

Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT #UP2013-0029

Property Address: **2124 EIGHTH STREET**

Permittee Name: **TASHI NAMLING**

Use and/or Construction Permitted:

to create a new dwelling unit on the ground floor of an existing two-story, single-family dwelling, increase the number of “bedrooms” on the parcel to seven, create a new window within the non-conforming north side yard, and enlarge an existing window, create a new window and lower the ground floor level within the non-conforming front yard.

- Use Permit to create a new dwelling unit, under BMC Section 23D.20.030.A;
- Use Permit to increase the number of “bedrooms” (as defined in BMC 13.42.020) on the parcel to seven, under BMC Section 23D.20.050; and
- Administrative Use Permit to create a new window within the non-conforming north side yard, and enlarge an existing window, create a new window and lower the ground floor level within the nonconforming front yard, under BMC Section 23C.04.070.B

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on March 7, 2014.

ATTACHMENT 1

FINDINGS AND CONDITIONS

FEBRUARY 13, 2014

2124 Eighth Street

Use Permit #2013-0029 to create a new dwelling unit on the ground floor of an existing two-story, single-family dwelling, increase the number of “bedrooms” on the parcel to seven, create a new window within the non-conforming north side yard, and enlarge an existing window, create a new window and lower the ground floor level within the non-conforming front yard

Zoning Permits Required:

- Use Permit to create a new dwelling unit, under BMC Section 23D.20.030.A;
- Use Permit to create up to seven “bedrooms” (as defined in BMC 13.42.020) on a parcel, under BMC Section 23D.20.050; and
- Administrative Use Permit to create a new window within the non-conforming north side yard, and enlarge an existing window, create a new window and lower the ground floor level within the nonconforming front yard, under BMC Section 23C.04.070.B.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”). 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 will not adversely affect any historical resource.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project, 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, for the following reasons:
 - A. The R-1A District allows up to two dwelling units on properties with at least 4,500 square feet of lot area. This project conforms to this standard, as well as all other applicable standards such as off-street parking and usable open space. The project involves new/enlarged windows within the existing, lawfully non-conforming setbacks on the front and north side, but these occur at the ground level and therefore would not adversely impact the privacy of adjoining properties. The

proposed excavation within the front setback would not be visible from the exterior and therefore would not have any detrimental impacts.

- B. Because the proposed exterior changes to the building are relatively minor and occur primarily at the lower story, the project would not have any detrimental impacts related to increased mass and bulk, loss of privacy, or architectural character.
- C. The increased density at the site is consistent with the existing character of the neighborhood, which includes several multi-unit properties, including large apartment buildings.
- D. The project provides adequate off-street parking, and abundant open space, and therefore would not have any detrimental impacts related to these issues.
- E. The addition of three bedrooms would not have detrimental impacts on the neighborhood, because the proposed floor plan is that of a typical dwelling unit designed to be occupied by a single household, and does not indicate any intent to rent each bedroom separately.
- F. The project is consistent with applicable policies of the General Plan and West Berkeley Plan.
- G. The project would create additional residential density in an area relatively well-served by public transit. The site is located within walking distance of AC Transit bus lines on San Pablo Avenue, University Avenue and Sixth Street.
- H. The project would create an additional dwelling unit to help meet the City's housing production goals.
- I. Based on its GreenPoint Rated checklist, the project would achieve a relatively high green building score for such a small project. Re-use of the existing building, and creation of a new dwelling unit in an existing urbanized setting, are also inherently sustainable practices, as opposed to new construction on previous undeveloped sites.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first 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 approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

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.56.020.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. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided that such variation does not increase a structure's height, reduce the minimum distance to any property line, and/or conflict with any special objective sought by the Board.

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

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

6. Subject to all City and Other Regulations (Section 23B.56.040)

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

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. The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS OF APPROVAL

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

Prior to Issuance of Any Building Permit

- 10.** Plans submitted for building permit shall include removal of concrete within curbside planting strip in front of subject property (per BMC Section 12.44.040), and planting of new street trees, as directed by the City Forester.
- 11.** Plans submitted for building permit shall include landscape plans showing that: (1) at least 40% of the total area required as usable open space shall be a landscaped area; (2) all landscaped areas shall incorporate automatic irrigation and drainage facilities

adequate to assure healthy growing conditions for plants; (3) all areas of the lot which do not qualify as usable open space and which are not designated as driveways, off-street parking spaces or required walkways, shall be retained as landscaped areas.

12. Prior to applying for a building permit, the applicant shall file an "Address Assignment Request Application" with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to the applicant's submittal of a building permit application.
13. Prior to issuance of a building permit, the applicant shall complete and submit an updated *Draft GreenPoint Checklist* to the project planner with comments on any revisions to the project that affect the project's green building score.
14. Prior to issuance of a building permit, the applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.

Noise Management Individual _____
Name Phone #

15. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:
 - Alterations, closures, or blockages to sidewalks or pedestrian paths
 - Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
 - Storage of building materials, dumpsters, debris anywhere in the public ROW
 - Provision of exclusive contractor parking on-street
 - Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

During Construction:

16. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), 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.
17. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
18. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
19. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
20. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
21. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
22. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
23. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
24. The applicant shall 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.

Prior to Final Inspection or Issuance of Occupancy Permit:

25. The project shall conform to the plans and statements in the Use Permit.
26. All landscape, site and architectural improvements shall be completed per the attached approved drawings received January 28, 2014.

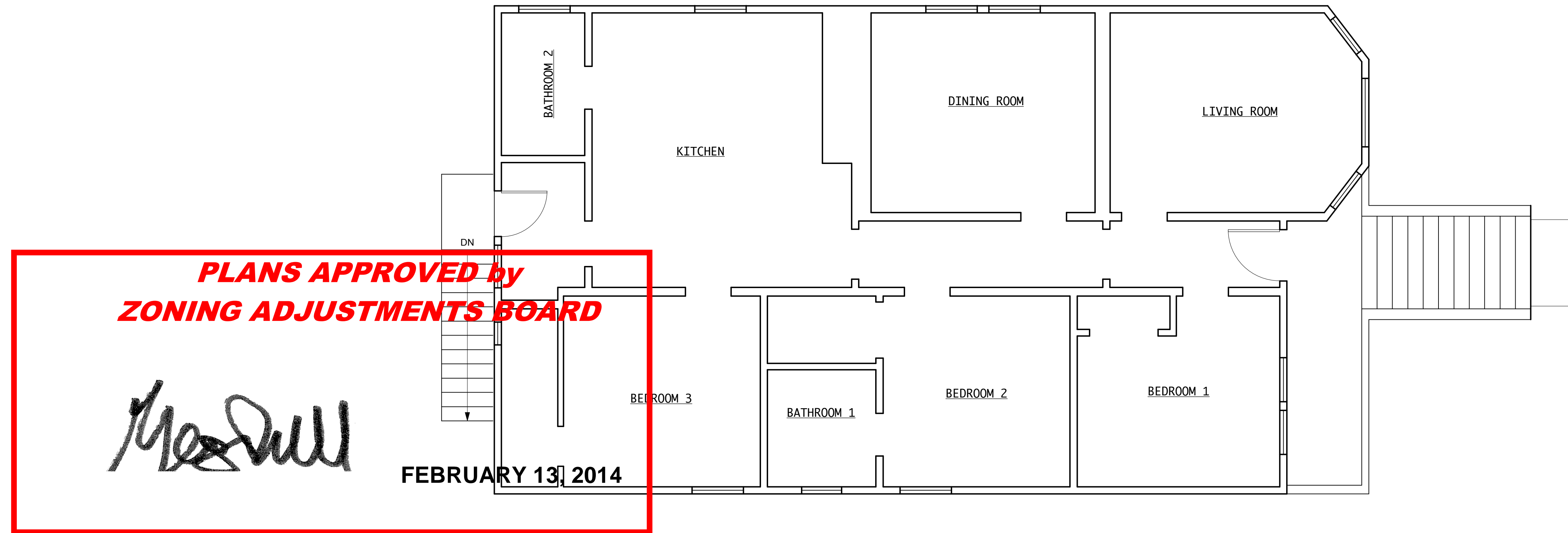
- 27.** Prior to issuance of an occupancy permit or final inspection approval, the applicant shall update, sign, and submit an *As-Built GreenPoint Checklist* reflecting final as-built conditions, including the total green building score, to the project planner.

At All Times:

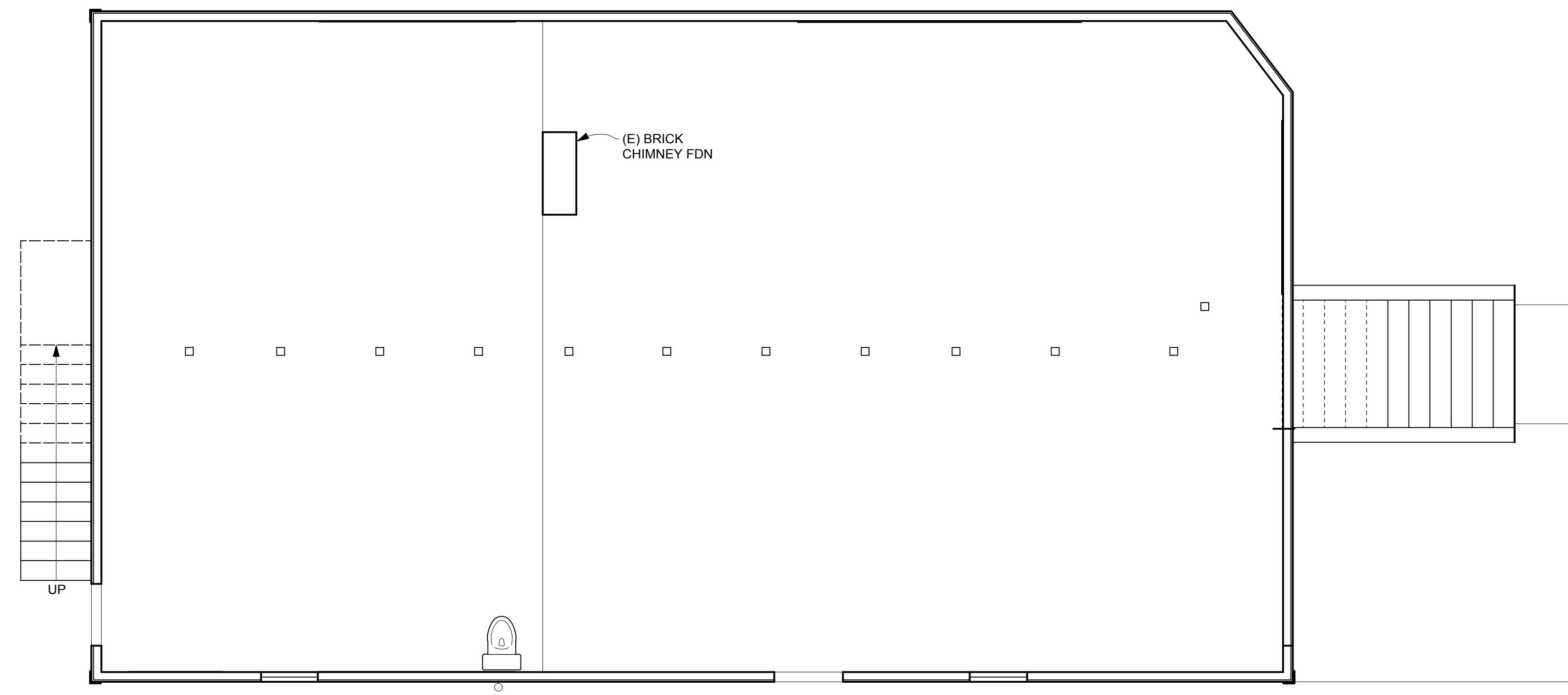
- 28.** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
- 29.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
- 30.** Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and/or Landmarks Preservation Commission approval.
- 31.** The bedrooms on the subject property shall not be rented separately, except in accordance with BMC Section 23C.20.010.A.



ARCHITECT:
SARAH DEEDS
1429 CHANNING WAY
BERKELEY, CA
94702
510-649-1365



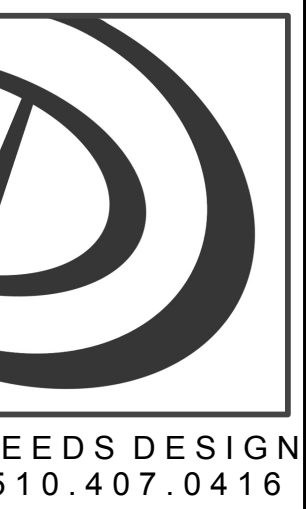
1 Existing Main Floor (Upper)
Scale: 1/4" = 1'-0"



2 Existing Lower Unfinished Floor
Scale: 1/4" = 1'-0"

NAMLING RESIDENCE CONVERSION TO DUPLEX
2124 8TH STREET
BERKELEY, CALIFORNIA, 94710

JUNE 22, 2013



ARCHITECT:
SARAH DEEDS
1429 CHANNING WAY
BERKELEY, CA
94702
510-649-1365

PLANS APPROVED by
ZONING ADJUSTMENTS BOARD

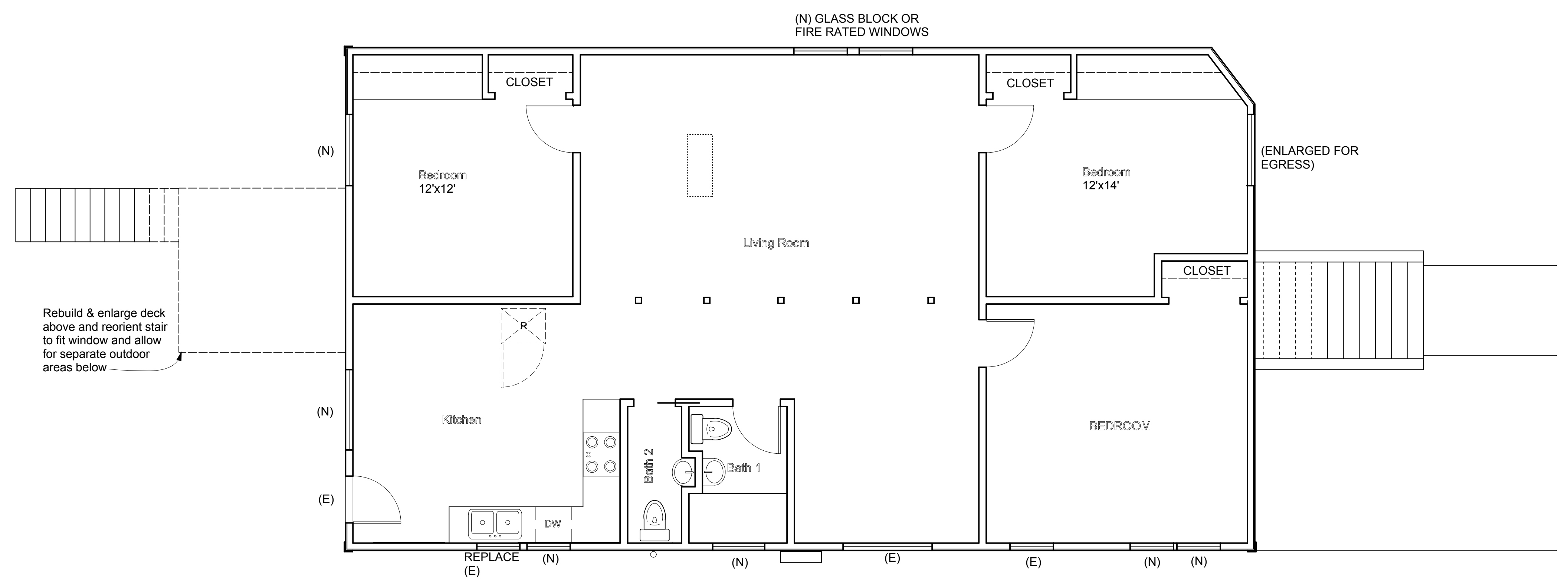


FEBRUARY 13, 2014

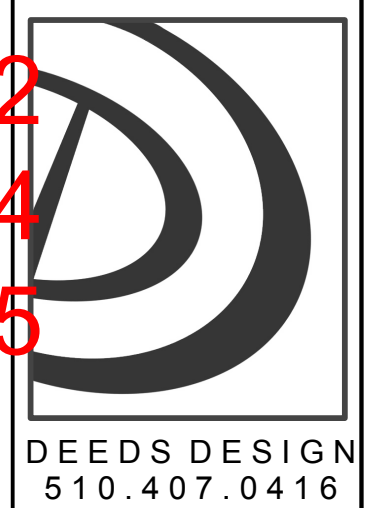
NAMLING RESIDENCE CONVERSION TO DUPLEX
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JUNE 22, 2013

3



3 Proposed Lower Floor Plan with New Unit
Scale: 1/4" = 1'-0"



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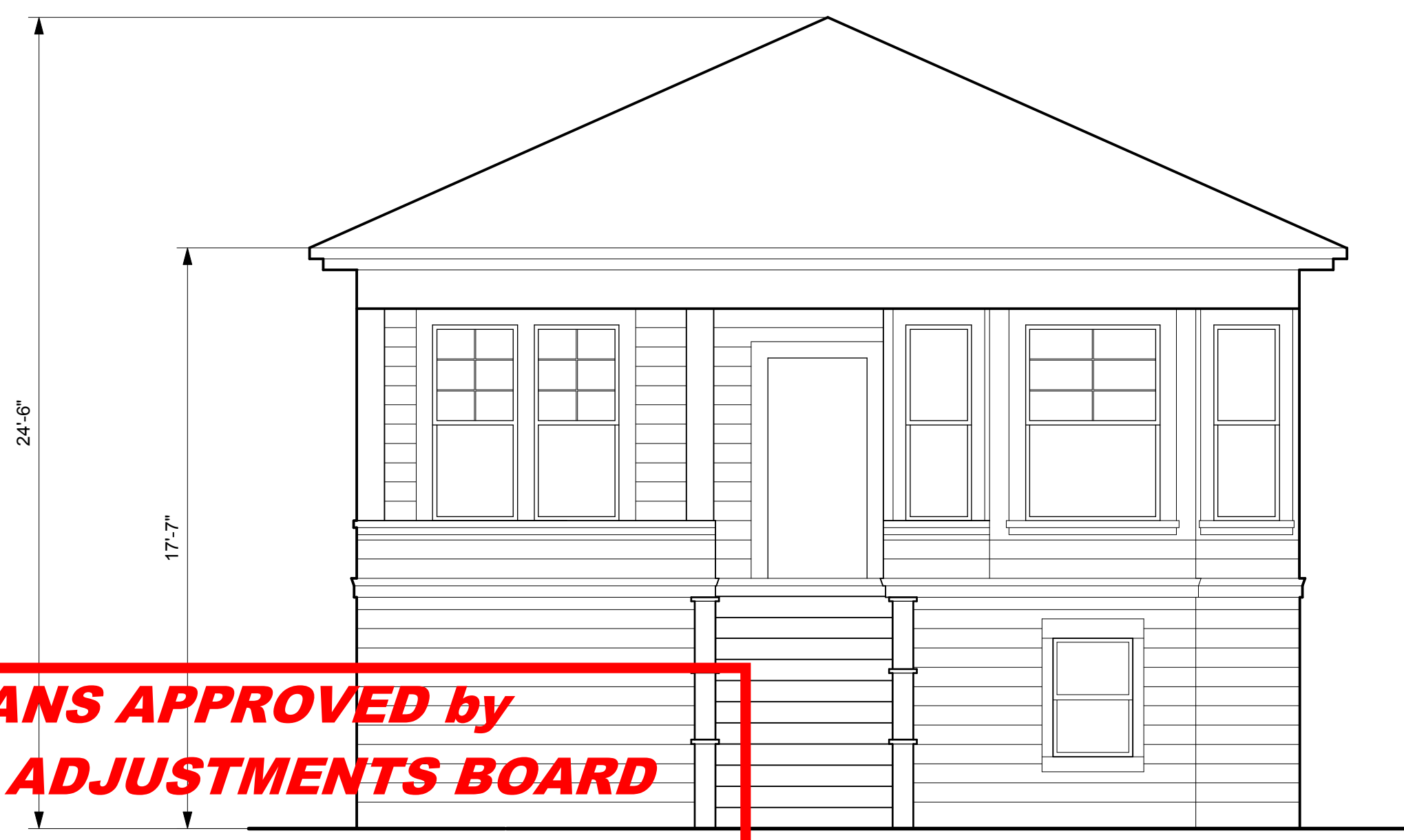
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JUNE 22, 2013

4



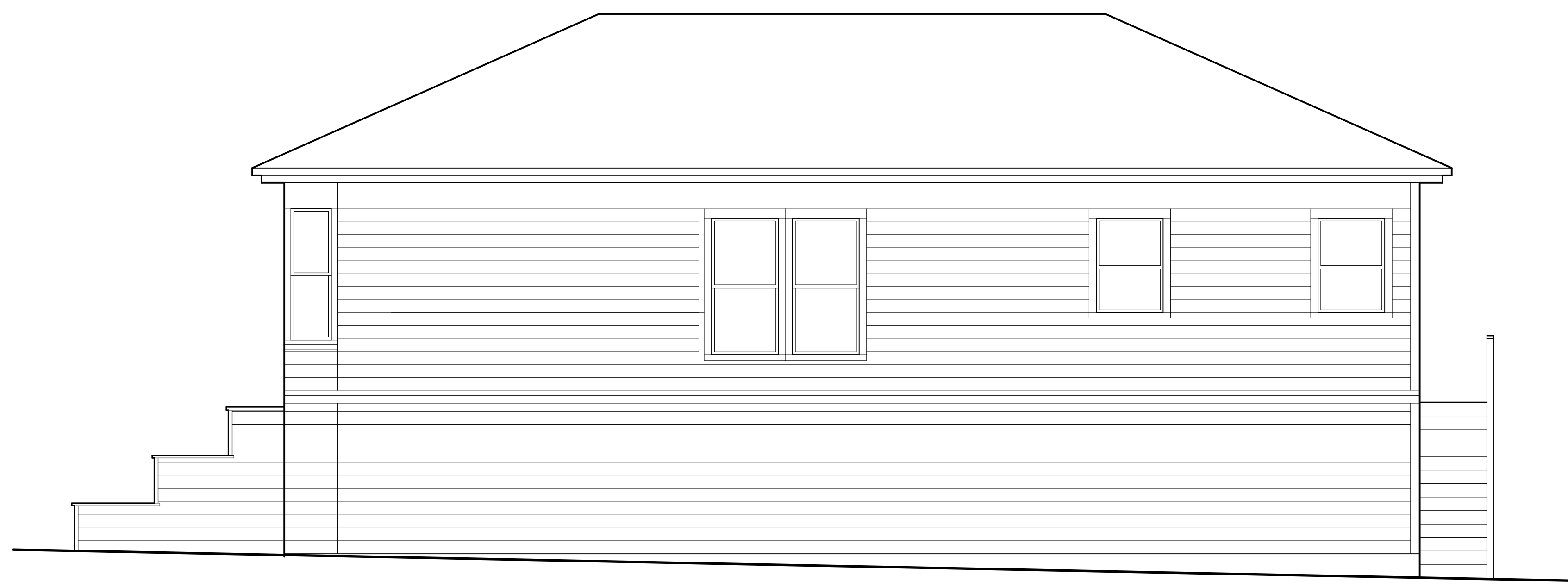
2 EXISTING SOUTH SIDE ELEVATION
Scale: 1/4" = 1'-0"



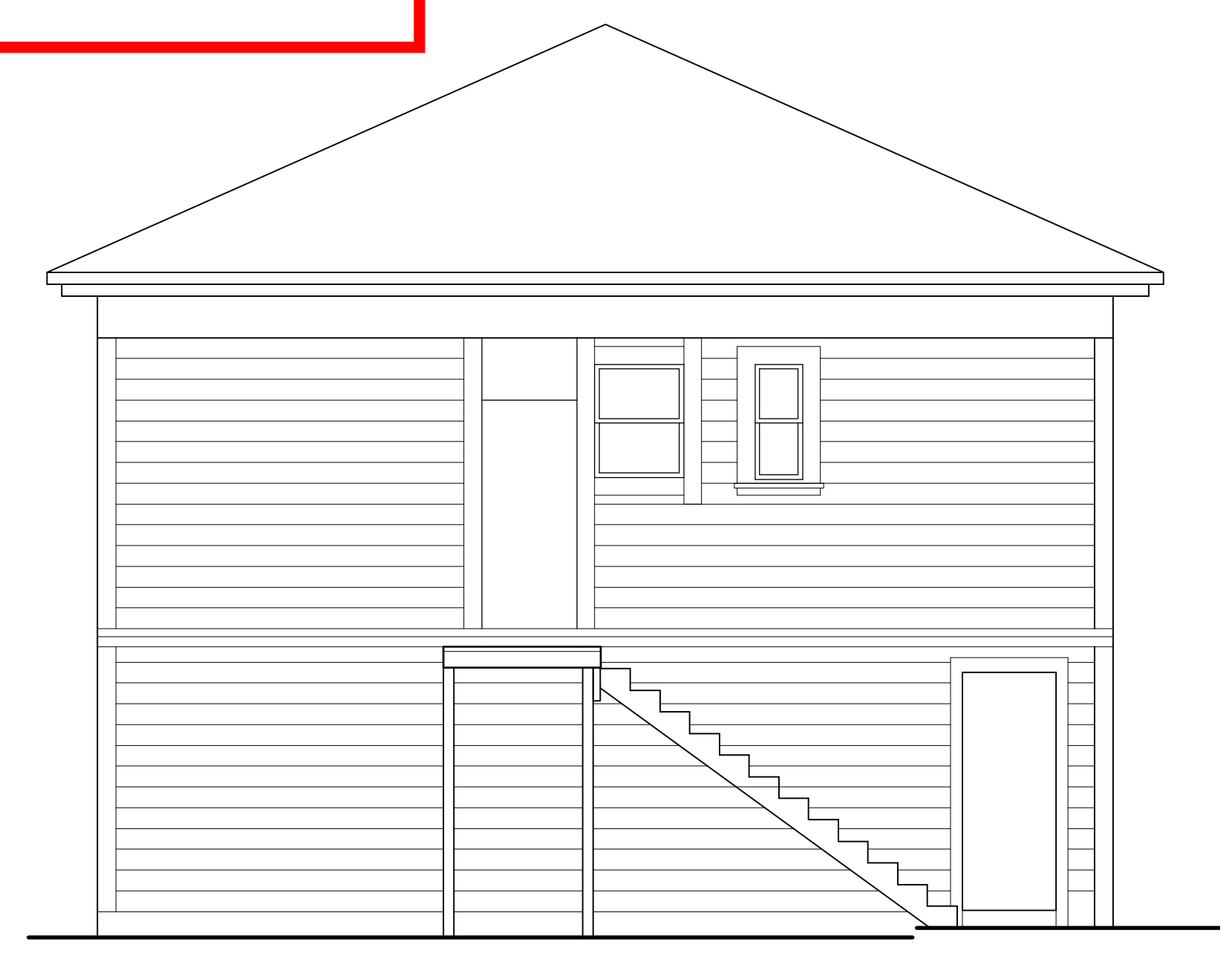
1 EXISTING FRONT ELEVATION
Scale: 1/4" = 1'-0"

**PLANS APPROVED by
ZONING ADJUSTMENTS BOARD**

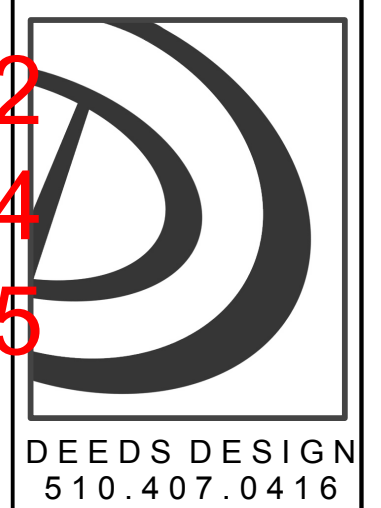
Sarah Deeds
FEBRUARY 13, 2014



4 EXISTING NORTH SIDE ELEVATION
Scale: 1/4" = 1'-0"



3 EXISTING REAR ELEVATION
Scale: 1/4" = 1'-0"



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BERKELEY, CA
94702
510-649-1365

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BERKELEY, CALIFORNIA, 94710

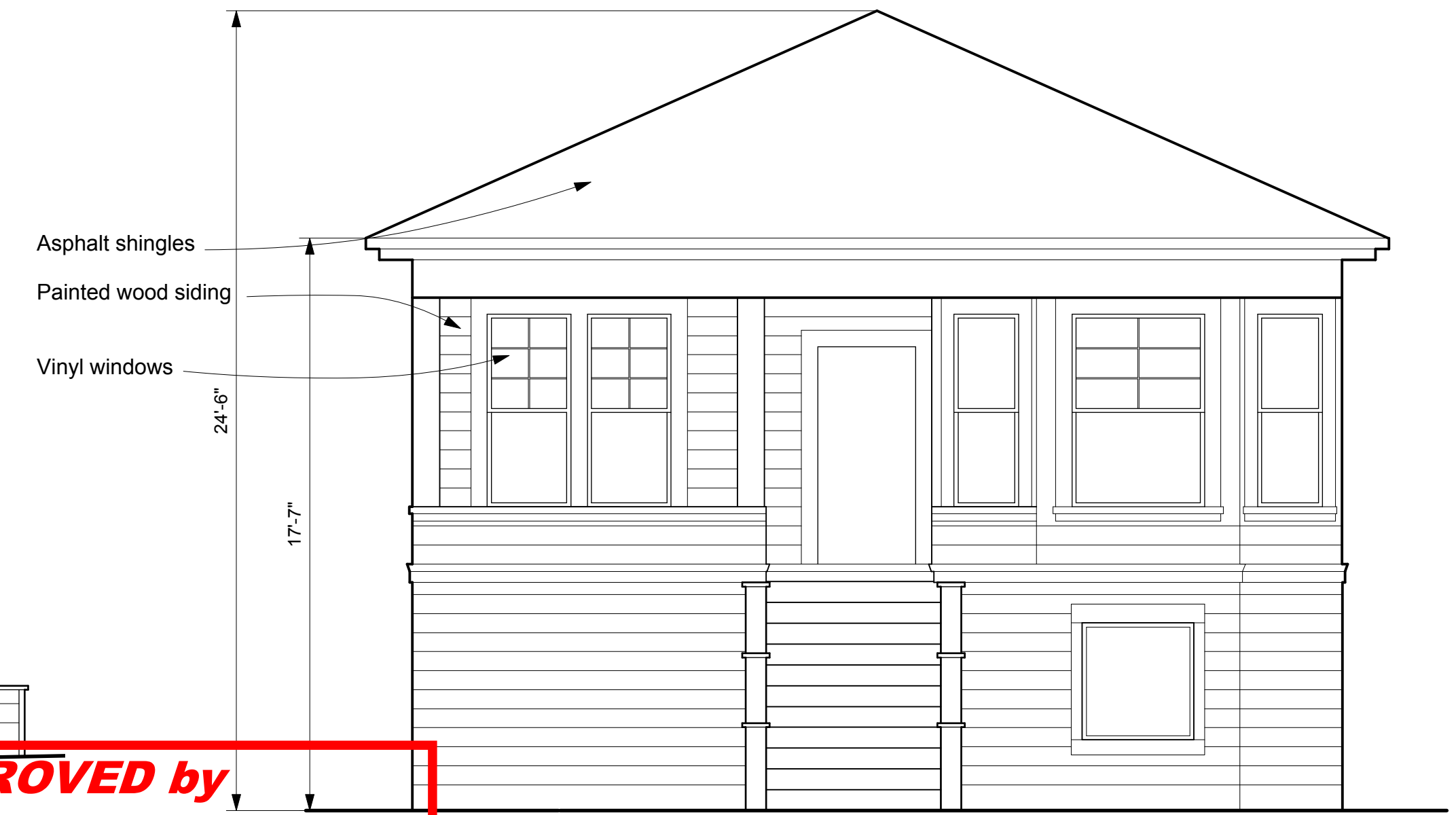
JUNE 22, 2013

5



(N) Windows and trim to match existing (typ)

2 Proposed South Side Elevation
Scale: 1/4" = 1'-0"




Asphalt shingles
Painted wood siding
Vinyl windows

24'-6"
17'-7"

1 Proposed Front Elevation
Scale: 1/4" = 1'-0"

PLANS APPROVED by
ZONING ADJUSTMENTS BOARD



FEBRUARY 13, 2014



4 Proposed North Side Elevation
Scale: 1/4" = 1'-0"



3 Proposed Rear Elevation
Scale: 1/4" = 1'-0"