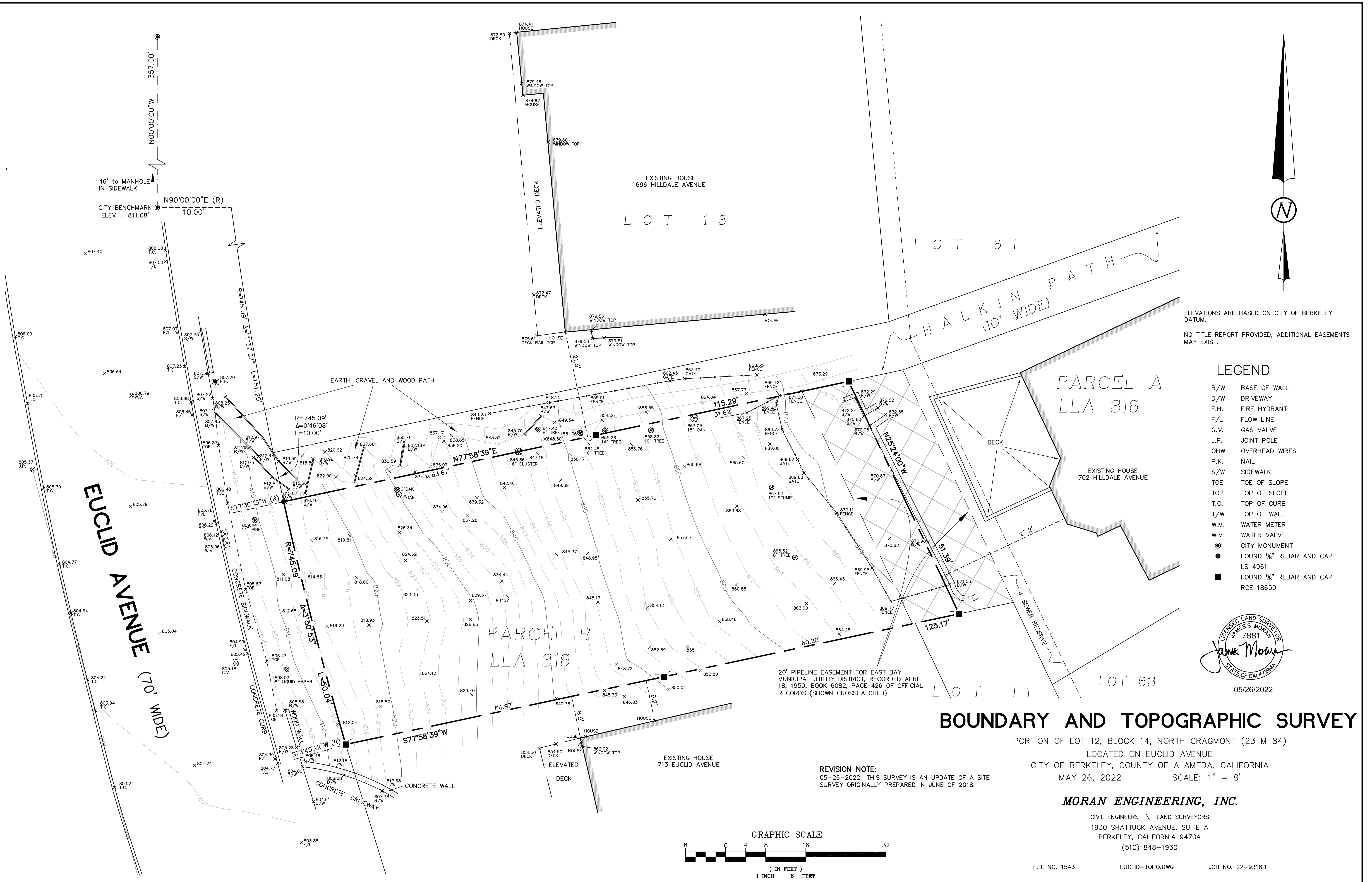
REVISIONS:

DATE	BY	DESCRIPTION

SCALE
 1/8" = 1'-0"

DATE
 06/23/22

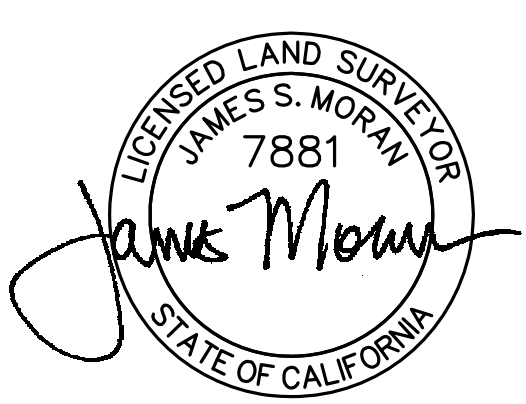
L2



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.
 NO TITLE REPORT PROVIDED, ADDITIONAL EASEMENTS MAY EXIST.

LEGEND

- B/W BASE OF WALL
- D/W DRIVEWAY
- F.H. FIRE HYDRANT
- F/L FLOW LINE
- G.V. GAS VALVE
- J.P. JOINT POLE
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- TOE TOE OF SLOPE
- TOP TOP OF SLOPE
- T.C. TOP OF CURB
- T/W TOP OF WALL
- W.M. WATER METER
- W.V. WATER VALVE
- CITY MONUMENT
- FOUND 5/8" REBAR AND CAP LS 4961
- FOUND 3/8" REBAR AND CAP RCE 18650



05/26/2022

BOUNDARY AND TOPOGRAPHIC SURVEY

PORTION OF LOT 12, BLOCK 14, NORTH CRAGMONT (23 M 84)

LOCATED ON EUCLID AVENUE

CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

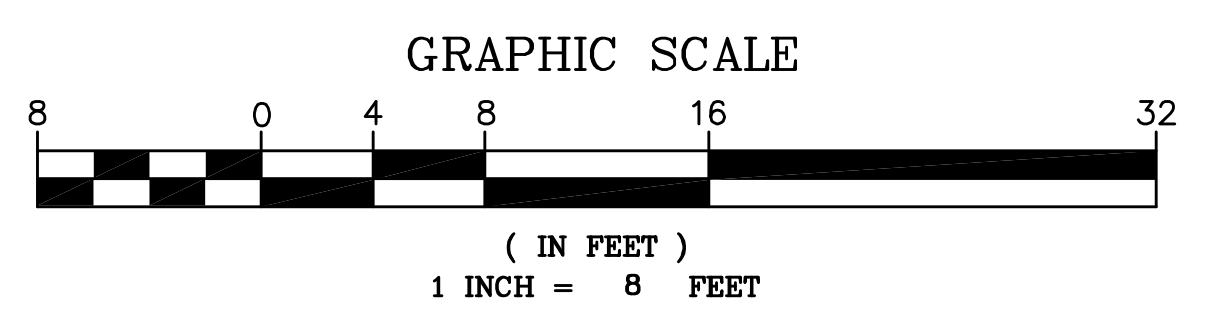
MAY 26, 2022

SCALE: 1" = 8'

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 848-1930

REVISION NOTE:
 05-26-2022: THIS SURVEY IS AN UPDATE OF A SITE SURVEY ORIGINALLY PREPARED IN JUNE OF 2018.



F.B. NO. 1543

EUCLID-TOPO.DWG

JOB NO. 22-9318.1

HARPER & ARMSTRONG, LLP

1634 Telegraph Avenue, #3 • Oakland, CA 94612

Ph: (510) 420-8455 • Fax: (510) 858-5953 • shona.armstrong@harperarmstrong.com

Via Hand Delivery

May 23, 2023

City Council
c/o City Clerk
2180 Milvia Street, 1st floor
Berkeley, CA 94704
(510) 981-6900
clerk@cityofberkeley.info

CITY OF BERKELEY - CITY CLERK
2023 MAY 23 PM1:02

**Re: Appeal from approval of AUP for 705 Euclid Avenue
(ZP2022-0104)
Notice of Decision dated April 27, 2023, and mailed May 9, 2023**

Dear Members of City Council:

On behalf of Yoshiko Wada, I write to appeal the decision of the Zoning Adjustment Board (ZAB) to approve an Administrative Use Permit (“AUP”) allowing construction of a proposed 5-story single-family residence at 705 Euclid Avenue (ZP2022-0104) that does not comply with the development standards for the R-1 (Hillside Overlay) zone. (See Berkeley Municipal Code (“BMC”) sections 23.406.030 and 23.210.020.)

There is no rationale for relaxing development standards for this project. The proposed project contains no affordable housing units. The proposed project is not a multi-family housing unit. The proposed project offers no neighborhood amenities or services. The proposed project is simply an excessively large, luxurious, single-family home. The development standards for the R-1H zone were established as a baseline framework designed to allow reasonable development without unreasonably burdening neighbors. Presumably the project proponents (current owners) understood these development standards when they purchased their property in 2020. They have provided no defensible reason to deviate from longstanding development standards to the detriment of their neighbors.

The owners of 705 Euclid sought and received from ZAB an AUP that allows them to construct a new single-family home that is 41-feet, 11-inches in height - i.e. 120% of the maximum allowable height under the BMC. The project proponents neither sought nor received any permission to exceed the maximum number of stories (3) allowed for a single-family residence within the R-1H zone, despite the fact that, though the Staff Report describes the proposed home as three stories in height (see Staff Report for Agenda Item 6 of ZAB meeting

2023-04-27, pp. 1, 8), analysis of the building plans reveals that the home is actually at least five stories tall. (See **Exhibit C**, Notice of Decision at p. 24, Floor Plans sheet A2.0.)

Ms. Wada has owned and lived in the neighboring property at 696 Hilldale Avenue for fifty years. Her views will be significantly diminished by the construction of an oversized home in excess of the height and number of stories allowed under BMC 23.210.020. Ms. Wada's appeal is supported by her neighbors Theodore Raphael and Molly Raphael, whose privacy is also detrimentally impacted by the proposed 5-story single-family home. See **Exhibit B**, Email from Theodore Raphael with photo. The ZAB's decision to approve the project as designed should be reversed because:

1. The ZAB erred by finding that the project would not be "detrimental" to neighboring properties or the City's general welfare. Berkeley Municipal Code section 23.406.030.
2. The approval does not serve the R-1 District purpose of "recogniz[ing] and protect[ing] the existing pattern of development in the low-density areas of the city consistent with the general plan." Berkeley Municipal Code section 23.202.050(A)(1).
3. The approval does not serve the R-1 District purpose of "protect[ing] adjacent properties from unreasonable obstruction of light and air." Berkeley Municipal Code section 23.202.050(A)(3).
4. The approval does not serve the Hillside Overlay purposes of "Protect[ing] the character of Berkeley's hillside areas and their immediate environs," "Protect[ing] the safety and health of residents where steep topography, unusual street conditions and proximity to the wildland-urban interface create severe risk from wildfire," and "Giv[ing] reasonable protection to views yet allow[ing] appropriate development of all property." BMC §§23.210.020(A)(2)-(4).
5. The approval did not consider the fact that the proposed project exceeds not only the maximum permissible height, but also the maximum permissible number of stories.
6. The approval seeks to confer an entirely private benefit (deviation from the zone's development standards) on one Berkeley resident that is out of proportion to the negative impact the project has on its neighbors and the neighborhood.
7. The approval unjustifiably favors the interests of the owners of an as-yet-nonexistent building over the established and long-standing interests of existing residents.
8. The process of approval was fatally flawed inasmuch as the ZAB ignored neighbor concerns, and, in fact, altogether denied one neighbor (Theodore Raphael) the opportunity to be heard even though he appeared at the hearing on April 27, 2023, and tried to speak.

Architecturally, Ms. Wada challenges the ZAB's approval on grounds that: (1) the proposed height is not compatible with those of the neighboring structures and story poles erected on the site revealed an unreasonable obstruction of significant views from neighboring properties (cf. Notice of Decision dated April 27, 2023 ("**NOD**"), attached hereto as **Exhibit C**, at 2(b)); (2) story poles erected on the site show that significant views from neighboring properties would be unreasonably affected (cf. NOD at 1(d)); and (3) privacy intrusions onto Ms. Wada's property and Mr. Raphael's property are significant (cf. NOD at 1(b)).

The City Council must reverse the ZAB's grant of an Administrative Use Permit allowing the owners of 705 Euclid to construct a five-story single family home in the R-1 Hillside Overlay

Zone. Instead, the City Council should require the proposed project to conform with the already generous standards laid out in the Berkeley Municipal Code Section 23.210.020, which limit the building to 35 feet in height and three stories. In considering and weighing the reasonableness of the project proponent's requests against the reasonableness of the neighbors' concerns, the City Council must find that the balance favors the neighbors who have, for years, complied with and relied upon existing development limitations.

I. Legal Standards

A. City Council's Appellate Review of ZAB approval is de novo.

The City Council reviews the ZAB approval de novo. Berkeley Municipal Code section 23.410.040(E). As such, this body owes the ZAB no deference and should consider the facts of the matter afresh.

B. Findings Required for Approval of an Administrative Use Permit.

Pursuant to Berkeley Municipal Code section 23.406.030(F)(1):

To approve an AUP [which allows exemption from basic development parameters], the Zoning Officer shall find that the proposed project or use:

- (a) Will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood, of the proposed use; and*
- (b) Will not be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.*

(Emphases added.)

Pursuant to Berkeley Municipal Code section 23.210.020(C)(2)(b), the Zoning Officer may approve an AUP to increase the allowed height of a structure only if it finds that the project is consistent with the purpose of the Hillside Overlay Zone as laid out in BMC 23.210.020(A).

C. Development Standards for R-1 Zone with Hillside Overlay.

1. Maximum Heights

Section 23.210.020(C)(2) of the Berkeley Municipal Code specifies that the maximum allowed height in the Hillside Overlay Zone shall be 35 feet and the maximum number of stories shall be three.

2. Purpose of R-1 and Hillside Overlay Zones

The Berkeley Municipal Code provides as follows:

23.202.050 R-1 Single-Family Residential Zone

- A. District Purpose. The purpose of the Single-Family Residential (R-1) district is to:*
- 1. Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;*
 - 2. Make housing available for persons who desire detached housing and a relatively large amount of usable open space;*
 - 3. Protect adjacent properties from unreasonable obstruction of light and air; and*
 - 4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.*

23.210.020 Hillside Overlay Zone

- A. Purpose. The purpose of the Hillside (H) overlay zone is to:*
- 1. Implement General Plan policies for hillside development;*
 - 2. Protect the safety and health of residents where steep topography, unusual street conditions and proximity to the wildland-urban interface create severe risk from wildfire;*
 - 3. Protect the character of Berkeley's hillside areas and their immediate environs;*
 - 4. Give reasonable protection to views yet allow appropriate development of all property;*
 - 5. Allow modifications in standard setback and height requirements when justified because of steep topography, irregular lot pattern, unusual street conditions, or other special aspects of the hillside areas.*

II. Analysis

In order to approve the AUP, the ZAB had to find, “based on the circumstances existing at the time a decision is made on the application” (BMC 23.406.040(E)(4)), that the project caused no detriment to neighbors or their properties and that the project was consistent with the purposes of both the R-1 and the Hillside Overlay Zone. See BMC 23.406.030(F)(1) and 23.210.020(C)(2)(b). The ZAB decision did not and could not meet these standards and must therefore be rescinded.

- a. **The ZAB decision was based on a misinterpretation of the facts about the nature of the project and the circumstances existing at the time of the decision: the proposed project has five stories, not three stories.**

The ZAB misinterpreted the project plans as containing three stories. The Berkeley Municipal Code defines stories at section 23.106.060 as “the portion of a building included between the upper surface of any floor and the upper surface of the floor next above. See BMC Figure 23.106-2.” Contrary to the labels applied by the project proponents and planning staff (See Staff Report for Agenda Item 6 at pages 1 and 8), the proposed residence has at least five stories, as shown in the floor plans depicted at page 24 of the pdf package distributed as the

Notice of Determination, aka Floor Plans created by CM Engineers, dated December 28, 2022, Sheet "A.2.0," and subsequent Plan sheets A.3.0 through A5.0. A 5-story structure is not permitted (even with an AUP) within the R-1H zone.

The ZAB decision is invalid, because it was not "based on the circumstances existing at the time a decision is made on the application." BMC 23.406.040(E)(4). Instead, ZAB's decision was erroneously based on the misleading description of this 5-story single-family luxury home as a 3-story house. As such, the ZAB could not and did not assess the project accurately and the ZAB and planning staff must reconsider the approval.

As will be shown below, even if the project were truly a 3-story building, given the facts about how the project impacts its neighbors, there is no valid basis for making the required AUP findings. As such, the City Council must rescind the approval of the AUP, and the project must be modified to comply with the design standards laid out in the BMC.

b. The proposed height of the new single-family residence is unnecessarily incompatible with neighboring structures, exceeds the permissible number of stories, and creates a looming behemoth over Euclid Avenue.

The owners of 705 Euclid requested permission to construct a home that is 120% of the maximum height allowable under the BMC. While the impact of this egregious disproportionality is somewhat masked by the site's location in a dip/depression in the landscape (*see* NOD p. 27, Plan sheet A5.0 Existing and Proposed Streetscape), the proposed project nevertheless is significantly taller than the other homes in the neighborhood. In addition to its excessive overall absolute height, the proposed project also has a higher roofline relative to the neighboring properties.

A careful analysis of the plans reveals that the project's incorporation of unusually high ceiling heights is the cause of the house exceeding the maximum allowable height. Specifically, the floor-to-floor measurements read as 11'-2", indicating that the ceiling heights on the first and second floors likely are 10' or more. The floor-to-floor measurements on the third floor is 13'-2", indicating that the ceiling heights on the third floor likely is 12' or more.

The proposed project also exceeds the average height specified for this zone by 42%. The BMC states that the average allowed height for a project in an R-1 district is 28 feet, while the average height of 705 Euclid is more than 40 feet. This puts portions of the top roof deck and the penthouse well above the maximum height limit. Neither of these two architectural elements is necessary for the livability or constructability of the home. Looking at the front façade/west façade in elevation shows 48' from the lowest walking surface to the tallest walking surface. This is a height of 48' and adding another 10'+ onto that for the roof makes the actual height of this façade nearly 60' when viewed from Euclid. There are no other existing houses like this on the streetscape.

Moreover, the proposed project has a flat roof with no relief provided by receding angles, whereas the neighboring properties all feature sloped/gabled geometries on their roofs. Even the podium/retaining wall at the base of the house on the front-west elevation is imposing, measuring over 15' in height from the street level.

In addition to enforcing the 35-foot limitation on project height, the ZAB should also require the project to comply with the BMC’s standards for the allowable number of stories. Although the project claims to have only three stories, it does not count the entry level story, the laundry room, or the top roof deck. In reality, this is at least a five-story building. While Table 23.202-2 provides that a project may apply for an AUP to exceed the maximum height, there is no such exception to the story limitation apparent in Table 23.202-2.

Furthermore, the topmost story (labeled “roof” or “roof deck” on Plan sheets A2.0-A4.0) is exclusively dedicated to a 1,000 square foot roof deck and access to it via an elevator and stair. There is already a roof deck on the third floor that measures 579 square feet. Per the 2022 California Building Code, using an occupant load factor of 7 square feet per person (not unreasonable for a larger social gathering), one may calculate a potential occupancy of over 140 people on the upper roof deck and over 80 on the third-floor deck. These decks are sized well beyond what is needed for any family’s private use.

Finally, the proposed building is sited much closer to Euclid Avenue than other homes on the street, creating a sense of “looming” and bulk inconsistent with other residences that are situated further back and provide for more plantings. The overall size of the structure is much larger than the two adjacent properties, and its length extends a good portion of the site.

For the foregoing reasons, the proposed height, design, and siting of the structure are not compatible with the neighboring structures and should be amended.

Berkeley Municipal Code

Table 23.202-2. R-1 DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	<u>23.304.020</u> --Lot Requirements
Usable Open Space per Dwelling Unit, Minimum	400 sq. ft.	<u>23.304.090</u> --Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		
New Buildings or Non-Residential Additions	28 ft. and 3 stories [1]	<u>23.304.050</u> --Building Height
Residential Additions	14 ft. [2]	
Lot Line Setbacks, Minimum		
Front	20 ft.	
Rear	20 ft.	<u>23.304.030</u> --Setbacks
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	No minimum	

Lot Coverage, Maximum	40%	23.304.120--Lot Coverage
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Notes:

[1]Maximum 35 ft. with an AUP.

[2]Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.

Table 23.210-1. H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			
R-1, R-1A, R-2, R-2A	28 ft.	35 ft.	3 stories
R-3, R-4, R-5, R-S, C-N, C-NS	35 ft.	35 ft.	3 stories

c. Contrary to the ZAB’s findings, the story poles erected on the site show that significant views from neighboring properties will be unreasonably damaged

The ZAB erred in finding that the proposed project did not unreasonably obstruct the view from Ms. Wada’s home. As depicted in the photo attached as **Exhibit A**, the story poles show that the proposed project has a significant and unreasonable impact on the view from 696 Hilldale, because it blocks much of the Bay Bridge and water view and some of the Bay Bridge skyline views currently visible from Ms. Wada’s home. The proposed project also blocks a portion of the Bay Bridge view for 713 Euclid to the north. The proposed design also blocks a significant portion of the daylight received by 696 Hilldale, particularly in the critical winter months.

Ms. Wada has lived at her home at 696 Hilldale Avenue since 1973. For fifty years she has enjoyed each morning in the dining/gathering area overlooking the Bay Bridge. She spends most of her time in this sunny southwest corner of her home. Blocking this specific portion of her view will have a significant detrimental impact on her daily life.

Moreover, the photo attached as **Exhibit A** shows that the project can be scaled back to minimize the impact on Ms. Wada’s view and can easily be built in a fully functional manner within the constraints of the development parameters for the zone. In light of these facts, the ZAB should require the project to be scaled back to balance the interests of protecting Ms. Wada’s view while allowing reasonable and appropriate development of 705 Euclid. (See BMC 23.10.020(A)(4).)

d. Contrary to the ZAB’s findings, the project unreasonably intrudes upon neighbors’ privacy.

The proposed design of 705 Euclid incorporates two large roof decks totaling over 1500 square feet—one on the top level and another on the penultimate level. The roof decks are a mere 30 feet away from 696 Hilldale’s own deck and dining room at their closest. Instead of looking out over the bay, Ms. Wada will now enjoy this sunny corner of her home under the direct gaze of her neighbors. The story poles also made it evident that the proposed roof decks will protrude far enough west to gain a view of the yard and decks of the Raphaels, who live on the other side of Ms. Wada at 694 Hilldale. As the Raphaels explain in the email they have sent to accompany this appeal (see **Exhibit B**), they specifically purchased their home after searching for a place with a yard that was not observable by neighbors.

As previously noted, the proposed decks have the capacity to hold a group of people in excess of 220 for a home that has four bedrooms. (See Reference sheet A1.0, A1.1 & A2.0 in drawing set dated 9/21/22.) Due to 705 Euclid’s proximity to Halkin Path, there is no doubt that when these gathering spaces are put to use, guests will exhaust parking on Euclid and overflow will find its way onto Hilldale, a very narrow street. Given that 705 Euclid is in a “very high” fire hazard severity zone as designated by the Berkeley Building Code §19.28.030 and the California Department of Forestry and Fire Protection (CAL FIRE) (See <https://egis.fire.ca.gov/FHSZ/>), this council must consider that such large entertainment spaces are likely to attract large numbers of people and vehicles, which will pose a hazard to the entire neighborhood in an area where narrow winding streets already make emergency vehicle access exceedingly difficult.

e. The ZAB erred in finding that the proposed project would meet the purposes of the R-1 Zone or of the Hillside Overlay Zone.

For the foregoing reasons, as currently designed, the proposed project at 705 Euclid does not meet the purposes of the R-1 Zone: The proposed oversized single-family home does not protect the existing pattern of development; the excessive size is not necessary to make additional housing available; and the project does not protect adjacent properties from unreasonable obstruction of light and air. (See BMC 23.202.050.) Neither does the proposed project serve the purposes of the Hillside Overlay Zone: The project does not protect the character of the Berkeley’s hillside areas; instead, the project creates circumstances that could lead to crowded parking that increases the neighborhood’s vulnerability in case of wildfire; and the project, as proposed, unreasonably damages the neighbors’ views and privacy for the sole purpose of accommodating an oversized (i.e. inappropriate) single-family home. (See BMC 23.210.020.)

f. The ZAB erred in finding the facts supported approval of an AUP.

The ZAB erred by finding that the facts and circumstances justified approving an AUP, because the proposed project is, in fact, “detrimental to the comfort [and] general welfare of persons residing in the neighborhood” and “detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood.” Allowing this project to proceed will result in a structure that exceeds the permissible 3-stories, is inconsistent with the neighborhood, unreasonably impinges on neighboring properties’ views, and

significantly infringes on the privacy of Ms. Wada and her neighbors. The AUP should be rescinded, and the project should be scaled back to comply with the design standards set out in the Municipal Code.

III. Denial of Due Process Led to Unsupported Findings

In addition to the substantive issues presented by the project, the ZAB hearing on the night of April 27th did not allow for proper public input necessary to support the AUP findings. The ZAB did not allow Ms. Wada and other stakeholders to fully inform the ZAB of the “circumstances existing at the time a decision is made on the application” as required by BMC 23.406.040(E)(4)) and to elucidate their objections to the design. The ZAB initially agendaized the project approval on the consent calendar. But in the face of numerous comments and objections regarding the agenda item, the ZAB conceded that a public hearing was necessary. Though the ZAB then nominally held a “public hearing” on the matter, the ZAB did not actually allow the parties enough time to comment substantively, let alone time to discuss their concerns in depth with the planning staff, as would have been necessary in order for the ZAB to make valid and justifiable AUP findings.

When the ZAB reorganized the agenda during the meeting, the ZAB pushed the hearing on 705 Euclid back to the end of the meeting. Around 10 pm, ZAB members began to excuse themselves due to personal commitments and the lateness of the hour. The project was not discussed until well after 11 pm, and public comment was not allowed until after 11:30 pm.

Prior to the meeting, the planner informed Ms. Wada’s representatives that each person attending the meeting would have two minutes to present the reason for their opposition, but at the meeting, the ZAB cut each opponent’s time to a mere 60 seconds. The ZAB was not interested in obtaining any information from the public and the directly affected neighbors.

Most egregiously, Theodore Raphael, who lives two doors down from the proposed project at 694 Hilldale Avenue, attended the meeting in person, because he has serious concerns about the impact the project will have on his privacy. When he approached to speak on the matter at the meeting during the consent calendar, he was advised to wait until later, when the ZAB purportedly planned to take public comments on the agenda item. He waited. When the item came up for public comment, Mr. Raphael had returned home and logged on to the meeting through Zoom. The ZAB recognized him as one of the individuals who wished to speak on the item remotely, because he had raised his hand. But the ZAB never called on him. On Zoom there was no way for him to gain the ZAB’s attention beyond raising his Zoom hand. He never got his opportunity to address the decision makers. Ted Raphael and his concerns were completely overlooked.

These undemocratic procedures may have allowed the ZAB to expeditiously complete its agenda that night, but they silenced any opposition to the project and denied project opponents due process. As a result, the ZAB made its decision without adequate information and its findings are unsupported. The ZAB’s drive for efficiency foreclosed Ms. Wada’s right to present her opposition fully and fatally compromised the ZAB’s ability to make a rational fully-informed decision.

IV. Conclusion

For the foregoing reasons, Ms. Wada requests that the City Council rescind the AUP and that the planning department require the project proponent to make the following modifications to the proposed project:

- Number of stories: There is no need for five stories on this building and the uppermost roof deck should be removed in its entirety.
- Reduced floor-to-floor heights: Where a project exceeds the maximum allowable height, there is no need for ceiling heights in excess of 10' anywhere in the home, particularly in the sleeping level of the home where 9' is reasonable, even for a high-end bespoke residence.
- Roof geometry: The flat roof is inviting use as a gathering place for far more people than is warranted for a single-family residence. It contributes to an inconsistent look next to the adjacent properties. The roof format should be reconsidered and the topmost roof deck should be eliminated.
- The building should be moved back on the lot so that it does not loom over the streetscape.
- The third-floor roof deck should be reduced in size to pull it away from 696 Hilldale.
- Reduce floor plan: Cut back the overly generous area in front of the elevator/stair at the third floor; pull back the wall several feet to preserve more view and remove windows that face 696 Hilldale.
- Siting: Require that the home be located further away from the street to make its front yard more consistent with other homes on the street; preserve views for the homes at 696 Hilldale and 713 Euclid.

Regards,



Shona Armstrong

cc:

City of Berkeley
Zoning Adjustments Board & Russel Roe, Assoc. Planner
1974 Center St., 2nd Floor
Berkeley, CA 94704
RRoe@cityofberkeley.info

Theodore and Molly Raphael
tdraphael@gmail.com
mraphael@rapgroup.com

Exhibits

- Exhibit A:** Photo of view from Yoshiko Wada's Dining/Gathering Area with story poles showing impact of proposed project.
- Exhibit B:** Email from Theodore Raphael explaining impact of proposed project on his privacy (with photo)
- Exhibit C:** Notice of Determination

Exhibit A



Appeal from approval of AUP for 705 Euclid Avenue (ZP2022-0104)
Exhibit A

Exhibit B
(Email from Theodore Raphael with photo)



Shona Armstrong <shona.armstrong@harperarmstrong.com>

In Support of Appeal of ZAB decision, re: ZP2022-0104

1 message

Theodore D. Raphael <tdraphael@gmail.com>

Tue, May 23, 2023 at 6:31 AM

To: Shona Armstrong <shona.armstrong@harperarmstrong.com>

Cc: Kathryn Rauber <kathryn.rauber@harperarmstrong.com>, Heather Sanders-Jacob <heather@shelterwerk.com>, Yoshiko Wada <yoshiko@yoshikowada.com>, Molly Raphael <meraphael@gmail.com>

MEMORANDUM

TO: Berkeley City Council

FROM: Theodore D. Raphael and Mary E. Raphael, 694 Hilldale Ave.

SUBJECT: Opposition to 705 Euclid's Application for Granting of Exceptions to Development Rules (ZP2022-0104)

DATE: May 22, 2023

The application for exceptions to the rules for the proposed development of 705 Euclid should be denied.

The proposed structure will result in a profound loss of the privacy and solitude we sought when we purchased 694 Hilldale. We spent five years (2009-2014) searching for a Berkeley home for retirement that would meet our requirements for privacy and solitude. A home in Berkeley is our final resting place and we wanted it to be perfect. It was, and still is.

The proposed plan for the development of 705 Euclid will greatly compromise the privacy and solitude we have enjoyed since 2014. As the attached photo of 705's story poles clearly shows, two decks, one on each story, will loom over our deck, and obliterate our privacy. The use of those large decks by a multi-generational family will also destroy the quiet enjoyment of our property.

When we considered purchasing our home, we investigated possible threats to our privacy. The only unimproved lot nearby was 705 Euclid. Before we purchased our home, we ascertained that a home built at 705 Euclid would pose no threat to our privacy, due to the constraints of current City of Berkeley development rules. ***So we purchased 694 Hilldale in good faith, confident that our privacy and solitude would be preserved, even if a compliant development of 705 Euclid should occur at a later date.***

When the owners of 705 Euclid bought the lot, they knew, or should have known, that the lot would not come close to accommodating the structure they envisioned, without obtaining exceptions to the rules from the City of Berkeley.

They bought the lot anyway and now plead for predictable significant exceptions to the height and other constraints. If they wanted to build the envisioned structure, they should have bought a lot that would accommodate it, without a need for exceptions or, in the alternative, desiring to build on the lot at 705 Euclid, design a home that complies with current development rules.

Their current "dilemma" is a self-created problem, not an unforeseeable circumstance. Exceptions to the rules are for extraordinary, unforeseeable issues that involve a minor, technical exception benefiting the developer, but to little or no detriment to the neighbors.

Such is not the case with 705 Euclid. The developer faces a wholly self-created problem, avoidable simply by buying a lot for the envisioned structure that conforms with existing rules. Second, the exceptions requested are not minor technical adjustments, but are on an enormous scale benefiting the developer at a great loss of privacy and view for appellant, as well as a great loss of privacy and solitude for us.

This case is not a close call. Buying a lot, knowing that the proposed development would require large-scale exceptions to the rules, and then demanding that the exceptions be granted, smacks of arrogance. The developer should be ordered to revise the design to conform with all current regulations. In the alternative, the developer is free to sell the lot and buy one that will accommodate the desired design without a petition for exceptions.

Moreover, our right to speak at the Zoning Adjustment Board (ZAB) hearing (April 27, 2023) was recognized (we had sent an emailed letter to staff that morning), and we were placed on the schedule of speakers. However, as the ZAB rushed to adjourn at a very late hour, the chair did not recognize us to speak and adjourned the meeting. We were denied our recognized right to speak, a violation of ZAB hearing procedure.

Also, although the staff member who said at the hearing that he had made a good-faith attempt to reach neighbors, we never received any contact from the City of Berkeley concerning the building permit and building plans for 705 Euclid--not an email, letter, phone call, or notice left on our door. The first we heard about the process was when we noticed the story poles and later when appellant, Ms. Yoshiko Wada, informed us that a hearing had been scheduled for April 27, 2023.

Only then did we obtain general knowledge of the scope of the 705 Euclid project and sought to express our opposition at the hearing. The timing of our involvement was due to the fact that we did not receive any information about the project as to plans, the application process, and the scheduling of a hearing from the City of Berkeley.

The developer seeks exceptions to build an oversized, luxurious single family home. The project serves no public purpose and injures existing neighbors.

Given the facts of this case delineated above, approval of the application for egregious exceptions to the development rules sends a very clear message to the community: "Buy whatever sized lot you wish, design a home of whatever dimensions you wish, and don't worry. In practice, the rules are meaningless. We will ignore the good-faith home purchases of your neighbors, the development rules designed to maintain the character of the neighborhood, and grant the exceptions you seek."

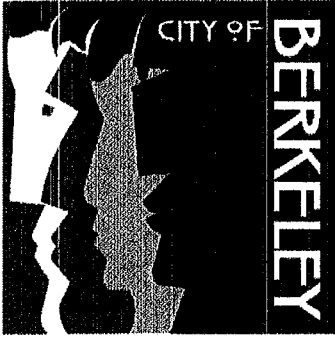
Is this the policy message you wish to send to the community? We trust that it is not. To maintain the integrity of Berkeley's development policies, the decision of the ZAB must be reversed and the petition for exceptions denied.



705 story poles.jpg
3653K



Exhibit C
(Notice of Determination)



Z O N I N G
A D J U S T M E N T S
B O A R D
NOTICE OF DECISION

DATE OF BOARD DECISION: April 27, 2023

DATE NOTICE MAILED: May 9, 2023

APPEAL PERIOD EXPIRATION: May 23, 2023

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)¹: May 24, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

The Zoning Adjustments Board of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permits:

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23.210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

ZONING: R-1H- Single Family Residential, Hillside Overlay Zone

APPLICANT: John Newton, 5666 Telegraph Avenue, Oakland CA 94609

PROPERTY OWNER: Tarek and Michel Khoury, 903 Ventura Avenue, Albany CA 94707

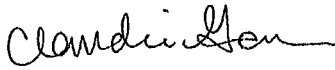
INTERESTED PARTY: Heather Sanders-Jacob, Shelterwerk, 1904 Franklin Street, Suite 310, Oakland CA 94612, heather@shelterwerk.com

¹ Pursuant to BMC Section 23.410.050(C), the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

ENVIRONMENTAL REVIEW STATUS: Categorically exempt pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures")

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

	Yes	No	Abstain	Absent	Recused
DUFFY	x				
HAUSER				x	
YUNG	x				
O'KEEFE				x	
LUNAPARRA			x		
SANDERSON	x				
THOMPSON	x				
GAFFNEY	x				
TREGUB	x				
BOARD VOTE:	6	0	1	2	0

ATTEST: 
Claudia Garcia, Zoning Adjustments Board
Secretary

PUBLICATION OF NOTICE:

Pursuant to BMC Section 23.404.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Russell Roe, at (510) 981-7548 or rroe@berkeleyca.gov. All project application materials, including full-size plans, may be viewed online at: <https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>. or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

TO APPEAL THIS DECISION (see Section 23.410 of the Berkeley Municipal Code):

To appeal a decision of the Zoning Adjustments Board to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
 - A. The fee for persons other than the applicant is \$1500. This fee may be reduced to \$500 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
 - B. The fee for all appeals by Applicants is \$5,520.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown on page 1 (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

ATTACHMENT 1

FINDINGS AND CONDITIONS

APRIL 27, 2023

705 Euclid Avenue

Use Permit #ZP2022-0104 to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining wall located in the required front setback, on a 6,024 square foot vacant lot.

ZONING PERMITS REQUIRED

- Use Permit for a new single-family dwelling, under Berkeley Municipal Code (BMC) Section 23.202.020(A)
- Administrative Use Permit to construct a building with a maximum height over 35 feet in the Hillside Overlay Zone, under BMC Section 23210.020
- Administrative Use Permit to construct two parking spaces in a required front setback, under BMC Section 23.322.080
- Administrative Use Permit to construct an accessory structure (backyard retaining walls) encroaching into a required setback, under BMC Section 23.304.070(B)

I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures").
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
(a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040(E)(1) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:

- A. Shadow studies submitted by the applicant show that new shadow effects would be minor due to the orientation of the new and existing structures, as well as the existence of tall trees along some of the property lines; and
- B. Privacy intrusions would be minimal because the proposed front balconies are set mostly forward of the fronts of the neighboring houses at 696 Hilldale and 713 Euclid Avenue, the applicant has proposed obscured glass for the windows that have the greatest potential for causing privacy concerns, and new and existing trees will act as visual obstructions between the properties; and
- C. Reduced availability of air will not be an issue because the proposed structure would be roughly 20-25 feet from its northern neighbor and more than 13 feet from its southern neighbor, and the project would exceed the usable open space requirement; and
- D. Story poles erected on the site show that significant views from neighboring properties will not be unreasonably affected.

III. OTHER FINDINGS FOR APPROVAL

- 2. As required by BMC 23.202.020(B), the Zoning Adjustments Board finds that:
 - A. The proposed project would meet all applicable development standards for the R-1 District except the height limits;
 - B. The proposed increased height limits are justifiable and approvable with an AUP because the proposed height is compatible with those of neighboring structures and story poles erected on the site did not reveal an unreasonable obstruction of significant views from neighboring properties; and
 - C. The proposed parking area, retaining walls, and exterior stairs are approvable in the front setback with an AUP because of the steep upward slope of the lot, and it would be consistent with many neighboring properties that have similar parking areas and stairs in their front setbacks; and
 - D. The proposed project would meet the purposes of the Single-Family Residential District and the Hillside Overlay Zone.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination

that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).

- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to BMC 23.406.040.E, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual’s name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison _____

Name Phone #

11. Address Assignment. The applicant shall file an “Address Assignment Request Application” with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City’s database prior to the applicant’s submittal of a building permit application.

12. Tree Preservation Conditions. The Arborist Report dated May 26, 2022 shall be included with any application for a building permit, and shall be with the approved set of plans on the job site at all times while work is taking place.

13. Tree Protection Fencing. To protect the Specified Tree Protection Zone will be shown on all applicable site, landscape, grading, and utility plans. Such fencing shall comply with the guidelines specified in the Arborist Report dated May 26, 2022.

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

- 14. Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
- 15.** Prior to the issuance of any building or demolition permit, the applicant shall prepare and submit a transportation construction plan to the City Traffic Engineer for approval. Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.
- 16. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at: <http://www.cityofberkeley.info/uploadedFiles/IT/Level 3 - General/ema.pdf>
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third-party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants

and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.

- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Prior to Issuance of Any Building (Construction) Permit

17. **HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.

18. Solar Photovoltaic (Solar PV) and Battery Energy Storage Systems (ESS). A solar PV system shall be installed, subject to specific limited exceptions, as specified by the Berkeley Energy Code (BMC Chapter 19.36). Energy storage system (ESS) readiness (new single-family, duplex, and townhouse homes) or ESS installation (new multifamily and most nonresidential buildings) shall be completed as specified by BMC Chapter 19.36. Location of the solar PV system and the ESS, if applicable, shall be noted on the construction plans.
19. Electric Vehicle (EV) Charging. Each dwelling unit shall install a listed raceway, wiring, and load capacity to allow for future Level 2 (40 amp) plug-in electric vehicle (EV) charging system installation, or any more stringent EV charging requirements as specified by the Berkeley Green Code (BMC Chapter 19.37). Readiness for EV charging and EV charging station installations shall be noted on the construction plans.
20. Water Efficient Landscaping. Landscaping, totaling 500 square feet of more of new landscaping or 2,500 square feet or more of renovated irrigated area, shall comply with the State's Model Water Efficient Landscape Ordinance (MWELO). MWELO-compliant landscape documentation including a planting, grading, and irrigation plan shall be included in site plans. Water budget calculations are also required for landscapes of 2,500 square feet or more and shall be included in site plans. The reference evapotranspiration rate (ET_o) for Berkeley is 41.8.
21. Prohibition of Natural Gas Infrastructure in New Buildings. The project shall comply with the City of Berkeley Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80). The building permit plan set submission shall both include a cover sheet declaration: 'Natural Gas-Free Design as required by BMC Chapter 12.80.
22. Recycling and Organics Collection. Applicant shall provide recycling and organics collection areas for occupants, clearly marked on site plans, which comply with the Alameda County Mandatory Recycling Ordinance (ACWMA Ordinance 2012-01).
23. Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.
24. Geotechnical Plan Review. The applicant's geotechnical consultant should review and approve all geotechnical aspects of the final project building a grading plans (i.e., site preparation and grading, shoring design, site surface and subsurface drainage improvements including site runoff discharge, and design parameters for foundations and retaining walls) to ensure that their recommendations have been properly incorporated.

The Project Geotechnical Consultant should clarify anticipated depths to bedrock materials across the site for structural design (i.e., at what depth can bedrock skin friction be used).

The results of the plan review should be summarized by the Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to issuance of building permits.

During Construction:

25. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
26. Tree Protection Fencing to protect the Specified Tree Protection Zone must be installed prior to any site or demolition work, in accordance with the approved plans, and remain during all stages of site work and construction.
27. Tree Monitoring. Trees identified for protection in the Arborist Report dated May 26, 2022 shall be monitored monthly during construction by the project arborist.
28. Geotechnical Report. The contractors shall implement the recommendations of the Geotechnical Soil Report, dated March 15, 2022, including site preparation and earthwork, surface and subsurface drainage, foundation reinforcements, retaining wall design, lateral lode resistance, and seismic reinforcements.
29. Geotechnical Construction Inspections. The Geotechnical Consultant should inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations and other improvements prior to the placement of steel and concrete. The Consultant should inspect and approve of temporary shoring measures, as applicable during grading for proposed parking areas and residential improvements.

The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final (granting of occupancy) project approval.

30. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.
31. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
 - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.

- E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator.
- H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District 's phone number shall also be visible to ensure compliance with applicable regulations.
32. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
33. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
34. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
 - Storage of building materials, dumpsters, debris anywhere in the public ROW;
 - Provision of exclusive contractor parking on-street; or
 - Significant truck activity.
- Please contact the Office of Transportation at (510) 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of

construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

35. Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.
36. Archaeological Resources (Ongoing throughout demolition, grading, and/or construction). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:
- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
 - B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.
 - C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
 - D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.

- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
37. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
38. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
39. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).
- A. *Qualified Paleontologist*. The project applicant shall retain a Qualified Paleontologist prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
- B. *Paleontological Worker Environmental Awareness Program (WEAP)*. Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall

WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.

- C. *Paleontological Monitoring.* The extent of required paleontological monitoring for the project shall be determined by the Qualified Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Qualified Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of microscreening or other inspections for fossil resources. If the paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Qualified Paleontologist at that time.
- D. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
- 1) *Salvage of Fossils.* If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or lead paleontologist evaluate the discovery and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Construction Contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or microvertebrates from within paleontologically- sensitive Quaternary old alluvial deposits.
 - 2) *Preparation and Curation of Recovered Fossils.* Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

- E. *Final Paleontological Mitigation Report.* Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.
40. Halt Work/Unanticipated Discovery of Tribal Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all work within 50 feet of the discovery shall be redirected. The project applicant and project construction contractor shall notify the City Planning Department within 24 hours. The City will again contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.
41. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future

revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a Building Permit.

- E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
 - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
 - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
42. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
43. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
44. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

45. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
46. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
47. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

48. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
49. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 29, 2022, except as modified by conditions of approval.

At All Times:

50. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
51. Rooftop Projections. No additional rooftop or elevator equipment shall be added to exceed the approved maximum roof height without submission of an application for a Use Permit Modification, subject to Board review and approval.
52. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
53. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
54. Bird-Safe Glass. The use of bird-safe glass is encouraged for all windows.
55. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.

Jolar Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
(925) 818-0570
Cyrus Moshkoozi, PE
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

**NEW
RESIDENCE**

PROJECT ADDRESS:
705 Euclid Avenue
Albany, CA 94706
APN: 03-2055-001

OWNER:
Terek Kilian
9031 Peabody Drive
Albany, CA 94706
(510) 387-7714

**LOT COVERAGE &
USEABLE OPEN
SPACE DIAGRAM**

REVISION	
No.	Date
1	DESIGN 9/7/22

PROJECT No.:	
DRAWN BY:	JM
CHECKED BY:	AM
DATE:	9/22/22

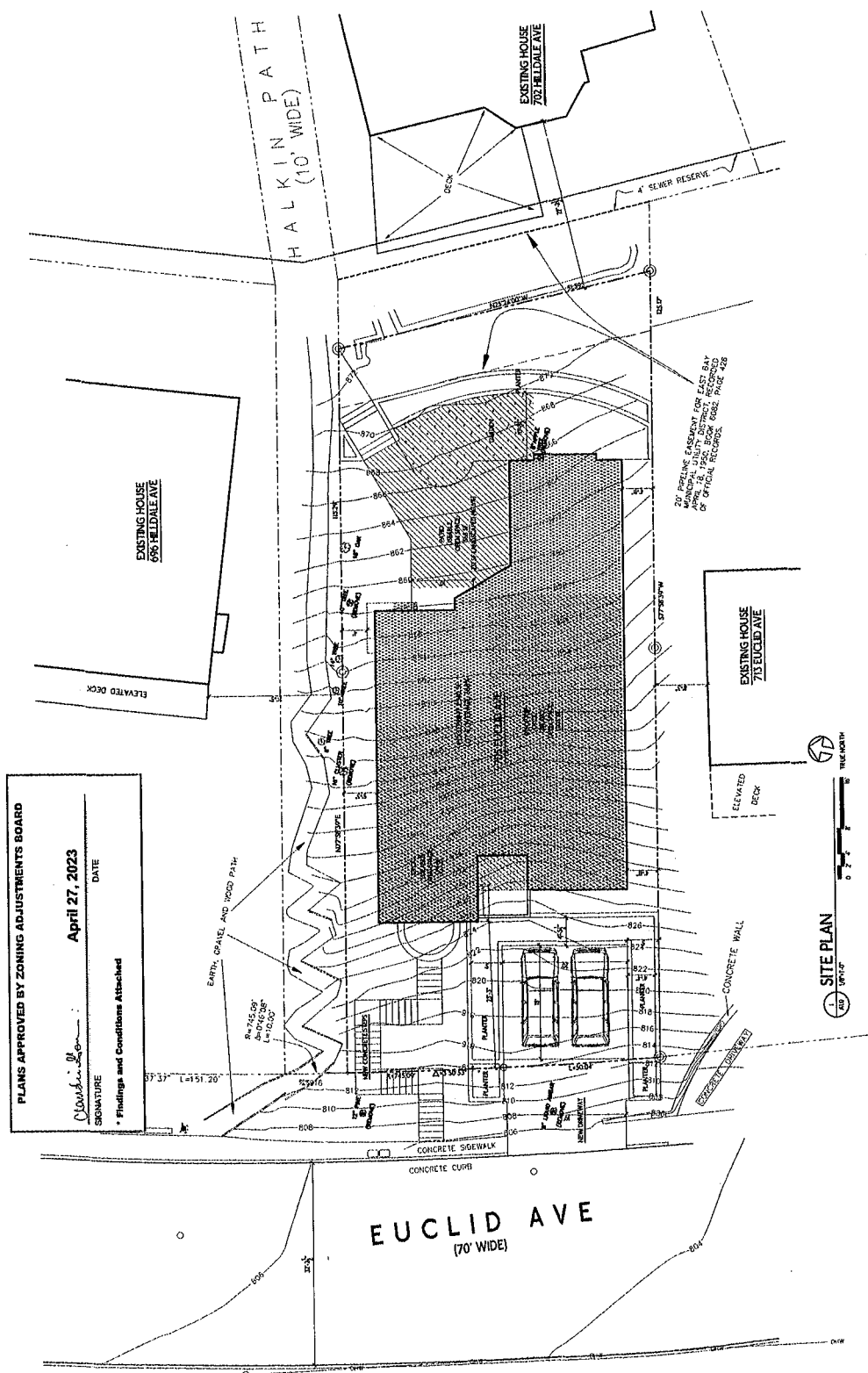
A1.1

LEGEND

- USABLE OPENSPACE
- LANDSCAPED AREA
- LOT COVERAGE

OVERLAP
AREA - 50% OVERLAP
25% LANDSCAPED AREA
50% LOT COVERAGE
25% TOTAL USABLE OPENSPACE

LOT COVERAGE
50% OVERLAP
LOT COVERAGE: 30%



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Clayton B...
SIGNATURE

April 27, 2023
DATE

* Findings and Conditions Attached

John Newton
Design & Development
5666 Telegraph Ave. Ste A
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
10257 Alameda Ave. Ste 100
City of Alameda, CA 94501
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

**NEW
RESIDENCE**

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 05-253-04-1

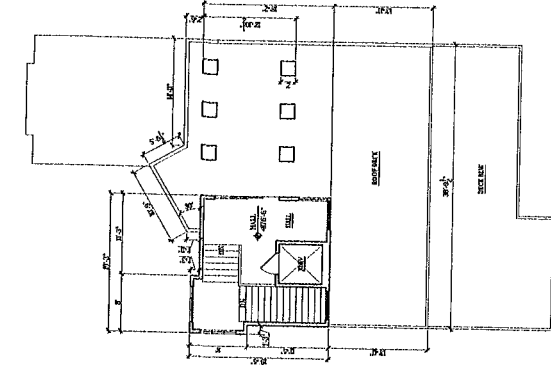
OWNER:
T. Eric Kinnery
983 Euclid Avenue
Albany, CA 94707
(510)-387-7100

FLOOR PLANS

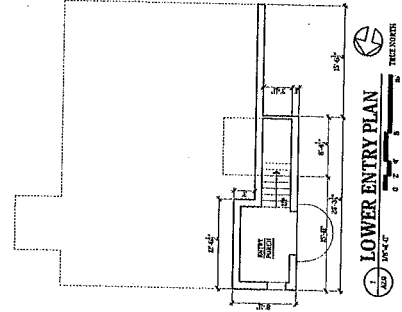
REVISION	
No.	Description
1	DESIGN REV
2	PLAN CHECK

PROJECT NO.:	ML
DATE:	12/20/22
DESIGNED BY:	JNK
CHECKED BY:	JNK

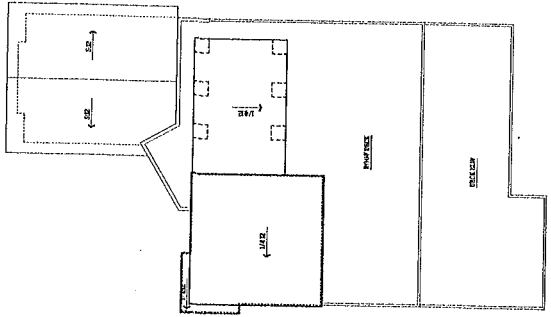
A2.0



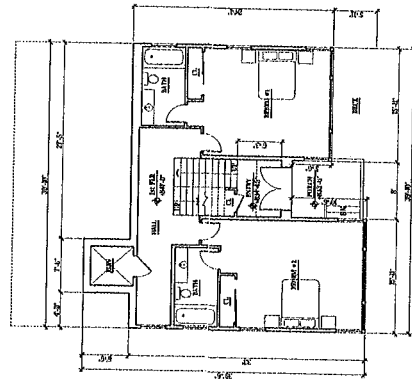
1 ROOF DECK FLOOR PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"



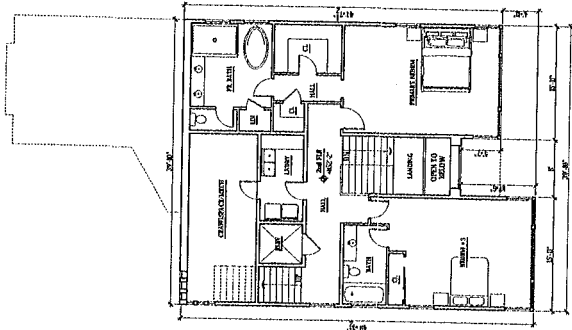
1 LOWER ENTRY PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"



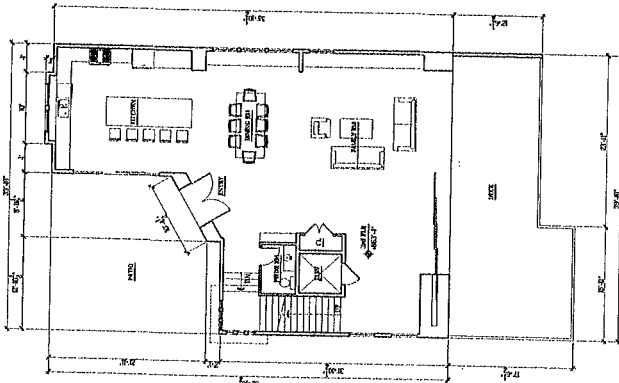
1 ROOF PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"



1 1st FLOOR PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"



2 2nd FLOOR PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"



3 3rd FLOOR PLAN
DATE: 12/20/22
SCALE: 1/8" = 1'-0"

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Charles Newton
SIGNATURE

April 27, 2023
DATE

* Findings and Conditions Attached

John Newton
Design & Development
5666 Telegraph Ave. Ste A
Oakland, CA 94609
(510) 847-1108
ARCHITECTURAL DESIGN
& PROJECT MANAGEMENT

CM Engineers
(925) 818-0570
Cyrus Manshadi, PE
REGISTERED DESIGN
PROFESSIONAL ENGINEER
RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
705 Euclid Ave
Berkeley, CA 94708
APN: 63-2035-00-1

OWNER:
Tarek Elmaghrabi
905 Veneta Ave
Albany, CA 94706
(925) 877-7100

EXISTING & PROPOSED SECTIONS

REVISION	
No.	Description
1	ISSUED BY
2	PLAN CHECK

PROJECT No.:
DRAWN BY:
CHECKED BY:
DATE:

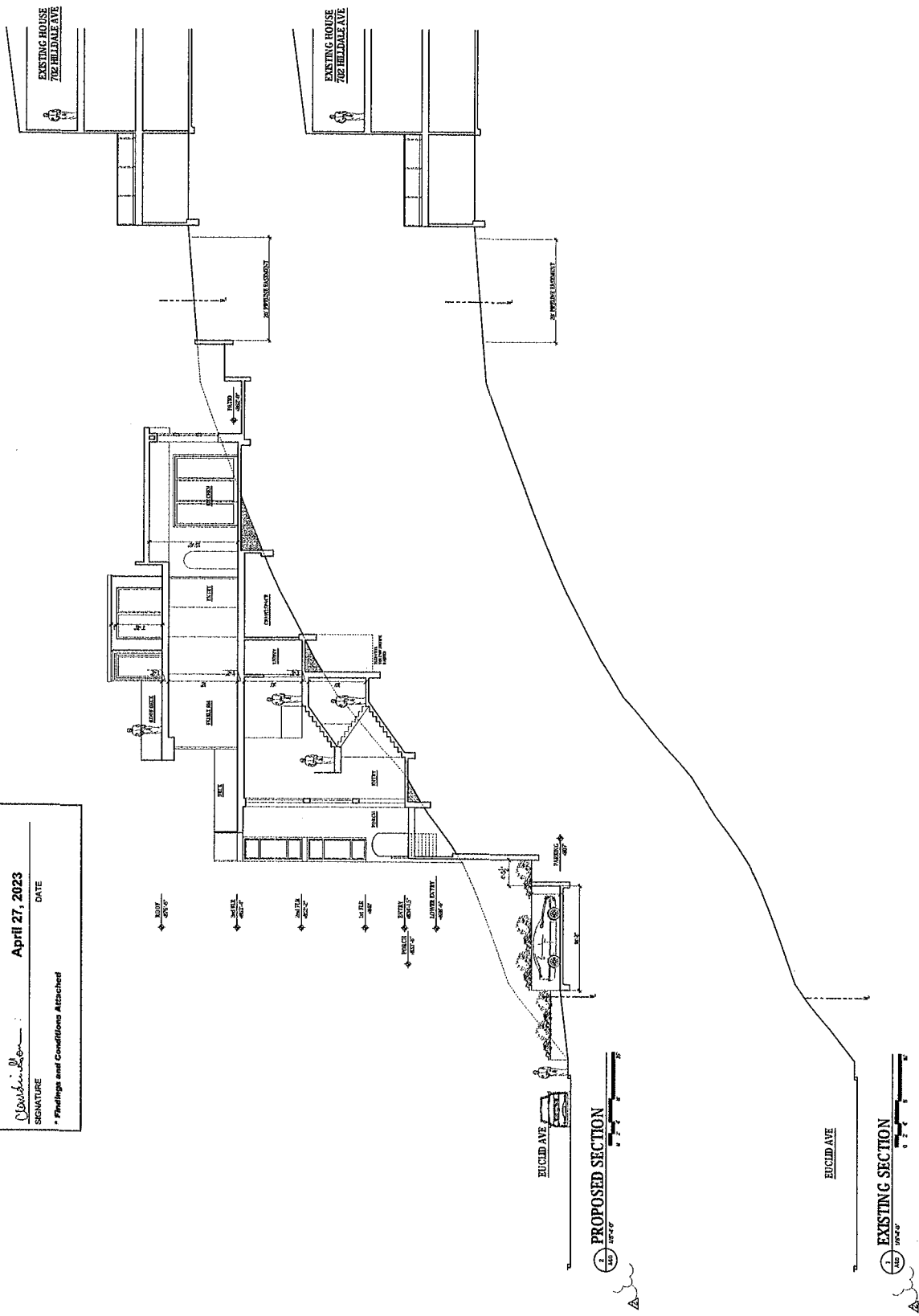
A4.0

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Claudia...
SIGNATURE

April 27, 2023
DATE

* Findings and Conditions Attached



PROPOSED SECTION

EXISTING SECTION

Johari Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
(925) 818-0570
Cruz Macdonald, PE
REGISTERED PROFESSIONAL
RESPONSIBLE CHARGE

NEW
RESIDENCE

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2005-06-J

OWNER:
Tarek Khoury
805 Park Ave, Apt 407
Berkeley, CA 94708
(510) 387-7100

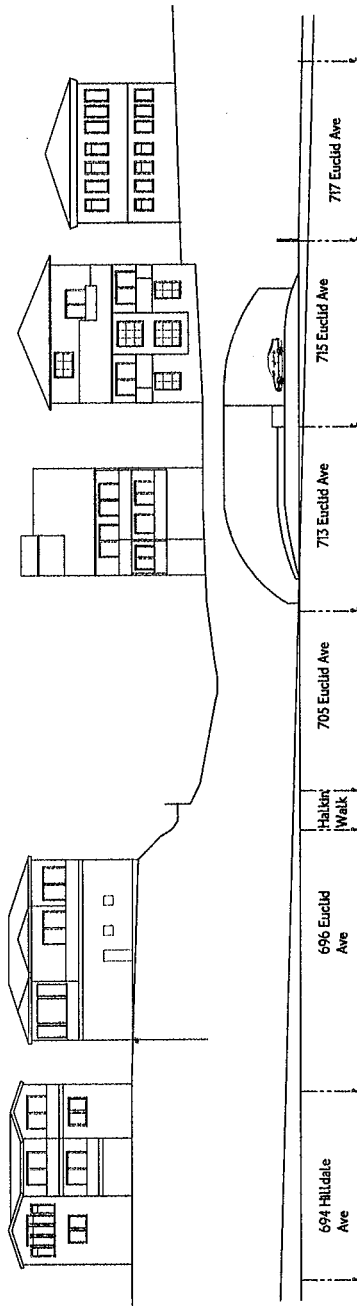
EXISTING &
PROPOSED
STREETSCAPE

REVISION	
No.	Description
1	DESIGNER
Date	9/20/22

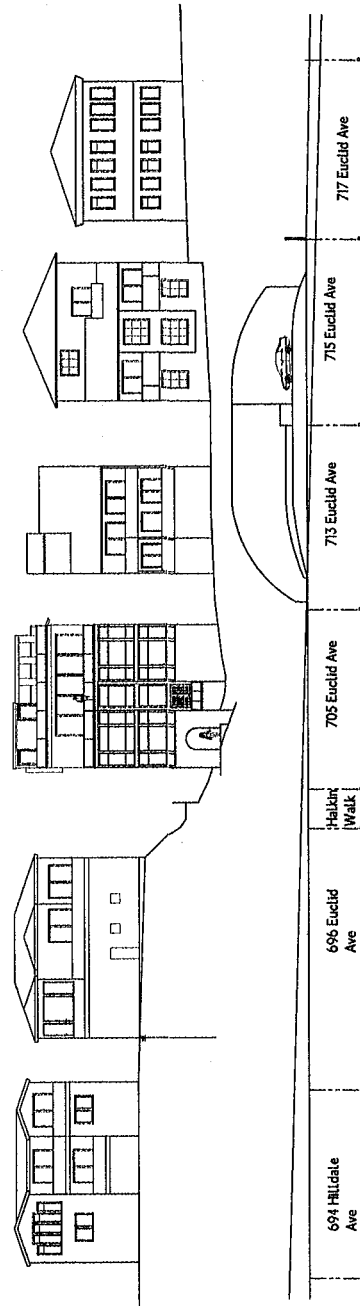
PROJECT No.:	
DRAWN BY:	JMN
CHECKED BY:	JMN
DATE:	3/21/22

A5.0

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
Signature
April 27, 2023
DATE
SIGNATURE
* Findings and Conditions Attached



1. EXISTING STREETSCAPE



1. PROPOSED STREETSCAPE

NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708
APN: 63-2955-40-1

John Newton
Designer & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 847-4108
ARCHITECT
PROJECT MANAGER

CM Engineers
(925) 816-0570
Cyrus Makhadmeh, PE
REGISTERED DESIGN
RESPONSIBLE DESIGN
RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2955-40-1

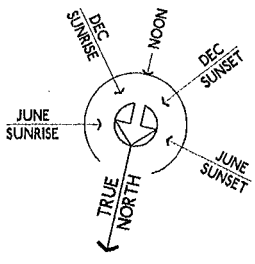
OWNER:
Tarek Khoury
903 Fontaine Ave,
Albany, CA 94707
(510)-387-7100

SHADOW STUDY PART 1

REVISION	
No.	Description
1	DESIGN REVISION 9/7/22

PROJECT No.:	ML
DRAWN BY:	JAY
CHECKED BY:	JAY
DATE:	3/21/23

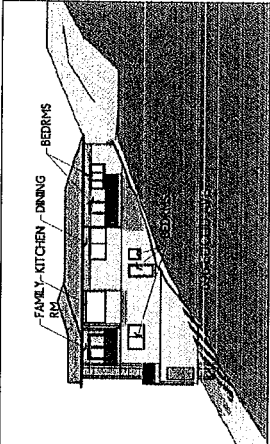
A6.0



LEGEND

- NEIGHBORING BUILDINGS EXISTING SHADOW
- NEW SHADOW

NOTE:
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 705 EUCLID AVE. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



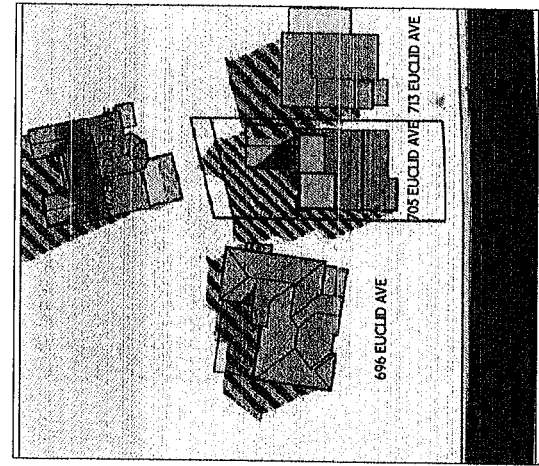
FEBRUARY 26-NOON

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

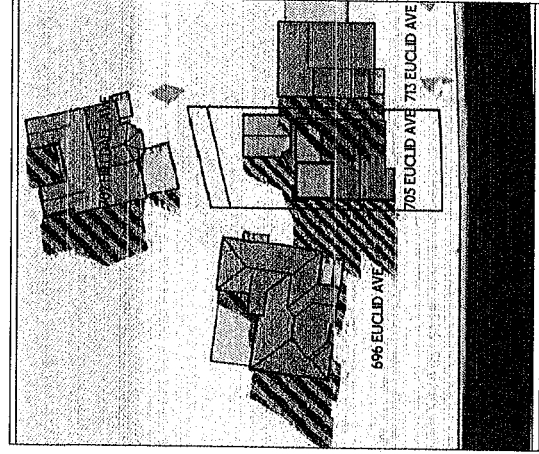
Christina Elson
SIGNATURE

April 27, 2023
DATE

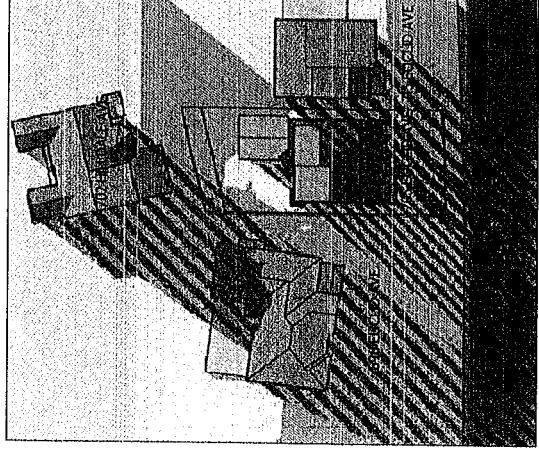
* Findings and Conditions Attached



FEBRUARY 26-4:00 PM



FEBRUARY 26-NOON



FEBRUARY 26-8:45 AM

NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708
APN: 63-29555-40-1

Jolita Newton
Design & Development
5666 Telegraph Ave. Ste A
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
(925) 761-0370
1925 10th St. #100
Berkeley, CA 94710
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

**NEW
RESIDENCE**

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2955-40-1

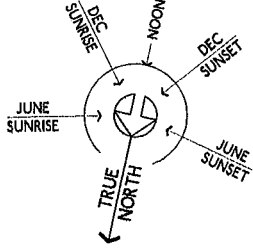
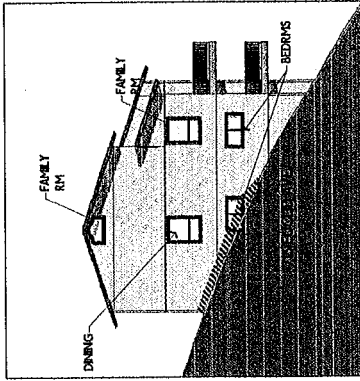
OWNER:
11111 10th St
Albany, CA 94707
(510)-387-7100

**SHADOW STUDY
PART 2**

REVISION	
No.	Description
1	DESIGN REVIEW
Date: 9/9/22	

PROJECT No.:	
DRAWN BY:	JLN
CHECKED BY:	JLN
DATE:	9/9/22

A6.1



LEGEND

- NEIGHBORING BUILDINGS
- EXISTING SHADOW
- NEW SHADOW

NOTE:
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 705 EUCLID AVE. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.

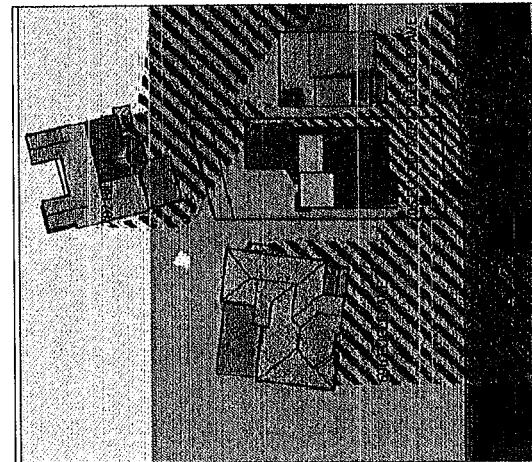
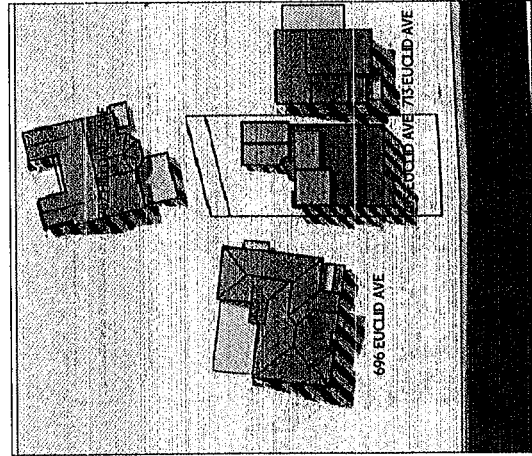
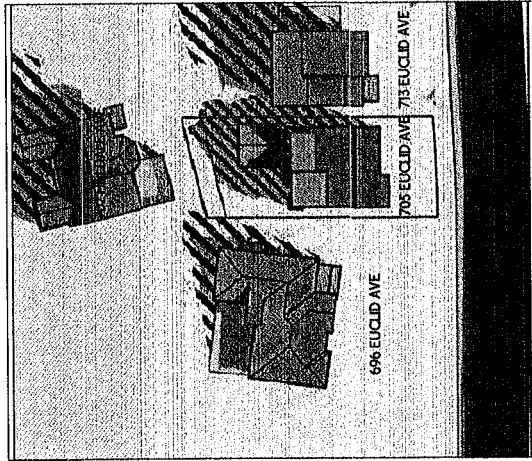
PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Christina Newton
SIGNATURE

April 27, 2023
DATE

* Findings and Conditions Attached

JUNE 21-6:35 PM



JUNE 21-6:35 PM

JUNE 21-NOON

JUNE 21-7:47 AM

NEW RESIDENCE

705 Euclid Ave, Berkeley, CA 94708
APN: 63-2955-40-1

John Newton
Design & Development
5666 Telegraph Ave, Ste A
Oakland, CA 94609
(510) 847-4108
PROJECT MANAGEMENT

CM Engineers
(925) 816-0570
Cyrus Mashkouri, PE
REGISTERED DESIGN
RESPONSIBLE CHARGE

NEW
RESIDENCE

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 63-2955-40-1

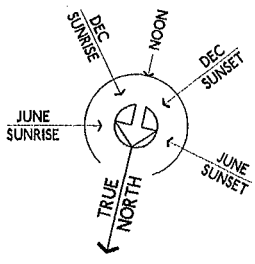
OWNER:
Tarek Elwanji
903 Ventura Ave.
Albany, CA 94707
(510)-887-7100

SHADOW STUDY
PART 3

REVISION	
No.	Description
1	DESIGNERY 9/7/22

PROJECT No.:	ML
DRAWN BY:	JMK
CHECKED BY:	REJZ
DATE:	

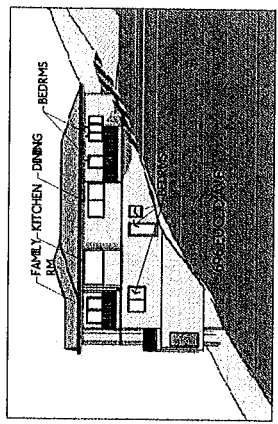
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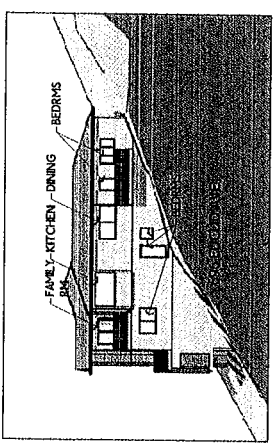
LEGEND

- NEIGHBORING BUILDINGS
- EXISTING SHADOW
- NEW SHADOW

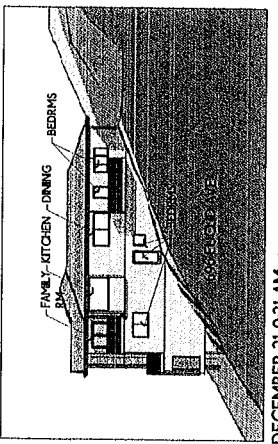
NOTE:
SHADOW STUDY PLAN VIEWS ANALYZE WORST CASE SCENARIO AND DOES NOT INDICATE THE MASS OF NEIGHBORING BUILDINGS AND (E) TREES. THIS STUDY ONLY GIVES MASS TO 705 EUCLID AVE. ALL HABITABLE BUILDINGS AFFECTED BY THE NEW SHADOWS CAST ARE SHOWN IN ELEVATION.



DECEMBER 21-2:53 PM



DECEMBER 21-NOON



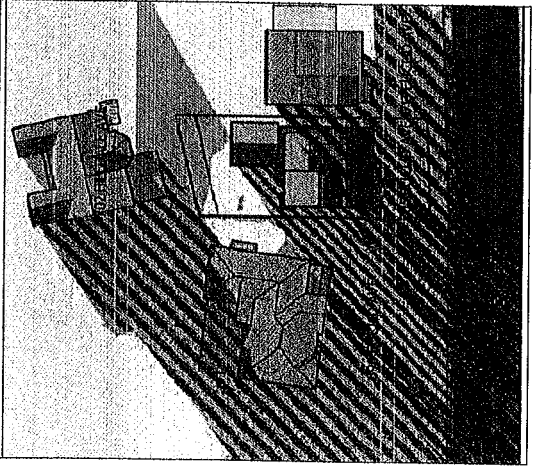
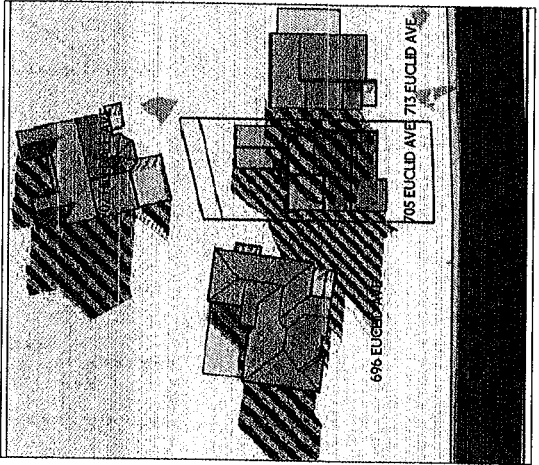
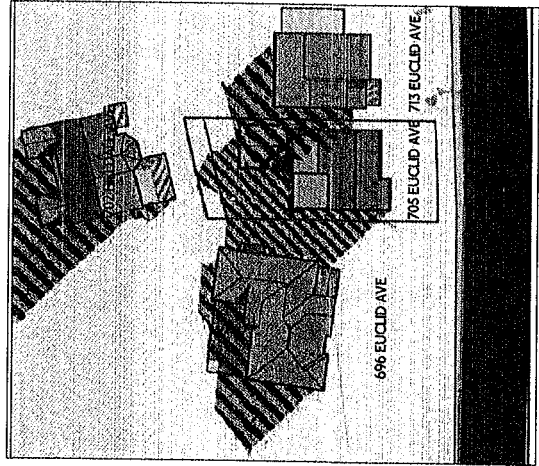
DECEMBER 21-9:21 AM

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

[Signature]
SIGNATURE

April 27, 2023
DATE

• Findings and Conditions Attached



THE NORTH
DECEMBER 21-2:53 PM

THE NORTH
DECEMBER 21-NOON

THE NORTH
DECEMBER 21-9:21 AM

John Newton
Design & Development
5666 Telegraph Ave, Ste 4
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
PROJECT MANAGEMENT

CM Engineers
031518 0570
Cory Mackinnon, PE
REGISTERED DESIGN
PROFESSIONAL IN
RESPONSIBLE CHARGE

NEW RESIDENCE

PROJECT ADDRESS:
705 Euclid Avenue
Berkeley, CA 94708
APN: 05-2955-40-1

OWNER:
705 Euclid Ave
943 Evans Ave
Albany, CA 94707
(510)-387-7100

CONCEPTUAL GRADING PLAN

REVISION	
No.	Description
1	DESIGN REV
Date: 9/2/22	

PROJECT No.:
DRAWN BY: JNL
CHECKED BY: JNL
DATE: 3/2/22

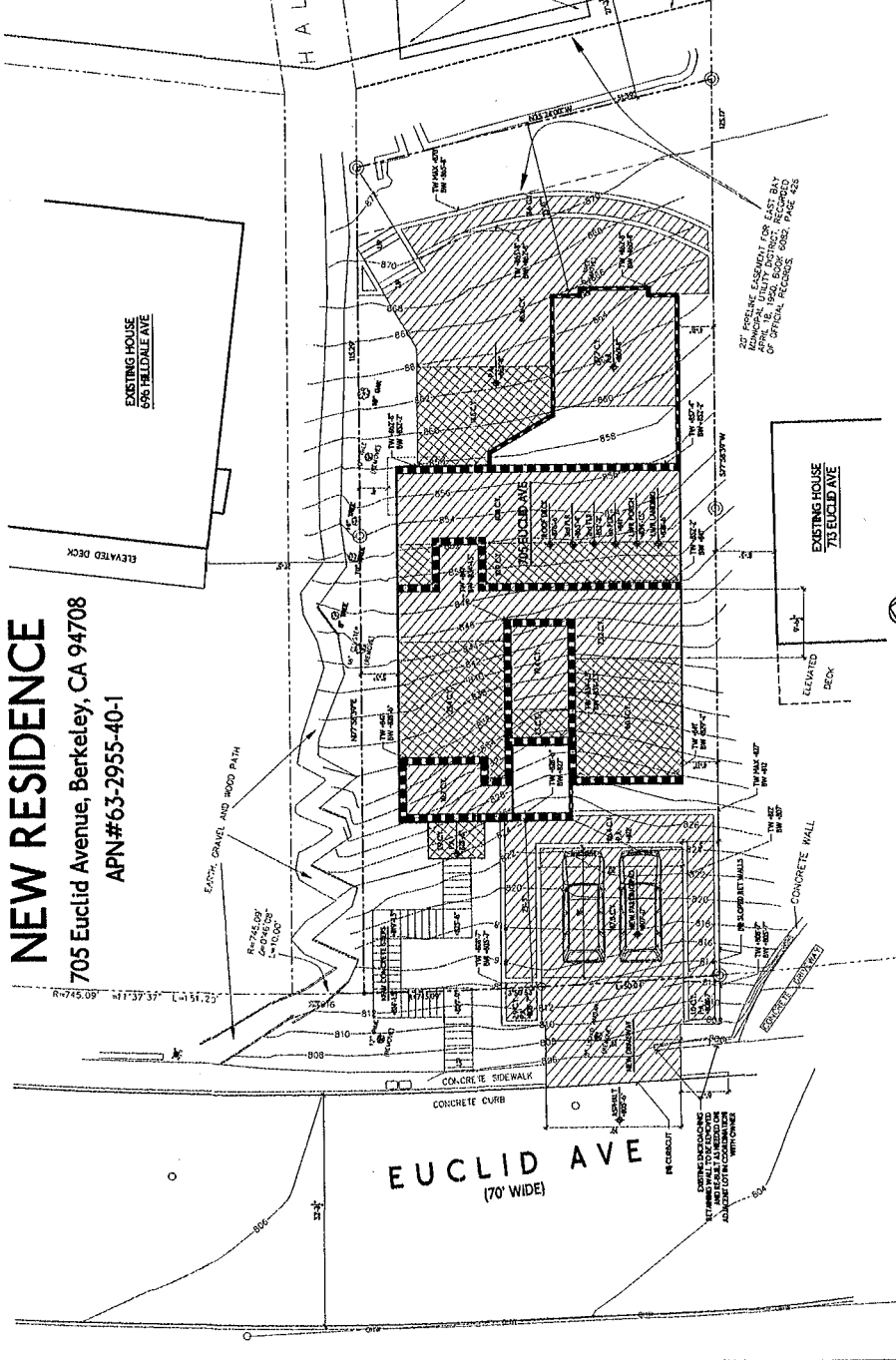
CI

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Clayton D. ...
SIGNATURE

DATE: April 27, 2023

* Flashes and Conditions Attached



ESTIMATED EARTHWORK QUANTITIES

CUT: 353.61
FILL: 384.11
EXPORT: 433.61

NOTE: GRADING QUANTITIES ESTIMATED FROM THIS PLAN. THESE QUANTITIES DO NOT INCLUDE QUANTITIES FOR EXISTING UTILITIES OR STRUCTURES. QUANTITIES FOR EXISTING UTILITIES AND STRUCTURES SHOULD BE OBTAINED FROM THE FIELD AT THE TIME OF CONSTRUCTION. CONTRACTOR TO VERIFY QUANTITIES.

CUT EARTH: [Hatched Pattern]

FILL EARTH: [Cross-hatched Pattern]

NEW RESIDENCE
705 Euclid Avenue, Berkeley, CA 94708
APN#63-2955-40-1

CONCEPTUAL GRADING PLAN
SCALE: 1" = 10'-0"

John Newton
Design & Development
5666 Telegraph Ave. Ste
Oakland, CA 94609
(510) 847-4108
DESIGN CONSULTATION
& PROJECT MANAGEMENT

CM Engineers
Cyrus Hathiwalli, PE
PROJECT MANAGER
RESPONSIBLE CHARGE

NEW
RESIDENCE

PROJECT ADDRESS:
703 Euclid Avenue
Berkeley, CA 94708
APN: 63-2055-40-1

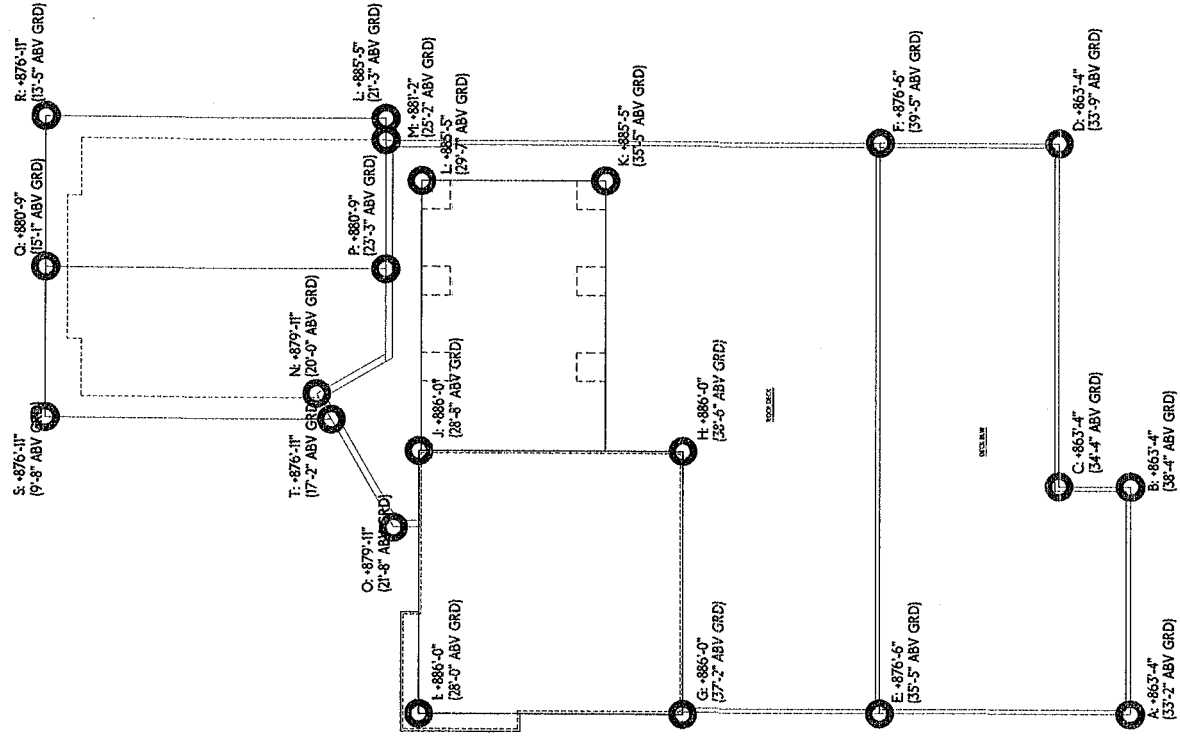
OWNER:
Tarek Khay
903 Fontaine Ave.
Berkeley, CA 94708
(510) 875-1800

STORY POLE
PLAN

REVISION	
No.	Description
1	DESIGN/REV 9/2/22

PROJECT No.:
DRAWN BY: JM
CHECKED BY: JM
DATE: 02/2022

SP.1



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

SIGNATURE: *[Signature]* DATE: April 27, 2023

* Findings and Conditions Attached

David Fowler Designs
landscape architecture | arboriculture | sculpture

DAVID FOWLER DESIGNS
3475 BUSH CREEK ROAD
SANTA MONICA, CA 90404
707.331.5159
info@davidfowlersigns.com
davidfowlerdesigns.com



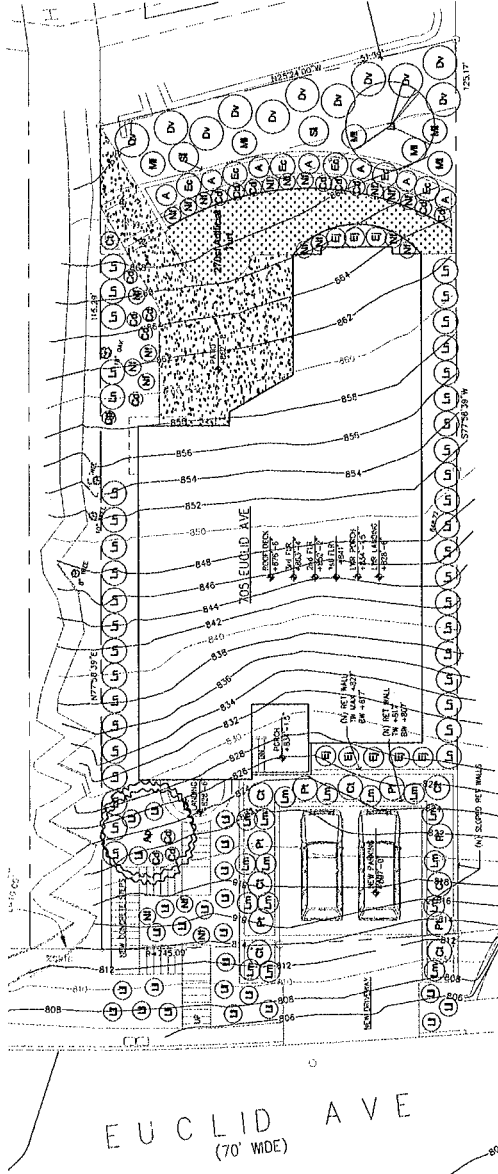
APN: 03-285-40-1
705 EUCLID AVE
BERKELEY, CA 94708

PLANTING PLAN

DATE: 06/23/2022

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

L1



PLANTING LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY	WECO
A	Angiosperm Floridus Bush Ranger	Angiosperm Floridus Bush Ranger	1 gal	17	L
B	Acacia reticulata	Acacia reticulata	1 gal	17	L
C	Chamaecyparis obtusa	Chamaecyparis obtusa	5 gal	5	L
D	Diospyros virginiana Purple	Purple Haze Bush	15 gal	11	L
E	Evergreen clematis	Purple Haze Bush	1 gal	4	L
F	Euonymus alatus	Evergreen Euonymus	2 gal	8	L
G	Leucosyris	Bury Laurel	15 gal	39	L
H	Lomaxia longiloba 'beesee'	Dwarf Mal Bush	1 gal	21	L
I	Lonicera maackii 'Tidying White'	White Tidying Lonicera	1 gal	14	L
J	Mulberry (Morus)	White Tidying Lonicera	1 gal	6	L
K	Nepea tomentosa 'Walker Low'	Langkat's Mully	1 gal	20	L
L	Phytolacca frutescens 'Mist Queen'	New Zealand Flax	5 gal	6	L
M	Schubertia pinnatifida	Muskum Bush Sage	5 gal	2	L
N	Acacia reticulata 'Bloodgood'	Bloodgood Japanese Maple	15 gal	1	M
O	Ligustrum lucidum 'Natchez'	Natchez Crepe Myrtle	15 gal	1	L

Soil and Planting Notes:

- A minimum of 6" of non-chemical composted soil shall be available for water absorption and root growth in planting areas.
- Biopocoma compost or natural fertilizer into top soil to a minimum depth of 6" at all planting sites to a minimum of 1000 lbs per acre. Laboratory report.
- A minimum 3" layer of mulch shall be applied on all exposed soil surfaces of all planting areas, excepting or routing procedures or direct seeding applications.

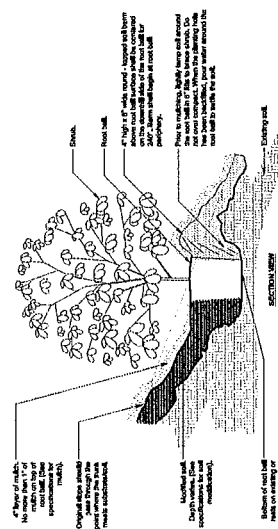
I have complied with the criteria of the ordinance and applied them for the efficient use of water in the planting design.

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

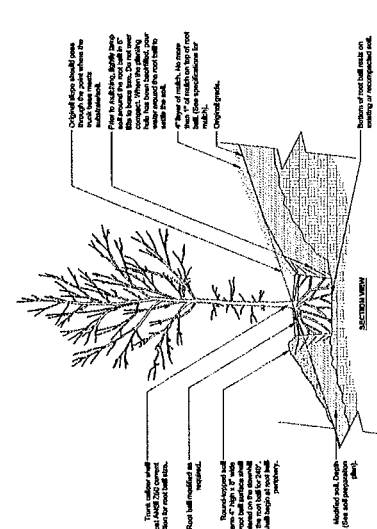
Signature: _____ DATE: April 27, 2023

Signature: _____ DATE: _____

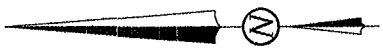
* Findings and Conditions Attached



SHRUB ON SLOPE 5% (20:1) TO 50% (2:1) - MODIFIED SOIL
1/2" = 1'-0"



TREE ON SLOPE 5% (20:1) TO 50% (2:1) (EXISTING SOIL, MODIFIED)
1/2" = 1'-0"



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.
NO TITLE REPORT PROVIDED, ADDITIONAL EASEMENTS MAY EXIST.

LEGEND

- B/W BASE OF WALL
- D/W DRIVEWAY
- F.H. FIRE HYDRANT
- F/L FLOW LINE
- G.V. GAS VALVE
- J.P. JOINT POLE
- OHW OVERHEAD WIRES
- P.A. MAIL
- S/W SIDEWALK
- TDE TOP OF DECK
- TDS TOP OF SLOPE
- TDC TOP OF CURB
- TWP TOP OF WALL
- W.V. WATER VALVE
- W.W. CITY MONUMENT
- FOUND 3/4" REBAR AND CAP
- FOUND 3/4" REBAR AND CAP
- FRIE 18550

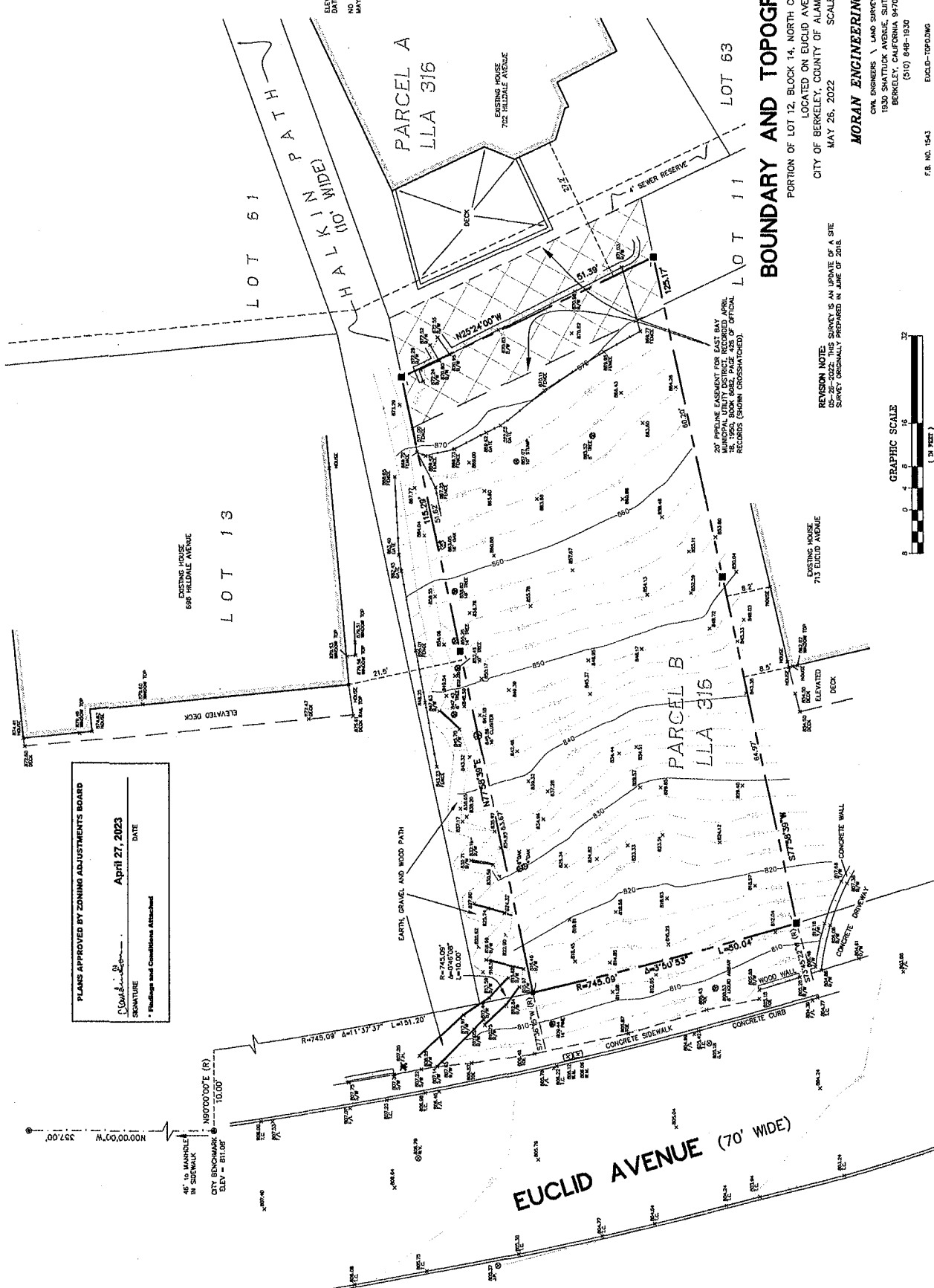


BOUNDARY AND TOPOGRAPHIC SURVEY

PORTION OF LOT 12, BLOCK 14, NORTH Cragmont (23 M 84)
LOCATED ON EUCLID AVENUE
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
MAY 26, 2022 SCALE: 1" = 8'

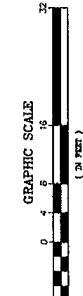
MORAN ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS
1930 SHATLUCK AVENUE, SUITE A
BERKELEY, CALIFORNIA 94704
(510) 848-1930

F.B. NO. 1543 EUCLD-1090.DWG JOB NO. 22-83161



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
Julie Moran
Signature
APR 27, 2023
DATE
* Findings and Conditions Attached

REVISION NOTE: SURVEY IS AN UPDATE OF A SITE SURVEY ORIGINALLY PREPARED IN JUNE OF 2018.



EUCLID AVENUE (70' WIDE)

HARPER & ARMSTRONG, LLP

1634 Telegraph Avenue, #3 • Oakland, CA 94612
Ph: (510) 420-8455 • Fax: (510) 858-5953 • kathryn.rauber@harperarmstrong.com

April 15, 2023

BY E MAIL & US MAIL

City of Berkeley
Planning and Development
1947 Center St., 2nd Fl.
Berkeley, CA 94704
510-981-7410
planning@cityofberkeley.info

Re: Withdrawal of Support for and Objection to Application for Zoning Permit No. ZP2022-0104, 705 Euclid Avenue

To Whom It May Concern:

I write on behalf of Yoshiko Wada, owner of 696 Hilldale Avenue, Berkeley, CA 94708 to formally withdraw her approval for and issue an objection against a proposed new structure at 705 Euclid Avenue, Berkeley, CA 94708. The owners of 705 Euclid Avenue (APN 063-295504001) have submitted an application for a zoning permit to the City of Berkeley, which currently is under review as Record No. ZP2022-0104.

Ms. Wada lives at 696 Hilldale Avenue, which is bordered to the south by an empty lot with the address 705 Euclid Avenue. In early 2022, the owners of 705 Euclid contacted Ms. Wada seeking to obtain her approval to construct a four-story building on the empty lot. The contemplated structure would require the owners to obtain a zoning permit to exceed the allowable building height. Ms. Wada asked for the story poles to determine whether the proposed new building would block her view of the bay. The owners told her that the story poles were not ready, but they offered to meet to explain to her how tall the building would be in relation to her home.

In April 2022, Ms. Wada met with the owners of 705 Euclid. Based on their representations, Ms. Wada determined that her view would not be obscured and granted her approval to allow the project to proceed.

Thereafter, Ms. Wada was out of the country for several months. The owners of 705 Euclid Avenue filed the above-mentioned application seeking permission to construct a new dwelling exceeding 28 feet in average height and 35 feet in maximum height. They also erected the story poles for the proposed new building in late 2022 while she was away.

When Ms. Wada returned from abroad in April 2023, she observed the story poles in place and discovered that contrary to the owners' explanation, the new building will significantly block her view of the bay. Based on this discovery, Ms. Wada hereby withdraws her approval for the project currently under review as Record No. ZP2022-0104 and formally objects to the issuance of a zoning permit to allow the building to be constructed as currently planned.

Regards,

A handwritten signature in black ink, appearing to read 'Kathryn Rauber', with a long, sweeping horizontal line extending to the right.

Kathryn Rauber

Jacob, Melinda

Subject: FW: Oppositionh to granting exceptions for 705 Euclid project

-----Original Message-----

From: Theodore D. Raphael <tdraphael@gmail.com>
Sent: Thursday, April 27, 2023 9:28 AM
To: Roe, Russell <RRoe@cityofberkeley.info>
Subject: Oppositionh to granting exceptions for 705 Euclid project

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

April 26, 2023

Russell Roe
Associate Planner/ Code Enforcement
City of Berkeley
Berkeley, California

Dear Mr. Roe:

We wish to express our strongest opposition to the granting of exceptions to the rules requested by the developer of 705 Euclid.

The basis of our opposition is two-fold: it is an unmerited exception and its realization will have direct deleterious effects on the enjoyment of our property at 694 Hilldale, separated from 705 Euclid by only one lot, 696 Hilldale. (Note: 694 and 696 Hilldale actually front on the east side of Euclid, adjacent to 705 Euclid, although they are accessed from Hilldale and have Hilldale addresses.)

As you know better than us, exceptions to the rules are appropriate for unusual circumstances pertaining to the idiosyncrasies of a particular lot, such as a minor variance from the setback regulations, to allow a lot to be feasibly accommodate a residence. Such exceptions to the rules are of great benefit to the developer, with little or no impact on the lot's neighbors.

Such is not the case with 705 Euclid. The lot is a standard, sloped Berkeley Hills lot, similar to its neighbors on the east side of Euclid. In this case, the developer simply wishes to build an oversized house not permitted by the rules. There is nothing preventing the developer from building a house that conforms with current rules. There is no compelling reason to grant an exception to the rules in this case. The planned house is out of character for the neighborhood, due to its height and volume, in violation of the very reason the rules were established to safeguard the character of the neighborhood. The request for an exception to the rules should be denied on this basis alone.

However, building of the planned house will have a severe effect on the light, privacy, and views at 696 Hilldale, and, to a lesser extent, at our home at 694.

We spent five whole years searching for a retirement home in Berkeley, from 2009 to 2014 (this can be confirmed by our agents Nancy Mueller and Terri White of Berkeley Hills Realty). We wanted view privacy from adjacent homes, which is not achieved easily. We were not concerned about what might be built on the unimproved lot at 705 Euclid, as we knew that the rules would not permit the building of a house that would compromise our privacy and views.

An exception granted to the 705 Euclid project would greatly compromise our privacy, as the uppermost deck at 705 would allow views directly onto the entire length of the west-facing deck of our house, completely destroying our privacy. The purchase of our property was premised entirely on the reasonable expectation that the rules would continue to be enforced in the neighborhood. We are in our late 70s and expected the purchase of our last home to afford us the privacy we sought to enjoy during the remaining years of our lives.

The loss of privacy will undoubtedly reduce the value of our property, as well. Today we have valuable, complete privacy from our neighbors, due to the siting of the properties. If an exception to the rules is granted, we will lose our coveted privacy and substantially lower the value of our property.

There is no reason that a house at 705 cannot conform to the rules to which the builders of surrounding lots observed. We will suffer if the exception is granted. We will not suffer, nor will the developer of 705 Euclid, if the exception is denied.

For the benefit of sound public policy and the unnecessary loss of privacy we will suffer, we urge you to deny the requested exception to the rules for the 705 Euclid project.

Sincerely,

Theodore D. Raphael
Mary E, Raphael
694 Hilldale Ave.
510-684-1912

HARPER & ARMSTRONG, LLP

1634 Telegraph Avenue, #3 • Oakland, CA 94612
Ph: (510) 420-8455 • Fax: (510) 858-5953 • shona.armstrong@harperarmstrong.com

Via Email

July 5, 2023

City Council
c/o City Clerk
2180 Milvia Street, 1st floor
Berkeley, CA 94704
(510) 981-6900
clerk@cityofberkeley.info

**Re: ERRATA to Appeal from approval of AUP for 705 Euclid Avenue
(ZP2022-0104)
Notice of Decision dated April 27, 2023, and mailed May 9, 2023**

Dear Members of City Council:

I write to correct the factual record of this appeal. In my May 23, 2023, letter appealing the City Council's decision, I mistakenly asserted that Theodore Raphael initially approached the ZAB in person during the meeting of April 27, 2023. In fact, he attended the entire meeting virtually by zoom.

Theodore Raphael attended the entire meeting online; he raised his "Zoom hand" to speak on the approval of AUP for 705 Euclid, was recognized by the chair, requested to speak, and the chair then placed him in the queue for public speakers to be recognized later in the hearing. The ZAB then never afforded him the opportunity to be heard.

Regards,



Shona Armstrong

cc:City of Berkeley
Zoning Adjustments Board & Russel Roe, Assoc. Planner
1974 Center St., 2nd Floor
Berkeley, CA 94704
RRoe@cityofberkeley.info

Theodore and Molly Raphael
tdraphael@gmail.com
mraphael@rapgroup.com

Yoshiko Wada
Yoshiko@yoshikowada.com

From: [Shona Armstrong](#)
To: [Heather Sanders-Jacob](#)
Cc: [Roe, Russell](#)
Subject: Re: ZP2022-0104 (705 Euclid) - ZAB appeals process?
Date: Friday, April 28, 2023 5:45:25 PM

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The ZAB absolutely denied Ted Raphael the opportunity to speak. Mr. Raphael originally went to the podium when the item was on the consent calendar and the ZAB staff instructed him to wait, because he would have an opportunity to speak when the item was called for public hearing. When the item was eventually called at public hearing, however, despite the fact that the ZAB staff acknowledged Mr. Raphael as one of the speakers in line with his hand raised to speak, the ZAB denied him the opportunity by never calling on him or unmuting him.

The ZAB is ignoring the significant impact this project, which exceeds permissible height restrictions, will have on neighbors who are concerned about both views and privacy. It is an ideal candidate for negotiation and compromise, but ZAB did not care to hear about the impact on the neighbors. As a result, the ZAB's process has denied the neighbors due process and has denied the neighborhood the time necessary for concerned parties to reach a negotiated and mutually acceptable compromise.

ZAB's process is not just leading to poor results. It is denying constitutional rights.

On Fri, Apr 28, 2023 at 5:18 PM <heather@shelterwerk.com> wrote:

Good afternoon, Russel –

I'm part of the group that spoke in opposition to the project proposed at 705 Euclid last night. We understand that there's an appeals process that might be open to us and time is probably very limited. Is there a letter that will be issued to the neighbors informing them of the process and timeline? Please advise.

Also, some of the neighbors are upset that the time was so short to speak; that board members had departed mid-meeting; that the meeting went so late (also, one couple stayed up till nearly midnight and were never called on, even though they had their virtual "hand" up). While we all understand that the admirable goal was to get through the agenda, the result was a sense of being rushed, compromised due process, and sloppiness on behalf of the ZAB. The ship has left port, but is there a good place to provide feedback so that the ZAB knows how good intent is potentially leading to poor results?

Many thanks,

Heather Sanders-Jacob

AIA, LEED AP

SHELTERWERK

1904 Franklin Street, Suite 310

Oakland, CA 94612

T: 510.595.3836 ext 1

www.shelterwerk.com

--

Shona Armstrong, Esq.

Harper & Armstrong, LLP

1634 Telegraph Ave., #3

Oakland, CA 94612

(w) [\(510\) 420-8455](tel:5104208455)

(c) [\(510\) 508-5017](tel:5105085017)

From: heather@shelterwerk.com
To: [Roe, Russell](#)
Cc: "[Shona Armstrong](#)"; [Garcia, Claudia](#)
Subject: RE: ZP2022-0104 (705 Euclid) - ZAB appeals process?
Date: Monday, May 01, 2023 9:19:12 AM

Thank you, Russell, for the info on both items. The homeowner at 696 Hilldale is currently residing in England, and Ms. Armstrong and I are representing her while she's away. Could I please have an email copy of the letter that will be going out to her?

Thank you,

Heather Sanders-Jacob

AIA, LEED AP

SHELTERWERK

1904 Franklin Street, Suite 310
Oakland, CA 94612

T: 510.595.3836 ext 1
www.shelterwerk.com

From: Roe, Russell <RRoe@cityofberkeley.info>
Sent: Monday, May 1, 2023 8:47 AM
To: heather@shelterwerk.com
Cc: 'Shona Armstrong' <shona.armstrong@harperarmstrong.com>; Garcia, Claudia <CGarcia@cityofberkeley.info>
Subject: RE: ZP2022-0104 (705 Euclid) - ZAB appeals process?

Heather,

Appeals must be filed with the City Clerk within 14 days of the date on the Notice of Decision letter. I'm not sure exactly when that letter will be mailed out, but I expect that it will be very soon. For more information on the appeals process, check here: <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/filing-appeal-zoning-or-land-use>

As for the late night and limited speaking time at the meeting, those decisions are made by the Board members. You can provide them with feedback by emailing zab@berkeleyca.gov or writing to: Zoning Adjustments Board, Planning & Development Department, 1947 Center Street, 2nd Floor, Berkeley CA 94704. All communications sent to these addresses will be forwarded to the Board members.

Russell Roe
Associate Planner/ Code Enforcement
City of Berkeley
(510) 981-7548

From: heather@shelterwerk.com <heather@shelterwerk.com>
Sent: Friday, April 28, 2023 5:19 PM
To: Roe, Russell <RRoe@cityofberkeley.info>
Cc: 'Shona Armstrong' <shona.armstrong@harperarmstrong.com>
Subject: ZP2022-0104 (705 Euclid) - ZAB appeals process?

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Good afternoon, Russel –

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Many thanks,

Heather Sanders-Jacob
AIA, LEED AP

SHELTERWERK
1904 Franklin Street, Suite 310
Oakland, CA 94612

T: 510.595.3836 ext 1
www.shelterwerk.com

From: [Jacob, Melinda](#)
To: [Roe, Russell](#)
Subject: 705 Euclid
Date: Wednesday, June 07, 2023 12:36:45 PM
Attachments: [image001.png](#)
[573589.wav](#)
[image002.png](#)

Internal



You received a phone call from UNKNOWN on Wed, Jun 07 12:16 PM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good Wednesday afternoon to the zoning board and I'm calling regarding the property at 705 Euclid. We've touched on the concerns of the glare and heat reflection on downhill neighbors and community, including drivers on Euclid and also wanted to bring up the consideration of reflected and amplified sound on downhill neighbors. So the design for that particular lot could have some really beautiful graceful complimentary aesthetic appeal that blended with the surrounding architecture and it was you know really. Generous Remarks to Berkeley as consideration for beautiful Architecture. One of the things that's known for however, the ridiculous glass design. Is going to make a Canyon of of noise and he and glare and amplification of barking dogs, which already that is something that's happening and that region Echo and barking reflected noise. So we'll just keep up the the considerations and remind ourselves of proverbs 12 to which is that the Lord condemns Craft him and so this this plan seems to be being pushed through by something other than the community appeal and certainly not buy any kind of respectful dialog. So hoping to make some transformations and consciousness. Thank you.

Melinda Jacob
Office Specialist II
Planning and Development, Land Use Division
1947 Center St., 2nd Floor, Berkeley, CA 94704
Phone: (510) 981-7421

Website: www.berkeleyca.gov

Email: mjacob@berkeleyca.gov

REDUCED LAND USE HOURS ARE IN EFFECT! Land Use / Zoning counter services are available at the [Permit Service Center \(PSC\)](#) between 8:30 am – 1:30 pm (final check in at 1:00 pm) Monday through Thursday. To limit the spread of COVID-19, face masks and social distancing are required when visiting our offices, and some Planning staff continue to work remotely.

[Construction & Development | City of Berkeley \(berkeleyca.gov\)](#)

<https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/permit-service-center>

[Zoning Lookup | City of Berkeley \(berkeleyca.gov\)](#)

From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Mon, Jun 05 9:16 AM for (510) 981-7410 , 705 Euclid inquiry
Date: Monday, June 05, 2023 9:43:14 AM
Attachments: [570227.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Monday, June 05, 2023 9:20 AM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Mon, Jun 05 9:16 AM for (510) 981-7410



You received a phone call from UNKNOWN on Mon, Jun 05 9:16 AM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good morning zoning board calling regarding the property at 705 Euclid. I had attended the public meeting public hearing about the plans and understand that there were several people who were in opposition to the plans. I was lead to believe in my ignorance of how local politics work. I was lead to believe by some comments made by mister daffy that there would be an opportunity for the neighbors of the project to hear the architect and the owners of the property who I I assume are intending to live there to hear them defend the project and possibly to allow the neighbors to articulate their particular concerns and then I understand that the project was approved without such meeting. I am a neighbor who will be directly affected four and the property here will be directly affected by the imposition of this building and I have many concerns which are completely valid, including heat and

glare reflected down on the lower area, including wind management deflects and all of that and any extra height. I have a copy of the plans and they do not include solar panels and if there's any extra. Hi, just gonna block the view my view of my favorite Bridge. So these people I would hope that they would be concerned about the fact that they're having on their neighbors, which and my personal meetings with both Mr. Is Corey? I have not found them to be particularly considerate of that there are arriving as new comers to a neighborhood that is established by people who love being here. So I would think they would care how we feel. So we'll be looking forward to September blessings.

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From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Thu, Jun 08 11:05 AM for (510) 981-7410, 705 Euclid anonymous ZAB comment
Date: Friday, June 09, 2023 1:20:09 PM
Attachments: [574601.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Thursday, June 8, 2023 11:09 AM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Thu, Jun 08 11:05 AM for (510) 981-7410



You received a phone call from UNKNOWN on Thu, Jun 08 11:05 AM for (510) 981-7410.

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Message

Good morning, zoning board Thursday morning and I'm calling regarding the property at 705 Euclid. Today's concern expressed is that perhaps the architect. I believe John Newton is his name didn't spend a significant amount of time up here understanding the fog belt and the wind and other elements that really a block square rectangular hard scape structure is really unsafe suitable to the Micro climate up here. I have a lot of concern about reflected wind editing wind the dust and other other things resulting blowing on Hawk and walk the path there and also across the face of other neighbors buildings and who knows I don't know these people are engineers both the father and the son our engineers is my understanding the owners of the property and you know, I know wind of the thing for engineers to understand when they're doing buildings, you know, how it might

with all, you know, all kinds of things can result from that, but certainly a more graceful natural harmonious design with some different, you know maybe not so looming, but also with the other mitigating factors like a green roof or other plantings or other you know anybody doing livestock hair, you know that you don't build a solid wall to create a window barrier for your animals, that's not how it works that makes all kinds of other disastrous, you know down when the facts of of of being blasted by wind also how are they going to keep their windows clean is not going to be an issue then of the whole building has to be washed on a regular basis that doesn't seem very environmentally. Suitable not very forward thinking and then again, I just want to prompt a reminder, they have a dry brush pile that the fire department might be concerned about and there's trespassing on adjacent properties, because they have chairs set up that the public is using there. So just a little problem to remind that so that's a lot of many concerns and there will be more voice in the future. Thank you.

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From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Thu, Jun 15 3:49 PM for (510) 981-7410, another anonymous 705 Euclid communication
Date: Friday, June 16, 2023 2:49:14 PM
Attachments: [581577.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Thursday, June 15, 2023 3:55 PM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Thu, Jun 15 3:49 PM for (510) 981-7410



You received a phone call from UNKNOWN on Thu, Jun 15 3:49 PM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good Thursday afternoon zoning board message regarding 705 Euclid. I understand of course that it's not up to you to determine the Sterling characters of the people who you know our neighbors to each other in the city, but I do want to communicate again. That there has been significant trespass onto my property because of chairs set up on that empty lot by the quarries Michelle Cory. The dad indicated that he had every intention to leave those chairs there as long as people wanted to use them. They have contributed to degradation. Frankly of my lift experience here because all the years decades that that lot has been vacant. Nobody has trust passed across there with the consistency that has happened making an actual Trail onto the back part of my property here and it. Frankly reflects quite adequately the energy that those two men Michelle and his son torque have

brought to my home and my life with this you know coming around to get signed off on plans and I when I met Target Corey to discuss the plans I indicated to him three times. This is stranger to me and I ended welcomed him. I told her I want to I told him I want you to know you're welcome here and and I said I'm also I am not a neighbor to drop by do not come by my house three times and different ways. I said to him do not come by my house unless it's an emergency that you cannot get handled some other way or that that is going to impact me. I am not a drop by neighbor and multiple times he and his dad have endeavored to push their way onto this property here where I live and I it is so reflective of the energy that they are bringing this violent building this giant oversized monstrosity, you know, and frankly the trespassing has got to stop or there's going to be some other kind of a consequence for them. So if they need to put a fence up then they need to put a fence up, but it's got to stop that people strangers or then whoever is coming across this property and they need to clear up that pile of dry sticks that is a fire hazard that I've had to do testing on my property in order to meet the code for the fire department and yet there is this huge pile of dry sticks out there on their lot. So, I don't know who I need to talk to to get something done here. But this is nonsense and whatever criminal activity of thousands of dollars. It might take to get your plans passed in a place like this but this is all so much violation of City codes that are here to protect the privacy and the space of these you know and you can go ahead and think that we're all whiners up here and spoiled and whatever else, but the fact is there codes that protect the privacy. The light the air and the size of residence is in this area. So I would like some human man or woman to stand up for what's true and right and put these people in line, frankly, it would be better in la this design is a nice la Canyon thing or maybe overload by the Claremont, but it is not in North Berkeley design and I'm born and bred right here. So you know you're going to hear about it and there needs to be some change and there needs to be some response to what I'm communicating about what's happening right now because of that property and the people who have taken it over blessings have blessed weekend. I hope you all get outside and enjoy some Sunshine and leave your phones at home and you know get away from screens and stuff. So that you can get back to Sandy instead of worrying about money as the primary focus blessings.

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From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Tue, Jun 06 8:13 AM for (510) 981-7410, 705 Euclid anonymous comment
Date: Tuesday, June 06, 2023 11:31:49 AM
Attachments: [571651.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Tuesday, June 06, 2023 8:17 AM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Tue, Jun 06 8:13 AM for (510) 981-7410



You received a phone call from UNKNOWN on Tue, Jun 06 8:13 AM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good morning zoning board. This message is regarding 705 Euclid. I have a question for pondering, which is if it's called a public hearing but you don't hear the public and then you make a decision allegedly based on the hearing and if she's brought up at the hearing that is in conflict with the people who wish to Express themselves. I'm confused about how that's a public hearing it seems like maybe it's miss measuring from the outset from the very first step, it's dishonest. I understand you got a lot of projects and all of that. But then the other is a request there have been a lot of trespassers and encourages on my property here, which is adjacent there is a path well worn from chairs that the quarries have set up that the public uses coming off of Hall can walk and I'm wondering if it could be since there are several months now before or anything changes going to occur could that whole can

walk be fenced off, so that those chairs are not accessible to the public and there's you know there's a concern for her injury certainly somebody falling down that steep slope. If they were drunk or something and then also I've had personal item disappear from well onto my Garden. And lastly, there is a brush fire pile that could certainly be caught on fire since I know that that is a great concern for the city. So I just am wondering if that could be fenced off to prevent further problems with this project and to the neighborhood relations. Thank you so much.

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From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Tue, Jun 13 8:39 AM for (510) 981-7410, another anonymous comment on 705 Euclid, ZP2022-0104
Date: Tuesday, June 13, 2023 1:52:23 PM
Attachments: [578226.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Tuesday, June 13, 2023 8:43 AM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Tue, Jun 13 8:39 AM for (510) 981-7410



You received a phone call from UNKNOWN on Tue, Jun 13 8:39 AM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good morning zoning board calling regarding the property at 705 Euclid good Tuesday morning calling to me that maybe outside the purview of zoning, but of the residential design, I want to refer you all to the sleep studies of Matthew Walker. I believe he's at U C S F and the natural biological needs. The organising on the human organism for healthy sleep, which is an epidemic of of poor quality sleep and the result and inefficiency and disease and accidents and things that happened because of bad sleep, we need darkness and we need coolness in order to sleep well and the building design with the front facing bedrooms, you know, I realize that this is you know, it's an ego project. It is not designed with the comfort of the residence or compliment to the neighbourhood or consideration even for the neighborhood. It's just a really a brutal assault of a design of a glass box that's

a masculine ego problem. This could be a beautiful tree house design it could have a Cliff dweller kind of a flavor to it. I could have you know, there's no consideration for the habitat that's being lost in terms of planting around because the orientation is poor the patio off the kitchen with with the North sort of a northern face exposure onto a public pathway and onto the looming over Lords in the in the house above, you know looking down out of their windows into their private space. It's all very poorly design that will gather dust and create what Eddie's it's in Chateau for the time of the year, when you might want the most son in the winter. It's a very bad design. It's it is absolutely and assault to this neighborhood onto berkeley's reputation for Ecology and visionary of activism and and you know graceful Architecture. It's really an insult and it's also too much square footage, you know, I think I guess it's just the money thing for for the city at this point and you know, that's that's a it's a shame if this project proceeds as it is it's a it's a it's a shame and a scar and a blight on all future projects in the city for a residence. It's a it's a very bad precedent to set here blessings have great day.

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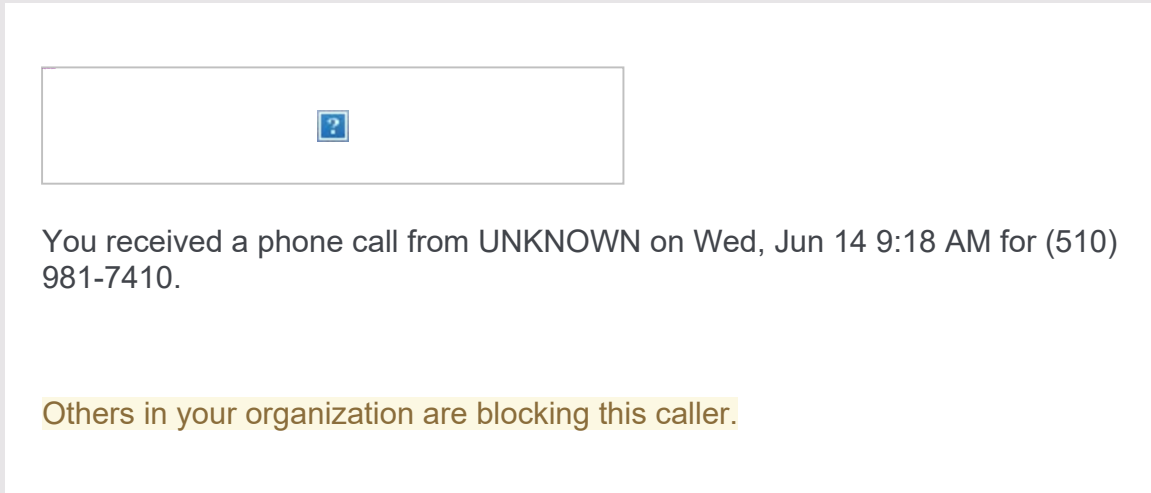
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From: [Sanford, David](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Wed, Jun 14 9:18 AM for (510) 981-7410, another anonymous 705 Euclid comment
Date: Thursday, June 15, 2023 10:50:07 AM
Attachments: [579550.wav](#)

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Wednesday, June 14, 2023 9:22 AM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Wed, Jun 14 9:18 AM for (510) 981-7410



You received a phone call from UNKNOWN on Wed, Jun 14 9:18 AM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Good morning zoning board. This message is regarding 705 Euclid and the plans there on I am concerned about a efficiency of solar panels up here on the fog belt and whether they will be able to power the requirements for this household which is by my brief conversations the implication is that there's a lot of electronic window things and blinds and different things happening along with an elevator have the plans here. I'm concerned about you know what they are actually creating is being created out of the ignorance of this Micro climate up here. I understand solar panels have only about an 80% efficiency rate when they are overcast to which it often is up here when it's sunny where these people live presently in Albany so they may be a little bit deceived about conditions in this place and I know they haven't spent time here, but have instead referred to apps on their phones to

understand how the sun tracks over their property. It's just insane to me, maybe they don't intend to live there. That might be another thing that they are just doing a spec health collaborative spec house, which is too bad cause it's and assault on the neighborhood is have communicated and along with that this concern about solar panels, which are not included on the plans. I am concerned that if there's any more height added especially to that little peek over the elevator. It's gonna block my view of the Richmond San Rochelle Bridge, which is my favorite Bridge and that would be absolutely intolerable to me and I don't want glare off solar panels. Either. So anyway that this property being undeveloped needs extreme consideration for Amelia ration, not just mitigation but but actually improving the habitat that it's taking so it could be pollinate or habitat on the Green roof, you know all kinds of great design ideas, but it's my understanding that these people are really just pushing this terrible terrible ugly block build through and they're trying to do that somehow with somebody is approval up there and you know, it's really insensitive so I'm not really looking forward of these people as neighbors because of how they are behaving presently. So I hope that there will be some new consideration offered and we'll look forward to September have great days.

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From: [Mariscal, Cecelia](#)
To: [Roe, Russell](#)
Subject: FW: Call From UNKNOWN at Wed, May 31 5:32 PM for (510) 981-7410, 4705 Euclid Proposed Plan Opposition Statement
Date: Friday, June 02, 2023 3:16:55 PM
Attachments: [566812.wav](#)

Internal

From: Sanford, David
Sent: Thursday, June 1, 2023 8:47 AM
To: ZoningCounter <ZoningCounter@berkeleyca.gov>
Subject: FW: Call From UNKNOWN at Wed, May 31 5:32 PM for (510) 981-7410, 4705 Euclid Proposed Plan Opposition Statement

Forwarded to Rusell Roe on 6/2 at 3:15pm.

Internal

From: voicemail@cityofberkeley.info <voicemail@cityofberkeley.info>
Sent: Wednesday, May 31, 2023 5:37 PM
To: Sanford, David <DSanford@berkeleyca.gov>
Subject: Call From UNKNOWN at Wed, May 31 5:32 PM for (510) 981-7410



You received a phone call from UNKNOWN on Wed, May 31 5:32 PM for (510) 981-7410.

Others in your organization are blocking this caller.

Message

Yeah, this message is for the zoning board regarding the proposed plans 4705 Euclid. I stood in opposition to the plans and have made an extensive list mister daffy gave a nod and said to me to come back and and tell he only allowed me to say two things before he cut me off and is my understanding that there are several people there who were posing the project. I am concerned that there is some kind of a of you know behind the scenes deal making going on here because the neighbors around here are opposed to the project as it stands and it is kind of an assault on the environment on the landscape. It's Stark a texture as I call it and it really doesn't have a place here if it gets any taller, I know that the plans I have a copy of the plans and I know that they don't include the solar panel height and if it goes any higher than it is right now. It's going to be blocking my view of my favorite Bridge, which is the Richmond San Rochelle Bridge and I know views are thing here and in the Berkley Hills and I both separately at this point now since I've been waiting and waiting to attend another meeting where these people would defend their plans. I wrote them a letter I left three voice mails prior for the zoning board on specific at the time they were I could selected whoever but I don't know who received the message and then I attended that meeting in opposition and it was a first time in my life that I felt pat empowered to create change and the City of Berkeley. It seems like it might be sliding into average suburbia sleeping community. This you know, it's really an assault on the environment and on the neighborhood and I'm opposed to it. I'm at 706 Hill Dale and I'm joining the appeal both differently I will be joining the appeal opposing this development because it's an assault on the landscape and a visual assault to the neighbourhood heat glare wind vectors and conditions that's going to make a wind tunnel. It's poorly designed for the comfort of occupants, which should be the architects primary concern. It never mind being an agreed with a fence to the aesthetic of anybody who cares about nature. So that's my for the moment feedback and you know again, it's really disappointing to have attended that meeting deliberately and in person and two again have felt empowered to have an effect on an influence on on this and then to know that it's been just been sneaked through so that's gonna result in equal an opposite reaction. If you will Newton, third law motion blessings cancel this plan. It's really a disaster and it's in violation of the city code itself. Five stories is violation of the three story limit blessings.

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This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6900

or from:

The City of Berkeley's Website
<http://www.berkeleyca.gov>

Attachment 8

**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL
SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET
ZAB APPEAL: 705 EUCLID AVENUE, USE PERMIT #ZP2022-0104**

The public may participate in this hearing by remote video or in-person.

Notice is hereby given by the City Council of the City of Berkeley that on **SEPTEMBER 26, 2023** at 6:00 PM a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Use Permit #ZP2022-0104, to construct a new three-story (41 feet and 11 inches), 4,528 square foot single family dwelling with two parking spaces and associated retaining walls located in the setbacks, on a 6,024 square foot vacant lot

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **September 18, 2023**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Russell Roe, Project Planner, (510) 981-7548 or rroe@berkeleyca.gov. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mark Numainville, CMC, City Clerk

Mailed: September 12, 2023

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City Council decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the City Council action. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage prior to the public hearing.