

## INDEX TO ADMINISTRATIVE RECORD

1643-1647 CALIFORNIA STREET

Use Permit #ZP2021-0001

Prepared: October 6, 2022

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Office of the City Manager

PUBLIC HEARING  
April 26, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

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

RECOMMENDATION

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

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

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

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

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

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

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

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Support of the application includes:

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

On December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

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

On or before April 12, 2022, 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. The Council must conduct a public hearing to resolve the appeal.

### **Project Description**

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

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

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

The project would make several alterations to the existing property. An existing accessory structure (shed) would be removed. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore one additional dwelling unit at 1643 California, but

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

#### BACKGROUND

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

**Issue #1: Appellants allege that ZAB and staff erroneously applied the Housing Accountability Act (HAA) in a way that inappropriately limited ZAB's ability to modify the project.** The appellants contend that the HAA only applies to very-low to moderate income housing developments. They further contend that since the project does not add new units, or provide low-income housing, the HAA should not apply, and ZAB should modify the project to address the appellants' concerns.

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

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

The HAA applies to a "housing development project," which could be residential units only or a mixed-use development consisting of residential and nonresidential that is at least two-thirds residential, as well as transitional or supportive housing. The definition of housing development project uses the plural "units", meaning that it applies to two or more units.

The HAA also applies only when a project meets the local agency's objective development standards. Although the existing structure is non-conforming for lot

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coverage, density, and yards, the proposed additions would continue, but not worsen, these non-conformities. The project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), listed above.

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

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

Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, and the addition would comply with the allowable average height limit in the district.

Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not: 1) reduce any yard below the minimum setback requirements or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. The existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The

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

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front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear setback. Because the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

Since the ZAB decision, the City has determined that “to lower density” means a reduction in the units built per acre. This is consistent with guidance from the California Department of Housing and Community Development. Therefore, a condition of approval that limited the size of the units would not lower the density of the project. Even if an application to expand an existing dwelling unit were found to be a housing development project, the expansion could be modified without lowering the density.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project, although ZAB may have had faulty information that led them to believe that they could not modify the project. Council may add conditions to the proposed project to address the appellants’ concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB.

**Issue #2: Appellants allege that staff failed to provide adequate opportunities for neighbors to receive information and provide input on the proposed project.** The appellants contend that after public comment had been closed, the ZAB chair read from a memo on the interpretation of the HAA that affected how the ZAB voted on the proposed project. Appellants claim that the memo had not been made publicly available, and that they were not able to comment on the memo during the public comment portion of the ZAB meeting. If the appellants had been aware of the memo before the ZAB meeting, they state that their letters to staff and ZAB, and public comments during the meeting, would have been different.

Response: The August 26, 2021 ZAB meeting packet included a communication from the Land Use Planning Manager to staff, that was included as a staff communication to ZAB<sup>3</sup>. The memo discusses the HAA, Density Bonuses, and objective standards. Before public comment opened at the December 9 meeting, staff and ZAB did briefly discuss the HAA and objective standards and how both relate to the project. The ZAB chair referenced the memo from the Land Use Planning Manager before public comment was opened.

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<sup>3</sup> See page 4 of the agenda:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2021-08-26\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-08-26_ZAB_Agenda.pdf).

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Neighbors have shared letters of opposition with staff and ZAB throughout the application process, and were able to share their concerns during the ZAB meeting. Neighbors at 1609 Virginia are concerned about the increased shadows on their kitchen windows and bedroom windows, and deck and yard, during the afternoon and evening during the summer, and increased shadows on a detached office/bedroom during the winter. The neighbors are also concerned about views from the addition to their deck and yard, and kitchen and bedroom. The neighbor at 1651 California is concerned about views from the addition to her yard and kitchen. In addition, the appellants find the number of Administrative Use Permits and Use Permits required for the proposed project to be excessive.

Members of the ZAB described the impacts as “typical of an urban setting,” noted that the applicant had changed the roof from a butterfly roof to a gable to lower the height, the project had been revised from three stories to two stories with a below-grade basement, and that the addition met the 20-foot setback requirements at the front and rear. Even if neighbors are opposed to a project, ZAB may choose to not modify a project and approve it as is. Staff recommends the Council dismiss this appeal point.

**Issue #3: Appellants allege that several procedural requirements were not met when story poles were not installed, the typical zoning project “yellow poster” was not installed, and the staff report was not available far enough in advance before the ZAB meeting.**

Response: Page 10 of [Zoning Project Application Submittal Requirements](#) addresses when story poles are required: for new main buildings and additions exceeding 14 feet in average height in the Hillside Overlay District. This project is not in the Hillside Overlay. At the project planner’s discretion story poles may be required for projects outside of the Hillside Overlay when there is a concern about a protected view<sup>4</sup>, but views were not discussed prior to or during the ZAB hearing.

The appellants also state that the typical “yellow poster” was not installed by the applicant. When the application was submitted in January 2021, the 2-foot by 3-foot yellow poster requirement was on hold due to COVID-19 shelter-in-place orders. In July 2021, the yellow poster requirement was reinstated for new applications (page 4 of the [Submittal Requirements](#)). In January 2021, staff sent postcards informing neighbors of the project and posted a smaller yellow poster, similar to what is posted before public hearings, as that was the procedure at the time. Normal noticing procedures were followed by staff prior to the ZAB meeting in December 2021.

The appellants contend that the ZAB staff report was not posted by the morning of December 8, and they had to reach out to the planner to get a copy of the report.

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<sup>4</sup> Defined in BMC 23F.04 – 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.

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However, the ZAB agenda, with links to the staff reports and attachments, was posted to the ZAB webpage on December 2, 2021.

Staff recommends the Council dismiss these appeal points.

**Issue #4: Appellants dislike the City's Zoom meeting format.** The appellants contend that ZAB meetings conducted over Zoom should have "video and chat channels enabled for all participants so that affected parties can communicate easily."

Response: Like all public meetings that have occurred during the COVID-19 pandemic, ZAB meetings are conducted over Zoom, using a webinar format. The ZAB chair, ZAB secretary, and ZAB clerk can allow people to talk during the appropriate times outlined in the agenda. Similar to regular public meetings, members of the public must request to speak when public comment is called for, and the amount of time members of the public may speak is limited by the ZAB chair and enforced by the clerk.

Staff recommends the Council dismiss this appeal point.

**Issue #5: Appellants are frustrated with the City's appeal process.** The appellants contend that they sent emails to ZAB and the project planner after the ZAB meeting to find out the appeal procedure, but they never got a thorough answer, until they contacted the Office of the City Clerk on January 7.

Response: Page 7 of the December 9, 2021 ZAB agenda, like all ZAB agendas, describes the procedure to request a Notice of Decision.

Staff recommends the Council dismiss this appeal point.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

#### RATIONALE FOR RECOMMENDATION

The ZAB considered all of the information received from staff, the applicant, and the neighbors, and determined that the project is consistent with the zoning ordinance and applicable policies of the General Plan, and would not result in detrimental impacts to residents, adjacent properties, the surrounding area, or to the general welfare of the city.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project. None of the issues raised on appeal are different from those raised at the ZAB hearing, and no new evidence or argument would dispute the reasoned findings of the ZAB. Therefore, staff



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recommends that the City Council uphold the ZAB decision to approve 2,229 square-foot addition, with an average height of 23 feet 10 inches.

ALTERNATIVE ACTIONS CONSIDERED

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

Action Deadline:

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

CONTACT PERSONS

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

Attachments:

- 1: Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated July 15, 2021
- 2: Appeal Letter, received January 10, 2022
- 3: ZAB Staff Report, dated December 9, 2021
- 4: Index to Administrative Record
- 5: Administrative Record
- 6: Public Hearing Notice

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

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

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

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

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

WHEREAS, on or before April 12, 2022, 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; and

WHEREAS, on April 26, 2022, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby adopts the findings for approval made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2021-0001, and dismisses the appeal.

Exhibits

- A: Findings and Conditions
- B: Project Plans, dated July 15, 2021

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## FINDINGS AND CONDITIONS

DECEMBER 9, 2021

### 1643 & 1647 California Street

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

#### PERMITS REQUIRED

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

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows:
  - (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### II. FINDINGS FOR APPROVAL

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1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.

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

### III. OTHER FINDINGS FOR APPROVAL

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

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December 9, 2021

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

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#### **IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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

**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_

Name	Phone #
------	---------

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

- 11. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

**12. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

**A. Environmental Site Assessments:**

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
  - All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

**B. Soil and Groundwater Management Plan:**

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

**C. Building Materials Survey:**

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.



Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

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

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
  - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
  
22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
  
23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
  - A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

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

29. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

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

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

**At All Times:**

32. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
35. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
36. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

# OPPENHEIMER RESIDENCE

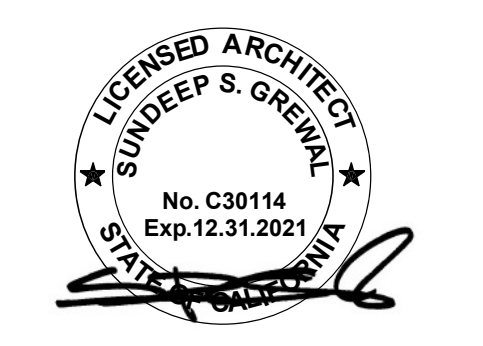
## 1643 & 1647 California St. CA 94703

### SHEET INDEX

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



**2223 Fifth St.  
Berkeley, CA 94710  
Ph: 510.548.7448  
info@sgsarch.com  
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**OPPENHEIMER RESIDENCE**  
1643 & 1647 California St.  
Berkeley, CA 94703  
APN: 58-2156-18

### SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

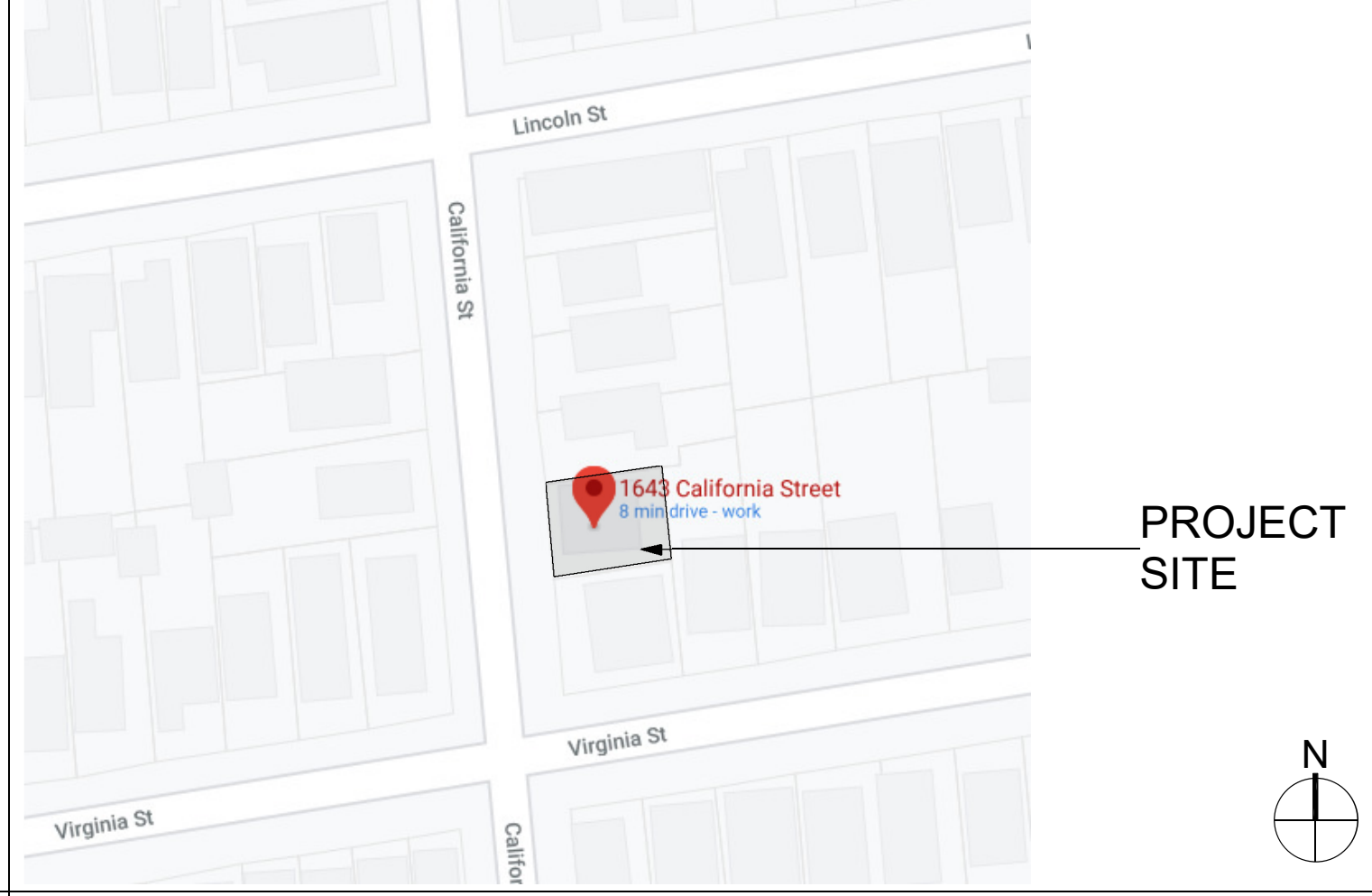
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

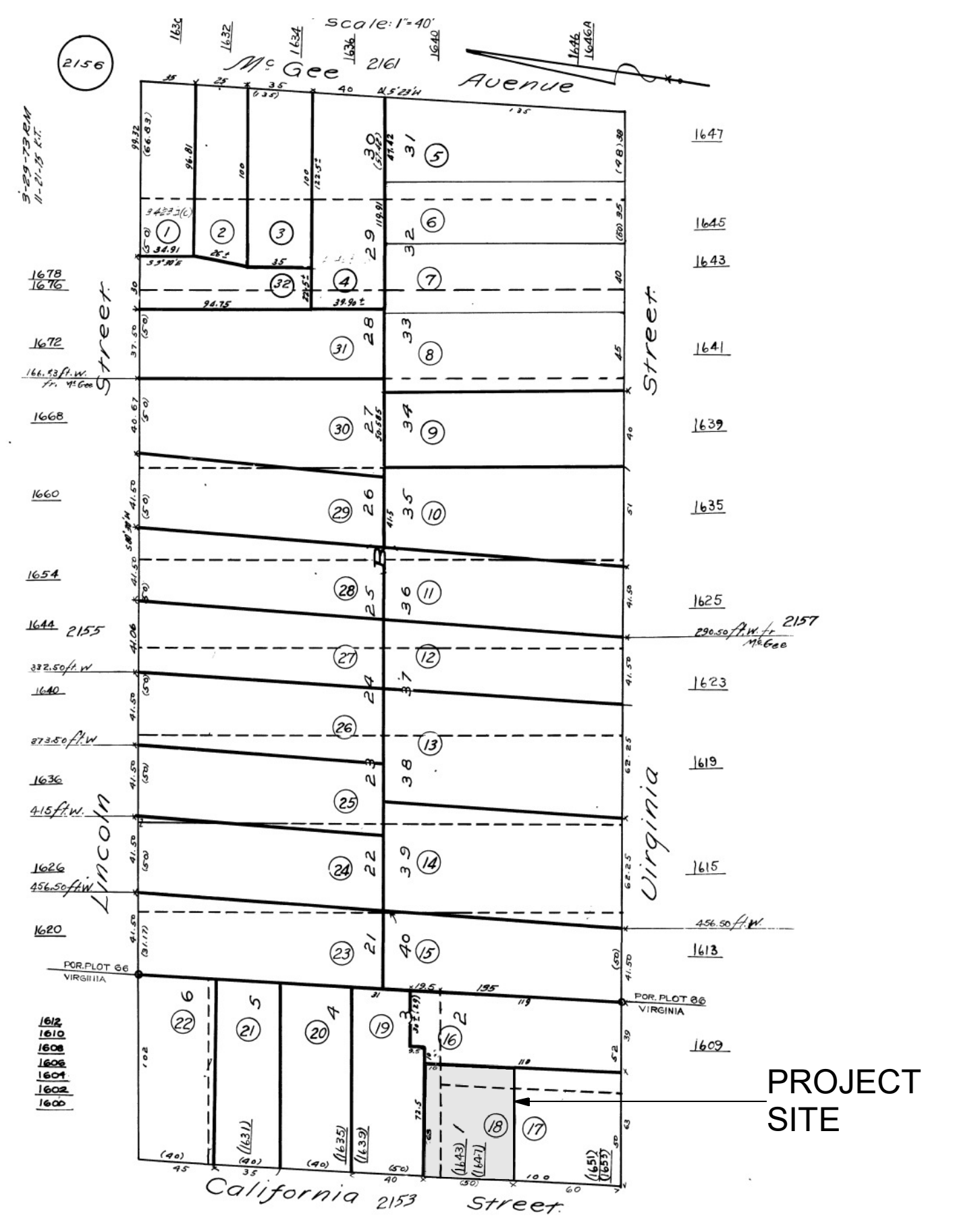
**Miscellaneous:**

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

### VICINITY MAP



### PARCEL MAP



### PROJECT DIRECTORY

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

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

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

### PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**  
 No

### APPLICABLE CODES

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

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

### ABBREVIATIONS

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

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

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**Project No:** 20-13-420

**Drawn By:** SSG

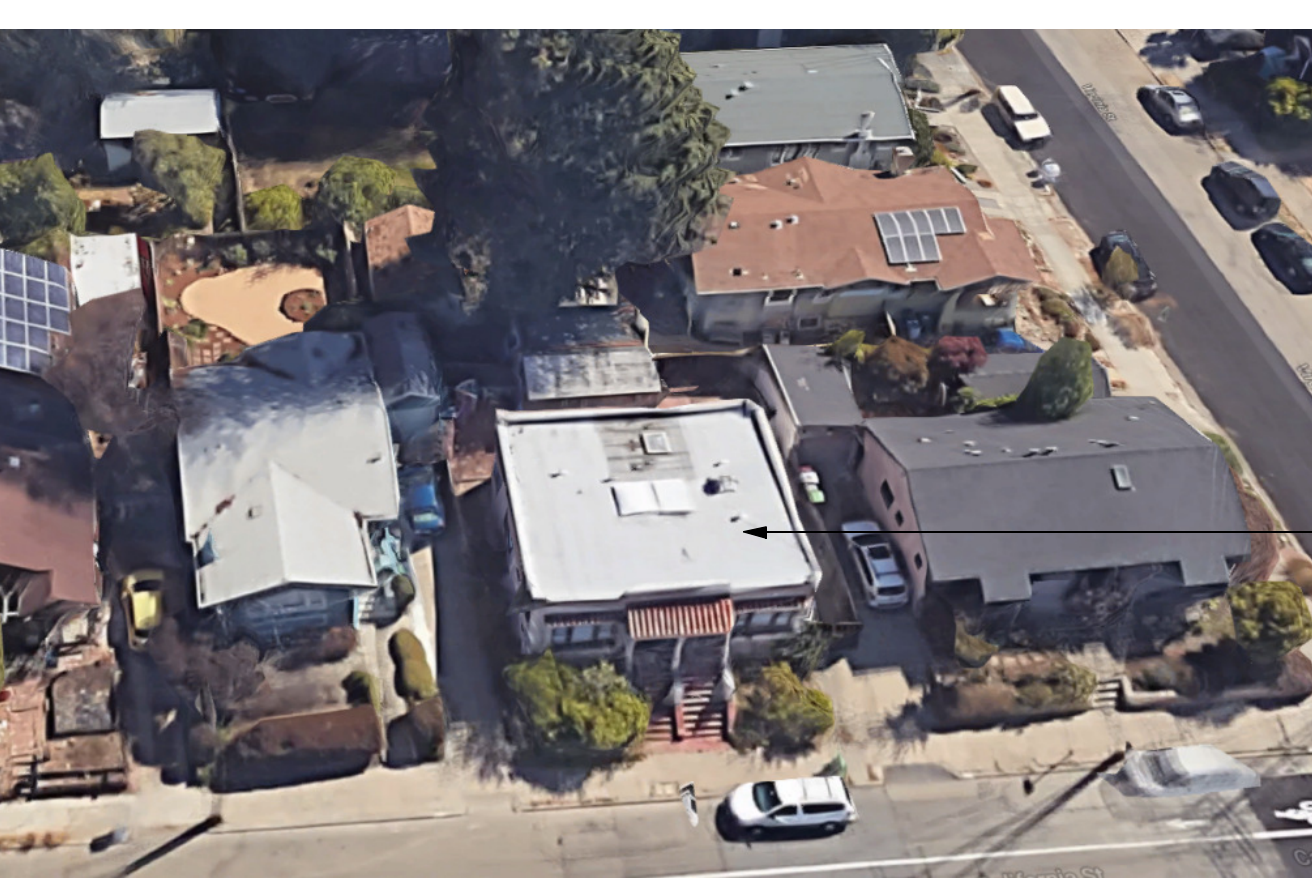
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**Scale:** N/A

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

**Sheet**  
**A0.0**

### SITE PHOTOS



PROJECT SITE

Aerial of existing duplex



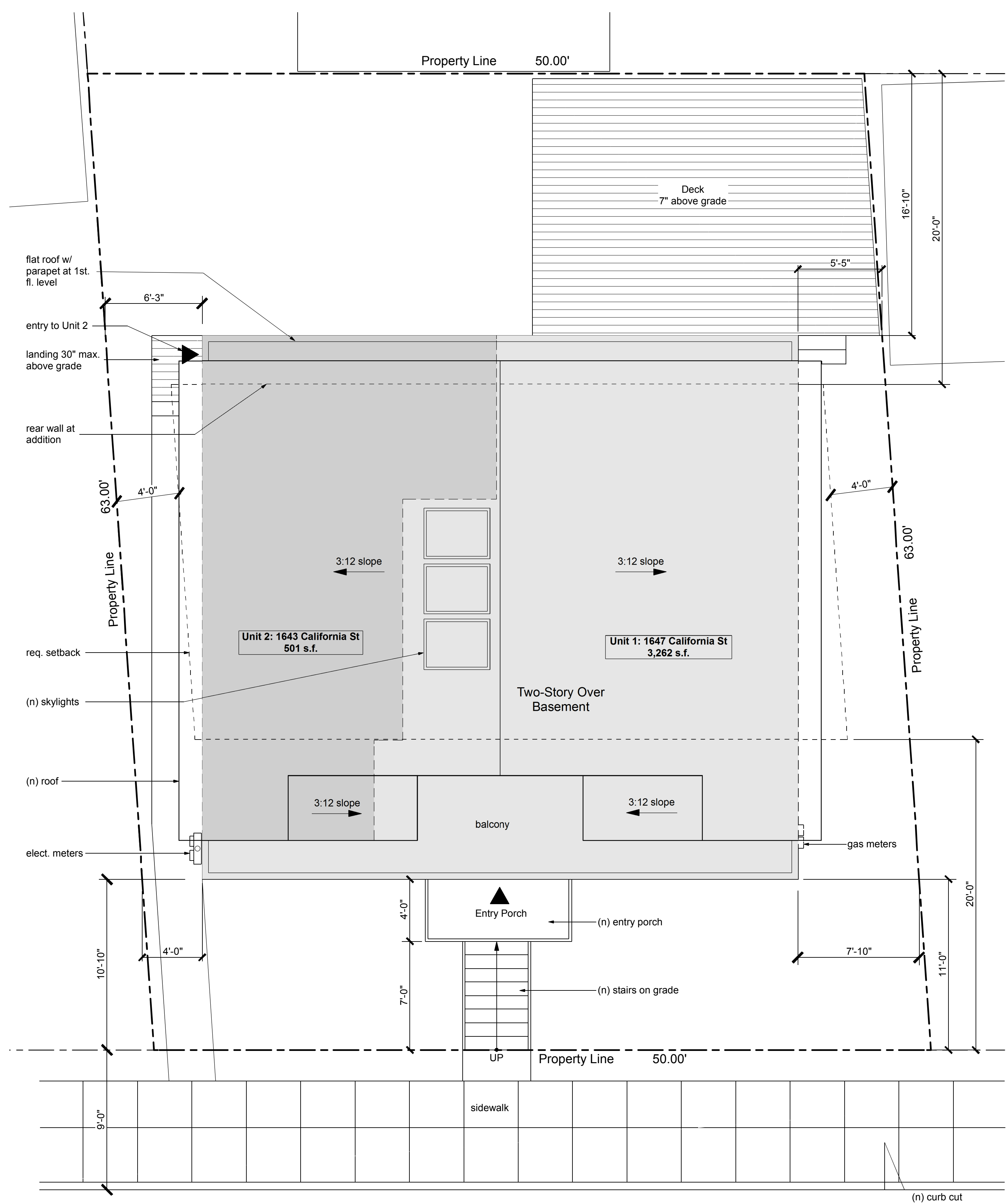
Front and right Side of existing duplex



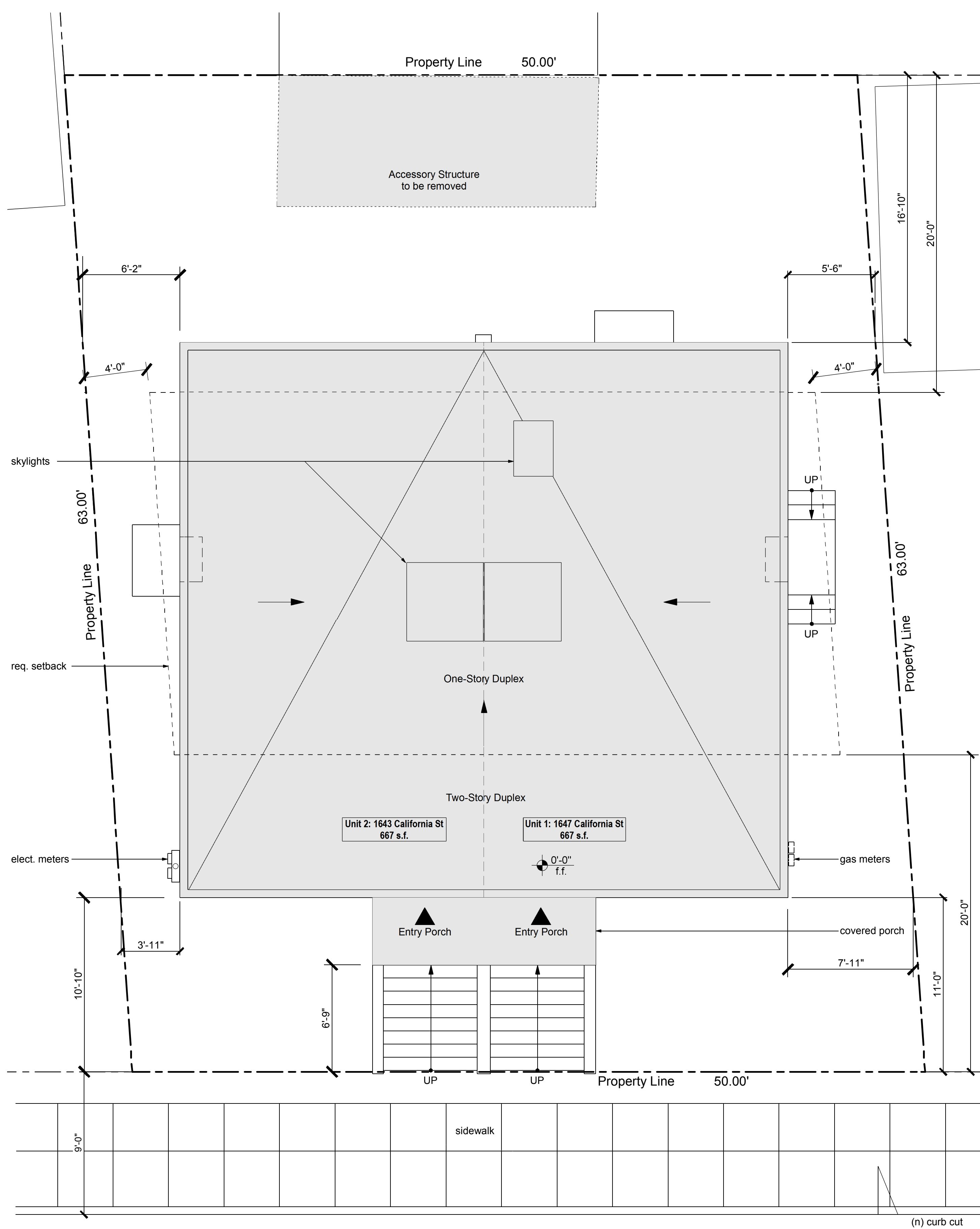
Front and left Side of existing duplex

### Tabulations

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



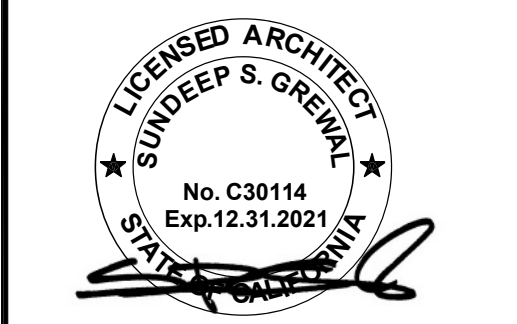
2 Proposed Site Plan



1 Existing Site Plan



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Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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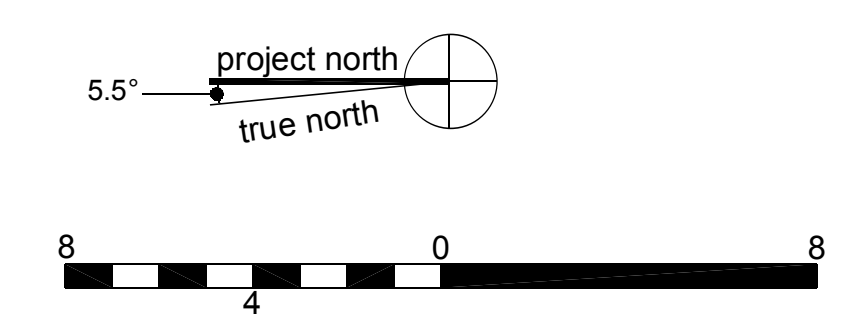
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Drawn By: SSG

Checked By: SSG

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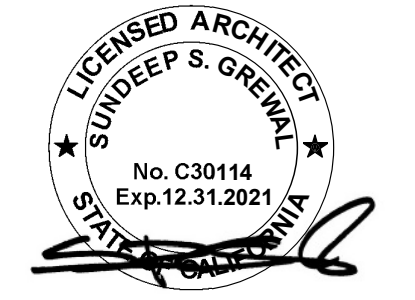
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 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021







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Sheet Contents:  
 Site Survey

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Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 1" = 1'-0"

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

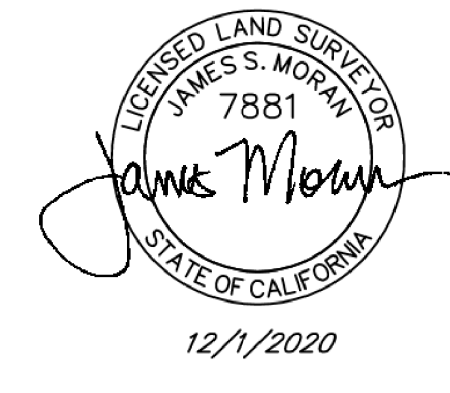
Sheet  
**A0.2**

# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



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

**GENERAL NOTES**

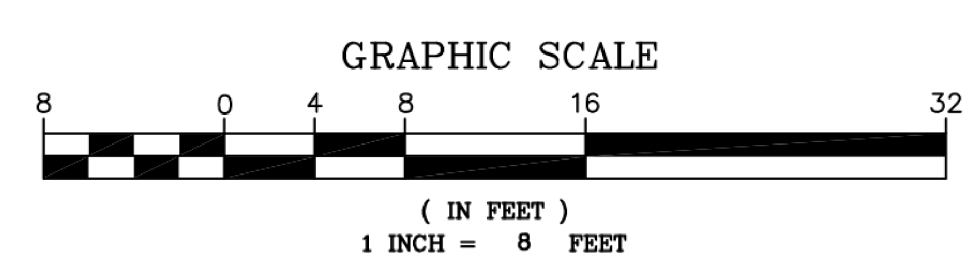
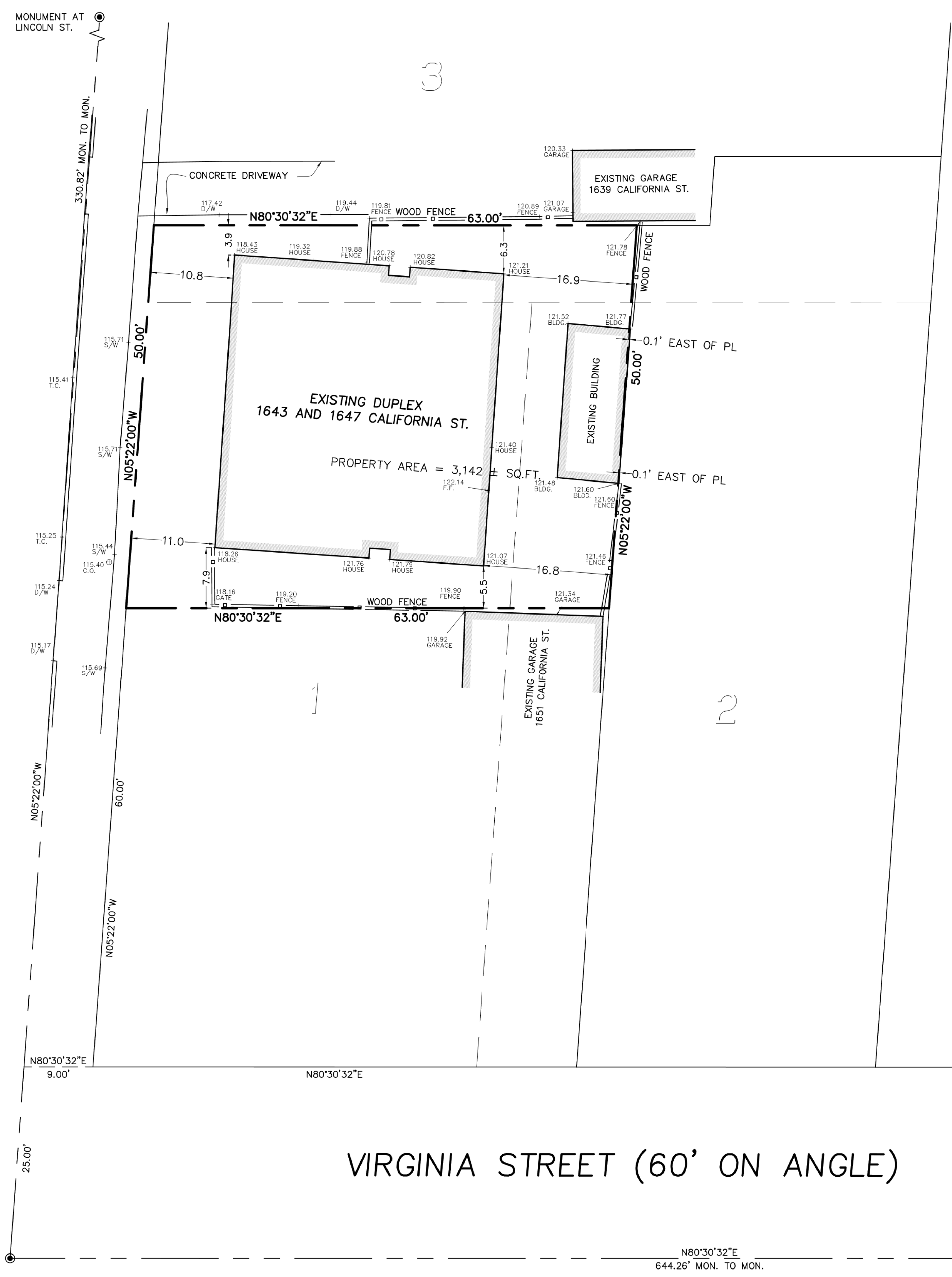
BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

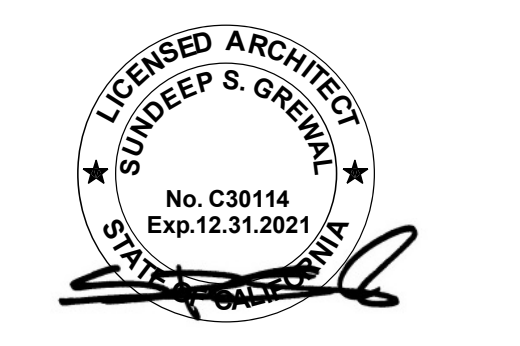
CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)





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Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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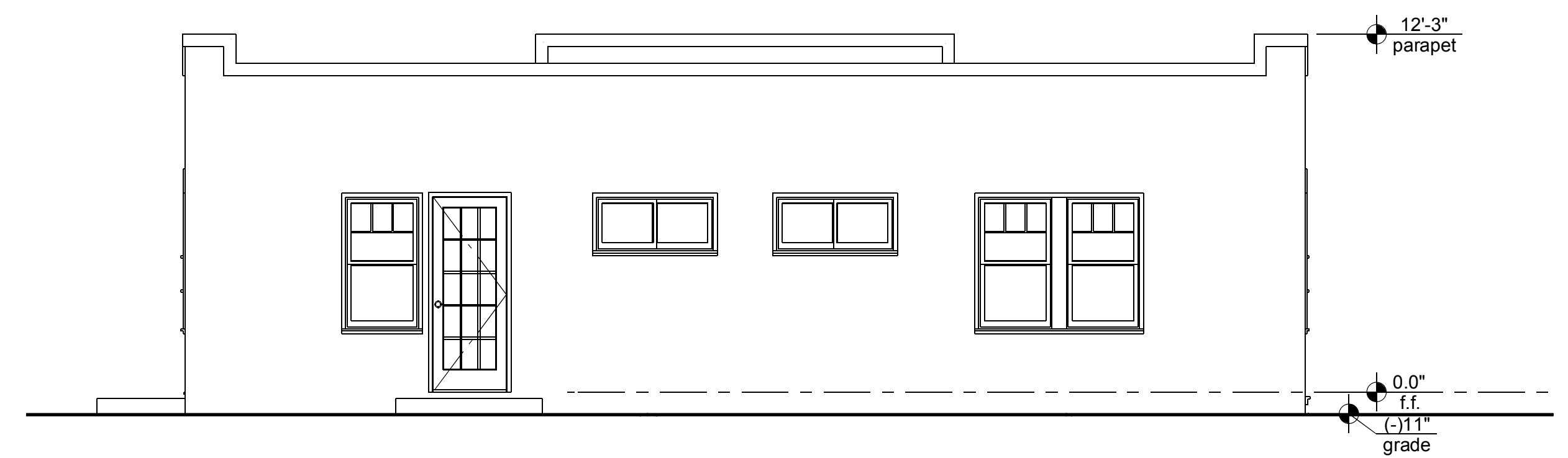
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Checked By: SSG

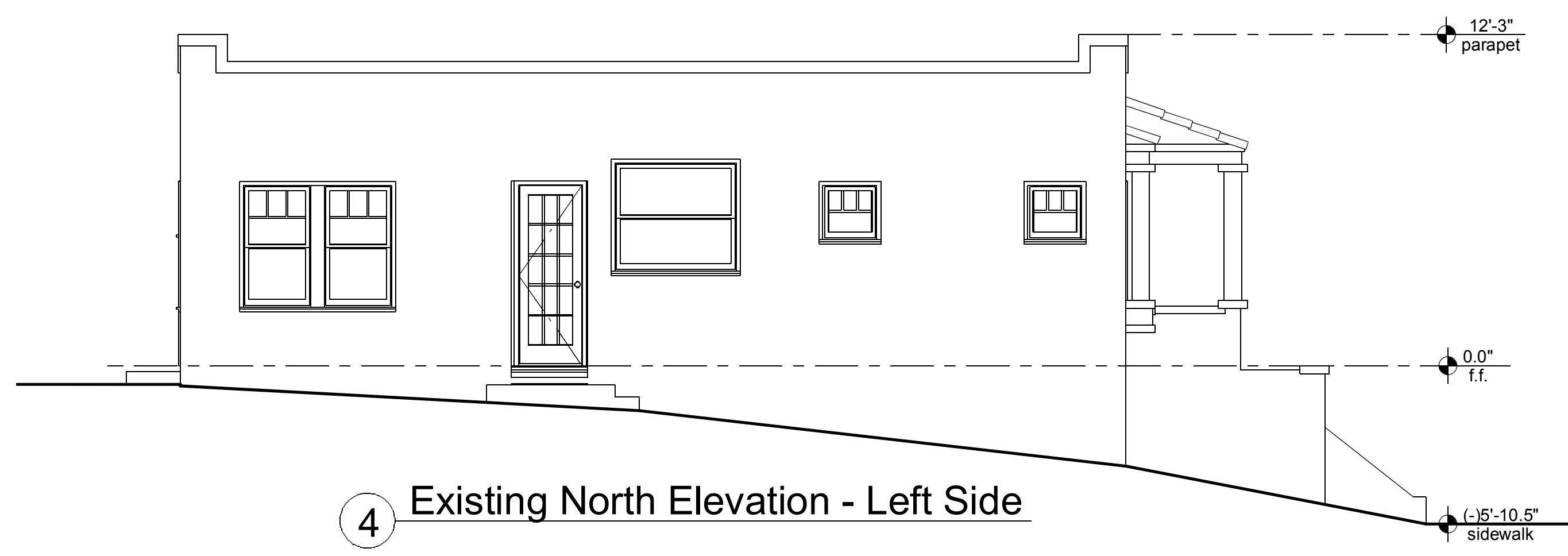
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

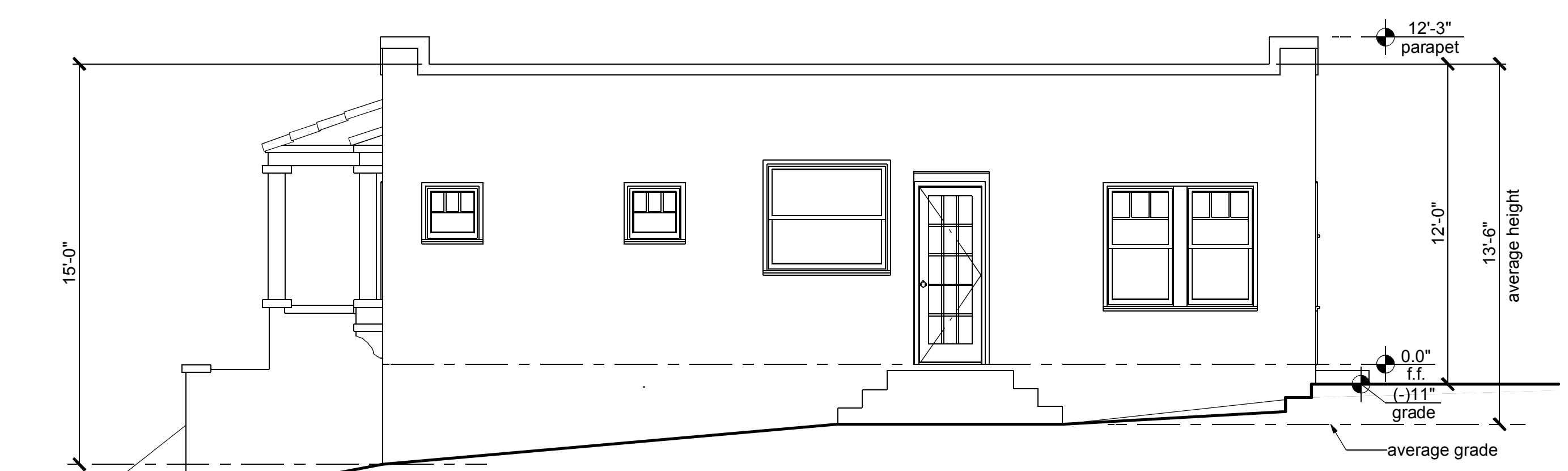
Sheet **A1.1**



5 Existing East Elevation - Rear



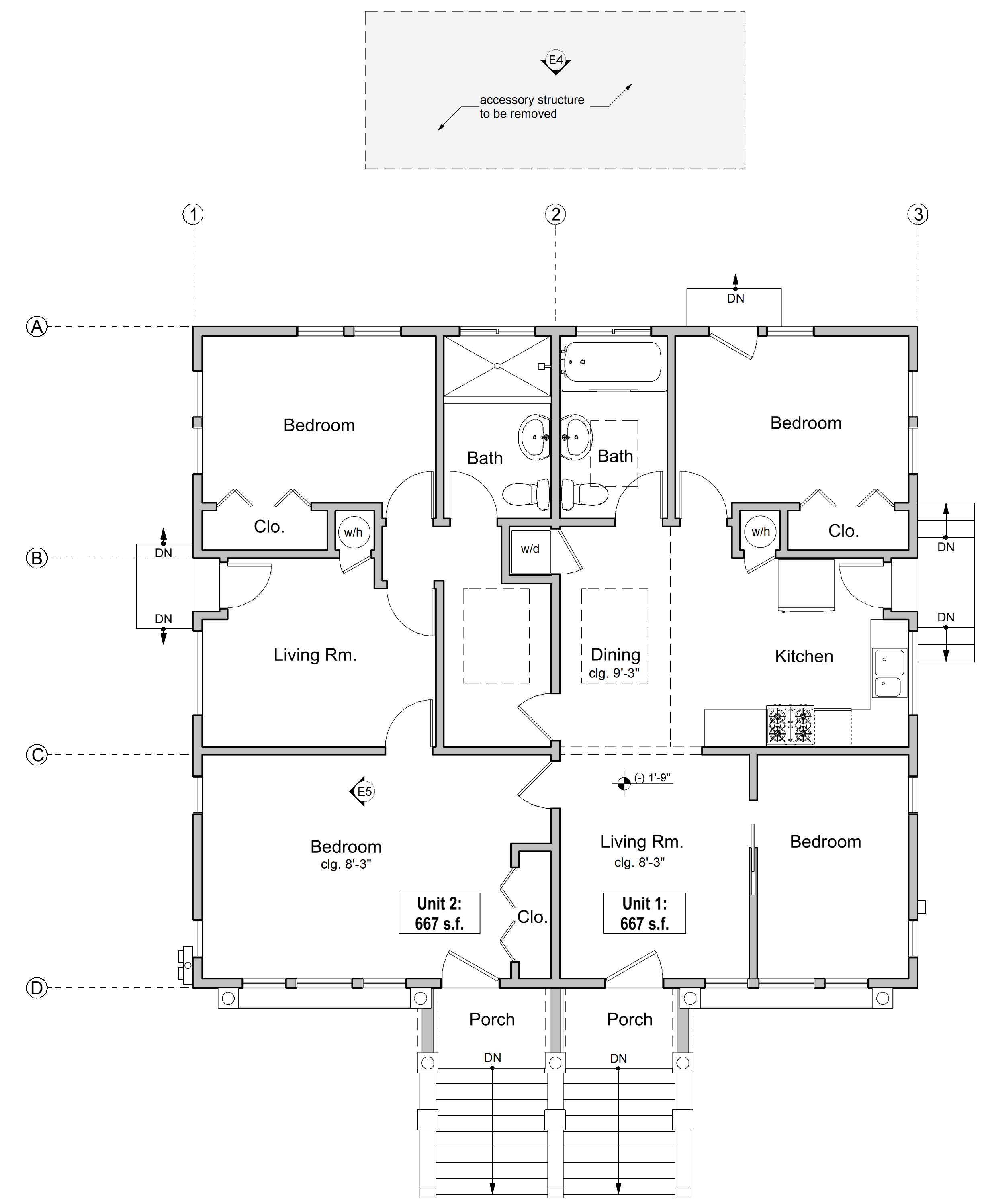
4 Existing North Elevation - Left Side



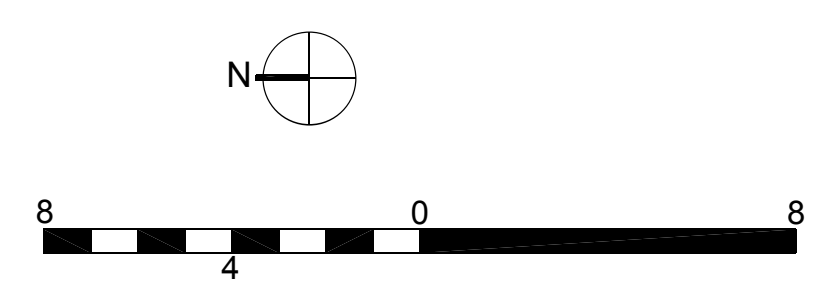
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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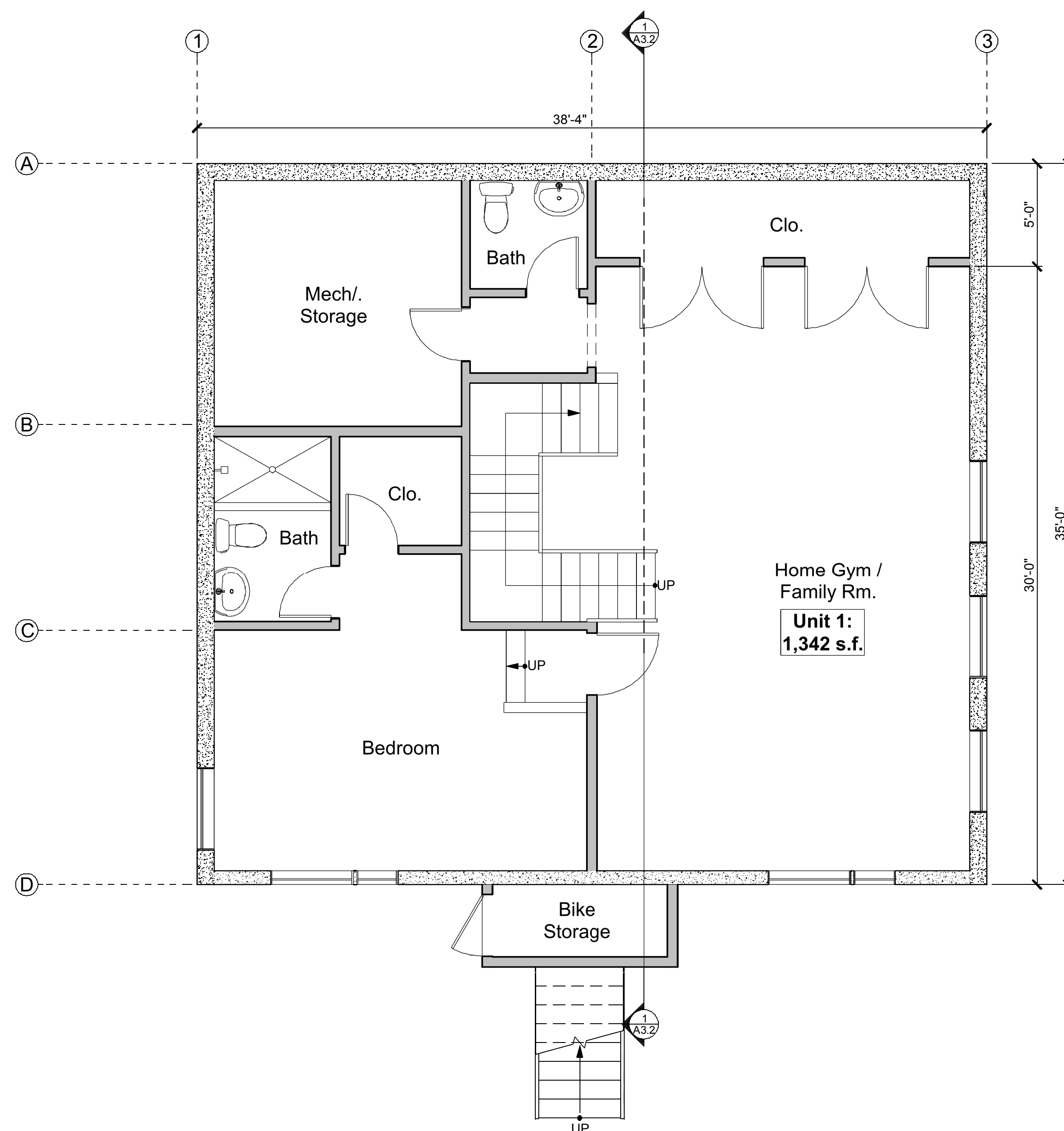
Drawn By:  
SSG

Checked By:  
SSG

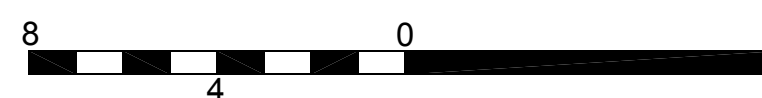
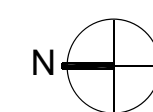
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Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet  
**A2.1**

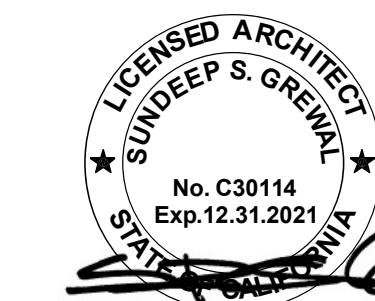


1 Proposed Basement Floor Plan





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Proposed Floor Plans

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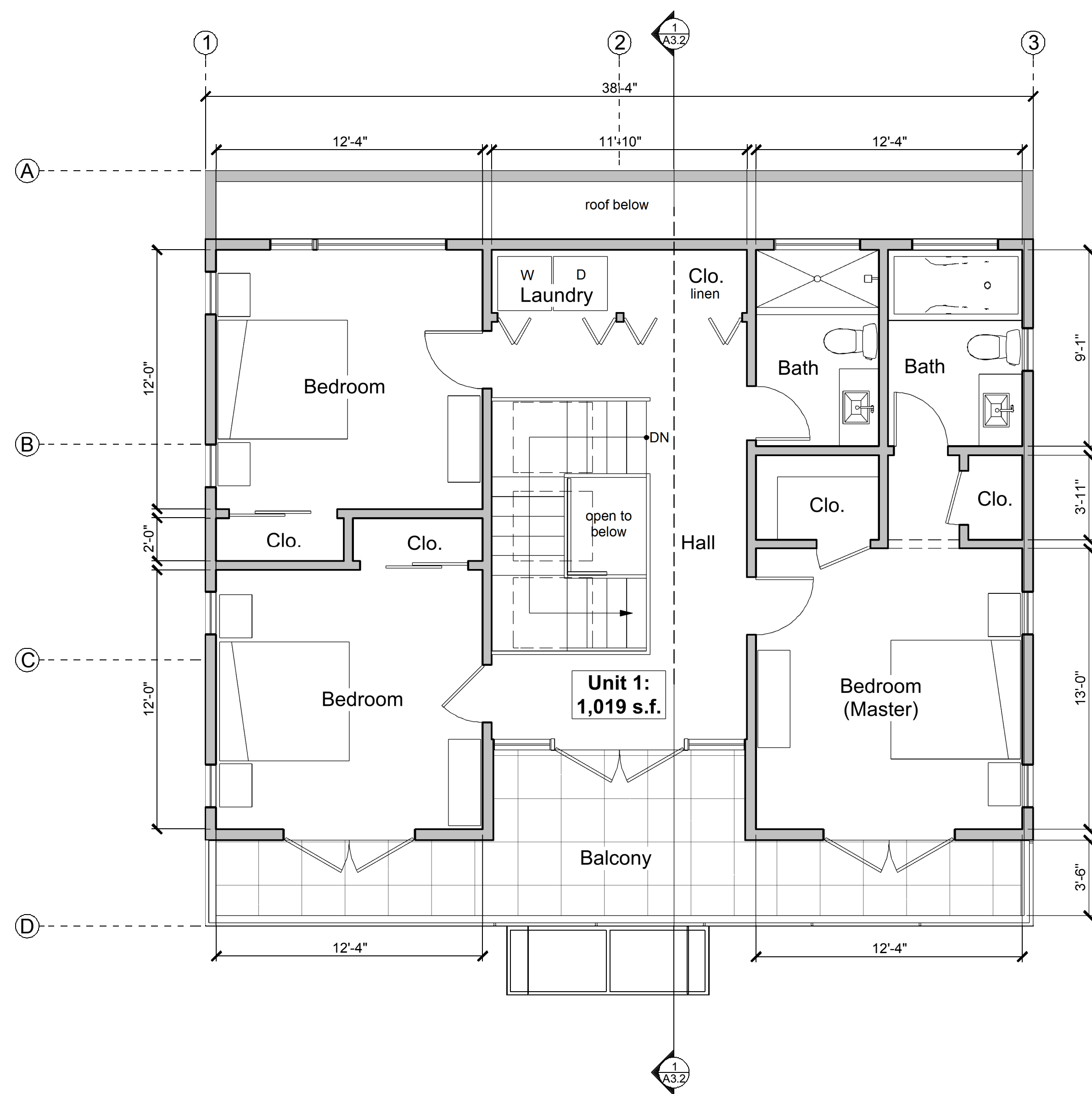
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Checked By: SSG

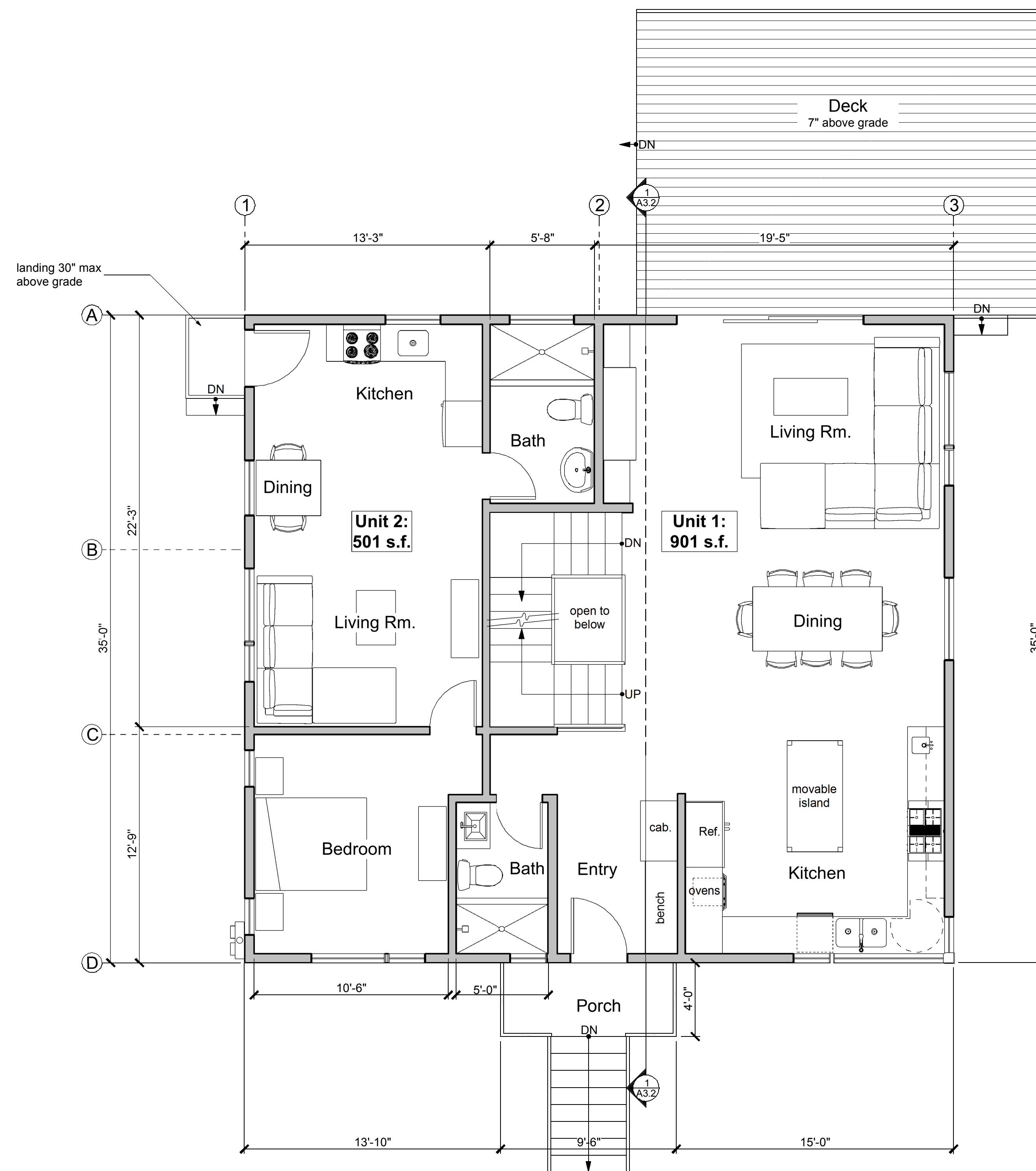
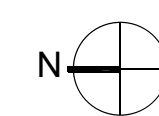
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Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

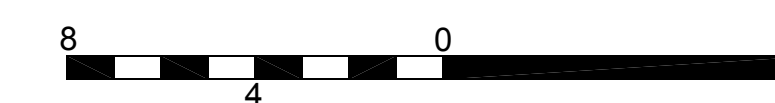
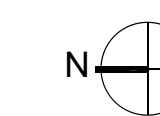
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2 Proposed Second Floor Plan



1 Proposed First Floor Plan





Previous Proposal



Previous Proposal



Previous Proposal



Current Proposal



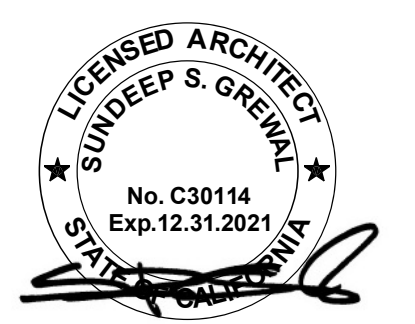
Current Proposal



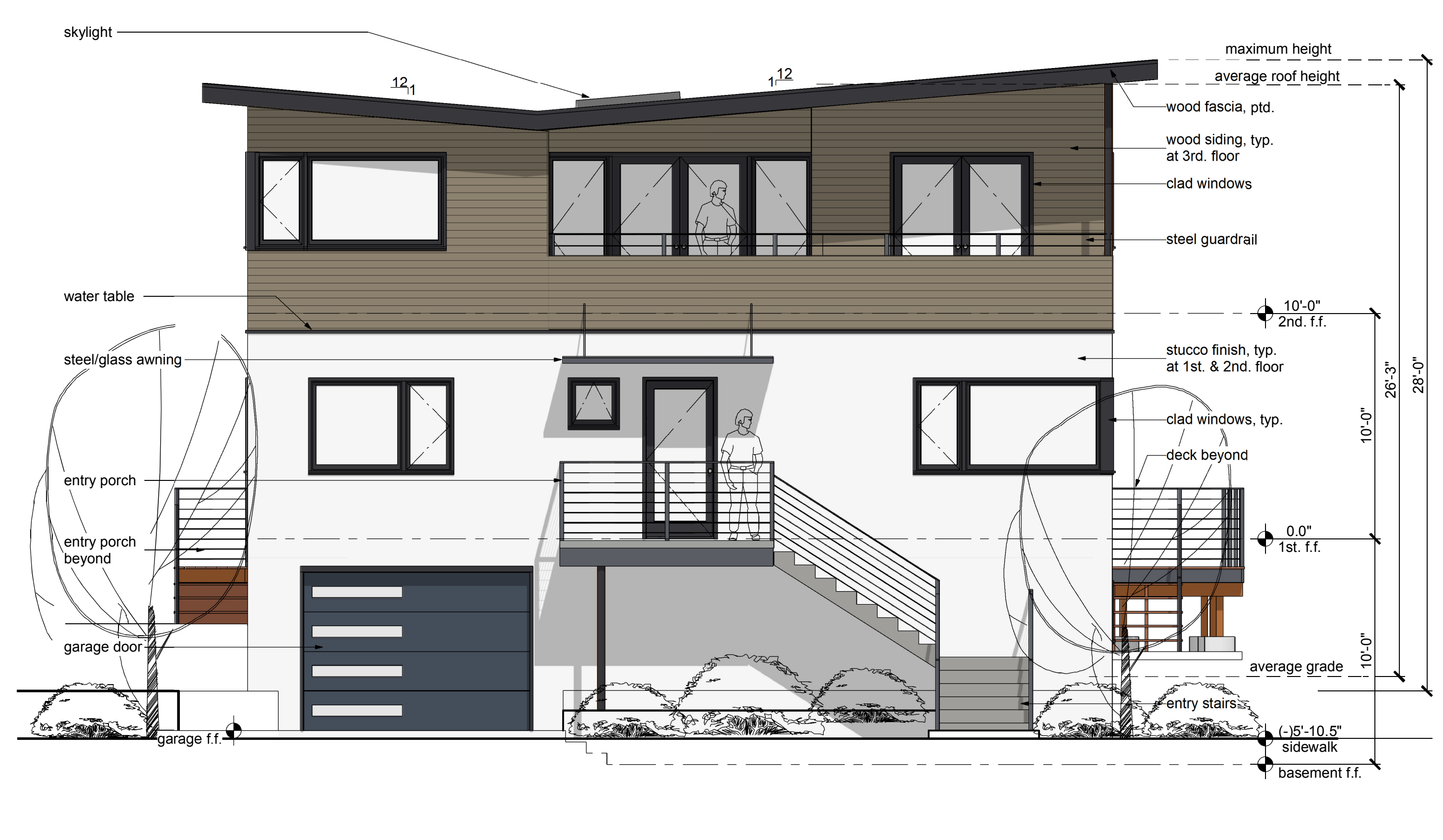
Current Proposal

**studio**  
**g+s**  
**ARCHITECTS**

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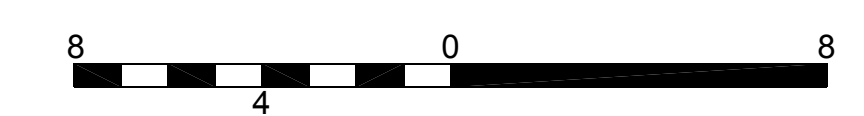
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2 Proposed West Elevation - Front Original Proposal



1 Proposed West Elevation - Front Current Proposal



Sheet Contents:  
 Front Elevation Comparison

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Checked By: SSG

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

Sheet A3.1



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Sheet Contents:  
 Proposed Exterior Elevations

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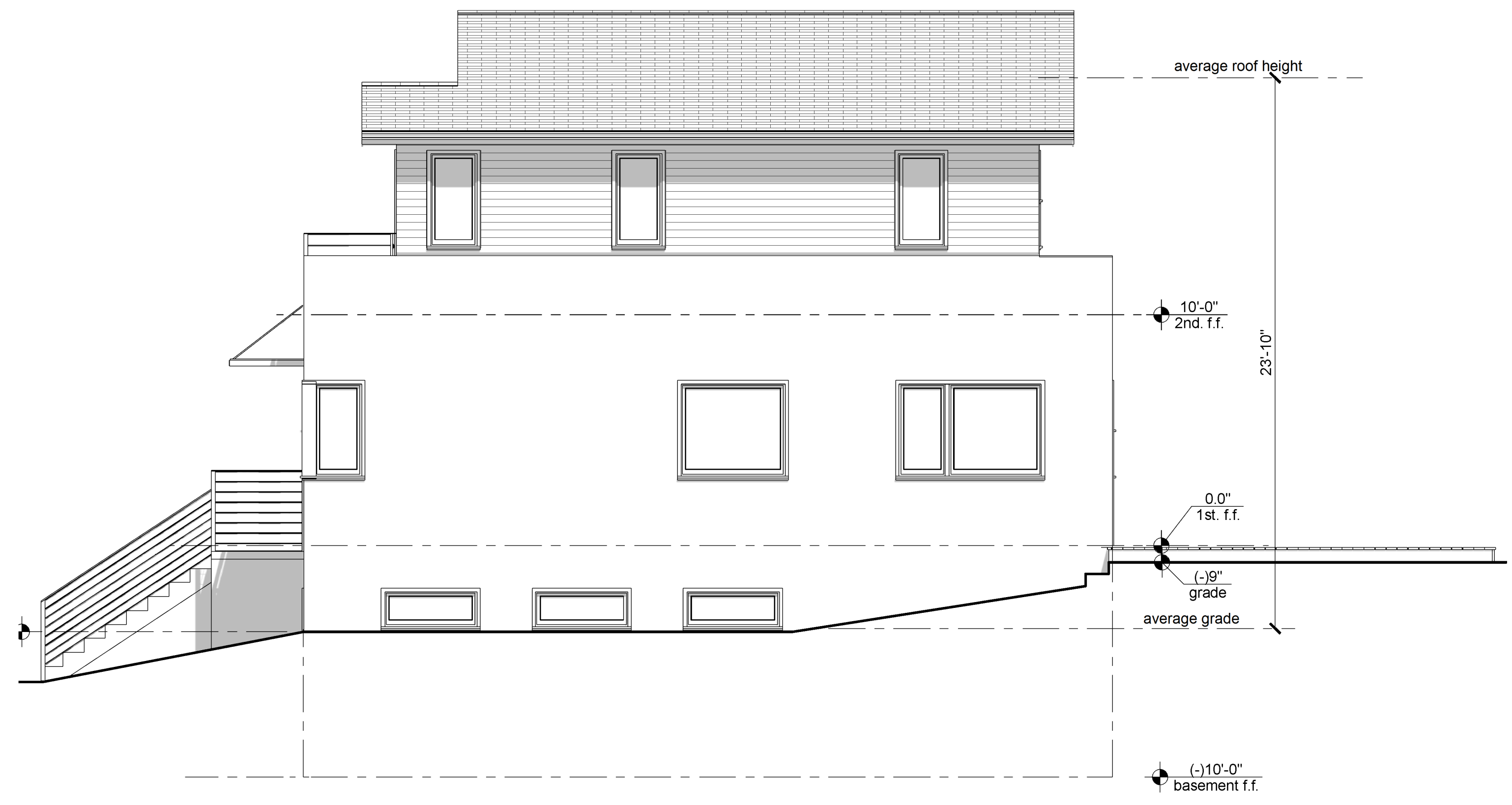
Drawn By: SSG

Checked By: SSG

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

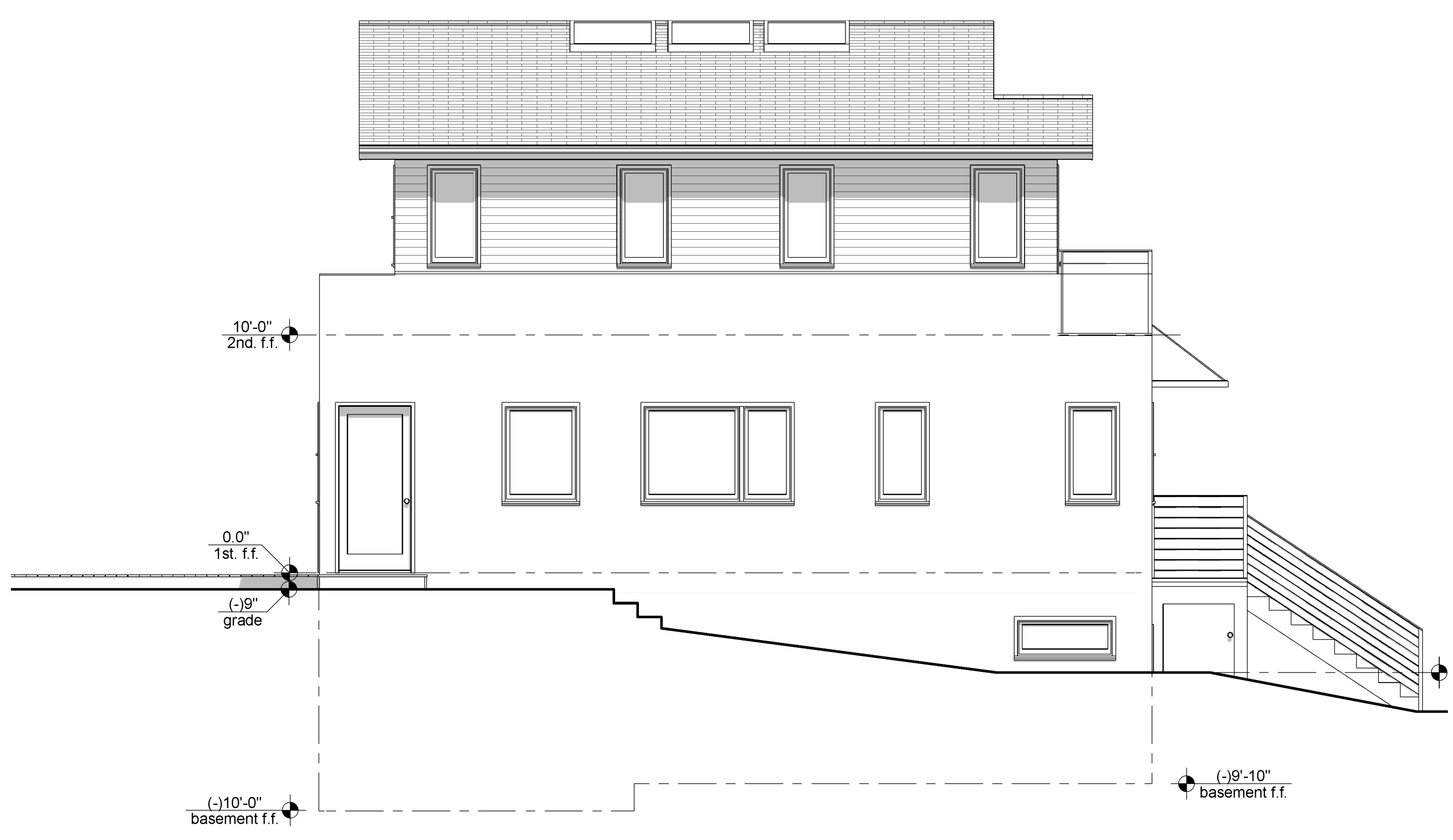
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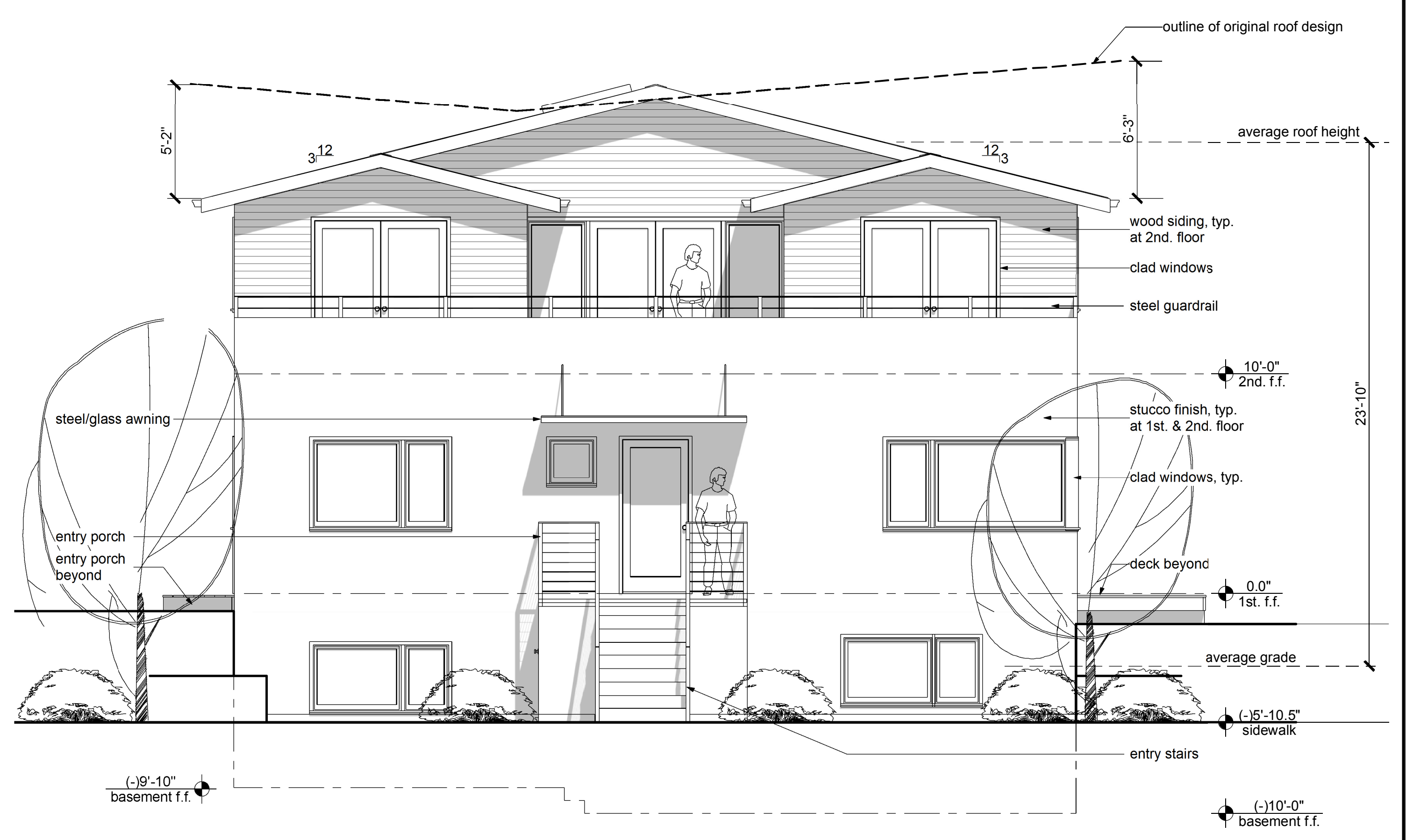
4 Proposed South Elevation - Right Side



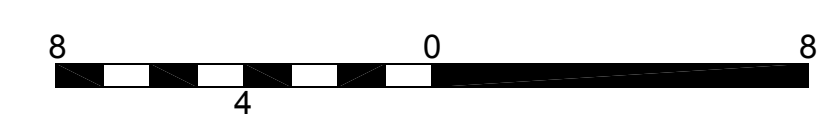
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front





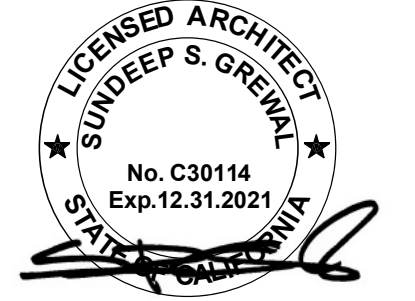
2 Renderings



1 Proposed Building Section



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Sheet Contents:  
 Building Section  
 Renderings

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

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

Sheet A3.3

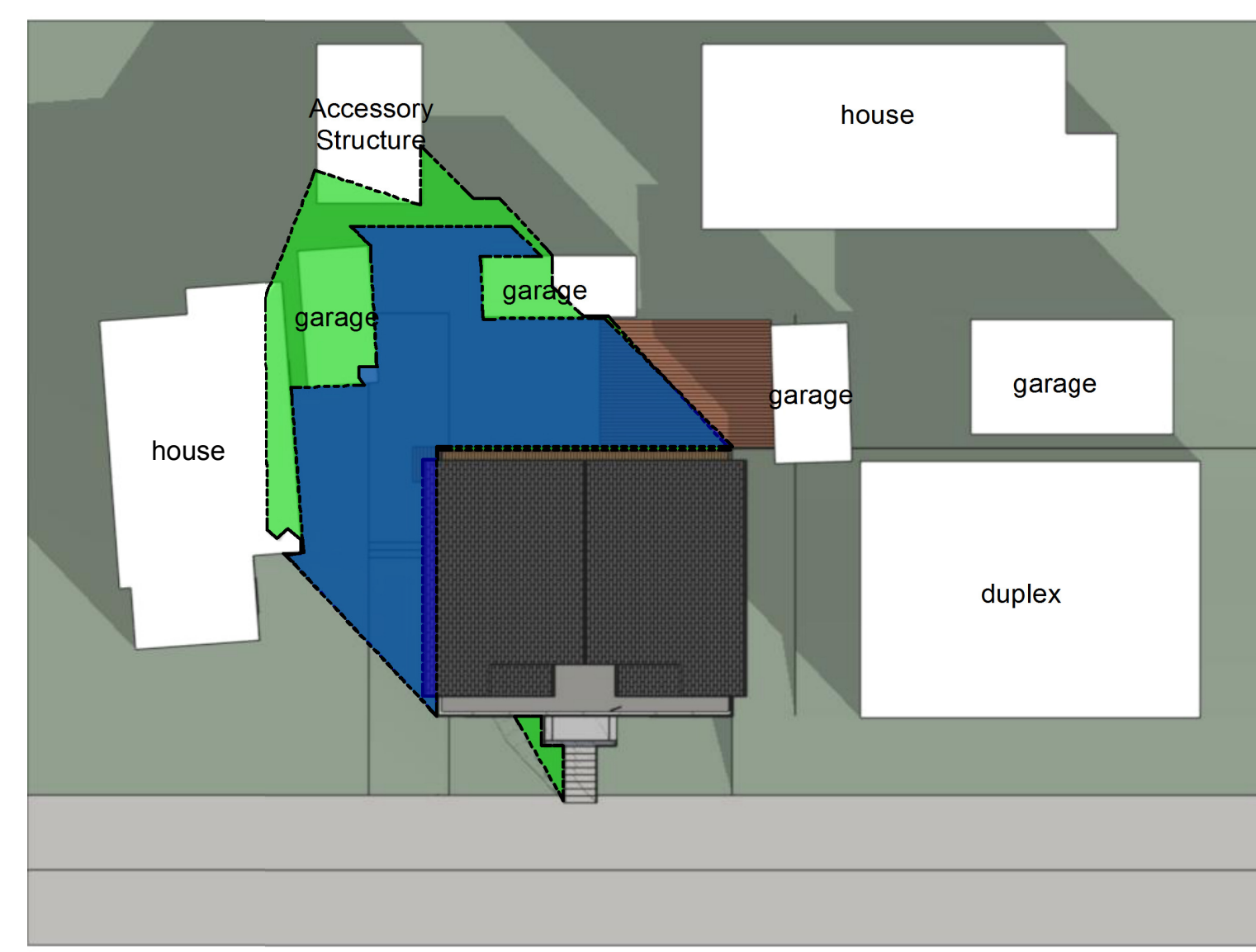
Existing Shadow Line  
New Shadow Line



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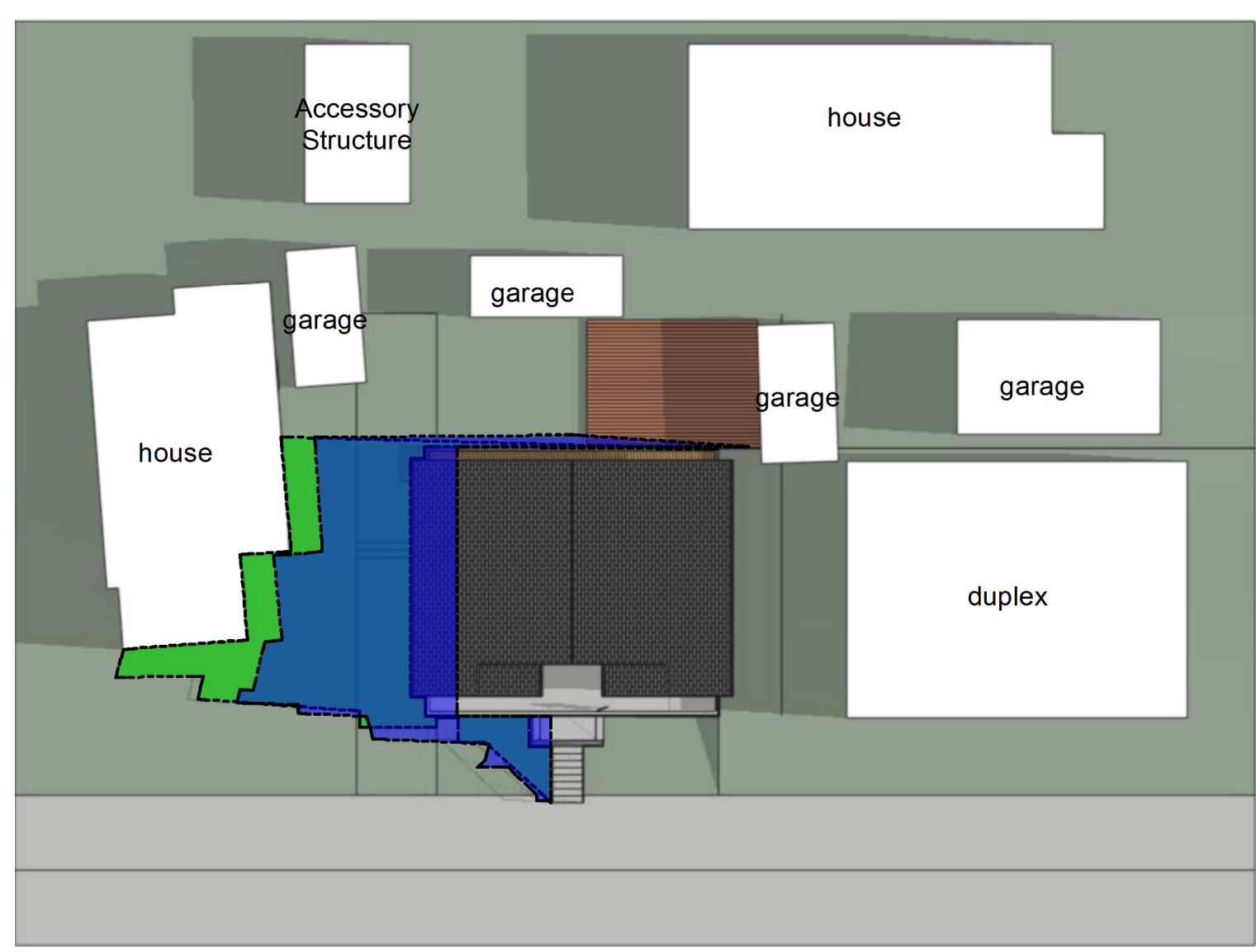
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Berkeley, CA 94703  
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Project Site

Proposed

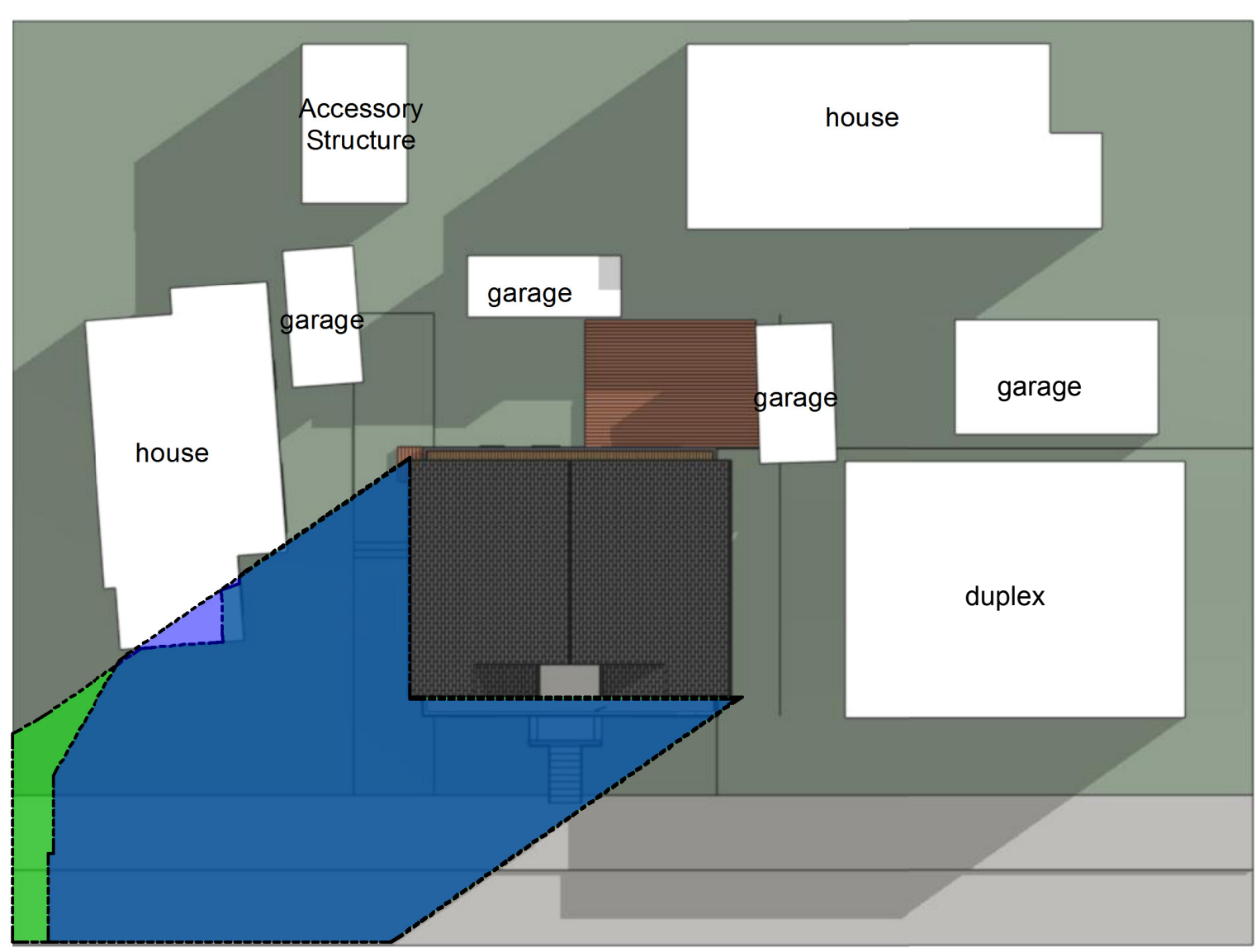
12-21-2021 / 2:54 pm



Project Site

Proposed

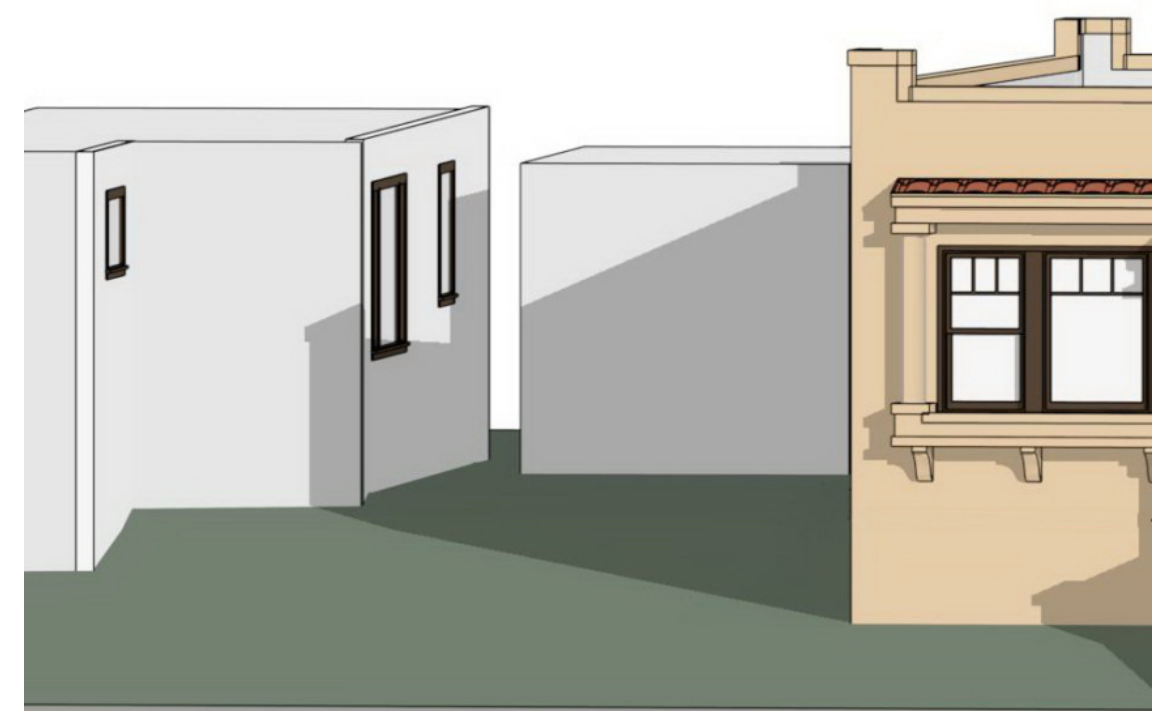
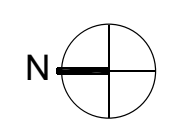
12-21-2021 / 12:00 pm



Project Site

Proposed

12-21-2021 / 9:21 am

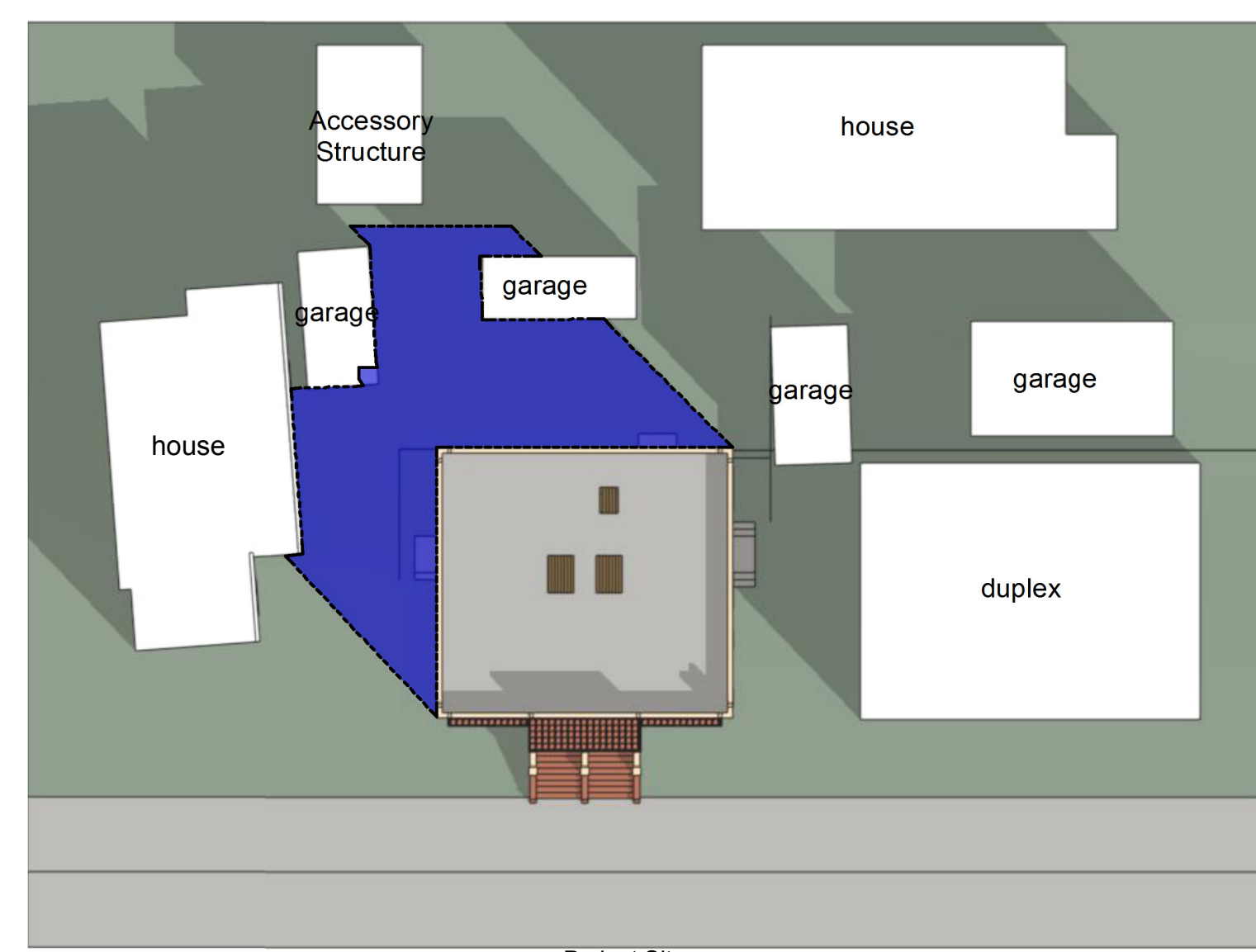


Shadow Accuracy Simulation  
12-08-2020 / 3:00 pm



Actual  
12-08-2020 / 3:00 pm

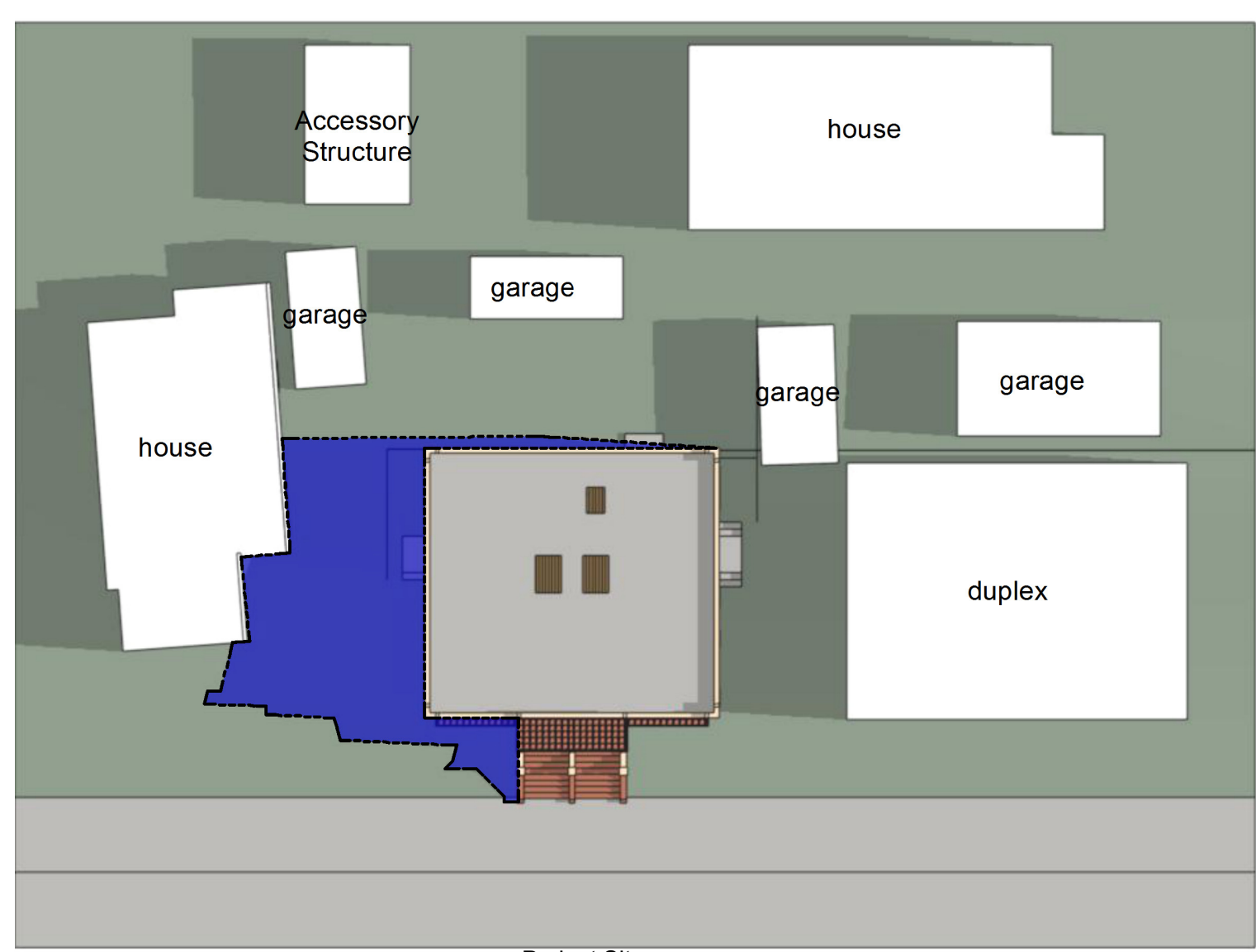
Shadow Accuracy Simulation



Project Site

Existing

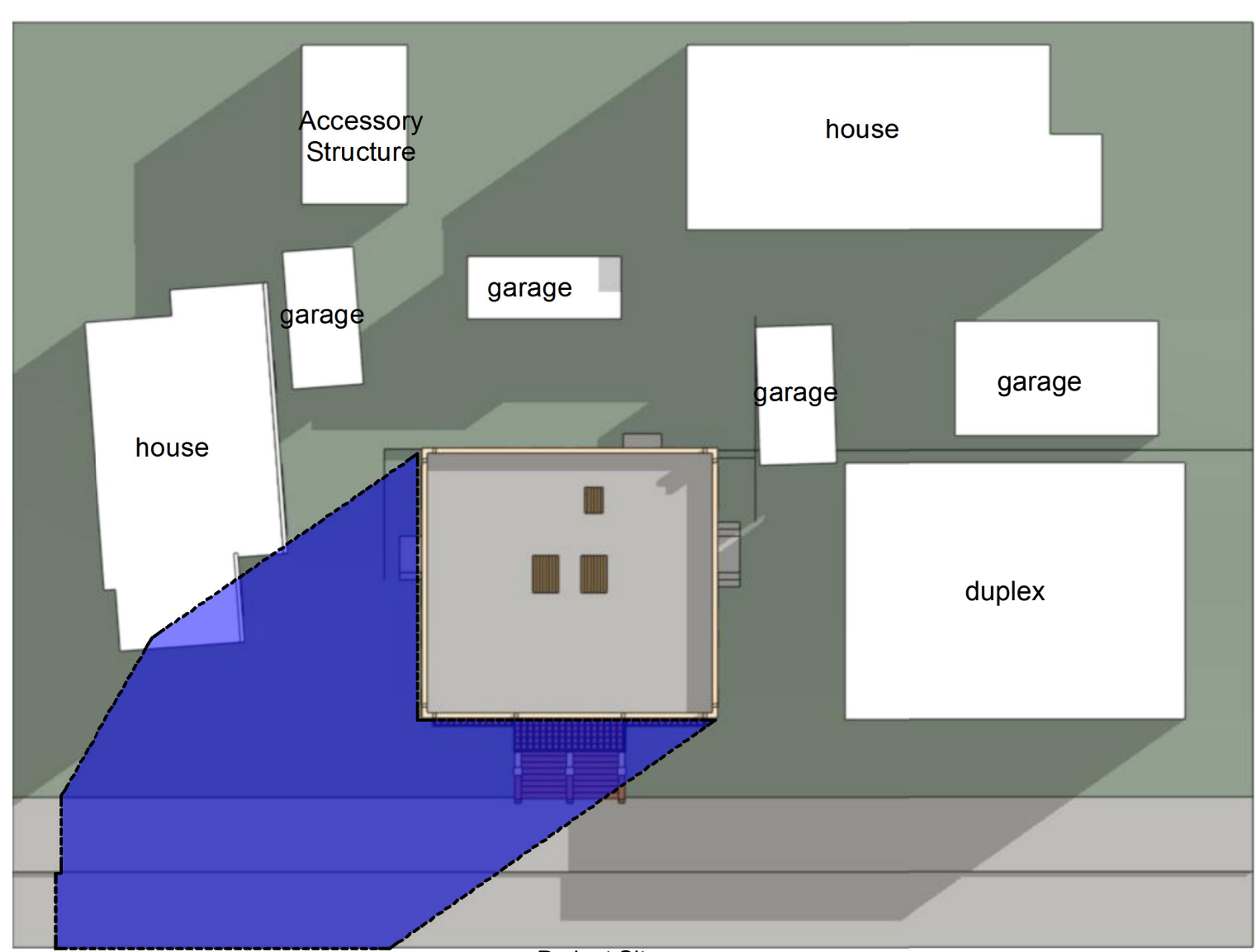
12-21-2021 / 2:54 pm



Project Site

Existing

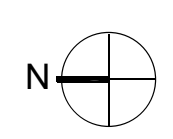
12-21-2021 / 12:00 pm



Project Site

Existing

12-21-2021 / 9:21 am



Sheet Contents:  
Shadows Studies

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Drawn By: SSG

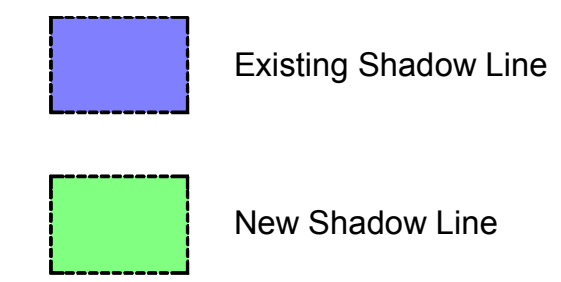
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Scale: NTS

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

Sheet A4.1





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

Sheet Contents:  
Shadows Studies

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Project No: 20-13-420

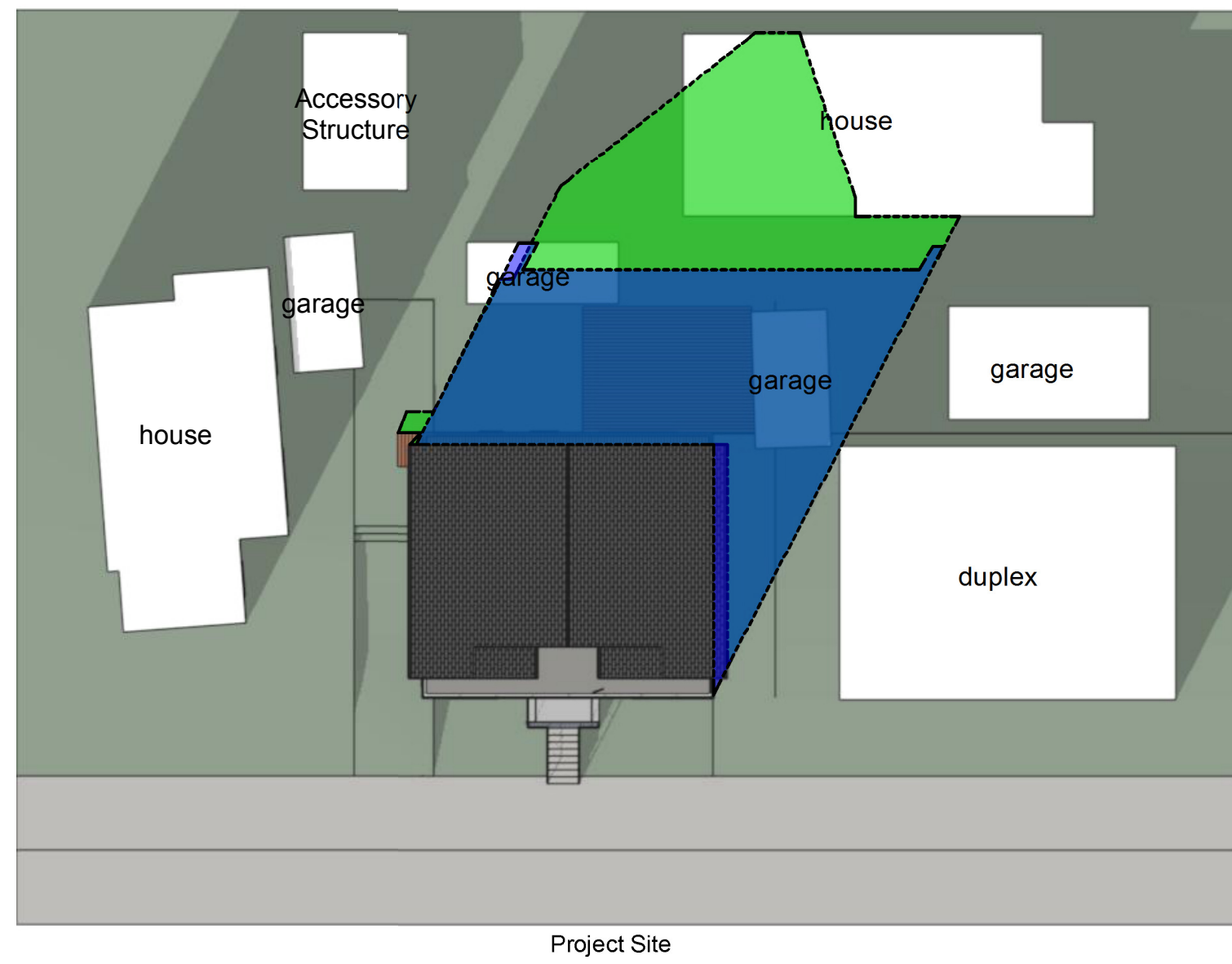
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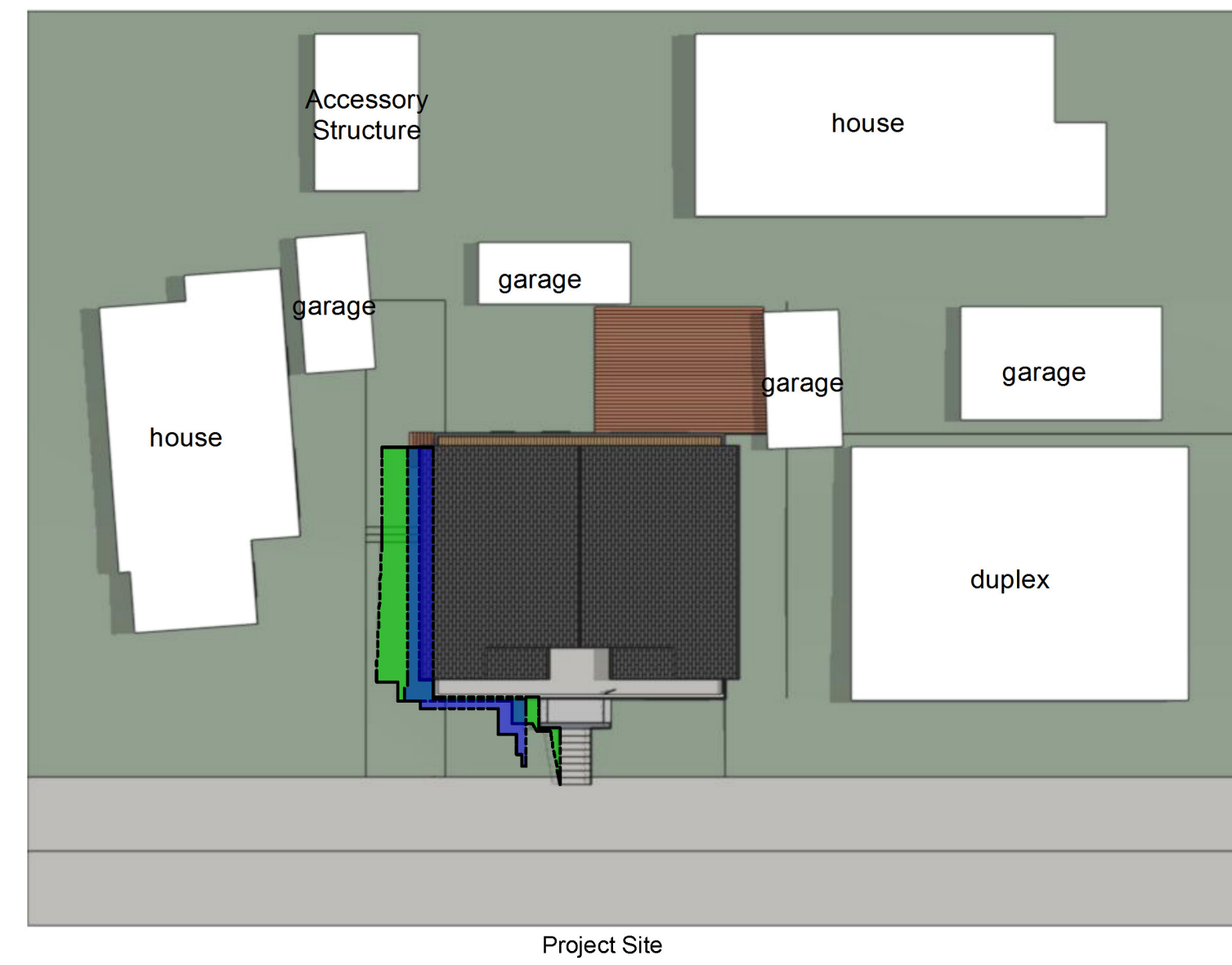
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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A4.2**



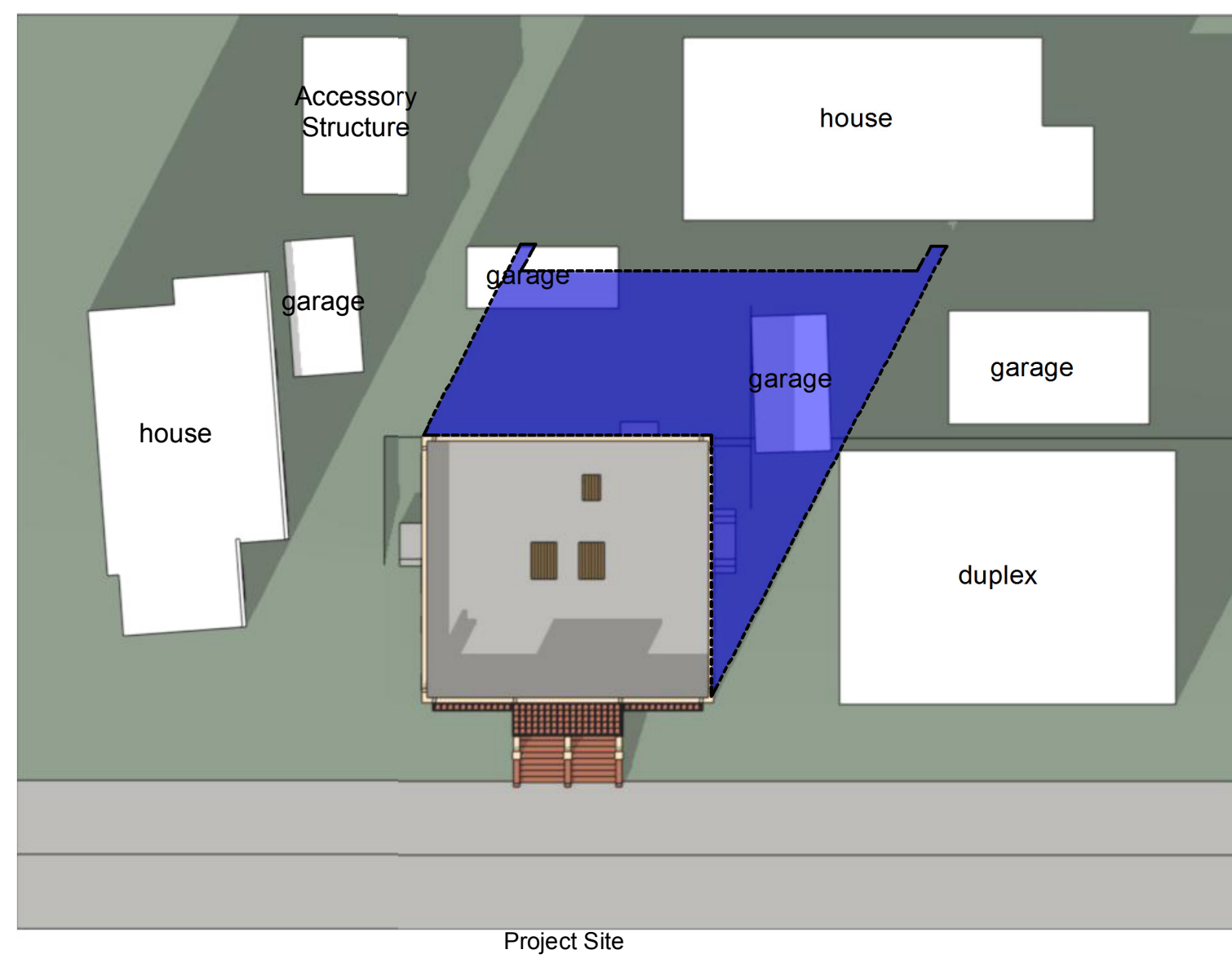
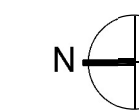
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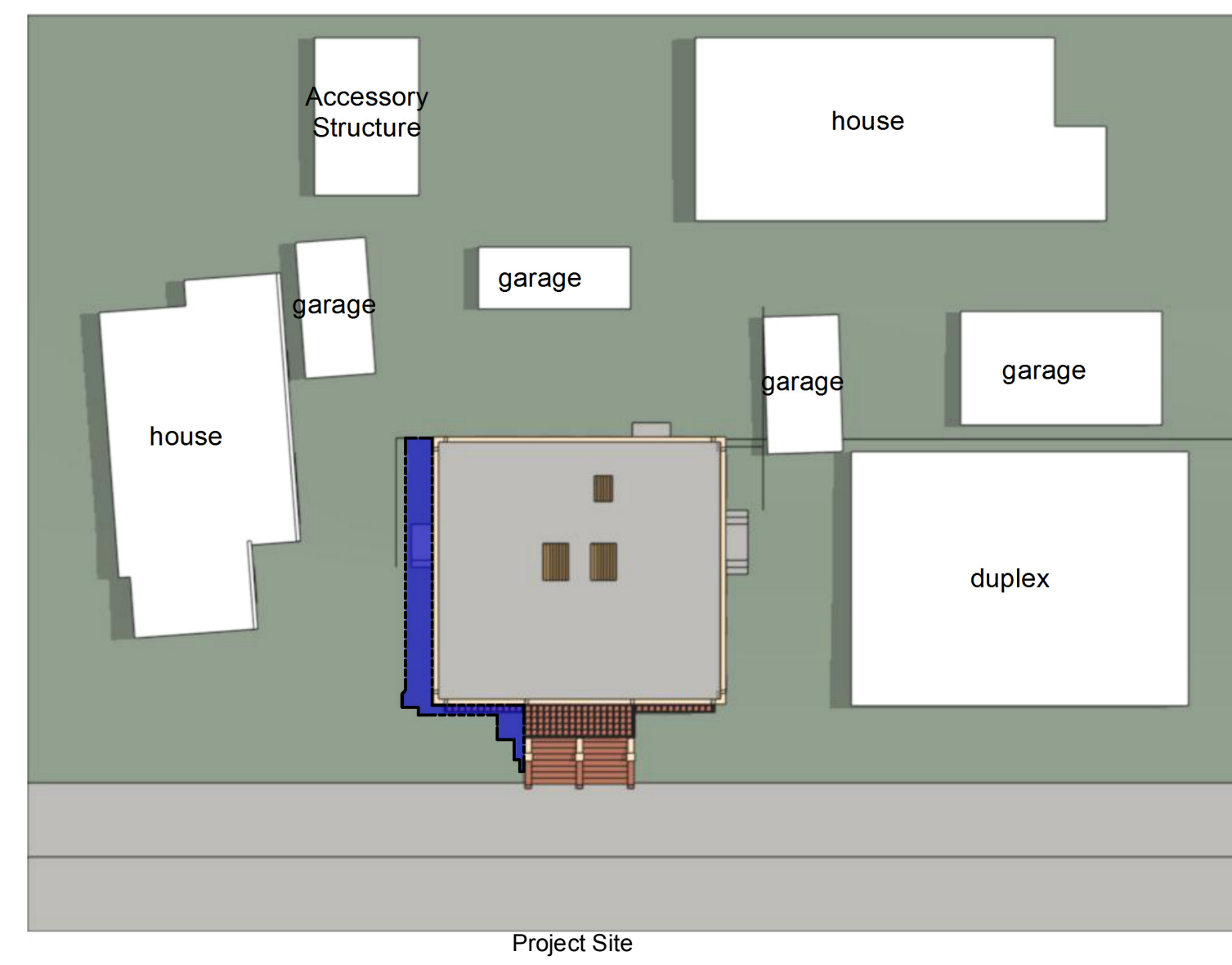
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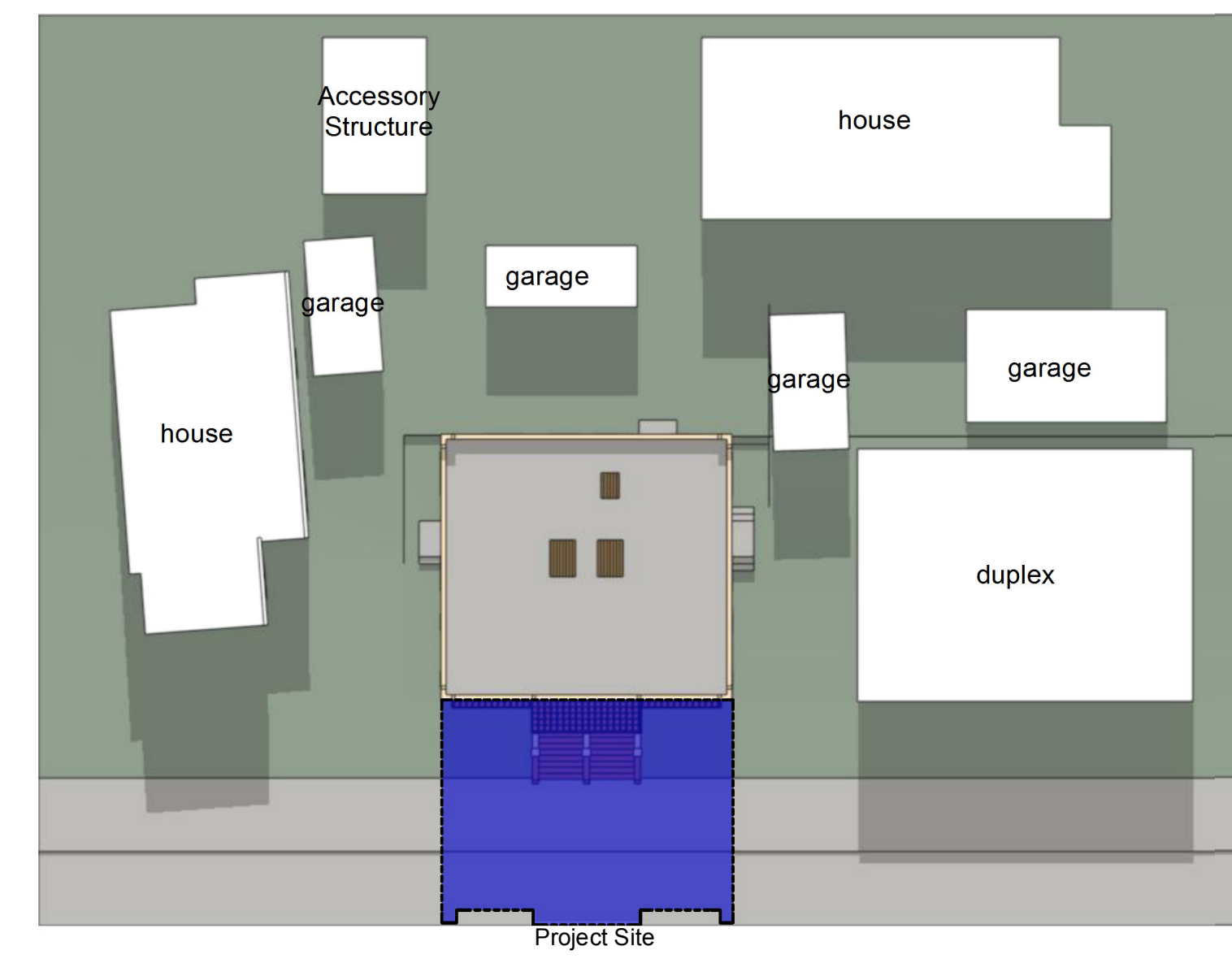
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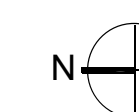
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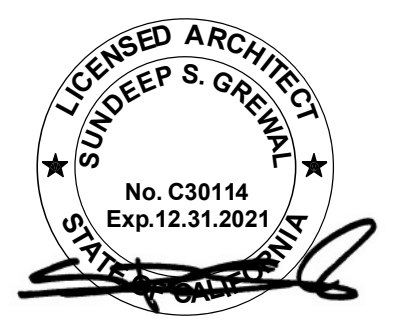


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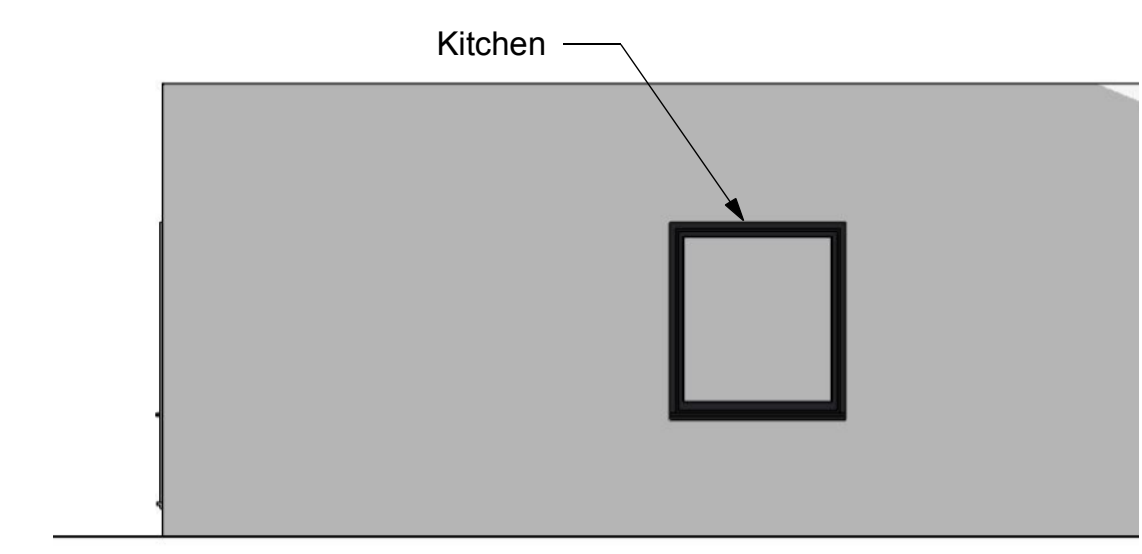


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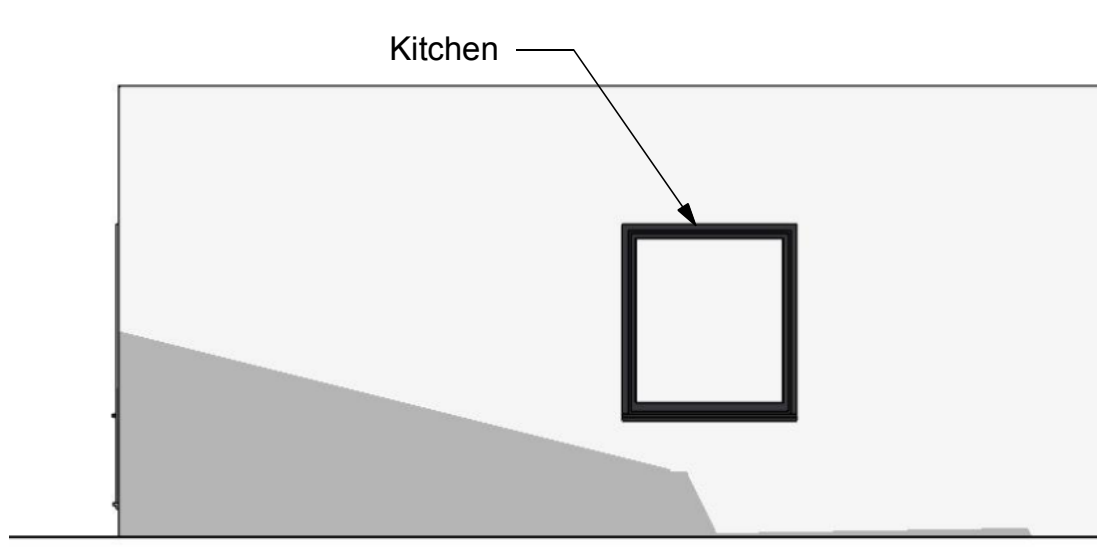
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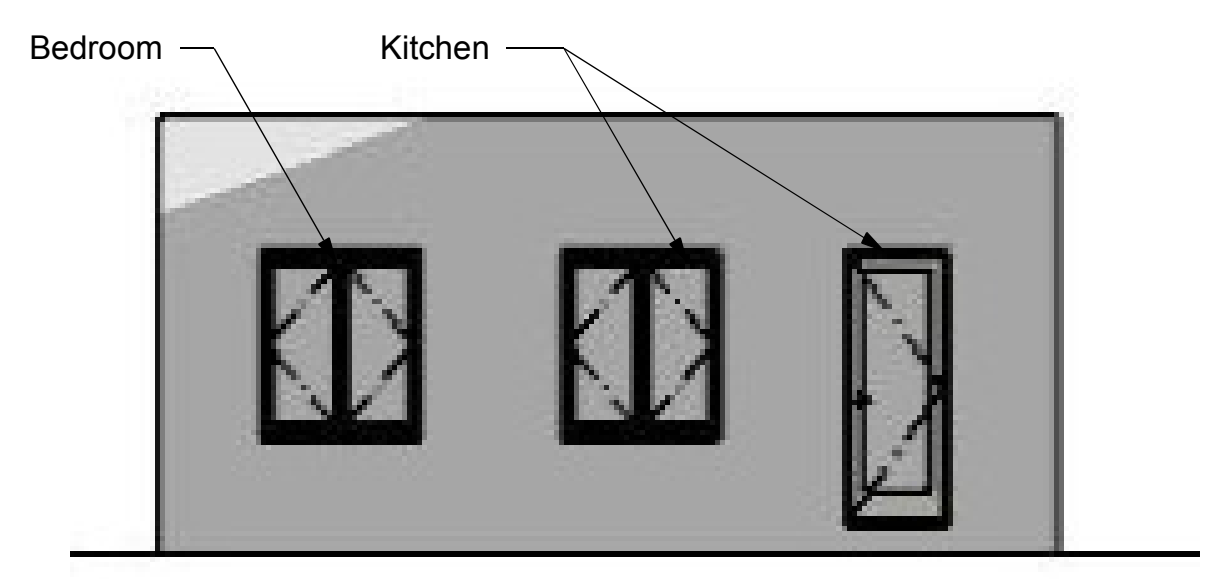
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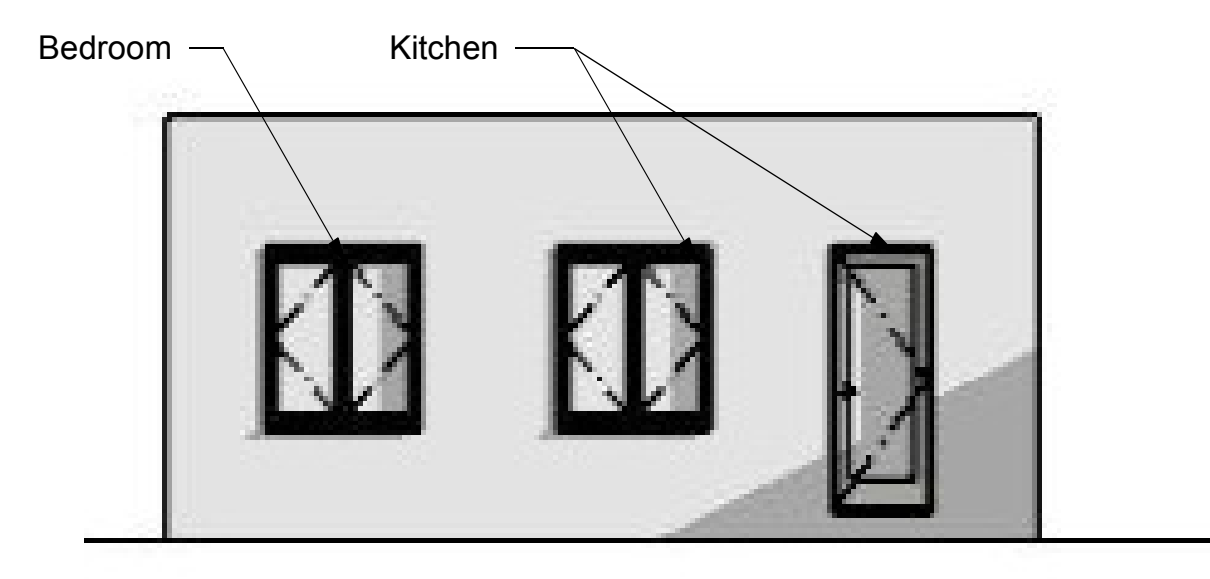
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**6-21-2021 / 6:35 pm**

**6-21-2021 / 5:00 pm**



Proposed North Wall

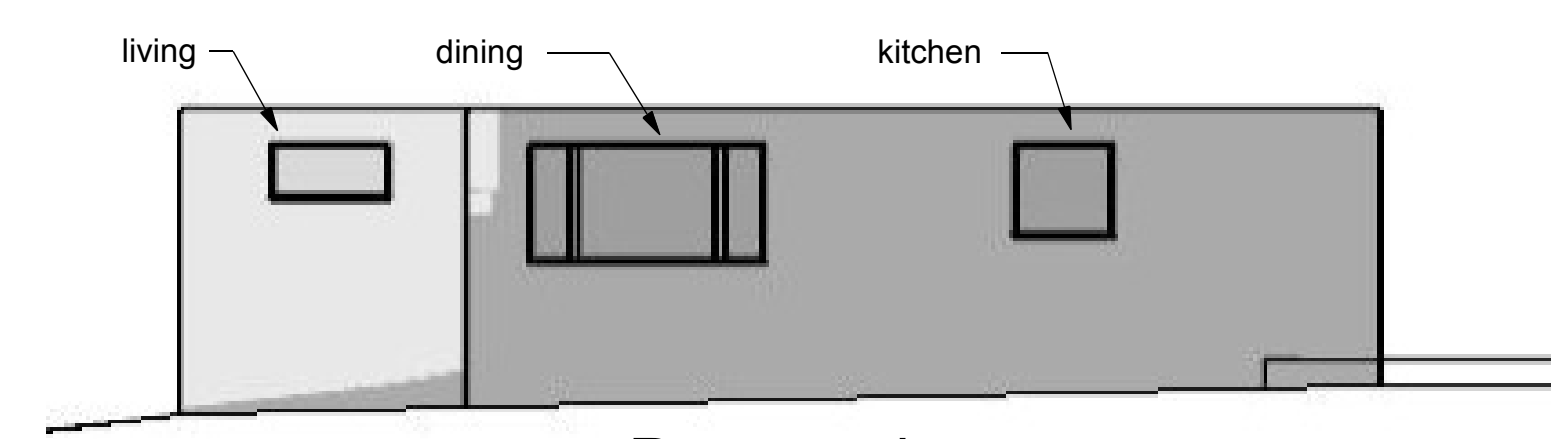


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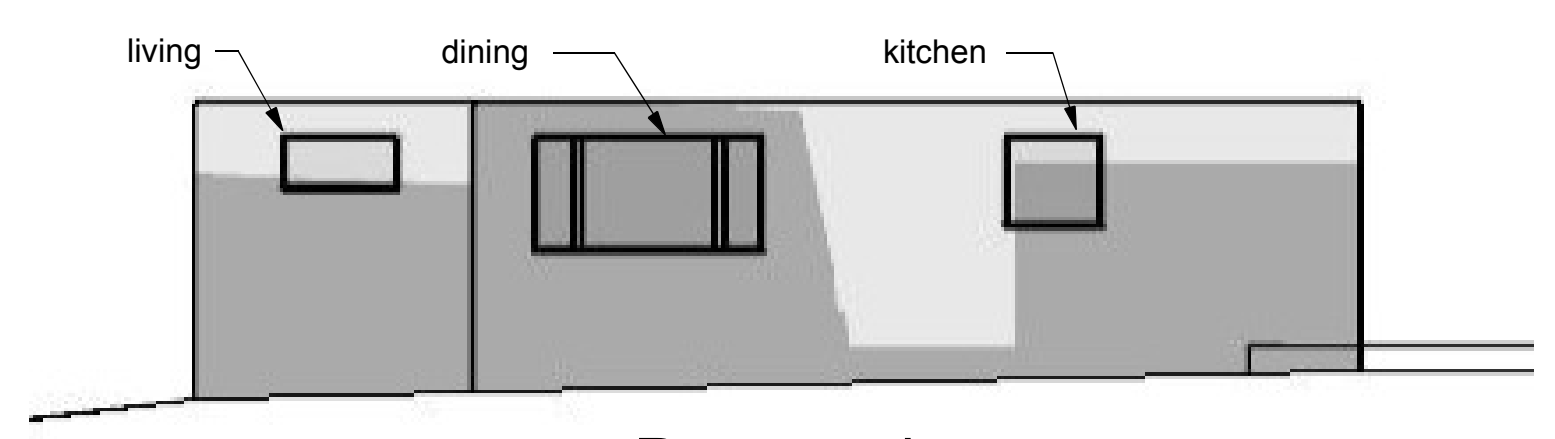
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**6-21-2021 / 5:00 pm**

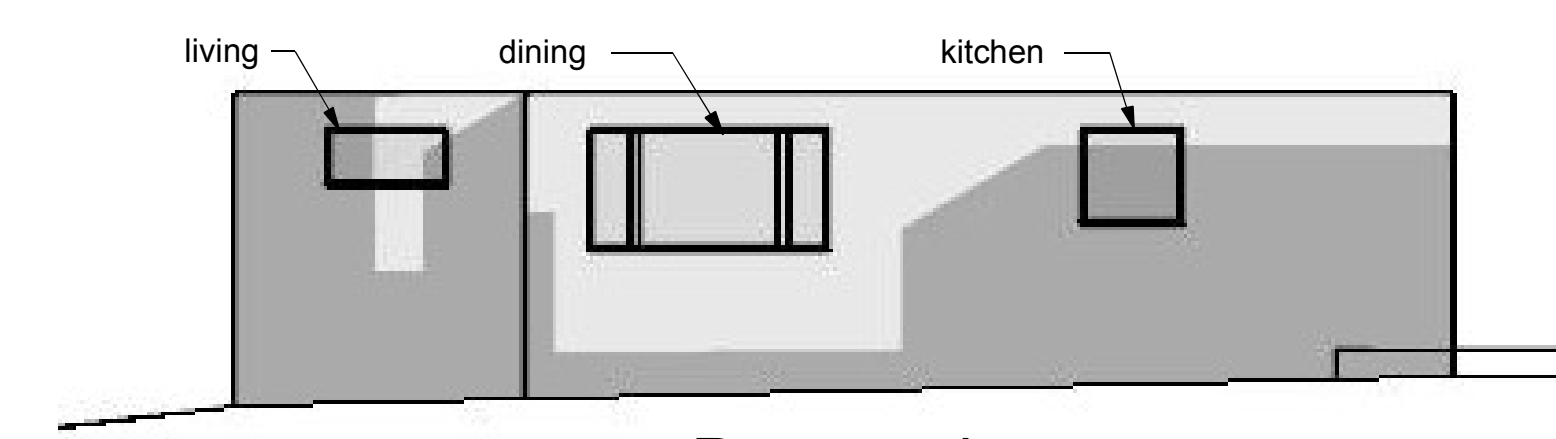
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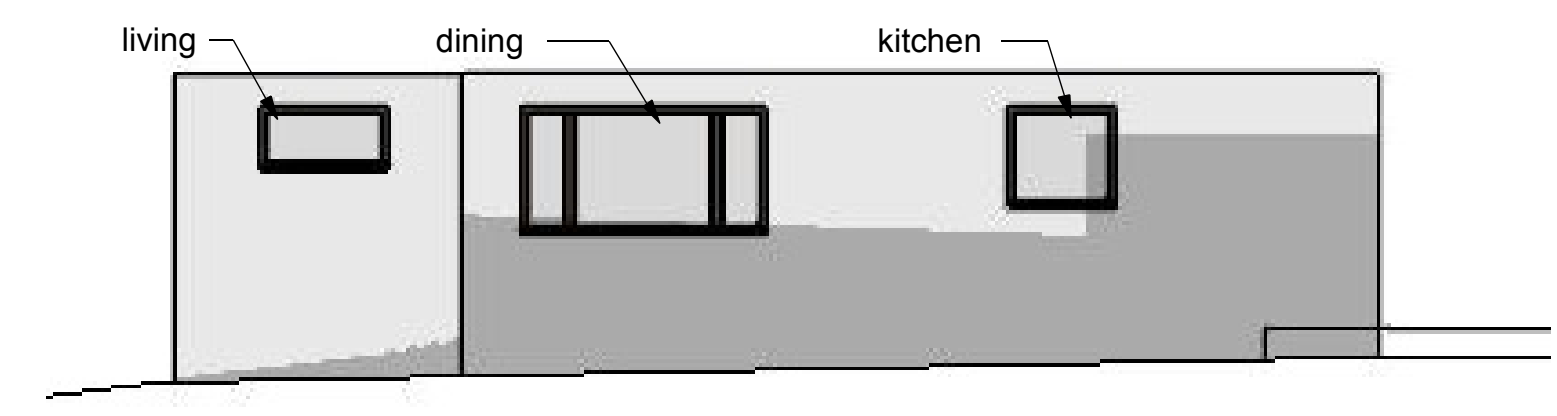
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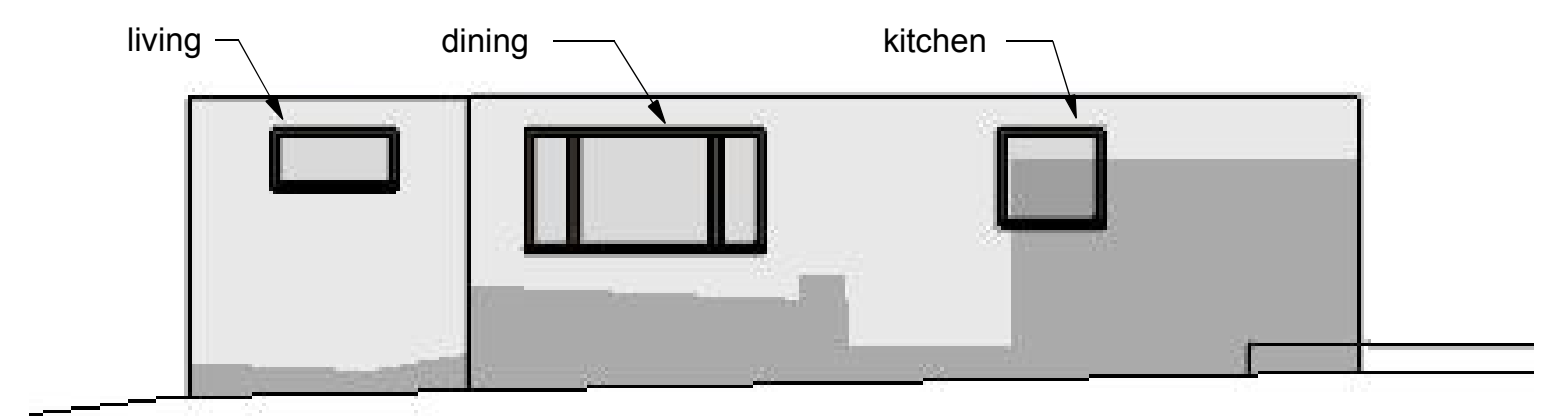
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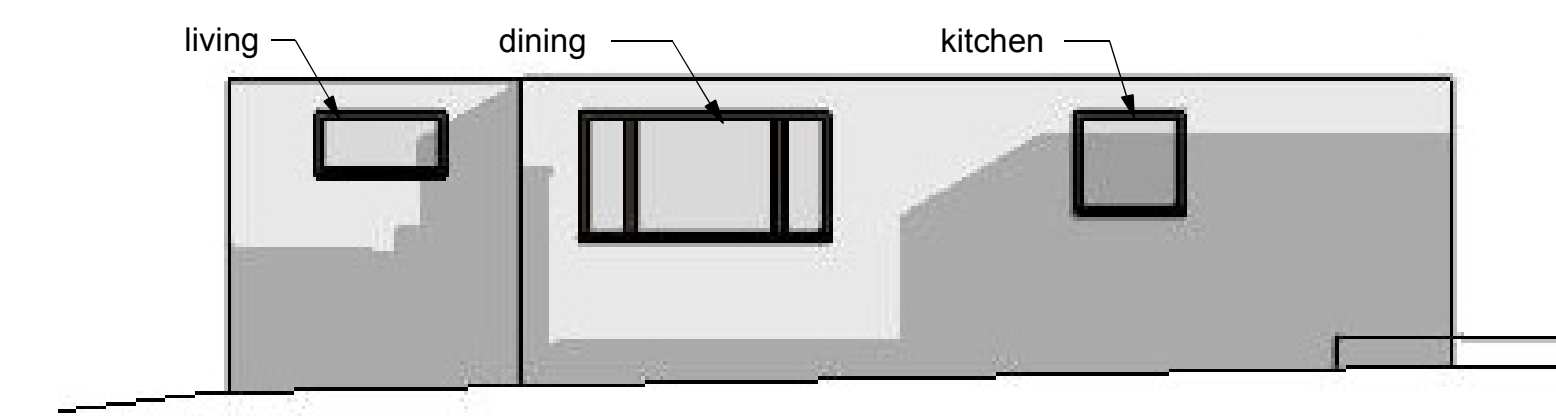
Proposed



Existing



Existing



Existing

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

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

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

**1639 California St. Shadow Impact Study**

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 Shadows Studies

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Project No: 20-13-420

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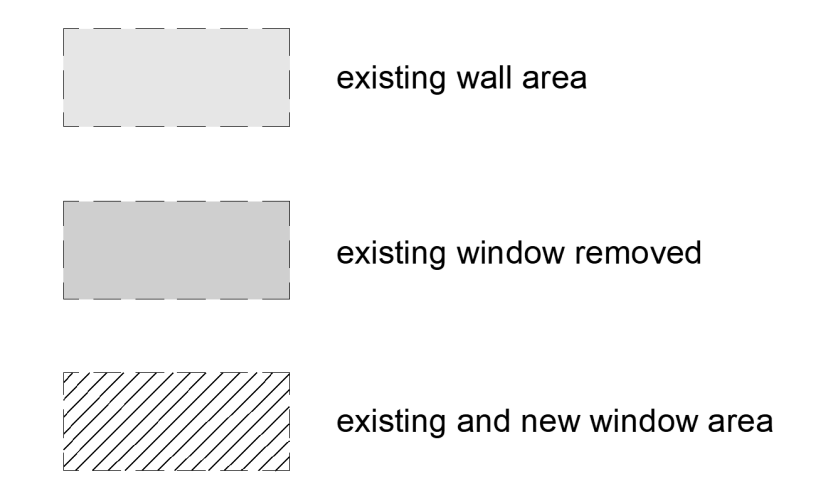
Checked By: SSG

Scale: NTS

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

Sheet **A4.3**

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



4 Proposed South Elevation - Right Side



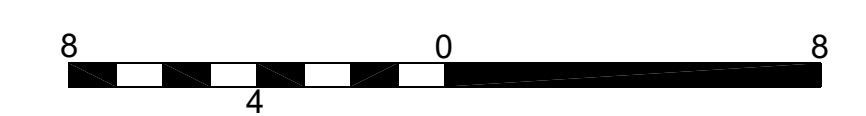
3 Proposed East Elevation - Rear



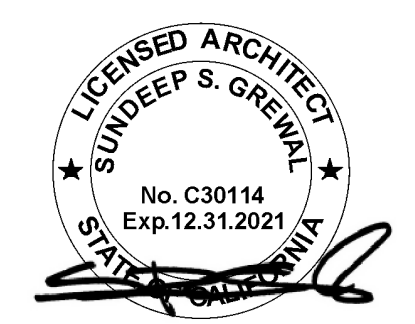
2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



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**OPPENHEIMER RESIDENCE**  
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Sheet Contents:  
 Demolition Diagram

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

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

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

Sheet  
**A5.1**

January 10, 2022

To: The Berkeley City Council

Re: Application of the Housing Accessibility Act and flaws in participatory processes that unduly limit the City's ability to regulate development in Berkeley, as evidenced via the handling of project ZP2021-0001.

This appeal relates to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley (ZP2021-0001). We are appealing the decision by the ZAB in this case for two reasons:

- 1) The ZAB and City interpreted and applied the Housing Accessibility Act (HAA) in a way that severely and inappropriately restricts the City of Berkeley's powers and authority to influence housing development and to safeguard existing lower-income housing in the City.
  - a. The City Planner incorrectly extended protections afforded by the HAA only to very-low to moderate income housing developments, to a project that does not add any new units and instead simply proposes to massively increase the square footage of one unit in an existing duplex.
  - b. The ZAB interpreted the HAA to mean that it has no authority to apply existing objective zoning standards to any project that proposes an increase in square footage of the existing structure. That interpretation is counter to the statements in the City Planner's Staff Report, the law, and existing jurisprudence interpreting the HAA. Moreover, the ZAB only discussed how to apply the law to this project AFTER the opportunity for comment had closed during the hearing, and even though none of that information was previously publicly available.

If this interpretation is allowed to stand, the City of Berkeley would find itself forced to approve all housing projects that propose increasing square footage, regardless of whether the project complies with the applicable zoning standards currently in place, in effect making all Berkeley zoning processes irrelevant.

- 2) The City failed to provide adequate opportunities for affected parties to receive information in a timely manner, be consulted, and provide meaningful input on the proposed project

Because of (1) above, we request that the Council revert the project in question to the Department of Planning & Development to work with the City Attorney and others to determine how the HAA shall apply to this project and to zoning matters in Berkeley generally, including issuing clear and public guidelines as to which specific ZAB and City authorities are limited by the HAA in what kinds of circumstances. (See Section A below.)

We further request that the City Council order that ZAB hold another hearing on this project -- AFTER the City has officially decided and provided information as to how the HAA applies in this case, also mandating that such hearing shall include appropriate public notice and public participation, and that any and all restrictions on potential project modifications be both clearly stated in the Staff Report and during the ZAB hearing before the public comment section.

We also request that the City of Berkeley revise its procedures and processes to ensure effective and informed public participation in ZAB matters, considering that the COVID crisis is no longer a short-term phenomenon and thus does not provide an excuse for compromising informed public participation. (See Section B below). This includes but is not at all limited to public postings for projects, use of story poles, and improved ZAB hearing procedures to facilitate public participation.

In the interim, because the HAA does not require approval of this project, we ask that the City exercise its authority to reject the project or require a resubmission until such time as these matters can be resolved.

Finally, because the need for this appeal stems from the City's inconsistent interpretation of the HAA as well as from public participation concerns more broadly, both of which are of great import to the City generally and not only applicable to this specific project, we request a rebate of the \$500 charge for this appeal.

#### **SECTION A. Inappropriate application of the HAA to justify approval of the proposed project**

##### **THE FACTS**

###### **The project**

As clearly stated in the staff report provided to the ZAB prior to the hearing, the proposed project is "non-conforming for lot coverage, density, and yards" and "does not comply with the applicable, objective zoning standards."

1643-47 California is a North-Berkeley duplex built in 1924 that is registered as a two-unit structure with both units being owner-occupied. The property was illegally converted by the project proponents from two single-bedroom units into one larger single-family residence more than two decades ago, removing a kitchen, and opening the wall between the units. The property has been occupied as a single-family residence ever since.

The project proponent now seeks to expand the building from a total of 1,342 to 3,763 square feet by building a substantially different structure, promising to reconstruct the illegally removed unit. The project does not add any new units beyond what is on record in the city.

Instead of recreating the original and surely more affordable one-bedroom housing units (671 sq ft. each), the proposal seeks permission to create a small apartment (501 sq ft.) and an enormous 5-bedroom, 4-bathroom unit that includes a home gym. (3,262 sq ft.) The project would add two new levels to the existing property.

To accomplish these changes, the project requires two Use Permits and five Administrative Use Permits.

The proposal states that two adults will occupy the 3,262 sq ft. 5-bedroom unit and that their adult son will live in the small apartment.

The project application contains no information regarding any restrictions being created to ensure that the smaller proposed unit would be available as low-income housing, as is required for any application seeking to benefit from the HAA under the rubric of providing low-income housing.

Similarly, the project application contains no information explaining how the 5-bedroom, 4-bathroom unit with a gym could be considered to be housing for moderate-level or below income, another way of triggering application of the HAA.

The ZAB hearing and decision<sup>1</sup>

According to statements by ZAB members made during the meeting, this was the first time since the amendments to the HAA came into effect that the ZAB has had to decide whether or not to approve a project that did not meet the applicable zoning standards.

In spite of opposition by all three adjacent neighbors to the proposed third level of the structure, ZAB approved the project without considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made this decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined broadly at one point in the discussion as being the units, number of bedrooms, or square footage of a development. The ZAB also expressed it could not require design modifications given that Berkeley does not yet have any objective design standards for minimizing impacts on neighboring properties.

At the very end of ZAB discussions, the ZAB chairman searched for, found, and read from a memo apparently produced by the city attorney and provided to the ZAB in October. That section – read out of context – was used as basis to suggest that the ZAB had no option other than to approve the project. The complete memo was shared with neither the public nor the rest of the ZAB at the meeting. We have since been unsuccessful in obtaining a copy of that memo, even after multiple requests to the ZAB and City Planner.

After dedicating much of the meeting to trying to figure out how the HAA might apply and what it was or was not allowed to do, the ZAB hurriedly voted shortly after reading from this memo to approve the proposed project.

During the meeting, ZAB members also clarified that the ZAB is not allowed to consider potential future uses of the projects it reviews even when the ZAB may doubt statements made by project applicants about such future use, thereby inferring that any determinations as to whether a project provides housing for very low to moderate income earners and thus is subject to those provisions of the HAA rests with the City Planning Department.

**THE LAW**

The text of the HAA (California Code 65589.5<sup>2</sup>) begins with an extensive discussion of the need for housing and especially affordable housing in California considering the “housing supply and affordability crisis of historic proportions” the State faces.

---

<sup>1</sup> We have made multiple requests to the ZAB and city planner for access to the recording of the ZAB meeting, so as to substantiate our record of the meeting. Not having received any response, these facts are based on our notes from the meeting and the written documents supplied to the ZAB by the city planner.

<sup>2</sup> See: [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5)

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It is eminently clear that the focus of the law is on providing more affordable housing, with references made to the need for safe and affordable housing; the discrimination against low-income and minority households caused by the lack of affordable housing; worsening poverty and homelessness; constrained supply and protracted unaffordability; low homeownership rates; and the high percentage of incomes paid by Californians on rent, among others.

The law also states that it is the intent of the State that the law be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

Relevant to this case, there are two sections of the law that impose restrictions on cities in approving housing developments.

First, Subsection (d) places strict limits on cities with regard to denying an application for a "housing development project for very low, low-, or moderate-income households or an emergency shelter..." To provide clarity on which housing developments would fit into this category, the law provides detailed instructions for how to carry out the calculations to assess whether a unit will qualify as very low, low- or moderate-income housing [Subsections (h)(3) and (h)(4)].

The law further requires that "The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years." [Subsection (d)(4)]

The vast majority of the law refers to and places limitations only on housing developments that would provide the very-low to moderate level income described above, and as defined in Subsection (h). It is only for such developments or for developments that comply with all applicable objective standards that a City must make a finding of specific adverse impacts upon the public health or safety if it desires to disapprove the project.

Second, Subsection (j) defines the process and timelines by which housing developments in general should be reviewed and either approved or denied. The law sets out two options, providing guidance for what to do if the city considers that:

- a) a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete; or deems the
- b) housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision

In the case where the agency deems the project out of compliance, the law simply directs the agency to provide the project proponent with a timely explanation of the reason why the project is not in compliance. [Section(j)(2)(i)]

There is nothing in the law that suggests a local agency would be required to approve a project that does not comply with the applicable, objective zoning standards in place at the time that a project application is complete. To the contrary, section (f) of the law states that:

... nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards,

conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

Other California law, such as Section 65915 discussing density, consistently speak of and define density in terms of the number of units per property or area.<sup>3</sup>

#### DISCUSSION AND ANALYSIS

Rather than adding low to moderate income level housing in Berkeley, this project would REDUCE the amount of such housing available. Again, the proponents seek to replace two small and more affordable housing units with one tiny apartment and one huge, 5-bedroom home. There are no provisions made that the project would provide guaranteed low or very-low income housing, and it is difficult to imagine how the very large 5-bedroom unit could be considered to be moderate income-level housing for a two-person household. The project proponents own a large 10-unit Berkeley rental building less than a mile away, and thus unlikely would qualify as a low to moderate income household.

By removing a more affordable unit and replacing it with a luxury home, the project thus runs COUNTER to the expressed purpose of the HAA of seeking to provide more affordable housing in California.

As emphasized in the staff report to the ZAB, the proposed project does not comply with the applicable, objective zoning standards.

As clearly stated on the City of Berkeley Department of Planning & Development website,<sup>4</sup> Berkeley has a long history of applying zoning requirements to preserve the character of its distinctive neighborhoods and prevent impacts on neighbors. It thus seems highly unlikely that the ZAB would have approved this extremely large building on a tiny lot, in contravention of multiple zoning standards, considering the objections of all three adjacent neighbors, and without requiring modifications to address the concerns of the neighbors, if it were not for the ZAB's apparent belief that it is required to approve any proposal for expanded square footage under the HAA.

To ensure both that all parties receive fair treatment, it is critical that the law be correctly applied. As stated in the judicial opinion in the landmark case on the HAA "California Renters Legal Advocacy and Education Fund vs. the City of San Mateo,

The Legislature insists on objective criteria so as to ensure "reasonable certainty . . . to all stakeholders" about the constraints a municipality will impose. (Assem., 3d reading analysis of Assem. Bill No. 1515, as amended May 1, 2017, p. 2.) Reasonable certainty is important to Department of Housing and Community Development officials, so they understand the impact of a locality's housing element in deciding whether to approve it. Reasonable certainty is important to neighbors, who want to know how big a building can be erected next door, and it is

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<sup>3</sup> See for example:

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition)

<sup>4</sup> See: <https://www.cityofberkeley.info/planning/>



important to those who build housing, so they know what size project can be approved for a particular site. (p.19, emphasis added)

Further, the opinion states that

the HAA should not be construed to prohibit local governments from requiring compliance with “objective, quantifiable, written development standards” that are consistent with meeting the jurisdiction’s share in regional housing need (§§ 65589.5, subd. (f)(1), 65583), (p.24)

In this case, the ZAB failed to enforce the objective standards that are already in place. Those objective standards are ones that adjacent neighbors have studied and considered in both purchasing and renovating their properties. The arbitrary decision by ZAB to not apply the objective standards to deny the projects that all the neighbors oppose – when the HAA in no way limits it from doing so – therefore violates the rights of the neighbors to have reasonable certainty as to what kind of development will be allowed.

A memo<sup>5</sup> read by a ZAB member during the hearing was interpreted to suggest that the HAA limits the right of the city to require a reduction in the square footage, levels, or number of bedrooms of the proposed projects, even though the project does not comply with objective zoning standards. That interpretation is not consistent with the above legal opinion, which clearly confers on cities the right to apply objective standards. It is also not consistent with either the text of the law or the City Planner’s report that was provided to both the ZAB and to all affected parties.

Section (f) of the law states that cities should facilitate development of the density allowed at the site. But density does not mean square footage, levels, or number of bedrooms. Density is commonly defined as “the amount of development per acre permitted on a parcel under the applicable zoning, commonly measured as dwelling units per acre (du/ac).”<sup>6</sup> The parcel in question is approved at a density of two units, and the proposal is for two units. That does not mean Berkeley necessarily needs to approve one of those units to be enormous, in violation of the objective standards that neighbors would expect the city to enforce.

Further, as the staff report also makes clear, “the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.”

If the ZAB’s interpretation of how to apply the HAA based on square footage instead of the number of units is allowed to stand, it will set a precedent that limits the rights of the City to enforce objective zoning standards, not only in Berkeley but throughout the State.

The reading of the law in this case not only unduly limits the power of cities to regulate development even further than the HAA already does, but it also prevents cities from protecting low to moderate level income housing within their districts. That’s because if cities have to approve all projects that propose infill to the absolute maximum size a property tolerates, without being able to enforce even

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<sup>5</sup> We have not received a copy of this document even after multiple requests to the City Planner and the ZAB.

<sup>6</sup> “Understanding Density and Development Intensity,” Presentation by the League of California Cities – Planning Commissioners Academy, | Thursday, March 7, 2019, available at: [https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05\\_3#:~:text=Definition,acre%20\(du%2Fac\).](https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05_3#:~:text=Definition,acre%20(du%2Fac).)

existing objective standards, there would eventually be no small – and thus more affordable – houses and units left. If this were the case in Berkeley, every property owner could in effect propose adding a couple of bedrooms, thus destroying the small houses available in the city and making it impossible for lower income earners and young families afford to live here. This would entirely change the socioeconomic makeup of Berkeley.

In sum, this proposal does not provide additional housing in Berkeley and does not meet any affordable housing needs and thus should not benefit from restrictions on city powers to influence development created by the HAA. This is simply a matter of one family seeking to increase the size of its property – in contravention of zoning standards – without having consulted and reached agreement with its neighbors. There is no justifiable reason why in this circumstance, the ZAB should favor the interests of one property owner over those of its neighbors.

The December 9, 2021 vote by the ZAB to approve the project without modifications was clearly influenced by an erroneous interpretation of the law, with ZAB members voting for the project because they thought they had to do so under the HAA, even after having expressed significant concerns about the size and purpose of the project and about the constraints they felt were being imposed upon them by the law. Recognizing that this was the first time after passage of the new HAA standards that the ZAB had to decide on a case in which a project does not comply with objective standards, and that the ZAB seems to not have fully understood the limitations and powers that law affords to cities, we request that the City Council return this project proposal for another hearing. At that hearing, we would expect that the project be considered for what it is - a proposed expansion that does not comply with objective standards, is not protected under the HAA, and does not count with support from the neighbors, such that the ZAB will feel free to deny the project or impose conditions considering input and requests for modifications from affected neighbors.

**SECTION B. Absence of the opportunity for meaningful public participation regarding the project.**

Throughout this process we experienced multiple problems with the City's process that created obstacles to the effective and timely participation in the zoning/planning review process. Our full, detailed concerns are described below.

The most egregious issue with respect to public participation in this case was that critical guidance from the City Attorney upon which the ZAB decision was based, was not available to affected parties or apparently to the City Planner until the very end of the ZAB hearing about this project. At that time – after the public participation section of the meeting was closed and with attendee microphones, chats, and videos all turned off on zoom -- and right before the vote was called -- the ZAB chairman found and read a memo to the rest of the ZAB, and in so doing changed the entire focus and purpose of the hearing. Because it had not been previously available, no participant or affected party was able to prepare for or comment on the content of that memo as it potentially applies to the project, and the ZAB made its decision after mere minutes of superficial consideration of this new information. That is not appropriate.

This ZAB hearing was held on December 9<sup>th</sup>, and the information from the City Attorney that the ZAB Chairman referenced was said to be in an October memo from the City Attorney. The memo supposedly states that any project for which the HAA applies cannot be reduced in square footage. This assertion is completely at odds with comments that the City Planner put in the Staff Report, in his Advisory Comments to the project proponents, and made to us in calls and emails prior to our writing a letter to the ZAB in opposition to the project. As described above, it also seems to be a misinterpretation of what the HAA requires.

One must presume that a memo about zoning from the City Attorney would also have been shared with the Department of Planning and Development and its staff. Nevertheless, the city planner at no point indicated that it would not be possible for the ZAB to deny permits for the proposed third level or otherwise require a significant reduction in size of the project.

In fact, the initial Advisory Comments from the city planner specifically asked for removal of the upper floor to minimize impacts on the neighbors (a reduction in square footage). When speaking with us about our letter to the ZAB he suggested we could reference these comments and ask the ZAB to request "major modifications to the plan prior to continuation of the hearing".

Further, the City Planners comments in the final Staff Report and to us in emails clearly state that the ZAB cannot reduce the number of units (two units, both already existing on this property) but can require other modifications to lessen the impact to neighbors. We therefore chose to focus the comments in our letter and during the hearing to request removal of the upper floor addition to yield a project that would still allow expansion on the non-conforming property from a 1,400 sq ft to 2,700 sq ft structure, on a tiny 3,100 sq ft lot.

The ZAB Chairman who had the additional information from the City Attorney, and presumably read the Staff Report and the submitted public written comments ('Correspondences Received') prior to the hearing, had many opportunities to bring this information to light earlier in the hearing, both right after the City Planner summarized the project, or during the lengthy discussion the ZAB members had about the impacts to lighting and privacy to adjacent neighbors prior to hearing public comment.

Moreover, any information from the City Attorney should have been in the Staff Report as it sets the boundaries for modifications to the plan. If we had been told by the City Planner about this restriction, our letter to the ZAB would have been different, and if we had heard this information from the ZAB chairman during the ZABs initial discussions our oral comments would also have been different.

We thus ask for the City Council to direct the ZAB to reschedule this permit application for a re-hearing, not only as described above in Section A on the HAA, but also so that we and other neighbors can make specific requests to the plan to mitigate the impact to our properties, if the city still decides that it will allow this non-conforming project.

Additionally, we request that the City Council direct the City Planner to require the applicants to erect story poles on their current roof, prior to that ZAB hearing, to show the positioning of the new upper

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floor and the location of windows,<sup>7</sup> as this was never done even though the City's website says that any additions with average heights over 14 feet require application of story poles prior to the ZAB hearing.

If, in the end, the City for some reason decides it still cannot or does not want to deny a project that clearly violates objective standards, exceeds allowed lot density, requires a very large number of UPs and AUPs, is opposed by adjacent neighbors and is completely out of character with the rest of the neighborhood, neighbors might for example request the below modifications:

1. Only permit upper floor window glazing on the south and east side of the development at a height above 5'6" from floor, to increase privacy of neighboring properties.<sup>8</sup>
2. Mandate the construction of a fence between the properties to a height of 8'6" to increase privacy for both neighbors and the project proponents by blocking the direct view between the windows of adjacent houses.<sup>9</sup>
3. Remove the parapet feature on the east side of the top floor. Currently this is set to be built identically to the parapet structure on the front of the house (west side) which is used as a balcony. The parapet feature on the west side is not needed for aesthetic continuity as it isn't continuous on the south and north sides, and on the east side will only act to collect tree droppings from the three tall trees near the property line. These trees are a constant source of complaints from the project proponents as droppings fall on their existing flat roof with a parapet feature. Moreover, to illegally convert that parapet roof structure to a balcony, the owners would only have to add a door to the bedroom on the second floor (a feature that was in their initial submission). Given the project proponent's history of illegal, non-permitted modifications to their property, as described in the fact section above and in the City Planners Staff Report, it would be best to make it impossible for that outside balcony to be easily created.

Complete list of concerns with the city's process and associated impacts to public participation

- The lack of signage and story poles means neighbors were not sufficiently alerted to potential impacts
  - COVID policies from early in the pandemic temporarily removed the requirement for posting a large yellow sign on the property applying for permits to alert neighbors to an application. Signage policies seem to have been changed back to normal during 2021, as we started seeing yellow posters in front of other houses with building proposals, before this proposal was deemed complete. However, we never saw any kind of signage on site describing this project. A few posters were eventually placed on telephone poles, but those were not nearly as noticeable as the traditional large yellow signs on site and have since been removed.

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<sup>7</sup> One concern with the project is whether the proposed project will create a direct clear view from the added upper level into neighbors' bedroom and bathroom, in addition to compromising the privacy of back yards.

<sup>8</sup> If the project proponents want to keep the total glazing square footage the same to keep the amount of light into that room the same, they have plenty of space in that bedroom on the same wall to extend the 'high windows' toward the south end of that room.

<sup>9</sup> This would likely require an additional use permit but if the City is willing to issue seven such permits, an eighth seems reasonable as well.

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- The project in question never erected 'story poles' even though the City's website says that doing so is required for any addition exceeding 14 feet in height. Again, we saw story poles on other houses in Berkeley that had proposals pending, even before this project was deemed complete.
- Even if temporary COVID policies were put in place to minimize human interaction, once reinstated, requirements should have been applied to all open applications.
- For some period of time, these signage requirements were replaced by postcards the city sent to neighbors. However, those postcards simply listed the address and did not specify on a map which house was affected or what the project implied. The likelihood of people proactively turning to their computer to learn about a proposed project is far lesser after receiving a postcard about an unfamiliar address, than if someone sees signage or story poles on a site.
- This relative lack of information about the project and its impacts - especially the absence of story poles – likely impacted the level of public participation overall, reducing the ability and likelihood of the public commenting on proposals.
- Interactions with the City Planner and the ZAB
  - Over the course of 2021 we had over a dozen email exchanges with the city planner as well as two phone calls. He was very responsive and we greatly appreciate him taking the time to speak with us.
  - Before even hearing the details of our concerns, the City Planner's advisory comment letter to the applicants called out the impacts to light and privacy to adjacent lots and specifically requested the applicants to remove the upper floor of their proposal (a reduction in square footage).
  - In our final call with the city planner on September 21, 2021, he mentioned options to (1) call out the impact to our light and privacy, (2) reference the suggestions he made in his Advisory Comments to make the scope of the project more reasonably sized by removing the upper floor to minimize/eliminate impacts to neighbors, (3) ask the ZAB to request "major modifications to the plan prior to continuation of the hearing", and (4) describe the ways in which the applicants misrepresented their neighbors' support of the project. At no point did he suggest that requesting a reduction in square footage would not be possible.
  - We thus focused our comments on requesting removal of the upper floor addition, to reduce impacts on neighbors but still allow the owners to expand the duplex on their non-conforming property from ~1400 sq ft to ~2700 sq ft.
  - As of 10am on 12/8/2021, the day before the ZAB hearing, the Staff Report was still not posted for public access. At that time, we were the ones who had to reach out to the city planner to get the report from him and make sure it was posted. Thus, there was also insufficient advance time for review and consideration of that report.
- The ZAB Hearing
  - In general, with the need to conduct public hearings on zoom rather than in person, those hearings should be conducted with video and chat channels enabled for all participants so that affected parties can communicate easily. Having chat channels, microphones and videos all disabled, as was the case in this hearing, is not appropriate. The zoom December 9 ZAB meeting did not even allow participants to communicate by

- raising a hand to be called on (except during the very limited public comment section). This is extremely problematic, as evidenced by one person who was trying to participate but had no way to communicate with the ZAB to let the ZAB know she for sure wanted to speak. ZAB members themselves found themselves needing to call each other via cellphone rather than being able to interact on chat.
- During the ZAB hearing on 12/9/2021 the city planner reviewed the project and made the same statements described above. The ZAB then had a discussion, and several members raised concerns about the large impact to the neighbor's light and privacy. After this the project proponents spoke, followed by several neighbors who mostly opposed particularly the upper floor addition.
  - A discussion by ZAB members ensued. It was at the end of this conversation that the ZAB Chairman referenced a letter he had from the City's Attorney from October supposedly stating that for projects where the HAA applies, the ZAB cannot reduce the square footage of the project, in effect saying that all ZAB members had to vote to approve (at this point in the Zoom hearing we 'raised our hand' to comment but were not called on)
  - Finally, the chairman called for a vote and got the unanimous approval that he had already stated was required.
    - The fact that this critical piece of information from the City Attorney was (i) counter to what the City Planner states in the Staff Report and to us directly, and (ii) was presumably known but not shared by the ZAB Chairman until after all public participation was complete, in effect took away the public's ability to submit comments that were meaningful in the context of this critical information.
    - Rather, the important information about how the HAA will be applied should be shared prior to the hearing. As stated above, if we had known about this supposed restriction our comment letter to the ZAB would have been different. Similarly, if we had heard this from the ZAB chairman during the ZABs initial discussions, our verbal comments would have been different.
    - We have since asked the ZAB and the City Planner for a copy of this memo from the City Attorney (and access to the ZAB hearing recording) three times, with neither party even replying to our request.
  - Appeal process
    - On December 14<sup>th</sup>, a few days after the ZAB hearing, we sent an email to the ZAB and to the City Planner requesting to be informed when the 'approval' would be posted and how the 14 days from then would be counted (calendar vs. work days, and considering which holidays?). We received no response from either. We also wrote a longer letter to the ZAB and City Planner and requested this information again on December 27<sup>th</sup>.
    - Having received no information from the ZAB or the City planner, we reached out to the City Webmaster on 12/17/2021 and were at that time referred to the 'Approved Zoning Applications' site, and the 'Guidelines for Filing an Appeal' site. We checked the 'Approved Zoning Applications' site immediately and then regularly thereafter and never saw the project appear.

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- On January 4<sup>th</sup>, we received information from the City Planner that we would be required to appeal, but no further information as to what the timing would be. Since we were not seeing any postings on the site to which we had been referred, we assumed the clock was not yet running.
- Even so, we reached out to the City Clerk's office by email on January 7<sup>th</sup>. They immediately responded and told us that the decision had been posted to the 'Zoning Applications in Appeal Period' site on the 27<sup>th</sup> of December (the same day we last asked the ZAB and the City Planner for this information, and during a holiday break), and that we had three days until January 10<sup>th</sup> to file our appeal.

There are clearly numerous fronts on which public participation in zoning decisions needs to be improved.

- 1) The city must provide clear and easily understandable information as to how and when the HAA will be applied.
- 2) Posting of information about projects and story poles should be required and enforced.
- 3) The zoom logistics for hearings should be improved to promote meaningful participation in times of virtual meetings. (Unruly participants could always be muted, but excluding or preventing participation should not be the default.)
- 4) Berkeley should more clearly and proactively make available information about the appeals process to everyone who participates in a public hearing.

Thank you for your consideration and action on these matters,



Anna Cederstav



Adam Safir



Kay Bristol

Owners of properties adjacent to 1643-47 California.



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  
DECEMBER 9, 2021

## 1643 & 1647 California Street

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

### I. Background

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

#### C. CEQA Recommendation:

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

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.



ZONING ADJUSTMENTS BOARD  
December 9, 2021

1643/47 CALIFORNIA STREET  
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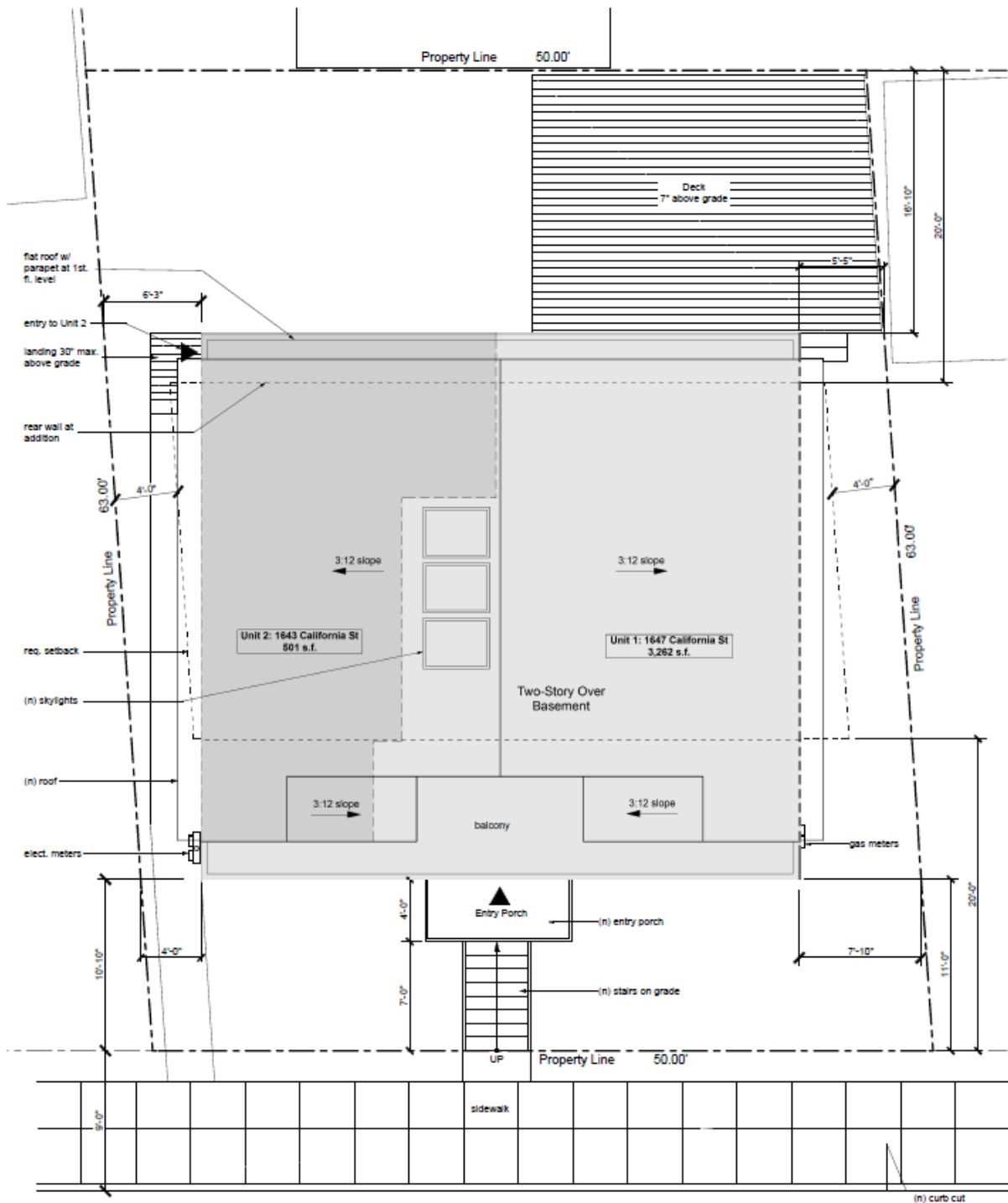
**D. Parties Involved:**

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

Figure 1: Vicinity Map



Figure 2: Site Plan



2 Proposed Site Plan

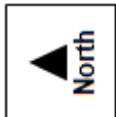
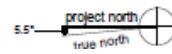


Figure 3: Front Elevation

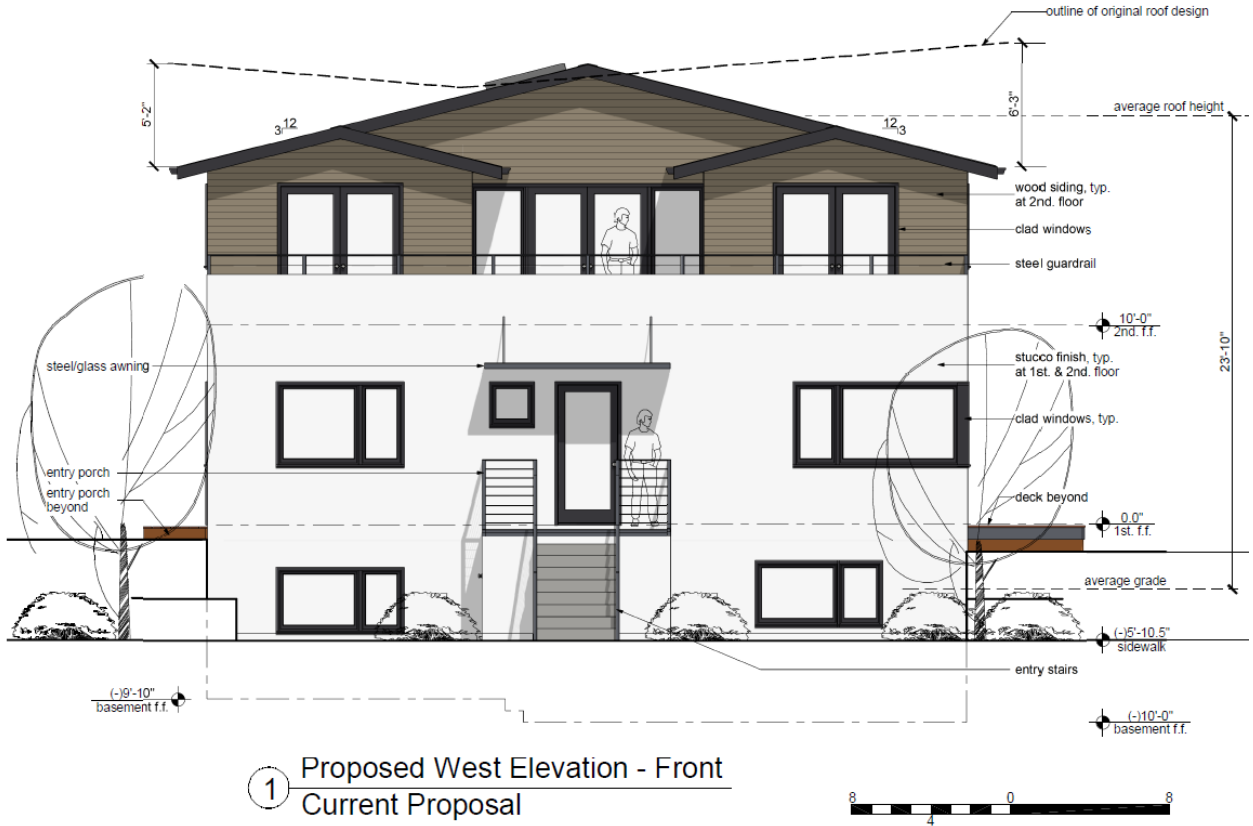


Figure 4: Rear Elevation



**Table 1: Land Use Information**

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

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project proposes to maintain the two dwelling units that currently exist at the property.
Creeks	No	The site does not contain a mapped creek or a creek culvert.
Density Bonus	No	The project is not proposing to add dwelling units through a Density Bonus application

Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.
Historic Resources	No	The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project <u>does not</u> comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. See Section V.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Coast Live Oak Trees on the property.
Rent Controlled Units	No	The property contains two units that are owner occupied and are not considered rent controlled.
Residential Preferred Parking (RPP)	No	This property is not located in a Residential Preferred Parking Zone
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.

**Table 3: Project Chronology**

Date	Action
January 8, 2021	Application submitted
September 24, 2021	Application deemed complete
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB hearing
February 7, 2022	CEQA deadline

**Table 4: Development Standards**

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

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

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

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

### III. Project Description

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

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

### IV. Community Discussion

**A. Neighbor/Community Concerns:** On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site<sup>2</sup> and posted project yellow posters.

On November 23, 2021, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

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

Concerns raised include:

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

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

<sup>2</sup> To comply with Public Health Orders related to Covid-19, the standard protocol for installation of a Project Yellow Poster and/or neighborhood contact and signatures was indefinitely waived.



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

## V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

*The December 9, 2021 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.*

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

*The project site is not a historic site.*

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on July 8, 2021. Should ZAB determine the application is categorically exempt from CEQA at the December 9, 2021 public hearing, the application must be approved or disapproved by February 7, 2021.

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

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

The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project does not comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above.

However, the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.

**C. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

**D. Findings for Addition to a Structure on Parcel with Non-Conforming Density:** Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units,

therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.

- E. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.
- F. Addition of a Fifth Bedroom to an R-2 Parcel:** Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add density to the site, or intensify the use of the residential property.
- G. Restricted Two-Family Residential District (R-2) Findings:** This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:
- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
  - ii. The second story addition would step in and comply with the required front and rear yard setbacks.
  - iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding

neighbors due to its placement partially below grade, maintaining the existing first floor level.

- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

**H. General Plan Consistency:** The following analysis of conformance with the 2002 General Plan goals and policies is provided only for information purposes and to provide context. They do not require findings of conformance because the proposed project is HAA-compliant.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

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

### Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received

ZONING ADJUSTMENTS BOARD  
December 9, 2021

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**Staff Planner:** Nicholas Armour, [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info), (510) 981-7485

**INDEX TO ADMINISTRATIVE RECORD**

**1643-1647 CALIFORNIA STREET**

**Use Permit #ZP2021-0001**

**Prepared: March 28, 2022**

	DOCUMENT	DATE	PAGE	# of pages
<b>A</b>	<b>STAFF REPORTS</b>			
1	ZAB Materials: staff report, attachments, and supplemental communications	12/9/2022	1	65
<b>B</b>	<b>CAPTIONER'S RECORD and minutes of all hearings</b>			
2	ZAB captioner's record	12/9/2022	66	33
<b>C</b>	<b>REMAINDER OF ADMIN RECORD</b>			
3	Application materials	1/8/2022	99	29
4	Welcome letter	1/14/2021	128	1
5	Notice of Received Application postcard notice with mailing list	1/19/2021	129	5
6	Notice of Received Application poster	1/19/2021	134	1
7	Incomplete letter	2/5/2021	135	5
8	Resubmittal: application materials	5/25/2021	140	51
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13	Letter of Completion	9/24/2021	223	1
14	Notice of Public Hearing postcard with mailing list	11/23/2021	224	5
15	Email of Opposition from Adam Safir	12/9/2021	229	1
16	ZAB Notice of Decision	12/20/2021	230	30
17	Email of Opposition from Anna Cederstav	12/27/2021	260	3
18	Letter appealing ZAB Notice of Decision	1/10/2022	263	12



# 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  
DECEMBER 9, 2021

## 1643 & 1647 California Street

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

### I. Background

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

#### C. CEQA Recommendation:

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

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

**D. Parties Involved:**

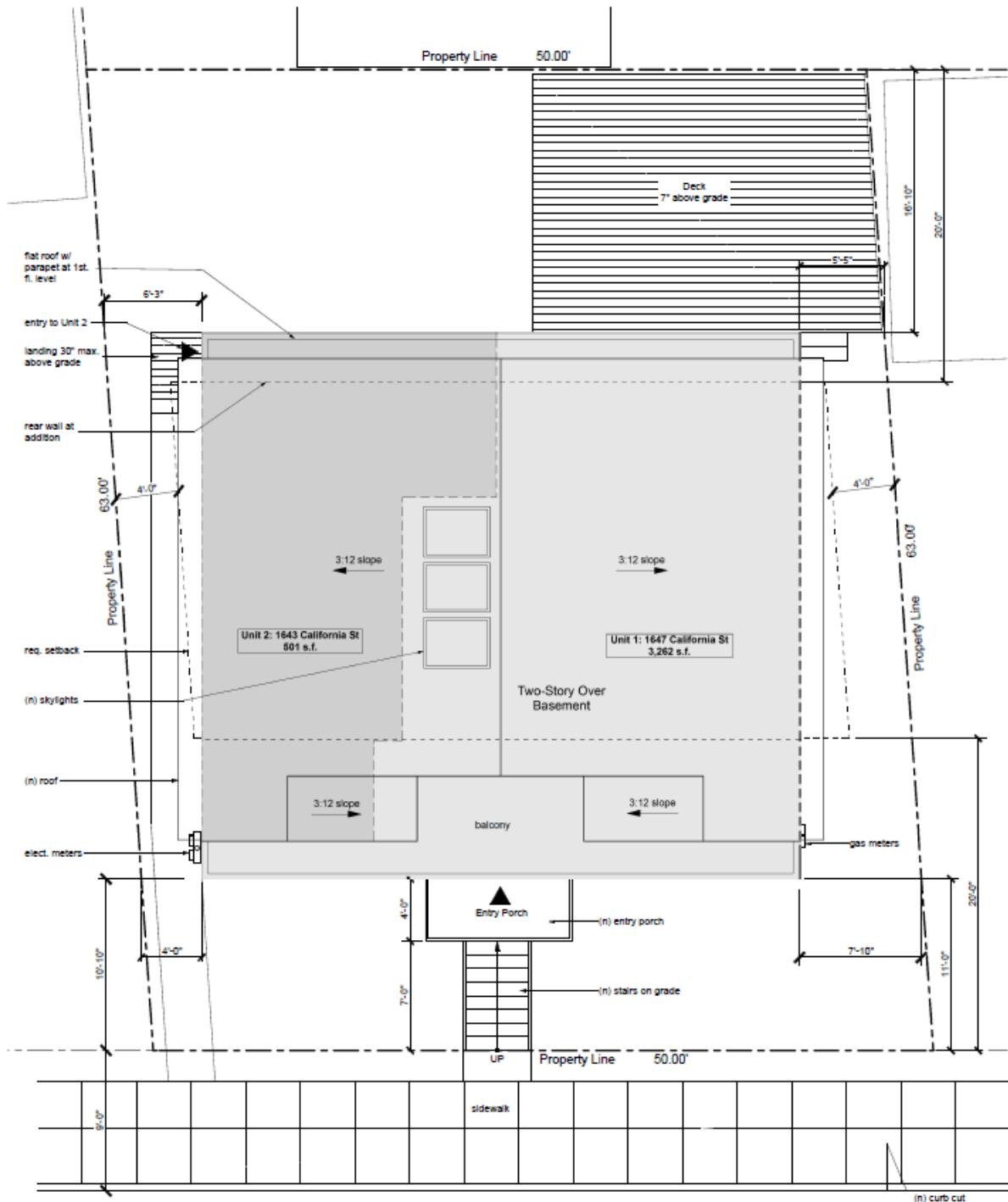
- Applicant Sundeep Grewel, Berkeley
- Property Owner Ido and Tamar Oppenheimer, Berkeley



**Figure 1: Vicinity Map**



Figure 2: Site Plan



2 Proposed Site Plan

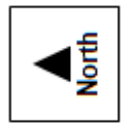
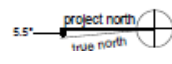


Figure 3: Front Elevation

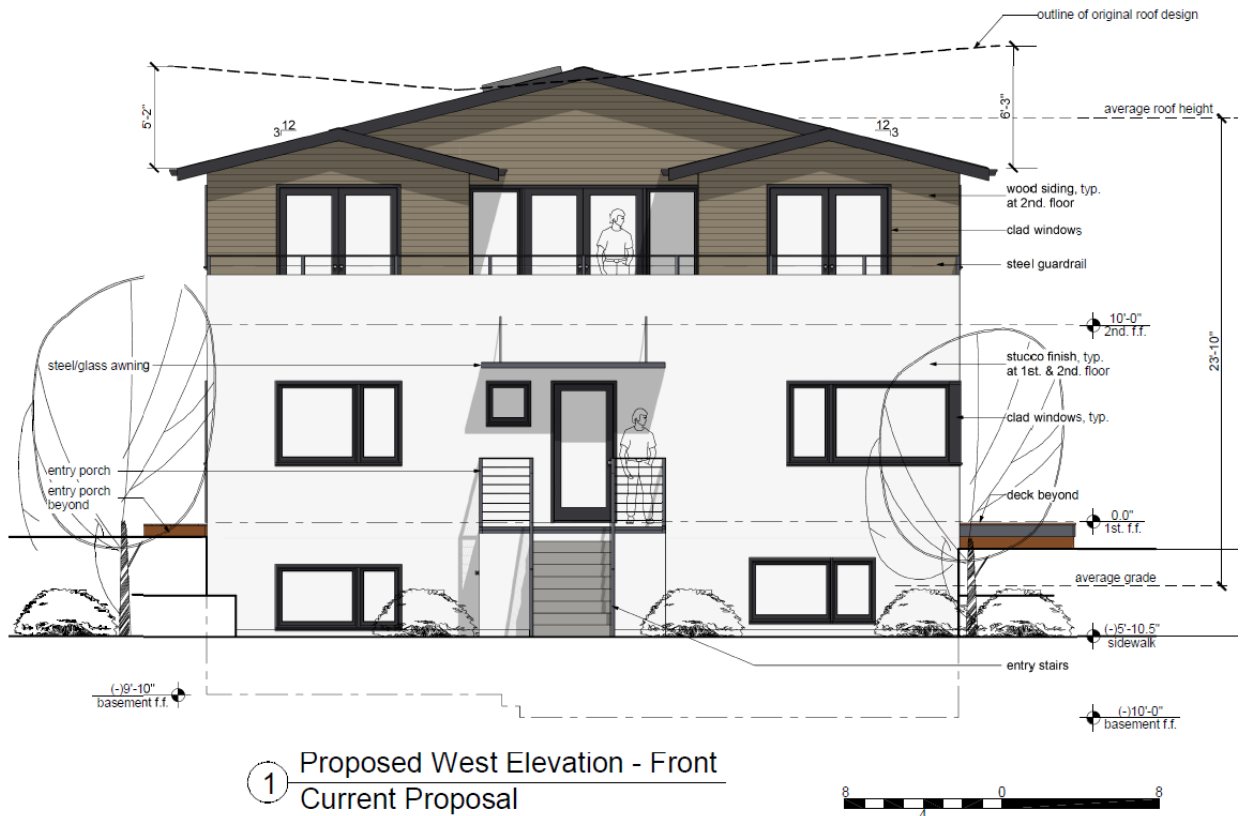


Figure 4: Rear Elevation



**Table 1: Land Use Information**

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

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project proposes to maintain the two dwelling units that currently exist at the property.
Creeks	No	The site does not contain a mapped creek or a creek culvert.
Density Bonus	No	The project is not proposing to add dwelling units through a Density Bonus application

Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.
Historic Resources	No	The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project <u>does not</u> comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. See Section V.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Coast Live Oak Trees on the property.
Rent Controlled Units	No	The property contains two units that are owner occupied and are not considered rent controlled.
Residential Preferred Parking (RPP)	No	This property is not located in a Residential Preferred Parking Zone
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.

**Table 3: Project Chronology**

Date	Action
January 8, 2021	Application submitted
September 24, 2021	Application deemed complete
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB hearing
February 7, 2022	CEQA deadline

**Table 4: Development Standards**

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

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

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

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

### III. Project Description

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

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

### IV. Community Discussion

**A. Neighbor/Community Concerns:** On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site<sup>2</sup> and posted project yellow posters.

On November 23, 2021, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

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

Concerns raised include:

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

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

<sup>2</sup> To comply with Public Health Orders related to Covid-19, the standard protocol for installation of a Project Yellow Poster and/or neighborhood contact and signatures was indefinitely waived.

Support of the application includes:

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

## V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

*The December 9, 2021 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.*

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

*The project site is not a historic site.*

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on July 8, 2021. Should ZAB determine the application is categorically exempt from CEQA at the December 9, 2021 public hearing, the application must be approved or disapproved by February 7, 2021.



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

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

The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project does not comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above.

However, the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.

**C. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

**D. Findings for Addition to a Structure on Parcel with Non-Conforming Density:** Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units,

therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.

**E. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

**F. Addition of a Fifth Bedroom to an R-2 Parcel:** Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add density to the site, or intensify the use of the residential property.

**G. Restricted Two-Family Residential District (R-2) Findings:** This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:

- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
- ii. The second story addition would step in and comply with the required front and rear yard setbacks.
- iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding

neighbors due to its placement partially below grade, maintaining the existing first floor level.

- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

**H. General Plan Consistency:** The following analysis of conformance with the 2002 General Plan goals and policies is provided only for information purposes and to provide context. They do not require findings of conformance because the proposed project is HAA-compliant.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
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## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

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

### Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received

ZONING ADJUSTMENTS BOARD  
December 9, 2021

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**Staff Planner:** Nicholas Armour, [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info), (510) 981-7485

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

DECEMBER 9, 2021

### **1643 & 1647 California Street**

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

#### **PERMITS REQUIRED**

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

#### **I. CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### **II. FINDINGS FOR APPROVAL**

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.

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

### **III. OTHER FINDINGS FOR APPROVAL**

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

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December 9, 2021

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

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**IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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



**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

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

- 11. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

- 12. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

**A. Environmental Site Assessments:**

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
  - All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

**B. Soil and Groundwater Management Plan:**

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

**C. Building Materials Survey:**

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.

Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

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

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

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

16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

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

29. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

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

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

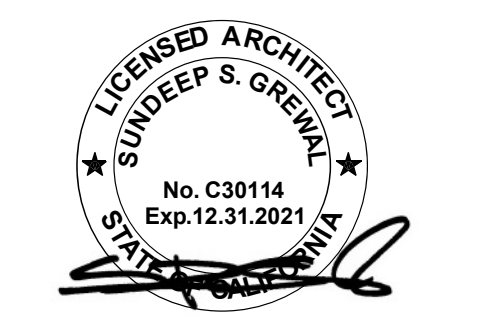
**At All Times:**

32. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
35. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
36. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.





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

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

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 N/A

Revisions:  
 Use Permit Set: 12-10-2020

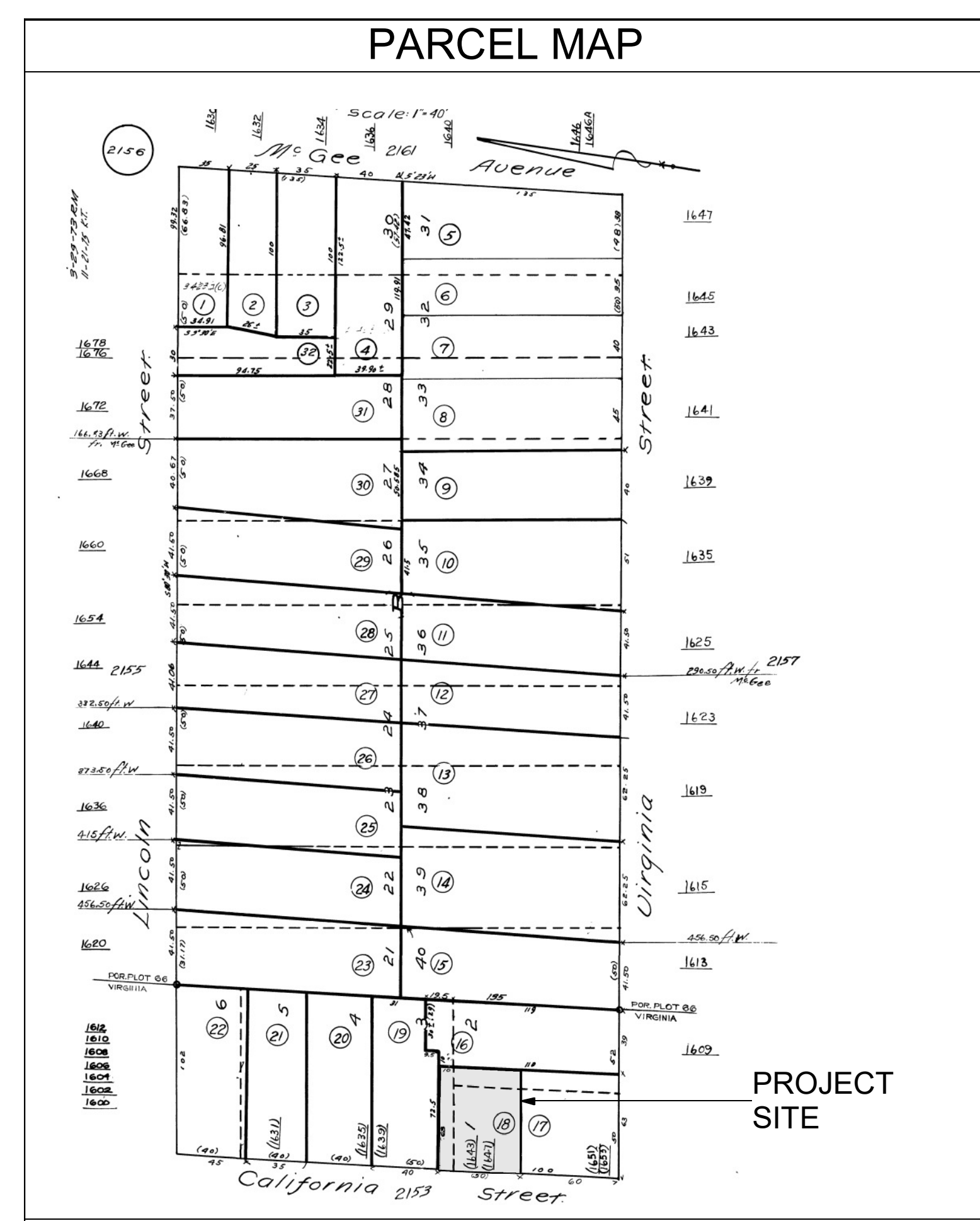
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet  
 A0.0



# OPPENHEIMER RESIDENCE

## 1643 & 1647 California St. CA 94703

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### SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

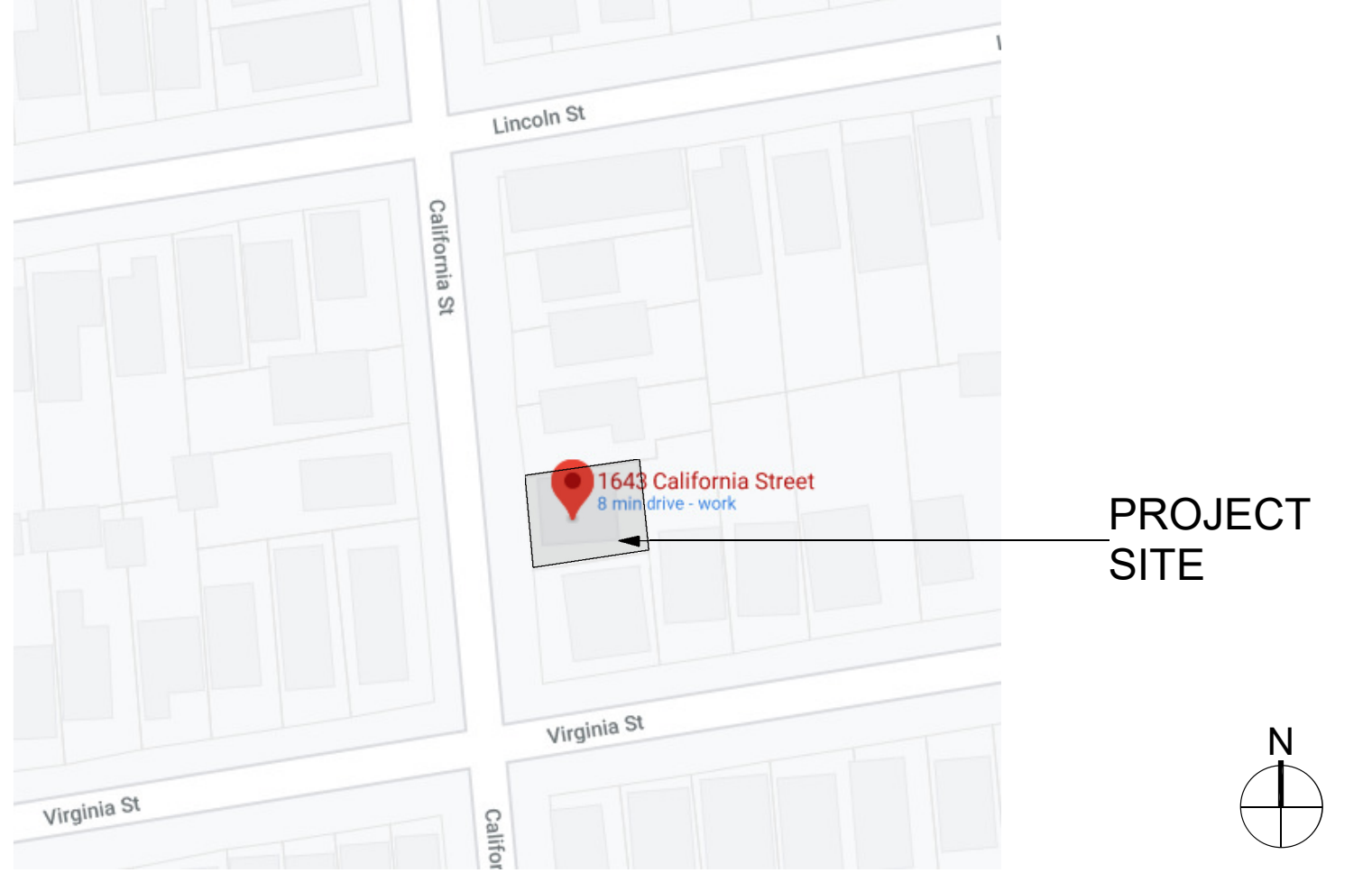
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

### VICINITY MAP



### PROJECT DIRECTORY

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

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

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

### PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**: No

### APPLICABLE CODES

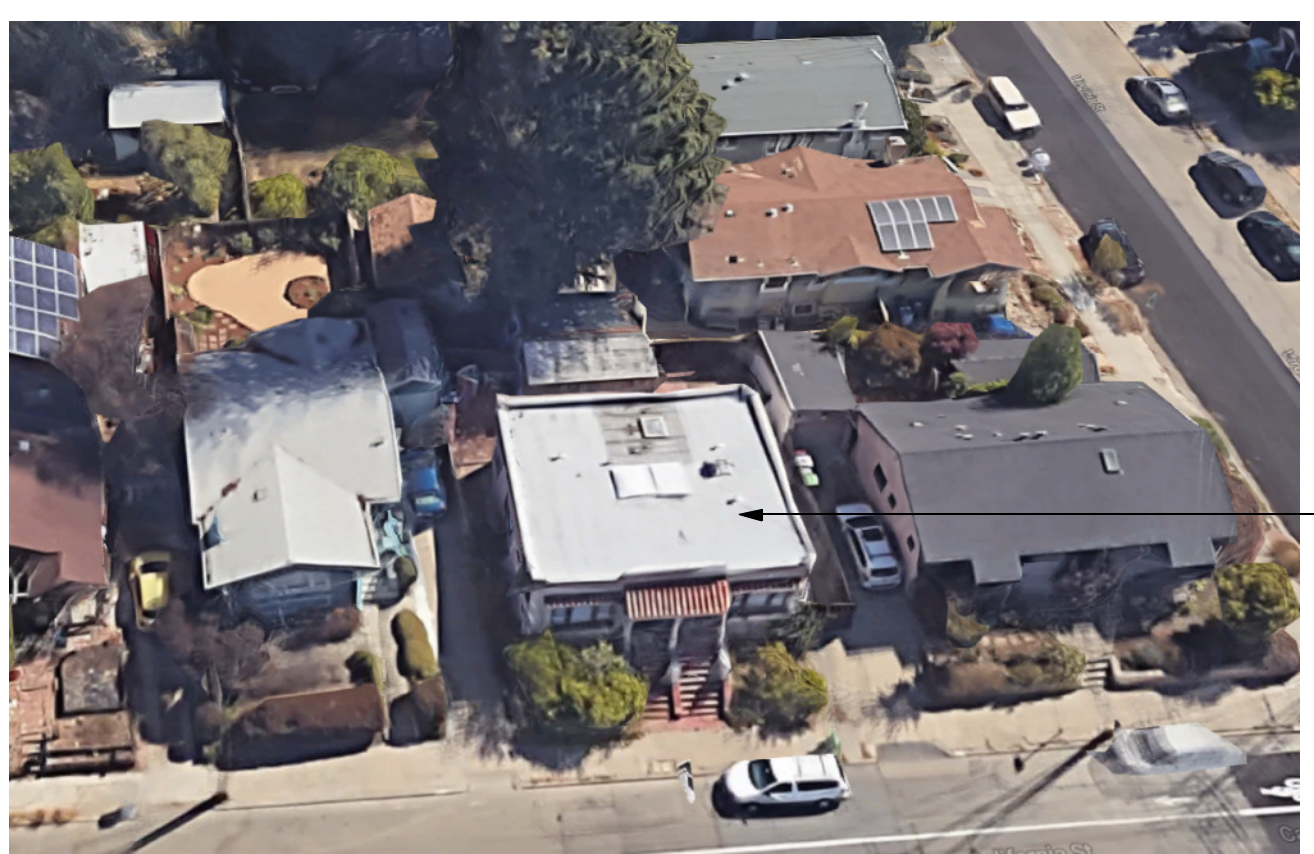
2019 California Building Code (CBC) Volume 1  
 2019 California Building Code (CBC) Volume 2  
 2019 California Residential Code (CRC)  
 2019 California Energy Code (CEES)  
 2019 California Green Building Standards Code (CALGreen)  
 2019 California Electrical Code (CEC)  
 2019 California Plumbing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

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

### ABBREVIATIONS

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

### SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



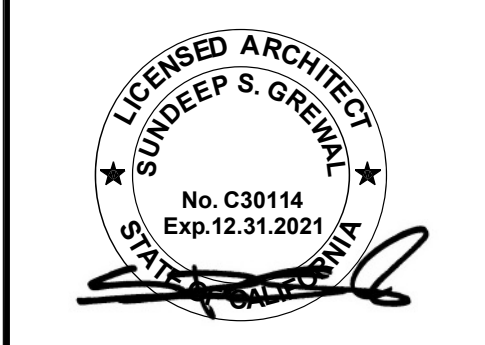
Front and left Side of existing duplex

### Tabulations

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



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**OPPENHEIMER  
 RESIDENCE**  
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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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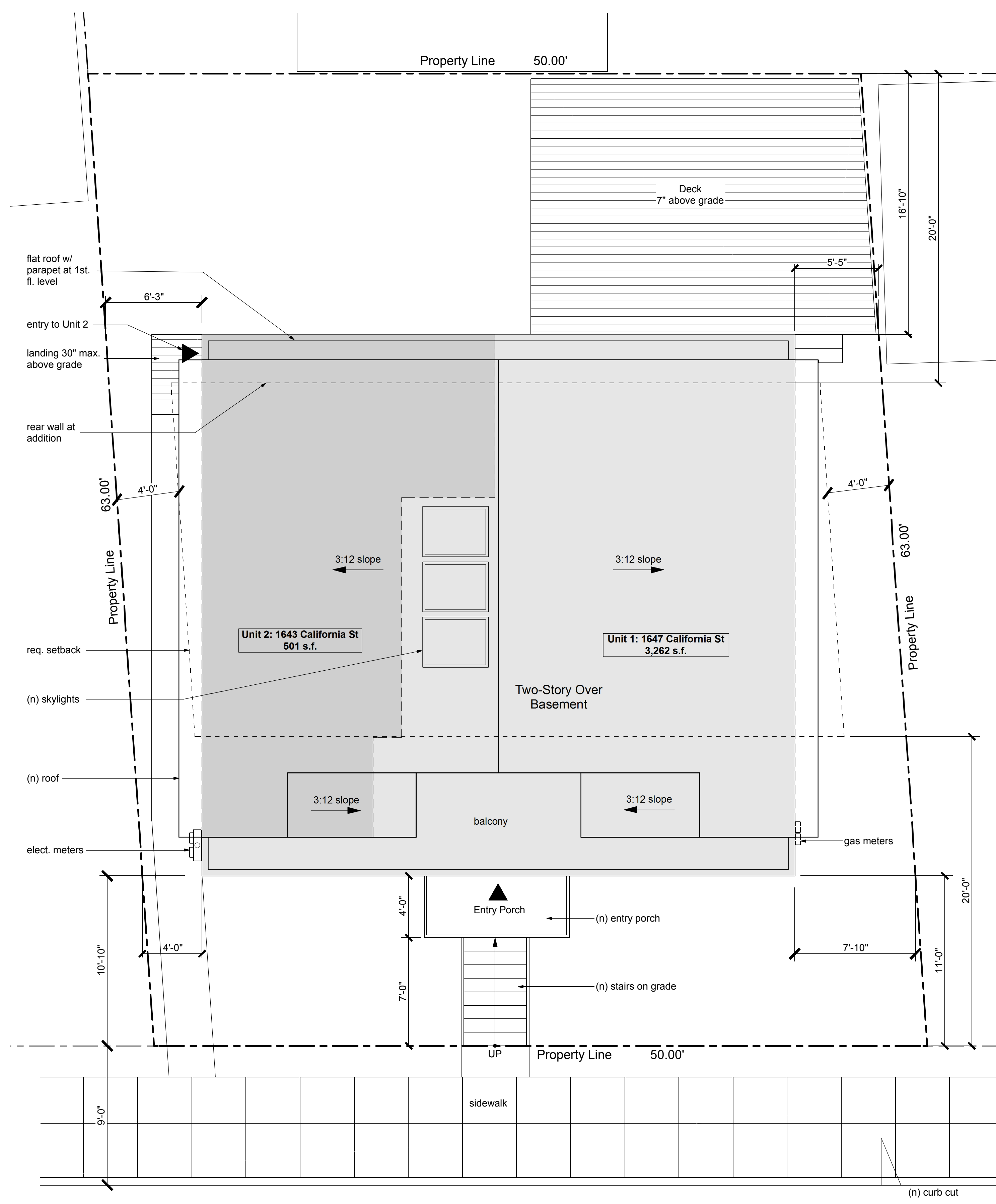
Drawn By: SSG

Checked By: SSG

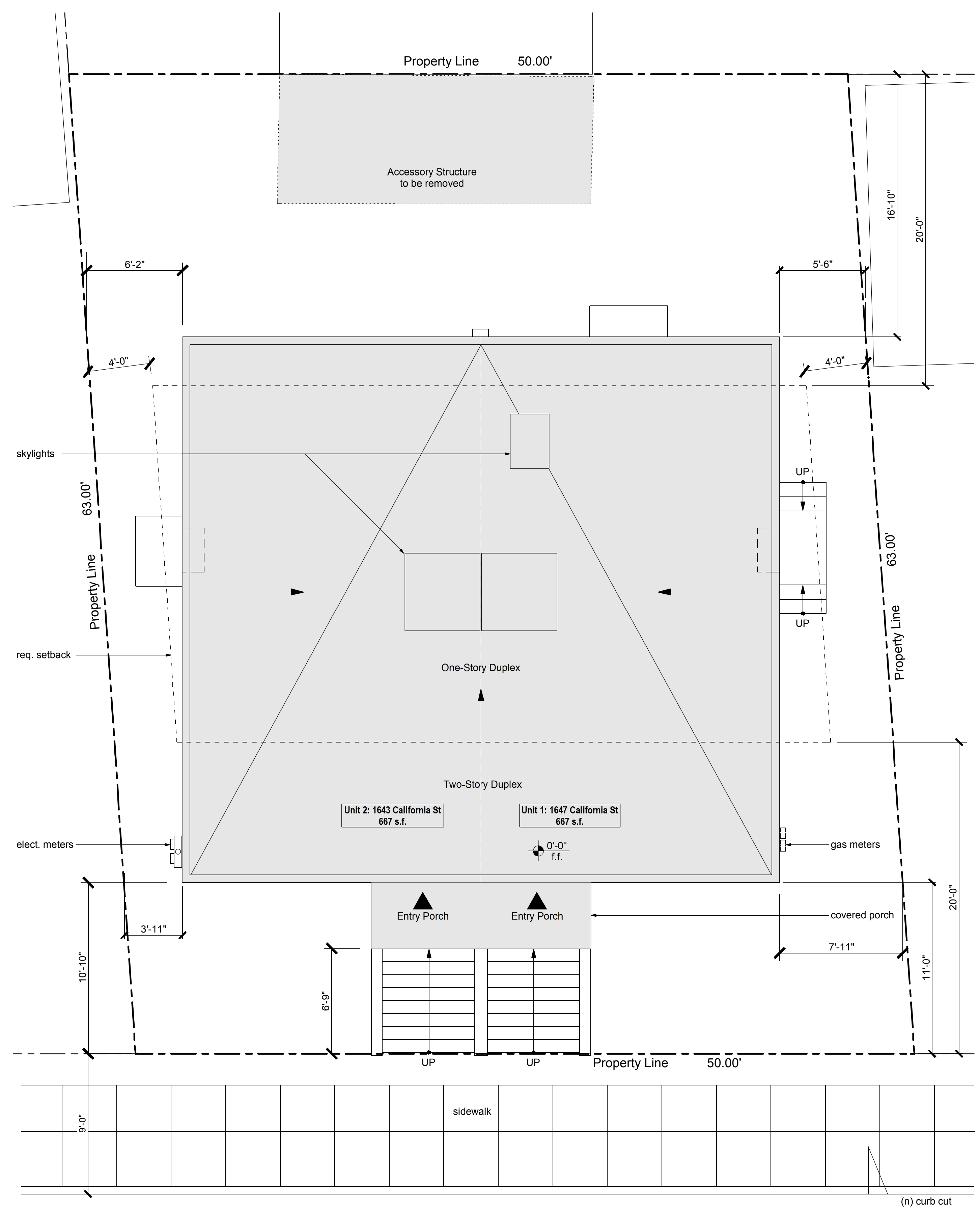
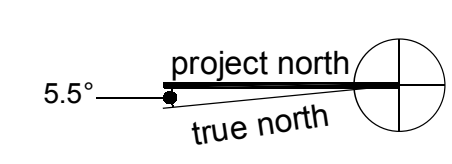
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

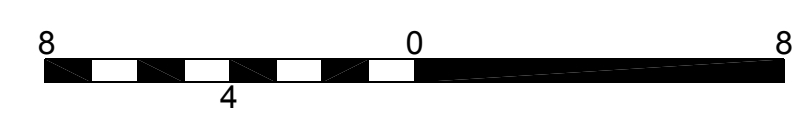
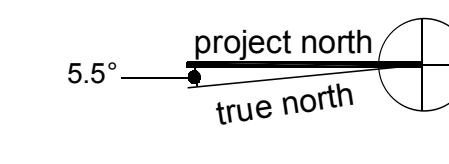
Sheet **A0.1**



**2** Proposed Site Plan

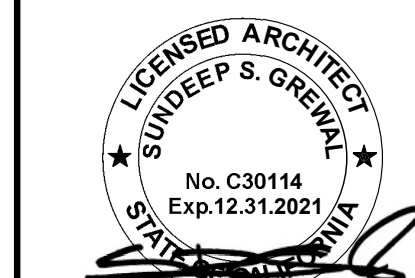


**1** Existing Site Plan





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Sheet Contents:  
 Site Survey

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Project No:  
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Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 1" = 1'-0"

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

Sheet  
**A0.2**

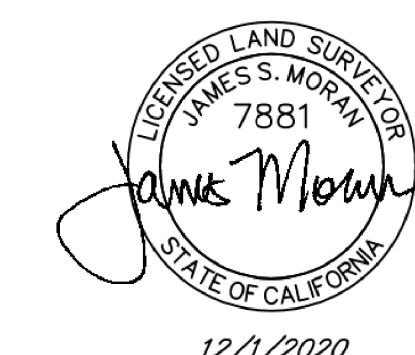
# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

## MORAN ENGINEERING, INC.

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



### LEGEND

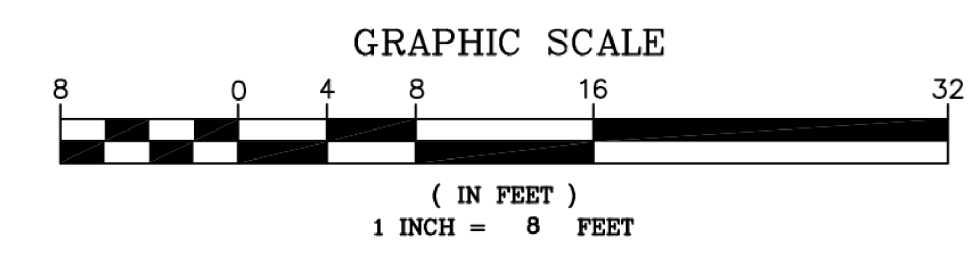
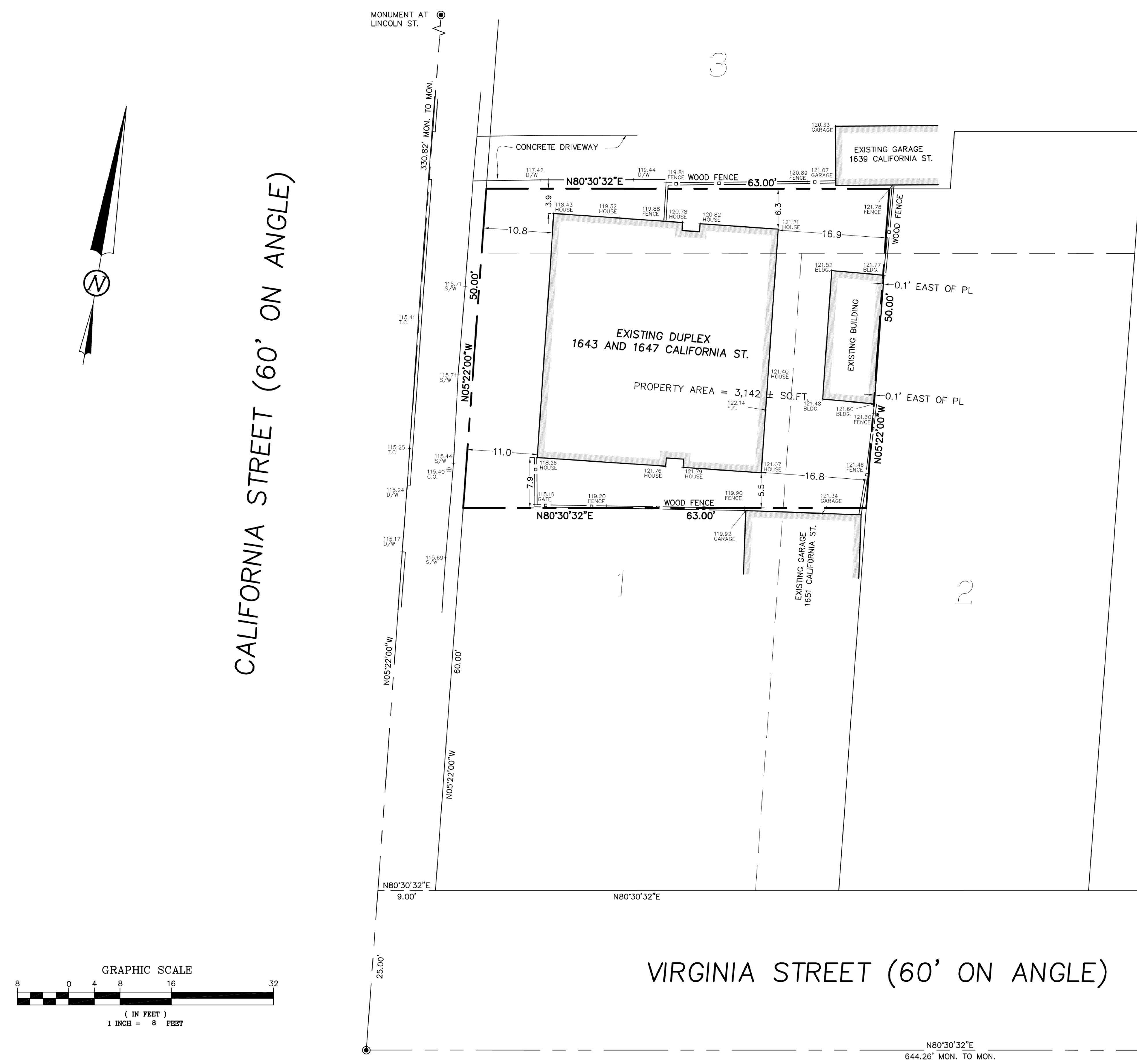
- FOUND MONUMENT PER PM 6679 (213 M 50)
- BLDG. BUILDING
- C.O. CLEAN-OUT
- D/W DRIVEWAY
- F.H. FIRE HYDRANT
- J.P. JOINT POLE
- M.H. MAN HOLE
- S/W SIDEWALK
- T.C. TOP OF CURB

### GENERAL NOTES

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

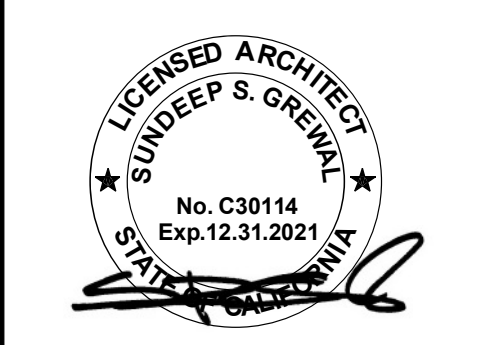
THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.





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**OPPENHEIMER RESIDENCE**  
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Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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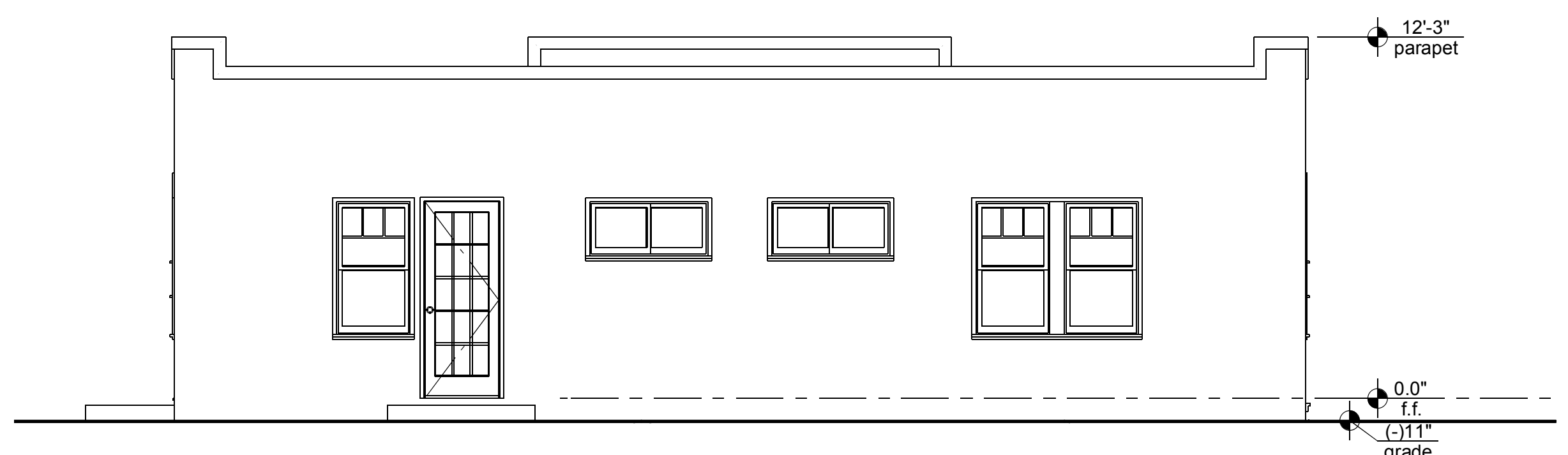
Drawn By:  
 SSG

Checked By:  
 SSG

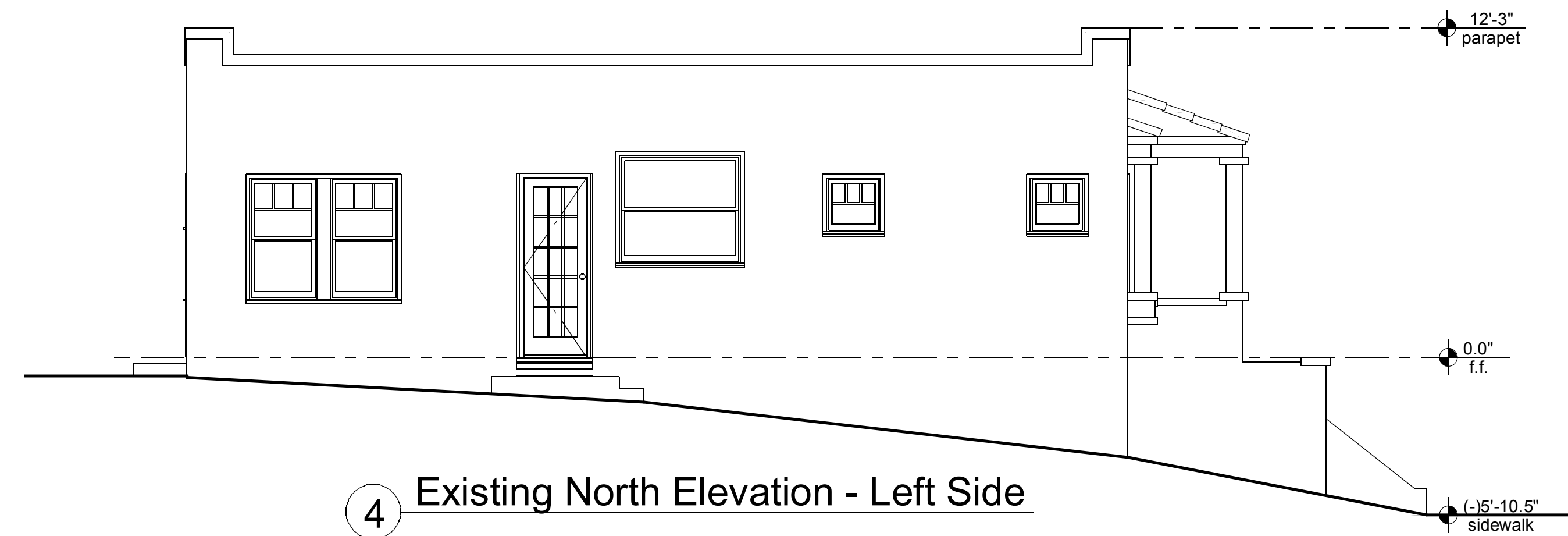
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

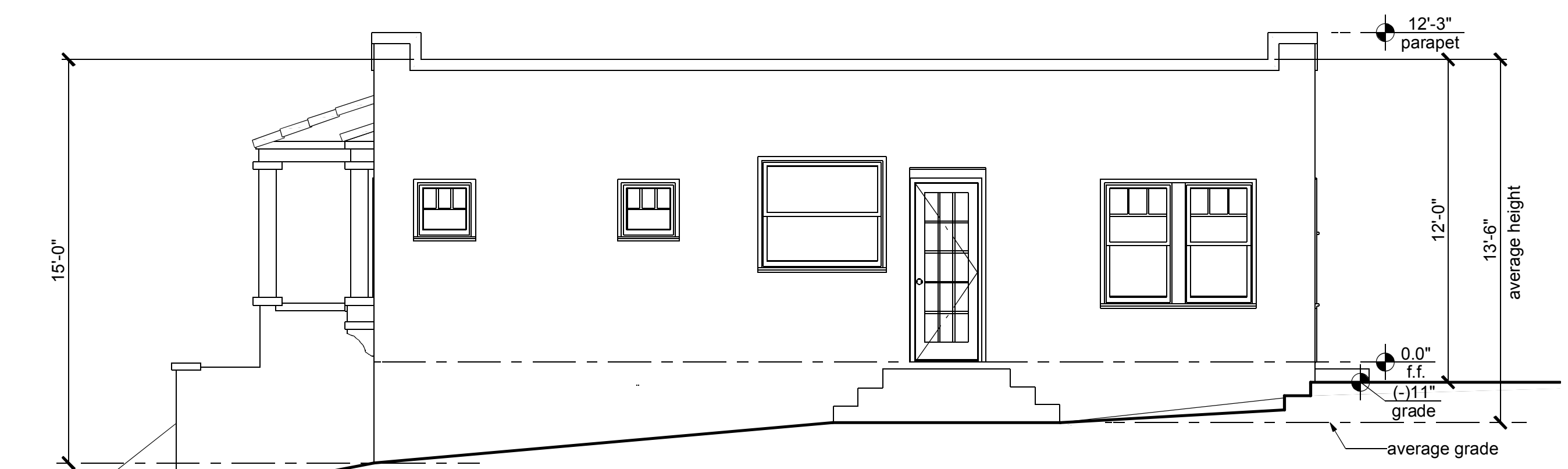
Sheet  
**A1.1**



5 Existing East Elevation - Rear



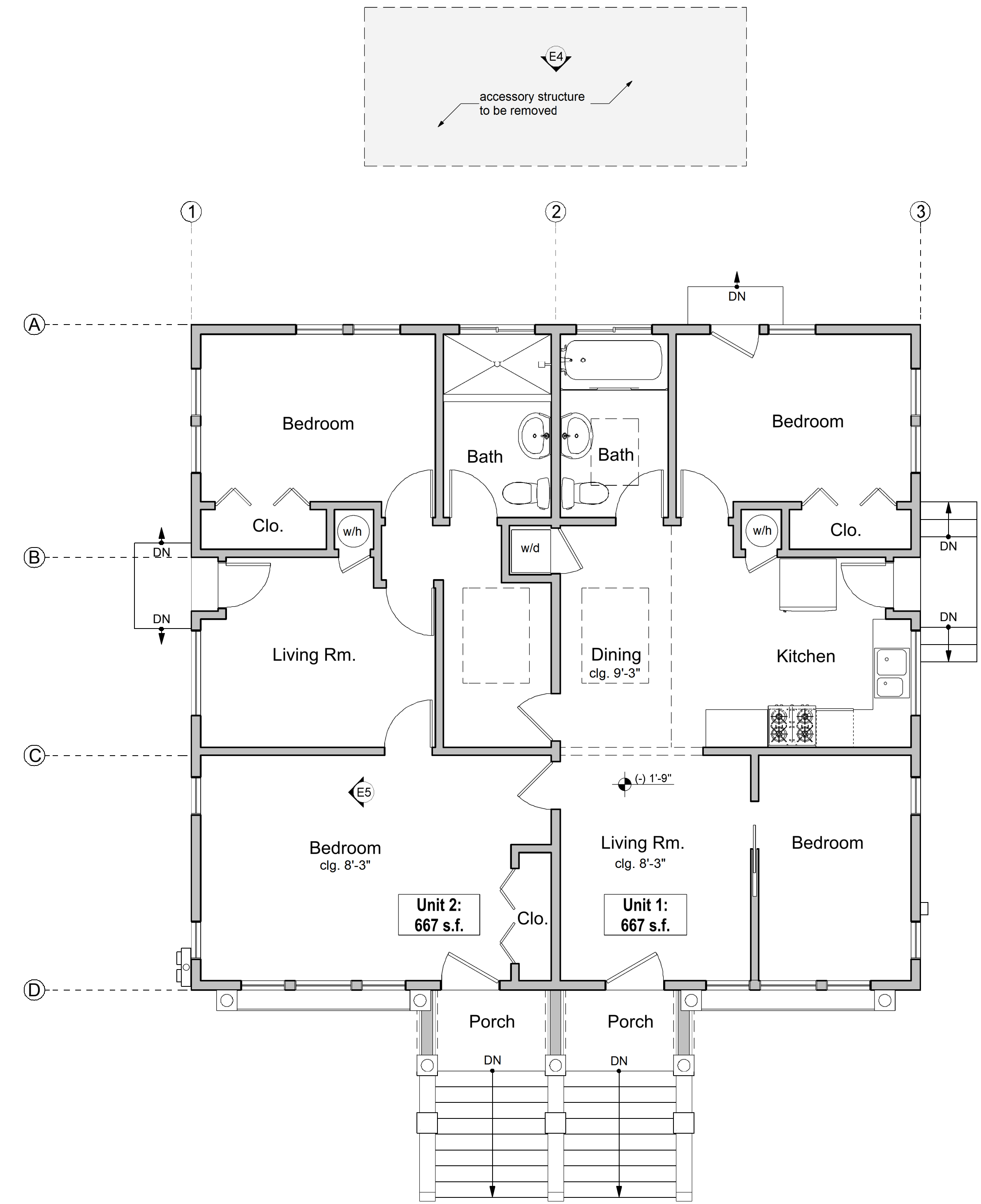
4 Existing North Elevation - Left Side



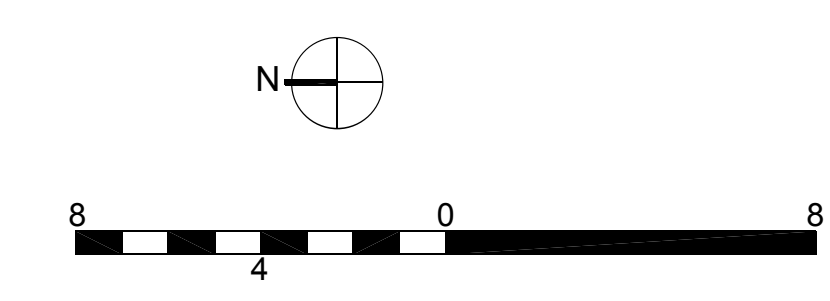
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan





ARCHITECTS

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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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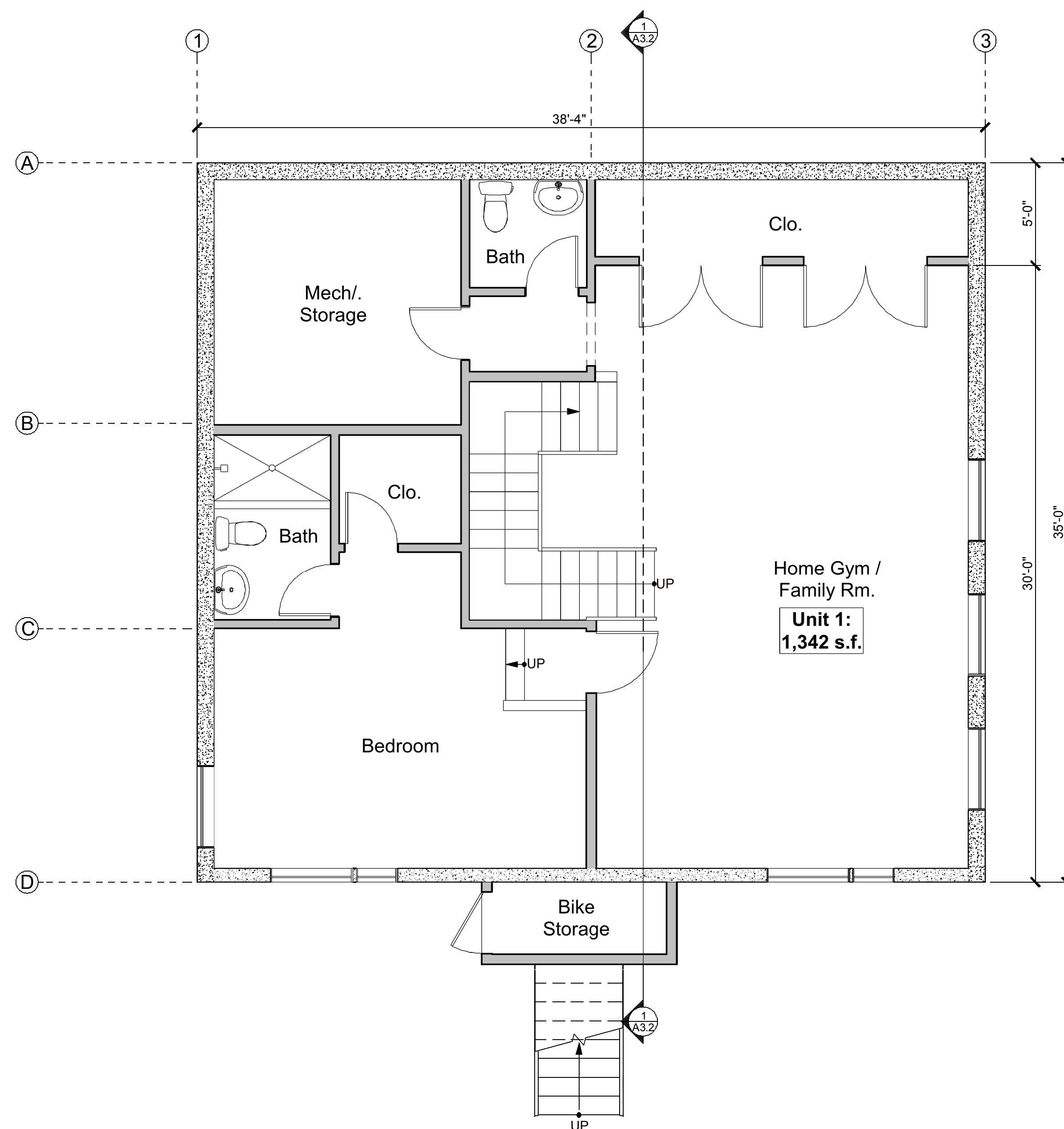
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Checked By:  
SSG

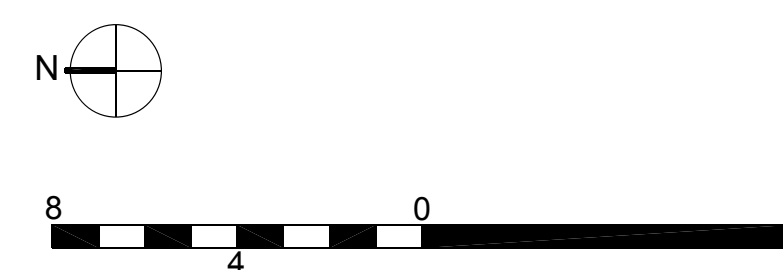
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Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
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Sheet  
**A2.1**



1 Proposed Basement Floor Plan





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 Proposed Floor Plans

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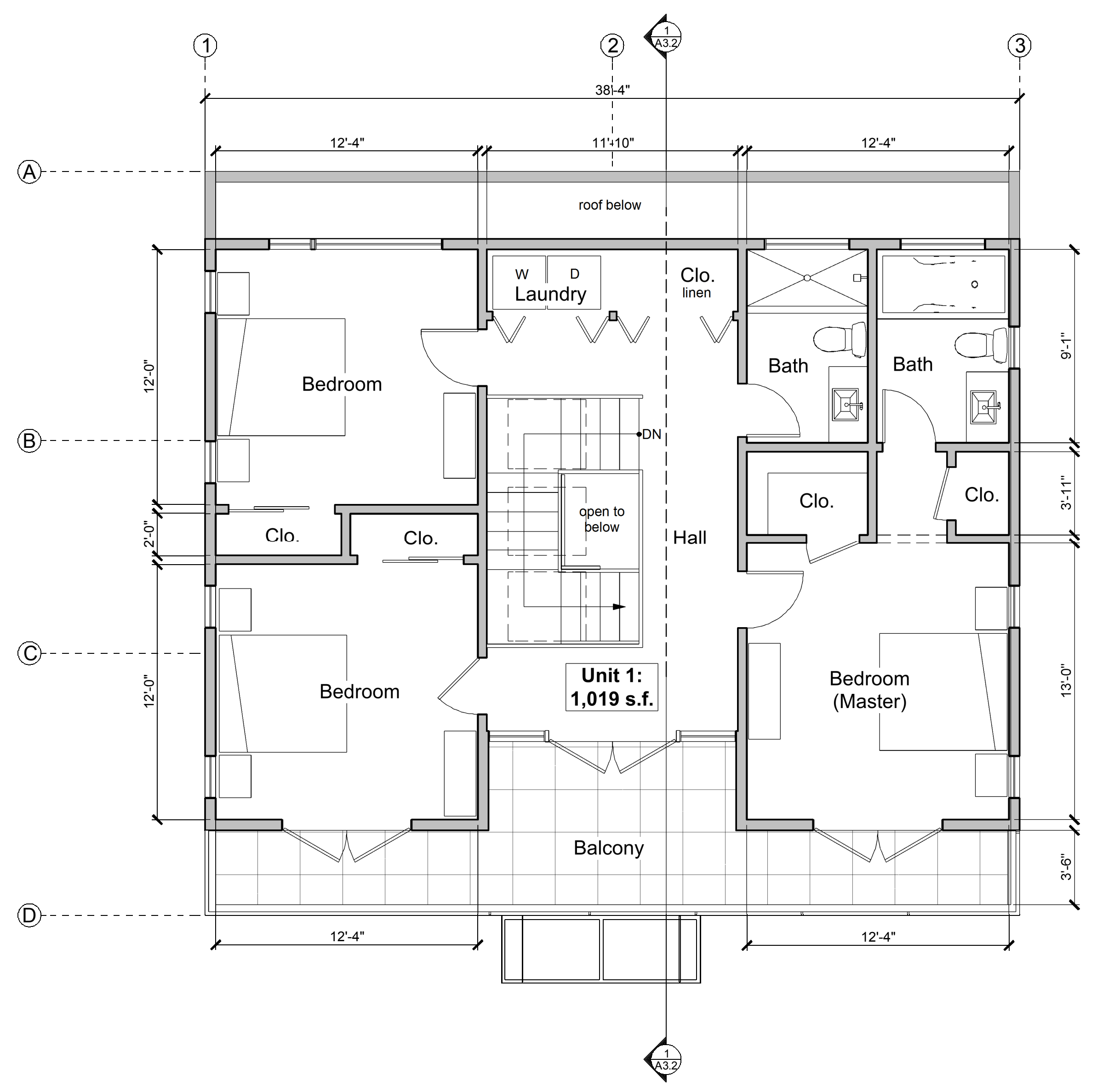
Drawn By:  
 SSG

Checked By:  
 SSG

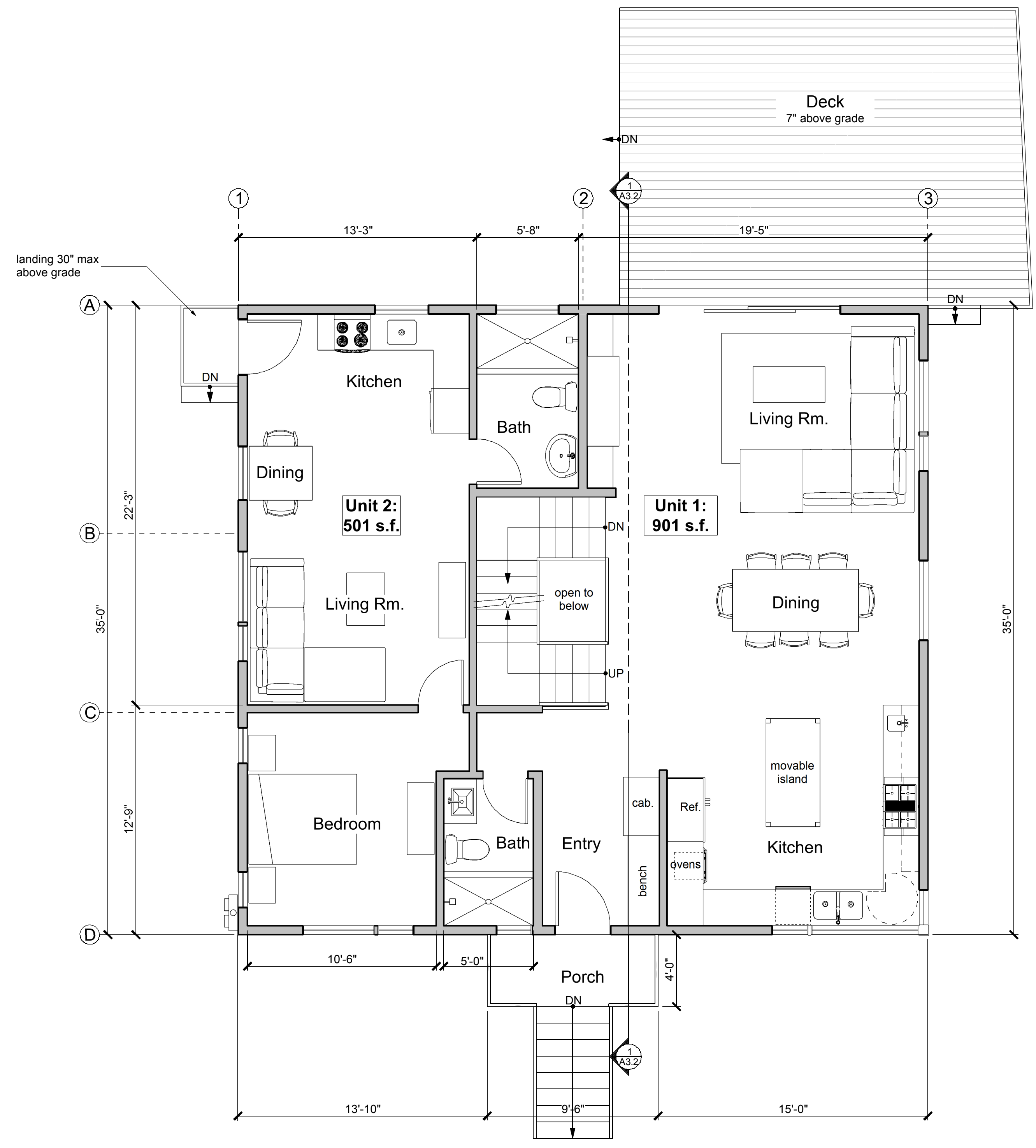
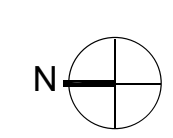
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

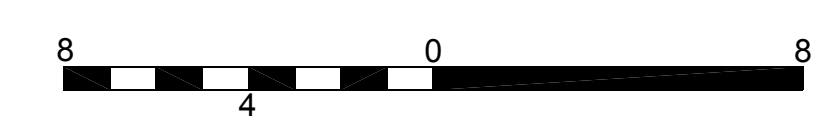
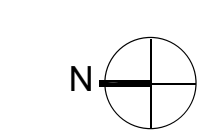
Sheet  
**A2.2**



2 Proposed Second Floor Plan



1 Proposed First Floor Plan





Previous Proposal



Previous Proposal



Previous Proposal



Current Proposal



Current Proposal



Current Proposal



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Sheet Contents:  
 Front Elevation Comparison

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Drawn By:  
 SSG

Checked By:  
 SSG

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

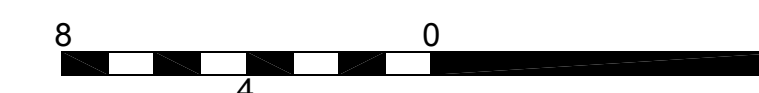
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2 Proposed West Elevation - Front  
 Original Proposal

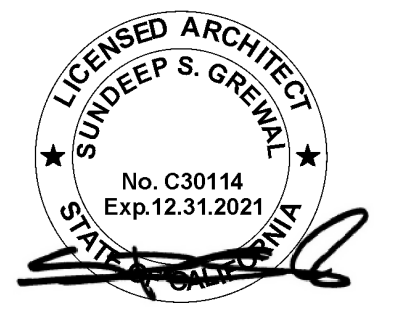


1 Proposed West Elevation - Front  
 Current Proposal





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Sheet Contents:  
 Proposed Exterior Elevations

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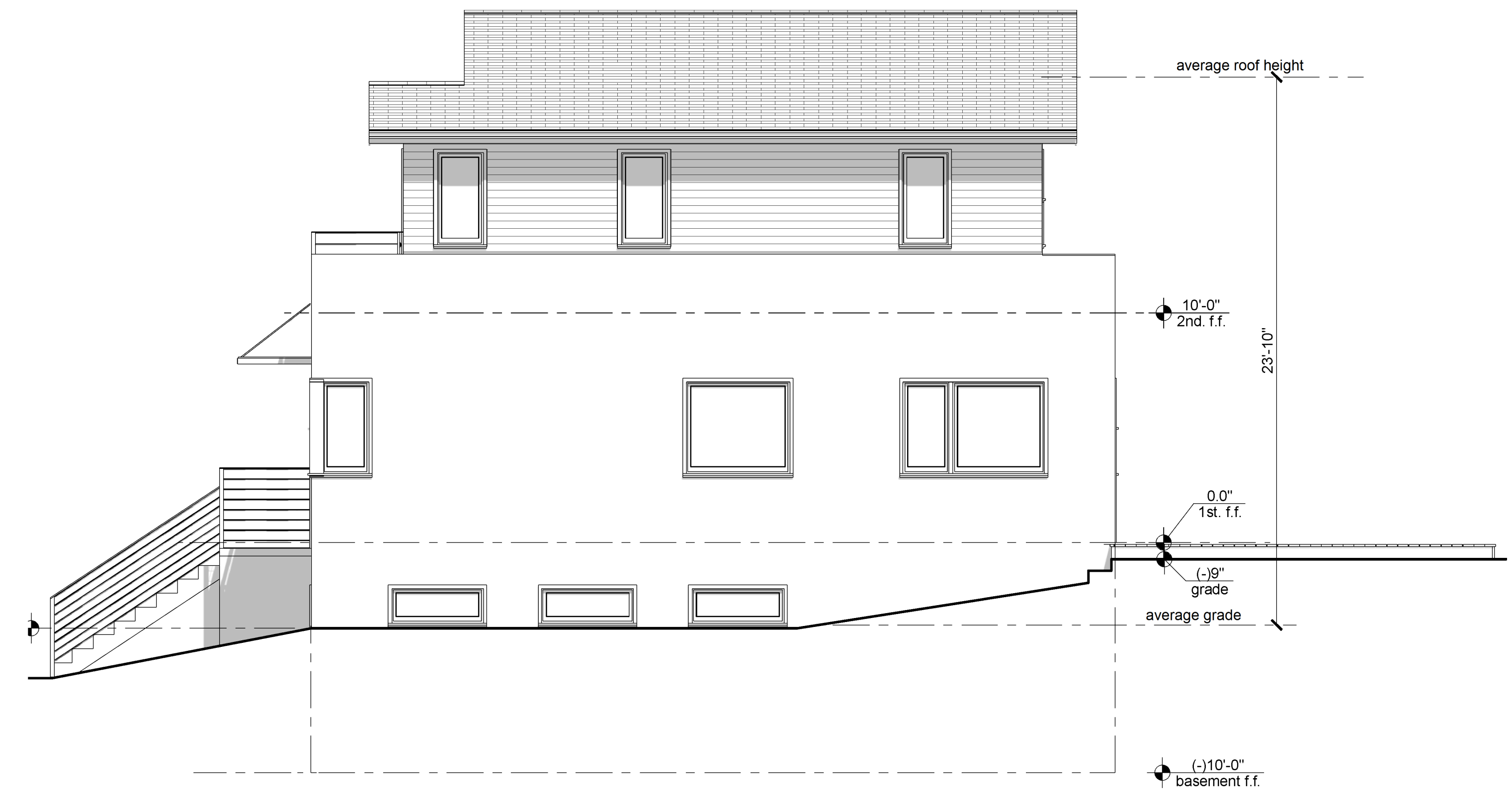
Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
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Revisions:  
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
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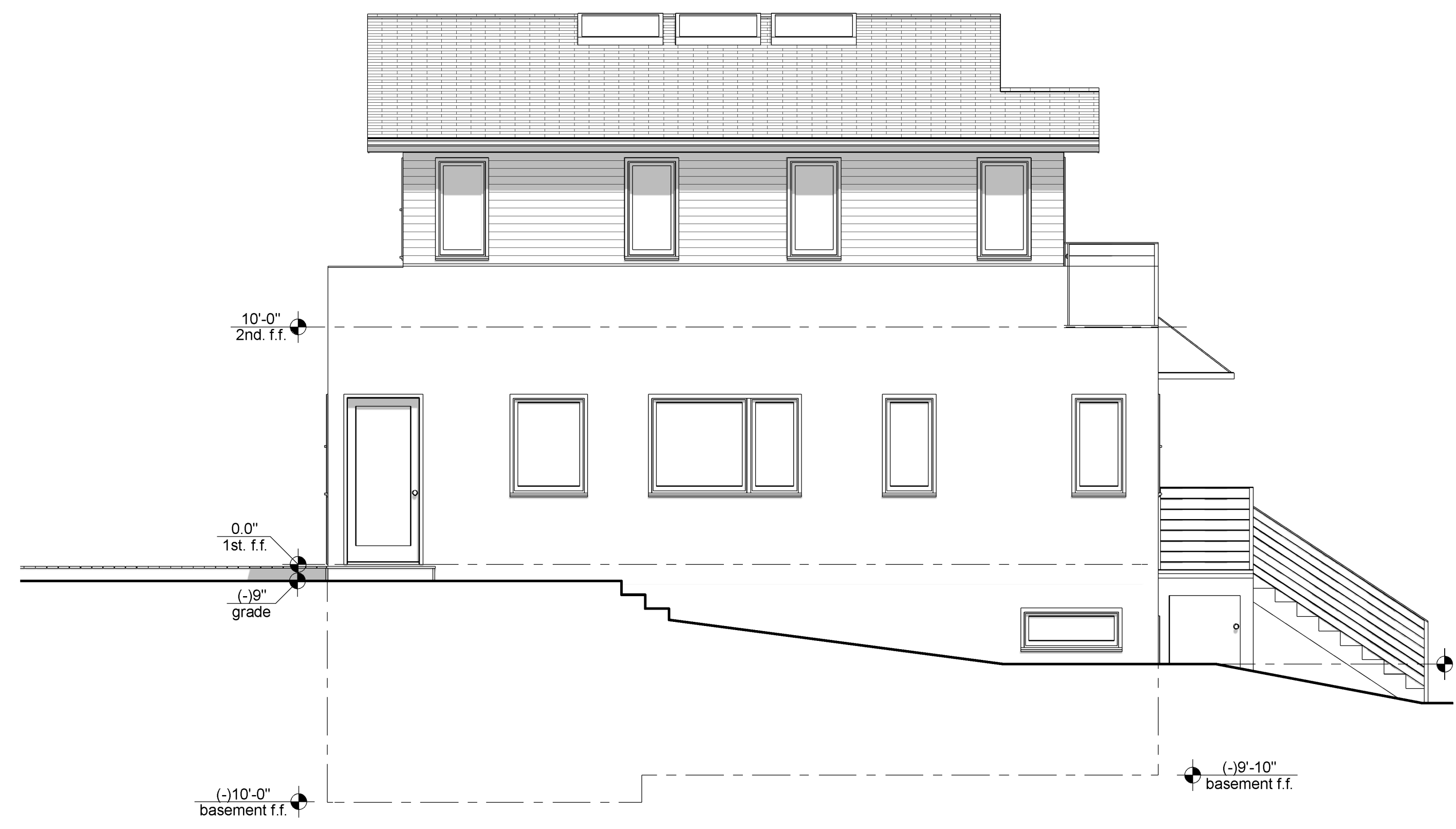
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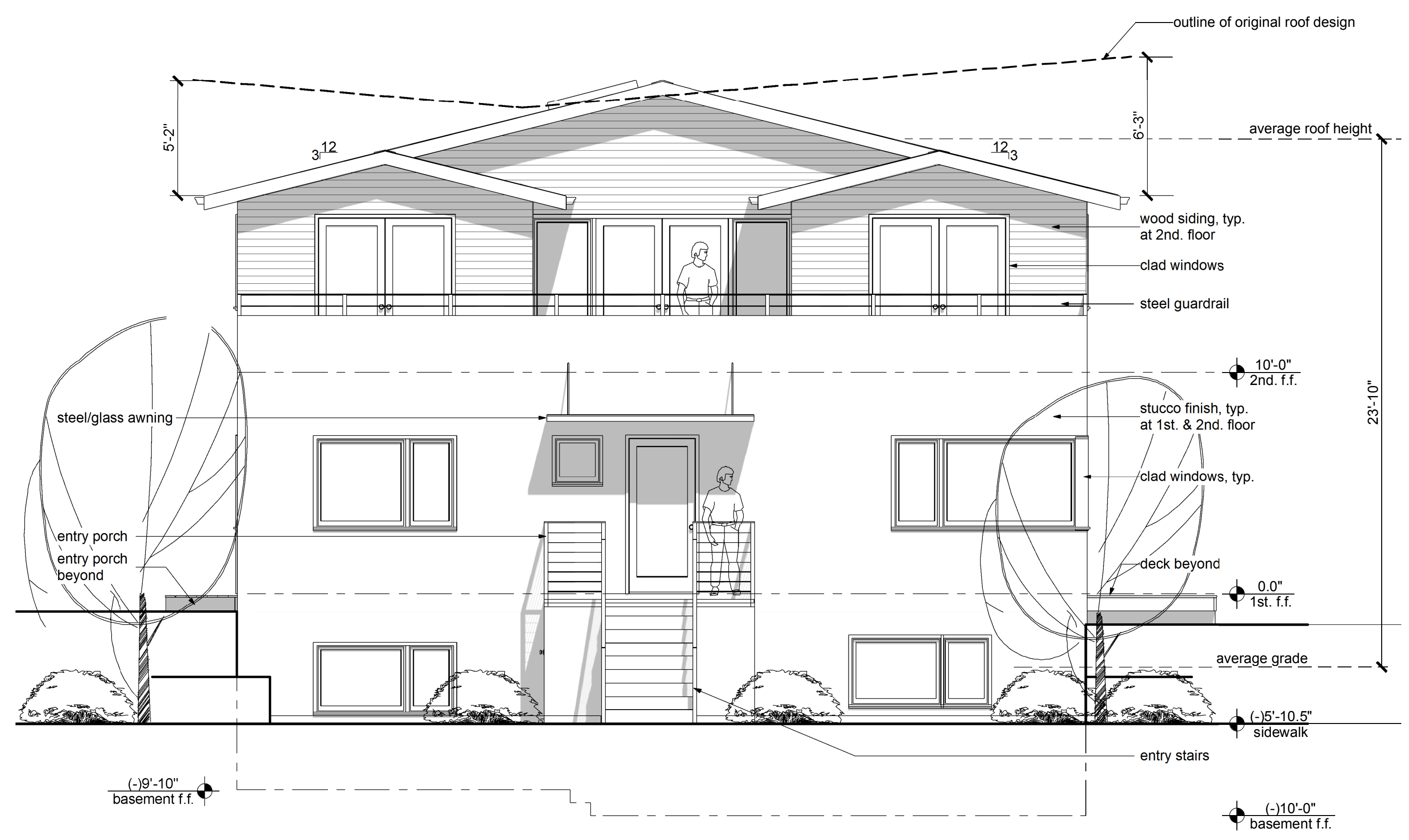
4 Proposed South Elevation - Right Side



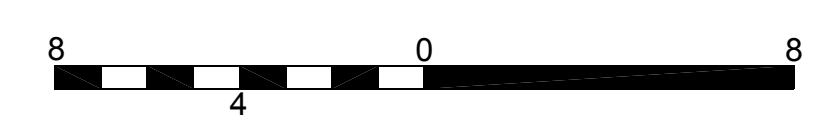
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front







2 Renderings



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Sheet Contents:  
 Building Section  
 Renderings

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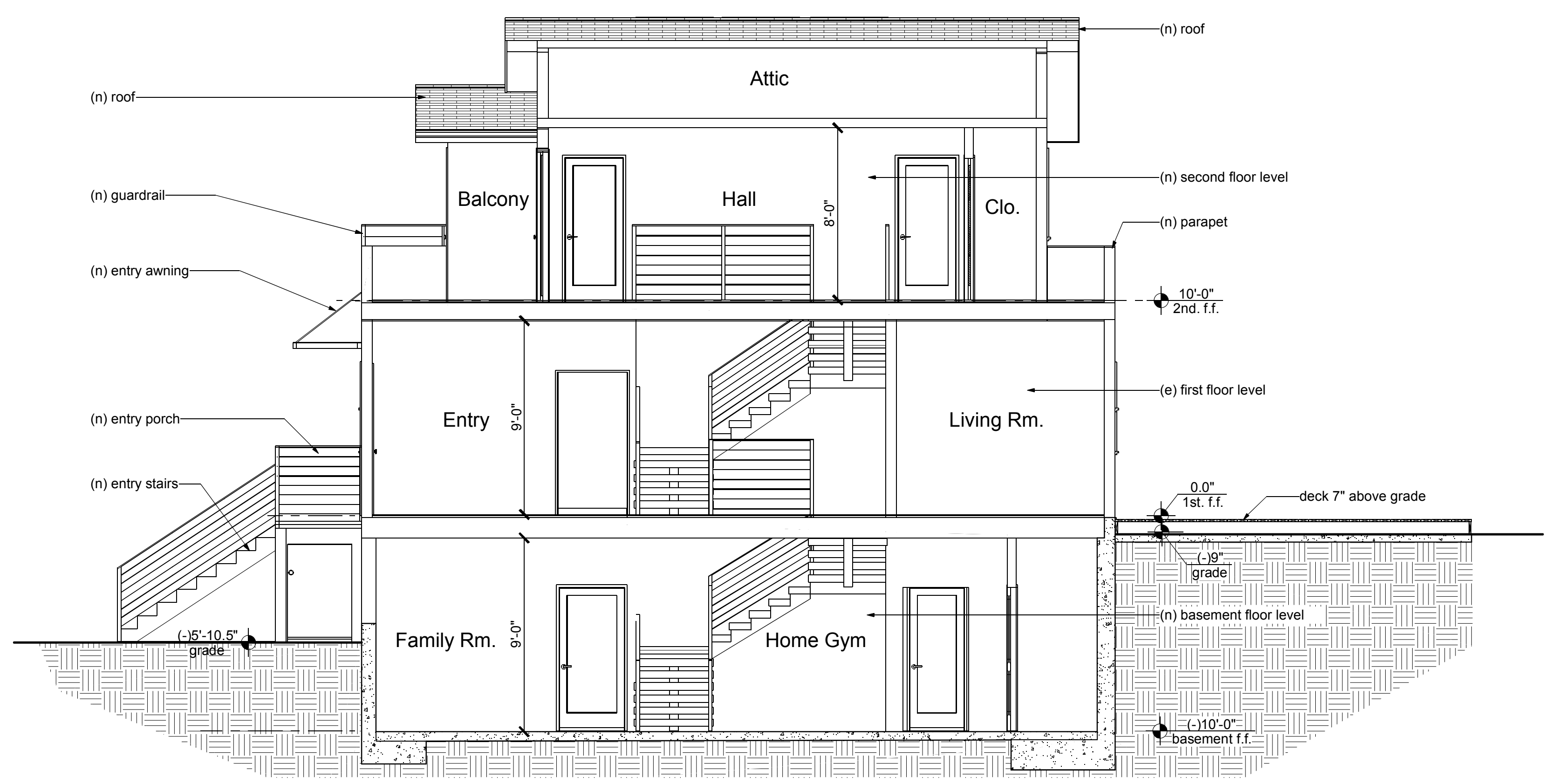
Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
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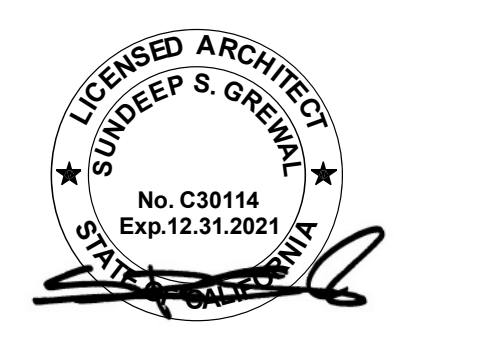
Revisions:  
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1 Proposed Building Section



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Sheet Contents:  
 Shadows Studies

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Drawn By:  
 SSG

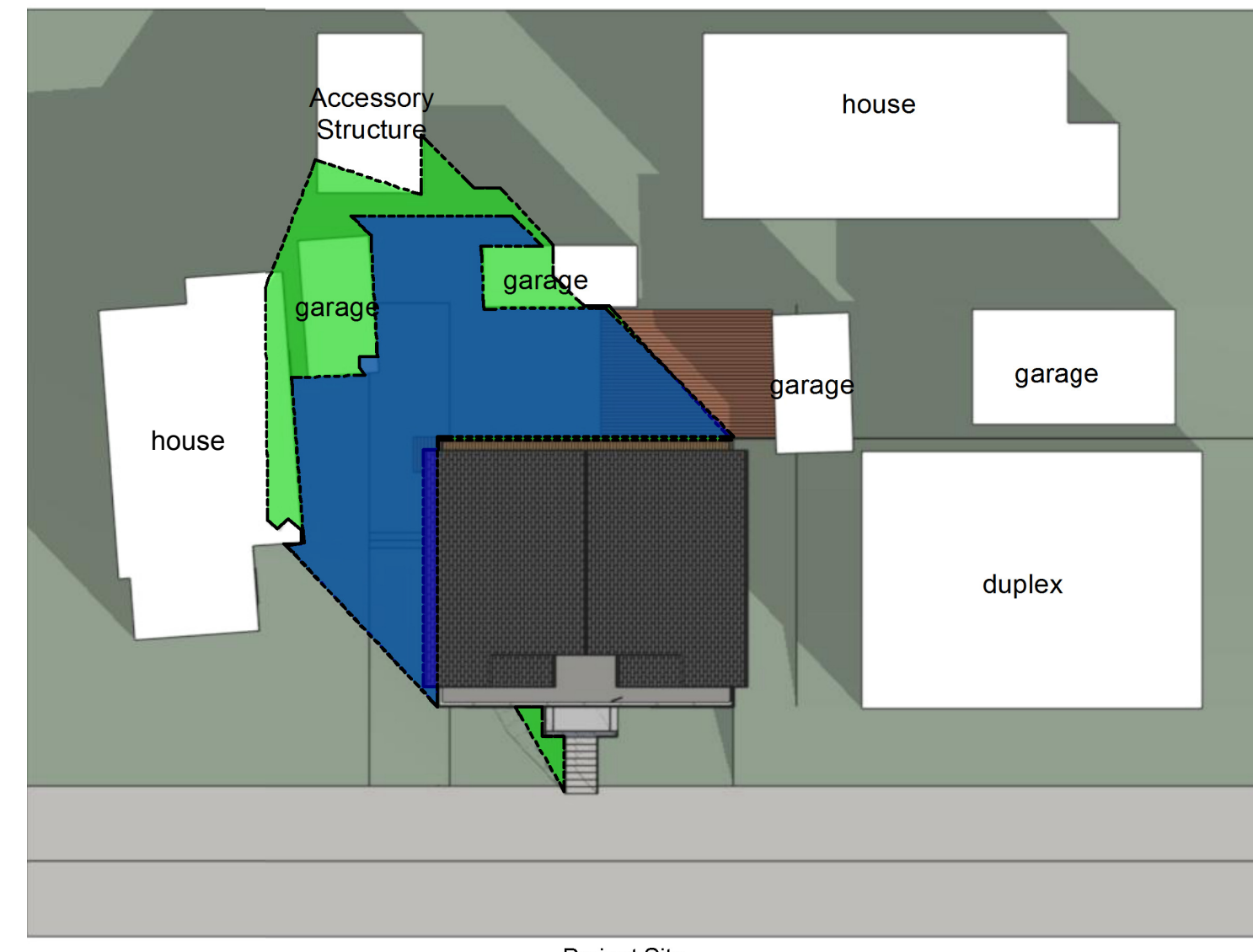
Checked By:  
 SSG

Scale:  
 NTS

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

Sheet  
**A4.1**

Existing Shadow Line  
 New Shadow Line



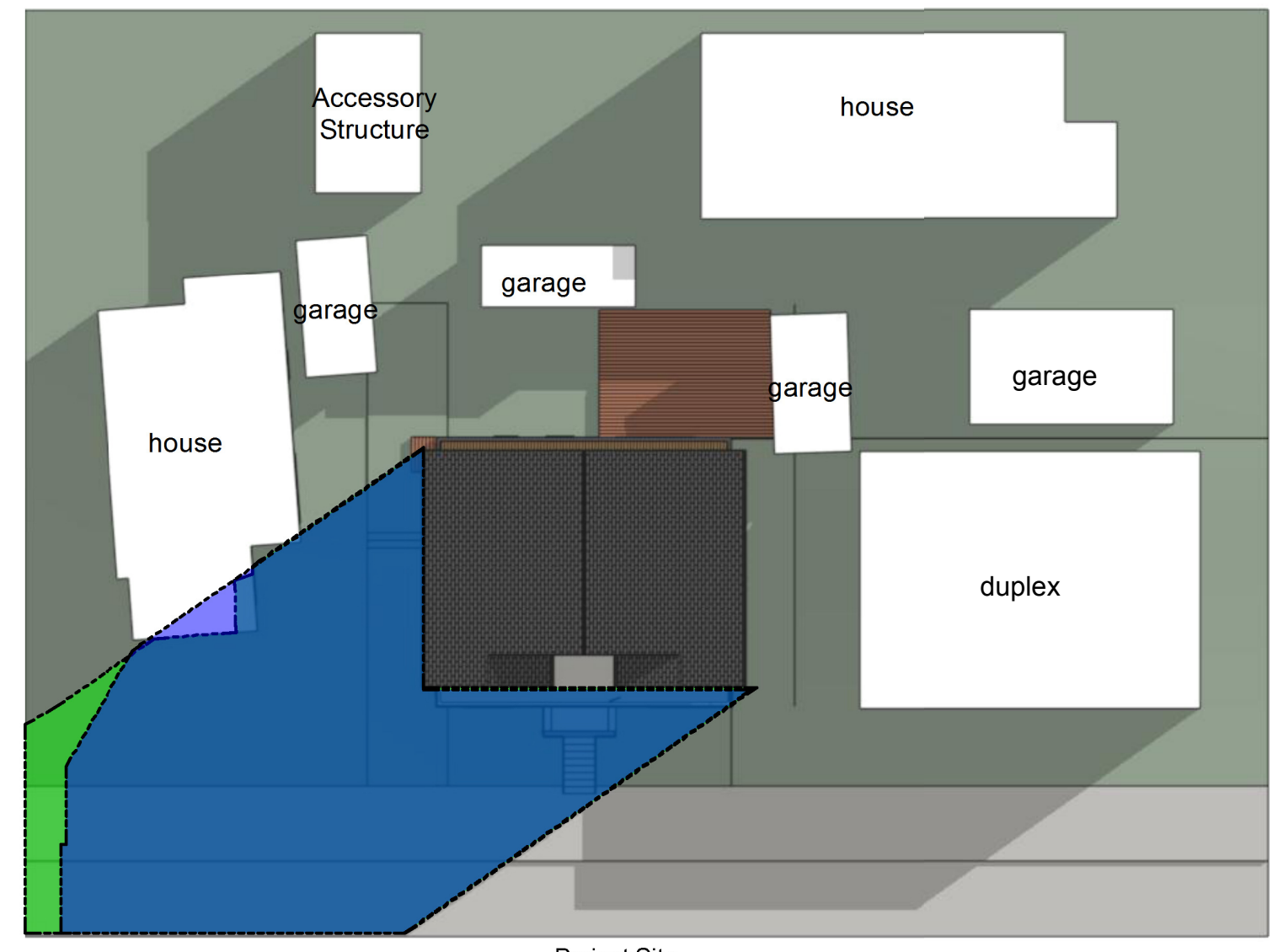
Proposed

12-21-2021 / 2:54 pm



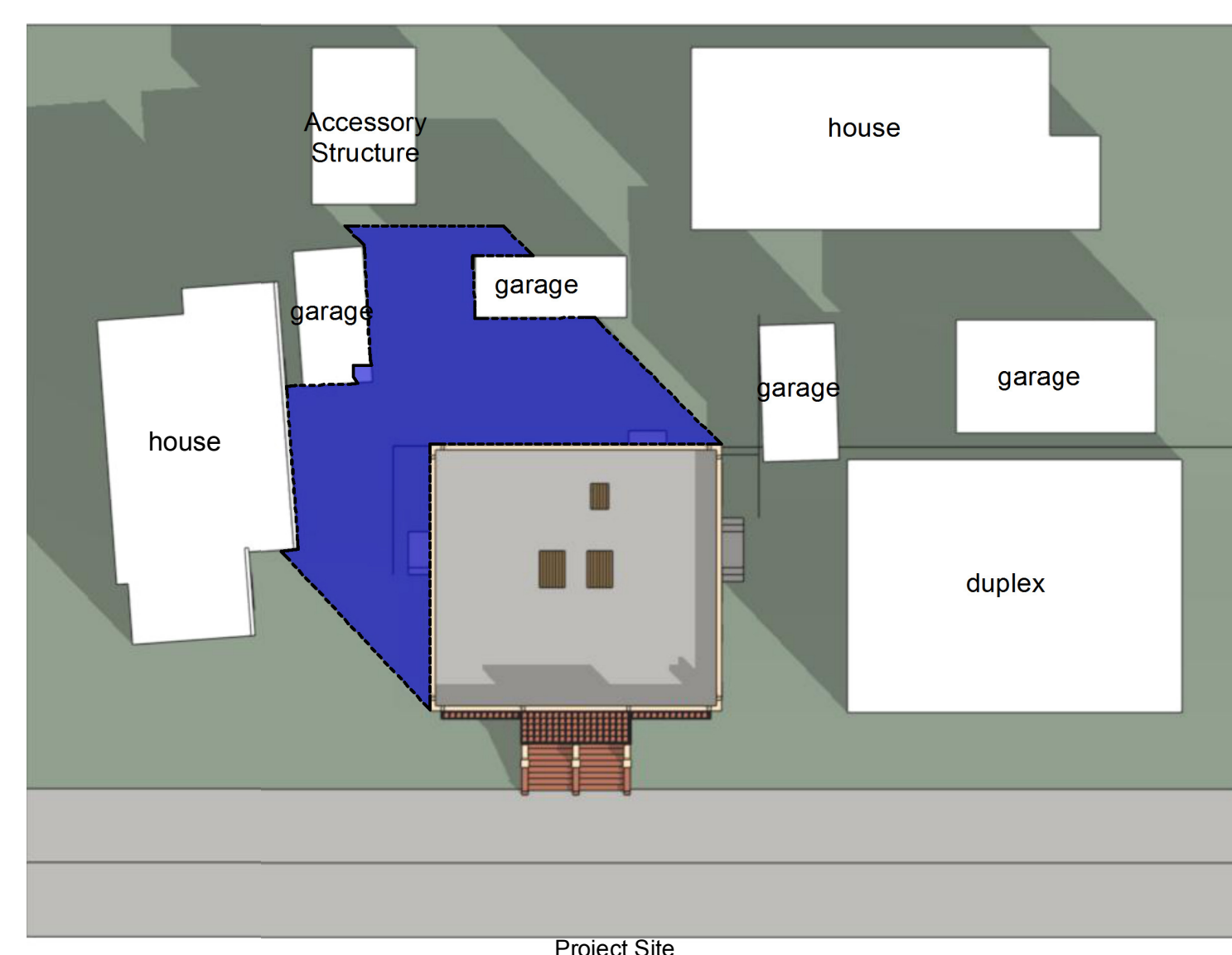
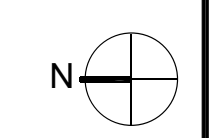
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12-21-2021 / 12:00 pm



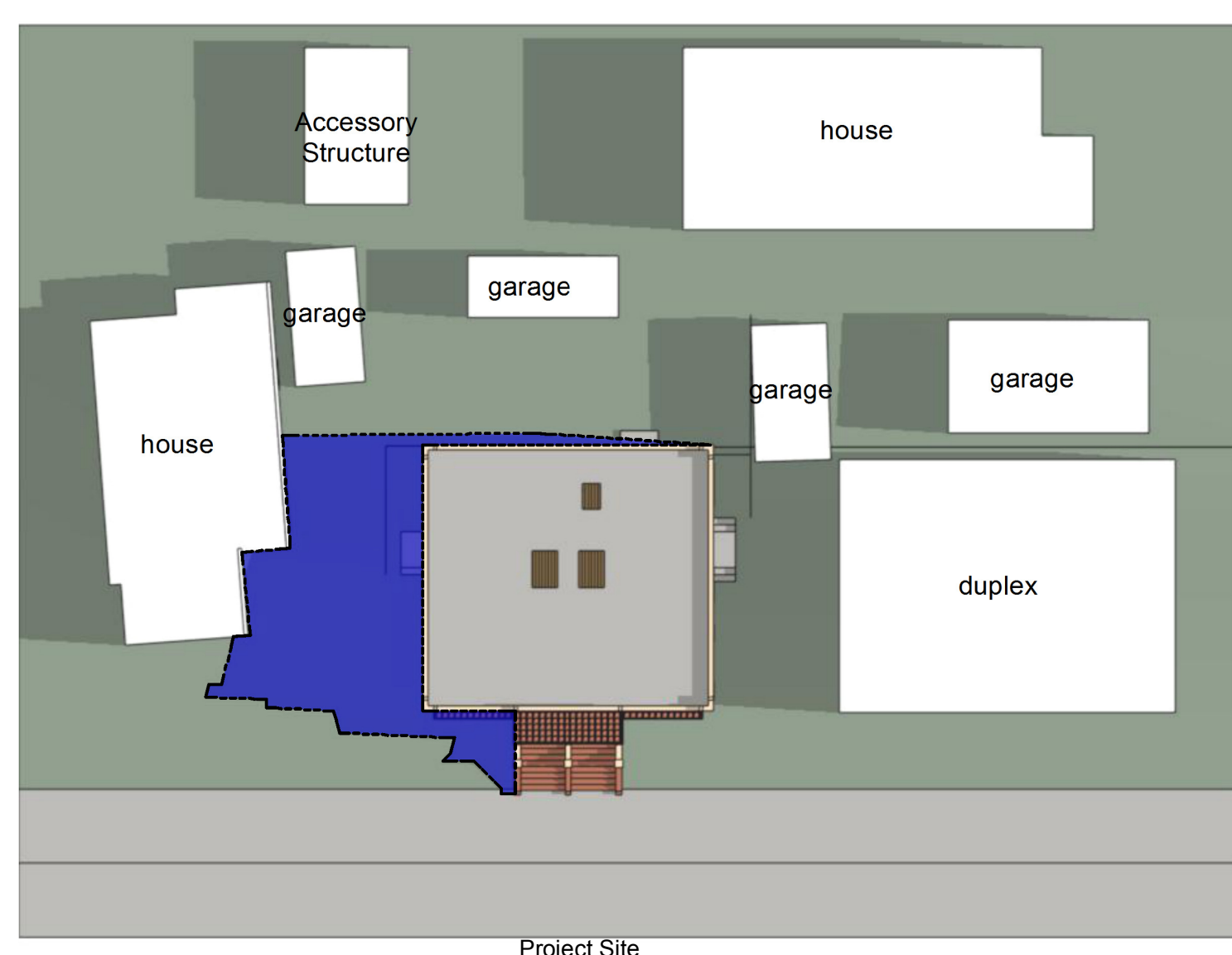
Proposed

12-21-2021 / 9:21 am



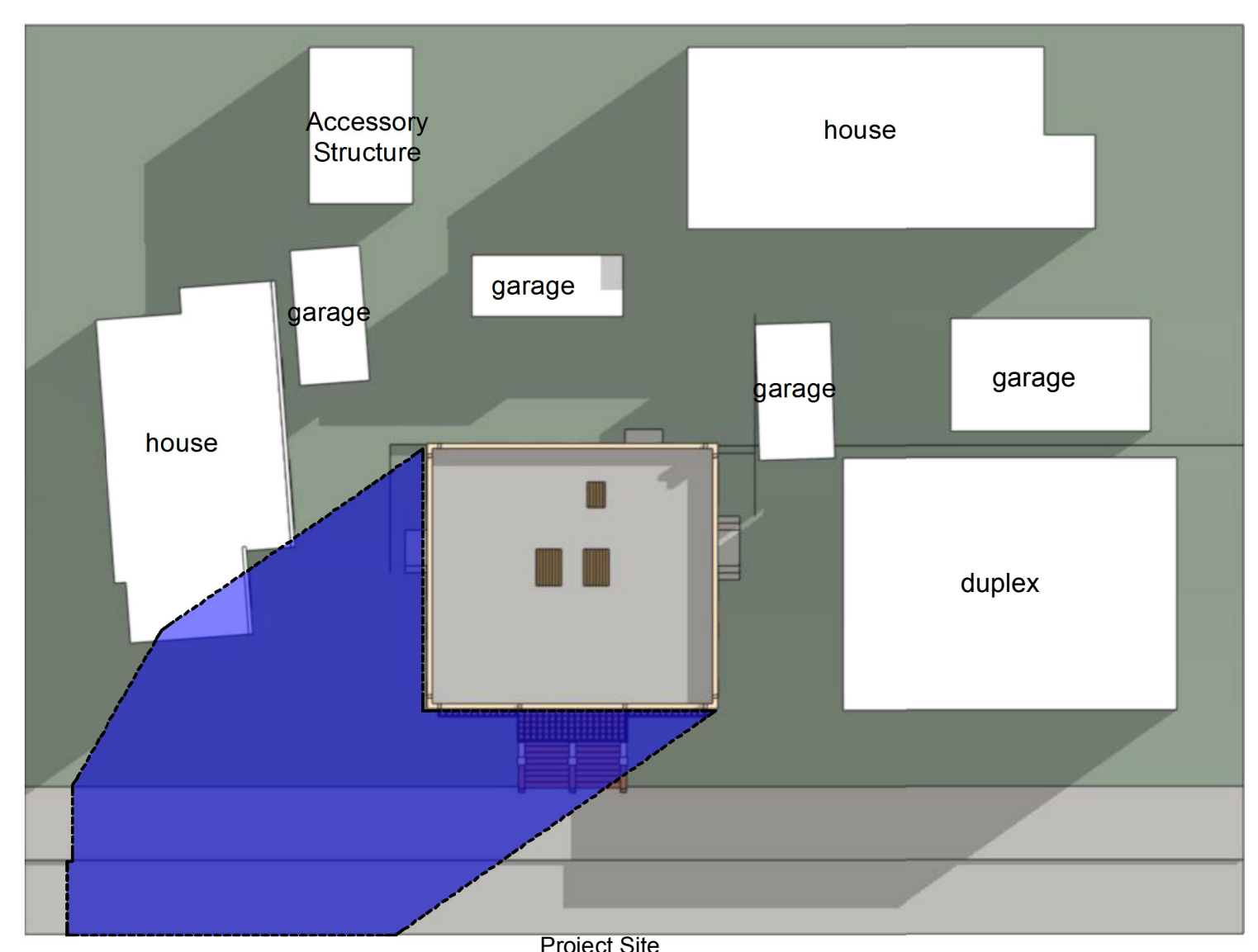
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12-21-2021 / 2:54 pm



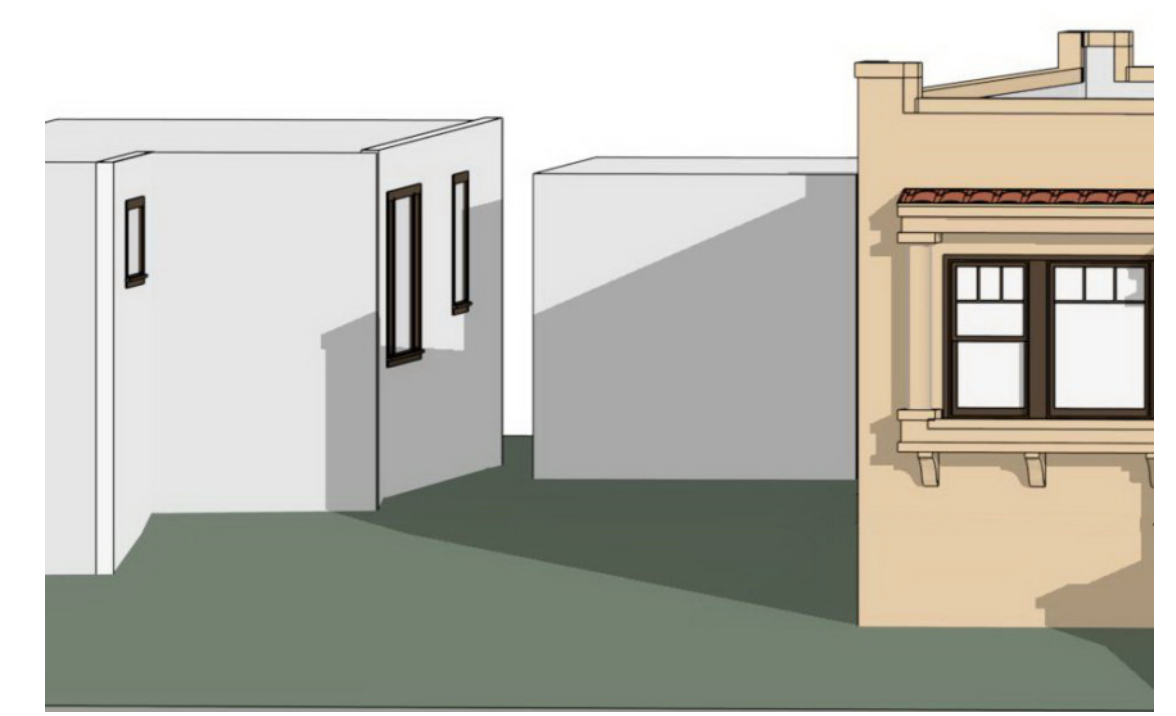
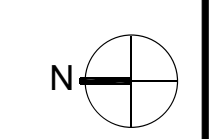
Existing

12-21-2021 / 12:00 pm



Existing

12-21-2021 / 9:21 am



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



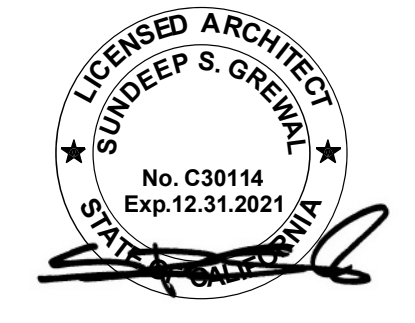
Actual  
 12-08-2020 / 3:00 pm

**Shadow Accuracy Simulation**

Existing Shadow Line  
 New Shadow Line



2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



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

Sheet Contents:  
 Shadows Studies

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Project No:  
 20-13-420

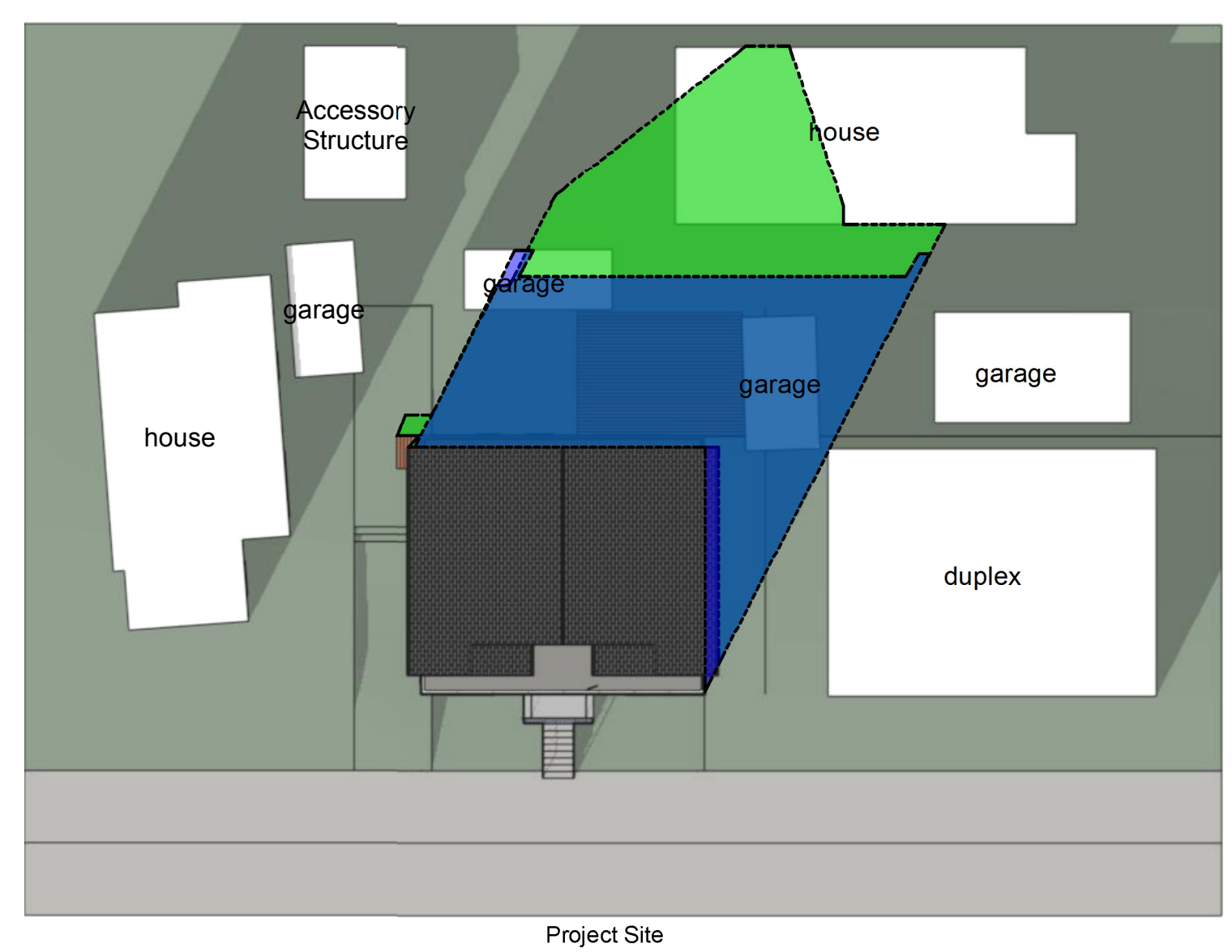
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 SSG

Checked By:  
 SSG

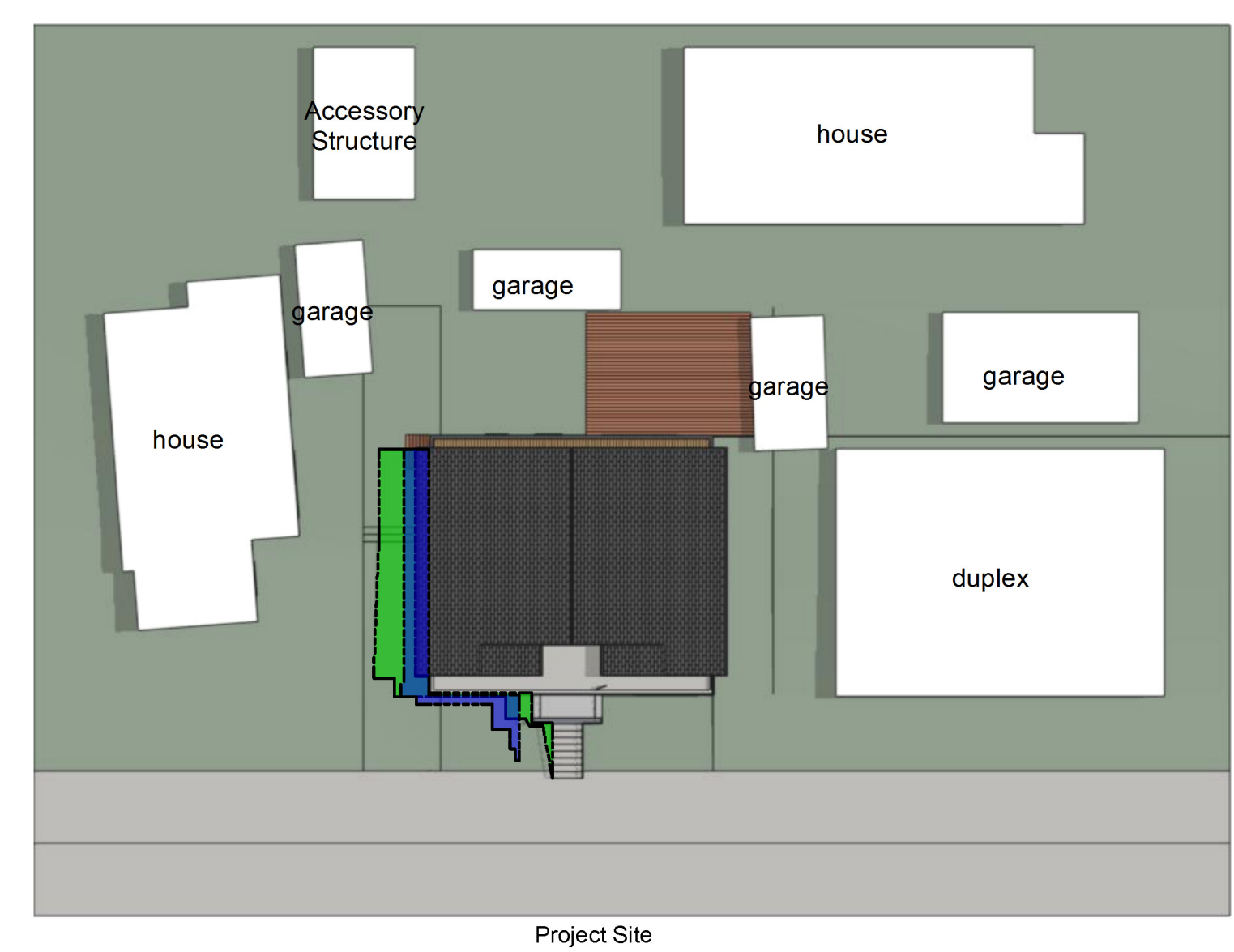
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A4.2**



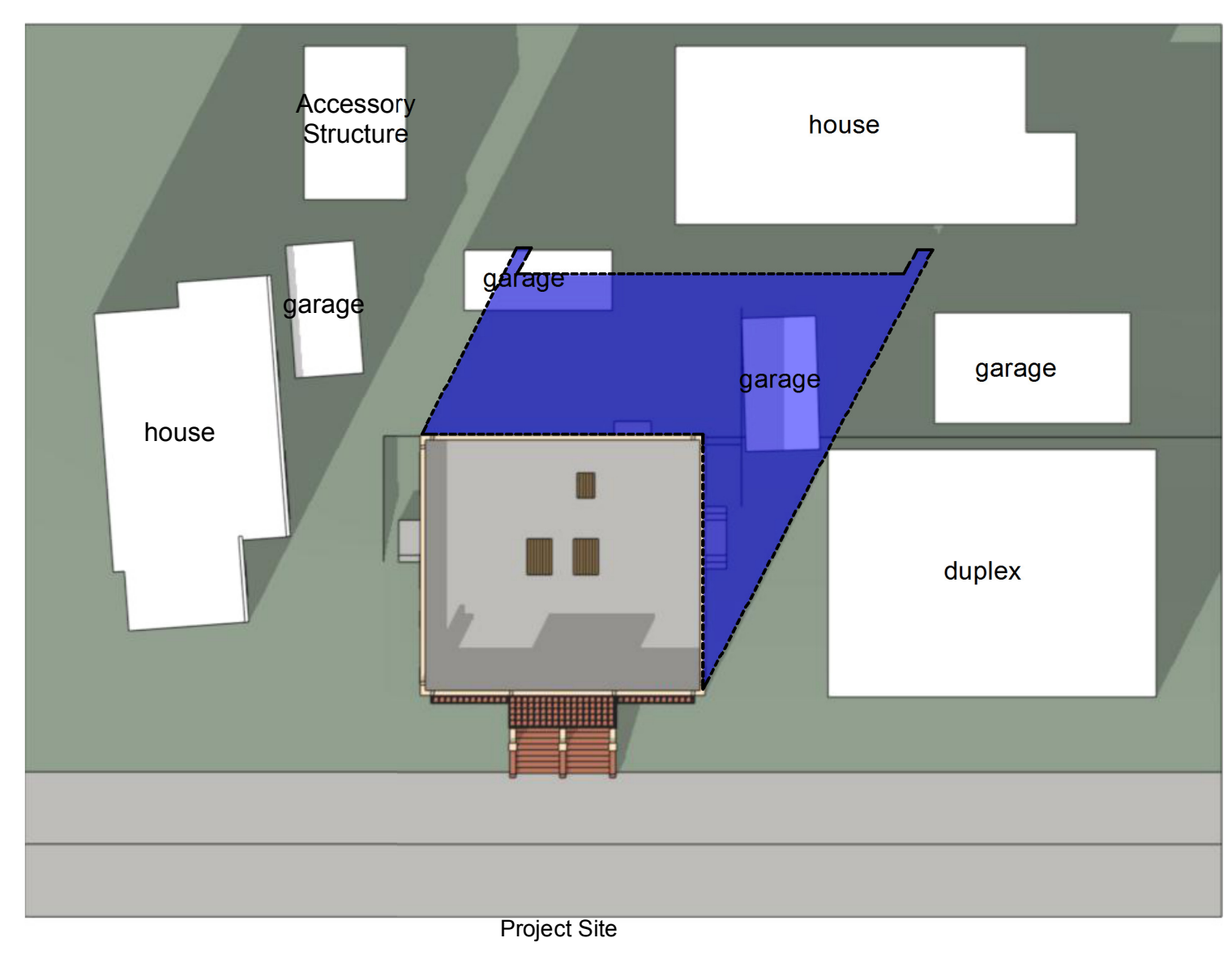
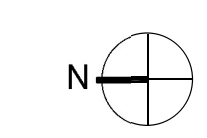
Proposed  
**6-21-2021 / 6:35 pm**



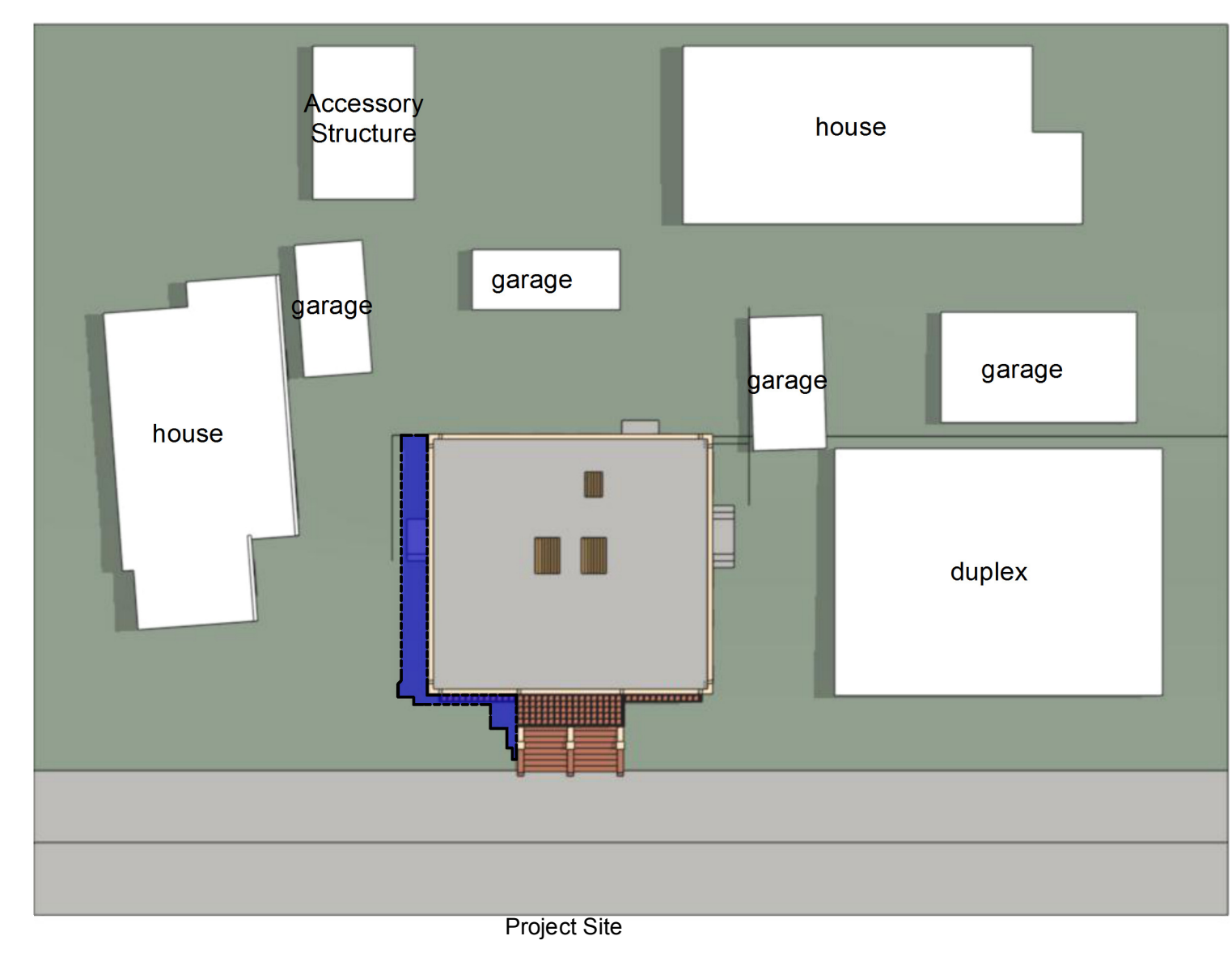
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**6-21-2021 / 12:00 pm**



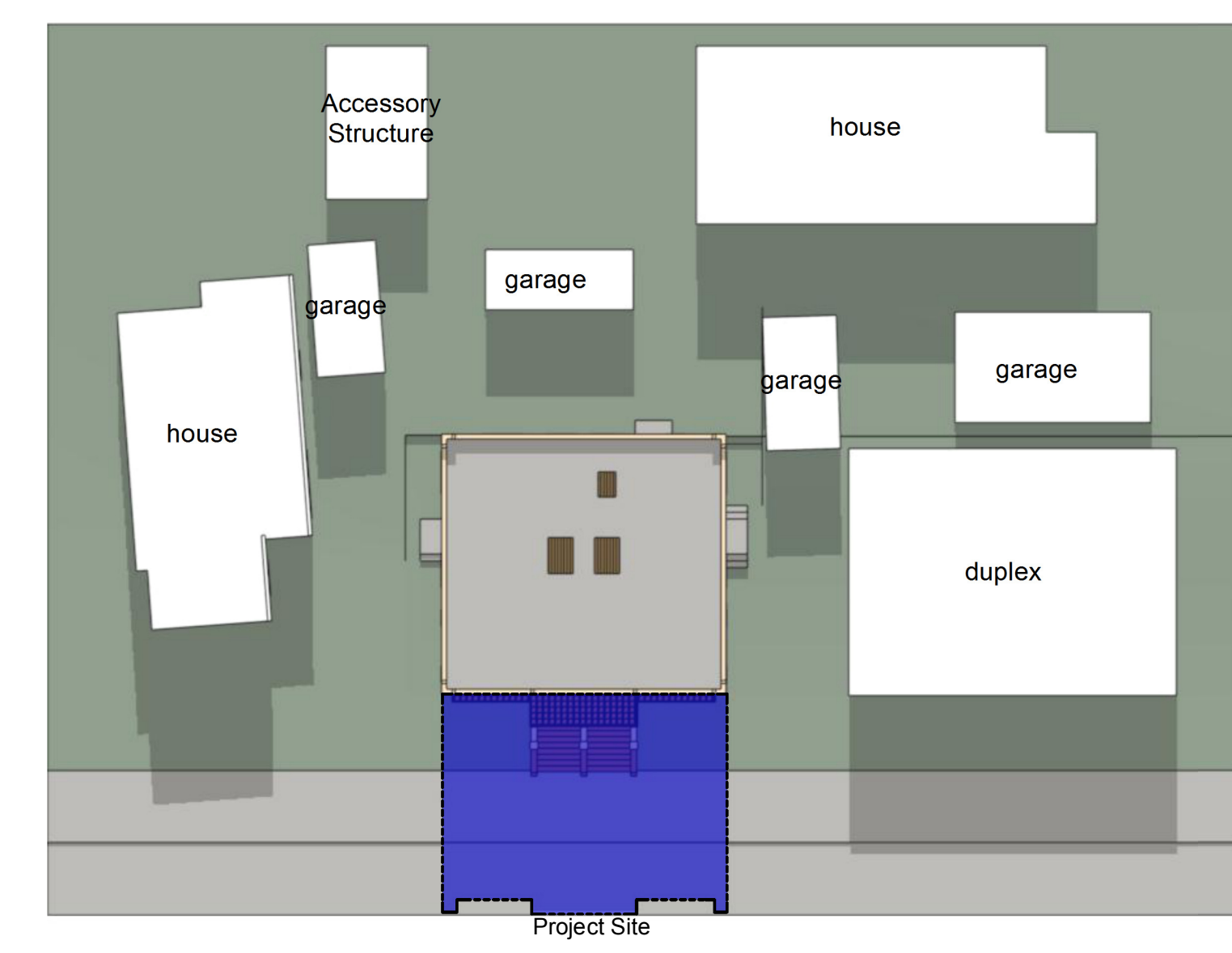
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**6-21-2021 / 7:47 am**



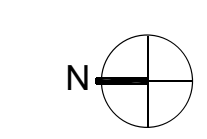
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**6-21-2021 / 6:35 pm**



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



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

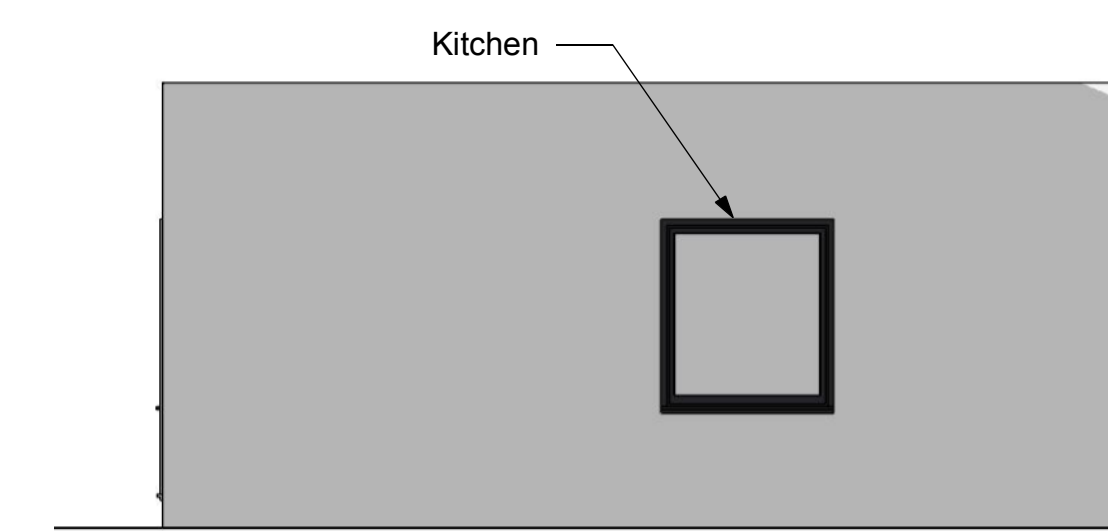




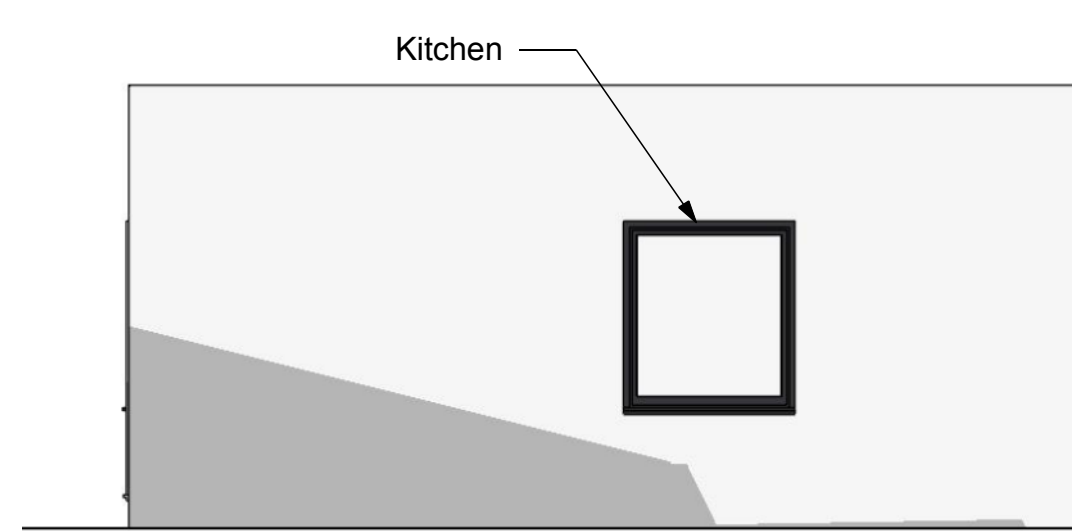
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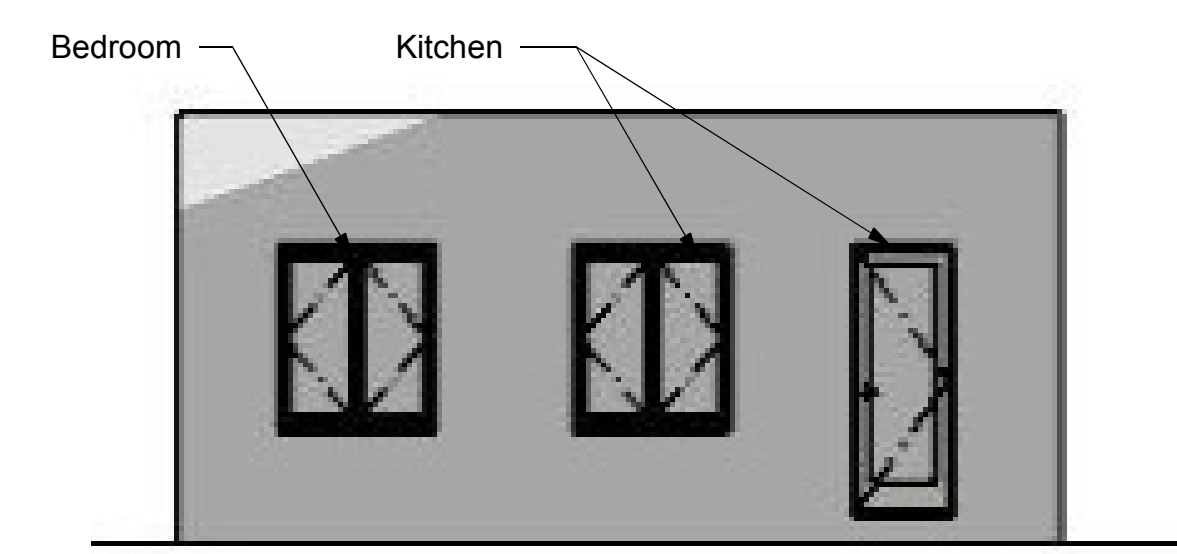
OPPENHEIMER  
 RESIDENCE  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18



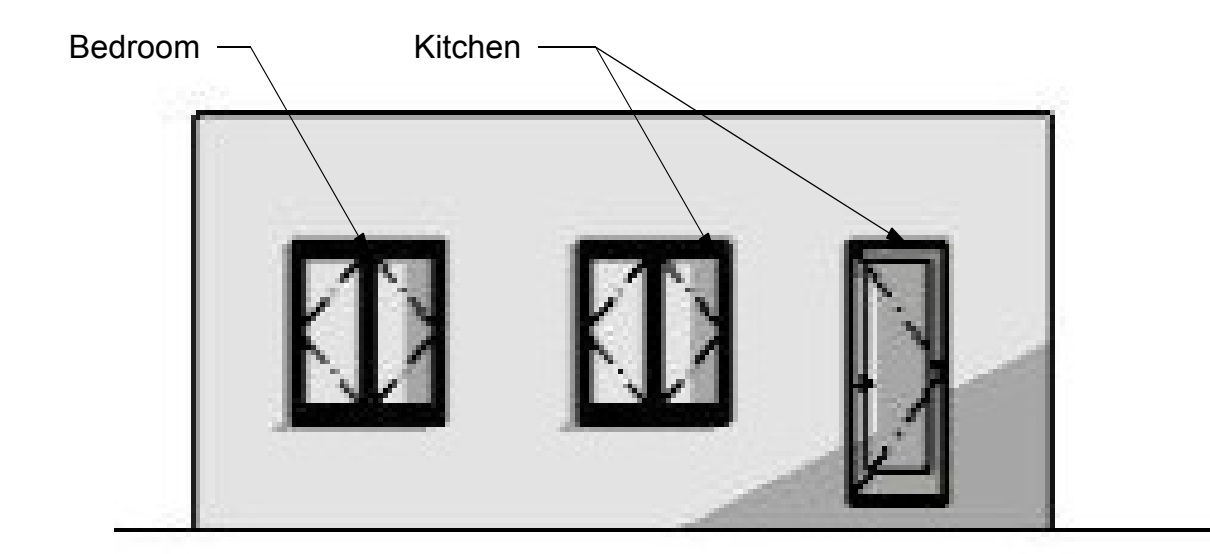
Proposed West Wall



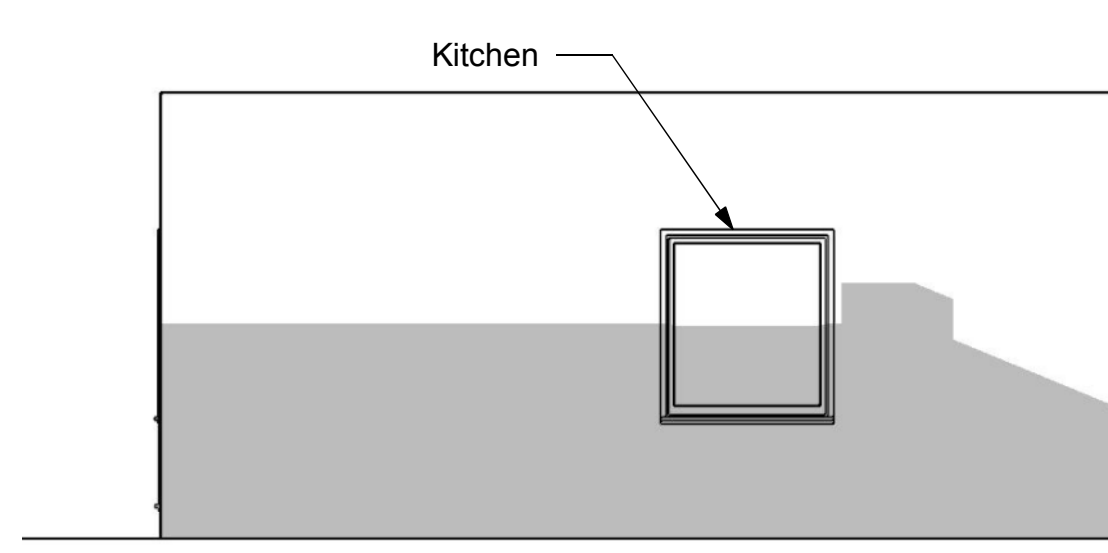
Proposed West Wall



Proposed North Wall

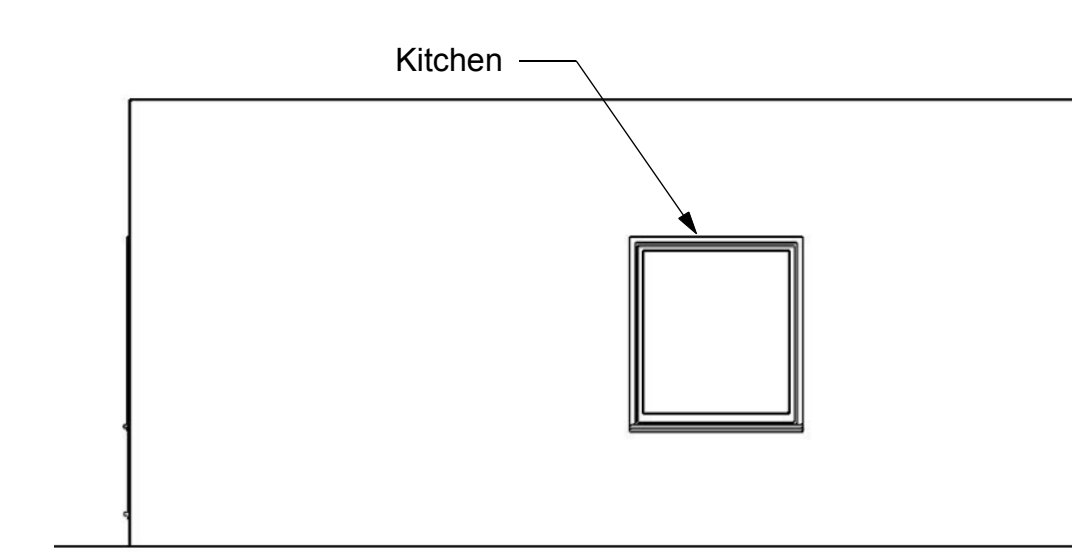


Proposed North Wall



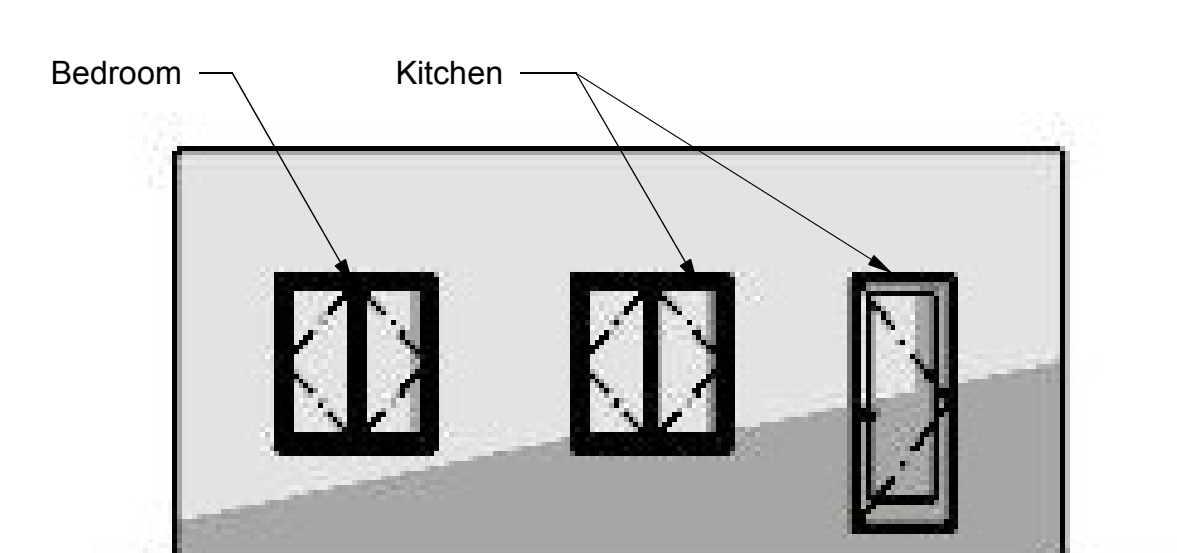
Existing West Wall

6-21-2021 / 6:35 pm



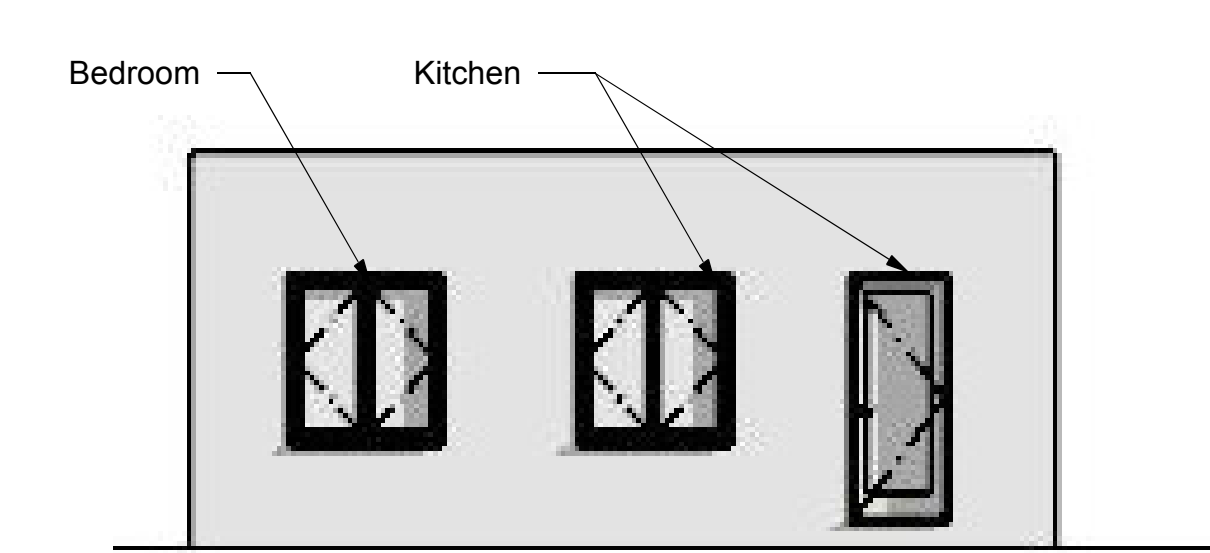
Existing West Wall

6-21-2021 / 5:00 pm



Existing North Wall

6-21-2021 / 6:35 pm



Existing North Wall

6-21-2021 / 5:00 pm

**1609 Virginia St. Shadow Impact Study**

Sheet Contents:  
 Shadows Studies

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Project No:  
 20-13-420

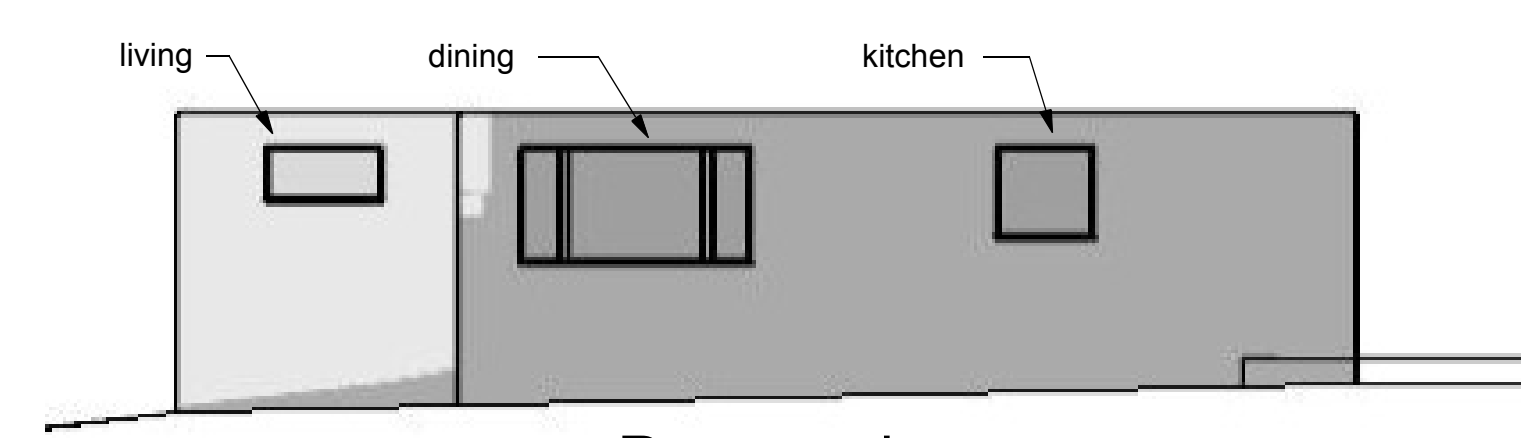
Drawn By:  
 SSG

Checked By:  
 SSG

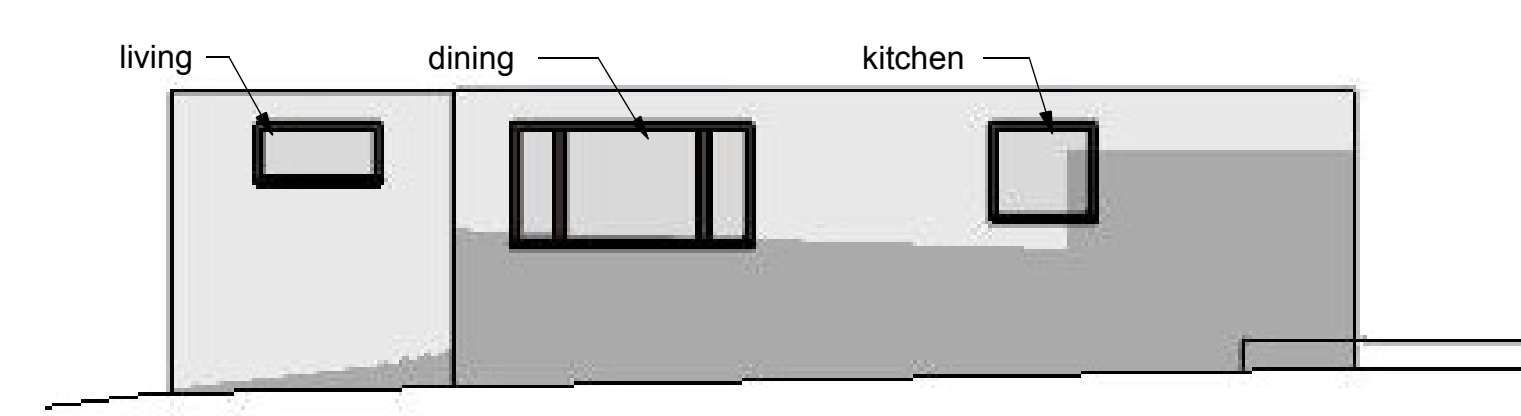
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A4.3**

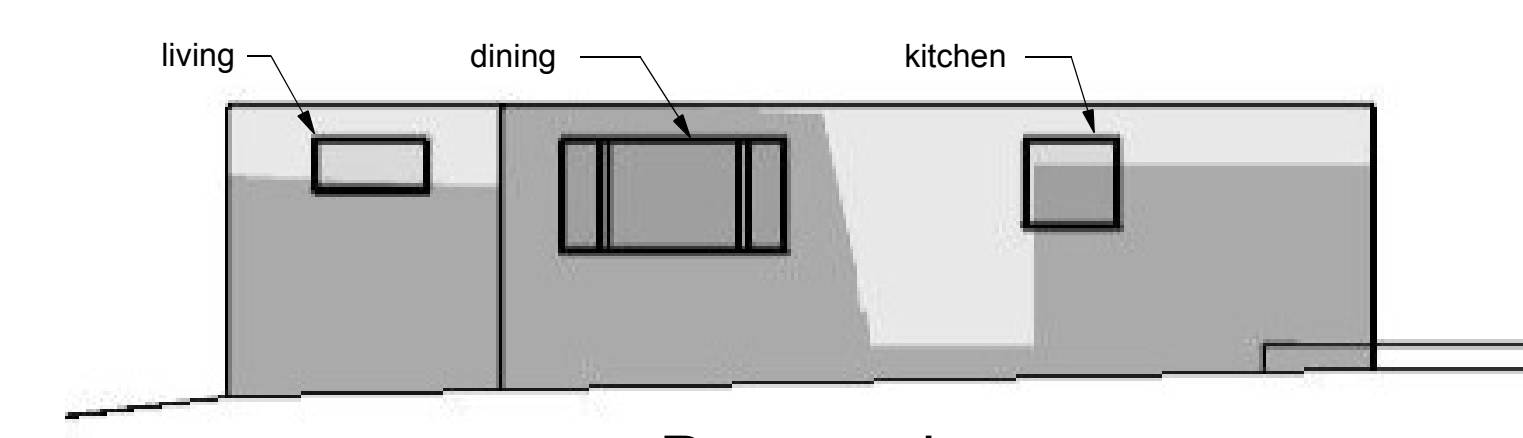


Proposed

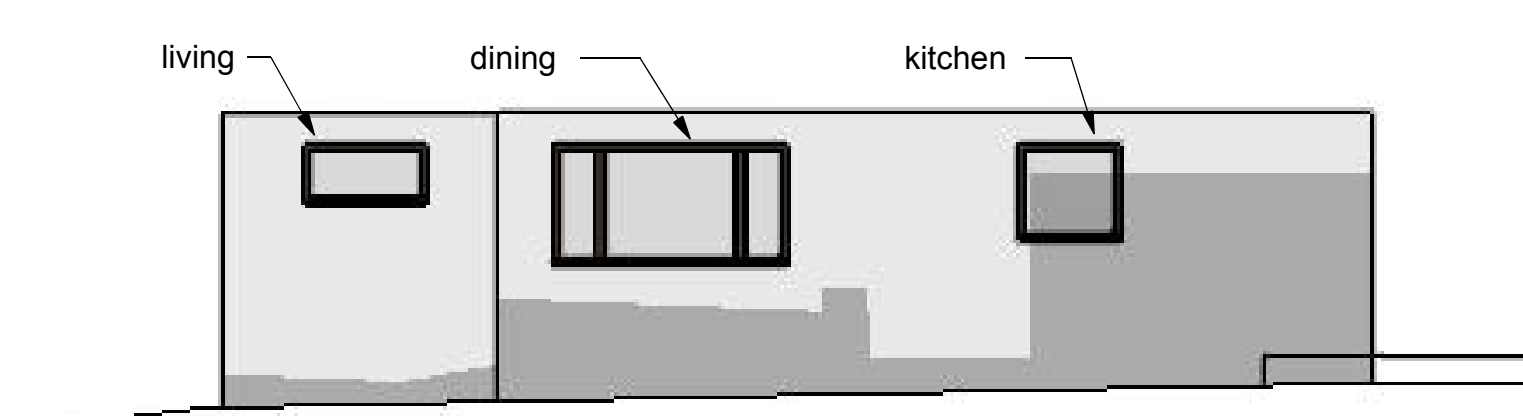


Existing

12-21-2021 / 2:54 pm

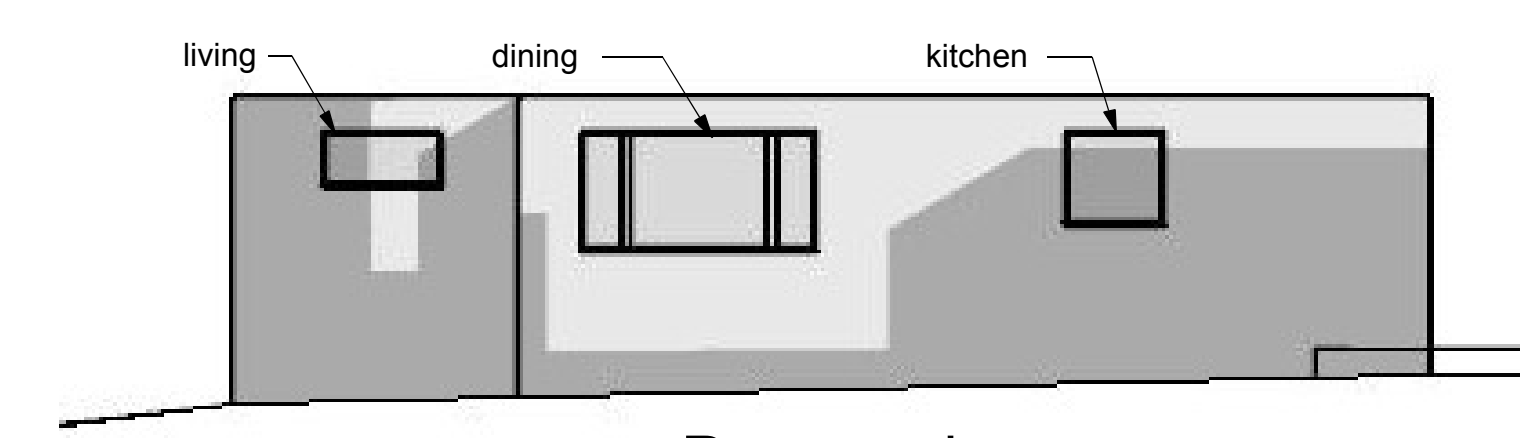


Proposed

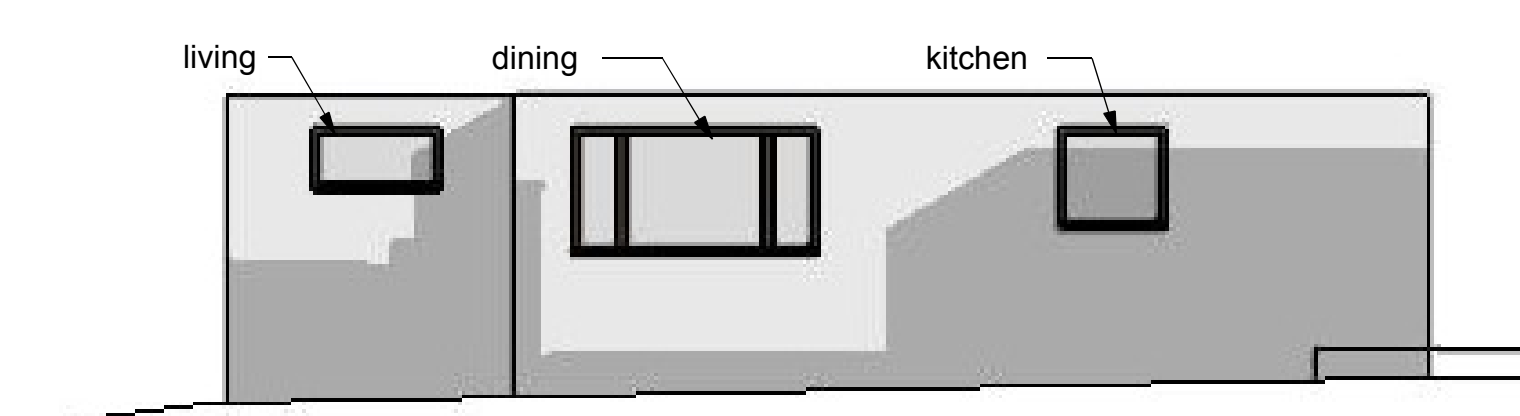


Existing

12-21-2021 / 12:00 pm



Proposed



Existing

12-21-2021 / 9:21 am

**1639 California St. Shadow Impact Study**



ARCHITECTS

2223 Fifth St.  
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OPPENHEIMER  
 RESIDENCE  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Demolition Diagram

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Project No:  
 20-13-420

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 SSG

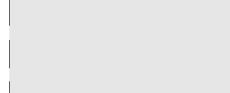


Checked By:  
 SSG

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

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

Sheet  
**A5.1**

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

-  existing wall area
-  existing window removed
-  existing and new window area



4 Proposed South Elevation - Right Side



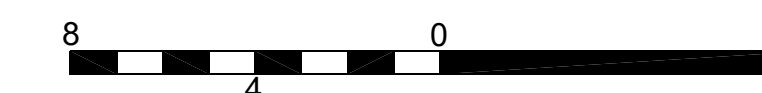
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front





# Z O N I N G A D J U S T M E N T S B O A R D

## NOTICE OF PUBLIC HEARING

### 1643 & 1647 California Street

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

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on December 9, 2021, conducted via Zoom, see the Agenda for details:

[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2021-12-09\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf) The meeting starts at 7:00 p.m.

**PUBLIC ADVISORY:** This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

- C. **CEQA Recommendation:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

**D. Parties Involved:**

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

**Further Information:**

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Nicholas Armour, at (510) 981-7485 or [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

**Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.

**Accessibility Information / ADA Disclaimer:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

**Notice Concerning Your Legal Rights:**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

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

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



---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1643-1647 California ST #ZP2021-0001

**From:** [david.hornung@gmail.com](mailto:david.hornung@gmail.com) <[david.hornung@gmail.com](mailto:david.hornung@gmail.com)>  
**Sent:** Saturday, November 27, 2021 8:47 AM  
**To:** Zoning Adjustments Board (ZAB) <[Planningzab@cityofberkeley.info](mailto:Planningzab@cityofberkeley.info)>  
**Subject:** Fwd: 1643-1647 California ST #ZP2021-0001

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

Begin forwarded message:

**From:** [david.hornung@gmail.com](mailto:david.hornung@gmail.com)  
**Date:** November 27, 2021 at 8:43:28 AM PST  
**To:** [zab@cityofberkeley.edu](mailto:zab@cityofberkeley.edu)  
**Subject:** 1643-1647 California ST #ZP2021-0001

Hello,

I'm writing in support of the update and enlargement of the property at 1643 California. It's been in rough shape for a long time and getting a refresh will be nice for the neighborhood and certainly the people that will live there. Hopefully it doesn't permanently displace the current tenants.

David  
1536 Virginia

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

December 1, 2021

Re: Proposed renovation at 1643 & 1647 California Street

Attention: The Berkeley Zoning Board:

I have had the opportunity to review Ido and Tamar Oppenheimer's original renovation plans and the renovation plans they are now proposing subsequent to modifications. I support the Oppenheimer's desire to upgrade the rather dilapidated structure they have been living in for the last 32 years. Indeed, based on my experience as a long-term Berkeley resident, I believe their project will provide the upgrade in our neighborhood that, overall, will be positive for our little section of California Street between Virginia and Lincoln. In sum, I believe the renovation will result in a positive contribution for their family and for our neighborhood.

My wife and I moved into 1636 California Street in April 1983. During the intervening 32 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years pass our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 32 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

ATTACHMENT 4  
ZAB 10-08-2020  
Page 3 of 15

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

Thank you,

A handwritten signature in black ink, appearing to read "Jeff Malmuth". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jeff Malmuth

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street

To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLRS1 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth

November 17, 2020

To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz  
1639 California St.  
Berkeley, 94703

Nicholas Armour, City Project Planner

This is an addendum/clarification of my previous letter regarding the planned project at 1647 California St. of Ido and Tamar Oppenheimer. While I am pleased that plans to upgrade the property are in progress, the current design will have serious consequences affecting my property:

1) I will lose nearly all the light from the south for most of winter.

2) The lack of light will significantly impact the extra warmth I enjoy during those darker days. I expect an added burden relating to costs of heating the house when I am home will have a financial as well as ecological impact. As I am now retired, I am often spending more daylight hours at home, especially in the southward-facing room. Ido and Tamar are aware of my disappointment in their design, in spite of minor alterations, shade studies demonstrate loss of light.

I don't know how much my dislike of this aspect of the plans will effect City of Berkeley decisions, I am requesting some consideration of the current plan.

Sincerely,

Barbara Fritz  
1639 California St.  
(510) 508-1822  
bfritz@sonic.net

**Regarding Opposition to Application of Remodel at 1643/1647 California Street**

- The proposed 3,800 sq ft, 6-bathroom, 3-level house is very excessive for the neighborhood. It will have a significant negative impact on my privacy and enjoyment of my patio and kitchen. I feel that the quality of my life will actually be degraded if this project is permitted to go forward as currently presented.
- The impact on the enjoyment of my patio will be significant. Currently, the area is very private. I have trees and bushes along the fence that divides my property with that of 1609 Virginia Street. The other three sides of the patio are flanked by the back wall of my house and the walls of my two garages. I mainly see the sky when looking up. If the owners to my north are allowed to build their proposed remodel, I would see a looming structure looking down on me and my guests instead of the sky. As I have a fairly small interior (about 800 sq ft), and we often spill onto the patio in nice weather, my privacy and the pleasure in my home would be greatly diminished. Also, privacy in my kitchen would be impacted as the remodel would allow the owners to look down into that area of my house.
- I don't think the owners of this remodel project know the comfort and enjoyment that their neighbors take from the use of their outdoors areas. They almost never use their backyard and have not developed it with sitting areas, plants, etc. That is their choice of course, but I just don't think that they realize what they are asking of their neighbors. Especially during Covid 19, I regularly have family and friends for gatherings on my patio, and we all enjoy it immensely. The lack of privacy would clearly have a very negative impact on our gatherings.
- I have invested a large amount of money in a remodel of my house/duplex: new roof line, siding, windows, and new foundation on 3 sides of the structure. I also remodeled the interior, keeping it two units and one level. My remodel did not require any variances or use permits as I kept the original footprint. The size of the owner's "duplex" at 1643/1647 California is almost identical to the size of my duplex, but my lot size is larger. I feel that I improved my property and kept within the size and spirit of the neighborhood. I think that the value and visual appeal of my house will significantly decrease with a very large adjacent house impinging on the privacy of my home.
- I know the neighbors at 1609 Virginia Street also considered the spirit and welfare of the neighborhood and the impact on neighbors in their extensive remodel and improvement of their property.
- I think that the large number of special permits that the proposed remodel needs shows that this new project is not appropriate for the neighborhood. The house would be the largest on the block and on the smallest lot. The city planning staff was concerned about the number of Use Permits and Variance requested. They also noted that the elimination

of the top floor would still allow for a large house (2,600 sq ft) for the occupants and would not impact the neighbors in such a negative way.

- I think that parking on California Street could be negatively impacted with this remodel. It is probably fine to have no off street parking for a small house, but this proposed huge house may need more cars for the occupants.
- My son and family live in south Berkeley and will inherit my duplex. I have shown him this remodel plan, and he thinks it is excessive and will decrease the value/appeal of my property.
- I am concerned that the proposed remodel is not for the owners use, and that they simply want to maximize their profit for resale. They have lived in a 1,300 sq ft house for more than 30 years while raising four children, and now they want to suddenly increase the size three times to 3,800 sq ft!
- In all of their submissions, the owners have been untrue concerning my feelings about their remodel when they indicated that I support their plan. They knew that I had significant concerns. I absolutely do not in any way support their plan and have never told them that I do. I am very disappointed about their misrepresentation since we have always had a good relationship. When the owners initially approached me about this remodel, they emailed me a narrative summary of the project. When I said that I couldn't follow the write up, I asked if they were planning a third floor. They replied "Yes" and then offered a blueprint of the project. I was now able to see that I could not endorse it. Because of how I was approached, I am now concerned that the neighbor at 1639 California Street does not realize that she will have no sun on the south side of her house during several months of the winter. Depending on when/what she saw of the remodel plans, there could be a number of things that she would not like.

Because the latest resubmission does not include many of the modifications to the plans that were requested by the City Planning Staff, and it does not consider the quality of life of the neighbors or their property values, I ask the Zoning Adjustment Board to deny or request a major modification to the plan before resubmission and continuation of the hearing.

Sincerely,

Kay Bristol  
1651 California Street  
Berkeley CA, 94703

(510) 872-9334



November 14<sup>th</sup>, 2021

To: City of Berkeley Project Planner (Nicholas Armour) & Berkeley Zoning Adjustments Board  
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Berkeley ZAB members and Mr. Armour,

As owners and residents of 1609 Virginia St., the property directly east of (behind) 1643/1647 California St., we are deeply opposed to the scope of the proposed project. We request that the Zoning Adjustment Board either deny the application outright or ask for a major modification to the plan before resubmission and continuation of the hearing on this matter. We want to clarify that this request is entirely based on the plans and scope of the proposed project and on the impact these would have on our property and the neighborhood; we have had cordial neighborly relations with the project proponents for more than 20 years and hope that will continue, but we simply cannot agree with the proposed project.

Our request is based on multiple factors:

- the impact of the proposed project on privacy, light and air to us and other adjacent neighbors,
- zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application,
- the out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood,
- the removal of two small living units, in favor of one large home and an apartment, and
- the fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood.

**The proposed expansion from a one-story duplex to a three-story structure (two floors and a fully finished basement) would bring substantial negative impact to our privacy, air and light, and in so doing would be detrimental to the peace and comfort of our family. The value of our home both currently and considering future potential improvements would also be substantially reduced, thus causing injury to our property.** This harm would stem specifically from the proposed upper floor. It is also the proposed upper floor that is the primary source of negative impact to the other adjacent properties

1. The substantial reduction in light our property and home would experience is evident in the third iteration of the shadow study Mr. Armour had to request from the applicants. This shadow study shows a considerable decrease in afternoon/evening summer sunlight into our house (through both the kitchen windows on the north and west sides, and through the bedroom windows on the north side) as well as into our deck and yard. The shadow study also shows reduced winter-time light into our accessory structure which is a bedroom/office.
2. In terms of privacy, the windows from the bedroom and bathroom on the east side of the proposed upper floor would look down not only into our yard and onto our back deck, but also directly into the very large northern windows of our kitchen and bedroom (~58 sq. ft. of glazing)

(and through the bedroom, into our bathroom), as well as into the bedroom of our backyard cottage. (Please see pictures at the end of this letter.)

3. Given the small footprint of our house, we use our yard daily, almost year-round, for eating, socializing and relaxing. As we have remodeled our home and yard we have created multiple, small outdoor spaces that we use for various purposes as if these were outside rooms. Our yard is very much an extension of our house. As a result, the harm to privacy and light from the proposed project would have a tremendously negative impact on us.

Together, these impacts to privacy and light would damage both our peace and comfort, and thus our quality of life. The proposed project would also be injurious to the value of our property and to the value of the substantial improvements we have made to our property over the years.

**The proposed project is inconsistent with the lot size and the neighborhood as shown by the large number of adjustments (UP/AUP/Variance) that would be needed to proceed.** When we were searching for a home to purchase more than 20 years ago, we educated ourselves about zoning ordinances -- as we feel all property owners have the responsibility to do -- so that we would understand both the limitations we might face on future renovations to our property, and the potential for construction and/or limitations on construction of the adjacent properties. It was in part with the knowledge of the non-conforming nature (lot coverage, density and setbacks) of this neighbor's duplex that we purchased our home. We similarly considered those limitations a few years ago when we remodeled our home to maximize our light and privacy without ourselves seeking any zoning adjustments. We knew what the zoning regulations would and would not allow our neighbors to do on their properties, and we redesigned our home with those parameters in mind.

Now the application before you appears to seek a total of seven UP/AUP/variances. These permits and variances are being sought to overcome the limitations of the small lot size of their property and to allow construction that would dramatically lower the value of our house. The list of requested adjustments are:

1. UP for enlarging a non-conforming density unit,
2. UP for addition/expansion of non-conforming lot coverage,
3. AUP for extension of non-conforming rear setback,\*
4. AUP for extension of non-conforming front setback,
5. AUP for addition over 600 sq. ft.,
6. AUP for creation of 5<sup>th</sup> bedroom, and
7. Variance for exceeding lot coverage.

\*Note that while the applicants claim in their final submission that the rear setback AUP is no longer needed because they eliminated the rear deck on the upper floor, we wonder whether this is correct given that they still propose to build the full depth of the new basement level within the setbacks. Even if the AUP for extension of non-conforming rear setback is no longer needed, the application would still be asking for six adjustments or exceptions to zoning ordinances

Just the sheer number of exceptions to zoning ordinances requested would seem to be a clear indication that the scope of the proposed project is beyond what is appropriate for this lot and neighborhood.

This exact point was raised by the city project planner in his response to the initial submission, "staff has concerns with numerous Use Permits and Variances requested to expand existing structure." Nevertheless, the applicants' resubmissions failed to heed his suggestions.

Considering the circumstances of this particular case and the injury that would be caused to our peace and comfort as well as to our property and improvements thereto, we hope the ZAB will find it cannot approve the requested use permits and variance.

**The proposed remodel is out of character with the neighborhood while also reducing the amount of small, lower cost units on the block.** Our neighborhood is zoned as R-2 Restricted Two-Family Residential, with the purpose being to promote medium density residential areas with reasonably open and spacious development including a range of housing types ranging from single-family, to duplexes to small apartment structures. The R-2 zoning exists to "make available housing for persons who desire a range of housing choice with a relatively large amount of open space... (and)... to protect adjacent properties from unreasonable obstruction of light and air."

The property with the proposed remodel was originally built in 1924 as a 1,342 square foot duplex with a 60 sq. ft. porch and no off-street parking on a 3,142 sq. ft lot. This was a 44.6 % lot coverage, exactly the maximum allowed for a single-story structure. Such a duplex on a small lot is a perfect way to incorporate lower income units into a neighborhood. In 1952, the storage sheds (167 sq. ft. not shown on the maps in the submission) were added, further increasing lot coverage to 49.94% and thus making this a non-conforming property.

The proposal now before the board seeks to further expand the density on this lot by allowing one of the largest houses on the block to be built on one of the smallest lots on the block -- without requiring any off-street parking. The proposal seeks permission for two small (667 sq. ft.) units to be replaced by a 3,763 sq. ft structure comprising a very large home (3,262 sq. ft.) and a tiny (501 sq. ft.) apartment. We feel that this proposal does not fit with the purpose and parameters of the zoning for our neighborhood.

The project proponents try to justify their high-density proposal by saying that multi-story homes are normal, that they don't have the space to add off-street parking, and that they are removing the storage sheds to create more yard space. Specifically, the application seems to suggest that the owners should somehow be allowed to make a *quid pro quo* trade by removing the added 167 sq. ft. storage sheds, and instead adding another floor to their structure. This makes no sense given that the initial adjustment allowed to construct the storage sheds had absolutely no impact on the neighbors, while adding another floor on top of the existing roof very much does.

The concern around the proposed structure being too large was noted in the response from the city project planner who asked for "significant modification to the proposal" and recommended elimination of the entire upper floor to eliminate impact to the neighbors. Unfortunately, the proposal resubmission ignored this suggestion.

The property in question is extremely run down and clearly in need of significant repair. While we, like many others in the neighborhood, would therefore like to see the property maintained and renovated, we do not feel it is appropriate to suggest – as the application does – that it is impossible to remodel the property if this application for a massive three-level house is not approved. Both we and other neighbors have invested substantial amounts into extensive remodels that did not adversely impact adjacent properties or require zoning adjustments.

For the above reasons we ask that the Zoning Adjustment Board either deny this proposal outright or request a major modification, in line with the changes originally suggested by the city project planner, before resubmission and continuation of the hearing. A proposal that eliminates the top floor and retains the fully finished basement would still double the size of the living space to ~2700 sq. ft. and would thus still be one of the largest houses on the block, while having no impact on the neighbors.

Most sincerely,

Adam Safir  
[cederfir@hotmail.com](mailto:cederfir@hotmail.com)  
510-725-9350

Anna Cederstav  
[acederstav@gmail.com](mailto:acederstav@gmail.com)  
510-847-3371



Picture 1: View from our north-facing bedroom window at eye level. The beige house beyond our red garage is the one proposed for expansion. The current windows on that property are not visible from our bedroom, but windows on a top story would look directly into our bedroom.



Picture 2: View from our west-facing kitchen window at eye level. The beige and stucco house behind their metal-bar gymnastics structure is where a third level blocking the trees and sky would be built.



Picture 3: View from our north-facing kitchen window at eye level. The current windows on back of 1643/1647 California house are not visible from our kitchen, but the windows on a top story would look directly into our kitchen.

**Armour, Nicholas**

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**From:** Kay Bristol <kbristol@berkeley.edu>  
**Sent:** Friday, June 25, 2021 2:26 PM  
**To:** Armour, Nicholas  
**Subject:** Remodel ZP2021-0001

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

Dear Mr. Armour

I am the neighbor to the south of the proposed remodel ZP2021-0001 at 1643/1647 California St. I own the small duplex at 1651/1653 California St. I live at 1651 California St. and I really do not want this remodel to be approved. As Anna Cederstav and Adam Safir said, it would adversely effect the light, privacy, appeal and probably the property value of my duplex. I feel the submission of this remodel was misleading as to my support of it.

Anna, Adam and I have each spent a large amount of money remodeling our properties in their original footprint. We do not want the aesthetics or resale value of efforts to be diminished.

If possible, could you please advise me if this remodel project moves forward?

Regards,  
Kay Bristol  
1651 California St,  
Berkeley, CA 94703  
510-872-9334

June 25<sup>th</sup>, 2021

To: Project Planner, City of Berkeley (Nicholas Armour)  
RE: 1643/1647 California Street, Application #ZP2021-0001

Dear Mr. Armour,

As the owners and residents of 1609 Virginia St., the property directly east of the above cited proposed project, we would like to express our opposition to the proposed remodel of 1643/1647 California St. The proposed project requests multiple zoning exceptions/variances to enable construction of a three-story house (two stories plus a finished basement) in place of the current one-story structure.

While we recognize that the house in question is in need of repairs, we do not agree with the proposed expansion. The proposed remodel would bring significant adverse impacts to the light, air, and privacy of our house and yard, which in turn would dramatically reduce our property value.

When we purchased our home in 1999, we researched the zoning regulations to determine whether adjoining properties could be remodeled in ways that would harm our property value. We learned that the excessive lot coverage and non-compliance with rear property setbacks meant that neither of the structures due west of ours, should be allowed to undergo substantial expansions. We can only assume that the Oppenheimers did similar research before purchasing their house, and thus knew they would likely not be allowed to do this kind of remodel.

We know from personal experience how strict the City of Berkeley is with variances and rear property setbacks. In 2006, we wanted to insulate the ceiling in our backyard cottage. Yet the City would not allow us to raise the roof of that structure by the mere couple of inches required to install the insulation required by code. We can thus only assume that the City will absolutely not permit the substantial variances requested for this project

For the record, we note that the application states that "We also have support of both neighbors on each side." This is incorrect. There are three neighbors in question. We most certainly do not support the proposed project and we know that the neighbor immediately to the south is similarly opposed, again because of the proposed height increase, privacy and lot coverage issues.

Please contact us with any follow-up questions you may have, as well as to let us know if this project advances, in which case we would plan to submit more detailed comments.

Most sincerely,

Adam Safir  
[cederfir@hotmail.com](mailto:cederfir@hotmail.com)  
510-725-9350

Anna Cederstav  
[acederstav@gmail.com](mailto:acederstav@gmail.com)  
510-847-3371

## SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

ZAB 12-09-2021

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**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Attn ZAB Secretary: Comments for 12/9 hearing on 1643-1647 California Street, Use Permit #ZP2121-00001

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**From:** Anna Cederstav AIDA <acederstav@gmail.com>  
**Sent:** Tuesday, December 7, 2021 11:24 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Subject:** Attn ZAB Secretary: Comments for 12/9 hearing on 1643-1647 California Street, Use Permit #ZP2121-00001

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

Dear Members of the Zab -

These comments supplement the ones we have already submitted related to 1643-1647 California Street, Use Permit #ZP2021-000, and highlight our concerns regarding the process that the City of Berkeley required for the proposed project because of COVID.

We feel that the COVID- adjusted process applied in this case may have inappropriately reduced informed public participation. We would therefore like to request that if this project is for some reason resubmitted, the city require posting and adequate transfer of information, including a requirement to proactively share detailed project plans with all neighbors if any variances are being sought.

Because the city in this case did not require the placement of yellow posters illustrating project plans on the property for the duration of a remodel permitting process as per past city practice, neighbors had no easy visual access to project plans, and were thus not able to easily gain a sense of how the project could impact them. Berkeley is a very diverse community, and it cannot be assumed that everyone has a computer they can easily use to track down information on a website, or the time and bandwidth to do so, especially in the midst of a pandemic.

While the city did mail neighborhood residents to alert them of the project, those mailers did not contain the copy of the project plans or even show on a map which property was impacted. Only because we proactively checked the website did we realize the property was that of our neighbors around the corner. Moreover, the mailers were one-time events spaced far apart that could have easily been missed or forgotten. We do not feel two mailers are an appropriate substitute for an obvious visual reminder posted in the neighborhood during a period of many months.

By replacing the posting requirement with the mailers, the city in effect transferred the responsibility for investigating the project onto the potentially affected parties instead of requiring project proponents to adequately inform the neighborhood. This shift in responsibility seems inappropriate when projects may significantly impact neighbors' property and wellbeing. The burden of ensuring that the neighborhood is informed should lie with the project proponent.

Moreover, the timing of the mailers was far from ideal and did not promote informed participation. The first mailer came shortly after the initial submission, which in this case was many months before the application was complete and ready for review, while the second mailer was sent only a couple of weeks in advance of the ZAB hearing. In effect, a neighbor who is out of town or temporarily living



SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

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elsewhere for a few weeks could be completely unaware that the project proposal almost a year ago is now up for hearing. Page 2 of 8

By not guaranteeing full access to information and informed participation, the process applied opened up opportunities for mistakes to be made, and misunderstandings to be perpetuated. In our case, we were shocked to see the project proposal describing the impact to neighboring properties as being “negligible.” One of our neighbors told us that she believed that the project seeks only a “small number” of variances, clearly indicating a lack of understanding of the project scope. Perhaps most importantly, the initial project submission claims that “the proposed project has support from the adjoining neighbors” while the first resubmission similarly asserts that “We also have support of both neighbors on each side.” Both these statements are patently false. To the contrary, of the three adjoining neighbors, two are extremely opposed to the project, and the third seems to express interest in the remodel mostly because of a desire to facilitate the very significant repairs required at the property, while still being very unhappy about the proposed top floor.

We hope that the ZAB and City of Berkeley will take these comments into account and in the event that there is a resubmission of this application, as well as for others that may be undergoing a similar process, reinstate the requirements of posting and communication with neighbors as integral parts of the application.

Thank you,

Sincerely,

Anna Cederstav and Adam Safir  
1609 Virginia Street  
Berkeley, CA 94703

## SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

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November 14<sup>th</sup>, 2021

To: City of Berkeley Project Planner (Nicholas Armour) & Berkeley Zoning Adjustments Board  
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Berkeley ZAB members and Mr. Armour,

As owners and residents of 1609 Virginia St., the property directly east of (behind) 1643/1647 California St., we are deeply opposed to the scope of the proposed project. We request that the Zoning Adjustment Board either deny the application outright or ask for a major modification to the plan before resubmission and continuation of the hearing on this matter. We want to clarify that this request is entirely based on the plans and scope of the proposed project and on the impact these would have on our property and the neighborhood; we have had cordial neighborly relations with the project proponents for more than 20 years and hope that will continue, but we simply cannot agree with the proposed project.

Our request is based on multiple factors:

- the impact of the proposed project on privacy, light and air to us and other adjacent neighbors,
- zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application,
- the out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood,
- the removal of two small living units, in favor of one large home and an apartment, and
- the fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood.

**The proposed expansion from a one-story duplex to a three-story structure (two floors and a fully finished basement) would bring substantial negative impact to our privacy, air and light, and in so doing would be detrimental to the peace and comfort of our family. The value of our home both currently and considering future potential improvements would also be substantially reduced, thus causing injury to our property.** This harm would stem specifically from the proposed upper floor. It is also the proposed upper floor that is the primary source of negative impact to the other adjacent properties

1. The substantial reduction in light our property and home would experience is evident in the third iteration of the shadow study Mr. Armour had to request from the applicants. This shadow study shows a considerable decrease in afternoon/evening summer sunlight into our house (through both the kitchen windows on the north and west sides, and through the bedroom windows on the north side) as well as into our deck and yard. The shadow study also shows reduced winter-time light into our accessory structure which is a bedroom/office.
2. In terms of privacy, the windows from the bedroom and bathroom on the east side of the proposed upper floor would look down not only into our yard and onto our back deck, but also directly into the very large northern windows of our kitchen and bedroom (~58 sq. ft. of glazing)

## SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

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(and through the bedroom, into our bathroom), as well as into the bedroom of our backyard cottage. (Please see pictures at the end of this letter.)

3. Given the small footprint of our house, we use our yard daily, almost year-round, for eating, socializing and relaxing. As we have remodeled our home and yard we have created multiple, small outdoor spaces that we use for various purposes as if these were outside rooms. Our yard is very much an extension of our house. As a result, the harm to privacy and light from the proposed project would have a tremendously negative impact on us.

Together, these impacts to privacy and light would damage both our peace and comfort, and thus our quality of life. The proposed project would also be injurious to the value of our property and to the value of the substantial improvements we have made to our property over the years.

**The proposed project is inconsistent with the lot size and the neighborhood as shown by the large number of adjustments (UP/AUP/Variance) that would be needed to proceed.** When we were searching for a home to purchase more than 20 years ago, we educated ourselves about zoning ordinances -- as we feel all property owners have the responsibility to do -- so that we would understand both the limitations we might face on future renovations to our property, and the potential for construction and/or limitations on construction of the adjacent properties. It was in part with the knowledge of the non-conforming nature (lot coverage, density and setbacks) of this neighbor's duplex that we purchased our home. We similarly considered those limitations a few years ago when we remodeled our home to maximize our light and privacy without ourselves seeking any zoning adjustments. We knew what the zoning regulations would and would not allow our neighbors to do on their properties, and we redesigned our home with those parameters in mind.

Now the application before you appears to seek a total of seven UP/AUP/variances. These permits and variances are being sought to overcome the limitations of the small lot size of their property and to allow construction that would dramatically lower the value of our house. The list of requested adjustments are:

1. UP for enlarging a non-conforming density unit,
2. UP for addition/expansion of non-conforming lot coverage,
3. AUP for extension of non-conforming rear setback,\*
4. AUP for extension of non-conforming front setback,
5. AUP for addition over 600 sq. ft.,
6. AUP for creation of 5<sup>th</sup> bedroom, and
7. Variance for exceeding lot coverage.

\*Note that while the applicants claim in their final submission that the rear setback AUP is no longer needed because they eliminated the rear deck on the upper floor, we wonder whether this is correct given that they still propose to build the full depth of the new basement level within the setbacks. Even if the AUP for extension of non-conforming rear setback is no longer needed, the application would still be asking for six adjustments or exceptions to zoning ordinances

Just the sheer number of exceptions to zoning ordinances requested would seem to be a clear indication that the scope of the proposed project is beyond what is appropriate for this lot and neighborhood.

## SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

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This exact point was raised by the city project planner in his response to the initial submission, "staff has concerns with numerous Use Permits and Variances requested to expand existing structure."

Nevertheless, the applicants' resubmissions failed to heed his suggestions.

Considering the circumstances of this particular case and the injury that would be caused to our peace and comfort as well as to our property and improvements thereto, we hope the ZAB will find it cannot approve the requested use permits and variance.

**The proposed remodel is out of character with the neighborhood while also reducing the amount of small, lower cost units on the block.** Our neighborhood is zoned as R-2 Restricted Two-Family Residential, with the purpose being to promote medium density residential areas with reasonably open and spacious development including a range of housing types ranging from single-family, to duplexes to small apartment structures. The R-2 zoning exists to "make available housing for persons who desire a range of housing choice with a relatively large amount of open space... (and)... to protect adjacent properties from unreasonable obstruction of light and air."

The property with the proposed remodel was originally built in 1924 as a 1,342 square foot duplex with a 60 sq. ft. porch and no off-street parking on a 3,142 sq. ft. lot. This was a 44.6 % lot coverage, exactly the maximum allowed for a single-story structure. Such a duplex on a small lot is a perfect way to incorporate lower income units into a neighborhood. In 1952, the storage sheds (167 sq. ft. not shown on the maps in the submission) were added, further increasing lot coverage to 49.94% and thus making this a non-conforming property.

The proposal now before the board seeks to further expand the density on this lot by allowing one of the largest houses on the block to be built on one of the smallest lots on the block -- without requiring any off-street parking. The proposal seeks permission for two small (667 sq. ft.) units to be replaced by a 3,763 sq. ft. structure comprising a very large home (3,262 sq. ft.) and a tiny (501 sq. ft.) apartment. We feel that this proposal does not fit with the purpose and parameters of the zoning for our neighborhood.

The project proponents try to justify their high-density proposal by saying that multi-story homes are normal, that they don't have the space to add off-street parking, and that they are removing the storage sheds to create more yard space. Specifically, the application seems to suggest that the owners should somehow be allowed to make a *quid pro quo* trade by removing the added 167 sq. ft. storage sheds, and instead adding another floor to their structure. This makes no sense given that the initial adjustment allowed to construct the storage sheds had absolutely no impact on the neighbors, while adding another floor on top of the existing roof very much does.

The concern around the proposed structure being too large was noted in the response from the city project planner who asked for "significant modification to the proposal" and recommended elimination of the entire upper floor to eliminate impact to the neighbors. Unfortunately, the proposal resubmission ignored this suggestion.

**SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA**  
**ZAB 12-09-2021**  
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The property in question is extremely run down and clearly in need of significant repair. While we, like many others in the neighborhood, would therefore like to see the property maintained and renovated, we do not feel it is appropriate to suggest – as the application does – that it is impossible to remodel the property if this application for a massive three-level house is not approved. Both we and other neighbors have invested substantial amounts into extensive remodels that did not adversely impact adjacent properties or require zoning adjustments.

For the above reasons we ask that the Zoning Adjustment Board either deny this proposal outright or request a major modification, in line with the changes originally suggested by the city project planner, before resubmission and continuation of the hearing. A proposal that eliminates the top floor and retains the fully finished basement would still double the size of the living space to ~2700 sq. ft. and would thus still be one of the largest houses on the block, while having no impact on the neighbors.

Most sincerely,

Adam Safir  
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510-725-9350

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Picture 1: View from our north-facing bedroom window at eye level. The beige house beyond our red garage is the one proposed for expansion. The current windows on that property are not visible from our bedroom, but windows on a top story would look directly into our bedroom.

**SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA**

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Picture 2: View from our west-facing kitchen window at eye level. The beige and stucco house behind their metal-bar gymnastics structure is where a third level blocking the trees and sky would be built.



Picture 3: View from our north-facing kitchen window at eye level. The current windows on back of 1643/1647 California house are not visible from our kitchen, but the windows on a top story would look directly into our kitchen.

SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

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**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Attn: ZAB Secretary - Comments for December 9th ZAB Public Hearing regarding ZP2021-0001  
**Attachments:** Response to Openheimer Zoning Application.pdf

**From:** Adam Safir <cederfir@hotmail.com>  
**Sent:** Thursday, December 2, 2021 4:14 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Subject:** Attn: ZAB Secretary - Comments for December 9th ZAB Public Hearing regarding ZP2021-0001

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

Dear ZAB members,

Attached please find our comments related to the proposed project at 1643-1647 California Street (ZP2021-0001). Please note that these same comments were submitted to the project planner Nicholas Armour.

Sincerely,

Adam Safir & Anna Cederstav

NEXT ITEM IS 1643 CALIFORNIA STREET, 1643 AND 47 CALIFORNIA STREET. SAMANTHA, WHO IS OUR PLANNER ON THIS?

>> NICK ARMOUR.

>> LET ME SHARE MY SCREEN FOR A SECOND. ALL RIGHT. GOOD EVENING, WE ARE DISCUSSING USE PERMITS ZP2021-0001 AT 1643 AND 1647 CALIFORNIA STREET TO CREATE A NEW LOWER STOREY BASEMENT AND CONSTRUCT A NEW SECOND STOREY RESULTING IN 3,700 DUPLEX. THERE IS A USE PERMIT TO ENLARGE A CLEAR CONFORMING STANDARD. A STRUCTURE THAT IS NONCONFORMING BY REASONS OF THE ALLOWABLE DENSITY. ADMINISTRATIVE USE PERMITS TO HORIZONTALLY EXTEND TWO NONCONFORMING YARDS FRONT AND REAR AND MAJOR RESIDENTIAL A DECISION ANOTHER TO ALLOW OVER 4 FEET IN HEIGHT AND ADMINISTRATIVE USE PERMIT TO CONSTRUCT A FIFTH BEDROOM. THIS SUBJECT SIT ON THE EAST SIDE OF CALIFORNIA STREET AT THE CORNER OF CALIFORNIA AND VIRGINIA STREETS. SURROUNDING AREA CONSISTS OF ONE AND TWO-STOREY FAMILY DWELLINGS. SUBJECT PROPERTY IS A SMALL RECTANGULAR LOT. ORIENTED IN THE EAST/WEST DIRECTION AND APPROXIMATELY 3100 SQUARE FOOT IN MAIN AREA. ORIGINALLY CONSTRUCTED AS A DUPLEX. AT SOME POINT IN THE PAST THE KITCHEN OF THE LEFT SIDE UNIT WHICH IS 1643 CALIFORNIA WAS REMOVED WITHOUT PERMITS AND A DOORWAY CONVERTED THE HOUSE TO A SINGLE-FAMILY HOUSE WITHOUT THE NECESSARY APPROVAL OF A USE PERMIT TO REMOVE THE DWELLING. THE PROPERTY AND STRUCTURE IS CURRENTLY NONCONFORMING. IT'S NONCONFORMING TO THE LOT COVERAGE



AT 50% COVERAGE WHERE 45% IS THE LIMIT FOR ONE-STOREY STRUCTURE. ONE UNIT IS PERMITTED. THIS IS PRIOR TO THE UNAUTHORIZED REMOVAL OF 1643 AND THE STRUCTURE IS LOCATED WITHIN THE FRONT REAR AND LEFT SIDE YARDS. THE PROJECT WOULD MAKE SEVERAL ALTERATIONS. THE RESIDENTIAL STRUCTURE WOULD BE SHIFTED BY ONE INCH TO THE SOUTH FOR A SIDE SETBACK. PROPOSAL WOULD RESTORE THE LEFT DWELLING UNIT AND SHRINK IT TO 105 SQUARE FEET. THE FLOOR PLAN OF THE RIGHT UNIT WHICH IS 647 CALIFORNIA WOULD BE MODIFIED TO SERVE AS A MAY BE LIVING AREA WITH AN OPEN FLOOR PLAN KITCHEN, DINING, LIVING ROOM AND FULL BATHROOM. IT WILL CREATE A NEW BASEMENT LEVEL THAT IS SERVING 1647 CALIFORNIA. THIS WOULD ADD A NEW SECOND LEVEL ON TOP OF THE EXISTING STRUCTURE SOLELY SERVING 1647 CALIFORNIA AND STEP IN AT THE FRONT TO PROVIDE A BALCONY AND COMPLY WITH THE REAR YARD SET BACK. 1647 WOULD EXPAND BY 2,612 SQUARE FOOT. STAFF HAS RECEIVED SEVERAL COMMUNICATIONS REGARDING THIS PROJECT BOTH IN SUPPORT AND ON -- OPPOSITION. CONCERNS INCLUDE THE NEIGHBORS TO THE NORTHEAST AND SOUTH RAISING CONCERNS DUE TO THE PROPOSED INCREASE IN SIZE. CONCERNS FROM THE SAME NEIGHBORS REGARDING THE IMPACTS TO PRIVACY, SHADOWS AND LIGHT ACCESS FROM THE TWO-STOREY DESIGN AND INCREASE IN HEIGHT AND CONCERNS THAT THE PROJECT IS OUT OF SCALE WITH THE NEIGHBORHOOD AND THE SURROUNDING PROPERTIES ESPECIALLY GIVEN THE EXISTING NONCONFORMITY'S ON THE PROPERTY. SUPPORT OF THE APPLICATION INCLUDES THE IMPROVED STRUCTURE AND PROJECT SITE AND

RESTORATION OF THE SECOND DWELLING UNIT. THIS PROPERTY -- OR THIS PROJECT IS CONSIDERED TO BE SB-330 COMPLIANT AND THIS DECEMBER 9TH HEARING REPRESENTS THE FIRST PUBLIC HEARING FOR THE PROJECT. THE CITY CAN HOLD UP TO FOUR ADDITIONAL PUBLIC HEARINGS BUT ONE MUST BE CONCERNED FOR COUNCIL APPEAL WHEN NECESSARY. SIMILAR TO THE LAST PROJECT THAT WE DISCUSSED HERE, THE HOUSING ACCOUNTABILITY ACT IS A MAJOR COMPONENT OF THIS APPLICATION. THIS REQUIRES IF THE ZAB IS GOING TO DENY A PROJECT, IT MUST MAKE SPECIFIC WRITTEN FINDINGS SUPPORTED BY SUBSTANTIAL EVIDENCE THAT IT HAS A SIGNIFICANT IMPACT ON PUBLIC SAFETY. OR THERE IS NO FEASIBLE METHOD TO MITIGATE OR AVOID THE SPECIFIC ADVERSE IMPACTS. THIS EXISTING STRUCTURE IS NONCONFORMING. THE LOT COVERAGE DENSITY AND YARDS. THE PROPOSED CONDITIONS WOULD CONTINUE THE NONCONFORMITIES THUS IT DOES NOT COMPLY WITH THE EXISTING STANDARDS. ITAL IS ELIGIBLE FOR ZONING ADJUSTMENTS AND THERE ARE NO OBJECTIVE STANDARDS OR FINES. SO THEREFORE THE CITY MAY NOT DENY THE PROJECT OR APPROVE IT TO REDUCE DENSITY WITHOUT BASE THE DECISION ON THE FINDINGS. HOWEVER THE CITY MAY REQUEST MODIFICATIONS TO MITIGATE IMPACTS OR AVOID ADVERSE IMPACTS ON SURROUNDING NEIGHBORING PROPERTIES SO LONG THE PROJECT IS NOT APPROVED AS A REDUCED DENSITY. THERE ARE SEVERAL FINDINGS REQUIRED TO BE MADE IN ORDER TO APPROVE THE PROJECT. FIRSTLY, THIS INCLUDES AN EXPANSION OF A BUILDING THAT IS NONCONFORMING TO THE RESIDENTIAL LOTS COVERAGE. THE CURRENT SITE IS AT 50%

COVERAGE WHERE 45% IS THE LIMIT FOR THIS PROPERTY. THIS ADDITION WOULD REMOVE AN EXISTING SHED IN THE REAR YARD WHICH REDUCES THE LOT COVERAGE TO 42% AND DECREASE THE ALLOWABLE LOT COVERAGE 40%. BECAUSE THIS WOULD REDUCE IT FROM 5% TO 4% OVER THE ALLOWABLE LIMIT, THIS -- THIS ADDITION IS LOCATED OVER THE EXISTING COVERED AREA, IT DOES NOT INCREASE THE NONCONFORMING LOT COVERAGE. THE ADDITION DOES COMPLY WITH THE AVERAGE MAXIMUM HEIGHT OF 28 FEET. NEXT, THIS ADDITION IS ON A SITE OVER THE RESIDENTIAL DENSITY. BUT THAT -- BUT THAT IS ALLOWED THROUGH THE USE PERMIT IF IT DOESN'T EXCEED THE HEIGHT LIMIT. AS THIS PROPOSES TO RESTORE THE DENSITY TO TWO UNITS, IT DOES NOT INCREASE THE DENSITY ON THE SITE AND COMPLY WITH THE HEIGHT LIMIT. THIS PROJECT IS PROPOSING TO VERTICALLY EXTEND OR ALTER PORTIONS OF THE BUILDING THAT DOES NOT ENCROACH INTO NONCONFORMING YARDS. IT'S NONCONFORMING TO THE FRONT AND REAR AND SIDE YARD. THIS WOULD SHIFT IT A AN INCH TO EXPAND THE FRONT YARD EXISTING NONCONFORMITY BY GOING DOWN INTO THE BASEMENT AS WELL AS IF THE SECOND STOREY WOULD STEP BACK BY 3½ FEET, IT INCREASES HEIGHT IN THE NONCONFORMING SETBACK. IN THE REAR, THE SECOND STOREY WOULD COMPLY, BUT THE BASEMENT WOULD BE EXPANDED DOWN AT THE EXISTING NONCONFORMING REAR YARD. AS THE ENLARGEMENT WOULD COMPLY WITH THE PERMITTED USE OF THE PROPERTY AND THE VERTICAL EXPANSIONS WOULD NOT CAN [INDISCERNIBLE] ARE CONSIDERED PERMISSIBLE. THERE IS THE ADDITION OF A FIFTH BEDROOM. THIS

PROJECT PROPOSES TO INCREASE THE TOTAL BEDROOMS ON THE PROPERTY FROM FOUR TO FIVE BEDROOMS. THE ADDITION OF THE FIFTH BEDROOM WOULD NOT INTENSIFY THE USE OF THE RESIDENTIAL PROPERTY. THIS PROJECT ALSO PROPOSES THE MAJOR RESIDENTIAL ADDITION OVER 4 FEET HEIGHT AND THE ZAB MUST MAKE FINDINGS OF GENERAL NON-DETRIMENT IN THE R-2 ZONING DISTRICT. IT WOULD ADD 2429 SQUARE FEET TO THE EXISTING 1334 SQUARE FOOT COMPLEX. IT'S CONSIDERED NON-DETRIMENTAL BECAUSE IT WOULD ADD A SECOND LEVEL TO THE HOME. SECOND STOREY WOULD COMPLY WITH THE REQUIRED REAR YARD SETBACK. A BASEMENT IS PROPOSED TO BE ADDED WHILE THIS ADDS ADDITIONAL SQUARE FOOTAGE IT WOULD NOT -- IT WOULD MAINTAIN THE FIRST FLOOR LEVEL. THE NEIGHBORHOOD IS A MIX OF RESIDENTIAL UNITS OF SINGLE AND MULTI-FAMILY HOMES. EXISTING STRUCTURES IN THE NEIGHBORHOOD VARY FROM ONE TO TWO-STOREYS AND SUBJECT TO THE STANDARD CONDITIONS OF APPROVAL. BECAUSE THE PROJECT CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN ON, STAFF RECOMMENDS THE ZONING BOARD APPROVES SUBJECT TO FINDINGS AND CONDITIONS. THE ZAB COULD REQUIRE MODIFICATIONS TO REDUCE IMPACTS TO THE PROPERTY SO LONG AS IT'S NOT DENIED OR APPROVED AT A LOWER DENSITY. I CAN TAKE ANY QUESTIONS.

>> C. KAHN: GO AHEAD IGOR.

>> I. TREGUB: THANKS, NICK, FOR THAT DETAILED PRESENTATION.

OBVIOUSLY UNLIKE THE LAST PROJECT, THIS ONE JUST -- THE NATURE OF THE EXISTING CONDITIONS INTRODUCED SOME UNIQUE ATTRIBUTES

THAT HAVE TO BE DISCUSSED. BUT UNLIKE THE LAST PROJECT WE WENT THROUGH, I DIDN'T SEE A DISCUSSION IN THE STAFF REPORT REALLY, AROUND PRIVACY IMPACTS, SHADOW IMPACTS. AND I HAVE TO GO THROUGH 4. X SERIES OF DRAWINGS TO GET THE INFORMATION. SINCE ACCOUNT MAJORITY OF THE COMMENTS WITH CONCERNS AHAS WITH THIS REVOLVED AROUND SHADOWS, WHAT IS YOUR GENERAL RECOMMENDATION BASED ON THE IMPACTS WE'RE STUDYING?

>> THAT'S A GREAT QUESTION. WE DID LOOK AT SHADOW STUDIES AS THEY'RE SHOWN IN THE IMPACTS ON THE NEIGHBORS. GENERALLY WE SEE SHADOW IMPACTS FROM SECOND STOREY ADDITIONS. THE OTHER ISSUE IS THAT OUR CURRENT FINDINGS ARE NOT CONSIDERED OBJECTIVE AND THERE IS NO SPECIFIC FINDING ABOUT HOW MUCH SHADOW IMPACT ON A PROPERTY, WHAT THE PRIVACY IMPACTS MAY BE ON A SPECIFIC SITE. FOR AHA PURPOSES, IT'S NOT SOMETHING THAT CAN BE LOOKED AT TO OUR UNDERSTANDING.

>> C. KAHN: A FOLLOW-UP QUESTION, IGOR?

>> I. TREGUB: I WASN'T PLANNING ON IT, BUT, YEAH, THIS IS ONE OF THE FIRST PROJECTS WE'VE SEEN WHERE THE DISCUSSION ON SHADOWS AND PRIVACY IMPACTS LITERALLY WAS NOT IN THE STAFF REPORT. I UNDERSTAND THAT IT IS NOT SOMETHING UPON WHICH WE CAN BASE OUR DECISIONS AS THERE ARE NO OBJECTIVE STANDARDS. BUT GOING FORWARD AND MAYBE THIS IS A QUESTION ACTUALLY FOR SAMANTHA, IS THIS GOING TO BE THE PRACTICE THAT IT'S NOT GOING TO BE DISCUSSED IN STAFF REPORTS AT ALL?

>> THAT'S A GREAT QUESTION COMMISSIONER TREGUB. I DON'T HAVE AN ANSWER FOR YOU. OFF THE TOP OF MY HEAD. IT IS -- IT IS CHALLENGING BECAUSE THEY ARE NOT OBJECTIVE. AND I WOULD NEED TO LOOK A LITTLE MORE INTO THAT. I THINK I'M HEARING THAT THE BOARD WOULD LIKE TO SEE THOSE -- THAT ANALYSIS EVEN IF IT'S NOT SUBJECTIVE. EVEN IF IT'S NOT OBJECTIVE. SORRY.

>> I. TREGUB: I CAN'T SPEAK FOR MY COLLEAGUES, BUT WOULD I LIKE TO SEE THAT OR CONTINUE TO SEE THAT. MORE IMPORTANTLY, I THINK MEMBERS OF THE PUBLIC -- THEY WOULD BENEFIT FROM BOTH HEARING THAT DISCUSSION DURING STAFF PRESENTATIONS AND ALSO FOR THOSE THAT CAN'T COME TO THE MEETING OR EVEN THOSE WHO CAN IN PREPARATION FOR MEETING, IT WOULD BE HELPFUL FOR THEM TO UNDERSTAND THE ACTUAL IMPACT IF THEY LIVE IN ADJACENT PROPERTIES.

>> THANK YOU FOR THAT. AND I WILL TAKE THAT BACK AND WE'LL TALK ABOUT THAT.

>> C. KAHN: I THINK, TO ADD MY TWO CENTS WORTH, THAT AS NICK POINTED OUT, WE CAN'T DEMAND THAT THE APPLICANT REDUCE THE DENSITY, NUMBER OF UNITS. WE CAN, ACCORDING TO THE MEMO FROM STEVE, DEMAND THE NUMBER OF SQUARE FEET OR NUMBER OF BEDROOMS. HOWEVER, WE CAN SPEAK TO ISSUES OF PRIVACY AS CARRIE HAS FREQUENTLY DONE -- LED THE CHARGE. IT'S GOOD TO HAVE THAT AS PART OF THE STAFF DISCUSSION SO THAT WE HAVE THE OPTION DISCUSSING THAT WITH THE APPLICANT. PARTICULARLY PRIVACY. THERE

ARE OCCASIONS WHERE WE HAVE MADE RECOMMENDATIONS WHICH HAVE BEEN ACCEPT BY THE APPLICANT, THIS IS THE ZONING ADJUSTMENTS BOARD. ADJUSTMENTS TO MITIGATE SHADOW IMPACTS OR VIEW IMPACTS. WE HAVE THE POWER TO MAKE ADJUSTMENTS AS LONG AS AHA IS NOT VIOLATED. SO, YEAH, I SUPPORT IGOR'S POINT. THANK YOU, IGOR. WHY DON'T WE KEEP THINGS MOVING HERE. WE HAVE A LOT DO AND THERE ARE A LOT OF ATTENDEES THAT WOULD LIKE TO SPEAK. DEBBIE.

>> IF YOU DON'T WANT TO ANSWER ALL THESE QUESTIONS NOW, LET ME PUT THEM ON THE TABLE. AND NICHOLAS, IF YOU WANT TO COME BACK AND ANSWER THEM, THAT'S FINE. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE SHADOW IMPACT AND PRIVACY IMPACTS. I NEED CLARITY AND I WENT THROUGH ALL THE LETTERS SEVERAL TIMES. ANY CLARITY ON ALL THESE LITTLE GARAGES THAT ARE IN THE BACKS OF THE BUILDINGS. THE DIAGRAM I FOUND MOST USEFUL TO WORK FROM IS FROM PLAN SHEET ON THE PROPOSED SITE. THE WAY I THINK I UNDERSTAND IT IS THAT STARTING FROM THE RIGHT -- LOWER RIGHT SIDE, THE DUPLEX IS 1651. THE GARAGE DIRECTLY TO ITS EAST IS ITS GARAGE AS WELL AS THE ONE IN THE CORNER OF THE PROPERTY SO 651 HAS TWO GARAGES AND THEIR SIT AREA THAT THEY DISCUSSED IS KIND OF WITHIN THAT BUILDINGS ON THREE SIDES. THEN IF YOU GO TO THE LEFT SIDE OF THAT DIAGRAM, ARE MY DIRECTIONS MAKING ANY SENSE?

>> YES.

>> D. SANDERSON: THE HOUSE TO THE LEFT WHICH WOULD BE THE NORTH OF IT IS 1639 -- WHATEVER STREET WE WERE ON AND THE GARAGE GOES

TO 1639. THEN THERE IS -- WHEN YOU'RE AT 1637, THERE IS A GARAGE DIRECTLY TO THE EAST OF THEIR PROPERTY. DOES THAT GARAGE GO WITH 1609? I KNOW THERE IS A BUILDING REMOVED THAT DOESN'T SHOW UP APPROPRIATELY ON THE SHADOW MAP. IT LOOKS LIKE THERE IS A GARAGE THAT WOULD BE DIRECTLY TO THE EAST OF THE PROPOSED DECK.

NORTHEAST. DOES THAT GARAGE GO WITH 1609 VIRGINIA?

>> THAT'S MY UNDERSTANDING, YES.

>> D. SANDERSON: SO ITS DRIVEWAY GOES THE LENGTH OF THE 1609 PARCEL TOWARDS VIRGINIA. WHAT ACCEPT RATS VIRGINIA TO 1651 AND 1637 OR 40 IS THE DRIVEWAY IT'S BETWEEN THOSE TWO PROPERTIES.

>> RIGHT.

>> D. SANDERSON: THANK YOU. THAT'S VERY HELPFUL. SO I'VE SPENT -- I DON'T WANT TO GO OVER IT NOW UNLESS PEOPLE WANT ME TO, BUT I SPENT TIME LOOKING AT THE COMPLAINTS OR COMMENTS FROM THE NEIGHBORS AND THE DISTANCE BETWEEN THE BUILDING SUBJECT PROPERTY AND THE AREAS THAT PEOPLE REFER TO BECAUSE THAT WAS WITHIN OF MY CONCERNS IS WHAT IS THE PHYSICAL DISTANCE BETWEEN THE SUBJECT PROPERTY AND SITTING AREAS. WHAT IS IN BETWEEN SUBJECT PROPERTY AND SITTING AREAS AND WHAT IS -- WHAT'S ON THAT SIDE OF THE BUILDING? IF WE WANT TO TALK ABOUT THAT LATER, BUT THAT'S KIND OF WHERE I'VE SPENT A LOT OF TIME AND I WILL -- AS LONG AS I KNOW I HAVE THE LAYOUT RIGHT, THEN WE CAN GO ON. THANK YOU.

>> C. KAHN: CARRIE.



>> C. OLSON: I WANT TO SPEAK TO SAY THANK YOU IGOR AND CHARLES AND DEBBIE FOR TALKING ABOUT PRIVACY AND SHADOWS. THE SIMPLE REASON SAMANTHA IS BECAUSE THE PUBLIC DOESN'T KNOW WHAT YOU KNOW OR WHAT WE SEE IN OUR PACKET. BY THE TIME THOUGH WRITE THEIR LETTER TO US, THEY'RE REALLY MAKING SUPPOSITIONS ON THINGS THAT ARE NOT NECESSARILY RIGHT. WE NEED TO SET THE RECORD STRAIGHT. THEY NEED TO UNDERSTAND. BUT ALSO BECAUSE THERE ARE ALTERNATIVES. WE'RE NOT SHOWN -- AND I'VE ASKED FOR THIS MANY TIMES, WHAT THE CAN [INDISCERNIBLE] IS IN THE ADJACENT PROPERTIES. WE DON'T KNOW IF WE'RE ALLOWING FOR A LARGER WINDOW OR NEW WINDOW ADJACENT OR 8 FEET AWAY FROM ANOTHER PROPERTY. I GREW UP 8 FEET AWAY FROM MY NEIGHBOR'S HOUSE AND NOT KNOWING THAT THAT MAY BE WAS STARING AT ME AS A KID! IT'S REALLY CREEPY AND WE SHOULD KNOW AND THE NEIGHBORS SHOULD KNOW. IF YOU COULD PASS THAT ON TO THOSE MAKING THOSE DECISIONS, IT'S NOT THAT BIG OF AN ASK. THANK YOU.

>> C. KAHN: IF THERE ARE NO FURTHER QUESTIONS FOR STAFF FROM THIS COMMISSION, LET'S BRING IN THE APPLICANT. I BELIEVE THIS IS -- I'M LOOKING FOR THE APPLICANT.

>> IT'S SUNNY.

>> C. KAHN: THERE HE IS.

>> I BELIEVE THE PROPERTY OWNER IS --

>> C. KAHN: WOULD YOU LIKE TO JOIN FOR THE PRESENTATION? SUNNY.

, I HEAR YOU?

>> YES. CAN YOU HEAR ME?

>> C. KAHN: YES, YOU HAVE FIVE MINUTES TO PRESENT, BUT IT NEEDS TO BE YOU AND WHOEVER ELSE YOU WISH TO HAVE.

>> YES. BOTH OWNERS ARE HERE. IF THERE IS ANY TIME LEFT OVER, THEY'LL SPEAK. THANK YOU FOR THE GOOD EXPLANATION OF THE PROJECT. I WANTED TO JUST KIND OF REITERATE THAT WHEN WE FIRST STARTED THIS PROJECT, IT WAS A VERY DIFFERENT PROJECT THAN WHAT YOU ARE CURRENTLY SEEING. AND AFTER HAVING SOME DISCUSSIONS WITH THE NEIGHBORS LOOKING AT THE PRIVACY ISSUES, WE DID TAKE THOSE INTO CONSIDERATION AND ORIGINALLY WE ACTUALLY HAD A THREE-STOREY BUILDING WHERE WE DEVELOPED THE BASEMENT AS A FULL STOREY WITH A GARAGE WHICH IS WHAT THE HOMEOWNERS WANTED. BECAUSE A THREE-STOREY BUILDING WAS BECOMING PROBLEMATIC, TALKING WITH NICK WE DECIDED THAT WE WOULD ELIMINATE THE GARAGE AND DO NOT LIST THE -- WE WERE LIFTING THE EXISTING HOUSE UP TO ACCOMMODATE THE GARAGE LEVEL. IT WAS MAKING THE BUILDING MUCH TALLER. ONCE WE DECIDED THAT WE'RE GOING TO FORGO THE GARAGE AND NOT LIFT THE BUILDING AT ALL, WE WERE JUST GOING TO -- ONLY GOING TO ADD A SECOND STOREY ADDITION SO IT WOULD BE A TWO-STOREY BUILDING. AND WE CHANGED THE ROOFLINE CONSIDERABLY TO HAVE A SMALLER IMPACT ON AT ADJACENT PROPERTIES. AND WE ALSO RECONFIGURED SOME OF THE BEDROOMS ON THE UPPER FLOOR SO ON THE BACK OF THE HOUSE, WE ONLY HAVE ONE BEDROOM AND THEN WE HAVE TWO BATHROOMS WHICH HAVE HIGH WINDOWS LOOKING TOWARDS THE EAST. AND THAT WAS THE NEIGHBORS AT

1609 CONCERNS ABOUT PRIVACY. SO WE HAVE TWO HIGH WINDOWS IN THE BATHROOMS WHICH TECHNICALLY, IRE NOT REALLY LOOKING DOWN. THE OTHER BEDROOM ON THE NORTH SIDE, RIGHT ACROSS FROM THERE IS A VERY LARGE TREE. THAT'S WHAT WE WOULD BE LOOKING AT PLUS THE NEIGHBOR'S GARAGE BACK THERE AND ACCESSORY BUILDING. YOU CAN'T SEE MUCH INTO THEIR YARD. AND BY LOWERING THE BUILDING, CHANGING THE ROOFLINE, WE REDUCED THE ORIGINAL SHADOW IMPACT THAT WE WERE HAVING. SAME THING WITH THE NEIGHBORS ON THE LEFT SIDE AND THE RIGHT SIDE. WE REDUCED THE SHADOW IMPACT AND THE SHADOW IMPACT THAT WE HAVE IS MINIMAL AT THIS POINT. I CAN MIND FOR SECOND STOREY ADDITIONS IN THE BAY AREA. IT'S HARD TO DESIGN SOMETHING THAT YOU HAVE ZERO IMPACT IN THIS URBAN ENVIRONMENT. RE TRY DO AS MUCH AS WE CAN. WE CHANGE ROOFLINES -- CHANGE THE ROOF PITCH. WE ARE DOING ALL THE THINGS WE DID HERE. TO MINIMIZE THE IMPACT ON THE NEIGHBORS. ORIGINALLY THE NEIGHBOR ON THE LEFT-HAND SIDE AND RIGHT-HAND SIDE HAD GIVEN US THEIR SUPPORT ON THIS PROJECT. AND THAT'S WHEN WE MOVED FORWARD WITH THINGS. AS FAR AS THE SCALE OF THE PROJECT, IT'S BASICALLY A SECOND STOREY ADDITION. AND THE BASEMENT BUILD OUT IS A BONUS AT THIS POINT, BUT THAT WHOLE BASEMENT IS GENERALLY BELOW GRADE. WE'RE ABLE TO GET WINDOWS IN THE FRONT AND NO WINDOWS IN BACK AND VERY LITTLE ON THE SIDE. YOU ASK FOR A SECOND STOREY ADDITION WHICH IS NOT UNREASONABLE, WE SET THE FRONT OF THE FACADE BACK TO STAY WITHIN THE 20-FOOT SETBACK AND DID THE SAME THING IN THE YEAR REAR. WE SET THE REAR

WALL BACK SO WE'RE 20 FEET FROM THE SETBACK. THE BUILDING ITSELF HAS A FAIRLY GOOD SEPARATION BETWEEN THE ADJACENT PROPERTIES TECHNICALLY THE PROPERTY FROM THE REAR SO PRIVACY IS IT IS THERE. WILL SOMEBODY BE ABLE TO STAND THERE AND LOOK OUT? YES, BUT I DON'T THINK IT'S THAT INTRUSIVE. WE'VE DONE AS MUCH AS WE CAN GIVEN THIS SMALL LOT WE HAVE AND THE REASON FOR ALL OF THE AMOUNT OF USE PERMITS AND ADMINISTRATIVE USE PERMITS IS BECAUSE OF THE CONSTRAINTS WE HAVE TO DEAL WITH A SMALL LOT AND IT WAS OVER-FILLED. IN ORDER -- I MEAN, IF THIS WAS AN EMPTY LOT WE'D BE BUILDING A DIFFERENT STRUCTURE ON THE SITE. BUT WE'RE WORKING WITH A GIVEN CONDITION. WE WOULD LIKE DO AS MUCH AS WE CAN AND GIFT HOMEOWNERS A PROJECT THAT THEY WANT TO CONTINUE LIVING IN. I'M RUNNING OUT OF TIME, BUT THIS IS A PROJECT THAT IS DESIGNED FOR THEIR FAMILY AND ONE OF THE SONS WHO GOING TO CONTINUE LIVING IN THE APARTMENT NEXT DOOR IS VISUALLY IMPAIRED. HE DOES NOT DRIVE.

>> C. KAHN: SUNNY, YOU'RE OUT OF TIME. THANK YOU VERY MUCH FOR THE PRESENTATION. YOU WILL HAVE A COUPLE MORE MINUTES AFTER THE PUBLIC SPEAKS TO ADDRESS ANY CONCERNS THAT THEY BRING UP. SO, NOW IS THE TIME -- ANY QUESTIONS FOR THE APPLICANT? FROM THIS COMMISSION? SEEING NONE, I WOULD LIKE TO MOVE FORWARD WITH THE PUBLIC PARTICIPATION. I SEE ONE HAND UP. IF YOU WISH TO SPEAK ON THIS PROJECT, THIS IS YOUR OPPORTUNITY. PLEASE RAISE YOUR HAND NOW. SO THAT I'LL HAVE A CLEAR IDEA OF HOW MANY PEOPLE WISH TO

SPEAK ON THIS. I ONLY SEE -- I SEE ANNA, ADAM, TAMAR AND  
BARBARA. DOES ANYONE ELSE WISH TO SPEAK ON 1643, 1647  
CALIFORNIA? YES NO? OKAY. WE HAVE --

>> I. TREGUB: CHAIR.

>> C. KAHN: WE HAVE FOUR PEOPLE SHOWING INTEREST IN SPEAKING.  
I'LL GIVE YOU EACH TWO MINUTES TO SPEAK. IF YOU CAN KEEP IT TO  
LESS, THAT'S GREAT. BUT YOU HAVE TWO MINUTES. WE'LL START WITH  
ANNA. ANNA, YOU NEED TO UNMUTE.

>> CAN I RESPOND TO THE COMMENT THAT SUNNY MADE FIRST BEFORE I  
BEGIN MY TWO MINUTES?

>> C. KAHN: NO, YOU HAVE TO SPEND YOUR TWO MINUTES HOWEVER YOU  
WISH.

>> THE ARCHITECT OR THE NEIGHBORS HAVE NEVER SPOKEN TO US ABOUT  
THIS PROJECT. SUNNY CAME TO ASK US IF WE HAD ANY QUESTIONS ON  
THE SAME DAY THEY SUBMITTED THE SECOND SUBMISSIONS. OUR PROPERTY  
HAS TOO MUCH LARGE TREES. THE REMAINING SUN SPOTS ARE THE REAR  
DECK AND OPEN AREA TO THE WEST. THEY WOULD BE SHADED. THIS POSES  
A DRAMATIC IMPACT ON OUR PROPERTY. THE PROPOSED UPPER LEVEL WILL  
PROVIDE A CLEAN LINE OF SIGHT TO OUR KITCHEN AND BEDROOM. IF  
THIS REMODEL HAPPENS AND WE LEAVE OUR BEDROOM AND BATHROOM DOORS  
OPEN, THE PROJECT PROPONENTS WOULD BE ABLE TO SEE ME SITTING ON  
THE TOILET. THE PRIVACY OF OUR HOUSE WILL BE GONE. RECENTLY  
SIGNIFICANTLY REMODELED OUR HOME MAKING CHANGES SO WE WOULD NOT  
HAVE TO LOOK AT THIS DILAPIDATED PROPERTY. WE MOVED THE WINDOWS.

THE VIEW PROVIDED INTO AND OUT OF OUR HOUSE ARE THREATENED BY THIS PROJECT. THE MATERIAL SUBMITTED MISSED KEY FACTS. ALL THREE ADJACENT NEIGHBORS OPPOSE THE PROJECT BECAUSE OF THE IMPACT ON PRIVACY AND SHAPE. THE RATIONALE IS TO HOUSE THE FAMILIES EVEN THOUGH THEY'RE EXTREMELY SUCCESSFUL IN THEIR CAREERS AND ABLE TO LIVE INDEPENDENTLY WHILE THE FAMILY OWNS AN APARTMENT COMPLEX LESS THAN A MILE AWAY. THIS WOULD BE A TWO UNIT SIX BEDROOM HOUSE WITH NO PARKING. IT'S KEY TO KNOW IT WAS THE OPPENHEIMERS THEMSELVES THAT WOULD --

>> C. KAHN: ANNA.

>> IT SHOULD NOT BE CONSIDERED IN FAVOR OF PROJECT.

>> C. KAHN: ANNA -- ANNA, WHAT WILL IS YOUR ADDRESS JUST SO WE KNOW WHICH PROPERTY.

>> I'M ONE OF THE RESIDENTS ON THE 1609 UNIT IN BACK OF THIS HOUSE. THEIR ENTIRE BACKYARD --

>> C. KAHN: THAT'S OKAY. I JUST WANTED TO KNOW THE ADDRESS. THANK YOU. THANK YOU FOR COMING. ADAM, YOU ARE UP. YOU NEED TO UNMUTE.

>> CAN YOU HEAR ME IN.

>> C. KAHN: YES.

>> I'M THE OTHER RESIDENT AT -- 1609 VIRGINIA STREET. AND ALONG WITH OTHER NEIGHBORS THAT ARE ADJACENT PROPERTIES, WE'RE STRONGLY AGAINST THIS SHADOW STUDIES AND IMPACT ON PRIVACY AND SO A LOT OF PEOPLE LOOK AT THAT. WE ALL DO WANT TO SEE THE

OPPENHEIMERS FIX UP THEIR HOUSE. IT'S IN BAD SHAPE ON THE EXTERIOR. OVER THE PAST 20 YEARS ALL FOUR OF THESE HOUSEHOLDS HAD GOOD RELATIONS AND IT'S UNFORTUNATE THAT THIS PROPOSED PLAN IS ASKING FOR SO MUCH AND CREATING TENSION IN OUR CORNER OF COMMUNITY. THE PROPOSAL IS ASKING FOR SEVEN USE PERMITS. THAT WOULD ALLOW FOR ADDITIONAL OVER 2600 SQUARE FEET OF LIVING SPACE AND THEY HAVE A 2800 CAN SQUARE FOOT PROPERTY AND ONLY 3100 SQUARE FOOT LOT. THIS IS ALREADY NON-CONFORMING IN COVERAGE, DENSITY, YARD AND HAS NO PARKING ON THE STREET AT ALL. APPROVING THIS WOULD DEGRADE THE VALUE OF THE ZONING RULES AND WOULD INCREASE OF VALUE OF OUR PROPERTY AND OTHER PROPERTIES IN LIEU OF INCREASING THE VALUE OF THE OPPENHEIMER'S PROPERTY. NICK STATED IN HIS REPORT, THIS WILL PROPOSED PROJECT DOES NOT COMPLY WITH THE APPLICABLE ZONING STANDARDS AND THE CITY MAY REQUEST MODIFICATIONS TO MITIGATE OR AVOID THE IMPACT TO THE SURROUNDING PROPERTIES. NICK ALSO SPECIFICALLY SUGGESTED DURING THE PROCESS LAST YEAR THAT THE APPLICANTS REDUCE THE IMPACT TO THE NEIGHBORS BY ELIMINATING THE AMOUNT OF THE FLOOR GIVING THEM A 2700 SQUARE FOOT LIVING SPACE WHICH IS LARGER THAN THE OTHER NEIGHBORS AROUND THEM. WE THUS ASK THE BOARD TO REQUEST A MAJOR MODIFICATION IN LINE WITH THE SUGGESTION PRIOR TO CONTINUING THE HEARING.

>> C. KAHN: THANK YOU A -- THANK YOU DAM. I NOTE THAT BARBARA FRITZ -- I'M GOING TO RECOGNIZE YOU NEXT. WE.

>> I'M HERE. I LIVE AT 1639 SO I'M THE NORTH NEIGHBOR AND I'M HAPPY THAT THE OPPENHEIMERS ARE FINALLY GOING TO BE ABLE TO DO THIS PROJECT. I'VE LIVED HERE 40 YEARS SO I LIVED HERE SINCE THEY MOVED IN. AND ADAM AND ANNA AND THE OTHER NEIGHBOR KAY ON THE CORNER ARE AWARE OF I'M NOT HAPPY ABOUT THE SHADOW ISSUES, BUT I APPRECIATE THE EXPLANATION THAT THE BOARD HAS GIVEN ABOUT WHAT YOU CAN AND CANNOT DEAL WITH. SO I JUST WANT TO GIVE MY SUPPORT. I'M SAD THAT I AM GOING TO LOSE A CERTAIN AMOUNT OF LIGHT IN THE WINTER. IT IS SIGNIFICANT TO ME. BUT I -- BUT I DO WANT TO -- I'M NOT LOOKING FORWARD TO THE NOISE. BUT I'M HAPPY THAT THE OPPENHEIMERS ARE GOING TO FINALLY FIX UP THEIR HOUSE WHICH NEEDS WORK FOR A LONG TIME AND I LOOK FORWARD TO HAVING THEM AS NEIGHBORS FOR A LONG TIME. THAT'S ALL. I'M DONE.

>> C. KAHN: THANKS FOR COMING AND SPEAKING. THAT'S IT FOR PUBLIC COMMENT. WE DOLL HAVE -- I NOTICED TAMAR AND [INDISCERNIBLE] OPPENHEIMER. ARE THOSE TWO THE OWNERS?

>> TAMAR IS ONE OF THE OWNERS. AND [INDISCERNIBLE] IS THEIR SON.

>> C. KAHN: I'M GOING TO BRING THEM IN BECAUSE THEY ARE ALLOWED TO PARTICIPATE IN THE RESPONSE. THIS THEY HAVE TWO MINUTES TO RESPONSE AS DO YOU. BUT YOU ONLY HAVE TWO MINUTES BETWEEN THE THREE OF YOU SO USE IT WISELY.

>> I. TREGUB: MR. CHAIR --

>> CAN YOU HEAR ME?

>> C. KAHN: YES.



>> I. TREGUB: I THINK KAY ALSO KEEPS RAISING THEIR HAND BUT IT KEEPS GOING DOWN.

>> C. KAHN: TAMAR, BEFORE YOU SPEAK, THERE IS ANOTHER PERSON TRYING TO SPEAK THAT I THINK -- KAY. IT APPEARS AND DOESN'T APPEAR. NOT -- THERE SHE IS. KAY. HER CONNECTION MUST BE BAD. SHE KEEPS CAN -- SHE KEEPS DISAPPEARING. THERE IS A PROBLEM WITH HER CONNECTION, I THINK. ALL RIGHT. I DON'T WANT TO STOP THE PROCEEDINGS. THERE IS KAY. CAN YOU -- I DON'T KNOW WHAT THE PROBLEM IS WITH KAY. KAY. IS THERE ANYTHING THAT WE CAN DO TO GIVE HER A CHANCE TO SPEAK?

>> I FEEL LIKE I CAN HEAR SOMETHING LIGHT IN THE BACKGROUND. KAY, I WONDER IF YOU HAVE A SETTING OF SOME SORT TURNED DOWN OR YOUR MICROPHONE IS COVERED?

>> C. KAHN: WE NEED TO KEEP THE MEETING MOVING ALONG. KAY, I'LL GIVE YOU THE OPPORTUNITY TO SPEAK AFTER THESE NEXT TWO MINUTES IF YOU CAN IMAGINE TO CUT IN AND SAY SOMETHING.

>> BOARD SECRETARY: KAY COULD CALL IN.

>> C. KAHN: YOU CAN TRY THAT WITH A CELL PHONE POSSIBLY.

>> BOARD SECRETARY: YEAH.

>> C. KAHN: KAY, IF YOU COULD WOULD LIKE TO TRY CALLING IN YOU CAN PUT YOUR HAND DOWN AND TRY DO THAT. OKAY. I THINK WE NEED TOO KEEP ROLLING. SORRY KAY, BUT I DON'T WANT TO HOLD THIS UP. SUNNY, START WITH YOUR TWO MINUTES.

>> I'LL HAVE EITHER TAMAR OR ORR SPEAK.

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I ACTUALLY -- AND MY HUSBAND IS HERE. I WANTED TO TALK ABOUT  
[INDISCERNIBLE]

>> ANNA IS HEAR.

>> C. KAHN: LET'S HAVE KAY SPEAK. KAY, WE CAN HEAR YOU NOW. KAY.  
SPEAK UP. WE CAN HEAR YOU.

>> A --

>> C. KAHN: I DON'T KNOW WHAT TO DO.

>> I'M ON? OKAY.

>> C. KAHN: KAY, I DON'T KNOW IF YOU CAN HEAR ME BUT --

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I'M KAY RISTOL AND I OWN THE SMALL DUPLEX SOUTH OF THE  
PROPOSED REMODEL. I LIVE AT 1651. I JUST WANT TO ASK, IT SEEMS  
LIKE IN READING THINGS, THAT THIS PROJECT HAS BEEN APPROVED. BUT  
I DON'T KNOW IF THAT'S TRUE. CAN YOU TELL ME?

>> C. KAHN: NO.

>> I CAN'T HEAR YOU, BUT I GUESS YOU CAN HEAR ME. I'M WONDERING,  
THERE ARE 6 TO 7 USE PERMITS OR VARIANCES NEED FOR THIS PROJECT.  
I'M WONDERING IF THOSE ARE ALL APPROVED, WHAT IS THE USE OF  
HAVING THOSE PERMITS? ALL OF THE NEIGHBORS I THINK FEEL STRONGLY  
THREE OF THE NEIGHBORS ON THIS -- ON THE NORTHEAST AND ON THE  
SOUTH FEEL STRONGLY ABOUT THE PRIVACY ISSUE. AND ALSO THE

DECREASED VALUE OF OUR PROPERTY IF THIS HUGE PROJECT IS GOING TO BE OKAYED. SO, IT SEEMS LIKE THAT A LOT OF THE CONSIDERATION OF THE SHADE HAS NOT BEEN FULLY MADE -- DONE -- HAS NOT DONE -- HAS NOT BEEN EVALUATED CORRECTLY. IT'S A BIG PROBLEM.

>> C. KAHN: PLEASE WRAP IT UP.

>> AND PRIVACY IS ALSO THE BIGGEST PROBLEM. I GUESS MY TIME IS RUNNING OUT. I JUST WANT TO SAY THAT ALL OF US FEEL SO STRONGLY ABOUT THIS. AND THANK YOU VERY MUCH FOR YOUR ATTENTION. SORRY ABOUT THE MIX-UP.

>> C. KAHN: THANK YOU. I'M GLAD YOU GOT A CHANCE TO SPEAK. WE'LL TRY TO ADDRESS YOUR QUESTIONS IN THE DISCUSSION. NOW, SUNNY OR TAMAR, YOU HAVE YOUR TWO MINUTES.

>> I'LL LET TAMAR SPEAK.

>> C. KAHN: GO FOR IT TAMAR. YOU NEED TO YOU BE MUTE IF YOU WISH TO SPEAK.

>> CAN YOU HEAR ME NOW?

>> C. KAHN: YES. THE MAIN THING IS THAT ONE OF THE UNITS WOULD -- HE'S YOUNG AND VISION IMPAIRED AND NEVER HAVE A CAR. THERE WON'T BE A PROBLEM WITH THE PARKING. HE CANNOT USE A CAR AND HE'LL USE PUBLIC TRANSPORTATION AND WALK TO SHOPS. WHEN WE GIVE HIM ONE UNIT, IF WE DON'T DO ANY REMODELING WE STAY WITH A ONE-BEDROOM APARTMENT FOR THE FAMILY WHEN WE HAVE FOUR KIDS THAT LIKE TO COME OVER AND WE HAVE A FAMILY GATHERING AND HOPE THAT WE'LL GET TO THE PART OF GRANDKIDS ONE DAY THAT WE'D LIKE TO

HOST THE BIG FAMILY PARTIES INSIDE ASK OUTSIDE IN OUR YARD LIKE WE DID MOST IN THE CORONAVIRUS TIME. I SENT A PICTURE FROM THE SECOND FLOOR AND WENT TO THE AREA WHERE THE BEDROOM IS IN THE CORNER CLOSE TO KAY'S AREA. IN THE PICTURE BEING SEE WE DON'T SEE ANY OF THE KAY'S AREA. THERE IS NO REASON TO BE CONCERNED ABOUT THAT AREA. THEY'LL HAVE BATHROOMS AND THEY WON'T BE THE WINDOWS YOU SEE THROUGH. IN ANNA'S AREA, THERE ARE TWO PICTURES IN THOSE PHOTOS THAT I SENT TODAY THAT SHOW THAT DIRECTLY FROM THAT BEDROOM IS THE TREES. SO WE DON'T SEE ANYTHING. YOU CAN SEE ON THE SIDE THE BEDROOM WINDOWS BUT DEFINITELY YOU CANNOT SEE ANYTHING IN THEIR YARD OR. ONE OF THE PICTURES SHOWS THAT RIGHT NOW WE CAN SEE THEIR KITCHEN WINDOW. AND THAT WOULD STAY SAME FROM THE YARD.

>> C. KAHN: YOU NEED TO WRAP IT UP.

>> AND CASE WINDOWS WILL BE THE SAME. WE CAN SEE IT NOW AND KEEP SEEING IT. ALSO MY HUSBAND WOULD LIKE TO TALK.

>> C. KAHN: YOU USED YOUR TIME. THANK YOU VERY MUCH. SO, I WOULD LIKE TO BRING IT BACK TO THE COMMISSION. FOR COMMENT. WE WILL HAVE ANY DISCUSSION THAT YOU MAY WANT TO HAVE. I WOULD LIKE TO RESPOND TO SOME OF THE QUESTIONS THAT WERE VOICED IN PARTICULAR BY KAY THERE. AT THE END. KAY, I APPRECIATE YOUR CONCERN THAT THIS FEELS LIKE A FOREGONE CONCLUSION. AND TO SOME EXTENT IT IS. BECAUSE OF THE STATE STATUTE THAT RESTRICTS WHAT WE CAN DO, NOT 100 PERCENT. WE CAN MAKE ADJUSTMENTS THAT CAN HELP WITH THE

PRIVACY CONCERNS. BUT WE CAN'T RULE ON PARKING BECAUSE THE CITY HALL NO LONGER REQUIRES PARKING OF NEW UNITS. AND WE AREN'T EMPOWERED TO GO AGAINST THE WILL OF THE COUNCIL AND WE CAN'T DENY THE NEW UNIT BECAUSE THE STATE LAW DOESN'T ALLOW THAT. IF ANY OF YOU MEMBERS OF THE COMMUNITY MAKE SPECIFIC REQUESTS OR RECOMMENDATION ABOUT REDUCING OR MODIFYING ARCHITECTURAL ELEMENTS TO THE BUILDING, THAT'S THE KIND OF THING THAT WE HAVE REQUESTED IN THE PAST AND WOULD REQUEST AGAIN. I DIDN'T HEAR ANYTHING SPECIFIC REQUESTS ALONG THOSE LINES. SO I DON'T -- I DON'T KNOW IF THERE IS ANYTHING WE CAN DO TO HELP YOU OUT HERE. IGOR, I SEE YOU HAVE YOUR HAND UP.

>> I. TREGUB: I HAD A COUPLE OF QUESTIONS FOR STAFF IN RESPONSE TO SOME OF THE COMMENTS I HEARD. THE FIRST ONE, ON THE NUMBER OF USE PERMITS BEING REQUESTED AND I RECOGNIZE THIS IS A TERM OF EYE ART FOR US. WE DEAL WITH THIS EVERY TWO WEEKS BUT THIS IS NEW TO A LOT OF MEMBERS OF THE PUBLIC. JUST TO CONFIRM, STAFF, CAN YOU CONFIRM THERE ARE IN TOTAL TWO USE PERMITS AND FOUR ADMINISTRATIVE USE PERMITS THAT TYPICALLY WOULD BE, YOU KNOW, IF IT WAS JUST ADMINISTRATIVE USE PERMITS AND NO USE PERMITS, THIS COULD BE APPROVED THROUGH STAFF REVIEW. WOULDN'T EVEN GO TO US.

>> YOU ARE CORRECT. TWO USE PERMITS, THERE ARE FIVE TOTAL ADMINISTRATIVE USE PERMITS. THE THIRD BULLET ON THE PERMITS REQUESTED MENTIONS ADMINISTRATIVE USE PERMITS FOR HORIZONTAL SETBACKS. THOSE ARE TWO ADMINISTRATIVE TERMS. TYPICALLY,

ADMINISTRATIVE USE PERMITS WOULD BE DONE OUTSIDE OF THE ZAB'S PURVIEW.

>> I. TREGUB: THANK YOU SO MUCH. MY NEXT QUESTION IS IF YOU COULD, ONCE AGAIN, CLARIFY WHAT YOU SAID ABOUT OBJECTIVE STANDARDS BECAUSE I THINK I HEARD IT DIFFERENTLY THAN THE WAY THAT A NEIGHBOR HEARD IT, BUT I JUST WANTED TO MAKE SURE, ARE THERE ANY OBJECTIVE STANDARDS INVOLVED THAT GOVERN THIS PARCEL AND IF SO, WHAT ARE THEY?

>> THERE ARE ACTUALLY THE TWO USE PERMITS HAVE SPECIFIC OBJECTIVES REQUIREMENTS THAT MUST BE MADE. THE USE PERMIT OF BEING OVER THE DENSITY SAYS THAT YOU'RE NOT INCREASING THE DENSITY OR GOING OVER THE HEIGHT LIMIT. SIMILARLY WITH THE USE PERMIT FOR NONCONFORMING LOT COVERAGE AS LONG AS THEY'RE NOT INCREASING THE LOT COVERAGE OR GOING OVER THE HEIGHT LIMIT, THEY ARE PERMITTED. STILL THROUGH THE USE PERMIT STANDARDS AND GENERAL NON-DETRIMENT FINDINGS. AND THE ADDITIVE USE PERMITS WITHOUT EXTENDING THE YARDS STIPULATES THEY'RE NOT FURTHER DECREASING THE NONCONFORMING YARDS AND THEY ARE NOT DOING THAT.

>> I. TREGUB: THANK YOU. AND MY LAST QUESTION, ONE MEMBER OF THE PUBLIC COMMENTED THAT IT WAS SOME BACK AND FORTH ALLEGEDLY BETWEEN YOU AND THE APPLICANT TEAM AND RECOMMENDATIONS WERE MADE TO REDUCE THE FLOOR AREA. COULD YOU SPEAK TO THAT? BECAUSE I DIDN'T HEAR THAT PART IN THE INTRODUCTORY REPORT.

>> DURING THE COMPLETENESS REVIEW PROCESS OF APPLICATIONS, WE

SOMETIMES INCLUDE ISRAELI COMMENTS TO APPLICANTS. THEY AREN'T SPECIFIC INCOMPLETENESS THAT THEY MUST BE RESOLVED, BUT COMMENT THAT STAFF CAN DO IF IT NEEDS A BETTER PROJECT. WE INCLUDED ADVISORY COMMENTS SPECIFICALLY AROUND THE TOP LEVEL OF THE BUILDING. IN THE INITIAL APPLICATION AS SUNNY MENTIONED, IT WAS A THREE-STOREY DESIGN. THAT PROJECT WOULD HAVE REQUIRED A VARIANCE TO THE LOT COVERAGE. ONE OF THE ADVISORY COMMENTS WAS THAT THEY REMOVE THE VARIANCE REQUIREMENT BY WAY OF NOT LIFTING THE HOUSE AND CREATING A BASEMENT STOREY, WITH YOU BY KEEPING IT AS A TWO-STOREY ELEMENT. ONE OF THE SUGGESTIONS WAS AN AS OPTION TO LIFT THE HOUSE TO CREATE THE BASEMENT LEVEL BUT NOT TO ADD THE TOP LEVEL OF THE BUILDING. THEY CHOSE TO DO THE OTHER OPTION WHICH WAS NOT TO RAISE THE HOUSE BUT STILL KEEP THE TOP LEVEL. THEY ALSO DID MODIFY, THEY HAD A BUTTERFLY SHED ROOF DESIGN THAT PUSHED OUT THE TALLER ELEMENTS OF THE OUTER EDGES OF THE BUILDINGS AND THAT WAS MODIFIED TO A GABLED ROOF DESIGN TO REDUCE THE IMPACTS AND REDUCE THE AVERAGE HEIGHT OF THE BUILDING.

>> C. KAHN: ANY MORE QUESTIONS, IGOR?

>> I. TREGUB: THANK SO MUCH.

>> C. KAHN: DEBBIE.

>> MY QUESTION IS, I'VE BEEN STRUGGLING WITH THE SHADOW STUDIES TRYING TO FIGURE OUT WHAT KIND OF CONFIGURATION MIGHT REDUCE THE SHADOWS ON 1639 AND 1609. AND THEY'VE ALREADY MOVED THE FRONT OF

THE BUILDING BACK, THEY'VE PULLED THE BACK OF THE BUILDING IN.  
THE ONLY OTHER WAY I COULD SEE TO REDUCE THAT SHADOW IMPACT  
WOULD BE TO ACTUALLY LOWER THE ROOF. THAT GETS INTO WHAT YOU  
JUST DESCRIBED, NICK, ABOUT, YOU KNOW, RAISING THE HOUSE AND  
MAKING THE BASEMENT A FULL STOREY WHICH WOULD MAKE IT MUCH MORE  
FUNCTIONAL. IT'S NOT GOT A LOT OF LIGHT. IT'S GOING TO BE A REC  
ROOM PRIMARILY. SO IF THEY HAD RAISED THE HOUSE SO THEY  
HAD -- EITHER WAY, THEY WOULD HAVE HAD THE SAME AMOUNT OF SHADOW  
AND I GUESS THAT'S MY QUESTION. I DON'T SEE A WAY TO REDUCE THE  
AMOUNT OF SHADOW ON 1639 OR 1609 WITHOUT SAYING NO SECOND  
STOREY. I'M TRYING TO SEE IF THERE IS A WAY THAT WE COULD TWEAK  
THE SECOND STOREY AND HAVE LESS SPACE AND MAKE DUE WITH THE  
BASEMENT. THERE AREN'T MANY WINDOWS AND THEY ARE HIGH UP. I WAS  
TRYING TO FIND IF THERE ARE ANY OPTIONS FOR REDUCING THE SHADOWS  
AND IT SEEMS TO ME UNLESS WE JUST SAY REDUCE THE SQUARE FOOTAGE  
OF THE SECOND FLOOR, CUT THE SECOND FLOOR IN HALF, I DON'T KNOW  
WHAT OTHER OPTIONS WE WOULD HAVE. IT LOOKED TO ME THAT THEY HAD  
ALREADY MADE THE CHANGES -- MADE A NUMBER OF CHANGES THAT REDUCE  
SHADOWS. BUT NOT COMPLETELY. SO, AND I GUESS -- SO I GUESS MY  
QUESTION IS AS YOU LOOKED AT THESE POSSIBLE CHANGES OF THE FIRST  
FLOOR OR SECOND FLOOR AND WHAT THE RESTRICTIONS ARE ON US BY THE  
STATE, WE CAN'T DENY THE UNIT. CAN WE REDUCE THE SQUARE FOOTAGE?  
I'M NOT SAY WE GO WANT TO, BUT I WANT TO BETTER UNDERSTAND THE  
PARAMETERS ON WHAT WE MAY OR MAY NOT DO. IF IT'S IN THAT GRAY



AREA, I NEED SOME GUIDANCE.

>> AS ONE POINT OF CLARITY, THE SECOND UNIT IS NOT ADDED TO THE PROPERTY BECAUSE IT WILL HAVE BEEN REMOVED. THEY HAVE TO RESTORE IT. BECAUSE IT WAS ILLEGALLY REMOVED. THERE IS NOT ANYTHING IN THE AHA THAT THERE IS A STRUCTURE THAT NEEDS TO BE REMOVED BUT YOU CAN'T APPROVE IT AS A LOWER DENSITY OR DENY THE PROJECT. IT DOESN'T SAY THAT YOU COULD NOT REDUCE THE SQUARE FOOTAGE OF PROJECT.

>> C. KAHN: HOLD THAT THOUGHT, NICK. I'M REFERRING I'M PULLING UP THE DATA FROM STEVE. I'LL BE ABLE TO QUOTE IT TO MAKE SURE THAT WE'RE DOING THE RIGHT THING. ANY OTHER QUESTIONS HERE OR COMMENTS?

>> D. SANDERSON: WE'RE AT 8:55, WE'LL NEED A CAPTIONER'S BREAK AT 9:00.

>> C. KAHN: HOPEFULLY WE CAN GET TO A VOTE BEFORE THEN. MY COMPUTER IS TAKING ITS OWN SWEET TIME. I'M READING THE MEMORANDUM. THE -- LET'S SEE, IS THERE ANYONE ELSE THAT WOULD LIKE TO SPEAK WHILE I'M -- BRINGING THIS UP.

>> D. SANDERSON: CARRIE, YOU HAVE YOUR HAND UP.

>> C. KAHN: WHILE I'M LOOKING AT THIS, SHOSHANA, COULD YOU TAKE OVER AS CHAIR?

>> S. O'KEEFE: SURE, CARRIE.

>> C. OLSON: I'M NOT SURE IF WE HAVE ANY WIGGLE ROOM ON THIS. I'M ASSUMING THAT WE DON'T, BUT STAFF CAN TELL ME IF WE DO. THIS

IS -- I'M SORRY, MY KIDS GREW UP AND LEFT HOME. IT'S MY HUSBAND AND I. THIS IS A HOUSE WHERE IT'S JUST GOING TO BE MOM, DAD AND ONE SON, YET WE APPROVE SIX BEDROOMS? JUST LET ME KNOW, NICK.

>> FIVE BEDROOM.

>> C. OLSON: OKAY. FIVE BEDROOMS. I JUST DON'T WANT DO A MINI DORM HERE. SORRY.

>> S. O'KEEFE: NICK, DO YOU WANT TO ANSWER? I THINK THAT WAS ADDRESSED TO YOU.

>> AGAIN, OUR UNDERSTANDING OF AHA IS THAT IT CAN'T BE DENIED OR REDUCED IN DENSITY. IF THERE IS A SPECIFIC EFFORT, WE HAD A PROJECT THAT THE ZAB CONSIDERED PREVIOUSLY IN THE HILLSIDE THAT DID REQUIRE THE MOVING OF THE STRUCTURE WHILE HE WAS AHA COMPLIANT.

>> S. O'KEEFE: YOU SAY MOVING.

>> THE TECHNICALLY THE SQUARE FOOTAGE WAS REDUCED BUT THE MAJOR COMPONENTS WERE NOT.

>> C. KAHN: I FOUND THE PARAGRAPH. THE SMOKING GUN. THIS IS FROM PAGE 3 OF STAFF COMMUNICATION TO ZAB 8/26/2021 FROM STEVE BUCKLEY, PLANNING DIRECTOR. MANAGER, SORRY. FOR PURPOSES OF THE AHA LOWER DENSITY INCLUDES ANY CONDITIONS THAT HAVE THE SAME EFFECT OR IMPACT OF THE ABILITY FOR THE PROJECT TO PROVIDE HOUSING GENERALLY UNDERSTOOD TO BE THE TOTAL NUMBER OF DWELLING UNITS, BUT ALSO RELATED TO OVERALL SQUARE FOOTAGE, NUMBER OF BEDROOMS, ET CETERA. THAT WAS NOT THE OLD POLICY OF THE CITY.

THAT'S WHY I MADE NOTE OF IT AT THE TIME. THE PRIOR POLICY OF THE CITY WAS THAT IT WAS ONLY NUMBER OF UNIT PROTECTED BY THE AHA. HE DID HIS HOMEWORK ON THIS. THAT'S FROM 8/26/21, I'LL SEND YOU THE LINK SO YOU CAN SHARE IT. WE CAN'T REDUCE THE NUMBER OF BEDROOMS PER AHA. SO, OUR HANDS ARE -- I MEAN IT DOES SEEM LIKE OUR HANDS ARE TIDE ON THESE ISSUES. SHOSHANA, I'LL GO AHEAD AND RESUME THE CHAIR WITH YOUR PERMISSION.

>> S. O'KEEFE: I WAS GOING IT MAKE A COMMENT BUT I SEE YOU'RE BACK. SO, THAT WAS MY THING AS WELL. THANK YOU SO MUCH FOR CLARIFYING. I DON'T THINK WE CAN REDUCE THE SQUARE FOOTAGE. IN RESPONSE TO CARRIE'S COMMENTS, I WANT TO REMIND THE BOARD WHEN WE MAKE DECISIONS, WE CANNOT, SHOULD NOT AND CANNOT TAKE INTO ACCOUNT THE STATED PURPOSE BY THE APPLICANT. IT DOESN'T MATTER WHO IS GOING TO LIVE THERE BECAUSE WE'RE GRANTING A USE PERMIT THAT GOES TO THE HOUSE. THEY COULD SELL THE SECOND THEY GET THE PERMIT AND SOMEONE ELSE CAN BUILD IT. WE NEED TO LIKE CAREFULLY AT WHAT WE'RE APPROVING. THANK YOU.

>> C. KAHN: I HAVE TWO HANDS UP, CARRIE AND DEBBIE AND I'LL RECOGNIZE YOU IN THAT ORDER.

>> C. OLSON: THANK YOU SHOSHANA FOR THAT. I'M NOT ASKING FOR MYSELF, I'M ASKING BECAUSE WE HAVE VERY INTERESTED NEIGHBORS. AND THEY NEED TO UNDERSTAND WHY IT IS THAT WILL THEY NEED TO UNDERSTAND WHY THIS ZONING BOARD MAKES DECISION. THIS IS THE SIZE OF THE PROJECT WE'RE PRESENTED WITH.

>> C. KAHN: DO YOU WANT TO EXPAND ON THESE IDEAS, CARRIE? OR DO YOU WANT TO WAIT?

>> C. OLSON: I THINK THERE ARE A LOT OF WINDOWS THAT LOOK DOWN ON NEIGHBORS AND THEY'RE CONCERNED ABOUT PRIVACY. WE COULD ASK THAT THOSE WINDOWS ON THE SECOND FLOOR BE WE CUT IN HALF. A COUPLE OF THEM ON THE FIRST FLOOR ON THE NORTH SIDE THAT ARE ALREADY SMALL NOW, SO THEY COULD REMAIN SMALL. AND I THINK THAT WOULD HELP. I AGREE WITH DEBBIE, I DON'T SEE ANY WAY TO CHANGE THE BULK OF THIS THING UNLESS WE MADE THE ROOF LOWER. BUT CHARLES, I WOULD HAVE TO RELY ON YOU TO COME UP WITH AN IDEA ON THAT. THAT'S ALL I HAVE TO SUGGEST. THE OTHER THING IS THAT PATHWAY THAT GOES TO UNIT NUMBER TWO ON THE NORTH SIDE OF THE BUILDING, THERE IS NO FENCE THERE. AND IT JUST SEEMS LIKE EYE IT'S EXPECTED THIS TO BE A GATE TO AN ENTRYWAY AND DRIVEWAY THAT PROBABLY DOESN'T EXIST. SHOULD WE ASK FOR A FENCE? JUST PUTTING IT OUT THERE.

>> C. KAHN: I WOULD LIKE TO -- DEBBIE, WITH YOUR PERMISSION I WOULD LIKE TO RESPOND TO CARRIE'S QUESTION ABOUT THE WINDOWS AND STUFF.

>> WE NEED TO TAKE A BREAK.

>> C. KAHN: OKAY, IT'S 9:00. THEN I'LL HOLD THAT AND DEBBIE, YOU'LL BE THE FIRST ONE HEARD WHEN WE COME BACK. AND I GUESS IT'S STANDARD TO TAKE A 10-MINUTE BREAK. WE HAVE ONE MORE. I THINK WE HAVE TO STOP AT 10:00 ANYWAY. LET'S BE BACK AT 9:12.

WE'LL MAKE IT 9:12 ON BUTTON. THANKS.

>> C. KAHN: OKAY. LET'S GET THIS UNDERWAY. IT BY, WHY DON'T YOU GO AHEAD AND SAY YOUR PEACE. CAN YOU HEAR ME, DEBBIE? CAN ANYONE HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. DEBBIE DOESN'T SEEM TO BE HEARING ANYTHING. I'LL TRY TO TEXT HER. DEBBIE. CAN YOU HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. NO? WELL, I THINK WE SHOULD MOVE FORWARD. DEBBIE, CAN YOU HEAR ME? YES? NO? SAMANTHA, CAN YOU HEAR ME?

>> BOARD SECRETARY: I CAN HEAR YOU.

>> C. KAHN: THIS SEALS TO BE A PROBLEM WITH DEBBIE'S SYSTEM. I SENT HER A TEXT -- SHE IS GOING TO SIGN OFF AND TRY TO GET BACK ON. SO, MOST OF THE CONCERNS VOICED WHICH THE NEIGHBORS WERE RELATED TO SHADOW AND LIGHT. AND I DON'T SEE ANYTHING MORE THAN WE CAN TO. THIS IS AS LOW AS IT CAN GO AND RECOMMENDATION FROM STAFF TO GO UP INTO THE BUTTERFLY ROUTE WHICH THEY COULD HAVE REQUESTED TO THE AVAILABLE ROUTE IS GOOD ADVICE, VERY THOUGHTFUL THAT THE NEIGHBOR'S PRIVACY AND SHADOWING CONCERNS, LIGHT AND AIR. THAT WAS A GOOD MOVE DROPPING -- NOT PUSHING UP THE HIGHEST THAT THEY COULD GO IS HELPING. THESE ARE NOT HIGH CEILING HEIGHTS. I'M KIND OF -- OTHER THING IS THEY DID RESPECT THE 20-FOOT SETBACK AT THE REAR AND THE FRONT ON THE NEW SECOND FLOOR. WHICH REALLY DOES MITIGATE THE SHADOW LINES OF THE FLOORS SUBSTANTIALLY. I FEEL LYING MOST OF THE MITIGATIONS ARE IN PLACE. I DIDN'T HEAR ANYTHING FROM THE NEIGHBORS EXPRESSING

CONCERNS ABOUT WINDOWS AND WINDOW PRIVACY. AND I LISTENED TO NEIGHBORS AND TRY TO RESPOND TO THEIR CONCERNS RATHER THAN JUST TRYING TO APPLY A RESTRICTION FOR THE SAKE OF APPEALING TO BE APPEARING TO BE ACCOMMODATING OF NEIGHBOR'S CONCERNS. IT DOESN'T ADDRESS THE CONCERNS THAT THEY VOICED. I HEARD VOICES ABOUT PARKING AND LIGHT AND ACTUALLY, HONESTLY, I LOOKED AT THE SHADOW PLANS AND I DON'T THINK THAT THIS IS DRAMATICALLY INCREASING THE AMOUNT OF SHADOW THAT THE NEIGHBORS ARE CURRENTLY EXPERIENCING. IT'S A SECOND STOREY ADDITION AND THE OWNER HAS THE RIGHT FOR A SECOND STOREY. I'M GOING TO MOVE FOR APPROVAL. IS DEBBIE BACK ON? SHE SEEMS TO BE HAVING TROUBLE WITH HER --

>> D. SANDERSON: NO I HAVE TO REMEMBER TO TURN THE HEAD SET ON. I TURN IT OFF. I HAVE COME TO THE SAME CONCLUSION. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE DISTANCES BETWEEN THE HOUSE AND THE DIFFERENT SITTING AREAS. AND NOTICED THAT THE SOUTHEAST, THE SOUTHEAST CORNER THAT LOOKS OUT OVER -- I MEAN I UNDERSTAND FROM THE NEIGHBORS' CONCERN THAT THIS IS DIFFERENT AND IT WILL INCLUDE CHANGES IN HOW THEY ARRANGE THEIR LIVING PATTERN WITH THEIR NEIGHBORS. I LIVE IN A HOUSE WHERE I CAN SEE INTO MY A NEIGHBOR'S DINING ROOM WINDOW ON ONE SIDE AND DIRECTLY INTO THE KITCHEN WINDOW ON THE OTHER SIDE. SOMEHOW IT EVOLVED. IF YOU PUT SEE-THROUGH CURTAINS WHERE YOU CAN'T SEE THE PEOPLE BUT IT LETS THE LIGHT IN. I UNDERSTAND THAT THE CHANGE IS UPSETTING AND IRE CONCERNED WITH THE IMPACT. BUT THE IMPACT HAVE OTHER WAYS OF

BEING ACCOMMODATING WITHOUT SAYING NO, YOU CAN'T BUILD THE BUILDING. AS FAR AS THE SHADOWS GO, I DON'T SEE ANY OTHER WAY AROUND IT. THE SHADOWS MENTIONED ARE TRANSITORY. ONE TIME OF THE YEAR AND TWO OR THREE MONTHS AND IT WON'T BE THE WINDOWS WILL BE SHADED ALL DAY. SO I'M WITH YOU, CHARLES, I MEAN I'VE LOOKED AT WHO IS SITTING IN WHAT ROOM AND LOOKING OUT WHERE AND HOW FAR AWAY IT IS. I THINK IT'S -- THESE ARE THE TYPICAL IMPACTS IN AN URBAN AREA EVEN THOUGH FOR THESE NEIGHBORS, I RECOGNIZE AND APPRECIATE THAT IT'S DIFFERENT THAN WHAT YOU'RE USED TO. BUT THAT SAID, I THINK I WOULD SUPPORT THE PROJECT.

>> C. KAHN: THANK YOU FOR YOUR COMMENTS. CARRIE.

>> C. OLSON: I DON'T DISAGREE. AND -- BUT I THINK IT'S IMPORTANT THAT WE HAVE THIS DISCUSSION. AGAIN IN FRONT OF THE PUBLIC. SO THEY UNDERSTAND WHY WE'RE MAKING THE DECISIONS WE MAKE. I'LL SECOND YOUR MOTION, CHARLES.

>> C. KAHN: THANK YOU, CARRIE. OKAY. WE HAVE A MOTION, WE HAVE A SECOND. IF THERE IS NO FURTHER DISCUSSION, I WOULD LIKE TO HAVE A VOTE SO WE CAN HAVE OUR FINAL ITEM TONIGHT. SAMANTHA.

>> CLERK: THANK YOU. THIS IS TO APPROVE 1643, 1647 CALIFORNIA STREET. COMMISSIONER DUFFY.

>> YES.

>> COMMISSIONER THOMPSON.

>> YES.

>> COMMISSIONER OLSON.

>> YES.

>> COMMISSIONER GAFFNEY.

>> YES.

>> COMMISSIONER KIM.

>> YES.

>> COMMISSIONER KAHN.

>> YES.

>> COMMISSIONER SANDERSON.

>> YES.

>> VICE CHAIR O'KEEFE.

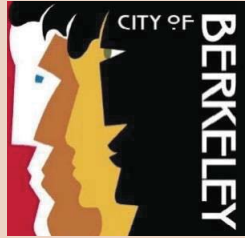
>> YES.

>> AND COMMISSIONER TREGUB.

>> YES.

>> C. KAHN: THANK YOU SAMANTHA, THAT WAS A UNANIMOUS VOTE IN FAVOR OF THE USE PERMIT WHICH IS NOW GRANTED SUBJECT TO ALL THE TERMS AND CONDITIONS THAT APPLY.





**Land Use / Zoning**

Planning and  
Development

All new uses, structures, and modifications to structures in the City of Berkeley are required to be in conformance with the Zoning Ordinance.

Information on different types of permits can be found at the links below.

**Overview of the Permitting Process**  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Permit\\_Service\\_Center/Permitting\\_Process.aspx](https://www.cityofberkeley.info/Planning_and_Development/Permit_Service_Center/Permitting_Process.aspx)

**Types of Permits**  
[https://www.cityofberkeley.info/Planning\\_and\\_Development/Home/Types\\_of\\_Land\\_Use\\_Permits.aspx](https://www.cityofberkeley.info/Planning_and_Development/Home/Types_of_Land_Use_Permits.aspx)

**Zoning Project Submittal Requirements**  
<https://tinyurl.com/rahe8ld>

**Land Use / Zoning**  
 1947 Center Street  
 2<sup>nd</sup> Floor  
 Berkeley, CA 94704  
 Phone: 510-981-7410  
 TDD: 510-981-7450  
[planning@cityofberkeley.info](mailto:planning@cityofberkeley.info)

# Zoning Project Application

<p style="text-align: center;"><i>(This box for staff use only.)</i></p> <p>ZP20 _____</p> <p><input type="checkbox"/> Administrative Use Permit      <input type="checkbox"/> Variance</p> <p><input type="checkbox"/> Use Permit                              <input type="checkbox"/> Modification of any of the Above</p> <p>Zoning District(s): _____</p> <p>Intake Planner: _____</p>	<p>DATE STAMP HERE</p>
---	------------------------

**Project Information:**

Project Address: 1643 and 1647 California St. Unit/Suite #: \_\_\_\_\_

Assessor Parcel Number: 58-2156-18

**Project Description:**

- Reconfigure existing duplex to create one larger unit and one smaller apartment.
- All work shall be within the building footprint. The building shall remain as a duplex
- Create new new first floor and new third floor.
- See attachment for full description.

**Expedited Services Requested?** Yes  No

**Property Owner's Name:** Ido and Tamar Oppenheimer

**Owner's Mailing Address:** 1643 & 1647 California St. Berkeley CA 94703

**Phone #:** 510-486-8387

**Email:** idoopp@gmail.com

**Applicant's Name** (or enter "same"): Sundeep Grewal - Studio G+S Architects

**Applicant's Mailing Address:** 2223 5th. St. Berkeley, CA 94710

**Phone #:** 510-548-7448

**Email:** sunny@sgsarch.com

Under penalty of perjury, I certify that:  
**(1) the application materials are true and complete to the best of my knowledge;**  
**(2) the attached paper and electronic copies of this application are the same; and**  
**(3) I agree to pay all expenses associated with this application.**  
 (\*Owner's signature, or signed letter authorizing applicant to apply on owner's behalf, is required for all applications)

<p><b>Applicant Signature:</b></p> <p style="text-align: center;"></p> <p>Printed Name: <u>Sundeep Grewal</u></p> <p>Date: <u>12-22-2020</u></p>	<p><b>Owner Signature:</b></p> <p style="text-align: center;"></p> <p>Printed Name: <u>Ido Oppenheimer</u></p> <p>Date: <u>12-22-2020</u></p>
--	---

(This page is for staff use only)

Zoning District(s):	
Zoning Section	Description
1. 23___.____.____	UP/AUP to
2. 23___.____.____	UP/AUP to
3. 23___.____.____	UP/AUP to
4. 23___.____.____	UP/AUP to
5. 23___.____.____	UP/AUP to
6. 23___.____.____	UP/AUP to
7. 23___.____.____	UP/AUP to
8. 23___.____.____	UP/AUP to
9. 23___.____.____	UP/AUP to
10. 23___.____.____	UP/AUP to



Permit Service Center  
 Building and Safety Division  
 1947 Center St. 3rd Floor  
 Berkeley, CA 94704

## INVOICE

Date: 01/06/21

**Invoice #:** 450164

**Record #:** ZP2021-0001

**Bill to:**

**Address:** 1643 CALIFORNIA ST

Sundeeep Grewel  
 2223 5TH ST  
 BERKELEY CA 94710-2216

<b>Date Assessed</b>	<b>Invoiced Fee Item</b>	<b>Fee</b>	<b>Paid</b>	<b>Balance</b>
1/6/2021	Records Management RM	\$50.00	\$0.00	\$50.00
1/6/2021	Community Planning Fee CPF1	\$300.00	\$0.00	\$300.00
1/6/2021	UPPH: Additional Use Permit (on same project) UPPH060	\$400.00	\$0.00	\$400.00
1/6/2021	VAR: Additional Variances VAR040	\$400.00	\$0.00	\$400.00
1/6/2021	Community Planning Fee (15%) ADDCPF	\$660.00	\$0.00	\$660.00
1/6/2021	UPPH: ZAB Public Hearing Fee UPPH070	\$1,025.00	\$0.00	\$1,025.00
1/6/2021	AUP: Additional Administrative Use Permits AUP080	\$2,000.00	\$0.00	\$2,000.00
1/6/2021	UPPH: Base Tier 1 (all other projects) UPPH010	\$3,600.00	\$0.00	\$3,600.00
<b>Totals:</b>		\$8,435.00	\$0.00	\$8,435.00



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

Dec. 22, 2020

### **Applicant's Statement**

#### **Project address:**

1643 & 1647 California St.  
Berkeley, CA 94702

#### **Existing Conditions:**

The existing slight uphill parcel contains a one-story duplex in the R-2 restricted two-family residential district. Each duplex is 667 square feet. The existing building and density do not conform to the current maximum density or lot coverage requirements. However, the building was legally built with building permit and hence is considered legal non-conforming. See zoning research letter from Jan. 3, 2017 attached here. Both units are currently owner occupied. Please note unit 2 (1643 California Ave.) is a rent controlled unit. There is currently no on-site parking.

**Proposed project:** The proposed project includes an addition to and remodeling of the two units. Major components of the project include reconfiguration of the existing duplex to create one larger unit (unit 1) and one smaller, one bedroom unit (unit 2). All work shall be within the building footprint. The building shall remain a duplex.

The preliminary program includes the following:

#### **Basement/First floor:**

- Raise existing building to create new basement level for new garage (2 car parking, mech. room, storage and gym and family room.

#### **Second floor:**

- Reconfigure layout to create one large unit (unit 1) and one smaller, one bedroom unit (unit 2)
- Rebuild/reconfigure existing front entry porch and entry stairs for unit 1
- Create new side entry porch on left side for unit 2
- Create new stairs to basement and second floor levels
- Create new deck at rear of house

#### **Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony

**Miscellaneous:**

- Create new driveway and curb cut for new garage
- Remove existing accessory building at rear yard

**Planning Application includes:**

- Use Permit (UP) for enlarging a non-conforming density
- Use Permit (UP) for addition and expansion for non-conforming lot coverage
- Administrative Use Permit (AUP) for extension of non-conforming rear yard setback
- Administrative Use Permit (AUP) for extension of non-conforming front yard setback
- Administrative Use Permit (AUP) for major addition of 600 s.f.
- Administrative Use Permit (AUP) to create a fifth bedroom
- Administrative Use Permit (AUP) for building addition exceeding 14 feet in height
- Variance for exceeding lot coverage

**Arguments in support of this project are as follows:**

- A. The requested AUPs for major addition of 600 s.f., fifth bedroom and additions exceeding 14' in height are typical for any similar proposed project. There are no special exceptions requested for these various AUPs.
- B. The AUPs for the rear and front yard setback requirement is needed to extend the non-conforming walls for new first floor basement and the third story addition. Please note existing building was originally built within the front and rear setbacks in 1924. Please note that the left side set back is currently 3'-11" where 4'-0" required. The proposed building shall be shifted to the right to meet the 4'-0" setback.
- C. The two use permits required for enlarging a non-conforming density and lot coverage are unavoidable. The two legal units are very small at 667 s.f. each. Adding even one additional square foot the building triggers this use permit.
- D. The variance is sought for exceeding the lot coverage. This too is an unavoidable situation. Any amount of expansion of the existing building triggers the variance. The existing lot is one of the smallest parcels in this neighborhood. It is only 3,142 s.f. in size. However, the proposed project makes the existing condition much better than it is currently. The existing lot coverage is 49.94% (1,569 s.f.). The proposed lot coverage is reduced to 43.98% (1,382 s.f.). But because we are going from a single story building to a three story structure, it is still over the maximum lot coverage of 35% for a three story structure. Even if we were to reduce the project to a two story structure, it would still require a variance. It appears nothing can be proposed without this variance. We believe this to be a hardship for the homeowners.
  - I believe similar variances have been granted in the past (ZP2015-0077 and ZP2017-0100).
  - **ZP2017-0100** variance was approved because *"the Zoning Adjustments Board finds that the proposed project is permissible as it will not increase the existing non-conforming density, number of units, and substandard usable open space on the site. The project would not exceed the district height limit."* This is very similar to our case.

- **ZP2015-0077** also approved a lot coverage variance. It is somewhat of a similar situation as we also have a legal non-conforming lot coverage. In our proposed project we are reducing the lot coverage from 49.94% to 43.98%. I believe we have done as much as possible that can be done without removing a substantial section of the existing structure.
- A. Two new off-street parking spaces proposed (one regular and compact size). Therefore taking two cars off the street. Previously no parking was provided.
- B. The proposed project meets the required height limit
- C. The usable open space requirement now exceeds the minimum space requirement of 400 s.f. per dwelling unit. The existing open space is +/-500 s.f. The total open space proposed is over 1,000 s.f. By removing the existing accessory building at the rear of the property, we are creating a better outdoor space than existed.
- D. Has negligible impact to neighboring properties. (See shadow study)
- E. The proposed project has support from the adjoining neighbors. See attached letters.
- F. The scale of the new addition is compatible with many other houses with a similar height and scale in this neighborhood.



Sundeep Grewal  
Applicant and Project Architect



area of new addition



1643 & 1647 California St.

Oppenheimer Residence  
1643 & 1647 California St.  
Berkeley, CA 94703

## Site Photos

2223 Fifth Street.  
Berkeley, CA 94710  
Ph: 510. 548. 7448  
www.sgsarch.com





Right Side



Left Side

Oppenheimer Residence  
1643 & 1647 California St.  
Berkeley, CA 94703

## Site Photos

2223 Fifth Street.  
Berkeley, CA 94710  
Ph: 510. 548. 7448  
www.sgsarch.com







Rear



Rear

Oppenheimer Residence  
1643 & 1647 California St.  
Berkeley, CA 94703

## Site Photos

2223 Fifth Street.  
Berkeley, CA 94710  
Ph: 510. 548. 7448  
www.sgsarch.com





1636 California St.

1634 California St.



1656 California St.



1639 California St.

1643 & 1647 California St.

1651 & 1653 California St.

Oppenheimer Residence  
1643 & 1647 California St.  
Berkeley, CA 94703

# Neighborhood Context

2223 Fifth Street.  
Berkeley, CA 94710  
Ph: 510. 548. 7448  
www.sgsarch.com





1600 Lincoln St.  
Apartments

1631 California St.

1635 California St.

1639 California St.

AUP for 2nd story  
addition approved



1634 California St.


1628 California St.

Oppenheimer Residence  
1643 & 1647 California St.  
Berkeley, CA 94703

## Neighborhood Context

2223 Fifth Street.  
Berkeley, CA 94710  
Ph: 510. 548. 7448  
www.sgsarch.com



	<h1 style="margin: 0;">Zoning Project Application Submittal Requirements</h1> <span style="float: right;">Page 1 of 18</span>	
<p><b>ZP202</b> _____</p> <p><input type="checkbox"/> Administrative Use Permit      <input type="checkbox"/> Variance</p> <p><input type="checkbox"/> Use Permit                              <input type="checkbox"/> Modification to any of the Above</p> <p><b>Intake Planner:</b> _____</p>	<p><i>(This box for staff use only.)</i></p> <p>DATE STAMP HERE</p>	

## SUBMITTAL REQUIREMENTS DURING COVID-19 SHELTER-AT-HOME ORDER

Please note: While the City is following the County Health Official's orders to shelter-at-home, this document has been modified to allow applicants to submit new Planning applications, while avoiding person-to-person contact. During this order, only the submittal requirements shown in **RED** will be required upon initial submittal of materials. Your project planner will review the submitted materials and contact you regarding any additional requirements for completion.

The Zoning Project Submittal Requirements packet describes all of the materials required to submit a complete Zoning Project Application to the Planning and Development Department, Land Use Division. Section 1 is a checklist of materials required for all projects; Sections 2-7 comprise a list of materials that may be required based on the project type or location. Other information not included on this checklist may be requested to address unique situations. All documents, reports and plans must be provided in hard copy and digital format.

Each submittal requirement on the checklist is described further in this packet, starting on page 3. Each description: 1) identifies whether an item is required, and 2) indicates how to prepare each document, drawing, material, and/or report.

Pages 1 and 2 of this packet must be completed and submitted with the Application. Staff will verify that the minimum submittal requirements have been included with your package during the application submittal appointment. Applications that are missing the materials in this checklist will not be accepted for review.

### Section 1 – Required for all Projects

- |   |  |
|---|--|
| <p>A. <input checked="" type="checkbox"/> Completed Zoning Project Application Packet comprised of the following individual sections:</p> <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Zoning Project Application Form</li> <li>2. <input checked="" type="checkbox"/> Completed copy of this Zoning Project Submittal Requirements Checklist (Pages 1-2)</li> </ol> <p>B. <input checked="" type="checkbox"/> Applicant Statement / Waiver Request</p> <p>C. <input type="checkbox"/> Payment of Application Fees (Please Refer to Current Fee Schedule)</p> <p>D. <input checked="" type="checkbox"/> Hazardous Waste and Substances Statement</p> | <p>E. <input checked="" type="checkbox"/> Tabulation Form</p> <p>F. <input type="checkbox"/> Zoning Use Questionnaire <b>N/A</b></p> <p>G. <input type="checkbox"/> Pre-Application Yellow Poster</p> <p>H. <input checked="" type="checkbox"/> Pre-Application Neighborhood Contact</p> |
|---|--|



# Zoning Project Application Submittal Requirements

Page 2 of 18

## Section 2 – Required for All Development Projects

(Involving New Structures, Additions, Demolitions, or Exterior Alterations)

- |  |   |
|--|---|
| A. <input checked="" type="checkbox"/> Site Plan                           | E. <input type="checkbox"/> Street Strip Elevation                        |
| B. <input checked="" type="checkbox"/> Lot Coverage/Usable Open Space Plan | F. <input checked="" type="checkbox"/> Section Drawings                   |
| C. <input checked="" type="checkbox"/> Floor Plans                         | G. <input checked="" type="checkbox"/> Boundary and/or Topographic Survey |
| D. <input checked="" type="checkbox"/> Building Elevations                 | H. <input type="checkbox"/> Grading Plan                                  |

## Section 3 – Supporting Documents, Studies, Graphics, and Depictions for All Development Projects

- |   |  |
|---|--|
| A. <input checked="" type="checkbox"/> Site Photographs | F. <input type="checkbox"/> Parking Survey                     |
| B. <input checked="" type="checkbox"/> Shadow Study     | G. <input type="checkbox"/> Traffic Impact Analysis Memorandum |
| C. <input type="checkbox"/> Story Pole Plan             | H. <input type="checkbox"/> Photo Simulations                  |
| D. <input type="checkbox"/> Arborist Report             | I. <input type="checkbox"/> Public Art Declaration             |
| E. <input type="checkbox"/> Structural Evaluation       |  |

## Section 4 –Environmental Review

- |   |   |
|---|---|
| A. <input type="checkbox"/> Creek Protection Documentation      | D. <input type="checkbox"/> Seismic Hazard Investigation      |
| B. <input type="checkbox"/> Historic Resource Evaluation        | E. <input type="checkbox"/> State General Construction Permit |
| C. <input type="checkbox"/> Phase I or Phase II Site Assessment | F. <input type="checkbox"/> Stormwater Requirements Checklist |

## Section 5 – Required for Projects Subject to Affordable Housing Requirements

- |  |   |
|--|---|
| A. <input type="checkbox"/> Housing Affordability Statement      | C. <input type="checkbox"/> Density Bonus Eligibility Statement       |
| B. <input type="checkbox"/> Anti-Discrimination Housing Policies | D. <input type="checkbox"/> Area of Potential Effects (APE) Statement |

## Section 6 – Landscape and Green Building Requirements

- |   |   |
|---|---|
| A. <input type="checkbox"/> Landscape Requirements  | C. <input type="checkbox"/> Green Building Requirements |
| B. <input type="checkbox"/> Natural Gas Prohibition, Berkeley Energy Code and Berkeley Green Code |   |

## Section 7 – Related Land Use Planning Division Applications

- |   |  |
|---|--|
| A. <input type="checkbox"/> Design Review | B. <input type="checkbox"/> Structural Alteration Permit |
|---|--|

### PLANNING & DEVELOPMENT

Land Use Planning Division, 1947 Center Street, 2<sup>nd</sup> Floor, Berkeley, CA 94704

Tel: 510.981.7410 TDD: 510.981.6903

Fax: 510.981.7420 Email: [Planning@CityofBerkeley.info](mailto:Planning@CityofBerkeley.info)

**A note from the homeowners:**

Dear planning department and Zoning Adjustment Board,

Our family purchased this home in 1989 and was very happy to move into the neighborhood and was immediately welcomed by our neighbors (many of whom still live on the street!). When we first purchased this house, we knew that it needed a lot of work to make it our home. But life had different plans. In just a few short years, we found ourselves raising four children, two of which had disabilities. We focused all of our time, energy and efforts into raising our kids and remodeling/upgrading the house just wasn't a priority anymore.

Now, after 30 years, our home is in a bad condition and in need of dire work. Our kids are all adults now, three of them graduated college and now live in the bay area while the youngest is home studying for a college degree online. We are finally able to refocus our energy and time on the house to ensure it can remain our home for a very long time. Our home is a duplex and we'd like extend our living space to meet our needs. We would like to build a larger main residence while maintaining a smaller apartment for our youngest son, Ron (22). Ron was born with retinoschisis, a vision impairment which means he will never be capable of driving a car. Hence public transformation is very important to us. Our home is in a perfect location for him: just a 5 minute walk from BART, accessible busses and grocery stores within walking distance to provide him with an independent life. No child wants to be dependent on his parents for ever.

Therefore, it's important to us that he has a home to live in while we get to remain in our neighborhood with our incredible neighbors who we've known for over 30 years. We've spoken to our neighbors on both sides of our house and across the street and all support our project to remodel our home so we can remain on the same street.

Thank you for considering our request.

Tamar and Ido Oppenheimer

**Project Description:**

The proposed project includes an addition to and remodeling of the two units. Major components of the project include reconfiguration of the existing duplex to create one larger unit (unit 1) and one smaller, one bedroom unit (unit 2). All work shall be within the building footprint. The building shall remain a duplex.

The preliminary program includes the following:

**Basement/First floor:**

- Raise existing building to create new basement level for new garage (2 car parking, mech. room, storage and gym and family room.

**Second floor:**

- Reconfigure layout to create one large unit (unit 1) and one smaller, one bedroom unit (unit 2)
- Rebuild/reconfigure existing front entry porch and entry stairs for unit 1
- Create new side entry porch on left side for unit 2
- Create new stairs to basement and second floor levels
- Create new deck at rear of house

**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony

**Miscellaneous:**

- Create new driveway and curb cut for new garage
- Remove existing accessory building at rear yard



## PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704

Tel: 510.981.7410 TDD: 510.981.6903 Email: Planning@CityofBerkeley.info

# TABULATION FORM

Project Address: 1643 and 1647 California St. Date: 12-22-2020

Applicant's Name: Sundeep Grewal - Studio G+S Architects

Zoning District: R-2

Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

	<i>Existing</i>	<i>Proposed</i>	<i>Permitted/ Required<sup>1</sup></i>
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (#)	2	2	1
Number of Parking Spaces (#)	0	1	2
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	3	5	N/A
<b>Yards and Height</b>			
Front Yard Setback (Feet)	10'-10'	10'-10"	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	3'-11'	4'-0"	4'-0"
Right: (Feet)	5'-6'	5'-5"	4'-0"
Rear Yard Setback (Feet)	16'-10'	16'-10"	20'-0"
Building Height* (# Stories)	1	3	3
Average* (Feet)	13'-6'	26'-6"	28'-0"
Maximum* (Feet)	13'-6'	28'-0"	35'-0"
<b>Areas</b>			
Lot Area (Square-Feet)	3,100 s.f.	3,100 s.f.	4,500 s.f.
Gross Floor Area* (Square-Feet)	1,334 s.f.	3,412 s.f.	
Total Area Covered by All Floors			
Building Footprint* (Square-Feet)	1,569 s.f.	1,382 s.f.	1,085 s.f. for 3 stories
Total of All Structures			
Lot Coverage* (%) Residential only (Building Footprint/Lot Area)	49.94 %	43.98 %	35 % for 3 stories
Useable Open Space* (Square-Feet)	500 s.f.	1,029 s.f.	800 s.f. 400 s.f./unit
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

\*See Definitions – Zoning Ordinance Title 23F.

Revised: 11/19

<sup>1</sup> See development standards for your Zoning District, per the Berkeley Municipal Code, Sub-Titles 23D and 23E  
g:\landuse\forms & instructions\land use planning forms\word files\forms\_zoning project application\zoning project application\_tabulation form.docx





## PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704  
 Tel: 510.981.7410 TDD: 510.981.7474 Email: [Planning@cityofberkeley.info](mailto:Planning@cityofberkeley.info)

### HAZARDOUS WASTE AND SUBSTANCES STATEMENT

Pursuant to the Permit Streamlining Act (PSA), a development permit application may not be accepted as complete unless and until the applicant has submitted a signed statement indicating whether the proposed project site or any alternative site(s) is on the lists of hazardous waste sites compiled pursuant to Government Code Section [65962.5](#) by the California Secretary for Environmental Protection.

Data lists / maps are available at the following websites (check multiple lists and categories):

<http://www.calepa.ca.gov/SiteCleanup/CorteseList/>

<https://www.envirostor.dtsc.ca.gov/public/>

#### Applicant's Information:

Name: Sundeep Grewal

Street Address: 2223 5th. St

City, State, Zip Code: Berkeley CA 94710

Phone Number: 510-548-7448 Email: sunny@sgsarch.com

#### Project Information:

Address: 1643 and 1647 California St

City, State, Zip Code: Berkeley CA 94703

Assessor's book, page, and parcel number: \_\_\_\_\_

#### Specify any list that the site appears on:

Regulatory identification number: \_\_\_\_\_

Date of list: \_\_\_\_\_

#### Site Use (if known):

Past: Residential - duplex Present: Residential - duplex

Proposed: Residential - duplex

#### Submittals (check all that are available):

Phase I Report  Phase II Report  Closure Letter  Other: \_\_\_\_\_

#### Applicant's verification:

Signature:  Date: 12-22-2020

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street  
To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth

November 17, 2020

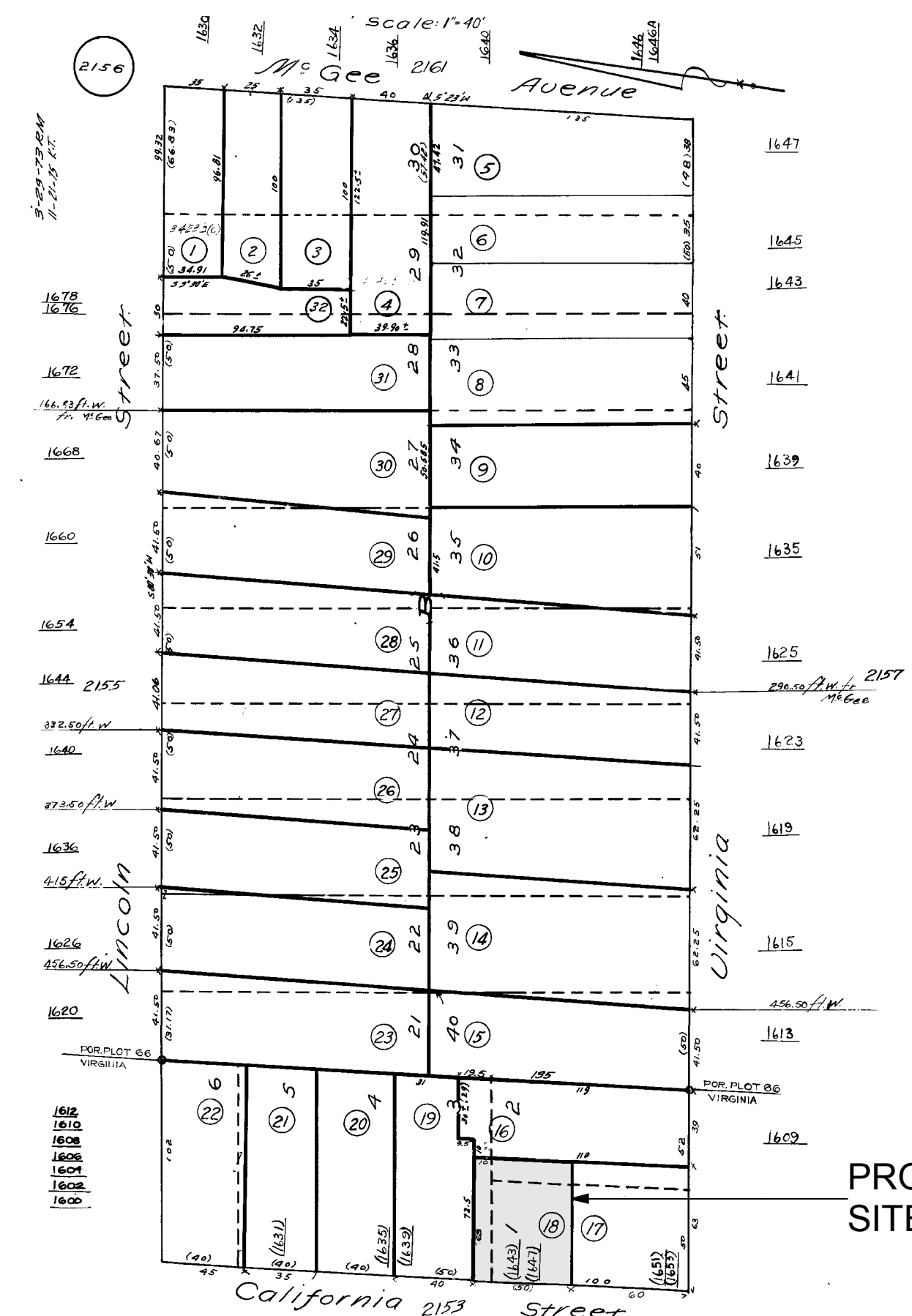
To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz  
1639 California St.  
Berkeley, 94703

PARCEL MAP



**OPPENHEIMER RESIDENCE**

1643 & 1647 California St. CA 94703

SHEET INDEX

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

SCOPE OF WORK

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

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

**Basement/First floor:**

- Raise existing building to create new basement level for new garage, mech. room, storage and gym and family room

**Second floor:**

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

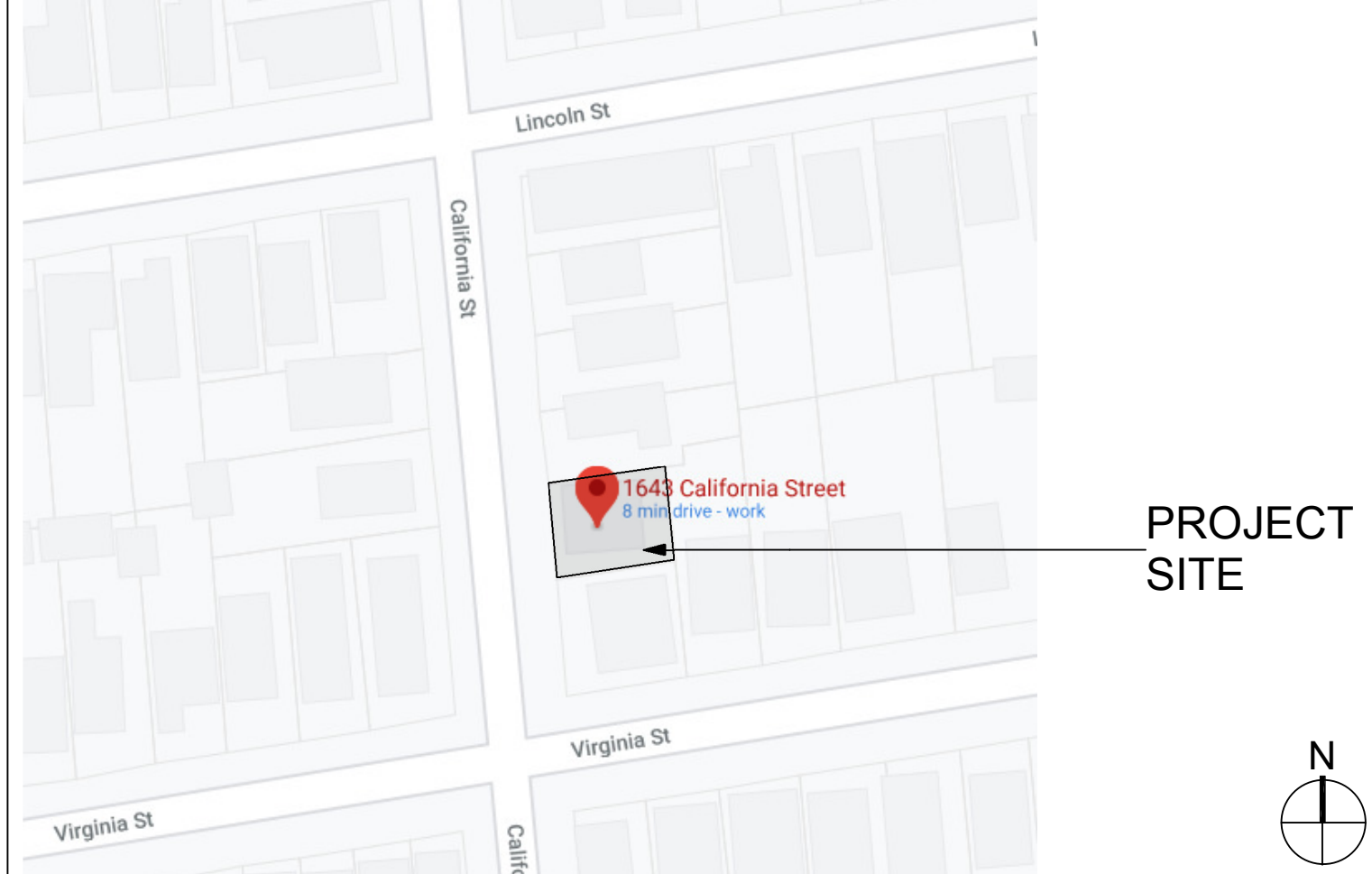
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony

**Miscellaneous:**

- Update all mechanical, electrical and plumbing systems as required for new work
- Create new driveway and curb cut for new garage

VICINITY MAP



PROJECT DIRECTORY

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

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

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

PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**  
 No

APPLICABLE CODES

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

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

SITE PHOTOS



Aerial of existing duplex

PROJECT SITE



Front and right Side of existing duplex



Front and left Side of existing duplex

Tabulations

	Required/Allowed	Existing	Proposed
<b>Set Backs:</b>			
Front	20'-0"	10'-10"	10'-10" no change
Rear:	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
<b>Habitable Floor Area:</b>			
<b>Unit 1:</b>			
Basement floor:		0 s.f.	817 s.f.
First floor:		667 s.f.	901 s.f.
Second floor:		0 s.f.	1,197 s.f.
Total Area Unit 1:		667 s.f.	2,911 s.f. (2,244 s.f. new)
<b>Unit 2:</b>			
Basement floor:		0 s.f.	0 s.f.
First floor:		667 s.f.	501 s.f.
Second floor:		0 s.f.	0 s.f.
Total Area Unit 2:		667 s.f.	501 s.f.
Total Area:		1,334 s.f.	3,412 s.f. (2,078 s.f. new)
<b>Bedroom Count:</b>		3 total	5 total
<b>Non-Habitable Area:</b>			
Accessory Structure:		167 s.f.	0 s.f.
<b>Building Height:</b>			
Main Building:	28'-0" 35'-0" w/ AUP	13'-6" 13'-6"	26'-3" 28'-0"
<b>Parking:</b>	2	0	2 (1 regular, 1 compact)
<b>Lot Size:</b>	4,500 s.f.	3,142 s.f.	3,142 s.f.
<b>Total Foot Print:</b>			
House:		1,342 s.f.	1,342 s.f.
Covered Porch:		60 s.f.	0 s.f.
Accessory Structure:		167 s.f.	0 s.f.
Total:	1,085 for 3 stories	1,569 s.f.	1,382 s.f.
<b>Lot Coverage:</b>	45% (1 story) 40% (2 story) 35% (3 story)	49.94%	43.98%
<b>Usable Open Space:</b>	400 s.f./unit	500 s.f.	1,029 s.f.

ABBREVIATIONS

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

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

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 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 N/A

Revisions:  
 Use Permit Set: 12-10-2020

Sheet  
**A0.0**



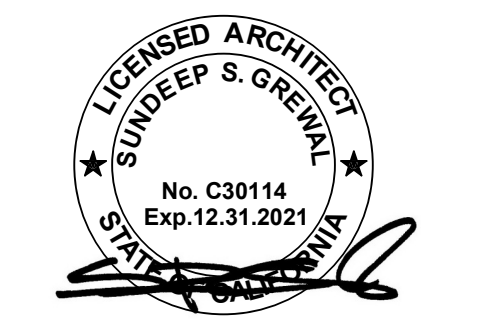
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 APN: 58-2156-18



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 APN: 58-2156-18

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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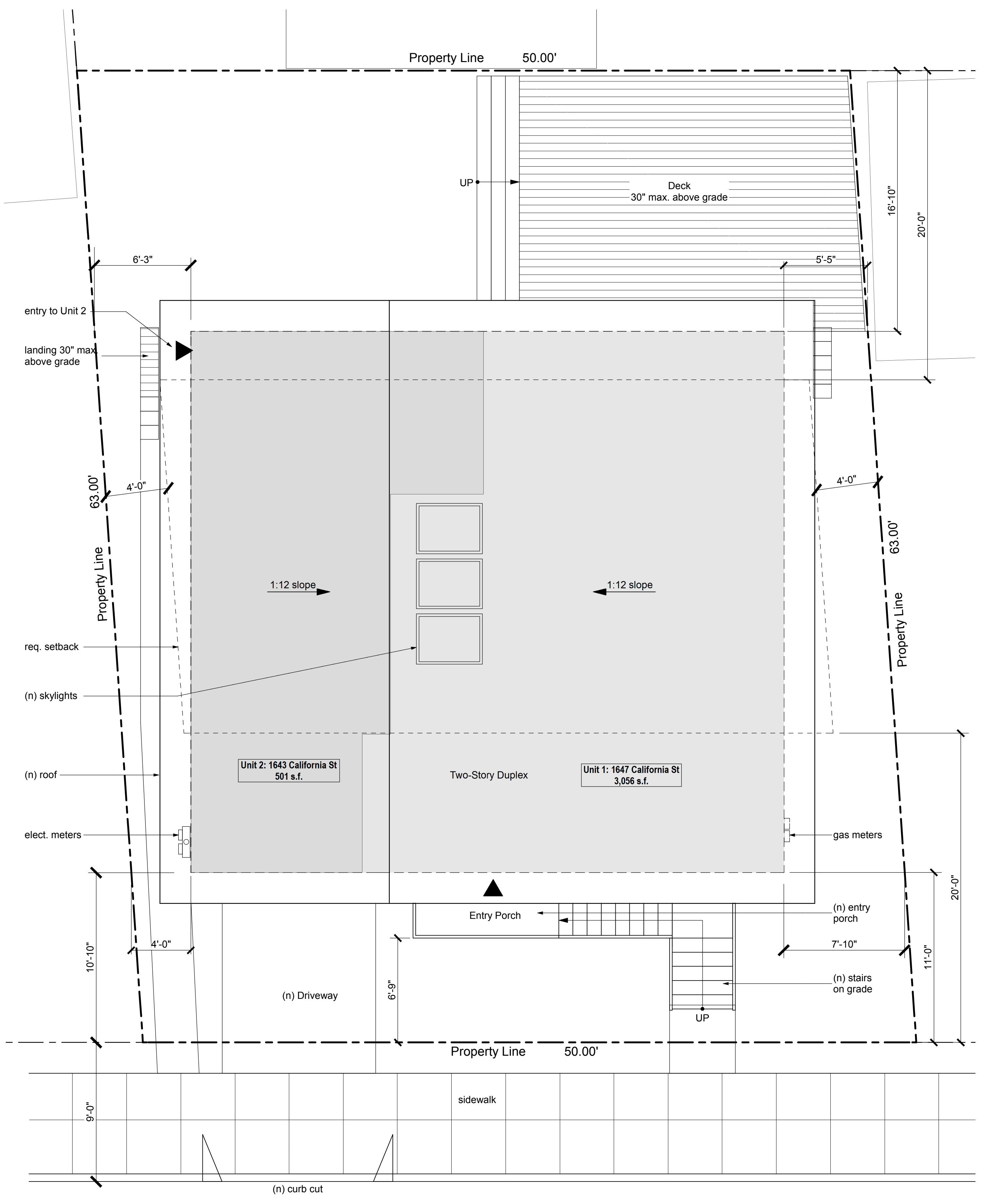
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Checked By: SSG

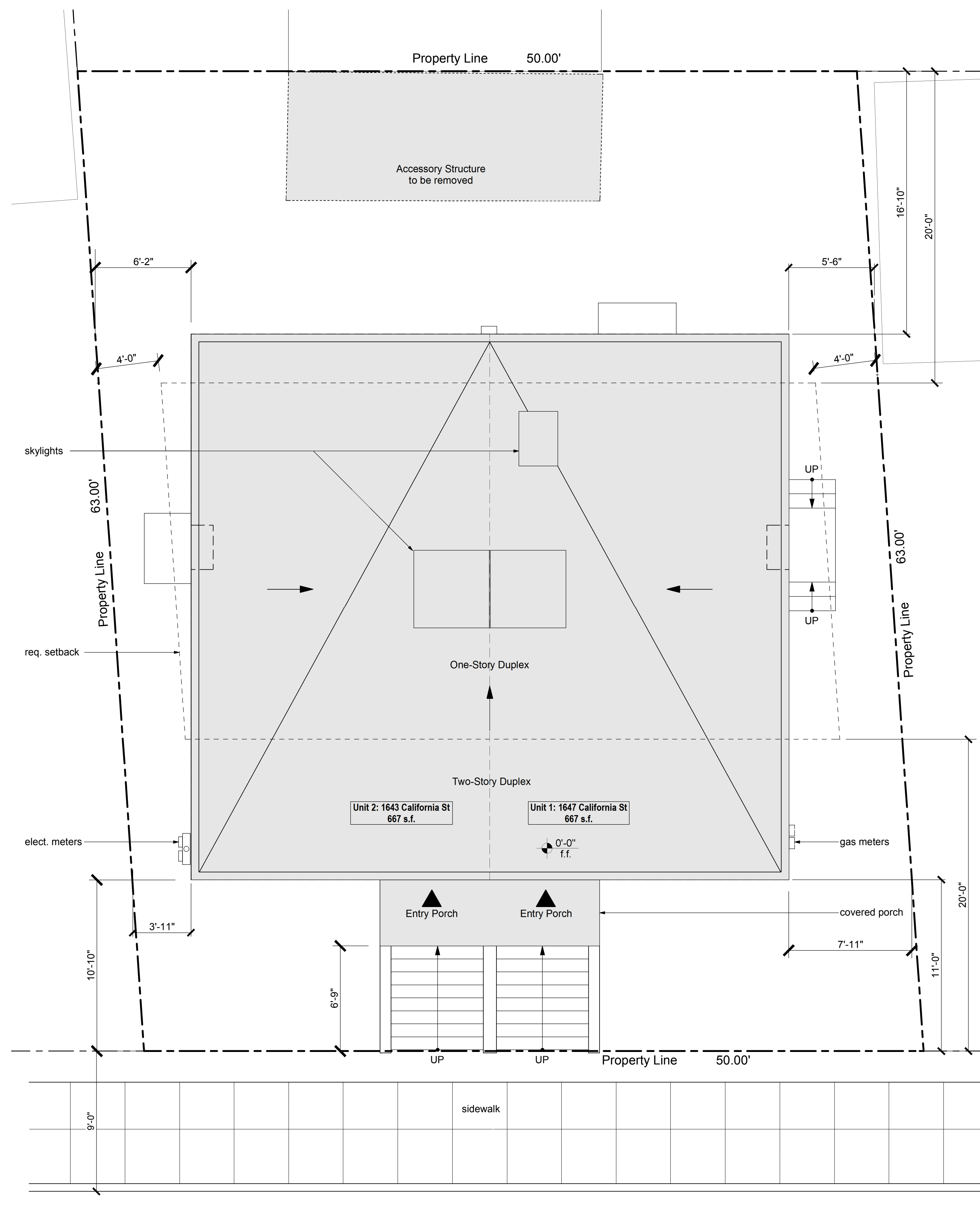
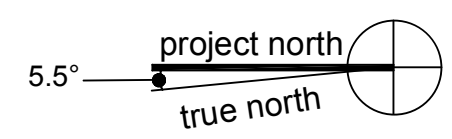
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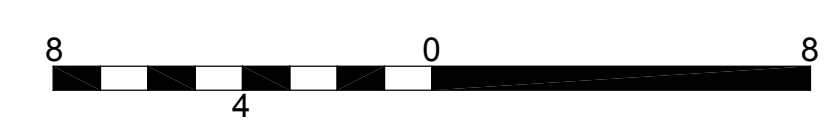
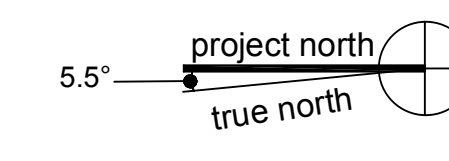
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**2 Proposed Site Plan**

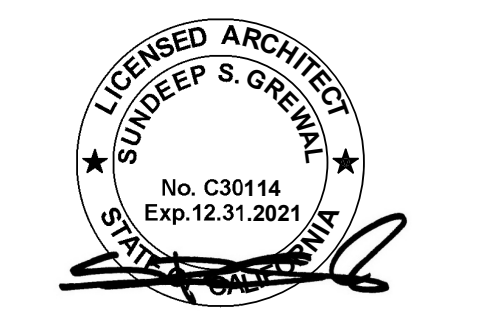


**1 Existing Site Plan**





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Sheet Contents:  
 Site Survey

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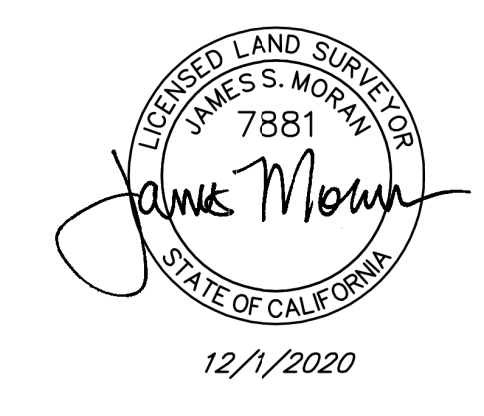
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# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



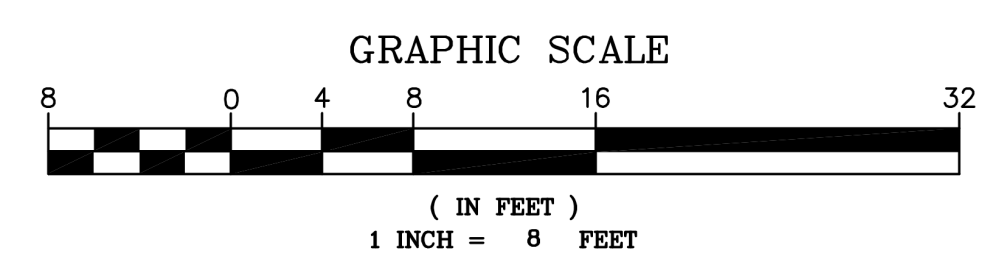
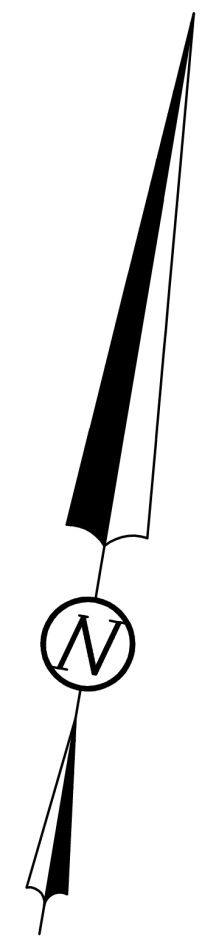
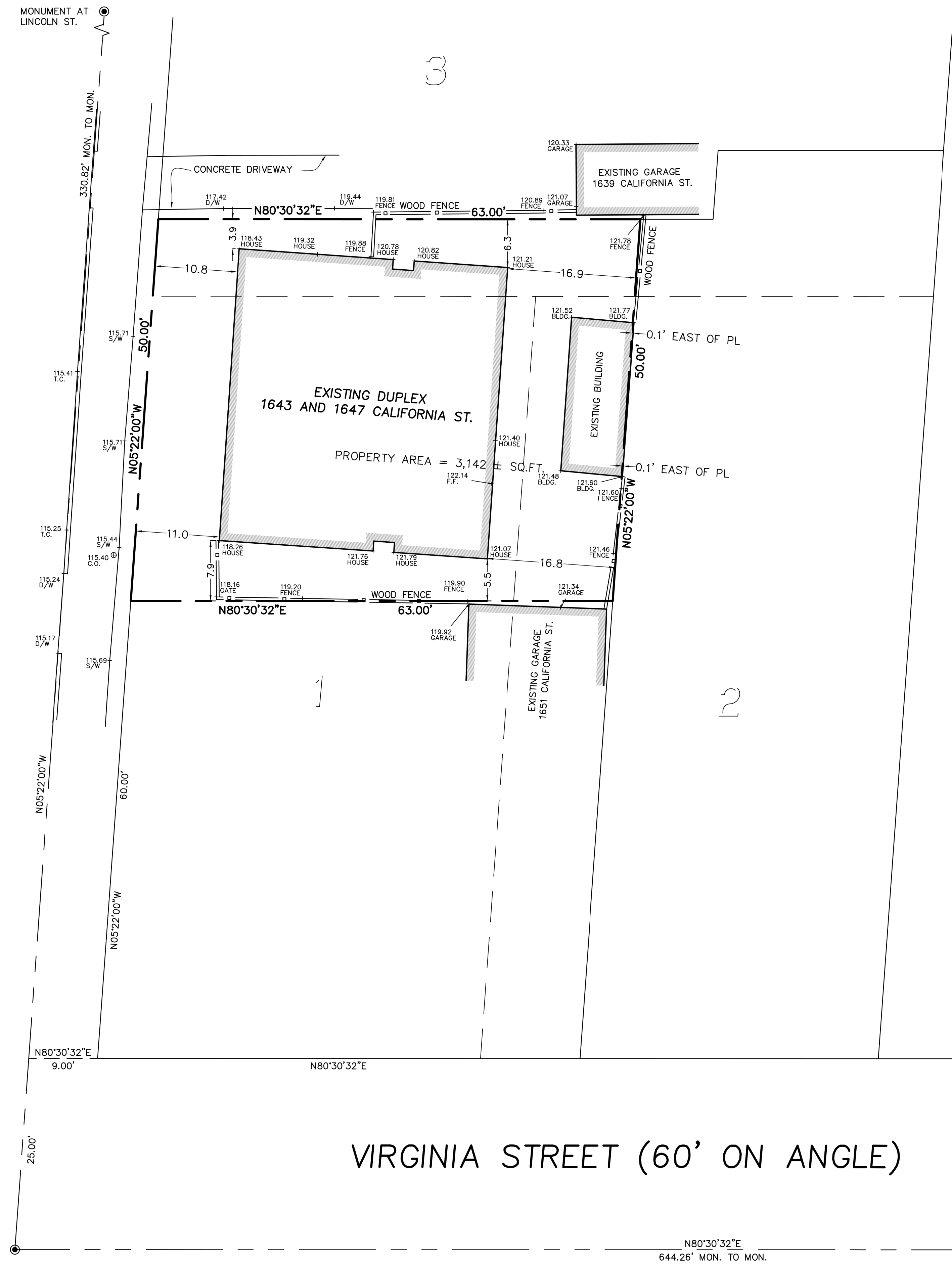
- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
  - BLDG. BUILDING
  - C.O. CLEAN-OUT
  - D/W DRIVEWAY
  - F.H. FIRE HYDRANT
  - J.P. JOINT POLE
  - M.H. MAN HOLE
  - S/W SIDEWALK
  - T.C. TOP OF CURB

**GENERAL NOTES**

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.



CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)



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 Berkeley, CA 94710  
 Ph: 510.548.7448  
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**OPPENHEIMER  
 RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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Project No: 20-13-420

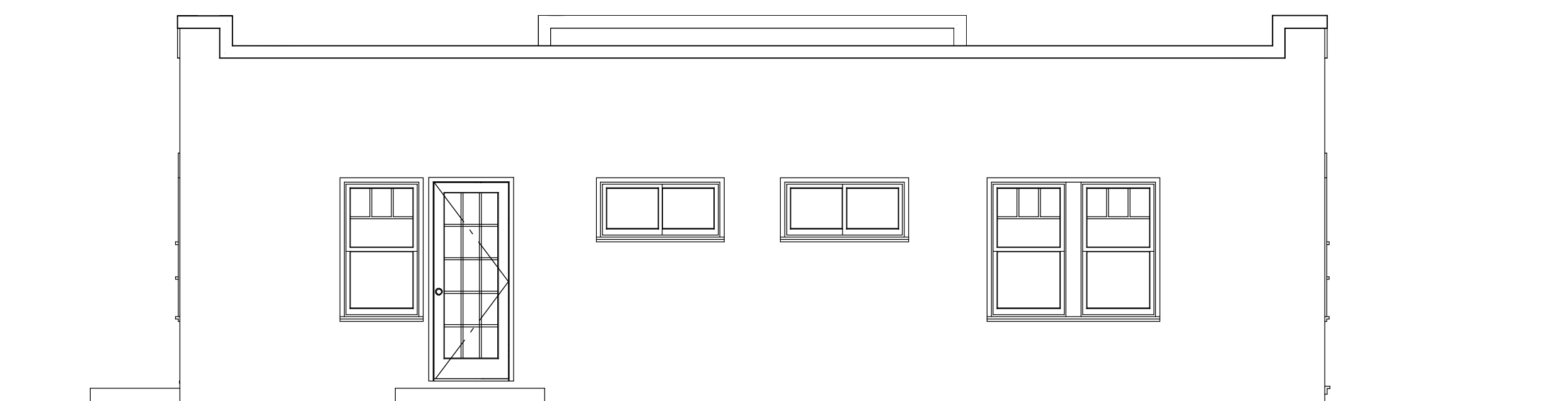
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Checked By: SSG

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Revisions:  
 Use Permit Set: 12-10-2020

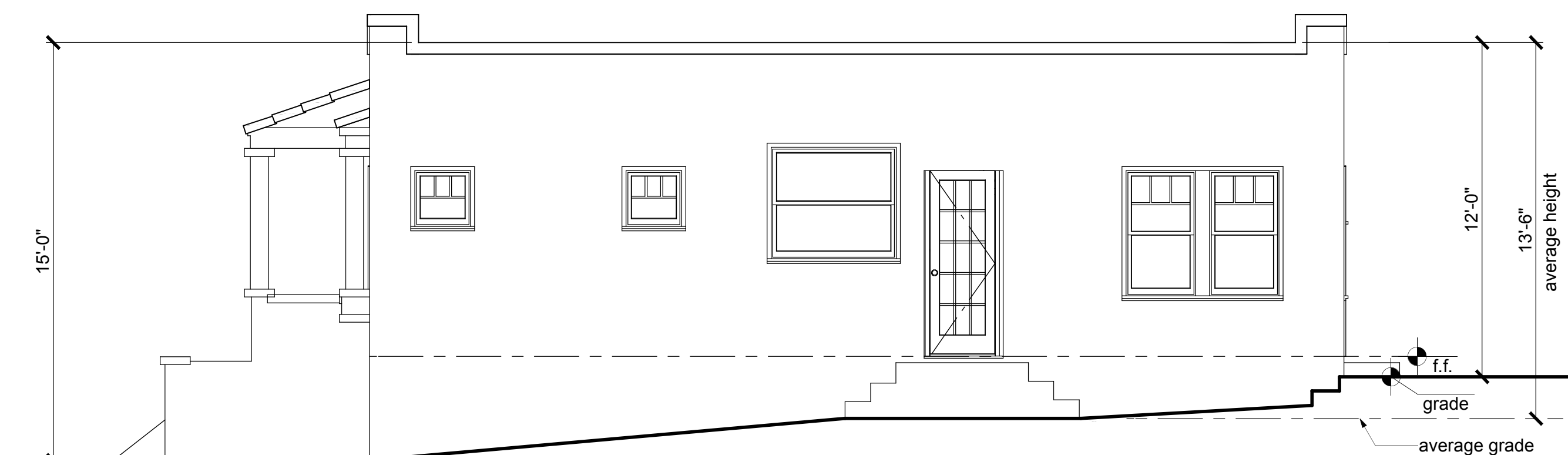
Sheet **A1.1**



5 Existing East Elevation - Rear



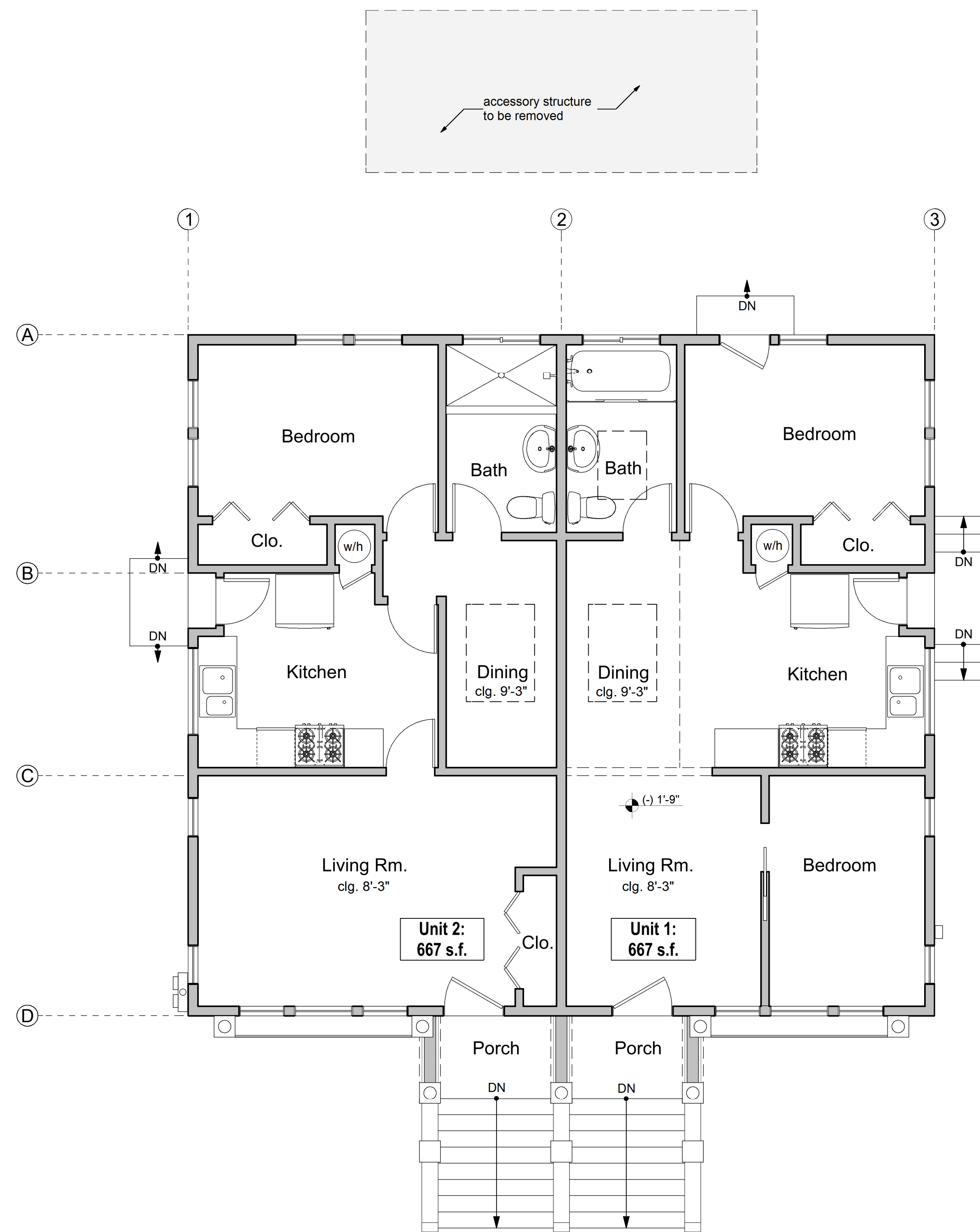
4 Existing North Elevation - Left Side



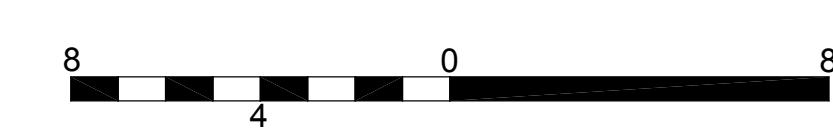
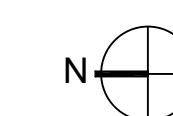
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front

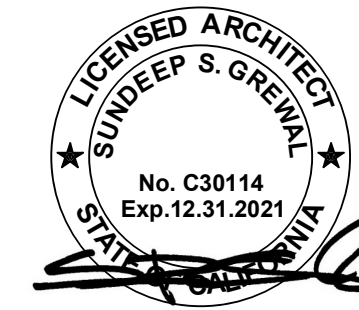


1 Existing First Floor Plan





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

Sheet Contents:  
Proposed Floor Plan

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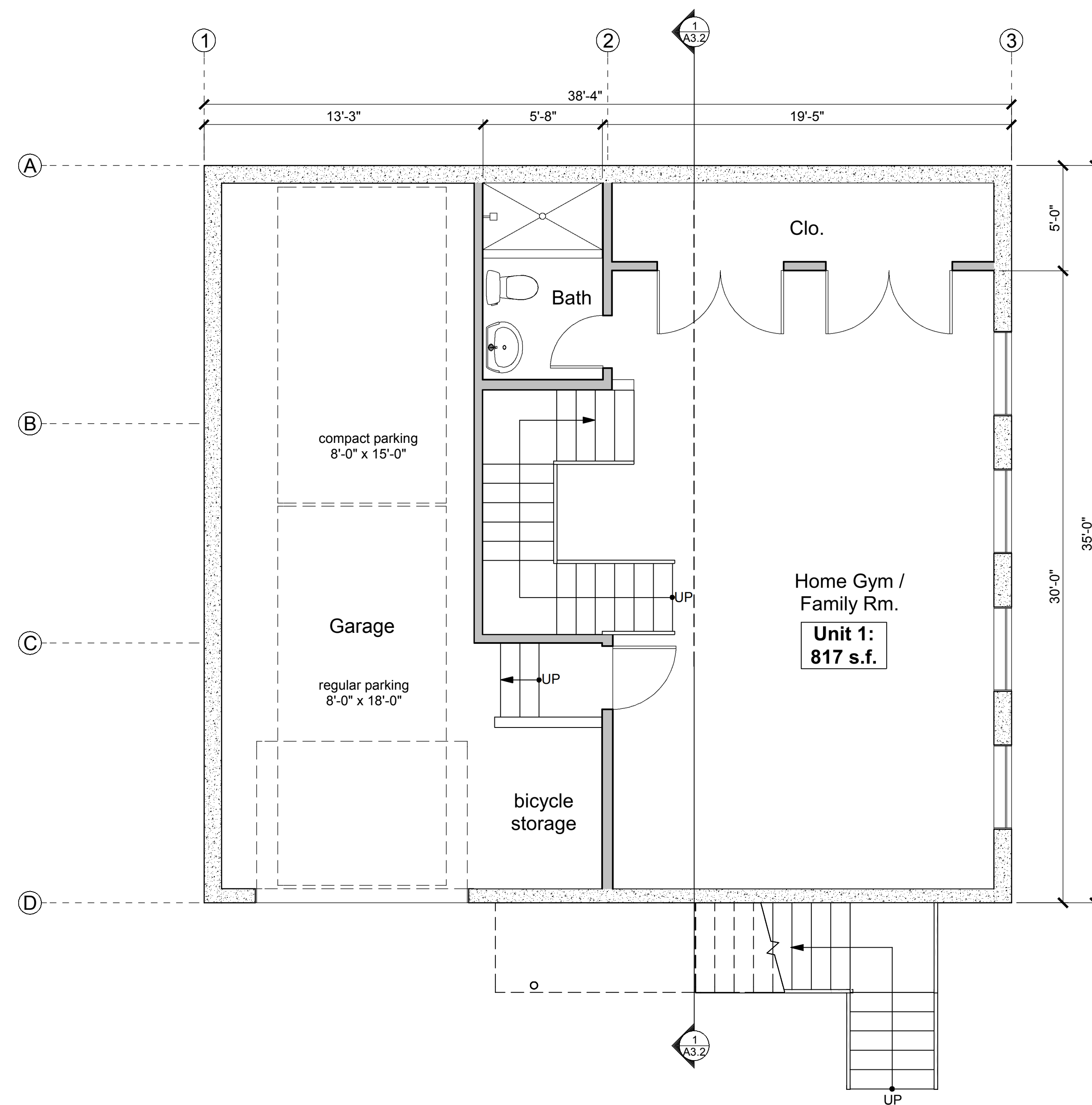
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20-13-420

Drawn By:  
SSG

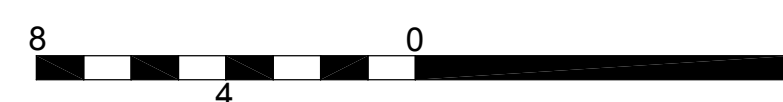
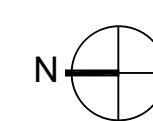
Checked By:  
SSG

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

Revisions:  
Use Permit Set: 12-10-2020



1 Proposed Garage/Basement First Floor Plan

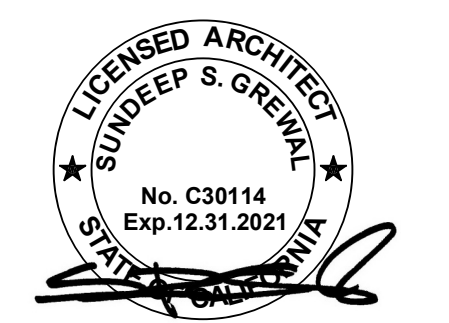


Sheet  
**A2.1**





2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



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

Sheet Contents:  
 Proposed Floor Plans

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 Project No: 20-13-420

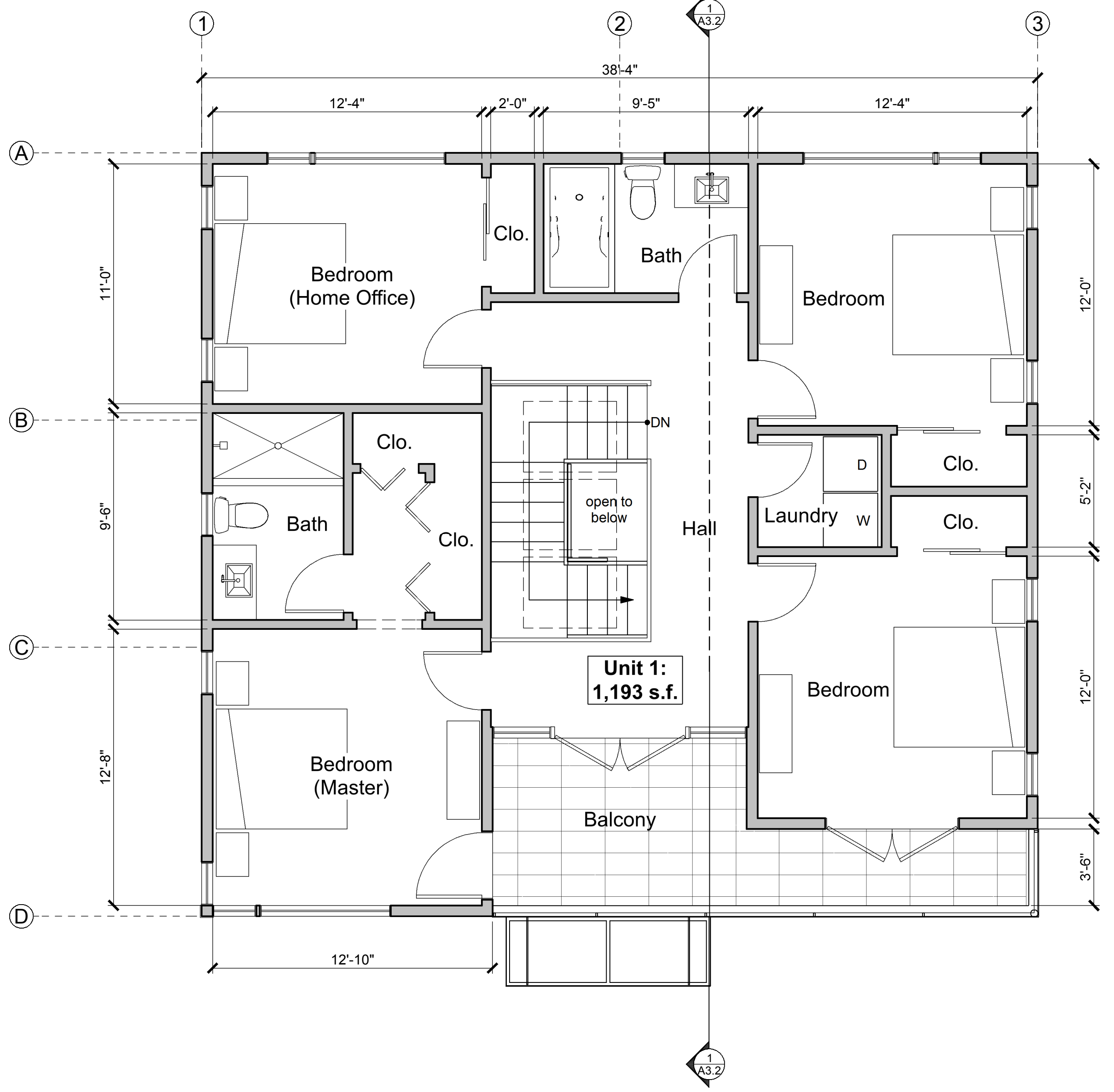
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Checked By: SSG

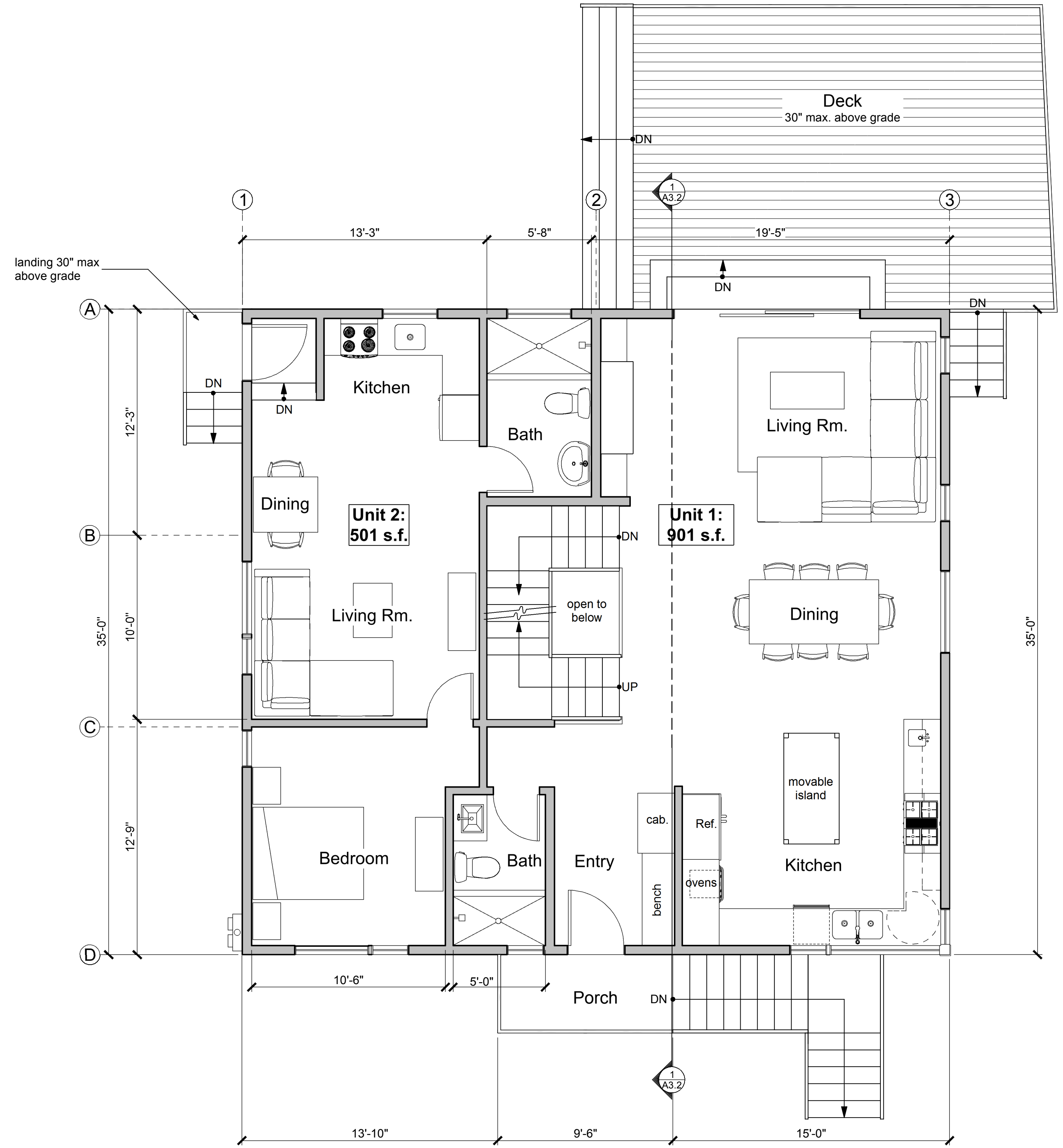
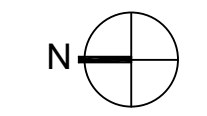
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Revisions:  
 Use Permit Set: 12-10-2020

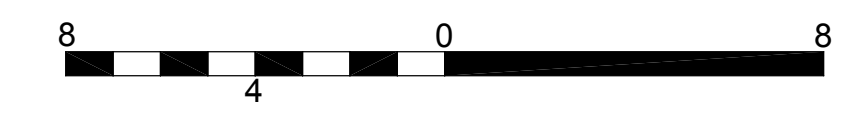
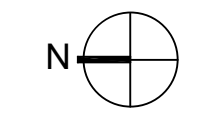
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2 Proposed Third Floor Plan

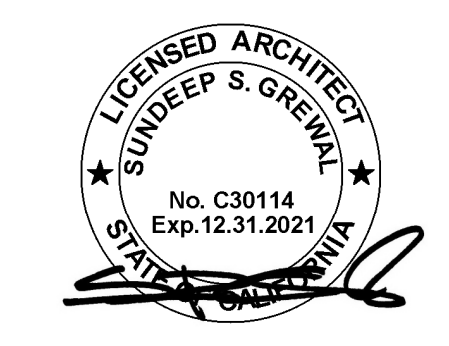


1 Proposed Second Floor Plan





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Sheet Contents:  
 Proposed Exterior Elevations

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

Revisions:  
 Use Permit Set: 12-10-2020

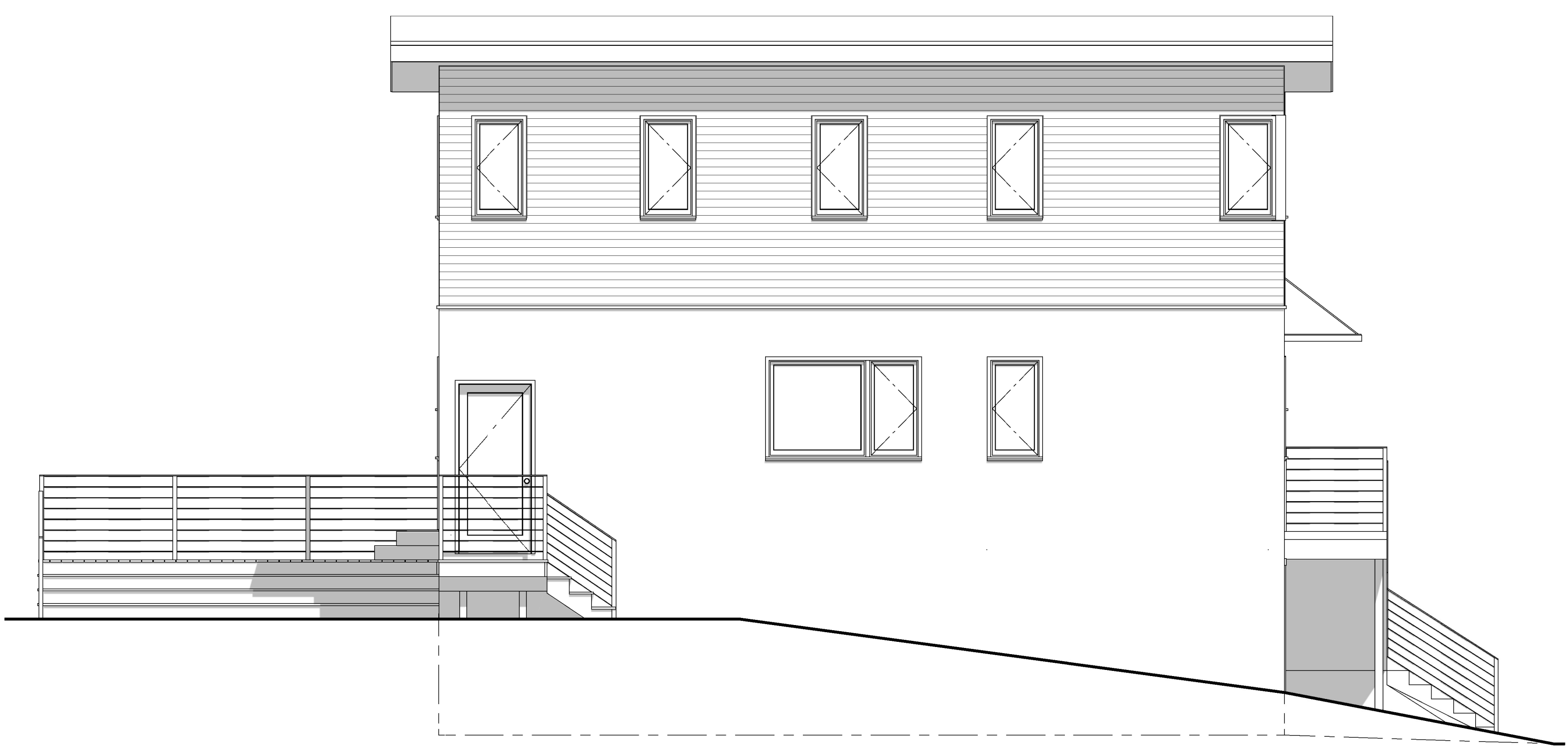
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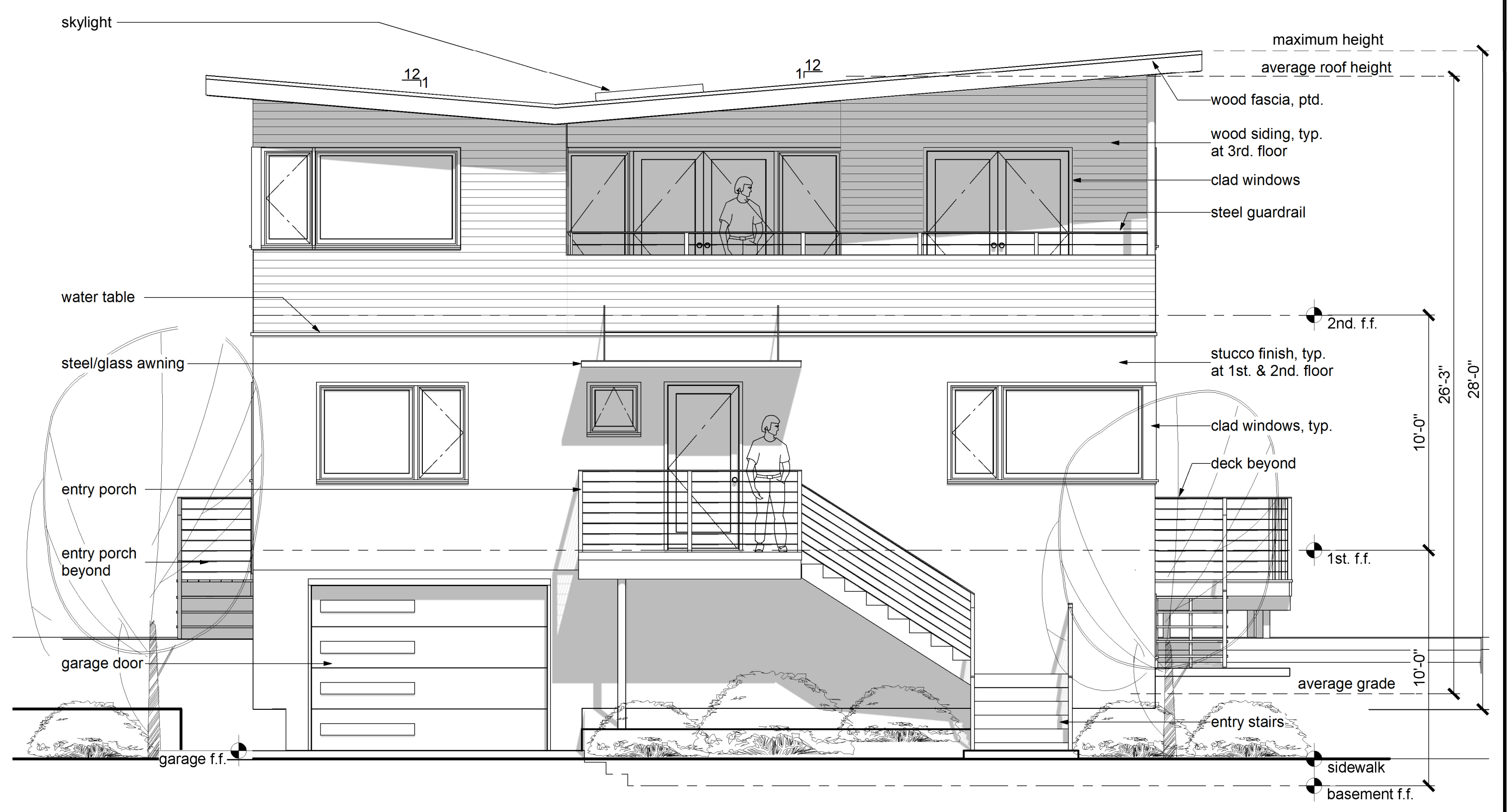
④ Proposed South Elevation - Right Side



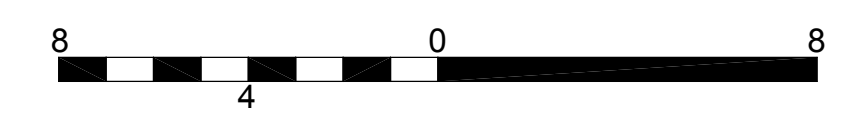
③ Proposed East Elevation - Rear



② Proposed North Elevation - Left Side

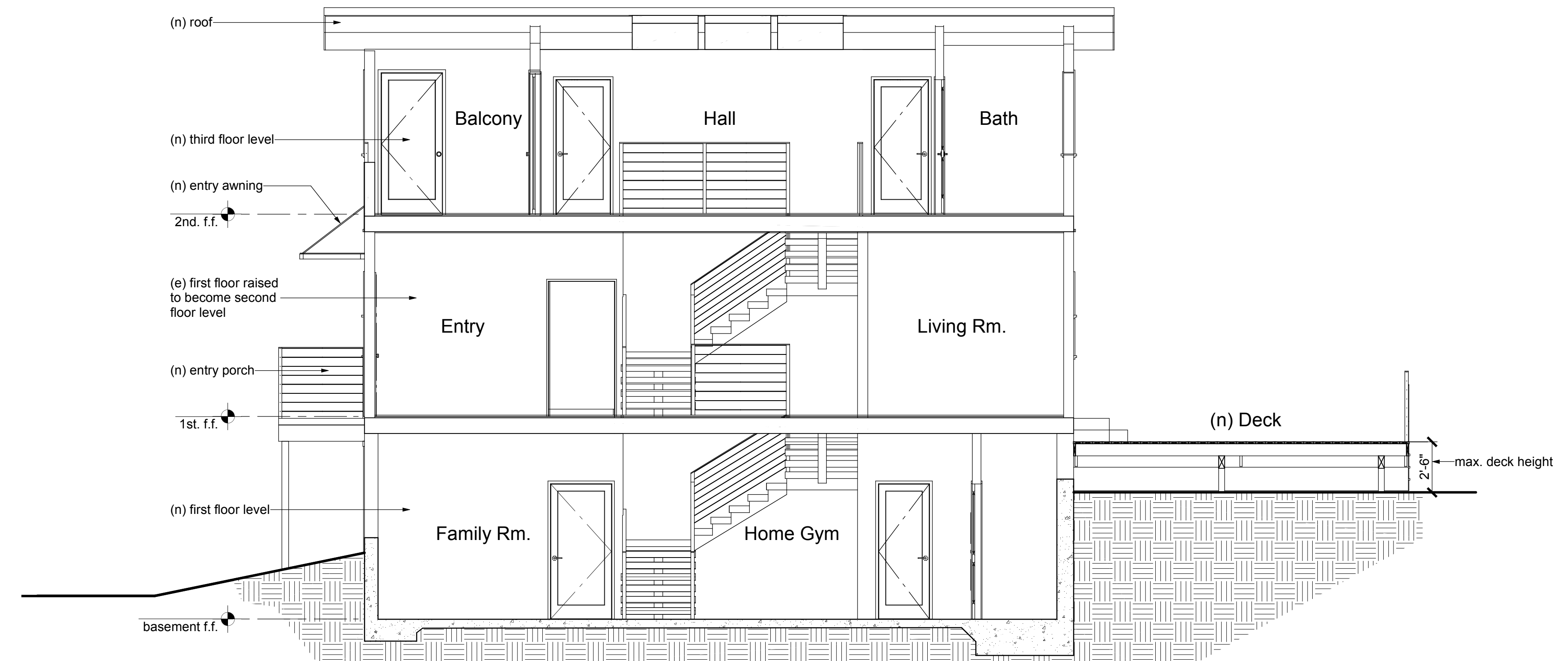


① Proposed West Elevation - Front

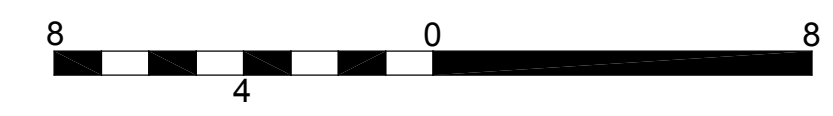




2 Renderings



1 Proposed Building Section



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Sheet Contents:  
 Building Section  
 Renderings

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

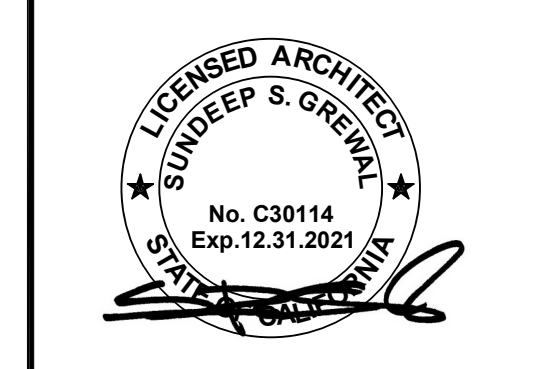
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Revisions:  
 Use Permit Set: 12-10-2020

Sheet  
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**studio g+s ARCHITECTS**  
 2223 Fifth St.  
 Berkeley, CA 94710  
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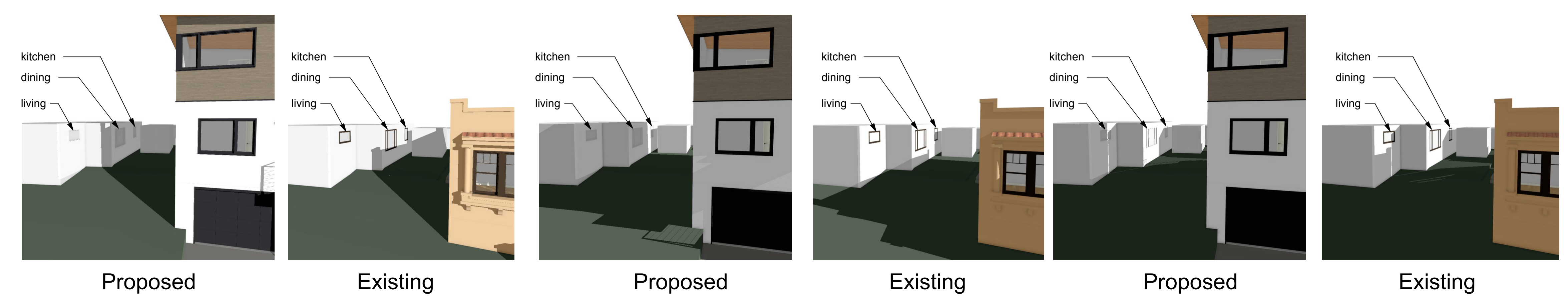


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 APN: 58-2156-18

Sheet Contents:  
 Shadows Studies

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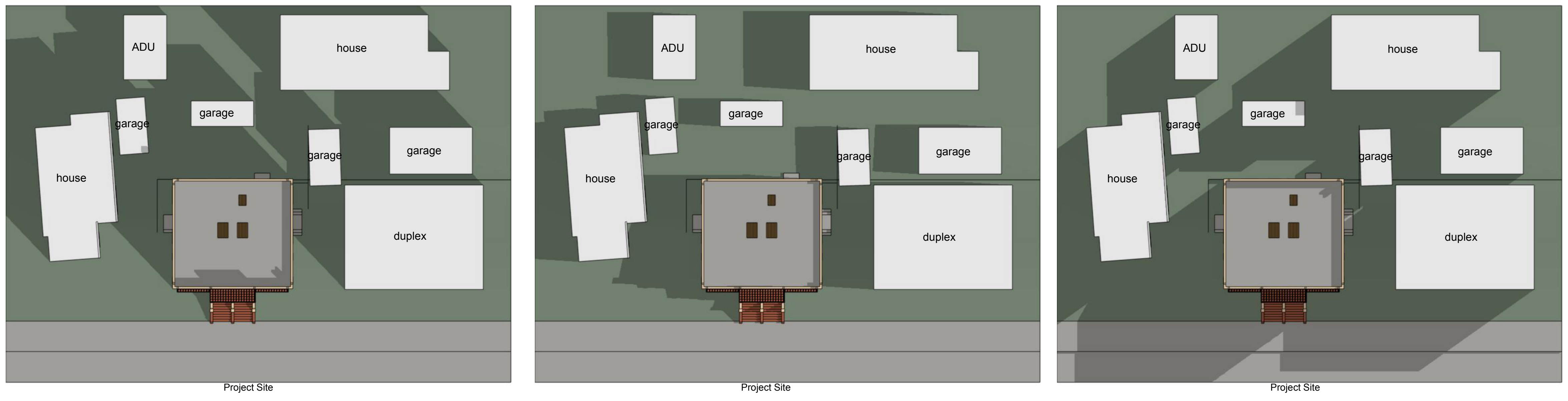
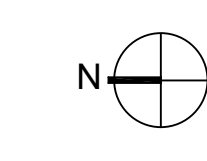
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 Drawn By: SSG  
 Checked By: SSG  
 Scale: NTS  
 Revisions:  
 Use Permit Set: 12-10-2020



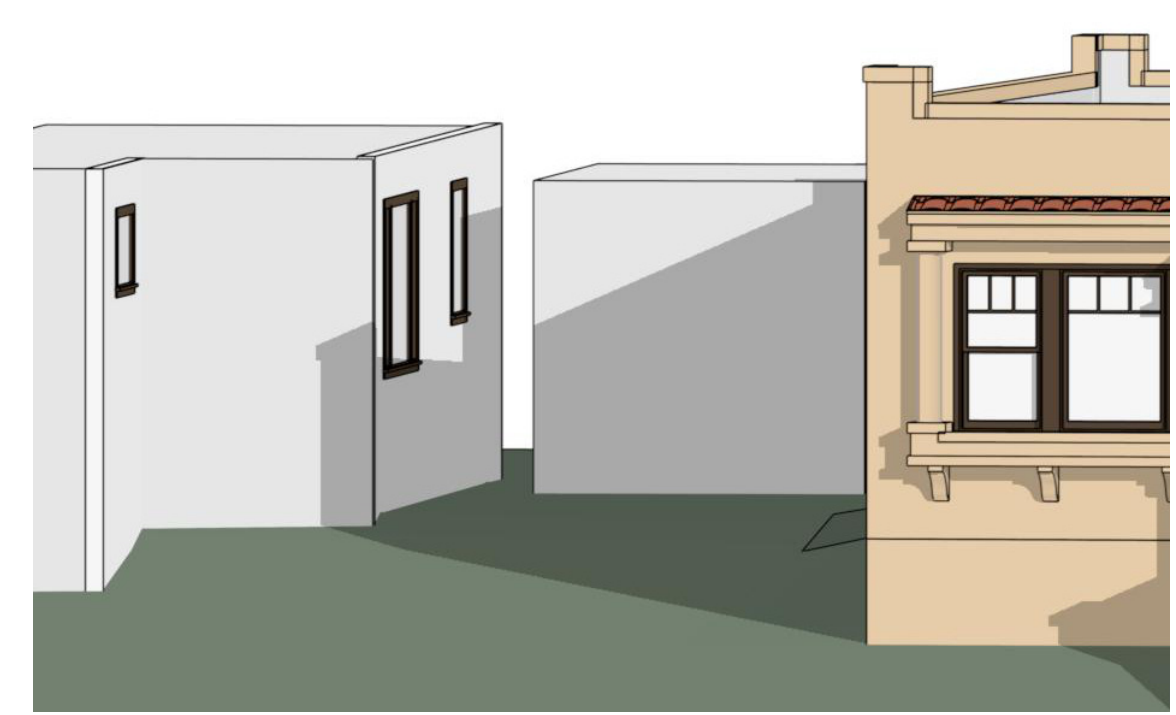
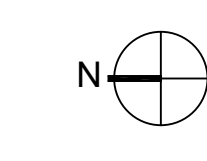
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**Proposed**  
**12-21-2021 / 2:54 pm**      **12-21-2021 / 12:00 pm**      **12-21-2021 / 9:21 am**



**Existing**  
**12-21-2021 / 2:54 pm**      **12-21-2021 / 12:00 pm**      **12-21-2021 / 9:21 am**



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



**Actual**  
 12-08-2020 / 3:00 pm

**Shadow Accuracy Simulation**

Sheet **A4.1**



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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Shadows Studies

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Project No:  
 20-13-420

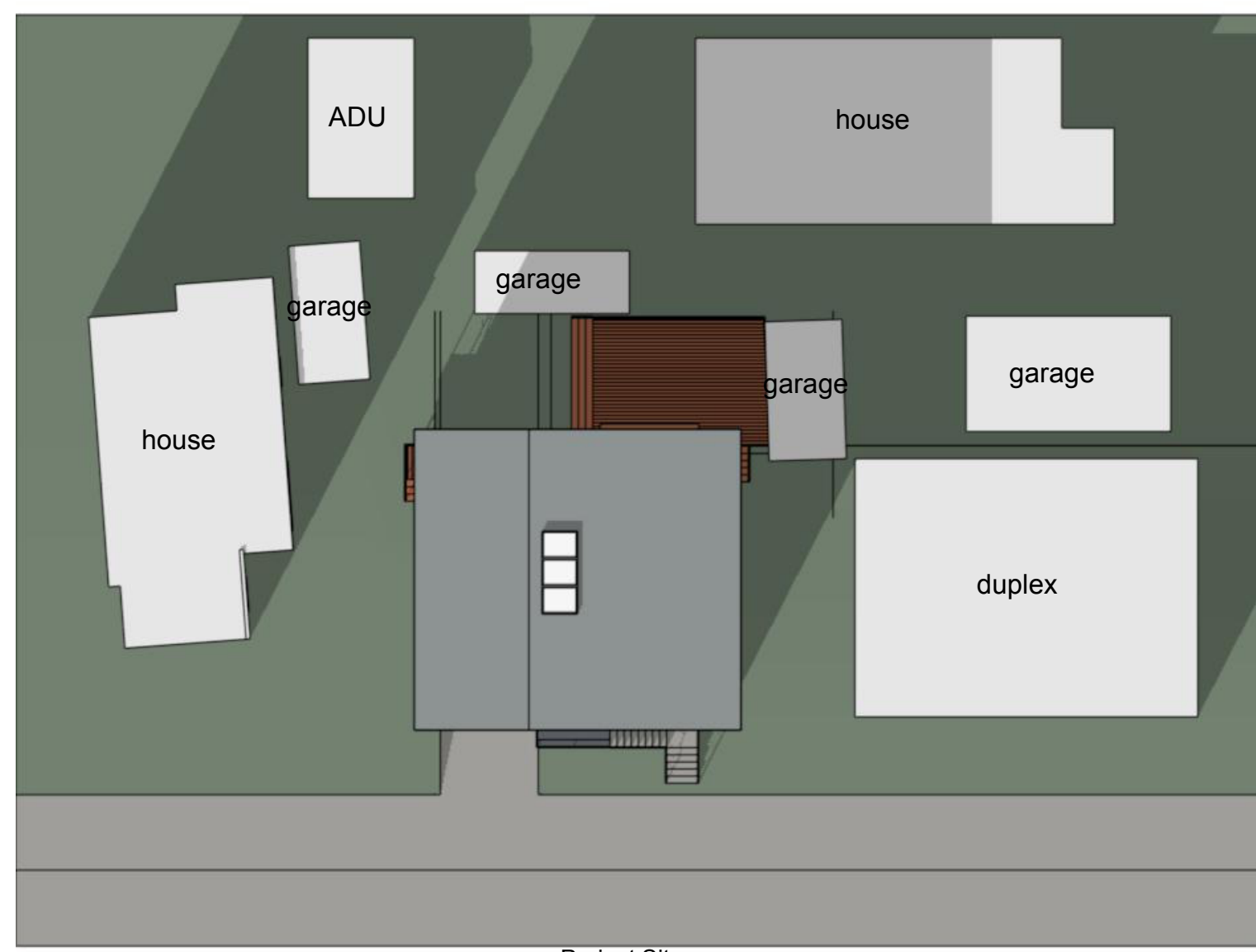
Drawn By:  
 SSG

Checked By:  
 SSG

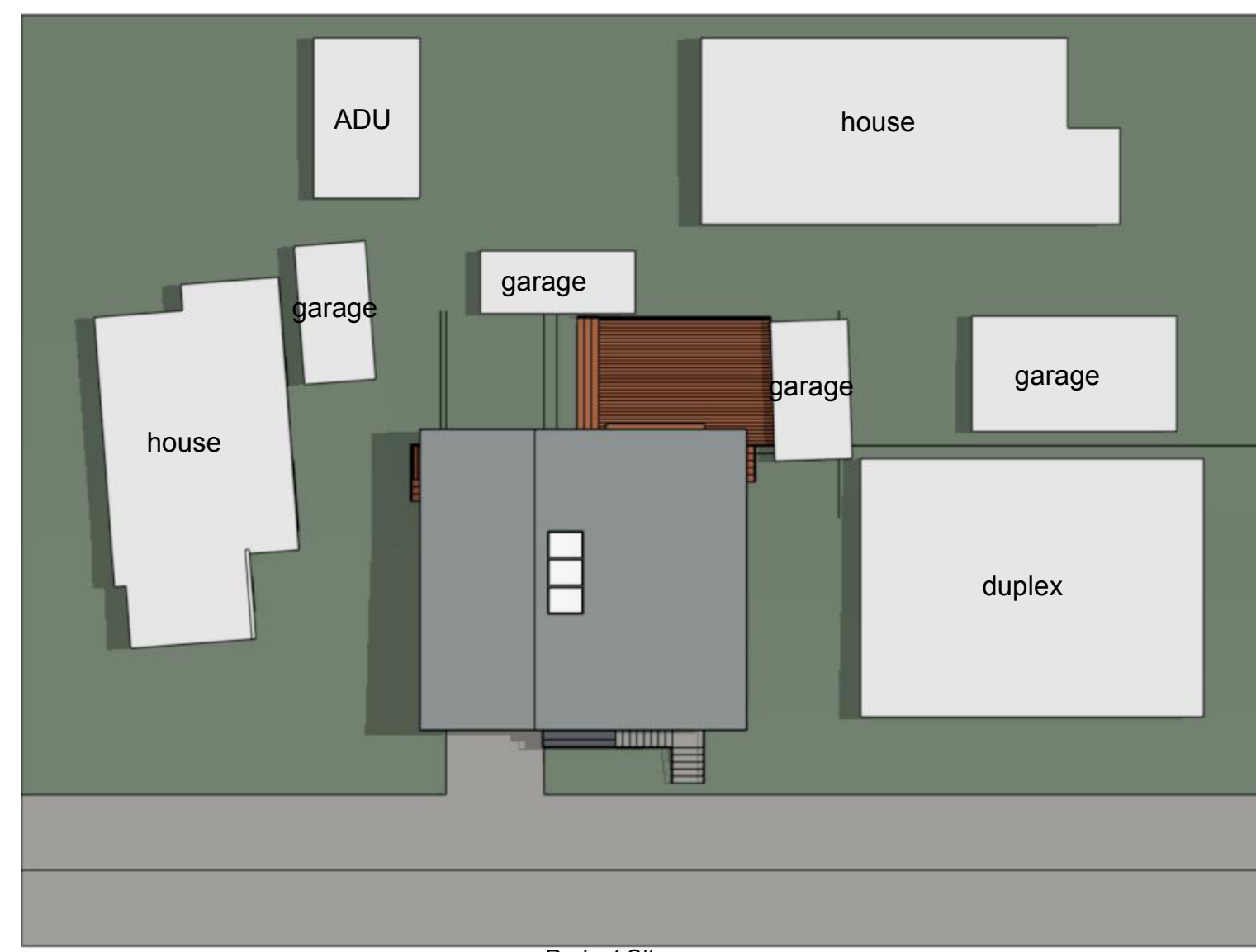
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Revisions:  
 Use Permit Set: 12-10-2020

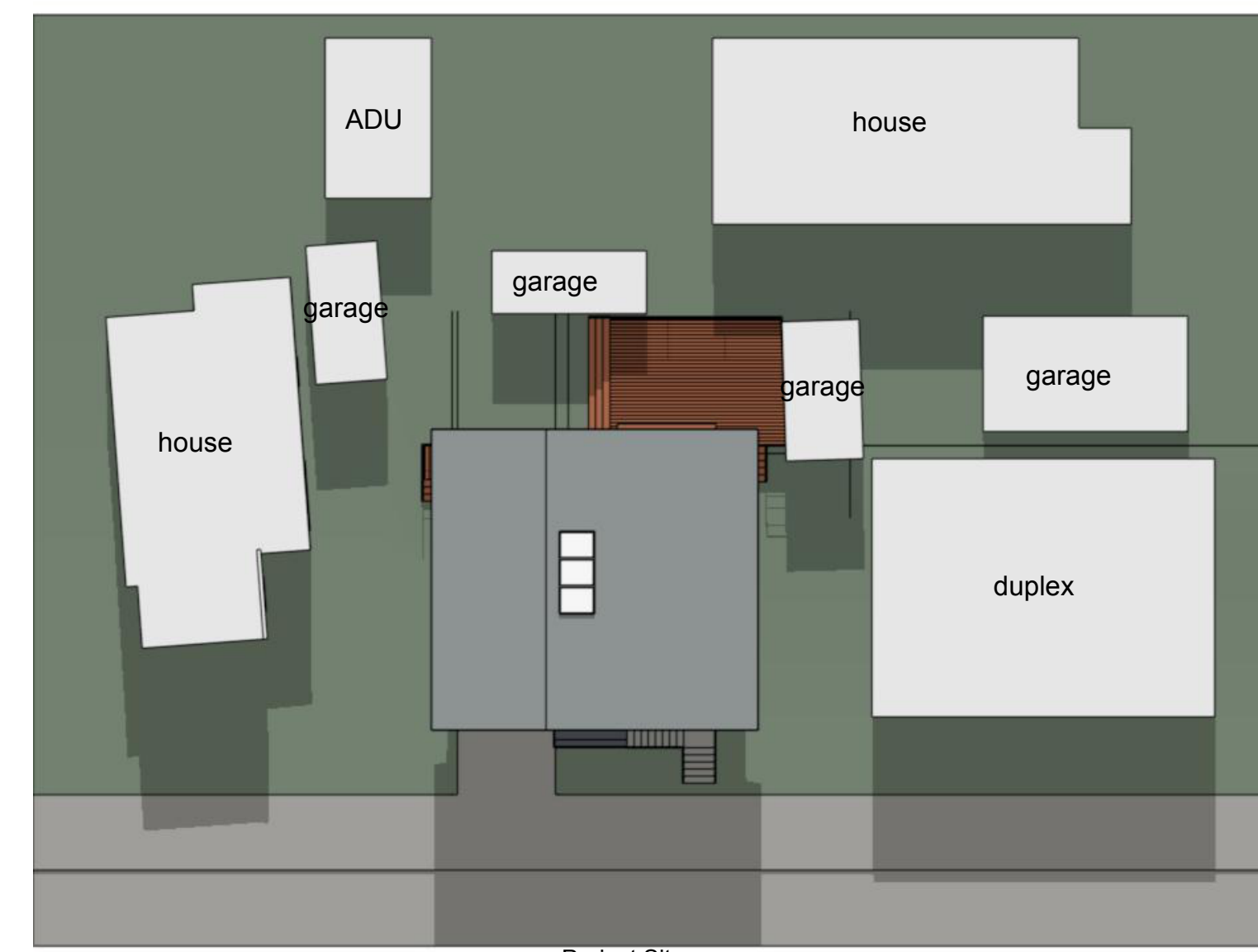
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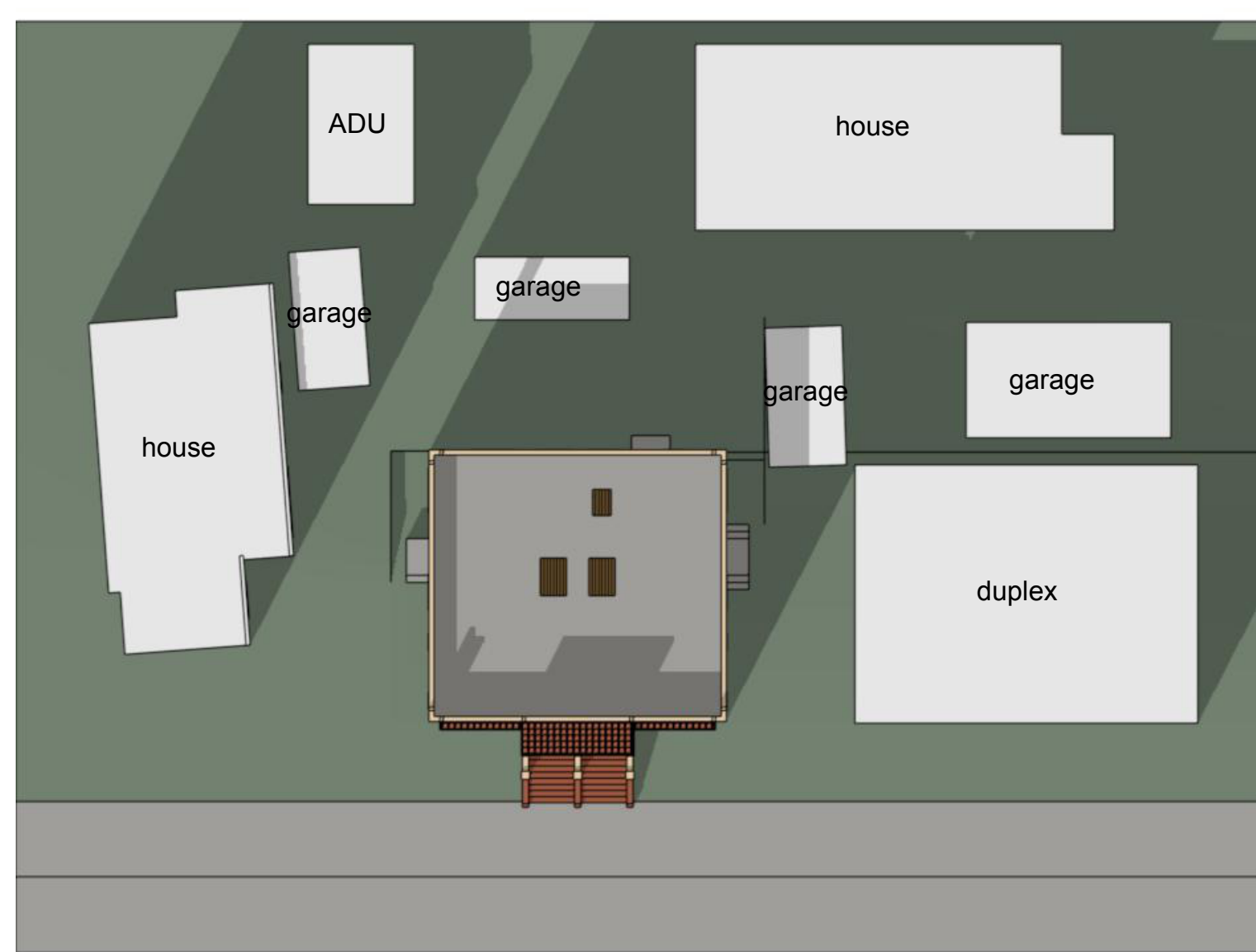
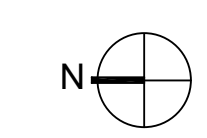
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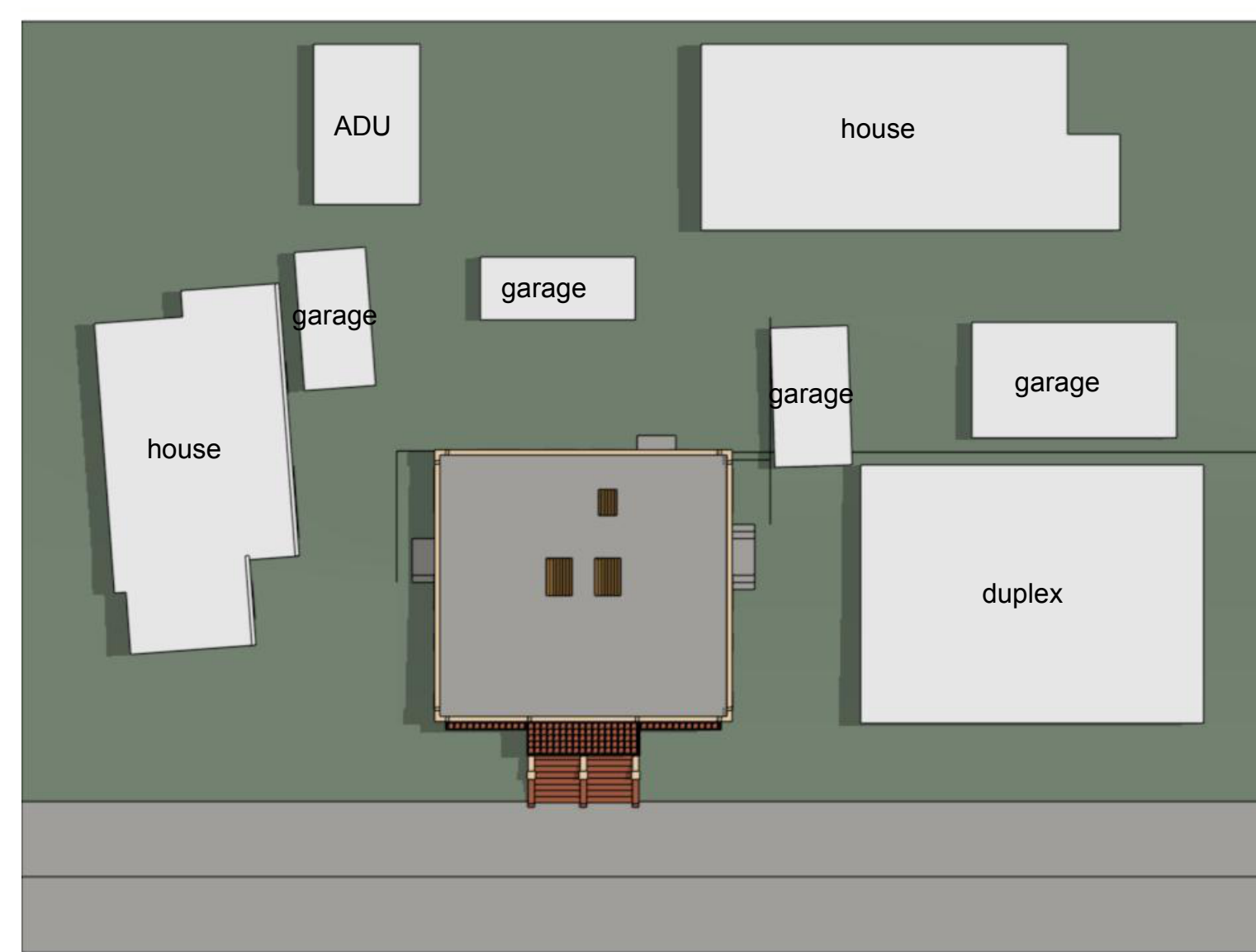
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**6-21-2021 / 12:00 pm**



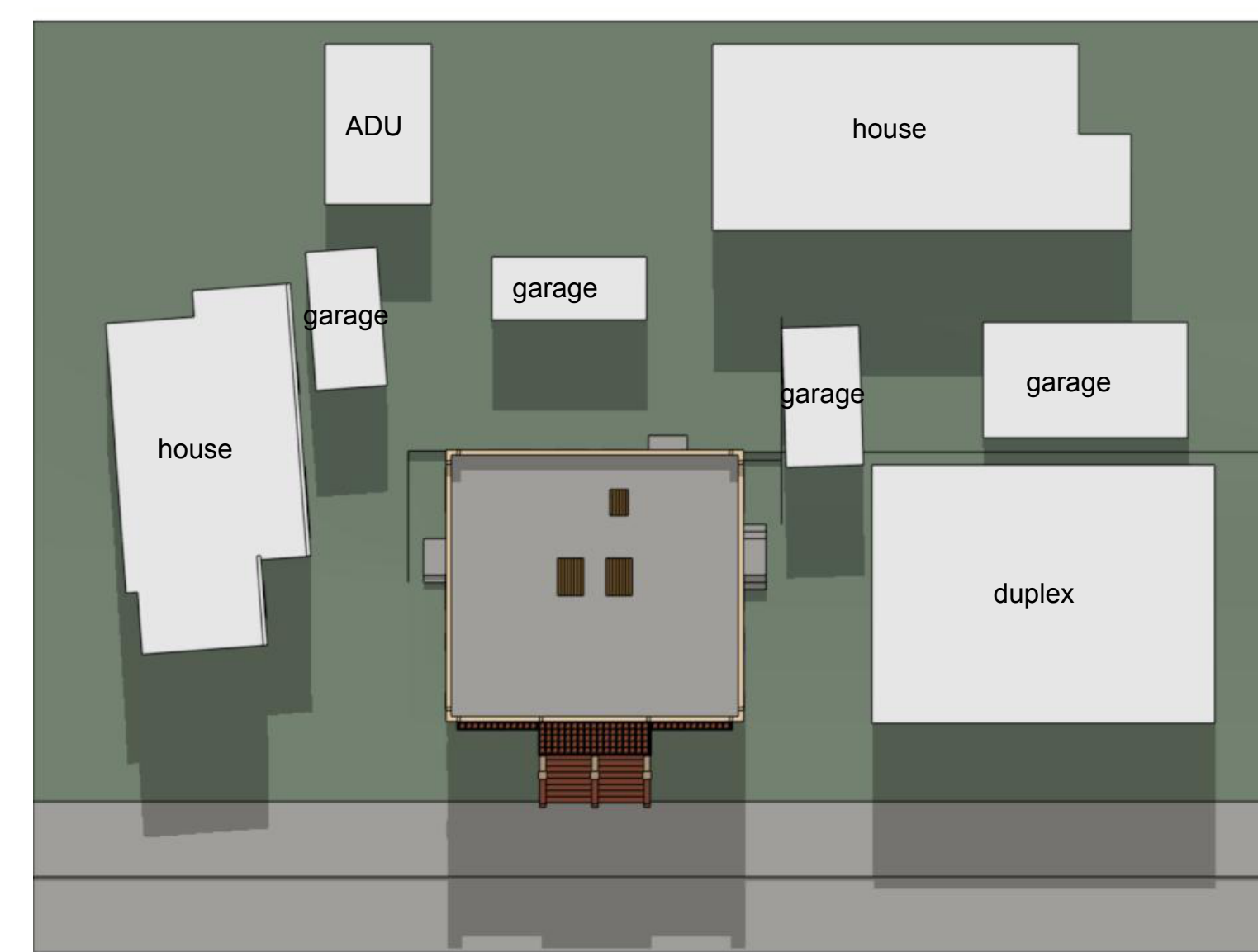
Proposed  
**6-21-2021 / 7:47 am**



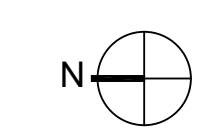
Existing  
**6-21-2021 / 6:35 pm**



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



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





Planning & Development Department  
Land Use Planning Division

January 14, 2021

Sundeep Grewel  
Studio G+S Architects  
2223 Fifth Street  
Berkeley, CA 94710

Sent via email:  
[sunny@sgsarch.com](mailto:sunny@sgsarch.com)

RE: 1643/1647 California Street, Application #ZP2021-0001

Use Permit to:

*Reconfigure existing Duplex (1643 and 1647 California); lift structure to create new lower story; third floor addition, adding approximately 2,100 sq. ft. of new floor area on lot that is non-conforming to lot coverage, density, and setbacks. Variance to lot coverage.*

Dear applicant:

On behalf of the City of Berkeley, I would like to introduce myself as the project planner for the above referenced application. Staff from various City departments will be reviewing your application, including the Building and Safety, Land Use Planning and Transportation divisions, as well as other interested parties, to ensure that the project application is complete. If any questions arise, City staff will either contact you in writing or by phone at the number supplied on your application. Unless you inform us otherwise, you will be the primary contact during the application process

You can expect site visits by various staff members in the next couple of weeks. These visits will be from the public right-of-way, unless staff makes an appointment with you in advance. I will be contacting you within 30 days of your application date to follow-up with the status of the project and to request any additional information needed for your application to be deemed complete. Answers to frequently asked questions related to Use Permits can be found on the City's website at: <http://www.ci.berkeley.ca.us/contentdisplay.aspx?id=820>

Please note that due to staffing reductions and the level of permit activity, applicants should be prepared to expect longer processing times than in the past. The City has consultants available to expedite applications for an additional fee.

Please feel free to contact me if you are interested in using this service to expedite your application or if you have other questions or comments about your application. I can be reached by email at: [narmour@cityofberkeley.info](mailto:narmour@cityofberkeley.info) or by phone at (510) 981-7485.

Please know that this application is subject to the Permits Streamlining Act, Government Code Section 65921, which (1) sets forth various time limits within which state and local government agencies must either approve or disapprove permits and (2) providing that these time limits may be extended once (and only once) by agreement between the parties.

I look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads "Nicholas Armour".

Nicholas Armour  
Associate Planner



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

Post and Mail Date:  
January 19, 2021

**NOTICE OF RECEIVED APPLICATION**

UP #ZP2021-0001 – SUBMITTED on January 8, 2021  
1643/1647 California Street

Major Residential Addition to existing duplex through lifting existing house to create new ground floor and a 3rd floor addition on a non-conforming property.

Contact information: (see reverse)

All application materials may be viewed online:

[www.cityofberkeley.info/zoningapplications](http://www.cityofberkeley.info/zoningapplications), or at  
[www.berkeley.buildingeye.com](http://www.berkeley.buildingeye.com)

«NAME1»  
«NAME2»  
«ADDRESS1» «ADDRESS2»

**NOTICE OF RECEIVED APPLICATION**

To comply with the Shelter In Place order issued by the County Health Official, the City of Berkeley's Land Use Division of the Planning Department has temporarily waived the Neighborhood Contact and Project Yellow Poster requirements for proposed Zoning Project applications. This postcard serves as a notification that an application has been received by the City of Berkeley, proposing a development project on an adjacent property that requires a Zoning Permit. This application is currently under review.

**Applicant Contact Information**

Sundeep Grewal  
(510) 548-7448  
sunny@sgsarch.com

**Project Planner Contact Information**

Nicholas Armour  
(510) 981-7485  
NArmour@cityofberkeley.info

All application materials may be viewed online: [www.cityofberkeley.info/zoningapplications](http://www.cityofberkeley.info/zoningapplications), or at [www.berkeley.buildingeye.com](http://www.berkeley.buildingeye.com)

If you have questions on this application, or would like to submit a comment, **please contact the above-listed Project Planner.**



1643-47 California St

116 notices

mailed out 01-19-21

NAME1	NAME2	ADDRESS1	ADDRESS2
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONNELL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCELLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703
SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703

1643-47 California St

116 notices

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MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740
YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1605 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1606 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1608 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
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Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
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Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703

1643-47 California St

116 notices

mailed out 01-19-21

Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COI	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703



# LAND USE PLANNING

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## NOTICE OF RECEIVED APPLICATION

### 1643 & 1647 California Street

Use Permit #ZP2021-0001 to lift the existing duplex to create a new ground floor, 3rd floor addition, and reconfiguration of the existing duplex on a non-conforming property.

To comply with the Shelter In Place order issued by the County Health Official, the City of Berkeley's Land Use Division of the Planning Department has temporarily waived the Neighborhood Contact and Project Yellow Poster requirements for proposed Zoning Project applications. This notice serves as a notification that an application has been received by the City of Berkeley, proposing a development project on an adjacent property that requires a Zoning Permit. This application is currently under review.

#### A. Land Use Designations:

- Zoning: R-2 (Restricted Two Family Residential District)

#### B. Parties Involved:

- Applicant Sundeep Grewal, Studio G+S Architects, Berkeley
- Property Owner Ido and Tama Oppenheimer, Berkeley

#### C. Project Planner

- Nicholas Armour, (510) 981-7485, NArmour@cityofberkeley.info

#### Further Information:

- All application materials are available online at:  
[www.cityofberkeley.info/zoningapplications](http://www.cityofberkeley.info/zoningapplications) or at [www.berkeley.buildingeye.com](http://www.berkeley.buildingeye.com)



Planning and Development Department  
Land Use Planning Division

February 5, 2021

Sent via email:

[sunny@sgsarch.com](mailto:sunny@sgsarch.com)

Sundeep Grewel  
Studio G+S Architects  
2223 5<sup>th</sup> Street  
Berkeley, CA 94710

**Re: Application for Use Permit #ZP2021-0001 for 1643/1647 California Street**

Dear Applicants,

The Land Use Division has reviewed the above referenced application, submitted on January 8, 2021 to construct 1) lift the existing single family house to create new lower story, 2) construct a new third story, and 3) modify the existing duplex layout on an existing property that is non-conforming to density, lot coverage, and front, side, and rear setbacks at 1643/1647 California Street. Staff has determined that the application is incomplete and cannot take further action on the project until all the items listed below are corrected and/or submitted. Please submit an electronic copy of the following:

**Items Required for Submittal or Correction:**

1. Third Floor Setbacks are not code-compliant – Per Section 23D.28.070.D, 3<sup>rd</sup> stories must be set-back 6-feet from side property lines. As currently proposed, this setback is not being met. However, please first see Advisory Comment, below, related to the third floor proposal.
2. Average Height calculation of the building is not accurate – the average height calculations provided (both in the TAB form, and on plans) is not accurate to how the average height is calculated in the City of Berkeley, as the height of a house with shed-style roof is taken from the average grade to the top of the roof form (not the midpoint). Therefore, please revise the height calculation to accurately describe the average height of the building.
3. Shadow Studies – Per the [Shadow Study Instructions Guide](#) the submitted Shadow Studies must be revised in the following ways:
  - a. While some shadow impacts are shown in the shadow studies provided, additional information is necessary to understand the extent of the impacts. Specifically:
    5. *If a shadow (existing or future) hits the wall of an adjacent structure, provide a drawing in elevation view to (1) show where the existing shadow hits the wall, and (2) indicate locations of windows on walls affected.*
    6. *If increased shadowing caused by the proposed project would affect any windows on residential buildings, then indicate the use of those windows (i.e., garage, bedroom, bathroom, kitchen, living room).*

While this detail was provided in relation to the impacts to the property to the north (1639 California), no additional details were provided on the extent of the impacts to

February 5, 2021  
Page 2 of 3

1643/1647 CALIFORNIA STREET - LETTER OF INCOMPLETION  
Use Permit #ZP2021-0001

the neighboring property to the east (1609 Virginia). Please revise Shadow Studies to include the above-described additional details to assist in the assessment of new impacts to the neighboring property to the east.

4. Historic Resource Evaluation – Following discussion with the Secretary of the Landmarks Preservation Commission, Senior Planner Fatema Crane, it has been confirmed that a Historic Resource Evaluation (HRE) will be required prior to this application being deemed complete. As indicated in Zoning Project Application Submittal Requirements Item number 4.B, an HRE is required for “substantial alteration” to a building over 40 years old. Please include an HRE with your resubmittal materials.

#### Staff Advisory Comments

1. Floor Plans/Existing Conditions – Staff has been notified that there may be a discrepancy between the existing floor plans and the actual existing layout of the house, including potentially work that was done that has, in effect, eliminated one of the two units on the site. As your proposed project would retain (or replace) this second unit, the situation would be resolved with this application. However, staff needs to have the full and accurate picture of what is existing on site, whether or not previous work was done (with or without permits) that has rendered the submitted floor plans inaccurate or incomplete. Please clarify what the existing condition is at the site and update the existing floor plans, if necessary. Alternatively, staff would request a site visit and short tour of the interior of the building to confirm the existing conditions.
2. Level of Staff Support of Project/3<sup>rd</sup> floor proposal – As has previously been discussed between Project Planner and Applicant (prior to official submittal of the application), staff has concerns with the numerous Use Permits and Variance request to expand the existing residential structure. As currently proposed, staff cannot make the findings to recommend approval of this project. Were it to move forward to the Zoning Adjustments Board under the current design iteration, staff would recommend that the ZAB deny the project for lack of ability to make the findings. (Attached to this letter is a list of the findings that have to be made related to these permit requests. For the Variance, if any one of the findings cannot be made, the application must be denied.)

While Staff understands that any expansion of this building will trigger Use Permits and Variances, Staff recommends a significant design modification to this proposal before Staff could potentially make the findings and consider support of the application. Specifically, staff recommends elimination of the entire third floor, while retaining the concept of lifting the house slightly to create the new lower floor. This will have a number of effects:

- a. Variance request - Firstly, the existing site has a lot coverage of approximately 50%, where 45% is the maximum allowed by code for a single story house in the R-2 zoning district (BMC Section 23D.28.070.E). This means the site exceeds the allowable lot coverage by approximately 5%. However, under your proposal, while removing an accessory structure to reduce the lot coverage to approximately 44%, a three-story structure is allowed a maximum lot coverage of 35%. This means the site would exceed the allowable lot coverage by 9%, a worsening of 4% over the maximum allowable percentage. If the project was revised to a two-story design, with the same 44% coverage, where the maximum allowable coverage of a two-story structure is 40%, while the structure would still be 4% over lot coverage, there is a net reduction of 1% exceedance of coverage for the site.

February 5, 2021  
Page 3 of 3

1643/1647 CALIFORNIA STREET - LETTER OF INCOMPLETION  
Use Permit #ZP2021-0001

- b. Height and related impacts – The proposed project increases the height of the residential structure from 13'-6" to approximately 28' (staff's assessment of the average height based on previously-mentioned inaccurate height calculation provided on the plans). This is an increase of 14-feet 6-inches. This 28-foot-tall structure, on a non-conforming lot (including setbacks and lot coverage), would create a number of related impacts to neighboring properties, specifically to light, air, privacy, and potentially views. All of those impacts are assessed in the "non-detriment" finding that is triggered by a number of the permits requested for this project. If the third floor was removed from this plan (while retaining the concept of lifting the house to add the lower level), staff estimates that this design would only increase the height of the building by 3-feet or so, a decrease of 11-feet 6-inches compared to the current proposal. While there would likely still be some impacts to the light, air, privacy, and/or views of neighboring properties, these impacts would be substantially reduced.

Revised submittal items should be submitted in electronic form (Box.com). Please submit responses to all requested items at once, and not incrementally. Please include a response letter addressing each of the above items, using the same numbering/format to assist staff in confirming you have addressed each item.

I look forward to working with you on this project. Do not hesitate to contact me if you have any questions or if you would like to set up a meeting. I can be reached at (510) 981-7485 or [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info).

Sincerely,



Nicholas Armour  
Associate Planner

Attachment: (1) Required Findings for Use Permits and Variance requests

**Findings Required for Proposed Project at 1643/1647 California Street****Permits triggered:**

- Use Permit (UP) per Berkeley Municipal Code (BMC) Section 23C.04.070.E for expansion of a residential structure that is non-conforming to the maximum allowable lot coverage
- Use Permit (UP) per BMC Section 23C.04.070.E for expansion of a residential structure that is non-conforming to the residential density
- Administrative Use Permit (AUP) per BMC Section 23C.04.070.B for vertical extension of non-conforming rear yard setback
- Administrative Use Permit (AUP) per BMC Section 23C.04.070.B for vertical extension of non-conforming front yard setback
- Administrative Use Permit (AUP) per BMC Section 23D.28.030 for major addition of 600 s.f.
- Administrative Use Permit (AUP) per BMC Section 23D.28.070.C for building addition exceeding 14 feet in height
- Administrative Use Permit (AUP) per BMC Section 23D.28.050 to create a fifth bedroom
- Variance per BMC Chapter 23D.28.070.E for exceeding maximum allowable lot coverage

**Findings Required:**

Variance: Per BMC Section 23B.44.030:

*A. After the Board has conducted a public hearing, it shall act on the application. The Board may approve a Variance application, either as submitted or modified, only if it makes all of the following findings:*

- 1. There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District;*
- 2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;*
- 3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;*
- 4. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.*



*B. The Board shall deny an application for a Variance if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination. (Ord. 6478-NS § 4 (part), 1999)*

Use Permit findings (Please note, all requested Use Permits and AUPs, as listed above, must meet the findings established below): Per BMC Section 23B.32.040:

*A. The Board may approve an application for a Use Permit, either as submitted or as modified, only upon finding that the establishment, maintenance or operation of the use, or the construction of a building, structure or addition thereto, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of 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.*

*B. Prior to approving any Use Permit the Board must also make any other findings required by either the general or District regulations applicable to that particular Use Permit.*

*C. The Board shall deny an application for a Use Permit if it determines that it is unable to make any of the required findings, in which case it shall state the reasons for that determination.*

*D. The Board may attach such conditions to any Use Permit as it deems reasonable or necessary to achieve the purposes of this Ordinance, and which otherwise promote the municipal health, safety and welfare.*



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

May 25, 2021

### Planning review comments #1

**Applications #: ZP2021-0001**

**Address: 1643 1647 California St Planning**

Hi Nicholas,

We are resubmitting the Use Permit application per your comments. See attached drawings and responses below.

#### Items Required for Submittal or Correction:

1. Third Floor Setbacks are not code-compliant – Per Section 23D.28.070.D, 3rd stories must be set-back 6-feet from side property lines. As currently proposed, this setback is not being met. However, please first see Advisory Comment, below, related to the third floor proposal.

**Response: Sheet A2.1 and A3.1 – Please note the proposed design no longer has a garage at the basement level. Since the garage is eliminated, the building will not be raised up 3'-0" as was in the original plan. The first floor level remains where it is now. This will reduce the overall building height. Per the building and planning definition of a floor, the basement is no longer a floor. Therefore the building is two stories over a basement.**

2. Average Height calculation of the building is not accurate – the average height calculations provided (both in the TAB form, and on plans) is not accurate to how the average height is calculated in the City of Berkeley, as the height of a house with shed-style roof is taken from the average grade to the top of the roof form (not the midpoint). Therefore, please revise the height calculation to accurately describe the average height of the building.

**Response: Sheet A3.1 and A3.2 – The new design has a gable roof and the average height is calculated accordingly.**

3. Shadow Studies – Per the [Shadow Study Instructions Guide](#) the submitted Shadow Studies must be revised in the following ways:

a. While some shadow impacts are shown in the shadow studies provided, additional information is necessary to understand the extent of the impacts. Specifically:

**Response: Sheet A4.1 – New and updated shadow study provided. Please note what was labeled an ADU at 1609 Virginia is NOT an ADU but just an accessory structure.**

5. *If a shadow (existing or future) hits the wall of an adjacent structure, provide a drawing in elevation view to (1) show where the existing shadow hits the wall, and (2) indicate locations of windows on walls affected.*

6. *If increased shadowing caused by the proposed project would affect any windows on residential buildings, then indicate the use of those windows (i.e., garage, bedroom, bathroom, kitchen, living room).*

While this detail was provided in relation to the impacts to the property to the north (1639 California), no additional details were provided on the extent of the impacts to *the neighboring property to the east (1609 Virginia)*. Please revise *Shadow Studies* to include the above-described additional details to assist in the assessment of new impacts to the neighboring property to the east.

**Response: Sheet A4.1 – New and updated shadow study provided.**

4. Historic Resource Evaluation – Following discussion with the Secretary of the Landmarks Preservation Commission, Senior Planner Fatema Crane, it has been confirmed that a Historic Resource Evaluation (HRE) will be required prior to this application being deemed complete. As indicated in Zoning Project Application Submittal Requirements Item number 4.B, an HRE is required for “substantial alteration” to a building over 40 years old. Please include an HRE with your resubmittal materials.

**Response: See HRE report. This building is not a structure of merit in any case.**

#### Staff Advisory Comments

1. Floor Plans/Existing Conditions – Staff has been notified that there may be a discrepancy between the existing floor plans and the actual existing layout of the house, including potentially work that was done that has, in effect, eliminated one of the two units on the site. As your proposed project would retain (or replace) this second unit, the situation would be resolved with this application. However, staff needs to have the full and accurate picture of what is existing on site, whether or not previous work was done (with or without permits) that has rendered the submitted floor plans inaccurate or incomplete. Please clarify what the existing condition is at the site and update the existing floor plans, if necessary. Alternatively, staff would request a site visit and short tour of the interior of the building to confirm the existing conditions.

**Response: Sheet A1.1 – See updated floor plan. This is the current condition.**

2. Level of Staff Support of Project/3rd floor proposal – As has previously been discussed between Project Planner and Applicant (prior to official submittal of the application), staff has concerns with the numerous Use Permits and Variance request to expand the existing residential structure. As currently proposed, staff cannot make the findings to recommend approval of this project. Were it to move forward to the Zoning Adjustments Board under the current design iteration, staff would recommend that the ZAB deny the project for lack of ability to make the findings. (Attached to this letter is a list of the findings that have to be made related to these permit requests. For the Variance, if any one of the findings cannot be made, the application must be denied.)

While Staff understands that any expansion of this building will trigger Use Permits and Variances, Staff recommends a significant design modification to this proposal before Staff could potentially make the findings and consider support of the application. Specifically, staff recommends elimination of the entire third floor, while retaining the concept of lifting the house slightly to create the new lower floor. This will have a number of effects:

a. Variance request - Firstly, the existing site has a lot coverage of approximately 50%, where 45% is the maximum allowed by code for a single story house in the R-2 zoning district (BMC Section 23D.28.070.E). This means the site exceeds the allowable lot coverage by approximately 5%. However, under your proposal, while removing an accessory structure to reduce the lot coverage to approximately 44%, a three-story structure is allowed a maximum lot coverage of 35%. This means the site would exceed the allowable lot coverage by 9%, a worsening of 4% over the maximum allowable percentage. If the project was revised to a two-story design, with the same 44% coverage, where the maximum allowable coverage of a two-story structure is 40%, while the structure would still be 4% over lot coverage, there is a net reduction of 1% exceedance of coverage for the site.

**Response:** The project has been redesign. We understand planning's concerns. That is why we are willing to reduce the overall project scale. However, eliminating the second story addition is not feasible. What we can do is reduce the size of the second floor addition as much as possible to mitigate any impact on adjacent properties and make it more in scale with the neighborhood. But please keep in mind, adding a second story addition to a single story house is not an unreasonable request here. We also have support of both neighbors on each side. Letters submitted to you earlier. I am attaching them here for reference.

**Reduced project scope:**

1. The proposed design no longer has a garage at the basement level. Since the garage is eliminated, the building will not be raised up 3'-0" as was in the original plan. The first floor level remains where it is now. This will reduce the overall building height.
2. We have eliminated the balcony at the rear (east side). Therefore, no AUP needed for the rear yard setback.
3. We have also set back the second floor addition from the existing front house wall (set back 3'-6" - 14'-4 from front property line). The existing is set back 10'-10" from the front property line. This helps to keep the existing front facade height with minimal changes and recessing the addition back.
4. Lowered the roof height by another 1'-0" from the last iteration. This brings the overall building height down by 5'-2" on the left and 6'-3" on the right, when compared to the original submittal.
5. We made some minor changes to the building materials to isolate the second floor addition from the existing single story above the basement. When compared to the earlier version, this helps with the overall scale and massing of the house.
6. Overall, the building looks like and feels like a two-story house over a basement. Just like hundreds of houses in Berkeley.

We really hope you can see the merits of the revised design and the compromises made here.

b. Height and related impacts – The proposed project increases the height of the residential structure from 13'-6" to approximately 28' (staff's assessment of the average height based on previously-mentioned inaccurate height calculation provided on the plans). This is an increase of 14-feet 6-inches. This 28-foot-tall structure, on a non-conforming lot (including setbacks and lot coverage), would create a number of related impacts to neighboring properties, specifically to light, air, privacy, and potentially views. All of those impacts are assessed in the "non-detriment" finding that is triggered by a number of the permits requested for this project. If the third floor was removed from this plan (while retaining the concept of lifting the house to add the lower level), staff estimates that this design would only increase the height of the building by 3-feet or so, a decrease of 11-feet 6-inches compared to the current proposal. While there would likely still be some impacts to the light, air, privacy, and/or

**Response: See Sheets A3.1 – The new design increases the average height by 8'-10". This is not an unseasonal request. It's similar to hundreds of second story additions in Berkeley. See additional comment above regarding the building height.**

We are looking forward to moving this project along.

Sundeep Grewal



## PLANNING & DEVELOPMENT

Land Use Planning, 1947 Center Street, Berkeley, CA 94704

Tel: 510.981.7410 TDD: 510.981.6903 Email: Planning@CityofBerkeley.info

# TABULATION FORM

Project Address: 1643 and 1647 California St. Date: 5-25-2021

Applicant's Name: Sundeep Grewal - Studio G+S Architects

Zoning District: R-2

Please print in ink the following numerical information for your Administrative Use Permit, Use Permit, or Variance application:

	<i>Existing</i>	<i>Proposed</i>	<i>Permitted/ Required<sup>1</sup></i>
<b>Units, Parking Spaces &amp; Bedrooms</b>			
Number of Dwelling Units (#)	2	2	1
Number of Parking Spaces (#)	0	0	2
Number of Bedrooms (#) (R-1, R-1A, R-2, R-2A, and R-3 only)	3	5	N/A
<b>Yards and Height</b>			
Front Yard Setback (Feet)	10'-10'	10'-10"	20'-0"
Side Yard Setbacks: (facing property)			
Left: (Feet)	3'-11'	4'-0"	4'-0"
Right: (Feet)	5'-6'	5'-5"	4'-0"
Rear Yard Setback (Feet)	16'-10'	16'-10"	20'-0"
Building Height* (# Stories)	1	2	3
Average* (Feet)	13'-6'	23'-10"	28'-0"
Maximum* (Feet)	13'-6'	23'-10"	35'-0"
<b>Areas</b>			
Lot Area (Square-Feet)	3,100 s.f.	3,100 s.f.	4,500 s.f.
Gross Floor Area* (Square-Feet) Total Area Covered by All Floors	1,334 s.f.	3,763 s.f.	
Building Footprint* (Square-Feet) Total of All Structures	1,569 s.f.	1,382 s.f.	1,258 s.f. for 2 stories
Lot Coverage* (%) Residential only (Building Footprint/Lot Area)	49.94 %	43.98 %	40 % for 2 stories
Useable Open Space* (Square-Feet)	500 s.f.	1,029 s.f.	800 s.f. 400 s.f./unit
Floor Area Ratio* Non-Residential only (Except ES-R)	N/A	N/A	N/A

\*See Definitions – Zoning Ordinance Title 23F.

Revised: 11/19

<sup>1</sup> See development standards for your Zoning District, per the Berkeley Municipal Code, Sub-Titles 23D and 23E  
g:\landuse\forms & instructions\land use planning forms\word files\forms\_zoning project application\zoning project application\_tabulation form.docx

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION <b>PRIMARY RECORD</b>	Primary # _____		
	HRI # _____		
	Trinomial _____		
	NRHP Status Code _____		
Other Listings _____	Review Code _____	Reviewer _____	Date _____

Page 1 of 6 Resource name(s) or number (assigned by recorder) 1643-47 California Street

**P1. Other Identifier:**

\*P2. Location:  Not for Publication  Unrestricted  
 \*a. County Alameda City Berkeley Zip 94703  
 \*c. Address 1643-47 California Street  
 \*e. Other Locational Data: Assessor's Parcel Number Block: Lot: 058 215601800

**\*P3a. Description:** (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries.)

1643-1647 California Street sits on the east side of California between Lincoln and Virginia Streets. The building is set back from the front lot line, with planted areas at the front of the parcel. It is a one story over basement two unit building clad in stucco and capped with a flat roof. At the center of the façade, there are two concrete stairs, both with stepped concrete cheek walls and metal railings. They are separated by a center stepped cheek wall. At the top of the stairs, the primary entrances are situated on a sheltered porch. The right side entrance features a multi-lite glazed door; the left side features a flush wood door. To either side of the entrances are square bays with composite columns featuring tripartite wood sash windows with a center fixed multi-lite window flanked by four over one double hung windows. The entry porch is sheltered by a shed roof clad in red clay tiles and supported by composite columns. There are shed cornices with red clay tiles over both bays. The façade terminates with a stepped parapet with simple coping.

The building appears to be in good condition.

\*P3b. Resource Attributes: (list attributes and codes) HP HP1. Unknown

\*P4. Resources Present:  Building  Structure  Object  Site  District  Element of District  Other

P5a. Photo



**P5b. Photo:** (view and date)  
View from west. 4/30/2021

\*P6. Date Constructed/Age and Sources:  historic  
1924 per permits

\*P7. Owner and Address:

\*P8. Recorded by:  
Tim Kelley Consulting  
2912 Diamond St #330  
San Francisco, CA 94131

\*P9. Date Recorded:  
5/14/2021

\*P10. Survey Type:  
Intensive

\*P11. Report Citation: (Cite survey report and other sources, or enter "none")

\*Attachments:  None  Location Map  Sketch Map  Continuation Sheet  Building, Structure, and Object Record  
 Archaeological Record  District Record  Linear Feature Record  Milling Station Record  Rock Art Record  
 Artifact Record  Photograph Record  Other (list)

State of California — The Resources Agency DEPARTMENT OF PARKS AND RECREATION <b>BUILDING, STRUCTURE, AND OBJECT RECORD</b>	Primary # _____ HRI# _____
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Page 2 of 6 \*NRHP Status Code 6Z

\*Resource Name or # \_\_\_\_\_

- B1. Historic name: 1643-1647 California Street
- B2. Common name: 1643-1647 California Street
- B3. Original Use: two family residential B4. Present use: two family residential
- \*B5. **Architectural Style:** vernacular
- \*B6. **Construction History:** (Construction date, alterations, and date of alterations)

1643-1647 California was constructed in 1924 by builder and real estate speculator Fred F. Ingram. The left side primary entrance has been replaced; there are no other obvious alterations to the front façade.

\*B7. Moved?  No  Yes  Unknown Date: \_\_\_\_\_ Original Location: \_\_\_\_\_

\*B8. **Related Features:**  
 none

B9a. Architect: NA b. Builder: Fred F. Ingram

\*B10. **Significance:** Theme NA Area NA  
 Period of Significance NA Property Type residential Applicable Criteria NA  
 (Discuss importance in terms of historical or architectural context as defined by theme, period, and geographic scope. Also address integrity)

**Owners and Occupants:**

Original Owner: Rita Warford

1643 California occupants: 1928-1930 Radino and Leona Hickman (auditor); 1940-1944 Mandy K. Scheider (dressmaker); and 1953 William A. Lynch (property owner)

1647 California occupants: 1930-1934 Elvin and Opal Woodard (salesman); 1939 James McCabe (retired); 1940 - 1941 Robert F. Endsley (painter); and 1943-1944 Francis R. and Mary Nunley (shipyard worker).

**Builder**

Fred F. Ingram was a builder and real estate speculator. Buildings designed by Ingram during this period include: 1631 Francisco (1924), 1629 Sacramento (1924) and 1631 Sacramento (1924).  
 (continued)

B11. Additional Resource Attributes: (List attributes and codes) \_\_\_\_\_

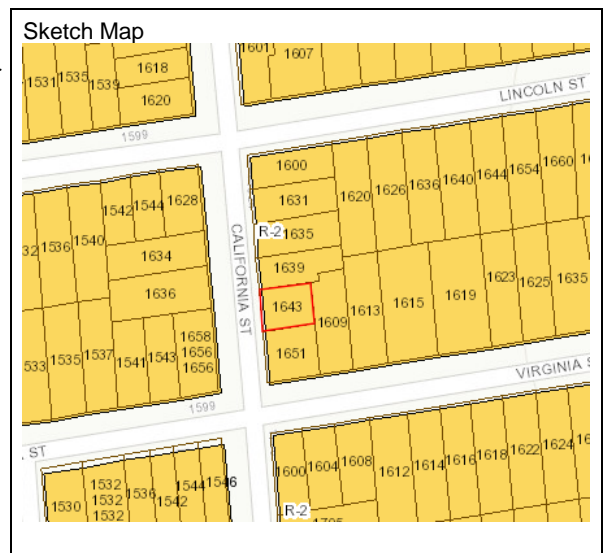
\*B12. **References:**

- California Office of Historic Preservation. "Instructions for Recording Historical Resources." Sacramento, 1995.
- U.S. Department of the Interior, National Park Service. *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*. Washington, D.C.: National Park Service, rev. ed. 1998.
- Sanborn Maps, Berkeley, California, 1929, 1950

B13. Remarks:

\*B14. **Evaluator:** Tim Kelley Consulting LLC

(This space reserved for official comments.)



\*Date of Evaluation: 5/14/2021



**State of California — The Resources Agency**  
**DEPARTMENT OF PARKS AND RECREATION**  
**CONTINUATION SHEET**

Primary # \_\_\_\_\_  
 HRI # \_\_\_\_\_  
 Trinomial \_\_\_\_\_

Page 3 of 6

Resource Name or # (Assigned by recorder)

\*Recorded by Tim Kelley Consulting LLC  
 DPR 523B (1/95)

\*Date 5/14/2021

Continuation

Update

\*Required information

(continued)

**Permit History:**

- Permit #16834, May 9, 1924 – To build a one-story two room duplex.
- Permit #72299, November 10, 1952 – To build an 8' x 20' shed
- Permit #98026, June 24, 1963 – Termite repair

**Criterion 1 (Events)**

1643-1647 California is not eligible for individual listing in the California Register under Criterion 1. This building did not make any significant individual contribution to the development of the neighborhood. Nor did it make a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California. Thus the property is not eligible for listing in the California Register under Criterion 1.

**Criterion 2 (Persons)**

This building is not eligible for individual listing in the California Register under Criterion 2. It is not associated with any significant persons in the history of Berkeley or the State of California, as none of the owners or occupants were listed newspaper indexes or otherwise indicated to be important to the history of Berkeley or the State of California. Thus the property is not eligible for listing in the California Register under Criterion 2.

**Criterion 3 (Architecture)**

This building is not eligible for individual listing in the California Register under Criterion 3. The builder of 1643-1647 California, Fred F. Ingram is not considered a master builder. This building does not embody distinctive characteristics of a type, period, region, or method of construction, represent the work of a master, or possess high artistic values. Thus the property is not eligible for listing in the California Register under any aspect of Criterion 3.

**Criterion 4 (Information Potential)**

This criterion ordinarily refers to potential archeological value. A full analysis of archeological value is beyond the scope of this report. The property does not appear eligible for listing on the California Register under Criterion 4.

**Integrity**

This building is not an historical resource; therefore no period of significance can be determined and integrity can not be evaluated. For information purposes, this building retains all aspectsof integrity.

State of California — The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
**CONTINUATION SHEET**

Primary # \_\_\_\_\_  
HRI # \_\_\_\_\_  
Trinomial \_\_\_\_\_

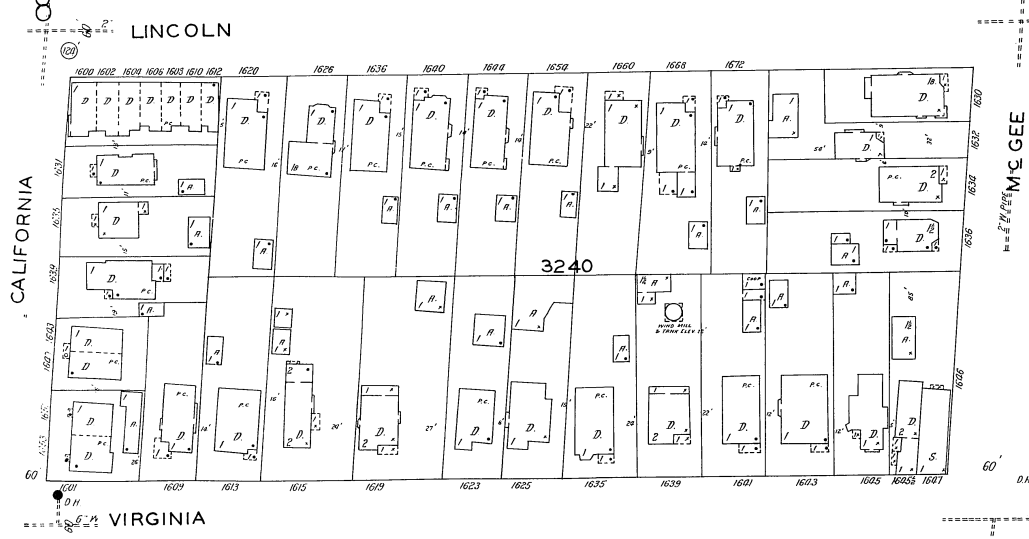
Page 4 of 6

Resource Name or # (Assigned by recorder)

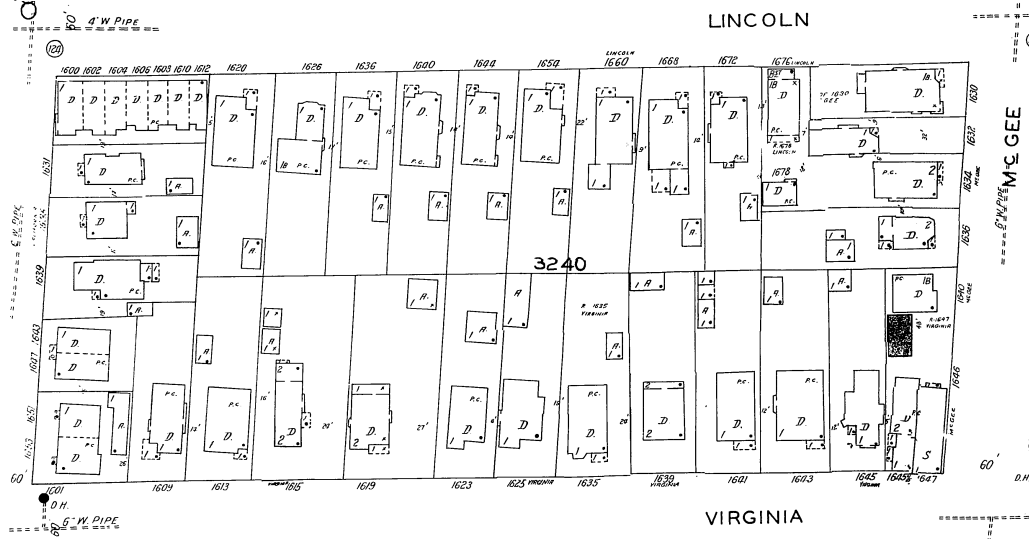
\*Recorded by Tim Kelley Consulting LLC

\*Date 5/14/2021     Continuation     Update

1929 Sanborn Map



1950 Sanborn Map



State of California — The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
**CONTINUATION SHEET**

Primary # \_\_\_\_\_  
HRI # \_\_\_\_\_  
Trinomial \_\_\_\_\_

Page 5 of 6

Resource Name or # (Assigned by recorder)

\*Recorded by Tim Kelley Consulting LLC

\*Date 5/14/2021     Continuation     Update



Detail: Right side front façade; right side secondary façade



Detail, left side primary facade

State of California — The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**CONTINUATION SHEET**

Primary # \_\_\_\_\_

HRI # \_\_\_\_\_

Trinomial \_\_\_\_\_

Page 6 of 6

Resource Name or # (Assigned by recorder)

\*Recorded by Tim Kelley Consulting LLC

\*Date 5/14/2021     Continuation     Update



Left side secondary facade

RESIDENTIAL

CITY OF BERKELEY

Address..... 1643-47 California Book 8 Par. No. 18 Block 2156

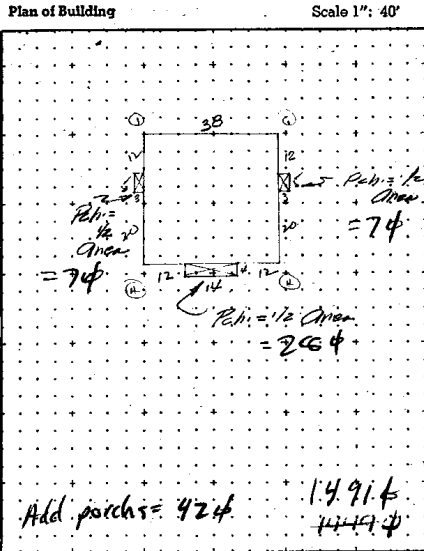
Surveyed by..... Date..... Remarks.....

Date	Imp. R.C.	% Gd	Table	N.R.C.L.D.	Obs. etc.	Adj. R.C.L.D.	Building Department Records		
29	6579	53	45			3486	Permit for	Dwg	Shed
1952	320	90	25			288	Permit No.	16834	72299
	75	65				49	Year Built	1924	11-10-52
							Amount		\$400
40	13923	45	50			6265	4-10-53. Additions, Alterations, etc. Shed in use. Structurally complete. Jd		
12	648	54	25			349			
						6614			

Assessment Record

1949-50	1780 ✓ ✓		
1951-52	1780 ✓ ✓		
1953-54	2000 ✓		
1956-57	2000 ✓		

Remarks, Reappraisals, etc.



RESIDENTIAL BUILDING RECORD

Use Type Duplex Stories 1 Constr. Class D.G. 2  
 Foundation none Excavation \_\_\_\_\_  
 Structural Wd. Fr. Grade 3  
 Exterior Walls Stucco Windows D.H.  
 Roof Material T.G.S. Type Flat Pitch \_\_\_\_\_

Rooms	ROOM & FINISH DETAIL								Plumbing Detail	
	Floors				Floor Finish	Trim	Interior Finish		Fixture Ass.	No.
	B	1	2	3			Typ	Top		
Ent. Hall					Wood	Plns.	Plaster			✓
Living Rm.	✓									✓
Dining Rm.					WOOD					✓
Kitchen Nk.	✓									✓
Breakfast										✓
Study										✓
Bed Rm.	✓				Wood					✓
Bath	✓				WOOD					✓
Laundry										✓
Recreation										✓
Furnace										✓
Garage										✓
Heating										
2 FTR Furns										
Misc.										

COMPUTATIONS		Year		Year 63-64		Year	
Unit	Area	Unit C.	Cost	Unit C.	Cost	Unit C.	Cost
1st Floor	1449	423	6129	885	12823		
F.R.P.L.			300		800		
Heat			150		300		
Misc. Equipment							
TOTAL R. C.			6579	R. C.	13923	R. C.	

Misc. Structures—Garages, etc.

Type	Size	Ext.	Rf.	Int.	Fir.	Area	At	Cost
Shed	3	20	10	20	CONC	160	200	140
							300	480
							50	168
Porch					CONC	300	22	25



1648-47 CALIFORNIA STREET

854-B1

Plan Checking Fee \_\_\_\_\_  
 Bldg. Permit Fee \_\_\_\_\_

TOTAL 14.5

**CITY OF BERKELEY**  
**Building Inspection Department**

**APPLICATION FOR BUILDING PERMIT**  
**Additions, Alterations and Repairs**

Application is hereby made to the Building Inspection Department of the City of Berkeley for Permission to Add to, or Alter, or Repair a group I; Type V; 1 Story; 6 Room Building

Present use of building DWELLING Families 2 Rooms 8

Proposed use of building 2- PLEX Families 2 Rooms 8

Located at 1643-47 CALIFORNIA

All provisions of the Building Code will be complied with in the erection, alteration or repairing of said building whether specified herein or not.

Valuation of proposed work: Include all labor and material \$1849.00

Building to be occupied as DWELLING by E.K. WRIGHT

**WRITE PLAINLY FULL DESCRIPTION OF WORK TO BE DONE**  
 Small sketches may be drawn on the back of this sheet

TERMITE REPAIR AS PER  
REPORT ON JOB LOCATION

Name of Owner E.K. WRIGHT Address 1865 SOLANO Telephone \_\_\_\_\_

Name of Architect or Designer \_\_\_\_\_ Address \_\_\_\_\_

Name of Engineer \_\_\_\_\_ Address \_\_\_\_\_

Name of Builder BELFORD TERMITE CONTROL Address 2913 OHIO AVE Telephone BE-3-2116  
RICHMOND

State License No. 2734 Workmen's Compensation Insurance Policy or Certification Filed Yes \_\_\_\_\_ No \_\_\_\_\_

City of Berkeley License No. B-1130

Expires \_\_\_\_\_

We I hereby agree to save, indemnify and keep harmless the City of Berkeley and/or its employees, against all liabilities, judgments, costs and expenses which may in any wise accrue against said City in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

W. G. Belford (EB)  
 Signature of Owner, Agent or Builder.

Fire Zone No. 1.  2.  3.

FOR DEPARTMENT USE ONLY

1643-47 California Permit No. 98026  
 Number Street Date Issued JUN 24 1963

BLOCK BOOK NO. \_\_\_\_\_

PAGE \_\_\_\_\_ ISSUED BY [Signature]



**CITY OF BERKELEY**  
**Building Department**

4-00

**APPLICATION FOR BUILDING PERMIT FOR A**  
**Group J Building**

Application is hereby made to the Building Department of the City of Berkeley for Permission to build a  
Type shed building to be occupied as a Group J occupancy for: storage  
Located at 1643-1647 California St  
Value 400.00

**SIZE, LOCATION AND CONSTRUCTION TO BE AS FOLLOWS:**  
(See Over For Plans)

Size: 8' x 20' Height: 8' 6" rear - 8' front  
Floor: 4" thick concrete  
Outside Walls: 2x4 studs - 1x4 sheathing - asbestos shingles (green)  
Roof: 2x4 rafters 16" center - 1x4 sheathing - 2 1/2" compo. shingles  
Distance from nearest building on the lot: 10 feet  
Distance from side lot line: 13 feet north - 17 feet south  
Distance from rear lot line: out line  
Walls closer than 3 feet to the side and/or rear lot lines will be fireproofed as follows: with 4x6 x 1/2" building tile (bricks)

Name of Owner Wm A. Lynch Address 1643 Calif.  
Name of Architect or Designer self Address  
Name of Engineer Address  
Name of Builder self Address  
State License No. X

I, Wm A. Lynch  
We Hereby agree to save, indemnify and keep harmless the City of Berkeley against all liabilities, judgments, costs and expenses which may in any wise accrue against said city in consequence of the granting of this permit, or from the use or occupancy of any sidewalk, street or sub-sidewalk space by virtue thereof, and will in all things strictly comply with the conditions of this permit and Ordinances of the City of Berkeley.

In Zone No. Ordinance No. Wm A. Lynch  
Signature of Owner/Agent or Builder  
Fire Zone No. 3 Address 1643 California St.

**FOR DEPARTMENT USE ONLY**  
1643 - 1647 California 10 Permit No. 72299  
Number Street Page

Filed 1-17 Ready 1-17 Checked by 1-17 Date Issued NOV 10 1952

### Zoning Permit

(Section 17, Ordinance No. 3018-N.S.)

Permit for Storage shed

At 11643-4647 Calif. St. In a R-2 District

Area Area of lot 50 X 63 Coverage 3150 sq. feet

Yards Front 12 ft Left Side 9 ft Right Side 4 ft Rear 18 ft

Height Main Building app. 12 ft. Accessory Building 8' 6"

Issued: 11/10/52  
Certificate: I hereby certify that the foregoing statement and data are in all respects to the best of my knowledge and belief true and correct.

By [Signature]  
Planning Department

Signature: [Signature]  
Owner's Name

By \_\_\_\_\_  
Agent

37  
185  
111  
1291  
100  
145100  
145100  
145100  
31500

JUN 24 1963 DATE

ADDRESS	1643-47- Calif	OWNER	P. Wright	
GROUP	F	TYPE	V	USE
				free
BUILDING PERMIT	98026	STORIES	1	ROOMS
				6
PLUMBING PERMIT		FIXTURES	W. S.	CONTRACTOR
				Beeford
GAS PIPING		OUTLETS	METERS	CONTRACTOR
ELECTRIC WIRING		OUTLETS	MOTORS	CONTRACTOR
ELECTRIC FIXTURE		FIXTURES	APPLIANCES	CONTRACTOR
GAS APPLIANCES		FIXTURES		CONTRACTOR
GAS APPLIANCES		FIXTURES		CONTRACTOR
GAS APPLIANCES				CONTRACTOR
FURNACES, ETC.				CONTRACTOR

INSPECTION	DATE	INSPECTOR	DATE	INSPECTOR	REMARKS
BUILDING, ROUGH			7/11/63	P.P.	
BUILDING, FINAL			8/15/63	CR	
PLUMBING, ROUGH					
PLUMBING, FINAL					
GAS PIPING, ROUGH					
GAS PIPING, FINAL					
ELECTRIC, ROUGH					
ELECTRIC, FINAL					
GAS APPLIANCES, WH					
GAS APPLIANCES					
GAS APPLIANCES					
FURNACES, ETC., FINAL					

COMPLETED

CERTIFICATE OF OCCUPANCY: \_\_\_\_\_ DATE \_\_\_\_\_

SEWER \_\_\_\_\_

ADDRESS 1643-47 Calif.

FORM 254-66

DATE \_\_\_\_\_

ADDRESS 1643-47 Calif OWNER \_\_\_\_\_

GROUP	TYPE	USE	DESCRIPTION	COST \$
BUILDING PERMIT		STORIES	ROOMS	CONTRACTOR
PLUMBING PERMIT		FIXTURES	W. S.	CONTRACTOR
GAS PIPING		OUTLETS	METERS	CONTRACTOR
ELECTRIC WIRING		OUTLETS	MOTORS	CONTRACTOR
ELECTRIC FIXTURE		FIXTURES	APPLIANCES	CONTRACTOR
GAS APPLIANCES		FIXTURES		CONTRACTOR
GAS APPLIANCES		FIXTURES		CONTRACTOR
GAS APPLIANCES				CONTRACTOR
FURNACES, ETC.				CONTRACTOR
SEWER PERMIT <u>2646</u>				CONTRACTOR <u>Lynch</u>

INSPECTION	DATE	INSPECTOR	DATE	INSPECTOR	REMARKS
BUILDING, ROUGH					
BUILDING, FINAL					
PLUMBING, ROUGH					
PLUMBING, FINAL					
GAS PIPING, ROUGH					
GAS PIPING, FINAL					
ELECTRIC, ROUGH					
ELECTRIC, FINAL					
GAS APPLIANCES, WH					
GAS APPLIANCES					
GAS APPLIANCES					
FURNACES, ETC., FINAL					
SEWER	<u>4/1/63</u>	<u>Dr</u>			

COMPLETE

CERTIFICATE OF OCCUPANCY DATE \_\_\_\_\_

ADDRESS 1643-47 Calif

FORM 254-86

5924

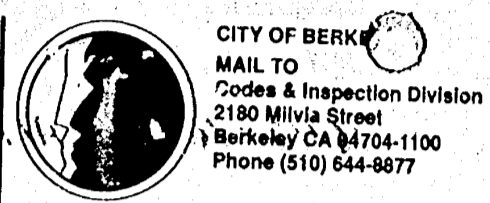
Street 1643-47 CALIFORNIA Owner RITA WILFORD

Group	Type	Stories	Rooms	Description	Cost \$
Building Permit	<u>16834</u>			<u>DWG</u>	<u>4500</u>
Plumbing Permit		Fixtures		Contractor	<u>FRED F. INGRAM</u>
Gas Piping		Outlets	Meters	Contractor	
Electric Wiring		Outlets	Motors	Contractor	
Electric Fixture		Fixtures	Appliances	Contractor	
Gas Appliance		Fixtures		Contractor	
Warm Air Piping				Contractor	
Furnaces, etc.				Contractor	
Sewer Permit				Contractor	

Inspection	Date	Inspect'r	Notice	REMARKS
Plumbing, rough				
Gas Piping, rough				
Electrical, rough				
Building, rough				
Warm Air Pipes				
Sewer				
Plumbing, final				
Gas Piping, final				
Building, final				
Furnaces, etc., final				
Electrical, final				Notice to Lighting Co.
Gas Appliances				

Certificate of Occupancy:.....Date.....  
 Form 86 5M 4-37

CONSTRUCTION PROJECT ADDRESS  
 1643 & 1647 CALIFORNIA ST. BERKELEY, CA



PERMIT NUMBER  
 052072

**PERMIT**  
 BUILDING - ELECTRICAL - MECHANICAL - PLUMBING

- Permits shall expire if a major inspection is not passed within 180 days of permit issue or within 180 days of a previously passed major inspection.
- Issuance of a permit shall not be construed as an approval of any violation of Building, Electrical, Mechanical, Plumbing or Municipal codes.
- Clearances from all departments and jurisdictions and payment of all applicable fees are required before final inspections will be made.

NOTE: This permit does not become valid until signed by the building official or his deputy and fees are paid, and receipt is acknowledged in the space provided.

**APPLICANT**  
 NAME: 121K LIANI  
 MAILING ADDRESS: 1728 PARKER ST  
 TELEPHONE: 5490571  
 CITY: BERKELEY, CA 94703

**OWNER**  
 NAME: TAMM & DO OPENHAYMER  
 ADDRESS: 1643, 1647 CALIFORNIA ST  
 TELEPHONE: CA 94703  
 CITY: BERKELEY, CA 94703  
 STATE/ZIP: CA 94703

**ARCH/ENG**  
 NAME: [Blank]  
 LICENSE #: [Blank]  
 ADDRESS: [Blank]  
 TELEPHONE: [Blank]  
 CITY: [Blank]  
 STATE/ZIP: [Blank]

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

**CONTRACTOR**  
 NAME: R.K. COMSTOCK  
 CITY BUSINESS TAX #: R-0171  
 ADDRESS: 583 FREDRICK ST  
 TELEPHONE: 564-6730  
 CITY: S.F. CA  
 STATE/ZIP: CA 94117  
 SIGNATURE: [Signature]  
 DATE: [Blank]

Check type of building:

<input type="checkbox"/> New commercial	<input type="checkbox"/> New one or two family
<input type="checkbox"/> "Shell only" commercial	<input type="checkbox"/> One/two family remodel
<input type="checkbox"/> Hazardous occupancy	<input type="checkbox"/> Apartment / condo remodel
<input type="checkbox"/> Office, tenant improvement	<input type="checkbox"/> Garage / attic remodel
<input type="checkbox"/> Retail, tenant improvement	<input type="checkbox"/> Sign
<input type="checkbox"/> Food cooking facility, tenant improvement	<input type="checkbox"/> Commercial reroof
<input type="checkbox"/> New apartment	<input type="checkbox"/> Residential reroof
	<input type="checkbox"/> Change of occupancy
	<input type="checkbox"/> CORRECTION OF VIOLATIONS

No. of living units: [Blank]

Description or scope of work:  
 ELECTRICAL PERMIT

**COMMERCIAL OCCUPANCIES**

I am  I am not required to comply with the hazardous materials requirements of Health and Safety Code Sections 25505, 25533, 25534.

The building is  is not within 1,000 feet of any school boundary.

I have  I have not met the requirements of Health and Safety Code Sections 42303 and 25514.

NOTE: A CERTIFICATE OF OCCUPANCY WILL NOT BE ISSUED UNTIL REQUIREMENTS OF HEALTH AND SAFETY CODE SECTIONS 25533, 25534 ARE MET.

052072 001 11/12/91ELECTR 40.00

**FOR OFFICIAL USE**

Prior to scheduling the inspections noted below, provide the clearances, certificates, calculations, special inspectors, etc. indicated.

<input type="checkbox"/> Special Inspector - start of work	<input type="checkbox"/> Pierhole cert. - Soils Engineer
<input type="checkbox"/> Glu-Lam certificate - Roof/floor frame	<input type="checkbox"/> Pier Inspection
<input type="checkbox"/> Truss Calculation - Roof/floor frame	<input type="checkbox"/> Fill/foundation compaction cert. - Foundation
<input type="checkbox"/> Fire Department - Final	<input type="checkbox"/> Soils engineer cert. - Final
<input type="checkbox"/> Engineering, PWD - Final	<input type="checkbox"/> Zoning - Final
<input type="checkbox"/> Traffic Engineering, PWD - Final	<input type="checkbox"/> Landmarks - Final
<input type="checkbox"/> Economic Development - Final	<input type="checkbox"/> Special Inspector cert. - Final
<input type="checkbox"/> Health Dept. - Final	

No. of stories: \_\_\_\_\_ Building height: \_\_\_\_\_ Fire Sprinklers: \_\_\_\_\_  
 Area: \_\_\_\_\_ Construction type: \_\_\_\_\_  
 No. required exits: \_\_\_\_\_ Value of work: \_\_\_\_\_ Occupancy load: \_\_\_\_\_

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM PERMIT FEE.

PERMIT FEES	FEES DUE AT	\$ AMOUNT DUE
<b>BUILDING PERMIT</b>		
Total Valuation		
Filing fee	Application	
Permit fee (Inspection)	Permit Issuance	
Plancheck fee	Permit Issuance	
Preplancheck fee	Application	
Reinspection fee	When required	
Investigation fee	Application	
Accelerated plancheck fee	Application	
Fast track/partial permits fee	Application	
Plancheck for revisions	Permit Issuance	
Plancheck for fasttrack revisions	Permit Issuance	
Title 24 Energy	Permit Issuance	
Title 24 Disabled	Permit Issuance	
SMI (earthquake)	Permit Issuance	
<b>ELECTRICAL PERMIT</b>		
Filing fee	Application	10.00
Plancheck fee	Application	
Permit fee (Inspection)	Permit Issuance	30.00
<b>MECHANICAL PERMIT</b>		
Filing fee	Application permit	
Plancheck fee	Application	
Permit fee (Inspection)	Permit Issuance	
<b>PLUMBING PERMIT</b>		
Filing fee	Application	
Plancheck fee	Application	
Permit fee (Inspection)	Permit Issuance	
<b>ZONING</b>	Application	
<b>OTHER</b>		
<b>TOTAL FEE</b>		40.00

Comments:

[Signature] BY: DEPUTY BUILDING OFFICIAL APPROVED FOR THE BUILDING OFFICIAL

INSPECTION RECORD

Job Address: 1643-1647 CALIFORNIA STREET

GRADING PERMIT NO:

BUILDING PERMIT NO:

Piers depth and size
Set back/lot coverage
Foundat.on forms/depth/size
steel
anchorbolts
holddowns

O.K. to pour foundallon/grade beam
Underfloor electric
Underfloor mechanical
Underfloor plumbing
Underfloor insulation
Under ground commercial
Underfloor framing

ABOVE APPROVALS REQUIRED BEFORE POURING CONCRETE SLABS

O.K. to pour slab/floor deck
Masonry 1st Lift
2nd Lift
3rd Lift

Concrete walls
Concrete floor
Frame elect - rough
Frame mechanical - rough
Frame plumbing - rough
Floor/ceiling insulation
Wall insulation
Wall framing
Roof framing
Shear walls
Tiedowns/Holddowns
Sound control
Framing Insulation
Glazing - Title 24
Floor framing 2nd story
Electrical subpanel - rough

ABOVE INSPECTIONS REQUIRED BEFORE CLOSING WALLS

O.K. to sheetrock
Shear nailing
Lath - exterior
Lath - Drywall - Interior
Plaster scratch
brown
finish

Shower/tub tile/lacking
Fire walls
Fire wall penetrations

ELECTRICAL PERMIT NO: 11-12-91-52079

11-21-91 - ELEC. SERVICE UPGRADE ROUGH IS OK. PERM WILL BE NOTIFIED ON 11-22-91 - JLDX.

MECHANICAL PERMIT NO:

PLUMBING PERMIT NO:

FINAL INSPECTION

Gas test
Water test
Sewer test
Handicap Access Title 24
Roofing
Appliances
Electrical
Mechanical
Plumbing

11-21-91 - ELEC. FINAL IS OK - JLDX - WORK HAS BEEN COMPLETED.

CERTIFICATE OF OCCUPANCY

All the requirements must be met prior to issuance of C.O.

Temp. Co.

CERTIFICATE OF OCCUPANCY

Dept. Building Official

Date

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM FEE OF \$40.00

PROJECT (CONSTRUCTION) ADDRESS: 1643 CALIFORNIA ST DATE: 11-12-91

OWNER OR CONTRACTOR: contractor TELEPHONE: 564-6736



DESCRIPTION	Quantity	Unit Price	Amount
ELECTRICAL Permit No. _____			
New Residential additions		FILING FEE \$ 10.00	
for each 100 s.f.			7.00
Service (new or changed)			7.00
Meters (new or changed)			4.00
Altering/changing wiring - each change			16.00
Branch circuits and feeders			2.75
Fixtures (fixed appliances)			6.50
Motors (up to 10 HP)			4.00
additional HP			1.00
maximum per unit			126.00
Generators up to 10 KVA			4.00
additional KV			1.00
maximum per unit			105.00
Transformers up to 10 KVA			2.75
additional KV			1.00
maximum			126.00
Signs			16.00
Outline lighting per KVA			9.25
X-ray, capacitors			16.00
Temporary power pole			16.00
Festoon lighting per outlet			1.00
		Subtotal =	

MECHANICAL Permit No. _____		FILING FEE \$ 10.00	
Gas Appliances			
one to two mechanical units			8.00
three or more units			7.00
Central htg (furn/ac) combination unit or			
central heat alone central ac alone			
100,000 BTU - per unit			24.00
101,000 - 500,000 BTU - per unit			32.00
over 500,000 BTU - per unit			79.00
Gas piping/extension, alteration/repair			
one meter			8.00
additional meters			5.25
outlets			3.25
pressure test only			8.00
Hoods			
residential			7.00
commercial - Type II			48.00
commercial w/ fire ext. system - Type I			79.00
Flue or Chimney			8.00
Prefabricated fireplace			48.00
Ducts, fans, registers, dampers			7.00
Air handling equipment			
to 10,000 cfm			16.00
over 10,000 cfm			24.00
Boilers and equipment			
up to 100,000 BTU			24.00
100,000 - 500,000 BTU			32.00
over 500,000 BTU			79.00
		Subtotal =	

PLUMBING Permit No. _____		FILING FEE \$ 10.00	
New/moved/additions/residential			
for each 100 s.f.			6.50
Fixtures			7.25
Sewer			21.00
Stand pipe system			79.50
Water meter, 25 or less outlets			15.00
additional outlet			1.50
Water meter only			5.25
Additional meter			3.50
Water line, 25 or less outlets			15.00
additional outlet			1.50
Lawn sprinklers system			
one or two family dwellings - per system			24.00
apartment buildings - per system			64.00
commercial/industrial - per system			64.00
Swimming pool filtration system			80.00
Inside rain leader - per leader			16.00
		Subtotal =	

ADMINIST/WORKSHEE/jas

052072 00 11/12/91 CHK VA 0.00

EXPLANATION:



**BUILDING PERMIT APPLICATION**

I hereby affirm (check one):  
 LICENSED CONTRACTOR'S DECLARATION. I am licensed under provisions of Chapter 9 (commencing with Sec. 7000) of the Business and Professions Code, and my license is in full force and effect. License No. 17330 Classification B-C-10

OWNER-BUILDER DECLARATION. I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code): Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law [Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code] or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500.00).

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code): The Contractor's License Law does not apply to an owner or property who builds or improves the structure, and who does such work himself or through his own employees, provided that such work or improvements are not intended or offered for sale, if, however, the building or improvements is sold within one year of completion, the owner-builder will have the burden of proving that he did not build or improve for the purposes of sale.

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code): The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contract(s) licensed pursuant to the Contractor's License Law.

I am exempt under Sec. \_\_\_\_\_, Business and Professions Code, for this reason: \_\_\_\_\_

**WORKERS COMPENSATION DECLARATIONS (Sec. 3800 LAB.C.)**  
 (check one):  
 I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers Compensation Insurance, or a certified copy thereof.  
 Policy No. \_\_\_\_\_ Company \_\_\_\_\_  
 Certified copy is hereby furnished.  
 Certified copy is filed with the City of Berkeley Building Division.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.  
 The permit is for \$100.00 (valuation) or less.

**NOTE TO APPLICANT:** If, after making this Certificate of Exemption, you should become subject to the Worker's Compensation provisions of the Labor Code, you must comply with such provisions or this permit shall be deemed revoked.

**CONSTRUCTION LENDING AGENCY (Sec. 3097, Civil Code)**  
 I hereby affirm that there (check one)  
 is not a construction lending agency for the performance of the work for which this permit is issued.  
 Lender's Name \_\_\_\_\_  
 Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all City ordinances and State laws relating to building construction, and hereby authorize representatives of the City of Berkeley to enter upon the above-mentioned property for inspection purposes. I also agree to waive, indemnify and hold harmless the City and its agents against all liabilities, judgments, costs, and expenses which may in any way accrue against said agency in consequence of the granting of this permit.

X Signature of applicant \_\_\_\_\_ Date: 11-12-71  
 Owner  Contractor  Agent

**CONSTRUCTION PROJECT ADDRESS**  
1643 E 1647 CALIFORNIA ST

**PERMIT BUILDING - ELECTRICAL - MECHANICAL - PLUMBING**  
 \* Permits shall expire if a major inspection is not passed within 180 days of permit issue or within 180 days of a previously passed major inspection.  
 \* Issuance of a permit shall not be construed as an approval of any violation of Building, Electrical, Mechanical, Plumbing or Municipal codes.  
 \* Clearances from all departments and jurisdictions and payment of all applicable fees are required before final inspections will be made.

**NOTE:** This permit does not become valid until signed by the building official or his deputy and fees are paid, and receipt is acknowledged in the space provided.

**APPLICANT**  
 NAME LIAM LIAM TELEPHONE 490-071  
 MAILING ADDRESS \_\_\_\_\_  
1728 PARKER ST 94703

**OWNER**  
 NAME THOMAS LOR OENLBYNER TELEPHONE \_\_\_\_\_  
 ADDRESS 543 1647 CALIFORNIA CA 94703  
 CITY BERKELEY LICENSE # 486-9387

**ARCH/ENGR**  
 ADDRESS \_\_\_\_\_ TELEPHONE \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE/ZIP \_\_\_\_\_

**CONTRACTOR**  
 I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.  
 NAME R.K. COSS CITY BUSINESS TAX # R-071  
 ADDRESS 883 FREORECK TELEPHONE 187 698  
 CITY S.F. CA STATE/ZIP 94117  
 SIGNATURE Kobbecker Kewin DATE \_\_\_\_\_

Check type of building:  
 New commercial  
 "Shell only" commercial  
 Hazardous occupancy  
 Office, tenant improvement  
 Retail, tenant improvement  
 Food cooking facility, tenant improvement  
 New apartment - \_\_\_\_\_  
 Change of occupancy  
 CORRECTION OF VIOLATIONS  
 Description or scope of work: ELECTRICAL PERMIT

**COMMERCIAL OCCUPANCIES**  
 I am not required to comply with the hazardous materials requirements of Health and Safety Code Sections 25505, 25533, 25534.  
 The building is not within 1,000 feet of any school boundary.  
 I have not met the requirements of Health and Safety Code Sections 42303 and 25514.

**NOTE:** A CERTIFICATE OF OCCUPANCY WILL NOT BE ISSUED UNTIL REQUIREMENTS OF HEALTH AND SAFETY CODE SECTIONS 25533, 25534 ARE MET.

**CITY OF BERKELEY**  
 MAIL TO  
 Codes & Inspection Division  
 2180 Milvia Street  
 Berkeley CA 94704-1100  
 Phone (510) 644-8877

PERMIT NUMBER  
17330

**FOR OFFICIAL USE**  
 Prior to scheduling the inspections noted below, provide the clearances, certificates, calculations, special inspectors, etc. indicated.  
 Special inspector - start of work  
 Glu-Lam certificate - Roof/floor frame  
 Truss Calculation - Roof/floor frame  
 Fire Department - Final  
 Engineering, PWD - Final  
 Traffic Engineering, PWD - Final  
 Economic Development - Final  
 Health Dept. - Final  
 No. of stories \_\_\_\_\_ Building height \_\_\_\_\_ Fire Sprinklers \_\_\_\_\_  
 Pierhole cert. - Soils Engineer  
 Plar Inspection  
 Fill/foundation compaction cert.  
 Soils engineer cert. - Final  
 Zoning - Final  
 Landmarks - Final  
 Special Inspector cert. - Final

**NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM PERMIT FEE.**

PERMIT FEES	FEES DUE AT	\$ AMOUNT FUE
<b>BUILDING PERMIT</b>		
Total Valuation		
Filing fee	Application	
Permit fee (inspection)	Permit issuance	
Plancheck fee	Permit issuance	
Preplancheck fee	Application	
Reinspection fee	When required	
Investigation fee	Application	
Accelerated plancheck fee	Application	
Fast track/partial permits fee	Application	
Plancheck for revisions	Permit issuance	
Plancheck for fasttrack revisions	Permit issuance	
Title 24 Energy	Permit issuance	
Title 24 Disabled	Permit issuance	
SMI (earthquake)	Permit issuance	
<b>ELECTRICAL PERMIT</b>		
Filing fee	Application	<u>10.00</u>
Permit fee (inspection)	Permit issuance	<u>30.00</u>
<b>MECHANICAL PERMIT</b>		
Filing fee	Application permit	
Plancheck fee	Application	
Permit fee (inspection)	Permit issuance	
<b>PLUMBING PERMIT</b>		
Filing fee	Application	
Plancheck fee	Application	
Permit fee (inspection)	Permit issuance	
<b>ZONING</b>		
<b>OTHER</b>		
<b>TOTAL FEE</b>		<u>40.00</u>

Comments: \_\_\_\_\_

BY: Sharon Becker  
 DEPUTY BUILDING OFFICIAL  
 APPROVED FOR THE BUILDING OFFICIAL

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM FEE OF \$40.00  
 PROJECT (CONSTRUCTION) ADDRESS: 1643 CALIFORNIA ST DATE: 11-12-91  
 OWNER OR CONTRACTOR: contractor TELEPHONE: 564-6730



DESCRIPTION	Quantity	Unit Price	Amount
ELECTRICAL Permit No. _____			
FILING FEE \$		10.00	
New Residential additions for each 100 s.f.		7.00	
Service (new or changed)		7.00	7.00
Meters (new or changed)		4.00	
Altering/changing wiring - each change		16.00	
Branch circuits and feeders		2.75	
Fixtures (fixed appliances)		6.50	
Motors (up to 10 HP)		4.00	
additional HP		1.00	
maximum per unit		125.00	
Generators up to 10 KVA		4.00	
additional KV		1.00	
maximum per unit		105.00	
Transformers up to 10 KVA		2.75	
additional KV		1.00	
maximum		125.00	
Signs		16.00	
Outline lighting per KVA		9.25	
X-ray, capacitors		16.00	
Temporary power pole		16.00	
Festoon lighting per outlet		1.00	
		Subtotal =	
MECHANICAL Permit No. _____			
FILING FEE \$		10.00	
Gas Appliances			
one to two mechanical units		8.00	
three or more units		7.00	
Central htg (furn/ac) combination unit or central heat alone central ac alone			
100,000 BTU - per unit		24.00	
101,000 - 500,000 BTU - per unit		32.00	
over 500,000 BTU - per unit		79.00	
Gas piping/extension, alteration/repair			
one meter		8.00	
additional meters		5.25	
outlets		3.25	
pressure test only		8.00	
Hoods			
residential		7.00	
commercial - Type II		48.00	
commercial w/ fire ext. system - Type I		79.00	
Flue or Chimney		8.00	
Prefabricated fireplace		48.00	
Ducts, fans, registers, dampers		7.00	
Air handling equipment			
to 10,000 cfm		16.00	
over 10,000 cfm		24.00	
Boilers and equipment			
up to 100,000 BTU		24.00	
100,000 - 500,000 BTU		32.00	
over 500,000 BTU		79.00	
		Subtotal =	
PLUMBING Permit No. _____			
FILING FEE \$		10.00	
New/moved/additions/residential for each 100 s.f.		6.50	
Fixtures		7.25	
Sewer		21.00	
Stand pipe system		79.50	
Water meter, 25 or less outlets		15.00	
additional outlet		1.50	
Water meter only		5.25	
Additional meter		3.50	
Water line, 25 or less outlets		15.00	
additional outlet		1.50	
Lawn sprinklers system			
one or two family dwellings - per system		24.00	
apartment buildings - per system		64.00	
commercial/industrial - per system		64.00	
Swimming pool filtration system		80.00	
Inside rain leader - per leader		16.00	
		Subtotal =	

EXPLANATION:

Escrow Closing Date 12-1-89 Address of Property 1643 California  
 Title Company PLACER Escrow # 802-101028  
 Number of Residential Structures 1 Number of Units per Structure: A 1 B    C     
 D    E    F    G    H    I   

CITY OF BERKELEY  
 ORDINANCE 5802(RECO)

FORM A

RESIDENTIAL ENERGY CONSERVATION ORDINANCE

CERTIFICATE OF COMPLIANCE

Acceptance of this form by the City deems the property to be in compliance with RECO (Ordinance 5802-N.S.). It is given to property owners by the RECO Inspector after a satisfactory RECO inspection and must be filed with the City of Berkeley, Planning and Community Development Department, Codes and Inspection Division, 2180 Milvia Street, Berkeley, CA 94704.

	YES	NO	NOT APPLICABLE
1. Ceiling insulation of minimum thermal resistance value R-30 installed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Furnace heating ducts sealed at plenum and all joints in heating duct system with duct tape or mastic and insulated to minimum of R-3.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. All domestic storage water heaters insulated with external insulation blanket rated at minimum thermal resistance value of R-6.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Low-flow devices with maximum flow rate of 3 gallons per minute installed in all shower fixtures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Hot water pipes in pumped, recirculating domestic water heating systems insulated to minimum thermal resistance value of R-3.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Exposed hot and cold water pipes connected to and within 24 inches of water heater insulated to a minimum thermal resistance of R-3.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Incandescent light bulbs, located in multi-unit structure common areas, replaced with lamps of at least 25 lumens per watt.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Weatherstripping installed on all exterior doors.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Dampers, doors or other devices to block air-flow and reduce heat loss through chimneys.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

[ ] If any items are checked "NO" because the maximum required expenditure for this sale has been met, check here and attach itemized receipts (with an explanation, if necessary) and note the maximum required expenditure amount: \_\_\_\_\_

Seller/Owner SIC WAY WONG and Louise Buyer FPO OPPENHEIMER and TAMM  
 (Printed Name) (Printed Name)  
 Seller/Owner \_\_\_\_\_ Buyer F. Oppenheimer  
 (Signature) (Signature)  
 Address \_\_\_\_\_ Address 1647 CALIFORNIA  
 Phone Number ( ) \_\_\_\_\_ Phone Number (415) 4868387  
 INSPECTOR NAME AND AGENCY Adam F. Gilly 237-5315 Date 4/23/91

A \$15.00 FILING FEE IS REQUIRED VETERANS ASSISTANCE CENTER  
 2930 SAN PABLO AVE.  
 BERKELEY, CA 94702

## BERKELEY'S RESIDENTIAL ENERGY CONSERVATION ORDINANCE

Under the Residential Energy Conservation Ordinance (Ordinance No. 5802-N.S.), the following steps must be taken in residential units prior to their sale:

1. Install ceiling insulation to bring the thermal resistance value of the ceiling insulation to R-30 in buildings where the existing ceiling insulation value is R-11 or less, except in those buildings having no attic or inaccessible attic space between the roof and ceiling below. Inaccessible is defined such that the roof slope is less than two and one half inches in 12 inches and the vertical clear height from the top of the bottom chord of the truss or ceiling joist to the underside of the roof structural members or rafters at the roof ridge is less than twenty-four inches (24").
2. Seal leaks in furnace ducts at all joints in the ducting system and at the plenum with pressure sensitive tape or mastic, and insulate all furnace ducts to at least a thermal resistance value of R-3 except where ducts are inside heated space, between floors, inside interior walls or partitions, are asbestos coated, or otherwise inaccessible without alteration.
3. Insulate all domestic storage water heaters with an external insulation blanket rated at a minimum thermal resistance value of R-6, except where a minimum clearance of two inches from a wall or other permanent fixture does not exist, or where the thermal resistance of the total water heater insulation jacket is in excess of R-12. For purposes of safety, water heaters that are having insulation blankets installed must also meet all legal requirements including the requirement of a Pressure-Temperature (PT) Safety Release Valve.
4. Install low-flow devices with a maximum rated flow rate of three (3) gallons per minute in all shower fixtures.
5. Insulate to at least a thermal resistance value of R-3 hot water pipes in pumped, recirculating domestic water heating systems. Exemptions shall be granted where hot water pipes are between floors, inside interior walls, or otherwise inaccessible without alteration.
6. Insulate to at least a thermal resistance of R-3 exposed hot water pipes and cold water pipes within twenty-four inches (24") of water heater.
7. Replace incandescent light bulbs located in common areas of multiple unit structures with lamps that have an efficiency of at least 25 lumens per watt, such as fluorescent lamps.
8. Install weatherstripping on all exterior doors.
9. Install dampers, doors or other devices to obstruct or block air-flow to reduce heat-loss through chimneys.

If, after taking title to a residential structure or unit in Berkeley (as defined in the code), you find that it does not meet the above requirements, you may:

Bring the property into compliance, and recover your costs and damages — including higher utility bills paid due to lack of compliance with the requirements, inspection fees, and attorney's fees — from the seller and/or agent(s).

Escrow Closing Date 12-1-89 Address of Property 1647 California  
 Title Company PLAFA Escrow # 802-101028  
 Number of Residential Structures 1 Number of Units per Structure: A 1 B    C     
 D    E    F    G    H    I   

CITY OF BERKELEY  
 ORDINANCE 5802(RECO)

FORM A

RESIDENTIAL ENERGY CONSERVATION ORDINANCE

CERTIFICATE OF COMPLIANCE

Acceptance of this form by the City deems the property to be in compliance with RECO (Ordinance 5802-N.S.). It is given to property owners by the RECO Inspector after a satisfactory RECO inspection and must be filed with the City of Berkeley, Planning and Community Development Department, Codes and Inspection Division, 2180 Milvia Street, Berkeley, CA 94704.

	YES	NO	NOT APPLICABLE
1. Ceiling insulation of minimum thermal resistance value R-30 installed. <u>Flat Roof</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Furnace heating ducts sealed at plenum and all joints in heating duct system with duct tape or mastic and insulated to minimum of R-3.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. All domestic storage water heaters insulated with external insulation blanket rated at minimum thermal resistance value of R-6. <u>waived, top close to wall</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Low-flow devices with maximum flow rate of 3 gallons per minute installed in all shower fixtures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Hot water pipes in pumped, recirculating domestic water heating systems insulated to minimum thermal resistance value of R-3.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Exposed hot and cold water pipes connected to and within 24 inches of water heater insulated to a minimum thermal resistance of R-3.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7. Incandescent light bulbs, located in multi-unit structure common areas, replaced with lamps of at least 25 lumens per watt.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Weatherstripping installed on all exterior doors.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Dampers, doors or other devices to block air-flow and reduce heat loss through chimneys.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

04662 001 05/01/91 R.E.C. 30.00

[ ] If any items are checked "NO" because the maximum required expenditure for this sale has been met, check here and attach itemized receipts (with an explanation, if necessary) and note the maximum required expenditure amount: \_\_\_\_\_

Seller/Owner STE WAY WONG and Louise Buyer EDD OPPENHEIMER and TAMAR D OPPENHEIMER  
 (Printed Name) WAY WONG (Printed Name)  
 Seller/Owner \_\_\_\_\_ Buyer E. Oppenheimer  
 (Signature) (Signature)  
 Address \_\_\_\_\_ Address 1647 CALIFORNIA ST  
 Phone Number ( ) \_\_\_\_\_ Phone Number (415) 866-8387  
 INSPECTOR NAME AND AGENCY Adam E. Gally 237-5315 Date 4/23/91

A \$15.00 FILING FEE IS REQUIRED

VETERANS ASSISTANCE CENTER  
 2930 SAN PABLO AVE.  
 BERKELEY, CA 94702

## BERKELEY'S RESIDENTIAL ENERGY CONSERVATION ORDINANCE

Under the Residential Energy Conservation Ordinance (Ordinance No. 5802-N.S.), the following steps must be taken in residential units prior to their sale:

1. Install ceiling insulation to bring the thermal resistance value of the ceiling insulation to R-30 in buildings where the existing ceiling insulation value is R-11 or less, except in those buildings having no attic or inaccessible attic space between the roof and ceiling below. Inaccessible is defined such that the roof slope is less than two and one half inches in 12 inches and the vertical clear height from the top of the bottom chord of the truss or ceiling joist to the underside of the roof structural members or rafters at the roof ridge is less than twenty-four inches (24").
2. Seal leaks in furnace ducts at all joints in the ducting system and at the plenum with pressure sensitive tape or mastic, and insulate all furnace ducts to at least a thermal resistance value of R-3 except where ducts are inside heated space, between floors, inside interior walls or partitions, are asbestos coated, or otherwise inaccessible without alteration.
3. Insulate all domestic storage water heaters with an external insulation blanket rated at a minimum thermal resistance value of R-6, except where a minimum clearance of two inches from a wall or other permanent fixture does not exist, or where the thermal resistance of the total water heater insulation jacket is in excess of R-12. For purposes of safety, water heaters that are having insulation blankets installed must also meet all legal requirements including the requirement of a Pressure-Temperature (PT) Safety Release Valve.
4. Install low-flow devices with a maximum rated flow rate of three (3) gallons per minute in all shower fixtures.
5. Insulate to at least a thermal resistance value of R-3 hot water pipes in pumped, recirculating domestic water heating systems. Exemptions shall be granted where hot water pipes are between floors, inside interior walls, or otherwise inaccessible without alteration.
6. Insulate to at least a thermal resistance of R-3 exposed hot water pipes and cold water pipes within twenty-four inches (24") of water heater.
7. Replace incandescent light bulbs located in common areas of multiple unit structures with lamps that have an efficiency of at least 25 lumens per watt, such as fluorescent lamps.
8. Install weatherstripping on all exterior doors.
9. Install dampers, doors or other devices to obstruct or block air-flow to reduce heat-loss through chimneys.

If, after taking title to a residential structure or unit in Berkeley (as defined in the code), you find that it does not meet the above requirements, you may:

Bring the property into compliance, and recover your costs and damages — including higher utility bills paid due to lack of compliance with the requirements, inspection fees, and attorney's fees — from the seller and/or agent(s).



## City of Berkeley

Codes and Inspection Division  
Planning and Community Development Department  
Martin Luther King, Jr.  
Civic Center Building  
2180 Milvia Street  
Berkeley, California 94704  
Telecommunications Device for the Deaf (415) 644-6915  
(415) 644-6550



October 29, 1990

Filo and Tamer R. Oppenheimer  
1644 California  
Berkeley, CA

Re: 1643-1647 California

Dear Mr. and Mrs. Oppenheimer:

This letter is to remind you that you are required to comply with the City of Berkeley Residential Energy Conservation Ordinance 5802 N.S.

Our files indicate that you have until December 1, 1990 to complete the items listed on the attached summary, arrange for a RECO inspection and file a Certificate of Compliance, Form A (obtained from the RECO inspector upon compliance), along with a \$15 (for each structure) filing fee with the City. Inspections are available from the Veteran's Assistance Center, 843-3282 (message) or 849-2144.

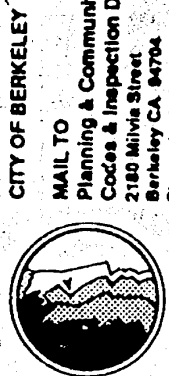
If you have any questions regarding the corrective measures, please contact this office at 644-6830.

Sincerely,

HARRY S. ATTRI  
Building Official

D. SOE  
RECO Representative

RECO-Reminder/2:dls



CITY OF BERKELEY

MAIL TO  
Planning & Community Development  
Codes & Inspection Division  
2180 Milvia Street  
Berkeley CA 94704  
Phone (415) 644-8550

PERMIT NUMBER  
B  
E  
M  
P  
031257

PERMIT

**BUILDING - ELECTRICAL - MECHANICAL - PLUMBING**  
-This application shall expire if a permit is not issued in 180 days.  
-Permits shall expire if a major inspection is not passed within 180 days of permit issue or within 180 days of a previously passed major inspection.  
-Issuance of a permit shall not be construed as an approval of Building, Electrical, Mechanical, Plumbing or Municipal codes.  
-Clearances from all departments and jurisdictions and payment of all applicable fees are required before final inspections will be made.

NOTE: This permit does not become valid until signed by the building official or his deputy and fees are paid, and receipt is acknowledged in the space provided.

APPLICANT  
NAME EDG OFFER HEMER TELEPHONE  
MAILING ADDRESS 2447 B SOLVET AVE 841-6881  
NAME EDG OFFER HEMER TELEPHONE 841-6881  
ADDRESS 2447 B SOLVET AVE  
CITY Berkeley CA STATE/ZIP 94703  
LICENSE #  
ANCHOR #  
CITY ADDRESS TELEPHONE  
NAME ADDRESS TELEPHONE  
CITY STATE/ZIP  
CITY BUSINESS TAX #  
ADDRESS TELEPHONE  
CITY STATE/ZIP  
Description or scope of work Mechanical Plumb

Estimated value of work:  
68,500.00 100 103780

Check type of building:  
 New commercial  
 Shell only commercial  
 Hazardous occupancy  
 Office, tenant improvement  
 One / two family remodel  
 Apartment / condo remodel  
 Garage/ attic conversion  
 Sign  
 Retail, tenant improvement  
 Food cooking facility, tenant improvement  
 New apartment  
 No. of living units  
 New one or two family  
 Commercial roof  
 Residential Reroof  
 Change of occupancy  
 Correction of violations

CONTRACTOR'S LAW

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7201) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

LICENSEE STATEMENT (check one):  
 LICENSED CONTRACTOR'S DECLARATION: I am licensed under provisions of Chapter 9 (commencing with Sec. 7200) of the Business and Professions Code, and my license is in full force and effect.  
License No. Classification

OWNER-BUILDER DECLARATION: I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code): Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500.00).

I, as owner of the property, or any employee with wages as their sole compensation, will do the permit, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code); The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, and provided that such improvements are not intended or offered for sale. If, however, the building improvement is sold within one year of completion, the owner-builder will have the burden of proving that he did not build or improve for the purpose of sale.

I, as owner of the property, am self-employed contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code); The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor licensed pursuant to the Contractor's License Law.

I am exempt under Sec. Business and Professions Code, for the reason:

WORKER'S COMPENSATION DECLARATIONS (Sec. 3800 LAB.C.)

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof.

Policy No. Certified copy is hereby furnished.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

The permit is for \$100.00 (valuation) or less.

NOTE TO APPLICANT: If, after making this Certificate of Exemption, should you become subject to the Workers' Compensation provisions of the Labor Code, you must comply with such provisions or this permit shall be deemed revoked.

CONSTRUCTION LENDING AGENCY (Sec. 3087, Civil Code)

I hereby affirm that there (check one)  
 is not a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name  
Lender's Address

I certify that I have read this application and state that the above information is correct. I agree to comply with all City ordinances and State laws relating to building construction, and hereby authorize representatives of the City of Berkeley to enter upon the above-mentioned property for inspection purposes. I also agree to make, indemnify and hold harmless the City and its agents against all liabilities, judgments, costs, and expenses which may in any way accrue against said agency in consequence of the granting of this permit.

Signature of Applicant Date: 6-11-87

Owner  Contractor  Agent

FOR OFFICIAL USE  
Prior to scheduling the inspections noted below, provide the clearances, certificates, calculations, special inspectors, etc. indicated.  
 Special Inspector - start of work  
 Glu-Lam certificate - Roof/floor frame  
 Truss Calculation - Roof/floor frame  
 Fire Department - Final  
 Engineering, PWD - Final  
 Traffic Engineering, PWD - Final  
 Economic Development - Final  
 Pierhole cert. - Soils Engineer  
 Pier Inspection  
 Fill/Foundation compaction cert.  
 Foundation  
 Soils engineer cert. - Final  
 Zoning - Final  
 Landmarks - Final  
 Special Inspector cert. - Final  
No. of stories Building height Fire Sprinklers  
No. required site Area Occupancy load Construction type  
NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM PERMIT FEE.  
PERMIT FEES FEES DUE AT \$ AMOUNT DUE  
Total Valuation  
Building Permit Filing fee Application  
Permit fee (inspection) Permit issuance  
Plancheck fee Permit issuance  
Preplancheck fee Application  
Final inspection fee When required  
Investigation fee Application  
Accelerated outside plancheck Application  
Fast track plancheck fee Application  
Plancheck for revisions Permit issuance  
Plancheck for fast-track revisions Permit issuance  
Title 24 Energy Permit issuance  
Title 24 Disability Permit issuance  
SMI (earthquake) Permit issuance  
Electrical Permit Filing fee Application  
Plancheck fee Application  
Permit fee (inspection) Permit issuance  
Additional fee When required  
Mechanical Permit Filing fee Application permit  
Plancheck fee Application  
Permit fee (inspection) Permit issuance  
Additional fee When required  
Plumbing Permit Filing fee Application  
Plancheck fee Application  
Permit fee (inspection) Permit issuance  
Additional fee When required  
Miscellaneous fees  
TOTAL FEE 40.00  
APPROVED BY THE BUILDING OFFICIAL 12-06-87  
BY: DEPUTY BUILDING OFFICER  
Comments:



PROJECT (CONSTRUCTION) ADDRESS 1643 CALIFORNIA (4th) DATE 12-5-99

DESCRIPTION	Quantity	Unit Price	Amount
<b>PLUMBING</b> Permit No. _____			
New/moved residential 100 sf		\$ 6.50	
Fixtures		7.25	
Sewer		21.00	
Stand pipe system		79.50	
Water meter, 25 or less outlets		15.00	
additional outlet		1.50	
Water meter only		5.25	
additional meter		3.50	
Water line 25 or less outlets		15.00	
additional outlet		1.50	
Lawn sprinklers			
one or two family dwellings		24.00	
apartment buildings		64.00	
commercial/industrial		64.00	
Swimming pool filtration system		80.00	
Inside rain leader		16.00	
		Subtotal =	
<b>ELECTRICAL</b> Permit No. _____			
New residences, additions		7.00	
Services		7.00	
Meters		4.00	
Altering/changing wiring		16.00	
Branch circuits and feeders		2.75	
Fixtures		6.50	
Motors		4.00	
additional HP		1.00	
maximum		126.00	
Generators		4.00	
additional KV		1.00	
maximum		105.00	
Transformers		2.75	
additional KV		1.00	
maximum		126.00	
Signs		16.00	
Outline lighting per KVA		9.25	
X-ray, capacitors		16.00	
Temporary power pole		16.00	
Festoon lighting per outlet		1.00	
		Subtotal =	
<b>MECHANICAL</b> Permit No. _____			
Gas Appliances			
one to two units		8.00	
three or more units		7.00	
Central Htg/Furn/Ac			
100,000 BTU		24.00	
101,000 - 500,000 BTU		32.00	
over 500,000 BTU		79.00	
Gas Piping			
one meter	1	8.00	8.00
additional meters		5.25	
outlets		3.25	
pressure test only	1	8.00	8.00
Hoods			
residential		7.00	
commercial		48.00	
commercial w/fire ext. system		79.00	
Flue or chimney		8.00	
Prefabricated fireplace		48.00	
Ducts, fans, registers, dampers		7.00	
Air handling equipment			
to 10,000 cfm		16.00	
over 10,000 cfm		24.00	
Boilers and equipment			
up to 100,000 BTU		24.00	
100,000 - 500,000 BTU		32.00	
over 500,000 BTU		79.00	
		Subtotal =	16.00

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM FEE

Comments:

031257 001 12/06/99 CH VA 0.00

**INSPECTION RECORD**

12-06-89 Job Address: 1643 CALIFORNIA STREET

GRADING PERMIT NO:

BUILDING PERMIT NO:

- Piers depth and size
- Set back/lot coverage
- Foundation forms/dolph/size
- steel
- anchorbolts
- holddowns
- O.K. to pour foundation/grade beam
- Underfloor electric
- Underfloor mechanical
- Underfloor plumbing
- Underfloor insulation
- Under ground commercial
- Underfloor framing
- O.K. to pour slab/floor deck

**ABOVE APPROVALS REQUIRED BEFORE POURING CONCRETE SLABS**

- Masonry 1st Lift
- 2nd Lift
- 3rd Lift
- Concrete walls
- Concrete floor
- Frame elect - rough
- Frame mechanical - rough
- Frame plumbing - rough
- Floor/ceiling insulation
- Wall insulation
- Wall framing
- Roof framing
- Shear walls
- Tiedowns/Holddowns
- Sound control
- Framing insulation
- Glazing - Title 24
- Floor framing 2nd story
- Electrical subpanel - rough
- O.K. to sheetrock:

**ABOVE INSPECTIONS REQUIRED BEFORE CLOSING WALLS**

- Shear nailing
- Lath - exterior
- Lath - Drywall - Interior
- Plaster scratch
- brown
- finish
- Shower/tub tile/backing
- Fire walls
- Fire wall penetrations

MECHANICAL PERMIT NO:

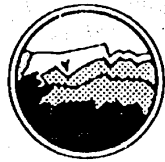
31257

PLUMBING PERMIT NO:

Final ok 12-7-89  
 G

FINAL INSPECTION		CERTIFICATE OF OCCUPANCY	
Gas test	Water test	Zoning final	All the requirements must be met prior to issuance of C.O.
Sewer test	Handicap Access Title 24	Fire Dept Final	
Roofing	Appliances	Engineering final	Temp. Co. _____
		Traffic final	
		Economic Development final	CERTIFICATE OF OCCUPANCY
		All fees paid:	
		Bldg final - Codes	Dept. Building Official _____
			Date _____

**CITY OF BERKELEY**  
 MAIL TO  
 Planning & Community Development  
 Codes & Inspection Division  
 2180 Milvia Street  
 Berkeley CA 94704  
 Phone (415) 844-8550



PERMIT NUMBER  
 B \_\_\_\_\_  
 E \_\_\_\_\_  
 M 031257  
 P \_\_\_\_\_

**PERMIT**  
**BUILDING - ELECTRICAL - MECHANICAL - PLUMBING**  
 -This application shall expire if a permit is not issued within 180 days.  
 -Permits shall expire if a major inspection is not passed within 180 days of permit issue or within 180 days of a previously passed major inspection.  
 -Issuance of a permit shall not be construed as an approval of any violation of Building, Electrical, Mechanical, Plumbing or Municipal codes.  
 -Clearances from all departments and jurisdictions and payment of all applicable fees are required before final inspections will be made.

NOTE: This permit does not become valid until signed by the building official or his deputy and fees are paid, and receipt is acknowledged in the space provided.

APPLICANT NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE/ZIP \_\_\_\_\_  
 CONTRACTOR NAME EDS OFFER HEIMER TELEPHONE 841-8881  
 ADDRESS 2447 Bosovelt Ave  
 CITY Berkeley CA STATE/ZIP 94707  
 ARCHITECT NAME \_\_\_\_\_ TELEPHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE/ZIP \_\_\_\_\_  
 Description or scope of work Heat-activated Panel

Estimated value of work: \_\_\_\_\_  
68/50/21 100 25250

Check type of building:  
 New commercial  
 "Shell only" commercial  
 Hazardous occupancy  
 Office, tenant improvement  
 One / two family remodel  
 Apartment / condo remodel  
 Garage / attic conversion  
 Sign  
 Retail, tenant improvement  
 Food cooking facility, tenant improvement  
 New apartment  
 No. of living units \_\_\_\_\_  
 New one or two family  
 Commercial / roof  
 Residential / Reroof  
 Change of occupancy  
 Correction of violations

**CONTRACTOR'S LAW**

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

I hereby affirm (check one):  
 LICENSED CONTRACTORS DECLARATION. I am licensed under provisions of Chapter 9 (commencing with Sec. 7000) of the Business and Professions Code, and my license is in full force and effect.  
 OWNER-BUILDER DECLARATION. I am exempt from the Contractor's License Law for the following reason (Sec. 7011.5, Business and Professions Code): Any city or county which requires a permit for construction, after, improve, demolish, or repair any structure, prior to its issuance, also requires an applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7011.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500.00).  
 I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code). The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not hereafter intended for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he did not build or improve for the purpose of sale.

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code). The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contract(s) entered pursuant to the Contractor's License Law.  
 I am exempt under Sec. \_\_\_\_\_ Business and Professions Code, for this reason:  
 WORKERS COMPENSATION DECLARATIONS (Sec. 3800 LAB.C.)  
 I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers Compensation Insurance, or a certified copy thereof.  
 Certified copy is hereby furnished.  
 Certified copy is filed with the City of Berkeley Building Division  
 I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers Compensation Laws of California.  
 The permit is for \$100.00 (valuation) or less.  
 NOTE TO APPLICANT: If, after making the Certificate of Exemption, should you become subject to the Workers Compensation provisions of the Labor Code, you must comply with such provisions or this permit shall be deemed revoked.

CONSTRUCTION LENDING AGENCY (Sec. 3097, Civil Code)  
 I hereby affirm that there (check one)  
 is \_\_\_\_\_ is not a construction lending agency for the performance of the work for which this permit is issued.  
 is \_\_\_\_\_ is a construction lending agency for the performance of the work for which this permit is issued.  
 Lender's Name \_\_\_\_\_  
 Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct, and hereby authorize representatives of the City of Berkeley to enter upon the above-mentioned property for inspection purposes.  
 I also agree to waive, indemnify and hold harmless the City and its agents against all liabilities, judgments, costs, and expenses which may in any way accrue against said agency in consequence of the granting of this permit.  
 T. Oppenheimer Date: 6-17-87  
 Signature of Applicant Contractor  Agent

**FOR OFFICIAL USE**  
 Prior to scheduling the inspections noted below, provide the clearances, certificates, calculations, special inspectors, etc. indicated.  
 Special Inspector - start of work  
 Glu-Lam certificate - Roof/floor frame  
 Truss Calculation - Roof/floor frame  
 Fire Department - Final  
 Engineering, PWD - Final  
 Traffic Engineering, PWD - Final  
 Economic Development - Final  
 Perhole cert. - Soils Engineer  
 Pier Inspection  
 Fill/Foundation compaction cert.  
 Foundation  
 Soils engineer cert. - Final  
 Zoning - Final  
 Landmarks - Final  
 Special Inspector cert. - Final

No. of stories \_\_\_\_\_ Building height \_\_\_\_\_ Fire Sprinklers \_\_\_\_\_  
 No. required exits \_\_\_\_\_ Area \_\_\_\_\_ Occupancy load \_\_\_\_\_

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM PERMIT FEE.

PERMIT FEES	FEES DUE AT	\$ AMOUNT DUE
Total Valuation		
Building Permit Filing fee	Application	
Plancheck fee	Permit issuance	
Preplancheck fee	Permit issuance	
Reinspection fee	When required	
Investigation fee	Application	
Accelerated outside plancheck	Application	
Fast track plancheck fee	Application	
Plancheck for revisions	Permit issuance	
Plancheck for fast-track revisions	Permit issuance	
Title 24 Energy	Permit issuance	
Title 24 Disabled	Permit issuance	
SMI (earthquake)	Permit issuance	
Electrical Permit Filing fee	Application	
Plancheck fee	Application	
Permit fee (inspection)	Permit issuance	
Additional fee	When required	
Mechanical Permit Filing fee	Application permit	10.00
Plancheck fee	Application	
Permit fee (inspection)	Permit issuance	30.00
Additional fee	When required	
Plumbing Permit Filing fee	Application	
Plancheck fee	Application	
Permit fee (inspection)	Permit issuance	
Additional fee	When required	
Miscellaneous fees		
TOTAL FEE		40.00

APPROVED BY THE BUILDING OFFICIAL 12-06-89  
 BY: DEPUTY BUILDING OFFICER  
 Comments:

PROJECT (CONSTRUCTION) ADDRESS: 1643 CALIFORNIA ST DATE 12-89

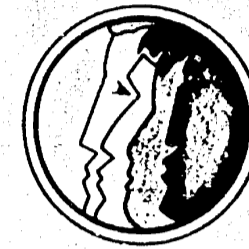
DESCRIPTION	Quantity	Unit Price	Amount
<b>PLUMBING Permit No.</b>			
New/moved residential 100 sf		\$ 6.50	
Fixtures		7.25	
Sewer		21.00	
Stand pipe system		79.50	
Water meter, 25 or less outlets		15.00	
additional outlet		1.50	
Water meter only		5.25	
additional meter		3.50	
Water line 25 or less outlets		15.00	
additional outlet		1.50	
Lawn sprinklers			
one or two family dwellings		24.00	
apartment buildings		64.00	
commercial/industrial		64.00	
Swimming pool filtration system		80.00	
Inside rain leader		16.00	
		Subtotal =	
<b>ELECTRICAL Permit No.</b>			
New residences, additions		7.00	
Services		7.00	
Meters		4.00	
Altering/changing wiring		16.00	
Branch circuits and feeders		2.75	
Fixtures		6.50	
Motors		4.00	
additional HP		1.00	
maximum		126.00	
Generators		4.00	
additional KV		1.00	
maximum		105.00	
Transformers		2.75	
additional KV		1.00	
maximum		126.00	
Signs		16.00	
Outline lighting per KVA		9.25	
X-ray, capacitors		16.00	
Temporary power pole		16.00	
Festoon lighting per outlet		1.00	
		Subtotal =	031257 001 12/06/89CHK VA 0.00
<b>MECHANICAL Permit No.</b>			
Gas Appliances			
one to two units		8.00	
three or more units		7.00	
Central Htg/Furn/Ac			
100,000 BTU		24.00	
101,000 - 500,000 BTU		32.00	
over 500,000 BTU		79.00	
Gas Piping			
one meter	1	8.00	8.00
additional meters		5.25	
outlets		3.25	
pressure test only	1	8.00	8.00
Hoods			
residential		7.00	
commercial		48.00	
commercial w/fire ext. system		79.00	
Flue or chimney		8.00	
Prefabricated fireplace		48.00	
Ducts, fans, registers, dampers		7.00	
Air handling equipment			
to 10,000 cfm		16.00	
over 10,000 cfm		24.00	
Boilers and equipment			
up to 100,000 BTU		24.00	
100,000 - 500,000 BTU		32.00	
over 500,000 BTU		79.00	
		Subtotal =	16.00

NOTE: ALL PERMITS ARE SUBJECT TO A MINIMUM FEE

Comments:



# City of Berkeley



Planning and Community Development Department  
Codes and Inspection Division

Martin Luther King, Jr.  
Civic Center Building  
2180 Milvia Street  
Berkeley, California 94704

## OWNER-BUILDER VERIFICATION

(415) 644-6550  
TTY (415) 644-6915

Attention Property Owner:

Under the State law we can issue building permits only to Licensed Contractors or to the Owner of the property. An "owner-builder" building permit has been applied for in your name and/or bearing your signature. Please complete and return this information to avoid unnecessary delay in processing and issuing your building permit. No building permit will be issued until this verification is received.

- 1) I personally plan to provide the major labor and materials for construction of the proposed property improvement (yes or no) yes
- 2) I (have/have not) Have signed an application for a building permit for the proposed work.
- 3) I have contracted with the following licensed person (firm) to provide the proposed construction:

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone \_\_\_\_\_ Contractor's License No. \_\_\_\_\_

- 4. I plan to provide portions of the work, but I have hired the following licensed person to coordinate, supervise, and provide the major work:

Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone \_\_\_\_\_ Contractor's License No. 031257 001 12/06/89CHK VA 0.00

- 5. I will provide some of the work but I have contracted (hired) the following person(s) to provide the work indicated:

Name	Address	Phone	Type of Work

- 6) I agree to indemnify and hold harmless the City of Berkeley against liabilities, judgments, costs, and expenses which may in any way accrue against said City in consequence of granting this permit.

Signed: I. Oppenheimer Date 6-12-89

Property Owner's Name I. Oppenheimer Social Security Number 573-81-0969

Escrow Closing Date 12-1-89 Address of Property 1643-1647 California Street, Berkeley  
 Title Company Placer Title Company Escrow # NB-101028  
 Number of Residential Structures \_\_\_\_\_ Number of Units per Structure: A \_\_\_\_\_ B \_\_\_\_\_ C \_\_\_\_\_  
 CITY OF BERKELEY D \_\_\_\_\_ E \_\_\_\_\_ F \_\_\_\_\_ G \_\_\_\_\_ H \_\_\_\_\_ I \_\_\_\_\_  
 ORDINANCE 5802(RECO)

RESIDENTIAL ENERGY CONSERVATION ORDINANCE FORM C  
**TRANSFER OF RESPONSIBILITY FROM SELLER TO BUYER**

This form transfers responsibility for compliance with RECO (Ordinance 5802-N.S.) provisions checked below from seller to buyer. Unchecked measures remain the responsibility of seller. Buyer has one year to complete the items checked below, arrange a RECO inspection, and file a Certificate of Compliance (Form A) with the City of Berkeley, Planning and Community Development Department, Codes and Inspection Division, 2180 Milvia Street, Berkeley, CA 94704. Buyers cannot transfer responsibility for any of the items to future buyers unless they have met the maximum required expenditure for this sale to comply with RECO, and have filed a Form A, Certificate of Compliance with itemized receipts attached with the City of Berkeley.

Responsibility for the following are transferred to the buyer:

- 1. Insulate ceiling to R-30 [x]
- 2. Seal and insulate furnace ducts to R-3 [x]
- 3. Insulate storage water heaters to R-6 [x]
- 4. Install low-flow shower devices [x]
- 5. Insulate hot water pipes to R-3 in pumped recirculating water heating systems [x]
- 6. Insulate water heater pipes to R-3 [x]
- 7. Replace incandescent lights with lamps of at least 25 lumens per watt [x]
- 8. Weatherstrip exterior doors [x]
- 9. Block air-flow and heat loss through chimney [x]

Seller/Owner Louise W. Adams Buyer Elio Oppenheimer  
(Printed Name) (Printed Name)  
 Seller/Owner [Signature] Buyer Tamar A. Oppenheimer  
(Signature) (Signature)  
 Address 10 Kingston Rd. Kensington, CA Address 1647 California  
 Phone Number (415) 325-262 Phone Number (415) 841-6881

I have notified both buyer and seller of the requirements of Ordinance 5802-N.S. but I do not know of my own knowledge that the property is in compliance. 12/05/89 E.C. 15.00

I have notified both buyer and seller of the requirements of Ordinance 5802-N.S. I know that the property is in compliance and have so represented it to the buyer. [ ]

Agent [Signature] RIM Security Pacific Address 3223 Blume Dr. Richmond CA

Subsequent to this sale, the property will be:

- 1. Owner occupied [x]
- 2. Rental property [ ]

Selling Price: \$159,000.00

Maximum Required Expenditure Amount: \_\_\_\_\_

A \$15.00 FILING FEE IS REQUIRED

## BERKELEY'S RESIDENTIAL ENERGY CONSERVATION ORDINANCE

Under the Residential Energy Conservation Ordinance (Ordinance No. 5802-N.S.), the following steps must be taken in residential units prior to their sale:

1. Install ceiling insulation to bring the thermal resistance value of the ceiling insulation to R-30 in buildings where the existing ceiling insulation value is R-11 or less, except in those buildings having no attic or inaccessible attic space between the roof and ceiling below. Inaccessible is defined such that the roof slope is less than two and one half inches in 12 inches and the vertical clear height from the top of the bottom chord of the truss or ceiling joist to the underside of the roof structural members or rafters at the roof ridge is less than twenty-four inches (24").
2. Seal leaks in furnace ducts at all joints in the ducting system and at the plenum with pressure sensitive tape or mastic, and insulate all furnace ducts to at least a thermal resistance value of R-3 except where ducts are inside heated space, between floors, inside interior walls or partitions, are asbestos coated, or otherwise inaccessible without alteration.
3. Insulate all domestic storage water heaters with an external insulation blanket rated at a minimum thermal resistance value of R-6, except where a minimum clearance of two inches from a wall or other permanent fixture does not exist, or where the thermal resistance of the total water heater insulation jacket is in excess of R-12. For purposes of safety, water heaters that are having insulation blankets installed must also meet all legal requirements including the requirement of a Pressure-Temperature (PT) Safety Release Valve.
4. Install low-flow devices with a maximum rated flow rate of three (3) gallons per minute in all shower fixtures.
5. Insulate to at least a thermal resistance value of R-3 hot water pipes in pumped, recirculating domestic water heating systems. Exemptions shall be granted where hot water pipes are between floors, inside interior walls, or otherwise inaccessible without alteration.
6. Insulate to at least a thermal resistance of R-3 exposed hot water pipes and cold water pipes within twenty-four inches (24") of water heater.
7. Replace incandescent light bulbs located in common areas of multiple unit structures with lamps that have an efficiency of at least 25 lumens per watt, such as fluorescent lamps.
8. Install weatherstripping on all exterior doors.
9. Install dampers, doors or other devices to obstruct or block air-flow to reduce heat-loss through chimneys.

If, after taking title to a residential structure or unit in Berkeley (as defined in the code), you find that it does not meet the above requirements, you may:

Bring the property into compliance, and recover your costs and damages — including higher utility bills paid due to lack of compliance with the requirements, inspection fees, and attorney's fees — from the seller and/or agent(s).

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street  
To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth



November 17, 2020

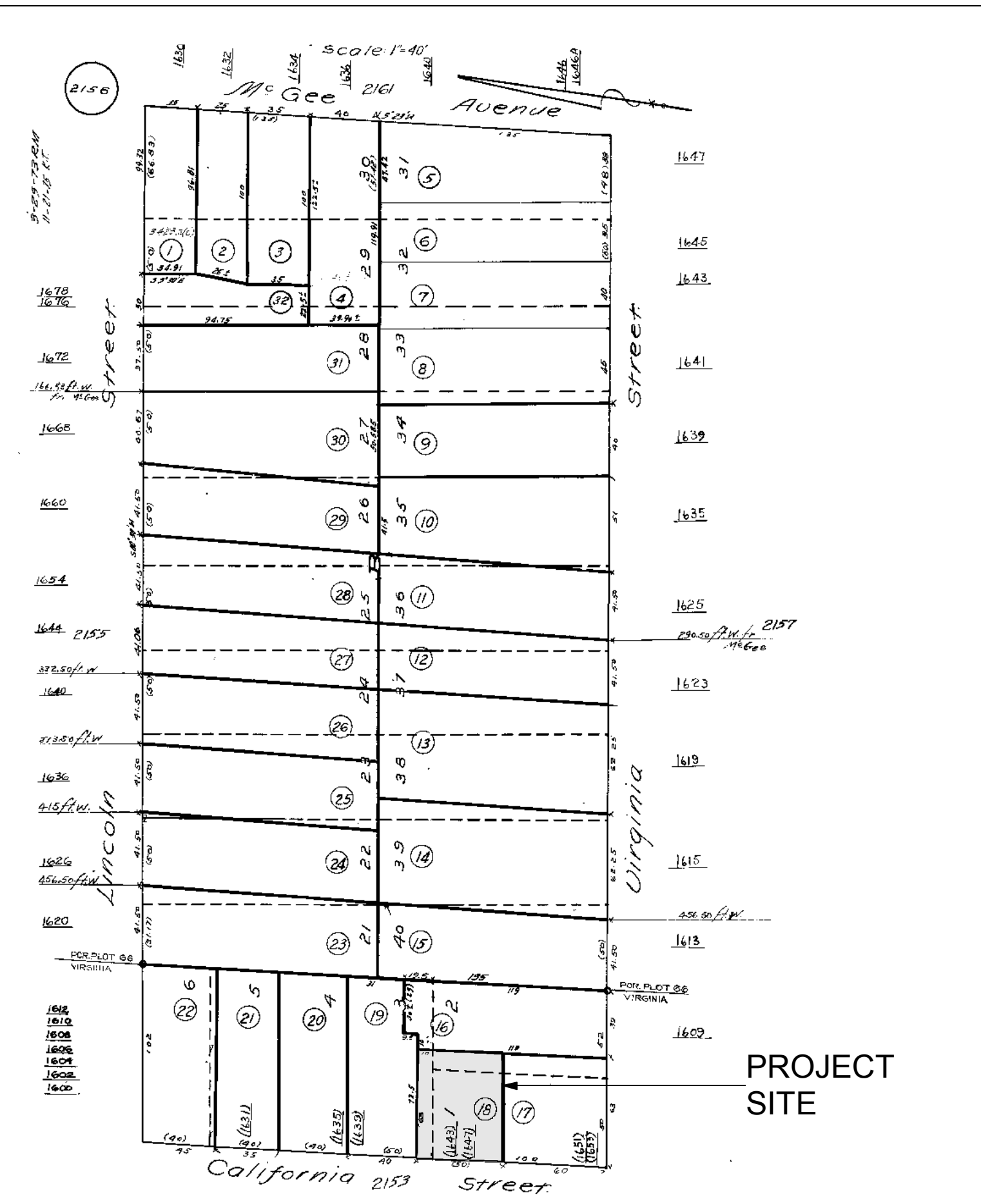
To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz  
1639 California St.  
Berkeley, 94703

PARCEL MAP



**OPPENHEIMER RESIDENCE**

1643 & 1647 California St. CA 94703

SHEET INDEX

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



2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

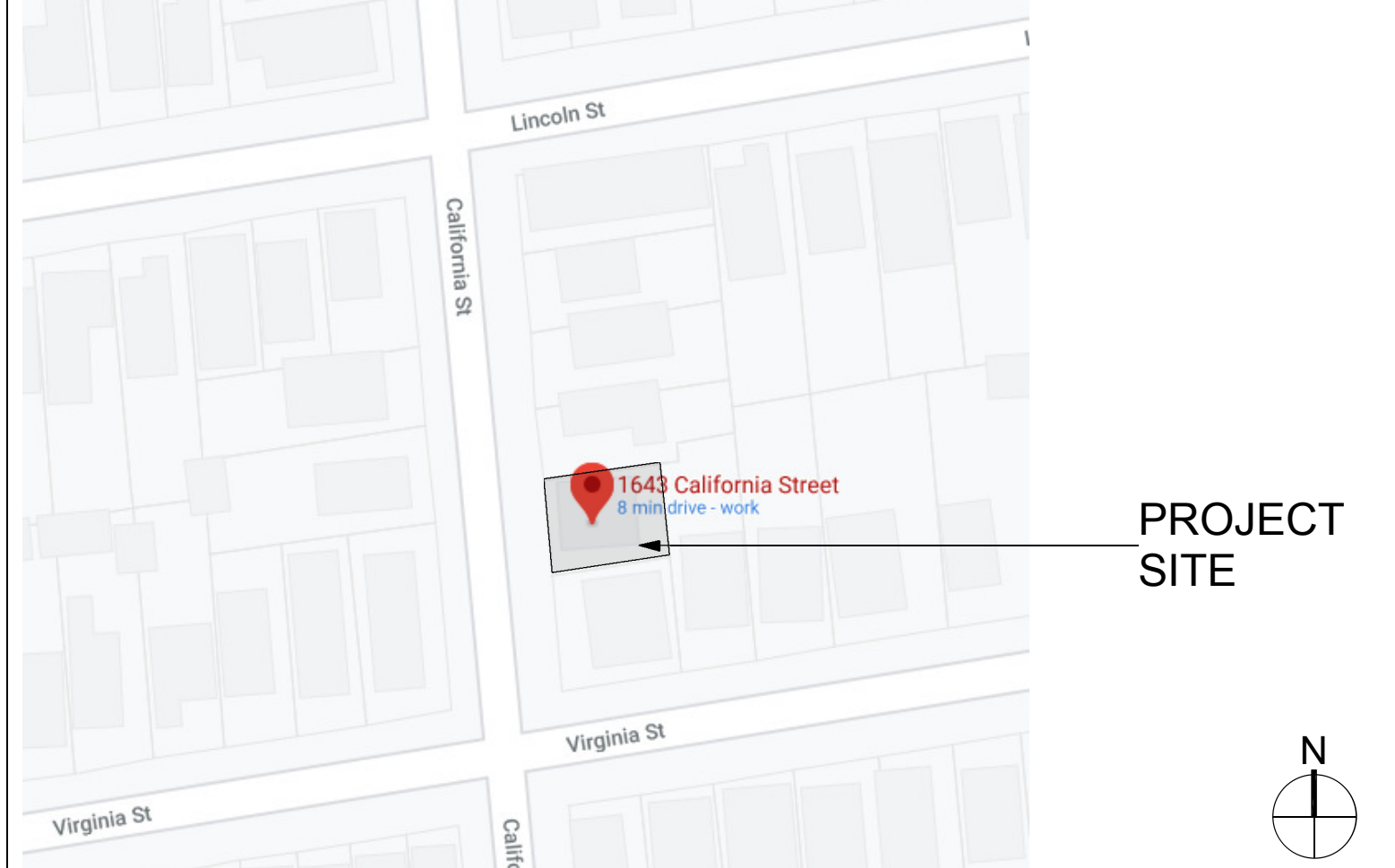
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

VICINITY MAP



PROJECT DIRECTORY

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

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

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

PROJECT DATA

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

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

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

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

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

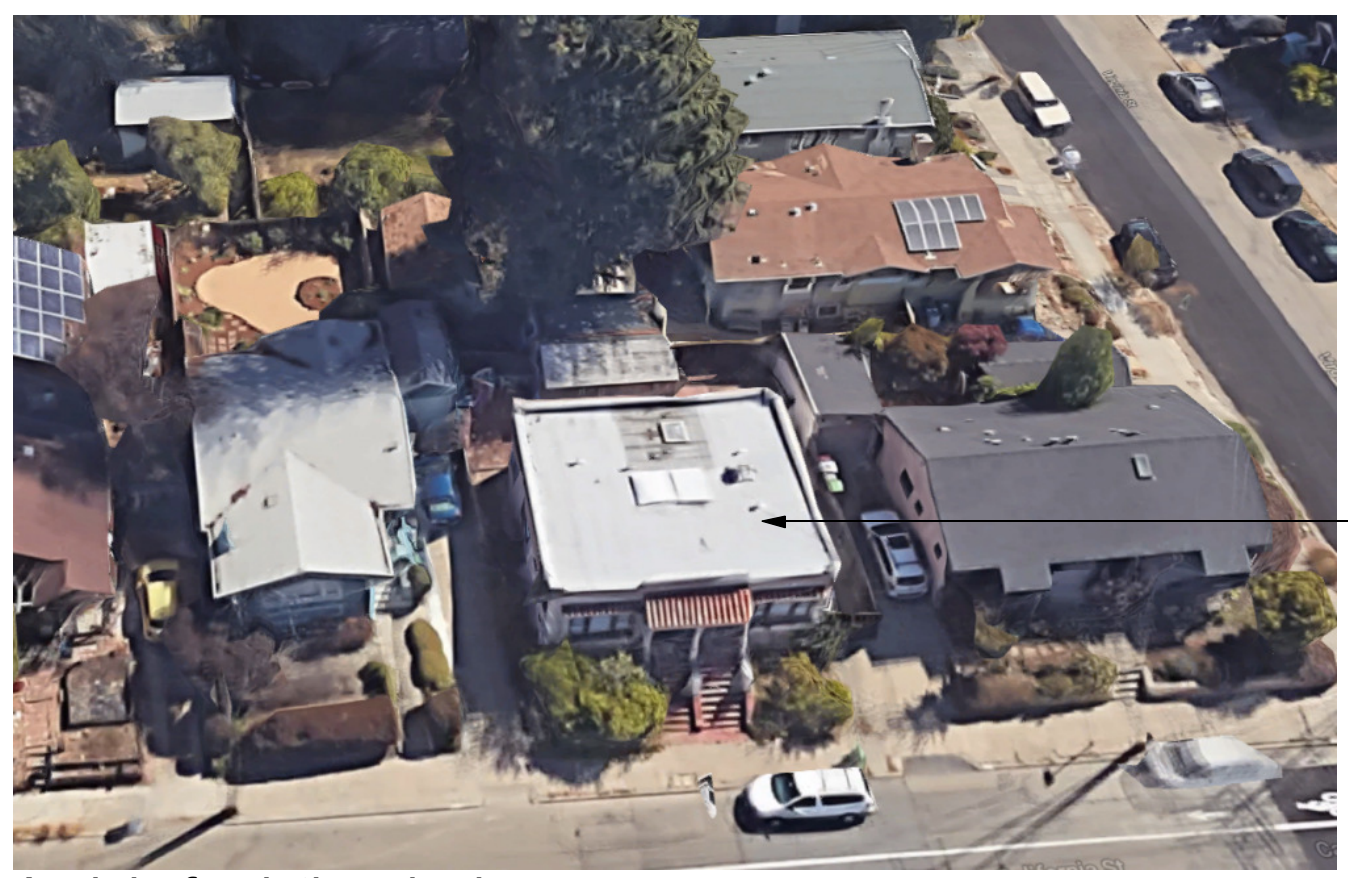
**Wildlife Urban Interface**  
 No

APPLICABLE CODES

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

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

SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

Tabulations

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

ABBREVIATIONS

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

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

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

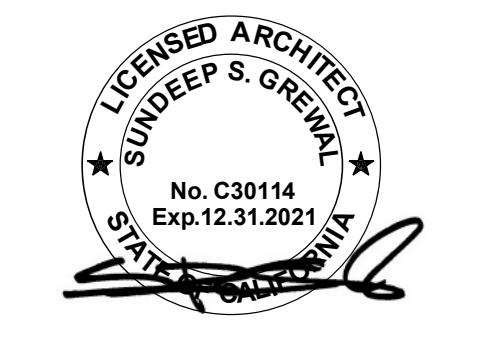
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 Use Permit Set: 12-10-2020

Redesign: 5-25-2021

Sheet **A0.0**



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 APN: 58-2156-18

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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Project No: 20-13-420

Drawn By: SSG

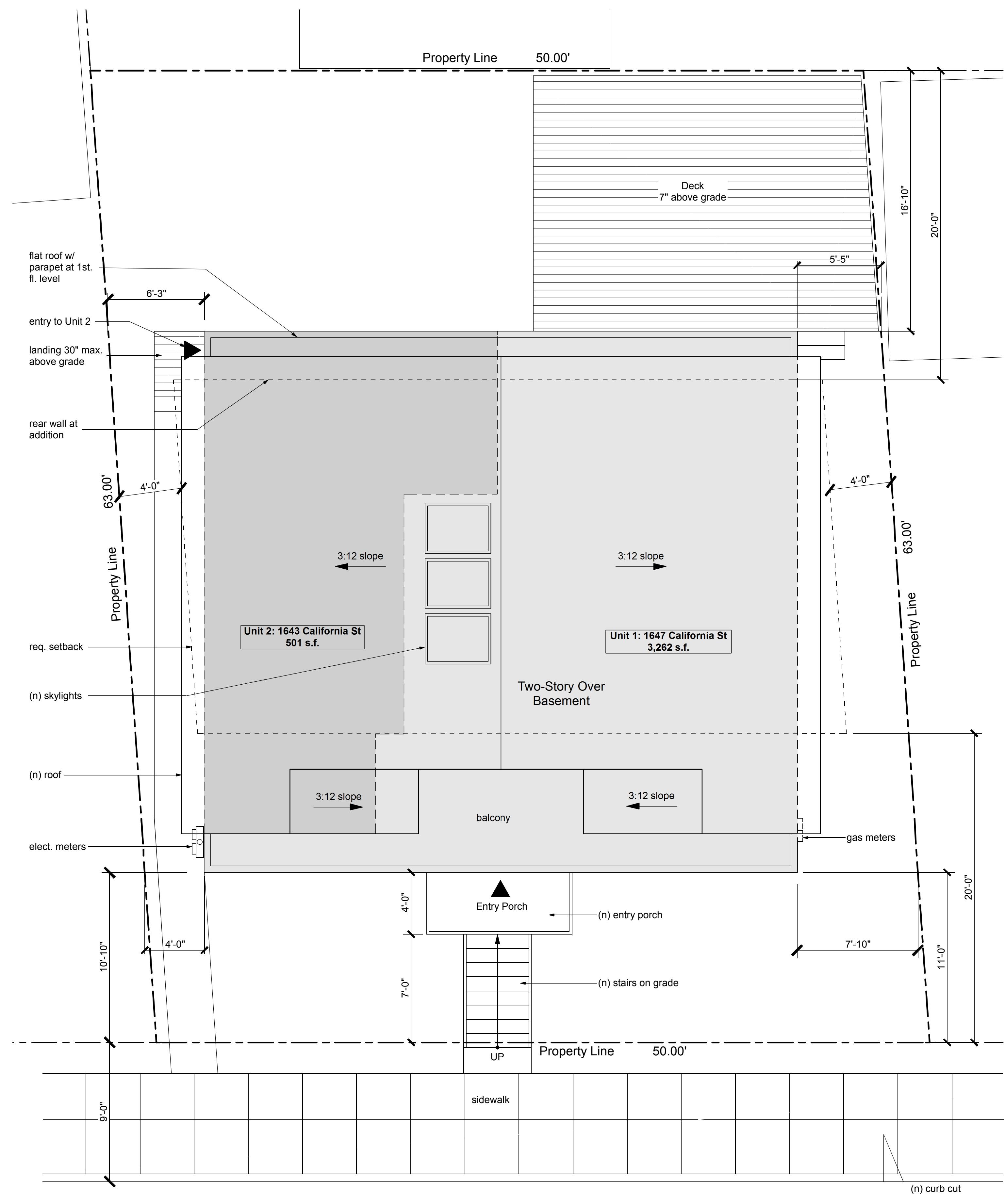
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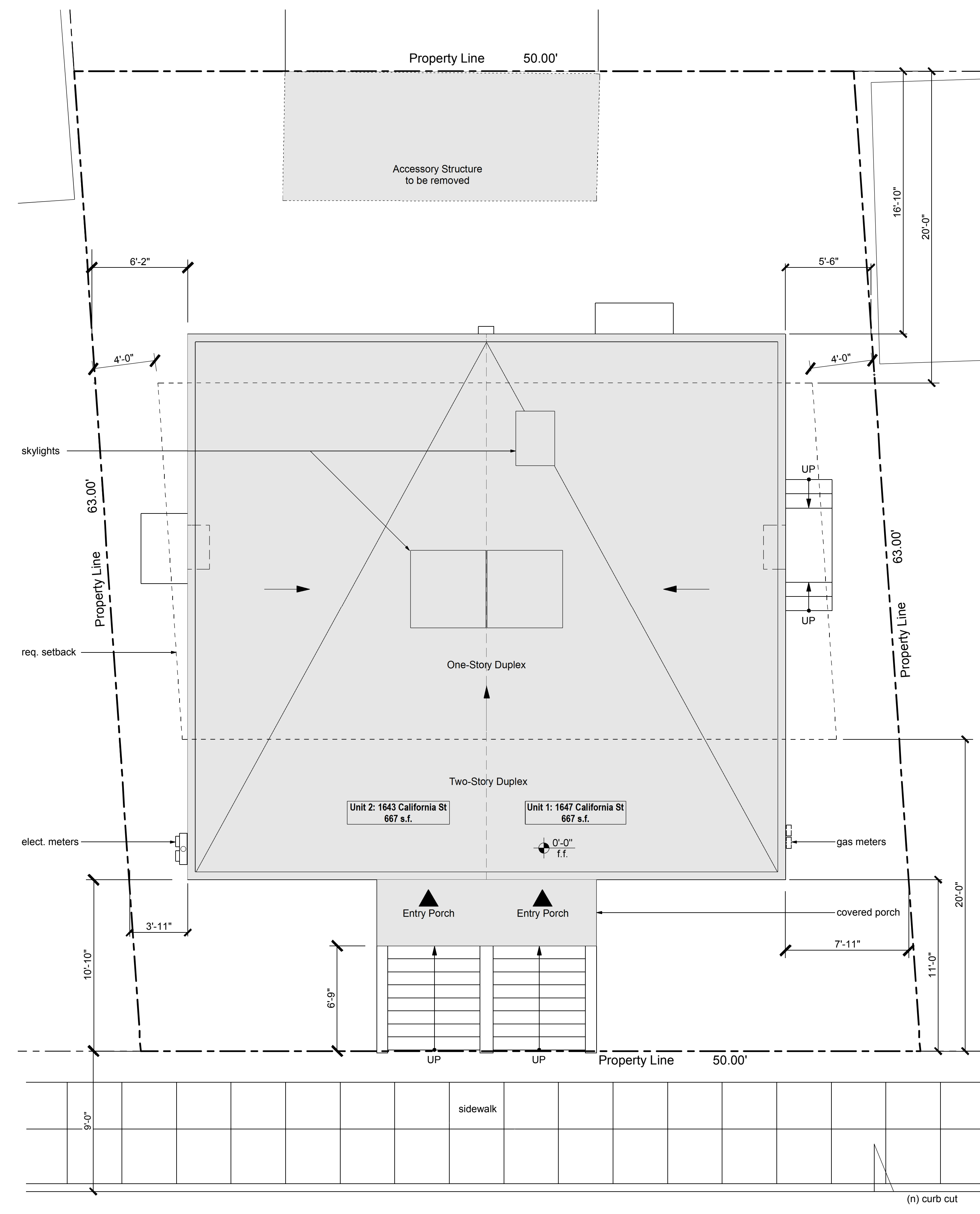
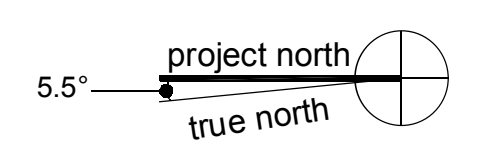
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Redesign: 5-25-2021

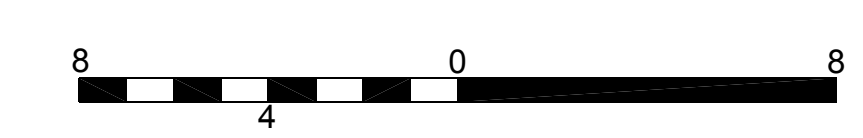
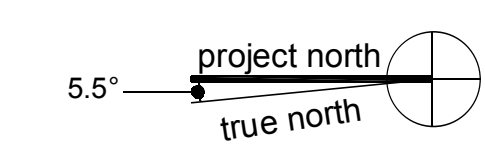
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**2 Proposed Site Plan**

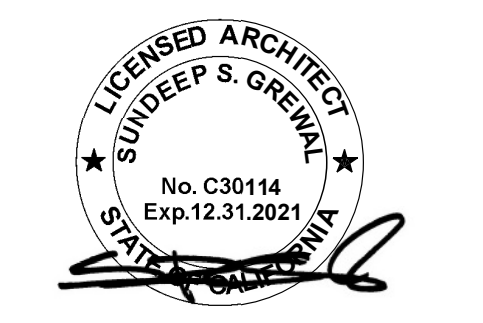


**1 Existing Site Plan**





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Sheet Contents:  
 Site Survey

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 1" = 1'-0"

Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021

Sheet  
**A0.2**

# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

## MORAN ENGINEERING, INC.

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



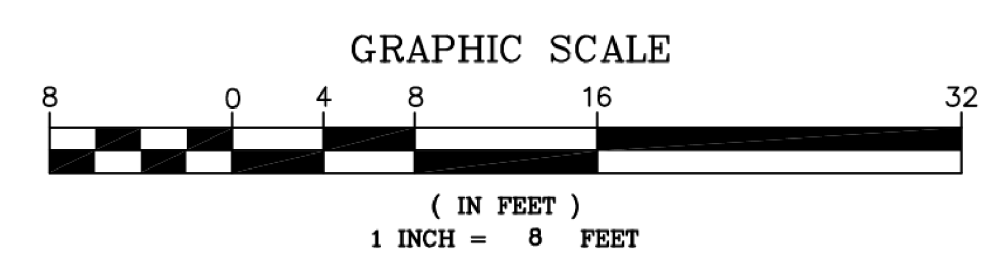
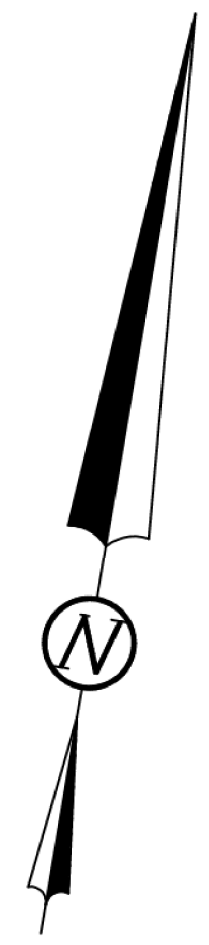
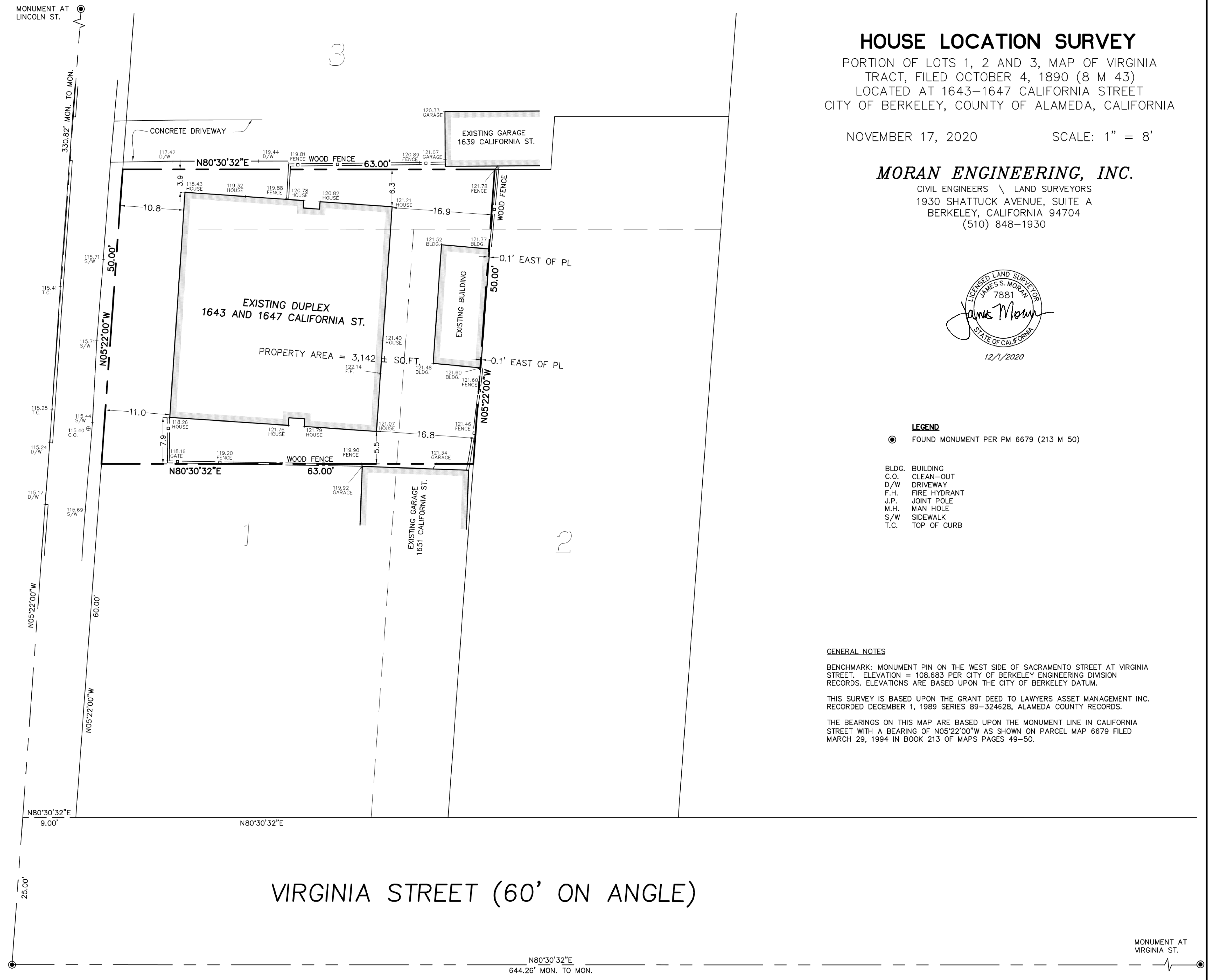
- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
  - BLDG. BUILDING
  - C.O. CLEAN-OUT
  - D/W DRIVEWAY
  - F.H. FIRE HYDRANT
  - J.P. JOINT POLE
  - M.H. MAN HOLE
  - S/W SIDEWALK
  - T.C. TOP OF CURB

**GENERAL NOTES**

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.



VIRGINIA STREET (60' ON ANGLE)

CALIFORNIA STREET (60' ON ANGLE)



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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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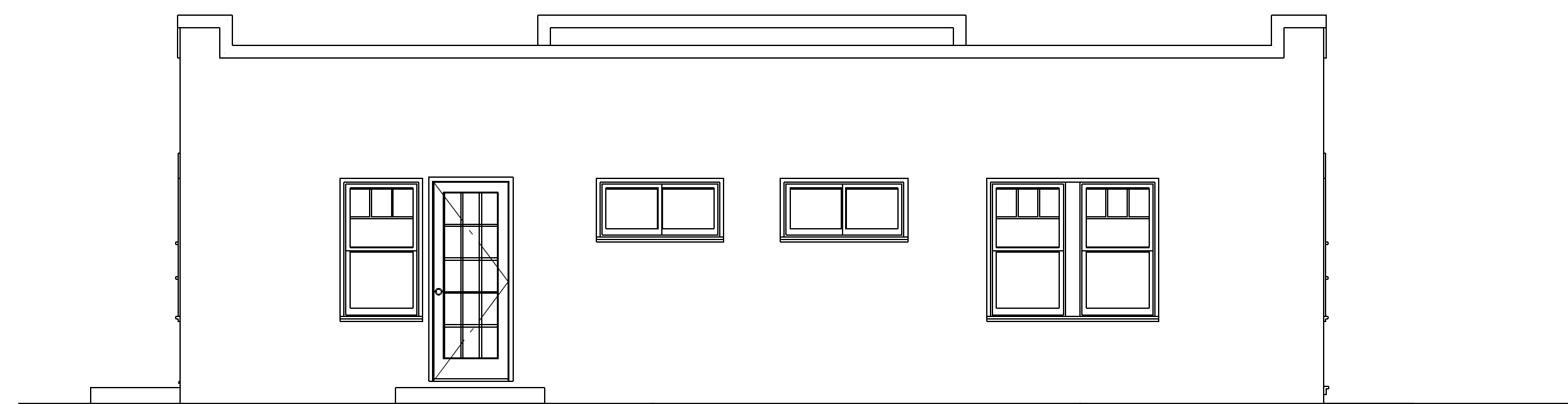
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Redesign: 5-25-2021

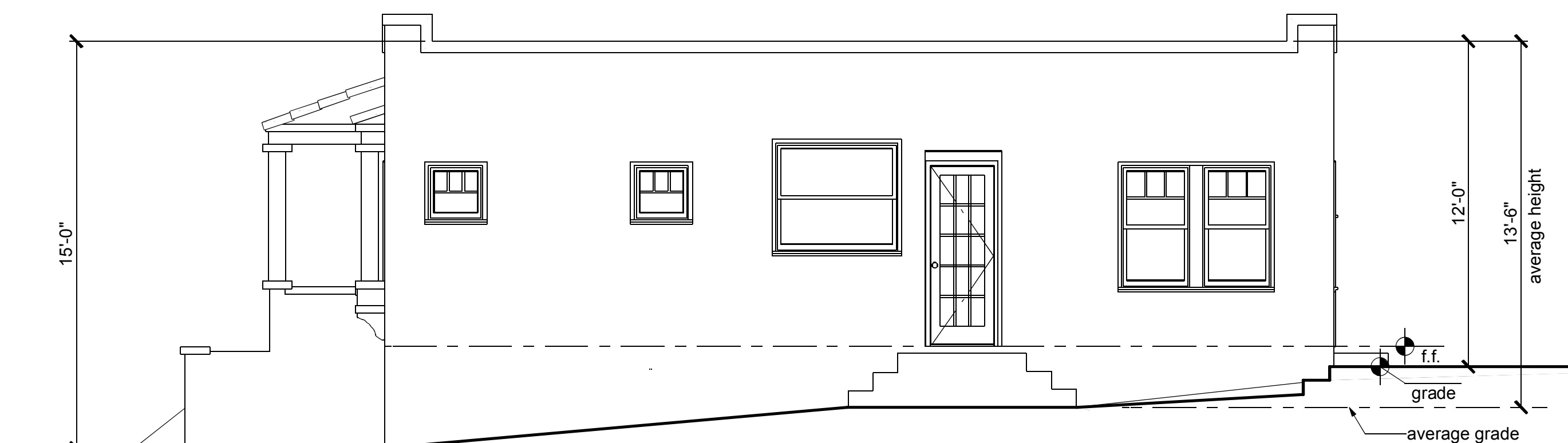
Sheet **A1.1**



5 Existing East Elevation - Rear



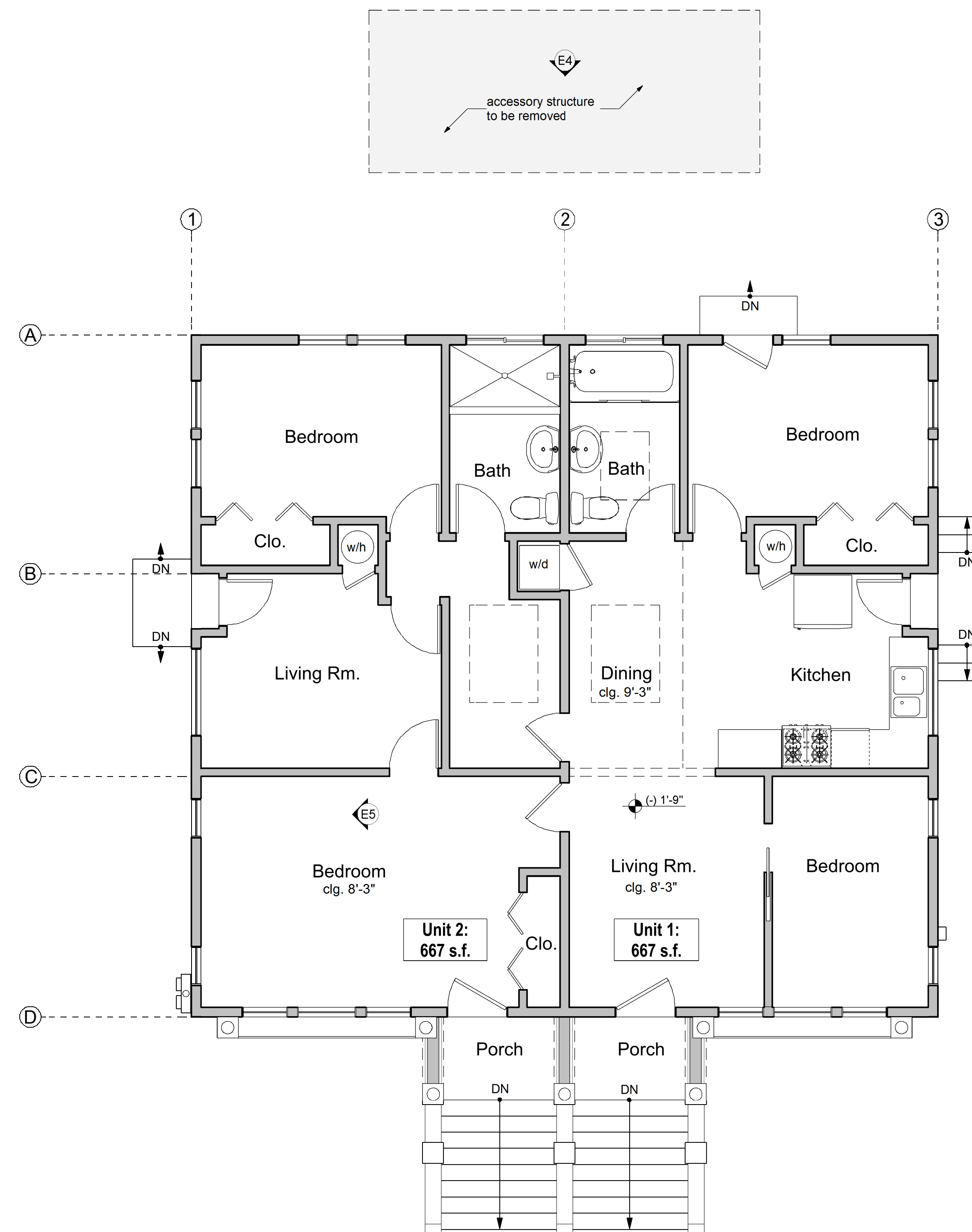
4 Existing North Elevation - Left Side



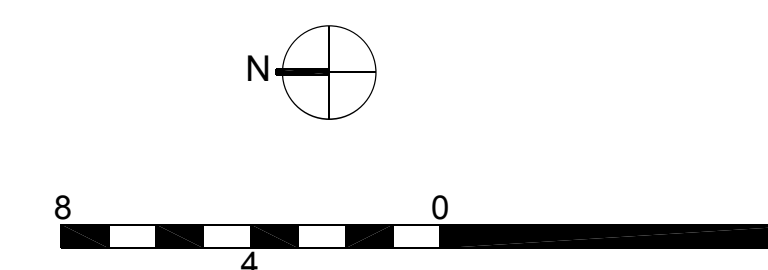
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front



1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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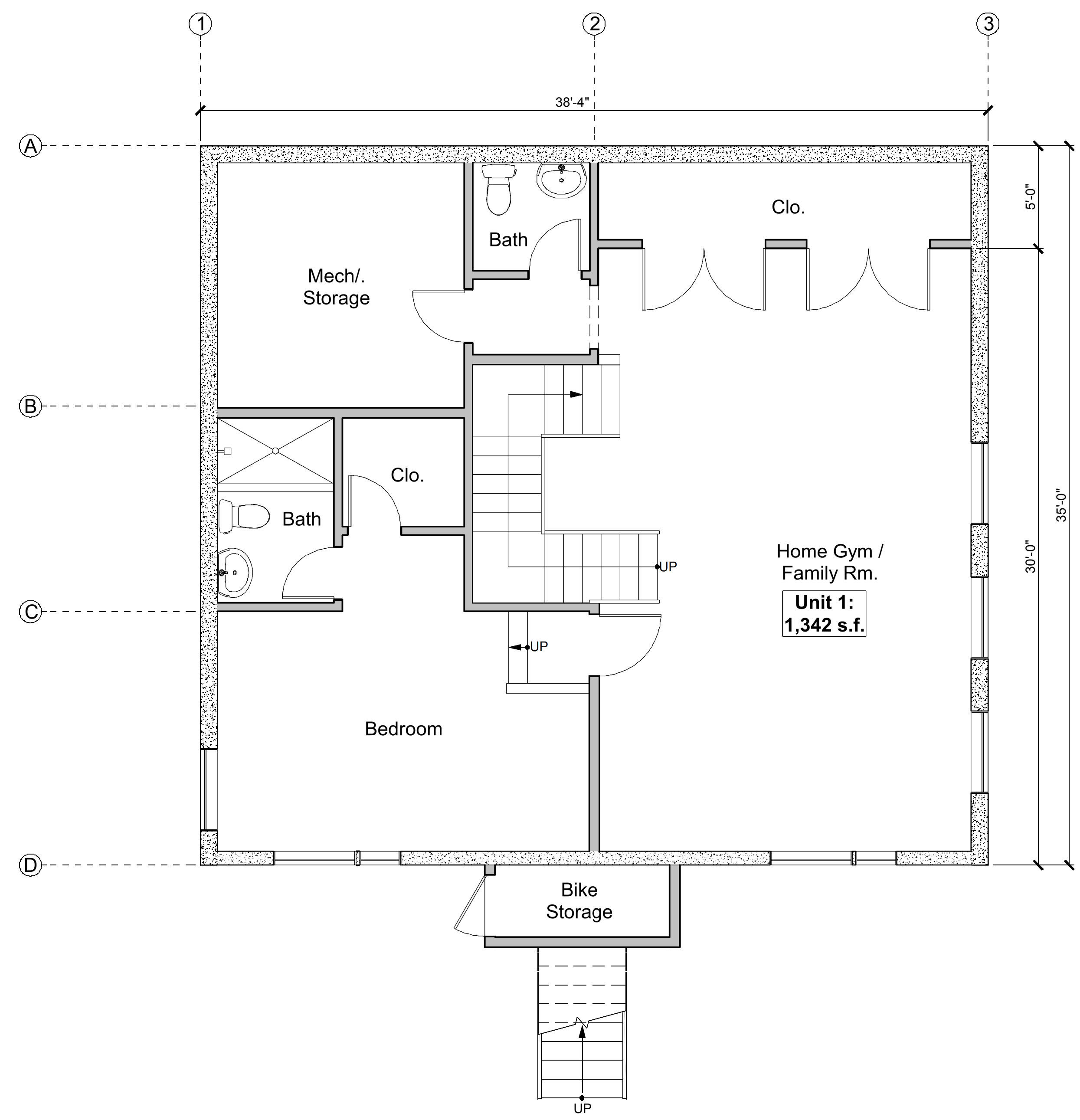
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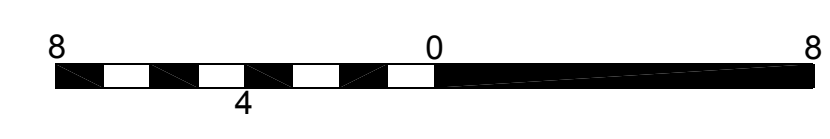
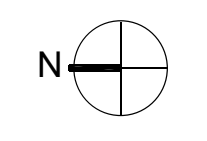
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Redesign: 5-25-2021

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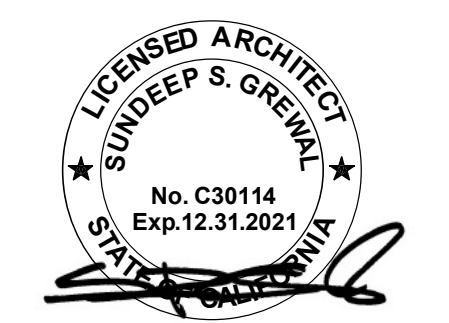


**1** Proposed Basement Floor Plan





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Sheet Contents:  
 Proposed Floor Plans

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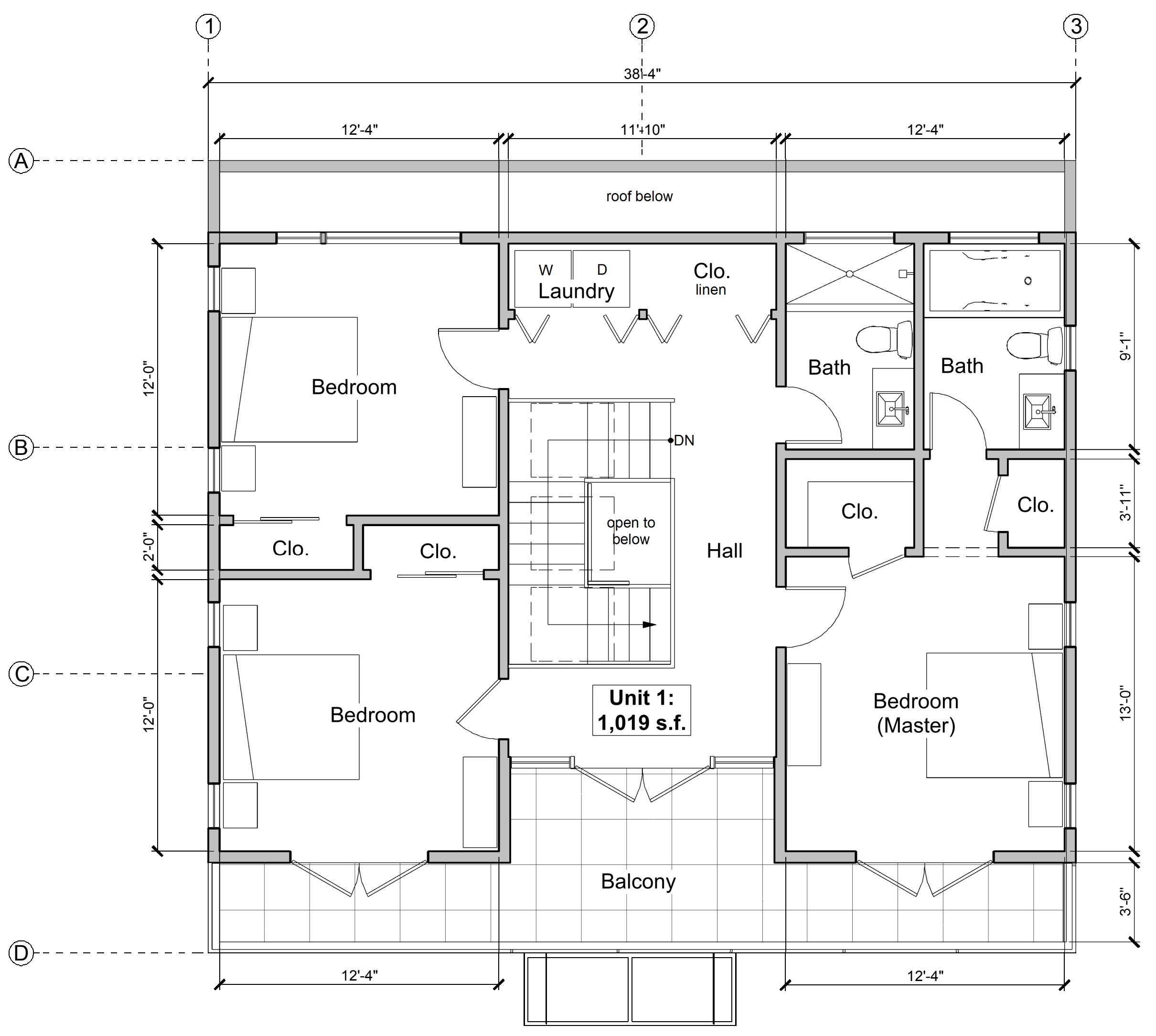
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Checked By: SSG

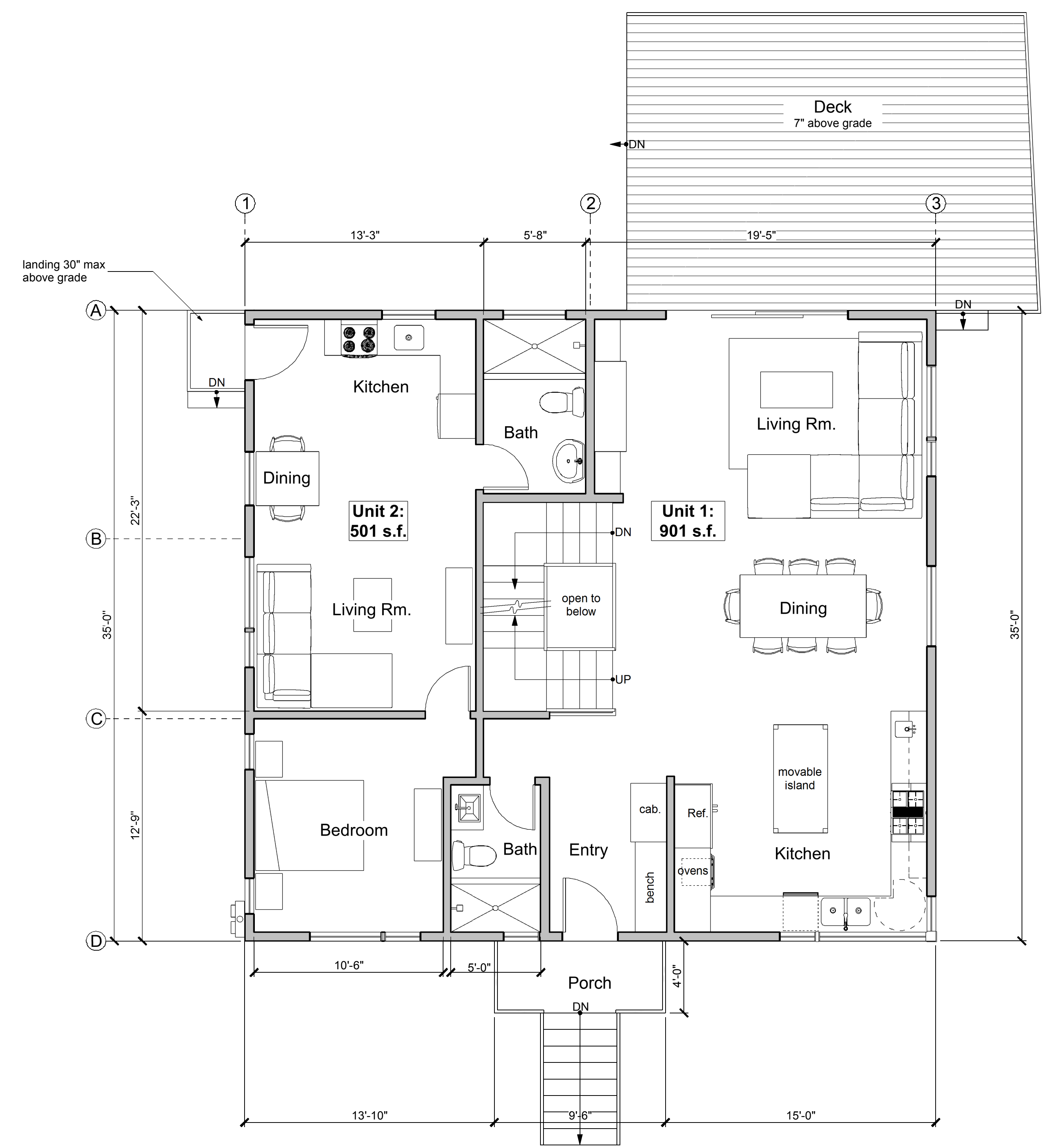
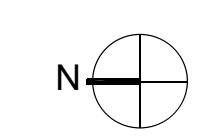
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 Use Permit Set: 12-10-2020  
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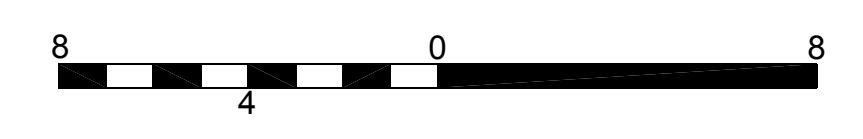
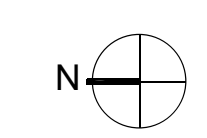
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2 Proposed Second Floor Plan

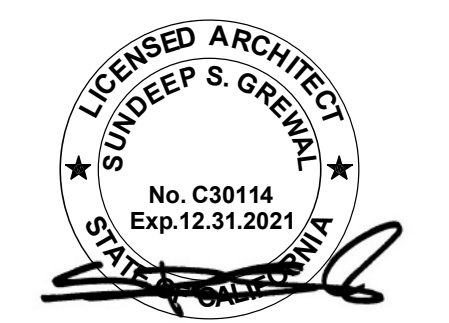


1 Proposed First Floor Plan





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Sheet Contents:  
 Front Elevation Comparison

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Checked By: SSG

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

Revisions:  
 Use Permit Set: 12-10-2020

Redesign: 5-25-2021

Sheet **A3.1**



Previous Proposal



Previous Proposal



Previous Proposal



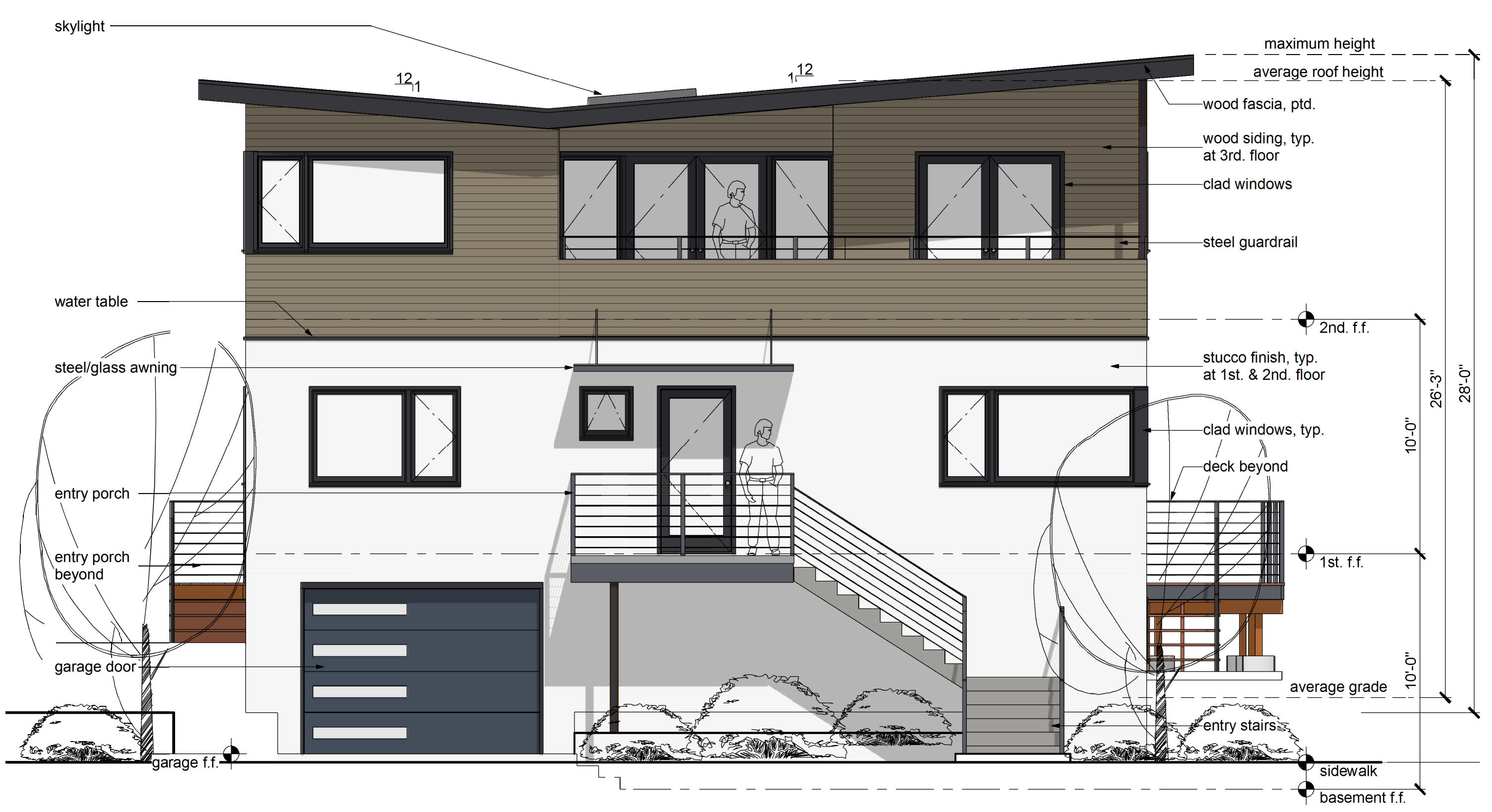
Current Proposal



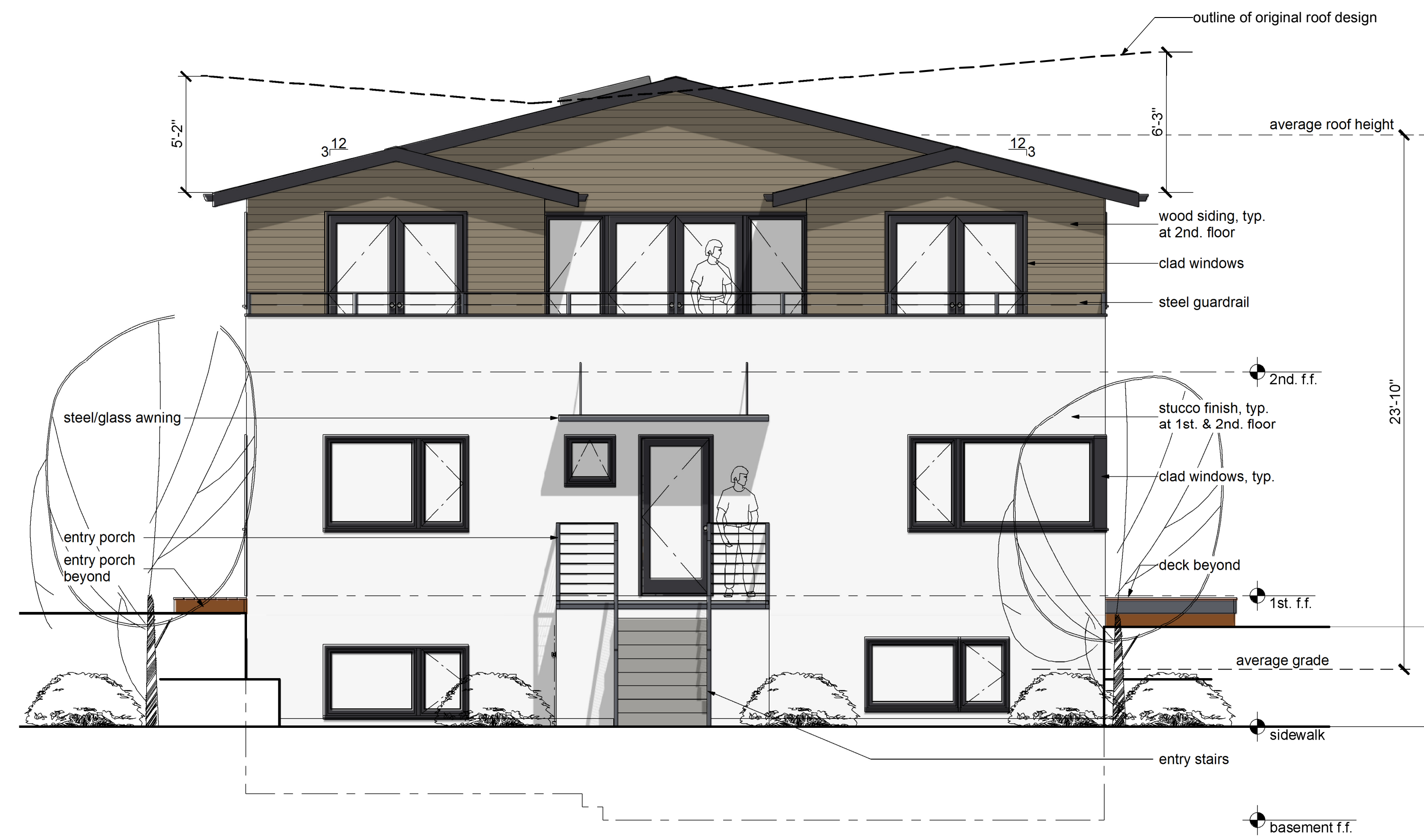
Current Proposal



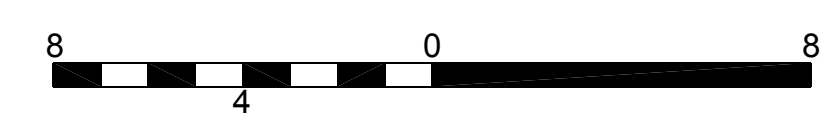
Current Proposal



② Proposed West Elevation - Front Original Proposal



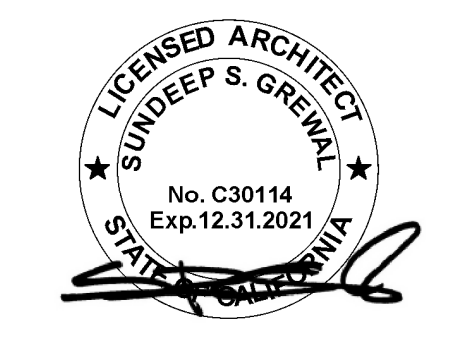
① Proposed West Elevation - Front Current Proposal







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**OPPENHEIMER RESIDENCE**  
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Sheet Contents:  
 Proposed Exterior Elevations

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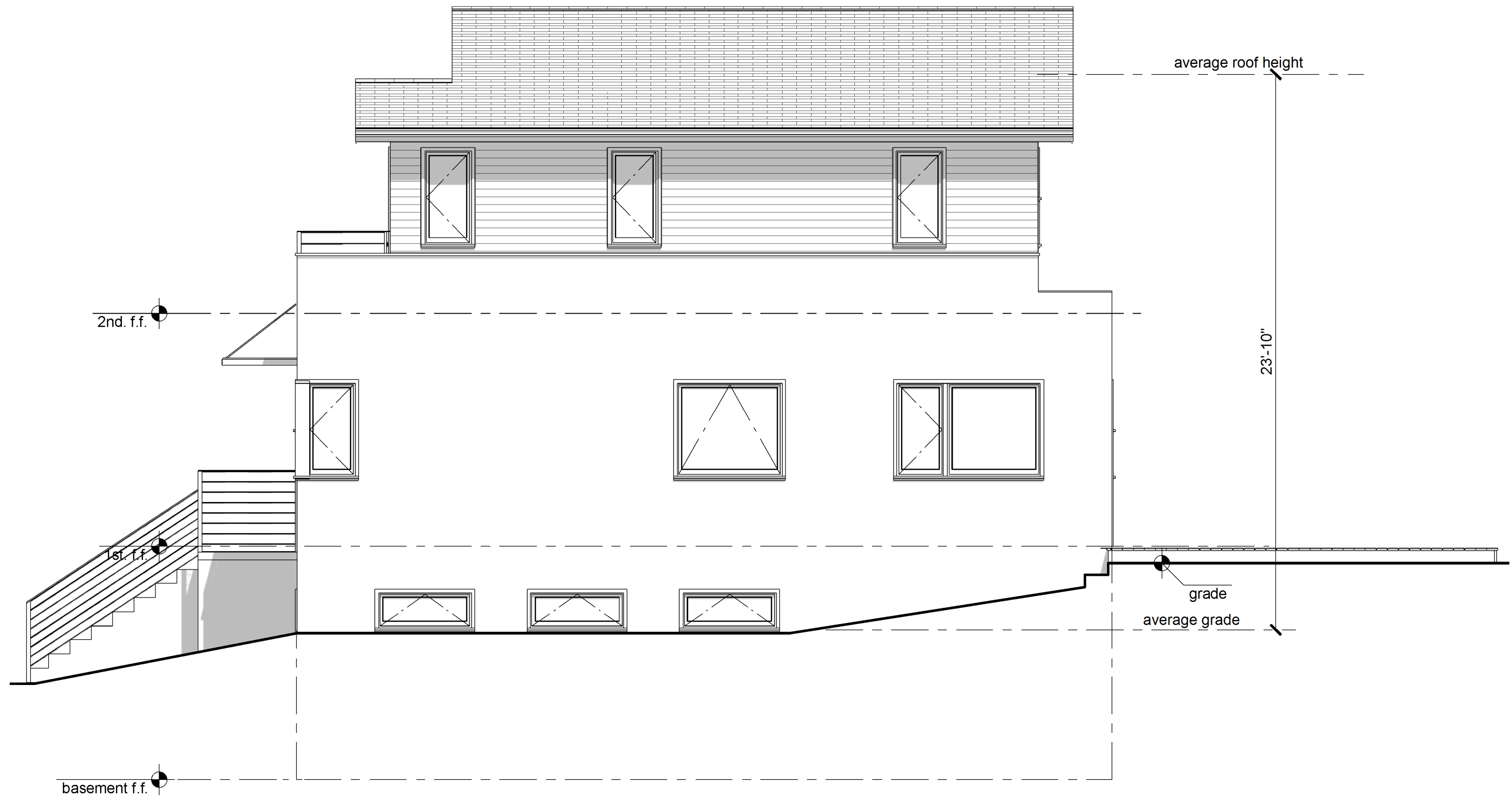
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Checked By: SSG

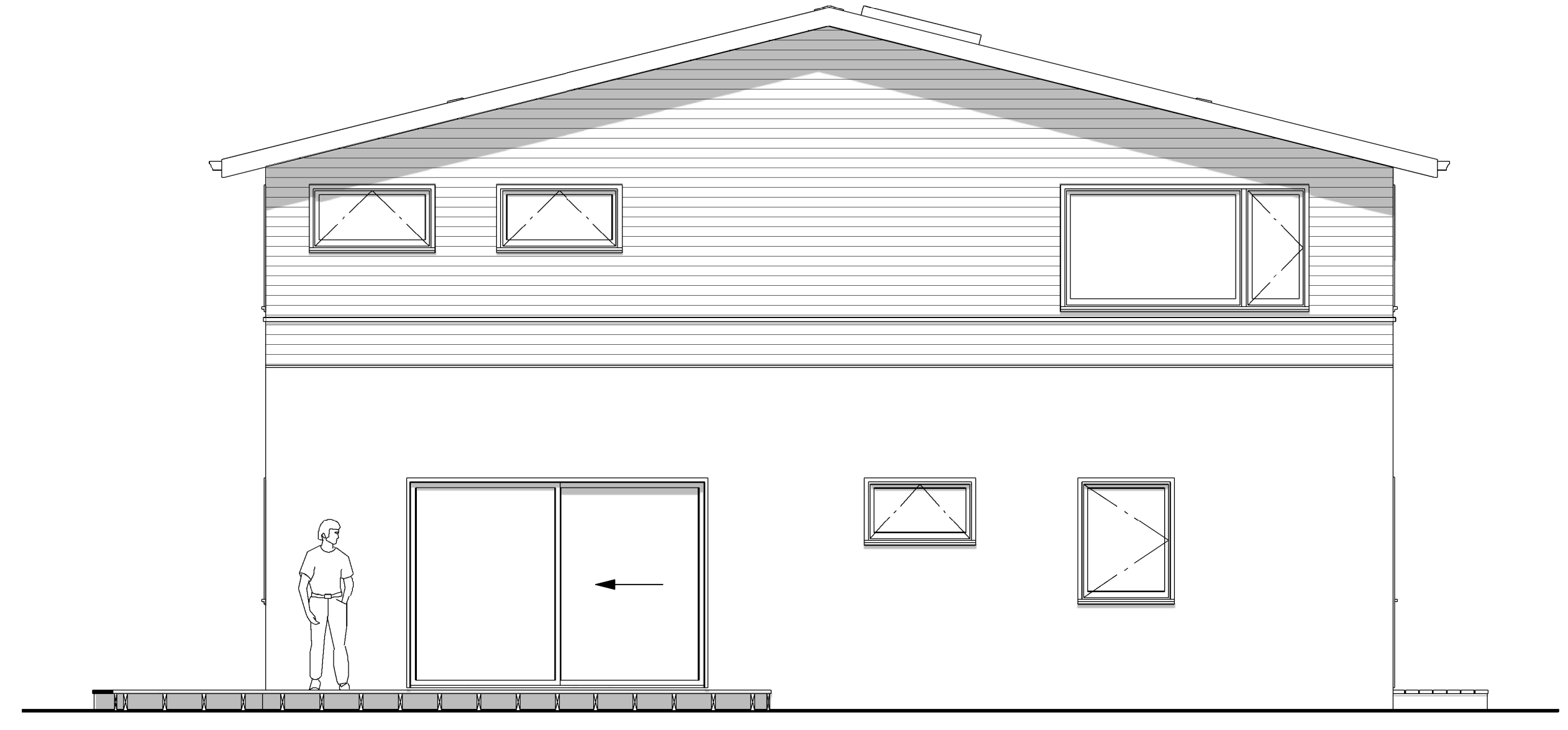
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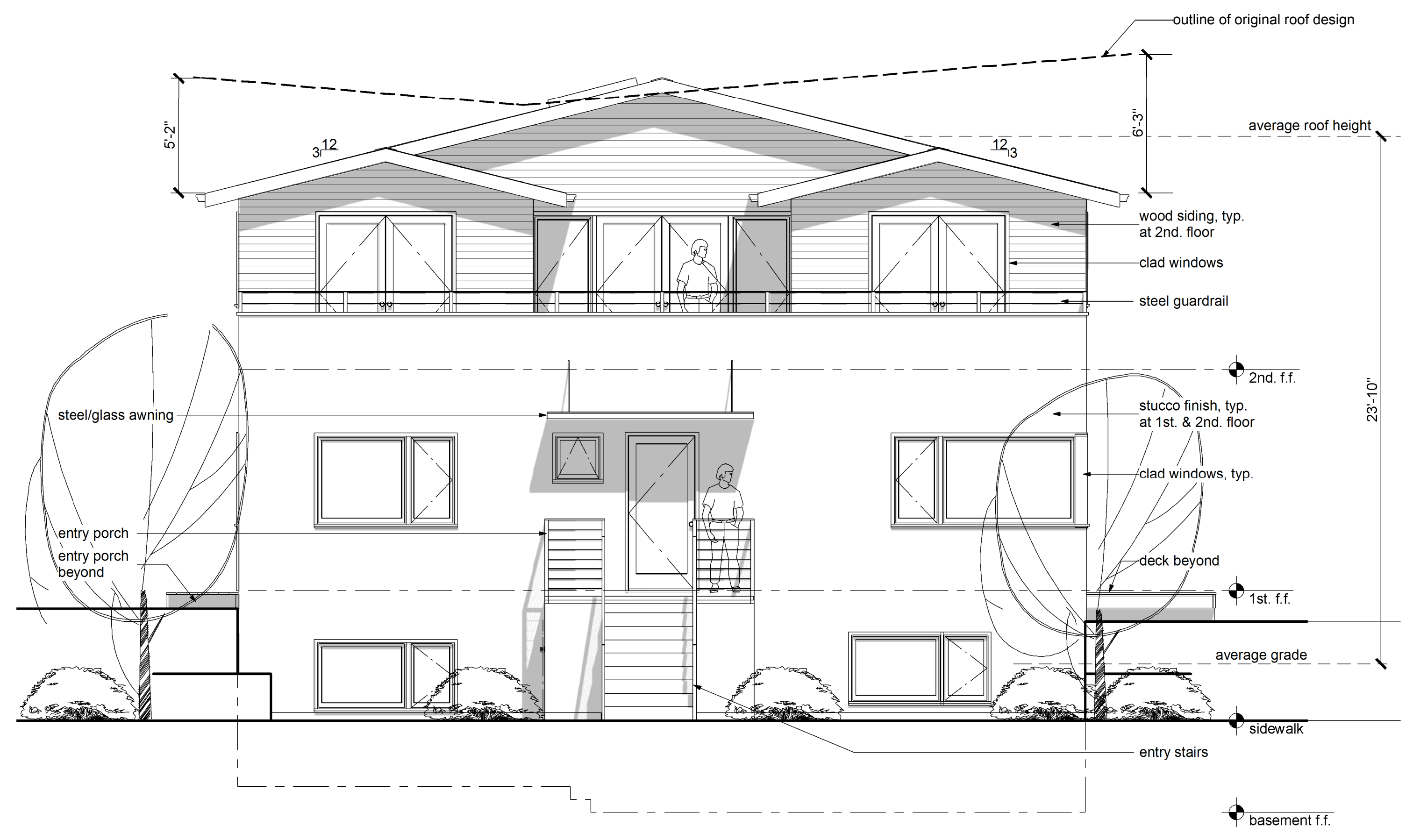
4 Proposed South Elevation - Right Side



3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front

**studio**  
**gs+**  
**ARCHITECTS**

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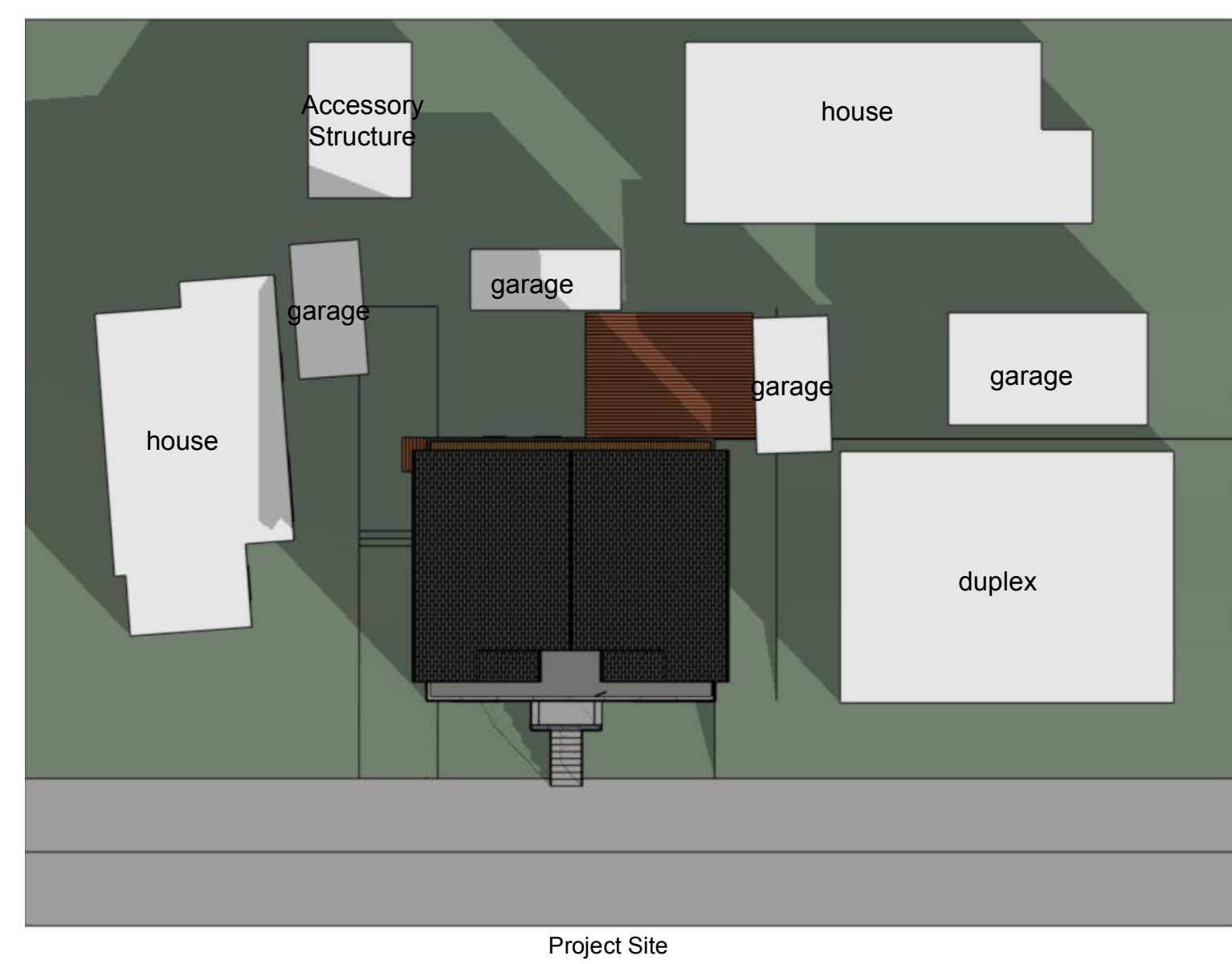
**OPPENHEIMER  
 RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Shadows Studies

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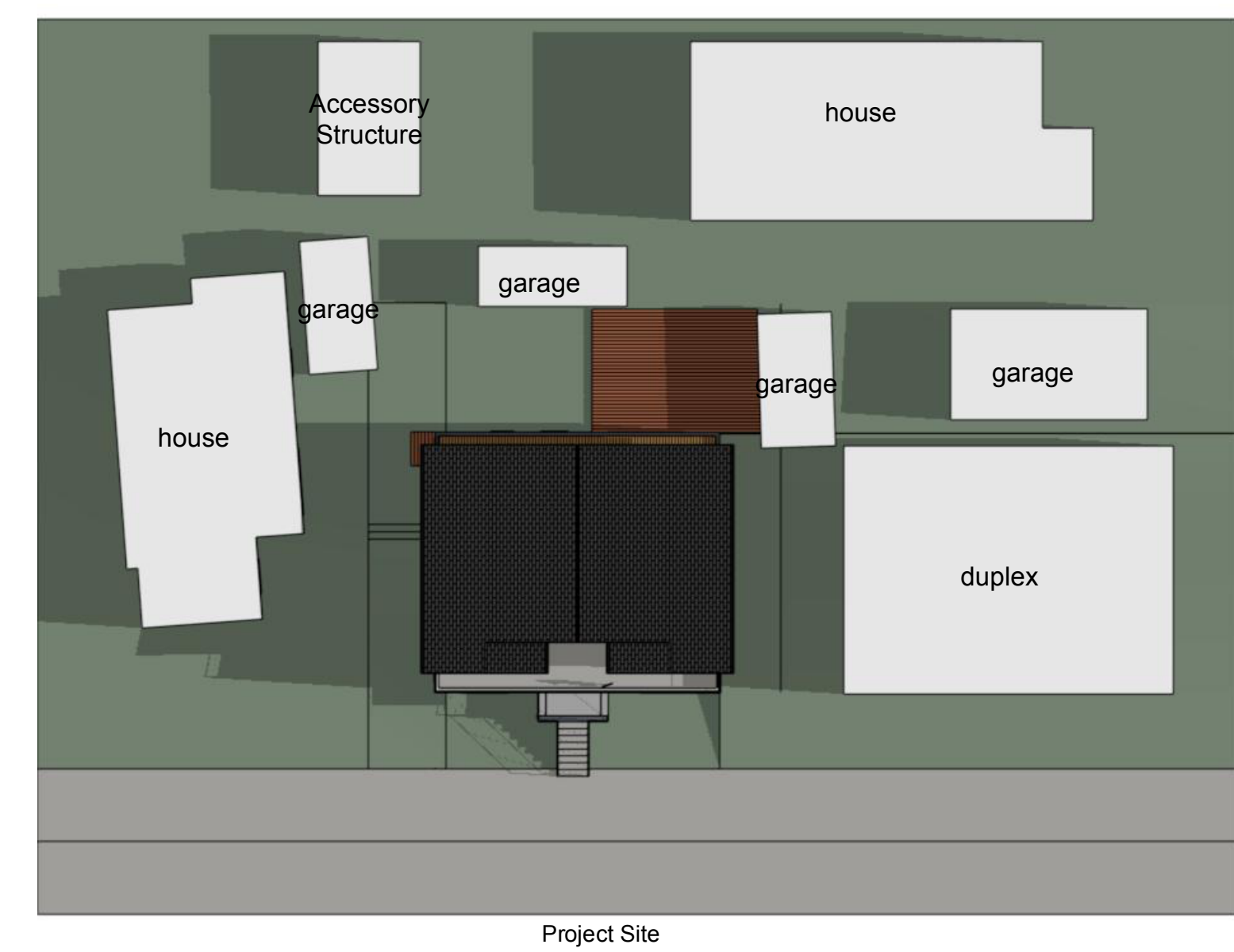
Project No: 20-13-420  
 Drawn By: SSG  
 Checked By: SSG  
 Scale: NTS  
 Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021

Sheet **A4.1**



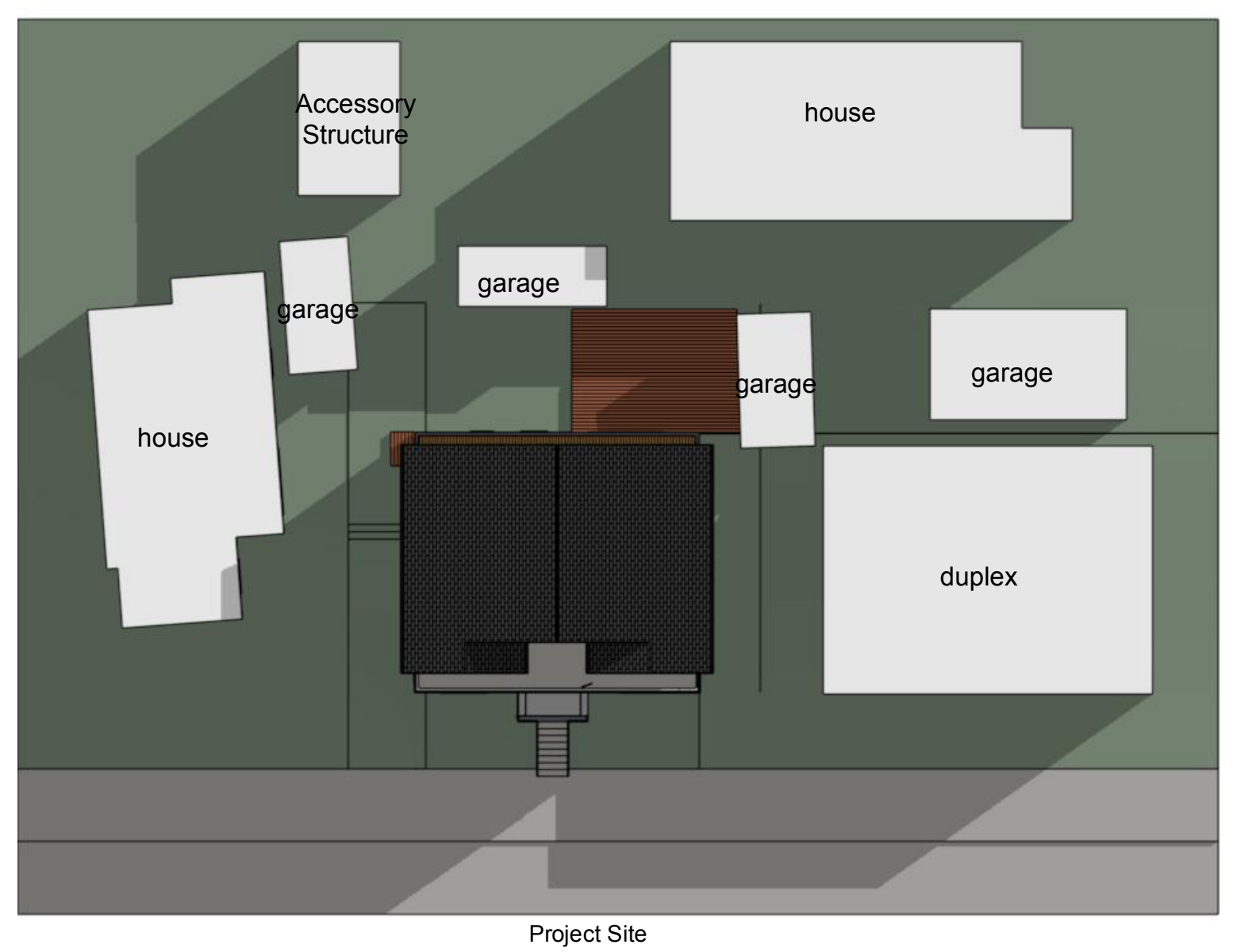
Proposed

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



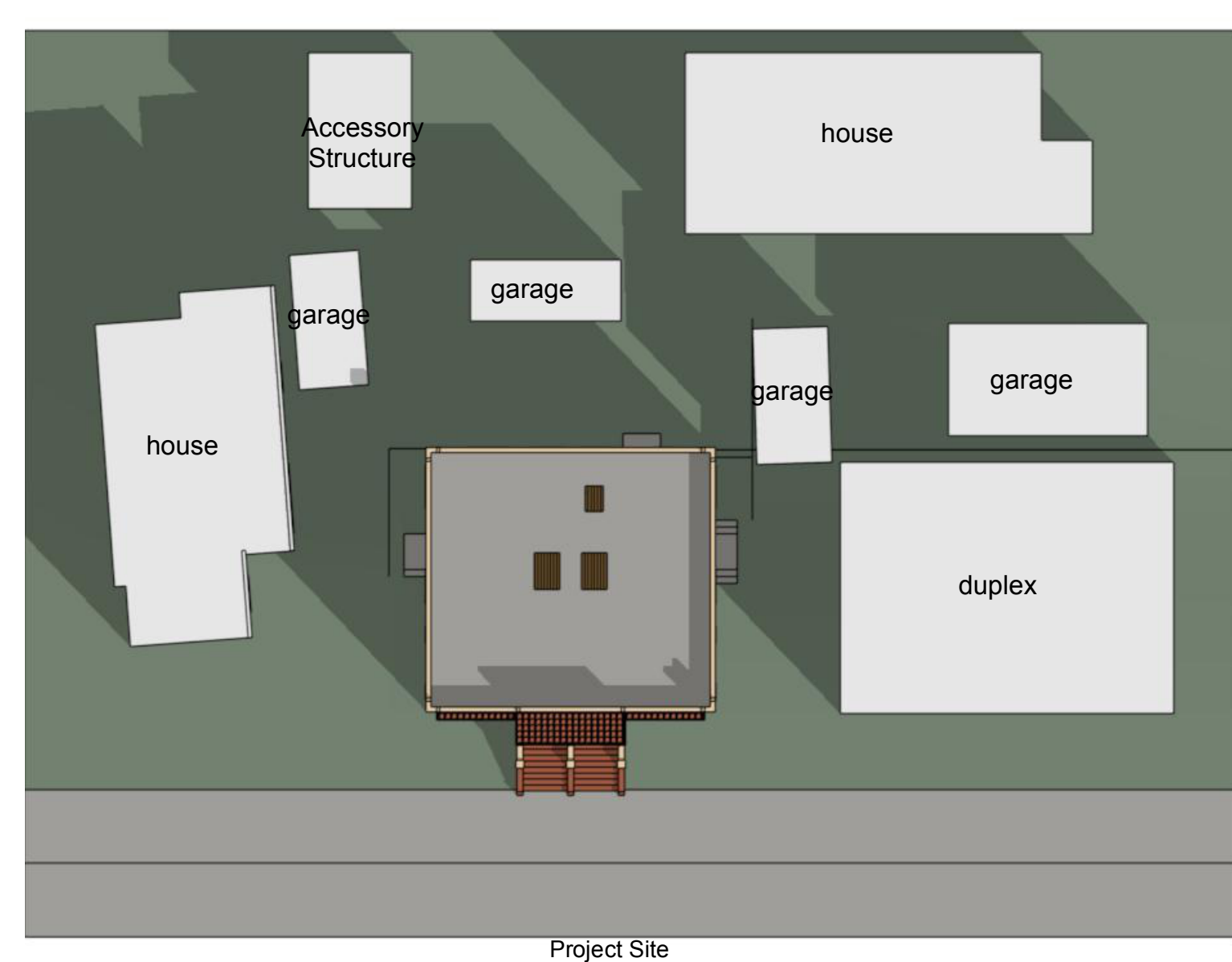
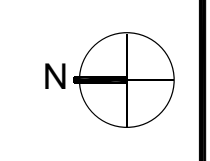
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**12-21-2021 / 12:00 pm**



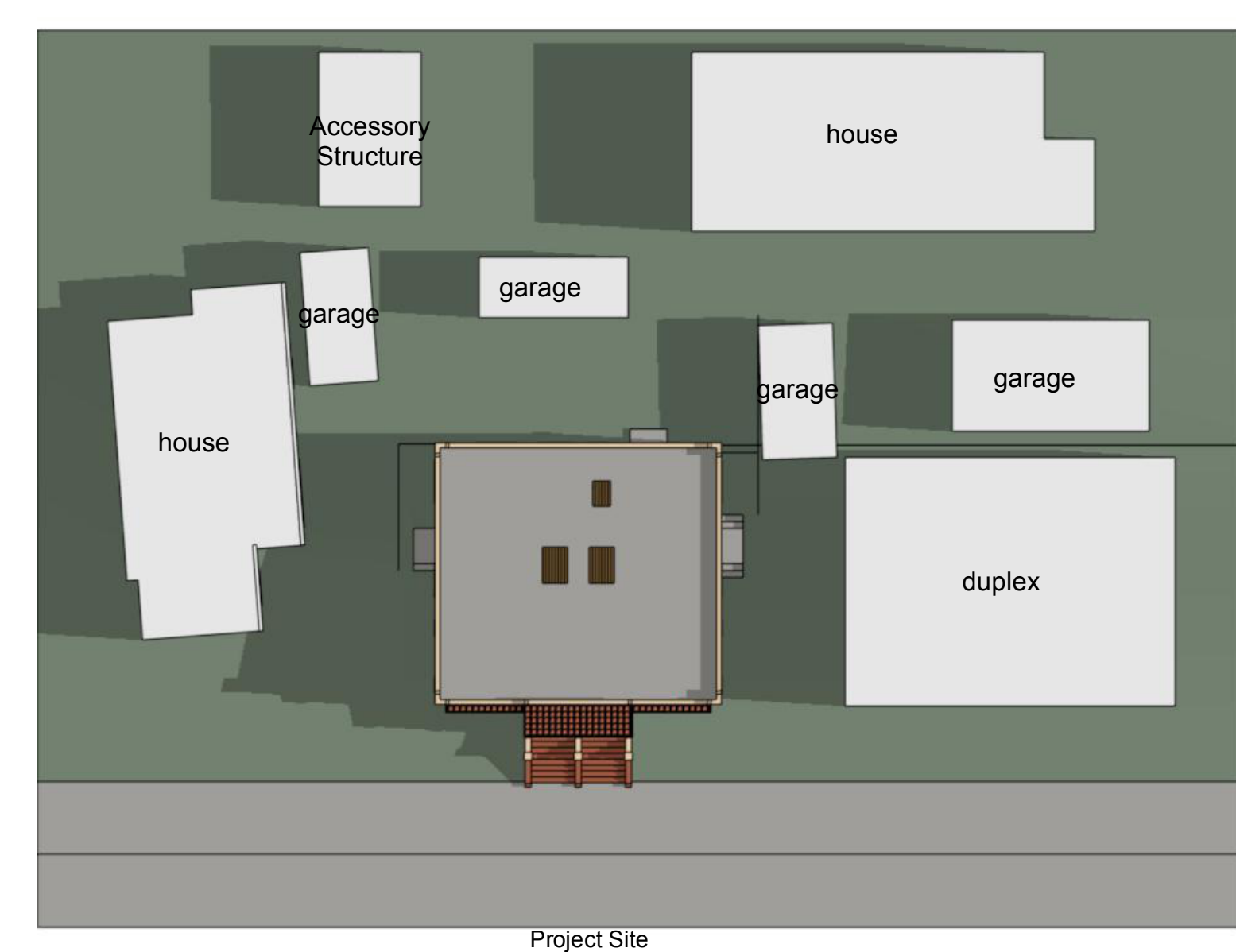
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**12-21-2021 / 9:21 am**



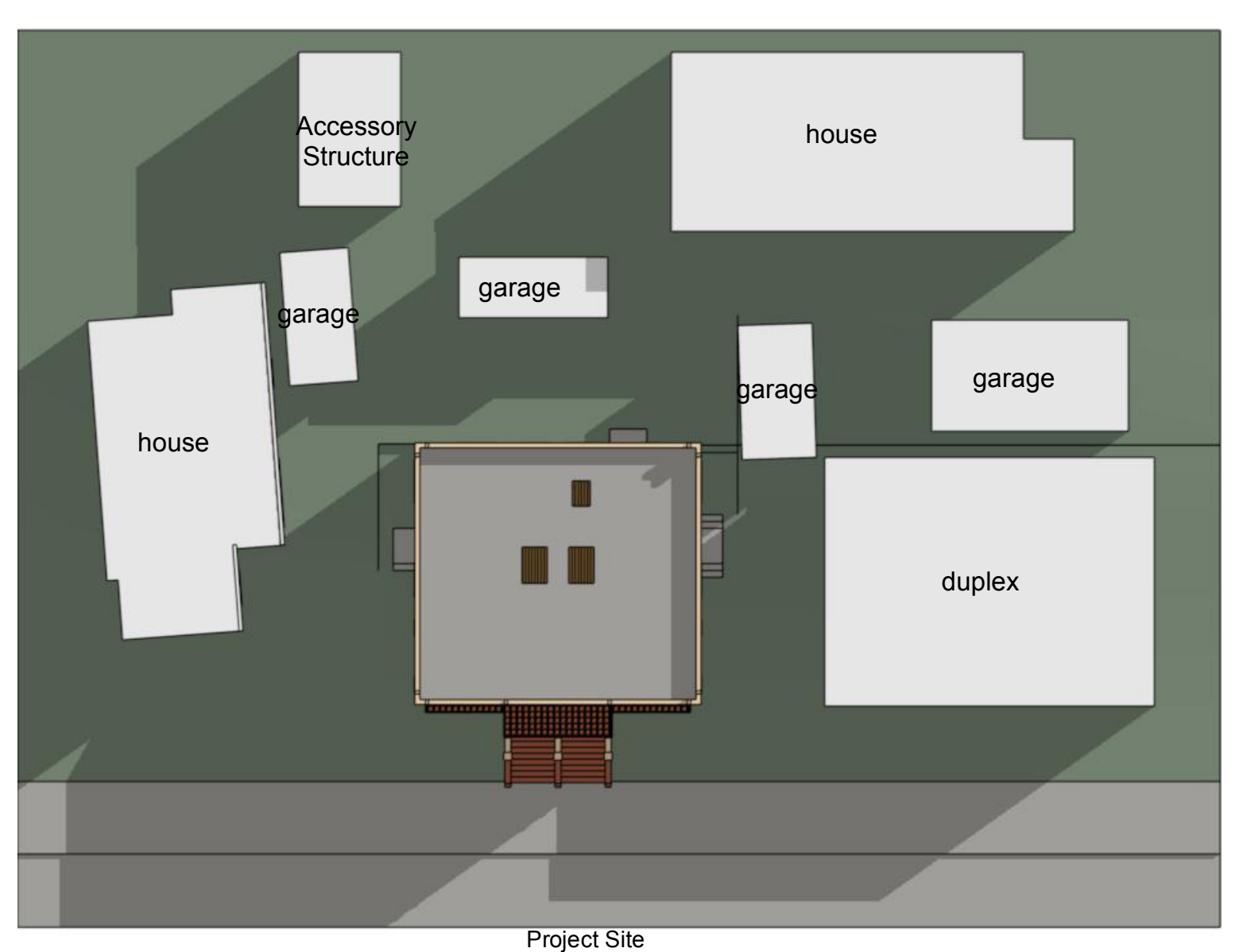
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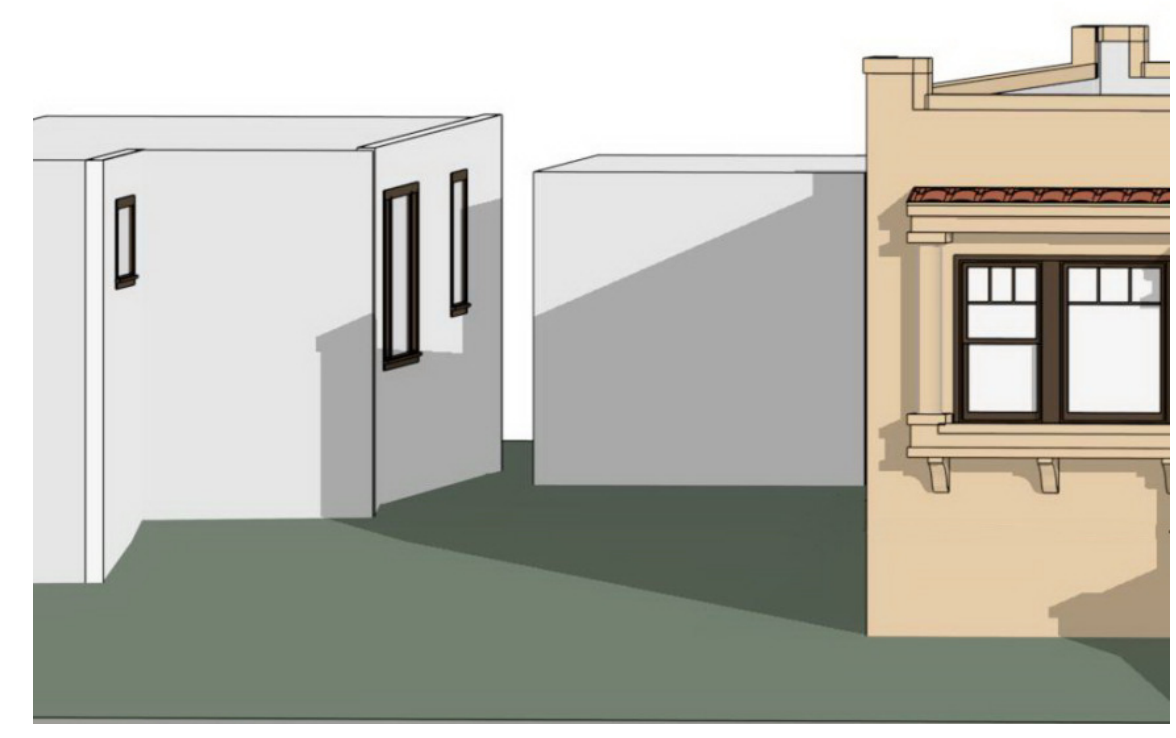
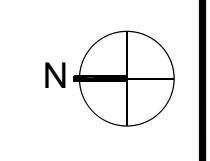
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**12-21-2021 / 12:00 pm**



Existing

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



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



Actual  
 12-08-2020 / 3:00 pm

**Shadow Accuracy Simulation**



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**OPPENHEIMER  
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 APN: 58-2156-18

Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420

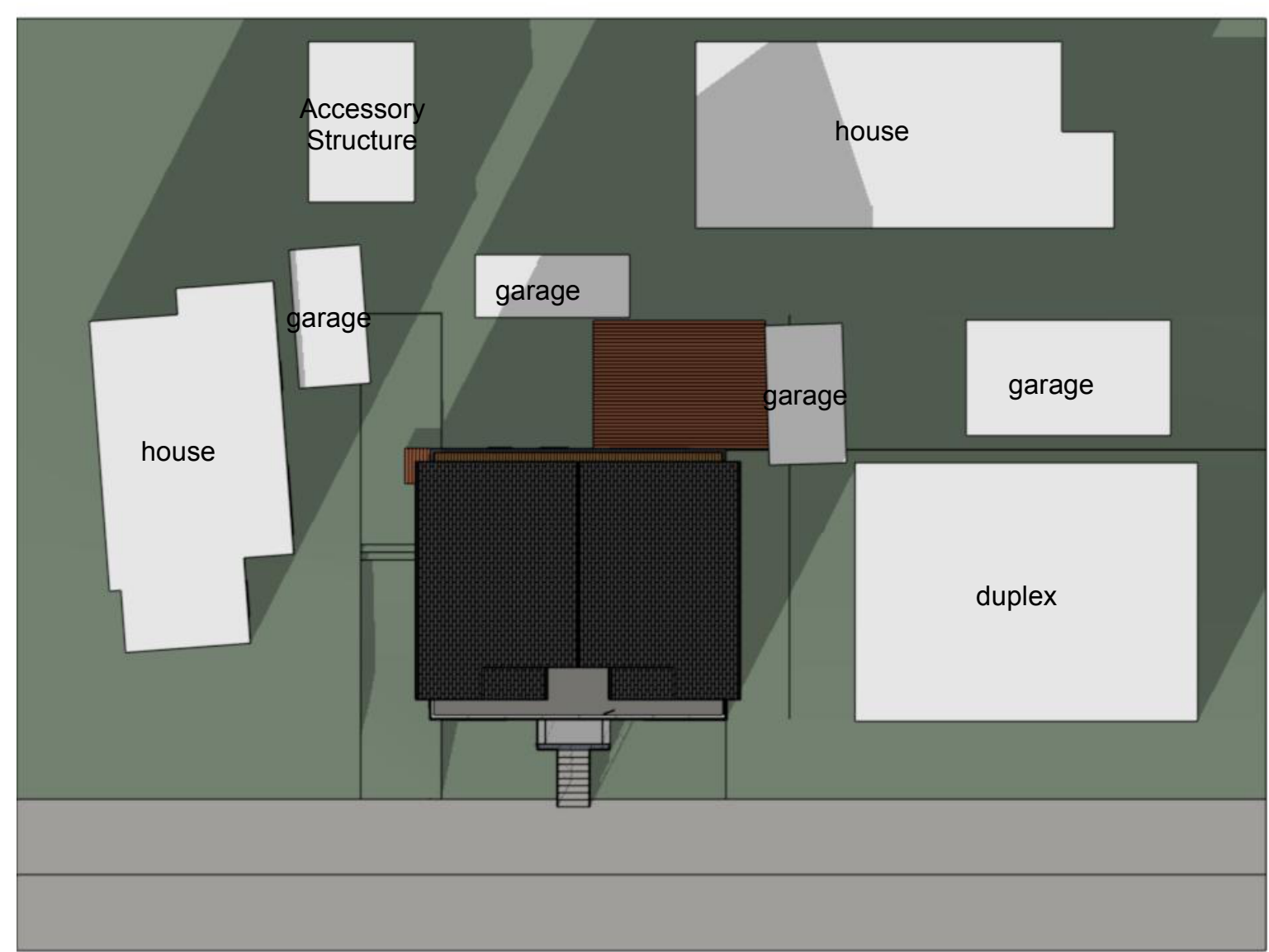
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Checked By: SSG

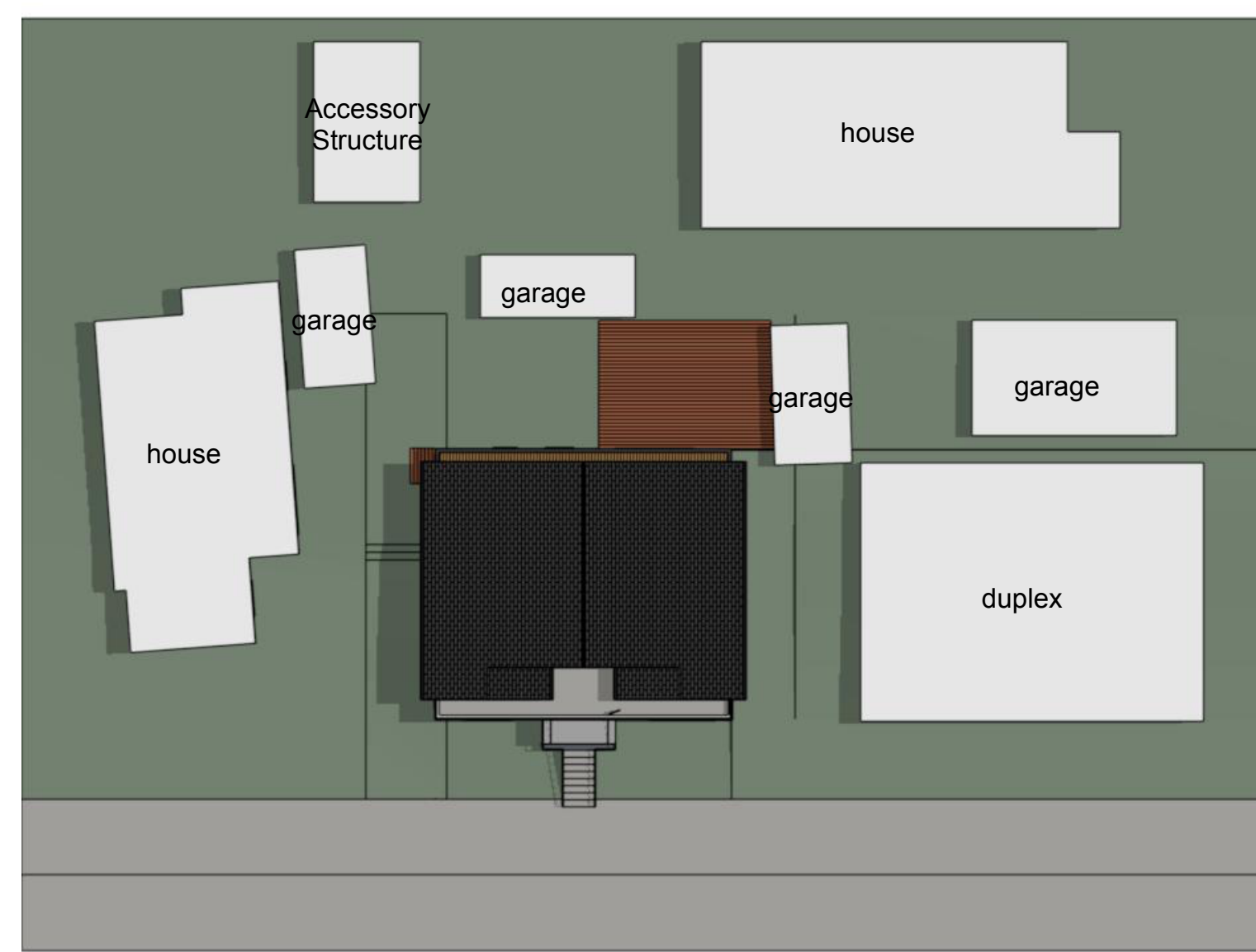
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021

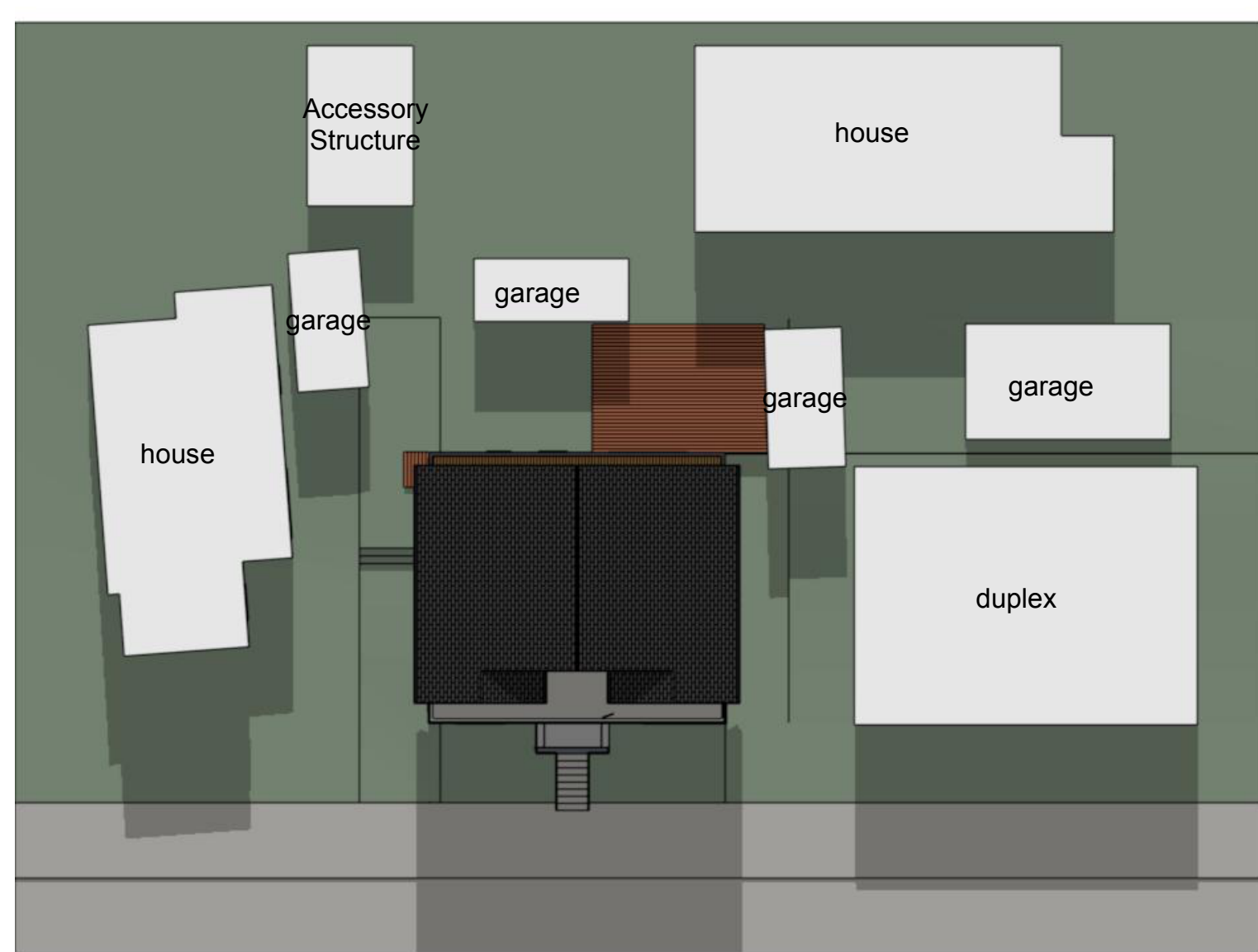
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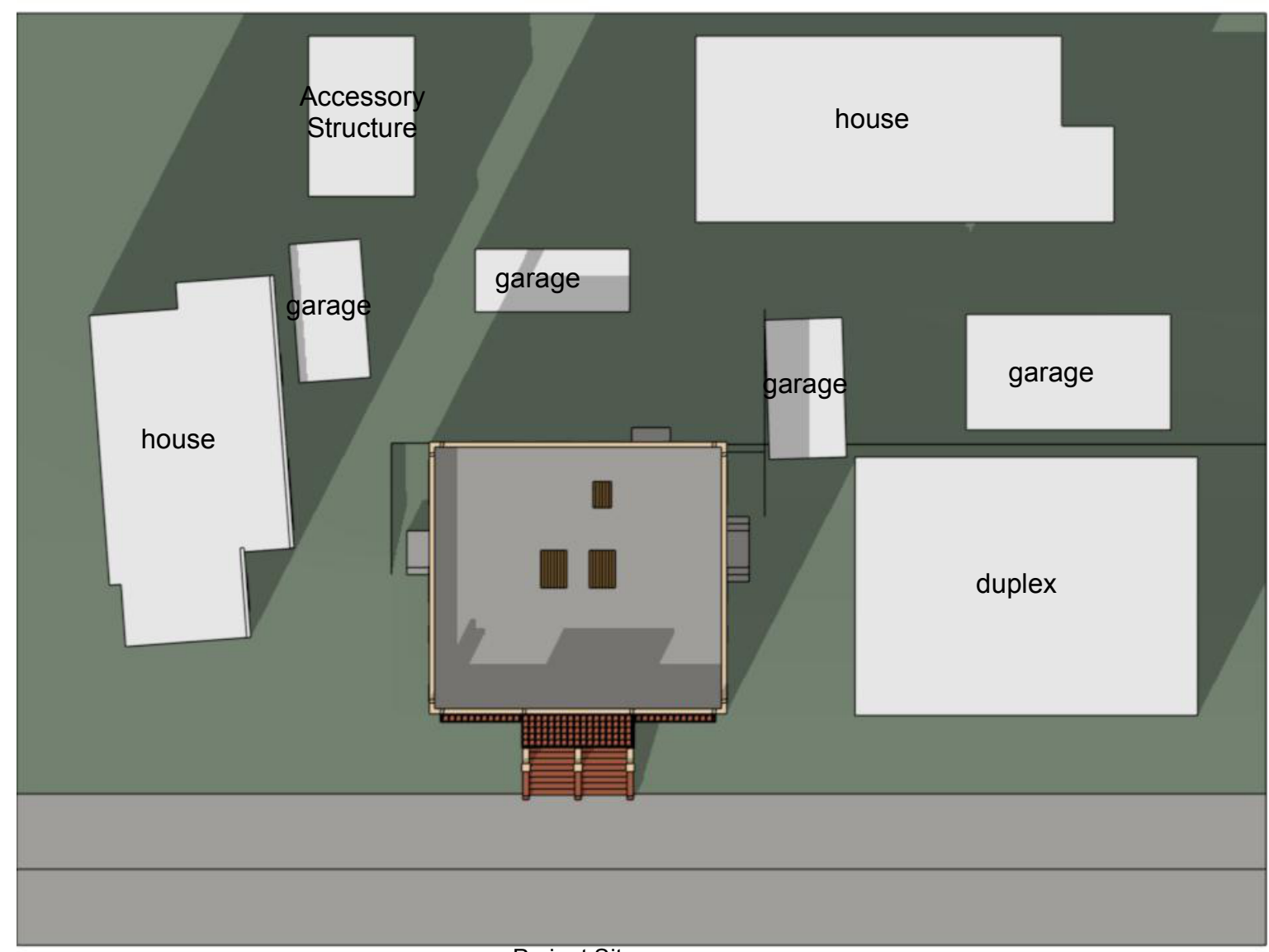
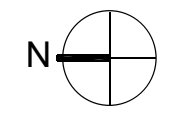
Proposed  
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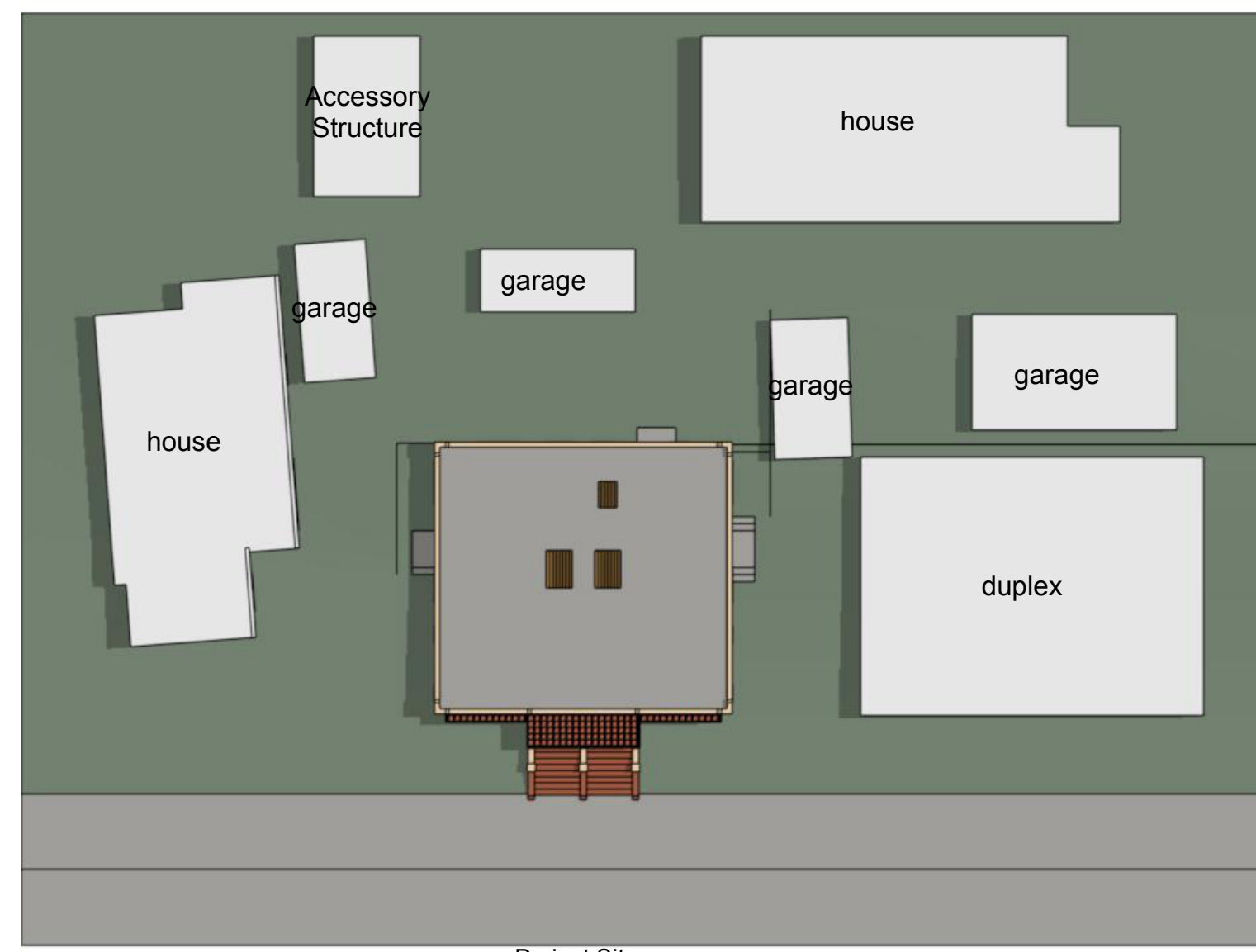
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6-21-2021 / 12:00 pm



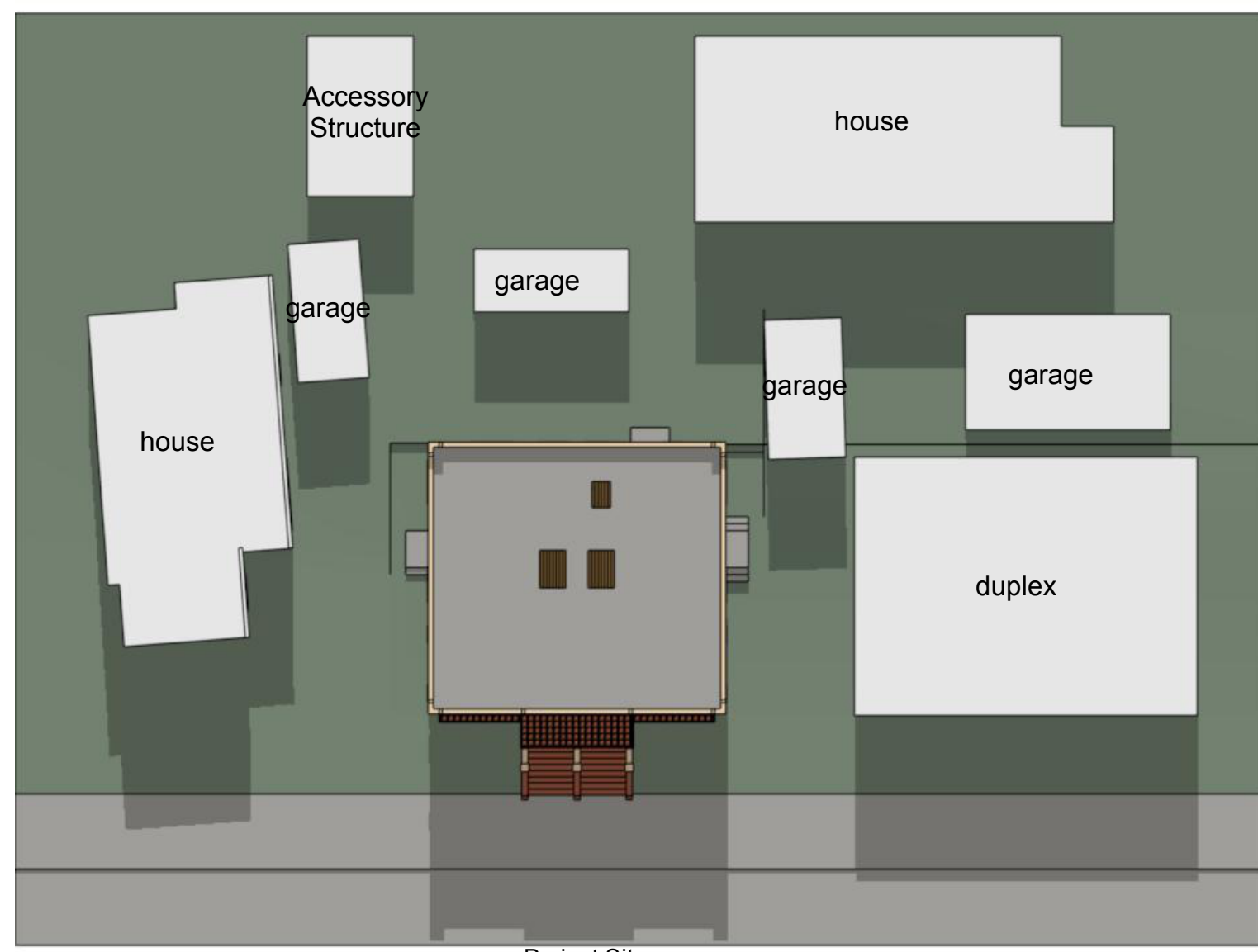
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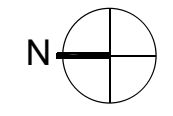
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6-21-2021 / 6:35 pm



Existing  
6-21-2021 / 12:00 pm



Existing  
6-21-2021 / 7:47 am

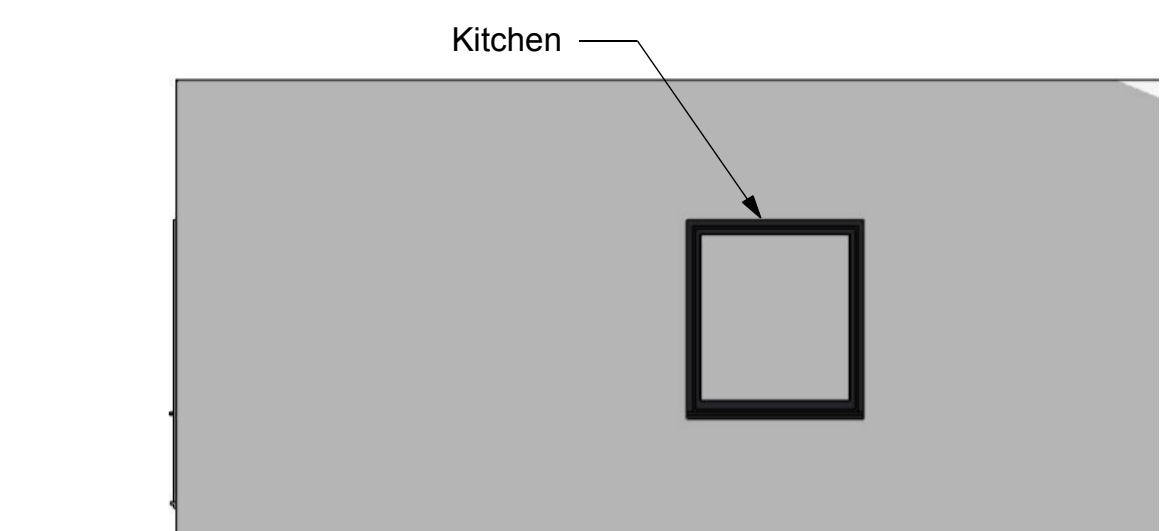




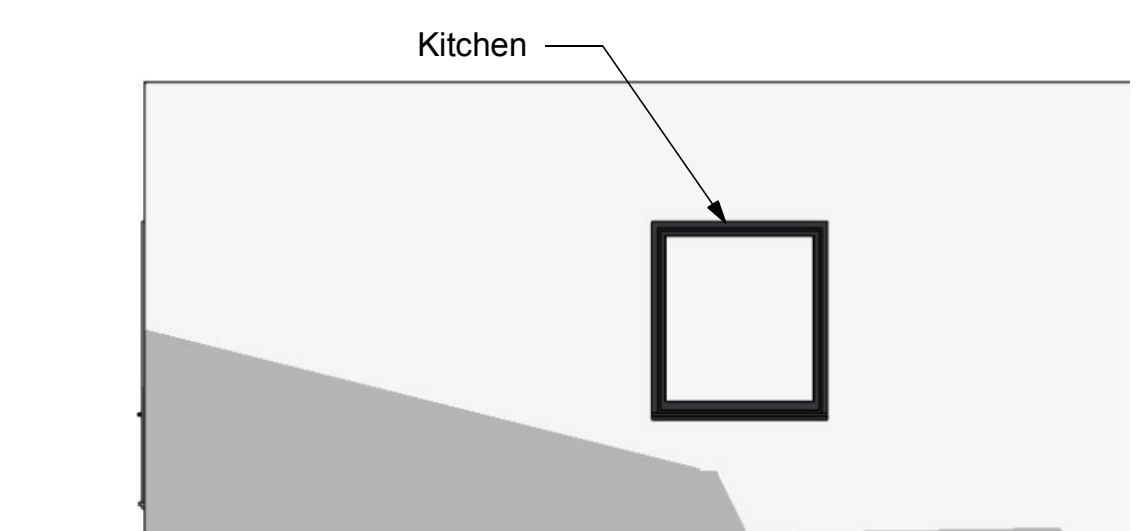
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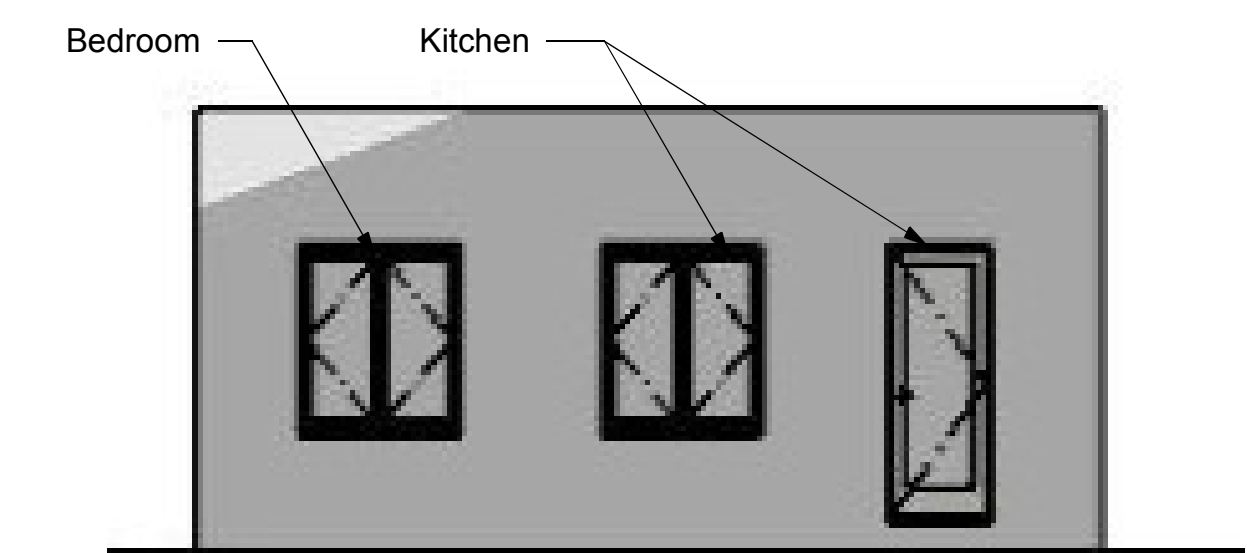
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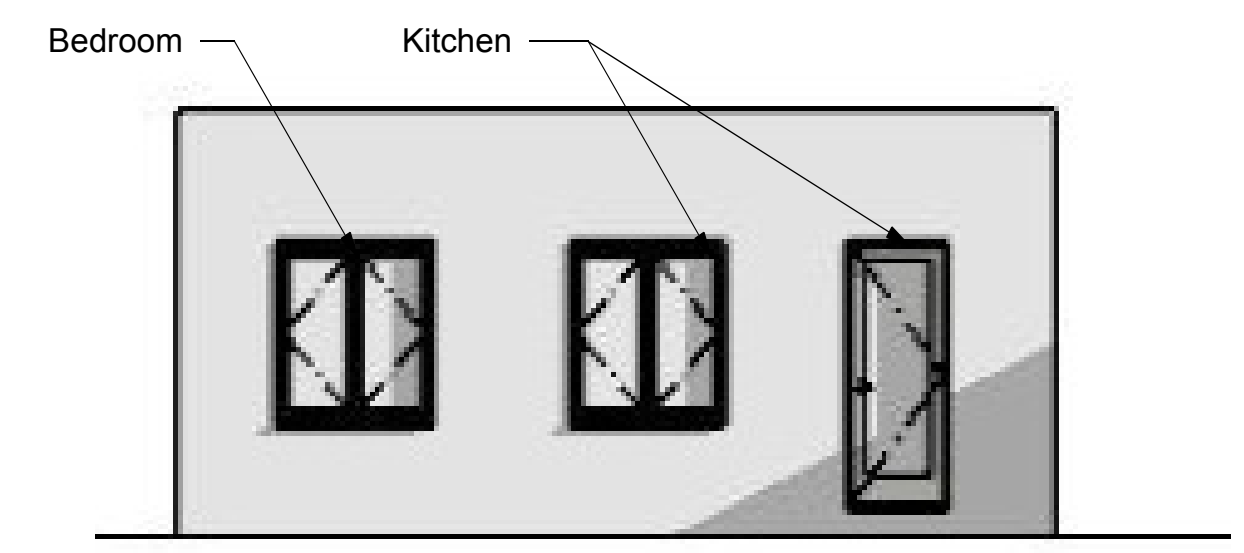
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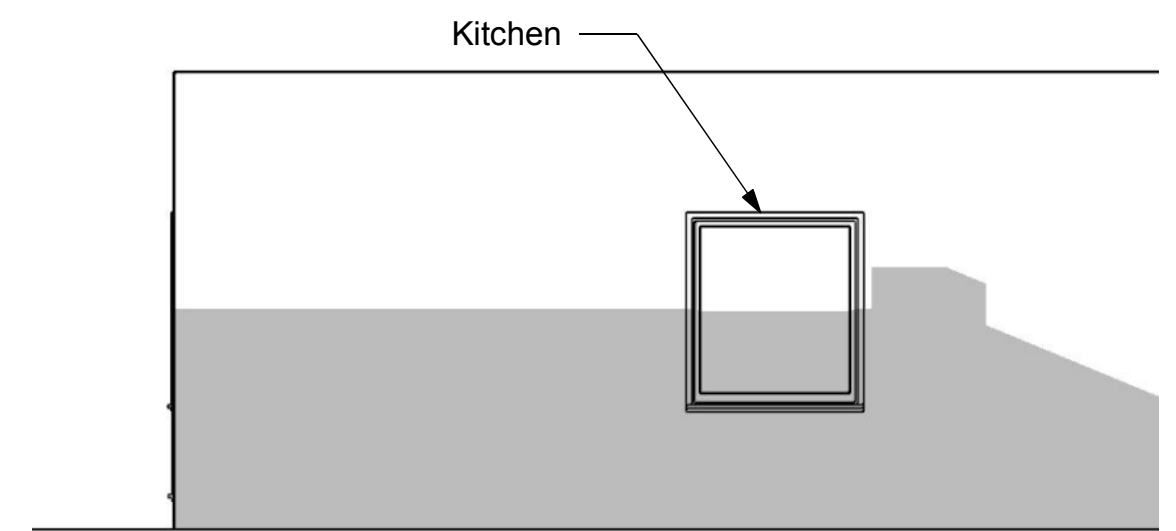
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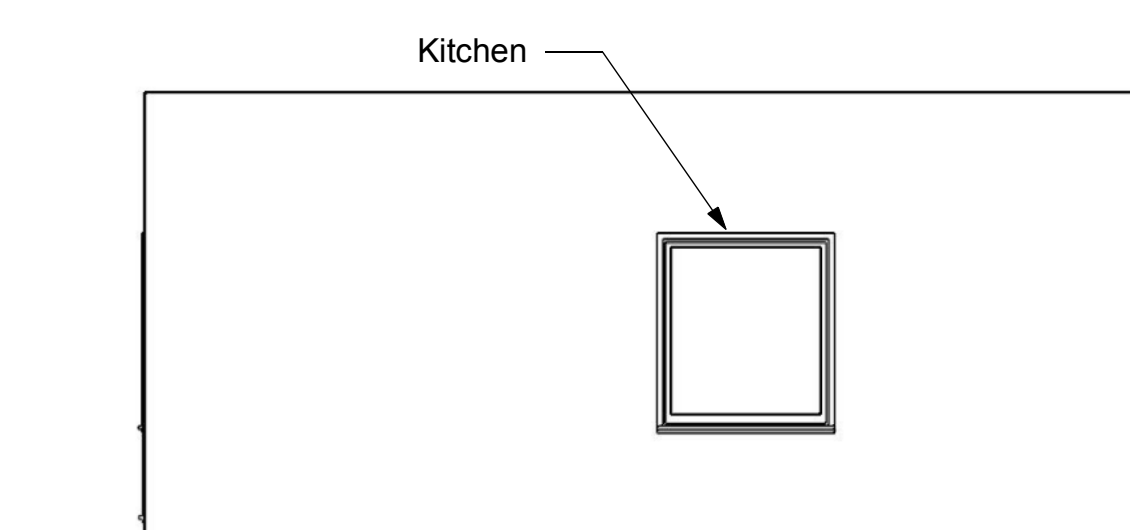
Proposed North Wall



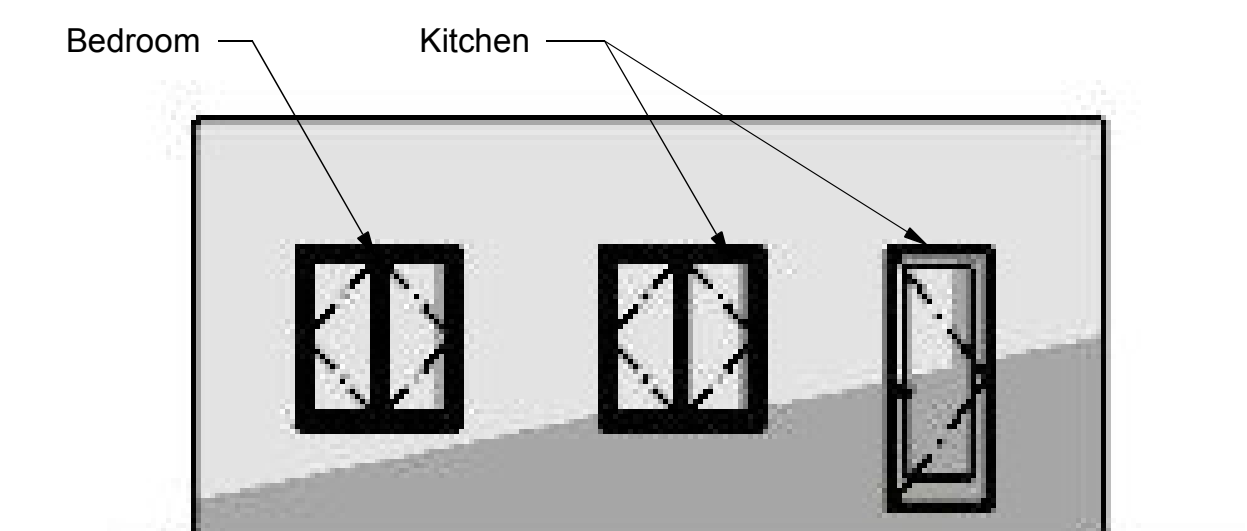
Proposed North Wall



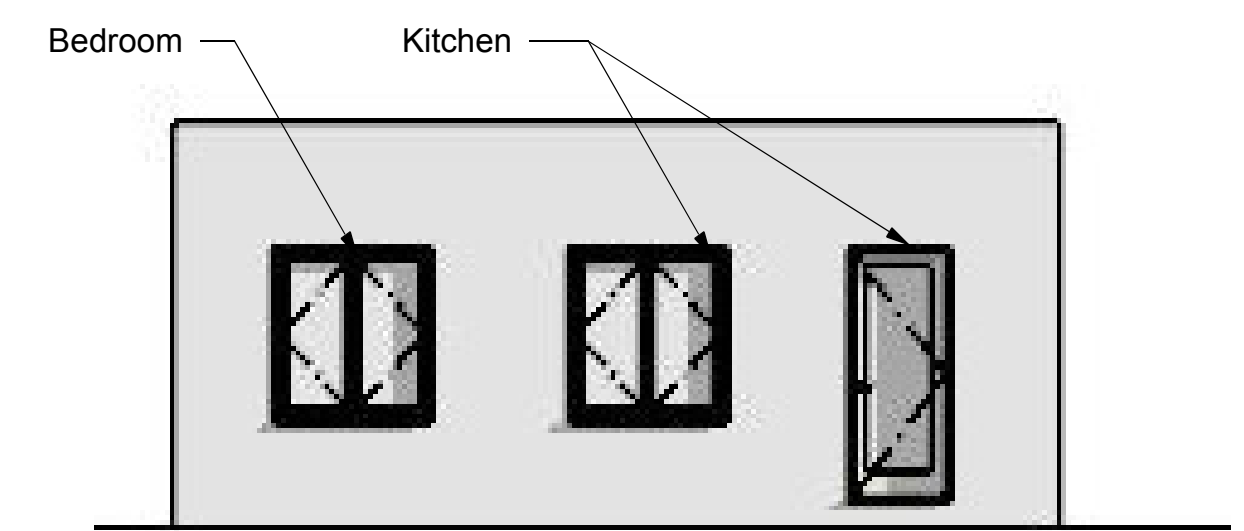
Proposed West Wall



Existing West Wall



Existing North Wall



Existing North Wall

6-21-2021 / 6:35 pm

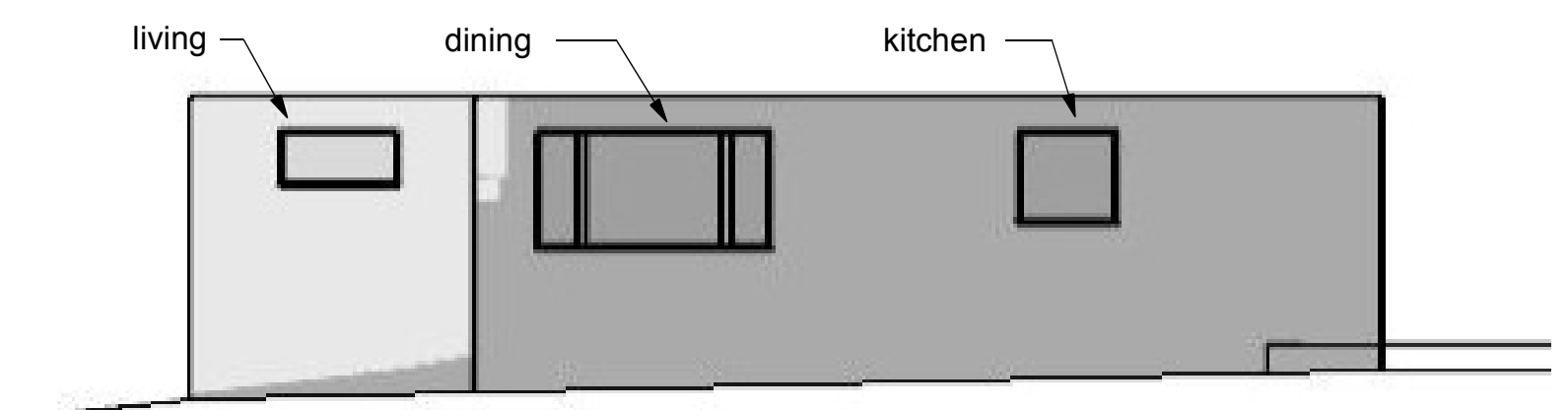
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6-21-2021 / 6:35 pm

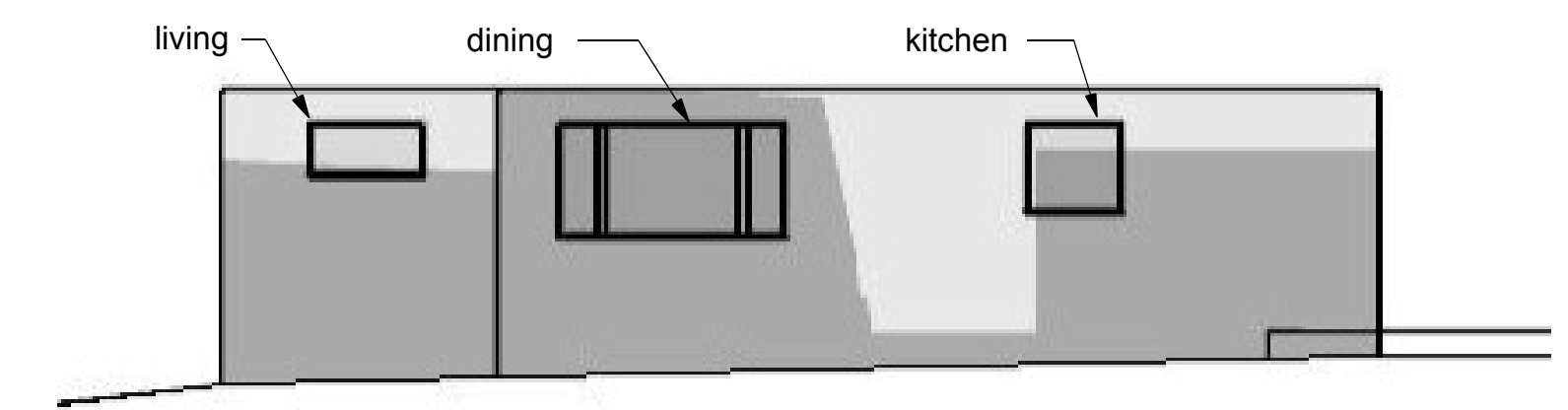
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**1609 Virginia St. Shadow Impact Study**

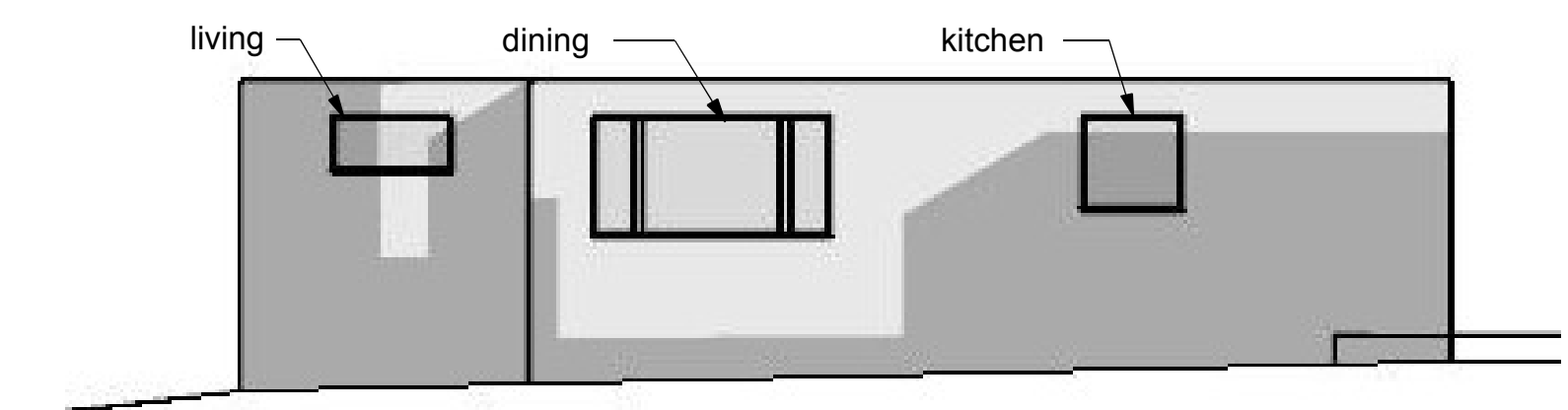
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 Shadows Studies



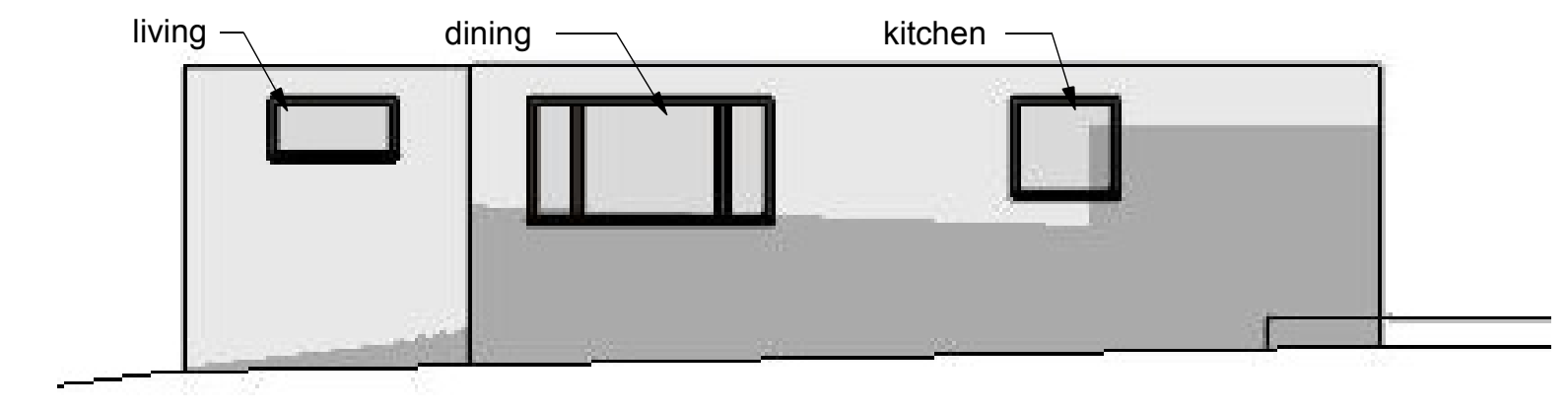
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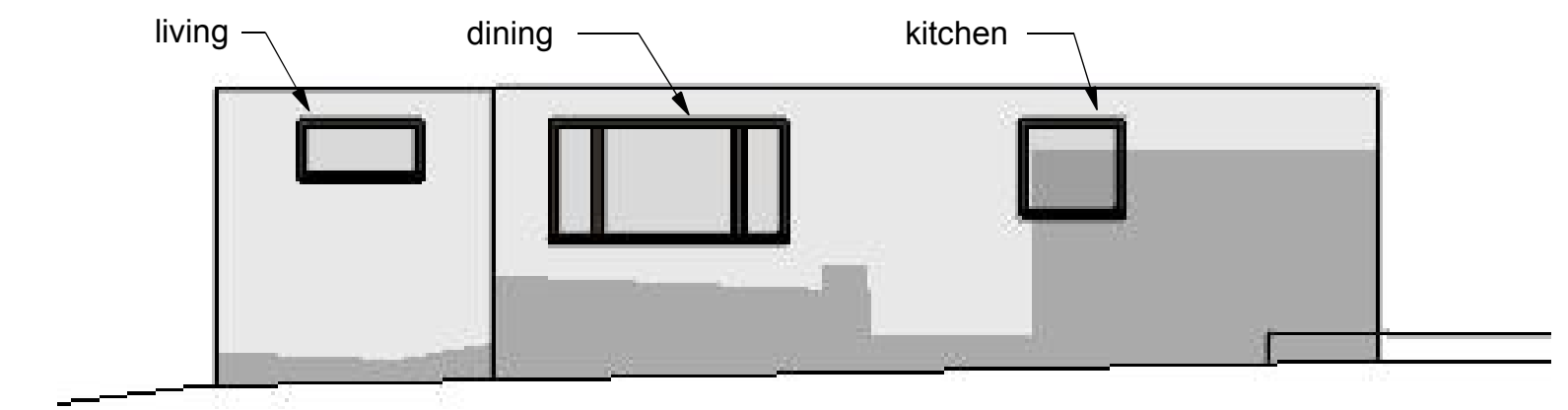
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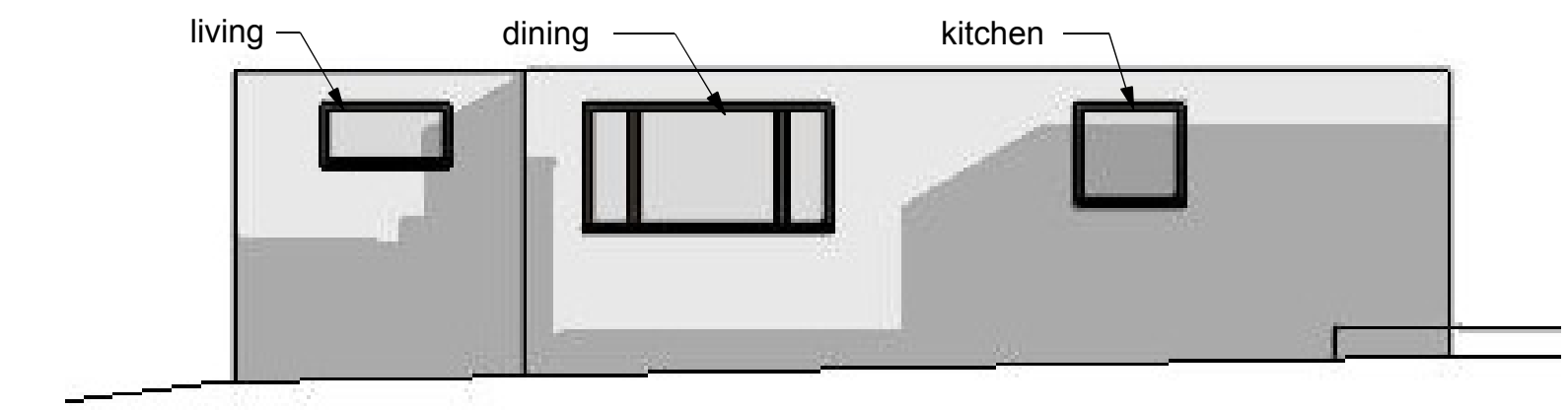
Proposed



Existing



Existing



Existing

12-21-2021 / 2:54 pm

12-21-2021 / 12:00 pm

12-21-2021 / 9:21 am

**1639 California St. Shadow Impact Study**

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

Revisions:  
 Use Permit Set: 12-10-2020

Redesign: 5-25-2021



Planning and Development Department  
Land Use Planning Division

June 24, 2021

Sent via email:

[sunny@sgsarch.com](mailto:sunny@sgsarch.com)

Sundeep Grewel  
Studio G+S Architects  
2223 5<sup>th</sup> Street  
Berkeley, CA 94710

**Re: Application for Use Permit #ZP2021-0001 for 1643/1647 California Street**

Dear Applicants,

The Land Use Division has reviewed the above referenced application, resubmitted on May 25, 2021 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout on an existing property that is non-conforming to density, lot coverage, and front, side, and rear setbacks at 1643/1647 California Street. Staff has determined that the application is incomplete and cannot take further action on the project until all the items listed below are corrected and/or submitted. Please submit an electronic copy of the following:

**Items Required for Submittal or Correction:**

1. Project Plans – The project plans require the following revisions:
  - a. Sheet A0.1 appears to show the entry stairs projecting farther than the existing stairs (which are already non-conforming), and potentially over the property line into the City right-of-way. This will not be permitted. Please redesign to ensure no additional encroachment into this front yard setback, nor over the property line.
  - b. Please add elevation numbers to the elevation and section drawings.
  - c. Please add existing and finished grade and elevation numbers for each to all elevation and section drawings.
2. Shadow Studies – Per the [Shadow Study Instructions Guide](#) the submitted Shadow Studies must be revised in the following ways:
  - a. Staff is unable to understand the difference between the existing and proposed shadows on the shadow studies included on Sheets A4.1 and A4.2. Please modify the shadow studies to differentiate the color of the shading, and include a legend to help identify the differences in colors to show the new shadow impacts on surrounding properties.
  - b. The impacts shown to 1609 Virginia Street (Sheet A4.3) on 6-21-21 at 6:35pm appear to be flipped (the “Existing” and “Proposed” drawings appear to be incorrectly labeled). Please correct and resubmit.

June 24, 2021  
Page 2 of 2

1643/1647 CALIFORNIA STREET - LETTER OF INCOMPLETION  
Use Permit #ZP2021-0001

3. Structural Evaluation Required - Per Zoning Project Application Submittal Requirements Item number 3.E, a Structural Evaluation is required for “any project that is not a demolition, but is removing between 25% and 49% of a main building’s exterior wall and between 25% and 49% of a main building’s roof.” As the entirety of the roof is being removed, applicants must confirm that no more than 49% of the exterior walls of the building are being removed. A Structural Evaluation report must be prepared by an independent, fully credentialed structural engineer, which “must assess whether, in the operator’s opinion, retention of the structural elements not proposed for removal is actually feasible.” If the retention of these other walls is not feasible, then the project will be considered a full demolition, which will require a Use Permit. Additionally, if the building is considered for demolition, the replacement building would have to comply will all applicable development standards of the R-2A zoning district, including lot coverage and setbacks.

#### Staff Advisory Comments

Historic Resource Evaluation – Secretary of the Landmarks Preservation Commission, Senior Planner Fatema Crane evaluated the submitted HRE and determined it was sufficient in addressing the historic merits of the property, and that this building meets the exemption under CEQA.

Revised submittal items should be submitted in electronic form (Box.com). Please submit responses to **all** requested items at once, and not incrementally. Please include a response letter addressing each of the above items, using the same numbering/format to assist staff in confirming you have addressed each item.

I look forward to working with you on this project. Do not hesitate to contact me if you have any questions or if you would like to set up a meeting. I can be reached at (510) 981-7485 or [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info).

Sincerely,



Nicholas Armour  
Associate Planner



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

July 15, 2021

## Planning review comments #2

**Applications #: ZP2021-0001**

**Address: 1643 1647 California St Planning**

Hi Nicholas,

We are resubmitting the Use Permit application per your comments. See attached drawings and responses below.

### Items Required for Submittal or Correction:

1. Project Plans – The project plans require the following revisions: a. Sheet A0.1 appears to show the entry stairs projecting farther than the existing stairs (which are already non-conforming), and potentially over the property line into the City right-of-way. This will not be permitted. Please redesign to ensure no additional encroachment into this front yard setback, or over the property line.

**Response: Sheet A0.1 – Proposed site plan. Site plan updated.**

b. Please add elevation numbers to the elevation and section drawings.

**Response: Sheet A1.1 – Existing elevations updated**

**Response: Sheet A3.1 to A3.4 – Proposed elevations and section updated**

c. Please add existing and finished grade and elevation numbers for each to all elevation and section drawings.

**Response: Sheet A3.1 to A3.4 – Proposed elevations and section updated**

2. Shadow Studies – Per the [Shadow Study Instructions Guide](#) the submitted Shadow Studies must be revised in the following ways: a. Staff is unable to understand the difference between the existing and proposed shadows on the shadow studies included on Sheets A4.1 and A4.2. Please modify the shadow studies to differentiate the color of the shading, and include a legend to help identify the differences in colors to show the new shadow impacts on surrounding properties.

**Response: Sheet A4.1 to A4.2– Shadow study updated**

b. The impacts shown to 1609 Virginia Street (Sheet A4.3) on 6-21-21 at 6:35pm appear to be flipped (the “Existing” and “Proposed” drawings appear to be incorrectly labeled). Please correct and resubmit.

**Response: Sheet A4.3 – labels corrected**

3. Structural Evaluation Required - Per Zoning Project Application Submittal Requirements  
Item number 3.E, a Structural Evaluation is required for “any project that is not a demolition, but is removing between 25% and 49% of a main building’s exterior wall and between 25% and 49% of a main building’s roof.” As the entirety of the roof is being removed, applicants must confirm that no more than 49% of the exterior walls of the building are being removed. A Structural Evaluation report must be prepared by an independent, fully credentialed structural engineer, which “must assess whether, in the operator’s opinion, retention of the structural elements not proposed for removal is actually feasible.” If the retention of these other walls is not feasible, then the project will be considered a full demolition, which will require a Use Permit. Additionally, if the building is considered for demolition, the replacement building would have to comply will all applicable development standards of the R-2A zoning district, including lot coverage and setbacks.

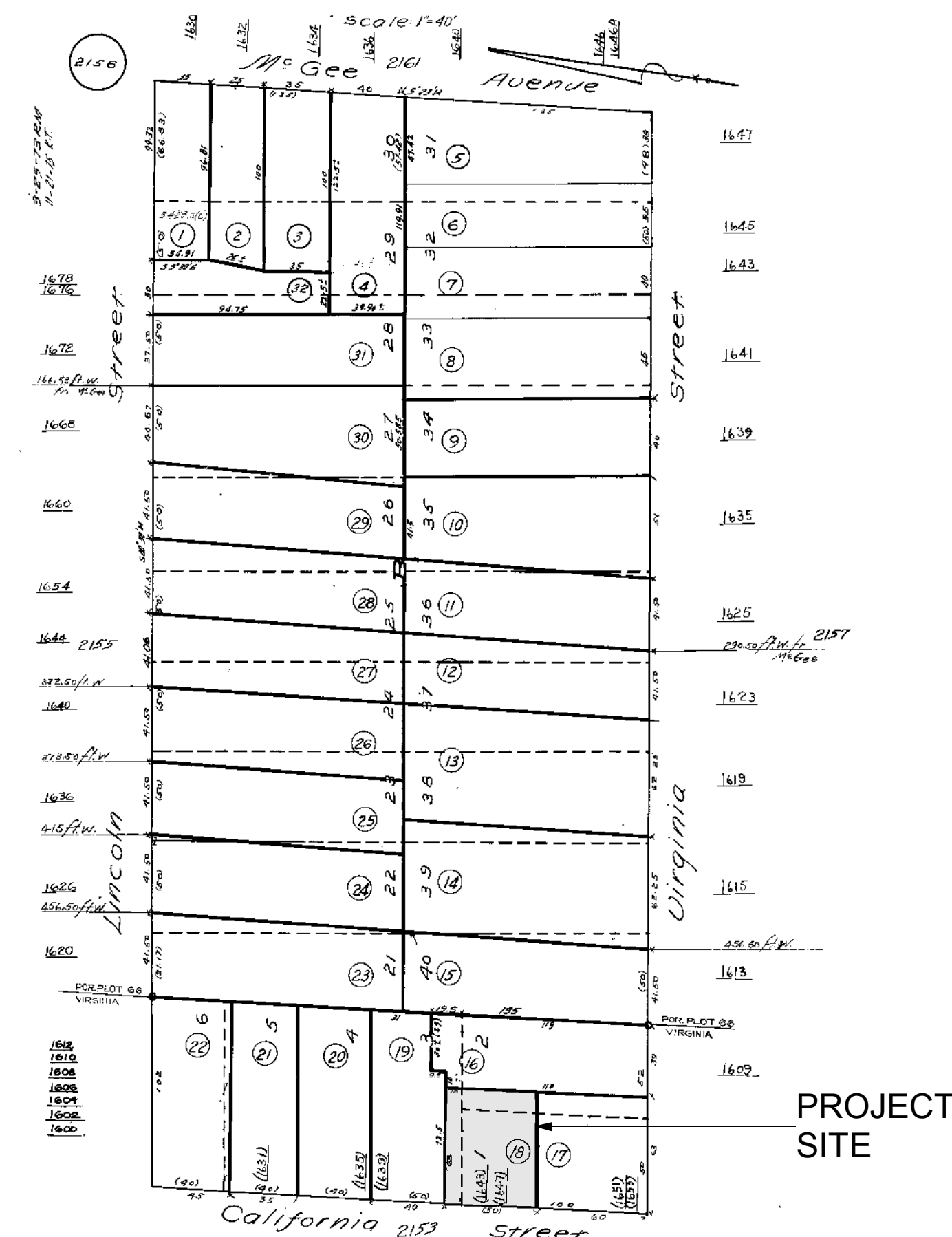
**Response: See attached structural evaluation report.**

We are looking forward to moving this project along.

Sundeep Grewal



PARCEL MAP



**OPPENHEIMER RESIDENCE**

1643 & 1647 California St. CA 94703

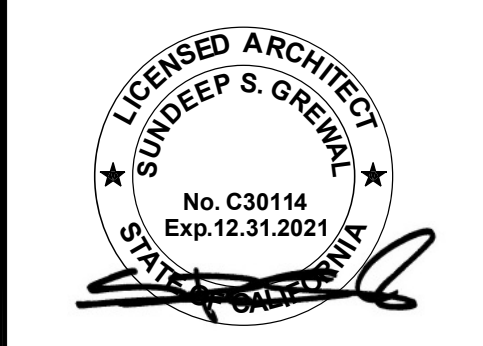
SHEET INDEX

Architectural:

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



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 www.sgsarch.com



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

SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

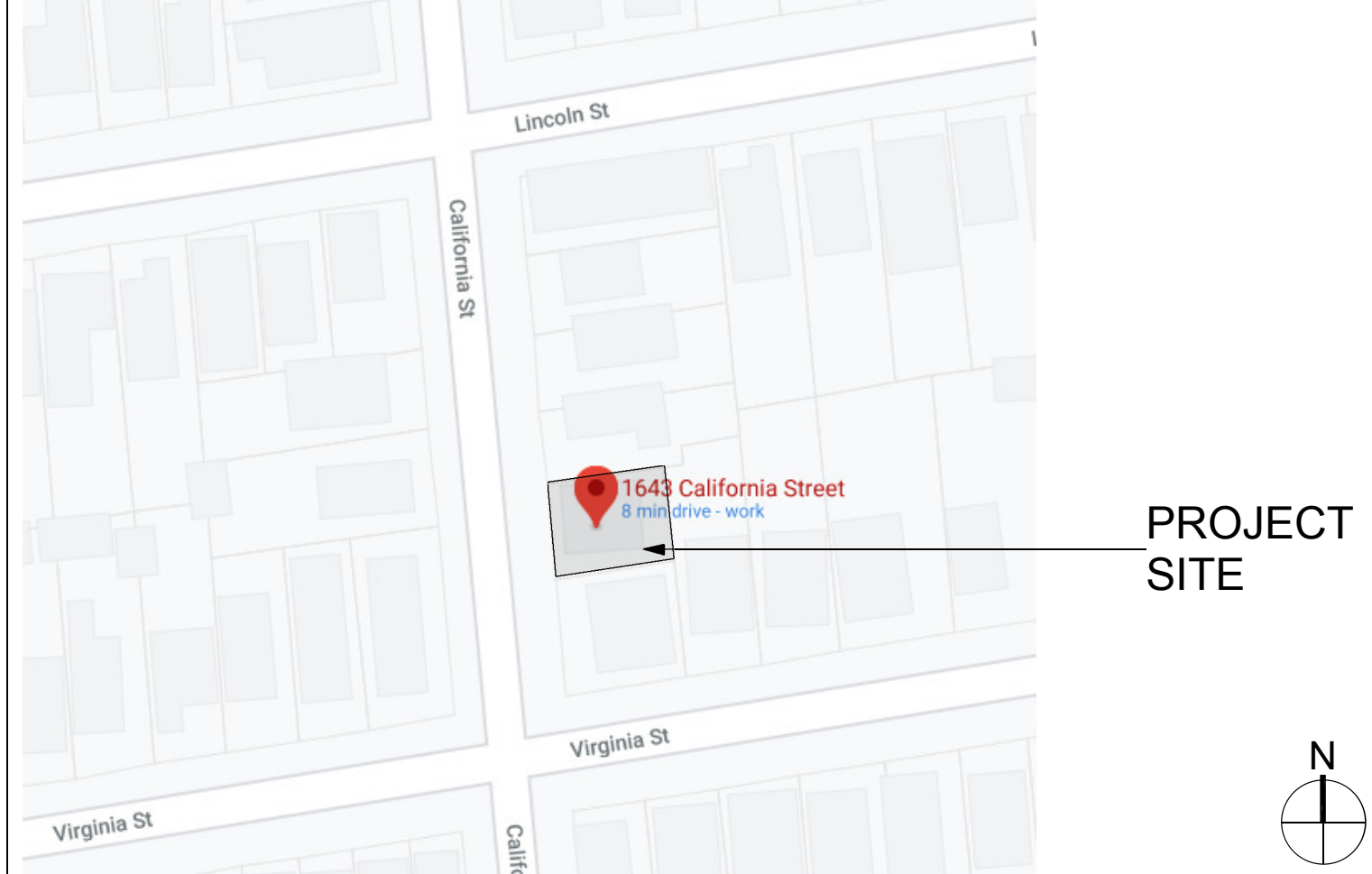
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

VICINITY MAP



PROJECT DIRECTORY

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

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

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

PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**  
 No

APPLICABLE CODES

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

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

ABBREVIATIONS

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

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

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:  
 Use Permit Set: 12-10-2020

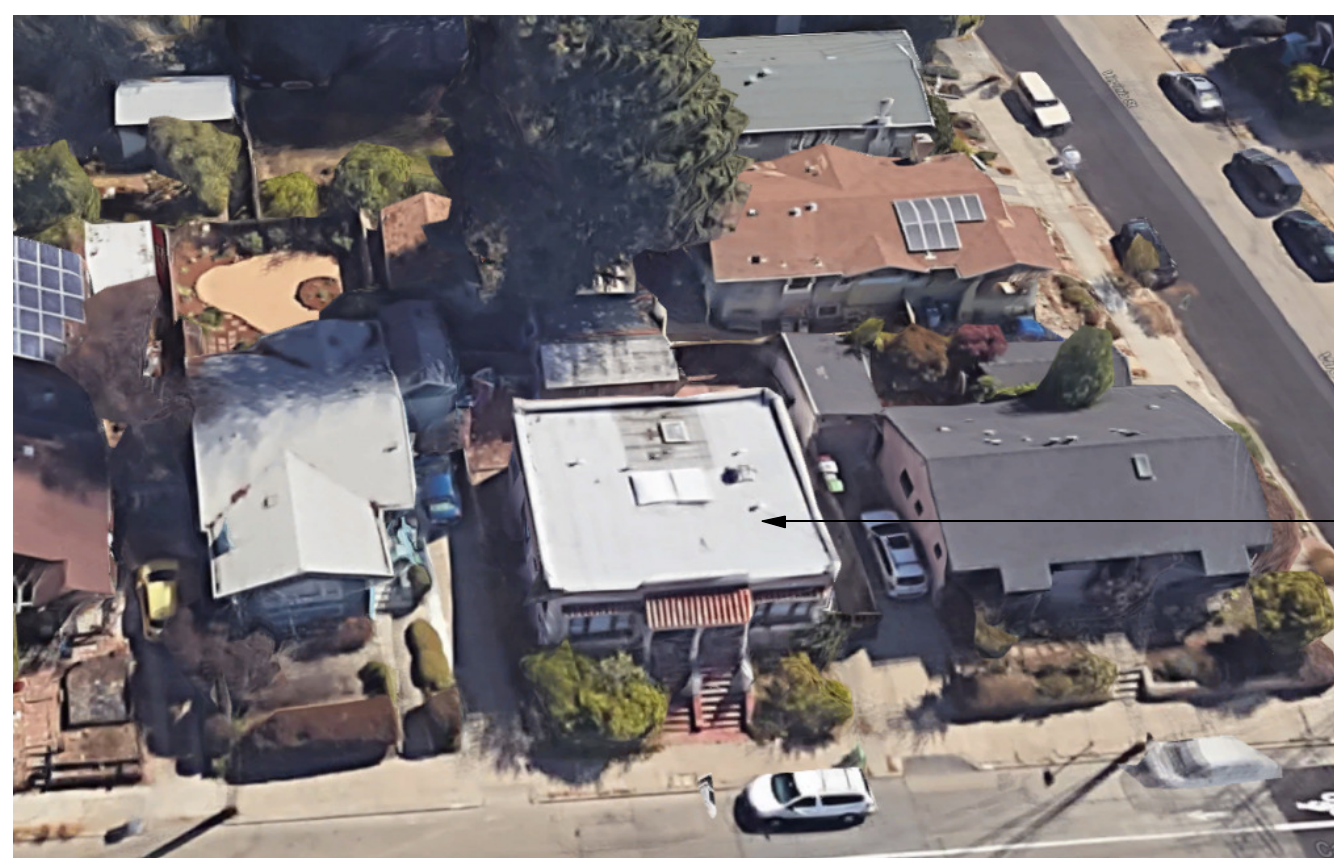
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Sheet **A0.0**

SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



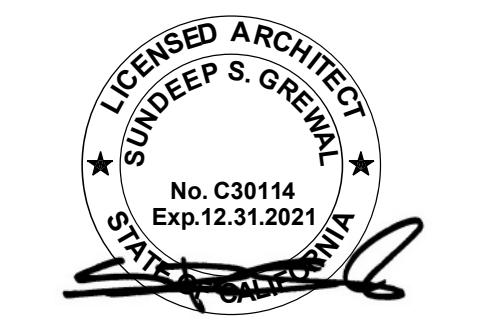
Front and left Side of existing duplex

Tabulations

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



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**OPPENHEIMER  
 RESIDENCE**  
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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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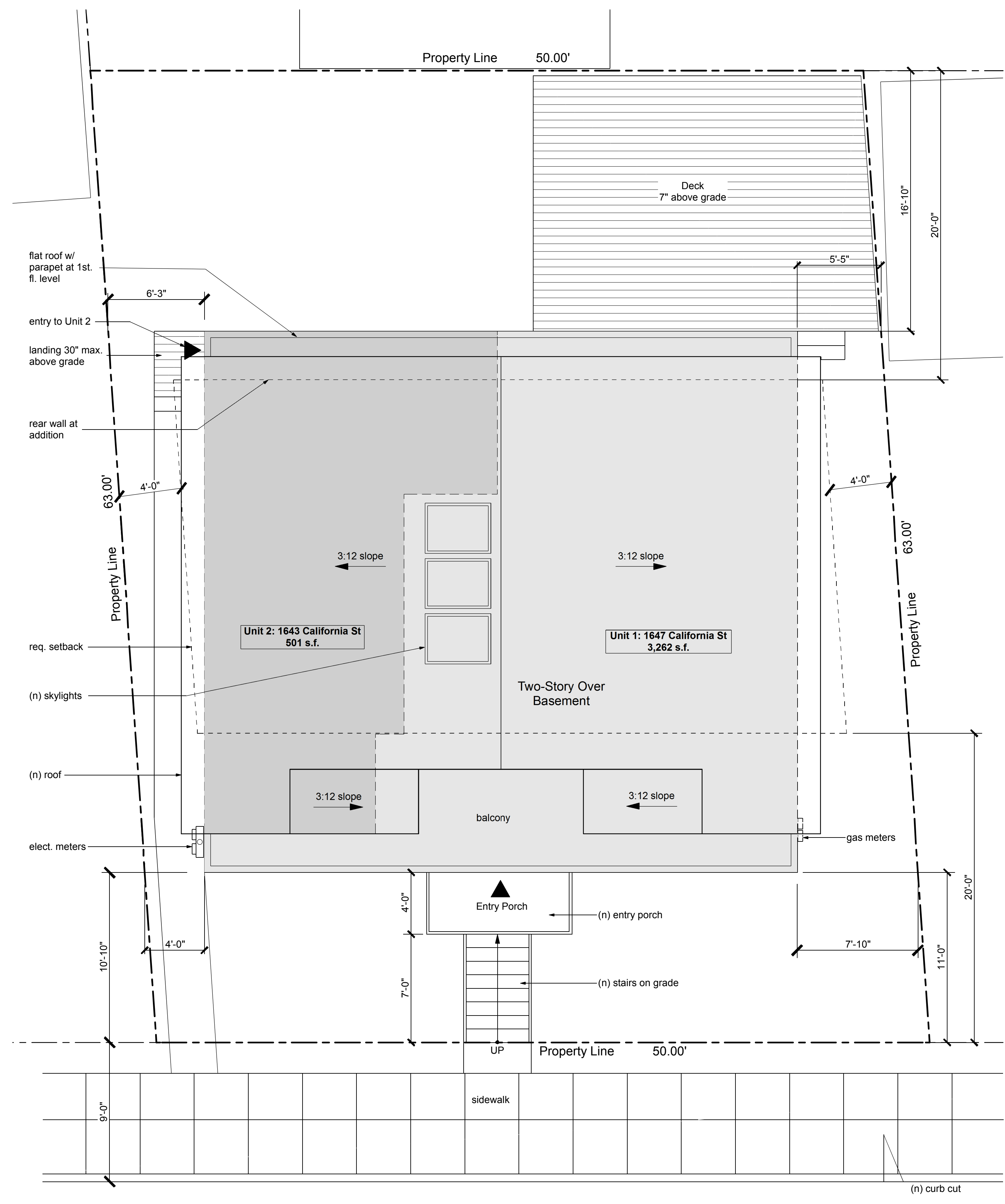
Drawn By:  
 SSG

Checked By:  
 SSG

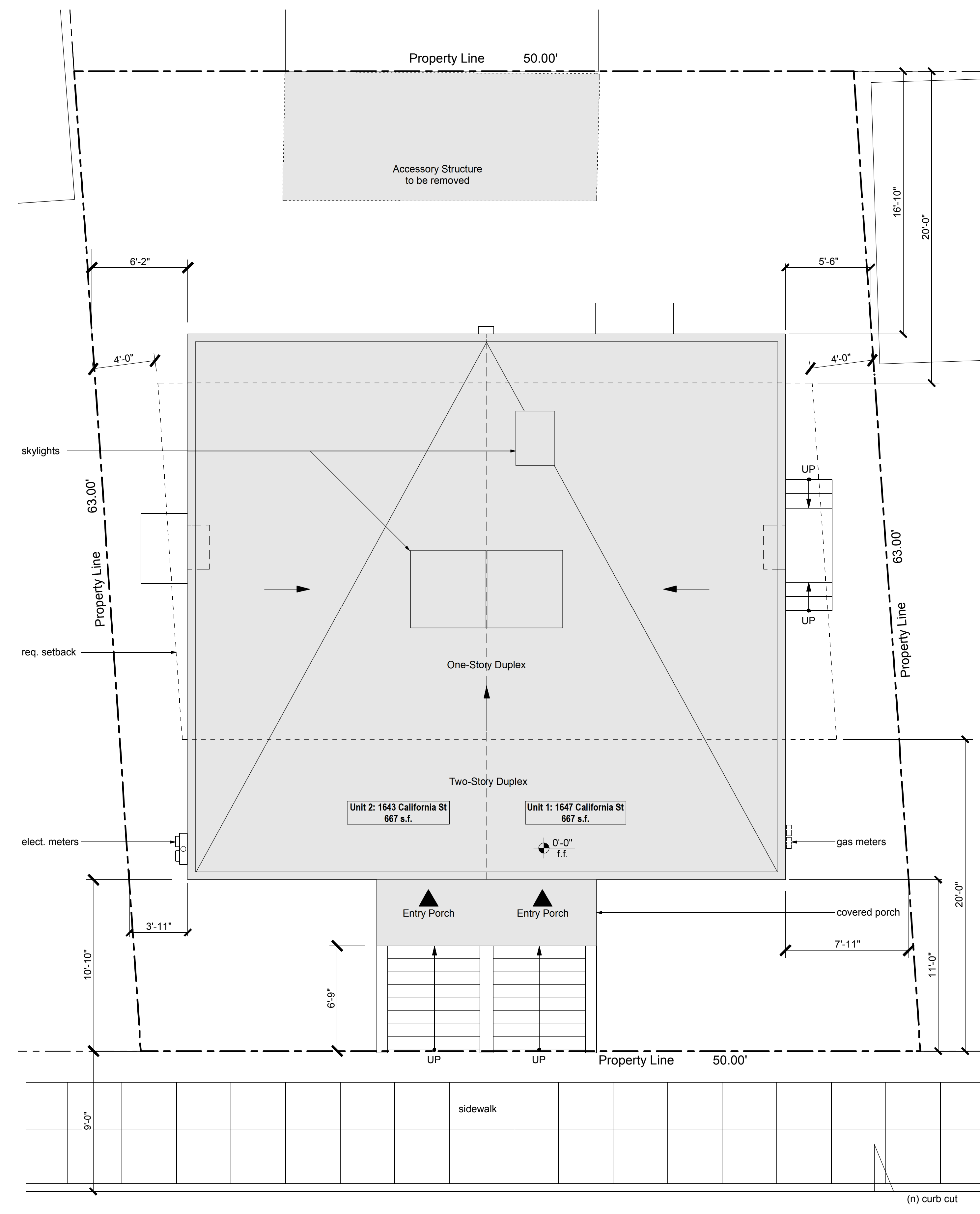
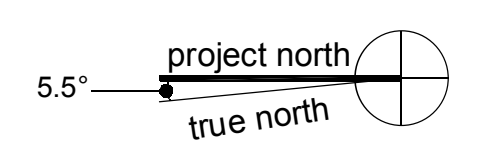
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

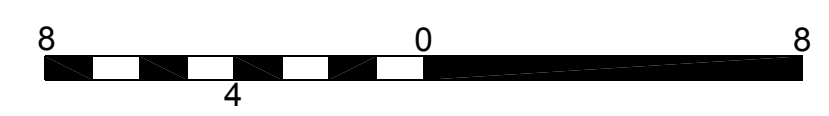
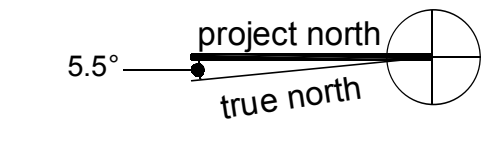
Sheet  
**A0.1**



**2 Proposed Site Plan**

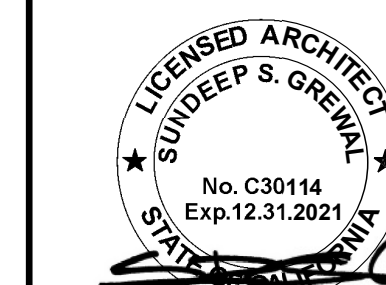


**1 Existing Site Plan**





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Sheet Contents:  
 Site Survey

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 1" = 1'-0"

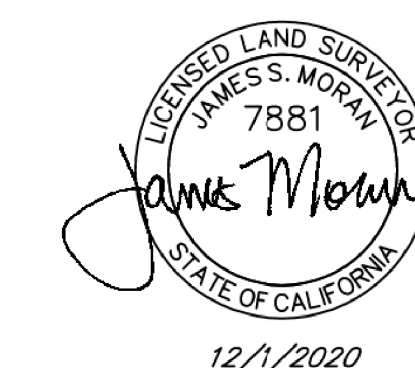
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 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A0.2**

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



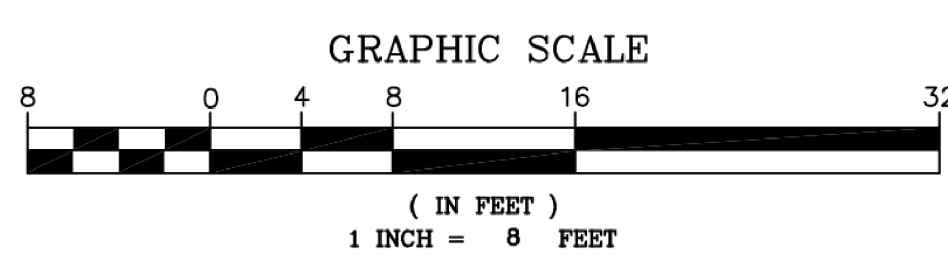
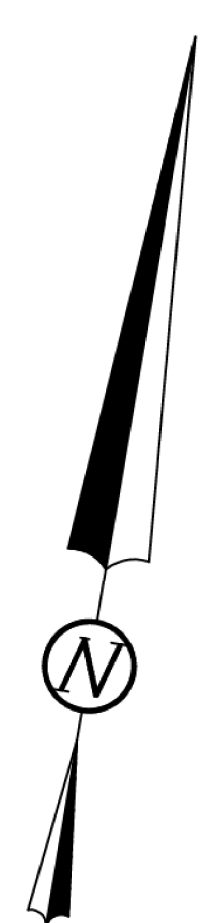
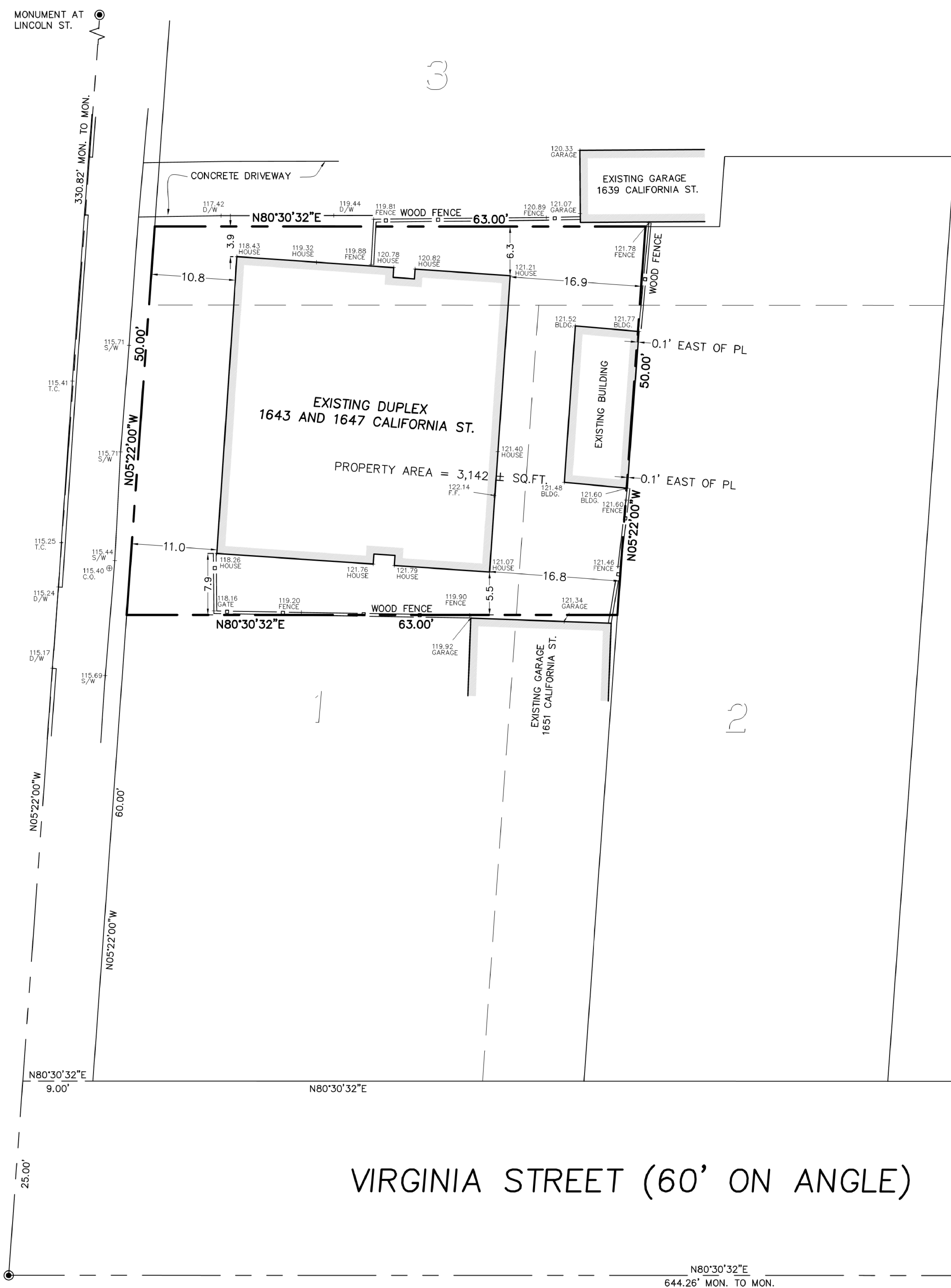
- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
  - BLDG. BUILDING
  - C.O. CLEAN-OUT
  - D/W DRIVEWAY
  - F.H. FIRE HYDRANT
  - J.P. JOINT POLE
  - M.H. MAN HOLE
  - S/W SIDEWALK
  - T.C. TOP OF CURB

**GENERAL NOTES**

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

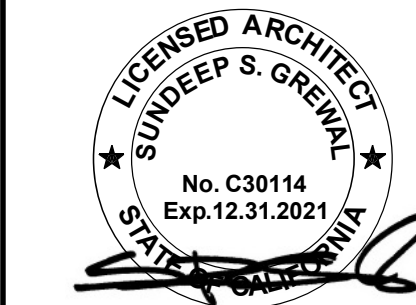
THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.





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Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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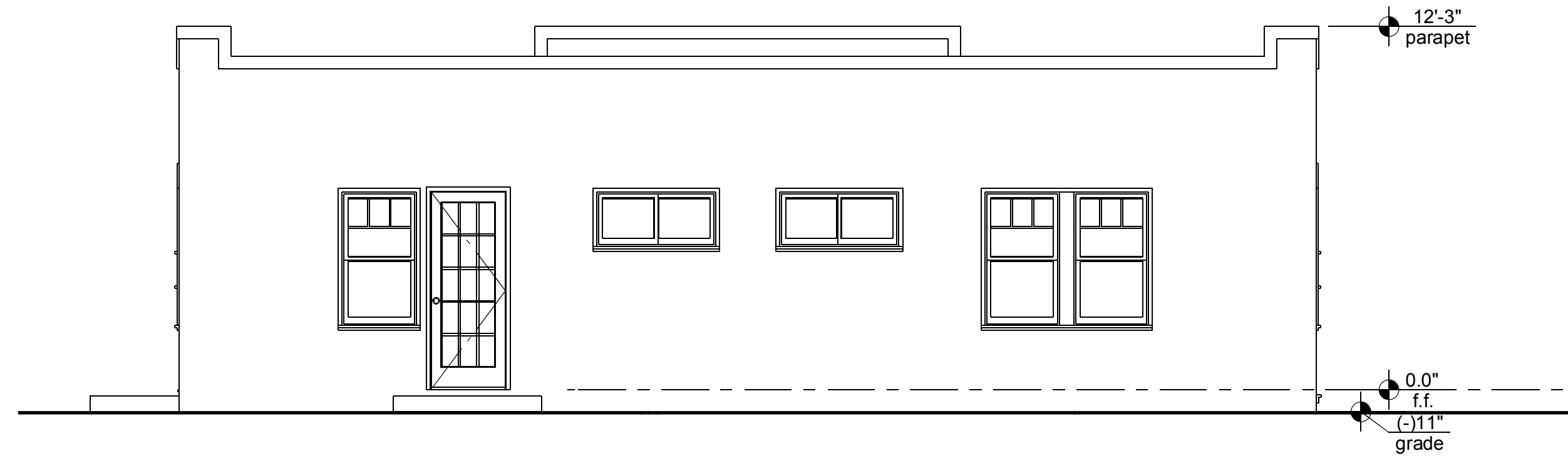
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Checked By: SSG

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

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

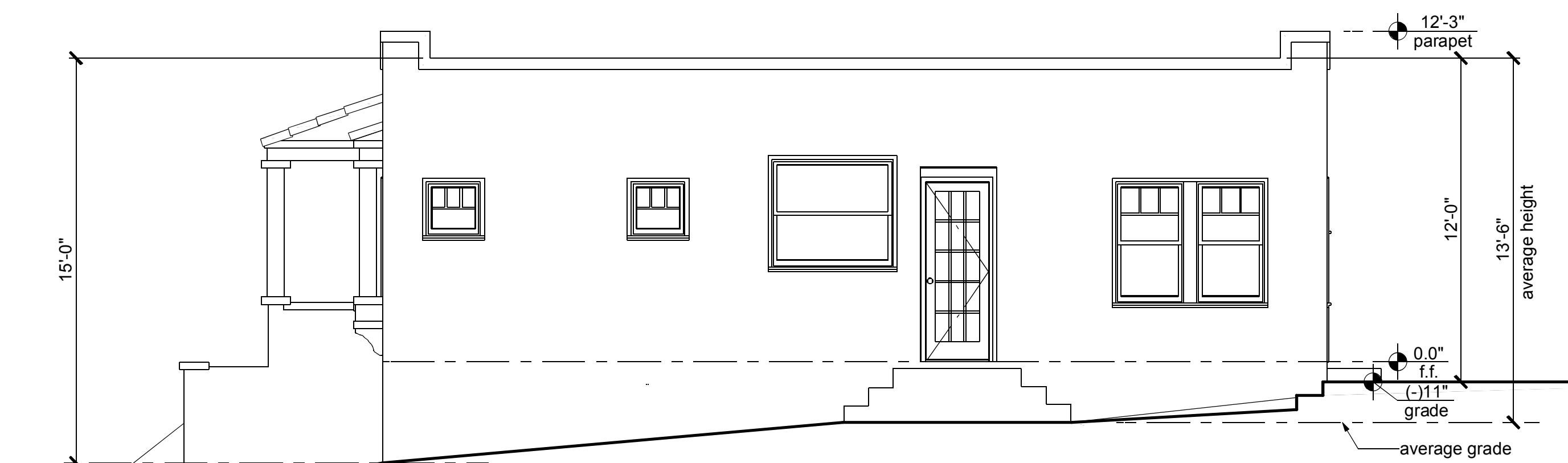
Sheet **A1.1**



5 Existing East Elevation - Rear



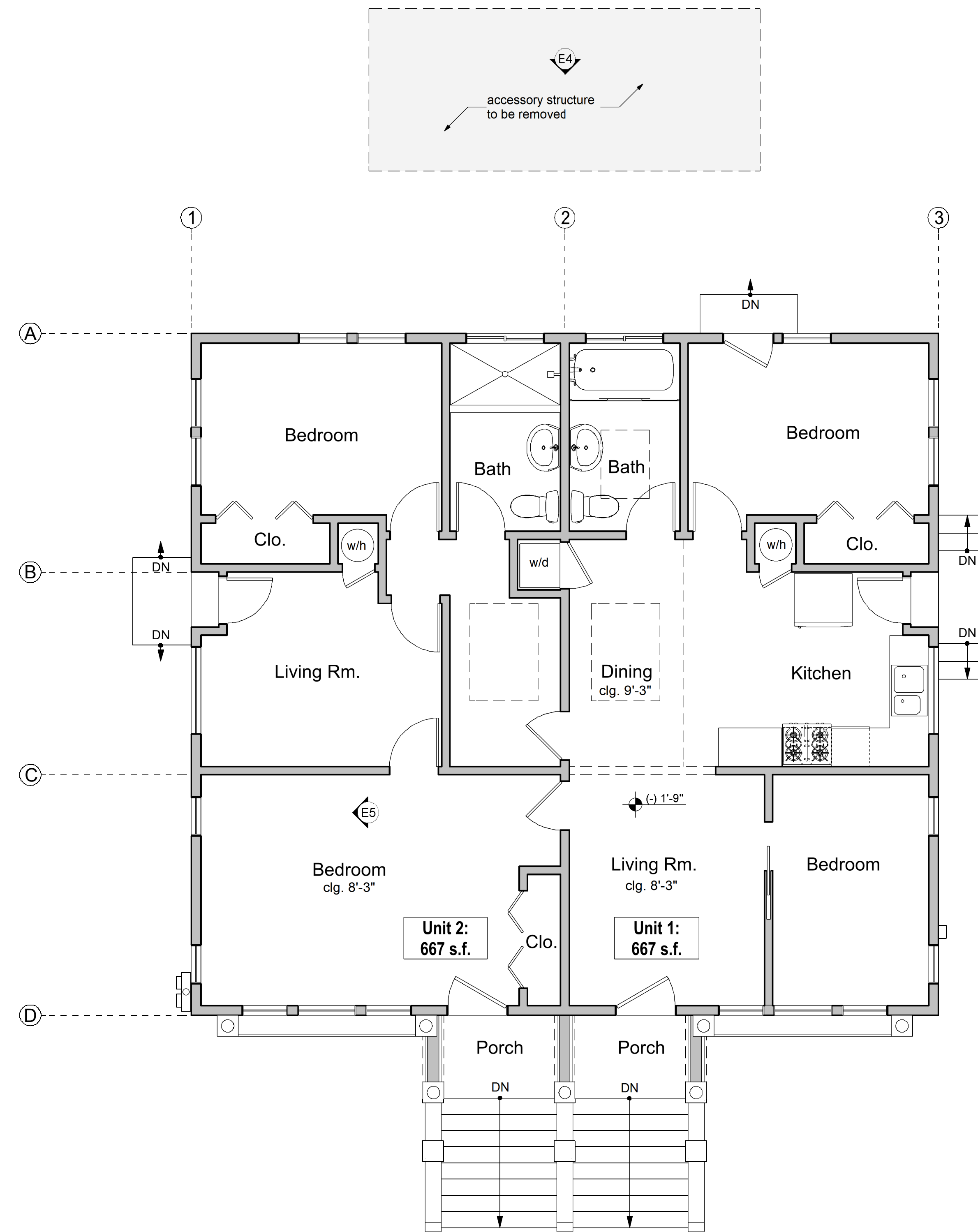
4 Existing North Elevation - Left Side



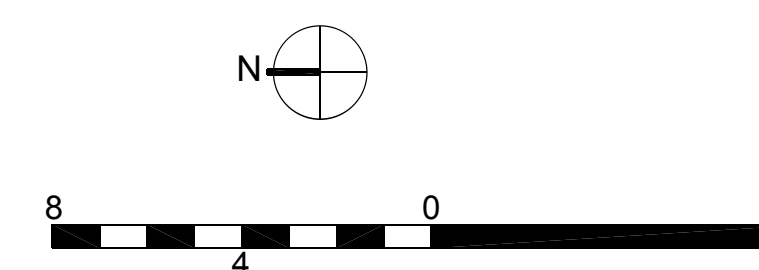
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front

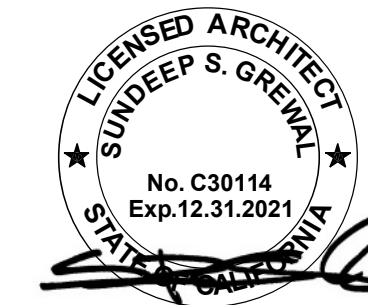


1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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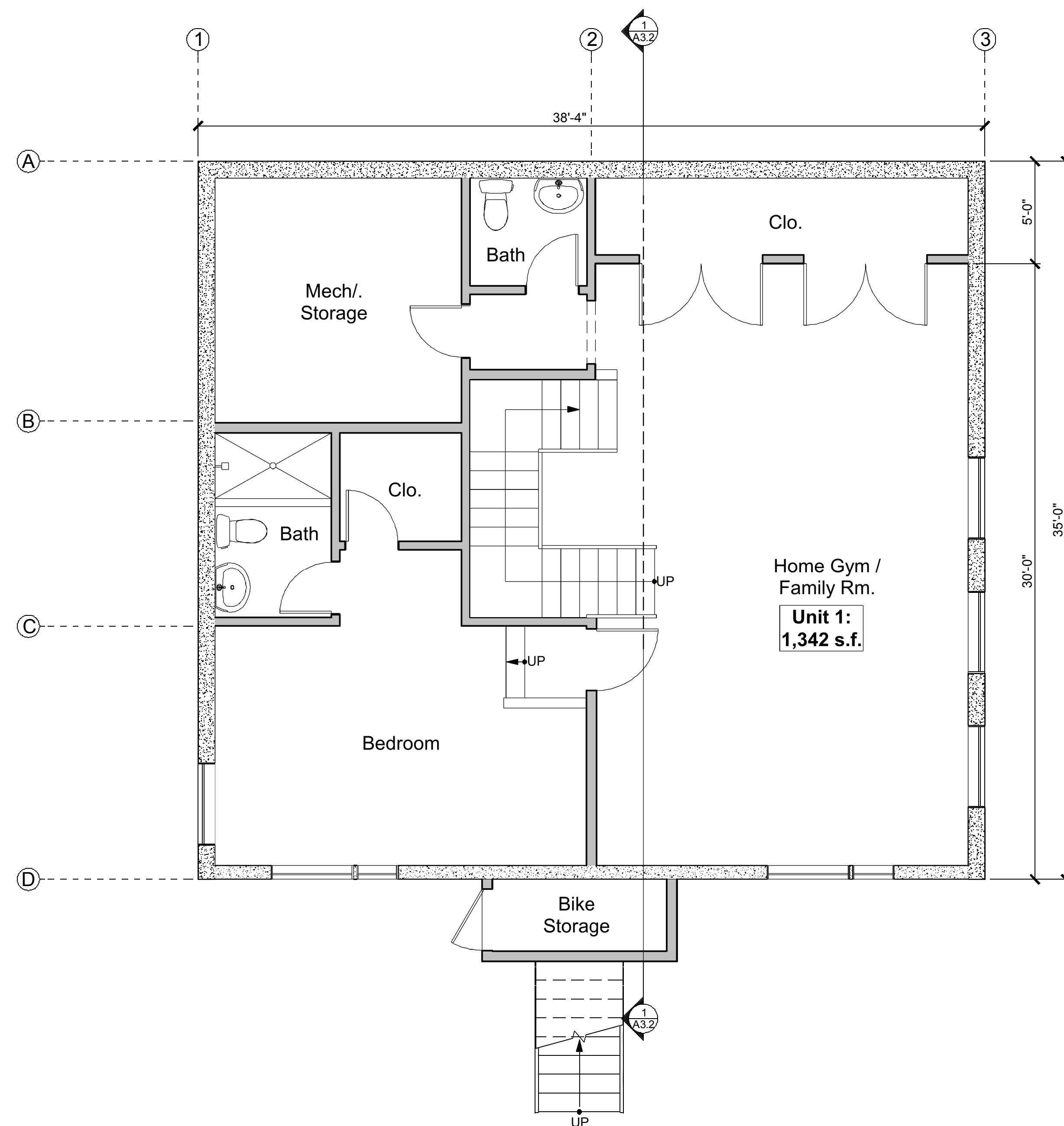
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Checked By: SSG

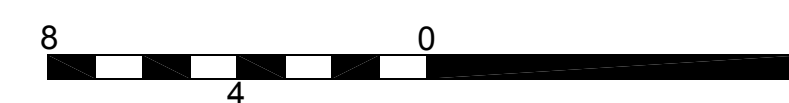
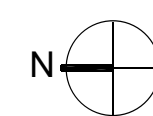
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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A2.1**



1 Proposed Basement Floor Plan





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Sheet Contents:  
 Proposed Floor Plans

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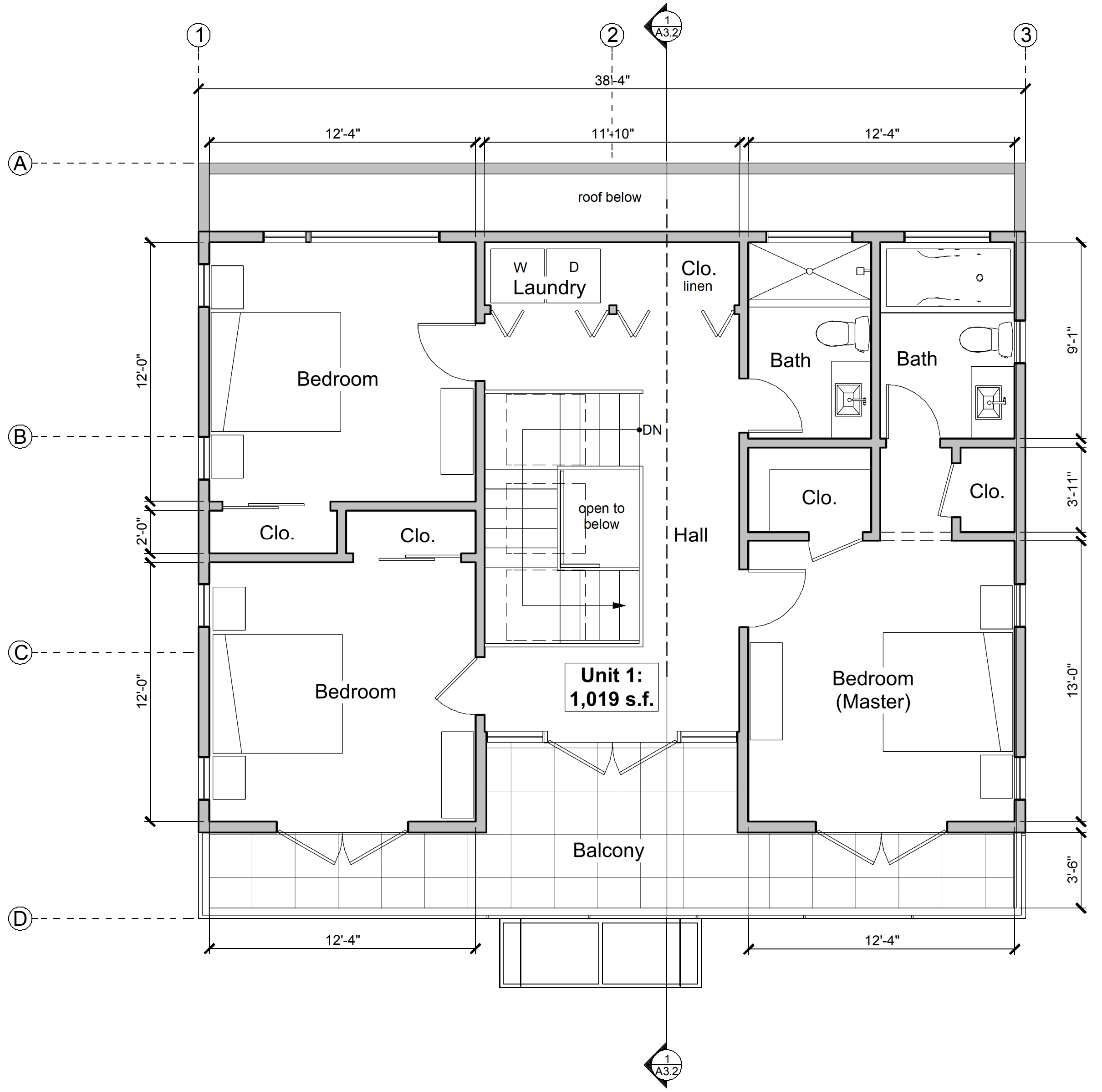
Drawn By: SSG

Checked By: SSG

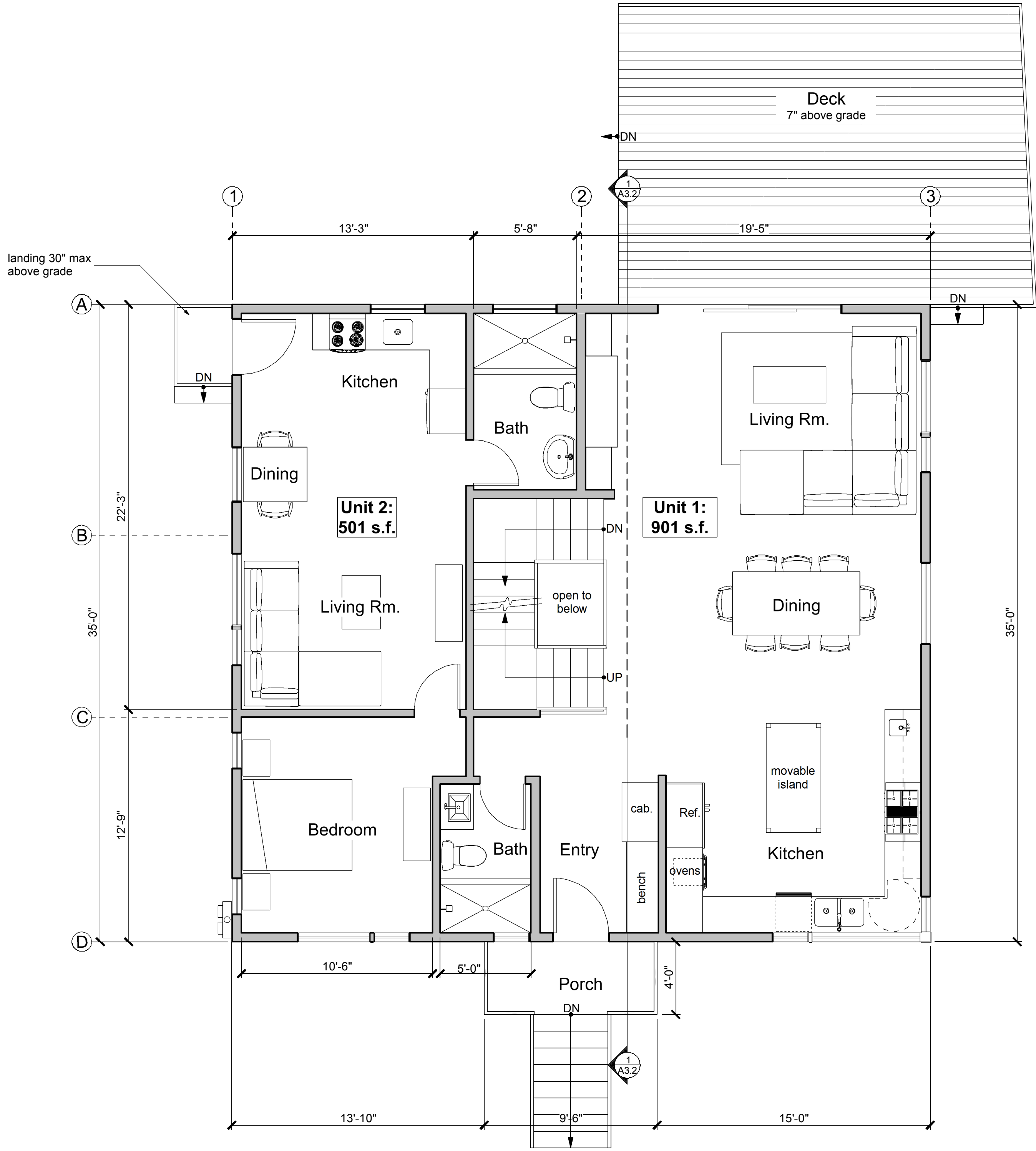
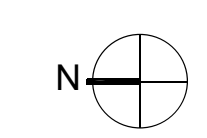
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 Redesign: 5-25-2021  
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 Planning Review: 7-15-2021

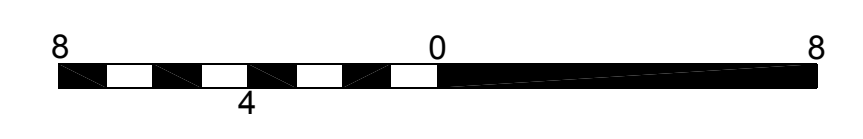
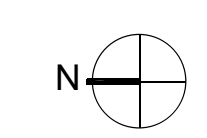
Sheet **A2.2**



2 Proposed Second Floor Plan

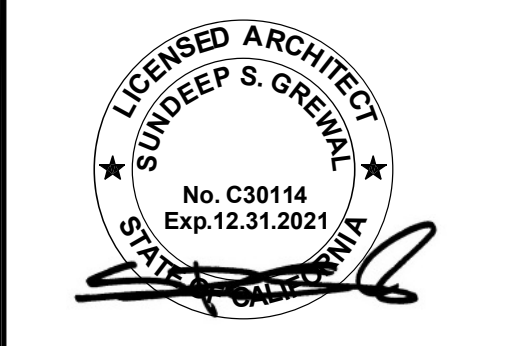


1 Proposed First Floor Plan





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Sheet Contents:  
 Front Elevation Comparison

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Drawn By: SSG

Checked By: SSG

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

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

Sheet **A3.1**



Previous Proposal



Previous Proposal



Previous Proposal



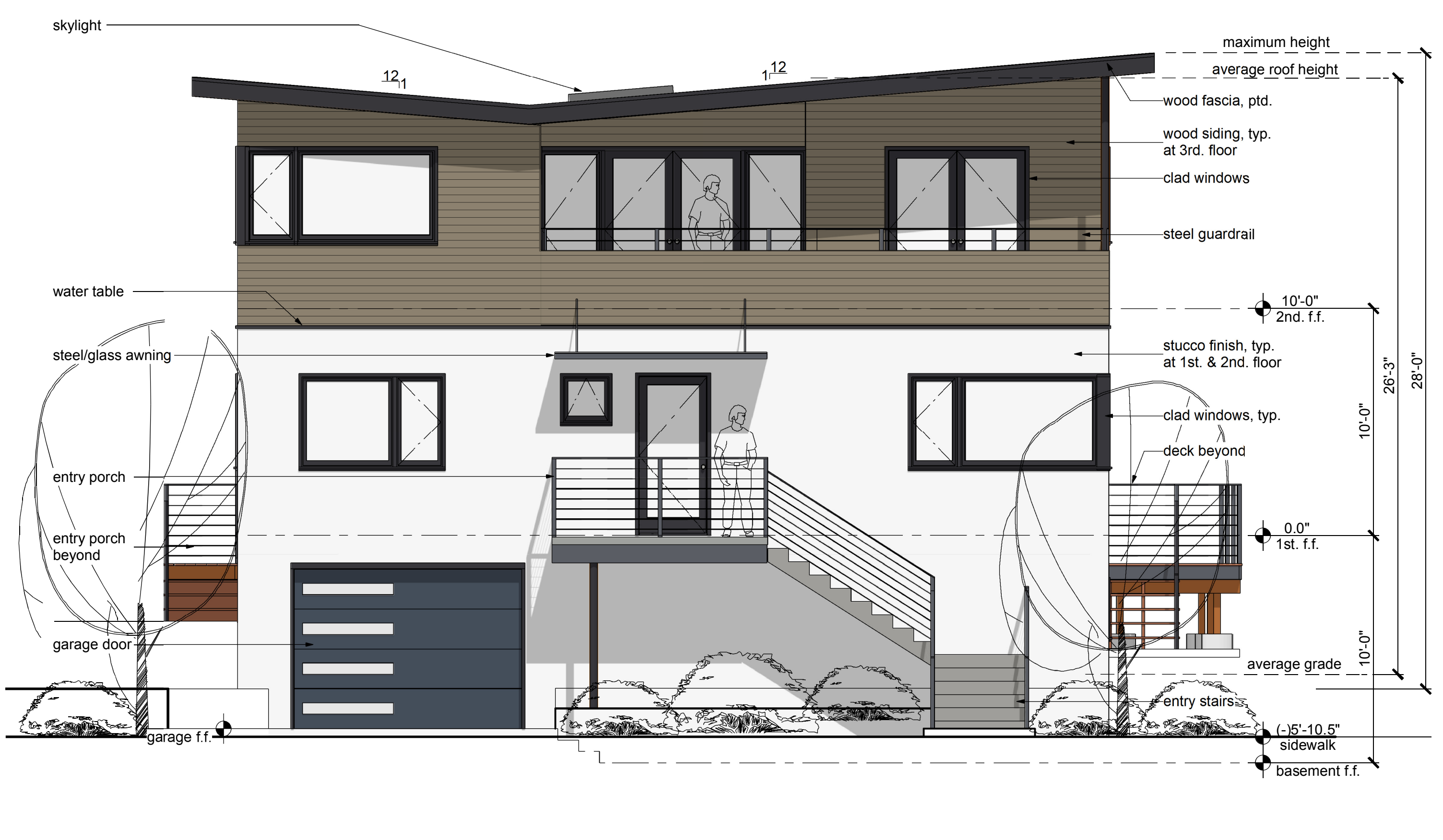
Current Proposal



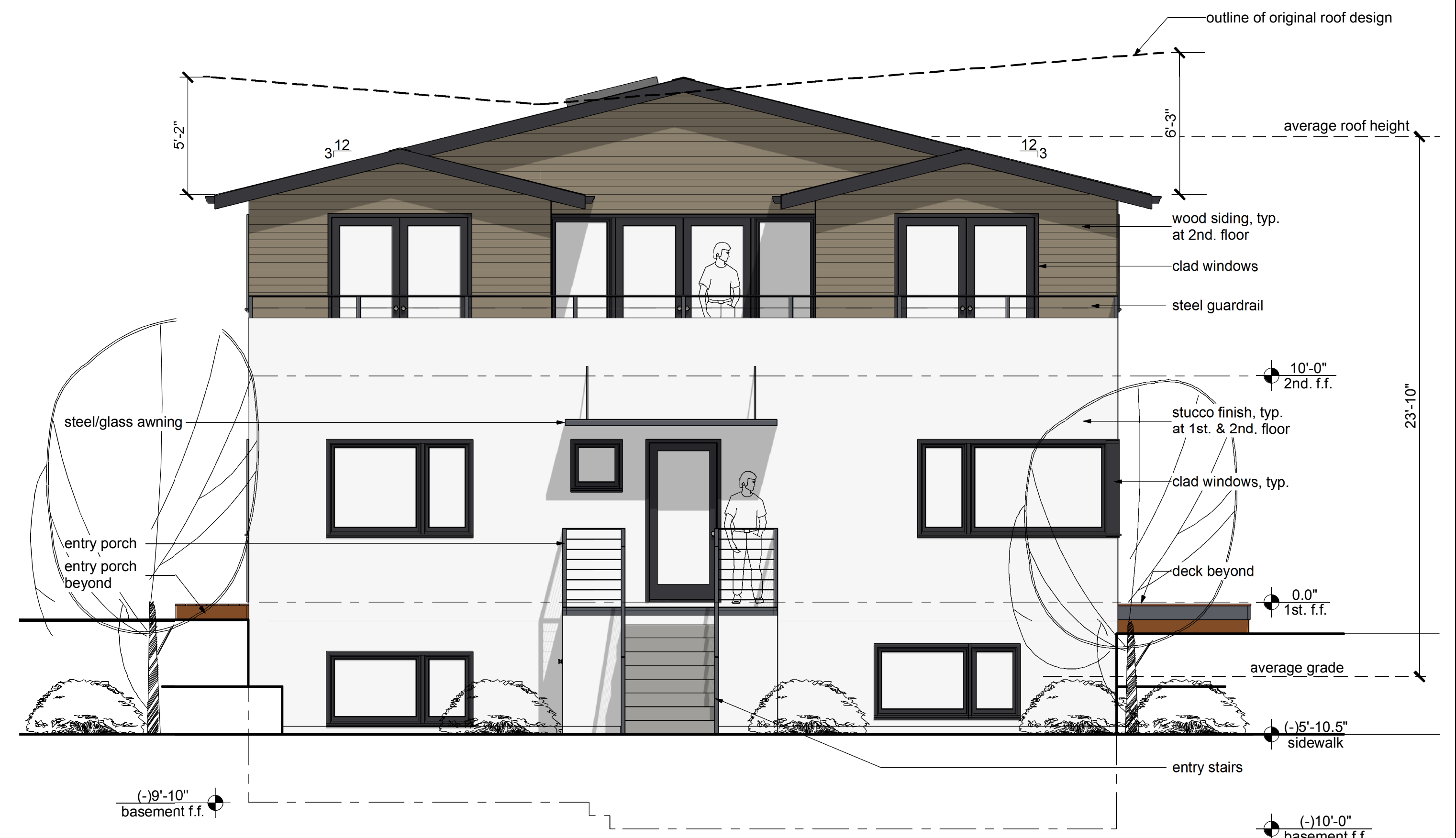
Current Proposal



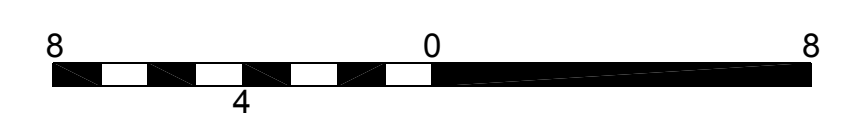
Current Proposal



② Proposed West Elevation - Front Original Proposal

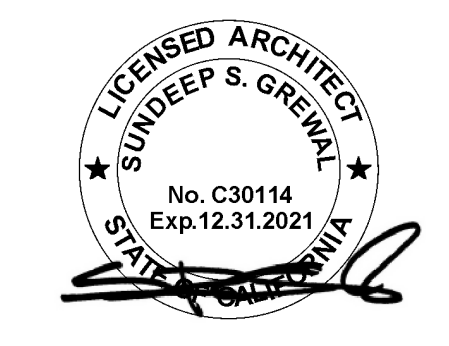


① Proposed West Elevation - Front Current Proposal





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Sheet Contents:  
 Proposed Exterior Elevations

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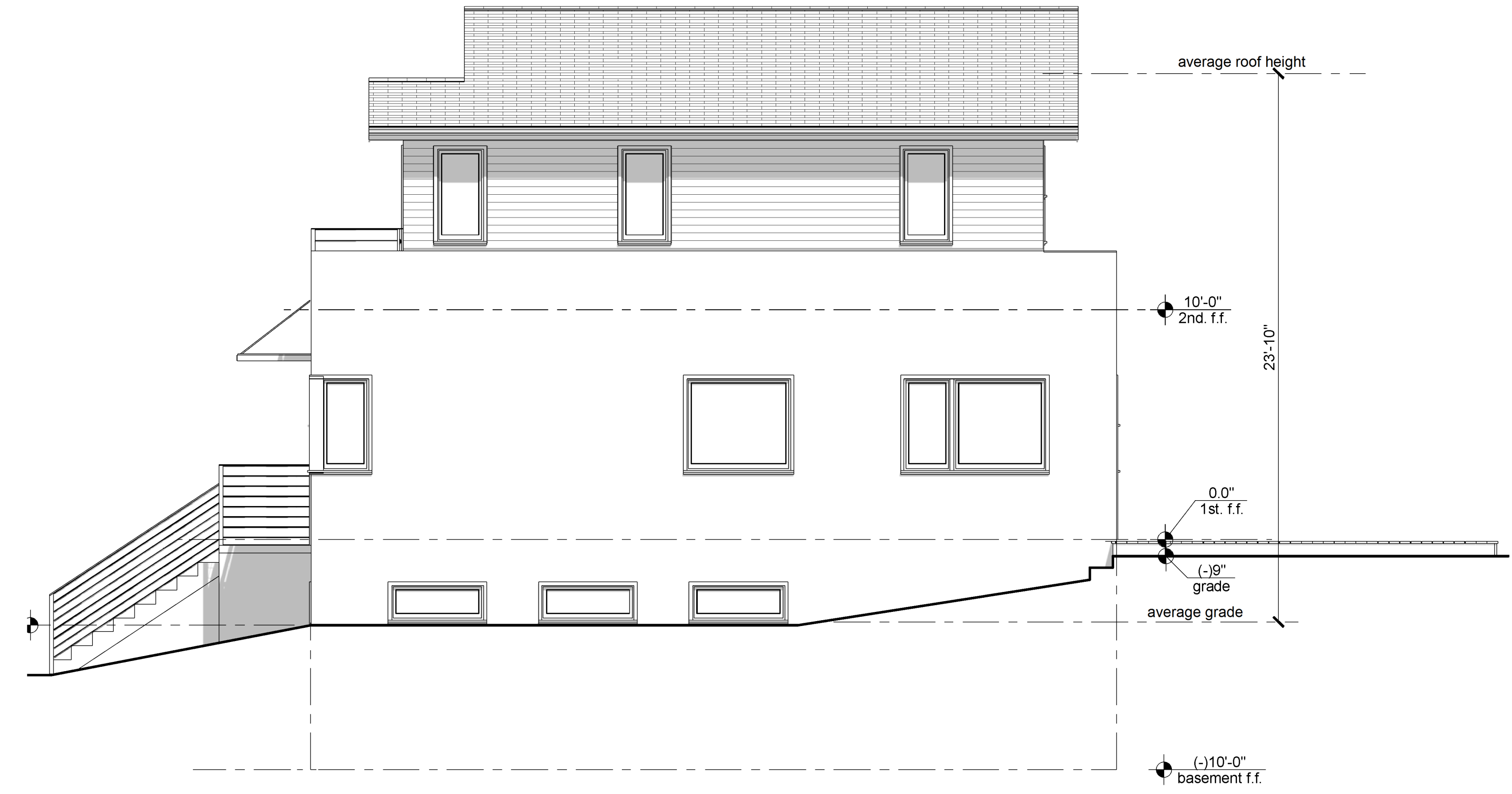
Drawn By: SSG

Checked By: SSG

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

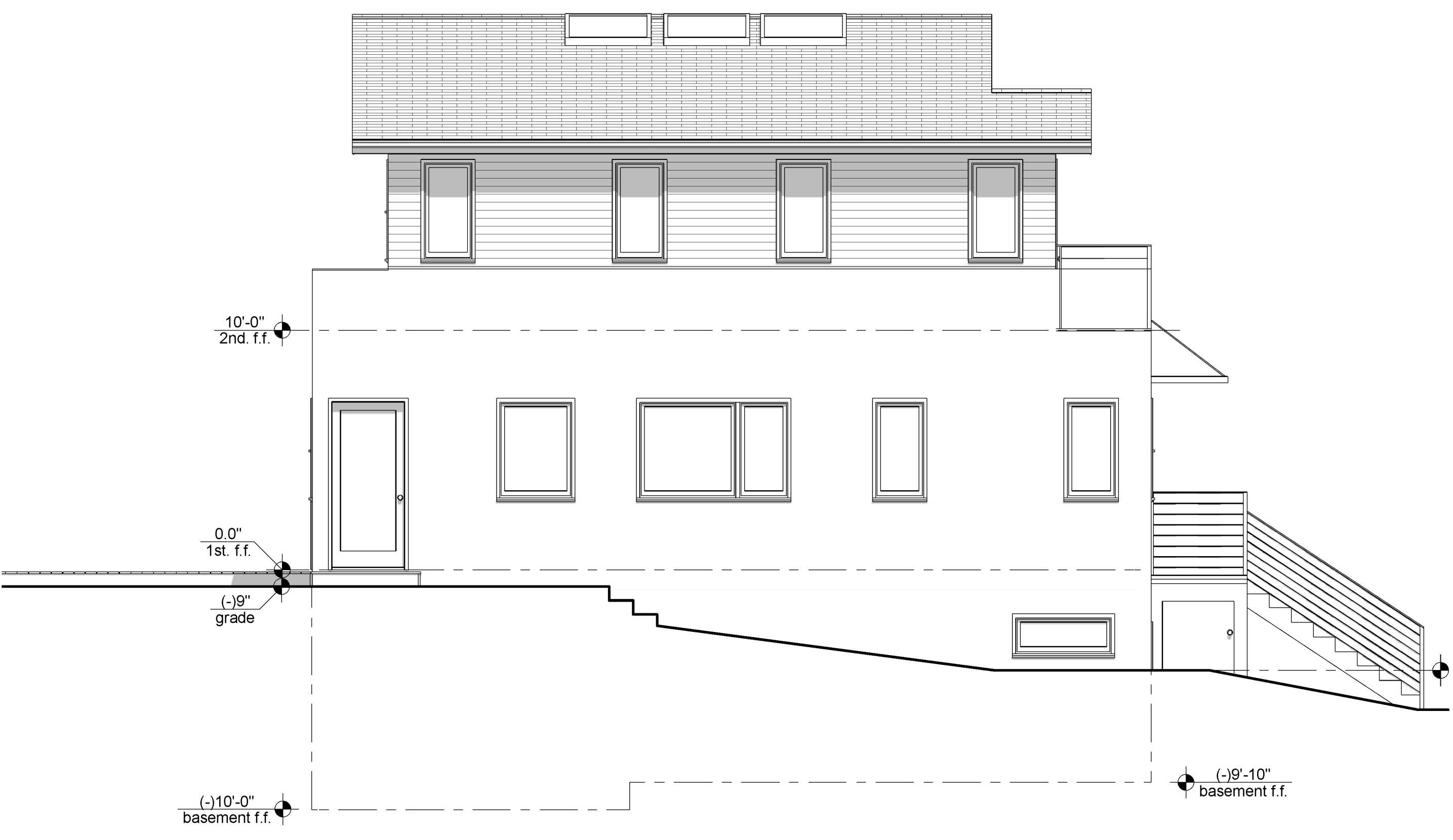
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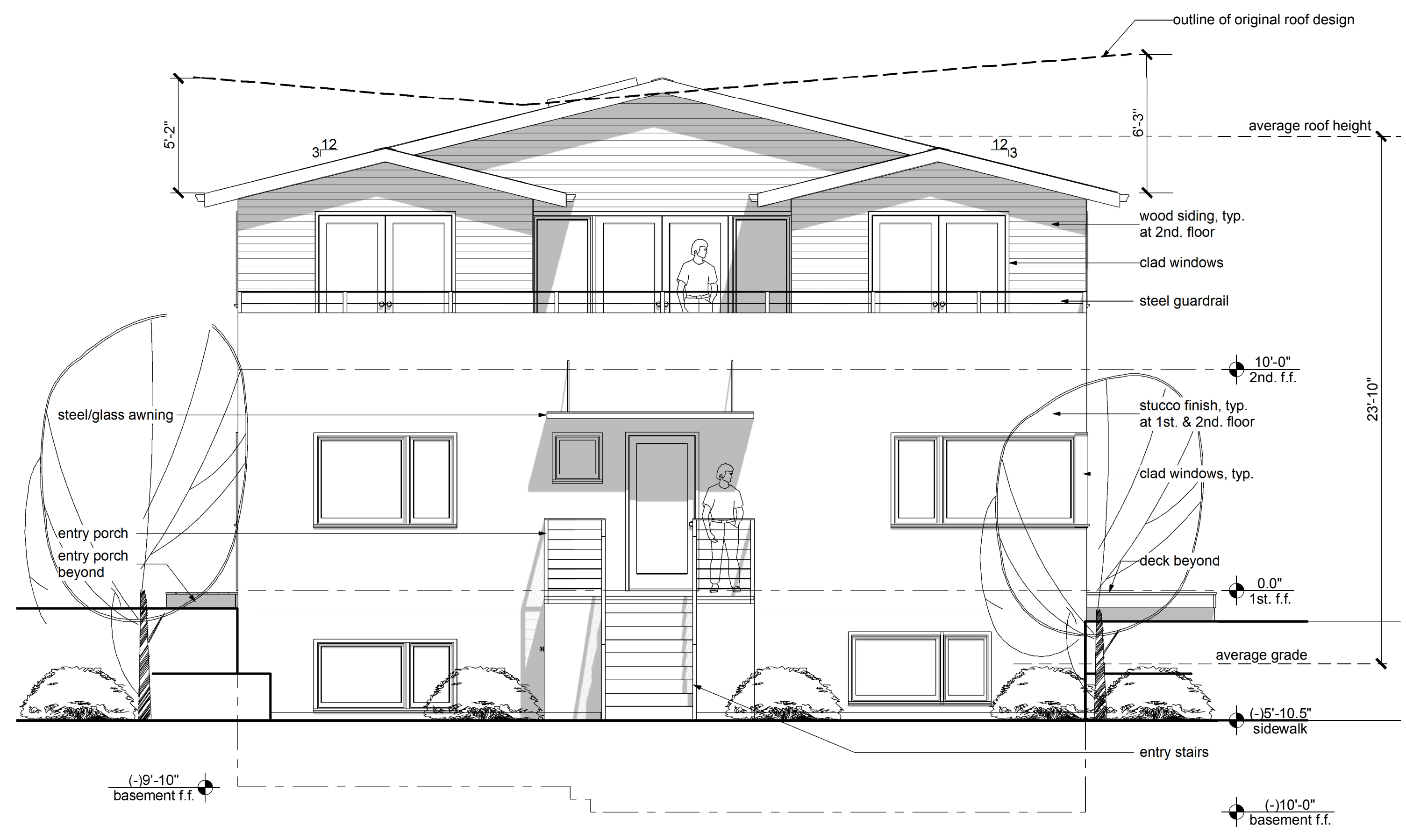
4 Proposed South Elevation - Right Side



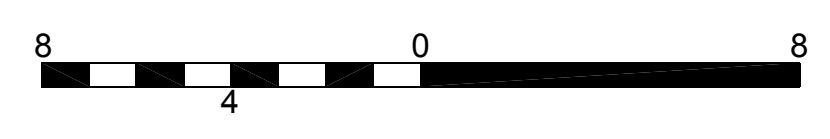
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



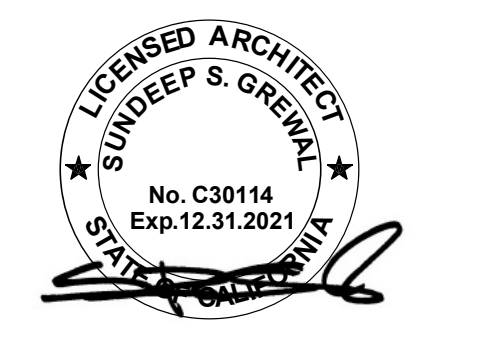




2 Renderings



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Sheet Contents:  
 Building Section  
 Renderings

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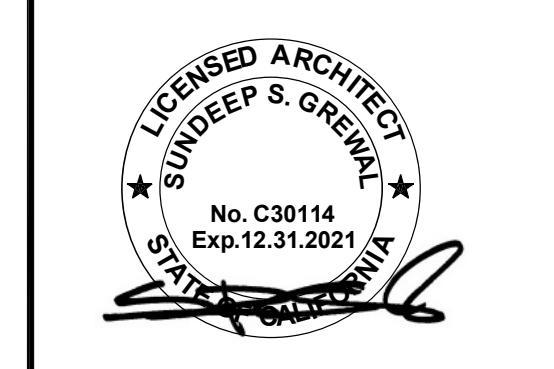


1 Proposed Building Section



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Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420  
 Drawn By: SSG  
 Checked By: SSG  
 Scale: NTS  
 Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Existing Shadow Line  
 New Shadow Line



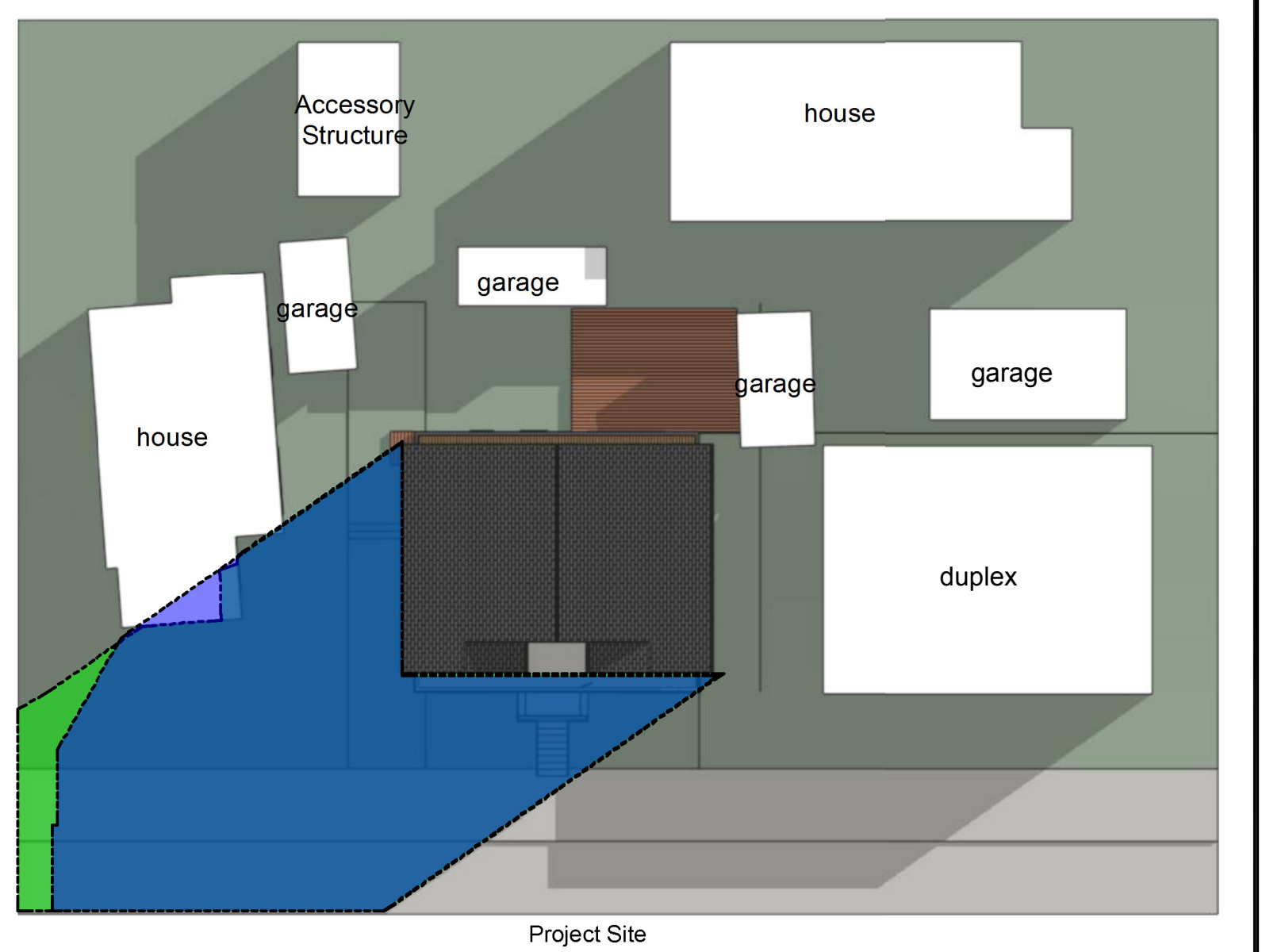
Proposed

12-21-2021 / 2:54 pm



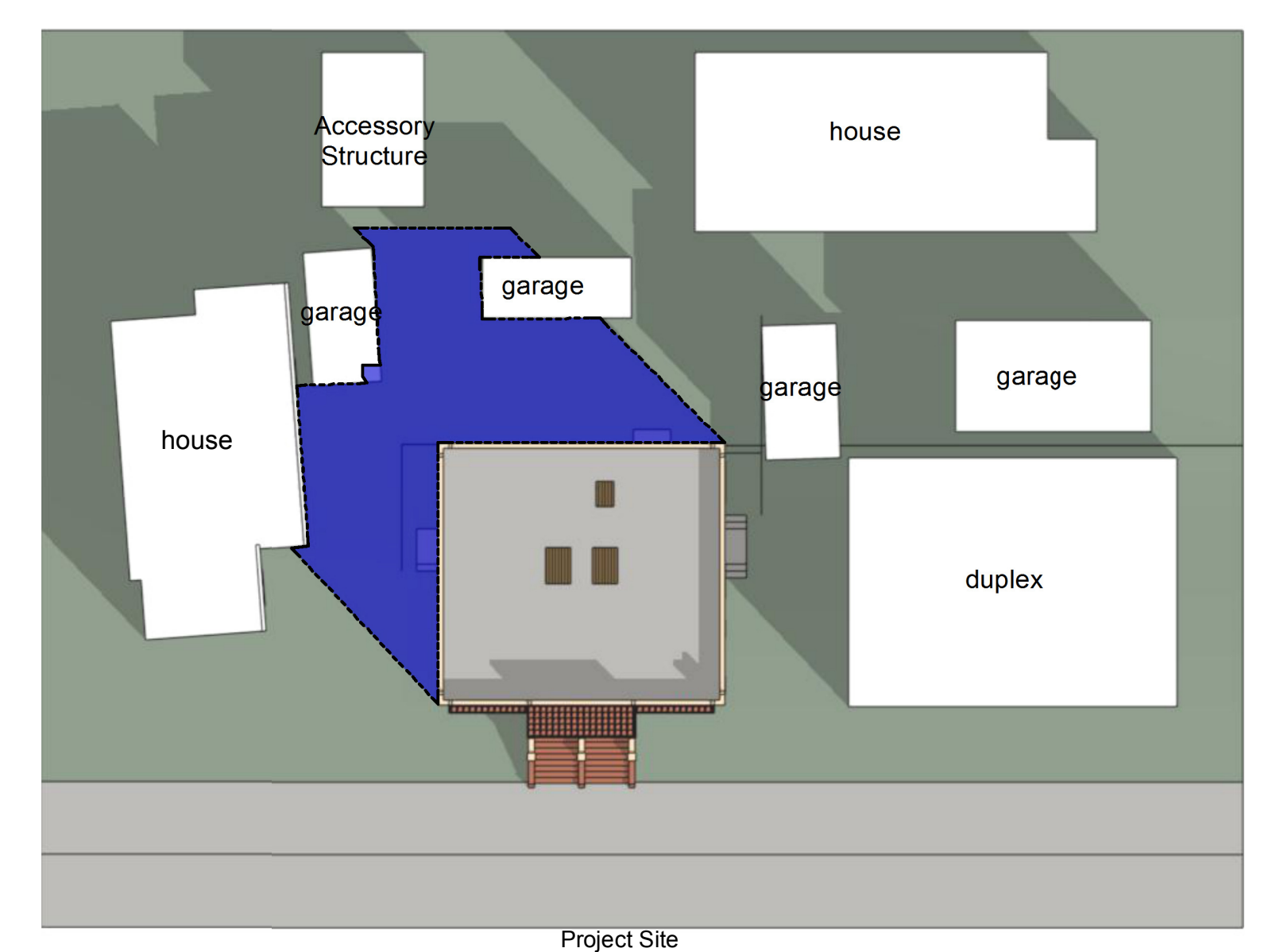
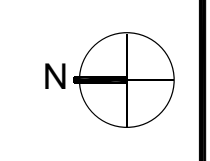
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12-21-2021 / 12:00 pm



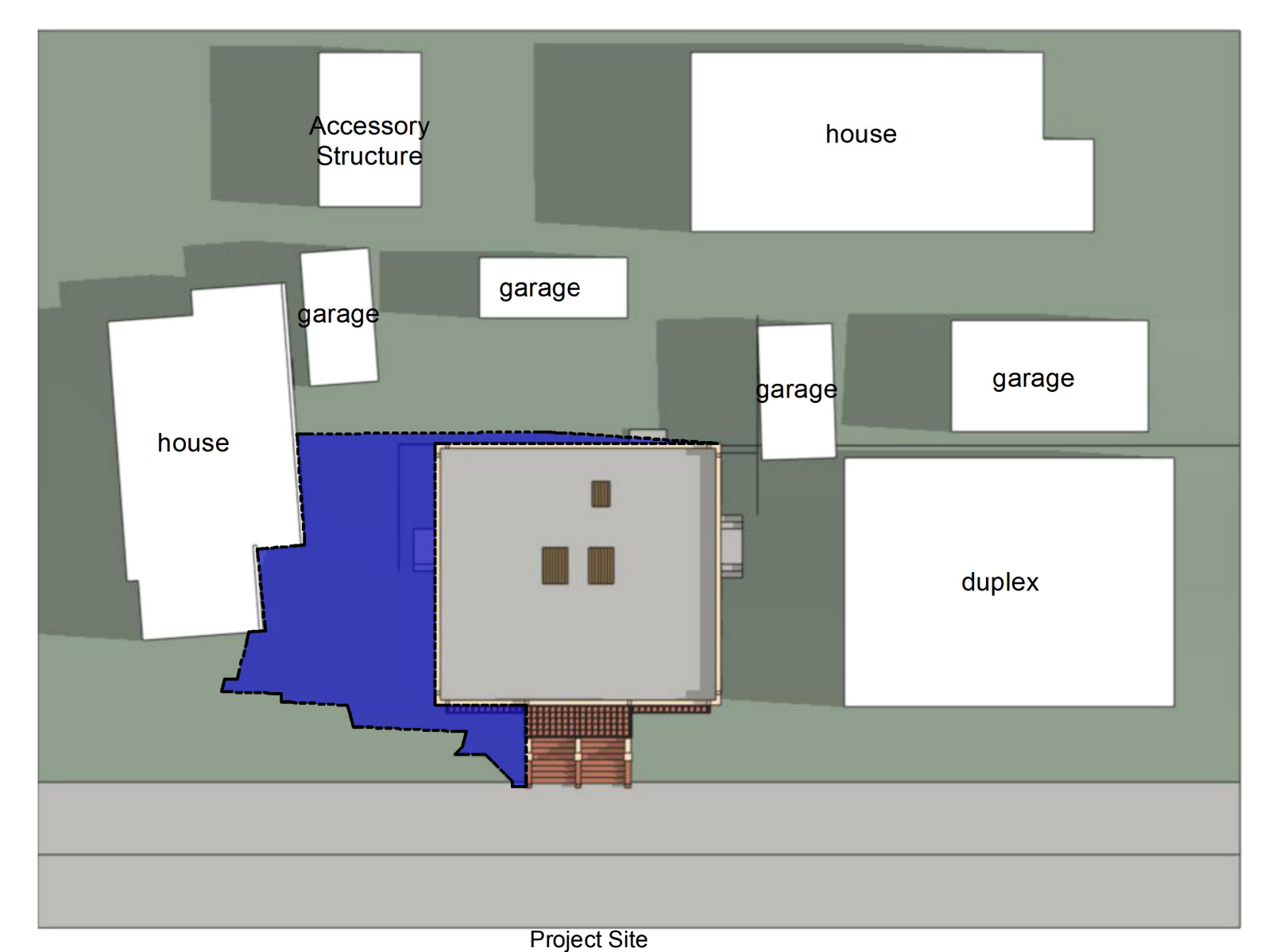
Proposed

12-21-2021 / 9:21 am



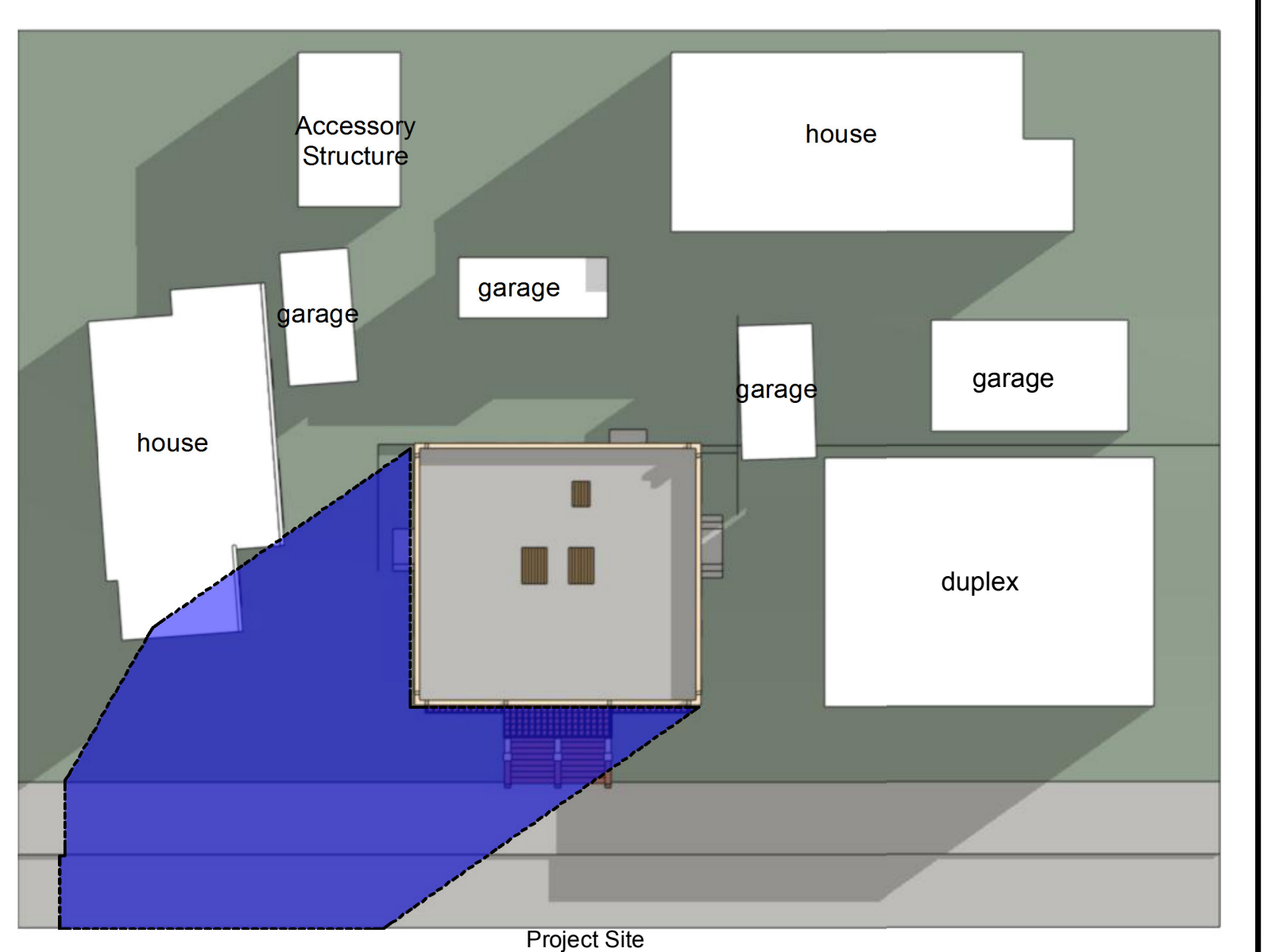
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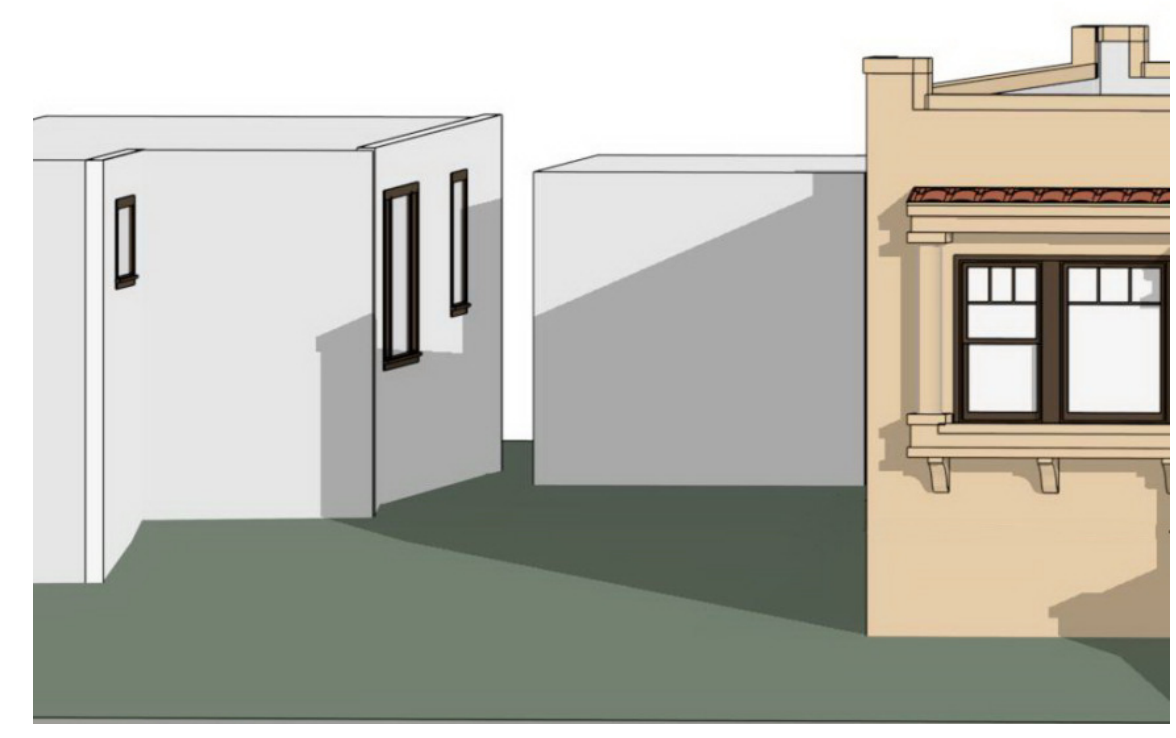
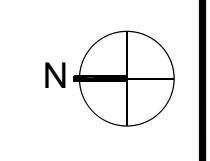
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12-21-2021 / 12:00 pm



Existing

12-21-2021 / 9:21 am



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



Actual  
 12-08-2020 / 3:00 pm

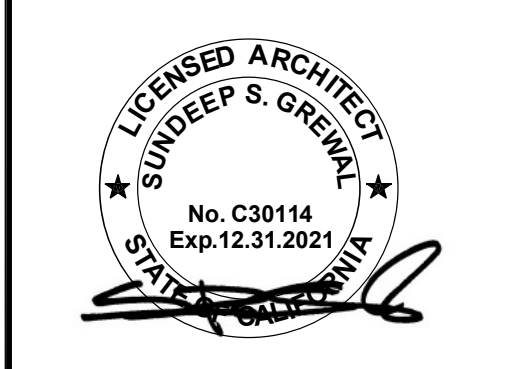
Shadow Accuracy Simulation

Sheet  
**A4.1**

Existing Shadow Line  
 New Shadow Line



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 Shadows Studies

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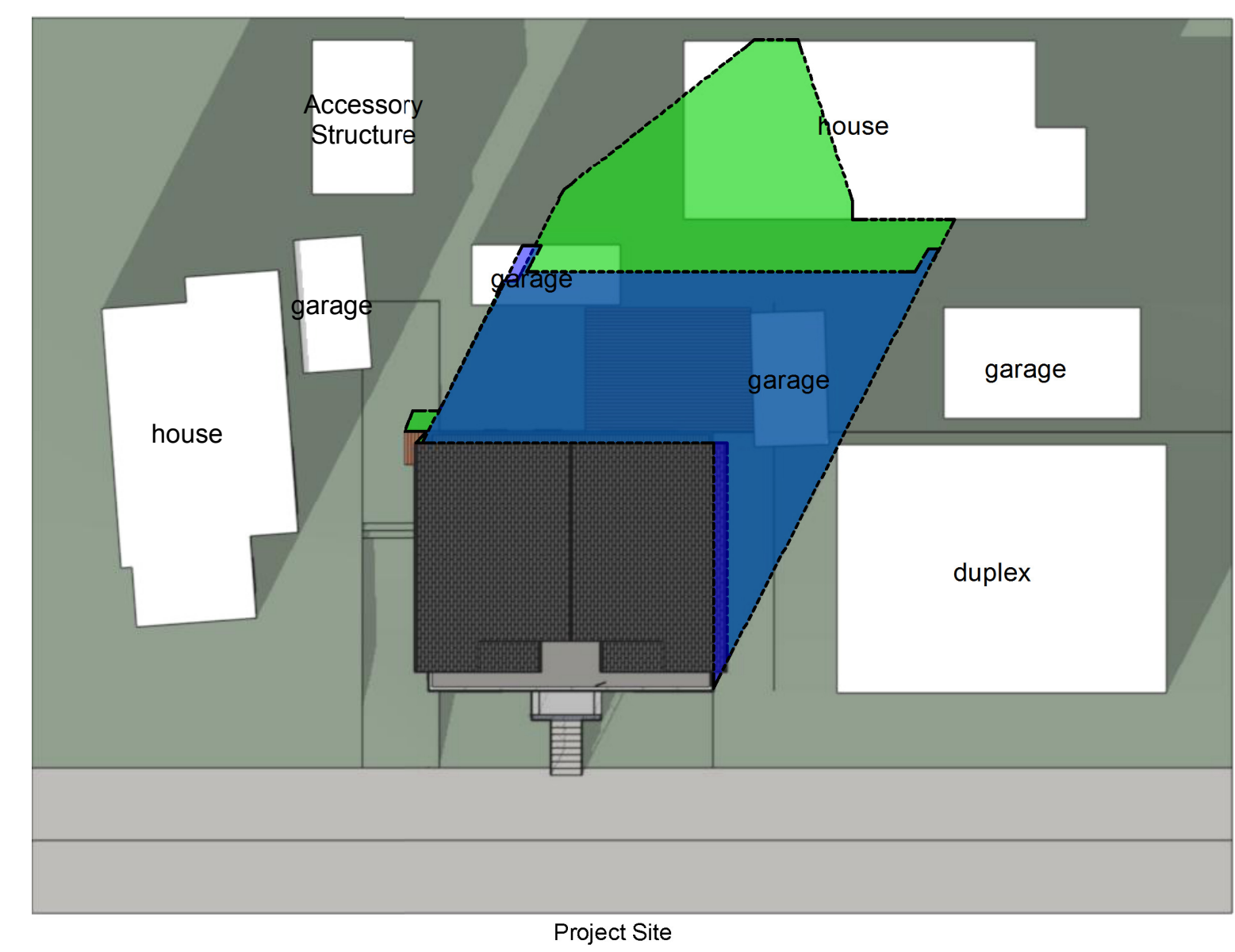
Drawn By:  
 SSG

Checked By:  
 SSG

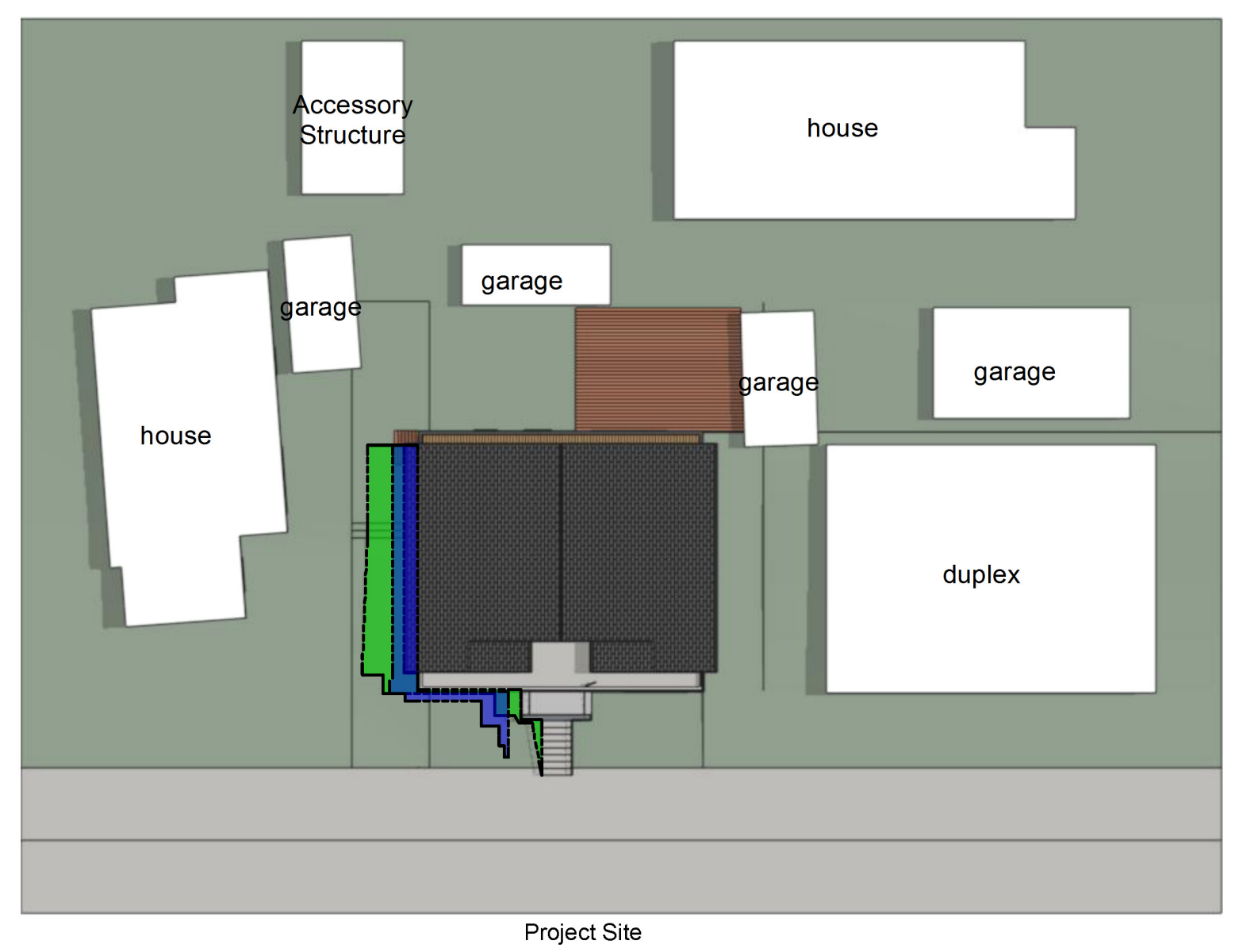
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

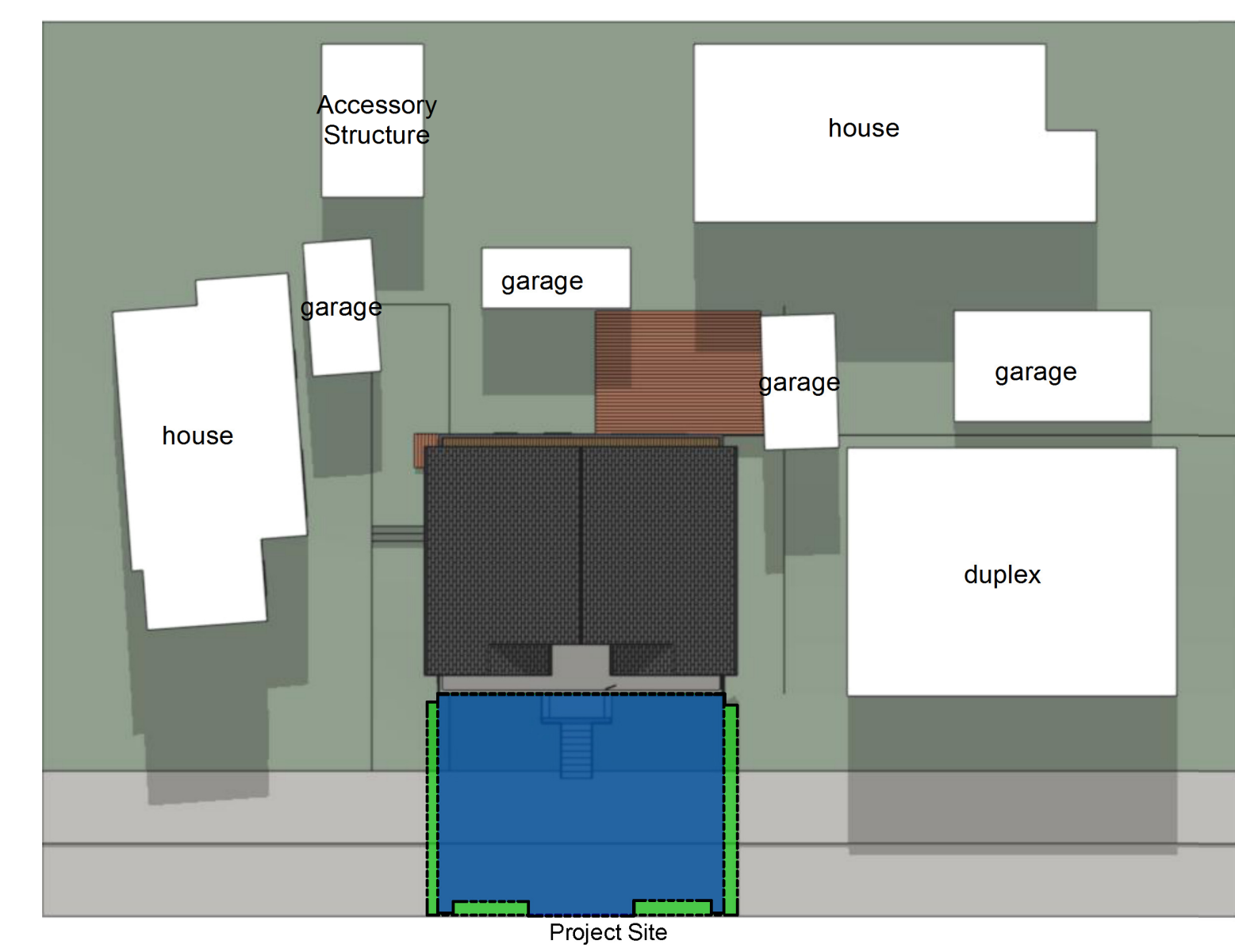
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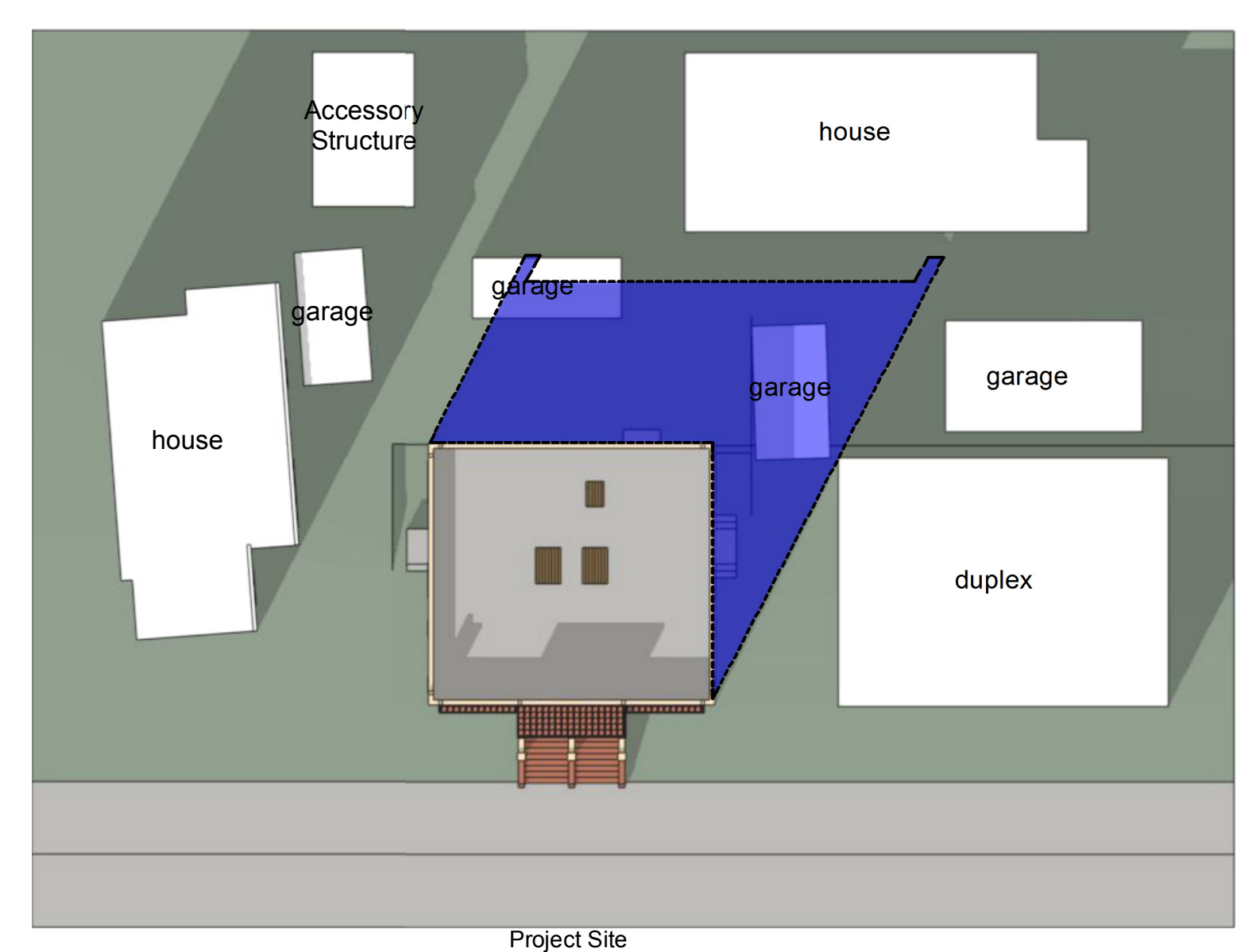
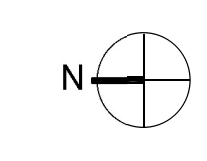
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**6-21-2021 / 6:35 pm**



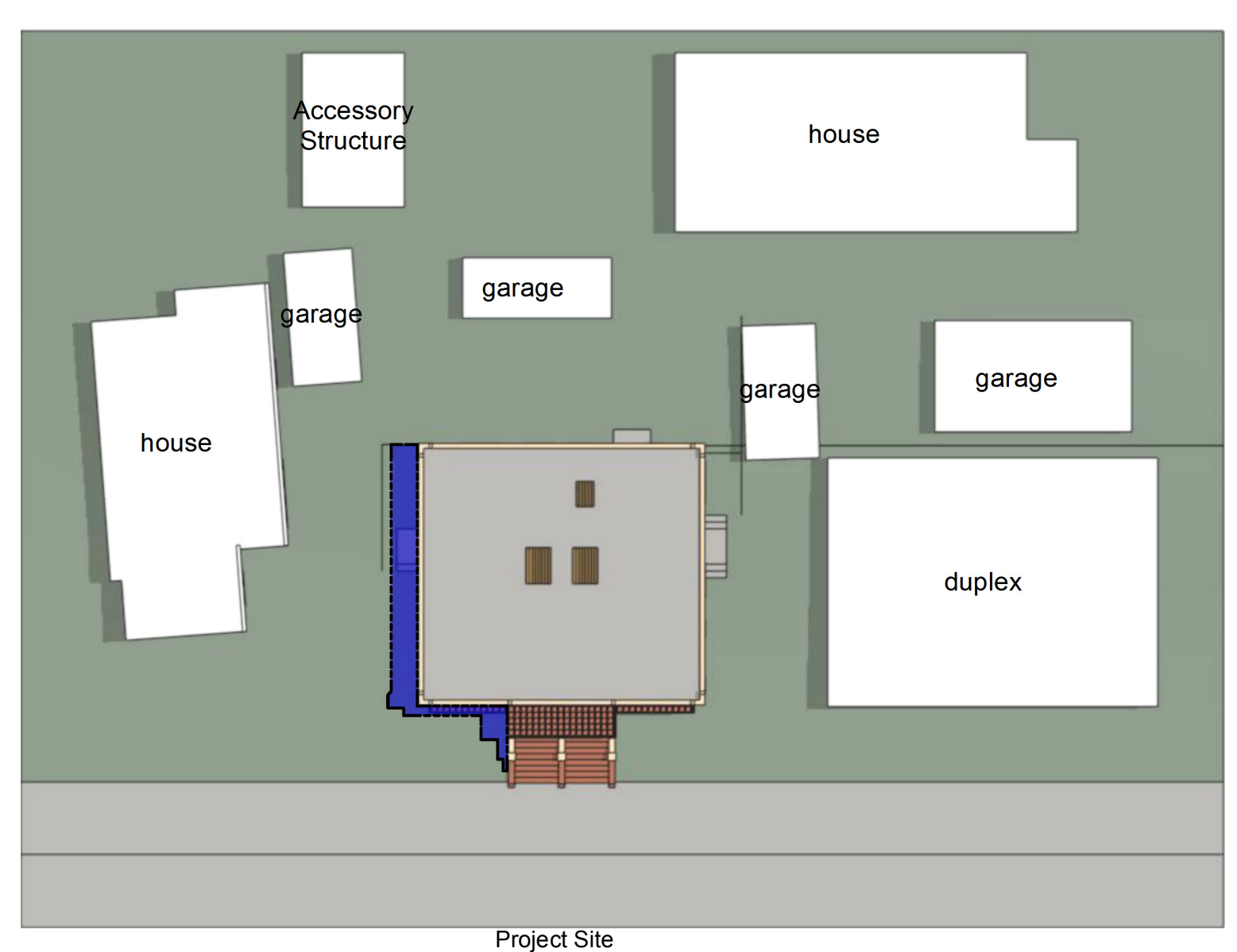
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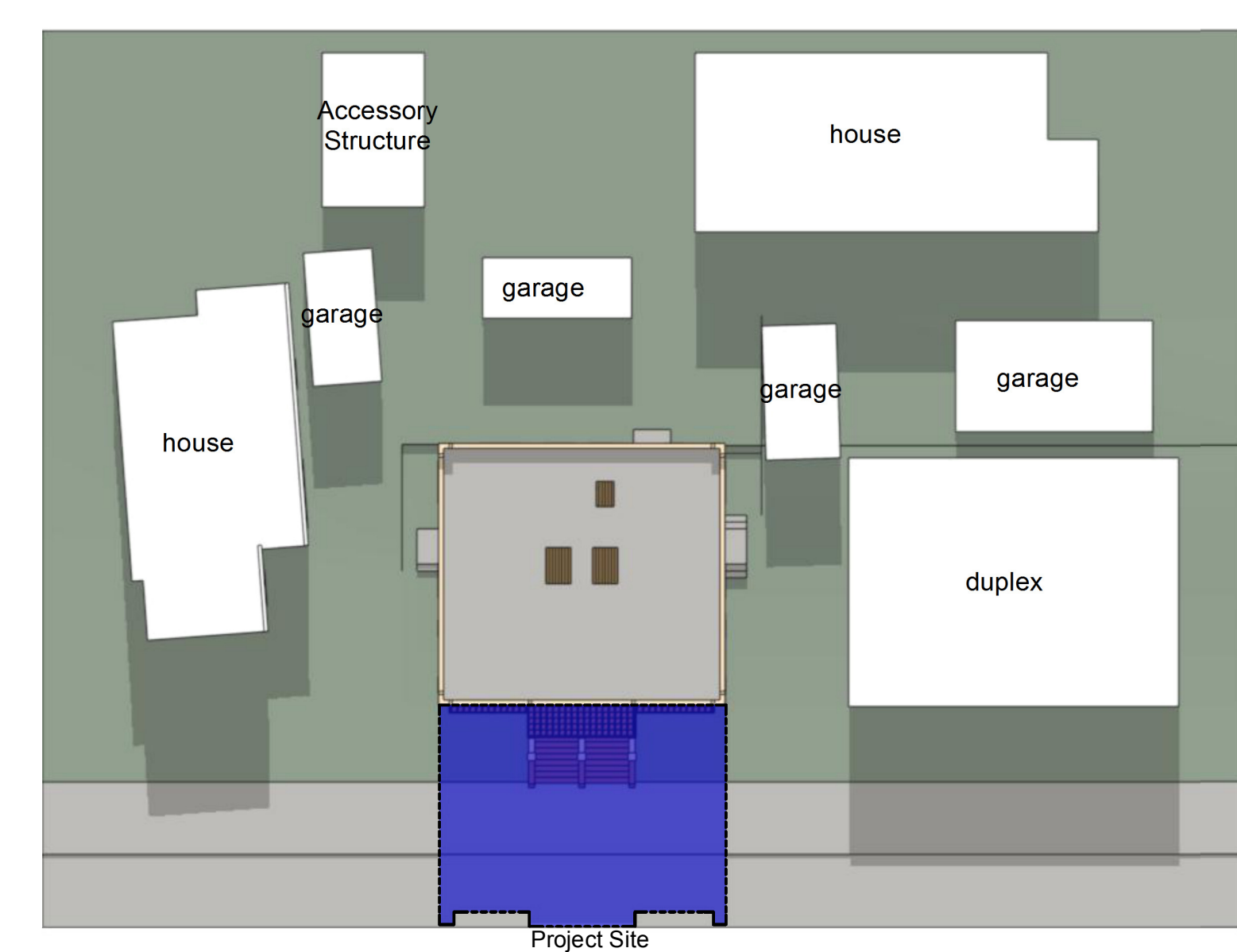
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**6-21-2021 / 7:47 am**



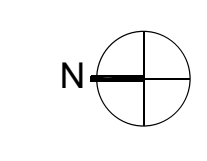
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**6-21-2021 / 12:00 pm**



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

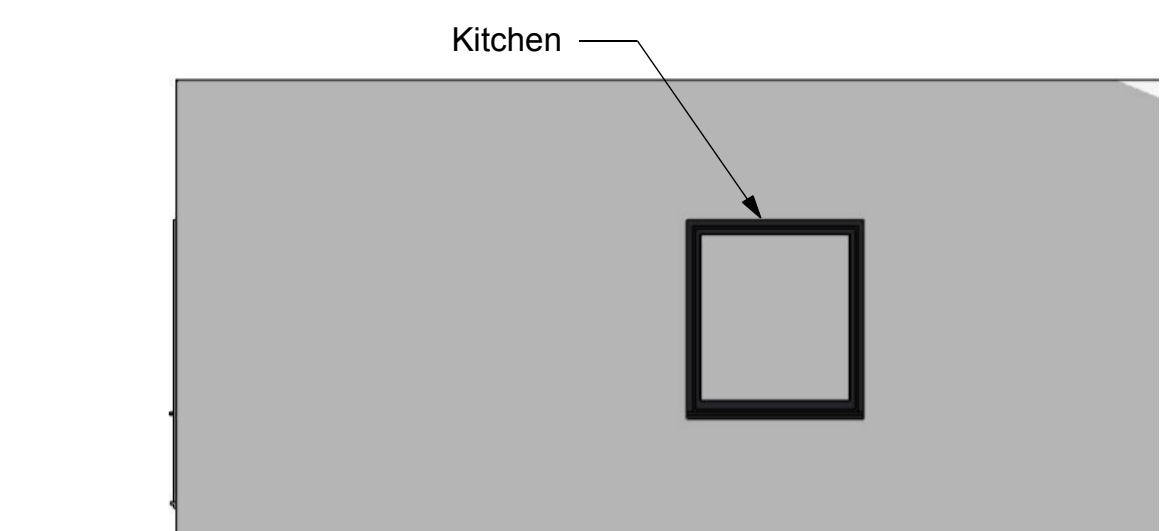




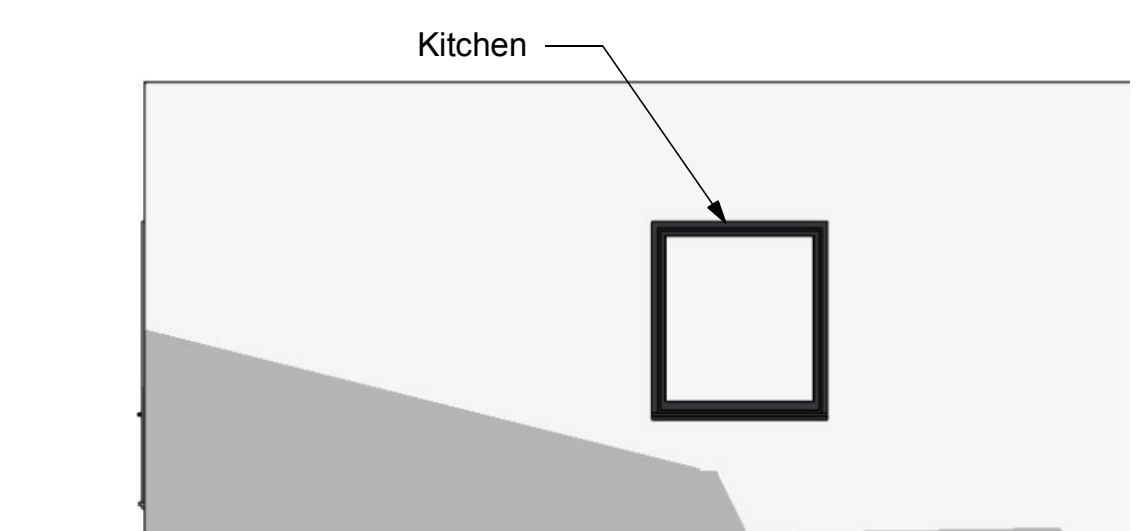
2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
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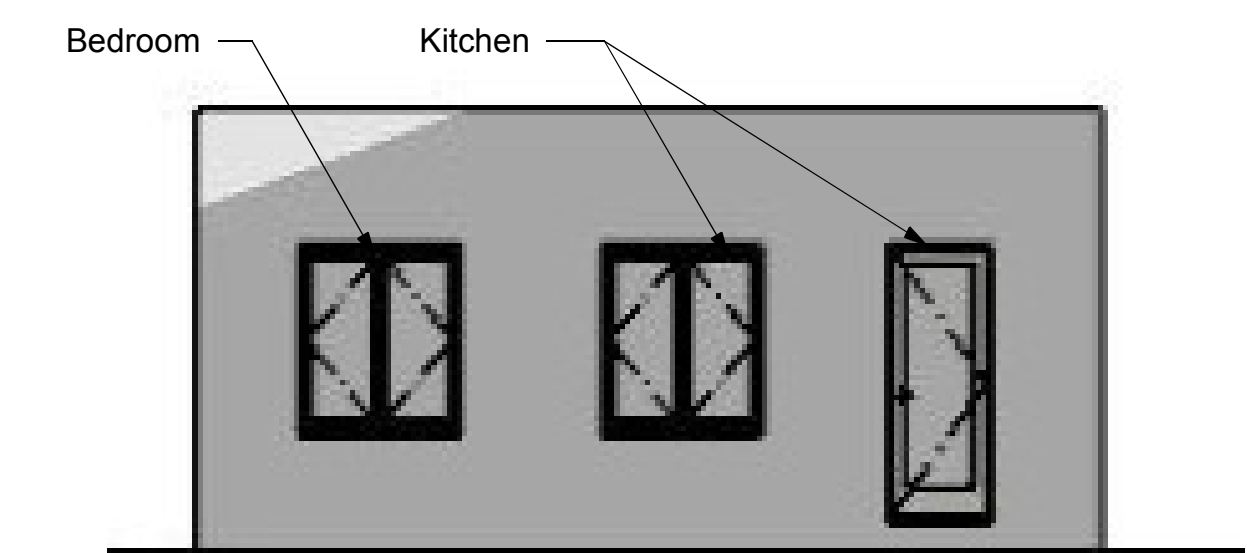
**OPPENHEIMER  
 RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18



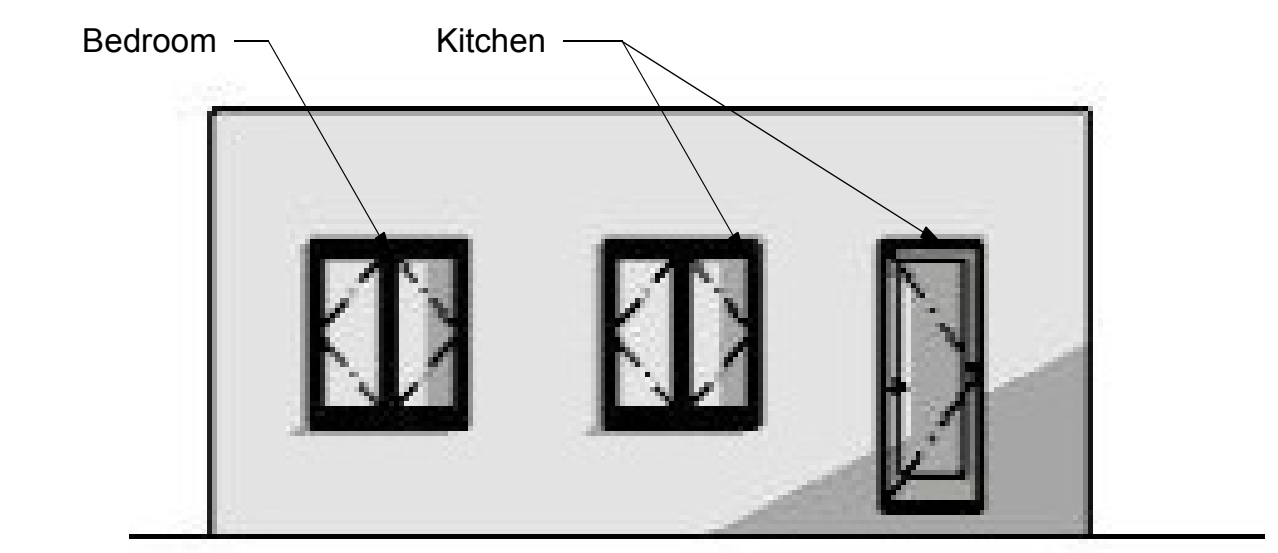
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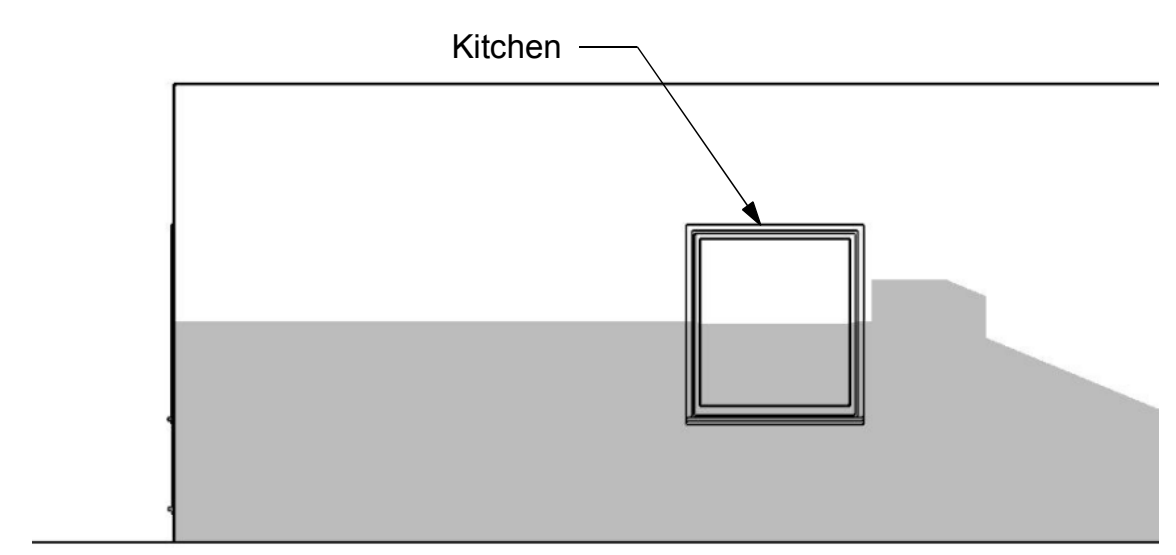
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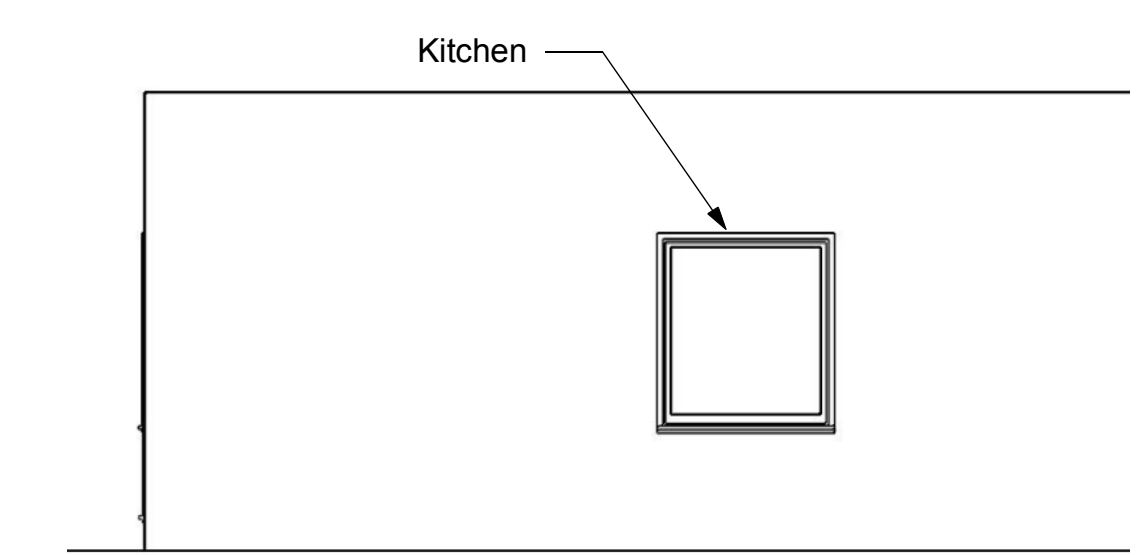
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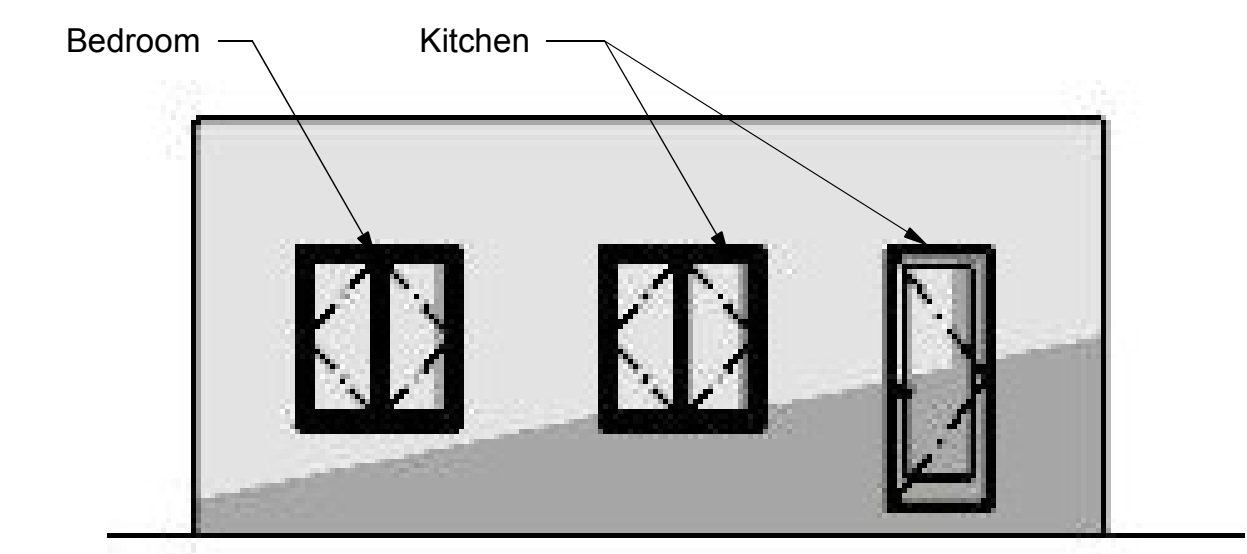
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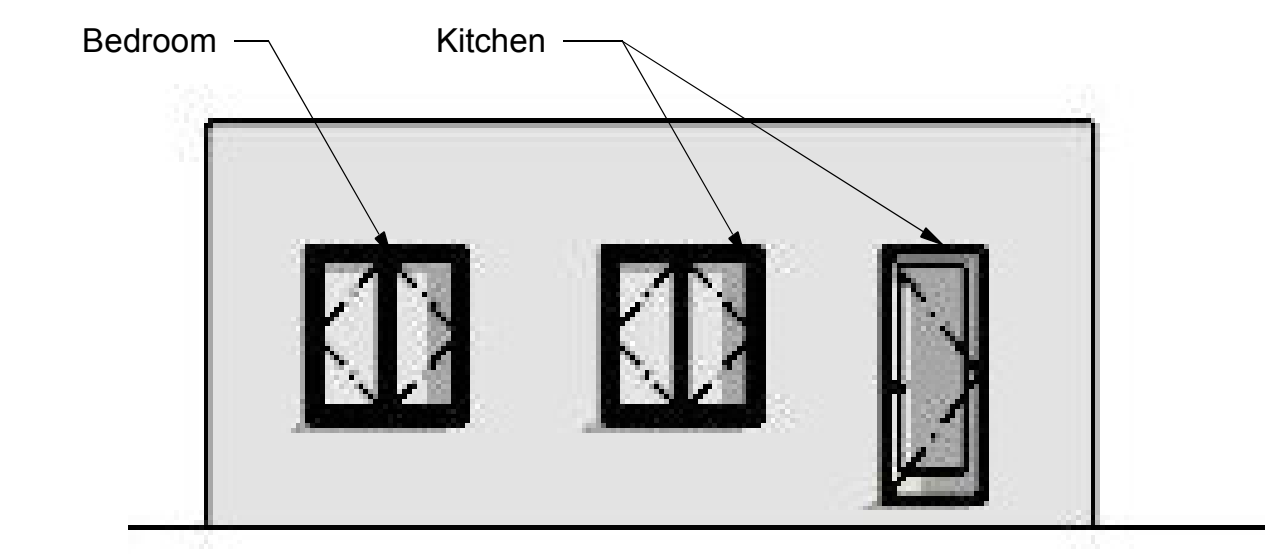
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Existing West Wall



Existing North Wall



Existing North Wall

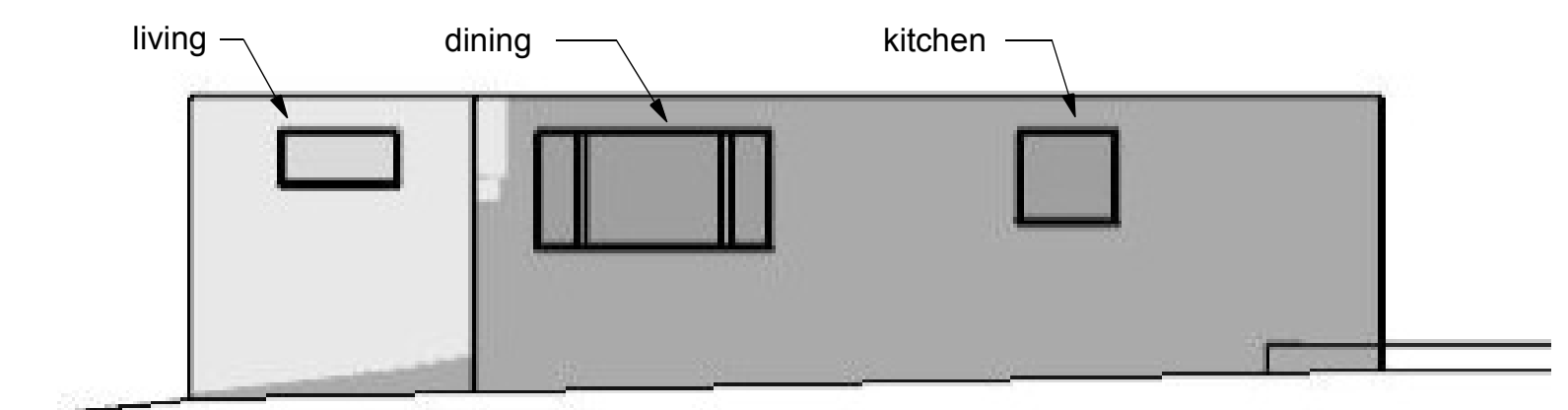
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6-21-2021 / 5:00 pm

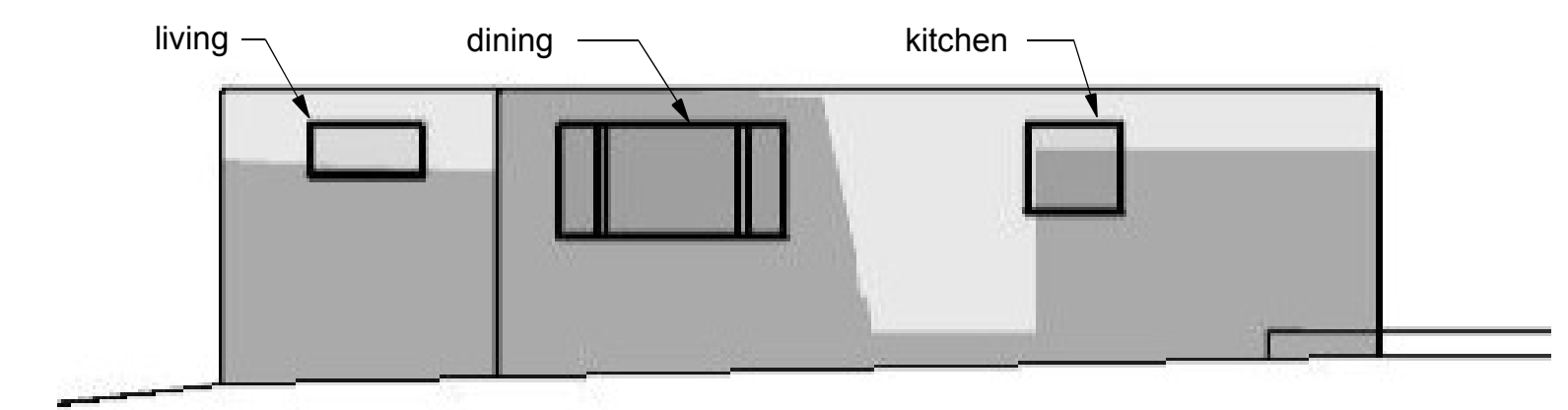
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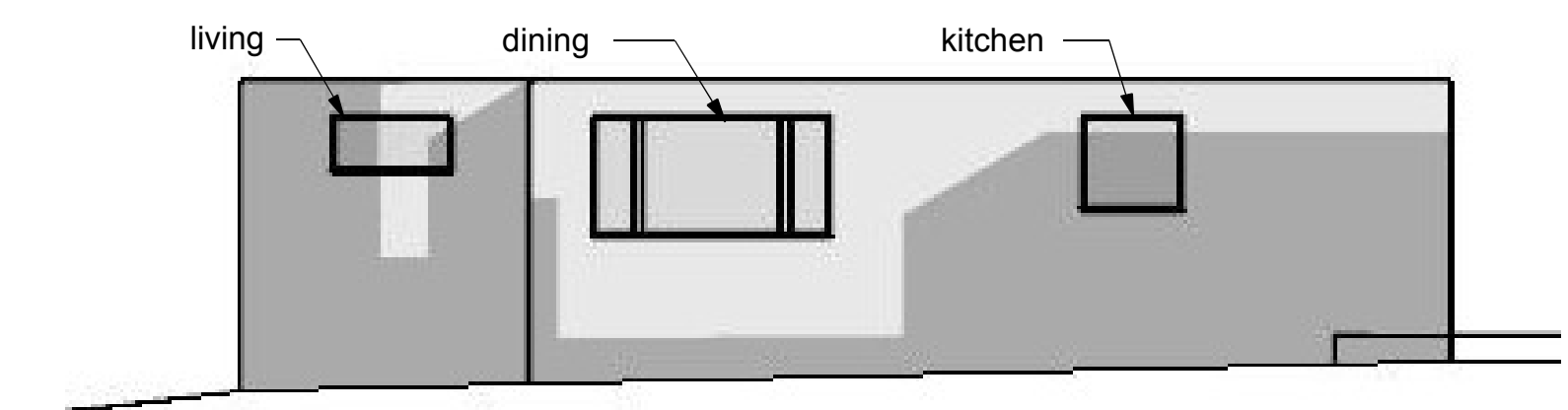
**1609 Virginia St. Shadow Impact Study**



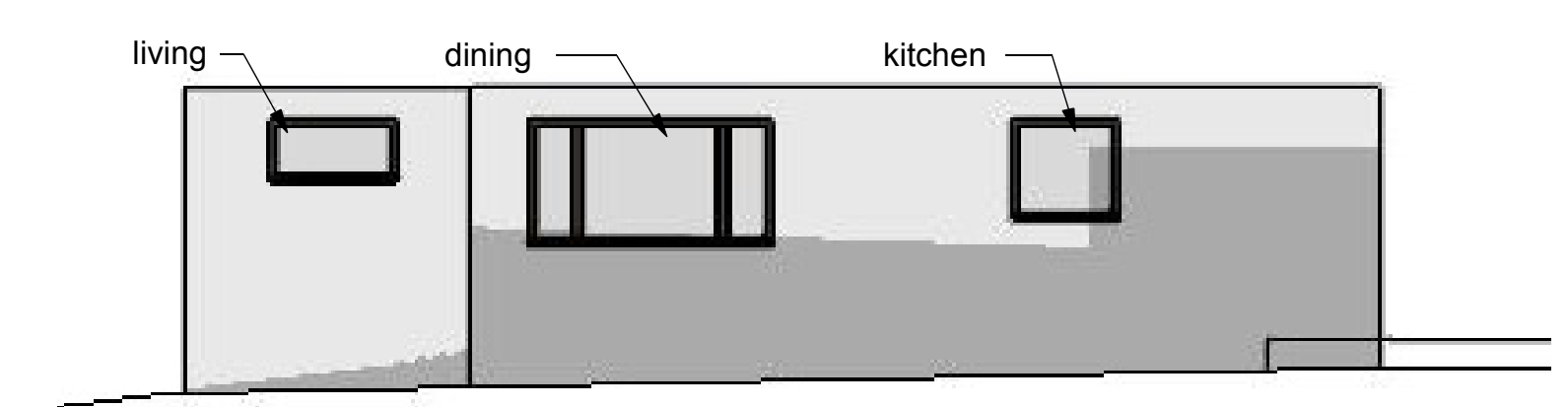
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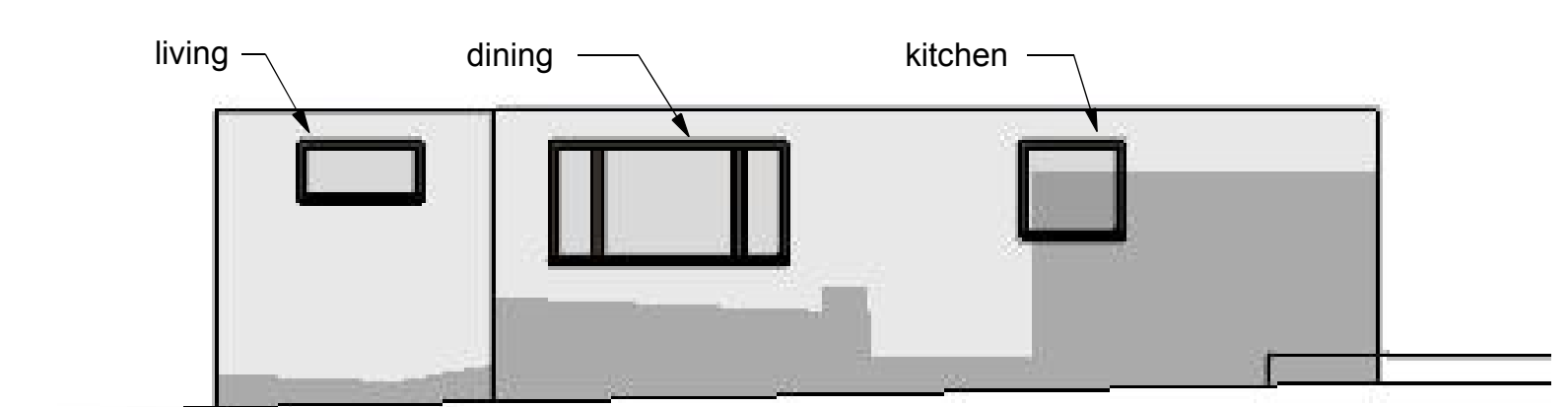
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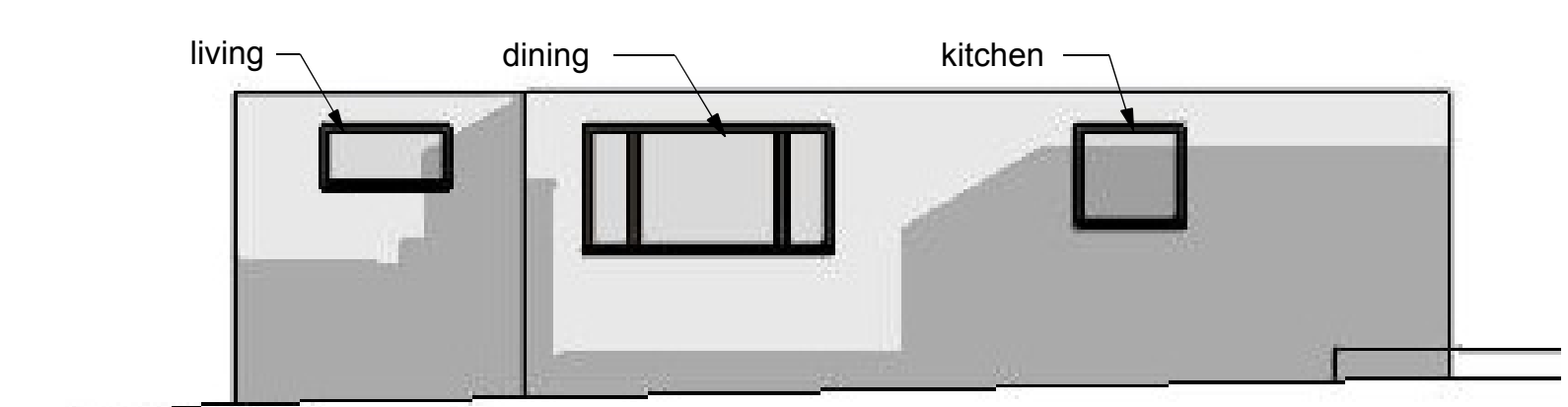
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Existing



Existing



Existing

12-21-2021 / 2:54 pm

12-21-2021 / 12:00 pm

12-21-2021 / 9:21 am

**1639 California St. Shadow Impact Study**

Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

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

**Gregory**  
**Paul**  
**Wallace**  
Structural Engineer

5865 Doyle Street, Suite 112  
Emeryville, CA 94608  
(510) 654 - 6903  
(510) 654 - 6997 fax  
gregory@gpwse.com



July 15, 2021

studio g+s ARCHITECTS  
2223 5<sup>th</sup> Street  
Berkeley, CA 94710

Attn: Sunny Grewal

Re: Oppenheimer Residence  
1643 and 1647 California Street  
Berkeley, CA 94710  
APN 58-2156-18

Dear Mr. Grewal,

Per your request, we met at the above captioned project on July 12, 2021 to view the existing conditions of the duplex building. We have also reviewed the proposed renovation and expansion architectural drawings proposed for the building, prepared by your office, and dated May 25, 2021. The purpose of our site visit and review of the drawings was to determine if the existing exterior walls and ground floor framing can be retained, as is called for in the proposed plans, as part of the overall project scope to add a 2<sup>nd</sup> floor and basement above and below the existing structure. The existing roof will be removed and replaced with new second floor framing. Based on our site inspection and our review of the proposed drawings, it is our professional structural opinion that the exterior walls and first floor framing can be retained as an integral part of the final structure of the project. In addition, this is commonly done on similar projects.

If you have any questions or wish to discuss this issue further, please call.

Sincerely,

A handwritten signature in black ink that reads "Gregory Wallace, SE". The signature is stylized and includes a long horizontal line extending to the right.

Gregory Wallace, SE





Planning and Development Department  
Land Use Planning Division

August 10, 2021

Sent via email:

[sunny@sgsarch.com](mailto:sunny@sgsarch.com)

Sundeep Grewel  
Studio G+S Architects  
2223 5<sup>th</sup> Street  
Berkeley, CA 94710

**Re: Application for Use Permit #ZP2021-0001 for 1643/1647 California Street**

Dear Applicant,

The Land Use Division has reviewed the above referenced application, resubmitted on July 15, 2021 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout on an existing property that is non-conforming to density, lot coverage, and front, side, and rear setbacks at 1643/1647 California Street. Staff has determined that the application is incomplete and cannot take further action on the project until all the items listed below are corrected and/or submitted. Please submit an electronic copy of the following:

**Items Required for Submittal or Correction:**

1. Structural Evaluation – Further information needed – Thank you for submitting the letter from Gregory Paul Wallace regarding the proposed modifications to the building. However, this letter is not sufficient for staff to confirm that more than 50% of the exterior walls and roof are being retained, which is necessary to determine whether the threshold for a demolition, as defined in the Berkeley Municipal Code, has been met. As the entirety of the roof is being removed, applicants must confirm that no more than 49% of the exterior walls of the building are being removed. Please submit a diagram showing that at least 50% of the exterior walls are being retained. If more than 50% of the walls are demolished/removed then the project will be considered a full demolition, which will require a Use Permit. Additionally, if the building is considered for demolition, the replacement building would have to comply with all applicable development standards of the R-2A zoning district, including lot coverage and setbacks.

Revised submittal items should be submitted in electronic form (Box.com). Please submit responses to **all** requested items at once, and not incrementally. Please include a response letter addressing each of the above items, using the same numbering/format to assist staff in confirming you have addressed each item.

I look forward to working with you on this project. Do not hesitate to contact me if you have any questions or if you would like to set up a meeting. I can be reached at (510) 981-7485 or [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info).

Sincerely,

A handwritten signature in black ink that reads "Nicholas Armour".

Nicholas Armour  
Associate Planner



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

Aug. 26, 2021

**Planning review comments #3**

**Applications #: ZP2021-0001**

**Address: 1643 1647 California St Planning**

Hi Nicholas,

We are resubmitting the Use Permit application per your comments. See attached drawings and responses below.

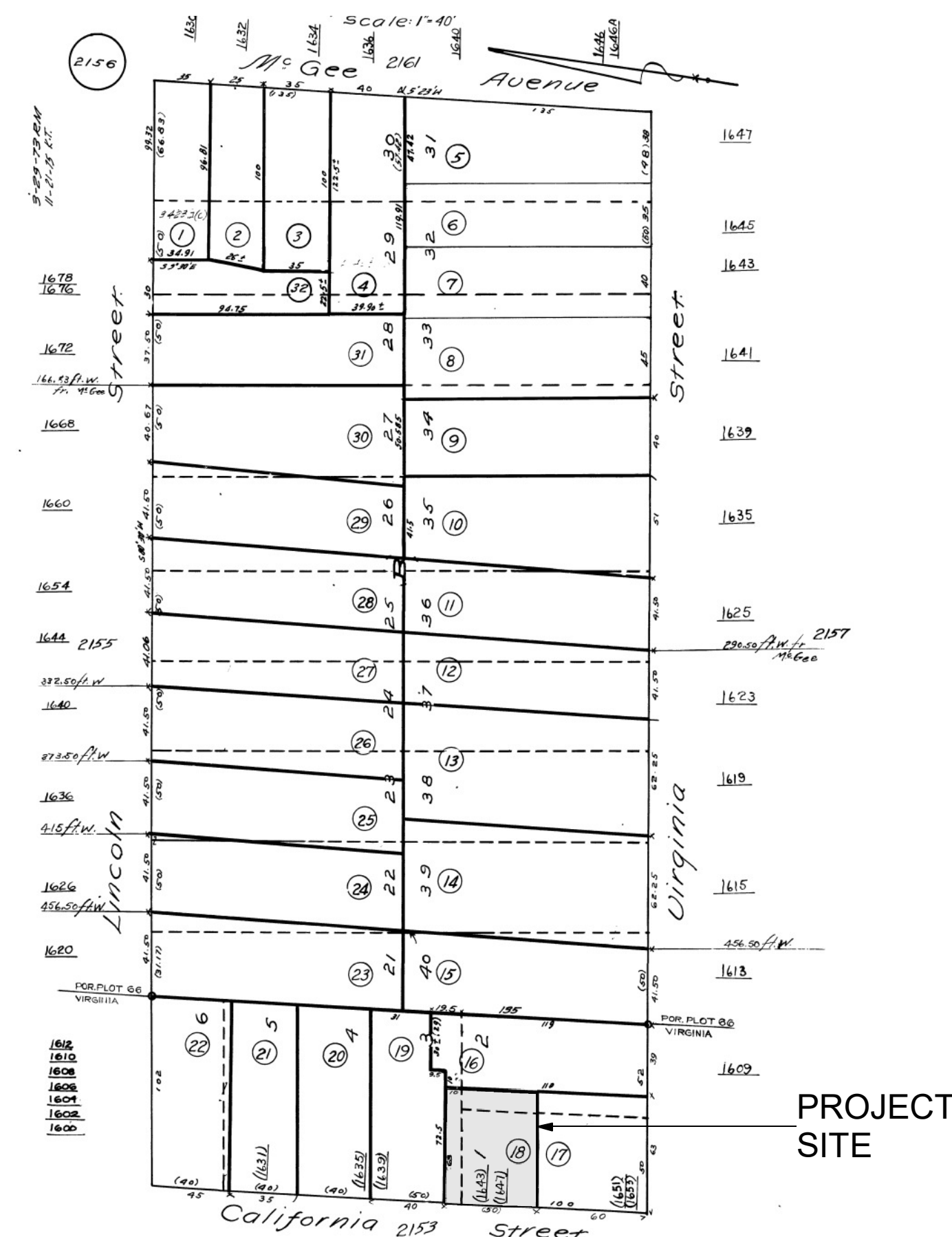
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**Response: Sheet A5.1 – Demolition diagram provided with total wall area to be removed.**

We are looking forward to moving this project along.

Sundeep Grewal

PARCEL MAP



PROJECT SITE

OPPENHEIMER RESIDENCE

1643 & 1647 California St. CA 94703

SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

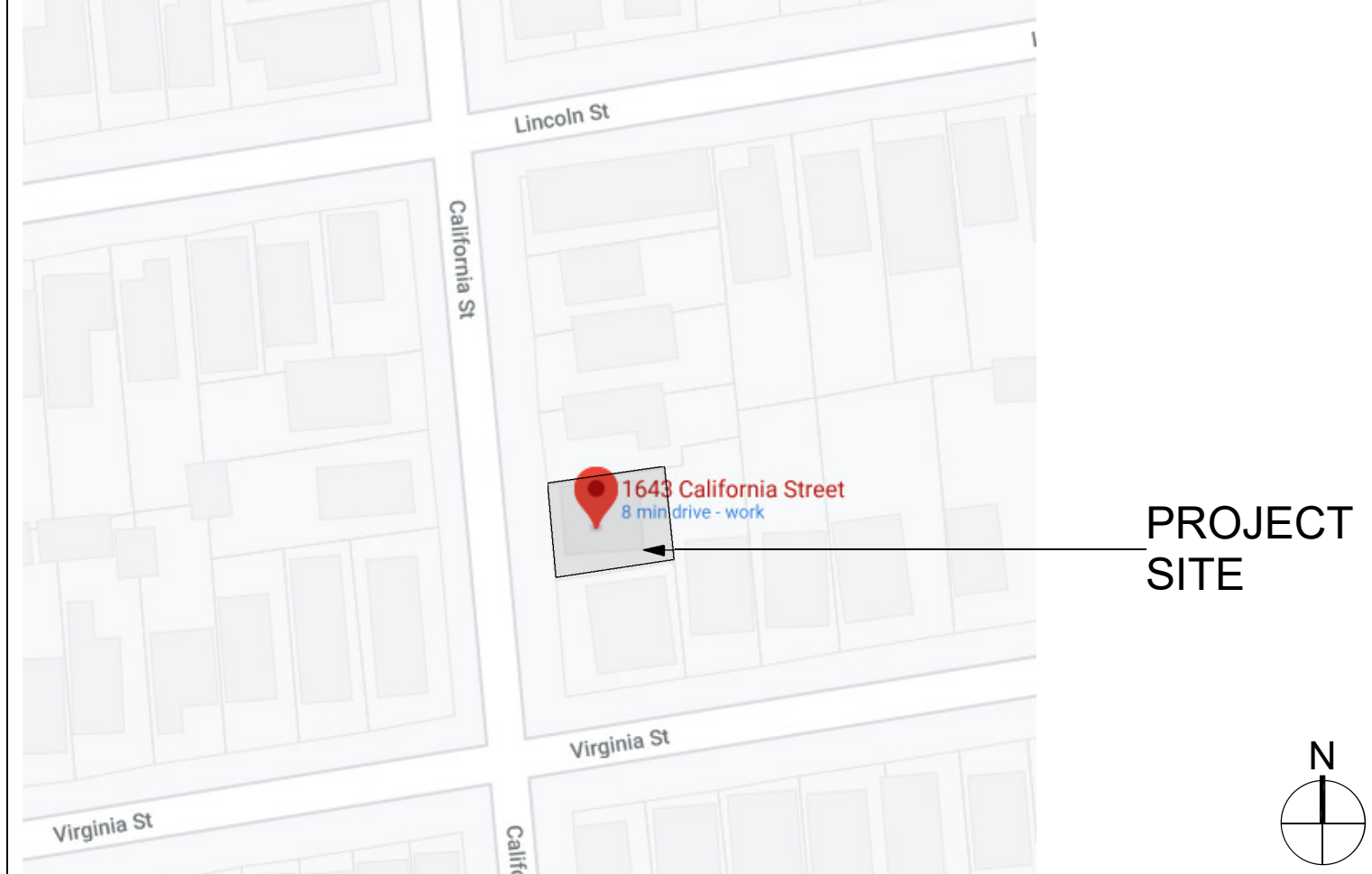
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

VICINITY MAP



PROJECT SITE

PROJECT DIRECTORY

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

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

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

PROJECT DATA

Occupancy:	R-3 Duplex
Proposed Construction:	Type V-B
Fire Sprinkler System:	No
<b>Zoning/General Plan Regulation</b>	
Zoning District:	R-2 (Restricted Two-Family Residential)
General Plan Area:	LMDR
Downtown Arts District Overlay:	No
Commercial District With Use Quotas:	No
<b>Seismic Safety</b>	
Earthquake Fault Rupture(Alquist-Priolo) Zone:	No
Landslide (Seismic Hazards Mapping Act):	No
Liquefaction (Seismic Hazards Mapping Act):	No
Un-reinforced Masonry Building Inventory:	No
<b>Historic Preservation</b>	
Landmarks or Structure of Merit:	No
<b>Environmental Safety</b>	
Creek Buffer:	None
Fire Zone:	1
Flood Zone(100-year or 1%):	No
<b>Wildlife Urban Interface</b>	No

SHEET INDEX

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

APPLICABLE CODES

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

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

ABBREVIATIONS

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

SITE PHOTOS



PROJECT SITE

Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

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

studio  
g+S  
ARCHITECTS

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Berkeley, CA 94710  
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www.sgsarch.com



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

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

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Project No: 20-13-420

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Checked By: SSG

Scale: N/A

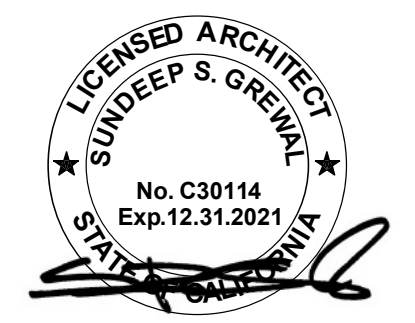
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Sheet  
A0.0





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

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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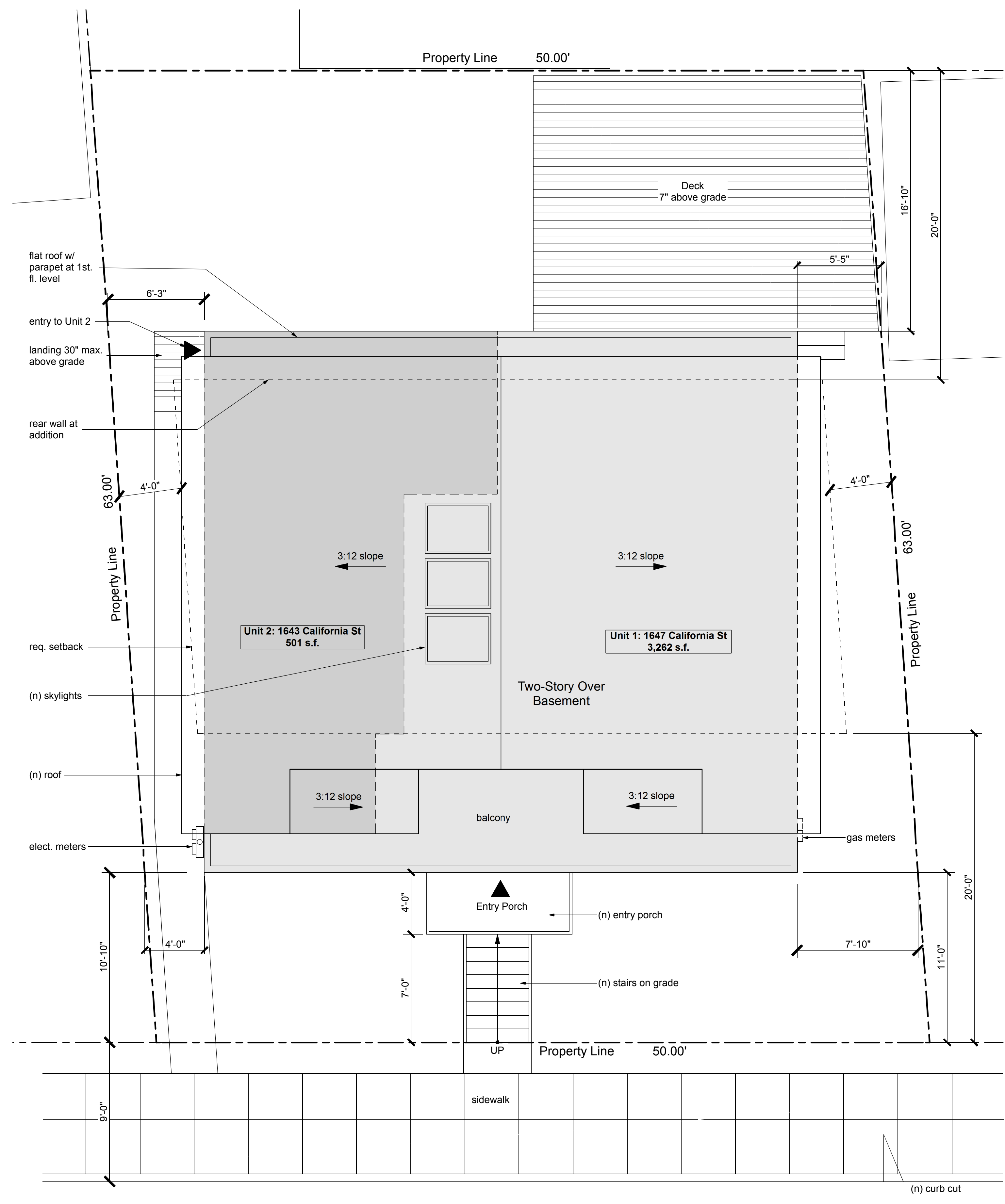
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Checked By: SSG

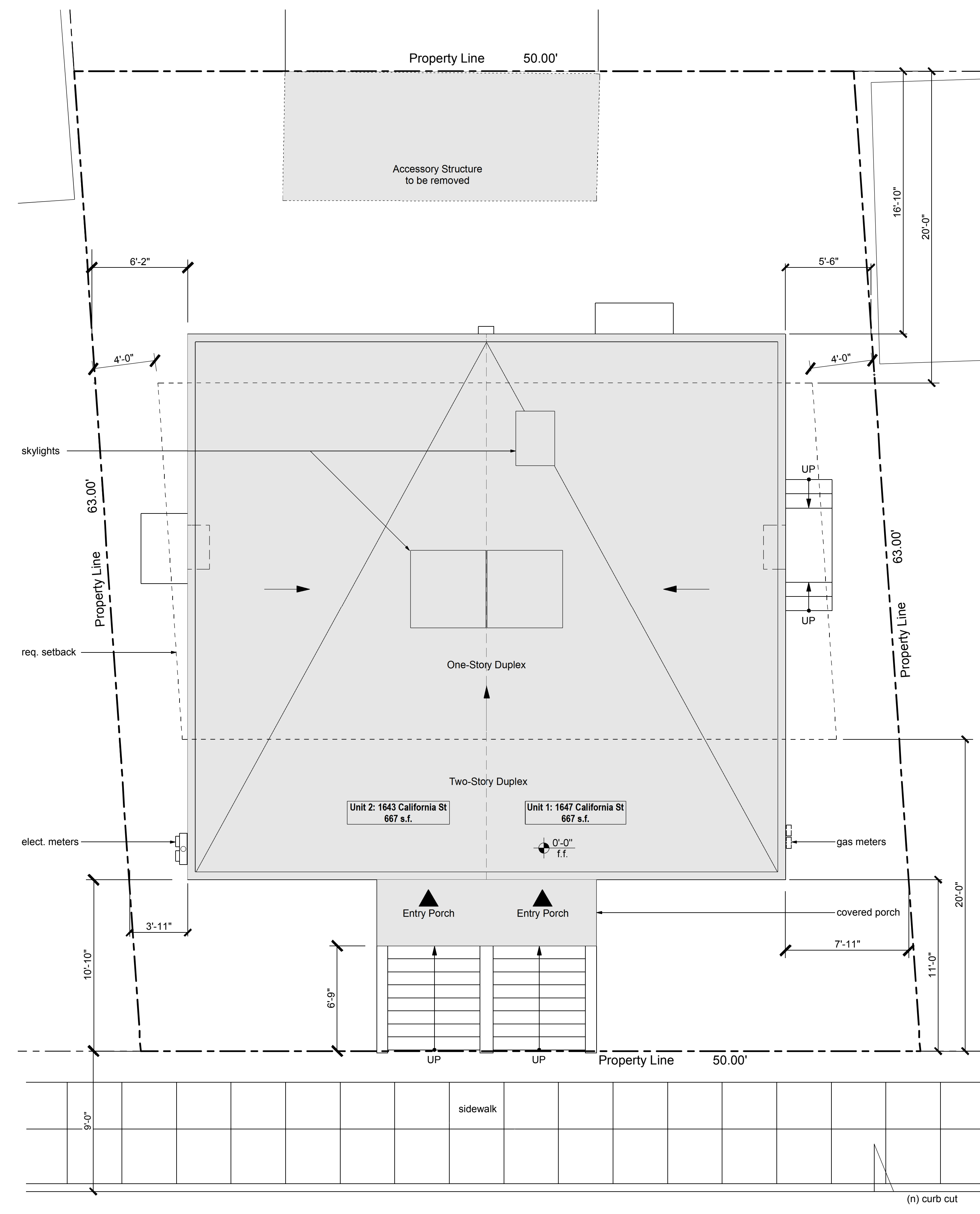
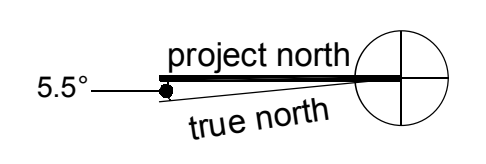
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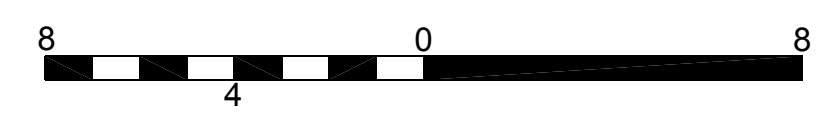
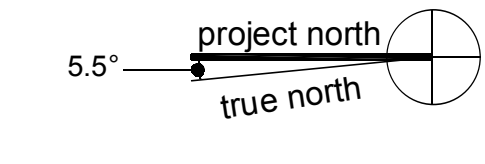
Sheet **A0.1**



**2** Proposed Site Plan

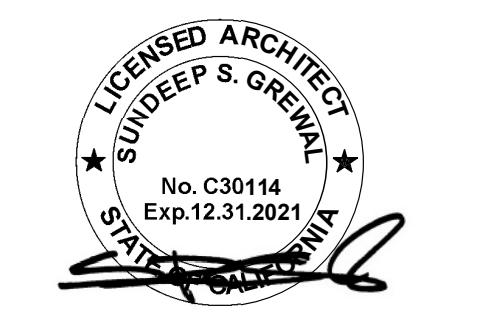


**1** Existing Site Plan





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 www.sgsarch.com



**OPPENHEIMER  
 RESIDENCE**  
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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Site Survey

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 1" = 1'-0"

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

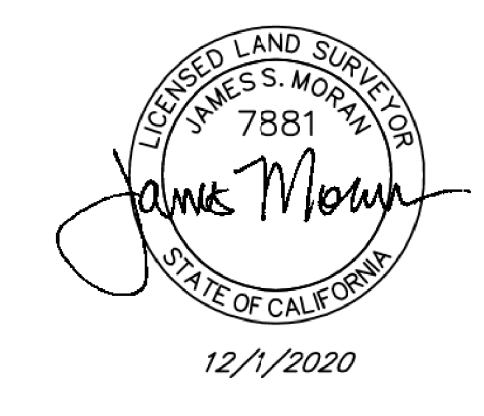
Sheet  
**A0.2**

# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



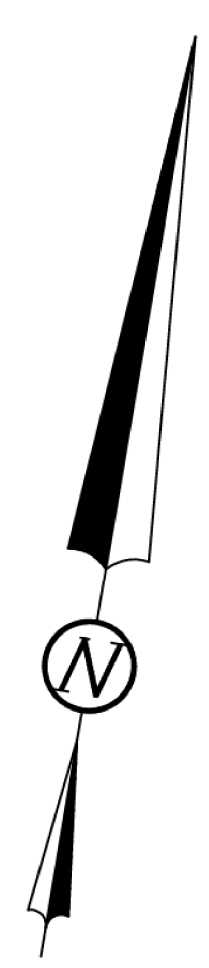
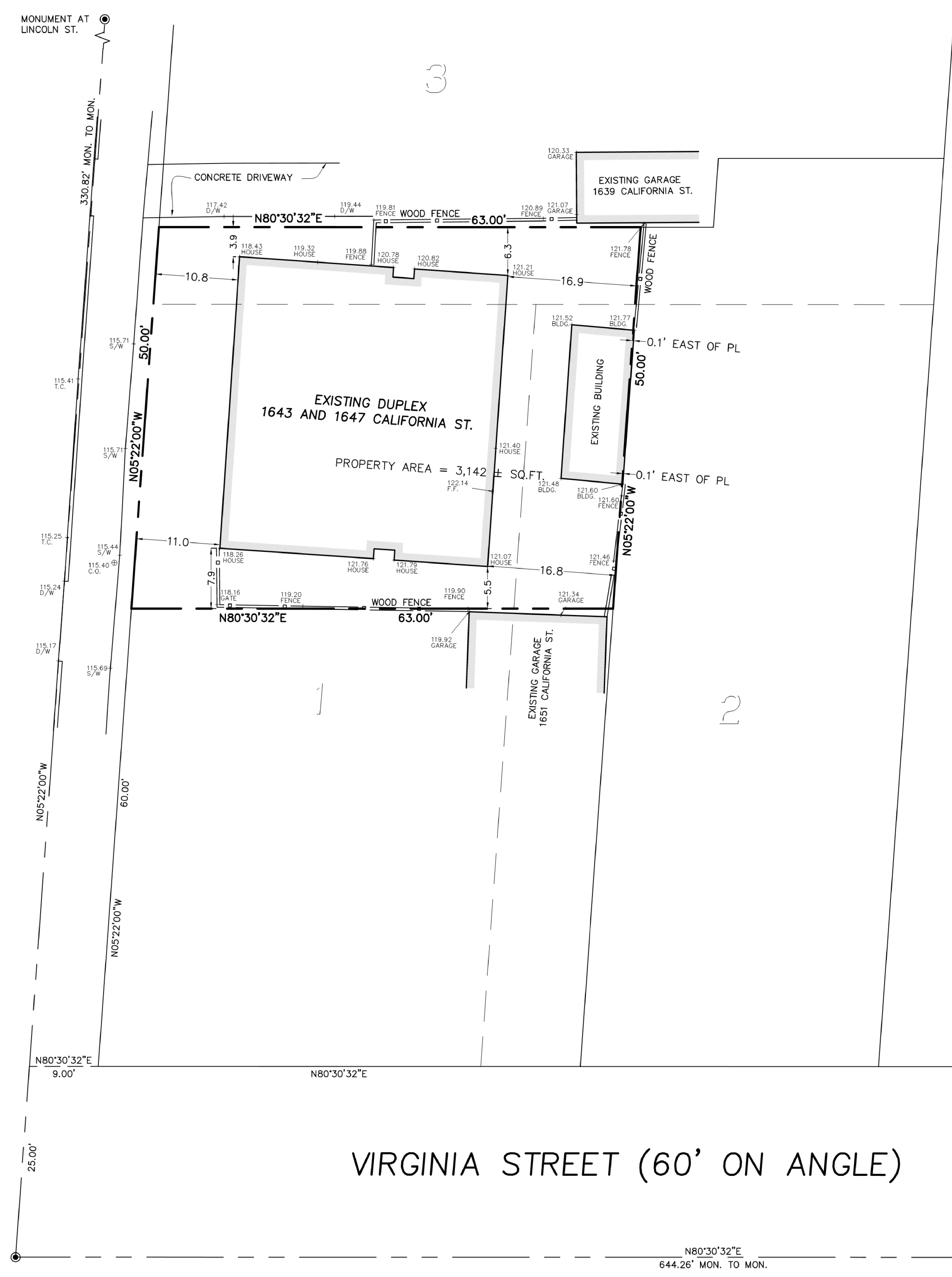
- LEGEND**
- FOUND MONUMENT PER PM 6679 (213 M 50)
  - BLDG. BUILDING
  - C.O. CLEAN-OUT
  - D/W DRIVEWAY
  - F.H. FIRE HYDRANT
  - J.P. JOINT POLE
  - M.H. MAN HOLE
  - S/W SIDEWALK
  - T.C. TOP OF CURB

**GENERAL NOTES**

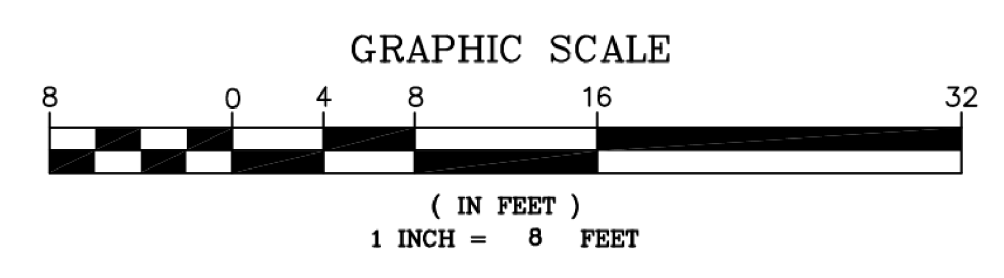
BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

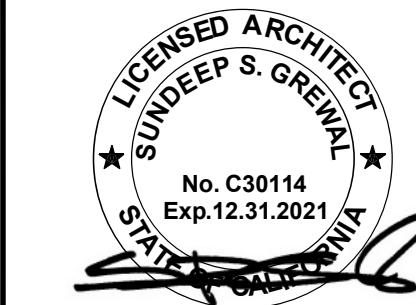


CALIFORNIA STREET (60' ON ANGLE)





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Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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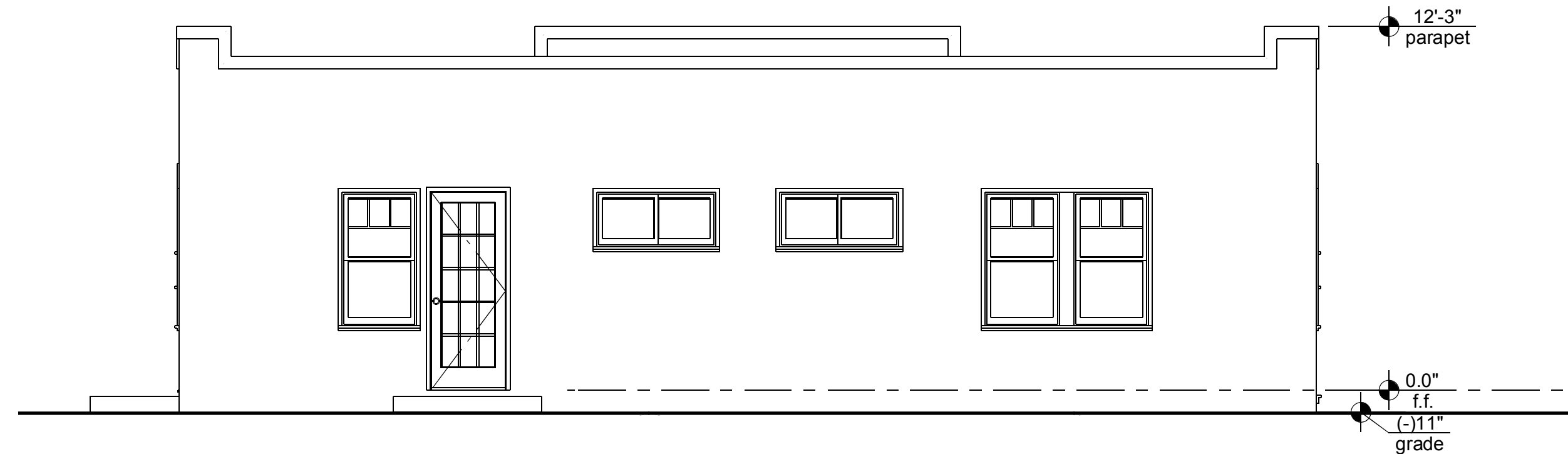
Drawn By: SSG

Checked By: SSG

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

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

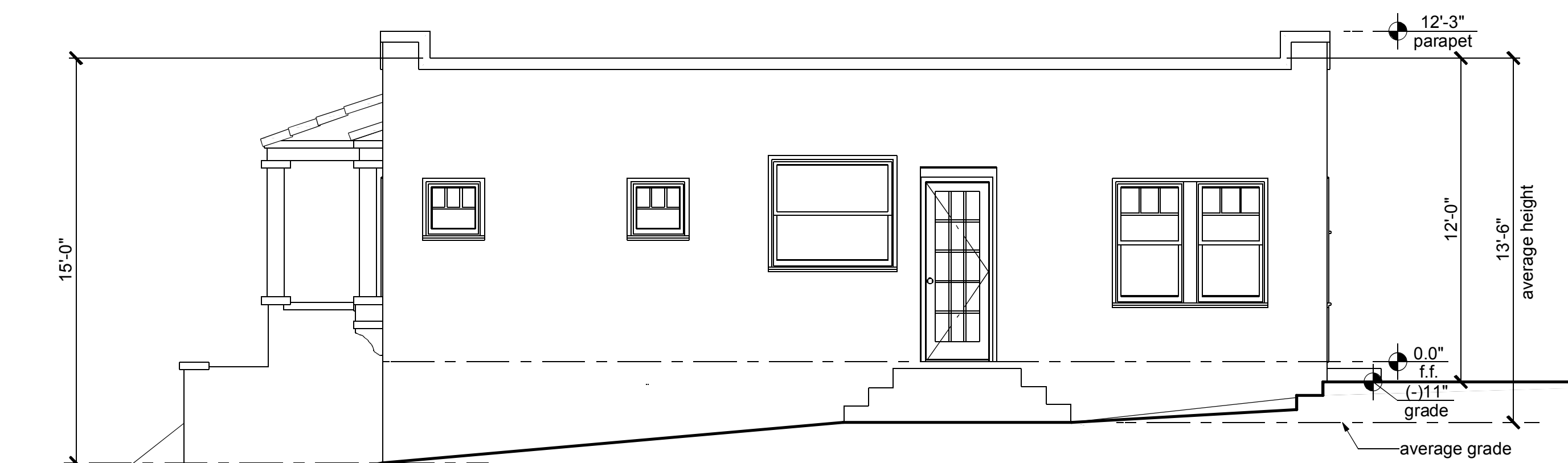
Sheet **A1.1**



5 Existing East Elevation - Rear



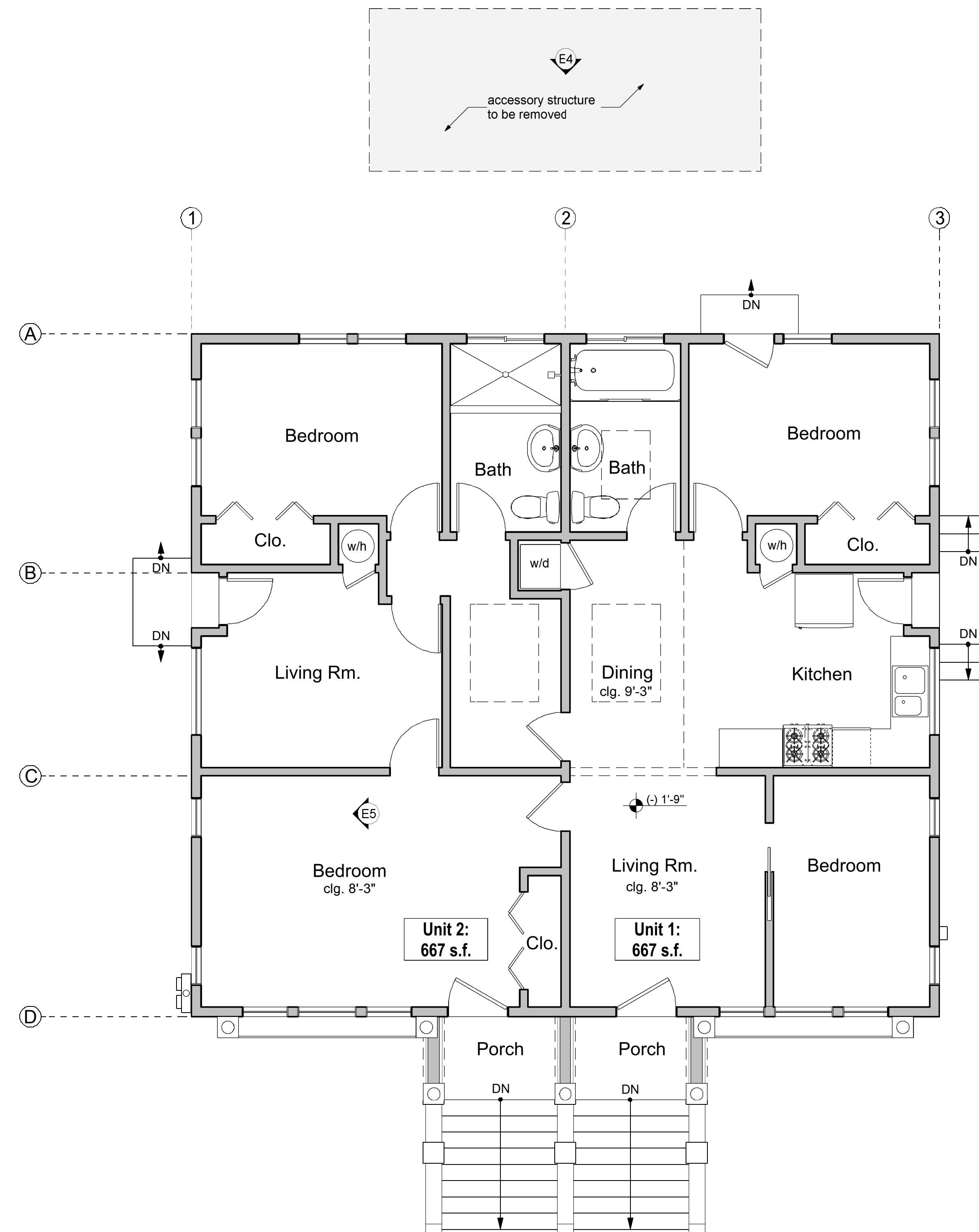
4 Existing North Elevation - Left Side



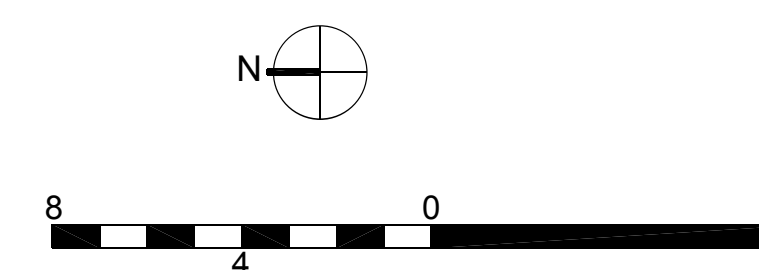
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front

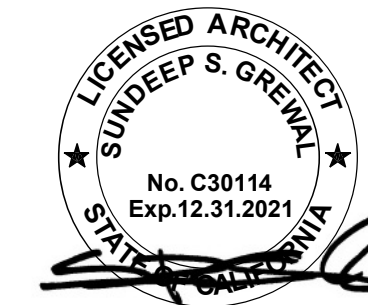


1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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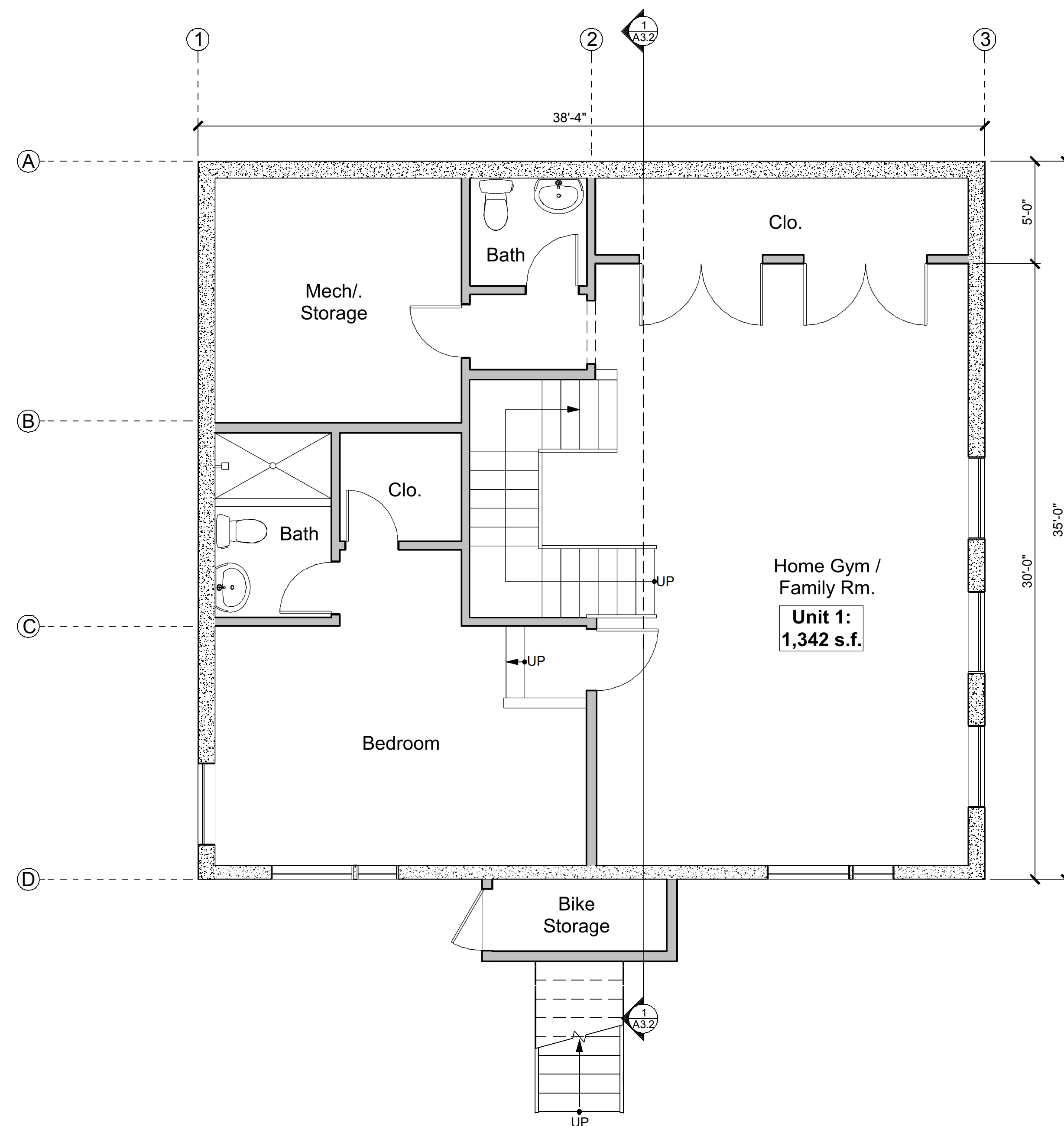
Drawn By: SSG

Checked By: SSG

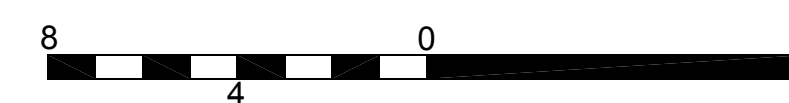
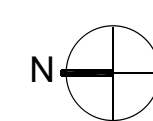
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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A2.1**

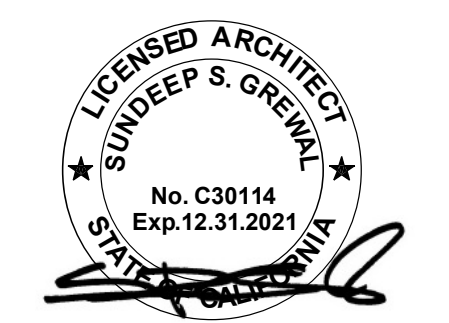


**1** Proposed Basement Floor Plan





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 Proposed Floor Plans

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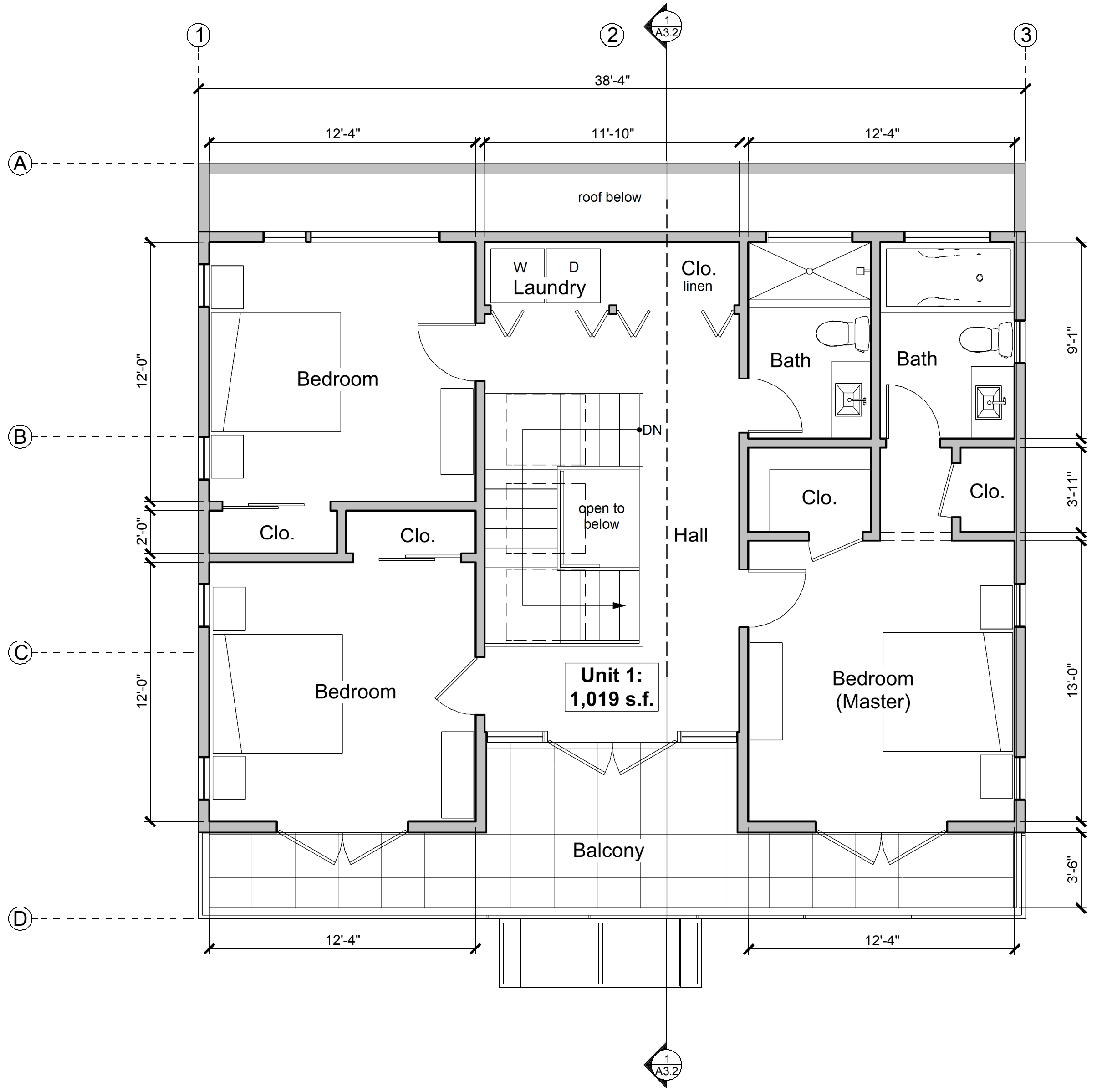
Drawn By: SSG

Checked By: SSG

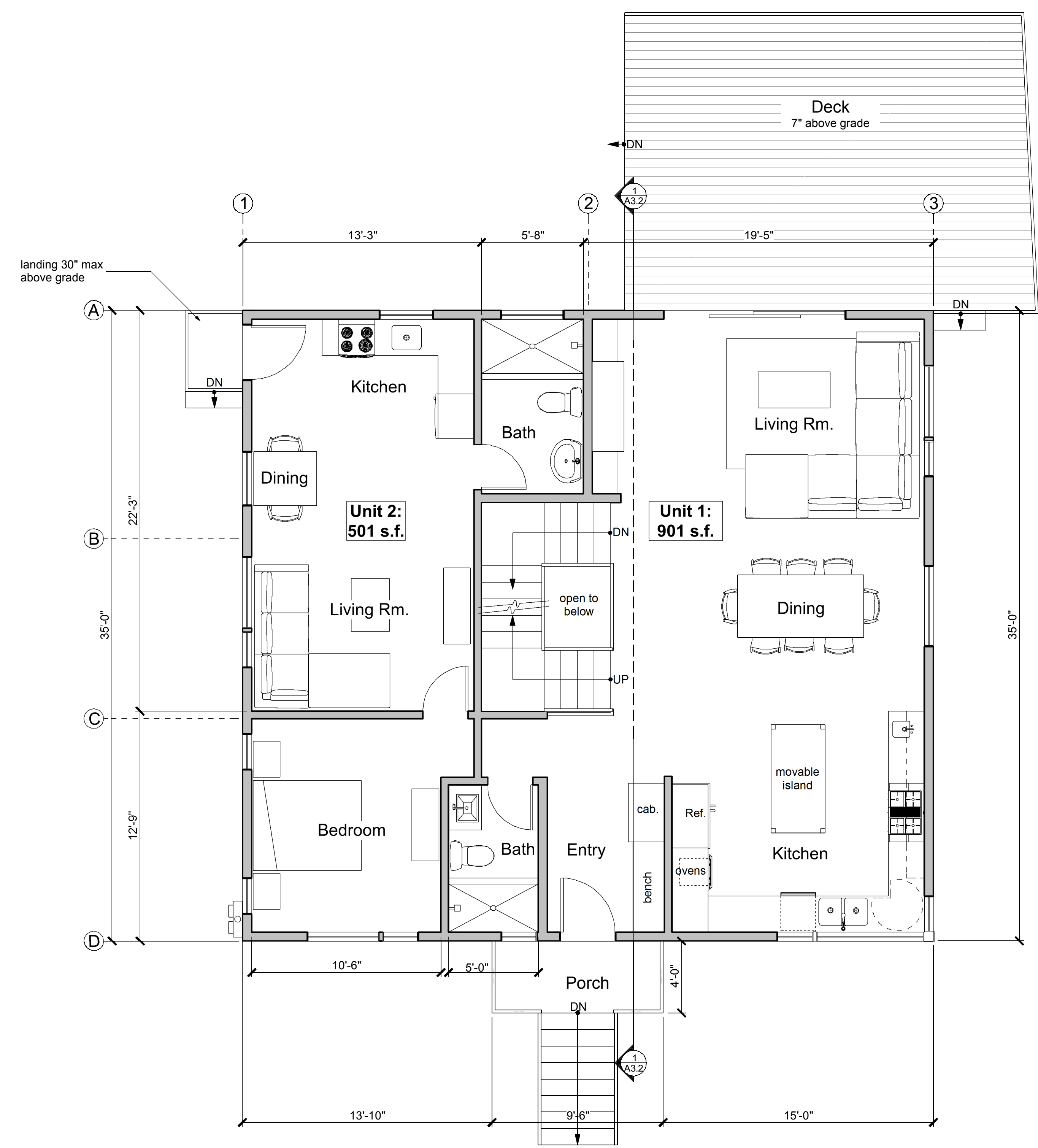
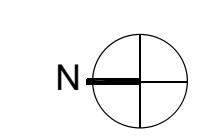
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 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

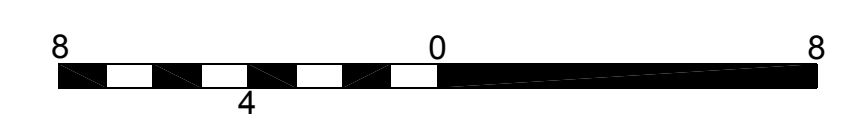
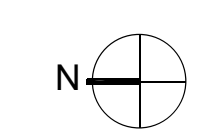
Sheet **A2.2**



2 Proposed Second Floor Plan

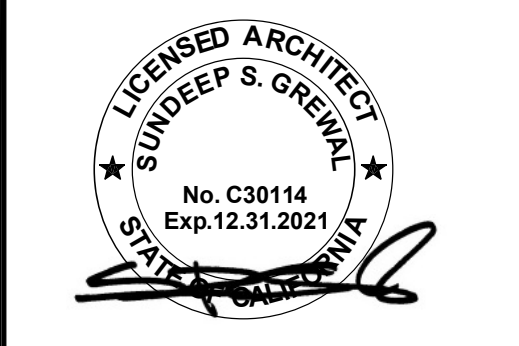


1 Proposed First Floor Plan





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Sheet Contents:  
 Front Elevation Comparison

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

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

Sheet **A3.1**



Previous Proposal



Previous Proposal



Previous Proposal



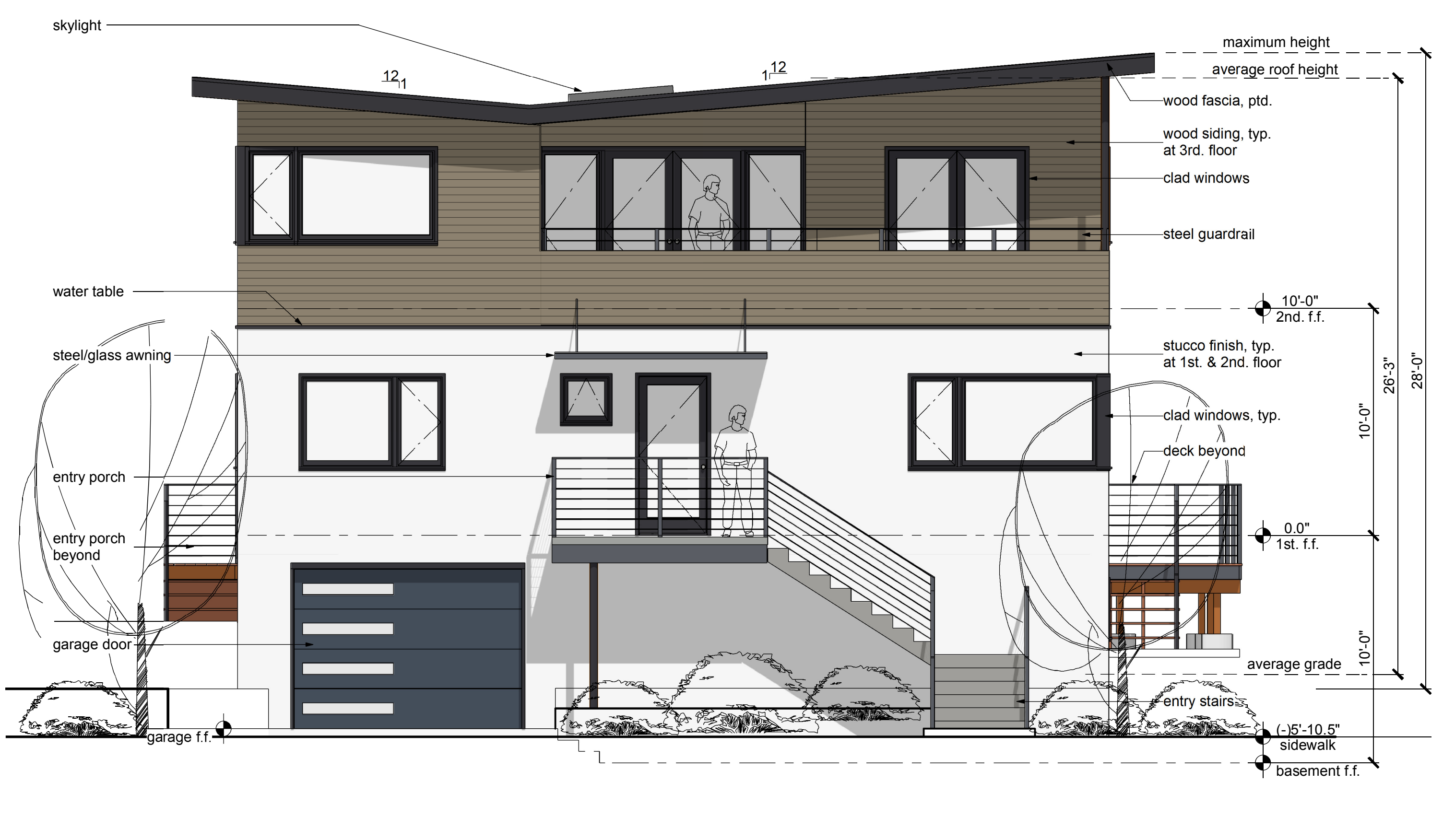
Current Proposal



Current Proposal



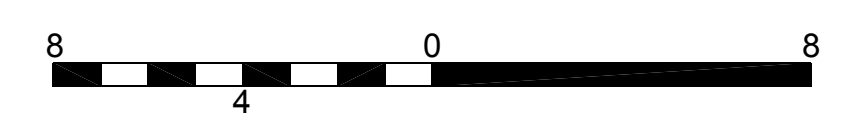
Current Proposal



② Proposed West Elevation - Front Original Proposal

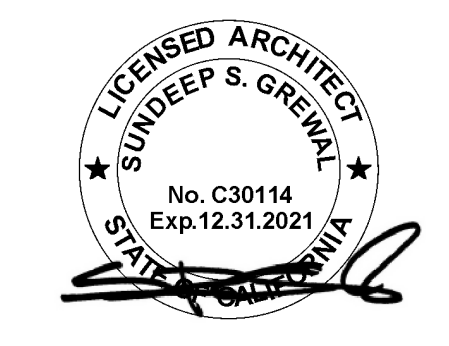


① Proposed West Elevation - Front Current Proposal





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Sheet Contents:  
 Proposed Exterior Elevations

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

Revisions:  
 Use Permit Set: 12-10-2020

Redesign: 5-25-2021

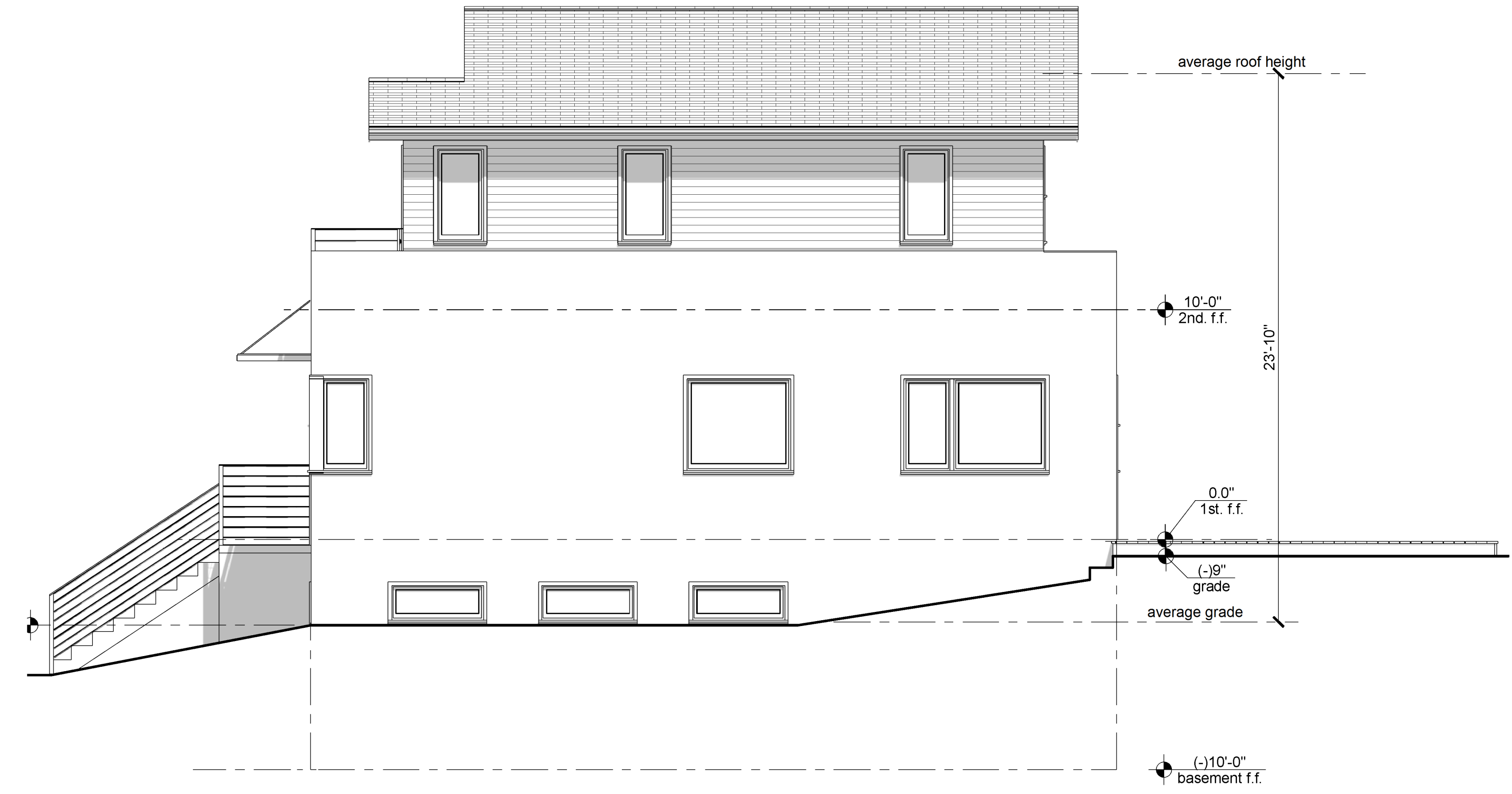
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Planning Review: 7-15-2021

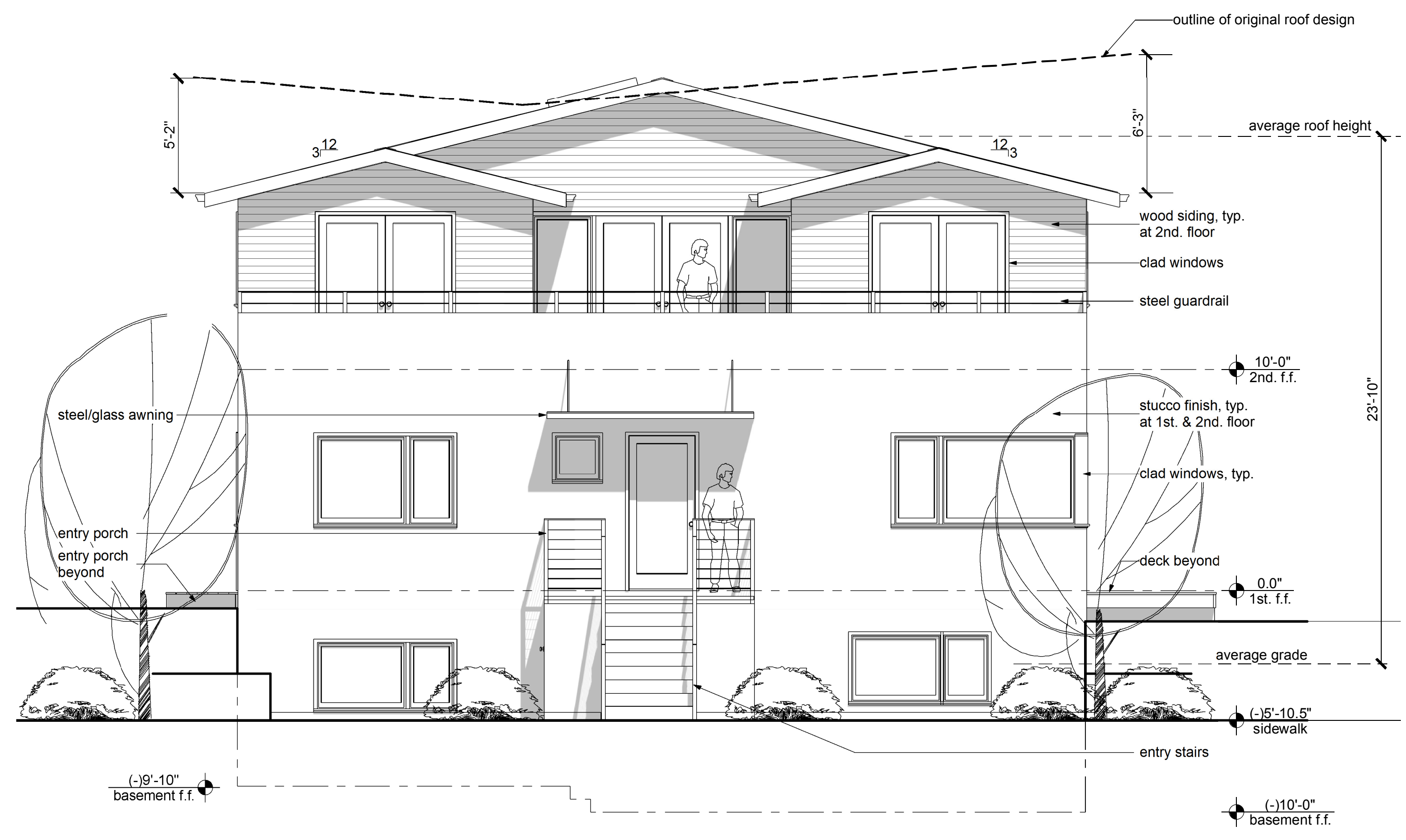
Sheet **A3.2**



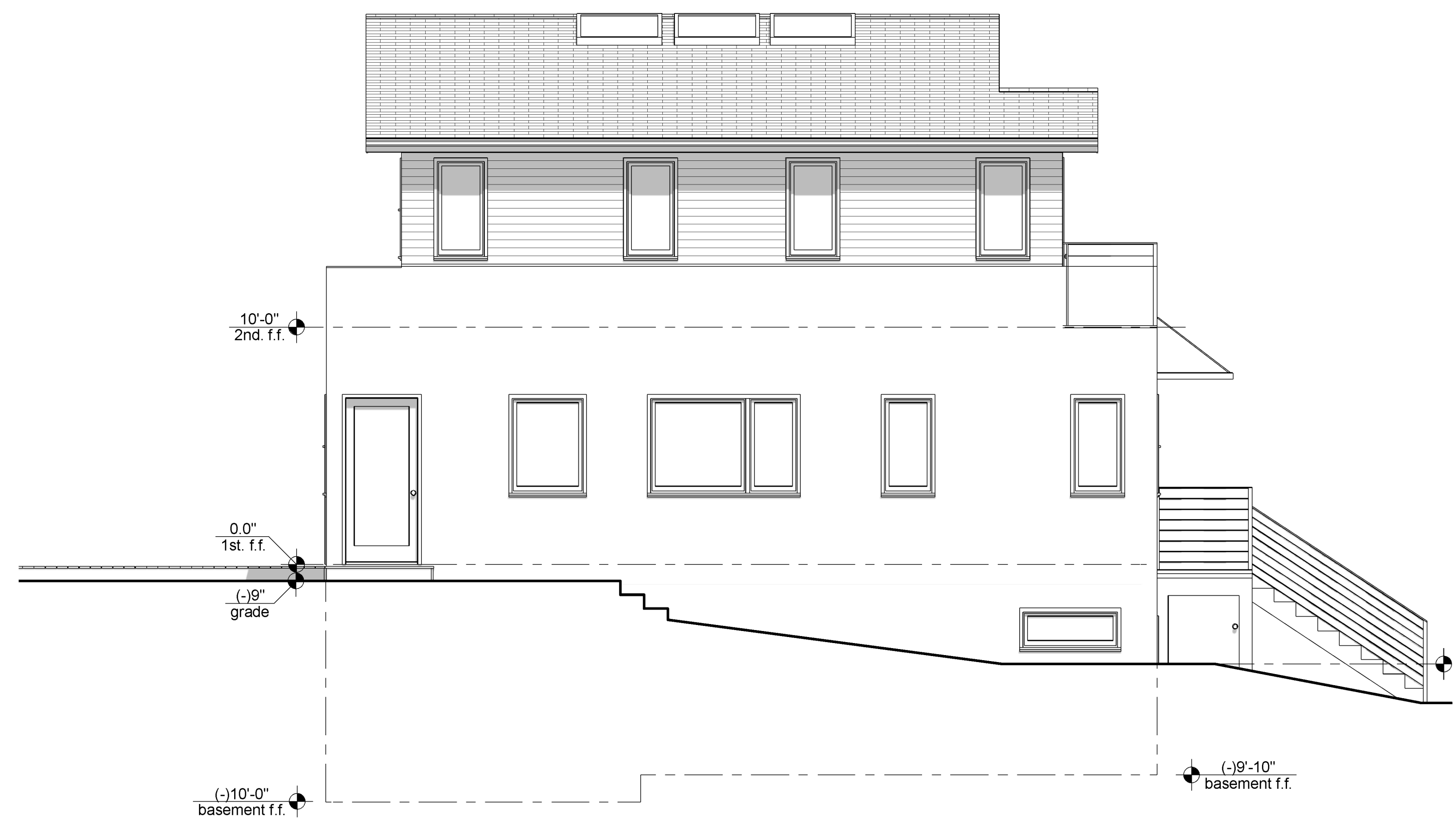
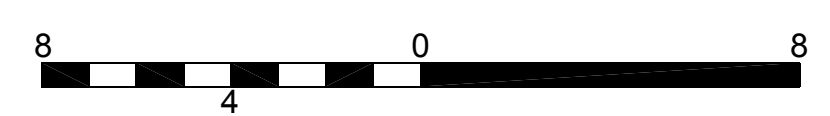
3 Proposed East Elevation - Rear



4 Proposed South Elevation - Right Side



1 Proposed West Elevation - Front



2 Proposed North Elevation - Left Side



2 Renderings



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Sheet Contents:  
 Building Section  
 Renderings

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Scale:  
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 Redesign: 5-25-2021  
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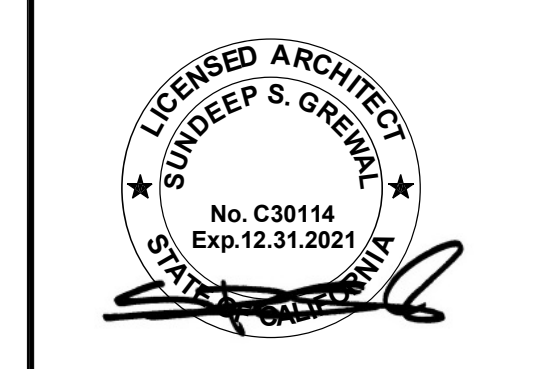


1 Proposed Building Section



**studio**  
**gs+**  
**ARCHITECTS**

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Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

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

Existing Shadow Line  
 New Shadow Line



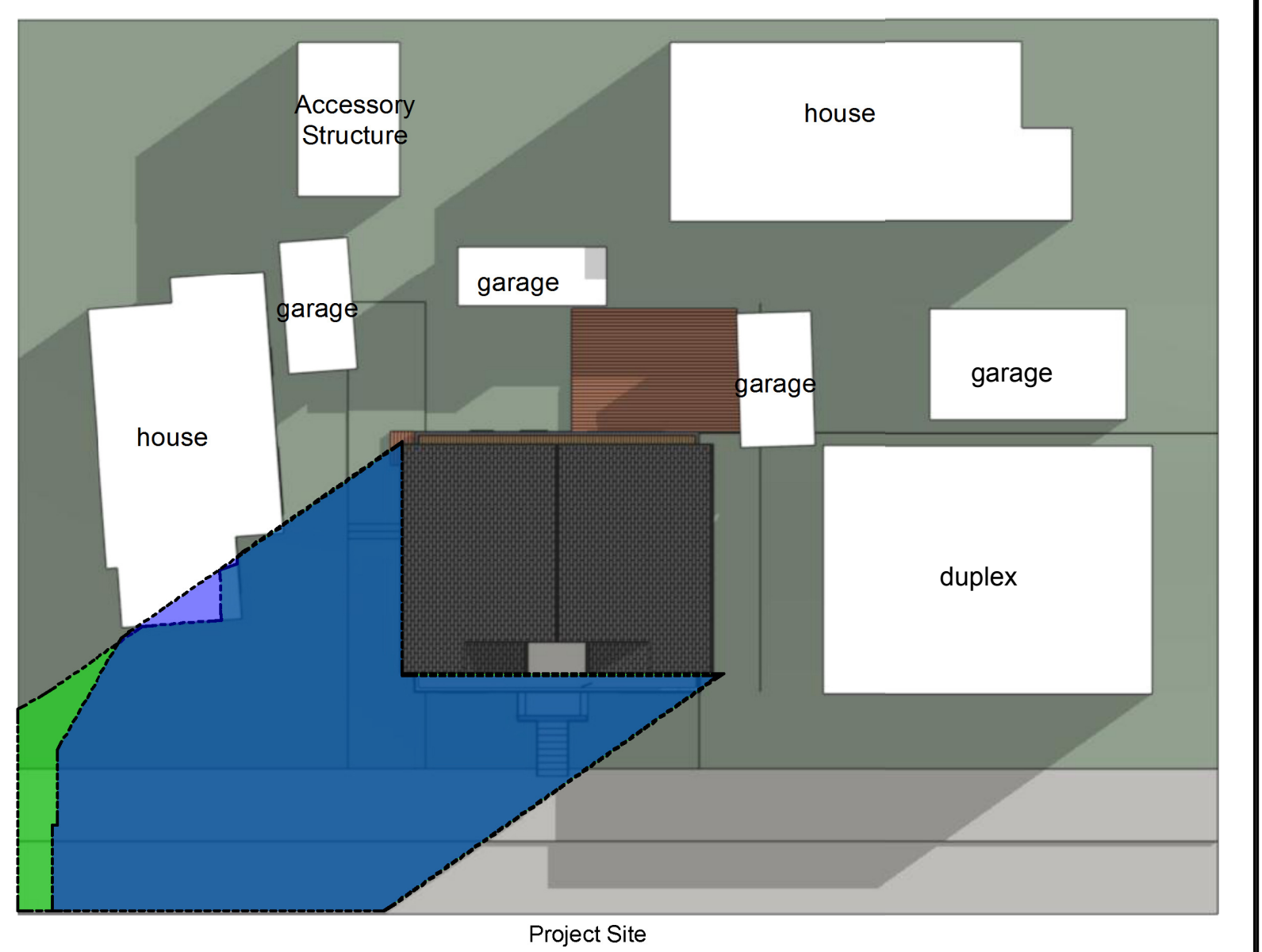
Proposed

12-21-2021 / 2:54 pm



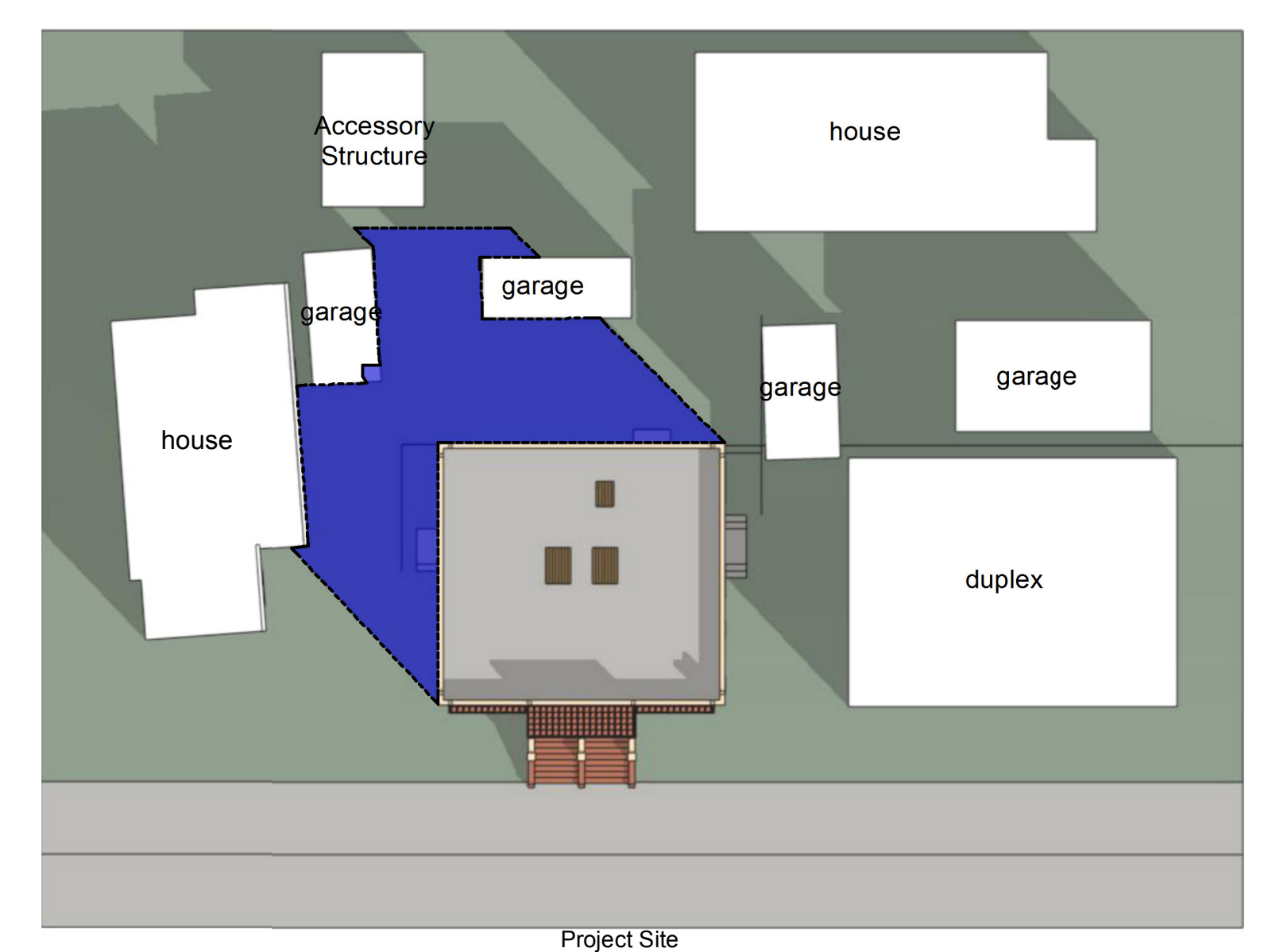
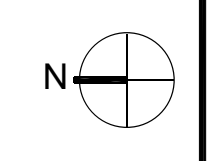
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12-21-2021 / 12:00 pm



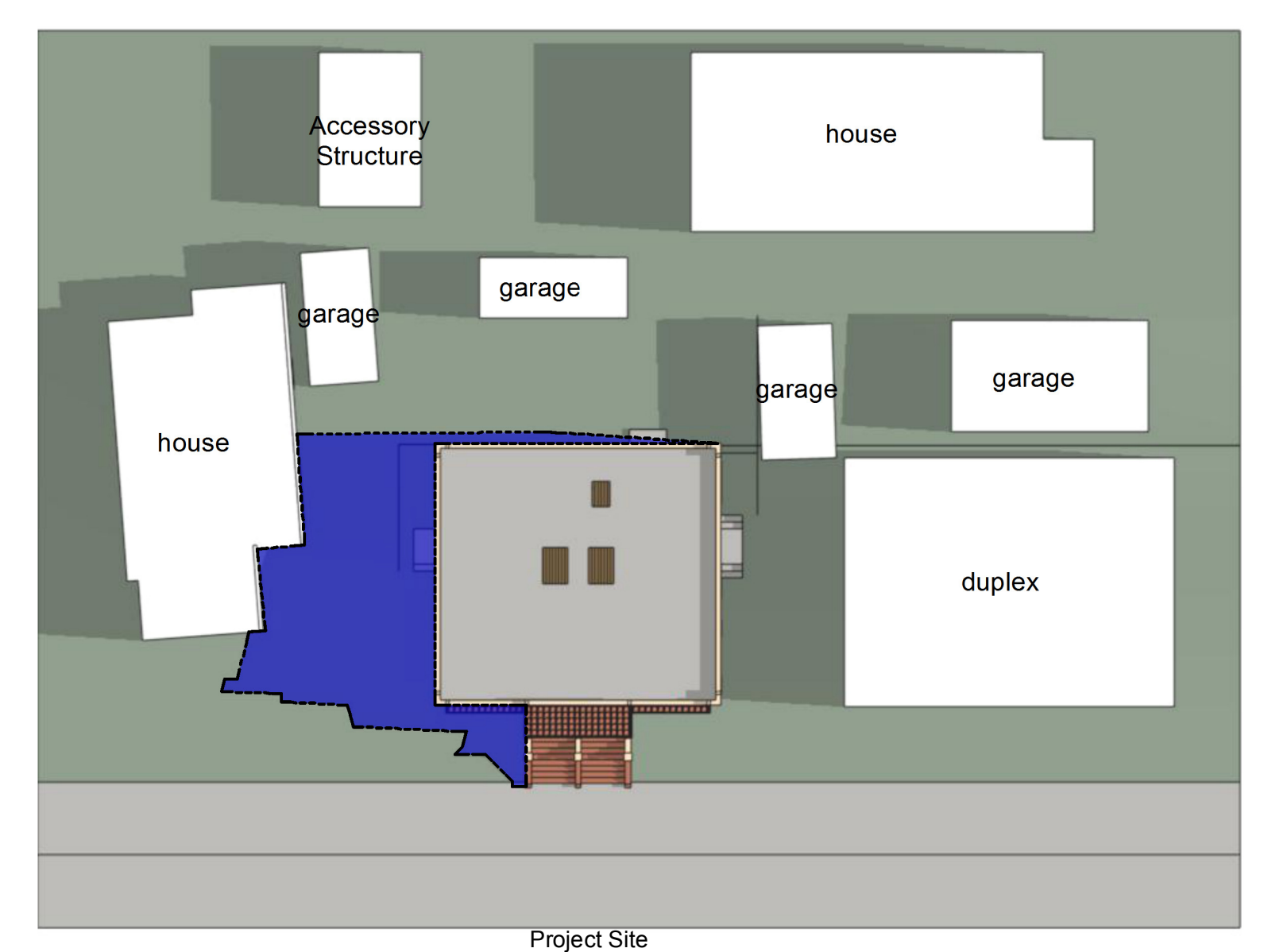
Proposed

12-21-2021 / 9:21 am



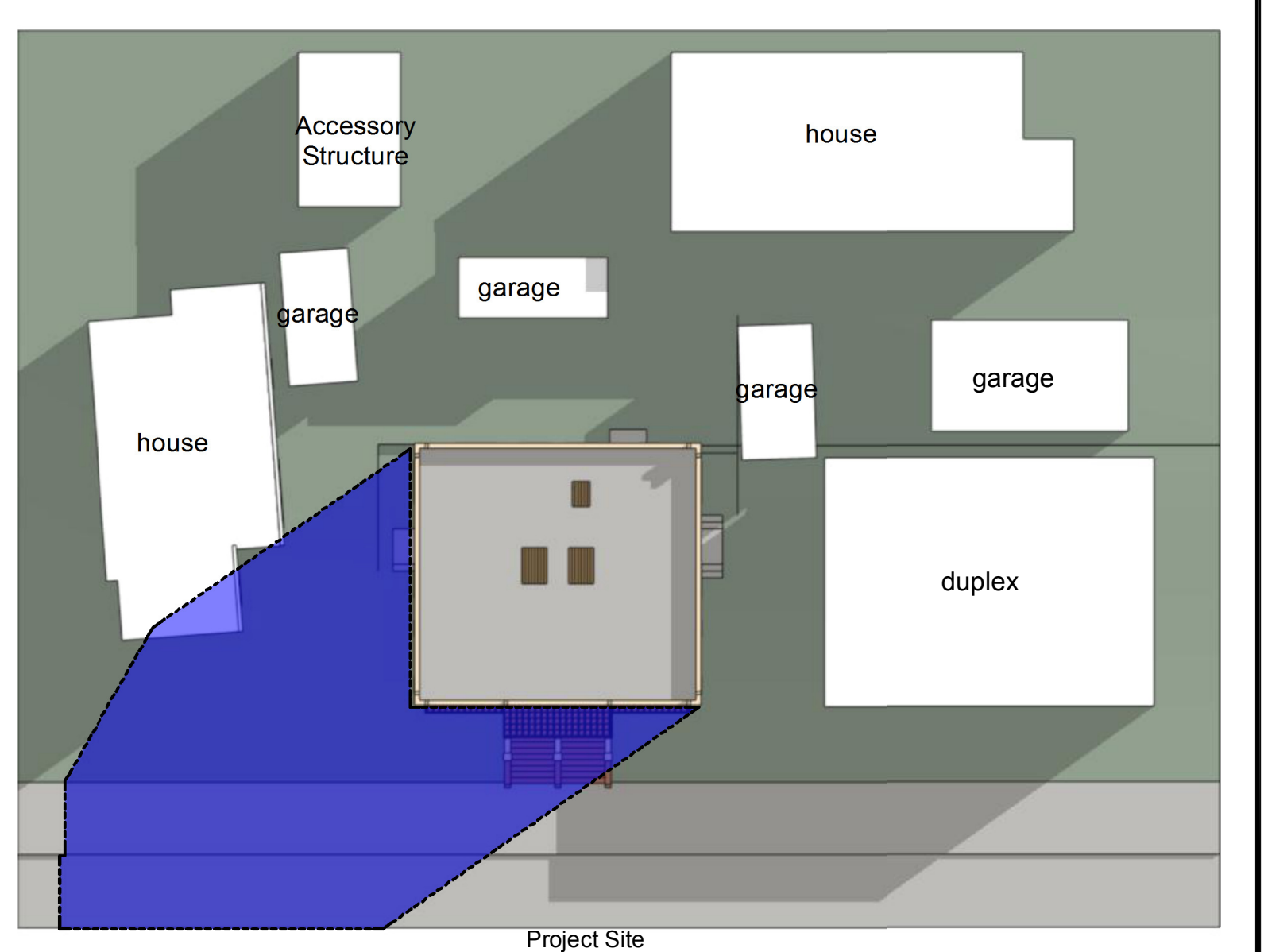
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12-21-2021 / 2:54 pm



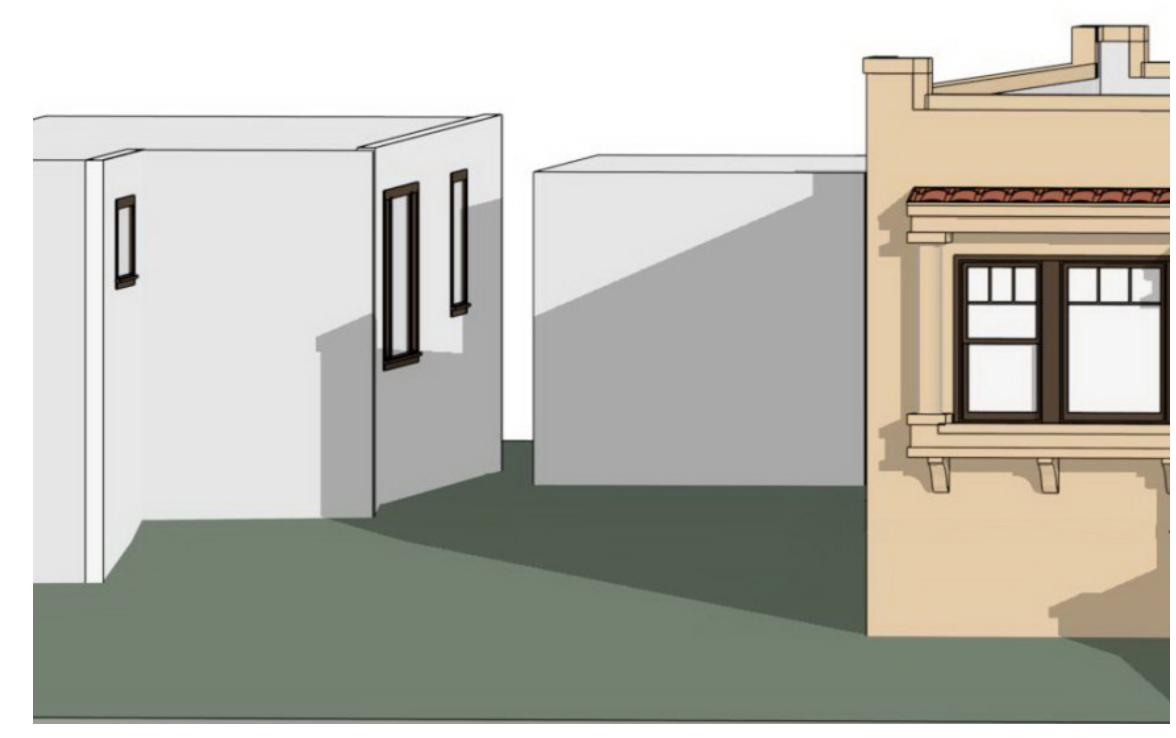
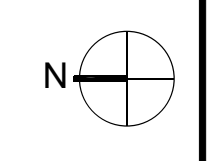
Existing

12-21-2021 / 12:00 pm



Existing

12-21-2021 / 9:21 am



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



Actual  
 12-08-2020 / 3:00 pm

Shadow Accuracy Simulation

Sheet **A4.1**

Existing Shadow Line  
 New Shadow Line



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 Shadows Studies

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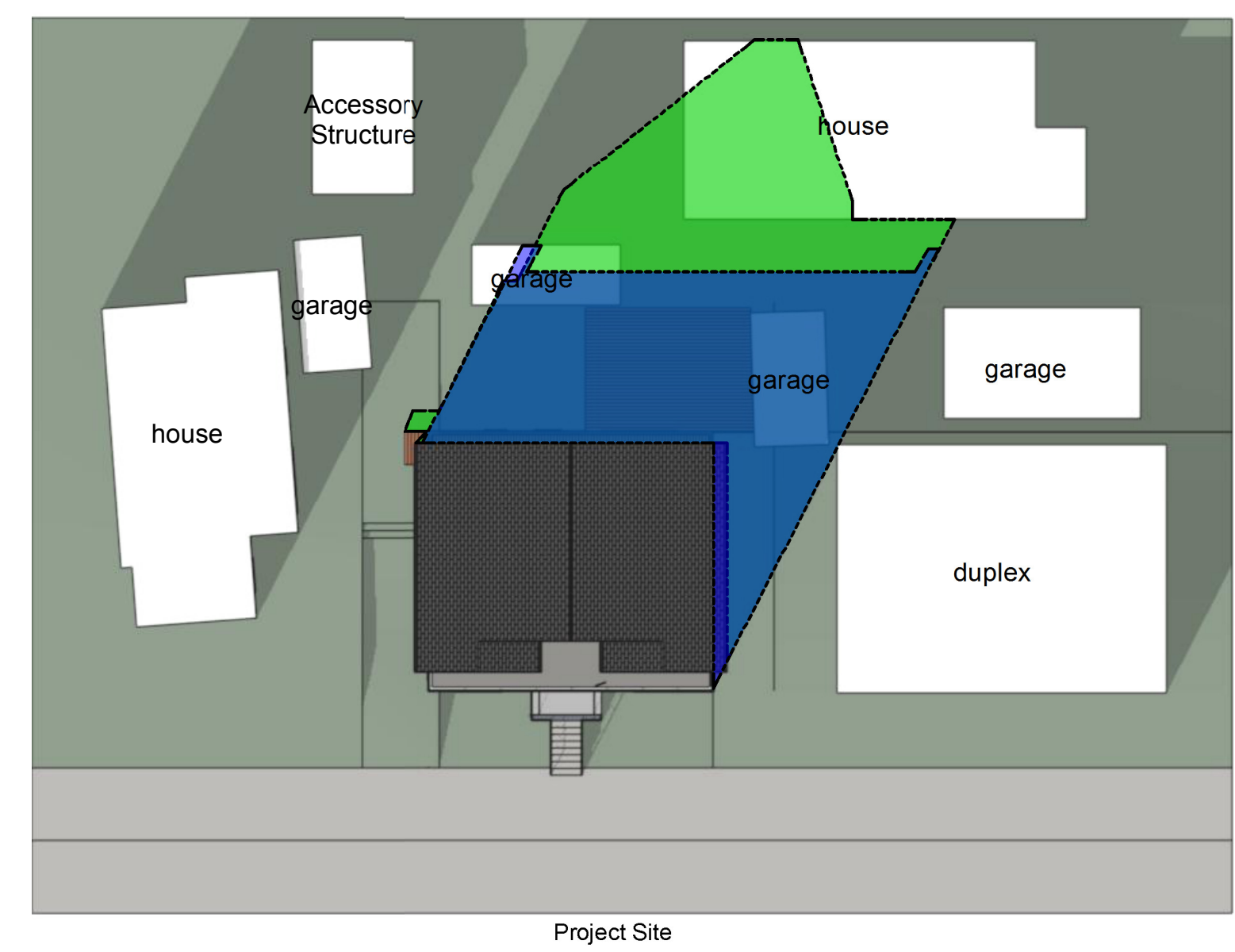
Drawn By:  
 SSG

Checked By:  
 SSG

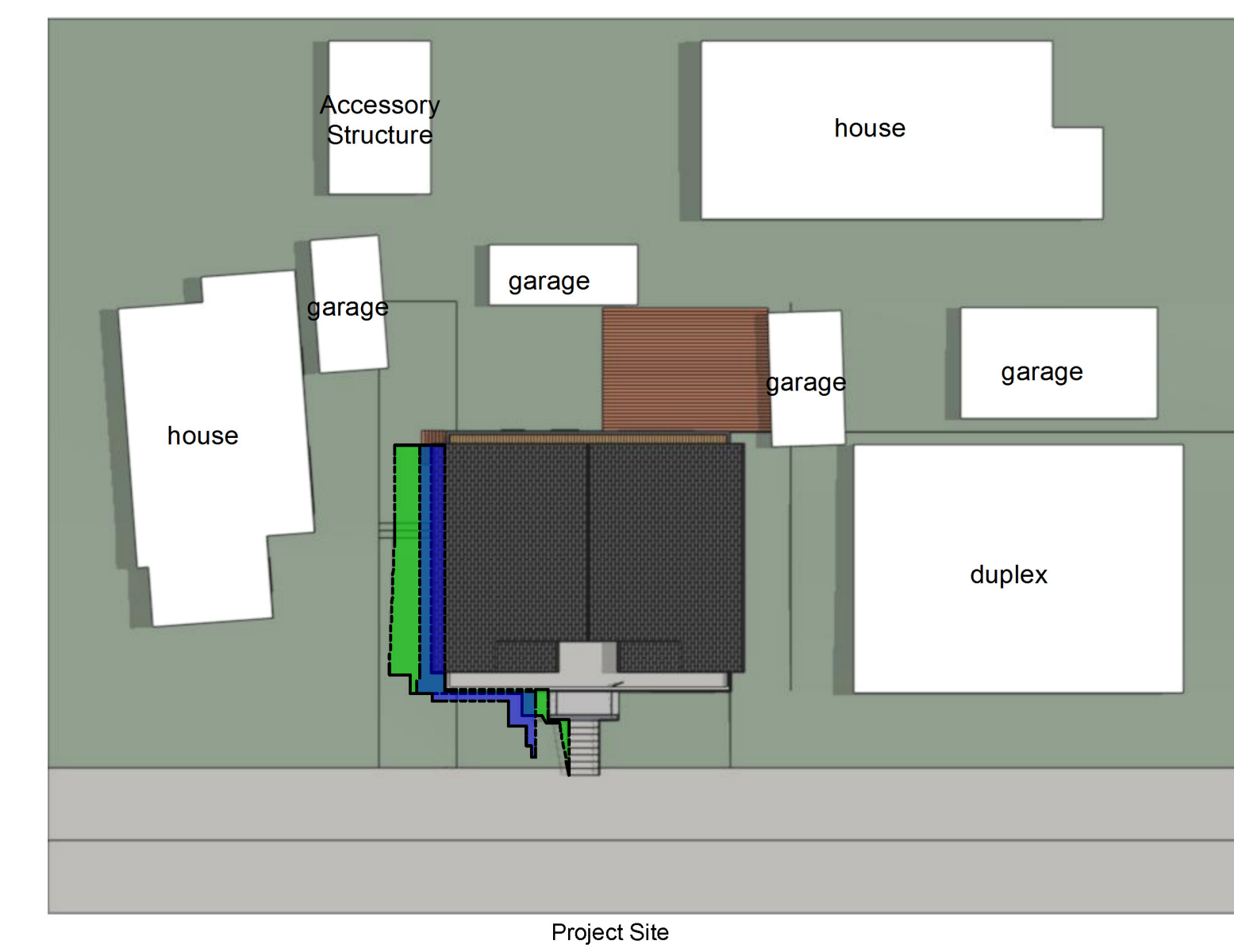
Scale:  
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

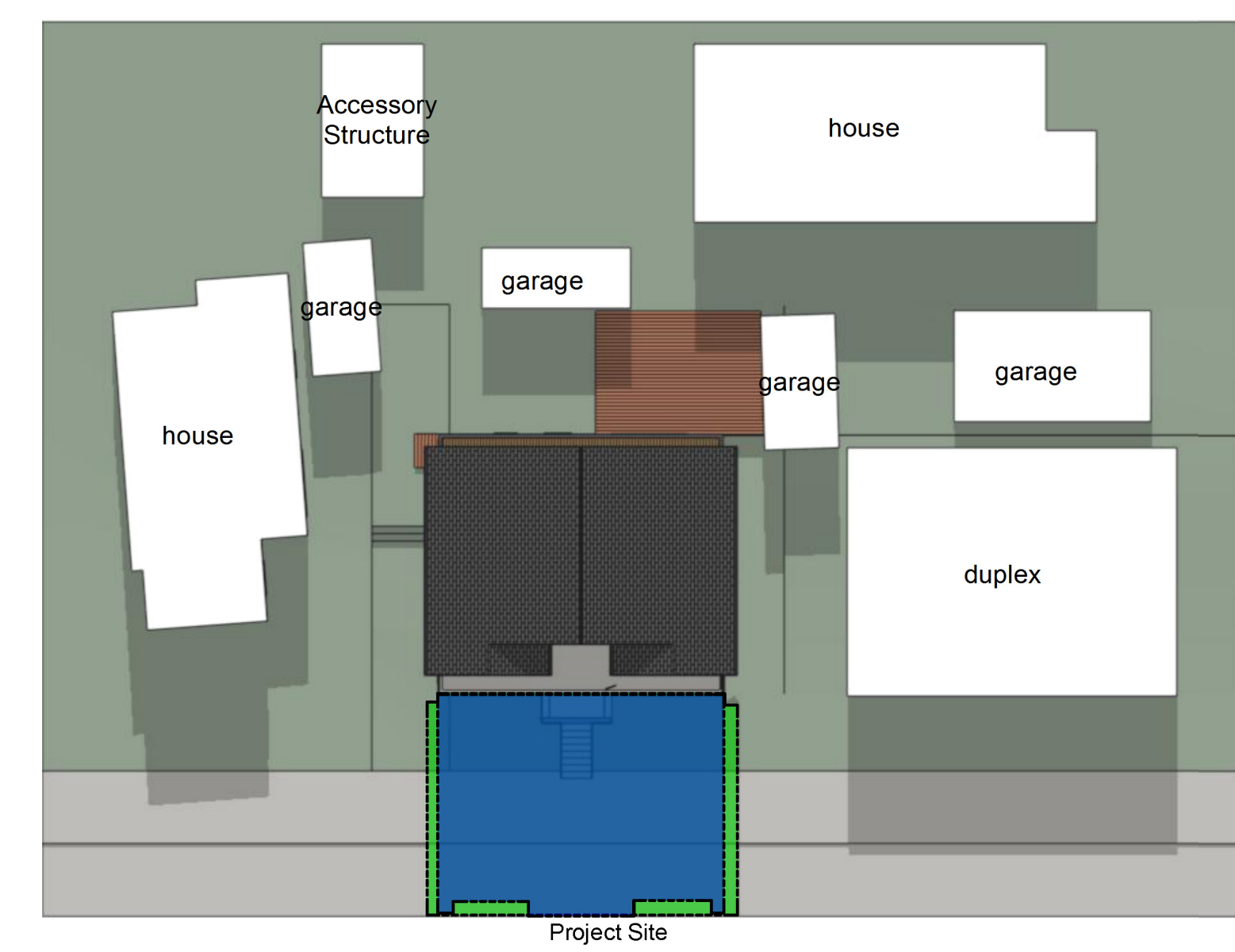
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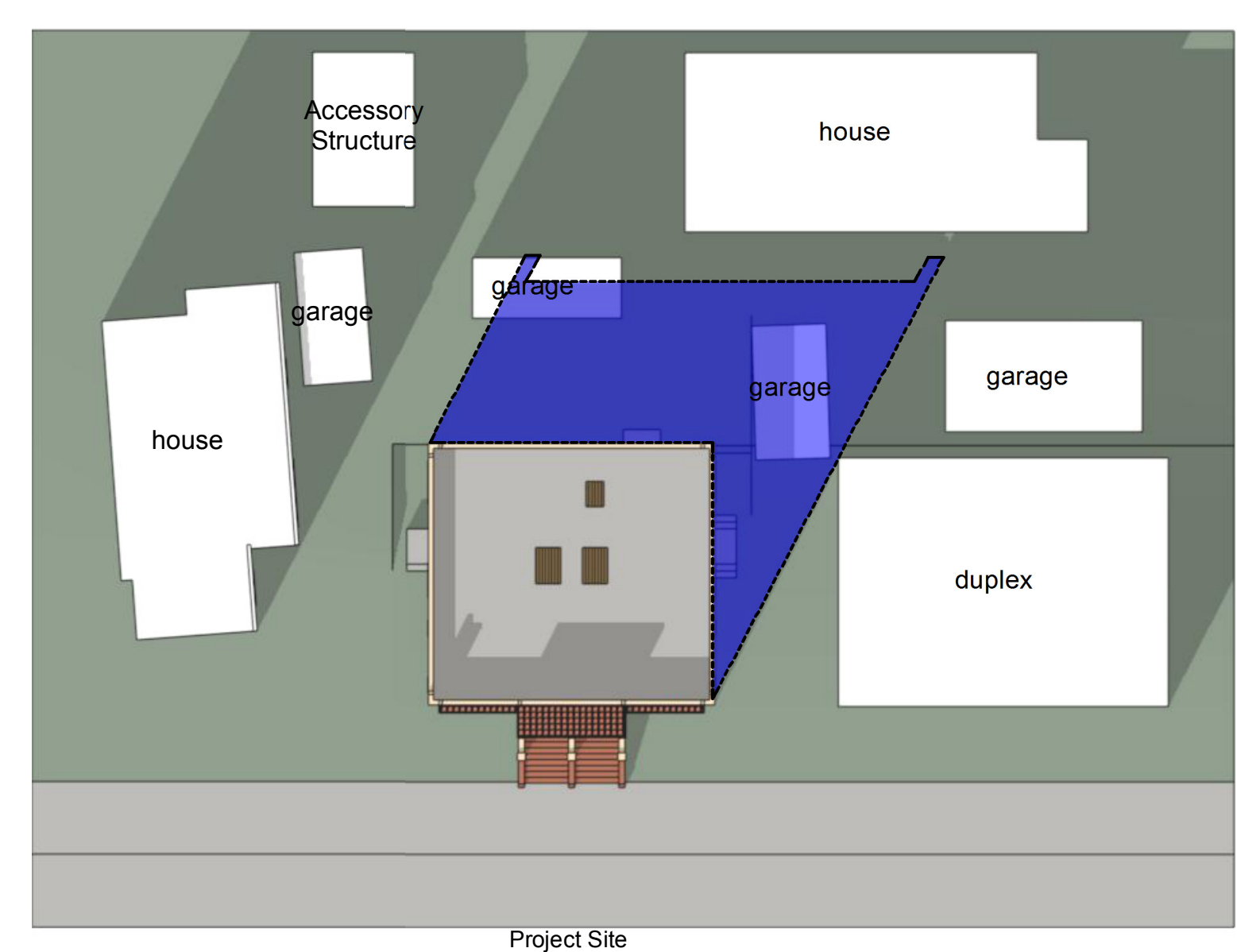
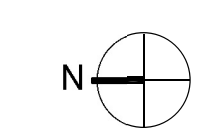
Proposed  
**6-21-2021 / 6:35 pm**



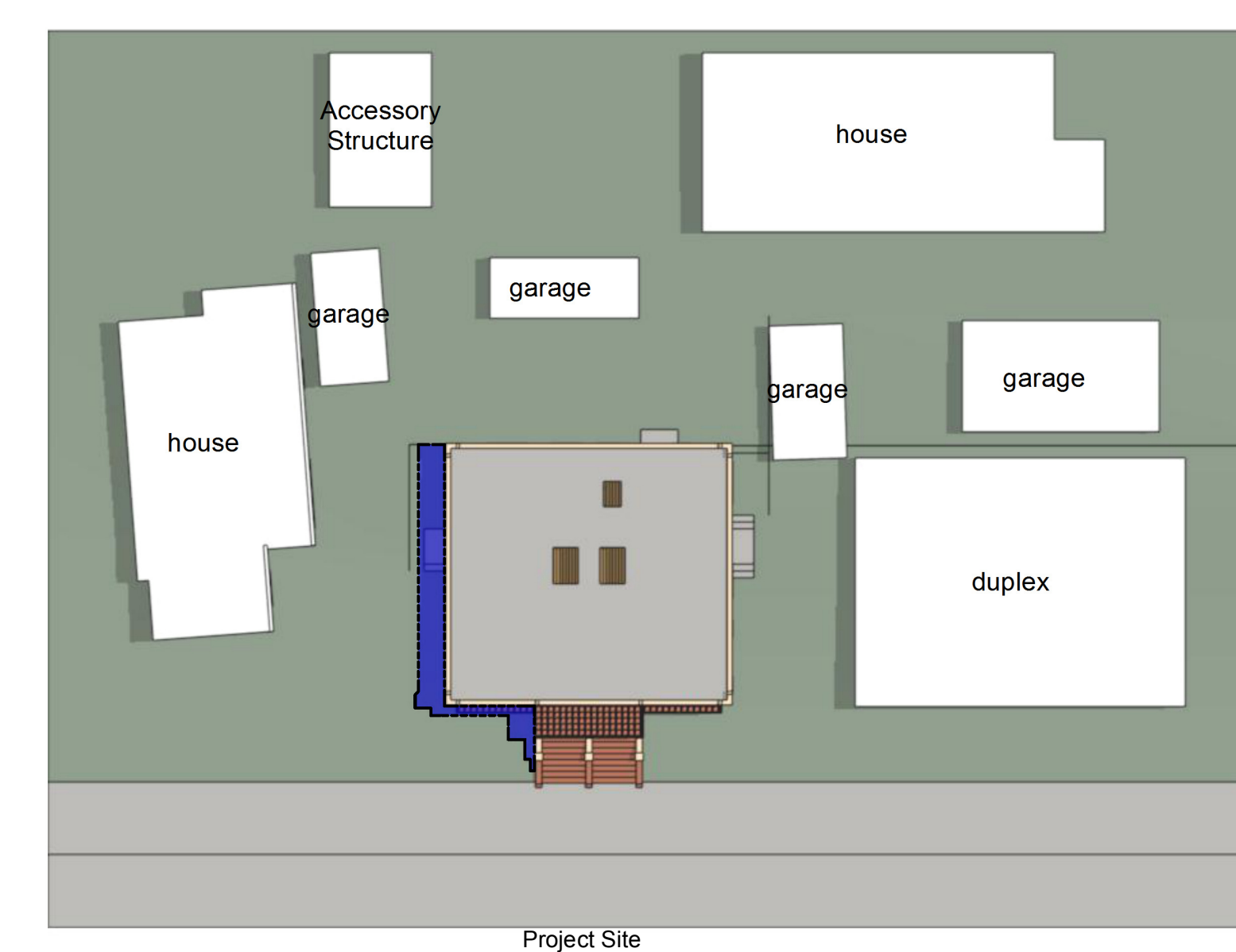
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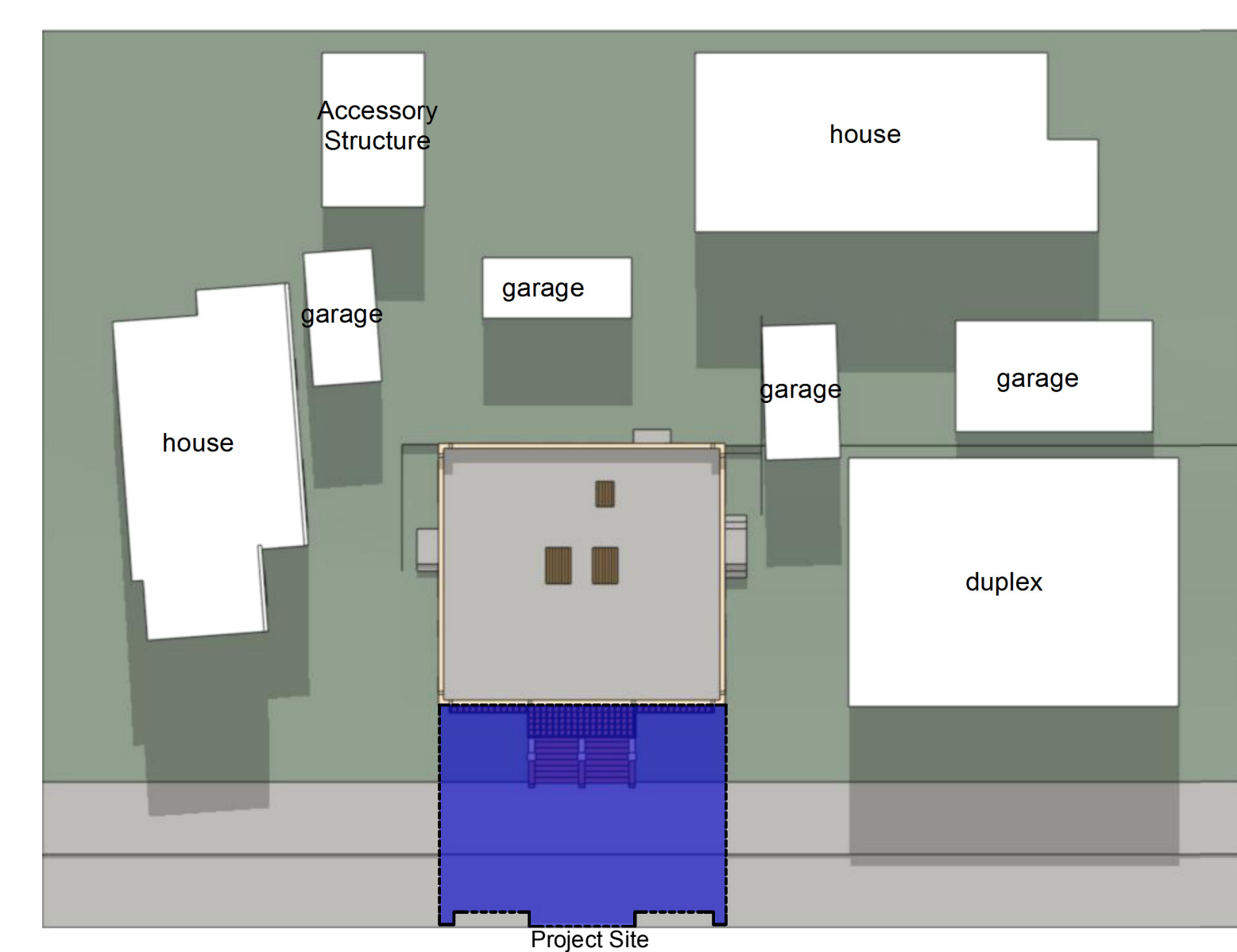
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**6-21-2021 / 7:47 am**



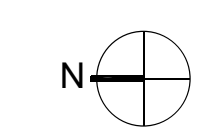
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**6-21-2021 / 6:35 pm**



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



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

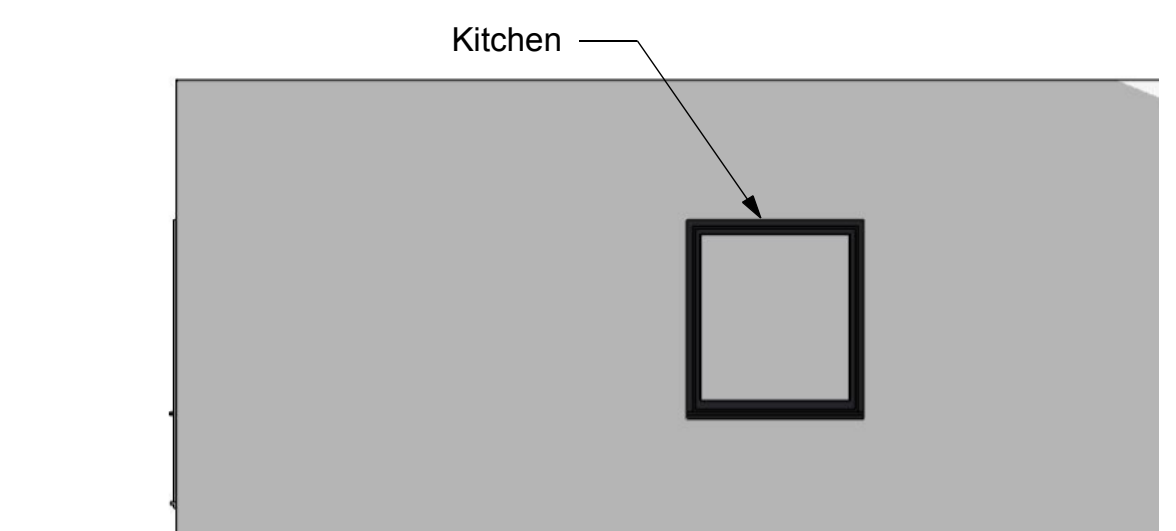




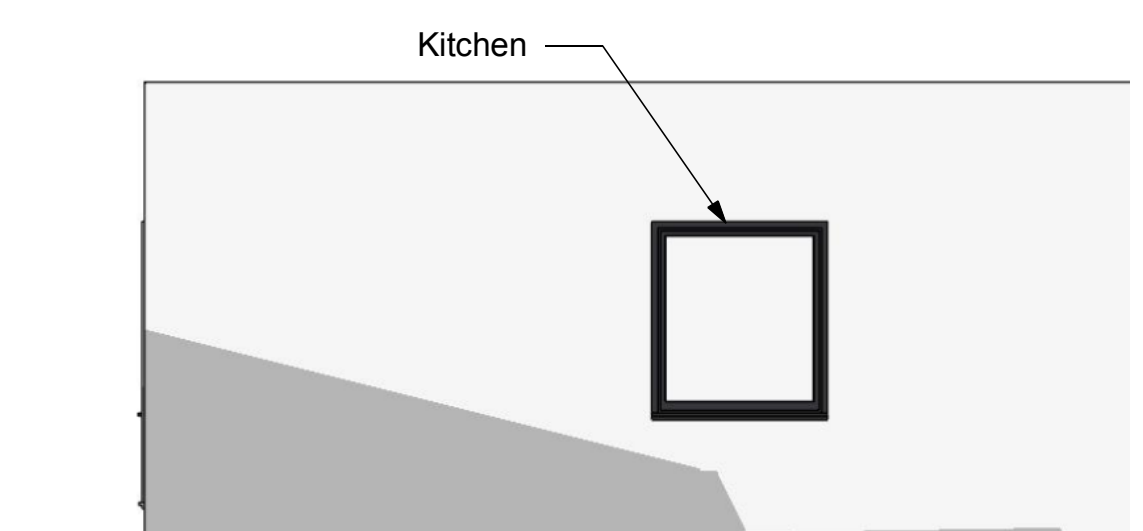
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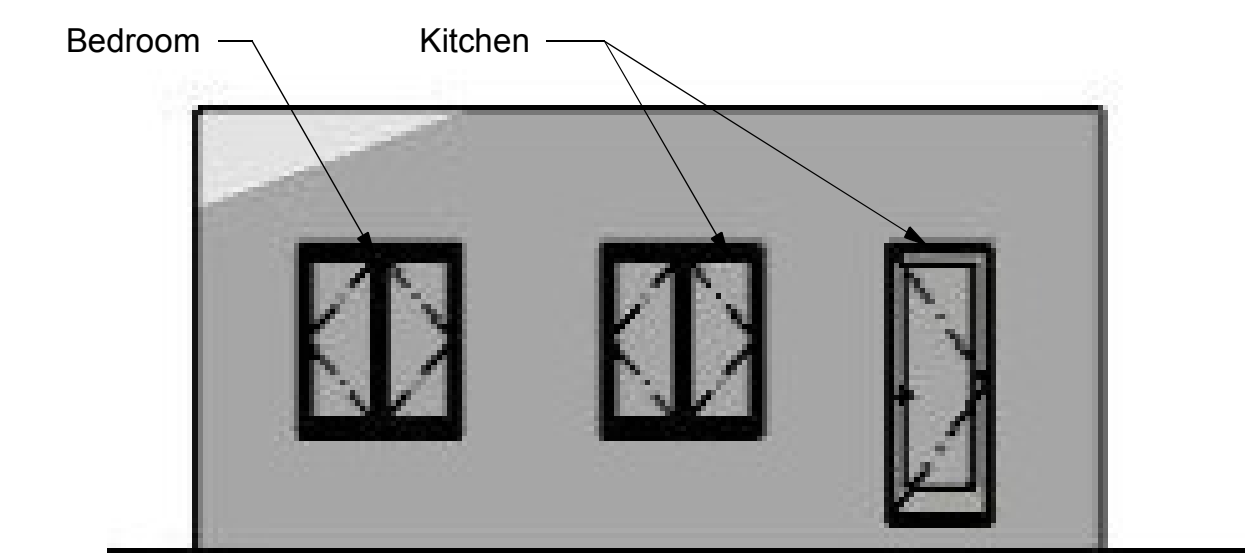
**OPPENHEIMER  
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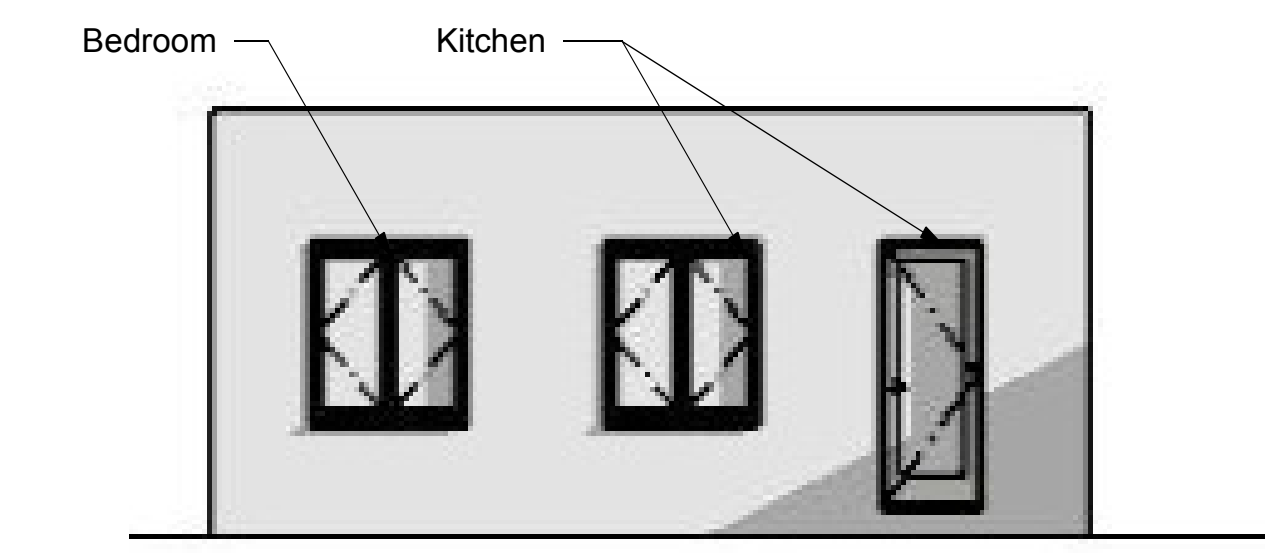
Proposed West Wall



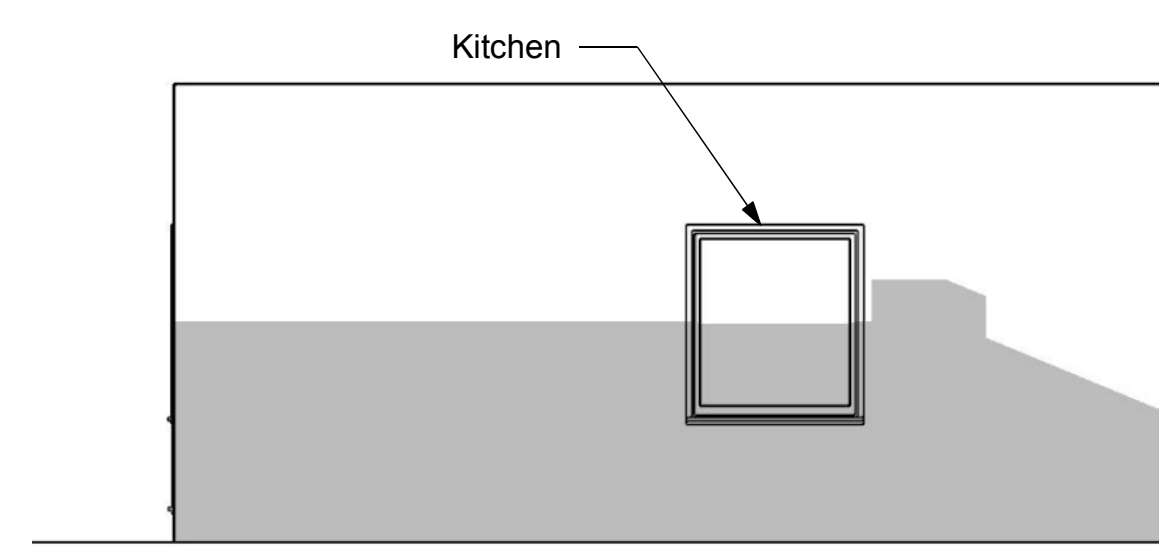
Proposed West Wall



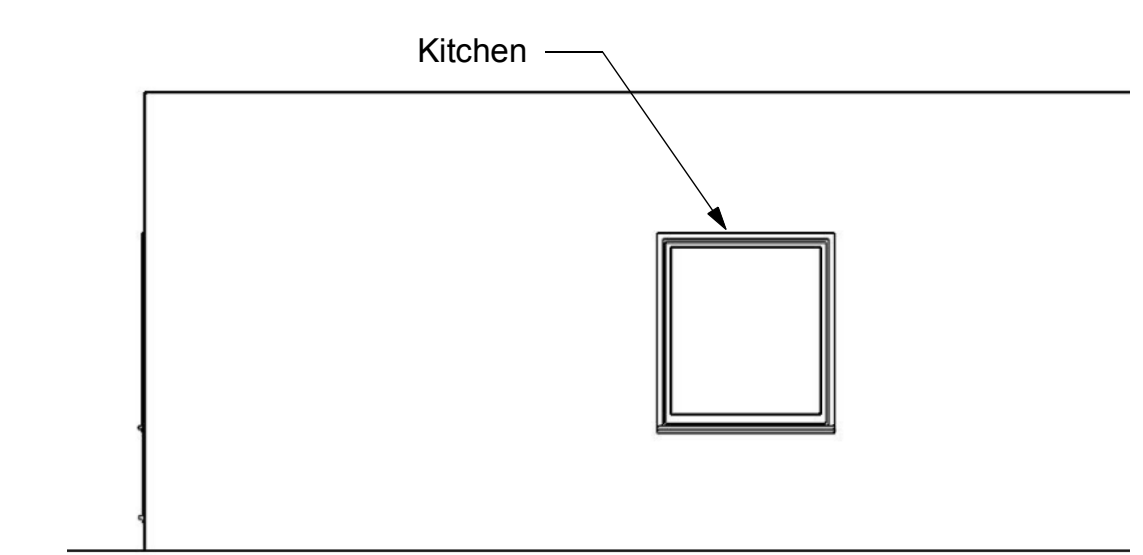
Proposed North Wall



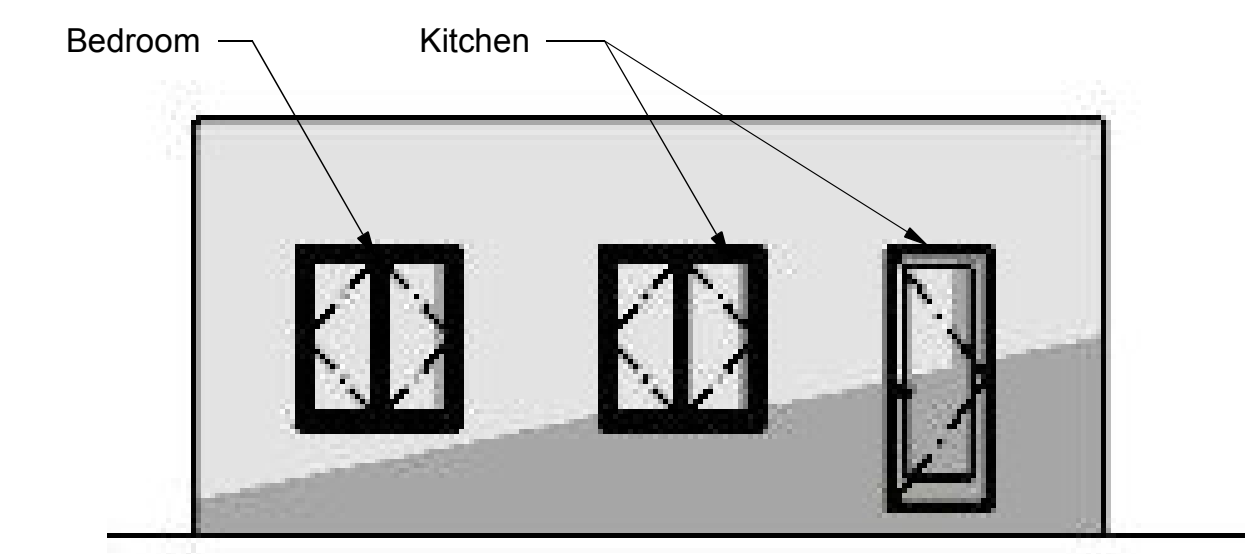
Proposed North Wall



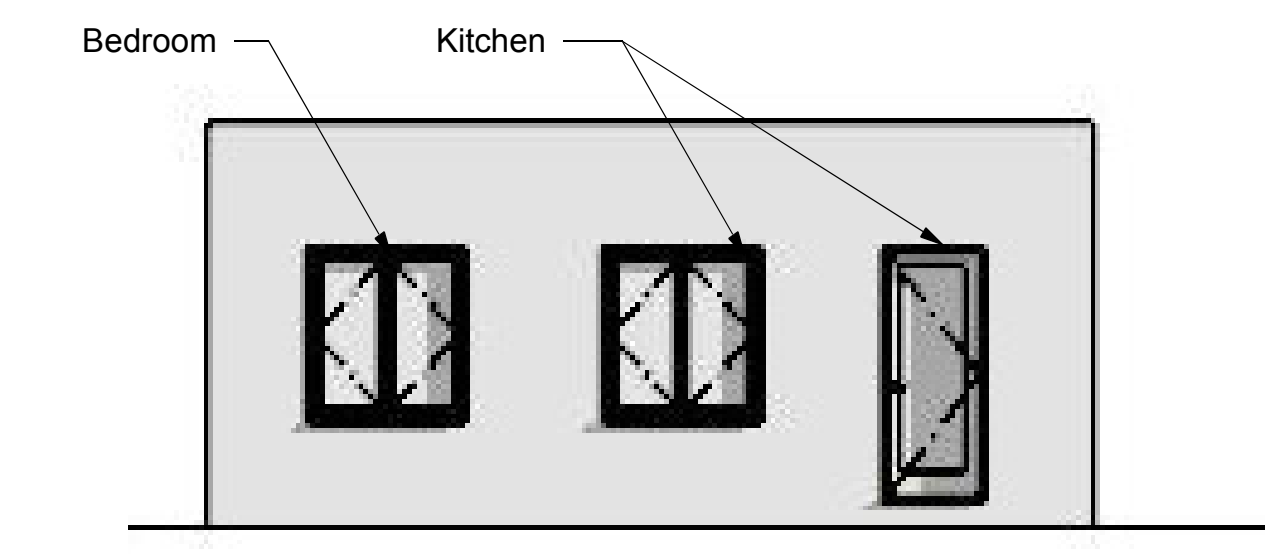
Existing West Wall



Existing West Wall



Existing North Wall



Existing North Wall

6-21-2021 / 6:35 pm

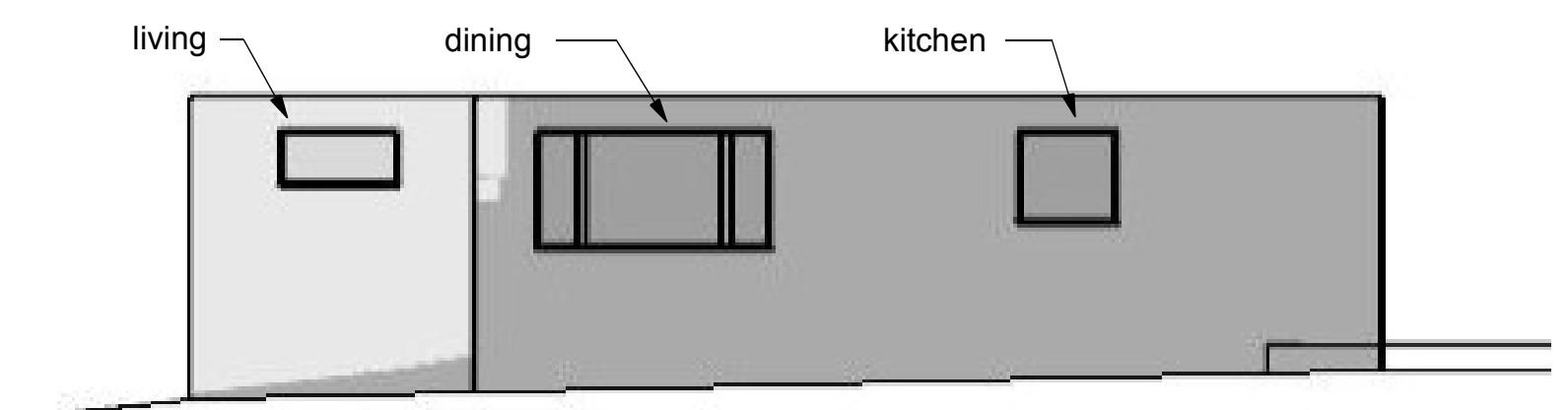
6-21-2021 / 5:00 pm

6-21-2021 / 6:35 pm

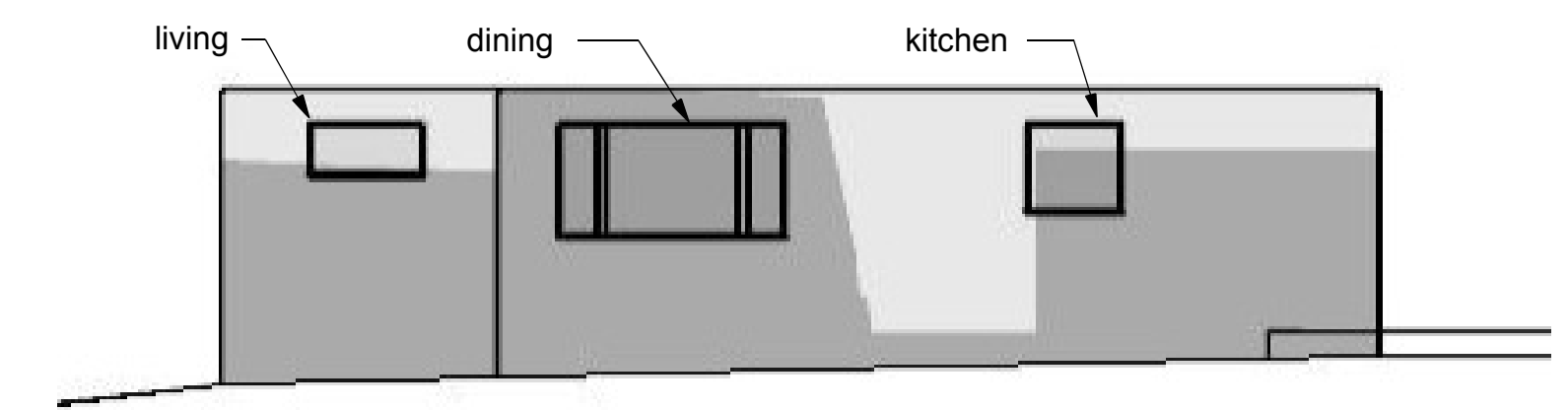
6-21-2021 / 5:00 pm

**1609 Virginia St. Shadow Impact Study**

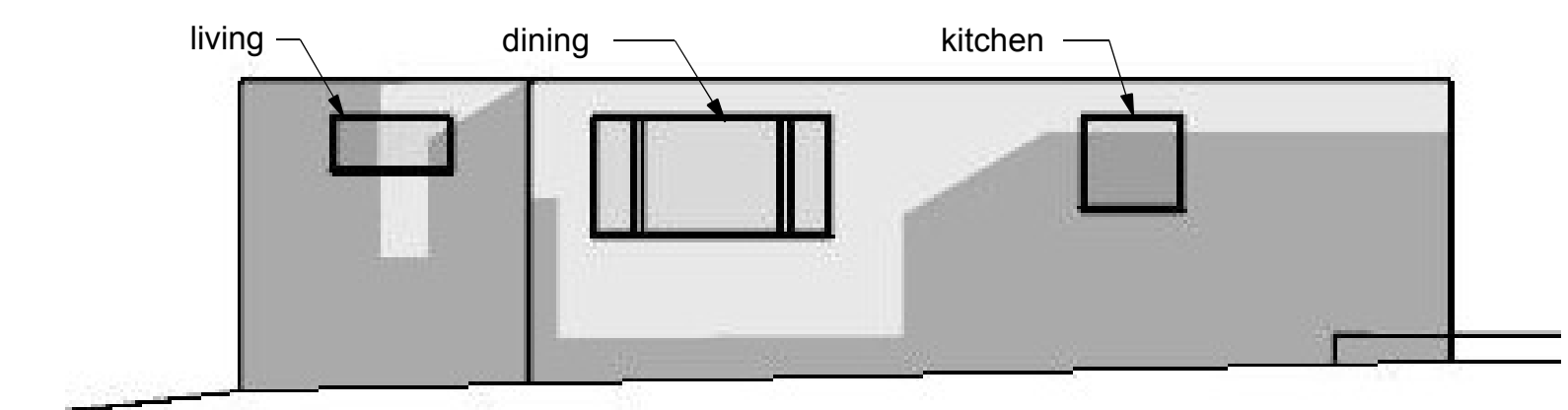
Sheet Contents:  
 Shadows Studies



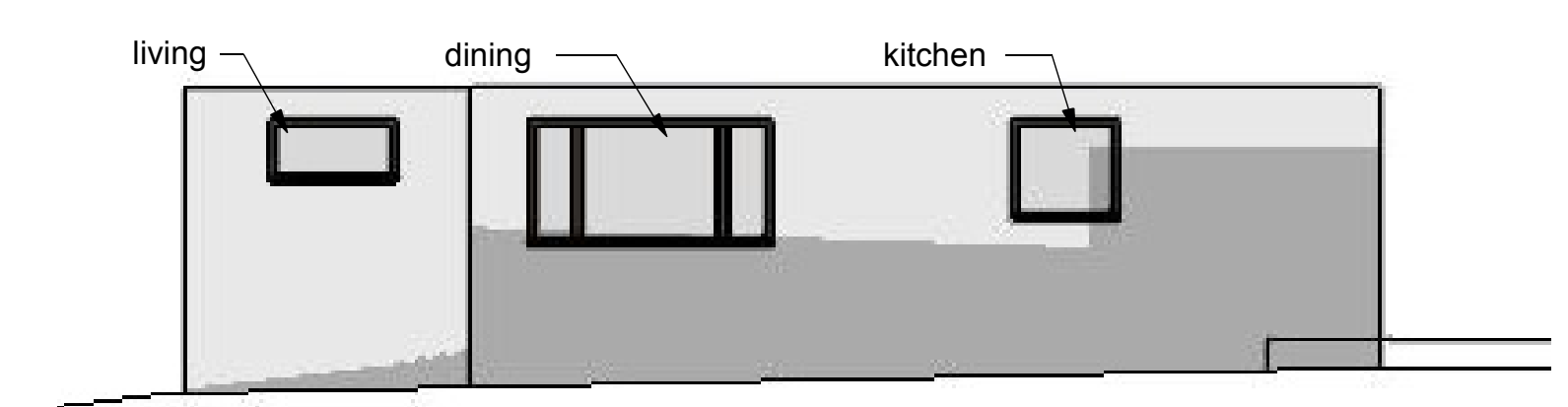
Proposed



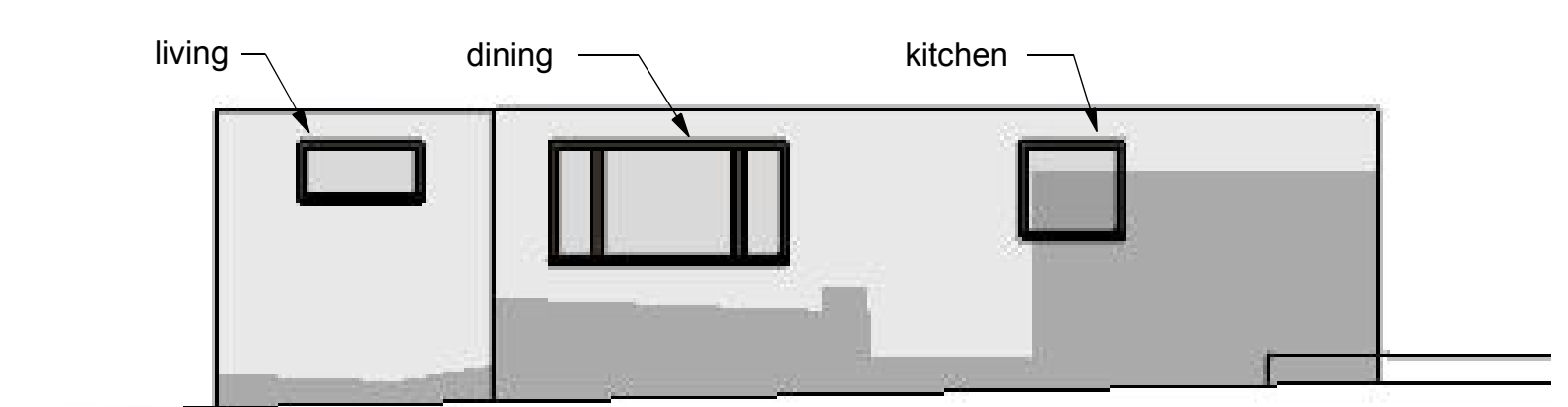
Proposed



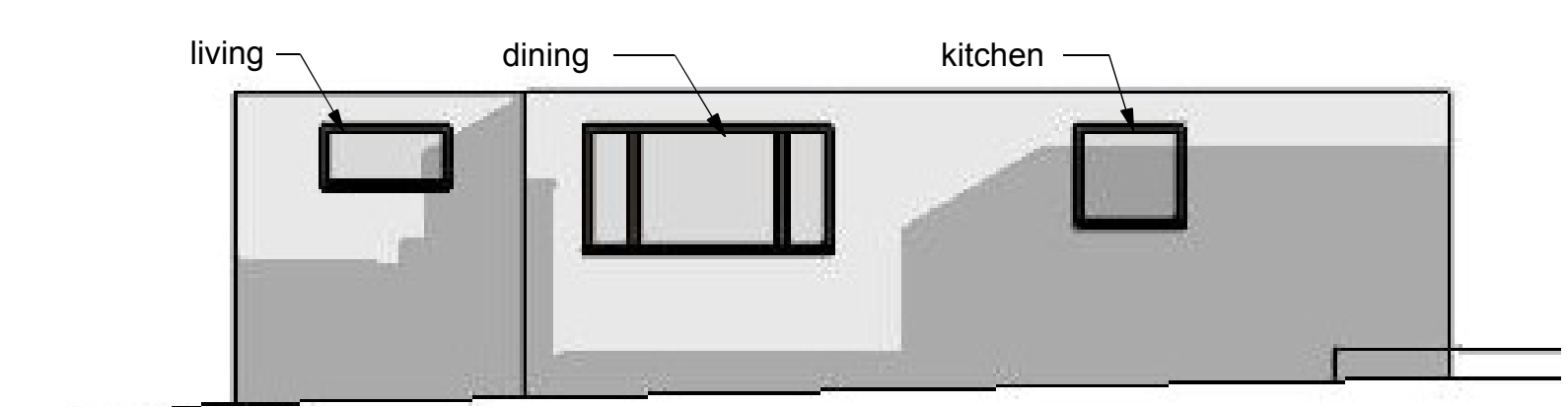
Proposed



Existing



Existing



Existing

12-21-2021 / 2:54 pm

12-21-2021 / 12:00 pm

12-21-2021 / 9:21 am

**1639 California St. Shadow Impact Study**

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

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

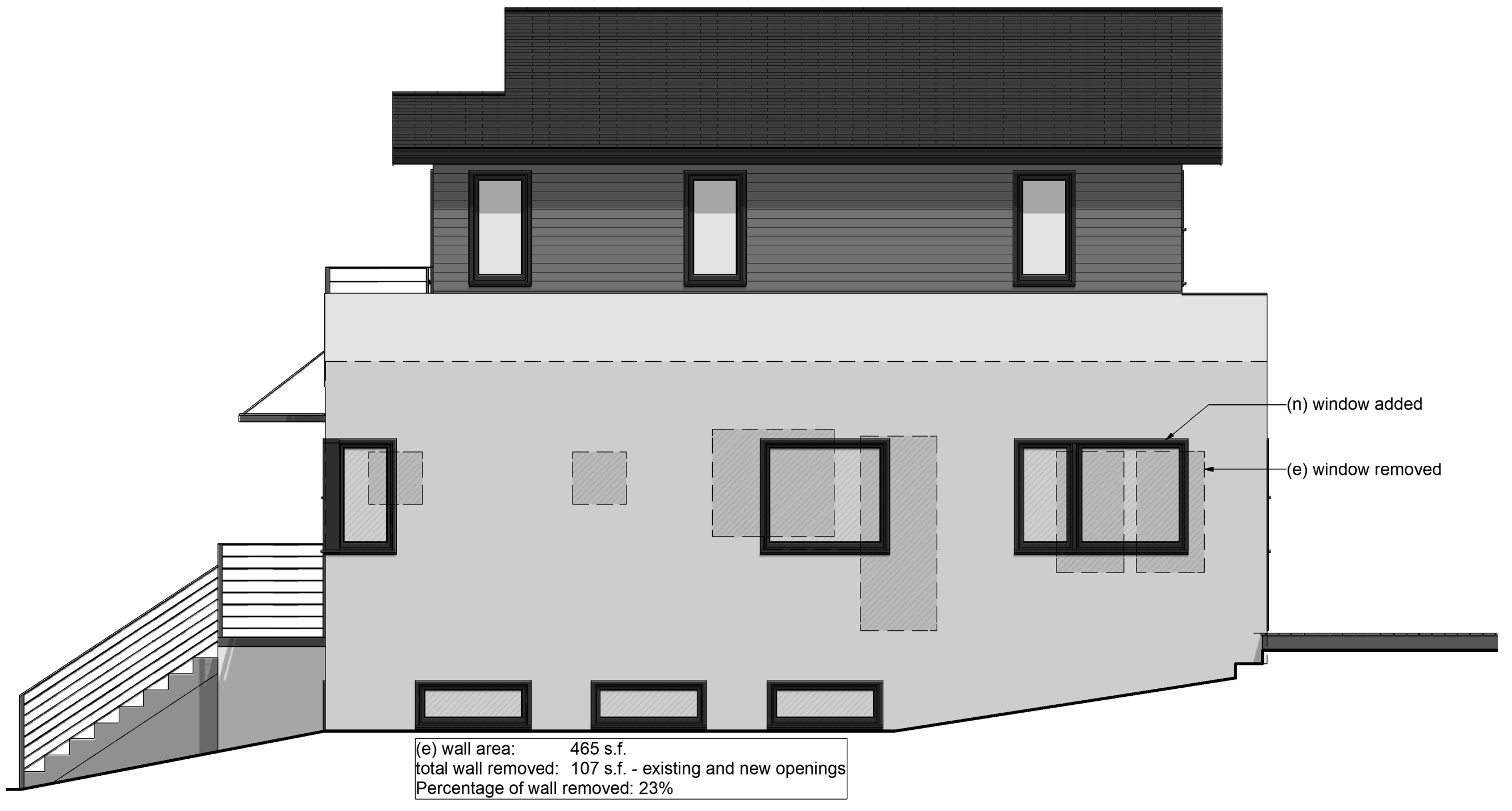
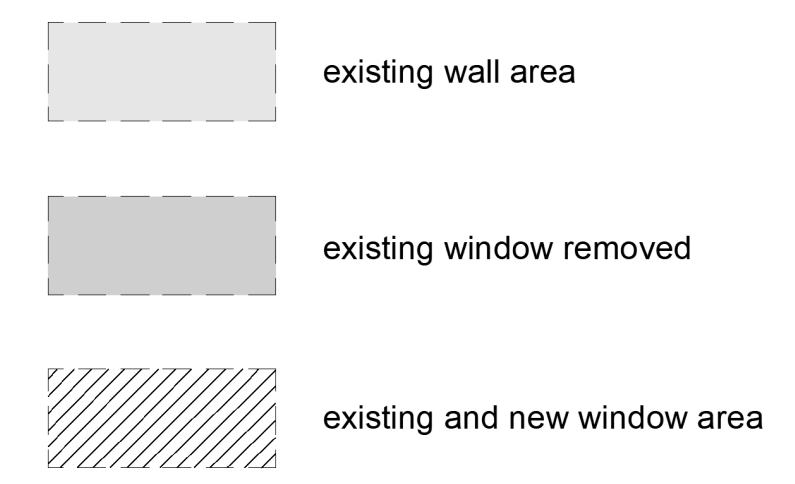


2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com

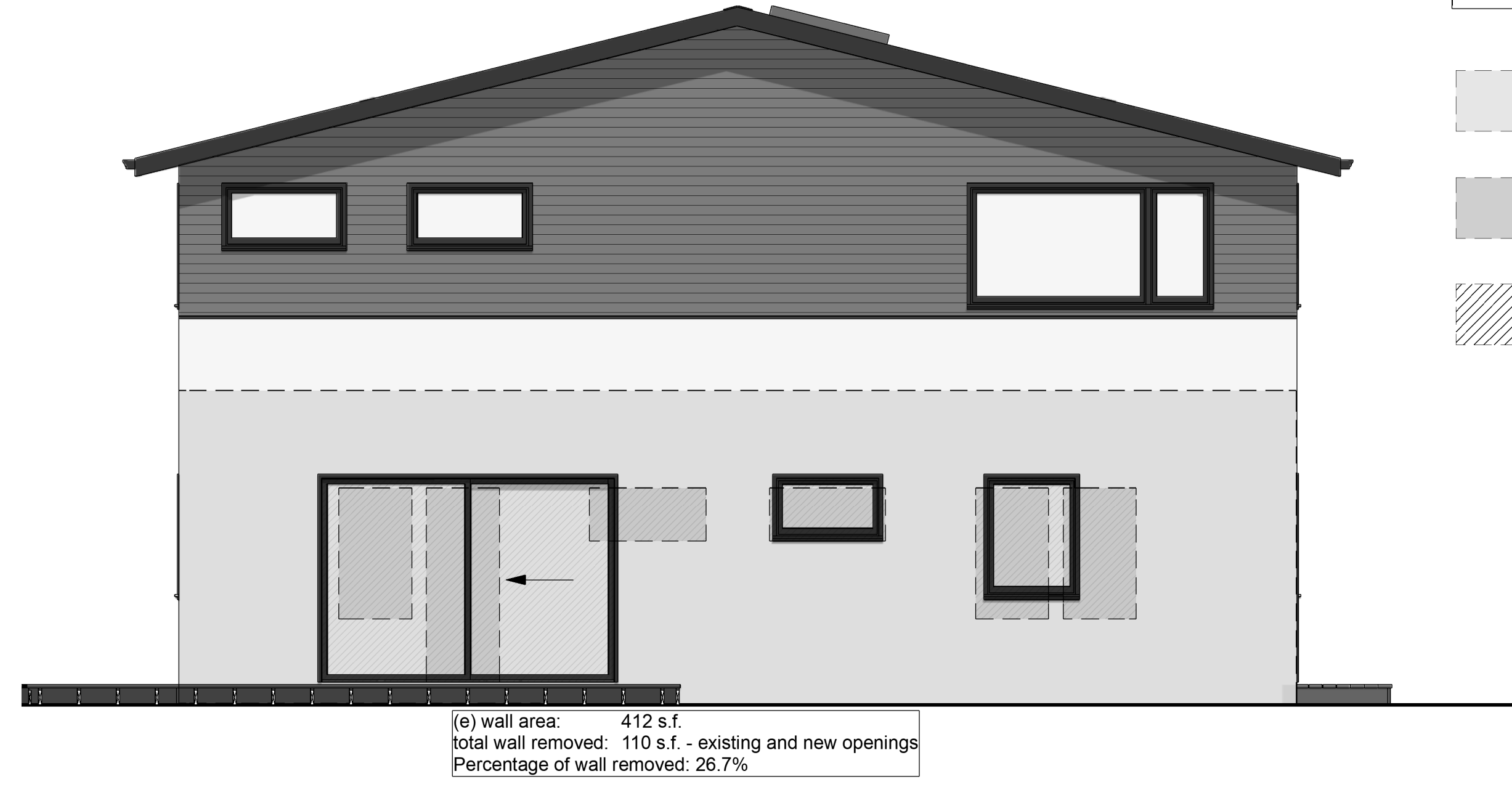


**OPPENHEIMER  
 RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18

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



4 Proposed South Elevation - Right Side



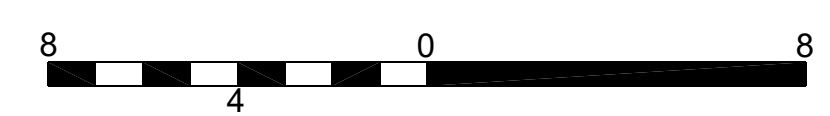
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



Sheet Contents:  
 Demolition Diagram

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

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

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

Sheet  
**A5.1**



Planning and Development Department  
Land Use Planning Division

September 24, 2021

Sent via email:

[sunny@sgsarch.com](mailto:sunny@sgsarch.com)

Sundeep Grewel  
Studio G+S Architects  
2223 5<sup>th</sup> Street  
Berkeley, CA 94710

**Re: Application for Use Permit #ZP2021-0001 for 1643/1647 California Street**

Dear Applicant,

The Land Use Division has reviewed the above referenced application, resubmitted on August 26, 2021 to 1) create new lower basement level, 2) construct a new, second story, and 3) modify the existing duplex layout on an existing property that is non-conforming to density, lot coverage, and front, side, and rear setbacks at 1643/1647 California Street.

I have reviewed your resubmittal and determined that your application is complete as of September 24, 2021. Now that this application is deemed complete, I will finish my analysis of this project and prepare the Staff Report for the ZAB review of this project. I will inform you when your application has been scheduled for a public hearing.

Sincerely,

A handwritten signature in black ink that reads "Nicholas Armour".

Nicholas Armour  
Senior Planner



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

**ZONING ADJUSTMENTS BOARD  
NOTICE OF PUBLIC HEARING**


**SUBJECT:** 1643-1647 California Street  
Use Permit #ZP2021-0001

**WHEN:** Thursday, December 9, 2021.  
Meeting starts at 7:00 pm.

**WHERE:** *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2021-12-09\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-12-09_ZAB_Agenda.pdf) or details.*

«NAME1»  
«NAME2»  
«ADDRESS1» «ADDRESS2»

Attachment 5 - Administrative Record

	<p><b>SUBJECT:</b> 1643-1647 California Street, Use Permit #ZP2021-0001 to 1) create new lower basement level; 2) construct a new, second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex on an existing property</p> <p><b>CEQA RECOMMENDATION:</b> It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.</p>
<p><b>NOTICE CONCERNING YOUR LEGAL RIGHTS:</b> If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing.</p> <p><b>Post and Mail Date:</b> November 23, 2021</p>	<p><b>All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.</b></p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via e-mail to: <a href="mailto:zab@cityofberkeley.info">zab@cityofberkeley.info</a>. For further information, see the Agenda at: <a href="https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-10-28_ZAB_Agenda.pdf">https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-10-28_ZAB_Agenda.pdf</a> or call the Land Use Planning division (510) 981-7410.</p> <p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date.</p> <p>PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record, and will be accessible on the City Website.</p>
	<p>All application materials are available at the Land Use Planning Division online at: <a href="http://www.cityofberkeley.info/zoningapplications">http://www.cityofberkeley.info/zoningapplications</a></p> <p>The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <a href="http://www.cityofberkeley.info/zoningadjustmentsboard">http://www.cityofberkeley.info/zoningadjustmentsboard</a>.</p>

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Cedar Street Neighborhood Association	1814 CEDAR ST	BERKELEY CA 94703	
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA 94703	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000,	SOUTH SAN FRANCISCO CA 94080	
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONNELL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703



Internal

SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703
MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740

Internal

YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1605 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1606 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1608 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
Occupant(s)	1613 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1613 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1614 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 1	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 2	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 3	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 4	BERKELEY CA	94703
Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1616 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1617 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1618 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COM	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Thursday 12/9 ZAB meeting - item # - 1643 California

**From:** Adam Safir <cederfir@hotmail.com>  
**Sent:** Thursday, December 9, 2021 9:08 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Subject:** Thursday 12/9 ZAB meeting - item # - 1643 California

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

A few questions and comments:

- As there is an ongoing discussion about 'objective standards', why are you approving projects at all right now.
- If all use permits have to be approved anyway, this should not be discussed and should be incorporated into what the city planners are doing. You asked why we didn't have any specific asks about the project and it is specifically because we thought that we were at the stage of asking you to request major modifications because of all the UPs/AUPs. If we knew these were a forgone conclusion (which is totally bizarre) then we would absolutely have requests/suggestions.



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

**DATE OF BOARD DECISION:** December 9, 2021

**DATE NOTICE MAILED:** December 20, 2021

**APPEAL PERIOD EXPIRATION:** January 10, 2022

**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)<sup>1</sup>:** February 1, 2022

## 1643 & 1647 California Street

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

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

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

**ZONING:** R-2 – Restricted Two-Family Residential District

**APPLICANT:** Sundeeep Grewal, Studio G+S Architects, 2223 Fifth Street, Berkeley, CA 94710

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

ZONING ADJUSTMENTS BOARD  
December 9, 2021

1643-1647 CALIFORNIA STREET  
Page 2 of 4

**PROPERTY OWNER:** Ido and Tamar Oppenheimer, 1643 & 1647 California Street, Berkeley CA 94703

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

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

---

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

---

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
DUFFY	X			
KAHN	X			
KIM	X			
O'KEEFE	X			
OLSON	X			
SANDERSON	X			
THOMPSON	X			
GAFFNEY	X			
TREGUB	X			
<b>BOARD VOTE:</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>



Samantha Updegrave, Zoning Adjustments Board  
Secretary

**PUBLICATION OF NOTICE:**

Pursuant to BMC Section 23B.32.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

**FURTHER INFORMATION:**

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Questions about the project should be directed to the project planner, Nick Armour, at (510) 981-7485 or [narmour@cityofberkeley.info](mailto:narmour@cityofberkeley.info). All project application materials, including full-size plans, may be viewed online at <https://aca.cityofberkeley.info/Community/> or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

**TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):**

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

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
  - A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - B. The fee for all appeals by Applicants is \$2,500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown on page 1 (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

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

ZONING ADJUSTMENTS BOARD  
December 9, 2021

1643-1647 CALIFORNIA STREET  
Page 4 of 4

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**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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

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

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

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# ATTACHMENT 1

## FINDINGS AND CONDITIONS

DECEMBER 9, 2021

### 1643 & 1647 California Street

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

#### PERMITS REQUIRED

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

#### I. CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### II. FINDINGS FOR APPROVAL

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.



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

### **III. OTHER FINDINGS FOR APPROVAL**

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

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

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**IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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

**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

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

- 11. Construction and Demolition Diversion.** Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

- 12. Toxics.** The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

**A. Environmental Site Assessments:**

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
  - All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

**B. Soil and Groundwater Management Plan:**

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

**C. Building Materials Survey:**

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.

Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

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

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

- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
  - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.
16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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



21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

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

29. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

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

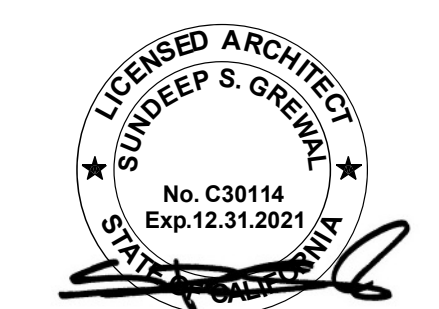
30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

**At All Times:**

32. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
33. Electrical Meter. Only one electrical meter fixture may be installed per dwelling unit.
34. Loading. All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
35. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
36. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



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

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

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

Scale:  
 N/A

Revisions:  
 Use Permit Set: 12-10-2020

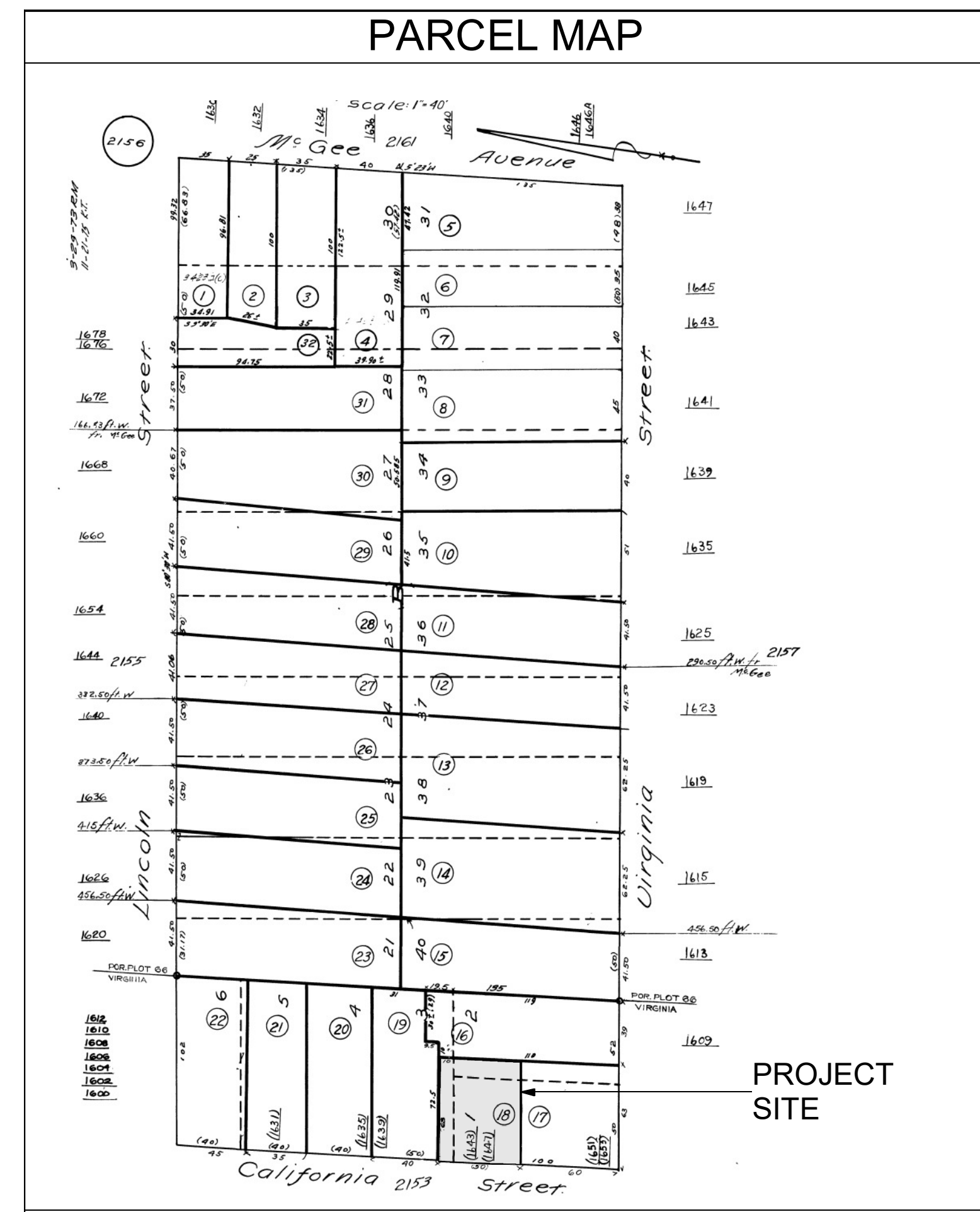
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet  
**A0.0**



# OPPENHEIMER RESIDENCE

## 1643 & 1647 California St. CA 94703

### SHEET INDEX

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

### SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

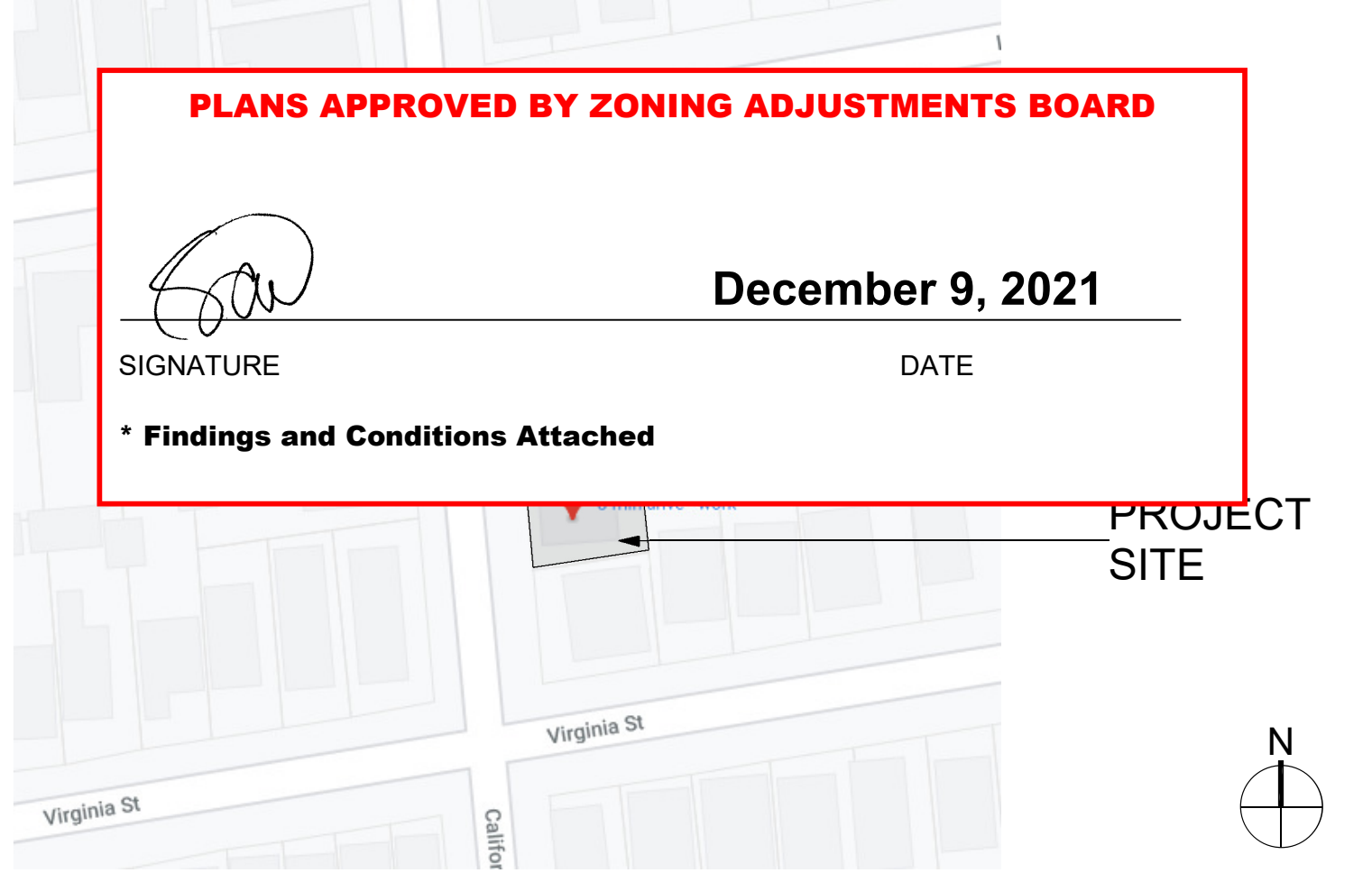
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

### VICINITY MAP



### PROJECT DIRECTORY

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

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

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

### PROJECT DATA

Occupancy:	R-3 Duplex
Proposed Construction:	Type V-B
Fire Sprinkler System:	No
<b>Zoning/General Plan Regulation</b>	
Zoning District:	R-2 (Restricted Two-Family Residential)
General Plan Area:	LMDR
Downtown Arts District Overlay:	No
Commercial District With Use Quotas:	No
<b>Seismic Safety</b>	
Earthquake Fault Rupture(Alquist-Priolo) Zone:	No
Landslide (Seismic Hazards Mapping Act):	No
Liquefaction (Seismic Hazards Mapping Act):	No
Un-reinforced Masonry Building Inventory:	No
<b>Historic Preservation</b>	
Landmarks or Structure of Merit:	No
<b>Environmental Safety</b>	
Creek Buffer:	None
Fire Zone:	1
Flood Zone(100-year or 1%):	No
<b>Wildlife Urban Interface</b>	No

### APPLICABLE CODES

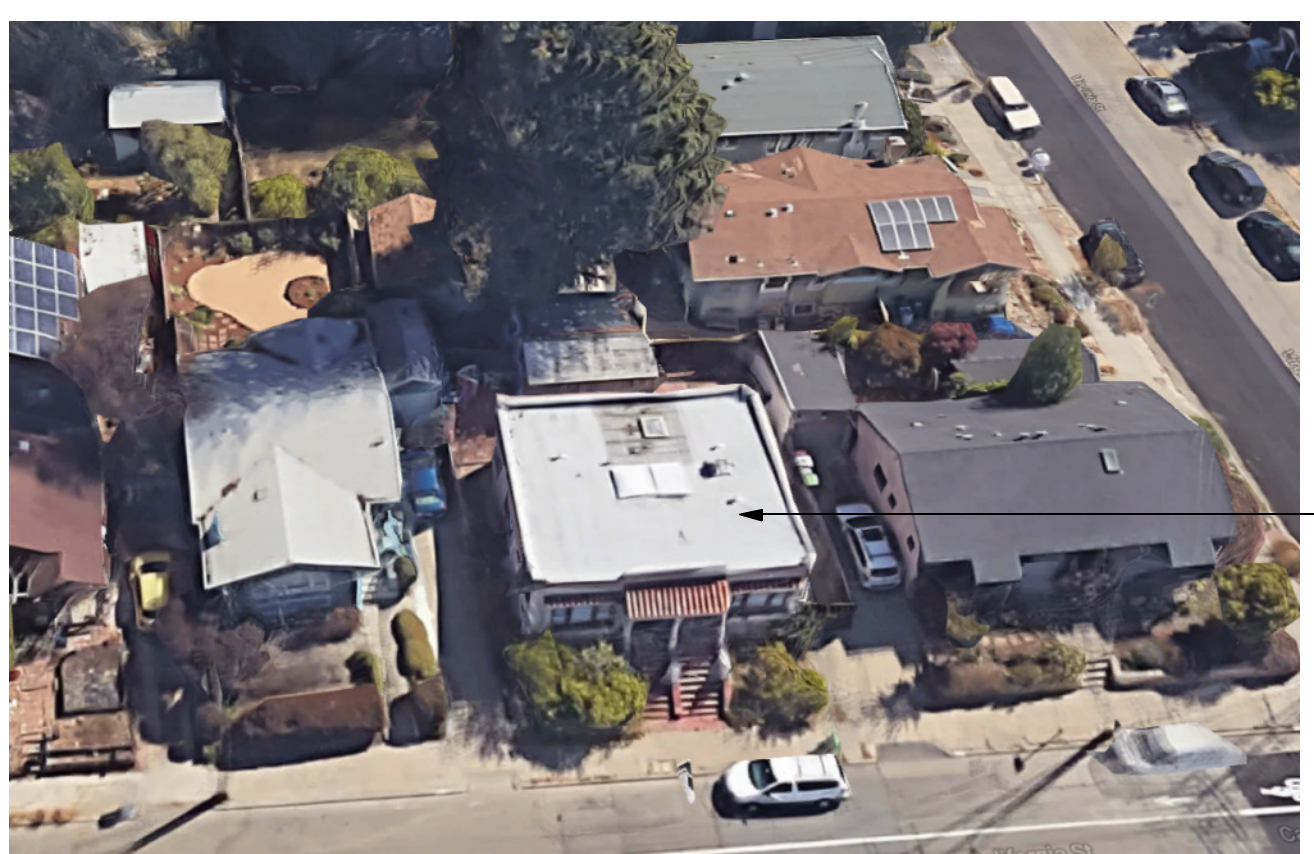
2019 California Building Code (CBC) Volume 1  
 2019 California Building Code (CBC) Volume 2  
 2019 California Residential Code (CRC)  
 2019 California Energy Code (CEES)  
 2019 California Green Building Standards Code (CALGreen)  
 2019 California Electrical Code (CEC)  
 2019 California Plumbing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

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

### ABBREVIATIONS

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

### SITE PHOTOS



Aerial of existing duplex

PROJECT SITE




Front and right Side of existing duplex

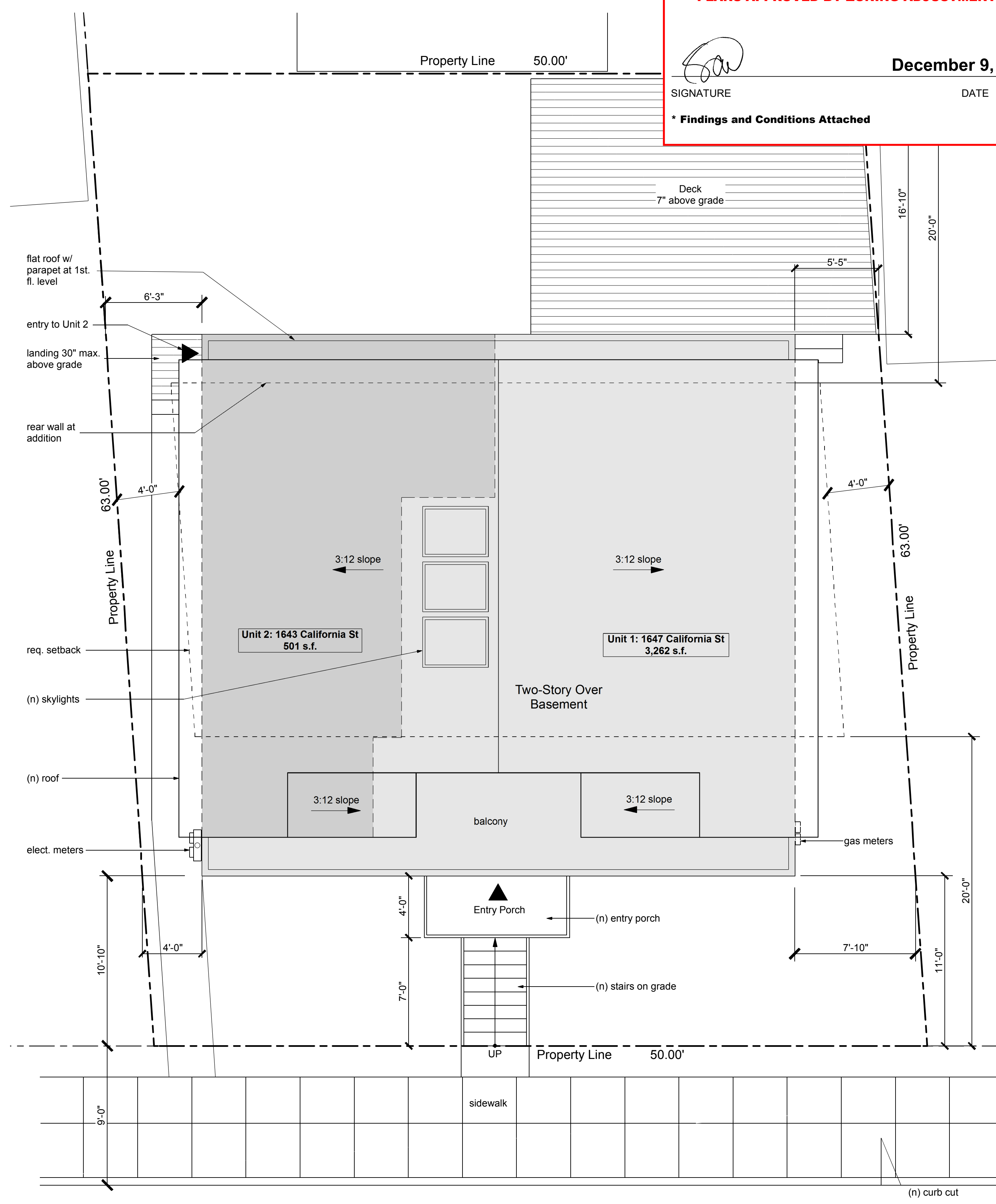


Front and left Side of existing duplex

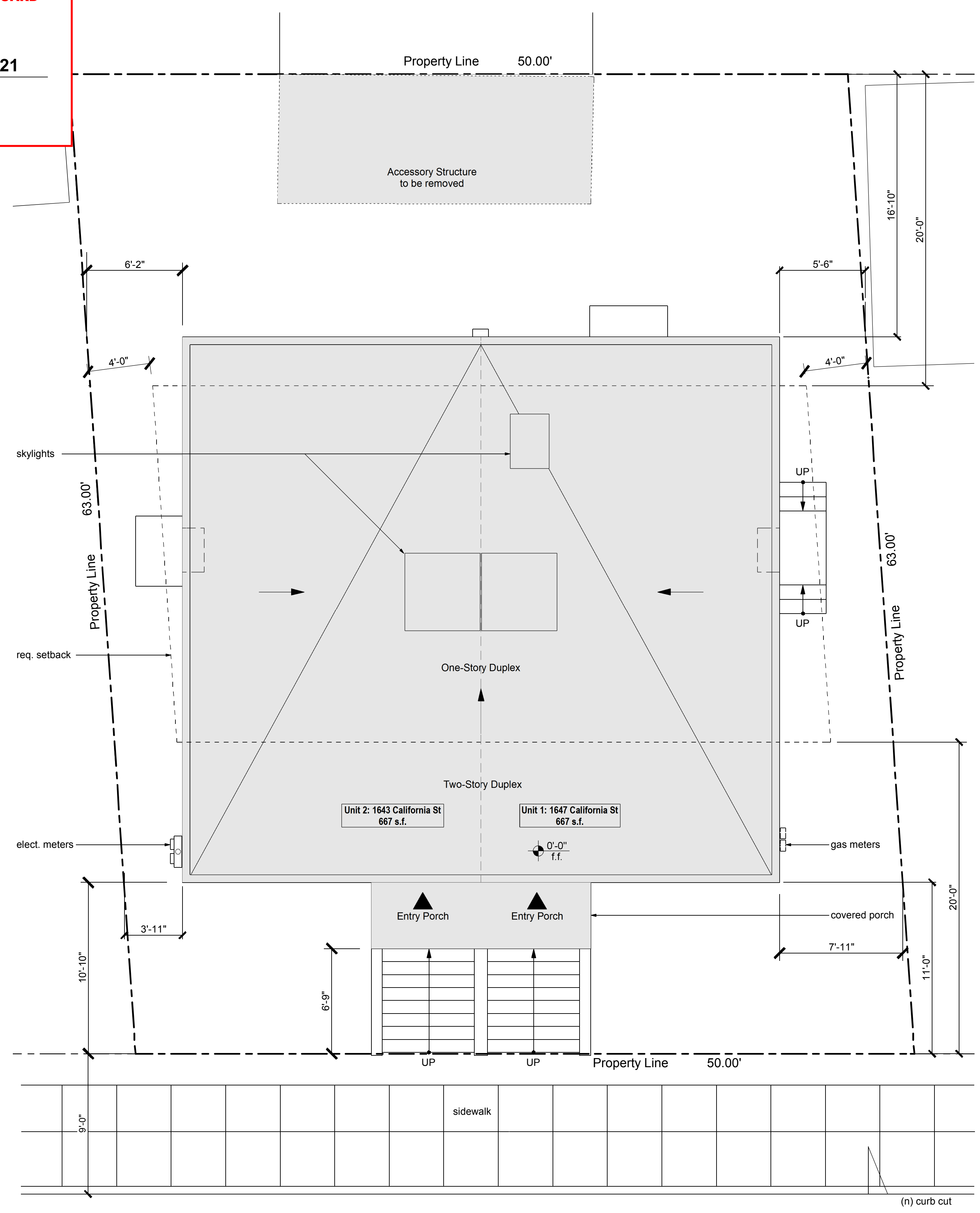
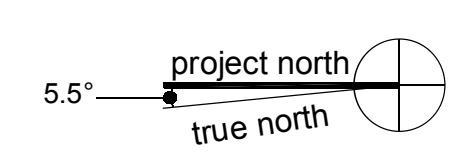
	Tabulations		
	Required/Allowed	Existing	Proposed
<b>Set Backs:</b>			
Front	20'-0"	10'-10"	10'-10" no change
Rear:	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
<b>Habitable Floor Area:</b>			
<b>Unit 1:</b>			
Basement floor:	0 s.f.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

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

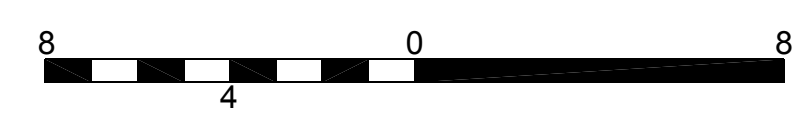
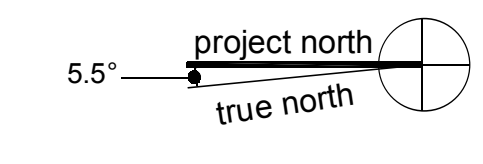
  
 SIGNATURE  
 December 9, 2021  
 DATE  
 \* Findings and Conditions Attached



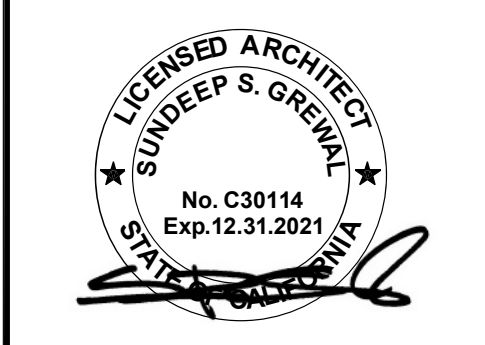
**2 Proposed Site Plan**



**1 Existing Site Plan**



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 www.sgsarch.com



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

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

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

Sheet **A0.1**



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 Site Survey

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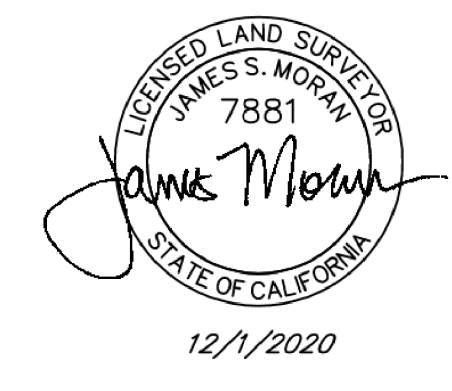
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**HOUSE LOCATION SURVEY**  
 PORTION OF LOTS 1, 2 AND 3, MAP OF VIRGINIA TRACT, FILED OCTOBER 4, 1890 (8 M 43)  
 LOCATED AT 1643-1647 CALIFORNIA STREET  
 CITY OF BERKELEY, COUNTY OF ALAMEDA, CALIFORNIA

NOVEMBER 17, 2020 SCALE: 1" = 8'

**MORAN ENGINEERING, INC.**

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



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

**GENERAL NOTES**

BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

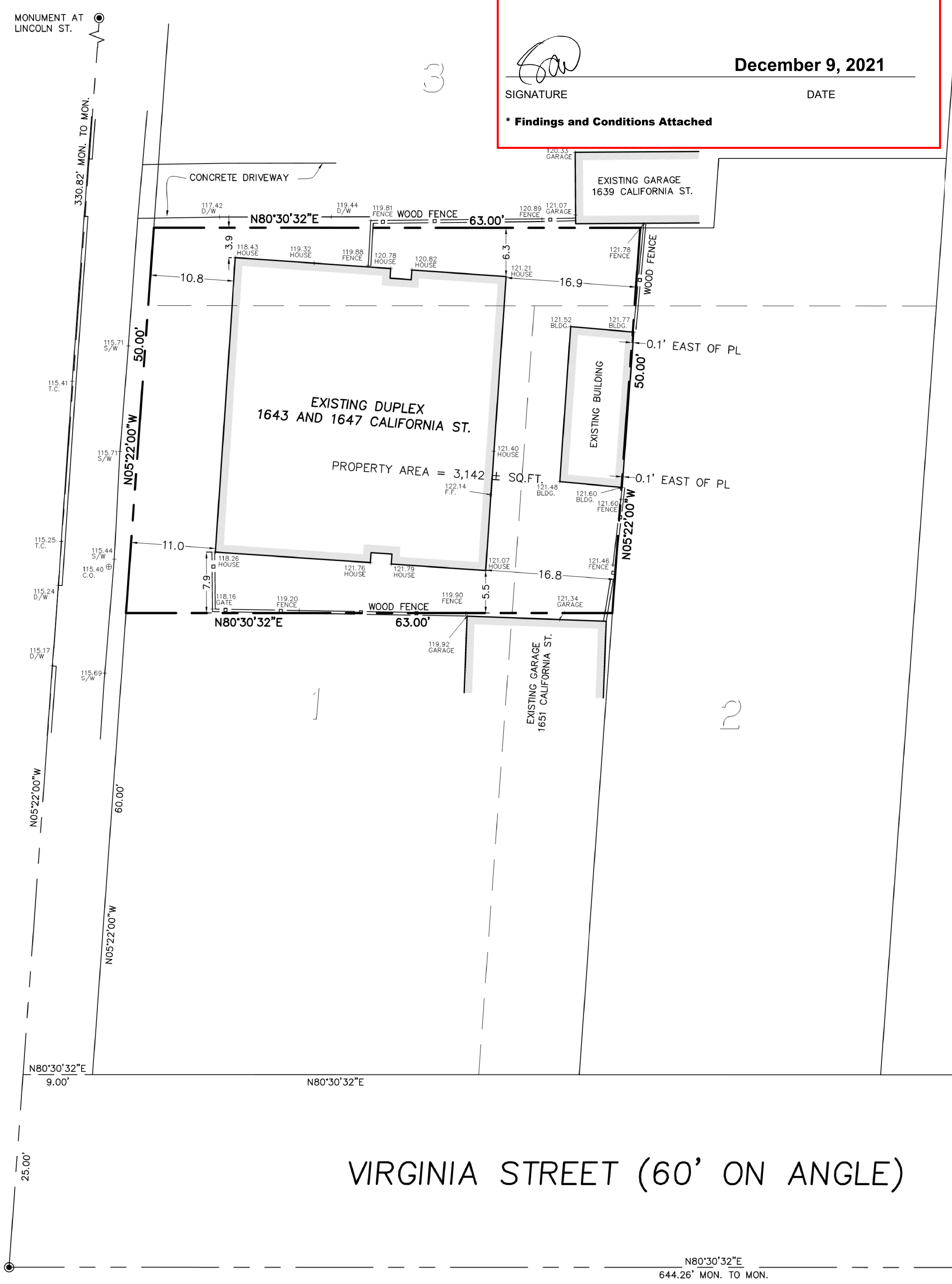
THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

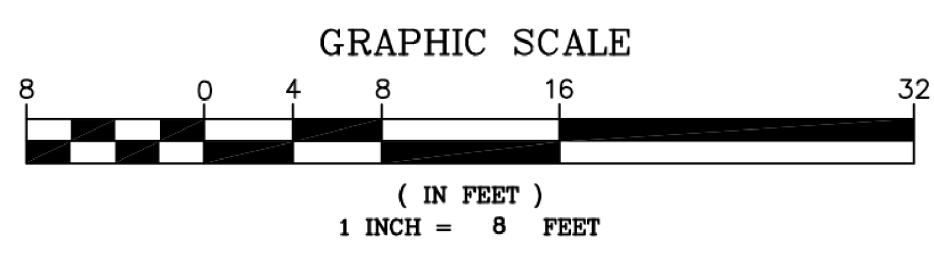
December 9, 2021  
 DATE

SIGNATURE \_\_\_\_\_

\* Findings and Conditions Attached

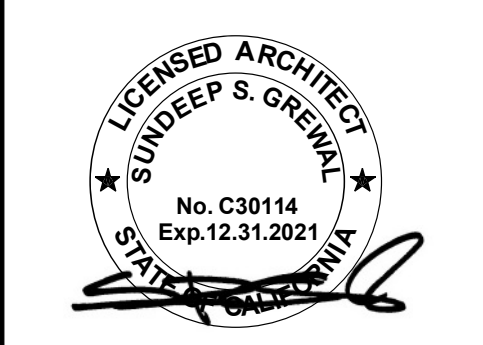


CALIFORNIA STREET (60' ON ANGLE)





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**OPPENHEIMER RESIDENCE**  
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 Berkeley, CA 94703  
 APN: 58-2156-18

Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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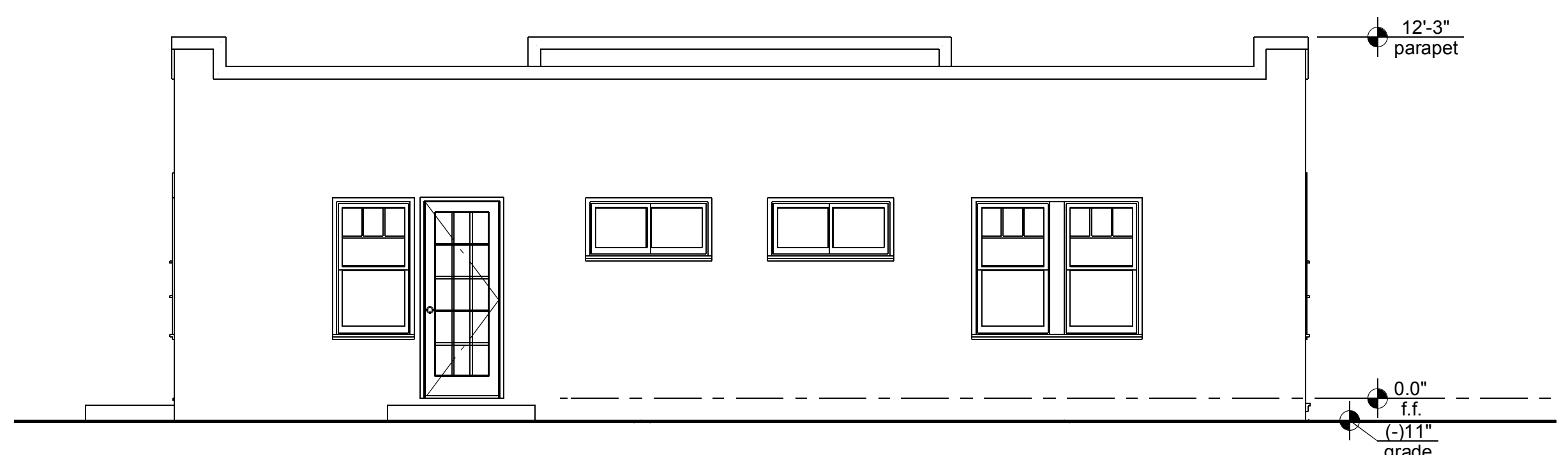
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Checked By: SSG

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

Sheet **A1.1**



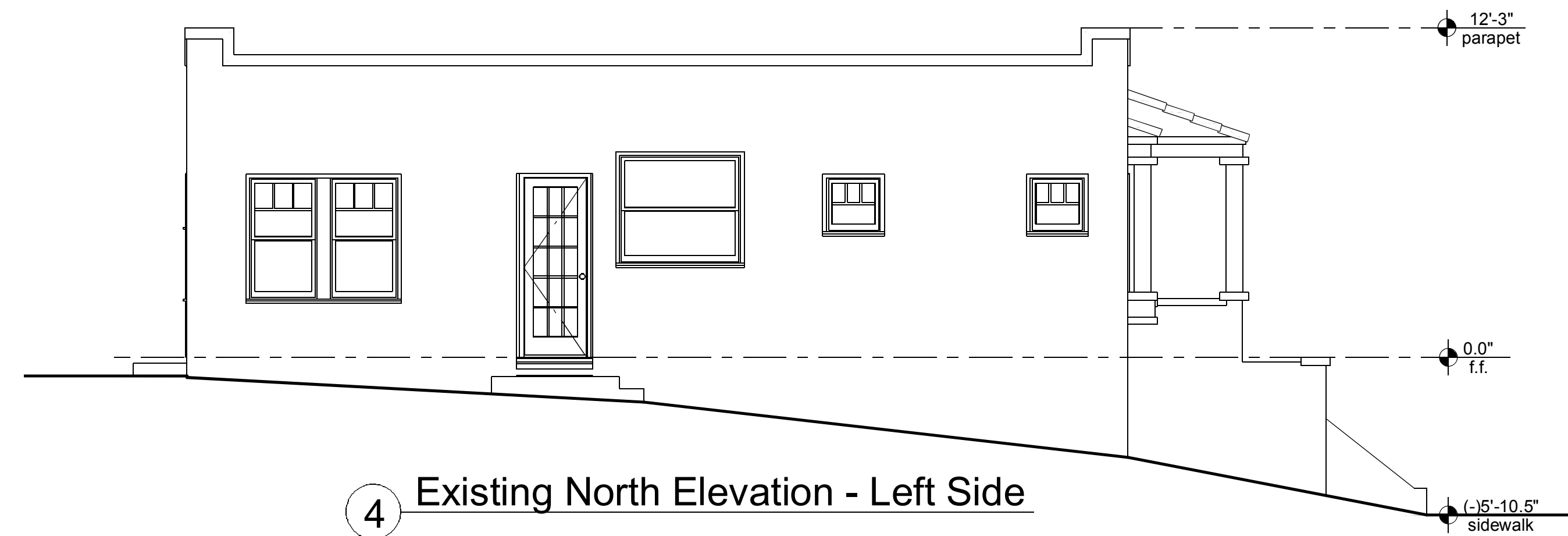
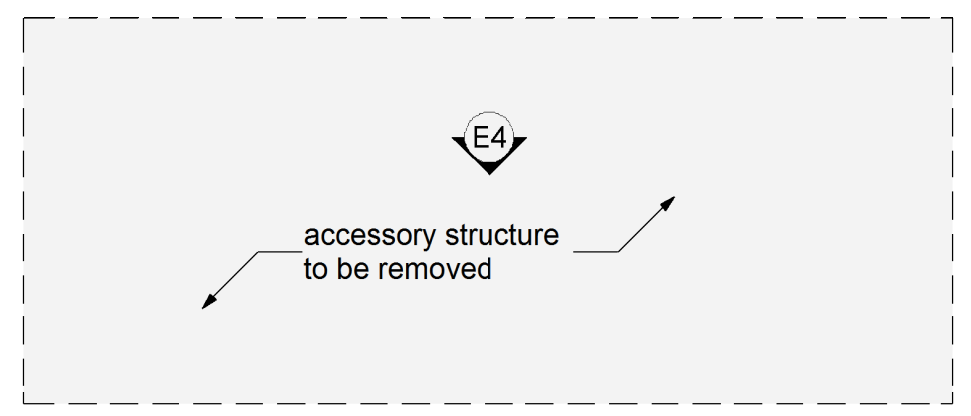
5 Existing East Elevation - Rear

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

**December 9, 2021**

SIGNATURE DATE

\* Findings and Conditions Attached



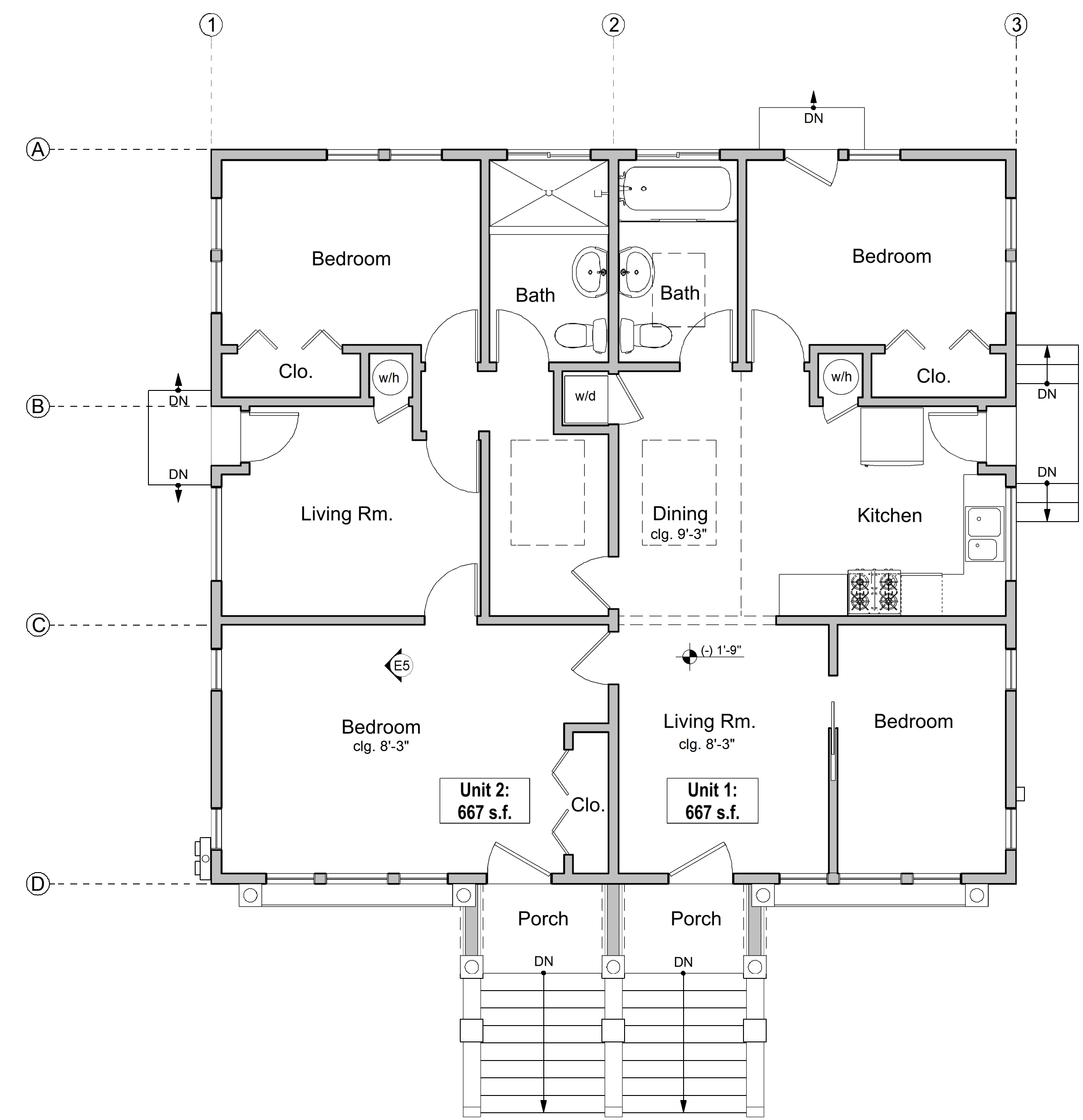
4 Existing North Elevation - Left Side



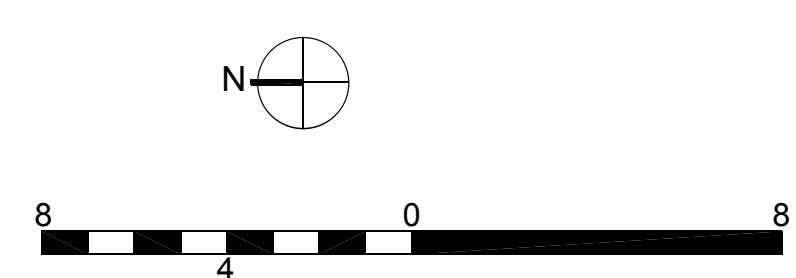
3 Existing South Elevation - Right Side




2 Existing West Elevation - Front



1 Existing First Floor Plan

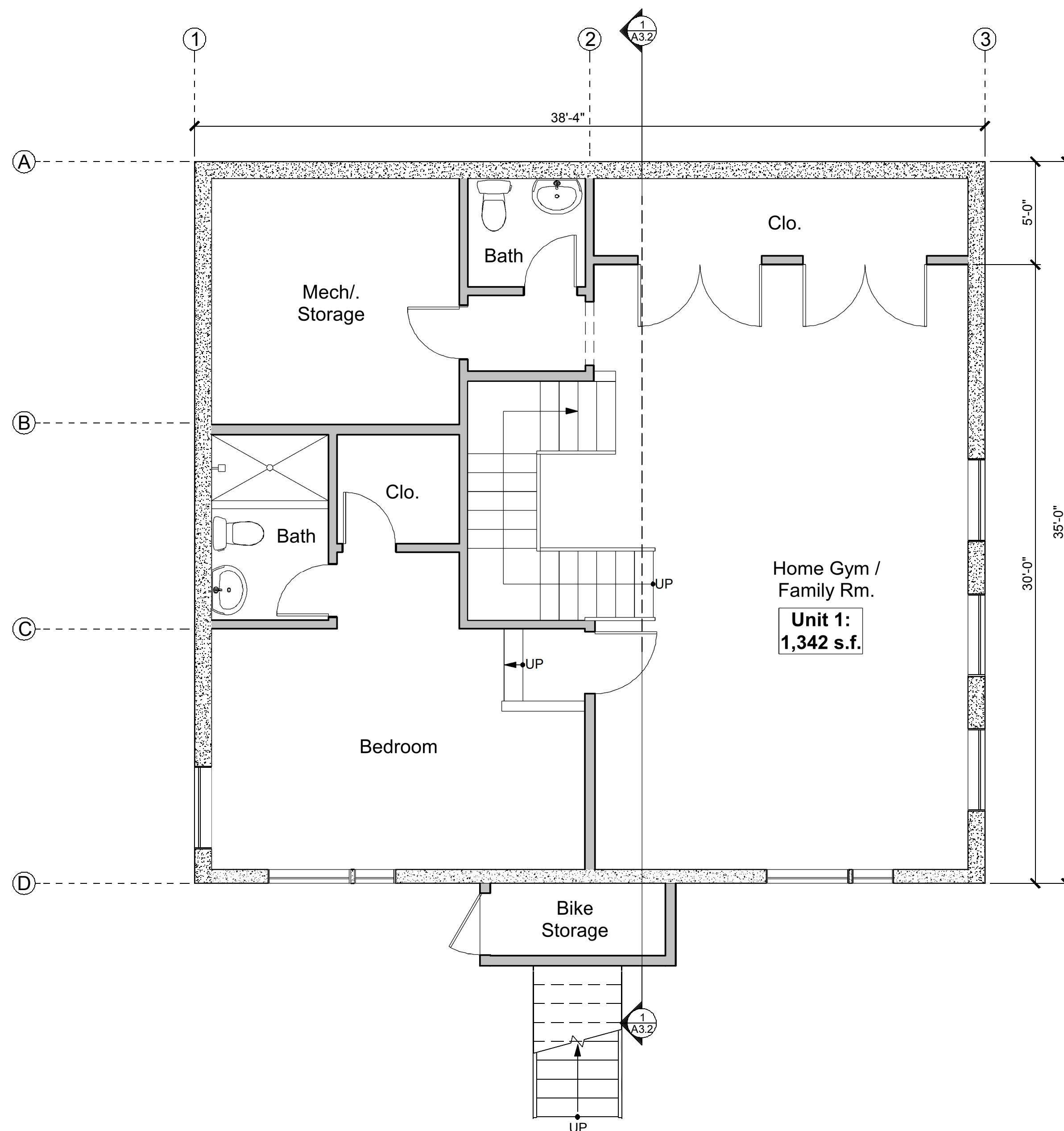


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**December 9, 2021**

SIGNATURE DATE

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1 Proposed Basement Floor Plan



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**OPPENHEIMER  
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1643 & 1647 California St.  
Berkeley, CA 94703  
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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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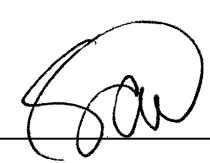
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Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet  
**A2.1**



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**OPPENHEIMER RESIDENCE**  
 1643 & 1647 California St.  
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Sheet Contents:  
 Proposed Floor Plans

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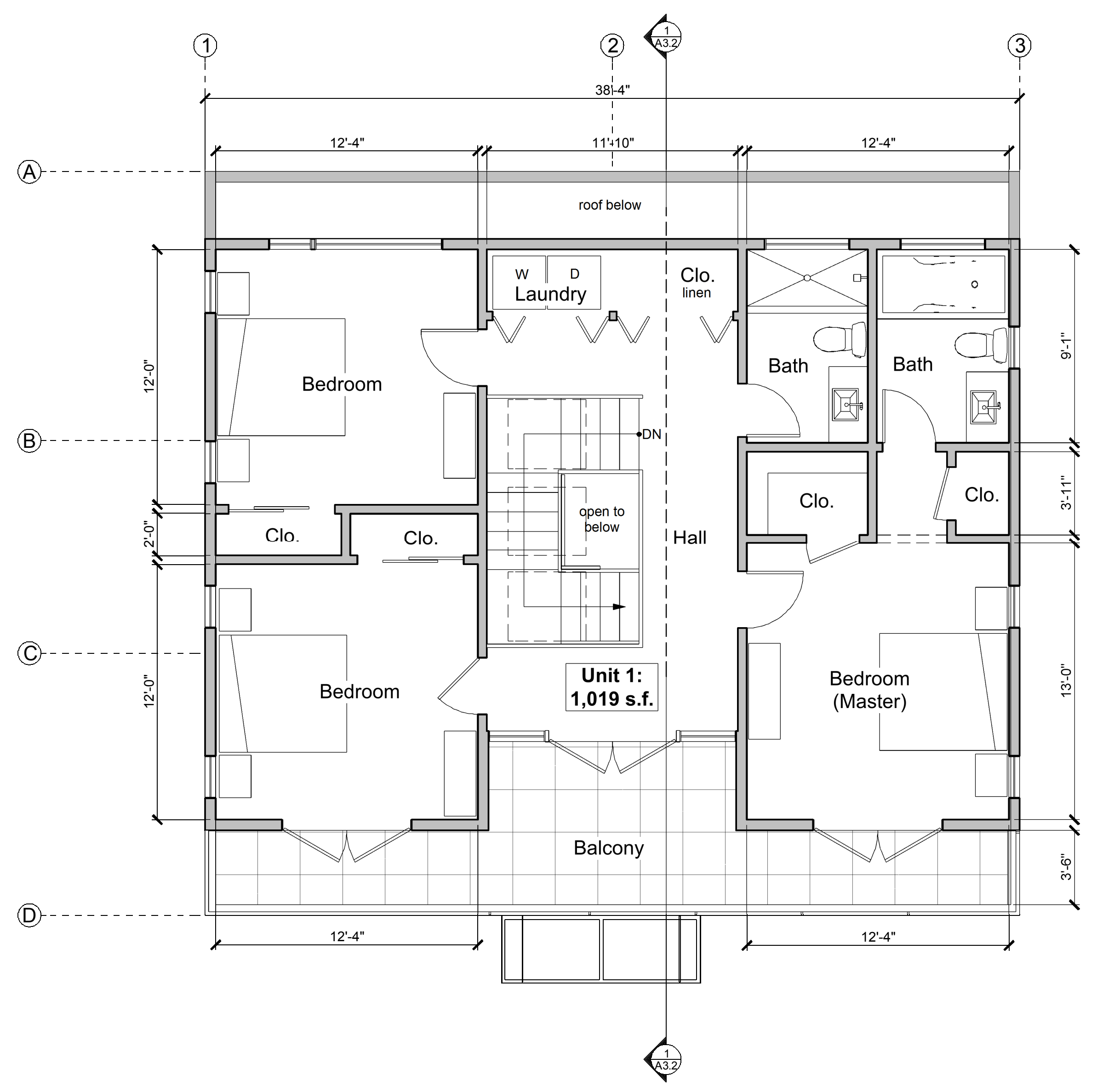
Drawn By:  
 SSG

Checked By:  
 SSG

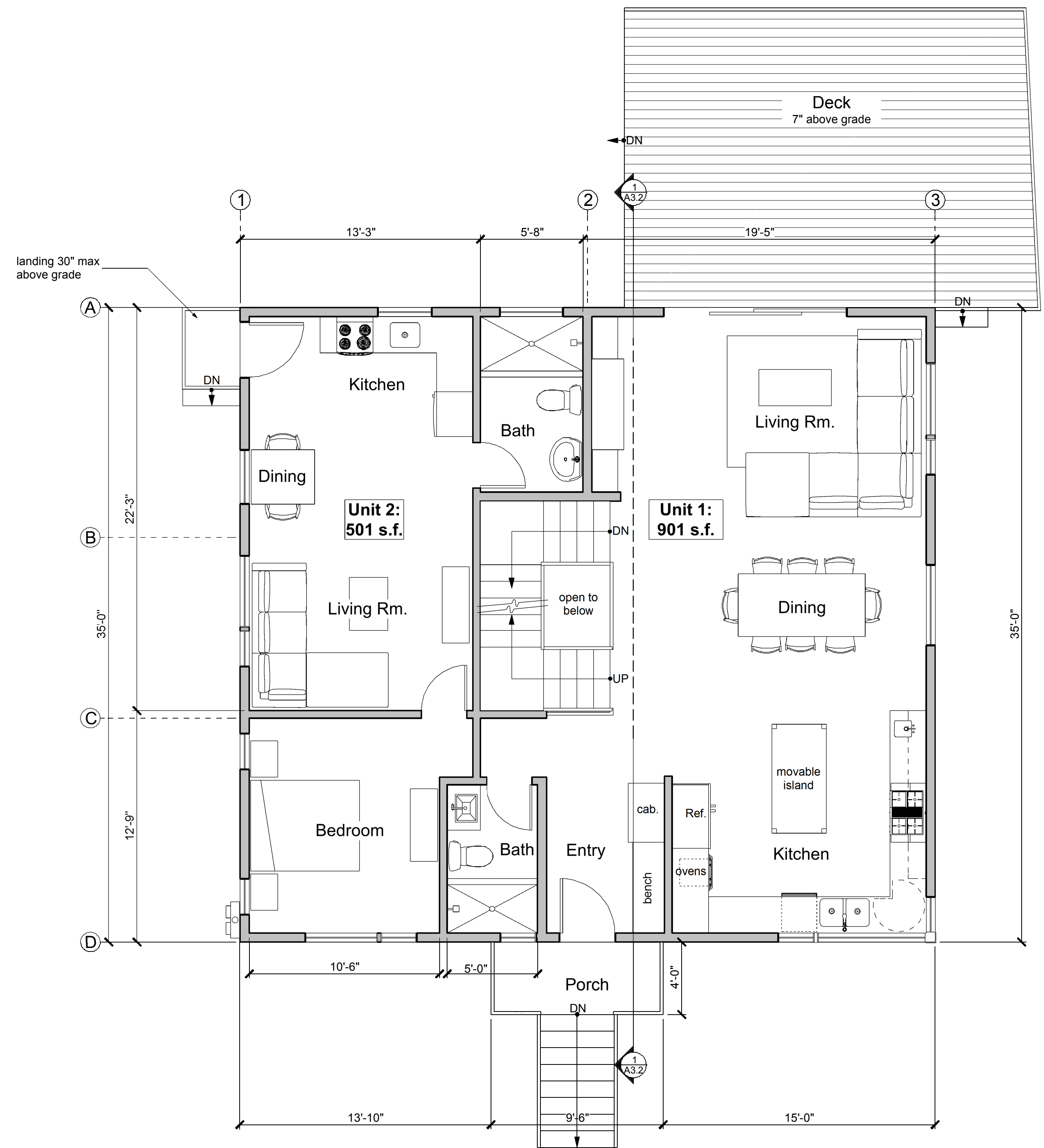
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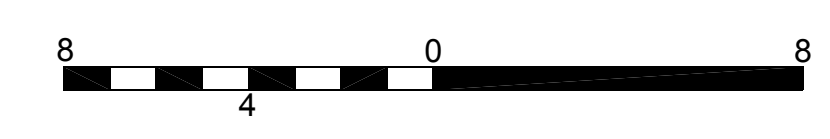
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**A2.2**



2 Proposed Second Floor Plan




1 Proposed First Floor Plan





Previous Proposal

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**


December 9, 2021  
 SIGNATURE DATE  
 \* Findings and Conditions Attached



Previous Proposal



Previous Proposal



Current Proposal



Current Proposal



Current Proposal



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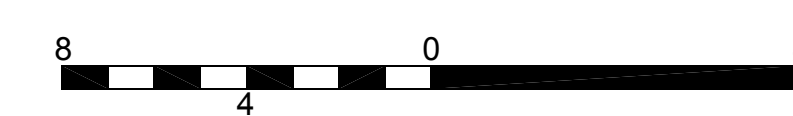
**OPPENHEIMER RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18



2 Proposed West Elevation - Front Original Proposal



1 Proposed West Elevation - Front Current Proposal



Sheet Contents:  
 Front Elevation Comparison

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

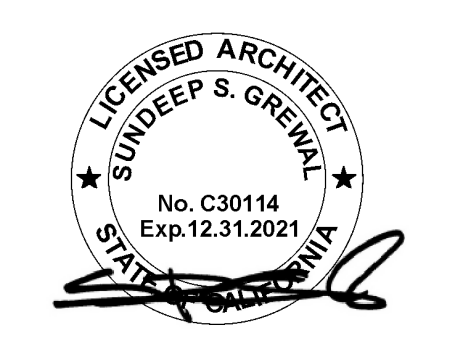
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A3.1**



2223 Fifth St.  
 Berkeley, CA 94710  
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 info@sgsarch.com  
 www.sgsarch.com

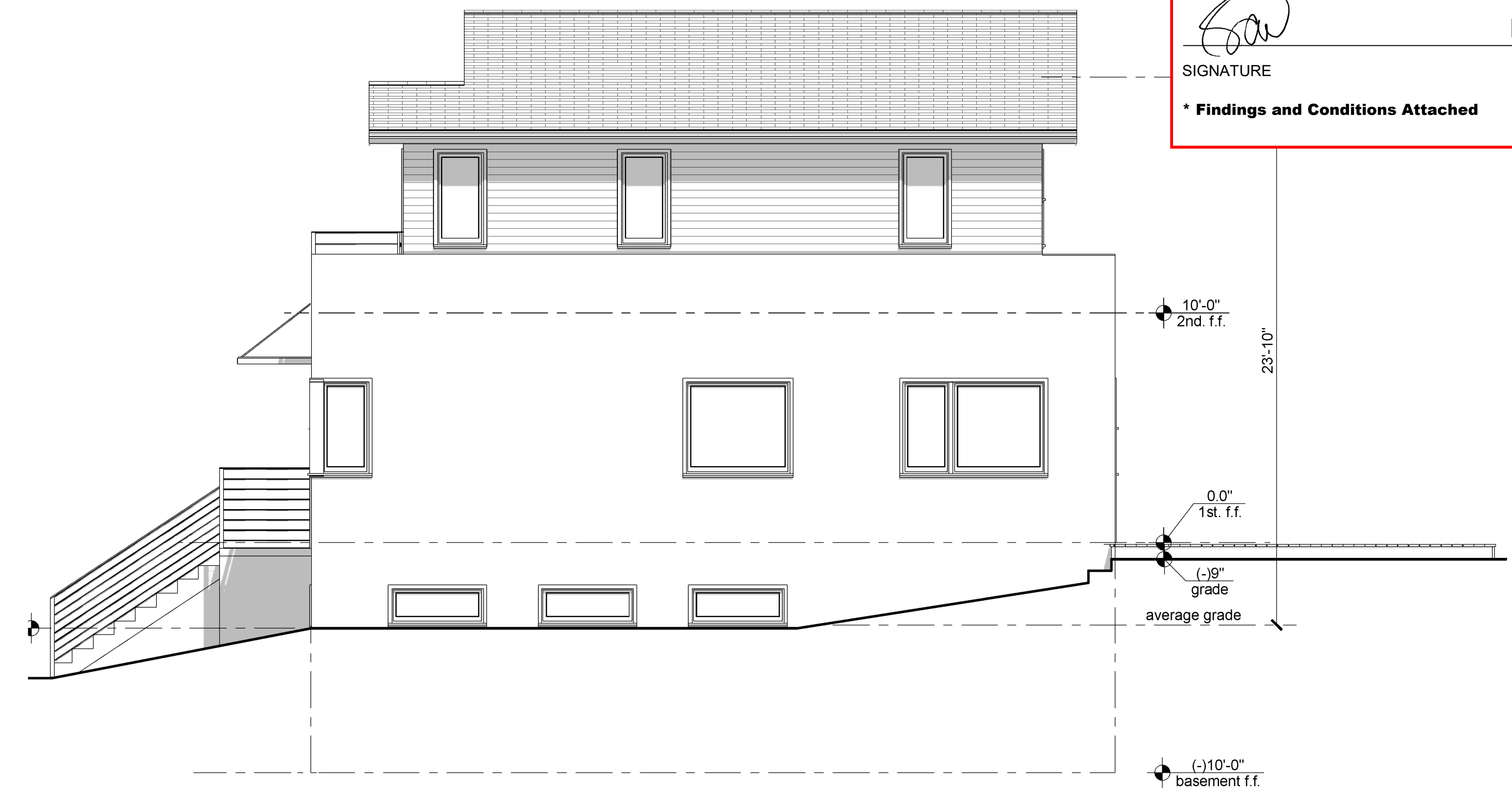


**OPPENHEIMER  
 RESIDENCE**  
 1643 & 1647 California St.  
 Berkeley, CA 94703  
 APN: 58-2156-18

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

*[Signature]*      **December 9, 2021**  
 SIGNATURE      DATE

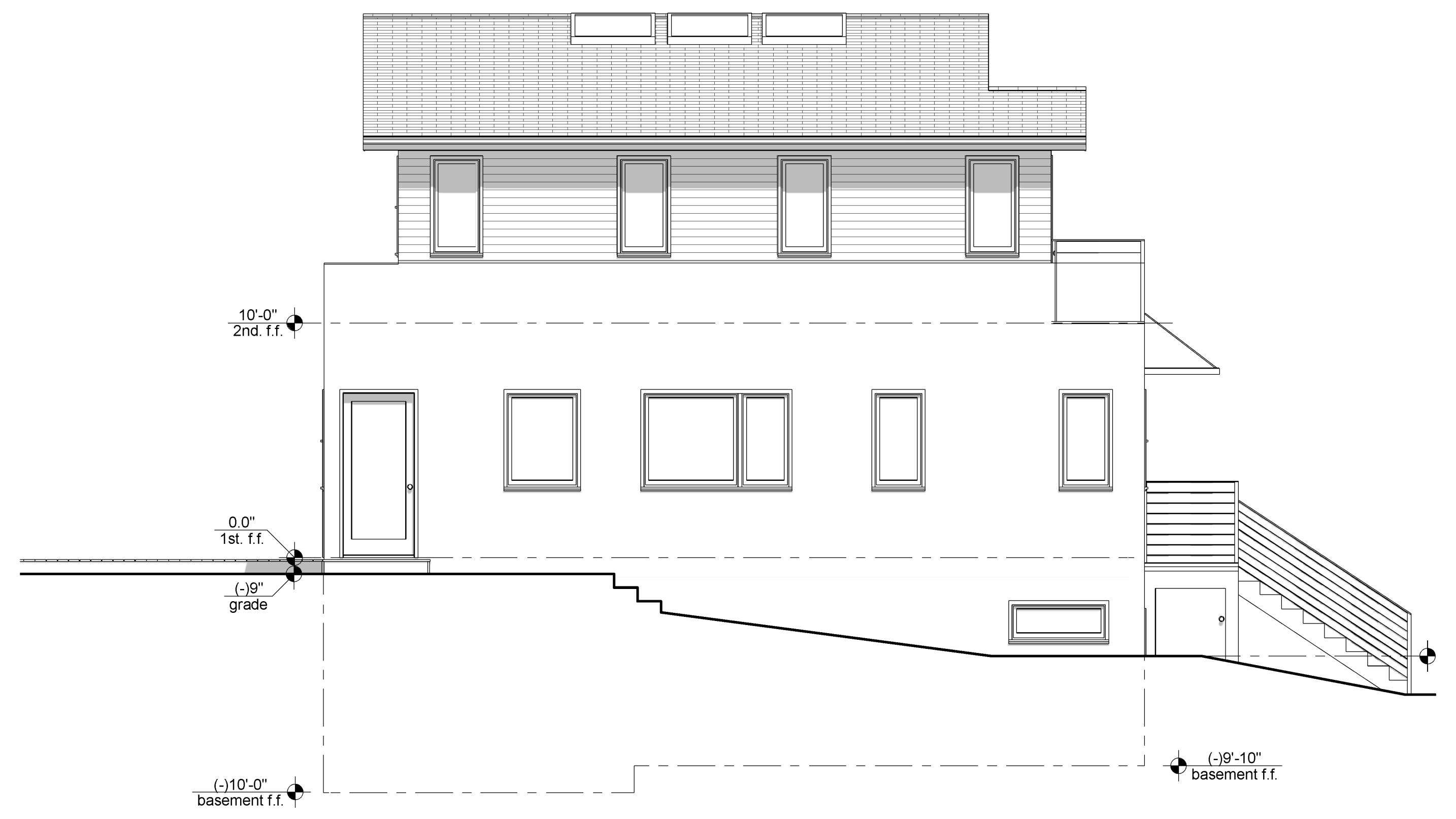
\* Findings and Conditions Attached



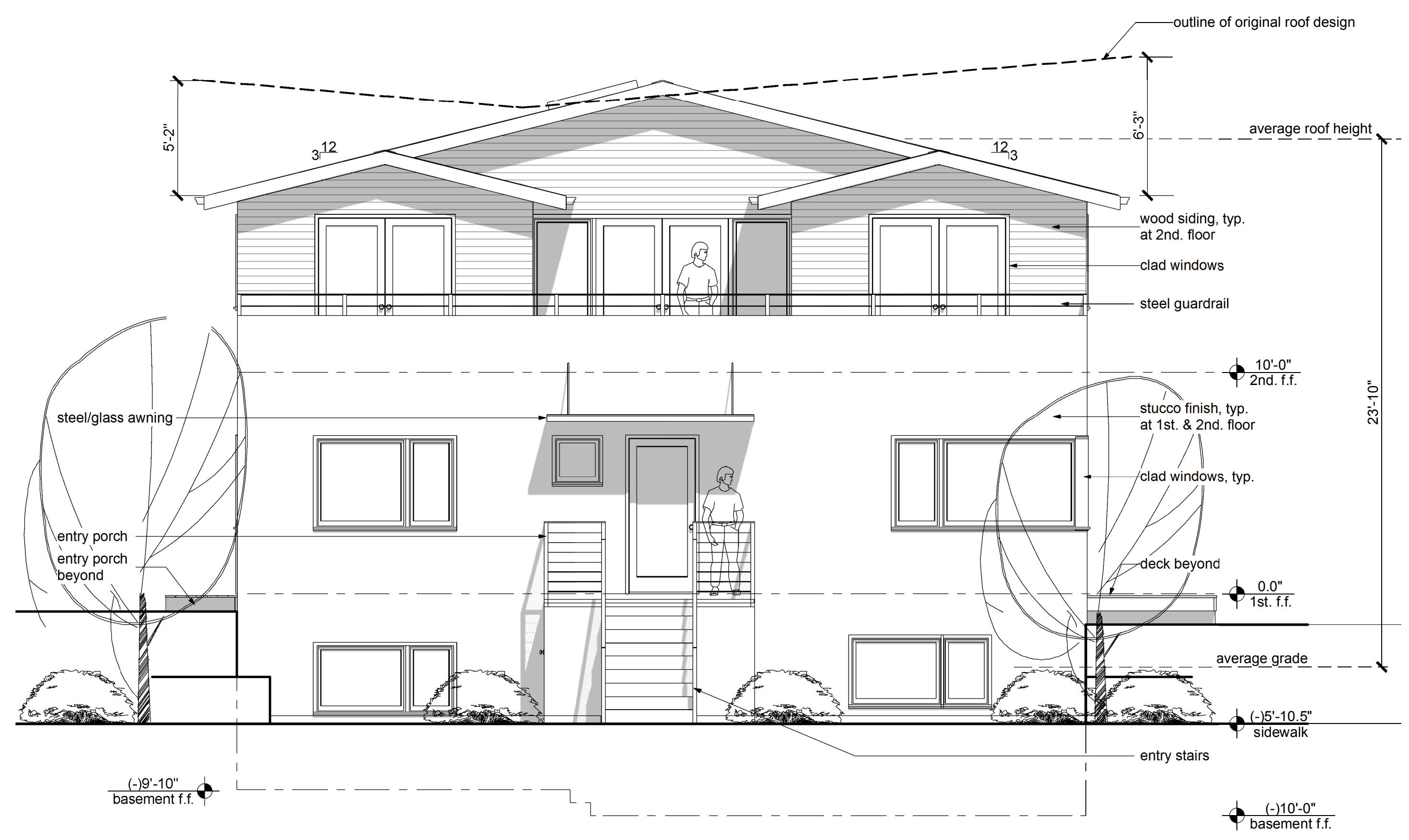
4 Proposed South Elevation - Right Side



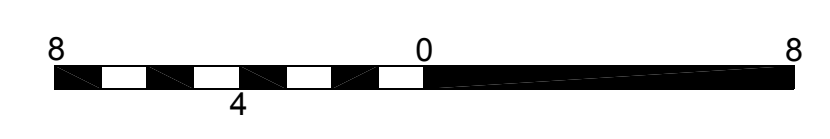
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



Sheet Contents:  
 Proposed Exterior Elevations

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Drawn By:  
 SSG

Checked By:  
 SSG


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

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

Sheet  
**A3.2**



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December 9, 2021  
 DATE

**\* Findings and Conditions Attached**



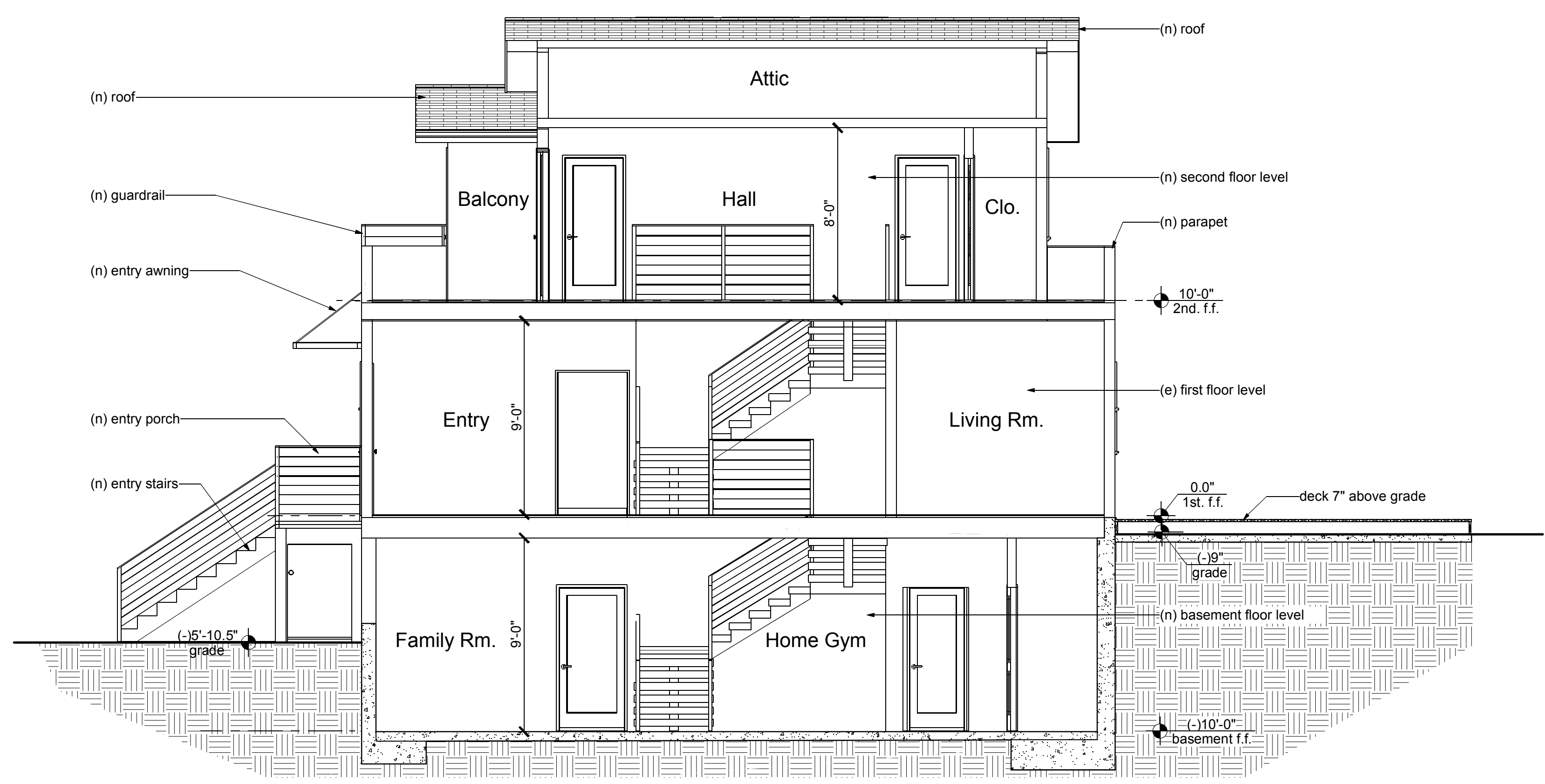
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2 Renderings

Sheet Contents:  
 Building Section  
 Renderings



1 Proposed Building Section

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 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

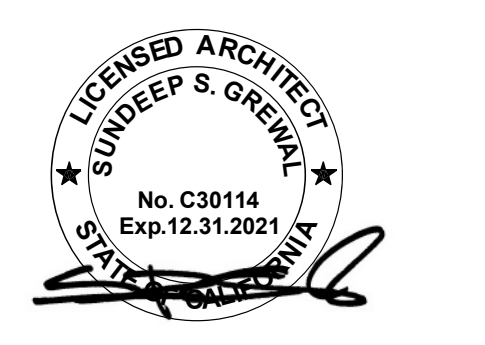
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A3.3**



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Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420

Drawn By: SSG

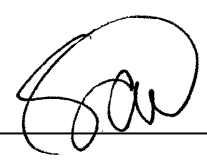
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 Planning Review: 7-15-2021

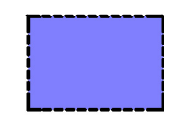
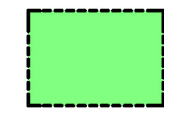
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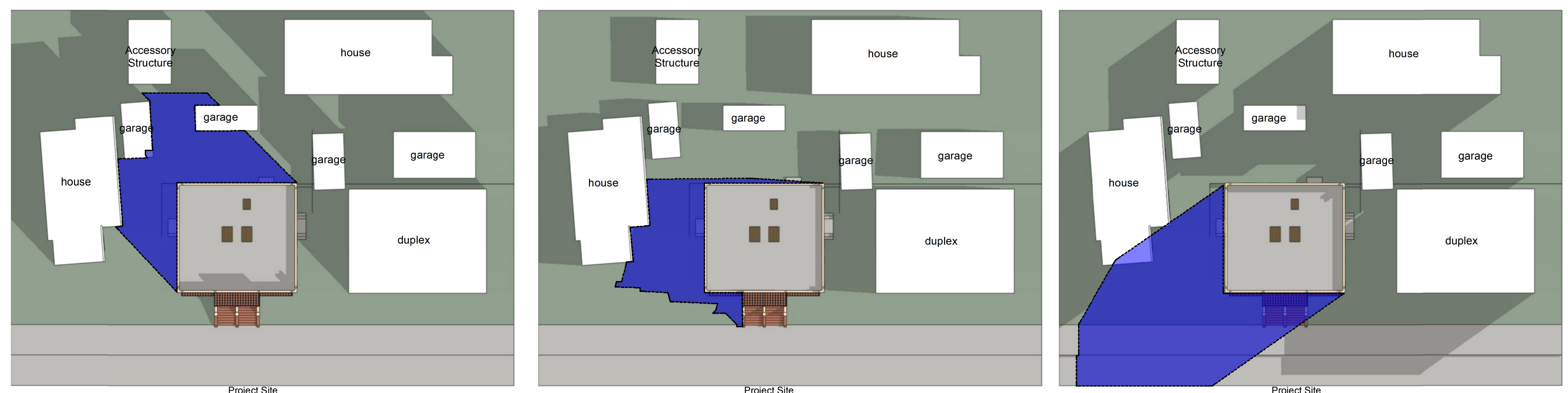
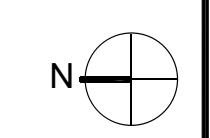
**December 9, 2021**  
 DATE

**\* Findings and Conditions Attached**

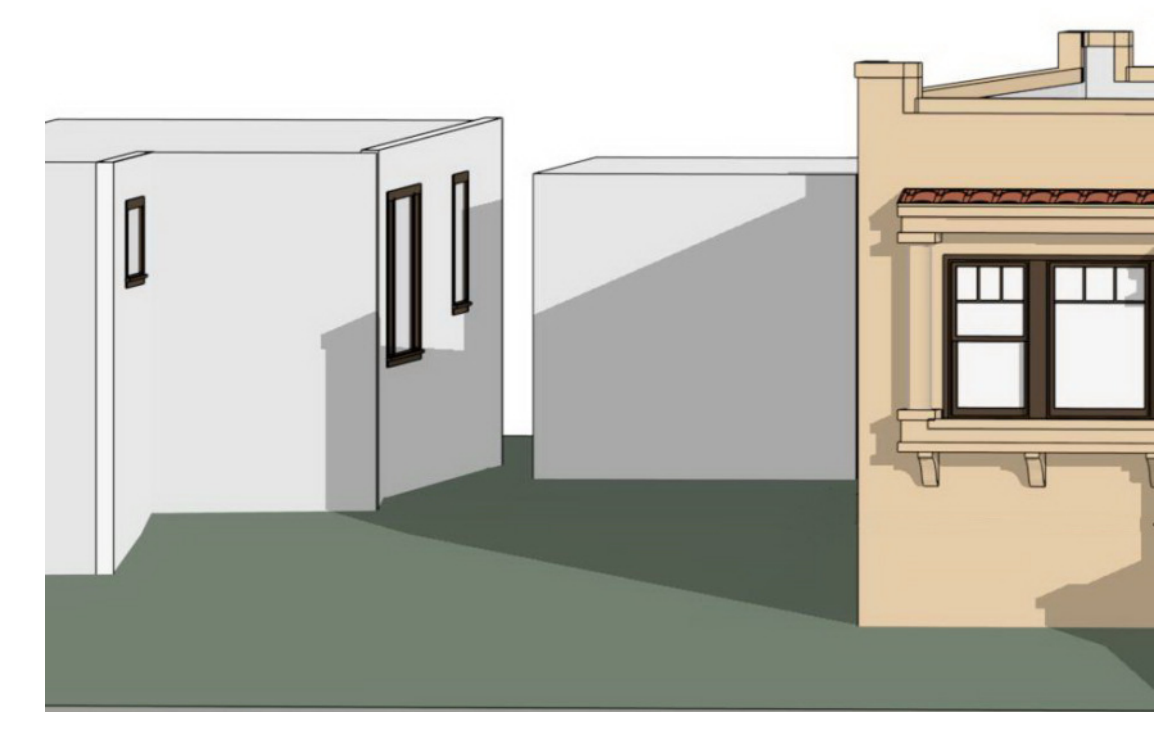
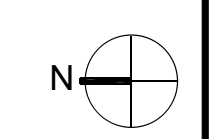
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 New Shadow Line



**Proposed**  
**12-21-2021 / 2:54 pm**      **12-21-2021 / 12:00 pm**      **12-21-2021 / 9:21 am**



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**12-21-2021 / 2:54 pm**      **12-21-2021 / 12:00 pm**      **12-21-2021 / 9:21 am**



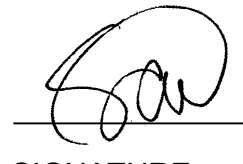
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**Actual**  
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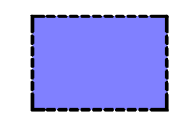
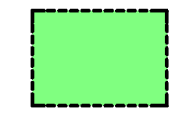
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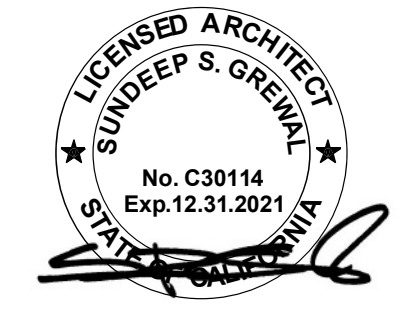
December 9, 2021  
 DATE

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 Existing Shadow Line  
 New Shadow Line



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 Shadows Studies

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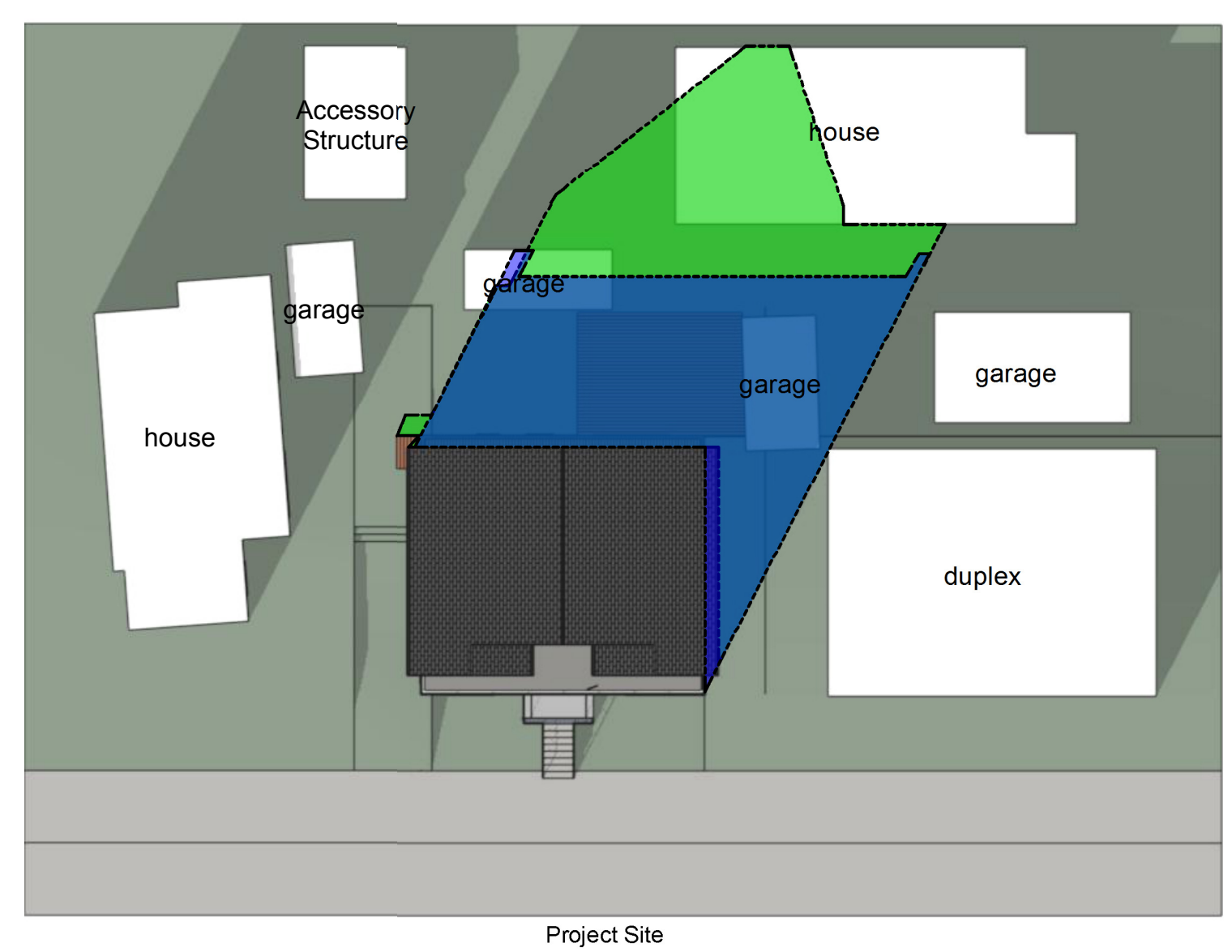
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Checked By: SSG

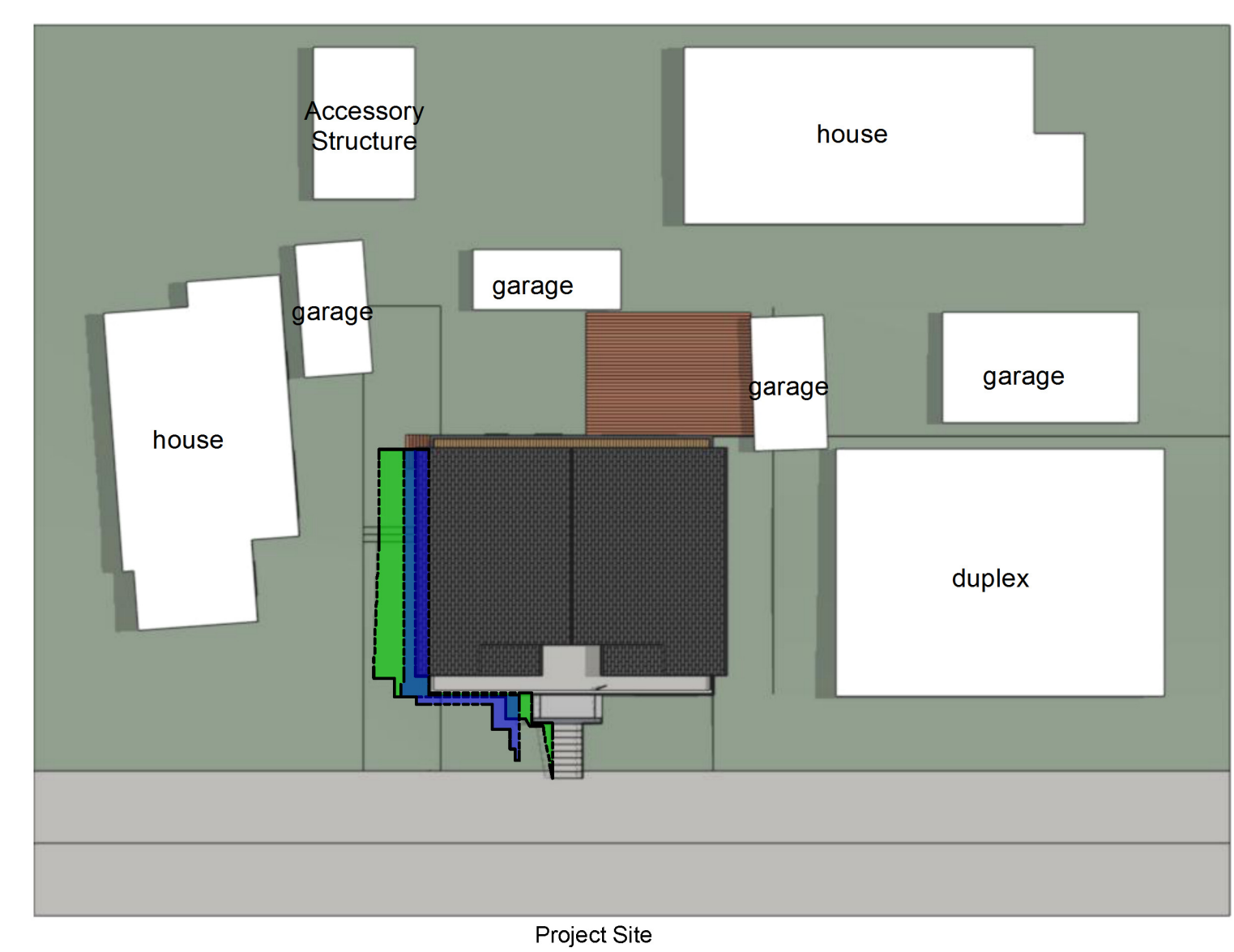
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 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

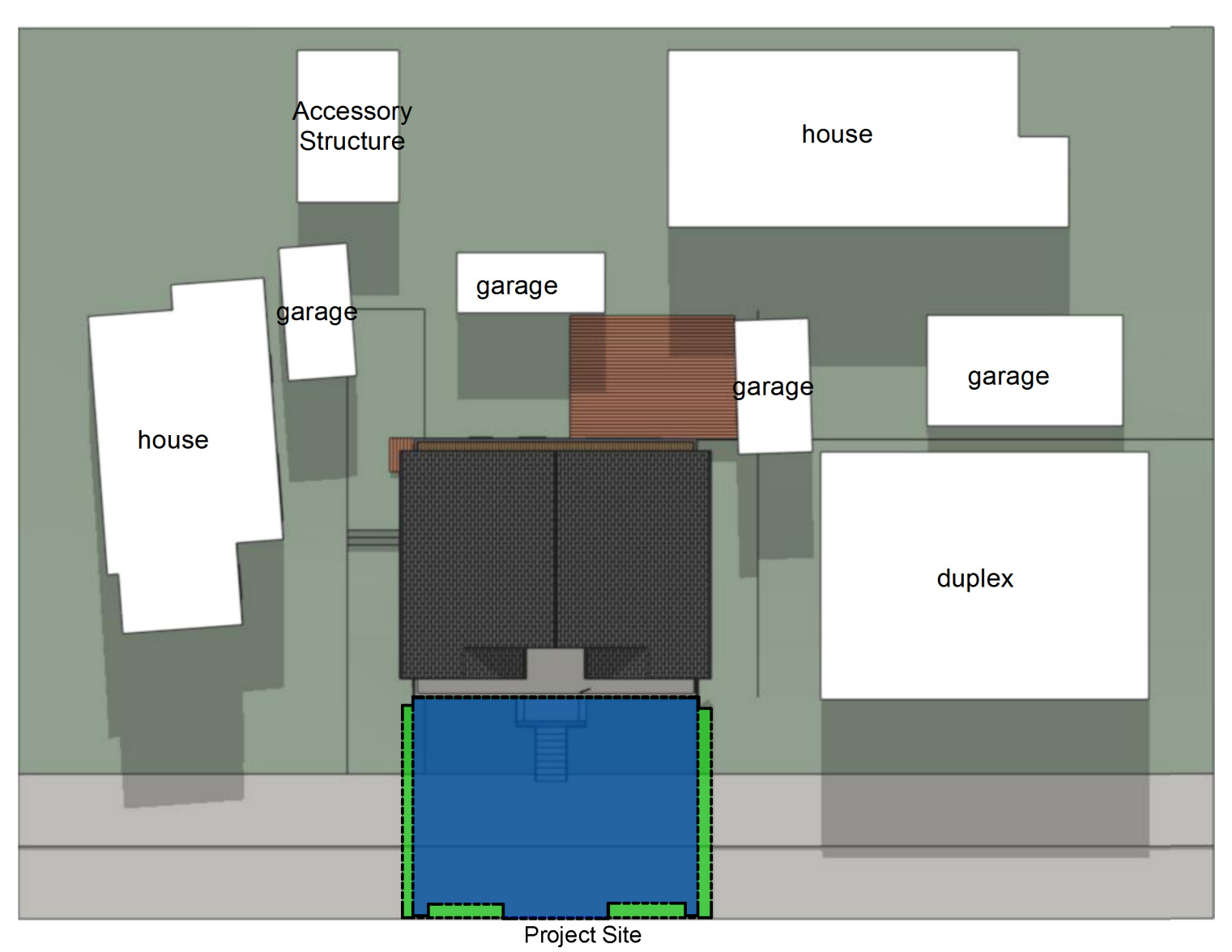
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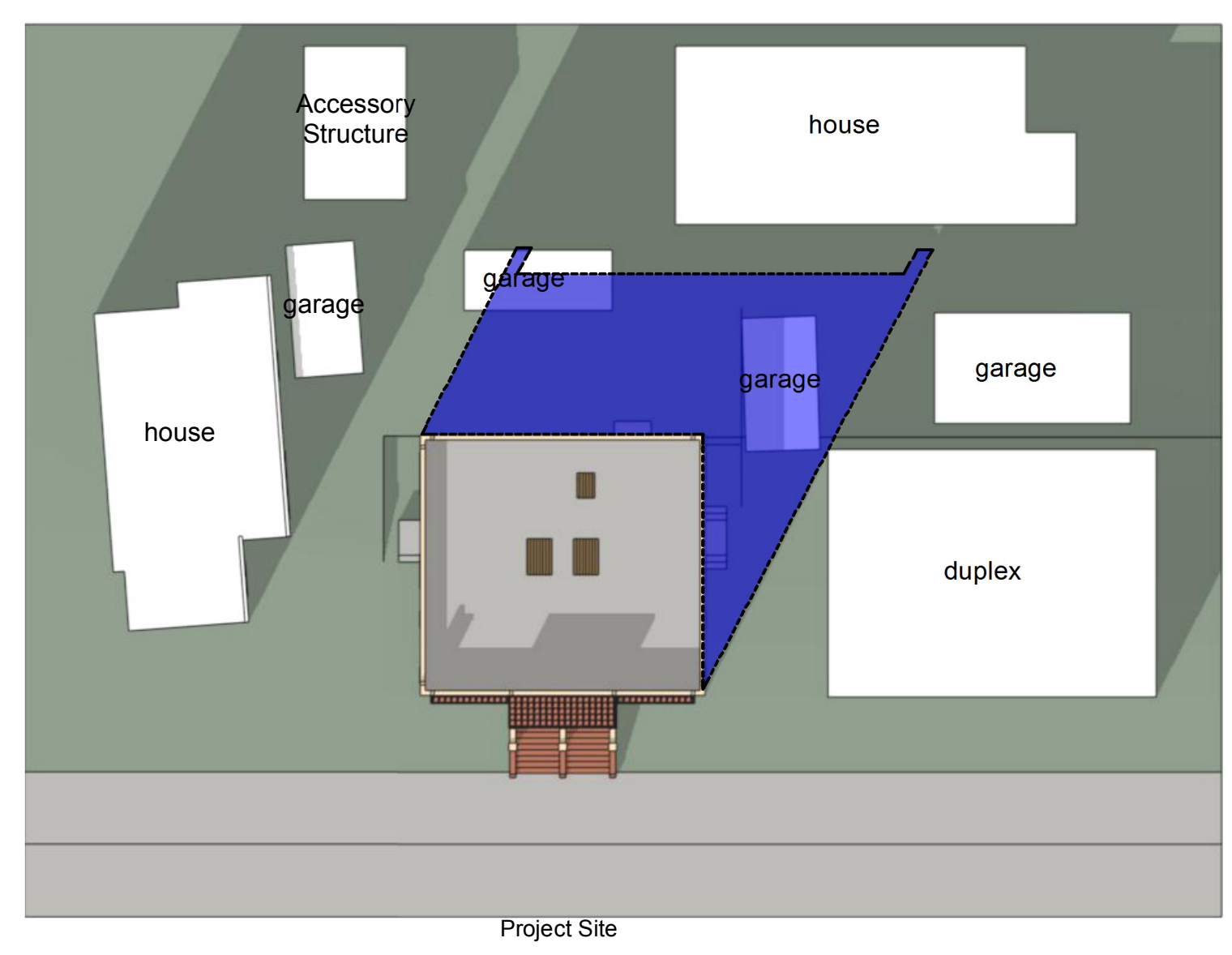
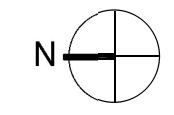
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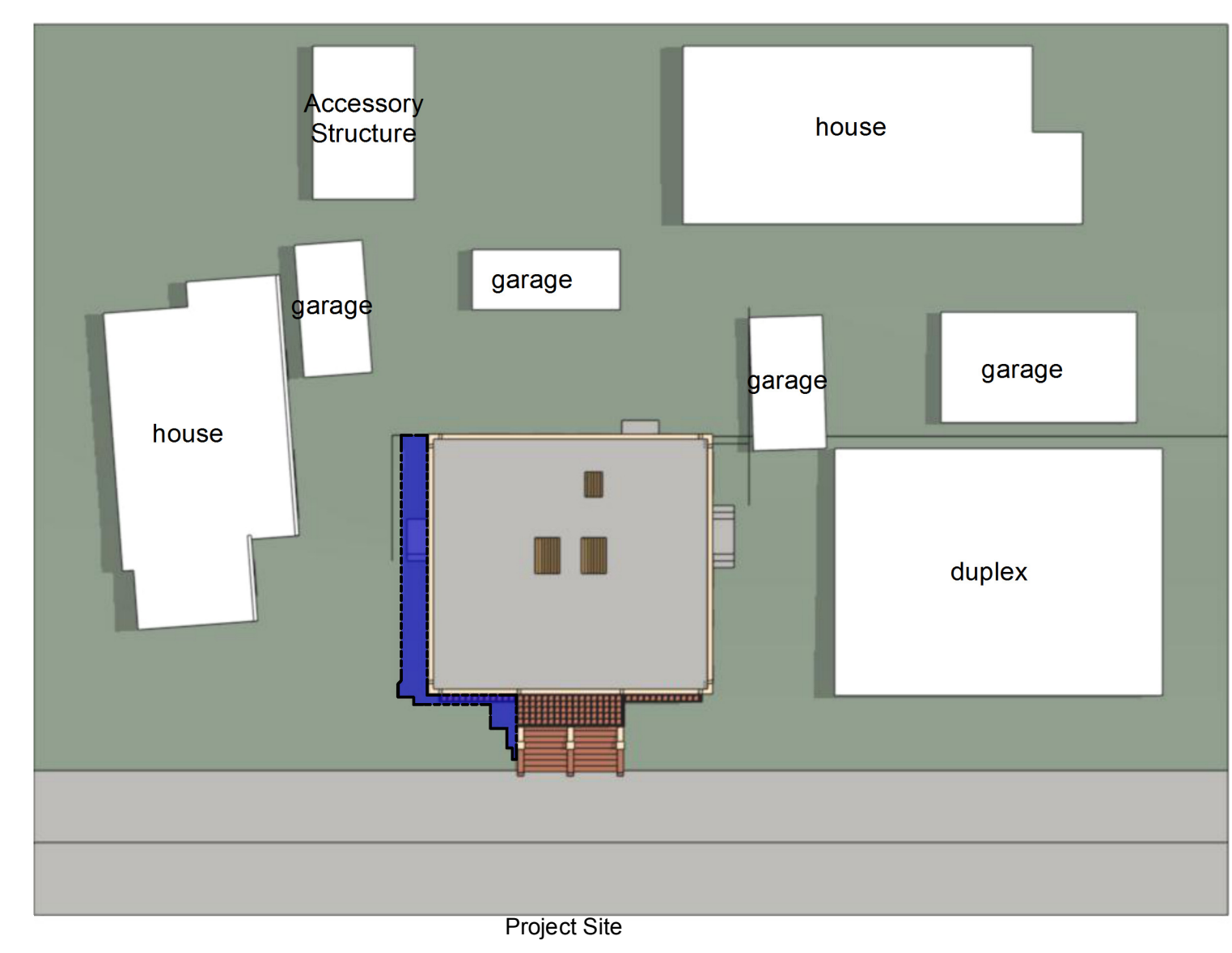
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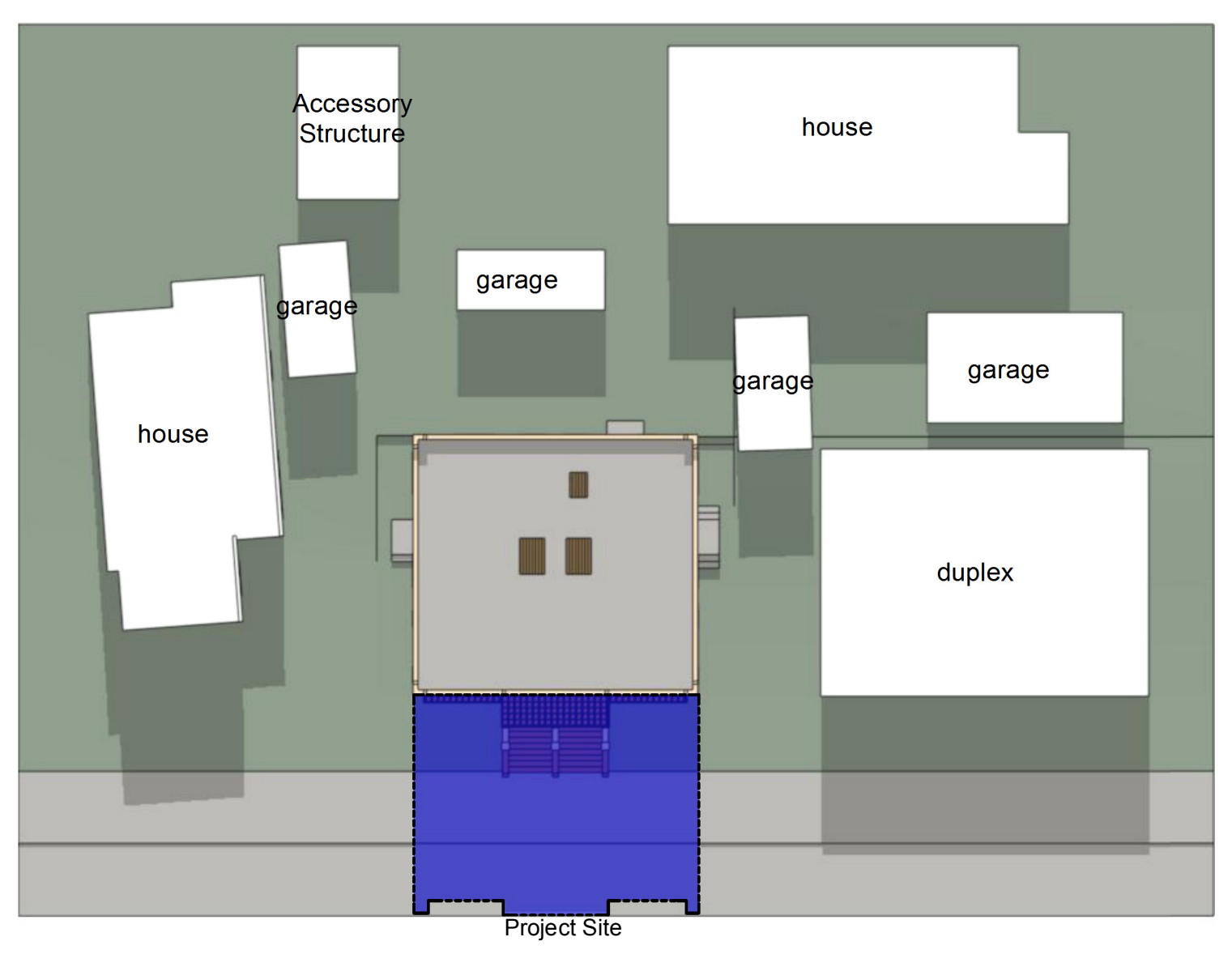
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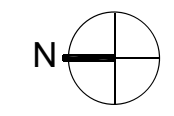
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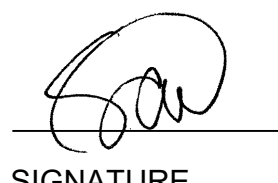
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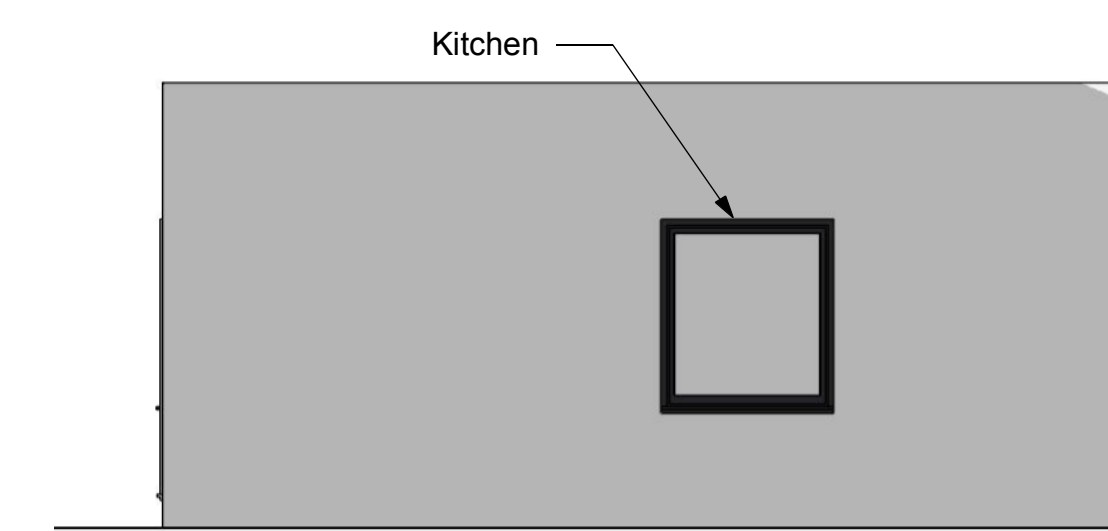


**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

 **December 9, 2021**

SIGNATURE DATE

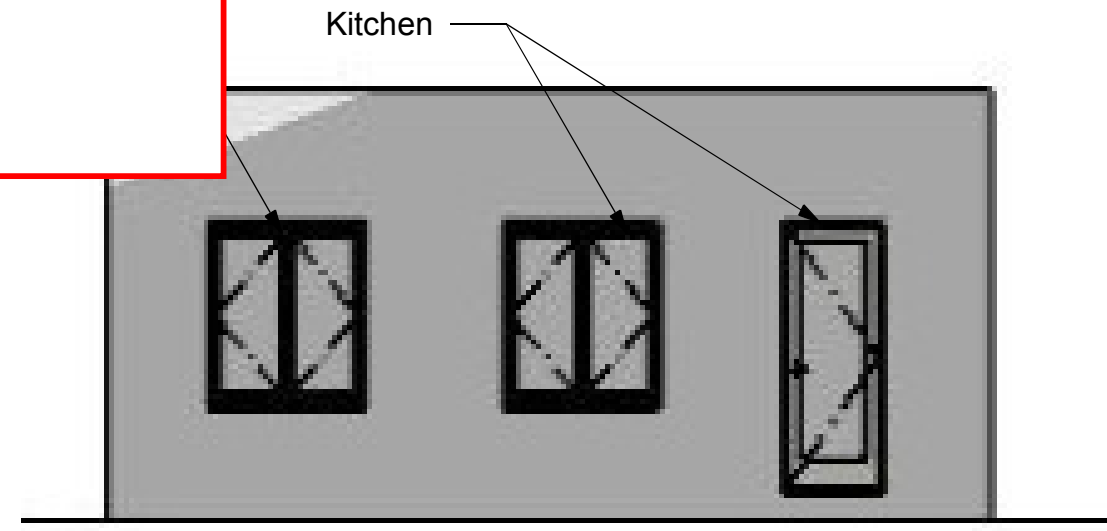
\* Findings and Conditions Attached



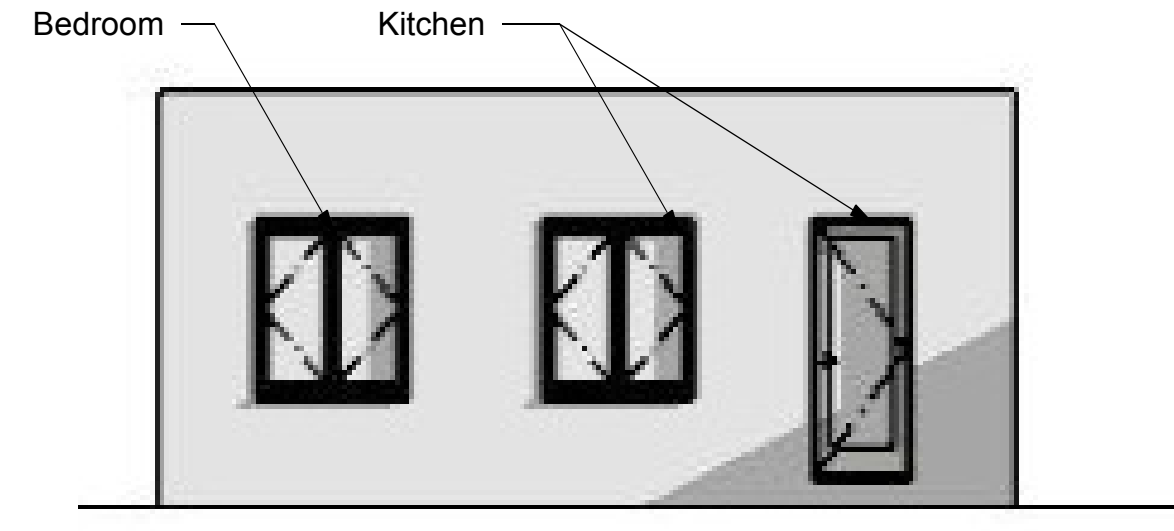
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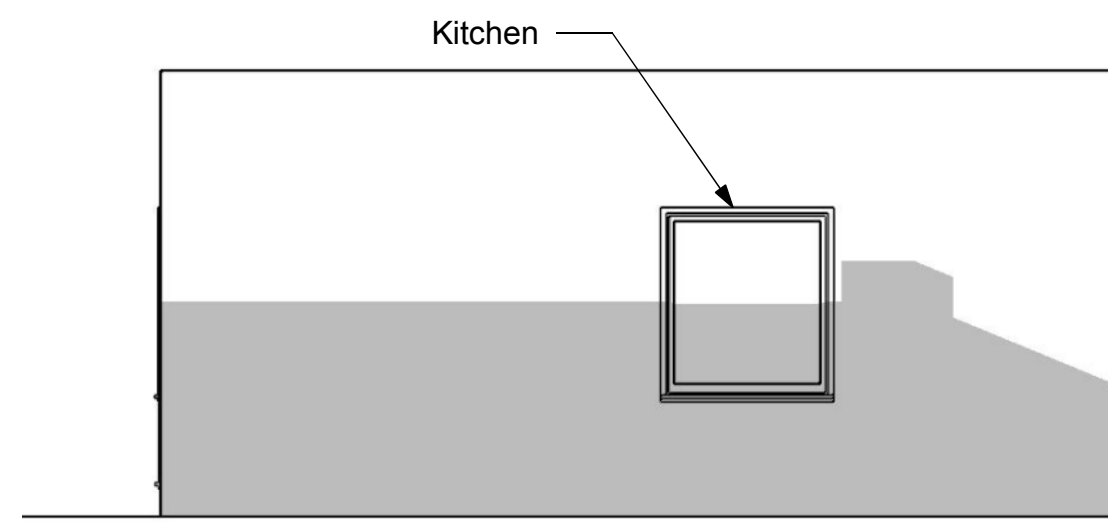
Proposed West Wall



Proposed North Wall

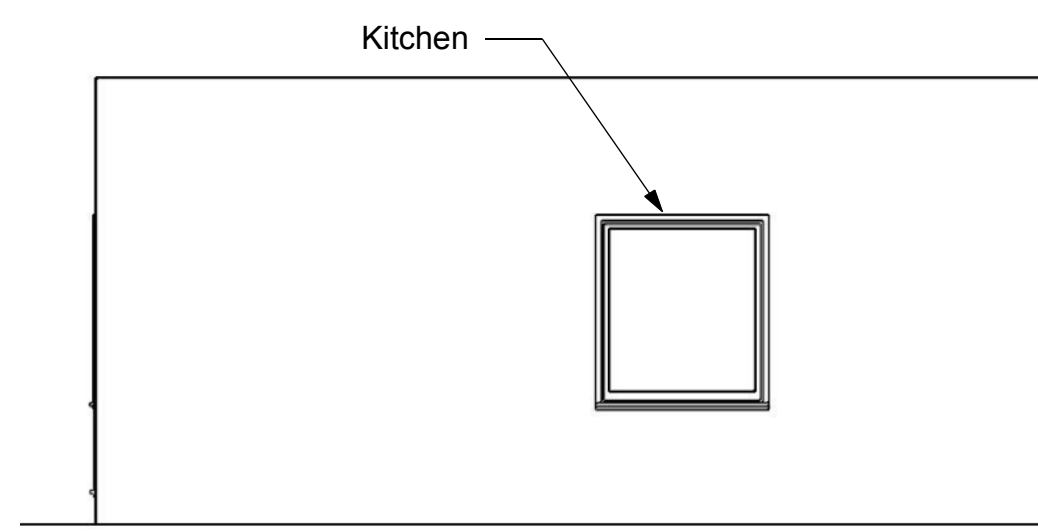


Proposed North Wall



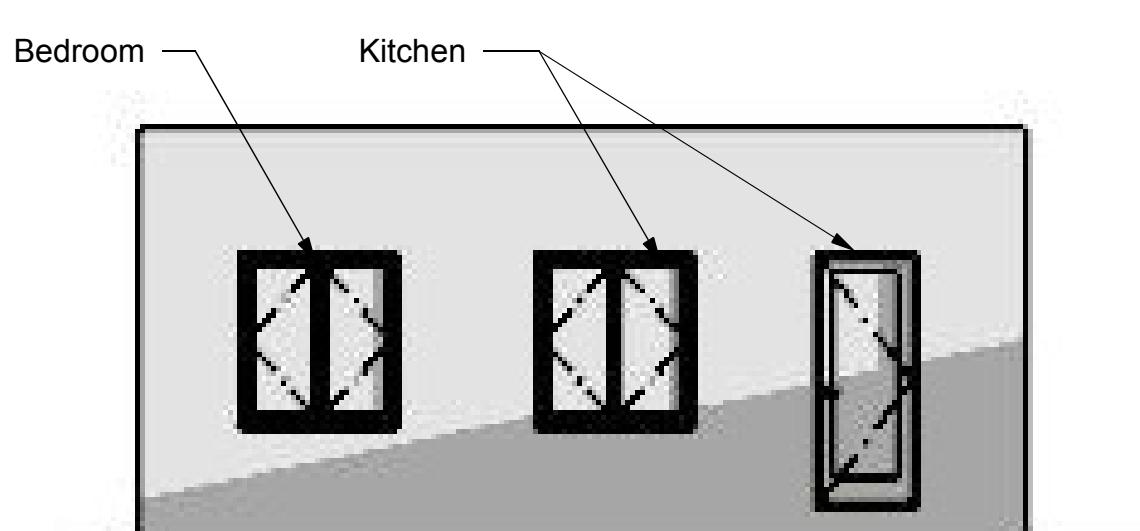
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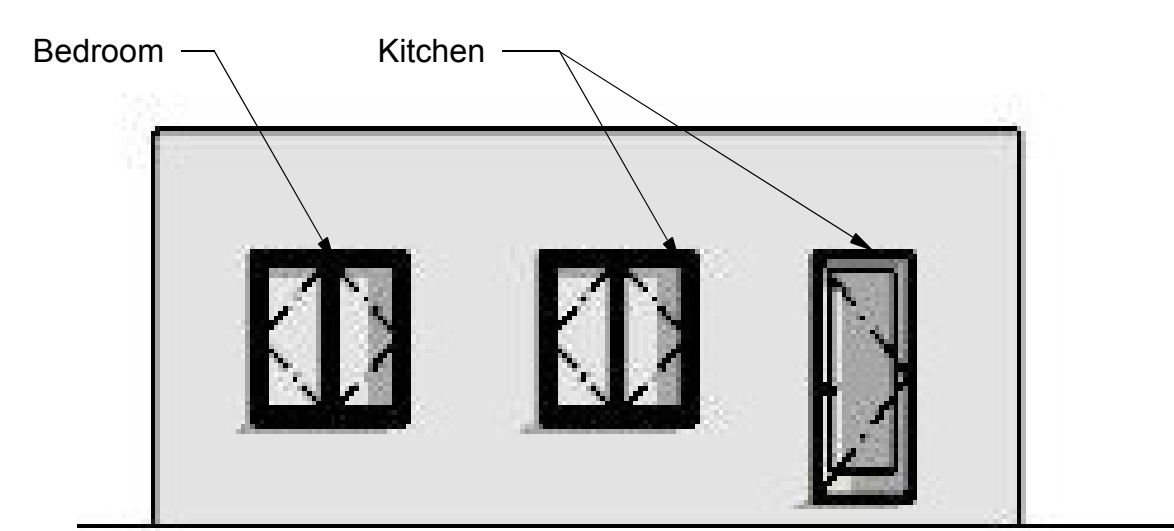
Existing West Wall

**6-21-2021 / 5:00 pm**



Existing North Wall

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



Existing North Wall

**6-21-2021 / 5:00 pm**

**1609 Virginia St. Shadow Impact Study**



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Sheet Contents:  
 Shadows Studies

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Project No:  
 20-13-420

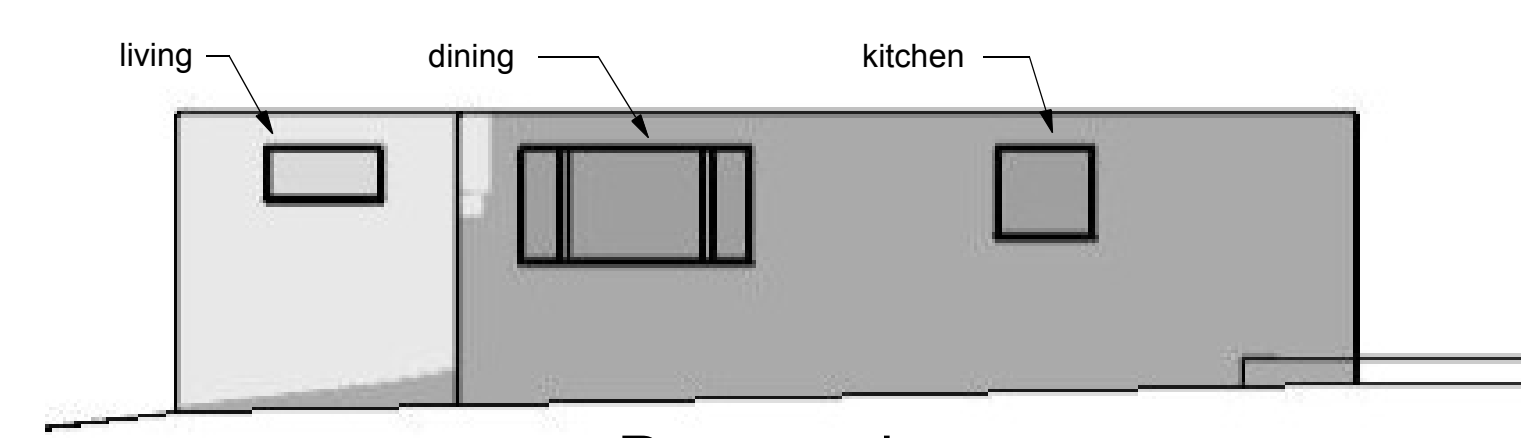
Drawn By:  
 SSG

Checked By:  
 SSG

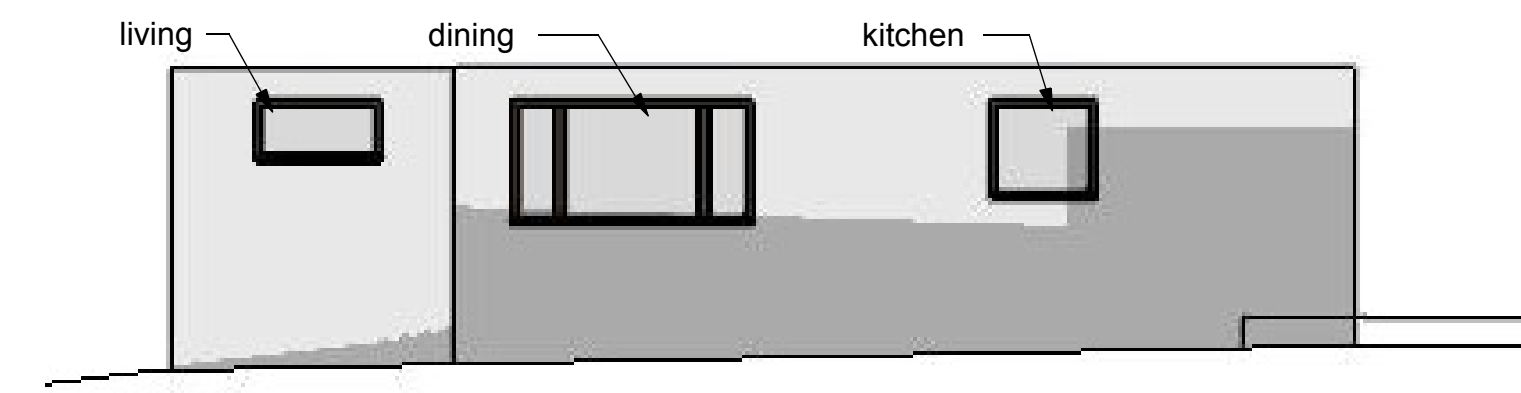
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet  
**A4.3**

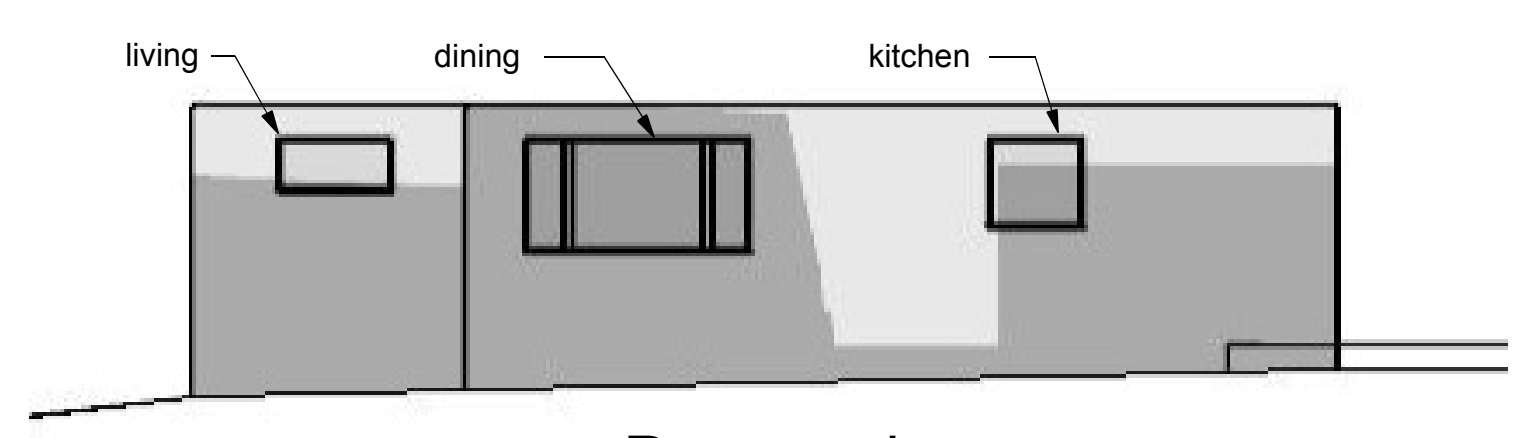


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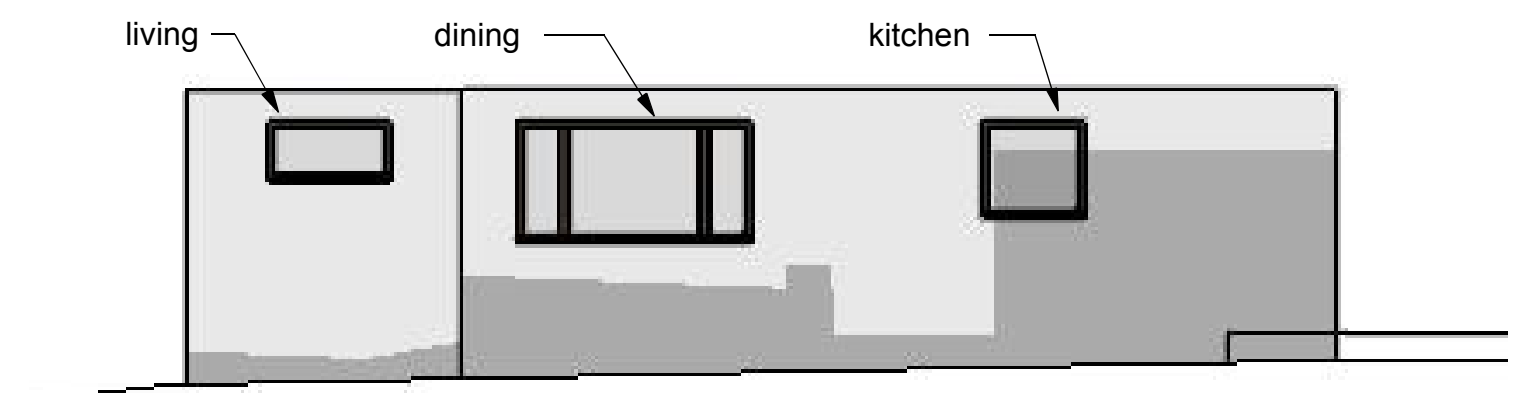


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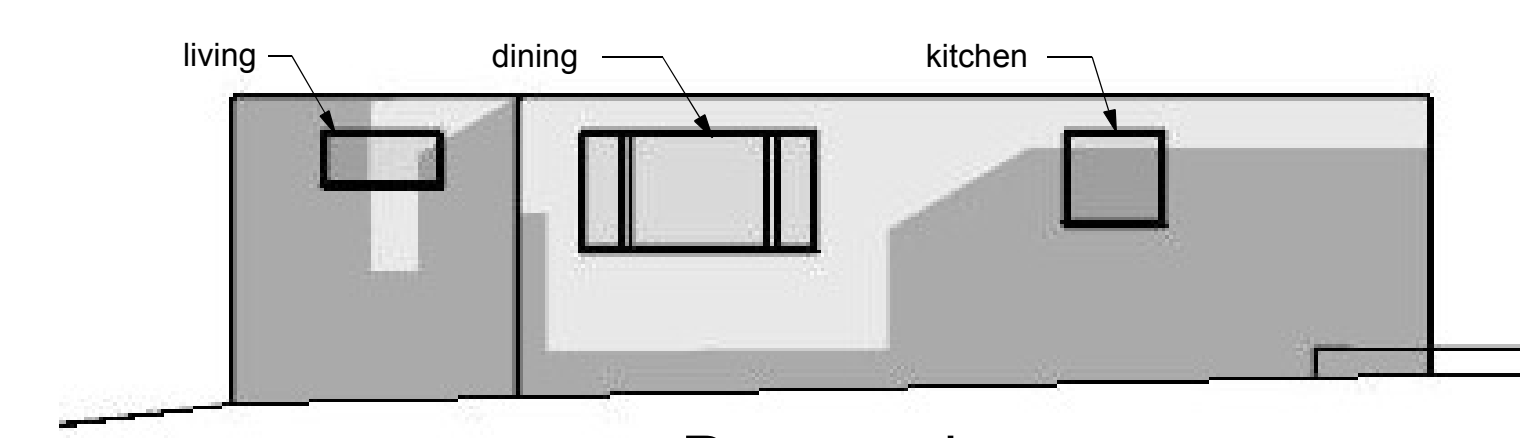
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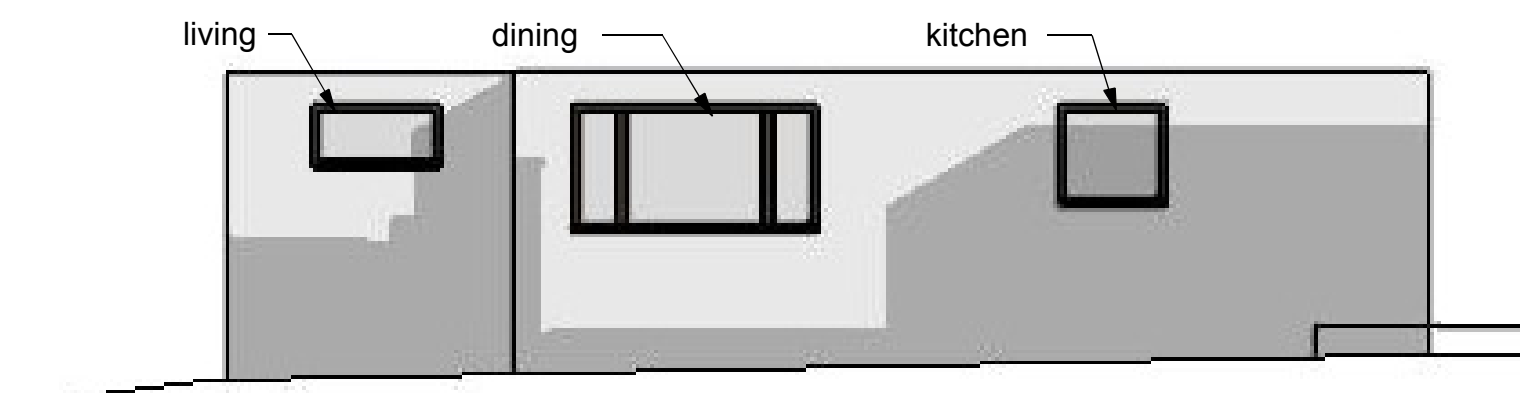
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**12-21-2021 / 12:00 pm**

**1639 California St. Shadow Impact Study**




Proposed

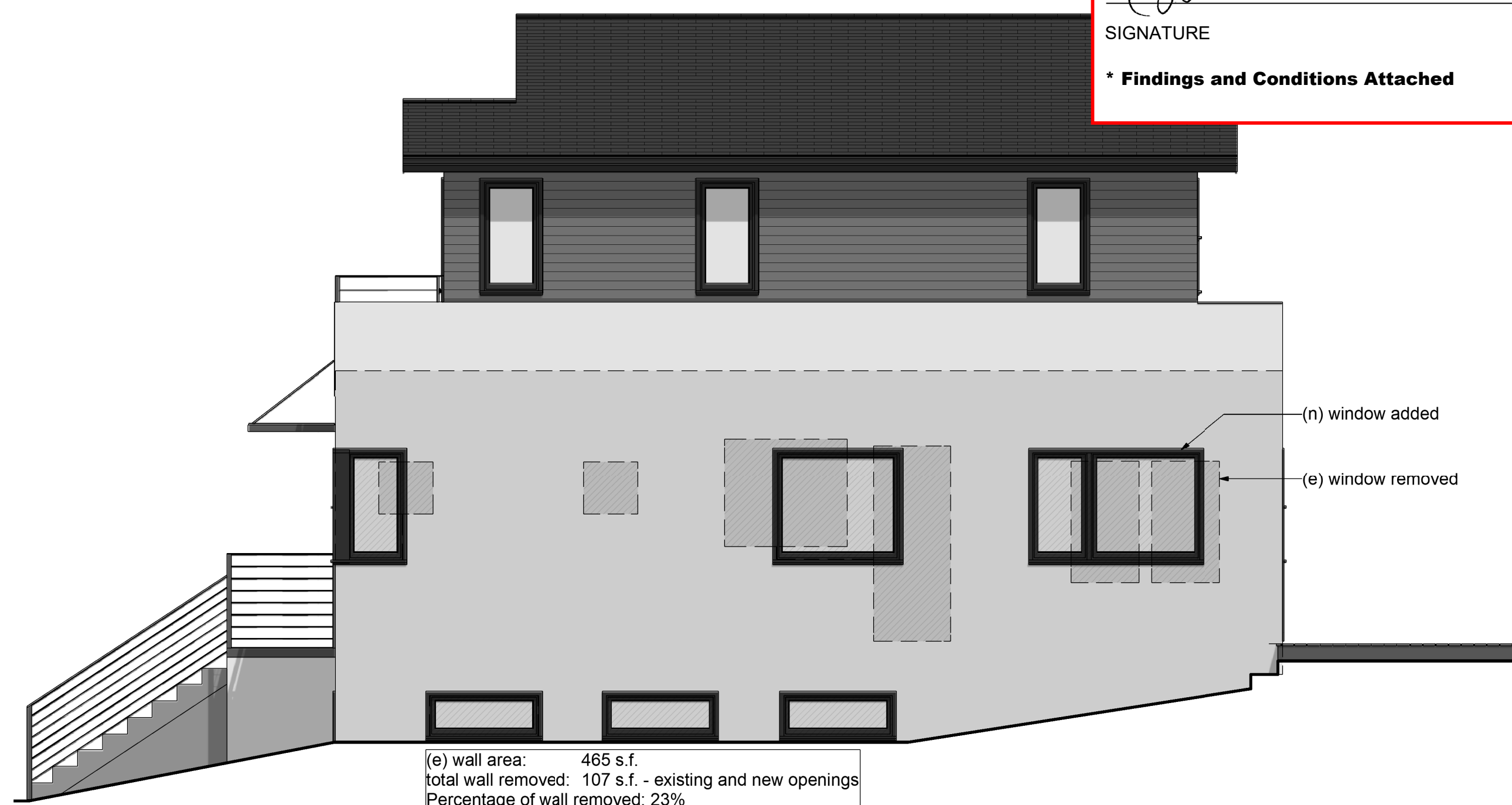


Existing

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

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

  
 SIGNATURE DATE  
 December 9, 2021  
 \* Findings and Conditions Attached

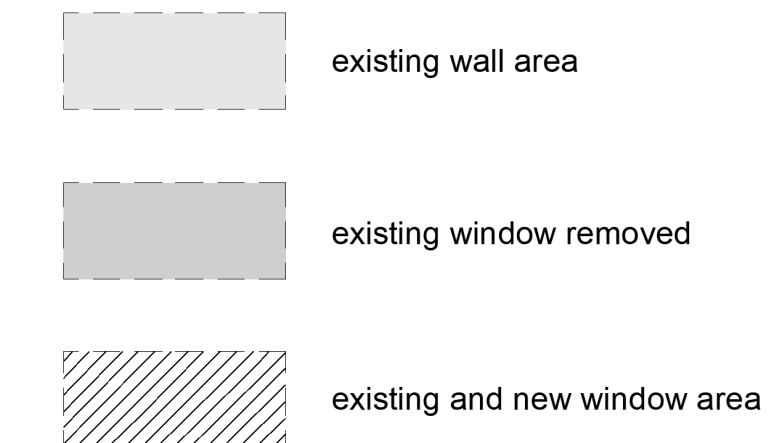


4 Proposed South Elevation - Right Side



3 Proposed East Elevation - Rear

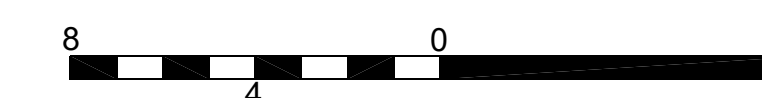
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 Total wall area: 1,921 s.f.  
 Total wall removed: 520 s.f. (existing and new openings)  
 Percentage removed: 27.1%



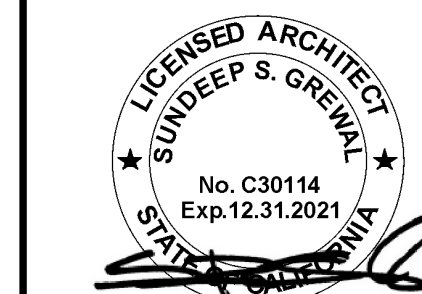
2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



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Sheet Contents:  
 Demolition Diagram

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Drawn By:  
 SSG

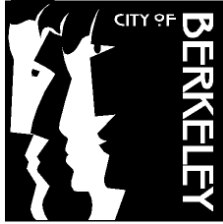
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Scale:  
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Revisions:  
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021  
 Planning Review: 8-26-2021

Sheet  
**A5.1**





Planning and Development Department  
Land Use Planning Division

**PROOF OF SERVICE**

DATE: December 20, 2021

TO: Whom It May Concern

FROM: Melinda Jacob, OSII

SUBJECT: **USE PERMIT #ZP2021-0001 – 1643-1647 CALIFORNIA STREET**

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 1947 Center Street, Berkeley, California 94704. On this date, I served the following documents:

**ZONING ADJUSTMENTS BOARD NOTICE OF DECISION**

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

Sundeep Grewal  
Studio G+S Architects  
2223 Fifth Street  
Berkeley, CA 94710

Ido & Tamar Oppenheimer  
1643 & 1647 California Street  
Berkeley, CA 94703

- By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.
- By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 20, 2021 at Berkeley, California.

Melinda Jacob, OSII

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: The HAA as applied in the December 9 ZAB hearing

**From:** Anna Cederstav AIDA <acederstav@gmail.com>  
**Sent:** Monday, December 27, 2021 10:31 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>; Armour, Nicholas <NArmour@cityofberkeley.info>; Adam Safir <cederfir@hotmail.com>  
**Subject:** The HAA as applied in the December 9 ZAB hearing

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

To whom it may concern:

These comments are in reference to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley. We would like to request reconsideration of that decision for multiple reasons, the most important being what we see as a potentially incorrect application of the Housing Accountability Act (HAA). If posted as decided at the ZAB hearing, we plan to appeal this decision to the City Council, but we believe it is in the City's best interest to resolve this matter and reconsider the project before it is allowed to reach that level. We are therefore submitting some of our comments about this process and decision in advance of any appeal.

In short, the decision made, if allowed to stand, threatens all of zoning in Berkeley and significantly reduces the power of the City to protect the character of its neighborhoods, as well as the availability of lower income housing within those neighborhoods. The City's interpretation of the law and the ZAB decision made based on that interpretation is entirely counter to the intended purposes of the HAA (to address the housing crisis and particularly the lack of affordable homes at below market rates in California) and could promote massive development of luxury housing in Berkeley, all but eliminating affordable residences in the City. That's because under the current interpretation, there would be no way for the city to stop property owners from enlarging their homes and building to the max limitations of their property – regardless of whether or not their properties comply with existing zoning regulations.

The project proposed for 1643-47 California is on a site where an original duplex was illegally converted by the project proponents from two one-bedroom units into one single-family residence long ago, and which has been owner occupied as such for decades. The proponents now seek to expand the building from a total of 1,342 to 3,763 square feet by reconvert it into a duplex, not creating any new units in the building but rather reducing the size of one unit to a smaller apartment (501 sq ft.), and massively increasing the size of the other unit to become an enormous 5-bedroom, 4-bathroom unit including a home gym (3,262 sq ft. total).

The project in question is – as stated in the staff report – “non-conforming for lot coverage, density, and yards” and “does not comply with the applicable, objective zoning standards.” Nevertheless, the ZAB decided to approve the project over the strong objections of adjacent neighbors and without even considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made its decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined at one point in the discussion as being the units, number of bedrooms, or square footage in the development. The ZAB also felt it could not require modifications because there are not yet objective standards that have been passed by Berkeley for implementing the HAA.

Further, it was clear at the hearing that the ZAB had little prior experience in applying the law; one ZAB member noted that this was the first time they were asked to review this kind of project with the HAA being in force. At one point, a

section from a memo from the city attorney that much of the ZAB did not seem to fully understand was used to suggest that the ZAB had no option other than to vote to approve the project.

The process of consideration and review of this project and the decision made by the ZAB sets a dangerous precedent for zoning and housing development in Berkeley and should not be allowed to stand. If the decision made is upheld without further consideration as to the applicability of the HAA, then in effect no future expansion project in Berkeley could be denied because all such projects are likely to request an increase in units, bedrooms, or square footage. This is clearly not the intent of the law. An interpretation of the law along these lines would contravene the HAA in that it would force the city to permit all proposed housing expansions up to the maximum size allowable for the lot even when zoning standards are being violated. The result would be one in which all small – and thus affordable and lower income – housing in Berkeley would eventually disappear.

Our reading of the HAA and experience during the ZAB meeting highlights the following inconsistencies, among others.

1) The HAA states that a preliminary housing development application is to be considered complete when the applicant has provided information including “The number of proposed below market rate units and their affordability levels” (Section 65941.1.10). **This requirement exists because the restrictions placed on cities via the HAA apply largely in cases where the proposed development is intended for “very low, low, medium or moderate income housing.” (Section 65589.5(d))** We saw no information in the application for this project indicating that there has been a discussion as to whether or not the proposed project falls into these categories of affordable housing.

2) The city staff report to the ZAB, in section B “Housing Accountability Act Analysis” suggests that the ZAB can only deny approval of a project if there is a finding of significant adverse impact on public health, and no feasible way of mitigating such impact. However, **a close read of the law, shows that these conditions ONLY APPLY in the event of a “housing development project, ..., for very low, low-, or moderate-income households, or an emergency shelter” (Section 65589.5(d))**

3) Given the above limitation related to the affordability of the housing to be developed, the city should assess whether the proposed development fits into an affordable housing category prior to deciding whether this section of the HAA applies. There are two ways for a housing development to qualify under the HAA (Section 65589.5 (h) (3, 4); either 20% of the units to be developed must constitute low-income housing and be guaranteed to be maintained as such for at least 30 years, or 100% of the units to be developed must fall in the category for moderate income housing. The law provides specific guidance as to how to make these determinations based on recent local income data. Considering the units proposed in this project, we do not see how either of these two conditions could possibly be met for the proposed project, nor do we see any evidence of the city having tried to make the determination. The proponents also explicitly state that they intend to continue using the building as their personal residence and for their son.

4) **Assuming that the above affordable housing requirements are not met by the project, the section of the law cited in the staff report as limiting the rights and power of the city does not apply to this project.** The only other limitations the HAA places with respect to approval for housing developments are delineated in section 65589.5 (j). The staff report to the ZAB clearly states that “the proposed project does not comply with the applicable, objective zoning standards.” Therefore, it is only subsection 2 of section J that applies in this case:

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

5) The above suggests that – rather than believing it has to feel forced to approve this project -- the only thing the city would need to comply with the HAA in this case, is to a) request affordability data on the project to be

able to consider the project complete and b) assuming the low to moderate income limitation doesn't apply to the project, issue a finding as to why the project is not in compliance with current applicable objective zoning standards within 30 days of the project proposal being deemed complete. There is no reason for the ZAB or City to feel it must approve the project.

6) The staff report also suggested that if it chose to do so, there is nothing that hinders the ZAB from requesting "modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density." That fact doesn't mean that the ZAB has to approve the project, again considering that the property already fails to meet the zoning standards.

7) Further, during the hearing, it was suggested that the law should be interpreted to mean that cities are prevented from requiring that proposed developments reduce the project square footage. This is counter to the traditional interpretation of density which is taken to mean number of units. Applying a definition based on square footage or bedrooms for determining density should not be allowed because the purpose of the law – as set out in extensive detail in the beginning sections – is clearly to provide AFFORDABLE housing in California, and to make sure that cities do not develop in ways that prevent lower income residents from being able to continue living there. Interpreting this law to mean that Berkeley must approve the conversion of a duplex consisting of two one-bedroom units into a duplex consisting of a small apartment and a gigantic luxury home clearly runs counter to the purpose of the law and sets a dangerous precedent for its interpretation in Berkeley and other California cities.

8) To correctly implement the HAA in the spirit of the law and for the purpose of safeguarding affordable housing in Berkeley, the City and ZAB should-- rather than approving the conversion of a small, affordable living unit into a giant luxury home -- safeguard its right to impose limits on the conversion of affordable units into luxury properties, as it is fully entitled to do when a project that does not provide very low to moderate income housing does not comply with applicable objective zoning standards.

Again, the purpose of the HAA is to increase the amount of affordable housing available in California, and to bring clarity and efficiency to permit processes and timelines. The law should not be interpreted to prevent cities from enforcing zoning standards and laws related to projects that do not in any way contribute to – or worse, detract from—the provision of affordable or lower income housing. The project in question in fact REDUCES the amount of affordable housing in Berkeley and thus should not benefit from the HAA.

We will appreciate a response to this email as well as to our prior requests for information regarding the December 9 ZAB hearing and Berkeley City guidance on how to apply the HAA.

Thank you so much and best wishes for a happy new year!

-Anna Cederstav  
1609 Virginia Street

January 10, 2022

To: The Berkeley City Council

Re: Application of the Housing Accessibility Act and flaws in participatory processes that unduly limit the City's ability to regulate development in Berkeley, as evidenced via the handling of project ZP2021-0001.

This appeal relates to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley (ZP2021-0001). We are appealing the decision by the ZAB in this case for two reasons:

- 1) The ZAB and City interpreted and applied the Housing Accessibility Act (HAA) in a way that severely and inappropriately restricts the City of Berkeley's powers and authority to influence housing development and to safeguard existing lower-income housing in the City.
  - a. The City Planner incorrectly extended protections afforded by the HAA only to very-low to moderate income housing developments, to a project that does not add any new units and instead simply proposes to massively increase the square footage of one unit in an existing duplex.
  - b. The ZAB interpreted the HAA to mean that it has no authority to apply existing objective zoning standards to any project that proposes an increase in square footage of the existing structure. That interpretation is counter to the statements in the City Planner's Staff Report, the law, and existing jurisprudence interpreting the HAA. Moreover, the ZAB only discussed how to apply the law to this project AFTER the opportunity for comment had closed during the hearing, and even though none of that information was previously publicly available.

If this interpretation is allowed to stand, the City of Berkeley would find itself forced to approve all housing projects that propose increasing square footage, regardless of whether the project complies with the applicable zoning standards currently in place, in effect making all Berkeley zoning processes irrelevant.

- 2) The City failed to provide adequate opportunities for affected parties to receive information in a timely manner, be consulted, and provide meaningful input on the proposed project

Because of (1) above, we request that the Council revert the project in question to the Department of Planning & Development to work with the City Attorney and others to determine how the HAA shall apply to this project and to zoning matters in Berkeley generally, including issuing clear and public guidelines as to which specific ZAB and City authorities are limited by the HAA in what kinds of circumstances. (See Section A below.)

We further request that the City Council order that ZAB hold another hearing on this project -- AFTER the City has officially decided and provided information as to how the HAA applies in this case, also mandating that such hearing shall include appropriate public notice and public participation, and that any and all restrictions on potential project modifications be both clearly stated in the Staff Report and during the ZAB hearing before the public comment section.

We also request that the City of Berkeley revise its procedures and processes to ensure effective and informed public participation in ZAB matters, considering that the COVID crisis is no longer a short-term phenomenon and thus does not provide an excuse for compromising informed public participation. (See Section B below). This includes but is not at all limited to public postings for projects, use of story poles, and improved ZAB hearing procedures to facilitate public participation.

In the interim, because the HAA does not require approval of this project, we ask that the City exercise its authority to reject the project or require a resubmission until such time as these matters can be resolved.

Finally, because the need for this appeal stems from the City's inconsistent interpretation of the HAA as well as from public participation concerns more broadly, both of which are of great import to the City generally and not only applicable to this specific project, we request a rebate of the \$500 charge for this appeal.

#### **SECTION A. Inappropriate application of the HAA to justify approval of the proposed project**

##### **THE FACTS**

###### *The project*

As clearly stated in the staff report provided to the ZAB prior to the hearing, the proposed project is "non-conforming for lot coverage, density, and yards" and "does not comply with the applicable, objective zoning standards."

1643-47 California is a North-Berkeley duplex built in 1924 that is registered as a two-unit structure with both units being owner-occupied. The property was illegally converted by the project proponents from two single-bedroom units into one larger single-family residence more than two decades ago, removing a kitchen, and opening the wall between the units. The property has been occupied as a single-family residence ever since.

The project proponent now seeks to expand the building from a total of 1,342 to 3,763 square feet by building a substantially different structure, promising to reconstruct the illegally removed unit. The project does not add any new units beyond what is on record in the city.

Instead of recreating the original and surely more affordable one-bedroom housing units (671 sq ft. each), the proposal seeks permission to create a small apartment (501 sq ft.) and an enormous 5-bedroom, 4-bathroom unit that includes a home gym. (3,262 sq ft.) The project would add two new levels to the existing property.

To accomplish these changes, the project requires two Use Permits and five Administrative Use Permits.

The proposal states that two adults will occupy the 3,262 sq ft. 5-bedroom unit and that their adult son will live in the small apartment.

The project application contains no information regarding any restrictions being created to ensure that the smaller proposed unit would be available as low-income housing, as is required for any application seeking to benefit from the HAA under the rubric of providing low-income housing.

Similarly, the project application contains no information explaining how the 5-bedroom, 4-bathroom unit with a gym could be considered to be housing for moderate-level or below income, another way of triggering application of the HAA.

*The ZAB hearing and decision<sup>1</sup>*

According to statements by ZAB members made during the meeting, this was the first time since the amendments to the HAA came into effect that the ZAB has had to decide whether or not to approve a project that did not meet the applicable zoning standards.

In spite of opposition by all three adjacent neighbors to the proposed third level of the structure, ZAB approved the project without considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made this decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined broadly at one point in the discussion as being the units, number of bedrooms, or square footage of a development. The ZAB also expressed it could not require design modifications given that Berkeley does not yet have any objective design standards for minimizing impacts on neighboring properties.

At the very end of ZAB discussions, the ZAB chairman searched for, found, and read from a memo apparently produced by the city attorney and provided to the ZAB in October. That section – read out of context – was used as basis to suggest that the ZAB had no option other than to approve the project. The complete memo was shared with neither the public nor the rest of the ZAB at the meeting. We have since been unsuccessful in obtaining a copy of that memo, even after multiple requests to the ZAB and City Planner.

After dedicating much of the meeting to trying to figure out how the HAA might apply and what it was or was not allowed to do, the ZAB hurriedly voted shortly after reading from this memo to approve the proposed project.

During the meeting, ZAB members also clarified that the ZAB is not allowed to consider potential future uses of the projects it reviews even when the ZAB may doubt statements made by project applicants about such future use, thereby inferring that any determinations as to whether a project provides housing for very low to moderate income earners and thus is subject to those provisions of the HAA rests with the City Planning Department.

## THE LAW

The text of the HAA (California Code 65589.5<sup>2</sup>) begins with an extensive discussion of the need for housing and especially affordable housing in California considering the “housing supply and affordability crisis of historic proportions” the State faces.

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<sup>1</sup> We have made multiple requests to the ZAB and city planner for access to the recording of the ZAB meeting, so as to substantiate our record of the meeting. Not having received any response, these facts are based on our notes from the meeting and the written documents supplied to the ZAB by the city planner.

<sup>2</sup> See: [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5)

It is eminently clear that the focus of the law is on providing more affordable housing, with references made to the need for safe and affordable housing; the discrimination against low-income and minority households caused by the lack of affordable housing; worsening poverty and homelessness; constrained supply and protracted unaffordability; low homeownership rates; and the high percentage of incomes paid by Californians on rent, among others.

The law also states that it is the intent of the State that the law be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

Relevant to this case, there are two sections of the law that impose restrictions on cities in approving housing developments.

First, Subsection (d) places strict limits on cities with regard to denying an application for a "housing development project for very low, low-, or moderate-income households or an emergency shelter..." To provide clarity on which housing developments would fit into this category, the law provides detailed instructions for how to carry out the calculations to assess whether a unit will qualify as very low, low- or moderate-income housing [Subsections (h)(3) and (h)(4)].

The law further requires that "The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years." [Subsection (d)(4)]

The vast majority of the law refers to and places limitations only on housing developments that would provide the very-low to moderate level income described above, and as defined in Subsection (h). It is only for such developments or for developments that comply with all applicable objective standards that a City must make a finding of specific adverse impacts upon the public health or safety if it desires to disapprove the project.

Second, Subsection (j) defines the process and timelines by which housing developments in general should be reviewed and either approved or denied. The law sets out two options, providing guidance for what to do if the city considers that:

- a) a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete; or deems the
- b) housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision

In the case where the agency deems the project out of compliance, the law simply directs the agency to provide the project proponent with a timely explanation of the reason why the project is not in compliance. [Section(j)(2)(i)]

There is nothing in the law that suggests a local agency would be required to approve a project that does not comply with the applicable, objective zoning standards in place at the time that a project application is complete. To the contrary, section (f) of the law states that:

... nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards,



conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

Other California law, such as Section 65915 discussing density, consistently speak of and define density in terms of the number of units per property or area.<sup>3</sup>

#### DISCUSSION AND ANALYSIS

Rather than adding low to moderate income level housing in Berkeley, this project would REDUCE the amount of such housing available. Again, the proponents seek to replace two small and more affordable housing units with one tiny apartment and one huge, 5-bedroom home. There are no provisions made that the project would provide guaranteed low or very-low income housing, and it is difficult to imagine how the very large 5-bedroom unit could be considered to be moderate income-level housing for a two-person household. The project proponents own a large 10-unit Berkeley rental building less than a mile away, and thus unlikely would qualify as a low to moderate income household.

By removing a more affordable unit and replacing it with a luxury home, the project thus runs COUNTER to the expressed purpose of the HAA of seeking to provide more affordable housing in California.

As emphasized in the staff report to the ZAB, the proposed project does not comply with the applicable, objective zoning standards.

As clearly stated on the City of Berkeley Department of Planning & Development website,<sup>4</sup> Berkeley has a long history of applying zoning requirements to preserve the character of its distinctive neighborhoods and prevent impacts on neighbors. It thus seems highly unlikely that the ZAB would have approved this extremely large building on a tiny lot, in contravention of multiple zoning standards, considering the objections of all three adjacent neighbors, and without requiring modifications to address the concerns of the neighbors, if it were not for the ZAB's apparent belief that it is required to approve any proposal for expanded square footage under the HAA.

To ensure both that all parties receive fair treatment, it is critical that the law be correctly applied. As stated in the judicial opinion in the landmark case on the HAA "California Renters Legal Advocacy and Education Fund vs. the City of San Mateo,

The Legislature insists on objective criteria so as to ensure "reasonable certainty . . . to all stakeholders" about the constraints a municipality will impose. (Assem., 3d reading analysis of Assem. Bill No. 1515, as amended May 1, 2017, p. 2.) Reasonable certainty is important to Department of Housing and Community Development officials, so they understand the impact of a locality's housing element in deciding whether to approve it. Reasonable certainty is important to neighbors, who want to know how big a building can be erected next door, and it is

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<sup>3</sup> See for example:

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition)

<sup>4</sup> See: <https://www.cityofberkeley.info/planning/>

important to those who build housing, so they know what size project can be approved for a particular site. (p.19, emphasis added)

Further, the opinion states that

the HAA should not be construed to prohibit local governments from requiring compliance with “objective, quantifiable, written development standards” that are consistent with meeting the jurisdiction’s share in regional housing need (§§ 65589.5, subd. (f)(1), 65583), (p.24)

In this case, the ZAB failed to enforce the objective standards that are already in place. Those objective standards are ones that adjacent neighbors have studied and considered in both purchasing and renovating their properties. The arbitrary decision by ZAB to not apply the objective standards to deny the projects that all the neighbors oppose – when the HAA in no way limits it from doing so – therefore violates the rights of the neighbors to have reasonable certainty as to what kind of development will be allowed.

A memo<sup>5</sup> read by a ZAB member during the hearing was interpreted to suggest that the HAA limits the right of the city to require a reduction in the square footage, levels, or number of bedrooms of the proposed projects, even though the project does not comply with objective zoning standards. That interpretation is not consistent with the above legal opinion, which clearly confers on cities the right to apply objective standards. It is also not consistent with either the text of the law or the City Planner’s report that was provided to both the ZAB and to all affected parties.

Section (f) of the law states that cities should facilitate development of the density allowed at the site. But density does not mean square footage, levels, or number of bedrooms. Density is commonly defined as “the amount of development per acre permitted on a parcel under the applicable zoning, commonly measured as dwelling units per acre (du/ac).”<sup>6</sup> The parcel in question is approved at a density of two units, and the proposal is for two units. That does not mean Berkeley necessarily needs to approve one of those units to be enormous, in violation of the objective standards that neighbors would expect the city to enforce.

Further, as the staff report also makes clear,” the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.”

If the ZAB’s interpretation of how to apply the HAA based on square footage instead of the number of units is allowed to stand, it will set a precedent that limits the rights of the City to enforce objective zoning standards, not only in Berkeley but throughout the State.

The reading of the law in this case not only unduly limits the power of cities to regulate development even further than the HAA already does, but it also prevents cities from protecting low to moderate level income housing within their districts. That’s because if cities have to approve all projects that propose infill to the absolute maximum size a property tolerates, without being able to enforce even

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<sup>5</sup> We have not received a copy of this document even after multiple requests to the City Planner and the ZAB.

<sup>6</sup> “Understanding Density and Development Intensity,” Presentation by the League of California Cities – Planning Commissioners Academy, | Thursday, March 7, 2019, available at: [https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05\\_3#:~:text=Definition,acre%20\(du%2Fac\)](https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05_3#:~:text=Definition,acre%20(du%2Fac)).

existing objective standards, there would eventually be no small – and thus more affordable – houses and units left. If this were the case in Berkeley, every property owner could in effect propose adding a couple of bedrooms, thus destroying the small houses available in the city and making it impossible for lower income earners and young families afford to live here. This would entirely change the socioeconomic makeup of Berkeley.

In sum, this proposal does not provide additional housing in Berkeley and does not meet any affordable housing needs and thus should not benefit from restrictions on city powers to influence development created by the HAA. This is simply a matter of one family seeking to increase the size of its property – in contravention of zoning standards – without having consulted and reached agreement with its neighbors. There is no justifiable reason why in this circumstance, the ZAB should favor the interests of one property owner over those of its neighbors.

The December 9, 2021 vote by the ZAB to approve the project without modifications was clearly influenced by an erroneous interpretation of the law, with ZAB members voting for the project because they thought they had to do so under the HAA, even after having expressed significant concerns about the size and purpose of the project and about the constraints they felt were being imposed upon them by the law. Recognizing that this was the first time after passage of the new HAA standards that the ZAB had to decide on a case in which a project does not comply with objective standards, and that the ZAB seems to not have fully understood the limitations and powers that law affords to cities, we request that the City Council return this project proposal for another hearing. At that hearing, we would expect that the project be considered for what it is - a proposed expansion that does not comply with objective standards, is not protected under the HAA, and does not count with support from the neighbors, such that the ZAB will feel free to deny the project or impose conditions considering input and requests for modifications from affected neighbors.

**SECTION B. Absence of the opportunity for meaningful public participation regarding the project.**

Throughout this process we experienced multiple problems with the City's process that created obstacles to the effective and timely participation in the zoning/planning review process. Our full, detailed concerns are described below.

The most egregious issue with respect to public participation in this case was that critical guidance from the City Attorney upon which the ZAB decision was based, was not available to affected parties or apparently to the City Planner until the very end of the ZAB hearing about this project. At that time – after the public participation section of the meeting was closed and with attendee microphones, chats, and videos all turned off on zoom -- and right before the vote was called -- the ZAB chairman found and read a memo to the rest of the ZAB, and in so doing changed the entire focus and purpose of the hearing. Because it had not been previously available, no participant or affected party was able to prepare for or comment on the content of that memo as it potentially applies to the project, and the ZAB made its decision after mere minutes of superficial consideration of this new information. That is not appropriate.

This ZAB hearing was held on December 9<sup>th</sup>, and the information from the City Attorney that the ZAB Chairman referenced was said to be in an October memo from the City Attorney. The memo supposedly states that any project for which the HAA applies cannot be reduced in square footage. This assertion is completely at odds with comments that the City Planner put in the Staff Report, in his Advisory Comments to the project proponents, and made to us in calls and emails prior to our writing a letter to the ZAB in opposition to the project. As described above, it also seems to be a misinterpretation of what the HAA requires.

One must presume that a memo about zoning from the City Attorney would also have been shared with the Department of Planning and Development and its staff. Nevertheless, the city planner at no point indicated that it would not be possible for the ZAB to deny permits for the proposed third level or otherwise require a significant reduction in size of the project.

In fact, the initial Advisory Comments from the city planner specifically asked for removal of the upper floor to minimize impacts on the neighbors (a reduction in square footage). When speaking with us about our letter to the ZAB he suggested we could reference these comments and ask the ZAB to request "major modifications to the plan prior to continuation of the hearing".

Further, the City Planners comments in the final Staff Report and to us in emails clearly state that the ZAB cannot reduce the number of units (two units, both already existing on this property) but can require other modifications to lessen the impact to neighbors. We therefore chose to focus the comments in our letter and during the hearing to request removal of the upper floor addition to yield a project that would still allow expansion on the non-conforming property from a 1,400 sq ft to 2,700 sq ft structure, on a tiny 3,100 sq ft lot.

The ZAB Chairman who had the additional information from the City Attorney, and presumably read the Staff Report and the submitted public written comments ('Correspondences Received') prior to the hearing, had many opportunities to bring this information to light earlier in the hearing, both right after the City Planner summarized the project, or during the lengthy discussion the ZAB members had about the impacts to lighting and privacy to adjacent neighbors prior to hearing public comment.

Moreover, any information from the City Attorney should have been in the Staff Report as it sets the boundaries for modifications to the plan. If we had been told by the City Planner about this restriction, our letter to the ZAB would have been different, and if we had heard this information from the ZAB chairman during the ZABs initial discussions our oral comments would also have been different.

We thus ask for the City Council to direct the ZAB to reschedule this permit application for a re-hearing, not only as described above in Section A on the HAA, but also so that we and other neighbors can make specific requests to the plan to mitigate the impact to our properties, if the city still decides that it will allow this non-conforming project.

Additionally, we request that the City Council direct the City Planner to require the applicants to erect story poles on their current roof, prior to that ZAB hearing, to show the positioning of the new upper

floor and the location of windows,<sup>7</sup> as this was never done even though the City's website says that any additions with average heights over 14 feet require application of story poles prior to the ZAB hearing.

If, in the end, the City for some reason decides it still cannot or does not want to deny a project that clearly violates objective standards, exceeds allowed lot density, requires a very large number of UPs and AUPs, is opposed by adjacent neighbors and is completely out of character with the rest of the neighborhood, neighbors might for example request the below modifications:

1. Only permit upper floor window glazing on the south and east side of the development at a height above 5'6" from floor, to increase privacy of neighboring properties.<sup>8</sup>
2. Mandate the construction of a fence between the properties to a height of 8'6" to increase privacy for both neighbors and the project proponents by blocking the direct view between the windows of adjacent houses.<sup>9</sup>
3. Remove the parapet feature on the east side of the top floor. Currently this is set to be built identically to the parapet structure on the front of the house (west side) which is used as a balcony. The parapet feature on the west side is not needed for aesthetic continuity as it isn't continuous on the south and north sides, and on the east side will only act to collect tree droppings from the three tall trees near the property line. These trees are a constant source of complaints from the project proponents as droppings fall on their existing flat roof with a parapet feature. Moreover, to illegally convert that parapet roof structure to a balcony, the owners would only have to add a door to the bedroom on the second floor (a feature that was in their initial submission). Given the project proponent's history of illegal, non-permitted modifications to their property, as described in the fact section above and in the City Planners Staff Report, it would be best to make it impossible for that outside balcony to be easily created.

Complete list of concerns with the city's process and associated impacts to public participation

- The lack of signage and story poles means neighbors were not sufficiently alerted to potential impacts
  - COVID policies from early in the pandemic temporarily removed the requirement for posting a large yellow sign on the property applying for permits to alert neighbors to an application. Signage policies seem to have been changed back to normal during 2021, as we started seeing yellow posters in front of other houses with building proposals, before this proposal was deemed complete. However, we never saw any kind of signage on site describing this project. A few posters were eventually placed on telephone poles, but those were not nearly as noticeable as the traditional large yellow signs on site and have since been removed.

<sup>7</sup> One concern with the project is whether the proposed project will create a direct clear view from the added upper level into neighbors' bedroom and bathroom, in addition to compromising the privacy of back yards.

<sup>8</sup> If the project proponents want to keep the total glazing square footage the same to keep the amount of light into that room the same, they have plenty of space in that bedroom on the same wall to extend the 'high windows' toward the south end of that room.

<sup>9</sup> This would likely require an additional use permit but if the City is willing to issue seven such permits, an eighth seems reasonable as well.

- The project in question never erected 'story poles' even though the City's website says that doing so is required for any addition exceeding 14 feet in height. Again, we saw story poles on other houses in Berkeley that had proposals pending, even before this project was deemed complete.
- Even if temporary COVID policies were put in place to minimize human interaction, once reinstated, requirements should have been applied to all open applications.
- For some period of time, these signage requirements were replaced by postcards the city sent to neighbors. However, those postcards simply listed the address and did not specify on a map which house was affected or what the project implied. The likelihood of people proactively turning to their computer to learn about a proposed project is far lesser after receiving a postcard about an unfamiliar address, than if someone sees signage or story poles on a site.
- This relative lack of information about the project and its impacts - especially the absence of story poles – likely impacted the level of public participation overall, reducing the ability and likelihood of the public commenting on proposals.
- Interactions with the City Planner and the ZAB
  - Over the course of 2021 we had over a dozen email exchanges with the city planner as well as two phone calls. He was very responsive and we greatly appreciate him taking the time to speak with us.
  - Before even hearing the details of our concerns, the City Planner's advisory comment letter to the applicants called out the impacts to light and privacy to adjacent lots and specifically requested the applicants to remove the upper floor of their proposal (a reduction in square footage).
  - In our final call with the city planner on September 21, 2021, he mentioned options to (1) call out the impact to our light and privacy, (2) reference the suggestions he made in his Advisory Comments to make the scope of the project more reasonably sized by removing the upper floor to minimize/eliminate impacts to neighbors, (3) ask the ZAB to request "major modifications to the plan prior to continuation of the hearing", and (4) describe the ways in which the applicants misrepresented their neighbors' support of the project. At no point did he suggest that requesting a reduction in square footage would not be possible.
  - We thus focused our comments on requesting removal of the upper floor addition, to reduce impacts on neighbors but still allow the owners to expand the duplex on their non-conforming property from ~1400 sq ft to ~2700 sq ft.
  - As of 10am on 12/8/2021, the day before the ZAB hearing, the Staff Report was still not posted for public access. At that time, we were the ones who had to reach out to the city planner to get the report from him and make sure it was posted. Thus, there was also insufficient advance time for review and consideration of that report.
- The ZAB Hearing
  - In general, with the need to conduct public hearings on zoom rather than in person, those hearings should be conducted with video and chat channels enabled for all participants so that affected parties can communicate easily. Having chat channels, microphones and videos all disabled, as was the case in this hearing, is not appropriate. The zoom December 9 ZAB meeting did not even allow participants to communicate by

raising a hand to be called on (except during the very limited public comment section). This is extremely problematic, as evidenced by one person who was trying to participate but had no way to communicate with the ZAB to let the ZAB know she for sure wanted to speak. ZAB members themselves found themselves needing to call each other via cellphone rather than being able to interact on chat.

- During the ZAB hearing on 12/9/2021 the city planner reviewed the project and made the same statements described above. The ZAB then had a discussion, and several members raised concerns about the large impact to the neighbor's light and privacy. After this the project proponents spoke, followed by several neighbors who mostly opposed particularly the upper floor addition.
- A discussion by ZAB members ensued. It was at the end of this conversation that the ZAB Chairman referenced a letter he had from the City's Attorney from October supposedly stating that for projects where the HAA applies, the ZAB cannot reduce the square footage of the project, in effect saying that all ZAB members had to vote to approve (at this point in the Zoom hearing we 'raised our hand' to comment but were not called on)
- Finally, the chairman called for a vote and got the unanimous approval that he had already stated was required.
  - The fact that this critical piece of information from the City Attorney was (i) counter to what the City Planner states in the Staff Report and to us directly, and (ii) was presumably known but not shared by the ZAB Chairman until after all public participation was complete, in effect took away the public's ability to submit comments that were meaningful in the context of this critical information.
  - Rather, the important information about how the HAA will be applied should be shared prior to the hearing. As stated above, if we had known about this supposed restriction our comment letter to the ZAB would have been different. Similarly, if we had heard this from the ZAB chairman during the ZABs initial discussions, our verbal comments would have been different.
  - We have since asked the ZAB and the City Planner for a copy of this memo from the City Attorney (and access to the ZAB hearing recording) three times, with neither party even replying to our request.
- Appeal process
  - On December 14<sup>th</sup>, a few days after the ZAB hearing, we sent an email to the ZAB and to the City Planner requesting to be informed when the 'approval' would be posted and how the 14 days from then would be counted (calendar vs. work days, and considering which holidays?). We received no response from either. We also wrote a longer letter to the ZAB and City Planner and requested this information again on December 27<sup>th</sup>.
  - Having received no information from the ZAB or the City planner, we reached out to the City Webmaster on 12/17/2021 and were at that time referred to the 'Approved Zoning Applications' site, and the 'Guidelines for Filing an Appeal' site. We checked the 'Approved Zoning Applications' site immediately and then regularly thereafter and never saw the project appear.

- On January 4<sup>th</sup>, we received information from the City Planner that we would be required to appeal, but no further information as to what the timing would be. Since we were not seeing any postings on the site to which we had been referred, we assumed the clock was not yet running.
- Even so, we reached out to the City Clerk's office by email on January 7<sup>th</sup>. They immediately responded and told us that the decision had been posted to the 'Zoning Applications in Appeal Period' site on the 27<sup>th</sup> of December (the same day we last asked the ZAB and the City Planner for this information, and during a holiday break), and that we had three days until January 10<sup>th</sup> to file our appeal.

There are clearly numerous fronts on which public participation in zoning decisions needs to be improved.

- 1) The city must provide clear and easily understandable information as to how and when the HAA will be applied.
- 2) Posting of information about projects and story poles should be required and enforced.
- 3) The zoom logistics for hearings should be improved to promote meaningful participation in times of virtual meetings. (Unruly participants could always be muted, but excluding or preventing participation should not be the default.)
- 4) Berkeley should more clearly and proactively make available information about the appeals process to everyone who participates in a public hearing.

Thank you for your consideration and action on these matters,



Anna Cederstav



Adam Safir



Kay Bristol

Owners of properties adjacent to 1643-47 California.



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

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

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, APRIL 26, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Zoning Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **April 14, 2022**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Allison Riemer, Project Planner, (510) 981-7433, or [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info). Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

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Mark Numainville, City Clerk

Mailed: April 12, 2022

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

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the*

**Page 63 of 63**

*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.*



# **SUPPLEMENTAL COMMUNICATIONS AND REPORTS 2**

## **BERKELEY CITY COUNCIL REGULAR MEETING**

**DATE OF MEETING: TUESDAY, APRIL 26, 2022**

**TIME: 6:00 P.M.**

*The agenda packet for this meeting was distributed/posted on April 14, 2022. Communications in this supplement were received after 5pm on April 19, 2022. This communication packet was distributed/posted on April 25, 2022.*

### **Consent Calendar**

*Each item in this supplement follows the corresponding item on the City Council Agenda for this date.*

#### **Item #29: Budget Referral: Hopkins Corridor Bike, Pedestrian, and Placemaking Improvements**

- 45. Josie Gerst
- 46. Michael Katz
- 47. Donna Dediemar
- 48. David Brandon
- 49. Clifford Fred
- 50. Zelda Bronstein

#### **Action Calendar – New Business**

##### **Item #32: Issuance of \$40,000,000 General Obligation Bonds for Measure O – Affordable Housing**

- 51. Supplemental material, submitted by Finance

#### **Action Calendar – Public Hearings**

##### **Item #33: ZAB Appeal: 1643-1647 California Street, Use Permit #ZP2021-0001**

- 52. Sunny Grewal, on behalf of studio g+s Architects
- 53. Adam Safir

**Action Calendar – New Business**

**Item #38a: Development of Crisis Stabilization Program in Berkeley**

- 54. Supplemental material, submitted by the Homeless Commission
- 55. Supplemental material, submitted by Councilmember Taplin

**Benado, Tony**

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**From:** Sunny Grewal <sunny@sgsarch.com>  
**Sent:** Friday, April 22, 2022 12:29 PM  
**To:** City Clerk  
**Cc:** All Council; Riemer, Allison; Ido Oppenheimer  
**Subject:** Re: 1636 California St Appeals UP ZP2021-0001

Thank you for the information Tony.

Sunny Grewal  
studio gws ARCHITECTS  
2223 5th. Berkeley, CA 94710  
510.548.7448 office  
510-393-5691 cell  
[www.sgsarch.com](http://www.sgsarch.com)

On Fri, Apr 22, 2022 at 12:17 PM City Clerk <[clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)> wrote:

Good day Sunny,

This was included in the Communications Packet and is item #4. Since you addressed your email to "All Council", they all received a copy of it. The information you sent is public information and are distributed as follows.

Please review the Written Communications section on how communications to Council are distributed to the public.

[https://www.cityofberkeley.info/Clerk/City\\_Council/City\\_Council\\_General\\_Information.aspx](https://www.cityofberkeley.info/Clerk/City_Council/City_Council_General_Information.aspx)

- Written communications addressed to the City Council and submitted to the City Clerk Department by 5:00 p.m. fifteen days before the Council meeting are placed on the next available Council agenda.
- Written communications pertaining to an item on the agenda which are received after the deadline for inclusion in the agenda packet will be accepted and distributed according to the following timeline (see link provided above). They are called Supplemental Communications 1, 2 and 3.

Since all communications are public information it can be viewed via our Records Online portal at:

<https://www.cityofberkeley.info/recordsonline/paFiles/cqFiles/index.html>

Search Type: Communications Date Range: 4/26/22 to 4/26/22

Addressing the last sentence in your email, please be aware that communications are not included in the agenda packet.

Thank you,

Tony Benado

City Clerk's Office

**From:** Sunny Grewal <[sunny@sgsarch.com](mailto:sunny@sgsarch.com)>

**Sent:** Friday, April 22, 2022 11:31 AM

**To:** All Council <[council@cityofberkeley.info](mailto:council@cityofberkeley.info)>; Riemer, Allison <[ARiemer@cityofberkeley.info](mailto:ARiemer@cityofberkeley.info)>; Buckley, Steven <[StBuckley@cityofberkeley.info](mailto:StBuckley@cityofberkeley.info)>; Klein, Jordan <[JKlein@cityofberkeley.info](mailto:JKlein@cityofberkeley.info)>; Ido Oppenheimer <[idoopp@gmail.com](mailto:idoopp@gmail.com)>

**Subject:** Re: 1636 California St Appeals UP ZP2021-0001

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

Hi Allison and city council,

Regarding the public hearing for appeal of 1636 California St (UP ZP2021-0001), we had emailed correspondence to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) email. We noticed that this correspondence is not included in the project packet in the 2022-04-026 council agenda. This correspondence is very important as it relates to all neighbors who SUPPORT this project.

We request that this correspondence be given to all city council members before the 26th. hearing.

See attachments below.

Also, was there any additional correspondence the city received from the public that too was not included in the agenda?

Sunny Grewal  
studio g+s ARCHITECTS

2223 5th. Berkeley, CA 94710  
510.548.7448 office  
510-393-5691 cell  
[www.sgsarch.com](http://www.sgsarch.com)

On Mon, Apr 11, 2022 at 2:34 PM Sunny Grewal <[sunny@sgsarch.com](mailto:sunny@sgsarch.com)> wrote:

Please see letters in support of the ZAB approved project at 1636 California St. that is scheduled for city council meeting on April 26th. 2022.

Let me know if you have any questions.

Sunny Grewal  
studio g+s ARCHITECTS

2223 5th. Berkeley, CA 94710  
510.548.7448 office  
510-393-5691 cell  
[www.sgsarch.com](http://www.sgsarch.com)



**Benado, Tony**

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**From:** Adam Safir <cederfir@hotmail.com>  
**Sent:** Friday, April 22, 2022 1:20 PM  
**To:** All Council  
**Subject:** Supplemental material from appellant on items 33 of 4/26 City Council agenda  
**Attachments:** Appellant slides for 04-26-22 Council Meet Item 33.pdf; 12-09-21 ZAB corrected transcript\_item7\_1643-1647 California.pdf

**Categories:** Orange Category

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

Dear Mayor and City Council members,

Attached please find a slide deck that we will review in next Tuesday's City Council meeting associated with item #33 (appeal of ZAB decision on ZP2021-0001; we are the appellants). Here is a short summary of the key points:

- The ZAB, in reviewing a memo from City Planning, misinterpreted the HAA and as a result ended a conversation about limiting the square footage of an upper story addition with a vote to approve the project. The city attorney has since determined that ZABs HAA interpretation was incorrect and that the city has no restrictions with respect to limiting the square footage or number of bedrooms of the addition. Thus, at a minimum this project should be returned to the ZAB for reconsideration, so that they can use the legally correct interpretation of the HAA in making their decision.
- We have outlined a number of potential changes to this project that would benefit the city (retention of low income housing) while addressing the concerns of adjacent neighbors who are opposed to the upper floor addition.

Also attached is a transcript of the relevant section of the ZAB hearing. Note that the version the city created had some errors and gaps that we have fixed (strike-throughs and lower-case text added) by listening to the recording of the ZAB hearing. We have also added minute markers throughout this transcript, in case you would like to confirm anything by listening to the ZAB recording yourselves.

Sincerely,  
Anna, Adam, Kay

**[start of section for ZP2021-0001 @ 1:03:25]** LET'S PROCEED WITH OUR NEXT ITEM. THANK YOU, EVERYBODY FOR THAT. NEXT ITEM IS 1643 CALIFORNIA STREET, 1643 AND 47 CALIFORNIA STREET. SAMANTHA, WHO IS OUR PLANNER ON THIS?

>> NICK ARMOUR.

>> LET ME SHARE MY SCREEN FOR A SECOND. ALL RIGHT. GOOD EVENING, WE ARE DISCUSSING USE PERMITS ZP2021-0001 AT 1643 AND 1647 CALIFORNIA STREET TO CREATE A NEW LOWER STOREY BASEMENT AND CONSTRUCT A NEW SECOND STOREY and modify the existing duplex layout RESULTING IN 3,700 DUPLEX on an existing property. The zoning permits that are triggered are ~~[THERE IS]~~ A USE PERMIT TO ENLARGE a structure for reasons of lot coverage. ~~{CLEAR CONFORMING STANDARD}~~. A use permit enlarge A non-conforming STRUCTURE THAT IS NONCONFORMING BY REASONS OF THE ALLOWABLE DENSITY. ADMINISTRATIVE USE PERMITS TO HORIZONTALLY EXTEND TWO NONCONFORMING YARDS FRONT AND REAR. And administrative use permit a ~~AND~~ MAJOR RESIDENTIAL addition. A ~~DECISION~~ ANOTHER TO ALLOW and addition OVER fourteen 4 FEET IN HEIGHT AND lastly an ADMINISTRATIVE USE PERMIT TO CONSTRUCT A FIFTH BEDROOM. THIS SUBJECT SITE is located in north Berkeley ON THE EAST SIDE OF CALIFORNIA STREET AT THE CORNER OF CALIFORNIA AND VIRGINIA STREETS. SURROUNDING AREA CONSISTS OF residential uses ranging from ONE AND TWO-STOREY single FAMILY DWELLINGS and two story multifamily dwellings. SUBJECT PROPERTY IS A SMALL RECTANGULAR LOT. ORIENTED IN THE EAST/WEST DIRECTION AND

APPROXIMATELY 3100 SQUARE FOOT IN ~~MAIN~~ total AREA. It features a one story building ORIGINALLY CONSTRUCTED AS A DUPLEX. AT SOME POINT IN THE PAST THE KITCHEN OF THE LEFT SIDE UNIT WHICH IS 1643 CALIFORNIA WAS REMOVED WITHOUT PERMITS AND A DOORWAY was installed between the units effectively CONVERTING THE HOUSE TO A SINGLE-FAMILY HOUSE WITHOUT THE NECESSARY APPROVAL OF A USE PERMIT TO REMOVE THE DWELLING. THE PROPERTY AND STRUCTURE IS CURRENTLY NONCONFORMING due to several reasons. The property is ~~IT'S~~ NONCONFORMING TO THE LOT COVERAGE currently AT 50% COVERAGE WHERE 45% IS THE LIMIT FOR ONE-STOREY STRUCTURE. The property is nonconforming to the allowable density containing only two using where only ONE UNIT IS PERMITTED. THIS IS PRIOR TO THE UNAUTHORIZED REMOVAL OF 1643. AND THE STRUCTURE IS LOCATED WITHIN THE FRONT REAR AND LEFT SIDE YARDS. THE PROJECT WOULD MAKE SEVERAL ALTERATIONS. THE RESIDENTIAL STRUCTURE WOULD BE SHIFTED BY ONE INCH TO THE SOUTH to create a conforming A SIDE SETBACK. PROPOSAL WOULD RESTORE THE LEFT DWELLING UNIT at 1643 California but would ~~AND~~ SHRINK the size of this unit from 650 square feet TO 510 ~~105~~ SQUARE FEET. THE FLOOR PLAN OF THE main level of the RIGHT UNIT WHICH IS 1647 CALIFORNIA WOULD BE MODIFIED TO SERVE AS A MAY BE LIVING AREA WITH AN OPEN FLOOR PLAN KITCHEN, DINING, LIVING ROOM AND FULL BATHROOM. The structure would be expanded by ~~IT WILL~~ CREATING A NEW BASEMENT LEVEL contained below the existing building footprint THAT IS solely

SERVING 1647 CALIFORNIA. THIS **proposal** WOULD **also** ADD A NEW SECOND LEVEL ON TOP OF THE EXISTING STRUCTURE **also** SOLELY SERVING 1647 CALIFORNIA. **This second story would**~~AND~~ STEP IN AT THE FRONT **of the building to create** ~~TO PROVIDE~~ A BALCONY AND **step in from the rear to** COMPLY WITH THE REAR YARD SET BACK. In total 1647 California WOULD EXPAND BY 2,612 SQUARE FOOT **from 650 square feet to 3262 square feet in total**. STAFF HAS RECEIVED SEVERAL COMMUNICATIONS REGARDING THIS PROJECT BOTH IN SUPPORT AND ~~ON~~ OPPOSITION. CONCERNS **that have been raised** INCLUDE THE NEIGHBORS TO THE ~~NORTHEAST~~ **north, east** AND SOUTH RAISING CONCERNS DUE TO THE PROPOSED INCREASE IN SIZE **on a small lot**. CONCERNS FROM THE SAME NEIGHBORS REGARDING THE IMPACTS TO PRIVACY, SHADOWS AND LIGHT ACCESS FROM THE TWO-STOREY DESIGN AND INCREASE IN HEIGHT AND CONCERNS THAT THE PROJECT IS OUT OF SCALE WITH THE NEIGHBORHOOD AND THE SURROUNDING PROPERTIES ESPECIALLY GIVEN THE EXISTING NONCONFORMITY'S ON THE PROPERTY. SUPPORT OF THE APPLICATION INCLUDES THE IMPROVED STRUCTURE AND PROJECT SITE AND RESTORATION OF THE SECOND DWELLING UNIT. THIS PROPERTY, OR THIS PROJECT IS CONSIDERED TO BE SB-330 COMPLIANT AND THIS DECEMBER 9TH ZAB HEARING REPRESENTS THE FIRST PUBLIC HEARING FOR THE **proposed PROJECT** since it was deemed complete. THE CITY CAN HOLD UP TO FOUR ADDITIONAL PUBLIC HEARINGS **on this project if needed** BUT ONE **of those** MUST BE **reserved** ~~CONCERNED~~ FOR COUNCIL APPEAL WHEN NECESSARY. SIMILAR TO THE LAST PROJECT THAT WE DISCUSSED HERE,

THE HOUSING ACCOUNTABILITY ACT IS A MAJOR COMPONENT OF THIS APPLICATION. THIS REQUIRES IF THE ZAB IS GOING TO DENY A PROJECT, IT MUST MAKE SPECIFIC WRITTEN FINDINGS SUPPORTED BY SUBSTANTIAL EVIDENCE THAT IT HAS A SIGNIFICANT IMPACT ON PUBLIC SAFETY unless disapproved or approved at a lower density . OR THERE IS NO FEASIBLE METHOD TO satisfactorily MITIGATE OR AVOID THE SPECIFIC ADVERSE IMPACTS other than the disapproval or approval at a lower density . THIS EXISTING STRUCTURE IS NONCONFORMING for THE LOT COVERAGE DENSITY AND YARDS as previously explained . THE PROPOSED additions CONDITIONS WOULD CONTINUE THE NONCONFORMITIES therefore the project ~~THUS IT~~ DOES NOT COMPLY WITH THE applicable objective zoning ~~EXISTING~~ STANDARDS.

However the project ~~HAA~~ IS ELIGIBLE FOR ZONING ADJUSTMENTS using the use permits process AND THERE ARE NO OBJECTIVE STANDARDS OR findings for considering such permits so the HAA still applies to this project ~~FINES~~ . ~~SO~~ THEREFORE THE CITY MAY NOT DENY THE PROJECT OR APPROVE IT TO REDUCE DENSITY WITHOUT BASE THE DECISION ON THE written FINDINGS required by the HAA. [**@1:09:31**] HOWEVER THE CITY MAY REQUEST that MODIFICATIONS to the project are made TO MITIGATE IMPACTS OR AVOID ADVERSE IMPACTS ON SURROUNDING NEIGHBORING PROPERTIES SO LONG THE PROJECT IS NOT APPROVED AS A REDUCED DENSITY. THERE ARE SEVERAL FINDINGS REQUIRED TO BE MADE IN ORDER TO APPROVE THE PROJECT. FIRSTLY, THIS INCLUDES AN EXPANSION OF A BUILDING THAT IS NONCONFORMING TO THE RESIDENTIAL LOTS COVERAGE. THE CURRENT

SITE IS AT 50% COVERAGE WHERE 45% IS THE LIMIT FOR THIS PROPERTY for a single family house. THIS ADDITION WOULD REMOVE AN EXISTING SHED IN THE REAR YARD WHICH ~~does~~ REDUCES THE LOT COVERAGE TO 44% ~~42%~~ but it also creates a two story house which ~~AND~~ DECREASE THE ALLOWABLE LOT COVERAGE 40%. BECAUSE THIS project WOULD REDUCE the nonconformity FROM 5% over the allowable limit TO 4% OVER THE ALLOWABLE LIMIT, and THIS ADDITION IS LOCATED OVER THE EXISTING COVERED AREA, IT DOES NOT INCREASE THE NONCONFORMING LOT COVERAGE. And THE addition does consist of a second story but the ADDITION DOES COMPLY WITH THE AVERAGE MAXIMUM HEIGHT OF 28 FEET. NEXT, THIS ADDITION IS ON A SITE OVER THE RESIDENTIAL DENSITY. BUT THAT ~~--- BUT THAT~~ IS ALLOWED THROUGH THE USE PERMIT IF the addition or enlargement ~~IT~~ DOESN'T increase the density or EXCEED THE HEIGHT LIMIT. AS THIS PROPOSES TO RESTORE and maintain THE DENSITY TO TWO UNITS, IT DOES NOT INCREASE THE DENSITY ON THE SITE AND it would COMPLY WITH THE HEIGHT LIMIT. THIS PROJECT IS PROPOSING TO VERTICALLY EXTEND OR ALTER PORTIONS OF THE BUILDING THAT ~~DOES NOT~~ ENCROACHES INTO NONCONFORMING YARDS. As mentioned before the property is ~~IT'S~~ NONCONFORMING TO THE FRONT yard, the left side yard AND the REAR ~~AND SIDE~~ YARD. THIS project WOULD SHIFT the house over ~~IT A~~ AN INCH so it would comply with the side setback, but it would ~~TO~~ EXPAND THE FRONT YARD EXISTING NONCONFORMITY BY GOING DOWN INTO THE BASEMENT AS WELL AS while ~~IT~~ THE SECOND STOREY WOULD STEP

BACK BY 3½ FEET, IT does INCREASES the HEIGHT IN THE  
NONCONFORMING SETBACK. IN THE REAR, THE SECOND STOREY WOULD  
COMPLY, BUT THE BASEMENT WOULD BE EXPANDED DOWN AT THE EXISTING  
NONCONFORMING REAR YARD. AS THE ENLARGEMENT WOULD COMPLY WITH  
THE PERMITTED residential USE OF THE PROPERTY AND THE VERTICAL  
EXPANSIONS WOULD NOT further reduce the nonconformity, these expansions  
~~{INDISCERNIBLE}~~ ARE CONSIDERED PERMISSIBLE. An administrative use permit  
is also required to approve ~~THERE IS~~ THE ADDITION OF A FIFTH BEDROOM to a  
parcel in the R2 zoning district. THIS PROJECT PROPOSES TO INCREASE THE  
TOTAL BEDROOMS ON THE PROPERTY FROM FOUR TO FIVE BEDROOMS. THE  
ADDITION OF THE FIFTH BEDROOM WOULD NOT add density to the site or  
INTENSIFY THE USE OF THE RESIDENTIAL PROPERTY. THIS PROJECT ALSO  
PROPOSES THE MAJOR RESIDENTIAL ADDITION OVER 14 FEET HEIGHT AND  
THE ZAB MUST MAKE FINDINGS OF GENERAL NON-DETRIMENT for any  
administrative use permit IN THE R-2 ZONING DISTRICT. ~~IF~~ The project WOULD  
ADD 2429 SQUARE FEET TO THE EXISTING 1334 SQUARE FOOT duplex  
~~COMPLEX~~. The project would be ~~IT'S~~ CONSIDERED NON-DETRIMENTAL BECAUSE  
the project ~~IF~~ WOULD ADD A SECOND LEVEL TO THE HOME of which there are  
several examples in the neighborhood. The SECOND STOREY addition WOULD step in to  
COMPLY WITH THE REQUIRED REAR YARD SETBACK and further comply with the  
nonconforming front yard. A BASEMENT IS PROPOSED TO BE ADDED WHILE THIS  
ADDS ADDITIONAL SQUARE FOOTAGE IT WOULD NOT create any additional impacts

on the surrounding neighbors as it is placed partially below grade ~~--- IT WOULD~~  
MAINTAINING THE existing FIRST FLOOR LEVEL. THE NEIGHBORHOOD IS A  
MIX OF RESIDENTIAL UNITS OF SINGLE-family AND MULTI-FAMILY HOMES.  
EXISTING STRUCTURES IN THE immediate NEIGHBORHOOD VARY FROM ONE TO  
TWO-STOREYS AND in addition the project approval is SUBJECT TO  
THE STANDARD CONDITIONS OF APPROVAL regarding construction noise, air quality,  
waste diversion, toxics and storm water requirements. BECAUSE THE PROJECT  
CONSISTENCY WITH THE ZONING ORDINANCE AND GENERAL PLAN and minimal  
impacts ON the surrounding properties, STAFF RECOMMENDS THE ZONING  
Adjustments BOARD APPROVES ZP2021-0001 SUBJECT TO FINDINGS AND  
CONDITIONS. Alternatively THE ZAB COULD REQUIRE MODIFICATIONS TO  
REDUCE IMPACTS TO THE PROPERTY SO LONG AS the project is ~~IT'S~~ NOT  
DENIED OR APPROVED AT A LOWER DENSITY. I CAN TAKE ANY QUESTIONS.

[1:13:56]>> C. KAHN: GO AHEAD IGOR.

>> I. TREGUB: THANKS, NICK, FOR THAT DETAILED PRESENTATION.  
OBVIOUSLY UNLIKE THE LAST PROJECT, THIS ONE JUST THE NATURE OF  
THE EXISTING CONDITIONS INTRODUCED SOME UNIQUE ATTRIBUTES THAT  
HAVE TO BE DISCUSSED. BUT UNLIKE THE LAST PROJECT WE WENT  
THROUGH, I DIDN'T SEE A DISCUSSION IN THE STAFF REPORT REALLY,  
AROUND PRIVACY IMPACTS, SHADOW IMPACTS. AND I had ~~HAVE~~ TO GO  
THROUGH the A4.X SERIES OF DRAWINGS TO GET THE INFORMATION. SINCE



ACCOUNT the MAJORITY OF THE COMMENTS WITH CONCERNS about this project HAS WITH THIS REVOLVED AROUND SHADOWS and view impacts and privacy, could you speak to what kind of analysis went in and WHAT IS YOUR GENERAL RECOMMENDATION BASED ON THE IMPACTS that were studied ~~WE'RE STUDYING?~~

>> THAT'S A GREAT QUESTION. The analysis WE DID LOOKED AT SHADOW STUDIES AS THEY'RE SHOWN in the project plans IN THE IMPACTS that would create ON THE NEIGHBORS. GENERALLY WE do SEE SHADOW IMPACTS FROM SECOND STOREY ADDITIONS and it's considered part of the urban development pattern. THE OTHER ISSUE IS THAT OUR CURRENT FINDINGS as we've discussed before ARE NOT CONSIDERED OBJECTIVE AND THERE IS NO SPECIFIC FINDING ABOUT HOW MUCH SHADOW IMPACT ON A PROPERTY, WHAT THE PRIVACY IMPACTS MAY BE ON A SPECIFIC SITE. So FOR AHA PURPOSES, IT'S NOT SOMETHING THAT CAN Actually BE LOOKED AT TO OUR UNDERSTANDING.

>> C. KAHN: A FOLLOW-UP QUESTION, IGOR?

>> I. TREGUB: I WASN'T PLANNING ON IT, BUT, YEAH, THIS IS ONE OF THE FIRST PROJECTS WE'VE SEEN WHERE THE DISCUSSION ON SHADOWS AND PRIVACY IMPACTS LITERALLY WAS NOT IN THE STAFF REPORT. I UNDERSTAND THAT IT IS NOT SOMETHING UPON WHICH WE CAN BASE OUR DECISIONS AS THERE ARE NO OBJECTIVE STANDARDS. BUT GOING FORWARD AND MAYBE THIS IS A QUESTION ACTUALLY FOR SAMANTHA, IS THIS GOING TO BE THE PRACTICE THAT IT'S NOT GOING TO BE DISCUSSED IN

STAFF REPORTS AT ALL?

[1:17:00] >> Samanthan: THAT'S A GREAT QUESTION COMMISSIONER TREGUB. I DON'T HAVE AN ANSWER FOR YOU OFF THE TOP OF MY HEAD. IT IS, IT IS CHALLENGING BECAUSE THEY ARE NOT OBJECTIVE. AND I WOULD NEED TO LOOK A LITTLE MORE INTO THAT. But what I THINK I'M HEARING is THAT THE BOARD WOULD LIKE TO SEE THOSE, THAT ANALYSIS, EVEN IF IT'S NOT SUBJECTIVE, I mean EVEN IF IT'S NOT OBJECTIVE. SORRY.

>> I. TREGUB: I CAN'T SPEAK FOR MY COLLEAGUES, BUT I certainly WOULD LIKE TO SEE THAT OR CONTINUE TO SEE THAT. But MORE IMPORTANTLY, I THINK MEMBERS OF THE PUBLIC -- THEY WOULD really BENEFIT FROM BOTH HEARING THAT DISCUSSION DURING STAFF PRESENTATIONS AND ALSO FOR THOSE THAT CAN'T COME TO THE MEETING OR EVEN THOSE WHO CAN, IN PREPARATION FOR MEETING, IT WOULD BE HELPFUL FOR THEM TO UNDERSTAND what is THE ACTUAL IMPACT IF THEY LIVE IN ADJACENT PROPERTIES.

>>Samanthan: THANK YOU FOR THAT. AND I WILL TAKE THAT BACK AND WE'LL TALK ABOUT THAT.

[1:18:28]>> C. KAHN: I THINK, TO ADD MY TWO CENTS WORTH, THAT AS NICK POINTED OUT, WE CAN'T DEMAND THAT THE APPLICANT REDUCE THE DENSITY, NUMBER OF UNITS. Actually WE CAN't, ACCORDING TO THE MEMO FROM STEVE, DEMAND THEY reduce the size of the project,

NUMBER OF SQUARE FEET OR NUMBER OF BEDROOMS. HOWEVER, WE CAN SPEAK TO ISSUES OF PRIVACY AS CARRIE HAS FREQUENTLY DONE -- LED THE CHARGE. IT'S GOOD TO HAVE THAT AS PART OF THE STAFF DISCUSSION SO THAT WE HAVE THE OPTION DISCUSSING THAT WITH THE APPLICANT. PARTICULARLY PRIVACY. THERE ARE OCCASIONS WHERE WE HAVE MADE RECOMMENDATIONS WHICH HAVE BEEN ACCEPT BY THE APPLICANT, THIS IS THE ZONING ADJUSTMENTS BOARD. ADJUSTMENTS TO MITIGATE SHADOW IMPACTS OR VIEW IMPACTS. WE HAVE THE POWER TO MAKE ADJUSTMENTS AS LONG AS AHA IS NOT VIOLATED. SO, YEAH, I SUPPORT IGOR'S POINT. THANK YOU, IGOR. WHY DON'T WE KEEP THINGS MOVING HERE. WE HAVE A LOT DO AND THERE ARE A LOT OF ATTENDEES THAT WOULD LIKE TO SPEAK. DEBBIE.

[1:19:53]>> IF YOU DON'T WANT TO ANSWER ALL THESE QUESTIONS NOW, LET ME PUT THEM ON THE TABLE. AND NICHOLAS, IF YOU WANT TO COME BACK later AND ANSWER THEM, THAT'S FINE. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE SHADOW IMPACT AND PRIVACY IMPACTS. I NEED CLARITY AND I WENT THROUGH ALL THE LETTERS SEVERAL TIMES. And I need ANY CLARITY ON ALL THESE LITTLE GARAGES THAT ARE IN THE BACKS OF THE BUILDINGS. THE DIAGRAM I FOUND MOST USEFUL TO WORK FROM IS FROM PLAN SHEET A4.2, the middle one ON THE PROPOSED SITE. THE WAY I THINK I UNDERSTAND IT IS THAT STARTING FROM THE RIGHT -- LOWER RIGHT SIDE, THE DUPLEX IS 1651. THE GARAGE DIRECTLY TO ITS EAST IS ITS GARAGE AS WELL AS THE ONE IN THE CORNER OF THE PROPERTY SO that 1651 HAS TWO GARAGES AND THEIR

SITTING AREA THAT THEY DISCUSSED IS KIND OF WITHIN THAT BUILDINGS ON THREE SIDES. THEN IF YOU GO TO THE LEFT SIDE OF THAT DIAGRAM, ARE MY DIRECTIONS MAKING ANY SENSE?

>> YES.

>> Debra. SANDERSON: THE HOUSE TO THE LEFT WHICH WOULD BE THE NORTH OF IT IS 1639, WHATEVER STREET WE WERE ON, AND THE GARAGE that is to its back right corner GOES TO 1639. THEN THERE IS, WHEN YOU'RE AT 1637, THERE IS A GARAGE DIRECTLY TO THE EAST OF THEIR PROPERTY. DOES THAT GARAGE GO WITH 1609? I KNOW THERE IS A BUILDING in there that I REMOVED which is not showing ~~THAT DOESN'T SHOW UP~~ APPROPRIATELY ON THE SHADOW MAP. IT LOOKS LIKE THERE IS A GARAGE THAT WOULD BE DIRECTLY TO THE EAST OF THE PROPOSED DECK. NORTHEAST. DOES THAT GARAGE GO WITH 1609 VIRGINIA?

>> Nick: THAT'S MY UNDERSTANDING, YES.

>> D. SANDERSON: SO ITS DRIVEWAY GOES THE LENGTH OF THE 1609 PARCEL TOWARDS VIRGINIA street. So what separate 1609 ~~WHAT ACCEPT RATS~~ VIRGINIA from the back of ~~TO~~ 1651 AND 1637 OR 40 IS THE DRIVEWAY IT'S BETWEEN THOSE TWO PROPERTIES.

>> RIGHT.

>> D. SANDERSON: THANK YOU. THAT'S VERY HELPFUL. SO I'VE SPENT -- I DON'T WANT TO GO OVER IT NOW UNLESS PEOPLE WANT ME TO, BUT I SPENT TIME LOOKING AT THE COMPLAINTS OR COMMENTS FROM THE NEIGHBORS AND THE DISTANCE BETWEEN THE BUILDING SUBJECT

PROPERTY AND THE AREAS THAT PEOPLE REFER TO BECAUSE THAT WAS WITHIN OF MY CONCERNS IS WHAT IS THE PHYSICAL DISTANCE BETWEEN THE SUBJECT PROPERTY AND SITTING AREAS. WHAT IS IN BETWEEN SUBJECT PROPERTY AND SITTING AREAS AND WHAT IS -- WHAT'S ON THAT SIDE OF THE BUILDING? IF WE WANT TO TALK ABOUT THAT LATER, BUT THAT'S KIND OF WHERE I'VE SPENT A LOT OF TIME AND I WILL -- AS LONG AS I KNOW I HAVE THE LAYOUT RIGHT, THEN WE CAN GO ON. THANK YOU.

>> C. KAHN: CARRIE.

[1:24] >> C. OLSON: I'll try and be quick. I WANT TO SPEAK TO SAY THANK YOU IGOR AND CHARLES AND DEBBIE FOR TALKING ABOUT PRIVACY AND SHADOWS and why we still need to see it. THE SIMPLE REASON SAMANTHA IS BECAUSE THE PUBLIC DOESN'T KNOW WHAT YOU KNOW OR WHAT WE SEE IN OUR PACKET. BY THE TIME ~~THOUGH~~ they WRITE THEIR LETTER TO US, THEY'RE REALLY MAKING SUPPOSITIONS ON THINGS THAT ARE NOT NECESSARILY RIGHT. WE NEED TO SET THE RECORD STRAIGHT. THEY NEED TO UNDERSTAND. BUT ALSO BECAUSE THERE ARE ALTERNATIVES. WE'RE NOT SHOWN, AND I'VE ASKED FOR THIS MANY TIMES, WHAT THE fenestration ~~CAN~~ ~~[INDISCERNIBLE]~~ IS IN THE ADJACENT PROPERTIES. WE DON'T KNOW IF WE'RE ALLOWING FOR A LARGER WINDOW OR NEW WINDOW ADJACENT OR 8 FEET AWAY FROM ANOTHER PROPERTY. And as I've said many times, I GREW UP like this, 8 FEET AWAY FROM MY NEIGHBOR'S HOUSE AND NOT KNOWING THAT THAT neighbor ~~MAY BE~~ WAS STARING AT ME AS A KID!

IT'S REALLY CREEPY AND WE SHOULD KNOW AND THE NEIGHBORS SHOULD KNOW. IF YOU COULD PASS THAT ON TO THOSE MAKING THOSE DECISIONS, IT'S NOT THAT BIG OF AN ASK. THANK YOU.

[1:25:16] >> C. KAHN: IF THERE ARE NO FURTHER QUESTIONS FOR STAFF FROM THIS COMMISSION, LET'S BRING IN THE APPLICANT. I BELIEVE THIS IS **Studio G&S**, So, I'M LOOKING FOR THE APPLICANT.

>> Nick: IT'S SUNNY.

>> C. KAHN: THERE HE IS.

>> Nick: I BELIEVE THE PROPERTY OWNER IS here as well.

>> C. KAHN: **Sonny**, who else WOULD YOU LIKE TO JOIN you FOR THE PRESENTATION? SUNNY. Can I HEAR YOU?

>> **Sonny**: YES. CAN YOU HEAR ME?

>> C. KAHN: YES, YOU HAVE FIVE MINUTES TO PRESENT, BUT IT NEEDS TO BE YOU AND WHOEVER ELSE YOU WISH TO HAVE.

>> YES. BOTH OWNERS ARE HERE. IF THERE IS ANY TIME LEFT OVER, THEY'LL SPEAK. THANK YOU FOR THE GOOD EXPLANATION OF THE PROJECT. I WANTED TO JUST KIND OF REITERATE THAT WHEN WE FIRST STARTED THIS PROJECT, IT WAS A VERY DIFFERENT PROJECT THAN WHAT YOU ARE CURRENTLY SEEING. AND AFTER HAVING SOME DISCUSSIONS WITH THE NEIGHBORS LOOKING AT THE shadow study and PRIVACY ISSUES, WE DID TAKE THOSE INTO CONSIDERATION AND ORIGINALLY WE ACTUALLY HAD A THREE-STOREY BUILDING WHERE WE DEVELOPED THE BASEMENT AS A FULL STOREY WITH A GARAGE WHICH IS WHAT THE HOMEOWNERS WANTED.

BECAUSE A THREE-STOREY BUILDING it WAS BECOMING PROBLEMATIC,  
TALKING WITH NICK WE DECIDED THAT WE WOULD ELIMINATE THE GARAGE  
AND DO NOT LIST THE building because WE WERE actually LIFTING THE  
EXISTING HOUSE UP TO ACCOMMODATE THE GARAGE LEVEL and IT WAS  
MAKING THE BUILDING MUCH TALLER. So, ONCE WE DECIDED THAT we  
were ~~WE'RE~~ GOING TO FORGO THE GARAGE AND NOT LIFT THE BUILDING  
AT ALL, WE WERE JUST GOING TO, ONLY GOING TO create A SECOND  
STOREY ADDITION SO IT WOULD BE A TWO-STOREY BUILDING technically.  
AND WE CHANGED THE ROOFLINE CONSIDERABLY TO HAVE A SMALLER  
IMPACT ON AT ADJACENT PROPERTIES. AND WE ALSO RECONFIGURED SOME  
OF THE BEDROOMS ON THE UPPER FLOOR SO ON THE BACK OF THE HOUSE,  
WE ONLY HAVE ONE BEDROOM AND THEN WE HAVE TWO BATHROOMS WHICH  
HAVE HIGH WINDOWS LOOKING TOWARDS THE EAST. AND THAT WAS THE  
NEIGHBORS AT 1609 CONCERNS ABOUT PRIVACY. SO WE HAVE TWO HIGH  
WINDOWS IN THE BATHROOMS WHICH TECHNICALLY, are NOT REALLY  
LOOKING DOWN. THE OTHER BEDROOM ON THE NORTH SIDE, RIGHT ACROSS  
FROM THERE IS A VERY LARGE TREE, so THAT'S WHAT WE WOULD BE  
LOOKING AT PLUS THE NEIGHBOR'S GARAGE BACK THERE AND ACCESSORY  
BUILDING. YOU CAN'T SEE MUCH INTO THEIR YARD. AND BY LOWERING  
THE BUILDING, CHANGING THE ROOFLINE, WE REDUCED THE ORIGINAL  
SHADOW IMPACT THAT WE WERE HAVING. SAME THING WITH THE NEIGHBORS  
ON THE LEFT SIDE AND THE RIGHT SIDE, WE REDUCED THE SHADOW  
IMPACT. AND THE SHADOW IMPACT THAT WE HAVE IS MINIMAL AT THIS

POINT. And you know I, you know I've designed many ~~I CAN MIND~~  
~~FOR~~ SECOND STOREY ADDITIONS here IN THE BAY AREA. IT'S HARD TO  
DESIGN SOMETHING THAT YOU HAVE ZERO IMPACT on the neighbors IN  
THIS URBAN ENVIRONMENT. We've tried to ~~RETRY~~ DO AS MUCH AS WE  
CAN to take things into consideration. WE CHANGE ROOFLINES,  
CHANGE THE ROOF PITCH. WE ARE DOING ALL THE THINGS WE DID HERE.  
TO MINIMIZE THE IMPACT ON THE NEIGHBORS. [1:29] ORIGINALLY THE  
NEIGHBOR ON THE LEFT-HAND SIDE AND RIGHT-HAND SIDE HAD GIVEN US  
THEIR SUPPORT ON THIS PROJECT. AND THAT'S WHEN WE MOVED FORWARD  
WITH THINGS. AS FAR AS THE SCALE OF THE PROJECT, IT'S BASICALLY  
A SECOND STOREY ADDITION. AND THE BASEMENT BUILD OUT IS A BONUS  
AT THIS POINT, BUT THAT WHOLE BASEMENT IS GENERALLY BELOW GRADE.  
WE'RE ABLE TO GET WINDOWS IN THE FRONT AND NO WINDOWS IN BACK  
AND VERY LITTLE ON THE SIDE. YOU ASK FOR A SECOND STOREY  
ADDITION WHICH IS NOT UNREASONABLE, WE SET THE FRONT OF THE  
FACADE BACK TO STAY WITHIN THE 20-FOOT SETBACK AND DID THE SAME  
THING IN THE REAR. WE SET THE REAR WALL BACK SO WE'RE 20  
FEET FROM THE SETBACK. THE BUILDING ITSELF HAS A FAIRLY GOOD  
SEPARATION BETWEEN THE ADJACENT PROPERTIES, particularly ~~TECHNICALLY~~  
THE PROPERTY FROM THE REAR SO PRIVACY IS IT IS THERE, but WILL  
SOMEBODY BE ABLE TO STAND THERE AND LOOK OUT? YES, BUT I DON'T  
THINK IT'S THAT INTRUSIVE. I think WE'VE DONE AS MUCH AS WE CAN  
GIVEN THIS SMALL LOT WE HAVE AND THE REASON FOR ALL OF THE  
AMOUNT OF USE PERMITS AND ADMINISTRATIVE USE PERMITS IS BECAUSE



OF THE CONSTRAINTS WE HAVE TO DEAL WITH A SMALL LOT AND IT WAS  
already overbuilt ~~OVER-FILLED~~. And IN ORDER -- I MEAN, IF THIS WAS AN  
EMPTY LOT WE'D BE BUILDING A very very DIFFERENT STRUCTURE ON THE  
SITE. BUT WE'RE WORKING WITH A GIVEN CONDITION and we've tried  
to do. ~~WE WOULD LIKE~~ DO AS MUCH AS WE CAN AND give the ~~GIFT~~  
HOMEOWNERS A PROJECT THAT THEY WANT TO CONTINUE LIVING IN. I'M  
RUNNING OUT OF TIME and they many not have time to speak, BUT THIS IS A  
PROJECT THAT IS DESIGNED FOR THEIR FAMILY, (@1:31) AND ONE OF  
THE SONS WHO GOING TO CONTINUE LIVING IN THE APARTMENT NEXT DOOR  
IS VISUALLY IMPAIRED. HE DOES NOT DRIVE.

>> C. KAHN: SUNNY, YOU'RE OUT OF TIME. THANK YOU VERY MUCH FOR  
THE PRESENTATION. YOU WILL HAVE A COUPLE MORE MINUTES AFTER THE  
PUBLIC SPEAKS TO ADDRESS ANY CONCERNS THAT THEY BRING UP. SO,  
NOW IS THE TIME -- ANY QUESTIONS FOR THE APPLICANT? FROM THIS  
COMMISSION? SEEING NONE, I WOULD LIKE TO MOVE FORWARD WITH THE  
PUBLIC PARTICIPATION. I SEE ONE HAND UP. IF YOU WISH TO SPEAK ON  
THIS PROJECT, THIS IS YOUR OPPORTUNITY. PLEASE RAISE YOUR HAND  
NOW. SO THAT I'LL HAVE A CLEAR IDEA OF HOW MANY PEOPLE WISH TO  
SPEAK ON THIS. I ONLY SEE -- I SEE ANNA, ADAM, TAMAR AND  
BARBARA. DOES ANYONE ELSE WISH TO SPEAK ON 1643, 1647

CALIFORNIA? Kay? YES NO? Yes? OKAY. WE HAVE

>> I. TREGUB: CHAIR.

>> C. KAHN: WE HAVE FOUR PEOPLE SHOWING INTEREST IN SPEAKING.

I'LL GIVE YOU EACH TWO MINUTES TO SPEAK. IF YOU CAN KEEP IT TO LESS, THAT'S GREAT. BUT YOU HAVE TWO MINUTES. WE'LL START WITH ANNA. ANNA, YOU NEED TO UNMUTE.

>> CAN I RESPOND TO THE COMMENT THAT SUNNY MADE FIRST BEFORE I BEGIN MY TWO MINUTES?

>> C. KAHN: NO, YOU HAVE TO SPEND YOUR TWO MINUTES HOWEVER YOU WISH.

[1:33] >> THE ARCHITECT OR THE NEIGHBORS HAVE NEVER SPOKEN TO US ABOUT THIS PROJECT. SUNNY CAME TO ASK US IF WE HAD ANY QUESTIONS ON THE SAME DAY THEY SUBMITTED THE SECOND SUBMISSIONS. OUR PROPERTY HAS ~~two TOO MUCH~~ LARGE TREES that shade much of our yard. THE REMAINING SUN SPOTS ARE THE REAR DECK AND OPEN AREA TO THE WEST of the house. Both of those ~~THEY~~ WOULD BE entirely SHADED by the top floor of this project during summer afternoons and evenings. THIS POSES A really DRAMATIC IMPACT ON OUR PROPERTY in that we have designed our home to be a very small indoor / outdoor living space. THE PROPOSED UPPER LEVEL WILL also PROVIDE A CLEAN LINE OF SIGHT into both ~~TO~~ OUR KITCHEN AND BEDROOM. IF THIS REMODEL HAPPENS AND WE LEAVE OUR BEDROOM AND BATHROOM DOORS in our house OPEN, especially at night when the light are on, THE PROJECT PROPONENTS WOULD BE ABLE TO SEE ME SITTING ON THE TOILET. THE PRIVACY OF OUR HOUSE WILL BE GONE. We RECENTLY SIGNIFICANTLY REMODELED OUR HOME MAKING CHANGES SO WE WOULD NOT HAVE TO LOOK AT THIS DILAPIDATED PROPERTY. WE MOVED side ~~THE~~

WINDOWS and added large windows on the back of our house. THE light provided by these windows and the VIEW PROVIDED INTO AND OUT OF OUR HOUSE by them ARE THREATENED BY THIS PROJECT. THE MATERIAL SUBMITTED misrepresents some MISSED KEY FACTS, suggesting that two adjacent neighbors support the project, that's untrue. ALL THREE ADJACENT NEIGHBORS OPPOSE THE proposed top level PROJECT BECAUSE OF THE IMPACT ON PRIVACY AND shade SHAPE. THE RATIONALE for the requested 5 bedrooms and extra unit IS the supposed need TO HOUSE THE adult children FAMILIES—EVEN THOUGH THEY'RE all EXTREMELY SUCCESSFUL IN THEIR CAREERS AND ABLE TO LIVE INDEPENDENTLY, WHILE THE FAMILY OWNS a twelve unit AN APARTMENT COMPLEX LESS THAN A MILE AWAY. Moreover, THIS WOULD BE A TWO UNIT SIX BEDROOM HOUSE WITH NO PARKING. One reason sited in the staff report in favor of the project is the restoration of the second dwelling unit. On this point IT'S KEY TO KNOW IT WAS THE OPPENHEIMERS THEMSELVES who illegally removed the second unit long ago to construct a single family residence. THAT WOULD --

>> C. KAHN: ANNA.

>> Anna: The restoration of that illegally converted unit ~~IT~~ SHOULD NOT BE CONSIDERED IN FAVOR OF PROJECT.

>> C. KAHN: ANNA -- ANNA, WHAT WILL IS YOUR ADDRESS JUST SO WE KNOW WHICH PROPERTY.

>> Anna: I'M ONE OF THE RESIDENTS ON THE 1609 UNIT IN BACK OF

THIS HOUSE. THEIR ENTIRE BACKYARD --

>> C. KAHN: THAT'S OKAY. I JUST WANTED TO KNOW THE ADDRESS.  
THANK YOU. THANK YOU FOR COMING. ADAM, YOU ARE UP. YOU NEED TO  
UNMUTE.

[1:35:43]>> Adam: CAN YOU HEAR ME IN.

>> C. KAHN: YES.

>> Adam: I'M THE OTHER RESIDENT AT -- 1609 VIRGINIA STREET. AND  
I ALONG WITH all the OTHER NEIGHBORS THAT ARE actually ADJACENT  
PROPERTIES, WE'RE STRONGLY AGAINST THIS project for a lot of the  
reasons brought up by the board members, the SHADOW STUDIES AND  
IMPACT ON PRIVACY AND SO I'm glad A LOT OF PEOPLE LOOKed AT  
THAT. You know, WE ALL DO WANT TO SEE THE OPPENHEIMERS FIX UP  
THEIR HOUSE. IT'S IN really BAD SHAPE ON THE EXTERIOR. OVER THE  
PAST 20 YEARS ALL FOUR OF THESE HOUSEHOLDS HAD GOOD RELATIONS  
AND IT'S really UNFORTUNATE THAT THIS PROPOSED PLAN IS ASKING  
FOR SO MUCH AND CREATING TENSION IN OUR CORNER OF COMMUNITY. THE  
PROPOSAL IS ASKING FOR SEVEN USE PERMITS THAT WOULD ALLOW FOR  
ADDITIONAL OVER 2600 SQUARE FEET OF LIVING SPACE AND THEY would  
HAVE A ~~2800~~ 3800 ~~CAN~~ SQUARE FOOT PROPERTY AND ONLY a 3100 SQUARE  
FOOT LOT. I understand that the Oppenheimer's want a large house  
but that doesn't mean that this property of theirs is the  
appropriate place to build it. I'ts ~~THIS IS ALREADY~~  
NON-CONFORMING IN COVERAGE, DENSITY, YARD AND HAS NO PARKING ~~ON~~  
off THE STREET AT ALL. APPROVING THIS WOULD DEGRADE THE VALUE OF

THE ZONING RULES AND WOULD ~~INCREASE~~ decrease the ~~OF~~ VALUE OF OUR PROPERTY AND OTHER PROPERTIES IN LIEU OF INCREASING THE VALUE OF THE OPPENHEIMER'S PROPERTY. The city planner NICK STATED IN HIS REPORT, I'm going to repeat something he said, THIS WILL PROPOSED PROJECT DOES NOT COMPLY WITH THE APPLICABLE Objective ZONING STANDARDS AND THE CITY MAY REQUEST MODIFICATIONS TO MITIGATE OR AVOID THE IMPACT TO THE SURROUNDING PROPERTIES. NICK ALSO SPECIFICALLY SUGGESTED DURING THE PROCESS LAST YEAR THAT THE APPLICANTS REDUCE THE IMPACT TO THE NEIGHBORS BY ELIMINATING THE AMOUNT OF THE FLOOR GIVING THEM A 2700 SQUARE FOOT LIVING SPACE WHICH IS LARGER THAN THE OTHER NEIGHBORS AROUND THEM, which was completely ignored in their earlier submission. WE THUS ASK THE BOARD TO REQUEST A MAJOR MODIFICATION IN LINE WITH ~~THE~~ this SUGGESTION PRIOR TO CONTINUING THE HEARING.

>> C. KAHN: THANK YOU A -- THANK YOU ADAM. I NOTE THAT BARBARA FRITZ -- I'M GOING TO RECOGNIZE YOU NEXT!

[1:38]>> Barbara: I'M HERE. I LIVE AT 1639 SO I'M THE NORTH NEIGHBOR AND I'M HAPPY THAT THE OPPENHEIMERS ARE FINALLY GOING TO BE ABLE TO DO THIS PROJECT. I'VE LIVED HERE 40 YEARS SO I LIVED HERE SINSE THEY MOVED IN. And their aware AND ADAM AND ANNA AND THE OTHER NEIGHBOR KAY ON THE CORNER ARE AWARE OF I'M NOT HAPPY ABOUT THE SHADOW ISSUES, BUT I really APPRECIATE THE EXPLANATION THAT THE BOARD HAS GIVEN ABOUT WHAT YOU CAN AND CANNOT DEAL WITH. SO I JUST WANT TO GIVE MY SUPPORT. I'M SAD

THAT I AM GOING TO LOSE A CERTAIN AMOUNT OF LIGHT IN THE WINTER.  
IT IS SIGNIFICANT TO ME. BUT I DO WANT TO -- I'M NOT LOOKING  
FORWARD TO THE NOISE. BUT I'M HAPPY THAT THE OPPENHEIMERS ARE  
GOING TO FINALLY FIX UP THEIR HOUSE WHICH has NEEDED WORK FOR A  
LONG TIME AND I LOOK FORWARD TO HAVING THEM AS NEIGHBORS FOR A  
LONG TIME. THAT'S ALL. I'M DONE.

>> C. KAHN: THANKS FOR COMING AND SPEAKING. THAT'S IT FOR PUBLIC  
COMMENT. WE DO HAVE -- I NOTICED TAMAR AND Orr ~~{INDISCERNIBLE}~~  
OPPENHEIMER. Sonny, ARE THOSE TWO THE OWNERS?

>> Sonny: Yes TAMAR IS ONE OF THE OWNERS. AND ~~{INDISCERNIBLE}~~  
Orr IS THEIR SON.

>> C. KAHN: I'M GOING TO BRING THEM IN BECAUSE THEY ARE ALLOWED  
TO PARTICIPATE IN THE RESPONSE. THIS THEY HAVE TWO MINUTES TO  
RESPONSE AS DO YOU. BUT YOU ONLY HAVE TWO MINUTES BETWEEN THE  
THREE OF YOU SO USE IT WISELY.

>> I. TREGUB: MR. CHAIR --

>> CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I. TREGUB: I THINK KAY ALSO KEEPS RAISING THEIR HAND BUT IT  
KEEPS GOING DOWN.

>> C. KAHN: TAMAR, BEFORE YOU SPEAK, THERE IS ANOTHER PERSON  
TRYING TO SPEAK THAT I THINK -- KAY. IT APPEARS AND DOESN'T  
APPEAR. NOT -- THERE SHE IS. KAY. HER CONNECTION MUST BE BAD.  
~~SHE KEEPS CAN~~ SHE KEEPS DISAPPEARING. THERE IS A PROBLEM WITH

HER CONNECTION, I THINK. ALL RIGHT. I DON'T WANT TO STOP THE PROCEEDINGS. THERE IS KAY. CAN YOU -- I DON'T KNOW WHAT THE PROBLEM IS WITH KAY. KAY. IS THERE ANYTHING THAT WE CAN DO TO GIVE HER A CHANCE TO SPEAK?

>> Samanthan: I FEEL LIKE I CAN HEAR SOMETHING LIGHT IN THE BACKGROUND. KAY, I WONDER IF YOU HAVE A SETTING OF SOME SORT TURNED DOWN OR YOUR MICROPHONE IS COVERED?

>> C. KAHN: WE NEED TO KEEP THE MEETING MOVING ALONG. KAY, I'LL GIVE YOU THE OPPORTUNITY TO SPEAK AFTER THESE NEXT TWO MINUTES IF YOU CAN manage ~~IMAGINE~~ TO CUT IN AND SAY SOMETHING.

>> Samantha (BOARD SECRETARY): KAY COULD also CALL IN.

>> C. KAHN: YOU CAN TRY THAT WITH A CELL PHONE POSSIBLY.

>> Samantha - BOARD SECRETARY: And then we could, YEAH.

>> C. KAHN: KAY, IF YOU COULD WOULD LIKE TO TRY CALLING IN YOU CAN PUT YOUR HAND DOWN AND TRY DO THAT. OKAY. I THINK WE NEED TO KEEP ROLLING. SORRY KAY, BUT I DON'T WANT TO HOLD THIS UP. SUNNY, START WITH YOUR TWO MINUTES.

>> Sonny: I'LL HAVE EITHER TAMAR OR ORR SPEAK.

>> Tamar: CAN YOU HEAR ME?

>> C. KAHN: YES.

[1:43:10] >> Tamar: I ACTUALLY, it's me AND MY HUSBAND IS HERE, we just have one computer. I WANTED TO TALK ABOUT [INDISCERNIBLE due to phone ringing]

>> Kay: Hi Adam, ANNA IS HEAR.

>> C. KAHN: Oh hold on, LET'S HAVE KAY SPEAK. KAY, WE CAN HEAR YOU NOW. KAY. SPEAK UP. WE CAN HEAR YOU.

>> A --

>> C. KAHN: I DON'T KNOW WHAT TO DO.

>> I'M ON? OKAY.

>> C. KAHN: KAY, I DON'T KNOW IF YOU CAN HEAR ME BUT --

>> Kay: CAN YOU HEAR ME?

>> C. KAHN: YES.

[1:44:10] >> Kay: I'M KAY RISTOL AND I OWN THE SMALL DUPLEX SOUTH OF THE PROPOSED REMODEL. I LIVE in the side of ~~AT~~ 1651. I JUST WANT TO ASK, IT SEEMS LIKE IN READING THINGS, THAT THIS PROJECT HAS already BEEN APPROVED. BUT I DON'T KNOW IF THAT'S TRUE. CAN YOU TELL ME?

>> C. KAHN: NO.

>> Kay: I CAN'T HEAR YOU, BUT I GUESS YOU CAN HEAR ME. I'M WONDERING, THERE ARE 6 TO 7 USE PERMITS OR VARIANCES NEED FOR THIS PROJECT. I'M WONDERING IF THOSE ARE ALL APPROVED, WHAT IS THE USE OF HAVING THOSE PERMITS? ALL OF THE NEIGHBORS I THINK FEEL STRONGLY THREE OF THE NEIGHBORS ON THIS -- ON THE north, east, ~~NORTHEAST~~ AND ON THE SOUTH, me, FEEL very STRONGLY ABOUT THE PRIVACY ISSUE. AND ALSO THE DECREASED VALUE OF OUR PROPERTY IF THIS HUGE PROJECT IS GOING TO BE OKAYED. SO, IT SEEMS LIKE THAT A LOT OF THE CONSIDERATION OF THE SHADE HAS NOT BEEN FULLY MADE -- DONE -- HAS NOT DONE -- HAS NOT BEEN EVALUATED



CORRECTLY. IT'S A BIG PROBLEM.

>> C. KAHN: PLEASE WRAP IT UP.

>> Kay: AND PRIVACY IS ALSO THE BIGGEST PROBLEM. I GUESS MY TIME IS RUNNING OUT. I JUST WANT TO SAY THAT ALL OF US FEEL SO STRONGLY ABOUT THIS. AND THANK YOU VERY MUCH FOR YOUR ATTENTION. SORRY ABOUT THE MIX-UP.

>> C. KAHN: No problem, THANK YOU. I'M GLAD YOU GOT A CHANCE TO SPEAK. WE'LL TRY TO ADDRESS YOUR QUESTIONS IN THE DISCUSSION. OK, very good. So NOW, SUNNY OR TAMAR, YOU HAVE YOUR TWO MINUTES.

>> Sonny: I'LL LET TAMAR SPEAK.

>> C. KAHN: GO FOR IT TAMAR. YOU NEED TO YOU BE MUTE IF YOU WISH TO SPEAK. - you need to unmute if you wish to speak.

>> Tamar: CAN YOU HEAR ME NOW?

>> C. KAHN: YES.

1:47:02 - Tamar: THE MAIN THING of the project IS THAT ONE OF THE UNITS WOULD go toward my son. Sunny started to say that.-- ~~HE'S~~ Our YOUNGest ~~AND~~ is VISION IMPAIRED AND he will NEVER HAVE A CAR. So THERE WON'T BE A PROBLEM WITH THE PARKING on the street. HE CANNOT USE A CAR AND ~~HE'LL~~ he will USE PUBLIC TRANSPORTATION, BART and busses, AND WALK TO SHOPS like Monterey market for shopping. So WHEN WE GIVE HIM ONE UNIT, IF WE DON'T DO ANY REMODELING WE STAY WITH A ONE-BEDROOM APARTMENT FOR THE

FAMILY WHEN WE HAVE FOUR KIDS THAT LIKE TO COME OVER AND WE HAVE A FAMILY GATHERING AND HOPE THAT WE'LL GET TO THE PART OF GRANDKIDS ONE DAY THAT WE'D LIKE TO HOST THE BIG FAMILY PARTIES INSIDE ~~ASK~~ and OUTSIDE IN OUR YARD LIKE WE DID MOST IN THE CORONAVIRUS TIME and we still do it. And about the shadow and the privacy, I SENT this morning A PICTURE FROM THE SECOND FLOOR AND WENT TO THE AREA WHERE THE BEDROOM IS going to be that everyone is very concerned, and to ~~IN~~ THE CORNER CLOSE TO KAY'S AREA. IN THE PICTURE ~~BEING~~ you can SEE WE DON'T SEE ANY OF THE seating of KAY'S AREA at all. Nothing of the yard just plants and roof and trees, and THERE IS NO REASON TO BE CONCERNED ABOUT THAT AREA, definitely also because we ~~THEY'LL~~ HAVE BATHROOMS there AND the windows ~~THEY~~ WON'T BE THE WINDOWS YOU SEE THROUGH. And about ~~IN~~ ANNA'S and Adam's AREA, THERE ARE TWO PICTURES IN THOSE PHOTOS THAT I SENT TODAY THAT SHOW THAT DIRECTLY FROM THAT BEDROOM IS THE TREES. SO WE DON'T SEE ANYTHING. And if I did a wide angle picture YOU CAN SEE ON THE SIDE THE BEDROOM WINDOWS BUT DEFINITELY YOU CANNOT SEE ANYTHING IN THEIR YARD OR the seating they are mentioning in their yard that they we are taking all of their privacy. ONE OF THE other PICTURES SHOWS THAT RIGHT NOW WE CAN SEE THEIR KITCHEN WINDOW. AND THAT WOULD STAY SAME FROM THE YARD, we can always see their kitchen window.

>> C. KAHN: YOU NEED TO WRAP IT UP.

>> Tamar: AND also Kay's CASE WINDOWS WILL BE THE SAME. WE CAN

SEE IT NOW AND we'll KEEP SEEING IT, because we see her kitchen window now. ALSO MY HUSBAND WOULD LIKE TO TALK.

[1:49:20]>> C. KAHN: Oh no, YOU USED YOUR TIME. THANK YOU VERY MUCH. SO, I WOULD LIKE TO BRING IT BACK TO THE COMMISSION, FOR COMMENT. Open it up for ~~WE WILL HAVE~~ ANY DISCUSSION THAT YOU MAY WANT TO HAVE. I WOULD LIKE TO RESPOND TO SOME OF THE QUESTIONS THAT WERE VOICED IN PARTICULAR BY KAY THERE, AT THE END. KAY, I APPRECIATE YOUR CONCERN THAT THIS FEELS LIKE A FOREGONE CONCLUSION. AND TO SOME EXTENT IT IS. BECAUSE OF THE STATE STATUTE THAT really RESTRICTS WHAT WE CAN DO, NOT 100 PERCENT. WE CAN MAKE ADJUSTMENTS to, or recommend adjustments to the plans, specific adjustments THAT CAN HELP WITH THE PRIVACY CONCERNS for example. BUT WE CAN'T RULE ON PARKING BECAUSE THE CITY ~~HALL~~ NO LONGER REQUIRES PARKING OF NEW UNITS. AND WE AREN'T EMPOWERED TO GO AGAINST THE WILL OF THE COUNCIL, AND WE CAN'T DENY THE NEW UNIT BECAUSE THE STATE LAW DOESN'T ALLOW THAT. IF ANY OF YOU MEMBERS OF THE COMMUNITY had made ~~MAKE~~ SPECIFIC REQUESTS OR RECOMMENDATION ABOUT REDUCING OR MODIFYING ARCHITECTURAL ELEMENTS TO THE BUILDING, THAT'S THE KIND OF THING THAT WE HAVE REQUESTED IN THE PAST AND WOULD REQUEST AGAIN. I DIDN'T HEAR ANYTHING SPECIFIC REQUESTS ALONG THOSE LINES. SO I DON'T -- I DON'T KNOW IF THERE IS ANYTHING WE CAN DO TO HELP YOU OUT HERE. IGOR, I SEE YOU HAVE YOUR HAND UP.

[1:51:13]>> I. TREGUB: I HAD A COUPLE OF QUESTIONS FOR STAFF IN

RESPONSE TO SOME OF THE COMMENTS I HEARD. THE FIRST ONE, ON THE NUMBER OF USE PERMITS BEING REQUESTED AND I RECOGNIZE THIS IS A TERM OF ~~EYE~~ ART FOR US. WE DEAL WITH THIS EVERY TWO WEEKS BUT THIS IS NEW TO A LOT OF MEMBERS OF THE PUBLIC. JUST TO CONFIRM, STAFF, CAN YOU CONFIRM THAT THERE ARE IN TOTAL TWO USE PERMITS AND FOUR ADMINISTRATIVE USE PERMITS THAT TYPICALLY WOULD BE, YOU KNOW, IF IT WAS JUST ADMINISTRATIVE USE PERMITS AND NO USE PERMITS, THIS COULD BE APPROVED THROUGH STAFF REVIEW. WOULDN'T EVEN GO TO US.

>> Nick: YOU ARE CORRECT. TWO USE PERMITS, But THERE ARE actually FIVE TOTAL ADMINISTRATIVE USE PERMITS. THE THIRD BULLET ON THE zoning PERMITS REQUESTED MENTIONS ADMINISTRATIVE USE PERMITS FOR HORIZONTAL extending two nonconforming SETBACKS. Technically THOSE ARE individual ~~TWO~~ ADMINISTRATIVE use permits ~~TERMS~~ as you can ask for one and not the other. TYPICALLY, ADMINISTRATIVE USE PERMITS WOULD BE DONE OUTSIDE OF THE ZAB'S PURVIEW.

[1:52:30] I. TREGUB: THANK YOU SO MUCH. MY NEXT QUESTION IS IF YOU COULD, ONCE AGAIN, CLARIFY WHAT YOU SAID ABOUT OBJECTIVE STANDARDS BECAUSE I THINK I HEARD IT DIFFERENTLY THAN THE WAY THAT A NEIGHBOR HEARD IT, BUT I JUST WANTED TO MAKE SURE, ARE THERE ANY OBJECTIVE STANDARDS INVOLVED THAT GOVERN THIS PARCEL AND IF SO, WHAT ARE THEY?

>> Nick: THERE ARE ACTUALLY are. THE TWO USE PERMITS HAVE

SPECIFIC OBJECTIVES REQUIREMENTS THAT MUST BE MADE. THE USE PERMIT OF BEING OVER THE DENSITY SAYS THAT YOU'RE NOT INCREASING THE DENSITY OR GOING OVER THE HEIGHT LIMIT. They are meeting both of those standards. SIMILARLY WITH THE USE PERMIT FOR NONCONFORMING LOT COVERAGE AS LONG AS THEY'RE NOT INCREASING THE LOT COVERAGE OR GOING OVER THE HEIGHT LIMIT, THEY ARE PERMITTED. STILL THROUGH THE USE PERMIT STANDARDS AND GENERAL NON-DETRIMENT FINDINGS. AND THE ADDITIVE USE PERMITS WITHOUT EXTENDING THE YARDS STIPULATES THEY'RE NOT FURTHER DECREASING THE NONCONFORMING YARDS AND THEY ARE NOT further decreasing the nonconforming yards, and they are not DOING THAT.

[1:53:45] >> I. TREGUB: THANK YOU. AND MY LAST QUESTION, ONE MEMBER OF THE PUBLIC COMMENTED THAT ~~IT~~ there WAS SOME BACK AND FORTH ALLEGEDLY BETWEEN YOU AND THE APPLICANT TEAM AND RECOMMENDATIONS WERE MADE TO REDUCE THE FLOOR AREA. COULD YOU SPEAK TO THAT? BECAUSE I DIDN'T HEAR THAT PART IN THE INTRODUCTORY REPORT.

>> Nick: DURING THE COMPLETENESS REVIEW PROCESS OF APPLICATIONS, WE SOMETIMES INCLUDE what we call advisory ~~ISRAELI~~ COMMENTS TO APPLICANTS. THEY AREN'T SPECIFIC INCOMPLETENESS items where ~~THAT~~ THEY MUST BE RESOLVED before a complete application, BUT they are COMMENT THAT STAFF CAN provide ~~DO~~ IF we feel it will lead to ~~IT-NEEDS~~ A BETTER PROJECT. WE did provide ~~INCLUDED~~ ADVISORY COMMENTS in the first round of the

application SPECIFICALLY AROUND THE TOP LEVEL OF THE BUILDING. IN THE INITIAL APPLICATION AS SUNNY MENTIONED, IT WAS A THREE-STOREY DESIGN. THAT PROJECT WOULD HAVE REQUIRED A VARIANCE TO THE LOT COVERAGE. ONE OF THE ADVISORY COMMENTS WAS THAT THEY REMOVE THE VARIANCE REQUIREMENT BY WAY OF NOT LIFTING THE HOUSE AND CREATING A BASEMENT STOREY, but ~~WITH YOU~~ BY KEEPING IT AS A TWO-STOREY ELEMENT. But ONE OF THE SUGGESTIONS WAS AN AS OPTION TO LIFT THE HOUSE as they had originally proposed TO CREATE THE BASEMENT LEVEL BUT NOT TO ADD THE TOP LEVEL ~~OF~~ TO THE BUILDING. THEY CHOSE TO DO THE OTHER OPTION WHICH WAS TO NOT TO RAISE THE HOUSE BUT STILL KEEP THE TOP LEVEL. THEY ALSO DID MODIFY, THEY HAD A BUTTERFLY SHED ROOF DESIGN THAT PUSHED OUT THE TALLER ELEMENTS OF THE OUTER EDGES OF THE BUILDINGS AND THAT WAS MODIFIED TO A GABLED ROOF DESIGN TO REDUCE THE IMPACTS AND REDUCE THE AVERAGE HEIGHT OF THE BUILDING.

>> C. KAHN: ANY MORE QUESTIONS, IGOR?

>> I. TREGUB: THANK SO MUCH.

>> C. KAHN: DEBBIE.

[1:55:56]>> Debbie: MY QUESTION IS, I'VE BEEN STRUGGLING WITH THE SHADOW STUDIES, and Terry you may have some ideas on this, or Charles. I'm TRYING TO FIGURE OUT WHAT KIND OF CONFIGURATION MIGHT REDUCE THE SHADOWS ON 1639 AND 1609. AND THEY'VE ALREADY MOVED THE FRONT OF THE BUILDING BACK, THEY'VE PULLED THE BACK OF THE BUILDING IN. THE ONLY OTHER WAY I COULD SEE TO REDUCE THAT

SHADOW IMPACT WOULD BE TO ACTUALLY LOWER THE ROOF. THAT GETS INTO WHAT YOU JUST DESCRIBED, NICK, ABOUT, YOU KNOW, RAISING THE HOUSE AND MAKING THE BASEMENT A FULL STOREY WHICH WOULD MAKE IT MUCH MORE FUNCTIONAL. IT'S NOT GOT A whole LOT OF LIGHT. IT'S GOING TO BE A REC ROOM PRIMARILY. SO IF THEY HAD RAISED THE HOUSE SO THEY HAD, EITHER WAY, THEY WOULD HAVE HAD THE SAME AMOUNT OF SHADOW AND I GUESS THAT'S MY QUESTION. I DON'T SEE A WAY TO REDUCE THE AMOUNT OF SHADOW ON 1639 OR 1609 WITHOUT SAYING NO SECOND STOREY. I'M TRYING TO SEE IF THERE IS A WAY THAT WE COULD TWEAK THE SECOND STOREY AND other than saying HAVE ~~LESS~~ half as much SPACE AND MAKE DUE WITH THE BASEMENT, which is not going to be very nice space because THERE AREN'T MANY WINDOWS AND THEY ARE HIGH UP. I WAS TRYING TO FIND IF THERE ARE ANY OPTIONS FOR REDUCING THE SHADOWS AND IT SEEMS TO ME UNLESS WE JUST SAY REDUCE THE SQUARE FOOTAGE OF THE SECOND FLOOR, CUT THE SECOND FLOOR IN HALF, I DON'T KNOW WHAT OTHER OPTIONS WE WOULD HAVE. IT LOOKED TO ME THAT THEY HAD ALREADY MADE THE CHANGES, MADE A NUMBER OF CHANGES THAT REDUCE SHADOWS. BUT NOT COMPLETELY. SO, AND I GUESS -- SO I GUESS MY QUESTION IS AS YOU LOOKED AT THESE POSSIBLE CHANGES OF THE FIRST FLOOR OR SECOND FLOOR AND WHAT THE RESTRICTIONS ARE ON US BY THE STATE, WE CAN'T DENY THE UNIT. CAN WE REDUCE THE SQUARE FOOTAGE? I'M NOT SAY WE ~~GO~~ WANT TO, BUT I WANT TO BETTER UNDERSTAND what THE PARAMETERS are ON WHAT WE MAY OR MAY NOT DO. ~~IF~~ IT'S IN THAT GRAY AREA that

I NEED SOME GUIDANCE.

[1:59:05] >> Nick: AS ONE POINT OF CLARITY, THE SECOND UNIT IS NOT technically being ADDED TO THE PROPERTY BECAUSE IT was originally on the property and had been illegally ~~WILL HAVE BEEN~~ REMOVED. So as a component of the project THEY HAVE TO RESTORE IT. ~~BECAUSE IT WAS ILLEGALLY REMOVED.~~ THERE IS NOT ANYTHING IN THE HAA ~~AHA~~ THAT says that a reduction in square footage would not be permitted if it is a way to mitigate some of the impacts. It's just that you cannot ~~THERE IS A STRUCTURE THAT NEEDS TO BE REMOVED BUT YOU CAN'T~~ APPROVE IT AS A LOWER DENSITY OR DENY THE PROJECT. So IT DOESN'T SAY THAT YOU COULD NOT REDUCE THE SQUARE FOOTAGE OF the PROJECT.

[1:57:45] >> C. KAHN: HOLD THAT THOUGHT, NICK. I'M REFERRING, I'M PULLING UP THE ~~DATA~~ memo FROM STEVE. I'LL BE ABLE TO QUOTE IT precisely TO MAKE SURE THAT WE'RE DOING THE RIGHT THING. ANY OTHER QUESTIONS HERE OR COMMENTS?

>> D. SANDERSON: Charles, I just wanted to let you know WE'RE AT 8:55, WE'LL NEED A CAPTIONER'S BREAK AT 9:00.

>> C. KAHN: HOPEFULLY WE CAN GET TO A VOTE BEFORE THEN. MY COMPUTER IS TAKING ITS OWN SWEET TIME. I'M READING THE MEMORANDUM and THE -- LET'S SEE, IS THERE ANYONE ELSE THAT WOULD LIKE TO SPEAK WHILE I'M -- BRINGING THIS UP.

>> D. SANDERSON: CARRIE, YOU HAVE YOUR HAND UP.

>> C. KAHN: WHILE I'M LOOKING AT THIS, SHOSHANA, COULD YOU TAKE



OVER AS CHAIR?

>> S. O'KEEFE: SURE, CARRIE.

[2:00:57]>> C. OLSON: I'M NOT SURE IF WE HAVE ANY WIGGLE ROOM ON THIS. I'M ASSUMING THAT WE DON'T, BUT STAFF CAN TELL ME IF WE DO. THIS IS -- I'M SORRY, MY KIDS GREW UP AND LEFT HOME. IT'S just MY HUSBAND AND I. THIS IS A HOUSE WHERE IT'S JUST GOING TO BE MOM, DAD AND ONE SON, and YET WE APPROVE SIX BEDROOMS? We don't have any wiggle room. JUST LET ME KNOW, NICK. I'm curious.

>> Nick: Just to clarify, FIVE BEDROOM.

>> C. OLSON: OKAY. FIVE BEDROOMS. I JUST DON'T WANT DO A MINI DORM HERE you know, SORRY.

>> S. O'KEEFE: NICK, DO YOU WANT TO ANSWER? I have a comment but I THINK THAT WAS ADDRESSED TO YOU.

>> Nick: AGAIN, OUR UNDERSTANDING OF AHA IS THAT IT CAN'T BE DENIED OR REDUCED IN DENSITY. But IF THERE IS A SPECIFIC EFFORT, WE HAD A PROJECT THAT THE ZAB CONSIDERED PREVIOUSLY IN THE HILLSIDE THAT DID REQUIRE THE MOVING OF THE STRUCTURE in order to attempt to reduce the impacts, WHILE that project ~~HE~~ WAS HAA ~~AHA~~ COMPLIANT.

>> S. O'KEEFE: YOU SAY MOVING, was the square footage reduced?

>> Nick: ~~THE~~ TECHNICALLY THE SQUARE FOOTAGE WAS REDUCED just slightly BUT THE MAJOR COMPONENTS of it WERE NOT.

[2:02:20] C. KAHN: I FOUND THE PARAGRAPH. THE SMOKING GUN. THIS IS FROM PAGE 3 OF STAFF COMMUNICATION TO ZAB 8/26/2021 FROM

STEVE BUCKLEY, PLANNING DIRECTOR. Planning MANAGER, SORRY. The first paragraph. FOR PURPOSES OF THE HAA ~~AHA~~ LOWER DENSITY INCLUDES ANY CONDITIONS THAT HAVE THE SAME EFFECT OR IMPACT OF THE ABILITY FOR THE PROJECT TO PROVIDE HOUSING GENERALLY UNDERSTOOD TO BE THE TOTAL NUMBER OF DWELLING UNITS, BUT ALSO RELATED TO OVERALL SQUARE FOOTAGE, NUMBER OF BEDROOMS, ET CETERA. So THAT WAS a new finding, that was NOT THE OLD POLICY OF THE CITY. THAT'S WHY I MADE NOTE OF IT AT THE TIME. THE PRIOR POLICY OF THE CITY prior to this memo WAS THAT IT WAS ONLY NUMBER OF UNIT PROTECTED BY THE HAA ~~AHA~~. Steve ~~HE~~ DID HIS HOMEWORK and worked with the city attorney to clarify square footage or bedrooms are also covered because they provide housing. ~~ON THIS~~. So THAT'S FROM 8/26/21, I'LL SEND YOU THE LINK, Nick, SO YOU CAN SHARE IT with other members of the staff. So Carrie that answers your question, WE CAN'T REDUCE THE NUMBER OF BEDROOMS PER HAA. SO, OUR HANDS ARE -- I MEAN IT DOES SEEM LIKE OUR HANDS ARE TIDE ON THESE ISSUES. SHOSHANA, I'LL GO AHEAD AND RESUME THE CHAIR WITH YOUR PERMISSION.

[2:04:30]>> S. O'KEEFE: I WAS GOING IT MAKE A COMMENT BUT I SEE YOU'RE BACK. SO, THAT WAS MY THINGking AS WELL. THANK YOU SO MUCH FOR CLARIFYING. I DON'T THINK WE CAN REDUCE THE SQUARE FOOTAGE. That's what I thought the rules were also. I just want to say IN RESPONSE TO CARRIE'S COMMENTS, sort of mute at this point but, I WANT TO REMIND THE BOARD WHEN WE MAKE DECISIONS, WE

CANNOT, SHOULD NOT AND CANNOT TAKE INTO ACCOUNT THE STATED PURPOSE BY THE APPLICANT. IT DOESN'T MATTER WHO IS GOING TO LIVE THERE BECAUSE WE'RE GRANTING A USE PERMIT THAT GOES TO THE HOUSE. THEY COULD SELL THE SECOND THEY GET THE PERMIT AND SOMEONE ELSE CAN BUILD IT. It's just a mirage. WE just NEED TO look ~~LIKE~~ CAREFULLY AT WHAT WE'RE APPROVING, what the concrete objective impacts are, regardless of how the house is used or who lives there, or what they are doing. THANK YOU.

>> C. KAHN: I HAVE TWO HANDS UP, CARRIE AND DEBBIE AND I'LL RECOGNIZE YOU IN THAT ORDER.

>> C. OLSON: THANK YOU SHOSHANA FOR THAT. I'M NOT ASKING FOR MYSELF, I'M ASKING BECAUSE WE HAVE VERY INTERESTED NEIGHBORS. AND THEY NEED TO UNDERSTAND WHY IT IS THAT this zoning board is going to end up approving this project. It's not that we couldn't make modifications, I want to stress that, I have a couple of ideas. ~~THEY NEED TO UNDERSTAND WHY THIS ZONING BOARD MAKES DECISION.~~ But THIS IS THE SIZE OF THE PROJECT WE'RE PRESENTED WITH.

>> C. KAHN: DO YOU WANT TO EXPAND ON THESE IDEAS, CARRIE? OR DO YOU WANT TO WAIT?

>> C. OLSON: I THINK THERE ARE A LOT OF WINDOWS THAT LOOK DOWN ON NEIGHBORS AND THEY'RE CONCERNED ABOUT PRIVACY. WE COULD ASK THAT THOSE WINDOWS ON THE SECOND FLOOR BE WE CUT IN HALF. A COUPLE OF THEM ON THE FIRST FLOOR ON THE NORTH SIDE THAT ARE

ALREADY SMALL NOW, SO THEY COULD REMAIN SMALL. AND I THINK THAT WOULD HELP. I AGREE WITH DEBBIE, I DON'T SEE ANY WAY TO CHANGE THE BULK OF THIS THING UNLESS WE MADE THE ROOF LOWER. BUT CHARLES, I WOULD HAVE TO RELY ON YOU TO COME UP WITH AN IDEA FOR ~~ON~~ THAT. THAT'S ALL I HAVE TO SUGGEST. THE OTHER THING IS THAT PATHWAY THAT GOES TO UNIT NUMBER TWO ON THE NORTH SIDE OF THE BUILDING, THERE IS NO FENCE THERE. AND IT JUST SEEMS LIKE EYE IT'S EXPECTED THIS TO BE A GATE TO AN ENTRYWAY AND DRIVEWAY THAT PROBABLY DOESN'T EXIST. SHOULD WE ASK FOR A FENCE? JUST PUTTING IT OUT THERE.

>> C. KAHN: I WOULD LIKE TO -- DEBBIE, WITH YOUR PERMISSION I WOULD LIKE TO RESPOND TO CARRIE'S QUESTION ABOUT THE WINDOWS AND STUFF.

>> Samantha: WE NEED TO TAKE A BREAK.

>> C. KAHN: OKAY, IT'S 9:00. THEN I'LL HOLD THAT AND DEBBIE, YOU'LL BE THE FIRST ONE HEARD WHEN WE COME BACK. AND I GUESS IT'S STANDARD TO TAKE A 10-MINUTE BREAK. WE HAVE ONE MORE. I THINK WE HAVE TO STOP AT 10:00 ANYWAY. LET'S BE BACK AT 9:12. WE'LL MAKE IT 9:12 ON BUTTON. THANKS.

>> C. KAHN: OKAY. LET'S GET THIS UNDERWAY. IT BY, WHY DON'T YOU GO AHEAD AND SAY YOUR PEACE. CAN YOU HEAR ME, DEBBIE? CAN ANYONE HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. DEBBIE DOESN'T SEEM TO BE HEARING ANYTHING. I'LL TRY TO TEXT HER. DEBBIE. CAN

YOU HEAR ME? HOLD YOUR THUMB UP IF YOU CAN HEAR ME. NO? WELL, I  
THINK WE SHOULD MOVE FORWARD. DEBBIE, CAN YOU HEAR ME? YES? NO?  
SAMANTHA, CAN YOU HEAR ME?

>> Samantha: BOARD SECRETARY: I CAN HEAR YOU.

>> C. KAHN: THIS SEALS TO BE A PROBLEM WITH DEBBIE'S SYSTEM. I  
SENT HER A TEXT -- SHE IS GOING TO SIGN OFF AND TRY TO GET BACK  
ON. SO, MOST OF THE CONCERNS VOICED WHICH THE NEIGHBORS WERE  
RELATED TO SHADOW AND LIGHT. AND I DON'T SEE ANYTHING MORE THAN  
WE CAN DO. THIS IS AS LOW AS IT CAN GO AND RECOMMENDATION FROM  
STAFF TO GO UP INTO THE BUTTERFLY ROUTE WHICH THEY COULD HAVE  
REQUESTED TO THE AVAILABLE ROUTE IS GOOD ADVICE, VERY THOUGHTFUL  
THAT THE NEIGHBOR'S PRIVACY AND SHADOWING CONCERNS, LIGHT AND  
AIR. THAT WAS A GOOD MOVE. Certainly DROPPING -- NOT PUSHING UP  
THE HIGHEST THAT THEY COULD GO IS HELPING. THESE ARE NOT HIGH  
CEILING HEIGHTS. I'M KIND OF -- OTHER THING IS THEY DID RESPECT  
THE 20-FOOT SETBACK AT THE REAR AND THE FRONT ON THE NEW SECOND  
FLOOR. WHICH REALLY DOES MITIGATE THE SHADOW LINES OF THE FLOORS  
SUBSTANTIALLY. I FEEL LYING MOST OF THE MITIGATIONS ARE IN  
PLACE. I DIDN'T HEAR ANYTHING FROM THE NEIGHBORS EXPRESSING  
CONCERNS ABOUT WINDOWS AND WINDOW PRIVACY. AND I LISTENED TO  
NEIGHBORS AND TRY TO RESPOND TO THEIR CONCERNS RATHER THAN JUST  
TRYING TO APPLY A RESTRICTION FOR THE SAKE OF APPEALING TO BE  
APPEARING TO BE ACCOMMODATING OF NEIGHBOR'S CONCERNS. IT DOESN'T  
ADDRESS THE CONCERNS THAT THEY VOICED. I HEARD VOICES ABOUT

PARKING AND LIGHT AND ACTUALLY, HONESTLY, I LOOKED AT THE SHADOW PLANS AND I DON'T THINK THAT THIS IS DRAMATICALLY INCREASING THE AMOUNT OF SHADOW THAT THE NEIGHBORS ARE CURRENTLY EXPERIENCING. IT'S A SECOND STOREY ADDITION AND THE OWNER HAS THE RIGHT FOR A SECOND STOREY. I'M GOING TO MOVE FOR APPROVAL. IS DEBBIE BACK ON? SHE SEEMS TO BE HAVING TROUBLE WITH HER --

>> D. SANDERSON: NO I HAVE TO REMEMBER TO TURN THE HEAD SET ON. I TURN IT OFF. I HAVE COME TO THE SAME CONCLUSION. I SPENT A FAIR AMOUNT OF TIME LOOKING AT THE DISTANCES BETWEEN THE HOUSE AND THE DIFFERENT SITTING AREAS. AND NOTICED THAT THE SOUTHEAST, THE SOUTHEAST CORNER THAT LOOKS OUT OVER -- I MEAN I UNDERSTAND FROM THE NEIGHBORS' CONCERN THAT THIS IS DIFFERENT AND IT WILL ~~INCLUDE~~ introduce CHANGES IN HOW THEY ARRANGE THEIR LIVING PATTERN WITH THEIR NEIGHBORS. I LIVE IN A HOUSE WHERE I CAN SEE INTO MY A NEIGHBOR'S DINING ROOM WINDOW ON ONE SIDE AND DIRECTLY INTO THE KITCHEN WINDOW ON THE OTHER SIDE. SOMEHOW IT EVOLVED. ~~IF YOU PUT SEE-THROUGH~~ In who put CURTAINS up WHERE, see-thoughty curtains that lets light rhoguh but YOU CAN'T really SEE THE PEOPLE ~~BUT IT LETS THE LIGHT IN~~. So you can accommodate this increased density over time, and it won't be the same but it won't be awful. I UNDERSTAND THAT THE CHANGE IS UPSETTING AND ~~IRE~~ you're CONCERNED WITH THE IMPACT. BUT THE IMPACT HAVE OTHER WAYS OF BEING ACCOMMODATINGEd WITHOUT SAYING NO, YOU CAN'T BUILD This BUILDING. AS FAR AS THE SHADOWS GO, I DON'T SEE ANY OTHER

WAY AROUND IT. And most of THE SHADOWS MENTIONED I consider ~~ARE~~ TRANSITORY shadows. ONE TIME OF THE YEAR, ~~AND particularly~~ TWO OR THREE MONTHS AND it will be a late afternoon, IT WON'T BE -- THE WINDOWS WILL BE SHADED ALL DAY. SO I'M WITH YOU, CHARLES, I MEAN I'VE LOOKED AT WHO IS SITTING IN WHAT ROOM AND LOOKING OUT WHERE AND HOW FAR AWAY IT IS. I THINK IT'S -- THESE ARE THE TYPICAL IMPACTS IN AN URBAN AREA EVEN THOUGH FOR THESE NEIGHBORS, I RECOGNIZE AND APPRECIATE THAT IT'S DIFFERENT THAN WHAT YOU'RE USED TO. BUT THAT SAID, I THINK I WOULD SUPPORT THE PROJECT.

>> C. KAHN: THANK YOU FOR YOUR COMMENTS. CARRIE.

[2:24] >> C. OLSON: I DON'T DISAGREE. AND -- BUT I THINK IT'S IMPORTANT THAT WE HAVE THIS DISCUSSION. AGAIN IN FRONT OF THE PUBLIC. SO THEY UNDERSTAND WHY WE'RE MAKING THE DECISIONS WE MAKE. I'LL SECOND YOUR MOTION, CHARLES.

>> C. KAHN: THANK YOU, CARRIE. OKAY. WE HAVE A MOTION, WE HAVE A SECOND. IF THERE IS NO FURTHER DISCUSSION, I WOULD LIKE TO HAVE A VOTE SO WE CAN HAVE OUR FINAL ITEM TONIGHT. SAMANTHA.

>> CLERK: THANK YOU. THIS IS TO APPROVE 1643, 1647 CALIFORNIA STREET. COMMISSIONER DUFFY.

>> YES.

>> COMMISSIONER THOMPSON.

>> YES.

>> COMMISSIONER OLSON.

>> YES.

>> COMMISSIONER GAFFNEY.

>> YES.

>> COMMISSIONER KIM.

>> YES.

>> COMMISSIONER KAHN.

>> YES.

>> COMMISSIONER SANDERSON.

>> YES.

>> VICE CHAIR O'KEEFE.

>> YES.

>> AND COMMISSIONER TREGUB.

>> YES.


>> C. KAHN: THANK YOU SAMANTHA, THAT WAS A UNANIMOUS VOTE IN  
FAVOR OF THE USE PERMIT WHICH IS NOW GRANTED SUBJECT TO ALL THE  
TERMS AND CONDITIONS THAT APPLY.





## Why support this appeal?

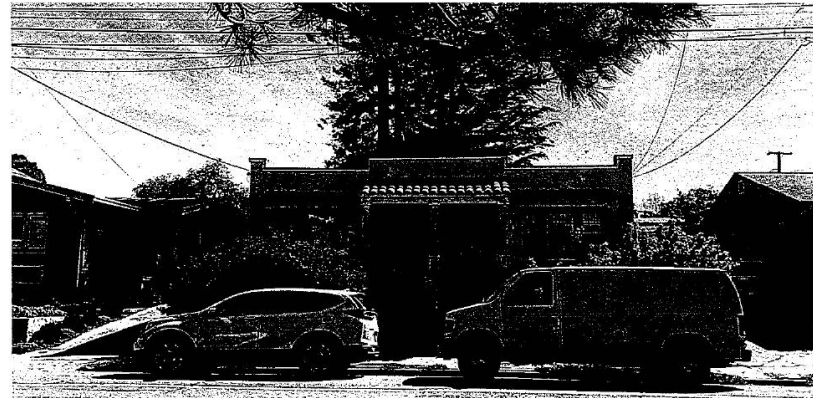
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- The City / ZAB initially erred in interpreting the restrictions imposed by the HAA, significantly limiting their own power to mandate modifications for proposed projects. This case and appeal caused the City to reconsider the faulty information on which the ZAB based its decision. The appellants who brought this error to the attention of the City deserve a new ZAB hearing in which the corrected interpretation of the HAA can be applied.
  - Protect lower-income units that increase economic and racial diversity in Berkeley, especially North Berkeley.
  - Promote inclusion and integration by maintaining a variety of size, price and kinds of units in neighborhoods.
  - Ensure the HAA is applied correctly, protecting the City's right to modify plans for remodels that do not bring additional housing to Berkeley.
  - Help meet Berkeley's climate change goals by protecting and promoting smaller dwellings.
  - Limit real estate speculation and gentrification that in the long-term will drive out lower-income residents.
- 

## Current structure.

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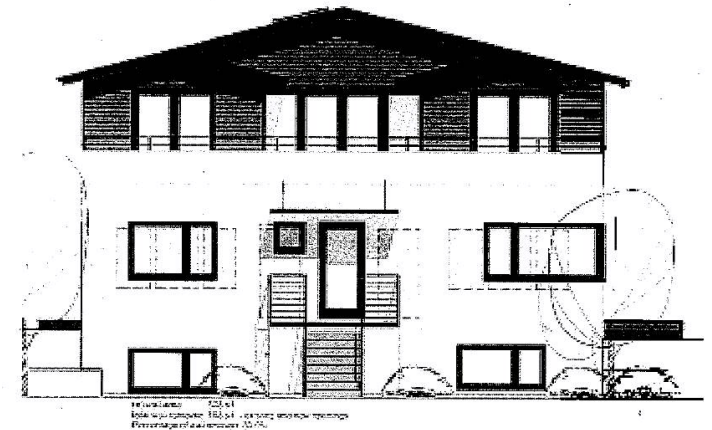
- One-story duplex, total 1,342 sq. ft.
- Two identical units, each 671 sq. ft.
- Two lower-income housing units.
- Duplex structure constitutes a 44% lot coverage (3100 sq. ft. lot), where the maximum allowed for a single story structure is 45%.
- Illegally converted by current owners into a single family dwelling, when their four children were young



## Proposed structure approved by the ZAB.

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- A very large home and an apartment.
  - One 3,262 sq. ft., three-level home with 4 bedrooms, a storage room, 5 baths, and a 700 sq. ft. gym/family room, to be occupied by two adults.
  - One 501 sq. ft. apartment to be occupied by an adult son who lives in Canada / Switzerland.
- Per the City Planner staff report: “non-conforming for lot coverage, density, and yards” (40% lot coverage is maximum for this structure) and thus “does not comply with the applicable, objective zoning standards” (requires 7 UPs/AUPs)
- Proposed design is opposed by multiple neighbors because it would be a massive dwelling on a tiny lot and because the third level generates significant privacy and shadow impacts on adjacent properties.



## Why did we appeal the ZAB decision?

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1. We felt confident that the ZAB had misinterpreted the HAA and was using it inappropriately
  - The Housing Accountability Act (HAA), which is meant to drive new affordable housing and protect low-to-moderate income housing, was being interpreted to suggest that the city was obligated to allow the conversion of two lower-income units (duplex) into a luxury home with an attached ADU (See project description above)
  - After reviewing a city planning office memo produced during the meeting, ZAB believed that it's "hands were tied" and approved this project believing that the new law meant that they could not require a reduction in the number of bedrooms or square footage of projects, entirely counter to past City practice.
2. We felt that the city was unfairly allowing addition of a top story that all adjacent neighbors oppose
  - Even though the zoning standards would be exceeded and no objective standards are in place to either allow or disallow the impacts of the proposed project on shadow, light and privacy of adjacent properties
  - Even though it would set a precedent for gentrification and construction of luxury homes
  - Without considering important potential modifications initially suggested by the City Planner (removal of top floor)
3. We felt misled by City staff with whom we had discussed how the ZAB meeting is run and used, what our opportunities for participation would be, what decisions might be made at the meeting, and what we should put in our letter and verbal arguments to the ZAB.


1. The city attorney (Bren Darrow) agrees with our main contention on the HAA having been misinterpreted.

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Memo to city council from Jordan Klein, Director, Planning and Development; page 5

'Since the ZAB decision, the City has determined that "to lower density" means a reduction in the units built per acre. This is consistent with guidance from the California Department of Housing and Community Development. Therefore, a condition of approval that limited the size of the units would not lower the density of the project. Even if an application to expand an existing dwelling unit were found to be a housing development project, the expansion could be modified without lowering the density.'

**In other words, it is only the number of housing units, not the square footage or the number of bedrooms in a unit, that is protected under the HAA. Thus the ZAB could absolutely have required a reduction in the size of the project as well as other conditions to mitigate impacts on neighbors.**



The city therefore can absolutely require significant alterations to this project.

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Memo to city council from Jordan Klein, Director, Planning and Development; page 5

'...ZAB may have had faulty information that led them to believe that they could not modify the project. Council may add conditions to the proposed project to address the appellants' concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB'

**In other words, the city is by no means required to permit the proposed project. If the city were to do so against the opposition of neighbors without considering potential square footage reductions and other modifications to mitigate impacts, it would unfairly favor one property-owner over others while also going counter to the City Council's expressed intentions of protecting lower income housing in Berkeley.**

The “faulty information” that the ZAB had at the time, clearly led them to believe they could not modify the project.

(Excerpts from the ZAB meeting recording, full detail in slides 21-22)

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(1:56) D. Sanderson – ZAB Commissioner: Can we reduce the square footage?

(1:59) N. Armour – City Planner: There is not anything in the HAA that says that a reduction in square footage would not be permitted if it is a way to mitigate some of the impacts. . It’s just that you cannot approve it at a lower density or deny the project. It doesn’t say that you could not reduce the square footage of the project.

(1:57) C. Kahn - ZAB Chairperson): Hold that thought Nick. I’m pulling up the memo from Steve. I’ll be able to quote it precisely to make sure that we’re doing the right thing.

(2:00) C. Olson - ZAB Commissioner: This is a house where it’s just going to be mom, Dad and one son, and yet we approve [five] bedrooms? We don’t have any wiggle room?... I just don’t want to do a mini dorm here.

(2:02) C. Kahn – ZAB Chairperson: I found the paragraph. The smoking gun. This is from page three of the staff communication to ZAB on 8/26/2021 from Steve Buckley, planning manager. The first paragraph: “for purposes of the HAA lower density includes any conditions that have the same effect or impact of the ability for the project to provide housing generally understood to be the total number of dwelling units, but also related to overall square footage, number of bedrooms, etc.” Steve did his homework and worked with the city attorney to clarify square footage or bedrooms are also covered because they provide housing. So, Carrie to answers your question, we can’t reduce the number of bedrooms per HAA. So it does seem like our hands are tied on these issues.

*(Blue highlights is the erroneous interpretation that has since been corrected)*

(2:04) S. O’Keefe – ZAB Vice Chairperson: That’s what I thought the rules were also.

(2:06) C. Olson - ZAB Commissioner : I’m not asking for myself, I’m asking because we have very interested neighbors, and they need to understand why it is that this zoning board is going to end up approving this project. It’s not that we couldn’t make modifications, I want to stress that, I have a couple ideas. But this is the size of the project we’re presented with





It is possible that the ZAB would have approved only a much smaller project with lesser impacts to neighbors if the ZAB had correctly understood the law.

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In the hearing...

One ZAB member highlighted that this was the first time a project of this kind was brought before the ZAB, referring to a project opposed by neighbors and in which no privacy and shadow impacts were discussed in the staff report.

Multiple ZAB members expressed concern that the HAA seemed to unduly limit the power of the ZAB, making their role much less relevant.

There was a discussion of whether or not the ZAB could require a reduction in bedrooms or square footage of the third level, including removing it or cutting it in half. This discussion stopped because of the assertion that no changes in size could be made.

One ZAB member clearly expressed opposition to the size of the project, but conceded upon being told that the ZAB had no option but to approve the project.

That same ZAB member mentioned the need to prepare materials to explain to the public why the ZAB would be approving this kind of project.

There was a short discussion of whether there were other potentially mitigating conditions that could be required of this project, but because neighbors' microphones were muted and the webinar chat was disabled for the audience, we were not able to respond to the ZAB member who posed the question about whether neighbors were suggesting any changes other than the square footage reduction that they believed was prohibited.

***This review and correction of city policy occurred because of our appeal and the associated \$500 charge paid by the neighbors. The corrected city policy should therefore be applied to our appeal, not just to future projects, and we therefore request that this project be remanded back to the Planning department or at a minimum to the ZAB for another hearing***

## Our request to the City Council

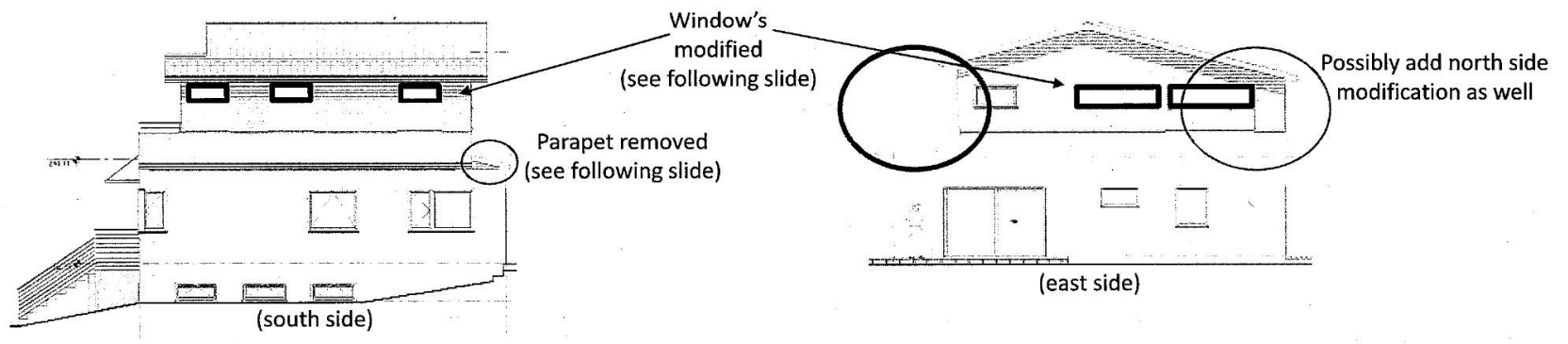
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1. At a minimum, remand this project back to ZAB, so that they can reassess the project and the neighbors comments in light of the corrected guidance on the HAA driven by our appeal.
2. Additionally the council could recommend to ZAB, or set conditions to the project themselves, to use their authority to limit square footage and either deny the upper floor addition or limit the size of that addition.
3. If possible, please set conditions on any future permit for this project such that any changes to the exterior of the house on the south, east or north sides would need to go back through a ZAB hearing (i.e. cannot be done simply via a permit modification in the permits office or through a simple AUP that doesn't require the ZAB approval).

## A reduction in top floor area could reduce impacts on neighbors

Even if the City Council / ZAB decides to allow the upper story of this project, a reduction of that level would mitigate against impacts to neighbors while keeping the unit at a slightly smaller size.

- Moving the south wall back ~7 feet would maintain much of the summer dinner-time light on the back porch and also into the kitchen (east). It would also increase the distance from and impact to the yard of the neighbor to the south.
- Equivalent movement of the wall on the north side could be similarly beneficial to the neighbor to the North.



ZAB hearing (@1:56) – D. Sanderson: I was trying to find if there are any options for reducing the shadows and it seems to me unless we just say reduce the square footage of the second floor, cut the second floor in half, I don't know what other options we would have.

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## By disallowing the third level, the City would prevent loss of a smaller, lower-cost dwelling unit in Berkeley.

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The project seeks to capitalize on past modification to permit nonconforming elements with far greater impact to neighbors.

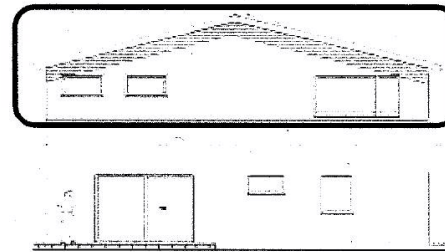
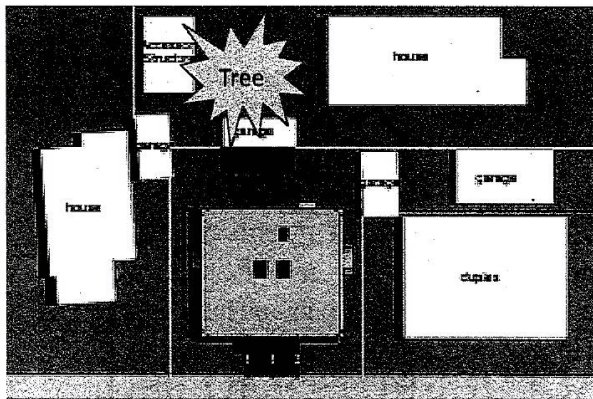
- 1924: Permitted and built as a duplex w/ 45% lot coverage
- 1952: Backyard storage shed built (8'x20', 8'6" tall) taking lot coverage to 50%. Storage shed has no impact on neighbors.
- 1989: Current owners purchase property. Sometime thereafter, they illegally remove the kitchen from 1643 California and add an internal door between the two units, thus converting the duplex to a single family dwelling.
- 2021: Owners seek to capitalize on "restoring" the illegally removed unit, and present plans to demolish the low impact storage shed and trade in the resulting reduction in lot coverage to enable construction of a 'high impact' upper level with a new project that just slightly reduces the existing total lot coverage.

***Without the storage shed, we believe this project would require a variance (project would not meet the objective standards for the UP on lot coverage).***

*Approval would set a precedent and model how property owners can bypass UP objective standards. (Get a permit for a storage shed and build, then later trade that lot coverage in for a much greater expansion.) Is this really allowed?*

# Current storage shed. Not a fair trade for the new upper floor for the neighbors.

Without the shed to remove we believe the upper floor would need a variance for lot coverage, and would definitely not meet objective zoning standards



Current shed barely visible over fence

## Even if the city decided to allow the upper floor, minor modifications could help reduce the impacts to light and privacy

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*Planning Director's letter to city council, p5: 'Council may add conditions to the proposed project to address the appellants' concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB.'*

1. Limit size of windows on second floor (awning style windows, above 5' from floor) for privacy
2. Increase size of fence between yards to increase first floor privacy.
3. Remove second floor rear parapet feature to prevent future illegal conversion to a deck within the setback

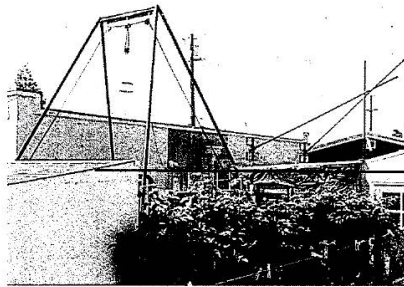
*ZAB member C. Olson from ZAB hearing: 'I think there are a lot of windows that look down on neighbors and they're concerned about privacy. We could ask that those windows on the second floor be cut in half. A couple of them on the first floor on the north side are already small now, so they could remain small, and I think that would help.'*

## 1&2. Window reduction and taller fence on east side

Conversion of east side upper level windows to awning windows that are placed above 5' from the floor would increase privacy for everyone

- An additional awning window could be added to allow more light into the room

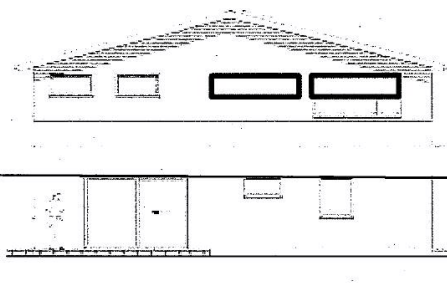
Addition of 8' fence between properties would block 1<sup>st</sup> floor views between properties



(Pic from our mid-house dining room window)



(Shadow's show existing windows)



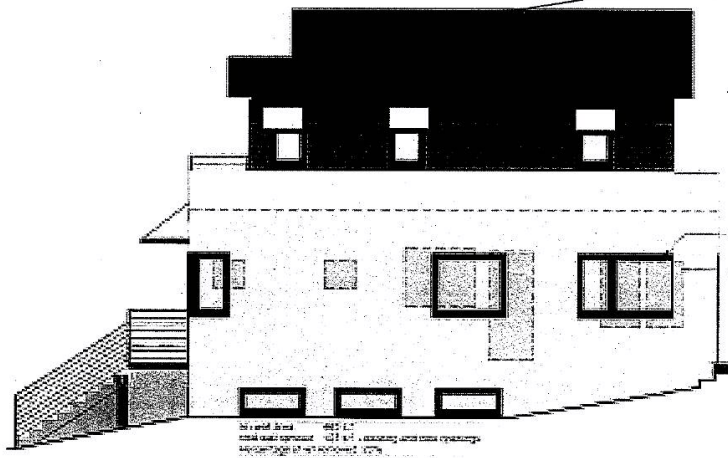
(Red show 'lower impact' windows)



(Pic from our farthest east bedroom window)

# 1. Window reduction on south side

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Solar tube or similar could be used if the applicants desired to bring additional light into certain rooms.

Awning windows on upper floor

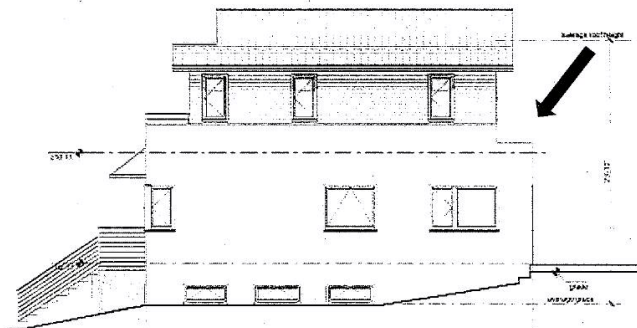
Similar window / lighting changes may be appropriate on the north side of the building as well.



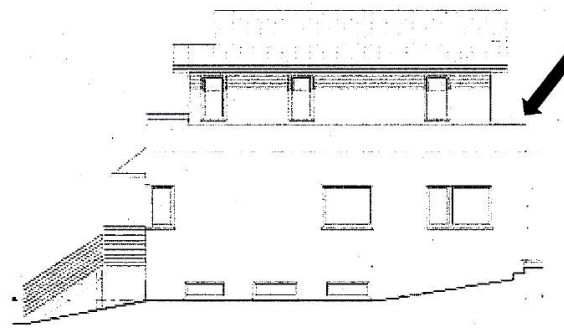
### 3. Parapet Removal

Given the initial design submitted, and history of modifications, we are concerned about a possible future conversion of the parapet roof to a 'deck' within setback.

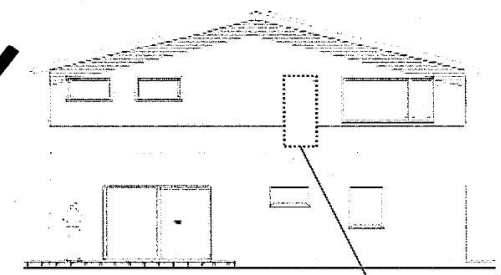
- The rear parapet was removed in 1<sup>st</sup> resubmission, but then added back in the final in spite of there being no critical design continuity on sides of house
- Parapet only serves to collect tree debris (a continual source of frustration for the property owners on their current flat roof)



From 1<sup>st</sup> resubmission 5/25/21  
(south side)



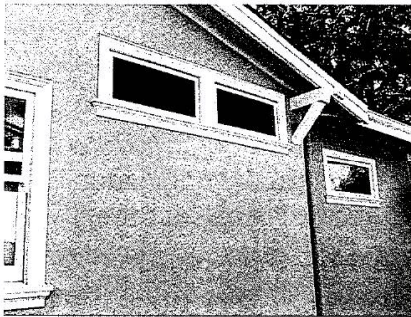
From Final resubmission 8/21/21  
(East side - rear)



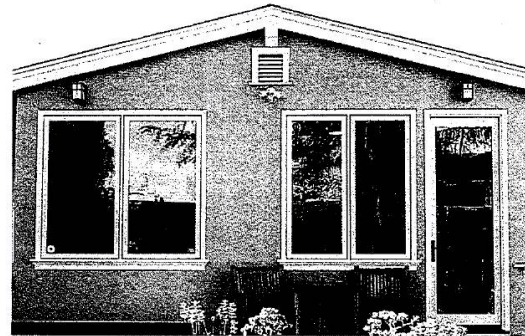
Location of possible door addition if a rear 'deck' is added later.

## 1609 Virginia fenestration

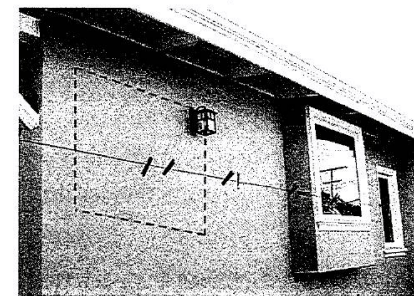
East side



North side



West side



- North Side: Our 2017 remodel moved most of our windows to the north side, to improve privacy while not losing too much light/sun
- East Side: Bedroom and bathroom remodels utilized high-awning windows to give privacy w/ neighbors
- West Side: One window removed (---) to increase privacy between our house and the project property.

## Lack of clarity from Planning on the ZAB process

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We spoke with the city planner in charge several times prior to the project being deemed complete. In a call on 9/21/21 we discussed our concerns about the upper floor addition of the project. The city planner suggested we focus our letter to and presentation to ZAB as follows:

- Quote his advisory comments from the first letter after submission in which he suggested elimination of the upper floor to minimize shadow/privacy impacts and make the size of the proposed dwelling more reasonable.
- Point out that his suggestion was ignored by the project proponents
- Request that ZAB consider 'major modifications prior to resubmission.'

The city planner also suggested that the ZAB hearing would be an iterative process. Multiple times (to us, in the initial staff report, and in the ZAB hearing) he mentioned that there can be multiple hearings about a project.

# Supplementary materials

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The original design that the applicants say they 'modified to help the neighbors' did not have City support

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2/5/21 Project Incomplete letter from City Planner (Nick Armour):

*Advisory comments (2):* – 'As has previously been discussed between Project Planner and Applicant (prior to official submittal of the application), staff has concerns with the numerous Use Permits and Variance request to expand the existing residential structure. As currently proposed, staff cannot make the findings to recommend approval of this project. Were it to move forward to the Zoning Adjustments Board under the current design iteration, staff would recommend that the ZAB deny the project for lack of ability to make the findings.'

## Full ZAB exchange at end of hearing (1)

(1:56) Debbie: "my question is, as you looked at these possible changes of the first floor or second floor and what the restrictions are on us by the state, we can't deny the unit. Can we reduce the square footage? I'm not saying we want to, but I want to better understand what the parameters are on what we may or may not do."

(1:59) Nick – planner: As one point of clarity, the second unit is not technically being added to the property because it was originally on the property and has been illegally removed. So as a component of the project they have to restore it. There is not anything in the HAA that says that a reduction in square footage would not be permitted if it is a way to mitigate some of the impacts. It's just that you cannot approve it at a lower density or deny the project. It doesn't say that you could not reduce the square footage of the project."

(1:57) Chairman Kahn: Hold that thought Nick. I'm referring, I'm pulling up the memo from Steve. I'll be able to quote it precisely to make sure that we're doing the right thing.

(2:00) C. Olson: I'm not sure if we have the wiggle room on this. I'm assuming that we don't, but staff can tell me if we do.... This is a house where it's just going to be mom, Dad and one son, and yet we approve [five] bedrooms? We don't have any wiggle room?... I just don't want to do a mini dorm here.

## Full ZAB exchange at end of hearing (2)

(2:02) C. Kahn: I found the paragraph. The smoking gun. This is from page three of the staff communication to ZAB on 8/26/2021 from Steve Buckley, planning manager. The first paragraph: for purposes of the HAA lower density includes any conditions that have the same effect or impact of the ability for the project to provide housing generally understood to be the total number of dwelling units, but also related to overall square footage, number of bedrooms, etc. So that was a new finding, that was not the old policy of the city. That's why I made a note of it at the time. The prior policy of the city prior to this memo was that it was only number of units protected by the HAA. Steve did his homework and worked with the city attorney to clarify square footage or bedrooms are also covered because they provide housing. ... So, Carrie that answers your question, we can't reduce the number of bedrooms per HAA. So our hands are...I mean it does seem like our hands are tied on these issues.

(2:04) S. O'Keefe: So that was my thinking as well, thank you for clarifying. I don't think we can reduce the square footage. That's what I thought the rules were also.

(2:06) C. Olson: I'm not asking for myself, I'm asking because we have very interested neighbors, and they need to understand why it is that this zoning board is going to end up approving this project. It's not that we couldn't make modifications, I want to stress that, I have a couple ideas. But this is the size of the project we're presented with.



Z O N I N G  
A D J U S T M E N T S  
B O A R D  
S T A F F R E P O R T

FOR BOARD ACTION  
JULY 14, 2022

## 1643 & 1647 California Street

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

### I. Background

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

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

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no



ZONING ADJUSTMENTS BOARD  
July 14, 2022

1643/47 CALIFORNIA STREET  
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cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

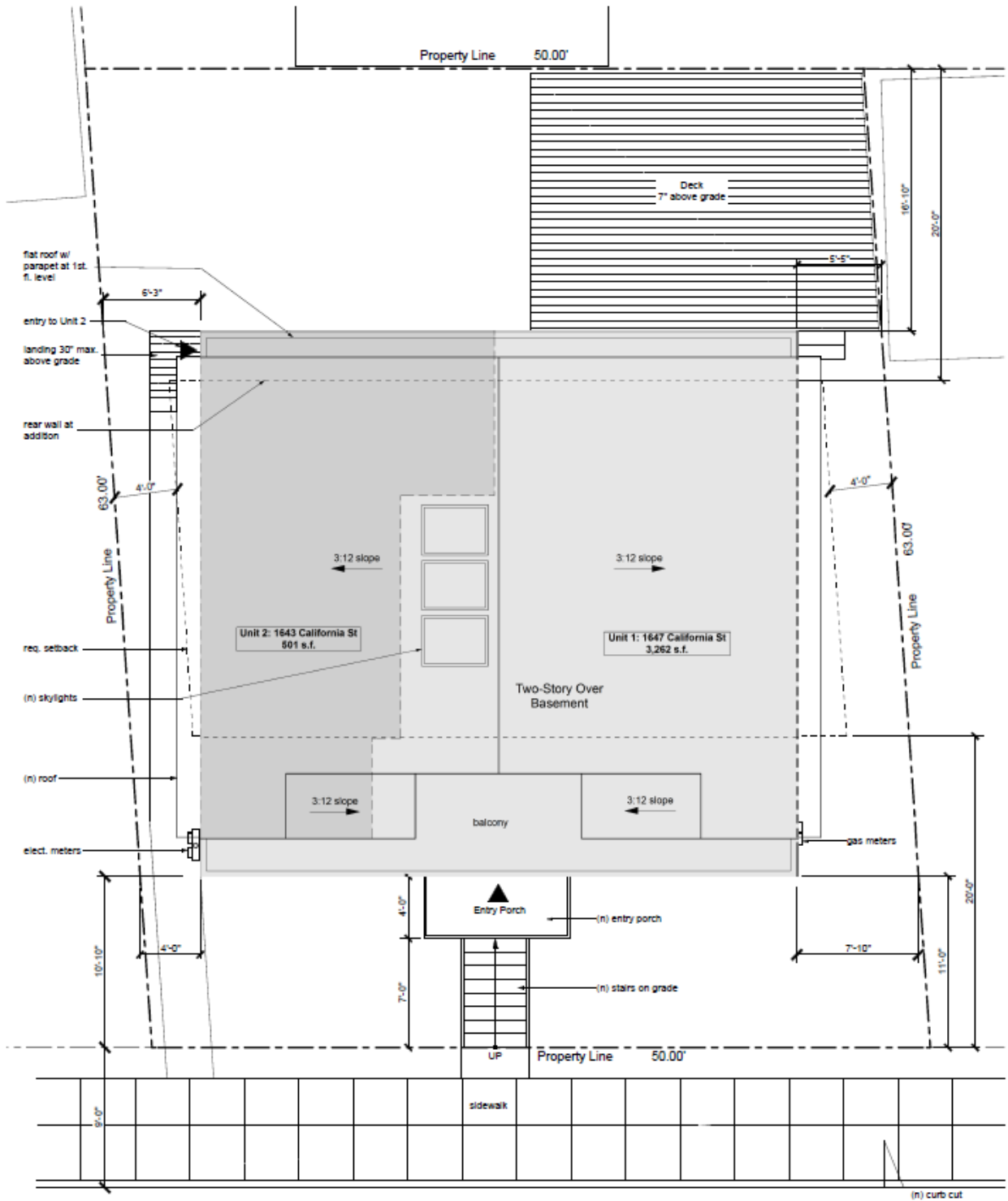
**D. Parties Involved:**

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

**Figure 1: Vicinity Map**



Figure 2: Site Plan



2 Proposed Site Plan

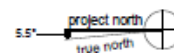
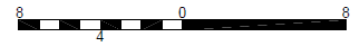


Figure 3: Front Elevation



① Proposed West Elevation - Front  
Current Proposal



ZONING ADJUSTMENTS BOARD  
July 14, 2022

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**Figure 4: Rear Elevation**



**Table 1: Land Use Information**

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

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project proposes to maintain the two dwelling units that currently exist at the property.
Creeks	No	The site does not contain a mapped creek or a creek culvert.

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

**Table 3: Project Chronology**

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

**Table 4: Development Standards**

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

## II. Project Background

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

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

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

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

### III. Project Description

**A. Neighborhood/Area Description:** The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Junior Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

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

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

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



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

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

## IV. Community Discussion

### A. Neighbor/Community Concerns:

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

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

Concerns raised include:

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

Support of the application includes:

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

## V. Issues and Analysis

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

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

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

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

peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:

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

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

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

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

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

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

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

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

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

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## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

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

### Attachments:

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

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

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JULY 14, 2022

### 1643 & 1647 California Street

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

#### PERMITS REQUIRED

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

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### II. FINDINGS FOR APPROVAL

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1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.

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

### **III. OTHER FINDINGS FOR APPROVAL**

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



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

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#### **IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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

**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

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

11. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
    - All new commercial, industrial and mixed use developments and all large improvement projects.
    - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
    - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
  - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
  - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
  - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
  - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
- C. Building Materials Survey:
- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous

materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk

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

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

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

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

16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the

locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 21. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- 23. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
- B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff.



- When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
  - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 24.** Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 25.** Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 26.** Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

1643/47 CALIFORNIA STREET- USE PERMIT #ZP2021-0001  
July 14, 2022

FINDINGS & CONDITIONS  
Page 12 of 12

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

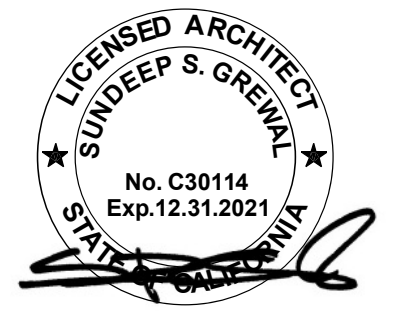
**Prior to Final Inspection or Issuance of Occupancy Permit:**

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

**At All Times:**

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

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

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

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:  
 Use Permit Set: 12-10-2020

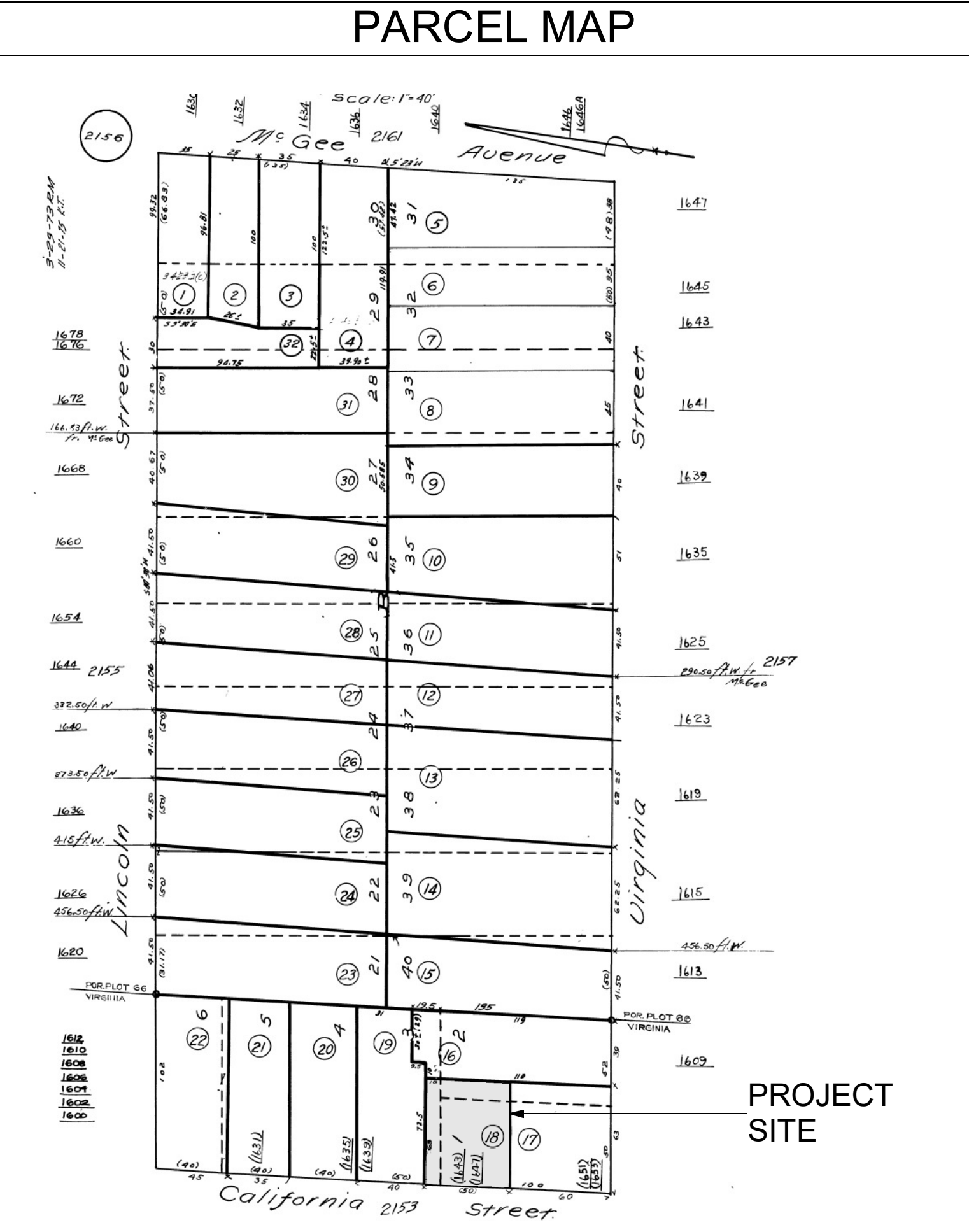
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Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet **A0.0**



# OPPENHEIMER RESIDENCE

## 1643 & 1647 California St. CA 94703

### SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

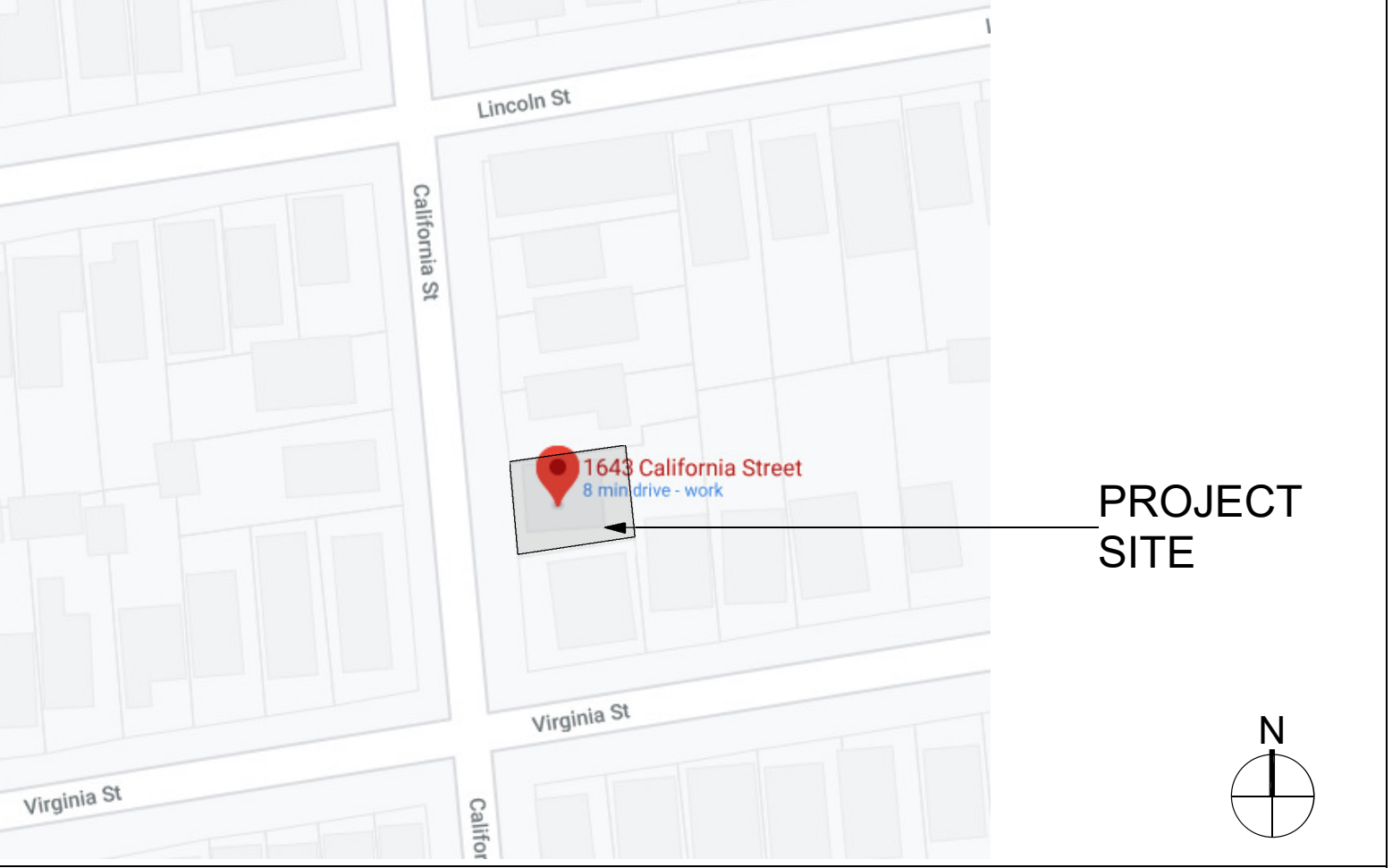
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

### VICINITY MAP



### PROJECT DIRECTORY

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

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

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

### PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**  
 No

### SHEET INDEX

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

### APPLICABLE CODES

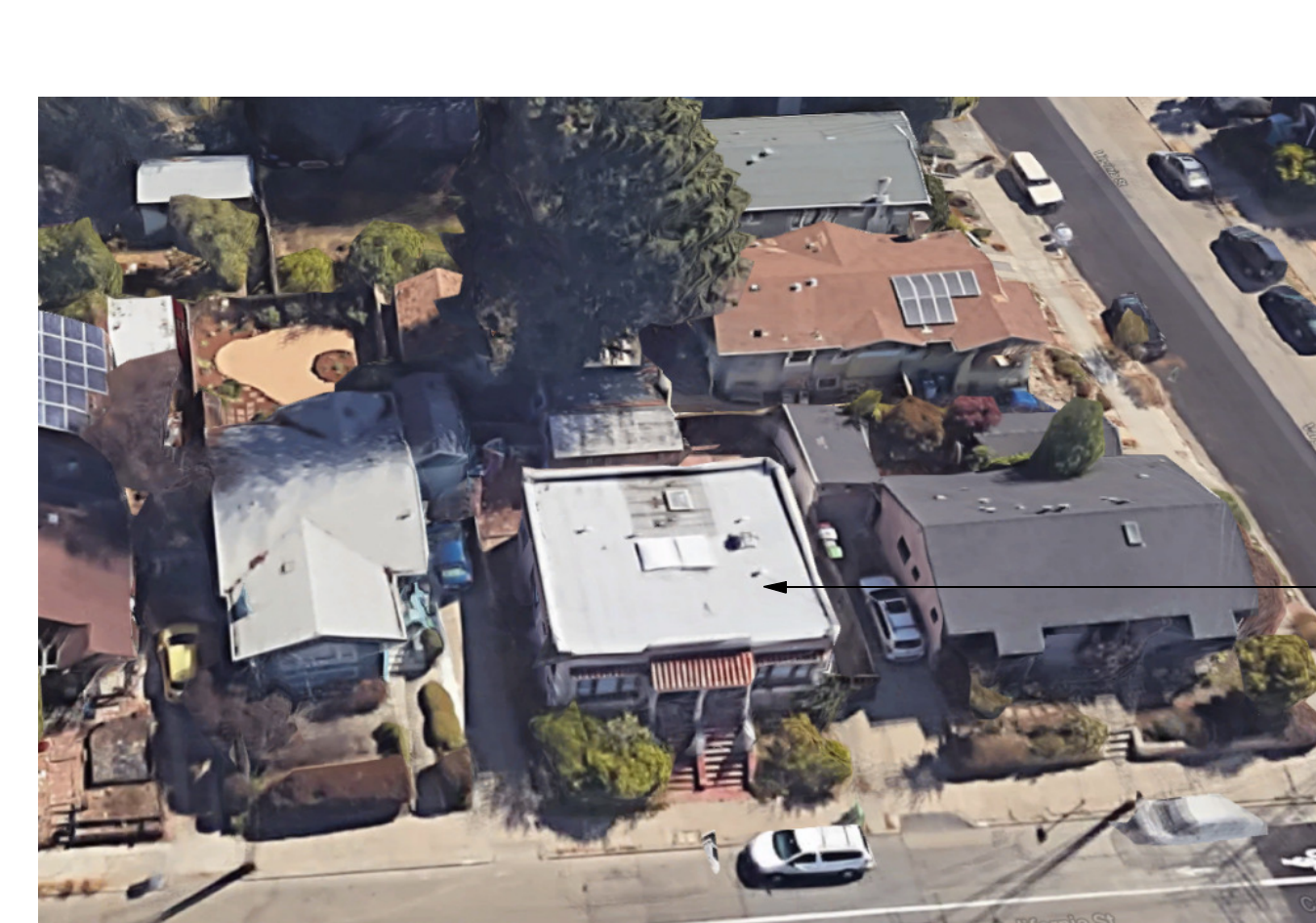
2019 California Building Code (CBC) Volume 1  
 2019 California Building Code (CBC) Volume 2  
 2019 California Residential Code (CRC)  
 2019 California Energy Code (CBEES)  
 2019 California Green Building Standards Code (CALGreen)  
 2019 California Electrical Code (CEC)  
 2019 California Plumbing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

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

### ABBREVIATIONS

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

### SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

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



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

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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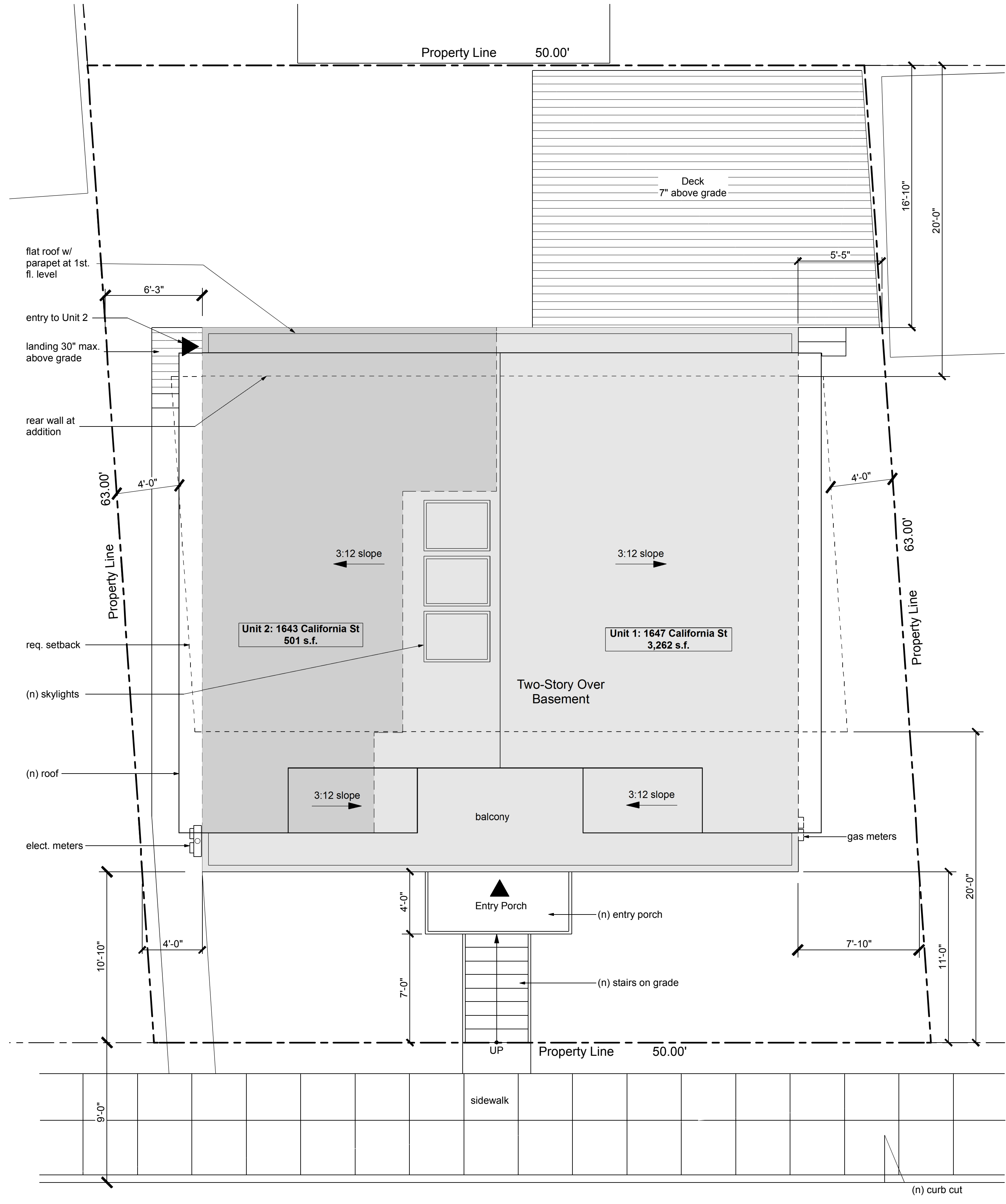
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Checked By: SSG

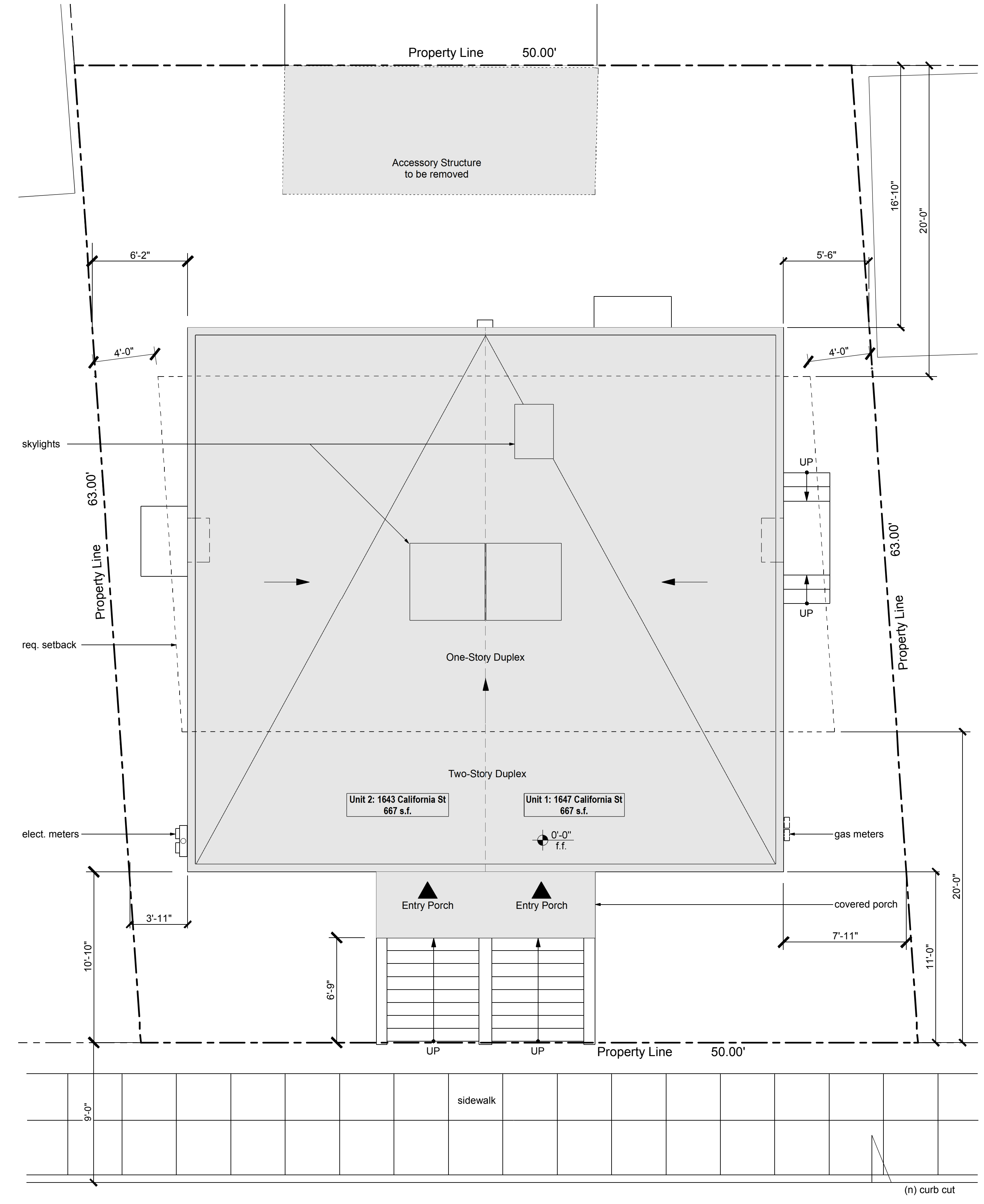
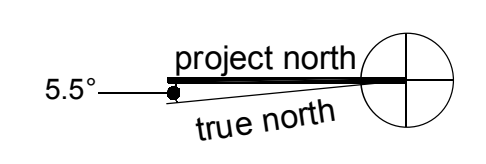
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

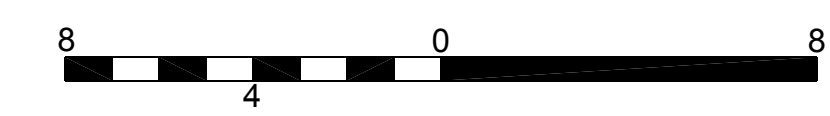
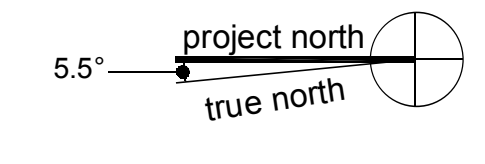
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**2** Proposed Site Plan

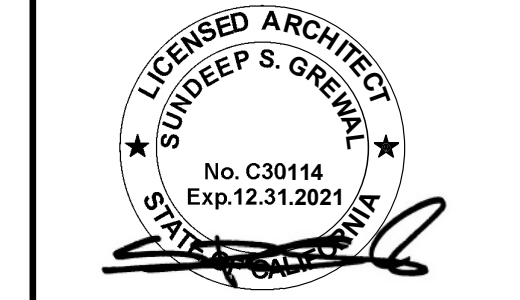


**1** Existing Site Plan





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**OPPENHEIMER  
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 1643 & 1647 California St.  
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 APN: 58-2156-18

Sheet Contents:  
 Site Survey

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 SSG

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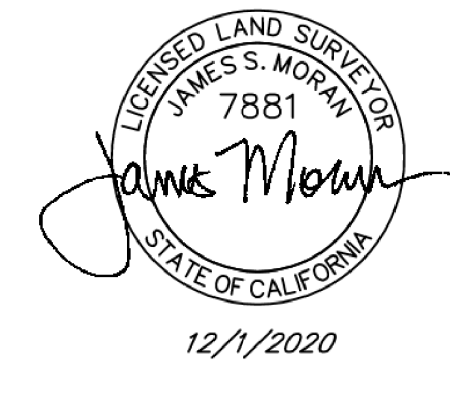
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**A0.2**

# HOUSE LOCATION SURVEY

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



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

**GENERAL NOTES**

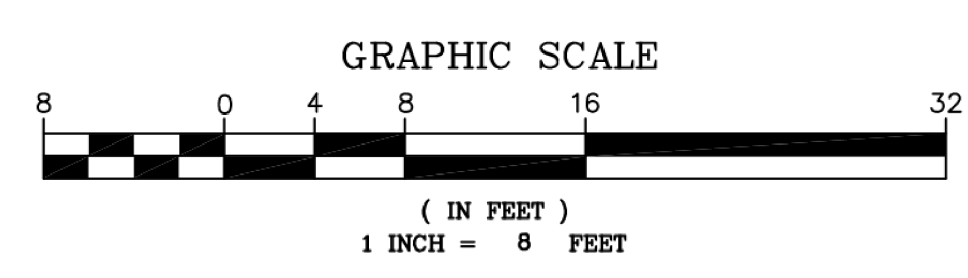
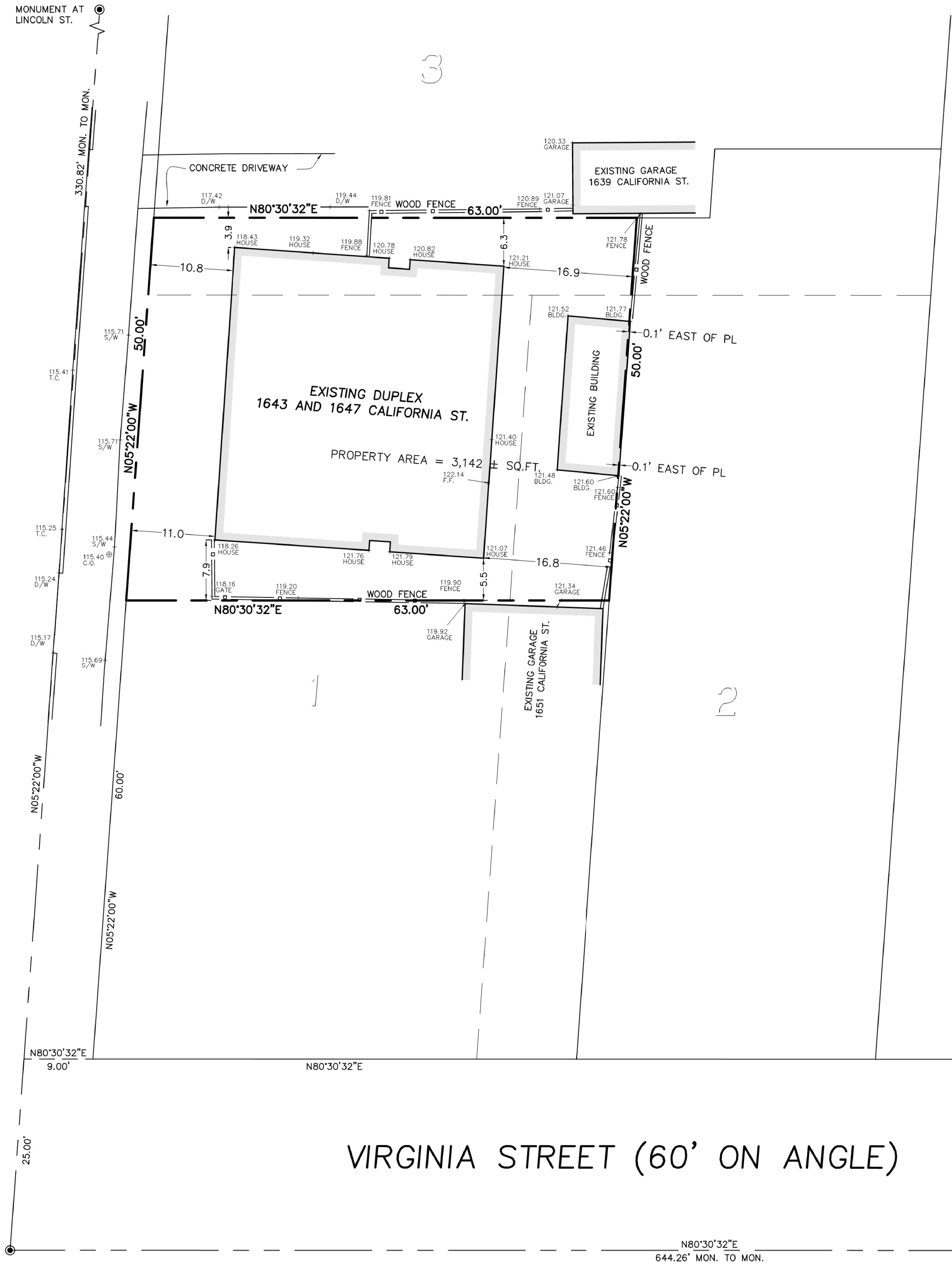
BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

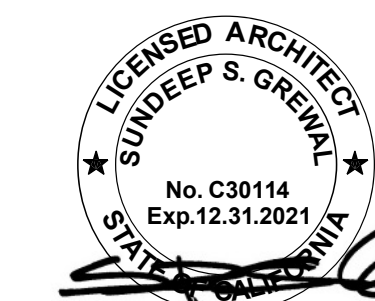
CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)





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 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



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

Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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Project No: 20-13-420

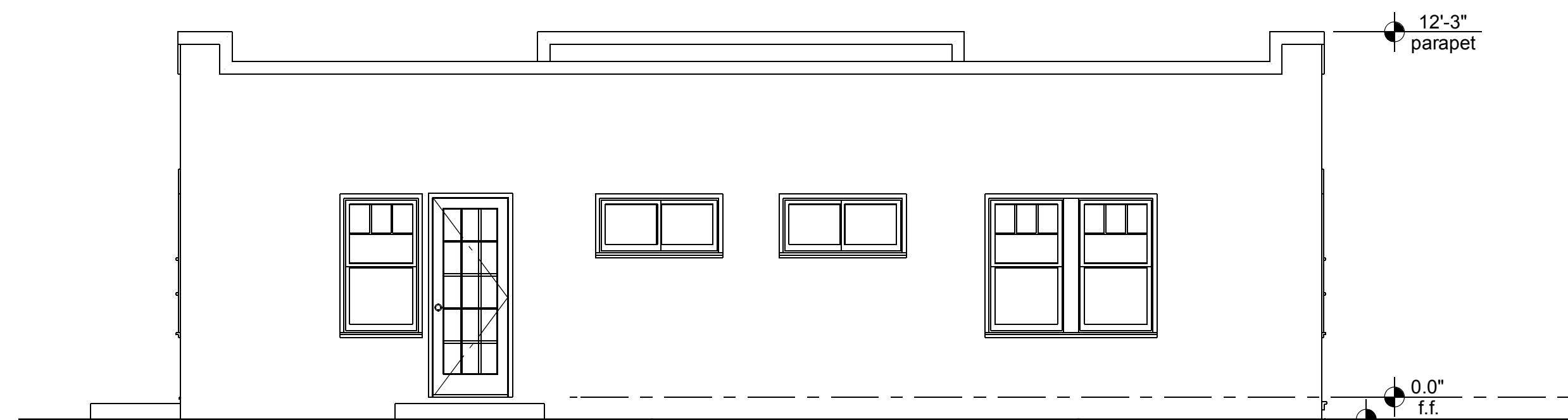
Drawn By: SSG

Checked By: SSG

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

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

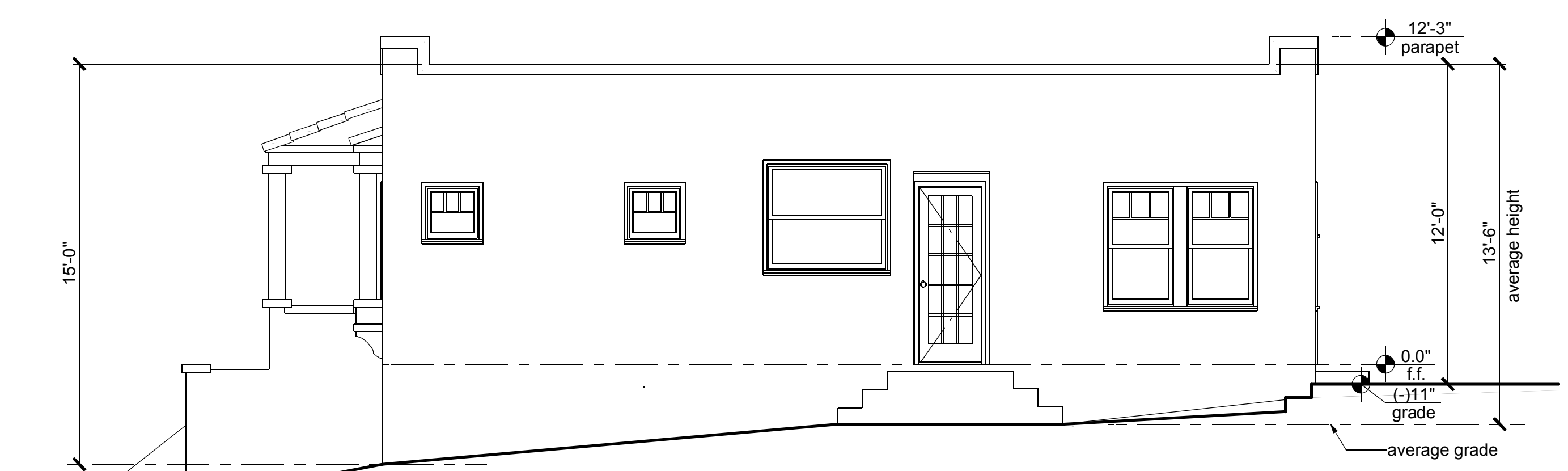
Sheet **A1.1**



5 Existing East Elevation - Rear



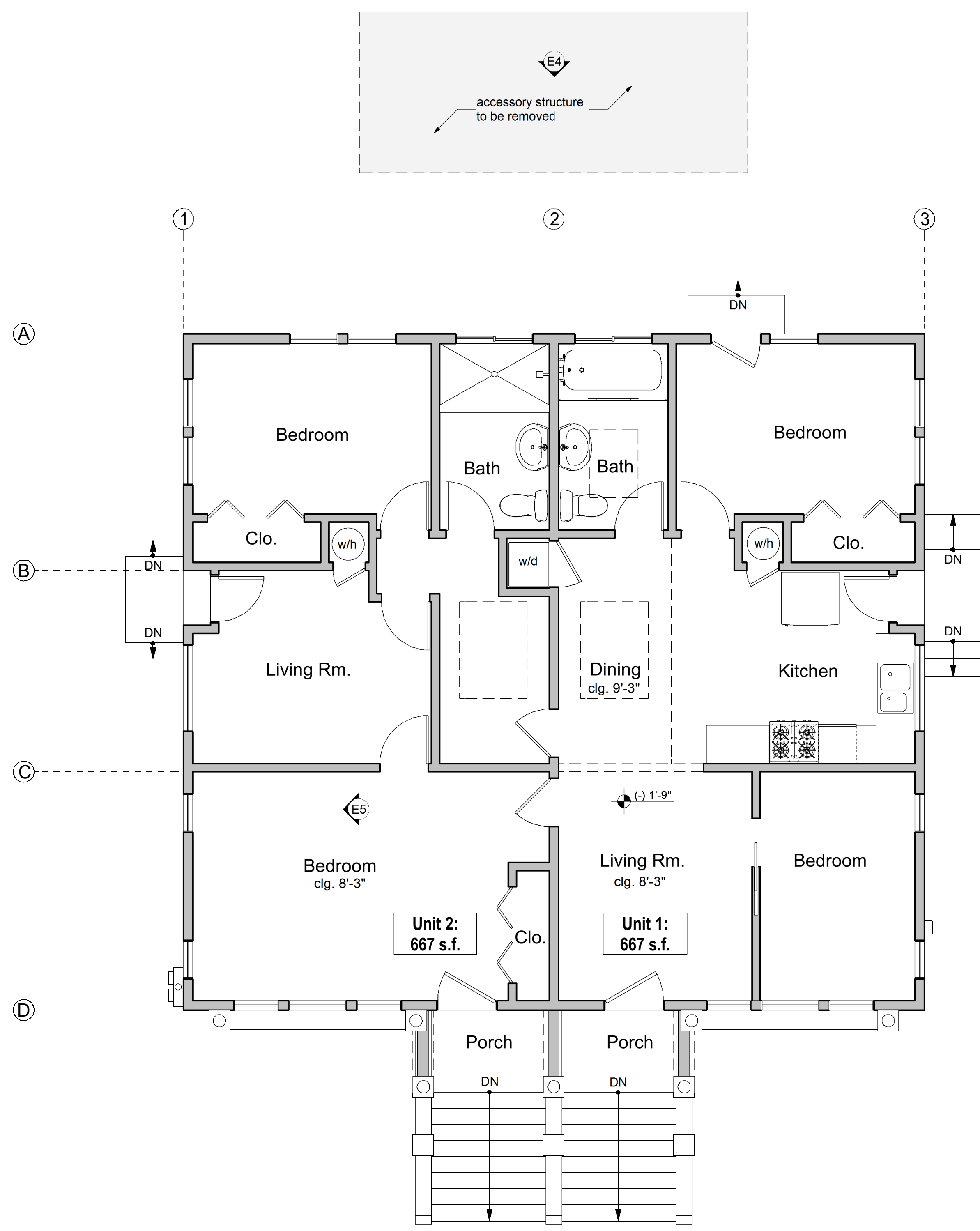
4 Existing North Elevation - Left Side



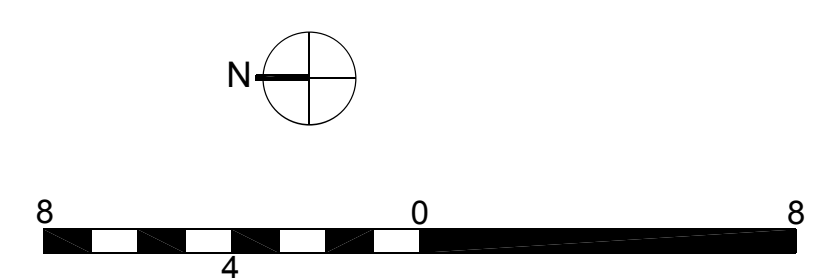
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front

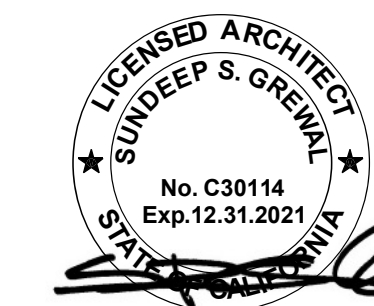


1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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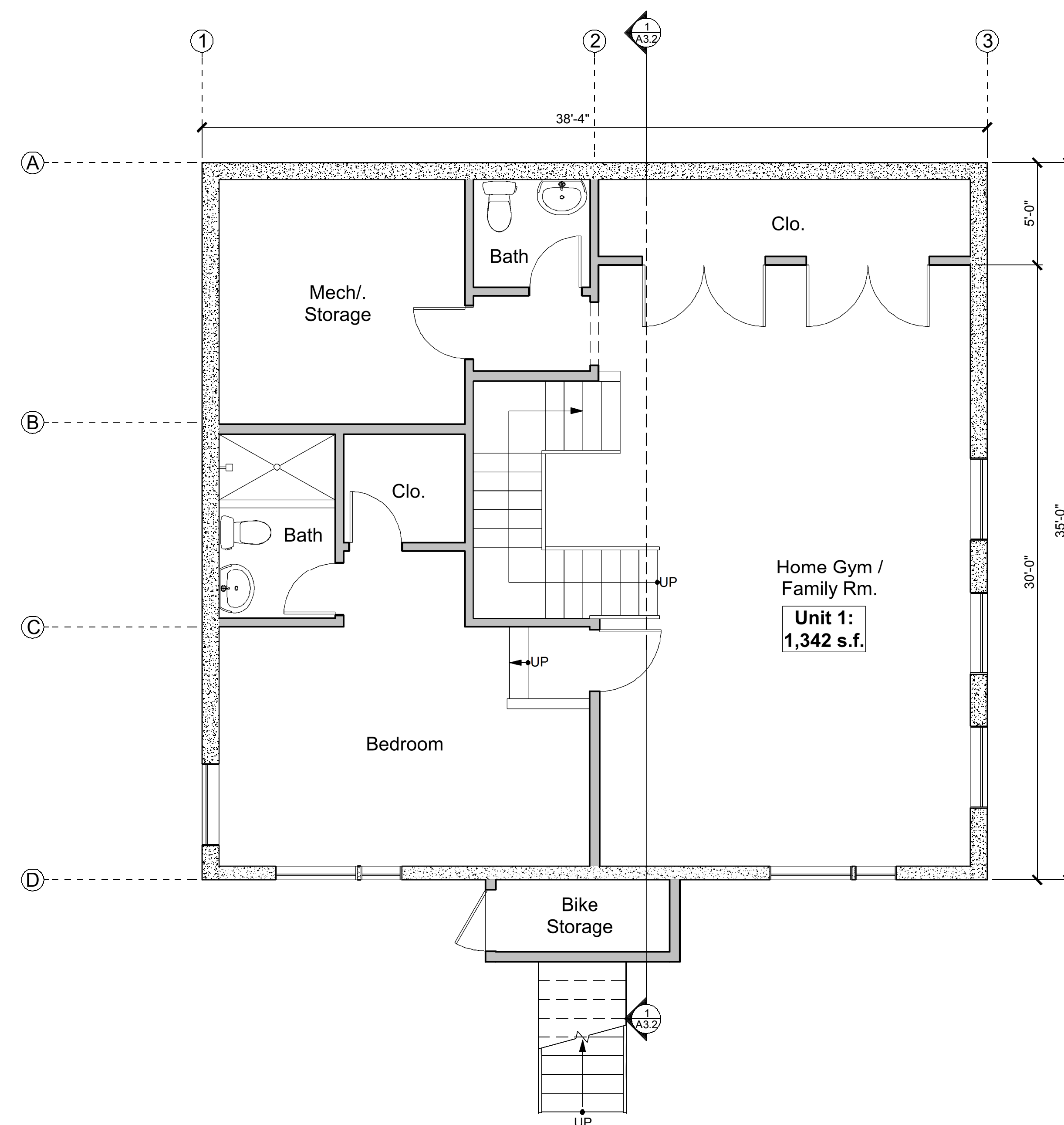
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Checked By: SSG

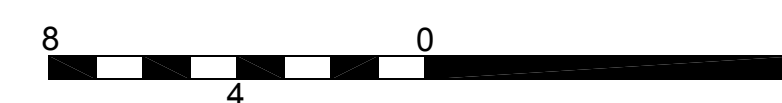
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Revisions:  
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Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

Sheet **A2.1**

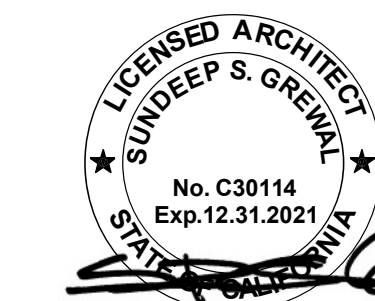


1 Proposed Basement Floor Plan





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Sheet Contents:  
 Proposed Floor Plans

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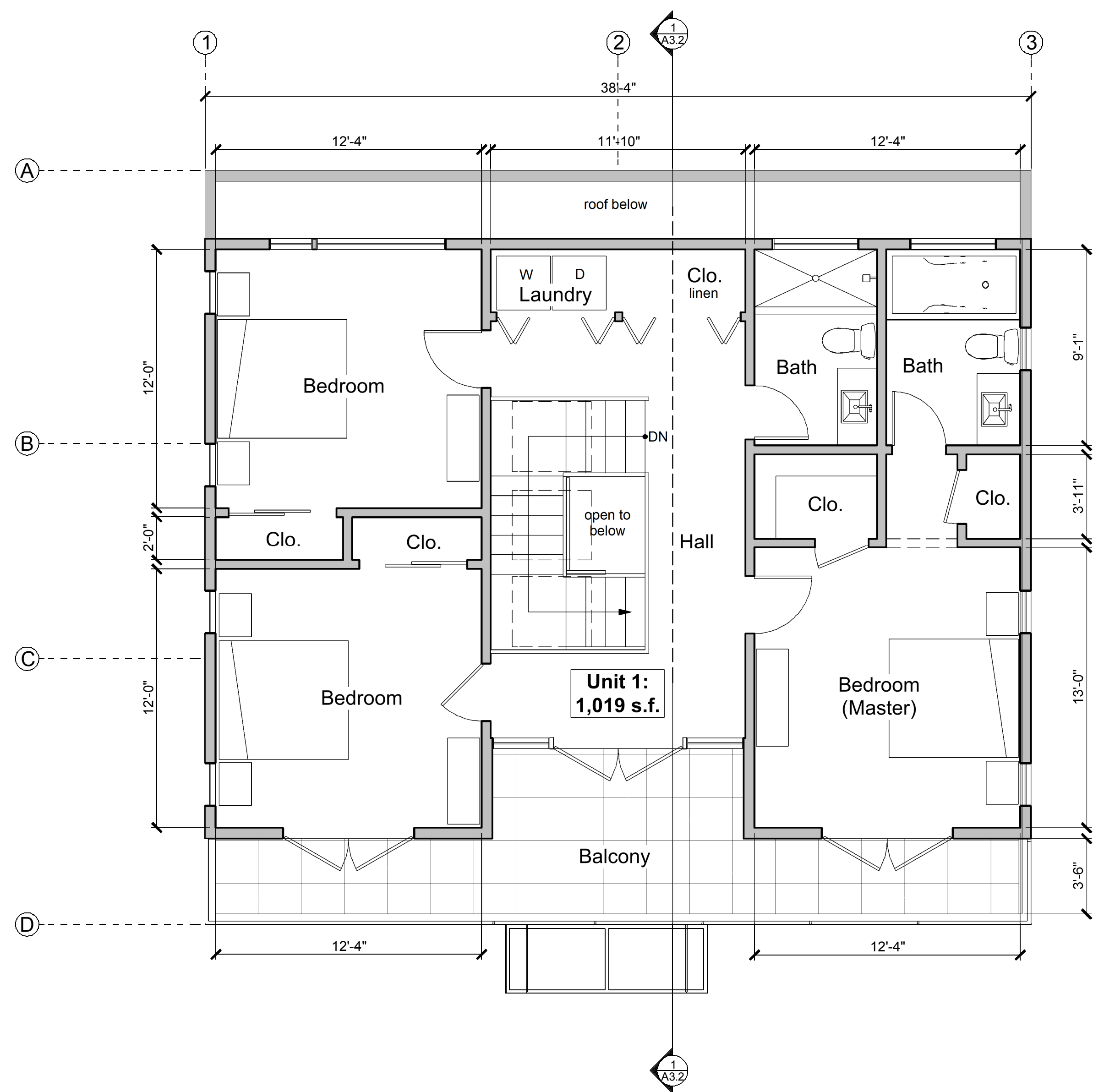
Drawn By: SSG

Checked By: SSG

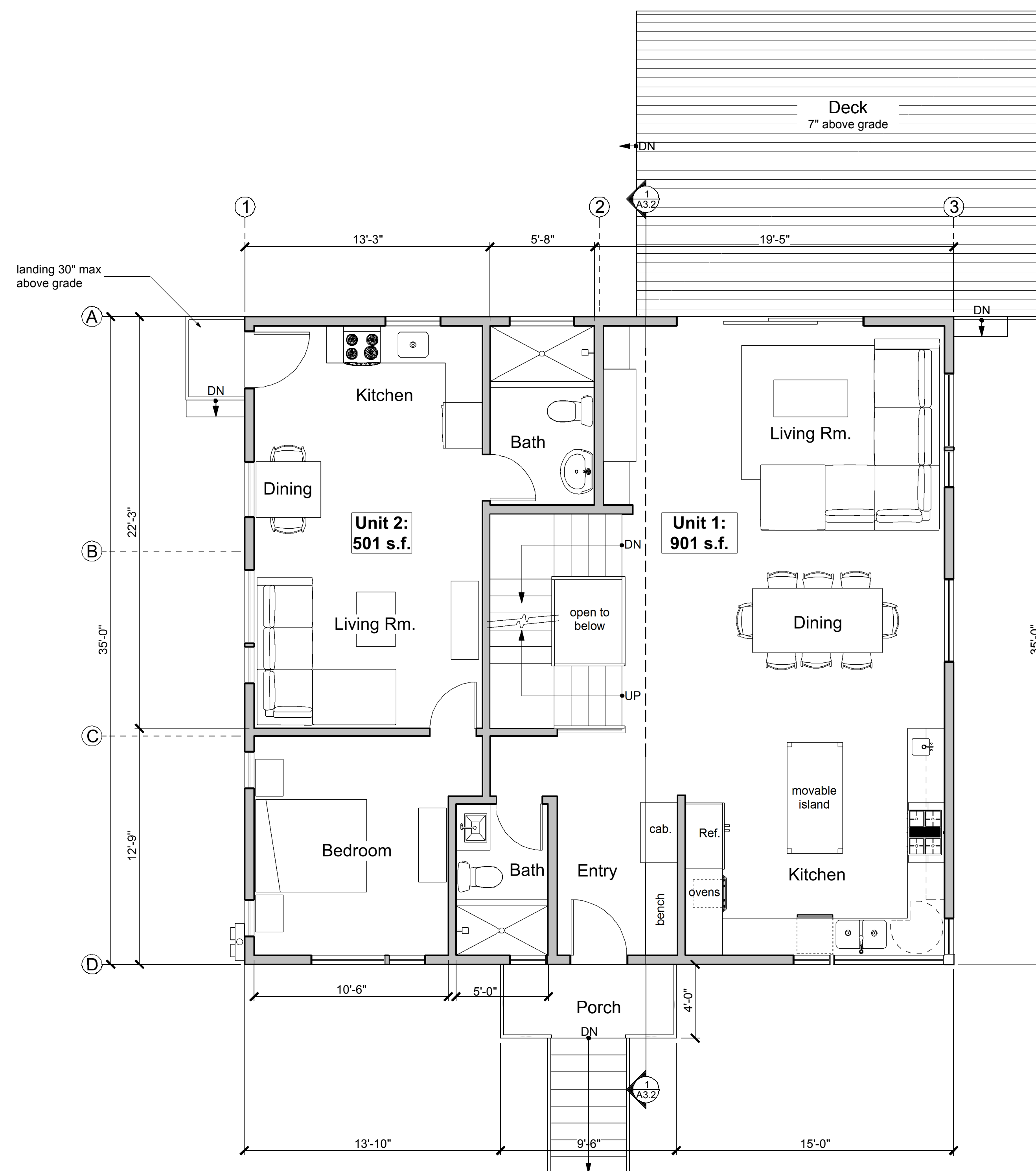
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

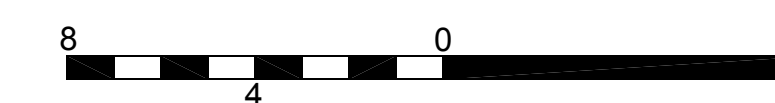
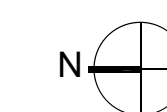
Sheet **A2.2**



2 Proposed Second Floor Plan



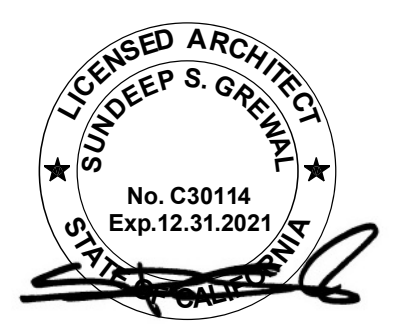
1 Proposed First Floor Plan





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Previous Proposal



Previous Proposal



Previous Proposal



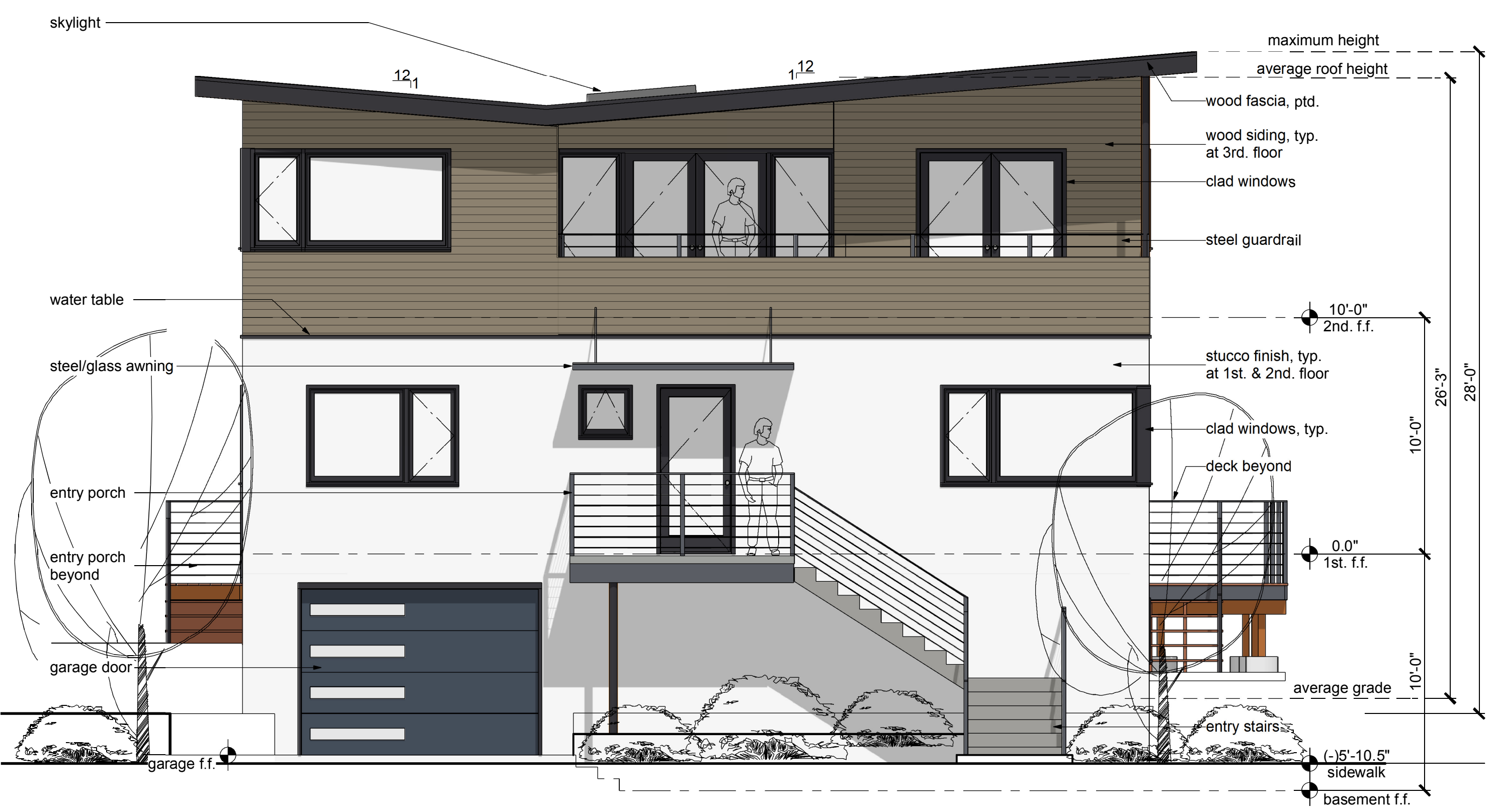
Current Proposal



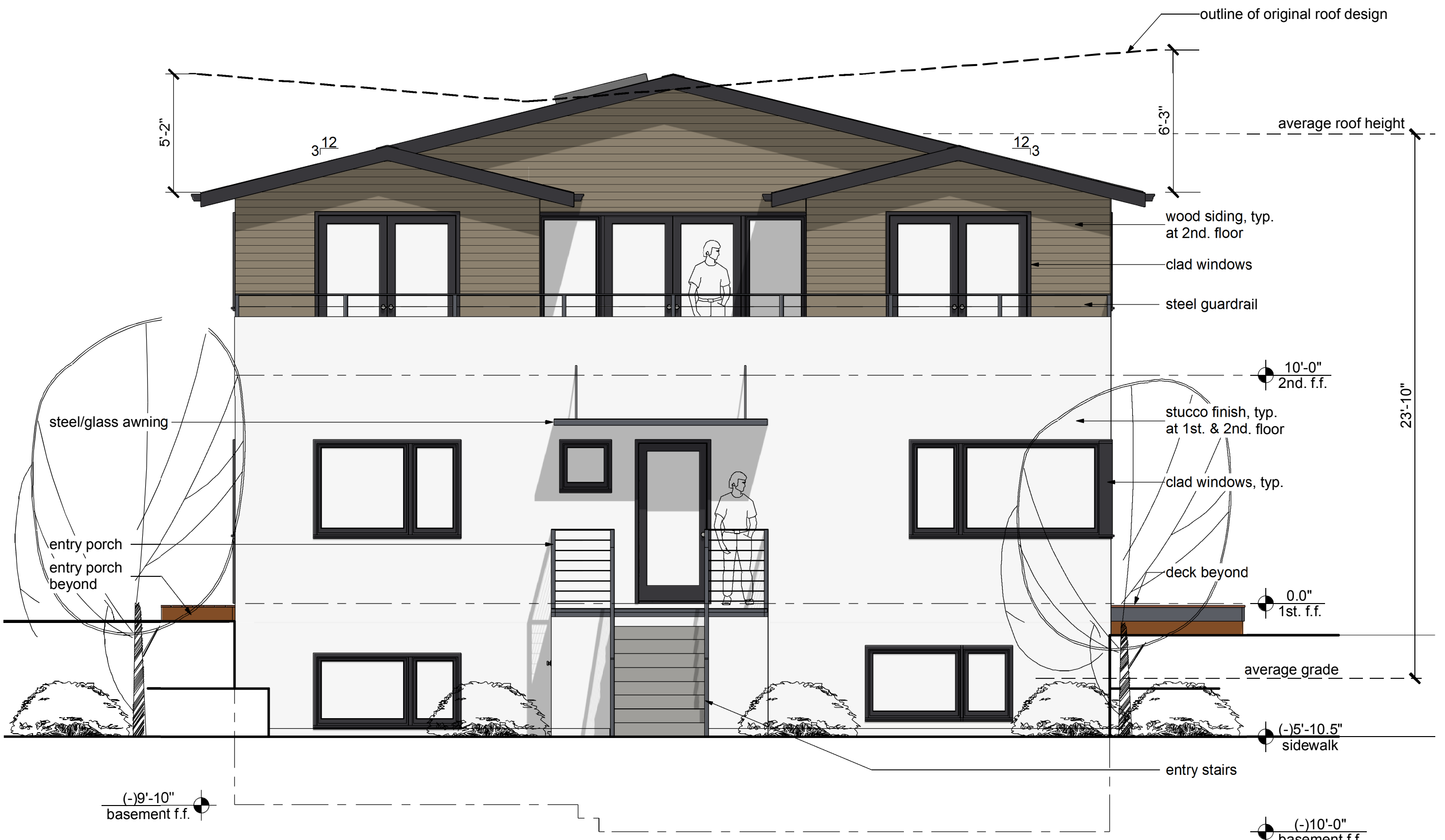
Current Proposal



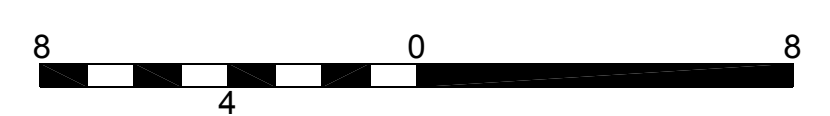
Current Proposal



② Proposed West Elevation - Front  
 Original Proposal



① Proposed West Elevation - Front  
 Current Proposal



Sheet Contents:  
 Front Elevation Comparison

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Drawn By: SSG

Checked By: SSG

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

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

Sheet **A3.1**



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Sheet Contents:  
 Proposed Exterior Elevations

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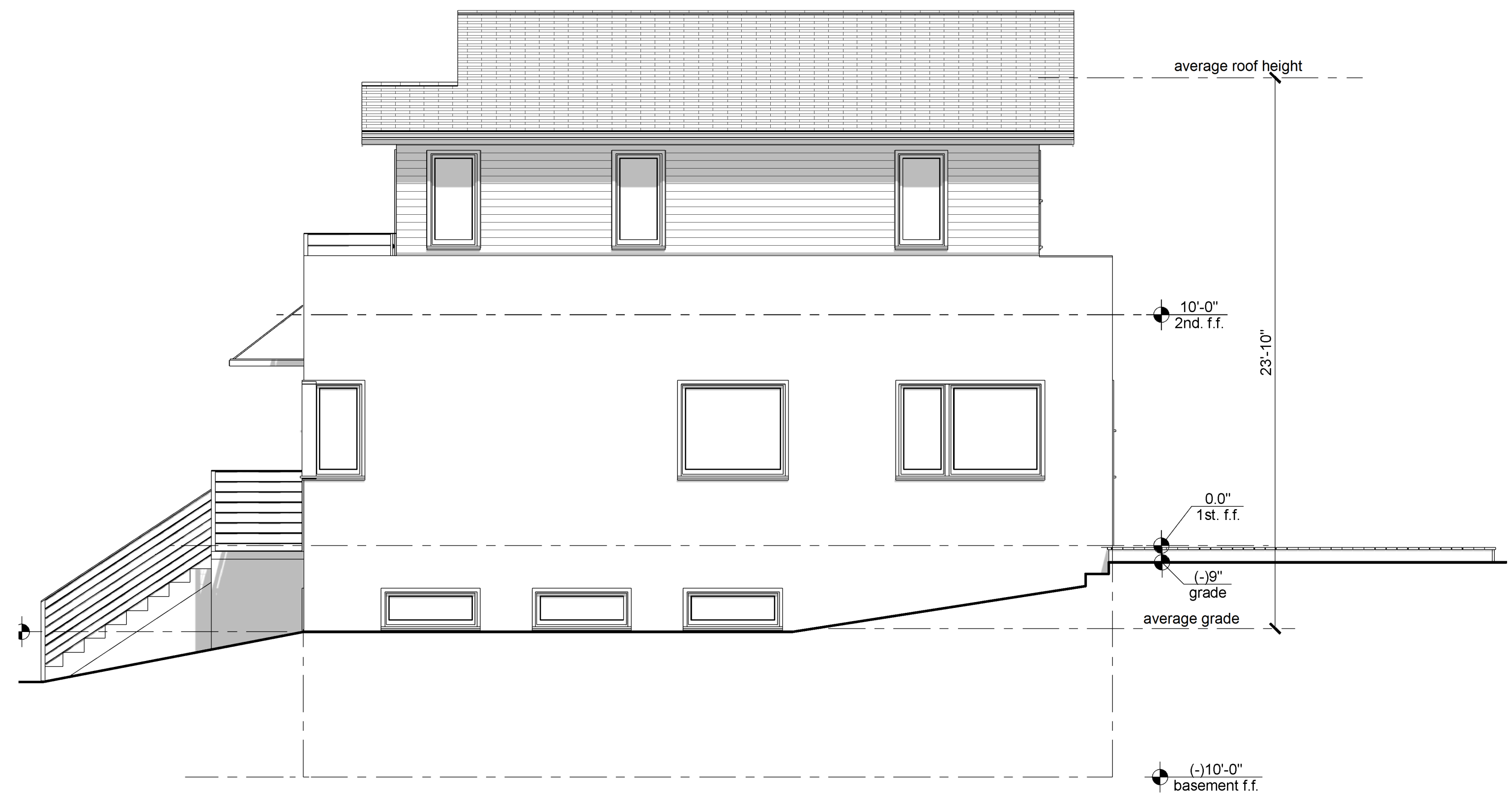
Drawn By: SSG

Checked By: SSG

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

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

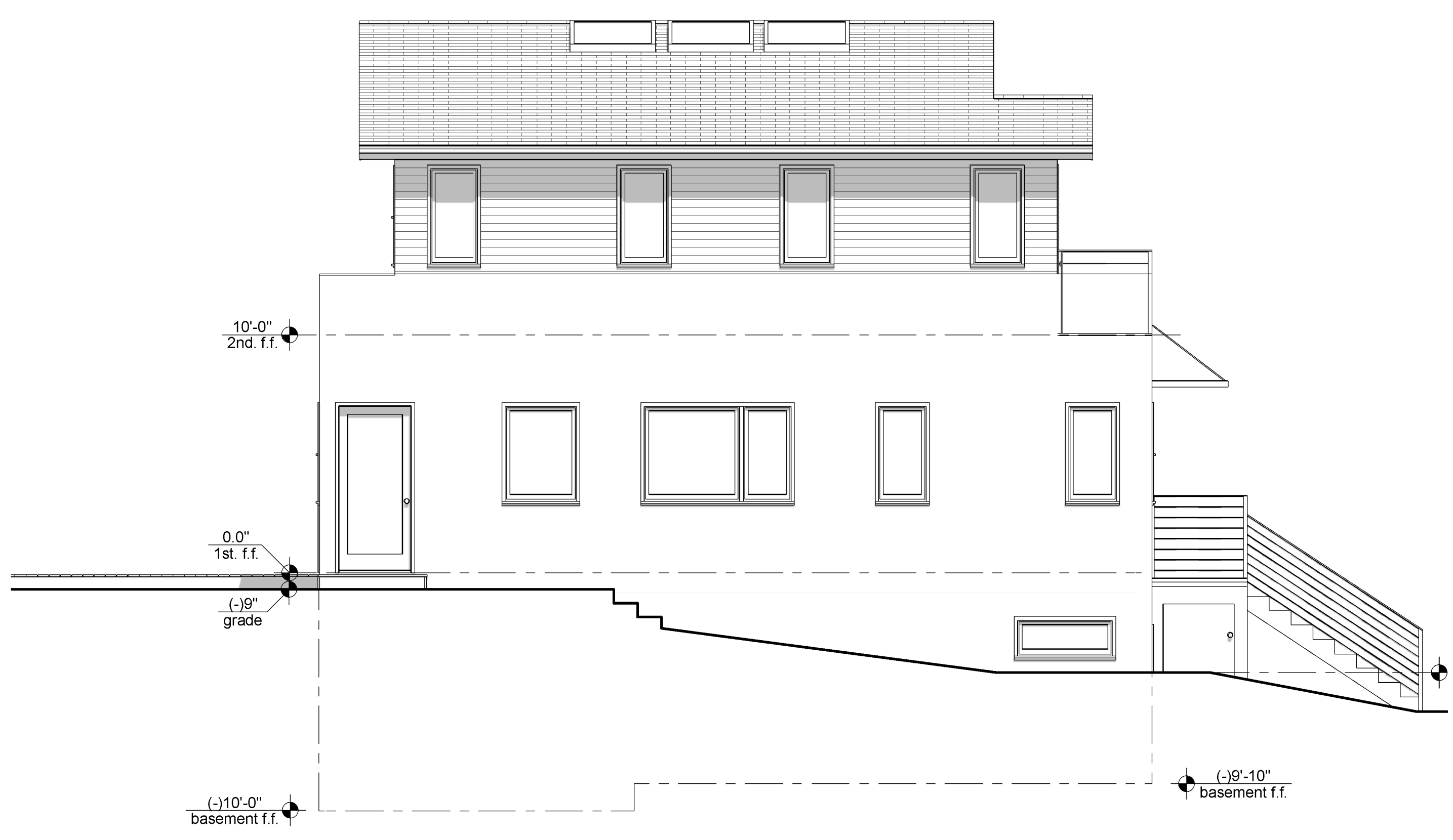
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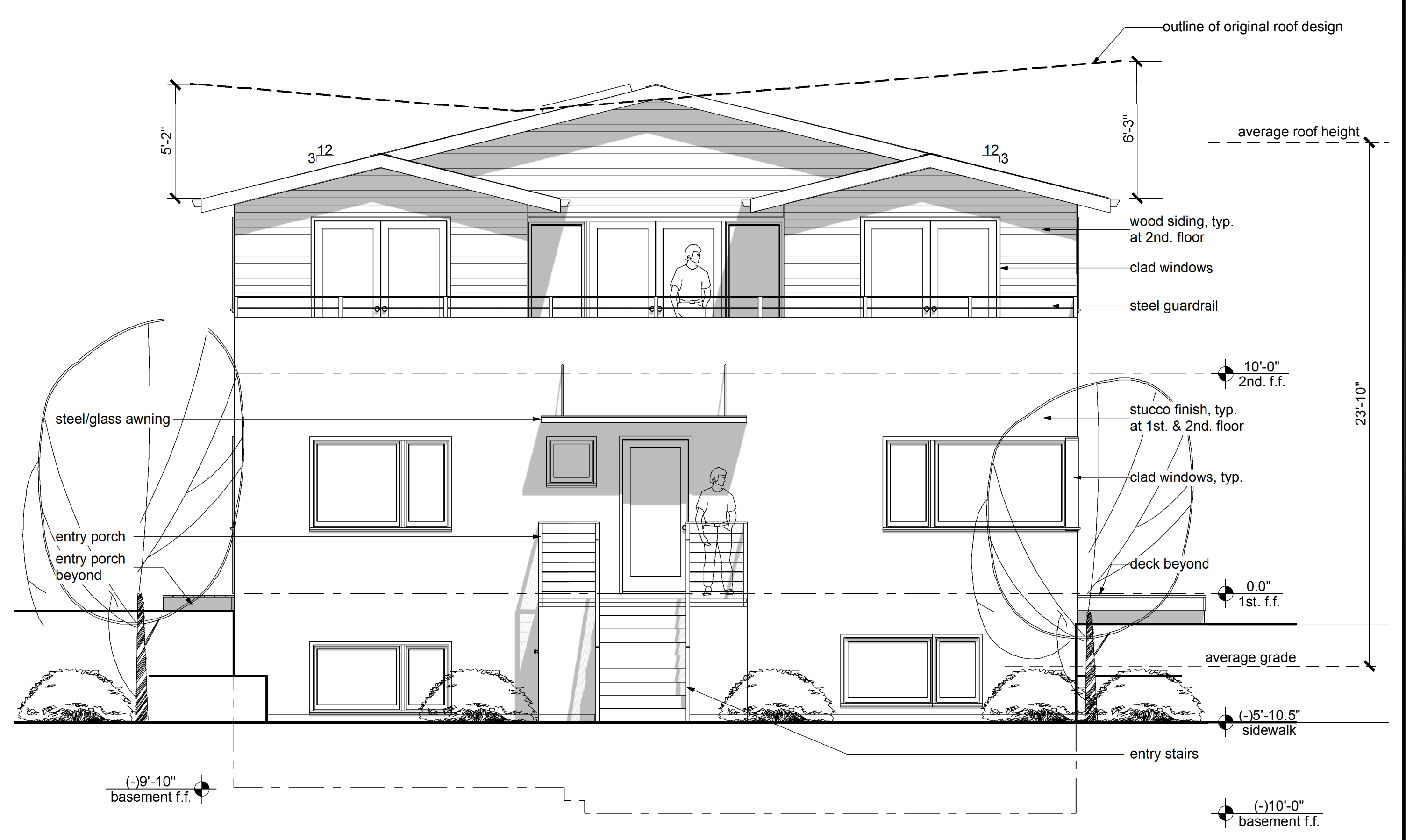
4 Proposed South Elevation - Right Side



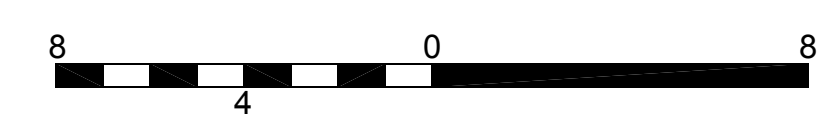
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front





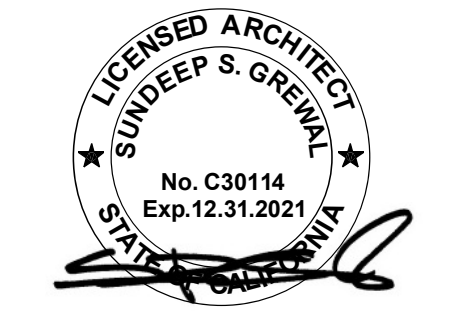
2 Renderings



1 Proposed Building Section



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Sheet Contents:  
 Building Section  
 Renderings

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Drawn By:  
 SSG

Checked By:  
 SSG

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

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

Sheet  
**A3.3**

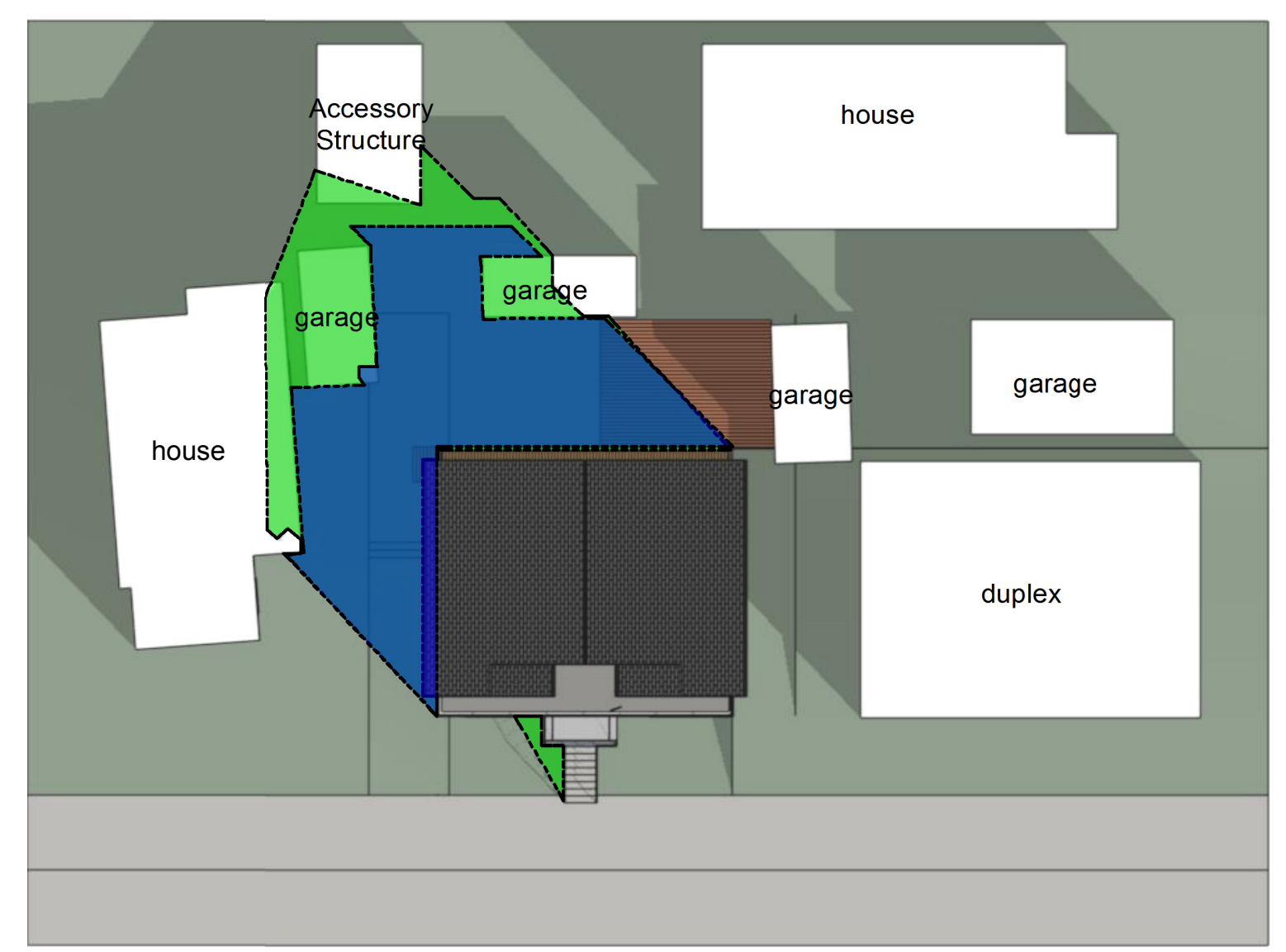


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 APN: 58-2156-18

Existing Shadow Line  
 New Shadow Line



Project Site

Proposed

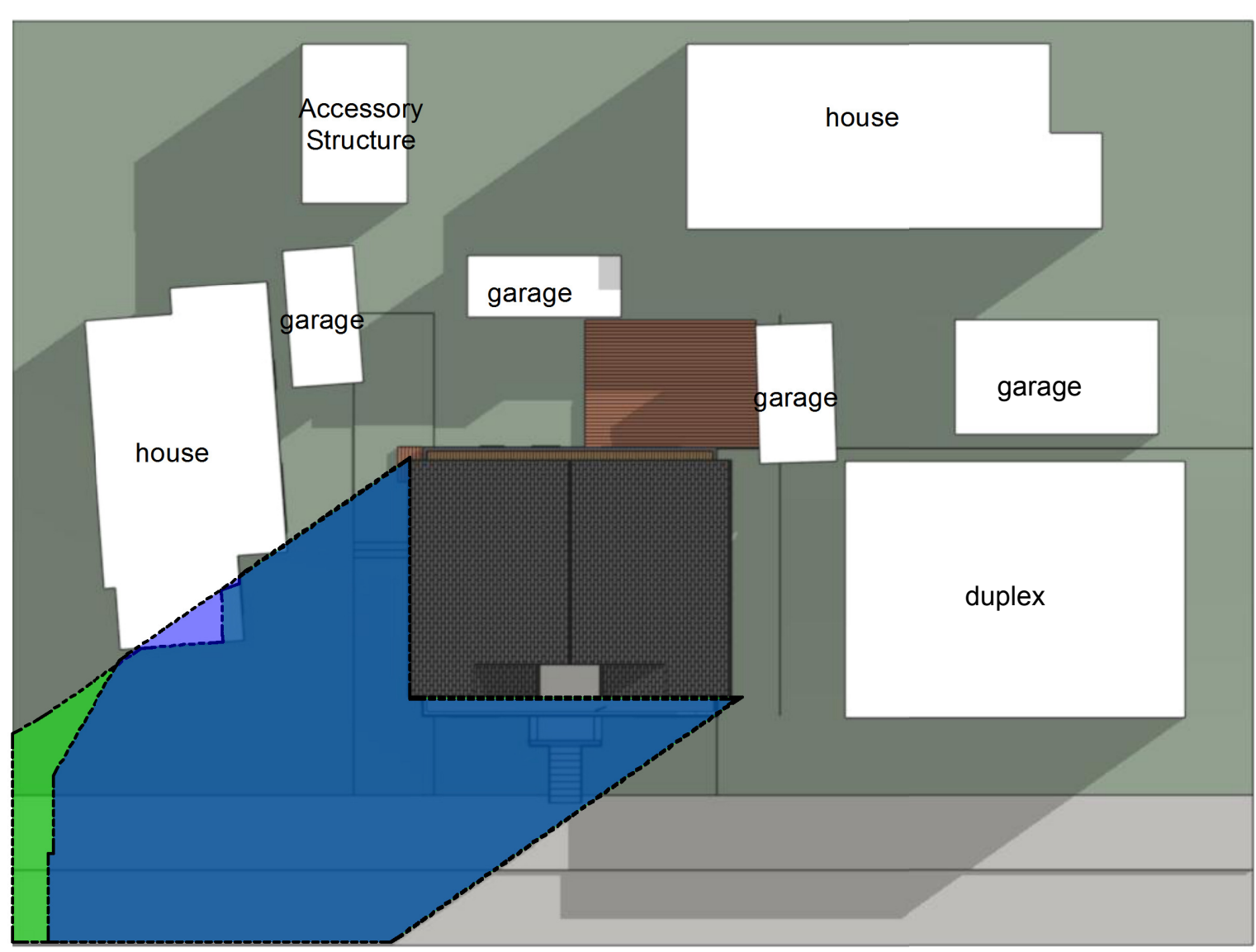
**12-21-2021 / 2:54 pm**



Project Site

Proposed

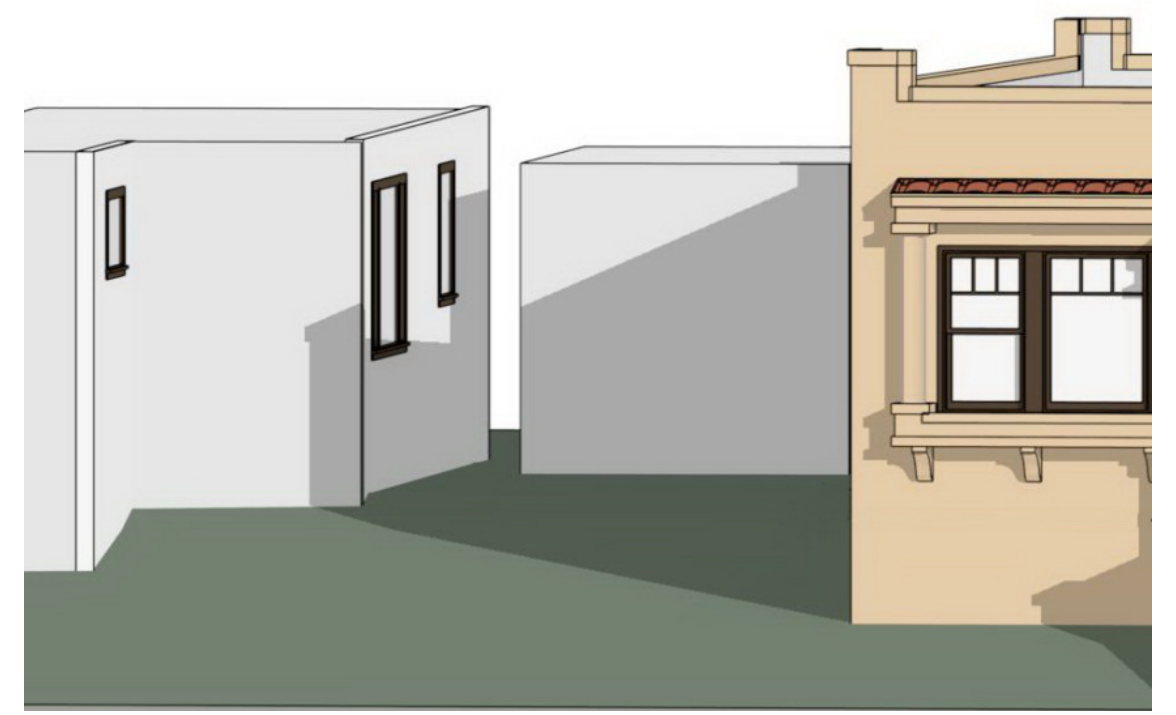
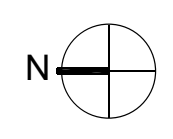
**12-21-2021 / 12:00 pm**



Project Site

Proposed

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

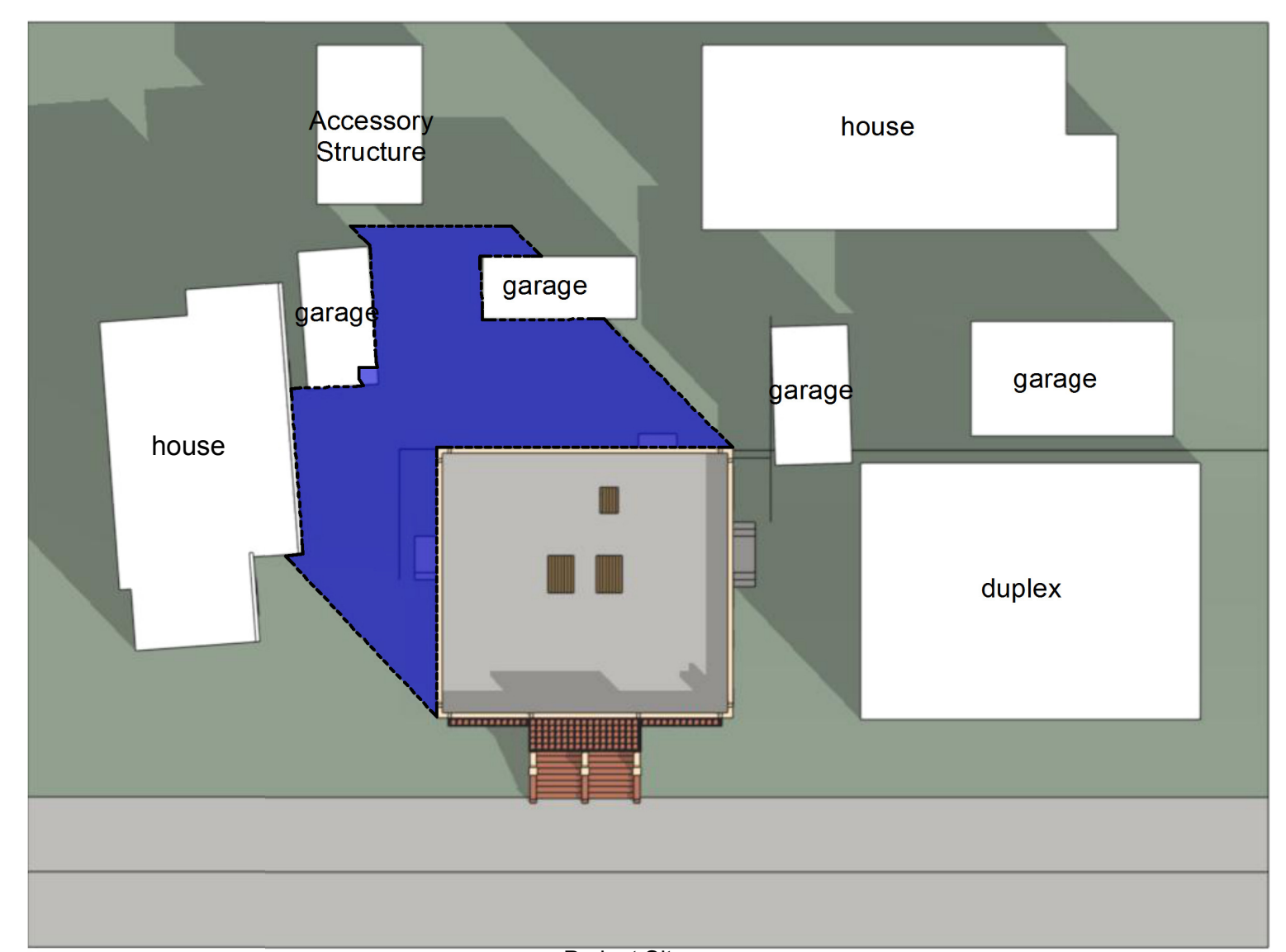


Shadow Accuracy Simulation  
 12-08-2020 / 3:00 pm



Actual  
 12-08-2020 / 3:00 pm

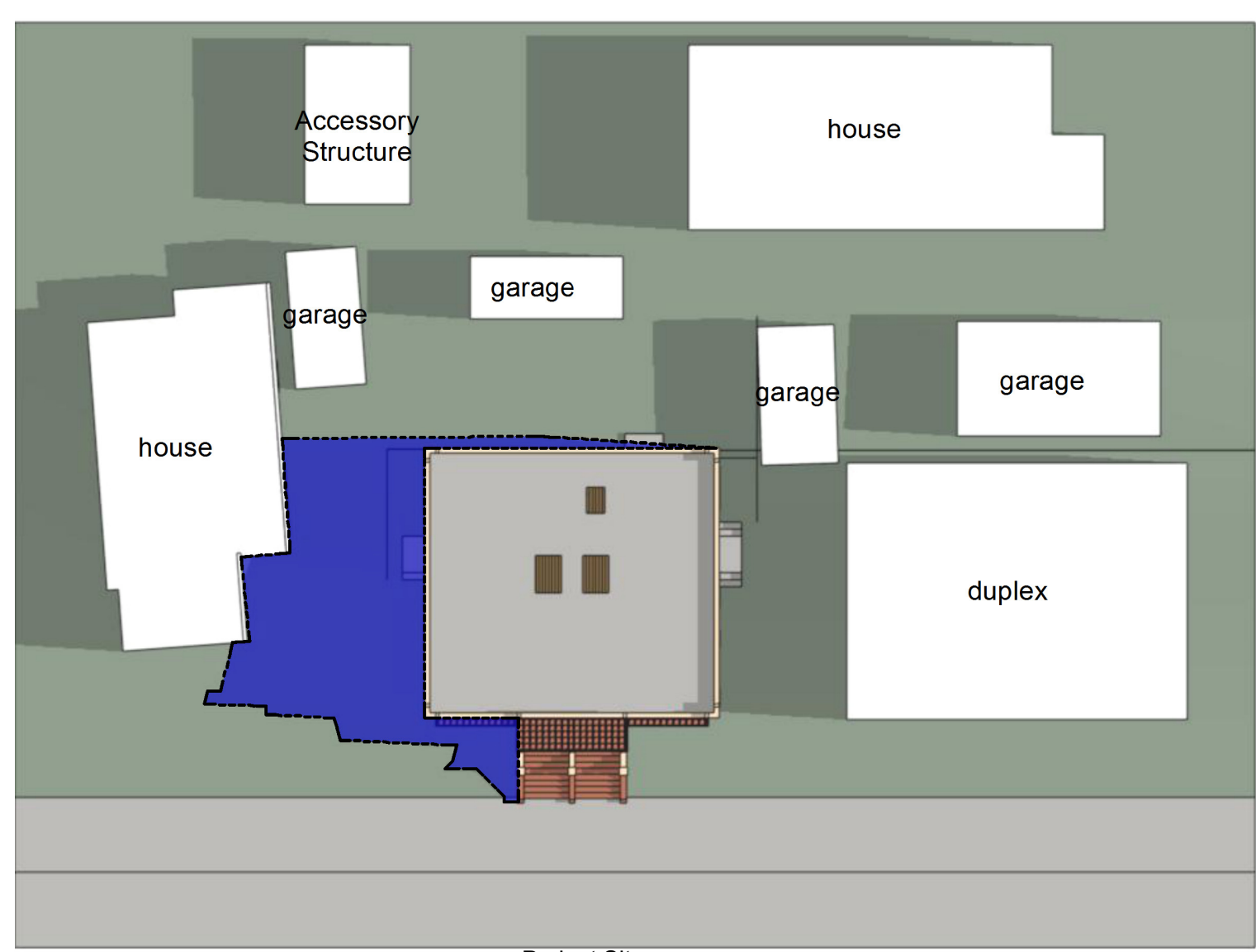
**Shadow Accuracy Simulation**



Project Site

Existing

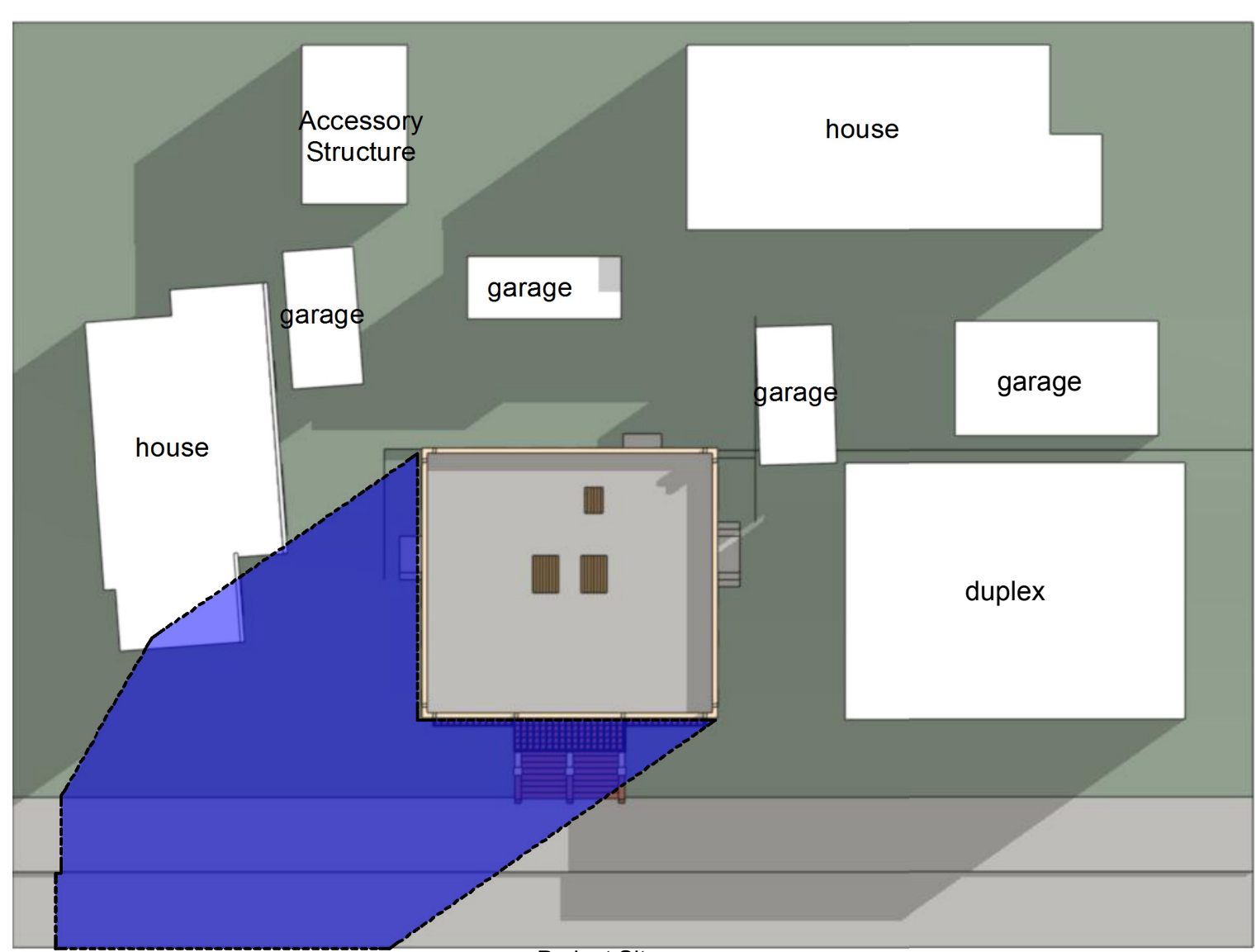
**12-21-2021 / 2:54 pm**



Project Site

Existing

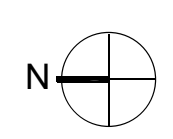
**12-21-2021 / 12:00 pm**



Project Site

Existing

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



Sheet Contents:  
 Shadows Studies

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Project No: 20-13-420

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Checked By: SSG

Scale: NTS

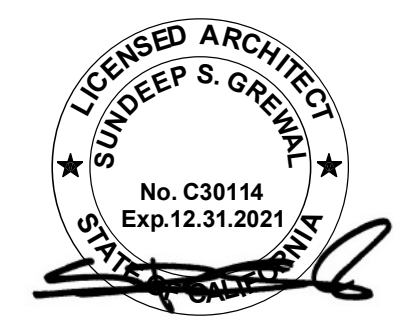
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet **A4.1**

Existing Shadow Line  
New Shadow Line



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Sheet Contents:  
Shadows Studies

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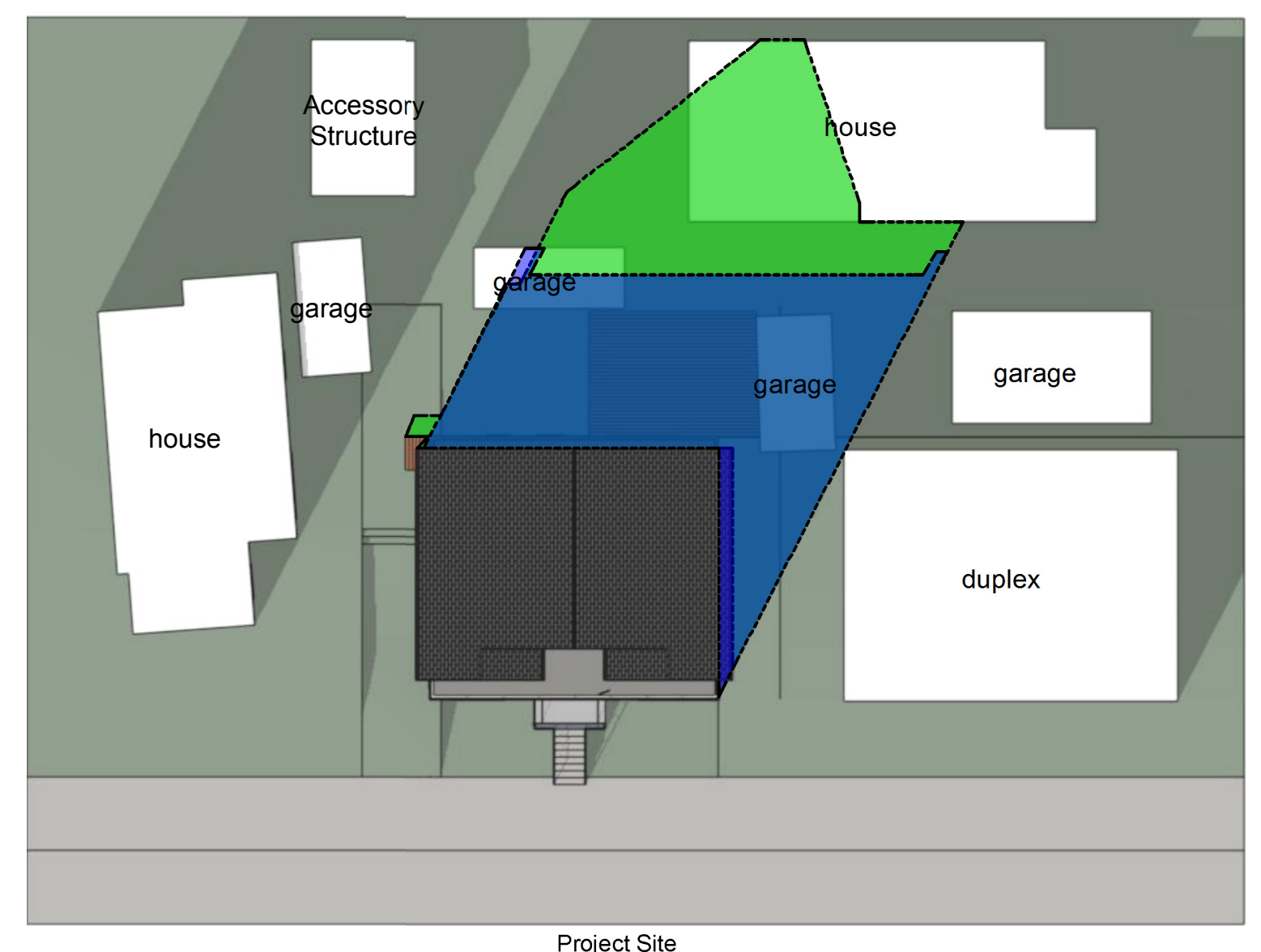
Drawn By:  
SSG

Checked By:  
SSG

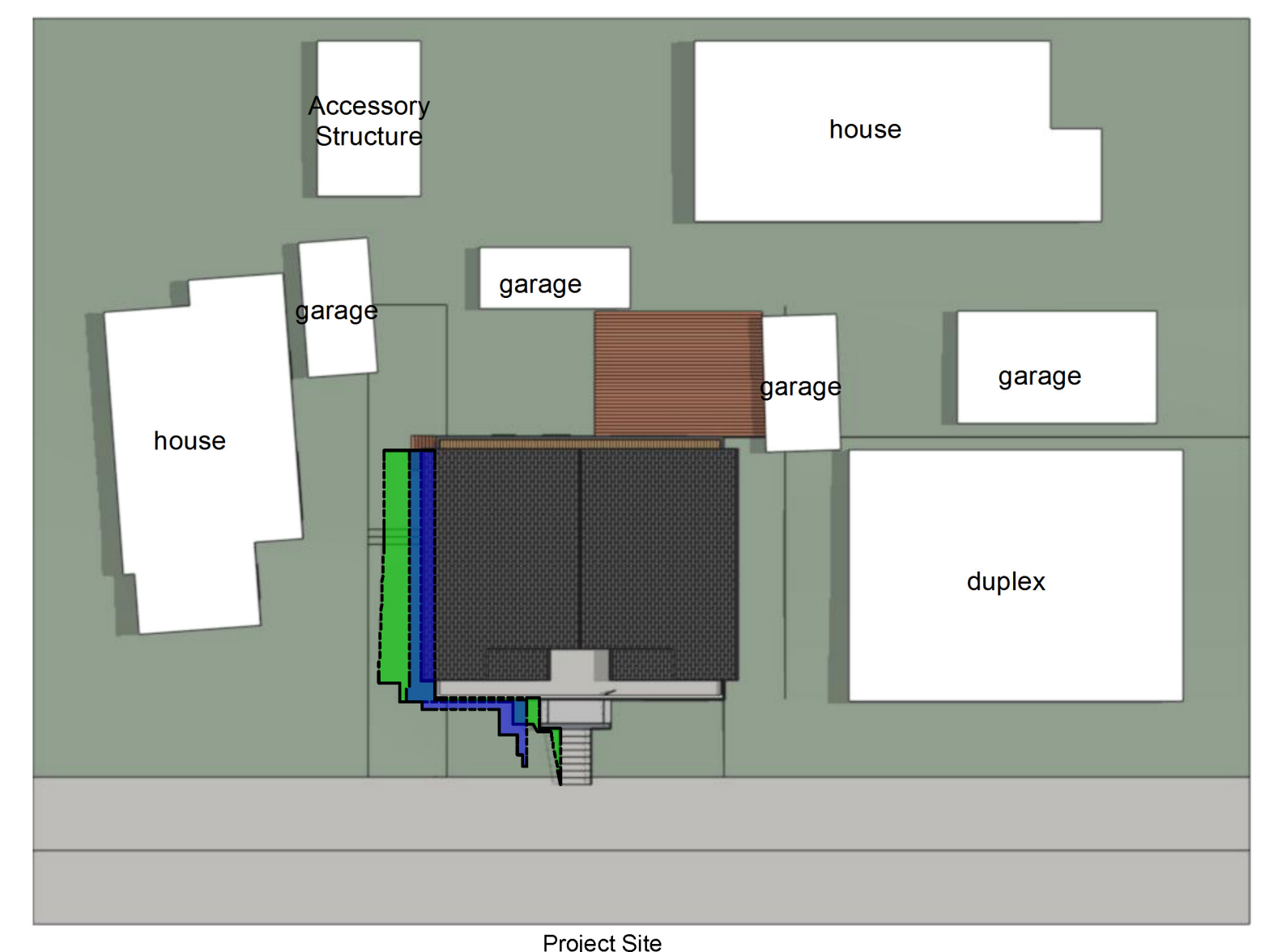
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NTS

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

Sheet  
**A4.2**



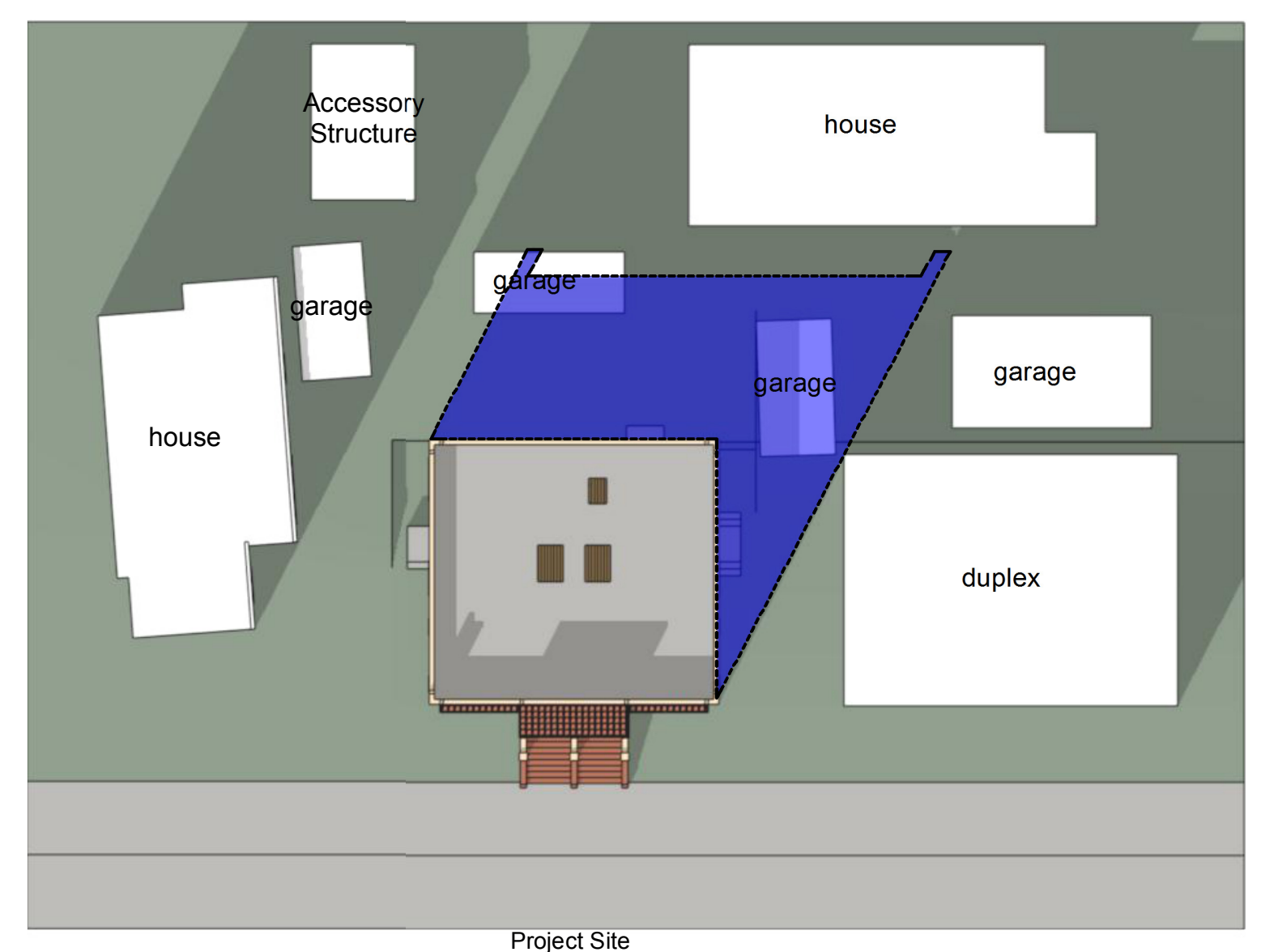
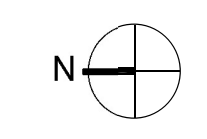
Proposed  
**6-21-2021 / 6:35 pm**



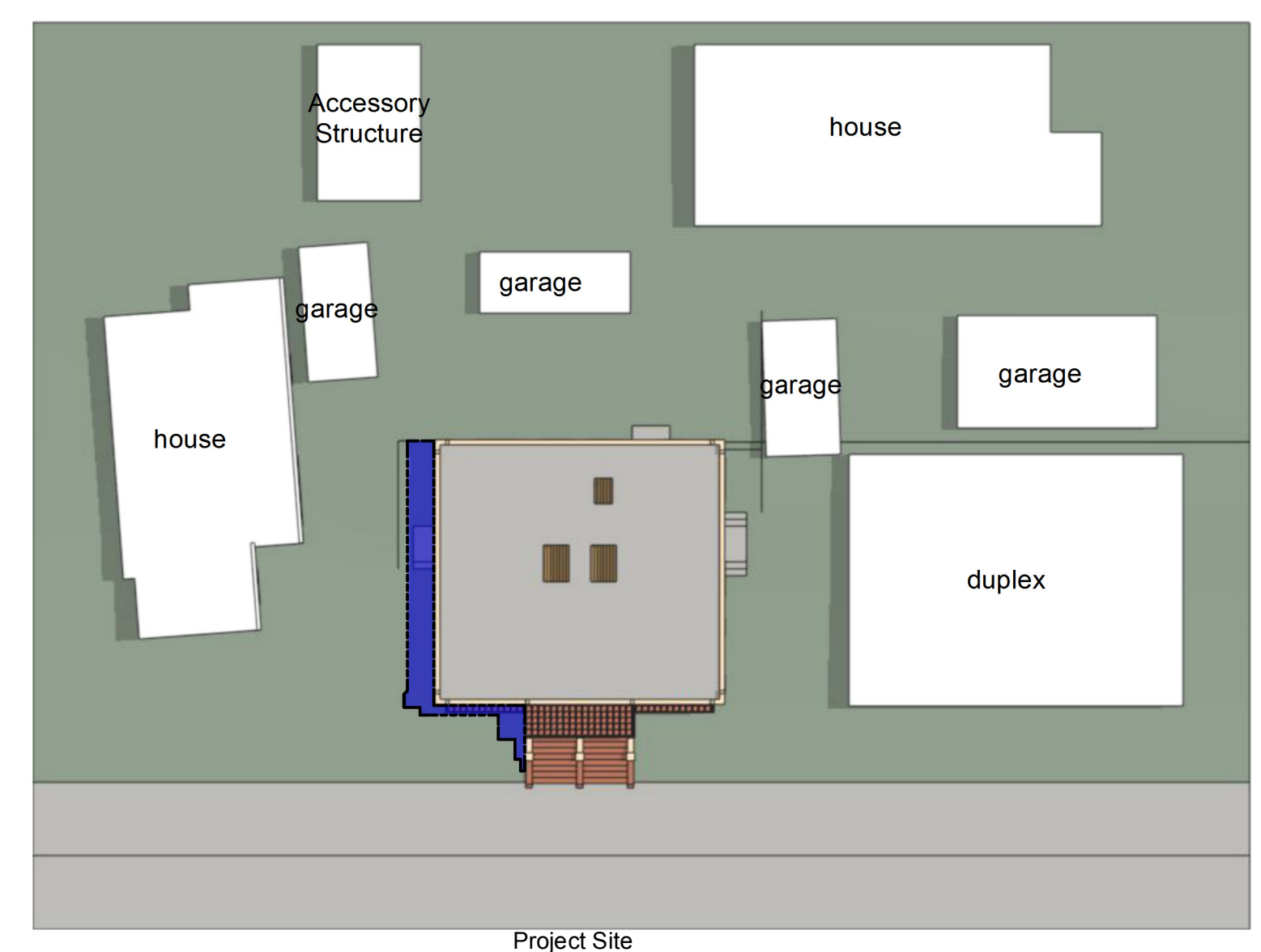
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**6-21-2021 / 12:00 pm**



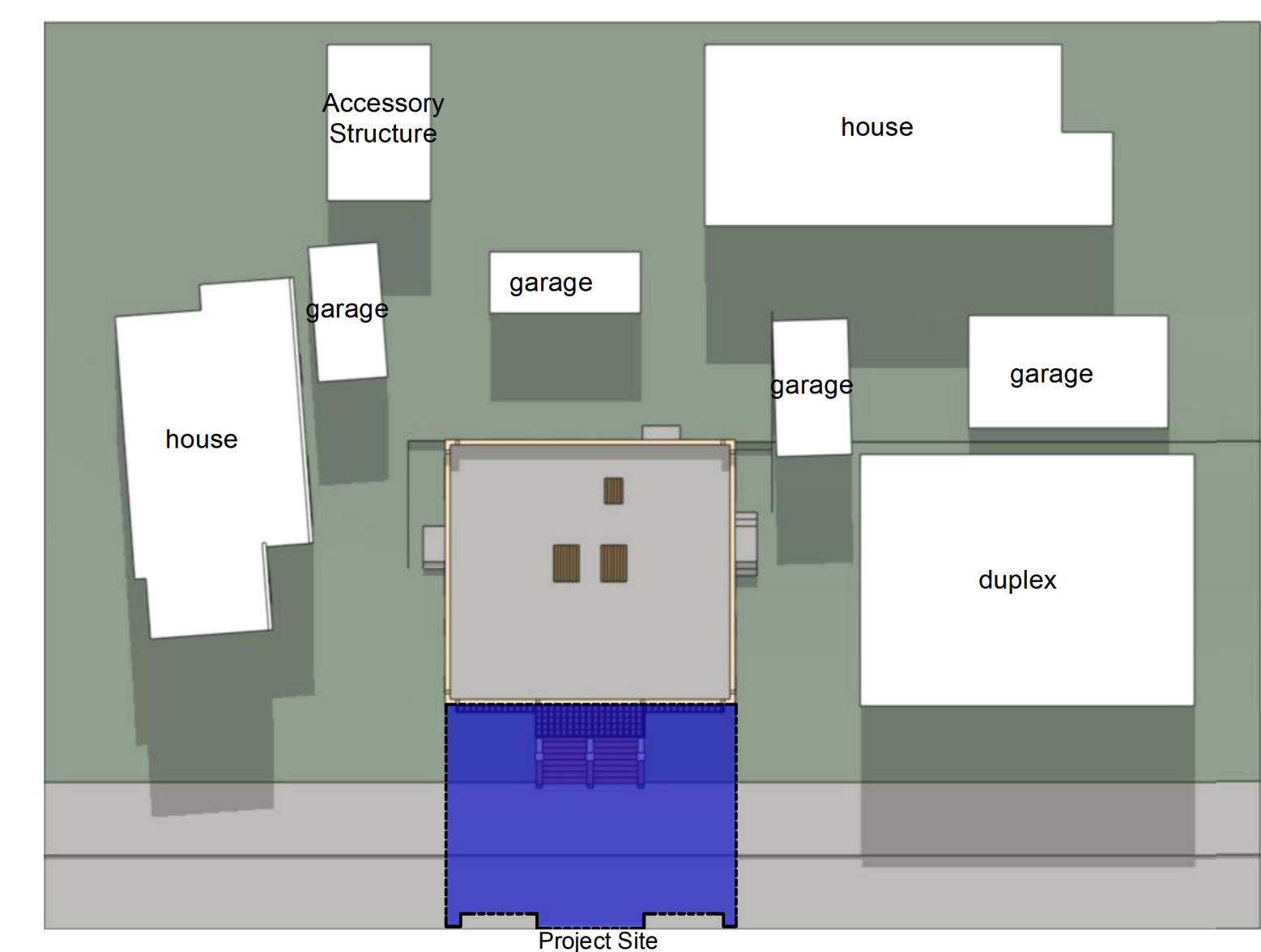
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**6-21-2021 / 7:47 am**



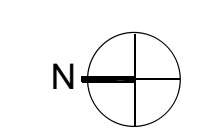
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**6-21-2021 / 6:35 pm**



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

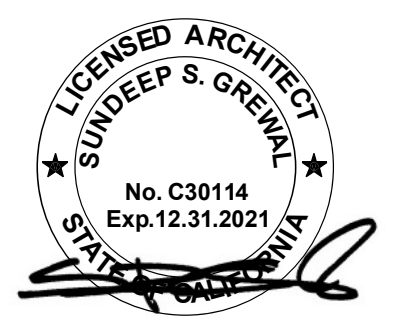


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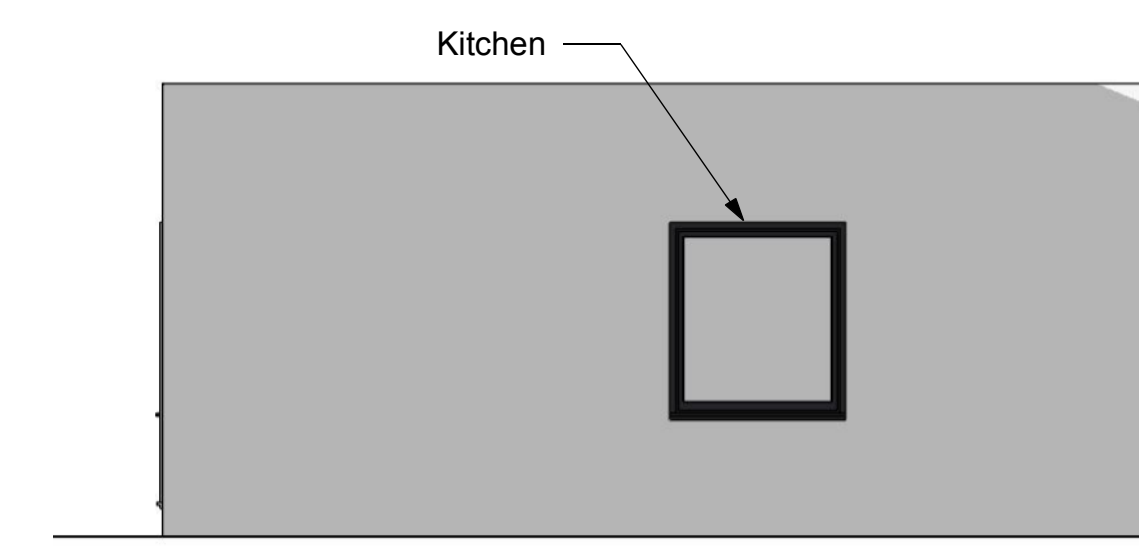


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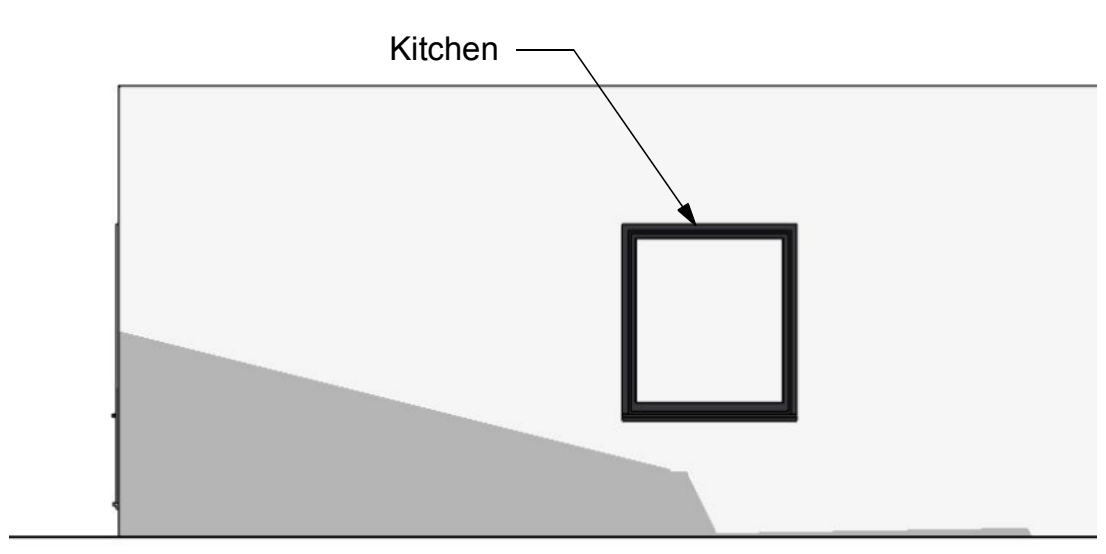
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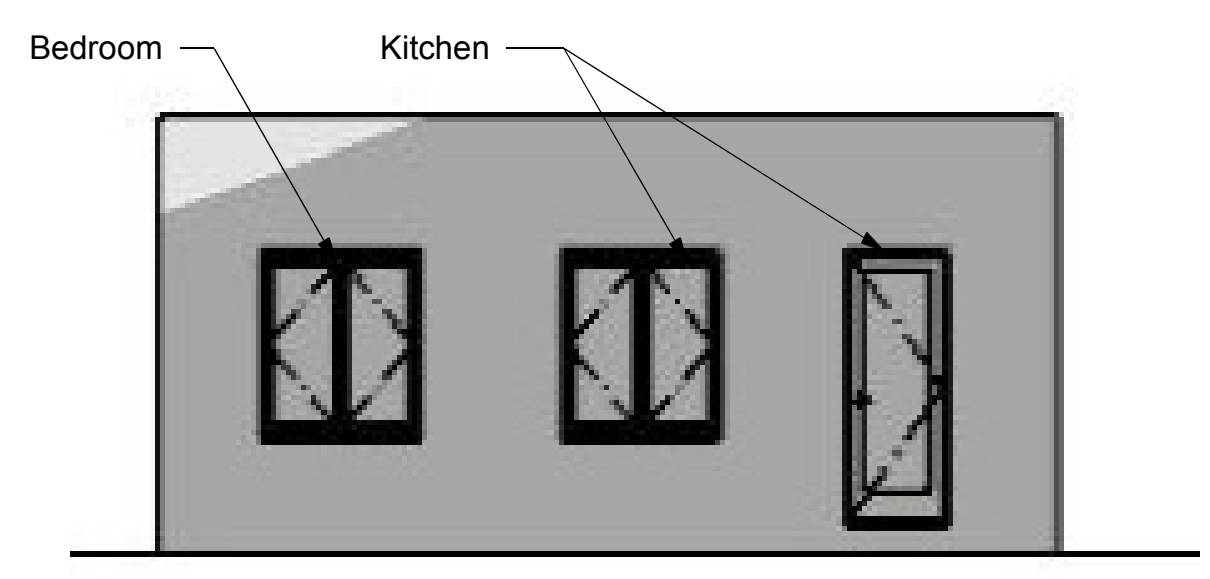
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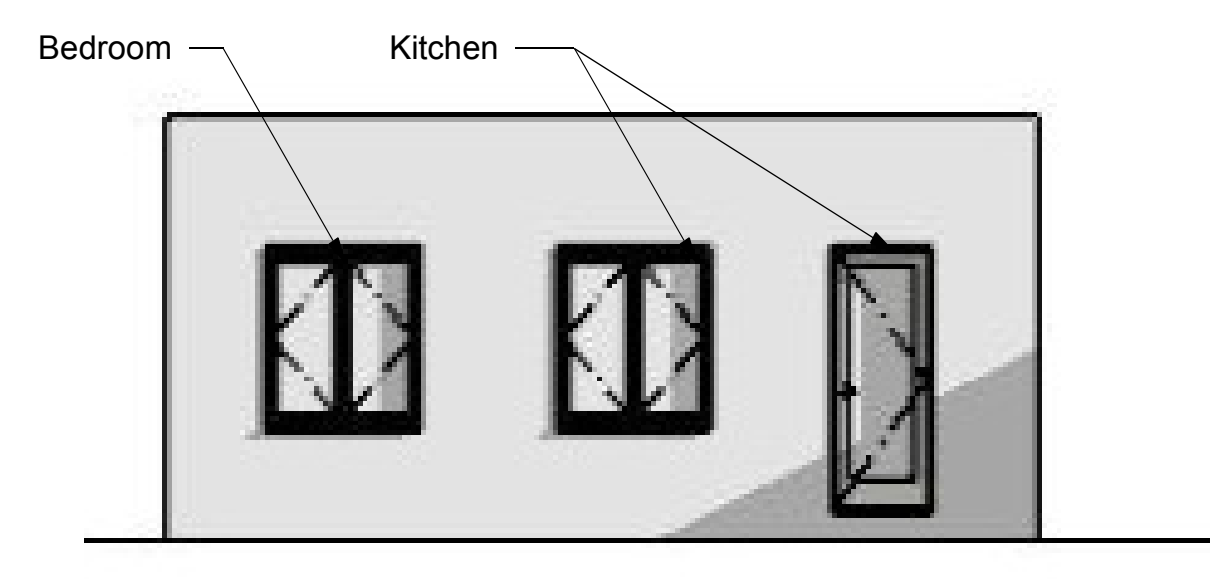
Proposed West Wall



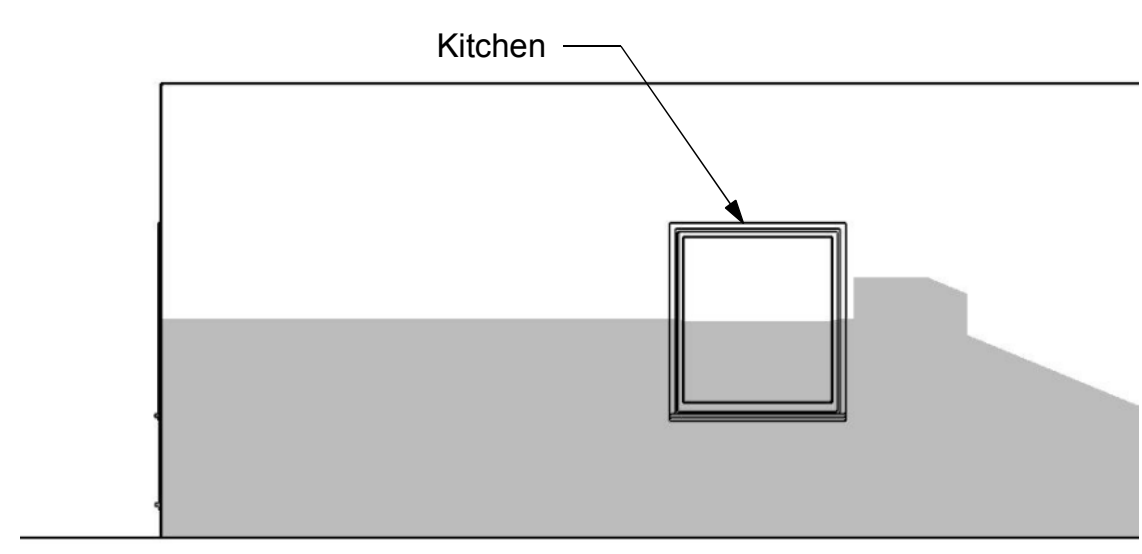
Proposed West Wall



Proposed North Wall

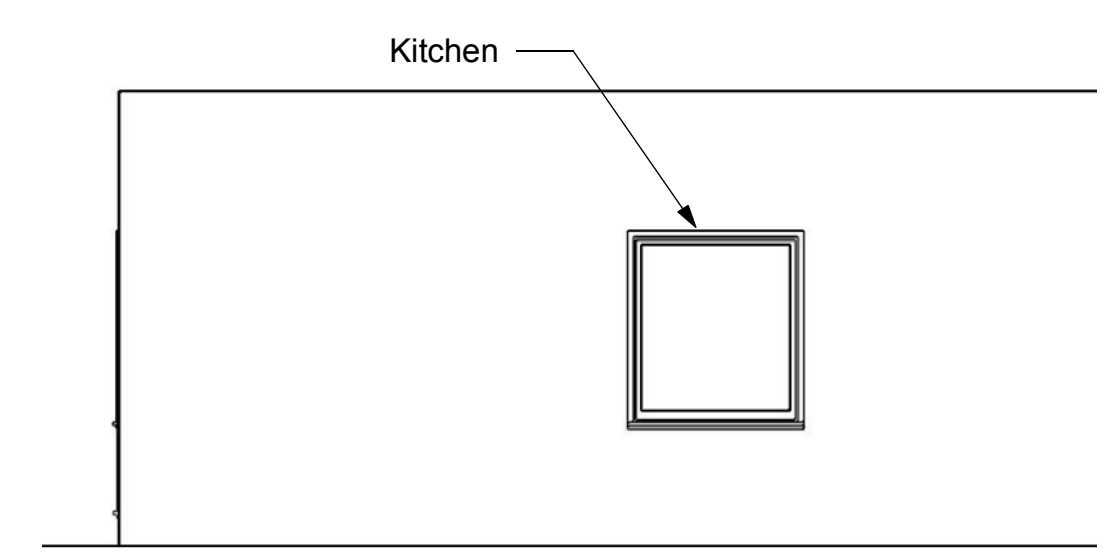


Proposed North Wall



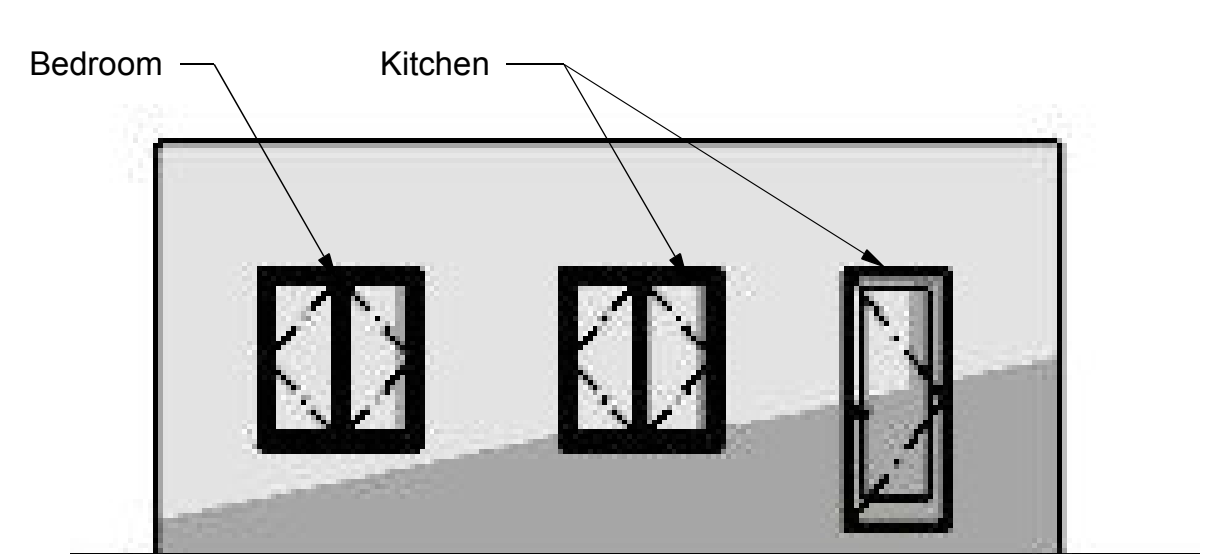
Existing West Wall

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



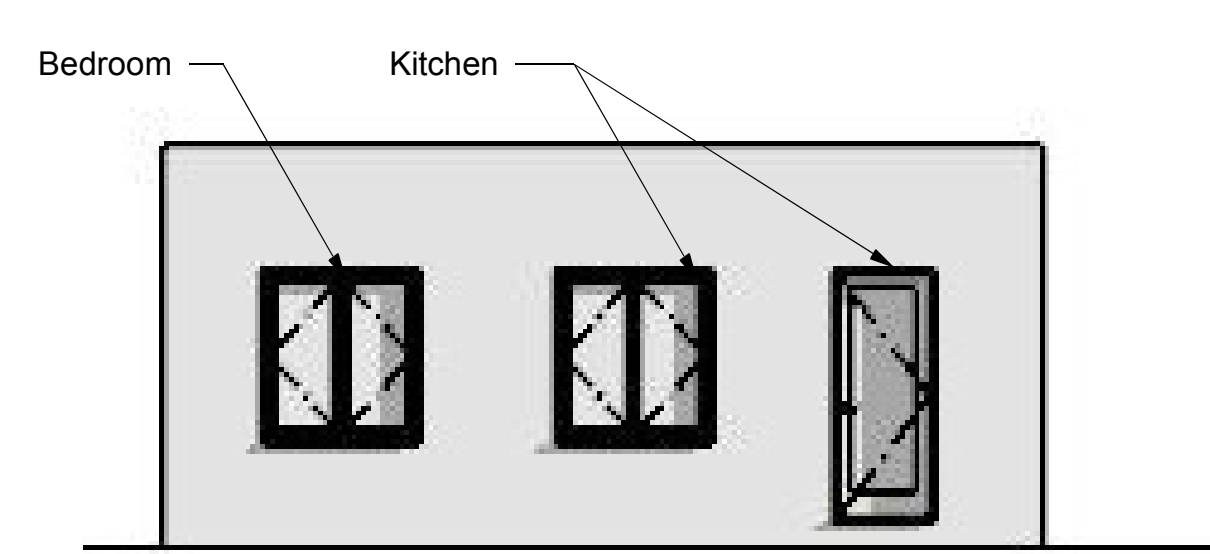
Existing West Wall

**6-21-2021 / 5:00 pm**



Existing North Wall

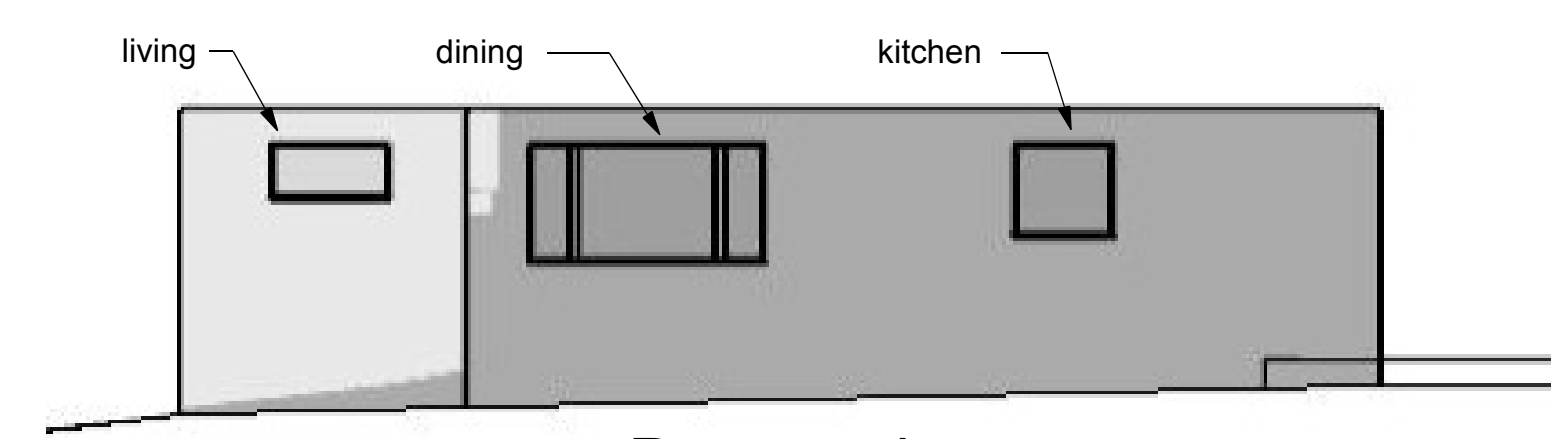
**6-21-2021 / 6:35 pm**



Existing North Wall

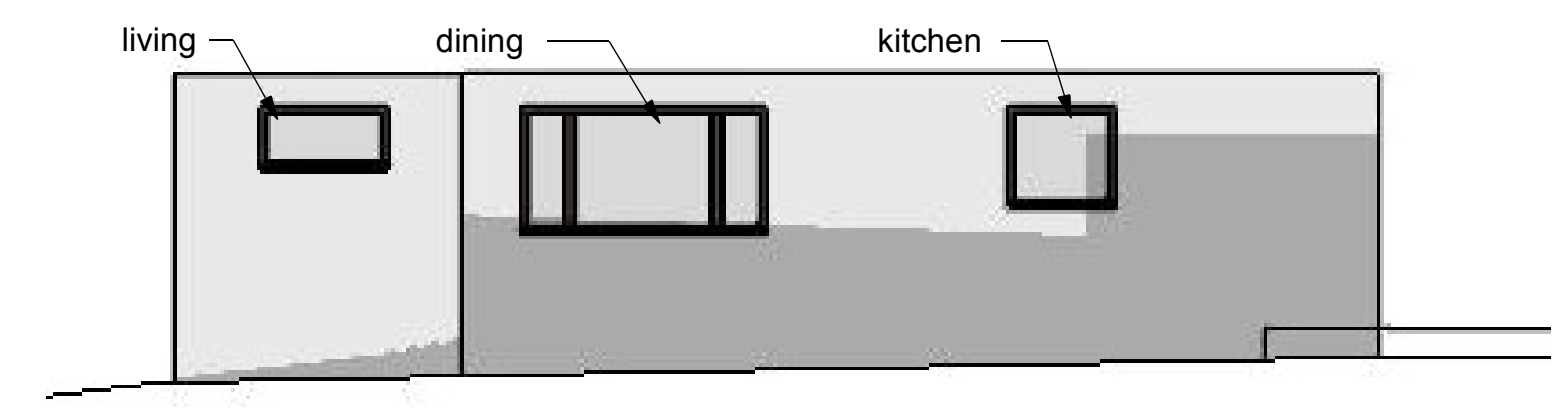
**6-21-2021 / 5:00 pm**

**1609 Virginia St. Shadow Impact Study**

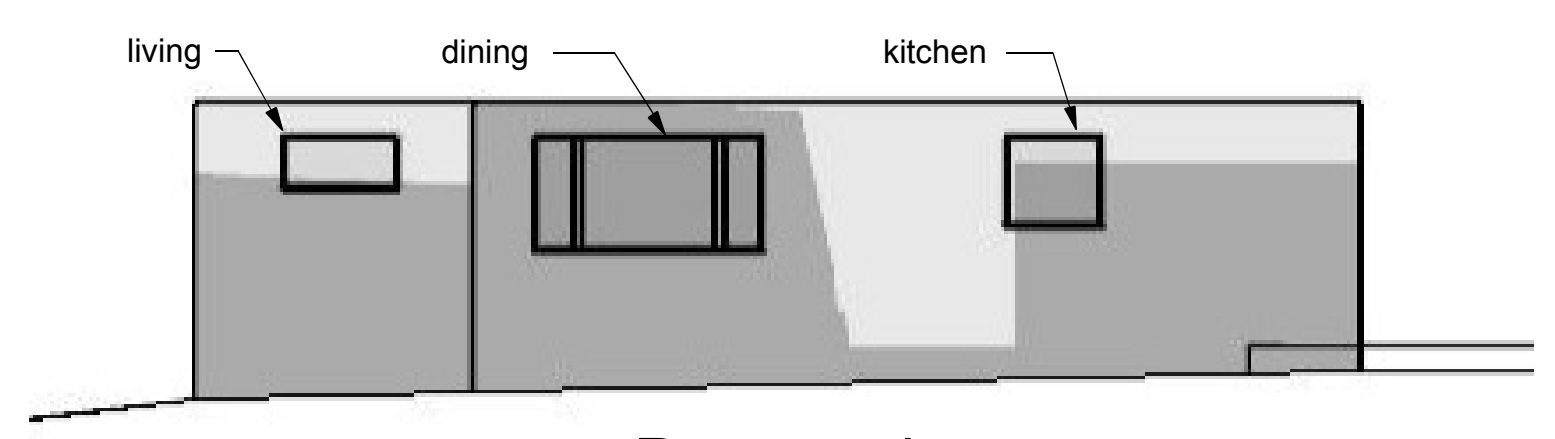


Proposed

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

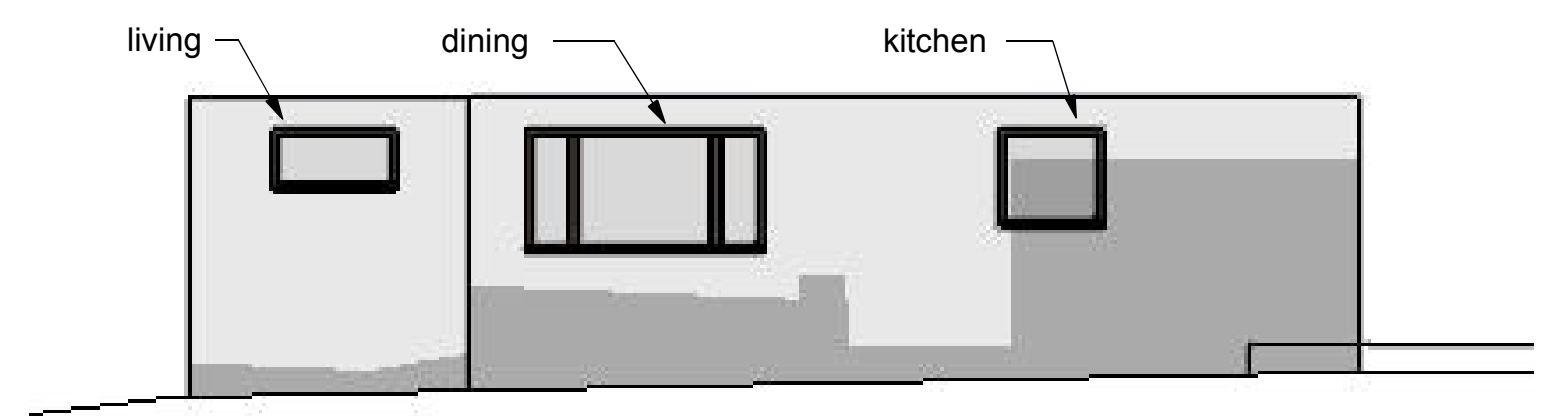


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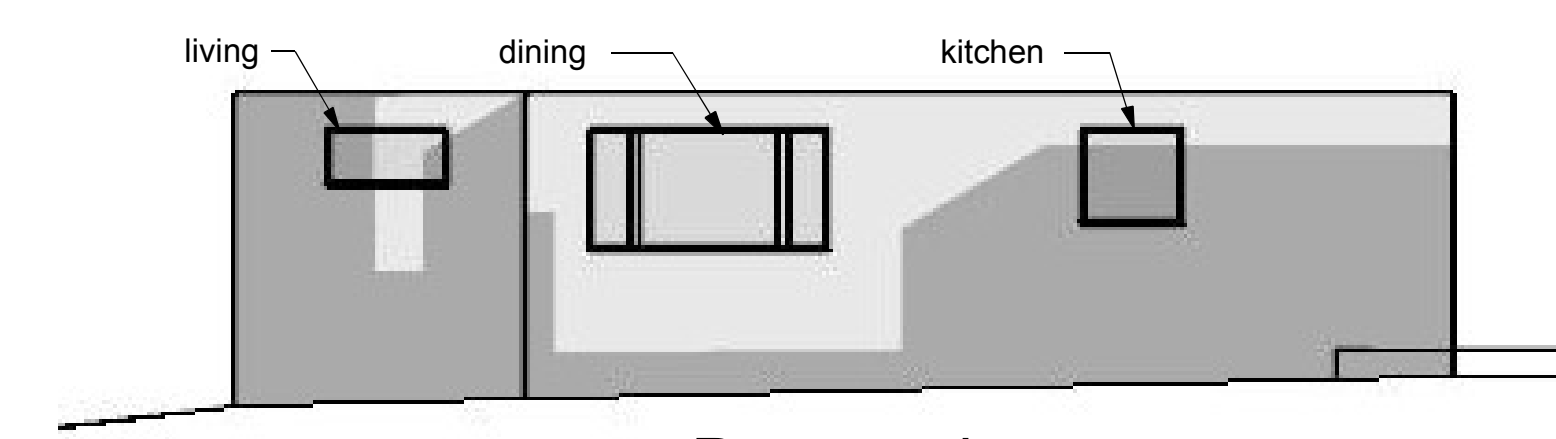


Proposed

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

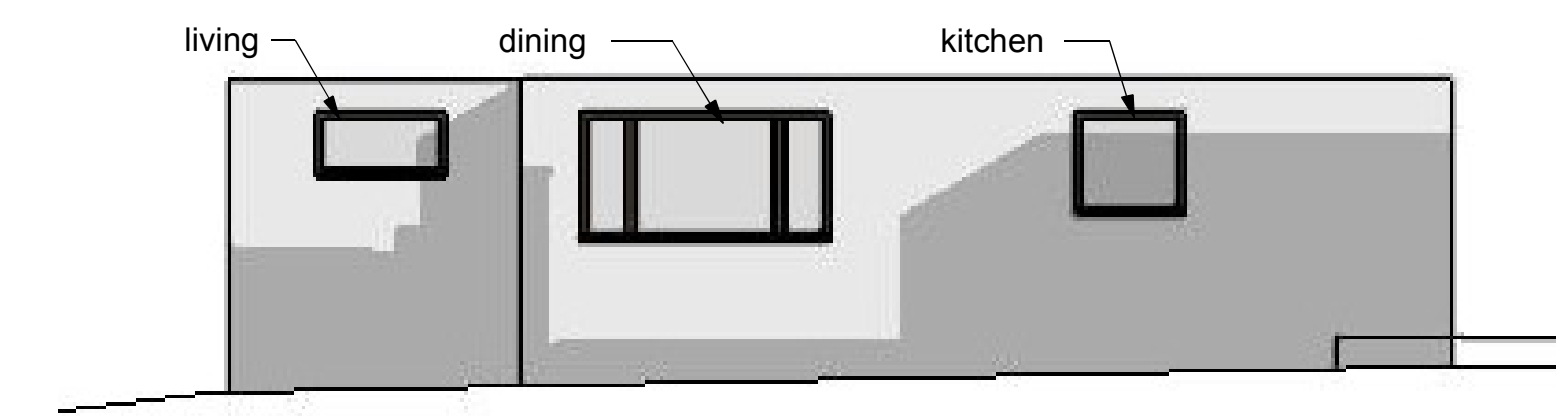


Existing



Proposed

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



Existing

**1639 California St. Shadow Impact Study**

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 Shadows Studies

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

Revisions:  
 Use Permit Set: 12-10-2020  
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 Planning Review: 7-15-2021

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

- existing wall area
- existing window removed
- existing and new window area



(e) wall area: 465 s.f.  
 total wall removed: 107 s.f. - existing and new openings  
 Percentage of wall removed: 23%

4 Proposed South Elevation - Right Side



(e) wall area: 412 s.f.  
 total wall removed: 110 s.f. - existing and new openings  
 Percentage of wall removed: 26.7%

3 Proposed East Elevation - Rear



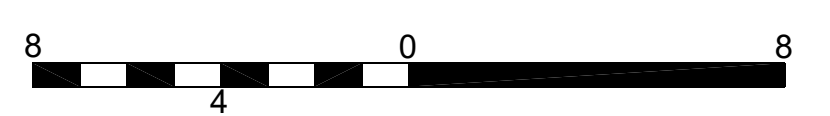
(e) wall area: 436 s.f.  
 total wall removed: 115 s.f. - existing and new openings  
 Percentage of wall removed: 33.2%

2 Proposed North Elevation - Left Side



(e) wall area: 608 s.f.  
 total wall removed: 188 s.f. - existing and new openings  
 Percentage of wall removed: 30.9%

1 Proposed West Elevation - Front



Sheet Contents:  
 Demolition Diagram

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

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

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

Sheet  
**A5.1**



# Z O N I N G A D J U S T M E N T S B O A R D

## NOTICE OF PUBLIC HEARING

### 1643 & 1647 California Street

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

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on July 14, 2022, **conducted via Zoom**, see the **Agenda for details at: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14\\_ZAB\\_Agenda.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf)**. The meeting starts at 7:00 p.m.

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

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

**C. CEQA Recommendation:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).



1643 & 1647 CALIFORNIA STREET  
Page 2 of 3

NOTICE OF PUBLIC HEARING  
Posted JUNE 29, 2022

**D. Parties Involved:**

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

**Further Information:**

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info).

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

**Communication Disclaimer:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**Communications and Reports:**

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info). All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

**Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board.** Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or

- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.

**Accessibility Information / ADA Disclaimer:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division ([zab@cityofberkeley.info](mailto:zab@cityofberkeley.info)) to request hard-copies or electronic copies.

**Notice Concerning Your Legal Rights:**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

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

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

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 1643-1647 California ST #ZP2021-0001

**From:** [david.hornung@gmail.com](mailto:david.hornung@gmail.com) <[david.hornung@gmail.com](mailto:david.hornung@gmail.com)>  
**Sent:** Saturday, November 27, 2021 8:47 AM  
**To:** Zoning Adjustments Board (ZAB) <[Planningzab@cityofberkeley.info](mailto:Planningzab@cityofberkeley.info)>  
**Subject:** Fwd: 1643-1647 California ST #ZP2021-0001

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

Begin forwarded message:

**From:** [david.hornung@gmail.com](mailto:david.hornung@gmail.com)  
**Date:** November 27, 2021 at 8:43:28 AM PST  
**To:** [zab@cityofberkeley.edu](mailto:zab@cityofberkeley.edu)  
**Subject:** 1643-1647 California ST #ZP2021-0001

Hello,

I'm writing in support of the update and enlargement of the property at 1643 California. It's been in rough shape for a long time and getting a refresh will be nice for the neighborhood and certainly the people that will live there. Hopefully it doesn't permanently displace the current tenants.

David  
1536 Virginia

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

December 1, 2021

Re: Proposed renovation at 1643 & 1647 California Street

Attention: The Berkeley Zoning Board:

I have had the opportunity to review Ido and Tamar Oppenheimer's original renovation plans and the renovation plans they are now proposing subsequent to modifications. I support the Oppenheimer's desire to upgrade the rather dilapidated structure they have been living in for the last 32 years. Indeed, based on my experience as a long-term Berkeley resident, I believe their project will provide the upgrade in our neighborhood that, overall, will be positive for our little section of California Street between Virginia and Lincoln. In sum, I believe the renovation will result in a positive contribution for their family and for our neighborhood.

My wife and I moved into 1636 California Street in April 1983. During the intervening 32 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years pass our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 32 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

ATTACHMENT 4  
ZAB 07-14-2022  
Page 3 of 15

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

Thank you,

A handwritten signature in black ink, appearing to read "Jeff Malmuth", with a stylized flourish extending to the right.

Jeff Malmuth

Cell: 415.385.5777  
[Jmalmuth@aol.com](mailto:Jmalmuth@aol.com)

The Malmuth Family  
1636 California Street  
Berkeley, CA 94703

November 1, 2020

Re: Proposed renovation at 1643 & 1647 California Street

To whom it may concern:

My wife and I moved into 1636 California Street in April 1983. During the intervening 37 years we raised our 3 children and have continued to enjoy what has essentially been decades very close and stable relationships with our neighbors. Ido and Tamar Oppenheimer moved into 1643 & 1647 California Street a very small duplex, at the end of 1989. We, as our other long-term neighbors, count them as an integral part of our California Street community. During the intervening 31 years that Ido and Tamar lived across the street from us they also raised their lovely children, Gal, Tal, Or and Ron. The house that Ido and Tamar bought back in 1989 can be best described as a fixer upper. Ido was a tile installer and worked hard leaving early and getting home late. He actually tiled our home during its renovation. However, with the costs of raising their four children, Ido and Tamar could not afford the expense of renovating their home. As the years past our neighborhood watched as their home fell into greater disrepair. It was sad to see but there was nothing they could do.

Gal, Tal, and Or are now adults, have secured jobs in the Bay Area and moved out of their childhood home at 1643 & 1647 California Street. Ron however is disabled. He has been diagnosed with a genetic disorder called X-linked retinoschisis XLR5 gene and is losing his limited sight. Ron is not permitted to drive. He relies exclusively on BART and the bus for some semblance of independence. The North Berkeley BART is two blocks from our homes as is the nearest bus stop. Now that 3 of Ido and Tamar's children have finished college they have an opportunity to renovate their home. Ido and Tamar are ecstatic, as are we, and their other neighbors; after so many years living in a rapidly dilapidating and unsafe structure, they will finally be able fix up their home while securing a place for Ron to live.

Ido and Tamar's home is very small and their lot is one of the smallest in the surrounding area. Their family has grown and they regularly have large family gatherings of one kind or another. As such, their needs have grown but the size of their house remains, small and cramped. It is for this reason I am writing the City of Berkeley. I understand that a principle exists regarding percentage of lot coverage. However, less tangible but no less important things that may not be included in the building codes include, long-term and stable neighborhoods, community, and assistance with a disabled child.

I have reviewed the proposed renovation plans and I am in full agreement with them. I believe the renovation will result in a positive contribution for their family and for our neighborhood.

I have spoken to Ido and Tamar. Their dream is to remain in Berkeley in the house of their dreams where they have lived for 31 years, raised their children and have been such an integral part of our neighborhood. And as one of their close neighbors I pray that Berkeley will find a way to allow them to remodel their home to fit their needs and Ron's.

Thank you,



Jeff Malmuth

November 17, 2020

To Whom It May Concern:

I am the homeowner living at 1639 California St. since 1979. It has been my pleasure to be a neighbor of the Oppenheimer Family since they arrived in 1989. I have been invited to dance, circus performances, graduations, front yard visits and profited from their apricot and lemon tree for many years. As their family grew, they decided to enlarge their living space, rather than move to a bigger home. While this is against City of Berkeley housing regulations, the outside of their home has deteriorated and I support their plans to upgrade, improve and remodel their home to suit their changing needs. The stairs are steep and showing separation from the foundation. Their safety, as well as visitors and essential workers will continue to be at risk, and City of Berkeley impediments only add to the time delay in this repair. I recently invested in a complete renovation of my front yard, and this leaves the Oppenheimers home looking vulnerable and frankly, unattractive. This remodel makes sense and should be allowed to proceed.

Sincerely,

Barbara Fritz  
1639 California St.  
Berkeley, 94703

Nicholas Armour, City Project Planner

This is an addendum/clarification of my previous letter regarding the planned project at 1647 California St. of Ido and Tamar Oppenheimer. While I am pleased that plans to upgrade the property are in progress, the current design will have serious consequences affecting my property:

- 1) I will lose nearly all the light from the south for most of winter.
- 2) The lack of light will significantly impact the extra warmth I enjoy during those darker days. I expect an added burden relating to costs of heating the house when I am home will have a financial as well as ecological impact. As I am now retired, I am often spending more daylight hours at home, especially in the southward-facing room. Ido and Tamar are aware of my disappointment in their design, in spite of minor alterations, shade studies demonstrate loss of light.

I don't know how much my dislike of this aspect of the plans will effect City of Berkeley decisions, I am requesting some consideration of the current plan.

Sincerely,

Barbara Fritz  
1639 California St.  
(510) 508-1822  
bfritz@sonic.net



**Regarding Opposition to Application of Remodel at 1643/1647 California Street**

- The proposed 3,800 sq ft, 6-bathroom, 3-level house is very excessive for the neighborhood. It will have a significant negative impact on my privacy and enjoyment of my patio and kitchen. I feel that the quality of my life will actually be degraded if this project is permitted to go forward as currently presented.
- The impact on the enjoyment of my patio will be significant. Currently, the area is very private. I have trees and bushes along the fence that divides my property with that of 1609 Virginia Street. The other three sides of the patio are flanked by the back wall of my house and the walls of my two garages. I mainly see the sky when looking up. If the owners to my north are allowed to build their proposed remodel, I would see a looming structure looking down on me and my guests instead of the sky. As I have a fairly small interior (about 800 sq ft), and we often spill onto the patio in nice weather, my privacy and the pleasure in my home would be greatly diminished. Also, privacy in my kitchen would be impacted as the remodel would allow the owners to look down into that area of my house.
- I don't think the owners of this remodel project know the comfort and enjoyment that their neighbors take from the use of their outdoors areas. They almost never use their backyard and have not developed it with sitting areas, plants, etc. That is their choice of course, but I just don't think that they realize what they are asking of their neighbors. Especially during Covid 19, I regularly have family and friends for gatherings on my patio, and we all enjoy it immensely. The lack of privacy would clearly have a very negative impact on our gatherings.
- I have invested a large amount of money in a remodel of my house/duplex: new roof line, siding, windows, and new foundation on 3 sides of the structure. I also remodeled the interior, keeping it two units and one level. My remodel did not require any variances or use permits as I kept the original footprint. The size of the owner's "duplex" at 1643/1647 California is almost identical to the size of my duplex, but my lot size is larger. I feel that I improved my property and kept within the size and spirit of the neighborhood. I think that the value and visual appeal of my house will significantly decrease with a very large adjacent house impinging on the privacy of my home.
- I know the neighbors at 1609 Virginia Street also considered the spirit and welfare of the neighborhood and the impact on neighbors in their extensive remodel and improvement of their property.
- I think that the large number of special permits that the proposed remodel needs shows that this new project is not appropriate for the neighborhood. The house would be the largest on the block and on the smallest lot. The city planning staff was concerned about the number of Use Permits and Variance requested. They also noted that the elimination

of the top floor would still allow for a large house (2,600 sq ft) for the occupants and would not impact the neighbors in such a negative way.

- I think that parking on California Street could be negatively impacted with this remodel. It is probably fine to have no off street parking for a small house, but this proposed huge house may need more cars for the occupants.
- My son and family live in south Berkeley and will inherit my duplex. I have shown him this remodel plan, and he thinks it is excessive and will decrease the value/appeal of my property.
- I am concerned that the proposed remodel is not for the owners use, and that they simply want to maximize their profit for resale. They have lived in a 1,300 sq ft house for more than 30 years while raising four children, and now they want to suddenly increase the size three times to 3,800 sq ft!
- In all of their submissions, the owners have been untrue concerning my feelings about their remodel when they indicated that I support their plan. They knew that I had significant concerns. I absolutely do not in any way support their plan and have never told them that I do. I am very disappointed about their misrepresentation since we have always had a good relationship. When the owners initially approached me about this remodel, they emailed me a narrative summary of the project. When I said that I couldn't follow the write up, I asked if they were planning a third floor. They replied "Yes" and then offered a blueprint of the project. I was now able to see that I could not endorse it. Because of how I was approached, I am now concerned that the neighbor at 1639 California Street does not realize that she will have no sun on the south side of her house during several months of the winter. Depending on when/what she saw of the remodel plans, there could be a number of things that she would not like.

Because the latest resubmission does not include many of the modifications to the plans that were requested by the City Planning Staff, and it does not consider the quality of life of the neighbors or their property values, I ask the Zoning Adjustment Board to deny or request a major modification to the plan before resubmission and continuation of the hearing.

Sincerely,

Kay Bristol  
1651 California Street  
Berkeley CA, 94703

(510) 872-9334

November 14<sup>th</sup>, 2021

To: City of Berkeley Project Planner (Nicholas Armour) & Berkeley Zoning Adjustments Board  
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Berkeley ZAB members and Mr. Armour,

As owners and residents of 1609 Virginia St., the property directly east of (behind) 1643/1647 California St., we are deeply opposed to the scope of the proposed project. We request that the Zoning Adjustment Board either deny the application outright or ask for a major modification to the plan before resubmission and continuation of the hearing on this matter. We want to clarify that this request is entirely based on the plans and scope of the proposed project and on the impact these would have on our property and the neighborhood; we have had cordial neighborly relations with the project proponents for more than 20 years and hope that will continue, but we simply cannot agree with the proposed project.

Our request is based on multiple factors:

- the impact of the proposed project on privacy, light and air to us and other adjacent neighbors,
- zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application,
- the out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood,
- the removal of two small living units, in favor of one large home and an apartment, and
- the fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood.

**The proposed expansion from a one-story duplex to a three-story structure (two floors and a fully finished basement) would bring substantial negative impact to our privacy, air and light, and in so doing would be detrimental to the peace and comfort of our family. The value of our home both currently and considering future potential improvements would also be substantially reduced, thus causing injury to our property.** This harm would stem specifically from the proposed upper floor. It is also the proposed upper floor that is the primary source of negative impact to the other adjacent properties

1. The substantial reduction in light our property and home would experience is evident in the third iteration of the shadow study Mr. Armour had to request from the applicants. This shadow study shows a considerable decrease in afternoon/evening summer sunlight into our house (through both the kitchen windows on the north and west sides, and through the bedroom windows on the north side) as well as into our deck and yard. The shadow study also shows reduced winter-time light into our accessory structure which is a bedroom/office.
2. In terms of privacy, the windows from the bedroom and bathroom on the east side of the proposed upper floor would look down not only into our yard and onto our back deck, but also directly into the very large northern windows of our kitchen and bedroom (~58 sq. ft. of glazing)

(and through the bedroom, into our bathroom), as well as into the bedroom of our backyard cottage. (Please see pictures at the end of this letter.)

3. Given the small footprint of our house, we use our yard daily, almost year-round, for eating, socializing and relaxing. As we have remodeled our home and yard we have created multiple, small outdoor spaces that we use for various purposes as if these were outside rooms. Our yard is very much an extension of our house. As a result, the harm to privacy and light from the proposed project would have a tremendously negative impact on us.

Together, these impacts to privacy and light would damage both our peace and comfort, and thus our quality of life. The proposed project would also be injurious to the value of our property and to the value of the substantial improvements we have made to our property over the years.

**The proposed project is inconsistent with the lot size and the neighborhood as shown by the large number of adjustments (UP/AUP/Variance) that would be needed to proceed.** When we were searching for a home to purchase more than 20 years ago, we educated ourselves about zoning ordinances -- as we feel all property owners have the responsibility to do -- so that we would understand both the limitations we might face on future renovations to our property, and the potential for construction and/or limitations on construction of the adjacent properties. It was in part with the knowledge of the non-conforming nature (lot coverage, density and setbacks) of this neighbor's duplex that we purchased our home. We similarly considered those limitations a few years ago when we remodeled our home to maximize our light and privacy without ourselves seeking any zoning adjustments. We knew what the zoning regulations would and would not allow our neighbors to do on their properties, and we redesigned our home with those parameters in mind.

Now the application before you appears to seek a total of seven UP/AUP/variances. These permits and variances are being sought to overcome the limitations of the small lot size of their property and to allow construction that would dramatically lower the value of our house. The list of requested adjustments are:

1. UP for enlarging a non-conforming density unit,
2. UP for addition/expansion of non-conforming lot coverage,
3. AUP for extension of non-conforming rear setback,\*
4. AUP for extension of non-conforming front setback,
5. AUP for addition over 600 sq. ft.,
6. AUP for creation of 5<sup>th</sup> bedroom, and
7. Variance for exceeding lot coverage.

\*Note that while the applicants claim in their final submission that the rear setback AUP is no longer needed because they eliminated the rear deck on the upper floor, we wonder whether this is correct given that they still propose to build the full depth of the new basement level within the setbacks. Even if the AUP for extension of non-conforming rear setback is no longer needed, the application would still be asking for six adjustments or exceptions to zoning ordinances

Just the sheer number of exceptions to zoning ordinances requested would seem to be a clear indication that the scope of the proposed project is beyond what is appropriate for this lot and neighborhood.

This exact point was raised by the city project planner in his response to the initial submission, “staff has concerns with numerous Use Permits and Variances requested to expand existing structure.” Nevertheless, the applicants’ resubmissions failed to heed his suggestions.

Considering the circumstances of this particular case and the injury that would be caused to our peace and comfort as well as to our property and improvements thereto, we hope the ZAB will find it cannot approve the requested use permits and variance.

**The proposed remodel is out of character with the neighborhood while also reducing the amount of small, lower cost units on the block.** Our neighborhood is zoned as R-2 Restricted Two-Family Residential, with the purpose being to promote medium density residential areas with reasonably open and spacious development including a range of housing types ranging from single-family, to duplexes to small apartment structures. The R-2 zoning exists to “make available housing for persons who desire a range of housing choice with a relatively large amount of open space... (and)... to protect adjacent properties from unreasonable obstruction of light and air.”

The property with the proposed remodel was originally built in 1924 as a 1,342 square foot duplex with a 60 sq. ft. porch and no off-street parking on a 3,142 sq. ft lot. This was a 44.6 % lot coverage, exactly the maximum allowed for a single-story structure. Such a duplex on a small lot is a perfect way to incorporate lower income units into a neighborhood. In 1952, the storage sheds (167 sq. ft. not shown on the maps in the submission) were added, further increasing lot coverage to 49.94% and thus making this a non-conforming property.

The proposal now before the board seeks to further expand the density on this lot by allowing one of the largest houses on the block to be built on one of the smallest lots on the block -- without requiring any off-street parking. The proposal seeks permission for two small (667 sq. ft.) units to be replaced by a 3,763 sq. ft structure comprising a very large home (3,262 sq. ft.) and a tiny (501 sq. ft.) apartment. We feel that this proposal does not fit with the purpose and parameters of the zoning for our neighborhood.

The project proponents try to justify their high-density proposal by saying that multi-story homes are normal, that they don’t have the space to add off-street parking, and that they are removing the storage sheds to create more yard space. Specifically, the application seems to suggest that the owners should somehow be allowed to make a *quid pro quo* trade by removing the added 167 sq. ft. storage sheds, and instead adding another floor to their structure. This makes no sense given that the initial adjustment allowed to construct the storage sheds had absolutely no impact on the neighbors, while adding another floor on top of the existing roof very much does.

The concern around the proposed structure being too large was noted in the response from the city project planner who asked for “significant modification to the proposal” and recommended elimination of the entire upper floor to eliminate impact to the neighbors. Unfortunately, the proposal resubmission ignored this suggestion.

The property in question is extremely run down and clearly in need of significant repair. While we, like many others in the neighborhood, would therefore like to see the property maintained and renovated, we do not feel it is appropriate to suggest – as the application does – that it is impossible to remodel the property if this application for a massive three-level house is not approved. Both we and other neighbors have invested substantial amounts into extensive remodels that did not adversely impact adjacent properties or require zoning adjustments.

For the above reasons we ask that the Zoning Adjustment Board either deny this proposal outright or request a major modification, in line with the changes originally suggested by the city project planner, before resubmission and continuation of the hearing. A proposal that eliminates the top floor and retains the fully finished basement would still double the size of the living space to ~2700 sq. ft. and would thus still be one of the largest houses on the block, while having no impact on the neighbors.

Most sincerely,

Adam Safir  
[cederfir@hotmail.com](mailto:cederfir@hotmail.com)  
510-725-9350

Anna Cederstav  
[acederstav@gmail.com](mailto:acederstav@gmail.com)  
510-847-3371



Picture 1: View from our north-facing bedroom window at eye level. The beige house beyond our red garage is the one proposed for expansion. The current windows on that property are not visible from our bedroom, but windows on a top story would look directly into our bedroom.



Picture 2: View from our west-facing kitchen window at eye level. The beige and stucco house behind their metal-bar gymnastics structure is where a third level blocking the trees and sky would be built.



Picture 3: View from our north-facing kitchen window at eye level. The current windows on back of 1643/1647 California house are not visible from our kitchen, but the windows on a top story would look directly into our kitchen.

**Armour, Nicholas**

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**From:** Kay Bristol <kbristol@berkeley.edu>  
**Sent:** Friday, June 25, 2021 2:26 PM  
**To:** Armour, Nicholas  
**Subject:** Remodel ZP2021-0001

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

Dear Mr. Armour

I am the neighbor to the south of the proposed remodel ZP2021-0001 at 1643/1647 California St. I own the small duplex at 1651/1653 California St. I live at 1651 California St. and I really do not want this remodel to be approved. As Anna Cederstav and Adam Safir said, it would adversely effect the light, privacy, appeal and probably the property value of my duplex. I feel the submission of this remodel was misleading as to my support of it.

Anna, Adam and I have each spent a large amount of money remodeling our properties in their original footprint. We do not want the aesthetics or resale value of efforts to be diminished.

If possible, could you please advise me if this remodel project moves forward?

Regards,  
Kay Bristol  
1651 California St,  
Berkeley, CA 94703  
510-872-9334



June 25<sup>th</sup>, 2021

To: Project Planner, City of Berkeley (Nicholas Armour)  
RE: 1643/1647 California Street, Application #ZP2021-0001

Dear Mr. Armour,

As the owners and residents of 1609 Virginia St., the property directly east of the above cited proposed project, we would like to express our opposition to the proposed remodel of 1643/1647 California St. The proposed project requests multiple zoning exceptions/variances to enable construction of a three-story house (two stories plus a finished basement) in place of the current one-story structure.

While we recognize that the house in question is in need of repairs, we do not agree with the proposed expansion. The proposed remodel would bring significant adverse impacts to the light, air, and privacy of our house and yard, which in turn would dramatically reduce our property value.

When we purchased our home in 1999, we researched the zoning regulations to determine whether adjoining properties could be remodeled in ways that would harm our property value. We learned that the excessive lot coverage and non-compliance with rear property setbacks meant that neither of the structures due west of ours, should be allowed to undergo substantial expansions. We can only assume that the Oppenheimers did similar research before purchasing their house, and thus knew they would likely not be allowed to do this kind of remodel.

We know from personal experience how strict the City of Berkeley is with variances and rear property setbacks. In 2006, we wanted to insulate the ceiling in our backyard cottage. Yet the City would not allow us to raise the roof of that structure by the mere couple of inches required to install the insulation required by code. We can thus only assume that the City will absolutely not permit the substantial variances requested for this project

For the record, we note that the application states that "We also have support of both neighbors on each side." This is incorrect. There are three neighbors in question. We most certainly do not support the proposed project and we know that the neighbor immediately to the south is similarly opposed, again because of the proposed height increase, privacy and lot coverage issues.

Please contact us with any follow-up questions you may have, as well as to let us know if this project advances, in which case we would plan to submit more detailed comments.

Most sincerely,

Adam Safir  
[cederfir@hotmail.com](mailto:cederfir@hotmail.com)  
510-725-9350

Anna Cederstav  
[acederstav@gmail.com](mailto:acederstav@gmail.com)  
510-847-3371



2223 5th St. | Berkeley, CA 94710 | 510.548.7448 | info@sgsarch.com | www.sgsarch.com

July 5, 2022

Zoning Adjustment Board

**RE: 1643/1647 California Street, Application #ZP2021-0001**

Dear members of Zoning Adjustment Board,

This project was brought before you in Dec. 2021 and was approved unanimously by the Board with a vote of 9 to 0. Since the approval, the project was appealed to the City Council. The City Council decided to send it back to ZAB for a new review. The council did not request changes to our design, however, they requested that ZAB review the project again to ensure the HAA guidelines and Rent Ordinance were correctly applied to the project.

We have no objections to the HAA guidelines being applied to the project. We believe the project would be approved whether or not the HAA guidelines are applied.

We checked with the Rent Stabilization Counselor, and they informed us that a project of this type does not require any changes. Both units have been owner-occupied since 1994.

We believe the project, as designed, should be approved again by ZAB. The project meets the zoning guidelines, as described in the original staff report. The project has already been modified multiple times to address feedback from neighbors and the Planning office. The Planning staff informed us that they continue to recommend approving the project.

This letter includes a summary of the feedback we have received and the changes that have already been made to respond to the feedback.

**Previous planning recommendations/concerns and how they were addressed in the current proposal:**

*1. Third Floor Setbacks are not code-compliant – Per Section 23D.28.070.D, 3rd stories must be set-back 6-feet from side property lines.*

- **Response:** We changed the project design so that the project will no longer be a three story building. The building will be two stories over a basement, so the third floor setback requirements no longer apply.
- **Details:** The proposed design no longer has a garage at the basement level. Since the garage is eliminated, the building will not be raised up 3'-0" (as was in the original plan). The first floor level remains where it is now. Per the building and planning

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definition of a floor, the basement is no longer a floor. Therefore the building is two stories over a basement and the third floor setback is not an issue.

2. *Rear yard setback not met.*

- **Response:** The upper floor plan was redesigned so the new addition meets the rear yard setback requirement.

3. *While Staff understands that any expansion of this building will trigger Use Permits and Variances, Staff recommends a significant design modification to this proposal before Staff could potentially make the findings and consider support of the application. Specifically, staff recommends elimination of the entire third floor, while retaining the concept of lifting the house slightly to create the new lower floor.*

- **Response:** We completed significant design modifications based on Staff recommendations and Planning concerns, and now Staff recommends approving the project.
- **Details:**
  1. The proposed design no longer has a garage at the basement level. Since the garage is eliminated, the building will not be raised up 3'-0" as was in the original plan. The first floor level remains where it is now. This will reduce the overall building height.
  2. We have eliminated the balcony at the rear (east side). Therefore, no AUP needed for the rear yard setback.
  3. We have also set back the second floor addition from the existing front house wall (set back 2'-8" - 13'-6 from the front property line). The existing structure is set back 10'-10" from the front property line. This helps to keep the existing front facade height with minimal changes and recessing the addition back.
  4. We have adjusted the position of the north side of the house by 1" to ensure we have the appropriate setback.
  5. Redesign the roof. This brings the overall building height down by 5'-2" on the left and 6'-3" on the right, when compared to the original submittal.
  6. We made some minor changes to the building materials to isolate the second floor addition from the existing single story above the basement. When compared to the earlier version, this helps with the overall scale and massing of the house.
  7. Overall, the building looks like and feels like a two-story house over a basement. Just like hundreds of houses in Berkeley.

**Neighbor's concerns:**

The project went through multiple changes to address potential concerns from neighbors to the North, East, and South (see Figure 1).

Figure 1. Satellite view showing the neighbors to the North, East, and South.



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**Affect on 1639 California St – Barbara Fritz (house on North "left" side)**

- **Response:** The project continues to have full support from Ms. Fritz.
  
- **Details:**
  1. Ms. Fritz approved the previous design (as stated in her first letter dated Nov. 17, 2020).
  2. Since the redesign, modifications have further reduced any impact on Ms. Fritz's property. Our redesign of the project lowered the high point of the roof by 5'-2" on her side of the property, thus reducing the impact to her house.
  3. Ms. Fritz continues to support the project after the redesign and has submitted a letter of support of the project, signed April 8, 2022 (see Figure 2).



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**Affect on 1651 California St – Kay Bristol (house on South "right" side)**

*Ms. Bristol expressed potential privacy concerns caused by visibility into her backyard.*

- **Response:** We took privacy into consideration and adjusted the layout to address the concerns. The window near Ms. Bristol's backyard is now a small bathroom window with obscure glass that does not have visibility into Ms. Bristol's backyard.
- **Details:**
  1. Today, Ms. Bristol's property has 3 windows facing the Oppenheimer property: 2 small living room windows with obscure glass and 1 kitchen window. The buildings are far apart (over 15 feet): they are separated by a setback on the Oppenheimer property and a driveway on Ms. Bristol's property. The windows are already visible from the Oppenheimer property, so this project doesn't make any meaningful changes to the visibility of these windows.
  2. Visibility into Ms. Bristol's backyard is already very limited from the 2nd floor because of the placement of Ms. Bristol's garage and vegetation (see Figure 3). Despite limited visibility, we still made modifications to reduce potential concerns.
  3. The original 2nd floor design had 2 bedrooms on the south side of the property. We changed the layout so there is now 1 bedroom and 1 bathroom on the south side of the property.
  4. With the new layout, the room near Ms. Bristol's backyard is a bathroom. It has a small bathroom window with obscure glass, so it does not have visibility into Ms. Bristol's backyard.
  5. With these changes, we feel that we've reasonably addressed the privacy concerns. All houses have windows that face other houses. That's the reality of living in an urban setting.

*Ms. Bristol expressed concern that the Oppenheimers are motivated to complete the project so they can sell the house, instead of living in it.*

- **Response:** The Oppenheimers want to complete the project and keep living in their home.

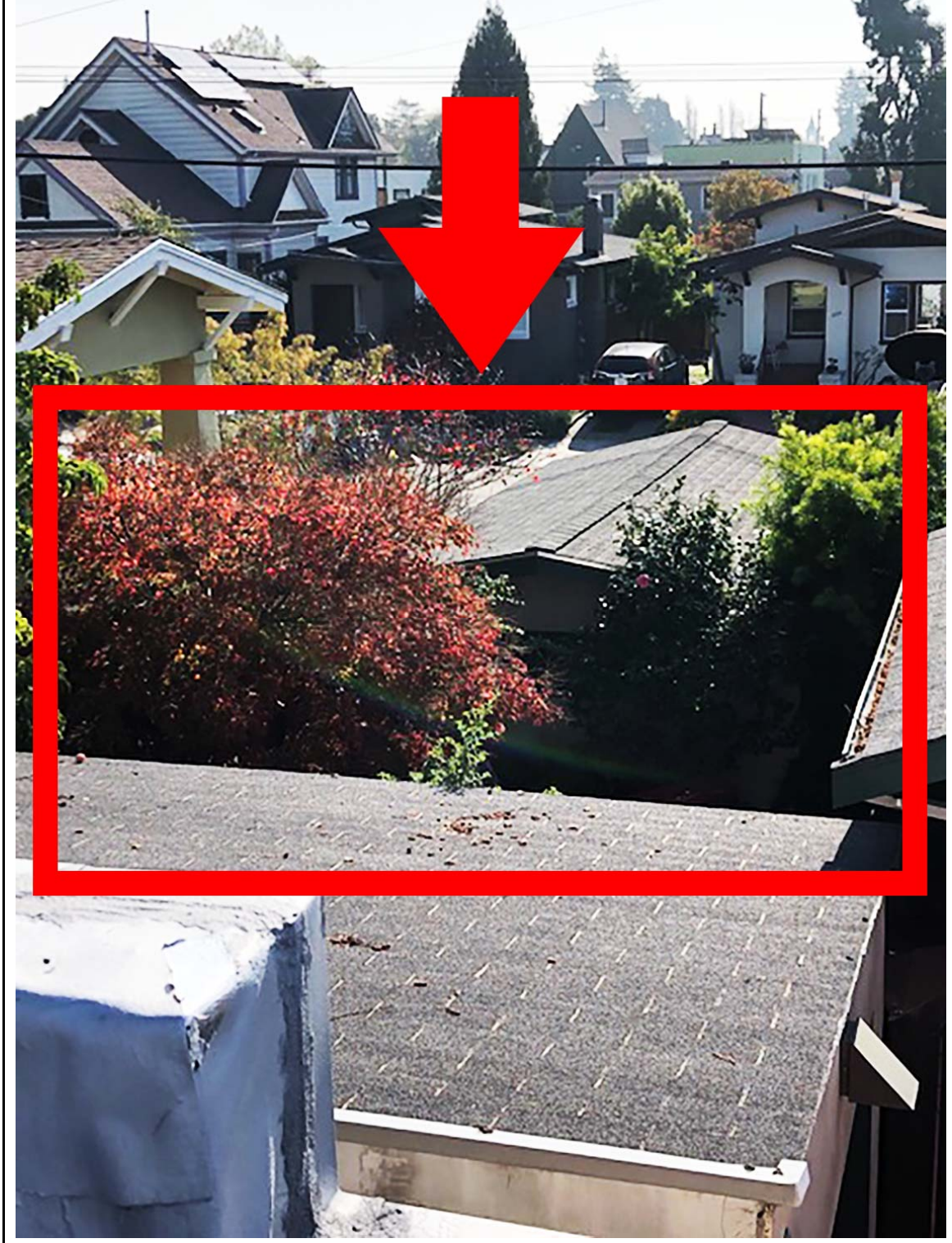
Figure 3. Photo taken from the Oppenheimer's roof, facing South. The view into the

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backyard of 1651 California St. is limited because of the placement of Ms. Bristol's garage and vegetation (identified with a red box and red arrow). This roof is the height of the proposed second story.





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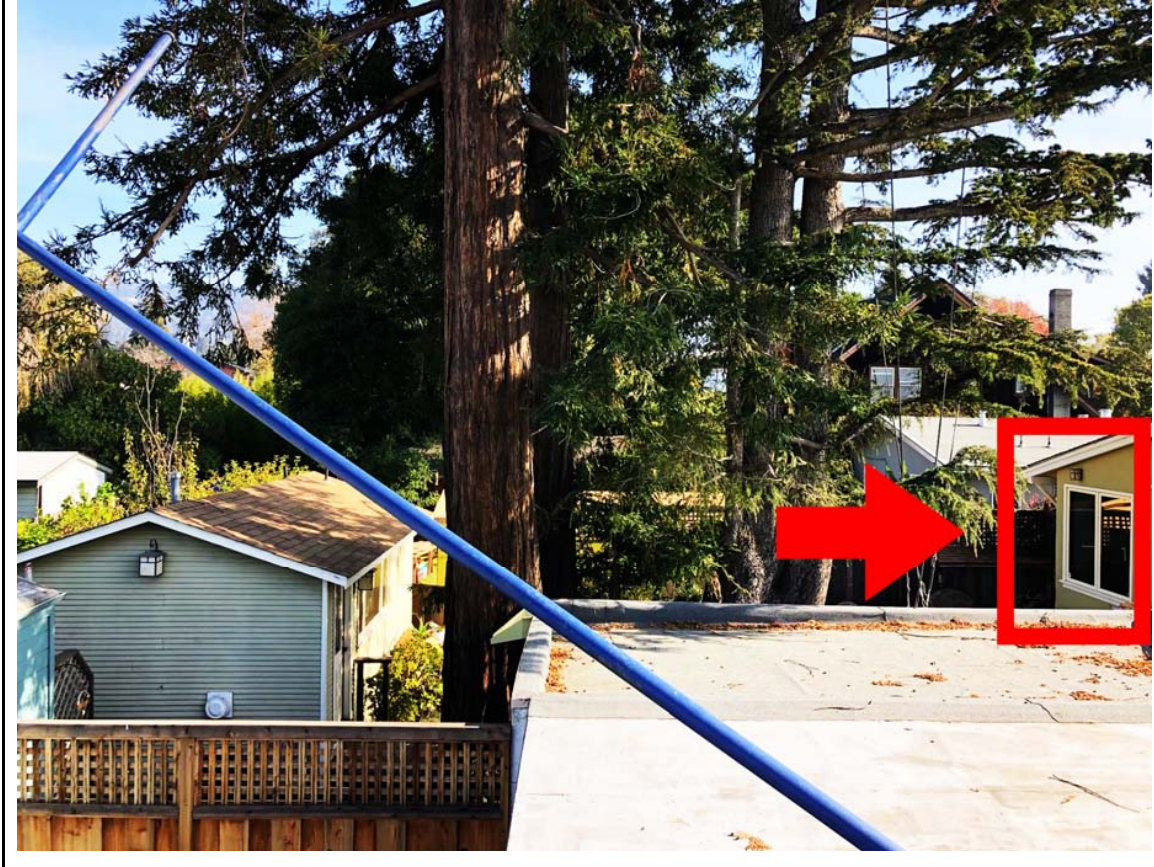
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**Affect on 1609 Virginia St – Adam Safir and Anna Cederstav (house on East "rear" side).**

*Privacy concerns: "The impact of the proposed project on privacy, light and air to us and other adjacent neighbors."*

- **Response:** There is very little impact on privacy, light and air to 1609 Virginia St.
- **Details:**
  1. The 1609 backyard is adjacent and in-line with the Oppenheimer house. 1609 Virginia St building is not directly in-line with the Oppenheimer house, it is South-East of the Oppenheimer house.
  2. The proposed design is generally orientated towards California St (the front of the property, far from the rear property).
  3. We changed the layout so that the room closest to 1609 Virginia St is a bathroom. With this new layout, the rear windows closest to 1609 Virginia St are high shower windows with obscure glass.
  4. The remaining room on the North-East corner is a bedroom. In this position, the bedroom window is more than 50 feet away from the 1609 Virginia St property bedroom window. The angles of the windows are not directly facing each other. The distance and the angle minimize the privacy concern (see Figure 4).
  5. The decreased height of the project has reduced the light impact. The only sunlight impact is shortly before sunset during the summer. The house is already partially in shadow at these times due to the large trees that are already in 1609 Virginia St's backyard.
  6. With these changes, we feel that we've reasonably addressed the privacy and lighting concerns. All houses have windows that face other houses and we've ensured their position, size, and material minimize any privacy concerns.

Figure 4. Photo taken from the Oppenheimer's roof, facing east. The 1609 Virginia St bedroom window is more than 50 feet away (identified with a red box and red arrow).



*Number of adjustments: "Zoning rules and the considerable number of adjustments (Use Permits, Administrative Use Permits, and Variances) being sought via this application."*

- **Response:** Projects on this site naturally trigger several AUPs or use permits. The variance is no longer requested, per staff report.

*Scale for neighborhood: "The out of proportion scale of the proposed structure considering the small lot size and the zoning in our neighborhood"*

- **Response:** We are proposing a second story addition with a scale that is typical for the neighborhood.
- **Details:** The original design lifted the existing house to create a new garage and a full floor at the ground floor which created a three story house. The current design does not lift the existing house. We have eliminated the much-desired off-street parking

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since it is not feasible without lifting the house. The current ground floor is mostly below grade. This is a second story addition only.

*Removal of units: "The removal of two small living units, in favor of one large home and an apartment"*

- **Response:** No unit is being removed. This project keeps the property with 2 units.
- **Details:** We checked with the Rent Stabilization Counselor, and they informed us that a project of this type does not require any changes. Both units have been owner-occupied since 1994. If either unit was to be rented in the future, the homeowner's would register the unit as required.

*Ignoring city planner: "The fact that the application ignores the suggestions from the city planner regarding how to make the remodel have significantly less impact on the neighborhood."*

- **Response:** The application does not ignore suggestions from the City Planner, and the project has undergone significant changes to accommodate feedback from the City Planner and the neighbors.
- **Details:**
  1. Eliminated the need to raise the existing house to create a garage level.
  2. Reduced the project roof height by 5'-2" on the left side and 6'-3" on the right side.
  3. Set back the front and rear façade of the new addition.
  4. We have adjusted the position of the north side of the house by 1" to ensure we have the appropriate setback.
  5. Complied with other requests from the City Planner.

*Potential deck at rear: Mr. Safir stated that the owners might build a roof deck at the rear upper floor facing their house.*

- **Response:** The project does not contain any deck in the rear of the building.
- **Details:** The roof area in question is only 3'-1" deep, which is not enough for a roof deck. This roof area was created to comply with the setback requirements. The Oppenheimer family does not intend to build an illegal deck.

*City handling: Mr. Safir's expressed concerns with how the city handled this project/ZAB hearing:*

- *Appellants allege that ZAB and staff erroneously applied the Housing Accountability Act (HAA) in a way that inappropriately limited ZAB's ability to modify the project.*
- *Appellants allege that staff failed to provide adequate opportunities for neighbors to receive information and provide input on the proposed project.*

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- *Appellants allege that several procedural requirements were not met when story poles were not installed, the typical zoning project “yellow poster” was not installed, and the staff report was not available far enough in advance before the ZAB meeting.*
- *Appellants dislike the City’s Zoom meeting format.*
- *Appellants are frustrated with the City’s appeal process.*
- **Response:** Please see staff report and responses to the City Council.

This project that is before you once again is the same project that you originally approved unanimously 9 to 0. Even after applying HAA guidelines, we believe the project meets the city’s zoning guidelines. The project has gone through significant changes to respond to feedback from the city and neighbors. We started with a three story house with off-street parking, and the project is now a two story house over a basement and NO off-street parking. What we are proposing is merely a second story addition that is not much different from any other second story addition. We are keeping both residential units as required. Because of the unique size of this parcel, nothing can be done here without requesting several Use Permits.

We really hope you can see the merits of this project and the compromises we have made throughout the process.



Sundeep Grewal – project architect

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June 9<sup>th</sup>, 2022

To: City of Berkeley Project Planner (Allison Riemer) & Berkeley Zoning Adjustments Board  
RE: 1643/1647 California St., Application #ZP2021-0001

Dear Ms. Riemer and Berkeley ZAB members,

This letter explains our continued opposition to the proposed expansion and modification of the duplex at 1643/1647 California St. that is once again before the ZAB. Please note that we are not opposed to a remodel of this structure, as it is indeed in dire need of repairs. Rather, we oppose the proposed conversion of this relatively small duplex on a very small lot into an enormous single-family home with an associated in-law unit, all for use by a single family.

We feel that if the city planning department and ZAB were to permit this project, Berkeley would be applying subjective interpretations of what is considered to be “acceptable impacts” to arbitrarily permit construction that substantially increases the value of one Berkeley property at the expense of two neighboring properties. Because we see no reason why the city should approve the proposed project without major modifications, this submission presents multiple options for modifications and conditions that could be required to advance Berkeley’s development goals as formulated by the City Council, and to reduce impacts on neighbors.

**A. The appeal to the City Council**

Given that this project is once again before the ZAB as a result of our successful appeal to the City Council, we first want to explain our reasons for presenting the appeal:

1. Starting in February of 2021 and throughout the year leading up to the December ZAB meeting, we had multiple discussions and email exchanges with Nick Armour<sup>1</sup> in which we discussed various levels of potential modifications to the proposal. These ranged from the elimination of added floor(s) to modification of window sizes. In our final conversation before the 12/9 ZAB meeting, Mr. Armour suggested that we request “major modifications” to the project and reference his 2/5/21 staff advisory comments. Those comments recommended the proponent eliminate the upper floor and propose a two-level, 2700 square feet design that would raise the height of the building by only three feet, such that while “there would likely still be some impacts to the light, air, and privacy and/or views of neighboring properties, these impacts would be substantially reduced.” Acting on Mr. Armour’s advice, we therefore focused our submission and intervention to the ZAB on our desire for such major modification and the denial of the project as proposed. Nevertheless, and to our utter surprise, the final staff report presented by Mr. Armour to the ZAB suggested approval of the project - possibly due to the erroneous interpretation of the HAA. Moreover, when asked about potential other modifications by the ZAB during the hearing, Mr. Armour made no mention of the options we had discussed with him. We were floored, to put it mildly.

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<sup>1</sup> Nick Armour is the prior city planner on this project who resigned shortly after the initial ZAB hearing about this project.

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2. While we appreciate the use of Zoom for these meetings and especially during the pandemic, we felt that our participation in parts of the ZAB meeting was restricted unjustly. During the 12/9 meeting, ZAB members asked questions to which we had answers and we did 'raise our hand', but were not called on to provide answers. With no chat and no video available, we were not able to communicate with the board in response to questions asked, nor was it possible to otherwise signal that we had such answers. Thus, for example, the question about whether any other modifications to the project had been proposed went unanswered.
3. We were confident that the Planning department memo cited during the ZAB's discussion of this project was based on a significant misinterpretation of the law, as has since been confirmed by the City Attorney's office and by the City Council.<sup>2</sup> This definition was debated by ZAB members and clearly influenced the interpretation of the board's authority to limit the size of the addition. As a result of our appeal, the city attorney reviewed the Planning department memo and found it to be incorrect (density only means number of units as it always has), thus clarifying that the ZAB indeed has the authority to require not only minor modifications, but can also compel major modifications that reduce the square footage of proposed projects, as long as project revisions do not force a decrease in the number of residential units. The ZAB thus clearly has the authority to deny the additional levels proposed, in whole or in part.
4. We believed the limits that seemed to be being placed on the ZAB's authority to deny projects to be counter to the desire for sustainable and just development in Berkeley. The ZAB is appointed by the City Council and according to the city web-site serves to "approve or deny permits related to the use and development of land in Berkeley." The City Council has a clear agenda and is enacting policies to promote environmentally sustainable housing, meet ambitious climate change targets, promote diverse and integrated neighborhoods, and increase the availability of housing for low to medium-income families. Protecting the existing smaller housing units in Berkeley is critical to all of the above goals. A policy - as seemingly proposed by the Planning Department - in which all projects that can seek a permit for expansion must receive said permit up to the maximum potentially allowed project size, runs entirely counter to the idea that the ZAB exists to help the City Council approve and deny permits related to development in our city, in accordance with the goals adopted by the City Council. If every UP or AUP that is sought must be issued by default, there would be little need for a ZAB. And there would be no way for the city to meet its ambitious just and sustainable development goals. A big driver for our appeal was to reaffirm the right and responsibility of the ZAB to limit certain kinds of development in Berkeley. It's not just about making minor modifications, it's about radically re-envisioning what kind of development happens in Berkeley.

**B. The proposed project in light of City priorities and responsibilities**

From our perspective, projects like the one proposed are clearly not aligned with current development or climate change goals and priorities in Berkeley, and the planning department and ZAB should therefore be exercising their full authority to modify or deny the project.

1. **The city should be protecting existing smaller lower-income units in Berkeley whenever it has the authority to do so.** That is especially the case when - as is apparently the case here - those units are rent-controlled. The mayor and the city council have been working diligently to add

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<sup>2</sup> That interpretation inappropriately limited the ZABs authority to require project modifications by considering the definition of 'density' to mean not only 'number of units' but also 'square footage and number of bedrooms'.

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affordable housing that promotes economic and racial diversity in Berkeley. While most of the attention is on new housing, an existing network of more affordable housing is integrated in neighborhoods via duplexes and other low-impact multi-unit buildings. This historical infrastructure is a critical piece of Berkeley's more affordable housing, and should be protected with the full authority available to the city. If the city fails to preserve such units, it will reduce availability of more affordable units in neighborhoods and push that type of housing into large multi-unit structures on the major thoroughfares, a distinctly anti-integration move.

- a. When the project proponents purchased their duplex more than 30 years ago as a young couple, they were purchasing the smallest property on the block, and one that was already built beyond maximum allowed lot coverage. Likely their decision to purchase this property was related to affordability. Those units should not now be turned into a mansion. Other young homeowners, elderly residents, and/or those with more limited finances need access to that housing.
  - b. We recognize that the project proponents may somehow feel the need for a huge five-bedroom, six-bathroom house with a home gym and storage room to be able to entertain their adult children, and eventually grandkids. Even when they first purchased it, this property was too small for their family, which is why they illegally converted the duplex into a single-family home. If the owners have outgrown the property they purchased, they should find a different property rather than trying to push the limits on construction beyond what is allowed.
  - c. Two of three of the adjacent neighbors have significantly remodeled their homes to improve utility without increasing either footprints or height in ways that impact neighbors. Although the project proponents have repeatedly asserted this to be the case, there is no argument to be made that a remodel of this two-unit structure somehow requires a significant expansion in size. The duplex immediately to the south of this property is a perfect example of how this kind of duplex can be nicely remodeled to maintain two small, one-story units.
2. The city has a responsibility to balance decisions such that it is not unduly favoring one property owner's interests over those of others.
    - a. In this case, if the proposed project were to proceed, we – the owners of the property at 1609 Virginia- would be losing critical summer light on the west and north sides of our house. Our backyard is almost entirely shaded by two large redwoods and because it lies north of our house. As a result, much of the sun we get is on the small back-yard deck and in the garden sitting area we have created in the former driveway to the west of our house (see pictures 1a and 1b below). The latter is also the area in which we hang all of our washed clothes to dry. (Something we do to save energy/help prevent greenhouse gas emissions.) Both of these areas would be significantly shaded in the late afternoon/early evening by the proposed upper story if this project were to proceed.

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Picture 1a and 1b (taken 3:30pm 6/9/22): 1a – picture of our rear deck, taken looking south-west; 1b – picture of our ‘driveway’, taken looking north (property in question is to the left/west of the berry vines and garage).

- b. All of us – the owners of 1609 Virginia and 1639/1641 California - would be losing privacy in our house and yards. For 1609 Virginia, the project would add multiple windows that look directly into our garden and into the very large bedroom and kitchen windows on the north side of our house (see pictures 2a and 2b below). In addition, the project design has left a clear avenue for the project proponents to via a simple permit-modification bring back a second story deck on the east side of the house, from which occupants would similarly look straight into our house and back yard.<sup>3</sup>



Pictures 2a and 2b. 2a – north fenestration; 2b – west/rear fenestration

The privacy in the yard of the property at 1639/1641 California is similarly impacted, not to mention the “feel” and lack of space/air that will be created by a towering new structure so close to our houses that obstructs our view of the sky from multiple windows and sitting areas.

<sup>3</sup> Said deck was removed in one of the submissions as required by the planner. Nevertheless, the location of the windows and a maintained parapet feature mean that the deck could easily be built either illegally or after requesting a simple permit modification, unless specific conditions prohibiting that deck are written into the permit.



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- c. While we understand that we live in an urban environment, we diligently checked zoning codes when we bought our house and therefore knew that the lot with the proposed project was already built to exceed lot coverage on a very small lot. We believed that no vertical additions would occur on that particular lot even though such additions might be allowed on lots with more yard space and lesser lot coverage. We feel that given the size of the lot and the proximity to neighbors, and the fact that we spend a great deal of time in our yards, a structure as tall as the one proposed with considerable shadow and privacy impacts is detrimental not only to our comfort and welfare, but also to our property value and investment. Moreover, the removal of a small, rent-controlled unit presents a detriment to the neighborhood in light of the need for more affordable types of units. Conversely, permitting this construction would very positively and arbitrarily benefit the project proponents by allowing them to convert their duplex into a multi-million-dollar mansion with an attached ADU.
- d. The presence and proposed removal of a small backyard shed that has neither electricity nor plumbing and generates no impact on neighbors is being used to permit construction of a second story/third level with substantial impacts on neighbors. When the duplex was first constructed, it was built to the exact limit of maximum allowed lot coverage. Sometime thereafter, a backyard shed was built, thus exceeding lot coverage. Now, the city is considering counting the removal of that shed as a reduction in lot coverage that will enable construction of a two-story building that exceeds lot coverage. With or without the shed, no second story should be allowed on this property, and the removal of the shed is certainly not an equitable trade-in for the second story. If the shed didn't exist and couldn't be removed a variance would be required for this project. If this were new construction, a two-story structure would definitely not be allowed on this lot at the current footprint. In either scenario, a far smaller building design would be required, to protect the neighborhood and prevent detrimental impacts on neighbors. It is important to note that permitting the removal of a shed to obviate the need for a variance for lot coverage sets a precedent and creates a pathway by which any Berkeley homeowner who desires to build a multi-story structure exceeding lot coverage could first get a permit to build a shed, likely without objections from neighbors, and then simply "trade" that shed in for a multistory building that requires no variance. That makes no sense. If the lot coverage is already at the maximum allowed for the lower level, as is the case here, no second story should be allowed without a variance, which should not be given lightly.

In light of the above we ask that the ZAB work to find a compromise where the property can be repaired/remodeled and possibly even expanded by adding some square footage in a way that prevents impacts or allows only truly minimal impact to neighbors.

The below is a range of requests/suggestions for modifications of the proposed project listed in order of our preference, with the first options by far being preferred.

1. Choose to protect and maintain the lower income, rent controlled units of this North-Berkeley duplex, by not approving a Use Permit to exceed lot coverage on this property. Require the

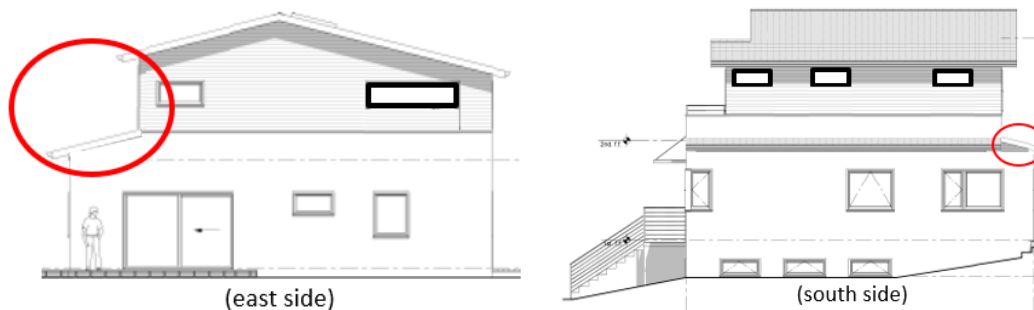
## ATTACHMENT 4 - POST ZAB MTG CORRESPONDENCE

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owners to reconvert the current single-family residence into the original and legally registered duplex, thus bringing back the second unit to the neighborhood.

2. Expand the structure to add only a basement level, thus doubling the square footage of the structure to around 2700 sq.ft. and significantly increasing the size of one of the two units. **This option would be in line with the maximum square footage that the law would allow on this lot, if this project were new construction.** This option would have little to no impact on neighbors.
3. Raise the current structure by ~3 feet such that a new first story could be built at street level, again increasing square footage to around 2700 sq.ft. and allowing easier access and more light into the lower story. Note that this design enables construction of a two-story structure and **is the design that city planner Nick Armour originally suggested to the applicants in his February 2021 staff advisory comments.** In this case, as well as for options 4 and 5 below, addition of a 2-3' obscuring trellis above the current property line fence could mitigate privacy concerns.
4. If the city opts against preserving lower income housing and decides to permit the three-level, two-story structure, then we would request a modification to significantly limit the size of the upper floor addition so that it is pulled back from the south side of the building by approximately 10 feet. This could reduce privacy and shadow impacts on the adjacent neighbors that oppose the project. Also require the modifications described in option 5 below. (See Pictures 3a and 3b)



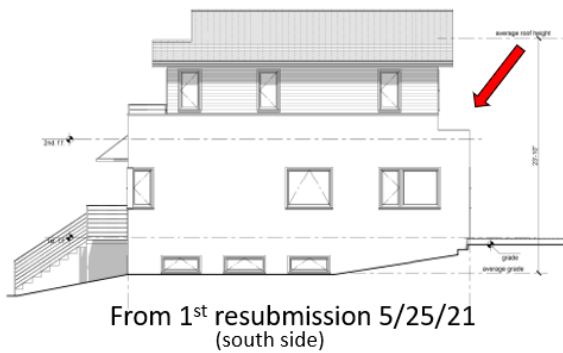
Pictures 3a and 3b. 3a - Reduce upper story square footage on south side until shadow studies show sufficiently reduced impact on neighbors. Also modify east-facing windows to be awning windows that do not look into neighbor's yards; 3b - Remove parapet feature from east side of upper level to prevent potential construction of a deck, and modify south-facing windows to awning windows.

5. As a very last option, if the permit for this mansion on this tiny lot were nevertheless to be issued, require the following modifications on the south and east side of the house
  - a. Modify all upper-level windows facing south and east to be awning windows (positioned above 5') (See Pictures 3a and 3b above)
  - b. Remove the parapet feature from the upper-level east side of the house and replace it with a sloped roof that will not collect debris from the overhanging trees in a difficult-to-reach area. The original submission that the city opposed contained an east-facing deck that was required to be removed in the first resubmission (see Picture 4).

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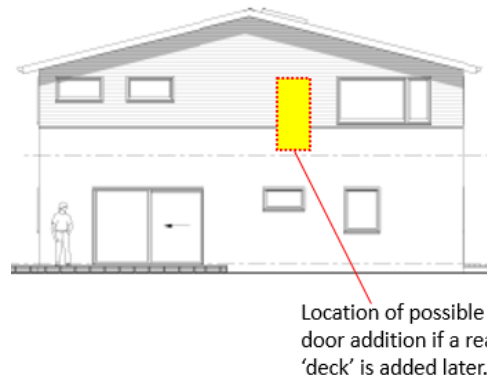
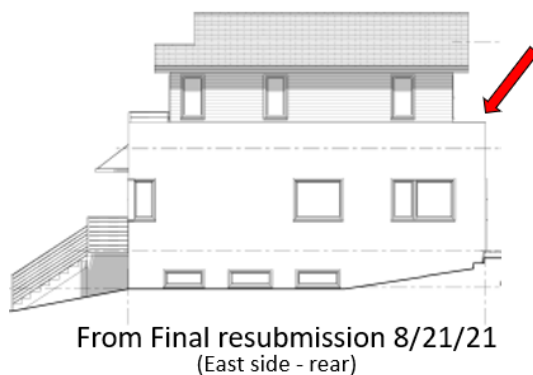
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Picture 4 –No parapet feature on east side as explained on page 3 of the resubmission: “We have eliminated the balcony at the rear (east side)”.

The proponents’ second resubmission brought back the parapet feature of that deck without showing a doorway onto the deck (See Picture 5a and 5b). Considering the inconvenience of having a ‘deck’ that collects debris but is in accessible, we can only assume that the proponents intend to submit for a project-modification post permit-issuance to once again add the door and create the deck. If they were not planning to do so, they would surely have altered the roofline and the placement of their west wall windows in the final design.



Pictures 5a and 5b – parapet feature added back into submission, without the doorway that could be added via a permit-modification after receiving the permit.

Thank you. We greatly appreciate your careful review of this matter. Most sincerely,  
Anna Cederstav, Adam Safir, and Kay Bristol

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**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: The HAA as applied in the December 9 ZAB hearing

**From:** Anna Cederstav AIDA <acederstav@gmail.com>  
**Sent:** Monday, December 27, 2021 10:31 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>; Armour, Nicholas <NArmour@cityofberkeley.info>; Adam Safir <cederfir@hotmail.com>  
**Subject:** The HAA as applied in the December 9 ZAB hearing

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To whom it may concern:

These comments are in reference to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley. We would like to request reconsideration of that decision for multiple reasons, the most important being what we see as a potentially incorrect application of the Housing Accountability Act (HAA). If posted as decided at the ZAB hearing, we plan to appeal this decision to the City Council, but we believe it is in the City's best interest to resolve this matter and reconsider the project before it is allowed to reach that level. We are therefore submitting some of our comments about this process and decision in advance of any appeal.

In short, the decision made, if allowed to stand, threatens all of zoning in Berkeley and significantly reduces the power of the City to protect the character of its neighborhoods, as well as the availability of lower income housing within those neighborhoods. The City's interpretation of the law and the ZAB decision made based on that interpretation is entirely counter to the intended purposes of the HAA (to address the housing crisis and particularly the lack of affordable homes at below market rates in California) and could promote massive development of luxury housing in Berkeley, all but eliminating affordable residences in the City. That's because under the current interpretation, there would be no way for the city to stop property owners from enlarging their homes and building to the max limitations of their property – regardless of whether or not their properties comply with existing zoning regulations.

The project proposed for 1643-47 California is on a site where an original duplex was illegally converted by the project proponents from two one-bedroom units into one single-family residence long ago, and which has been owner occupied as such for decades. The proponents now seek to expand the building from a total of 1,342 to 3,763 square feet by reconverting it into a duplex, not creating any new units in the building but rather reducing the size of one unit to a smaller apartment (501 sq ft.), and massively increasing the size of the other unit to become an enormous 5-bedroom, 4-bathroom unit including a home gym (3,262 sq ft. total).

The project in question is – as stated in the staff report – “non-conforming for lot coverage, density, and yards” and “does not comply with the applicable, objective zoning standards.” Nevertheless, the ZAB decided to approve the project over the strong objections of adjacent neighbors and without even considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made its decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined at one point in the discussion as being the units, number of bedrooms, or square footage in the development. The ZAB also felt it could not require modifications because there are not yet objective standards that have been passed by Berkeley for implementing the HAA.

Further, it was clear at the hearing that the ZAB had little prior experience in applying the law; one ZAB member noted that this was the first time they were asked to review this kind of project with the HAA being in force. At one point, a

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section from a memo from the city attorney that much of the ZAB did not seem to fully understand was used to suggest that the ZAB had no option other than to vote to approve the project.

The process of consideration and review of this project and the decision made by the ZAB sets a dangerous precedent for zoning and housing development in Berkeley and should not be allowed to stand. If the decision made is upheld without further consideration as to the applicability of the HAA, then in effect no future expansion project in Berkeley could be denied because all such projects are likely to request an increase in units, bedrooms, or square footage. This is clearly not the intent of the law. An interpretation of the law along these lines would contravene the HAA in that it would force the city to permit all proposed housing expansions up to the maximum size allowable for the lot even when zoning standards are being violated. The result would be one in which all small – and thus affordable and lower income – housing in Berkeley would eventually disappear.

Our reading of the HAA and experience during the ZAB meeting highlights the following inconsistencies, among others.

1) The HAA states that a preliminary housing development application is to be considered complete when the applicant has provided information including “The number of proposed below market rate units and their affordability levels” (Section 65941.1.10). **This requirement exists because the restrictions placed on cities via the HAA apply largely in cases where the proposed development is intended for “very low, low, medium or moderate income housing.” (Section 65589.5(d))** We saw no information in the application for this project indicating that there has been a discussion as to whether or not the proposed project falls into these categories of affordable housing.

2) The city staff report to the ZAB, in section B “Housing Accountability Act Analysis” suggests that the ZAB can only deny approval of a project if there is a finding of significant adverse impact on public health, and no feasible way of mitigating such impact. However, **a close read of the law, shows that these conditions ONLY APPLY in the event of a “housing development project, ..., for very low, low-, or moderate-income households, or an emergency shelter” (Section 65589.5(d))**

3) Given the above limitation related to the affordability of the housing to be developed, the city should assess whether the proposed development fits into an affordable housing category prior to deciding whether this section of the HAA applies. There are two ways for a housing development to qualify under the HAA (Section 65589.5 (h) (3, 4); either 20% of the units to be developed must constitute low-income housing and be guaranteed to be maintained as such for at least 30 years, or 100% of the units to be developed must fall in the category for moderate income housing. The law provides specific guidance as to how to make these determinations based on recent local income data. Considering the units proposed in this project, we do not see how either of these two conditions could possibly be met for the proposed project, nor do we see any evidence of the city having tried to make the determination. The proponents also explicitly state that they intend to continue using the building as their personal residence and for their son.

4) **Assuming that the above affordable housing requirements are not met by the project, the section of the law cited in the staff report as limiting the rights and power of the city does not apply to this project.** The only other limitations the HAA places with respect to approval for housing developments are delineated in section 65589.5 (j). The staff report to the ZAB clearly states that “the proposed project does not comply with the applicable, objective zoning standards.” Therefore, it is only subsection 2 of section J that applies in this case:

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

5) The above suggests that – rather than believing it has to feel forced to approve this project -- the only thing the city would need to comply with the HAA in this case, is to a) request affordability data on the project to be

## ATTACHMENT 4 - POST ZAB MTG CORRESPONDENCE

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able to consider the project complete and b) assuming the low to moderate income limitation doesn't apply to the project, issue a finding as to why the project is not in compliance with current applicable objective zoning standards within 30 days of the project proposal being deemed complete. There is no reason for the ZAB or City to feel it must approve the project.

6) The staff report also suggested that if it chose to do so, there is nothing that hinders the ZAB from requesting "modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density." That fact doesn't mean that the ZAB has to approve the project, again considering that the property already fails to meet the zoning standards.

7) Further, during the hearing, it was suggested that the law should be interpreted to mean that cities are prevented from requiring that proposed developments reduce the project square footage. This is counter to the traditional interpretation of density which is taken to mean number of units. Applying a definition based on square footage or bedrooms for determining density should not be allowed because the purpose of the law – as set out in extensive detail in the beginning sections – is clearly to provide AFFORDABLE housing in California, and to make sure that cities do not develop in ways that prevent lower income residents from being able to continue living there. Interpreting this law to mean that Berkeley must approve the conversion of a duplex consisting of two one-bedroom units into a duplex consisting of a small apartment and a gigantic luxury home clearly runs counter to the purpose of the law and sets a dangerous precedent for its interpretation in Berkeley and other California cities.

8) To correctly implement the HAA in the spirit of the law and for the purpose of safeguarding affordable housing in Berkeley, the City and ZAB should-- rather than approving the conversion of a small, affordable living unit into a giant luxury home -- safeguard its right to impose limits on the conversion of affordable units into luxury properties, as it is fully entitled to do when a project that does not provide very low to moderate income housing does not comply with applicable objective zoning standards.

Again, the purpose of the HAA is to increase the amount of affordable housing available in California, and to bring clarity and efficiency to permit processes and timelines. The law should not be interpreted to prevent cities from enforcing zoning standards and laws related to projects that do not in any way contribute to – or worse, detract from—the provision of affordable or lower income housing. The project in question in fact REDUCES the amount of affordable housing in Berkeley and thus should not benefit from the HAA.

We will appreciate a response to this email as well as to our prior requests for information regarding the December 9 ZAB hearing and Berkeley City guidance on how to apply the HAA.

Thank you so much and best wishes for a happy new year!

-Anna Cederstav  
1609 Virginia Street

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Thursday 12/9 ZAB meeting - item # - 1643 California

**From:** Adam Safir <cederfir@hotmail.com>  
**Sent:** Thursday, December 9, 2021 9:08 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Subject:** Thursday 12/9 ZAB meeting - item # - 1643 California

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A few questions and comments:

- As there is an ongoing discussion about 'objective standards', why are you approving projects at all right now.
- If all use permits have to be approved anyway, this should not be discussed and should be incorporated into what the city planners are doing. You asked why we didn't have any specific asks about the project and it is specifically because we thought that we were at the stage of asking you to request major modifications because of all the UPs/AUPs. If we knew these were a forgone conclusion (which is totally bizarre) then we would absolutely have requests/suggestions.

**Rent Stabilization Board**

June 6, 2022

To: Allison Riemer, Associate Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner

Be Tran, Associate Planner

Subject: **1643-47 California Street**

On April 28, 2022, you wrote to Jen Fabish to inform her of the project at 1643-47 California Street. The owners planned to reduce the size of 1643 California by 150 square feet and to increase the size of 1647 California with a second story addition and a below-grade basement. The Zoning Adjustments Board (ZAB) approved the project and the ZAB decision was appealed to City Council. Council remanded the project to ZAB and requested clarification on whether the Rent Stabilization and Eviction for Good Cause Ordinance (“Ordinance”) applied to the property.

**Property History**

Alameda County records show that Ido and Tamar Oppenheimer have owned the property since December 1989. City of Berkeley records indicate that the building was constructed in 1924 as a one-story duplex.

Rent Stabilization Board records and microfiche records also indicate that 1643-47 California is a duplex. A homeowner’s exemption was not claimed in the 1979 tax rolls; therefore, there is no evidence that property qualifies for the owner-occupied duplex exemption (also known as the “golden duplex” exemption) under Berkeley Municipal Code (BMC) Section 13.76.050 F.

**Rental History**

Both units at 1643-47 California St. are registered with the Rent Board. The Initial Registration Statement indicates that both units were rented as of May 26, 1981. Rent Stabilization Board records reflect the two units at 1643-47 California Street are claimed as “owner-occupied” since 1998 and 1993, respectively.

**Ellis Act**

The building at 1643-47 California has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.



**Harassment or Illegal Eviction**

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 1643-47 California.

**Rent Control Status**

While the both units at 1643 and 1647 California Street were previously registered and under rent control, the property is currently exempt from the Ordinance since both units are claimed as owner-occupied. Owner occupancy does not grant a permanent exemption from the Ordinance and both rent control and eviction protections apply to any future tenancies.

**Project Analysis**

Since there are currently no tenants at the property, the project as approved by ZAB is not currently affected by the Rent Ordinance. However, both BMC Chapter 23.326 (formerly BMC 23C.08) and the Housing Crisis Act of 2019 Senate Bill (SB) 330 would apply to this project if a dwelling unit was eliminated regardless of whether the units are rented or owner-occupied. BMC 23.326 controls the elimination of any dwelling unit. Under SB 330, both units are considered as “protected units” because both are subject to rent control when rented.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,



Matt Brown  
General Counsel

Attachment 3



# 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

DECEMBER 9, 2021

## 1643 & 1647 California Street

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

### I. Background

#### A. Land Use Designations:

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

#### B. Zoning Permits Required:

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

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

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

**D. Parties Involved:**

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

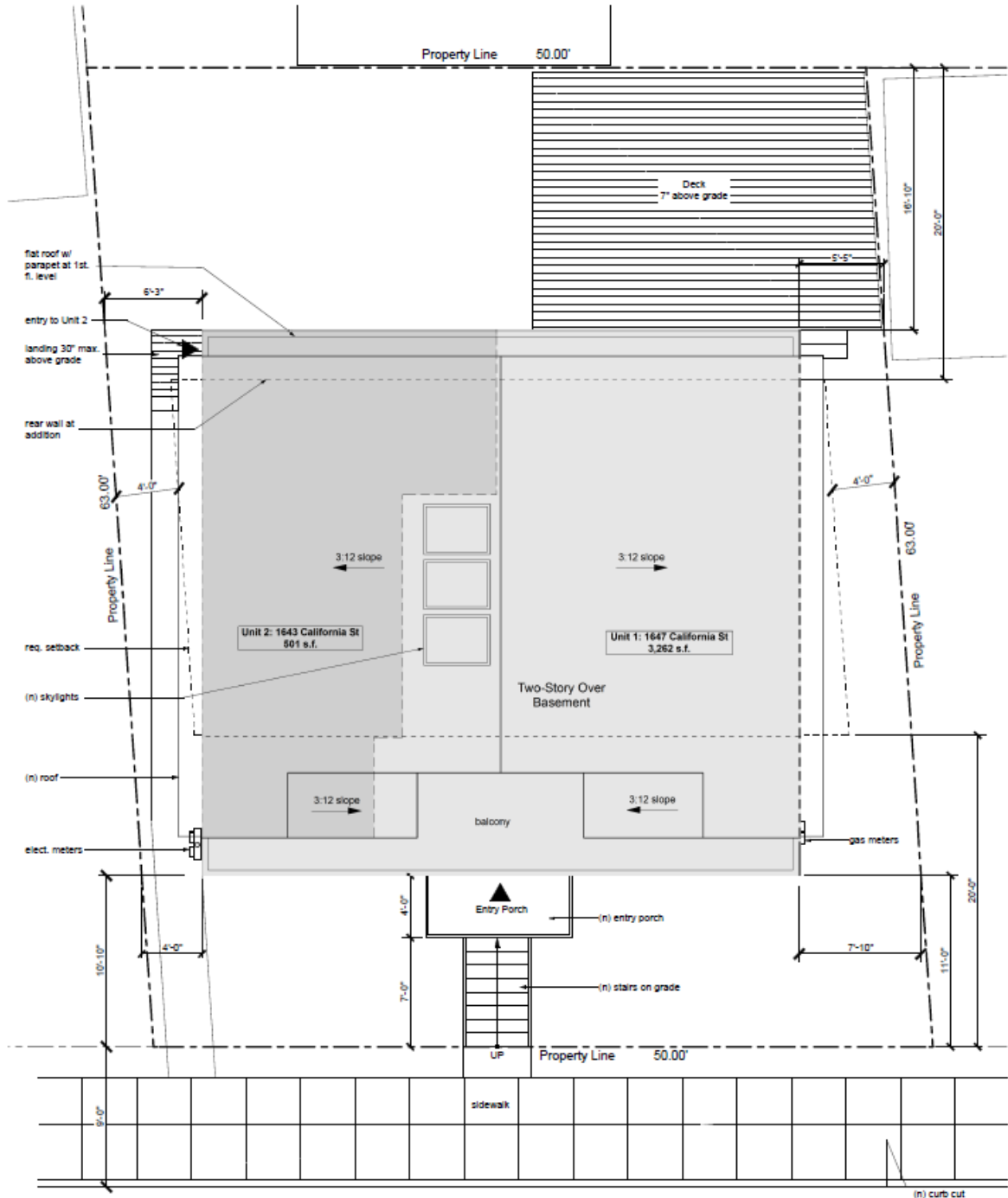
Figure 1: Vicinity Map



ZONING ADJUSTMENTS BOARD  
December 9, 2021

1643/47 CALIFORNIA STREET  
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Figure 2: Site Plan



2 Proposed Site Plan

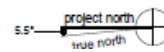


Figure 3: Front Elevation

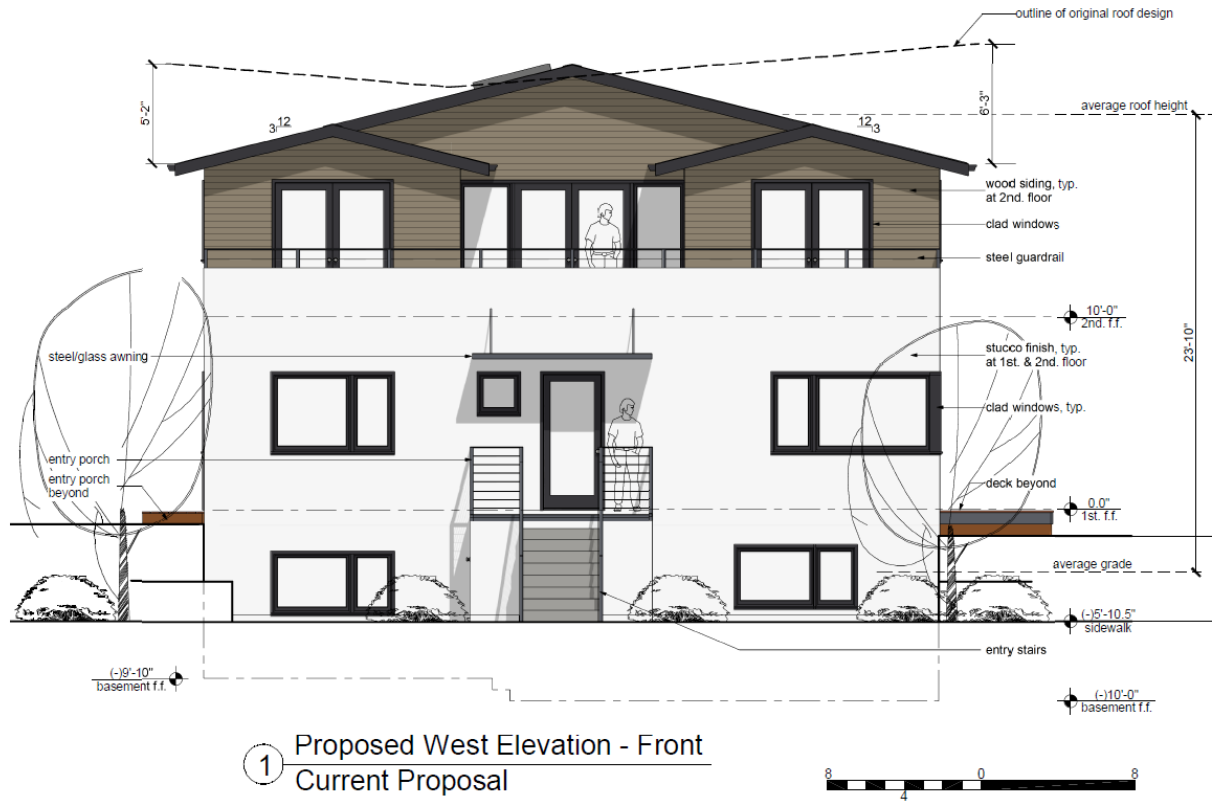


Figure 4: Rear Elevation



**Table 1: Land Use Information**

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

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	Project is entirely residential, and therefore, this project is not subject to this resolution
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	No	The project proposes to maintain the two dwelling units that currently exist at the property.
Creeks	No	The site does not contain a mapped creek or a creek culvert.
Density Bonus	No	The project is not proposing to add dwelling units through a Density Bonus application

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Natural Gas Prohibition (Per BMC 12.80.020)	No	This project is an application for construction to an existing two-unit structure, and is therefore not subject to the Natural Gas Prohibition.
Historic Resources	No	The project site is not designated as a Landmark by the City, nor is the application proposing to demolish the existing structure.
Housing Accountability Act (Gov't Code Section 65589.5(j))	Yes	The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project <u>does not</u> comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. See Section V.B of this report for additional discussion on compliance with the Housing Accountability Act.
Housing Crisis Act of 2019 (SB330)	Yes	The project is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. See Section V.A of this report for additional discussion on the sections of SB330 that apply to the project.
Oak Trees	No	There are no Coast Live Oak Trees on the property.
Rent Controlled Units	No	The property contains two units that are owner occupied and are not considered rent controlled.
Residential Preferred Parking (RPP)	No	This property is not located in a Residential Preferred Parking Zone
Seismic Hazards (SHMA)	No	The site is not located within an area susceptible to liquefaction, Fault Rupture, or Landslides as shown on the State Seismic Hazard Zones map.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Per §15300.2 of the CEQA Guidelines, a categorical exemption may be used on sites not listed on the Cortese List.
Transit	Yes	The site is located near the corner of California and Virginia Streets, one block east of Sacramento Street. Sacramento is served by AC Transit line 52 and there are bus stops one block away to the west.

**Table 3: Project Chronology**

Date	Action
January 8, 2021	Application submitted
September 24, 2021	Application deemed complete
November 23, 2021	Public hearing notices mailed/posted
December 9, 2021	ZAB hearing
February 7, 2022	CEQA deadline



**Table 4: Development Standards**

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

## II. Project Setting

**A. Neighborhood/Area Description:** The project site is located in the North Berkeley neighborhood, on the east side of California Street at the corner of California and Virginia Street. It is one block east of Sacramento Street and four blocks west of Martin Luther King Jr. Way. The surrounding area consists of residential uses ranging from one- and two-story single-family dwellings, and two-story multi-family buildings. Bus service is available via transit lines on Sacramento Street.

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

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

### III. Project Description

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

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

### IV. Community Discussion

**A. Neighbor/Community Concerns:** On January 19, 2021, the City mailed postcards to neighboring property owners and occupants within 300 feet to inform the public of the receipt of a Zoning Permit application at this site<sup>2</sup> and posted project yellow posters.

On November 23, 2021, the City mailed public hearing notices to nearby property owners and occupants, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations.

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

Concerns raised include:

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

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

<sup>2</sup> To comply with Public Health Orders related to Covid-19, the standard protocol for installation of a Project Yellow Poster and/or neighborhood contact and signatures was indefinitely waived.

Support of the application includes:

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

## V. Issues and Analysis

**A. SB 330 – Housing Crisis Act of 2019:** The Housing Crisis Act, also known as Senate Bill 330, seeks to boost homebuilding throughout the State with a focus on urbanized zones by expediting the approval process for and suspending or eliminating restrictions on housing development. Housing development is defined as a project that is: all residential; a mixed-use project with at least two-thirds of the square-footage residential; or for transitional or supportive housing. Sections of SB 330 that apply to the proposed project include the following:

1. Government Code §65905.5(a) states that if a proposed housing development project complies with the applicable, objective general plan and zoning standards in affect at the time an application is deemed complete, then the city shall not conduct more than five (5) hearings in connection with the approval of that housing development project. This includes all public hearings in connection with the approval of the housing development project and any continuances of such public hearings. The city must consider and either approve or disapprove the project at any of the five hearings consistent with applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with §65920)).

*The December 9, 2021 ZAB hearing represents the first public hearing for the proposed project since the project was deemed complete. The City can hold up to four additional public hearings on this project, if needed. One of those hearings must be reserved for any possible appeal to the City Council.*

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

*The project site is not a historic site.*

3. Government Code §65950(a)(5) requires a public agency to approve or disapprove a project within 60 days from the determination that the project is exempt from the California Environmental Quality Act. The project was deemed complete on July 8, 2021. Should ZAB determine the application is categorically exempt from CEQA at the December 9, 2021 public hearing, the application must be approved or disapproved by February 7, 2021.

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

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

The existing structure is non-conforming for lot coverage, density, and yards. The proposed additions would continue these non-conformities. Therefore, the proposed project does not comply with the applicable, objective zoning standards. However, the project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), above.

However, the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.

**C. Findings for Addition to a Structure on Parcel with Non-Conforming Lot Coverage:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of lot coverage are permitted with a Use Permit if the addition/enlargement does not increase coverage or exceed the height limit. As previously mentioned, the property is non-conforming to the maximum allowable lot coverage, with 50 percent coverage, where 45 percent is the District maximum on this R-2 property. The proposed addition would remove an existing shed in the rear yard, which would reduce the lot coverage to 44 percent, while creating a two-story house, which decreases the allowable lot coverage to 40 percent. While the proposed structure would still be non-conforming to the allowable lot coverage, the project would reduce the non-conformity from 5 percent over the allowable limit to 4 percent over the allowable limit. The proposed addition is located over existing covered area, and therefore, does not increase the non-conforming lot coverage. Additionally, while the addition consists of a second story addition, reaching a total of 23 feet, 10 inches, which complies with the maximum average height limit of 28 feet.

**D. Findings for Addition to a Structure on Parcel with Non-Conforming Density:** Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units,

therefore, it does not increase the density. As described in Section V.C, above, the addition would comply with the allowable average height limit in the district.

- E. Findings for Addition to Vertically Extend and Alter a Structure with Non-Conforming Yards:** Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard may be of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not 1) reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. As previously explained, the existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear yard setback. As the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.
- F. Addition of a Fifth Bedroom to an R-2 Parcel:** Pursuant to BMC Section 23D.28.050, an Administrative Use Permit is required to approve the addition of a fifth bedroom to a parcel in the R-2 Zoning District. This project proposes to increase the total number of bedrooms on the property from four to five bedrooms. The addition of this fifth bedroom would not add density to the site, or intensify the use of the residential property.
- G. Restricted Two-Family Residential District (R-2) Findings:** This project proposes to construct a major residential addition over 14-feet in height. As required by BMC Section 23D.28.090.A and BMC 23B.32.040.A, the Zoning Adjustments Board must make a finding of general non-detriment for any Administrative Use Permit in the R-2 Zoning District. This project would add approximately 2,429 square feet to the existing 1,334 square foot duplex. The project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City because of the following reasons:
- i. The project would add a second level to the home, of which there are several examples in the neighborhood.
  - ii. The second story addition would step in and comply with the required front and rear yard setbacks.
  - iii. A basement is proposed to be added. While adding additional square footage to the building, the basement would not create any new impacts to the surrounding

neighbors due to its placement partially below grade, maintaining the existing first floor level.

- iv. The neighborhood is a mix of residential uses, including apartments and single-family and multi-family homes. Existing structures in the immediate neighborhood vary in height from one to two stories.
- v. In addition, the project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project will not be detrimental.

**H. General Plan Consistency:** The following analysis of conformance with the 2002 General Plan goals and policies is provided only for information purposes and to provide context. They do not require findings of conformance because the proposed project is HAA-compliant.

1. Policy LU-3 – Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy H-33 – Regional Housing Needs: Encourage housing production adequate to meet City needs and the City's share of regional housing needs.
3. Policy LU-7 – Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
4. Policy UD-17 – Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-24 – Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
6. Policy H-12 – Transit-Oriented New Construction: Encourage construction of new medium- and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

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

### Attachments:

1. Findings and Conditions
2. Project Plans, dated August 26, 2021
3. Notice of Public Hearing
4. Correspondence Received

ZONING ADJUSTMENTS BOARD  
December 9, 2021

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**Staff Planner:** Nicholas Armour, [NArmour@cityofberkeley.info](mailto:NArmour@cityofberkeley.info), (510) 981-7485

## ATTACHMENT 1, EXHIBIT A

## FINDINGS AND CONDITIONS

DECEMBER 9, 2021

**1643 & 1647 California Street**

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

**PERMITS REQUIRED**

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

**I. CEQA FINDINGS**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

**II. FINDINGS FOR APPROVAL**

1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.



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

### **III. OTHER FINDINGS FOR APPROVAL**

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

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

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**IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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

**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

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

- 11. Construction and Demolition Diversion.** Applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 including 100% diversion

of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.

12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
  - All new commercial, industrial and mixed use developments and all large improvement projects.
  - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
  - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project.

Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

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

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

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

- 16. Construction and Demolition Diversion.** Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
- 17. Low-Carbon Concrete.** The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
- 18. Transportation Construction Plan.** The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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



21. Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction). In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
23. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
  - Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
  - Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
  - Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.

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

- 29. Public Works.** If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

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

- 30. Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
- 31. Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

**At All Times:**

- 32. Exterior Lighting.** All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 33. Electrical Meter.** Only one electrical meter fixture may be installed per dwelling unit.
- 34. Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.
- 35.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
- 36.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

January 10, 2022

To: The Berkeley City Council

Re: Application of the Housing Accessibility Act and flaws in participatory processes that **unduly limit the City's** ability to regulate development in Berkeley, as evidenced via the handling of project ZP2021-0001.

This appeal relates to the December 9, 2021 ZAB hearing, in which the ZAB voted unanimously to approve a project proposed for 1643-47 California street in Berkeley (ZP2021-0001). We are appealing the decision by the ZAB in this case for two reasons:

- 1) The ZAB and City interpreted and applied the Housing Accessibility Act (HAA) in a way that severely and inappropriately restricts the City of Berkeley's powers and authority to influence housing development and to safeguard existing lower-income housing in the City.
  - a. The City Planner incorrectly extended protections afforded by the HAA only to very-low to moderate income housing developments, to a project that does not add any new units and instead simply proposes to massively increase the square footage of one unit in an existing duplex.
  - b. The ZAB interpreted the HAA to mean that it has no authority to apply existing objective zoning standards to any project that proposes an increase in square footage of the existing structure. That interpretation is counter to the statements in the City Planner's Staff Report, the law, and existing jurisprudence interpreting the HAA. Moreover, the ZAB only discussed how to apply the law to this project AFTER the opportunity for comment had closed during the hearing, and even though none of that information was previously publicly available.

If this interpretation is allowed to stand, the City of Berkeley would find itself forced to approve all housing projects that propose increasing square footage, regardless of whether the project complies with the applicable zoning standards currently in place, in effect making all Berkeley zoning processes irrelevant.

- 2) The City failed to provide adequate opportunities for affected parties to receive information in a timely manner, be consulted, and provide meaningful input on the proposed project

Because of (1) above, we request that the Council revert the project in question to the Department of Planning & Development to work with the City Attorney and others to determine how the HAA shall apply to this project and to zoning matters in Berkeley generally, including issuing clear and public guidelines as to which specific ZAB and City authorities are limited by the HAA in what kinds of circumstances. (See Section A below.)

We further request that the City Council order that ZAB hold another hearing on this project -- AFTER the City has officially decided and provided information as to how the HAA applies in this case, also mandating that such hearing shall include appropriate public notice and public participation, and that any and all restrictions on potential project modifications be both clearly stated in the Staff Report and during the ZAB hearing before the public comment section.

We also request that the City of Berkeley revise its procedures and processes to ensure effective and informed public participation in ZAB matters, considering that the COVID crisis is no longer a short-term phenomenon and thus does not provide an excuse for compromising informed public participation. (See Section B below). This includes but is not at all limited to public postings for projects, use of story poles, and improved ZAB hearing procedures to facilitate public participation.

In the interim, because the HAA does not require approval of this project, we ask that the City exercise its authority to reject the project or require a resubmission until such time as these matters can be resolved.

Finally, because the need for this appeal stems from the City's inconsistent interpretation of the HAA as well as from public participation concerns more broadly, both of which are of great import to the City generally and not only applicable to this specific project, we request a rebate of the \$500 charge for this appeal.

#### **SECTION A. Inappropriate application of the HAA to justify approval of the proposed project**

##### **THE FACTS**

###### **The project**

As clearly stated in the staff report provided to the ZAB prior to the hearing, the proposed project is "non-conforming for lot coverage, density, and yards" and "does not comply with the applicable, objective zoning standards."

1643-47 California is a North-Berkeley duplex built in 1924 that is registered as a two-unit structure with both units being owner-occupied. The property was illegally converted by the project proponents from two single-bedroom units into one larger single-family residence more than two decades ago, removing a kitchen, and opening the wall between the units. The property has been occupied as a single-family residence ever since.

The project proponent now seeks to expand the building from a total of 1,342 to 3,763 square feet by building a substantially different structure, promising to reconstruct the illegally removed unit. The project does not add any new units beyond what is on record in the city.

Instead of recreating the original and surely more affordable one-bedroom housing units (671 sq ft. each), the proposal seeks permission to create a small apartment (501 sq ft.) and an enormous 5-bedroom, 4-bathroom unit that includes a home gym. (3,262 sq ft.) The project would add two new levels to the existing property.

To accomplish these changes, the project requires two Use Permits and five Administrative Use Permits.

The proposal states that two adults will occupy the 3,262 sq ft. 5-bedroom unit and that their adult son will live in the small apartment.

The project application contains no information regarding any restrictions being created to ensure that the smaller proposed unit would be available as low-income housing, as is required for any application seeking to benefit from the HAA under the rubric of providing low-income housing.

Similarly, the project application contains no information explaining how the 5-bedroom, 4-bathroom unit with a gym could be considered to be housing for moderate-level or below income, another way of triggering application of the HAA.

*The ZAB hearing and decision<sup>1</sup>*

According to statements by ZAB members made during the meeting, this was the first time since the amendments to the HAA came into effect that the ZAB has had to decide whether or not to approve a project that did not meet the applicable zoning standards.

In spite of opposition by all three adjacent neighbors to the proposed third level of the structure, ZAB approved the project without considering requiring modifications such as lowering the building height or reducing the amount of square footage to be added.

It was evident during the hearing that the ZAB made this decision in large part because it felt forced under the HAA to approve any project that increases housing availability – defined broadly at one point in the discussion as being the units, number of bedrooms, or square footage of a development. The ZAB also expressed it could not require design modifications given that Berkeley does not yet have any objective design standards for minimizing impacts on neighboring properties.

At the very end of ZAB discussions, the ZAB chairman searched for, found, and read from a memo apparently produced by the city attorney and provided to the ZAB in October. That section – read out of context – was used as basis to suggest that the ZAB had no option other than to approve the project. The complete memo was shared with neither the public nor the rest of the ZAB at the meeting. We have since been unsuccessful in obtaining a copy of that memo, even after multiple requests to the ZAB and City Planner.

After dedicating much of the meeting to trying to figure out how the HAA might apply and what it was or was not allowed to do, the ZAB hurriedly voted shortly after reading from this memo to approve the proposed project.

During the meeting, ZAB members also clarified that the ZAB is not allowed to consider potential future uses of the projects it reviews even when the ZAB may doubt statements made by project applicants about such future use, thereby inferring that any determinations as to whether a project provides housing for very low to moderate income earners and thus is subject to those provisions of the HAA rests with the City Planning Department.

## THE LAW

The text of the HAA (California Code 65589.5<sup>2</sup>) begins with an extensive discussion of the need for housing and especially affordable housing in California considering the “housing supply and affordability crisis of historic proportions” the State faces.

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<sup>1</sup> We have made multiple requests to the ZAB and city planner for access to the recording of the ZAB meeting, so as to substantiate our record of the meeting. Not having received any response, these facts are based on our notes from the meeting and the written documents supplied to the ZAB by the city planner.

<sup>2</sup> See: [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65589.5)

It is eminently clear that the focus of the law is on providing more affordable housing, with references made to the need for safe and affordable housing; the discrimination against low-income and minority households caused by the lack of affordable housing; worsening poverty and homelessness; constrained supply and protracted unaffordability; low homeownership rates; and the high percentage of incomes paid by Californians on rent, among others.

The law also states that it is the intent of the State that the law be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

Relevant to this case, there are two sections of the law that impose restrictions on cities in approving housing developments.

First, Subsection (d) places strict limits on cities with regard to denying an application for a “housing development project for very low, low-, or moderate-income households or an emergency shelter...” To provide clarity on which housing developments would fit into this category, the law provides detailed instructions for how to carry out the calculations to assess whether a unit will qualify as very low, low- or moderate-income housing [Subsections (h)(3) and (h)(4)].

The law further requires that “The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.” [Subsection (d)(4)]

The vast majority of the law refers to and places limitations only on housing developments that would provide the very-low to moderate level income described above, and as defined in Subsection (h). It is only for such developments or for developments that comply with all applicable objective standards that a City must make a finding of specific adverse impacts upon the public health or safety if it desires to disapprove the project.

Second, Subsection (j) defines the process and timelines by which housing developments in general should be reviewed and either approved or denied. The law sets out two options, providing guidance for what to do if the city considers that:

- a) a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete; or deems the
- b) housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision

In the case where the agency deems the project out of compliance, the law simply directs the agency to provide the project proponent with a timely explanation of the reason why the project is not in compliance. [Section(j)(2)(i)]

There is nothing in the law that suggests a local agency would be required to approve a project that does not comply with the applicable, objective zoning standards in place at the time that a project application is complete. To the contrary, section (f) of the law states that:

... nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards,

conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

Other California law, such as Section 65915 discussing density, consistently speak of and define density in terms of the number of units per property or area.<sup>3</sup>

#### DISCUSSION AND ANALYSIS

Rather than adding low to moderate income level housing in Berkeley, this project would REDUCE the amount of such housing available. Again, the proponents seek to replace two small and more affordable housing units with one tiny apartment and one huge, 5-bedroom home. There are no provisions made that the project would provide guaranteed low or very-low income housing, and it is difficult to imagine how the very large 5-bedroom unit could be considered to be moderate income-level housing for a two-person household. The project proponents own a large 10-unit Berkeley rental building less than a mile away, and thus unlikely would qualify as a low to moderate income household.

By removing a more affordable unit and replacing it with a luxury home, the project thus runs COUNTER to the expressed purpose of the HAA of seeking to provide more affordable housing in California.

As emphasized in the staff report to the ZAB, the proposed project does not comply with the applicable, objective zoning standards.

As clearly stated on the City of Berkeley Department of Planning & Development website,<sup>4</sup> Berkeley has a long history of applying zoning requirements to preserve the character of its distinctive neighborhoods and prevent impacts on neighbors. It thus seems highly unlikely that the ZAB would have approved this extremely large building on a tiny lot, in contravention of multiple zoning standards, considering the objections of all three adjacent neighbors, and without requiring modifications to address the concerns of the neighbors, if it were not for the ZAB's apparent belief that it is required to approve any proposal for expanded square footage under the HAA.

To ensure both that all parties receive fair treatment, it is critical that the law be correctly applied. As stated in the judicial opinion in the landmark case on the HAA "California Renters Legal Advocacy and Education Fund vs. the City of San Mateo,

The Legislature insists on objective criteria so as to ensure "reasonable certainty . . . to all stakeholders" about the constraints a municipality will impose. (Assem., 3d reading analysis of Assem. Bill No. 1515, as amended May 1, 2017, p. 2.) Reasonable certainty is important to Department of Housing and Community Development officials, so they understand the impact of a locality's housing element in deciding whether to approve it. Reasonable certainty is important to neighbors, who want to know how big a building can be erected next door, and it is

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<sup>3</sup> See for example:

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65915&highlight=true&lawCode=GOV&keyword=density+definition)

<sup>4</sup> See: <https://www.cityofberkeley.info/planning/>



important to those who build housing, so they know what size project can be approved for a particular site. (p.19, emphasis added)

Further, the opinion states that

the HAA should not be construed to prohibit local governments from requiring compliance with “objective, quantifiable, written development standards” that are consistent with meeting the jurisdiction’s share in regional housing need (§§ 65589.5, subd. (f)(1), 65583), (p.24)

In this case, the ZAB failed to enforce the objective standards that are already in place. Those objective standards are ones that adjacent neighbors have studied and considered in both purchasing and renovating their properties. The arbitrary decision by ZAB to not apply the objective standards to deny the projects that all the neighbors oppose – when the HAA in no way limits it from doing so – therefore violates the rights of the neighbors to have reasonable certainty as to what kind of development will be allowed.

A memo<sup>5</sup> read by a ZAB member during the hearing was interpreted to suggest that the HAA limits the right of the city to require a reduction in the square footage, levels, or number of bedrooms of the proposed projects, even though the project does not comply with objective zoning standards. That interpretation is not consistent with the above legal opinion, which clearly confers on cities the right to apply objective standards. It is also not consistent with either the text of the law or the City Planner’s report that was provided to both the ZAB and to all affected parties.

Section (f) of the law states that cities should facilitate development of the density allowed at the site. But density does not mean square footage, levels, or number of bedrooms. Density is commonly defined as “the amount of development per acre permitted on a parcel under the applicable zoning, commonly measured as dwelling units per acre (du/ac).”<sup>6</sup> The parcel in question is approved at a density of two units, and the proposal is for two units. That does not mean Berkeley necessarily needs to approve one of those units to be enormous, in violation of the objective standards that neighbors would expect the city to enforce.

Further, as the staff report also makes clear,” the City may request modifications to the project to mitigate impacts or avoid specific adverse impacts on surrounding properties, so long as the project is not approved at a reduced density.”

If the ZAB’s interpretation of how to apply the HAA based on square footage instead of the number of units is allowed to stand, it will set a precedent that limits the rights of the City to enforce objective zoning standards, not only in Berkeley but throughout the State.

The reading of the law in this case not only unduly limits the power of cities to regulate development even further than the HAA already does, but it also prevents cities from protecting low to moderate level income housing within their districts. That’s because if cities have to approve all projects that propose infill to the absolute maximum size a property tolerates, without being able to enforce even

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<sup>5</sup> We have not received a copy of this document even after multiple requests to the City Planner and the ZAB.

<sup>6</sup> “Understanding Density and Development Intensity,” Presentation by the League of California Cities – Planning Commissioners Academy, | Thursday, March 7, 2019, available at: [https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05\\_3#:~:text=Definition,acre%20\(du%2Fac\)](https://www.calcities.org/docs/default-source/planning-commissioners-academy---session-materials/understanding-density-and-development-intensity.pdf?sfvrsn=d6b7bb05_3#:~:text=Definition,acre%20(du%2Fac)).

existing objective standards, there would eventually be no small – and thus more affordable – houses and units left. If this were the case in Berkeley, every property owner could in effect propose adding a couple of bedrooms, thus destroying the small houses available in the city and making it impossible for lower income earners and young families afford to live here. This would entirely change the socioeconomic makeup of Berkeley.

In sum, this proposal does not provide additional housing in Berkeley and does not meet any affordable housing needs and thus should not benefit from restrictions on city powers to influence development created by the HAA. This is simply a matter of one family seeking to increase the size of its property – in contravention of zoning standards – without having consulted and reached agreement with its neighbors. There is no justifiable reason why in this circumstance, the ZAB should favor the interests of one property owner over those of its neighbors.

The December 9, 2021 vote by the ZAB to approve the project without modifications was clearly influenced by an erroneous interpretation of the law, with ZAB members voting for the project because they thought they had to do so under the HAA, even after having expressed significant concerns about the size and purpose of the project and about the constraints they felt were being imposed upon them by the law. Recognizing that this was the first time after passage of the new HAA standards that the ZAB had to decide on a case in which a project does not comply with objective standards, and that the ZAB seems to not have fully understood the limitations and powers that law affords to cities, we request that the City Council return this project proposal for another hearing. At that hearing, we would expect that the project be considered for what it is - a proposed expansion that does not comply with objective standards, is not protected under the HAA, and does not count with support from the neighbors, such that the ZAB will feel free to deny the project or impose conditions considering input and requests for modifications from affected neighbors.

**SECTION B. Absence of the opportunity for meaningful public participation regarding the project.**

Throughout this process we experienced multiple problems with the City's process that created obstacles to the effective and timely participation in the zoning/planning review process. Our full, detailed concerns are described below.

The most egregious issue with respect to public participation in this case was that critical guidance from the City Attorney upon which the ZAB decision was based, was not available to affected parties or apparently to the City Planner until the very end of the ZAB hearing about this project. At that time – after the public participation section of the meeting was closed and with attendee microphones, chats, and videos all turned off on zoom -- and right before the vote was called -- the ZAB chairman found and read a memo to the rest of the ZAB, and in so doing changed the entire focus and purpose of the hearing. Because it had not been previously available, no participant or affected party was able to prepare for or comment on the content of that memo as it potentially applies to the project, and the ZAB made its decision after mere minutes of superficial consideration of this new information. That is not appropriate.

This ZAB hearing was held on December 9<sup>th</sup>, and the information from the City Attorney that the ZAB Chairman referenced was said to be in an October memo from the City Attorney. The memo supposedly states that any project for which the HAA applies cannot be reduced in square footage. This assertion is completely at odds with comments that the City Planner put in the Staff Report, in his Advisory Comments to the project proponents, and made to us in calls and emails prior to our writing a letter to the ZAB in opposition to the project. As described above, it also seems to be a misinterpretation of what the HAA requires.

One must presume that a memo about zoning from the City Attorney would also have been shared with the Department of Planning and Development and its staff. Nevertheless, the city planner at no point indicated that it would not be possible for the ZAB to deny permits for the proposed third level or otherwise require a significant reduction in size of the project.

In fact, the initial Advisory Comments from the city planner specifically asked for removal of the upper floor to minimize impacts on the neighbors (a reduction in square footage). When speaking with us about our letter to the ZAB he suggested we could reference these comments and ask the ZAB to request "major modifications to the plan prior to continuation of the hearing".

Further, the City Planners comments in the final Staff Report and to us in emails clearly state that the ZAB cannot reduce the number of units (two units, both already existing on this property) but can require other modifications to lessen the impact to neighbors. We therefore chose to focus the comments in our letter and during the hearing to request removal of the upper floor addition to yield a project that would still allow expansion on the non-conforming property from a 1,400 sq ft to 2,700 sq ft structure, on a tiny 3,100 sq ft lot.

The ZAB Chairman who had the additional information from the City Attorney, and presumably read the Staff Report and the submitted public written comments ('Correspondences Received') prior to the hearing, had many opportunities to bring this information to light earlier in the hearing, both right after the City Planner summarized the project, or during the lengthy discussion the ZAB members had about the impacts to lighting and privacy to adjacent neighbors prior to hearing public comment.

Moreover, any information from the City Attorney should have been in the Staff Report as it sets the boundaries for modifications to the plan. If we had been told by the City Planner about this restriction, our letter to the ZAB would have been different, and if we had heard this information from the ZAB chairman during the ZABs initial discussions our oral comments would also have been different.

We thus ask for the City Council to direct the ZAB to reschedule this permit application for a re-hearing, not only as described above in Section A on the HAA, but also so that we and other neighbors can make specific requests to the plan to mitigate the impact to our properties, if the city still decides that it will allow this non-conforming project.

Additionally, we request that the City Council direct the City Planner to require the applicants to erect story poles on their current roof, prior to that ZAB hearing, to show the positioning of the new upper

floor and the location of windows,<sup>7</sup> as this was never done even though the City's website says that any additions with average heights over 14 feet require application of story poles prior to the ZAB hearing.

If, in the end, the City for some reason decides it still cannot or does not want to deny a project that clearly violates objective standards, exceeds allowed lot density, requires a very large number of UPs and AUPs, is opposed by adjacent neighbors and is completely out of character with the rest of the neighborhood, neighbors might for example request the below modifications:

1. Only permit upper floor window glazing on the south and east side of the development at a height above 5'6" from floor, to increase privacy of neighboring properties.<sup>8</sup>
2. Mandate the construction of a fence between the properties to a height of 8'6" to increase privacy for both neighbors and the project proponents by blocking the direct view between the windows of adjacent houses.<sup>9</sup>
3. Remove the parapet feature on the east side of the top floor. Currently this is set to be built identically to the parapet structure on the front of the house (west side) which is used as a balcony. The parapet feature on the west side is not needed for aesthetic continuity as it isn't continuous on the south and north sides, and on the east side will only act to collect tree droppings from the three tall trees near the property line. These trees are a constant source of complaints from the project proponents as droppings fall on their existing flat roof with a parapet feature. Moreover, to illegally convert that parapet roof structure to a balcony, the owners would only have to add a door to the bedroom on the second floor (a feature that was in their initial submission). Given the project proponent's history of illegal, non-permitted modifications to their property, as described in the fact section above and in the City Planners Staff Report, it would be best to make it impossible for that outside balcony to be easily created.

Complete list of concerns with the city's process and associated impacts to public participation

- The lack of signage and story poles means neighbors were not sufficiently alerted to potential impacts
  - COVID policies from early in the pandemic temporarily removed the requirement for posting a large yellow sign on the property applying for permits to alert neighbors to an application. Signage policies seem to have been changed back to normal during 2021, as we started seeing yellow posters in front of other houses with building proposals, before this proposal was deemed complete. However, we never saw any kind of signage on site describing this project. A few posters were eventually placed on telephone poles, but those were not nearly as noticeable as the traditional large yellow signs on site and have since been removed.

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<sup>7</sup> One concern with the project is whether the proposed project will create a direct clear view from the added upper level into neighbors' bedroom and bathroom, in addition to compromising the privacy of back yards.

<sup>8</sup> If the project proponents want to keep the total glazing square footage the same to keep the amount of light into that room the same, they have plenty of space in that bedroom on the same wall to extend the 'high windows' toward the south end of that room.

<sup>9</sup> This would likely require an additional use permit but if the City is willing to issue seven such permits, an eighth seems reasonable as well.

- The project in question never erected 'story poles' even though the City's website says that doing so is required for any addition exceeding 14 feet in height. Again, we saw story poles on other houses in Berkeley that had proposals pending, even before this project was deemed complete.
- Even if temporary COVID policies were put in place to minimize human interaction, once reinstated, requirements should have been applied to all open applications.
- For some period of time, these signage requirements were replaced by postcards the city sent to neighbors. However, those postcards simply listed the address and did not specify on a map which house was affected or what the project implied. The likelihood of people proactively turning to their computer to learn about a proposed project is far lesser after receiving a postcard about an unfamiliar address, than if someone sees signage or story poles on a site.
- This relative lack of information about the project and its impacts - especially the absence of story poles – likely impacted the level of public participation overall, reducing the ability and likelihood of the public commenting on proposals.
- Interactions with the City Planner and the ZAB
  - Over the course of 2021 we had over a dozen email exchanges with the city planner as well as two phone calls. He was very responsive and we greatly appreciate him taking the time to speak with us.
  - Before even hearing the details of our concerns, the City Planner's advisory comment letter to the applicants called out the impacts to light and privacy to adjacent lots and specifically requested the applicants to remove the upper floor of their proposal (a reduction in square footage).
  - In our final call with the city planner on September 21, 2021, he mentioned options to (1) call out the impact to our light and privacy, (2) reference the suggestions he made in his Advisory Comments to make the scope of the project more reasonably sized by removing the upper floor to minimize/eliminate impacts to neighbors, (3) ask the ZAB to request "major modifications to the plan prior to continuation of the hearing", and (4) describe the ways in which the applicants misrepresented their neighbors' support of the project. At no point did he suggest that requesting a reduction in square footage would not be possible.
  - We thus focused our comments on requesting removal of the upper floor addition, to reduce impacts on neighbors but still allow the owners to expand the duplex on their non-conforming property from ~1400 sq ft to ~2700 sq ft.
  - As of 10am on 12/8/2021, the day before the ZAB hearing, the Staff Report was still not posted for public access. At that time, we were the ones who had to reach out to the city planner to get the report from him and make sure it was posted. Thus, there was also insufficient advance time for review and consideration of that report.
- The ZAB Hearing
  - In general, with the need to conduct public hearings on zoom rather than in person, those hearings should be conducted with video and chat channels enabled for all participants so that affected parties can communicate easily. Having chat channels, microphones and videos all disabled, as was the case in this hearing, is not appropriate. The zoom December 9 ZAB meeting did not even allow participants to communicate by

- raising a hand to be called on (except during the very limited public comment section). This is extremely problematic, as evidenced by one person who was trying to participate but had not way to communicate with the ZAB to let the ZAB know she for sure wanted to speak. ZAB members themselves found themselves needing to call each other via cellphone rather than being able to interact on chat.
- During the ZAB hearing on 12/9/2021 the city planner reviewed the project and made the same statements described above. The ZAB then had a discussion, and several members raised concerns about the large impact to the neighbor's light and privacy. After this the project proponents spoke, followed by several neighbors who mostly opposed particularly the upper floor addition.
  - A discussion by ZAB members ensued. It was at the end of this conversation that the ZAB Chairman referenced a letter he had from the City's Attorney from October supposedly stating that for projects where the HAA applies, the ZAB cannot reduce the square footage of the project, in effect saying that all ZAB members had to vote to approve (at this point in the Zoom hearing we 'raised our hand' to comment but were not called on)
  - Finally, the chairman called for a vote and got the unanimous approval that he had already stated was required.
    - The fact that this critical piece of information from the City Attorney was (i) counter to what the City Planner states in the Staff Report and to us directly, and (ii) was presumably known but not shared by the ZAB Chairman until after all public participation was complete, in effect took away the public's ability to submit comments that were meaningful in the context of this critical information.
    - Rather, the important information about how the HAA will be applied should be shared prior to the hearing. As stated above, if we had known about this supposed restriction our comment letter to the ZAB would have been different. Similarly, if we had heard this from the ZAB chairman during the ZABs initial discussions, our verbal comments would have been different.
    - We have since asked the ZAB and the City Planner for a copy of this memo from the City Attorney (and access to the ZAB hearing recording) three times, with neither party even replying to our request.
  - Appeal process
    - On December 14<sup>th</sup>, a few days after the ZAB hearing, we sent an email to the ZAB and to the City Planner requesting to be informed when the 'approval' would be posted and how the 14 days from then would be counted (calendar vs. work days, and considering which holidays?). We received no response from either. We also wrote a longer letter to the ZAB and City Planner and requested this information again on December 27<sup>th</sup>.
    - Having received no information from the ZAB or the City planner, we reached out to the City Webmaster on 12/17/2021 and were at that time referred to the 'Approved Zoning Applications' site, and the 'Guidelines for Filing an Appeal' site. We checked the 'Approved Zoning Applications' site immediately and then regularly thereafter and never saw the project appear.

- On January 4<sup>th</sup>, we received information from the City Planner that we would be required to appeal, but no further information as to what the timing would be. Since we were not seeing any postings on the site to which we had been referred, we assumed the clock was not yet running.
- Even so, we reached out to the City Clerk's office by email on January 7<sup>th</sup>. They immediately responded and told us that the decision had been posted to the 'Zoning Applications in Appeal Period' site on the 27<sup>th</sup> of December (the same day we last asked the ZAB and the City Planner for this information, and during a holiday break), and that we had three days until January 10<sup>th</sup> to file our appeal.

There are clearly numerous fronts on which public participation in zoning decisions needs to be improved.

- 1) The city must provide clear and easily understandable information as to how and when the HAA will be applied.
- 2) Posting of information about projects and story poles should be required and enforced.
- 3) The zoom logistics for hearings should be improved to promote meaningful participation in times of virtual meetings. (Unruly participants could always be muted, but excluding or preventing participation should not be the default.)
- 4) Berkeley should more clearly and proactively make available information about the appeals process to everyone who participates in a public hearing.

Thank you for your consideration and action on these matters,



Anna Cederstav



Adam Safir



Kay Bristol

Owners of properties adjacent to 1643-47 California.



Office of the City Manager

PUBLIC HEARING

April 26, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

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

RECOMMENDATION

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

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

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

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

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

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

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



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Support of the application includes:

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

On December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O'Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None).

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

On or before April 12, 2022, 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. The Council must conduct a public hearing to resolve the appeal.

### **Project Description**

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

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

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

The project would make several alterations to the existing property. An existing accessory structure (shed) would be removed. The existing residential structure would be shifted by 1-inch to the south to create a conforming left (north) side setback of 4 feet. The proposal would restore one additional dwelling unit at 1643 California, but

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

#### BACKGROUND

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

**Issue #1: Appellants allege that ZAB and staff erroneously applied the Housing Accountability Act (HAA) in a way that inappropriately limited ZAB's ability to modify the project.** The appellants contend that the HAA only applies to very-low to moderate income housing developments. They further contend that since the project does not add new units, or provide low-income housing, the HAA should not apply, and ZAB should modify the project to address the appellants' concerns.

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

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

The HAA applies to a "housing development project," which could be residential units only or a mixed-use development consisting of residential and nonresidential that is at least two-thirds residential, as well as transitional or supportive housing. The definition of housing development project uses the plural "units", meaning that it applies to two or more units.

The HAA also applies only when a project meets the local agency's objective development standards. Although the existing structure is non-conforming for lot

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coverage, density, and yards, the proposed additions would continue, but not worsen, these non-conformities. The project is eligible for zoning adjustments through the use permit process, and there are no objective standards or findings for considering such permits, so the HAA still applies to the project. Therefore, the City may not deny the project or approve the project at a reduced density without basing its decision on the written findings under Section 65589.5(j), listed above.

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

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

Pursuant to BMC Section 23C.04.070.E, additions and/or enlargements of lawful non-conforming structures that are non-conforming by reason of residential density are permitted with a Use Permit if the addition/enlargement does not increase the density or exceed the height limit. The project proposes to maintain the density at two units, and the addition would comply with the allowable average height limit in the district.

Pursuant to BMC Section 23C.04.070.C, additions and/or enlargements which vertically extend or alter a portion of a building which encroaches into a non-conforming yard are permitted with an Administrative Use Permit if the existing use of the property is conforming and if the addition/enlargement would not: 1) reduce any yard below the minimum setback requirements or further reduce existing non-conforming yards; or 2) exceed the maximum or calculated height limits. The existing residential structure is non-conforming to the front, rear, and left (north) side setbacks. The proposed addition/enlargement of the house would correct the non-conforming left side setback, but is proposed to vertically extend the non-conforming front and rear setbacks. The

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

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front setback would be vertically extended both up (with the second story) and down (with the basement), while the rear setback would be vertically extended down with the expansion of the basement. The second story at the rear would comply with the required 20-foot rear setback. Because the enlargement of the building would comply with the permitted residential use on the property, and the vertical expansions within the non-conforming setbacks would not further reduce the non-conformity, these expansions are permissible.

Since the ZAB decision, the City has determined that “to lower density” means a reduction in the units built per acre. This is consistent with guidance from the California Department of Housing and Community Development. Therefore, a condition of approval that limited the size of the units would not lower the density of the project. Even if an application to expand an existing dwelling unit were found to be a housing development project, the expansion could be modified without lowering the density.

ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project, although ZAB may have had faulty information that led them to believe that they could not modify the project. Council may add conditions to the proposed project to address the appellants’ concerns (such as the three specific modifications to the project that were requested by the appellant, as described on page 9 of the appeal letter, included as attachment 2), or may remand the project back to ZAB.

**Issue #2: Appellants allege that staff failed to provide adequate opportunities for neighbors to receive information and provide input on the proposed project.** The appellants contend that after public comment had been closed, the ZAB chair read from a memo on the interpretation of the HAA that affected how the ZAB voted on the proposed project. Appellants claim that the memo had not been made publicly available, and that they were not able to comment on the memo during the public comment portion of the ZAB meeting. If the appellants had been aware of the memo before the ZAB meeting, they state that their letters to staff and ZAB, and public comments during the meeting, would have been different.

Response: The August 26, 2021 ZAB meeting packet included a communication from the Land Use Planning Manager to staff, that was included as a staff communication to ZAB<sup>3</sup>. The memo discusses the HAA, Density Bonuses, and objective standards. Before public comment opened at the December 9 meeting, staff and ZAB did briefly discuss the HAA and objective standards and how both relate to the project. The ZAB chair referenced the memo from the Land Use Planning Manager before public comment was opened.

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<sup>3</sup> See page 4 of the agenda:  
[https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2021-08-26\\_ZAB\\_Agenda.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-08-26_ZAB_Agenda.pdf).

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Neighbors have shared letters of opposition with staff and ZAB throughout the application process, and were able to share their concerns during the ZAB meeting. Neighbors at 1609 Virginia are concerned about the increased shadows on their kitchen windows and bedroom windows, and deck and yard, during the afternoon and evening during the summer, and increased shadows on a detached office/bedroom during the winter. The neighbors are also concerned about views from the addition to their deck and yard, and kitchen and bedroom. The neighbor at 1651 California is concerned about views from the addition to her yard and kitchen. In addition, the appellants find the number of Administrative Use Permits and Use Permits required for the proposed project to be excessive.

Members of the ZAB described the impacts as “typical of an urban setting,” noted that the applicant had changed the roof from a butterfly roof to a gable to lower the height, the project had been revised from three stories to two stories with a below-grade basement, and that the addition met the 20-foot setback requirements at the front and rear. Even if neighbors are opposed to a project, ZAB may choose to not modify a project and approve it as is. Staff recommends the Council dismiss this appeal point.

**Issue #3: Appellants allege that several procedural requirements were not met when story poles were not installed, the typical zoning project “yellow poster” was not installed, and the staff report was not available far enough in advance before the ZAB meeting.**

Response: Page 10 of [Zoning Project Application Submittal Requirements](#) addresses when story poles are required: for new main buildings and additions exceeding 14 feet in average height in the Hillside Overlay District. This project is not in the Hillside Overlay. At the project planner’s discretion story poles may be required for projects outside of the Hillside Overlay when there is a concern about a protected view<sup>4</sup>, but views were not discussed prior to or during the ZAB hearing.

The appellants also state that the typical “yellow poster” was not installed by the applicant. When the application was submitted in January 2021, the 2-foot by 3-foot yellow poster requirement was on hold due to COVID-19 shelter-in-place orders. In July 2021, the yellow poster requirement was reinstated for new applications (page 4 of the [Submittal Requirements](#)). In January 2021, staff sent postcards informing neighbors of the project and posted a smaller yellow poster, similar to what is posted before public hearings, as that was the procedure at the time. Normal noticing procedures were followed by staff prior to the ZAB meeting in December 2021.

The appellants contend that the ZAB staff report was not posted by the morning of December 8, and they had to reach out to the planner to get a copy of the report.

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<sup>4</sup> Defined in BMC 23F.04 – 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.

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However, the ZAB agenda, with links to the staff reports and attachments, was posted to the ZAB webpage on December 2, 2021.

Staff recommends the Council dismiss these appeal points.

**Issue #4: Appellants dislike the City's Zoom meeting format.** The appellants contend that ZAB meetings conducted over Zoom should have "video and chat channels enabled for all participants so that affected parties can communicate easily."

Response: Like all public meetings that have occurred during the COVID-19 pandemic, ZAB meetings are conducted over Zoom, using a webinar format. The ZAB chair, ZAB secretary, and ZAB clerk can allow people to talk during the appropriate times outlined in the agenda. Similar to regular public meetings, members of the public must request to speak when public comment is called for, and the amount of time members of the public may speak is limited by the ZAB chair and enforced by the clerk.

Staff recommends the Council dismiss this appeal point.

**Issue #5: Appellants are frustrated with the City's appeal process.** The appellants contend that they sent emails to ZAB and the project planner after the ZAB meeting to find out the appeal procedure, but they never got a thorough answer, until they contacted the Office of the City Clerk on January 7.

Response: Page 7 of the December 9, 2021 ZAB agenda, like all ZAB agendas, describes the procedure to request a Notice of Decision.

Staff recommends the Council dismiss this appeal point.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The project approved by the ZAB is in compliance with all applicable State and local environmental requirements, would be located in a transit-rich area, and would be built and operated according to current codes for energy conservation, waste reduction, low toxicity, and other factors.

#### RATIONALE FOR RECOMMENDATION

The ZAB considered all of the information received from staff, the applicant, and the neighbors, and determined that the project is consistent with the zoning ordinance and applicable policies of the General Plan, and would not result in detrimental impacts to residents, adjacent properties, the surrounding area, or to the general welfare of the city.

Staff believes that the ZAB considered and discussed the evidence presented at the hearing, and acted within its purview to approve the proposed project. None of the issues raised on appeal are different from those raised at the ZAB hearing, and no new evidence or argument would dispute the reasoned findings of the ZAB. Therefore, staff

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recommends that the City Council uphold the ZAB decision to approve 2,229 square-foot addition, with an average height of 23 feet 10 inches.

ALTERNATIVE ACTIONS CONSIDERED

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

Action Deadline:

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

CONTACT PERSONS

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

Attachments:

- 1: Resolution
  - Exhibit A: Findings and Conditions
  - Exhibit B: Project Plans, dated July 15, 2021
- 2: Appeal Letter, received January 10, 2022
- 3: ZAB Staff Report, dated December 9, 2021
- 4: Index to Administrative Record
- 5: Administrative Record
- 6: Public Hearing Notice

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

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

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

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

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

WHEREAS, on or before April 12, 2022, 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; and

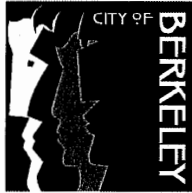
WHEREAS, on April 26, 2022, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant approving the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby adopts the findings for approval made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit #ZP2021-0001, and dismisses the appeal.

Exhibits

- A: Findings and Conditions
- B: Project Plans, dated July 15, 2021





City Clerk Department

May 27, 2022

Adam Safir  
1609 Virginia Street  
Berkeley, CA 94703

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

On April 26, 2022, the Berkeley City Council voted to adopt the enclosed Resolution No. 70,331–N.S., remanding the Use Permit to the Zoning Adjustments Board (ZAB) for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

Berkeley Municipal Code 23.410.040.G.3 states that the Council may remand the matter to the Board to reconsider the application, and/or any revisions to the application submitted after the review authority's action.

Berkeley Municipal Code 23.410.040.J.1 and 23.410.040.J.2 state that a ZAB decision on an appeal remanded by the City Council may be appealed in the normal manner unless otherwise directed by the City Council. If the ZAB does not act within 90 days after an appeal is remanded by the City Council, the original appeal of the ZAB's decision shall be placed back on the City Council agenda in the same manner as a new appeal.

If you have any questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville  
City Clerk

Enclosures:

Resolution No. 70,331–N.S.  
Proof of Service

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Page 2

cc: Alene Pearson, Acting Director of Planning  
Steven Buckley, Land Use Planning Manager  
Allison Riemer, Staff Planner  
Farimah Brown, City Attorney  
Sundeep Grewal, Applicant  
Ido and Tamar Oppenheimer, Owner

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

**PROOF OF SERVICE**

Rose Thomsen, an employee of the City Clerk Department, City of Berkeley, declares under penalty of perjury, that on May 27, 2022, I served the following documents:

**Letter of Decision and Resolution 70,331–N.S.** by forwarding true copies to:

Adam Safir  
1609 Virginia Street  
Berkeley, CA 94703

Sundeep Grewal  
Studio G+S Architects  
2223 Fifth Street  
Berkeley, CA 94710

Ido and Tamar Oppenheimer  
1643 & 1647 California Street  
Berkeley, CA 94703

addressed as shown by the following means of service:

By Certified Registered Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with Certified Registered thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.


By First Class Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with first class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

By Facsimile - I caused transmission of the document(s) described above to each addressee following ordinary business practices in compliance with applicable rules of civil procedure and rules of court.

By Electronic Service - I caused the document(s) described above to be sent to the electronic service address of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 27, 2022, at Berkeley, California.

  
Signature

Enc: Letter of Decision  
Resolution 70,331–N.S.

## RESOLUTION NO. 70,331-N.S.

REMANDING THE USE PERMIT TO THE ZONING ADJUSTMENTS BOARD (ZAB), TO RECONSIDER THE APPLICATION OF THE HOUSING ACCOUNTABILITY ACT, AND VERIFY WHETHER THE RENT STABILIZATION ORDINANCE APPLIES TO USE PERMIT #ZP2021-0001.

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

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

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

WHEREAS, on or before April 12, 2022, 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; and

WHEREAS, on April 26, 2022, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant remanding the project for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby remands the Use Permit to the Zoning Adjustments Board for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

The foregoing Resolution was adopted by the Berkeley City Council on April 26, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.



Jesse Arreguin, Mayor

Attest:   
Mark Numainville, City Clerk

SUPPLEMENTAL ITEM - 1643-1647 CALIFORNIA

ZAB 07-14-2022

Page 1 of 27

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Supplemental Communication related to ZAB 7-14-22 meeting, Item #5, ZP2021-0001  
**Attachments:** 07-14-22 ZAB- Item 5\_Appallent Slides.pdf

**From:** Adam Safir <cederfir@hotmail.com>  
**Sent:** Tuesday, July 12, 2022 4:27 AM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Cc:** Anna Cederstav <acederstav@gmail.com>; Adam Safir <cederfir@hotmail.com>; Kay Bristol <kbristol@berkeley.edu>  
**Subject:** Supplemental Communication related to ZAB 7-14-22 meeting, Item #5, ZP2021-0001

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

Dear ZAB members,

In addition to the written document that we sent to you several weeks ago, and which is now attachment 4 (p70) of the staff report, we are sharing a set of slides with you via this email. We will in part cover these slides in our presentation at the July 14<sup>th</sup> meeting, but given the time limitation we wanted to make sure you have all this information as the slides detail both our reasoning and suggestions for potential modification of this project.

We look forward to speaking with you later this week.

Sincerely,  
Anna, Adam, Kay

# ZAB Hearing 7/14/2022 Action Item #5

## Appellant slides detailing opposition to project

Adam Safir and Anna Cederstav

1609 Virginia St.

Kay Bristol

1639 / 1641 California St.

## Why did we appeal the prior ZAB decision?\*

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1. As has since been confirmed, the city memo used by the ZAB in making its decision misinterpreted the HAA, leading the ZAB to believe that it's "hands were tied" and that the ZAB could not require a reduction in the number of bedrooms or square footage of this project, entirely counter to past City practice.
    - The Housing Accountability Act (HAA) -- meant to drive new affordable housing and protect low-to-moderate income housing – had been misinterpreted to suggest that the city was obligated to permit conversion of two lower-income units into a luxury home with an attached ADU, drastically limiting the powers of the City and ZAB in contravention of the law.
  2. We felt that the city was unjustly allowing addition of a massive expansion and second story that adjacent neighbors oppose because it impacts their properties and multiple City goals:
    - Even though this project does not add any new housing or in any way alleviate the current housing crisis, and to the contrary decreases availability of lower-income housing in the neighborhood.
    - Even though the zoning standards would be exceeded and no objective standards are in place to either allow or disallow the impacts of the proposed project on shadow, light and privacy of adjacent properties.
    - Even though it would set a precedent for gentrification and elimination of lower-income units, in contravention of the General Plan and the goals of the City Counsel related to maintaining diversity.
    - Without considering all potential modifications initially suggested by the City Planner (removal of top floor to reduce impacts on neighbors) and by us in conversations with the City Planner.
- \* See Pages 1-2 of written submission for detail



# What's at stake here?

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## **Detriment to city:**

- Loss of two, small protected units that would be rent-controlled if rented, appropriate for single persons, students, elderly, new families – in the highly sought-after North-Berkeley neighborhood where diversification is a priority.
- Precedent that such units will be allowed to be converted into massive single-family homes.
- Precedent that illegal modification of a protected-unit duplex into a single family home will yield no consequence, with the City eventually permitting further modifications in that direction.
- Precedent that exceeded lot coverage of a storage shed with no impact on neighbors can be traded in to justify lot coverage exceedance of a three-level structure with significant impact on neighbors.

## **Detriment to neighbors:**

- Significant reduction in property value and enjoyment of properties due to loss of light, air and privacy.

# ZAB Role and Responsibilities

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Approves or denies permits related to the use and development of land in Berkeley. (ZAB website)

Is not limited by HAA or SB330 from requiring significant modifications, including potentially denying or limiting request for expansion of square footage. (City Council, City Attorney)

Considers multiple factors in making land-use decisions, including the existing land uses (in this case, a rent-controlled low-income duplex) and social and economic consequences of the proposed project. (LU-4 on Discretionary Review)

Is appointed by City Council which delegates to the ZAB the administrative duty of applying established policies to make sure decisions to issue or deny permits are in line with current City goals. (Groch vs. City of Berkeley, 1981)

## Relevant elements of City Plan and Policies that would support denial of this permit but are not mentioned in staff report

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### **Berkeley General Plan Goal 2:**

“Take steps to maintain an adequate supply of decent, affordable housing ...One major threat to Berkeley’s character and to its diversity is gentrification.”

“To maintain Berkeley’s unique character and quality of life, Berkeley must strive to maintain the cultural, social, and economic diversity that is such an important aspect of the character of Berkeley.”

**LU-4 on Discretionary Review** specifically states that among factors to be considered for land-use decisions are the existing land uses (in this case, a rent-controlled duplex of small, low-income units) and social and economic consequences of the proposed project.

**H-1** which seeks to Increase the number of housing units affordable to Berkeley residents with lower income level. We assume this translates to a directive to not permit the elimination of more affordable housing units by allowing those that exist to be substantially reduced in size or converted into much larger residences, as proposed here.

**H-32** (cited as H-33 in the staff report) regarding the need to encourage housing production adequate to meet City needs and the City’s share of regional housing needs. The question for ZAB here becomes whether it is more important for meeting City needs to maintain the existing smaller, protected rent-controlled, lower-income units, or to allow gentrification via massive expansion beyond zoning standards.

## Comments on elements of City Plan and Policies that were mentioned in staff report

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**LU-3** regarding infill development was cited by staff as applicable to this project, but it is not. Whereas the City plan indeed advocates for infill development, infill development” refers to **building within unused and underutilized lands within existing development patterns.** ([www.opr.ca.gov/planning/land-use/infill-development/](http://www.opr.ca.gov/planning/land-use/infill-development/))

“Infill revitalizes communities by breathing new life into empty buildings, vacant lots, and unused parcels.”

This property is already built beyond zoning standards for density and lot coverage and thus could not possibly be considered infill development. Thus LU3 does not apply.

**LU-7.** Here the staff focuses on subpart A and the requirement that new development be consistent with zoning standards. If this project is indeed new development, then it should be required to meet the 40% lot coverage for a two story building. If it is not new development, then subpart B that requires the city to “monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses” should apply. In either scenario, the second story should not be allowed.

**H-12** which seeks to encourage construction of new medium and high density housing on major transit corridors was referenced. The proposed project is not new construction and does not add any units, and thus this policy would not apply.

# Current permitted structure.

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- One-story duplex, with two identical units, each 671 sq. ft. (total 1,342)
- Both are protected, rent controlled units, ideal for lower-income residents.
- Duplex structure represents 44% lot coverage (3100 sq. ft. lot), where the maximum allowed for a single story structure is 45%. (Added backyard shed raised lot coverage to 50%)
- Duplex was illegally converted by project proponents into a single home, when their four children were young more than 20 years ago



Owner's current cars use all adjacent street parking and no off-street parking exists on this property

# Proposed conversion

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- The two 671 sq ft units would be eliminated and be replaced by a 3763 sq.ft. home containing an apartment.
  - One 3,262 sq. ft., three-level home with 4 bedrooms, a 'storage room', 5 bathrooms, and a 700 sq. ft. gym/family room, to be occupied by two adults.
  - One 501 sq. ft. apartment to be occupied by an adult son (who lives in Canada / Switzerland).
- Per the City Planner staff report: "non-conforming for lot coverage, density, and yards" (40% lot coverage is maximum for this structure) and thus "does not comply with the applicable, objective zoning standards" (requires 7 UPs/AUPs)
- Proposed design is opposed by two of three adjacent neighbors because it would be a massive dwelling on a tiny lot and because the third level generates privacy and shadow impacts, thus reducing property values.
- Both units would theoretically remain rent-controlled, but it is unlikely an owner would ever rent out the 4BR, 5 bath unit + gym under rent control.



# Subjective vs. objective standards

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City Planning argues that this project poses “no detrimental impacts” BUT that analysis:

- Does not consider loss of lower-income units, impacts on gentrification, and diversity in the city;
- Does not consider likelihood of rent-controlled units with the new configuration actually being rented;
- Does not consider precedents established by this case for future development in the city;
- Is based on a department policy of recommending for approval any permit that can be legally requested; and
- Makes an entirely subjective determination as to what constitutes minimal impact on neighbors.

The Berkeley City Council has not yet established objective standards for privacy, air and shadows.

In absence of objective standards, it is our belief that ZAB should act with precaution with regard to detriment to neighbors, and focus on promoting the longer-term interests of the city, which in this case favors retaining existing smaller, lower-income units to promote diversification and help alleviate the housing crisis while also meeting sustainability goals.

## Detriment to the City: Why you should not eliminate smaller, more affordable units.

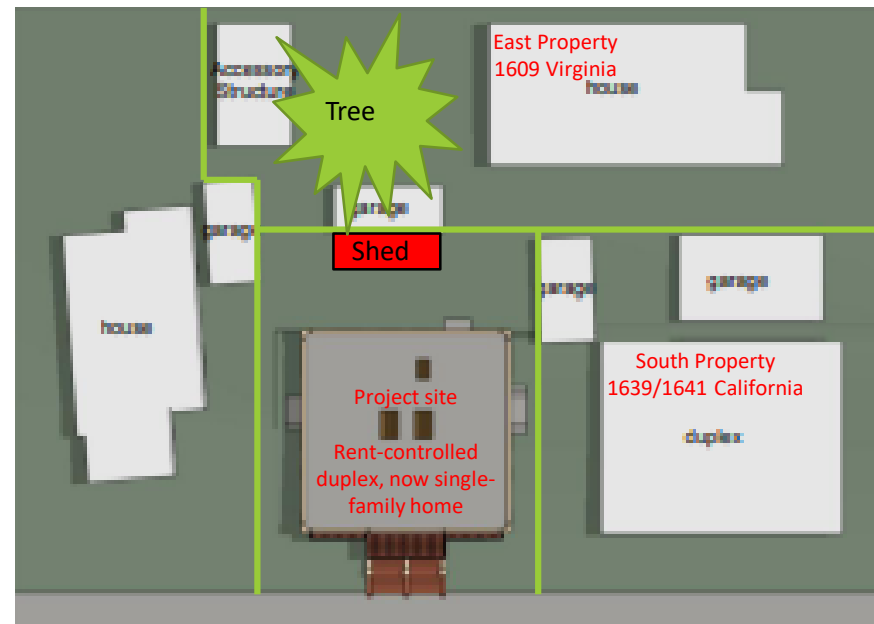
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- Protect lower-income units that increase economic and racial diversity in Berkeley, especially North Berkeley.
- Promote inclusion and integration by maintaining a variety of size, price and kinds of units that are currently interspersed throughout neighborhoods.
- Help meet Berkeley's climate change goals by protecting and promoting smaller dwellings.
- Limit real estate speculation and gentrification that in the long-term will drive out lower-income residents and increase Berkeley's carbon foot-print.

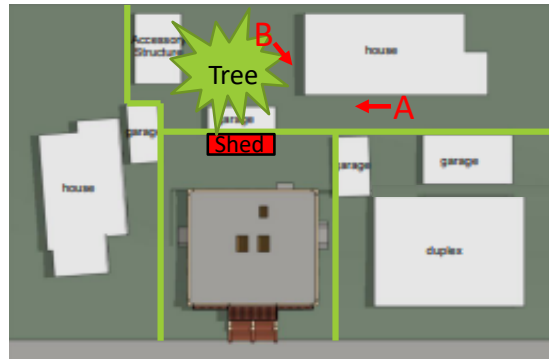
These goals can all be accomplished by the ZAB and planning department exercising their discretion to not issue UPs and AUPs. There is nothing in the law that requires the City to give use permits for expansion of structures that do not bring additional housing units and it is ZAB's responsibility to approve OR DENY permits requested. This project does not add housing and thus is not protected under SB 330 or the HAA.



## Detriment to neighbors: Property lines/structures impacted



## Detriment to neighbors: Shading of 1609 Virginia



During the spring/summer months, much of the light entering the kitchen, dining room, and bedroom in the afternoon and evenings would be eliminated.

Redwood trees largely shade the back yard. During the summer months, the frequently used small sunny back yard deck and sitting area to the west of the house would both lose late-afternoon/evening sun from the proposed top story.

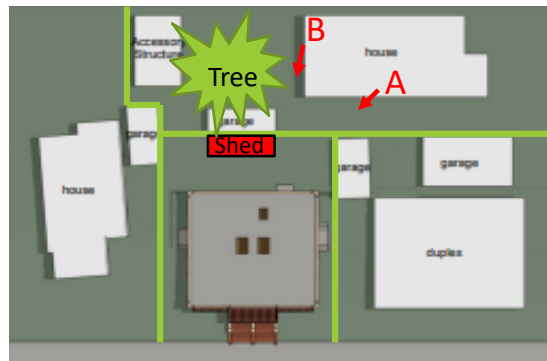


(‘driveway’, looking north)



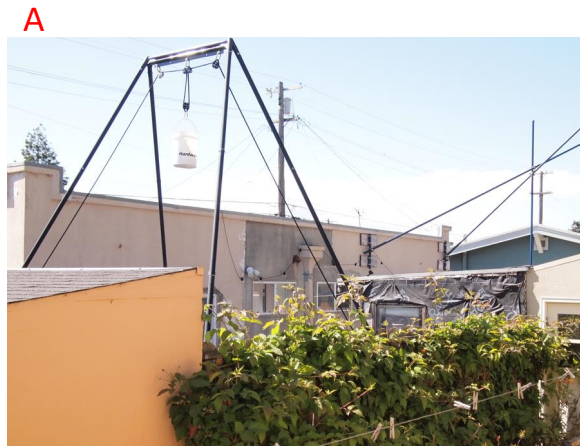
(rear deck, looking south-west)

## Detriment to neighbors: Privacy at 1609 Virginia



When the neighbors walk on their roof, we have a clear view of them from the bedroom and dining room windows. We already removed a west-facing window to eliminate views of their house. A large new window facing east would now look into ours.

The proposed top floor would not only reduce light, but would also provide direct views into the house. The sky in these pictures would be almost entirely replaced by construction.

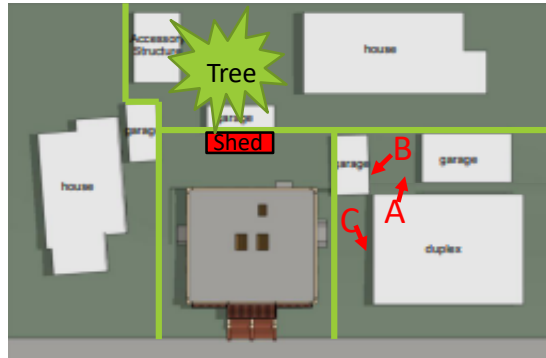


(View from mid-house dining room window)



(View from farthest east bedroom window)

## Detriment to neighbors: 1639/1641 California



A - patio



B – from patio looking north



C – north fenestration



If this project were allowed, the very small outdoor space (a quiet and private patio) would be adjacent to a towering structure with views into the patio, and the view of the sky from north facing windows would be eliminated.

## Current design significantly exceeds allowed floor area for new construction

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The architect argues that the proponents need to be issued AUPs and UPs because it is a pre-existing building that has many constraints. "...we have to deal with a small lot and it was already overbuilt...if this was an empty lot we'd be building a very, very different structure on the site" (Sonny Grewal, ZAB hearing @ 1:27)

That is absolutely true and the owners were presumably 100% aware of these limitations and the rent-controlled nature of the property when they purchased it.

Per City Planning, 6/24/21: a "replacement building would have to comply with all applicable development standards of the R-2A zoning district, including lot coverage and setbacks."

So, just because the project might require use permits if ZAB allowed expansion, does not mean that ZAB has to permit square footage beyond what would normally be allowed for the lot.

- **Today's standards for new construction, if complying with all zoning, would permit ~2700 sq.ft.**
- **By comparison, a 2-level structure at the existing footprint and beginning at ground level – as initially proposed by the City Planner - would be 2,668 sq.ft and would have little impact on neighbors although it would still remove a low-income unit from the City.**
- Meanwhile, the current proposed design is for 3,763 sq. ft.

# Backyard storage shed. Not a fair trade for the proposed new upper floor for neighbors.

City planning considers that removal of a backyard shed added in 1952 represents a reduction in lot coverage that somehow justifies issuing a Use Permit to exceed lot coverage for a multi-level structure rather than requiring a variance for exceeding lot coverage. Allowing a shed removal to guarantee a right to a second story creates a pathway for others in Berkeley to circumvent zoning standards to build huge multi-level homes that exceed lot coverage for the new number of levels.

The 40% lot coverage zoning standard for a two-story structure should be applied as the impacts to neighbors of a shed vs. a second story are not even remotely comparable.



New upper level would substantially impact privacy and light



Current shed barely visible over fence

# Discussion of options

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We want to be clear that we do NOT feel that it is appropriate for a substantial expansion of this lower-income, rent-controlled duplex to be permitted, given current housing pressures in Berkeley, the City council's environmental & housing goals and objectives, the scale of the project proposed, and the detriment it would bring to our properties and property values.

The original City Planner assigned to this project agreed with the above, which is why he recommended we ask for major modifications of the permit, and why his advisory comments initially recommended a much smaller project (two stories, one of which is at street level to limit impacts on neighbors.)

Nevertheless, because this is our only opportunity to show ZAB various potential options, the following slides show different options for mitigating impacts.

## Summary of options in order of preference

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- 1. Protect and retain small lower-income duplex units in Berkeley by requiring structure to remain at current size and to restore the unit that was illegally removed.**
2. Allow expansion of one unit through addition of basement level.
3. Allow expansion of one unit by raising current structure 3' to add a 1<sup>st</sup> floor at street level.
4. Allow 3<sup>rd</sup> level (2<sup>nd</sup> story) with greatly reduced sq.ft. to south and east sides
5. Make minor modifications to proposed project (fencing, windows, parapet)



## Options presented to ZAB (Five options, in order of preference), Options 1&2

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1. Do not allow UPs/AUPs where not required and where the outcome is contrary to City goals and needs. Instead, choose to protect and maintain the lower income, rent controlled units of this North-Berkeley duplex. Require the owners to reconvert the current single-family residence into the original and legally registered duplex, thus bringing back the second unit to the neighborhood.
2. Allow only an expansion of the structure to 2,668 sq. ft. by adding the basement level with little impact to neighbors. **This option would be in line with the maximum square footage allowed on this lot, if this project were new construction.**
  - Removal of the basement 700 sq.ft 'gym/family-room' would allow for additional bedrooms / bathrooms on that level.
  - This would still be the only house on the block that has expanded to the size limit based on setbacks and lot coverage

## Option 3

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3. Consider an expansion of the structure by raising the current level 3ft and adding a 1<sup>st</sup> floor at street level again increasing square footage to 2,668 sq.ft. while allowing easier access and more light into the lower story.

Note that this is the **design that city planner Nick Armour originally suggested to the applicants in his February 2021 staff advisory comments even prior to learning that neighbors were opposed.**

- We might be willing to support raising a two level house by ~3' so that more windows could be added to the lower level
  - In this case, as well as for options 4 and 5 below, addition of a 2-3' obscuring trellis above the current property line fence could mitigate privacy concerns

## Option 4.

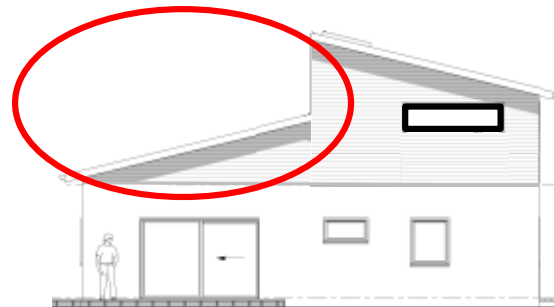
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4. If the ZAB opts against preserving rent-controlled, lower-income housing and decides to permit the massive three-level, two-story structure, even so it could still modify the project to significantly limit the size of the upper floor addition by pulling it back from the south side of the building. Shadow studies would be needed to determine the amount of reduction needed, but this could reduce privacy and shadow impacts on the adjacent neighbors that oppose the project. Also require the modifications described in option 5 below.

East Side



Current design



Proposed partial upper floor



New partial upper floor  
addition two blocks away at  
California and Buena

## Option 5 a – Add trellis to fence to increase 1<sup>st</sup> floor privacy

5. As a very last option, if the permit for this huge structure on such a small lot were nevertheless to be issued, require the following modifications on the south and east side of the house
  - a. Addition of trellis to fence between properties (raised to ~8½ ft) would block 1<sup>st</sup> floor views between properties
  - b. Modify all upper-level windows facing south and east to be awning windows (positioned above 5') to increase privacy for everyone (see following slides)
  - c. Remove the parapet feature from the upper-level east side of the house and replace it with a sloped roof that will not collect debris from the overhanging trees in a difficult-to-reach area. Specifically condition the permit so that no deck can be added through permit modification (see following slides)



Current

Relevant for any increase in building height (Options 3, 4, 5)

## Option 5 b - Window Reduction East Side

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Make all eastern facing windows awning style windows set at 5' or above



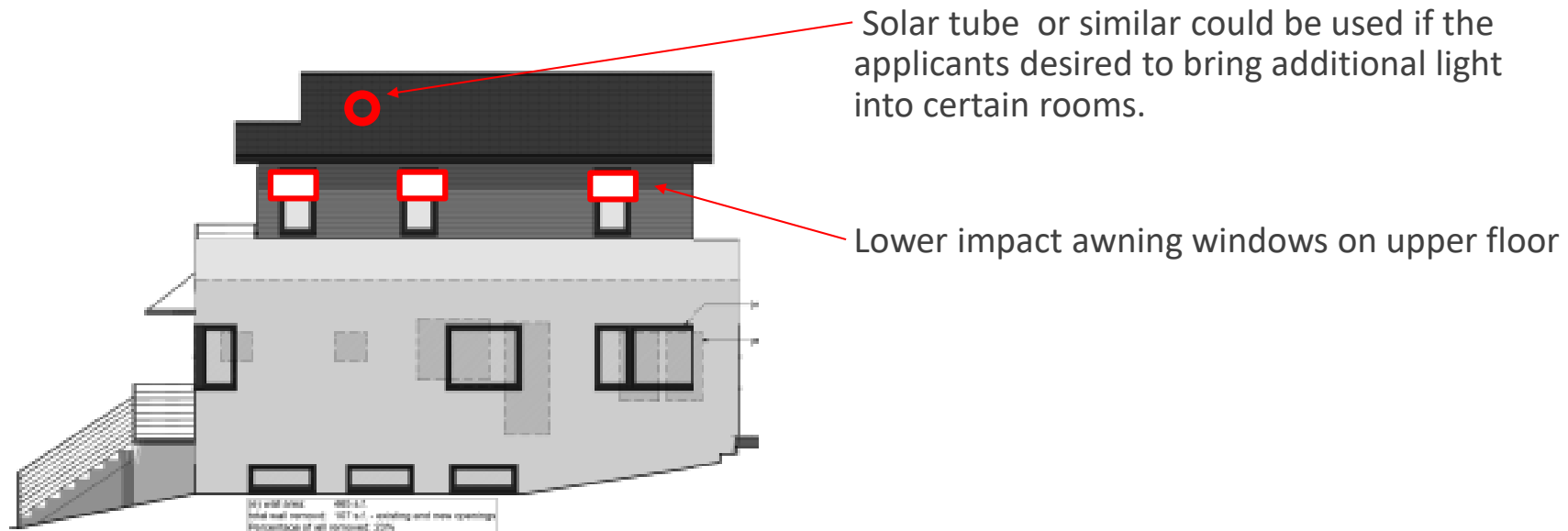
(Shadow's show existing windows)



(Red shows 'lower impact' window)

## Option 5 b – Window Reduction South Side

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Relevant for any upper floor addition (Options 4 & 5)

Example: 1609 Virginia remodel and fenestration (2017) was planned to decrease views between neighbors

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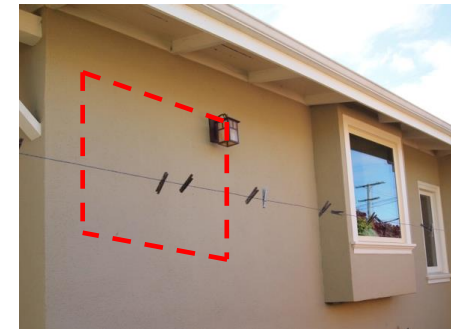
East side



North side



West side

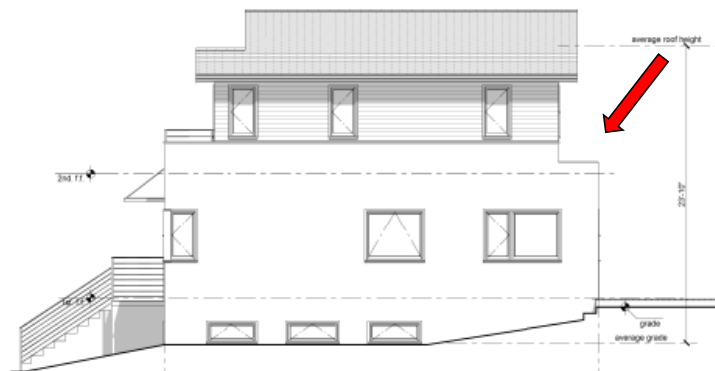


- North Side: Our 2017 remodel moved most of our windows to the north side, to increase privacy without losing too much light/sun. Very large windows on the North side now bring light into our bedroom and kitchen, but would be shaded part of the year by the proposed project.
- East Side: Bedroom and bathroom remodels utilized high-awning windows to ensure privacy w/ neighbors
- West Side: One window removed (---) to eliminate our direct view of the project property

## Option 5 c - Parapet removal

Given the initial design submitted, history of illegal modifications on this property, and the potential to seek a post-permit legal modification directly from planning, we are concerned about a possible future conversion of the parapet roof to a 'deck' within the setback.

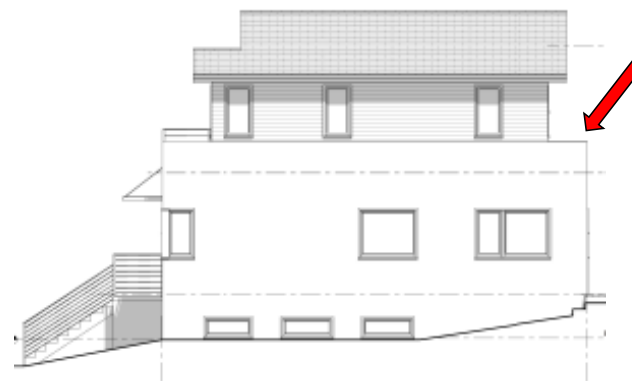
- The rear parapet was removed in 1<sup>st</sup> resubmission, but then added back in the final version for no apparent reason.
- Parapet only serves to collect tree debris and would be difficult to clean with no direct access (a continual source of frustration for the property owners for their current flat roof)
- Add condition to permit such that upper floor east side deck cannot be added in the future



From 1<sup>st</sup> resubmission 5/25/21  
(south side)

5/25/21 applicant response p3:

"We have eliminated the balcony at the rear (east side)"



From Final resubmission 8/21/21  
(East side - rear)



Location of possible door if a rear 'deck' were to be added later and as proposed to planning in early 2021.



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WE WILL PROCEED TO ITEM 33.

AND I'D LIKE TO SUMMARIZE THE PROCESS FOR THE CONDUCT OF THIS HEARING TONIGHT.

FIRST, WE WILL HEAR A PRESENTATION ON THE APPEAL.  
THEN, WE WILL PROCEED TO THE PUBLIC HEARING AND THE APPELLATE OR APPELLATE' S WILL HAVE FIVE MINUTES TO ADDRESS THE CITY COUNCIL ON THE APPEAL.

FORWARD THE APPLICANT FIVE MINUTES TO PRESENT ON APPLICATION.

IF THERE ARE, THIS IS SUMMARIZED ON THE PUBLISHED AGENDA, IF THERE ARE UP TO TEN SPEAKERS, EACH SPEAKERS TWO MINUTES.

MORE THAN TEN SPEAKERS, EACH SPEAKER WILL HAVE ONE MINUTE TO ADDRESS THE APPEAL.

I'D LIKE TO RECOGNIZE THE PLANNING DEPARTMENT AND I'LL GO FIRST TO ELAINE PETERSON.

I WILL TURN THE FLOOR OVER TO YOU

>> THANK YOU, MAYOR AND COUNCILMEMBERS.

ALLISON IS GOING TO START THINGS OFF WITH THE PRESENTATION

>> MAYOR J. ARREGUIN: I SEE THE PRESENTATION.

>> CAN YOU STILL SEE IT NOW?

>> MAYOR J. ARREGUIN: YES, WE CAN SEE IT.

>> OKAY.

MAYBE I'LL STOP AND COME BACK

>> MAYOR J. ARREGUIN: GREAT.

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I'M ALLISON.

WE'RE TO HEAR APPEAL ON ZONING DECISION REGARDING 1643-1647 CALIFORNIA STREET.

THE SUBJECT PROPERTY ON CALIFORNIA STREET BETWEEN LINK ON AND VIRGINIA IN THE RESIDENTIAL DISTRICT.

THERE'S ONE STORY DUPLEX AND SHED ON THE SITE.

BOTH THE DUPLEX IS OCCUPIED AS ONE UNIT BY THE OWNERS.

THE PROPERTY IS NOT CONFORMING FOR LOT COVERAGE FOR CITY SETBACKS.

EXISTING LOT COVERAGE IS 50% WITH 5% MORE COVERAGE THAN ALLOWED FOR ONE STORY BUILDING IN THE R2 DISTRICT.

IT IS NON-CONFORMING FOR RESIDENTIAL DENSITY FOR TWO UNITS WITH 1 UNIT ALLOWED FOR THE LOT OF THE SIZE.

THE FRONT AND REAR SETBACKS ARE NON-CONFORMING.

SINCE THE PROPERTY IS EXISTING NON-CONFORMING FOR LOT COVERAGE -- HEIGHT AND LOCATION OF THE ADDITION AND ADMINISTRATIVE USE PERMIT FOR ADDING FIFTH BEDROOM.

THE EXISTING BUILDING WOULD BE SHIFTED ONE INCH TO THE SOUTH TO SET BACK OF FOUR FEET.

THE PROJECT WOULD REDUCE THE FIVE OF THE UNIT AT 1643 CALIFORNIA BY ABOUT 150 SQUARE FEET AND THE RIGHT UNIT 1647 CALIFORNIA WOULD EXPAND BY CREATING NEW BASEMENT LEVEL BELOW THE EXISTING BUILDING AND NEW SECOND FLOOR.

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NEW SECOND FLOOR WOULD STEP IN AT THE REAR TO COMPLY WITH THE  
REQUIRED CENTER.

THE FRONT BACK WOULD BE EXTENDED BACK WITH THE SECOND STORY AND  
DOWN WITH THE BASEMENT.

THE REAR SET BACK WOULD BE SET DOWN WITH THE EXPANSION OF THE  
BASEMENT.

1647 CALIFORNIA WOULD EXPAND OUT 26 HUNDRED FEET.

AT THE REAR EXISTING SHED WOULD BE REMOVED TO ADD COVERAGE.

THE PROPOSED AVERAGE HEIGHT IS 24 FEET BELOW THE LIMIT OF 28  
FEET.

THE DOTTED LINE AT THE TOP OF THE ROOF SHOWS THE PRIOR DESIGNED  
WHICH WAS MODIFIED AFTER STAFF SENT FIRST REVIEW LETTER.

THE APPLICATION WAS SUBMITTED IN JANUARY 2021.

REVISED DESIGNED SUBMITTED IN MAY.

IN SEPTEMBER, THE OBLIGATION WAS DEEMED COMPLETE.

IN DECEMBER, ZAB COMPLETED THE PROJECT.

THE DECISION WAS APPEALED.

OVERALL THE APPELLATE' S ARE CONCERNED ABOUT THE HOUSING  
ACCOUNTABILITY AND PROCEDURAL REQUIREMENTS.

THERE WERE NOT CONCERNED ABOUT IMPACTS TO PROTECTED USE.

THE TYPICAL YELLOW POSTER NOT REQUIRED WHEN APPLICATION  
SUBMITTED BECAUSE SOME SIMILAR REQUIREMENTS WERE MODIFIED AT THE  
BEGIN OF THE PANDEMIC.

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IN JANUARY 2021, STAFF SENT POSTCARDS INFORMING NEIGHBORS OF THE PROJECT.

SIMILAR TO WHAT IS POSTED BEFORE PUBLIC HEARINGS.

THE STAFF REPORT WAS AVAILABLE FROM A LINK IN THE AGENDA POSTED A WEEK BEFORE THE MEETING ON THE ZAB WEBSITE.

TO THE APPEAL POINTS, THE HOUSING ACCOUNTABILITY ACT SHOULD NOT APPLY BECAUSE NO UNITS WERE ADDED.

AND APPLYING THE HAA LIMITED TO MODIFY PROJECT.

THE APPELLANT'S WOULD MODIFY THE PROJECT TO ADDRESS THE CONCERNS ABOUT SHADOWS AND PRIVACY.

STAFF AGREES THAT THE PROJECT INCLUDES TWO UNITS AND NO NEW UNITS ADDED.

THE HAA SHOULD NOT APPLY TO THIS PROJECT.

THE PROJECT MUST BE THE OBJECTED ZONING STANDARDS FROM THE BERKELEY MUNICIPAL CODE.

THE NEIGHBORS AT 1609 NEIGHBOR ARE CONCERNED ABOUT THE SHADOWS IN THE WINDOWS AND THE DECK AND YARD DURING THE AFTERNOON AND EVENING DURING THE SUMMER AND INCREASE SHADOWS ON DETACHED OFFICE/BEDROOM DURING THE WINTER.

ZAB CANNOT FIND DETRIMENT IN THE PROPOSED SHADOW.

NEIGHBORS IN 1609 VIRGINIA ARE CONCERNED ON VIEWED ON THE DECK, KITCHEN AND BEDROOM.

AND THE NEIGHBOR AT 1651 CALIFORNIA IS CONCERNED ABOUT THE USE

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OF THE ADDITION OF THE YARD AND THE KITCHEN.

ZAB CONCERNED NEIGHBORS CONCERN AND SINCE DRIVEWAYS ACT AS  
BUFFERS FROM BOTH SIDES.

THE PROJECT HAVE BEEN REVISED FROM THREE STORIES TO THREE.

THE ADDITION COMPLIED WITH THE 22-FOOT SET BACK.

STAFF BELIEVES THE ZAB DISCUSS EVENTS PRESENTED AT THE HEARING  
AND ACTED ON THE PER VIEW TO PROPOSE BUDGET.

STAFF RECOMMENDS UPHOLDING ZAB APPROVING THE ADDITION.

COUNCIL MAY CONTINUE THE HEARING OR MODIFY THE ZAB DECISION AND  
APPROVE THE PERMITS OR REVERSE THE DECISION AND DENY THESE  
PERMITS OR REMANDED THE PROJECT TO ZAB OR CONSIDERATION OF  
SPECIFIED ISSUES.

THANK YOU.

I'M AVAILABLE FOR QUESTIONS

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

BEFORE WE PROCEED TO PUBLIC TESTIMONY, I WOULD LIKE TO ASK ANY  
EX PARTE DISCLOSURES FROM THE CITY COUNCIL ON THIS APPEAL.

IF SO, RAISE YOUR HAND.

COUNCILMEMBER KESARWANI.

>> R. KESARWANI: YEAH, I MET WITH THE APPELLANT'S TO REVIEW  
THE CONCERNS WITH THE PROJECT.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU.

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ANY OTHER EX PARTE DISCLOSURES.

JUST NOTE THAT MEMBERS OF THE COUNCIL CAN DISCUSS THOSE PARTICULARLY OR SUBMIT IN WRITING IF AVAILABLE TO REVIEW IN THE CITY CLERK.

NO ADDITIONAL HANDS.

NO EX PARTE DISCLOSURES TO BE MADE.

WE CAN PROCEED TO PUBLIC TESTIMONY.

AS ONE APPEAL, I WOULD LIKE TO ASK THE CLERK FOR NOTIFICATIONS. FILE BY THREE NEIGHBORS.

MY UNDERSTANDING, PURSUANT TO THE ROLES, THE APPELLANT'S HAVE FIVE MINUTES AND USE THE TIME AS THEY WISH.

>> IF THEY'RE ASSIGNERS TO THE SAME APPEAL, THEY SPLIT THE FIVE MINUTES.

>> MAYOR J. ARREGUIN: I THINK ANA HAS HAND RAISED.

I WILL PROMOTE YOU TO PANELIST.

I'LL PROMOTE ADAM AND KATE BRISTOL.

AS I NOTED, AS ONE APPEAL FILED, THE APPELLANT'S HAVE FIVE MINUTES TO PRESENT ON THE APPEAL.

LET ME MOVE YOU OVER.

THIS IS ADAM.

AS I TOLD THE CITY ATTORNEY, I'M THE ONLY ONE SPEAKING

>> MAYOR J. ARREGUIN: OKAY, GREAT.

>> JUST ME.

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>> MAYOR J. ARREGUIN: THANK YOU, FOR CLARIFYING THAT.

I WILL TURNOVER TO YOU.

YOU HAVE FIVE MINUTES TO PRESENT ON THE APPEAL

>> HOLD ON A MOMENT WHILE I SHARE MY SCREEN.

>> MAYOR J. ARREGUIN: OKAY.

THANK YOU

>> ALL RIGHT.

CAN YOU SEE THE SCREEN?

>> MAYOR J. ARREGUIN: YES, WE CAN.

>> PLEASE, THERE'S MISSED UNDERSTANDING FROM PLANNING.

LET ME GO THROUGH OUR SLIDES HERE.

FIRST OFF, THANK YOU MAYOR AND CITY COUNCILMEMBERS TO SPEAK  
TONIGHT ABOUT THE APPEAL.

THERE'S MULTIPLE REASONS WHY YOU SHOULD SUPPORT THE APPEAL.

THE REASON IN THEIR INTERPRETATION IS LIMIT THE AUTHORITY OF THE  
PROJECT.

CRITICAL REASON TO PROTECT AFFORDABLE HOUSING, EQUITABLE AND  
INCLUSION.

TO RECAP, THE EXISTING STRUCTURE AT DUPLEX TWO UNITS ILLEGALLY  
CONVERTED TO A SWELLING BY THE CURRENT OWNERS.

THE PROPOSED STRUCTURE CONTAINS A LUXURY HOME INCLUDING A GYM  
AND CONTAIN AN APARTMENT.

REQUIRES USE PERMIT FOR EXCEEDING LAW COVERAGE.

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LET ME MAKE CLEAR, WE ARE NOT ASKING THE COUNCIL TO DISALLOW THE PROJECT ALL TOGETHER.

WE WANT TO SEE RENOVATION ON THE PROPERTY.

WE ARE ASKING THAT YOU SEND BACK TO THE ZAB FOR TURNING YOUR ATTENTION HEARING.

THE PRIMARY REASON FOR THIS FOR OUR APPEAL IS THAT WE FELT CONFIDENT THAT THE HAA WAS BEING MISINTERPRETED.

THE NEW LAW WAS MEANT TO DRIVE NEW AFFORDABLE HOUSING.

SO, THIS QUOTE IS FROM PLANNING DIRECTORS LETTER.

(READING FROM POWERPOINT SLIDE).

THE LETTER GOES ON TO SAY, ZAB MAY HAVE FAULTY INFORMATION THAT MAY LED BELIEVE THAT THEY MAY NOT MODIFY THE PROJECT.

ADDS TO THE COUNCIL, TO ADDRESS THE CONCERNS OR MAY REMAIN ON THE PROJECT.

LET'S LOOK AT THE TEN MINUTES OF THE ZAB HEARING OF THE PROJECT TO HEAR THE FAULTY INFORMATION.

WE SHARED THE FULL TRANSCRIPT WITH MARKERS FOR EASE OF REFERENCE.

THIS EXCHANGE SHOWS HOW COMMISSIONERS WERE ASKING CLARIFICATION TO LIMIT SQUARE FOOTAGE AND BEDROOMS.

THE CITY MANAGER SAID THERE WAS NO DESCRIPTION.

(READING FROM POWERPOINT SLIDE).

AGAIN, TO BE CLEAR, WE ARE NOT ASKING FOR ANYTHING OUTRAGEOUS.



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WE ARE ASKING THE COUNCIL TO GUARANTEE STATUS AND SENDING THE PROJECT BACK TO ZAB FOR EVALUATION AND CONTINUING OF HEARINGS.

WE SHOW PROPOSED EXCHANGES FOR CONSIDERATION.

SLIDE 11 AND 12 DISCUSS WHY WE THINK THE COUNCIL SHOULD DISALLOW THE UPPER FLOOR.

WHY DEMOLITION OF IMPACT SHED.

(READING FROM POWERPOINT SLIDES).

I'LL LEAVE YOU WITH A FINAL THOUGHT.

DURING THE HEARING, THE APPLICANT STATED IF LOT EMPTY THEY WERE BUILDING DIFFERENT STRUCTURE.

AS CITY PLANNING TOLD THEM, THEY HAVE TO FOLLOW ALL APPLICABLE STANDARDS.

THEY WOULD BE ALLOWED TO ADD ABSOLUTELY AT A MAXIMUM BUILDING THAT IS ABOUT THREE QUARTERS OF THE SIZE THAT THEY'RE CURRENTLY PROPOSING.

BECAUSE OF THAT, AND MISUSE OF THE LAW, WE ASK THAT YOU REMANDED BACK TO ZAB WITH THE CURRENT USE OF THE LAW CONSIDER THE CASE.

WITH THAT, I THANK YOU FOR THE CONSIDERATION AND CONSIDERATION OF THE APPEAL.

HAPPY TO ANSWER QUESTIONS

>> MAYOR J. ARREGUIN: WE WILL HOLD QUESTIONS AFTER THE PUBLIC TESTIMONY.

I WILL NOTE IT WAS ON THE SUPPLEMENTAL PACKET.

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WHO WILL BE REPRESENTING THE APPLICANT?

PLANNING STAFF OR CITY CLERK SO I KNOW WHO TO PROMOTE TO

PANELIST

>> OH, SUNNY.

WELL,

>> OH, I DO SEE SUNNY.

>> I WILL PROMOTE TAMARA.

JUST CONFIRM THAT THEY'RE REPRESENTING THE APPLICANT.

TAMARA, JUST VERIFY THAT YOU WILL BE REPRESENTING THE APPLICANT

>> SUNNY IS TRYING TO LOG IN AND HE CAN'T.

OUR ARCHITECT IS TRYING TO LOG IN BECAUSE HE COULDN'T RAISE HIS  
HAND.

IF YOU CAN SEE HIM, PAGE HIM IN

>> MAYOR J. ARREGUIN: I DON'T SEE HIS NAME ON THE ATTENDEE  
SIDE.

ARE THEY CALLING IN FROM A PHONE NUMBER?

>> YES.

>> MAYOR J. ARREGUIN: WHAT IS THE NUMBER THEY'RE CALLING IN  
FROM TO SEE IF THEY'RE ON THE ATTENDEE SIDE.

>> HOLD ON A SECOND.

>> 510-393-5691.

>> MAYOR J. ARREGUIN: I SEE THEM NOW.

>> ALL RIGHT.

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>> MAYOR J. ARREGUIN: CALLER WITH THE NUMBER ENDING 691 IS THE  
APPLICANT REPRESENTATIVE.

THEY'RE UNABLE TO UNMUTE.

PRESS STAR 6.

YOU SHOULD BE ABLE TO UNMUTE YOURSELF AND SPEAK.

PRESS STAR 6.

>> SUNNY, ARE YOU THERE?

>> MAYOR J. ARREGUIN: I ACTIVATED THE LINE AND ENABLED THEM TO  
SPEAK.

>> WE'RE TRYING TO CALL HIM.

>> I CAN'T FIND UNMUTE.

>> YOU HAVE TO DO STAFF 6.

>> I DID.

I PRESSED IT SEVERAL TIMES

>> MAYOR J. ARREGUIN: TO CITY CLERK, WHAT DO YOU ADVICE?

>> IF YOU TALK ON THE PHONE, CAN YOU HEAR ME.

>> MAYOR J. ARREGUIN: LET ME ASK THE CITY CLERK TO ADVICE WHAT  
THE CALLER SHOULD DO?

>> THE CLERK: I'M NOT SURE WHY THE TECHNICAL DIFFICULTIES ARE  
WHY WE CAN'T JOIN.

>> CAN YOU HEAR ME.

>> MAYOR J. ARREGUIN: WE CAN HEAR BUT NOT AS LOUD, BUT WE CAN  
HEAR HIM.

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>> OKAY.

I'LL SPEAK.

THAT'S WHAT IS GOING TO HAPPEN TODAY.

MY NAME IS TAMARA.

I'M THE OWNER OF THE HOUSE.

WE WERE PLANNING SUNNY DO MOST OF THE TALKING.

THERE'S NO QUESTION THAT HOUR HOUSE NEED A REPAIR BECAUSE IT IS  
A TWO-UNIT HOUSE.

WE WOULD LIKE TO REMOVE ONE OF THE UNITS TO THE YOUNGEST SON WHO  
IS VISION IMPAIRED AND NEVER HAVE DRIVER LICENSE.

THE LOCATION NEXT TO THE BART.

GIVE HIM THE DEPENDENCIES THAT HE DESERVES.

I'M APOLOGIZING FOR MY ENGLISH.

ENGLISH IS SECOND LANGUAGE.

GET THE APPROVAL FROM YOU AND NOT TO BE SEND BACK TO THE ZAB.

THE STUFF ON PAGE 5, THREE POINTS TO YOU ON PAGE 9.

THE NOTES SUBMITTED TO THE ZAB.

THE ZAB DO NOT TAKE CONSIDERATION BECAUSE THEY DIDN'T KNOW ABOUT  
IT.

BEFORE THE ZAB VOTED, SAID NO MODIFICATION REQUEST TO GO AHEAD  
AND VOTE.

THEY DIDN'T REALLY SUBMIT ANYTHING FOR CONSIDERATION ABOUT ANY  
CHANGE.

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I WANT TO REMIND THE COUNCIL AND ADAM AND ANA, THE BACKYARD AND OUR YARD AND ANOTHER SHADE.

IN KATE HOUSE, WE ARE ON THE NORTH SIDE OF THE HOUSE, WE DON'T GIVE HER ANY SHADE THE WHOLE YEAR AROUND. SHE DOESN'T GET ANYTHING FROM US.

THERE'S STILL DRIVEWAY AND 7 FEET DISTANCE FROM US AND HER HOUSE.

WHEN WE GOT TO THE ZAB MEETING, IT WAS ALMOST A YEAR BACK AND FORTH US AND THE STAFF.

WE LOWERED THE HOUSE TO SHADE FOR THE PEOPLE.

WE ARE ACTUALLY THE AREA THAT ADAM WAS TALKING ABOUT THE YARD THAT THE HOUSE IS GOING BACK AND MENTIONED THAT WE WILL DO A PORCH THERE.

IT CAME OUT TO BE THIS PLACE BECAUSE THE CITY ASKED US TO BE FURTHER SET BACK FROM THE PROPERTY LINE.

THAT'S THE ONLY REASON WHY WE HAVE IT.

THE ONLY WAY WE HAVE TO SOLVE THE PROBLEM IS GO BACK TO THE WALL TO THE FIRST FLOOR.

IT WILL NOT GIVE US THE SPACE THE 20 FEET THAT WE NEED FROM THE SET UP FROM THE NEIGHBORS.

THERE'S NO OTHER SOLUTION FOR THAT.

I UNDERSTAND THEY DON'T LIKE THE PROJECT.

I UNDERSTAND THEY'RE UPSET WITH THE CITY WAS HANDLING THE

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PROJECT.

OUR FEELING THEY CAME UP WITH NEW GOOD IDEAS MORE REQUESTS LIKE  
8 FEET.

MAYBE ONE OF THE NEIGHBORS MAYBE THEY WILL HAVE ONE OR TWO  
REQUESTS.

THEY GIVE US EXAMPLE AND THEY DON'T GIVE US SOMETHING THAT THEY  
WOULD LIKE TO HAVE.

DECIDING FOR OUR OTHER NEIGHBORS, WHAT THEY WANT IS RIDICULOUS.

WE HAVE CONSENT AND THE NEIGHBORS ARE HAPPY WITH PROJECTS AND

WOULD LIKE US TO START WITH THE PROJECT IN OUR BLOCK.

SAYING THAT THERE'S NO BUILDINGS AROUND THE AREA THAT IS NOT THE  
SIZE IS NOT TRUE.

I SENT THE LETTER TO THE COUNCIL.

WITH STATISTICS, HOW MANY HOUSES IN THEIR BLOCKS AND OUR BLOCKS  
WITH SECOND FLOOR AND THIRD FLOOR PROJECT FAMILIAR WITH THE  
AREA.

IN THE ZAB IS THE SAME.

NO REASON TO SEND BACK TO THE ZAB TO TALK ABOUT THE SAME THINGS  
WE TALKED ABOUT.

THEY HAD TIME TO TALK ABOUT MODIFICATION.

IN A WAY IT IS TOO LATE RIGHT NOW.

I DON'T SEE ANY REASON FOR THAT.

ANYTHING?

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>> I WANT TO MENTION THAT BESIDES ONE NEIGHBOR, OUR BLOCK SUPPORTING THIS PROJECT AND WE TURNED A LETTER FROM EACH ONE OF THE NEIGHBORS IN THE BLOCK.

>> SOMETHING ELSE, TALKING ABOUT SMALL WINDOWS. IN THE CORNER OF EAST AND SOUTH, THERE'S TWO BATHROOMS WITH HIGH WINDOWS TO PROTECT PRIVACY.

THE PRIVACY THAT THEY'RE TALKING IS YARD PRIVACY.

WHEN I PICTURE THE SECOND FLOOR, YOU DON'T SEE ANYTHING IN THE YARD.

NOTHING ABOUT CONCERN.

THE OTHER YARD, WE SEE THE TREES AND NO BEDROOM OR TALKING OR BEDROOM.

THEY DON'T HAVE SECOND FLOOR.

NO REASON TO SEND US BACK TO THE ZAB.

>> MAYOR J. ARREGUIN: THANK YOU SO MUCH FOR THE PRESENTATION.

>> I'M SORRY I WASN'T READY TO SPEAK ALL OF THE THINGS.

>> MAYOR J. ARREGUIN: NO PROBLEM.

WE APPRECIATE YOU STEPPING IN AND PRESENTING ON THE PROJECT.

THERE MAY BE QUESTIONS ON THE COUNCIL AFTER THE PUBLIC PORTION OF THE HEARING

>> I'M NOT CLEAR ABOUT SOME OF THE THINGS BECAUSE OF MY ENGLISH.

I APOLOGIZE FOR THAT

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>> MAYOR J. ARREGUIN: YOU DID GREAT ON THAT.

PUBLIC TESTIMONY ON THE ZAB APPEAL FOR 1643-1647.

ANYONE WISH TO SPEAK?

LESS THAN TEN SPEAKERS.

FIRST TO ACDR AT EARTH JUSTICE.ORG, YOU HAVE TWO MINUTES

>> YEAH, HI.

ONE OF THE FIRST PROJECTS BY THE ZAB WHILE TRYING TO APPLY THE  
NEW HAA RULES.

AS A RESULT, THE ZAB HEARINGS WAS FOCUSED ON WHAT IT COULD OR  
COULDN'T DO.

UNFORTUNATELY, THERE WAS A MISUNDERSTANDING AS TO WHAT THE ZAB  
COULD DO.

THEY THOUGHT THEY COULDN'T REDUCE THE SIZE OF THE SECOND STORY.

THEY THOUGHT THEY COULDN'T REDUCE BEDROOMS THE SQUARE FOOTAGE.

THE CITY PLANNER WE HAVE BEEN IN CONTACT FOR A YEAR WITH THE  
PROJECT, WOULD ADVISE THAT SEEK MAJOR MODIFICATION AND SHOULDN'T  
BRINGING UP DETAILS LIKE WINDOWS AND FENCES AND OTHER THINGS.

HE WAS JUST AS BLINDSIDED BY THE HAA AND NOT UNDERSTOOD OR

THOUGHT THAT THERE WAS ANY POSSIBILITY THAT THE ZAB COULD FEEL  
CONSTRAINT BY THE NEW RULES.

HE DID NOT KNOW THAT THERE WAS OPTION FOR THEM TO VOTE.

THINKING THAT THEY COULDN'T REQUIRE ANY MISUNDERSTANDINGS.

HE RESIGNED AFTER THIS HEARING.



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NOW, THE INTERPRETATION BY THE CITY OF THE HAA HAS BEEN FIXED.

OUR PROJECT IS ONE OF THE ONLY ONES THAT WILL BE CONSIDERED

USING THIS FAULTY INTERPRETATION OF THE HAA.

>> YOU KNOW, THAT'S THE OWNER OF THE HOUSE.

>> MAYOR J. ARREGUIN: MA'AM, YOU ARE NOT ABLE TO INTERRUPT.

YOU HAD FIVE MINUTES TO PRESENT.

PLEASE DO NOT INTERRUPT THE SPEAKERS

>> NEIGHBORS IMPACTED BY THE PROJECT DESERVE TO HAVE A HEARING  
BY ZAB THAT UNDERSTAND THE RESTRICTIONS THAT ARE AND NOT IMPOSED  
BY THE HAA.

THIS PROJECT CONVERTS SMALL BERKELEY DUPLEX INTO MASSIVE  
DWELLING AS HIGH COST TO THE ENVIRONMENT HOUSING AND NEIGHBORS.

NOT BE PUSHED THROUGH WITHOUT FAIR HEARING.

IN ADDITION, I WANT TO MENTION THAT THREE NEIGHBORS DO NOT  
APPROVE OF THIS PROJECT.

TWO NEIGHBORS OUT OF THREE ADJACENT NEIGHBORS --

>> MAYOR J. ARREGUIN: THANK YOU, FOR YOUR COMMENTS.

>> THANK YOU.

>> MAYOR J. ARREGUIN: NEXT SPEAKER, SHARON.

PANELISTS MUTE YOUR MICS.

DO NOT SPEAK UNLESS COUNCILMEMBER HAVE A QUESTION

>> CAN YOU HEAR ME?

>> MAYOR J. ARREGUIN: YES.

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>> WE ARE NEIGHBORS AND WE DO OPPOSE THIS PROJECT BECAUSE IT WOULD REMOVE A SMALL MORE AFFORDABLE HOUSING FROM BERKELEY.

WE DECIDED TO BUILD A BACKYARD.

THE UNIT WE BUILT IS 640 SQUARE FOOT AND BUILT AT CONSIDERABLE COSTS AND 18 MONTHS OF WORK.

THE UNITS AT 1643 CALIFORNIA ARE THE SAME SIZE AS OUR ADU.

WE DON'T THINK THE CITY SOME ISSUE USED PERMIT FOR PROJECT AFFECTS LIMITS THE UNIT WHILE IMPACTING THE NEIGHBORHOOD AND NEIGHBORS.

IT IS UPSETTING TO HEAR, WHILE THE CITY IS ADVOCATING FOR RESIDENTS TO BUILD ADU TO ALLEVIATE HOUSING CRISIS IT IS CONSIDERING THE REMOVAL OF THE SMALL UNITS THAT ARE ALREADY EXISTS.

DOING SO, GIVES THE OWNERS OF THE PROPERTIES TREMENDOUS VALUE INCREASE AT THE EXPENSE OF NEIGHBORS AND THE HOUSING DETRIMENTAL OF THE CITY.

TO ALLOW THE PROJECT TO BE APPROVED WOULD BE UNDERMINE EFFORTS TO CREATE AFFORDABLE HOUSING IN THE CITY.

THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

WE WILL GO NEXT TO MARK

>> CORRECT.

THANK YOU.

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MY NAME IS MARK.

I LIVE IN DISTRICT 2 CURRENTLY.

HOWEVER, MY FAMILY AND I USED TO LIVE HOUSES AWAY FROM THIS PROPERTY BEING DISCUSSED.

WE HAD TO MOVE WHEN THE OWNER SOLD RENTING.

WE HOPED TO STAY IN THE NEIGHBOR BUT COULDN'T AFFORD A HOUSE IN THE SMALL AREA.

ASK THE COUNCIL TO COMMIT TO PRESERVING AND SMALLER AND AFFORDABLE HOMES IN BERKELEY.

BY THAT, I MEAN NOT APARTMENTS BUT STREET-LEVEL HOMES WITH YARDS FOR FAMILIES LIKE MINE CAN HAVE KIDS PLAYING OUTSIDE.

UNITS THAT ARE ONE THOUSAND, TWELVE THOUSAND SQUARE FEET OR LESS.

THIS PROJECT PROPOSES TO BUILD AN ENORMOUS HOUSE NOT ALIGNED WITH THE NEIGHBORHOOD.

I DON'T THINK SINGLE-FAMILIES NEED FIVE BATHROOMS.

IT IS A FORM THAT WE DON'T WANT TO SEE IN BERKELEY.

I WOULD ASK THE COUNCIL TO SEND THE PROJECT BACK TO ZONING ASKING FOR A DESIGN WITH TWO MORE REASONABLE SIZE UNITS RATHER THAN THIS HUGE ONE.

SMALL UNITS LIKE THE ONES IN THE EXISTING DUPLEX PROVIDE NEED MUCH HOUSING FOR SINGLE PEOPLE, FAMILIES AND THE ELDERLY.

THEY SHOULD BE PRESERVED AND NOT DESTROYED.

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THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU.

OKAY.

WE WILL GO TO THE NEXT SPEAKER TOM.

>> HI.

IN MY OPINION, IT IS INFORMED OPINION, BECAUSE I HAVE SPENT A LOT OF TIME WITH SOME OF THESE LAWS.

THE APPELLANT'S HAVE A STRONG CASE THAT THE PLANNING STAFF OF BERKELEY HAS CONSISTENTLY MISS APPLIED THE HOUSING ACCOUNTABILITY ACT AND VARIOUS OTHER STREAMLINE LAWS TO OVERLY RESTRICT THE CONDITION OF PROJECTS THAT TAKE PLACE.

THIS ERROR HAS BEEN POINTED BY A BUNCH OF BERKELEY EXPERTS BETTER THAN ME BY FAR TO THE PLANNING STAFF IN MY DIRECT WITNESS.

AND YET, HERE WE ARE.

I WOULD TAKE THE APPELLANT'S CASE SERIOUSLY IF I WERE TO.

I DON'T KNOW IF THEY WOULD PURSUE TO COURT BUT SOMEBODY AT SOME POINT SHALL.

SECONDARILY, THE STAFF SHOWS A BIAS.

WHEN THEY SAY THAT, OH, THIS LEVEL OF SHADOWING VIEW BLOCKING AND AIRFLOW INTERRUPTION IS TYPICAL OF URBAN ENVIRONMENT.

NOTHING IS TYPICAL OF URBAN ENVIRONMENT OF THIS SORT.

CITIES ARE HETEROGENOUS IN BUILT FORM.

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EACH HAS ECONOMIC CONTEXT AND INCUMBENT CONTEXT AND SO ON.

THERE'S NO SUCH THINGS.

STAFF IS EXERCISING A PURE UNLAWFUL FIAT AND IN VIOLATION OF THE  
CODE TO OBLIGATES THE ZAB AGAINST THE SHADOWING OF BLOCKING

>> MAYOR J. ARREGUIN: THANK YOU FOR YOUR COMMENTS.

NEXT TO JOHN.

>> GOOD EVENING, COUNCIL.

I WOULD LIKE TO POINT IN THE ZAB MEETING OUT OF THE THREE A  
JOINING NEIGHBORS CALL TO EXPRESS THE MEASURE ON THE PROJECT.

WROTE THAT CONTRARY TO THE LANGUAGE IN THE AUP, THEY WERE NOT IN  
SUPPORT OF THE PROJECT.

SO, WHY THEN DID THE ARCHITECT CHOOSE TO CLAIM IN HIS STATEMENT,  
I QUOTE THE PROPOSED PROJECT HAS SUPPORT FROM THE NEIGHBORS,  
SUPPORT FROM ONE ADJOINING NEIGHBOR AND NEIGHBOR FROM ACROSS THE  
STREET.

IN CHOOSING THE LANGUAGE, IS MISREPRESENTING THE NEIGHBORS  
CONSENT NOT SURPRISINGLY IT HAS LED TO CONSENT.

THIS REPRESENTATION OF CONSENT PUTS NEIGHBORS IN CONTENT.

UNFORTUNATELY, IT IS NOT A ONETIME EVENT.

THE REASON I'M HERE TONIGHT BECAUSE MR. [NAME INDISCERNIBLE]

MADE THE CLAIM ON DIFFERENT AUP AND DIFFERENT PROJECT BUT HE

FALSELY CLAIMED BY FAMILY'S CONSENT AND SUPPORT ON PROJECT NEVER  
PRESENTED TO US NOR TO ANY OTHER NEIGHBOR.

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I THINK HE KNOWS WHAT HE'S DOING.

HE'S LICENSED ARCHITECT AND PRACTICING IN BERKELEY FOR 18 YEARS.

SOMEONE NEEDS TO TELL THE ARCHITECT TO STRAIGHTEN UP AND FLY UP.

STOP MAKING REPRESENTATIONS.

DEVELOPMENT IS CONTENTIOUS ENOUGH.

THANK YOU, MR. MAYOR AND COUNCIL

>> MAYOR J. ARREGUIN: THANK YOU, SIR.

WE WILL GO TO ANONYMOUS

>> HELLO.

I'VE BEEN LIVING IN THE NEIGHBORHOOD FOR A LONGTIME.

I WOULD LIKE TO START BY SAYING THAT THE APPELLATE INCORRECTLY STATED THAT THE NEIGHBORS ARE AGAINST THE PROJECT.

THE NEIGHBOR MOST AFFECTED BY THE CHANGES, BOTH BY SUNLIGHT IS IN SUPPORT OF THE PROJECT.

I ALSO WANT TO STATE THE FIRST SPEAKER TODAY AFTER THE APPELLATE AND APPLICANT WAS ONE OF THE APPELLANT'S AND THEIR ARGUMENTS SHOULD NOT BE CONSIDERED BECAUSE THAT WAS ADDITIONAL TIME.

I ALSO WANT TO SAY AS SOMEONE WHO WENT TO THE ZAB MEETING, THEY STATED THAT THEY KNEW COULD MAKE CHANGES.

NON-REQUESTED AND NOTHING TO CONSIDERED.

IT SEEMS RIDICULOUS THAT NOW THAT THE NEIGHBORS ARE UNHAPPY WITH THE RESULT THEY WANT TO GO BACK AND CONTINUE THE DELIBERATIONS.

THIS BUILDING IS IN LINE WITH OTHER STRUCTURES IN THE

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NEIGHBORHOOD BECAUSE IT IS AFFECTING THE NEIGHBORS BECAUSE IT IS NEARBY IT DOESN'T MEAN IT DOESN'T FIT WITH THE NEIGHBORHOOD.

UM, WHEN CONSIDERING THE BIGGER UNIT, IT IS FOR A BIGGER FAMILY.

IT ALSO SEEMS RIDICULOUS THAT A BIG FAMILY SHOULD BE FORCED TO SQUEEZE IN A SMALL PLACE BECAUSE THE POSSIBILITY OF SMALL UNIT IN THE FUTURE TO BE USED FOR LOW-COST HOUSING.

THE OTHER UNIT WILL BE RENTED OUT AS STATED BY THE APPLICANT.

THERE'S NO PLAN TO DO WITH THE MAIN UNIT THAT THE FAMILY IS PLANNING ON LIVING IN.

I HAVE BEEN DISAPPOINTED IN THE ZAB HEARING AND THIS AS WELL TO HEAR THE PERSONAL ATTACKS BETWEEN THE NEIGHBORS.

I'M DISAPPOINTED IN THE NEIGHBORHOOD

>> MAYOR J. ARREGUIN: THANK YOU.

WE WILL PROCEED TO THE NEXT SPEAKER, KATE BRISTOL.

I WANT TO CLARIFY FOR THE RECORD IT IS UP TO THE APPELLANT'S WHO WANTS TO USE THEIR TIME AND REPRESENT THEM.

IT DOESN'T PRECLUDE OTHER APPELLANT'S FROM SPEAKING IN THE TWO-MINUTE PERIOD.

KATE BRISTOL, IF YOU WISH TO SPEAK UNMUTE YOURSELF.

KRIS, YOU SHOULD BE ABLE TO SPEAK

>> HELLO, THANKS FOR HAVING US.

I WANT TO CLARIFY IT SEEMS LIKE THIS IS NOT REMOVING A UNIT.

I KNOW THERE'S CLAIMS ABOUT REMOVING UNITS FROM THE LOT.

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THIS DOESN'T APPEAR TO BE DOING THAT.

IT SEEMS WE SHOULD ALLOW THE PROJECT TO GO FORWARD.

THIS SEEMS LIKE THE PROJECT DOES SUPPORT FAMILIES IN THE  
NEIGHBORHOOD.

IT SEEMS LIKE GROWING FAMILY.

ADULT SON IS DISABLED AND VISION IMPAIRED.

HAVING HIM TO LIVE IN THE NEIGHBORHOOD WHERE HE GREW UP SEEMS  
LIKE A GREAT THING TO SUPPORT FAMILIES ESPECIALLY WITH DISABLED  
CHILDREN.

THERE SHOULD BE SUPPORT IN LETTERS THAT HAVE BEEN SUBMITTED  
ALREADY IN SUPPORT FROM THE PROJECT.

IT DOESN'T SEEM LIKE THERE'S ANY NEED TO SLOW DOWN THE PROCESS  
ANYMORE.

GOING BACK WITH THE VIEWS IT MAKES IT HARDER TO IMPROVE THE  
HOUSING.

EVEN THE PEOPLE SUBMITTING THE APPEAL IS SAYING THAT THE HOUSE  
NEEDS TO WORK ON.

IT IS JUST MAKING THE NEIGHBORHOOD BETTER AS SOON AS POSSIBLE

>> MAYOR J. ARREGUIN: THANK YOU.

OKAY.

WE WILL GO BACK TO KATE BRISTOL.

KATE, IF YOU WISH TO SPEAK, UNMUTE YOURSELF

>> HELLO.



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I'M KATE BRISTOL.

I LIVED IN BERKELEY FOR OVER 50 YEARS.

I AM A NEIGHBOR TO THE SOUTH.

WHO IN 2004, REMOLDED THE DUPLEX.

IT CREATED A BEDROOM WITH ONE BEDROOM AND ONE STUDIO.

LEFT AS SINGLE STORY AND KEPT THE ORIGINAL FOOTPRINTS TO NOT  
NEED ADDITIONAL FOOTPRINTS.

MY FAVORITE THING IS SMALL BACKYARD PATIO THAT I HAVE PLANTED  
WITH TREES AND FLOWERS.

IF THIS HUGE PROJECT IS PERMITTED, MY ENJOYMENT OF MY PATIO  
KITCHEN WILL BE REDUCE DOLLARS.

THE I THINK THE NEIGHBORHOODS WANT THE PROJECT NOT FOR THEIR  
REDUCE BUT FOR RESALE.

THEY HAVE LIVED IN 13 HUNDRED SQUARE FEET FOR 30 YEARS WHILE  
RAISING 3 CHILDREN.

THIS NON-CONFORMING PROJECT REQUIRES 7 DIFFERENT PERMITS.

WHY DO THE PERMITS AND ZAB PROCESS EVEN EXISTS IF NOT TO PREVENT  
PROJECTS LIKE THIS THAT HARM NEIGHBORS AND GO AGAINST BERKELEY'S  
GOALS OF PROVIDING SMALLER MORE AFFORDABLE HOUSING.

THANK YOU VERY MUCH FOR YOUR ATTENTION

>> MAYOR J. ARREGUIN: THANK YOU.

NEXT, BARBARA FRITZ.

>> HI, THANKS.

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I'M AT 1639 CALIFORNIA STREET AND I HAVE LIVED HERE 42 YEARS AND  
NEXT TO THE [NAME INDISCERNIBLE] SINCE THEY MOVED IN.

I DO SUPPORT THE PROJECT.

I AM GOING TO BE MOST IMPACTED FROM THE PHYSICAL STRUCTURE.

I DO SUPPORT IT.

I JUST THINK, YOU KNOW, LISTENING TO SOME OF THE DIALOGUE.

I'M THINKING, MAYBE THIS IS AN OPPORTUNITY TO LOOK AT THE KIND  
OF LAWS AND HOW THEY'RE MADE AND WHAT WE DO.

YOU KNOW, THAT'S A DIFFERENT DISCUSSION I LIVE FOR THE COUNCIL  
AND PLANNING COMMISSION AND THE ZAB.

I DO WANT THIS PROJECT TO GO AHEAD.

I LOOK FORWARD TO HAVING THEM AS NEIGHBORS FOR MANY MORE YEARS.

THAT'S ALL I'M GOING TO SAY

>> MAYOR J. ARREGUIN: THANK YOU.

WE WILL GO TO THE NAME A1-IS.

A1-IS YOU SHOULD BE ABLE TO SPEAK.

UNMUTE YOURSELF.

YOU WANT TO UNMUTE YOUR COMPUTER IF YOU ARE ZOOMING.

IF YOU HAVE A LIVE FEED YOU WANT TO MUTE THAT.

YES, ARE YOU THERE

>> THAT'S FOR ME.

I THOUGHT YOU SAID DIFFERENT NAME

>> MAYOR J. ARREGUIN: A1-IS, YOU WANT TO SPEAK ON APPEAL.

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>> MY NAME IS THOMAS.

I WANT TO CLARIFY A FEW THINGS.

THEY SAID MISLEAD THE COMMITTEE.

WE DIDN'T MISLEAD THE COMMITTEE.

WE NEVER MISLEAD ANYBODY.

SHE WAS SUPPORTED WHEN ASKED TO SEND FIRST DRAFT.

I JUST WANT TO CLARIFY THAT WE NEVER MISLEAD ANYBODY.

WHEN WE GO IN THE ROOF IN THE SECOND FLOOR AND WE LOOK DOWN TO  
HER, LOOKING AT THE BACKYARD AND PATIO, WE CAN'T SEE ANYTHING.

THERE'S OVERHANG OF ROOF AND PLANTS.

THERE WILL BE NO INTERRUPTION IN HER PRIVACY.

WE INCLUDED IN THE PICTURES IN THE LETTER TO SHOW THAT YOU CAN'T  
SEE ANYTHING INSIDE OF HER YARD.

I GUESS THAT'S IT.

THANK YOU

>> MAYOR J. ARREGUIN: THANK YOU.

JILL

>> I HAVE A COMMENT ON THIS.

I FIND IT LIEU CONTRACT ADVERTISE.

I THINK THEY NEED WHAT SIZE THEY NEED FOR THEIR FAMILY.

THEY PURCHASED A PIECE OF LAND, AND THEY SHOULD BE ABLE TO  
ACCOMMODATE THE FAMILY.

IF SOMEONE DIDN'T WANT THEM THERE, THEY SHOULD PRESSURE THE HOME

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THEMSELVES.

THANK YOU

>> MAYOR J. ARREGUIN: NO HANDS RAISED ON THE APPEAL FROM  
1643-1647 CALIFORNIA STREET.

I WOULD LIKE TO REMIND THE PARTIES.

COUNCIL MUST DELIBERATE UNLESS COUNCIL HAS QUESTION FOR YOU.

THE HEARING IS STILL OPEN.

BEFORE WE ENTERTAIN A MOTION.

I HAVE A QUESTION FOR STAFF THAT I WOULD LIKE TO ASK BEFORE WE  
START THE DISCUSSION.

SO ON PAGE 584 OF THE PACKET.

IT QUOTES -- (READING QUOTE FROM PACKET).

MY QUESTION DID PLANNING STAFF CHECK AS TO WHETHER THE UNIT NOT  
PROPERLY PERMITTED TO BE ELIMINATED WHETHER IT WAS RENT CONTROL?  
AND IF SO, HOW ARE THEY ABLE TO ILLEGALLY REMOVE A DWELLING UNIT  
WITHOUT GETTING THE PROPER PERMITS TO DEMOLISH OR REMOVE  
DWELLING UNIT?

>> IT IS OWNER OCCUPIED DUPLEX.

IT IS EXEMPT FROM RENT CONTROL.

YES, THEY DIDN'T GET A PERMIT.

LIKE A USE PERMIT TO REMOVE THE UNIT.

IT HAS BEEN REMOVED WITHOUT PERMITS TECHNICALLY

>> MAYOR J. ARREGUIN: LET ME CLARIFY.

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I WAS ON THE REPORT.

IT WAS OWNER OCCUPIED IN 79?

YOU ARE SAYING IT WAS GOLDEN DUPLEX.

THAT'S JUST CAUSE FOR EVICTION.

DID YOU CONSULT THE RENT BOARD WHAT IS THE RENTAL HISTORY IF IT  
WAS GOLDEN DUPLEX

>> I DON'T KNOW THE RENTAL DUPLEX.

I THINK THE CURRENT OWNER HAS OCCUPIED SINCE 1989.

I WASN'T THE PLANNER REVIEWING THIS

>> MAYOR J. ARREGUIN: THAT'S RIGHT.

YOU ARE STEPPING IN.

MR. BUCKLEY, ANY INFORMATION ON THIS?

>> YES, GOOD EVENING.

STEVE BUCKLEY THE PLANNING MANAGER.

WE DID LOOK INTO THE RENT BOARD ONLINE RECORDS.

IT WAS MANAGED AS OF 1980.

SUBSEQUENTLY, SO THERE'S A BASE RENT FOR BOTH UNITS.

BUT IT HAS BEEN OWNER OCCUPIED FOR QUITE A LONGTIME

>> MAYOR J. ARREGUIN: THEY ILLEGALLY ELIMINATED A UNIT AND

ASKING FOR PERMITS TO ADD TO THE PROPERTY AND THEY -- YOU KNOW,  
THEY'RE MODIFYING THE LAYOUT.

IF THERE IS -- I GUESS, IT WAS A DUPLEX AND ILLEGALLY CONVERTED  
TO SINGLE-FAMILY HOME.

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THEY'RE ADDING A UNIT, CORRECT?

THE QUESTION IS IF THEY ADD UNIT AND RENT CONTROL AND  
ELIMINATED, DOES THE NEW UNIT NEED RENT CONTROL.

>> THAT'S A GOOD POINT.

I THINK, YOU KNOW, BY RE-ESTABLISHING THE UNIT AT LEAST THEY'RE  
SATISFYING THE ZONING REQUIREMENT TO HAVE TWO UNITS RATHER THAN  
A DEMOLITION OF ELIMINATION OF UNIT.

THE SECOND UNIT COULD BE CONSIDERED ADU BECAUSE OF THE SIZE AND  
THE FACT THAT IT IS INTERNAL TO THE PROJECT.

IT HAS SEPARATE ENTRANCE.

NOT SURE HOW THE RENT STABILIZATION WORKS

>> MAYOR J. ARREGUIN: WITH THE PREVIOUS FLOOR SPACE, IT MAY BE  
SUBJECT TO RENT CONTROL.

I GUESS I'LL SAY TO THAT END, REMANDED IS APPROPRIATE JUST ON  
THAT POINT.

IN ADDITION TO THE ISSUE AROUND THE HOUSING ACCOUNTABILITY ACT.  
WE HAVE LEARNED THAT THE HAA DOESN'T APPLY WHETHER MODIFICATIONS  
CAN BE MADE TO THE PLAN.

MR. BUCKLEY, I APPRECIATE YOU PROVIDING THE INFORMATION THE  
CONTEXT.

IF THERE'S REMANDED, I THINK THE ISSUE SHOULD BE EXPLORED THE  
ADJUSTMENTS BOARD.

COUNCIL KESARWANI

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>> R. KESARWANI: THANK YOU, MAYOR.

THANK YOU TO THE APPLICANT AND TO THE APPELLATE FOR

PRESENTATIONS AND TO THE PUBLIC COMMENTER'S WHO SHARED THEIR  
VERY VIEWS.

THE MAYOR MENTIONED I UNDERSTAND FROM THE STAFF REPORT AND

MENTIONED IN THE PRESENTATION, THE ZONING ADJUSTMENTS BOARD MAY

HAVE HAD FAULTY INFORMATION THAT LED THEM TO BELIEVE THAT THEY

COULD NOT MAKE MODIFICATIONS TO THE PROJECT BECAUSE OF THIS

MISUNDERSTANDING ABOUT THE APPLICATION OF THE HOUSING

ACCOUNTABILITY ACT.

SO WE ARE CLEAR TONIGHT, IS MY UNDERSTANDING CORRECT,

MR. BUCKLEY, THE HAA SPEAKS TO NOT REDUCING THE DENSITY THAT IS

TO SAY THE NUMBER OF UNITS, BUT OTHER MODIFICATIONS ARE

ALLOWABLE, CORRECT?

>> YES, FROM OUR READING OF GUIDANCE ALSO PUBLISHED BY THE  
STATE HCD.

THERE'S CASES IF YOU WERE TO SUBSTANTIALLY RESTRICT THE

DEVELOPMENT POTENTIAL YOU MAY EFFECTIVELY REDUCE THE NUMBER OF  
UNITS.

IN THIS CASE, THERE'S PLENTY OF WIGGLE ROOM WHERE YOU CAN HAVE

THE TWO UNITS AND NOT REDUCE DENSITY IF YOU CHIP AWAY ON SQUARE  
FOOTAGE

>> R. KESARWANI: I KNOW THE APPLICANT HAS GONE THROUGH A

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LENGTHY PROCESS TO GET TO THIS POINT.

IT IS UNFORTUNATE THAT THE ZAB DIDN'T HAVE THE CORRECT  
INFORMATION OF THE HAA.

I DO WANT TO MAKE SURE THAT THE APPELLANT'S HAVE A FAIR PROCESS.

I AM CONCERNED ABOUT THIS FAULTY INFORMATION MAY HAVE FOR AN  
OUTCOME THAT WOULD NOT HAVE HAPPENED OTHERWISE.

I WILL SAY THAT I PERSONALLY DO NOT THINK IT WOULD BE GOOD IDEA  
FOR THE COUNCIL THIS EVENING AT THIS LATE HOUR TO ATTEMPT TO DO  
SOME KIND OF MODIFICATION ON THE DAIS. WHEN WE HAVE THE BOARD  
TO CONDUCT REVIEWS AND TO LOOK AT SHADOW STUDIES AND RELEVANT  
MATERIAL AND DETERMINE BASED ON PROJECTS WHETHER MODIFICATIONS  
ARE WARRANTED.

I WOULD ALSO SUPPORT THE IDEA OF REMAPPING THIS TO ZAB.

I KNOW WE HAVEN'T CLOSED PUBLIC HEARING AND I WILL NOT MAKE  
MOTION YET.

I WILL SAY THAT I DO THINK WE CAN COME UP WITH CORRECT LANGUAGE.

I WOULD LIKE MAYBE IT IS THE RENT BOARD THAT NEEDS TO WEIGH IN  
HOW -- WHAT IS PROPOSED TO ADU HOW THE UNIT NEEDS TO THE TREATED  
IN TERMS OF AN APPLICABILITY OF RENT CONTROL.

WE NEED THE CLARITY AS WELL.

THAT'S ALL I HAVE TO SAY AT THIS POINT.

I'LL LEAVE AT THAT

>> MAYOR J. ARREGUIN: VICE MAYOR HARRISON.



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>> K. HARRISON: FIRST OF ALL, I WANT TO SAY TO THE APPLICANTS.

I DON'T THINK YOU INTENDED TO MISLEAD ANYONE.

I FEEL THE STAFF MADE A MISTAKE AT ZAB.

THAT'S A PROBLEM FOR US.

HAA EXISTS FOR A REASON.

EXISTS TO ENSURE THAT WE BUILD MORE HOUSING AND NOT THAT WE  
BUILD LARGER UNITS.

WHILE EVERYONE'S FAMILIES HAS NEEDS.

HAA IS SPECIFICALLY TO CREATE MORE HOUSING.

THIS IS NOT TO SAY THAT IF THIS COMES TO US IF WE WERE TO  
REMANDED NOT SUPPORT THE PROJECTS BECAUSE I'M NOT SURE ABOUT THE  
DETRIMENTS.

RIGHT NOW, THAT'S NOT BEFORE US BECAUSE I FEEL LIKE THE ENTIRE  
HISTORY OF THE HEARING WAS DONE INCORRECT BASIS.

THAT CONCERNS ME A LOT.

IT CONCERNS ME ABOUT THE TENANT ISSUES.

WE HAD FAMOUS EXAMPLE WITH AFRICAN HOMEOWNER BROKE UP  
MULTIPLE-UNIT HOME INTO SINGLE HOME AND LED TO YEARS OF CONCERN  
BY THE CITY.

I THINK WE NEED TO APPLY STANDARD WHERE IT OCCURS IN BERKELEY.

AND I ALSO WANT TO SAY THE IDEA OF SHADOWING, WE NEED OBJECTIVE  
STANDARDS.

THE CASE OF NOT THAT BAD.

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WE NEED THE STANDARD TO MAKE THE JUDGMENT.

THE BASE OF MY CONCERN IS FOR THE GOVERNMENT HAVING DONE THE  
WRONG THING IN THE LOGIC THEY TOLD THE ZAB EASTBOUND PERMANENT  
HOUSINGS.

IT DOESN'T MEAN THAT THE ZAB HAVE NOT REACHED THE SAME  
CONCLUSION.

THEY REACHED THE CONCLUSION IN SOMETHING INCORRECT FROM OUR  
STAFF AND BECAUSE OF THAT I THINK WE HAVE TO REMANDED.

THANK YOU

>> MAYOR J. ARREGUIN: MR. BUCKLEY BEFORE I GO TO COUNCILMEMBER  
DROSTE.

>> THANK YOU.

I WANT TO CLARIFY.

THE STAFF ADVISED TO THE ZAB IN THE WRITTEN MATERIALS AND AT THE  
HEARING WAS NOT ENTIRELY ERRONEOUS.

WE DID GET THE ZAB DISCRETION BY THE ORDINANCE TO MAKE THE  
FINDINGS.

THEY DID CONSIDER THE VARIOUS ANALYSIS OF SHADOWS, PRIVACY,  
LIGHT AND AIR.

I JUST WANT TO MAKE IT IS CLEAR VARIOUS MEMBERS OF THE ZAB HAVE  
VARIOUS OPINIONS ABOUT AN APPLICABILITY OF THE HAA AND THE  
FINDINGS.

THEY ULTIMATELY DID APPROVE THE PROJECT BASED ON THE FINDINGS

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>> K. HARRISON: IF I WOULD SAY IF THE IMPACT LOOKING AT THE IMPACTS, IT WOULD BE ONE THING.

THERE'S LENGTHY DISCUSSION ON THE HAA.

THAT'S WHAT MUDDY THE WATER FOR ME.

THAT'S WHY I SUPPORT REMANDING THIS

>> MAYOR J. ARREGUIN: COUNCILMEMBER DROSTE.

>> L. DROSTE: I WILL BE BRIEF.

THIS MEETS THE THRESHOLD FOR ME.

IT IS AN ISSUE OF FAIRNESS.

THE MOST COMPELLING REASON, WHAT THEY JUST MENTIONED IN THE APPLICABLE OF THE HAA.

SOMETHING THAT I HAVE BEEN INVOLVED THROUGH HISTORY ON COUNCIL.

I THINK IT IS WHOLLY APPROPRIATE THEY GIVE A CHANCE TO CONSIDER THE DECISION WITH THE CLARIFIED INFORMATION IN THE WAY IT WAS ALLOWED IN THE ZONING CODE.

I WANT TO THANK THE MAYOR FOR RAISING THE POINT OF THE RENTING HISTORY WHICH I THINK IT IS WORTH CLARIFYING AT ZAB.

THANK THE APPELLANTS FOR BRINGING THIS MISS INTERPRETATION TO OUR ATTENTION.

I HOPE THAT ALL PARTIES CAN WORK TOGETHER AND REACH A MUTUALLY BENEFICIAL CONCLUSION SO I WILL BE SUPPORTING A REMANDED.

THANK YOU.

>> MAYOR J. ARREGUIN: I WOULD LIKE TO MAKE MOTION TO CLOSE

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PUBLIC HEARING ASSUMING NO QUESTIONS OR PARTIES.

>> SECOND.

>> MAYOR J. ARREGUIN: SECONDED BY VICE MAYOR HARRISON.

ROLL CALL, PLEASE.

[ROLL CALL VOTE].

>> MAYOR J. ARREGUIN: OKAY.

PUBLIC HEARING IS CLOSED.

NOW, ORDER FOR COUNCILMEMBER TO MAKE MOTION

>> MOTION TO APPEAL BACK TO ZAB FOR PURPOSES OF RECONSIDERATION  
AND LIGHT OF ISSUE OF HOUSING ACCOUNTABILITY ACT AND REVIEW THE  
SECOND UNIT REMAINS A RENT CONTROL UNIT.

>> MAYOR J. ARREGUIN: SECOND.

COLLEAGUES, ANY OTHER QUESTIONS OR COMMENTS?

COUNCIL MEMBER HAHN

>> S. HAHN: I WANT TO MAKE SURE.

GOOD TO REVIEW RENT CONTROL APPLICABLE FOR ALL UNITS NOT JUST  
THE SECOND UNIT.

THERE'S A CHANCE THAT IT COULD APPLY TO BOTH UNITS

>> MAYOR J. ARREGUIN: YEAH.

IF WE CAN -- SECOND OR MODIFY THE LANGUAGE TO SAY IT IS PART OF  
THE REMANDED ONE OF THE SECOND ISSUES TO LOOK AT AN  
APPLICABILITY OF RENT CONTROL TO THE SUBJECT PROPERTY.

THE PLANNING SHOULD CONSULT THE RENT BOARD AS PART OF THE REVIEW

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>> R. KESARWANI: YES.

THAT MAKES SENSE

>> MAYOR J. ARREGUIN: THANK YOU.

>> MAYOR J. ARREGUIN: COUNCIL MEMBER HAHN.

ANY OTHER COMMENTS?

>> S. HAHN: NO, THAT WAS IT.

>> MAYOR J. ARREGUIN: VICE MAYOR HARRISON.

>> K. HARRISON: INCLUDES JUST CAUSE.

I THINK IT IS IMPORTANT THAT WE BE SPECIFIC ABOUT THAT.

IT IS NOT JUST RENT CONTROL.

IT IS THE WHOLE ORDINANCE.

I THINK WE WANT THE APPLICATION OF THE RENT STABILIZATION  
ORDINANCE

>> R. KESARWANI: OKAY.

>> MAYOR J. ARREGUIN: YES, THAT'S THE INTENT.

THANK YOU FOR THAT.

I ACCEPT AS FRIENDLY AMENDMENT.

DO YOU ACCEPT THAT

>> R. KESARWANI: YES, I ACCEPT THAT.

>> MAYOR J. ARREGUIN: FURTHER DISCUSSION ON THE MOTION?

OKAY.

WE HAVE A MOTION TO REMANDED FOR THE REASON STATED.

NO FURTHER DISCUSSION, CALL ROLL.

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[ROLL CALL VOTE]

>> MAYOR J. ARREGUIN: OKAY.

THE MOTION CARRIES.

THAT COMPLETES THAT ITEM.

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THAT ALLOWS US ON TO THE FINAL ITEM FOR TONIGHT WHICH IS THE PUBLIC HEARING FOR AN ITEM WHICH HAS BEEN REMANDED BACK TO THIS COMMITTEE -- TO THIS COMMISSION.

ON THE BASIS THAT, IF I UNDERSTAND, SAMANTHA, THERE WAS A DETERMINATION MADE BY THE CURRENT ATTORNEY FOR THE CITY -- CITY ATTORNEY THAT WE WERE IMPROPERLY ADVISED THAT THIS PROJECT WAS COVERED BY THE HAA AND THEY'RE NOW -- SO WE ARE THEN IT'S REMANDED BACK BY COUNCIL SO WE CAN EVALUATE IT WITHOUT THE PROTECTIONS OF HAA.

JUST THE CONVENTIONAL PROTECTIONS OF OUR ZONING CODE.

IS THAT AN ACCURATE DESCRIPTION?

SO THIS WILL COME BACK TO US.

I WANT TO SAY THAT ON AN APPEAL, WE ACTUALLY HEAR THE APPELLANT FIRST.

THE APPELLANT IS THE AGENT.

THEY'RE TREATED THE SAME WAY AS AN APPLICANT WOULD BE TREATED.

ORDINARILY AN APPLICANT RECEIVES FIVE MINUTE AND THE PUBLIC GETS TWO MINUTES APIECE TO RESPOND.

IN THIS CASE, WE HAVE THREE APPELLANTS AND THEY'LL GET THE FIVE MINUTES AND CAN DIVIDE THEM.

WE DON'T ALLOW MEMBERS OF THE APPLICANT TEAM TO SPEAK MORE THAN TWO MINUTES.

I WOULD ASK THAT THE APPELLANT ABIDE BY THE SAME RULES AS APPLICANTS AS A CONDITION OF FAIRNESS.

I CAN'T BEND THE RULES FOR ONE AND NOT THE OTHER.

SO, I KNOW THAT YOU SPOKE WITH SAMANTHA EARLIER AND SHE ADVISED YOU OF THAT.

SO I HOPE YOU'RE PREPARED.

INSTEAD OF SIX MINUTES, YOU'LL GET FIVE BUT HOPEFULLY YOU CAN BE ORGANIZED TO MAKE THAT WORK.

IN FACT, SINCE IT'S THREE OF YOU, I'LL STRETCH IT TO SIX SO YOU HAVE THE SAME AMOUNT OF TIME YOU'D GET IF YOU WERE SPEAKING INDIVIDUALLY.

THAT IS MORE THAN PAIR.

AND WITH THAT, WE'LL FIRST HEAR FROM THE PLANNER ASSIGNED PLANNER.

I BELIEVE THAT IS ALLISON HERE TO LAY OUT AN OUTLINE FOR THE PROJECT.

IT WILL BE A FAMILIAR PROJECT TO -- I THINK EVERYONE HERE ON THE COMMISSION SAID THEY WERE HERE WHEN IT WAS HEARD PREVIOUSLY. HIT IT ALLISON.

>> I'M ALLISON RIEMER.

THE APPLICATION WAS SUBMITTED IN JANUARY 2021.

REVISED DESIGN WAS SUBMITTED IN MAY.

AND IT SEPTEMBER 2021 IT WAS COMPLETE.

IN DECEMBER ZAB APPROVED THE PROJECT AND DID NOT ADD ANY CONDITIONS.

IN JANUARY, 2022, THE ZAB DECISION WAS APPEALED TO THE CITY



COUNCIL BY ANNA AND ADAM OWNERS OF 1509 VIRGINIA AND KATE, THE OWNER OF THE ADDRESS ON CALIFORNIA STREET.

THEY WERE CONCERNED WITH THE HOUSING ACT, THE LACK OF MODIFICATION BY ZAB, PROCEDURAL REQUIREMENTS AND INADEQUATE OPPORTUNITIES FOR PUBLIC PARTICIPATION.

ON APRIL 26TH, COUNCIL HELD A PUBLIC HEARING TO CONSIDER ZAB'S DECISION.

STAFF VERIFIED THAT THE HAA SHOULD NOT APPLY TO THE PROJECT SINCE NEW UNITS WILL BE ADDED.

THE ADDITION MAY BE MODIFIED.

COUNCIL REMANDED IT FOR RECONSIDERATION OF THE APPLICABILITY OF THE HOUSING ACCOUNTABILITY ACT.

AND THE RENT STABILIZATION AND EVICTION FOR GOOD CAUSE ORDINANCE.

>> THE SUBJECT PROPERTY IS ON CALIFORNIA STREET BETWEEN LINCOLN AND VIRGINIA IN THE R-2 RESIDENTIAL DISTRICT IS AN EXISTING ONE-STOREY DUPLEX AND SHED COULDN'T SITE.

THE DUPLEX IS OCCUPIED BY THE OWNERS.

THE NONCONFORMING ARE DISCUSSED OVER THE NEXT COUPLE OF SLIDES.

THE EXISTING ROCK COVERAGE IS 50% WITH 5% MORE COVERAGE IS ALLOWED FOR A ONE-STOREY BUILDING IN THE R-2 DISTRICT.

THE PROPERTY IS NOT REQUIRING FOR DENSITY.

IT'S ONE PERMIT WHERE ONLY ONE UNIT IS PERMITTED FOR A LOT OF THIS SIZE.

AND THE FRONT MIRROR AND SIDE SETBACKS ARE NONCONFORMING.

SINCE THE PROPERTY IS EXISTING NONCONFORMING, TWO USE PERMITS APPLY.

THEY APPLY DUE TO THE SIZE, HEIGHT AND LOCATION OF THE ADDITION AND AN AUP APPLIES FOR ADDING A FIFTH BEDROOM.

SO THE EXISTING BUILDING WILL BE SHIFTED ONE INCH TO CREATE A CONFORMING [INDISCERNIBLE] BACK OF FOUR FEET.

AND THEY WOULD REDUCE THE SIZE OF THE LEFT UNIT 1643 CALIFORNIA BY 150 SQUARE FEET AND THE RIGHT UNIT 1647 CALIFORNIA WOULD BE EXPANDED BY CREATING A NEW BASEMENT LEVEL BLOAT EXISTING BUILDING AND A NEW SECOND FLOOR.

A NEW SECOND FLOOR WOULD STEP IT UP TO REQUIRE -- APPLY WITH THE REQUIRED SETBACK.

THE FRONT SETBACK WOULD BE DOWN WITH THE BASEMENT WHILE THE REAR SETBACK WOULD BE EXTENDED DOWN WITH THE EXPANSION OF THE BASEMENT.

1647 CALIFORNIA WOULD EXPAND BY ABOUT 2600 SQUARE FEET.

AT THE REAR, AN EXISTING SHED WOULD BE MOVED TO REDUCE THE LOT COVERAGE AND A DECK WOULD BE ADDED.

THE PROPOSED AVERAGE HEIGHT IS ABOUT 24 FEET.

A LIMIT OF 28 FEET.

THE LINE AT THE TOP OF THE ROOF SHOWS THE DESIGN AFTER THE FIRST REVIEW LETTER.

COUNCIL REMANDED THE PROJECT TO ZAB FOR RECONSIDERATION OF THE

APPLICABILITY OF THE HOUSING ACCOUNTABILITY ACT AND THE RENT  
STABILIZATION AND EVICTION FOR GOOD CAUSE ORDINANCE.

HAA IS GOVERNMENT CODE SECTION 6558.95 SECTION J.

HOUSING DEVELOPMENT APPLIES TO THE APPLICABLE GENERAL PLAN AND  
LOCAL AGENCY CHOOSES TO DENY OR REFUSE IT.

THE AGENCY MUST ACCEPT THE FINDINGS SUPPORTED BY SPECIFIC  
EVIDENCE.

HAA DOES NOT APPLY TO THE PROPOSED PROJECT BECAUSE NO NEW  
DWELLINGS ARE PROPOSED.

THE TWO EXISTING DWELLINGS WOULD REMAIN AND THE SIZE OF THE  
DWELLINGS WOULD CHANGE.

THEREFORE, THE HAA FINDINGS DO NOT APPLY TO THIS PROJECT.

RENT BOARD STAFF PREPARED A MEMO ATTACHED TO THE ZAB REPORT  
WHICH ANALYZE WHERE THE EVICTION FOR GOOD CAUSE ORDINANCE  
APPLIES TO THE PROJECT SINCE THERE ARE CURRENTLY NO TENANT  
PROTECTIONS AT ISSUE CURRENTLY.

FUTURE TENANTS WOULD BE PROTECTED BY THE ORDINANCE.

BOTH UNITS ARE SUBJECT TO RENT CONTROL.

STAFF RECOMMENDS APPROVAL OF THE USE PERMIT.

I'M AVAILABLE FOR QUESTIONS.

>> C. KAHN: THANK YOU VERY MUCH FOR THAT CLEAR PRESENTATION,  
ALLISON.

I THINK IT ANSWERS THE QUESTION THAT KELLY HAD ABOUT THE LAST  
PROJECT.

BECAUSE IT'S A SIMILAR SITUATION WHERE VACANT UNITS DO NOT  
REMOVE THOSE FROM THE RENT CONTROL LIST.

WE CHANGE THE SIZE.

ANY QUESTIONS FROM THE COMMISSION OR STAFF?

SEEING NONE, I WOULD LIKE TO OPEN THE PROCEEDINGS TO THE  
APPELLANTS AND WE'LL BE BREAKING WITH TRADITION, YOU'LL GET SIX  
MINUTES, NOT FIVE.

I THINK IT'S ONLY FAIR THAT EACH OF YOU GET THE TWO MINUTES THAT  
YOU WOULD BE GETTING IF YOU WERE ON AVERAGE -- IF YOU WERE  
PRESENTING SEPARATELY.

DO WE HAVE A TIMEKEEPER.

SAMANTHA?

>> YES.

KAREN IS HERE.

TO SET THE TIMER FOR SIX MINUTES.

>> I'M SHARING MY SCREEN RIGHT NOW.

>> C. KAHN: THANK YOU, KAREN.

AND I SEE TWO HANDS UP.

ANNA AND KAY.

IS THERE ANYONE ELSE FROM THE APPELLANTS WHO WISHES TO SPEAK  
TONIGHT?

I THOUGHT THERE WOULD BE THREE INDIVIDUALS.

>> CAN YOU HEAR US?

>> C. KAHN: I CAN.

ANNA, IS THERE A THIRD PERSON THAT WISHES TO SPEAK TONIGHT?

>> YES AND WE WERE NO AWARE THIS WAS GOING TO BE THE LAYOUT.  
WE PREPARED ONE FIVE-MINUTE PRESENTATION AND ONE, ONE-MINUTE  
PRESENTATION.

WE WERE EXPECTING THE OTHERS TO SPEAK DURING PUBLIC  
PARTICIPATION.

>> C. KAHN: BUT SAMANTHA ADVISED YOU EARLIER.

>> I THINK ALLISON COMMUNICATED.

>> C. KAHN: SO I'M GIVING YOU -- I'M BENDING THE RULES TO GIVE  
YOU SIX MINUTES WHICH IS MORE THAN ANYBODY HAS HAD IN YOUR  
POSITION.

IF YOU NEED MORE THAN FIVE MINUTES, YOU GET SIX.

>> NO ONE IN THE OPPENHEIMER FAMILY -- THEY WILL BE CONSIDERED.  
THEY'LL BE CONSIDERED PART OF THE --

>> C. KAHN: ANYONE WHO IS NOT LISTED AS AN APPELLANT CAN SPEAK  
INDEPENDENTLY.

>> ON THE OPPENHEIMER SIDE BECAUSE THEY HAVE FAMILY MEMBERS THAT  
DID NOT SIGN THE APPLICATION.

IF THEY CAN SPEAK DURING THE PUBLIC PARTICIPATION PORTION OF THE  
HEARING AND WE CANNOT, THEY WOULD BE GIVEN SIGNIFICANT  
ADDITIONAL TIME.

>> C. KAHN: YOU KNOW, I HAVE TO PLAY IT IN A FAIR WAY.  
SAME WAY I WOULD IF IT WAS AN APPLICANT.

WE HAVE APPLICANT TEAMS, 10 AND 12 PEOPLE AND THEY GET FIVE

MINUTES.

AND I'M GIVING YOU MORE TIME THAN IS TYPICALLY GRANTED.

PROCEED WITH YOUR COMMENTS.

LET'S START THE CLOCK, YOU HAVE SIX MINUTES.

>> MAY WE SHARE THAT SLIDE.

>> HI, EVERYONE.

WE APPEALED YOUR INITIAL APPROVAL FOR THREE REASONS.

FIRST WE FELT THE DECISION GIVES UNREASONABLE PROPERTY VALUE.

THE IT ADDRESS HOUSING CRISIS, PROMOTE INTEGRATION AND INCREASE  
SUSTAINABLE.

THIRD, THE HAA HAS BEEN MIS--

>> ANNA, WERE YOU GOING TO SHARE A PRESENTATION?

>> YES.

>> IT'S NOT UP THERE.

>> I DON'T KNOW WHY YOU DON'T SEE THE PRESENTATION.

I SEE IT ON MY SCREEN.

>> AT THE BOTTOM IT SAYS "SHARE SCREEN."

>> IT'S NOT ACTIVE ON OURS.

>> I THINK KAREN HAS TO STOP SHARING HER SCREEN, MAYBE.

>> C. KAHN: KAREN, YOU HAVE TO STOP SHARING YOUR SCREEN AND GIVE  
THEM AN OPPORTUNITY TO SHARE.

>> ALL RIGHT, YOU SHOULD BE ABLE TO SHARE NOW.

>> I WILL KEEP THE CLOCK RUNNING ON MY END.

AND I WILL GIVE A ONE-MINUTE WARNING.

>> C. KAHN: WE STOPPED THE CLOCK FOR THIS DISCUSSION JUST SO YOU  
KNOW.

>> WE NEED TO BE MADE --

>> C. KAHN: ANNA, WE CAN'T HEAR YOU.

>> CAN YOU HEAR ME?

I'M NEXT TO ANNA.

>> THEY'RE PROMOTING ANNA TO PANELIST.

>> THAT MIGHT HELP.

>> C. KAHN: DO YOU SEE THE SHARE SCREEN ICON, ANNA?

GREAT.

OKAY.

LET'S DO THIS.

KAREN, IF YOU CAN START THE CLOCK OVER.

I'D LIKE ANNA TO HAVE A CHANCE TO PRESENT.

>> IT'S RESET.

>> C. KAHN: THANK YOU.

ANNA, IT'S YOUR SHOW.

WE CAN'T HEAR YOU.

YOU'RE STILL MUTED.

>> YOU MUTED US.

>> C. KAHN: THAT'S TECHNOLOGY.

YOU CAN TAKE IT FROM THE TOP, WE'RE STARTING THE CLOCK OVER.

>> WE APPEALED THE INITIAL APPROVAL FOR THREE REASONS, FIRST THE  
DECISION UNJUSTLY GIVES AN INCREASE IN PROPERTY VALUE TO THE

PROPONENTS AT THE EXPENSE OF THE NEIGHBORS.

APPROVAL SEEMS TO CONTRAVENE TO ADDRESS THE HOUSING CRISIS,  
PROMOTE RACIAL AND ECONOMIC DISCRIMINATION IN BERKELEY.

THIRD, THE HAA HAD BEEN MISINTERPRETED.

WE'RE GLAD THE CITY AGREED AND CLARIFIED THAT THE ZAB HAS THE  
AUTHORITY TO REQUIRE MODIFICATION TO THE SIZE AND DESIGN OF THIS  
PROJECT IS UP AS THE ELIMINATION OF THE TOP STORY INITIALLY  
SUGGESTED BY THE CITY PLANNER AND LIMIT THE PROJECT TO 700  
SQUARE FEET THAT WOULD BE ALLOWED FOR NEW CONSTRUCTION ON THIS  
LOT.

WHAT IS AT STAKE WITH THIS APPEAL, HOWEVER, IS NOT ONLY OUR  
PROPERTY VALUES, IT'S ABOUT THE PRESERVATION OF LOWER INCOME,  
RENT-CONTROLLED HOUSING IN THE FACE OF GENTRIFICATION.

AND ABOUT THE ABILITY OF ZAB TO STEER FROM THE DECISIONS TO  
ALIGN DEVELOPMENT WITH CITY GOALS AND NEEDS.

WE FACE THE RECOMMENDATION THAT ZAB APPROVE THIS PROJECT.

WE UNDERSTAND THE PLANNING DEPARTMENT POLICY IS TO RECOMMEND FOR  
APPROVAL ANY PERMIT THAT CAN BE LEGALLY REQUESTED AND WE ALSO  
UNDERSTAND IT IS THE RESPONSIBILITY AND DUTY OF THE ZAB TO  
APPROVE OR DENY PERMITS CONSIDERING WHETHER PROPOSAL ALIGNS WITH  
CITY GOALS AND POLICIES WHILE BALANCING ENVIRONMENT, SOCIAL AND  
ECONOMIC IMPACTS AS WELL AS RESIDENTS AND PROPERTY OWNERS.

THE STAFF REPORT LISTS POLICIES THAT IS APPLICABLE TO THE  
PROJECT.



OUR SLIDES FIVE AND SIX SHOW ADDITIONAL CITY POLICY IT'S APPLY AND WHY SOME OF THE DECIDED POLICIES DO NOT APPLY.

WE WANT TO HIGHLIGHT GENERAL [INDISCERNIBLE] TWO TO MAINTAIN THE SUPPLY OF DECENT AFFORDABLE HOUSING AND IDENTIFYING GENTRIFICATION AS A SIGNIFICANT THREAT.

H-1 TO INCREASE THE NUMBER OF UNITS AVAILABLE TO BERKELEY RESIDENTS WITH LOWER INCOME LEVELS SO WE CAN ONLY ASSUME THIS TRANSLATES INTO A DIRECT PLOY TO PREVENT THE ELIMINATION AND PRESERVE EXISTING UNITS OF THAT TYPE, SMALLER UNITS.

THEN THERE IS LU-4 THAT STATES THAT ECONOMIC AND SOCIAL CONSEQUENCES DO NOT ADJUST ZONING STANDARDS MUST BE CONSIDERED IN DECISION MAKING.

LU-3 TO PROMOTE IN-FILL DEVELOPMENT DOES NOT APPLY HERE.

IT REFERS TO UNDER UTILIZED PARCELS SUCH AS VACANT LOTS.

SINCE THIS PROPERTY EXCEEDS BOTH LOT COVERAGE AND ZONING DENSITY STANDARDS, IT COULD NOT BE CONSIDERED UNDER DEVELOPED OR UNDERUTILIZED.

THE PROPONENTS REQUEST A MASSIVE EXPANSION AS A PROPERTY REGISTERED AS A DUPLEX WITH TWO SMALL LOW-INCOME UNITS BOTH OF WHICH A SUBJECT TO RENT CONTROL.

WE DO NOT SEE HOW ALLOWING THIS SIGNIFICANT MODIFICATION OF THOSE TWO UNITS COULD BE IN ACCORDANCE WITH THE CITY PLAN.

WHILE THE REPLACEMENT UNITS TECHNICALLY REMAIN SUBJECT TO RENT CONTROL, ONE WOULD BE MADE EVEN SMALLER AND NO LONGER SUITABLE

FOR A SMALL FAMILY AND THE OTHER SO LARGE THAT NO OWNER IN THEIR RIGHT MIND WOULD PUT IS ON THE MARKET UNDER RENT CONTROL.

THIS CITY WOULD SAY THAT IT'S OKAY FOR THE PROPONENTS TO CONVERT THEIR DUPLEX TO A SINGLE FAMILY HOME AND IT WILL BE OKAY TO EXPAND THE PERSONAL LIVING SPACE BOTH AT THE EXPENSE OF THE NEIGHBORHOOD AND GENTRIFIES THE NEIGHBORHOOD AND REDUCE MORE AFFORDABLE RENTAL UNITS.

THE PROPONENTS MUST HAVE BEEN AWARE OF THE LIMITATIONS OF THE PROPERTIES WHEN THEY PURCHASED IT'S YOUNG FAMILY DECADES AGO. IF THEY NEED A LARGER HOME, THEY SHOULD TRADE UP RATHER THAN DESTROYING THE HOUSE THAT SERVED THEM SO WELL.

BERKELEY NEEDS TO CREATE MORE SMALL AND AFFORDABLE LIVING UNITS. THIS IS CAUSING CONFLICT MERE BLOCKS WAY WITH THE PROPOSED DEVELOPMENT IN NORTH BERKELEY PARK.

AND ALLOW PLANNING FOR THE EXISTING SMALL UNITS SEEMS INCONSISTENT.

THIS PROJECT WOULD HAVE MINIMAL IMPACT ON NEIGHBORS.

THAT IS SUBJECTIVE.

IN OUR CASE, THE LOSS OF THE SUNNY AREAS IN OUR YARD WHERE WE SPEND TIME AND ENTERTAINMENT IS A TREMENDOUS IMPACT.

THE SAME GOES FOR THE LOSS OF PRIVACY THIS PROJECT WOULD ENTAIL.

THE CITY HAS NOT YET ESTABLISHED SUBJECTIVE STANDARDS TO GUIDE DECISION MAKING.

ZAB SHOULD ACT WITH PRECAUTION AND NOT APPROVE THE PROJECTS THAT

IRREVERSIBLY HARM NEIGHBORS.

>> ONE MINUTE WARNING.

>> IN OUR SUBMISSION, 18 THROUGH 26 WE DETAILED MULTIPLE OPTIONS TO REDUCE HARM TO BOTH THE CITY AND NEIGHBORS.

ONE OPTION THAT PROTECTS THE LOWER INCOME DUPLEX UNITS, TWO OPTIONS WOULD PERMIT EXPANSION BY ADDING A LOWER LEVEL TO INCREASE THE SQUARE FOOTAGE UP TO THE MAXIMUM ALLOWED ON THIS LOT IF THIS WERE UNDER CONSTRUCTION.

AND TWO OPTIONS WHERE ZAB DOES ALLOWS EXPANSION TO BEYOND THE SQUARE FOOTAGE THAT WOULD BE PERMISSIBLE, YOU WOULD PERMIT EITHER A PARTIAL OR FULL THIRD UPPER LEVEL WITH MODIFICATIONS. OUR MATERIALS SHOW A VARIETY OF MODIFICATIONS THAT SHOULD BE CONSIDERED IN THE SITUATION.

I WANT TO BE VERY CLEARLY.

CLEAR WHILE WE HOPE YOU WOULD NOT ALLOW EXPANSION OF THIS PROPERTY BEYOND THE 2700 SQUARE FEET MAXIMUM PERMITTED --

>> TIME IS UP.

>> THE PREFERABLE OPTION IS FOR ZAB TO PRESERVE THESE LOW RENT UNITS.

>> C. KAHN: THAT'S A WELL-PREPARED PRESENTATION.

AND I APPRECIATE THAT.

THE APPLICANT -- WE'LL NOW GIFT APPLICANT AN OPPORTUNITY TO RESPOND.

IS THE APPLICANT HERE?

I SEE MR. OPPENHEIMER'S HAND IS UP.

I THINK THE APPLICANT GETS THREE MINUTES FOR THE RESPONSE,  
SAMANTHA, IS THAT RIGHT?

>> I THINK THEY GET FIVE MINUTES.

>> C. KAHN: SO YOU HAVE FIVE MINUTES TO RESPOND.

>> AND WE HAVE SUNNY JOINING OUR ARCHITECT.

>> ANNA, I NEED YOU TO STOP SHARING YOUR SCREEN, PLEASE.

>> C. KAHN: THANK YOU.

THE APPLICANT TEAM GETS FIVE MINUTES TO SPEAK.

>> I ALSO HAVE A PRESENTATION WITH SLIDES I WAS HOPING TO SEE.

IS IT POSSIBLE TO GET THAT APPROVAL TO SHOW THIS?

>> C. KAHN: SHE SHOULD BE PROMOTED TO PANELIST.

>> I HAVE SOME SLIDES AND SUNNY, I BELIEVE, HAS HIS HAND UP.

>> C. KAHN: IT'S [INDISCERNIBLE] THAT WOULD BE DOING THE  
PRESENTATION SLIDES.

>> I THINK ALLISON DID A GOOD JOB OF EXPLAINING WHERE WE STARTED  
AND ENDED UP WITH THIS PROJECT.

THIS PROJECT IS THE EXACT SAME PROJECT THAT YOU APPROVED BACK IN  
2021.

DECEMBER.

INCENTIVES APPEAL TO THE CITY COUNCIL.

CITY COUNCIL AS YOU KNOW DID NOT LOOK AT IT AND SEND IT BACK TO  
YOU BECAUSE OF HOW THE AGENT [INDISCERNIBLE]

AT THIS POINT, YOU KNOW, WE WORK WITH THE PLANNING DEPARTMENT TO

MODIFY OUR DESIGN.

BASED ON THE RESPONSE THAT WE GOT BACK.

AS YOU KNOW, WE MODIFIED THE REAR OF THE UPPER FLOOR TO ACCOMMODATE THE 20-FOOT SETBACK AND ELIMINATED THE ROOF AND CHANGED THE BUILDING HEIGHT AND REMOVED THE ONE-CAR GARAGE FOR THE INITIAL DESIGN TO MAKE THE BUILDING NOT TO BE A THREE-STOREY AND HAVE ADDITIONAL SETBACK ISSUES.

WE MODIFIED THE ROOF DESIGN AND INCREASED THE IMPACT ON THE ADDITIONAL PROPERTIES WHICH YOU CAN SEE IN THE SHADOW SECTION. WE REDESIGNED AND SCALED THE BUILDING SO IT LOOKS SIMILAR TO OTHER TWO-STOREY HOUSES OVER A BASEMENT.

WE'RE NOT DOING SOMETHING THAT IS UNUSUAL HERE.

THERE ARE MANY, MANY EXAMPLES OF HOUSE OF THIS SCALE IN THE NEIGHBORHOOD.

YOU KNOW, THE PLANNING -- AGAIN, PLANNING DEPARTMENT AND STAFF IS RECOMMENDING THIS PROJECT FOR APPROVAL.

AND I WOULD LIKE TO GIVE THE REMAINING TIME TO PAUL TO SPEAK ON BEHALF OF THE FAMILY.

>> CAN YOU ALL SEE MY PRESENTATION?

>> WE SEE 1643-1647 CALIFORNIA STREET.

>> THANK YOU.

SO I'M SPEAKING ON BEHALF OF MY PARENTS BECAUSE ENGLISH IS THEIR SECOND LANGUAGE.

MY FAMILY HAS LIVED IN THIS HOME IN BERKELEY FOR OVER 30 YEARS

NOW.

THEY'RE LOOKING TO RENOVATE THE OLD HOME TO MEET THE NEEDS OF THEIR FAMILY.

MY BROTHER IS VISION IMPAIRED.

A QUICK REMINDER, ECHOING THAT STAFF DOES RECOMMEND APPROVING THIS PROJECT.

WE DECIDED TO SHARE THE MODIFICATIONS WEAVE A MADE TO ADDRESS THE NEIGHBORHOOD FEEDBACK.

IT WENT THROUGH EXTENSIVE REDESIGN TO LOWER THE HEIGHT AND STAFF NOW RECOMMENDS APPROVING THE PROJECT.

IT'S NOW A TWO-STOREY HOUSE OVER A BASEMENT.

THE NEIGHBOR TO THE NORTH SUPPORTS THE PROJECT.

THIS NEIGHBOR IS MOST AFFECTED BY THE SHADE AND THE LIGHT.

WE LOWERED THE SIDE MUCH THE ROOF REDUCING THE IMPACT TO HER HOUSE AND AS YOU CAN SEE SHE REMAINS SUPPORTIVE OF THE PROJECT.

THE NEIGHBOR TO THE SOUTH EXPRESSED PRIVACY CONCERNS ABOUT VISIBILITY IN THEIR BACKYARD.

ALTHOUGH THE BACKYARD IS ALREADY OBSCURED BY AN EXISTING STRUCTURE, WE STILL UPDATED THE DESIGN SO THAT THE WINDOW NEAR THE BACKYARD IS A SMALL BATHROOM WINDOW WITH OBSCURE GLASS.

THE NEIGHBOR EXPRESSED CONCERNS ABOUT SELLING THE HOUSE RATHER THAN LIVING HERE.

MY FAMILY WANTS TO KEEP LIVING IN THEIR HOME.

THE NEIGHBORS TO THE EAST ARE MINIMALLY AFFECTED BY THE PROJECT.

THEIR BUILDING IS NOT DIRECTLY IN LINE WITH MY PARENT BECAUSE  
IT'S SOUTHEAST OF THE PROJECT.

NONE OF THE NEIGHBOR'S PROPERTY FACE PIE PARENTS' BUILDING.  
EXCITE IMPACT, WE MODIFIED THE PROJECT TO ADDRESS THEIR  
CONCERNS.

FOR PRIVACY, WE UPDATED THE DESIGN.

THE UPPER WINDOWS CLOSEST TO THE EAST NEIGHBOR IS A SMALL  
BATHROOM WINDOW WITH OBSCURE GLASS.

THE OTHER OVER 50 FEET AWAY.

THERE IS VERY LITTLE LIGHT IMPACT ON THE PROPERTY.

THE NEIGHBORS TO THE EAST RAISED OTHER CONCERNS TO ZAB THAT  
HASN'T --

>> ONE MINUTE WARNING.

>> THANK YOU.

STAFF STATED THAT THE NUMBER OF PERMITS, WE WORKED CLOSELY WITH  
THE CITY PLANNER.

NO UNITS ARE REMOVED.

THIS MAINTAINS TWO UNITS AND THERE NO UPPER DECK.

NEIGHBORS ON THE BLOCK EXPRESSED THEIR SUPPORT.

WE HAVE SOME SIGNATURES SHOWING THEIR SUPPORT.

THESE ARE PHOTOS OF SIMILARLY-SIZED BUILDINGS WITHIN A BLOCK OF  
THE PROJECT ITSELF.

WE BELIEVE THAT WE'VE ADDRESSED ALL THE CONCERNS FROM ZAB AND  
CITY COUNCIL AND ADDRESSED THE CONCERNS FROM THE NEIGHBOR.

MY FAMILY IS EXCITED TO BE A PART OF THE BERKELEY COMMUNITY.

THANK YOU.

>> THANK YOU THAT WAS QUITE ARTICULATE.

WITH THIS, I WOULD LIKE TO RECOGNIZE PARTICIPATES WHO ARE NOT PART OF -- PARTICIPANTS WHO ARE NOT PART OF THE APPLICANT OR APPELLANT.

I SEE TWO INDIVIDUALS.

ONE IS A PHONE NUMBER 2818 THE LAST THREE DIGITS.

I SEE DANA, AND JEFF AND TOM.

AND A BERKELEY NEIGHBOR.

IF ANYONE ELSE WISHES TO SPEAK FROM THE COMMUNITY, THIS IS THE TIME TO RAISE YOUR HANDS.

I SEE NICOLE WOULD LIKE TO SPEAK.

WE HAVE TWO, ONE -- ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT.

ANYONE ELSE WISHING TO SPEAK IN.

OKAY.

AS LONG AS WE HAVE EIGHT PEOPLE -- IT'S QUITE A FEW.

SAMANTHA, YOU HAVE YOUR HAND UP.

>> I WAS GOING TO ASK IF THE APPLICANTS COULD STOP SHARING THE SCREEN.

>> YES.

>> SORRY.

>> C. KAHN: WE'LL GIVE EACH OF THE MEMBERS OF THE PUBLIC TWO



MINUTES TO SPEAK.

IF YOU ARE ONE OF THE APPELLANTS -- ARE ANY OF THESE INDIVIDUALS  
APPELLANTS?

ALLISON?

>> NO.

NO, THE OTHER SPEAKERS ARE APPELLANTS. WE'LL RECOGNIZE EVERYBODY  
WHO HAS -- EIGHT PEOPLE HAVE THEIR HANDS UP.

YOU EACH GET TWO MINUTES.

I'LL START WITH THE PHONE NUMBER.

YOU NEED TO UNMUTE SO WE CAN HEAR YOU SPEAK.

>> I. TREGUB: IT'S \*6 TO UNMUTE.

>> C. KAHN: OKAY.

VERY GOOD.

OKAY.

I THINK WE CAN HEAR YOU NOW.

WE CAN'T HEAR YOU NOW.

HELLO.

SOMEBODY IS VAGUE PROBLEM.

I'M GOING TO GO AHEAD AND WHILE THEY'RE FIGURING THAT OUT, CAN  
WE HEAR YOU?

I DON'T KNOW WHAT THE PROBLEM IS.

I'M GOING TO GIVE YOU A CHANCE.

>> CAN YOU HEAR ME?

>> C. KAHN: YES, WE CAN NOW.

>> OKAY, CHARLES, THIS IS KELLY.

YOU BUMPED ME OFF THE SYSTEM AND I CAN'T GET BACK IN.

>> C. KAHN: OH, I'M SO SORRY.

>> WAS IT PERSONAL?

>> C. KAHN: NOT AT ALL.

WHY CAN'T YOU GET BACK IN?

>> BECAUSE WHEN YOU THROW SOMEBODY OFF THE SYSTEM, YOU PRESSED A  
BUTTON AND THEN THREW ME OFF.

IT GAVE ME A MESSAGE I'M UNABLE TO REJOIN.

>> C. KAHN: I'M SO SORRY.

>> OKAY.

THANK YOU.

THAT WAS WHAT I WANTED TO KNOW.

AND I'LL WAIT TO HEAR THE OTHER SPEAKERS AND SEE IF THERE IS  
SOMETHING I WANT TO SAY AT THE END.

>> C. KAHN: YOU KNOW YOU'RE ALWAYS WELCOME HERE.

I APOLOGIZE.

THAT WAS -- I WAS SAYING MEETING I'M NOT INTO TECHNOLOGY.

>> THANK YOU.

I'LL JUST WAIT AND HEAR WHAT THE OTHERS HAVE TO SAY.

>> C. KAHN: THANK YOU.

I SHOULDN'T DO THAT IN THE FUTURE.

WE HAVE DANA NEXT.

>> HELLO, CAN YOU HEAR ME?

>> C. KAHN: HELLO.

WE CAN HEAR YOU.

>> I'VE BEEN ASKED TO READ A STATEMENT FROM THE NEXT DOOR  
NEIGHBOR TO THE OPPENHEIMER PROPERTY WHO WAS UNABLE TO ATTEND  
TONIGHT.

I'M GOING TO PROCEED TO READ IT AS WRITTEN.

SO MY NAME IS BARBARA, I'M UNABLE TO ATTEND THIS SESSION AND  
WOULD LIKE TO SUBMIT THE FOLLOWING STATEMENT.

I HAVE LIVED AT 1639 CALIFORNIA STREET SINCE 1980.

MY PROPERTY WILL BE THE MOST IMPACTED BY THE DESIGN OF MORE  
SHADOW AND LESS LIGHT.

I SUPPORT THE IMPROVEMENTS UNDER CONSIDERATION OF 1643 TO 1647  
CALIFORNIA STREET.

AS THE PROJECT GOES THROUGH THE VARIOUS DEPARTMENTS, MANY  
ARGUMENTS HAVE BEEN PRESENTED AND MANY HAVE LEGAL INTERPRETATION  
AND HAVE LITTLE OR NOTHING DO WITH THE DESIGN OF THE PROJECTS.  
THE LIGHT AND SHADOW DO NOT LIE WITH THE DEPARTMENTS.

I HOPE THIS PROCESS WILL BE RESOLVED WITH A DECISION BASED ON  
CURRENT CODES.

LAWS AND PRESENTATIONS AND THE OPPENHEIMERS WILL BE ABLE TO MOVE  
FORWARD WITH THE IMPROVEMENTS ON THEIR PROPERTY.

THAT'S THE END OF THE STATEMENT.

>> C. KAHN: THANK YOU FOR READING THAT.

WE APPRECIATE IT.

I'LL NEXT RECOGNIZE JEFF.

>> OKAY.

AM I UNMUTED?

>> C. KAHN: YES, SIR.

>> MY FAMILY LIVED AT 1636 CALIFORNIA STREET FOR 39 YEARS.

WE WANTED TO EXPAND OUR HOME AND ADD A SECOND STOREY.

WHEN OUR NEIGHBOR TO THE NORTH WANTED TO EXPAND THEIR HOME AND ADD A SECOND STOREY, WE PROVIDED OUR SUPPORT AS DID THE OTHER GOOD NEIGHBORS.

WHEN THE OPPENHEIMERS DECIDED TO RENOVATE AND IMPROVE THEIR HOME ON CALIFORNIA STREET WHERE THEY'VE LIVED FOR 32 YEARS, THEY OBTAINED SIGNATURES OF SUPPORT OF ALL THE GOOD NAMES EXCEPT FOR ADAM SAPIR AND ANNA WHO LIVES ON 1609 VIRGINIA STREET.

AFTER READING THEIR MULTI-PAGE SINGLE SPACE APPEALS WITH LEGAL CITATIONS AND GRAPHICS AND IF HE CAN TOURS, IT IS CLEAR TO ME THAT MISS KAY BRISTOL AT 1639 CALIFORNIA STREET IS NOT THE PERSON GENERATING THIS LEVEL OF VINDICTIVENESS TOWARD THE OPPENHEIMER PROJECT BUT A CASUAL OBSERVER WHO HAPPENS TO LIVE ON CALIFORNIA AND THE OTHERS HAVE CONVINCED TO COSIGN THEIR PIECE. IN MY OPINION IT IS INCORRECT. I WOULD LIKE TO ASK MISS BRISTOL TO ARTICULATE THE ISSUES BY THE APPEALS.

I DOUBT SHE CAN AND SHE DID NOT IN THE LAST ZOOM MEETING LIMITING HER CONCERNS TO HER PROPERTY BEING ADVERSELY AFFECTED. IF THE CITY ALLOWS THE SITUATION TO CONTINUE, IT'S A SAD

COMMENTARY ON A PROCESS THAT WAS ALREADY APPROVED ONCE AND  
KICKED BACK TO THE RENT BOARD FOR NO APPARENT REASON AND NOW  
IT'S AGAIN BEFORE THE ZONING BOARD.

THAT ESSENTIALLY ONE FAMILY WHO LIVES ON -- I SUPPORT  
OPPENHEIMER'S PROJECT AND HOPE THEY GET THEIR PERMIT TO RENOVATE  
AND IMPROVE THEIR HOME.

>> C. KAHN: THANK YOU FOR COMING TONIGHT.

TODD JAILER IS NEXT.

>> HELLO.

CAN YOU HEAR ME?

>> C. KAHN: YES.

>> I'M TODD JAILER AND I LIVE AROUND THE CORNER OR VIRGINIA  
STREET AND I OPPOSE THE PROJECT BECAUSE I BELIEVE IT'S WRONG TO  
REMOVE SMALL, AFFORDABLE HOUSING UNITS FROM BERKELEY.

WE RECENTLY BUILT A BACKYARD ADU TO ADDRESS THE HOUSING SHORTAGE  
IN BERKELEY.

WE BUILT IT AT 1600 SQUARE FEET EXACTLY THE SIZE OF THOSE TWO  
UNITS AT 1643.

WE DON'T -- WHEN WE DID IT, IT TOOK ABOUT A YEAR AND A HALF TO  
BUILD.

WE FOLLOWED ALL THE ZONING RULES AND ALL THE OTHER CITY RULES  
AND IT WAS DIFFICULT TO MAKE THAT WORK.

BUT WE FIGURED THAT'S WHAT RULES ARE FOR.

YOU FOLLOW THEM.

AND WE DON'T THINK THE CITY SHOULD ISSUE A USE PERMIT WHERE THERE IS NO REQUIREMENT TO DO SO FOR A PROJECT THAT DOESN'T FOLLOW THE RULES AND ELIMINATES SMALL HOUSING UNITS AND IMPACTING NEIGHBORS.

IT'S UPSETTING TO HEAR THAT RESIDENTS ARE BEING ASKED BY THE CITY TO BUILD BACKYARD ADUS TO ALLEVIATE THE HOUSING CRISIS, BUT AT THE SAME TIME REMOVING SMALL UNITS THAT ALREADY EXIST. CAN.

DOING SO BASICALLY GIVES THE OWNERS OF THOSE PROPERTIES AN ENORMOUS PROPERTY VALUE INCREASE AT THE EXPENSE OF THE NEIGHBORS, AT THE EXPENSE OF POTENTIAL NEIGHBORS OF LOWER INCOME OR LESSER WEALTH AND IT'S A DETRIMENTAL DEVELOPMENT OF HOUSING AVAILABILITY IN BERKELEY.

THANK YOU.

>> C. KAHN: THANK YOU FOR YOUR COMMENTS, TODD AND FOR COMING TONIGHT.

WE HAVE ONE IDENTIFIED AS A BERKELEY NEIGHBOR.

>> THANK YOU, CAN YOU HEAR US?

>> C. KAHN: YES.

>> THANK YOU VERY MUCH.

I'M ELIZABETH.

>> AND I'M ZOLTAN. WE'RE NEIGHBORS HALF A BLOCK AWAY ON CALIFORNIA STREET TO THE SOUTH.

>> WE WANTED TO SPEAK UP AND GIVE OUR SUPPORT FOR THE PROJECT.

I KNOW THERE IS SOME BAD FEELING AGAINST IT, BUT I HAVE TO SAY THAT THERE IS ALREADY SO MUCH DEVELOPMENT BOTH ON OUR BLOCK AND IN THE NEIGHBORHOOD THAT THIS CONFORMS WITH.

I DON'T THINK THERE IS ANYTHING OUT OF STEP ABOUT THIS PROJECT IN PROPORTIONS OR FITTING INTO THE NEIGHBORHOOD.

I THINK IT WILL BE JUST FINE.

THE REASON WE'RE SPEAKING UP ALSO IS BECAUSE WE'VE HAD THIS KIND OF DEVELOPMENT HAPPEN ALL AROUND OUR HOUSE.

TO THE SOUTH THE HOUSE WAS DOUBLED IN SIZE AND MOVED BACK AND IT'S MUCH CLOSER TO US AND GIVEN OUR PROPERTY MUCH SHADE.

TO THE NORTH OF US, THE SAME THING PRETTY MUCH HAPPENED.

THE HOUSE INCREASED ALMOST DOUBLE IN SIZE AND HEIGHT WHILE NOT BEING MOVED.

IT TOOK AWAY A VIEW THAT WE VERY MUCH LOVE.

WE APPROVED BOTH PROJECTS.

AND BOTH NEIGHBORS WERE WONDERFUL AND TOTALLY WORTH IT.

AND IT WOULD HAVE BEEN TERRIBLE FOR THEM NOT TO BE ABLE

TO -- ONE NEIGHBOR MIGHT HAVE LOST HIS LOAN IN ORDER TO DO THE PROJECT AT ALL IF THERE WAS ANY MORE STALLING ON THE PROJECT AND WE THOUGHT THAT WASN'T RIGHT.

OUR OTHER NEIGHBOR WAS RETIRING AND THIS WAS THEIR RETIREMENT HOME.

YOU KNOW, I JUST DON'T THINK THESE REASONS ARE GOOD ENOUGH TO DENY PEOPLE THE ENJOYMENT OF THEIR HOMES AND PROPERTY.

I DON'T THINK IT'S OUT OF LINE WITH PROJECTS THAT HAVE BEEN DONE TO THE REST OF THE NEIGHBORHOOD AND I DON'T THINK IT'S RIGHT, FOLKS.

I WOULD HOPE THE NEIGHBORHOOD WOULD COME TOGETHER AND SUPPORT THIS PROJECT AND WE ASK THAT YOU DO SO.

>> THANK YOU.

>> C. KAHN: THANK YOU SO MUCH FOR COMING TONIGHT.

WE HAVE THREE MORE SPEAKERS.

WE CALL YVONNE.

>> THANK YOU.

CAN YOU HEAR ME?

>> C. KAHN: YES.

WELCOME.

>> THANK YOU SO MUCH.

I WANTED TO ADDRESS COMMENT THAT A PREVIOUS SPEAKER MADE ABOUT THE SIZE OF THE HOME.

IT SEEMS LIKE THAT IS A MAJOR ISSUE FOR THE SPEAKER.

HOWEVER, AS BROUGHT UP BY THE PREVIOUS NEIGHBOR WHO SPOKE, IT SEALS LIKE THIS KIND OF SIZE OF HOME IS ACTUALLY BECOMING MORE AND MORE COMMON IN THE COMMUNITY.

IN FACT, ABOUT 50% OF THE BUILDINGS ON THE BLOCK ARE ABOUT THE SIZE OF THE PROPOSED EXPANSION.

THERE IS NO REASON TO REDUCE THE SIZE OF THE PROJECT.

FURTHERMORE, THE INDIVIDUALS WHO WORKED ON THIS HOME AND



REDESIGN TOOK INTO ACCOUNT THEIR NEIGHBORS WISHES AND DESIRES AND CARE ABOUT THEIR COMMUNITY AND HOW THIS WILL AFFECT THEY ARE NEIGHBORHOOD AND FURTHER INCORPORATION AND FURTHER STALLING SEEMS UNREASONABLE TO FORCE THEM TO.

THANK YOU GUYS FOR YOUR TIME.

>> C. KAHN: THANKS FOR COMING.

WE HAVE KAY -- JOHN IS NEXT.

>> GOOD EVENING.

WHILE THIS PROJECT MIGHT HAVE BEEN CONTENTIOUS, WOULD I LIKE TO POINT OUT THAT THE ARCHITECT IN QUESTION SUNNY GREWEL CHOSE TO MAKE IT MORE CONTENTIOUS THAN IT NEEDS TO BE.

HE SAID THE PROPOSED PROJECT HAS SUPPORT FROM THE ADJOINING NEIGHBORS PLURAL.

IN FACT IT HAS THE SUPPORT OF ONE.

THE OTHER NEIGHBORS WROTE THAT THEY WERE NOT IN SUPPORT OF THIS PROJECT.

LANGUAGE MATTERS.

MR. GREWEL IN CHOOSING THIS LANGUAGE MATERIAL MISREPRESENTS THE OTHER NEIGHBORS' CONSENT.

MR. GREWEL MADE THE SAME CLAIM ON MY NEIGHBORS WHERE IT WAS A DIFFERENT AUP AND PROJECT, HE SPOKE ABOUT THE NON-SUPPORT.

DEVELOPMENT CAN BE CONTENTIOUS ENOUGH WITHOUT SETTING NEIGHBOR AGAINST NEIGHBOR.

SOMEONE NEEDS TO TELL THIS ARCHITECT TO STRAIGHTEN UP AND FLY

RIGHT.

THANK YOU BOARD MEMBERS FOR YOUR TIME.

>> C. KAHN: THANK YOU FOR THOSE COMMENTS.

I'M SURE THEY ARE BEING HEARD.

>> HELLO.

THE PRESENTATION BY THE APPELLANT SEEMS TO BE AN ENDLESS LIST OF ANY COMPLAINTS THAT THEY CAN THINK OF.

THEY DON'T SEEM TO FOCUS ON THE -- THEY'RE NOT FOR THE PROJECT.

THERE WILL IS NO REASON FOR THIS PRESENTED BEFORE THE ZAB AGAIN.

I'M IN SUPPORT OF THE PROJECT THAT SEEMS REASONABLE TO ME.

>> C. KAHN: ANY OTHER COMMENTS?

>> NO.

>> C. KAHN: THANK YOU FOR COMING TONIGHT.

WE APPRECIATE THAT.

I BELIEVE THAT KAY BRISTOL HAS SPOKEN.

>> NO, SHE DIDN'T SPEAK BUT SHE IS ONE OF THE APPELLANTS.

>> C. KAHN: WE HAVE SOMEONE NAMED RIVER WHO HAS APPEARED.

I'LL RECOGNIZE YOU AND WE HAVE KELLY WHO IS BACK.

RIVER.

>> GOOD EVENING.

I WOULD LIKE TO SAY I'M IN SUPPORT OF THIS PROJECT.

THE FAMILY HAS LIVED THERE OVER 30 YEARS.

THEY'VE LIVED IN A MODEST DWELLING THE ENTIRE TIME.

IT SEEMS LIKE A REASONABLE REQUEST.

HAS BEEN STATED EARLIER, A NUMBER OF OTHER HOUSES IN THE AREA ARE OF SIMILAR SIZES AND THEY WORKED WITH THE NEIGHBORS IN THE AREA AND GOTTEN THOSE APPROVED BY STAFF MULTIPLE TIMES.

IT SEEMS REASONABLE TO ME.

THANK YOU.

>> C. KAHN: THANK YOU FOR COMING.

I DON'T SEE ANY MORE HANDS, KELLY, PUT YOUR HAND UP, IT'S YOUR LAST CHANCE IF YOU WANT TO SPEAK.

I DON'T SEE YOUR HAND GOING UP.

I'M GOING TO CLOSE THE PUBLIC HEARING AND BRING IT BACK TO THE COMMISSION.

AND ARE THERE ANY QUESTIONS YOU HAVE FOR STAFF, VERIFICATIONS BASED ON THE COMMENTARY THAT WE HEARD TONIGHT AND ANY COMMENTS OR THOUGHTS YOU HAVE RELATIVE TO THE MERITS OF THIS APPLICATION.

IGOR, I SEE YOUR HAND UP.

>> I. TREGUB: BEFORE YOU DO, I JUST SEE NOW KELLY RAISING HER HAND.

>> C. KAHN: I DO WANT TO RECOGNIZE HER.

KELLY, YOU ARE RECOGNIZED.

>> OKAY.

CAN YOU HEAR ME?

>> C. KAHN: YES, MA'AM.

>> I REALLY WANTED TO COMMENT ON TWO THINGS ON THE DESIGN.

THAT IS THAT THE STAIRWAY ENTRANCE DOESN'T LOOK BALANCED WITH

THE SIDES OF THE BUILDING.

YOU HAVE TALENTED ARCHITECTS ON ZAB.

I WISH YOU WOULD TAKE A LOOK AT THAT.

AND THE OTHER CONCERN IS THE DECK, IF THAT'S A WOOD DECK GOING ALL THE WAY TO THE PROPERTY LINE, I THINK WITH THE WAY LEGISLATION IS GOING, ON FIRE ZONES AND FIRE SAFETIES THAT THOUGH NEED TO TAKE THAT BACK FROM THE PROPERTY LINE.

THOSE ARE MY TWO COMMENTS.

>> C. KAHN: THANK YOU FOR THAT.

OKAY.

NOW I WILL RECLOSE PUBLIC HEARING AND IGOR, I SEE YOU AND I SEE YOU DEBBIE.

PROCEED.

>> I. TREGUB: OKAY.

THANK YOU.

WELL, KELLY BRINGS UP AN INTERESTING POINT.

STAFF, COULD YOU ADDRESS -- I WOULD PRESUME THAT BEFORE SOMETHING GOES BEFORE STAFF RECOMMENDATION --

>> C. KAHN: ARE YOU ASKING ABOUT WHAT KELLY RAISED?

>> EITHER OF YOU.

I WOULD PRESUME THAT THE FIRE DEPARTMENT BUILDING INSPECTOR --

>> C. KAHN: THAT'S NOT A ZAB ISSUE.

I'M SPEAKING AS CHAIR NOW.

KELLY'S ISSUE IS NOT A ZONING BOARD ISSUE.

IT'S A BUILDING DEPARTMENT ISSUE.

IT WILL BE ADDRESSED IN DUE TURN BY THE BUILDING AND FIRE  
DEPARTMENT.

FIRE SAFETY IS NOT OUR BAILIWICK.

>> I. TREGUB: JUST WANTED TO CLARIFY.

THANK YOU FOR CLARIFYING.

I WAS CURIOUS, STAFF, IF YOU COULD WALK US THROUGH.

AT SOME POINT IT WAS TWO UNITS -- WELL, IT WAS ALWAYS TWO UNITS  
AND SOME MODIFICATIONS WERE MADE TO ONE OR BOTH OF THE UNITS  
WITHOUT PERMITS.

SO WOULD YOU JUST CONFORM LIKE WHAT WILL MY UNDERSTANDING IS  
THAT PART OF THE PERMITS WE ARE TRYING TO DO OR WE'RE BEING  
ASKED TO PROVIDE WOULD BE IN PART TO CORRECT SOMETHING THAT MAY  
HAVE BEEN DONE WITHOUT PERMITS.

>> C. KAHN: IS THAT TRUE ALLISON?

>> NO.

IT WAS INTERIOR WORK DONE WITHOUT PERMITS.

THERE WERE TWO KITCHENS, ONE PROPERTY WAS PURCHASED BY THE  
CURRENT OWNERS.

MAYBE THEY REMOVED THE SECOND ONE, BUT OTHERWISE REMOVED A DOOR,  
ADDED A DOORWAY SO THAT THEY WERE USING THE TWO UNITS AS ONE  
HOUSE.

>> I. TREGUB: THAT WOULD NOT REQUIRE SEPARATE PERMITS.

IT WAS AN ENTIRELY INTERIOR MODIFICATION.

CAN YOU CONFIRM THAT ON THE ASPECT WHERE OTHER THAN CODE ENFORCEMENT WHERE IT WOULD BE MAYBE THE RENT BOARD PURVIEW WOULD HAVE BEEN IF THAT WILL UNPERMITTED WORK IMPACTED SOMEONE THAT MAY HAVE BEEN RENTING THE UNIT AT THE TIME AND WOULD HAVE BEEN IMPACTED BY A REDUCTION IN SERVICES OR A CHANGE IN THE FLOOR PLAN.

THAT WOULD BE WITHIN THE PURVIEW OF THE RENT BOARD, NOT THE ZAB, CORRECT?

>> YES, BUT MY UNDERSTANDING IS THAT THE CURRENT OWNERS BOUGHT THE PROPERTY WHEN NO ONE WAS OCCUPYING.

SO THERE WASN'T A DISRUPTION TO EXISTING TENANTS WHEN THEY OCCUPIED BOTH UNITS.

BUT IT WAS DETERMINED THAT IT'S NOT A GOLDEN DUPLEX SO IT'S SUBJECT TO RENT CONTROL WHEN IT IS RENTED.

>> C. KAHN: THEY WERE RESTORING IT TO TWO UNITS.

>> I. TREGUB: THANK YOU SO MUCH FOR CLARIFYING THAT.

>> C. KAHN: ANYTHING ELSE?

NO CAN.

DEBBIE AND [INDISCERNIBLE]

>> I WANT TO MAKE A COMMENT ON THE SIZE OF THE UNITS.

501 SQUARE FEET IS A NORMAL SIZE FOR A SMALL UNIT.

IT IS WHAT WE CONSIDER THAT AND BELOW IS A TYPICAL LOW INCOME AFFORDABLE UNIT.

THEY'RE GETTING SMALLER AND SMALLER.

WE STARTED WITH TWO UNITS COMPARABLE IN SIZE WE END UP WITH TWO UNITS WHERE ONE IS SMALLER AND ONE IS LARGER.

I THINK THAT CHANGE STRONGLY SUPPORTS THE CITY OF BERKELEY'S RESIDENTS AND BUYERS OF PROPERTY.

AND I THINK THE BUILDING HAS RESULTED FROM THESE EXTENSIONS.

IT'S LIKE A BUILDING YOU WOULD FIND IN THAT NEIGHBORHOOD.

WOULD I LIKE TO RECOMMEND THAT WE APPROVE THIS PROJECT AS PROPOSED.

>> C. KAHN: IS THAT A MOTION?

>> D. SANDERSON: YES IT IS.

>> C. KAHN: YES.

>> Y. DUFFY: I HAVE A COUPLE OF COMMENTS.

>> C. KAHN: I WANT TO MAKE ONE THING CLEAR.

JUST BECAUSE SOMEONE MAKES A MOTION IT DOESN'T STOP THE DISCUSSION.

THAT STARTS THE DISCUSSION.

THAT'S HOW THE PARLIAMENTARY PROCEDURE WORKS.

WE'RE NOT DISCUSSING THE MOTION.

SO PLEASE PROCEED.

>> Y. DUFFY: FIRST, I APPRECIATE THE CLARITY OF ALL THE PRESENTATIONS.

I HOPE TO BE AS CLEAR MYSELF NOW.

I PLAN TO SUPPORT THIS PROJECT AS PRESENTED WITH THE CONDITIONS OF APPROVAL ATTACHED.

I'VE READ ALL THE CORRESPONDENCE ON THE RECORD.

TO THE AMENDMENT, A QUICK NOTE ABOUT SMALL UNITS BEING  
CONSIDERED AFFORDABLE LOW-INCOME UNITS.

SMALL DOESN'T ALWAYS EQUATE MORE AFFORDABLE.

A BETTER METRIC IS PROBABLY NUMBER OF BEDROOMS.

AS ANY STUDENT WOULD KNOW, SHARED LIVING SITUATIONS WITH  
MULTIPLE ROOMS CAN ACTUALLY BE MORE AFFORDABLE TO INDIVIDUALS.  
WHILE WE ARE ALIGNED ON THE IMPORTANCE OF AFFORDABILITY.

IT'S NOT ALWAYS ABOUT BEING SMALL.

SHARING ALLEVIATES SOME THE COST BURDEN.

I APPRECIATE THE LEVEL OF DETAIL THAT THE APPELLANT DESCRIBES  
THE SITUATION, BUT I STILL FEEL THIS APPROVAL RECOMMENDATION  
FROM STAFF IS SUBSTANTIATED.

THIS PROJECT IS LEGAL, CONFORMING AND A SECOND STOREY ADDITION.  
THE LOT COVERAGE IS NON-CONFORM BIG A SMALL AMOUNT BUT IT'S  
IMPROVING WITH THE REMOVAL OF THE SHED.

A COUPLE OTHER THINGS TO MENTION, SHADOWS AND PRIVACY, I KNOW  
YOU BROUGHT THEM UP.

IT WOULD BE IMPORTANT TO ADDRESS.

SHADOWS NOT ONLY ARE THEY MOSTLY CAST FROM THE EXISTING RED WOOD  
TREES BUT AS FOR THE BUILDING, THEY ARE A FUNCTION OF HEIGHT AND  
ROOF DESIGN AND THIS PROPOSAL MADE A FRIENDLY AMENDMENT TO  
ADDRESS THIS ISSUE.

FURTHER MORE, THIS PROJECT PROPOSES A ROOF HEIGHT THAT IS WELL



UNDER THE ALLOWED HEIGHT COMPLIMENTS AND IT STEPS BACK IN THE REAR YARD TO COMPLY WITH REQUIRED SETBACKS.

THOSE ARE SOME ISSUES REGARDING SHADOW AND PRIVACY.

WE ADDRESSED THIS PREVIOUSLY WITH RECOMMENDING HIGHER STRATEGICALLY-PLACED WINDOWS AT THE LAST HERO AND PRIVACY FROSTING IN THE BATHROOM.

IT IS ADEQUATE.

THE APPELLANTS WINDOWS ARE NEARLY 50 FEET AWAY IN THE REAR YARD.

50 FEET IS THE WIDTH OF A PUBLIC STREET.

NOT ONLY THAT, THOSE WINDOWS ARE 90° TO EACH OTHER.

THEY'RE NOT EVEN LOOKING ACROSS AND INTO EACH OTHER.

THAT'S IMPORTANT TO NOTICE.

THE ISSUE OF PEOPLE LOOKING INTO EACH OTHER'S BACKYARD IS A PRIVACY ISSUE, BUT I THAT I IS SOMETHING THAT MOST OF US LIVE WITH IN THIS URBAN CITY.

HOMY MY PREPAREDNESS IS RESPONDING TO THE IMPORTANT ISSUES.

AND I WOULD SUPPORT AND SECOND DEBORAH'S MOTION.

>> C. KAHN: THANK YOU.

I AGREE WITH YOU ON EVERY POINT.

YOU TOOK THE WORDS OUT OF MY MOUTH.

I SEE DOHEE AND IGOR.

>> D. KIM: I WANTED TO BRIEFLY COMMENT TO YOU AS WELL BECAUSE I'M NOT AN ARCHITECT, I OFTEN KIND OF AM ON THE LISTENING END OF ARCHITECTS AND EXPERTS ON THIS WORD.

AND I APPRECIATE THE CLARITY THAT GAVE WITH YOUR KNOWLEDGE AND EXPERTISE.

I REALLY APPRECIATED THAT.

>> C. KAHN: IGOR.

>> I. TREGUB: I'D LIKE TO THANK ALL THE NEIGHBORS THAT CAME OUT WHETHER IT'S FOR SUPPORT OR OPPOSITION.

I THINK YOUR INPUT HAS COLLECTIVELY MADE THIS PROJECT BETTER. AND SO, WHAT MATTERS TO ME AS A BOARD MEMBER IS FIRST OF ALL, WE AS BOARD MEMBERS CAN'T MAKE DECISIONS AND SHOULD NOT MAKE DECISIONS BASED ON ALLEGED PREVIOUS HISTORY OF EITHER AN APPLICANT OR ARCHITECT.

I MEAN, WE CAN ONLY MAKE A DECISION BASED ON WHAT IS IN FRONT OF US.

HOWEVER, IT DOES GIVE ME CONFIDENCE THAT I DO REMEMBER THAT FEELING BACK IN DECEMBER OF LAST YEAR.

AND AT THE TIME I BELIEVE THAT THE APPLICANT ACTUALLY MADE DESIGN CHANGES BASED ON THOSE RECOMMENDATIONS AS BOARD MEMBER DUFFY POINTS OUT.

AND I ALSO APPRECIATE THE PRESENTATION WHICH DETAILS THE OTHER MODIFICATIONS THAT HAVE BEEN MADE OVER THE COURSE OF THIS PROJECT TO REDUCE THE MASSING TO STRIVE TO REDUCE THE IMPACT ON THE NEIGHBORS.

UNFORTUNATELY, THERE WILL ALWAYS BE IMPACTS.

HOWEVER, AND I LIVE NOT TOO FAR FROM THERE.

JUST DOWN THE STREET ON VIRGINIA.

THAT IS KIND OF THE DOMINANT SETTING IS THAT ONE TO TWO-STOREY  
EVEN THREE STOREY BUILDINGS.

I THINK IT WAS A THOUGHTFUL DESIGN CHOICE TO ACTUALLY REDUCE  
MASSING TO PROPOSE THAT PART OF THE LARGER UNIT BE IN THE  
BASEMENT.

LASTLY, JUST YOU KNOW, AS A TENANT IN A QUADRUPLEX, I THINK MY  
UNIT AT MOST IS 500 FEET.

IT MIGHT BE LESS.

THERE ARE GOING TO BE ALL SORTS OF DIFFERENT NEEDS FOR UNIT  
SIZE.

FOR DIFFERENT STAGES IN SOMEONE'S LIFE.

SOUNDS LIKE RIGHT NOW THEY ACTUALLY HAVE NO PLANS TO RENT IT  
OUT, BUT IF THEY DID AND THEY CERTAINLY HAVE THE OPTION DO IN  
THE FUTURE, I'M QUITE CONFIDENT THAT THEY WILL FIND A TENANT  
THAT MIGHT ACTUALLY NEED THAT KIND OF FLOOR PLAN FOR EITHER ONE  
OF THE UNITS BEING PROPOSED.

LASTLY, I KNOW THAT NOT EVERY SIDE IS GOING TO BE HAPPY HERE.  
BUT I WANT TO THANK, AGAIN, BOTH SIDES.

IN PARTICULAR, I WANT TO THANK THOSE WHO RAISED CONCERNS FOR  
SUGGESTING THAT THE RENT BOARD BE CONSULTED.

I THOUGHT THAT WAS A USEFUL DATA POINT.

I OBVIOUSLY PAY CLOSE ATTENTION TO THE RENT BOARD REPORTS WHEN  
THEY ARE PROVIDED.

AND THEY TOO SAID THAT THERE HAS BEEN NO HISTORY OF UNTOWARD  
ACTIVITY ON THE PART OF THE OWNERS.

I WILL BE SUPPORTING THIS STAFF RECOMMENDATION WITH A DEEP  
APPRECIATION FOR EVERYONE THAT CAME OUT TONIGHT.

>> C. KAHN: THANK YOU IGOR.

MICHAEL.

>> SO, REALLY, I THOUGHT THE NEIGHBORHOOD WAS A CHARMING ONE.  
I GOT TO WALK AROUND THE NEIGHBORHOOD AND IT'S FABULOUS AND I  
UNDERSTAND THE CONCERN THAT EVERYONE HAS.

THOSE IN SUPPORT AND OPPOSITION.

YOU HAVE A GREAT SET UP.

I THOUGHT THE PROJECT WAS IN LINE WITH WHAT IS IN THE  
NEIGHBORHOOD.

ACROSS THE STREET, AROUND THE CORNER YOU SEE THOSE UNITS.

SOMEONE MENTIONED 50% OF THE HOMES ON THE BLOCK.

YOU KNOW, I THINK THE PROJECT WILL BE AN IMPROVEMENT TO THE  
NEIGHBORHOOD.

I THINK SOME UPGRADES WOULD BE A NICE THING FOR THE  
NEIGHBORHOOD.

AND I'M LIKEWISE IN SUPPORT OF IT.

THE FAMILY HAS BEEN THERE A LONG TIME.

THIS DOESN'T SOUND LIKE INVESTORS COMING IN TO GET THE MONEY OUT  
OF A COLLEGE TOWN.

THIS IS FOLKS WHO LIVE IN THE HOME AND HAVE BEEN THERE FOR A

REALLY LONG TIME.

SO I SUPPORT THE PROJECT AS WELL.

THANKS FOR LISTENING.

>> C. KAHN: THANK YOU, MICHAEL.

IF THERE ARE NO FURTHER COMMENTS, I HAVE NO FURTHER COMMENTS  
MYSELF.

COULD WE HAVE A VOTE SAMANTHA.

>> YES.

SO THIS IS TO APPROVE THE USE PERMIT FOR 1643-1647 CALIFORNIA.  
BOARD MEMBER TREGUB.

>> C. KAHN: IT'S NOT A REJECTION APPEAL, IT'S A NEW APPROVAL.

>> SORRY.

IT'S TO APPROVE THE USE.

>> C. KAHN: IT'S REMANDED TO US, IT IS APPROVAL AND USE PERMIT.

>> AND THIS IS THE APPEAL.

THANK YOU FOR THAT CLARIFICATION.

BOARD MEMBER TREGUB.

>> I. TREGUB: YES.

>> DUFFY.

>> YES.

>> GAFFNEY.

>> YES.

>> THOMPSON.

>> YES.

>> OLSON AND O'KEEFE ARE ABSENT.

CHAIRPERSON KAHN.

>> YES.

>> KIM.

>> YES.

>> AND SANDERSON.

>> YES.

>> C. KAHN: SO YOU HAVE YOUR USE PERMIT ON THE APPEAL.

SO THERE WILL BE NO APPEAL OF THIS HEARING.

IS IT NEEDS TO BE REGISTERED BY THE CLERK.

AND THEN OF COURSE, THE BUILDING DEPARTMENT AND FEAR DEPARTMENT  
WILL NEED TO APPROVE THE PLANS BEFORE YOU CAN BE ASSURED A  
PERMIT FOR CONSTRUCTION.

SO I JUST WANT TO ADD, I APPRECIATE EVERYONE WHO CAME OUT  
TONIGHT AND WHO SPOKE.

YOU WERE ALL ARTICULATE, AND I APPRECIATE THAT VERY MUCH.

I KNOW THE CONCERNS ARE GENUINE.

THE APPELLANTS WHO WERE NOT APPROVED TONIGHT, I'M SURE YOU'RE  
DISMAYED BY THAT.

EVEN WITHOUT HAA PROTECTION.

WE ENJOY THE PROTECTION OF THE BERKELEY ZONING CODE WHICH DOES  
ENTITLES OWNERS TO BE ABLE TO DEVELOP THEIR PROPERTIES AND  
IMPROVE THEIR PROPERTIES.

IF WE DON'T ALLOW THEM TO DO THAT WE'RE DENYING THEM A LEGAL

ENTITLEMENT AND WE NEED A PREPONDERANCE OF EVIDENCE TO DENY AN APPLICATION LIGHTS THIS WITHIN.

NOT JUST A PRESUMED ARGUMENT ABOUT AFFECTING AFFORDABILITY.

WE'RE ALL WORKING HARD TO ADDRESS.

THIS IS NOT THE VENUE FOR DOING THAT.

THAT'S WHY I ADDED MY VOTE AND ALL OF YES' COMMENTS ADD TO THAT.

I KNOW YOUR THOUGHTS AND CONCERNS ARE SINCERE.

THAT'S THE WAY THE SYSTEM WORKS.

NOT ONLY IN BERKELEY, BUT THROUGHOUT THE COUNTRY.

THANKS AGAIN AND WE'LL HOPEFULLY SEE YOU AGAIN SOMETIME IN THE FUTURE AS AN APPELLANT ON THE.

IS THAT IT FOR OUR HEARING?

>> THERE ARE NO OTHER ITEMS ON THE ACTION CALENDAR.

IS THERE A SUBCOMMITTEE REPORT?

>> C. KAHN: WE ARE MEETING NEXT WEEK.

WE HAVE NOTHING TO REPORT.

BUT WE'LL BE AIL TO REPORT IF THERE A REPORT AT THE FOLLOWING ZAB HEARING.

OKAY.

>> AND THERE ARE NO COMMUNICATIONS OTHER THAN TO SAY OUR NEXT MEETING IS THE AUGUST 11TH.

>> IT IS THE SECOND.

>> IT'S THE SECOND THURSDAY BECAUSE OF THE SUMMER RECESS.

THAT WAS ONE OF THE REASONS WHY WE REALIGNED THIS ONE.

>> C. KAHN: THANK YOU ALL OF YOU FOR COMING TONIGHT BOTH ON THE BOARD AND PUBLIC.

I HOPE YOU HAVE A WONDERFUL REST OF THE EVENING.

DO WE NEED A MOTION TO ADJOURN?

I SO MOVE.

>> SECOND.

>> C. KAHN: DEBBIE SECONDS THE MOTION TO ADJOURN.

TAKE A VOTE.

>> BOARD MEMBER TREGUB.

>> YES.

>> DUFFY.

>> YES.

>> GAFFNEY.

>> YES.

>> VICE CHAIR THOMPSON.

>> YES.

>> OLSON AND O'KEEFE ARE ABSENT.

CHAIRPERSON KAHN.

>> YES.

>> KIM.

>> YES.

>> AND SANDERSON.

>> YES.

>> C. KAHN: IT'S UNANIMOUS.



ENJOY THE REST OF YOUR EVENING, EVERYONE.

>> HAVE A GOOD NIGHT.



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

## **CITY COUNCIL NOTICE OF PUBLIC HEARING**

**SUBJECT: City Council Consideration of  
Zoning Adjustments Board  
Use Permit #ZP2021-0001  
1643-1647 California Street**

**WHEN: Tuesday, April 26, 2022.  
Meeting starts at 6:00 p.m.**

**WHERE: Berkeley Unified School District Board Room  
1231 Addison Street**

**PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

«NAME1»

«NAME2»

«ADDRESS1» «ADDRESS2»



**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL  
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY  
ZAB APPEAL: USE PERMIT #ZP2021-0001, 1643-1647 CALIFORNIA STREET**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, APRIL 26, 2022 at 6:00 P.M.** a public hearing will be conducted to consider an appeal of the decision by the Zoning Adjustments Board to approve Zoning Permit #ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **April 14, 2022. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Allison Riemer, at (510) 981-7433, or [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info). Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny (Code Civ. Proc. § 1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

**PLEASE NOTE:** 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.

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Cedar Street Neighborhood Association	1814 CEDAR ST	BERKELEY CA 94703	
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA 94703	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000,	SOUTH SAN FRANCISCO CA 94080	
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONEILL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703

Internal

SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703
MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740

## Internal

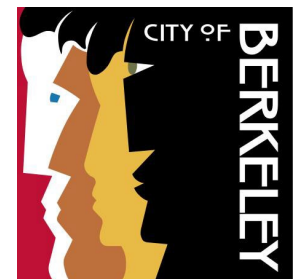
YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
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Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
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Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
Occupant(s)	1613 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1613 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1614 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 1	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 2	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 3	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 4	BERKELEY CA	94703
Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1616 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1617 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1618 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COM	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703
Sundeep Grewal, Studio+GS Architects	2223 Fifth Street	Berkeley CA	94710

# ZAB Appeal: 1643-1647 California Street

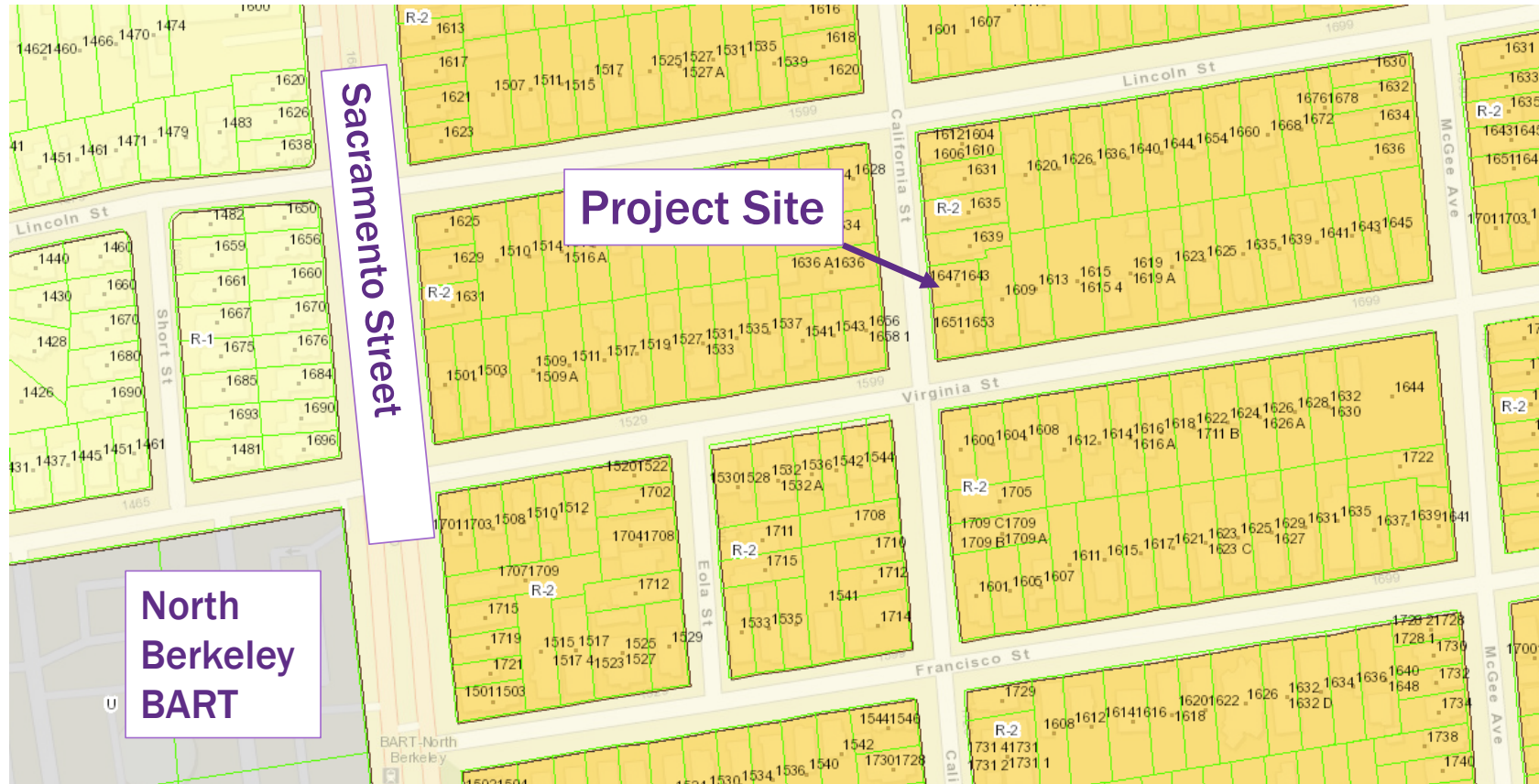
**April 26, 2022**

**Use Permit #ZP2021-0001**

**Allison Riemer, Associate Planner, Land Use Planning Division**



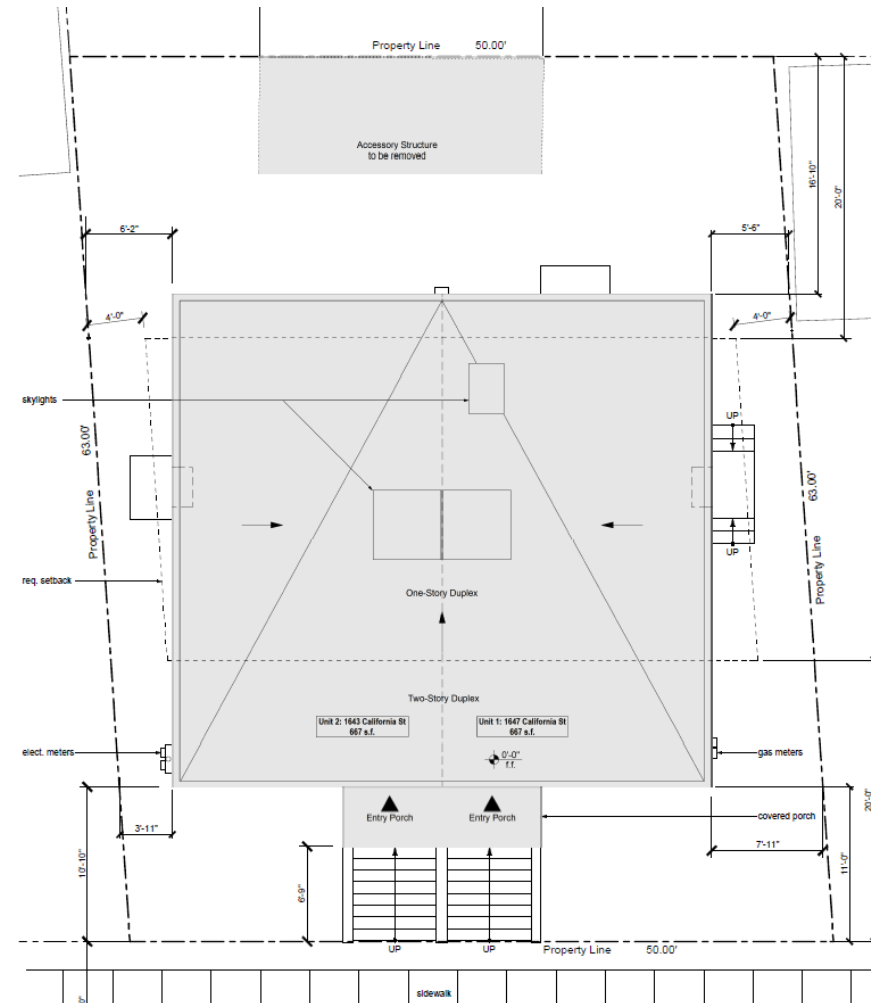
# Vicinity Map





# Existing Non-Conformities: Lot Coverage

- Exceeds allowable lot coverage by 5%



## Existing Non-Conformities: Density

- 2 units, where only 1 is allowed for a lot less than 4,500 sq. ft.

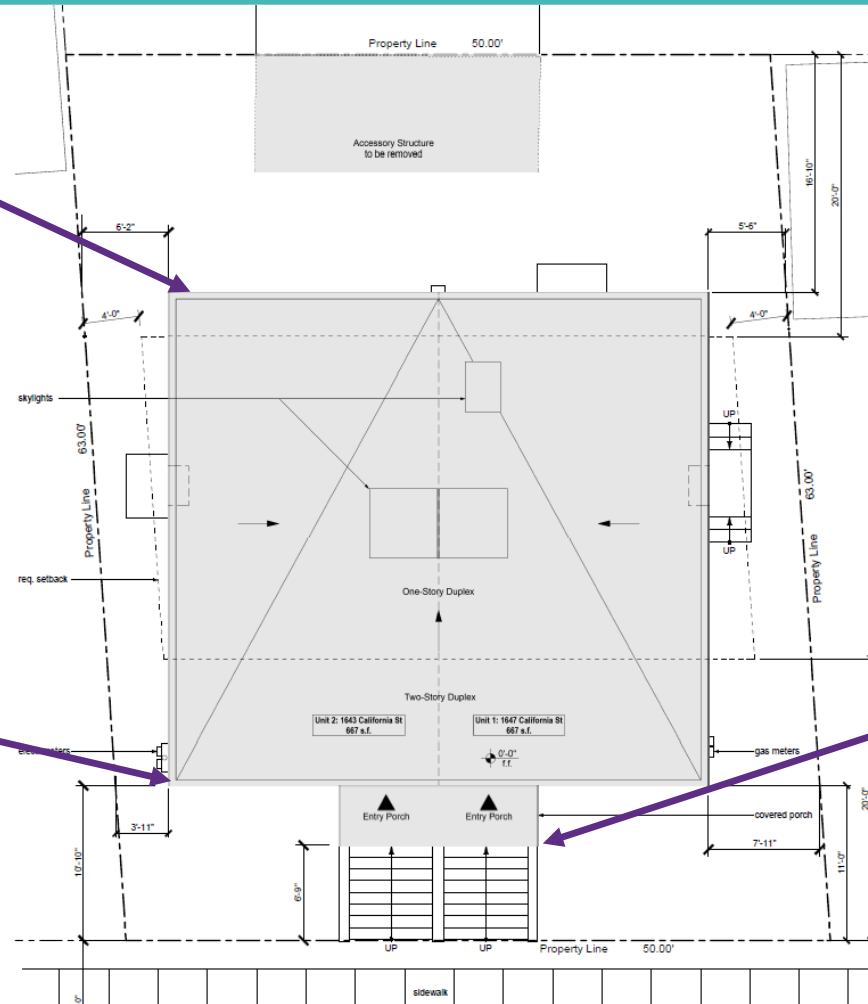


# Existing Non-Conformities: Setbacks

Rear setback: 16'-10"  
(20' required)

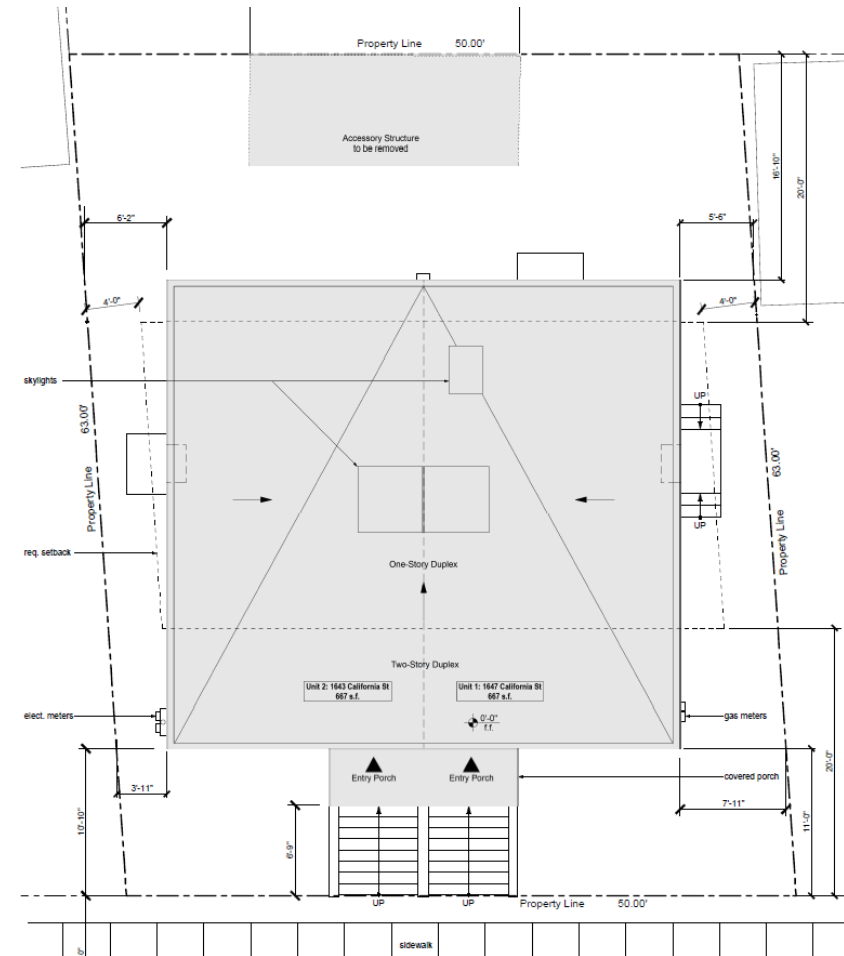
Left setback: 3'-11"  
(4' required)

Front setback: 6'-9" to  
porch, 10'-10" to  
building  
(20' required)



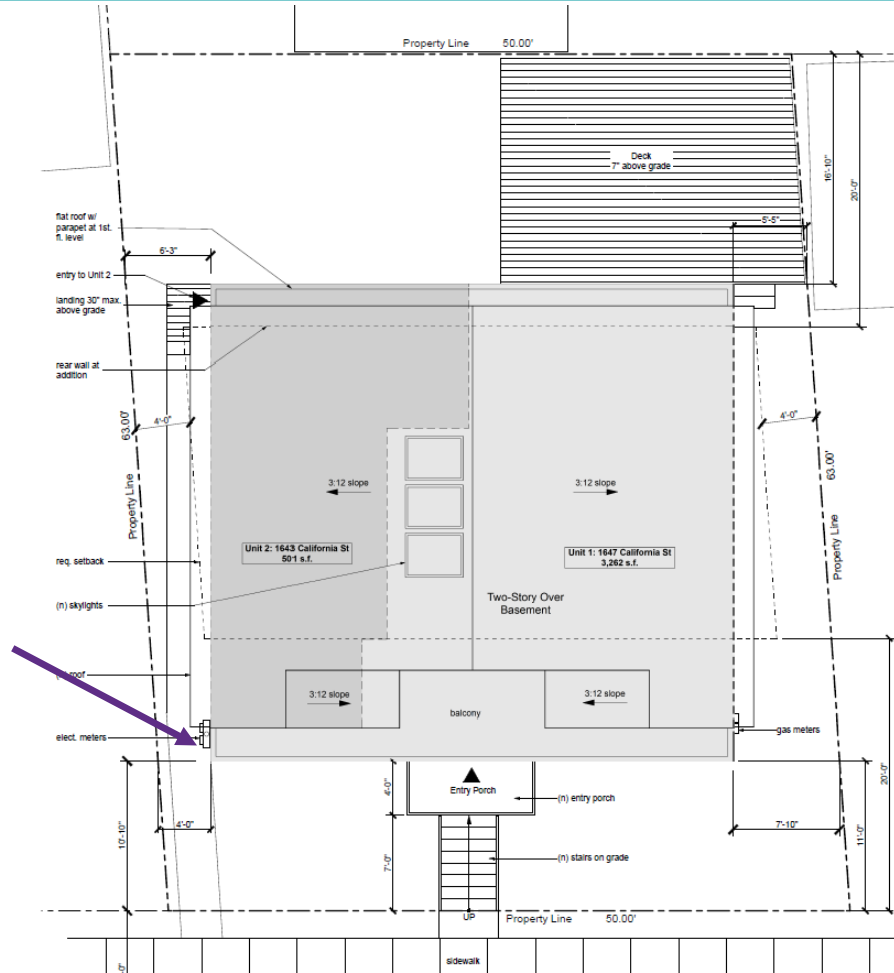
# Zoning Permits Required

- Use Permit to enlarge a structure that is non-conforming for lot coverage
- Use Permit to enlarge a structure that is non-conforming for density
- Administrative Use Permit to extend two non-conforming setbacks (front and rear)
- AUP to permit a major residential addition
- AUP to allow an addition over 14 feet in height
- AUP to construct a fifth bedroom



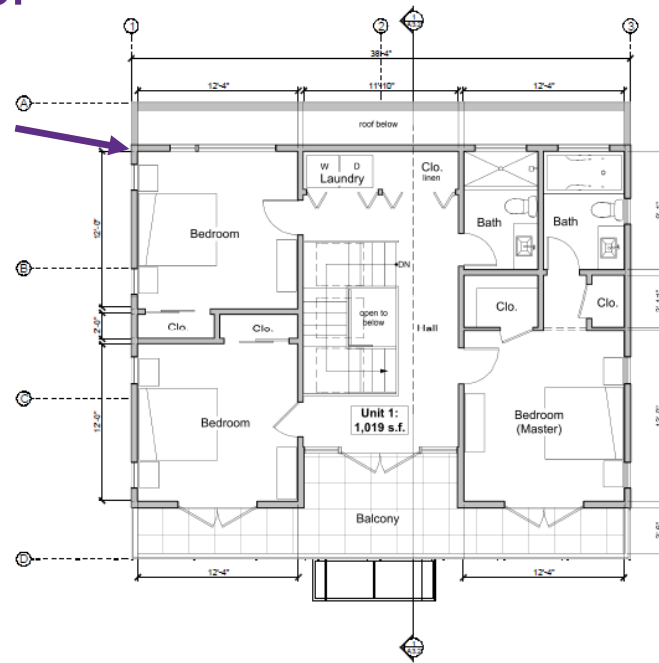
# Proposed Project: Site Plan

Compliant 4'  
left setback

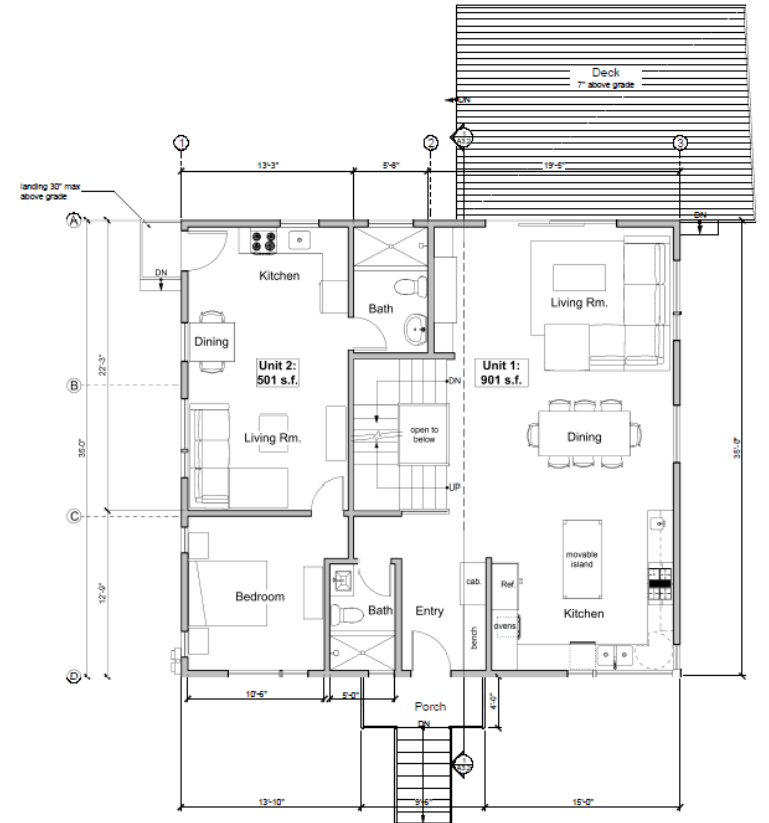


# Proposed Project: Floor Plan

New second floor  
complies w/  
20' setback  
at rear



② Proposed Second Floor Plan



① Proposed First Floor Plan

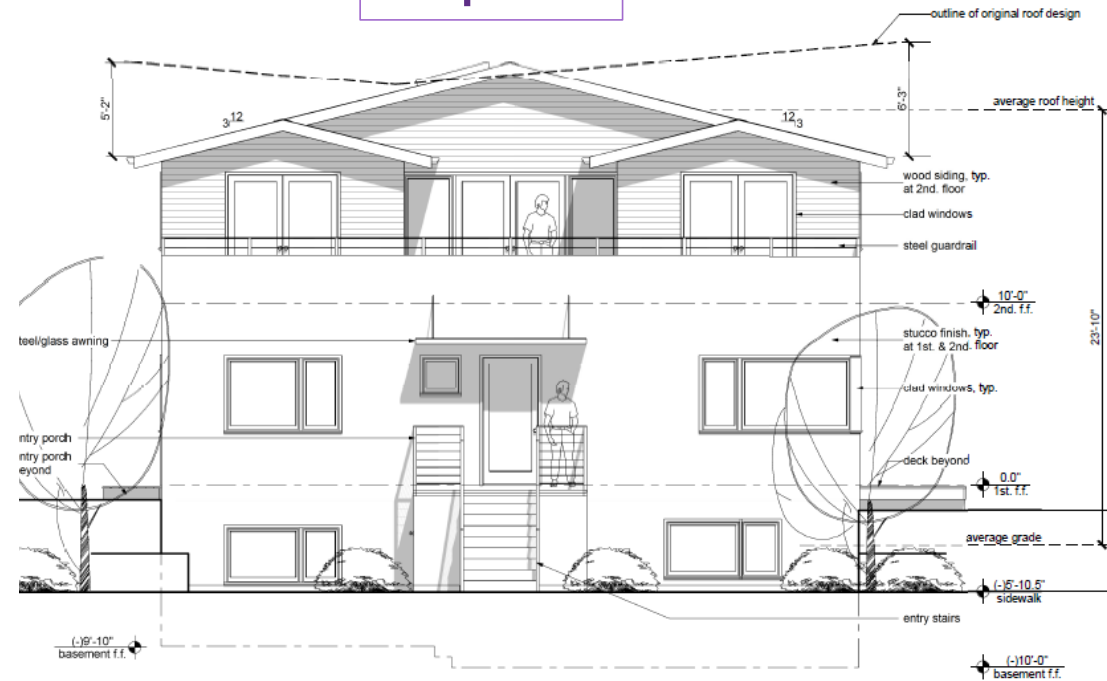


# Proposed Project: Front Elevation

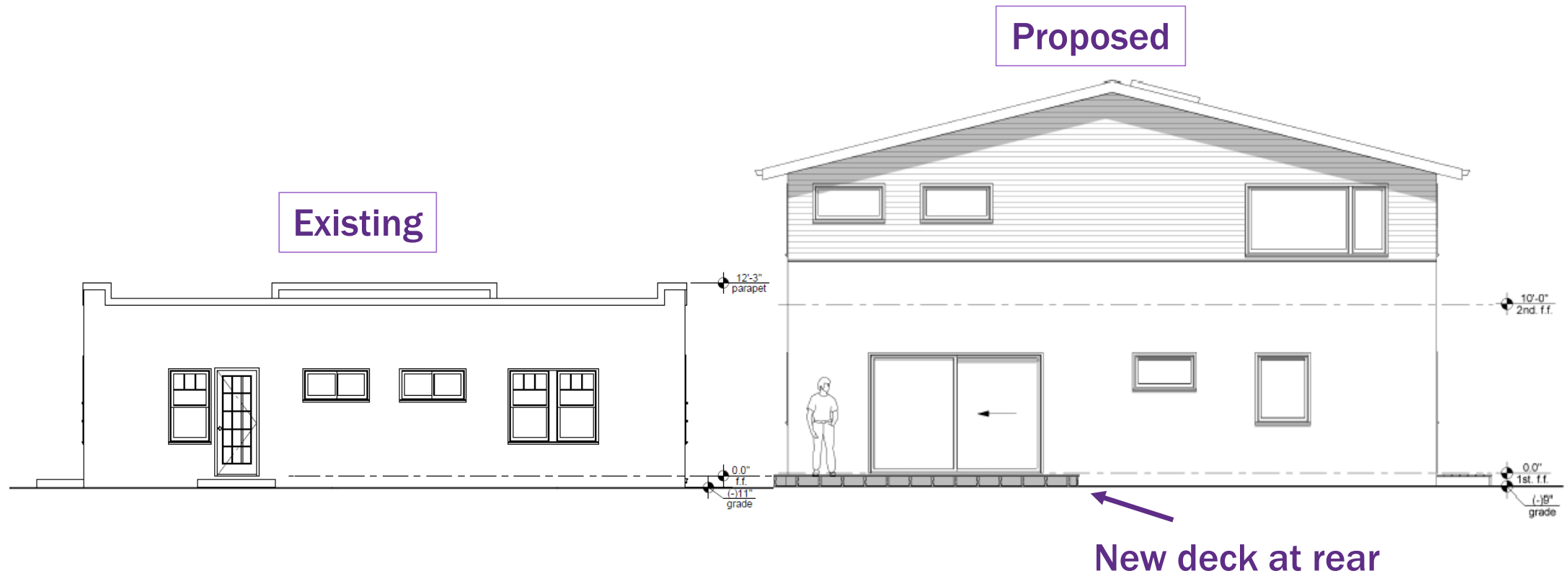
Existing



Proposed

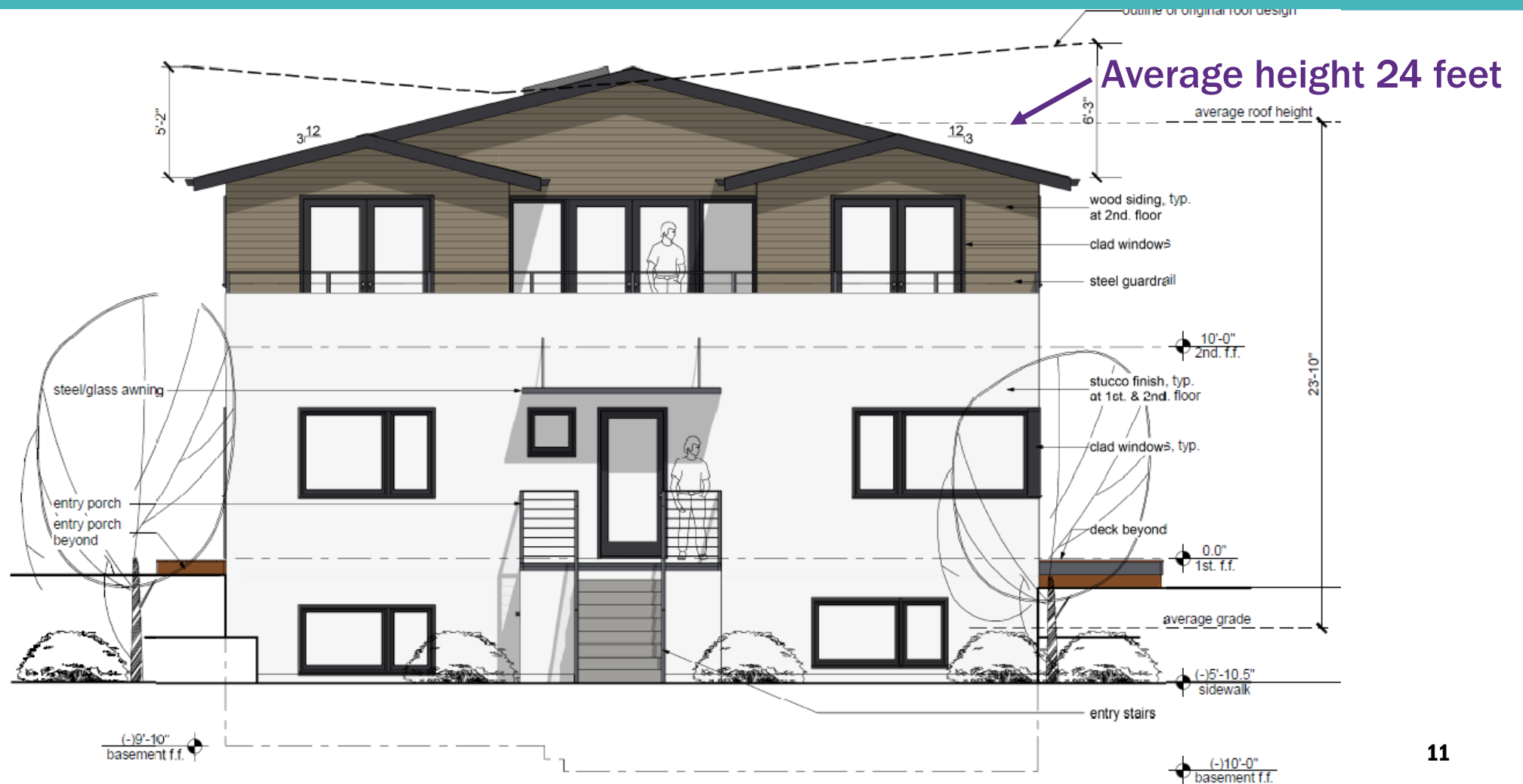


# Proposed Project: Rear Elevation





# Proposed Project: Average Height



# Timeline

- **January 2021:** Application submitted
- **May 2021:** Revised
- **September 2021:** Application complete
- **December 2021:** Approved by ZAB
- **January 2022:** Appealed by 1609 Virginia and 1651-1653 California



## Appeal Issues

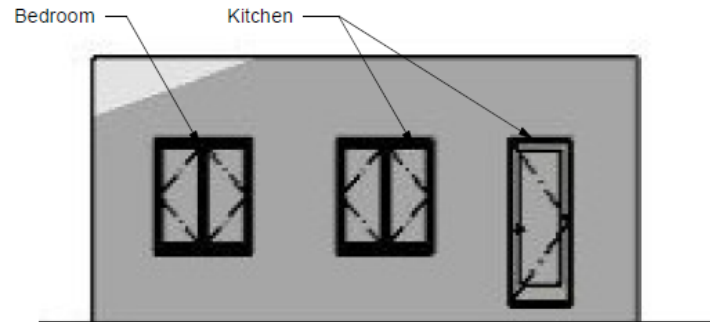
- **Interpretation of Housing Accountability Act (HAA)**
- **Lack of adjustments by ZAB**
- **Procedural requirements not met: story poles and yellow poster not installed; staff report not available far enough in advance**

## Appeal Issue: HAA shouldn't apply

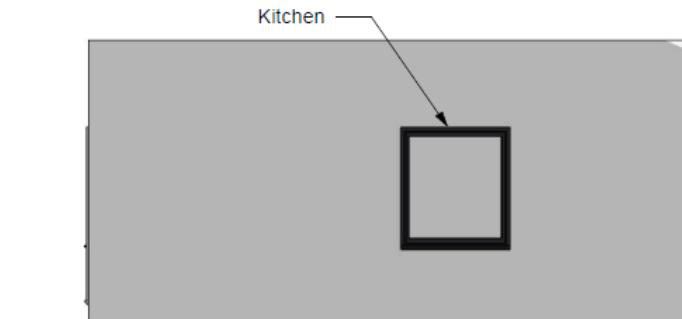
- **Appeal Points:**
  - HAA shouldn't apply because no units were added.
  - Applying HAA limited ZAB's ability to modify the project.
- ***Response:***
  - The project includes two units, but no new units will be added, so the HAA should not apply to the project.
  - The project must meet the objective zoning standards from the BMC.
  - The addition can be modified, without lowering the density.

# Neighbors' Concerns

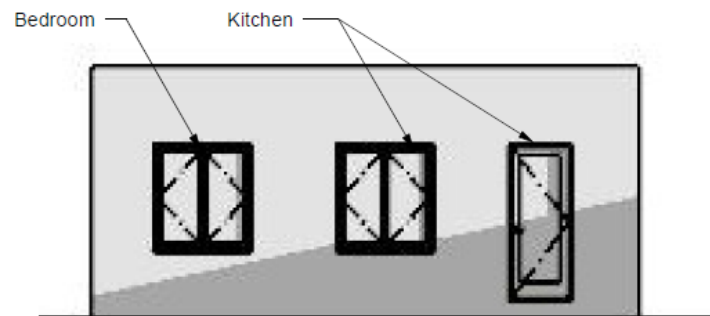
1609 Virginia



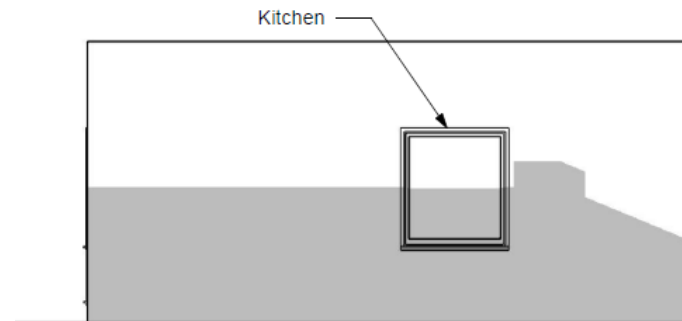
Proposed North Wall



Proposed West Wall



Existing North Wall



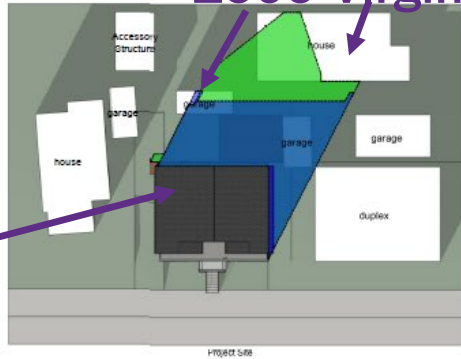
Existing West Wall

6-21-2021 / 6:35 pm

6-21-2021 / 6:35 pm

# ZAB decision: Summer Solstice Shadows

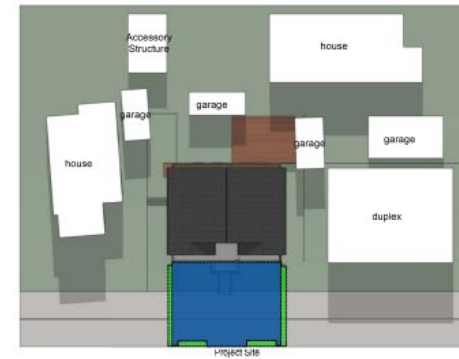
1609 Virginia  
Subject building



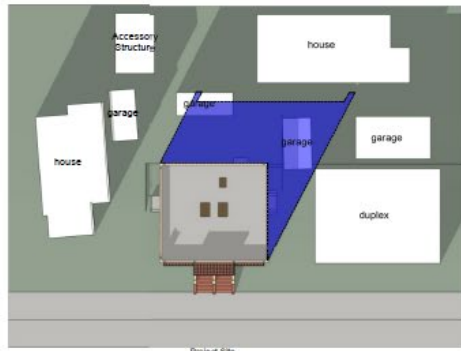
Proposed  
6-21-2021 / 6:35 pm



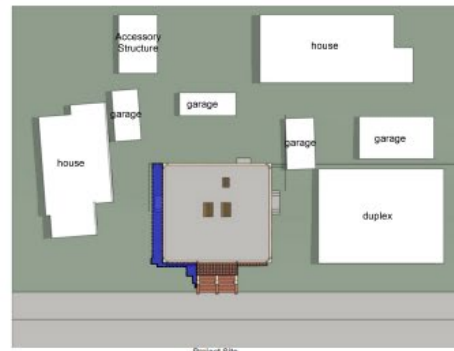
Proposed  
6-21-2021 / 12:00 pm



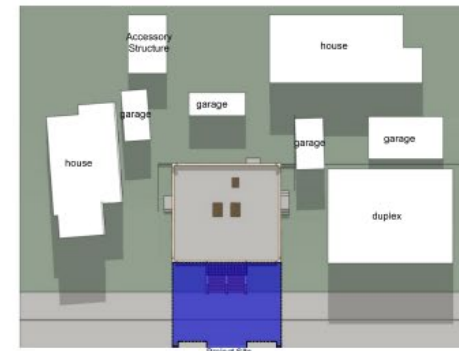
Proposed  
6-21-2021 / 7:47 am



Existing  
6-21-2021 / 6:35 pm



Existing  
6-21-2021 / 12:00 pm

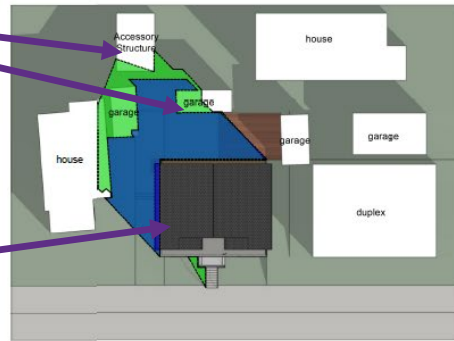


Existing  
6-21-2021 / 7:47 am

# ZAB decision: Winter Solstice Shadows

1609 Virginia

Subject building



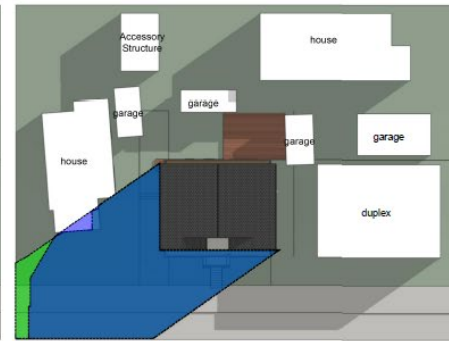
Proposed

12-21-2021 / 2:54 pm



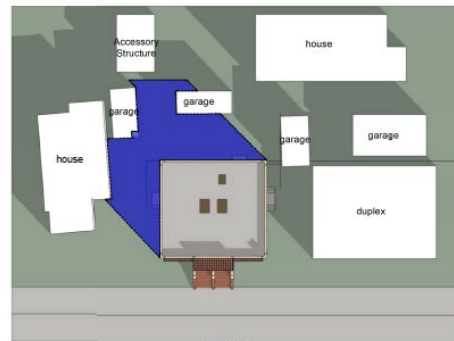
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12-21-2021 / 12:00 pm



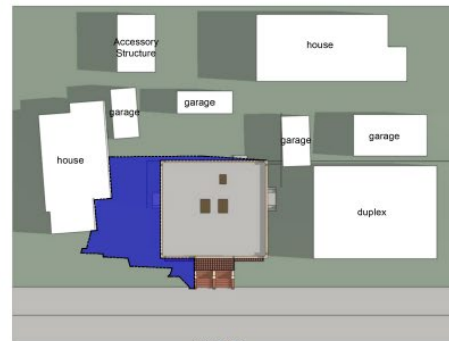
Proposed

12-21-2021 / 9:21 am



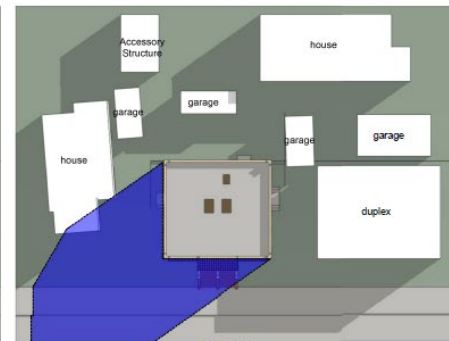
Existing

12-21-2021 / 2:54 pm



Existing

12-21-2021 / 12:00 pm



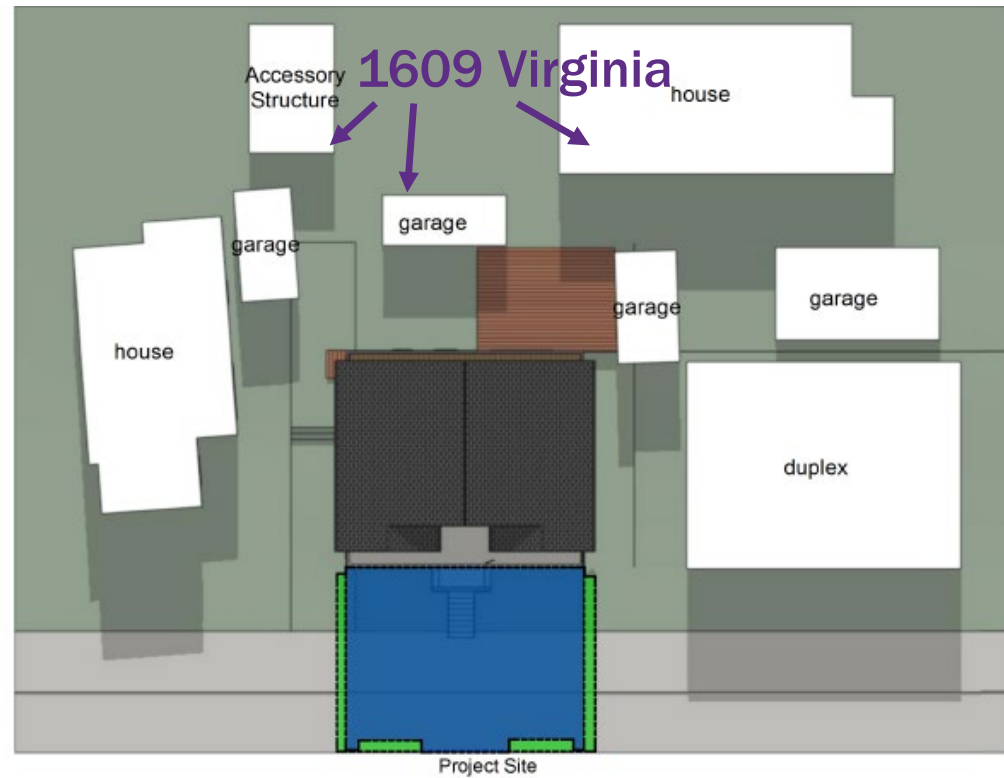
Existing

12-21-2021 / 9:21 am



# Neighbors' Concerns

**1609 Virginia: views from the addition to their deck, yard, kitchen, and bedroom.**



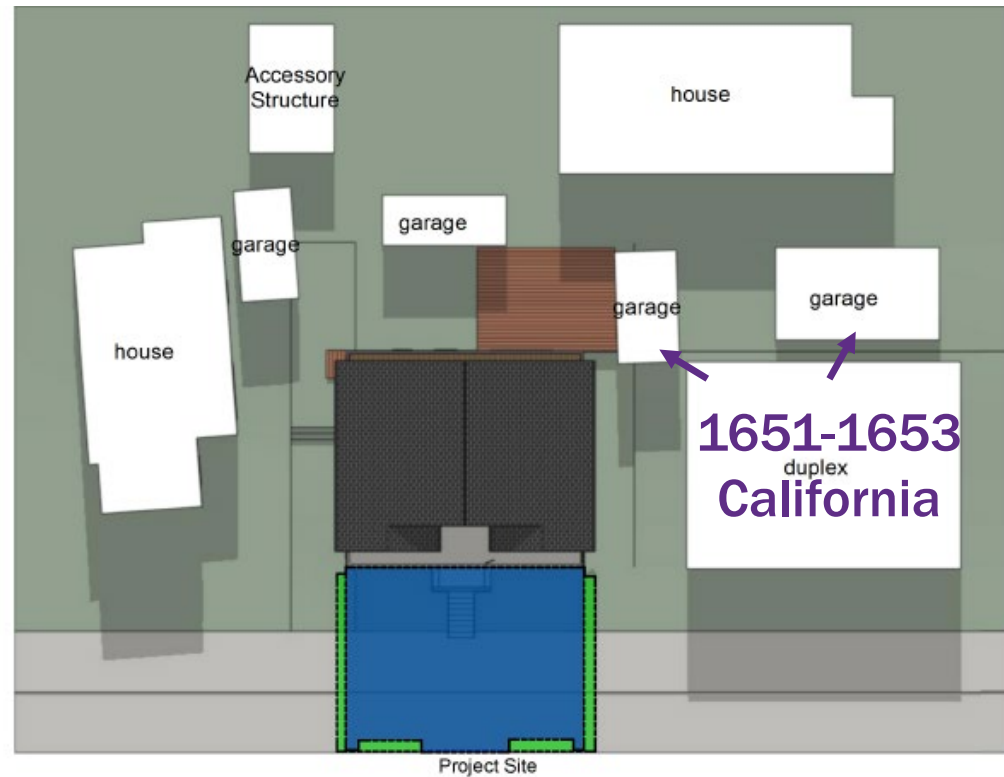
Proposed





# Neighbors' Concerns

**1651-1653  
California: views  
from the addition to  
their yard, and  
kitchen.**



Proposed



## ZAB decision: Distance between

Driveways  
separate the  
project site  
from adjacent  
lots.



PROJECT SITE

Aerial of existing duplex

# ZAB decision: Privacy

Elevations show existing and proposed windows.



④ Proposed South Elevation - Right Side



③ Proposed East Elevation - Rear



② Proposed North Elevation - Left Side



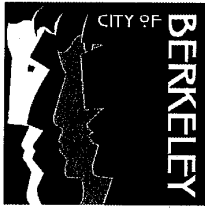
① Proposed West Elevation - Front

## Staff Recommendation

**Staff recommends upholding ZAB approval and dismissing the appeal: Use Permit ZP2021-0001 to: 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout resulting in a 3,763 square foot duplex on an existing property, and dismiss the appeal.**

## **Alternate City Council Action**

- **Continue the public hearing**
- **Modify the ZAB decision and approve the Use Permits**
- **Reverse the ZAB decision and deny the Use Permits**
- **Remand to ZAB for consideration of specified issues**



City Clerk Department

May 27, 2022

Adam Safir  
1609 Virginia Street  
Berkeley, CA 94703

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

On April 26, 2022, the Berkeley City Council voted to adopt the enclosed Resolution No. 70,331–N.S., remanding the Use Permit to the Zoning Adjustments Board (ZAB) for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

Berkeley Municipal Code 23.410.040.G.3 states that the Council may remand the matter to the Board to reconsider the application, and/or any revisions to the application submitted after the review authority's action.

Berkeley Municipal Code 23.410.040.J.1 and 23.410.040.J.2 state that a ZAB decision on an appeal remanded by the City Council may be appealed in the normal manner unless otherwise directed by the City Council. If the ZAB does not act within 90 days after an appeal is remanded by the City Council, the original appeal of the ZAB's decision shall be placed back on the City Council agenda in the same manner as a new appeal.

If you have any questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville  
City Clerk

Enclosures:

Resolution No. 70,331–N.S.  
Proof of Service

RE: 1643-47 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Page 2

cc: Alene Pearson, Acting Director of Planning  
Steven Buckley, Land Use Planning Manager  
Allison Riemer, Staff Planner  
Farimah Brown, City Attorney  
Sundeep Grewal, Applicant  
Ido and Tamar Oppenheimer, Owner

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

**PROOF OF SERVICE**

Rose Thomsen, an employee of the City Clerk Department, City of Berkeley, declares under penalty of perjury, that on May 27, 2022, I served the following documents:

**Letter of Decision and Resolution 70,331–N.S.** by forwarding true copies to

Adam Safir  
1609 Virginia Street  
Berkeley, CA 94703

Sundeep Grewal  
Studio G+S Architects  
2223 Fifth Street  
Berkeley, CA 94710

Ido and Tamar Oppenheimer  
1643 & 1647 California Street  
Berkeley, CA 94703

addressed as shown by the following means of service:

By Certified Registered Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with Certified Registered thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

By First Class Mail - I am readily familiar with the City of Berkeley's practice for collecting and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with first class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.

By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

By Facsimile - I caused transmission of the document(s) described above to each addressee following ordinary business practices in compliance with applicable rules of civil procedure and rules of court.

By Electronic Service - I caused the document(s) described above to be sent to the electronic service address of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 27, 2022, at Berkeley, California.

  
\_\_\_\_\_  
Signature

Enc: Letter of Decision  
Resolution 70,331–N.S.



RESOLUTION NO. 70,331-N.S.

REMANDING THE USE PERMIT TO THE ZONING ADJUSTMENTS BOARD (ZAB), TO RECONSIDER THE APPLICATION OF THE HOUSING ACCOUNTABILITY ACT, AND VERIFY WHETHER THE RENT STABILIZATION ORDINANCE APPLIES TO USE PERMIT #ZP2021-0001.

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

WHEREAS, on December 9, 2021, the Zoning Adjustments Board (ZAB) conducted a public hearing for the Use Permit. After hearing public comments and holding discussion, the ZAB approved the Use Permit by a vote of 9-0-0-0 (Yes: Duffy, Kahn, Kim, Gaffney, O’Keefe, Olson, Sanderson, Thompson, Tregub; No: None; Abstain: None; Absent: None; and

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

WHEREAS, on or before April 12, 2022, 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; and

WHEREAS, on April 26, 2022, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including the staff report and comments made at the public hearing, warrant remanding the project for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby remands the Use Permit to the Zoning Adjustments Board for reconsideration of the applicability of the Housing Accountability Act, and the Rent Stabilization and Eviction for Good Cause Ordinance.

The foregoing Resolution was adopted by the Berkeley City Council on April 26, 2022 by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk



**Rent Stabilization Board**

June 6, 2022

To: Allison Riemer, Associate Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner  
Be Tran, Associate Planner

Subject: **1643-47 California Street**

On April 28, 2022, you wrote to Jen Fabish to inform her of the project at 1643-47 California Street. The owners planned to reduce the size of 1643 California by 150 square feet and to increase the size of 1647 California with a second story addition and a below-grade basement. The Zoning Adjustments Board (ZAB) approved the project and the ZAB decision was appealed to City Council. Council remanded the project to ZAB and requested clarification on whether the Rent Stabilization and Eviction for Good Cause Ordinance (“Ordinance”) applied to the property.

**Property History**

Alameda County records show that Ido and Tamar Oppenheimer have owned the property since December 1989. City of Berkeley records indicate that the building was constructed in 1924 as a one-story duplex.

Rent Stabilization Board records and microfiche records also indicate that 1643-47 California is a duplex. A homeowner’s exemption was not claimed in the 1979 tax rolls; therefore, there is no evidence that property qualifies for the owner-occupied duplex exemption (also known as the “golden duplex” exemption) under Berkeley Municipal Code (BMC) Section 13.76.050 F.

**Rental History**

Both units at 1643-47 California St. are registered with the Rent Board. The Initial Registration Statement indicates that both units were rented as of May 26, 1981. Rent Stabilization Board records reflect the two units at 1643-47 California Street are claimed as “owner-occupied” since 1998 and 1993, respectively.

**Ellis Act**

The building at 1643-47 California has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

**Harassment or Illegal Eviction**

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 1643-47 California.

**Rent Control Status**

While the both units at 1643 and 1647 California Street were previously registered and under rent control, the property is currently exempt from the Ordinance since both units are claimed as owner-occupied. Owner occupancy does not grant a permanent exemption from the Ordinance and both rent control and eviction protections apply to any future tenancies.

**Project Analysis**

Since there are currently no tenants at the property, the project as approved by ZAB is not currently affected by the Rent Ordinance. However, both BMC Chapter 23.326 (formerly BMC 23C.08) and the Housing Crisis Act of 2019 Senate Bill (SB) 330 would apply to this project if a dwelling unit was eliminated regardless of whether the units are rented or owner-occupied. BMC 23.326 controls the elimination of any dwelling unit. Under SB 330, both units are considered as “protected units” because both are subject to rent control when rented.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "Matt Brown".

Matt Brown  
General Counsel



Planning and Development Department  
Land Use Planning Division  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704


## ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

**SUBJECT:** 1643-1647 California Street – Remand  
Use Permit #ZP2021-0001

**WHEN:** Thursday, July 14, 2022.  
Meeting starts at 7:00 pm.

**WHERE:** *This meeting will be conducted exclusively through videoconference and teleconference; there will not be a physical meeting location available. Please see link to agenda at: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14\\_ZAB\\_Agenda.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf) for details.*

«NAME1»  
«NAME2»  
«ADDRESS1» «ADDRESS2»

	<p><b>SUBJECT: 1643-1647 California Street. Use Permit #ZP2021-0001</b> to 1) create a new lower basement level, 2) construct a new second story, and 3) modify the existing duplex layout, resulting in a 3,763 square foot duplex.</p> <p><b>CEQA RECOMMENDATION:</b> Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").</p>
<p><b>NOTICE CONCERNING YOUR LEGAL RIGHTS:</b> If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing.</p> <p><b>Post and Mail Date:</b> <b>June 29, 2022</b></p>	<p><b>All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.</b></p> <p>Send written comments to the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704 or via e-mail to: <a href="mailto:zab@cityofberkeley.info">zab@cityofberkeley.info</a>. For further information, see the Agenda at: <a href="https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf">https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-07-14_ZAB_Agenda.pdf</a> or call the Land Use Planning division (510) 981-7410.</p> <p>To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date.</p> <p>PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record and will be accessible on the City Website.</p>
	<p>All application materials are available at the Land Use Planning Division online at: <a href="https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx">https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx</a></p> <p>The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <a href="https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board">https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board</a></p>

Internal

NAME1	NAME2	ADDRESS1	ADDRESS2
Cedar Street Neighborhood Association	1814 CEDAR ST	BERKELEY CA 94703	
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA 94709	
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA 94709	
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	Berkeley, CA 94720-1382	
Urban Creeks Council	861 REGAL RD	BERKELEY CA 94708	
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA 94703	
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA 94618	
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA 94704	
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000,	SOUTH SAN FRANCISCO CA 94080	
HARATANI DAVID I & DALE C	1008 NAVELLIER ST	EL CERRITO CA	94530
BAEHREND DAVID & VANDERBURG KAREN	1223 PORTLAND AVE	BERKELEY CA	94706
OCONNELL BEN & HANSON STEVEN TRS	1247 E 12TH ST #2	OAKLAND CA	94606
MISHIMA ELEANOR T & THOMAS J ETAL	1340 LINDA VISTA DR	EL CERRITO CA	94530
MURPHY SEAN F & MICHELLE S	1527 VIRGINIA ST	BERKELEY CA	94703
FIELDS CRAIG M & FELICIA	1530 LINCOLN ST	BERKELEY CA	94703
HAMMOND PAUL W & JACQUELINE P	1530 VIRGINIA ST	BERKELEY CA	94703
BRAND H L TR	1531 LINCOLN ST	BERKELEY CA	94703
CINTRON BERNADINE	1531 VIRGINIA ST	BERKELEY CA	94703
CHINN DOUGLAS TR	1532 LINCOLN ST	BERKELEY CA	94703
COMMON AREA PM 10707	1532 VIRGINIA ST	BERKELEY CA	94703
HUMPHREYS KATHY S	1532 VIRGINIA ST B	BERKELEY CA	94703
RAWLINS ERIC & ROSENAU ELLEN M	1535 LINCOLN ST	BERKELEY CA	94703
ZIEGLE JANET S TR & NEWMAN JONATHAN M & NAKAS ETAL	1535 VIRGINIA ST	BERKELEY CA	94703
ELMS MARGARET M TR	1536 LINCOLN ST	BERKELEY CA	94703
JACKSON MARIA E TR	1537 VIRGINIA ST	BERKELEY CA	94703
WORTH ANN E & SILBERHANS LESLIE TRS	1539 LINCOLN ST	BERKELEY CA	94703
KANEKO MIDORI	1540 LINCOLN ST	BERKELEY CA	94703
MCCARTHY MEGAN P	1541 FRANCISCO ST	BERKELEY CA	94703
WHITE ROBERT L & GENEVIEVE F TRS	1541 VIRGINIA ST	BERKELEY CA	94703
JONES EMLYN S & PALLADINO JOSEPH M	1542 LINCOLN ST	BERKELEY CA	94703
RISHER MICHAEL T & SAAVEDRA BARBARA	1542 VIRGINIA ST	BERKELEY CA	94703
CLARK GEORGE W & LIPMAN LAURA A TRS	1543 VIRGINIA ST	BERKELEY CA	94703
WOLFENDEN JOHN D JR & CATHERINE E	1544 VIRGINIA ST	BERKELEY CA	94703
MARSH ROBERT M & PATRICIA D TRS	1546 VIRGINIA ST	BERKELEY CA	94703
HOLLOWELL PAULA TR	1600 VIRGINIA ST	BERKELEY CA	94703
LASRY ARIC	1601 LINCOLN ST	BERKELEY CA	94703
TUCCILLO CHRISTINA & BANFIELD DECLAN	1607 FRANCISCO ST	BERKELEY CA	94703
LOPEZ JOSE B & GROSSMAN RHONDA R TRS	1607 LINCOLN ST	BERKELEY CA	94703
ETGAR INBAL & DINNER ALEC	1608 VIRGINIA ST	BERKELEY CA	94703
SAFIR ADAM L & CEDERSTAV ANNA K TRS	1609 VIRGINIA ST	BERKELEY CA	94703
MCCLELLAN JOAN R TR	1611 FRANCISCO ST	BERKELEY CA	94703
DIXON LINDSAY A & MCMILLAN CAROLYN TRS	1611 LINCOLN ST	BERKELEY CA	94703

Internal

SHANNON SARAH R & JAILER TODD M	1612 VIRGINIA ST	BERKELEY CA	94703
KING JOHN A & BUTLER CYNTHIA TRS	1613 VIRGINIA ST	BERKELEY CA	94703
IMAZUMI KUNIKO TR ETAL	1615 LINCOLN ST	BERKELEY CA	94703
NAPOLI STEPHEN A & GALLAHERBROWN LINDA J TRS	1616 VIRGINIA ST	BERKELEY CA	94703
BOWMAN MATTHEW J & CECILIA R	1617 FRANCISCO ST	BERKELEY CA	94703
TAYLOR KATHERINE A TR	1618 CALIFORNIA ST	BERKELEY CA	94703
SUTAKE JOHN JR	1619 LINCOLN ST	BERKELEY CA	94703
CAESARA LYNDA TR	1619 VIRGINIA ST	BERKELEY CA	94703
CASE AMANDA & MAK KEVIN	1620 CALIFORNIA ST	BERKELEY CA	94703
CHOW KATHERINE J	1620 LINCOLN ST	BERKELEY CA	94703
CUTTRISS STUART L & HOPKINS NANCY	1622 VIRGINIA ST	BERKELEY CA	94703
TONG KEN K TR	1623 VIRGINIA ST	BERKELEY CA	94703
WORSTELL GORDON TR	1623-1625 GRANT ST	BERKELEY CA	94703
RITCHIE DAVID J & FENSTERMACHER NANCY R	1624 VIRGINIA ST	BERKELEY CA	94703
THOMPSON CHARLES L TR	1625 VIRGINIA ST	BERKELEY CA	94703
PETERSON LAURA F ETAL	1626 LINCOLN ST	BERKELEY CA	94703
SCHWARTZ TANIA L	1628 CALIFORNIA ST	BERKELEY CA	94703
CORBETT JAMES D & KILBY LINDA	1631 CALIFORNIA ST	BERKELEY CA	94703
JOHNSON SCOT & GABLE FRANCISCO M	1634 CALIFORNIA ST	BERKELEY CA	94703
STARR JOAN B & IRIS C TRS	1635 CALIFORNIA ST	BERKELEY CA	94703
ELLINGER NANCY W & POPE DAVID TRS	1635 VIRGINIA ST	BERKELEY CA	94703
MALMUTH JEFFREY S & CALCIOLARI DANIELA TRS	1636 CALIFORNIA ST	BERKELEY CA	94703
ESPEJO YOLANDA M	1636 LINCOLN ST	BERKELEY CA	94703
FRITZ BARBARA J TR	1639 CALIFORNIA ST	BERKELEY CA	94703
GREINKE KATHLEEN Y TR	1640 LINCOLN ST	BERKELEY CA	94703
LAWRENCE SUSAN M & COHEN ANDREW B	1644 LINCOLN ST	BERKELEY CA	94703
OPPENHEIMER IDO & TAMAR D	1647 CALIFORNIA ST	BERKELEY CA	94703
BRISTOL KAY S TR	1651 CALIFORNIA ST	BERKELEY CA	94703
DELOSRIOS JUAN & ROGERS ANNIKA	1654 LINCOLN ST	BERKELEY CA	94703
LINKS RICHARD A TR	1656 CALIFORNIA ST	BERKELEY CA	94703
COMMON AREA OF PM 6679 32 & 33	1658 CALIFORNIA ST	BERKELEY CA	94703
LEE SPENCER J	1658 CALIFORNIA ST 1	BERKELEY CA	94703
GUTWILL JOSHUA P & WISE LAURA J TRS	1660 LINCOLN ST	BERKELEY CA	94703
ANDALMAN AARON & LEVENBERG WRENN TRS	1705 CALIFORNIA ST	BERKELEY CA	94703
BUHRMANN ERICA & DRUCKER RONALD TRS	1708 CALIFORNIA ST	BERKELEY CA	94703
DER ZOLTAN & KLOIAN ELIZABETH A	1709 CALIFORNIA ST	BERKELEY CA	94703
UCHIDA MICHAEL N & ABRENILLA AILEEN	1710 CALIFORNIA ST	BERKELEY CA	94703
HORWITZ BARRY D TR	1711 EOLA ST	BERKELEY CA	94703
MIYASAKI RONALL H & JON T TRS ETAL	2785 ST ANDREWS DR	BRENTWOOD CA	94513
HORNUNG DAVID E	2900 17TH ST	SACRAMENTO CA	95818
AUGST BERTRAND & CHANGAUGST JINLEI	496 N LATHAM ST	ALEXANDRIA VA	22304
SPERLING SUSAN & JANOWITZ MARC S	690 LEE AVE	SAN LEANDRO CA	94577
DANSBY U W HEIRS OF EST	73-1473 KALOKO DR	KAILUA KONA HI	96740



Internal

YOSHIMURADONG LOUISE	864 SYBIL AVE	SAN LEANDRO CA	94577
HO CALVIN V & DIEP LINH L	PO BOX 32894	SAN JOSE CA	95152
Occupant(s)	1528 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1533 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1536 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1544 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1600 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1601 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1602 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1604 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1605 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1606 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1608 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1610 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1612 VIRGINIA ST B	BERKELEY CA	94703
Occupant(s)	1613 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1613 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1614 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 1	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 2	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 3	BERKELEY CA	94703
Occupant(s)	1615 VIRGINIA ST 4	BERKELEY CA	94703
Occupant(s)	1616 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1616 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1617 LINCOLN ST	BERKELEY CA	94703
Occupant(s)	1618 VIRGINIA ST	BERKELEY CA	94703
Occupant(s)	1619 VIRGINIA ST A	BERKELEY CA	94703
Occupant(s)	1621 FRANCISCO ST	BERKELEY CA	94703
Occupant(s)	1636 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1643 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1653 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1656 CALIFORNIA ST COM	BERKELEY CA	94703
Occupant(s)	1709 1/2 CALIFORNIA ST	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST A	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST B	BERKELEY CA	94703
Occupant(s)	1709 CALIFORNIA ST C	BERKELEY CA	94703
Sundeep Grewal, Studio+GS Architects	2223 Fifth Street	Berkeley CA	94710

**Jacob, Melinda**

---

**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Testimony at ZAB

**From:** Kay Bristol (via Google Docs) <drive-shares-noreply@google.com>  
**Sent:** Wednesday, July 20, 2022 3:43 PM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@cityofberkeley.info>  
**Cc:** areimer@cityofberkeley.info; jalmuth@aol.com; idoopp@gmail.com; cederfir@hotmail.com; acederstav@gmail.com  
**Subject:** Testimony at ZAB

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


## Kay Bristol attached a document



Kay Bristol ([kbristol@berkeley.edu](mailto:kbristol@berkeley.edu)) has attached the following document:



---

 Testimony at ZAB

*Snapshot of the item below:*

### **Regarding a Testimony at the July 14, 2022 ZAB Meeting**

From Kay Bristol  
1651 California Street  
Berkeley, CA 94703

This email concerns the proposed remodel at 1643/1647 California Street. At the review of this remodel the neighbor at 1636 California, the house across the street, attacked the other appellants, Adam and Anna, and insulted me by name. He inferred that I am incompetent to form my own opinion and that I am being manipulated. I am very upset and angry at this. I raised my virtual hand at the meeting to correct remarks and defend myself, but I was not recognized by the Chairman.

I have always been opposed to this remodel as currently presented. The Uppenheimers need to say that I initially supported it, so they won't appear to have misrepresented me. In November 2021 when I found out that I was shown on their project as a neighbor that supported it, I wrote an email to Mr. Nicholas Armour, the City Project Planner at the time. It was a 2 page statement as to

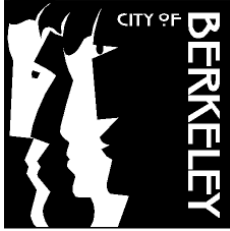
why I oppose this project. At no time did Anna or Adam, the other appellants, influence me on anything that I did not want, but I was happy to consult with them. Also, I have never submitted a written statement supporting this remodel project.

The neighbor at 1636 California Street who spoke about me at the meeting does not know me. We have never met that I can recall. We have never talked about the proposed remodel at 1643/1647 California Street. He doesn't know anything about my interactions with the other appellants, Adam and Anna, or about my side of the exchanges with the Oppenheims. Why would he speak about me in such an antagonistic way? His opinion should not be pertinent to the outcome of this proposed remodel. His household is not affected in any way, except that they would no longer look out at a very rundown house. I support a very needed remodel, but only for a large 2 level structure, not for a huge 3 level one.

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA

You have received this email because [kbristol@berkeley.edu](mailto:kbristol@berkeley.edu) shared a document with you from Google Docs.

Google Workspace



Planning and Development Department  
Land Use Planning Division

**PROOF OF SERVICE**

DATE: July 21, 2022  
TO: Whom It May Concern  
FROM: Melinda Jacob, OSII  
SUBJECT: **USE PERMIT #ZP2021-0001 – 1643 & 1647 CALIFORNIA STREET**

I, the undersigned, certify that I am employed in the City of Berkeley, County of Alameda, California; that I am over eighteen years of age; that I am not a party to the within action; and that my business address is 1947 Center Street, Berkeley, California 94704. On this date, I served the following documents:

**ZONING ADJUSTMENTS BOARD NOTICE OF DECISION**

On the parties stated below by placing true copies thereof in sealed envelope(s) addressed as shown below by the following means of service:

Sundeep Grewal  
G+S Architects  
2223 Fifth Street  
Berkeley, CA 94710

Ido & Tamar Oppenheimer  
1643 & 1647 California Street  
Berkeley, CA 94703

Adam Safir & Anna Cederstav  
1609 Virginia Street  
Berkeley, CA 94703

Kay Bristol  
1651 California Street  
Berkeley, CA 94703

- By First Class Mail - I am readily familiar with the City's practice for collecting and processing of correspondence for mailing. Under the practice, the correspondence is deposited with the U.S. Postal Service on the same day as collected, with First Class postage thereon fully prepaid, in Berkeley, California, for mailing to the addressee following ordinary business practices.
- By Personal Service - I caused each such envelope to be given to the City of Berkeley mail service person to personally deliver to the office of the addressee.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 21, 2022 at Berkeley, California.

Melinda Jacob, OSII



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

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N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION:** July 14, 2022  
**DATE NOTICE MAILED:** July 21, 2022  
**APPEAL PERIOD EXPIRATION:** August 3, 2022  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification)<sup>1</sup>:** September 20, 2022

## 1643 & 1647 California Street

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

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

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

**ZONING:** R-2 – Restricted Two-Family Residential District

**APPLICANT:** Sundeep Grewal, Studio G+S Architects, 2223 Fifth Street, Berkeley CA 94710

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may certify any ZAB decision for review during the 14-day appeal period after the notice of the ZAB's decision is issued. Certification has the same effect as an appeal. However, BMC Section 1.04.070 suspends or "tolls" the Council's deadline to certify when the Council is on recess. Thus, in cases where the 14-day appeal period is scheduled to *end* during a Council recess, the certification deadline is extended past the end of the recess for the remainder of the appeal period. In cases where the appeal period *begins* during a Council recess, the certification deadline is extended until 14 days after the first Council meeting after the recess. *Extension of the certification deadline has no effect on the appeal deadline.*

ZONING ADJUSTMENTS BOARD  
July 14, 2022

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**PROPERTY OWNER:** Ido and Tamar Oppenheimer, 1643 & 1647 California Street, Berkeley CA 94703

**APPELLANTS:** Adam Safir and Anna Cederstav, 1609 Virginia Street, Berkeley CA 94703  
Kay Bristol, 1651 California Street, Berkeley CA 94703

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").

**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

	Yes	No	Abstain	Absent	Recused
DUFFY	x				
KAHN	x				
KIM	x				
O'KEEFE				x	
OLSON				x	
SANDERSON	x				
THOMPSON	x				
GAFFNEY	x				
TREGUB	x				
<b>BOARD VOTE:</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>

  
**ATTEST:**  
 Samantha Updegrave, Zoning Adjustments Board  
 Secretary

**PUBLICATION OF NOTICE:**

Pursuant to BMC Section 23B.32.050, this notice shall be mailed to the applicant at the mailing address stated in the application and to any person who requests such notification by filing a written request with the Zoning Officer on or before the date of the Board action. This notice shall also be filed with the City Clerk. In addition, the notice shall be forwarded to the Zoning Adjustments Board and to the Main Library. The notice shall also be posted at a bulletin board at the Zoning Counter. The City Clerk shall make the notice available to interested members of the Council and the public.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Allison Riemer, at (510) 981-7433 or [ariemer@cityofberkeley.info](mailto:ariemer@cityofberkeley.info). All project application materials, including full-size plans, may be viewed online at: <https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>, or in the Permit Service Center at the Zoning Counter at 1947 Center Street, Third Floor, during normal office hours.

**TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):**

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

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley. The City Clerk's telephone number is (510) 981-6900.
2. Submit the required appeal fee (checks and money orders payable to "City of Berkeley"):
  - A. The fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - B. The fee for all appeals by Applicants is \$2,500.
3. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown on page 1 (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).

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

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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

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

ZONING ADJUSTMENTS BOARD  
July 14, 2022

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

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# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JULY 14, 2022

### 1643 & 1647 California Street

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

#### PERMITS REQUIRED

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

#### I. CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project would not affect any historical resource.

#### II. FINDINGS FOR APPROVAL

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1. As required by Section 23B.32.040.A of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
  - A. The project will add a second level to the home, of which there are several examples in the neighborhood.
  - B. The second story addition will step in and comply with the required front and rear yard setbacks.

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

### **III. OTHER FINDINGS FOR APPROVAL**

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

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July 14, 2022

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

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#### **IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS**

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

**1. Conditions Shall be Printed on Plans**

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

**2. Applicant Responsible for Compliance with Conditions**

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

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

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

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

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

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

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

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

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

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

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

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

**8. Exercise and Lapse of Permits (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.

**V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD**

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

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

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

**Project Liaison** \_\_\_\_\_  
Name Phone #

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

11. Construction and Demolition Diversion. Applicant shall submit a [Construction Waste Management Plan](#) that meets the requirements of BMC Chapter 19.37 including 100% diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65% diversion of other nonhazardous construction and demolition waste.
12. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:
- A. Environmental Site Assessments:
- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 2 years old\*) shall be submitted to TMD for developments for:
    - All new commercial, industrial and mixed use developments and all large improvement projects.
    - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
    - EMA is available online at: [http://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/ema.pdf](http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf)
  - 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
  - 3) If the Phase I is over 2 years old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.
- B. Soil and Groundwater Management Plan:
- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
  - 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
  - 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.
- C. Building Materials Survey:
- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous

materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

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

**During Construction:**

13. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
14. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:
  - A. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - C. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - D. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - E. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - H. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
15. Air Quality - Diesel Particulate Matter Controls during Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:
  - A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk

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

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

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

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

16. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the second page of the original [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.
17. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25%. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff.
18. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
  - Storage of building materials, dumpsters, debris anywhere in the public ROW;
  - Provision of exclusive contractor parking on-street; or
  - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the



locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

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

- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.
- 21. Human Remains (Ongoing throughout demolition, grading, and/or construction).** In the event that human skeletal remains are uncovered at the project site during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.
- 22. Paleontological Resources (Ongoing throughout demolition, grading, and/or construction).** In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate Paleontology standards [SVP 1995,1996]). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.
- 23. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
- B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff.

- When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
  - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
  - F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
  - G. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
  - H. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - I. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
  - J. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.
- 24.** Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
- 25.** Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
- 26.** Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.

1643/47 CALIFORNIA STREET- USE PERMIT #ZP2021-0001  
July 14, 2022

FINDINGS & CONDITIONS  
Page 12 of 12

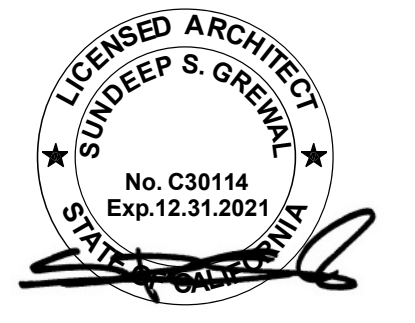
27. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible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

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

30. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.
31. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 26, 2021, except as modified by conditions of approval.

**At All Times:**

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



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

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

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: N/A

Revisions:

Use Permit Set: 12-10-2020

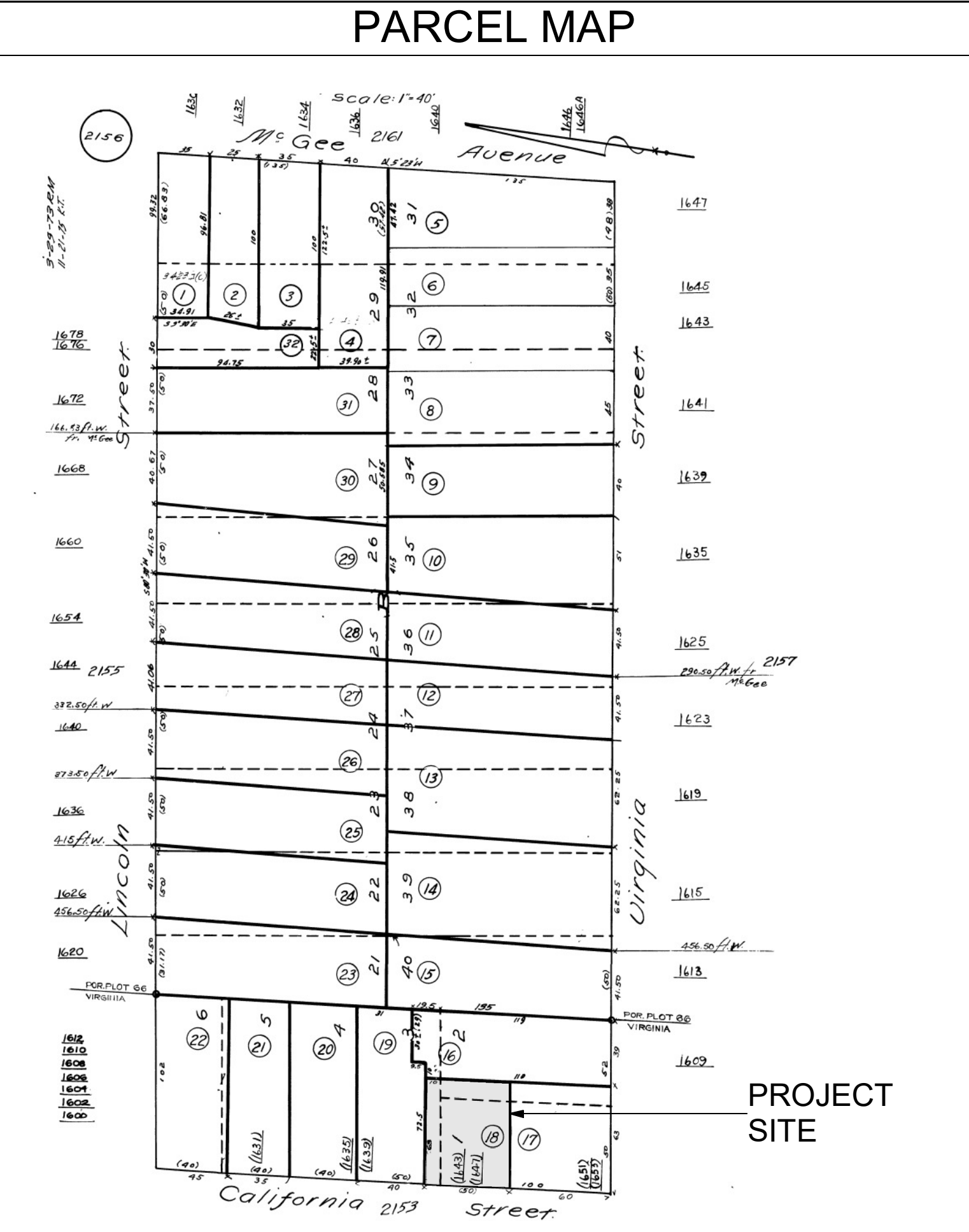
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021

Planning Review: 8-26-2021

Sheet **A0.0**



# OPPENHEIMER RESIDENCE

## 1643 & 1647 California St. CA 94703

### SCOPE OF WORK

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

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

**Basement/First floor:**

- Excavate down to create new bedroom, full bath, home gym and family room and mech. room/storage

**Second floor:**

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

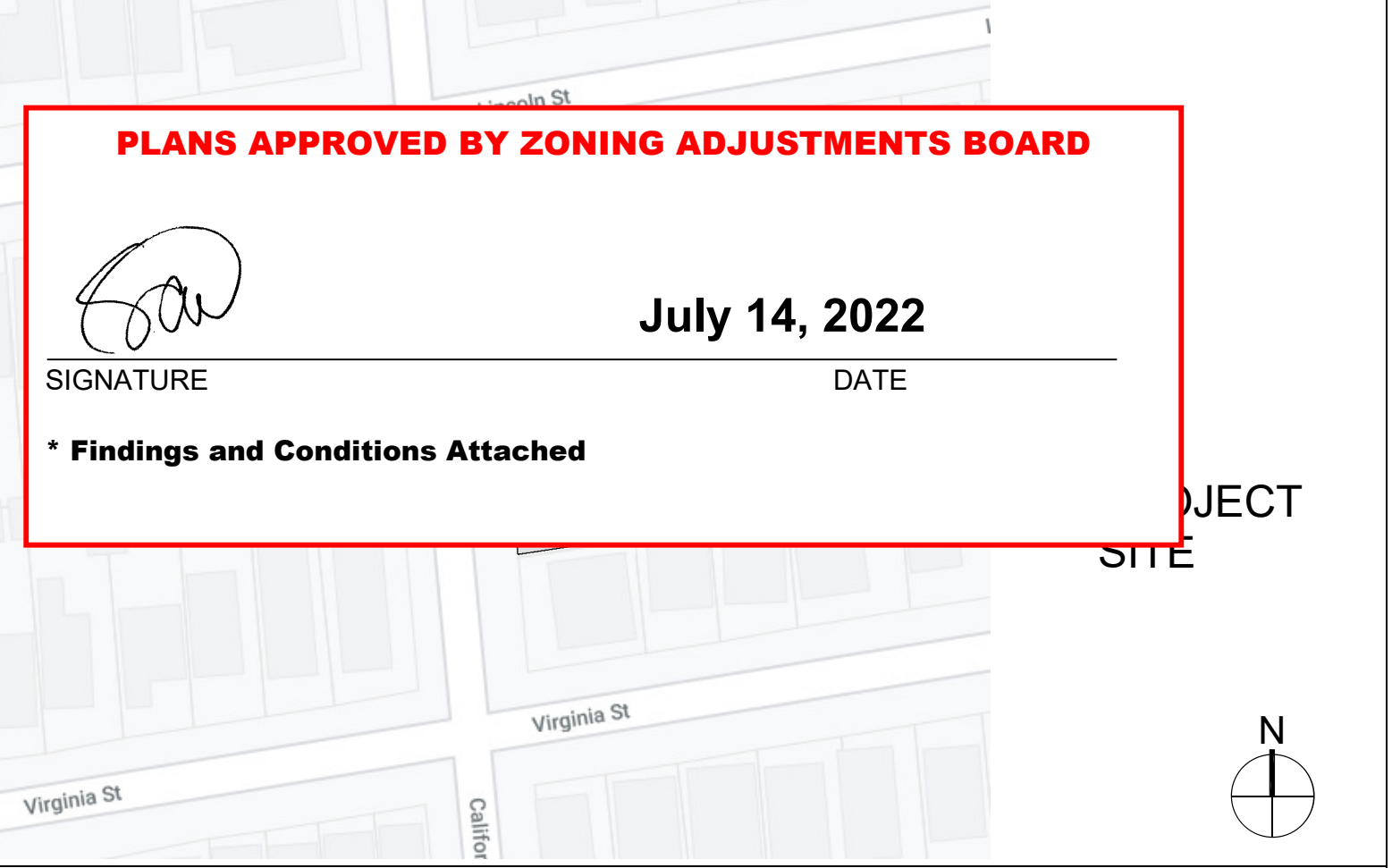
**Third floor:**

- Create new bedrooms, bathrooms and laundry room
- Create new balcony at front

**Miscellaneous:**

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

### VICINITY MAP



### PROJECT DIRECTORY

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

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

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

### PROJECT DATA

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

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

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

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

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

**Wildlife Urban Interface**  
 No

### SHEET INDEX

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

### APPLICABLE CODES

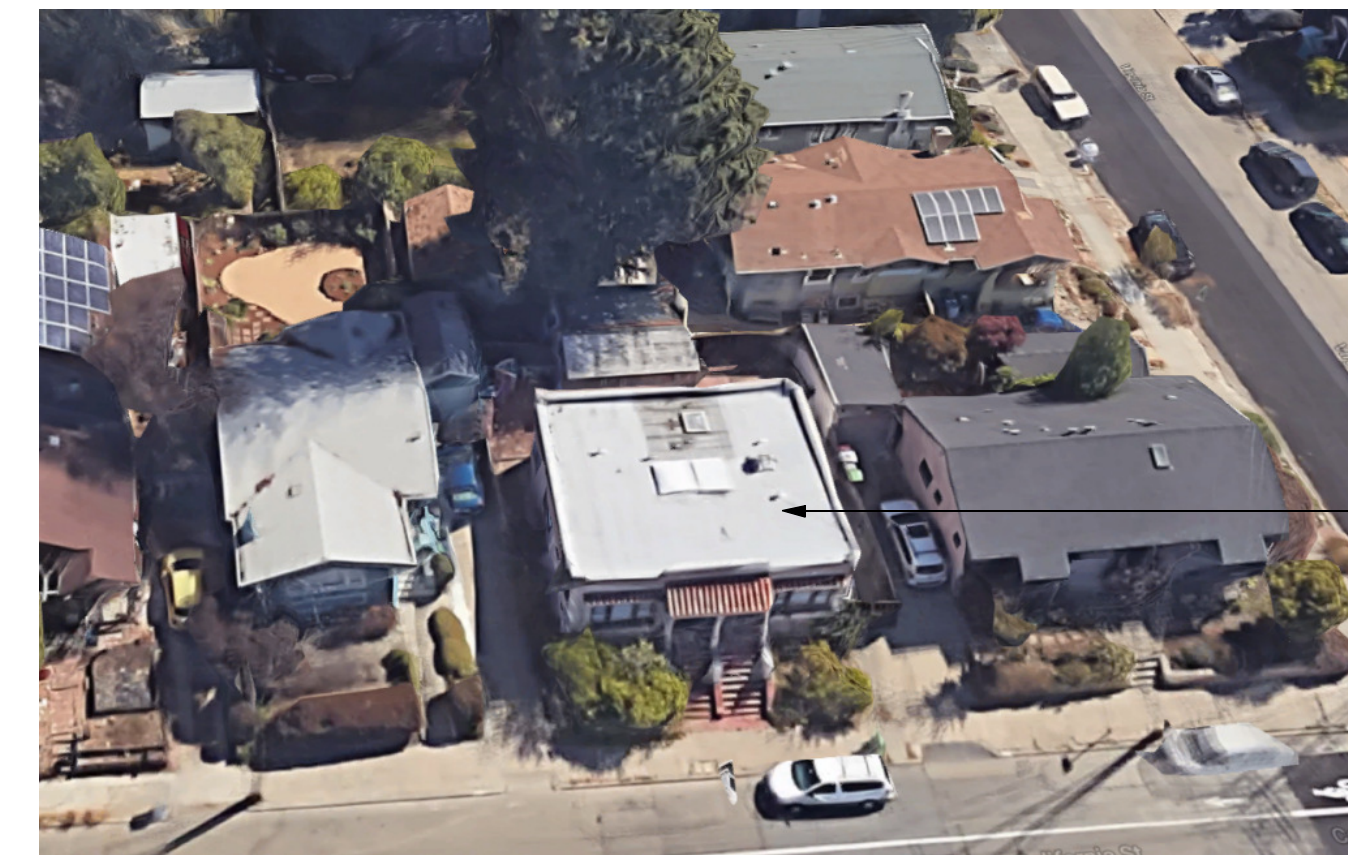
2019 California Building Code (CBC) Volume 1  
 2019 California Building Code (CBC) Volume 2  
 2019 California Residential Code (CRC)  
 2019 California Energy Code (CBEES)  
 2019 California Green Building Standards Code (CALGreen)  
 2019 California Electrical Code (CEC)  
 2019 California Plumbing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

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

### ABBREVIATIONS

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

### SITE PHOTOS



Aerial of existing duplex



Front and right Side of existing duplex



Front and left Side of existing duplex

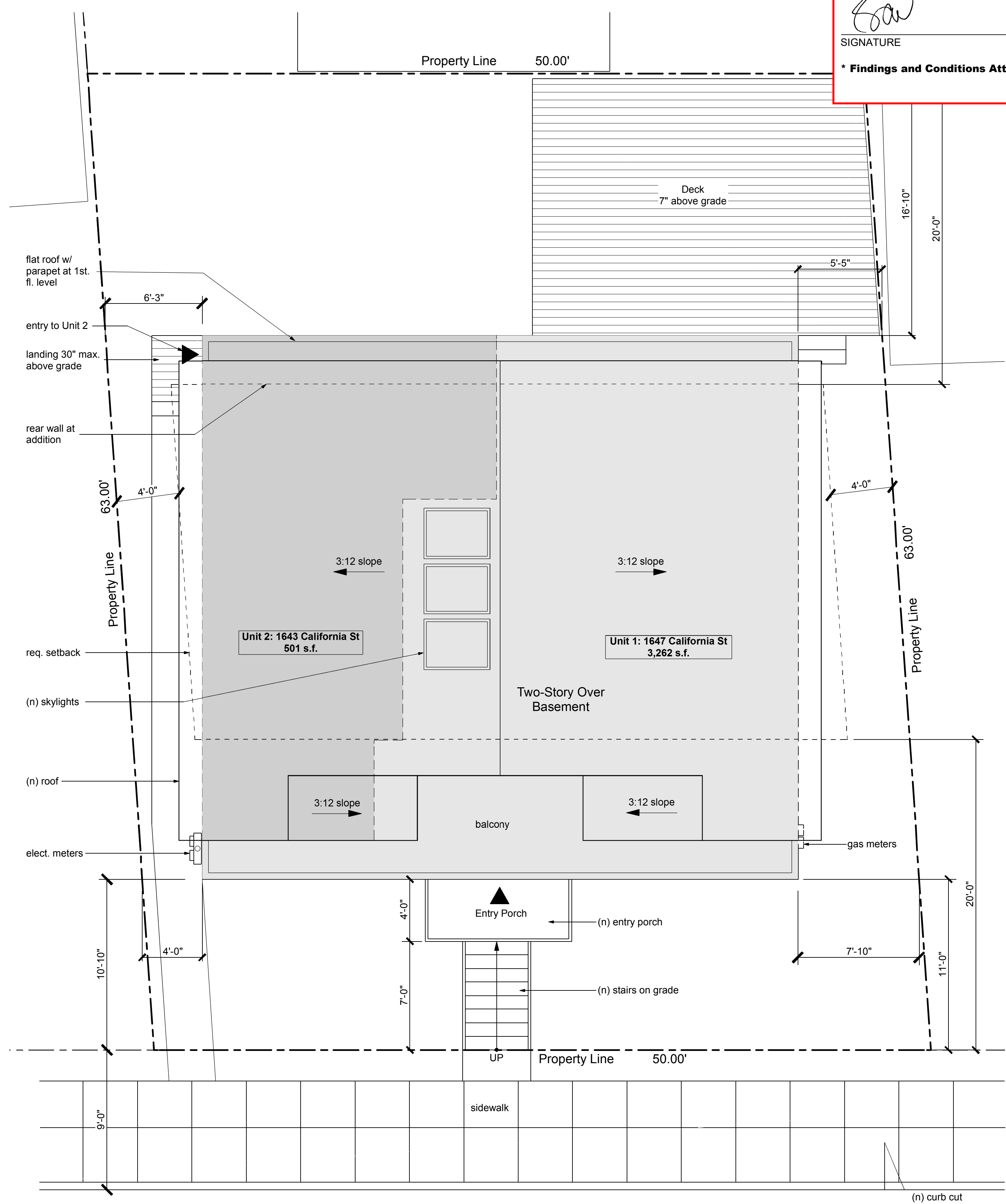
Tabulations			
	Required/Allowed	Existing	Proposed
<b>Set Backs:</b>			
Front	20'-0"	10'-10"	10'-10" no change
Rear	20'-0"	16'-10"	16'-10" no change
Left side:	4'-0"	3'-11"	4'-0" no change
Right side:	4'-0"	5'-6"	5'-5" no change
<b>Habitable Floor Area:</b>			
<b>Unit 1:</b>			
Basement floor:		0 s.f.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

**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

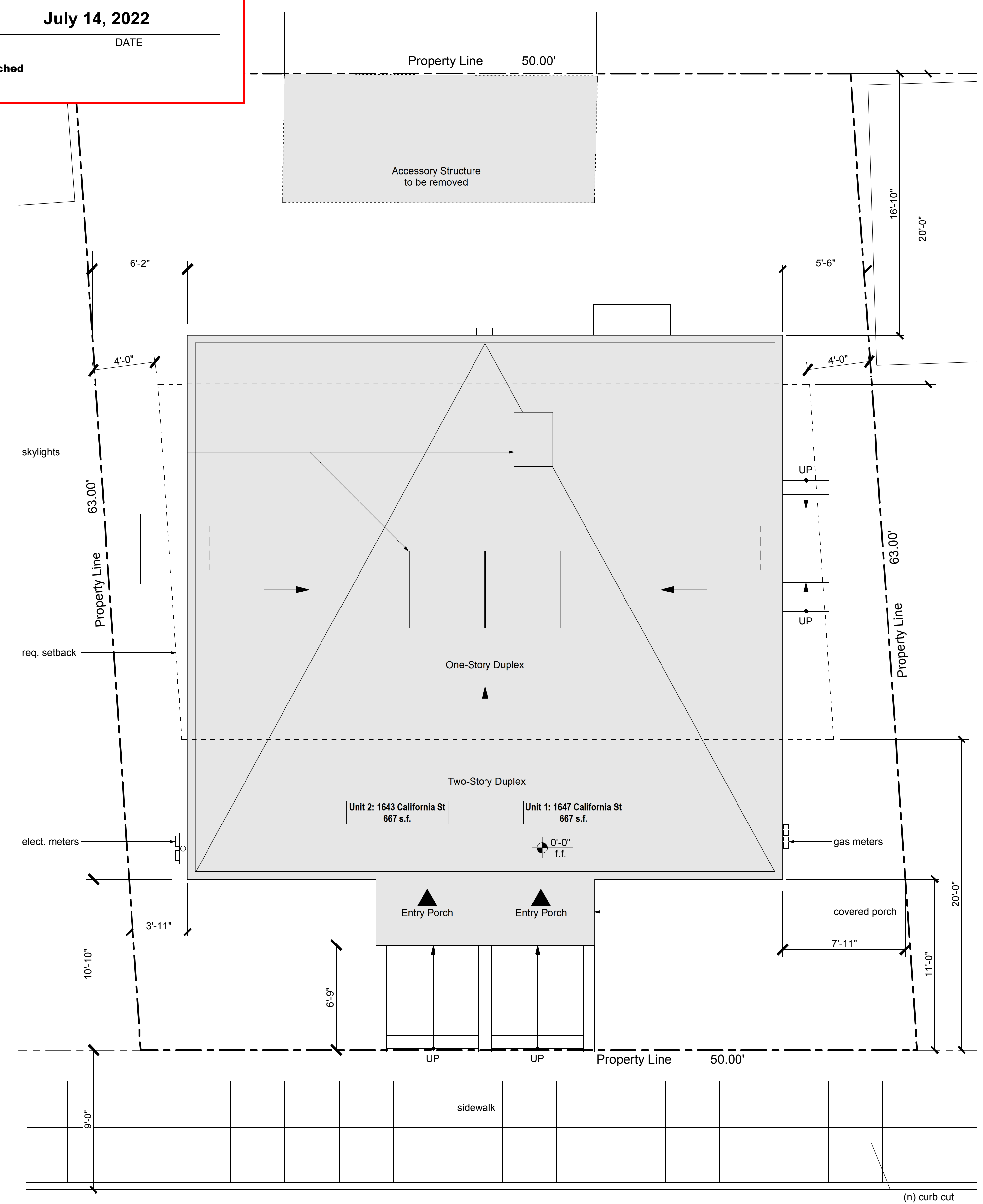
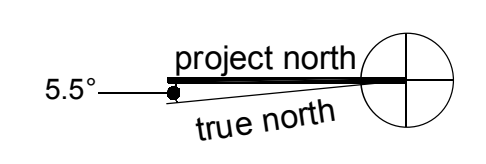
*[Signature]*  
 SIGNATURE

July 14, 2022  
 DATE

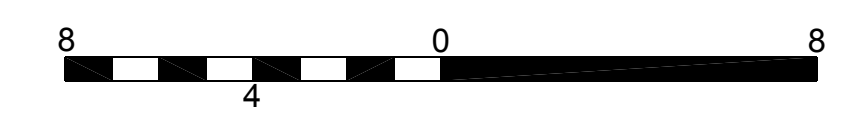
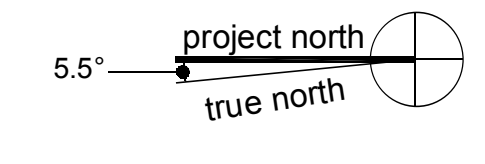
\* Findings and Conditions Attached



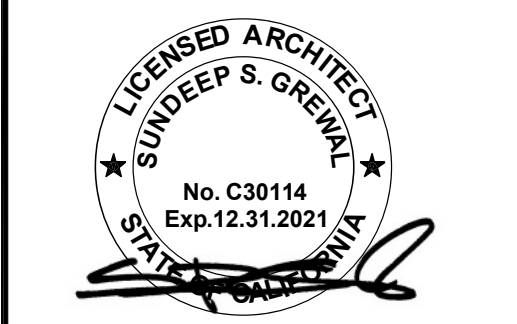
**2 Proposed Site Plan**



**1 Existing Site Plan**



2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



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

Sheet Contents:  
 Existing Site Plan  
 Proposed Site Plan

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

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

Revisions:  
 Use Permit Set: 12-10-2020

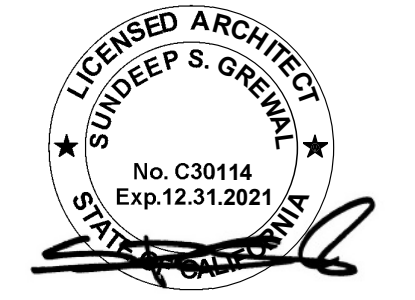
Redesign: 5-25-2021

Planning Review: 6-29-2021

Planning Review: 7-15-2021



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

Sheet Contents:  
 Site Survey

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 20-13-420

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Scale:  
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 Planning Review: 7-15-2021

Sheet  
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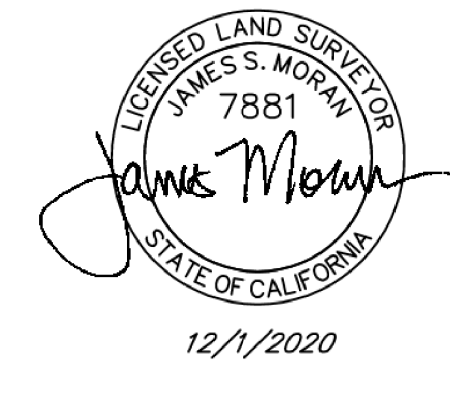
**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

*[Signature]*  
 SIGNATURE  
 July 14, 2022  
 DATE  
 \* Findings and Conditions Attached

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

NOVEMBER 17, 2020 SCALE: 1" = 8'

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



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

**GENERAL NOTES**

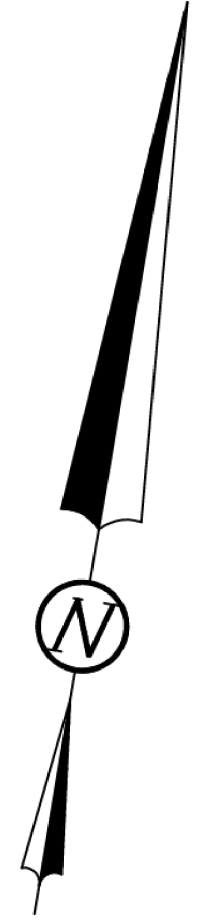
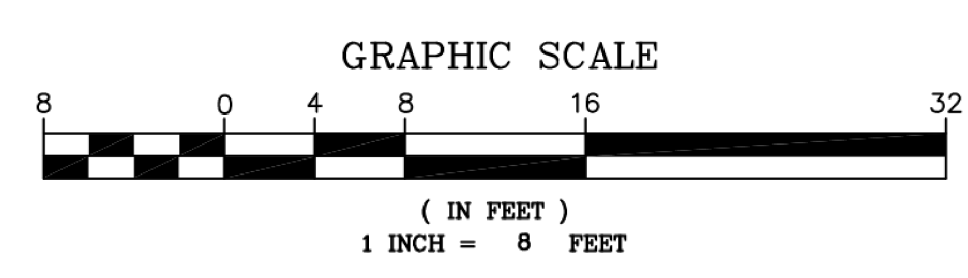
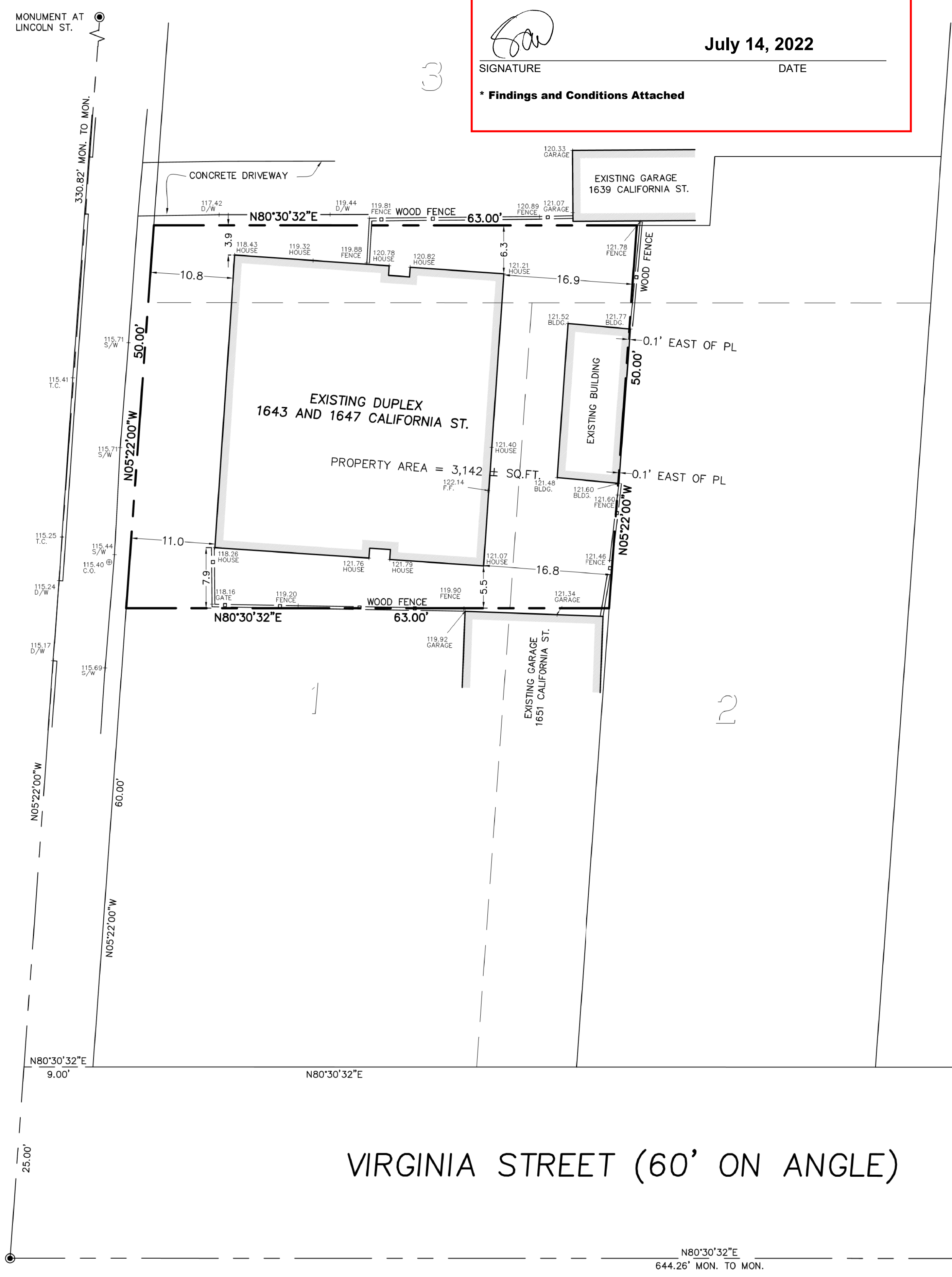
BENCHMARK: MONUMENT PIN ON THE WEST SIDE OF SACRAMENTO STREET AT VIRGINIA STREET. ELEVATION = 108.683 PER CITY OF BERKELEY ENGINEERING DIVISION RECORDS. ELEVATIONS ARE BASED UPON THE CITY OF BERKELEY DATUM.

THIS SURVEY IS BASED UPON THE GRANT DEED TO LAWYERS ASSET MANAGEMENT INC. RECORDED DECEMBER 1, 1989 SERIES 89-324628, ALAMEDA COUNTY RECORDS.

THE BEARINGS ON THIS MAP ARE BASED UPON THE MONUMENT LINE IN CALIFORNIA STREET WITH A BEARING OF N05°22'00"W AS SHOWN ON PARCEL MAP 6679 FILED MARCH 29, 1994 IN BOOK 213 OF MAPS PAGES 49-50.

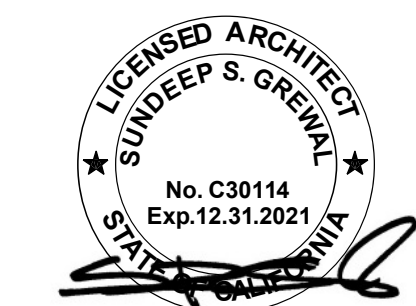
CALIFORNIA STREET (60' ON ANGLE)

VIRGINIA STREET (60' ON ANGLE)





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 Berkeley, CA 94703  
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Sheet Contents:  
 Existing Floor Plans  
 Existing Exterior Elevations

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Project No: 20-13-420

Drawn By: SSG

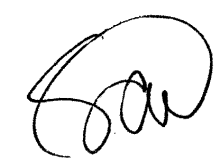
Checked By: SSG

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

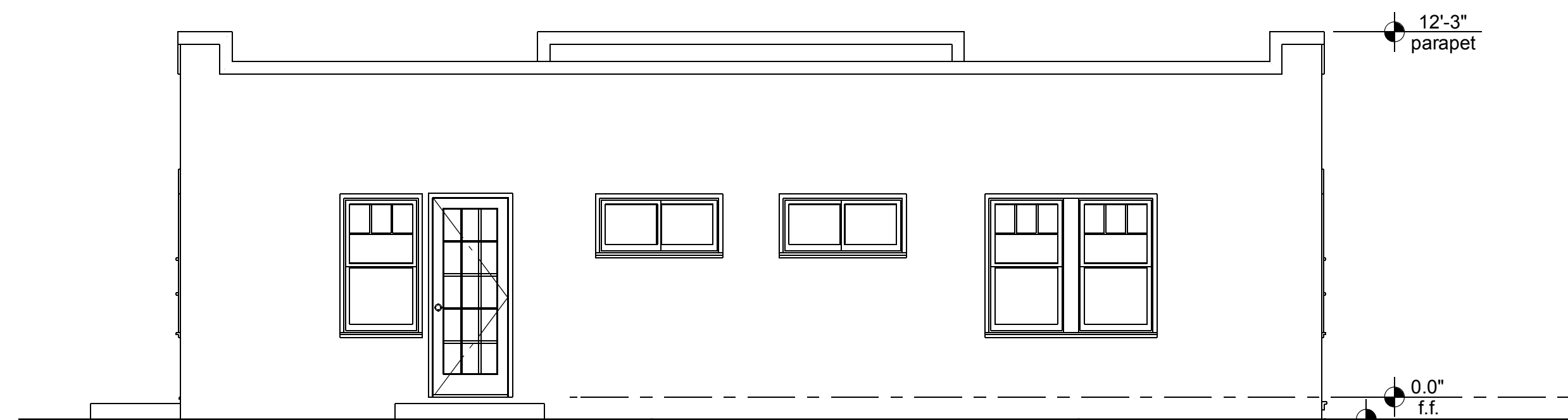
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet **A1.1**

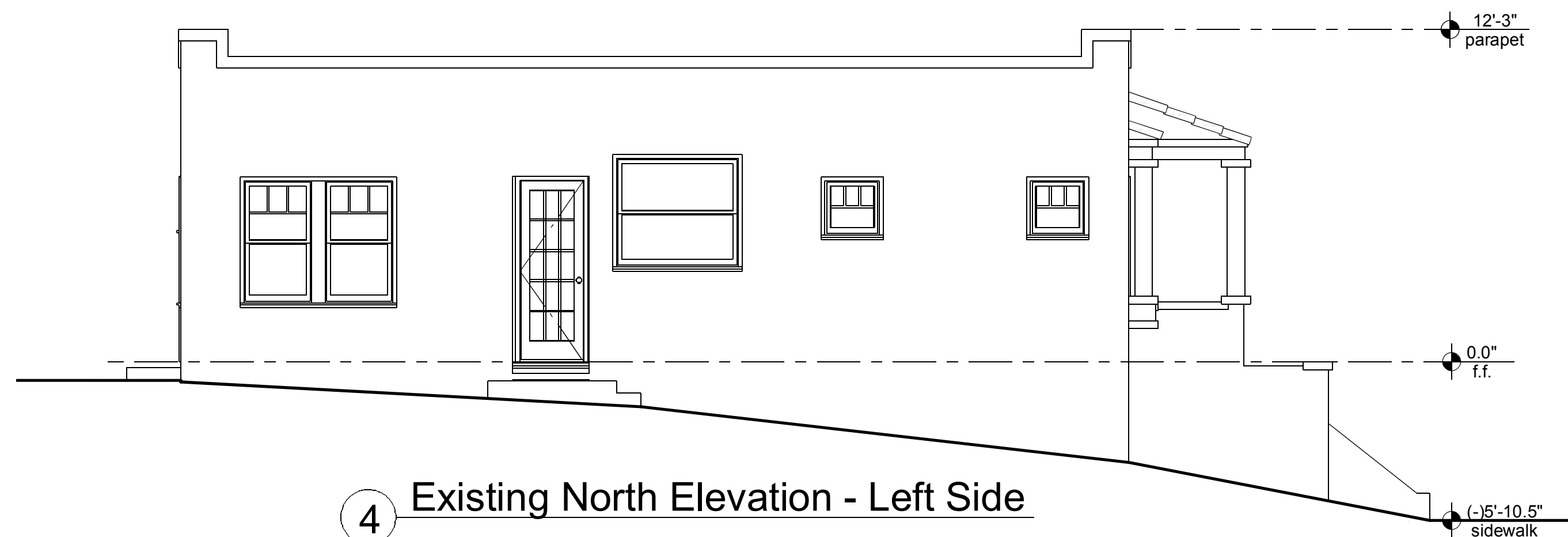
**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

 **July 14, 2022**  
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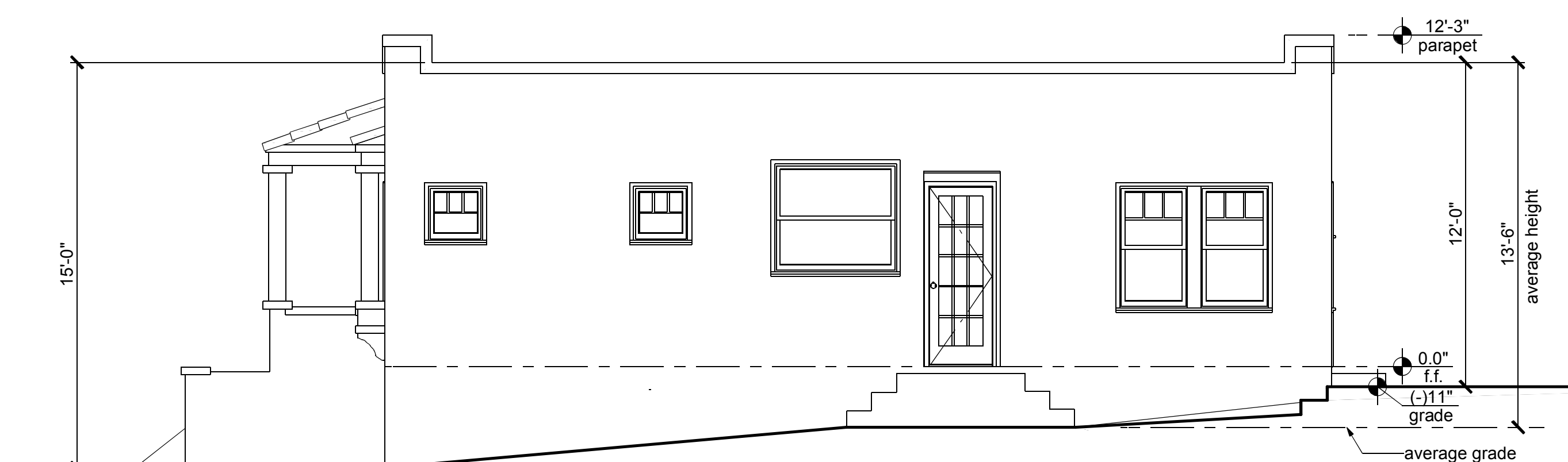
\* Findings and Conditions Attached



5 Existing East Elevation - Rear



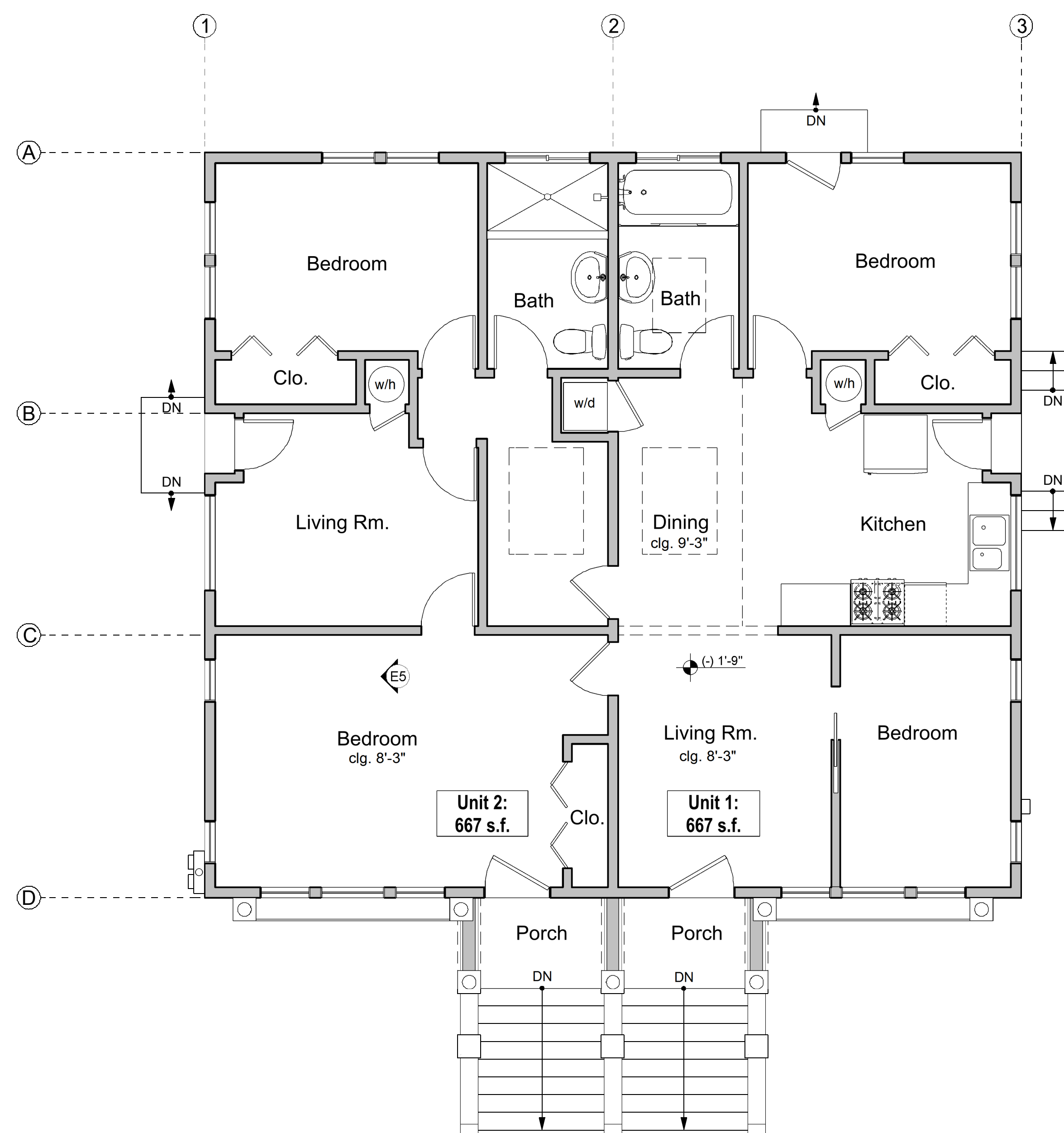
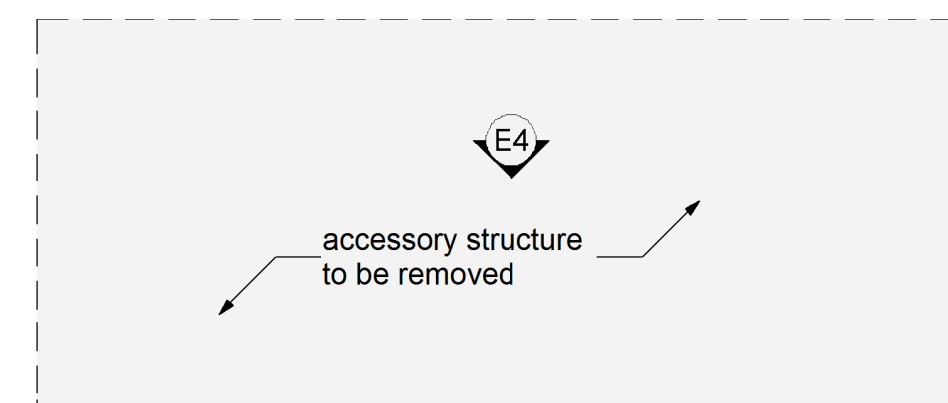
4 Existing North Elevation - Left Side



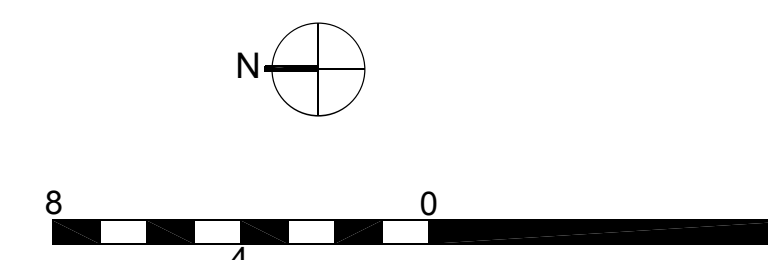
3 Existing South Elevation - Right Side



2 Existing West Elevation - Front




1 Existing First Floor Plan





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Sheet Contents:  
Proposed Floor Plan  
Proposed Site Plan

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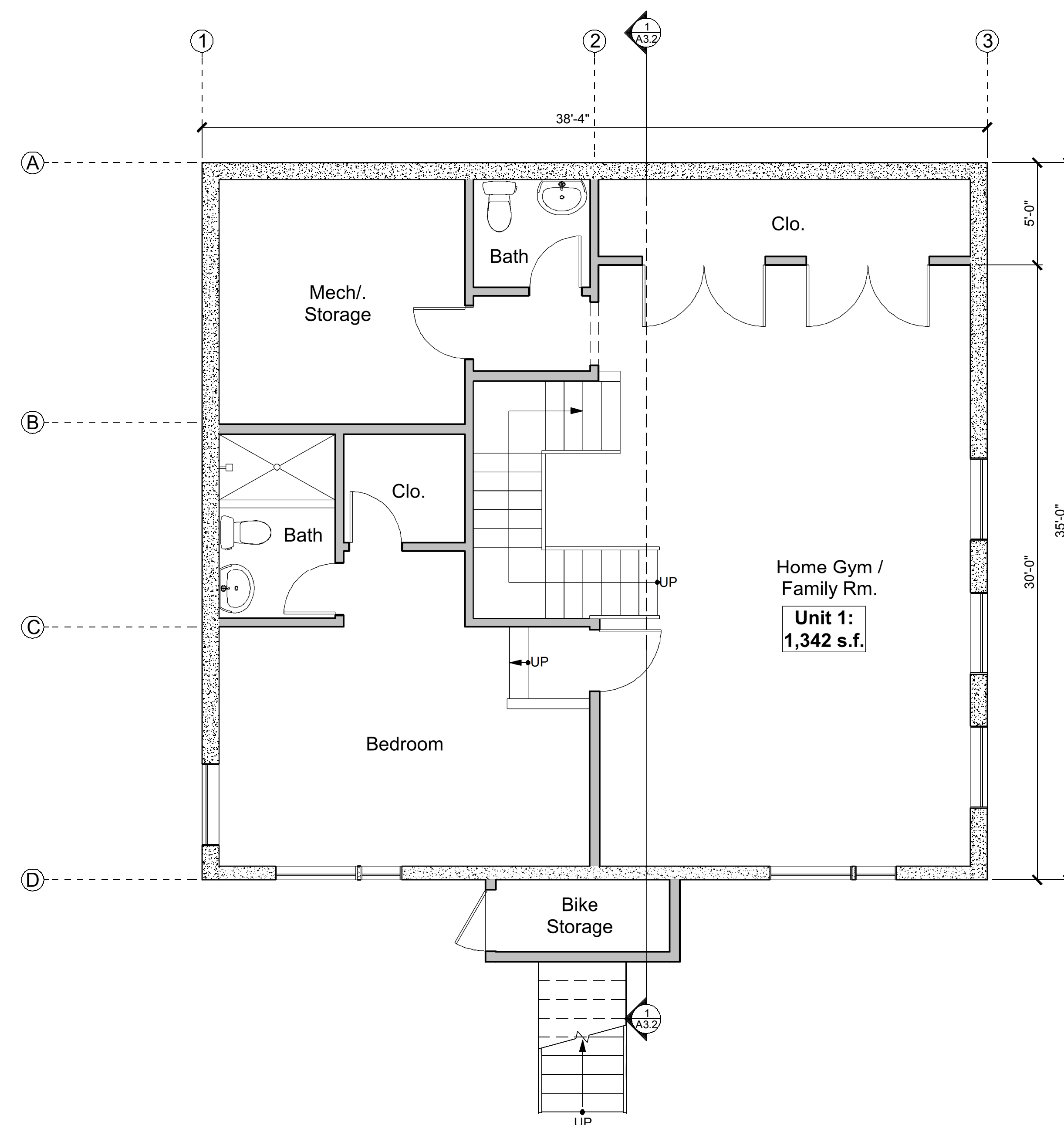
Drawn By: SSG

Checked By: SSG

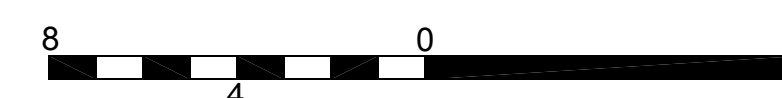
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Revisions:  
Use Permit Set: 12-10-2020  
Redesign: 5-25-2021  
Planning Review: 6-29-2021  
Planning Review: 7-15-2021

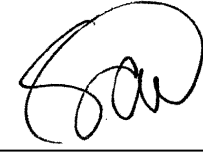
Sheet **A2.1**



1 Proposed Basement Floor Plan



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 Proposed Floor Plans

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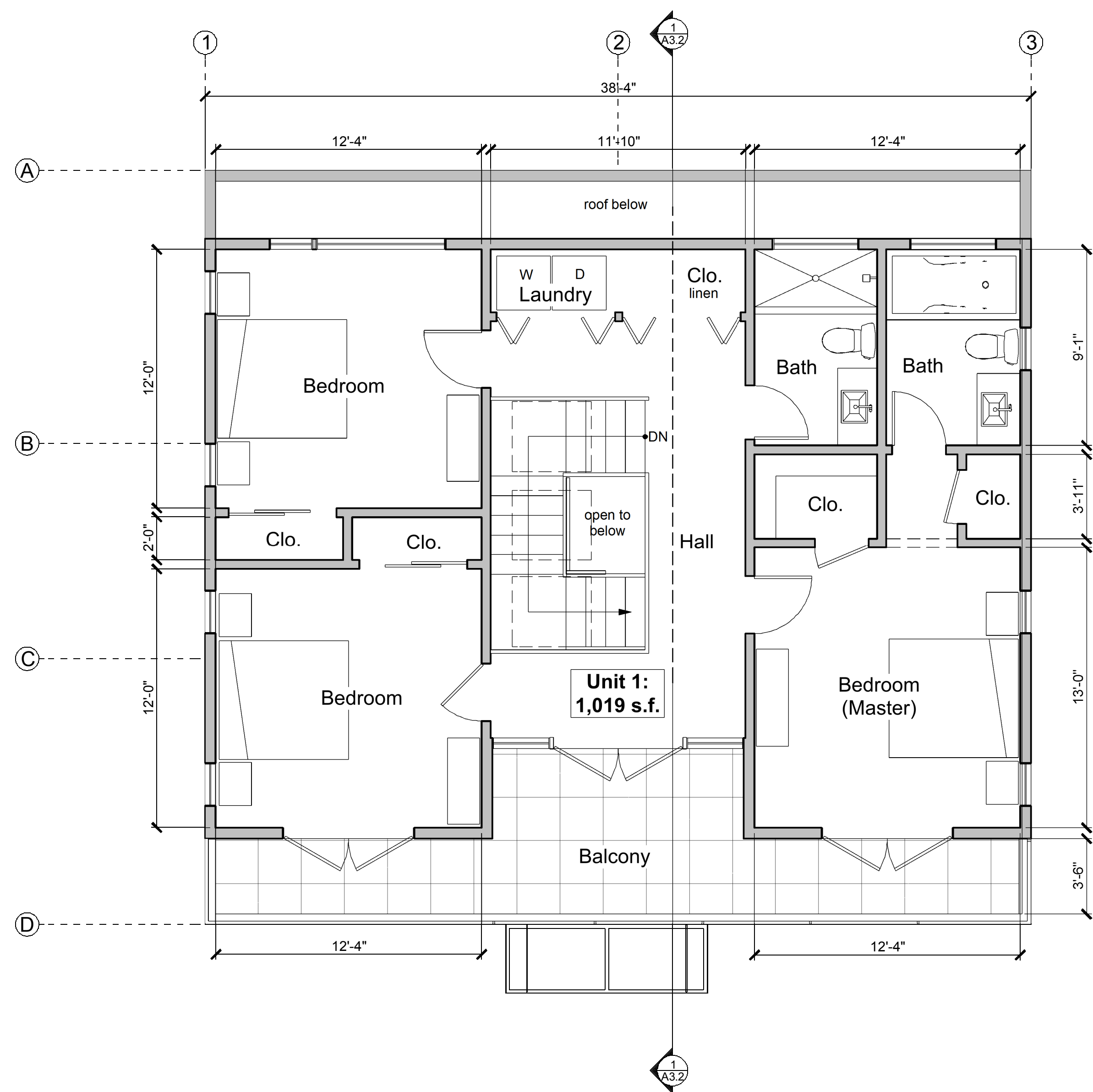
Drawn By: SSG

Checked By: SSG

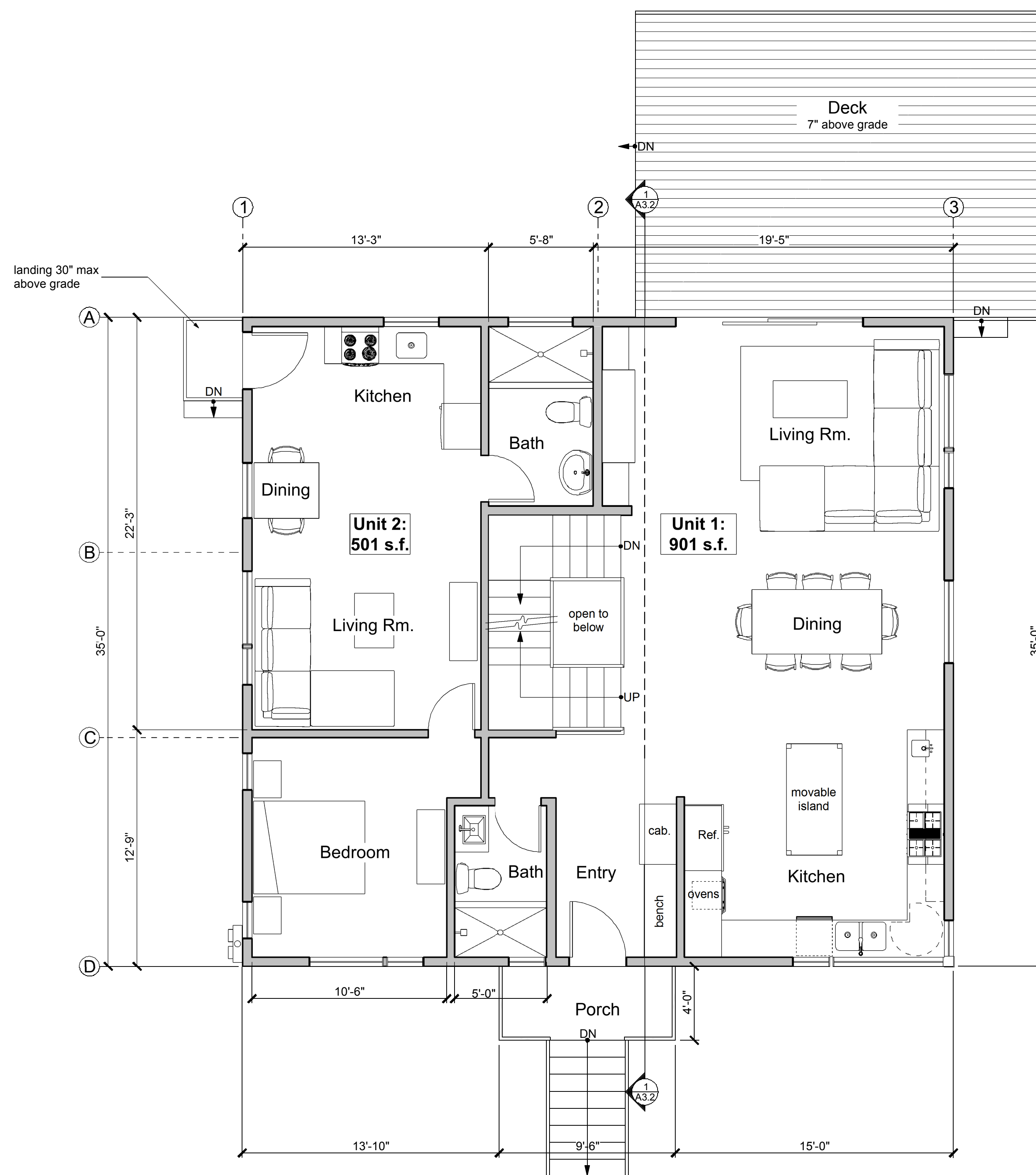
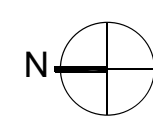
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

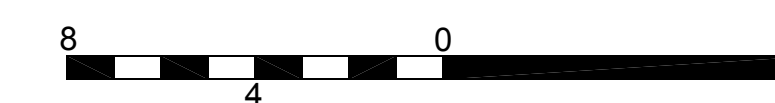
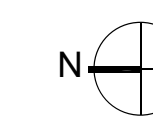
Sheet **A2.2**



2 Proposed Second Floor Plan



1 Proposed First Floor Plan



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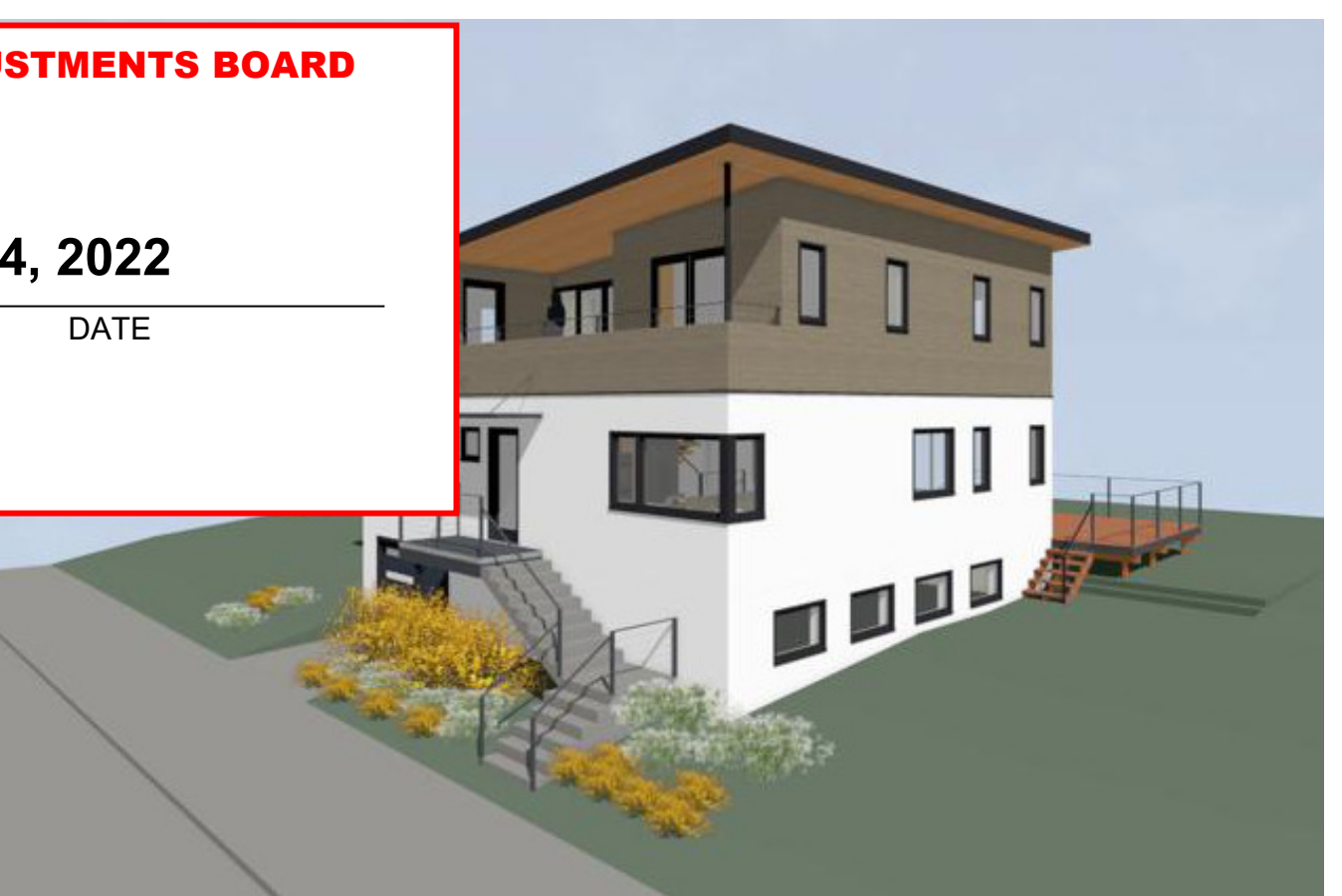
Previous Proposal

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*[Signature]*  
 SIGNATURE

July 14, 2022  
 DATE

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Previous Proposal



Previous Proposal



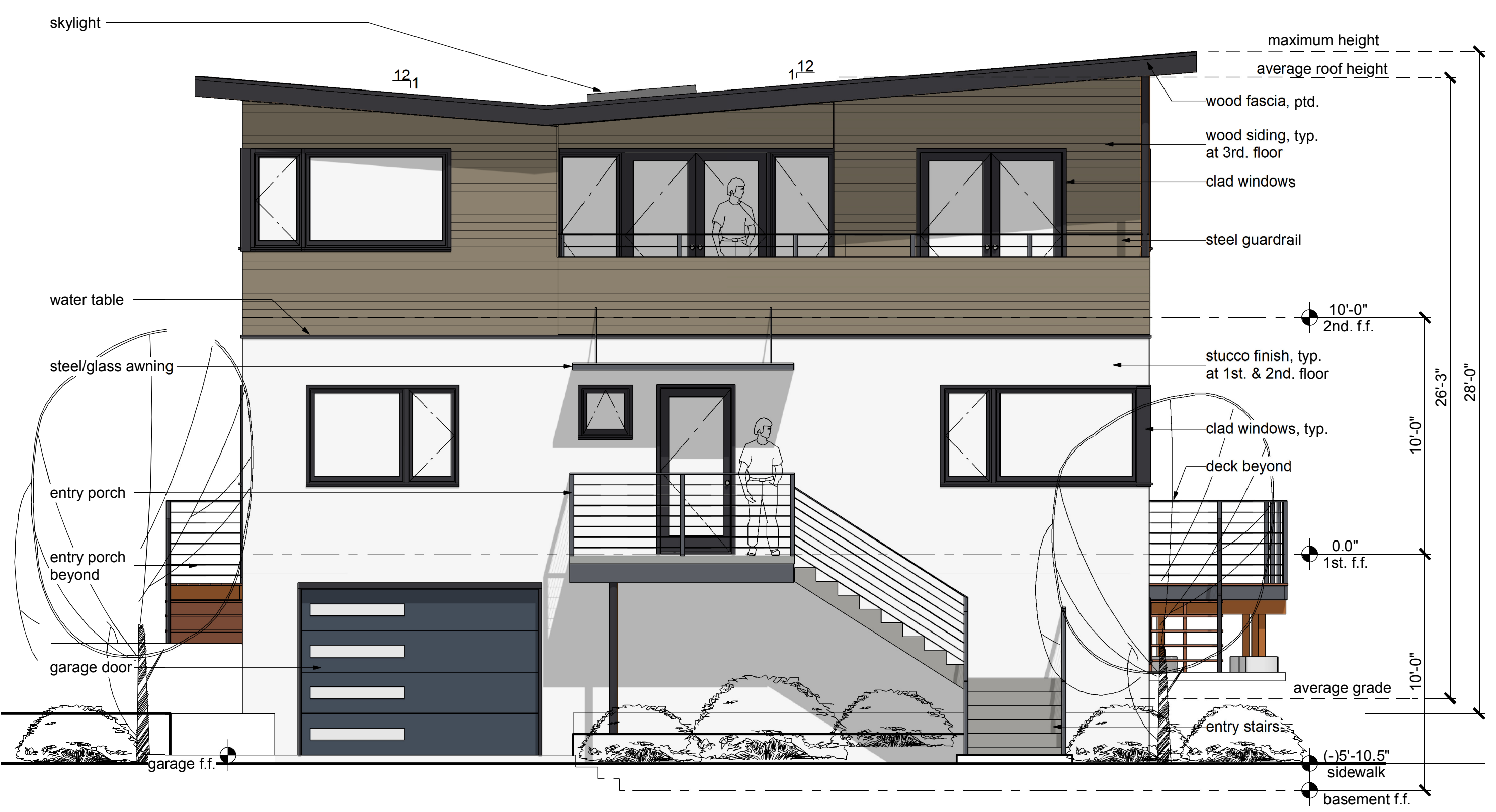
Current Proposal



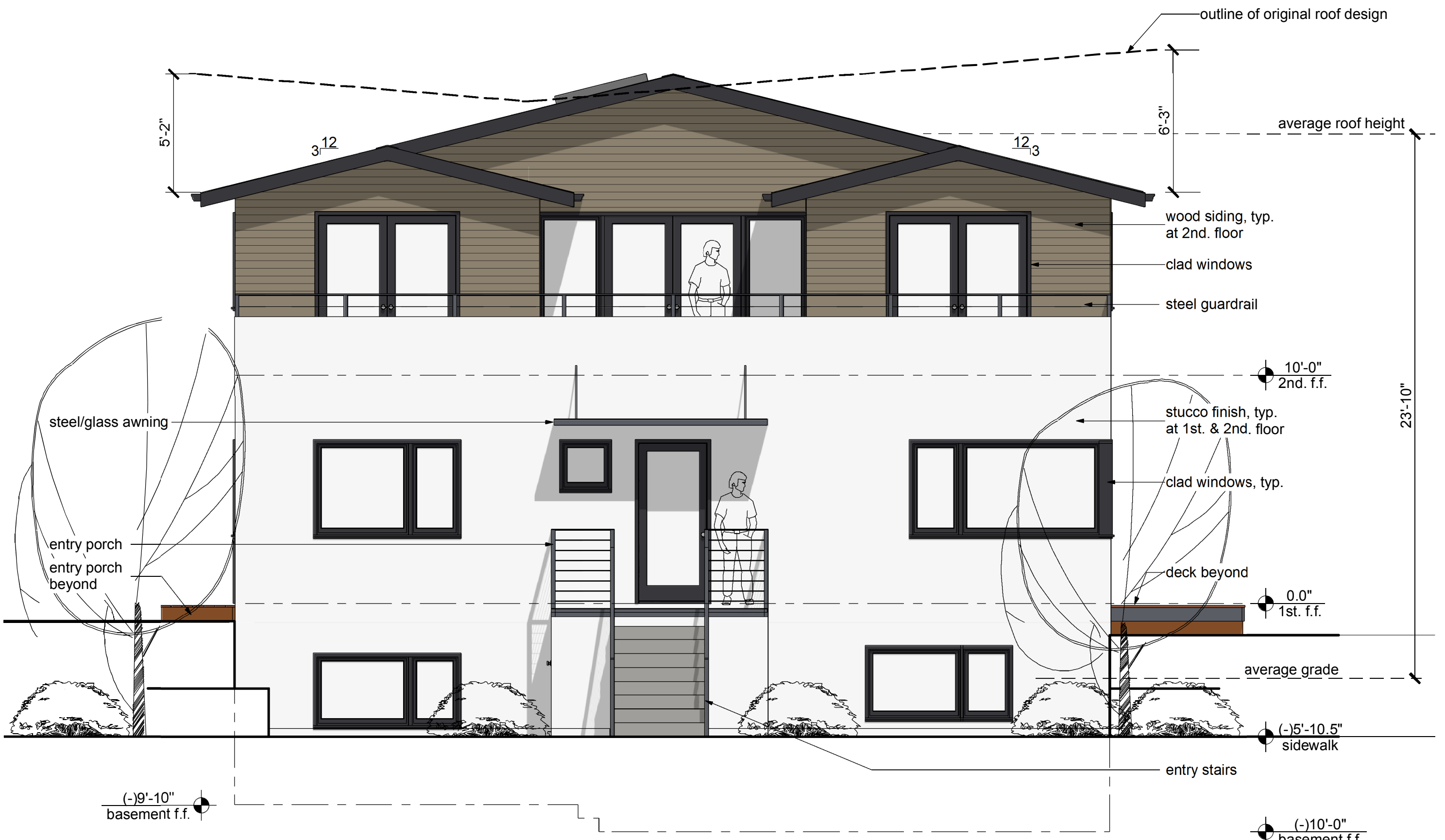
Current Proposal



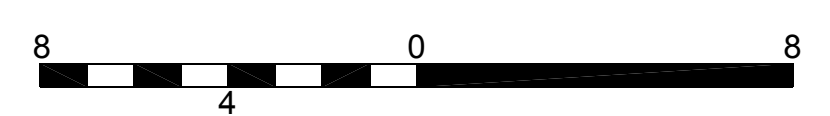
Current Proposal



② Proposed West Elevation - Front  
 Original Proposal



① Proposed West Elevation - Front  
 Current Proposal



Sheet Contents:  
 Front Elevation Comparison

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Drawn By: SSG

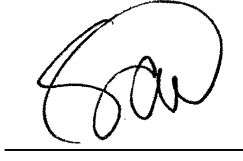
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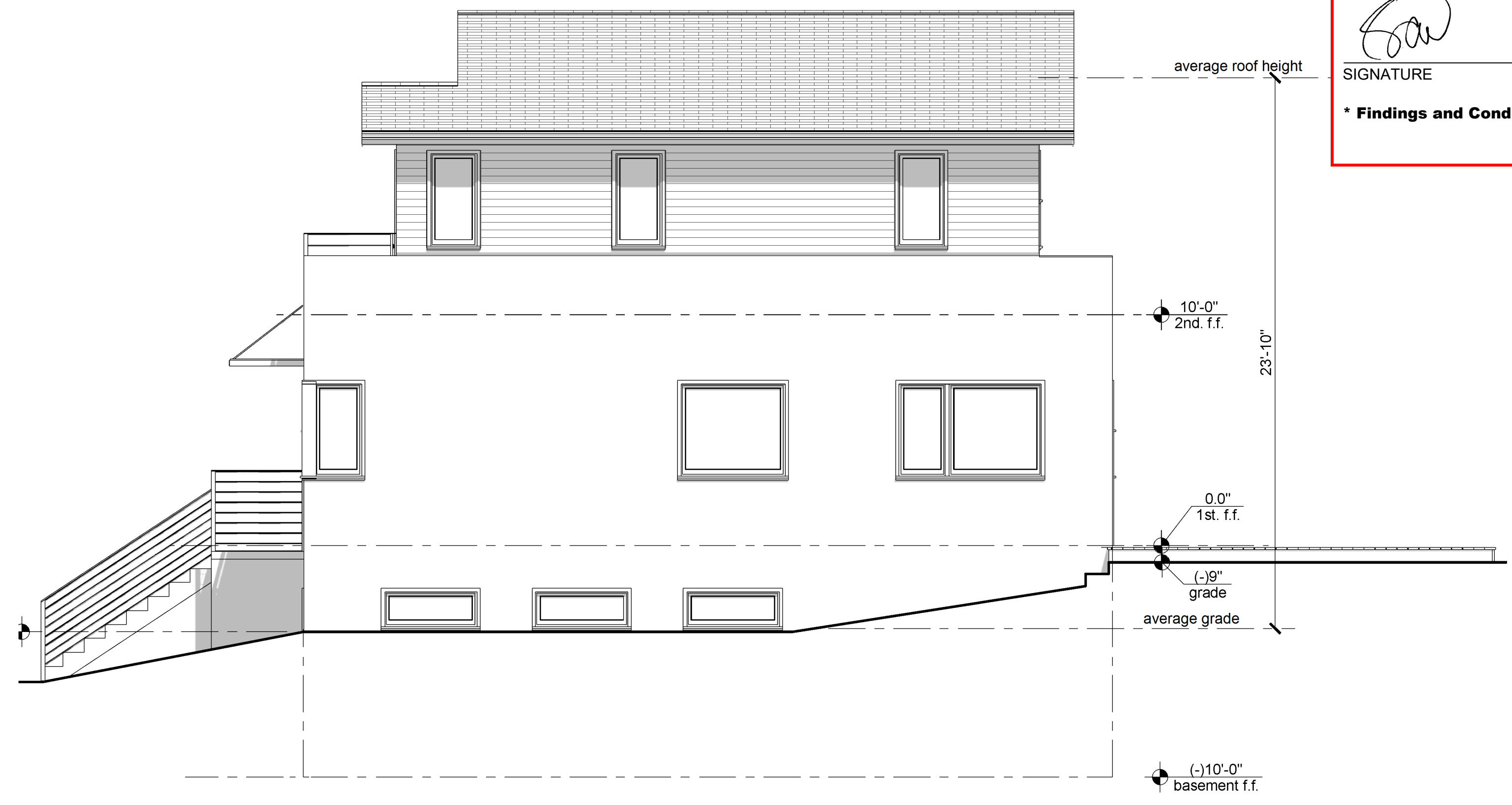
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 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

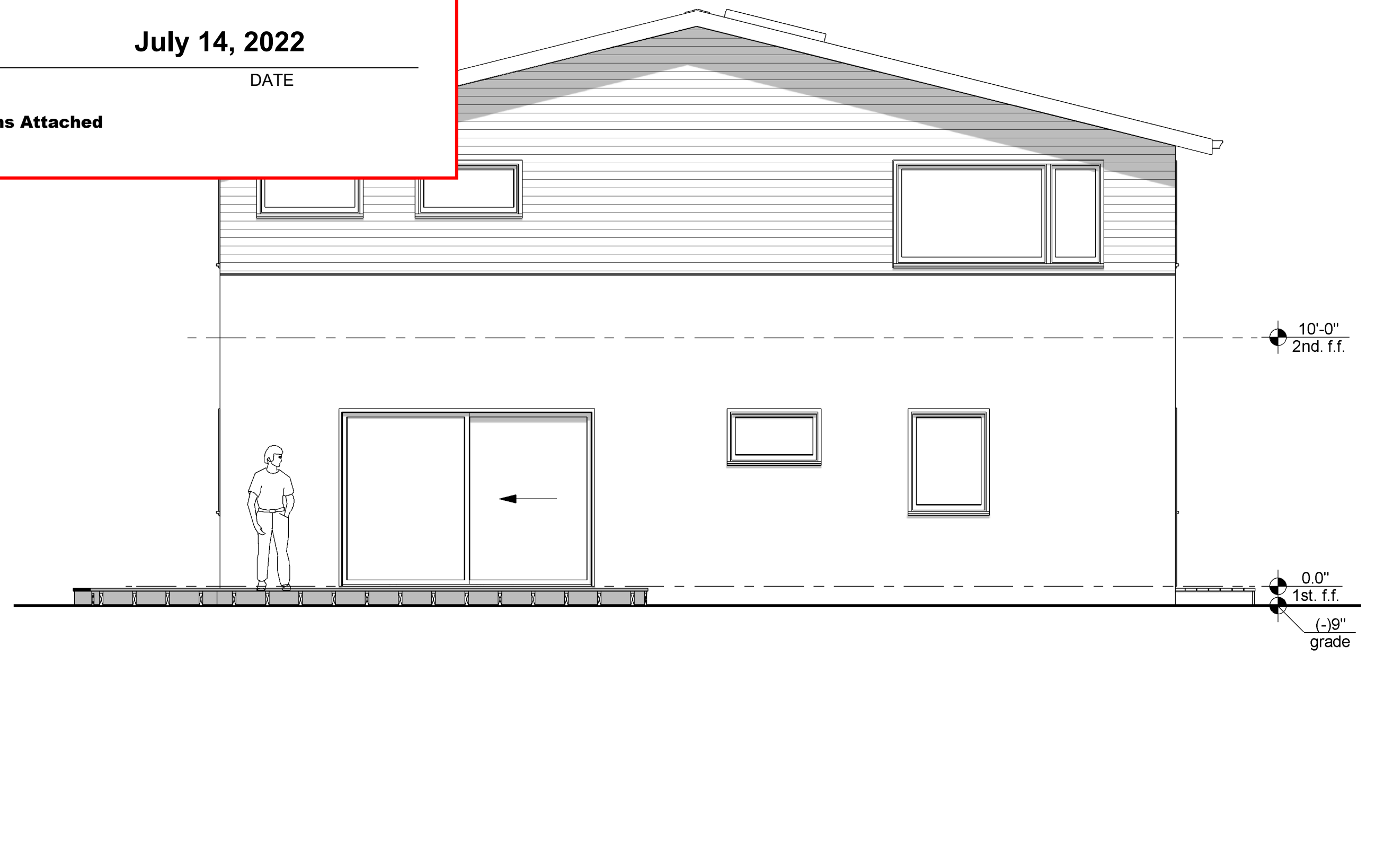
Sheet A3.1

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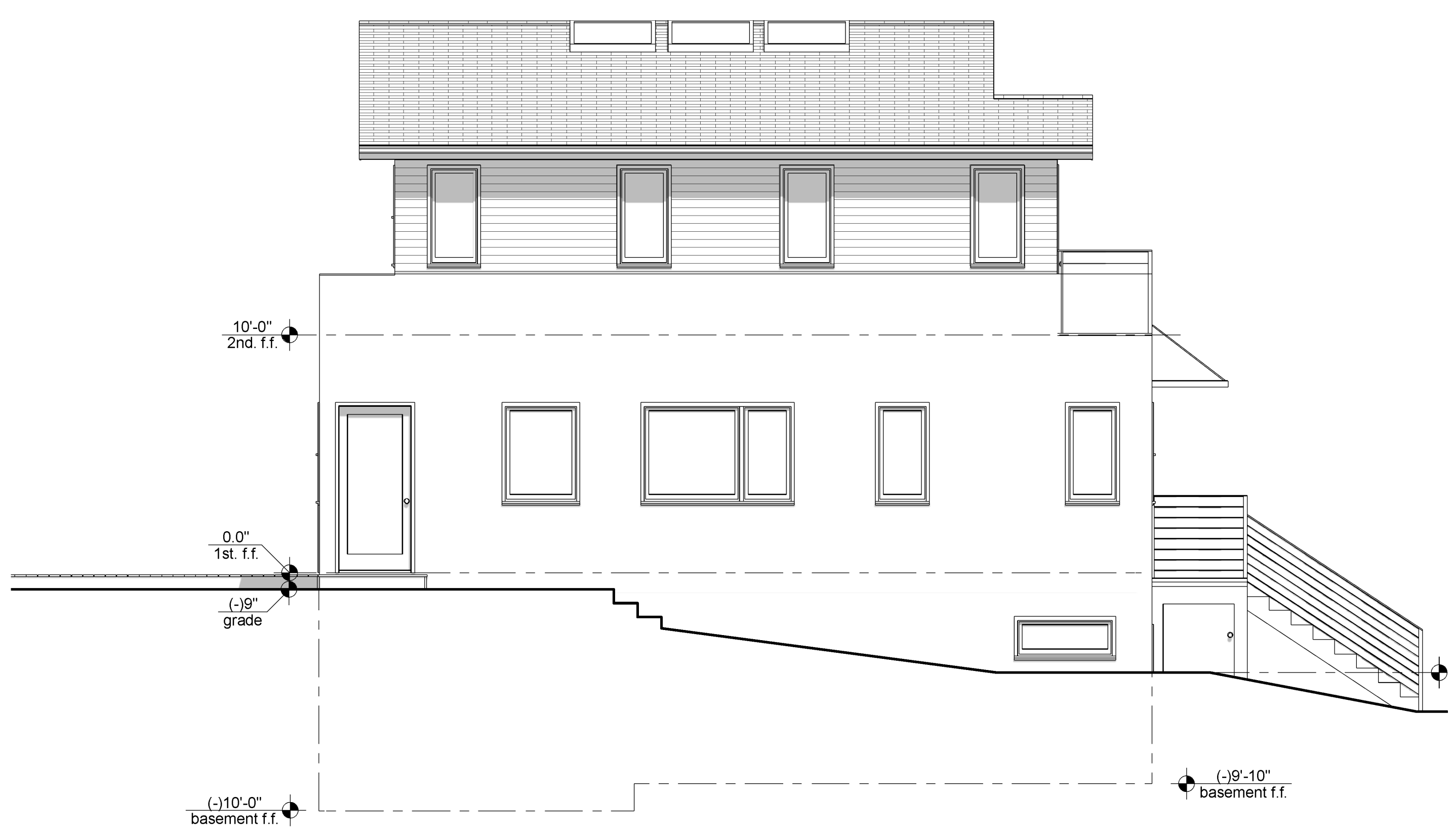
  
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 July 14, 2022  
 DATE  
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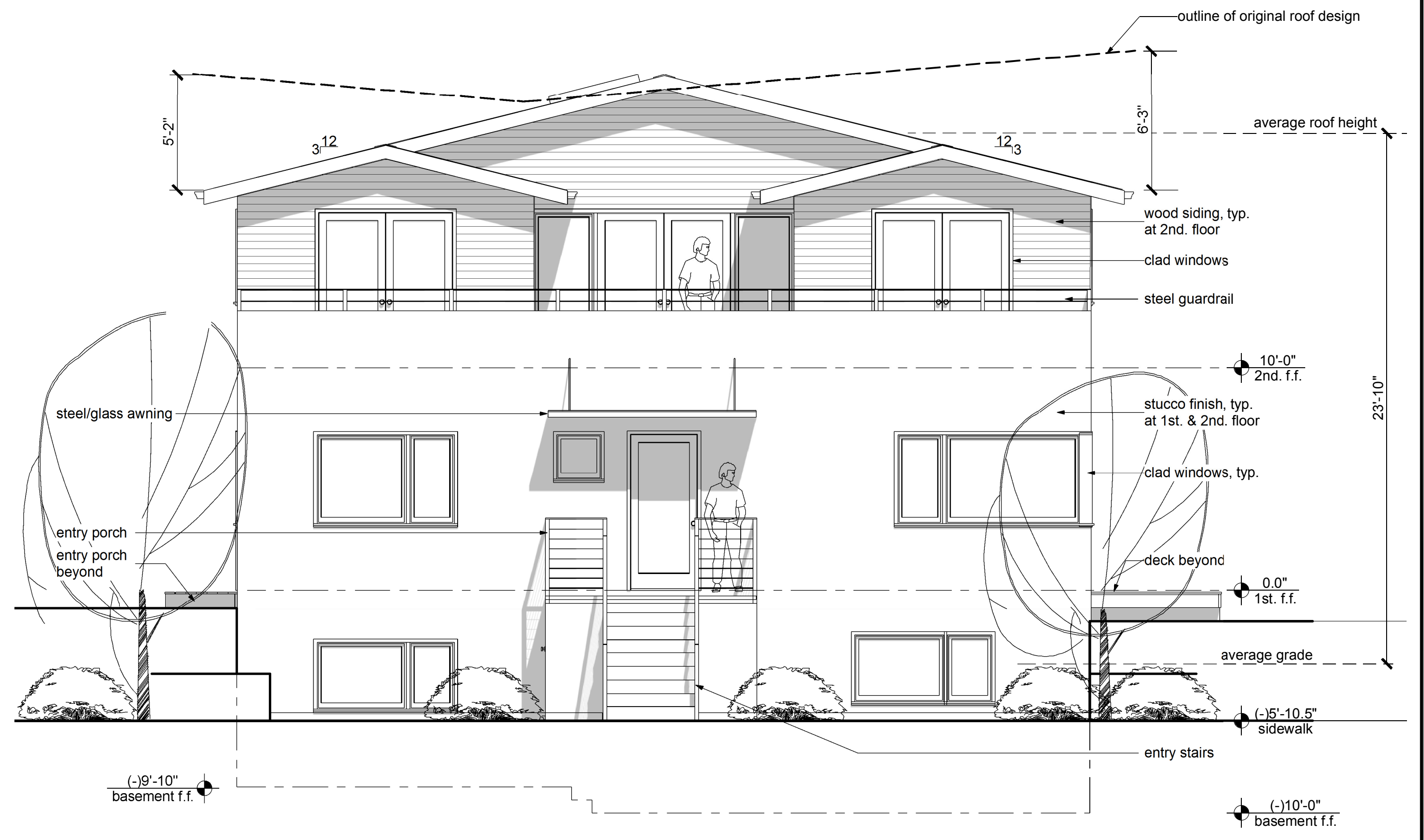
4 Proposed South Elevation - Right Side



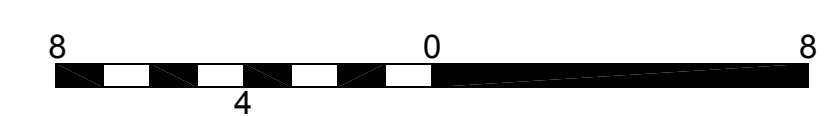
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side

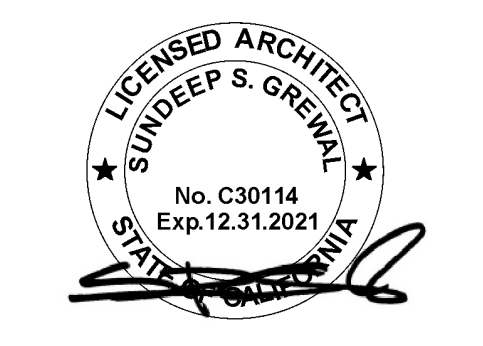


1 Proposed West Elevation - Front



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 Berkeley, CA 94703  
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Sheet Contents:  
 Proposed Exterior Elevations

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Drawn By: SSG

Checked By: SSG


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

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

Sheet **A3.2**



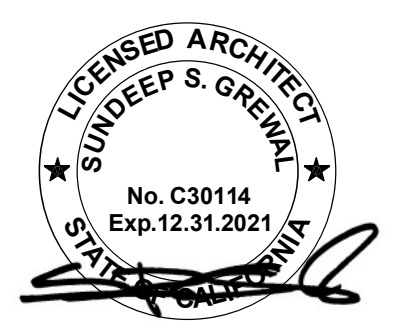
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2 Renderings

Sheet Contents:  
 Building Section  
 Renderings

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


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





1 Proposed Building Section

Sheet **A3.3**

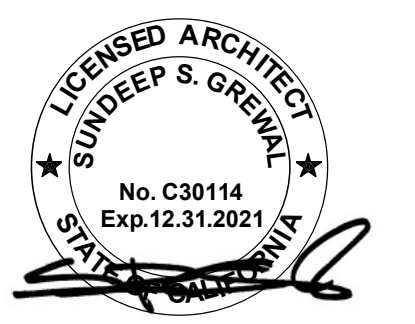
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 Existing Shadow Line  
 New Shadow Line



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Sheet Contents:  
 Shadows Studies

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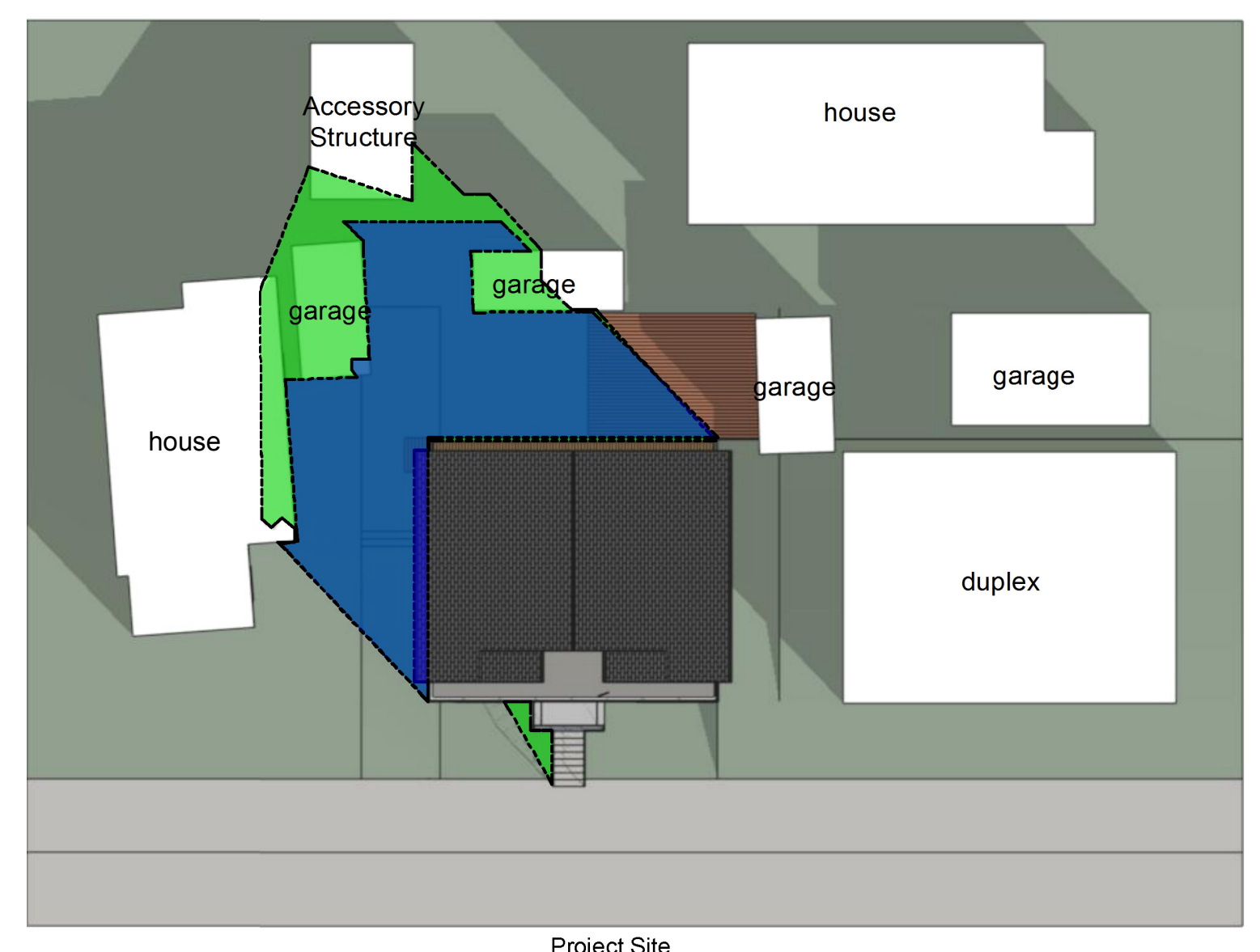
Drawn By: SSG

Checked By: SSG

Scale: NTS

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

Sheet **A4.1**



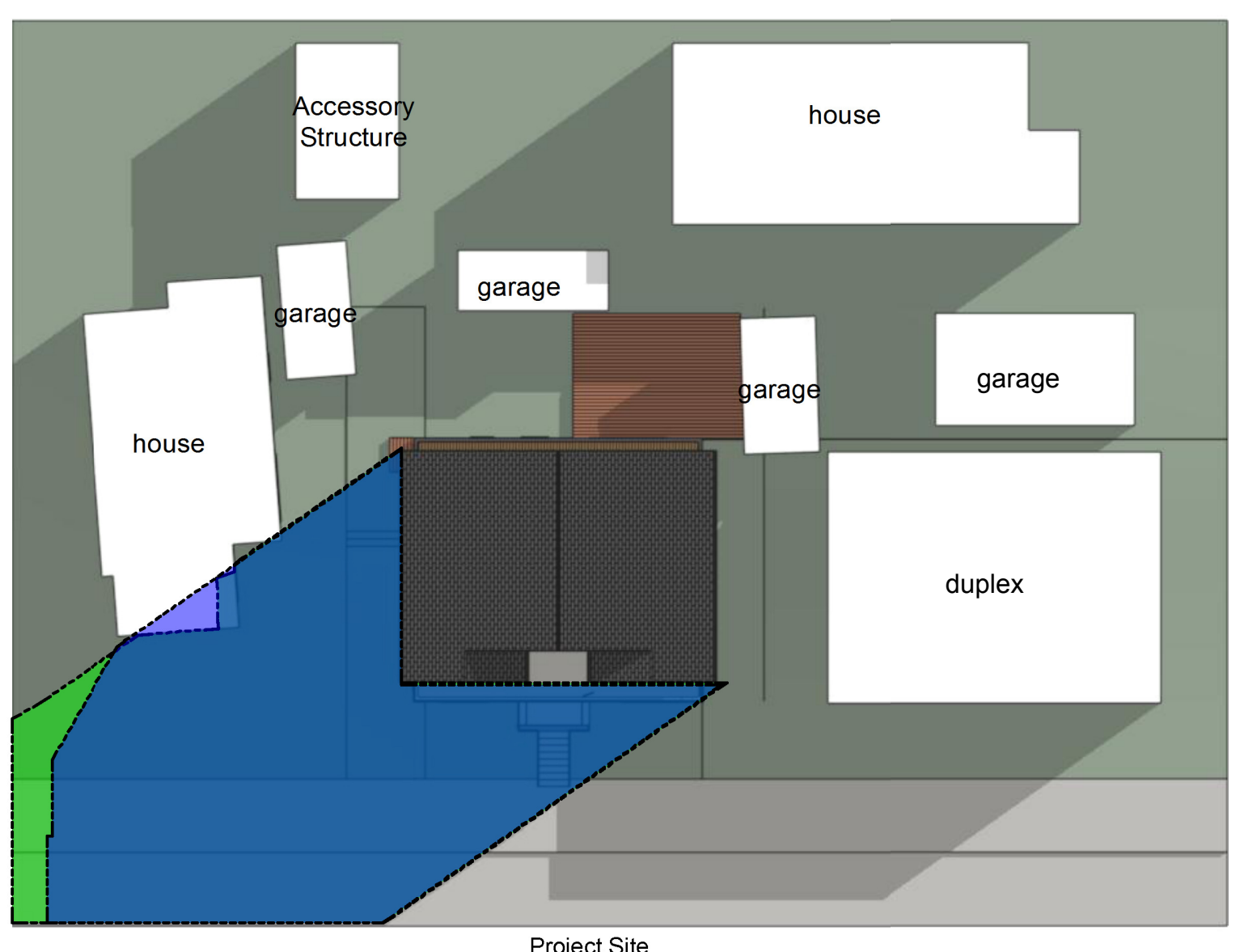
Proposed

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



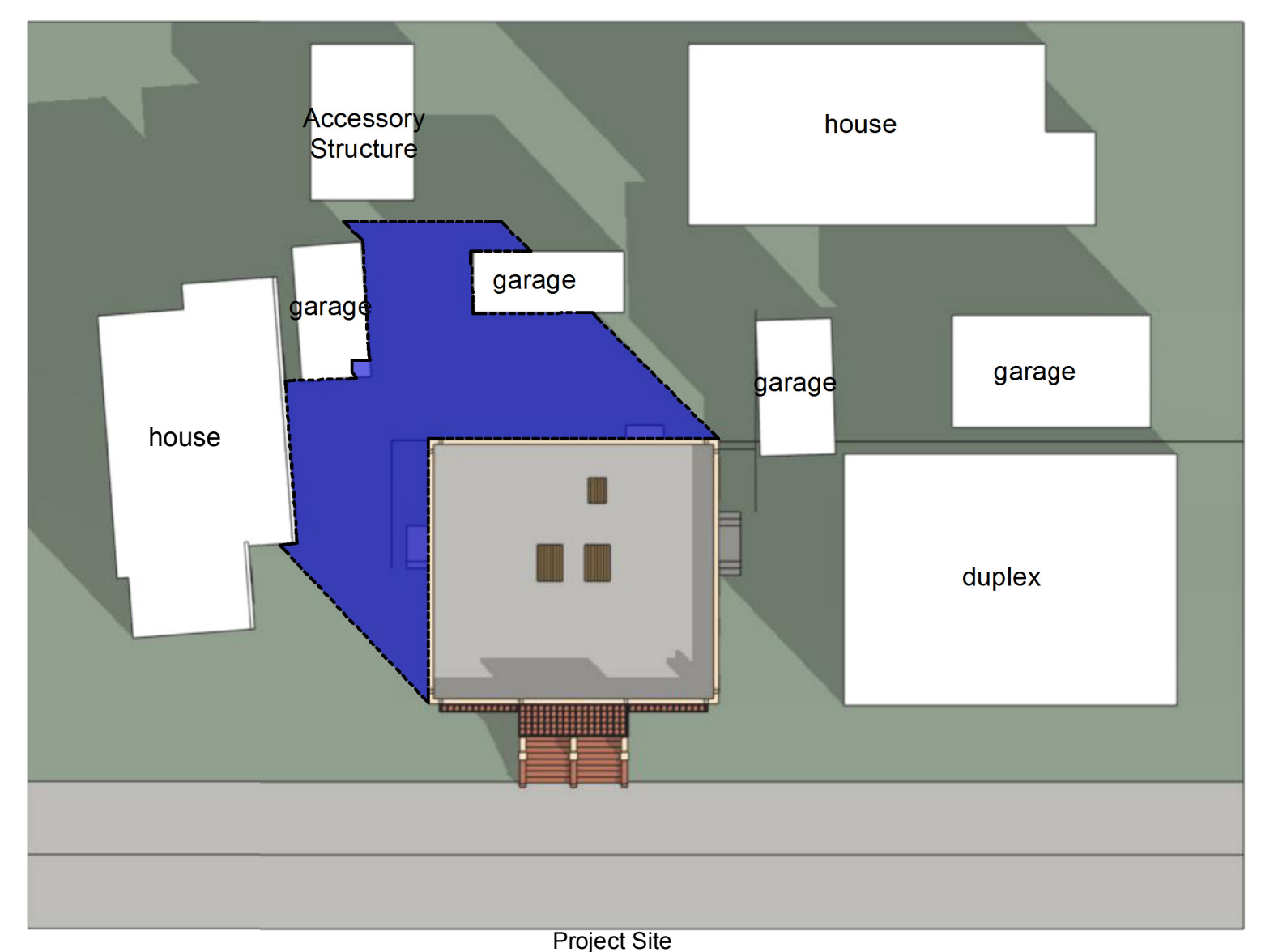
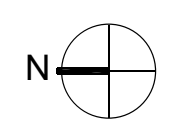
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**12-21-2021 / 12:00 pm**



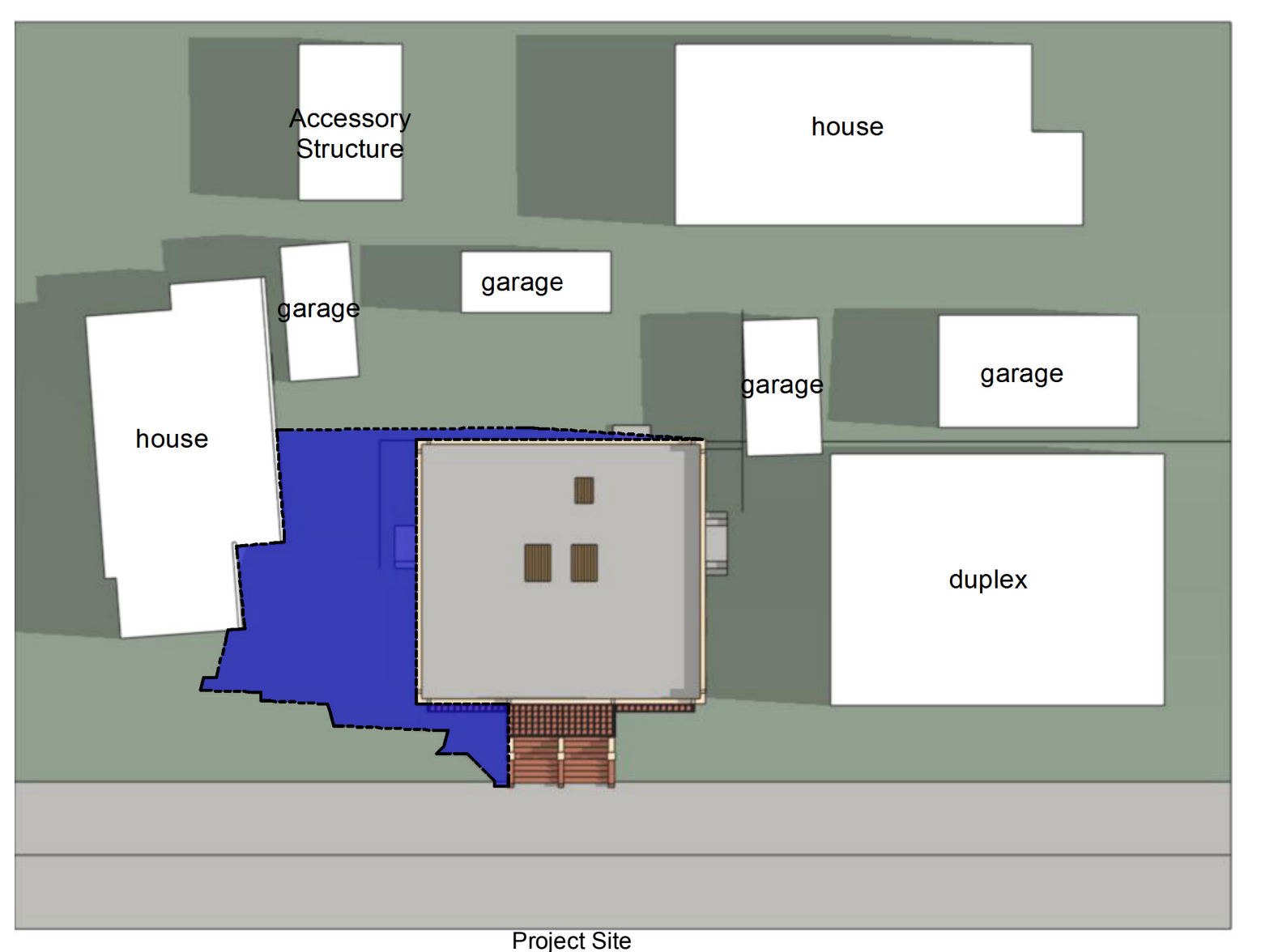
Proposed

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



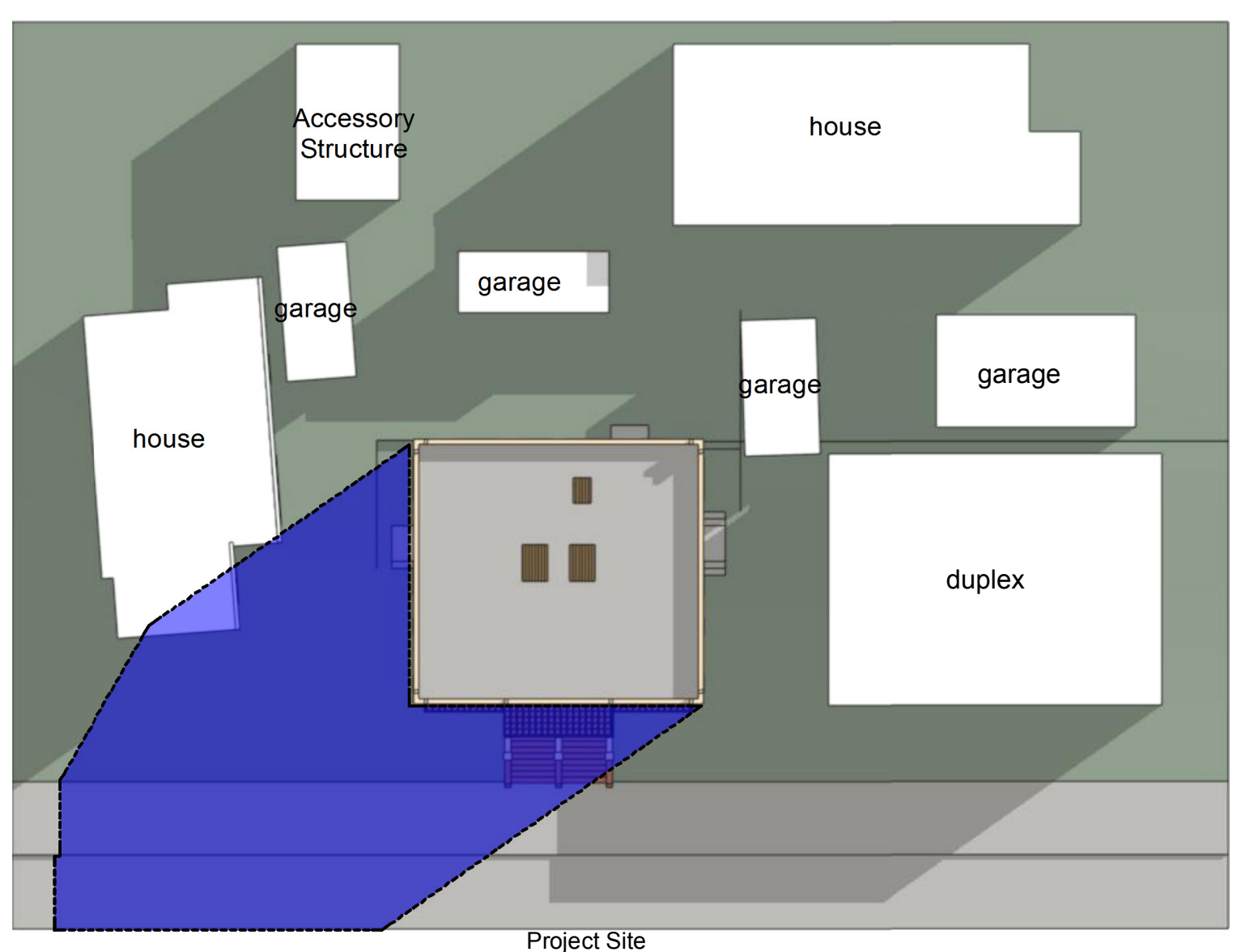
Existing

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



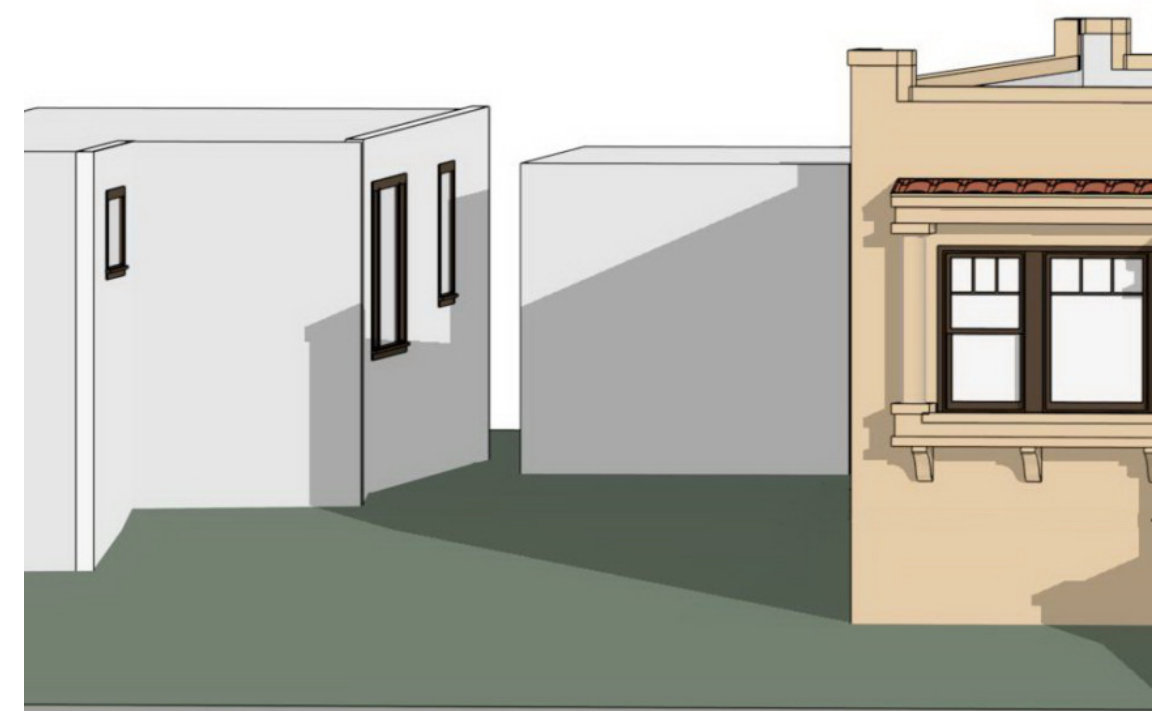
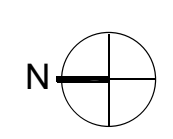
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**12-21-2021 / 12:00 pm**



Existing

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



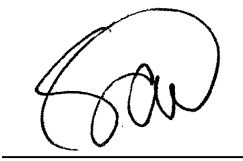
Shadow Accuracy Simulation  
 12-08-2020 / 3:00 pm





Actual  
 12-08-2020 / 3:00 pm

**Shadow Accuracy Simulation**

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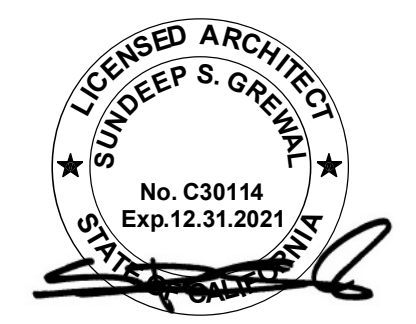
  
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 Existing Shadow Line  
 New Shadow Line



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Shadows Studies

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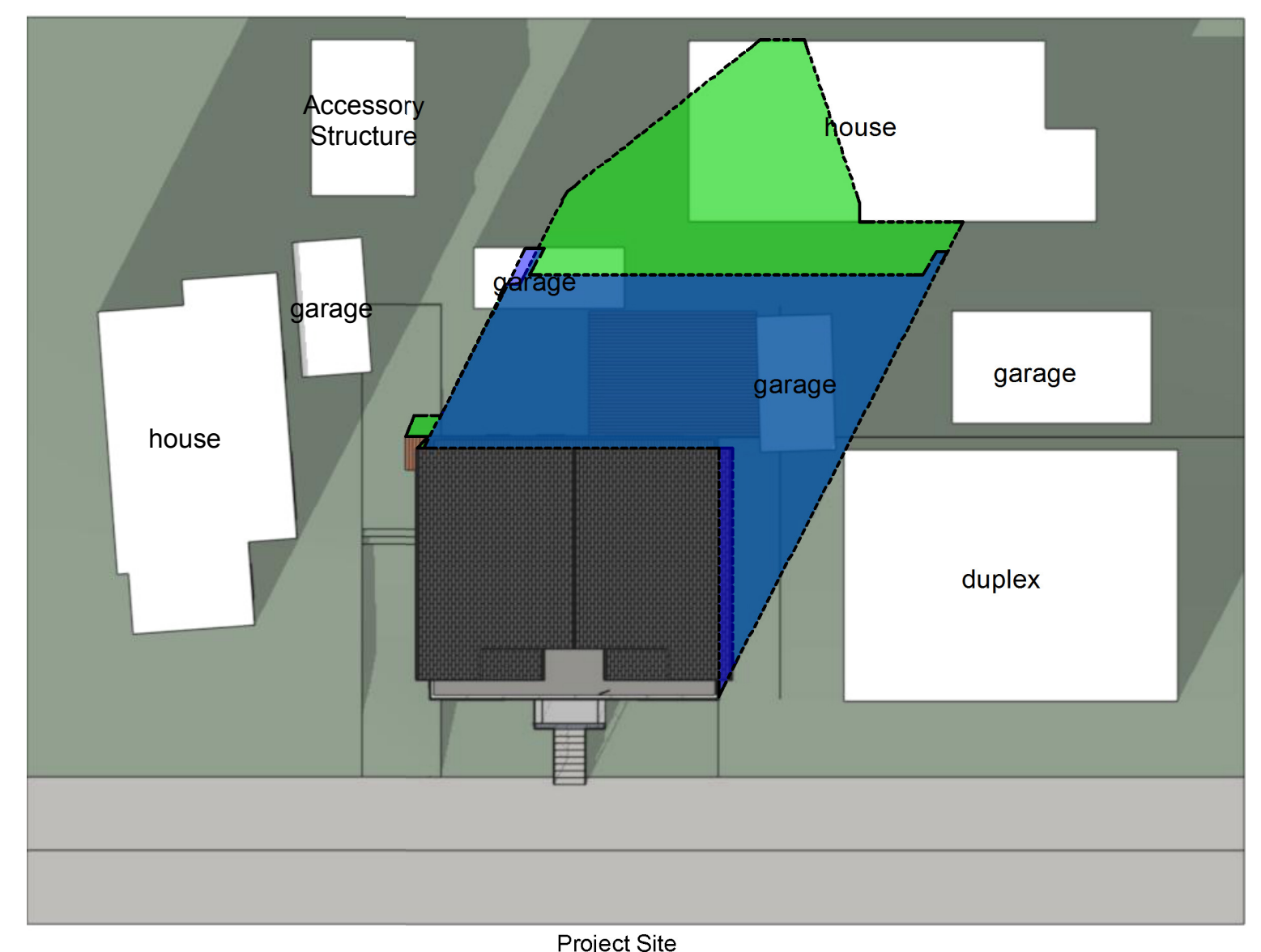
Drawn By: SSG

Checked By: SSG

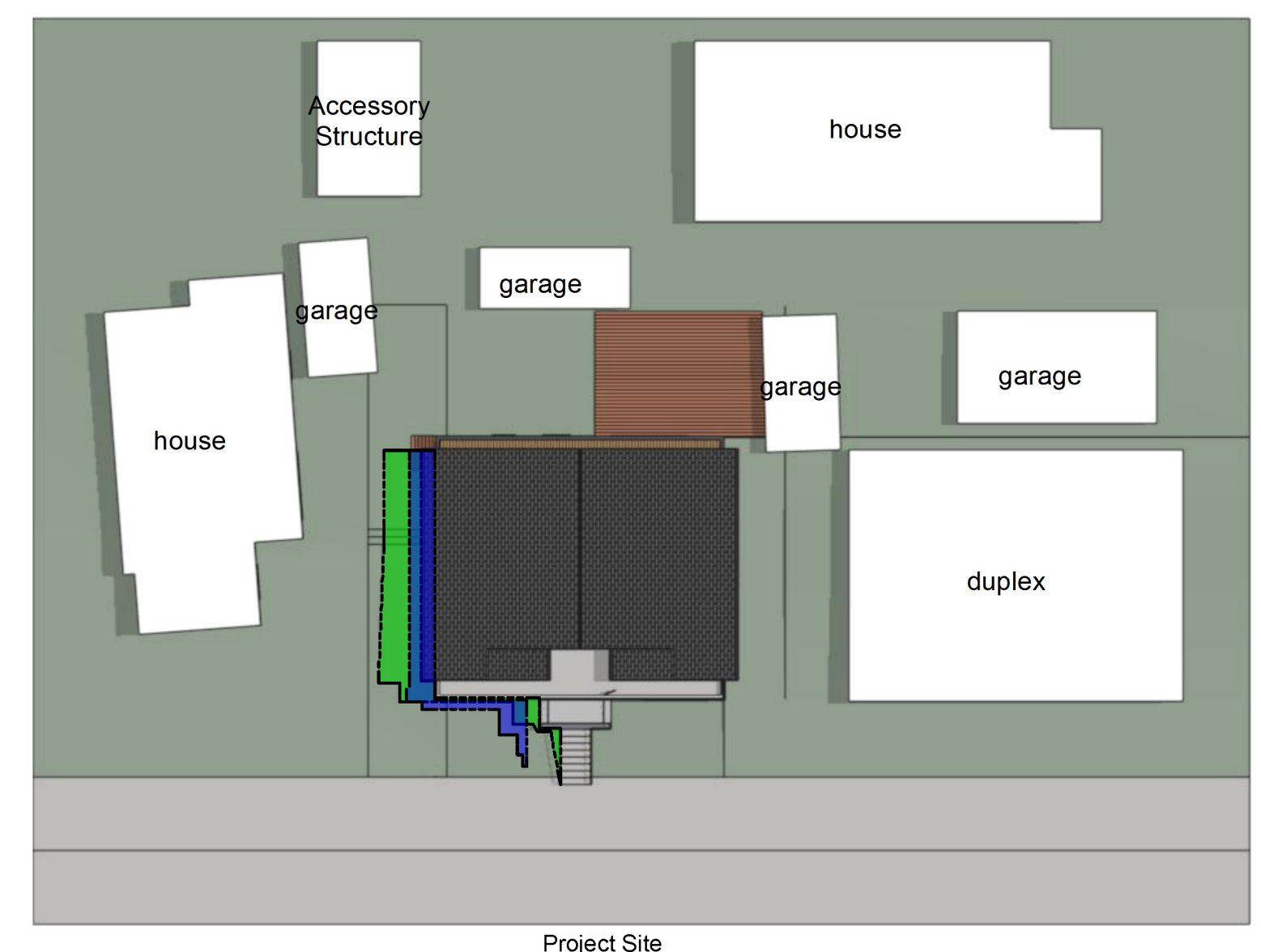
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Revisions:  
 Use Permit Set: 12-10-2020  
 Redesign: 5-25-2021  
 Planning Review: 6-29-2021  
 Planning Review: 7-15-2021

Sheet **A4.2**



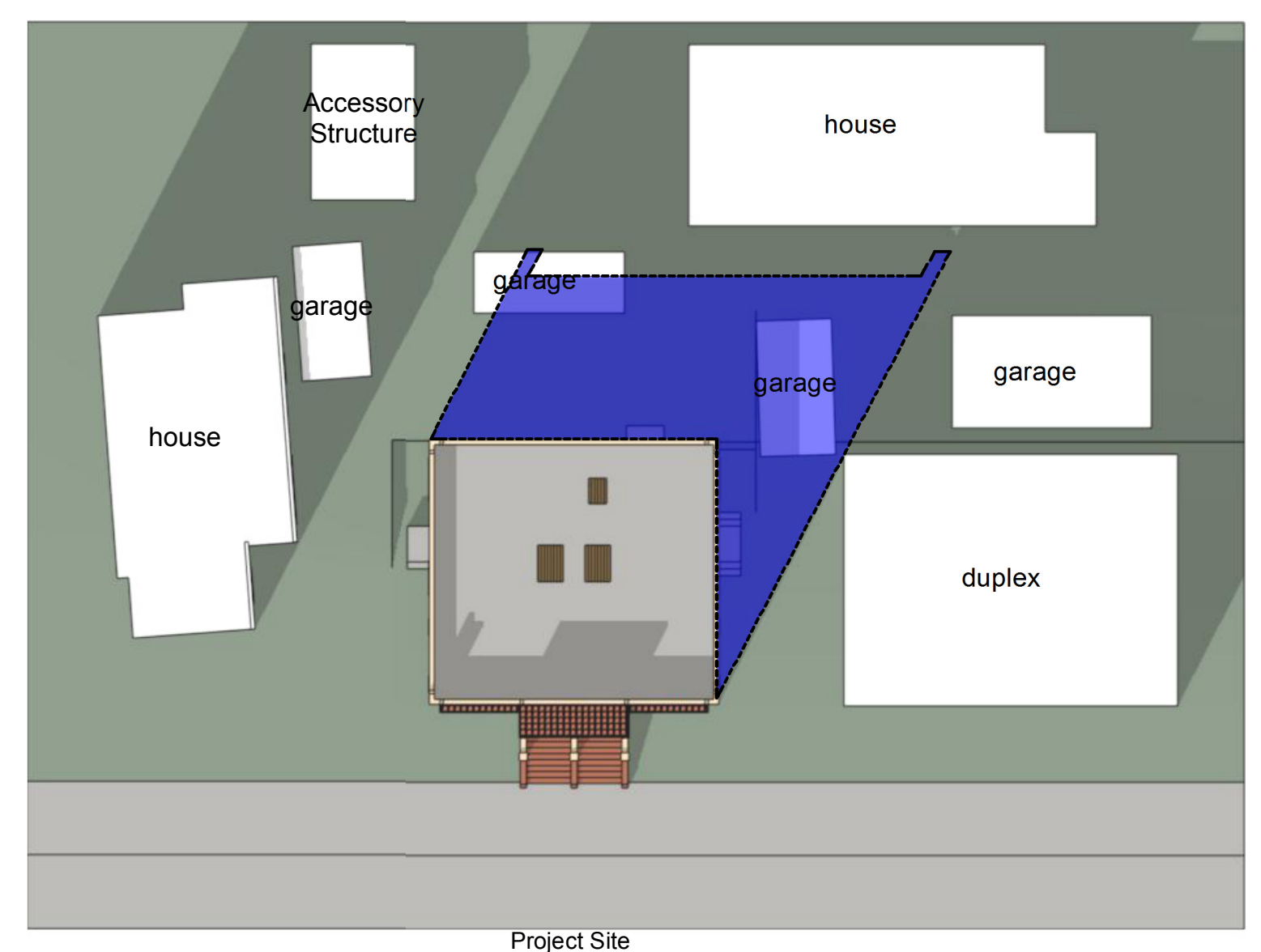
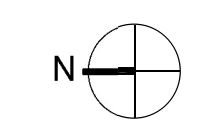
Proposed  
**6-21-2021 / 6:35 pm**



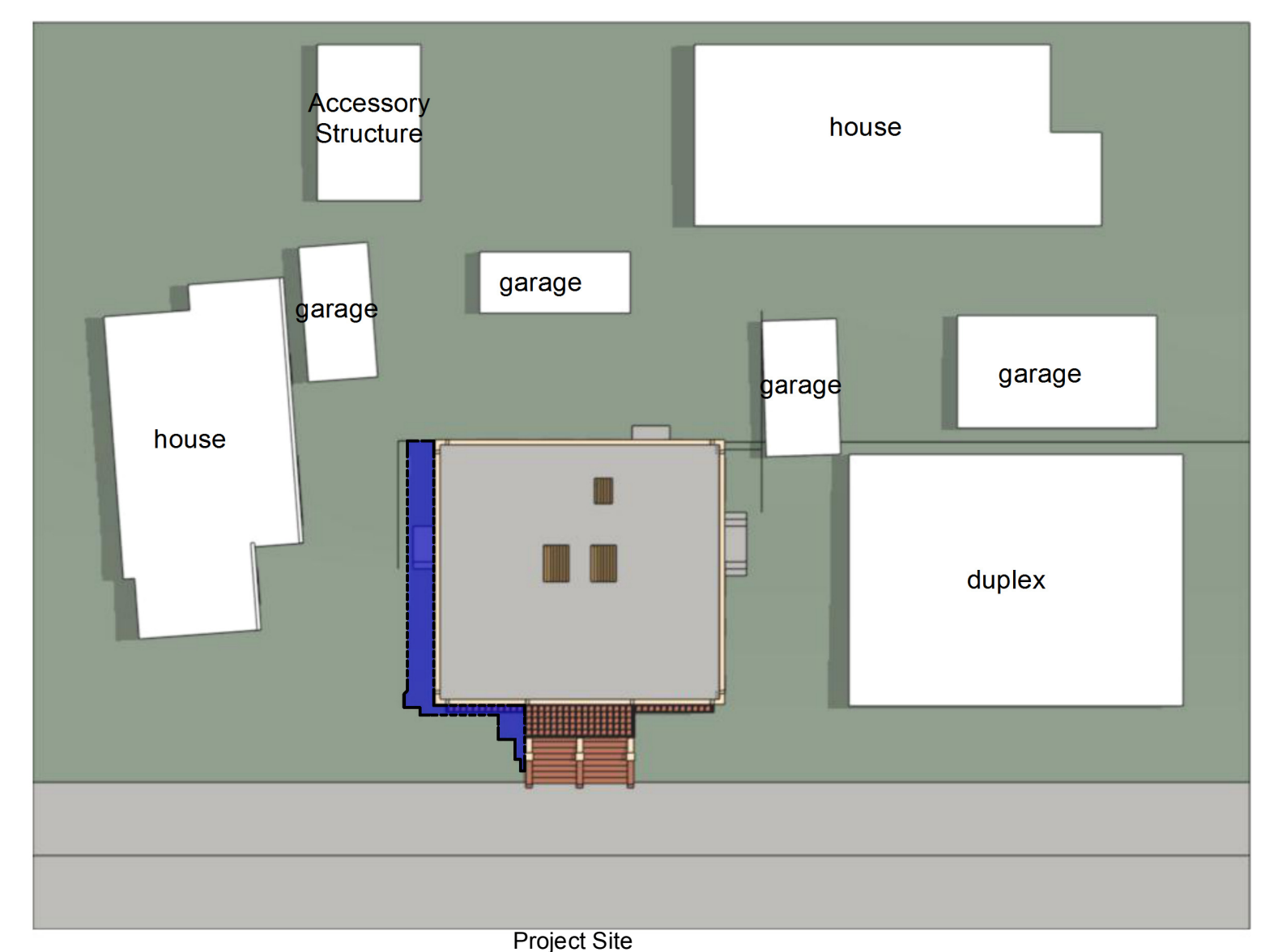
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**6-21-2021 / 12:00 pm**



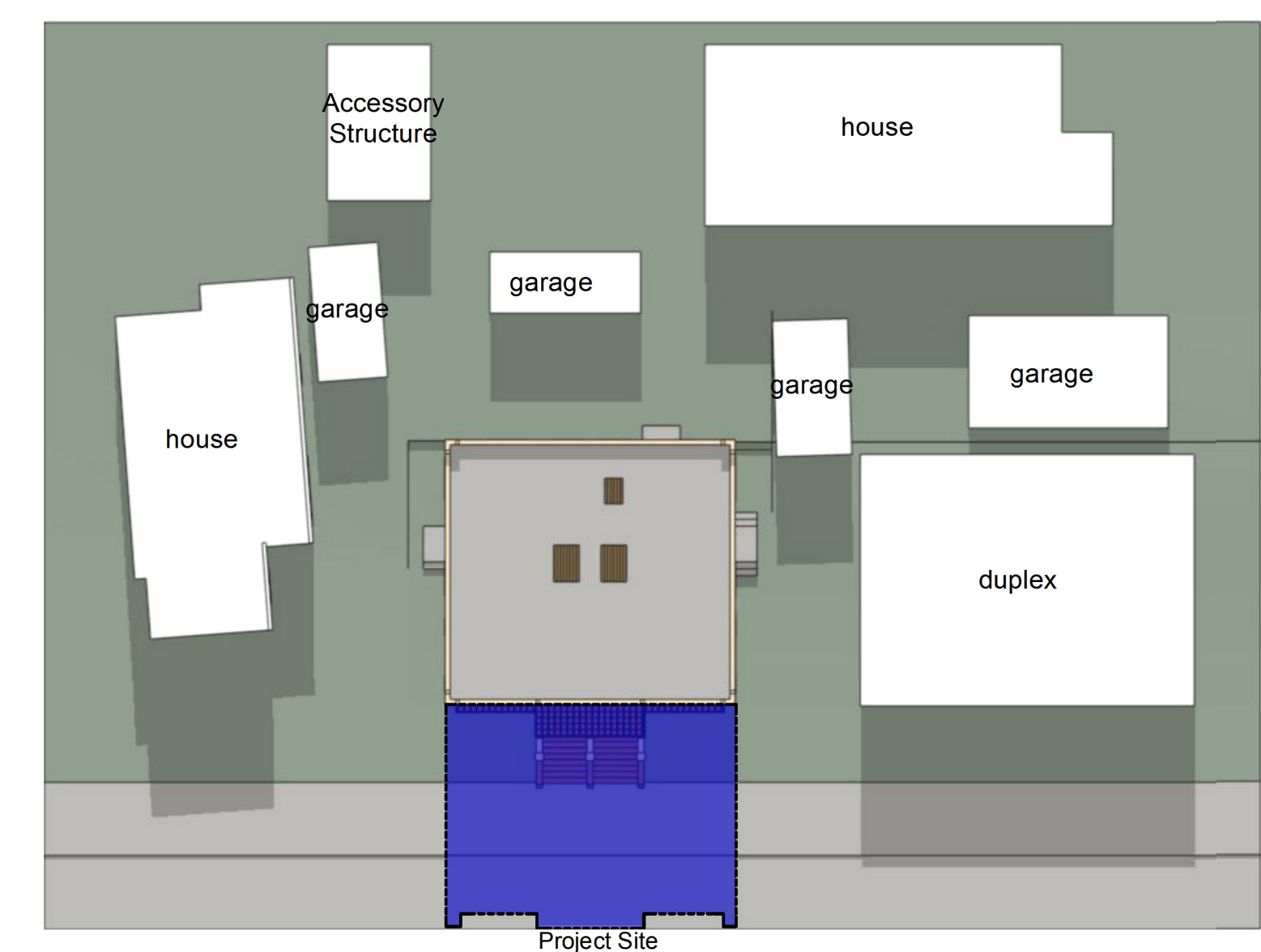
Proposed  
**6-21-2021 / 7:47 am**



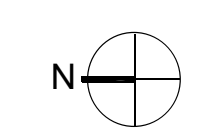
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**6-21-2021 / 6:35 pm**



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

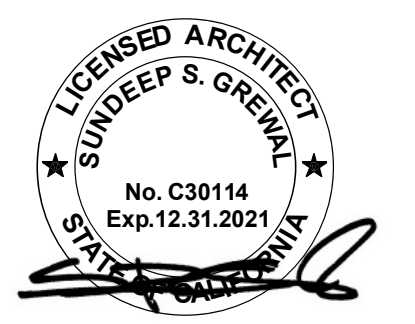


Existing  
**6-21-2021 / 7:47 am**



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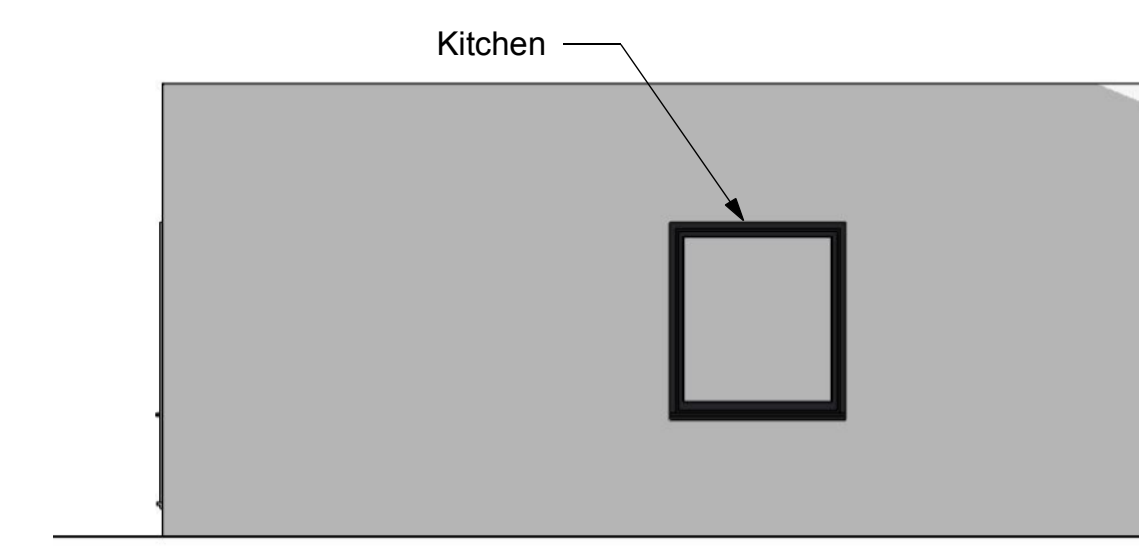
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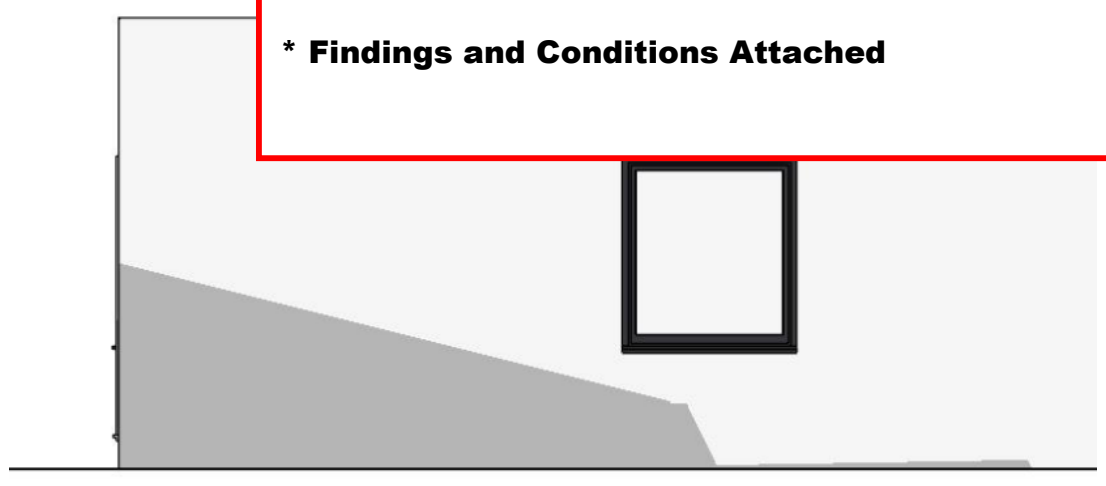
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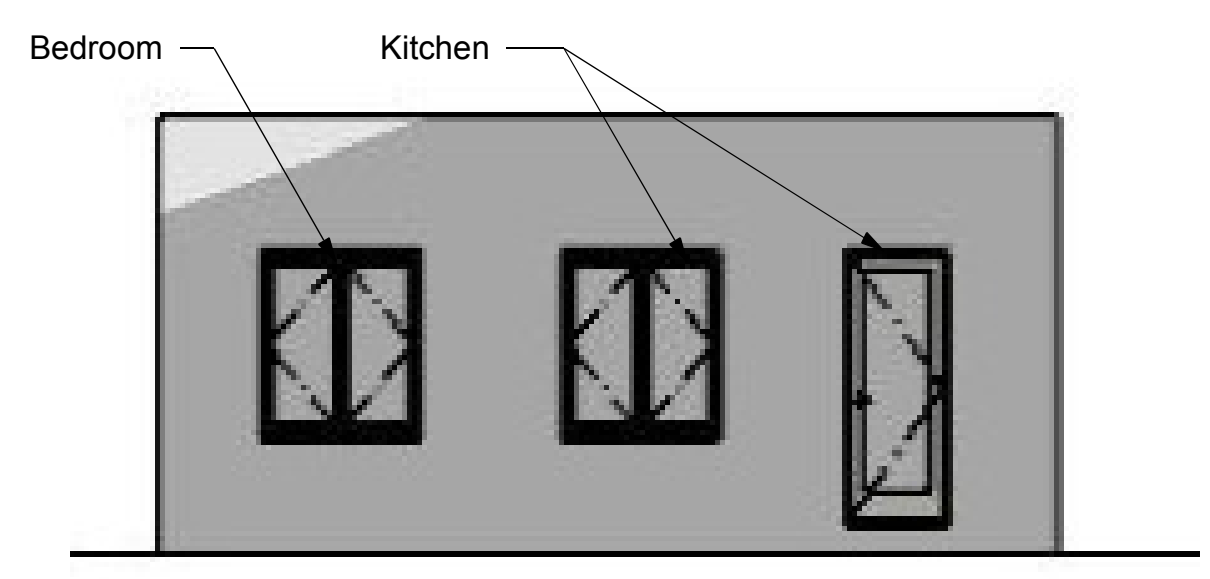
*[Signature]*  
 SIGNATURE  
 DATE  
**July 14, 2022**  
 \* Findings and Conditions Attached



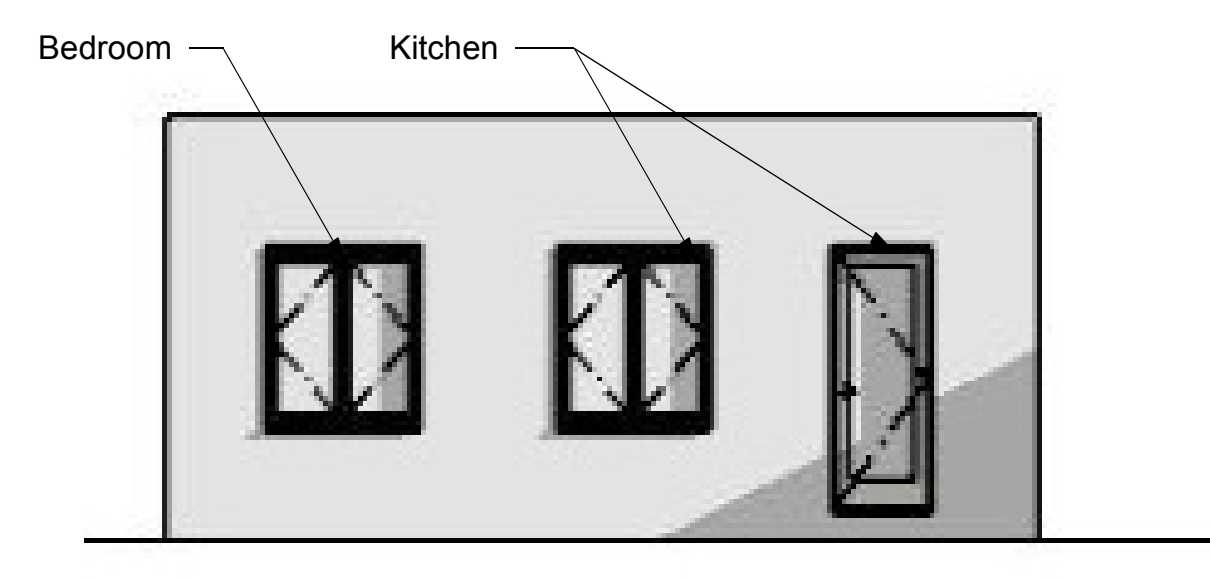
Proposed West Wall



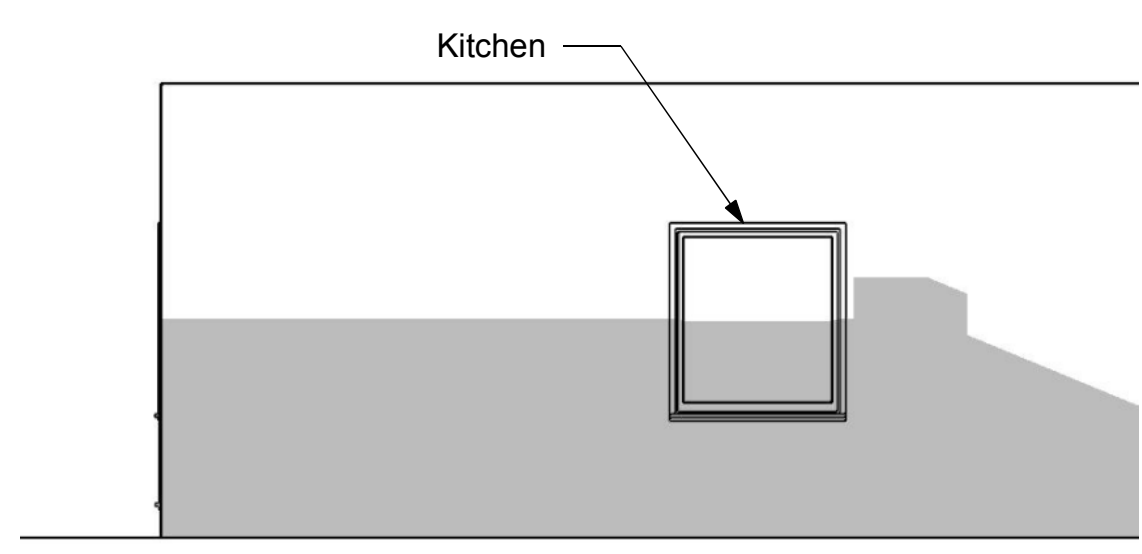
Proposed West Wall



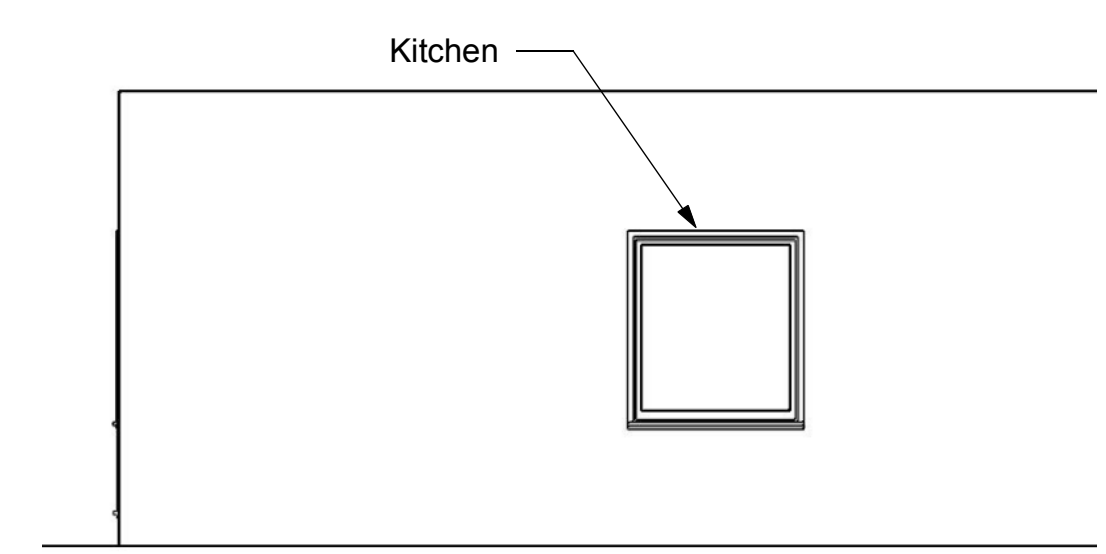
Proposed North Wall



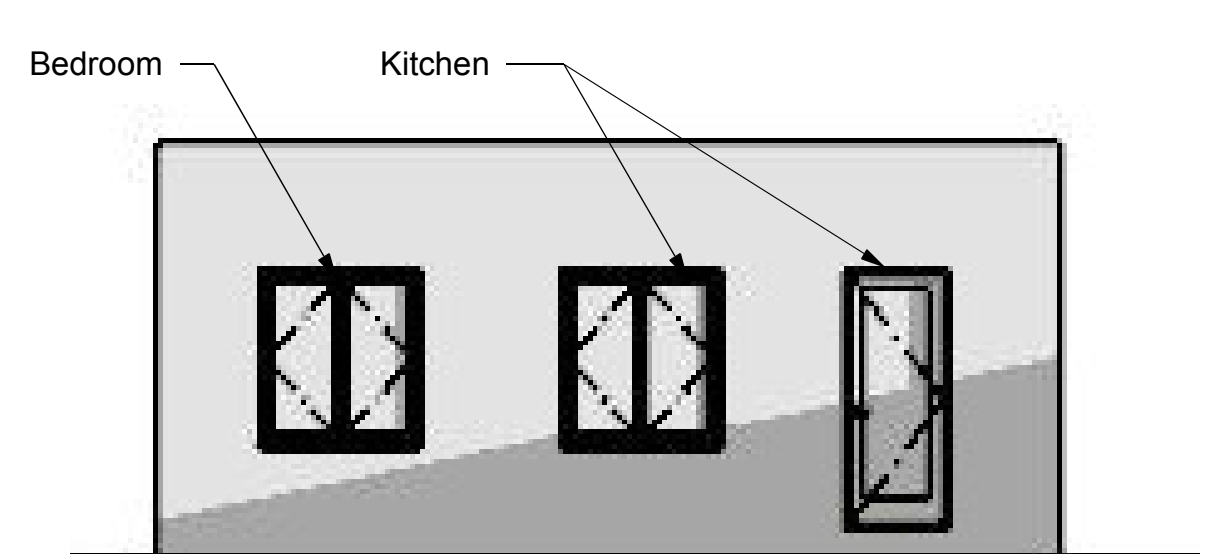
Proposed North Wall



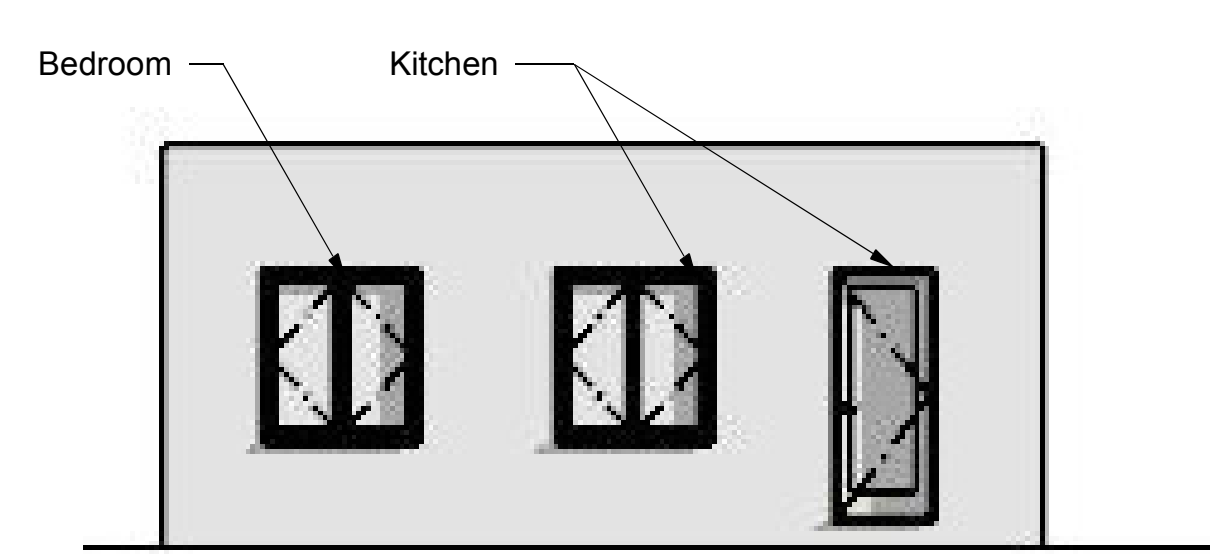
Existing West Wall



Existing West Wall



Existing North Wall



Existing North Wall

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

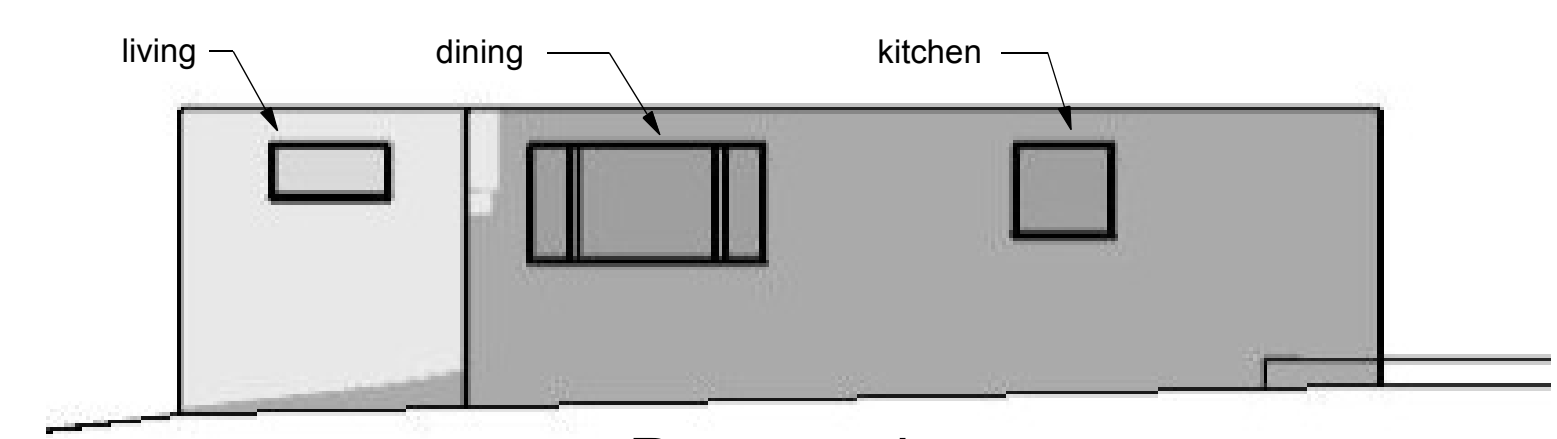
**6-21-2021 / 5:00 pm**

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

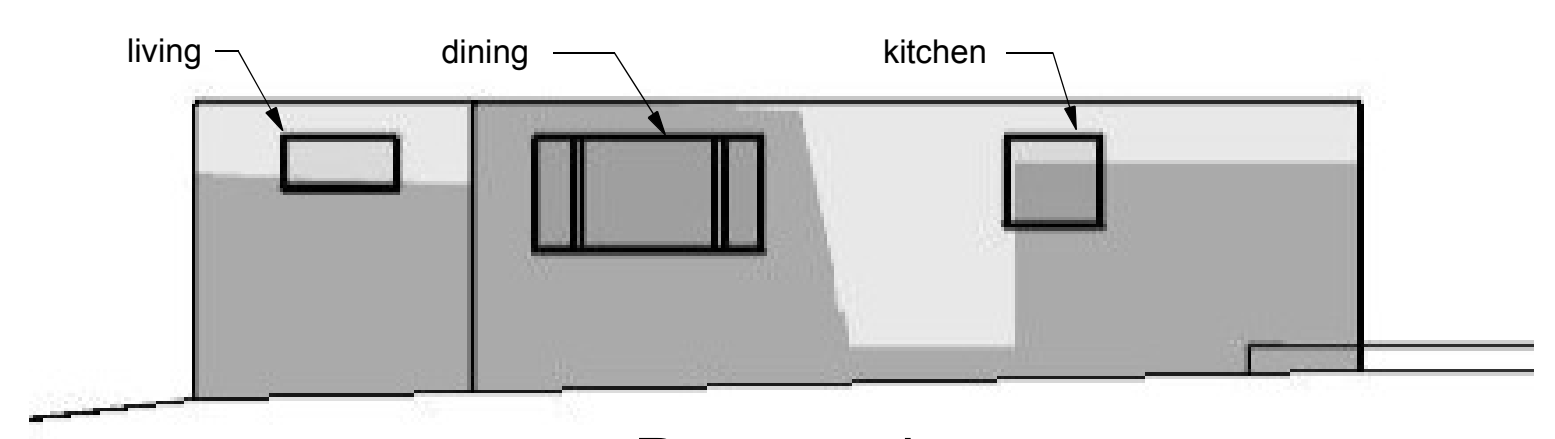
**6-21-2021 / 5:00 pm**

**1609 Virginia St. Shadow Impact Study**

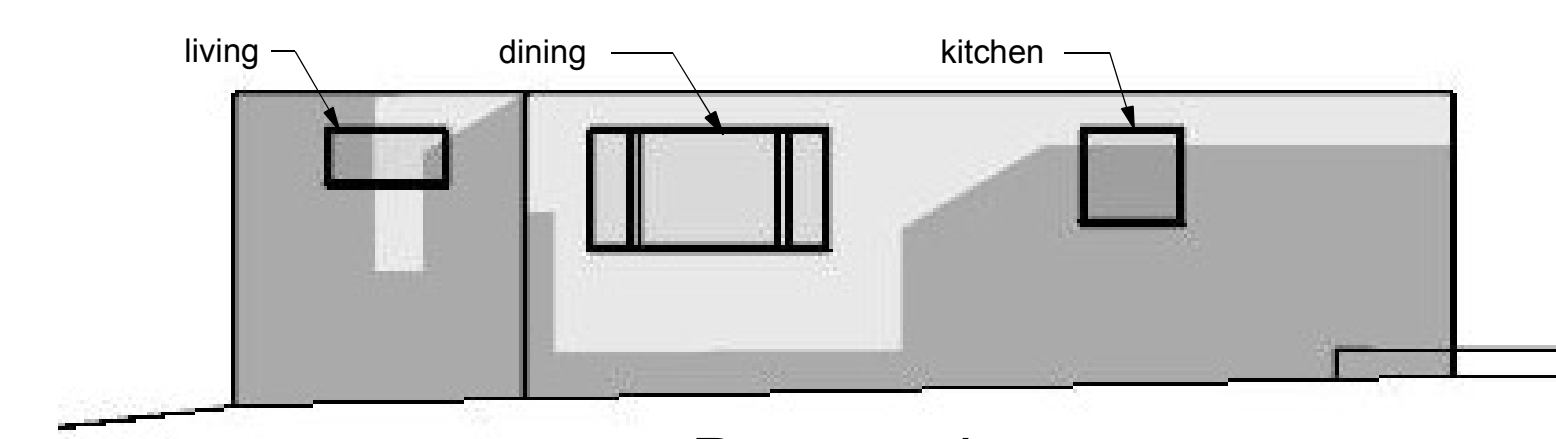
Sheet Contents:  
 Shadows Studies



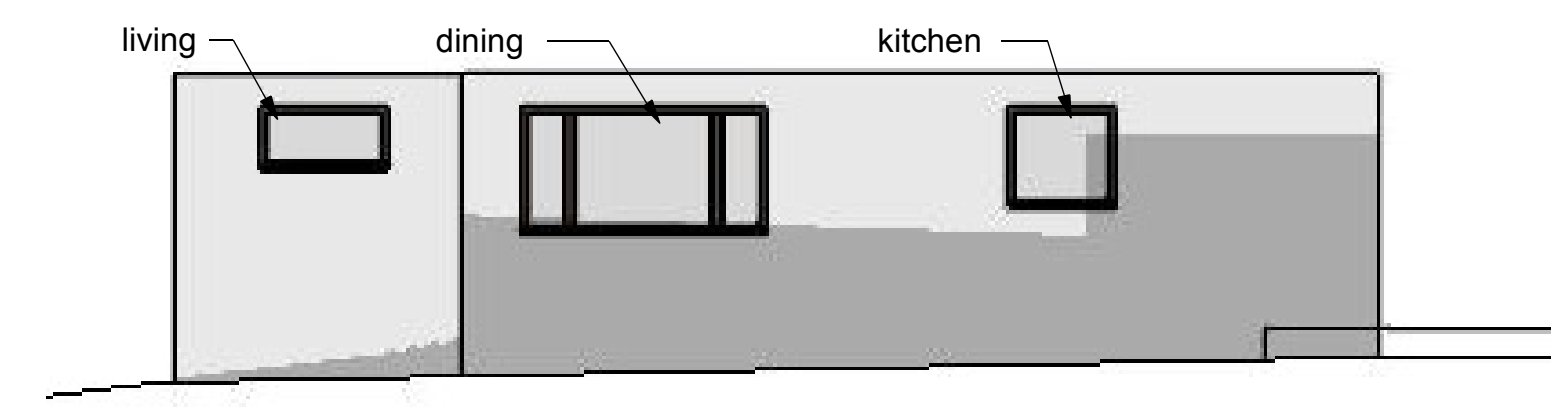
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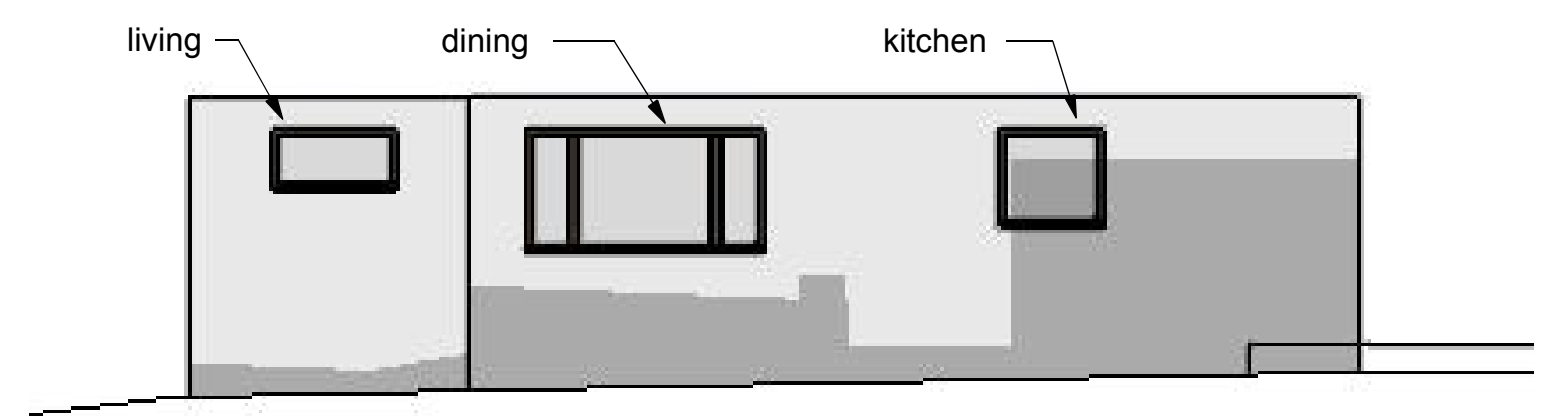
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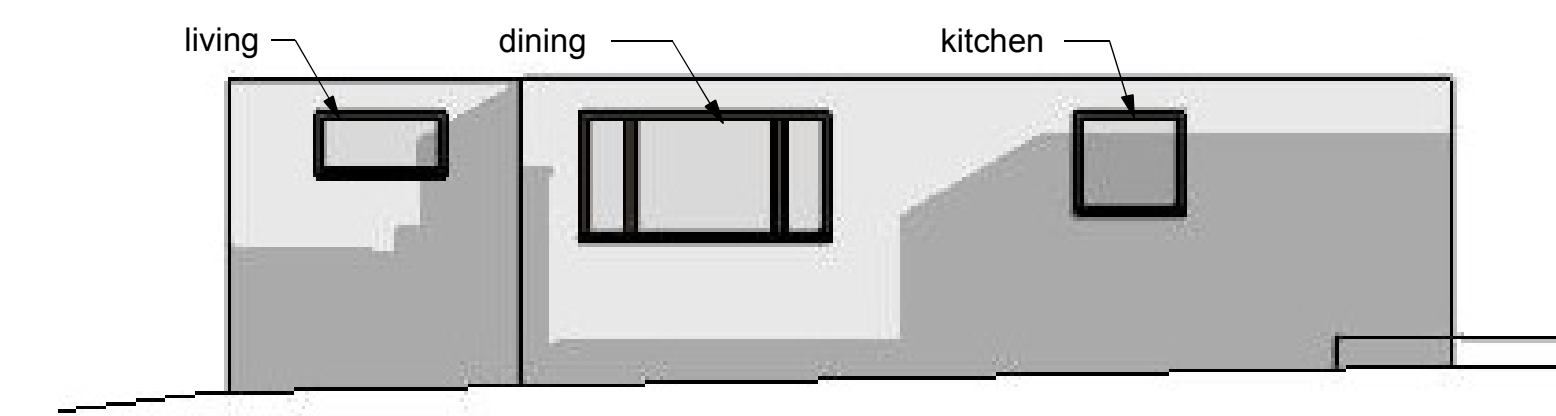
Proposed



Existing



Existing



Existing

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

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

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

**1639 California St. Shadow Impact Study**

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Project No: 20-13-420

Drawn By: SSG

Checked By: SSG

Scale: NTS

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



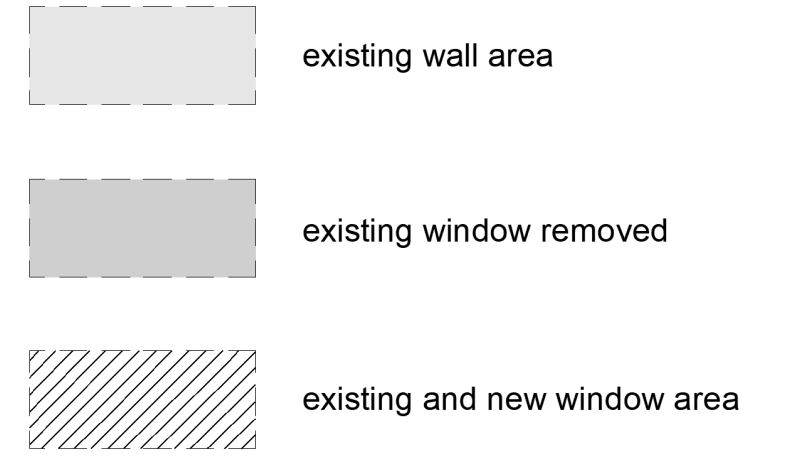
**PLANS APPROVED BY ZONING ADJUSTMENTS BOARD**

*[Signature]*  
 SIGNATURE

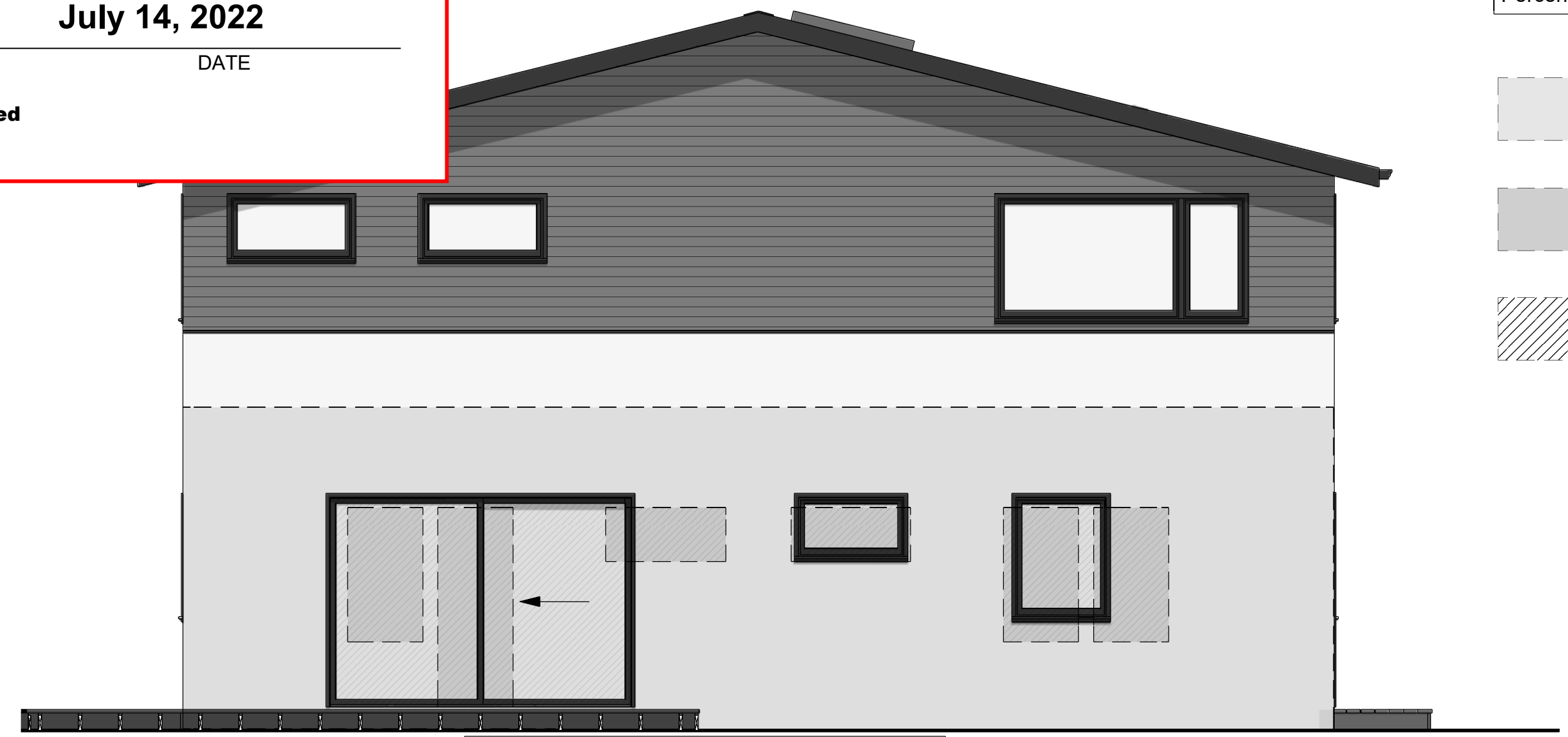
July 14, 2022  
 DATE

\* Findings and Conditions Attached

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



4 Proposed South Elevation - Right Side



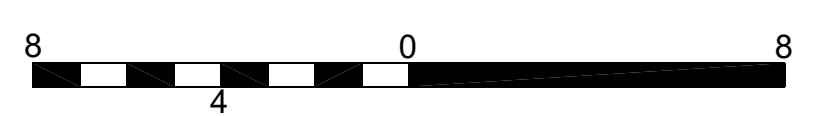
3 Proposed East Elevation - Rear



2 Proposed North Elevation - Left Side



1 Proposed West Elevation - Front



**studio g+s ARCHITECTS**

2223 Fifth St.  
 Berkeley, CA 94710  
 Ph: 510.548.7448  
 info@sgsarch.com  
 www.sgsarch.com



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

Sheet Contents:  
 Demolition Diagram

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Project No:  
 20-13-420

Drawn By:  
 SSG

Checked By:  
 SSG

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

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

CITY OF BERKELEY - CITY CLERK  
2022 AUG 2 PM2:37

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

To: The Berkeley City Council

Re: ZAB decision to approve ZP2021-0001

We are filing this appeal for the below reasons:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

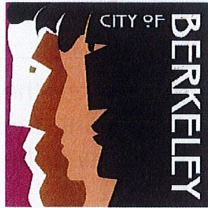
We request this permit condition in part because of a precedent with this very same architect in Berkeley having made concessions to planning and neighbors to obtain a building permit and then immediately proceeding to request and obtain post-permit modifications undoing those concessions (this was brought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

Thank you for your consideration,

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

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

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



City Clerk Department

August 23, 2022

Adam Safir  
1609 Virginia St  
Berkeley, CA 94703

RE: 1643 & 1647 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Dear Appellant:

This will acknowledge receipt of your appeal of the Zoning Adjustments Board decision of July 14, 2022, approving the following permits:

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

Your appeal has been referred to the Planning Department.

The Planning Department will transmit to Council a statement setting forth the reasons for the Zoning Adjustments Board decision. This report, as well as a copy of the appeal, will appear on the Council agenda of **November 3, 2022**.

**This meeting of the Council will commence at 6:00 p.m. and will be held in the School District Board Room located at 1231 Addison Street. However, depending on future conditions, this meeting may be held exclusively through videoconference and teleconference to ensure the health and safety of the public.**

Pursuant to the City Council Rules of Procedure, this appeal will appear on the City Council's agenda as a public hearing. Time shall be provided for five-minute presentations each by the appellant and applicant. Where the appellant is not the

applicant, the appellants collectively shall have five minutes to comment and the applicant shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment.

After the conclusion of the five-minute comment periods, members of the public may comment on the appeal pursuant to the Rules of Procedure in effect for the Council meeting.

The Council will then deliberate and determine to do one of three things: 1) continue the public hearing; 2) based on the record of the Council's consideration and hearing, reverse or affirm, wholly or partly, or modify any decision, determination, condition or requirement of the Board's original action; or 3) remand the matter to the Board to reconsider the application, or any revisions thereto submitted after the Board's action.

Communications to the City Council that are received by the City Clerk pursuant to the following deadlines will be accepted and distributed as follows:

Submission Deadline	Distributed	Packet
October 17, 2022, by 5:00 p.m. (Monday)	Fourteen days before the meeting (Thursday)	Agenda Packet
October 25, 2022, by 5:00 p.m. (Tuesday)	Seven days before the meeting (Thursday)	Supplemental 1
November 2, 2022, 12:00 p.m. (Wednesday)	By 5:00 pm the day before the meeting (Wednesday)	Supplemental 2

Communications should be submitted directly to the City Clerk to ensure receipt by all Councilmembers. Electronic communications may be submitted to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) for immediate distribution to the Mayor, each City Councilmember, and the City Clerk for inclusion in the official record. Please note that for communications submitted in hardcopy, if the communication includes maps or photos or any other material not reproducible on a copy machine, fifteen copies should be provided to the City Clerk.

Please note that Berkeley's Lobbyist Registration Act (Berkeley Municipal Code Chapter 2.09) is effective beginning on January 1, 2020. Information and resources regarding the Lobbyist Registration Act are available from the City's website at: [https://www.cityofberkeley.info/Clerk/Home/Lobbyist\\_Registration\\_Act.aspx](https://www.cityofberkeley.info/Clerk/Home/Lobbyist_Registration_Act.aspx)

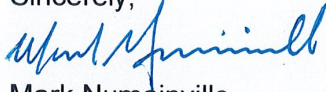
If you have any additional questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

A copy of the staff report and a City Council agenda will be available from this office upon request after 4:00 p.m. on Thursday, October 20, 2022 or can be viewed on our website at: [www.CityofBerkeley.info/CityCouncil](http://www.CityofBerkeley.info/CityCouncil).

RE: 1643 & 1647 California Street – Appeal ZAB Decision Use Permit #ZP2021-0001

Page 3

Sincerely,



Mark Numainville  
City Clerk

cc: Jordan Klein, Director of Planning  
Steven Buckley, Land Use Planning Manager  
Allison Riemer, Staff Planner  
Farimah Brown, City Attorney  
Sundeep Grewal, Studio G+S Architects (Applicant)  
Ido and Tamar Oppenheimer (Owner)  
Adam Safir and Anna Cederstav (Interested Party)  
Kay Bristol (Interested Party)

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City 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) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) 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.