



CONTRA COSTA COUNTY

AGENDA

Kensington Municipal Advisory Council

Wednesday, July 29, 2026

7:00 PM

59 Arlington Avenue, Kensington CA
and Zoom ID 834 5907 8230 Pass Code:
472807

Agenda Items: Items may be taken out of order based on the business of the day and preference of the Committee

1. Roll Call and Introductions

Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to two minutes).

2. Approval of Minutes for June 24, 2026

Approval of Minutes

[26-3044](#)

Attachments: [Approval.Minutes.06.24.26](#)

3. Planning Application Hearing CDDP24-03006

Planning Application CDDP24-03006 215 YALE AVE

[26-3045](#)

Attachments: [CDDP24-03006.215Yale. PlanningApplicationPacket KMac 6.29.26](#)

4. Tree Claim Hearing CDPC 25-00014

Tree Claim Hearing

[26-3046](#)

Attachments: [Updated.Evidence.Tree.Claim. Hearing Statement 260520](#)

The next meeting is currently scheduled for August 26, 2026

5. Adjourn

The Committee will provide reasonable accommodations for persons with disabilities planning to attend the Committee meetings. Contact the staff person listed below at least 72 hours before the meeting. Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Committee less than 96 hours prior to that meeting are available for public inspection at Kensington Community Center 59 Arlington, Ave Kensington, CA 94707 during normal business hours. Staff reports related to items on the agenda are also accessible online at www.contracosta.ca.gov. If the Zoom connection malfunctions for any reason, the meeting may be paused while a fix is attempted. If the connection is not reestablished, the committee will continue the meeting in person without remote access. Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.

For Additional Information Contact: Joanna.steen@bos.cccounty.us



CONTRA COSTA COUNTY

1025 ESCOBAR STREET
MARTINEZ, CA 94553

Staff Report

File #: 26-3044

Agenda Date: 7/29/2026

Agenda #:

Advisory Board: Kensington Municipal Advisory Council

Subject: Approval of Minutes

Presenter:

Contact:

Information: Approval of minutes for June 24, 2026

Referral History and Update:

Recommendation(s)/Next Step(s):

KENSINGTON MUNICIPAL ADVISORY COUNCIL MEETING NOTES – June 24, 2026

Location: Kensington Library, 61 Arlington Ave. and remotely via Zoom / telephone
Date: Wednesday, June 24, 2026 7PM

This meeting was recorded: <https://youtu.be/KEfOvDjKjDk?si=5jnm47O-PZfxlWFg>

1. Roll Call

Present: Ben Barry, Adam Novickas, David Peterson, Chris Brydon
Absent: Dahlia Frydman.

2. Citizens' Comments

3. Approval of Meeting Notes from April 29, 2026 (unanimous)

4. **KMAC approved CDDP26-03014 645 Coventry, Kensington, CA** The applicant requested approval of a Development Plan and Kensington Design Review for a residential addition yielding a gross floor area of approximately 3,200 square feet where 2,600 square feet is the gross floor area threshold for a public hearing. Interior remodel includes rearrangement of existing kitchen, new windows/ doors, a reroof and a 46 sq ft addition, and new rear deck. The KMAC advisory team reviewed the plans and determined they were both clear and straightforward. Additionally, the process revealed no conflicts within the community, nor did any neighbor's express concerns. Project Location: **(Address: 645 COVENTRY RD, KENSINGTON, CA 94707 131), (APN:571170007) KMAC Approved 4-0**

5. Motion to adjourn at 7:18p.m. by Barry; Unanimous.



CONTRA COSTA COUNTY

1025 ESCOBAR STREET
MARTINEZ, CA 94553

Staff Report

File #: 26-3045

Agenda Date: 7/29/2026

Agenda #:

Advisory Board: Kensington Municipal Advisory Council

Subject: CDDP24-03006 215 YALE AVE

Presenter: Applicant

Contact: Joanna.steen@bos.cccounty.us <<mailto:Joanna.steen@bos.cccounty.us>>

Information:

CDDP24-03006 215 YALE AVE The applicant requests approval of a Kensington Design Review Development Plan application for the construction of an approximately 610 sq. ft. addition to an existing single-family residence that was previously damaged by fire with a variance for a 2' 3.75" front yard (where 20 feet is required) for a 42" glass railing on top of an existing detached garage. The project includes an approximately 37 sq. ft. lower level addition and an approximately 574 sq. ft. addition at the rear of the upper level for a total gross floor area of 2,487 square feet. The project also includes conversion of the existing pitched roof to a flat roof which will raise the total height of the residence by 0.27 inches, new window and door locations and a new stucco exterior facade. Project Location: **(Address: 215 YALE AVE, KENSINGTON, CA 947081013), (APN: 570041004)**

Referral History and Update:

Recommendation(s)/Next Step(s):



AGENCY COMMENT REQUEST

Date June 29, 2026

We request your comments regarding the attached application currently under review.

DISTRIBUTION

INTERNAL

Building Inspection	Grading Inspection
Advance Planning	Housing Programs
Trans. Planning	Telecom Planner
ALUC Staff	HCP/NCCP Staff
APC PW Staff	County Geologist

HEALTH SERVICES DEPARTMENT

Environmental Health	Hazardous Materials
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PUBLIC WORKS DEPARTMENT

Engineering Services (1 Full-size + 3 email Contacts)

Traffic

Flood Control (Full-size)	Special Districts
---------------------------	-------------------

LOCAL

Fire District _____

San Ramon Valley – (email) rwendel@srvfire.ca.gov

Consolidated – (email) fire@cccfd.org

East CCC – (email) brodriguez@cccfd.org

Sanitary District _____

Water District _____

City of _____

School District(s) _____

LAFCO

Reclamation District # _____

East Bay Regional Park District

Diablo/Discovery Bay/Crockett CSD

☒ MAC/TAC Kensington MAC _____

Improvement/Community Association

CC Mosquito & Vector Control Dist (email)

OTHERS/NON-LOCAL

CHRIS (email only: nwic@sonoma.edu)

CA Fish and Wildlife, Region 3 – Bay Delta

Native American Tribes

ADDITIONAL RECIPIENTS

District 1, Attn: Joanna Steen

Please submit your comments to:

Project Planner Grant Farrington

Phone # 925-655-2868

E-mail Grant.Farrington@dcd.cccounty.us

County File # CDDP24-03006

Prior to August 1, 2026

We have found the following special programs apply to this application:

☒ Active Fault Zone (Alquist-Priolo)

Flood Hazard Area, Panel # _____

60-dBA Noise Control

CA EPA Hazardous Waste Site

High or Very High FHSZ

AGENCIES: Please indicate the applicable code section for any recommendation required by law or ordinance. Please send copies of your response to the Applicant and Owner.

Comments: None Below ____ Attached

Print Name _____

Signature _____ DATE _____

Agency phone # _____



CONTRA COSTA

CONSERVATION & DEVELOPMENT

Planning Application Project Summary

County File Number: CDDP24-03006

Submitted Date: 2/14/2024

Applicant: wenbai duan

Property Owner: MINGE TRE LI

Project Description:

The applicant requests approval of a Kensington Design Review Development Plan application for the construction of an approximately 610 sq. ft. addition to an existing single-family residence that was previously damaged by fire with a variance for a 2' 3.75" front yard (where 20 feet is required) for a 42" glass railing on top of an existing detached garage. The project includes an approximately 37 sq. ft. lower level addition and an approximately 574 sq. ft. addition at the rear of the upper level for a total gross floor area of 2,487 square feet. The project also includes conversion of the existing pitched roof to a flat roof which will raise the total height of the residence by 0.27 inches, new window and door locations and a new stucco exterior facade.

Project Location: (Address: 215 YALE AVE, KENSINGTON, CA 947081013), (APN: 570041004)

Additional APNs:

General Plan Designation(s): SH

Flood Hazard Areas: X

60-dBA Noise Control:

Sphere of Influence: El Cerrito

Sanitary District: STEGE SANITARY

Specific Plan:

Zoning District(s): "R-6, -TOV -K"

AP Fault Zone:

MAC/TAC:

Fire District: KENSINGTON FIRE

Housing Inventory Site: NO

POR. BLOCKS F & G, BERKELEY HIGHLANDS
STANFORD

MB 6-150

AVE.

40

03

08

AVE.

01

YALE

AVE.

PROJECT SITE

N24° 15' W

042

07

OBERLIN

AMHERST

05

AVE.

40

NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELINEATED HEREON. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT SPLIT OR BUILDING SITE ORDINANCES.

FM. 72/6 3-30-61 G.C.C.
ASSESSOR'S MAP

BOOK 570 PAGE 4

CONTRA COSTA COUNTY, CALIF. 8

Sanborn Date : 01/05/1999

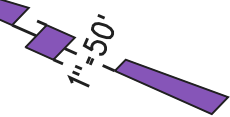
3/2/06

041

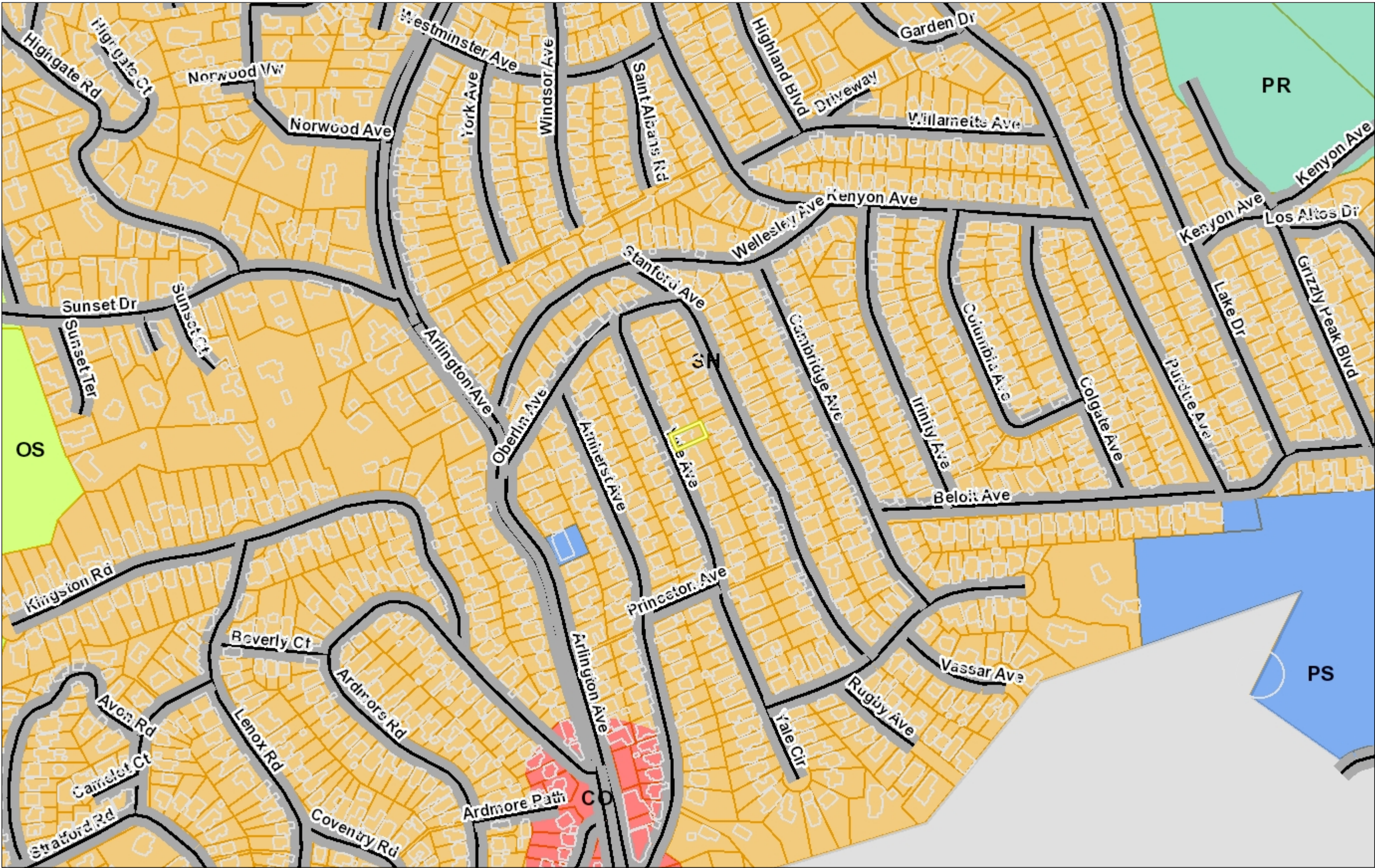
042

3/2/06

CDDP24-03006
CDKR23-00025



General Plan: Single-Family Residential-High Density (SH)



Legend

- Building Outlines
- City Limits
- Highways
- Highways Bay Area
- Streets

General Plan

- SV (Single Family Residential - Ver
- SL (Single Family Residential - Low
- SM (Single Family Residential - Me
- SH (Single Family Residential - Hig
- ML (Multiple Family Residential - Lc
- MM (Multiple Family Residential - M
- MH (Multiple Family Residential - H
- MV (Multiple Family Residential - V
- MS (Multiple Family Residential - V
- CC (Congregate Care/Senior Housi
- MO (Mobile Home)
- M-1 (Parker Avenue Mixed Use)
- M-2 (Downtown/Waterfront Rodeo I
- M-3 (Pleasant Hill BART Mixed Use
- M-4 (Willow Pass Road Mixed Use)
- M-5 (Willow Pass Road Commercia
- M-6 (Bay Point Residential Mixed U
- M-7 (Pittsburg/Bay Point BART Stai
- M-8 (Dougherty Valley Village Cent
- M-9 (Montalvin Manor Mixed Use)
- M-10 (Willow Pass Business Park M
- M-11 (Appian Way Mixed Use)
- M-12 (Triangle Area Mixed Use)
- M-13 (San Pablo Dam Road Mixed
- M-14 (Heritage Mixed Use)
- CO (Commercial)
- OF (Office)
- BP (Business Park)
- LI (Light Industry)
- HI (Heavy Industry)
- AL, OIBA (Agricultural Lands & Off
- CR (Commercial Recreation)
- ACO (Airport Commercial)

1:4,514



0.1 0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes
CDDP24-03006

Zoning: R-6 Single-Family Residential District, -TOV Tree Obstruction of Views Combining District -K Kensington Combining District



Legend

Building Outlines

City Limits

Highways

Highways Bay Area

Streets

Zoning

R-6 (Single Family Residential)

R-6, -FH -UE (Flood Hazard and A

R-6 -SD-1 (Slope Density Hillside I

R-6 -TOV -K (Tree Obstruction anc

R-6, -UE (Urban Farm Animal Excl

R-6 -X (Railroad Corridor Combinir

R-7 (Single Family Residential)

R-7 -X (Railroad Corridor Combinin

R-10 (Single Family Residential)

R-10, -UE (Urban Farm Animal Exc

R-12 (Single Family Residential)

R-15 (Single Family Residential)

R-20 (Single Family Residential)

R-20, -UE (Urban Farm Animal Exc

R-40 (Single Family Residential)

R-40, -FH -UE (Flood Hazard and A

R-40, -UE (Urban Farm Animal Exc

R-65 (Single Family Residential)

R-100 (Single Family Residential)

D-1 (Two Family Residential)

D-1 -T (Transitional Combining Dist

D-1, -UE (Urban Farm Animal Excl

M-12 (Multiple Family Residential)

M-12 -FH (Flood Hazard Combining

M-17 (Multiple Family Residential)

M-29 (Multiple Family Residential)

F-R (Forestry Recreational)

F-R -FH (Flood Hazard Combining I

F-1 (Water Recreational)

F-1 -FH (Flood Hazard Combining I

A-2 (General Agriculture)

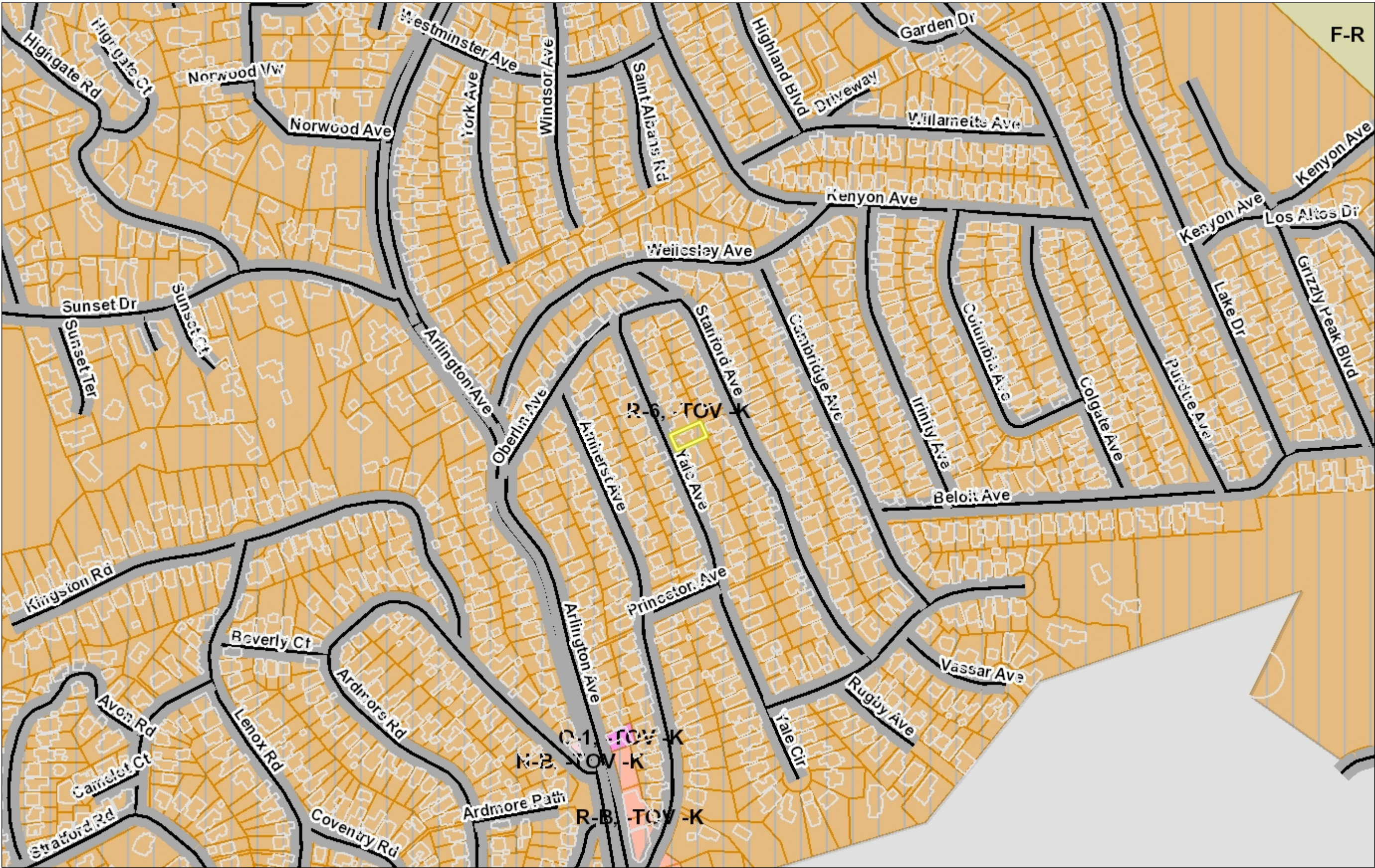
A-2, -BS (Boat Storage Combining I

A-2, -BS -SG (Boat Storage and So

1:4,514



Notes
CDDP24-03006



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Legend

- Building Outlines
- City Limits
- Highways
- Highways Bay Area
- Streets
- Water Bodies
- County Boundary
- Bay Area Counties
- Assessment Parcels
- World Imagery
- Low Resolution 15m Imagery
- High Resolution 60cm Imagery
- High Resolution 30cm Imagery
- Citations

1: 282



0.0 0 0.00 0.0 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

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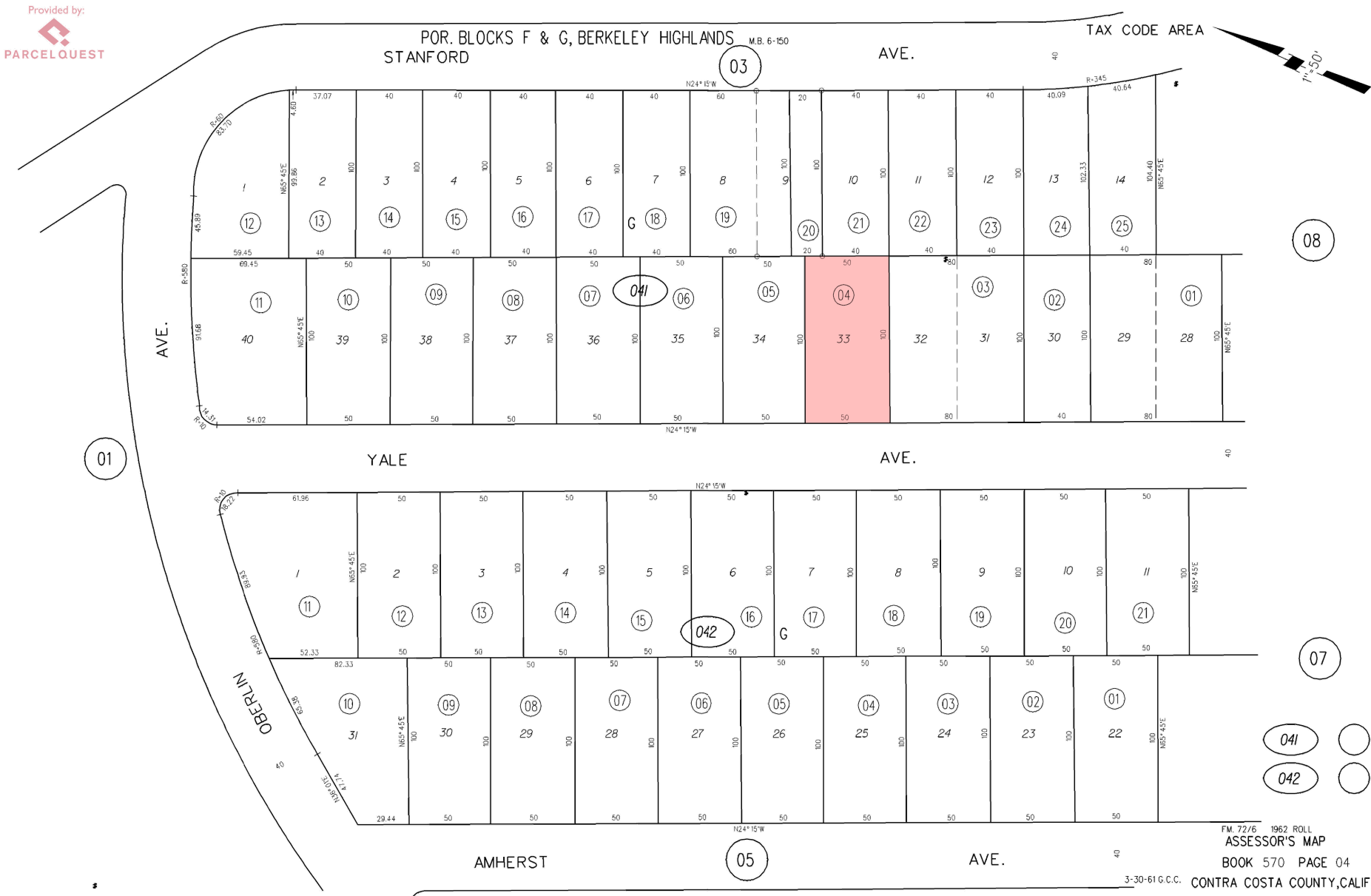
Notes

CDDP24-03006

RECEIVED on 06/10/2026 CDDP24-03006
By Contra Costa County
Department of Conservation and Development

TWO-STORY SINGLE FAMILY ADDITION & INTERIOR REMODEL

215 Yale Ave, Kensington, CA 94708



PROJECT CONTACTS

OWNER
Minge Li
215 Yale Ave, Kensington, CA 94708
(510) 931-8818
Jaxsonia3101@gmail.com

DESIGNER
Erik & Britna Design, LLC
Erik Zang
(628) 999-3498
szang0531@gmail.com

STRUCTURAL ENGINEER
-
-
-

LAND SURVEYOR
Zhen's Land Survey Corp.
Zhen Wang
(415) 802-9945
zhen.wang@zhenslandsurveying.com

SHEET INDEX

A-0.1	COVER SHEET
C-1	TOPOGRAPHIC & BOUNDARY SURVEY
A-1.1	EXISTING SITE PLAN
A-1.2	PROPOSED SITE PLAN
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A-2.2	EXISTING/DEMO FLOOR PLAN
A-3.1	PROPOSED GARAGE LEVEL FLOOR PLAN
A-3.2	PROPOSED LOWER LEVEL FLOOR PLAN
A-3.3	PROPOSED UPPER LEVEL FLOOR PLAN
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A-6.2	ELEVATIONS
A-6.3	ELEVATIONS
A-6.4	ELEVATIONS
A-6.5	SECTIONS
A-6.6	SECTIONS



215 Yale Ave,
Kensington, CA 94708

AP NUMBER 570041004

DATE 04/05/2026

PLAN CHECK

BID DATE

FINAL PERMIT

REVISIONS

PLAN PREPARED BY

Erik Zang

THIS DRAWING AS INSTRUMENT OF SERVICE, IS AND SHALL REMAIN THE PROPERTY OF THE DESIGNER AND SHALL NOT BE REPRODUCED, PUBLISHED, OR USED IN ANYWAY WITHOUT THE PERMISSION OF THE DESIGNER.

DIMENSIONS SHOWN ARE MINIMUM AND ARE INTENDED TO BE APPROXIMATE TO ALLOW FOR REASONABLE TOLERANCES DUE TO FIELD CONDITIONS.

SHEET TITLE:

COVER SHEET

SHEET NUMBER:

A-0.1

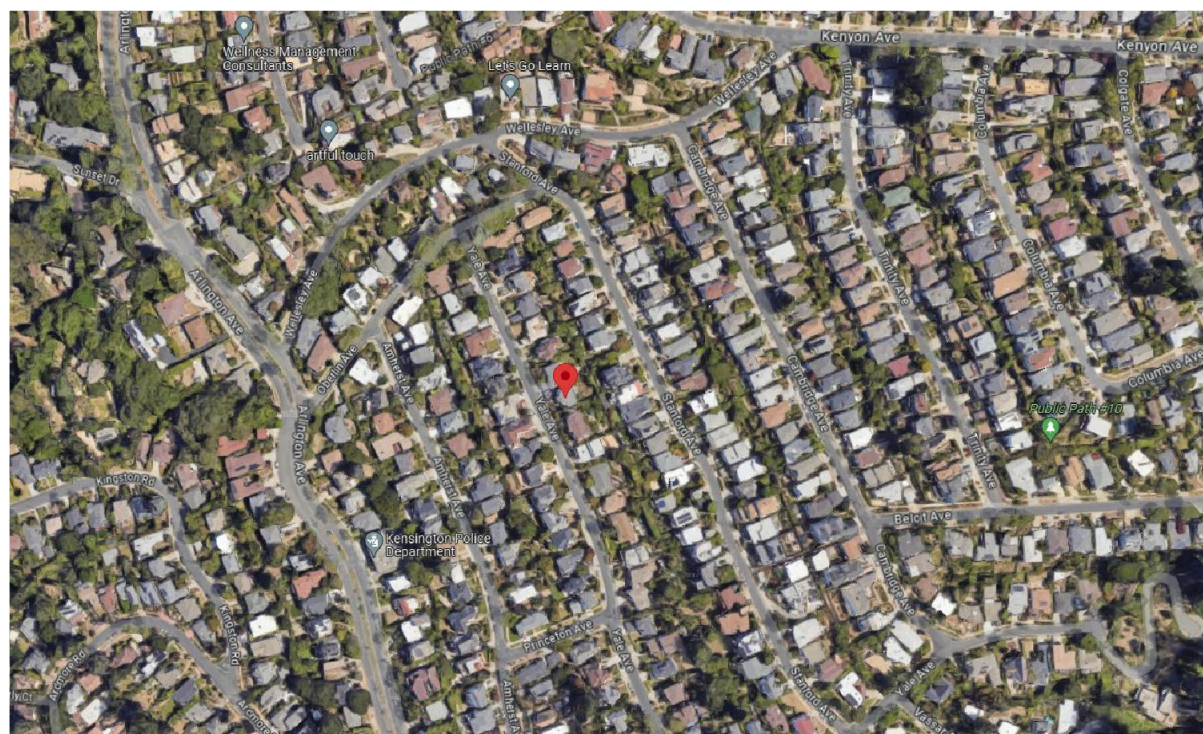
GENERAL NOTES

- THESE DRAWINGS ARE COPYRIGHT **ERIK & BETINA DESIGN LLC**. SHALL NOT BE USED ON ANY OTHER PROJECT WITHOUT WRITTEN CONSENT.
- PROJECT TO BE CONSTRUCTED BY A LICENSED GENERAL CONTRACTOR.
- CONTRACTOR SHALL NOT SCALE DIMENSIONS OFF DRAWINGS. FOLLOWING WRITTEN DIMENSIONS ONLY. THE GENERAL CONTRACTOR SHALL VERIFY ALL DIMENSIONS, SITE AND GRADE CONDITIONS PRIOR TO COMMENCEMENT OF WORK. CONTRACTOR SHALL NOTIFY THE DESIGN PROFESSIONAL IMMEDIATELY OF ANY DISCREPANCY ON THESE PLANS AND SPECIFICATIONS.
- SHOULD AN ERROR APPEAR IN THE DRAWINGS OR SPECIFICATIONS, OR IN WORK DONE BY OTHERS AFFECTING THIS WORK, NOTIFY THE DESIGN PROFESSIONAL AT ONCE. IF THE CONTRACTOR PROCEEDS WITH WORK AFFECTED WITHOUT INSTRUCTIONS FROM THE DESIGN PROFESSIONAL, THE CONTRACTOR SHALL MAKE GOOD ANY RESULTING DAMAGE OR DEFECT.
- THE GENERAL CONTRACTOR, IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, SHALL ASSUME RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THE CONTRACTOR AND SUBCONTRACTORS SHALL MAINTAIN THE JOB SITE IN A CLEAN, ORDERLY CONDITION, FREE OF DEBRIS AND LITTER. OPERATIONS SHALL BE CONFINED TO THE SITE AREAS PERMITTED BY PERMIT & LAW.
- NO PORTION OF WORK REQUIRING A SHOP DRAWING OR SAMPLE SUBMISSION (PER REQUEST OF THE OWNER OR DESIGN PROFESSIONAL) MAY BE COMMENCED UNTIL THE SUBMISSION HAS BEEN REVIEWED AND APPROVED. ALL SUCH PORTIONS OF THE WORK SHALL BE IN ACCORDANCE WITH THE APPROVED SHOP DRAWINGS & SAMPLES.

APPLICABLE CODES

2025 California Building Code Volumes 1 & 2
2025 California Mechanical Code
2025 California Plumbing Code
2025 California Electrical Code
2025 California Existing Buildings Code
2025 California Fire Code
2025 California Energy Code
2025 California Residential Building Code
2025 California Green Building Standards Code
2025 California Historical Building Code
All other state and local laws, ordinances and regulations

VICINITY MAP

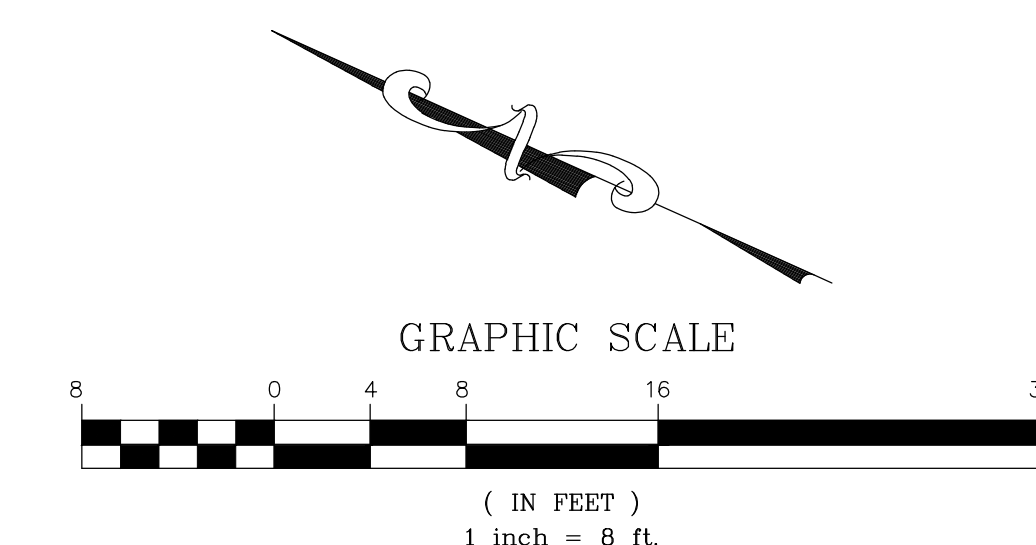
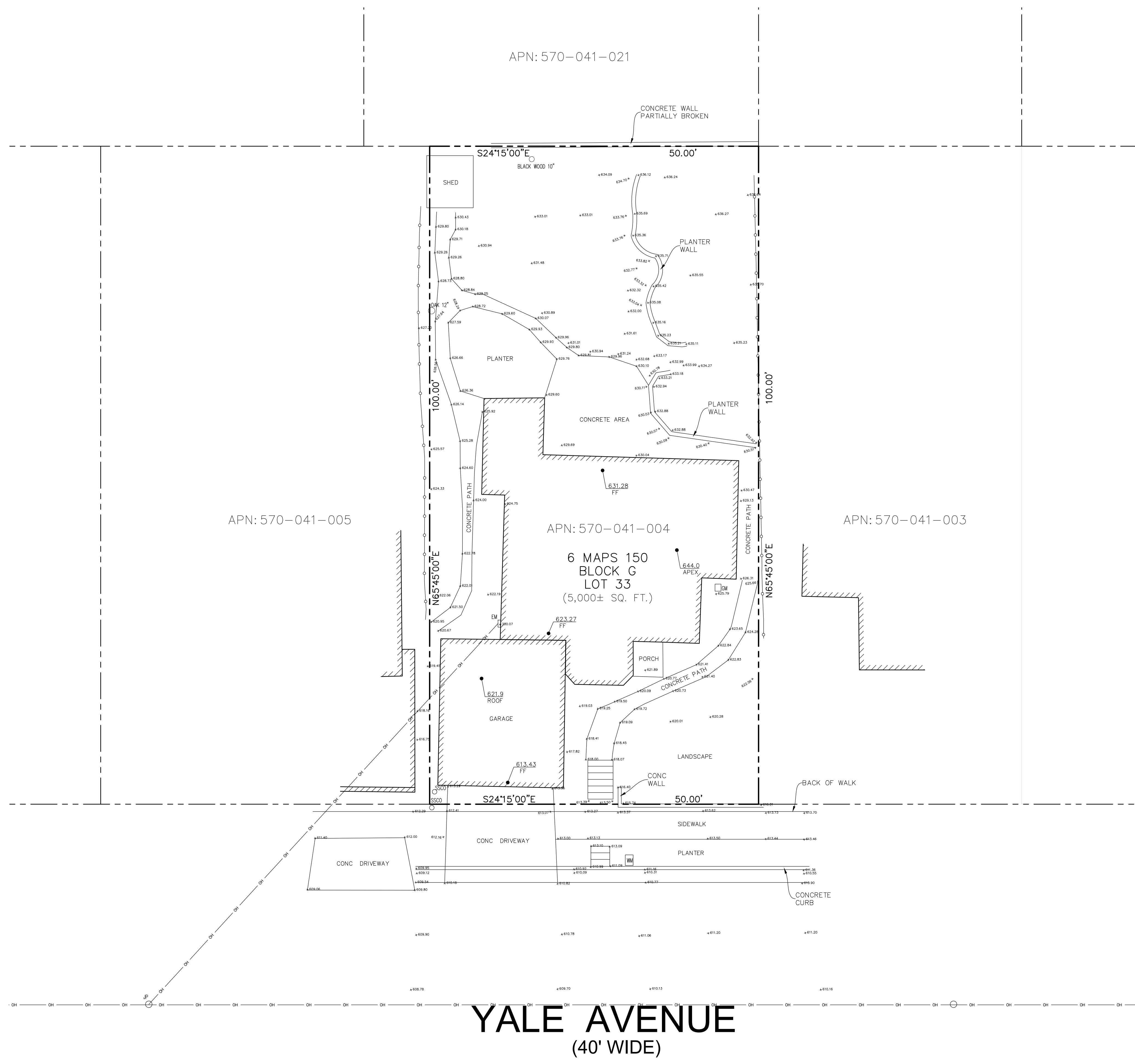


PROJECT DESCRIPTION

- UPPER LEVEL REAR & FRONT ADDITION.
- DEMO EXISTING ROOF. RAISE UP THE TOP PLANT AND BUILD NEW ROOF.
- RAISE UP THE LOWER LEVEL CEILING HEIGHT TO 10FT.
- RAISE UP THE UPPER LEVEL CEILING HEIGHT TO 10FT.
- KITCHEN REMODEL. 172.55 SQ.FT.
- BATH-2 REMODEL. 42.34 SQ.FT.
- UPGRADE THE ELECTRICAL PANEL TO 200A.
- INSTALL NEW HVAC SYSTEM. (N) CENTRAL HEATING & COOLING.
- INSTALL NEW WHITE STUCCO.

PROJECT INFORMATION

APN	570041004
OCCUPANCY	R-3/U(GARAGE)
CONSTRUCTION TYPE	V-B
ZONE	R-6
STORIES	TWO
FIRE SPRINKLER	NO
LOT AREA	5,000.00 SQ.FT.
(E)LOWER LEVEL AREA	494.12 SQ.FT.
(E)UPPER LEVEL AREA	1036.49 SQ.FT.
(E)TOTAL RESIDENCE AREA	1,530.61 SQ.FT.
(E)GARAGE AREA	437.14 SQ.FT.
(E)FRONT PORCH	22.50 SQ.FT.
(N)UPPER LEVEL DEMO AREA	91.32 SQ.FT.
(N)UPPER LEVEL ADDITION AREA	573.74 SQ.FT.
(N)UPPER LEVEL AREA	1,518.93 SQ.FT.
(N)LOWER LEVEL ADDITION AREA	36.95 SQ.FT.
(N)LOWER LEVEL AREA	531.07 SQ.FT.
(N)TOTAL RESIDENCE AREA	2,050.00 SQ.FT.
(N)UNCOVERED FRONT PORCH	50.00 SQ.FT.
FAR	49.74%
LOT COVERAGE	40.46%
FRONT SETBACK	REQUIRED 20' EXISTING 2'-3 3/4"
LEFT SETBACK	REQUIRED 5' EXISTING 1'-0 1/4"
RIGHT SETBACK	REQUIRED 5' PROPOSED 7'-3 1/2"
REAR SETBACK	REQUIRED 18' PROPOSED 27'-5 1/4"
(E)BEDROOM	2
(N)BEDROOM	5
(E)BATHROOM	2
(N)BATHROOM	15



ABBREVIATIONS AND LEGEND

BSBL	BUILDING SETBACK LINE		SANITARY SEWER MANHOLE
CB	CATCH BASIN		STORM DRAIN MANHOLE
CONC	CONCRETE		FIRE HYDRANT
EM	ELECTRIC METER	—SS—	SANITARY SEWER LINE
EP	EDGE OF PAVEMENT	—W—	WATER LINE
FT	FRUIT TREE	—OH—	OVERHEAD ELECTRICAL LINE
GM	GAS METER	—G—	GAS LINE
GCR	GRASSY RAMP	—SD—	STORM DRAIN LINE
JP	JOINT POLE		
PUE	PUBLIC UTILITY EASEMENT		
SP	SIGN POLE		
SSCO	SANITARY SEWER CLEAN OUT		
SNF	SEARCH FOR NOT FOUND		
TC	TOP OF CURB		
TEL	TELEPHONE		
UNK T	UNKNOWN TREE		
WM	WATER METER		
---	BOUNDARY LINE		
-o-o-	EXISTING FENCE LINE		
-o-o-	EXISTING BUILDING OUTLINE		
	FOUND STANDARD CITY MONUMENT		
()	INDICATES REFERENCE MAP NUMBER		

REFERENCE INFORMATION

(1) 6 MAPS 150, CONTRA COSTA COUNTY RECORDS

NOTE:

- (1) ALL DISTANCES AND DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF UNLESS OTHERWISE NOTED.
- (2) BUILDING OUTLINE WAS MEASURED AT BUILDING EXTERIOR FINISH WALL SURFACE UNLESS OTHERWISE NOTED.
- (3) ELEVATION DATUM: NAVD 88. ELEVATIONS WERE ESTABLISHED WITH GNSS OBSERVATIONS.
- (4) A PRELIMINARY REPORT WAS NOT PROVIDED FOR CHECKING EASEMENT OF RECORDS. OTHER EASEMENT MAY EXIST THAT ARE NOT SHOWN ON THIS MAP.

UTILITY NOTE

1. THE SURFACE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM RECORDS OF THE VARIOUS AGENCIES. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THEIR INDICATED LOCATION, SIZE, OR TYPE. RECORD UTILITY INFORMATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY.

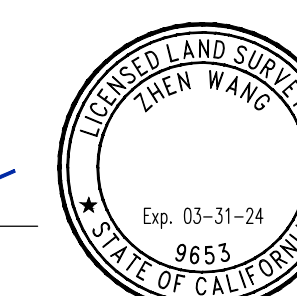
TOPOGRAPHIC SURVEY

LOT 33, IN BLOCK G, AS SHOWN ON
"BERKELEY HIGHLANDS", BOOK 6 OF MAPS, AT
PAGE 150, CONTRA COSTA COUNTY RECORDS.
APN 331-11-052

(215 YALE AVENUE)

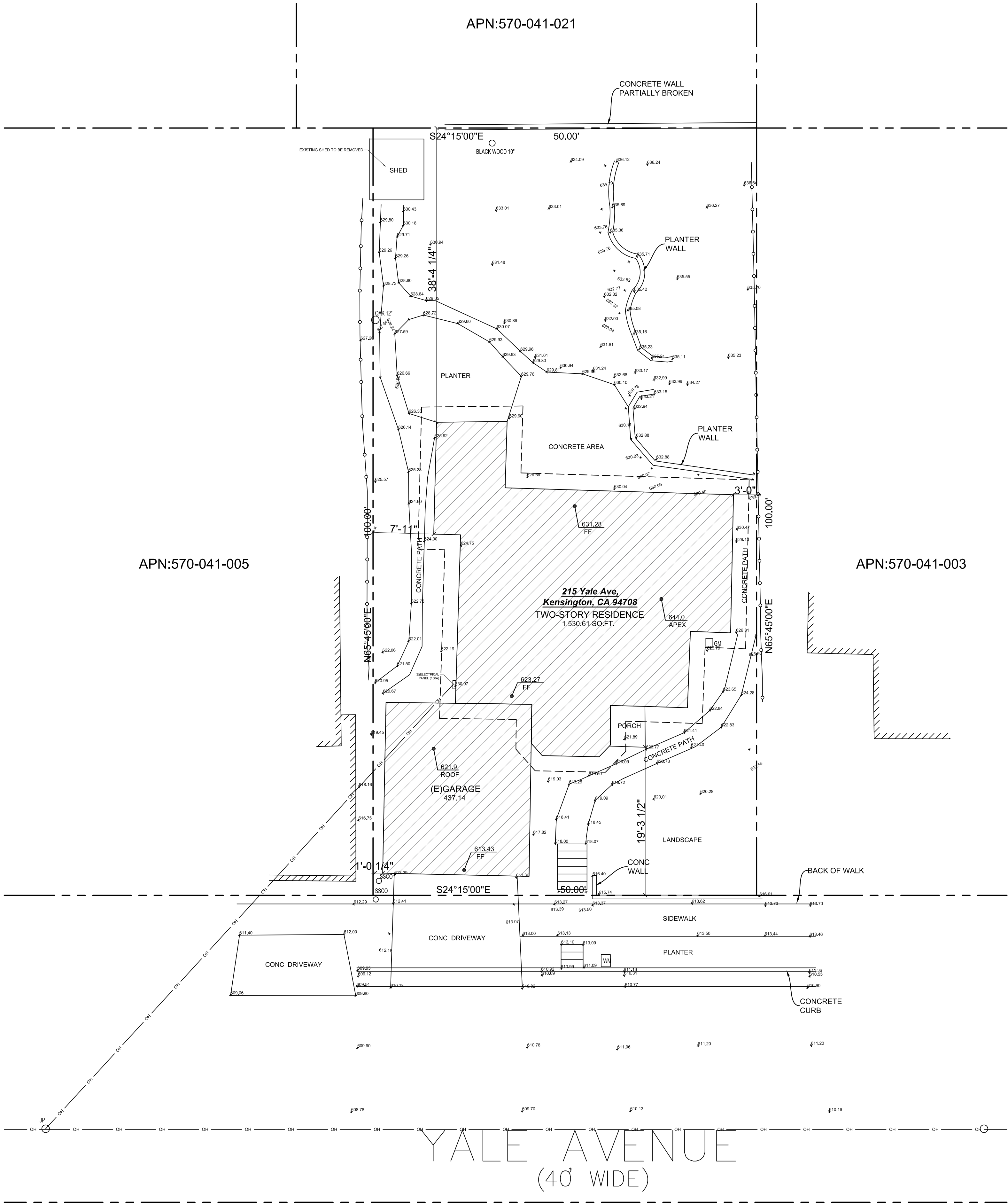
CITY OF KENSINGTON CONTRA COSTA COUNTY CALIFORNIA
SCALE: 1"=8' MAY, 2023

ZHEN WANG



05/23/2023
DATE

ZHEN'S LAND SURVEYING CORP
1121 S GRANT ST., SAN MATEO, CA 94402
TEL: (415)802-9945

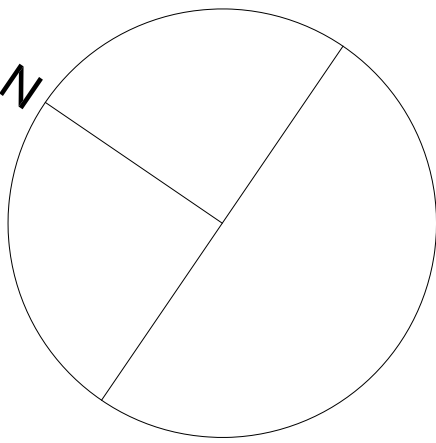


CONSTRUCTION LEGEND

SYMBOL	DESCRIPTION
----	EAVE LINE
—OH—	POWER LINE OVER HEAD
—SS—	SEWER LINE
—W—	WATER LINE
—○—○—	FENCE
(E)	EXISTING
(R)	REPLACE
(N)	NEW
EMP	ELECTRICAL MAIN PANEL
ESP	ELECTRICAL SUB PANEL
WM	WATER METER
GM	GAS METER
←	SPLASH BLOCK(TYP)
↗	DIRECTION OF DRAINAGE
⊗	EXISTING TREE TO REMOVE



215 Yale Ave,
Kensington, CA 94708



AP NUMBER 570041004

DATE 03/01/2026

PLAN CHECK

BID DATE

FINAL PERMIT

REVISIONS

PLAN PREPARED BY

Erik Zang

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DIMENSIONS SHOWN ARE MINIMUM AND ARE INTENDED TO BE APPROXIMATE TO ALLOW FOR REASONABLE TOLERANCES DUE TO FIELD CONDITIONS.

SHEET TITLE:

EXISTING
SITE PLAN

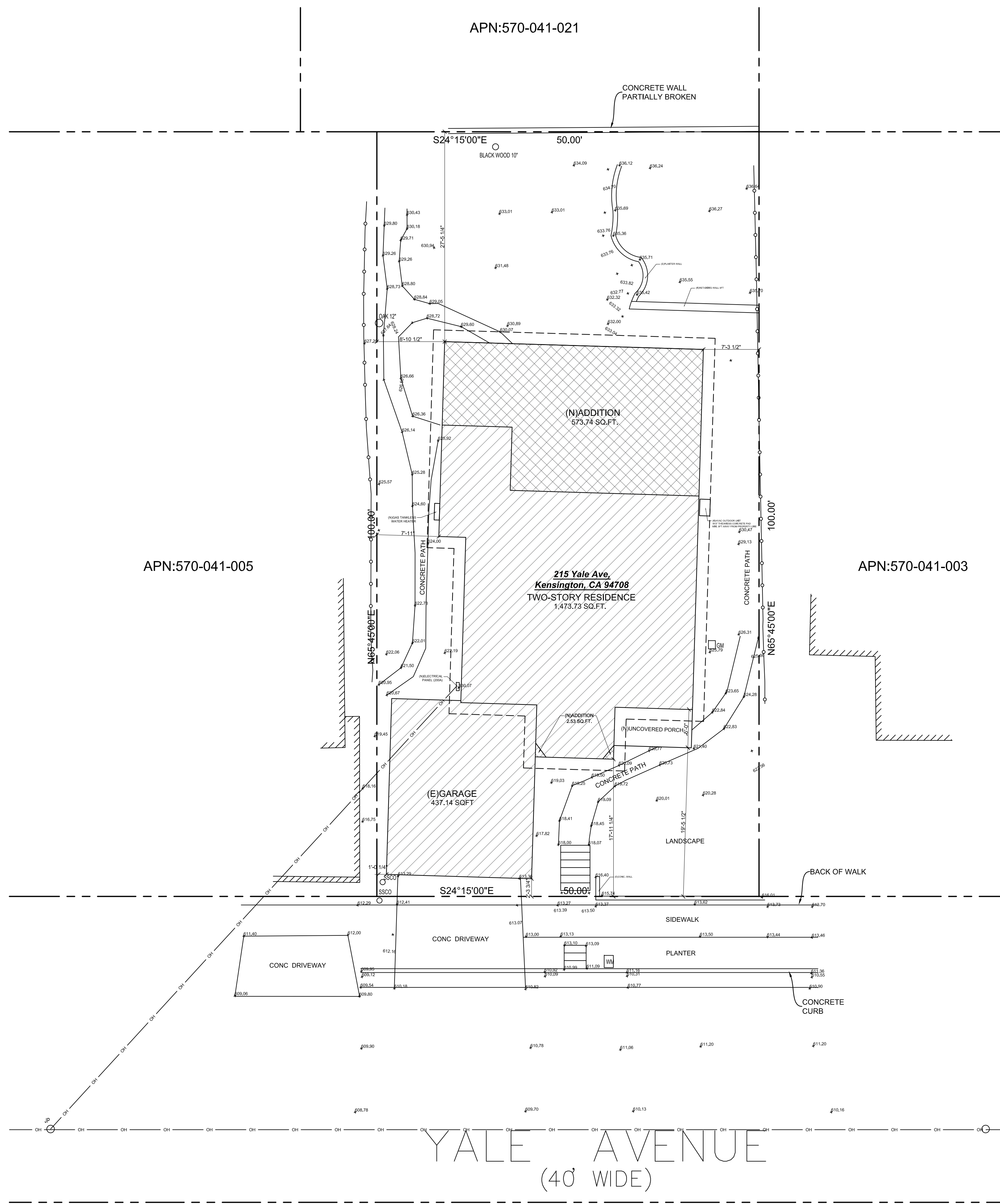
SHEET NUMBER:

A-1.1

EXISTING SITE PLAN

SCALE 1/8" = 1'-0"

1



CONSTRUCTION LEGEND

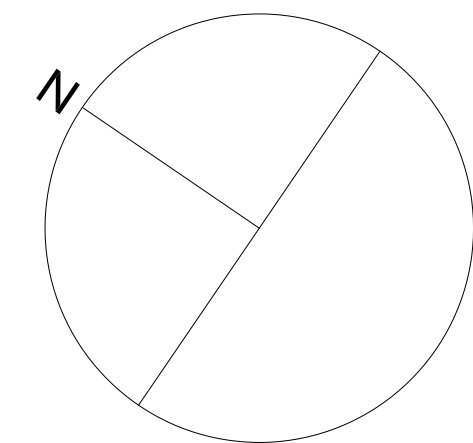
SYMBOL	DESCRIPTION
----	EAVE LINE
——OH——	POWER LINE OVER HEAD
——SS——	SEWER LINE
——W——	WATER LINE
—○—○—○—	FENCE
(E)	EXISTING
(R)	REPLACE
(N)	NEW
EMP	ELECTRICAL MAIN PANEL
ESP	ELECTRICAL SUB PANEL
WM	WATER METER
GM	GAS METER
◀—	SPLASH BLOCK(TYP)
—~—~~→	DIRECTION OF DRAINAGE
⊗	EXISTING TREE TO REMOVE

KEY NOTES:

1. ALL ROOF DOWNSPOUTS TO BE RELEASED TO THE GROUND SURFACE, DIRECTED AWAY FROM BUILDING FOUNDATION AND LANDSCAPE AREAS.
2. A MINIMUM 5% GRADE SLOPE AWAY FROM FOUNDATION FOR A MINIMUM DISTANCE OF 10 FEET MEASURED PERPENDICULAR TO THE FACE OF THE WALL AND AWAY FROM ADJACENT BUILDINGS.
3. IMPERVIOUS SURFACES WITHIN 10 FEET OF THE BUILDING FOUNDATION SHALL BE SLOPED A MINIMUM OF 2% AWAY FROM THE BUILDING AND FROM ADJACENT BUILDINGS.



215 Yale Ave,
Kensington, CA 94708



AP NUMBER	570041004
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DATE	03/01/2026
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BID DATE

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Erik Zany

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SHEET TITLE:

PROPOSED SITE PLAN

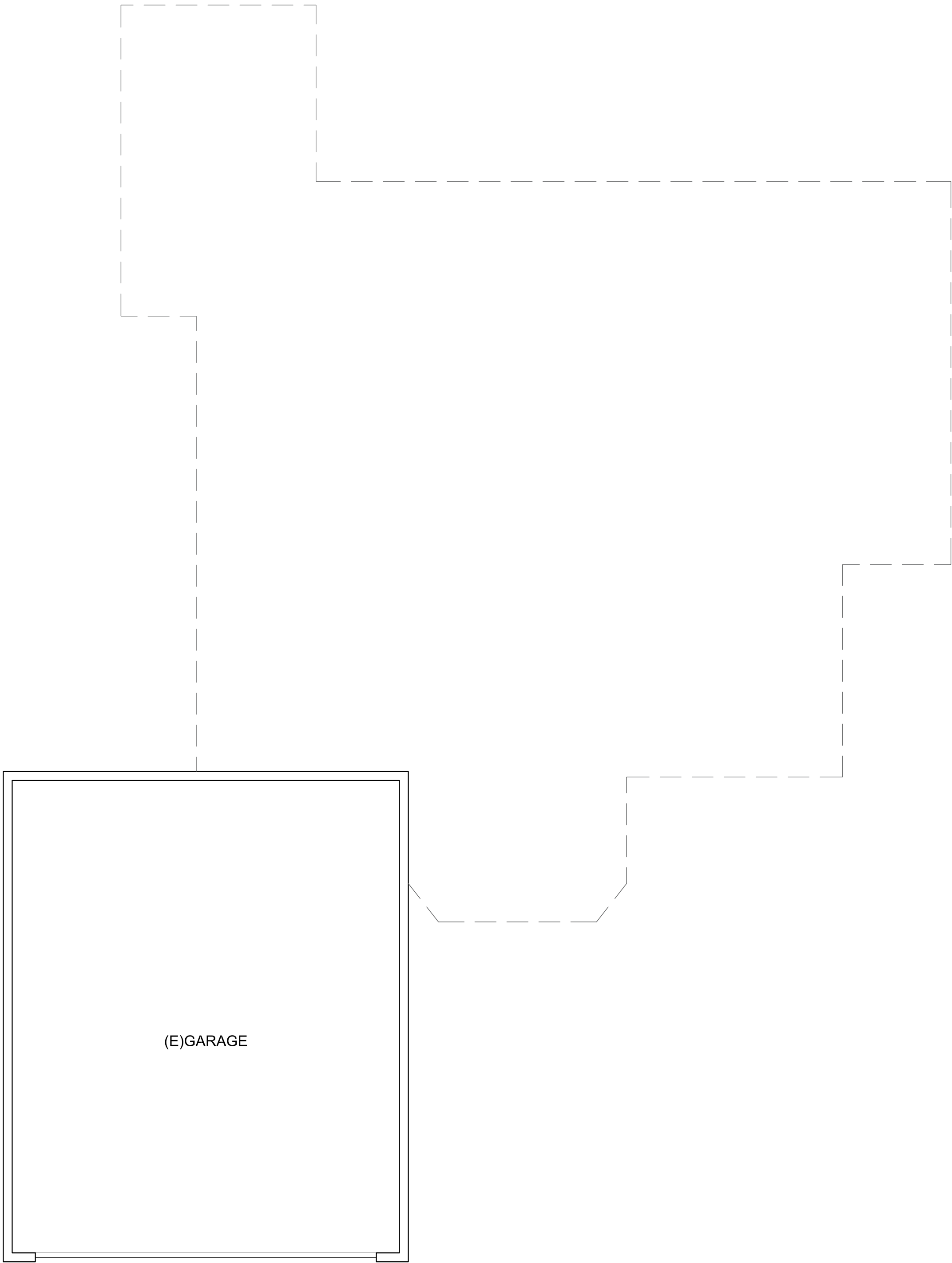
SHEET NUMBER:

A-1.2

PROPOSED SITE PLAN

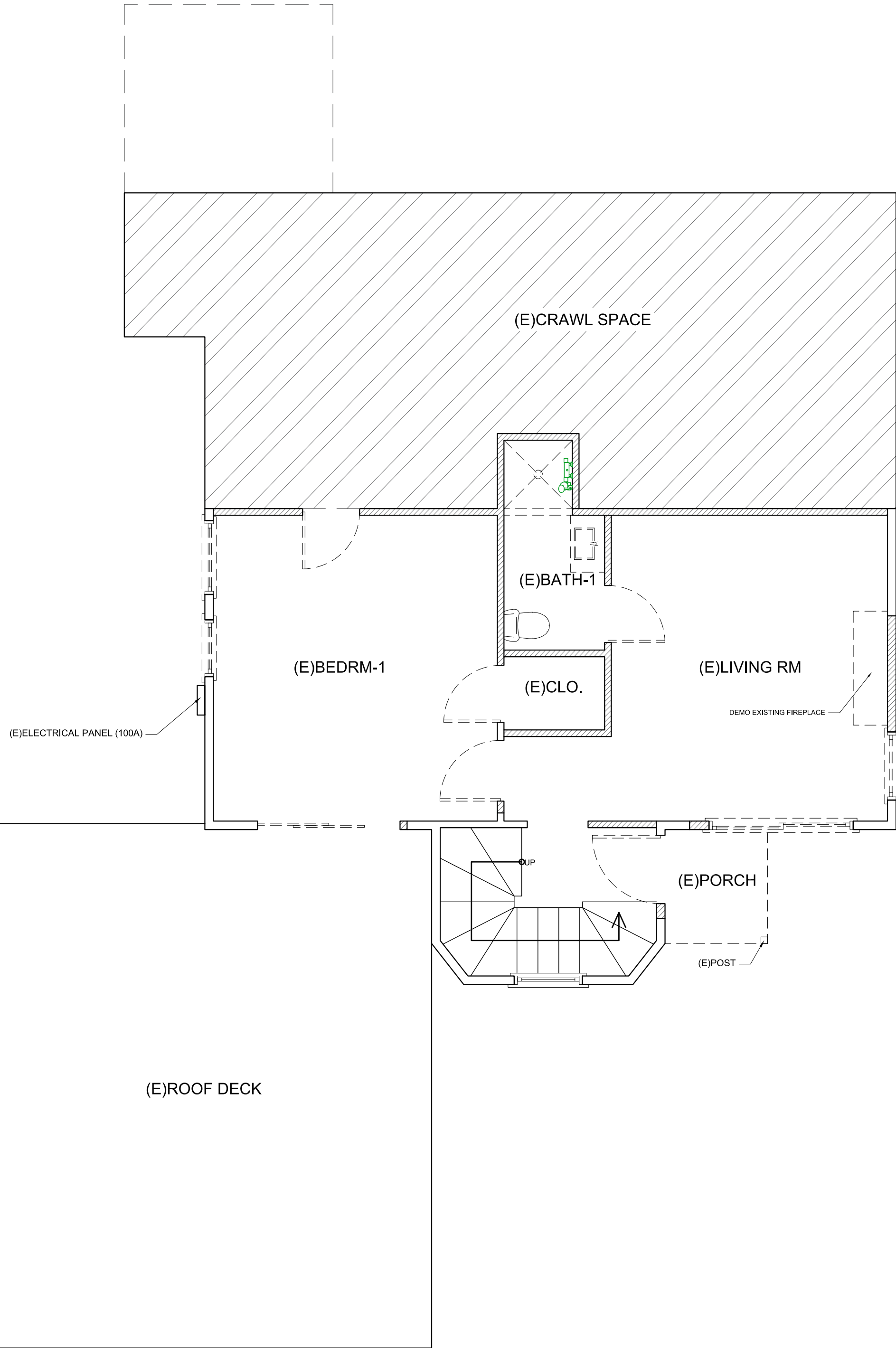
SCALE 1/8" = 1'-0"

1



EXISTING GARAGE LEVEL PLAN
SCALE 1/4" = 1'-0"

1



EXISTING LOWER LEVEL PLAN
SCALE 1/4" = 1'-0"

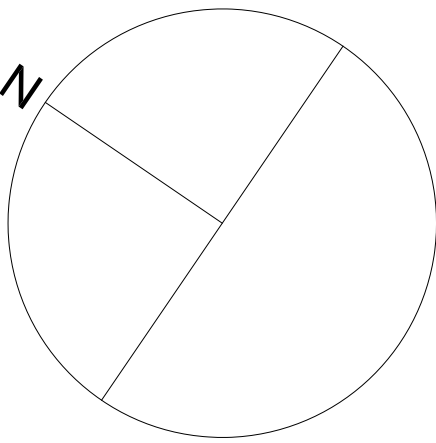
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CONSTRUCTION LEGEND

SYMBOL	DESCRIPTION
	EXISTING WALL
	WALL TO BE DEMOLISHED
	NEW 2X4 WALL
	1HR FIRE RATED 2X4 WALL
	WINDOW/DOOR TO BE DEMOLISHED
(E)	EXISTING
(R)	REPLACE
(N)	NEW
CH	CEILING HEIGHT
EMP	ELECTRICAL MAIN PANEL
ESP	ELECTRICAL SUB PANEL
WM	WATER METER
GM	GAS METER



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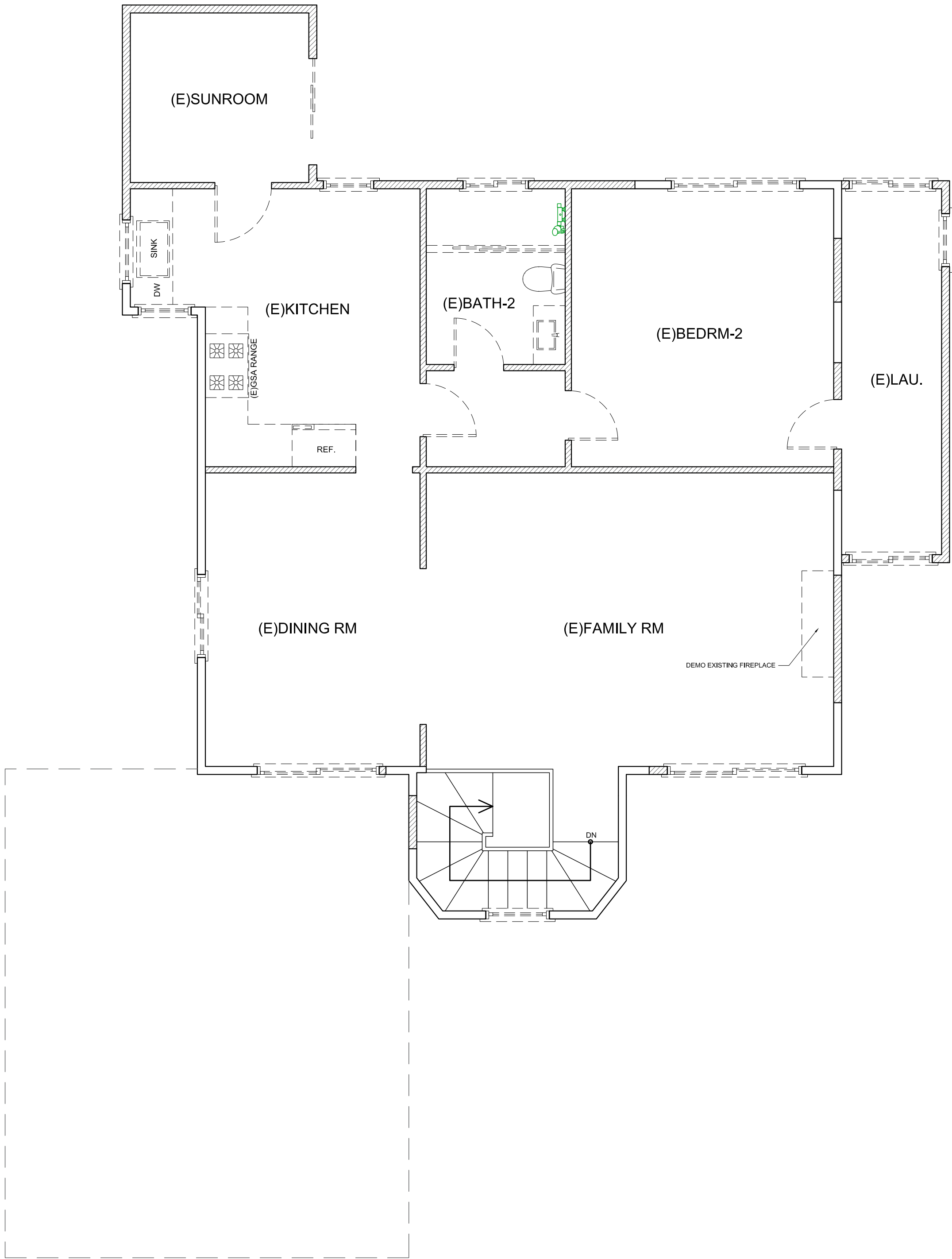
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SHEET TITLE:
EXISTING/DEMO
FLOOR PLAN

SHEET NUMBER:

A-2.1



EXISTING UPPER LEVEL PLAN

SCALE 1/4" = 1'-0"

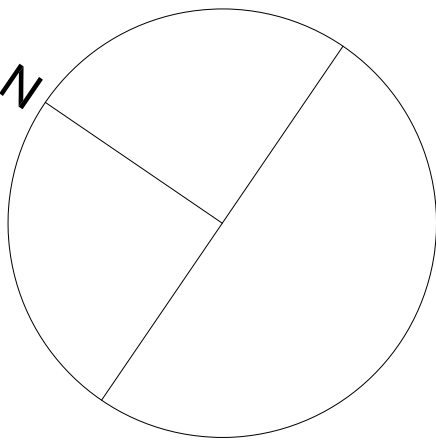
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	WALL TO BE DEMOLISHED
	NEW 2X4 WALL
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CH	CEILING HEIGHT
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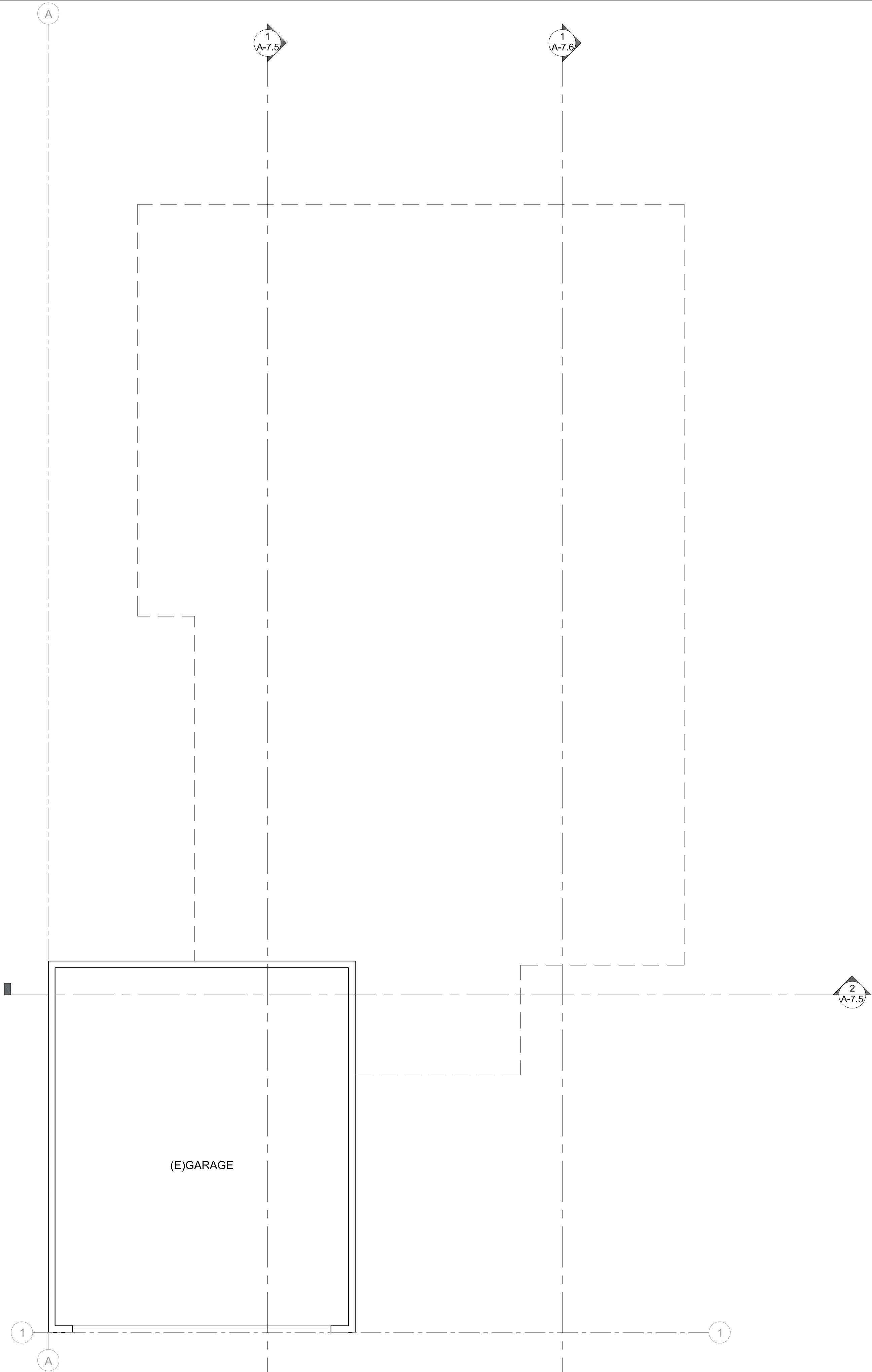
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SHEET TITLE:
EXISTING/DEMO
FLOOR PLAN

SHEET NUMBER:

A-2.2



PROPOSED GARAGE LEVEL PLAN
SCALE 1/4" = 1'-0"

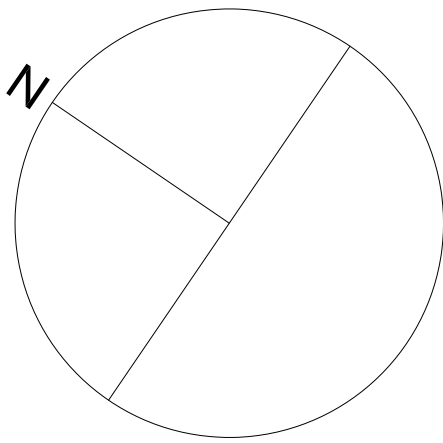
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CONSTRUCTION LEGEND	
SYMBOL	DESCRIPTION
	EXISTING WALL
	WALL TO BE DEMOLISHED
	NEW 2X4 WALL
	1HR FIRE RATED 2X4 WALL
	WINDOW/DOOR TO BE DEMOLISHED
(E)	EXISTING
(R)	REPLACE
(N)	NEW
CH	CEILING HEIGHT
EMP	ELECTRICAL MAIN PANEL
ESP	ELECTRICAL SUB PANEL
WM	WATER METER
GM	GAS METER

- KEY NOTES:**
1. DRYER.
(1)PROVIDE 4" DIA. SMOOTH METAL DUCT FOR DRYER EXHAUST EXTENDING TO OUTSIDE W/ BACK DRAFT DAMPER (36"MIN. AWAY FROM OPENING)
(2)MAX. VENT DUCT LENGTH OF 14'.
(3)DOOR AT LAUNDRY ROOM MUST BE LOUVERED TO ALLOW DRYERS TO HAVE SUFFICIENT MAKE-UP AIR.
 2. SHOWER WALLS & FLOOR TO BE FINISHED WITH A NONABSORBENT SURFACE UP TO A MINIMUM HEIGHT OF 6' ABOVE THE FLOOR. PROVIDE FRAMELESS, TEMPERED, 3/8" MIN. GLASS SHOWER WALL & MIN. 22" WIDE DOOR WITH CONTINUOUS SEAL. SHOWER AREA MUST BE MIN. 1024 SQ.INCH, CAPABLE OF ENCOMPASSING A 30" DIA. CIRCLE. CONTRACTOR TO PROVIDE ALL BLOCKING FOR TOWEL BARS, ETC. SHOWERS AND TUB-SHOWER COMBINATION SHALL BE PROVIDED WITH INDIVIDUAL PRESSURE BALANCE OR THERMOSTATIC MIXING VALVE CONTROLS. ALL NEW WATER CLOSETS SHALL BE MAX. 1.28 GALLONS/FLUSH. THERE MUST BE 15" CLEAR SPACE ON EACH SIDE OF THE W.C. CENTERLINE, AND 24" CLEAR IN FRONT.
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 - THE EFFECTIVE FLUSH VOLUME OF ALL WATER CLOSETS SHALL NOT EXCEED 1.28 GAL/FLUSH
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PLAN PREPARED BY

Erik Zamy

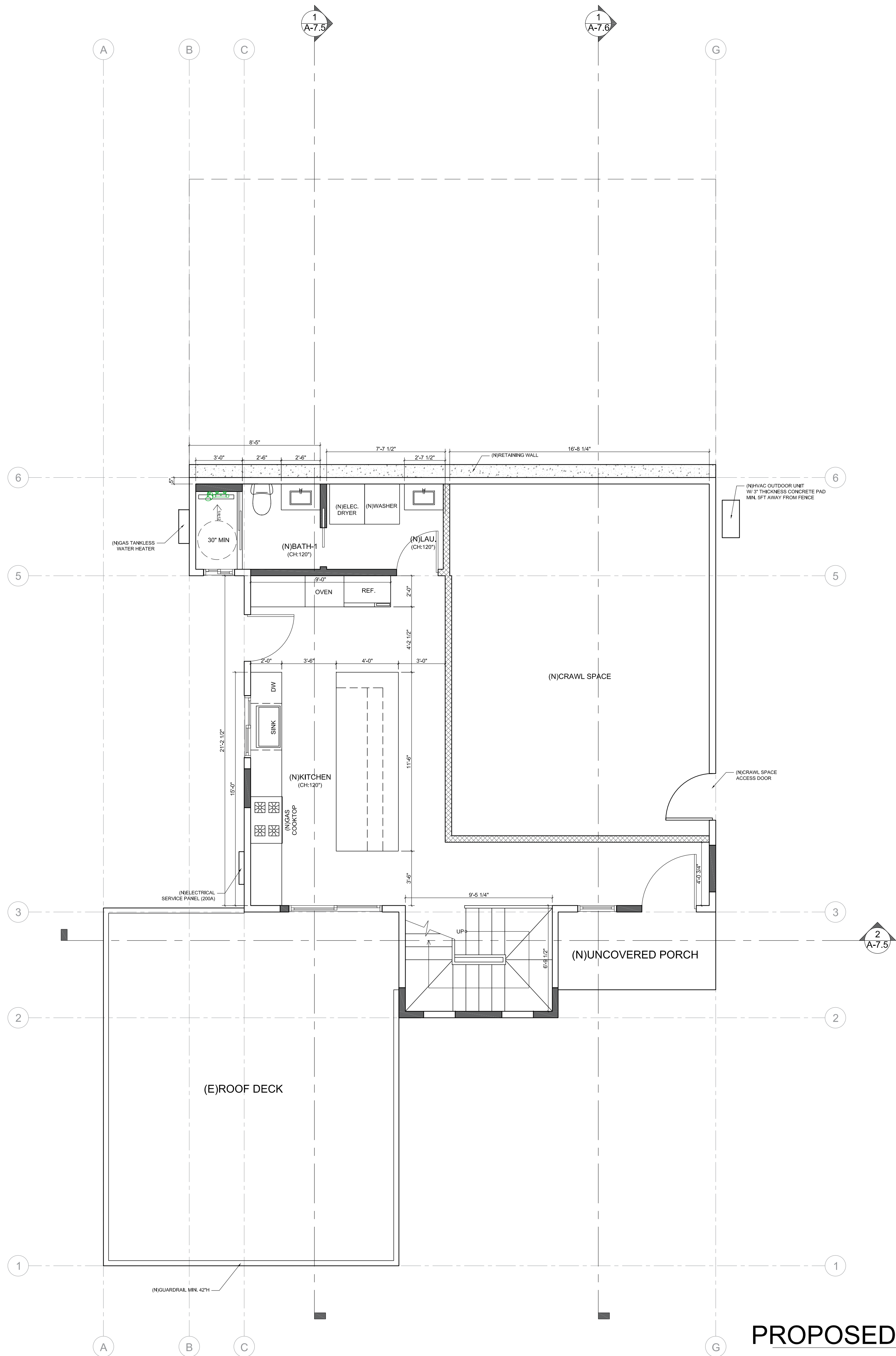
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SHEET TITLE:
PROPOSED
GARAGE LEVEL
FLOOR PLAN

SHEET NUMBER:

A-3.1



PROPOSED LOWER LEVEL PLAN
SCALE 1/4" = 1'-0"

2

CONSTRUCTION LEGEND

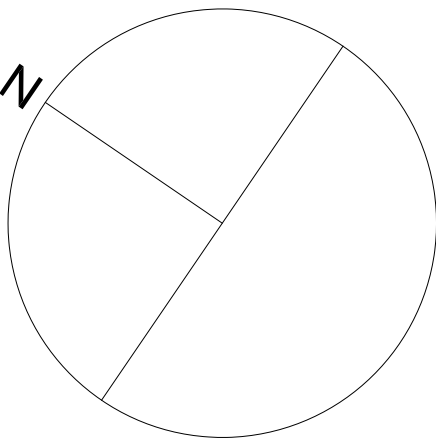
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	NEW 2X4 WALL
	1HR FIRE RATED 2X4 WALL
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Erik Zang

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SHEET TITLE:

PROPOSED
LOWER LEVEL
FLOOR PLAN

SHEET NUMBER:

A-3.2



PROPOSED UPPER LEVEL PLAN
SCALE 1/4" = 1'-0"

CONSTRUCTION LEGEND

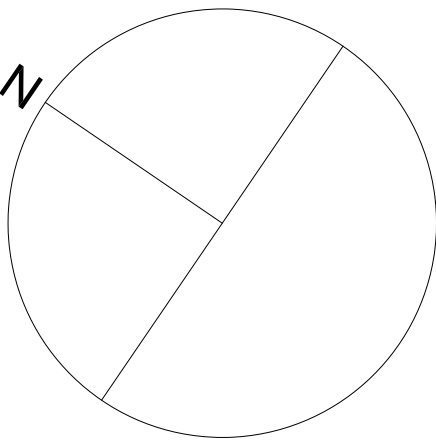
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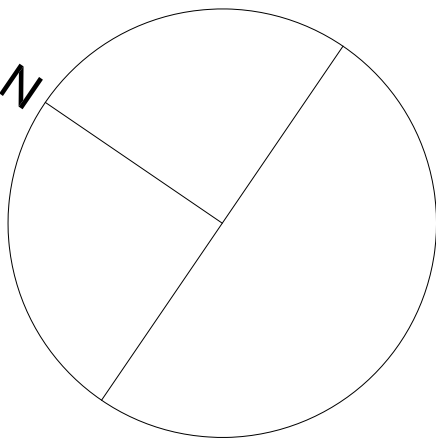
PROPOSED
UPPER LEVEL
FLOOR PLAN

SHEET NUMBER:

A-3.3



215 Yale Ave,
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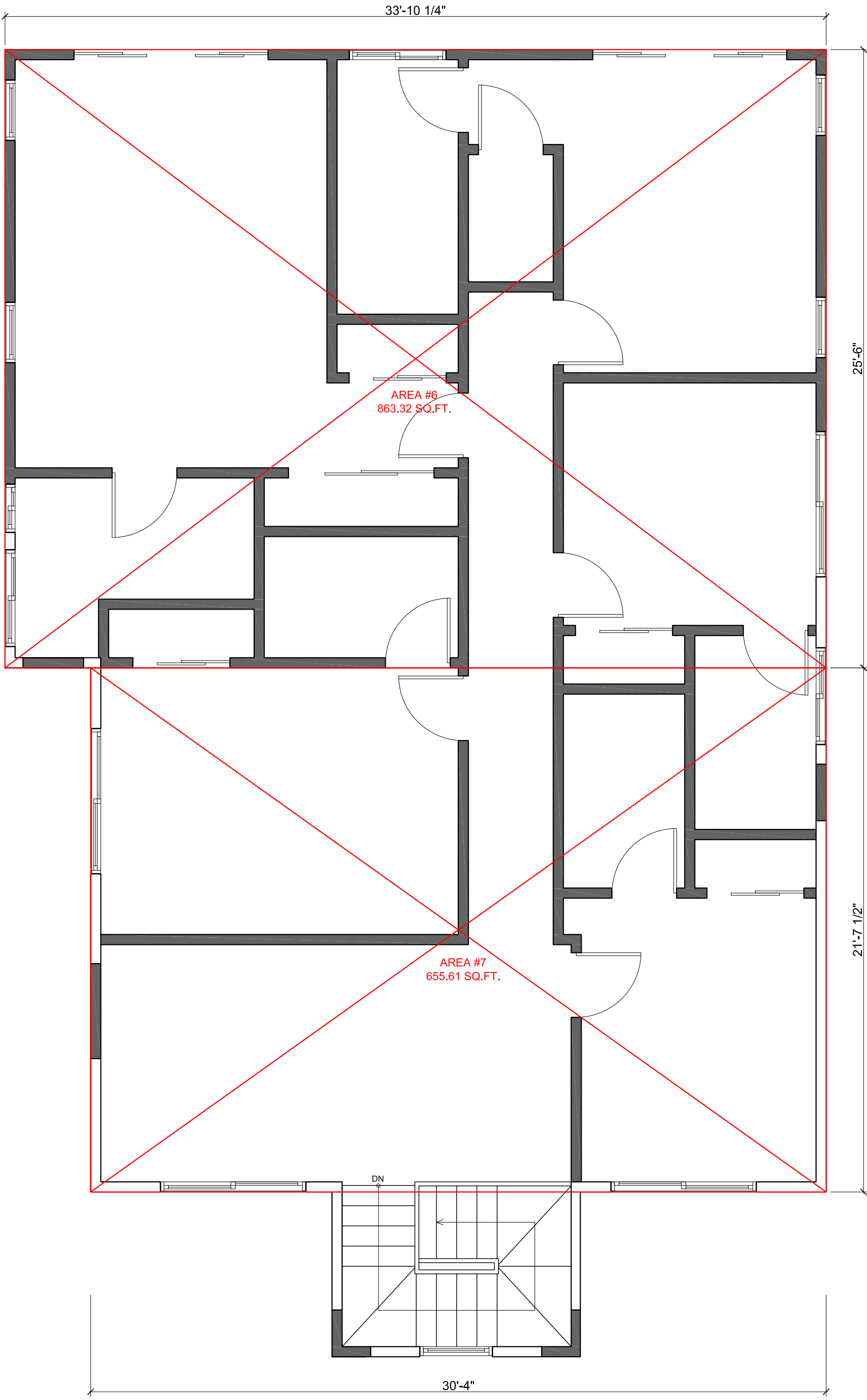
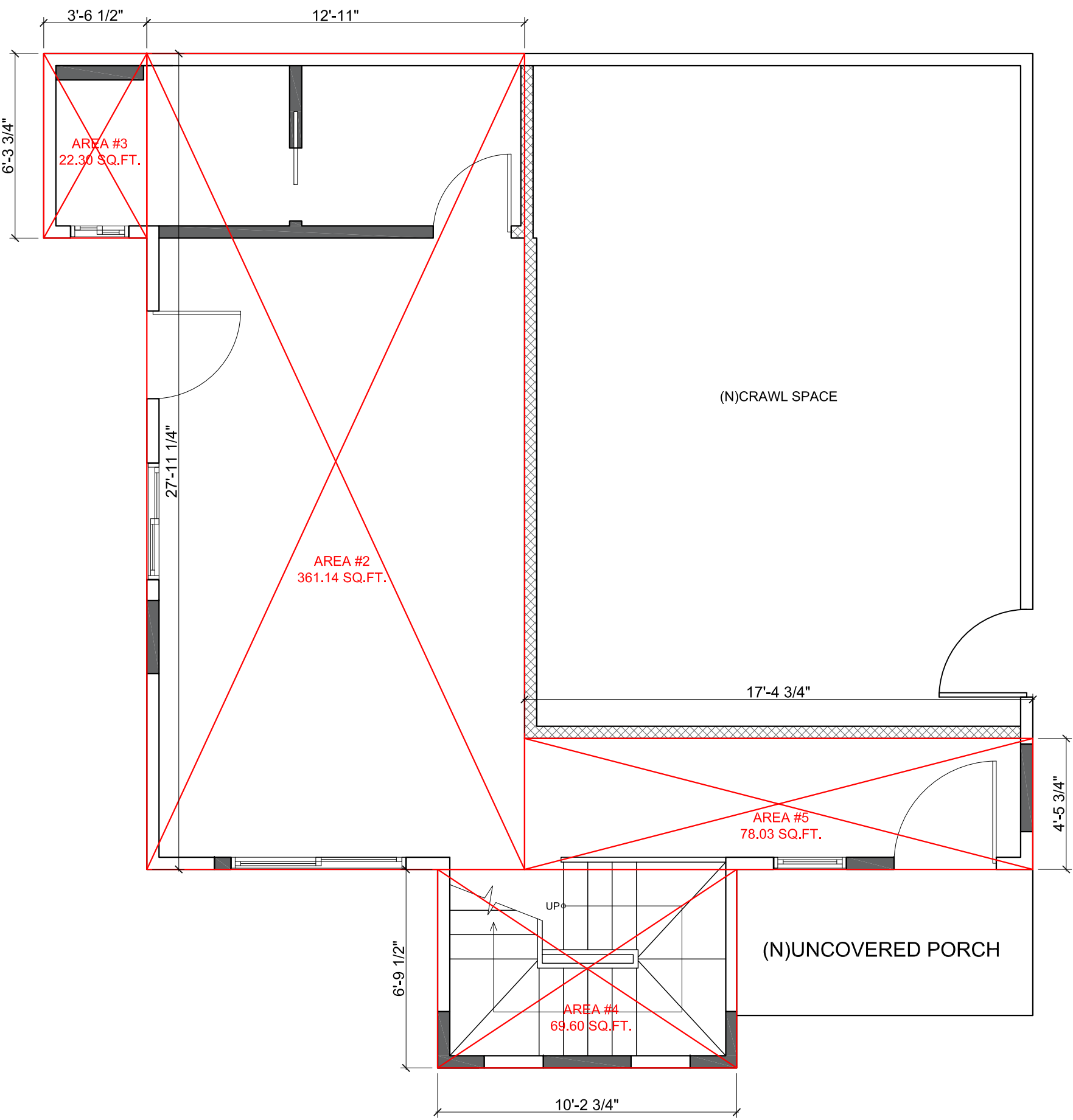
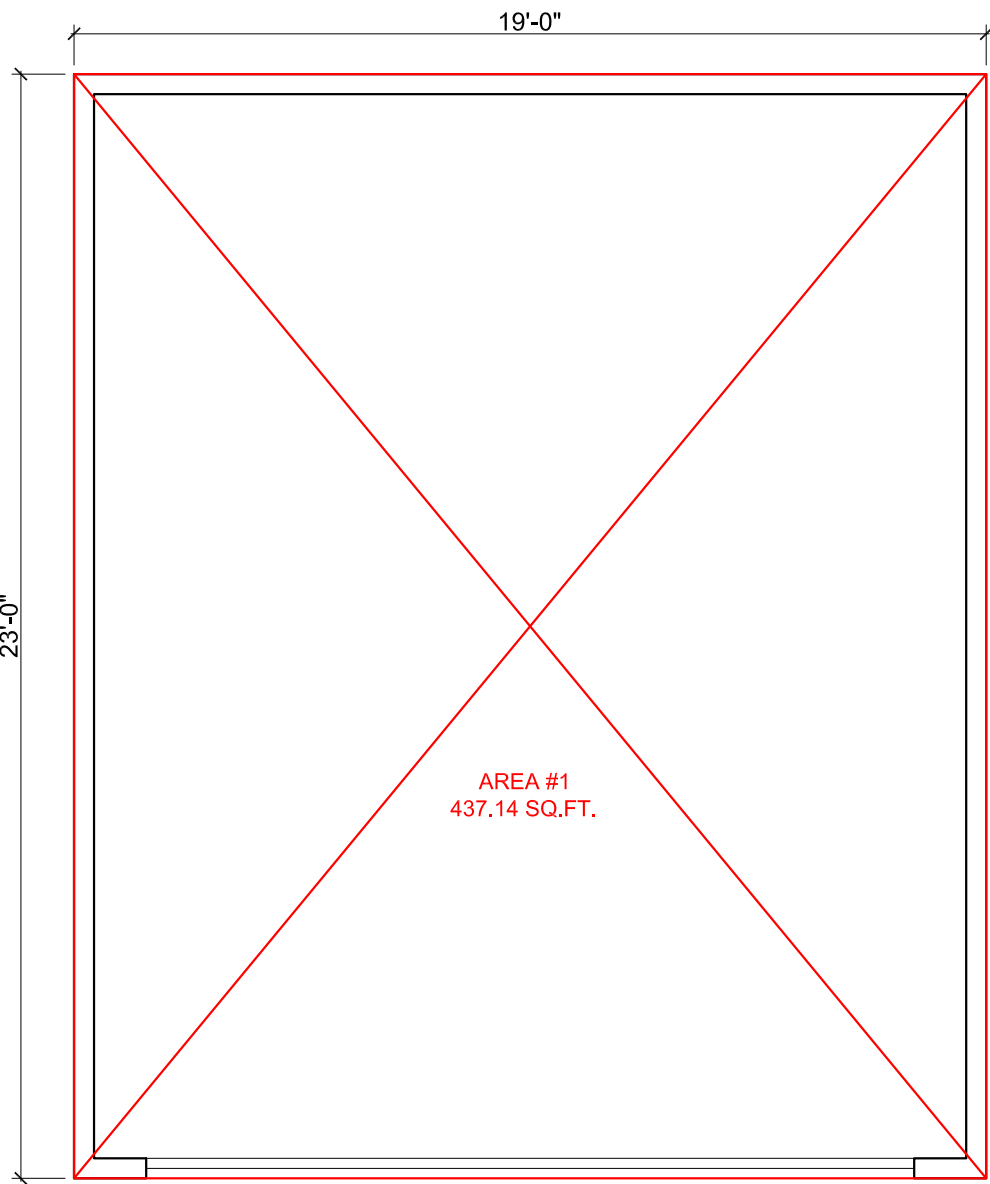
SHEET TITLE:
FLOOR AREA
DIAGRAM

SHEET NUMBER:

A-3.4

PROPOSED

AREA	SQ.FT.
LOT	5,000.00
GARAGE	
AREA #1	437.14
LIVING SPACE	
AREA #2	361.14
AREA #3	22.30
AREA #4	69.60
AREA #5	78.03
AREA #6	863.32
AREA #7	655.61
TOTAL LIVING SPACE	2,050.00
TOTAL	2,487.14
FAR	49.74%
LOT COVERAGE	40.46%

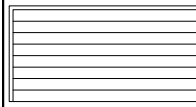


PROPOSED FLOOR AREA DIAGRAM
SCALE 1/4" = 1'-0"

1

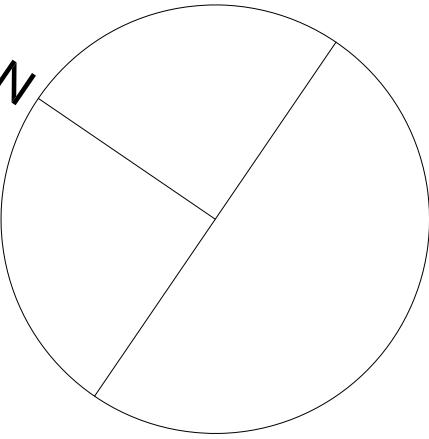
PROPOSED GARAGE LEVEL PLAN

SCALE 1/4" = 1'-0"

WINDOW/DOOR SCHEDULE							
#	FRONT VIEW	WIDTH x HEIGHT (ROUGH OPENING)	Ht A.F.F. (HEADER HEIGHT)	QTY	REMARKS	TEMPERED	NOTES
101		192" x 84"	84"	1	EXT. GARAGE DOOR		PROVIDE GARAGE DOOR MOTOR W/ BATTERY BACK-UP



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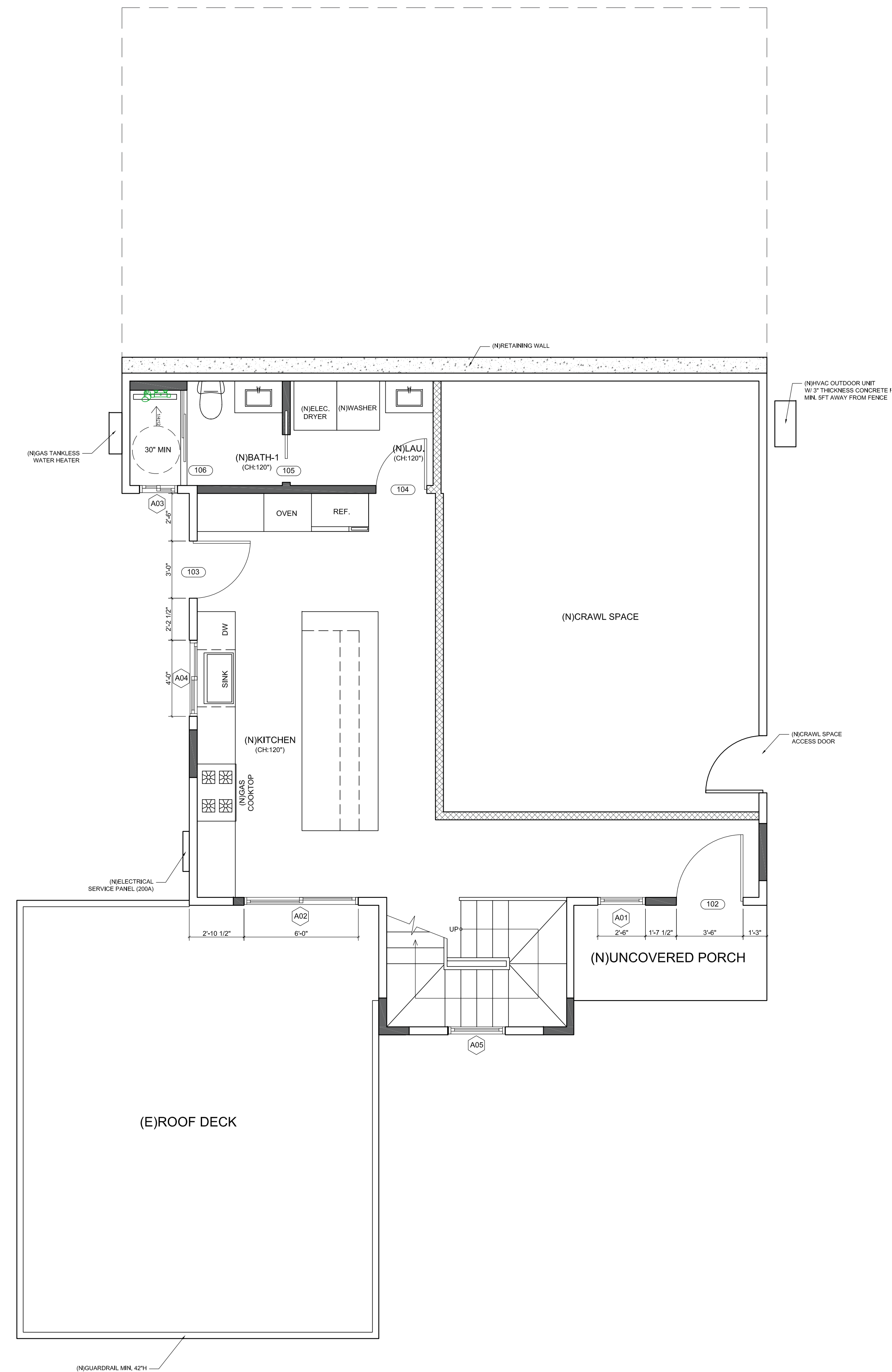
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SHEET TITLE:

WINDOW & DOOR SCHEDULE

SHEET NUMBER:

A-4.1

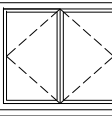
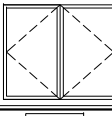
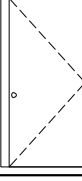
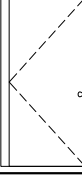
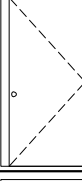
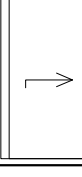
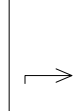


PROPOSED LOWER LEVEL PLAN

SCALE 1/4" = 1'-0"

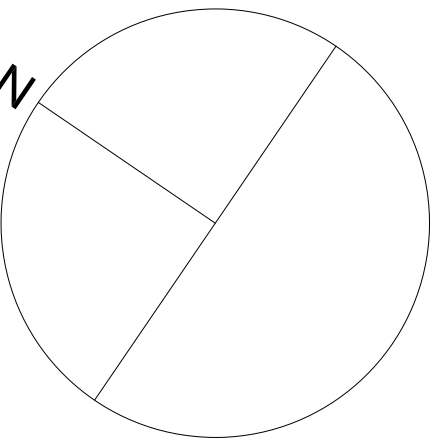
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WINDOW/DOOR SCHEDULE

#	FRONT VIEW	WIDTH x HEIGHT (ROUGH OPENING)	H&A F.F.T. (HEADER HEIGHT)	QTY	REMARKS	TEMPERED	NOTES
A01		30" x 96"	96"	1	BLACK VINYL FIXED WINDOW	YES	
A02		72" x 72"	96"	1	BLACK VINYL CASEMENT WINDOW	NO	
A03		24" x 36"	96"	1	BLACK VINYL HUNG WINDOW	YES	
A04		48" x 54"	96"	1	BLACK VINYL HUNG WINDOW	YES	
A05		36" x 72"	96"	1	BLACK VINYL FIXED WINDOW	YES	
102		36" x 96"	96"	1	EXT. ENTRY DOOR	YES	
103		36" x 96"	96"	1	EXT. SWING DOOR LEFT HINGE		
104		32" x 96"	96"	1	INT. SWING DOOR RIGHT HINGE		
105		30" x 96"	96"	1	INT. POCKET DOOR		
106		30" x 72"		1	EXT. SHOWER SLIDING DOOR	YES	SHOWER ENCLOSURE SHALL HAVE SAFETY GLAZING.



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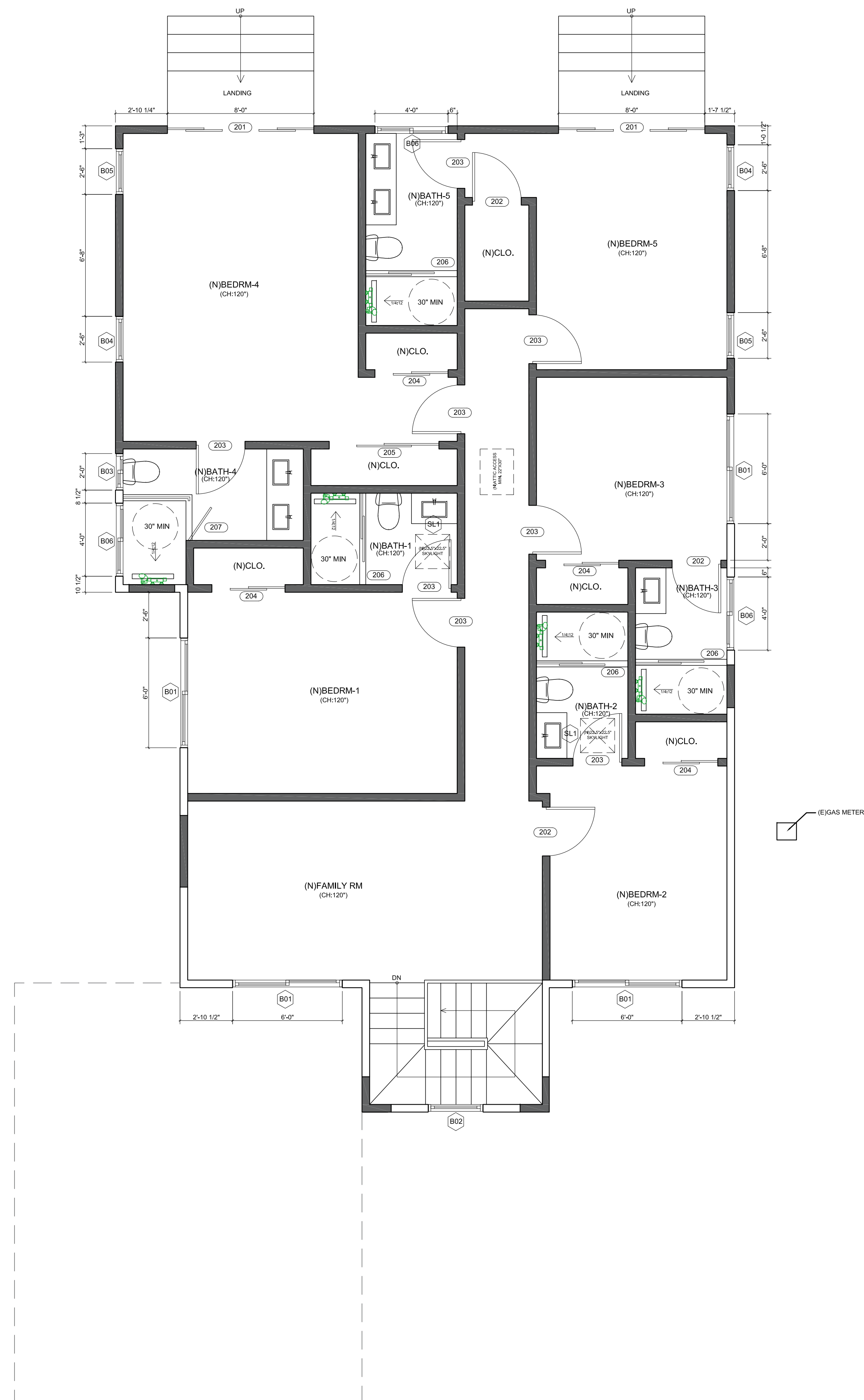
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TO FIELD CONDITIONS.

SHEET TITLE:

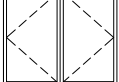
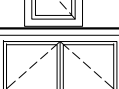
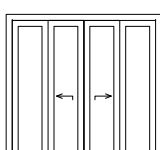
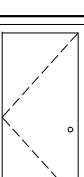
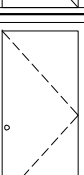
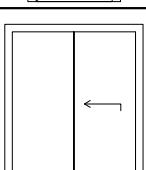
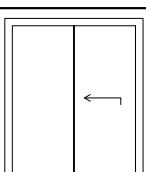
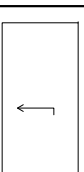
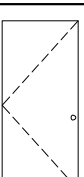
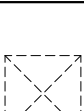
WINDOW & DOOR SCHEDULE

SHEET NUMBER:

A-4.2

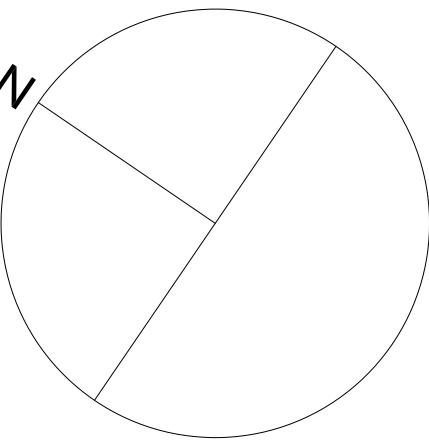


PROPOSED UPPER LEVEL PLAN

WINDOW/DOOR SCHEDULE							
#	FRONT VIEW	WIDTH x HEIGHT (ROUGH OPENING)	Ht A.F.F. (HEADER HEIGHT)	QTY	REMARKS	TEMPERED	NOTES
B01		72" x 72"	96"	4	BLACK VINYL CASEMENT WINDOW	NO	EGRESS WINDOW
B02		36" x 60"	96"	1	BLACK VINYL FIXED WINDOW	YES	
B03		24" x 36"	96"	1	BLACK VINYL CASEMENT WINDOW	YES	
B04		30" x 60"	96"	2	BLACK VINYL CASEMENT WINDOW	NO	EGRESS WINDOW
B05		30" x 60"	96"	2	BLACK VINYL CASEMENT WINDOW	NO	EGRESS WINDOW
B06		48" x 36"	96"	3	BLACK VINYL CASEMENT WINDOW	YES	
201		120" x 96"	96"	2	EXT. GLASS SLIDING DOOR	YES	
202		32" x 96"	96"	3	INT. SWING DOOR LEFT HINGE		
203		32" x 96"	96"	8	INT. SWING DOOR RIGHT HINGE		
204		48" x 96"	96"	4	INT. CLOSET SLIDING DOOR		
205		72" x 96"	96"	1	INT. CLOSET SLIDING DOOR		
206		30" x 72"		4	INT. SHOWER SLIDING DOOR	YES	SHOWER ENCLOSURE SHALL HAVE SAFETY GLAZING.
206		26" x 72"		1	INT. SHOWER SWING DOOR	YES	SHOWER ENCLOSURE SHALL HAVE SAFETY GLAZING.
SL1		22.5" x 22.5"		2	VELUX FIXED SKYLIGHT		FIXED CURB-MOUNT SKYLIGHT WITH LAMINATED LOW-E3 GLASS



215 Yale Ave,
Kensington, CA 94708



AP NUMBER 570041004

DATE 04/05/2026

PLAN CHECK

BID DATE

FINAL PERMIT

REVISIONS

PLAN PREPARED BY

Erik Zany

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SHEET TITLE:

WINDOW & DOOR SCHEDULE

SHEET NUMBER:

A-4.3



215 Yale Ave,
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AP NUMBER 570041004

DATE 04/05/2026

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BID DATE

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PLAN PREPARED BY

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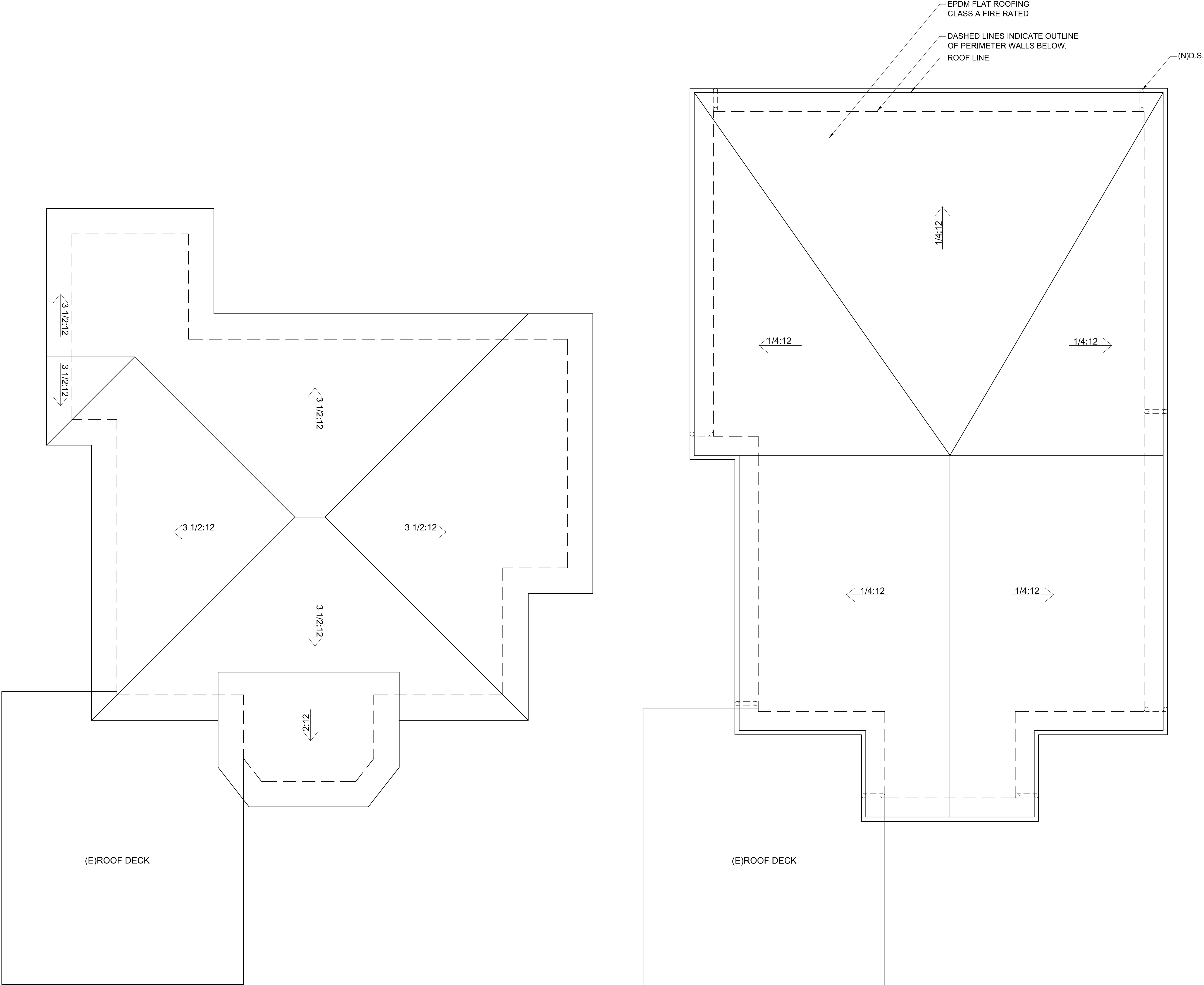
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SHEET TITLE:
ROOF PLAN

SHEET NUMBER:

A-5.1

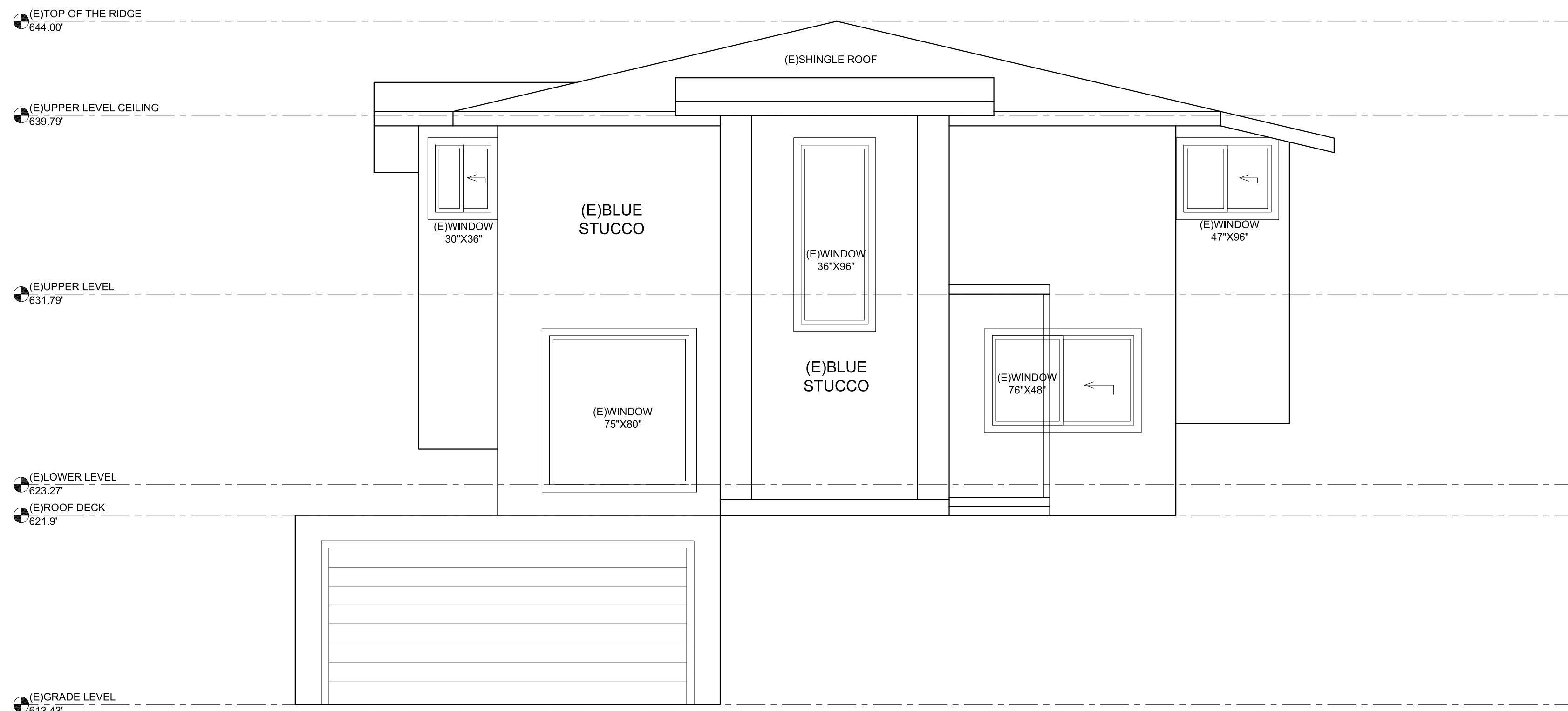


EXISTING ROOF PLAN
SCALE 1/4" = 1'-0"

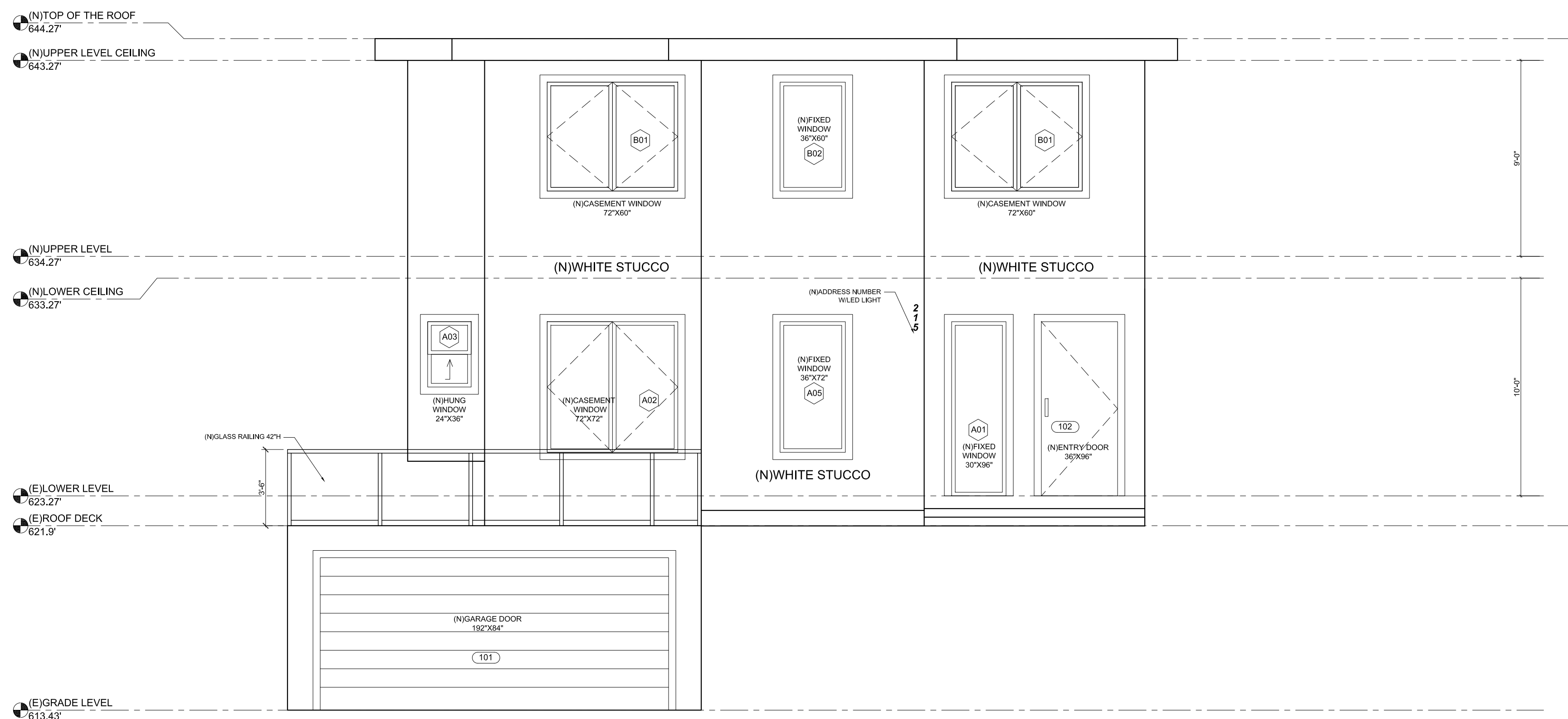
1

PROPOSED ROOF PLAN
SCALE 1/4" = 1'-0"

2



EXISTING FRONT ELEVATION 1
SCALE 1/4" = 1'-0"



PROPOSED FRONT ELEVATION

KEY NOTES:

1. BUILDINGS SHALL HAVE ADDRESS NUMBERS PLACED IN A POSITION THAT IS PLAINLY LEGIBLE AND VISIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY. NUMBERS SHALL BE MIN. 4" HIGH WITH A MIN. STROKE WIDTH OF 1/2", AND SHALL BE ILLUMINATED.
2. PAINTED STUCCO SMOOTH FINISH FOR EXTERIOR WALLS



215 Yale Ave,
Kensington, CA 94708

AP NUMBER	570041004
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DATE	06/10/2026
------	------------

PLAN CHECK

BID DATE

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REVISIONS

PLAN PREPARED BY

Erik Zamy

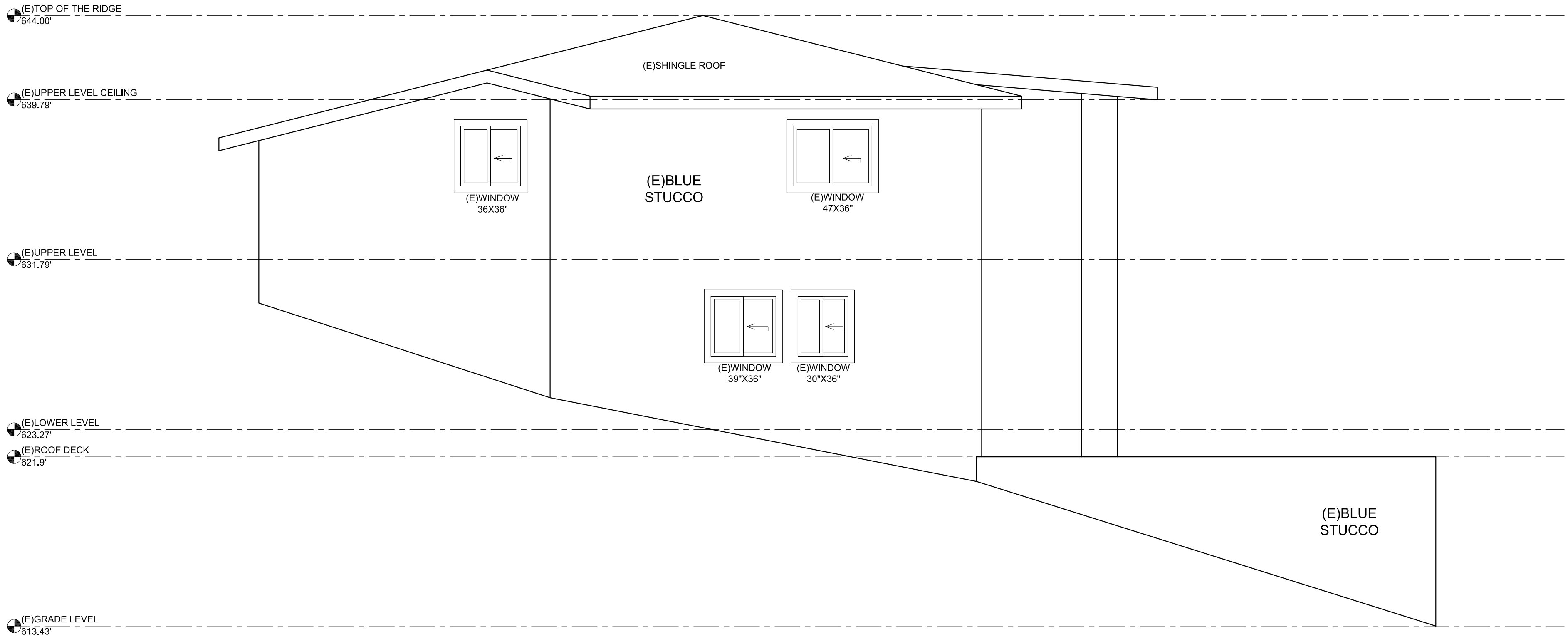
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TO FIELD CONDITIONS.

SHEET TITLE:
ELEVATIONS

SHEET NUMBER:

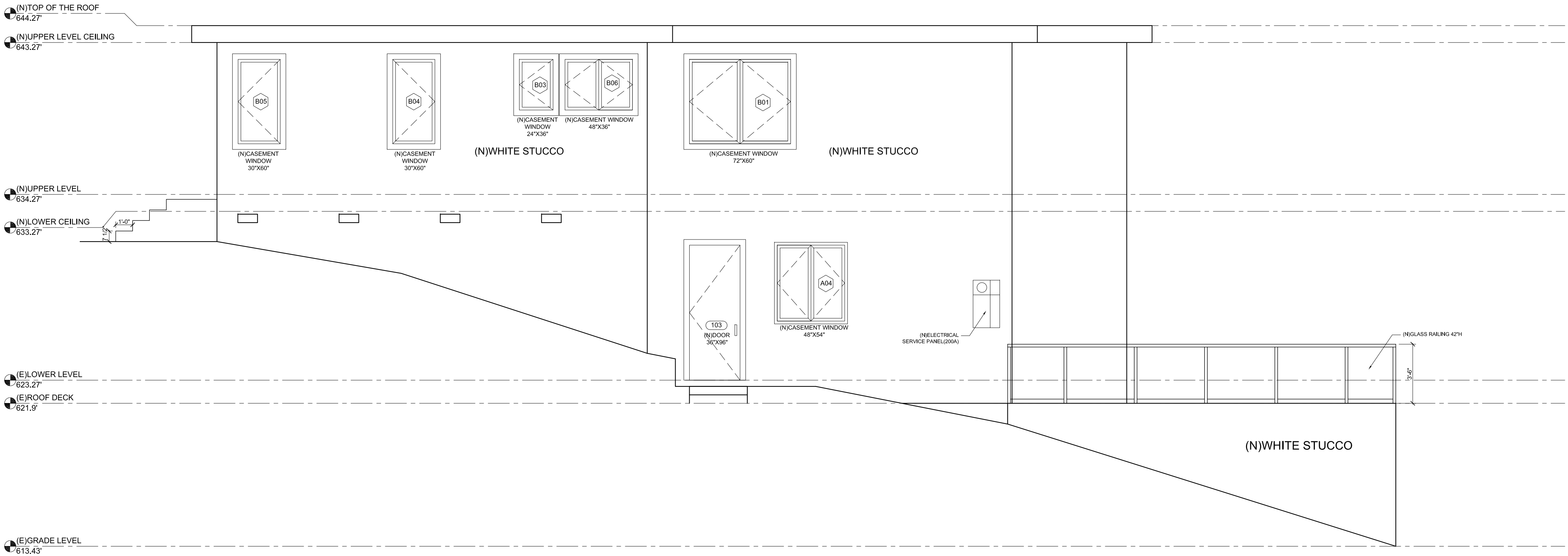
A-6.1



EXISTING LEFT ELEVATION

SCALE 1/4" = 1'-0"

1



PROPOSED LEFT ELEVATION

SCALE 1/4" = 1'-0"

2



215 Yale Ave,
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AP NUMBER 570041004

DATE 06/10/2026

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SHEET TITLE:
ELEVATIONS

SHEET NUMBER:

A-6.2



215 Yale Ave,
Kensington, CA 94708

AP NUMBER 570041004

DATE 06/10/2026

PLAN CHECK

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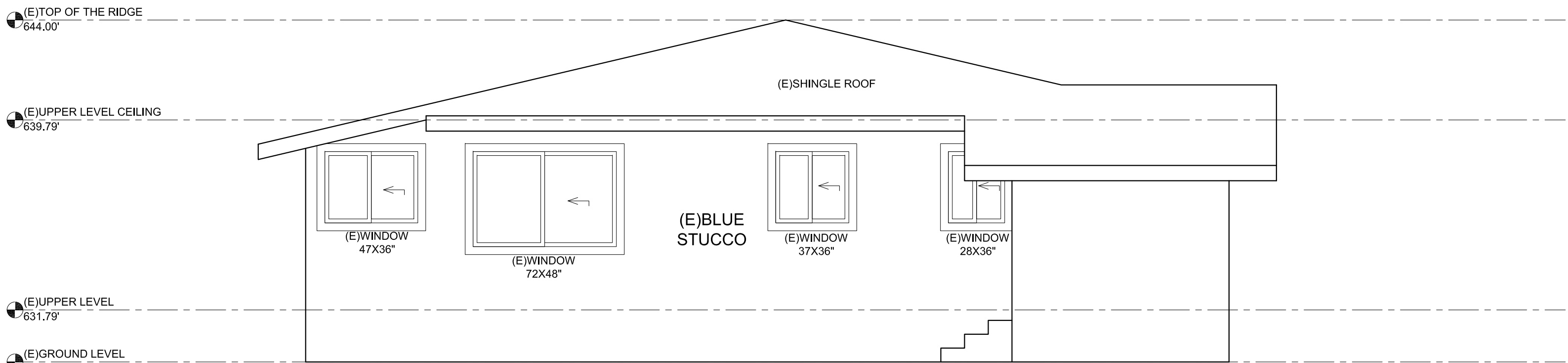
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SHEET TITLE:
ELEVATIONS

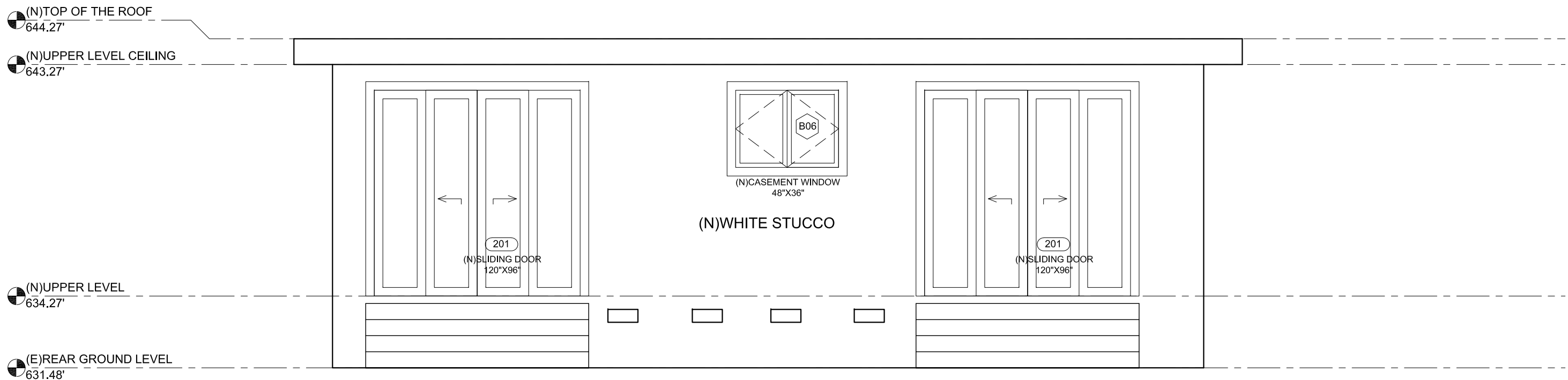
SHEET NUMBER:

A-6.3



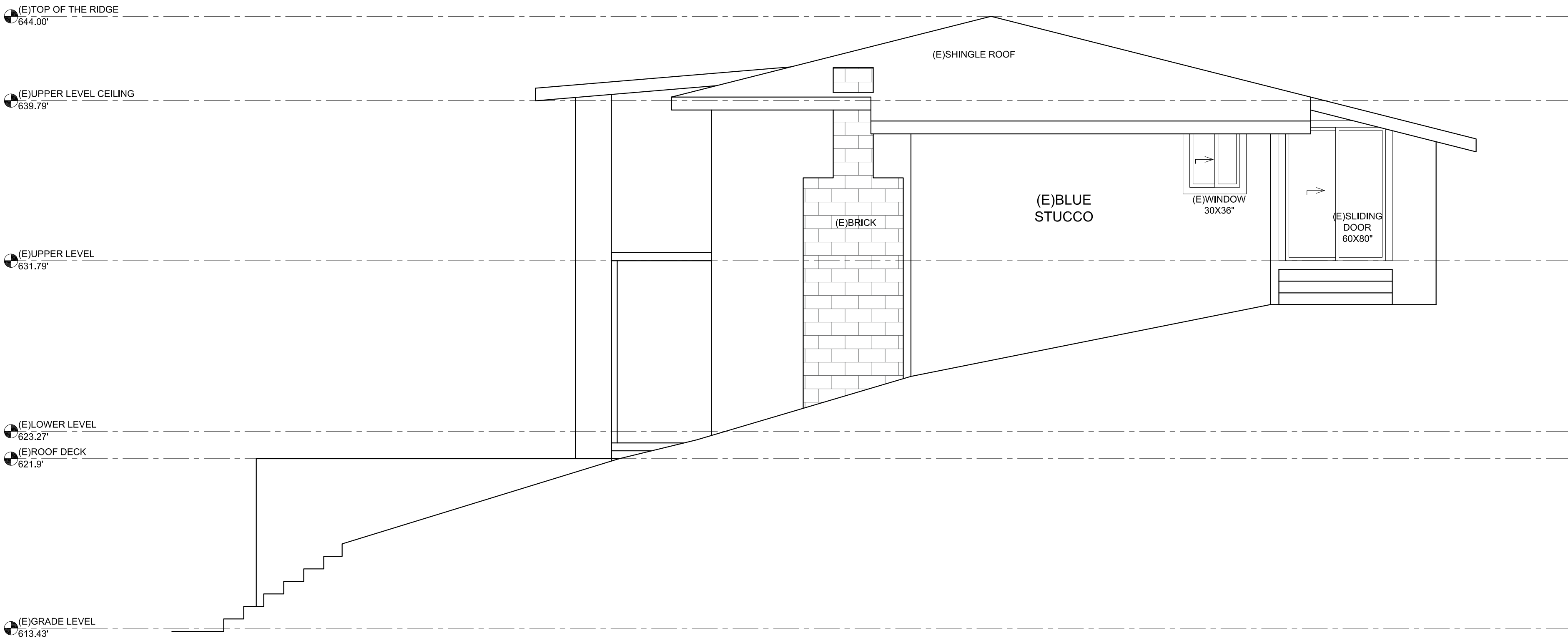
EXISTING REAR ELEVATION
SCALE 1/4" = 1'-0"

1



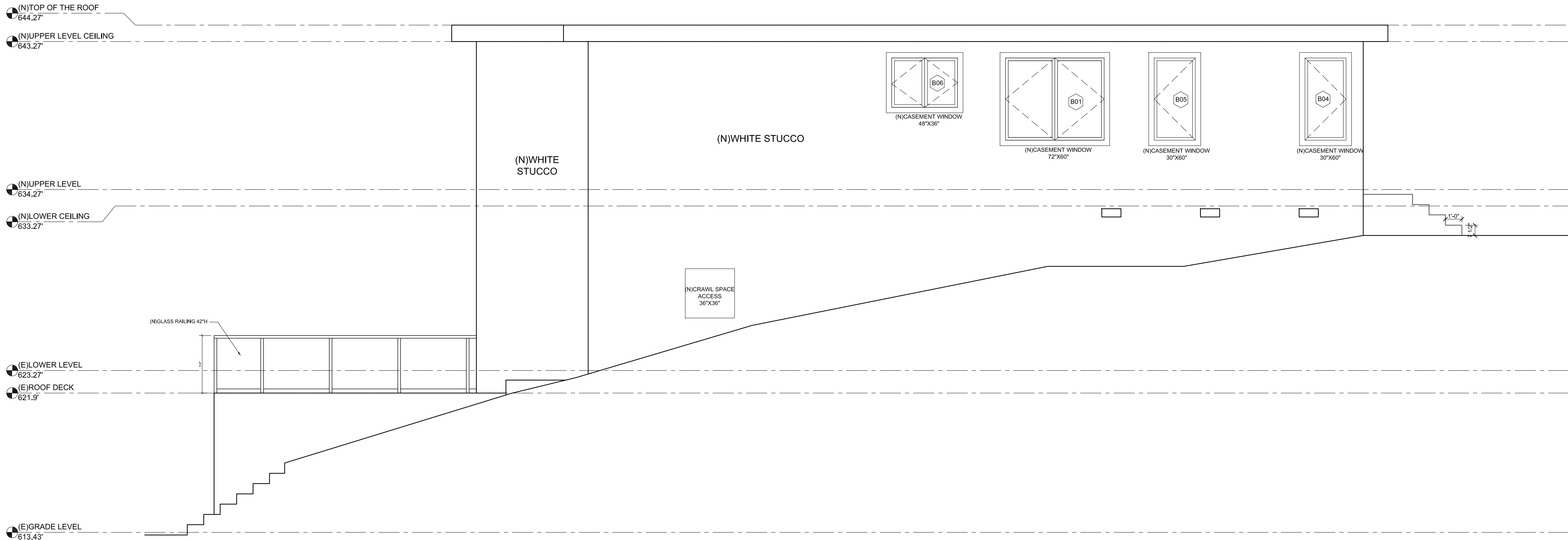
PROPOSED REAR ELEVATION
SCALE 1/4" = 1'-0"

2



EXISTING RIGHT ELEVATION
SCALE 1/4" = 1'-0"

1



PROPOSED RIGHT ELEVATION
SCALE 1/4" = 1'-0"

2



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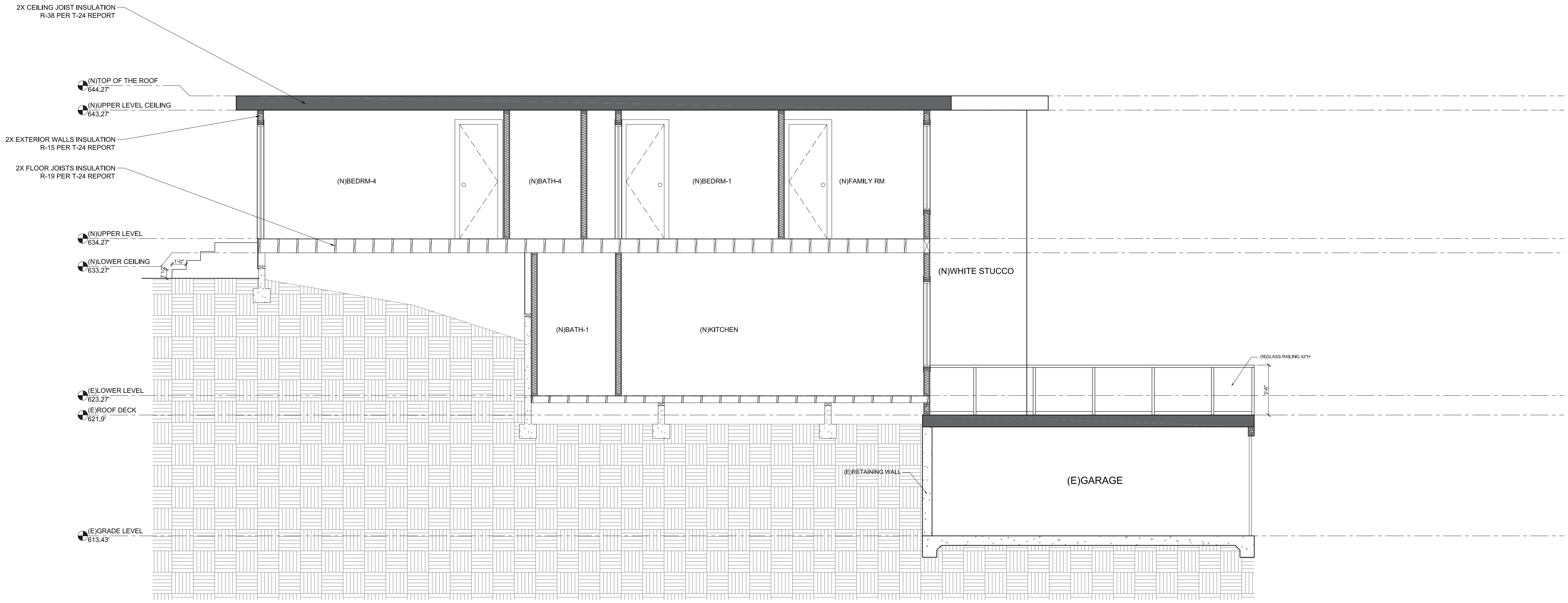
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SHEET TITLE:
ELEVATIONS

SHEET NUMBER:

A-6.4



PROPOSED SECTION-1
SCALE 1/4" = 1'-0"

1



PROPOSED SECTION-2
SCALE 1/4" = 1'-0"

2



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SHEET TITLE:
SECTIONS

SHEET NUMBER:

A-6.5



215 Yale Ave,
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AP NUMBER 570041004

DATE 06/10/2026

PLAN CHECK

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PLAN PREPARED BY

Erik Zang

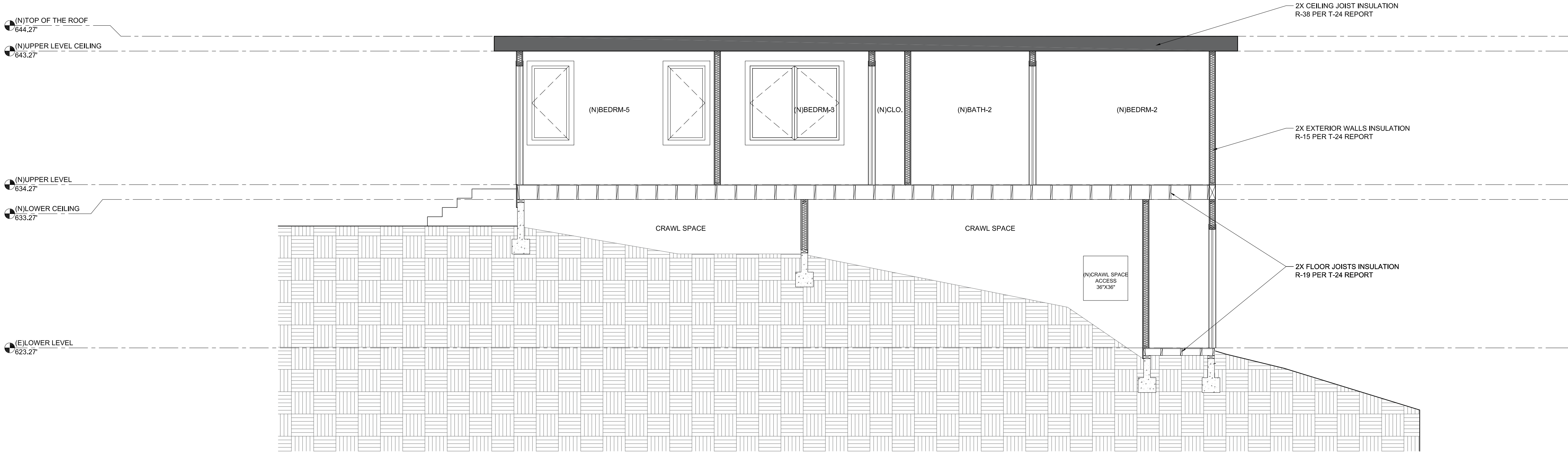
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SHEET TITLE:
SECTIONS

SHEET NUMBER:

A-6.6



PROPOSED SECTION-3
SCALE 1/4" = 1'-0"

1



CONTRA COSTA COUNTY

1025 ESCOBAR STREET
MARTINEZ, CA 94553

Staff Report

File #: 26-3046

Agenda Date: 7/29/2026

Agenda #:

Advisory Board: Kensington Municipal Advisory Council

Subject: CDPC25-00014 View claimant: 238 LAKE DRIVE, KENSINGTON, CA 94708 and 236 LAKE DRIVE, KENSINGTON, CA 94708. Trees Owners: 187 PURDUE AVENUE, KENSINGTON, CA 94807

Presenter: Claimant and Tree Owners

Contact: Joanna.Steen@bos.cccounty.us

Information:

CDPC25-00014 For a Kensington Tree View Claim fact-finding and advisory decision by the Tree Arbitration Board to review a view claim in accordance with the provision of the County's Tree Obstruction of Views (-TOV) ordinance. View claimant: (Marcelina Cravat and Curtis Overway 238 **LAKE DRIVE, KENSINGTON, CA 94708** and Hazel Hung 236 **LAKE DRIVE, KENSINGTON, CA 94708**) Trees Owners: (Leslie Jacoby and Leslie Nicholaieff 187 **PURDUE AVENUE, KENSINGTON, CA 94807**).

Referral History and Update:

Recommendation(s)/Next Step(s):

CONTRA COSTA COUNTY file #CDPC 25-00014

KMAC Tree Arbitration Board

View Claimants: Marcelina Cravat, Curtis Overway and Hazel Hung

Tree Owners: Leslie Jacoby and Leslie Nicholaeff

VIEW CLAIMANTS' NEW EVIDENCE FOR HEARING ON

May 27, 2026

As the Arbitration Board requested at the prior hearing in this matter, View Claimants respectfully submit the following new evidence to support their View Claims:

Hazel Hung (“Hazel”), owner of 236 Lake Drive, found a photograph that was taken in **December of 1985** of her view to the west, from her balcony that is adjacent to her living room. Hazel was present on her balcony when the photograph was taken by her late husband, Alexander Karu. This is a black and white print of that photograph. The color original will be produced at the hearing and a color enlargement of this photograph will be shown on View Claimants' power point presentation on May 27, 2026.



The house with the two chimneys is located next to Tree Owners' house which is to the left (south) of it. Albany Hill, the surface of the Bay, the Marin Headlands, the Golden Gate Bridge and environs are visible.

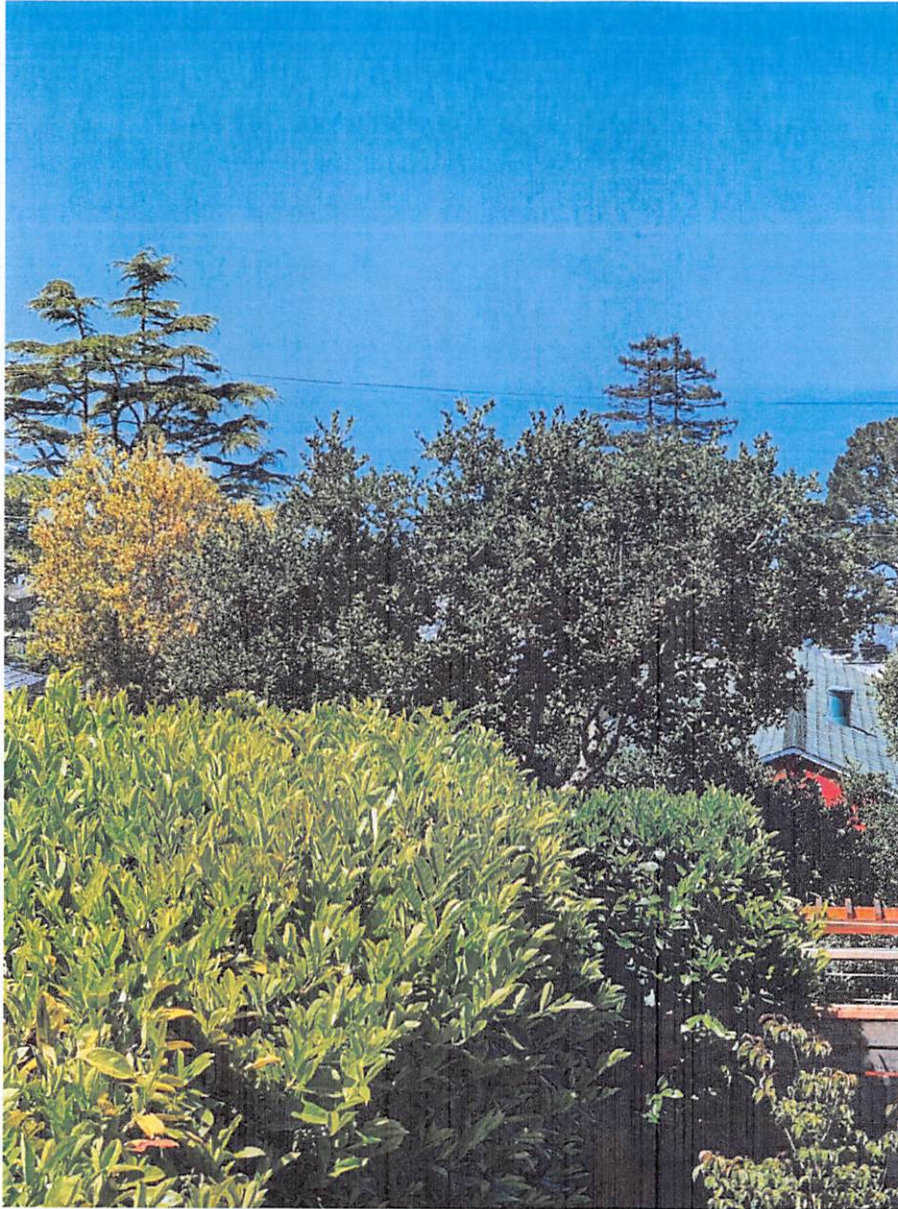
Hazel began occupying 236 Lake Drive with her late husband in December of 1985 and acquired/purchased her interest in it as co-owner soon thereafter.

Although photographs of Hazel's current views from her property were produced previously with her View Claim, on the following pages are **four more recent photographs**:



The roof of Tree Owners' red house is shown in the middle of the photo. The two coast live oaks (planted in 2011 Or 2012 by Tree Owners' admission), are in Tree Owners' back yard and appear to the right and left sides of the peak of Tree Owners' roof. In comparison to the 1985 photo where there are no trees on Tree Owners' land which are taller than the brown house, they currently exceed the height of that house by many feet.

HAZEL current view:



The roof of Tree Owners' red house is shown on the right side of the photo.



HAZEL current view:

HAZEL current view:



View Claimants, Marcy Cravat and Curtis Overway, owners of 238 Lake Drive, **acquired their property in 2006. Hazel obtained an appraisal of her property in 2006** and the appraiser, Peter Townsend, provided her with the following photograph of the view to the west of her home:



Email from: Peter Townsend

Dear Hazel

The picture you requested is attached as a jpg file which I hope you are able to print.

Hazel wrote:

Dear Mr. Townsend,

You appraised my house in Kensington (236 Lake Dr.) in Feb. of 2006. I wonder if I may get an enlarged version of the photo (from my deck).

The following four pages (numbered 8A, 8B, 8C and 8D, are **photographs of the Tree Owners' yard areas that were published on Zillow when they acquired their property in 2011:**

[Back to search](#)



[Save](#) [Share](#) [More](#)



[See all 23 photos](#)



\$1,067,900

187 Purdue Ave, Kensington, CA 94708

2
beds

1
baths

1,304
sqft

Get a cash offer in 3 minutes

Find out how much your home could sell for in as little as 3 minutes with a no-obligation cash offer.

Est. refi payment: \$6,624/mo [Refinance your loan](#)

Single Family

Built in 1938

3,920 Square Feet Lot

Estimated market value

\$1,067,900

What is this number?

P. 8A

[Back to listing](#)

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P. & B.

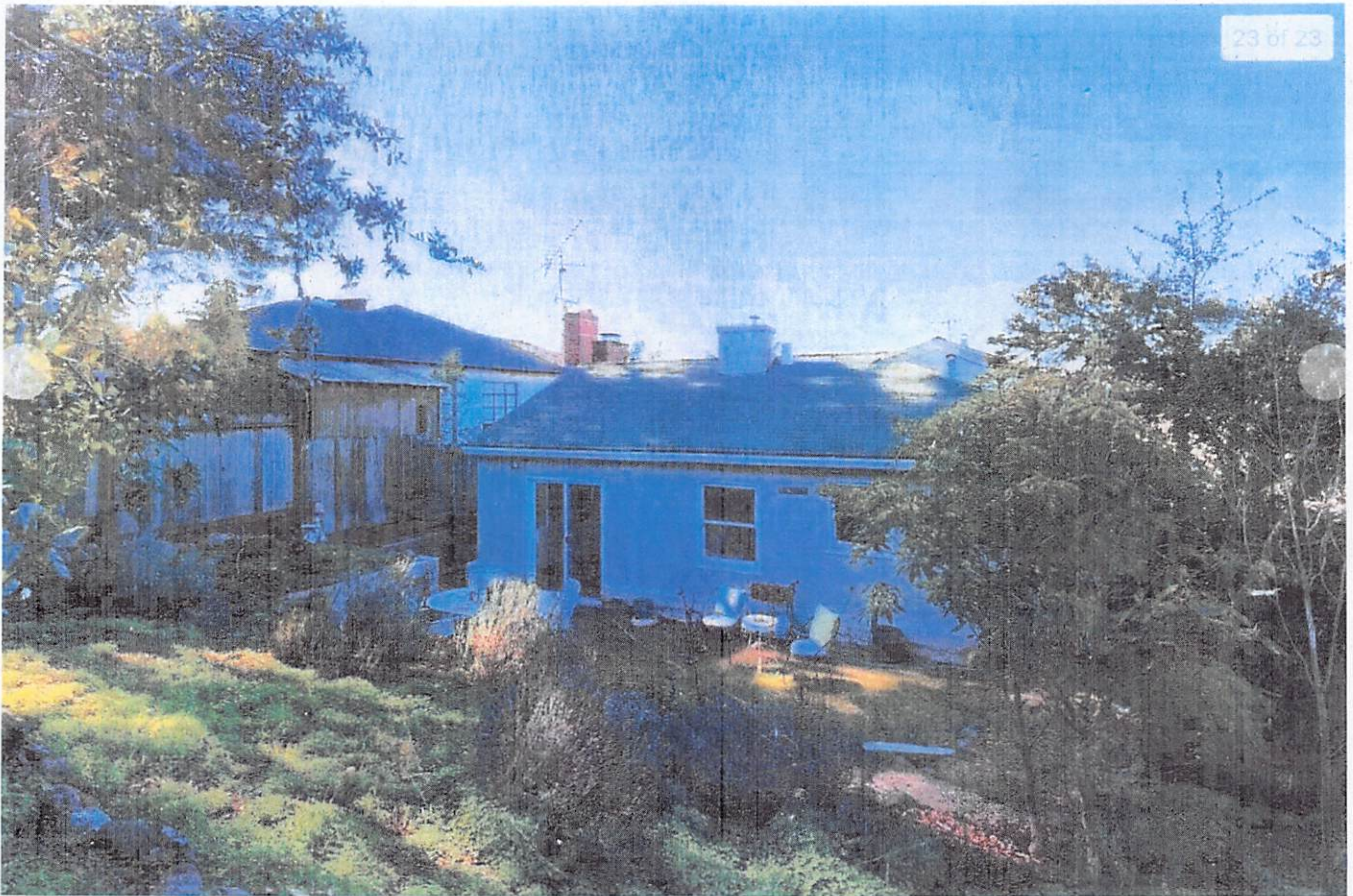
[Back to listing](#)

[Photos](#)

[Save Home](#)

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23 of 23



p.8C



P. 8 D

Current view from Cravat/Overway home 238 Lake Drive:



Current view from Cravat/Overway home 238 Lake Drive:



See the **SIGNIFICANT CHANGES** statement of Legislative intent on the following two pages (11A and 11B).

SIGNIFICANT CHANGES TO THE TREE OBSTRUCTION OF VIEWS ORDINANCE

Presentation to Kensington Municipal Advisory Council – 2/28/23

- **New Arbitration Procedure.** The draft Tree Obstruction of Views Ordinance establishes a new arbitration procedure to resolve disputes over views that are obstructed by trees.
 - The draft ordinance encourages property owners to resolve disputes over views informally or by voluntary mediation, but if a dispute cannot be resolved informally or by mediation, a property owner who believes that a tree on another property is obstructing his or her view may submit a “view claim” to the County.
 - A view claim must describe the view that is obstructed, describe which trees are obstructing the view, and explain what steps have been taken to resolve the dispute.
 - A person who files a view claim has no right to a view that is greater than the view that existed when the person purchased the property.
 - A view claim is heard by a tree arbitration board, which is a board established by the Board of Supervisors. A municipal advisory council (like the Kensington Municipal Advisory Council) could serve as a tree arbitration board.
 - A property owner whose view is obstructed and a tree owner may present evidence to the tree arbitration board.
 - The evidence may include an arborist’s report, which is a report that evaluates the feasibility and impact of actions that may be taken to reduce a view obstruction. Examples of these actions include tree trimming and tree thinning.
 - After hearing evidence, the tree arbitration board will issue a written decision. The decision will include the board’s findings as to whether a view is obstructed. If a view is obstructed, the decision will describe the actions that must be taken to restore a view and will allocate the costs associated with restoring the view.
 - The decision of the tree arbitration board is binding on both parties *only* if they agreed before the hearing to be bound by the board’s decision. The parties must comply with the decision within 30 days unless a longer period is specified.
 - The new arbitration procedure is in sections 816-2.602 through 816-2.606 of the draft ordinance.
- **New Procedure for Advisory Decisions.** The draft ordinance also establishes a new procedure for fact-finding and advisory decisions by a tree arbitration board.
 - If the parties do not agree to binding arbitration, a property owner or a tree owner may request that the tree arbitration board issue a *non-binding* advisory decision.
 - Under this procedure, the tree arbitration board receives evidence and issues a written decision.
 - The decision will include the board’s findings as to whether a view is obstructed. If a view is obstructed, the decision will describe the actions that must be taken to restore a view and will allocate the costs associated with restoring the view.
 - The written decision is *not binding* on the parties, but if one of the parties goes to court to enforce the decision, there is a “rebuttable presumption” in favor of the tree arbitration board’s decision – that is, the board’s decision is presumed to be correct.
 - The new advisory decision procedure is in section 816-2.608 of the draft ordinance.

P. 11 A

- **Other Changes to the Tree Obstruction of Views Ordinance:**

- **Additional Purpose.** A new purpose of the ordinance is to discourage the planting and maintenance of trees that may result in excessive shade and unduly diminish desirable views. (Section 816-2.206(d).)
- **New Definitions.** The draft ordinance adds new or revised definitions for “arborist,” “arborist’s report,” “tree,” and “view.” (Section 816-2.208.) The revised definition of “view” is similar, but not identical, to the definition of “view” in the Kensington overlay ordinance (planning ordinance). A “view” is a “range of sight including pleasing vistas or scenes from the primary living areas of a residence.” **Note:** an item that is open for discussion during the public review process is whether the term “view” should also include a range of sight from a deck connected to a residence.
- **New Factors.** Several factors are considered when a view obstruction is evaluated by a tree arbitration board. The draft ordinance adds tree flammability and tree health as additional factors to be considered. (Section 816-2.410.)
- **Other County Tree Ordinance.** The draft ordinance clarifies (Section 816-2.416(a)) that if a tree is trimmed, thinned, removed, or another action is taken to restore a view, a tree permit may be required under the County’s Tree Protection and Preservation Ordinance, which is Chapter 816-6 of the ordinance code.
- **Solar Shade Control Act.** The Solar Shade Control Act (Public Resources Code sections 25980 through 25986) is a state law that authorizes a private nuisance cause of action against a property owner if the owner’s tree blocks someone else’s solar panels. The draft ordinance does not preclude anyone from separately enforcing the Solar Shade Control Act. (Section 816-2.806(b).)

p. 11B

See the case of **Kahn v. Price**, especially the highlighted language, on the following eight pages (A through H)

I Kahn v. Price

Court of Appeal of California, First Appellate District, Division Three

September 22, 2021, Opinion Filed

Reporter

[69 Cal. App. 5th 223 *](#) | [284 Cal. Rptr. 3d 253](#) | [2021 Cal. App. LEXIS 784](#) | 2021 WL 4305035

LINDA KAHN, Plaintiff and Respondent, v. KATHERINE PRICE et al., Defendants and Appellants. LINDA KAHN, Plaintiff and Respondent, v. KATHERINE PRICE et al., Defendants and Appellants; WILLIAM S. WEISBERG et al., Objectors and Appellants.

Overview

HOLDINGS: [1]-An action seeking declaratory and injunctive relief under the San Francisco Tree Dispute Resolution Ordinance regarding a tree on adjoining property that obstructed plaintiff's views of San Francisco Bay and Marin County was timely filed because the continuous nuisance doctrine rendered any statute of limitations inapplicable; [2]-The trial court did not have to dismiss the lawsuit predicated on plaintiff's failure to include in her prelitigation tree claim visual images of unobstructed views from the main level of her residence before the growth of the tree. The trial court admitted grant deeds showing plaintiff had acquired the property in 1976 and continued to own the property and written correspondence showing attempts at reconciliation had been made and failed.

Outcome

Amended judgment affirmed.

A. Background

Kahn purchased a multistory residence in San Francisco in 1976.⁴ At the time, the residence had unobstructed views from the primary living areas [\[*228\]](#) located on the north side of the home on the main level as well as unobstructed views from the north-facing rooms on the second and third floors. The residence's northerly and northwesterly views—of the San Francisco cityscape and Bay, the Golden Gate Bridge,

A

Angel Island, and southern Marin County—remained unobstructed by any other vegetation or the tree until 2011.

In or about 1998, the Prices' predecessors in interest (prior owners) purchased the multistory residence on property that is downslope from and abuts Kahn's property. The properties are separated by a structure (a retaining wall topped by a lattice fence) located 10 to 12 feet above ground level on the Kahn property; the tree is located at "the very rear" of the Prices' backyard and is adjacent to the retaining wall.

When Kahn replaced the lattice fence atop the retaining wall in 2001, she saw the origins of the tree that likely had been growing from a "volunteer seedling" since approximately 1999. The tree appeared "hedge-like" and was "well below the height of the lattice fence." By 2007, the tree was beginning to grow above the lattice fence but did not obstruct Kahn's views. However, by 2011 the tree was visible above the lattice fence at which time Kahn advised the prior owners that the tree was eclipsing her views. Kahn offered to pay for the removal of the tree, but instead the prior owners trimmed the tree.

In 2012, when Kahn learned the prior owners had sold the property to the Prices, Kahn contacted the Prices in writing and in person. The Prices, who were then living in Hong Kong and only visiting the San Francisco property occasionally, assured Kahn they would consult with their landscape architects about the tree.

"In late 2016, when it appeared informal resolution was unlikely," Kahn began the Ordinance's prelitigation procedures⁵ by serving the Prices with a tree claim in early 2017⁶ and the parties engaged in private mediation (in lieu of ²²⁹ community board mediation under the Ordinance) in June 2017. When private mediation failed in late 2017, and the Prices declined to participate in arbitration, Kahn filed this lawsuit in early 2018 seeking declaratory and injunctive relief.

B. Trial Proceeding

At a bench trial held in June 2019, the court heard the testimony of the Prices, Kahn, Kahn's relative, Kahn's friend, and an immediate neighbor of Kahn and the Prices. The court also heard testimony of Kahn's expert consulting arborist and the Prices' expert consulting arborist, expert aerial photographer, expert geotechnical engineer, and real estate appraiser. The court considered extensive documentation including the parties' written communications and photographs taken at various times and from various locations within and without the parties' properties. Lastly, the court conducted an onsite inspection of the parties' properties on June 19, at which time the parties and counsel were present.⁷

B

The court found that since the purchase of her home in 1976 Kahn had “enjoyed” views (from all floors) of “the San Francisco cityscape, the Bay, the Golden Gate bridge, southern Marin County, and Angel Island” until 2011 when the tree began obstructing and ultimately “eclipsed” the views; but for the tree, Kahn's residence would still have those unobstructed views. Under the heading, “Historic Evidence of Views,” the court specifically found: “Kahn, her [relative] and [her friend], both of whom regularly visited the Kahn home, testified to the northerly views over San Francisco, San Francisco Bay, southern Marin County, and Angel Island. The views were a principal factor in the Kahns' decision to purchase the property. The testimony and historic photographs establish that, when the Kahns purchased their home, the ‘views,’ as defined in [Ordinance] Section 822(n), from the garden, terrace, dining room, and kitchen dining area—north facing rooms located on the main level—were unobstructed. Nor was the view obstructed from any of the north facing rooms on the upper two levels of the Kahn home. (Kahn home's historic views). The evidence also establishes that the northerly and northwesterly views of the San Francisco cityscape, the Bay, the Golden Gate [\[230\]](#) bridge, southern Marin County, and Angel Island remained unobstructed by the tree or any other vegetation until at least 2011.”

The trial court also considered the burdens and benefits of the tree pursuant to the Ordinance's enumerated criteria and based upon the “testimonial and documentary evidence,” the court's “personal inspection of the parties' respective properties,” and “the written and oral arguments of counsel.”

Regarding the tree's burdens, the court found that “the Kahn home had unobstructed views from the Golden Gate to Angel Island and, but for the tree, would still have that view. There are landmarks, vistas and other unique features, including the San Francisco Bay, Angel Island, and portions of southern Marin County which would be visible from the first level of the Kahn home, in the dining room and the kitchen, as well as from the patio and rear garden, but are partially or completely eclipsed by the tree's growth from 2011 to the present.” The court found credible the photographic methodology used by Kahn's arborist who documented “the tree's effect and estimated the obstructions to be 50–60% from the dining room, 90% from the kitchen table, 20–30% from the rear patio, and 30–40% of [the view] from the rear yard looking north to northeast.”

The court's own observations during the site visit corroborated the arborist's testimony. The court also found it was “only the tree—and not other factors—which obstruct the view and create the burdens listed in the Ordinance.” In sum, the court found “overwhelming” evidence that: “the tree's rapid growth in both height and breadth obstructs the views of landmarks and vistas that could once be seen”; “[t]he degree of obstruction makes that burden significant and substantial”; and “there are no other factors contributing to the burden.”[8](#)

C

Discussing the tree's benefits, the trial court specifically found that "the tree's vigor in this context and location is not a benefit." In so concluding, the [*231] court explained that "Kahn raised concerns about the tree when it was young. Had [the Prices or their predecessors in interest] heeded her warning, when the tree was small, a skilled arborist ... could have advised on pruning that would have maintained the unique features of the Monterey pine while limiting its intrusion on the Kahn home's historic views. Instead the tree's owners ignored her requests, while the tree grew rapidly. Then in a belated effort to ameliorate the complaint, the tree was subjected to repeated topping and trimming. The unfortunate result is the tree no longer has the visual qualities of a Monterey pine [¶] If the tree survives, unaffected by the beetles and pine-pitch canker, true to the species, it will become a very large stature tree. ... [I]f the tree is pruned to mitigate the view-related burdens, given its growth-pattern, the effects of that pruning will be fleeting—demanding frequent attention. [The parties' immediate neighbor] testified that the tree obstructs the views of the Golden Gate Bridge and surrounding waters from his home. Even when the tree is pruned in a manner which improves—but does not restore—those views, due to rapid growth, the view obstruction recurs within a very short period of time."

In evaluating the tree's "aesthetics, a trait in the eye of the beholder," the trial court found, "[u]nderstandably, that the Prices insisted that the tree's role in their yard, and, indeed in their decision to purchase the home, is paramount. They extol its virtues in shading their yard, providing a backdrop for their landscaping and assuring privacy for their family. While the court does not seek to substitute its artistic opinion for that of the homeowners, there are objective factors which cannot be ignored. The other landscaping in the Prices' yard is dwarfed by the tree. While the other trees and plants are all proportional to one another, the looming Monterey pine is disproportionate to all the surrounding vegetation and looms ominously. [¶] The tree is located at the very rear of their yard and atop a steep slope, adjacent to the retaining wall and Kahn's lattice fence. [The Prices' arborist] testified that, given [the tree's] distance from the Prices' home, it does not provide shade to either the home or the outdoor areas where the family would be dining or socializing"

On the issue of "soil stability provided by the tree," the trial court found not credible the testimony of Prices' geotechnical engineer who opined, "without any data, testing, or explanation—that removal of the tree would result in a 'landslide' affecting multiple properties." Nor did the witness "distinguish whether the 'landslide' would occur regardless whether the stump and roots were removed at the time the tree is felled, or if they were allowed to remain. [Kahn's arborist] testified that leaving the roots and stump to decompose—while planting woody vegetation which could take root while the [tree's] roots decayed—would assure soil stability. Planting along the entire length of the retaining wall would provide additional stability as it is unlikely that the tree's roots

D

extend to the western edge of the yard.” The [*232] court found no evidence that soil stability had been an issue during the decades predating the tree, and, no evidence that the retaining wall’s stability depended on the tree. The court also found that, if the tree’s roots contributed to the soil stability, it was at most a minor benefit and one which could be secured by leaving them in place after the tree was removed and added plantings.

The trial court did find the tree provided some visual screening for the yard and the children’s bedrooms in the Prices’ home, allowing for “minimal privacy,” but “any benefit of this screening is minor and insignificant.” In so concluding, the court found unpersuasive the Prices’ contention that the tree was critical to provide privacy from the Kahn residence. “The Price yard and living spaces are not visible from the main floor of the Kahn home, not because of the tree, but because of the difference in elevation and the retaining wall and fence separating the Kahn home and the Prices’ home. To the extent, the tree blocks views of the Prices’ home, it does so from only a portion of the upper floors of the Kahn home and therefore does not provide the ‘privacy’ the Prices’ claim to be essential. [¶] To the extent the Prices’ claimed need for privacy is sincere—rather than merely a justification for retaining the tree—the site visit provided evidence of the visibility of the Prices’ yard and children’s bedrooms from neighbors to the east, west, and south. The site inspection also demonstrated that the interior of the Prices’ home is visible on many sides.” “Neighbors in many homes—much closer than the Kahn home—can peer into the Price property, and yet the Prices have not installed window coverings to provide the privacy they claim to value.” The court’s own observations were “corroborated” by Kahn’s arborist’s “room-by-room analysis,” documented by photography from the yard and interior of the Prices’ home.

Having determined the tree’s burdens were “overwhelming” and “the benefits the tree confers to be minimal,” the court therefore concluded Kahn had met her burden of proving “the burdens posed by the tree outweighed the benefits and that restorative action is required.” In deciding the appropriate type of restorative action, the court evaluated the Ordinance’s “[a]ppropriate [r]estorative [a]ctions” of (i) no action, (ii) trimming, (iii) thinning, (iv) delayed trimming or thinning, (v) topping, or (vi) tree removal with possible replacement plantings. (Ord., § 824, subd. (c)(1).) The court explained its reasons for finding that the first five actions were not feasible and the sole action that best achieved the Ordinance’s objectives was removal of the tree, which we will later discuss in the analysis.

[*233]

The court also explained its decisions regarding the apportionment of costs between the parties. (Ord., § 825.)⁹ As to costs for the restorative action of tree removal, the court found the tree was not present before September 28, 1988, the effective date of the Ordinance. Consequently, the court directed that the cost of tree removal (the court-

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ordered restorative action) was to be paid “in equal proportion by the parties.” As to litigation costs, the trial court found Kahn and the Prices were to pay their own attorney’s fees pursuant to Ordinance section 825, subdivision (b), but Kahn as the prevailing party was entitled to her costs as defined in the Code of Civil Procedure.

The trial court entered judgment on December 2, 2019, later amended on February 28, 2020, in favor of Kahn “on both the cause of action for declaratory relief and the cause of action for injunctive relief” under the Ordinance. The court declared Kahn was entitled to restoration of her obstructed views, and to that end, the Prices were directed to remove the tree “so that the stump is cut to grade and the roots remain intact” and the stump was to “be treated to ensure that it will not re-sprout.” The parties were to follow specific procedures in hiring a licensed, bonded, and insured tree care company to perform and complete the tree removal. The Prices were directed to pay the tree removal company and provide Kahn with a copy of the paid invoice and proof of payment; within five court days of receipt of the paid invoice, Kahn was to pay one-half of the amount paid to the tree removal company as evidenced by the paid invoice. The Prices were granted the right to “plant replacements at their option and expense,” with the proviso that they “select species which, at maturity, will not interfere with the Kahn home’s historic views.” The amended judgment also included provisions awarding Kahn (1) \$69,150.65 as costs ([§ 1032](#) [prevailing party costs]; Ord., § 825, subd. (b) [court costs allocated at court’s discretion]), (2) \$41,182.50 as attorney fees and expert fees ([§ 2033.420](#) [expenses incurred in proving matters which a party to whom a request for admission was directed failed to admit]), and (3) \$47,345.30 as [section 128.5](#) sanctions, payable jointly and [\[*234\]](#) severally by the Prices and their trial counsel [William S. Weisberg](#) and the law firm of [Weisberg & Miller](#).

Appellants’ timely appeal ensued.[10](#)

DISCUSSION

Discussion of Statute of Limitations is deleted.

2. Ordinance’s Prelitigation Procedures

[HN7 CA\(8\)](#) (8) In order to pursue either binding arbitration or a court action, a complaining party must prepare a written “tree claim,” and serve the tree claim on the tree owner. (Ord., § 823, subd. (c).) Ordinance section 822, subdivision (j) defines a “tree claim” as follows: “‘Tree claim’ shall mean the written basis for arbitration or court action under the provisions of this Article which includes the following: [\[¶¶\]](#) (1) The nature and extent of the alleged obstruction, including pertinent and corroborating physical

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evidence. Evidence may include, but is not limited to, photographic prints, negatives, or slides. Such evidence must show **absence of the obstruction at any documentable time during the tenure of the complaining party.** Evidence to show the date of acquisition must be included. [¶] (2) The location of all trees alleged to cause the obstruction, the address of the property upon which the trees are located, and the present tree owner's name and address. [¶] (3) Any mitigating actions proposed by the parties involved to resolve the tree claim. [¶] (4) The failure of personal communication between the complaining party and the tree owner to resolve the alleged obstruction as set forth in Section 823(a) of this Article. The complaining party must provide physical evidence that written attempts at reconciliation have been made and failed. Evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence."

The Prices contend dismissal of the lawsuit is required because Kahn's prelitigation tree claim failed to include (1) "pertinent and corroborating physical evidence" in the nature of visual images showing an absence of an obstructed view from the main level of her residence before the growth of the tree, (2) "[e]vidence to show the date of acquisition" of the property by the property owner, and (3) "physical evidence that written attempts at reconciliation have been made and failed." The latter two categories of evidence were satisfied by the trial court's admission of grant deeds showing Kahn had acquired the property in 1976 and continued to own the property and written correspondence showing "attempts at reconciliation have been made and failed."

As to the argument that the Ordinance requires a prelitigation tree claim to include corroborating physical evidence in the form of visual images showing no obstruction before the growth of the tree, nowhere does the Ordinance provide that the court is without jurisdiction to adjudicate a tree claim and must dismiss the action if the prelitigation tree claim fails to include such evidence. While the Ordinance requires the parties participate in prelitigation procedures before pursuing either binding arbitration or litigation, and a tree owner would be entitled to a stay of the action to compel compliance if a complaining party had not complied with the prelitigation procedures (see [\[*241\] *McMillin Albany LLC v. Superior Court* \(2018\) 4 Cal.5th 241, 255–256, 259 \[227 Cal. Rptr. 3d 191, 408 P.3d 797\]](#)), that does not mean that the trial court must dismiss a tree action if the prelitigation tree claim fails to include physical evidence of the absence of the obstruction before the growth of the tree.

[HN8 CA\(9\)](#) (9) Simply put, **the Ordinance does not contain a clear intent "to limit the fundamental jurisdiction of the courts" to adjudicate only in those cases where the complaining party's prelitigation tree claim includes pertinent and corroborating evidence of the absence of an obstruction before the growth of the tree.** ([Quigley v. Garden Valley Fire Protection Dist. \(2019\) 7 Cal.5th 798, 808 \[249 Cal. Rptr. 3d 548, 444 P.3d 688\]](#), *italics added.*) **If there were an intent to "withdraw a class of cases from**

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state court jurisdiction, we expect” the Ordinance would make that intention clear. (*Ibid.*) Instead, the Ordinance “makes no reference to the jurisdiction of the courts, nor does it otherwise speak to the courts’ power to decide a particular category of cases.” (*Quigley*, at p. 808.) Thus, we reject the Prices’ argument that the trial court was required to dismiss the action for Kahn’s failure to attach to her prelitigation tree claim visual images of the absence of the obstruction from the main level of her residence before the growth of the tree.

CA(10) (10) In the alternative, the Prices argue that dismissal is still required because Kahn did not “fill the physical evidence gap” at trial as she presented only testimonial evidence regarding there being an unobstructed view before the growth of the tree. We see no merit to this argument. HN9 At trial, the court must determine both “[t]he existence of landmarks, vistas, or other unique features which cannot be seen because of growth of trees since the acquisition of the property” (Ord., § 824, subd. (a)(4)), and the degree to which the “alleged obstruction interferes with [the] view ... by means of a measuring instrument or photography” (*id.*, § 824, subd. (a)(5)); and, further, “[t]he extent of ... view available and documentable as present at any time during the tenure of the complaining party is the limit of restorative action which may be required” (*id.*, § 824 (c)(6)). However, these provisions do not impose a specific evidentiary requirement on the complaining party to produce visual images of the absence of obstruction before the growth of the tree, as the Prices suggest.

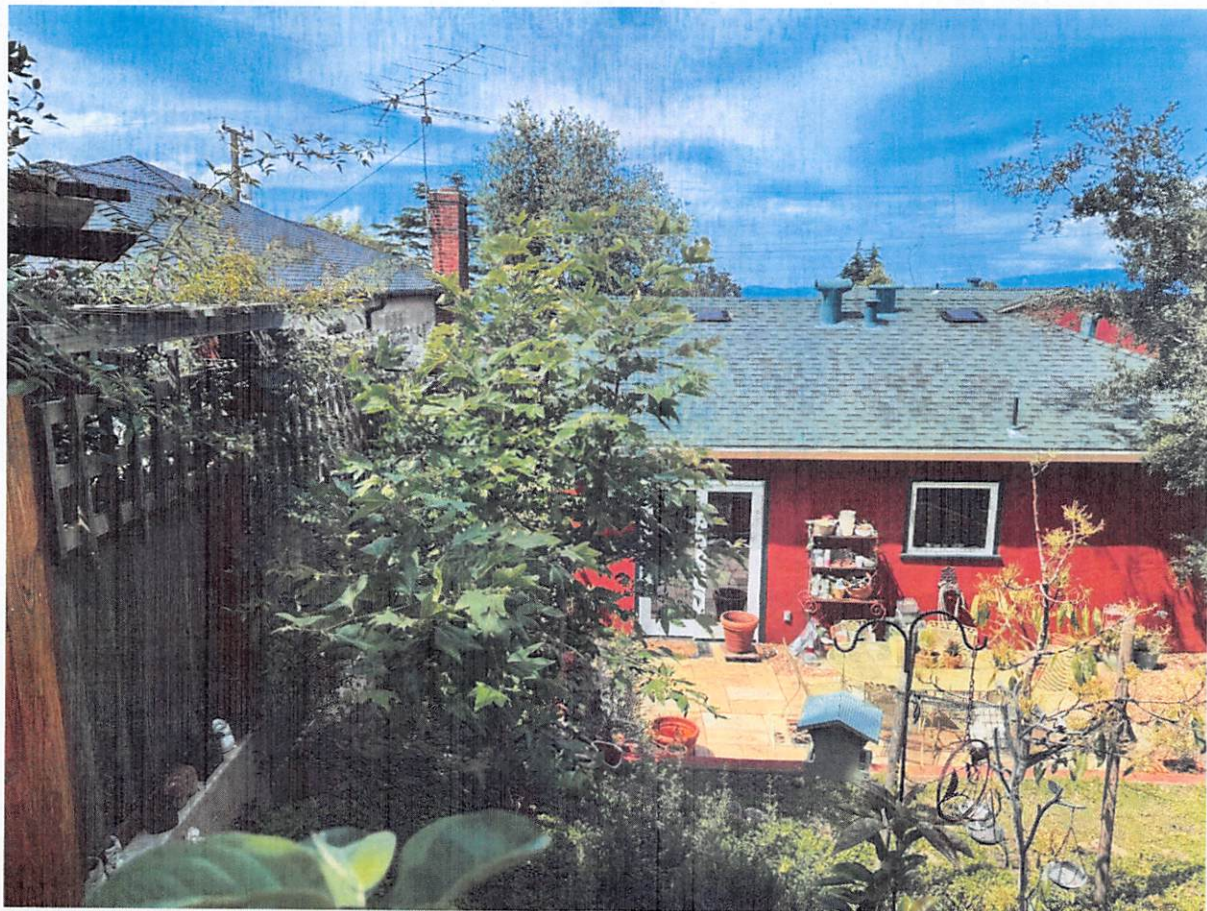
Moreover, even assuming the need for photographic evidence, the trial court’s findings based on the above enumerated criteria—that Kahn had enjoyed unobstructed views from the main level of her home before the growth of the tree—is supported by both Kahn’s testimonial evidence and her arborist’s testimony regarding the absence of the obstruction before the growth of the tree based on an evaluation of the available historic photographs taken from the second level of the residence and the current partial [*242] view obstructions from the main level of the residence. (See fn. 8, *ante.*) The trial court, as the trier of fact, could properly combine the arborist’s testimony with its own onsite observations and the testimonial evidence of Kahn and her witnesses regarding the absence of the obstruction before the growth of the tree, “thus weaving a cloth of truth out of selected available material.” (*Stevens v. Parke, Davis & Co. (1973)* 9 Cal.3d 51, 67–68 [107 Cal. Rptr. 45, 507 P.2d 653].)

In sum, we conclude the trial court was not required to dismiss the action predicated on Kahn’s failure to include in her prelitigation tree claim visual images of unobstructed views from the main level of her residence before the growth of the tree. Given this conclusion, we need not address the Prices’ additional evidentiary arguments.

NEW PLANTINGS

In violation of the new purpose of the Ordinance to discourage planting of obstructionist trees, Tree Owners **recently planted three new trees** which appear to be sycamores (arborist to confirm exact species). Such trees grow to 80 feet high, with a canopy width of between 20-50 feet. Tree Owners' lot is relatively small; only 3,920 square feet, as opposed to 5,000 square feet of minimum residential lot sizes). Therefore, the plantable area, excluding the footprint of their house, is much too small for large trees. View Claimants will present evidence of this in their power point presentation on May 27, 2026.

Photos of the new trees are shown on the following three pages:



Tree Owners' back yard.



Two new plantings, one in Tree Owners' front yard and the other on street



Street planting under utility wires

The following photos on the next two pages are of mature sycamores in Emeryville that are common as “**street trees**” because of their large size. Marin Avenue in Albany and Berkeley are lined with such trees. The Cal Poly website indicates that such trees pose problems as allergens. They also shed considerably.





These trees require constant topping to clear utility lines.