



**REVISED AGENDA**  
**(ADDED CONTINUED ITEMS FROM NOVEMBER 3, 2022)**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, November 15, 2022**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

*Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83640362532>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **836 4036 2532**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.*

## Preliminary Matters

### Roll Call:

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

**Ceremonial Matters:** *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

**City Manager Comments:** *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

**Public Comment on Non-Agenda Matters:** *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

## Consent Calendar

*The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar or Information Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".*

*No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to "Action." Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.*

*For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

**Public Comment on Consent Calendar and Information Items Only:** *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

*Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.*

## **Consent Calendar**

### **1. Minutes for Approval**

**From: City Manager**

**Recommendation:** Approve the minutes for the Council meetings of September 6 (closed), September 13 (special and regular), September 19 (closed), September 20 (closed, special and regular), September 29 (closed and regular), October 11 (special and regular), October 20 (closed), and October 28 (closed).

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, (510) 981-6900

### **2. Appointment of the Chief of Police**

**From: City Manager**

**Recommendation:** Adopt a Resolution confirming the appointment of Jennifer Louis as the Chief of Police to be effective November 27, 2022 at an annual salary of \$256,125.

**Financial Implications:** See report

Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

### **3. Renewal of the Elmwood Avenue BID for Calendar Year 2023**

**From: City Manager**

**Recommendation:** Adopt a Resolution approving the Elmwood Business Improvement District Advisory Board's (hereafter "Elmwood BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2022 Annual Report and preliminary budget for proposed improvements in the District for calendar year 2023; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2023 and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for December 6, 2022.

**Financial Implications:** See report

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

## Consent Calendar

**4. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 15, 2022**

**From: City Manager**

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** Various Funds - \$11,384,039

Contact: Henry Oyekanmi, Finance, (510) 981-7300

**5. Contract: Station Automation Inc., DBA PSTrax for Real-time, Paperless Check-off and Asset Management Software**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into a contract with Station Automation Inc., DBA PSTrax for real-time, paperless check-off and asset management software, for a total amount not to exceed \$125,000.

**Financial Implications:** Measure Q Fund - \$125,000

Contact: David Sprague, Fire, (510) 981-3473

**6. Contract No. 32000116 Amendment Genasys, Inc. for Outdoor Warning System**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000116 with Genasys, Inc. for Outdoor Warning System, increasing the amount by \$200,000 for a total not to exceed amount of \$2,174,457.

**Financial Implications:** Measure FF Public Safety - \$200,000

Contact: David Sprague, Fire, (510) 981-3473

**7. Contract: Harold Dichoso for Providing Temporary Consulting Services for the Health, Housing, and Community Services (HHCS) Department.**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with Harold Dichoso for providing consulting services to the Department of Health, Housing, and Community Services Office of the Director related to the Health Justice Internship Program for a term of 8 months. The total not-to-exceed contract amount is \$90,000.

**Financial Implications:** Bioterrorism Grant Fund - \$90,000

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

## Consent Calendar

8. **Measure P: Contract No. 31900273 Amendment- Bay Area Community Services (BACS) North County Housing Resource Center – Shallow Subsidy Program and Contract No. 32200051 Amendment: WeHOPE for Mobile Showers and Laundry Services**

**From: City Manager**

**Recommendation:**

1. Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900273 with Bay Area Community Services (BACS) to amend the scope of work to shift up to \$637,550 in unspent funds from the Measure P General Fund - funded Shallow Subsidy Program to a Flexible Funding Pool Program.

2. Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32200051 with WeHOPE to add \$127,380 for an amount not to exceed \$375,667 to provide mobile shower and laundry services through June 30, 2023.

**Financial Implications:** See report

Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

9. **New Classification Deputy City Attorney IV**

**From: City Manager**

**Recommendation:** Adopt a Resolution to expand the Deputy City Attorney series by establishing the Deputy City Attorney IV classification with a monthly stepped salary range of \$15,936.37 - \$19,593.60 effective November 15, 2022.

**Financial Implications:** None

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

10. **Amendments to On-Call Waterfront Engineering, Design, Environmental Permitting and Construction Administration Services Contract No. 32000261 with COWI North America, Inc, and Contract No. 32000263 with Transystems Corporation**

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute amendments to Contract No. 32000261 with COWI North America, Inc., and Contract No. 32000263 with Transystems Corporation, for on-call waterfront engineering, design, environmental permitting and construction administration services by increasing the contract amount by \$1,000,000 and the duration by twelve months each, from June 30, 2023 through June 30, 2024, to a total not-to-exceed amount of \$2,000,000 each.

**Financial Implications:** See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

## Consent Calendar

- 11. Contract Awards: Sharjo, Inc. dba ServiceMaster Recovery Management and Belfor USA Group, Inc. for on-call Emergency Restoration, Mitigation and Remediation Services**  
**From: City Manager**  
**Recommendation:** Adopt two Resolutions authorizing the City Manager or designee to execute the following contracts for on-call emergency restoration, mitigation and remediation services, each for a period of December 1, 2022 through December 31, 2025:
1. Sharjo, Inc. dba ServiceMaster Recovery Management for an amount not to exceed \$150,000.
  2. Belfor USA Group, Inc. for an amount not to exceed \$150,000.
- Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300
- 12. Contract No. 10413B Amendment: LAZ Parking LLC for Managing City-Owned Off-Street Parking Facilities**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10413B with LAZ Parking, LLC, a parking management company, to provide management services for the Telegraph Channing, Oxford, and Center Street Garages, extending the term to December 31, 2024 and increasing the contract amount by \$5,162,424 for a total not-to-exceed of \$16,252,375.  
**Financial Implications:** Off-Street Parking Fund - \$5,162,424  
Contact: Liam Garland, Public Works, (510) 981-6300
- 13. Contract No. 10340 (ERMA 111976-1) Amendment: HF&H Consultants, LLC for the Update of Rate Model**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10340 (ERMA 111976-1) with HF&H Consultants, LLC for the Update of the Zero Waste Rate Schedules, extending the term to June 30, 2025, and increasing the contract by \$75,000 for a total contract amount not to exceed \$325,000.  
**Financial Implications:** Zero Waste Fund - \$75,000  
Contact: Liam Garland, Public Works, (510) 981-6300
- 14. Contract No. 117610-1 Amendment Columbia Electric, Inc. for On-Call Electrical Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 117610-1 with Columbia Electrical, Inc., increasing the current contract by \$300,000 for a total not to exceed amount of \$375,000 and extending the contract through June 30, 2025.  
**Financial Implications:** General Fund - \$300,000  
Contact: Liam Garland, Public Works, (510) 981-6300

## Consent Calendar

**15. Sewer and Access Road Easement and Installation Agreements with Paulonia Investment, LLC and Little Tree Investment, Inc., and James Robert Higgins and Summary Vacation of Existing Sewer Easements**

**From: City Manager**

**Recommendation:**

1. Adopt first readings of three Ordinances authorizing the City Manager to execute easement and installation agreements and any amendments for sewer pipe facilities with:

A. Paulonia Investment, LLC and Little Tree Investment, Inc. for extending, operating, maintaining, and accessing sewer pipe facilities on parcel with APN 063-2969-034-23, and

B. James Robert Higgins for extending, operating, maintaining and accessing sewer pipe facilities on 1033 Miller Avenue (APN 063-2969-034-25) and

C. Paulonia Investment, LLC and Little Tree Investment, Inc. on parcel with APN: 063-2969-034-44 for accessing sewer pipe facilities.

2. Adopt a Resolution to summarily vacate the existing sewer right-of-way easement and sewer reserve easement on parcel with APN 063-2969-034-23.

**Financial Implications:** See report

Contact: Liam Garland, Public Works, (510) 981-6300

**16. Reinstate Burma (Myanmar) on Berkeley's Oppressive States List**

**From: Peace and Justice Commission**

**Recommendation:** Adopt a Resolution to reinstate Burma (Myanmar) on Berkeley's Oppressive States list; to urge the federal government to strengthen sanctions on the military regime including on its Myanmar Oil and Gas Enterprises (MOGE), and to recognize and support the Burma National Unity Government (NUG), including ensuring the continued representation of Burma at the United Nations by U Kyaw More Tun. Send copies of the Resolution to the congressional delegation and other federal leaders.

**Financial Implications:** Staff time

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

## Council Consent Items

**17. United Against Hate Week 2022**

**From: Mayor Arreguin (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Recommendation:**

1. Adopt a Resolution declaring November 13th – 19th, 2022 as United Against Hate Week.

2. Adopt a Resolution approving the D-13 expenditure in an amount not to exceed \$250 per Councilmember, to support the film screening of "Repairing the World" in Berkeley with residuals going to Not in Our Town for United Against Hate Week.

**Financial Implications:** Mayor's Discretionary Funds - \$250

Contact: Jesse Arreguin, Mayor, (510) 981-7100

## Council Consent Items

**18. Resolution Supporting Removal of Cuba from the U.S. State Sponsor of Terrorism List**

**From: Councilmember Harrison (Author), Councilmember Wengraf (Co-Sponsor), Mayor Arreguin (Co-Sponsor)**

**Recommendation:**

1. Adopt Resolution supporting removal of Cuba from the U.S. State Sponsor of Terrorism List; and
2. Refer to the City Clerk to send copies of the resolution and letters to Representative Lee and Senators Feinstein and Padilla.

**Financial Implications:** Staff time

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

**19. Adopt an Ordinance Adding a Chapter 11.62 to the Berkeley Municipal Code to Regulate the Use of Carryout and Produce Bags and Promote the Use of Reusable Bags** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee)*

**From: Councilmember Harrison (Author), Councilmember Hahn (Author)**

**Recommendation:**

1. Adopt an ordinance adding a Chapter 11.62 to the Berkeley Municipal Code to regulate the use of carryout and produce bags and promote the use of reusable bags with a phased enforcement and implementation approach, effective with respect to new charges for bags pursuant to Sections 11.63.040 and 11.63.050 and provisions applicable to the City of Berkeley and City-sponsored events pursuant to Section 11.63.090 on January 1, 2023, and administrative regulations for and all provisions in this ordinance effective June 30, 2023.

2. Refer to the City Manager and Public Works to consider a Zero Waste rate modification with an anticipated net-zero impact on General Fund to provide additional staffing capacity consistent with business and community outreach, support services, implementation, and phased enforcement of this ordinance and other plastic reduction ordinances. Out of an abundance of caution, and in the event that additional or alternative staffing resources are needed beyond a potential rate increase, refer to the Fiscal Year 2023 AAO #1 Budget Process up to \$350,000 per year for staffing for this ordinance and other plastic reduction ordinances.

*Policy Committee Recommendation: To approve the item with a positive recommendation.*

**Financial Implications:** Staff Time - \$350,000 per year

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140



## Council Consent Items

**20. The Berkeley Baby Book Project: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**

**From: Councilmember Wengraf (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$125 per Councilmember, including \$125 from Councilmember Wengraf, to support the Berkeley Baby Book Project, a non-profit, with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf and all other Councilmembers who would like to contribute, will provide books to Berkeley children aged 0-5 years. The books are delivered by USPS and addressed to the child who owns them at no cost to their family. \$125 covers one book delivered to one child every month for 5 years.

**Financial Implications:** Councilmember's Discretionary Funds - \$125

Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

**21. Budget Referral: Closing the Southside Complete Streets Funding Gap**

**From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Refer \$1,000,000 to the FY 2023 AAO #1 process to contribute to closing the funding gap for the Southside Complete Streets project to ensure that construction on Bancroft, Dana, & Fulton can proceed on schedule and to prevent the loss of \$7.3M in federal funding.

**Financial Implications:** \$1,000,000

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**22. Referral: Establishing an Electric Bike Rebate Program and Expanding Low-Income E-Bike Ownership through the Climate Equity Action Fund**

**From: Councilmember Robinson (Author), Councilmember Harrison (Author), Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Refer to the City Manager to establish a two-tiered point-of-sale rebate program to reduce the up-front cost of electric bicycles and necessary safety and security accessories for Berkeley residents, including: -Rebate Level 1: a point-of-sale rebate to be made available to all City of Berkeley residents; -Rebate Level 2: a point-of-sale rebate that covers a higher percentage of the cost than Rebate Level 1, to be made available to low-income City of Berkeley residents.

Refer \$500,000 to the FY 2023 AAO #1 process as follows: -\$400,000 for the point of sale rebate program; -\$100,000 in supplementary funding towards the Climate Equity Action Fund (CEAF) to further facilitate e-bike ownership among low-income Berkeley residents.

**Financial Implications:** See report

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

## Action Calendar

*The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.*

## Action Calendar

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

*Action items may be reordered at the discretion of the Chair with the consent of Council.*

## Action Calendar – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

### **23. Adoption of the 2022 California Fire Code with Local Amendments**

**From: City Manager**

**Recommendation:**

1. Adopt the first reading of an Ordinance repealing the Berkeley Fire Code (Berkeley Municipal Chapter 19.48) and reenacting BMC Chapter 19.48;
2. Adopt a Resolution setting forth findings of local conditions that require more stringent building standards than those provided by the 2022 California Fire Code ("CFC") and rescinding Resolution number 69,178–N.S.;
3. Conduct a public hearing and upon conclusion, adopt a Resolution establishing annual permit fees, inspection and billing rates for inspection of property sites by the Berkeley Fire Department, and rescinding Resolution number 69,179–N.S. and all Resolutions amendatory thereof.
4. In compliance with state law on adopting such codes by reference, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 6, 2022.

**Financial Implications:** See report

Contact: David Sprague, Fire, (510) 981-3473

## Action Calendar – Public Hearings

**24. Implement Residential Preferential Parking (RPP) Program on the 1900 Block of Vine Street and the 3000 Block of Martin Luther King Jr. Way**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25E and Section 25M by adding a subsection to implement Residential Preferential Parking (RPP) on both sides of the 1900 Block of Vine Street in RPP Area E and the west side of the 3000 Block of Martin Luther King Jr. Way in RPP Area M.

**Financial Implications:** See report.

Contact: Liam Garland, Public Works, (510) 981-6300

## Action Calendar – New Business

**25. Update on BPD efforts related to the Improving Hate Crimes Reporting and Response Referral**

**From: City Manager**

Contact: Jennifer Louis, Police, (510) 981-5900

## Action Calendar – Continued Business – Public Hearings

*Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak use the "raise hand" function to be recognized and to determine the number of persons interested in speaking at that time.*

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

*Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.*

**A. ZAB Appeal: 2018 Blake Street, Use Permit #ZP2021-0095 (Continued from November 3, 2022) (Item contains supplemental material)**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units), and dismiss the appeal.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Action Calendar – Continued Business – Public Hearings

- B. ZAB Appeal: 1643-1647 California Street, Use Permit #ZP2021-0001** *(Continued from November 3, 2022)*  
**From: City Manager**  
**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.  
**Financial Implications:** None  
Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Information Reports

- 26. LPO NOD: 2119 Marin Avenue/#LMIN2022-0002**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 27. LPO NOD: 1325 Arch Street/#LMSAP2022-0007**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 28. LPO NOD: 2081 Center Street/#LMSAP2022-0006**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 29. LPO NOD: 2109 Kala Bagai Way/#LMSAP2022-0008**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400

## Public Comment – Items Not Listed on the Agenda

### Adjournment

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. 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 use permit or variance, 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.*

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the 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 to the City Clerk Department at 2180 Milvia Street. 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 Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at: <https://berkeleyca.gov/your-government/city-council/city-council-agendas> and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor  
Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries: Main – 2090 Kittredge Street,  
Claremont Branch – 2940 Benvenue, West Branch – 1125 University,  
North Branch – 1170 The Alameda, South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.



Captioning services are provided at the meeting, on B-TV, and on the Internet.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 8, 2022.***

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through [Records Online](#).*

### **Adeline Street Redesign**

1. Pablo Diaz-Gutierrez
2. Jane Scantlebury
3. Tommaso Sciortino

4. Teresa Clarke
5. Abbie Turiansky
6. John Givens
7. Jeffrey Wescott
8. Laura Stevens
9. Sabina McMurtry
10. Nat Kane

**All-Day All-Night Festival Noise**

11. Kelly Zito

**State Required Housing – RHNA Housing Allocation**

12. Margaret Pritt

**Catalytic Converter Crime**

13. Karl Reeh

**Energy Efficient Holidays**

14. Christopher La Combe

**RHS**

15. Anna Avellar

**Hopkins Corridor**

16. Todd Andrew
17. Margot Smith
18. Luther Miller
19. Evelyn Larsen
20. Meg and Dan Holm
21. Joshua Bloom
22. David Kessler
23. Lisa Oglesby
24. Commission on Aging

**Measure L**

25. Finance Department (2)
26. Justin Lee

**COVID-19 Masking Policies**

27. Rainbow Rubin

**UC Berkeley Safety Concerns**

28. Maria Rosino-Miracco

**Hearst Garden/Cottages at 1155-1173 Hearst Avenue**

29. Tracey Emerson

30. Dale Anania

**Housing Element**

- 31. Janis Ching
- 32. Richard Illgen
- 33. Rahel Smith
- 34. Natalie Hanson
- 35. 18 similarly-worded form letters

**Middle Housing**

- 36. Kyle Scott

**Live Transcription**

- 37. Max Ventura
- 38. Margot Smith

**People's Park**

- 39. Holly Scott Cayce
- 40. Marc Sapir
- 41. Dale Alexander

**5G Forests**

- 42. Vivian Warkentin

**Phone Bank Lists**

- 43. Samuel Kim, on behalf of Racial Justice and Advocacy Program

**1600 Block Woolsey Health and Safety Issues**

- 44. Joshua Landerfelt (2)

**Native Landscaping – Less-Thirsty**

- 45. Franziska Raedeker

**Codornices Creek Issue**

- 46. Friends of Five Creeks (2)
- 47. Peter Radu, on behalf of Neighborhood Services

**1201-1205 San Pablo Avenue**

- 48. Reed Schwartz
- 49. Tony Benado

**Parking Ticket**

- 50. Dawn Howard

**2065 Kittredge Street – Appeal Use Permit #ZP2021-0193**

- 51. Alisha Pember, on behalf of Adams Broadwell Joseph and Cardozo

**Crime in Berkeley**

52. Tony Benado

53. Alexander Merenkov

**Segregation in Berkeley Persists**

54. Aimee Baldwin

**Neighborhood Noise**

55. Paola Bacchetta

**AT&T Box Safety Hazard**

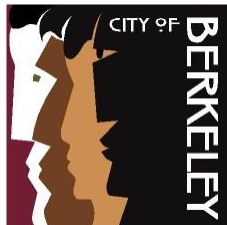
56. Immanuel Buder

**Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.





Office of the City Manager

**SUPPLEMENTAL  
AGENDA MATERIAL  
for Supplemental Packet 1**

**Meeting Date: November 3, 2022**

**Item Number: 33**

**Item Description: ZAB Appeal – 2018 Blake Street (Use Permit #ZP2021-0095)**

**Submitted by: Jordan Klein, Director, Planning and Development Department**

On October 11, 2022, Council conducted a hearing on an appeal of the decision of the Zoning Adjustments Board to approve a development application for the property at 2018 Blake Street. During the hearing, members of City Council identified errors in *Attachment 1, Exhibit A Findings and Conditions*, and also raised a number of outstanding questions. City Council continued the public hearing to November 3, 2022 and requested that the City Manager provide resolution on paragraphs 49 and 50 of the Findings and Conditions, and provide information on the requirement for an on-site manager unit.

This supplemental material includes corrections to *Attachment 1, Exhibit A Findings and Conditions* and a memo that describes the corrections, and addresses the potential requirement for an on-site manager unit.

This memo provides background information regarding compliance with the City of Berkeley's affordable housing mitigation fee requirements for new housing developments, corrections to *Attachment 1, Exhibit A Findings and Conditions*, and the requirement of an on-site manager unit.

#### Background on Affordable Housing Requirements

BMC Section 22.20.065 establishes an affordable housing mitigation fee program for rental housing that was adopted in response to the Palmer decision, which prohibited local agencies from establishing base rents for new rental units. The default method of compliance is the payment of a mitigation fee for the impact of new development on the affordability of housing in the city. That fee is collected on a per-unit basis; i.e., projects pay the fee according to the current rate multiplied by the number of units at the time of issuance of a building permit (\$43,185 per unit), or at a slightly higher rate if the fee is paid at the time of occupancy (\$46,185 per unit).

An alternative means of compliance is to provide deed-restricted affordable housing units in the project. To fully avoid paying the fee, these units must equal 20% of the total number of units in the project, and must include very-low-income and low-income units. According to the ordinance, in "projects providing more than one below market rate unit (meaning the combination of Low-income Units and Very Low-Income Units), at least 50% of the units shall be affordable to Very Low-income Households. When there is an uneven number of units provided under this ordinance, the majority of the below market rate units shall be Very Low-Income units."

According to the ordinance and guidelines, affordable units must be equally distributed among the unit types and locations of all units in the project.

If the project elects to provide affordable units in lieu of payment of a portion of, or the entire fee, then prior to the issuance of a building permit, the project proponent enters into a regulatory agreement with the City to implement unit affordability requirements in compliance with the affordable housing mitigation fee and density bonus laws. The regulatory agreement is submitted to the Health, Housing and Community Services Department for review and approval, and payment of fees is required prior to building occupancy.

#### Corrections to Attachment 1, Exhibit A Findings and Conditions

Council noted that there were inconsistencies among some of the conditions of approval, project description and staff report analysis. The project was originally submitted with one very-low-income unit intended to satisfy this requirement. During the review process, the project was revised to include two low-income units. These units were intended to qualify the project for a density bonus under State law, Government Code 65915, which provides a 50% bonus for providing 15% very-low-income units or for providing 24% low-income units.

This revision resulted in a discrepancy between the density bonus and local inclusionary requirements. As a result, the project as proposed would have obtained a density bonus but would have been required to pay a mitigation fee for all of the units (no credit would be provided under the local inclusionary ordinance). The project proponents could have

proceeded with that outcome, or they could have revised the project up to the time of obtaining a certificate of occupancy to enter into a regulatory agreement for inclusionary units and/or a fee. The final arrangement would have been reviewed for compliance with all applicable regulations and approved as part of the normal course of closing out the use permit and building permit.

The draft conditions of approval have been amended to clarify that any combination of units and fees may be used to satisfy the inclusionary ordinance, and that units must be provided to satisfy density bonus law, without specifying precisely how that would be accomplished, because it is the applicant's prerogative to determine the method of compliance.

City Council also noted that the table included in Condition 51, which establishes the applicable area median income for the purpose of determining the allowable rent for each unit, did not include rows for four- and five-bedroom units (which the project includes). The table has been expanded to include the larger sized units. (Note that the numbering of the Conditions in the document has changed due these revisions.)

### On-Site Manager

The California Code of Regulations provides, at Title 25, section 42, that a manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of an apartment house or hotel does not reside upon said premises. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating the owner's name and address, or the name and address of the owner's agent in charge of the apartment house, shall be posted in a conspicuous place on the premises. This provision is echoed in the BMC, Title 19, as part of the Housing Code.

The City must establish a nexus based on substantial evidence in order to impose a condition of approval requiring an onsite manager. Existing regulations do not require that a 12-unit building must have an on-site manager. However, the special design characteristics of this project could indicate a need for an on-site manager, due to the high number of bedrooms / residents, regardless of the unit count. Also, Group Living Accommodation (GLA) regulations, which may be analogous if not directly applicable, indicate that an off-site manager and on-site responsible resident will be provided for a project with more than 15 residents.

**ATTACHMENT 1, EXHIBIT A**  
**FINDINGS AND CONDITIONS**  
NOVEMBER 3, 2022

## 2018 Blake Street

**Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 dwelling units.**

### **PERMITS REQUIRED**

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- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district.

### **CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918**

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- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2<sup>nd</sup> floor) and rear yard setback (above the 3<sup>rd</sup> floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

### **I. CEQA FINDINGS**

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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 §15332 (“In-Fill Development Projects”).  
The project meets all of the requirements of this exemption, as follows:
  - A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
  - B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
  - C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
  - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
  - E. The site can be adequately served by all required utilities and public services.
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. DENSITY BONUS FINDINGS**

1. Pursuant to Government Code Section 65915, the City Council finds that:
  - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 8 units;
  - B. The project will provide qualifying units in the eight-unit "base project", as more fully set forth in Conditions 48 to 52;
  - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f). This equates to a density bonus of four units above the Base Project, for a total of 12 units.
2. In accordance with Government Code Section 65915(e) the City Council hereby grants the following waivers:
  - A. Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
  - B. Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

State law requires the City to modify development standards as necessary to accommodate the density bonus units. These waivers are consistent with the City's guidelines for implementation of State density bonus law because they retain fidelity between the base project and density bonus project while accommodating the housing development project.

3. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the City Council finds approval of waivers is required to construct the proposed project at the density permitted under State law; approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and approval of the requested waivers would not be contrary to State or Federal law.

**III. FINDINGS FOR APPROVAL**

1. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
  - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
  - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) applies to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified. The project, with density bonus units, includes construction of 12 dwelling units at an average size of 1,053 square feet.

2. As required by Section 23.406.040(E)(1) of the BMC, the City Council finds that 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. The base project is consistent with all applicable R-4 District standards that establish the maximum allowable gross residential density and the project qualifies for waivers of the listed district standards granted pursuant to State Density Bonus, Government Code Section 65915;
  - B. The project follows a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved use permit for a six-story, community care facility for seniors at 2000 Dwight Way, and the approved use permit for a seven-story, multi-family building at 2015 Blake. The proposed project will provide new housing in a location with easy access to public transit and nearby commercial services and stores, and will fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.
  - C. Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building. However, the shadow impacts on any one adjacent property will occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Therefore, the shadow impacts are found to be reasonable and non-detrimental.
  - D. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.
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**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 and 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 of Zoning Adjustments. 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. Pay Transparency Acknowledgement (BMC Section 13.104.030)**

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

**10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)**

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

**11. Posting of Ordinance (BMC Section 13.104.050)**

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.



**12. Conditions of Approval (BMC Section 13.104.060)**

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

**13. 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 23.404.050(H), the City Council attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

**14. 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 #

**15. Final Design Review.** The Project was referred by ZAB to the Design Review Committee (DRC) for design review. The applicant shall obtain approval of a Final Design Review (FDR) application by the DRC. The applicant shall present plans at FDR that incorporate visual enhancements to the east and west facades of the building, as discussed by the ZAB at the May 26<sup>th</sup> hearing.

16. 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 in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.

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

17. 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.
18. 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](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**

19. Percent for Public Art: Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
20. 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.
21. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
22. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.
23. 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<sub>o</sub>) for Berkeley is 41.8.

- 24. 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).
- 25. 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).
- 26. 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.

### **During Construction:**

- 27. 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.
- 28. 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's 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.
- 29. 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.

- 30. 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.
- 31. 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.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 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.

- 32. 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.

**33. 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.

**34. 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.

**35. 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.

- 36. 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.
- 37. 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 private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- I. 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.
- J. 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.
- K. 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.
- 38. 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.
- 39. 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.
- 40. 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.
- 41. 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.



- 42. 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.
- 43. 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:**

- 44. 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.
- 45. 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 **March 23, 2022**, except as modified by conditions of approval.
- 46. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
  2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

**BELOW MARKET RATE UNITS**

- 47. Number of Below Market Rate Units.** The project shall provide below market rate rental dwelling units (“BMR Units”) to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement (described below) and may also qualify as inclusionary units for the purpose of satisfying the City’s Affordable Housing Mitigation Fee (AHMF), BMC Section 22.20.065, and fee resolution applicable to this project. The applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, if any, and they shall pay this fee and/or provide in-lieu affordable housing unit(s) pursuant to the BMC and administrative regulations.
- 48.** BMR Units shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
- 49. Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that ensures compliance with Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review. HHCS approval and payment of fees are required prior to occupancy.
- 50.** In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
  - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
  - C. BMR units will be provided for the life of the project pursuant to BMC Section 22.20.065.
- 51. Determination of Area Median Income (AMI)**
- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.
  - The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

| <b>Unit Size</b>   | <b>AMI Standard</b>               |
|--------------------|-----------------------------------|
| Studio unit        | AMI for a one-person household    |
| One-bedroom unit   | AMI for a two-person household    |
| Two-bedroom unit   | AMI for a three-person household  |
| Three-bedroom unit | AMI for a four-person household   |
| Four-bedroom unit  | AMI for a five-person household   |
| Five-bedroom unit  | AMI for a six-person household    |
| Six-bedroom unit   | AMI for a seven-person household  |
| Seven-bedroom unit | AMI for an eight-person household |

52. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

**At All Times:**

53. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
54. 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.
55. 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.
56. 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.
57. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
58. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The Finance Department, Customer Service Center, shall add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
59. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.
60. All exterior lighting shall be shielded and directed downward and away from property lines to





Office of the City Manager

PUBLIC HEARING  
November 15, 2022  
(Continued from November 3, 2022)

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: 2018 Blake Street, Use Permit #ZP2021-0095

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units), and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On June 3, 2021, Huan Fang submitted an application for Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units.

On March 16, 2022, the application was deemed complete.

On May 26, 2022, the ZAB conducted a public hearing for the use permit application. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 8-0-0-1 (Yes: Duffy, Kahn, O' Keefe, Olson, Sanderson, Thompson, Vincent, Tregub; No: None; Abstain: None; Absent: Kim).

On June 7, 2022, staff issued the ZAB Notice of Decision.

On June 21, 2022, the City Clerk received an appeal filing from John De Domenico, resident at 2020½ Blake Street.

On September 22, 2022, staff posted the public hearing notice at the site and three nearby locations, 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. The Council must conduct a public hearing to resolve the appeal.

## BACKGROUND

The immediate environs of the project site consist of one-story commercial/industrial buildings on parcels to the north; one- and two-story, single- and multi-family dwellings on parcels to the west, immediately east (R-4 Multi-Family Residential District) and to the south (R-2A, Restricted Multi-Family Residential District); and one- and two-story commercial buildings (C-AC, Adeline Corridor Commercial District) on parcels beyond the R-4 district, further east of the site. The parcel across the street and to the northeast at 2029 Blake Street (C-AC) is occupied by a recently-constructed, five-story, 82-unit, mixed-use building. Use permits for other large projects were approved within the past two years on the same block: a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake.

The proposed project would involve the removal of remnants of a single-family dwelling and accessory structure that were damaged by fire in 2019, and ordered to be demolished after being deemed unsafe and an immediate threat to health and safety by the City Building Official. In its place, the project proposes to construct a residential building of six stories and 64 feet, 6 inches in height and 12 dwelling units.

The project is eligible for a density bonus under Government Code Section 65915, by including two Low-income units (25 percent of the base project), and qualifies for a 50 percent density bonus, or four bonus units, resulting in a 12-unit density bonus project, with waivers of the side and rear yard setbacks minimums and the lot coverage maximum. The project is also compliant with all applicable, objective general plan and zoning standards, and was approved without reductions to project's density, pursuant to the State Housing Accountability Act (HAA), Government Code Section 65589.5(j)<sup>1</sup> (see further discussion of the HAA in Appeal Issue 1, below).

For additional project background, please see Attachment 3, the ZAB staff report for this project.

## RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2) for the full text.

**Issue 1: The appellants assert that the six-story building would be taller than existing buildings on nearby properties on its block (which are generally one- and two- story development), and would be incompatible with the land uses,**

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<sup>1</sup> The Housing Accountability Act (HAA), Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that the development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

**architectural design and scale of neighboring properties on the south side of Blake street. Shadow impacts from the project on dwellings to west, east and northeast are not reasonable, and can be avoided. These impacts from the project would be detrimental and injurious to property and improvements of adjacent properties, the surrounding area, neighborhood and to the general welfare of the city. Neighbors were told at the ZAB hearing that the decision was already made and was irreversible.**

Response 1: As a residential building with 12 dwelling units, 200 square feet of usable open space per unit, and six stories/65 feet of height, that shares a city block with the C-AC Adeline Corridor Commercial District, the proposed project is consistent with the purposes of the R-4 Multi-Family Residential District and adjacent land uses. The R-4 District provides for relatively high-density residential development; housing for persons who desire both convenience of location and a reasonable amount of usable open space; and protection of adjacent properties from unreasonable obstruction of light and air. The R-2A Restricted Multiple-Family Residential District, which borders the south side of the project site, encourages similar types of development – medium-density residential areas characterized by small multiple-family and garden-type apartment structures with a maximum of open space. Projects have been approved by the City in the past two years in the R-4 District, on sites across Blake Street (on the north side) that are much larger in scope than the 2018 Blake project – a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake. As discussed in the staff report, the ZAB was able to make findings for non-detriment, noting that the project would be consistent with the trend of increasing density in the neighborhood.

Though the Berkeley Municipal Code (BMC) requires findings of general non-detriment<sup>2</sup> for approval of discretionary permits, and each zoning district has district purposes to guide development, non-detriment findings are not objective standards and cannot provide a basis for denial or reduction in density for a housing project, due to protections provided by the State Housing Accountability Act (HAA). Pursuant to Government Code Section 65589.5(j) the City cannot deny or reduce the density of a housing development that is compliant with objective standards, unless it can meet the strict finding of specific adverse impact on public health or safety – a level of impact which the State Department of Housing and Community Development considers to be rare.<sup>3</sup> Analyses of the compatibility of architectural design, building massing and scale,

<sup>2</sup> The findings for approval of use permits, sometimes referred to as “general non-detriment findings” are described in BMC Section 23.406.040(E)(1) Findings for Approval:

“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.”

<sup>3</sup> Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5), p. 20; State Department of Housing and Community Development.

and shadow impact on the surrounding neighborhood are only provided in the staff report for public interest and informational purposes. Additionally, the project is a residential development in a residential district, and is not subject to design review. The ZAB determined that the project is compliant with all applicable, objective general plan and zoning standards and that the findings to deny or reduce the project could not be made, and approved the project with direction to the applicant to refine and enhance the building design at Final Design Review before the DRC.

In accordance with Section 65589.5(j)(3) of the HAA, compliance with State Density Bonus waiver and concession provisions is consistent with the ZAB's determination of project compliance with objective standards.<sup>4</sup> Pursuant to Government Code Section 65915 State Density Bonus, in exchange for providing affordable units on site, a project is entitled to density bonus units, as well as modifications to zoning standards that can expand the building's massing, in the form of waivers and concessions to accommodate the full density bonus project on the site. Waivers of the side and rear setbacks, and lot coverage, were requested for the project. As discussed in the ZAB staff report, the requested waivers were granted because findings of specific adverse impact<sup>5</sup> to health and safety could not be made. No waivers for height were requested, and no concessions were requested. In the R-4 District where the project site is located, the proposed building of six stories and 65 feet is allowed by right in the base project (the objective standards-compliant project, before the density bonus is added) and no additional height permit or waiver is required.<sup>6</sup>

In summary, the ZAB was able to make the findings for non-detriment to approve the project. Additionally, State laws for housing developments that were established to facilitate the production of new housing, such as the HAA and State Density Bonus, impose limitations to local discretion over project entitlements, and allow projects to have larger building envelopes than would be permissible through the base district zoning standards, in the interest of constructing more housing in the immediate future.

**Issue 2: The appellants assert that several neighbors within 300 feet of the project site attest that they did not receive notice of the proposed development or notice**

<sup>4</sup> Section 65589.5(j)(3) in the HAA provides that a request for a density bonus "shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision."

<sup>5</sup> A "specific, adverse impact" means "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete". This definition is also used for applying HAA findings.

<sup>6</sup> The City has determined that the "protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits." (Housing Accountability Act & Density Bonus – Objective Standards Memorandum, August 2, 2021; Land Use Planning Division) Therefore, the use permits to extend the district height limit to 65' and six stories and to allow rooftop elements to exceed height limits are included in the Base Project for the purpose of determining compliance with objective standards.



**of the ZAB public hearing. Neighbors were told they would receive a direct link to the hearing and did not. The email address for the ZAB hearing notice was incorrect. Neighbors feel they were denied meaningful opportunity to comment and denied the right to be involved in the planning and development process.**

Response 2: City staff followed public noticing protocols that were in place at the time of each noticing period. The permit application was submitted to the Land Use Planning Division on June 3, 2021.<sup>7</sup> On June 10, 2021, the City mailed a Notice of Received Application to property owners and occupants within 300 feet of the project site and to interested neighborhood organizations, and posted a notice at the project site. The notices contained weblinks to the application materials, a permit status webpage, and the email addresses for the applicant and project planner. A mailing list was generated for the postcard mailings that day.

On May 11, 2022, in accordance with BMC Section 23.404.040 Public Notice, and in preparation for the ZAB hearing scheduled for May 26, 2022, the City 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 in three locations – on the project site and at two other locations near the project site. The notices contained weblinks to the ZAB agenda, the hearing materials, application materials, and email addresses for the project planner and the ZAB secretary. The online ZAB agenda contained the direct live link to attend the public hearing.

A new mailing list was generated for the ZAB hearing notices, per Land Use Planning Division policy that a new list should be generated if a previous list is six months or older, and notices were sent out that day. Any differences between the two mailing lists are expected because address assignments can change over the course of time due to new addresses or the deletion of existing addresses. Occasionally also, the City's Parcel Notifier software can temporarily malfunction and cause some inaccuracies in the generation of mailing lists. A software malfunction could have been the cause of some neighbors not receiving a notice.

The ZAB public hearing notice listed email addresses for the project planner and for the ZAB Secretary using a new email suffix, [\\_@berkeleyca.gov](mailto:_@berkeleyca.gov), because the new City website was launched at the end of April 2022, and with the launch, new email suffixes for all City email addresses were implemented. Preliminary testing of the new suffix indicated that it was working properly for City staff. For instance, the new email address for the project planner was working properly.

On May 26, 2022, the day of the hearing, staff was notified through an email from one of the project site neighbors that the [zab@berkeleyca.gov](mailto:zab@berkeleyca.gov) address was returning an email

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<sup>7</sup> The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

delivery failure notice. It was too late to resend or repost physical hearing notices, but staff immediately corrected the email address in the online ZAB agenda to list the old address – zab@cityofberkeley.info, which was still working.

Staff followed all noticing procedures and immediately corrected errors when alerted to them, and despite some technical trouble that may have occurred with the mailing list generation and ZAB email address, members of the public were able to reach staff and the applicants with comments, and were able to attend the public hearing to express their concerns. Staff received a total of eight comment letters from the public during the course of project review, and several neighbors spoke at the project's hearing.

#### ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, 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 PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Sharon Gong, Project Planner, (510) 981-7429

#### Attachments:

1. Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, received March 23, 2022
2. Appeal Letter, dated received June 21, 2022
3. May 26, 2022 ZAB Hearing Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD APPROVAL OF USE PERMIT #ZP2021-0095 TO CONSTRUCT A SIX-STORY, MULTI-FAMILY RESIDENTIAL BUILDING WITH 12 UNITS (INCLUDING TWO LOW-INCOME UNITS), AND DISMISS THE APPEAL.

WHEREAS, on June 3, 2021, Huan Fang (“applicant”), submitted an application for Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units, including two Low-Income units (“project”); and

WHEREAS, on March 16, 2022, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”); and

WHEREAS, on May 11, 2022, staff mailed and posted a Notice of Public Hearing for the project at the site and two nearby locations, 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 May 26, 2022, 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 8-0-0-1 (Yes: Duffy, Kahn, O’ Keefe, Olson, Sanderson, Thompson, Vincent, Tregub; No: None; Abstain: None; Absent: Kim); and

WHEREAS, on June 7, 2022, staff issued the notice of the ZAB decision; and

WHEREAS, on June 21, 2022, the City Clerk received an appeal filing of the ZAB decision from John De Domenico, resident at 2020 ½ Blake Street; and

WHEREAS, on or before September 22, 2022, staff mailed and posted a Notice of Public Hearing at the site and two nearby locations, 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 October 6, 2022, 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 City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2021-0095, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received March 23, 2022

**ATTACHMENT 1 , EXHIBIT A**  
**FINDINGS AND CONDITIONS**  
OCTOBER 6, 2022

## **2018 Blake Street**

**Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units).**

### **PERMITS REQUIRED**

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- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the district.

### **CONCESSIONS/ WAIVERS UNDER GOVERNMENT CODE SECTION 65915-65918**

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- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2<sup>nd</sup> floor) and rear yard setback (above the 3<sup>rd</sup> floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

### **I. CEQA FINDINGS**

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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 §15332 ("In-Fill Development Projects").  
The project meets all of the requirements of this exemption, as follows:
  - A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
  - B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
  - C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
  - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
  - E. The site can be adequately served by all required utilities and public services.
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. DENSITY BONUS FINDINGS**

1. Pursuant to Government Code Section 65915, the City Council finds that:
  - A. Under the City's methodology for implementing density bonuses, the "base project" consists of 8 units;
  - B. The project will provide two Low-Income qualifying units in the eight-unit "base project", as more fully set forth in Conditions 48 to 52;
  - C. The project is entitled to a density increase of 50 percent over the otherwise maximum allowable residential density under the Zoning Ordinance and General Plan Land Use Element, under the requirements of Government Code Section 65915(b) and (f). This equates to a density bonus of four units above the Base Project, for a total of 12 units.
2. In accordance with Government Code Section 65915(e) the City Council hereby grants the following waivers:
  - A. Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2nd floor) and rear yard setback (above the 3rd floor)
  - B. Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

These waivers are required because State law requires the City to modify development standards as necessary to accommodate these density bonus units, and because the City Council hereby finds that the density bonus units can best be accommodated by granting these waivers.

3. In accordance with Government Code Section 65915(e), in order to allow construction of the proposed project with the density permitted under State law, the City Council finds approval of waivers is required 1) construct the proposed project at the density permitted under State law; 2) approval of requested waivers would not have a specific adverse impact upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources; and 3) approval of the requested waivers would not be contrary to State or Federal law.

**III. FINDINGS FOR APPROVAL**

4. The Housing Accountability Act, Government Code Section 65589.5(j) requires that when a proposed housing development complies with applicable, objective general plan and zoning standards, a local agency may not deny the project or approve it with reduced density unless the agency makes written findings supported by substantial evidence that:
  - A. The development would have a specific adverse impact on public health or safety unless disapproved or approved at a lower density; and
  - B. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval or approval at a lower density.

Because the Base Project would comply with applicable, objective general plan and zoning standards, §65589.5(j) does apply to this project. No significant, quantifiable, direct and unavoidable impacts, based on objective, identified written public health or safety standards, polices, or conditions, have been identified. The project includes construction of 12 dwelling units.

5. 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. The project is consistent with all applicable R-4 District standards and qualifies for waivers of the listed district standards granted pursuant to State Density Bonus, Government Code, Section 65915;
  - B. The project follows a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved use permit for a six-story, community care facility for seniors at 2000 Dwight Way, and the approved use permit for a seven-story, multi-family building at 2015 Blake. The proposed project will provide new housing in a location with easy access to public transit and nearby commercial services and stores, and will fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.
  - C. Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building, especially from the additional height above the district limits, which will cast shadows in the affected directions further than if the project were limited to the base district height standards. However, the shadow impacts on any one adjacent property will occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Therefore, the shadow impacts are found to be reasonable and non-detrimental.
  - D. The project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.
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**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 and 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 of Zoning Adjustments. 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. Pay Transparency Acknowledgement (BMC Section 13.104.030)**

Prior to the issuance of a building permit for any Project subject to this Chapter:

- A. A Responsible Representative of the Permittee shall certify under penalty of perjury that: (1) the Permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the Permittee will be responsible for demonstrating compliance with this Chapter.
- B. The Permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the Permittee shall certify under penalty of perjury that the Contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project.

**10. Pay Transparency Attestations Following Project Completion (BMC Section 13.104.040)**

Within 10 days of the approved final inspection of any Project subject to this Chapter, each Permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City.

**11. Posting of Ordinance (BMC Section 13.104.050)**

Each day work is performed on the Project, each Permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

**12. Conditions of Approval (BMC Section 13.104.060)**

The requirements of Sections 13.104.030 through 13.104.050 shall be included as conditions of approval of any Use Permit or Zoning Certificate for any Project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any Use Permit issued for the Project under Chapter 23B.60.

**13. 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 23.404.050(H), the City Council attaches the following additional conditions to this Permit:

**Prior to Submittal of Any Building Permit:**

**14. 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 #

**15. Final Design Review.** The Project was referred by ZAB to the Design Review Committee (DRC) for design review. The applicant shall obtain approval of a Final Design Review (FDR) application by the DRC. The applicant shall present plans at FDR that incorporate visual enhancements to the east and west facades of the building, as discussed by the ZAB at the May 26<sup>th</sup> hearing.

**16. 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 in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.

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

17. 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.
18. 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](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**

19. Percent for Public Art: Consistent with BMC Section 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.
20. Affordable Housing Mitigation Fee: Consistent with BMC Section 22.20.065, and fee resolution applicable to this project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the AHMF, and they shall pay this fee.
21. 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.
22. Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.
23. Solar Photovoltaic (Solar PV). A solar PV system, on the solar zone specified in Section 110.10 of the 2019 Energy Code, shall be installed (subject to the exceptions in Section 110.10) as specified by the Berkeley Energy Code (BMC Chapter 19.36). Location of the solar PV system shall be noted on the construction plans.

- 24. 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<sub>o</sub>) for Berkeley is 41.8.
- 25. 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).
- 26. 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).
- 27. 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.

#### **During Construction:**

- 28. 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.
- 29. 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's 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.

- 30. 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.
- 31. 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.
- 32. 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.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 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.

- 33. 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.

- 34. 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.
- 35. 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.
- 36. 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.

- 37. 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.
- 38. 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 private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
  - H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - I. 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.
  - J. 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.
  - K. 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.
- 39. 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.
- 40. 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.
- 41. 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.
- 42. 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.

- 43. 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.
- 44. 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:**

- 45. 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.
- 46. 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 **March 23, 2022**, except as modified by conditions of approval.
- 47. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Planning Department staff to confirm that the physical improvements required in Section 23.334.030(C) and 23.322.090 (bike parking) have been installed. The property owner shall also provide documentation that the programmatic measures required in 23.334.030(A) and 23.334.030(B) will be implemented.
- A. Consistent with Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units, such that potential renters or buyers shall have the option of renting or buying a dwelling unit at a price lower than would be the case if there were a single price for both the dwelling unit and the parking space(s).
- B. Consistent with Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all employees.
1. One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.
  2. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.
- C. Consistent with Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes.

Property owners may be required to pay administrative fees associated with compliance with this Condition.

**BELOW MARKET RATE UNITS**

48. **Number of Below Market Rate Units.** The project shall provide **two Low-Income**, below market rate rental dwelling units (“BMR Units”), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.
49. **Regulatory Agreement.** Prior to the issuance of a building permit, the applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Use Permit. The Regulatory Agreement may include any terms and affordability standards determined by the City to be necessary to ensure such compliance. The maximum qualifying household income for the BMR Units shall be 50 percent of area median income (AMI), and the maximum housing payment shall be 30 percent of 50 percent of AMI, as set forth in the following paragraphs of this condition. If the BMR units are occupied by very low-income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. The applicant shall submit the Regulatory Agreement to the Housing and Community Services Department (HHCS) via email to [affordablehousing@cityofberkeley.info](mailto:affordablehousing@cityofberkeley.info) for review and approval.
50. In addition, the following provisions shall apply:
- A. Maximum rent shall be adjusted for the family size appropriate for the unit pursuant to California Health & Safety Code Section 50052.5 (h).
  - B. Rent shall include a reasonable allowance for utilities, as published and updated by the Berkeley Housing Authority, including garbage collection, sewer, water, electricity, gas, and other heating, cooking and refrigeration fuels. Such allowance shall take into account the cost of an adequate level of service. Utilities do not include telephone service. Rent also includes any separately charged fees or service charges assessed by the lessor which are required of all tenants, other than security deposits.
  - C. BMR units will be provided for the life of the project under Section 22.20.065.
51. **Determination of Area Median Income (AMI)**
- The “AMI” (Area Median Income) shall be based on the income standards for the Oakland Primary Metropolitan Statistical Area reported by the United States Department of Housing and Urban Development (HUD). In the event HUD discontinues establishing such income standards, AMI shall be based on income standards determined by the California State Department of Housing and Community Development (HCD). If such income standards are no longer in existence, the City will designate another appropriate source or method for determining the median household income.

- The applicable AMI for the purpose of determining the allowable rent for each unit (but not for the purpose of determining eligibility for occupancy of an inclusionary unit) shall be determined in accordance with the following table:

| Unit Size          | AMI Standard                     |
|--------------------|----------------------------------|
| Studio unit        | AMI for a one-person household   |
| One-bedroom unit   | AMI for a two-person household   |
| Two-bedroom unit   | AMI for a three-person household |
| Three-bedroom unit | AMI for a four-person household  |

52. Nothing in these conditions shall be interpreted to prohibit, or to require modification of the Use Permit or Regulatory Agreement to allow, the provision of additional BMR units, or additional affordability, than are required in the foregoing provisions.

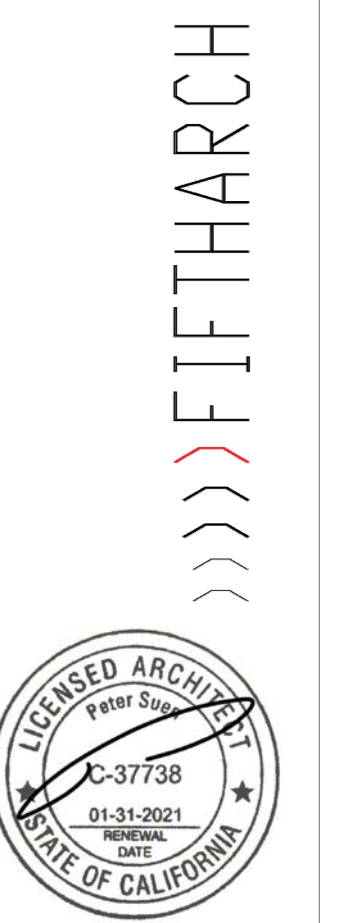
**At All Times:**

53. Transportation Demand Management Compliance. The property owner shall submit to the Planning Department periodic TDM Compliance Reports in accordance with Administrative Regulations, subject to the review and oversight of the Zoning Officer. Property owners may be required to pay administrative fees associated with compliance with this Condition, pursuant to BMC Section 23.334.040(B).
54. 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.
55. 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.
56. 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.
57. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
58. Residential Permit Parking. No Residential Permit Parking (RPP) permits shall be issued to project residents, nor shall commercial placards be issued to non-residential occupants and/or users of the site. The project planner shall notify the Finance Department, Customer Service Center, to add these addresses to the list of addresses ineligible for RPP permits. The property owner shall notify all tenants of rental units, and/or buyers of condominium units, of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of an occupancy permit or final inspection.
59. Tenant Notification. The developer shall provide tenant notification, via a lease rider or deed covenant, that each dwelling unit is located in a mixed-use area that includes commercial, food service and entertainment uses, and that each occupant shall not seek to impede their lawful operation.

- 60.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
-



**2018 BLAKE STREET**  
2018 BLAKE STREET, BERKELEY, CA 94704



PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

**PROJECT TEAM**

**OWNERS**  
2018 BLAKE STREET LLC  
2905 S Vermont ave suite 204  
Los Angeles CA 90007  
424-644-5703  
yuhui.li@tripalink.com

**ARCHITECT**  
HUAN FANG  
FIFTH ARCH  
1177 ALABAMA ST.  
SAN FRANCISCO, CA 94110  
510-541-2398  
fanghuan4616@gmail.com

**SURVEYOR**  
LEA & BRAZE ENG., INC.  
2495 INDUSTRIAL PKWY WEST  
HAYWARD, CA 94545  
510-887-4086

**LANDSCAPE ARCHITECT**  
RW STOVER AND ASSOCIATES, INC.  
1620 NORTH MAIN STREET, SUITE 4  
WALNUT CREEK, CA 94596

**TRAFFIC CONSULTANT**  
W-TRANS  
7901 OAKPORT STREET, SUITE 1500  
OAKLAND, CA 94621  
510-444-2600

**DRAWING LIST INDEX**

**ARCHITECTURAL**  
A0.1 TITLE SHEET  
A0.2 NOTES & LEGEND  
A0.3 DENSITY BONUS STATEMENT  
A0.4 SITE PHOTOGRAPHS & VICINITY MAP  
A0.5 CALGREEN CHECKLIST  
A0.6 CALGREEN CHECKLIST  
A0.7 CONSTRUCTION BMPS  
A0.8 BAY-FRIENDLY BASICS LANDSCAPE CHECKLIST  
A0.9 SITE PHOTOS

A1.1 EXISTING SITE PLAN  
A1.2 PROPOSED SITE PLAN  
A1.3 LANDSCAPE AREA DIAGRAM  
A1.4 SHADOW STUDIES  
  
A2.1 GROUND FLOOR PLAN  
A2.2 LEVEL 2-6 FLOOR PLAN & ROOF PLAN

A3.1 PROPOSED BUILDING ELEVATIONS  
A3.2 PROPOSED BUILDING ELEVATIONS  
A3.3 STREET ELEVATION  
  
A4.1 BUILDING SECTIONS

**SURVEY**  
SU1 TOPOGRAPHIC SURVEY

**LANDSCAPE**  
L1.1 PRELIMINARY LANDSCAPE PLAN  
L1.2 PLANT LIST, IMAGES AND WELO  
L1.3 PRELIMINARY IRRIGATION PLAN  
L1.4 IRRIGATION NOTES AND DETAILS

**TRAFFIC STUDY**  
Draft Focused Traffic Study for the  
2018 Blake Street Project\_2021-08-31.pdf

**PROJECT SCOPE**

THE SCOPE OF WORK UNDER THIS PERMIT:  
PROPOSED HOUSING DEVELOPMENT PROJECT TO  
REPLACE THE EXISTING BURNED DOWN STRUCTURE  
WITH A SIX (6) STORIES, IN TOTAL OF TWELVE (12)  
UNITS RESIDENTIAL BUILDING, INCLUDING  
AFFORDABLE HOUSING UNITS AND STATE DENSITY  
BONUS UNITS.

**APPLICABLE BUILDING CODES**

ALL WORK NOTED SHALL BE IN FULL ACCORD &  
COMPLY WITH THE LATEST RULES, REGULATIONS,  
ORDINANCES, CODES & STANDARDS LISTED  
BELOW & ANY AND ALL LOCAL CODES AND  
ORDINANCES CURRENTLY IN EFFECT IN THE  
COUNTY OF SAN MATEO.

2019 CALIFORNIA BUILDING CODE (CBC)  
2019 CALIFORNIA RESIDENTIAL CODE (CRC)  
2019 CALIFORNIA GREEN BUILDING CODE (CGBC)  
2019 CALIFORNIA PLUMBING CODES (CPC)  
2019 CALIFORNIA MECHANICAL CODE (CMC)  
2019 CALIFORNIA ELECTRICAL CODE (CEC)  
2019 CALIFORNIA ENERGY CODE  
2019 CALIFORNIA ENERGY EFFICIENCY STANDARDS  
2019 CALIFORNIA FIRE CODE (CFC)  
BERKELEY MUNICIPAL CODE (BMC)

**PROJECT DATA**

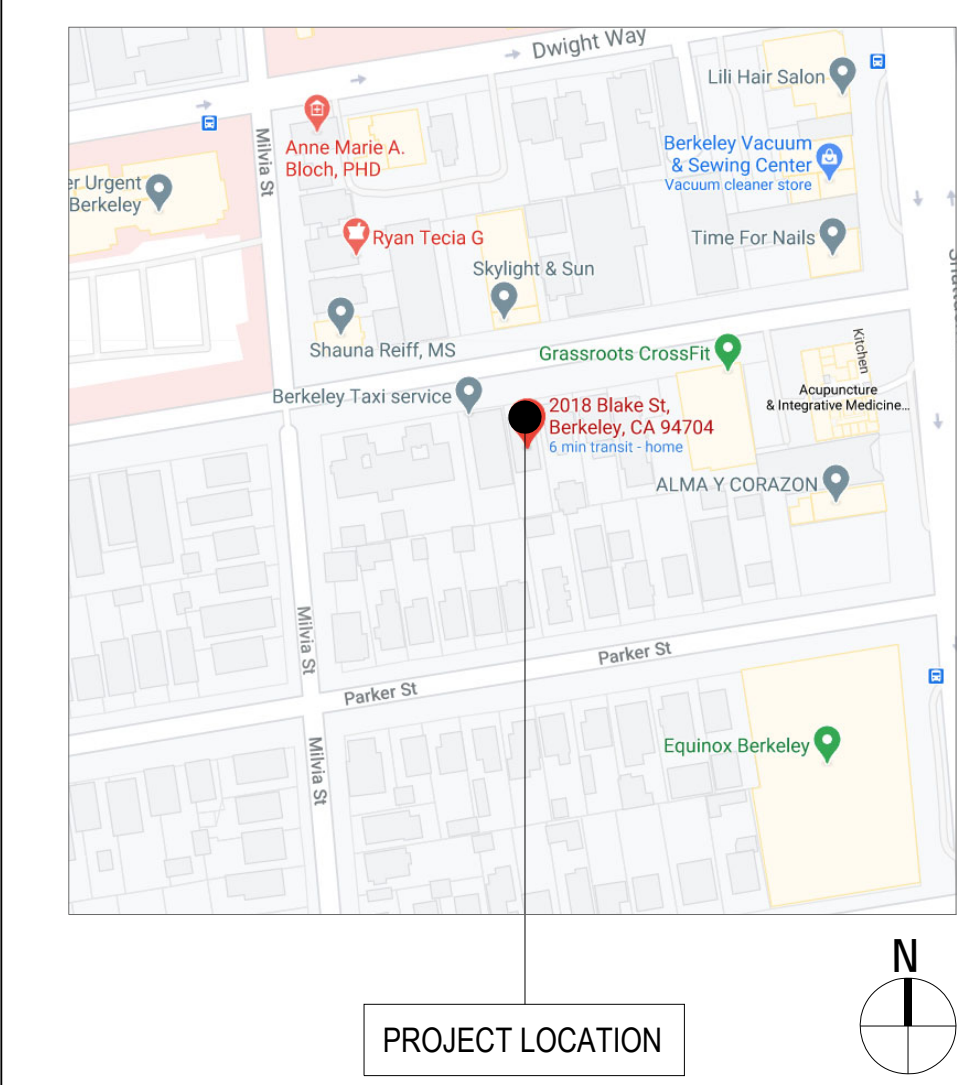
**LEGAL**  
LOCATION: 2018 BLAKE STREET, BERKELEY, CA 94704  
APN: 055182102100  
ZONING: R-4  
GENERAL PLAN AREA: HDR  
FIRE ZONE: 1  
FLOOD ZONE: NO

**OCCUPANCY GROUP**  
R-2, MULTI-RESIDENTIAL

**CONSTRUCTION TYPE**  
TBD

**ACCESSIBILITY:**  
THIS IS A MULTI-LEVEL, ELEVATOR BUILDING.  
IT IS FULL COMPLIANCE WITH CBC SECTION 11-B,  
ACCESSIBLE IN ALL COMMON AREA ACCESSED BY THE  
ELEVATOR AND ACCESSIBLE ADAPTABLE IN PRIVATE  
DWELLING UNITS ON ACCESSIBLE FLOORS

**SITE LOCATION MAP**



| ISSUES & REVISIONS |            | DESCRIPTION                    |
|--------------------|------------|--------------------------------|
| NO.                | DATE       |                                |
| 1                  | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
| 2                  | 07/05/2021 | PLANNING APPROVAL 1ST COMMENTS |
| 3                  | 09/25/2021 | PLANNING APPROVAL 2ND COMMENTS |
| 4                  | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

TITLE SHEET

A0.1

GENERAL NOTES & CONDITIONS

1. NOTIFY ARCHITECT PROMPTLY IF ANY CONDITIONS CONFLICT WITH CONSTRUCTION DOCUMENTS.

2. FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS PRIOR TO FABRICATION/ CONSTRUCTION.

3. NOTIFY ARCHITECT OF ANY DISCREPANCIES BETWEEN DOCUMENTS, INCLUDING DISCREPANCIES BETWEEN ENGINEERING DOCUMENTS AND CONSTRUCTION DOCUMENTS.

4. PROVISIONS SHALL BE MADE FOR THE UNDERGROUNDING OF ALL UTILITIES SERVING THE PROPERTY, INCLUDING BUT NOT LIMITED TO ELECTRICAL, TELEPHONE, AND CABLE TELEVISION, BY THE INSTALLATION OF APPROPRIATELY SIZED UNDERGROUND CONDUITS EXTENDING FROM THE STREET PROPERTY, AS PER BBC 705A.1.

5. ALL PERSONS WORKING AT THIS SITE MUST IMPLEMENT APPLICABLE PORTIONS OF THE STATE STORM WATER BEST MANAGEMENT PRACTICES MANUAL FOR CONSTRUCTION TO THE MAXIMUM EXTENT PRACTICABLE TO PREVENT EROSION AND SEDIMENT FROM ENTERING INTO THE STORM DRAIN SYSTEM. FAILURE TO UTILIZE ADEQUATE CONTROLS IS A VIOLATION OF BMC 17.20. A COPY OF THE MANUAL IS AVAILABLE UPON REQUEST AT THE PERMIT SERVICE CENTER AND AVAILABLE ONLINE AT WWW.CABMPHANDBOOKS.COM.

6. APPROVAL OF THIS PERMIT FOR WORK IN THE PUBLIC RIGHT-OF-WAY OR EASEMENT DOES NOT RELIEVE THE APPLICANT OF THE RESPONSIBILITY OF OBTAINING PERMISSION TO ENTER NEIGHBORING PROPERTY OR PROPERTIES IN THE COURSE OF THIS WORK IF NECESSARY. IT SHALL NOT BE CONSTRUED AS A LICENSE TO ALTER OR ADVERSELY IMPACT ANY FACILITIES LOCATED IN THESE EASEMENTS WHICH ARE PRIVATELY OWNED. FULL RESTITUTION AND RESTORATION SHALL BE THE RESPONSIBILITY OF THE PERMITTEE. PERMITTEE SHALL NOTIFY PROPERTY OWNER OF INTENTIONS 72 HRS PRIOR TO ENTERING THE PROPERTY.

DIMENSIONING CONVENTIONS

1. DIMENSIONS AS NOTED IN THE PLANS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS.

2. DIMENSIONS ARE FROM GRID LINE TO FACE OF CONCRETE OR STUD ON PLANS AND FACE OF FINISH ON ALL OTHER DRAWINGS, UNLESS OTHERWISE NOTED. ANY ERRORS, OMISSIONS, OR AMBIGUITIES IN THE PLANS ARE TO BE REPORTED TO THE ARCHITECT BEFORE PROCEEDING WITH THE WORK. SEE ENLARGED PLANS, FOR ADDITIONAL DIMENSIONS & INFORMATION.

3. DETAILS SHALL GOVERN OVER PLANS AND ELEVATIONS. LARGE SCALE PLANS GOVERN OVER SMALL SCALE PLANS. LARGE SCALE DETAILS SHALL GOVERN OVER SMALL SCALE DETAILS. IF UNABLE TO LOCATE THE DIMENSIONS FOR ANY ITEM OF WORK, CONSULT THE ARCHITECT PRIOR TO CONSTRUCTION.

4. ALL DIMENSIONS ON ELEVATIONS ARE INDICATED FROM FINISH FLOOR ELEVATION TO FIXTURE AND/OR FINISH WALL UNLESS OTHERWISE NOTED.

5. ALL HEIGHTS ARE DIMENSIONED FROM THE TOP OF PLYWOOD OR SLAB, UNLESS NOTED "A.F.F."

6. DIMENSIONS ARE NOT ADJUSTABLE, UNLESS NOTED (+/-), WITHOUT ARCHITECT'S WRITTEN APPROVAL.

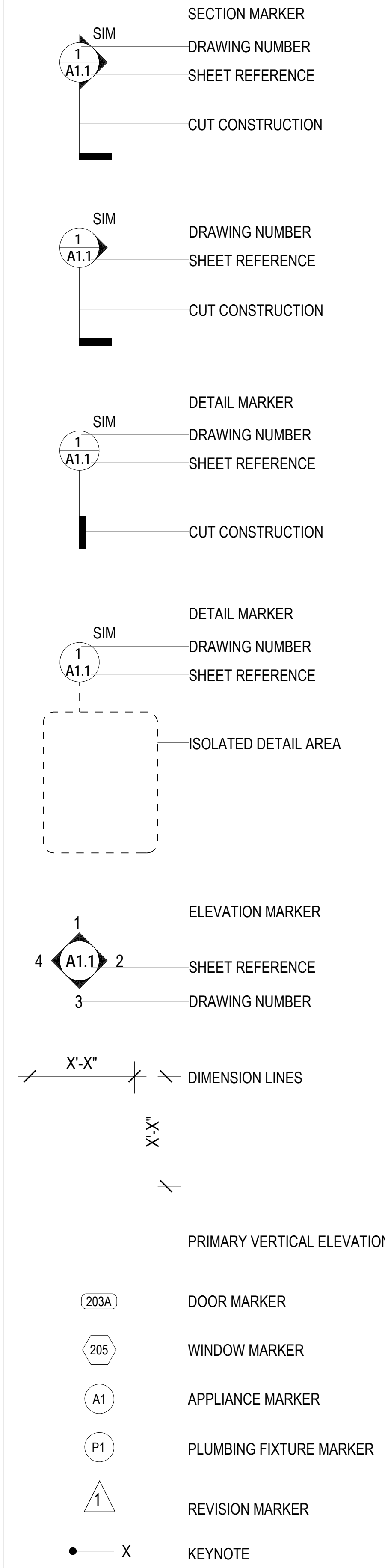
7. EXCEPT WHERE SPECIFICALLY NOTED TO THE CONTRARY, ALL DIMENSIONS SHOWN ON THE ARCHITECTURAL DRAWINGS CONFORM TO THE FOLLOWING CONVENTIONS:  
- STRUCTURAL OR DIMENSIONAL GRID LINES  
- CENTERLINE OF STEEL  
- CENTERLINE OF DOOR, WINDOW, OR CASED OPENING

8. WHERE WALLS AND / OR PARTITIONS OF UNEQUAL THICKNESS ABUT, ALIGN EXPOSED FACES, UNLESS OTHERWISE NOTED.

ABBREVIATIONS

|                                          |                                             |                                  |
|------------------------------------------|---------------------------------------------|----------------------------------|
| ACT Acoustical Ceiling Tile              | ID Inside Diameter                          | SC South                         |
| BLDG Building                            | INCL Include(ed), (ing)                     | SCH Solid Core, Sealed Concrete  |
| BLKG Blocking                            | INSUL Insulation                            | SE Schedule                      |
| BOS Bottom of Steel                      | INT Interior                                | SECT Southeast                   |
| BOT Bottom                               | INV Invert                                  | SHT Section                      |
| BRG Bearing                              | JAN Janitor                                 | SHTG Sheet                       |
| CAB Cabinet                              | JT Joint                                    | SIM Sheathing                    |
| CG Corner Guard                          | KIT Kitchen/Kitchenette                     | SPEC(S) Similar                  |
| CJ Control/Construction Joint            | KO Knockout                                 | SPKLR Specification(s)           |
| CL Centerline                            | LAV Lavatory                                | SQ Sprinkler                     |
| CEIL Ceiling                             | LH Left Hand                                | SS Square                        |
| CLR Clear/Clearance                      | MANF Manufacture(r)                         | STD Stainless Steel              |
| CMU Concrete Masonry Unit                | MATL Material(s)                            | STL Standard                     |
| COL Column                               | MAX Maximum                                 | STOR Steel                       |
| CONC Concrete                            | MECH Mechanical                             | STRUCT Storage                   |
| CONST Construction                       | MED Medium                                  | SURF Structural                  |
| CONT Continuous                          | MEMBR Membrane                              | SUSP Surface                     |
| COORD Coordinate/Coordination            | MEZZ Mezzanine                              | SW Suspend(ed)                   |
| CPT Carpet                               | MTL Metal                                   | SYS Southwest                    |
| CSWK Casework                            | MIN Minimum                                 | T&GT System(s)                   |
| CP Centerpoint                           | MIR Mirror(ed)                              | TI Tongue and Groove             |
| CT Ceramic Tile                          | MISC Miscellaneous                          | TAN Tread, Thermostat            |
| DEMO Demolition                          | MO Masonry Opening                          | TBD Tenant Improvement(s)        |
| DF Drinking Fountain                     | MTD Mounted                                 | TEL Tangent                      |
| DIA Diameter                             | MULL Mullion                                | TEMP To Be Determined            |
| DIAG Diagonal                            | N North                                     | THRU Telephone                   |
| DIM Dimension                            | NE Northeast                                | TOB Temperature/Temporary        |
| DISP Dispenser                           | NIC Not in Contract                         | TOC Through                      |
| DN Down                                  | NO,# Number                                 | TOF Top of Beam                  |
| DR Door                                  | NOM Nominal                                 | TOFW Top of Curb/Coping/Concrete |
| DTL Detail                               | NTS Not to Scale                            | TOP Top of Floor                 |
| DWG(S) Drawing/Drawings                  | NW Northwest                                | TOS Top of Foundation Wall       |
| E East                                   | OC On Center(s)                             | TOW Top of Parapet               |
| EXIST Existing                           | OD Outside Diameter                         | TP Top of Steel                  |
| EIFS Exterior Insulation & Finish System | OF/CI Owner Furnished/ Contractor Installed | TYP Top of Wall                  |
| EL Elevation                             | OF/OI Owner Furnished/ Owner Installed      | UNFIN Toilet Partition           |
| ELEC Electric/Electrical                 | OFRD Overflow Roof Drain                    | UNO Typical                      |
| ELEV Elevator                            | OFS Overflow Scupper                        | V Unfinished                     |
| EPDM Elastomeric Membrane                | OH Overhead                                 | VB Unless Noted Otherwise        |
| EQ Equal                                 | OPNG Opening                                | VCT Vinyl                        |
| EQUIP Equipment                          | OPP Opposite                                | VERT Vinyl Base                  |
| EXP Exposed/Expansion                    | PERM Permanent                              | VEST Vinyl Composition Tile      |
| EJ Expansion Joint                       | PERP Perpendicular                          | VIF Vertical                     |
| EXT Exterior                             | PL Plate                                    | VNR Vestibule                    |
| FAST Fasten/Fastener                     | PLYWD Plywood                               | VT Verify in Field               |
| FD Floor Drain                           | PNL Panel                                   | VVC Veneer                       |
| FE Fire Extinguisher                     | PR Pair                                     | W/ Vinyl Tile                    |
| FEC Fire Extinguisher Cabinet            | PREFAB Prefabricate(d)                      | W/O Vinyl Wall Covering          |
| FF Finish Floor                          | PREFIN Prefinish(ed)                        | W With                           |
| FIN Finish                               | PRKG Parking                                | WC Without                       |
| FIXT Fixture                             | PROP Property                               | WD West                          |
| FL/FLR Floor                             | PT Paint(ed)                                | WDW Water Closet                 |
| FOS Face of Stud                         | QT Quarry Tile                              | WH Wood                          |
| FR Frame(s), (ing)                       | QTY Quantity                                | WFF Window                       |
| FRP Fiber Reinforced Polyester           | R Riser                                     | WH Hung Wall Hung                |
| FTG Footing                              | RAD/(R) Radius(ed)                          | Welded Wire Fabric               |
| FUR Furr(ed), (ing)                      | RB Rubber                                   |                                  |
| GA Gauge                                 | RCP Reflected Ceiling Plan                  |                                  |
| GALV Galvanized                          | RD Roof Drain                               |                                  |
| GBB Gypsum Backing Board                 | REC Recessed                                |                                  |
| GC General Contractor                    | RECPT Receptical                            |                                  |
| GEN General                              | REF Reference/Refrigerator                  |                                  |
| GFRC Glass Fiber Reinforced Concrete     | REINF Reinforce(d), (ing)                   |                                  |
| GL Glass/Glazing                         | REQD Required                               |                                  |
| GWB Gypsum Wallboard                     | REV Reverse                                 |                                  |
| GYP Gypsum                               | RH Right Hand                               |                                  |
| HB Hose Bibb                             | RM Room                                     |                                  |
| HC Hollow Core, Hose Cabinet             | RO Rough Opening                            |                                  |
| HM Hollow Metal                          | RT Resilient Tile                           |                                  |
| HOR Horizontal                           | RVS Roof Vent                               |                                  |
| HT Height                                |                                             |                                  |
| HTG Heating                              |                                             |                                  |
| HVAC Heating/Ventilation/AC              |                                             |                                  |
| HDW Hardwood                             |                                             |                                  |

PROJECT SYMBOLS



PROJECT NOTES & CONDITIONS

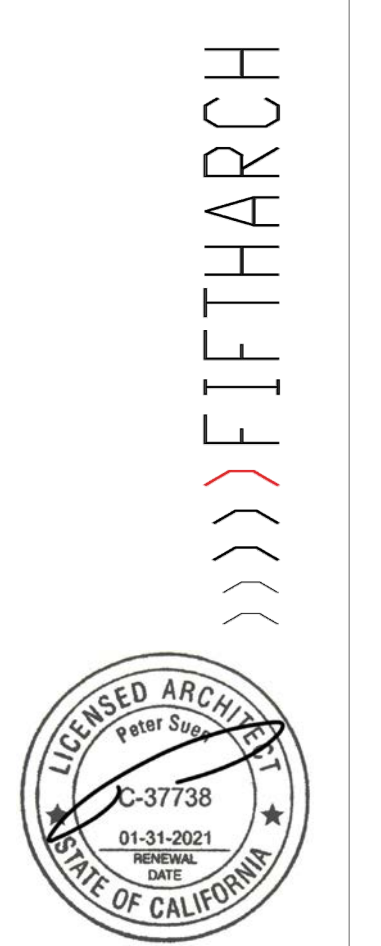
NATURAL GAS PROHIBITION, BERKELEY ENERGY & GREEN CODE  
THE BUILDING WILL NOT INCLUDE ANY NATURAL GAS INFRASTRUCTURE IN COMPLIANCE WITH BMC CHAPTER 12.80.

THE PROPOSED PROJECT IS DESIGNED TO COMPLY WITH THE BERKELEY ENERGY CODE (BMC CHAPTER 19.36) AND BERKELEY GREEN CODE (BMC CHAPTER 19.37), ADOPTED BY CITY COUNCIL ON DECEMBER 3RD, 2019, INCLUDING SOLAR PV SYSTEM, ELECTRIC VEHICLE CHARGING, AND LOW-CARBON CONCRETE REQUIREMENTS. BUILDING DESIGN MUST INCORPORATE ALL-ELECTRIC SYSTEMS UNLESS AN EXCEPTION OR PUBLIC INTEREST EXEMPTION TO THE NATURAL GAS PROHIBITION IS GRANTED.

SB 407  
NON-COMPLIANT PLUMBING FIXTURES TO BE REPLACED BY WATER-CONSERVING PLUMBING FIXTURES PER SB 407.

CONSTRUCTION HOURS  
WEEKDAYS: 7:00AM - 7:00PM  
SATURDAYS: 9:00AM - 6:00PM  
SUNDAYS AND HOLIDAYS: 10:00AM - 6:00PM

CONSTRUCTION HOURS IN THE CITY PUBLIC RIGHT-OF-WAY ARE LIMITED TO WEEKDAYS AND NON-CITY HOLIDAYS BETWEEN 8:00AM AND 5:00PM.



PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

| ISSUES & REVISIONS | NO. | DATE       | DESCRIPTION                    |
|--------------------|-----|------------|--------------------------------|
|                    | 1   | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
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|                    | 4   | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

NOTES & LEGEND  
DRAWING BY: YZ  
CHECKED BY: PS  
DATE: 11/15/2022  
SCALE: AS NOTED

A0.2



**HEIGHT & STORIES**

|                                 | MAXIMUM | BASE | PROPOSED W/DB |
|---------------------------------|---------|------|---------------|
| STORIES (NUMBER)                | 3       |      |               |
| STORIES W/ USE PERMIT (NUMBER)  | 6       | 5    | 6             |
| MAX. HEIGHT (FT.)               | 35      |      |               |
| MAX. HEIGHT W/ USE PERMIT (FT.) | 65      | 51   | 61            |

**FRONT SETBACK (BLAKE ST.)**

|         | REQUIRED MIN. FT | BASE | PROPOSED W/DB |
|---------|------------------|------|---------------|
| Level 1 | 15               | 15   | 15            |
| Level 2 | 15               | 15   | 15            |
| Level 3 | 15               | 15   | 15            |
| Level 4 | 15               | 15   | 15            |
| Level 5 | 15               | 15   | 15            |
| Level 6 | 15               | 15   | 15            |

**SIDE SETBACK**

|         | REQUIRED MIN. FT | BASE | PROPOSED W/DB |
|---------|------------------|------|---------------|
| Level 1 | 4                | 6    | 4             |
| Level 2 | 4                | 6    | 4             |
| Level 3 | 6                | 6    | 4             |
| Level 4 | 8                | 8    | 4             |
| Level 5 | 10               | 10   | 4             |
| Level 6 | 12               |      | 4             |

**REAR SETBACK**

|         | REQUIRED MIN. FT | BASE | PROPOSED W/DB |
|---------|------------------|------|---------------|
| Level 1 | 15               | 19   | 15            |
| Level 2 | 15               | 19   | 15            |
| Level 3 | 15               | 19   | 15            |
| Level 4 | 17               | 19   | 15            |
| Level 5 | 19               | 19   | 15            |
| Level 6 | 21               |      | 15            |

**LOT COVERAGE**

|         | REQUIRED MAX. % | BASE | PROPOSED W/DB |
|---------|-----------------|------|---------------|
| Level 1 | 45%             | 35%  | 49%           |
| Level 2 | 45%             | 35%  | 49%           |
| Level 3 | 40%             | 35%  | 49%           |
| Level 4 | 35%             | 35%  | 49%           |
| Level 5 | 35%             | 35%  | 49%           |
| Level 6 | 35%             | 35%  | 49%           |

**OPEN SPACE**

|                  | REQUIRED    | BASE  | PROPOSED W/DB |
|------------------|-------------|-------|---------------|
| Level 1          | 200 SF/UNIT | 1,736 | 961           |
| Roof Top         |             | 0     | 1,469         |
| Total Open Space |             | 1,736 | 2,430         |

**BICYCLE PARKING**

|                                                        | REQUIRED | BASE | PROPOSED W/DB |
|--------------------------------------------------------|----------|------|---------------|
| Total Bedrooms                                         |          | 26   | 51            |
| Long Term Bicycle Parking 1 Space / 3 Bedrooms         |          | 9    | 17            |
| Short Term Bicycle Parking 2, or 1 space / 40 Bedrooms |          | 1    | 2             |
| Total Bicycle Parking                                  |          | 10   | 19            |

**GROSS FLOOR AREA BASE CASE**

|                              | BICYCLE PARKING | MECH/UTILITY | RESIDENTIAL | UNIT COUNT |
|------------------------------|-----------------|--------------|-------------|------------|
| Level 1                      | 96.9            | 79.9         | 1,657.1     | 2          |
| Level 2                      |                 |              | 1,631.3     | 2          |
| Level 3                      |                 |              | 1,631.3     | 2          |
| Level 4                      |                 |              | 1,485.3     | 2          |
| Level 5                      |                 |              | 1,460.0     | 0          |
| Total Residential Floor Area |                 |              | 7,865.0     |            |
| Total Floor Area             |                 |              | 8,041.8     |            |
| Total Unit Count             |                 |              |             | 8          |

**GROSS FLOOR AREA PROPOSED W/DB**

|                              | BICYCLE PARKING | MECH/UTILITY | RESIDENTIAL | UNIT COUNT |
|------------------------------|-----------------|--------------|-------------|------------|
| Level 1                      | 155.0           | 438.6        | 1,819.2     | 2          |
| Level 2                      |                 |              | 2,162.9     | 2          |
| Level 3                      |                 |              | 2,162.9     | 2          |
| Level 4                      |                 |              | 2,162.9     | 2          |
| Level 5                      |                 |              | 2,162.9     | 2          |
| Level 6                      |                 |              | 2,162.9     | 2          |
| Total Residential Floor Area |                 |              | 12,633.7    |            |
| Total Floor Area             |                 |              | 13,227.3    |            |
| Total Unit Count             |                 |              |             | 12         |

**BASE DENSITY**

|                  |         |
|------------------|---------|
| LOT SIZE SQ. FT. | 5,189.0 |
| BASE UNITS       | 8       |

**INCLUSIONARY HOUSING REQUIREMENTS**

|                                      |                     |
|--------------------------------------|---------------------|
| PERCENT REQD. TO BE AFFORDABLE       | 20% PER 23C. 12.030 |
| NUM OF AFFORDABLE UNITS CALC         | 1.6                 |
| NUM OF INCLUSIONARY UNITS (round up) | 2                   |

**DENSITY BONUS OUTCOME**

|                             |         |
|-----------------------------|---------|
| BASE UNITS                  | 8       |
| CITY REQD. AFFORDABLE UNITS | 2       |
| AFFORDABLE TYPE             | LOW     |
| TOTAL BONUS UNITS           | 4       |
| TOTAL FINAL UNITS           | 12      |
| TOTAL AFFORDABLE UNITS      | 10      |
| TOTAL REGULAR UNITS         | 10      |
| PROPOSED SQ. FT. / UNIT     | 1,052.8 |

**STEP BY STEP CALCULATION METHOD**

| 1.A Determine the Base Project Area     |         | 1.B Determine the Proposed Project Avg Unit |          | 1.C Base Project Number of Units         |         |
|-----------------------------------------|---------|---------------------------------------------|----------|------------------------------------------|---------|
| Level 1                                 | 1,657.1 | Level 1                                     | 1,819.2  | 1.A Base Project Residential Floor Area  | 7,865.0 |
| Level 2                                 | 1,631.3 | Level 2                                     | 2,162.9  | 1.B Proposed project Avg Unit Size       | 1,052.8 |
| Level 3                                 | 1,631.3 | Level 3                                     | 2,162.9  | 1.C Base Project # of Units (Rounds Up)  | 8       |
| Level 4                                 | 1,485.3 | Level 4                                     | 2,162.9  | 2.A Number of Affordable Units           | 2       |
| Level 5                                 | 1,460.0 | Level 5                                     | 2,162.9  | % of Affordable Units                    | 25%     |
| Level 6                                 |         | Level 6                                     | 2,162.9  | 2.B % Granted of Density Bonus           | 50%     |
| 1.A Base Project Residential Floor Area | 7,865.0 | Proposed Project Residential Floor Area     | 12,633.7 | 2.C # of Density Bonus Units (Rounds Up) | 4       |
|                                         |         | Proposed Project # of Units                 | 12       | 2.D Density Bonus # of Units Proposed    | 4       |
|                                         |         | 1.B Proposed Project Avg Unit Size          | 1,052.8  |                                          |         |

**DENSITY BONUS TABLE**

| BASE PROJECT          | BASE # UNITS  | BASE # UNITS                         | % BMR UNITS      | # BMR UNITS          | % BONUS | # DB UNITS       | TOTAL UNITS           |
|-----------------------|---------------|--------------------------------------|------------------|----------------------|---------|------------------|-----------------------|
| Residential Area (SF) | Avg Unit Size | Base Residential Area/Avg Units Size | BMR = low income | % BMR x Base # Units | % Bonus | % Bonus x Base # | Base Units + DB Units |
| 7,865.0               | 1,052.8       | 8                                    | 25%              | 2                    | 50%     | 4                | 12                    |

WAIVERS / MODIFICATIONS  
1. SIDE SETBACKS  
2. REAR SETBACKS  
3. LOT COVERAGE

**PROJECT**  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

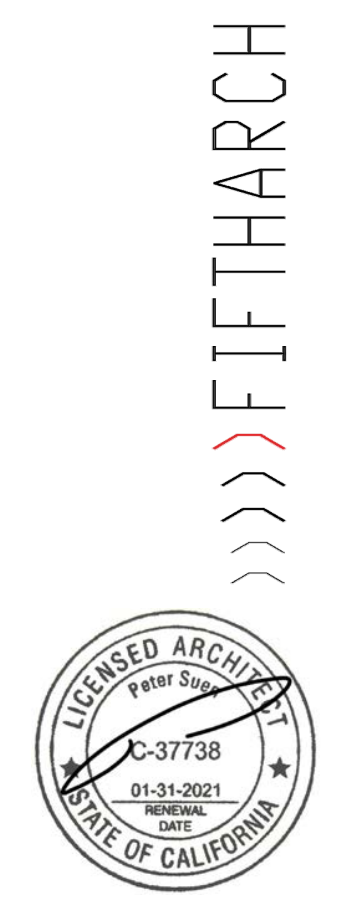
**ISSUES & REVISIONS**

| NO. | DATE       | DESCRIPTION                    |
|-----|------------|--------------------------------|
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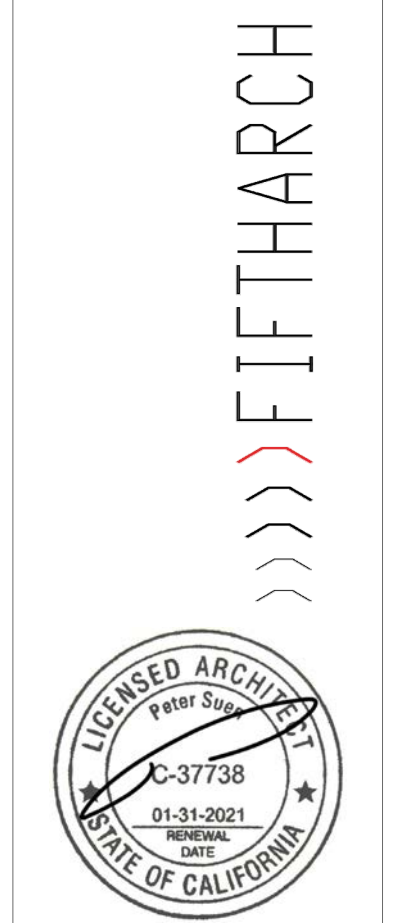
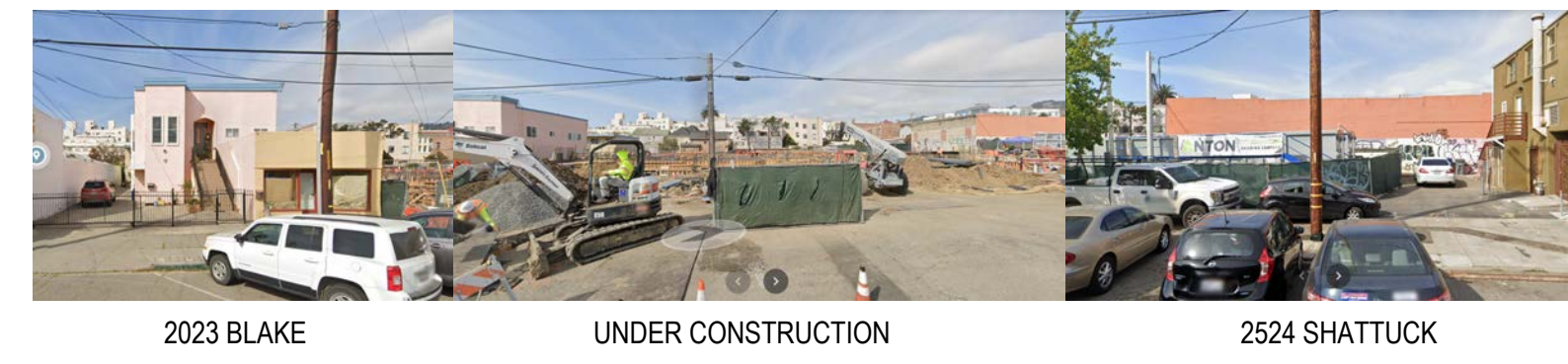
**DENSITY BONUS STATEMENT**

DATE: 11/15/2022  
SCALE: AS NOTED  
DRAWING BY: YZ  
CHECKED BY: PS

**A0.3**







PROJECT  
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| SITE PHOTOGRAPHS & VICINITY MAP |                |
|---------------------------------|----------------|
| DATE: 1/15/2022                 | DRAWING BY: YZ |
| SCALE: AS NOTED                 | CHECKED BY: PS |

A0.4

EXISTING SITE PLAN  
SCALE: 1/30" = 1'-0" 1



1



2



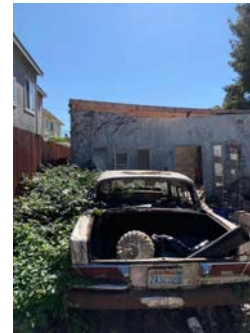
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4



5



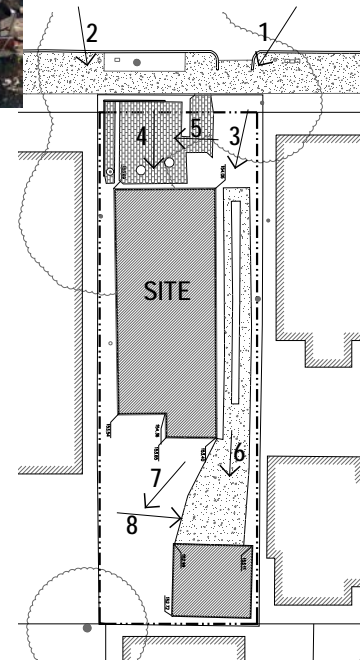
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7



8



FIFTHARCH

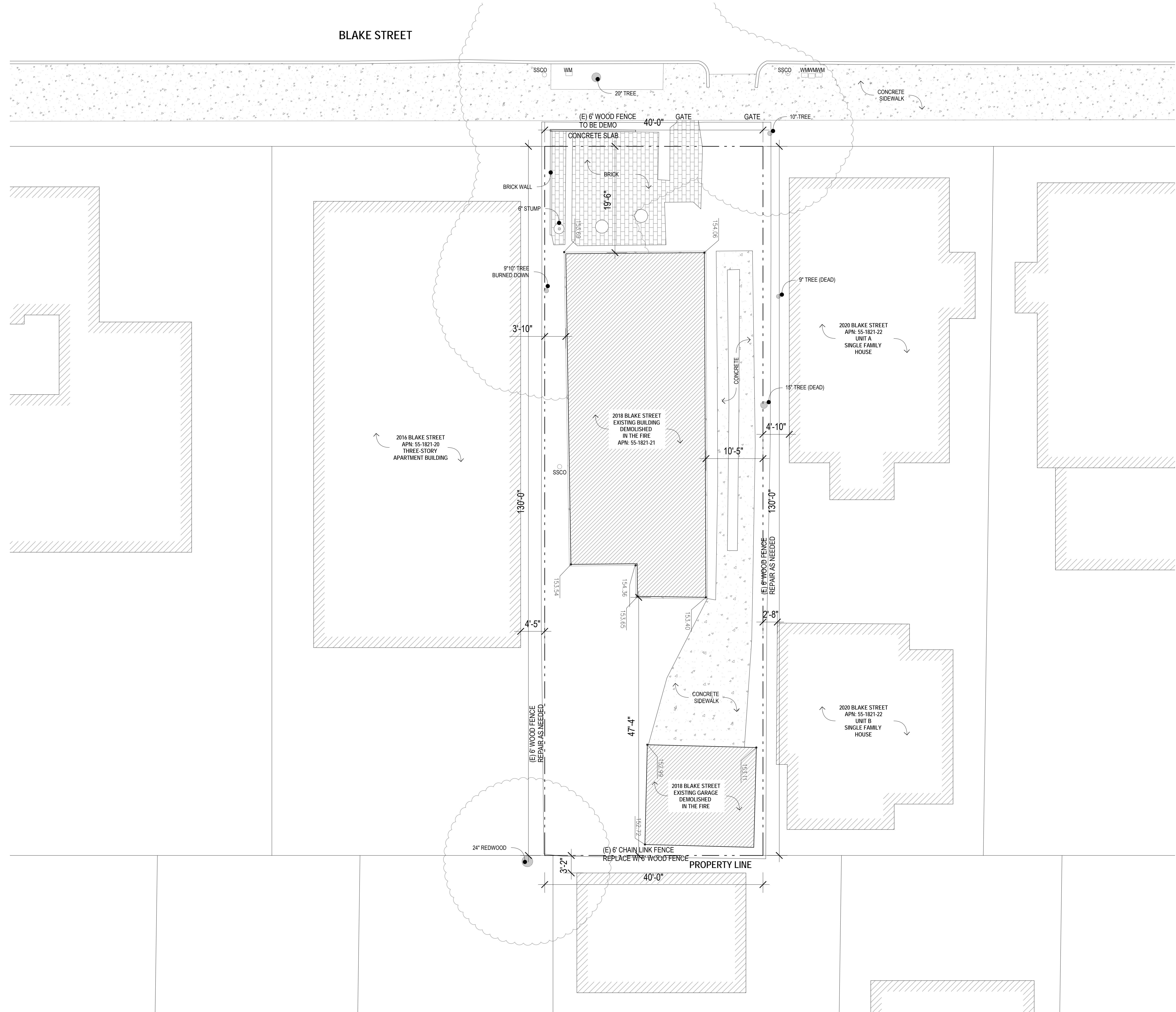
PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

| ISSUES & REVISIONS | NO.      | DATE | DESCRIPTION                 |
|--------------------|----------|------|-----------------------------|
|                    | 00282021 |      | PLANNING APPROVAL SUBMITTAL |
|                    | 07052021 |      | 1ST PLANNING COMMENTS       |

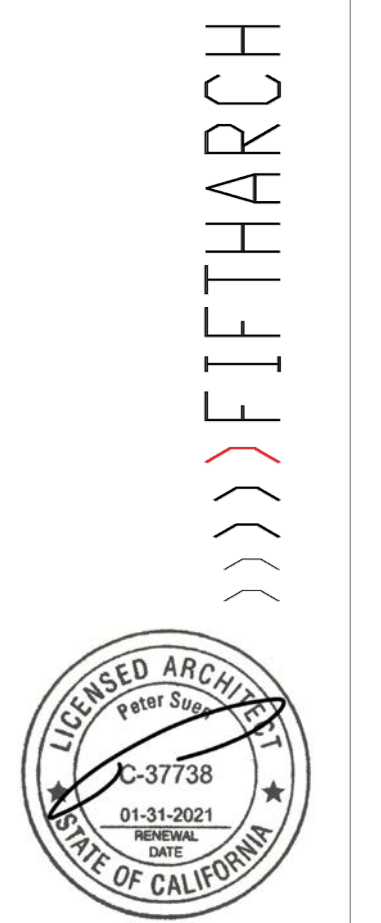
SITE PHOTO

|                 |                |
|-----------------|----------------|
| DATE: 8/11/2021 | DRAWING BY: HF |
| SCALE:          | CHECKED BY: PS |

**A0.9**



LINE TYPES:  
 ——— EXISTING WALL / ELEMENT TO REMAIN  
 - - - - - EXISTING WALL / ELEMENT TO REMOVE



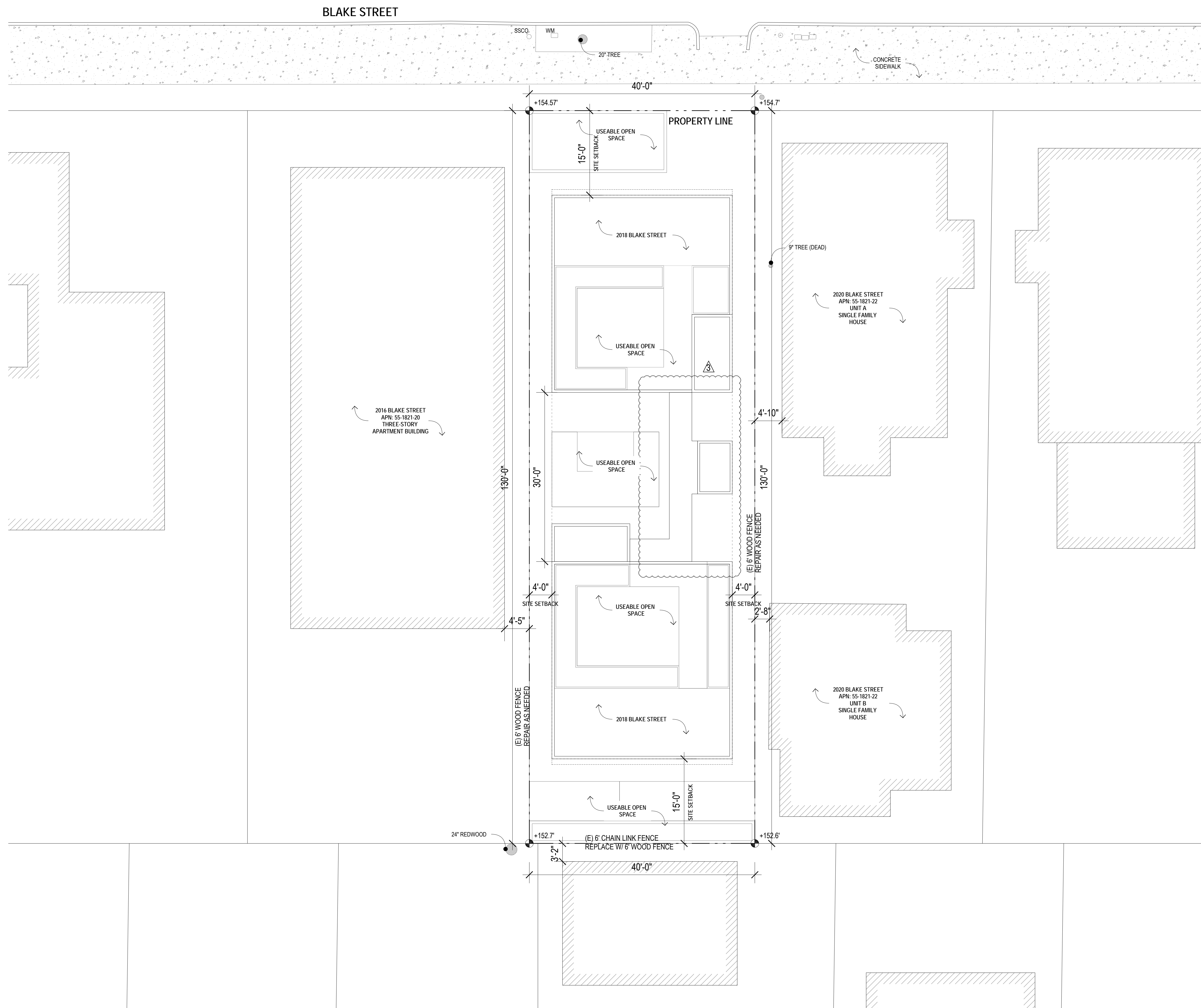
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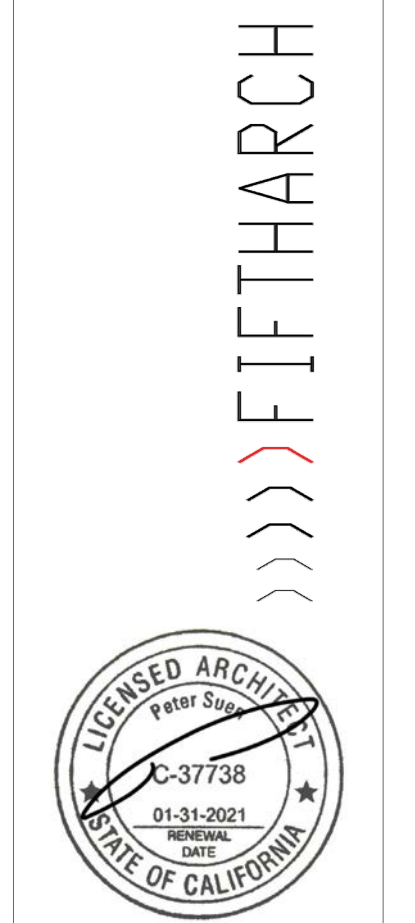
EXISTING SITE PLAN  
 DATE: 11/15/2022  
 SCALE: 1/8" = 1'-0"  
 DRAWING BY: YZ  
 CHECKED BY: PS

EXISTING SITE PLAN 1  
 SCALE: 1/8" = 1'-0"

A1.1



PROPOSED SITE PLAN 1  
SCALE: 1/8" = 1'-0"

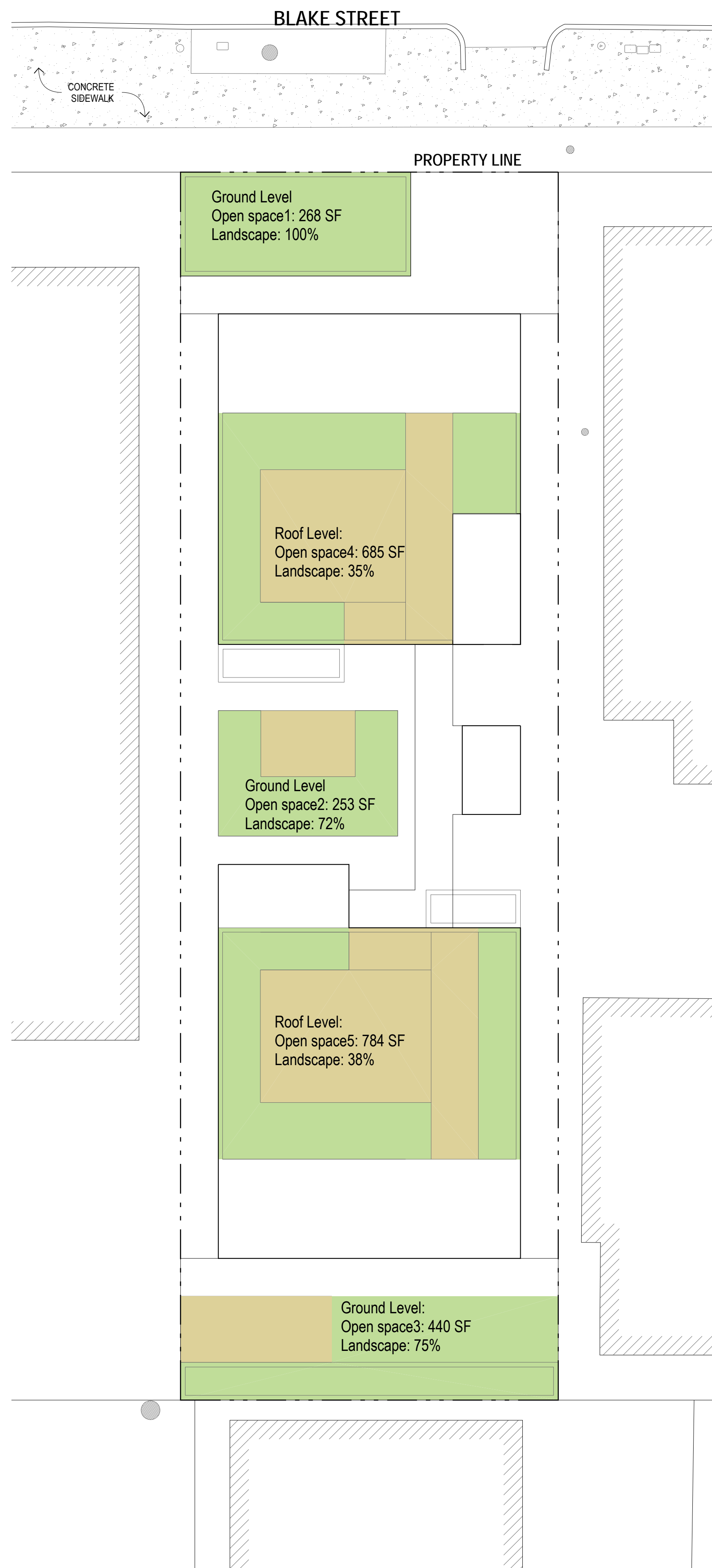


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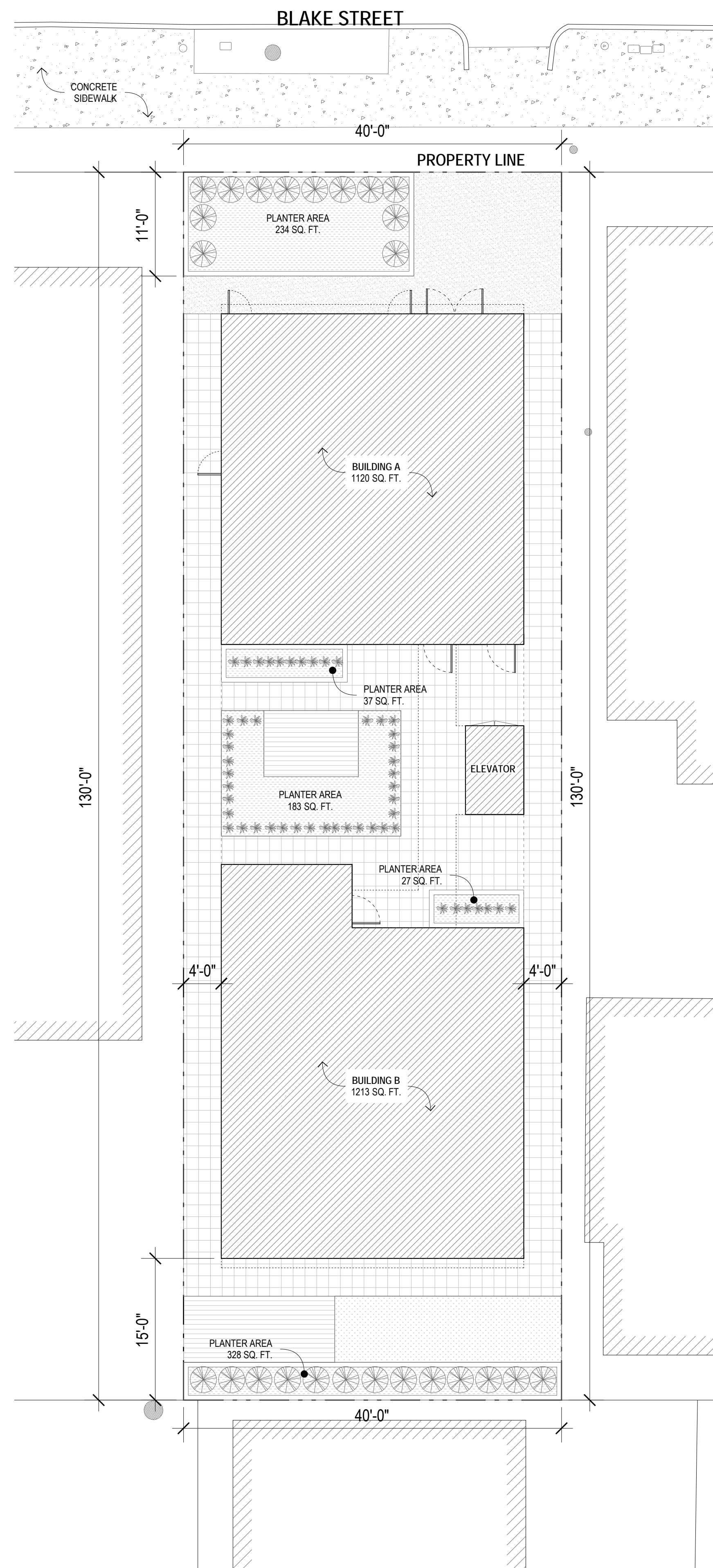
| ISSUES & REVISIONS |            | DESCRIPTION                    |
|--------------------|------------|--------------------------------|
| NO.                | DATE       |                                |
|                    | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
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| △                  | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

PROPOSED SITE PLAN  
DATE: 1/15/2022  
SCALE: 1/8" = 1'-0"  
DRAWING BY: YZ  
CHECKED BY: PS

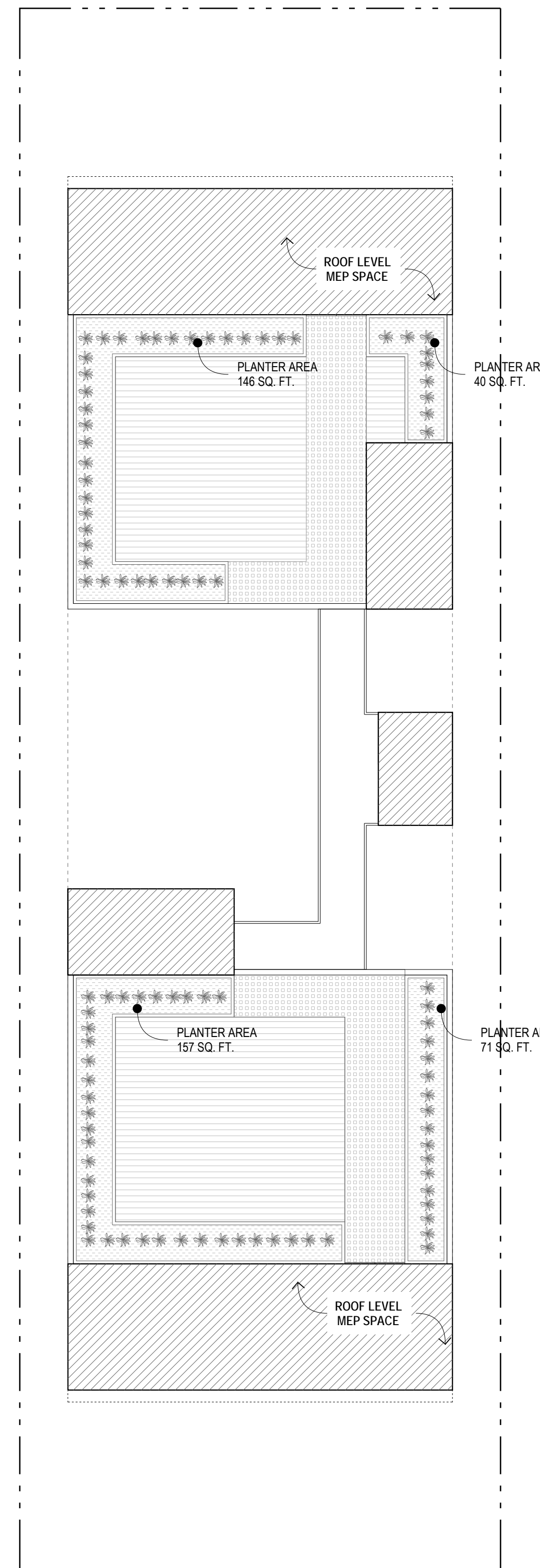
A1.2



OPEN SPACE DIAGRAM 3  
SCALE: 1/8" = 1'-0"



GROUND FLOOR LANDSCAPE DIAGRAM 2  
SCALE: 1/8" = 1'-0"



ROOF LANDSCAPE DIAGRAM 1  
SCALE: 1/8" = 1'-0"

- SHEET NOTES:**
- ALL (N) PLANTER AREAS TO HAVE SOIL AMENDED W/ 1" COMPOST LAYER. ALL PLANTINGS ARE TO BE SUFFICIENTLY DEVELOPED AT TIME OF INSTALLATION TO ASSURE SURVIVAL AND GROWTH OF PLANTINGS.
  - ALL TREES TO HAVE SUFFICIENT CENTRAL LEADERS TO ASSURE GROWTH AND SURVIVABILITY.
  - (N) LAWNS & PLANTER BEDS SHALL BE IRRIGATED W/ DRIP IRRIGATION SYSTEMS ON A DESIGN/BUILD BASIS. IRRIGATION SYSTEMS SHALL BE DESIGNED, INSTALLED AND OPERATED AT THE LOWEST PRACTICAL AMOUNT OF WATER NOT TO EXCEED 70% OF REFERENCE EVAPOTRANSPIRATION FOR THE LANDSCAPED AREA.
  - IRRIGATION VALVES & CIRCUITS SHALL BE SEPARATED HYDROZONED BASED ON PLANT WATER REQUIREMENT (INCLUDING VARYING ROOT DEPTH), SUN EXPOSURE, TOP AND BOTTOM OF SLOPE, & IRRIGATION RATE AS APPLICABLE.

**IMPERVIOUS COVERAGE CALCS:**

|               |                                         |
|---------------|-----------------------------------------|
| BUILDING A:   | 1120 SQ. FT.                            |
| BUILDING B:   | 1213 SQ. FT.                            |
| ELEVATOR:     | 58 SQ. FT.                              |
| <b>TOTAL:</b> | <b>2391 SQ. FT. (&lt; 2500 SQ. FT.)</b> |

**PLANTER AREA CALCS:**

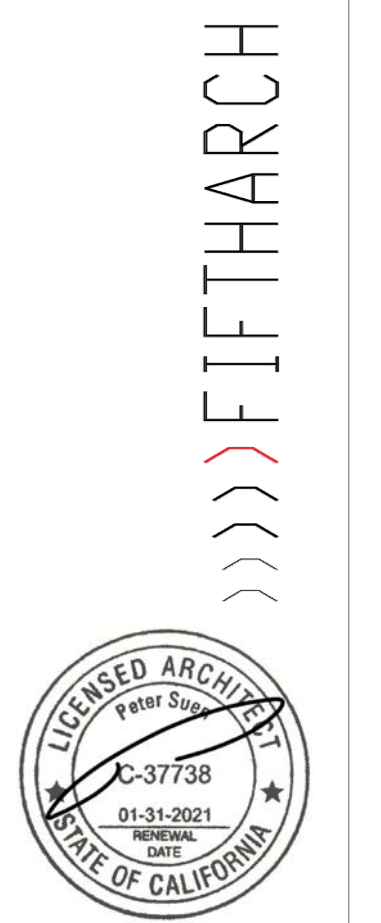
|                         |                     |
|-------------------------|---------------------|
| FRONT YARD PLANTER:     | 234 SQ. FT.         |
| CENTRAL YARD PLANTER 1: | 37 SQ. FT.          |
| CENTRAL YARD PLANTER 2: | 183 SQ. FT.         |
| CENTRAL YARD PLANTER 3: | 27 SQ. FT.          |
| REAR YARD PLANTER:      | 328 SQ. FT.         |
| ROOF PLANTER 1:         | 146 SQ. FT.         |
| ROOF PLANTER 2:         | 40 SQ. FT.          |
| ROOF PLANTER 3:         | 157 SQ. FT.         |
| ROOF PLANTER 4:         | 71 SQ. FT.          |
| <b>TOTAL AREA:</b>      | <b>1223 SQ. FT.</b> |
| MIN. 3" MULCH LAYER:    | 37 CUBIC YARDS      |

**OPEN SPACE LANDSCAPE AREA PERCENTAGE**

|                        |                         |
|------------------------|-------------------------|
| OPEN SPACE AREA TOTAL: | 2430 SQ. FT.            |
| LANDSCAPE AREA TOTAL:  | 1223 SQ. FT.            |
| <b>PERCENTAGE:</b>     | <b>50.3% (&gt; 40%)</b> |

**LEGEND**

- USEABLE OPEN SPACE LANDSCAPE AREA
- USEABLE OPEN SPACE: OUTDOOR ACTIVITY AREA
- COVERED SPACE



PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

**ISSUES & REVISIONS**

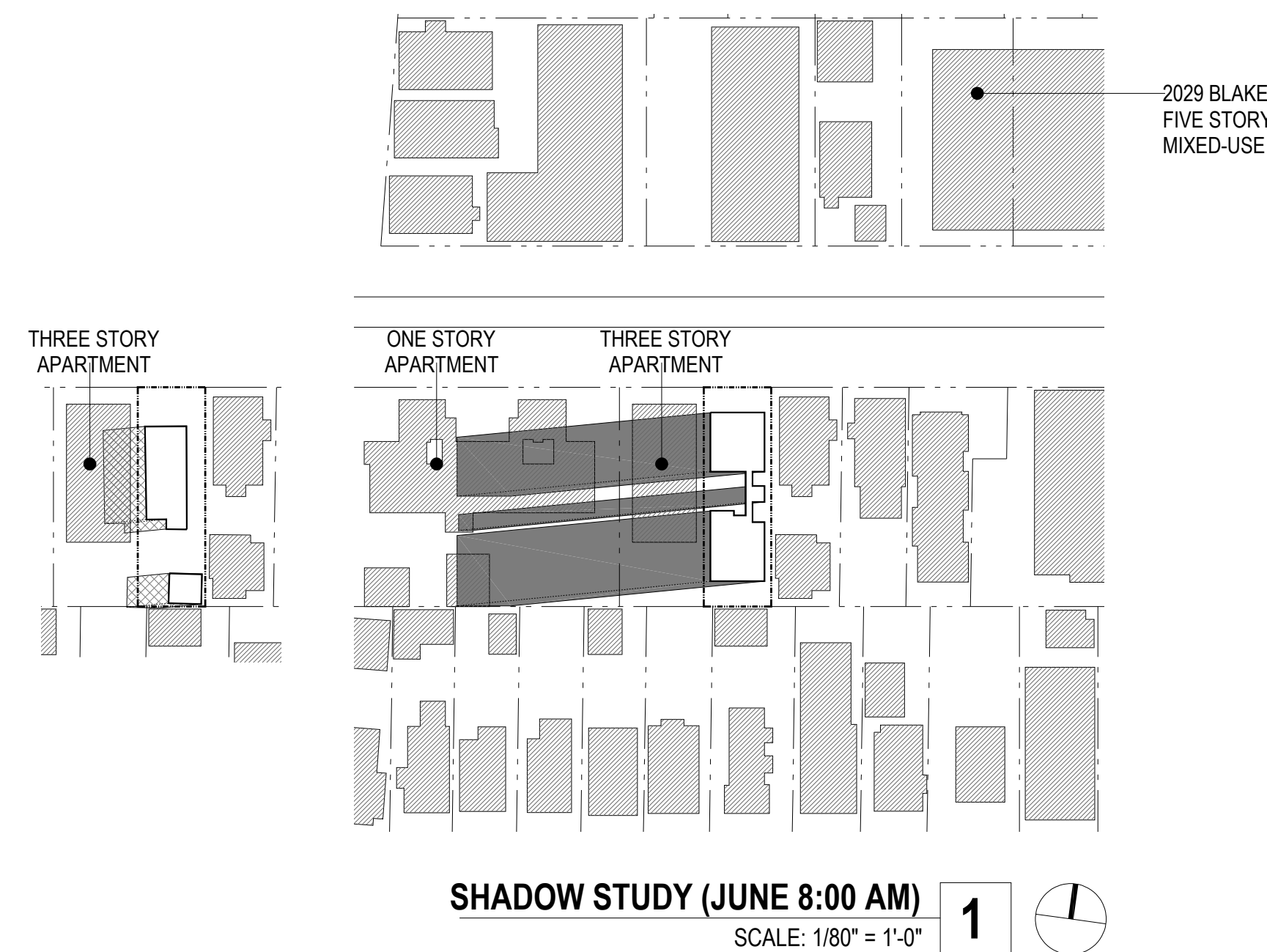
| NO. | DATE       | DESCRIPTION                    |
|-----|------------|--------------------------------|
|     | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
| 1   | 07/05/2021 | PLANNING APPROVAL 1ST COMMENTS |
| 2   | 09/25/2021 | PLANNING APPROVAL 2ND COMMENTS |
| 3   | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

LANDSCAPE AREA DIAGRAM

DRAWING BY: YZ  
CHECKED BY: PS  
DATE: 1/15/2022  
SCALE: 1/8" = 1'-0"

A1.3

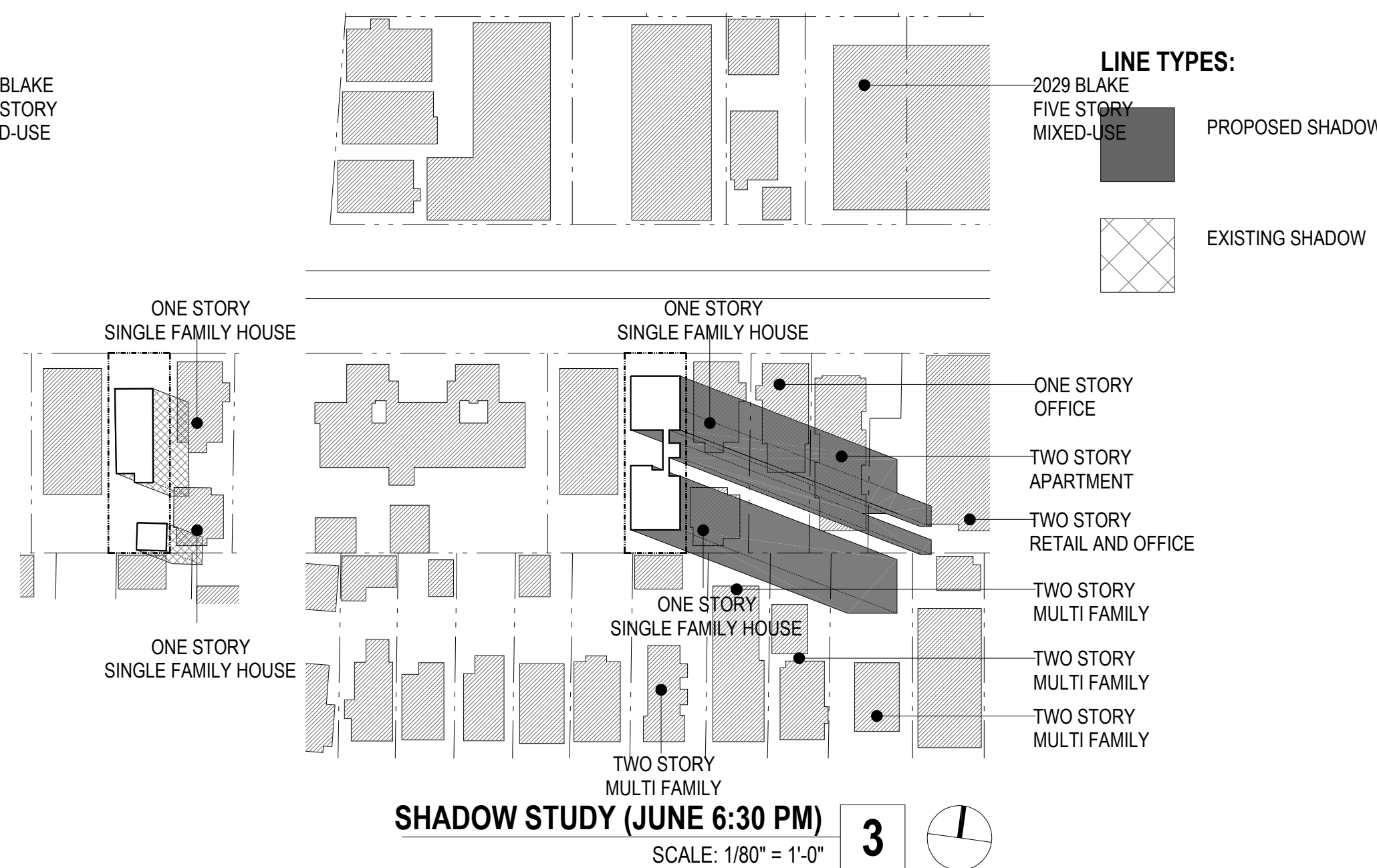
JUNE



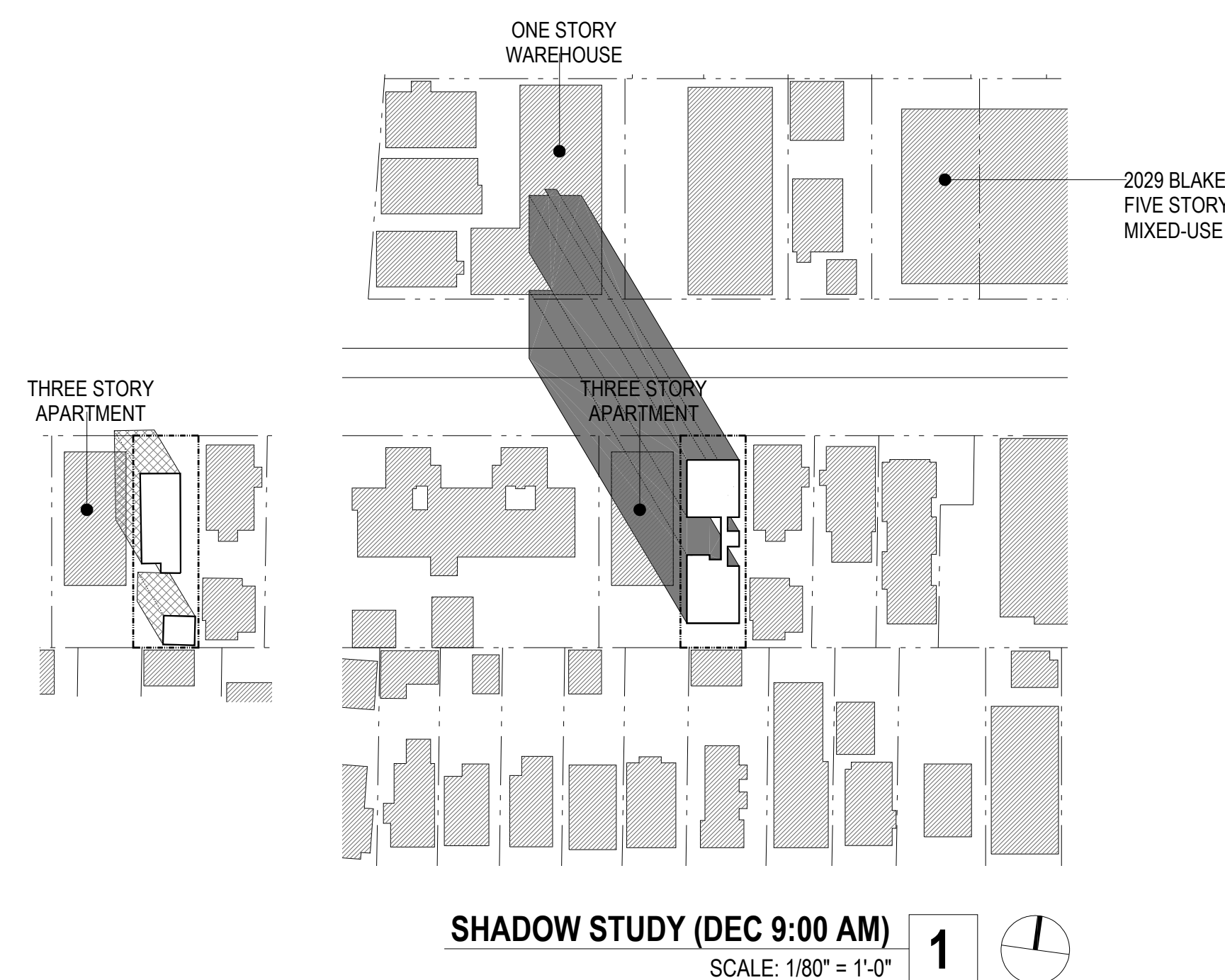
**SHADOW STUDY (JUNE NOON) 2**



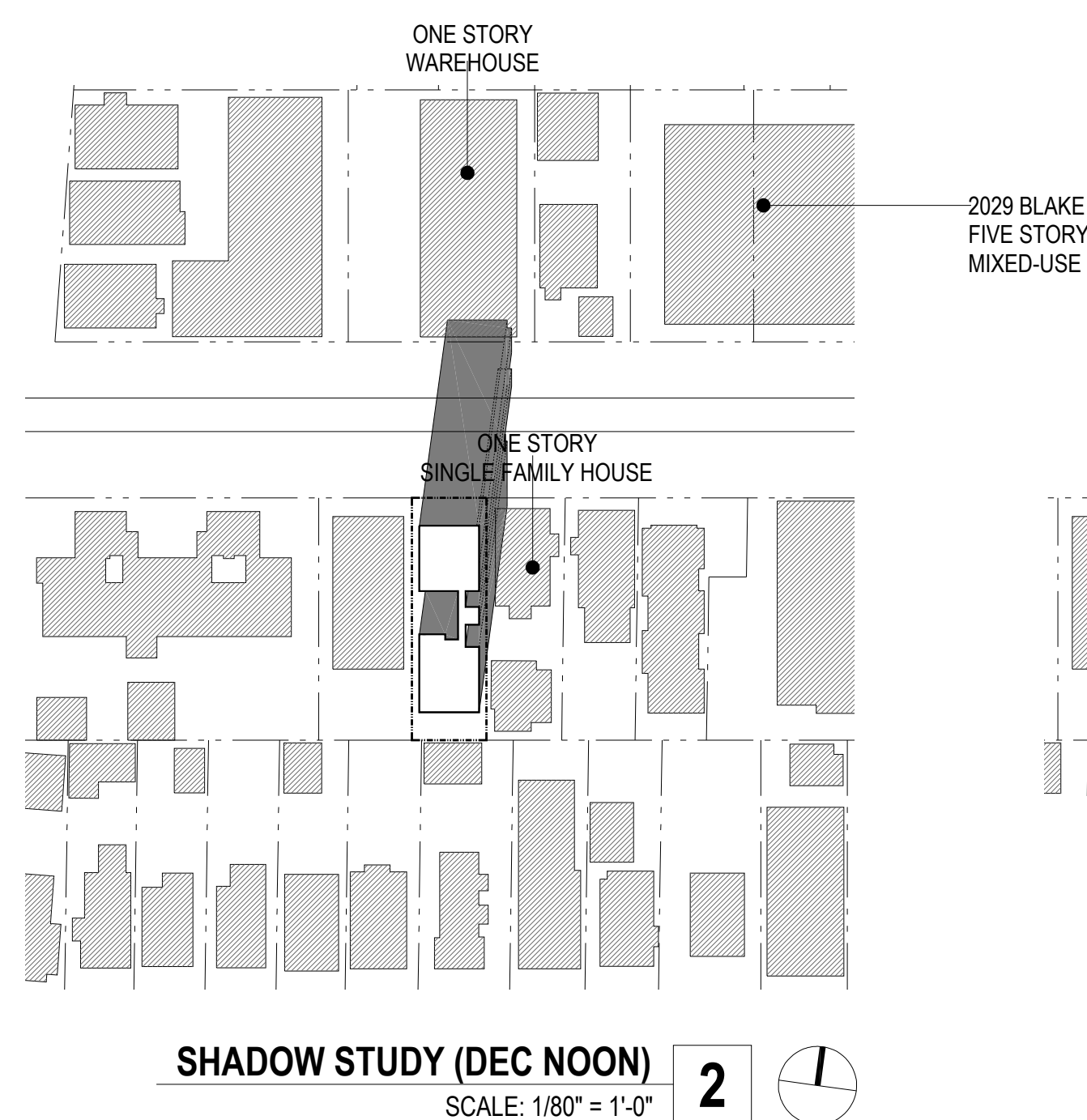
**SHADOW STUDY (JUNE 6:30 PM) 3**



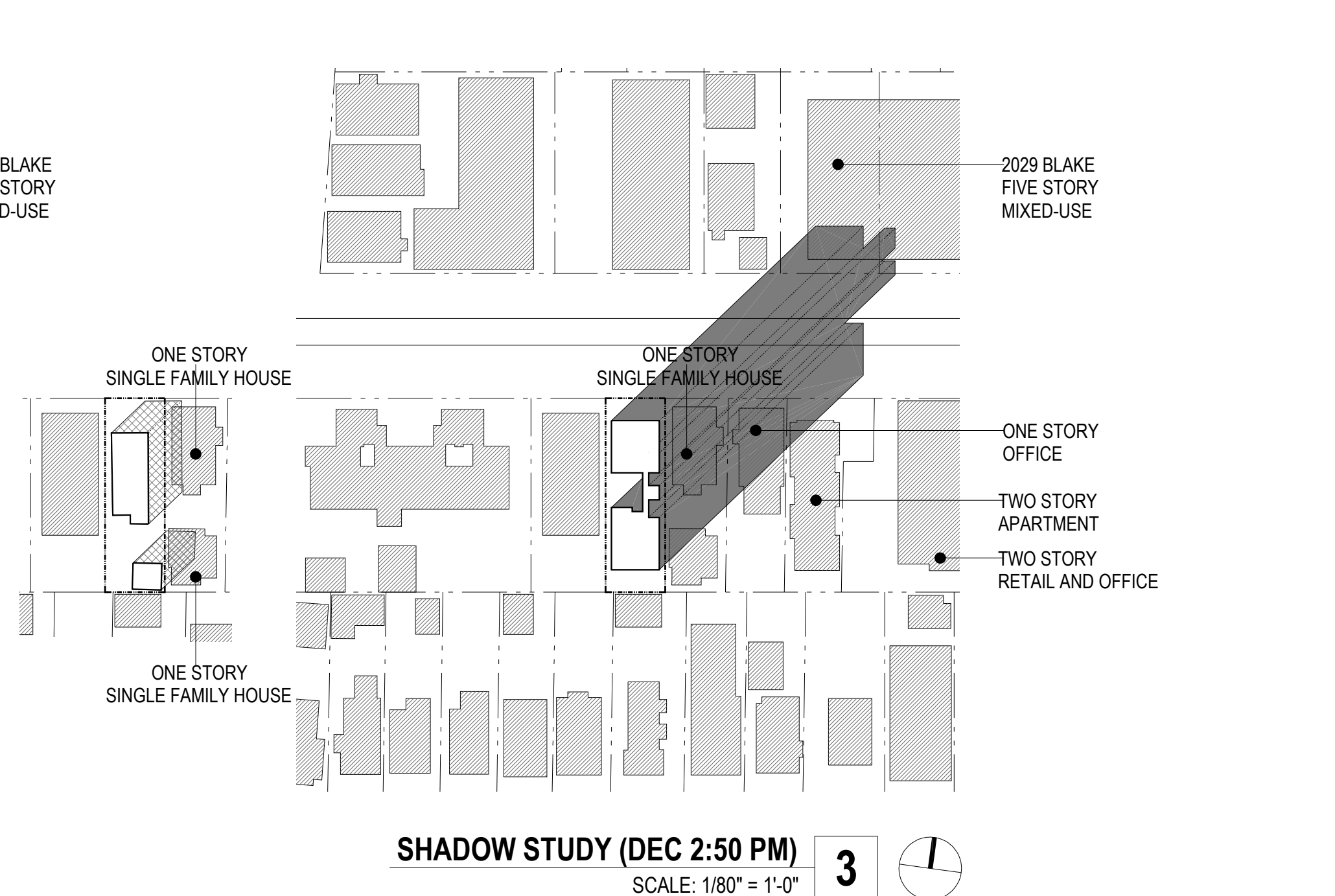
DECEMBER



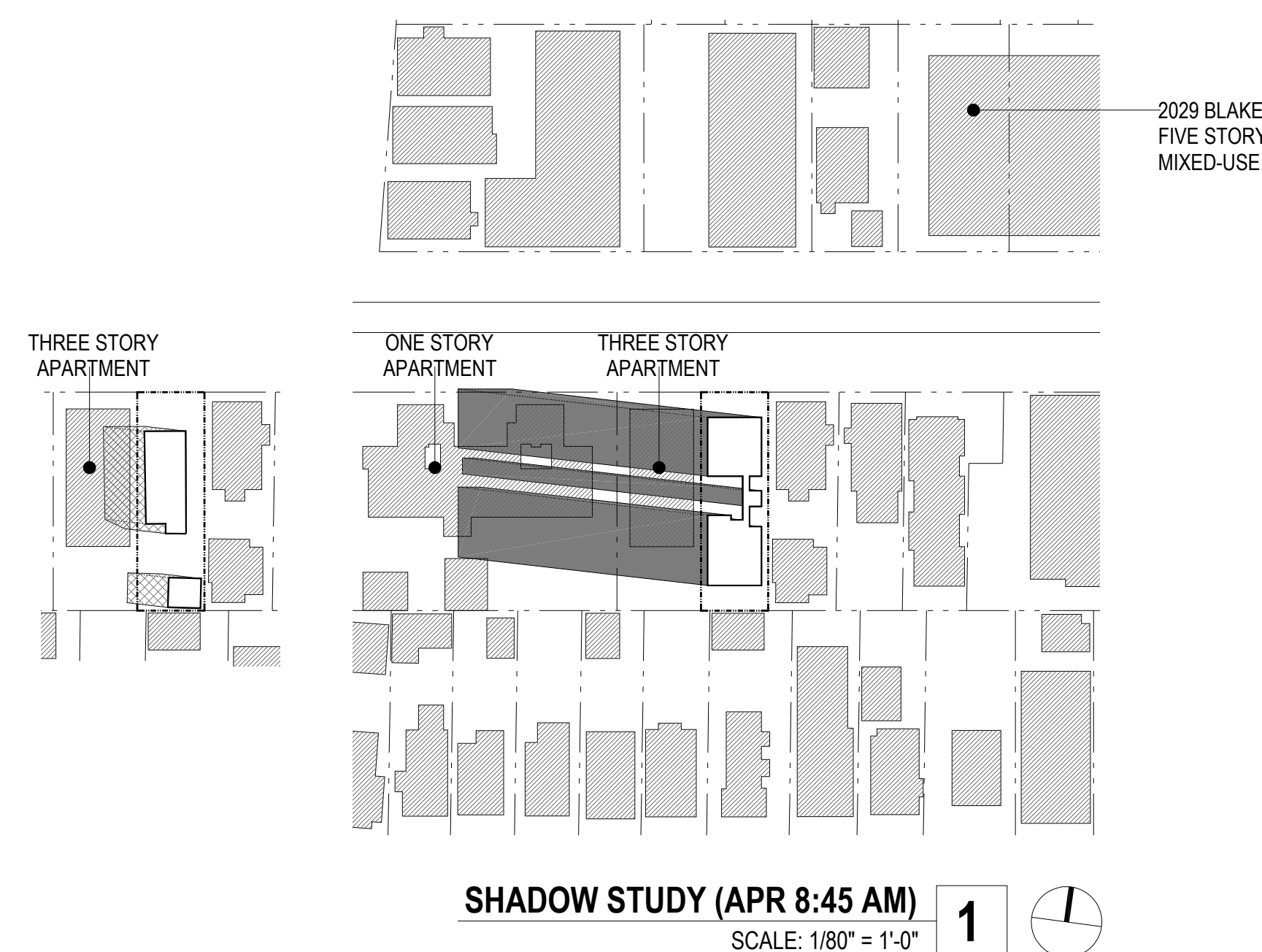
**SHADOW STUDY (DEC NOON) 2**



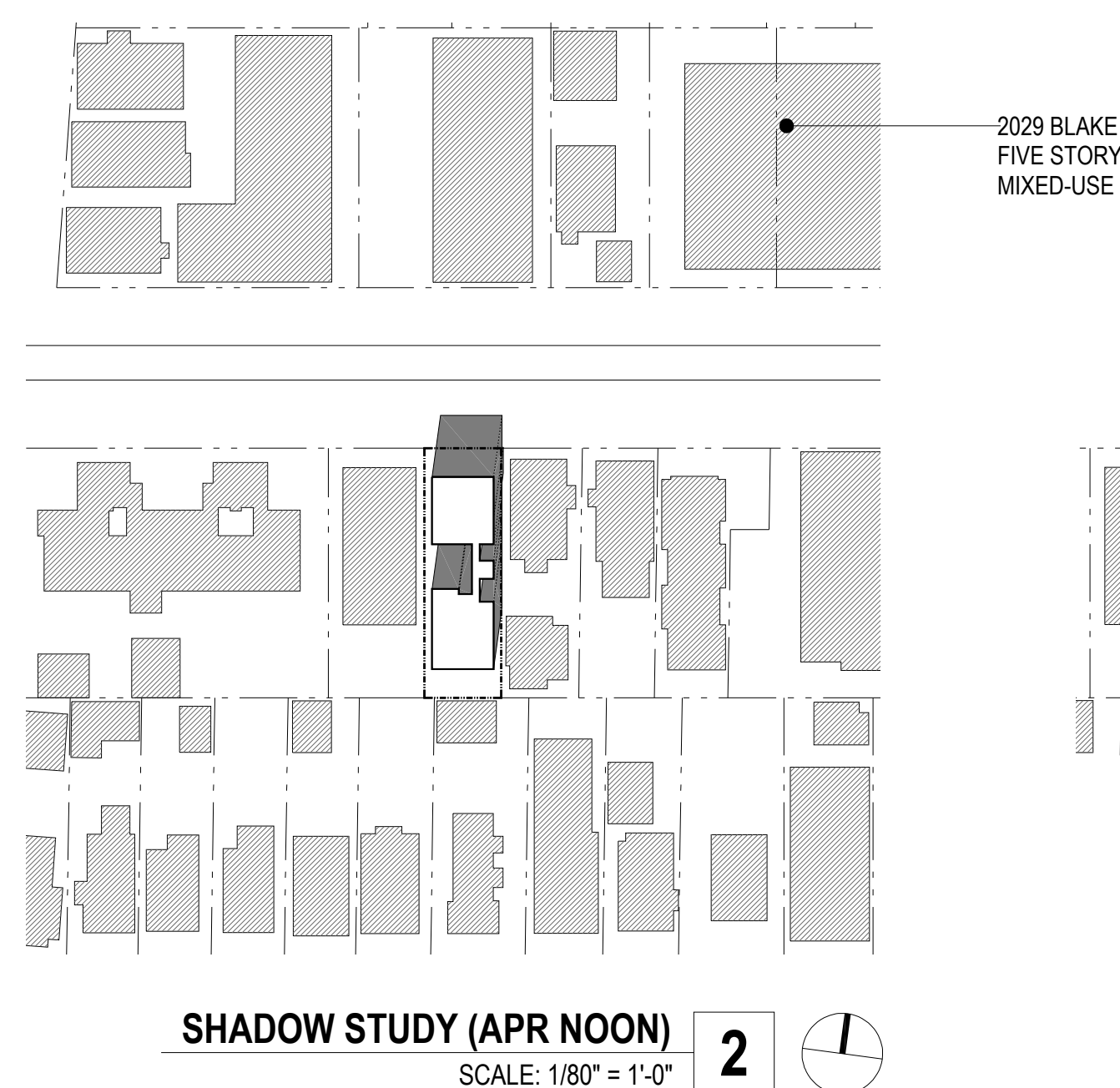
**SHADOW STUDY (DEC 2:50 PM) 3**



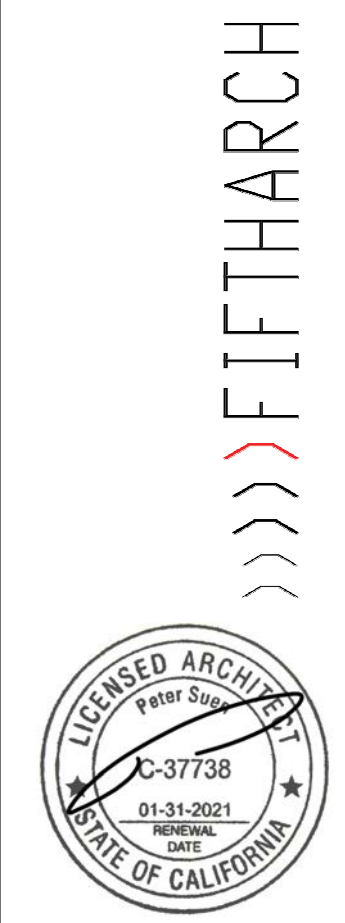
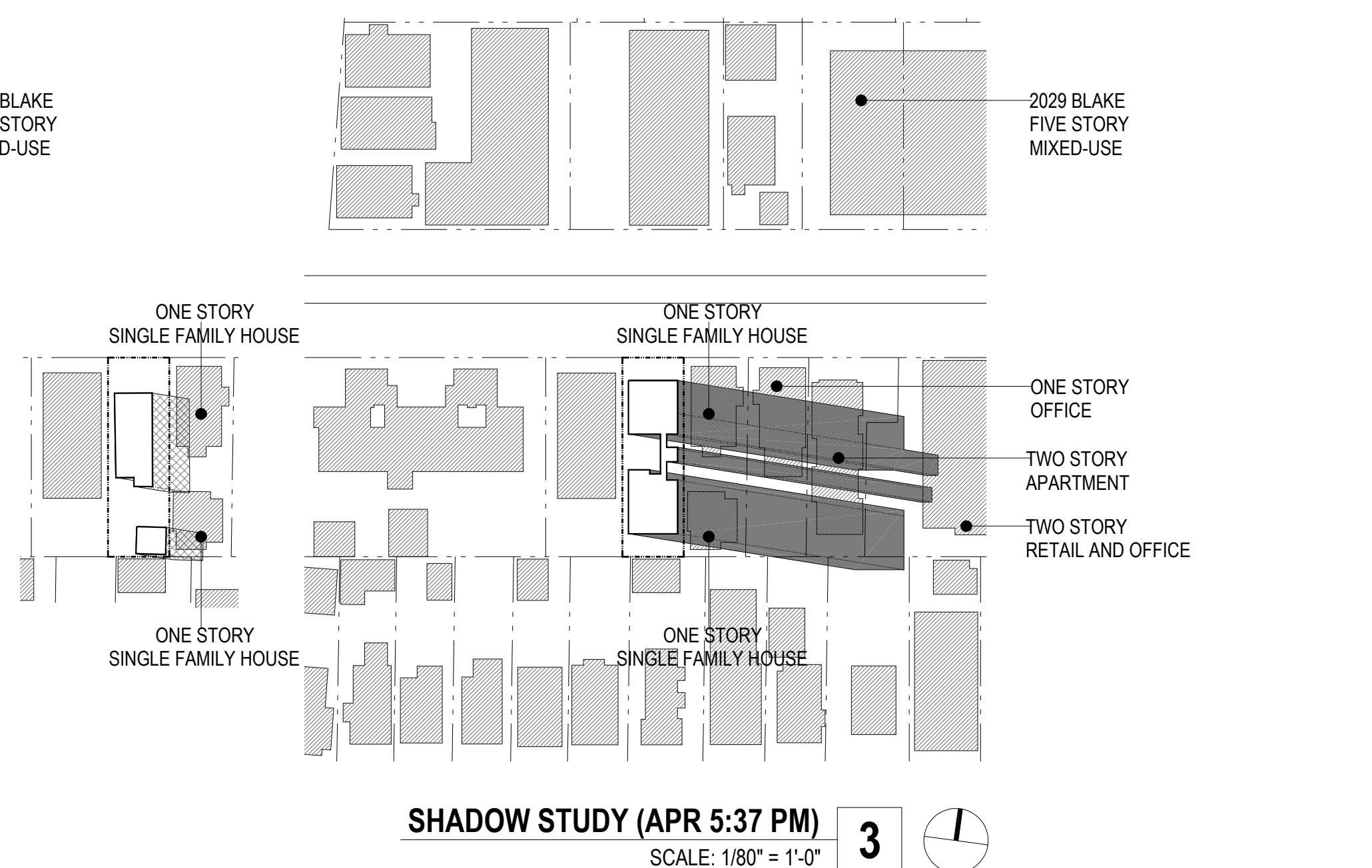
APRIL  
(SUBMITTED MONTH)



**SHADOW STUDY (APR NOON) 2**



**SHADOW STUDY (APR 5:37 PM) 3**



PROJECT  
2018 BLAKE STREET  
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| ISSUES & REVISIONS | NO | DATE       | DESCRIPTION                    |
|--------------------|----|------------|--------------------------------|
|                    | 1  | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
|                    | 2  | 07/05/2021 | PLANNING APPROVAL 1ST COMMENTS |
|                    | 3  | 09/25/2021 | PLANNING APPROVAL 2ND COMMENTS |
|                    | 4  | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

SHADOW STUDIES

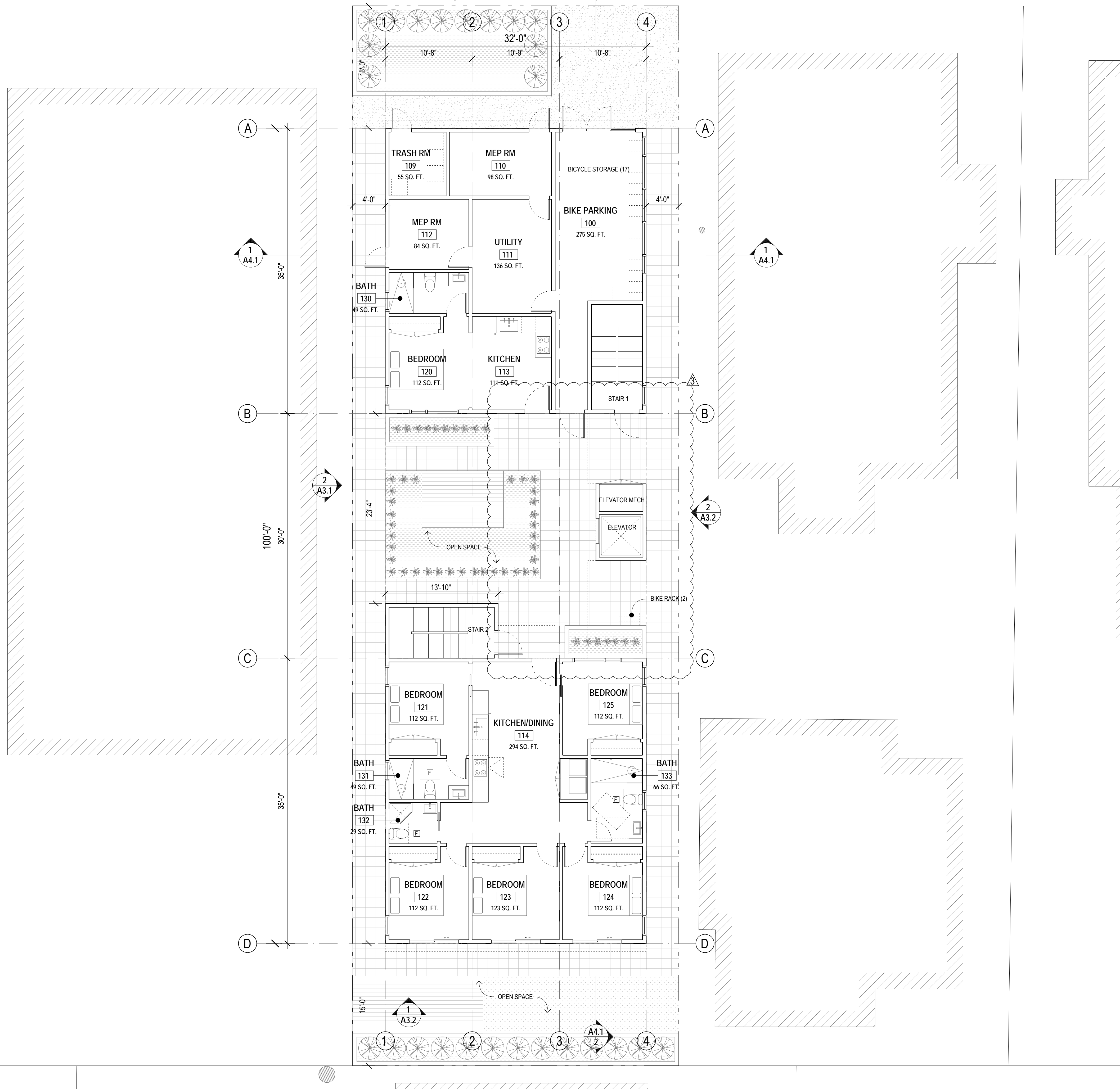
DATE: 3/6/2022  
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DRAWING BY: YZ  
CHECKED BY: PS

**A1.4**

BLAKE STREET

PROPERTY LINE

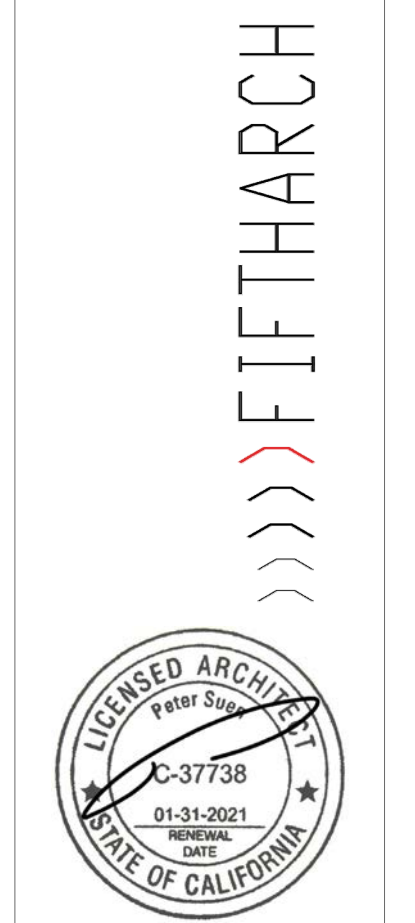


SHEET NOTES:

1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.
2. SHOWER COMPARTMENTS AND WALLS ABOVE BATHTUBS WITH INSTALLED SHOWER HEADS SHALL BE FINISHED W/ A NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 6 FT. ABV. THE FLOOR PER CRC R307.2.

LEGEND

- EXISTING WALL / ELEMENT TO REMAIN
- - - EXISTING WALL / ELEMENT TO REMOVE
- ▬ (N) PROPOSED WALL
- ▬ (N) 1-HR PROPOSED WALL
- ☐ FAN (PER 2013 CGC §4.506)



PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

| NO. | DATE       | DESCRIPTION                    |
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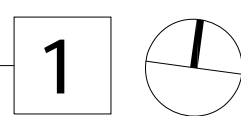
| NO. | DATE       | ISSUES & REVISIONS             |
|-----|------------|--------------------------------|
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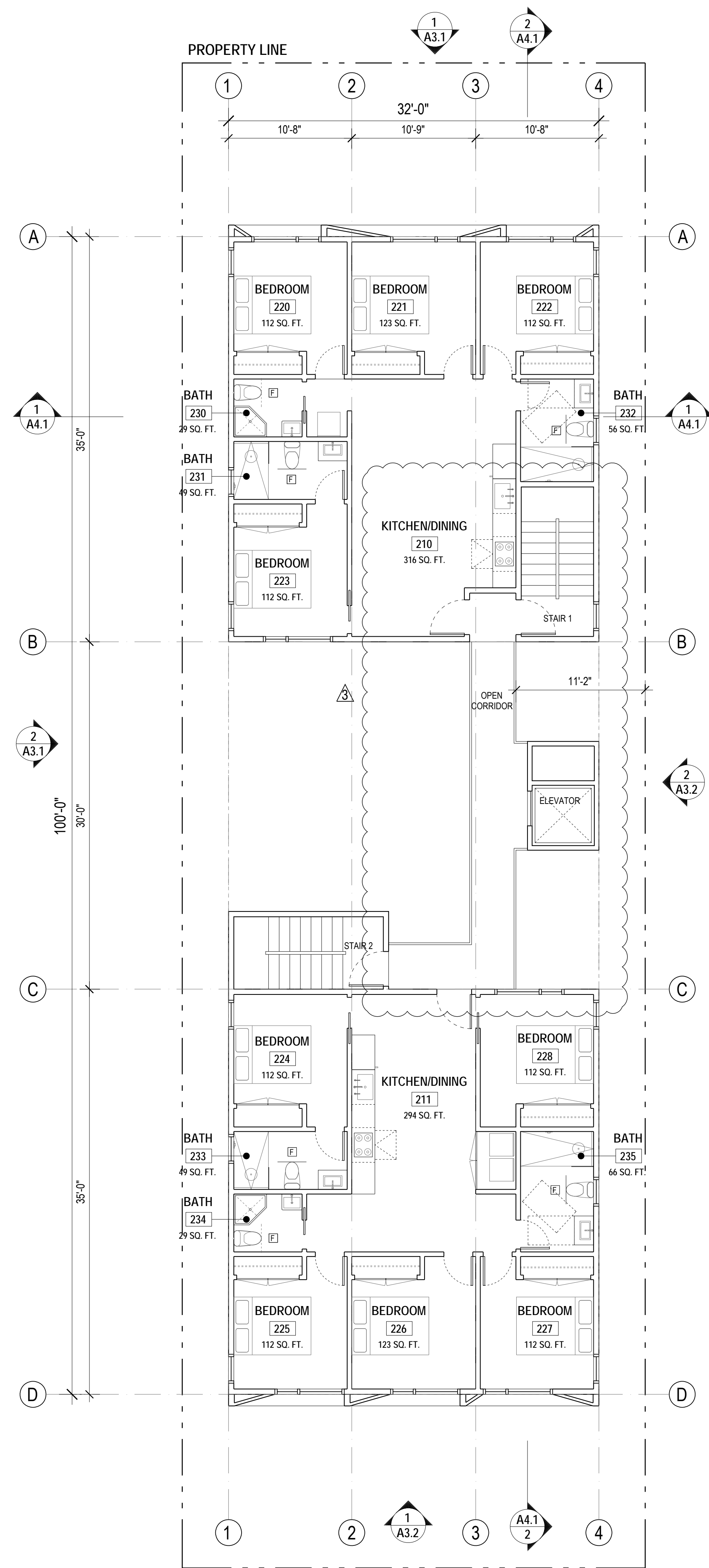
GROUND FLOOR PLAN

DRAWING BY: YZ  
CHECKED BY: PS

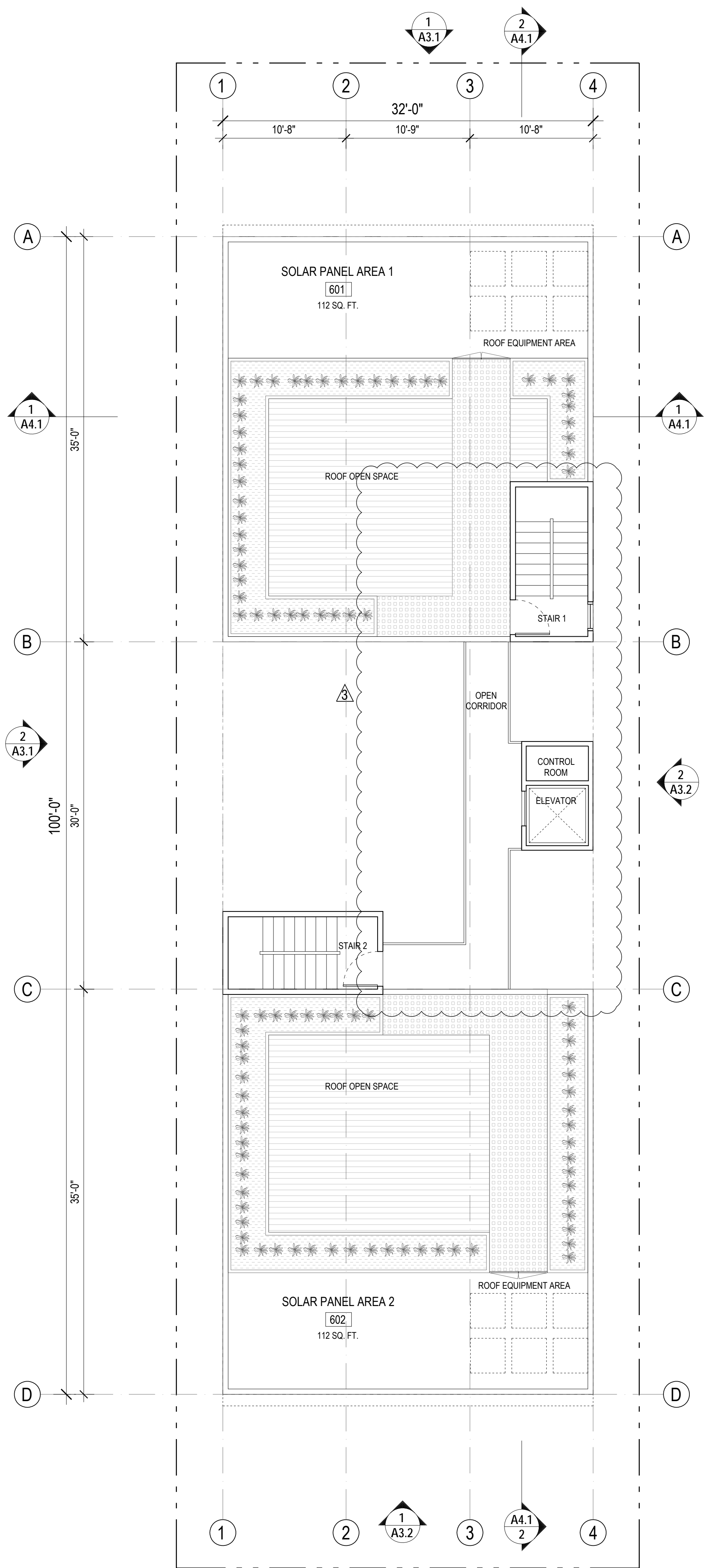
A2.1

GROUND FLOOR PLAN  
SCALE: 1/8" = 1'-0"





2ND - 6TH FLOOR PLAN  
SCALE: 1/8" = 1'-0" **1**



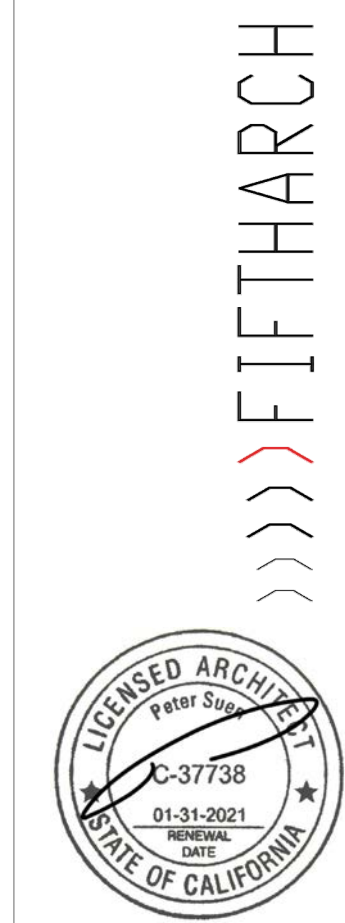
ROOF PLAN  
SCALE: 1/8" = 1'-0" **2**

SHEET NOTES:

- ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.
- SHOWER COMPARTMENTS AND WALLS ABOVE BATHTUBS WITH INSTALLED SHOWER HEADS SHALL BE FINISHED W/ A NONABSORBENT SURFACE TO A HEIGHT NOT LESS THAN 6 FT. ABV. THE FLOOR PER CRC R307.2.

LEGEND

- EXISTING WALL / ELEMENT TO REMAIN
- - - EXISTING WALL / ELEMENT TO REMOVE
- (N) PROPOSED WALL
- (N) 1-HR PROPOSED WALL
- F FAN (PER 2013 CGC §4.506)



PROJECT  
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BERKELEY, CA 94704

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ISSUES & REVISIONS

LEVEL 2 - 6 FLOOR PLAN & ROOF PLAN





DATE: 1/15/2022  
SCALE: 1/4" = 1'-0"

DRAWING BY: YZ  
CHECKED BY: PS

**A2.2**




MATERIAL

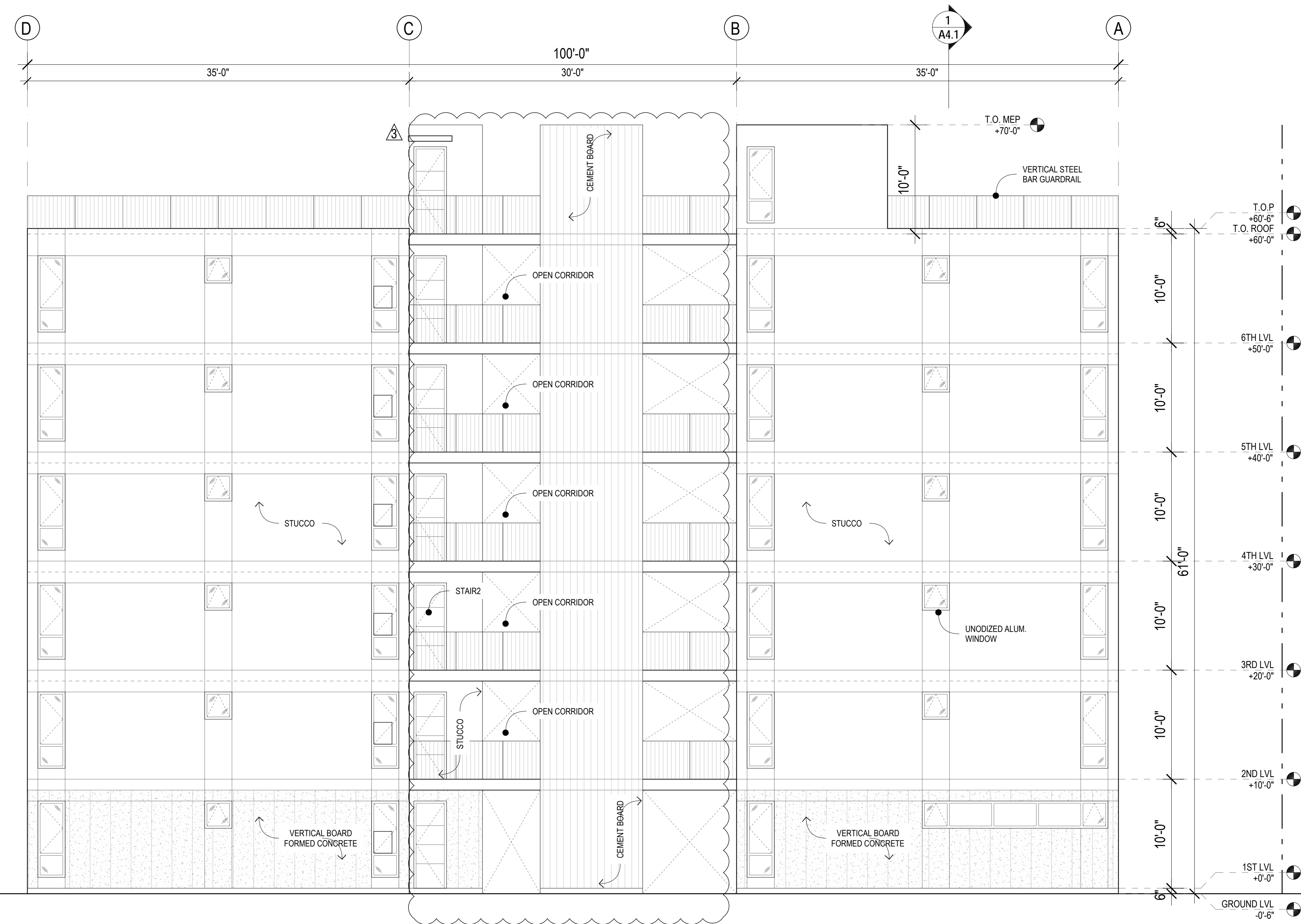
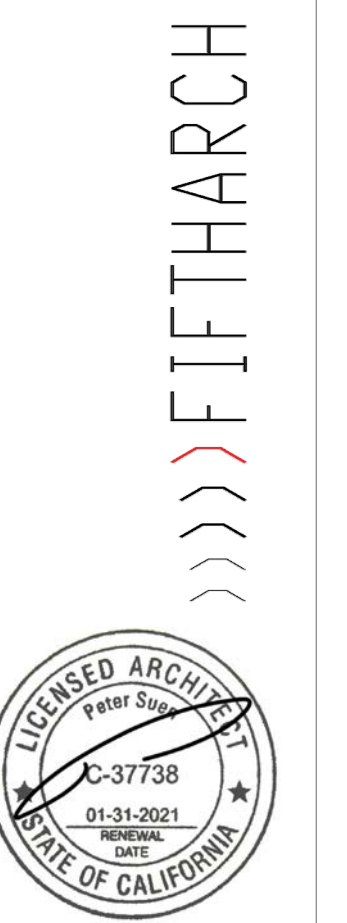
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

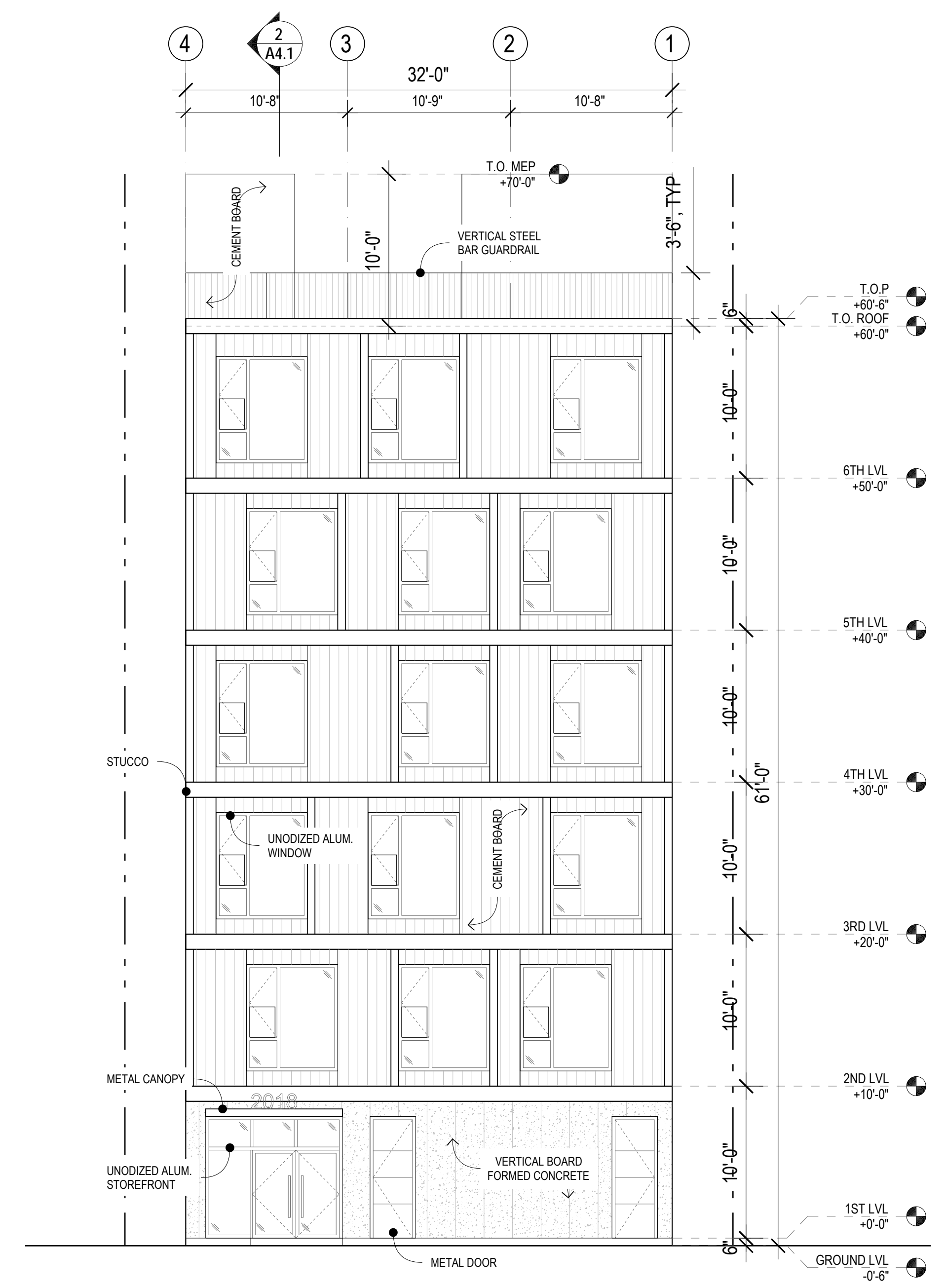
1. ALL NEW WINDOWS AND GLASS DOORS SHALL BE DOUBLE PANED, INSULATED W/ MAX U-VALUES AS STATED ON THE CALIFORNIA TITLE-24 REPORT. TEMP. MFGR LABELS SHOWING NEW GLAZING U-VALUES SHALL NOT BE REMOVED UNTIL BLDG. INSPECTOR AUTHORIZES TO DO SO.

LEGEND

 EGRESS WINDOW, MAX 44" ABV. F.F., 20" MIN. CLEAR WIDTH & 24" MIN. NET CLEAR OPENING HEIGHT



WEST ELEVATION 2  
SCALE: 1/8" = 1'-0"



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

PROJECT  
2018 BLAKE STREET  
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BERKELEY, CA 94704





| NO. | DATE       | DESCRIPTION                    |
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| DATE            | DRAWING BY | CHECKED BY |
|-----------------|------------|------------|
| 11/15/2022      | YZ         | PS         |
| SCALE: AS NOTED |            |            |

PROPOSED BUILDING ELEVATIONS  
A3.1

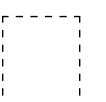
MATERIAL

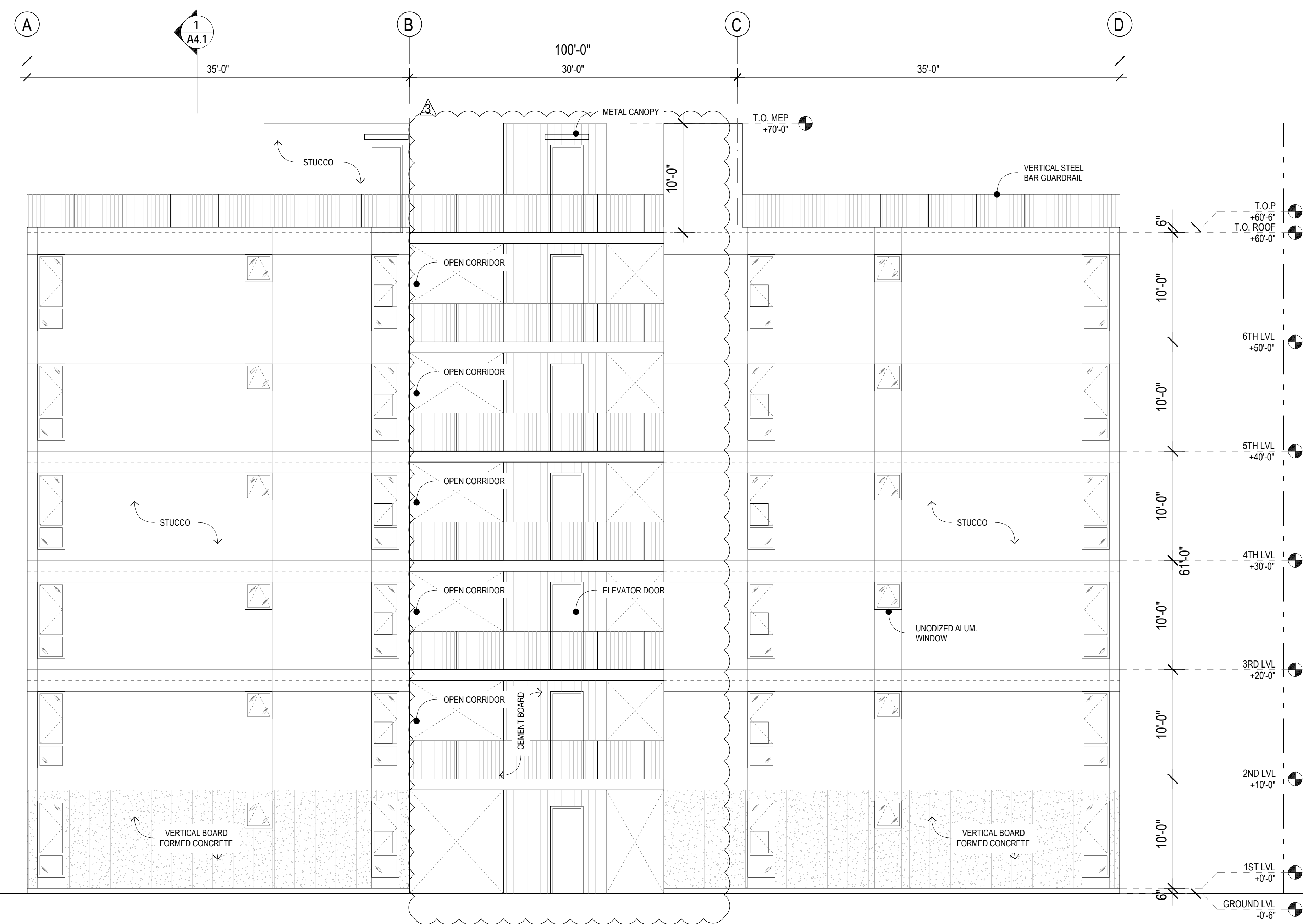
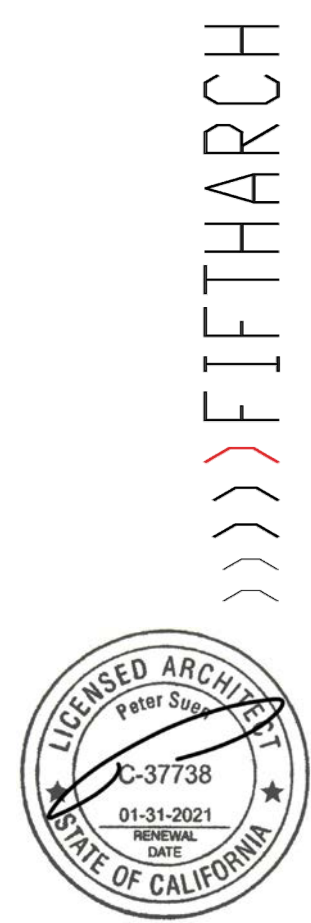
-  STUCCO
-  CEMENT BOARD
-  VERTICAL STEEL BAR GUARDRAIL
-  VERTICAL BOARD FORMED CONCRETE

SHEET NOTES:

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LEGEND

 EGRESS WINDOW, MAX 44" ABV. F.F., 20" MIN. CLEAR WIDTH & 24" MIN. NET CLEAR OPENING HEIGHT



**EAST ELEVATION**  
SCALE: 1/8" = 1'-0" **2**



**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0" **1**

PROJECT  
**2018 BLAKE STREET**  
2018 BLAKE STREET  
BERKELEY, CA 94704

| NO. | DATE       | DESCRIPTION                    |
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ISSUES & REVISIONS

**PROPOSED BUILDING ELEVATIONS**

|                 |                |
|-----------------|----------------|
| DATE: 1/15/2022 | DRAWING BY: YZ |
| SCALE: AS NOTED | CHECKED BY: PS |

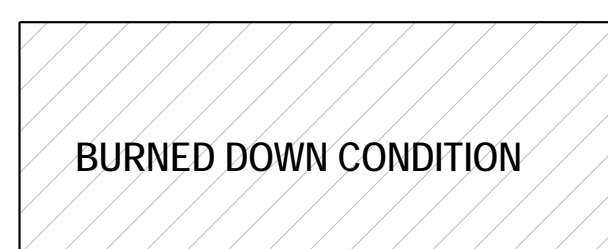
**A3.2**



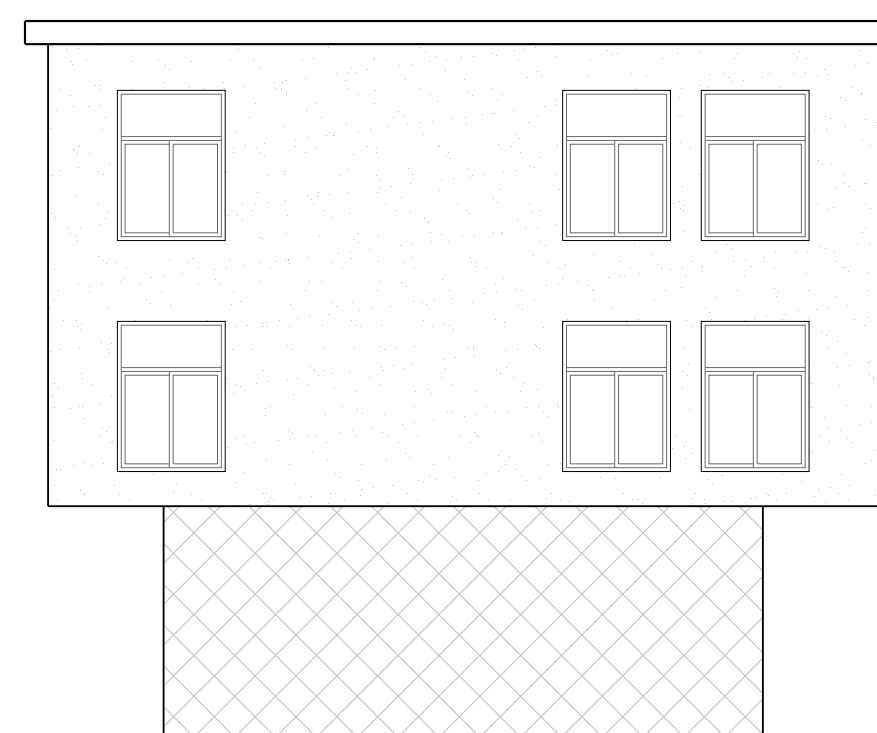
2022 BLAKE STREET



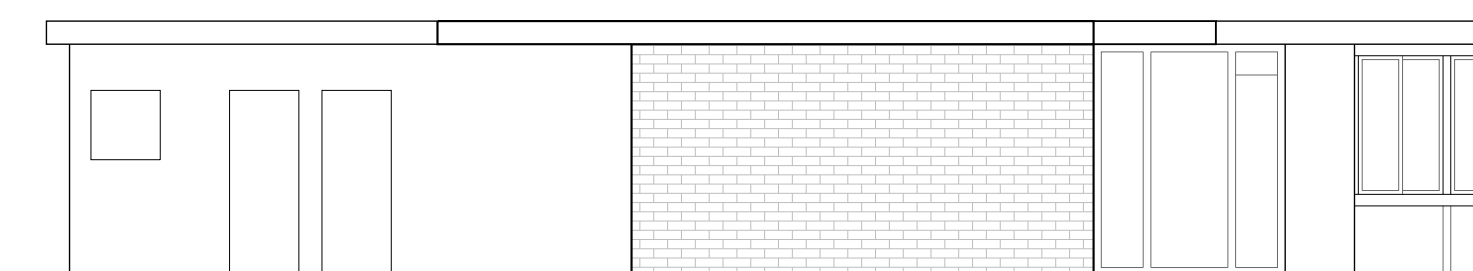
2020 BLAKE STREET



2018 BLAKE STREET



2016 BLAKE STREET



2006 BLAKE STREET

EXISTING STREET ELEVATION **1**  
SCALE: 1/8" = 1'-0"

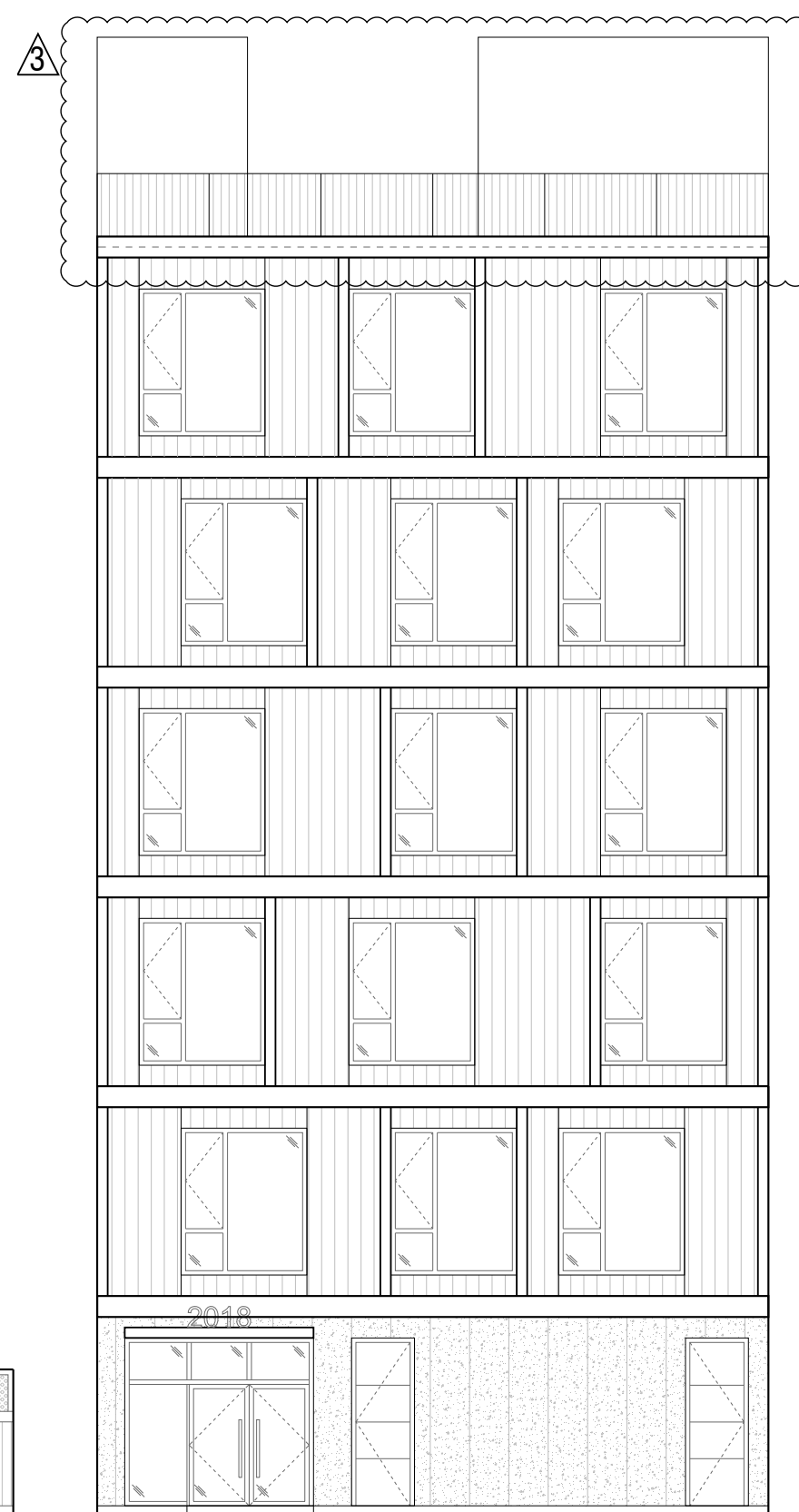


BLAKE STREET

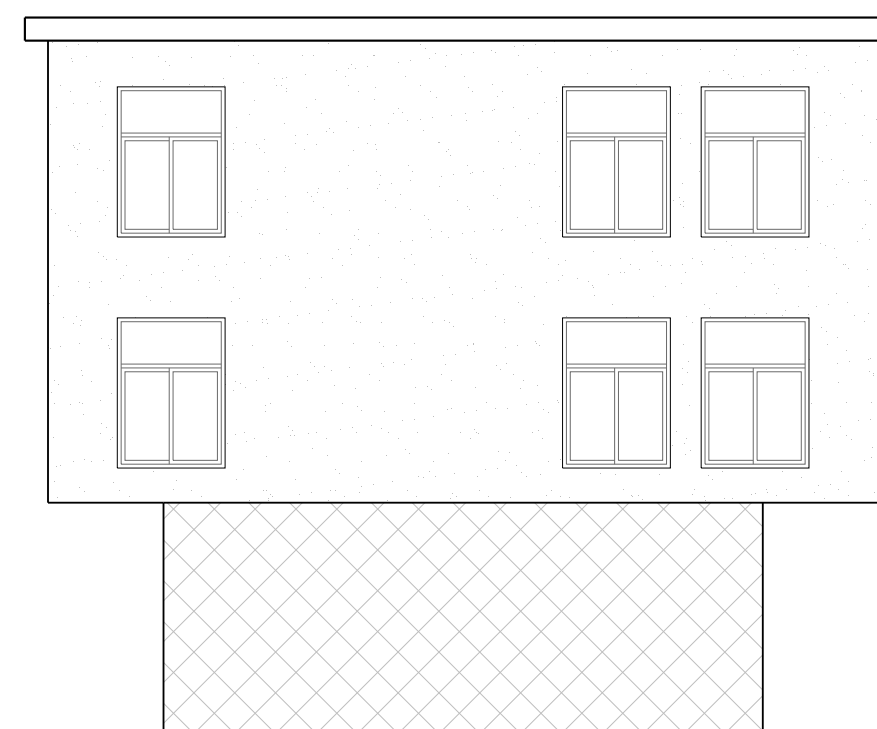
2022 BLAKE STREET



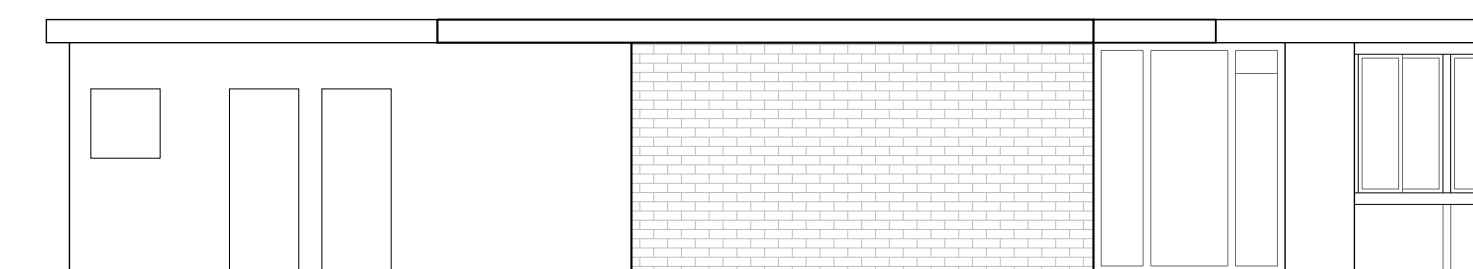
2020 BLAKE STREET



2018 BLAKE STREET

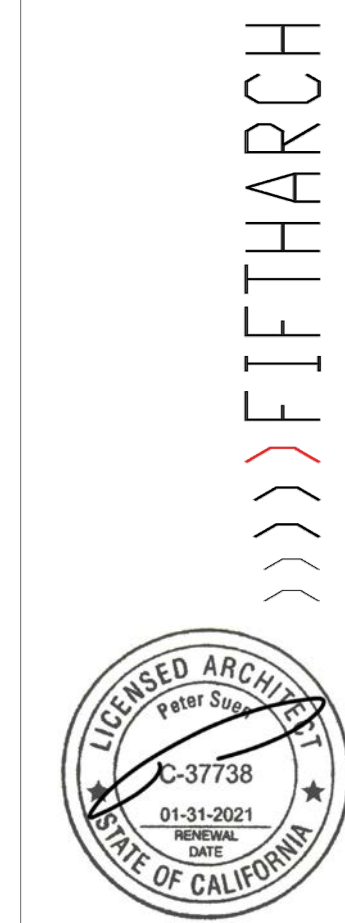


2016 BLAKE STREET



2006 BLAKE STREET

PROPOSED STREET ELEVATION **1**  
SCALE: 1/8" = 1'-0"

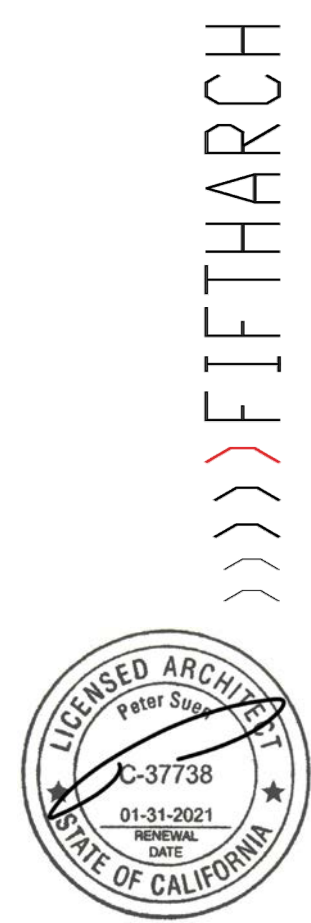


PROJECT  
2018 BLAKE STREET  
2018 BLAKE STREET  
BERKELEY, CA 94704

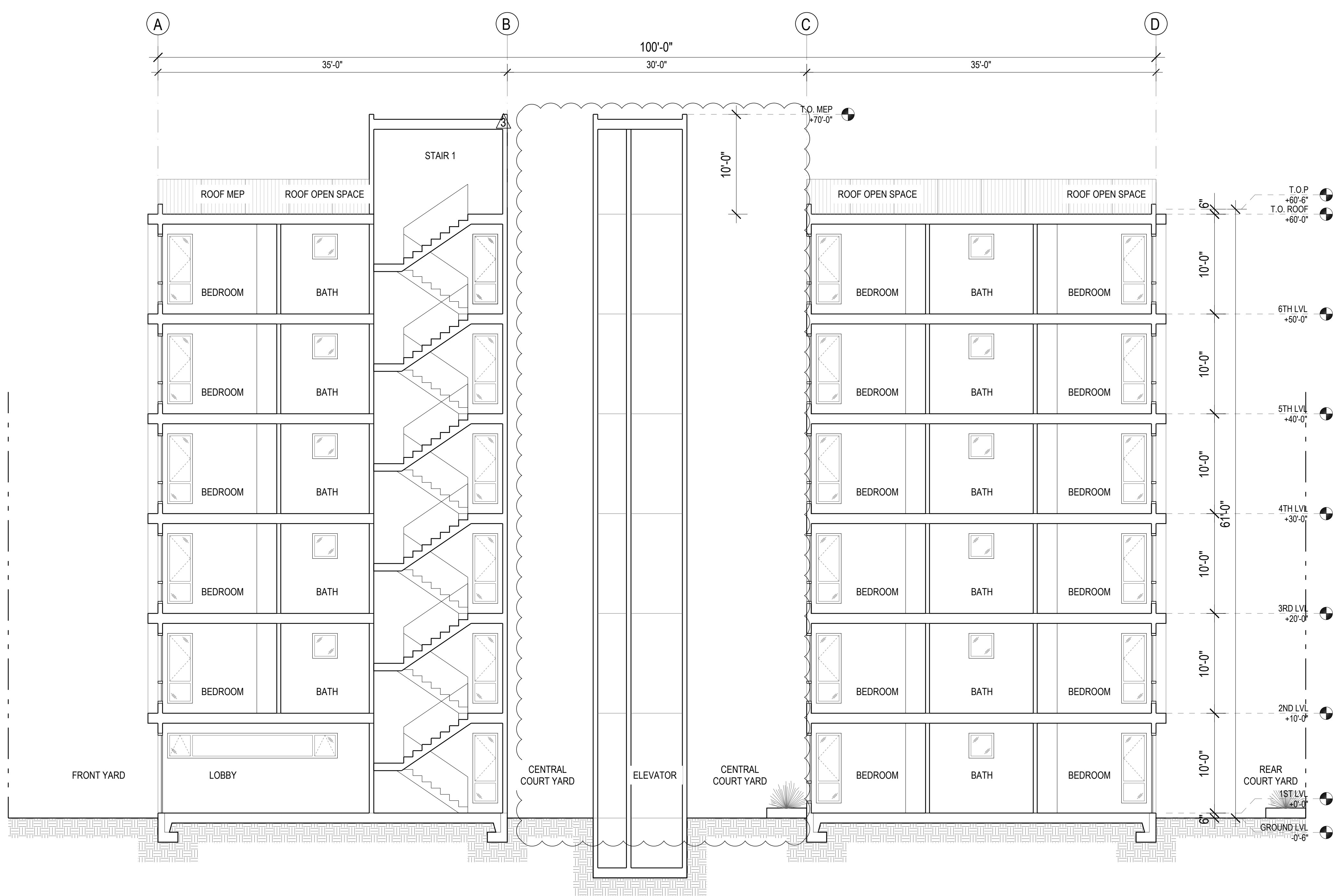
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|--------------------|-----|------------|--------------------------------|
|                    | A   | 04/28/2021 | PLANNING APPROVAL SUBMITTAL    |
|                    | A   | 07/05/2021 | PLANNING APPROVAL 1ST COMMENTS |
|                    | A   | 09/25/2021 | PLANNING APPROVAL 2ND COMMENTS |
|                    | A   | 12/20/2021 | PLANNING APPROVAL 3RD COMMENTS |

STREET ELEVATION  
DATE: 1/15/2022  
SCALE: AS NOTED  
DRAWING BY: YZ  
CHECKED BY: PS

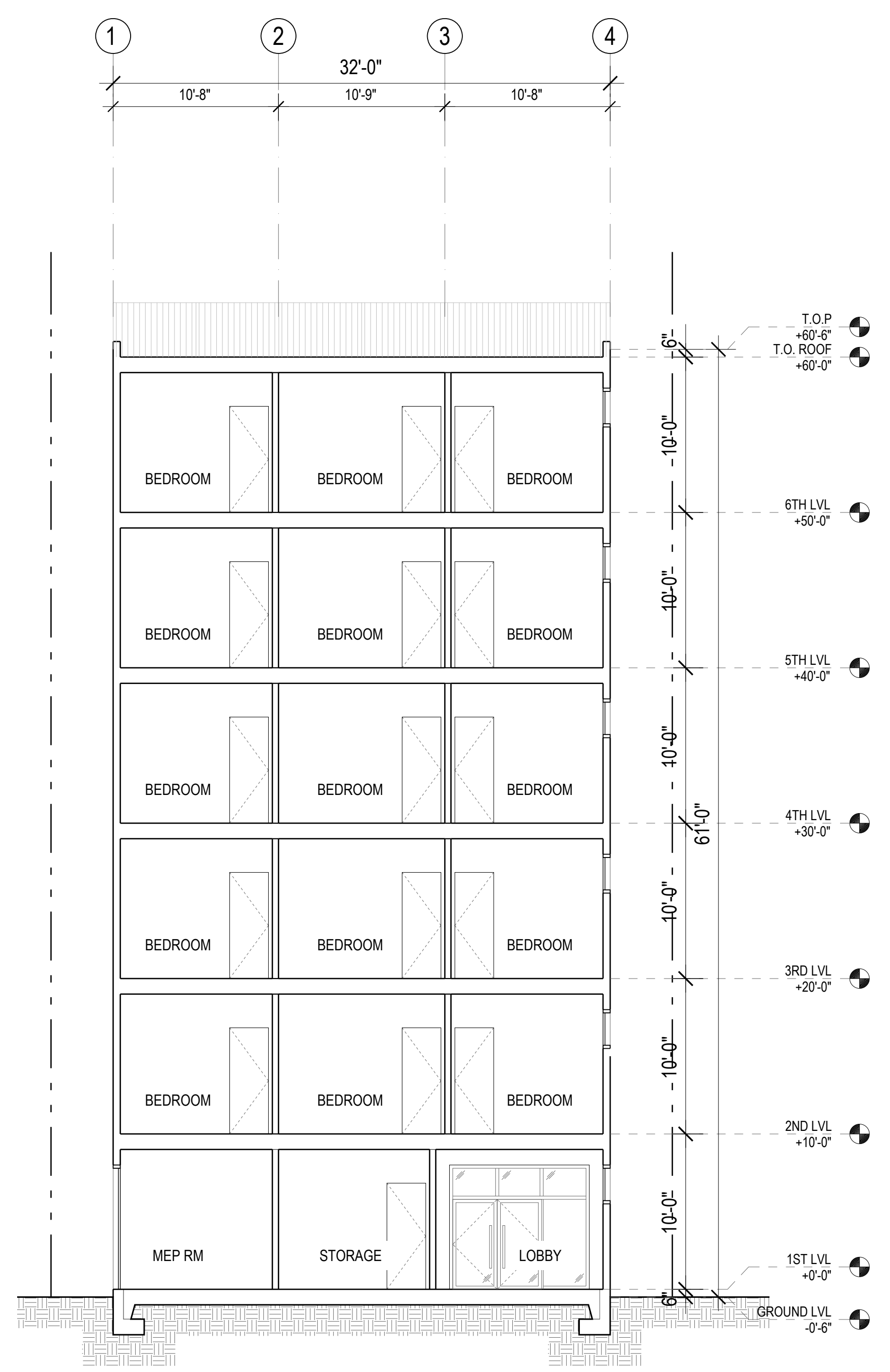
**A3.3**



FIFTHARCH



PROPOSED LONG SECTION  
SCALE: 1/8" = 1'-0" **2**



PROPOSED SHORT SECTION  
SCALE: 1/8" = 1'-0" **1**

PROJECT  
2018 BLAKE STREET  
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BERKELEY, CA 94704

| ISSUES & REVISIONS |                                |
|--------------------|--------------------------------|
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BUILDING SECTIONS

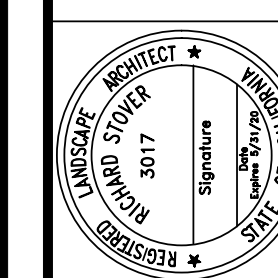
DATE: 11/15/2022  
SCALE: AS NOTED  
DRAWING BY: YZ  
CHECKED BY: PS

**A4.1**



| REVISIONS |  |
|-----------|--|
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|           |  |
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RW Stover & Associates, Inc.  
Landscape Architecture  
1620 North Main Street, Suite 4  
Walnut Creek, CA 94596  
Ph: 925.937.2383

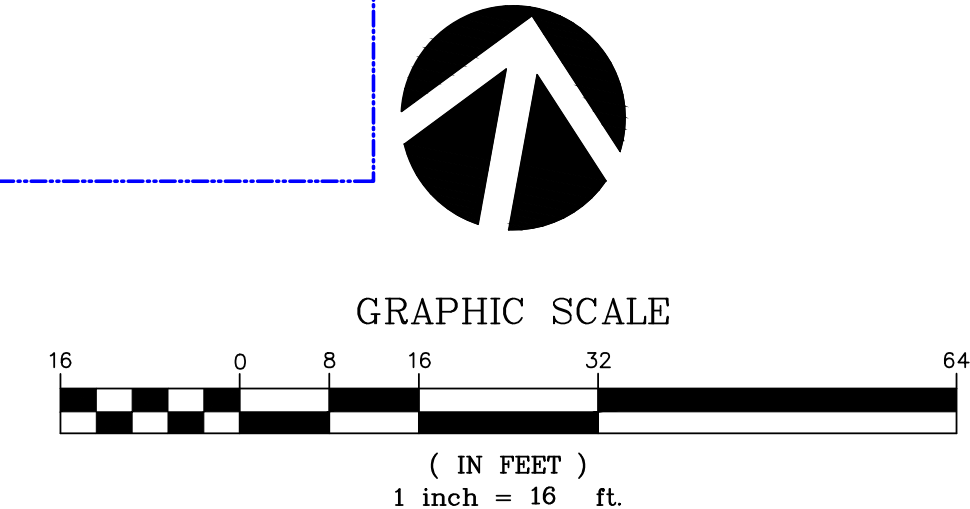
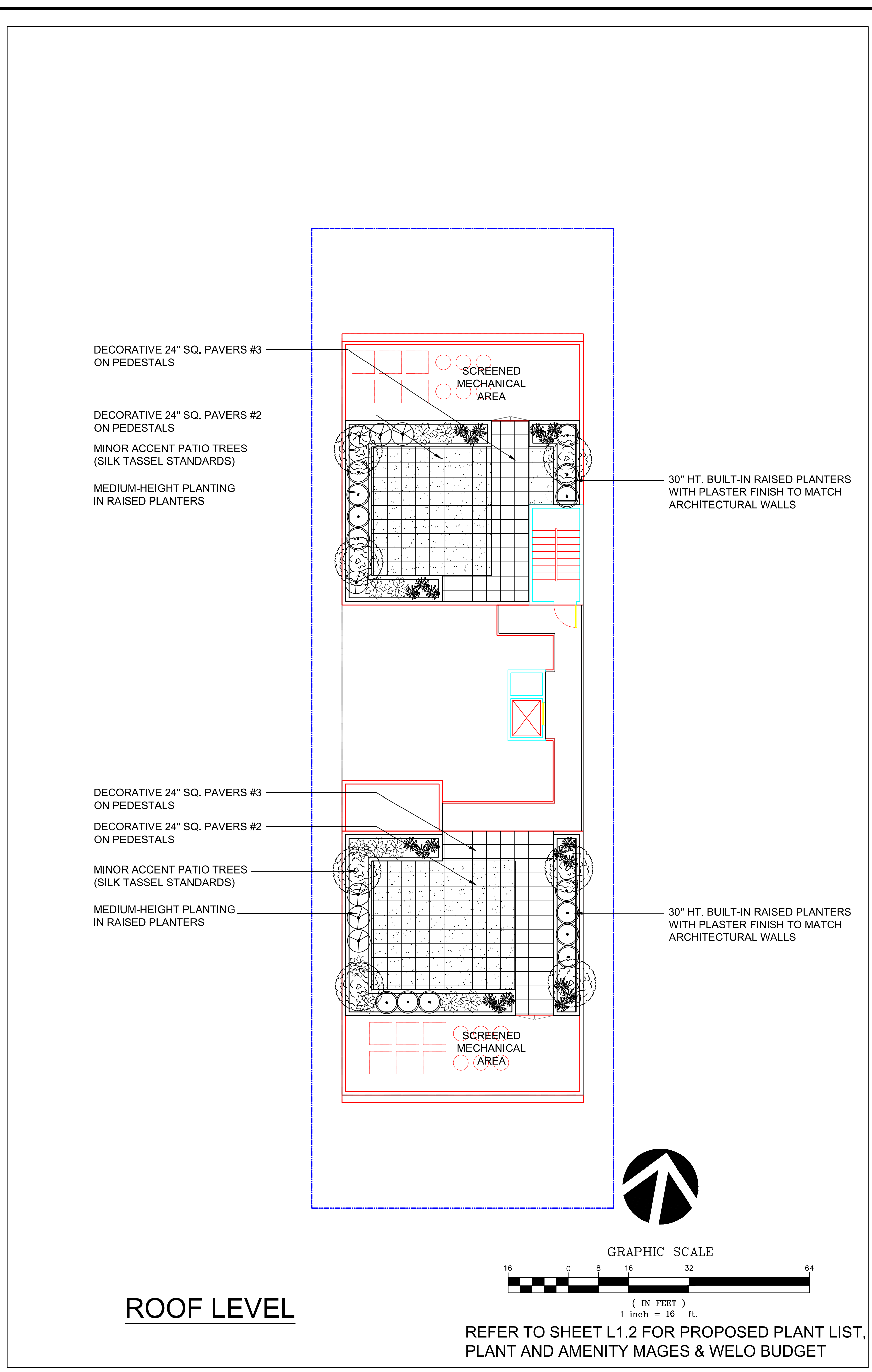
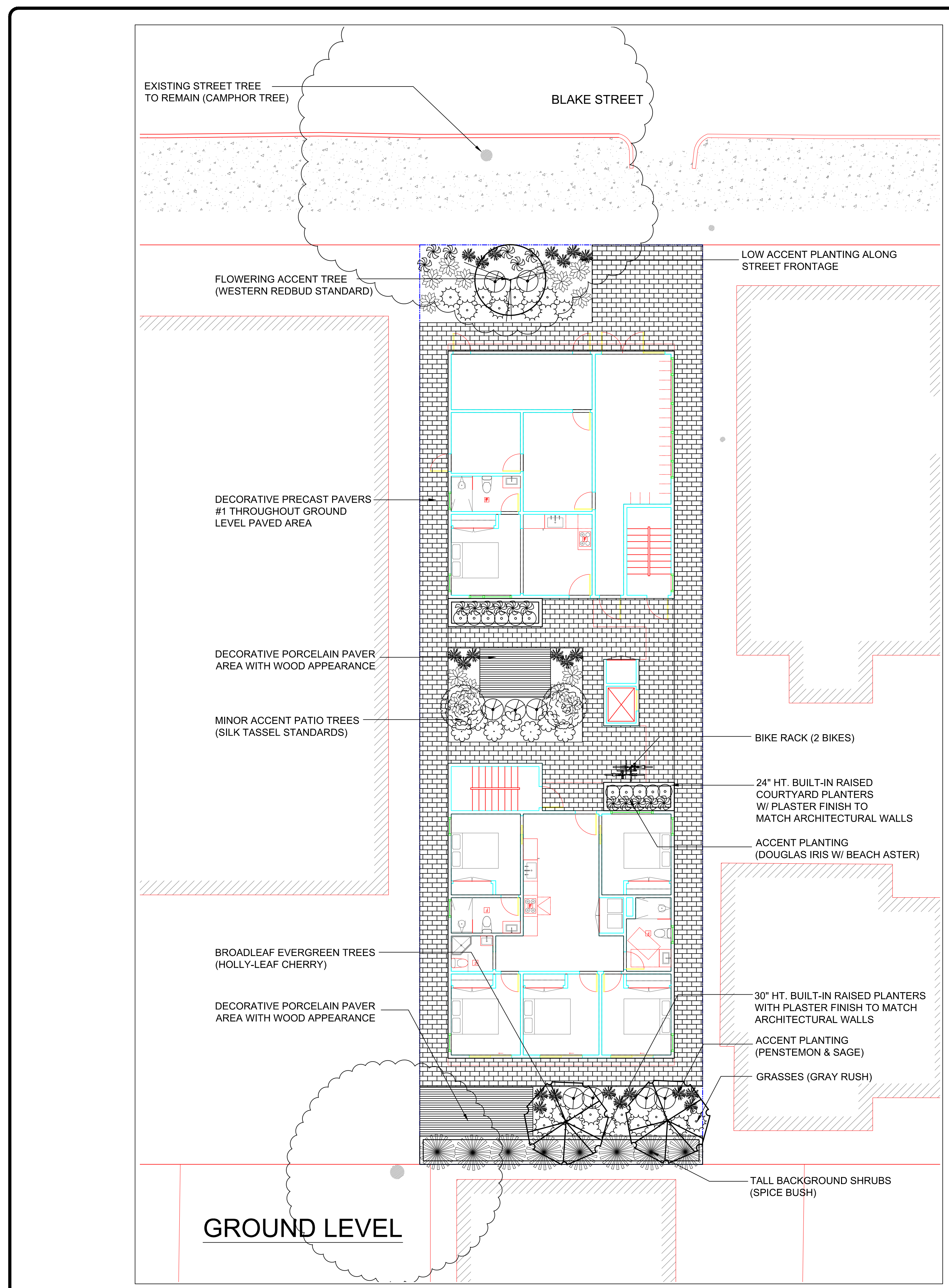


2018 BLAKE STREET  
BERKELEY, CALIFORNIA

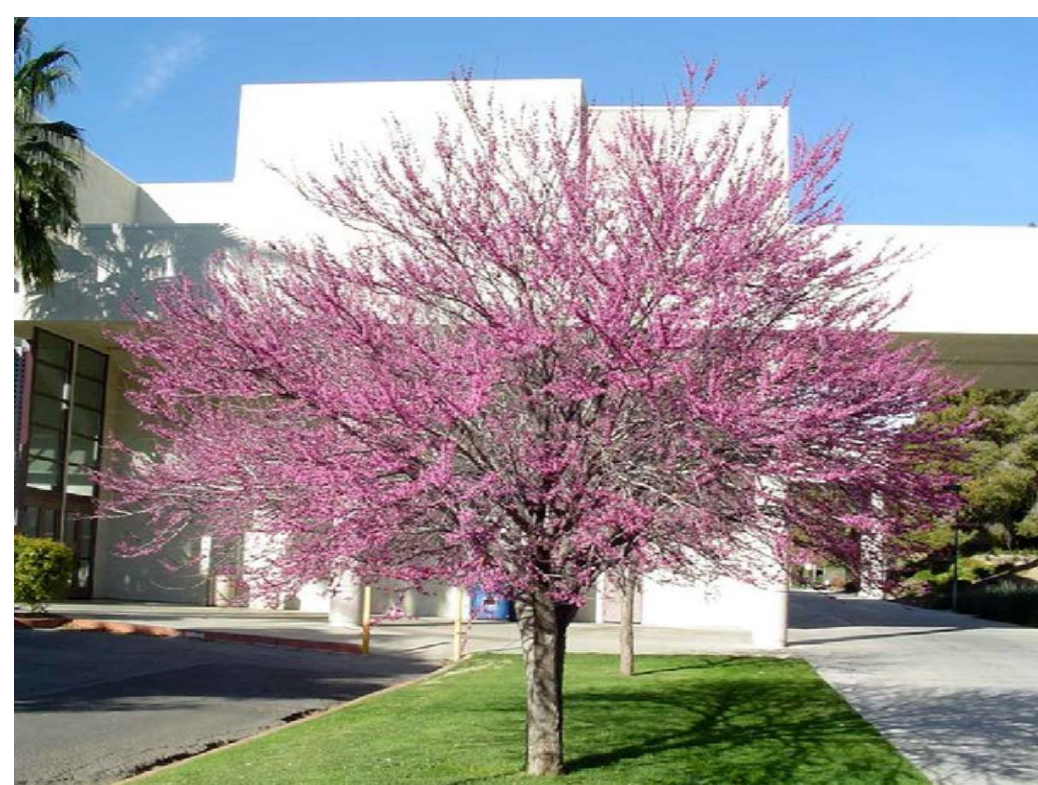
PRELIMINARY  
LANDSCAPE PLANS

|                   |              |
|-------------------|--------------|
| DESIGNED:<br>RS   | DRAWN:<br>RS |
| CHECKED:          | JOB NO.:     |
| DATE:<br>11-29-21 |              |
| SCALE:<br>NOTED   |              |

SHEET  
**L1.1**  
OF SHEETS



REFER TO SHEET L1.2 FOR PROPOSED PLANT LIST,  
PLANT AND AMENITY MAGES & WELO BUDGET



CERCIS OCCIDENTALIS (STANDARD FORM)  
WESTERN REDBUD



GARRYA ELLIPTICA (STANDARD FORM)  
SILKTASSEL



PRUNUS ILICIFOLIA (STANDARD FORM)  
HOLLY-LEAF CHERRY

**PROPOSED PLANT MATERIAL LIST (ALL BUILDING LEVELS):**

| BOTANICAL NAME                    | COMMON NAME          | QUANTITY | SIZE    | WUCOLS | NATIVE |
|-----------------------------------|----------------------|----------|---------|--------|--------|
| <b>TREES:</b>                     |                      |          |         |        |        |
| CERCIS OCCIDENTALIS (LOW-BRANCH)  | WESTERN REDBUD       | 1        | 24" BOX | LOW    | YES    |
| GARRYA ELLIPTICA (STANDARD)       | SILKTASSEL           | 9        | 24" BOX | LOW    | YES    |
| PRUNUS ILICIFOLIA (STANDARD)      | HOLLY-LEAF CHERRY    | 2        | 24" BOX | LOW    | YES    |
| <b>SHRUBS:</b>                    |                      |          |         |        |        |
| CALYCANTHUS OCCIDENTALIS          | SPICE BUSH           | 8        | 5 GA    | LOW    | YES    |
| ERIOGONUM ARBORESCENS             | BUCKWHEAT            | 25       | 5 GA    | LOW    | YES    |
| SALVIA CLEVE. 'WINNIFRED GILLMAN' | CALIFORNIA BLUE SAGE | 16       | 5 GA    | LOW    | YES    |
| TEUCRIUM 'COMPACTA'               | DWARF GERMANDER      | 14       | 5 GA    | LOW    | NO     |
| <b>PERENNIALS / GRASSES:</b>      |                      |          |         |        |        |
| ERIGERON GLAUCUS                  | BEACH ASTER          | 11       | 1 GA    | LOW    | YES    |
| IRIS DOUGLASII                    | PACIFIC COAST IRIS   | 11       | 1 GA    | LOW    | YES    |
| JUNCUS PATENS                     | CALIFORNIA GRAY RUSH | 18       | 1 GA    | LOW    | YES    |
| LOMANDRA LONGIFOLIA 'BREEZE'      | DWARF MAT RUSH       | 7        | 5 GA    | LOW    | NO     |
| PENSTEMON SPECTABILIS             | BEARD TONGUE         | 43       | 1 GA    | LOW    | YES    |

POLLINATOR PLANTS NOTE: 75% OF PLANT PALETTE IS NATIVE POLLINATOR SPECIES (114 OF 153 SPECIMENS)

**WATER EFFICIENT LANDSCAPE WORKSHEET - BY HYDROZONE**

REFERENCE EVAPOTRANSPIRATION (ET<sub>0</sub>): 41.8

| HYDROZONE #                     | HYDROZONE / (PLANT WATER USE) | PLANT TYPE | PLANT FACTOR (PF) | IRRIGATION METHOD | IRRIGATION EFFICIENCY (IE) | ETAF (PF / IE) | LANDSCAPE AREA (sq. ft.) | ETAF x AREA | ESTIMATED TOTAL WATER USE (ETWU)               | % OF TOTAL LANDSCAPE AREA |
|---------------------------------|-------------------------------|------------|-------------------|-------------------|----------------------------|----------------|--------------------------|-------------|------------------------------------------------|---------------------------|
| <b>REGULAR LANDSCAPE AREA:</b>  |                               |            |                   |                   |                            |                |                          |             |                                                |                           |
| 1                               | LOW WATER USE                 | SHRUBS     | 0.3               | DRIP              | 0.81                       | 0.37037037     | 1218                     | 451.1111111 | 11891.0                                        | 92%                       |
| 2                               | LOW WATER USE                 | TREES      | 0.3               | BUBBLER           | 0.81                       | 0.37037037     | 108                      | 40          | 1036.6                                         | 8%                        |
|                                 |                               |            |                   |                   |                            |                | <b>TOTALS:</b>           | 1326        | 491                                            | 100%                      |
| <b>SPECIAL LANDSCAPE AREAS:</b> |                               |            |                   |                   |                            |                |                          |             |                                                |                           |
|                                 | REC. AREA                     |            |                   |                   |                            | 1              |                          | 0           | 0                                              |                           |
|                                 | POOL                          |            |                   |                   |                            | 1              |                          | 0           | 0                                              |                           |
|                                 | WATER FEATURE 2               |            |                   |                   |                            | 1              |                          | 0           | 0                                              |                           |
|                                 |                               |            |                   |                   |                            |                | <b>TOTALS:</b>           | 0           | 0                                              |                           |
|                                 |                               |            |                   |                   |                            |                |                          |             | <b>ETWU TOTAL:</b>                             | 12,728                    |
|                                 |                               |            |                   |                   |                            |                |                          |             | <b>MAXIMUM ALLOWED WATER ALLOWANCE (MAWA):</b> | 15,464                    |
| <b>ETAF CALCULATIONS:</b>       |                               |            |                   |                   |                            |                |                          |             |                                                |                           |
| <b>REGULAR LANDSCAPE AREAS:</b> |                               |            |                   |                   |                            |                |                          |             |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | TOTAL ETAF x AREA        | 491         |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | TOTAL LANDSCAPE AREA     | 1,326       |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | AVERAGE ETAF             | 0.37        |                                                |                           |
| <b>ALL LANDSCAPE AREAS:</b>     |                               |            |                   |                   |                            |                |                          |             |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | TOTAL ETAF x AREA        | 491         |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | TOTAL LANDSCAPE AREA     | 1,326       |                                                |                           |
|                                 |                               |            |                   |                   |                            |                | SITEWIDE ETAF            | 0.37        |                                                |                           |

NOTE: AVERAGE ETAF FOR REGULAR LANDSCAPE AREAS MUST BE 0.55 OR BELOW FOR RESIDENTIAL AREAS, AND 0.45 OR BELOW FOR NON-RESIDENTIAL AREAS.



BIKE RACKS  
COLUMBIA CASCADE LOOP RACK  
WITH GALVANIZED FINISH



① GROUND LEVEL PLAZA PLANK PAVERS  
NICOLOCK PLANK PAVERS (6"x17")  
COLORS: GRANITE CITY, RAVEN & PEWTER)



② ACCENT PAVERS #2  
PORCELAIN PAVERS ON PEDESTALS (ROOF)  
TILE TECH QUARTZITE SERIES  
'QUARTZITE PEARL' 24" SQ.



③ ACCENT PAVERS #3  
PORCELAIN PAVERS ON PEDESTALS (ROOF)  
TILE TECH QUARTZITE SERIES  
'QUARTZITE LAGUNA' 24" SQ.

REVISIONS

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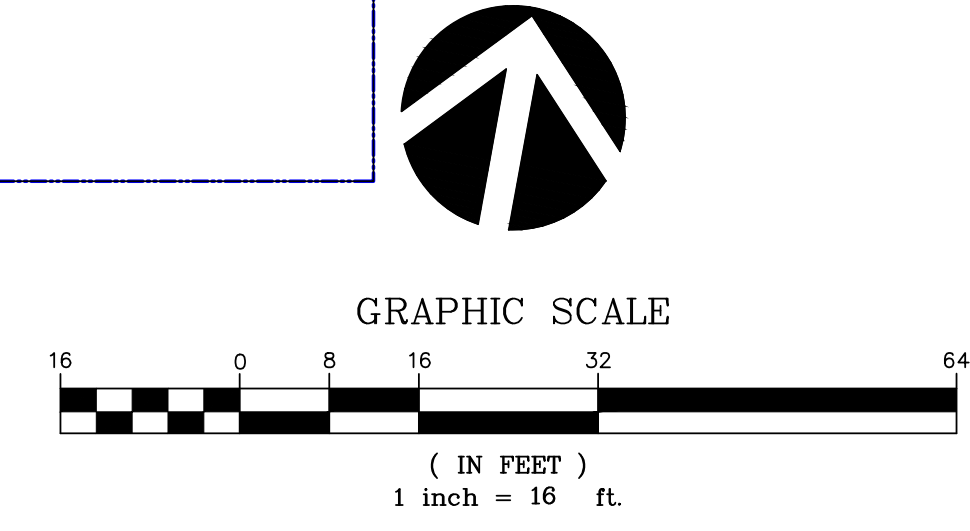
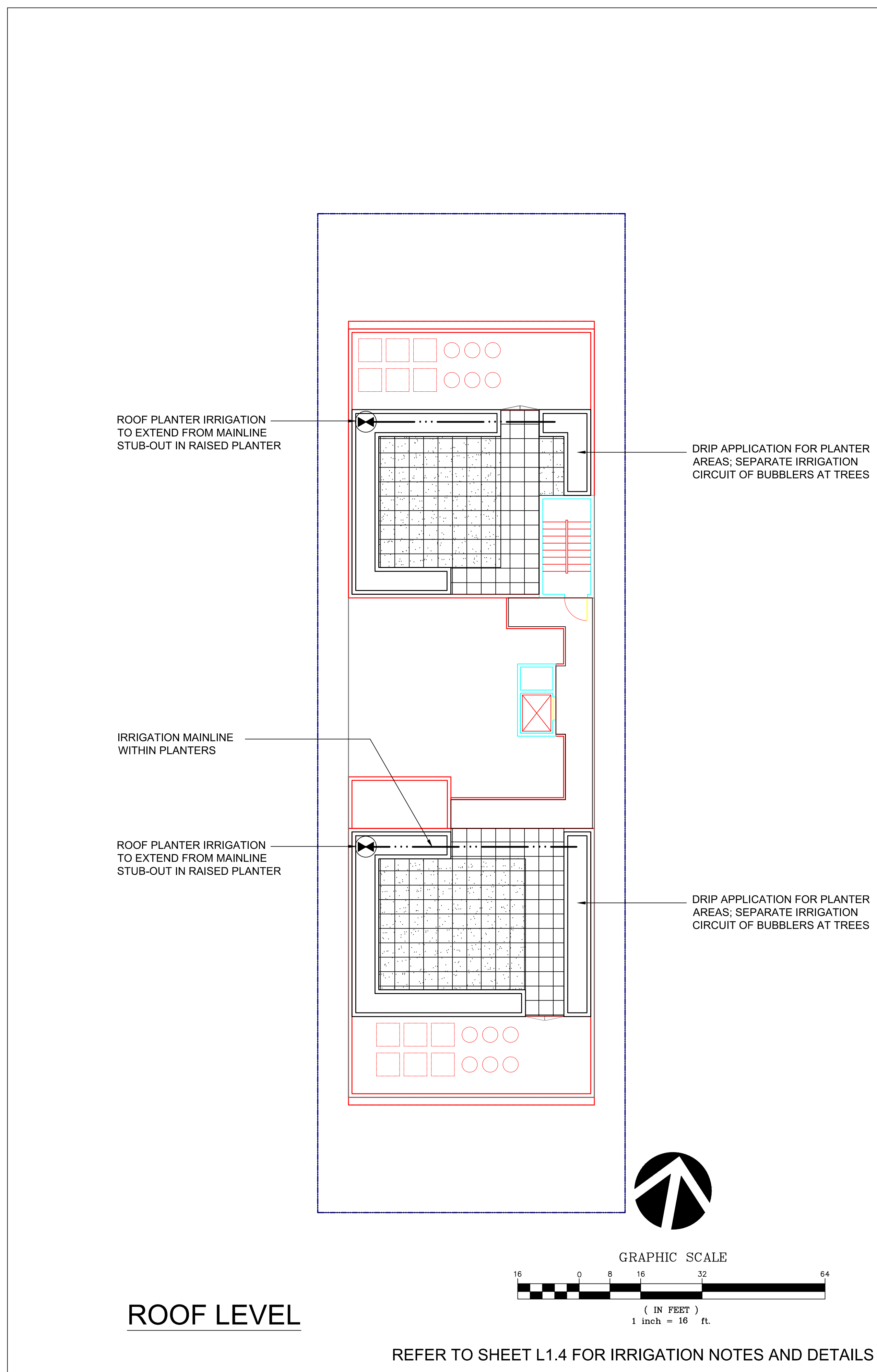
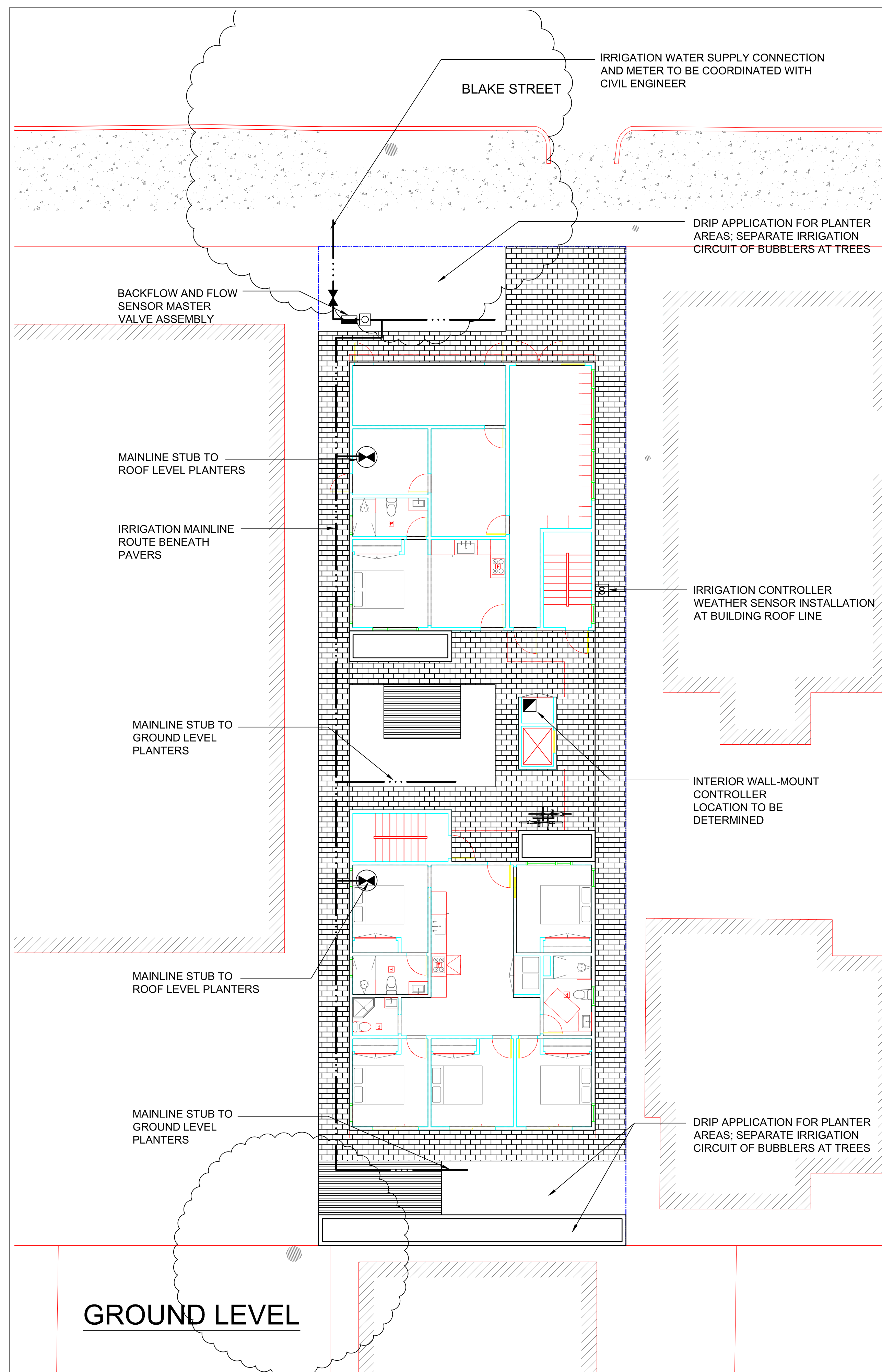
RW Stover & Associates, Inc.  
Landscape Architecture  
1620 North Main Street, Suite 4  
Walnut Creek, CA 94596  
Ph: 925.937.2383

2018 BLAKE STREET  
BERKELEY, CALIFORNIA

PLANT LIST,  
IMAGES AND WELO

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|-------------------|--------------|
| DESIGNED:<br>RS   | DRAWN:<br>RS |
| CHECKED:          | JOB NO.:     |
| DATE:<br>11-29-21 |              |
| SCALE:<br>NOTED   |              |

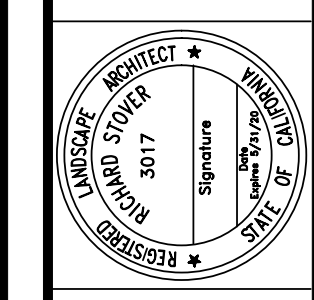
SHEET  
**L1.2**  
OF SHEETS



REFER TO SHEET L1.4 FOR IRRIGATION NOTES AND DETAILS

| REVISIONS |  |
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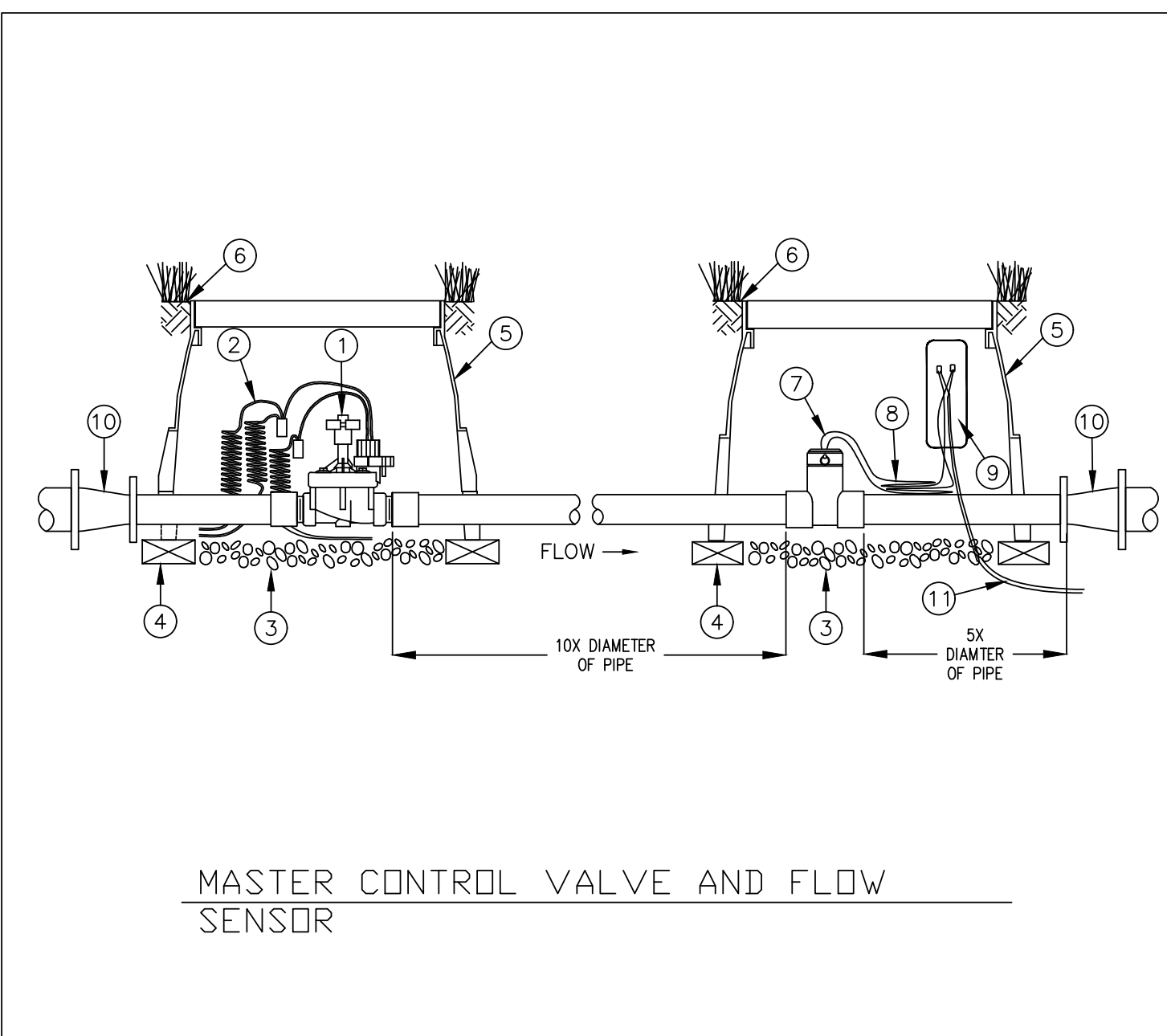
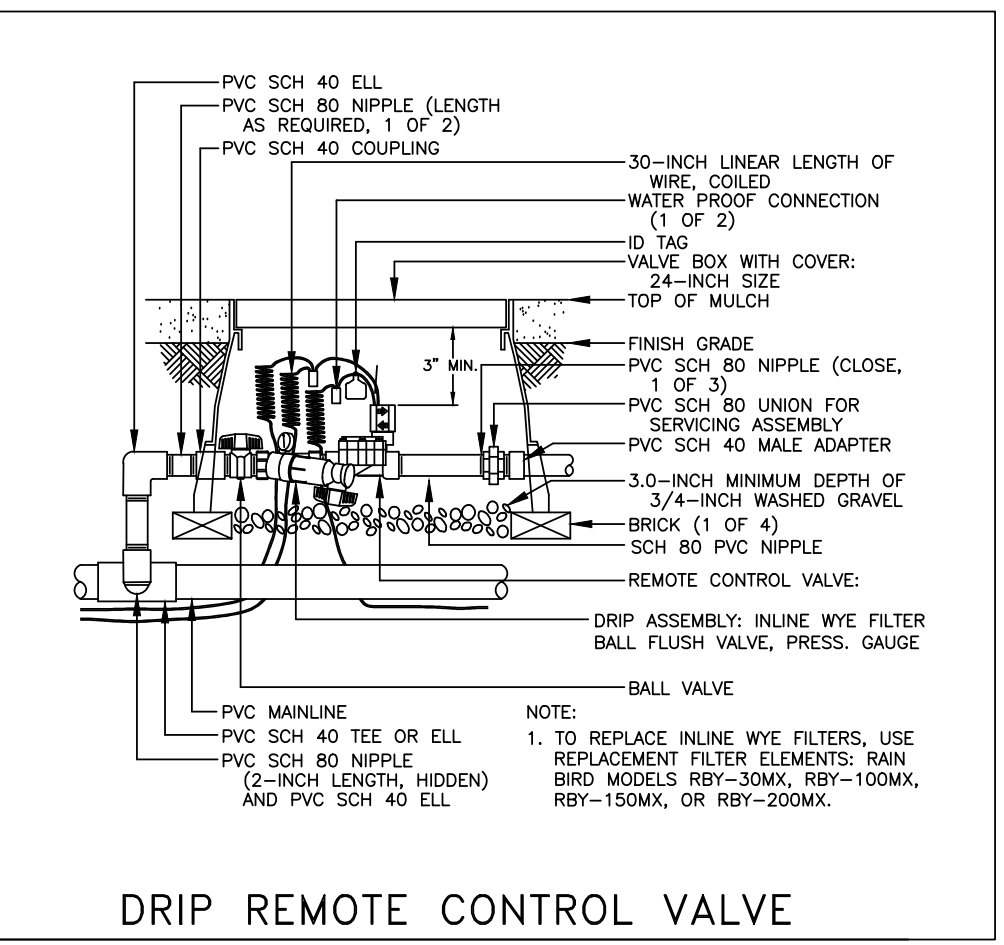
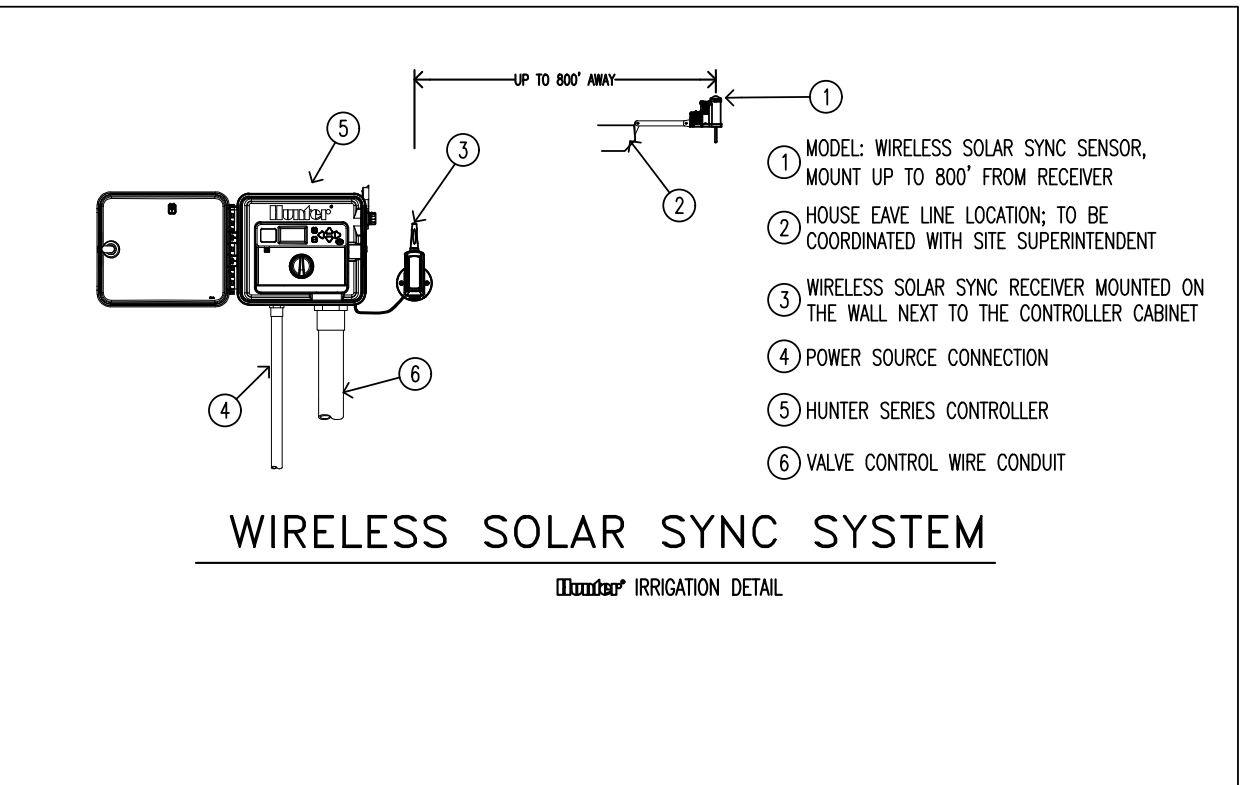
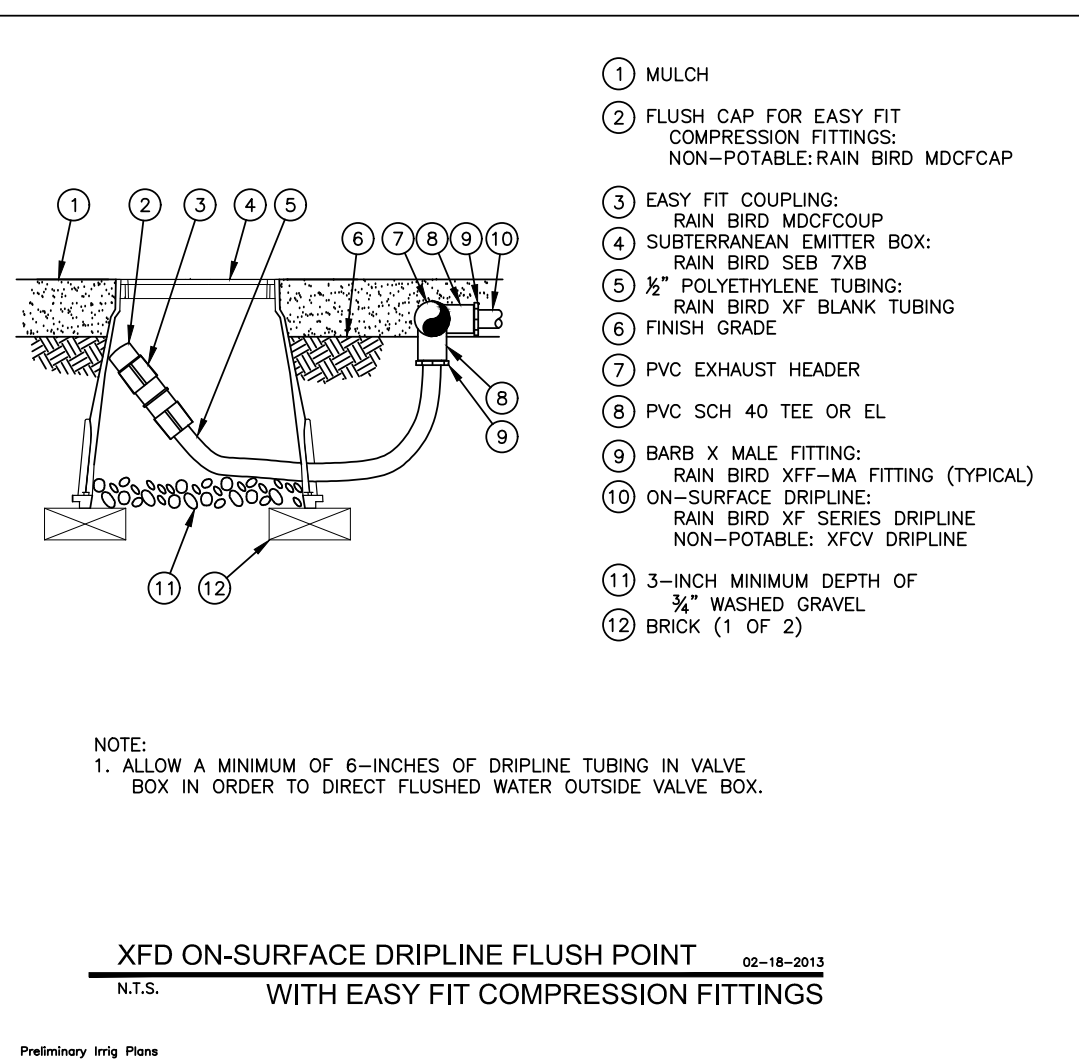
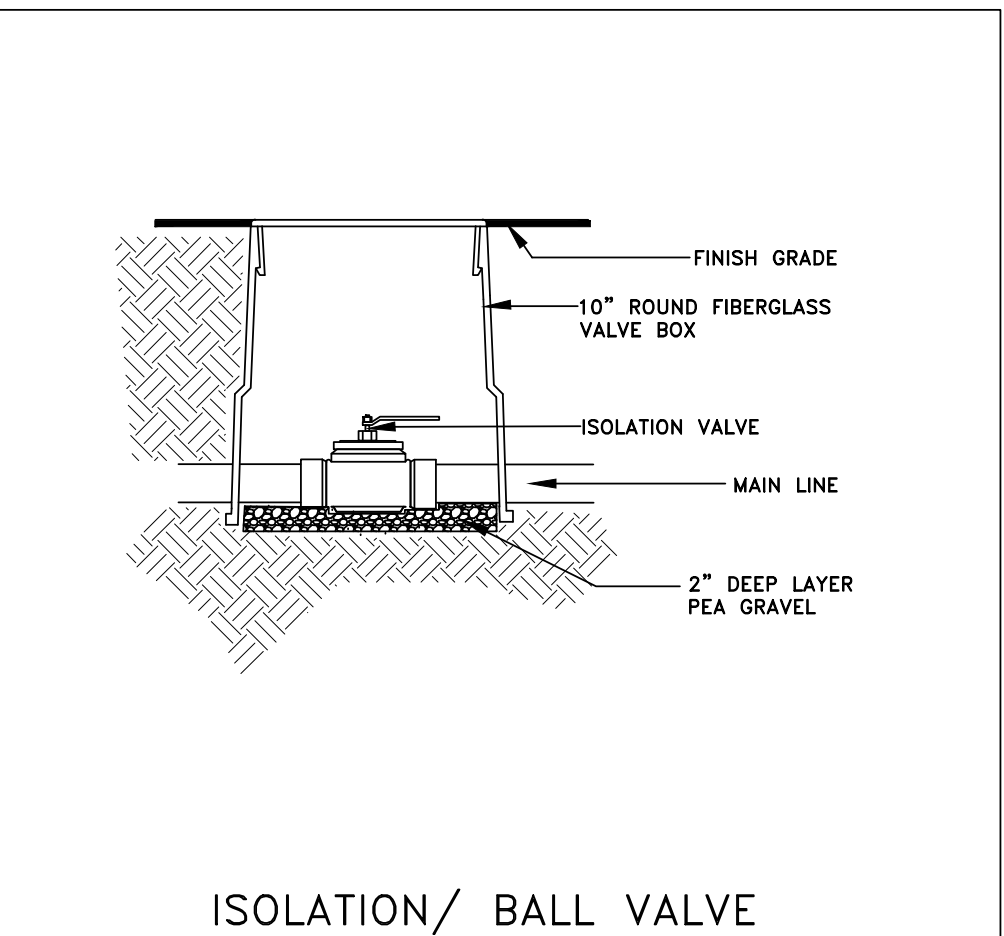
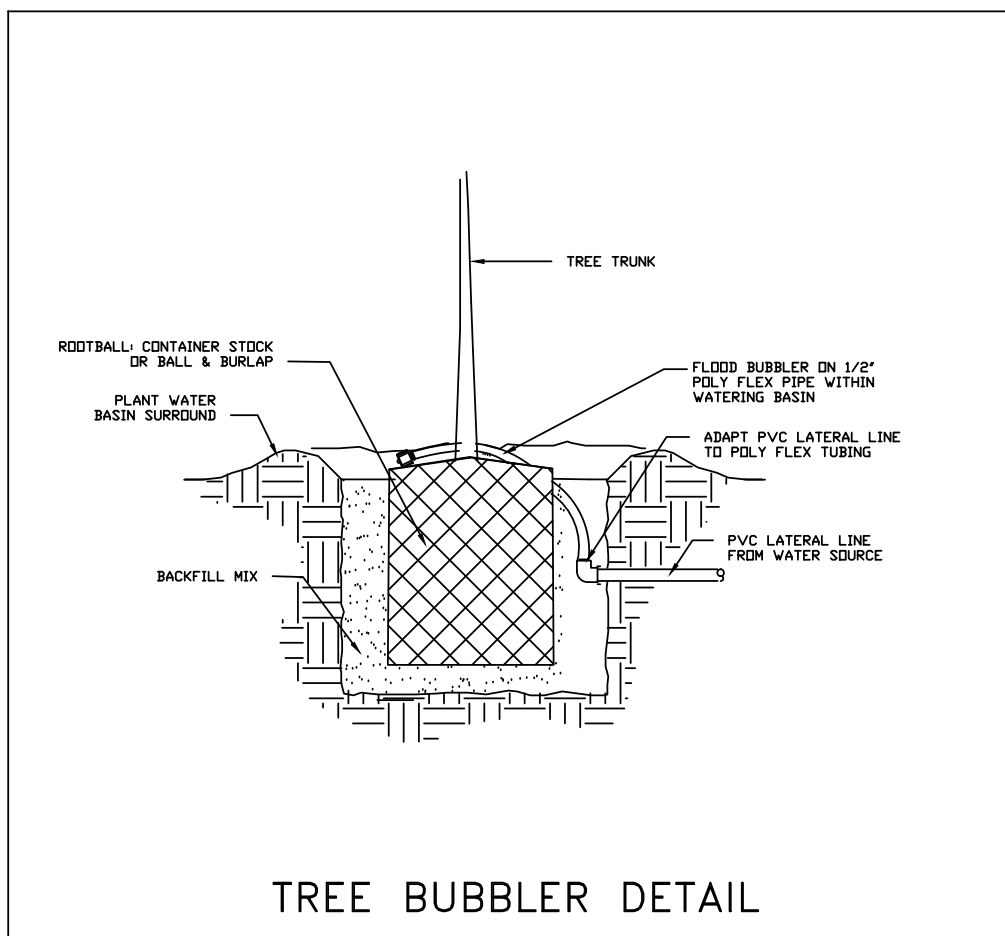
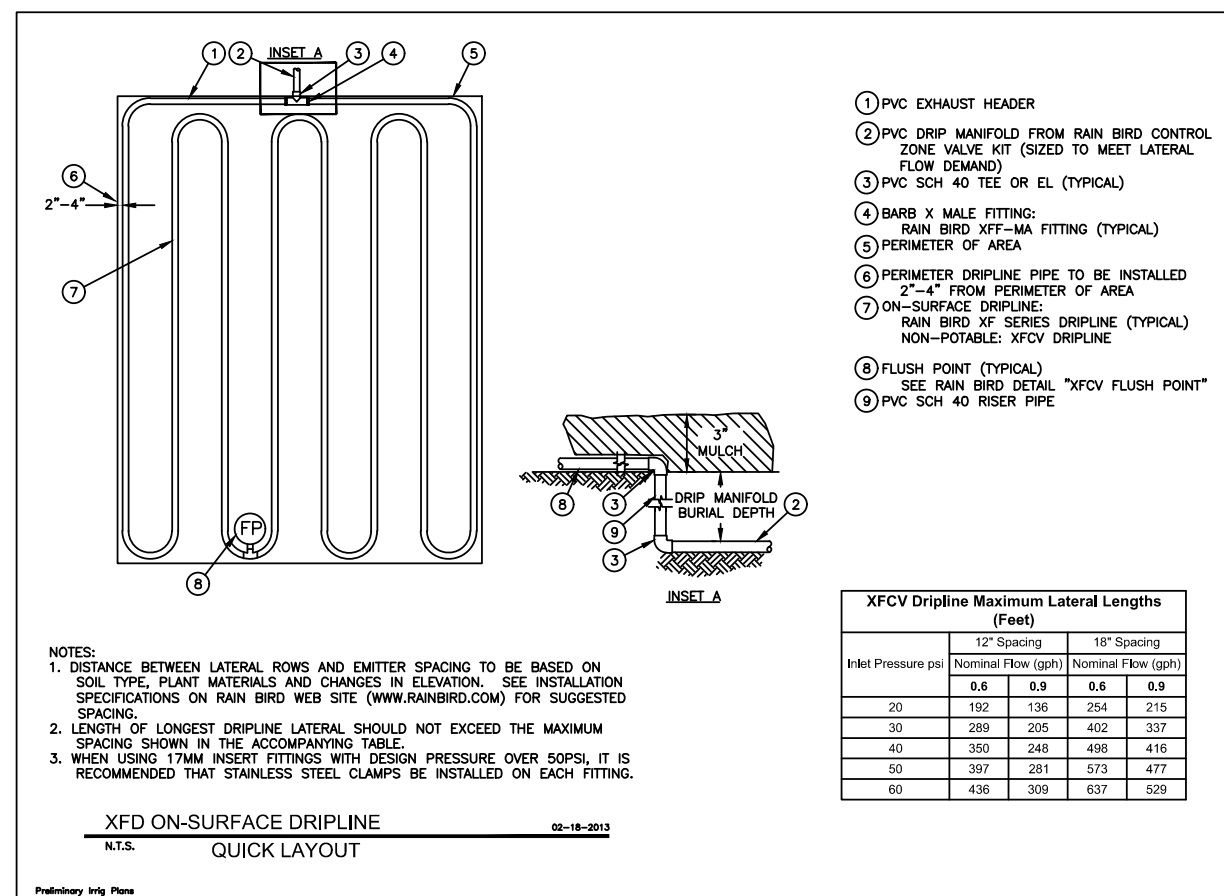
2018 BLAKE STREET  
BERKELEY, CALIFORNIA

PRELIMINARY IRRIGATION PLANS

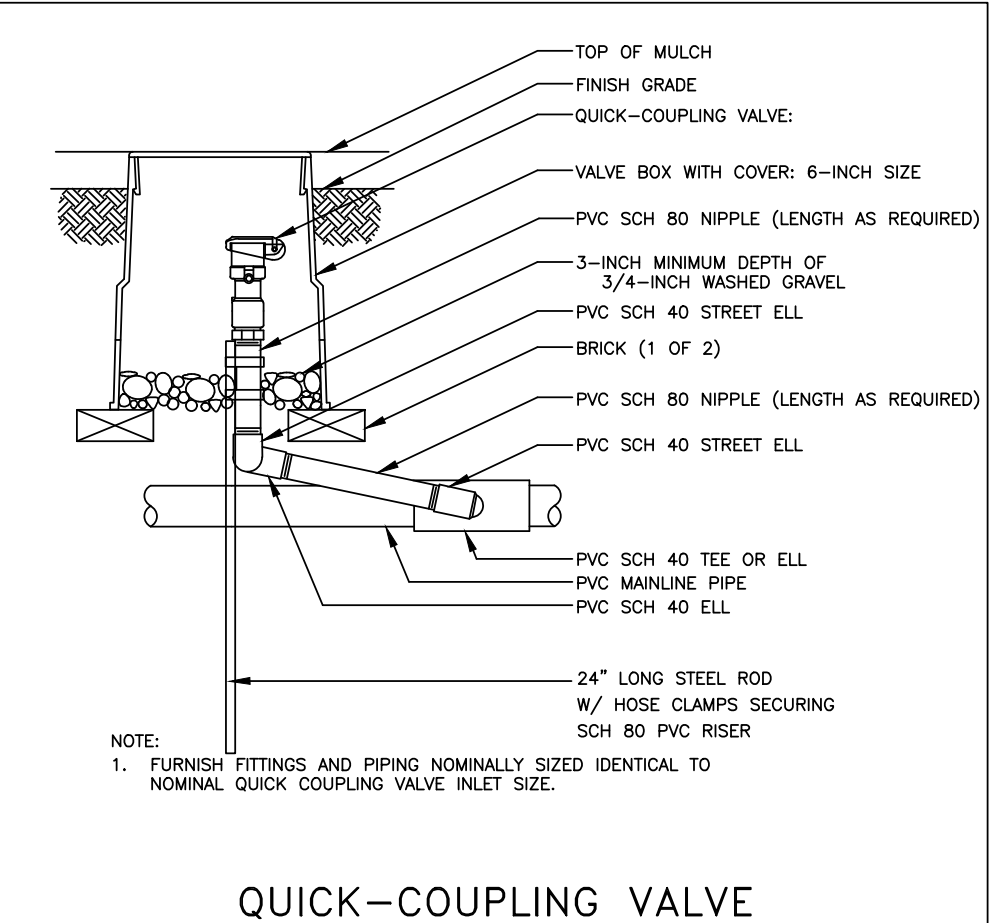
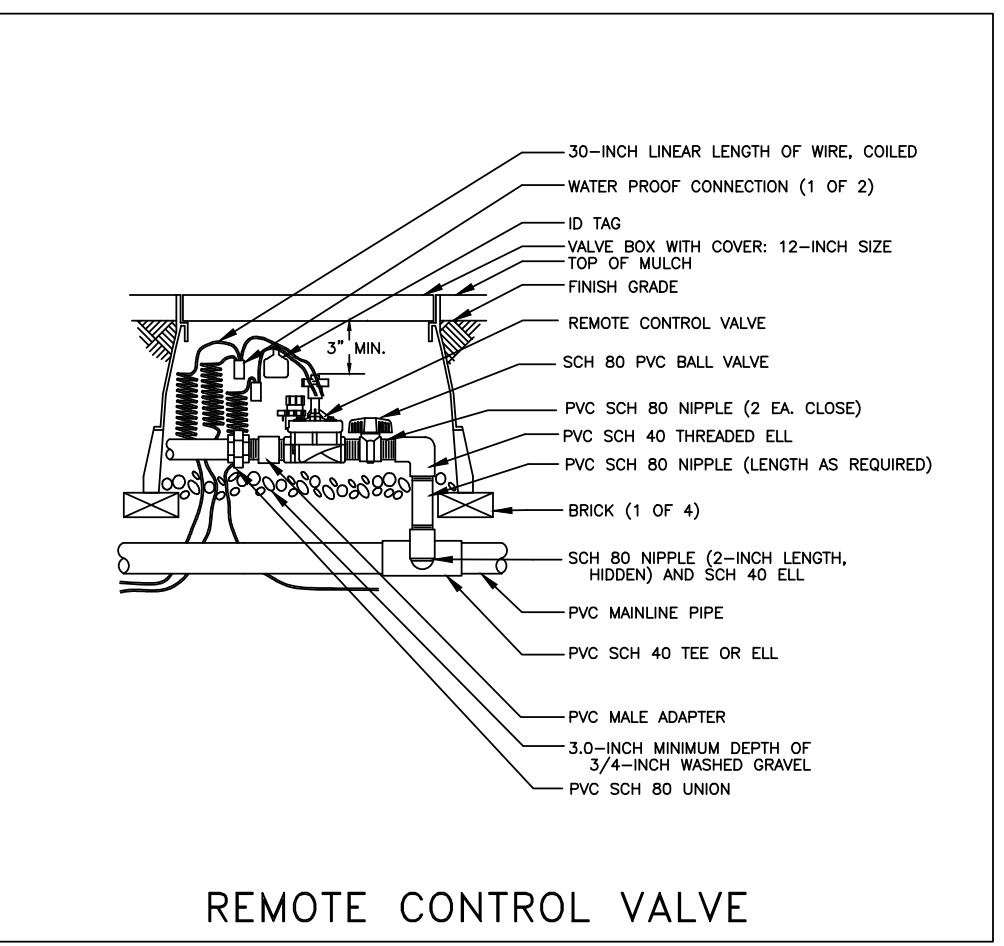
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| DATE: 11-29-21 |           |
| SCALE: NOTED   |           |

SHEET  
**L1.3**  
OF SHEETS





- 1 MASTER CONTROL VALVE
- 2 WIRE TO SATELLITE CONTROLLER SPARE STATION (36-INCH LOOP)
- 3 3.0-INCH MINIMUM DEPTH OF 3/4-INCH WASHED GRAVEL
- 4 BRICK (1 OF 4)
- 5 VALVE BOX WITH COVER - 12-INCH SIZE
- 6 FINISH GRADE
- 7 FLOW SENSOR
- 8 FLOW SENSOR WIRES; LEAVE 36-INCHES OF WIRE IN VALVE BOX
- 9 PREFORMED SUPER SERVICEAL WATERPROOF WIRE SPLICE KIT
- 10 CONCENTRIC REDUCER
- 11 PE-CABLE TO CONTROLLER ASSEMBLY



**IRRIGATION NOTES:**  
**GENERAL NOTES:** DO NOT WILLFULLY INSTALL THE IRRIGATION SYSTEM AS SHOWN ON THE DRAWINGS WHEN IT IS OBVIOUS IN THE FIELD THAT OBSTRUCTIONS, GRADE DIFFERENCES OR DIFFERENCES IN AREA DIMENSIONS EXIST THAT MIGHT NOT HAVE BEEN CONSIDERED IN THE DESIGN OF THE SYSTEM. SUCH OBSTRUCTIONS OR DIFFERENCES SHOULD BE BROUGHT TO THE ATTENTION OF THE LANDSCAPE ARCHITECT. NOTIFY LANDSCAPE ARCHITECT OF ANY ASPECTS OF LAYOUT, WHICH WILL PROVIDE INCOMPLETE OR INSUFFICIENT WATER COVERAGE OF PLANT MATERIAL AND DO NOT PROCEED UNTIL THE INSTRUCTIONS ARE OBTAINED. IN THE EVENT THIS NOTIFICATION IS NOT PERFORMED, THE IRRIGATION CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ANY REVISIONS NECESSARY. IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO FAMILIARIZE HIMSELF WITH ALL THE GRADE DIFFERENCES, LOCATION OF WALKS, RETAINING WALLS, ETC. PRIOR TO CONSTRUCTIONS. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROTECT IN PLACE (BY ALL MEANS NECESSARY) ALL EXISTING UTILITIES UNLESS OTHERWISE SPECIFIED ON THE PANS, CITY STANDARD DRAWINGS, SPECIFICATIONS, SPECIFIC NOTES & DETAIL DRAWINGS AND THE SOILS REPORT TAKE PRECEDENCE OVER GENERAL DRAWINGS AND PLANS UNLESS OTHERWISE DIRECTED. ANY DEVIATION FROM APPROVED PLANS DURING CONSTRUCTION WILL REQUIRE 48 HOURS PRIOR NOTICE TO THE LANDSCAPE ARCHITECT. AT LEAST ONE SET OF PLANS SHALL BE ON THE SITE AT ALL TIMES FOR INSPECTION. IRRIGATION CONTRACTOR SHALL COMPLY WITH ALL STATE, COUNTY AND CITY LAWS AND ORDINANCES, AND REGULATIONS OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, O.S.H.A. AND INDUSTRIAL ACCIDENT COMMISSION RELATING TO THE SAFETY AND CHARACTER OF WORK, EQUIPMENT AND LABOR PERSONNEL. THE IRRIGATION CONSULTANT ASSUMES NO RESPONSIBILITY BEYOND THE ADEQUACY OF THE DESIGN CONTAINED HEREIN.

**DRAWINGS:** DUE TO THE SCALE OF DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, ETC., WHICH MAY BE REQUIRED. THE CONTRACTOR SHALL ALSO CAREFULLY INVESTIGATE THE STRUCTURAL AND FINISHED CONDITIONS AFFECTING ALL OF HIS WORK, PLAN HIS WORK ACCORDINGLY AND FURNISH SUCH FITTINGS, ETC. AS MAY BE NECESSARY TO MEET SUCH CONDITIONS. DRAWINGS ARE GENERALLY DIAGRAMMATIC AND INDICATIVE OF THE WORK TO BE INSTALLED. THE WORK SHALL BE INSTALLED IN SUCH A MANNER AS TO AVOID CONFLICTS BETWEEN IRRIGATION SYSTEM, PLANTING AND ARCHITECTURAL FEATURES. ALL PIPING, VALVES, ETC. SHOWN WITHIN PAVED AREAS ARE FOR DESIGN CLARIFICATION ONLY AND SHALL BE INSTALLED IN PLANTING AREAS WHERE POSSIBLE.

**CONTROLLER:** IRRIGATION CONTRACTOR IS TO PROGRAM TIMING OF STATIONS ON CONTROLLER TO IRRIGATE IN THE MOST EFFICIENT, WATER CONSERVING MANNER POSSIBLE. IT IS THE RESPONSIBILITY OF THE LANDSCAPE MAINTENANCE CONTRACTOR AND/OR THE OWNER TO PROGRAM THE IRRIGATION CONTROLLERS TO PROVIDE THE MINIMUM AMOUNT OF WATER NEEDED TO SUSTAIN PROPER PLANT HEALTH. THIS INCLUDES MAKING ADJUSTMENTS TO THE PROGRAM FOR SEASONAL WEATHER CHANGES, PLANT MATERIAL NEEDS, WATER REQUIREMENTS, CHANGES IN ELEVATION, SUN, SHADE AND WIND EXPOSURES. CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR ANY DAMAGE, EROSION, PUDDLING, ETC. DUE TO IMPROPER PROGRAMMING. ELECTRICAL CONTRACTOR TO SUPPLY 120-VOLT A.C. (2.5 AMP) SERVICE & DISCONNECT, JUNCTION BOX AND CONDUIT, AS NECESSARY, TO CONTROLLER LOCATION. IRRIGATION CONTRACTOR TO MAKE FINAL CONNECTION FROM ELECTRICAL STUB-OUT TO CONTROLLER. INSTALL NEW 5-VOLT DURABLE BATTERY(S) IN EACH CONTROLLER (IF REQUIRED) TO RETAIN PROGRAM IN MEMORY DURING TEMPORARY POWER FAILURES. CONTROLLER SHALL HAVE GROUND WIRE AS PER MANUFACTURER'S INSTRUCTIONS.

**VALVES:** BACKFLOW DEVICE, ISOLATION AND CONTROL VALVE LOCATIONS SHOWN ARE DIAGRAMMATIC. INSTALL IN GROUND COVER / SHRUB AREAS AT THE EDGES OF THE PLANTING AREAS SO AS TO NOT INTERFERE WITH PLANT HOLE EXCAVATION. INSTALL VALVE BOXES 12 INCHES FROM AND PERPENDICULAR TO WALKS, CURBS, ETC. AND EACH BOX SHALL BE 12 INCHES APART. THE SHORT SIDE OF VALVE BOX SHALL BE PARALLEL TO WALK, CURB, ETC. INSTALL (1) VALVE PER RECTANGULAR BOX IN LINE WITH THE LENGTH OF THE BOX. LOCATE QUICK COUPLING VALVES 2 INCHES FROM HARDSCAPE AREA.

**WIRING:** CONTROL WIRES SHALL BE ULL APPROVED FOR DIRECT BURIAL IN GROUND, COPPER SIZE #14-1. COMMON GROUND WIRE SHALL HAVE WHITE INSULATION JACKET. CONTROL WIRE SHALL HAVE INSULATION JACKET OF COLOR OTHER THAN WHITE. SPLICING SHALL BE DONE WITH 3M #3570 SCOTCHLOK SEAL CAPS. SPLICING OF 24-VOLT WIRES WILL NOT BE PERMITTED EXCEPT IN VALVE BOXES. LEAVE A 24 INCH COIL OF EXCEL WIRE AT EACH SPLICE AND AT 100 FEET ON CENTER ALONG WIRE RUN. TAPE WIRE IN BUNDLES AT 10 FEET ON CENTER. NO TAPING PERMITTED IN SLEEVES. INSTALL A CONTROL WIRE FOR EACH EXTRA STATION LEFT ON THE CONTROLLER AND A SPARE CONTROL WIRE OF A DIFFERENT COLOR ALONG THE ENTIRE MAIN LINE. LOOP 24 INCHES OF EXCESS WIRE INTO EACH SINGLE VALVE BOX AND INTO ONE VALVE BOX IN EACH GROUP OF VALVES.

**ON-GRADE DRIP LINE SYSTEM:** ALL DRIP LINE TO BE SET ON GRADE IN PARALLEL ROWS AS REQUIRED TO PROVIDE COMPLETE COVERAGE OF GROUND COVER AREAS AS WELL AS SHRUB PLANTING. EMITTERS PROVIDE 0.90 GALLONS PER HOUR FLOW (APPROXIMATELY 1.0 GALLON PER 100 LINEAR FEET OF DRIP LINE). DESIGN LIMITS RECOMMEND NOT EXCEEDING 200 FEET OF TUBING FOR ANY SINGLE LENGTH. STAKE TUBING TO GRADE WITH GALVANIZED TIE-DOWN STAKES AT 3 FT. (MAX.) SPACING. PROVIDE XF DRIPLINE INSERT FITTINGS FOR ALL CONNECTIONS. PROVIDE REMOVABLE THREADED END CAPS AT THE TERMINUS OF EACH DRIP LINE LENGTH FOR EASY FLUSHING OF SYSTEM.

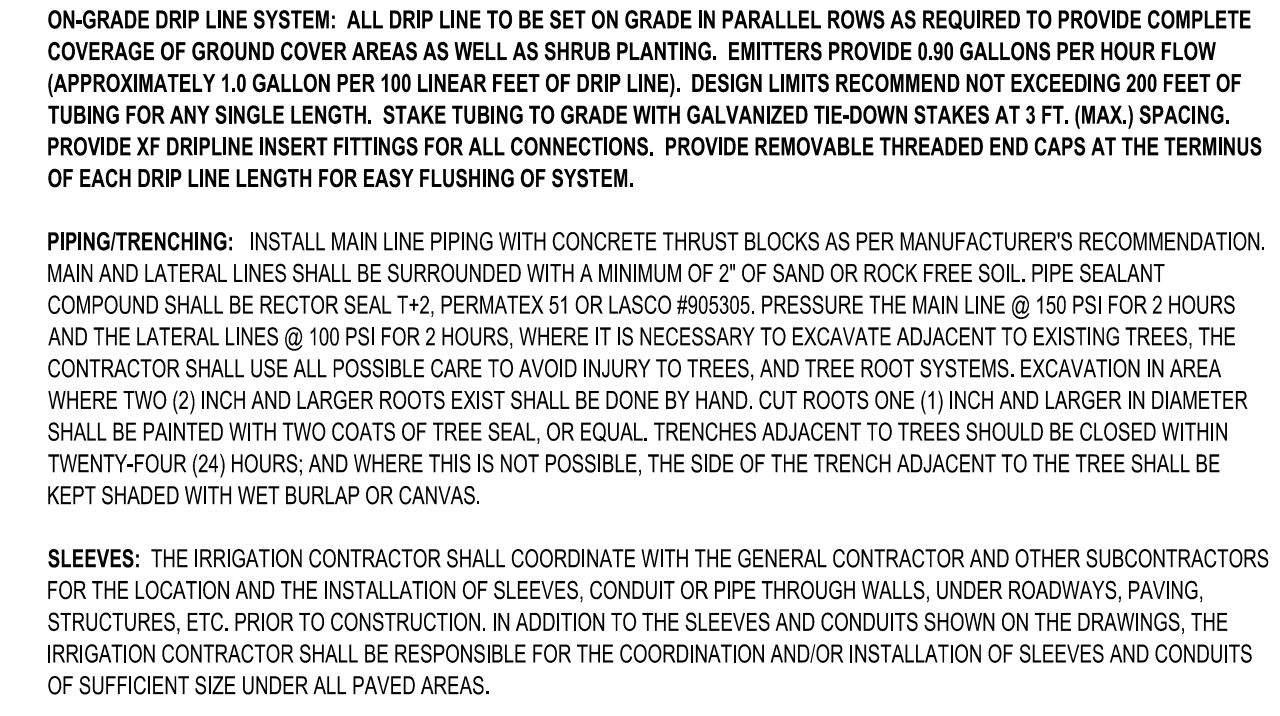
**PIPING/TRENCHING:** INSTALL MAIN LINE PIPING WITH CONCRETE THRUST BLOCKS AS PER MANUFACTURER'S RECOMMENDATION. MAIN AND LATERAL LINES SHALL BE SURROUNDING WITH A MINIMUM OF 2" OF SAND OR ROCK FREE SOIL. PIPE SEALANT COMPOUND SHALL BE RECTOR SEAL T-2, PERIMATEX 51 OR LASCO #90305. PRESSURE THE MAIN LINE @ 150 PSI FOR 2 HOURS AND THE LATERAL LINES @ 100 PSI FOR 2 HOURS, WHERE IT IS NECESSARY TO EXCAVATE ADJACENT TO EXISTING TREES, THE CONTRACTOR SHALL USE ALL POSSIBLE CARE TO AVOID INJURY TO TREES, AND TREE ROOT SYSTEMS. EXCAVATION IN AREA WHERE TWO (2) INCH AND LARGER ROOTS EXIST SHALL BE DONE BY HAND. CUT ROOTS ONE (1) INCH AND LARGER IN DIAMETER SHALL BE PAINTED WITH TWO COATS OF TREE SEAL, OR EQUAL. TRENCHES ADJACENT TO TREES SHOULD BE CLOSED WITHIN TWENTY-FOUR (24) HOURS; AND WHERE THIS IS NOT POSSIBLE, THE SIDE OF THE TRENCH ADJACENT TO THE TREE SHALL BE KEPT SHADED WITH WET BURLAP OR CANVAS.

**SLEEVES:** THE IRRIGATION CONTRACTOR SHALL COORDINATE WITH THE GENERAL CONTRACTOR AND OTHER SUBCONTRACTORS FOR THE LOCATION AND THE INSTALLATION OF SLEEVES, CONDUIT OR PIPE THROUGH WALLS, UNDER ROADWAYS, PAVING, STRUCTURES, ETC. PRIOR TO CONSTRUCTION. IN ADDITION TO THE SLEEVES AND CONDUITS SHOWN ON THE DRAWINGS, THE IRRIGATION CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION AND/OR INSTALLATION OF SLEEVES AND CONDUITS OF SUFFICIENT SIZE UNDER ALL PAVED AREAS.

**IRRIGATION SYSTEM:** THE IRRIGATION SYSTEM IN CURRENTLY POTABLE. SET UP FOR POSSIBLE RETROFIT TO RECYCLED WATER SOURCE IN FUTURE. DESIGN IS BASED ON A MINIMUM OPERATING PRESSURE (PSI) AND A FLOW DEMAND (GPM) AS NOTED ON PLAN. THE IRRIGATION CONTRACTOR SHALL VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. REPORT ANY DIFFERENCE BETWEEN THE WATER PRESSURE INDICATED ON THE DRAWINGS AND THE ACTUAL PRESSURE READING AT THE IRRIGATION POINT-OF CONNECTION TO THE LANDSCAPE ARCHITECT. FAILURE TO DO SO WILL RESULT IN THE CONTRACTOR BEING RESPONSIBLE FOR ANY NECESSARY CHANGES DUE TO THIS DIFFERENCE.

**GUARANTEE:** ALL CONSTRUCTION, PARTS AND PRODUCTS BY THE LANDSCAPE CONTRACTOR AND/OR HIS SUBCONTRACTORS SHALL BE GUARANTEED FOR ONE (1) FULL YEAR AFTER THE BEGINNING OF THE MAINTENANCE PERIOD. THE CONTRACTOR SHALL REPLACE (AT NO EXPENSE TO THE OWNER) ANY AND ALL IRRIGATION PRODUCTS THAT ARE IN AN UNACCEPTABLE CONDITION FOR THE TIME OF USE. REPLACEMENT OF ANY ITEMS SHALL MATCH ORIGINAL DESCRIPTION OF ITEMS ON CONSTRUCTION PLANS AND SHALL BE INSTALLED PER SPECIFICATION. THE CONTRACTOR SHALL NOT BE HELD LIABLE FOR LOSS OF IRRIGATION PARTS OR PRODUCTS DUE TO VANDALISM, ACCIDENTAL CAUSES, OR ACTS OF NEGLIGENCE BY OTHERS THAN THE CONTRACTOR, HIS AGENTS OR EMPLOYEES.

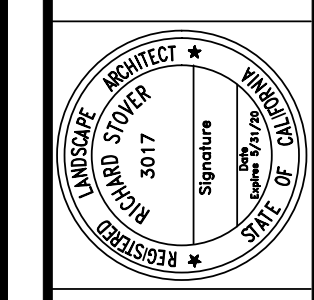
**DO NOT BID, ORDER MATERIALS OR INSTALL ANY OR ALL OF SYSTEM BEFORE READING THE IRRIGATION NOTES IN THEIR ENTIRETY. THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR ALL CHANGES, REVISIONS AND OR ADDITIONS TO SYSTEM DUE TO FAILURE TO DO SO.**



REVISIONS

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RW Stover & Associates, Inc.  
Landscape Architecture  
1620 North Main Street, Suite 4  
Walnut Creek, CA 94596  
PH: 925.931.2383



2018 BLAKE STREET  
BERKELEY, CALIFORNIA

IRRIGATION NOTES & DETAILS

|                |           |
|----------------|-----------|
| DESIGNED: RS   | DRAWN: RS |
| CHECKED:       | JOB NO:   |
| DATE: 11-29-21 |           |
| SCALE: NOTED   |           |

SHEET  
**L1.4**  
OF SHEETS

June 17, 2022

CITY OF BERKELEY - CITY CLERK  
2022 JUN 21 PM 2:20

Mr. Mark Numainville, City Clerk  
City Clerk Department  
2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Mr. Jordan Klein, Director of Planning and Development  
City Planning and Development Department  
1947 Center Street, 2nd Floor, Berkeley, CA 94704

Dear Sirs,

We strongly oppose the City of Berkeley's approval of 2018 Blake Street #ZP2021-0095, a 6-story multi-family, 12 unit residential building and are setting forth the grounds for appeal.

The home at 2018 Blake was a one-story single-family wood craftsman built in 1889. 2018 Blake included parking and was in keeping with the unique character and scale of its distinctive neighborhood.

The home at 2018 Blake was burnt down on September 8, 2021, under suspicious circumstances, leaving the property to be sold to a Los Angeles LLC developer Yuhui Li  
Owner: 2018 Blake Street LLC, 2905 South Vermont Avenue, Ste 204, Los Angeles, CA 90007

Though the 'trend' for Blake Street has been increasing density, it has been on the north side (2029 and 2015 Blake). The development on the north side of Blake is inconsistent and incompatible with the scale, historic character, and surrounding uses in the south side of Blake Street. 2018 Blake is on the south side of Blake Street.

Adjacent parcels to the south of the proposed project are R-2A, Restricted Multi-Family Residential District and adjacent parcels on the south side of Blake and on Milvia Street are one- and two-story homes, although some are zoned R4.

Directly adjacent to 2018 Blake, the proposed 6-story building, is 2020 Blake, a one-story craftsman home almost identical to the original 1889 one-story craftsman that was destroyed.

The 6-story building would be taller than existing buildings on nearby properties on its block, which are generally one- and two-story residential development to the west and south, and one- and two-story residential and commercial development.

Berkeley city staff 'are aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units.' We, the undersigned, strongly disagree with the Berkeley city staff position and find the 2018 Blake project grossly incompatibility with one- and two-story dwellings adjacent to the site. We find the proposed 6-story tower to be detrimental and injurious to property and improvements of the adjacent properties, the surrounding area, neighborhood and to the general welfare of the City.

Shadow impact on adjacent dwellings to the west, east, and northeast will result from the new building, especially from the additional height above the district limits, which will cast shadows in the affected directions further than if the project were limited to the base district height standards.

We strongly disagree with the city's assumption that the proposed 6-story shadow impacts are difficult to avoid and are reasonable and non-detrimental next to our one and two story homes.

The proposed project is not architecturally sensitive, and not compatible with neighboring land uses, architectural design and scale on the south side of Blake Street and surrounding neighbors.

Building a 6-story tower next to our one and two-story homes will be detrimental to our health, safety, peace, morals, comfort and general welfare of the undersigned, the persons residing or working in the area or neighborhood of such proposed use.

With regard to Government Code Section 65915(e), we disagree with the assumption that approval of the 2018 Blake LLC Los Angeles developer's requested waivers to reduce the building's side and rear yard setback minimums and to exceed lot coverage would not have a specific adverse impact upon our public health and safety, physical environment, and real property. We disagree with the assumption of minimal impact on surrounding properties where we live. Besides the obvious - how a 6-story tower would adversely impact the immediate neighbors (cast shadows, block views, reduce quality of life), there are detrimental environmental, traffic, and noise consequences.

When concerned neighbors asked how they could stop the proposed 6-story tower, Senior Planner Sharon Gong responded that "neighbors within 300' of the site will

receive public hearing notices in the mail, and notices are posted in the neighborhood near the site. Anyone can speak at a public hearing, or submit letters to the Board prior to the hearing.”

Months later, some neighbors received blue public hearing notice cards; others attest to not receiving them. The email for the Zoning Adjustment Board (ZAB) on the notice cards was incorrect. Neighbors that were able to get in contact with ZAB were told that they would be directly provided with a zoom link for the hearing. They were not.

The few neighbors, who were able to find correct information in time to attend the meeting, were frustrated because they were not given any recourse to stop the 6-story tower. They were told that the decision was already made and it was irreversible.

The Planning and Development Department's mission is to enhance safety, livability and resilience in the built environment and to work with the community to promote and protect Berkeley's distinctive neighborhoods, vibrant commercial areas, unique character and natural resources for current and future generations.

As a member of the public, we are encouraged by the City's Land Use and Development Department to be involved in the planning and development process.

We were denied this right, as our 'involvement' was thwarted and limited to passive bystanders.

Our concern is both substantive and procedural; several of the neighbors within 300 feet are prepared to attest that they did not, in fact, receive notice of this proposed development and have been denied a meaningful opportunity to comment and participate in the decision-making process, despite being affected by the project. While we are aware that the failure of a given resident to receive notice does not affect the validity of the hearing, the breadth of the failure here – combined with the comments made at the hearing – raise the concern that the City did not, in fact, meaningfully comply with the permitting process.

We are aware of the need for more housing density (15332 'in-fill development projects' CEQA guideline exemptions) and also of our rights as citizens and residents of the city of Berkeley, including our right to receive accurate notices and meaningful participation in the process in the manner contemplated by the BMC.

Sincerely,

A handwritten signature in black ink, appearing to be a cursive name, possibly "John" or "John Doe", written over a horizontal line.

John DeDomenico, 2020 Blake Street  
 Xiao Hong, 2020 Blake Street  
 Rosario Manzilla, 2020 Blake Street  
 Walter Manzilla, 2020 Blake Street  
 Andrea Prichett, 2022 Blake Street  
 Lenore Sheridan, 2022 Blake Street  
 Rusty Bates, 2022 Blake Street  
 Marie Loiose Phelps, 2006 Blake Street  
 Marina Khamhaengwong, 2006 Blake Street  
 Rosa Guevara, 2002 Blake Street  
 Dario Guevara, 2002 Blake Street  
 Max Ventura, 2022 Blake Street  
 Greg Jan, 2022 Blake Street

Paul Larudee, 2022 Blake Street  
 Guy Brenner, 2545 Milvia Street *Guy Brenner*

Susanna Tadlock, 2007 Parker Street  
 Steve Edmunds, 2005A Parker Street

Chip Brimhall, 2539 Milvia Street  
 Brent Mishler, 2003 Parker Street  
 Pete Schorer, 2538 Milvia Street - *Peter Schorer*

Adirah Rodriguez, 2528 Milvia Street  
 Ali Huetter, 2528 Milvia Street *Ali Huetter*

Avery Huetter, 2528 Milvia Street - *Avery*  
 Jed Waldman, 2528 Milvia Street *Jed Waldman*

Eli Waldman, 2528 Milvia Street *Eli Waldman*  
 Joe Spitzley, 1925 Parker Street

Kaaren Spitzley, 1925 Parker Street  
 Ian Kelly, 1918 Parker Street

Karen Kelly, 1918 Parker Street  
 Yael Kelly, 1918 Parker Street

Cornelia St John, 2005A Parker Street  
 Maria St John 2005B, Parker Street

Lydia Adkins, 2005B Parker Street  
 Yasuo Tanaka, 2550 Shattuck Street

Rowen Naidoo, 2022 Blake Street  
 Jonathan Naidoo, 2022 Blake Street

Jahinder Malhatra, 2016 Blake Street  
 Rob Singer, 2019 Blake Street

Chuck Smith, 2000 Blake Street  
 Cindy Smith, 2000 Blake Street

Benny Kwong, 2568 Milvia St. *Benny Kwong*  
 Cayce Clifford - 2035 Parker St Art A *Cayce Clifford*

Mary McDonald, 2011 Blake Street  
Suchig Ls, 2023 Blake Street  
Bruno Ruhland, 2025 Blake Street  
Dan Chin, 2558 Shattuck Street  
Bruce Valde, 2022 Blake Street  
Shellie Wharton, 2022 Blake Street  
Eugene Ruyle, 2022 Blake Street

h R HUFF,  
2140 DWIGHT WAY  
94704

MARK A. NAKAHARA  
2020 PARKER ST 94704 Mark A. Nakahara

Raven Naidoo - 2020 Blake Street  
Jonathan Naidoo - 2026 Blake Street

As a member of the public, we are encouraged by the City's Land Use and Development Department to be involved in the planning and development process.

Our concern is both substantive and procedural; several of the neighbors within 300 feet are prepared to attest that they did not, in fact, receive notice of this proposed development and have been denied a meaningful opportunity to comment and participate in the decision-making process, despite being affected by the project. While we are aware that the failure of a given resident to receive notice does not affect the validity of the hearing, the breadth of the failure here – combined with the comments made at the hearing – raise the concern that the City did not, in fact, meaningfully comply with the permitting process. If the ZAB intends to rely on a notice which gave demonstrably incorrect login information for the meeting, we want for that policy to be clearly articulated.

We are aware of the need for more housing density (15332 'in-fill development projects' CEQA guideline exemptions) and also of our rights as citizens and residents of the city of Berkeley, including our right to receive accurate notices in order that we might participate in the process in the manner contemplated by the BMC.

Sincerely,

John DeDomenico, 2020 Blake Street



2026 BLAKE ST., BERKELEY, CA 94704

*[Signature]*

Grassroots House 2022 Blake St, 94704

Russ Bates

John DeDomenico 2020 1/2 Blake St 94704

2020 1/2 Blake St 94704

*[Signature]*  
Xiao, Hong

Sachin LS 2023 Blake St. 94704.

Satinder Malhotra 2016 Blake St 94704

Robert Singer 2019 Blake St 94704

Mary McDonald 2011 Blake St. 94704

DAW CHIN Auto 2558 SHATTUCK 94704

BRUNO RUTLAND 2025 BLAKE ST 94704

Greg Jan 2022 Blake St. 94704 *[Signature]*

Ely Amador 2594 Milvia St 94704 *[Signature]*

resources for current and future generations.

As a member of the public, we are encouraged by the city's land use and development department to be involved in the planning and development process.

Our concern is both substantive and procedural; several of the neighbors within 300 feet are prepared to attest that they did not, in fact, receive notice of this proposed development and have been denied a meaningful opportunity to comment and participate in the decision-making process, despite being affected by the project. While we are aware that the failure of a given resident to receive notice does not affect the validity of the hearing, the breadth of the failure here - combined with the comments made at the hearing - raise the concern that the city did not, in fact, meaningfully comply with the permitting process. If the zab intends to rely on a notice which gave demonstrably incorrect login information for the meeting, we want for that policy to be clearly articulated.

We are aware of the need for more housing density (15332 'in-fill development projects' ceqa guideline exemptions) and also of our rights as citizens and residents of the city of Berkeley, including our right to receive accurate notices in order that we might participate in the process in the manner contemplated by the bmc.

Sincerely,

John Dedomenico, 2020 Blake Street

Cornelia St John  
2005 A Parker Street

Steve Edmunds  
2005 A Parker St.

Marian St. John  
2005 B Parker St.

Eydie Adams  
2005 B Parker St.

June 15, 2022  
We the owners of 2020 Baku Street,  
Burling, Ottawa  
Street, request  
Raman Thangirala  
Walter Myangila

chenlingante@lope@gmail.com



# 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  
MAY 26, 2022

## 2018 Blake Street

Use Permit #ZP2021-0095 to construct a six-story, multi-family residential building with 12 units (including two Low-Income units).

### I. Background

#### A. Land Use Designations:

- General Plan: High Density Residential (HDR)
- Zoning: Multi-Family Residential (R-4)

#### B. Zoning Permits Required:

- Use Permit under Berkeley Municipal Code (BMC) Section 23.202.020(A) to construct a multifamily residential building
- Use Permit under BMC Section 23.202.110(E)(2) to construct a main building that exceeds 35 feet in average height and three stories, up to 65 feet and six stories
- Administrative Use Permit under BMC Section 23.304.050(A) to construct rooftop projections, such as mechanical appurtenances or architectural elements which exceed the maximum height limit for the districts

#### C. Concessions/ Waivers Pursuant to State Density Bonus Law:

- No concessions
- Waiver of BMC Section 23.202.110(E)(1) to reduce minimum side setback (above the 2<sup>nd</sup> floor) and rear yard setback (above the 3<sup>rd</sup> floor)
- Waiver of BMC Section 23.202.110(E)(2) to exceed lot coverage

**D. CEQA Recommendation:** It is staff's recommendation to ZAB that the project is categorically exempt pursuant to Section 15332 ("In-Fill Development Projects") of the CEQA Guidelines. The determination is made by ZAB.

The project meets all of the requirements of this exemption, as follows:

- The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
- The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.

- The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
- The project would not result in any significant effects relating to traffic, noise, air quality or water quality. Standard Conditions of Approval would address potential impacts related to traffic, noise, air quality, and water quality.
- The site can be adequately served by all required utilities and public services.

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.

#### **E. Parties Involved:**

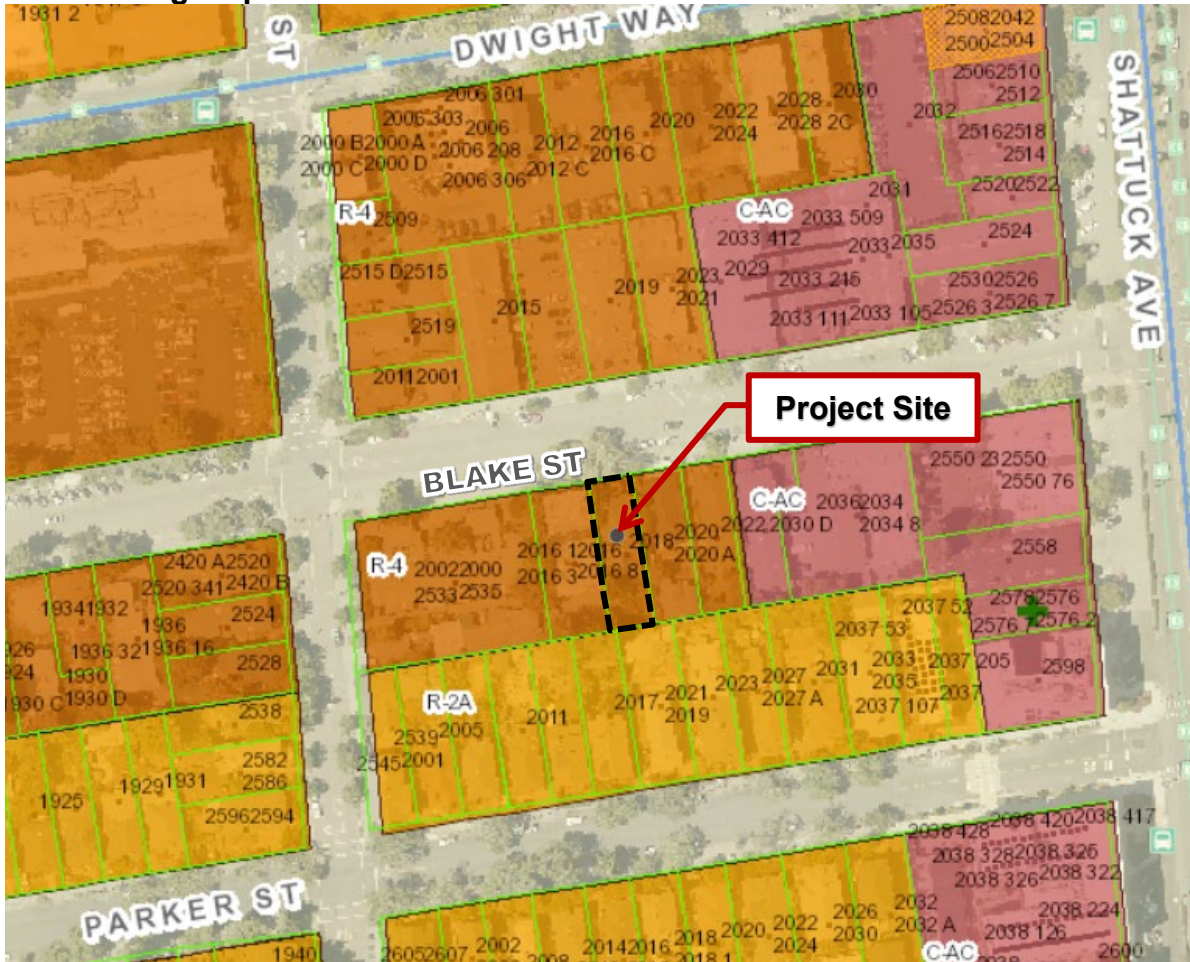
- Applicant                      Huan Fang, FIFTH ARCH, 200 Brannan Street, Apt 222, San Francisco CA 94107
- Property Owner              2018 Blake Street LLC, 2905 South Vermont Avenue, Ste 204, Los Angeles, CA 90007

#### **F. Application Materials, Staff Reports and Correspondence are available on the Internet:**


<https://aca.cityofberkeley.info/citizenaccess/Default.aspx>

<https://cityofberkeley.info/your-government/boards-commissions/zoning-adjustments-board>

Figure 1: Zoning Map



Legend

-  AC Transit Bus Route
- R-4: Multi-Family Residential District
- C-AC: Adeline Corridor Commercial District
- R-2A: Restricted Multi-Family Residential District

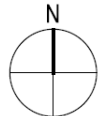
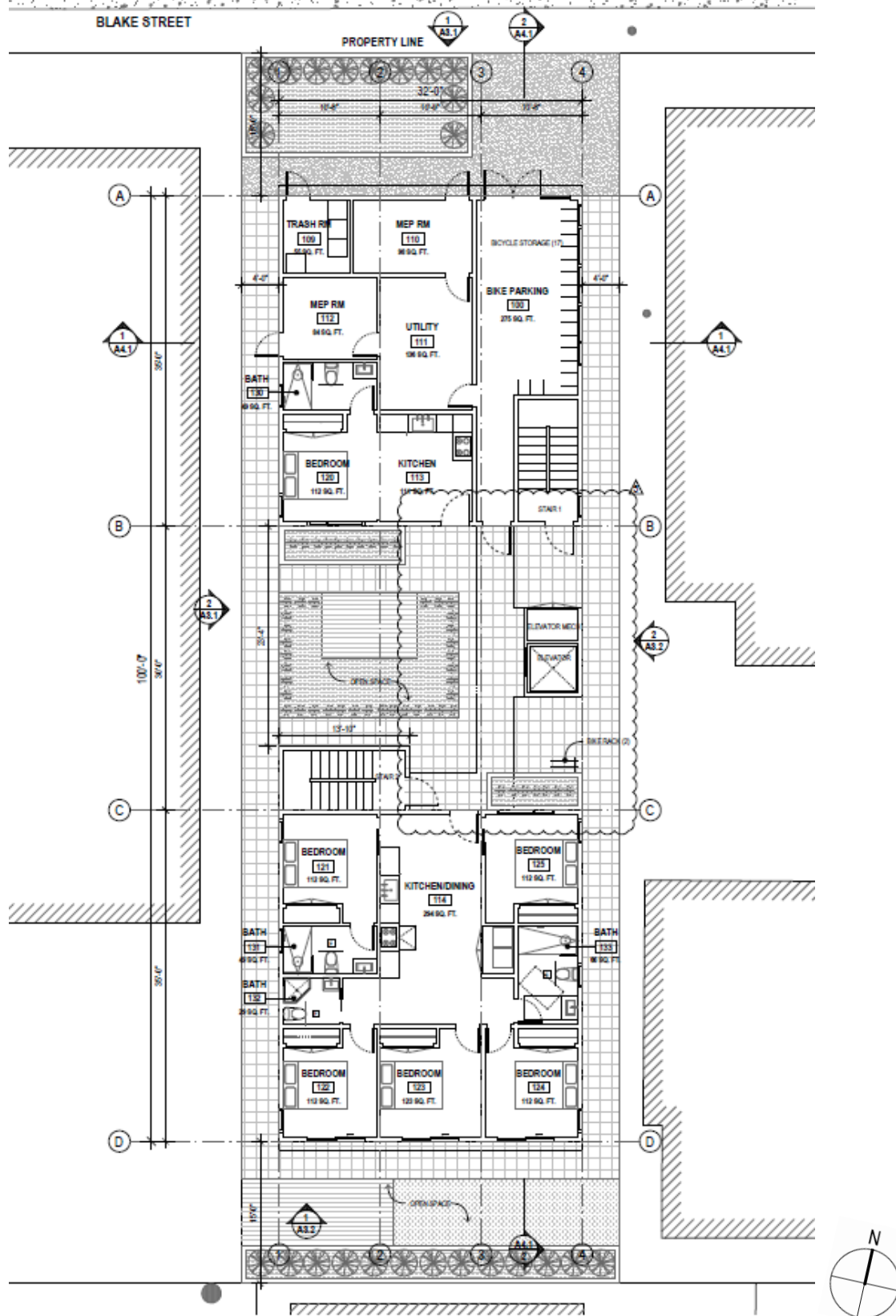


Figure 2: Site Plan





**Table 1: Land Use Information**

| Location                        |       | Existing Use                                             | Zoning District | General Plan Designation |
|---------------------------------|-------|----------------------------------------------------------|-----------------|--------------------------|
| Subject Property                |       | Vacant (remnants of fire-damaged Single-Family dwelling) | R-4             | HDR                      |
| Surrounding Adjacent Properties | North | Skylight Manufacturing                                   |                 |                          |
|                                 | East  | Multi-Family Residential                                 |                 |                          |
|                                 | South | Single / Multi-Family Residential                        | R-2A            | MDR                      |
|                                 | West  | Multi-Family Residential                                 | R-4             | HDR                      |

**Table 2: Special Characteristics**

| Characteristic                                                                                                                         | Applies to Project? | Explanation                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Affordable Child Care Fee & Affordable Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.) | No                  | These fees apply to projects with more than 7,500 square feet of net new non-residential gross floor area. The project contains no non-residential gross floor area. Therefore, the project would not be subject to these fees. |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)                                            |                     |                                                                                                                                                                                                                                 |
| Affordable Housing Mitigations for rental housing projects (Per BMC Section 22.20.065)                                                 | Yes                 | The project would include five or more market rate dwelling units and is therefore subject to the affordable housing provisions of BMC Section 22.20.065.                                                                       |
| Coast Live Oaks                                                                                                                        | No                  | There are no oak trees on the project site.                                                                                                                                                                                     |
| Creeks                                                                                                                                 | No                  | The project site is not within a creek buffer.                                                                                                                                                                                  |
| Density Bonus                                                                                                                          | Yes                 | The project would provide two Low-Income units, or 25% of the Base Project units, and qualifies for a 50% density bonus, or 4 bonus units. See Section III.B for discussion.                                                    |
| Green Building Score                                                                                                                   | No                  | The project is not located in the C-DMU, Downtown Mixed-Use District, and is not subject to this requirement.                                                                                                                   |
| Historic Resources                                                                                                                     | No                  | The project site is vacant (contains remnants of fire-damaged, demolished single-family dwelling), and does not contain any known historic resource.                                                                            |

| Characteristic                                         | Applies to Project? | Explanation                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Housing Accountability Act<br>(Govt. Code 65589.5(j))  | Yes                 | The project is a “housing development project” and requests no modifications to development standards beyond waivers and concessions requested under density bonus law. Therefore, the HAA findings apply to this project, and the project cannot be denied at the density proposed unless the findings for denial can be made. See Section III.C for discussion. |
| Public Art on Private Projects<br>(BMC Chapter 23.316) | Yes                 | The project is subject to the Percentage for Public Art on Private Projects Ordinance. The applicant is electing to pay the fee (0.8% of total building permit valuation) to comply.                                                                                                                                                                              |
| Rent Controlled Units                                  | No                  | No rent-controlled units are proposed to be demolished.                                                                                                                                                                                                                                                                                                           |
| Residential Preferred Parking                          | No                  | The site is located in RPP Zone C. However, per BMC Section 14.72.080.C, no permits shall be issued to residents in the project.                                                                                                                                                                                                                                  |
| Seismic Hazards (SHMA)                                 | No                  | The project site is not located in a seismic hazard area, as defined by the State Seismic Hazards Mapping Act (SHMA). No further investigation is necessary.                                                                                                                                                                                                      |
| Soil/Groundwater Contamination                         | No                  | The project site is not located within the City's Environmental Management Area. No further investigation is necessary. Standard Conditions of Approval related to hazardous materials would apply.                                                                                                                                                               |
| Transit                                                | Yes                 | The project site is served by multiple bus lines (local, rapid, and Transbay) that operate along Shattuck Avenue, and is approximately ½-mile from the Downtown Berkeley BART Station.                                                                                                                                                                            |

**Table 3: Project Chronology**

| Date           | Action                                                                                       |
|----------------|----------------------------------------------------------------------------------------------|
| June 3, 2021   | Application submitted                                                                        |
| March 16, 2022 | Application deemed complete; level of CEQA review determined by staff – Categorically Exempt |
| May 11, 2022   | Public hearing notices mailed/posted                                                         |
| May 26, 2022   | ZAB Hearing                                                                                  |
| July 25, 2022  | CEQA Determination Deadline                                                                  |

**Table 4: Development Standards**

| R-4 Standards,<br>BMC Section 23.202.110(E)(1) to (2)                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                       | Existing         | Proposed                       | Permitted/Required                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|------------------|--------------------------------|------------------------------------------------|
| Lot Area (sq. ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                       | 5,189            | 5,189                          | n/a                                            |
| Gross Floor Area (sq. ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                       | n/a <sup>1</sup> | 13,427                         | n/a                                            |
| Dwelling Units                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                       | n/a              | 12                             | n/a                                            |
| Building Height                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Average                               | n/a              | 64'-6"<br>(top of railing)     | 35' max.<br>(65' with Use Permit) <sup>2</sup> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Maximum                               | n/a              | 64'-6"<br>(top of railing)     | n/a                                            |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Stories                               | n/a              | 6                              | 3 max.<br>(6 with Use Permit) <sup>2</sup>     |
| Building Setbacks                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Front                                 | n/a              | 15'                            | 15' min.                                       |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Rear<br>(by floor, 1 through 6)       | n/a              | 15'/15'/15'/15'/<br>15'/15'    | 15' /15'/15'/17'/19'/21'min.                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Left Side<br>(by floor, 1 through 6)  | n/a              | 4'/4'/4'/4'/4'/4'              | 4'/4'/6'/8'/10/12' min.                        |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Right Side<br>(by floor, 1 through 6) | n/a              | 4'/4'/4'/4'/4'/4'              | 4'/4'/6'/8'/10/12' min.                        |
| Lot Coverage (%)                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                       | n/a              | 49                             | 35                                             |
| Usable Open Space (sq. ft.)                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                       | n/a              | 2,430                          | 2,400 min.<br>(200 s.f./d.u.)                  |
| Parking                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                       | n/a              | 0                              | 0 min./6 max.<br>(0.5 spaces/du max.)          |
| Bicycle Parking                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Residential - Long Term               | n/a              | 17                             | 17<br>(1 space/3 bedrooms)                     |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Residential - Short Term              | n/a              | 1                              | 1<br>(1 space/40 bedrooms, or 2)               |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Total                                 | n/a              | 17/1<br>(long term/short term) | 17/1<br>(long term/short term)                 |
| <p>■ = Waiver requested to modify the district standard.</p> <p><sup>1</sup> The site is considered vacant, and contains remnants of the previously existing single-family dwelling that was damaged by fire and that was demolished in 2020 after the City deemed the building unsafe.</p> <p><sup>2</sup> The use permit to allow height up to 65 feet and six stories is included in the Base Project for the calculation of the density bonus, and is not a requested waiver.</p> |                                       |                  |                                |                                                |

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located on the south side of Blake Street. Adjacent parcels to the north are occupied by one-story commercial/industrial buildings; parcels to the west, immediately east (R-4 Multi-Family Residential District) and to the south (R-2A, Restricted Multi-Family Residential District) are occupied by one- and two-story, single- and multi-family dwellings. Parcels beyond the R-4 district, further east of the site are occupied by one- and two-story commercial buildings (C-AC, Adeline Corridor Commercial District).<sup>1</sup> The parcel across the street and to the northeast at 2029 Blake Street (C-AC) is occupied by a recently-constructed, five-story, 82-unit, mixed-use building. Use permits for other large projects were approved within the past two years on the same block: a six-story, 113-unit, community care facility for seniors at 2000 Dwight Way, and a seven-story, 155-unit, multi-family building at 2015 Blake. (See Figure 1: Zoning Map.)

**B. Site Conditions/Background:** The project site is a rectangular parcel that is generally flat, with a frontage measuring 40 feet and length measuring 140 feet. The site is occupied by the remnants of a single-family dwelling and accessory structure that were damaged by fire in 2019. A Notice of Violation was issued on April 15, 2020, wherein the City Building Official deemed the building unstable, unsafe, and an immediate threat to health and safety. Hazardous portions of the building were demolished in response to the Notice shortly after. The dwelling is considered fully demolished.<sup>2</sup>

## III. Project Description

**A.** The proposed project would involve the construction of a residential building with the following main components:

- Six stories and 64 feet, 6 inches in height (measured to the top of railing)
- 12 dwelling units – 1 one-bedroom, 5 four-bedroom and 6 five-bedroom
- 51 bedrooms in total
- Two Low-Income (LI) units
- 2,433 square feet of usable open space – ground-floor landscape and patio areas and two roof decks
- 17-space bike room and two outdoor bike racks

(See Figure 2: Site Plan.)

<sup>1</sup> Parcels west of the site now designated as C-AC, Adeline Corridor Commercial District, were rezoned in 2021 from previously R-4, Multi-Family Residential District.

<sup>2</sup> A full demolition of a building is defined in the BMC Section 23.502.020.D: “A building or enclosed structure shall be considered demolished for the purposes of this chapter when, within any continuous 12-month period, such building or enclosed structure is destroyed in whole or in part or is relocated from one lot to another. For purposes of this definition, destroyed in part means when 50 percent or more of the enclosing exterior walls and 50 percent or more of the roof are removed”.

**B. Base Project and Density Bonus:** By committing to provide two LI units, the project is eligible for a density bonus under Government Code Section 65915. Under the City’s density bonus procedures, the Base Project was calculated to have eight units as the maximum allowable density for the site.<sup>3</sup> The Base Project has an average unit size of 983 square feet in a five-story building. Two LI units, or 25 percent of the Base Project, qualifies the project for a 50 percent density bonus or four bonus units. The resulting Proposed Project would be a six-story building with 12 units, with an average unit size of 1,053 square feet. (See Table 5: Density Bonus.)

**Table 5: Density Bonus – CA Gov’t Code 65915**

| Base Project Units* | Qualifying Units    | Percent Density Bonus | Number of Density Bonus Units* | Proposed Project Units |
|---------------------|---------------------|-----------------------|--------------------------------|------------------------|
| 8                   | 2 LI<br>(25% of BP) | 50%                   | 4<br>(50%x8)                   | 12                     |

\*Per Gov’t Code Section 65915(q), all unit calculations are rounded up to the nearest whole number.

**C. Housing Accountability Act:** The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

- 1) The development would have a specific adverse impact<sup>4</sup> on public health or safety unless disapproved, or approved at a lower density; and
- 2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The Base Project, including the additional floors and rooftop elements allowed by use permits to extend the district height limit<sup>5</sup> complies with applicable, objective general plan and zoning standards. Further, Section 65589.5(j)(3) provides that a request for a density bonus “shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an

<sup>3</sup> Per the City’s Density Bonus Procedures (DBP), the Base Project is the largest project allowed on the site that is fully compliant with district development standards (i.e. height, setbacks, usable open space, parking, etc.), or, the *maximum allowable density* for the site. The City uses the DBP to calculate the maximum allowable density for a site where there is no density standard in the zoning district, and to determine the number of units in the Proposed Project, which is the number of Base Project units plus the number of density bonus units that can be added according to the percentage of BMR units proposed, per Government Code, Section 65915(f).

<sup>4</sup> A “specific, adverse impact” means “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete”.

<sup>5</sup> The City has determined that the “protections afforded by the HAA and the definition of a base project for density bonus calculations apply to a housing development project up to and including the maximum development allowed with use permits and/or administrative use permits”. Therefore, use permits to extend the district height limit to 65’ and six stories and to allow rooftop elements to exceed height limits are included in the Base Project for the purpose of determining the applicability of Section 65589.5(j).

applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.” Therefore, the City may not deny the Base Project or density bonus request or reduced the density with respect to those units without basing its decision on the written findings under Section 65589.5(j), above. Staff is aware of no specific adverse impacts that could occur with the construction of the Base Project or the density bonus units. Therefore, Section 65589.5(j) *does apply* to the Proposed Project. All findings discussed below are subject to the requirements of Government Code Section 65589.5.

#### IV. Community Discussion

**A. Neighbor/Community Concerns:** After receiving the application on June 3, 2021, the City mailed a Notice of Received Application to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations.<sup>6</sup>

On June 23, 2021, staff received two letters from neighbors describing concerns over too much oversized development on the block; the building design exceeding the height limit; and the project’s incompatibility with one- and two-story dwellings adjacent to the site.

On September 20, 2021, staff received a letter from neighbors describing concerns that the project would exacerbate the shortage of street parking in the area, and concerns over air pollution from the construction of too many new buildings and the impact of more demand on water and electricity systems.

On May 11, 2022, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. No further communications regarding the project were received as of the writing of this staff report.

**B. Landmarks Preservation Commission:** This application is not subject to review by the Landmarks Preservation Commission.

**C. Design Review Committee:** This application is not subject to review by the Design Review Committee.

#### V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development projects. A “housing development project” means

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<sup>6</sup> The Pre-Application Yellow Poster and Neighborhood Outreach components of the land use application submittal requirements were temporarily suspended at the time of the application submittal due to City emergency health orders. The suspension was lifted on July 1, 2021.

a use that is: all residential; mixed use with at least two-thirds of the square footage as residential; or transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code Section 65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, then the city shall not conduct more than five hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act [Chapter 4.5 (commencing with Section 65920)].

The May 26, 2022 ZAB Hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold four additional public hearings on this project, if needed, provided that one hearing must be reserved for a potential appeal to the City Council.

2. Government Code Section 65913.10(a) requires that the City determine whether the proposed development project site is an historic site at the time the application for the housing development project is deemed complete. The determination as to whether the parcel is an historic site must remain valid during the pendency of the housing development project, unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

The site is vacant, and there is no known cultural resource associated with the site. Therefore, it was determined that the site is not an historic resource. Standard conditions of approval have been included to halt work if any unanticipated discovery of archeological, paleontological, or tribal cultural resources.

3. Government Code Section 65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on March 16, 2022. Staff also determined on this date that the level of CEQA review was to be "Categorically Exempt". If the ZAB determines the application is categorically exempt from CEQA at the May 26, 2022 public hearing, the application must be approved or disapproved by July 25, 2022.
4. Government Code Section 66300(d) prohibits the demolition of residential dwelling units unless the project will create at least as many residential units as will be demolished. The project does not propose the demolition of housing units, as the single-family dwelling that previously existed on the site was demolished after the City Building Official deemed the building unsafe and prior to the submittal of this permit application. Therefore, this section does not apply to the project.

**B. Density Bonus Waivers and Concessions:** The project is entitled to three concessions (or incentives), under Government Code Section 65915(d) for providing at least 24 percent of total units to lower-income households, and an unlimited number of waivers, under Section 65915(e). No concessions are requested.

Waiver. A waiver is a modification of a development standard that would otherwise physically preclude the construction of the project with the permitted density bonus and concessions. Waivers of the side and rear yard setbacks minimums and the lot coverage maximum are requested because they are necessary to physically accommodate the full density bonus project on the site.

The City may only deny the waivers if it finds that the waivers would have a specific adverse impact<sup>7</sup> upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low income, very low income, and moderate income households, or if the waiver would be contrary to State or Federal law. Staff has not identified any evidence that would support such a finding.

## VI. Other Considerations

The following analyses of conformance with district purposes, use permit findings for non-detriment, and the 2002 General Plan goals and policies are provided for informational purposes only, to provide context; they are not required because the proposed project is HAA-compliant.

**A. Use Permits for Additional Height:** BMC Section 23.406.040.E.1 states that before the ZAB approves an application for a Use Permit, it must find that 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.

The project applicant proposes a 64-foot, 6-inch (maximum height), six-story building. Use Permits to exceed the height limit of 35 feet and three stories, up to 65 feet and six stories (the fourth through sixth floors), and for the rooftop elements to exceed the district height limits are included in the Base Project for the density bonus, and are subject to the findings in Section 65589.5(j) of the HAA. (See section III.C for discussion on the HAA.)

Non-Detriment: The six-story building would be taller than existing buildings on nearby properties on its block which are generally one- and two-story residential development to the west and south, and one- and two-story residential and commercial development

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<sup>7</sup> See Footnote 5.



to the east. If approved, however, the project would follow a trend of increasing density in the neighborhood, including the recently-constructed, five-story, mixed-use building at 2029 Blake Street, the approved six-story, community care facility for seniors at 2000 Dwight Way, and the approved seven-story, multi-family building at 2015 Blake. The proposed project would provide new housing in a location with easy access to public transit and nearby commercial services and stores, and would fulfill the purpose of the R-4 Multi-Family Residential District by providing high-density residential development with sufficient usable open space at a convenient location for desirable services.

Also, the project is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or 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.

Shadows: According to the shadow studies submitted for the project (See Attachment 1, Project Plans – Sheet A1.4) the project would cause new shadows to affect surrounding dwellings as follows:

- multi-family dwellings to the west of the site, during the hours after sunrise in the spring months and summer months
- the newly constructed mixed-use building to the northeast, during the hours before sunset in the winter months
- the single-family dwelling to the east of the site during the hours around noon in the winter months
- single- and multi-family dwellings to the east of the site, during the hours before sunset in the summer, winter and spring months

The use permits for additional height beyond the district height limits allow a 64-foot, 6-inch, six-story building. The additional height above the district limits would cast shadows in the affected directions further than if the project were limited to the base district height standards. However, the shadow impacts on any one adjacent property would occur during limited hours and times of the year. Furthermore, shadow impacts on adjacent dwellings are difficult to avoid given the lot widths, height and building-to-building separations permitted in the R-4 district. Staff therefore recommends that the ZAB find that shadow impacts would be non-detrimental.

**B. General Plan Consistency:** The following is an analysis of conformance with the 2002 General Plan goals and policies, provided for informational purposes only:

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 LU-23–Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.
4. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
5. Policy UD-24–Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
7. Policy UD-33–Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
8. Policy H-19–Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.
9. Policy EM-5–“Green” Buildings: Promote and encourage compliance with “green” building standards. (Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.)

As discussed in section VI.A through VI.C, the project would improve the utilization of the site with infill development that is of appropriate intensity, that is compatible with the existing surrounding development. The project site is served by multiple bus lines, including local, rapid, and Transbay lines, that operate along Shattuck Avenue, and a nearby BART Station.

The project would help Berkeley meet its regional housing needs by adding 11 net new housing units, including two LI units. The project would be subject to standard conditions of approval that promote sustainable building design, including conditions for solar PV systems, water efficient landscaping, and natural gas prohibitions.

## 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 #ZP2021-0095, pursuant to BMC Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received March 23, 2022
3. Notice of Public Hearing

**Staff Planner:** Sharon Gong, [sgong@cityofberkeley.info](mailto:sgong@cityofberkeley.info), (510) 981-7429



Administrative Record

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

**City Clerk Department**

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

or from:

**The City of Berkeley, City Council's Web site**

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: 2018 BLAKE STREET, USE PERMIT #ZP2021-0095**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, OCTOBER 11, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to APPROVE Zoning Permit #ZP2021-0095 to **construct a six-story, multi-family residential building with 12 units (including two Low-Income units).**

The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **SEPTEMBER 29, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Sharon Gong, Project Planner, (510) 981-7429 or [SGong@cityofberkeley.info](mailto:SGong@cityofberkeley.info). 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](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: **SEPTEMBER 27, 2022**

**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 decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. 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 by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*





Office of the City Manager

PUBLIC HEARING  
November 15, 2022  
*(Continued from November 3, 2022)*

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: 1643-1647 California Street, Use Permit #ZP2021-0001

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On January 8, 2021, Sundeep Grewel (“Applicant”) submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street.

On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at the site, and posted a project yellow poster.<sup>1</sup>

In response to this notification, staff received several communications regarding the project, both in support and opposition. Concerns raised included:

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<sup>1</sup> The standard protocol for installation of a Project Yellow Poster and neighborhood contact and signatures was waived from March 2020 until July 2021.

- a. Concerns from neighbors to the east and south due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and of shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

Expressions of support of the application included:

- a. Improved structure and project site.
- b. Restoration of the second dwelling unit.

On December 9, 2021, 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 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

On December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022.

On April 26, 2022, Council remanded the project to ZAB for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

On July 14, 2022, the ZAB conducted a public hearing for the remand. The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), does not apply to the proposed project because no new dwellings are proposed. The two existing dwellings would remain, and the size of the dwellings would change. Rent Board staff prepared a memorandum that analyzed whether the Rent Stabilization and Eviction for Good Cause Ordinance applies to the project. Since there are currently no tenants, there are no tenant protections at issue currently. Future tenants would be protected by the ordinance. Both units are subject to rent control when rented.

After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 7-0-0-2 (Yes: Duffy, Gaffney, Kahn, Kim, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: O' Keefe, Olson).

On July 21, 2022, staff issued the ZAB Notice of Decision, and on August 2, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on November 3, 2022.



On October 20, 2022, staff posted the public hearing notice at the site and three nearby locations, 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. The Council must conduct a public hearing to resolve the appeal.

### BACKGROUND

The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Junior Way. The surrounding area consists of residential uses including one- and two-story single-family dwellings and two-story multi-family buildings.

The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units without the necessary approval of a Use Permit to remove a dwelling.

The property and structure are currently non-conforming for several reasons: 1) lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) allowable residential density, containing two units when only one unit is permitted due to the lot size; and 3) the structure is located within the required front, rear, and left setbacks.

The proposed project would make several alterations to the existing property. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore the kitchen of the left dwelling unit at 1643 California, and would shrink the size of this unit from 650 square feet to 501 square feet. Additionally, the floor plan of the main level of the right dwelling unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level, contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet.

Other site work includes the removal of an existing accessory shed, and the construction of an on-grade deck in the southeastern corner of the rear yard.

For additional project background, please see Attachment 3, the July 14, 2022 ZAB staff report for this project.

#### RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2) for the full text.

#### **Issue 1: ZAB did not address the appellants' requested changes, including conditioning the permit to prevent post-permit modification of the upper floor of the exterior of the building.**

Response 1: Pursuant to Berkeley Municipal Code (BMC) Section 23C.04.070.C<sup>2</sup>, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is eligible for the use permit because it is non-conforming for the maximum allowable lot coverage, with 50 percent coverage where 45 percent is the maximum on this R-2 zoned property. The proposed project would remove an existing shed in the rear yard which would reduce the lot coverage to 44 percent, but the standards are different for a one-story or a two-story house, so the property would remain non-conforming for the revised allowable lot coverage of 40 percent.

While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore does not increase the non-conforming lot coverage. Additionally, the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, and the addition would comply with the allowable average height limit in the district. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not: 1) reduce any yard below the minimum setback requirements or further reduce existing non-conforming yards; or 2)

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<sup>2</sup> The prior Zoning Ordinance was in effect at the time this application was deemed complete. The version of the BMC Title 23, Zoning Ordinance, that was in effect at the time this application was deemed complete is available online: [https://www.cityofberkeley.info/Planning\\_and\\_Development/Land\\_Use\\_Division/Zoning\\_Ordinance\\_Revision\\_Project\\_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

exceed the maximum or calculated height limits. The existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. Because the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

The BMC requires findings of general non-detriment<sup>3</sup> for approval of discretionary permits, and each zoning district has district purposes to guide development. The ZAB determined that the project is compliant with all applicable, objective general plan and zoning standards. Even if neighbors are opposed to a project, ZAB may choose to not modify a project and approve it as is.

**Issue 2: Approval of the project goes against policies and statements made by City Council in regards to preventing gentrification, and protecting small, more affordable, and rent-controlled housing. The appellants contend that it is unlikely that the proposed large dwelling unit will be rented because it is subject to rent control. The appellants further contend that zoning standards and permit requirements should be used to impose conditions to force owners to preserve the nature and purpose of rent-controlled properties (Appeal Letter, page 3).**

Response 2: Whether or not a property will be rented or owner-occupied is beyond the purview of ZAB and the Land Use Planning Division. The Rent Board implements Berkeley's Rent Stabilization Ordinance. The Zoning Ordinance does not prevent property owners from applying for applicable development permits based on the tenancy of a property. ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project.

**Issue 3: The project does not comply with the applicable, objective zoning standards. In the absence of objective standards regarding privacy and light, and in the absence of clear guidance regarding rent-controlled properties, ZAB's decision on a project is based on subjective standards regarding what constitutes harm to neighbors and the city (Appeal Letter, page 1).**

Response 3: Per California Government Code, Section 65913.4(a)(5), objective standards are standards that involve no personal or subjective judgement by a public

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<sup>3</sup> The findings for approval of use permits, sometimes referred to as "general non-detriment findings" are described in BMC Section 23.406.040(E)(1) Findings for Approval:

"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."

official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by the applicant and the public official before submittal. The project site is existing non-conforming for residential density, lot coverage, and front, rear, and left setbacks. The lot was created and the duplex was built before the current R-2 District standards were developed; this is true of many residential properties in Berkeley, and the BMC allows property owners to apply for Use Permits to make alterations to non-conforming properties so long as non-conforming conditions are not worsened. An Administrative Use Permit is required for the addition of more than 600 square feet (a major residential addition). Per BMC Section 23.202.030(A)(2)(a), to deny an AUP for a residential addition the review authority must find that the residential addition would unreasonably obstruct sunlight, air, or views. These subjective standards established in the BMC do not prevent ZAB from approving the project.

#### ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, 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 PERSONS

Jordan Klein, Director, Planning & Development Department, (510) 981-7534  
Steven Buckley, Land Use Planning Manager, (510) 981-7411  
Allison Riemer, Associate Planner, (510) 981-7433

#### Attachments:

1. Draft Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, received August 26, 2021
2. Appeal Letter, received August 2, 2022
3. July 14, 2022 ZAB Hearing Staff Report
4. Index to Administrative Record
5. Administrative Record
6. Public Hearing Notice

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

AFFIRMING THE ZONING ADJUSTMENTS BOARD APPROVAL OF USE PERMIT #ZP2021-0001 TO: 1) CREATE A NEW LOWER BASEMENT LEVEL, 2) CONSTRUCT A NEW SECOND STORY, AND 3) MODIFY THE EXISTING DUPLEX LAYOUT RESULTING IN A 3,763 SQUARE FOOT DUPLEX ON AN EXISTING PROPERTY, AND DISMISS THE APPEAL.

WHEREAS, on January 8, 2021, Sundeep Grewel (“Applicant”) submitted an application for a Use Permit (UP) to remodel and expand a duplex located at 1643 and 1647 California Street; and

WHEREAS, on December 9, 2021, 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 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

WHEREAS, on December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022; and

WHEREAS, on April 26, 2022, Council remanded the project to ZAB for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance; and

WHEREAS, on July 14, 2022, the ZAB conducted a public hearing for the remand. After hearing public comments and holding discussion, the ZAB approved the use permit by a vote of 7-0-0-2 (Yes: Duffy, Gaffney, Kahn, Kim, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: O’ Keefe, Olson); and

WHEREAS, on July 21, 2022, staff issued the ZAB Notice of Decision, and on August 2, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on November 3, 2022; and

WHEREAS, on October 20, 2022, staff posted the public hearing notice at the site and three nearby locations, 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 November 3, 2022, 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 City Council of the City of Berkeley that the City Council hereby adopts the findings made by the ZAB in Exhibit A to affirm the decision of the ZAB to approve Use Permit #ZP2021-0001, adopts the conditions of approval in Exhibit A, adopts the project plans in Exhibit B, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received August 26, 2021

# ATTACHMENT 1, EXHIBIT A

## FINDINGS AND CONDITIONS

JULY 14, 2022

### 1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create a new lower basement level, 2) construct a new, second story and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.

#### PERMITS REQUIRED

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B, to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit, under BMC section 23D.28.030, to permit a major residential addition;
- Administrative Use Permit, under BMC Section 23D.28.070.C, to allow an addition over 14 feet in height; and
- Administrative Use Permit, under BMC Section 23D.28.050, to construct a fifth bedroom

#### 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 15301 of the CEQA Guidelines (“Existing Facilities”).
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 23B.32.040.A 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. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.

- C. A basement is proposed to be added. While adding additional square footage to the building, the basement will not create any new impacts to the surrounding neighbors due to its placement partially below grade, maintaining the existing first floor level.
- D. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories; and
- E. The project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

### III. OTHER FINDINGS FOR APPROVAL

2. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. The property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition will remove an existing shed in the rear yard, which will reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure will still be non-conforming to the allowable lot coverage, the project will reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.
3. Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, therefore, it does not increase the density. As described in Section V.C of the Staff Report, the addition will comply with the allowable average height limit in the district
4. Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement will not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As described in the Staff Report, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house will correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback will be vertically extended both up (with the second story) and down (with the basement), while the rear setback will be vertically extended down with the expansion of the basement. The second story at the rear will comply with the required 20-foot rear yard setback. As the enlargement of the building will comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks will not further reduce the non-conformity, these expansions are permissible.
5. Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase



the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom will not add density to the site, or intensify the use of the residential property.

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**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. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

**3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

**4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. 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.

**5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.



11. 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.
12. 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](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/>

**During Construction:**

13. 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.
14. 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's 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.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk

screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.

In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
- A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

- 16. 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.
- 17. 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.
- 18. 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.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 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.

- 19. 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.
- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.
- 26. 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.

- 27. 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.
- 28. 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.
- 29. 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.

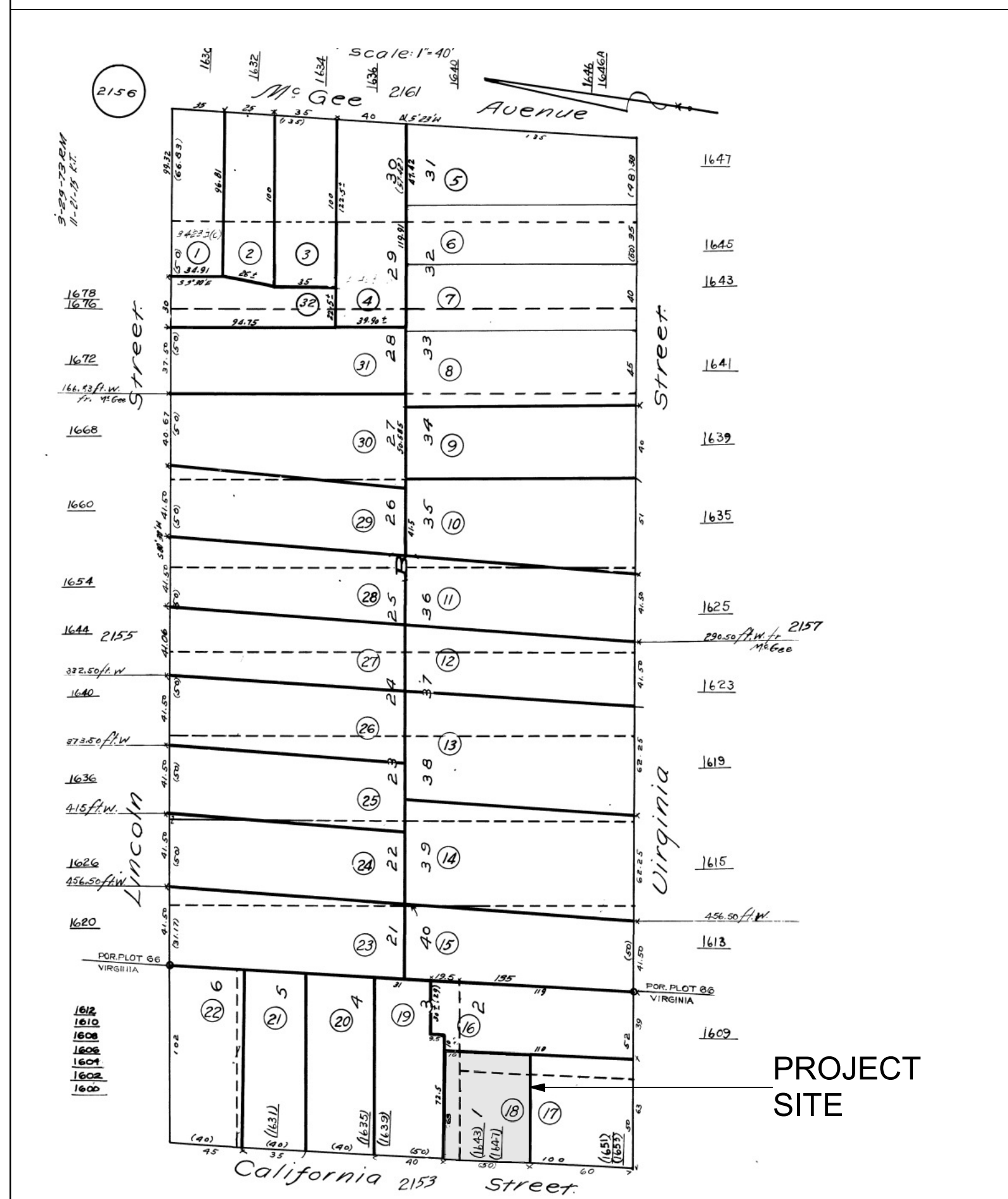
**Prior to Final Inspection or Issuance of Occupancy Permit:**

- 30. 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.
- 31. 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 August 26, 2021, except as modified by conditions of approval.

**At All Times:**

- 32. 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.
- 33. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 34.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
- 35.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

PARCEL MAP



PROJECT SITE

OPPENHEIMER RESIDENCE

1643 & 1647 California St. CA 94703

SCOPE OF WORK

The proposed project includes an addition to and remodel of an existing, one-story, two-family residence (duplex). Components of the project include:

Reconfigure existing duplex to create one larger unit and one smaller apartment. All work shall be within the building footprint. The building shall remain as a duplex. The preliminary program includes the following:

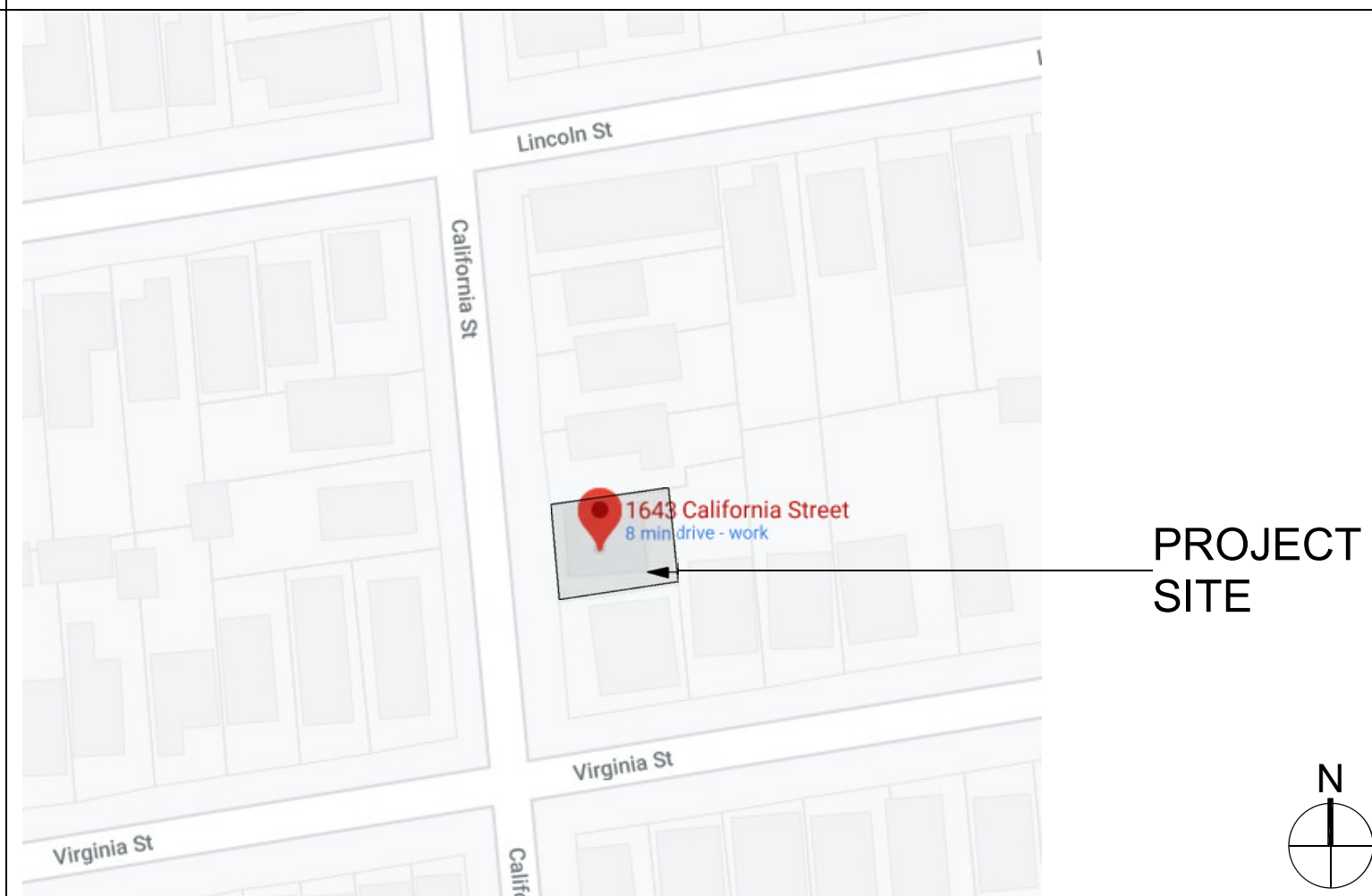
- Basement/First floor:**
  - Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

- Second floor:**
  - Reconfigure layout as needed to create a larger unit with one smaller apartment
  - Rebuild/reconfigure existing porch and entry stairs as required
  - Create new stairs to basement floor and second floor addition

- Third floor:**
  - Create new bedrooms, bathrooms and laundry room
  - Create new balcony at front

- Miscellaneous:**
  - Update all mechanical, electrical and plumbing systems as required for new work
  - Reconfigure and rebuild front stairs per new design

VICINITY MAP



PROJECT SITE

PROJECT DIRECTORY

**Owner:**  
Ido and Tamar Oppenheimer  
1643 & 1647 California St.  
Berkeley, CA 94703  
Tel: 510 486-8387

**Architect:**  
Sundeep Grewal  
Studio G+S, Architects  
2223 5th St.  
Berkeley, CA 94710  
Tel: 510-548-7448  
sunny@sgsarch.com

**Project Address:**  
1643 & 1647 California St.  
Berkeley, CA 94703  
APN: 58-2156-18

PROJECT DATA

**Occupancy:** R-3 Duplex  
**Proposed Construction:** Type V-B  
**Fire Sprinkler System:** No

**Zoning/General Plan Regulation**  
**Zoning District:** R-2 (Restricted Two-Family Residential)  
**General Plan Area:** LMDR  
**Downtown Arts District Overlay:** No  
**Commercial District With Use Quotas:** No

**Seismic Safety**  
**Earthquake Fault Rupture(Alquist-Priolo) Zone:** No  
**Landslide (Seismic Hazards Mapping Act):** No  
**Liquefaction (Seismic Hazards Mapping Act):** No  
**Un-reinforced Masonry Building Inventory:** No

**Historic Preservation**  
**Landmarks or Structure of Merit:** No

**Environmental Safety**  
**Creek Buffer:** None  
**Fire Zone:** 1  
**Flood Zone(100-year or 1%):** No

**Wildlife Urban Interface** No

SHEET INDEX

- Architectural:**
- A0.0 Scope Of Work, Vicinity Map, Parcel Map, Project Data Sheet Index, Abbreviations, Applicable Codes Project Directory, Photos
  - A0.1 Existing Site Plan, Proposed Site Plans
  - A0.2 Site Survey
  - A1.1 Existing Floor Plan  
Existing Exterior Elevations
  - A2.1 Proposed Floor Plan
  - A2.2 Proposed Floor Plans
  - A3.1 Front Elevation Comparison, Exterior Renderings
  - A3.2 Proposed Exterior Elevations
  - A3.3 Building Section, Renderings
  - A4.1 Shadow Study
  - A4.2 Shadow Study
  - A4.3 Shadow Study
  - A5.1 Demolition Diagram

APPLICABLE CODES

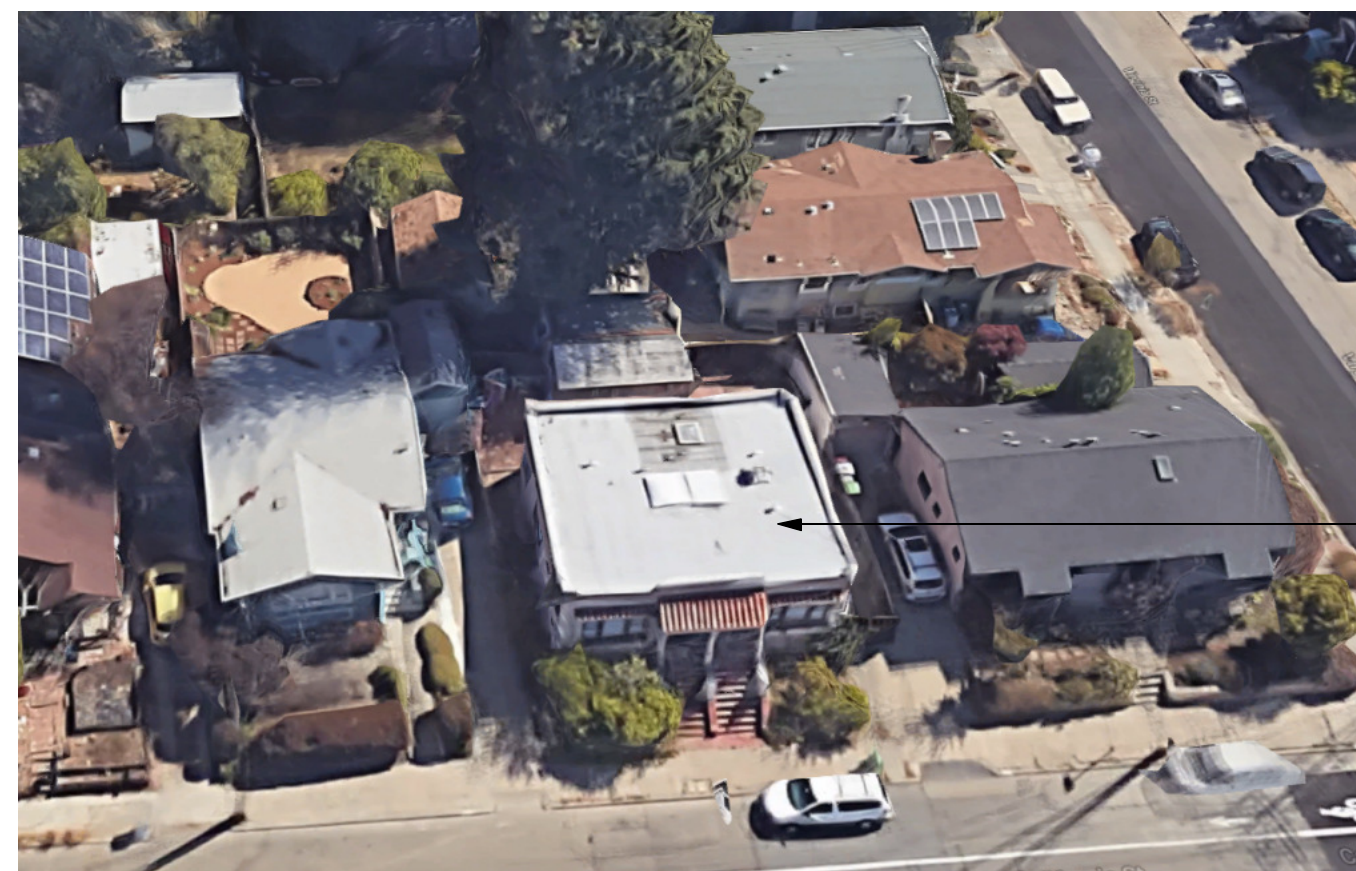
- 2019 California Building Code (CBC) Volume 1
- 2019 California Building Code (CBC) Volume 2
- 2019 California Residential Code (CRC)
- 2019 California Energy Code (CBEES)
- 2019 California Green Building Standards Code (CALGreen)
- 2019 California Electrical Code (CEC)
- 2019 California Plumbing Code (CPC)
- 2019 California Mechanical Code (CMC)

This project shall conform to all the above codes and any local and state laws and regulations adopted by the City of Berkeley, CA.

ABBREVIATIONS

|         |                       |          |                         |         |                         |
|---------|-----------------------|----------|-------------------------|---------|-------------------------|
| &       | and                   | fdn.     | foundation              | pr.     | pair                    |
| @       | at                    | fin.     | finish                  | p.s.    | plumbing stack          |
| perpen. | perpendicular         | fl.      | floor                   | pt.     | point                   |
| #       | pound or number       | fl.      | flash                   | p.t.    | pressure treated        |
| (e)     | existing              | flor.    | fluorescent             | ptd.    | painted                 |
| (n)     | new                   | f.o.c.   | face of concrete        | r.      | riser                   |
| (r)     | renovated             | f.o.f.   | face of finish          | r.a.    | return air              |
| a.f.f.  | above finished floor  | f.o.s.   | face of studs           | ref.    | reference               |
| acous.  | acoustical            | ft.      | foot or feet            | refr.   | refrigerator            |
| adj.    | adjacent/ adjustable  | ftg.     | footing                 | rgtr.   | register                |
| alum.   | aluminum              | furn.    | furnace                 | reinf.  | reinforced              |
| approx. | approximate           | g.a.     | gauge                   | req.    | required                |
| arch.   | architectural         | gal      | gallon                  | rm.     | room                    |
| asph.   | asphalt               | g.s.m.   | galvanized sheet metal  | r.o.    | rough opening           |
| bd.     | board                 | gl.      | glass                   | rwd.    | redwood                 |
| bdg.    | building              | gnd.     | ground                  | r.w.l.  | rain water leader       |
| blk.    | block                 | gr.      | grade                   | s.      | south                   |
| blk.    | blocking              | gyp. bd. | gypsum board            | s.c.    | solid core              |
| bm.     | beam                  | h.b.     | hose bibb               | sched.  | schedule                |
| bot.    | bottom                | hdwd.    | hardwood                | sect.   | section                 |
| b.p.    | building paper        | h.f.     | hem fir                 | sh.     | shelf                   |
| b/w     | between               | horiz.   | horizontal              | shr.    | shower                  |
| cab.    | cabinet               | hgt.     | height                  | shr.    | shower                  |
| cem.    | cement                | i.d.     | inside diameter (dia.)  | sim.    | similar                 |
| cer.    | ceramic               | insul.   | insulation              | s.mech. | see mechanical drawings |
| cl.     | center line           | int.     | interior                | s.o.    | sash opening            |
| clg.    | ceiling               | int.     | interior                | spec.   | specification           |
| clkg.   | caulking              | jt.      | joint                   | sq.     | square                  |
| c.o.    | cleanout              | kit.     | kitchen                 | s.s.d.  | see structural drawings |
| clo.    | closet                | lav.     | lavatory                | sst.    | stainless steel         |
| clr.    | clear                 | loc.     | location                | std.    | standard                |
| col.    | column                | lt.      | light                   | sti.    | steel                   |
| comp.   | composition           | max.     | maximum                 | stor.   | storage                 |
| conc.   | concrete              | m.c.     | medicine cabinet        | struct. | structure               |
| constr. | construction          | mech.    | mechanical              | sym.    | symmetrical             |
| cont.   | continuous            | membr.   | membrane                | t.      | tread or tempered       |
| det.    | detail                | manuf.   | manufacturer            | t.b.    | towel bar               |
| d.f.    | douglas fir           | min.     | minimum                 | tel.    | telephone               |
| dia.    | diameter              | mir.     | mirror                  | t. & g. | tongue & groove         |
| dim.    | dimension             | misc.    | miscellaneous           | thk.    | thick                   |
| dir.    | direction             | mntd.    | mounted                 | t.b.r.  | to be removed           |
| disp.   | disposal              | mtl.     | metal                   | t.o.    | top of                  |
| d.w.    | dishwasher            | n.       | north                   | t.p.d.  | toilet paper dispenser  |
| dr.     | door                  | nat.     | natural                 | t.v.    | television              |
| drw.    | drawer                | neo.     | neoprene                | typ.    | typical                 |
| drg.    | drawing               | neoprene | neoprene                | unf.    | unfinished              |
| drgs.   | drawings              | n.i.c.   | not in contract         | u.o.n.  | unless otherwise noted  |
| e.      | east                  | no.      | number                  | vert.   | vertical                |
| ea.     | each                  | nom.     | nominal                 | v.g.    | vertical grain          |
| el.     | elevation             | n.s.     | not to scale            | v.i.f.  | verify in field         |
| elec.   | electrical            | o.a.     | overall                 | w.h.    | water heater            |
| encd.   | enclosure             | o.c.     | on center               | w.      | west                    |
| eq.     | equal                 | o.d.     | outside diameter (dim.) | w/      | with                    |
| eqt.    | equipment             | opng.    | opening                 | wd.     | wood                    |
| ext.    | exterior              | opp.     | opposite                | w/o     | without                 |
| f.      | frosted               | pl.      | property line           | w.o.    | where occurs            |
| f.d.c.  | fire dept. connection | p.lam.   | plastic laminate        | wp.     | waterproof              |
|         |                       | plywd.   | plywood                 | wt.     | weight                  |

SITE PHOTOS



PROJECT SITE

Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

|                              | Tabulations                                     |                  |                             |
|------------------------------|-------------------------------------------------|------------------|-----------------------------|
|                              | Required/Allowed                                | Existing         | Proposed                    |
| <b>Set Backs:</b>            |                                                 |                  |                             |
| Front                        | 20'-0"                                          | 10'-10"          | 10'-10" no change           |
| Rear:                        | 20'-0"                                          | 16'-10"          | 16'-10" no change           |
| Left side:                   | 4'-0"                                           | 3'-11"           | 4'-0" no change             |
| Right side:                  | 4'-0"                                           | 5'-6"            | 5'-5" no change             |
| <b>Habitable Floor Area:</b> |                                                 |                  |                             |
| <b>Unit 1:</b>               |                                                 |                  |                             |
| Basement floor:              |                                                 | 0 s.f.           | 1,342 s.f.                  |
| First floor:                 |                                                 | 667 s.f.         | 901 s.f.                    |
| Second floor:                |                                                 | 0 s.f.           | 1,019 s.f.                  |
| Total Area Unit 1:           |                                                 | 667 s.f.         | 3,262 s.f. (2,595 s.f. new) |
| <b>Unit 2:</b>               |                                                 |                  |                             |
| Basement floor:              |                                                 | 0 s.f.           | 0 s.f.                      |
| First floor:                 |                                                 | 667 s.f.         | 501 s.f.                    |
| Second floor:                |                                                 | 0 s.f.           | 0 s.f.                      |
| Total Area Unit 2:           |                                                 | 667 s.f.         | 501 s.f.                    |
| Total Area:                  |                                                 | 1,334 s.f.       | 3,763 s.f. (2,229 s.f. new) |
| <b>Bedroom Count:</b>        |                                                 | 3 total          | 5 total                     |
| <b>Non-Habitable Area:</b>   |                                                 |                  |                             |
| Accessory Structure:         |                                                 | 167 s.f.         | 0 s.f.                      |
| <b>Building Height:</b>      |                                                 |                  |                             |
| Main Building:               | 28'-0"<br>35'-0" w/ AUP                         | 13'-6"<br>13'-6" | 23'-10"                     |
| <b>Parking:</b>              | 2                                               | 0                | 0                           |
| <b>Lot Size:</b>             | 4,500 s.f.                                      | 3,142 s.f.       | 3,142 s.f.                  |
| <b>Total Foot Print:</b>     |                                                 |                  |                             |
| House:                       |                                                 | 1,342 s.f.       | 1,342 s.f.                  |
| Covered Porch:               |                                                 | 60 s.f.          | 0 s.f.                      |
| Accessory Structure:         |                                                 | 167 s.f.         | 0 s.f.                      |
| Total:                       | 1,085 for 3 stories                             | 1,569 s.f.       | 1,382 s.f.                  |
| <b>Lot Coverage:</b>         | 45% (1 story)<br>40% (2 story)<br>35% (3 story) | 49.94%           | 43.98% (5.96% reduction)    |
| <b>Usable Open Space:</b>    | 400 s.f./unit                                   | 500 s.f.         | 1,029 s.f.                  |



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Sheet Contents:  
Sheet Index  
Applicable Codes  
Abbreviations  
Vicinity Map  
Project Data  
Scope of Work  
Project Directory  
Photos

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:  
Use Permit Set: 12-10-2020

Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet A0.0



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Sheet Contents:  
Existing Site Plan  
Proposed Site Plan

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Project No:  
20-13-420

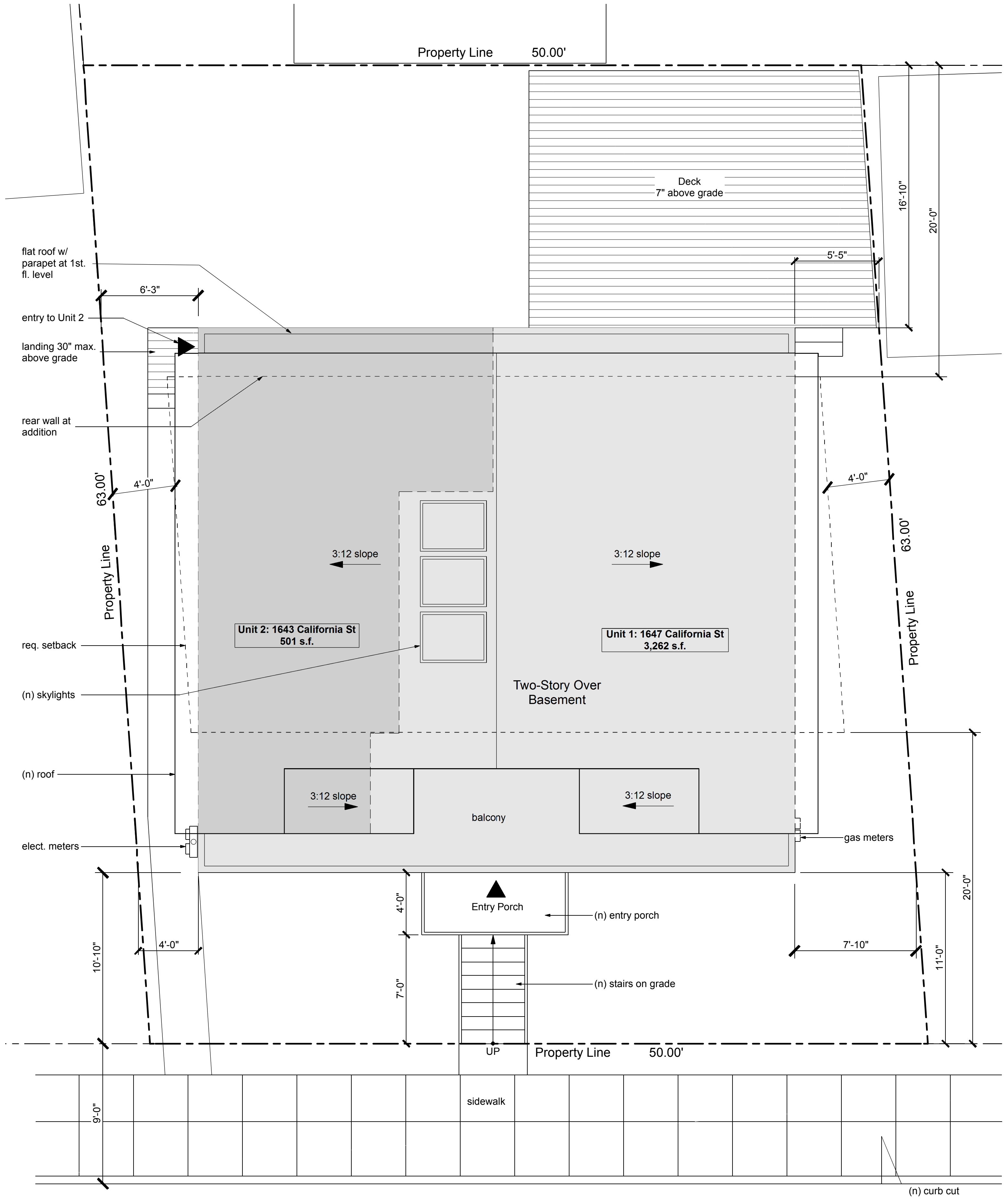
Drawn By:  
SSG

Checked By:  
SSG

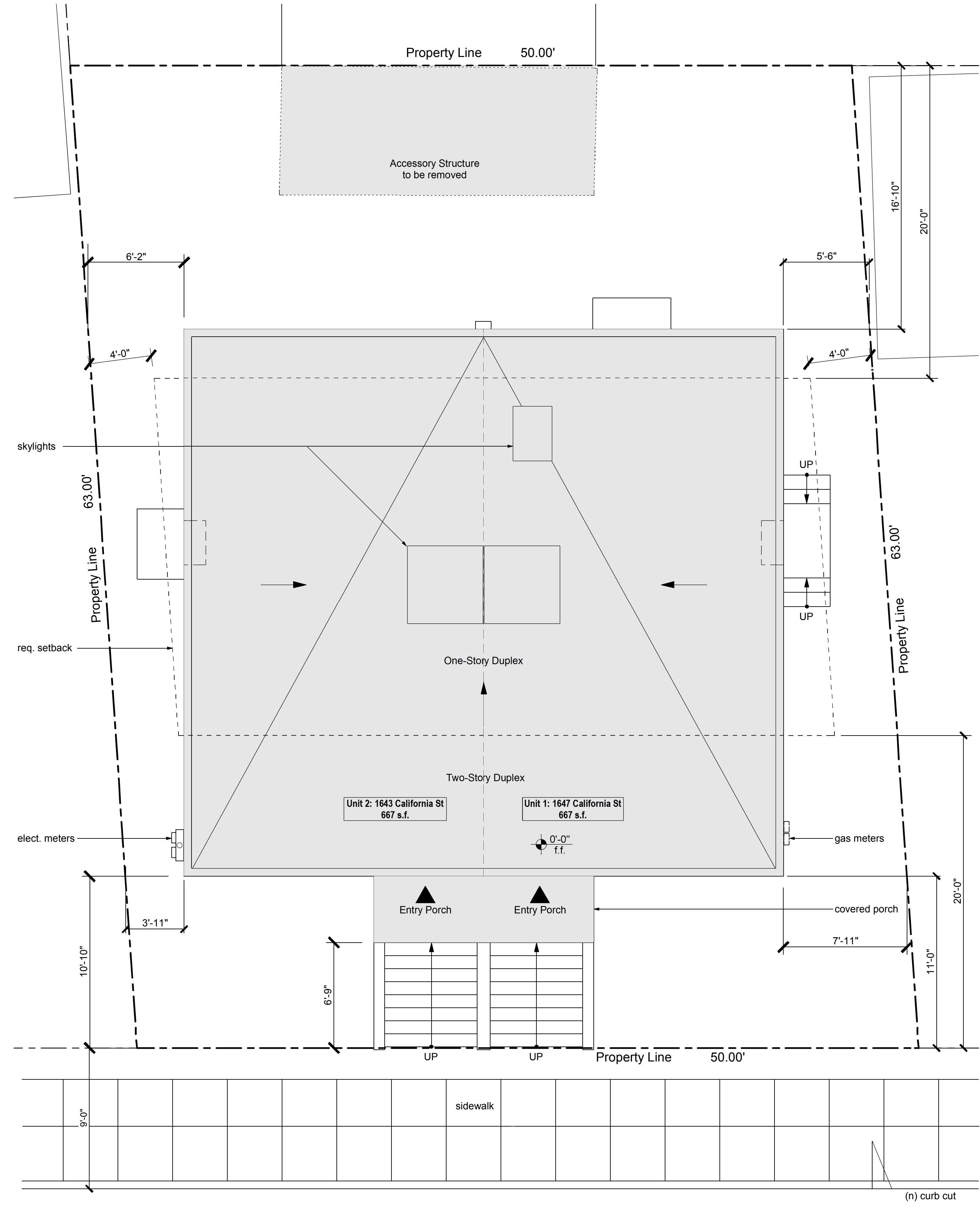
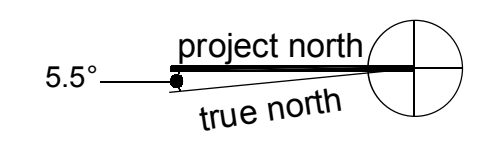
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Planning Review: 6-29-2021  
Planning Review: 7-15-2021

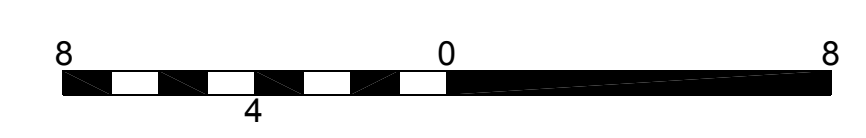
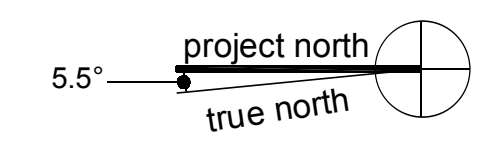
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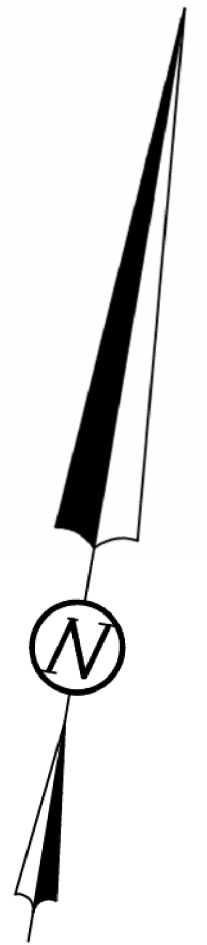


2 Proposed Site Plan

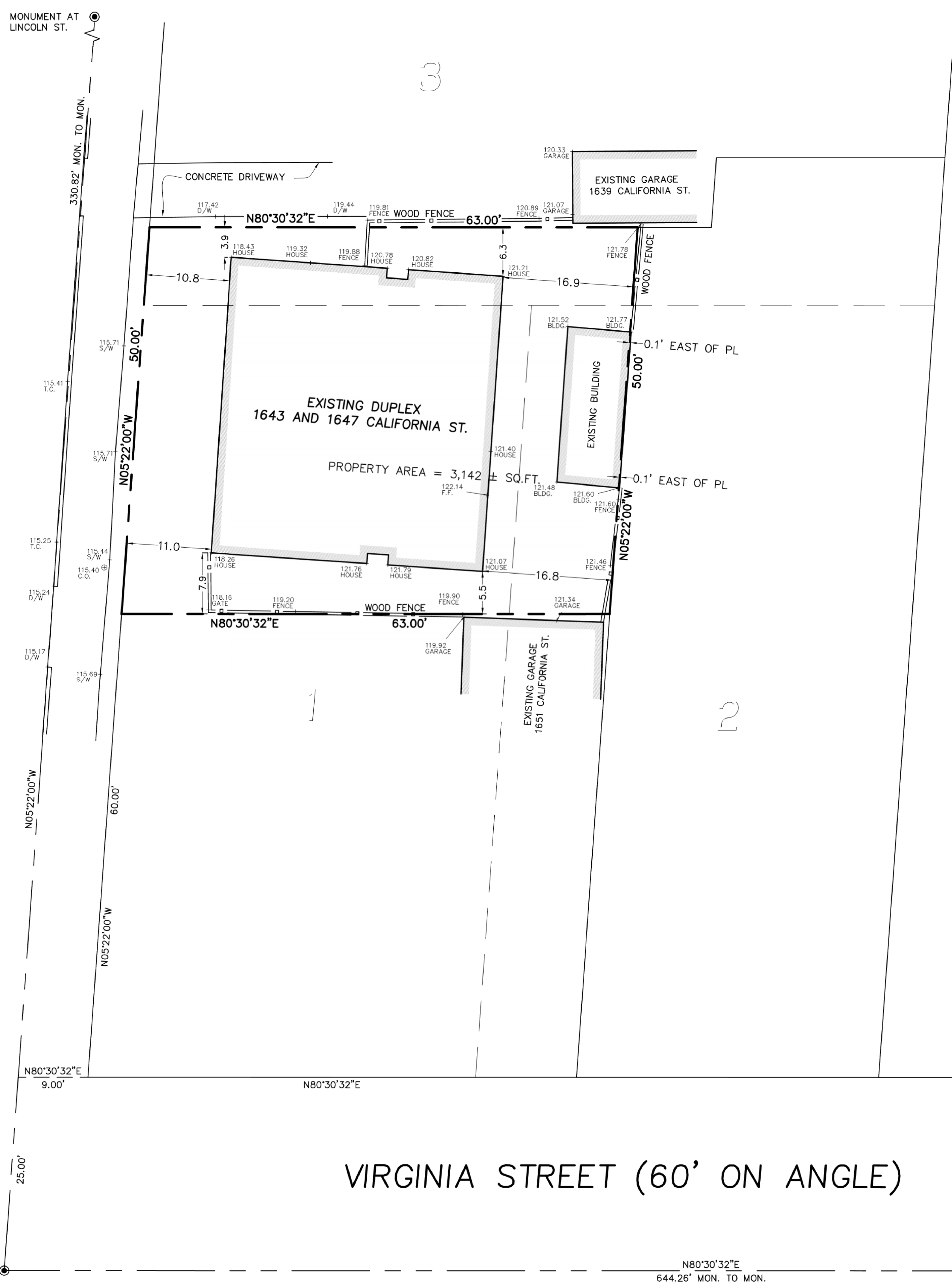


1 Existing Site Plan

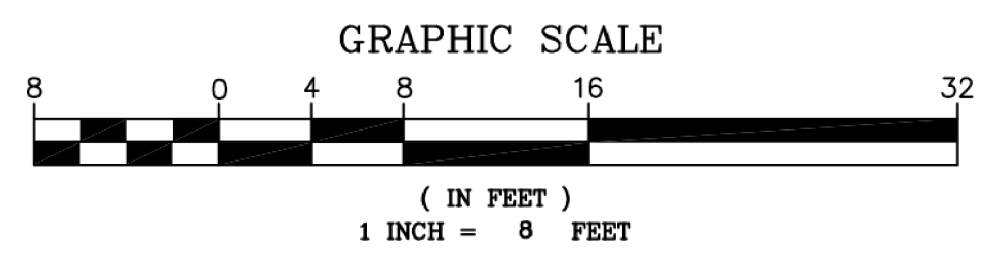




CALIFORNIA STREET (60' ON ANGLE)



VIRGINIA STREET (60' ON ANGLE)



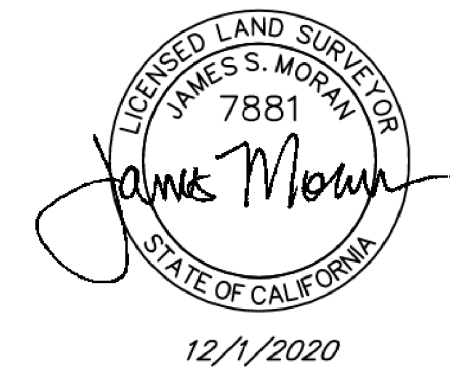
### HOUSE LOCATION SURVEY

PORTION OF LOTS 1, 2 AND 3, MAP OF VIRGINIA TRACT, FILED OCTOBER 4, 1890 (8 M 43)  
LOCATED AT 1643-1647 CALIFORNIA STREET  
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

NOVEMBER 17, 2020 SCALE: 1" = 8'

### MORAN ENGINEERING, INC.

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



- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
  - BLDG. BUILDING
  - C.O. CLEAN-OUT
  - D/W DRIVEWAY
  - F.H. FIRE HYDRANT
  - J.P. JOINT POLE
  - M.H. MAN HOLE
  - S/W SIDEWALK
  - T.C. TOP OF CURB

#### GENERAL NOTES

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.  
THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.  
THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.



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Sheet Contents:  
Site Survey

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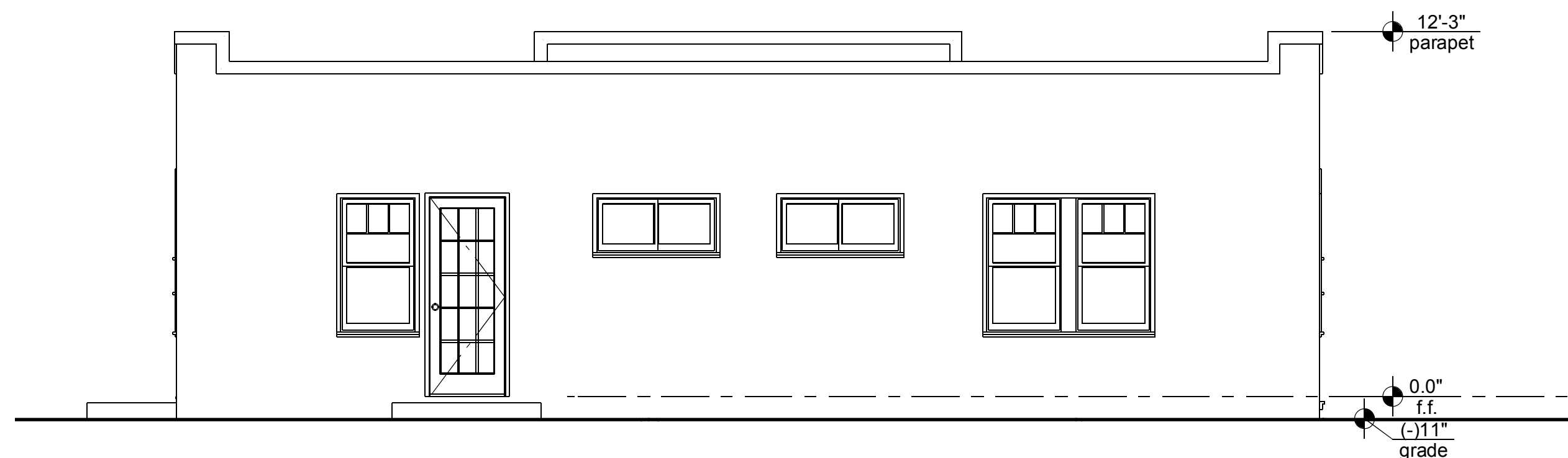
Drawn By: SSG

Checked By: SSG

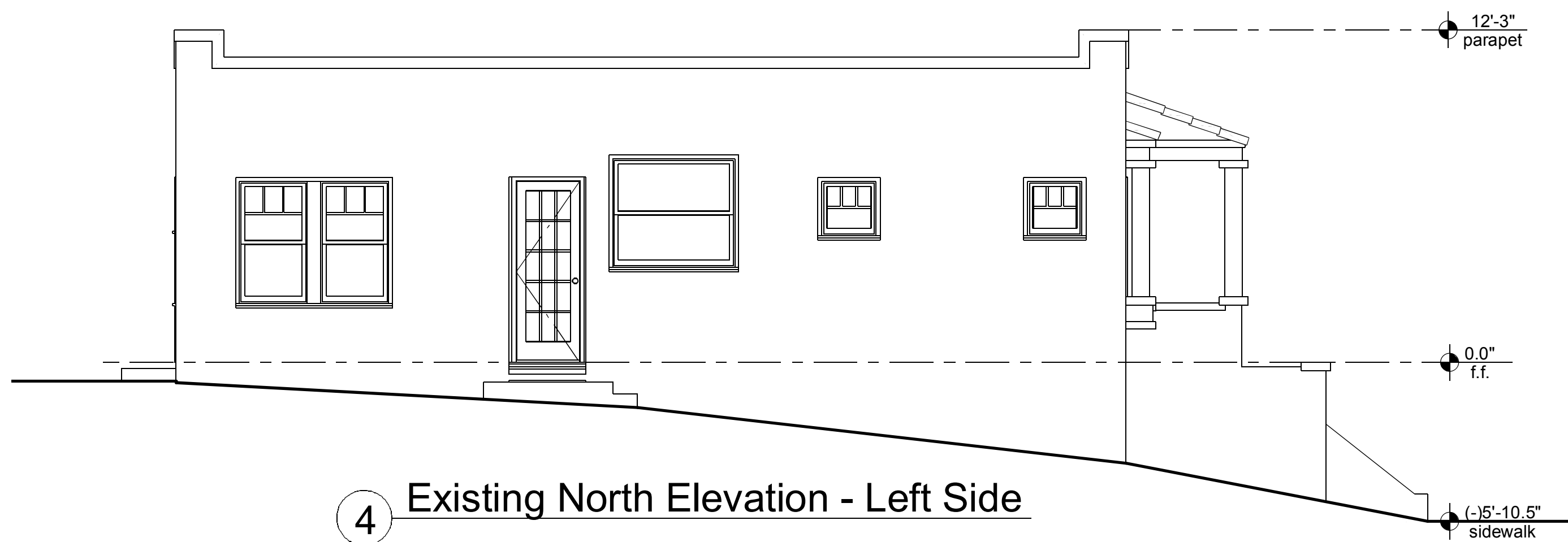
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Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

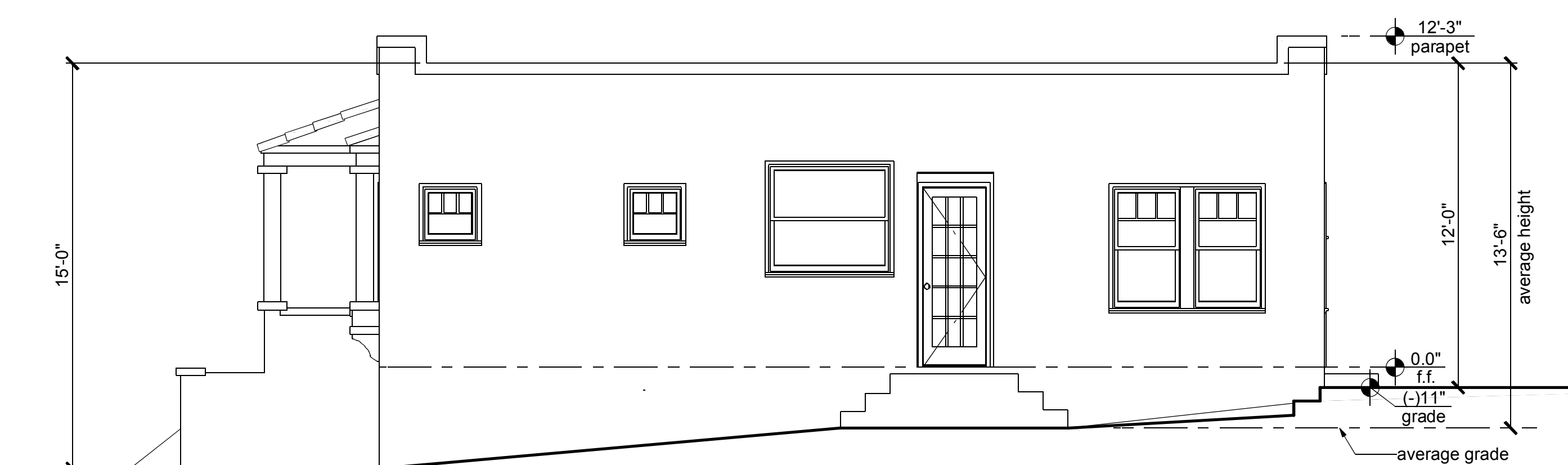
Sheet **A0.2**



5 Existing East Elevation - Rear



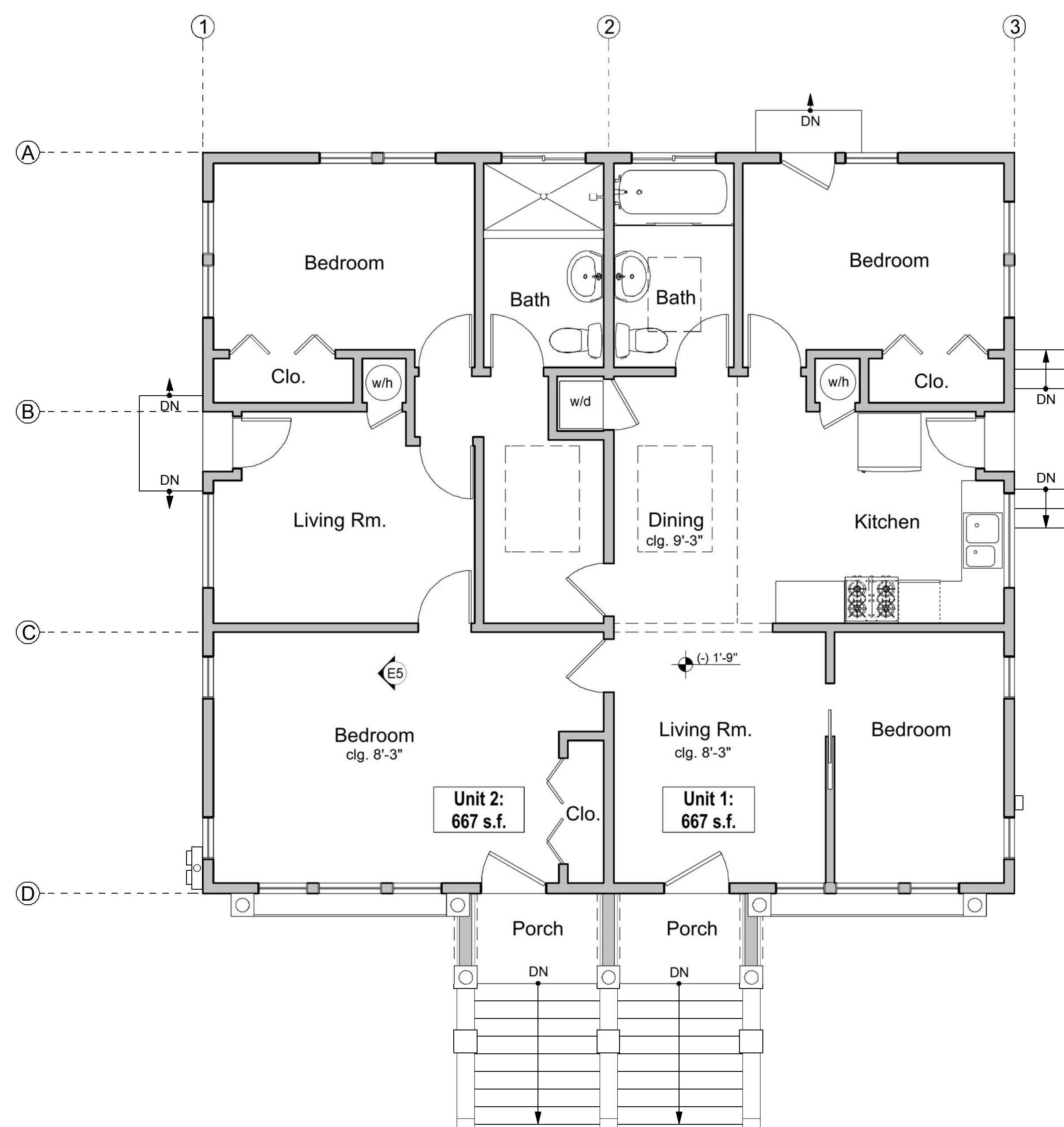
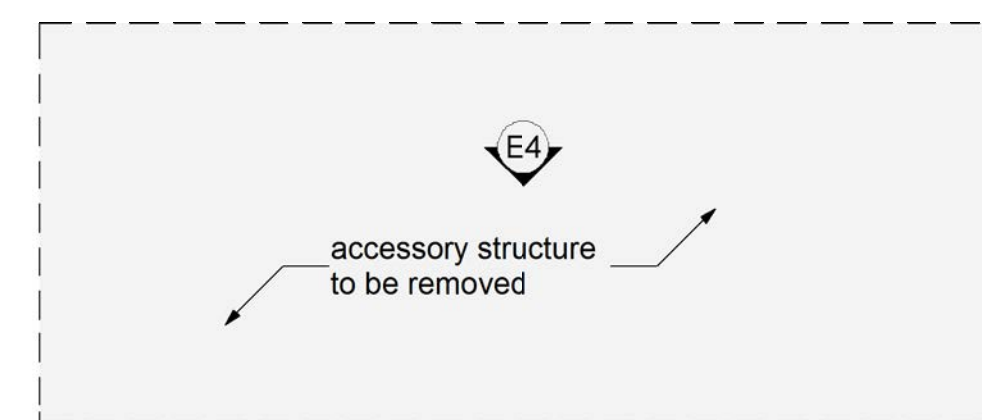
4 Existing North Elevation - Left Side



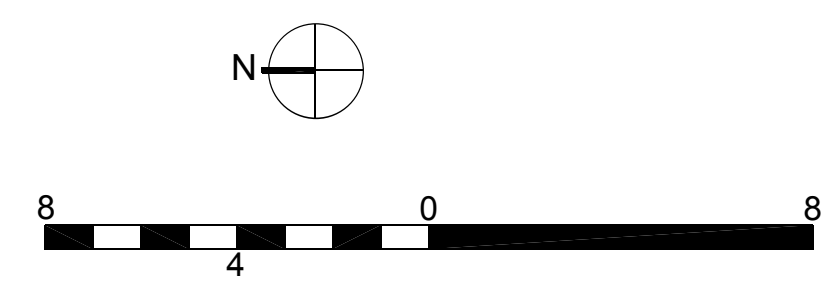
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan



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Sheet Contents:  
Existing Floor Plans  
Existing Exterior Elevations

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Drawn By: SSG

Checked By: SSG

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

Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A1.1**



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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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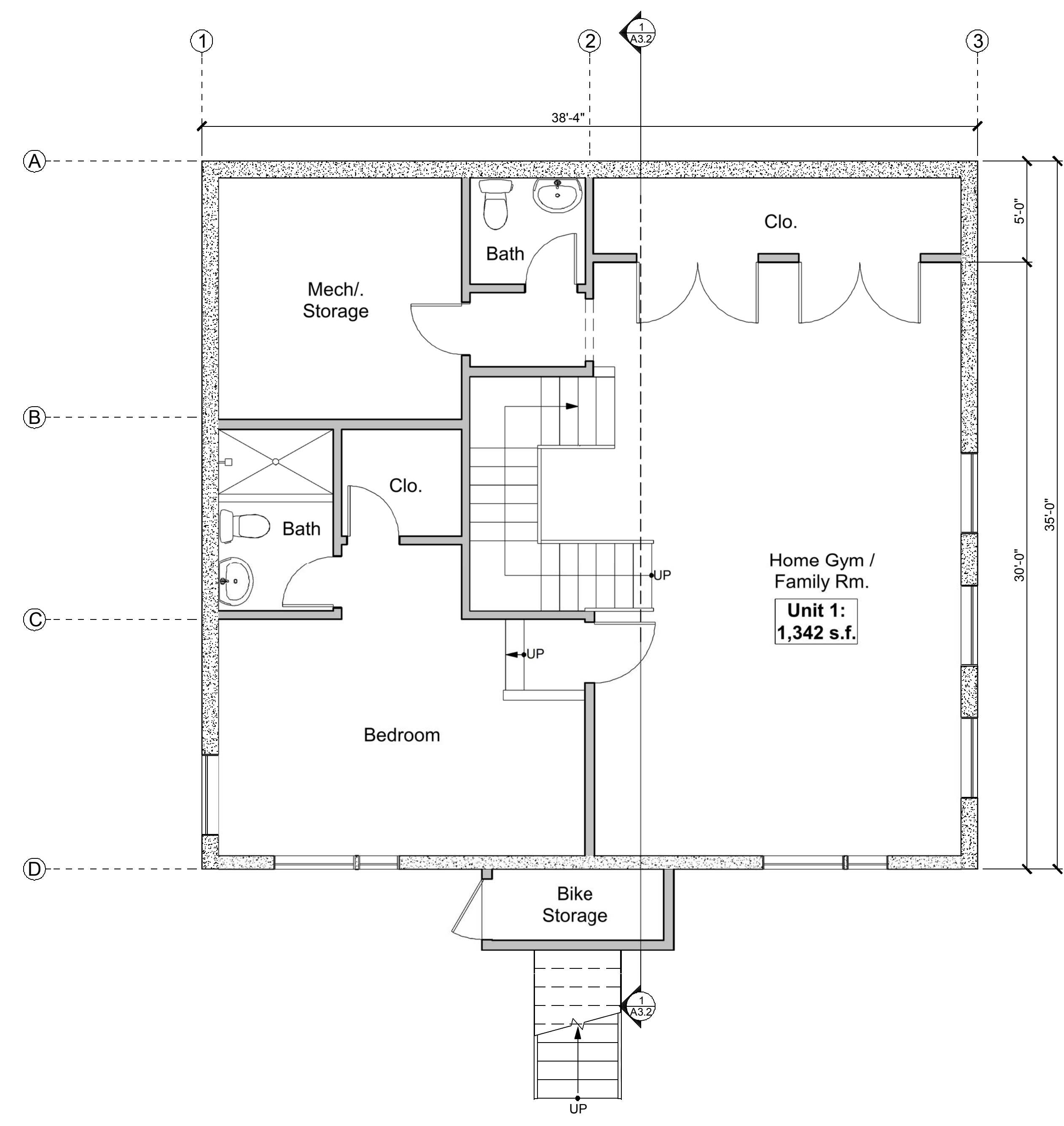
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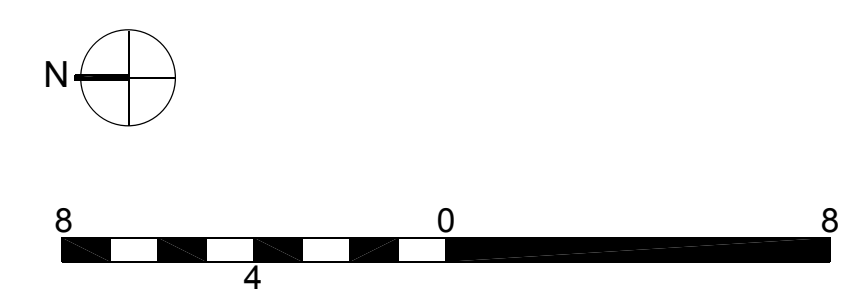
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Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A2.1**

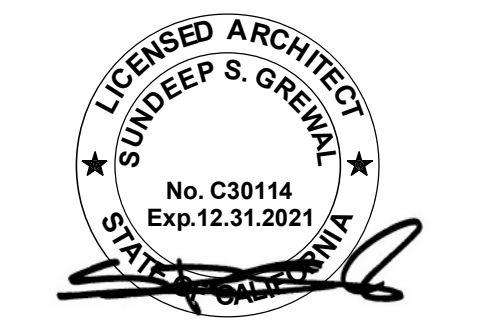


**1** Proposed Basement Floor Plan





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Proposed Floor Plans

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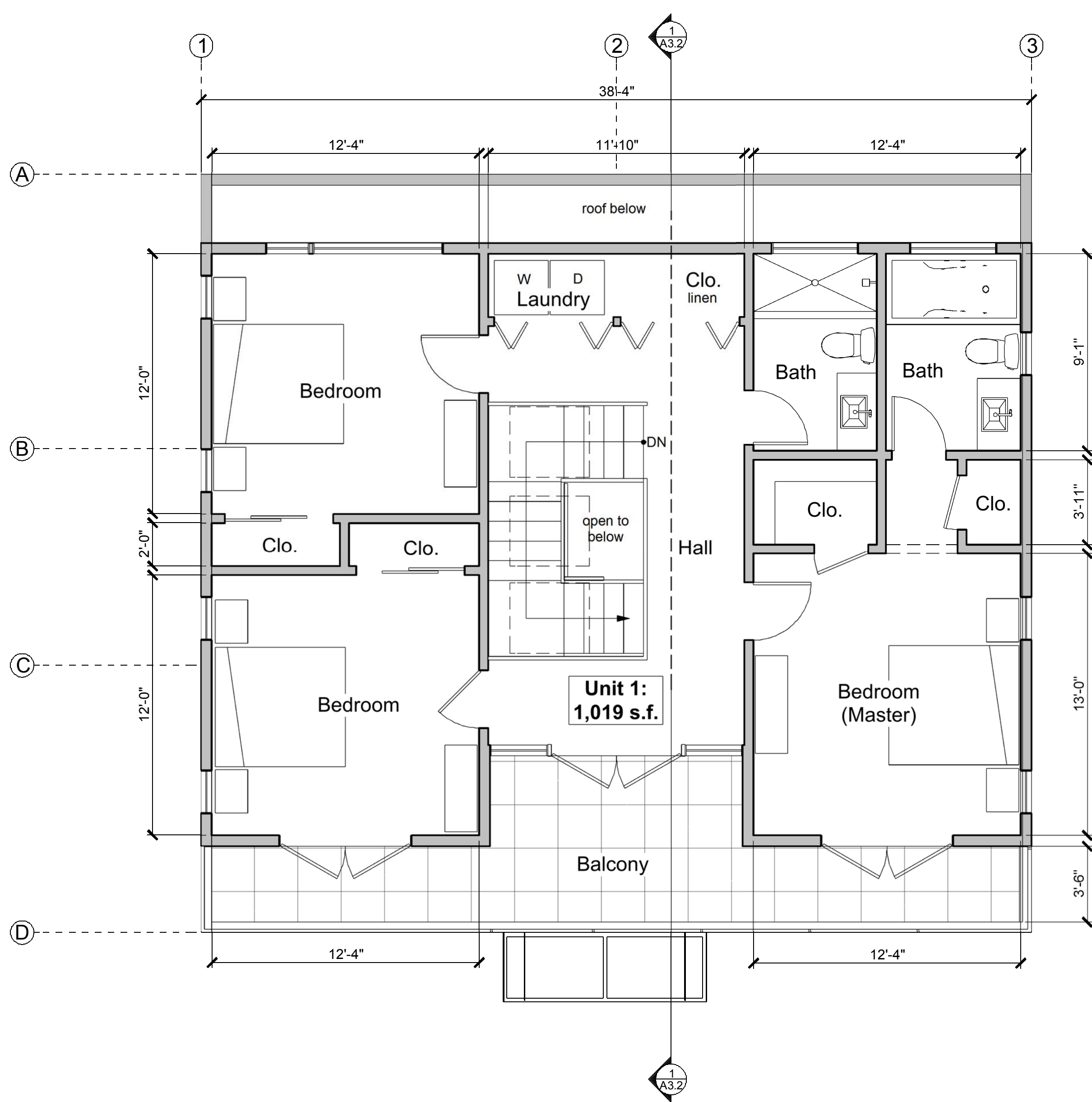
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Redesign: 5-25-2021

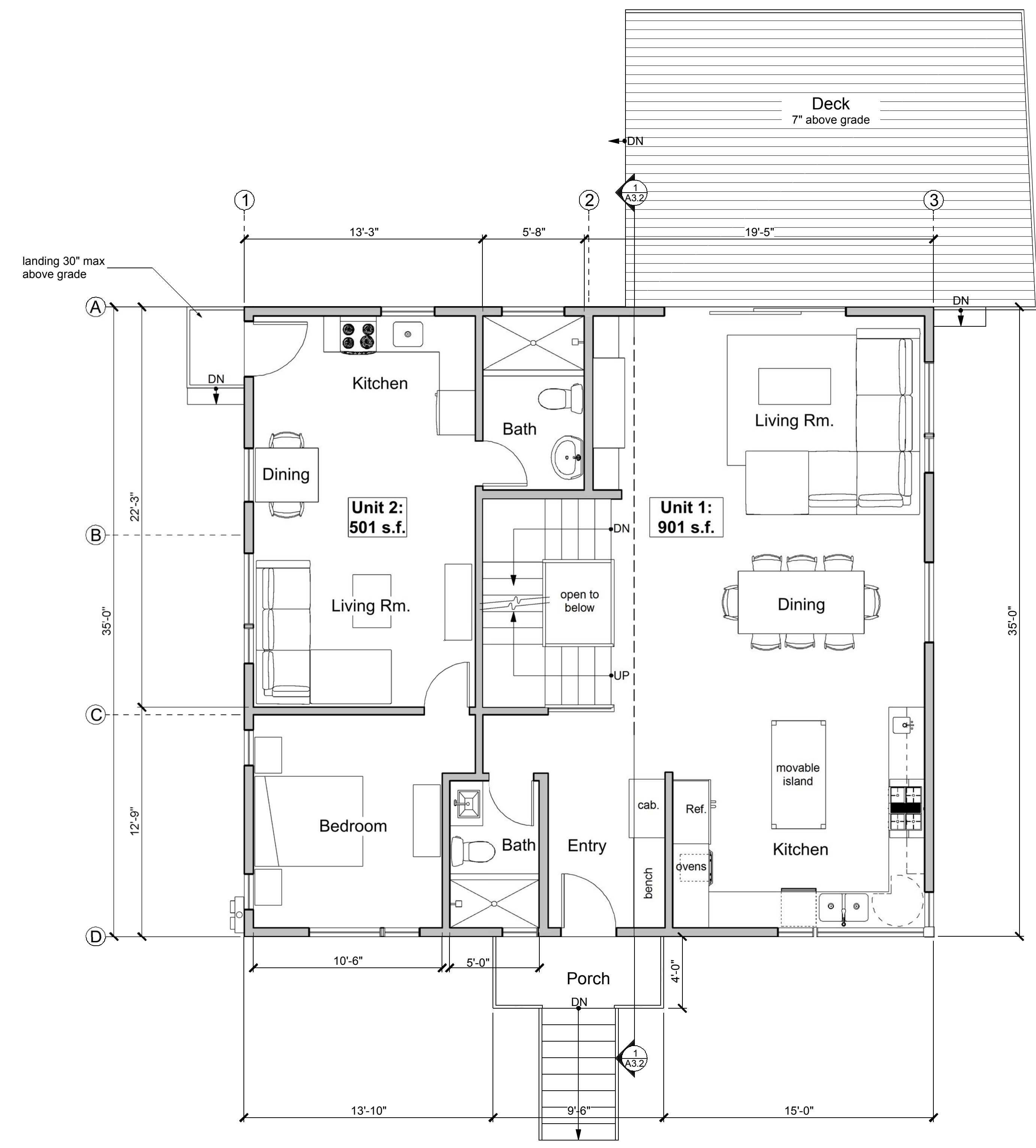
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Planning Review: 7-15-2021

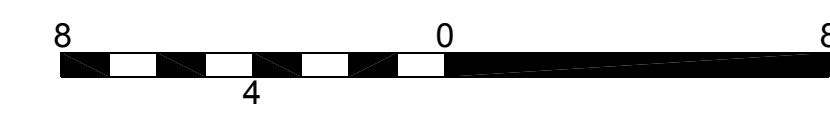
Sheet **A2.2**



2 Proposed Second Floor Plan



1 Proposed First Floor Plan







Previous Proposal



Previous Proposal



Previous Proposal



Current Proposal



Current Proposal



Current Proposal



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Sheet Contents:  
Front Elevation Comparison

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

Revisions:

Use Permit Set: 12-10-2020

Redesign: 5-25-2021

Planning Review: 6-29-2021

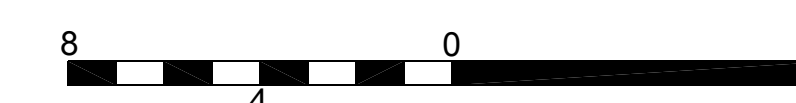
Planning Review: 7-15-2021



② Proposed West Elevation - Front  
Original Proposal



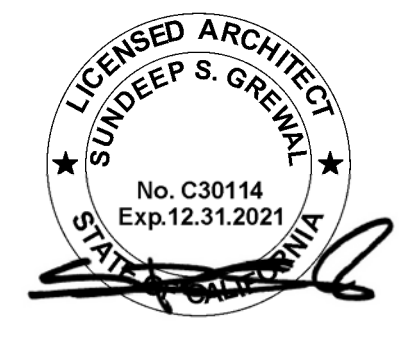
① Proposed West Elevation - Front  
Current Proposal



Sheet **A3.1**



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Sheet Contents:  
Proposed Exterior Elevations

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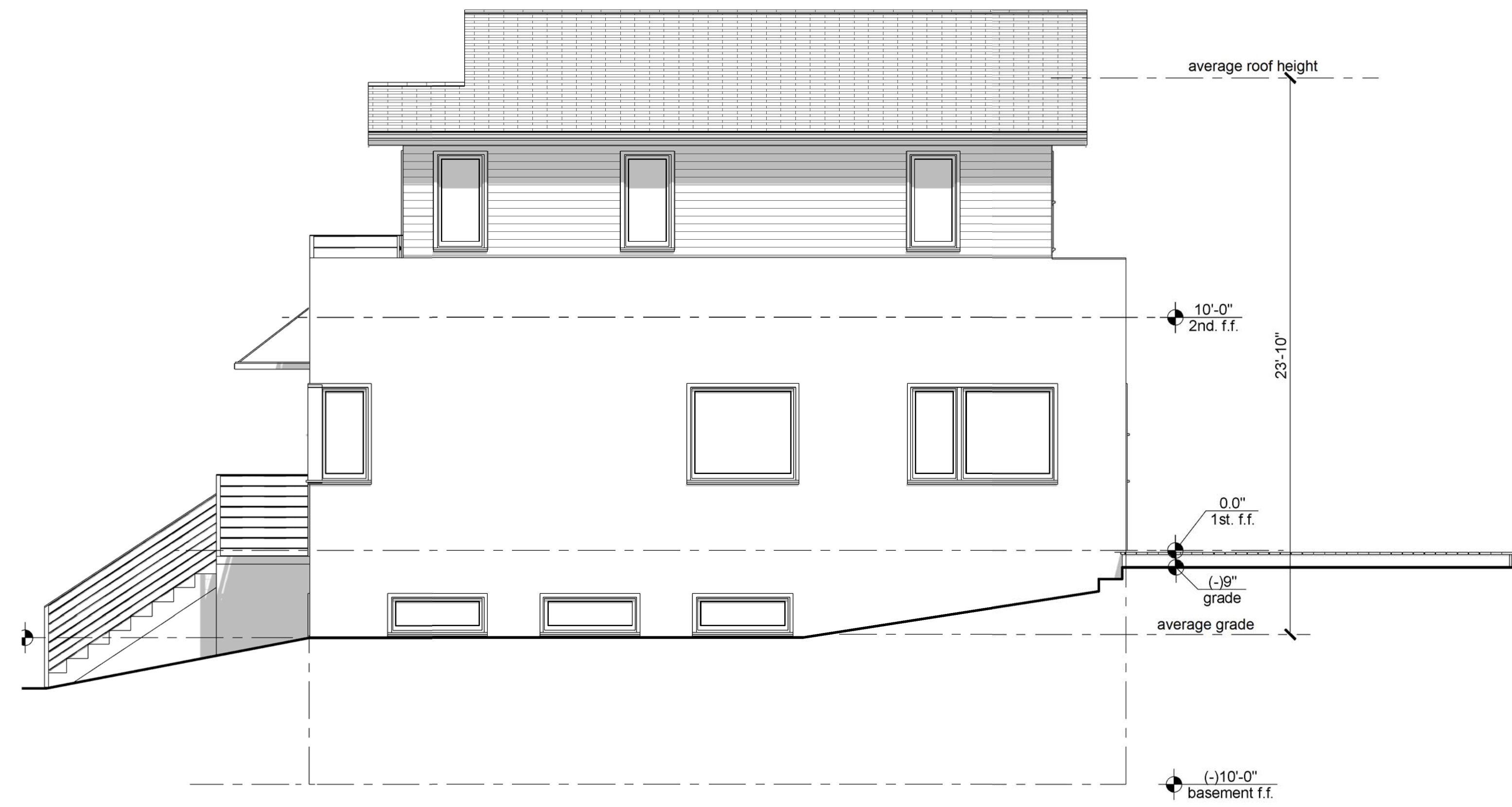
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Checked By: SSG

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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

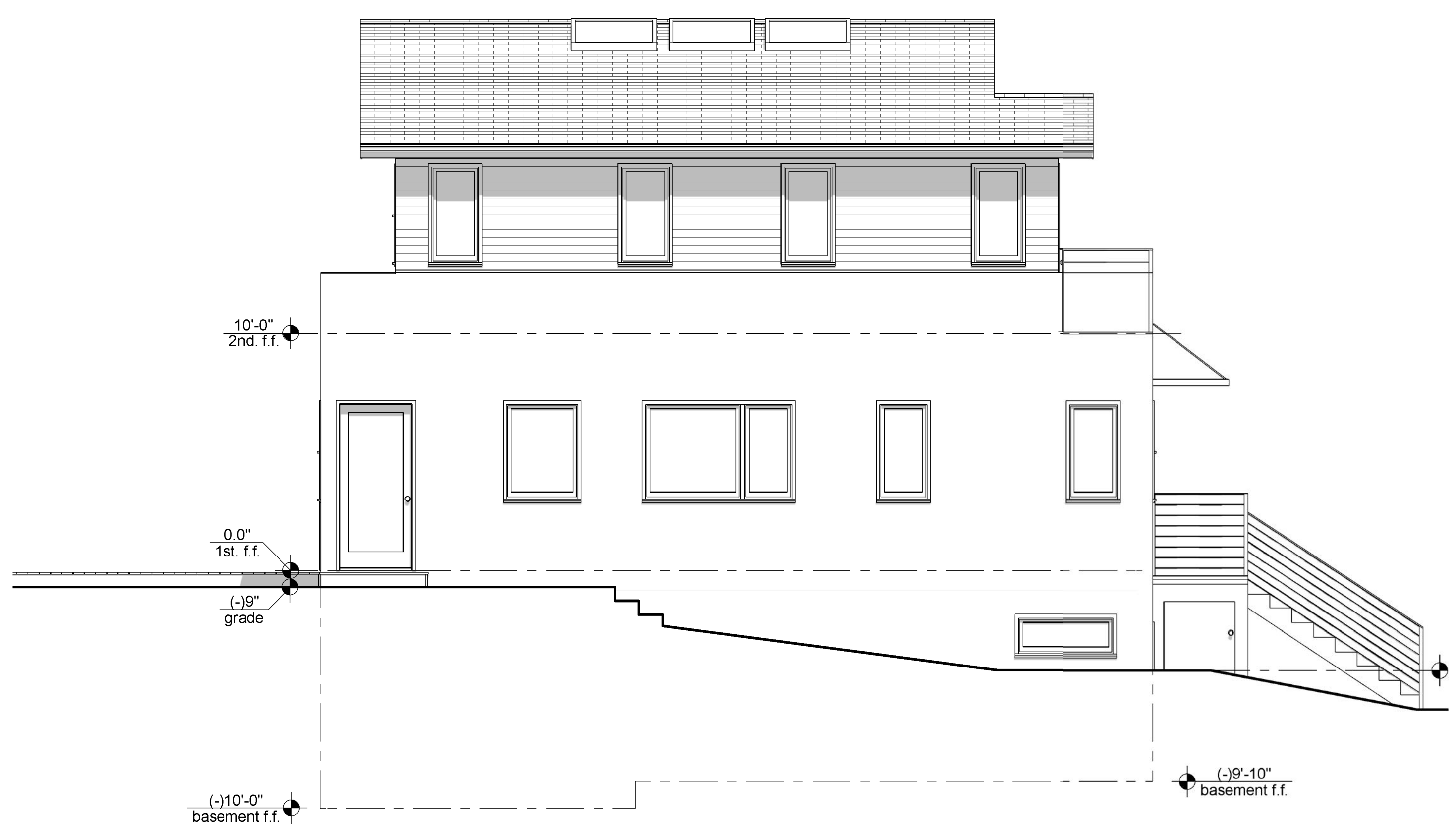
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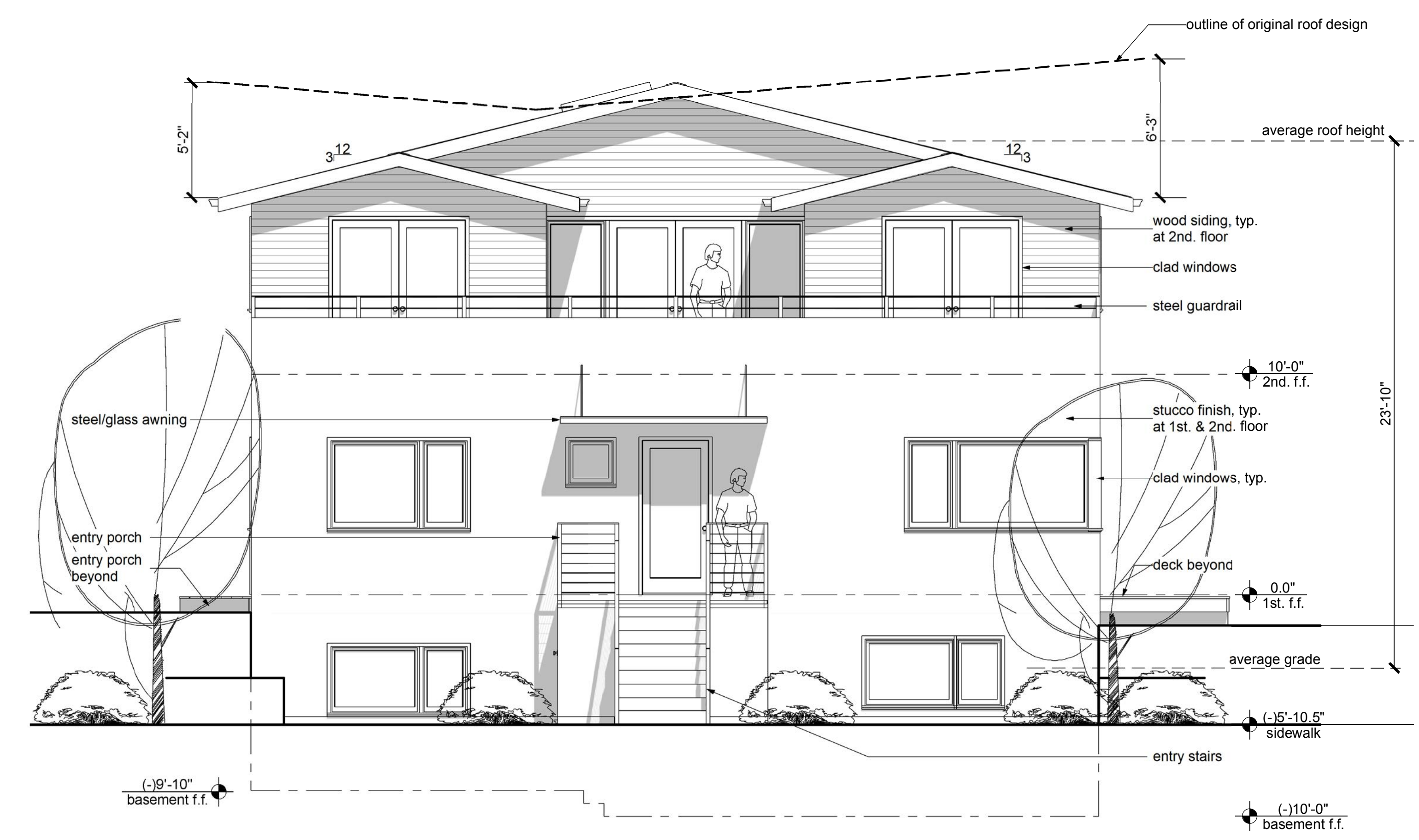
4 Proposed South Elevation - Right Side



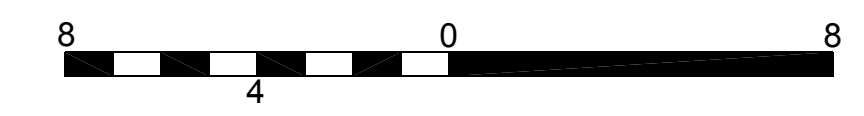
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front

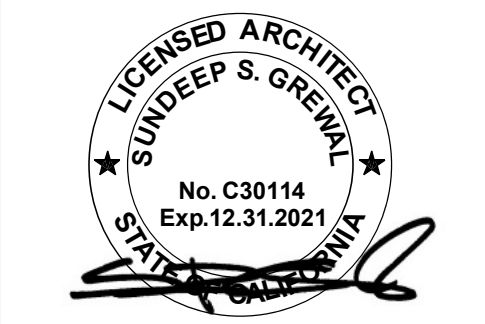




2 Renderings

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**gs+**  
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Sheet Contents:  
Building Section  
Renderings

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Revisions:  
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Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021



1 Proposed Building Section

Sheet **A3.3**

Existing Shadow Line  
New Shadow Line



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Sheet Contents:  
Shadows Studies

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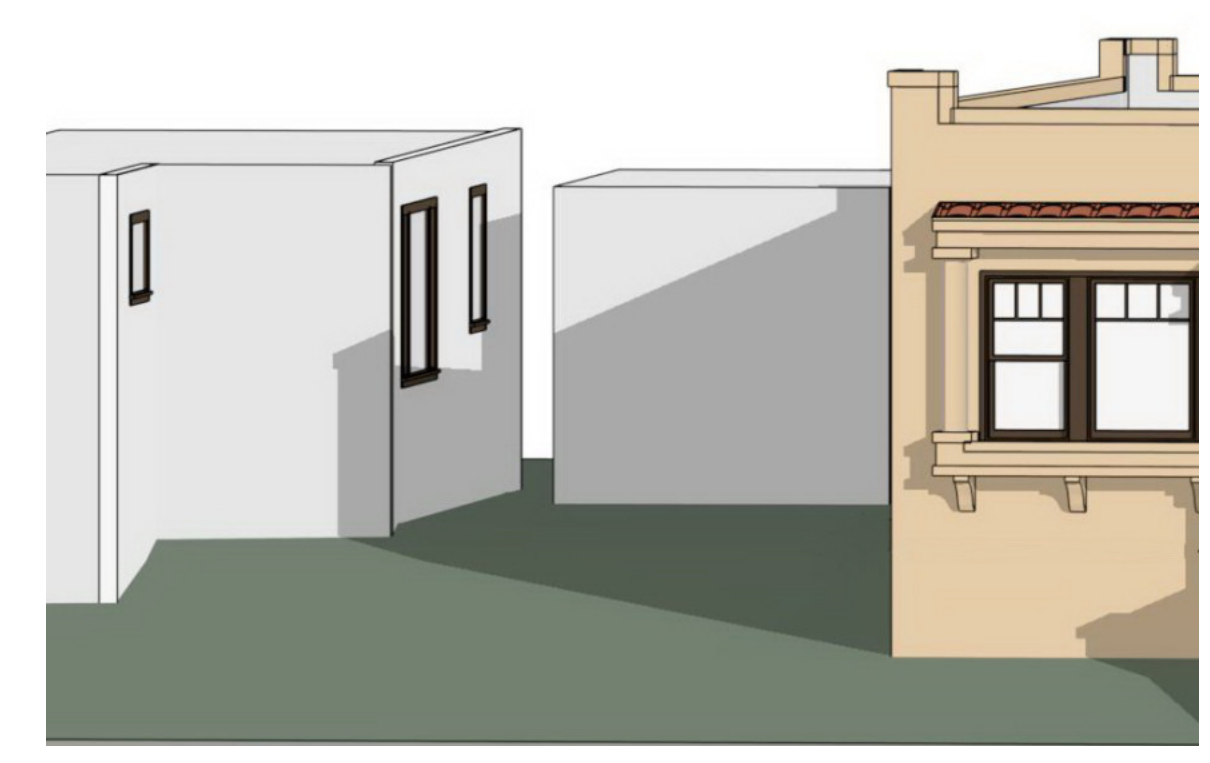
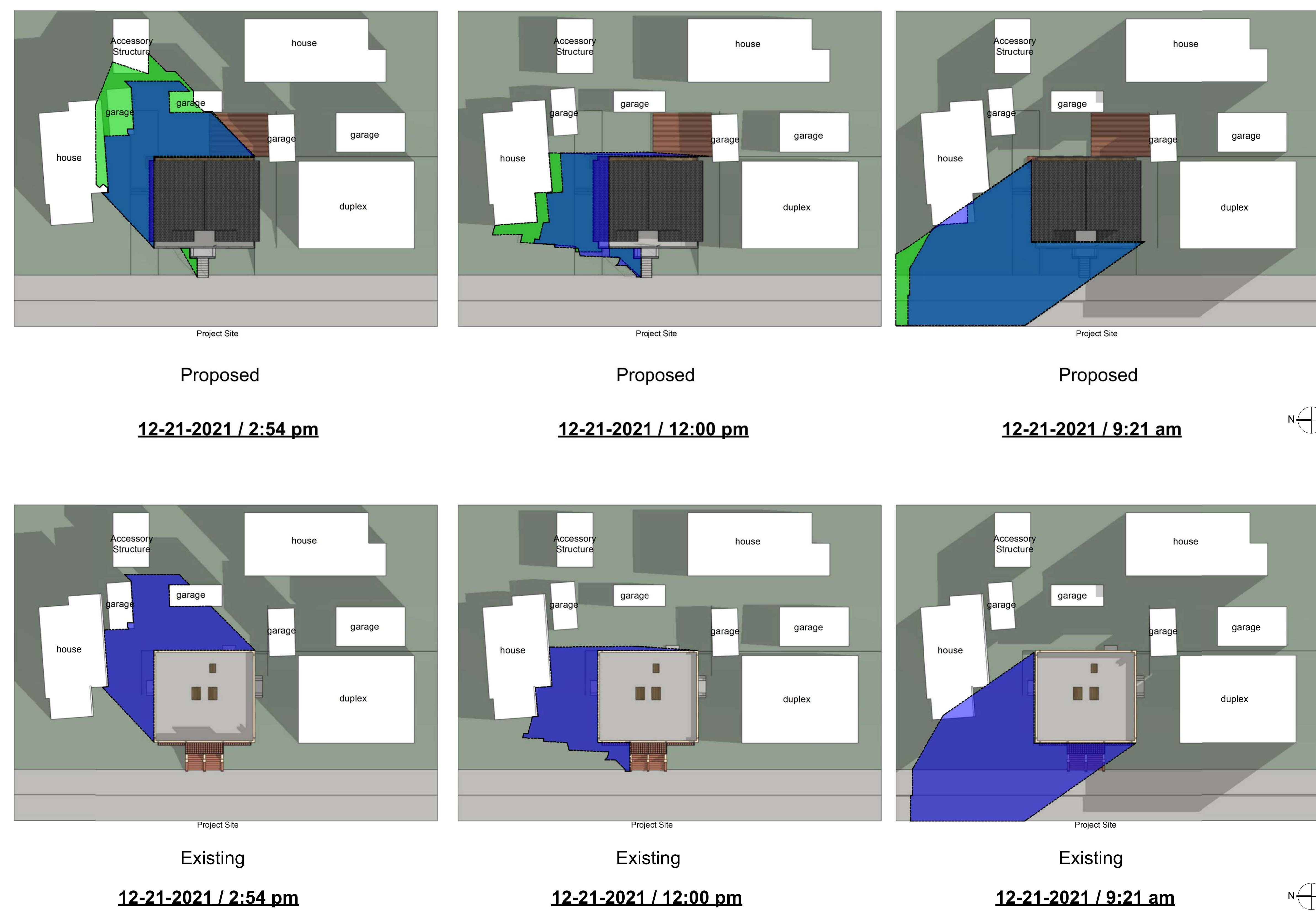
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Project No: 20-13-420

Drawn By: SSG  
Checked By: SSG

Scale: NTS

Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A4.1**



Shadow Accuracy Simulation  
12-08-2020 / 3:00 pm



Actual  
12-08-2020 / 3:00 pm

**Shadow Accuracy Simulation**

Existing Shadow Line  
New Shadow Line



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**OPPENHEIMER  
RESIDENCE**  
1643 & 1647 California St.  
Berkeley, CA 94703  
APN: 58-2156-18

Sheet Contents:  
Shadows Studies

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Project No:  
20-13-420

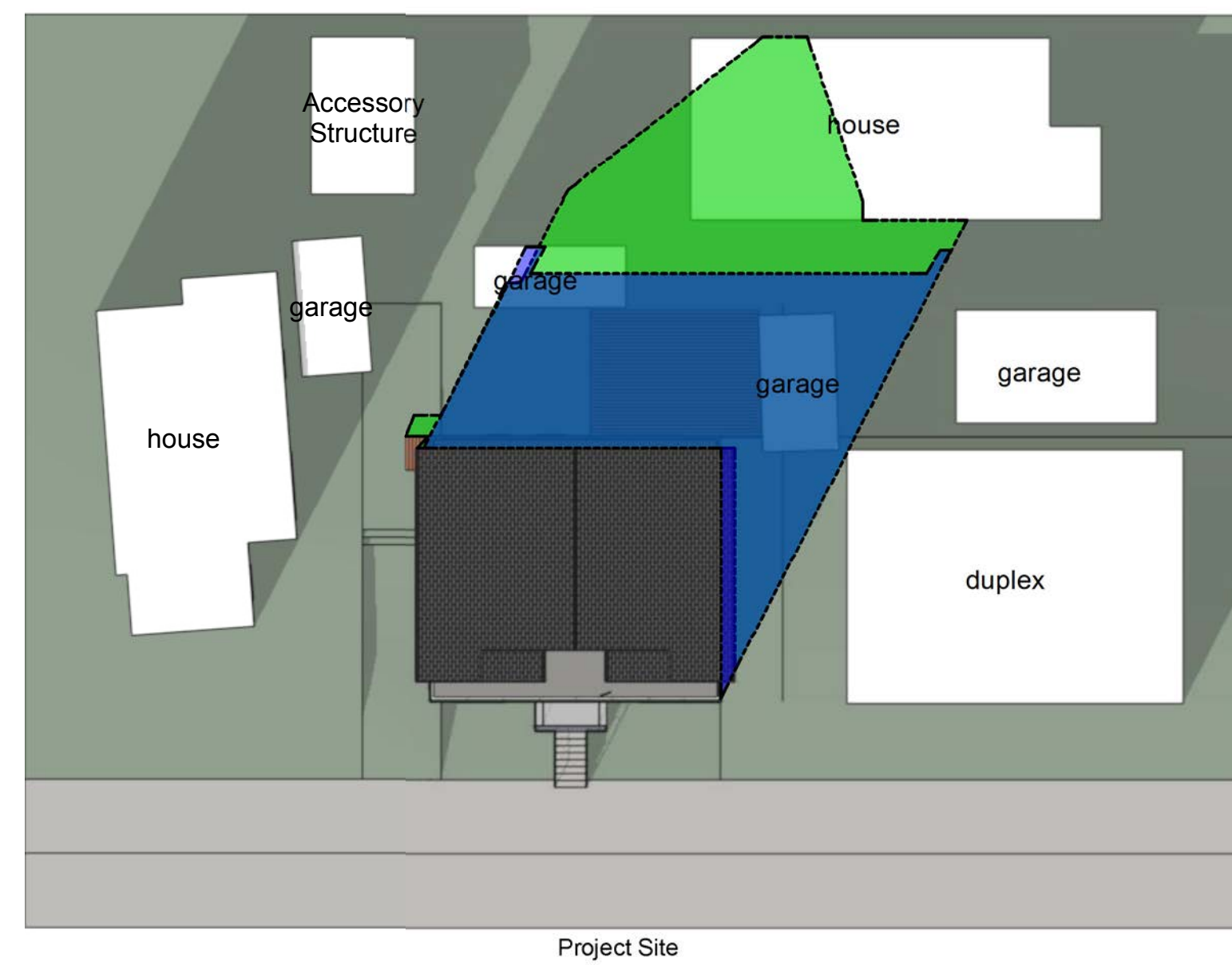
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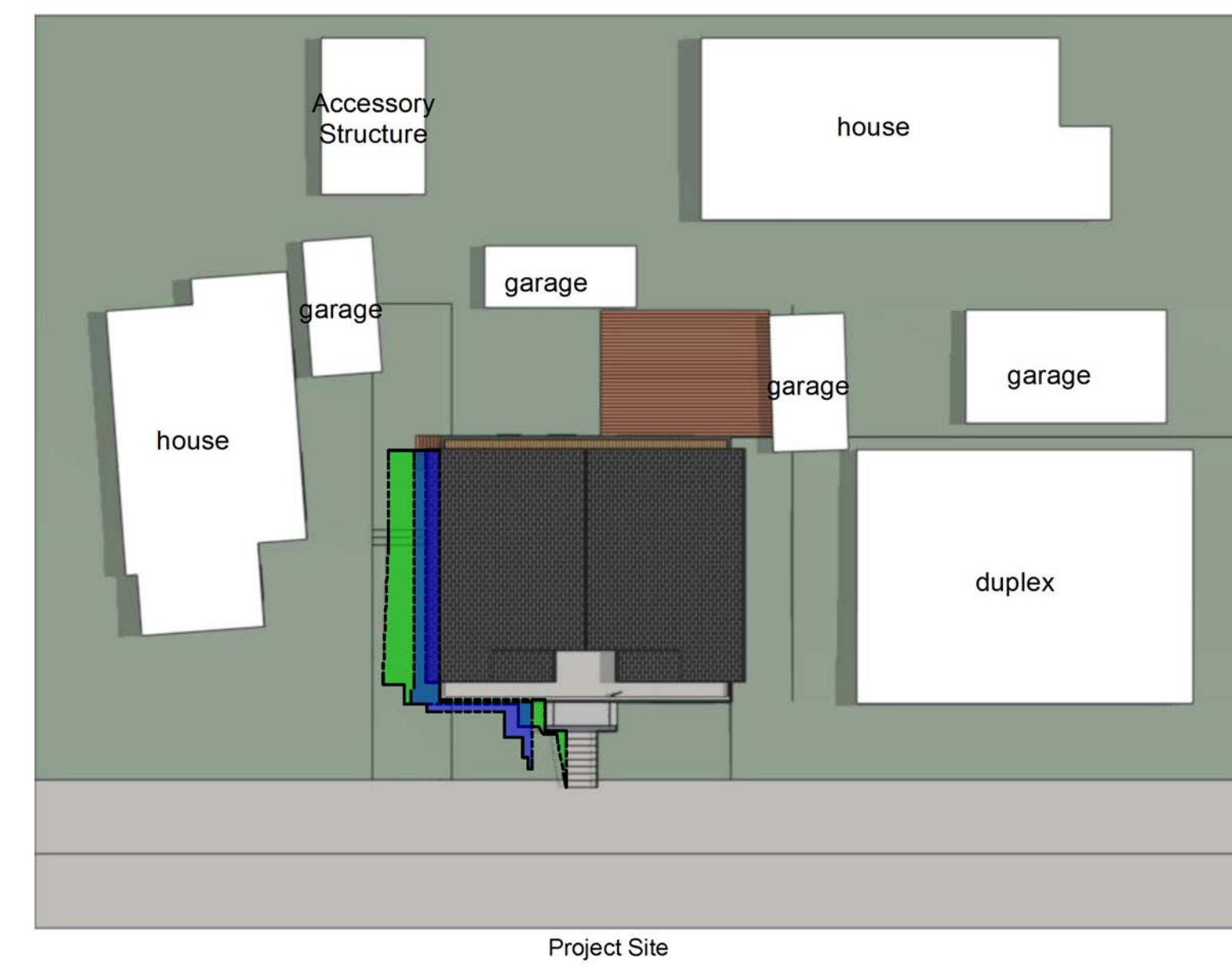
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Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

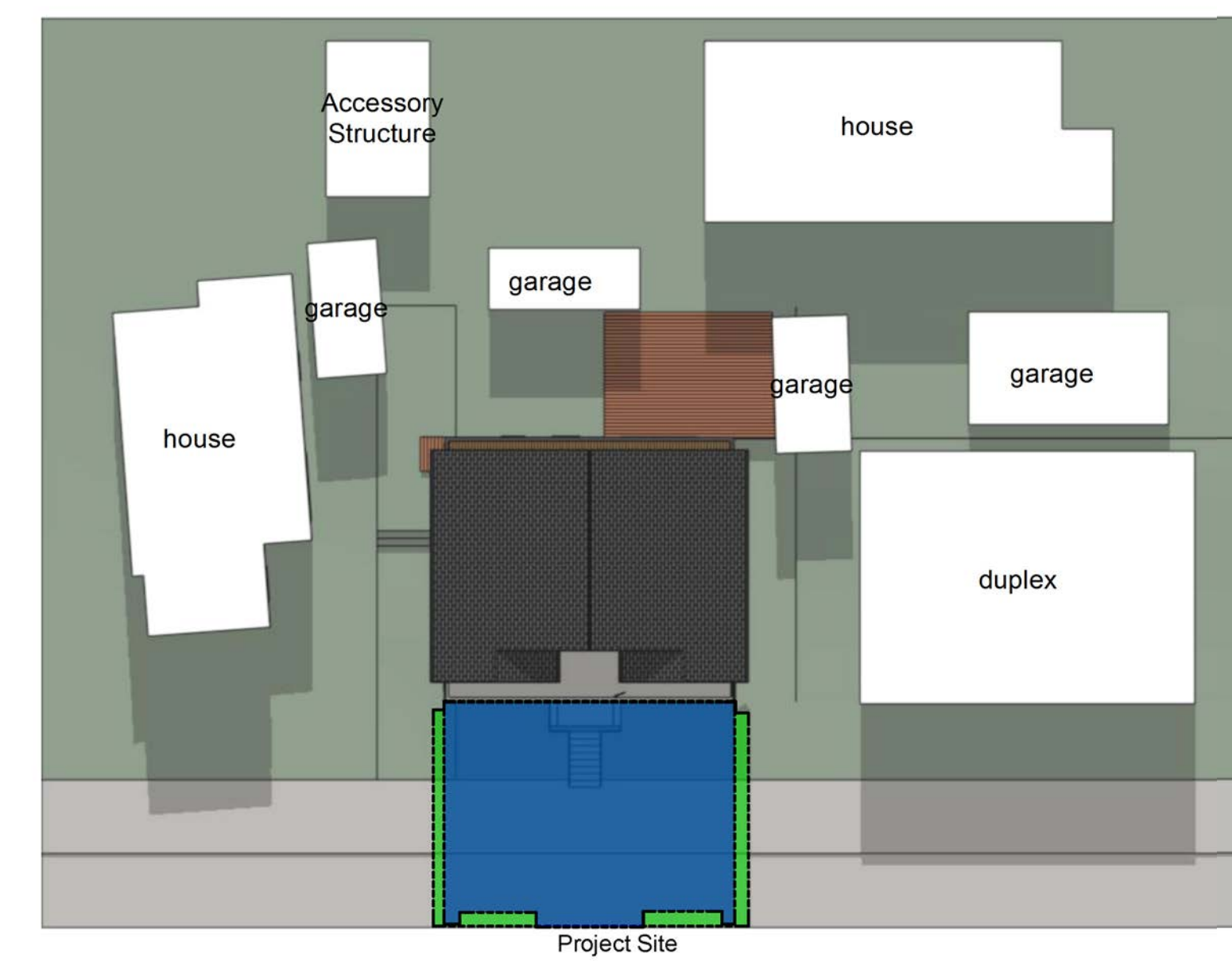
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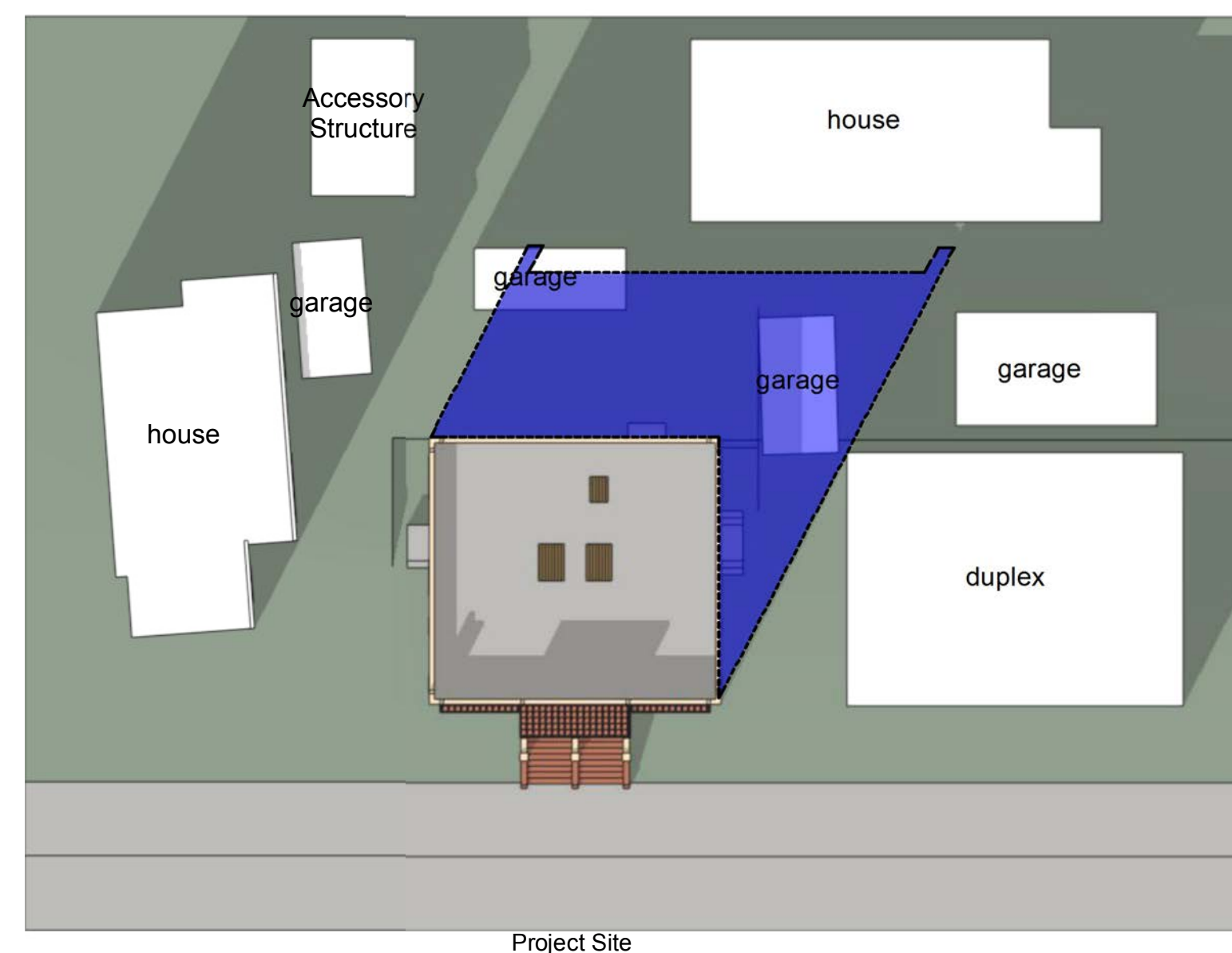
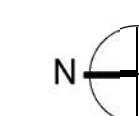
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**6-21-2021 / 6:35 pm**



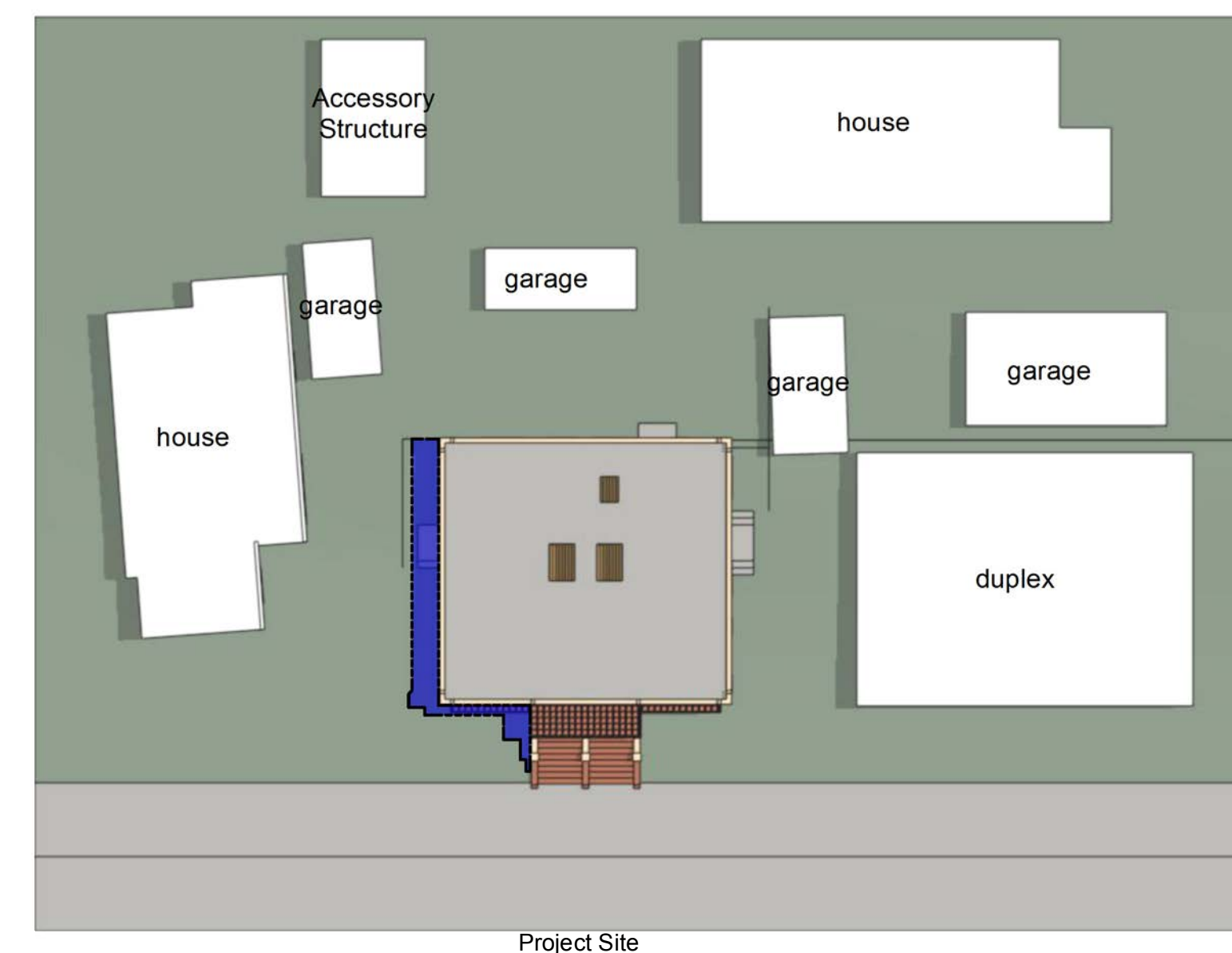
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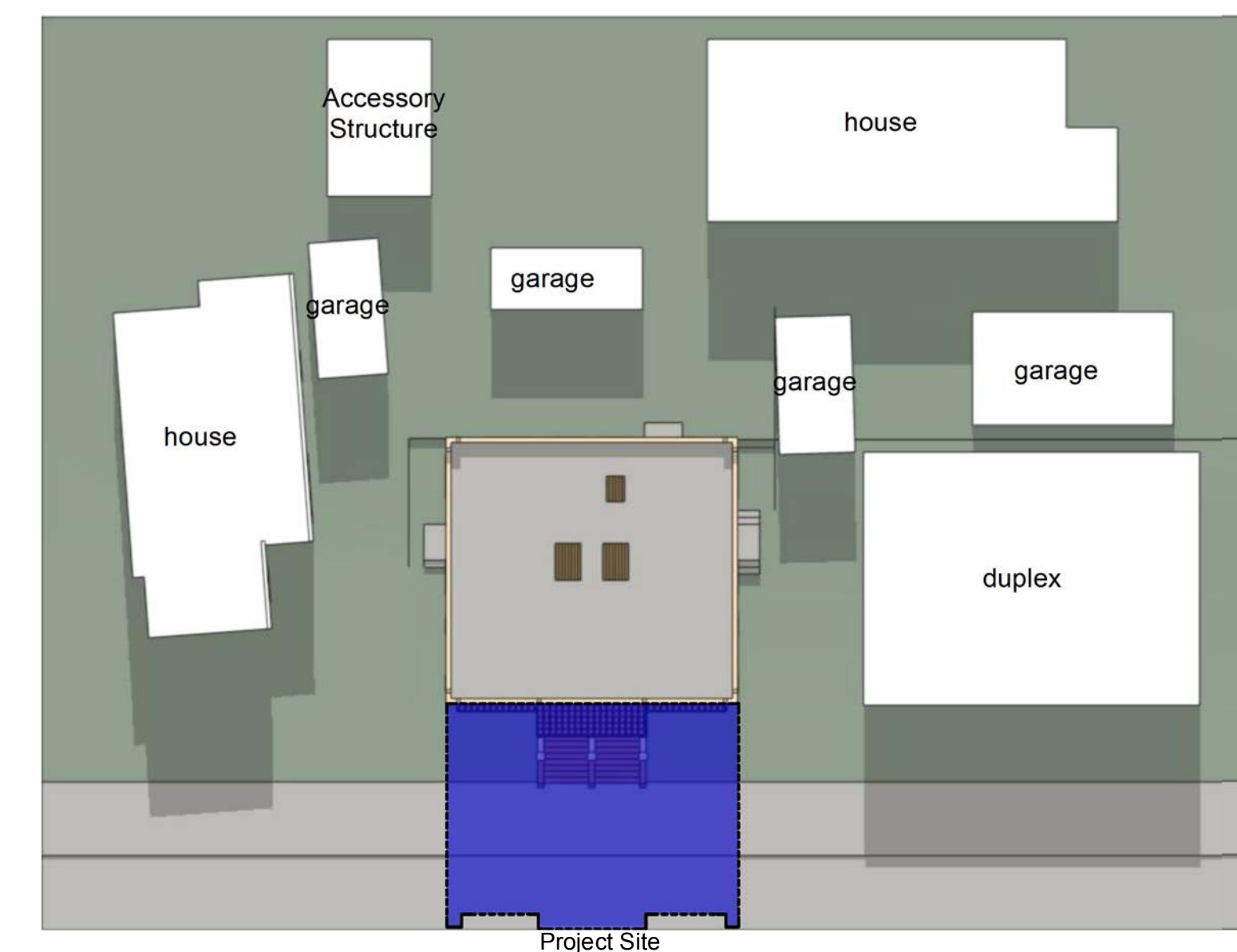
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**6-21-2021 / 7:47 am**



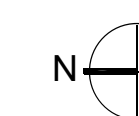
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**6-21-2021 / 12:00 pm**

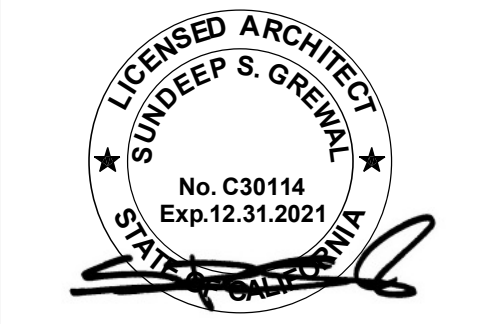


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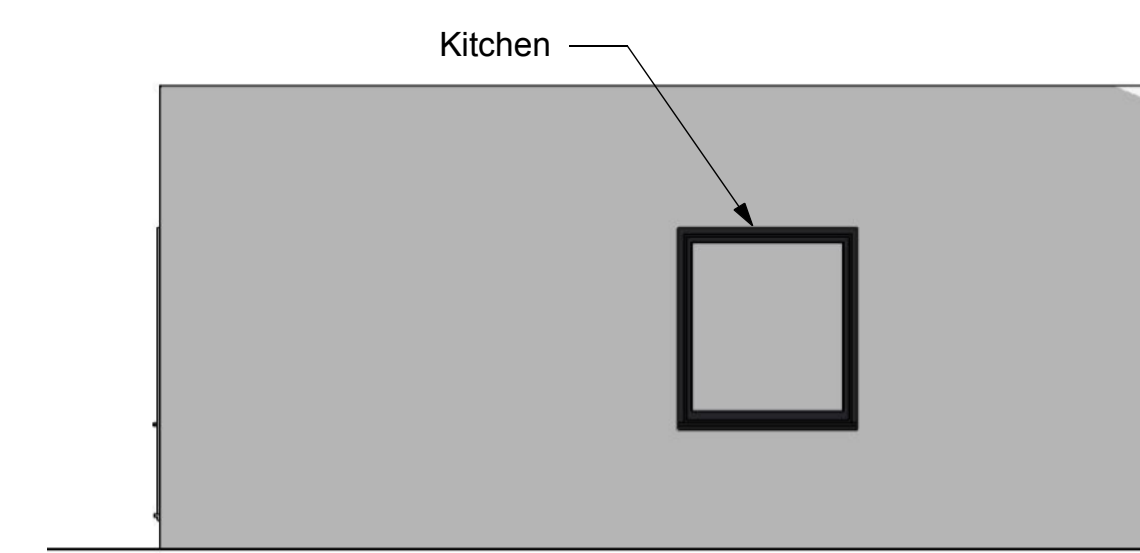




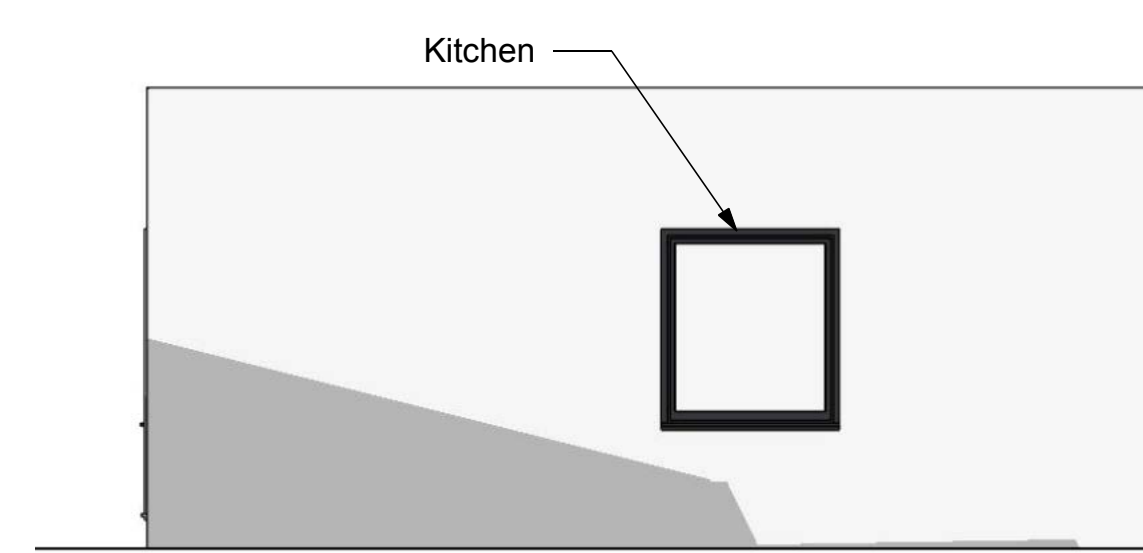
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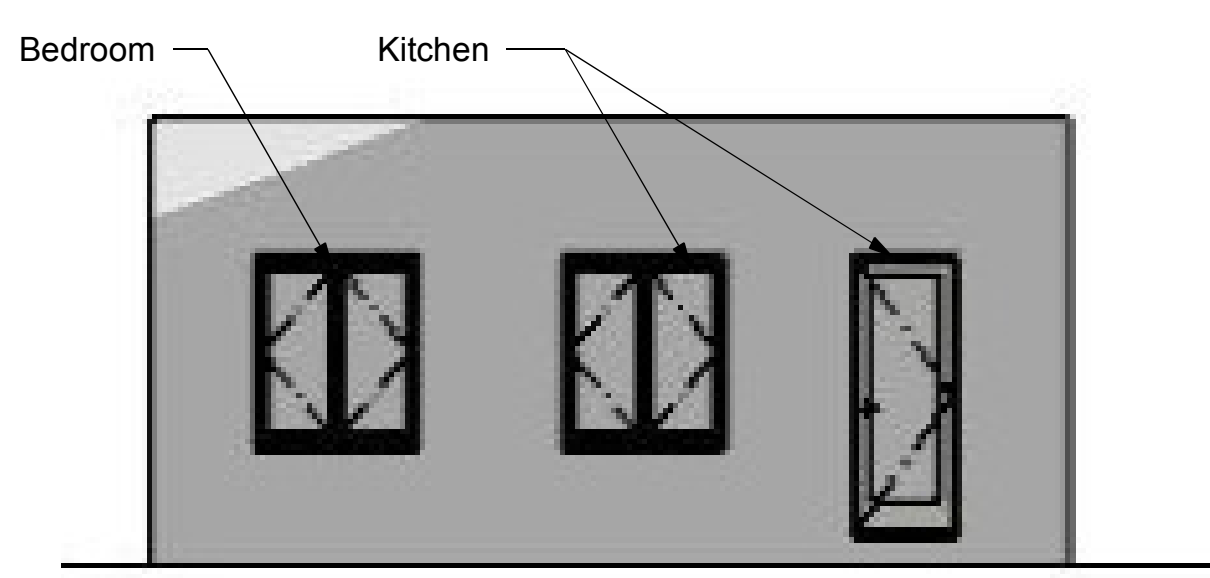
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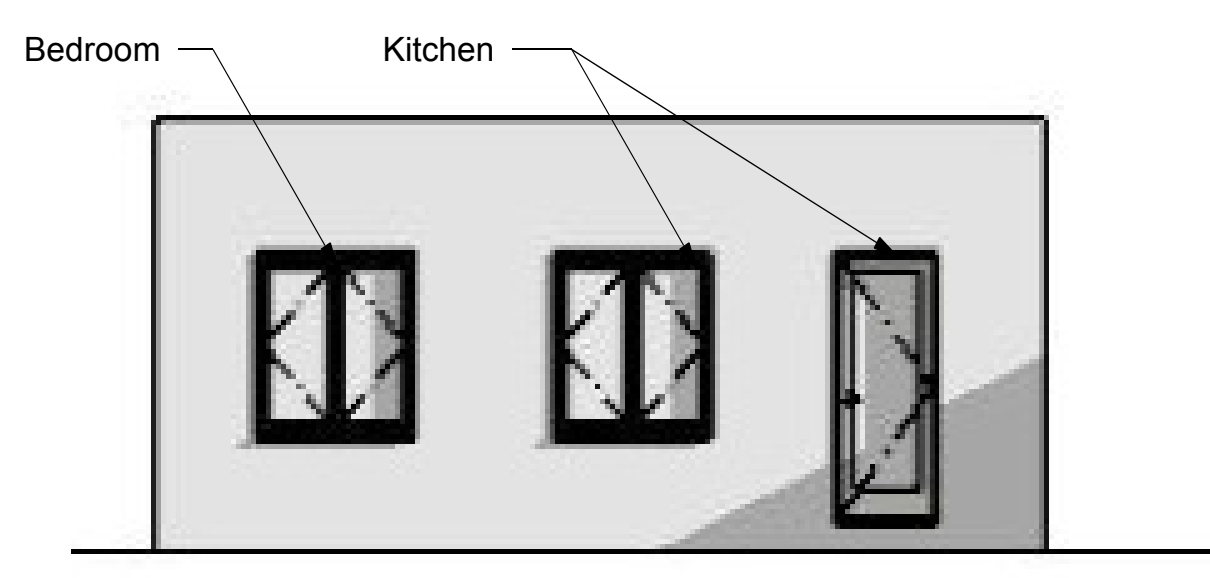
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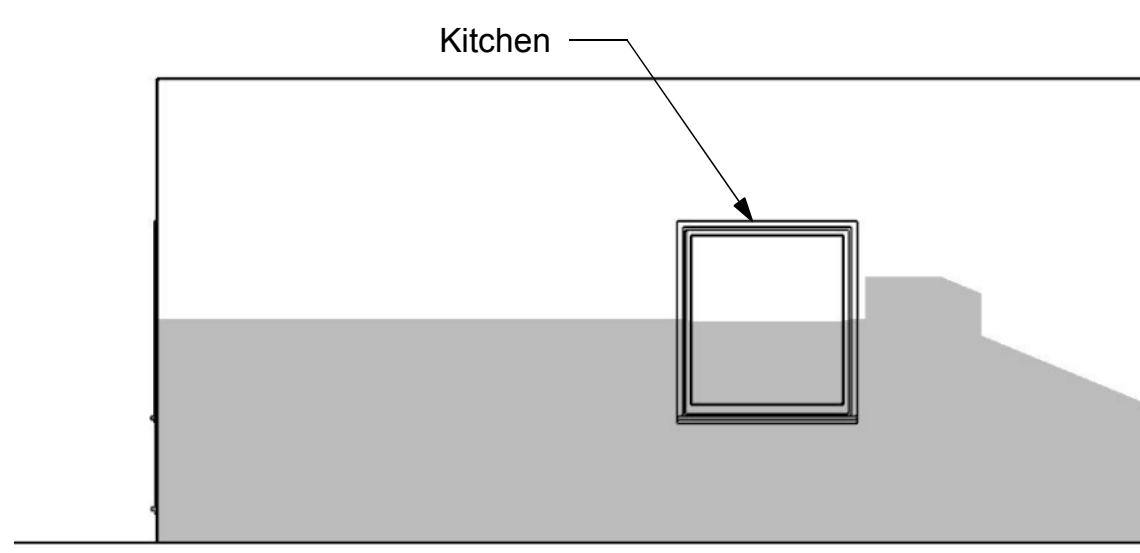
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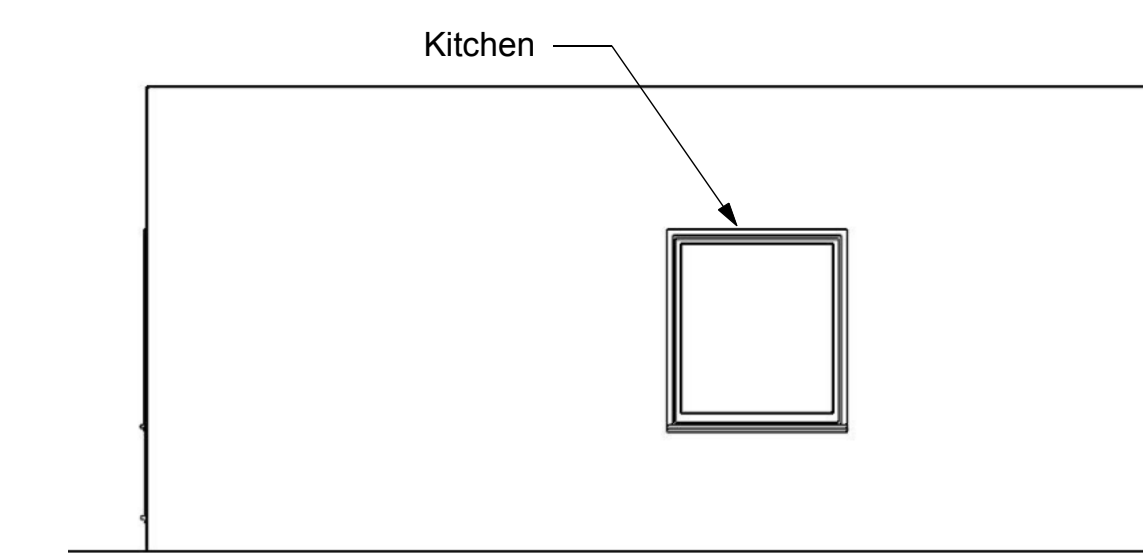
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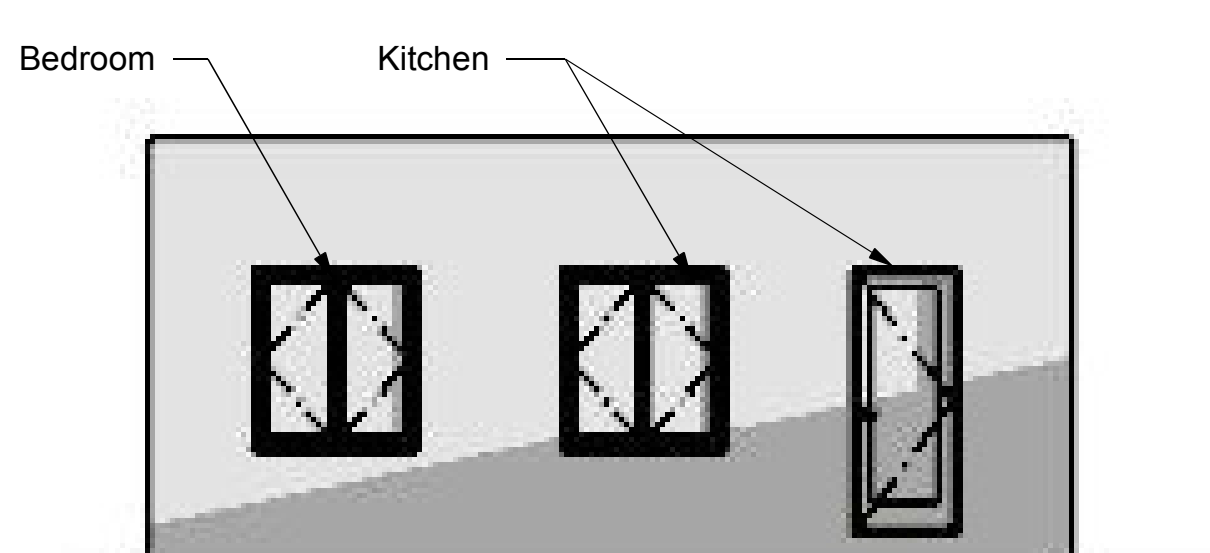
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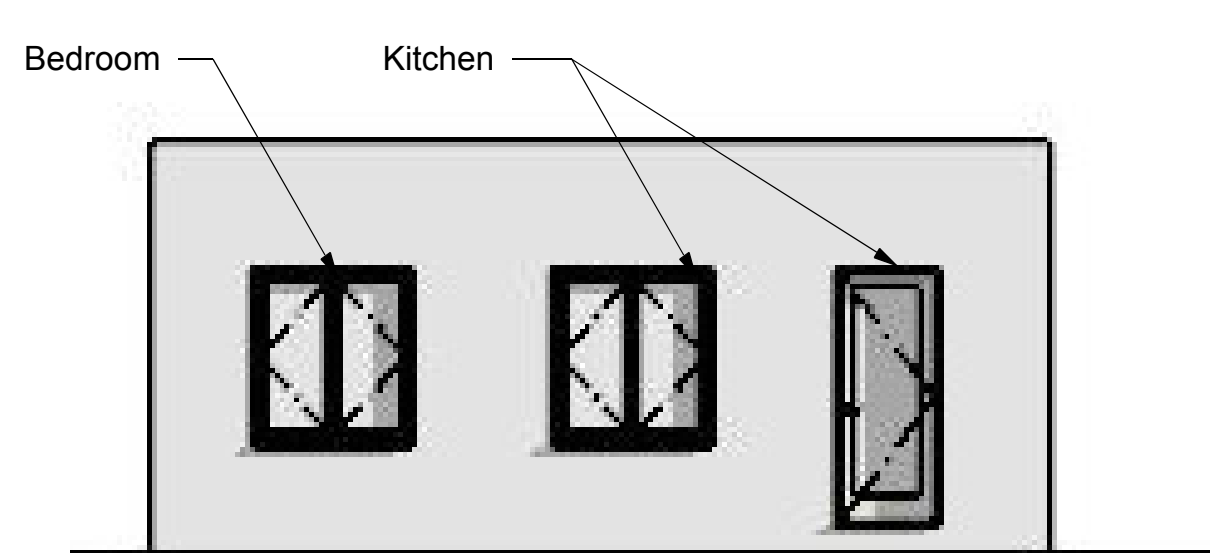
Existing West Wall



Existing West Wall



Existing North Wall



Existing North Wall

**6-21-2021 / 6:35 pm**

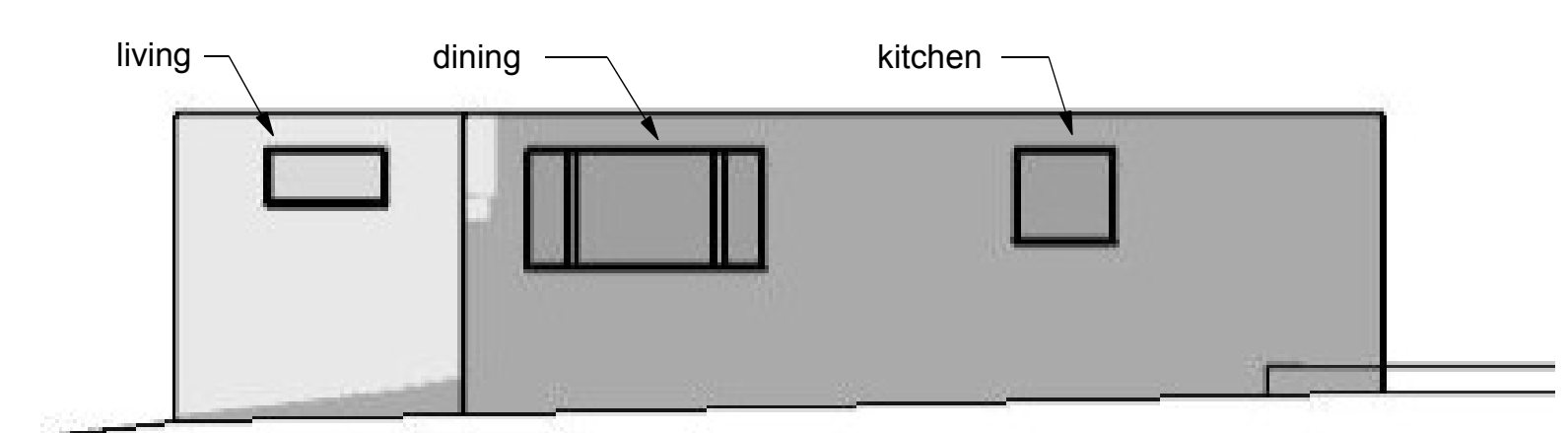
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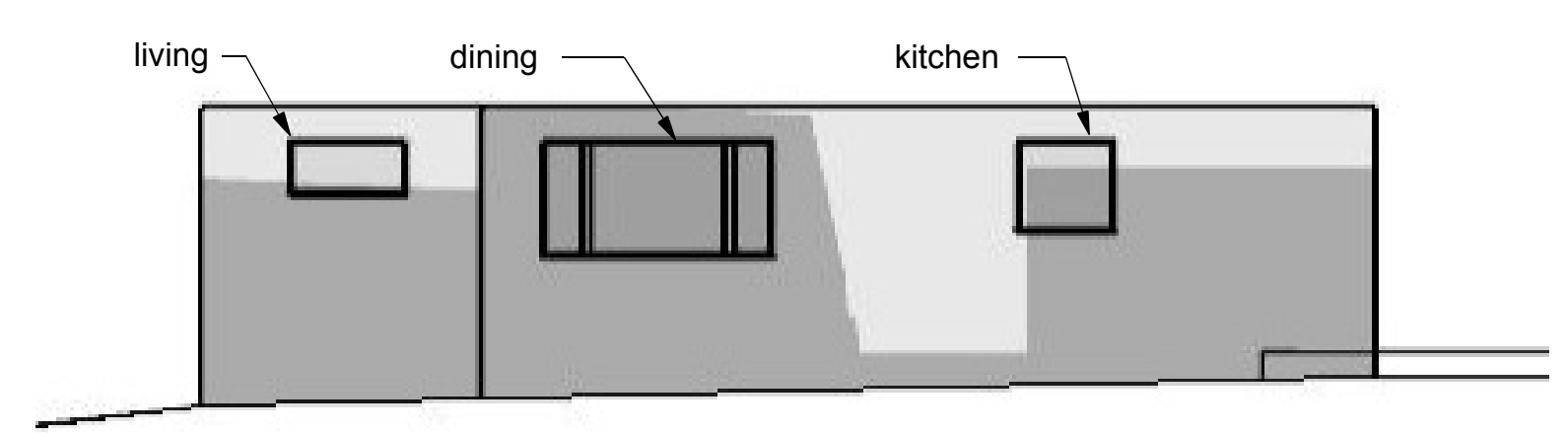
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**1609 Virginia St. Shadow Impact Study**

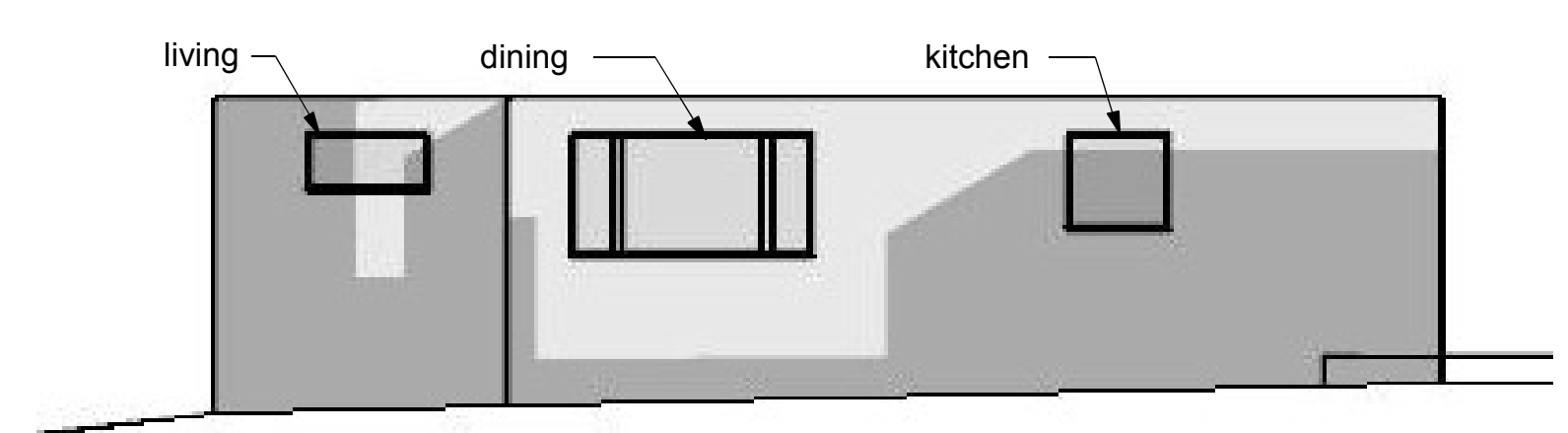
Sheet Contents:  
Shadows Studies



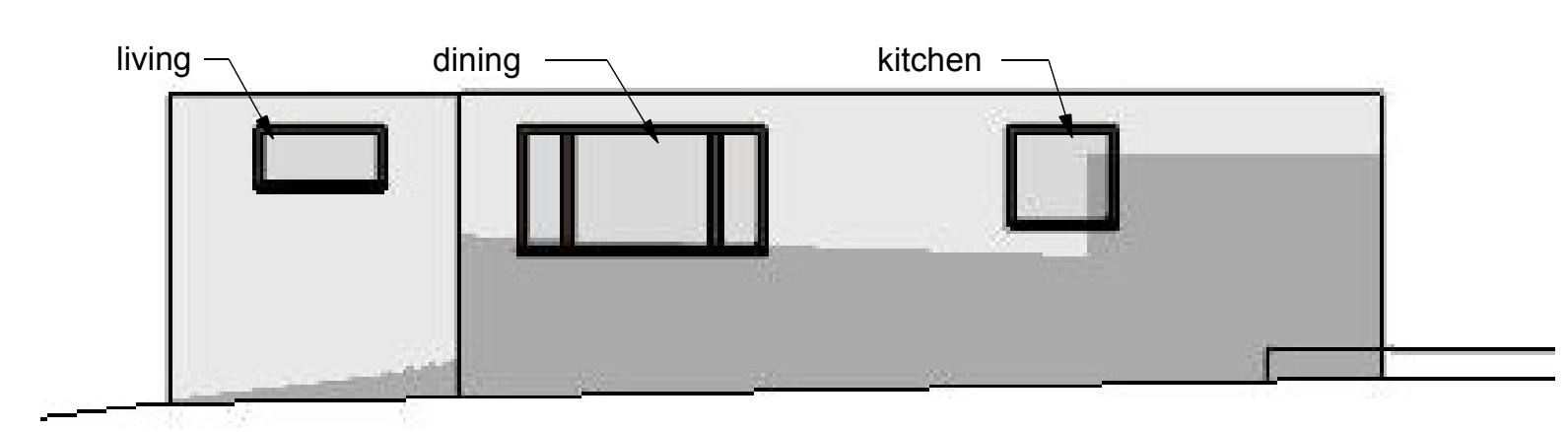
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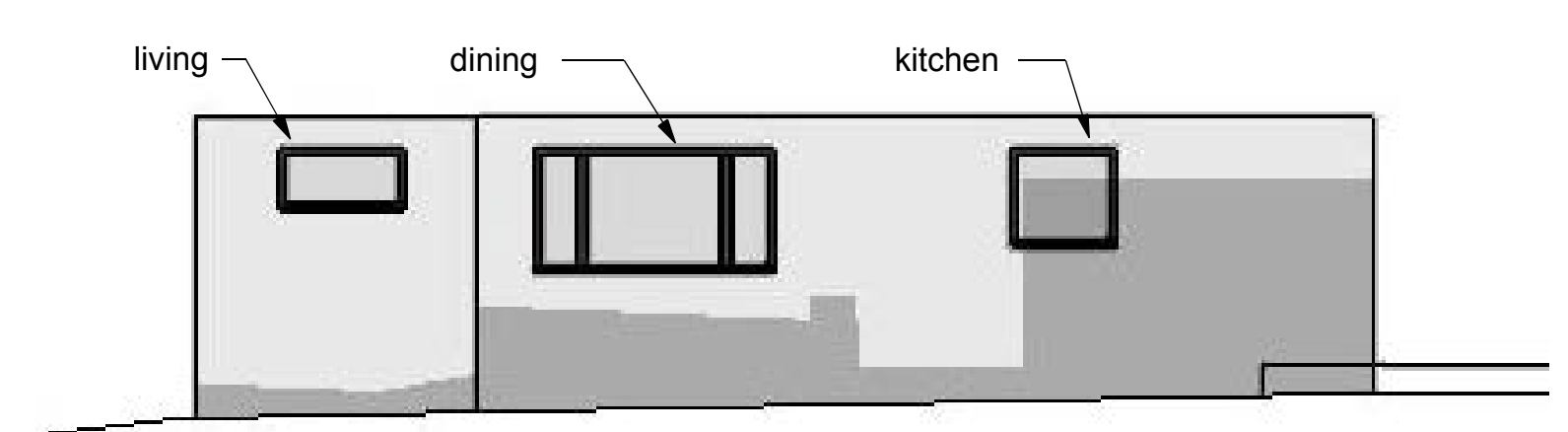
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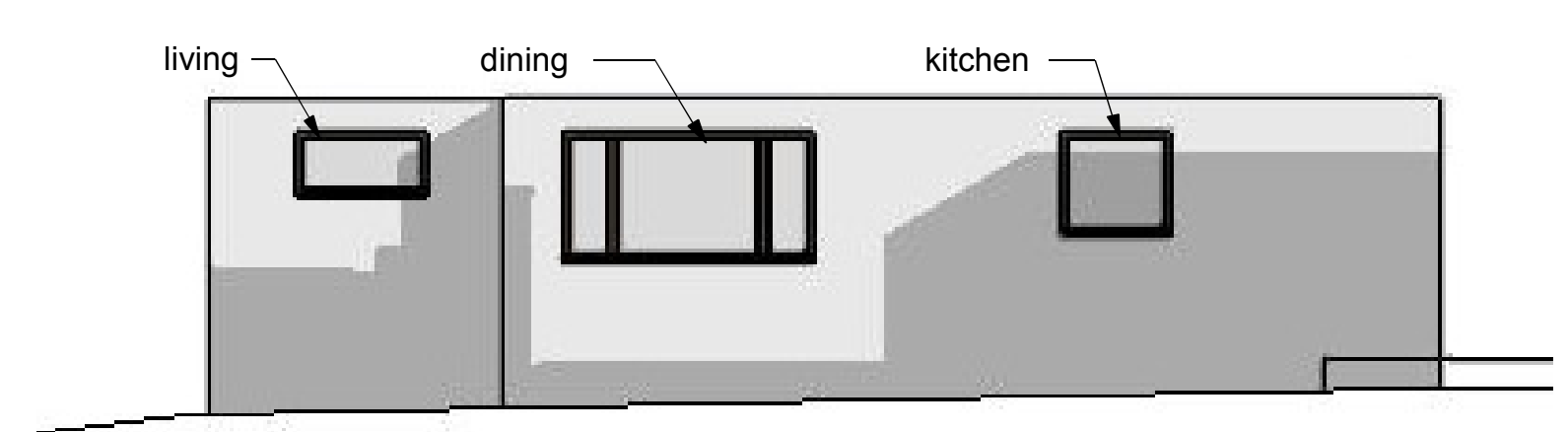
Proposed



Existing



Existing



Existing

**12-21-2021 / 2:54 pm**

**12-21-2021 / 12:00 pm**

**12-21-2021 / 9:21 am**

**1639 California St. Shadow Impact Study**

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Project No:  
20-13-420

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Scale:  
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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet  
**A4.3**



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Sheet Contents:  
Demolition Diagram

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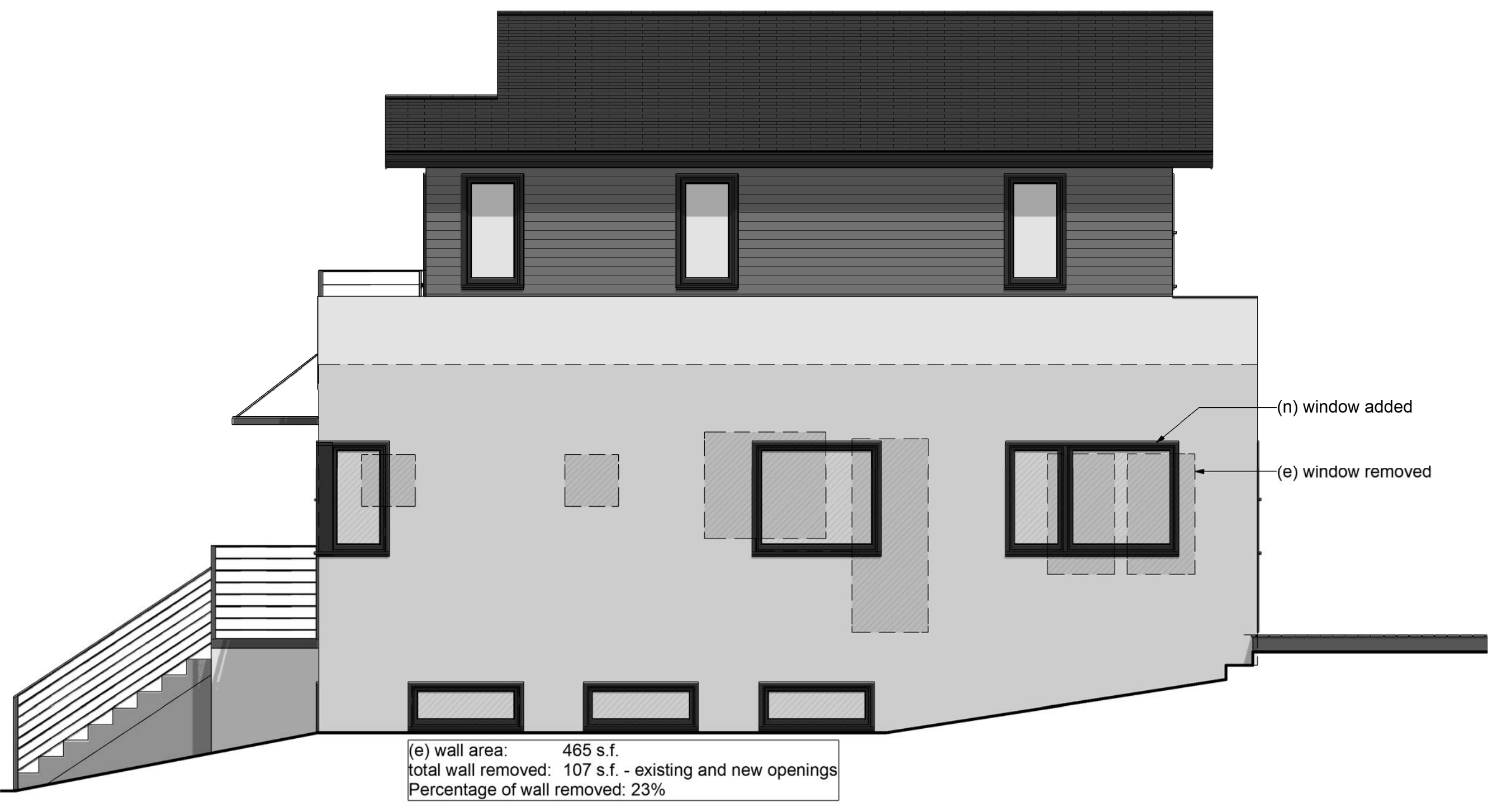
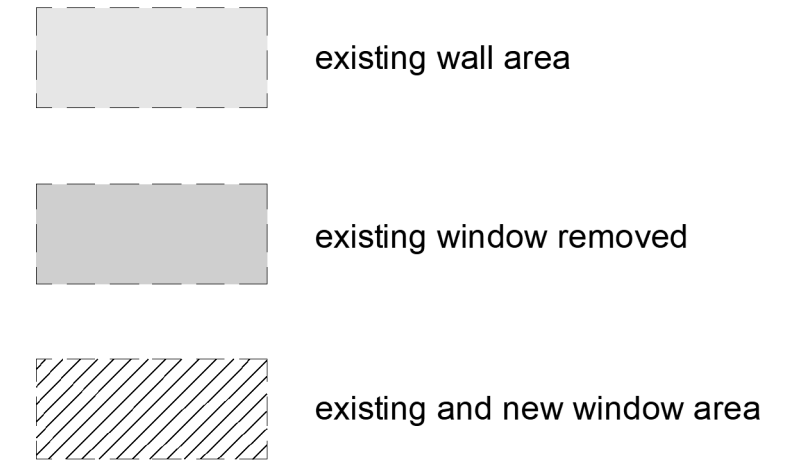
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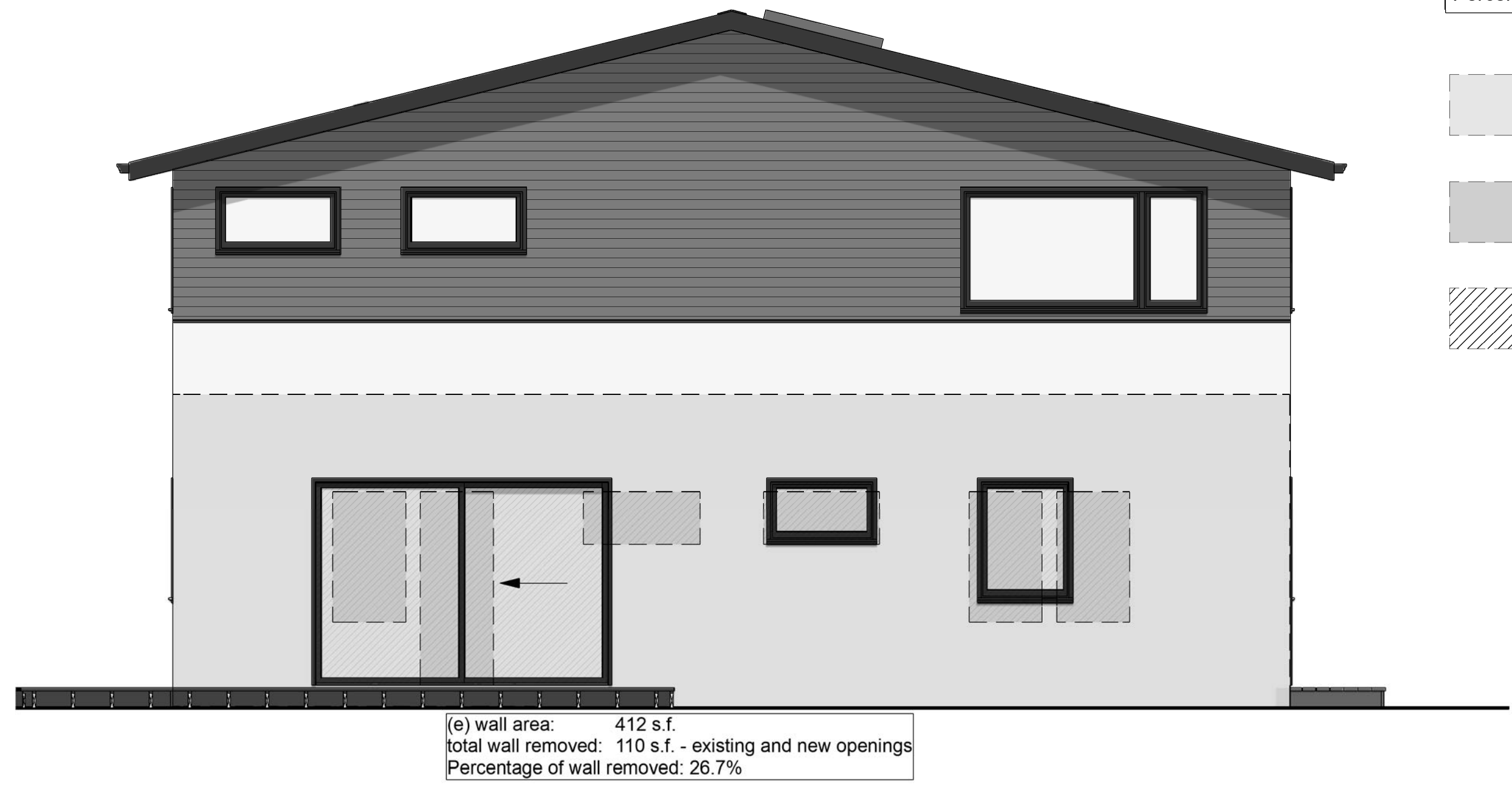
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Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021  
Planning Review: 8-26-2021

Sheet **A5.1**

**Wall Demolition Notes:**  
Total wall area: 1,921 s.f.  
Total wall removed: 520 s.f. (existing and new openings)  
Percentage removed: 27.1%



4 Proposed South Elevation - Right Side



3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



August 2<sup>nd</sup>, 2022

To: The Berkeley City Council

Re: ZAB decision to approve ZP2021-0001

We are filing this appeal for the below reasons:

- 1) Even after this matter being reverted for another hearing by ZAB after our successful appeal to the Council, the ZAB did not address the specific changes we had requested for this project to reduce impacts on neighbors, not even the most basic request for conditioning the permit to prevent post-permit modification of the upper floor exterior of the building.
- 2) The City Planner's decision to support and the ZAB's decision to approve this project seems entirely counter to policy and statements made by the City Council regarding the need to promote diversification of neighborhoods by preventing gentrification, and to protect small, more affordable and in this case rent-controlled housing units in Berkeley.
- 3) The City Planners have repeatedly affirmed that this project does not comply with the applicable, objective zoning standards. The project requires issuance of a total of seven different Administrative Use and Use Permits. The ZAB is supposed to consider and approve permits if doing so will not be detrimental to the peace, comfort, or general welfare of persons residing in the area and if doing so does not injure adjacent properties or the general welfare of the City. In the absence of objective standards regarding privacy and light, as well as in the absence of clear guidance regarding how to handle rent-controlled properties, the ZAB is using entirely subjective standards regarding what constitutes harm to neighbors and the city in making its decision to approve this project.

When this project was proposed, two of three adjacent neighbors independently opposed it. Before the ZAB hearing, we discussed with the city planner varied potential project modifications, ranging from reducing window sizes to eliminating the whole upper floor. He suggested we ask ZAB for "major modifications" by citing his initial recommendation to eliminate the top floor. That is what we did at the December 9, 2021 ZAB hearing.

At that meeting, the ZAB began to discuss reducing the square footage and number of bedrooms of the project, but the chairman cut that conversation short by citing a Planning department memo suggesting that ZAB could not consider options for reducing the size of projects. One ZAB member raised the possibility of other minor changes like window configuration to minimize privacy impacts but the chairman said he didn't want to discuss ideas from ZAB members that he had not heard voiced by the opponents. Since we were not allowed to speak at that time even though we raised our hand to try to say that we had indeed discussed such proposals with planning, the ZAB moved forward and eventually voted to approve the project.

We appealed to the city with the central argument that the Planning Department memo incorrectly interpreted the HAA and imposed restrictions on ZAB and the City that do not exist legally. Prior to the council meeting, the City Attorney clarified that indeed the memo from Planning was incorrect, and that the City can in fact limit the size or otherwise modify proposed projects such as this one. Our appeal



was successful with the Council reverting the matter to ZAB. Mayor Arreguin also noted that this property might be rent controlled, potentially requiring additional protections.

The City determined that both units of this duplex (not a Golden Duplex) are subject to rent control if rented. This is so even though the project proponents have been living in the structure as a single-family home for decades, after having -- without obtaining the necessary permits -- turned two units into one by removing a kitchen and opening the wall between the original units. (See original project submission where the proponents include an inaccurate floorplan showing two separate units, as compared to a later submission required by the City Planner that shows the actual current floor plan for their single-family home.)

In preparing for the second ZAB hearing we considered the ZAB's comments about the lack of specific modification proposals. Accordingly, we presented a detailed set of ideas, ranging from fully protecting the small rent-controlled units by not issuing the permits for the project as proposed, to a short list of minor modifications requested if the City was going to allow the full expansion. We also included options for restricting the square footage in ways that would still allow significant expansion, but with much lower impact to neighbors. One of these options is for construction to the maximum allowed size for new construction on this lot (2700 sq. ft.), much less than the 3763 sq ft currently being proposed.

Unfortunately, at the July 14th ZAB meeting, most of the ZAB members didn't discuss or comment on our specific proposed modifications, making us question whether they had seen our submission or supplemental materials. The ZAB member who said he had reviewed all the materials stated that he supported the project because modifications proposed by neighbors had already been implemented by the proponents, a statement that is incorrect. In fact, the current project plan is identical to the very first plan the proponents ever informed us about, after their May 25, 2021 resubmission to planning. At no point has planning, ZAB or the proponents considered or commented on the specific modifications regarding window height and size reduction or guarantees to prevent creation of a rear deck that we have requested, and which would reduce impacts to neighbors. The only changes to design that have been made are those initially required by the Planning department before it was willing to support the project at all.

Unlike the first ZAB hearing where potential and minor modifications were starting to be discussed by ZAB, the second meeting focused on whether the proposed final structure seems in line with other homes in the neighborhood, without considering whether those homes (on much larger properties) also exceed zoning standards, required Use Permits, or contained rent-controlled units. The ZAB Chairman stated that according to the Municipal Code, Berkeley homeowners are entitled to develop and improve their properties (in the first ZAB hearing the chairman stated that all owners have a right to a second story), and that the ZAB will permit them to do so unless there is a preponderance of evidence that weighs against approving a project, not just a presumed argument reflecting affordability. The ZAB chairman also stated that the ZAB is not the appropriate venue for addressing matters like this. If these statements are true, and the ZAB will not use city zoning standards or the requirements for public hearings and obtention of Use Permits to protect smaller and thus more affordable rent-controlled housing, then it seems a matter for the City Council to make this determination.

On the rent control issue, we raised the concern that this project permits the conversion of two 670 square foot rent-controlled units into one smaller unit and one massive 5-BR, 5-bath home, and that

although both units will indeed be rent-controlled if rented, it is extremely unlikely that the owner of a multi-million dollar home will ever opt to rent that larger unit out subject to rent-control. Thus, the project in effect removes a small rent-controlled unit from the Berkeley rental market. In response, one ZAB member suggested that the city might benefit from having large 5-bed, 5-bath units like the one that would be created here under rent control because it could provide rent-controlled housing for five different people living together. This rationalization ignores the reality of how rent-control works and the reluctance of owners to rent to multiple tenants, especially under rent-control. Meanwhile, the City Planner stated that while the project proponents may have converted the rent-controlled duplex into a single-family home without obtaining the permit to do so many years ago, that change does not matter because removal of a kitchen and opening up a wall between two units is simply an "internal" modification and both rent controlled units were owner occupied at the time.

It is worth noting that on the very same night, the ZAB also approved the conversion of another rent-controlled North Berkeley duplex (on Milvia street) from two moderately sized units to a conformation with one much smaller and one much larger unit. Again, the project required multiple permits yet the ZAB approved with barely any discussion. Again, a moderately sized, rent-controlled unit will be converted into a massive home that is unlikely to ever be rented, and a Use Permit for exceeding lot coverage was being awarded to allow this conversion. There thus seems to be a trend in which the City mounts no opposition, even when zoning standards are being exceeded and Use Permits are required, to property owners effectively converting rental properties subject to rent control into massive owner-occupied homes with accompanying much smaller rental units.

Thus, together, Planning and Zoning seem to be setting a policy that is extremely developer friendly, favors gentrification, and leads to conversion of the City's existing, smaller/lower-income, rent-controlled units into large luxury homes. This seems entirely at odds with things this mayor and council have been reported to say over the past few years as part of discussions about how Berkeley might address its housing crisis.

We therefore ask the City Council to review its stance on the City's rent-controlled duplexes and decide whether it is in the City's best interest and in line with the current City General Plan, to support gentrification projects in cases like this where the owner does not have the legal right to expand without being pro-actively issued Use Permits for exceeding the zoning standards. We strongly believe the City both can and should use existing zoning standards and permit requirements to impose conditions on development that will force owners to preserve the nature of and purpose of the rent-controlled properties they purchased. Owners who have purchased rent-controlled duplexes should not be "entitled" to modify these into massive homes unlikely to be rented. Allowing this project and others like it to proceed sets a precedent that creates such an expectation among property owners.

If the Council believes it is important to safeguard Berkeley's stock of smaller, more affordable rent-controlled units, then projects like this should not be approved and we ask that the permits afforded in this case be denied for the current application plans. By doing so, the Council would signal to City Planning and ZAB that it is important to balance City Policies seeking to protect more affordable rental units and prevent gentrification so as to promote diversity in neighborhoods -- especially in North Berkeley -- with the "entitlement" of owners to develop their properties.

If the mayor and the City Council decide that even with the existing affordability and housing crisis, permits for conversions like this should nevertheless be issued, we ask that the Council still review the minor modifications we requested to ZAB (identical to those presented in our initial appeal to Council).

Specifically, we request that the Council at a minimum make a condition to this permit that would hold the project proponents to their word about their plans, such that the agreements that the project proponents made with Planning to get their support in the ZAB hearings cannot later be modified. Such a condition to the permit would restrict the applicants from make any changes to the exterior windows and doors on the South and East sides of the upper floor through post-permitting modification requests to the Building Department. This would include (i) not adding an entrance to convert the parapet structure on the east side upper floor into a shallow deck, and (ii) not increasing the size or changing the location of any windows on the upper floor's east and south sides.

We request this permit condition in part because of a precedent with this very same architect in Berkeley having made concessions to planning and neighbors to obtain a building- permit and then immediately proceeding to request and obtain post-permit modifications undoing those concessions (this was brought up by a member of the public who spoke at both the December Council meeting and the July ZAB meeting). We imagine that such a condition to the permit would be supported by Planning since it would only hold the applicants to their agreement with Planning. This condition should also be supported by the project proponents if they are in fact happy with their current designs and have no plans to request post-permit modifications. Finally, we request that the windows on the upper floor east and south sides be converted to high-awning windows to minimize impact on appellants.

Thank you for your consideration,

Adam Safir (1609 Virginia St)  
Anna Cederstav (1609 Virginia St)  
Kay Bristol (1651/1653 California St)

**Communication regarding this appeal should be directed to:**

**Adam Safir  
1609 Virginia St., Berkeley CA. 94703  
510-725-9350  
cederfir@hotmail.com**



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  
JULY 14, 2022

## 1643 & 1647 California Street

Use Permit #ZP2021-0001 to 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.

### I. Background

#### A. Land Use Designations:

- General Plan: Medium Density Residential
- Zoning: R-2 – Restricted Two-Family Residential District

#### B. Zoning Permits Required:

- Use Permit, under Berkeley Municipal Code (BMC) Section 23C.04.070.C, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable lot coverage;
- Use Permit, under BMC Section 23C.04.070.E, to enlarge a lawful non-conforming structure that is non-conforming by reason of violation of the maximum allowable density;
- Administrative Use Permits, under BMC Section 23C.04.070.B, to horizontally extend two non-conforming yards (front and rear);
- Administrative Use Permit, under BMC section 23D.28.030, to permit a major residential addition;
- Administrative Use Permit, under BMC Section 23D.28.070.C, to allow an addition over 14 feet in height; and
- Administrative Use Permit, under BMC Section 23D.28.050, to construct a fifth bedroom.

**C. CEQA Recommendation:** It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

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.

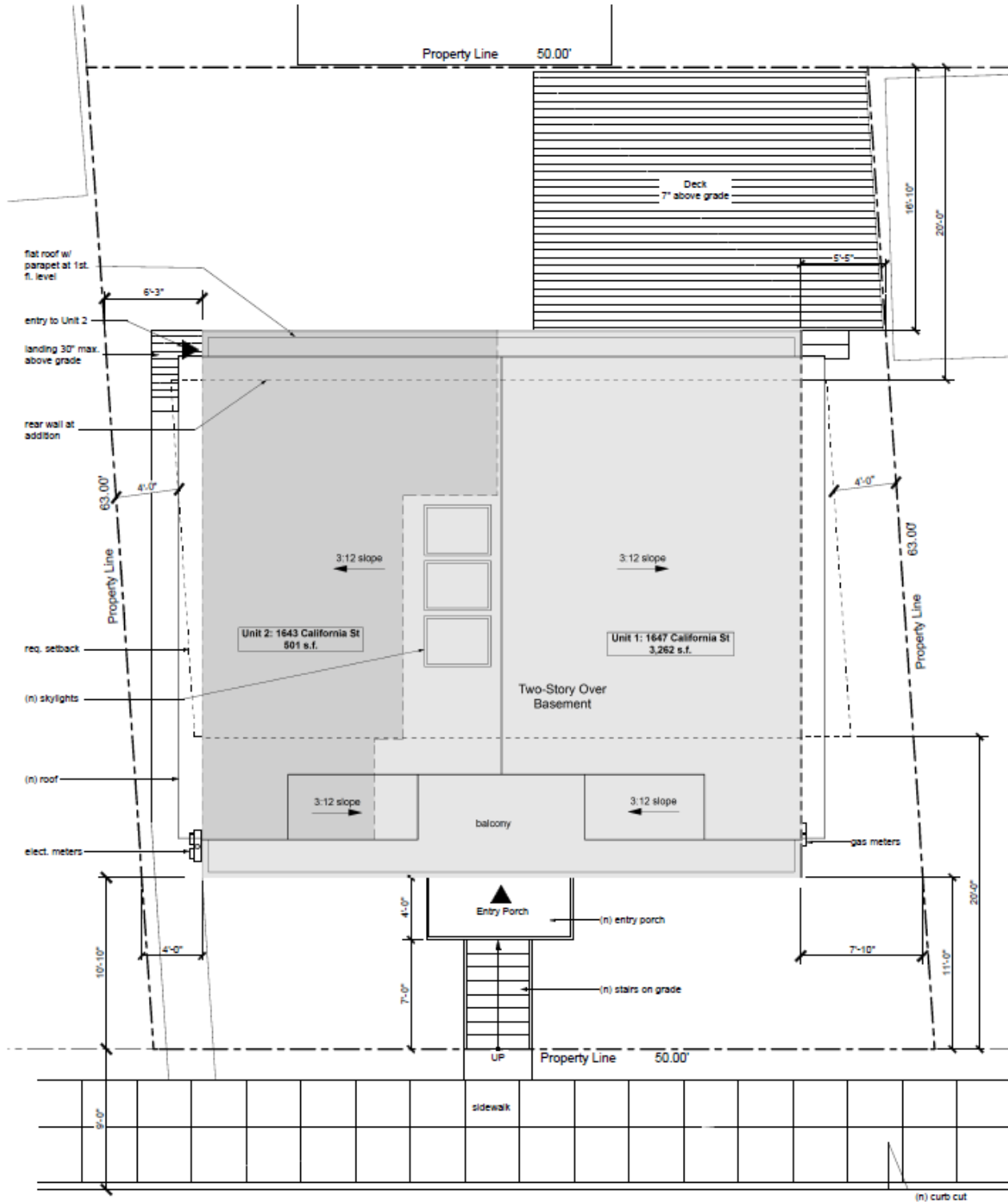
**D. Parties Involved:**

- Applicant                      Sundeep Grewel, Berkeley
- Property Owner              Ido and Tamar Oppenheimer, Berkeley

**Figure 1: Vicinity Map**



**Figure 2: Site Plan**



2 Proposed Site Plan

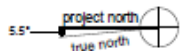
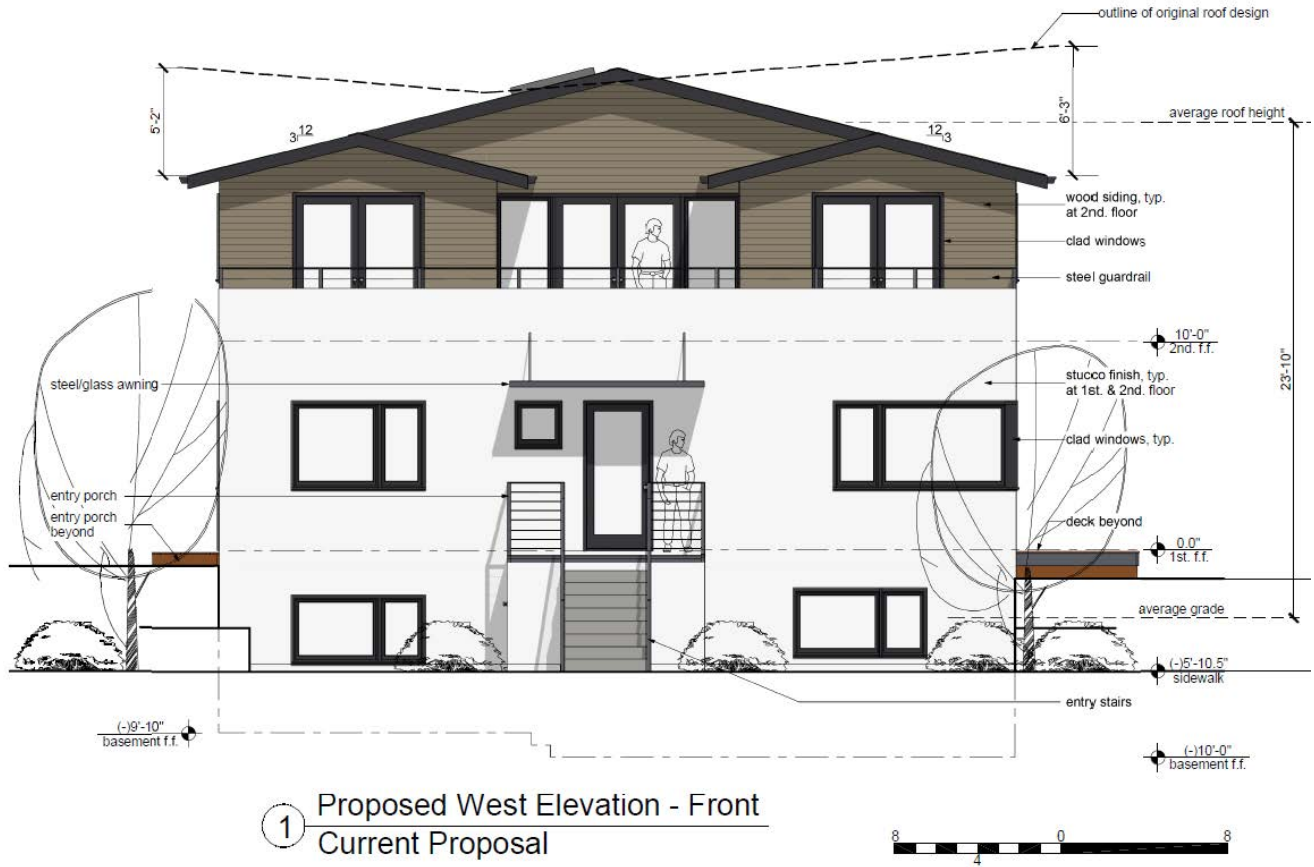


Figure 3: Front Elevation





**Figure 4: Rear Elevation**



**Table 1: Land Use Information**

| Location               |       | Existing Use  | Zoning District | General Plan Designation       |
|------------------------|-------|---------------|-----------------|--------------------------------|
| Subject Property       |       | Multi-Family  | R-2             | Low Medium Density Residential |
| Surrounding Properties | North | Single-Family |                 |                                |
|                        | South | Single-Family |                 |                                |
|                        | East  | Single-Family |                 |                                |
|                        | West  | Multi-Family  |                 |                                |

**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                  | Project is entirely residential, and therefore, this project is not subject to this resolution |
| Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)    | No                  | Project is entirely residential, and therefore, this project is not subject to this resolution |
| Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)                 | No                  | The project proposes to maintain the two dwelling units that currently exist at the property.  |
| Creeks                                                                                         | No                  | The site does not contain a mapped creek or a creek culvert.                                   |

|                                                            |     |                                                                                                                                                                                                                                                                |
|------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Density Bonus                                              | No  | The project is not proposing to add dwelling units through a Density Bonus application                                                                                                                                                                         |
| Natural Gas Prohibition<br>(Per BMC 12.80.020)             | No  | This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.                                                                                                                |
| Historic Resources                                         | No  | The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.                                                                                                                             |
| Housing Accountability Act (Gov't Code Section 65589.5(j)) | No  | The project is not a "housing development project," as no additional units would be created. The project is to increase the size of one of the dwellings, and reduce the size of the other dwelling. Therefore, the HAA findings do not apply to this project. |
| Housing Crisis Act of 2019 (SB330)                         | No  | The project is all residential, but no new dwellings are proposed, and no dwellings would be demolished.                                                                                                                                                       |
| Oak Trees                                                  | No  | There are no Coast Live Oak Trees on the property.                                                                                                                                                                                                             |
| Rent Controlled Units                                      | No  | The property contains two units that are owner-occupied. The Rent Control Ordinance would apply if either unit were rented.                                                                                                                                    |
| Residential Preferred Parking (RPP)                        | No  | This property is not located in a Residential Preferred Parking Zone                                                                                                                                                                                           |
| Seismic Hazards (SHMA)                                     | No  | The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.                                                                                                               |
| Soil/Groundwater Contamination                             | No  | The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.                                  |
| Transit                                                    | Yes | The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.                                                    |

**Table 3: Project Chronology**

| Date               | Action                                   |
|--------------------|------------------------------------------|
| January 8, 2021    | Application submitted                    |
| September 24, 2021 | Application deemed complete              |
| November 23, 2021  | Public hearing notices mailed/posted     |
| December 9, 2021   | ZAB hearing                              |
| December 20, 2021  | Notice of Decision issued                |
| January 10, 2022   | Appealed to City Council                 |
| April 26, 2022     | Council meeting, remanded to ZAB         |
| June 30, 2022      | ZAB public hearing notices mailed/posted |
| July 14, 2022      | ZAB hearing                              |
| July 25, 2022      | Remand deadline                          |

**Table 4: Development Standards**

| Standard                    |               | Existing | Proposed Total | Permitted/<br>Required                 |
|-----------------------------|---------------|----------|----------------|----------------------------------------|
| BMC Sections 23D.28.070-080 |               |          |                |                                        |
| Lot Area (sq. ft.)          |               | 3,100    | No change      | 5,000 min                              |
| Gross Floor Area (sq. ft.)  |               | 1,334    | 3,763          | N/A                                    |
| Dwelling Units              | Total         | 2        | No Change      | 1 max (1 per 2,500 sq.ft. of lot area) |
| Building Height             | Average (ft.) | 13'-6"   | 23'-10"        | 28' max                                |
|                             | Stories       | 1        | 2              | 3 max                                  |
| Building Setbacks (ft.)     | Front         | 10'      | No Change      | 20' min                                |
|                             | Rear          | 16'-10"  | No Change      | 20' min                                |
|                             | Left Side     | 3'-11"   | 4'-0"          | 4' min                                 |
|                             | Right Side    | 5'6"     | 5'5"           | 4' min                                 |
| Lot Coverage (%)            |               | 50%      | 44%            | 40% max                                |
| Usable Open Space (sq. ft.) |               | 500      | 1,029          | 800 min                                |
| Parking                     | Automobile    | 0        | 0              | 2 min                                  |

## II. Project Background

- A. ZAB Action:** On December 9, 2021, the Zoning Adjustments Board (ZAB) approved Use Permit ZP2021-0001 by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

On December 20, 2021, staff issued the notice of the ZAB decision, and on January 10, 2022, an appeal of the ZAB decision was filed with the City Clerk by Kay Bristol, the owner of 1651-1653 California Street, and Anna Cederstav and Adam Safir, the owners of 1609 Virginia Street. The Clerk set the matter for review by the Council on April 26, 2022.

In the appeal letter, the appellants stated that they were concerned about the applicability of the Housing Accountability Act (HAA), the lack of modification by ZAB, procedural requirements, and inadequate opportunities for public participation.

- B. Council Consideration of the Appeal:** On April 26, 2022, the Council held a public hearing to consider the ZAB's decision. During the staff presentation, staff clarified that the HAA should not apply to the project since no new units will be added. The addition may be modified. By a vote of 9-0-0 (Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin), Council remanded the Use Permit to ZAB for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

### III. Project Description

- A. Neighborhood/Area Description:** The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Junior Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.
- B. Site Conditions:** The subject property is a small, rectangular lot, oriented in the east-west direction, and is approximately 3,100 square feet in total area. It features a one-story main building originally constructed as a duplex. The building faces west, toward California Street. At some point in the past, the kitchen of the left side unit (1643 California) was removed without permits, and a doorway was installed between the two units, effectively converting the house to one unit, without the necessary approval of a Use Permit to remove a dwelling.

The property and structure is currently non-conforming due to several reasons: 1) the property is non-conforming to the lot coverage, currently at 50 percent coverage where 45 percent coverage is the limit for a one-story structure; 2) the property is non-conforming to the allowable residential density, containing two units when only one unit is permitted due to the lot size (prior to the unauthorized removal of 1643 California); and 3) the structure is located within the required front, rear, and left side yards.

- C. Proposed Project:** The project would make several alterations to the existing property. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore the

left dwelling unit at 1643 California, but would shrink the size of this unit from 650 square feet to 501 square feet. Additionally, the floor plan of the main level of right unit (1647 California) would be modified to serve as the main living area, with an open floor plan kitchen/dining/living room, plus a full bathroom. The structure would be expanded by creating a new basement level<sup>1</sup>, contained below the existing building footprint, solely serving 1647 California. This level would contain a family room/home gym, half bath, one new bedroom with a full bathroom, and closet and storage area. The proposal would add a new second level on top of the existing structure, also solely serving 1647 California, which would contain three new bedrooms and two full bathrooms. The second story would step in at the front to provide a balcony, and would step in from the rear to comply with the required 20-foot rear yard setback. In total, 1647 California would expand by 2,612 square feet, from 650 square feet to 3,262 square feet in total.

Other site work includes the removal of an existing accessory shed, and the construction of an on-grade deck in the southeastern corner of the rear yard.

## IV. Community Discussion

### A. Neighbor/Community Concerns:

On June 30, 2022, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

At the time of writing this report, staff has received several communications regarding the project, both in support and opposition. All communications received have been included as Attachment 4.

Concerns raised include:

- a. Neighbors to the east and south have raised concerns due to the proposed increase in size of the house on a small lot.
- b. Concerns from each adjacent neighbor regarding the impacts to privacy and to shadows from the two-story design and increase in height.
- c. Concern with the project being out of scale with the neighborhood and surrounding properties, especially given the existing non-conformities of the property.

Support of the application includes:

- a. Improved structure and project site;
- b. Restoration of the second dwelling unit.

## V. Issues and Analysis

<sup>1</sup> The basement would not count as a story, as no portion of the basement level would be exposed to the existing grade by more than 6 feet, per the definition in BMC Section 23F.04.

- A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. SB 330 does not apply to the proposed project because no new dwellings are proposed. Per Government Code Section 66300 and the attached memorandum from the Rent Stabilization Board (Attachment 5), both dwelling units are “protected units” because both are subject to rent control when rented.
- B. Housing Accountability Act Analysis:** The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:
1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
  2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.
- The HAA does not apply to the proposed project because no new dwellings are proposed. The two existing dwellings would remain, and the size of the dwellings would change.
- C. Rent Stabilization and Eviction for Good Cause Ordinance:** Rent Board staff prepared a memorandum (Attachment 5) that analyzes whether the Rent Stabilization and Eviction for Good Cause Ordinance applies to the project. Since there are currently no tenants, there are no tenant protections at issue currently. Future tenants would be protected by the ordinance. Both units are subject to rent control when rented.
- D. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located

over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

- E. Findings for Addition to a Structure on Parcel with Non-Conforming Density:** Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.
- F. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.
- G. Addition of a Fifth Bedroom to an R-2 Parcel:** Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add more units to the site, but would provide more room in one of the dwellings.
- H. Restricted Two-Family Residential District (R-2) Findings:** This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety,

peace, morals, comfort or general welfare of persons residing or working in the area or 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 of the following reasons:

- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
- ii. The second story addition would step in and comply with the required front and rear yard setbacks.
- iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding neighbors due to its placement partially below grade, maintaining the existing first floor level.
- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

**I. General Non-Detriment for Use Permits and Administrative Use Permits:** Pursuant to BMC Section 23.28.090.B, the Board may issue a Use Permit if it meets the findings for non-detriment. An analysis of sunlight/shadows, air, and views follows:

Sunlight/Shadow: Shadow studies submitted by the applicant document the addition's projected shadow angles and lengths at three times throughout the day during the summer and winter solstice. The studies show that the addition would create an incremental increase in shadows on two neighboring dwellings, 1609 Virginia Street and 1639 California Street, as follows:

- Two hours after sunrise on the winter solstice, shadows on the south side of the dwelling at 1639 California Street would increase and cover the left third of a living room window;
- At noon on the winter solstice shadows on the south side of the dwelling at 1639 California Street would increase and cover a dining room window, and reach the sill of a living room window;
- Two hours before sunset on the winter solstice shadows on the south side of the dwelling at 1639 California Street would increase and cover a dining room window and a kitchen window. Shadows would also reach a garage and an accessory building at 1609 Virginia Street, and a garage at 1639 California Street.
- Two hours before sunset on the summer solstice, shadows on the west side of the dwelling at 1609 Virginia Street would increase and cover a kitchen window, and shadows on the north side of the dwelling at 1609 Virginia Street would increase and cover a bedroom window, a kitchen window, and a kitchen door. Shadows would also reach a garage at 1609 Virginia Street.



Because the impacts to neighboring properties would occur on limited areas, and would only partially shade neighboring buildings for a limited time during the year, and only for a few hours of the day, the residential addition would not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.

Air: As discussed above, the addition would not increase the footprint of the dwelling, and would not further reduce setbacks. The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-2 neighborhood because the alteration would not further reduce the front and rear setbacks, and would not exceed height or story limits. Therefore, there would be minimal, if any, air impacts.

Views: The addition would not result in obstruction of significant views in the neighborhood as defined in BMC Section 23.502 (Glossary). The neighborhood is generally flat and developed with one- and two-story residences that filter or obscure most views that may be available of the Berkeley hills or the Golden Gate Bridge from off-site view angles.

**J. 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 H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. 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.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

## 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:

- A. APPROVE ZP2021-0001 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received, separated into pre-ZAB meeting and post-ZAB meeting
5. Rent Stabilization Board Memo, dated June 6, 2022
6. December 9, 2021 ZAB Staff Report, and Findings and Conditions
7. Appeal Letter, dated January 10, 2022
8. April 26, 2021 Council Report, and Resolution

**Staff Planner:** Allison Riemer, [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info), (510) 981-7433



Administrative Record

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

**City Clerk Department**

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

or from:

**The City of Berkeley, City Council's Web site**

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,  
1231 ADDISON STREET  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**ZAB APPEAL: 1643-1647 CALIFORNIA STREET, USE PERMIT #ZP2021-0001**

Notice is hereby given by the City Council of the City of Berkeley that on **THURSDAY, NOVEMBER 3, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Zoning Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of **October 20, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Allison Riemer, Project Planner, (510) 981-7433, or [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info). Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) 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](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed by: October 20, 2022

**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 decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. 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 by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*

