



Office of the City Manager

PUBLIC HEARING

July 14, 2020

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning & Development Department

Subject: ZAB Appeal: 1533 Beverly Place, Administrative Use Permit #ZP2018-0153

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a non-conforming front setback on a 4,200 square-foot lot by constructing a 1,035 square-foot addition, including a new second story that would increase the average building height from 16 feet 3½ inches to 23 feet 7½ inches, and adding a fifth bedroom, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On July 20, 2018, Eisenmann Architecture submitted an application for an Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a 1,035 square-foot addition, including a new second story.

On July 31, 2019, after several rounds of incomplete application comments from staff, and after the applicant revised the project to reduce view impacts, the application was deemed complete.

On August 12, 2019, the Notice of Administrative Decision was issued by the Zoning Officer, initiating a 20-day appeal period.

On August 28, 2019, Amy Di Costanzo of 1710 Sonoma Avenue filed an appeal of the Zoning Officer's decision. On September 3, 2019, Hank Roberts and Robin Ramsey of 1529 Beverly Place filed an appeal of the Zoning Officer's decision.

On February 13, 2020, the Zoning Adjustments Board (ZAB) conducted a public hearing for the appeal of the Administrative Use Permit. After hearing public comments and holding discussion, and adding Conditions #11, 12, 13, 14, 15, 31, and 32, the ZAB

approved the Administrative Use Permit and dismissed the appeal by a vote of 5-2-1-1 (Yes: Clarke, Kahn, Aguilar-Canabal, Selawsky, Tregub; No: Olson, Sheahan; Abstain: O'Keefe; Absent: Kim).

On February 27, 2020, staff issued the notice of the ZAB decision, initiating a 14-day appeal period.

On March 11, 2020, Rena Rickles, on behalf of Amy Di Costanzo, the neighbor residing at 1710 Sonoma Avenue, filed an appeal of the ZAB decision with the City Clerk.

On June 30, 2020, staff posted the public hearing notice 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. This public hearing is required to resolve the appeal.

BACKGROUND

The site is in the R-1, Single Family Residential zoning district, on Beverly Place between Monterey Avenue and Ventura Avenue, with the City of Albany approximately 90 feet west of the subject site. The neighborhood consists of a mixture of one- and two-story single-family dwellings in a rolling hillside area where houses are stepped away from the street and above and below each other according to the topography.

The project approved by the Zoning Officer and upheld by the ZAB would allow the construction of a 1,035 square-foot addition, including a new second story, and would increase the number of bedrooms to five.

Neighbors submitted many letters to express their concerns while the project was being reviewed by the Zoning Officer and ZAB. Staff visited the home of Amy Di Costanzo, at 1710 Sonoma Avenue, on January 25, 2019 to see the view from her kitchen and back deck. Staff met with the applicant team on March 13, 2019 and explained that the project needed to be modified to reduce the loss of view to the neighbor at 1710 Sonoma Avenue. In response to staff's direction, the project was revised to reduce the height and slope of the roof. The previous average height was 26 ft. $\frac{3}{4}$ in.; with the revisions the average height is 23 ft. $7\frac{1}{2}$ in. The revised plans were presented to neighbors at a neighborhood meeting on May 1, 2019. Staff approved an Administrative Use Permit for the revised project and posted the Notice of Administrative Decision on August 12, 2019.

The first appeal of the administrative decision was filed on August 28, 2019, and the second appeal was filed on September 3, 2019. At the request of staff, the applicants and appellants attended a mediation session with the organization SEEDS on October 29, 2019; they were unable to resolve their differences at that session.

At the February 13, 2020 ZAB hearing, staff presented the basis for the Zoning Officer's decision, the applicant presented their project, and appellants presented their concerns. After deliberating, the ZAB voted to dismiss the appeals and approved the project with additional conditions of approval to remedy view concerns from the neighbors (certification of the existing and proposed height, limitations on the location of roof features, and roof color requirements). The ZAB decision was then appealed by the neighbor residing northeast of the site at 1710 Sonoma Avenue.

ENVIRONMENTAL SUSTAINABILITY

The project approved by ZAB is in compliance with all state and local environmental requirements.

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, Appeal Letter) for the full text.

Issue 1: Loss of View Is Detrimental. The appellant asserts that because she will lose all of her view of the San Francisco Bay and the lower portion of the San Francisco Skyline from a sitting position in her kitchen and adjoining deck, the loss of view is unreasonably detrimental, and the project should not have been approved by the ZAB.

"The finding of non-detriment was based upon photos taken while standing: no credence was given to view loss while sitting."

"From a sitting position, which is the position most of us are in the majority of the time we are in our homes, the uncontroverted evidence is that of a major view loss."

Response 1: The appellant prepared a packet of information for all ZAB members that showed the impact to their view while standing at the back of the kitchen and looking out the doors to the deck, and while seated at the kitchen table and looking out the doors to the deck, and provided two alternate designs for a second story addition; one that eliminated part of the study at the front of the second story and lowered the house 18 inches, and the other one lowered the house 24 inches without changing the floor plans. The packet contained photos of the appellant's view of the story poles, the red tape on the story poles indicating the lowered height of the addition, and the view above and beyond the proposed addition. The appellant also added a rendering of the addition, and renderings of the two alternative proposals suggested by the appellant. The appellant's packet was received by staff on February 11, 2020, included as Round 1 of Supplemental information and uploaded to the City's website, and copies of the packet were distributed to all ZAB members at the beginning of the ZAB meeting (Attachment 4).

While the project would reduce the view, the appellant's photos submitted to staff and ZAB show that the proposed addition, as revised and approved, would allow a view of the San Francisco Bay, the Bay Bridge, and the San Francisco Skyline over the addition when one is standing in the kitchen. When one is seated at the kitchen table the current view is reduced, but not eliminated, and the Bay Bridge and San Francisco Skyline are visible over the addition. Views are also available from other rooms in the house, including a first-floor bedroom and bedrooms on the second floor.

While staff was reviewing the project, the applicant installed story poles, provided photos of the story poles and a key to photo locations, and the heights of the story poles were verified by a licensed surveyor. As documented by the story poles, the second-story addition would be within the view corridor of the properties to the north, and those neighbors have expressed concerns, but have not appealed this permit. 1708 Sonoma Avenue currently has views of the San Francisco Bay over/beyond Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that would be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands would remain. 1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that would be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge would continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms would remain. Since the current expansive views are reduced, but not eliminated, view impacts are determined to be non-detrimental.

When ZAB approved the project, they added three of the four conditions that the appellant had presented to ZAB in a document distributed to ZAB at the meeting, with modifications. Condition of Approval 11 requires a licensed surveyor, of the appellant's choice, to certify the height of the red tape on the story poles (when the project was modified the original story poles were modified to indicate how the height had changed). Condition of Approval 12 requires a licensed surveyor to verify the elevation of the existing top of the roof, and a letter from the surveyor documenting the height of the existing roof is required to be submitted with the building permit. Condition of Approval 13 requires the new finished floor to be two feet lower than the existing surveyed finished floor, as measured from the front of the dwelling and shown in the sections on sheet A3.2 of the plans received by Land Use Planning on July 1, 2019. Condition of Approval 14 requires all roof features (vents, ducts, chimneys) be located on the west side of the roof, except one vent for the bathroom may be located on the east side of the roof, subject to the review and approval of the Building & Safety Division. Condition of Approval 15 requires the new roof to be a dark color, such as brown. Condition of Approval 31 requires the elevation of the new finished floor to be verified by a licensed surveyor after framing is complete and before final inspection. Condition of Approval 32 requires the top of the roof for the addition to be no higher than four feet above the existing roof, as shown in the Existing Section on sheet A3.2 of the plans received by

the City on July 1, 2019 (ATT 1 Exhibit B). The elevation of the top of the new roof shall be verified by a licensed surveyor after framing is complete and before final inspection.

As noted above, due consideration is given to the relative impact¹ to significant views as defined in the Zoning Ordinance (BMC sections 23D.16.090 and 23F.04.010).² A recent Council decision³ also established considerations for views, including whether a project would block a portion of a bridge view as opposed to the entire view. In this case, staff believes the ZAB decision was supported by substantial evidence. In considering the reasonableness of the project and the impact, the ZAB also considers how the project meets the zoning ordinance standards. In this case, the project is consistent in size with many neighboring houses, the average height of 23 feet 7 ½ inches is below that allowable for the district (28 to 35 feet), and the fifth bedroom would provide more room for residents within the single-family residence, and would not result in an increase in dwelling unit density.

Although the view available while seated at the appellant's kitchen table will change with the construction of a second story at 1533 Beverly Place, the appellant will still enjoy an expansive view from many areas of their property, including their kitchen.

Issue 2: Feasible Alternatives Should Be Considered. The appellant believes the ZAB did not fully consider alternatives to reduce the impact on views. These include lowering the entire house by digging out the basement and removing a portion of the second-floor addition.

Response 2: The applicant revised the project at the direction of staff to lower the building height, by redesigning from a pitched roof design to an essentially flat roof and lowering the ceiling height of the second floor in such a way that the average height of the roof was reduced from 27 feet 1 ¼ inches to 23 feet 7 ½ inches (as shown in the south elevation on sheet A3.1 of the plans received June 10, 2020, Attachment 5).

Staff does not believe that lowering the entire house by digging into the hillside is feasible. Although the project may involve a small amount of excavation, it would be tantamount to rebuilding the house if the hill were to be excavated and the house placed on a new foundation. Similarly, while removing a portion of the second-floor addition may open up a small view corridor to the Bay Bridge, it would be ineffective in

¹ To deny a Use Permit for a major residential addition or residential addition.... the Zoning Officer or Board must find that although the proposed residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.

² View Corridor: A significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.

³ [970 Santa Barbara ZAB Appeal](#), October 31, 2017.

preserving the entire view, unless the building were lowered at least 18 inches. The applicant has already agreed to lower the ceiling height on the second floor, and is lowering the ground level finished floor such that the height of the crawl space below the house is reduced from 5 feet ¼ inch to 3 feet 6 ¾ inches (see the existing and proposed sections on sheet A3.2).

The ZAB considered the alternatives that were presented at the meeting and decided not to change the project, other than requiring additional conditions of approval.

Issue 3: The ZAB Did Not Adequately Consider Evidence. The appellant asserts that ZAB members should have visited the site, that members made inappropriate comments, and that they did not consider information that was available in rebuttal.

Response 3: The appellants have had the opportunity to present evidence to staff, the Zoning Officer, and ZAB, and now to the Council, all of which has been considered during the earlier deliberations. Documentary evidence of the building height was available in the form of story poles and photographs, which are reproduced in Attachment 4, and were presented to ZAB in advance of and at the hearing.

In May 2020 the story poles were adjusted to reflect the current proposed project (the design approved by ZAB), and the photos of the story poles are included as Attachment 6. There is a dispute between the applicant and the appellant about the accuracy of the current story poles and if they have been improperly modified. The Council should review all of the evidence, including the latest photographs to determine whether the impact of the project on a significant view corridor would be unreasonable.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project.

ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, 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 23B.32.060.G, 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

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437
Steven Buckley, Land Use Planning Manager, (510) 981-7411
Allison Riemer, Project Planner, (510) 981-7433

Attachments:

1. Draft Resolution
 - Exhibit A: Findings and Conditions
 - Exhibit B: Project Plans dated July 1, 2019 and July 24, 2019
2. Appeal Letter, received March 11, 2020
3. February 13, 2020 ZAB Hearing Staff Report
4. Supplemental Item prepared by Amy Di Constanzo for ZAB Hearing, February 11, 2020
5. Updated Plans, dated June 10, 2020 (project has not changed, information has been clarified)
6. Updated Story Pole Information, dated June 10, 2020
7. Two-Story Dwellings within the Vicinity of 1533 Beverly Place
8. Index to Administrative Record
9. Administrative Record
10. Public Hearing Notice

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

UPHOLDING THE ZONING ADJUSTMENTS BOARD APPROVAL OF ADMINISTRATIVE USE PERMIT #ZP2018-0153 TO ENLARGE AN EXISTING 1,212 SQUARE-FOOT, ONE-STORY SINGLE-FAMILY DWELLING WITH A NON-CONFORMING FRONT SETBACK ON A 4,200 SQUARE-FOOT LOT BY ADDING A 1,035 SQUARE-FOOT ADDITION, INCLUDING A NEW SECOND STORY, WITH AN AVERAGE HEIGHT OF 23 FEET 7 ½ INCHES, AND ADDING A FIFTH BEDROOM; AND DISMISSING THE APPEAL

WHEREAS, on July 20, 2018, Eisenmann Architecture submitted an application for an Administrative Use Permit to enlarge an existing 1,212 square-foot, one-story single-family dwelling with a 1,035 square-foot addition, including a new second story (“project”); and

WHEREAS, on July 31, 2019, staff deemed this application complete and determined that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under Sections 15301 and 15303 (“Existing Facilities” and “New Construction or Conversion of Small Structures”); and

WHEREAS, on August 12, 2019, staff mailed notices of Administrative Decision to adjoining property owners and occupants, and to interested neighborhood organizations, and posted a Notice of Administrative Decision at the site and at two nearby locations; and

WHEREAS, on August 28, 2019, Amy Di Costanzo of 1710 Sonoma Avenue filed an appeal of the Zoning Officer’s decision; and

WHEREAS, on September 3, 2019, Hank Roberts and Robin Ramsey of 1529 Beverly Place filed an additional appeal; and

WHEREAS, on January 30, 2020, staff mailed and posted Notices of Public Hearing for the project in accordance with BMC Section 23B.28.060; and

WHEREAS, on February 13, 2020 the ZAB held a public hearing in accordance with BMC Section 23B.28.060, and approved the Administrative Use Permit application and dismissed the appeal, with added Conditions #11, 12, 13, 14, 15, 31, and 32; and

WHEREAS, on February 27, 2020, staff issued the notice of the ZAB decision; and

WHEREAS, on March 11, 2020, Rena Rickles, on behalf of Amy Di Costanzo, the neighbor residing at 1710 Sonoma Avenue, filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on or before June 30, 2020, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.28.060; and

WHEREAS, on July 14, 2020, 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 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 for approval made by the ZAB in Exhibit A and the project plans in Exhibit B, affirms the decision of the ZAB to approve Use Permit #ZP2018-0153, and dismisses the appeal.

Exhibits

A: Findings and Conditions

B: Project Plans, received July 1, 2019 and July 24, 2019

ATTACHMENT 1

FINDINGS AND CONDITIONS FEBRUARY 13, 2020

1533 Beverly Place

Administrative Use Permit #ZP2018-0153

To enlarge an existing 1,212 sq. ft., 1-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.

PERMITS REQUIRED

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.070.C to construct a residential addition greater than 14 ft. in average height;
- Administrative Use Permit pursuant to BMC Section 23D.16.030 to construct a major (more than 600 sq. ft.) residential addition;
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to add a fifth bedroom to a parcel; and
- Administrative Use Permit pursuant to BMC Section 23C.04.070.B for an addition which vertically extends the non-conforming front yard.

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 CEQA Guidelines Sections 15301 and 15303 (“Existing Facilities” and “New Construction or Conversion of Small Structures”). 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.

FINDINGS FOR APPROVAL

2. As required by BMC Section 23B.28.050.A, 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 subject property will continue to conform to the applicable provisions of BMC Sections 23D.16.070-080 including density, height, yards, lot coverage, usable open space, and minimum on-site parking: one dwelling unit on the lot, where only one dwelling unit is allowed; an average height of 23 ft.-7 ½ in. with the addition, where the

average height limit is 28 ft.; side yards of 9.6 ft. and 4 ft. where 4 ft. is required; rear yard of 34.9 ft., where 20 ft. is required; 39% lot coverage, where the maximum allowed is 40%; over 600 sq. ft. of usable open space, where a minimum of 400 sq. ft. is required; and the required off-street parking space within the existing garage.

- B. The addition will maintain the privacy of the abutting neighbors as it is outside of the required side and rear setbacks, and the non-conforming front setback is retained. The windows within the second story could potentially allow views to adjacent properties. However, staff believes the project will not unreasonably impact the privacy of neighboring dwellings because while windows would now face second floor windows on the properties to the north, they would be more than 35 ft. from the neighboring dwellings to the north, thereby minimizing privacy impacts. While the addition will be approximately 4 ft. from the edge of the one-story garage attached to the west façade of the neighboring dwelling to the east at 1535 Beverly Place, the garage does not contain habitable space and thus, will not be affected by new window openings; and the addition will be approximately 10 ft. from the wall of the dwelling at 1535 Beverly Place. The addition will be approximately 19 ft. from the dwelling adjacent to the west at 1529 Beverly Place.
- C. While the project increases the number of bedrooms on this parcel, as defined in BMC Section 13.24.020 (Definitions), from three to five, the addition of a fifth bedroom would provide more room for residents within the single-family residence and would not result in an increase in dwelling unit density.
3. Pursuant to BMC Section 23D.16.090.B, the Zoning Officer finds that the major residential addition would not unreasonably obstruct sunlight, air, or views for the following reasons:
- A. Sunlight: The 1,035 sq. ft. addition will not result in a significant loss of direct sunlight on neighboring dwellings. 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.
- Two hours after sunrise on the winter solstice, shadows on the east side of the dwelling at 1529 Beverly Place will increase and cover a kitchen window, and partially cover a dining room window.
 - Two hours before sunset on the winter solstice, the shadows on the west side of the dwelling at 1535 Beverly Place will increase slightly, but will only reach a small corner of a bedroom window.
 - Two hours after sunrise on the summer solstice, shadows on the east side of the dwelling at 1529 Beverly Place will increase and cover the living room and dining room windows.
 - Two hours before sunset on the summer solstice, shadows on the west side of the dwelling at 1535 Beverly Place will increase and cover the bedroom and living room windows.
- Because the impacts to neighboring properties will occur on limited areas, and will only partially shade neighboring buildings for a limited time during the year, and only for a few hours of the day, the residential addition will not result in a significant loss of direct sunlight on abutting residences, and these shading impacts are not deemed detrimental.
- B. Air: The addition is found to be consistent with the existing development and building-to-building separation pattern – or air – in this R-1 neighborhood because the addition will be outside of all required setbacks (while maintaining the non-conforming front setback), and will not exceed height or story limits. Therefore, there will be no impacts to air.

- C. Views: BMC Chapter 23F.04 defines view corridors as a significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz, or any other significant vista that substantially enhances the value and enjoyment of real property. The topography of this neighborhood slopes generally from the east down towards the west and lots located on the north side of Beverly Place in the vicinity of the project site are situated lower in elevation than lots to the north, including the adjacent lots on Sonoma Avenue.

As documented by the story poles, the second-story addition will be within the view corridor of the properties to the north. 1708 Sonoma Avenue currently has views of the San Francisco Bay over Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that will be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands will remain.

From 1710 Sonoma Avenue, while seated at the kitchen table, the view of San Francisco Bay will be reduced with the addition at 1533 Beverly Place. When one is seated at the kitchen table, the Bay Bridge and the San Francisco Skyline will be visible over the addition, however the Bay will not be visible. While standing at the back of the kitchen, the view of the Bay will be reduced, but the Bay, Bay Bridge, and Skyline will still be visible over the addition. More of the Bay will be visible while standing in the kitchen, than while seated in the kitchen. Views from the second floor will not be obstructed by the project.

1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that will be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge will continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms will remain.

Since the current expansive views are reduced, not eliminated, and remain largely intact, view impacts are determined to be non-detrimental.

4. Pursuant to BMC Section 23C.04.070.B, the Zoning Officer finds that:
- A. Although the addition would vertically extend a non-conforming front yard, the addition may be authorized as the existing use of the property is conforming (single-family dwelling in the R-1 Single-Family Residential District);
 - B. The existing entry steps, porch, and roof will be replaced, and will not exceed the average height limit; and
 - C. The addition will not further reduce the existing non-conforming front yard.
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STANDARD CONDITIONS

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 (BMC 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 (BMC 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 Zoning Officer.

5. Plans and Representations Become Conditions (BMC 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 (BMC 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 (BMC 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.

8. Exercise and Lapse of Permits (BMC Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

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

ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC Section 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

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

Project Liaison

_____ Name

_____ Phone #

11. Certification of Height of Tape on Story Poles. A licensed surveyor shall certify the height of the red tape currently on the story poles. Appellant (Amy Di Costanzo) to select the surveyor. A letter from the surveyor documenting the height of the tape shall be submitted with the Building Permit.
12. Certification of the Existing Top of the Roof. The elevation of the existing top of the roof shall be verified by a licensed surveyor. A letter from the surveyor documenting the existing top of the roof shall be submitted with the Building Permit. (See Condition 32 for new roof specifications.)
13. Finished Floor. The new finished floor shall be two feet lower than the existing surveyed finished floor, as measured from the front of the dwelling and shown in the sections on sheet A3.2 of the plans received by Land Use Planning on July 1, 2019. This condition shall be noted in the Building Permit plan set.
14. Roof Features. All roof features (vents, ducts, chimneys) shall be located on the west side of the roof, except one vent for the bathroom may be located on the east side of the roof, subject to the review and approval of Building & Safety.
15. Roof Color. The color of the roof shall be a dark color, such as brown, the roof color of 1708 Sonoma Avenue. The color shall be noted on the elevations and roof plans of the Building Permit plan set.

Standard Construction-related Conditions Applicable to all Projects:

16. 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.

17. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
18. 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.
19. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
20. 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 in thickness and secured to the ground.
21. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
22. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
23. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
24. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
25. 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. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
27. 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.

- 28. 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.
- 29. 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 CEQA Guidelines Section 15064.5 (e)(1) . If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to Health and Safety Code Section 7050.5(c), 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.
- 30. 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.

Prior to Issuance of Occupancy Permit or Final Inspection:

31. Elevation of the Finished Floor. The elevation of the new finished floor shall be verified by a licensed surveyor after framing is complete and before final inspection. A letter from the surveyor documenting the finished floor elevation shall be provided to Land Use staff before final inspection.
32. Maximum Height of the Top of the Roof. The top of the roof for the addition shall be no higher than 4 feet above the existing roof, as shown in the Existing Section on sheet A3.2, of the plans received by Land Use Planning on July 1, 2019. The elevation of the top of the new roof shall be verified by a licensed surveyor after framing is complete and before final inspection. A letter from the surveyor documenting the top of the roof elevation shall be provided to Land Use staff before final inspection.
33. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
34. All landscape, site and architectural improvements shall be completed per the attached approved drawings received July 1, 2019.

At All Times (Operation):

35. 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.
36. 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.
37. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.



Prepared by: Allison Riemer
For Steven Buckley, Zoning Officer

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

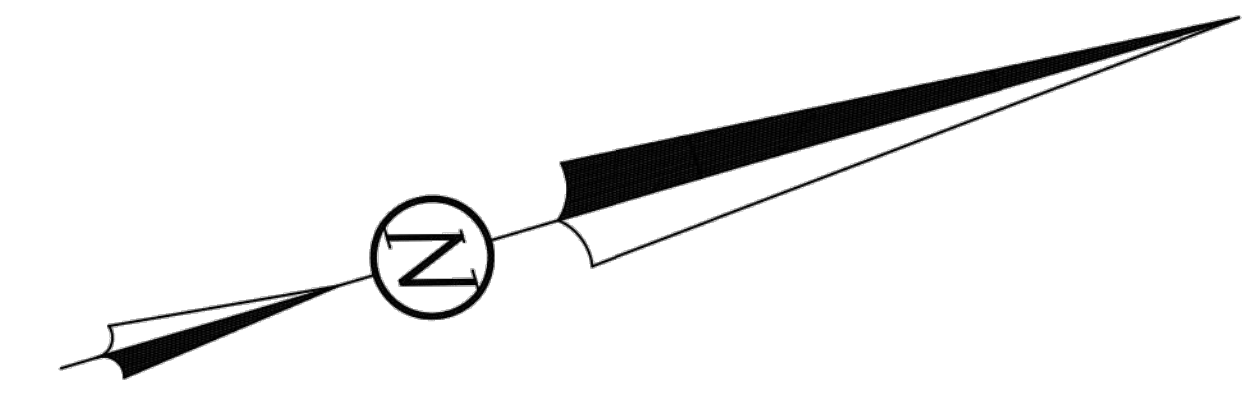
Shanna Alu

February 13, 2020

SIGNATURE

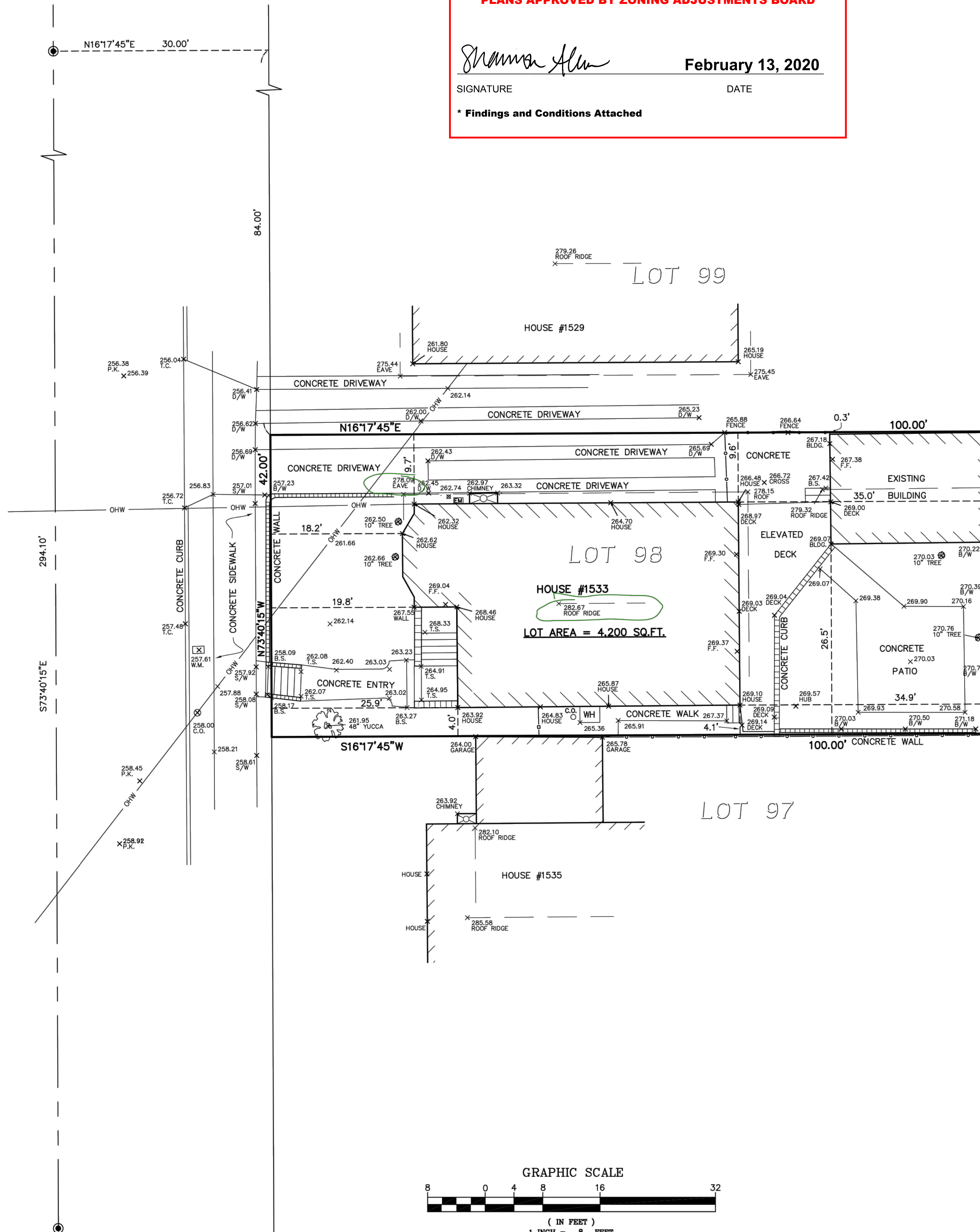
DATE

* Findings and Conditions Attached



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.

BEVERLY PLACE (60' WIDE)



LOT 11

NORTHBRAE (22 M 65)

BLOCK 16

LOT 10

LOT 9

LEGEND

- A/C ASPHALT/CONCRETE
- BLDG. BUILDING
- B.S. BASE OF STEPS
- B/W BASE OF WALL
- C.O. CLEAN OUT
- D/W DRIVEWAY
- EM ELECTRIC METER
- F.F. FINISH FLOOR
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- T.C. TOP OF CURB
- T.S. TOP OF STEPS
- WH WATER HEATER
- W.M. WATER METER
- FOUND CITY MONUMENT

HOUSE LOCATION SURVEY

LOT 98, BLOCK 30,
 RE-SUBDIVISION MAP OF PERALTA PARK (15 M 4)
 LOCATED AT 1533 BEVERLY PLACE
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
 MARCH, 2018 SCALE: 1" = 8'

MORAN ENGINEERING, INC.

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

F.B. NO. 1659 BEVERLY-TOPO.DWG JOB NO. 18-9874

GRAPHIC SCALE



(IN FEET)
1 INCH = 8 FEET

C.O

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

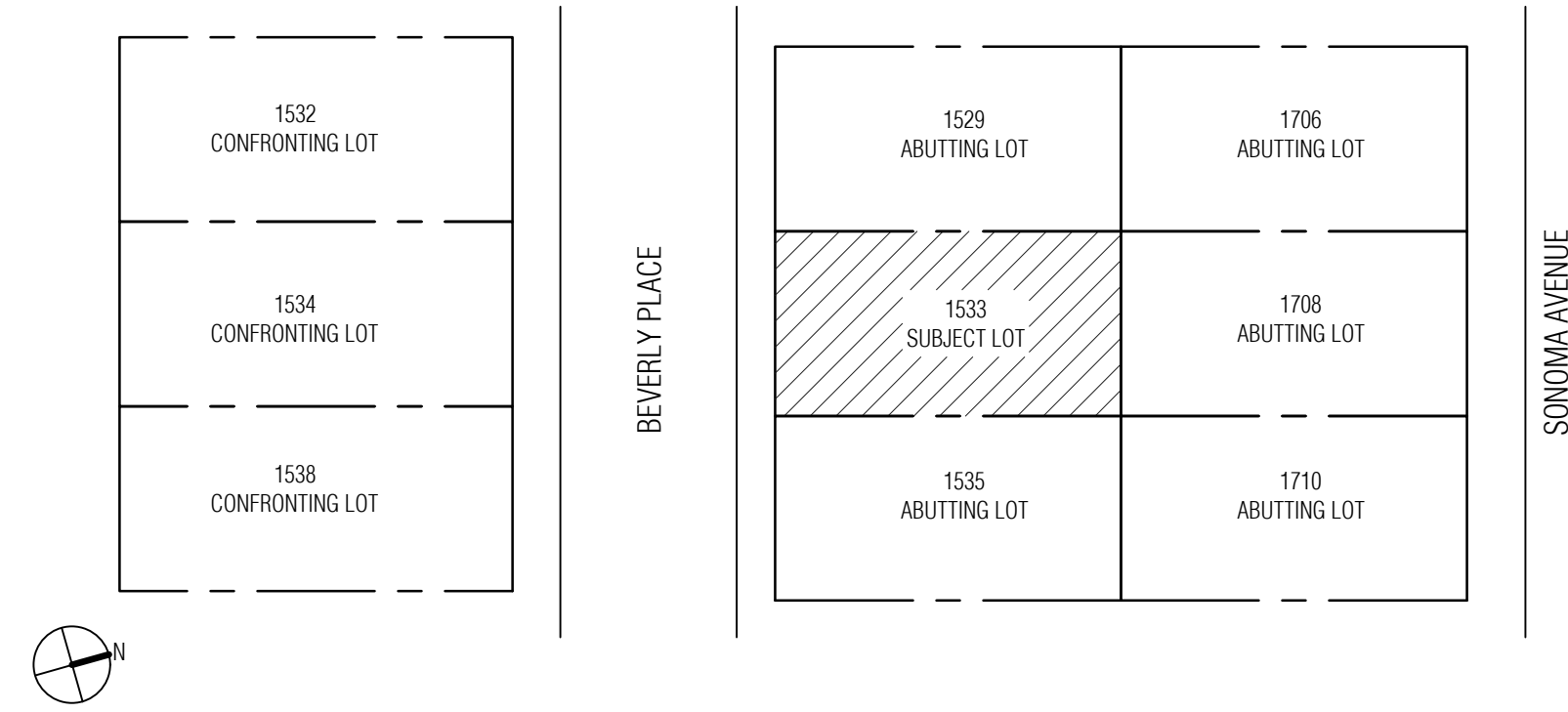
Shanna Alu

February 13, 2020

SIGNATURE

DATE

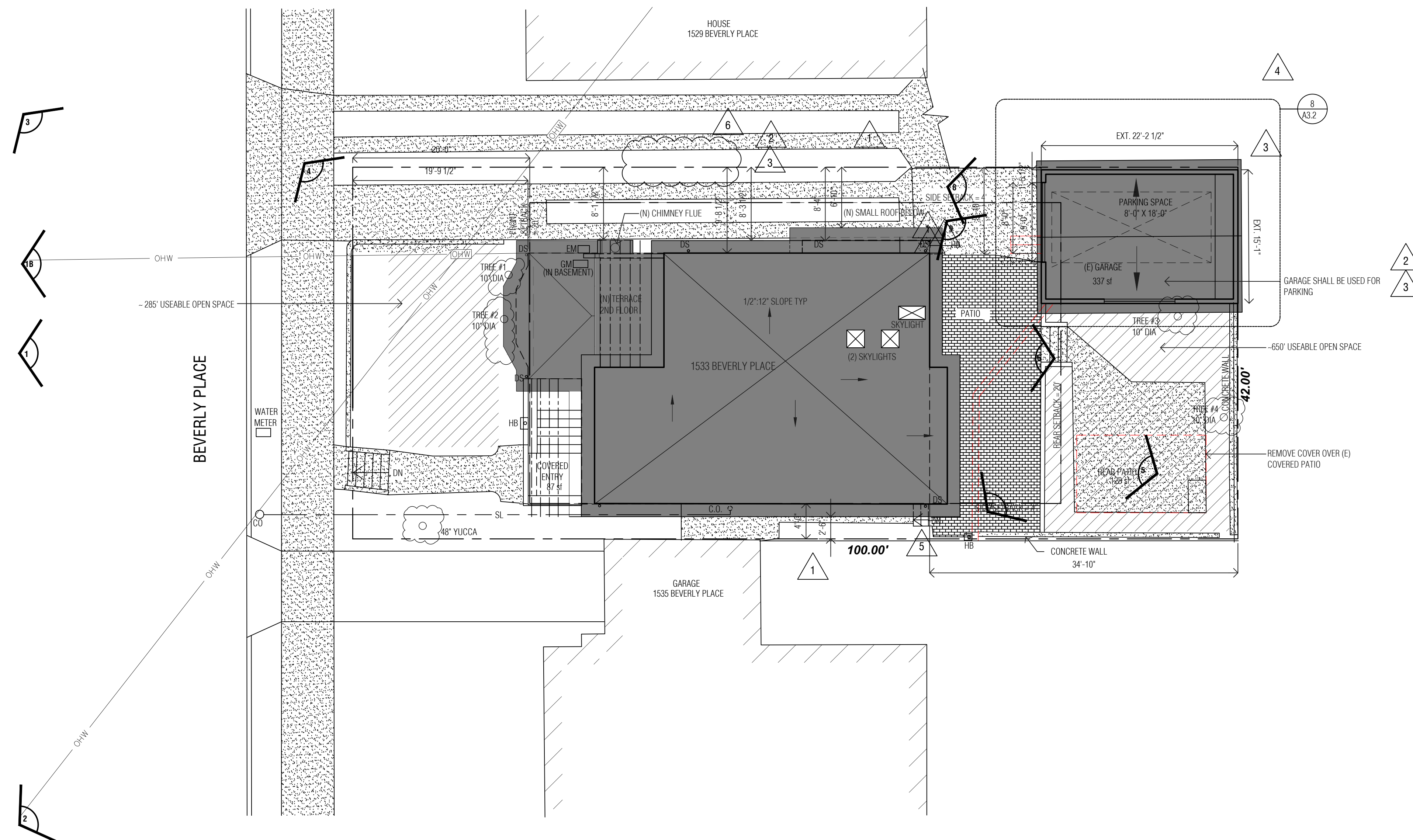
* Findings and Conditions Attached



NEIGHBORS' SIGNATURES

NAME (PRINTED)	SIGNATURE	ADDRESS	RENTER OR OWNER	HAVE NO OBJECTIONS	HAVE OBJECTIONS (BRIEFLY STATE)	HAVE NO COMMENT
		1529 BEVERLY PL.				
		1532 BEVERLY PL.				
		1534 BEVERLY PL.				
		1535 BEVERLY PL.				
		1538 BEVERLY PL.				
		1708 SONOMA AVE.				
		1706 SONOMA AVE.				
		1710 SONOMA AVE.				

SEE SCANNED SHT SHOWING NEIGHBOR SIGNATURES INCLUDED W/ ELECTRONIC SUBMISSION DOCUMENTS (" 5_A1_Neighbor Signatures_Site Plan and Log")



LEGEND	
[Pattern]	PAVING
[Pattern]	WOOD DECKING
[Pattern]	USABLE OPEN SPACE
[Symbol]	HOSE BIB
[Symbol]	DOWNSPOUT TYP
[Symbol]	ELECTRICAL METER
[Symbol]	GAS METER
[Symbol]	CLEAN OUT
[Symbol]	WATER HEATER
[Symbol]	OVERHEAD WIRES
[Symbol]	SEWER LATERAL

LOT COVERAGE CALCULATIONS:		
	EXISTING	PROPOSED
LOT SIZE:	4200 SF	4200 SF
45% OF LOT (1):	1890 SF	N/A
40% OF LOT (2):	N/A	1680 SF
MAIN HOUSE	1208 SF	1233 SF
GARAGE	337 SF	337 SF
COVERED ENTRY	84 SF	87 SF
REAR PATIO	128 SF	0 SF
TOTAL:	1757 SF	1657 SF
PERCENTAGE:	41.83%	39.45%

1 PROPOSED SITE PLAN

architect

contact STACY EISENMANN
 address 1331 7th Street Suite G
 Berkeley CA 94710
 phone 510 558 8442
 email stacy@eisenmannarchitecture.com

stamp

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project

SMALLWOOD - GARCIA

contacts JOHN AND BRYN SMALLWOOD-GARCIA
 address 1533 BEVERLY PLACE
 BERKELEY CA 94706
 phone 510.847.5414
 203.546.8307
 email smallwood_garcia@hotmail.com
 bryn@ucsb.org

ISSUE

PLANNING	07.03.18
1 PLANNING REV 1	09.20.18
2 PLANNING REV 2	10.03.18
3 PLANNING REV 3	11.12.18
4 PLANNING REV 4	12.12.18
5 DESIGN REVISION 1	22.05.19
6 DESIGN REVISION 2	06.27.19

job number 385
 drawn by MAM

scale

1/8" = 1'-0"

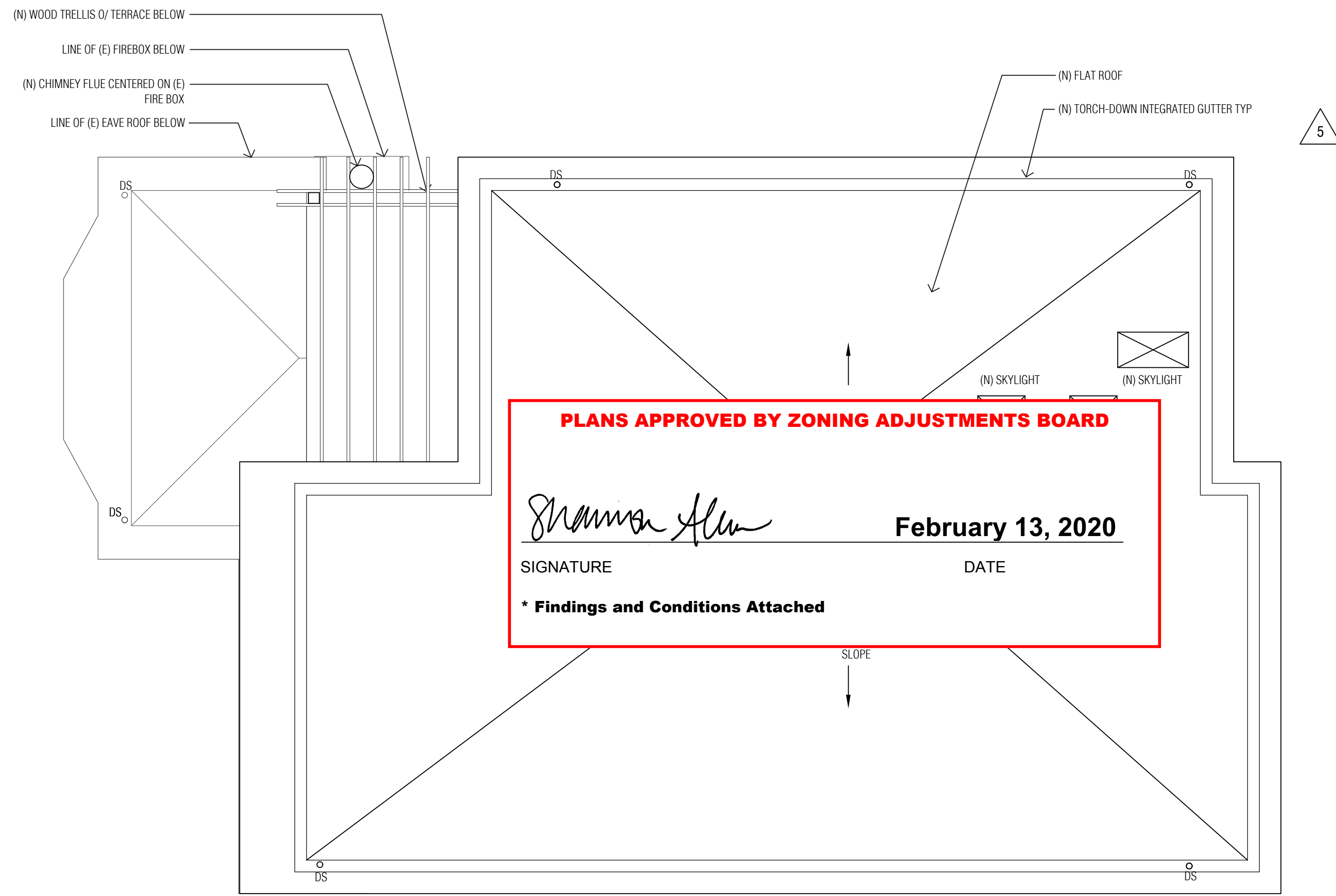
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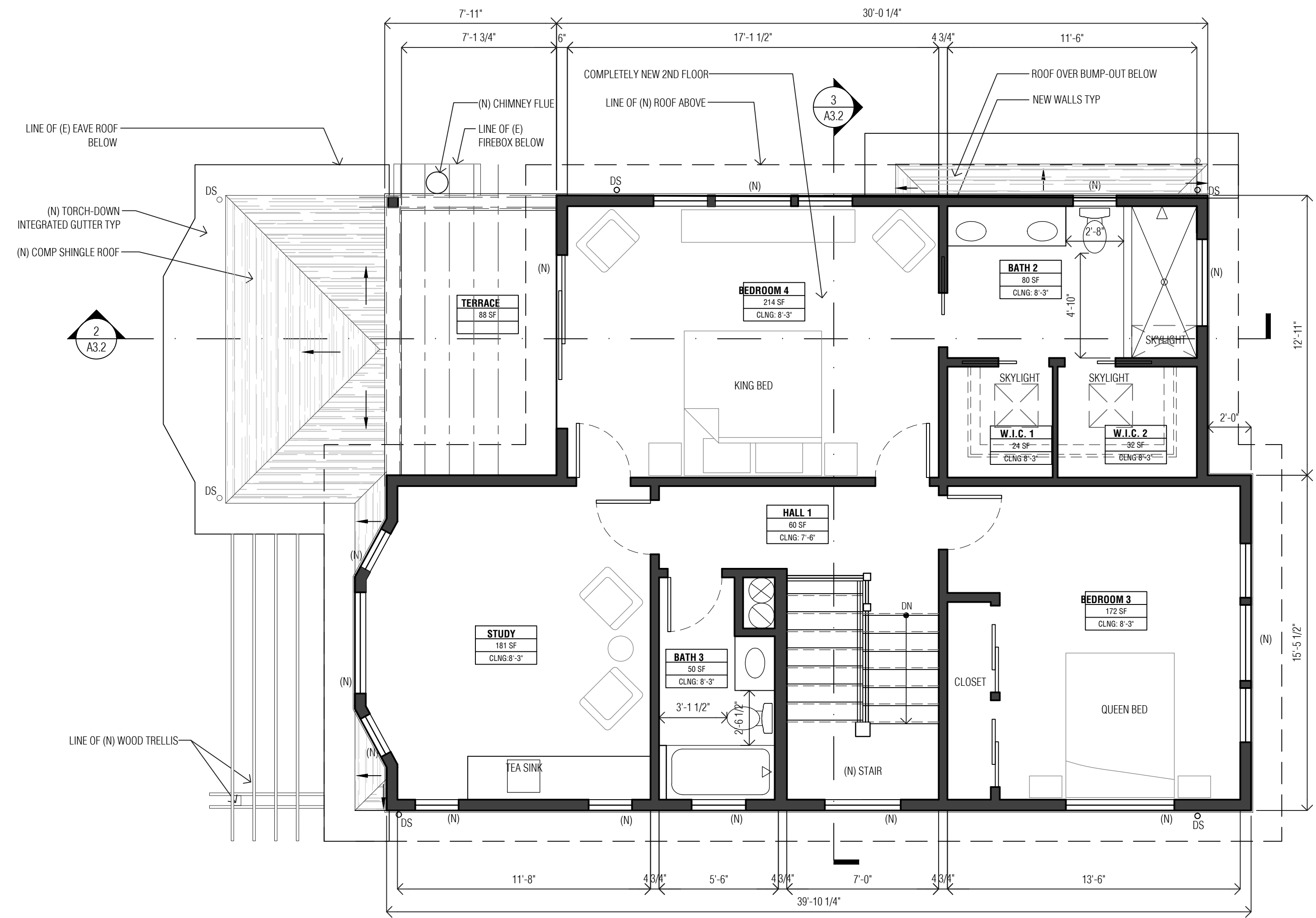
title sheet number

SITE PLAN

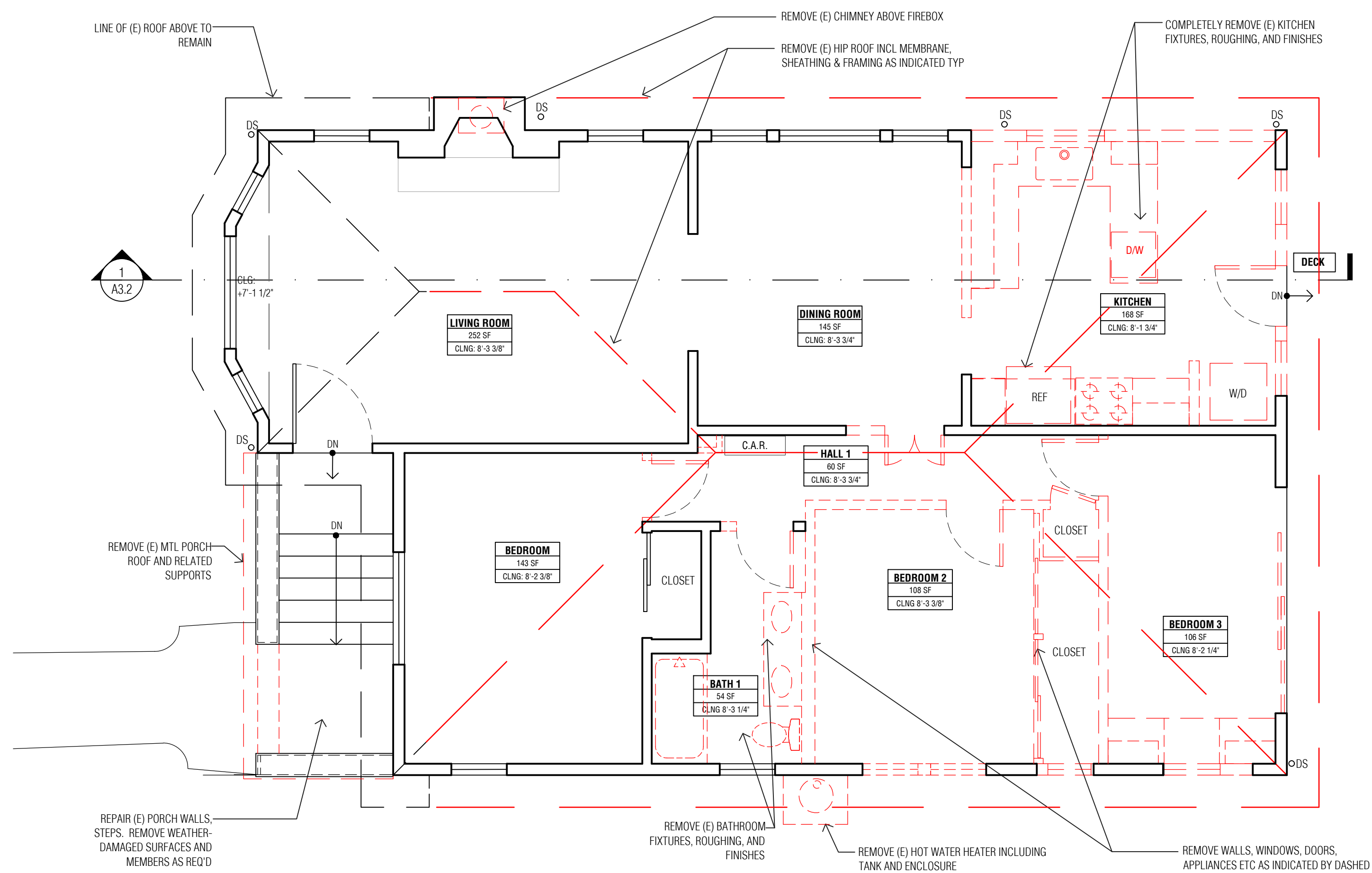
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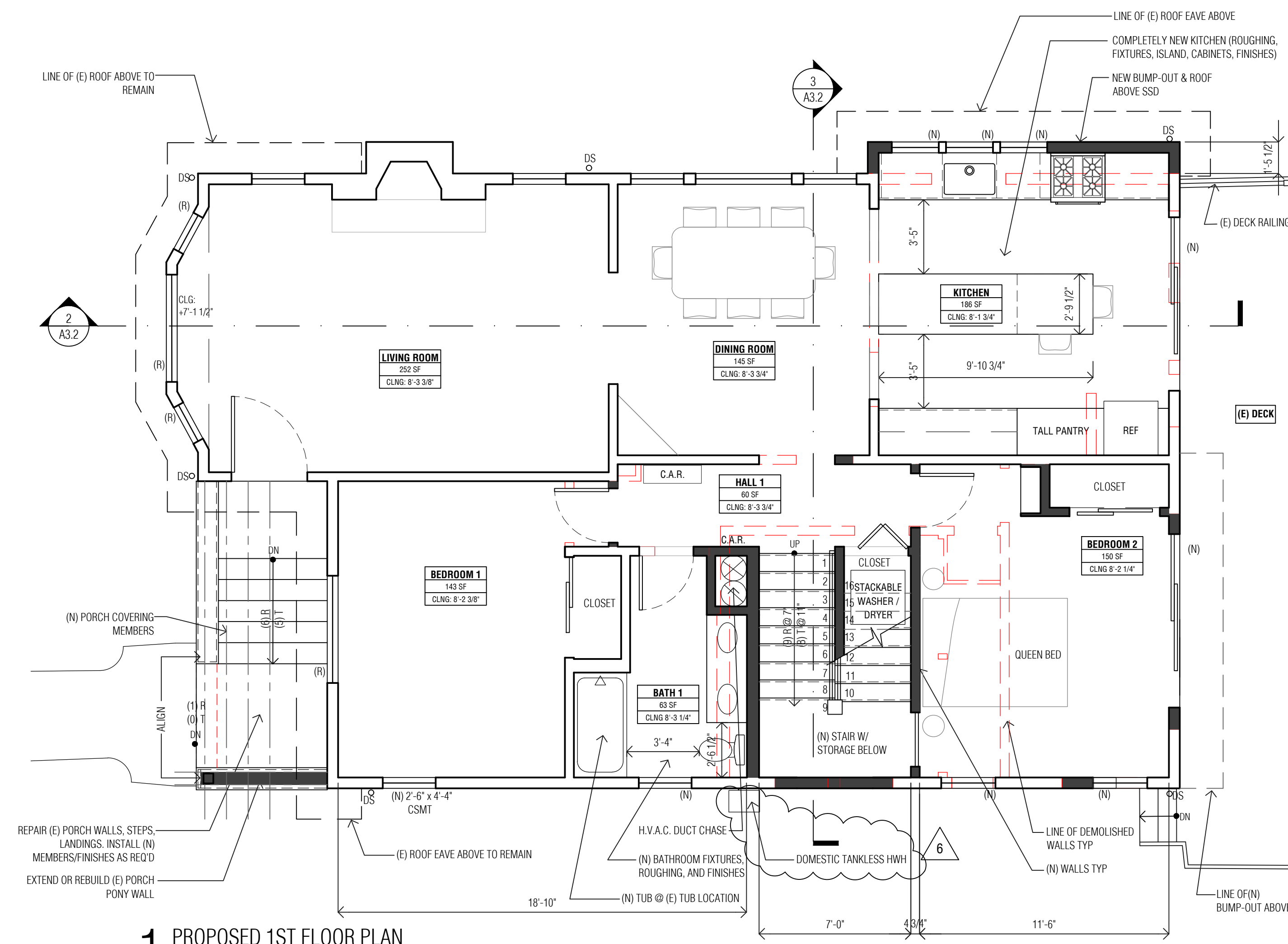
4 PROPOSED ROOF PLAN



3 PROPOSED 2ND FLOOR PLAN



2 EXISTING 1ST FLOOR DEMOLITION PLAN



1 PROPOSED 1ST FLOOR PLAN

architect

contact STACY EISENMANN
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job number 385

drawn by MAM

scale 1/4" = 1'-0"

date 12.12.18

title sheet number

FLOOR PLANS

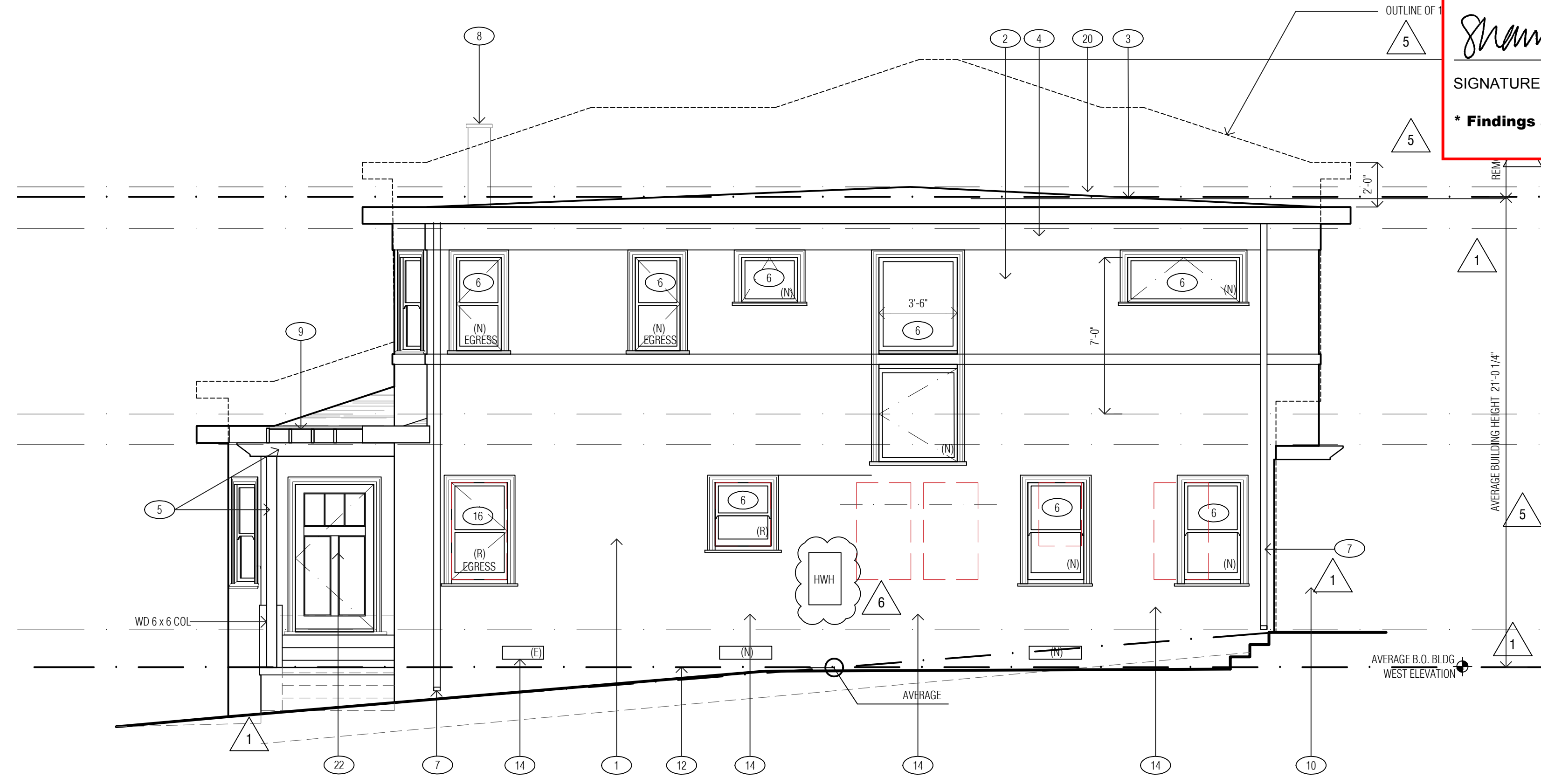
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PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

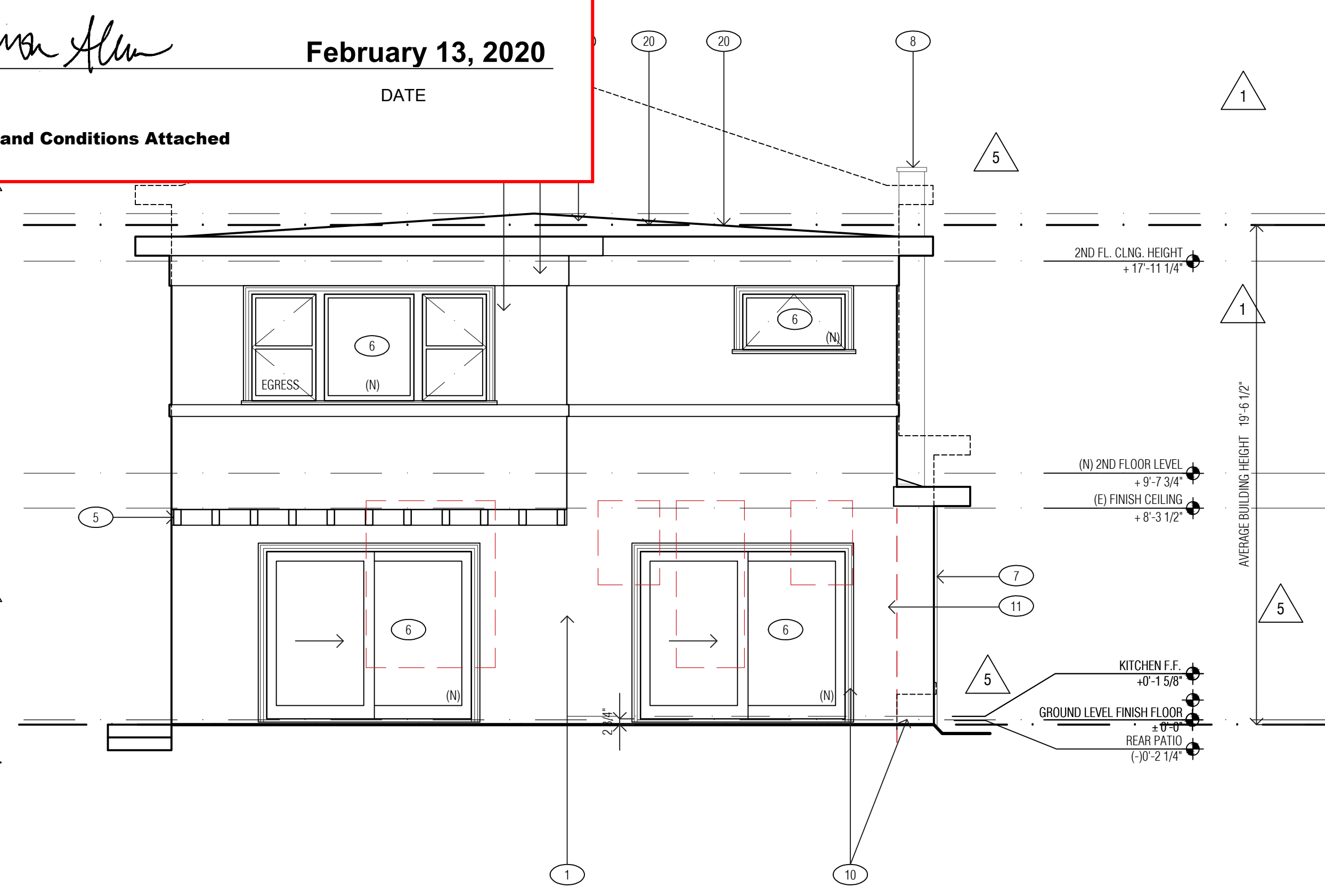
Shanna Alu **February 13, 2020**

SIGNATURE DATE

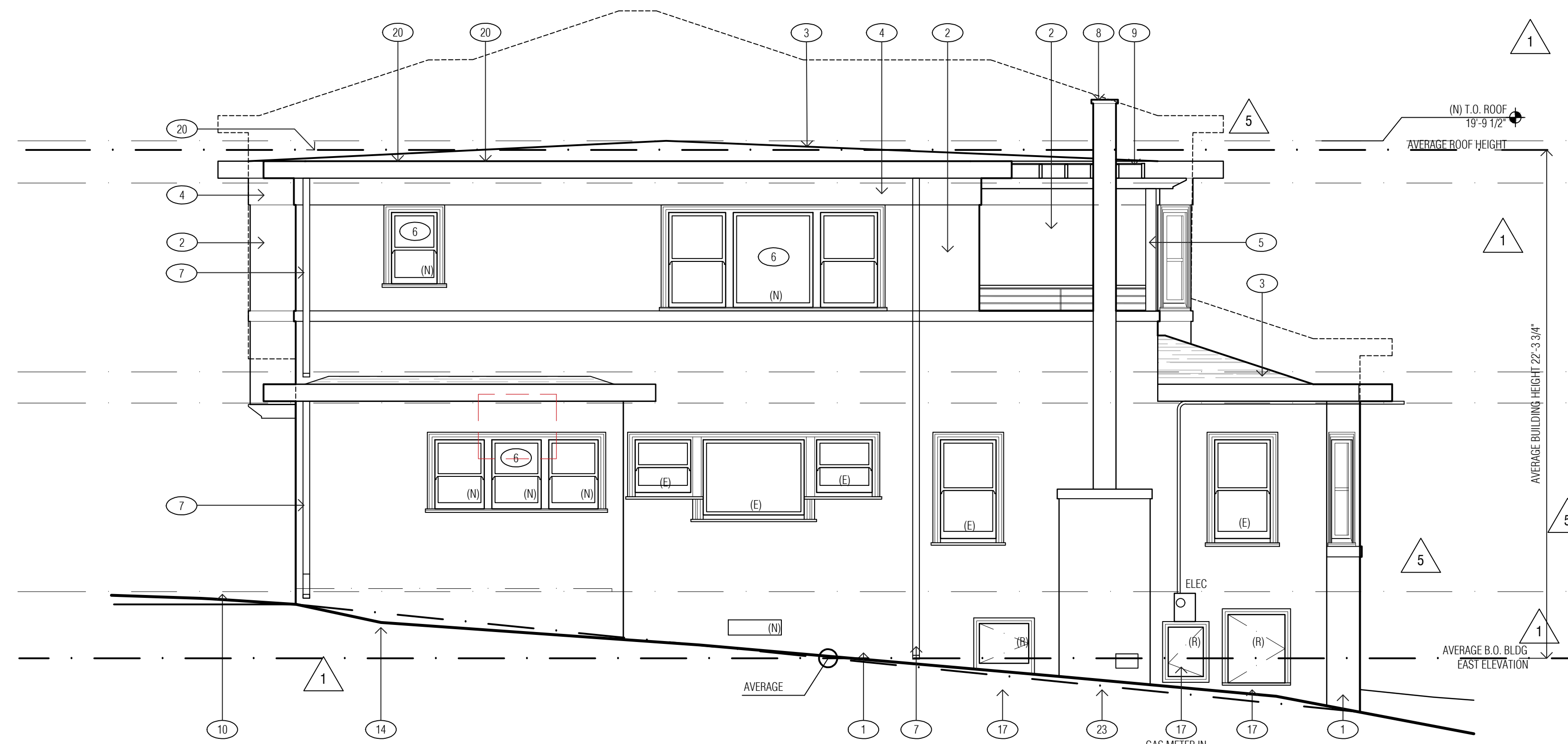
* Findings and Conditions Attached



4 PROPOSED EAST ELEVATION



3 PROPOSED NORTH ELEVATION



2 PROPOSED WEST ELEVATION



1 PROPOSED SOUTH ELEVATION

KEY NOTES	
1 (E) STUCCO / PATCH / (N) PAINT	7 (N) ALUMINUM DOWNSPOUTS / PAINTED
2 (N) STUCCO - 3 COAT SYSTEM / PRIMED & (2) COATS OF ELASTOMERIC PAINT / COLOR TBD.	8 (N) METAL CHIMNEY FLUE / PAINTED
3 LOW SLOPE ROOF (2" PER FOOT) WITH CONTINUOUS MEMBRANE ROOFING MATERIAL	9 TRANSLUCENT POLYCARBONATE SHEET MAT'L OVER WD TRELLIS MIN SLOPE 1/4" PER FT
4 EXTERIOR GRADE WOOD / PRIMED & (2) COATS OF PAINT	10 (E) DECK
5 RED CEDAR / (2) COATS OF WATER BASED EXTERIOR SEALANT & CLEAR COAT	11 (E) WOOD RAILING
6 WOOD/CLAD WINDOW OR SLIDING DOOR	12 CONCRETE FOUNDATION
	13 METAL RAILING W/ WOOD CAP
	14 VENT
	15 WOOD WINDOW
	16 WOOD / CLAD WINDOW (IN PLACE)
	17 CRAWL SPACE ACCESS
	18 WOOD 6 x 6 COLUMN
	19 REPAIR/REPLACE (E) PORCH WALLS, STEPS, LANDINGS
	20 SKYLIGHT
	21 SOLAR TUBE
	22 (N) WD ENTRY DOOR
	23 (E) FIREBOX

architect

contact **STACY EISENMANN**
 address 1331 7th Street Suite G
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job number drawn by

385 MAM

scale

1/4" = 1'-0"

date

12.12.18

title sheet number

NEW ELEVATIONS

A3.1

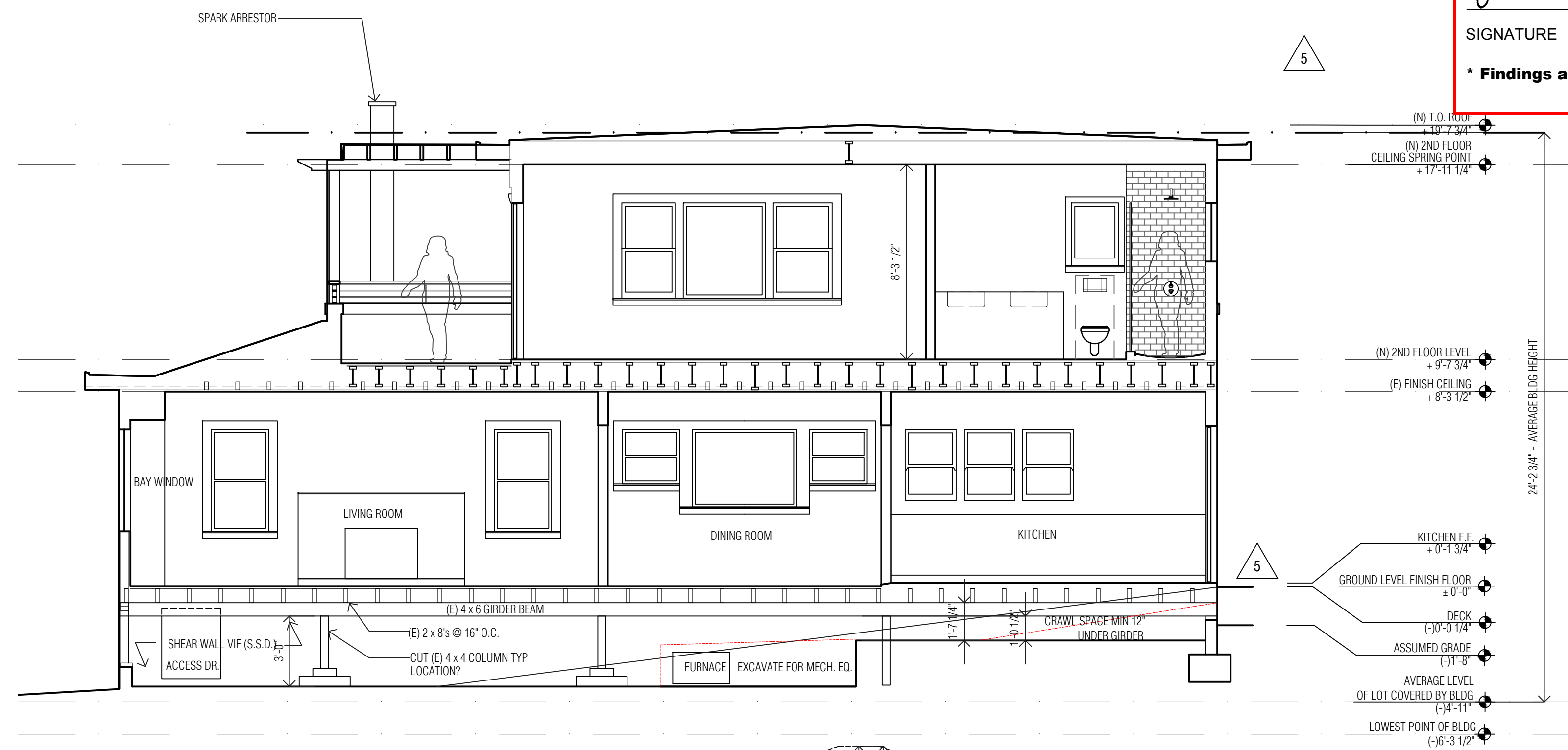
Shanna Alva

February 13, 2020

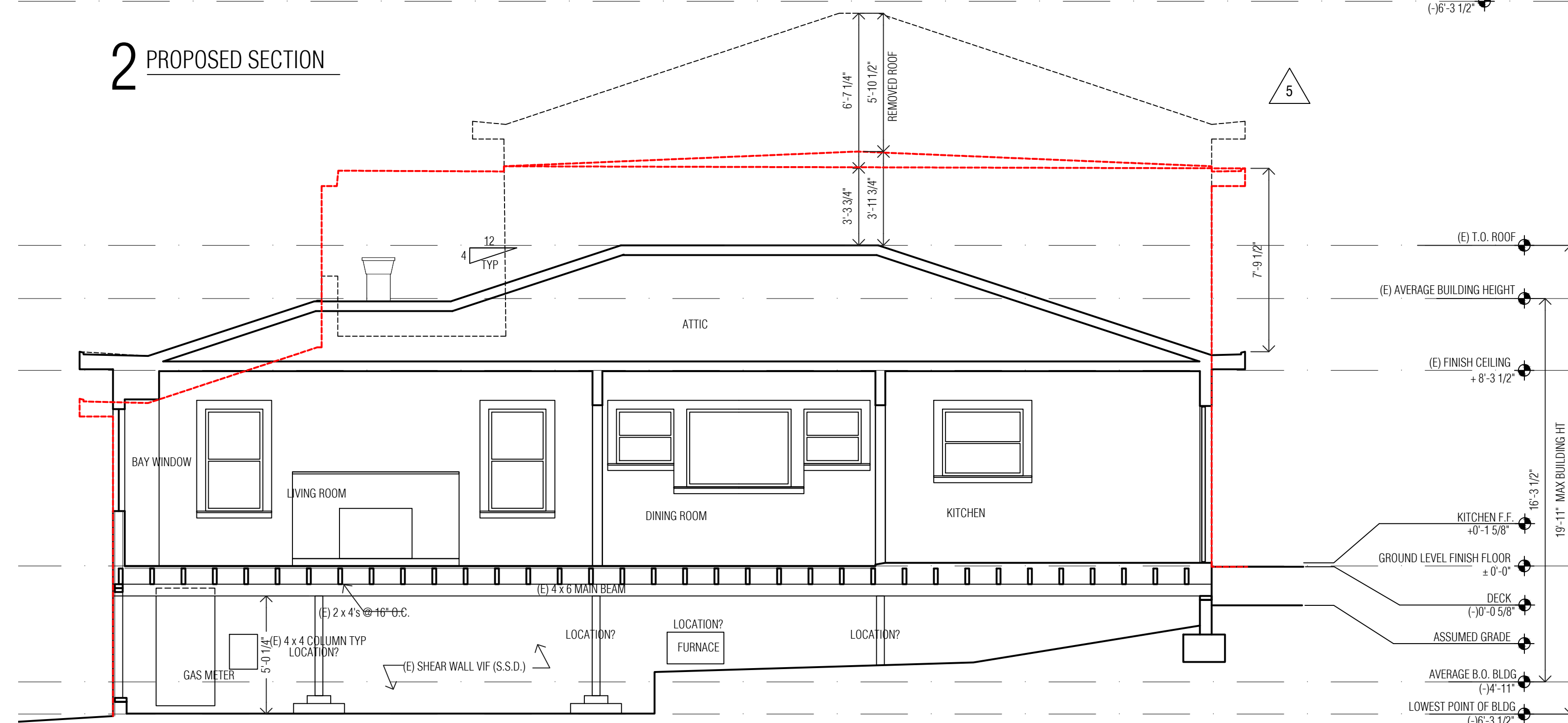
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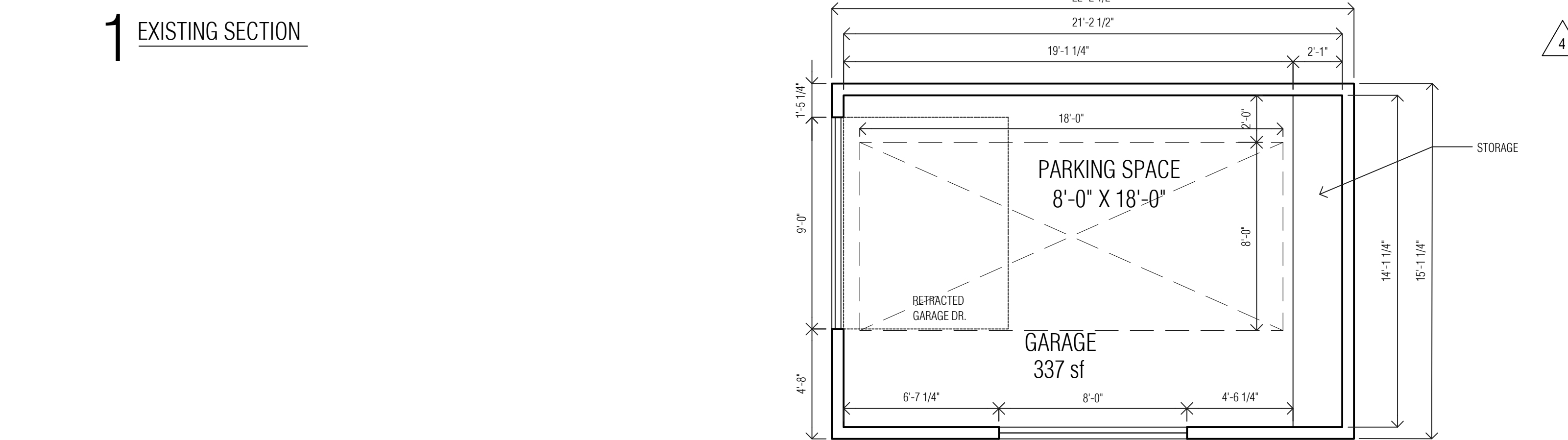
* Findings and Conditions Attached



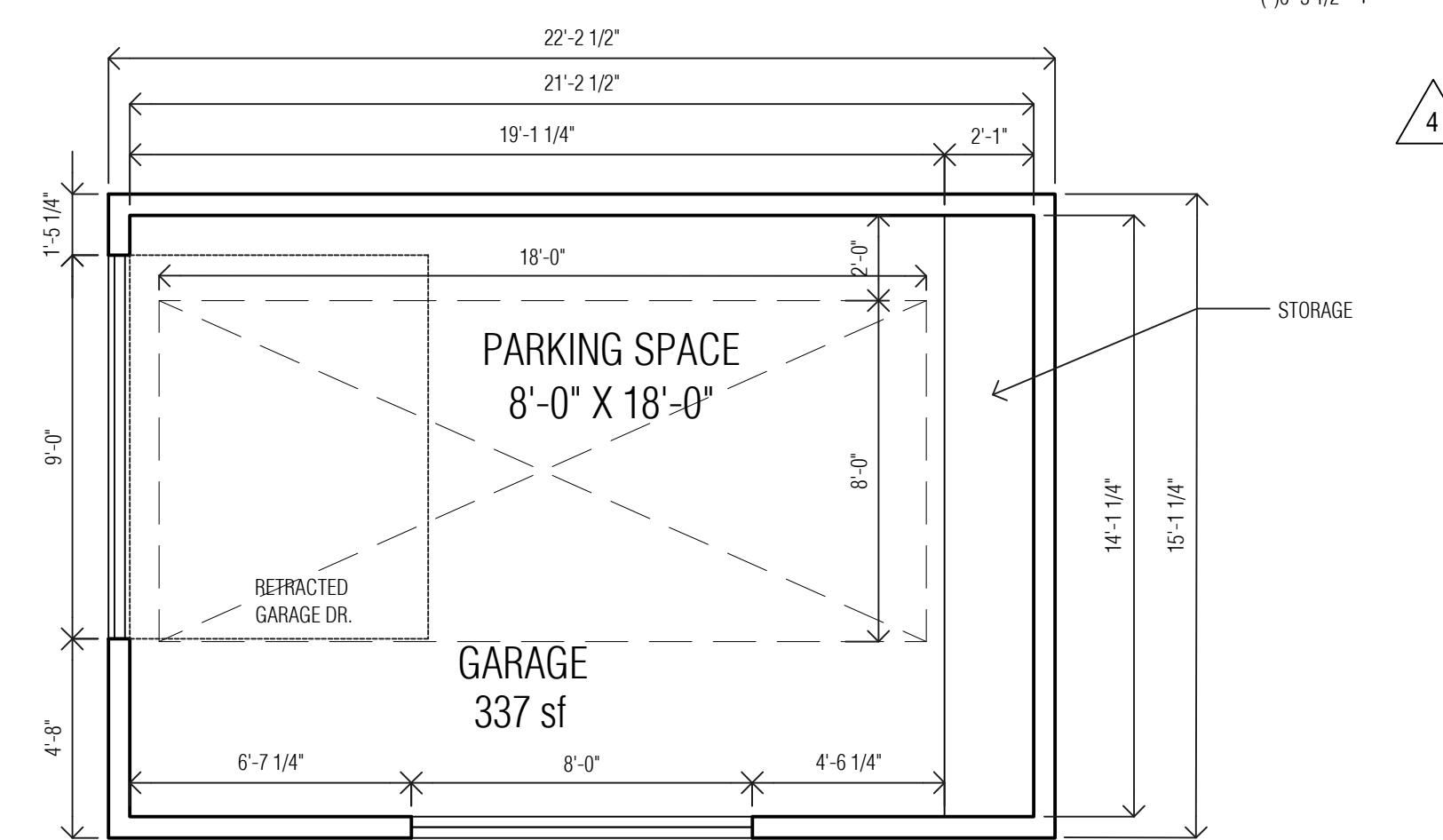
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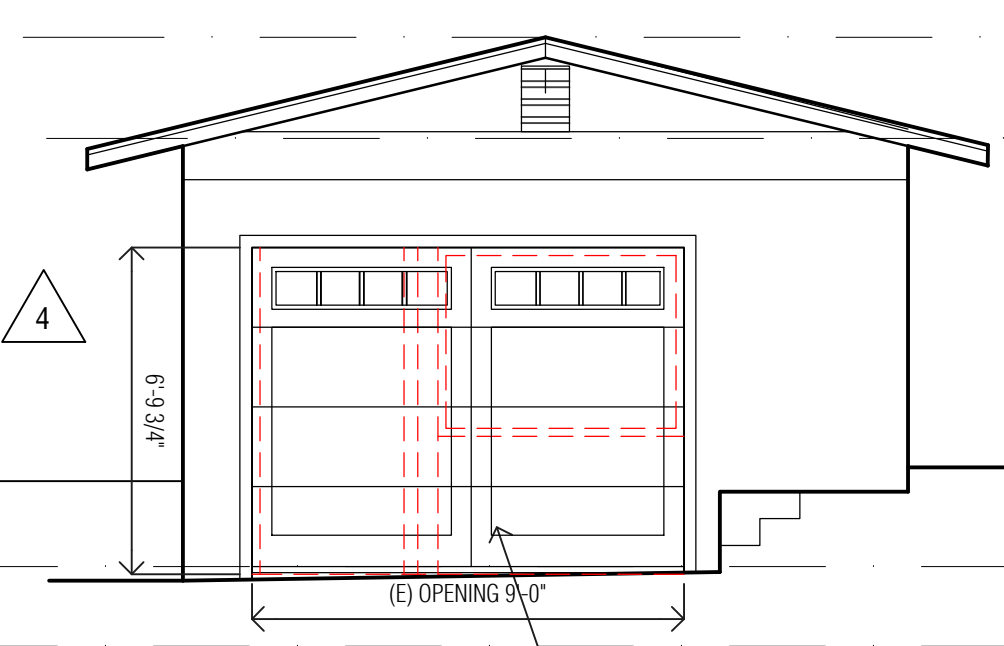
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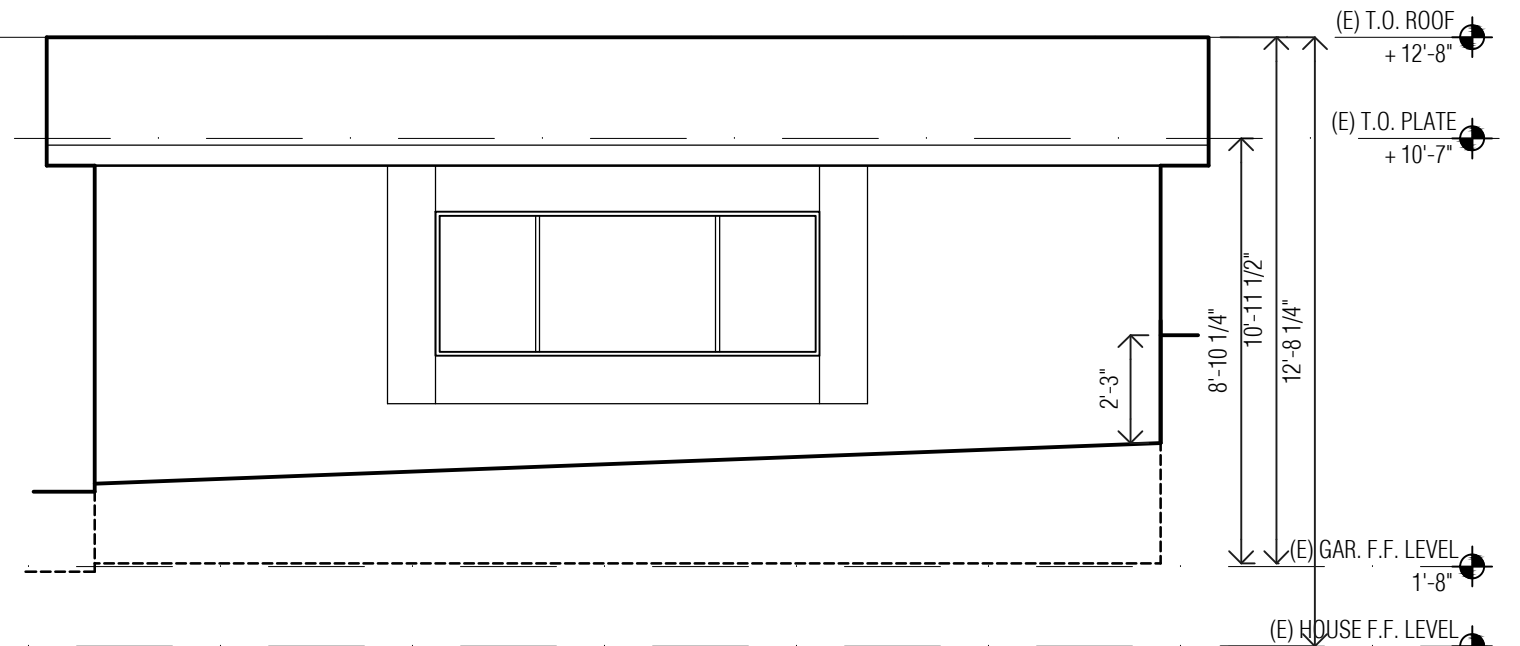
1 EXISTING SECTION



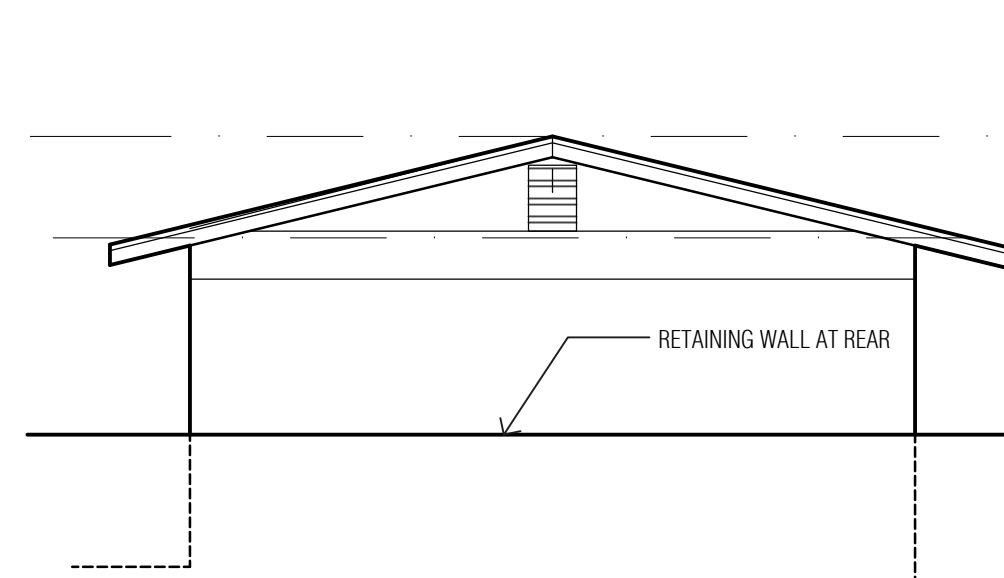
8 GARAGE PLAN



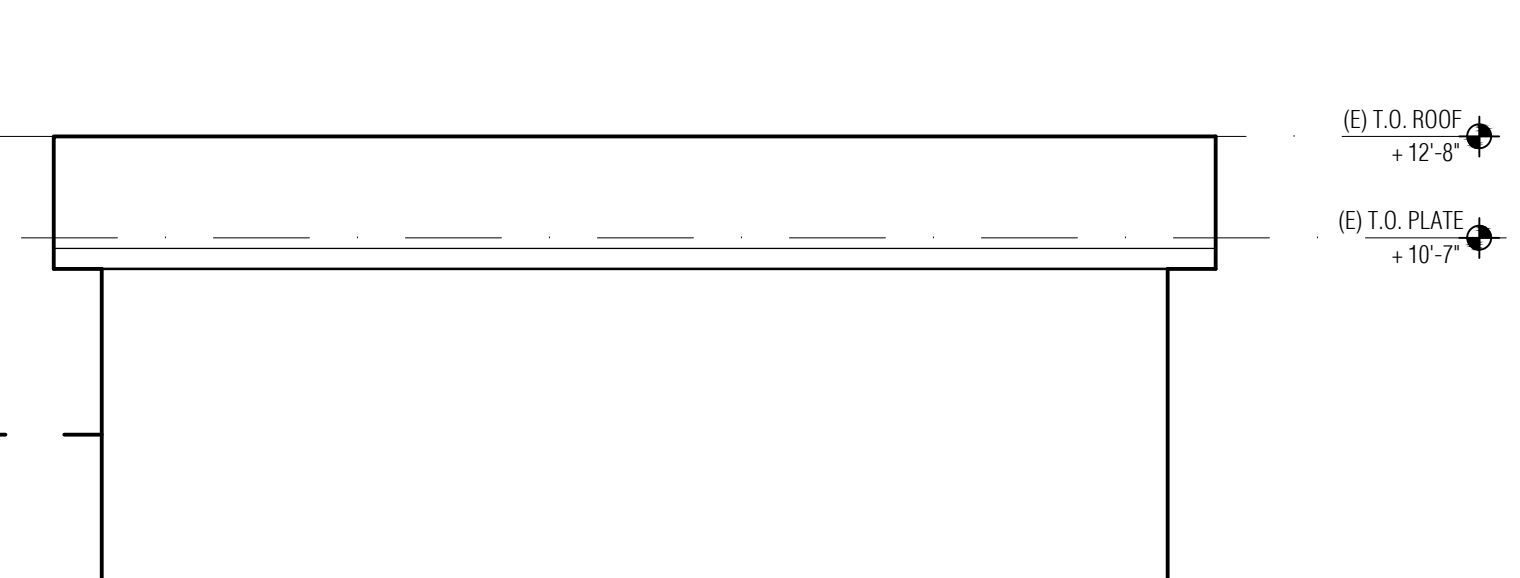
4 GARAGE EL- SOUTH



5 GARAGE EL- EAST



6 GARAGE EL- NORTH



7 GARAGE EL- WEST

architect

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 address 1331 7th Street Suite G
 Berkeley CA 94710
 phone 510 558 8442
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 stamp

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job number drawn by

385 MAM

scale

1/4" = 1'-0"

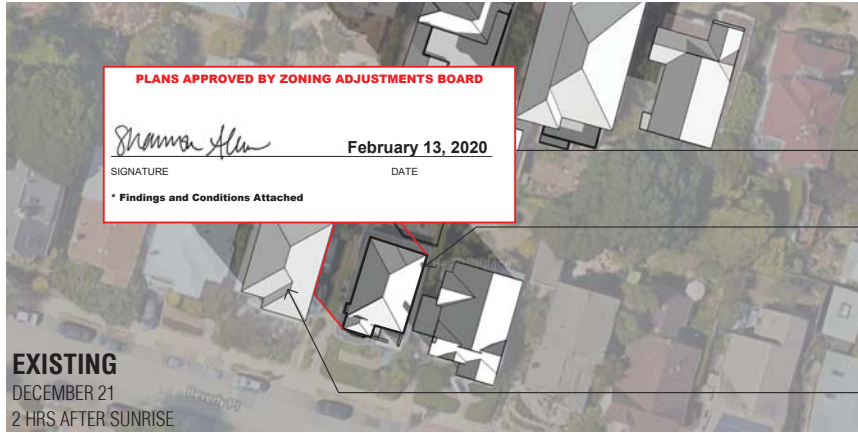
date

12.12.18

title sheet number

SECTIONS

A3.2



PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Shanna Hill **February 13, 2020**
 SIGNATURE DATE

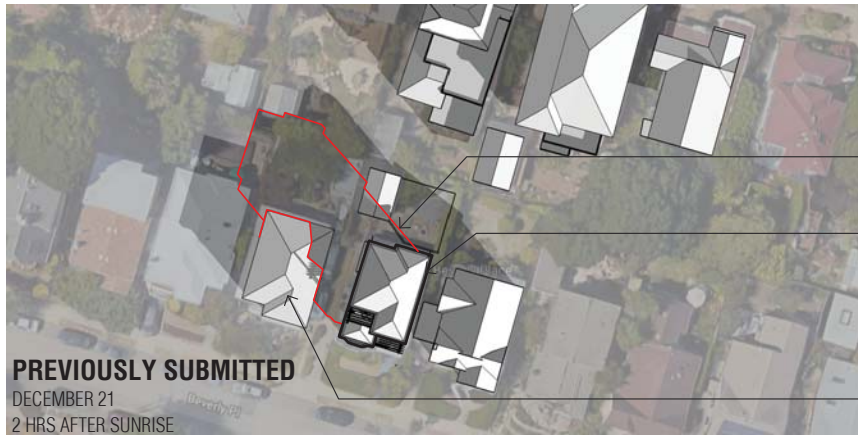
* Findings and Conditions Attached

EXISTING
 DECEMBER 21
 2 HRS AFTER SUNRISE

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE
 1533 BEVERLY PLACE

AFFECTED PROPERTY
 1529 BEVERLY PLACE



PREVIOUSLY SUBMITTED
 DECEMBER 21
 2 HRS AFTER SUNRISE

PREVIOUSLY SUBMITTED DESIGN
 SHADOW OUTLINE

PREV. SUBMITTED DESIGN
 1533 BEVERLY PLACE

AFFECTED PROPERTY
 1529 BEVERLY PLACE

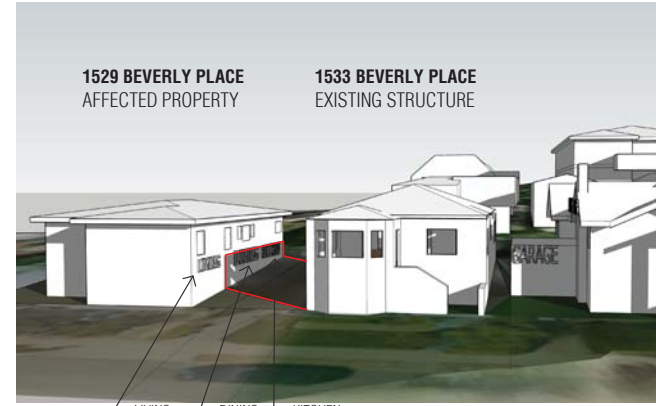


CURRENT PROPOSAL
 DECEMBER 21
 2 HRS AFTER SUNRISE

CURRENT PROPOSAL
 SHADOW OUTLINE

CURRENT PROPOSAL
 1533 BEVERLY PLACE

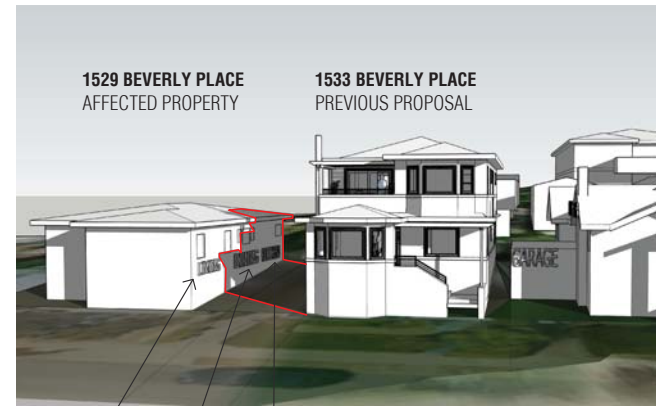
AFFECTED PROPERTY
 1529 BEVERLY PLACE



1529 BEVERLY PLACE
 AFFECTED PROPERTY

1533 BEVERLY PLACE
 EXISTING STRUCTURE

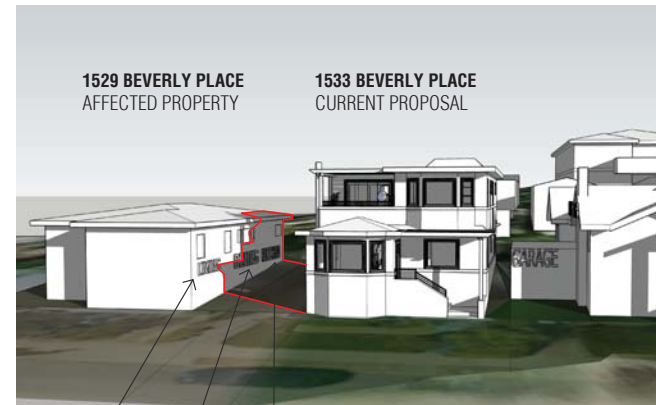
LIVING DINING KITCHEN



1529 BEVERLY PLACE
 AFFECTED PROPERTY

1533 BEVERLY PLACE
 PREVIOUS PROPOSAL

LIVING DINING KITCHEN



1529 BEVERLY PLACE
 AFFECTED PROPERTY

1533 BEVERLY PLACE
 CURRENT PROPOSAL

LIVING DINING KITCHEN

EISENMANN
 Architecture

1331 SEVENTH ST STE G
 BERKELEY CA 94710
 510 558 8442
 www.eisenmannarchitecture.com

SMALLWOOD-GARCIA
 RESIDENCE

Scale

Date
 07.24.19

Title sheet number
 DECEMBER 21
 2 HRS AFTER SUNRISE

1.0



EXISTING
DECEMBER 21
2 HRS BEFORE SUNSET

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE
1533 BEVERLY PLACE

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Shanna Allen February 13, 2020
SIGNATURE DATE
* Findings and Conditions Attached

AFFECTED PROPERTY
1535 BEVERLY PLACE



PREVIOUSLY SUBMITTED
DECEMBER 21
2 HRS BEFORE SUNSET

PREVIOUSLY SUBMITTED DESIGN
SHADOW OUTLINE

PREV. SUBMITTED DESIGN
1533 BEVERLY PLACE

AFFECTED PROPERTY
1535 BEVERLY PLACE

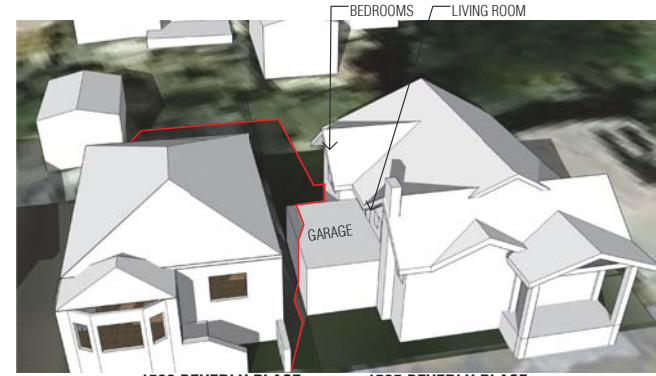


CURRENT PROPOSAL
DECEMBER 21
2 HRS BEFORE SUNSET

CURRENT PROPOSAL
SHADOW OUTLINE

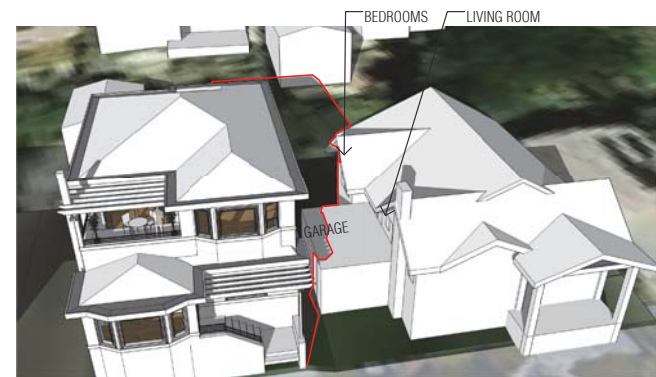
CURRENT PROPOSAL
1533 BEVERLY PLACE

AFFECTED PROPERTY
1535 BEVERLY PLACE



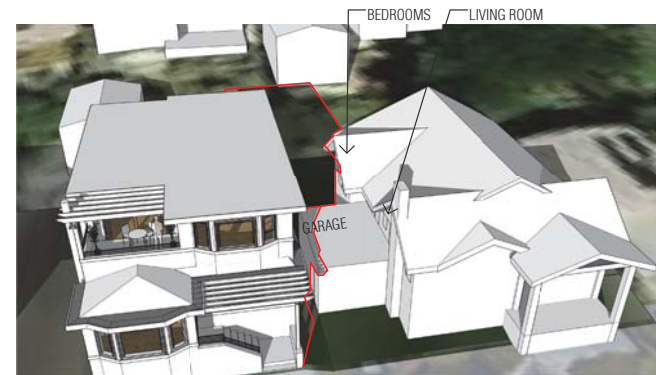
1533 BEVERLY PLACE
EXISTING STRUCTURE

1535 BEVERLY PLACE
AFFECTED PROPERTY



1533 BEVERLY PLACE
PREVIOUS PROPOSAL

1535 BEVERLY PLACE
AFFECTED PROPERTY



1533 BEVERLY PLACE
CURRENT PROPOSAL

1535 BEVERLY PLACE
AFFECTED PROPERTY



EISENMANN
Architecture

1331 SEVENTH ST STE G
BERKELEY CA 94710
510 558 8442
www.eisenmannarchitecture.com

SMALLWOOD-GARCIA
RESIDENCE

Scale

Date
07.24.19

Title sheet number

DECEMBER 21
2 HRS BEFORE SUNSET

1.1



(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE
1533 BEVERLY PLACE

AFFECTED PROPERTY
1529 BEVERLY PLACE



PREVIOUSLY SUBMITTED DESIGN
SHADOW OUTLINE

PREV. SUBMITTED DESIGN
1533 BEVERLY PLACE

AFFECTED PROPERTY
1529 BEVERLY PLACE



CURRENT PROPOSAL
SHADOW OUTLINE

CURRENT PROPOSAL
1533 BEVERLY PLACE

AFFECTED PROPERTY
1529 BEVERLY PLACE

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
Shanna Allen February 13, 2020
SIGNATURE DATE
* Findings and Conditions Attached

EISENMANN
Architecture
1331 SEVENTH ST STE G
BERKELEY CA 94710
510 558 8442
www.eisenmannarchitecture.com
SMALLWOOD-GARCIA
RESIDENCE

Scale
Date
07.24.19
Title sheet number
DECEMBER 21
NOON

DECEMBER 21 AT NOON SHADOW DOES NOT AFFECT NEIGHBORS'S HOUSE

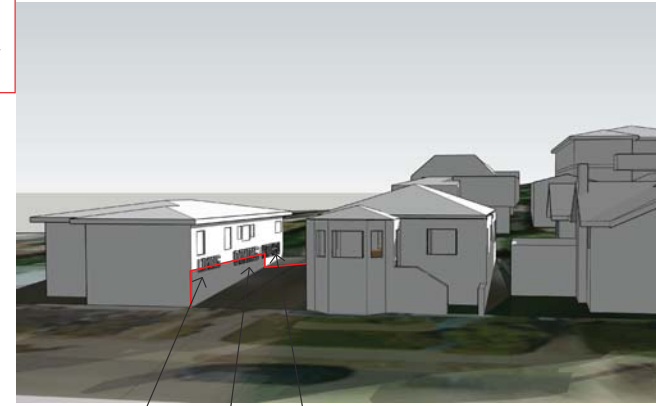
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PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
Shama Ha February 13, 2020
 SIGNATURE DATE
 * Findings and Conditions Attached

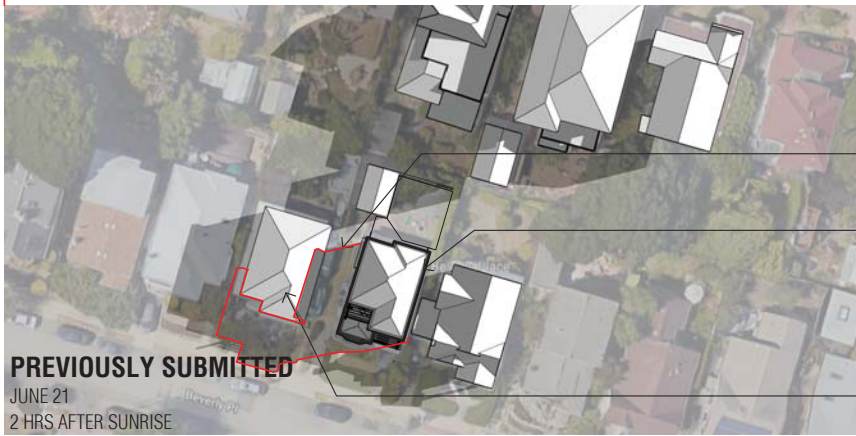


EXISTING
 JUNE 21
 2 HRS AFTER SUNRISE

- (E) STRUCTURE SHADOW OUTLINE
- (E) STRUCTURE
1533 BEVERLY PLACE
- AFFECTED PROPERTY
1529 BEVERLY PLACE

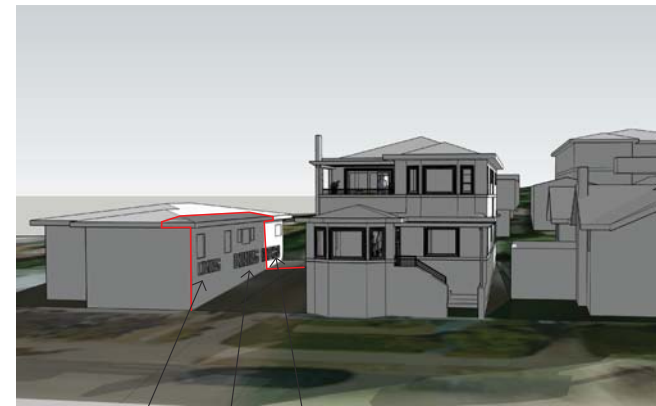


LIVING DINING KITCHEN



PREVIOUSLY SUBMITTED
 JUNE 21
 2 HRS AFTER SUNRISE

- PREVIOUSLY SUBMITTED DESIGN
SHADOW OUTLINE
- PREV. SUBMITTED DESIGN
1533 BEVERLY PLACE
- AFFECTED PROPERTY
1529 BEVERLY PLACE



LIVING DINING KITCHEN



CURRENT PROPOSAL
 JUNE 21
 2 HRS AFTER SUNRISE

- CURRENT PROPOSAL
SHADOW OUTLINE
- CURRENT PROPOSAL
1533 BEVERLY PLACE
- AFFECTED PROPERTY
1529 BEVERLY PLACE



LIVING DINING KITCHEN



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 BERKELEY CA 94710
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 www.eisenmannarchitecture.com

SMALLWOOD-GARCIA
 RESIDENCE

Scale

Date

07.24.19

Title sheet number

JUNE 21
 2 HRS AFTER SUNRISE

2.0



EXISTING
JUNE 21
2 HRS BEFORE SUNSET

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD
Sharon He February 13, 2020
 SIGNATURE DATE
 * Findings and Conditions Attached

- (E) STRUCTURE
1533 BEVERLY PLACE
- (E) STRUCTURE SHADOW OUTLINE
- AFFECTED PROPERTY
1535 BEVERLY PLACE



1533 BEVERLY PLACE
EXISTING STRUCTURE

1535 BEVERLY PLACE
AFFECTED PROPERTY



PREVIOUSLY SUBMITTED
JUNE 21
2 HRS BEFORE SUNSET

- PREV. SUBMITTED DESIGN
1533 BEVERLY PLACE
- PREVIOUSLY SUBMITTED DESIGN
SHADOW OUTLINE
- AFFECTED PROPERTY
1535 BEVERLY PLACE



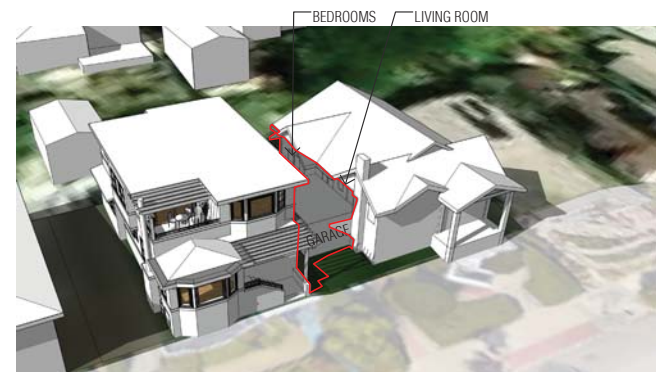
1533 BEVERLY PLACE
PREVIOUS PROPOSAL

1535 BEVERLY PLACE
AFFECTED PROPERTY



CURRENT PROPOSAL
JUNE 21
2 HRS BEFORE SUNSET

- CURRENT PROPOSAL
1533 BEVERLY PLACE
- CURRENT PROPOSAL
SHADOW OUTLINE
- AFFECTED PROPERTY
1535 BEVERLY PLACE



1533 BEVERLY PLACE
CURRENT PROPOSAL

1535 BEVERLY PLACE
AFFECTED PROPERTY

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SMALLWOOD-GARCIA
RESIDENCE

Scale

Date
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Title sheet number
JUNE 21
2 HRS BEFORE SUNSET

2.1



EXISTING
JUNE 21
NOON

(E) STRUCTURE SHADOW OUTLINE

(E) STRUCTURE
1533 BEVERLY PLACE



PREVIOUSLY SUBMITTED
JUNE 21
NOON

PREVIOUSLY SUBMITTED DESIGN
SHADOW OUTLINE

PREV. SUBMITTED DESIGN
1533 BEVERLY PLACE



CURRENT PROPOSAL
JUNE 21
NOON

CURRENT PROPOSAL
SHADOW OUTLINE

CURRENT PROPOSAL
1533 BEVERLY PLACE

PLANS APPROVED BY ZONING ADJUSTMENTS BOARD

Sharon Hsu **February 13, 2020**

SIGNATURE DATE

* Findings and Conditions Attached

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Architecture

1331 SEVENTH ST STE G
BERKELEY CA 94710
510 558 8442
www.eisenmannarchitecture.com

SMALLWOOD-GARCIA
RESIDENCE

Scale	
Date	07.24.19
Title	Sheet number
	JUNE 21 NOON

JUNE 21 AT NOON SHADOW DOES NOT AFFECT NEIGHBORS'S HOUSE

2.2

CITY OF BERKELEY
CITY CLERK DESK
ZP2018-0153
2020 MAR 11 PM 1:47

RENA RICKLES
Attorney at Law

1970 BROADWAY, SUITE 1200
OAKLAND, CA 94612
TEL: (510) 452-1600 - FAX: (510) 451-4115
EMAIL: rena@rickleslaw.com

March 11, 2020

Mayor Jesse Arreguin
Berkeley Councilmembers
2180 Milvia Street
Berkeley, CA 94704

VIA Email and Hand Delivery

Re: 1533 Beverly Place: Appeal of Zoning Adjustments Board ("ZAB") Decision
February 13, 2020: Grant Appeal¹

Dear Mayor Arreguin and Councilmembers:

On behalf of Amy Di Costanzo, 40-year resident of 1710 Sonoma Avenue who will lose her view of San Francisco Bay and all of her View Corridor from the only public room with a view in her home, I urge you to grant her appeal.

General Grounds for Appeal

- The evidence does not support the Findings;
- As such the Findings do not support the decision;
- And, acting as it did, the ZAB acted without or in excess of its jurisdiction.

Statement of Facts²

When Amy and her husband bought 1710 Sonoma in 1980, it had a lovely view from the back of the kitchen. The other public rooms, living room, formal dining room, study, have almost no natural light and no view. As their family expanded to four children, they planned a 2nd-story expansion. They circulated their proposed plans to every neighbor that could be impacted, redesigning to assure that there would be no view, light, or privacy impacts and **there were no objections**. After the AUP Decision approving the project, one neighbor opposed because of presumed shadow impacts, but a shadow study proved there were none. That neighbor agreed and withdrew their opposition 2 weeks later, (see attached letters) and the Permit was approved.

¹ This letter incorporates by reference all legal and factual arguments made on 2-11-2020 to ZAB

² Exhibits supporting each and every claim in this Appeal were presented to the ZAB, unfortunately "disinformation" was presented by Applicants' architect, and even though one ZAB member stated early on that it would be important to hear from Appellant, we were not called to respond to the "disinformation". Hard copies of the exhibits will be provided to Council prior to the Council appeal hearing.

Amy is a single mother, and to be able to remain in her home, she rents out two bedrooms, making the view from the kitchen, which also serves as the dining room and family room, all the more precious to her. Yet, even though Staff concurs that Amy will lose all view of the San Francisco Bay, and the lower portion of the San Francisco Skyline from the kitchen and adjoining deck, Staff found that loss not to be detrimental.

Amy appealed the Staff decision to ZAB on the grounds that the uncontroverted view loss as well as her view corridor loss were detrimental, and that there were reasonable design options that would restore part of that loss. Written and testimonial evidence of the feasibility of those design options were presented at the ZAB hearing.

The ZAB's Narrow Decision Which Found That Amy's Significant View Loss Was Not Detrimental Should Be Overturned.

There were significant problematic aspects of this ZAB hearing:

- Only one ZAB member visited the site, notwithstanding Amy's open invitation explaining the need physically be there to understand the impact of her view loss. The ZAB member that did come to the site voted against approval.
- One ZAB member (an alternate)'s questions were at best off point. Throughout the hearing, he asked why Amy did not offer to "buy" a view easement, then stated he was not sympathetic to her cause because "views are a luxury."
- Two (different than the one above) stated that "context" was important to their vote; unfortunately that context was erroneous, and Amy was not permitted to speak to correct that error. Both of these members stated "context" and "fairness" were material to their vote. That "Context": that back in 1993 the City allowed Amy to build her 2nd story addition even though she "very substantially impacted her neighbor's views" (and she has a "very very large house"): so to be "Fair" the City should grant the Applicants' Permit, even though Amy's views will be impacted. "My sympathy (for the Appellant) is diminished...I am ready to deny the appeal" said one ZAB member.
- The finding of non-detriment was based upon photos taken while standing: no credence was given to view loss while sitting.
- The proposed mitigation, lowering the house, was rejected on false information: Just before the final vote, two ZAB members agreed to a mitigation that would have lowered the house. But, on the false information that by so doing the house would be subject to flooding, they withdrew that mitigation.
- The Chair abstained because "I'm uncomfortable with some of the reasoning you gave, and I don't feel comfortable signing onto it."

Had the ZAB Voted on the Facts Before Them; the Outcome Would Most Likely Have Been Different.

- Amy did not seek to bar a 2nd story addition: Amy has accepted some loss to her view and offered two modest proposals, neither of which prevented a 2nd floor. One of the options would not result in the loss of any square feet but

would require lowering the house—feasible in this case because Applicant already has to break into the existing foundation and dig under the house; the other requires a notch in the 2nd story den (5th bedroom)³,leaves the master bedroom intact, and lowers the rest of the house by a lesser amount. Neither option would have any impact on Applicants' new views.

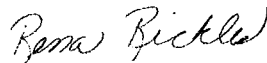
- When Amy created her 2nd story, she, contrary to the statements of the ZAB members, designed and modified it to insure there would be no view, light, air or privacy impacts on any of her neighbors.
- From a sitting position, which is the position most of us are in the majority of the time we are in our homes, the uncontroverted evidence is that of a major view loss. Instead the ZAB only considered impacts from standing and referred to sitting vs. standing as “splitting hairs”. (see attached photos)
- The asserted damage of flooding by lowering the house is simply untrue. There were two expert witnesses in the audience prepared to refute that claim which did not arise until the Public Hearing closed. They were not called up to do so.

CONCLUSION

Amy has lost her “View Corridor” (23F.04 “definitions), and significant elements (all of the San Francisco Bay; bottom part of San Francisco skyline) from the only public room with a view in her home and her deck; that is a major detriment. There are modest and feasible modifications that can mitigate at least some of her view loss while allowing the Applicant to achieve all of their stated goals. These two facts (the evidence), taken together, mandate a finding of “unreasonable detriment”. Therefore, we ask that this Council uphold this appeal to grant Amy’s modest requests.

We thank you in advance for your time and courtesy in this matter.

Very truly yours,



RENA RICKLES

Attachments: Zoning File: 1710 Sonoma 2nd Story Application
View loss; sitting vs. Standing

³ This “notch” was suggested by Applicants’ architect, while seated in Amy’s kitchen observing the view impact.

December 24, 1993

Vivian Kahn
Zoning Officer
c/o Current Planning Division
2180 Milvia Street
Berkeley CA 94704

RECEIVED

DEC 27 1993

CURRENT PLANNING

Dear Ms. Kahn,

We wish to submit for consideration our concerns regarding the application of Y.M. Chung and G. DiCostanzo for a major residential addition at 1710 Sonoma Avenue.

Concerns:

We request that the design for the new construction take into consideration minimizing the interference with light and privacy. We value both of these dearly, which were our primary attractions to the house when purchased four and a half years ago, and wish to preserve whatever we can within reason while still allowing the new construction.

We are also concerned with the potential length of time for this new construction to be completed, since much of the work will be performed by the resident. Any recommendations on how to keep the construction period to a reasonable length of time would be welcome.

Situation:

We are on the downslope and our house is effectively 3 - 4 feet lower than the site of proposed construction at 1710 Sonoma Avenue. The kids use the rooms adjacent to 1710 Sonoma Avenue during the day and the light entering those rooms will be reduced significantly by the new construction. This effective height difference also contributes to the additional losses of light and privacy stated below.

For Consideration:

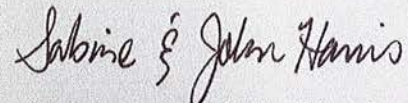
- 1) Action - Minimize the height of the new second story construction to allow maximum light into our adjacent rooms. The present proposal is for an upward extension which is 3 - 4 feet higher than necessary over most of the house, with the exception of the area above their living room which has a higher ceiling. We propose that the new construction which is not directly above their existing living room be made at a "normal" height above the first floor rather than the proposed extended height. Effect - This would require some design changes and a less uniform roofline, would effectively reduce the overall height of most of the new construction by 3 - 4 feet while still allowing the additional square footage, and would allow additional light transmission into our adjacent rooms.
- 2) Action - Not extend backwards beyond the present back kitchen wall of 1710 Sonoma Avenue to allow sunlight into our adjacent rooms and preserve some privacy in our backyard and deck areas. The present proposal is to extend the back southwest corner room of the house about 2 feet to the present kitchen wall and then an additional 3 - 4 feet beyond the kitchen wall. We propose that the new construction not extend beyond the present back kitchen wall. Effect - This

would reduce the size of the southwest room extension at 1710 Sonoma Avenue somewhat, while allowing us to maintain some of the present sunlight in our house and preserve some of the privacy, although significantly reduced, in our deck and backyard areas.

Presently our backyard and deck areas are completely private, as when we purchased the house. The second floor addition next door will compromise that completely. We realize that it would be beyond our rights to request that these be entirely preserved at the expense of neighbors. However, we feel we will end up conceding most of this privacy in the house and yard and considerable light in the house. We therefore request consideration of these concerns and perhaps some compromises in the design for this new next-door addition to reduce the effects on our residence.

We will not be available from noon on December 27 until January 2 nor from January 13 - 22. Please feel free to contact us at any other. We look forward to hearing from you.

Yours truly,



Sabine and John Harris
1708 Sonoma Avenue
Berkeley, CA 94707
phone: (510) 524-0305

cc: G. DiCostanzo

January 11th, 1994

Vivian Kahn
Zoning Officer
c/o Current Planning Division
2180 Milvia Str.
Berkeley, Ca. 94704

RECEIVED

JAN 13 1994

CURRENT PLANNING

Dear Ms. Kahn,

Joh
and

We hereby would like to withdraw from our
objections to the planned addition at
1710 Sonoma Ave, stated in a letter to you
on December 24th, 1993.

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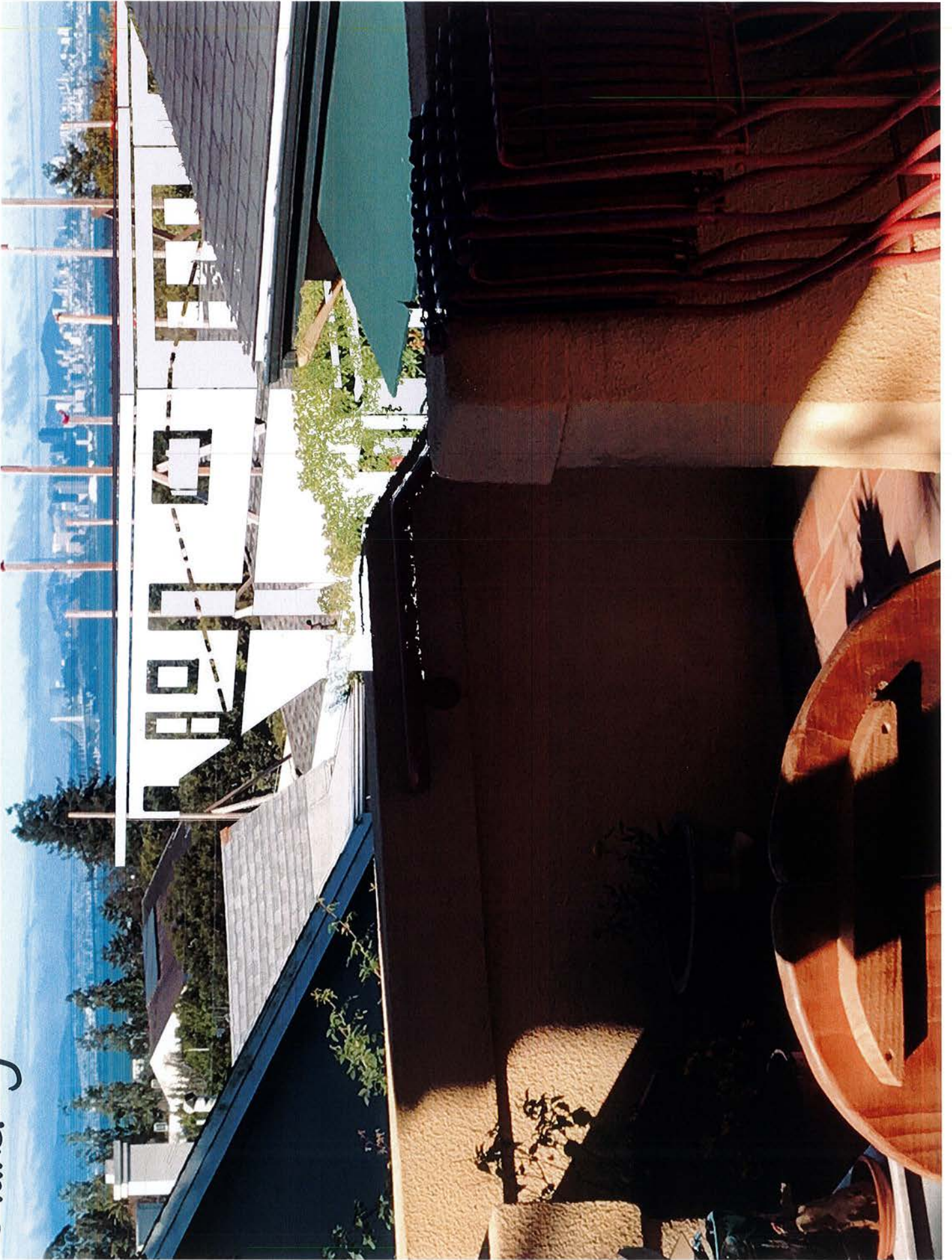
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Sincerely

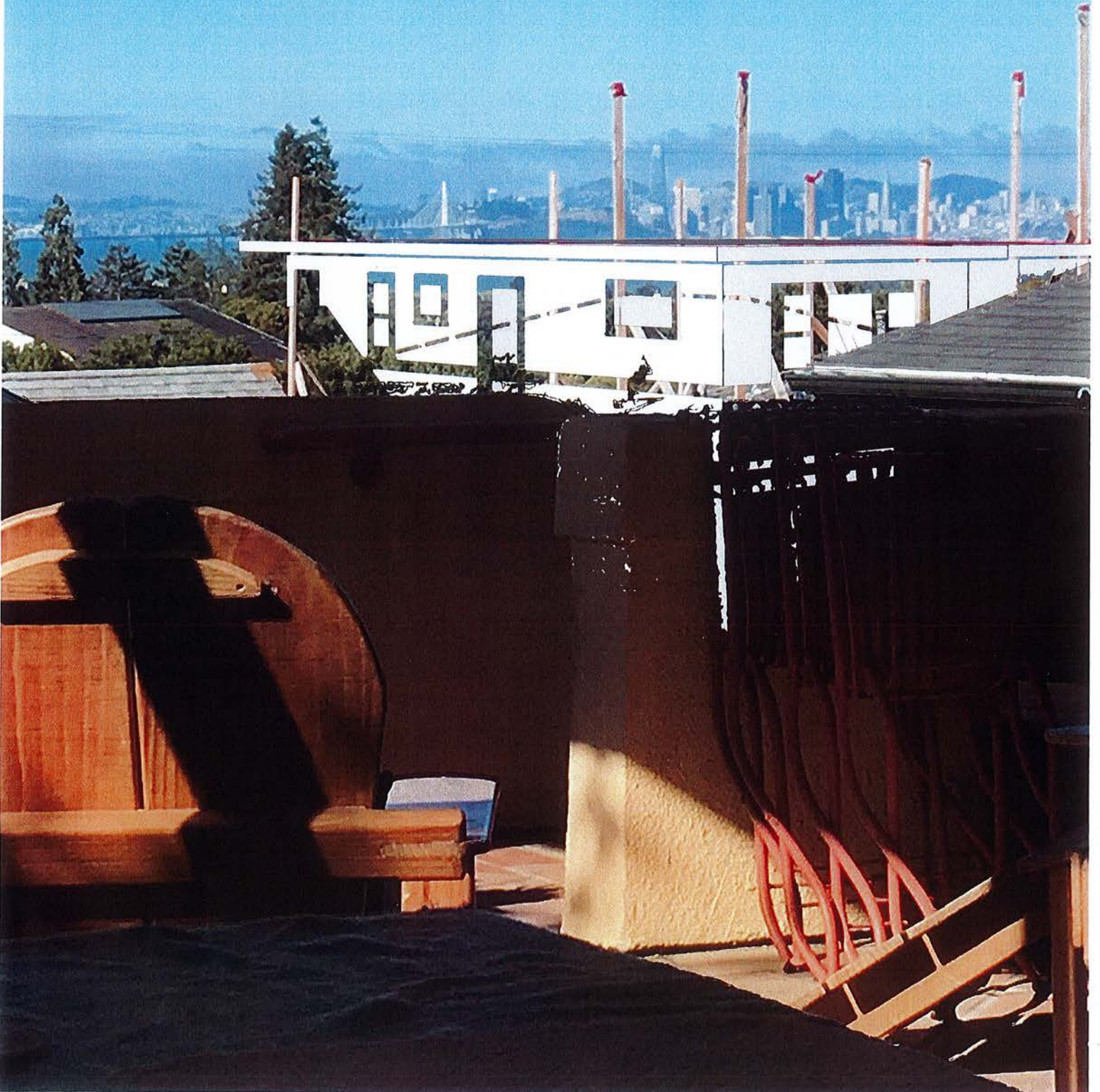
Sabine Harris
(Sabine Harris)

John W. Harris
(John W. Harris)

Standing at the back of the kitchen at dusk



Seated at the Kitchen table. Doors open to deck.





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
FEBRUARY 13, 2020

1533 Beverly Place

Appeal of the Zoning Officer's decision to approve Administrative Use Permit #ZP2018-0153 to enlarge an existing 1,212 sq. ft., 1-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.

I. Background

A. Land Use Designations:

- General Plan: LRD – Low Density Residential
- Zoning: R-1 – Single Family Residential

B. Zoning Permits Required:

- Administrative Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23D.16.070.C to construct a residential addition greater than 14 ft. in average height;
- Administrative Use Permit pursuant to BMC Section 23D.16.030 to construct a major (more than 600 sq. ft.) residential addition;
- Administrative Use Permit pursuant to BMC Section 23D.16.050.A to add a fifth bedroom to a parcel; and
- Administrative Use Permit pursuant to BMC Section 23C.04.070.B for an addition which vertically extends the non-conforming front yard.

C. CEQA Determination: Categorically exempt pursuant to Sections 15301 and 15303 ("Existing Facilities" and "New Construction or Conversion of Small Structures").

D. Parties Involved:

- Applicant Stacy Eisenmann, Eisenmann Architecture, 1331 Seventh Street, Suite G, Berkeley
- Appellants Amy Di Costanzo, 1710 Sonoma Avenue, Berkeley; and Hank Roberts and Robin Ramsey, 1529 Beverly Place, Berkeley.

Figure 1: Vicinity Map



Figure 2: Proposed Site Plan

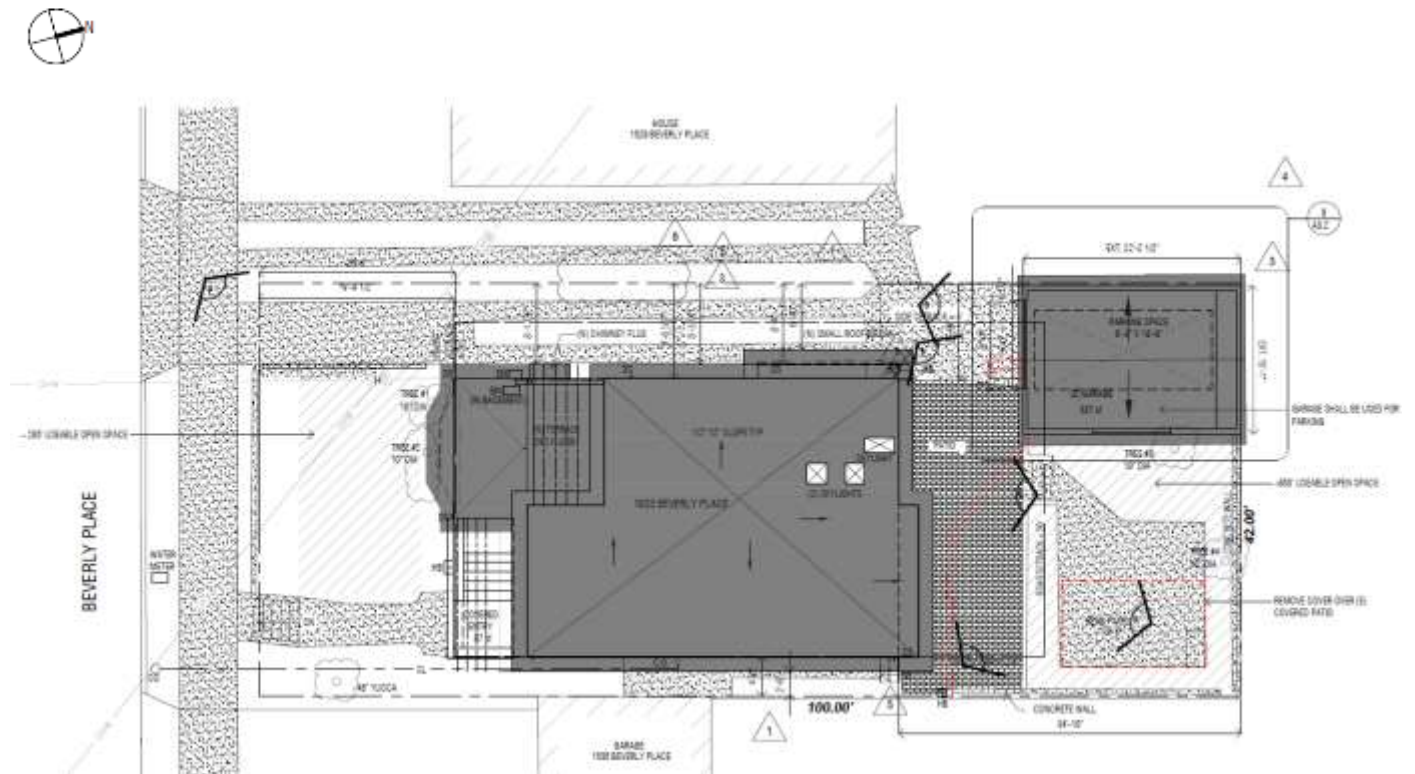


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-family residence	R-1	LDR – Low Density Residential
Surrounding Properties	North	Single-family residences (one lot to the northwest and one lot to the northeast)		
	South	Single-family residence with detached ADU to the southwest; single-family residence to the southeast		
	East	Single-family residence		
	West	Single-family residence		

Table 2: Other Non-Zoning Regulatory Requirements/Special Characteristics

Regulatory Topic	Applies to Project?	Explanation
Coast Live Oak Trees (BMC Section 6.52.010)	No	There are no Coast Live Oak trees at or near the project site.
Creeks	No	No creek or culvert defined by BMC Chapter 17.08 exists on this site.
Green Building Score	No	The project does not involve a new main dwelling unit. The Green Building Checklist is not required.
Housing Accountability Act (Gov't Code Section 65589.5(j))	No	No new units are proposed. The proposed project is a renovation of an existing single-family home.
Historic Resources	No	The project does not involve the demolition of the existing residential building that is greater than 40 years old, and Landmarks staff determined that a Historic Resource Evaluation was not required for the proposed changes to the existing dwelling.
Residential Preferred Parking (RPP) (Per BMC Chapter 14.72)	No	The project area is not included in a RPP area.
Seismic Hazards	No	The project site is not located within an area susceptible to earthquake fault rupture, landslide, or liquefaction as shown on the State Seismic Hazard Zones map.
Transit	Yes	The project site is within 0.1 miles of a bus stop at Monterey Avenue and Posen Avenue.

Table 3: Project Chronology

Date	Action
July 20, 2018	Application submitted
August 16, 2018	Application deemed incomplete
October 2, 2018	Revised application materials submitted
October 4, 2018	Revised application materials submitted
October 31, 2018	Revised application materials submitted
November 2, 2018	Application deemed incomplete
November 13, 2018	Revised application materials submitted
December 12, 2018	Revised application materials submitted
May 1, 2019	Revised design presented to neighbors

Table 3: Project Chronology

Date	Action
May 30, 2019	Revised application materials submitted
June 26, 2019	Application deemed incomplete
July 1, 2019	Revised application materials submitted
July 24, 2019	Revised application materials submitted
July 30, 2019	Revised application materials submitted
July 31, 2019	Application deemed complete
August 12, 2019	Notice of Administrative Decision issued
August 28, 2019	Appeal filed by Amy Di Costanzo of 1710 Sonoma Avenue
September 3, 2019	Appeal filed by Hank Roberts and Robin Ramsey of 1529 Beverly Place
January 30, 2020	Public Hearing notices mailed/posted
February 13, 2020	ZAB hearing

Table 4: Development Standards

Standard		Existing	Proposed	Permitted/ Required
BMC Sections 23D.16.070-080				
Lot Area (sq. ft.)		4,200	No Change	5,000
Total Gross Floor Area (sq. ft.)		1,212	2,247	N/A
Dwelling Units	Total	1	1	1 per parcel
Building Height	Average	16' – 3 ½"	23' – 7 ½"	28' max.
	Stories	1	2	3 max.
Building Setbacks	Front	18.2'	18.2'	20 ft. min
	Rear	34.9'	34.9'	20 ft. min
	Left Side	9' – 8 ½"	8' – 4" ¹	4 ft. min
	Right Side	4'	4'	4 ft. min
Lot Coverage (%)		41.83	39.45	40 max
Usable Open Space (sq. ft.)		600+	600+	400 per unit
Parking	Automobile	1	1	1 per unit

II. Project Setting

A. Neighborhood/Area Description: The subject site is located in a neighborhood which consists of a mixture of one- and two-story single-family dwellings in the Northbrae neighborhood near the City of Albany. Sonoma Avenue is directly north of the subject site, and the dwellings along Sonoma Avenue are at a higher elevation than the subject building.

B. Site Conditions: The subject parcel contains a one-story single-family dwelling. A detached garage is at the rear northwest corner of the parcel. There is a deck off the rear of the dwelling, and a paved patio near the northeast corner of the parcel.

¹ The proposed left setback on the Tabulation chart on sheet A0.0 of the plans is incorrect as it does not measure the setback to the new kitchen bump out. The addition is still outside of the required left setback.

III. Project Description

The project approved by the Zoning Officer would involve the addition of 1,035 square-feet to the existing 1,212 square-foot one-story single-family home to add a second story, and a fifth bedroom. The front, rear, and right-side setbacks would remain the same, including an existing non-conforming front setback. The left side setback would be reduced by 1 ft. 5 ½ in. with a new kitchen bump-out, from 9 ft. 8 ½ in. to 8 ft. 4 in. A wood trellis would be added over the front entry steps that are parallel with the dwelling. A new garage door would be added to the existing garage, and the covered patio would be removed from the rear yard.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the city, the applicant erected a pre-application poster and contacted abutting and confronting neighboring property owners and occupants to show them a copy of the proposed project plans and obtain their signature on the proposed plans. Two neighboring owners/tenants could not be reached in person, so the applicant sent a certified letter explaining the project and included a copy of the plans, and submitted to staff a copy of the certified receipt.

Many letters were received in regards to the proposed project prior to the approval of the project by the Zoning Officer.

In response to staff's insistence that view impacts be better addressed, the project was revised to reduce the height and slope of the roof. The previous average height was 26 ft. ¾ in., with the revisions the average height is 23 ft. 7 ½ in. The revised plans were presented to the neighbors at a neighborhood meeting on May 1, 2019. Staff posted the Notice of Administrative Decision on August 12, 2019, at the site and three nearby locations, and sent notices to abutting and confronting property owners and occupants and to interested neighborhood groups.

Staff recommended mediation services (SEEDS) to the applicants in August 2018 and March 2019. The applicants and appellants attended a mediation session on October 29, 2019, but the appellants' issues were not resolved.

B. Zoning Officer's Decision to Approve: The Zoning Officer determined that the proposed project would not be detrimental to those living and working in the neighborhood because the property would continue to conform with the R-1 Single Family Residential District; the privacy of the abutting neighbors would be maintained as the addition is outside of the required side and rear setbacks and the non-conforming front setback would not be further encroached upon; and the addition of a fifth bedroom would not result in an increase in dwelling unit density.

Furthermore, the Zoning Officer found that the major residential addition would not unreasonably obstruct sunlight, air, or views. 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. Two hours after sunrise on the winter solstice, shadows on the east side of the dwelling at 1529 Beverly Place would increase and cover a kitchen window, and partially cover a dining room window, but the two living room windows would not be affected. Two hours after sunrise on the summer solstice, shadows on the east side of the dwelling at 1529 Beverly Place would increase and cover the living room and dining room windows, but the kitchen window would not be affected. Two hours before sunset on the winter solstice, the shadows on the west side of the dwelling at 1535 Beverly Place would increase slightly, but would only reach a small corner of a bedroom window. Two hours before sunset on the summer solstice, shadows on the west side of the dwelling at 1535 Beverly Place would increase and cover the bedroom and living room windows. Although shadow conditions would slightly increase on the aforementioned portions of neighboring residential properties, shadows would be relatively short in duration, occurring only in the morning or evening hours, not both. Therefore, proposed shading is found to be typical of urban settings and no substantially detrimental shading would occur.

The addition was also found to be consistent with the existing development and building-to-building separation pattern – or air – in the R-1 neighborhood because the addition would be outside of all required setbacks (while maintaining the non-conforming front setback), and would not exceed height or story limits.

To assist with the assessment of views, the applicant installed story poles, provided photos of the story poles and a key to photo locations, and the heights of the story poles were verified by a licensed surveyor. As documented by the story poles, the second-story addition would be within the view corridor of the properties to the north. 1708 Sonoma Avenue currently has views of the San Francisco Bay over/beyond Emeryville, and the hills of the Peninsula south of San Francisco from their deck, bedroom, and kitchen that would be eliminated with the addition; however, views of the San Francisco skyline and the Marin Headlands would remain. 1710 Sonoma Avenue currently has views of the San Francisco Bay and the lower portion of the San Francisco skyline from their deck, kitchen, and first floor bedroom that would be eliminated with the addition; however, views of the Golden Gate Bridge, the Marin Headlands, the upper portion of the San Francisco skyline, the upper portion of the Bay Bridge, and the hills of the Peninsula south of San Francisco would remain, and views from the second floor would remain open. 1716 Sonoma Avenue currently has a view of the Golden Gate Bridge from the kitchen nook that would be reduced with the addition; however, views of one of the towers of the Golden Gate Bridge would continue to be visible from the kitchen nook, and a partial view of the San Francisco skyline, and a full view of the Golden Gate Bridge from the kitchen and dining rooms would remain. Since the current expansive views are reduced, but not eliminated, view impacts are determined to be non-detrimental.

The first appeal of the administrative decision was filed on August 28, 2019, and the second appeal was filed on September 3, 2019.

- C. Public Notice:** On January 30, 2020 the City mailed 69 public hearing notices to property owners and occupants within 300 feet of the subject property, and to interested

neighborhood organizations. Staff also posted the Notice of Public Hearing at three locations within the immediate vicinity of the subject site. Correspondence received in response to this notice is attached to this report (Attachment 5).

V. Issues and Analysis

A. Appeal Issue 1 – View Impacts: The first appellant resides at 1710 Sonoma Avenue and contends that the project would substantially decrease her enjoyment of her property as she would lose the view of the San Francisco Bay from the French doors by the kitchen table, and would lose the view of the Bay, most of the Bay Bridge, and the San Francisco skyline from the deck. Furthermore, the appellant disagrees with the Finding in the Administrative Use Permit that views of the Golden Gate Bridge and Marin Headlands would remain, because those are *not* views the appellant enjoys from her kitchen.

The appellant submitted photos of the view from their kitchen toward San Francisco in their appeal letter. Photo 1 below was taken from a seated position at the table at the back of the kitchen, with the doors to the deck open. The original story poles are in the photo, and the height of the proposed building after the plans were revised is indicated by the red horizontal line.

Photo 1: Story Poles with Design Revision Indicated, As Seen from the Kitchen Table of 1710 Sonoma Avenue. Photo by Amy Di Costanzo.



Staff Response: The BMC defines a view corridor as a “significant view of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark such as the Campanile, Golden Gate Bridge, and Alcatraz Island or any other significant vista that substantially enhances the value and enjoyment of real property.” The photos submitted by the appellant show the story poles at the height of the original design for the addition, with a string at a lower height to reflect the revisions to the project. The string between the story poles indicates how the applicants lowered the proposed height and replaced the sloped roof with a flat roof. With the revised addition, the Bay Bridge and San Francisco Skyline would still be visible from the kitchen of 1710 Sonoma Avenue. Although the view of the water below the Bay Bridge and San Francisco Skyline would

be removed, staff does not find that the addition would unreasonably obstruct views of the Bay Bridge and San Francisco Skyline from the kitchen.

Staff does concur that the view of the Golden Gate Bridge and Marin Headlands is not visible from the kitchen, and regrets that it was not clear in the AUP Findings that the view of the Golden Gate Bridge and Marin Headlands is visible from the deck and a first floor bedroom, but not the kitchen.

Staff finds the addition to be reasonable. With the proposed addition the residence at 1533 Beverly would be two stories and 2,247 square feet; the average size of a two-story dwelling on this block of Beverly Place and the block of Sonoma Avenue to the rear is 2,018 sq. ft. As the appeal does not provide evidence that the Zoning Officer's approval was made in error, staff recommends the ZAB dismiss this appeal point.

B. Appeal Issue 2 – Loss of Light/Shadow Impacts: The second appeal letter is from the appellants at 1529 Beverly Place. They disagree with the finding that the new shadows would occur on a limited area, and contend that the shadows that fall on the living room, dining room, and kitchen windows are detrimental because they spend 90 percent of their morning hours in these rooms. The appellants find that the shadow studies provided by the applicants only represent individual moments in time, not the entirety of the loss that would occur. Their dining room would be impacted every day, and the living room and kitchen would be impacted for 9 months of the year. According to the appellants, the loss of sunlight is not insignificant.

The second issue appellants bring up is that staff asked the applicants to address neighbors' concerns in the first incomplete letter, and they failed to do what they were asked as the revised design does not address the increased shadows at 1529 Beverly Place. Lastly, the third reason the appellants appealed the project is that the shadow studies provided by the applicants did not follow City guidelines as the applicants failed to submit shadow studies to document new shading that would result from the proposed project projected for the time of application submittal, and did not include photos of the affected structures.

Staff Response: Shadow studies are required for additions exceeding 14 feet in average height on sites adjacent to a residential use so that staff and residents can review changes to shadows, and be a basis for Findings. Shadow studies are requested for the summer and winter solstice as those are the longest and shortest days of the year, representing the worst case scenarios. Staff looks at shadow studies in plan and elevation view to determine the location and extent of shadows. Since the shadow studies provided by the applicants shows shading on the dwelling at 1529 Beverly Place two hours after sunrise on the summer and winter solstice, but not at noon or two hours before sunset on the summer and winter solstice, and not all of the windows on the east elevation are shaded, staff finds that the shadow impacts are not detrimental.

In regards to the appellants' second issue, the paragraph from the first incomplete letter the appellants reference consists of the following:

“Thank you for providing a table of neighbor concerns. Please respond to the neighbors’ comments in a written statement, addressing how their concerns have been/will be addressed, and/or explaining why their concerns cannot be addressed. You may want to consider mediation through SEEDS.”

The applicants responded in their resubmittal:

“The 3D shadow studies clarify that in December the Kitchen window is affected 2 hours after sunrise; however, the proposed house is located to the East of 1529 Beverly so the shadows subsequently move to the backyard. In the summer the morning shadows drop beneath the Kitchen and Dining Room windows so they are not affected. The 3D model also clarifies that none of the solar tubes would be shaded.”

Understandably, the appellants wanted a thorough response that addressed their concerns and/or explained why the applicants could not address their concerns. The response from the applicants discusses the shadow impacts on 1529 Beverly Place, but the appellants likely would prefer there were no shadow impacts on their property. The applicants were asked to respond to the neighbors’ concerns, and they did respond.

In regards to the third point raised by the appellants, the shadow studies submitted by the applicants were adequate as they documented the existing and proposed shadows at the required three times of day for the summer and winter solstice. Staff waived the requirement for separate studies at the date of application because the application was submitted in July, which is fairly close to the June summer solstice and the shadow studies for the time of submittal would be similar to the shadow studies for the summer solstice. Shadow studies for the time of application submittal are requested in the shadow study guidelines because they are a way to confirm that the applicant/architect has prepared the shadow studies correctly, but they are not used to make a Finding. Photos of existing shadows on the affected buildings are useful, but plan view and elevation view drawings of the proposed shadows are more important for preparing Findings.

As described above, staff finds that the shadow impacts are not detrimental. Furthermore, the addition would be outside of the required side setbacks, and there would be a building-to-building separation of 20 ft. between 1529 Beverly Place and 1533 Beverly Place. As the appeal does not provide evidence that the Zoning Officer’s approval was made in error, staff recommends the ZAB dismiss this appeal point.

VII. 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 Administrative Use Permit #ZP2018-0153** pursuant to Section 23B.28.060.C.1 subject to the attached Findings and Conditions (see Attachment 1), and **DISMISS the Appeal**.

Attachments:

1. Findings, Conditions, and Approved Project Plans, August 12, 2019
2. Notice of Public Hearing
3. 1710 Sonoma Avenue Appeal Letter, received August 28, 2019
4. 1529 Beverly Place Appeal Letter, received September 3, 2019
5. Correspondence Received

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

RECEIVED
February 11, 2020
LAND USE PLANNING

APPEAL
1533 Beverly Place

ZP2018-0153

Amy Di Costanzo

Received
FEB 11 2020
Land Use Planning

1	Appellant's Proposed Changes are Reasonable: Findings in Support: Letter from Atty. Rena Rickles.
2	Modifications requested by Appellant, Amy Di Costanzo, can be and were done when she created her 2 nd story.
3	The finding of "unreasonable detriment" can be made: The "modification" before you, blocks the view corridor from the only public room on the main floor of 1710 Sonoma Ave. that has a view.
4	Applicants throughout every stage have failed to address my view loss.
5	When the Subject is Views: Inches Matter
6	Modest Suggestions to Mitigate were rebuffed: "Negotiations" were not in good faith.
7	Applicants Rejected their own Architect's Suggested Compromise. Option 1 – View Corridor and lowered 18"
8	Appellant's Architect Suggestion and Rationale: Option 2 – Everything lowered 24"

RENA RICKLES
Attorney at Law

1970 BROADWAY, SUITE 1200
OAKLAND, CA 94612
TEL: (510) 452-1600 ~ FAX: (510) 451-4115
EMAIL: rena@rickleslaw.com

2/11/2020

Shoshana O'Keefe, Chairperson
Zoning Adjustments Board ("ZAB")
1947 Center Street
Berkeley, CA 94704

Re: 1533 Beverly Place: Appeal; Request for Mitigations; Findings in Support

Dear Chair O'Keefe and ZAB Members:

This office represents Amy Di Costanzo ("Amy"), who is requesting reasonable mitigations to the proposed project, mitigations which are both architecturally reasonable¹ and financially feasible.² The design before you will totally block Amy's view of the SF Bay as well as her View Corridor from the only public room in her house: her kitchen/dining table/family gathering room. From her deck she would lose the Bay, most of the San Francisco skyline and the Bay Bridge. "[U]nder the circumstances of the particular case existing at the time the decision is granted,"³ the Findings cannot be made that the impacts of this application constitute an unreasonable detriment.

STATEMENT OF FACTS

In 1980, Amy Di Costanzo and her husband bought 1710 Sonoma; by the 1990's they realized that they would need a 2nd story to provide bedrooms for their growing family (four children). Before doing so they met with every neighbor who could be impacted and designed their 2nd story accordingly. True, there were some "interesting design features"⁴ but they were able to move quickly through the process because they did not have opposition. (See Tab 2) She is asking no more from you tonight: Allow Applicants their desired 2nd story and restore some of Amy's SF Bay View Corridor and view of SF Bay.

¹ Architect for Applicant, in fact, after seeing the impact from Amy's kitchen suggested one of the modification options before you. See Tab 7.

² See Tab 8, report and recommendation by Maurice Levitch.

³ To this writer, the most important words in the Zoning Ordinances Findings for Issuance or Denial of a Use Permit." 23B.32.040(A)

⁴ "We created an oblique wall at one corner so that our neighbor at 1716 Sonoma Ave. could retain her important view corridor to the Golden Bridge from her windows."

The Factual Basis for Staff's AUP Decision Was Based on a Material Mistake of Fact; as Such, Rendering Their Conclusion erroneous. Even Without that Error, Staff's Assertion, Staff Should Have Concluded That The Elimination of the View of San Francisco Bay, and the Blocking of the Entire View Corridor Constitutes Detriment.

In the AUP Decision, Staff accurately assessed Amy's view loss; but erred in concluding that loss to be "non-detrimental." Staff wrote that Amy still had a full view of the Golden Gate Bridge and the Marin Headlands; that simply is not true.

In her Appeal, Amy proved, and Staff admitted that she never had those views from the kitchen. Staff should have, but did not, change its finding of "non-detriment".⁵

The public rooms⁶ on the main floor have little to no natural light or privacy, except the kitchen which functions as a family room, dining table, conversation and game room. Currently, from that room and the deck, Amy's views are unobstructed (See Tab 3).⁷ Staff concurs that "the current views of the San Francisco Bay and lower portion of the San Francisco skyline from the deck will be eliminated by the addition", leaving her with the Bay Bridge, upper SF skyline. Contrary to Staff conclusion, that loss is detrimental.

Where, as here, part of a view loss can be mitigated by making modest design changes, a finding of non-detriment cannot be made without requiring those modifications. There are two modifications that can reduce Amy's view loss. Both of them are recommended by architects: one Applicant's, the second, Amy's.

Option 1 made by Applicant's architect during her client's photo shoot site visit. After sitting with Amy at the kitchen table, staring at the story poles and tapes, Stacy Eisenmann had an epiphany, she got that Amy's entire view corridor was now a wall. She suggested cutting back part of the 2nd story study to open the View Corridor. Amy liked the idea and asked if the rest of the house could also be lowered. Amy's tenant, Teymor Ismayilov was present during that conversation. (Tab 7)

Option 2, Maurice Levitch, AIA, a well-known Berkeley architect spent significant time visiting the site, reviewing the plans and topography recommends lowering the height of the rear of the house by 2'. (See Tab 8)

While under most cases, reducing the height of a house by 2', would not be cost or design feasible due to the costs of a new foundation and excavation. But under the circumstances of this case, it is. Here, the foundation must be excavated and

⁶ There is also one bedroom that is rented out and thus is not public.

⁷ Our photo exhibits of before and after are labeled as "standing" or "sitting" in that Applicants' photos were, rebutting the existence of detriment to Amy, taken from a standing position. Staff correctly determined that the view from a sitting position is the accurate baseline.

replaced; and, dirt must be excavated. This proposal adds only incidental costs to the development. (See Tab 8 for details and costs)

Benefits to Amy: her view of SF Bay is restored resulting in putting the Bay Bridge and SF skyline in perspective. Minor detriment to Applicants: Incidental additional costs of additional excavation but they retain their expansive view from their master bedroom and deck. The basement rooms retain safe egress and access to the outdoor patio.

When the subject is views: inches matter. Where there are discrepancies between the plans and the story poles, Conditions must be imposed to assure that the addition as built conforms with the ZAB's and Appellants' understanding of the impact. (Tab 5)

Discussions on view impact and locations of roof extensions revolve around the perceived height of the "red tape" used to depict the reduction in height from the initial application. The height of the red tape was not verified by a survey. The poles to which they are attached were found by the surveyor to be 2-3" lower than on the plans. In addition, the plans show height discrepancies of almost 3". (Tab 5, A3.1 East and West elevations) Finally Applicants' architect, represented to Amy that "nothing" will be higher than the red tape.

To assure accuracy and prevent controversy during discussion, we request the following Conditions:

- the height of the red tape be surveyed before construction and serve as the benchmark height from which maximum height is calculated/negotiated, or, of amount of reduced height imposed as part of this approval;
- Chimneys, vents, and solar panel be placed west side of house out of view of 1710 Sonoma as represented by Ms. Eisenmann to Amy.

CONCLUSION. Throughout this entire process, Applicants refused to consider or even look at the modifications suggested by Amy's architect. Where there is a loss of a view corridor, and a significant view element from the only public room in a home, that is a major detriment. When there are modest and feasible modifications that can mitigate at least some of view loss while allowing the Applicant to achieve all of their stated goals, then that impact, without mitigation constitutes "unreasonable detriment". As such, under the requirements for Findings for Issuance of Use Permits combined with the circumstances/facts of this case, this Use Permit must be DENIED.

Very truly yours,


RENA RICKLES

TAB 2

Modifications requested by Appellant, Amy Di Costanzo, can be and were done when she created her 2nd story.

Background My husband and I bought 1710 Sonoma Ave., a 3 bdrm/1 bath, 1200 sq.ft. bungalow with a tall pointed attic/roof in 1980. As our **family grew to 4 children** we needed more bedrooms, so we dug out the foundation, created more basement space, added a few square feet here and there, and built a second story addition which, due to the already tall roof, did not harm the neighbors. The work was done on a lean budget. We met with our neighbors so that that neither their views nor their sunlight were harmed by the addition.

We created an oblique wall at one corner so that our neighbor at 1716 Sonoma Ave. could retain her important view corridor to the Golden Bridge from her windows.

See attached:

[photo of tall roof 1995 and house today](#)

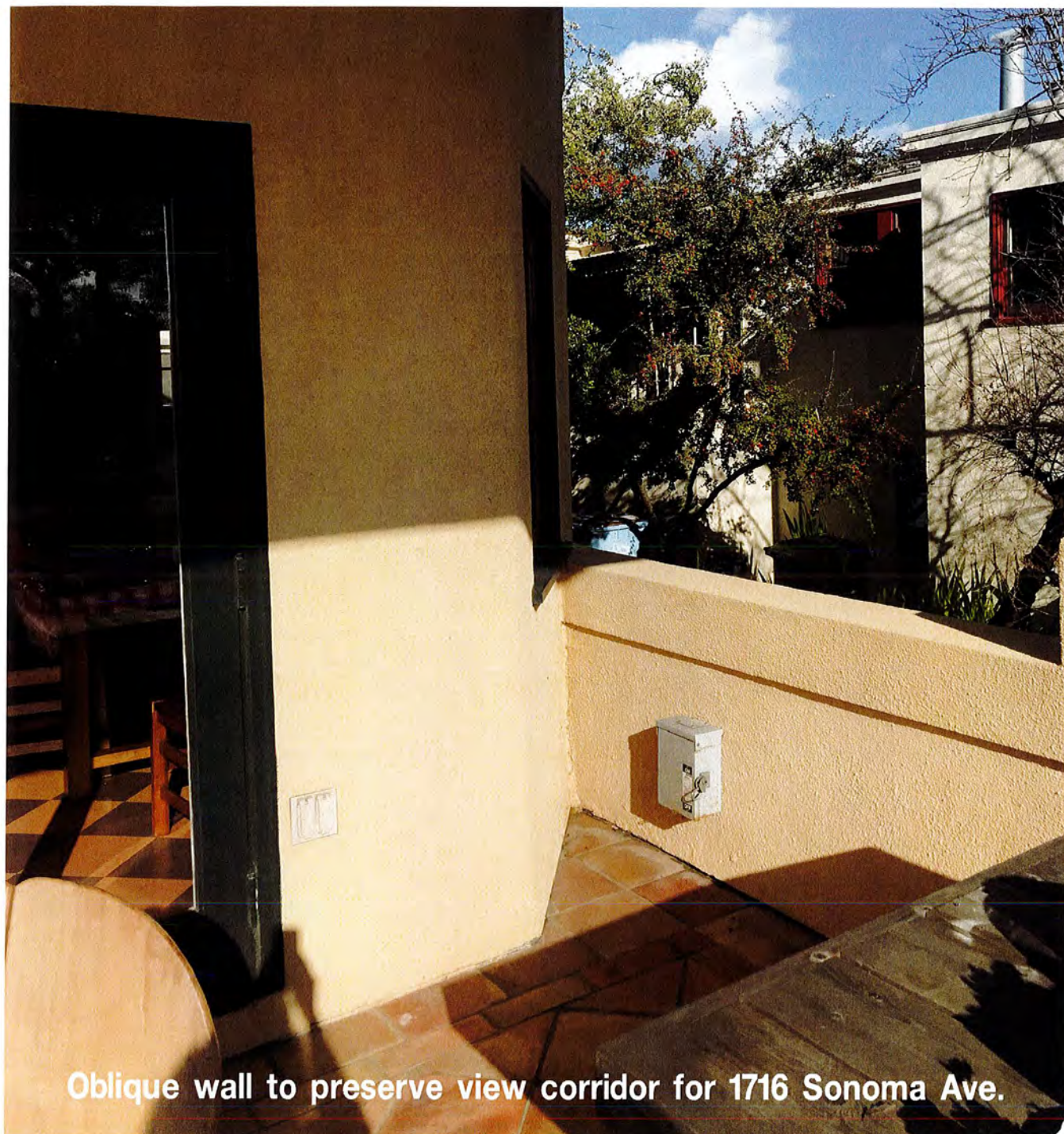
[photo of oblique wall created for the benefit of neighbor to preserve her view of GG bridge](#)



1710 SONOMA AVE. AFTER ADDITION



1710 SONOMA AVE. BEFORE ADDITION



Oblique wall to preserve view corridor for 1716 Sonoma Ave.

TAB 3

The finding of “unreasonable detriment” can be made: The “modification” before you, blocks the view corridor from the only public room on the main floor of 1710 Sonoma Ave. that has a view.

The Back of the Kitchen and the Deck

- All of the public /shared space in the house is on the main floor. All public rooms on this floor, except the kitchen/dining table area, have limited natural light and no “view”. There is one back bedroom which is a rental (I have been a single mother for 15 years and am approaching retirement, renting this room is financially necessary).[\(see photo montage of public rooms\)](#)
- **The back of the kitchen that leads to the deck** has an unobstructed view corridor of the Berkeley flats, the SF Bay, the Bay Bridge, and the SF skyline. This is the main reason we bought this house.
- **Now we are able to enjoy this view while seated as well as when standing.**
- **The Kitchen is the hub of our house:** This is where I and the other people who live there, and our visitors, spend the majority of our time, gathered at the large dining table to eat, work, talk, and entertain [\(See photo of kitchen table + view from kitchen table\)](#). In good weather we are likely to be sitting on the deck chairs enjoying the same view.

EA’s first design submitted in 2018 would have blocked my entire San Francisco view even when standing. In January 2019, Planning Staff came out to see the situation and within a few months Eisenmann Architecture had redesigned their project. The features of the current design are: A flat roof (instead of a hipped roof) and the house is lowered 24” (no floor will be below grade). With the revised design, **standing up in my kitchen and on the deck**, the viewer can now see the bay and SF skyline directly above the flat roof, but the view corridor is lost.

OBJECTIONS TO THE REVISED DESIGN:

The revised design ignores the fact that we currently primarily enjoy the unobstructed view from a SEATED POSITION at the kitchen table and deck.

-This revised design would leave me, **WHILE STANDING:** a **boxed-in** vs. the **current expansive VIEW CORRIDOR**. The flat roof (represented by the red tape across the story poles) would lie precisely under the bay (but only if standing upright and being tall enough to see), eliminating the view of the Berkeley flats. Thus the significant bay and SF views will have lost their context. [\(See photo “Standing at back of kitchen” showing the current design\)](#)

Tab 3 cont.

-WHILE SITTING: whether at the kitchen table or on the deck, I lose the view of the Bay, and only the SF skyline can be seen above the flat roof. Once again, the view corridor would disappear. This would also impact people of short stature, children, and people using a wheelchair, therefore some people would lose even more view than I would. **(see photos of "Seated at the kitchen table" and "Seated on deck chair")**

-The outline of the building resembles a parking structure more than a house, with no gaps on either side to offer a visually pleasing view corridor. It has the effect of being walled in.

Other than the back of the kitchen,
no public room has a view.



LIVING ROOM



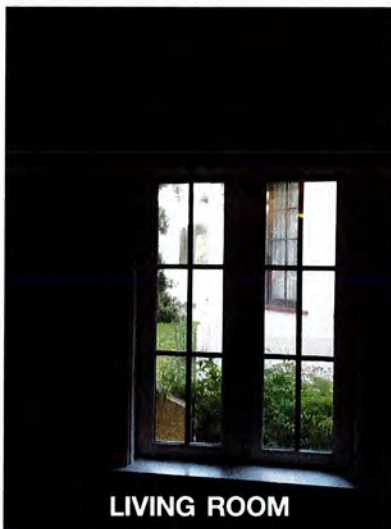
LIVING ROOM



DEN



LIVING ROOM



LIVING ROOM



DINING ROOM



KITCHEN



KITCHEN



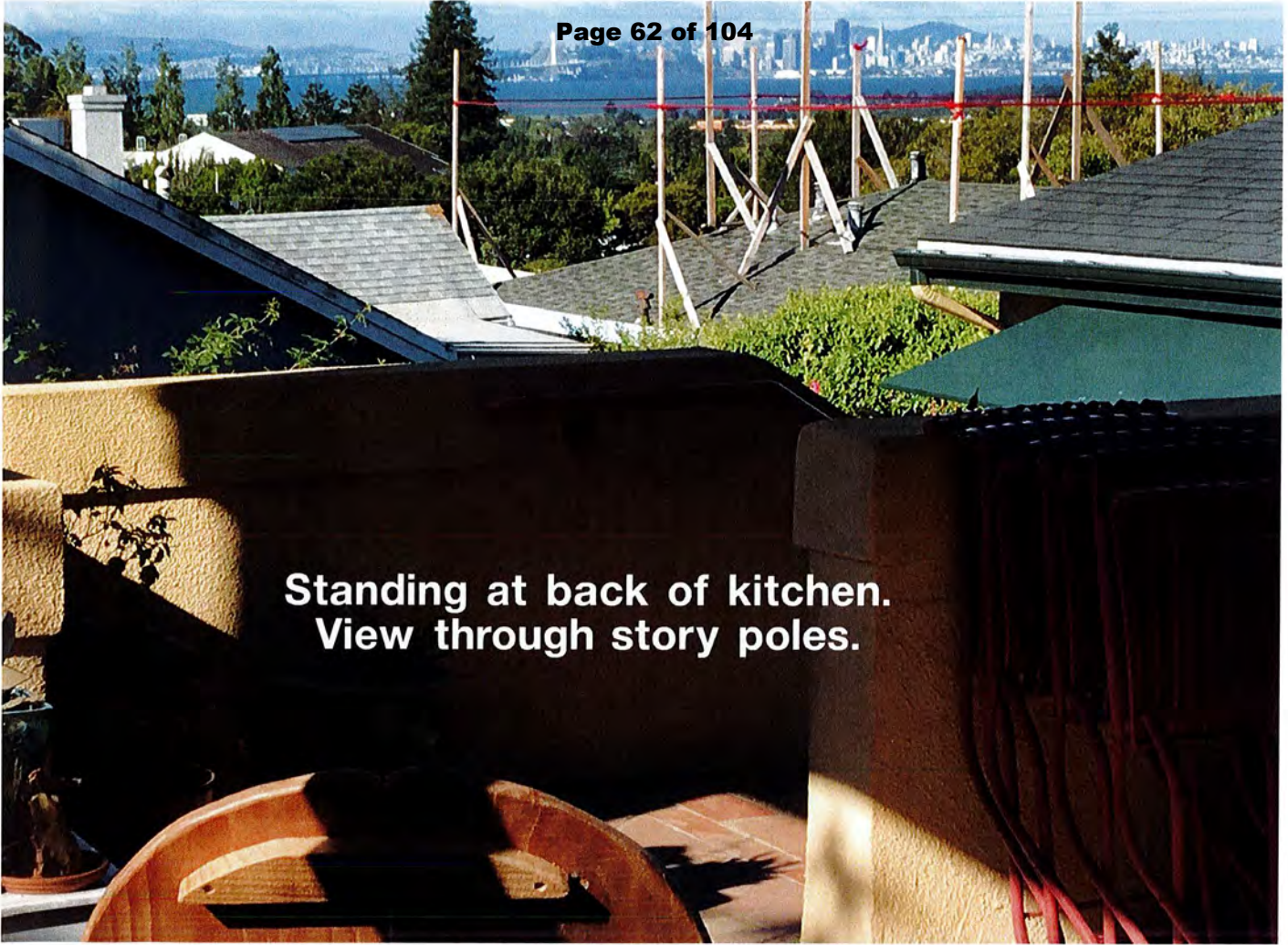
KITCHEN



The kitchen table.



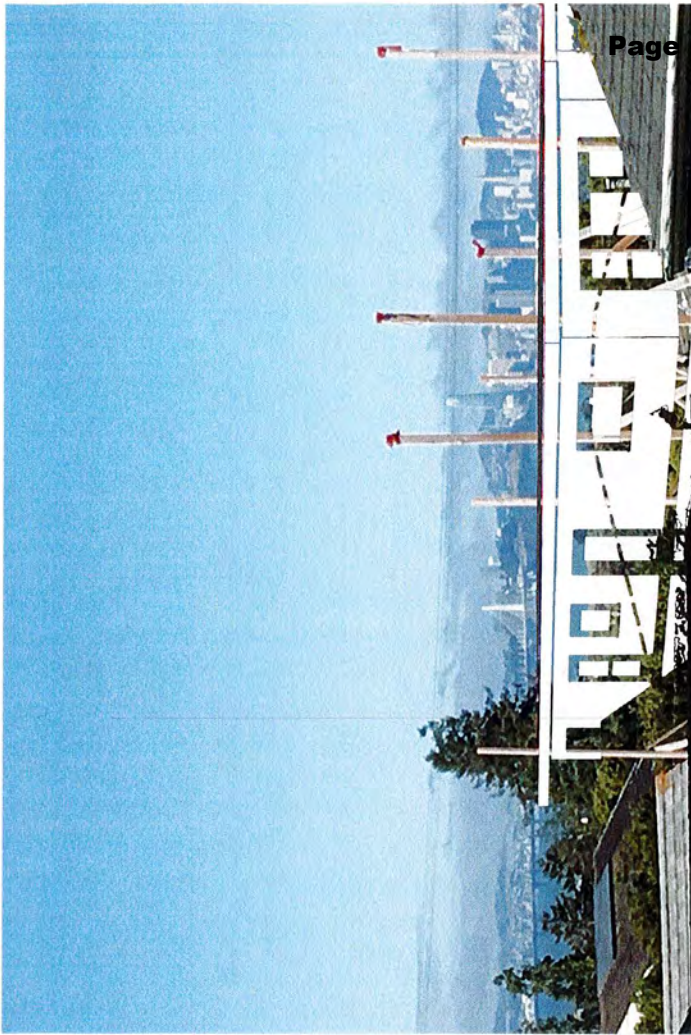
View from seated at the table.



**Standing at back of kitchen.
View through story poles.**



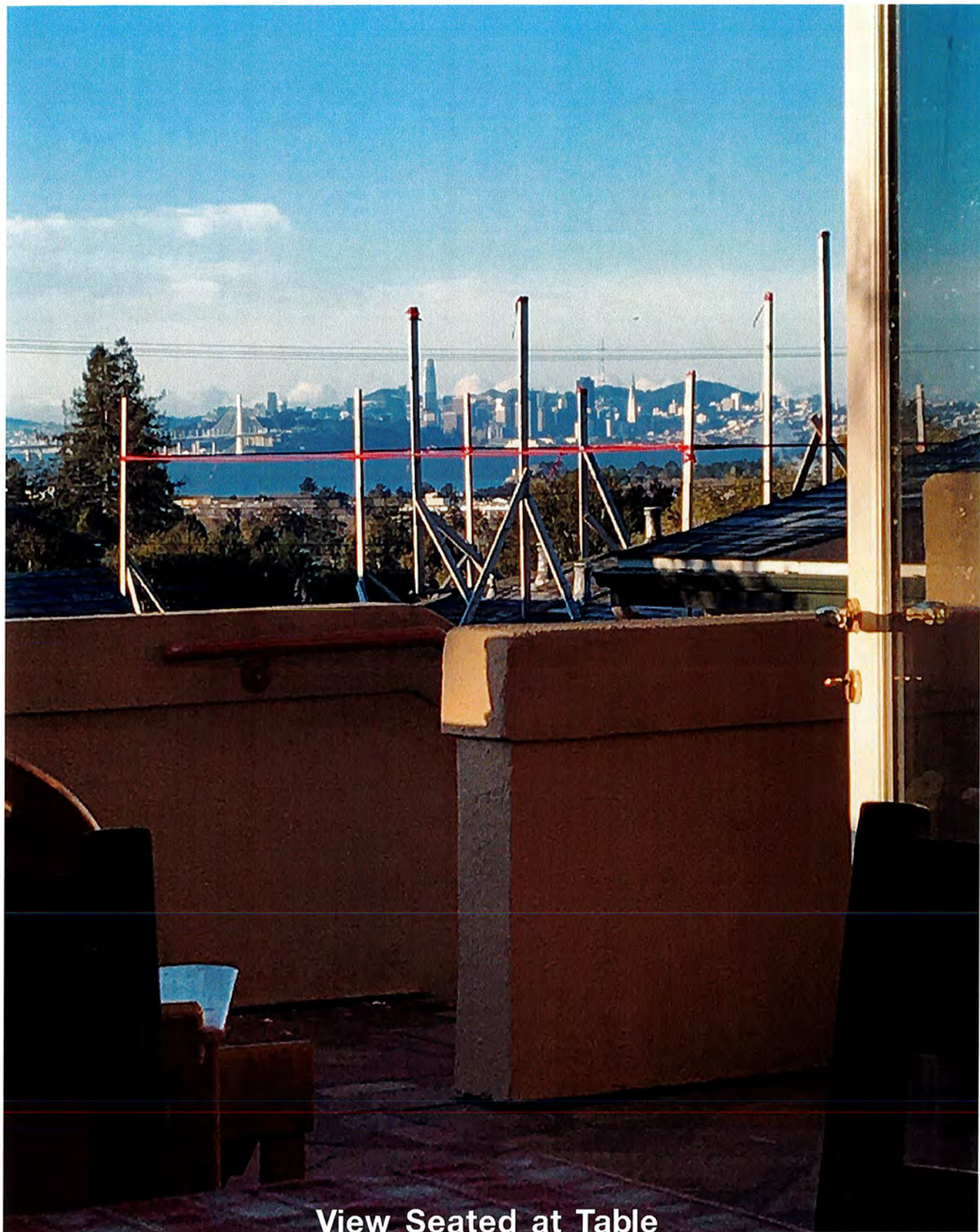
**Standing at back of kitchen.
Current design.**



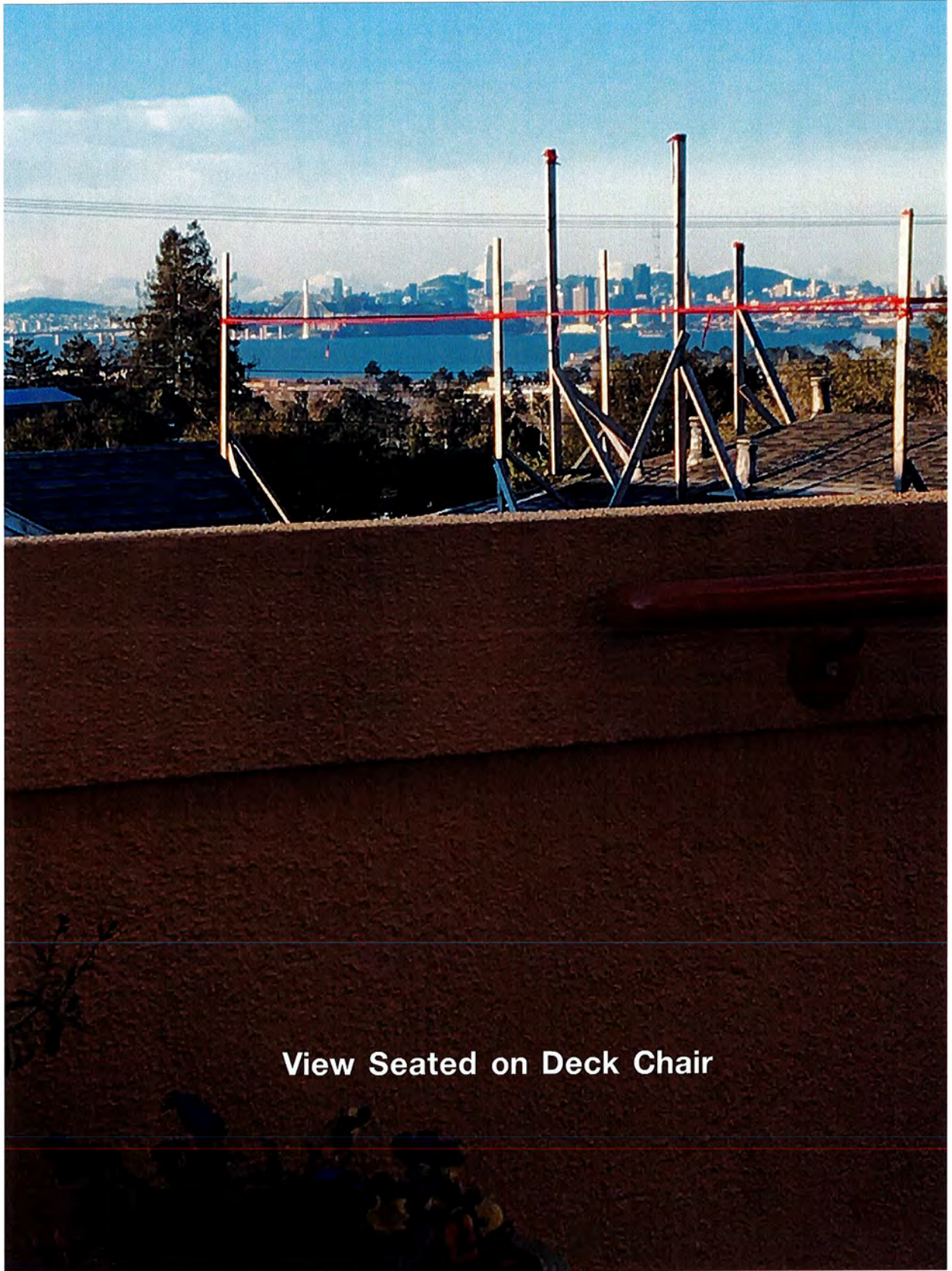
Seated at the kitchen table.
Current design.



Seated at the kitchen table.
View through story poles.



View Seated at Table



View Seated on Deck Chair

TAB 4

The Applicants throughout every stage have failed to address my view loss.

On August 16th, 2018, after several neighbors had publicly objected to Eisenmann Architecture's first design, The City Planning Dept. sent Stacy Eisenmann an "Incomplete Letter".

Incomplete Letter Item #4 stated:

"Respond to neighbors' comments in a written statement, addressing how their concerns have been/ will be addressed, and/or explaining why they cannot be addressed."

On September 20, 2018, Stacy Eisenmann wrote a "Response to Neighbor Concerns" which did not address my concerns, but was instead inaccurate and dismissive. She addressed each of three objecting neighbors very briefly, and prefaced the response to all three neighbors by stating:

"It's our understanding that views are not protected in this area of Berkeley as it is not a hill location".

While this may explain why my requests were ignored: it is not a correct reading of the Zoning Ordinance.

During the process of revising their design, which they submitted in May of 2019, **they did not attempt to contact me, visit my house, nor ask for my input. The new design was generated solely from a virtual person standing on my deck. It ignores the real life impact.**

The Architect's cover letter to the new design falsely states:

"For Amy Di Costanzo, who's (sic) view was impacted the most, the updated roof height of 1533 Beverly Place should be low enough for an unobstructed view of the SF skyline & waterline. The height of the house matches the top of Ms. Di Costanzo's own garage when viewed from the kitchen, therefore we assume it is a fair datum line to use."

The "fair datum line" used is neither fair nor accurate. The **Facts** are: From our kitchen, the garage (of which only a partial view of the back can be seen) forms one edge of our view corridor which is so important to us. Using my garage as the **datum line** for their flat roof will eliminate our view corridor and create the illusion of a continuous wall from my garage to the house of their neighbor to the east. **(See attached: EA's computer generated design and a photo-shopped rendering)**

1301 SERRIN ST STE E
BERKELEY CA 94710
510.526.8442
www.smalwood-corkin.com

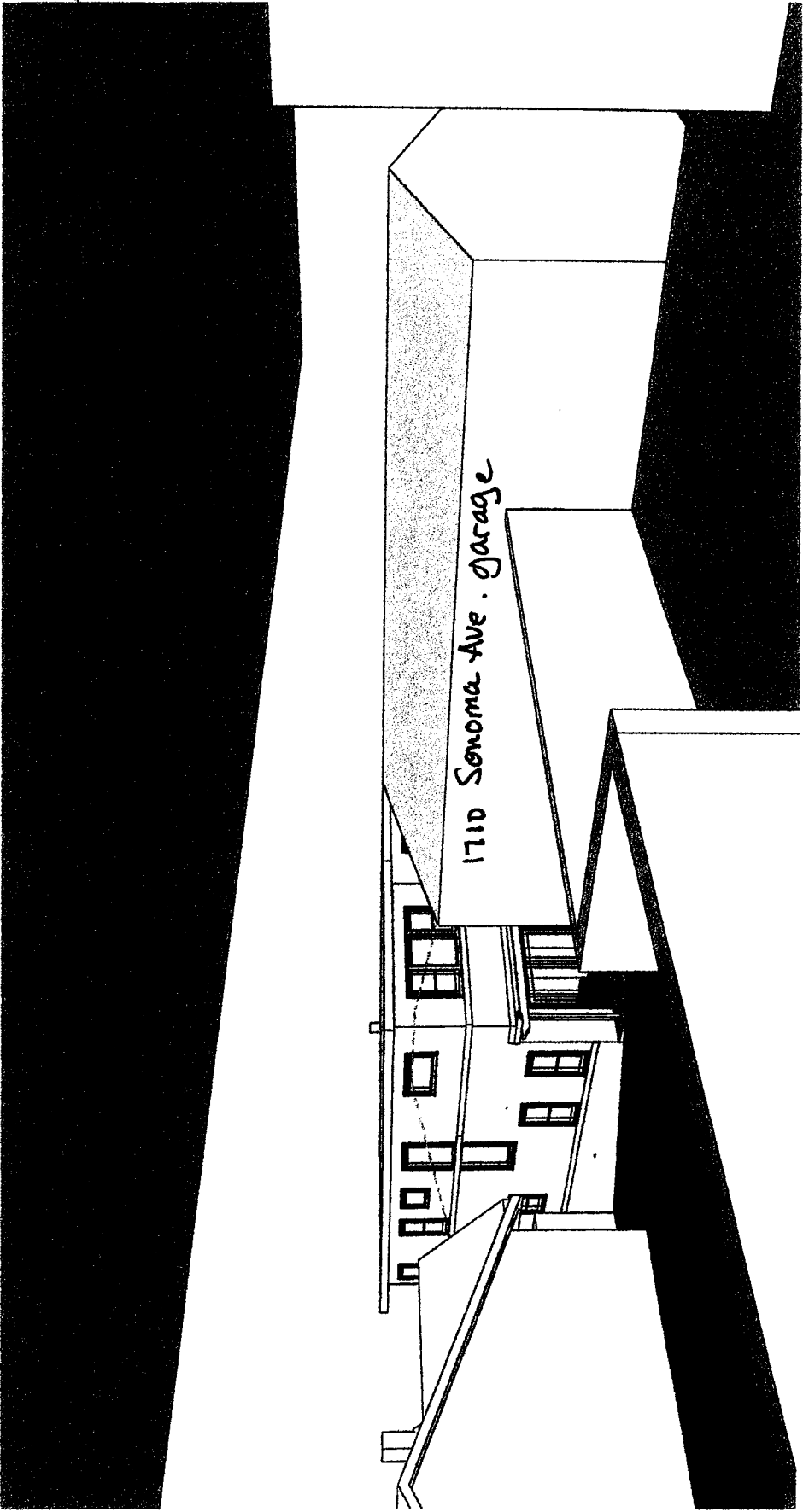
SMALWOOD-CORKIN
ARCHITECTS

1301 SERRIN ST STE E
BERKELEY CA 94710
510.526.8442
www.smalwood-corkin.com

05.01.2018

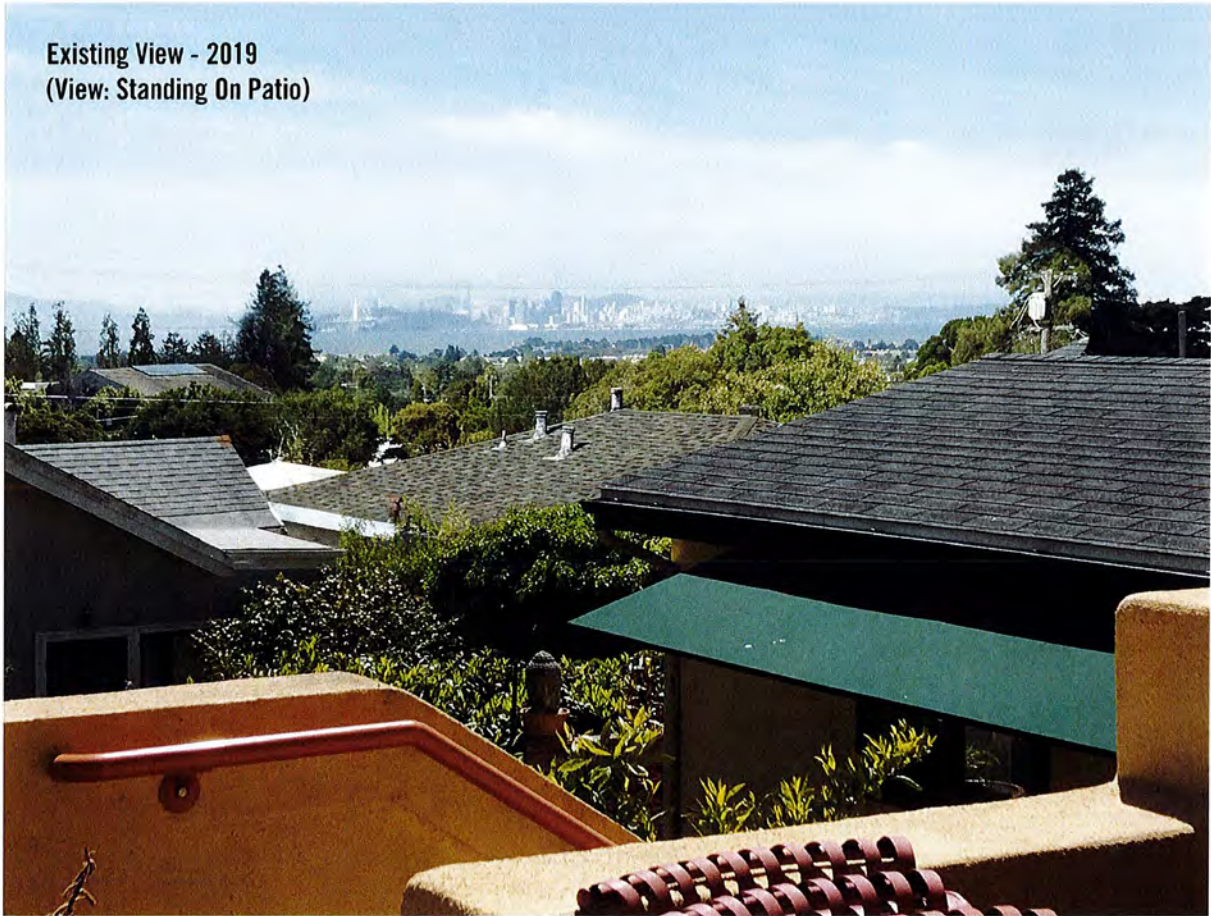
MODIFIED DESIGN
FLAT ROOF & LOWERED 2F

1.3

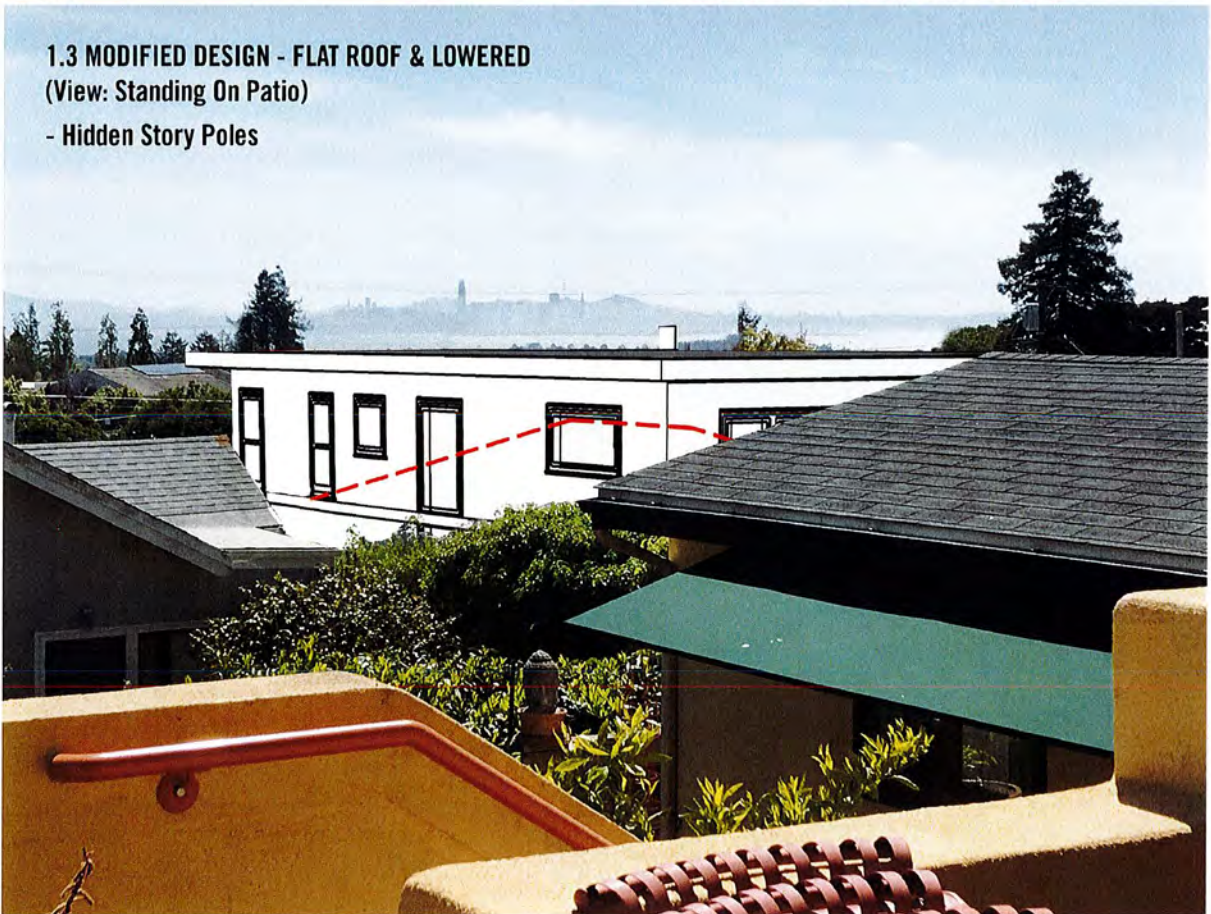


1.3 MODIFIED DESIGN - FLAT ROOF & LOWERED

Existing View - 2019
(View: Standing On Patio)



1.3 MODIFIED DESIGN - FLAT ROOF & LOWERED
(View: Standing On Patio)
- Hidden Story Poles



TAB 5

When the Subject is Views: Inches Matter

An important view can be blocked by a protuberance of a few inches. With Eisenmann Architecture's flat roof cut so closely "under" the bay (while standing), chimneys, vents, and elevated solar panels could all wipe out a section of my bay or skyline views.

The story poles for 1533 Beverly Place were **erected and certified for EA's taller first design** version. At the presentation meeting for the current design last May, Stacy Eisenmann told us that they would put new tape across all the existing perimeter story poles (24" down from the top of each pole) to show the height of the new flat roof. I asked if she would have the new tape certified so that we would know the exact height of the roof. They said certification wasn't necessary and instead attached yard sticks to each perimeter pole to mark them at 24" down.

DISCREPANCIES

On drawing A3.1 Eisenmann Architecture's current design shows the top of roof height at the east elevation to be 19'-9.5" from the average bottom of building. At the south elevation, that same dimension is 19'-6.75".

Moran Engineering, Inc. who did the story pole survey and report **for the first design**, showed that two top ridge poles were short by 2.5" and 2.75". He said that all "poles were consistent with the building plans within a few inches". He did not specify the perimeter poles.

What is within a legal tolerance for story poles and building height discrepancies could end up harming my view. **Therefore I ask that the current red tape be used as the baseline, surveyed and certified, before any agreement is finalized.**

Attachments:

[EA Drawing A.31 Current Design](#)

[Moran Engineering letter](#)

[Moran drawing showing EA first design with taller roof, poles a few inches short.](#)

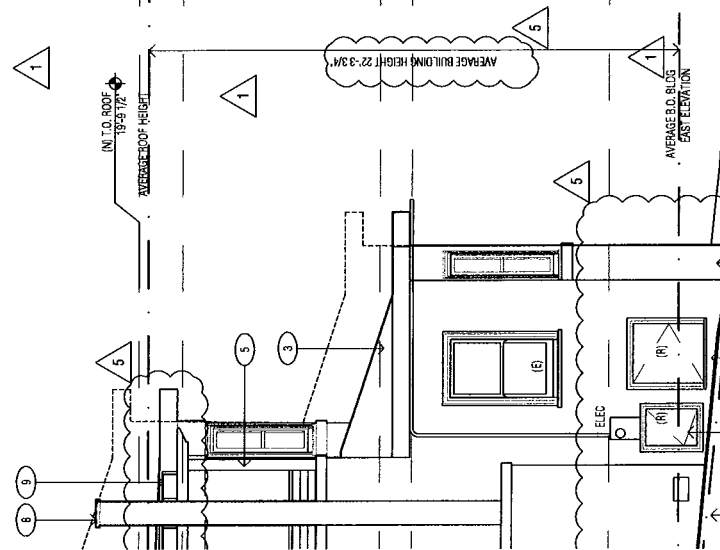
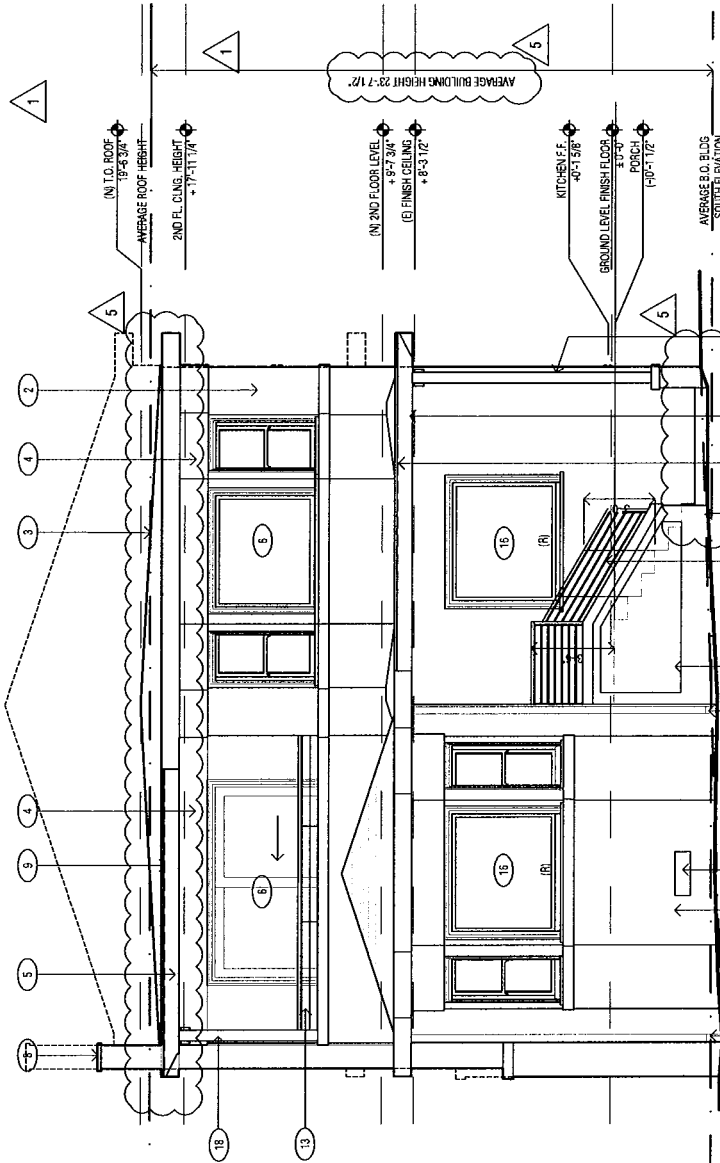
3 PROPOSED NORTH ELEVATION

address 1533 BEVERLY PLACE
BERKELEY CA 94706

phone 510.847.5414
203.546.8307

email smallwood_garcia@hotmail.com
bryn@ucbb.org

PLANNING	DATE
1 PLANNING REV 1	07.03.18
2 PLANNING REV 2	09.20.18
3 PLANNING REV 3	10.03.18
4 PLANNING REV 4	11.12.18
5 DESIGN REVISION 1	12.14.18
	22.06.19



385

1/4" = 1'-0"

September 24, 2018
18-9874

Aska Wieloch-Kim
Eisenmann Architecture
1331 Seventh Street Suite G
Berkeley, CA. 94710

Re: 1533 Beverly Place, Berkeley

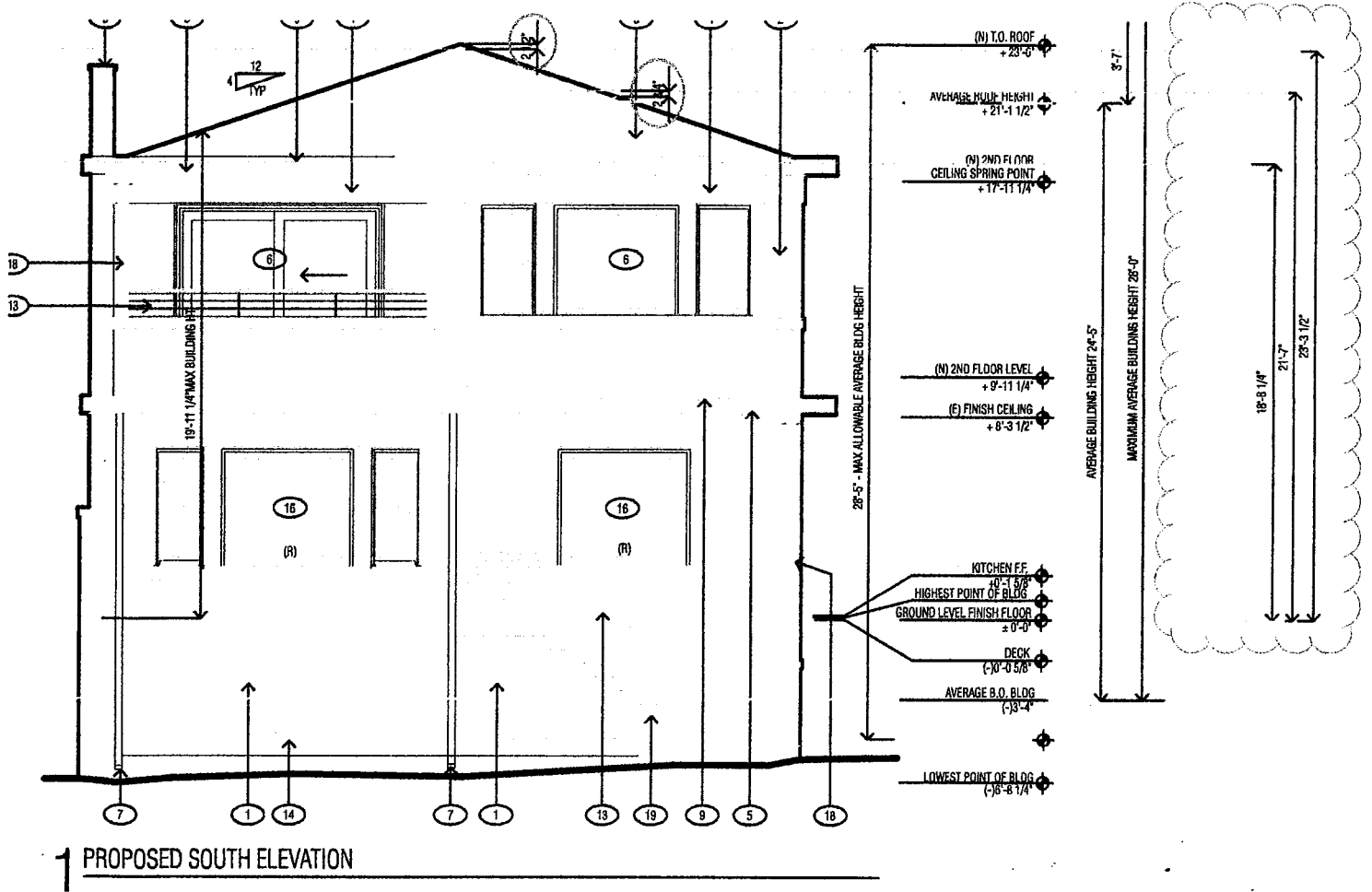
Dear Ms. Wieloch-Kim:

At your direction, a survey crew, under my direction, located all story poles which had been erected on the roof of the existing structure. The height of the poles were consistent with the building plans within a few inches.

Please contact me if I can be of further assistance.

Very truly yours,

Jeffrey Black
Licensed Land Surveyor



TAB 6

Modest Suggestions to Mitigate were rebuffed: "Negotiations" were not in good faith

After I filed this appeal, Applicant requested a visit to my home in the below Sept. 16, 2019 email:

- Bryn (Applicant) asking to visit my home *"I wanted to reach out to you personally.....in order to enter mediation with the hope of seeing something from another person's perspective,.....ACTUALLY seeing things from the other person's perspective might be helpful"* (note: All previous requests by me to the Applicants/Architects to visit my home had been declined). *"Would you be willing to show us around?....I would love to have the Architects (Aska and Stacy) come with us.....this way they could ask intelligent follow-up questions and take pictures if necessary...Thanks again for being open to further conversation"....Bryn*

Of course I agreed. Unfortunately, it became immediately clear from their actions and words that the Applicants' purpose was to **document my views, not discuss nor negotiate**. I determined this based on the following:

Actions: Immediately upon arrival, all 5 people, the applicants, their adult daughter and both architects, began taking photos and videos. Almost no conversation with me – just **photos and videos of my views** inside and out, from every possible angle, primarily while standing on my deck, for over an hour. I approached Stacy while she was photographing and asked her if she wanted to talk, she said *"no, this is not a good time"*.

Words: Bryn and John made statements that were not conducive to meaningful discussion. e.g.:

-*"We don't need to make any changes, our design has already been approved by the City"* (several times)

-*"We are not going to change anything."* She mentioned how much money this was already costing them because of me.

-*"We don't want to dig down at all, we don't want to sleep in a basement/underground"*

-*"We don't want your Architect to redesign our house. We already have an approved design. He would be designing what YOU want, not what WE want!"*

-*We want what YOU have, a second floor bedroom with a view!"* Repeated by both Bryn and John.

AND MOST TELLING OF LACK OF GOOD FAITH: I emailed a request for a reciprocal visit for me and my architect to see things from their perspective, a request limited to the front window and outside perimeter. I wanted to understand their basement, access, and egress loss, and if there would be a detrimental view loss if they lowered their house. [\(See attached email chain\):](#)

-*"As we explained before, more visits to our house will not be possible"* (Bryn)

-*"Requesting access to their home in order to redesign their project is not going to be granted"* (Stacy)

-*"We will need to decline participation in this exercise"* (Aska)

5 messages

Amy Di Costanzo <[redacted]> Mon, Sep 23, 2019 at 12:30 PM
To: Stacy Eisenmann <[redacted]>
Cc: Aska Wieloch-Kim <[redacted]>, Maurice Levitch <[redacted]>

Dear Stacy,

Thank you for coming by on Thursday evening with Aska and John and Bryn. I was glad to get a brief chance to talk with you about ideas for options.

As part of my continuing investigation into alternative designs that would possibly be beneficial for both parties, my Architect is requesting the following drawings (the description is his):

"Please ask Stacy for a pdf of the existing and proposed longitudinal cross sections through the house and site with front and rear yards showing."

Please let us know if you have that drawing or information. Thank you.

I may want to take Maurice back to see the outside of 1533 Beverly Pl. again, and possibly the basement and crawl space and the view from the front window.. I will of course get in touch with Bryn and John if and when that comes up.

Thank you,

Amy

From: Aska Wieloch-Kim <[redacted]>
Date: September 24, 2019 at 4:05:36 PM PDT
To: Amy Di Costanzo <[redacted]>
Cc: Stacy Eisenmann <[redacted]>, Maurice Levitch <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>, Bryn & John Smallwood-Garcia <[redacted]>
Subject: Re: Request for a pdf drawing

Dear Amy,

I am writing back to you on Stacy's behalf, who is away from the office this week, and with the support of Bryn and John. Amy, we appreciate your efforts in trying to find a solution that meets your needs; however, I am afraid it would not be in our clients' best interest to involve your former architect in re-designing our project.

For one, there is an obvious conflict of interest, and furthermore, Maurice does not know our clients, their design vision, nor their budget, so his suggestions would be purely theoretical. Therefore, we will need to decline participation in this exercise. Also, I just wanted to point out, that everything you need to know should be available to you on the city's website. Please do keep in mind all the expensive and significant structural modifications our clients have already offered to our original plan.

Best,
Aska

E I S E N M A N N
Architecture

Visit to your house

7 messages

Amy Di Costanzo <[REDACTED]>
To: bryn [REDACTED]

Thu, Sep 26, 2019 at 3:58 PM

Dear Bryn,

Thank you for coming to my house last Thursday. I'm glad you and your Architects were able to take many photos and stay long enough to get a sense of my perspective. I agree that it's important to have all the facts and some key photos in order to have a meaningful discussion in mediation and at the ZAB hearing.

To that end, (and in light of what you wrote me on September 16th: *"In order to enter mediation with the hope of seeing something from another person's perspective, it sort of goes without saying that ACTUALLY seeing things from the other person's perspective might be helpful."*) I would like your permission to visit your house along with Maurice Levitch. We would need access to the front of the house inside, and to be able to walk around the perimeter, and possibly look under the floor - basement-crawl space.

Just to be clear, I have not hired Maurice to re-design your house, it was never his intention to design anything, simply to study the existing conditions. As I have said before, I have hired him to support me in understanding what is and what is not possible, because as I believe you will agree, there is no way to effectively enter mediation without this knowledge. Please let me know as soon as possible how and when we may come to see your house.

Sincerely,

Amy

Amy Di Costanzo <[REDACTED]>
To: Bryn Smallwood-Garcia <[REDACTED]>, Bryn & John Smallwood-Garcia <[REDACTED]>
Cc: Stacy Eisenmann <[REDACTED]>, Maurice Levitch <[REDACTED]>

Wed, Oct 2, 2019 at 11:20 AM

Dear Bryn,

This is a friendly reminder that I emailed you a request to visit your house - along with my Architect - almost a week ago. I sent it to the same email address you used when you asked to visit my house. I have not received a response from you yet. Please let me know by this Friday when and how we can visit. If you do not wish to extend this same courtesy to me, please let me know this as well.

Sincerely,

Amy

Bryn Smallwood-Garcia <[REDACTED]>
To: Amy Di Costanzo <[REDACTED]>
Cc: John Smallwood-Garcia <[REDACTED]>, Stacy Eisenmann <[REDACTED]>, Maurice Levitch <[REDACTED]>, Aska Wieloch-Kim <[REDACTED]>

Wed, Oct 2, 2019 at 12:17 PM

As we explained to you before, more visits to our house will not be possible.

As you perhaps can see from my email message I do not have access to email at the present time as I am on a family visit out of state.

Stacy Eisenmann <[REDACTED]>
To: Amy Di Costanzo <[REDACTED]>
Cc: Bryn & John Smallwood-Garcia <[REDACTED]>, Maurice Levitch <[REDACTED]>, Aska Wieloch-Kim <[REDACTED]>, Bryn & John Smallwood-Garcia <[REDACTED]>

Thu, Oct 3, 2019 at 7:24 PM

Hello Amy,

I believe that Bryn has had a full week and may have responded more quickly than she would have otherwise.

As you might understand, requesting complete access to the Smallwood Garcia's home while they are not present is a different level of sharing than what was offered to them in seeing your home. It should be possible to understand the slope and site conditions of their property from the drawings that have been publicly posted with the city.

Best,
Stacy

4 messages

Sat, Oct 5, 2019 at 1:14 PM

Amy Di Costanzo [redacted]
To: Stacy Eisenmann [redacted]
Cc: Bryn Smallwood-Garcia [redacted]

Dear Stacy,

Thank you for the reasonable tone of your last email. I understand that Bryn would not want me to have "complete access" to the inside of her house while they are away.

However, that is not what I asked for. My request was limited to the access that I provided to Bryn and her team in my house. Specifically, I'd like to observe and photograph the views from the windows in her house. In addition, I would like to have access to being on her property with my Architect, on the outside of her house. That inspection would include bringing a ladder in order to obtain the experience of her (their) perspective. This experience is exactly what she asked of me and I, of course, obliged without hesitation and with no time limits imposed

We would like to visit sometime this coming week or at the latest, the weekend of October 12th. I will need a response no later than this Tuesday October 8th. If Bryn refuses either or both of these highly reasonable requests, I would interpret it as attempting to prevent me from obtaining relevant information prior to Mediation and the ZAB Hearing.

I await a response from Bryn.

Sincerely,

Amy

Stacy Eisenmann [redacted] Sat, Oct 5, 2019 at 4:44 PM
To: Amy Di Costanzo [redacted]
Cc: Bryn & John Smallwood-Garcia [redacted], Bryn & John Smallwood-Garcia [redacted]
Aska Wieloch-Kim [redacted], Maurice Levitch [redacted]

Hello Amy,

Please understand that your request is not the same. The tour of your house was offered to Bryn & John on several occasions, and out of consideration they felt they should accept it since it seemed important to you. They did not seek it. Requesting access to their home in order to redesign their project is not going to be granted, and we will be happy to discuss this further at mediation.

Best,
Stacy

E I S E N M A N N
Architecture

Stacy Eisenmann, Principal AIA
A California Corporation
1231 7th Street Suite G | Berkeley CA 94710 | 510.558.8442
www.eisenmannarchitecture.com

Find us on houzz.com

TAB 7

Applicants Rejected their own Architect's Suggested Compromise - Option 1

The one encouraging event during Applicant/Architect visit to my house: "Stacy" Eisenmann, lead Architect, sat with me at my kitchen table and listened as I pointed out my objections to the design:

- The SF Bay is eliminated from view once seated
- The addition looks like a wall and gives the feeling of being boxed in
- The east side front corner looks out of place. There is no view corridor between houses .

STACY PROPOSED THE FOLLOWING TO ALLOW SOME BREAK IN THE (AS NOW DESIGNED) TOTALLY BLOCKED VIEW CORRIDOR:

- What if we eliminate the front corner?
- She pointed to the story poles that represented the area of the house that she would open up to give me a view corridor (see photo of story poles). It's the section with the bay bridge tower. She said "I get it, I understand" and we walked onto the deck where she confirmed which walls would open up. A part of the study would be eliminated, much like what I did for my neighbor years ago. (see photo shop of Design 1 when seated at table) Drawing by Maurice Levitch: Option 1 (concept only). Statement by a witness to the conversation.

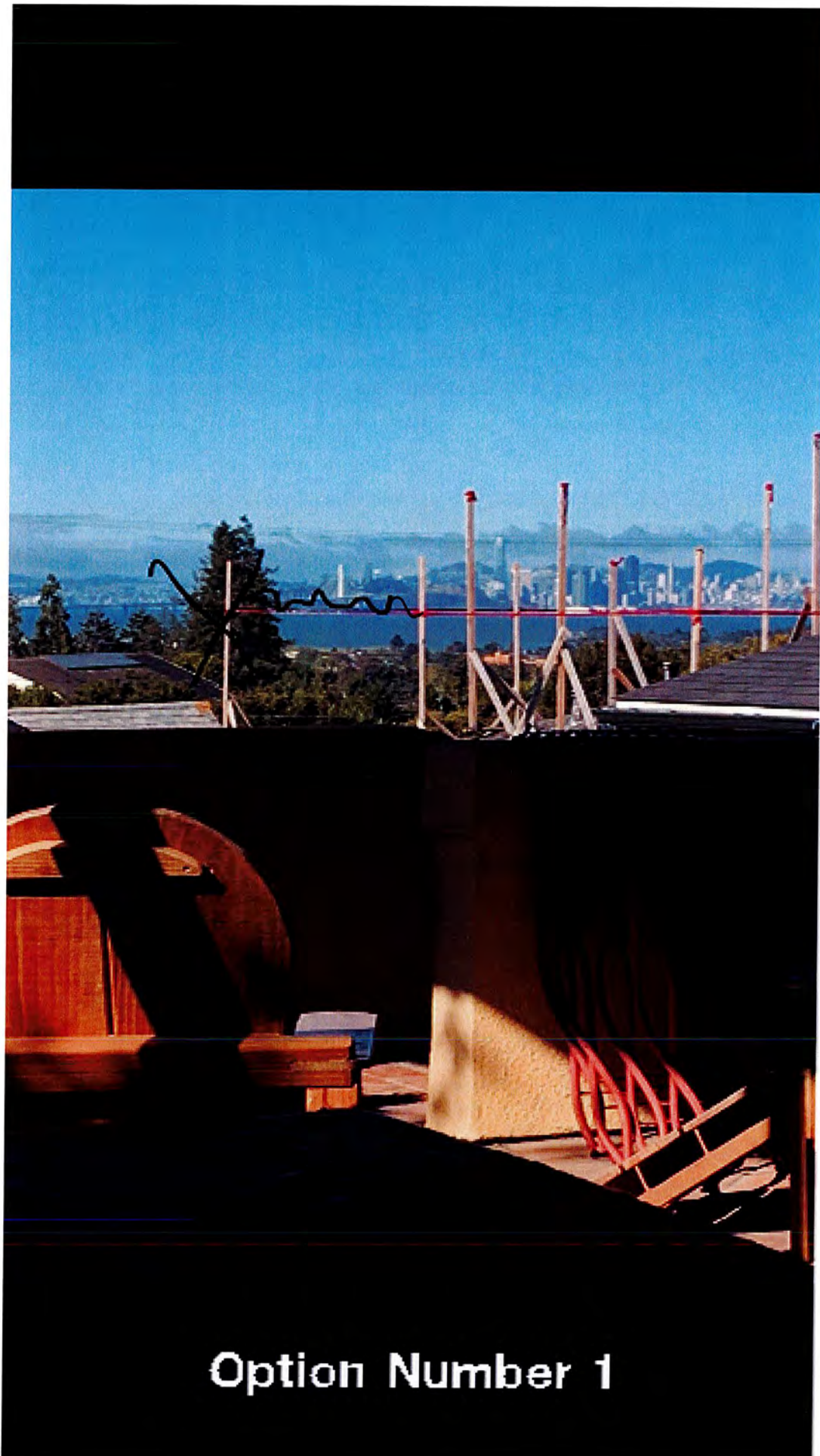
OUR DISCUSSION

- I asked Stacy how she would cut out the corner. She said she could design something that would work.
- I told her I would still like the house to be lowered to preserve my view of the remaining bay while seated. I would be able to decide by how much lower when new tape is placed (below the existing red tape) at the story poles.
- We discussed chimney, vent, and solar panel placement. She said they would be on the west side of the roof out of my line of sight.
- She assured me that with the current design, no part of the roof would protrude above the current red tape line.*

*Because EA's drawings have, per the original survey (see Tab 5), discrepancies in the height depicted in the plans and the story poles height, and because the story poles themselves were never changed or re-certified as part of the new design submission, I suggest that we use the height of the existing red tape line (once certified) as the baseline height of all solution discussions.

As soon as Bryn heard about the discussion she rejected Stacy's idea.

I really like Option 1 because it eliminates the "walled-in" aspect from many perspectives by providing an opening. The walled-in feeling would be most acute when in my garden. Eliminating the front corner would allow a partial view of San Francisco and the bay to remain (see photo from my garden at sunset – Option 1).



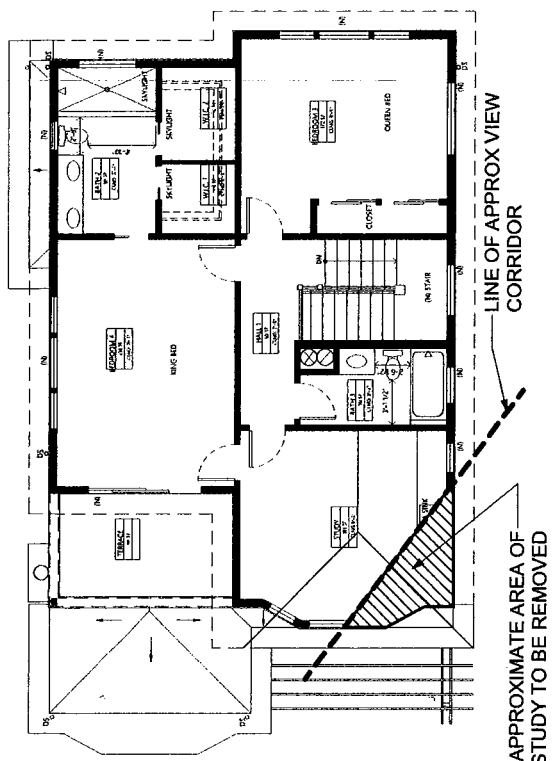
Option Number 1



Seated at kitchen table.
Eliminate front corner 18" lower.



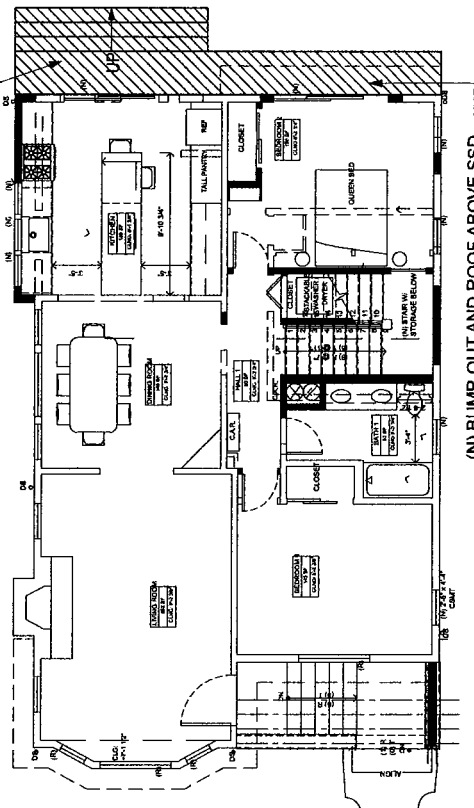
Seated at kitchen table.
View through story poles.



2 OPTION 1 - PROPOSED 2ND FLOOR PLAN

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

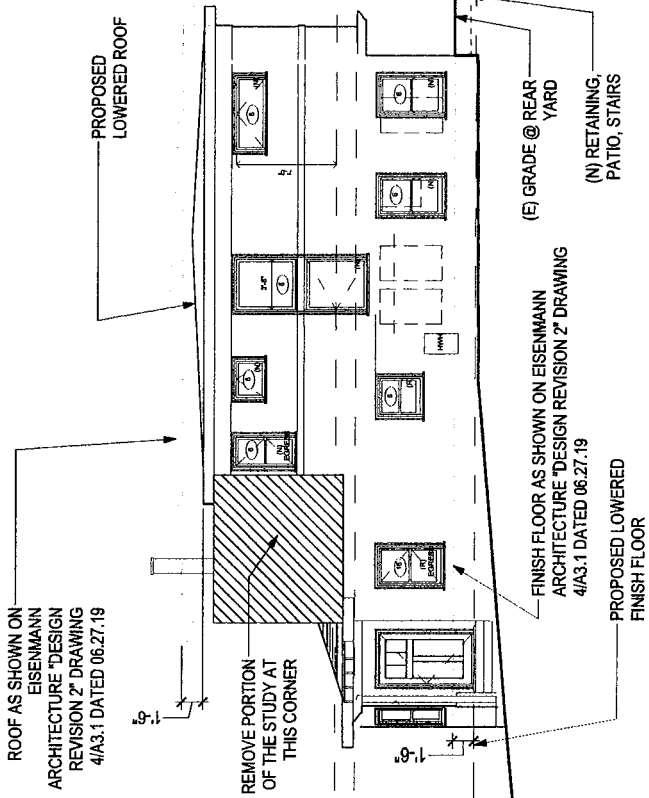
(N) CONCRETE RETAINING WALLS, PATIO, STAIRS



1 OPTION 1 - PROPOSED 1ST FLOOR PLAN

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

(N) BUMP-OUT AND ROOF ABOVE SSD



3 OPTION 1 - PROPOSED EAST ELEVATION

Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19

FINISH FLOOR AS SHOWN ON EISENMANN ARCHITECTURE "DESIGN REVISION 2" DRAWING 4/A3.1 DATED 06.27.19

(E) GRADE @ REAR YARD

(N) RETAINING, PATIO, STAIRS

PROPOSED LOWERED FINISH FLOOR

January 20, 2020
1710 Sonoma Ave.

To the Members of the Berkeley Zoning Adjustments Board,

Re: 1533 Beverly Place

My name is Teymur Ismayilov. I am a software developer from Azerbaijan, and I have been living at Amy's house for some months.

I am a witness to part of a negotiation process between Amy and the neighbor who is planning to build a second floor. The negotiation was about finding a solution that would work for both sides in a view dispute. Currently, the latest provided project of adding the second floor still blocks most of Amy's beautiful view to the Bay and San Francisco. Basically, the view from the kitchen, the only room with a view on the main floor, and where we usually gather and have our meals will be significantly blocked. Apart from that, sometimes I take my laptop and work on the balcony and at the same time enjoying the beautiful view. So, if they build the second floor, as presently designed, obviously nobody is going to enjoy it.

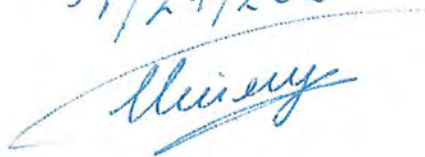
One of the meetings happened at Amy's house and since I am living there, I was present to see how this negotiation was going on. The owner of the house arrived together with her relatives, and architect designers. Amy was very welcoming and let them take many photographs, and was trying to explain why that view is so important to her. However, I was shocked, how the owner of the other house was acting so emotional and rude. She was acting like Amy did some damage to her property, but in fact what Amy is doing is just wanting to keep her beautiful view of the bay. I remember how she was emotionally blaming Amy – "Because of you we are already spending \$100,000". For me personally it is not clear how come it is possible. If let's say for example, a tree from Amy's backyard fell on the property of that woman and damaged her house, it would make sense, but here Amy just wants to keep her view.

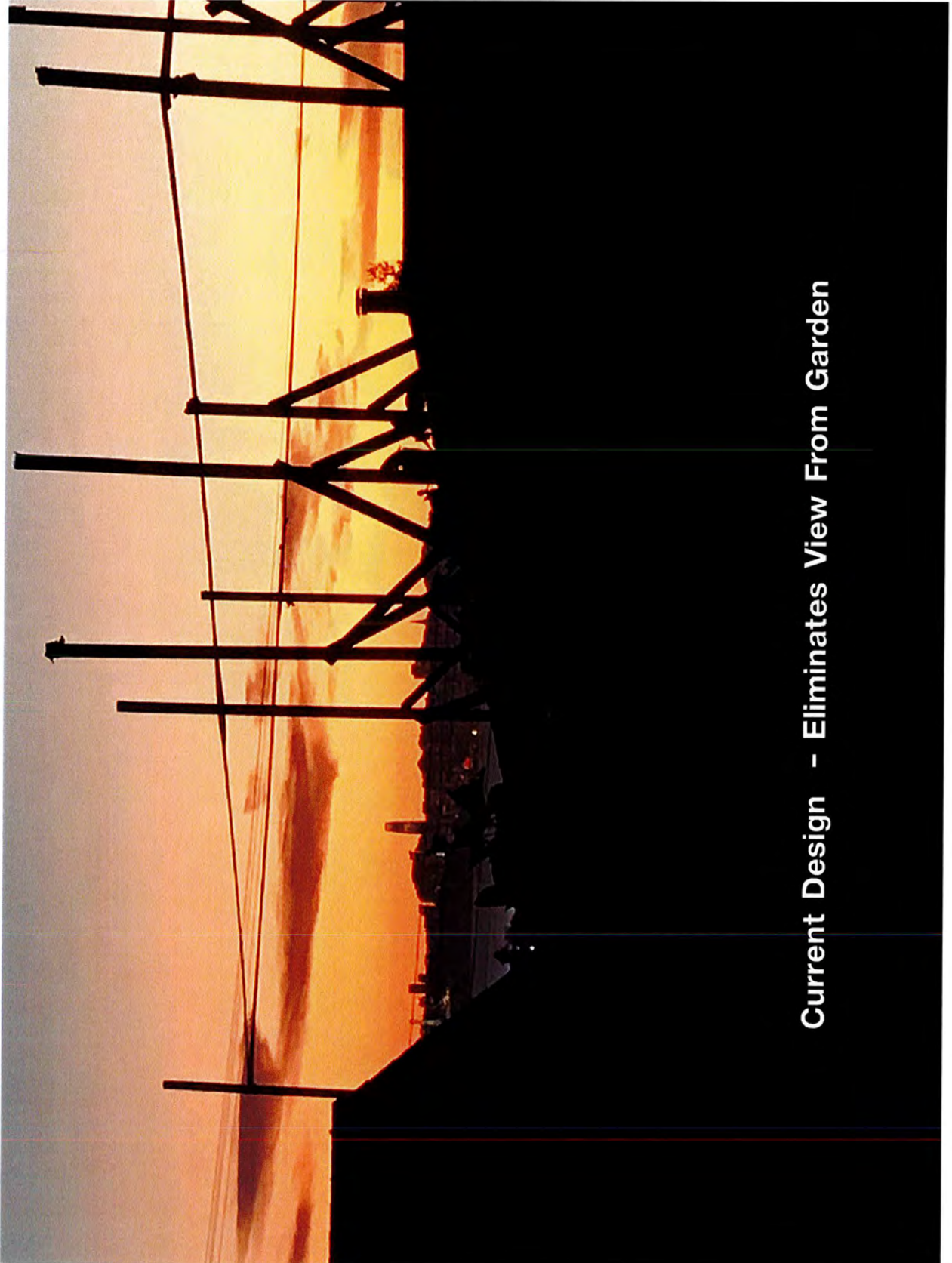
Apart from blaming Amy for expenses, she let herself giving some advices to Amy in a bad tone – "If you need a view, lift up your balcony and put tall chairs on your balcony, and lift your kitchen table." For the rest of the time she spoke to Amy in the same rude manner which is not acceptable, in particular when you are a guest in the owner's house!

Meanwhile, I saw that her architect designer Stacy was sitting next to Amy, [I was seated at the same table] and was trying to find a solution that would work for both sides. I heard Stacy say, and she repeated this a couple of times, that now she understands Amy's concerns; she saw that Amy lost her view corridor. They were working together to come up with something. I heard Stacy suggest a compromise which would let Amy maintain some of her view corridor open from the kitchen. As I heard Stacy describe it, the idea was about cutting some of the area off the 2nd floor, part of the den, leaving

the master suite from where her clients would have an amazing view, untouched. Stacy's compromise would restore some of Amy's view corridor. From what I heard; I'm felt hopeful that a compromise could be reached.

Teymur Ismayilov

01/24/2020




Current Design - Eliminates View From Garden

TAB 8 Appellant's Architect Suggestion and Rationale: Option 2: Everything lowered 24"

Under the circumstances of this case, it is both reasonable and feasible, as part of the foundation replacement, to lower 1533 Beverly Place an additional 24".

I hired Architect Maurice Levitch, President of Levitch Associates, Inc., who made several site visits (from a neighbor's driveway, see Tab 6), reviewed the current design plan, and attempted to provide his suggestions to the Applicants and their architect.

The evidentiary basis for this suggestion is the following:

- The Applicants' house is elevated from the sidewalk by a small hill. The main floor is quite high at the front due to a sloping lot.
- Although Design Option 2 creates a more wall-like appearance than Design Option 1, I would accept it as an alternative to the current design:
- Applicants would retain basically the same views from their second story bedroom, study, and deck as their current design;
- It would not change the room configuration inside the house as currently designed;
- Some of the Appellant's view corridor would remain;
- Due to the slope of their lot, the below-grade portion of the main floor would begin towards the back of the house, which is the kitchen and back bedroom, the 24" would be at the back wall;
- The back bedroom would have a patio and steps up to the yard;
- Safe egress would be assured;
- I cannot comment on the impact to views from their main floor front window, as Applicant and her architects denied me access to their home after I had provided them access to my home (see Tab 6). While at my house, Applicants stated several times they wanted a second story bedroom with a view .

Maurice Levitch Letter

Maurice Levitch drawing Option2

Photos of 1533 Beverly Place

Photo shop photos of Option 2 (24" down).

Maurice Levitch, AIA, Architect
1029 Heinz Ave., Berkeley, CA 94710 maurice@levitch.com 510-773-0606

Zoning Adjustments Board
Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Re: 1533 Beverly Place

Attn: ZAB Secretary

I was asked to review the current design of 1533 Beverly Place by the Appellant, Amy Di Costanzo, who lives behind the project to the east, at 1710 Sonoma Ave.

She believes that the Applicants have the right to expand their home as long as they do not cause significant impacts to neighboring properties.

The project, as designed, blocks the View Corridor of and the Significant View of the San Francisco Bay that 1710 now has. The impact takes place at the only public area, the Kitchen and Dining Room, on the main floor that has a View Corridor and Significant View.

Here are two alternative design solutions that could allow the Applicant to develop their property without causing the impact as described.

Alternative #1- Remove a corner of the Study. Lower house by 18" (not 24")

This alternative (suggested originally by the Architect to the Appellant at her home on a project walkthrough 9/19/19). This option would eliminate the front east corner (a portion of the Study) allowing for an important section of the View Corridor to be maintained. The house in this case would be lowered by 18" (not 24").

Alternative #2- Lower the building by 24"

Lowering the building, as currently designed, by 24" will reduce the impact on 1710 to an acceptable level.

The effect to the project would that instead of walking out directly to grade from the Kitchen and Bedroom one would walk out to a landing and then step up to reach the rear yard area.

The Applicants' Architect claims that lowering the building any further is not feasible due to cost and the need for emergency egress.

Cost

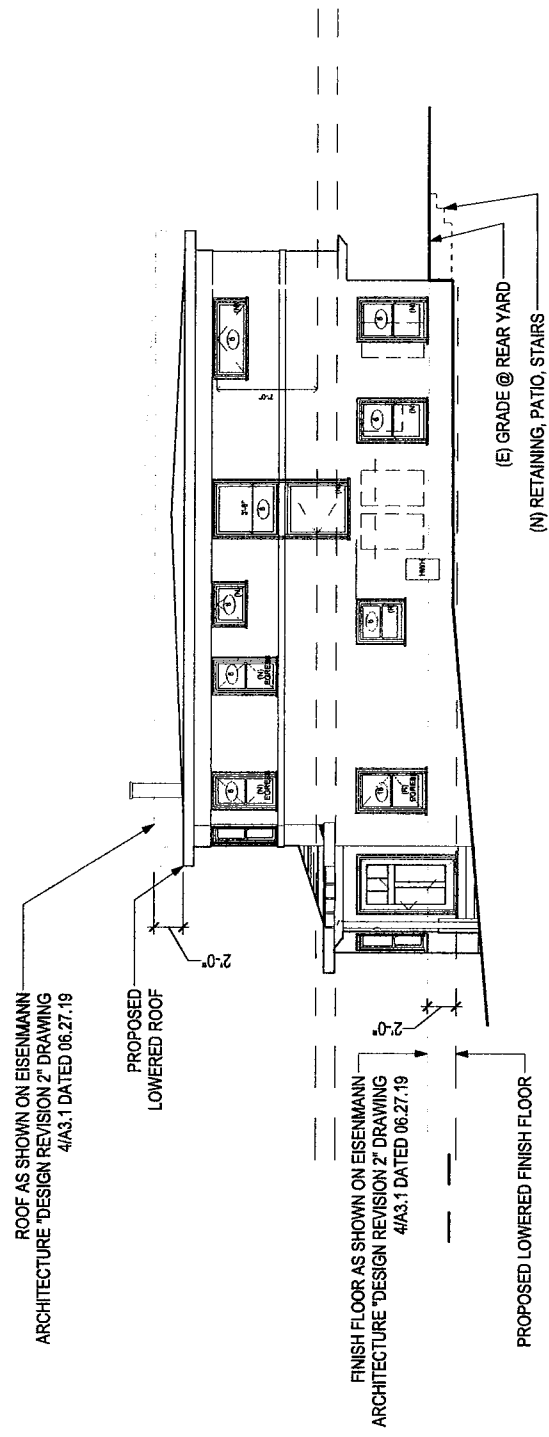
Since the design already includes lowering the building and because the entire foundation will be replaced anyway this solution is viable as it would add only a small percentage to the total project cost (estimate \$20,000 to \$30,000) to cover the additional 60 to 70 cubic yards of earth to remove and the construction of 2' high retaining walls. Design and construction detailing options are many and can be handled as a matter of course.

Emergency Egress

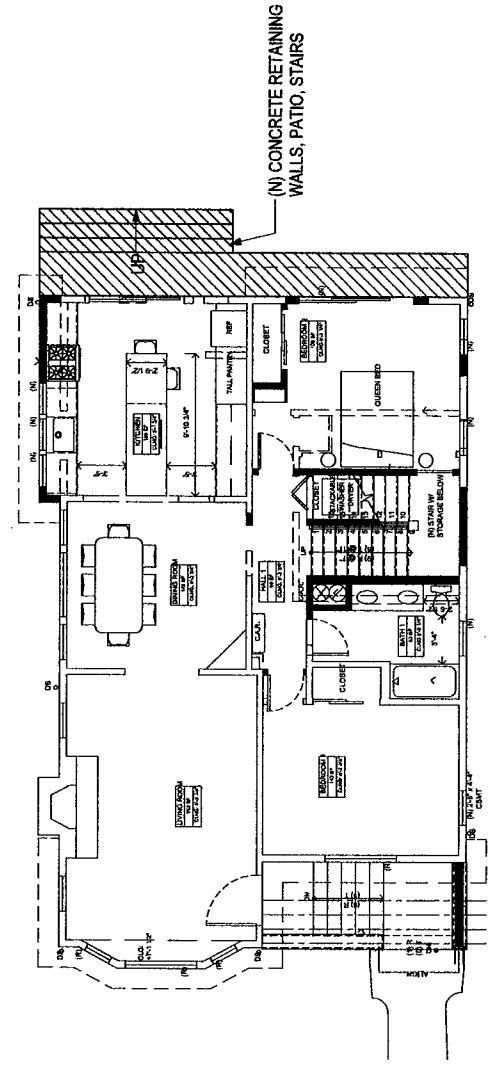
At Bedroom #1 in the rear the Applicant can choose to keep a sliding door or change it to a window without compromising egress. If changing to a window the sill height could be set as low as 32" above the floor where a maximum sill height of 44" is allowed.

Sincerely,

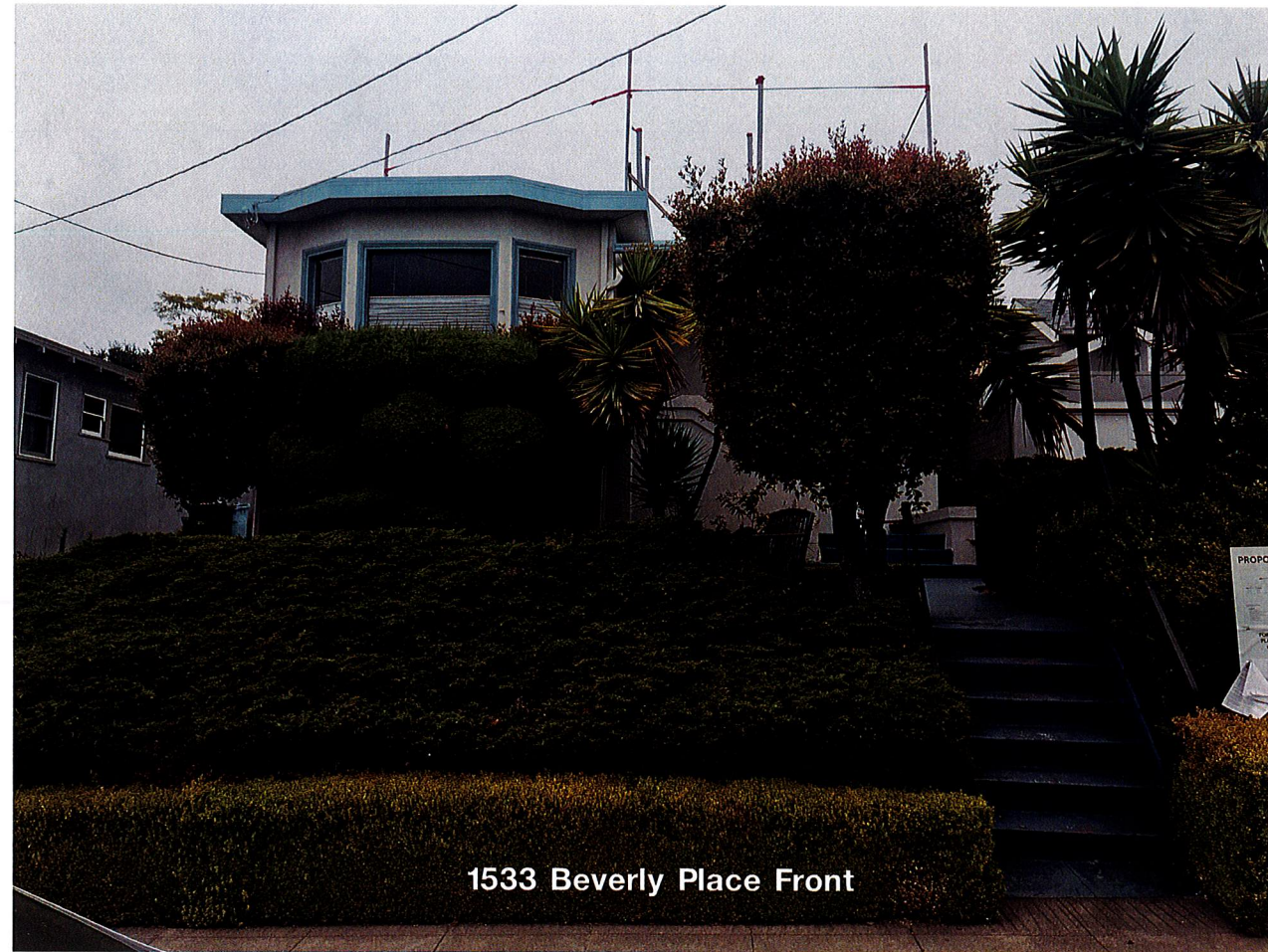

Maurice Levitch, AIA



2 OPTION 2 - PROPOSED EAST ELEVATION
 Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19



1 OPTION 2 - PROPOSED 1ST FLOOR PLAN
 Scale: N.T.S. / Based on Eisenman Architecture drawing 4/A3.1 dated 06.27.19



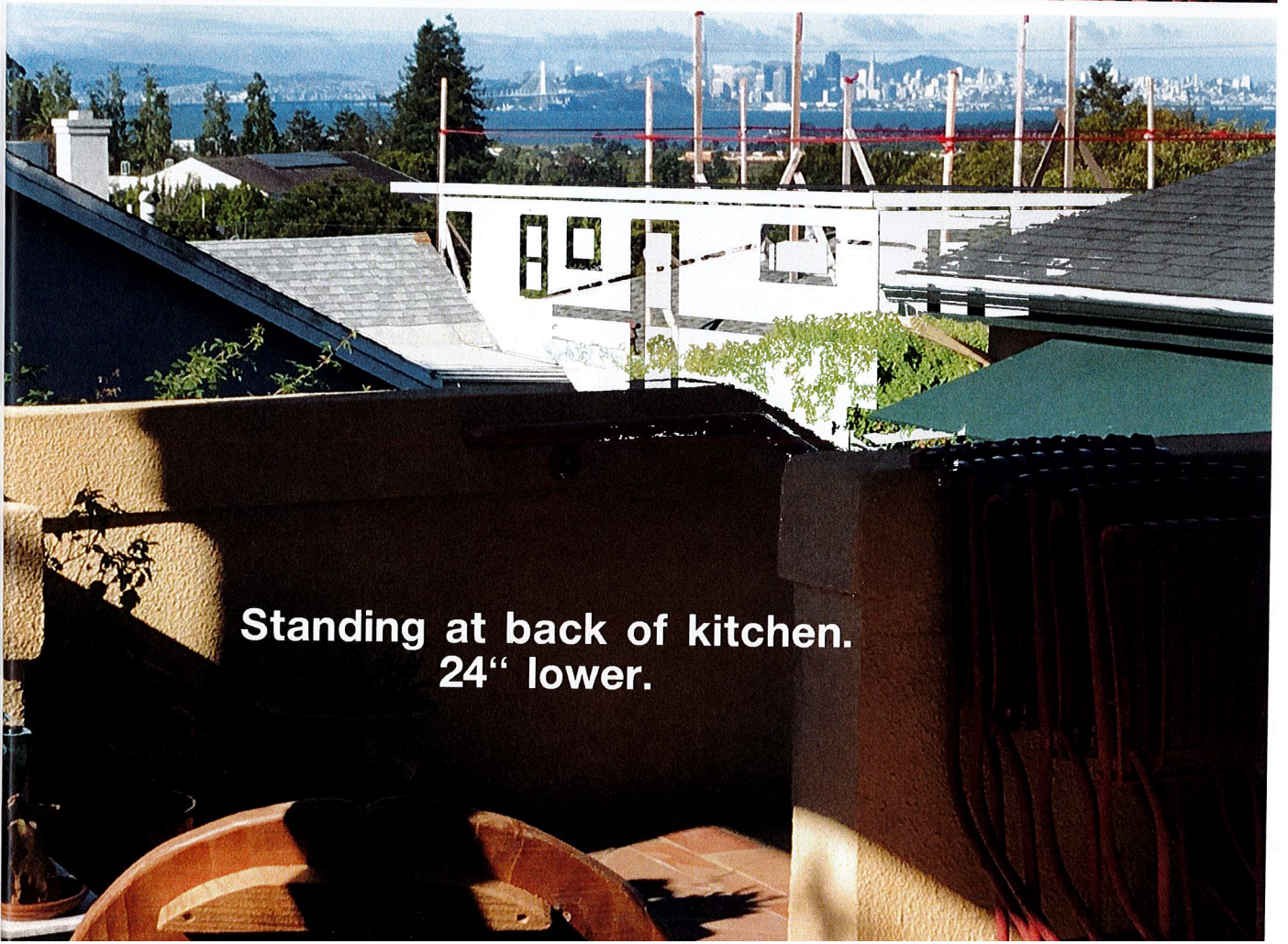
1533 Beverly Place Front



1533 Beverly Place West Side

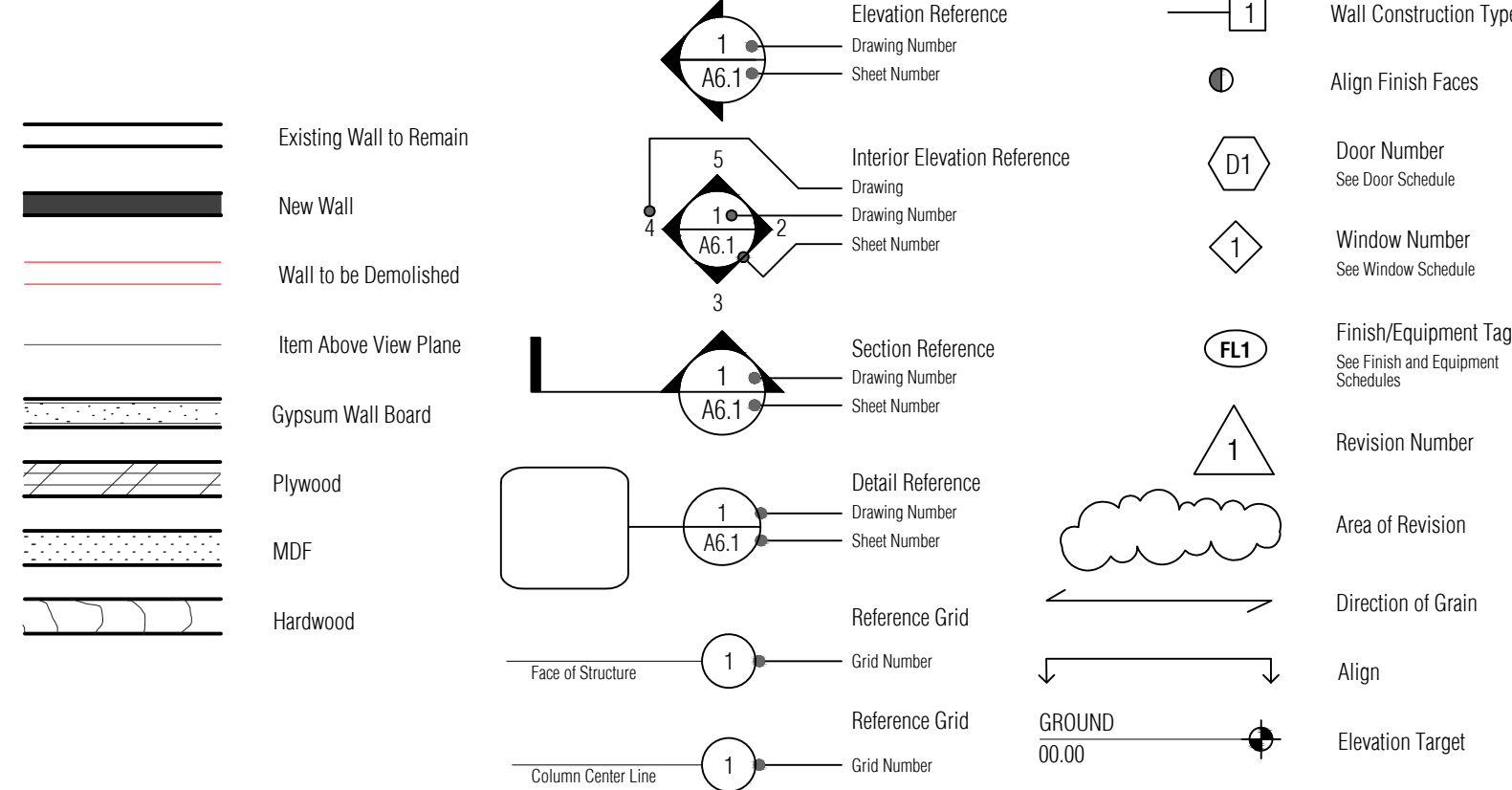


Standing at back of kitchen.
Current design.



Standing at back of kitchen.
24" lower.

SYMBOLS



ABBREVIATIONS

& And	JT Joint
@ At	JST Joist
# Pound or Number	KD Kiln Dried
AB Anchor Bolt	L Angle
ACOUS Acoustic	LAM Laminate
ADD Addendum	LT Light
ADJ Adjustable	MAX Maximum
AFF Above Finish Floor	MB Machine Bolt
ALT Alternate	MDF Medium Density Fiberboard
ALUM Aluminum	MECH Mechanical
BD Board	MEMB Membrane
BLDG Building	MFR Manufacturer
BLK Block	MIN Minimum
BLKG Blocking	MISC Miscellaneous
BT Bottom of Truss	MTD Mounted
BOW Bottom of Wall	MTL Metal
BSMT Basement	MUL Mullion
C Centerline	N North
CEM Cement	(N) New
CL Control Joint	NC Not in Contract
CLKG Caulking	NO Number
CLNG Ceiling	NSF Net Square Feet
CLR Clear	NTS Not to Scale
CMU Concrete Masonry Unit	OC On Center
COL Column	OFCI Owner Furnished Contractor Installed
CONC Concrete	OPNG Opening
CONSTR Construction	OSB Oriented Strand Board
CONT Continuous	PEN Plywood Edge Nailing
COORD Coordinate	PL Property Line
CT Ceramic Tile	PLAM Plywood Laminated
CTSK Countersunk	PLWD Plywood
d Penny	PNT Painted
D Depth	PR Pair
DBL Double	PT Pressure Treated
DET Detail	PTR Partition
DF Douglas Fir	QTY Quantity
DIA Diameter	R Riser
DIM Dimension	RAD Radius
DN Down	ROWD Redwood
DS Downspout	REF Refrigerator
DW Dishwasher	REIN Reinforced
DWG Drawing	REQD Required
E East	RESIL Resilient
(E) Existing	REV Revision
EA Each	RFG Roofing
EL Elevation	RM Room
ELEC Electrical	RO Rough Opening
ELEV Elevation	RWD Rainwater Drainage
EP Electrical Panel	TWL Rainwater Leader
EXP JT Expansion Joint	SCHED Schedule
EQ Equal	SF Square Foot/ Feet
EXT Exterior	SHT MTL Sheet Metal
FD Floor Drain	SIM Similar
FDN Foundation	SKL Skylight
FE Fire Extinguisher	SLD Seal
FF Finish Floor	SLD See Landscape Drawings
FIN Finish	SPEC Specifications
FL Floor	SO Square
FOC Face of Concrete	SSD See Structural Drawings
FOF Face of Finish	STSL Stainless Steel
FOS Face of Stud	STD Standard
FOSH Face of Sheathing	STL Steel
FRMG Framing	STOR Storage
FT Foot	STRUC Structural
FTG Footing	SYM Symbol
FURR Furring	SYS System
GA Gage	T Tread
GALV Galvanized	T&G Tongue and Groove
GC General Contractor	TEL Telephone
GEC Grounding Electrode Conductor	THK Thick
GFI Ground Fault Circuit Interrupter	TD Top of
GL Glass	TDS Top of Structure
GLB Glue Lam Beam	TOT Top of Truss
GR Grade	TOW Top of Wall
GSF Gross Square Feet	TYP Typical
GSM Galvanized Sheet Metal	UDN Unless Otherwise Noted
GV Gas Vent	VERT Vertical
GWB Gypsum Wall Board	VG Vertical Grain
H Height	VIF Verily in Field
HB Hose Bib	W Width
HNDRL Handrail	WJ With
HDWD Hardwood	WC Water Closet
HGT Height	WD Wood
HORIZ Horizontal	W/D Washer / Dryer
HB Hose Bibb	WDW Window
HC Hollow Core	WP Water Proofing
HR Hour	WRC Western Red Cedar
HW Hot Water	
IN Inch	
INCL Including	
INSUL Insulation	
INT Interior	
INTM Intermediate	

GENERAL NOTES

- All work shall be in conformance with the 2019 California Code of Regulations, including:
 - 2019 California Building Code (CBC)
 - 2019 California Plumbing Code (CPC)
 - 2019 California Mechanical Code (CMC)
 - 2019 California Electrical Code (CEC)
 - 2019 California Residential Code (CRC)
 - 2019 California Green Building Standards Code (CGSBC)
 - 2019 California Fire Code (CFC)
 - 2019 California Energy Code (Title 24) Part 6
- In the event of Conflicts in Code Regulations, the most stringent requirements shall apply. Contractor shall notify Architect and Owner, in writing, of any discrepancy between the applicable codes and these documents.
- These documents describe design intent. Contractor shall provide all associated work, including but not limited to, partial demolition, site work, structural, mechanical, electrical, plumbing and finish work required for a complete, operational, and water tight project. No claims for additional work will be awarded for work which is described in these documents or reasonably inferred from them.
- Contractor is responsible for thorough coordination of trades. No claims for additional work will be awarded for work related to such coordination.
- Contractor is responsible for coordination with utilities to determine location, including but not limited to Gas, Water, Power, Sewer, Telephone and Cable Television. No claims for additional work will be awarded for work related to such coordination.
- Contractor shall verify all dimensions, elevations, and conditions of the site and all dimensions and details of the project components. Contractor shall notify the Architect in writing of any discrepancy in plans and specifications immediately. Work shall not proceed without Architect's authorization.
- Any errors, omissions, or conflicts found in the various parts of the construction documents shall be brought to the attention of the architect for clarification prior to proceeding with work. Any changes or interpretations of these documents made without consulting the Architect, and any unforeseen conditions resulting therefrom, shall not be the responsibility of the Architect.
- Do not scale drawing, contact Architect where clarification is required.
- All dimensions are to face of finish, unless otherwise noted.
- Details shown are typical. Similar details shall apply in similar locations and conditions.
- "Typical" or "TYP" shall mean that the condition is representative for similar conditions throughout, unless otherwise noted.
- All work shall be installed plumb, level, square, and true, and in proper alignment.
- "Align" shall mean to accurately locate finish faces in the same plane.
- Contractor shall continuously protect existing trees, utilities and adjacent properties from damage during construction. Contractor shall replace or restore damaged property, materials and finishes at no additional cost to Owner. Restoration shall be equal to the original work and finishes shall match the appearance of existing work.
- Contractor shall continuously protect the project from, including but not limited to, water damage and damage in the course of the work. Contractor shall replace or restore damaged property, materials and finishes at no additional cost to Owner. Restoration shall be equal to the original work and finishes shall match the appearance of existing work.
- Contractor shall be responsible for job site conditions, including safety of persons and security of property, and for security of stored materials and equipment, not limited to normal hours of work. Contractor shall maintain appropriate insurance to protect the Owner, Architect and Contractor.
- Contractor shall broom sweep the premises nightly. At the completion of work, Contractor shall remove all debris and trash caused from the work, surplus materials, tools, and construction equipment, and will leave the project in clean condition.
- All materials, equipment, and articles incorporated into the work shall be new, first grade, and free of defects unless otherwise noted. The Owner shall have the right to reject defective or substandard workmanship, and the contractor shall immediately correct unacceptable work at no expense to the owner.
- Contractor shall warrant the entire work against defects in materials and workmanship for one year from the date of acceptance. Sub-contractors shall warrant their work against defects in materials and workmanship for a period of one year, except for the roofing sub-contractor who shall warrant his/her work against defects for a period of three years from the date of acceptance. Contractors and Sub-contractors shall submit their warranties in writing to the Owner.
- Required submittals include shop drawings of all metalwork, all millwork, and samples of all finish materials and trim, with specified finish applied and in quantities sufficient to demonstrate variation within the material. Prior to receipt by the Architect, the submittals shall be signed by the Contractor, signifying the Contractor's review, approval, verification of field dimensions, and compliance with the construction documents. Contractor shall allow five working days minimum for Architect to process submittals.
- Mechanical, Electrical, and Plumbing work to be design/build per CMC, CEC and CPC. See A5.0 for Mechanical, Electrical & Plumbing Notes.
- All exterior glazing units to comply with T24 energy requirements for U factors.
- Annual spaces around pipes, electric cables, conduits, or other openings in bottom plates at exterior walls shall be protected against the passage of rodents by closing such openings with cement mortar, concrete masonry or similar method acceptable to the enforcing agency.
- Cover new or existing duct openings and protect mechanical equipment during construction. At the time of rough installation, during storage on the construction site and until final startup of the heating, cooling and ventilating equipment, all duct and other related air distribution component openings shall be covered with tape, plastic, sheetmetal or other methods acceptable by the enforcing agency to reduce the amount of water, dust & debris which may enter the new or existing system.
- Finish materials shall comply with the following:
 - Adhesives, sealants, and caulks shall comply with the following standards unless more stringent local limits apply: Calgreen table 4.504.1 or 4.504.2, and Rule 1168. Statewide VOC standards of the California Code of Regulations (CCR), Title 17, commencing with section 94507.
 - Paints and coatings shall comply with the VOC limits in Table 1 of the CCR Architectural Suggested Control Measure, as shown in Table 4.504.3, unless more stringent local limits apply. The VOC content for coatings not meeting the definitions for the categories listed shall be determined in subsections 4.21, 4.36, 4.37 of the 2007 California Air Resources Board.
 - Aerosol paints and coatings shall meet the product weighted MIR limits for VOC in section 94522(a)(2) and other requirements, including prohibitions on use of certain toxic compounds and ozone depleting substances, in sections 94522(e)(1) and (f)(1) of the CCR, Title 17, commencing with section 94520, and in areas under the jurisdiction of the Bay Area Air Quality Management District with the percent VOC by weight of product limits of Regulation 8, Rule 49.
- Building materials with visible signs of water damage shall not be installed. Wall and floor framing shall not be enclosed when the framing members exceed 19% moisture content. Moisture content shall be verified in compliance with the following: (1) Moisture content shall be determined with either a probe-type or contact-type moisture meter. Equivalent moisture verification methods may be approved by the enforcing agency and shall satisfy requirements found in Section 1011.8 of this code. (2) Moisture readings shall be taken at a point 2 feet (610 mm) to 4 feet (1219 mm) from the grade stamped end of each piece to be verified. (3) At least three random moisture readings shall be performed on wall and floor framing with documentation acceptable to the enforcing agency provided at the time of approval to enclose the wall and floor framing. Insulation products which are visibly wet or have a high moisture content shall be replaced or allowed to dry prior to enclosure in wall or floor cavities. Manufacturers' drying recommendations shall be followed for wet-applied insulation products prior to enclosure.
- When req'd by the enforcing agency, independent special inspectors shall be employed to provide inspections or other duties necessary to substantiate compliance with this code. Special inspectors shall have a certification recognized by the enforcing agency and closely related to the primary job function, as determined by the enforcing agency. Documentation used to show compliance with this code may be in the form of drawings, specifications, construction documents, builder or installer certification, inspection reports, or other methods acceptable to the enforcing agency which demonstrate substantial conformance. When specific documentation or special inspection is necessary to verify compliance, that method of compliance will be specified in the appropriate section or identified in the application checklist.

DRAWING INDEX

SHEET	TITLE	SUBMISSION & DATE
A0.0	COVER SHEET	X
AC.0	SURVEY	X
A1.1	SITE PLAN	X
A2.0	FLOOR PLANS	X
A3.0	EXISTING EXTERIOR ELEVATIONS	X
A3.1	NEW EXTERIOR ELEVATIONS	X
A3.2	BUILDING SECTIONS	X
	SHADOW STUDIES PAGES 1.0, 1.1, 1.2, 2.0, 2.1, 2.2 PER REV. 6	X

PROJECT INFORMATION

PROJECT ADDRESS	1533 Beverly Place, Berkeley CA 94706
ASSESSOR'S PARCEL	061 262902400
OCCUPANCY	R3
ZONING AREA	R1
CONSTRUCTION TYPE	VB
PROJECT DESCRIPTION	Remodel of (e) 1212 s.l. residence to include: Second story addition of 1016 s.l. to include stair, 2 bedrooms, 2 bathrooms, 2 walk-in-closets, 1 study and a terrace. Replacement of (e) entry steps, porch, and porch roof. Removal of (e) hot water heater shed @ side of house. Kitchen and Bathroom remodel. Removal of cover over (e) patio in Rear Yard. Miscellaneous patch & repair throughout the house.
DESIGN REVISION, MAY 2019:	WE PROPOSE TO LOWER THE HOUSE APPROXIMATELY 24" (AT ROOF EAVES) AND HAVE A FLAT ROOF IN LIEU OF 4/12 SLOPED ROOF TO OPEN VIEWS AND DECREASE SHADOWS ON NEIGHBORING PROPERTIES.

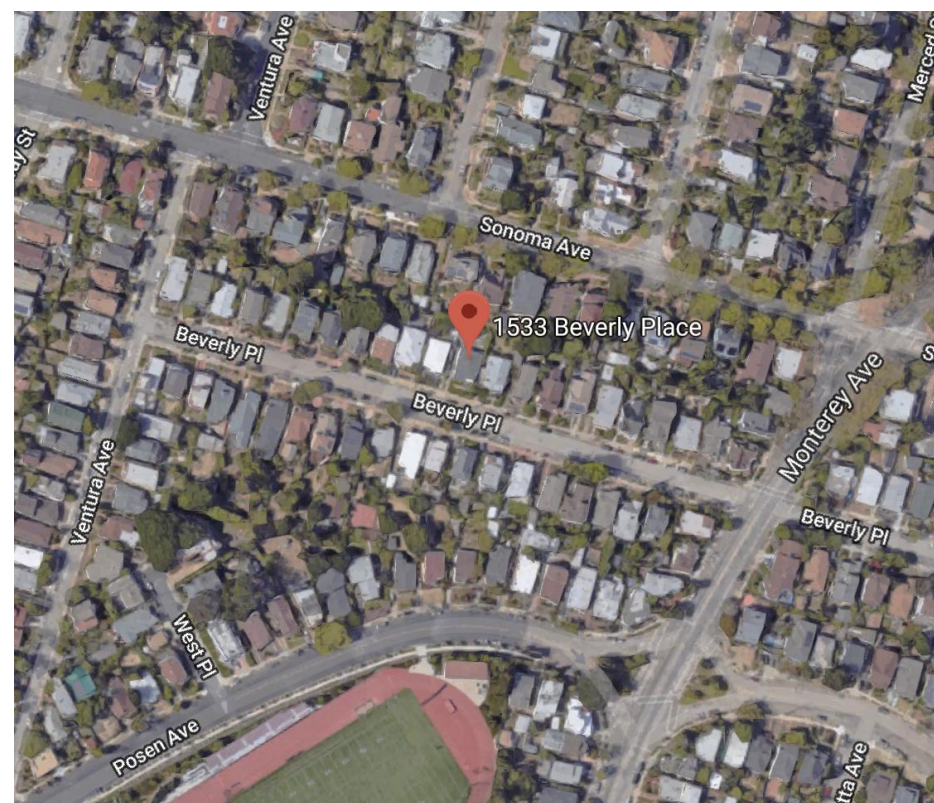
PROJECT DIRECTORY

OWNER	JOHN AND BRYN SMALLWOOD-GARCIA 1533 Beverly Place Berkeley, CA 94706 John: (510) 847-5414 smallwood_garcia@hotmail.com Bryn: (203) 546-8307 bryn@ucbb.org
ARCHITECT	EISENMANN ARCHITECTURE Project Architect: Stacy Eisenmann Project Manager: Aska Wieloch-Kim 1331 7th Street Suite G Berkeley CA 94710 510 558 8442 aska@eisenmannarchitecture.com
ENGINEER	VERDANT STRUCTURAL ENGINEERS 1101 8TH STREET #180 BERKELEY, CA 94710 (510) 528-5394 www.verdanstructural.com
CONTRACTOR	TBD

TABULATION

	EXISTING	PROPOSED	REQUIRED/PERMITTED
UNITS, PARKING SPACES, BEDROOMS			
NUMBER OF DWELLINGS	1	1	1
NUMBER OF PARKING SPACES	3	1	1
NUMBER OF BEDROOMS	1	5	-
YARD SETBACKS			
FRONT	18.2'	18.2'	20.0'
SIDE (FACING PROPERTY); LEFT	9.6'	9.6'	4.0'
SIDE (FACING PROPERTY); RIGHT	4.0'	4.0'	4.0'
REAR	34.9'	34.9'	20.0'
BUILDING HEIGHT			
NUMBER OF STORIES	2	3	3
AVERAGE BLDG. HEIGHT	17'-2 3/4"	23'-7 1/2"	28'-0"
MAXIMUM BLDG. HEIGHT	15'-11"	n/a	n/a
AREAS			
LOT AREA	4,200 SF	4,200 SF	4,200 SF
GROSS FLOOR AREA	1,212 SF	2,247 SF	N/A
BUILDING FOOTPRINT	1,757 SF	1,657 SF	1,680 SF
LOT COVERAGE	41.83%	39.45%	40%
USABLE OPEN SPACE	855 SF	935 SF	400 SF

VICINITY MAP



GREEN BUILDING NOTES

- This project is required to conform to the residential Calgreen standards.
- Project to achieve voluntary green building measures wherever feasible.
- All work to comply with California Energy Code (title 24-part 6). See c2r-iii-01-e for kitchen lighting energy compliance forms. Project also to comply with all municipal green building standards where applicable.
- Voluntary Green Measures
- Pollutant control: Adhesives, sealants, caulks, paints, stains and other coatings, carpet and carpet systems shall be compliant with VOC limits. GC to provide documentation that confirms VOC compliance.
- Aerosol paints and coatings shall be compliant with product weighted MIR limits for VOC and other toxic compounds.
- Hardwood plywood, particleboard, and medium density fiberboard composite wood products used on the interior or exterior of the building shall comply with low formaldehyde emission standards as specified in the air resources board's air toxics control measure for composite wood (17 CCR 93120 et. seq.), as shown in table 4.504.5. Documentation is req'd per section 4.504.5.1. Composite wood products do not include hardwood, structural plywood, structural panels, structural composite lumber, oriented strand board, glued laminated timber, pre-laminated wood joists, or finger-jointed paper, as specified in CCR title 17, Section 93120.1 (a).
- Moisture content of building materials used in wall and floor framing shall be checked before enclosure.
 - Roof: R-30
 - Floor above crawlspace: R-19
 - Walls: R-15
 - Hot water pipes: R-3

architect

contact **STACY EISENMANN**

address **1331 7th Street Suite G
Berkeley CA 94710**

phone **510 558 8442**

email **stacy@eisenmannarchitecture.com**

stamp

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project

SMALLWOOD - GARCIA

contacts **JOHN AND BRYN SMALLWOOD-GARCIA**

address **1533 BEVERLY PLACE
BERKELEY CA 94706**

phone **510.847.5414
203.546.8307**

email **smallwood_garcia@hotmail.com
bryn@ucbb.org**

ISSUE

PLANNING	07.03.18
1 PLANNING REV 1	09.20.18
2 PLANNING REV 2	10.03.18
3 PLANNING REV 3	11.12.18
4 PLANNING REV 4	12.12.18
5 DESIGN REVISION 1	22.05.19
6 SHADOW STUDIES	06.27.19
7 DESIGN REVISION 2	06.10.20

job number **385** drawn by **AWK**

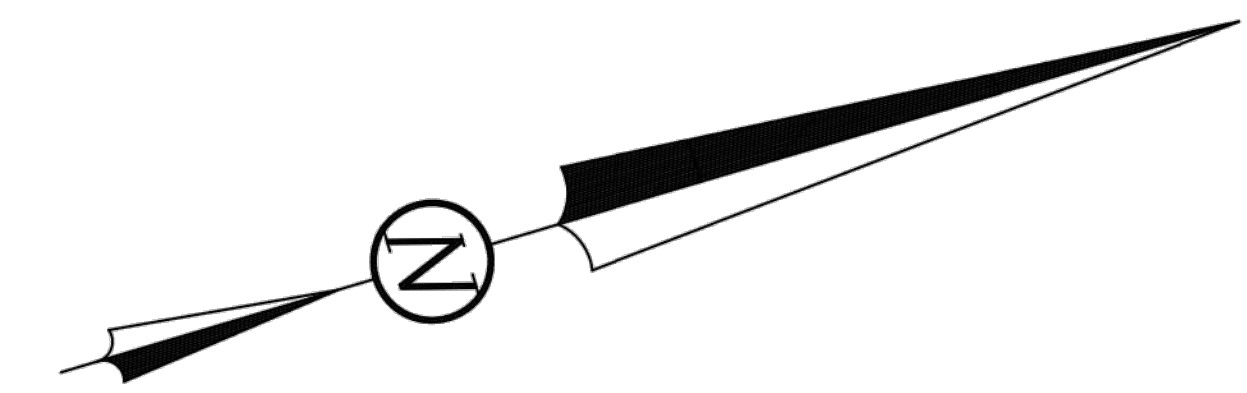
scale

NO SCALE

date **06.04.2020**

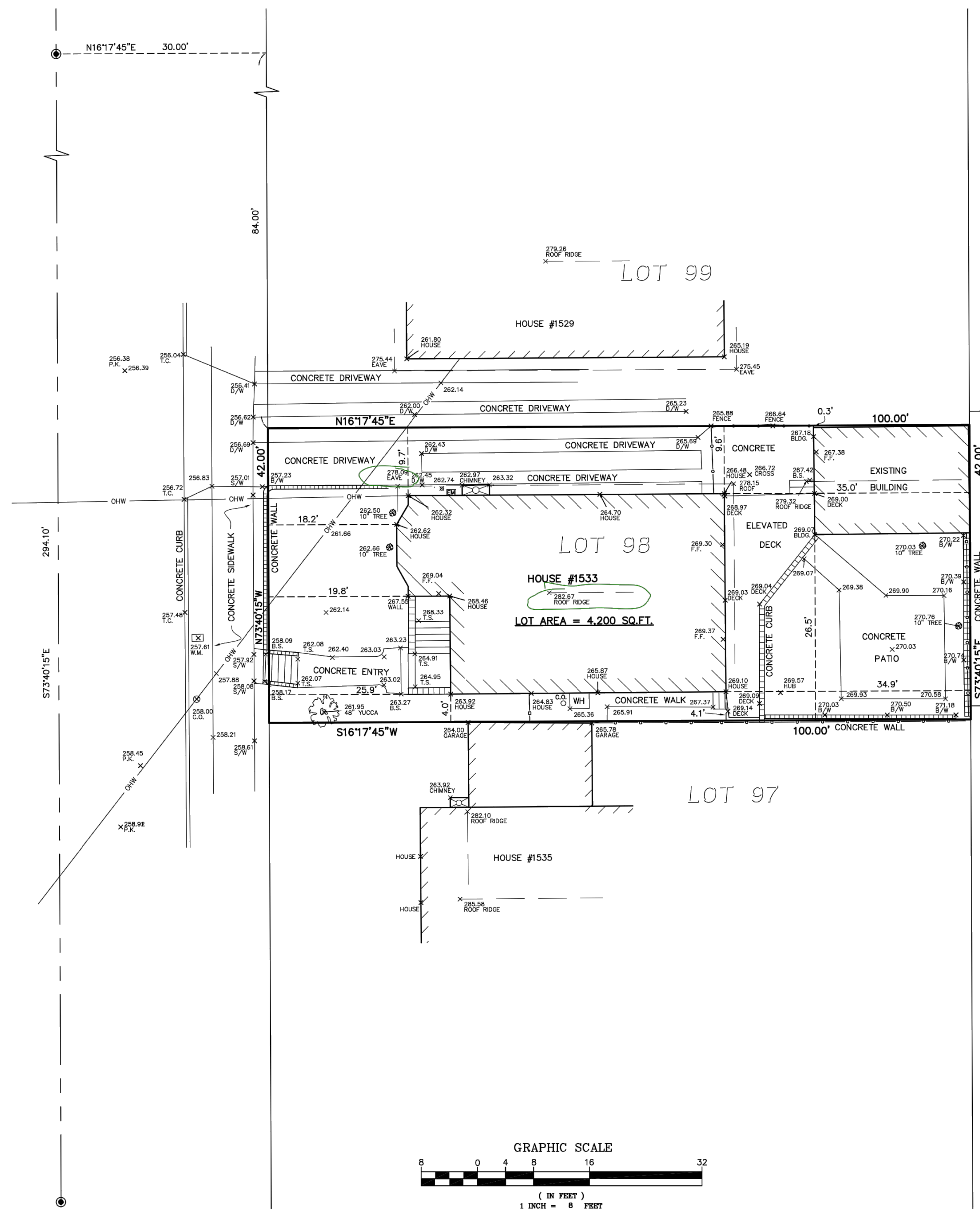
title **COVER SHEET** sheet number

A0.0



ELEVATIONS ARE BASED ON CITY OF BERKELEY DATUM.

BEVERLY PLACE (60' WIDE)



LOT 11

NORTHBRAE (22 M 65) BLOCK 16

LOT 10

LOT 9

LEGEND

- A/C ASPHALT/CONCRETE
- BLDG. BUILDING
- B.S. BASE OF STEPS
- B/W BASE OF WALL
- C.O. CLEAN OUT
- D/W DRIVEWAY
- EM ELECTRIC METER
- F.F. FINISH FLOOR
- OHW OVERHEAD WIRES
- P.K. NAIL
- S/W SIDEWALK
- T.C. TOP OF CURB
- T.S. TOP OF STEPS
- WH WATER HEATER
- W.M. WATER METER
- FOUND CITY MONUMENT

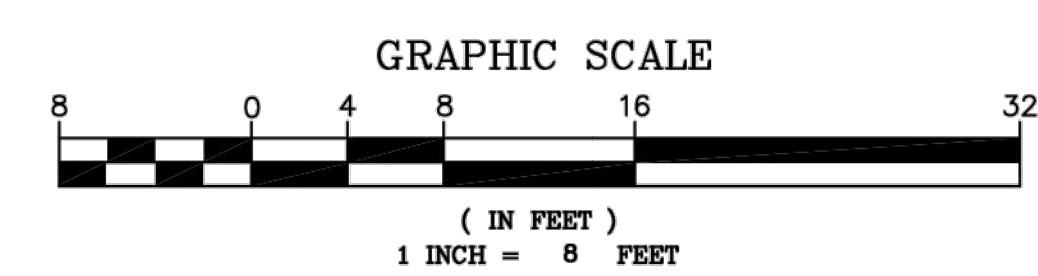
HOUSE LOCATION SURVEY

LOT 98, BLOCK 30,
 RE-SUBDIVISION MAP OF PERALTA PARK (15 M 4)
 LOCATED AT 1533 BEVERLY PLACE
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA
 MARCH, 2018 SCALE: 1" = 8'

MORAN ENGINEERING, INC.

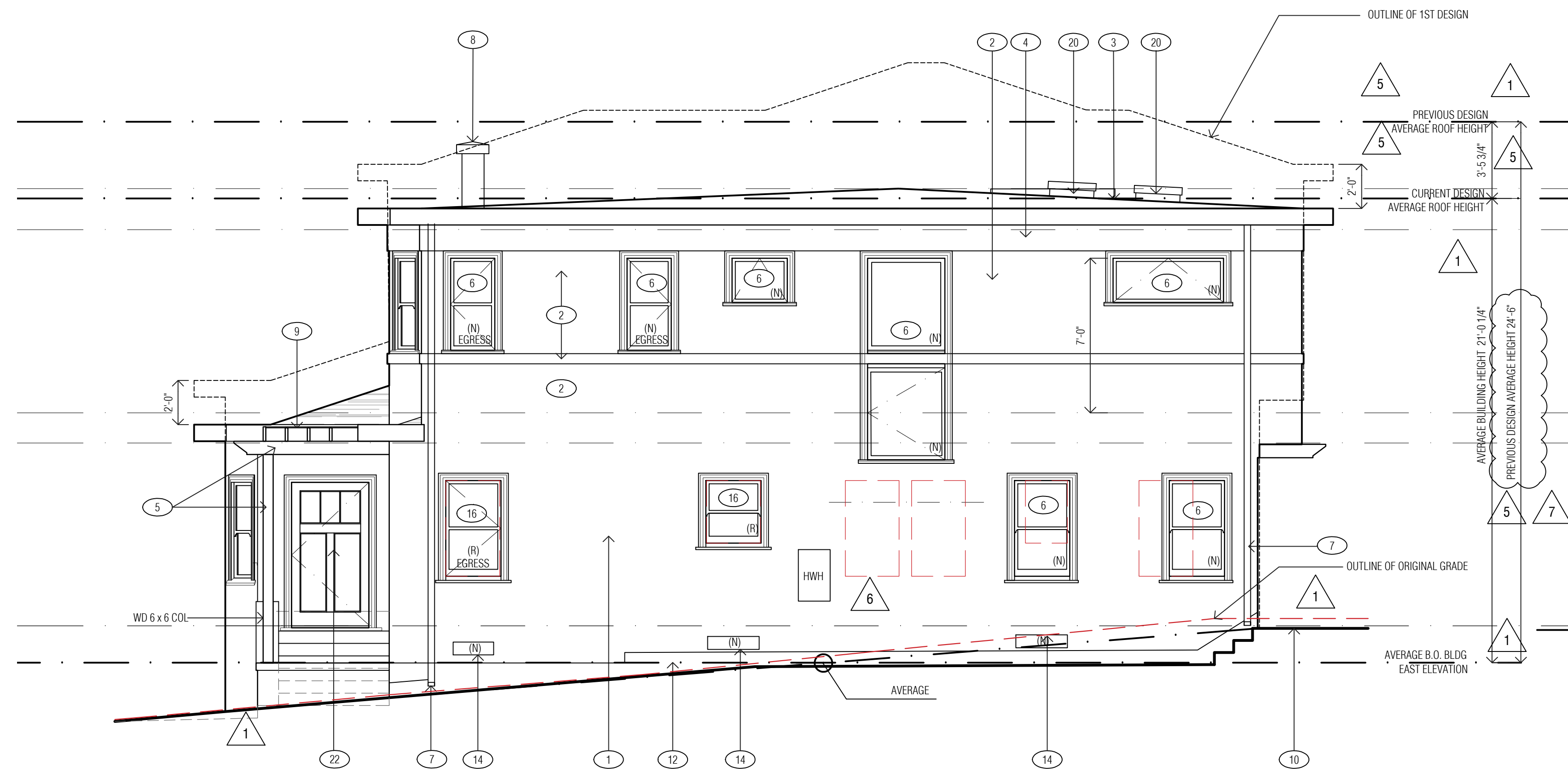
CIVIL ENGINEERS \ LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 848-1930

F.B. NO. 1659 BEVERLY-TOPO.DWG JOB NO. 18-9874

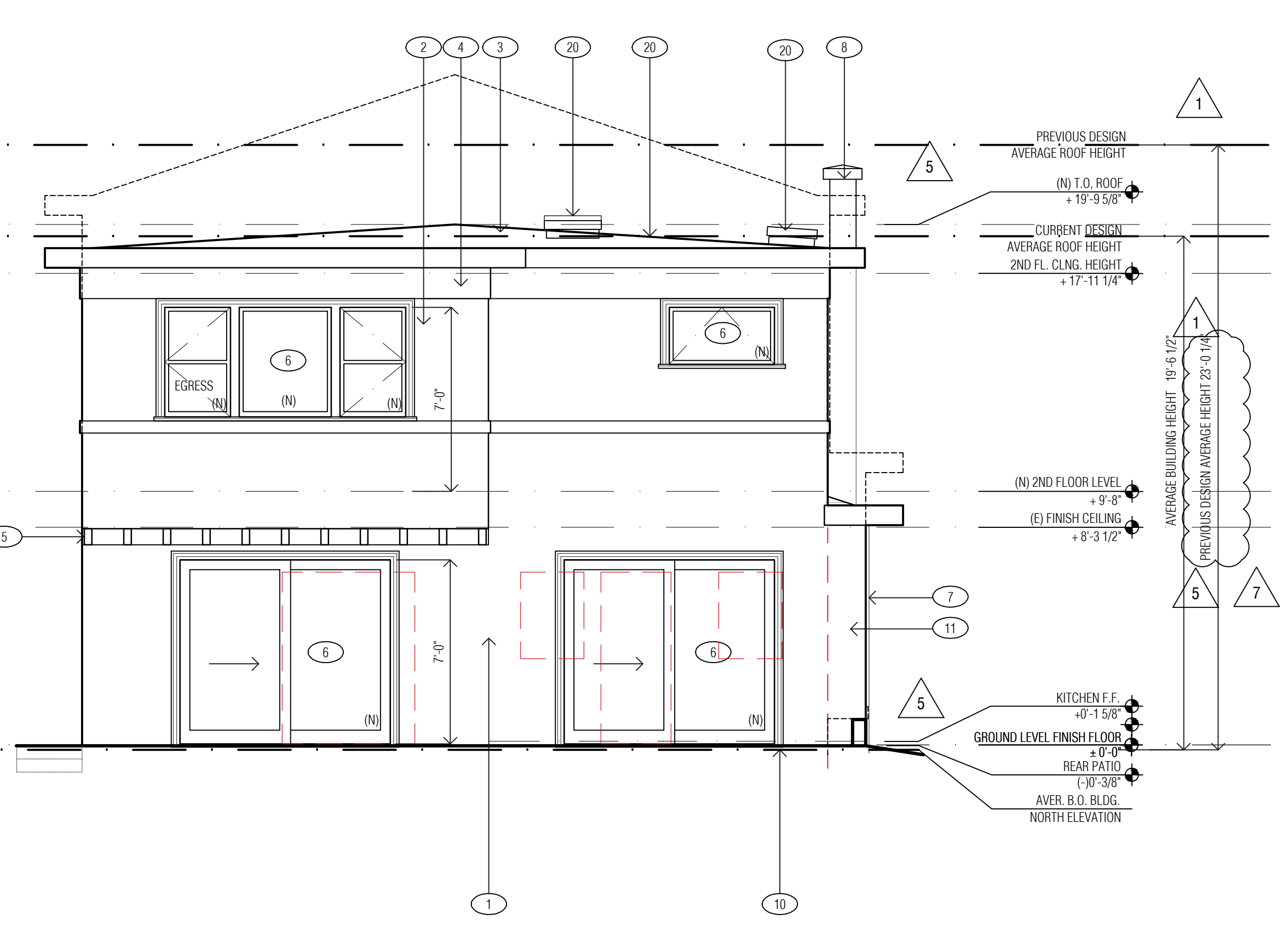


C.O

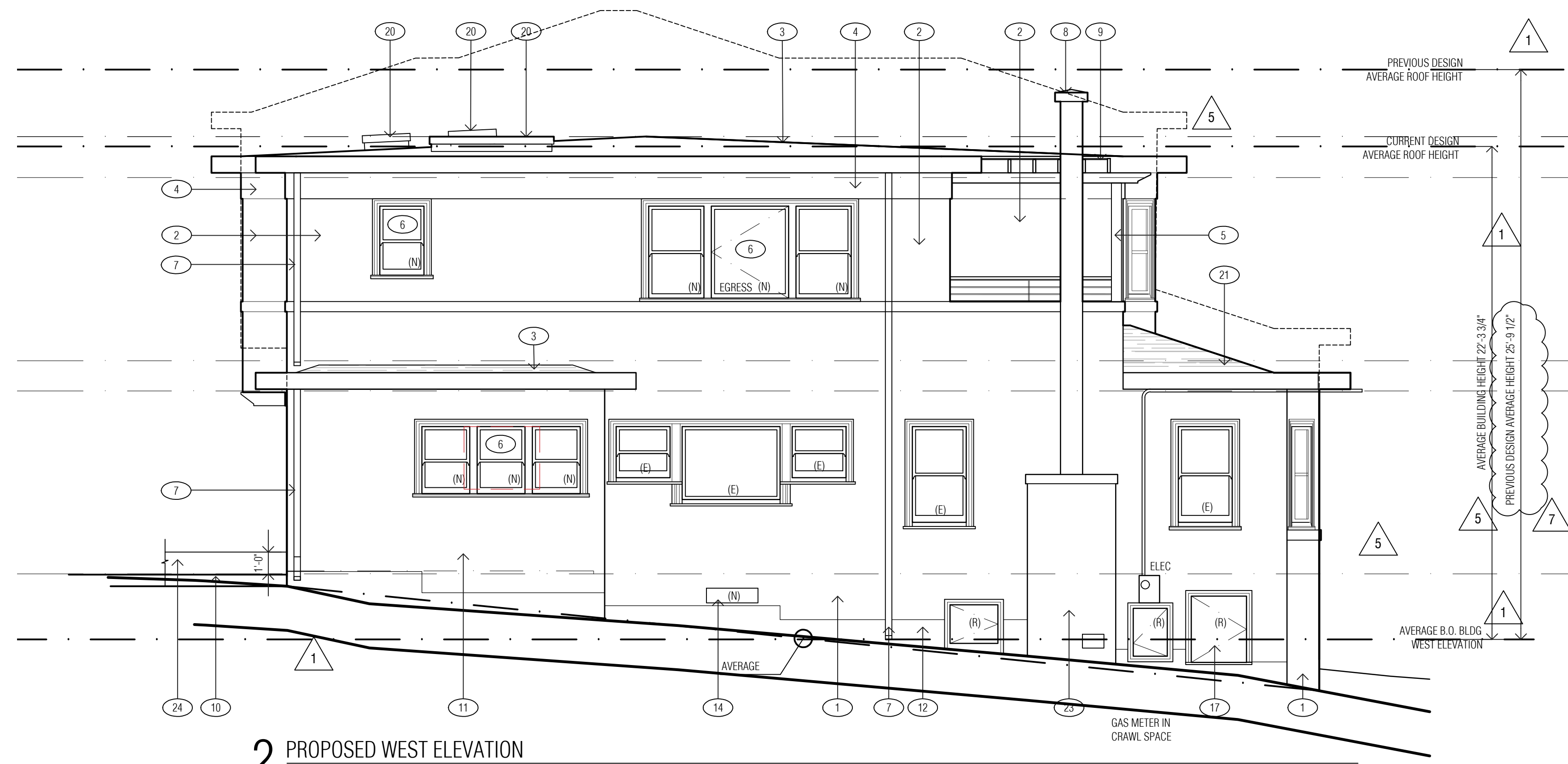
architect
 contact STACY EISENMANN
 address 1331 7th Street Suite G Berkeley CA 94710
 phone 510 558 8442
 email stacy@eisenmannarchitecture.com
 stamp



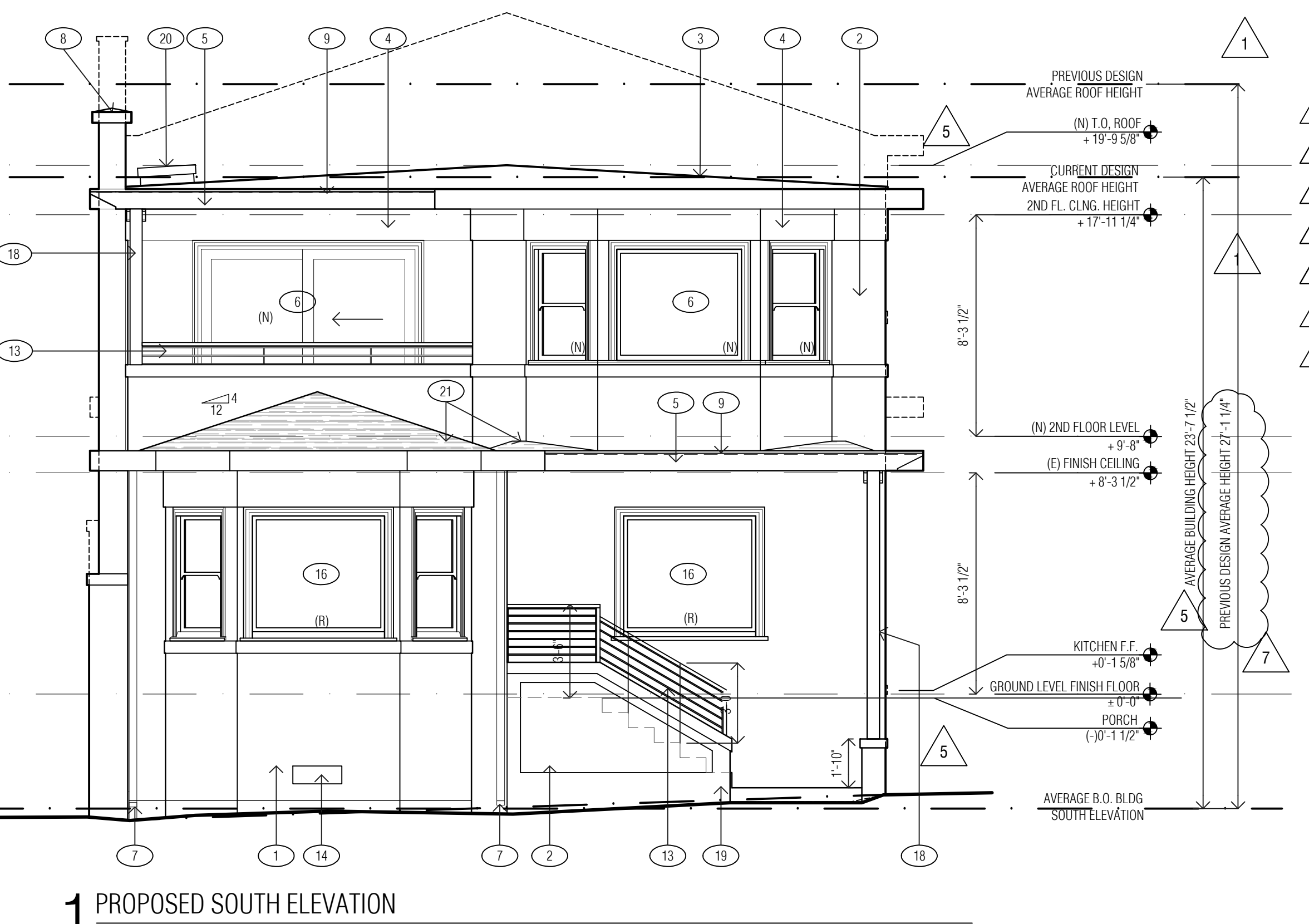
4 PROPOSED EAST ELEVATION



3 PROPOSED NORTH ELEVATION



2 PROPOSED WEST ELEVATION



1 PROPOSED SOUTH ELEVATION

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project
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job number 385
 drawn by AWK
 scale 1/4" = 1'-0"
 date 06.04.2020

title sheet number
 NEW ELEVATIONS

KEY NOTES	
1 (E) STUCCO, PATCH / (N) PAINT	7 (N) ALUMINUM DOWNSPOUTS / PAINTED
2 (N) STUCCO - 3 COAT SYSTEM / PRIMED & (2) COATS OF ELASTOMERIC PAINT / COLOR TBD.	8 (N) METAL CHIMNEY FLUE / PAINTED
3 LOW SLOPE ROOF (1/4" PER FOOT) WITH CONTINUOUS MEMBRANE ROOFING MATERIAL.	9 TRANSLUCENT POLYCARBONATE SHEET MAT'L OVER WD TRELLIS MIN SLOPE 1/4" PER FT
4 EXTERIOR GRADE WOOD / PRIMED & (2) COATS OF PAINT	10 (N) PATIO ON GRADE
5 RED CEDAR / (2) COATS OF WATER BASED EXTERIOR SEALANT & CLEAR COAT	11 (N) KITCHEN BUMP-OUT
6 WOOD/CLAD WINDOW OR SLIDING DOOR	12 CONCRETE FOUNDATION
	13 METAL RAILING W/ WOOD CAP
	14 VENT
	15 DELETED
	16 WOOD / CLAD WINDOW (IN KIND REPLACEMENT)
	17 CRAWL SPACE ACCESS
	18 WOOD 6 x 6 COLUMN
	19 REBUILD(E) PORCH WALLS, STEPS, LANDINGS
	20 SKYLIGHT MOUNTED ON CURB (8.5' TOTAL HEIGHT)
	21 ASPHALT SHINGLE ROOFING @ 4/12' SLOPED ROOF
	22 (N) WD ENTRY DOOR
	23 (E) FIREBOX
	24 (N) RETAINING WALL

A3.1

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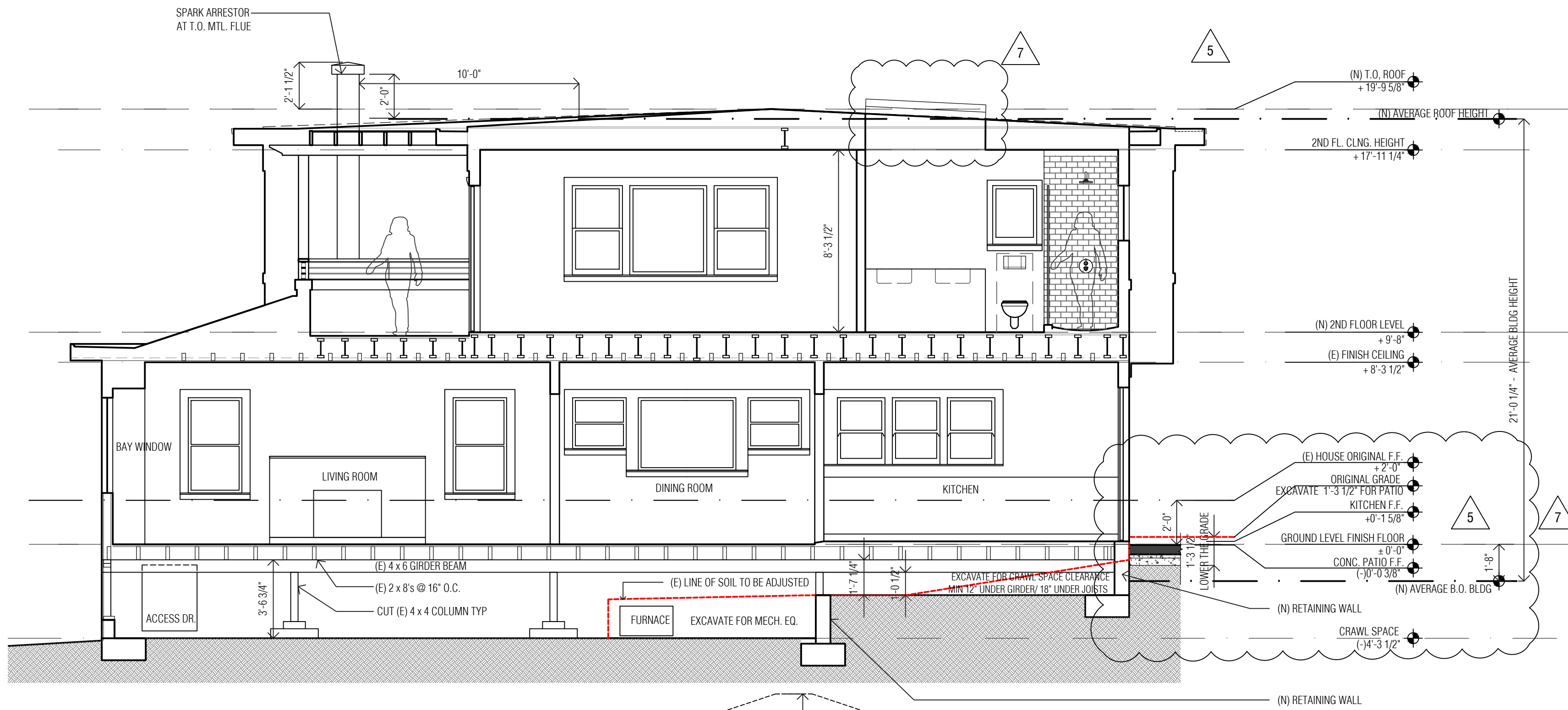
1/4" = 1'-0"

date

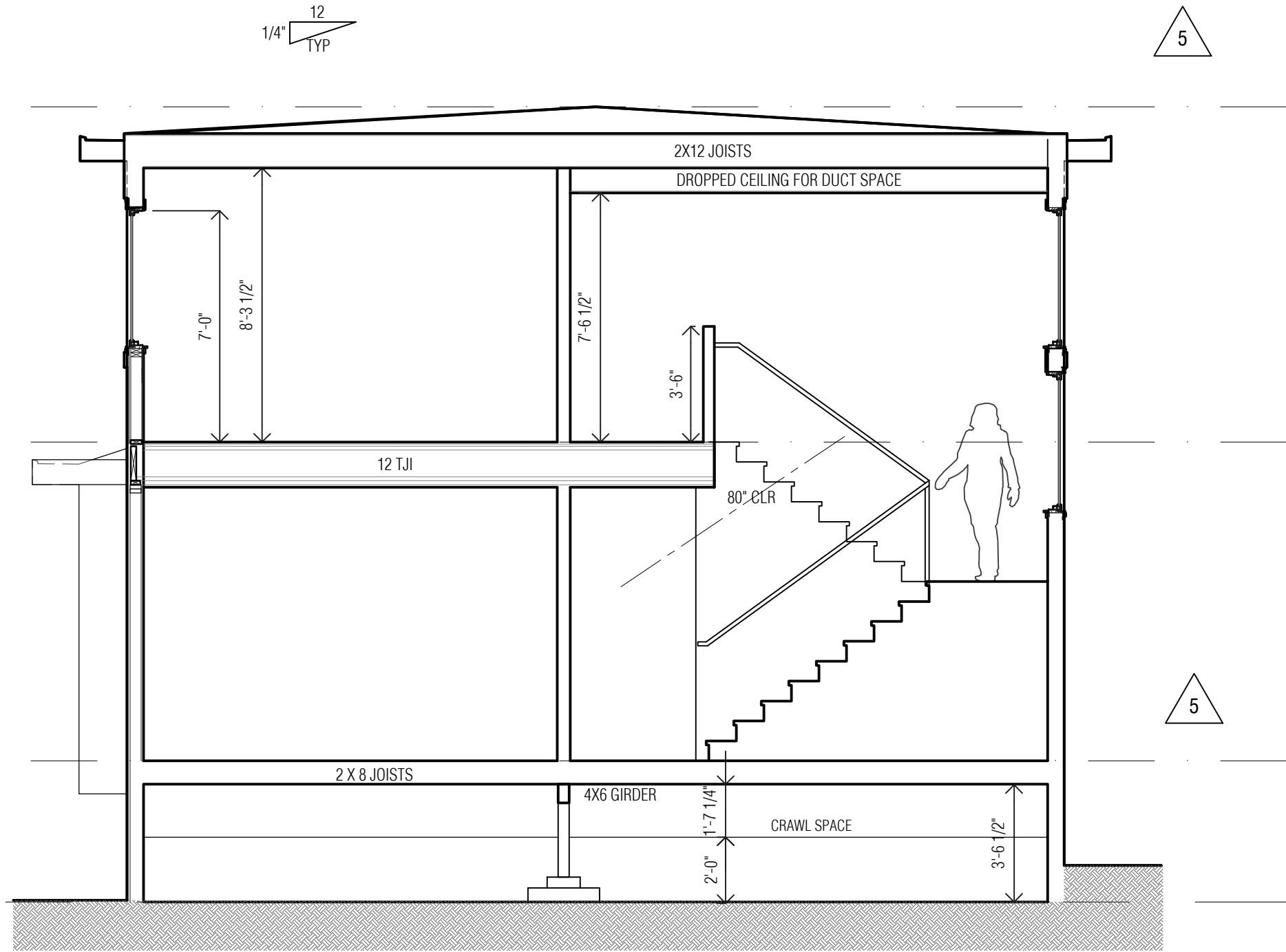
06.04.2020

title sheet number

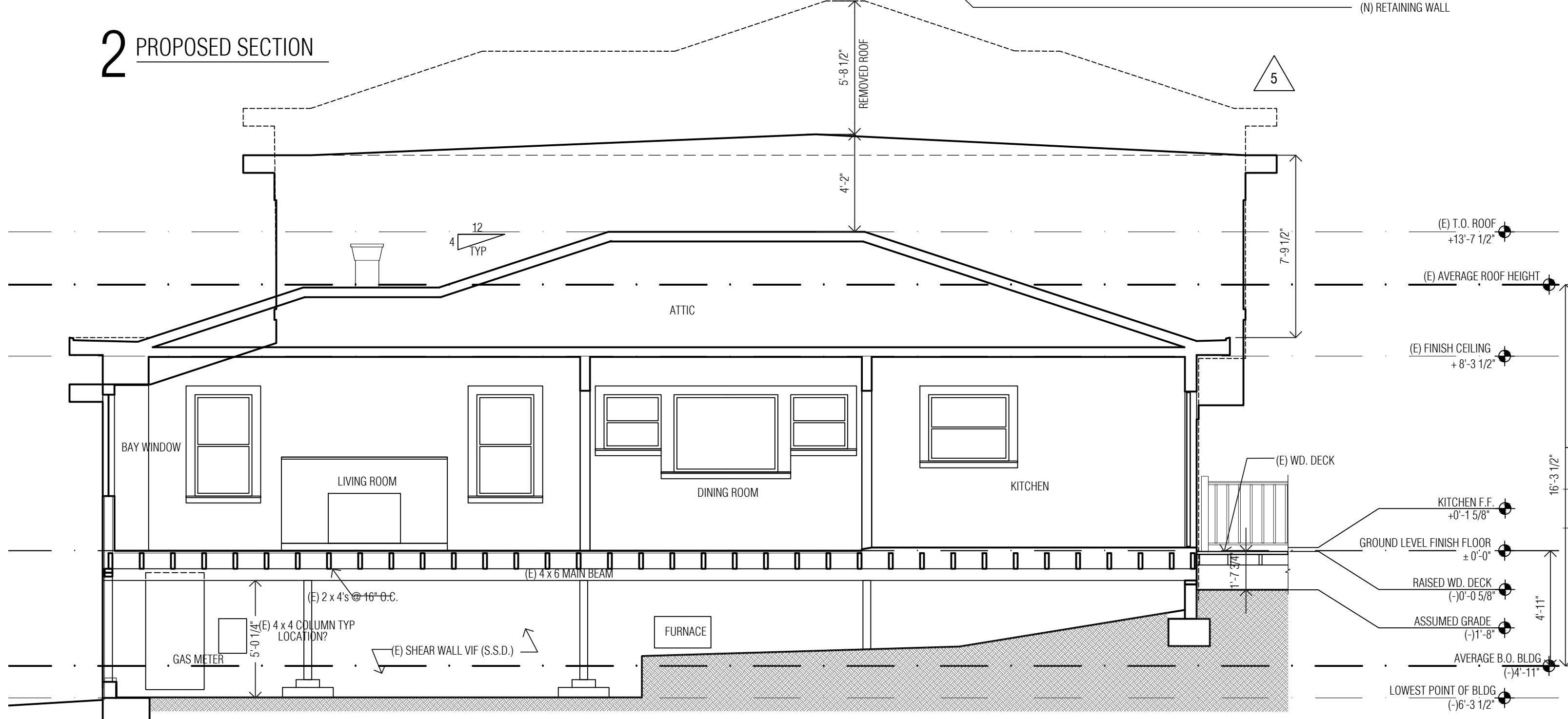
SECTIONS



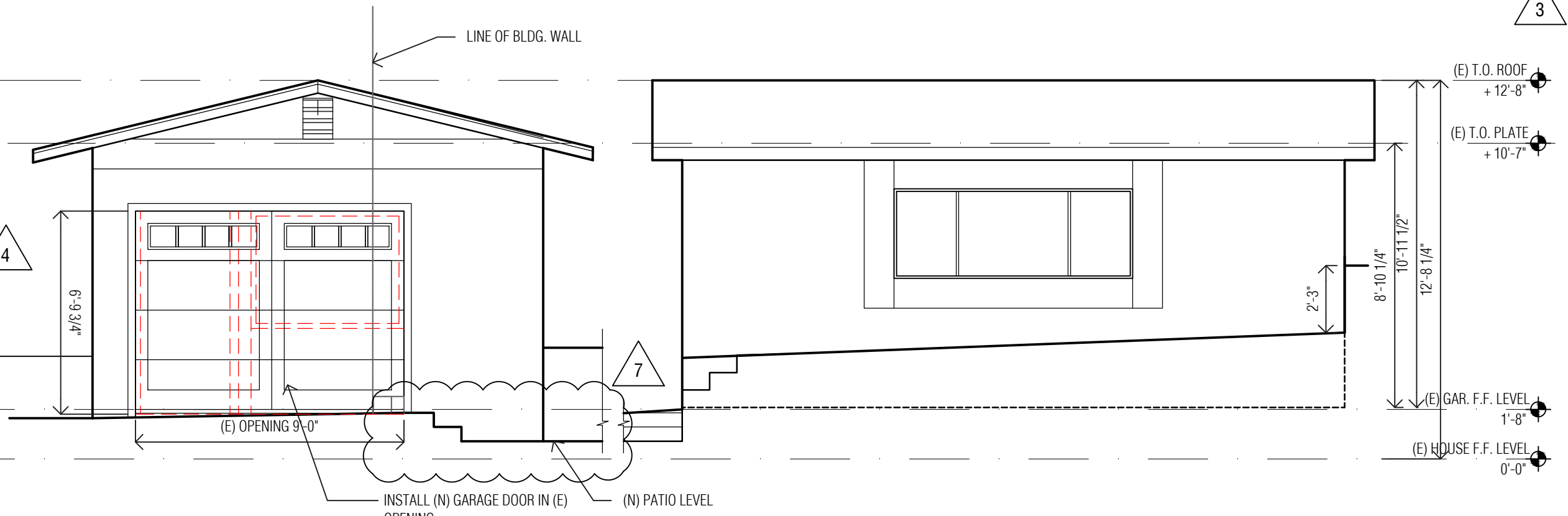
2 PROPOSED SECTION



3 PROPOSED SECTION

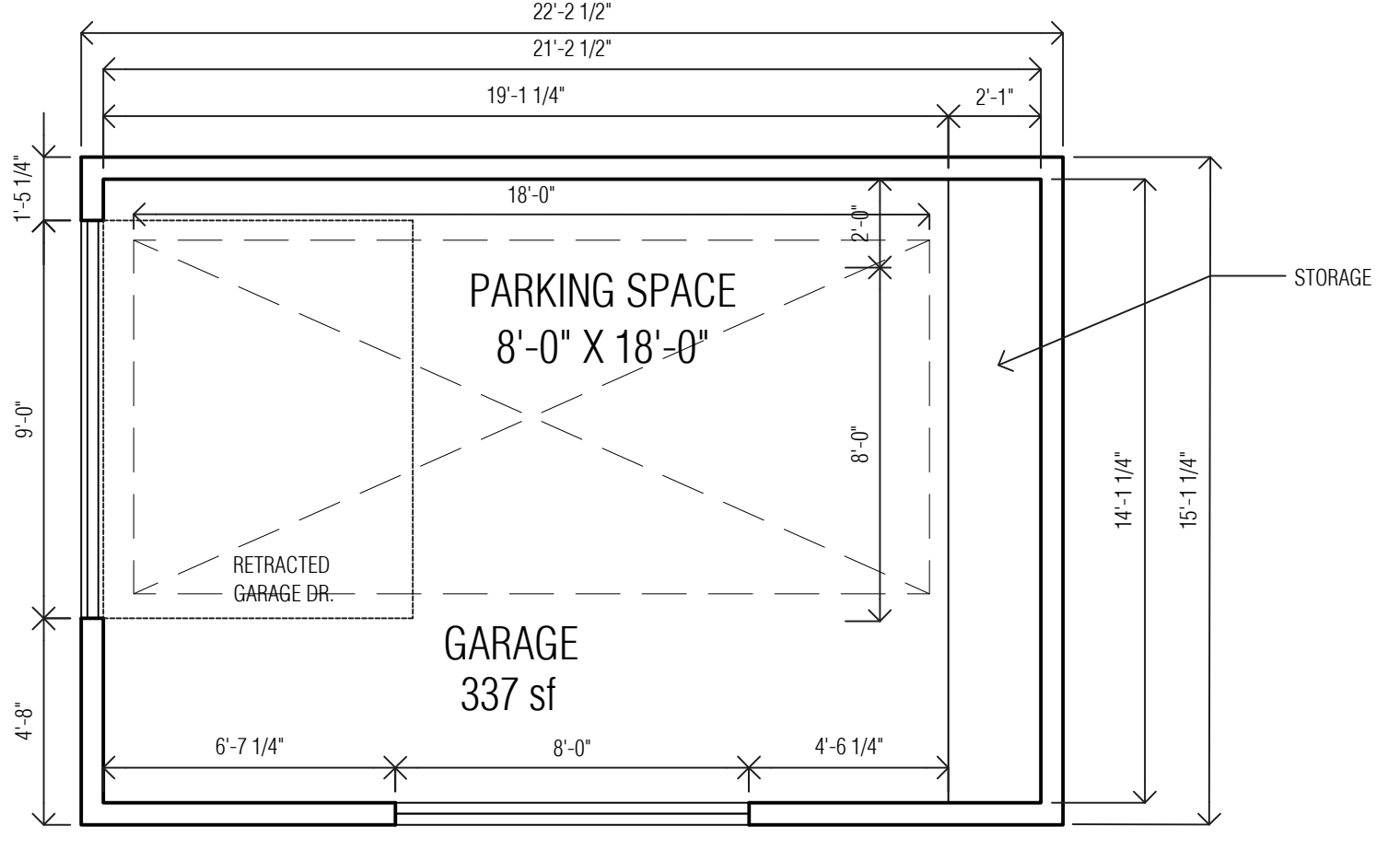


1 EXISTING SECTION

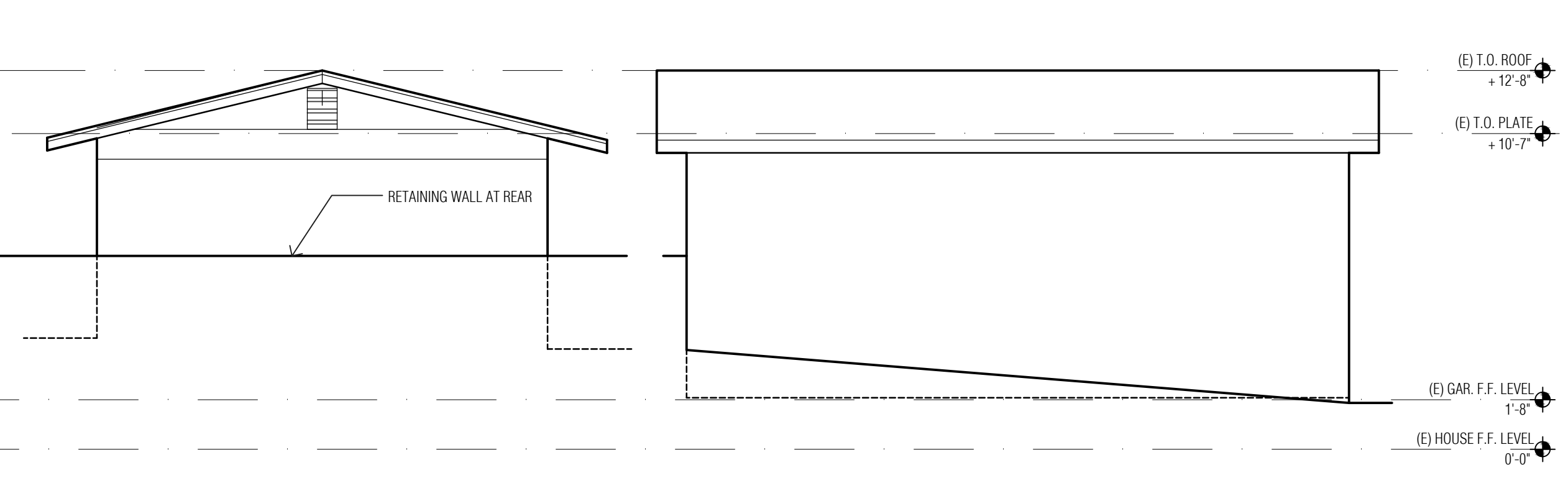


4 GARAGE EL- SOUTH

5 GARAGE EL- EAST



8 GARAGE PLAN



6 GARAGE EL- NORTH

7 GARAGE EL- WEST



EISENMANN
Architecture

1331 7th Street, Berkeley CA 94710

T 510.558.8442

E info@eisenmannarchitecture.com

W www.eisenmannarchitecture.com

A California Corporation

1533 BEVERLY PLACE

STORY POLES

MAY 4, 2020









E I S E N M A N N
Architecture

1331 7TH street Suite G Berkeley, CA 94710

T 510.558.8442

E info@eisenmannarchitecture.com

W www.eisenmannarchitecture.com

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SUBJECT: STORY POLES AT 1533 BEVERLY PLACE

DATE: JUNE 10, 2020

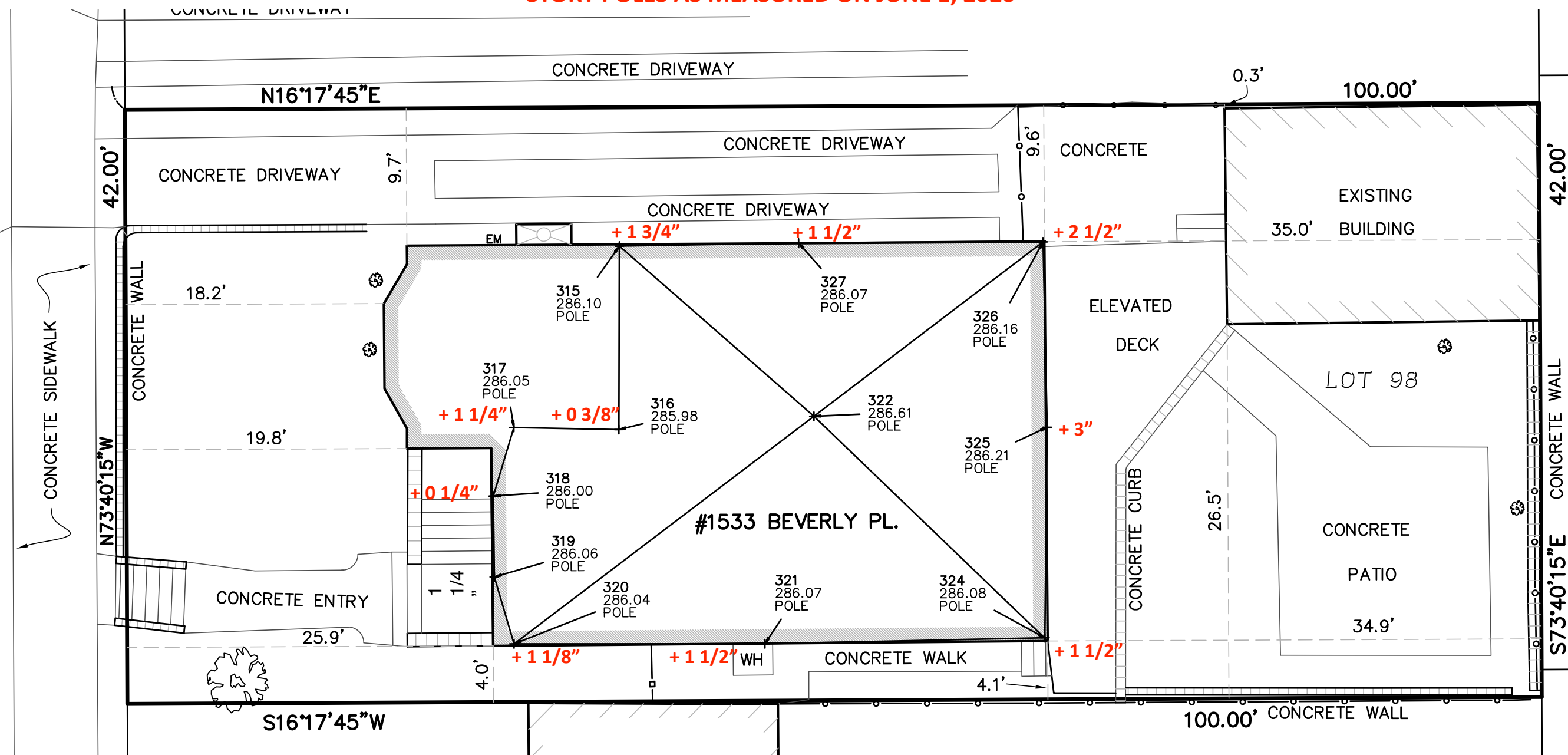
PROJECT: 1533 BEVERLY PLACE

TIMELINE

- SEPTEMBER 2018 ORIGINAL STORY POLES WERE ERECTED AND CERTIFIED BY SURVEYOR FOR THE FIRST DESIGN (HOUSE AT CURRENT MAIN FLOOR LEVEL WITH A SECOND STORY ADDITION AND HIP ROOF).
- MAY 2019 DESIGN WAS ALTERED TO SHOW THE CURRENT HOUSE BEING LOWERED BY 2'-0" AND ADDITION OF A SECOND STORY WITH A FLAT ROOF. NEW TAPE WAS INSTALLED TO SHOW THE REDUCTION IN HEIGHT OVER THE ORIGINAL STORY POLES.
- MAY 2020 THE STORY POLES' HEIGHTS WERE REDUCED TO SHOW THE DESIGN APPROVED BY ZAB, WITH THE PLANNING DEPARTMENT'S APPROVAL.
- JUNE 2020 STORY POLES WERE CERTIFIED BY THE SAME SURVEYOR. THE CERTIFICATION SHOWS THAT THE POLES ARE NOMINALLY TALLER THAN THE INTENDED HEIGHT OF THE BUILDING (0 1/4" - 3"). THIS IS WITHIN INDUSTRY STANDARDS FOR STORY POLES HEIGHTS. IT WAS DECIDED NOT TO ADJUSTE THE POLES BY THIS SMALL AMOUNT, HOWEVER THE HOUSE WILL BE CONSTRUCTED TO THE HEIGHT APPROVED BY PLANNING AND ZAB, AND CONFIRMD BY SURVEY.

STORY POLES AS MEASURED ON JUNE 1, 2020

BEVERLY PLACE (60' WIDE)



THE SURVEY INDICATES THAT THE STORY POLES ARE NOMINALLY HIGHER THAN THE PROPOSED DESIGN. THE OVERAGE IS INDICATED BY RED NUMBERS. THE FINAL CONSTRUCTION IS REQUIRED TO BE CONFIRMED BY SURVEY

STORY POLE WORKSHEET

LOCATED AT 1533 BEVERLY PLACE
CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

JUNE 1, 2020

SCALE: 1" = 8'

MORAN ENGINEERING, INC.

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

F.B. NO. 1659

BEVERLY-STORY 2020.DWG

JOB NO. 18-9874


GRAPHIC SCALE



(IN FEET)
1 INCH = 8 FEET



Two-Story Dwellings (2-S) within the Vicinity of 1533 Beverly Place



Administrative Record
ZAB Appeal:
1533 Beverly Place
Administrative
Use Permit #ZP2018-0153

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

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

or from:

The City of Berkeley, City Council's Web site
<http://www.cityofberkeley.info/citycouncil/>

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

ZAB APPEAL: ADMINISTRATIVE USE PERMIT #ZP2018-0153, 1533 BEVERLY PLACE

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JULY 14, 2020 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Administrative Use Permit #2018-0153, to enlarge an existing 1,212 sq. ft., one-story single-family dwelling with a non-conforming front setback on a 4,200 sq. ft. lot by: 1) adding a 1,035 sq. ft. addition, including a new second story, with an average height of 23 ft.-7 ½ in., and 2) adding a fifth bedroom.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **JULY 2, 2020**. **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 at (510) 981-7433. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

Mark Numainville, City Clerk

Mailed: June 30, 2020

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

ATTACHMENT 10

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.